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Civil Action No. 84-3040 Court Transcript (1-374)

United States District Court for the District of Columbia

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ANN B. HOPKINS,

PLAINTIFF

-VERSUS-

PRICE WATERHOUSE,

DEFENDANT

.....

.
. DOCKET NO.
. CV. 84-3040
. WASHINGTON, D. C.
. FEBRUARY 23, 1990
. 9:45 A.M.

TRANSCRIPT OF TRIAL BEFORE THE HONORABLE
GERHARD A. GESELL, UNITED STATES DISTRICT
JUDGE.

APPEARANCES:

FOR THE PLAINTIFF: JAMES H. HELLER, ESQ.
DOUGLAS B. HURON, ESQ.

FOR THE DEFENDANT: WAYNE A. SCHRADER, ESQ.
THEODORE OLSON, ESQ.
THEODORE BOUTROSE, ESQ.
ULRIC SULLIVAN, ESQ.

COURT REPORTER: SANTA THERESA ZIZZO
U.S. DISTRICT COURT
ROOM 4000C
THIRD & CONSTITUTION AVE, NW
WASHINGTON, D.C. 20001

P R O C E E D I N G S

1
2 THE COURT: GLAD YOU WERE ALL ABLE TO GET IN. I
3 PUT A LOT OF POLICE OUT THERE TO PROTECT YOU.

4 THE DEPUTY CLERK: CIVIL ACTION 84-3040. ANN B.
5 HOPKINS VERSUS PRICE WATERHOUSE. MR. HELLER AND MR. HURON
6 FOR THE PLAINTIFF. MR. SCHRADER, MR. OLSON, MR. BOUTROSE
7 AND MR. SULLIVAN FOR THE DEFENDANT.

8 THE COURT: WELL, I'M READY TO HEAR YOUR PROOF.

9 MR. HELLER: YOUR HONOR, NOT TO MAKE AN OPENING
10 STATEMENT, BUT JUST TO TELL WHAT YOU THE PLAINTIFF INTENDS
11 TO DO.

12 FOR THE RECORD, I AM JAMES H. HELLER FOR THE
13 PLAINTIFF AND WITH ME, OF COURSE, IS DOUGLAS B. HURON AND
14 ALSO MISS HOPKINS AT OUR TABLE.

15 WE INTEND TO PUT ON MISS HOPKINS TO EXPLAIN WHAT
16 SHE HOPES TO ACHIEVE IN THIS CASE; NAMELY A PARTNERSHIP IN
17 PRICE WATER HOUSE, TO TALK ABOUT WHAT SHE DID SINCE SHE
18 LEFT PRICE WATERHOUSE IN EARLY 1984 AND WHY SHE DID IT.
19 THEN HER FORMER HUSBAND WILL TESTIFY IN CORROBORATION OF
20 THE CONSIDERATIONS THAT THEY WENT INTO AND THE DECISIONS
21 THAT SHE MADE ABOUT THAT AND THEN MR. TRYON, HER ECONOMIC
22 EXPERT, WILL TESTIFY AS TO BACK PAY AND FRONT PAY.

23 I ONLY WANT TO SAY AS AN OPENING STATEMENT WHAT
24 I'VE SAID TO YOUR HONOR BEFORE, YOU WILL HEAR MORE FROM
25 MR. TRYON BY A GREAT DEAL THAN IT TAKES MISS HOPKINS TO

1 SAY SHE WOULD STILL LIKE TO BE A PARTNER IN PRICE
2 WATERHOUSE. THE VOLUME OF TESTIMONY ABOUT FRONT PAY
3 SHOULD NOT DECEIVE YOUR HONOR. THAT IS NOT OUR PRIMARY
4 GOAL IN THIS CASE, ASSUMING WE WIN ON THE MERITS AND --
5 BUT IT WILL TAKE SOMEWHAT LONGER.

6 NOW, YOUR HONOR, THE PARTIES HAVE ENTERED INTO
7 TWO STIPULATIONS ON ECONOMIC EVIDENCE WHICH I HOPE WILL
8 SHORTEN THE PROOF. I CAN HAND THEM UP TO THE REPORTER.
9 THEY DON'T HAVE PARTY EXHIBIT NUMBERS, THEY COULD BE COURT
10 EXHIBIT NUMBERS, OR WE COULD ADD THEM TO THE PLAINTIFF'S
11 EXHIBITS. ONE OF THEM IS A STIPULATION AS TO THE AVERAGE
12 EARNINGS THROUGH -- OF THE FISCAL YEARS OF PRICE
13 WATERHOUSE WHICH ARE JULY 1 TO JUNE 30, FOR 1984 THROUGH
14 1989 OF THOSE PARTNERS IN THE CLASS OF 1983 WHO WERE
15 MANAGEMENT CONSULTING PARTNERS, WEEDING OUT ANY
16 EXTRAORDINARY CASES THAT HAD SOME VARIATION FOR PARTICULAR
17 REASONS PECULIAR TO THAT PARTNER.

18 SECONDLY, WE HAVE --

19 THE COURT: THE FIGURES THEN ARE FOR MANAGEMENT
20 ADVISORY SERVICE PARTNERS.

21 MR. HELLER: YOUR HONOR IS CORRECT, THAT IS THE
22 TECHNICAL TERM FOR THEM. THE KIND OF PARTNER THAT MISS
23 HOPKINS WOULD HAVE BEEN AND IN THE CLASS THAT SHE WAS.

24 THE COURT: BASICALLY THEY'RE NON-ACCOUNTANTS? . .

25 MR. HELLER: THAT'S RIGHT. THE SECOND

1 STIPULATION, YOUR HONOR, IS THE SET OF FIGURES WHICH WE
2 BELIEVE CORRECTLY SHOW MISS HOPKINS' EARNINGS FOR THE
3 YEARS 1984 THROUGH 1989 AND THEY HAVE BEEN STIPULATED TO
4 AS FIGURES WHICH WILL ALSO FIGURE IN PROFESSOR TRYON'S
5 TESTIMONY AND POSSIBLY IN DEFENSE WITNESS'S TESTIMONY, SO
6 I WILL OFFER THEM AS PLAINTIFF'S EXHIBITS 14 AND 15, IF
7 THAT IS ALL RIGHT, YOUR HONOR.

8 THE COURT: AND I'LL ASK THE CLERK TO SO MARK
9 THEM.

10 MR. SCHRADER: YOUR HONOR, WAYNE SCHRADER FOR THE
11 FOR THE DEFENDANT.

12 THE COURT: YOU GOT OUT OF THAT CASE FINALLY,
13 HUH?

14 MR. SCHRADER: YES, YOUR HONOR, WE FINISHED IT,
15 BACK HERE IN WASHINGTON, D. C.

16 ON THE STIPULATIONS THAT WERE OFFERED, THEY WERE
17 PLAINTIFF'S PROPOSED STIPULATIONS AND WE DID AGREE TO THEM
18 TO TRY TO SHORTEN THE TRIAL TIME. ON THE STIPULATION, THE
19 SECOND STIPULATION THAT MR. HELLER REFERRED TO, IT IS AN
20 EXHIBIT WHICH SIMPLY EXTRACTS CERTAIN FIGURES FROM THE
21 PLAINTIFF'S TAX RETURNS FOR THE YEARS INDICATED. IT IS
22 NOTHING MORE THAN THAT. WE HAVE GOTTEN AN AGREEMENT FROM
23 COUNSEL FOR THE PLAINTIFF THAT THE TAX RETURNS THEMSELVES
24 MAY ALSO BE OFFERED INTO EVIDENCE AND WE'LL OFFER THOSE BY
25 WAY OF STIPULATION AT THE APPROPRIATE TIME.

1 WE ALSO HAVE RECEIVED AGREEMENT FROM COUNSEL FOR
2 PLAINTIFF FOR THE ADMISSION OF DEFENDANT'S EXHIBITS ONE,
3 TWO AND THREE WHICH ARE THE PRICE WATERHOUSE RESTATED
4 PARTNERSHIP AGREEMENT AND EXHIBIT TWO IS A RETIRING
5 PARTNER AGREEMENT AND EXHIBIT THREE IS A FIXED INCOME
6 RETIREMENT BENEFIT AGREEMENT. THEY ARE DOCUMENTS THAT
7 PLAINTIFF'S EXPERT RELIED ON AND I WOULD ASK THAT THEY BE
8 ADMITTED BY WAY OF STIPULATION AT THIS POINT IN TIME.
9 DEFENDANT'S EXHIBITS ONE, TWO AND THREE.

10 THE FINAL THING, YOUR HONOR, IS THAT WE TOO HAVE
11 SOUGHT STIPULATIONS FROM THE PLAINTIFFS TO TRY AND SHORTEN
12 THE TRIAL TIME. WE HAVE IDENTIFIED A NUMBER OF
13 INDIVIDUALS WHO LEFT PRICE WATERHOUSE AS MANAGERS OR
14 SENIOR MANAGERS WHO WENT ON TO BECOME PARTNERS IN OTHER OF
15 THE WHAT I'LL CALL THE BIG EIGHT OR MAJOR ACCOUNTING
16 FIRMS. WE'VE ASKED THAT THE PLAINTIFFS STIPULATE TO THE
17 FACT THAT THESE INDIVIDUALS HAVING BECOME PARTNERS IN
18 THESE OTHER FIRMS, AND THE PLAINTIFFS WHILE THEY DON'T, AS
19 YOU WOULD EXPECT, DON'T CONTEST THE UNCONTROVERTABLE FACTS
20 OF THESE PEOPLE BEING PARTNERS IN THOSE FIRMS DID NOT WANT
21 TO ENTER INTO ANY STIPULATION BECAUSE THEY FEARED THAT
22 SOMEHOW THEIR ABILITY TO ARGUE AS TO THE WEIGHT AND
23 RELEVANCY OF THE EVIDENCE ITSELF WOULD BE PREJUDICED BY
24 ENTERING INTO A STIPULATION.

25 THEY INVITED ME TO RAISE THIS WITH YOUR HONOR.

1 THE REASON I RAISE IT IS THAT IF WE CAN'T REACH A
2 STIPULATION ON THAT I'M GOING TO HAVE TO BRING IN
3 WITNESSES FROM THOSE VARIOUS FIRMS TO TESTIFY TO THE
4 UNCONTROVERTABLE FACT THAT CERTAIN PEOPLE IDENTIFIED ARE
5 PARTNERS IN THEIR FIRM.

6 THE COURT: WELL, WHY DON'T WE COME TO THAT AFTER
7 WE GET THROUGH WITH WHATEVER THE PLAINTIFF WANTS TO SHOW?

8 MR. SCHRADER: THAT WOULD BE FINE, THANK YOU.

9 THE COURT: I'LL TRY TO HELP.

10 MR. HELLER: I'LL CALL MISS HOPKINS.

11 (ANN B. HOPKINS, THE PLAINTIFF, SWORN)

12 DIRECT EXAMINATION

13 BY MR. HELLER:

14 Q MISS HOPKINS, WOULD YOU STATE YOUR NAME FOR THE
15 RECORD, PLEASE?

16 A MY NAME IS ANN BRANIGAR HOPKINS.

17 Q AND YOU ARE THE PLAINTIFF IN THIS CASE?

18 A I DIDN'T HEAR YOU, SIR.

19 Q YOU ARE THE PLAINTIFF IN THIS CASE?

20 A I AM.

21 Q HOW OLD ARE YOU TODAY, MISS HOPKINS?

22 A I'M 46 YEARS OLD.

23 Q MISS HOPKINS, IF YOU WIN THIS CASE ON THE QUESTION OF
24 LIABILITY DO YOU STILL WANT TO BE A PARTNER IN PRICE
25 WATERHOUSE?

1 A I DO.

2 Q COULD YOU STATE WHY?

3 A MANAGEMENT CONSULTING IS MY PROFESSION AND PRICE
4 WATERHOUSE HAS A --

5 THE COURT: I CAN'T HEAR THE LADY.

6 MR. HELLER: YOU'LL HAVE TO SPEAK UP.

7 THE COURT: WE'RE GOING TO HAVE TO GET IT
8 STRAIGHTENED OUT. I CAN'T HEAR YOU. IT'S NOT YOUR FAULT.
9 IT'S SOMETHING WITH THE MACHINE, MA'AM. TRY IT AGAIN.

10 BYMR. HELLER:

11 Q ALL RIGHT. THE QUESTION I HAD ASKED YOU IS DO YOU
12 STILL WANT TO BE A PARTNER IN PRICE WATERHOUSE?

13 A I DO.

14 Q AND COULD YOU STATE WHY?

15 A MANAGEMENT CONSULTING IS MY PROFESSION AND PRICE
16 WATERHOUSE IS PREEMINENT IN MY PRACTICE AREA.

17 Q WELL, LET ME ASK YOU THEN, DO YOU FEEL THAT THIS CASE
18 AND ANY FRICTION IT HAS CREATED HAS MADE IT IMPOSSIBLE FOR
19 YOU TO BECOME A PARTNER IN PRICE WATERHOUSE AND TO FIT IN
20 THERE IF YOU WIN THIS CASE?

21 A I DON'T. I'VE SPENT THE LAST FIVE YEARS LIVING WITH
22 THE RECORD ON THIS CASE. I'VE BEEN AT THE WORLD BANK IN
23 ONE CAPACITY OR ANOTHER FOR THE PAST TWO OR THREE YEARS
24 AND I HAVE ABSOLUTELY NO COMPARABLE EXPERIENCE OR COMMENTS
25 SIMILAR TO WHAT'S IN THE RECORD. I FEEL I CAN FIT IN

1 ANYWHERE.

2 THE COURT: WELL, MISS HOPKINS, YOUR LAWYER IN
3 THIS CASE HAS INSISTED BEFORE VARIOUS COURTS THAT THE
4 CONDITIONS AT PRICE WATERHOUSE WERE SO INTOLERABLE THAT
5 YOU WOULD NOT BE ABLE TO STAY THERE AND HE'S CONVINCED
6 OTHER COURTS EXCEPT MYSELF TO THAT EFFECT. IN OTHER
7 WORDS, THE PRESENT STATE OF THE LAW IS THAT YOU LEFT PRICE
8 WATERHOUSE BECAUSE THE CONDITIONS THERE WERE SUCH YOU
9 SIMPLY COULDN'T TOLERATE BEING THERE ANY LONGER, AND
10 THAT'S WHAT YOUR LAWYER HAS CONVINCED THE COURTS OF. NOW,
11 I WANT TO ASK YOU HOW CAN -- THAT BEING SO, HOW CAN YOU
12 SAY THAT THIS IS SOMETHING THAT YOU EMBRACE WITH OPEN ARMS
13 THAT YOU WANT? I SIMPLY DON'T UNDERSTAND IT. THE WHOLE
14 LAW OF THE CASE IS THAT IT'S A PLACE THAT'S INTOLERABLE
15 FOR YOU, THAT YOU WERE FORCED OUT, THAT YOU COULDN'T BE
16 THERE. YOU UNDERSTAND THAT?

17 THE WITNESS: I UNDERSTAND WHAT YOU'RE SAYING.

18 THE COURT: WELL, THEN I DON'T UNDERSTAND, JUST
19 AS A HUMAN MATTER. I'M NOT TALKING ABOUT YOUR RIGHTS, I'M
20 NOT TALKING ABOUT WOMEN OR MEN, I'M TALKING ABOUT JUST AS
21 A HUMAN MATTER WHY DO YOU WANT TO BE IN THE MIDDLE OF
22 THOSE CONDITIONS? WHY ARE YOU SO ANXIOUS TO GET INTO THE
23 MIDDLE OF THOSE CONDITIONS?

24 THE WITNESS: THE CONDITIONS THEN AND THE
25 CONDITIONS NOW I THINK ARE DIFFERENT.

1 THE COURT: HOW DO YOU KNOW THAT? YOU HAVEN'T
2 BEEN THERE.

3 THE WITNESS: WELL, I STILL SEE AND HAVE A NUMBER
4 OF FRIENDS WHO ARE AT PRICE WATERHOUSE AND I THINK THAT
5 THE CONDITIONS AT THE TIME -- I DON'T SEE ANY REASON WHY
6 THE CONDITIONS IF I WENT BACK WOULD BE THE SAME.

7 THE COURT: HAVE YOU ANY BASIS FOR FEELING THAT?

8 THE WITNESS: BASIS -- FRIENDS' COMMENTS.

9 THE COURT: FROM WHOM? WHO HAS TOLD YOU THAT?

10 THE WITNESS: SANDY KINSEY, WHO IS A FRIEND OF
11 MINE, WHO IS IN THE NATIONAL OFFICE. JUDY REACH, WHO IS A
12 PARTNER IN PRICE WATERHOUSE. I HAVEN'T SEEN KAREN NOLD
13 FOR FIVE OR SIX MONTHS, BUT KAREN NOLD. SOME OF THESE
14 PEOPLE ARE PERSONAL FRIENDS OF MINE.

15 THE COURT: I GATHER SOME ARE.

16 THE WITNESS: THAT'S TRUE.

17 THE COURT: YOU UNDERSTAND, I'M TRYING TO GET
18 SOME HELP.

19 THE WITNESS: IT'S FIVE YEARS LATER, YOUR HONOR,
20 AND I KNOW THAT I'M A DIFFERENT PERSON NOW. I CAN'T
21 BELIEVE THAT THE FIRM HASN'T CHANGED OVER THAT PERIOD OF
22 TIME.

23 MR. HELLER: YOUR HONOR, COULD I -- I DIDN'T WANT
24 TO INTERRUPT THE ANSWER BUT I DO WANT TO NOTE FOR THE
25 RECORD THAT I BELIEVE THE COURT OF APPEALS' DECISION WAS

1 BASED ON THE FACT THAT THE DENIAL OF THE PARTNERSHIP WAS A
2 CAREER ENDING DECISION.

3 THE COURT: SHE SAYS SHE WAS FORCED OUT. THAT'S
4 WHAT IT COMES TO. THAT SHE WAS CONSTRUCTIVELY DISCHARGED,
5 AND CONSTRUCTIVELY DISCHARGED MEANS THE CONDITIONS WERE SO
6 INTOLERABLE SHE COULDN'T REMAIN AND PURSUE HER TITLE VII
7 REMEDIES IN THE ATMOSPHERE IN WHICH SHE WAS IN, AND IT'S
8 ONE OF THE GREATEST BLOCKS TO THE RESOLUTION OF THIS CASE.
9 ONE OF THE EXTRAORDINARY THINGS ABOUT THE CASE IS THAT
10 BOTH SIDES HAVE ACCEPTED THAT AS A FACT. IT HAS NOT BEEN
11 APPEALED. AND THAT'S WHERE WE ARE.

12 I'M TRYING TO POINT OUT TO COUNSEL THAT EVERYTIME
13 I TOUCH THE CASE AND THINK ABOUT IT, WHICH HAS BEEN MORE
14 THAN ONCE I CAN ASSURE YOU, IT JUST COMES UP AS A TERRIBLE
15 BLOCK IN TERMS OF HOW I APPROACH THE CASE. IT'S JUST AN
16 ABSOLUTE BLOCK TO ANY KIND OF RATIONAL EQUITY IN THE CASE
17 AND I DON'T KNOW WHAT TO DO ABOUT IT. BOTH OF YOU HAVE
18 ACCEPTED THAT POINT OF VIEW AND SO DOES THE PLAINTIFF AND
19 I'M STUCK WITH IT AND I DON'T KNOW WHAT TO DO WITH IT. WE
20 CAN TURN TO THAT AT THE TIME OF ARGUMENTS. I DON'T WANT
21 TO INTERRUPT, BUT IT IS AN EXTREMELY DIFFICULT ASPECT OF
22 THE CASE. I'M NOT GOING TO INTERFERE WITH THE QUESTIONING
23 BUT I WANTED TO PUT IT TO HER WHILE YOU HAD PUT IT TO HER.

24 MR. HELLER: YOUR HONOR, ONE OF THE GOOD THINGS,
25 ABOUT APPEARING IN YOUR COURT IS THAT YOU DO ASK QUESTIONS

1 AND ANY LAWYER IN FRONT OF A JUDGE WANTS QUESTIONS
2 ANSWERED FOR THE JUDGE.

3 THE COURT: WELL, IT'S ON MY MIND VERY MUCH AND
4 NOW YOU KNOW IT AND YOU CAN DO WHAT YOU WANT ABOUT IT.

5 MR. HELLER: WE WILL ADDRESS IT LATER ON, YOUR
6 HONOR. ' I MERELY MEAN TO SAY AT THIS POINT THAT I BELIEVE
7 I READ THE COURT OF APPEALS' DECISION DIFFERENTLY AND THE
8 PREDICATE OF MY QUESTION, MISS HOPKINS, WAS, IF YOU ARE
9 ELIGIBLE TO BE A PARTNER, AS SHE WAS NOT AT THE TIME THAT
10 SHE LEFT, OR NOT ABLE TO BE A PARTNER AT THE TIME. I
11 THINK YOUR HONOR USED THE ONLY IF LIGHTENING STRUCK
12 METAPHOR TO SUGGEST THAT WAS HOW REMOTE HER CHANCES WERE
13 OF BEING REPROPOSED AT THAT POINT. THE PREDICATE OF MY
14 QUESTION OF COURSE WAS THE DECISION OF LIABILITY IN HER
15 FAVOR THAT YOU HAVE NOT -- THAT WE HAVE NOT HEARD FROM YOU
16 YET ABOUT BUT WE HAVE ARGUED TO -- LET ME GO ONTO THAT,
17 MISS HOPKINS, AND RETURN TO THAT LATER WHEN YOUR HONOR
18 FINDS IT A GOOD TIME TO TALK ABOUT IT AND I REALLY DON'T
19 MEAN TO SAY YOU SHOULDN'T INTERRUPT AT ANY TIME. CLEARLY
20 WE DO WANT THAT.

21 THE COURT: NO, I'M NOT GOING TO. IT'S VERY MUCH
22 ON MY MIND, THIS PROBLEM. I DON'T KNOW WHAT TO DO WITH
23 IT. I WANT THE HELP OF BOTH SIDES. I DON'T KNOW HOW TO
24 HANDLE IT.

25 MR. HELLER: I'D LIKE TO RETURN TO THAT AND HELP

1 YOUR HONOR, IF I CAN.

2 BY MR. HELLER:

3 Q WHAT IS YOUR CURRENT EMPLOYMENT, MISS HOPKINS?

4 A I'M AN OFFICER OF THE INTERNATIONAL BANK FOR
5 RECONSTRUCTION AND DEVELOPMENT. IT'S KNOWN AS THE WORLD
6 BANK AND MY COMPLETE TITLE IS SENIOR BUDGET AND POLICY
7 REVIEW OFFICER.

8 Q AND WHAT IS YOUR GROSS SALARY?

9 A APPROXIMATELY \$92,500 A YEAR.

10 Q DO YOU HAVE ANY OPPORTUNITIES FOR ADVANCEMENT IN THAT
11 POSITION IN THE FUTURE?

L
12 A I'M CURRENTLY AT WHAT IS CALLED A GRADE LEVEL 25. TO
13 PUT THAT IN PERSPECTIVE, THE PRESIDENT OF THE BANK IS A
14 GRADE LEVEL 30. THE SENIOR VICE-PRESIDENTS ARE 29'S, THE
15 VICE-PRESIDENTS ARE 28'S. IT'S REASONABLE TO ASSUME THAT
16 I MIGHT MAKE AN ADDITIONAL GRADE, THAT IS 25, BUT IT IS
17 NOT OVERLY LIKELY THAT I WOULD GO BEYOND THAT FOR TWO OR
18 THREE REASONS; THE BANK IS IN A NO-GROWTH STATE WHICH
19 MEANS NEW POSITIONS AREN'T DEVELOPING AND THE BANK AS AN
20 INTERNATIONAL ORGANIZATION HAS A PREFERENCE TO HIRE AND
21 PROMOTE OTHER THAN U.S. CITIZENS, ESPECIALLY PEOPLE AT MY
22 LEVEL.

23 Q I THINK YOU SAID YOU WERE A 25 AND IT WAS CONCEIVABLE
24 THAT YOU WOULD BECOME A 25? DID YOU MEAN THAT?

25 A NO, I'M SORRY, I'M A 24 AND IT'S CONCEIVABLE THAT I

1 WOULD BECOME A 25.

2 Q ALL RIGHT. , NOW WHEN DID YOU FIRST START AT THE BANK?

3 A I BECAME AN EMPLOYEE OF THE BANK IN SEPTEMBER, 1988
4 AFTER BEING A CONSULTANT THERE FOR A YEAR OR SO.

5 Q WHEN DID YOU FIRST START TO SEEK A REGULAR JOB AT THE
6 BANK AS OPPOSED TO A CONSULTANCY?

7 A IT WAS AN OBJECTIVE OF MINE TO BECOME AN EMPLOYEE OF
8 THE BANK WHEN I BEGAN MY CONSULTING EFFORTS IN 1987.

9 Q WHY DID IT TAKE SO LONG TO ACHIEVE THAT CHANGE?

10 A WELL, I THINK I'VE ALREADY INDICATED THAT THE BANK AS
11 AN INTERNATIONAL ORGANIZATION PREFERS TO HIRE NON U.S.
12 CITIZENS. THAT'S ONE ASPECT OF IT. ANOTHER ASPECT IS
13 THAT THE BANK IN 1987 IMPLEMENTED A MAJOR REORGANIZATION
14 AND THERE WERE VERY FEW VACANT POSITIONS. A THIRD ASPECT
15 IS THAT THE PERSONNEL PROCESS IS A TIME CONSUMING PROCESS.

16 Q MISS HOPKINS, ARE YOU CURRENTLY MARRIED?

17 A I AM DIVORCED.

18 Q AND DO YOU HAVE CHILDREN?

19 A I HAVE THREE CHILDREN.

20 Q WHAT ARE THEIR AGES?

21 A 14, 12 AND 10.

22 Q AND WHO HAS CUSTODY OF THOSE CHILDREN?

23 A I DO.

24 Q COULD YOU TELL US WHEN YOU AND YOUR HUSBAND
25 SEPARATED?

1 A LET'S SEE, FEBRUARY, 1987.

2 Q SO WHEN YOU LEFT PRICE WATERHOUSE YOU WERE STILL
3 MARRIED?

4 A I WAS MARRIED WHEN I LEFT PRICE WATERHOUSE.

5 Q WHEN YOU LEFT PRICE WATERHOUSE -- WHEN WAS THAT, BY
6 THE WAY, FOR THE RECORD?

7 A I LEFT PRICE WATERHOUSE ON JANUARY 17TH, 1984.

8 Q ALL RIGHT. AND WHEN YOU LEFT PRICE WATERHOUSE DID
9 THE FIRM OFFER YOU ANY PLACEMENT ASSISTANCE IN SEEKING
10 OTHER JOBS?

11 A NO.

12 Q WERE YOU AWARE THAT SUCH ASSISTANCE WAS AVAILABLE TO
13 YOU AS A PERSON LEAVING PRICE WATERHOUSE AS A SENIOR
14 MANAGER?

15 A NO.

16 Q WHEN DID YOU FIRST FILE SUIT AGAINST PRICE
17 WATERHOUSE?

18 A THE -- I FIRST FILED SUIT IN THE D.C. SUPERIOR COURT
19 ON MARCH 20, 1984.

20 Q I'M GOING TO SHOW YOU WHAT HAS BEEN ADMITTED AS
21 PLAINTIFF'S EXHIBIT ONE AND FIRST ASK YOU WAS THERE ANY
22 PUBLICITY ABOUT THAT SUIT?

23 A I THINK THAT THE DAY AFTER THE -- THE DAY AFTER THE
24 SUIT WAS FILED ONE OF THE WASHINGTON PAPERS WROTE AN
25 ARTICLE BASED ON THE COURT DOCUMENTS AND I UNDERSTAND THAT

1 IT WAS COMMENTED ON THE RADIO. I DIDN'T HEAR THE RADIO
2 COMMENTS.

3 Q LET ME SHOW YOU PLAINTIFF'S EXHIBIT ONE AND ASK YOU
4 IF THAT IS THE ARTICLE YOU'RE REFERRING TO?

5 A YES.

6 Q WHEN YOU LEFT PRICE WATERHOUSE DID YOU INTEND TO GO
7 ON WORKING?

8 A IT DIDN'T OCCUR TO ME TO DO ANYTHING ELSE.

9 Q ALL RIGHT. NOW, HOW DID YOU GO ABOUT DECIDING WHAT
10 TO DO AND THEN TELL US ALSO WHAT YOU DID, AFTER YOU LEFT
11 PRICE WATERHOUSE?

12 A WHEN I LEFT PRICE WATERHOUSE MY HUSBAND AND I SAT
13 DOWN AND THOUGHT THROUGH AND TALKED THROUGH MY EXPERIENCE
14 AND MY SKILLS AND MY EXPERTISE AND IDENTIFIED WHAT WE
15 THOUGHT WERE MY MAJOR ASSETS IN ADDRESSING THE BUSINESS
16 PLACE. AND WHAT WERE MY CONTACTS AND WHAT WAS OPEN TO ME.
17 I CONCLUDED THAT IN TERMS OF DEVELOPING EQUITY OVER A
18 PERIOD OF TIME, IN TERMS OF EARNING A GOOD SALARY, IN
19 TERMS OF PURSUING MY PROFESSION WITH THE KIND OF
20 PROFESSIONAL FREEDOM AND INTEREST THAT I ALWAYS HAD, THAT
21 THE BEST THING FOR ME TO DO WAS TO DEVELOP MY OWN
22 BUSINESS. SO I DECIDED TO DEVOTE MY TIME AND ENERGY TO
23 DEVELOPING A PRACTICE AS A MANAGEMENT CONSULTANT ON MY
24 OWN.

25 Q WAS TIME FOR YOU TO GET TO WORK AGAIN A CONSIDERATION

1 IN YOUR THINKING AS WELL?

2 A GIVEN MY --, YES. GIVEN MY CONTACTS, BEGINNING A
3 CONSULTING PRACTICE WAS SOMETHING I COULD DO IMMEDIATELY.

4 THE COURT: I DON'T UNDERSTAND WHAT SHE'S SAYING.

5 MR. HELLER: ALL RIGHT. LET ME SEE IF I CAN GET
6 THAT EXPLAINED A LITTLE MORE CAREFULLY, YOUR HONOR.

7 BY MR. HELLER:

8 Q WHY COULD YOU BEGIN A CONSULTING PRACTICE
9 IMMEDIATELY?

10 A I HAD SPENT THE LAST FIVE OR SIX YEARS WORKING WITH A
11 GROUP OF PEOPLE AT THE STATE DEPARTMENT WHO HAD LOTS OF
12 WORK THAT NEEDED TO BE DONE AND WHO WERE SEEKING
13 ASSISTANCE IN DOING THAT WORK. SINCE I HAD SPENT A GREAT
14 DEAL OF TIME AT THE STATE DEPARTMENT I HAD DEVELOPED A LOT
15 OF KNOWLEDGE OF THE OPERATIONS AND I WAS ABLE TO GET
16 STARTED QUICKLY ON THEIR EFFORTS, SO IT WAS EASY TO BEGIN
17 A PRACTICE CONSULTING AT THE STATE DEPARTMENT.

18 Q WHAT ABOUT A PLACE TO WORK AT? WHERE DID YOU WORK?

19 THE COURT: SO YOU DIDN'T HOLD YOURSELF OUT
20 GENERALLY AS A CONSULTANT. YOU DIDN'T GO INTO A BUSINESS.
21 YOU JUST WERE A CONSULTANT FOR THE STATE DEPARTMENT AND
22 NOTHING ELSE; IS THAT WHAT YOU'RE TELLING ME?

23 THE WITNESS: I BEGAN A BUSINESS AS AN
24 INDIVIDUAL. I LATER -- I BEGAN A BUSINESS AS AN
25 INDIVIDUAL MANAGEMENT CONSULTANT. I DID SOME WORK FOR

1 OTHERS IN JUST THE STATE DEPARTMENT. THE STATE DEPARTMENT
2 WAS THE MOST CONVENIENT PLACE TO BEGIN. I EVENTUALLY A
3 YEAR OR SO LATER ESTABLISHED A CORPORATION AND OPERATED AS
4 A CORPORATE ENTITY.

5 THE COURT: GOING INTO A GENERAL BUSINESS VENTURE
6 IS WHAT YOU'RE TELLING ME, THAT'S ALL I WANT TO
7 UNDERSTAND, NOT JUST TO CONSULT THE STATE DEPARTMENT.

8 THE WITNESS: NO, THE STATE DEPARTMENT WAS A
9 PLACE TO BEGIN.

10 THE COURT: YOU THOUGHT YOU HAD A CLIENT.

11 THE WITNESS: YES.

12 BY MR. HELLER:

13 Q COULD YOU NAME SOME OF THE OTHER CLIENTS THAT IN THE
14 COURSE OF YOUR CONSULTING PRACTICE YOU HAD?

15 A I BEGAN -- THE FIRST CONSULTING ENGAGEMENT I EVER DID
16 FOR THE WORLD BANK I DID THE FIRST YEAR THAT I WAS IN
17 PRACTICE. I DID SOME WORK MY FIRST YEAR FOR THE SMALL
18 BUSINESS ADMINISTRATION. I WROTE AN ARTICLE FOR DUN &
19 BRADSTREET. LATER ON AFTER THE FIRST YEAR I WORKED WITH
20 A -- I HAD A CLIENT, ACADEMIC TRAVEL, A TRAVEL AGENCY HERE
21 IN TOWN. DOES THAT ANSWER --

22 Q NO. I THINK THAT'S SUFFICIENT. DID YOU EXPLORE
23 ALTERNATIVES, OTHER JOBS OR OTHER POSITIONS THAT YOU MIGHT
24 HAVE?

25 A WELL, WHEN I DECIDED TO DEVELOP MY OWN BUSINESS I WAS

1 REMINDED OF MY MOTHER'S ADVICE, NAMELY DON'T PUT ALL YOUR
2 EGGS IN ONE BASKET. SO I DID PURSUE THE MOST -- WHAT
3 LOOKED TO ME LIKE THE MOST PROMINENT OPPORTUNITIES IN A
4 NUMBER OF OTHER AREAS. THOSE AREAS BEING OTHERS -- THE
5 BIG EIGHT BEING ONE AREA, CONTRACTORS AND OTHER PEOPLE
6 THAT I HAD WORKED WITH OR WORKED WITH AT THE STATE
7 DEPARTMENT, FORMER CLIENTS AND EMPLOYEES. RECRUITING
8 FIRMS.

9 Q DID YOU LOOK AT NEWSPAPER ADS? THAT'S COME UP IN ONE
10 OF THE DEFENDANT'S STATEMENTS.

11 A YES, I THINK THE ONES THAT I LOOKED AT WERE BALTIMORE
12 SUN, WASHINGTON POST AND THE NEW YORK TIMES AND THE WALL
13 STREET JOURNAL.

14 Q WHAT -- WHICH ONES OF THE BIG EIGHT FIRMS DID YOU
15 CONTACT?

16 A WELL, I HAD WORKED AT TOUCHE ROSS. MY HUSBAND HAD
17 BEEN A PARTNER AT TOUCHE ROSS. THERE WERE THREE OR FOUR
18 PARTNERS AT TOUCHE ROSS THAT HAD BEEN USHERS IN MY
19 WEDDING. TOUCHE ROSS WAS A PLACE THAT I WAS BEST KNOWN
20 AND WHERE I KNEW PEOPLE THAT I WAS COMFORTABLE WITH. IN
21 FACT, ONE OF THE PARTNERS AT TOUCHE WAS RESPONSIBLE FOR
22 THE CONTACT THAT RESULTED IN MY BEING EMPLOYED AT PRICE
23 WATERHOUSE. SO I DID NOT -- I DON'T RECALL KNOWING ANYONE
24 IN ANY OF THE OTHER BIG EIGHT, SO I THOUGHT THAT IN THAT
25 AREA OF THE BIG EIGHT THAT TOUCHE WAS THE BEST PLACE TO

1 SEE WHAT OPPORTUNITIES EXISTED, BUT REMEMBER, MR. HELLER,
2 THAT MY ENERGY AND MY TIME AND MY FOCUS WAS ON MY OWN
3 PRACTICE.

4 Q ALL RIGHT.

5 THE COURT: WELL, DID YOU APPLY FOR A JOB AT ANY
6 OF THE 'BIG EIGHT? I MEAN DID YOU GO AND SAY I WANT TO
7 WORK FOR YOU?

8 THE WITNESS: I HAD SOME CONVERSATIONS WITH
9 PEOPLE AT TOUCHE TO SEE WHETHER OR NOT THAT WAS LIKELY OR
10 POSSIBLE AND WHEN I FINISHED THOSE CONVERSATIONS I DID --
11 I WAS NOT LEFT WITH AN OPTIMISTIC FEELING.

12 THE COURT: THAT DOESN'T TELL ME ANYTHING. WHAT
13 DO YOU MEAN YOU WEREN'T LEFT WITH AN OPTIMISTIC FEELING?
14 DID THEY TELL YOU THERE WASN'T A JOB?

15 THE WITNESS: IT'S A LONG TIME AGO, YOUR HONOR,
16 BUT I WAS LEFT WITH THE IMPRESSION THAT I WAS NOT LIKELY
17 TO BE ABLE TO GO TO TOUCHE ROSS AND BECOME A PARTNER
18 THERE.

19 THE COURT: WHY? YOU HAD ALL THE QUALIFICATIONS.
20 WHY? AND AS A MATTER OF FACT, HADN'T YOUR HUSBAND WORKED
21 THERE?

22 THE WITNESS: THAT'S TRUE.

23 THE COURT: SURE. SO I IMAGINE HE PUT IN A GOOD
24 WORD FOR YOU.

25 THE WITNESS: NO, MY HUSBAND WAS NO LONGER AT

1 TOUCHE ROSS.

2 THE COURT: BUT HE KNEW OF YOU, THEY HAD TALKED
3 TO HIM. THEY HAD TRUSTED HIM, RIGHT?

4 THE WITNESS: SURE, BUT PEOPLE DO NOT NORMALLY
5 CHECK WITH MY HUSBAND ON ME. THEY COULD CHECK WITH ME.
6 THEY SAW ME. I MET WITH A NUMBER OF THEM.

7 THE COURT: AND WHAT DID THEY TELL YOU?

8 THE WITNESS: THEY DIDN'T SAY WE DON'T WANT YOU
9 TO COME HERE, BUT THEY DID NOT SAY WE DO EITHER. IN OTHER
10 WORDS, WE TALKED ABOUT WHAT WERE THE OPPORTUNITIES AND I
11 WAS LEFT WITH THE IMPRESSION, AND I DO NOT REMEMBER THE
12 SPECIFICS OF ANY CONVERSATIONS, THAT I DID NOT HAVE AN
13 OPPORTUNITY AT TOUCHE ROSS.

14 THE COURT: BECAUSE OF YOUR ABILITY OR BECAUSE
15 THERE WASN'T A JOB, OR WHAT? OR DID YOU ASK? I'M JUST
16 TRYING TO UNDERSTAND WHAT HAPPENED.

17 THE WITNESS: I HAD THE IMPRESSION THAT I WAS A
18 LITTLE BIT CONTROVERSIAL.

19 BY MR. HELLER:

20 Q DO YOU KNOW WHY THEY DID NOT GIVE YOU A JOB?

21 A NO, I DO NOT. I DO NOT KNOW.

22 MR. HELLER: ALL RIGHT. I THE THINK THAT DOES
23 TELL YOUR HONOR. SHE DID NOT PURSUE IT TO THE POINT OF
24 SAYING YES OR NO. I GUESS THAT'S CLEAR ENOUGH.

25 BY MR. HELLER:

- 1 Q THAT'S CORRECT, ISN'T IT, MISS HOPKINS?
- 2 A THAT'S TRUE.
- 3 Q DID YOU CHECK WITH OTHER COMPANIES? YOU SAID YOU
- 4 CHECKED WITH OTHER CONTRACTORS OR PEOPLE WHO HAD DONE
- 5 CONSULTING WORK SOMEWHAT LIKE THE CONSULTING WORK YOU HAD
- 6 DONE.
- 7 A WHAT I DID WAS I LOOKED -- I CALLED MANY FORMER
- 8 CLIENTS OR EMPLOYEES AND ASKED THEM EITHER WHAT
- 9 OPPORTUNITIES THERE MIGHT BE IN THEIR ORGANIZATIONS OR IF
- 10 THEY KNEW PEOPLE WHOM I MIGHT FIT WITH AND I PURSUED
- 11 THE -- I PURSUED WHATEVER CONTACTS OR LEADS I WAS GIVEN.
- 12 DO YOU WANT ME TO GO INTO THAT IN MORE DETAIL?
- 13 Q I THINK YOU SHOULD PUT SOME OF THE NAMES OF THE
- 14 COMPANIES THAT YOU DID DISCUSS WITH ON THE RECORD.
- 15 A I SPOKE WITH FRANK NICOLI AT AMERICAN MANAGEMENT
- 16 SYSTEMS.
- 17 Q AND THEY HAVE BEEN A COMPETITOR FOR ONE OF THE STATE
- 18 DEPARTMENT CONTRACTS THAT PRICE WATERHOUSE OBTAINED?
- 19 A THEY HAD BEEN THE OTHER HALF OF THE ORIGINAL FLY-OFF
- 20 ON THE FINANCIAL MANAGEMENT SYSTEM. BEFORE I WENT TO
- 21 PRICE WATERHOUSE I HAD WORKED FOR AMERICAN MANAGEMENT
- 22 SYSTEMS AND FRANK NICOLI WAS - I THINK HE WAS ONE OF THE
- 23 FIVE ORIGINAL FOUNDERS OF THE COMPANY.
- 24 Q BEFORE I GO ON. THESE ARE TWO FORMER EMPLOYERS,
- 25 TOUCHE ROSS AND AMERICAN MANAGEMENT SYSTEMS. HAD YOU LEFT

1 EITHER OF THEM WITH ILL WILL BETWEEN YOU AND THEM?

2 A NO.

3 Q ALL RIGHT. GO ON WITH THE OTHER COMPANIES THAT YOU
4 CHECKED WITH.

5 A OKAY. SHOULD I FINISH WITH FRANK NICOLI?

6 Q YES, SURE, I'M SORRY.

7 A AS I RECALL IT, FRANK RECOMMENDED THAT I TALK WITH A
8 WOMAN NAMED JUDY ROSS WHO HAD BEEN THE PERSONNEL OFFICER
9 AT AMS WHEN I WAS THERE AND I SPOKE WITH JUDY AND SHE
10 RECOMMENDED A RECRUITING FIRM. APPARENTLY RECRUITING OR
11 PLACEMENT, I GET THE TERMS CONFUSED, WAS -- THAT HAD BEEN
12 HER JOB AT AMS, SO SHE RECOMMENDED A RECRUITING FIRM.
13 ANYWAY, FRANK HAD NO POSITIONS AVAILABLE AT THAT
14 PARTICULAR TIME.

15 I ALSO WENT TO MARTIN GANZIGER. HE WAS ALWAYS
16 CALLED MARTY. HE HAD BEEN THE DIRECTOR OF THE UNITED MINE
17 WORKERS HEALTH AND RETIREMENT FUND WHEN I HAD BEEN AT
18 TOUCHE ROSS AND WE HAD DONE A GREAT DEAL OF WORK FOR
19 MARTY. MARTY IS AN ATTORNEY IN TOWN NOW. HE IS NOT IN
20 THE SAME BUSINESS, BUT HE MADE ARRANGEMENTS FOR ME TO SEE
21 A MAN NAMED GARY PRICE WHO WAS -- HAD ABOUT A FIVE OR SIX
22 PERSON CONSULTING FIRM ENGAGED LARGELY IN LITIGATION
23 SUPPORT I THINK FOR THE DALKON SHIELD -- FOR THE DALKON
24 SHIELD LITIGATION.

25 Q WHAT CAME OF THAT?

1 A NOTHING, NOTHING CAME OF THAT. IT WAS SOMETHING -- I
2 TALKED TO PEOPLE AT THE STATE DEPARTMENT. MOST OF WHOM
3 WANTED ME TO DO -- TO DO WORK FOR THEM.

4 Q YOU MEAN BECOME AN EMPLOYEE OF THE STATE DEPARTMENT?

5 A NO, NO, PRACTICE MY PROFESSION. THE CIVIL SERVICE --
6 I SPOKE WITH A WOMAN NAMED PAT POPOVICH WHO IS IN THE
7 PERSONNEL AT THE STATE DEPARTMENT. SHE DESCRIBED THE
8 CIVIL SERVICE PROCESS AND THE 171'S, BUT BASICALLY THE
9 SALARY SCALES WERE NOT OVERLY ATTRACTIVE AT THAT TIME.

10 BILL ATKINS AT TOUCHE ROSS RECOMMENDED A
11 RECRUITING FIRM NAMED HOLBRECHT ASSOCIATES, I THINK IN NEW
12 ENGLAND. (SPELLED PHONETICALLY) I PURSUED THAT.

13 I CALLED A FELLOW I HAD KNOWN FOR MANY YEARS WHO
14 PLACED PEOPLE AND PLACED ME IN TOUCHE ROSS NAMED TOM
15 CARTER WHO IS OUT OF AN ORGANIZATION CALLED QUEST SYSTEMS
16 AND HE INDICATED THAT HE -- HIS ORGANIZATION DIDN'T PLACE
17 PEOPLE AT MY LEVEL AND SUGGESTED THAT I GET IN TOUCH WITH
18 SOMEONE NAMED LEN PFEIFFER AT KORN FERRY. I PURSUED KORN
19 FERRY.

20 I PURSUED THE RECOMMENDATION THAT JUDY ROSS MADE
21 WHICH I THINK IN MY DEPOSITION I SAID WAS RICHARDS, IT'S
22 ACTUALLY REYNOLDS ASSOCIATES, AND THE NAME OF THE PERSON
23 THERE WAS VAN ARP. JOHN VAN ARP.

24 Q AND IS THAT AN EMPLOYER RESEARCH FIRM OR WHAT?

25 A I BELIEVE THAT BOTH KORN FERRY AND REYNOLDS

1 ASSOCIATES ARE SEARCH FIRMS.

2 Q ALL RIGHT. SOMETIMES CALLED RECRUITERS?

3 A CALLED RECRUITERS.

4 Q ANY OTHER COMPANIES THAT DID CONSULTING WORK OR WORK
5 THAT YOU THOUGHT WAS WITHIN YOUR GENERAL AREA OF
6 EXPERTISE?

7 A I WAS MODELING MY PRACTICE AFTER THE PRACTICE OF A
8 MAN NAMED NORM ENGER WHO PERFORMED IN A TIME PERIOD FROM
9 ABOUT '79 OR '80 TO '82 OR '83. HE WAS DRAWING A BUSINESS
10 AS A CONSULTING PROFESSIONAL. IN THAT TIME PERIOD HE HAD
11 DONE A LOT OF MANAGEMENT ADVISORY AND CONSULTING WORK WITH
12 THE DEPARTMENT AND HE WAS A CONTRACTOR OF ONE DEPARTMENT.
13 I VALUED HIS ADVICE AND I SPOKE WITH HIM FREQUENTLY. TO
14 THE EXTENT THAT HE MADE SUGGESTIONS I CERTAINLY CONSIDERED
15 THEM. A COUPLE OF YEARS LATER, TWO, MAYBE THREE, I
16 WAS -- IN 1987 I WAS CONSIDERING GOING TO WORK FOR HIM.
17 THE PROJECT DIDN'T MATERIALIZE, BUT I HAD AN ONGOING
18 DIALOGUE WITH MR. ENGER.

19 I HAD AN ONGOING DIALOGUE WITH A GENTLEMAN NAMED
20 JIM CRAIG WHO I THINK IS VICE-PRESIDENT OF AN ORGANIZATION
21 NAMED PINKERTON COMPUTER CONSULTANTS. THAT WAS ALSO AN
22 ORGANIZATION THAT HAD BEEN A SUB-CONTRACTOR TO PRICE
23 WATERHOUSE AND HAD A NUMBER OF INDEPENDENT CONTRACTS AT
24 THE STATE DEPARTMENT. I HAD KNOWN JIM AND MEMBERS OF HIS.
25 FIRM FOR A NUMBER OF YEARS. I SPOKE WITH HIM ABOUT WHAT

1 KINDS OF OPPORTUNITIES WERE AVAILABLE. BUT I KEPT AN
2 ONGOING DIALOGUE, GOING WITH JIM.

3 Q WERE YOU OFFERED A JOB AT ANY OF THESE PLACES?

4 A JIM AND I LATER ON TALKED ABOUT PROJECT MANAGEMENT
5 POSITIONS AT AROUND \$60,000 BUT WE DISCUSSED MATTERS BACK
6 AND FORTH BUT I DIDN'T PARTICULARLY WANT -- I WASN'T IN
7 THAT PARTICULAR BUSINESS. IT WAS A SECONDARY LINE OF
8 PURSUIT FOR ME ANYWAY AND FRANKLY, MY CONSULTING PRACTICE
9 WAS GOING QUITE WELL BY THE TIME JIM AND I GOT TO TALKING
10 ABOUT SPECIFICS WHICH WAS IN '87.

11 Q HOW LONG DID YOU CONTINUE YOUR CONSULTING PRACTICE
12 THEN?

13 A WELL, I CONTINUED MY CONSULTING PRACTICE AS A MEANS
14 OF INCOME UNTIL I WENT TO WORK FOR WORLD BANK BUT WHEN MY
15 MARRIAGE BROKE UP IN 1987 I DECIDED THAT WITH THE UPS AND
16 DOWNS OF BOTH WORKLOAD AND CASH FLOW ASSOCIATED WITH
17 DEALING WITH THE GOVERNMENT AND DOING CONTRACTING IN THE
18 GOVERNMENT I DECIDED THAT I COULD NOT MANAGE MY FAMILY
19 SITUATION AND DEAL WITH THE UPS AND DOWNS OF WORKLOAD AND
20 THE CASH FLOW, SO I DECIDED AT THAT TIME TO TAKE A
21 POSITION AND I TOOK WHAT I THOUGHT WAS -- ANYWAY, I
22 PURSUED GOING TO WORK FOR THE WORLD BANK WHICH IS AN
23 ABSOLUTELY SUPERB POSITION AND IT'S GOT TERRIFIC BENEFITS.

24 Q ALL RIGHT. NOW, YOU MENTIONED THE HOPKINS COMPANY...
25 TELL US WHAT THAT WAS AND WHY IT CAME INTO BEING?

1 A IT'S -- IF YOU WANT, IF YOU WANT TO DEVELOP A
2 PRACTICE OF SOMETHING MORE THAN ONE PERSON YOUR ABILITY TO
3 COMPETE IN THE FEDERAL GOVERNMENT MARKETPLACE IS MUCH
4 ENHANCED BY HAVING SOME KIND OF A FORMAL STRUCTURAL
5 ENTITY, A CORPORATION, FOR EXAMPLE, WITH AUDITED AND
6 AUDITABLE BOOKS AND RECORDS. SO I FOUNDED THE CORPORATION
7 WITH THAT INTENT SO THAT I COULD GROW AND COMPETE AND HAVE
8 DOCUMENTATION AND RECORDS THAT WERE APPROPRIATE TO THE
9 MARKET.

10 Q DID YOU EVER GROW BEYOND YOURSELF WITH THE HOPKINS
11 COMPANY?

12 A I THINK IN LATE -- IN '86 AND '87 THERE WERE TWO OF
13 US, KEN BELL AND I BOTH WORKED FOR THE CORPORATION.

14 Q DID YOU SHUT THE HOPKINS -- KEEP THE HOPKINS COMPANY
15 GOING UNTIL THE TIME WHEN YOU WENT TO WORK FOR THE WORLD
16 BANK OR DID YOU CLOSE IT DOWN BEFORE THEN?

17 A WELL, AS A MATTER OF -- WHAT ITS LEGAL STATE IS I'M
18 NOT SURE BUT BASICALLY WHAT HAPPENED IS WHEN MY FAMILY
19 SITUATION CHANGED THE OVERHEAD COSTS OF MANAGING THE
20 CORPORATION, YOU WIND UP PAYING A LOT OF ADDITIONAL TAXES
21 AND FEES, THE OVERHEAD COST OF MANAGING THE CORPORATION
22 DID NOT SEEM ATTRACTIVE IN LIGHT OF THE OBJECTIVE TO GO TO
23 WORK FOR THE WORLD BANK, SO I WENT BACK INTO PRACTICING AS
24 A SOLE PRACTITIONER UNTIL I WAS -- UNTIL I BECAME AN
25 EMPLOYEE AT THE BANK.

1 MR. HELLER: IF YOUR HONOR WILL INDULGE ME.
2 YOUR HONOR, I AM REMINDED THAT I DIDN'T MOVE THE
3 ADMISSION OF PLAINTIFF'S EXHIBIT NUMBER ONE AND I DO SO
4 NOW.

5 THE COURT: IT WILL BE RECEIVED.

6 (PLAINTIFF'S EXHIBIT 1
7 RECEIVED INTO EVIDENCE)

8 BY MR. HELLER:

9 Q MISS HOPKINS, I THINK THERE'S OTHER EVIDENCE THAT
10 WILL COME IN CONCERNING YOUR EARNINGS, BUT I DID WANT TO
11 ASK YOU IF YOU COULD IDENTIFY FOR ME THE LAST THREE PAGES,
12 I BELIEVE IT'S THE LAST THREE PAGES OF PLAINTIFF'S EXHIBIT
13 SIX. I'M HANDING YOU A COPY.

14 A I'M SORRY, MR. HELLER, DID YOU SAY THE LAST THREE
15 PAGES?

16 Q THE LAST THREE PAGES, IF YOU COULD LOOK AT THOSE
17 PLEASE, AND TELL ME WHAT THEY ARE?

18 A THESE ARE SCHEDULE SE'S FOR FORM 1040 RELATED TO THE
19 COMPUTATION OF SOCIAL SECURITY SELF-EMPLOYMENT TAX FOR
20 1985, 1987 AND 1988.

21 Q AND THOSE ARE THE YEARS IN WHICH YOU WERE
22 SELF-EMPLOYED AND NOT AN EMPLOYEE OF THE HOPKINS COMPANY,
23 IS THAT CORRECT?

24 A THAT'S CORRECT.

25 MR. HELLER: YOUR HONOR, I'M NOT GOING TO MOVE

1 THE ADMISSION OF THAT YET BECAUSE I THINK MR. HURON'S
2 QUESTIONING OF MR. TRYON WILL BE THE APPROPRIATE TIME, BUT
3 I DID WANT TO HAVE THOSE IDENTIFIED IN THE RECORD.

4 THE COURT: YES.

5 A MR. HELLER, AM I SUPPOSED TO KEEP THIS?

6 Q NO, I'M SUPPOSED TO TAKE IT BACK. THANK YOU.

7 NOW, YOU MENTIONED THE UPS AND DOWNS OF
8 GOVERNMENT FUNDING AND WORKLOADS WHEN YOU WERE CONSULTING
9 FOR THE GOVERNMENT, AND GOING BACK TO JUDGE GESELL'S
10 QUESTION, BY 1987 WAS THE GOVERNMENT STILL YOUR PRINCIPAL
11 CONSULTING CLIENT?

12 A YES.

13 Q AND THAT WAS TRUE THROUGHOUT THE TIME THAT YOU WERE A
14 CONSULTANT AND SELF-EMPLOYED OR AN EMPLOYEE OF THE HOPKINS
15 COMPANY?

16 A I'M SORRY, I DIDN'T HEAR.

17 Q THROUGHOUT THE TIME THAT YOU WERE A CONSULTANT,
18 EITHER SELF-EMPLOYED OR AS AN EMPLOYEE OF THE HOPKINS
19 COMPANY, WAS THAT TRUE THAT THE GOVERNMENT WAS THE
20 PRINCIPAL CLIENT OF YOUR PRACTICE?

21 A YES.

22 MR. HELLER: I HAVE NO FURTHER QUESTIONS AT THIS
23 TIME OF MISS HOPKINS.

24 CROSS-EXAMINATION

25 BY MR. OLSON:

1 Q MISS HOPKINS, YOUR HONOR, MY NAME IS THEODORE OLSON.
2 COULD YOU TELL US A FEW THINGS ABOUT THE SEQUENCE -- LET
3 ME ASK A FEW QUESTIONS ABOUT THE SEQUENCE OF YOUR
4 DEPARTURE FROM PRICE WATERHOUSE. WHEN WERE YOU TOLD THAT
5 YOUR CANDIDACY FOR PARTNERSHIP AT PRICE WATERHOUSE WAS
6 GOING TO BE HELD, PUT OVER FOR ANOTHER YEAR?

7 APPROXIMATELY. I UNDERSTAND THAT YOU WOULDN'T
8 REMEMBER THE EXACT DATE.

9 A WELL, I DO. IT WAS ON THE 19TH AND -- NO, THAT'S
10 WHEN IT WAS ANNOUNCED. IT WAS THE 23RD OR 24TH, I
11 BELIEVE, OF MARCH, 1983, I BELIEVE.

12 Q MARCH OF 1983.

13 A YES.

14 Q AND WAS IT AUGUST OF 1983 WHEN YOU WERE TOLD THAT YOU
15 WOULD NOT BE REPROPOSED FOR PARTNERSHIP AT PRICE
16 WATERHOUSE THE FOLLOWING YEAR?

17 A YES, I BELIEVE IT WAS AUGUST 6TH.

18 Q WERE YOU TOLD AT THAT TIME THAT YOU DID NOT HAVE TO
19 LEAVE PRICE WATERHOUSE, THAT YOU WERE WELCOME TO REMAIN AT
20 PRICE WATERHOUSE AS A SENIOR MANAGER?

21 A IT SEEMS TO ME I'VE ANSWERED THESE QUESTIONS BEFORE,
22 BUT IT DEPENDED ON -- ABOUT -- IT DEPENDS ON WHICH PERSON
23 YOU'RE TALKING ABOUT. IT WAS SUGGESTED TO ME BY -- IT WAS
24 SUGGESTED TO ME BY ONE PARTNER THAT LEAVING WAS MY BEST
25 OPTION.

1 Q WERE YOU TOLD BY PRICE WATERHOUSE THAT YOU COULD STAY
2 AT PRICE WATERHOUSE AND REMAIN AS A SENIOR MANAGER?

3 A I WAS TOLD BY OTHER PEOPLE THAT I COULD STAY AT PRICE
4 WATERHOUSE AND REMAIN AS A SENIOR MANAGER.

5 Q AND YOU WERE TOLD THAT YOU COULD STAY AND REMAIN IN
6 PRICE WATERHOUSE AS A SENIOR MANAGER AND WORK WITH MR.
7 MC VAY, ISN'T THAT CORRECT?

8 A THAT'S CORRECT.

9 Q AND MR. MC VAY WAS SOMEONE WHO YOU LIKED AND ENJOYED
10 WORKING WITH?

11 A I DIDN'T WORK WITH MR. MC VAY. HE WAS A DOOR OR TWO
12 DOWN THE OFFICE. MR. MC VAY WAS A LIKEABLE PERSON, YES.

13 Q AND SOMEONE THAT YOU WOULD HAVE FELT COMFORTABLE
14 WORKING WITH?

15 A WORKING WITH MR. MC VAY?

16 Q YES.

17 A MR. MC VAY WORKED IN THE AGENCY FOR INTERNATIONAL
18 DEVELOPMENT ARENA AND DID A TREMENDOUS AMOUNT OF
19 INTERNATIONAL OR WAS ACTUALLY TRYING TO SELL INTERNATIONAL
20 WORK LARGELY OVERSEAS, WITH THE AGENCY FOR INTERNATIONAL
21 DEVELOPMENT AS A CLIENT.

22 MR. HELLER: YOUR HONOR, LET ME NOTE FOR THE
23 RECORD WE'RE WELL BEYOND THE SCOPE OF DIRECT AND I DO
24 BELIEVE WE'RE RETRYING THE CASE WE TRIED BACK IN 1984. I
25 RECALL YOUR HONOR'S QUESTIONS AT THE BEGINNING OF MISS

1 HOPKINS' TESTIMONY, BUT I DO THINK THAT THIS IS A MATTER
2 ON WHICH WE'VE MADE THE RECORD.

3 THE COURT: I THINK THIS IS A MATTER THAT THE
4 RECORD HAS SETTLED. MY UNDERSTANDING OF THE RECORD IS
5 THAT SHE WAS TOLD, ABOUT THE TIME SHE SAYS SHE WAS TOLD,
6 THAT SHE COULD STAY, BUT THAT SHE WOULD NEVER BE A PARTNER
7 AND THAT SHE DID NOT FIND THAT SATISFACTORY BECAUSE IT CUT
8 OFF ADVANCEMENT. THAT'S WHAT I UNDERSTAND THE RECORD
9 ALREADY SHOWS AND THAT'S WHERE IT STAYS.

10 MR. OLSON: I UNDERSTAND, YOUR HONOR, BUT WE'RE
11 TALKING ABOUT THE REMEDIAL PHASE OF THIS CASE. THAT
12 INCLUDES THE ALTERNATIVES --

13 THE COURT: WELL, YOU'LL HAVE TO GET THE REMEDY
14 FROM NEW FACTS, NOT FROM TRYING TO RETRY OLD FACTS.

15 MR. OLSON: I'M NOT ATTEMPTING TO RETRY OLD
16 FACTS, YOUR HONOR.

17 THE COURT: WELL, I'M TELLING YOU YOU ARE BECAUSE
18 ALL THOSE FACTS YOU'RE ASKING ABOUT ARE SETTLED IN THE
19 RECORD TODAY.

20 MR. OLSON: THANK YOU, YOUR HONOR.

21 BY MR. OLSON:

22 Q YOUR RESIGNATION LETTER TO PRICE WATERHOUSE WAS IN
23 DECEMBER OF 1983?

24 A THAT'S CORRECT.

25 Q AND YOUR RESIGNATION WAS ACCEPTED IN JANUARY OF 1984?

1 A JANUARY 17TH.

2 Q AND THAT WAS YOUR LAST DAY AT PRICE WATERHOUSE?

3 A YES, AS I RECALL MR. BYER CALLED ME AROUND 10 IN THE
4 MORNING AND WHEN I GOT TO HIS OFFICE I HAD ALL THE PAPERS
5 CUT AND I WAS GONE BY 11:30.

6 Q DID YOU RECEIVE A TERMINATION PAYMENT AT THAT TIME?

7 A I DID.

8 Q DO YOU RECALL THE AMOUNT OF IT?

9 A \$23,000 PLUS OR MINUS CHANGE, AS I RECALL. I DON'T
10 REMEMBER IF THAT WAS GROSS OR NET.

11 Q DO YOU RECALL THAT THE AMOUNT WAS SOMETHING IN THE
12 NEIGHBORHOOD OF \$37,000 BEFORE REDUCTION FOR TAXES?

13 A IF YOU SAY THAT'S THE NUMBER I'LL TAKE YOUR WORD FOR
14 IT.

15 Q DO YOU RECALL --

16 A THERE'S DOCUMENTATION IN THE RECORD ON THAT, AND I
17 HAD A CONTRACT THAT I THINK INDICATED WE COULD PART ON 90
18 DAYS' NOTICE AND AS I RECALL IT, IT AMOUNTED TO ABOUT
19 THREE MONTHS' PAY.

20 Q AND DO YOU RECALL THAT PRICE WATERHOUSE GAVE YOU FIVE
21 MONTHS' PAY?

22 A I WILL TAKE YOUR WORD FOR THAT. I DON'T PARTICULARLY
23 REMEMBER IT.

24 Q WHAT DID YOU MAKE AT PRICE WATERHOUSE IN 1983? WHAT
25 WERE YOUR TOTAL EARNINGS?

1 A I WAS MAKING ABOUT \$70,000 A YEAR.

2 Q AND DID YOU LOOK FOR ANY EMPLOYMENT OUTSIDE OF PRICE
3 WATERHOUSE PRIOR TO YOUR DEPARTURE IN JANUARY OF 1984?

4 A I DID NOT.

5 Q DO YOU RECALL TELLING ME ON THE DAY OF YOUR DEPARTURE
6 IN 1984 THAT YOU HAD -- YOU WERE NOW AN INDEPENDENT
7 CONSULTANT AND YOU WERE IN BUSINESS FOR YOURSELF?

8 A I DON'T RECALL SAYING THAT. IT WOULD CERTAINLY HAVE
9 BEEN IN LINE WITH WHAT I HAD DECIDED TO DO AND WITH THE
10 COURSE OF ACTION THAT I THOUGHT WAS IN MY BEST INTERESTS
11 AT THE TIME.

12 Q SO AS OF THE LAST DAY IN PRICE WATERHOUSE IN JANUARY
13 OF 1984 YOU HAD MADE A DECISION TO BE AN INDEPENDENT
14 CONSULTANT IN BUSINESS FOR YOURSELF?

15 A WHAT I'VE SAID BEFORE IS THAT THE BEST COURSE OF
16 ACTION, GIVEN MY EXPERIENCE AND SKILLS AND ASSETS WAS TO
17 DEVELOP A BUSINESS OF MY OWN. I ALSO INDICATED THAT I WAS
18 GOING TO PURSUE OTHER OPPORTUNITIES THAT SEEMED REASONABLE
19 IN ORDER TO AVOID HAVING ALL MY EGGS IN ONE BASKET.

20 Q BUT YOU TOLD PEOPLE ON THE DAY OF YOUR DEPARTURE FROM
21 PRICE WATERHOUSE THAT YOU WERE AS OF THAT POINT IN
22 BUSINESS FOR YOURSELF AS A CONSULTANT AND AT THAT POINT YOU
23 HAD MADE THAT DECISION THAT THAT'S WHAT YOU WERE GOING TO
24 DO, ISN'T THAT CORRECT?

25 A YES.

1 Q YOU DID HAVE OTHER OPTIONS THOUGH, DIDN'T YOU? AT
2 THAT POINT EARLIER IN THE YEAR HADN'T YOU TOLD PEOPLE AT
3 PRICE WATERHOUSE THAT YOU HAD OTHER PROFESSIONAL OPTIONS
4 OPEN?

5 A I DON'T --- IT'S QUITE POSSIBLE. I DON'T REMEMBER
6 THAT.

7 Q DO YOU REMEMBER TELLING PEOPLE AT PRICE WATERHOUSE
8 THAT YOU HAD OTHER PROFESSIONAL OPTIONS OPEN AT 70, 80,
9 \$90,000 A YEAR?

10 A I DON'T -- IT'S POSSIBLE, BUT I DON'T REMEMBER IT.

11 Q COULD YOU DESCRIBE AGAIN FOR US THE TYPE OF POSITION
12 THAT YOU FELT QUALIFIED TO DO? WHAT WAS IT THAT WAS YOUR
13 FIELD, YOUR SPECIALTY? WHAT TYPE OF WORK THAT YOU WERE
14 LOOKING FOR, IN YOUR OWN WORDS?

15 A MANAGEMENT CONSULTING IS A PROFESSION AND IT'S A
16 PROFESSION IN WHICH THE PRACTITIONERS SERVE TYPICALLY AS
17 THIRD-PARTY OUTSIDE OBJECTIVE ADVISORS TO MANAGEMENT, TO
18 DIAGNOSE MANAGEMENT PROBLEMS AND TO IDENTIFY AND PLAN
19 THINGS TO DO OR PROJECTS TO SOLVE THOSE PROBLEMS.

20 THE COURT: WELL, NOW, MISS HOPKINS, LIVING IN
21 WASHINGTON AS YOU AND I DO WE KNOW THERE ARE ALL KINDS OF
22 PEOPLE GOING AROUND WITH THE NAME CONSULTANT. THE
23 QUESTION THAT YOU WERE ASKED WAS WHAT IS IT THAT YOU
24 INDIVIDUALLY WERE LOOKING FOR? THE WORD CONSULTANT
25 COVERS, YOU KNOW, EVERYTHING FROM EX-CONGRESSMEN TO --

1 THE WITNESS: THAT'S WHAT I'M TRYING TO
2 DIFFERENTIATE, YOUR HONOR.

3 THE COURT: I UNDERSTAND THE QUESTION TO BE WAS
4 WHAT WAS IT YOU WERE LOOKING FOR? WHAT IN TERMS OF YOUR
5 PRECISE CAREER?

6 THE WITNESS: OKAY. THERE ARE SPECIALISTS WITHIN
7 THE PROFESSION OF MANAGEMENT CONSULTING. MY PRACTICE AREA
8 OF SPECIALIZATION WAS BIG SYSTEMS. WHAT THAT MEANS IS
9 THAT MY DIAGNOSTIC SKILLS ARE RELATED TO PROBLEMS
10 ASSOCIATED WITH BIG COMPUTER SYSTEMS. MY EXPERIENCE WAS
11 IN THAT AREA. MY TRAINING WAS ORIENTED TOWARD THAT. MY
12 EDUCATION WAS ORIENTED TOWARD THAT. SO THAT WHAT I DID
13 WAS DIAGNOSE PROBLEMS AND IDENTIFY AND RECOMMEND, PLAN OR
14 DO PROJECTS TO SOLVE THOSE PROBLEMS IN THE AREA OF BIG
15 COMPUTER SYSTEMS.

16 NOW, BIG CAN BE MEASURED IN TERMS OF A NUMBER OF
17 DIMENSIONS. IT CAN BE MEASURED IN TERMS OF HOW MUCH IT
18 COSTS SOMEONE TO PUT THAT SYSTEM IN, WHAT THE CRITICALITY
19 OF THAT SYSTEM IS TO THE ORGANIZATION THAT'S PUTTING THE
20 SYSTEM IN. IT CAN BE MEASURED IN TERMS OF A NUMBER OF
21 DIMENSIONS, BUT MY AREA OF EXPERTISE, MY AREA OF PRACTICE,
22 MY SPECIALTY, IF YOU WILL, AS A MANAGEMENT CONSULTANT IS
23 BIG SYSTEMS.

24 Q WHAT TYPES OF COMPANIES WOULD HAVE WORK FOR A PERSON
25 WITH THAT EDUCATION AND EXPERIENCE AND EXPERTISE THAT YOU

1 HAD AT THAT TIME?

2 A THE BIG EIGHT.

3 Q THE BIG EIGHT ACCOUNTING FIRMS?

4 A THE BIG EIGHT ACCOUNTING FIRMS. THE KINDS OF
5 ORGANIZATIONS THAT WERE CONTRACTORS AT THE STATE
6 DEPARTMENT. SOME OF WHOM -- THE KINDS OF ORGANIZATIONS I
7 HAD PREVIOUSLY WORKED FOR.

8 Q WHEN YOU SAY KINDS OF ORGANIZATIONS, WHAT KINDS OF
9 ORGANIZATIONS ARE YOU REFERRING TO?

10 A AMERICAN MANAGEMENT SYSTEMS, APPLIED MANAGEMENT
11 SCIENCES, PINKERTON COMPUTER CONSULTANTS. THAT'S WHAT I
12 MEANT.

13 Q COMPANIES THAT ARE IN THAT BUSINESS PROVIDING
14 MANAGEMENT CONSULTANTS AND DO LARGE SYSTEMS IN TERMS OF
15 THEIR REPERTOIRE?

16 A SOME OF THEM DO, YES.

17 Q WELL, ARE THERE LOTS OF COMPANIES OUT THERE THAT DO
18 THAT SORT OF THING IN THE WASHINGTON AREA?

19 A THAT'S TRUE. I THINK YOU SHOULD BE CAREFUL OF ONE
20 THING THOUGH. THE CONSULTING PRACTICE, THE CONSULTING
21 PRACTICE AT PRICE WATERHOUSE GREW OUT OF THE AUDIT
22 PRACTICE MANY YEARS AGO AND THAT IS MY IMPRESSION. AND IT
23 HAS ASSOCIATED WITH IT A LEVEL OF MANAGEMENT, A LEVEL OF
24 CONTROL, A LEVEL OF RECORDKEEPING, A LEVEL OF
25 DOCUMENTATION THAT IS UNLIKE THE SAME KINDS OF

1 REQUIREMENTS IN OTHER KINDS OF CONSULTING FIRMS THAT
2 DIDN'T GROW OUT OF THAT KIND OF A DISCIPLINE PRACTICE, SO
3 THAT WHEREAS THERE ARE LOTS OF PEOPLE WHO CALL THEMSELVES
4 CONSULTANTS FROM CONGRESSMEN TO PROFESSIONALS THERE ARE
5 ALSO LOTS OF KINDS OF CONSULTING ORGANIZATIONS WHICH
6 PRACTICE THAT BUSINESS DIFFERENTLY.

7 Q MY QUESTION IS, IF YOU COULD TELL US AT ALL, HOW MANY
8 COMPANIES IN THE WASHINGTON, D. C. AREA DID THE TYPE OF
9 WORK THAT YOU WERE QUALIFIED -- THAT YOU JUST DESCRIBED
10 YOU WERE QUALIFIED TO DO BY EDUCATION, TRAINING AND
11 EXPERIENCE?

12 A I DON'T KNOW.

13 Q DO YOU HAVE ANY APPROXIMATION ON THAT?

14 A I WOULD NOT MAKE SUCH AN APPROXIMATION.

15 Q DID YOU DO ANY EXPLORATION OF HOW MANY SUCH COMPANIES
16 WERE AVAILABLE IN 1984?

17 A I DID NOT.

18 Q BESIDES THE BIG EIGHT ACCOUNTING FIRMS, DO OTHER
19 ACCOUNTING FIRMS DO THAT SORT OF WORK?

20 A NOT GENERALLY ON THE SCALE OF THE BIG EIGHT. AT
21 LEAST THAT'S MY BELIEF. THE OTHER ACCOUNTING FIRMS DON'T
22 TEND TO HAVE CLIENTS BIG ENOUGH TO GET INTO MY KIND OF
23 WORK.

24 Q DID YOU MAKE A DECISION IN 1984 THAT THE ONLY KIND OF
25 ORGANIZATION THAT YOU WOULD REALLY WANT TO GO TO BESIDES

1 BEING IN YOUR OWN CONSULTING FIRM WAS A BIG EIGHT FIRM?

2 A I MADE A DECISION IN 1984 TO DEVELOP A BUSINESS OF MY
3 OWN IN THE AREA OF MANAGEMENT CONSULTING AND THAT'S WHAT I
4 DID IN 1984. AS I'VE INDICATED BEFORE, MR. OLSON, I
5 DECIDED THAT I WOULD ALSO PURSUE TO AVOID PUTTING ALL OF
6 MY EGGS IN ONE BASKET OTHER AREAS AND I PURSUED THE BEST
7 OPPORTUNITIES IN THOSE OTHER AREAS.

8 Q I'M REFERRING TO THOSE OTHER AREAS. DID YOU MAKE A
9 DECISION THAT THE ONLY OTHER AREAS THAT WOULD REALLY BE
10 ACCEPTABLE TO YOU BY COMPARABLE OPPORTUNITIES AND SO FORTH
11 WERE THE BIG EIGHT ACCOUNTING FIRMS?

12 A NO.

L
13 Q NOW, I WILL REPRESENT TO YOU THAT IN A BRIEF FILED ON
14 YOUR BEHALF IN THIS COURT, A PRE-TRIAL BRIEF ON REMEDY
15 FILED ON JANUARY 17, 1990 IT WAS STATED THAT YOU
16 REASONABLY BELIEVE THAT THE ONLY PLACE YOU MIGHT BE ABLE
17 TO OBTAIN AN OPPORTUNITY COMPARABLE TO THAT AVAILABLE AT
18 PRICE WATERHOUSE IN TERMS OF FUTURE EARNINGS AND WORK IN
19 YOUR FIELD WAS WITH ANOTHER BIG EIGHT FIRM, IS THAT
20 INCORRECT?

21 A THAT'S A STATEMENT ABOUT BOTH EARNINGS AND
22 OPPORTUNITY.

23 Q YES. DID YOU MAKE THAT JUDGMENT IN 1984?

24 A IF YOU POSE THE QUESTION IN TERMS OF BOTH EARNINGS . .
25 AND OPPORTUNITIES, THEN IT'S A SLIGHTLY DIFFERENT QUESTION

1 BECAUSE THE IMPRESSION I HAVE IS THAT COMPENSATION AT THE
2 PARTNER LEVEL IN, THE BIG EIGHT GENERALLY DIFFERS
3 DRAMATICALLY ON THE HIGH SIDE FROM COMPENSATION IN OTHER
4 ORGANIZATIONS, SO --

5 Q WELL, MY QUESTION IS DID YOU IN 1984 REASONABLY
6 BELIEVE THAT THE ONLY OPPORTUNITIES AVAILABLE, COMPARABLE
7 IN THOSE TERMS WAS WITH A BIG EIGHT ACCOUNTING FIRM?

8 A I REASONABLY BELIEVED IN 1984 THAT YOU COULD MAKE
9 MORE MONEY IN A BIG EIGHT ACCOUNTING FIRM.

10 Q MY QUESTION --

11 A DOING WHAT I DID.

12 Q MY QUESTION IS DID YOU REASONABLY BELIEVE IN 1984
13 THAT THE ONLY PLACE THAT YOU WOULD BE ABLE TO OBTAIN
14 OPPORTUNITY COMPARABLE TO THAT AVAILABLE AT PRICE
15 WATERHOUSE IN TERMS OF FUTURE EARNINGS AND WORK IN YOUR
16 FIELD WAS WITH ANOTHER BIG EIGHT FIRM?

17 MR. HELLER: I THINK SHE'S ANSWERED THAT WHEN YOU
18 PUT THE WORD COMPARABLE IN, YOUR HONOR.

19 MR. OLSON: I DON'T THINK SHE'S ANSWERED IT, YOUR
20 HONOR. I WOULD LIKE TO HAVE HER ANSWER IT.

21 A ARE YOU TRYING TO MAKE SOME SUBTLE POINT MR. OLSON?
22 BECAUSE I DON'T UNDERSTAND IT.

23 THE COURT: YOU DON'T REMEMBER WHAT YOU SAID
24 BEFORE, IS THAT RIGHT? IS THAT WHAT YOU'RE SAYING, OR DO
25 YOU REMEMBER WHAT YOU SAID BEFORE? IF YOU REMEMBER WHAT

1 YOU SAID BEFORE WOULD YOU TELL COUNSEL WHAT YOU MEANT TO
2 SAY OR CONVEY?

3 THE WITNESS: OKAY, I'M SORRY. WOULD YOU -- IT'S
4 ABOUT MEMORY?

5 MR. OLSON: YOUR HONOR, THIS IS AN ARGUMENT MADE
6 IN HER 'BRIEF FILED ON MISS HOPKINS' BEHALF.

7 THE COURT: I KNOW. THAT'S THE TROUBLE WITH
8 LAWYERS. THEY MAKE ARGUMENTS. SHE DIDN'T MAKE THE
9 ARGUMENT.

10 MR. OLSON: IT WAS MADE IN THIS COURT ON HER
11 BEHALF. IF IT'S NOT HER POSITION THEN --

12 THE COURT: I MEAN, BUT THIS IS NOT HER
13 STATEMENT.

14 MR. OLSON: I'M ASKING HER WHETHER IT WAS. IF IT
15 WASN'T --

16 THE COURT: WELL, I DIDN'T UNDERSTAND THAT. DID
17 YOU TELL THE LAWYERS WHAT TO PUT IN THE BRIEF, OR DID THEY
18 PUT IT IN?

19 THE WITNESS: THE ATTORNEYS WROTE THE BRIEFS.

20 THE COURT: APPARENTLY THEY'RE TALKING ABOUT
21 SOMETHING YOUR LAWYER SAID. DID YOU TELL HIM WHAT TO PUT
22 IN THE BRIEF ABOUT WHAT YOU THOUGHT WERE YOUR BEST
23 OPPORTUNITIES OR WAS THAT HIS JUDGMENT ABOUT WHAT HE
24 UNDERSTOOD YOU TO MEAN TO HIM?

25 THE WITNESS: IT'S MOST LIKELY TO BE MY

1 ATTORNEYS' JUDGMENT AND MY ATTORNEYS' WORDS AND WHAT MY
2 ATTORNEYS PUT IN THE BRIEFS.

3 THE COURT: ALL RIGHT, THEN YOU CAN EXPLAIN IT.

4 ALL RIGHT.

5 MR. HELLER: I THINK I'M THE GUILTY AUTHOR OF
6 THAT STATEMENT, YOUR HONOR, AND I DON'T THINK IT IS A FAIR
7 TRANSLATION OF WHAT SHE WENT THROUGH AND PERHAPS I HADN'T
8 INTERVIEWED HER SUFFICIENTLY BEFORE THAT. I APOLOGIZE.

9 THE COURT: WELL, YOU ARE HER AGENT.

10 MR. OLSON: I THINK I'M ENTITLED, YOUR HONOR, OF
11 COURSE IT'S UP TO YOU TO DECIDE, WHAT SHE BELIEVED IN
12 1984.

13 THE COURT: WELL, I THINK SHE'S ANSWERED THAT.
14 SHE'S ANSWERED THAT THE BIG BUCKS WAS IN THE BIG EIGHT AND
15 THE KIND OF THING SHE WANTED TO WORK ON WERE THINGS BACKED
16 BY BIG ACCOUNTING FIRMS BECAUSE THEY COULD DO THE
17 ACCOUNTING ASPECT OF THE DEVELOPMENT OF THE INFORMATION
18 THAT WOULD BE USEFUL FOR HER WHEN DIAGNOSING MAJOR
19 PROBLEMS NEEDING COMPUTER SYSTEM ANALYSIS. THAT'S WHAT
20 SHE'S BEEN SAYING, AS I UNDERSTAND IT.

21 IS THAT GENERALLY WHAT YOU'VE BEEN SAYING?

22 THE WITNESS: YES, SIR.

23 THE COURT: SO NOW, THAT HASN'T ANYTHING TO DO
24 WITH WHETHER OR NOT THERE MAY HAVE BEEN OTHER
25 OPPORTUNITIES THAT PARTIALLY OR COMPLETELY COULD HAVE

1 MITIGATED HER DISTRESS, BUT SHE WAS LOOKING FOR THE BIG
2 COMPANIES WITH THE BIG BUCKS, SHE SAYS.

3 MR. OLSON: WELL, I THINK THAT THE POINT IS
4 ESTABLISHED THAT WHAT SHE WAS INTERESTED IN WAS THE BIG
5 EIGHT ACCOUNTING FIRMS AND THAT BY PROFESSION, BY
6 DISCIPLINE, BY EDUCATION AND BY OPPORTUNITIES --

7 THE COURT: WELL, ALSO THEY HAD THE ORGANIZATION,
8 I UNDERSTAND IT FROM THE WITNESS, THE ACCOUNTING
9 ORGANIZATION TO PROVIDE THE MATERIAL THAT WAS NECESSARY IF
10 YOU WERE DIAGNOSING A COMPLEX SITUATION. SO THAT YOU
11 COULD KNOW WHAT IT WAS THE COMPUTER HAD TO DO OR COULD DO.

12 BY MR. OLSON:

13 Q THAT IS YOUR POSITION, MISS HOPKINS, THAT --

14 THE COURT: THAT'S WHAT I UNDERSTOOD SHE SAID.

15 BY MR. OLSON:

16 Q THOSE ARE THE ONLY ORGANIZATIONS THAT WOULD PROVIDE
17 YOU WITH THE KIND OF BACK-UP FOR THE KIND OF WORK YOU
18 WANTED TO DO?

19 A ONLY IS A VERY NARROWLY RESTRICTIVE WORD. THE
20 STATEMENT THAT I MADE IS THAT --

21 THE COURT: THEN I DON'T UNDERSTAND IT. I'M IN
22 YOUR POSITION NOW. I DON'T UNDERSTAND IT. IF THAT ISN'T
23 WHAT SHE WAS SAYING, THEN I DON'T UNDERSTAND WHAT SHE WAS
24 SAYING EITHER. SO YOU MAY PURSUE IT.

25 MR. OLSON: THANK YOU, YOUR HONOR.

1 BY MR. OLSON:

2 Q IF I UNDERSTAND YOUR POSITION CORRECTLY, AND PLEASE
3 CORRECT ME IF I'M WRONG, IS THAT YOU FELT IN 1984 THAT THE
4 ONLY OPPORTUNITY FOR YOU THAT WAS COMPARABLE IN TERMS OF
5 BOTH WHAT YOU WOULD BE ABLE TO EARN AND THE TYPE OF
6 EXPERIENCE, EDUCATION AND TRAINING THAT YOU HAD WAS WITH
7 THE BIG EIGHT ACCOUNTING FIRMS, IS THAT CORRECT?

8 A FIRST LET ME GO BACK AND INDICATE THAT IN 1984 I
9 CONSIDERED MY BEST OPPORTUNITY, GIVEN MY SKILLS,
10 BACKGROUND, TRAINING, ET CETERA, WAS TO DEVELOP MY OWN
11 PRACTICE AND GROW WITH THE CORPORATION. THAT WAS MY
12 PRIMARY FOCUS IN 1984. IN TERMS OF OTHER AVENUES THAT I
13 PURSUED, THE ORGANIZATIONS WHERE YOU COULD MAKE THE MOST
14 MONEY, PRACTICE THE PROFESSION IN THE MOST INTERESTING
15 ENVIRONMENT, ACCORDING TO AN ORDERLY, DISCIPLINED,
16 CONTROLLED, DOCUMENTED PROCESS WAS THE BIG EIGHT. NOW,
17 HAVE I ANSWERED YOUR QUESTION?

18 Q THAT WOULD BE YOUR PRINCIPAL CHOICE OUTSIDE YOUR OWN
19 BUSINESS THEN; IS THAT WHAT YOU'RE SAYING?

20 A IT WAS ONE OF THE OPTIONS THAT I CONSIDERED. I
21 CONSIDERED THREE. WELL, ACTUALLY IT WAS ONE OF THE
22 APPROACHES THAT I CONSIDERED TO ADDRESSING THE MARKETPLACE
23 AS A SECONDARY MATTER AND IT WAS -- I'M SORRY, I'VE LOST
24 THE QUESTION AGAIN.

25 Q ONE OF THE PRINCIPAL ALTERNATIVES TO BEING IN YOUR

1 OWN BUSINESS IN YOUR MIND IN 1984 WAS THE BIG EIGHT
2 ACCOUNTING FIRMS?

3 A THAT IS TRUE.

4 Q NOW, HOW MANY OF THE BIG EIGHT ACCOUNTING FIRMS DID
5 YOU APPROACH WITH RESPECT TO POSSIBLE EMPLOYMENT?

6 A ONLY ONE.

7 Q AND THAT WAS TOUCHE ROSS?

8 A THAT'S CORRECT.

9 Q AND YOU APPROACHED THEM WHEN? APPROXIMATELY?

10 A 1984.

11 Q DO YOU RECALL WHEN IN 1984?

12 A WELL, THE EARLIEST RECORD OF A CONVERSATION WITH
13 ANYBODY AT TOUCHE ROSS IS I THINK LIKE JANUARY 12TH WITH
14 JIM MC COY. MY GUESS IS THAT IT WOULD HAVE BEEN IN THE
15 FIRST QUARTER BEFORE THE SUMMER OF 1984.

16 Q DID YOU TALK TO SOMEONE IN THE MANAGEMENT CONSULTING
17 END OF THING AT TOUCHE ROSS IN WASHINGTON, D. C.?

18 A YES. I DON'T RECALL BEING VERY WELL ACQUAINTED WITH
19 ANYONE OTHER THAN THE MANAGEMENT CONSULTING PEOPLE.

20 Q WITH WHOM DID YOU SPEAK IN THE MANAGEMENT CONSULTING
21 SIDE OF THINGS AT TOUCHE ROSS IN EARLY 1984?

22 A TO THE BEST OF MY KNOWLEDGE, AS I RECALL, I SPOKE
23 WITH BILL ATKINS. I SPOKE WITH BILL BEACH. I SPOKE WITH
24 JEFF BALDWIN. BUT I HAVE ALSO SPOKEN WITH THOSE PEOPLE
25 SINCE, SO I COULD HAVE THE TIMES CONFUSED.

1 Q WELL, WHO WAS THE HEAD OF THE MANAGEMENT CONSULTING
2 BUSINESS AT TOUCHE ROSS IN WASHINGTON IN 1984? IF YOU
3 RECALL?

4 A THE PERSON THAT I VIEWED AS THE HEAD, I DON'T KNOW
5 WHAT HIS TITLE WAS, BUT I THINK IT WAS BILL BEACH.

6 Q DID YOU SPEAK WITH MR. BEACH? I THINK YOU SAID YOU
7 DID.

8 A I DID.

9 Q DID YOU SPEAK WITH HIM OVER THE PHONE OR DID YOU HAVE
10 A MEETING WITH HIM?

11 A MR. BEACH AND I MET AT LEAST ONCE AND WE MET AT A
12 RESTAURANT, I THINK IT'S CALLED JACQUELINE'S, ON 18TH OR
13 19TH AND L, MAYBE M.

14 Q IN EARLY 1984?

15 A I THINK IT WAS IN EARLY 1984.

16 Q DID YOU DISCUSS THE PROSPECT OF YOU'RE COMING TO WORK
17 AT TOUCHE ROSS?

18 A YES.

19 Q HAD MR. BEACH BEEN AT TOUCHE ROSS WHEN YOU WERE
20 THERE?

21 A YES, HE HAD.

22 Q HE HAD BEEN HEAD OF THE MANAGEMENT CONSULTING
23 PRACTICE WHILE YOU WERE AT TOUCHE ROSS?

24 A I DON'T THINK SO. I THINK BILL ATKINS WAS THE HEAD
25 OF THE CONSULTING PRACTICE AND THEN LATER BILL ATKINS WAS

1 THE HEAD OF THE OFFICE. IT'S HARD FOR ME TO DIFFERENTIATE
2 BECAUSE MY HUSBAND WAS A PARTNER THERE OVER A LONGER
3 PERIOD OF TIME THAN I WAS EMPLOYED THERE, SO I DON'T
4 REMEMBER EXACTLY WHO WAS IN CHARGE OF WHAT IN ANY GIVEN
5 YEAR.

6 Q BUT MR. BEACH WAS SOMEONE WHO IN 1984 YOU THOUGHT WAS
7 SOMEONE YOU WOULD NEED TO TALK TO ABOUT POSSIBLE
8 EMPLOYMENT AT TOUCHE ROSS?

9 A MR. BEACH WAS A MAN I KNEW FOR QUITE A FEW YEARS AND
10 HE SEEMED A REASONABLE PERSON TO TALK TO. I TALKED TO HIM
11 BEFORE.

12 Q AND HE WAS HEAD OF THE SIDE OF THE PRACTICE YOU WOULD
13 BE GOING INTO, IF YOU WENT TO TOUCHE ROSS?

14 A I -- I THINK SO.

15 Q SO COULD YOU TELL US ABOUT YOUR CONVERSATION WITH
16 MR. BEACH?

17 A THE IMPRESSION I HAD WHEN I FINISHED TALKING WITH
18 MR. BEACH WAS THAT THERE WEREN'T ANY OPPORTUNITIES OF
19 SIGNIFICANCE AT TOUCHE ROSS.

20 Q DID YOU TELL HIM THAT YOU WERE ONLY WILLING TO
21 CONSIDER AN IMMEDIATE ENTRY AS A PARTNER AT TOUCHE ROSS?

22 A I MIGHT HAVE. IT'S MORE LIKELY THAT I SAID THAT I
23 WOULD, I WOULD LIKE TO CONSIDER SUCH AN ENTRY BECAUSE, YOU
24 KNOW, THERE'S A QUESTION EXACTLY HOW STRONG YOUR
25 NEGOTIATING POSITION IS. YOU DON'T ASK SOMEONE TO TALK TO

1 YOU AS AN OLD FRIEND AND THEN SAY I'LL ONLY DO X, Y,Z.

2 Q YOU WOULDN'T HAVE DONE THAT.

3 A I DON'T THINK SO, BUT I -- I DO NOT REMEMBER THAT
4 CONVERSATION. MY OBJECTIVE, MY OBJECTIVE WAS -- MY
5 OBJECTIVE WAS TO BE A PARTNER.

6 Q WAS YOUR STATE OF MIND IN 1984 THAT YOU WOULD HAVE
7 ACCEPTED A POSITION AS A MANAGER OR SENIOR MANAGER IN A
8 BIG EIGHT ACCOUNTING FIRM?

9 A MY STATE OF MIND IN 1984. I THINK -- MY OBJECTIVE
10 WAS TO BE A PARTNER. I THINK THAT HAD SOMEBODY SAID,
11 LOOK, WE'VE GOT THIS AND SUCH KIND OF A FISCAL YEAR CYCLE
12 AND WE'RE PARTIALLY THROUGH A FISCAL YEAR AND IF YOU COME
13 IN YOU'VE GOT A VERY GOOD CHANCE OF BEING A PARTNER WHEN
14 WE DO THE NEXT ROUND OF PARTNER ADMISSIONS I MIGHT HAVE,
15 BUT WE NEVER GOT INTO ANY CONVERSATIONS ANYWHERE CLOSE TO
16 THAT, MR. OLSON.

17 Q YOU DIDN'T DISCUSS THE POSSIBILITY OF WORKING AT
18 TOUCHE ROSS AS A MANAGER IN A POSITION THAT WOULD LEAD
19 ULTIMATELY POSSIBLY TO A PARTNERSHIP AT TOUCHE ROSS?

20 A I DON'T REMEMBER HAVING ANY DISCUSSION, NO.

21 Q DID YOU TELL MR. BEACH THAT YOU WOULDN'T CONSIDER
22 THAT?

23 A I DON'T THINK IF I TOLD MR. BEACH THAT OR NOT. I
24 DON'T THINK I WOULD PUT IT THAT BLUNTLY.

25 Q DID YOU TELL MR. BEACH YOU WOULD ONLY CONSIDER A

1 PARTNERSHIP AT TOUCHE ROSS?

2 A TO BE A PARTNER WAS MY OBJECTIVE BUT I DON'T KNOW
3 WHETHER I -- I THINK IT'S UNLIKELY THAT I WOULD HAVE TOLD
4 MR. BEACH THAT I WOULD ONLY DO ANYTHING, IN THOSE TERMS.

5 Q WELL, WHAT DID MR. BEACH SAY ABOUT YOUR PROSPECTS AT
6 TOUCHE ROSS?

7 A I DON'T RECALL SPECIFICALLY WHAT MR. BEACH SAID BUT I
8 DO RECALL THAT BY THE TIME I FINISHED MY DIALOGUES WITH
9 MR. BEACH AND MR. ATKINS AND MR. BALDWIN THAT I DID NOT
10 HAVE AN IMPRESSION THAT IT WAS AN OPPORTUNITY WORTH
11 PURSUING.

12 Q WAS ANYONE ELSE IN THE CONVERSATION, THE LUNCHEON
13 THAT YOU HAD WITH MR. BEACH?

14 A IT WAS NOT LUNCH. IT WAS ABOUT FIVE OR SIX O'CLOCK
15 IN THE AFTERNOON.

16 Q AND DO YOU RECALL HOW IT ENDED?

17 A I DON'T RECALL HOW IT ENDED. WE PROBABLY SAID GOOD-
18 BYE AND LEFT.

19 Q DO YOU RECALL WHETHER YOU TOLD HIM THAT YOU WOULD
20 LIKE TO WORK AT TOUCHE ROSS? DID YOU APPLY FOR A JOB AT
21 TOUCHE ROSS?

22 A NO, I DID NOT MAKE FORMAL APPLICATION AT TOUCHE ROSS.

23 Q DID YOU TELL HIM THAT YOU WANTED TO COME TO WORK FOR
24 TOUCHE ROSS OR THAT YOU WOULD LIKE TO COME TO WORK FOR
25 TOUCHE ROSS?

1 A I DON'T REMEMBER.

2 Q SO YOU DID NOT APPROACH ARTHUR ANDERSEN OR ANY OF THE
3 BIG EIGHT ACCOUNTING FIRMS, OTHER BIG EIGHT ACCOUNTING
4 FIRMS BESIDES TOUCHE ROSS?

5 A JUST RECALL WHAT I SAID. I WAS FOCUSED ON GROWING A
6 PRACTICE. AS A SECONDARY SET OF ACTIVITIES I PURSUED WHAT
7 I CONSIDERED TO BE THE BEST OPPORTUNITIES IN A NUMBER OF
8 AREAS. I CONSIDERED TOUCHE TO BE THE BEST AREA TO PURSUE.
9 I PURSUED TOUCHE. I DID NOT KNOW ANYONE AT ANDERSEN OR
10 ANY OF THE OTHER BIG EIGHT, THAT I RECALL. AND I DID NOT
11 PURSUE THOSE FIRMS. I DON'T THINK THAT THEY -- I DID NOT
12 PURSUE THOSE FIRMS.

13 Q YOU DIDN'T WRITE TO THE MANAGEMENT CONSULTING PEOPLE
14 AT ANY OF THE OTHER BIG EIGHT FIRMS OR MAKE ANY EFFORT TO
15 CONTACT ANY OF THE BIG EIGHT FIRMS?

16 A NO.

17 THE COURT: I THINK THAT'S VERY CLEAR. SHE SAID
18 THE ONLY PLACE SHE TALKED TO WAS TOUCHE ROSS.

19 BY MR. OLSON:

20 Q DID YOU DISCUSS A POSITION WITH ANY OTHER CONSULTING
21 FIRM?

22 A WELL, I THINK I INDICATED THAT I -- I'VE DESCRIBED
23 MOST OF THE PEOPLE I TALKED TO. I TALKED TO THE PEOPLE AT
24 AMS. THEY LED ME TO ASSUME SIMILAR CAREERS. I SPOKE WITH
25 MR. ENGER OF APPLIED MANAGEMENT SCIENCES, INC.

1 Q WERE YOU OFFERED A POSITION AT A COMPANY BY THE NAME
2 OF PINKERTON COMPUTER CONSULTANTS?

3 A MR. JIM CRAIG AND I DISCUSSED A POSITION DOING, I
4 BELIEVE, PROJECT MANAGEMENT AT A RATE OF AROUND \$60,000
5 AND I BELIEVE THAT WAS IN 1987, ALTHOUGH I THINK I MAY
6 HAVE EARLIER SAID IT WAS '84. AND I HAD -- I BELIEVE THAT
7 MR. CRAIG AND I WERE TALKING ABOUT A POSITION DOING
8 PROJECT MANAGEMENT FOR AROUND \$60,000.

9 Q BUT YOU DIDN'T TALK TO HIM IN 1984?

10 A NO, THAT'S NOT WHAT I'M SAYING. I BELIEVE WE WERE
11 TALKING ABOUT POSITIONS AND MONEY IN 1987 OR AFTER THAT.
12 IN 1984 -- I THINK I EARLIER SAID THAT IT WAS IN 1984. I
13 THINK THAT PARTICULAR SITUATION THAT YOU'RE TALKING ABOUT,
14 THE PROJECT MANAGEMENT POSITION, WAS IN 1987. I
15 MAINTAINED AN ONGOING DIALOGUE WITH JIM CRAIG AND I SPOKE
16 WITH HIM REGULARLY FROM 1983 ON.

17 Q YOU KEEP REFERRING TO AN ONGOING DIALOGUE. DID YOU
18 APPLY FOR A JOB WITH PINKERTON?

19 A NO, BUT THERE'S MORE TO KEEPING YOUR OPTIONS OPEN
20 THAN APPLYING FOR JOBS.

21 Q IS MC KINSEY & COMPANY A COMPANY THAT DOES THE TYPE
22 OF WORK THAT YOU WOULD HAVE BEEN INTERESTED IN DOING?

23 A NO, MC KINSEY TENDS TO DO HIGH LEVEL, IT'S CALLED
24 BOARD LEVEL CONSULTING. MC KINSEY AND MC KINSEY'S
25 CONSULTANTS TEND TO WORK WITH THE CHIEF EXECUTIVE OFFICERS

1 OF CORPORATIONS AND WITH THE BOARD AND WITH THE CHAIRMAN.
2 SYSTEMS CONSULTING TENDS TO BE WORKING WITH THE
3 OPERATIONAL LINE MANAGEMENT OF THE ORGANIZATION AND I
4 WOULD NOT CHARACTERIZE MC KINSEY AS BEING, AS BEING IN THE
5 SAME BUSINESS.

6 Q 'SO' THAT'S NOT A COMPANY THAT YOU WOULD HAVE
7 CONSIDERED?

8 A I DID NOT CONSIDER MC KINSEY.

9 Q WHAT ABOUT BOOZ ALLEN? DID YOU CONSIDER THAT
10 COMPANY?

11 A I'M SORRY, THE QUESTION WAS ABOUT BOOZ ALLEN?

12 Q YES, DID YOU CONSIDER WORKING FOR BOOZ ALLEN?

13 A OKAY. IN TERMS OF MY -- IN TERMS OF THE BEST TARGETS
14 OF OPPORTUNITY WHICH RELATED TO CORPORATIONS, AS I'VE
15 INDICATED, THE ONES THAT I PURSUED WERE PEOPLE THAT I
16 WORKED WITH, FORMER EMPLOYEES OR PEOPLE THAT I HAD
17 KNOWLEDGE OF IN THE FOUR OR FIVE YEARS THAT I WAS WORKING
18 AT PRICE WATERHOUSE. NO, I DID NOT PURSUE BOOZ ALLEN.

19 Q WHY WAS THAT?

20 A MY -- THE FOCUS OF MY ACTIVITIES IN 1984 WAS ON
21 DEVELOPING MY BUSINESS. AS I HAVE INDICATED BEFORE, I
22 PURSUED WHAT I CONSIDERED TO BE THE BEST PROSPECTS IN
23 CERTAIN AREAS AS A FALLBACK POSITION. THAT PARTICULAR
24 ORGANIZATION WASN'T ONE. I DIDN'T -- I DIDN'T KNOW
25 ANYBODY THERE. I HAD NO EXPERIENCE WITH THEM. I DIDN'T

1 KNOW ANYTHING ABOUT THEM.

2 Q YOU DIDN'T DO ANY RESEARCH TO FIND OUT WHETHER THEY
3 WOULD HAVE POSITIONS IN YOUR FIELD.

4 A NO.

5 Q AMERICAN MANAGEMENT SYSTEMS IS A COMPANY I BELIEVE
6 YOU MENTIONED DURING YOUR DIRECT EXAMINATION AS SOMEONE
7 WITH WHOM YOU DISCUSSED POTENTIAL EMPLOYMENT, IS THAT
8 CORRECT?

9 A THAT'S TRUE.

10 Q WERE YOU OFFERED A POSITION AT AMERICAN MANAGEMENT
11 SYSTEMS?

12 A NOT IN '84. I DEALT WITH FRANK NICOLI IN 1984. A
13 LITTLE BIT LATER ON, PROBABLY IN 1986-7 TIMEFRAME I SPOKE
14 WITH TIM MATLAK AND I HAD THE IMPRESSION THAT AMS WOULD
15 MAKE AN OPPORTUNITY FOR ME TO HELP THEM WITH THEIR
16 PROPOSAL DEVELOPMENT PROCESS. IT WAS A SUGGESTION FROM
17 MR. MATLAK, MORE THAN A DIRECT OFFER, I SUPPOSE.

18 Q WELL, DID YOU CONSIDER IN 1984 GOING TO WORK FOR AMS?

19 A IT WASN'T AN OPTION IN 1984.

20 Q WHY WASN'T IT AN OPTION IN 1984?

21 A WHEN I SPOKE WITH FRANK NICOLI HE SUGGESTED THAT I
22 CONTACT JUDY REACH WHO IDENTIFIED A RECRUITER FOR ME BUT
23 TO THE BEST OF MY KNOWLEDGE FRANK NEVER MADE ANY REFERENCE
24 TO POSITIONS BEING AVAILABLE AT AMS PLUS, MR. OLSON, AMS .
25 HAD BEEN MY FORMER EMPLOYER BEFORE I WENT TO PRICE

1 WATERHOUSE. I WAS FAMILIAR WITH THAT ORGANIZATION AND
2 THERE WAS NO REASON THAT THEY WOULDN'T HAVE TOLD ME IF
3 THERE HAD BEEN AN OPPORTUNITY AVAILABLE .

4 Q DID YOU ASK THEM IF THERE WAS AN OPPORTUNITY
5 AVAILABLE?

6 A THAT WAS THE REASON THAT I WENT TO TALK TO FRANK
7 NICOLI IN THE FIRST PLACE.

8 Q WASN'T IT TRUE THAT YOU WEREN'T INTERESTED IN WORKING
9 FOR AMS BECAUSE IT WASN'T YOUR TYPE OF ORGANIZATION?

10 A I HAD WORKED FOR AMS AND AMS DID NOT HAVE THE KIND,
11 OR AT THE TIME DID NOT DO CONSULTING WORK IN THE SAME
12 MANNER THAT IT WAS DONE AT PRICE WATERHOUSE. IT DID NOT
13 GROW OUT OF -- IT DID NOT GROW OUT OF AN AUDIT PRACTICE.
14 IT GREW OUT OF A VERY TECHNICALLY ORIENTED PRACTICE AND IT
15 WAS A MUCH MORE TECHNICALLY ORIENTED ORGANIZATION. I HAD
16 DISCOVERED THAT WHEN I HAD BEEN EMPLOYED THERE. I WAS
17 EMPLOYED BY AMS BETWEEN TOUCHE ROSS AND PRICE WATERHOUSE.

18 Q WELL, WASN'T AMS THE PRINCIPAL COMPETITOR TO PRICE
19 WATERHOUSE FOR THE LAST TWO OR THREE YEARS THAT YOU WORKED
20 AT PRICE WATERHOUSE DOING THE SORT OF THING THAT YOU WERE
21 DOING?

22 A THAT'S TRUE.

23 Q SO THEY WERE DOING THE SAME TYPE OF WORK THAT YOU
24 WERE DOING AT PRICE WATERHOUSE?

25 A YES, AND PRICE WATERHOUSE WAS SUCCESSFUL IN

1 ELIMINATING THEM AS COMPETITION BECAUSE OF SOME OF THE
2 KINDS OF CHARACTERISTICS THAT RELY ON ORGANIZATION,
3 RECORDKEEPING AND A PARTICULAR WAY OF MANAGING THE
4 CONSULTING BUSINESS THAT CHARACTERIZED PRICE WATERHOUSE.

5 Q SO THIS ORGANIZATION THAT WAS THE PRINCIPAL
6 COMPETITOR FOR PRICE WATERHOUSE DURING THE LAST TWO YEARS
7 THAT YOU WERE AT PRICE WATERHOUSE WAS NOT AN ORGANIZATION
8 THAT YOU REGARDED AS SUITABLE AS A POTENTIAL EMPLOYER?

9 A THAT'S NOT TRUE. I HAD WORKED WITH THEM BEFORE. I
10 HAD WORKED WITH THEM BEFORE. I CERTAINLY WOULD HAVE
11 CONSIDERED IT AS AN OPTION WHEN I SPOKE WITH FRANK NICOLI.
12 IT WASN'T AN OPTION AND, FRANKLY, THATS AN ORGANIZATION
13 THAT'S ENGAGED IN A DIFFERENT KIND OF PRACTICE. IT IS A
14 PRACTICE THAT IS NOT AS MANAGEMENT ORIENTED AS IT IS
15 TECHNICALLY ORIENTED.

16 Q WELL, MY QUESTION IS HAVEN'T YOU INDICATED TO US THAT
17 YOU SIMPLY WERE NOT INTERESTED IN A JOB AT AMS BECAUSE IT
18 WAS NOT YOUR SORT OF ORGANIZATION?

19 A NO, I WAS NOT INTERESTED IN WORKING AT AMS. ALL THE
20 SAME HAD --

21 THE COURT: BUT YOU ARE TELLING ME YOU WERE
22 COMPETENT TO DO THE WORK, IS THAT RIGHT?

23 THE WITNESS: I WAS COMPETENT TO DO THE WORK,
24 YES.

25 BY MR. OLSON:

1 Q BUT YOU WERE NOT INTERESTED IN WORKING THERE?

2 A NOT PARTICULARLY, NO. I DID, HOWEVER, VALUE
3 MR. NICOLI'S ADVICE.

4 Q DID YOU DISCUSS EMPLOYMENT WITH A FIRM BY THE NAME OF
5 HE AARONSON, FETRIDGE, WEIGLE & STERN?

6 A THAT'S TRUE.

7 Q WHAT KIND OF AN ORGANIZATION IS THAT?

8 A I THINK I MAY HAVE MESSED UP THE DATE ON THAT IN MY
9 DEPOSITION, BUT AARONSON, FETRIDGE, WEIGLE & STERN IS AN
10 ACCOUNTING FIRM. I THINK IT'S WHAT'S REFERRED TO AS A
11 LOCAL ACCOUNTING FIRM.

12 Q IN THAT IT DOES BUSINESS IN WASHINGTON, D. C.?

13 A YES, AS OPPOSED TO A NATIONAL OR A REGIONAL OR AN
14 INTERNATIONAL FIRM. IT'S THE SMALLISH END OF THE SCALE.

15 Q DID YOU DISCUSS THE POSSIBILITY OF GOING TO WORK WITH
16 THAT FIRM?

17 A I DID.

18 Q AND DID THEY OFFER YOU A POSITION?

19 A IN 1987, YES. THEY WERE MY ACCOUNTING FIRM
20 THROUGH -- WELL, THEY WERE MY ACCOUNTING FIRM BOTH AS AN
21 INDIVIDUAL AND AS A CORPORATION FOR 1983, '4, '5, '6 AND
22 '7.

23 Q AND YOU DECIDED YOU DID NOT WANT TO GO AND WORK FOR
24 THEM?

25 A THAT'S TRUE. THEY HAD ALMOST NO CONSULTING -- THEY

1 HAD NO CONSULTING STAFF AT ALL.

2 Q THEY WANTED YOU TO DEVELOP A PRACTICE, IS THAT RIGHT?

3 A THAT'S RIGHT.

4 Q AND YOU DECIDED YOU DID NOT WANT TO DO THAT.

5 A AT THAT TIME I WAS MORE ACTIVELY PURSUING GOING TO
6 WORK FOR THE WORLD BANK WHICH UNDER THOSE CIRCUMSTANCES
7 AND AT THAT TIME SEEMED A MUCH BETTER OPPORTUNITY.

8 Q BECAUSE YOU DID NOT WANT TO DEVELOP THE PRACTICE.

9 A BECAUSE MY FAMILY SITUATION WAS SUCH THAT I HAD
10 DIFFICULTY DEALING WITH THE VARYING WORKLOAD, THE BAD CASH
11 FLOW AND I DECIDED TO GO TO WORK FOR THE WORLD BANK. IF
12 THAT -- THAT WAS MY PRIMARY FOCUS AT THAT TIME, AND
13 COMPARED TO THE WORLD BANK AARON, PETRIDGE, WEIGLE & STERN
14 DID NOT SEEM TO BE AS GOOD AN OPPORTUNITY.

15 Q IT'S ALSO FOR MAYBE THOSE VERY SAME REASONS YOU JUST
16 IDENTIFIED YOU DIDN'T WANT TO BE IN THE POSITION OF HAVING
17 TO DEVELOP A PRACTICE.

18 MR. HELLER: YOUR HONOR, THAT'S NOT WHAT HER
19 PRIOR TESTIMONY WAS. THIS IS 1987 AND SHE'S TESTIFIED
20 VERY CLEARLY ABOUT A CHANGE IN FAMILY SITUATION AND A
21 PROBLEM THAT SHE WAS ENCOUNTERING IN HER OWN CONSULTANCY
22 AND THE REASONS FOR GOING TO WORK FOR THE WORLD BANK. I
23 THINK MR. OLSON IS TRYING TO TWIST THIS.

24 BY MR. OLSON:

25 Q LET'S SEE IF I'M TRYING TO TWIST THAT. DO YOU RECALL

1 HAVING YOUR DEPOSITION TAKEN ON NOVEMBER 22, 1989?

2 A I DO.

3 Q I'D LIKE TO REFER YOU TO PAGE 23 OF THAT DEPOSITION.

4 MAY I APPROACH THE WITNESS, YOUR HONOR?

5 THE COURT: YES.

6 A I'M SORRY, IF I'M GOING TO HAVE READ SOMETHING I'M

7 GOING TO HAVE TO GET ANOTHER PAIR OF GLASSES. I DON'T

8 THINK THEY'RE IN THAT ONE.

9 THE COURT: WELL, YOU CAN GET DOWN AND GET YOUR
10 GLASSES. THERE'S NO RULE AGAINST YOU GETTING YOUR
11 GLASSES.

12 MR. HELLER: THANK YOU, YOUR HONOR.

13 A I'M SORRY, MR. OLSON. NOW, WHAT'S YOUR QUESTION?

14 Q FIRST OF ALL, MISS HOPKINS, BACK ON PAGE 21 SO THAT
15 YOU HAVE THE CONTEXT OF THIS, IT REFERS -- THE SEGMENT OF
16 THIS CONVERSATION BEGINS WITH THE REFERENCE ON THAT PAGE
17 TO THE FIRM OF AARONSON, PETRIDGE, WEIGLE & STERN.

18 A YES.

19 Q AND THEN ON PAGE 23 --

20 A YES.

21 Q -- I WOULD LIKE YOU TO READ TO YOURSELF THE PORTION
22 BEGINNING AT LINE THREE AND ENDING AT LINE EIGHT.

23 A I'M SORRY, YOU WOULD LIKE ME TO READ WHAT?

24 Q THE PORTION BEGINNING AT LINE THREE AND ENDING AT
25 LINE EIGHT.

1 A OKAY. I READ IT.

2 Q IS THAT YOUR TESTIMONY?

3 A WHAT IT --

4 Q LET ME READ IT INTO THE RECORD. "QUESTION: DID YOU
5 EVER REACH THE POINT OF DISCUSSING WHAT THE COMPENSATION
6 ARRANGEMENT MIGHT BE IF THESE DISCUSSIONS HAD COME TO
7 FRUITION?" "ANSWER: NO, BECAUSE AS I RECALL IT THEY
8 WANTED ME TO DEVELOP A PRACTICE AND THAT WAS NOT SOMETHING
9 THAT I WANTED TO DO." WAS THAT YOUR TESTIMONY?

10 A THAT'S TRUE.

11 Q IS IT CORRECT?

12 A WHAT WAS THE QUESTION YOU ASKED ME EARLIER, MR.
13 OLSON?

14 Q THAT WAS THE EXACT SAME QUESTION.

15 A OKAY. WE DIDN'T GET TO THE POINT OF DISCUSSING
16 COMPENSATION BECAUSE THEY WANTED ME TO START A PRACTICE
17 AND STARTING A PRACTICE WITH -- STARTING A PRACTICE WAS
18 SOMETHING I DIDN'T WANT TO DO, THAT'S TRUE.

19 Q THANK YOU. .

20 THE COURT: AND WHAT TIME ARE WE TALKING ABOUT
21 NOW? '84? '87? '83? WHAT?

22 MR. OLSON: WELL, I'M NOT SURE.

23 THE COURT: I HAVE NO IDEA.

24 MR. OLSON: I'M NOT SURE NOW, YOUR HONOR, BECAUSE
25 THE WITNESS INDICATED THAT SHE HAD SAID --

1 THE COURT: NO, I'M TALKING ABOUT WHAT TIME ARE
2 YOU TALKING ABOUT ON A DEPOSITION? YOU DON'T HAVE TO KNOW
3 ANYTHING MORE THAN THAT. THE DEPOSITION MUST HAVE BEEN
4 FOCUSED AT SOME POINT OF TIME.

5 MR. OLSON: YES, AND I'M TRYING TO FIND THAT
6 BECAUSE THE WITNESS HAD INDICATED -- SHE HAD INDICATED ONE
7 YEAR DURING HER DEPOSITION AND NOW SOME OTHER DATE.

8 THE COURT: I JUST WANT TO KNOW AS OF WHAT TIME
9 DID SHE MAKE THAT STATEMENT? BECAUSE THAT DEPENDS -- ON
10 THAT DEPENDS WHETHER OR NOT IT IS INCONSISTENT WITH
11 ANYTHING SHE SAID BEFORE.

12 MR. HELLER: YOUR HONOR, IF MR. OLSON HAD ASKED
13 HER TO READ THE NEXT FOUR LINES WHICH I WILL DO ON
14 REDIRECT I THINK THE TIMES --

15 THE COURT: WELL, YOU CAN READ IT NOW. WE DON'T
16 HAVE A JURY HERE. I'M TRYING TO GET AT THE TRUTH. I'M
17 NOT TRYING TO GET PEOPLE TRAPPED.

18 MR. HELLER: ALL RIGHT. WOULD YOU READ THE NEXT
19 FOUR LINES?

20 THE WITNESS: I'M SORRY, I LOST THE LINE COUNT.

21 THE COURT: WELL, YOU'RE SUPPOSED TO PICK UP AT
22 LINE NINE.

23 THE WITNESS: OH, THANK YOU. "I WANTED TO -- I
24 WAS CONSIDERING OTHER OPTIONS AT THE TIME AND I HAD BETTER
25 OPTIONS. WHAT WERE THOSE OTHER OPTIONS? BEING AN

1 EMPLOYEE OF THE WORLD BANK."

2 THE COURT: YES, SO IT'S IN '87.

3 MR. HELLER: YES, THAT'S RIGHT, YOUR HONOR.

4 THE COURT: AND IT HAS NOTHING TO DO THEN WITH
5 THE ALLEGED INCONSISTENCY.

6 MR. OLSON: WELL, YOUR HONOR, I SUBMIT IT HAS TO
7 DO WITH THIS WITNESS -- THE PLAINTIFF'S EFFORTS TO GET
8 ALTERNATIVE EMPLOYMENT NOT JUST IN 1984 BUT WE'RE TALKING
9 ABOUT A PERIOD OF TIME --

10 THE COURT: YOU'RE CONFRONTING HER WITH WHETHER
11 OR NOT SHE HAD TAKEN OPPORTUNITIES AND SUGGESTING THAT SHE
12 SHOULD HAVE BECAUSE SHE WASN'T INTERESTED IN PRACTICE AND
13 SHE HAS BEEN SAYING SHE WAS INTERESTED IN PRACTICE AND
14 THAT HER INTERESTS CHANGED FOR REASONS SHE'S EXPLAINED IN
15 '87, SO THE DATE IS CRUCIAL. THANK YOU.

16 BY MR. OLSON:

17 Q IN 1984 DID YOU MEET WITH EXECUTIVE SEARCH FIRMS OR
18 RECRUITING FIRMS?

19 A I DIDN'T MEET WITH ANY. I CONTACTED AT LEAST -- I
20 CONTACTED ACTUALLY FIVE, I THINK.

21 Q YOU MADE NO APPOINTMENTS TO MEET WITH ANY
22 REPRESENTATIVE OF ANY EXECUTIVE SEARCH FIRM?

23 A WELL, I THINK -- FIRST LET ME DESCRIBE THE EXECUTIVE
24 FIRMS.

25 Q I WAS WONDERING IF YOU HAD ANY APPOINTMENTS TO MEET

1 WITH ANYBODY AT ANY EXECUTIVE SEARCH FIRMS?

2 A I BELIEVE I MET WITH SOMEONE NAMED EITHER THOMAS OR
3 WHALEN AT AN ORGANIZATION REFERRED TO AS WHALEN & THOMAS
4 OR THOMAS & WHALEN. I DO NOT REMEMBER THE NAME OF THE
5 ORGANIZATION. I DID NOT MEET FACE TO FACE WITH ANY OF THE
6 OTHER ONES.

7 Q DID YOU MEET ONE INDIVIDUAL AT THE OFFICE OF THAT
8 INDIVIDUAL'S EMPLOYER?

9 A I'M SORRY, WHAT WAS THE QUESTION?

10 Q DID YOU MEET AT THAT PERSON'S OFFICE?

11 A I MET AT THAT ORGANIZATION'S BUSINESS OFFICE
12 DOWNTOWN.

13 Q AND DID YOU SUPPLY THAT ORGANIZATION OR ANY OF THE
14 OTHER EXECUTIVE SEARCH FIRMS WITH RESUMES, BACKGROUND
15 MATERIALS CONCERNING YOUR CAPABILITIES?

16 A YES. FOUR OF THEM.

17 Q WE ASKED FOR COPIES OF THAT MATERIAL.

18 A I DID NOT KEEP COPIES OF THAT MATERIAL.

19 Q SO YOU DIDN'T RETAIN ANY COPIES OF ANY LETTERS THAT
20 YOU WROTE TO ANY EXECUTIVE SEARCH FIRMS OR ANY RESUMES
21 THAT YOU MAY HAVE SUBMITTED TO ANY EXECUTIVE SEARCH FIRMS
22 OR ANY MATERIAL THAT YOU MAY HAVE GOTTEN BACK FROM ANY
23 EXECUTIVE SEARCH FIRMS?

24 A NO.

25 Q DID YOU FILL OUT JOB APPLICATIONS WITH ANY EMPLOYERS?

1 A ONLY THE WORLD BANK.

2 Q AND THAT WAS IN 1987?

3 A THE APPLICATION WAS SOMETHING THAT HAPPENED ON THE --
4 FILLING OUT THE APPLICATION WAS SOMETHING THAT TOOK PLACE
5 ON THE TAIL END OF THE PROCESS. I THINK THAT WAS MORE
6 LIKELY IN 19 -- IN THE SUMMER OF 1988. I'M NOT SURE WHAT
7 THE DATE ON THE APPLICATION WAS.

8 Q DID YOU HAVE ANY JOB INTERVIEWS IN ANY CITY BESIDES
9 WASHINGTON, D. C.?

10 A NO.

11 THE COURT: WELL, WHY WAS THAT?

12 THE WITNESS: THE --

13 THE COURT: IF YOU'RE GOING TO BECOME A PARTNER
14 TO PRICE WATERHOUSE YOU'RE SUBJECT TO BEING ANYWHERE IN
15 THE UNITED STATES.

16 THE WITNESS: THAT'S NOT A PROBLEM, YOUR HONOR,
17 AND WHEN I CALLED HOLBRECHT, WHICH WAS IN NEW ENGLAND, IT
18 WASN'T A PROBLEM THEN AND WHEN I -- MY IMPRESSION FROM
19 THE -- MY IMPRESSION OF BOTH KORN FERRY, MAYBE MORE KORN
20 FERRY THAN REYNOLDS, BUT MY IMPRESSION OF BOTH OF THOSE
21 ORGANIZATIONS IS THAT THEY DEAL WITH A NATIONWIDE
22 AUDIENCE. BUT I DIDN'T KNOW ANYBODY OUT OF TOWN. I SPOKE
23 WITH DAVID SARNA IN NEW YORK. I DIDN'T KNOW ANYBODY OUT
24 OF TOWN. MY BEST CONTACTS --

25 THE COURT: IN OTHER WORDS, IT ISN'T THAT YOU

1 WEREN'T PREPARED TO GO ANYWHERE OUT OF TOWN.

2 THE WITNESS: NO. IN FACT, IT'S NOT NECESSARILY
3 A COMPARABLE, BUT I'VE DONE A HUGE AMOUNT OF TRAVELING IN
4 MY CAREER INTERNATIONALLY AND I DON'T FIND THE PROSPECT OF
5 MOVING OR TRAVELING TO BE A PROBLEM. IT'S MORE -- IT
6 MIGHT BE MORE OF A PROBLEM NOW THAN IT WAS AT THAT TIME.

7 BY MR. OLSON:

8 Q YOU WOULDN'T WANT TO MOVE NOW?

9 A NO, IT'S NOT THAT I WOULDN'T WANT TO MOVE. IT'S JUST
10 THAT IT WOULD BE MORE DIFFICULT NOW.

11 Q WHEN YOU FILLED OUT APPLICATIONS -- LET'S WITHDRAW
12 THAT. WHEN YOU DEALT WITH THE EXECUTIVE SEARCH FIRMS WITH
13 WHOM YOU DID HAVE CONTACT DID YOU FILL OUT FORMS? I THINK
14 YOU'VE SAID YOU MAY HAVE SENT THEM RESUMES, BUT DID YOU
15 FILL OUT FORMS INDICATING WHAT YOU WERE CAPABLE OF DOING,
16 WHERE YOU WERE WILLING TO WORK AND THINGS OF THAT NATURE?

17 A I WAS -- AT FIRST I SPOKE WITH THESE PEOPLE ON THE
18 TELEPHONE AND I'M PRETTY SURE THAT THE MAN AT KORN FERRY
19 TOLD ME THAT THE WAY THE PROCESS WORKED WAS THAT I WAS TO
20 WRITE A LETTER SAYING WHAT I WANTED TO DO AND SUBMIT A
21 RESUME WITH IT AND SEND IT TO HIM. MY -- I DON'T RECALL
22 SPECIFICALLY, BUT I HAVE THE IMPRESSION THAT THAT'S WHAT
23 THE -- THAT THAT'S WHAT REYNOLDS -- I THINK I IDENTIFIED
24 THEM AS RICHARDS IN MY DEPOSITION. I THINK THAT'S WHAT
25 REYNOLDS SAID. SO I DON'T REMEMBER IT SPECIFICALLY BUT I

1 THINK WHAT THE PROCESS WAS THAT I HAD TO PREPARE A LETTER
2 AND SUBMIT A RESUME TO HOLBRECHT, KORN FERRY AND REYNOLDS.

3 Q AND IT'S YOUR RECOLLECTION THAT YOU DID IN FACT DO
4 THAT?

5 A OH, I HAD TO. I DID IN FACT DO THAT AND THEN I'LL
6 CHECK BACK WITH THEM ON WHAT HAPPENED.

7 Q AND DID YOU MAKE COPIES?

8 A I DID NOT MAKE COPIES. I KEPT COPIES AT THE TIME BUT
9 I DON'T HAVE COPIES NOW.

10 Q YOU WERE REPRESENTED BY COUNSEL AT THE TIME?

11 A I WAS.

12 Q I BELIEVE YOUR TAX RETURNS OR MATERIAL ASSOCIATED
13 WITH YOUR TAX RETURNS INDICATED THAT YOU BOUGHT A COMPUTER
14 IN OCTOBER OF 1983, A BUSINESS-TYPE COMPUTER THAT COST
15 SOMETHING IN THE NEIGHBORHOOD OF \$5000. DOES THAT RING A
16 BELL AT ALL?

17 A YEP.

18 Q IS THAT SOMETHING THAT YOU INTENDED TO USE IN YOUR
19 CONSULTING BUSINESS?

20 A IT'S SOMETHING THAT I EVENTUALLY DID USE IN MY
21 CONSULTING BUSINESS. MY HUSBAND BOUGHT THAT COMPUTER. I
22 USED THEM AT THE OFFICE. I HAD NOT USED -- I USED IT AT
23 HOME FOR THE WORK THAT I DID AT THE OFFICE. I THOUGHT IT
24 WAS --

25 THE COURT: WELL, I DON'T KNOW ANY SIGNIFICANCE

1 ABOUT HAVING A COMPUTER. MOST EVERYBODY HAS ONE STRAPPED
2 ON THEIR BACK OR, IN THEIR BRIEFCASE OR SOMETHING ALL THE
3 TIME. IF YOU DON'T HAVE ONE OF THOSE YOU'RE NOT CLUED IN.
4 YOU'RE NEVER GOING TO FIND OUT WHAT'S GOING ON IN THE
5 WORLD. AND IT'S A VERY SMALL COMPUTER. IT'S \$5000. IF
6 SHE SPENT \$250,000 AND HAD IT TAKING OVER THE WHOLE ATTIC
7 I WOULD BE MORE INTERESTED, BUT REALLY EVERYBODY HAS
8 COMPUTERS. I EVEN AM THINKING OF GETTING ONE AND I DON'T
9 EVEN KNOW HOW TO TYPE. THAT'S A MINOR MATTER.

10 MR. OLSON: IT IS NOT AN IMPORTANT MATTER, BUT
11 THIS IS 1983 AND THERE'S BEEN A LOT OF CHANGE IN TERMS OF
12 PEOPLE AND COMPUTERS.

13 THE COURT: I WOULD SUPPOSE SHE COULDN'T DO HER
14 WORK AT PRICE WATERHOUSE WITHOUT HAVING A COMPUTER AT HOME
15 TO BANG THINGS OUT AND THEN TAKE THOSE SLOPPY DISCS AND
16 BRING IT INTO PRICE WATERHOUSE. I JUST WANT YOU TO KNOW
17 YOU HAVEN'T MADE A BIG IMPRESSION ON THAT.

18 MR. OLSON: I GATHER.

19 BY MR. OLSON:

20 Q DO YOU FEEL TODAY, I BELIEVE THAT IT'S IMPLICIT IN
21 WHAT YOU SAID BEFORE, THAT YOU FEEL TODAY THAT YOU ARE
22 QUALIFIED TO BE A PARTNER AT PRICE WATERHOUSE?

23 A I BELIEVE THAT, YES.

24 Q THAT THE WORK THAT YOU'VE BEEN DOING FOR THE LAST
25 FIVE YEARS HAS KEPT YOU CURRENT WITH THE TYPES OF THINGS

1 THAT YOU WOULD BE EXPECTED TO DO IF YOU WERE A PARTNER AT
2 PRICE WATERHOUSE?

3 A I DON'T HAVE ENOUGH INFORMATION TO ANSWER THAT
4 QUESTION. I KNOW WHAT I'VE BEEN DOING SINCE I LEFT PRICE
5 WATERHOUSE AND I KNOW THAT I'M PERFECTLY COMPETENT TO DO
6 THE KINDS OF THINGS THAT PARTNERS DID IN MY AREA WHEN I
7 WAS THERE FIVE YEARS AGO. I DON'T KNOW TO THE EXTENT
8 THERE HAVE BEEN ANY CHANGES SINCE THEN. I FEEL QUITE
9 CONFIDENT TO BE A PARTNER AT PRICE WATERHOUSE.

10 Q BUT THAT'S NOT BASED UPON YOUR UNDERSTANDING OF WHAT
11 PRICE WATERHOUSE DOES IN YOUR AREA TODAY?

12 A IF THEY DO SOMETHING DIFFERENT, THEN YOU'D HAVE TO
13 ASK -- I CAN'T MAKE A STATEMENT ABOUT WHAT PRICE
14 WATERHOUSE DOES TODAY. YOU'D HAVE TO TELL ME.

15 Q I UNDERSTAND. I'M ASKING YOU WHETHER YOU FELT THAT
16 YOU WERE QUALIFIED TODAY TO BE A PARTNER AT PRICE
17 WATERHOUSE. IT SEEMS TO ME WHAT YOU'VE SAID IS YOU DON'T
18 KNOW BECAUSE YOU'RE NOT SURE.

19 MR. HELLER: OH, I OBJECT.

20 A I'M NOT SAYING I DON'T KNOW. WHAT I SAID WAS I AM
21 COMPETENT TO BE A PARTNER IN PRICE WATERHOUSE IN 1983 AND
22 I AM COMPETENT TO BE A PARTNER IN PRICE WATERHOUSE TODAY.

23 THE COURT: WELL, IT TURNS OUT IF THEY'RE NO
24 LONGER IN THE MANAGEMENT CONSULTING BUSINESS, MR. OLSON,
25 IF THEY'RE NOW RUNNING A BUNCH OF RACEHORSES I THINK YOU

1 OUGHT TO TELL HER BECAUSE SHE MIGHT NOT WANT TO GO THERE.

2 MR. OLSON: THERE'S A LOT OF DIFFERENCE
3 APPARENTLY, ACCORDING TO THIS WITNESS, IN THE MANAGEMENT
4 CONSULTING WORK THAT'S DONE FROM ONE BIG EIGHT FIRM TO THE
5 NEXT AND BETWEEN ONE MANAGEMENT CONSULTING FIRM TO THE
6 NEXT. 'FIVE YEARS HAVE GONE BY.

7 THE COURT: I HEARD HER SAY THERE WERE
8 DIFFERENCES IN MANAGEMENT CONSULTANT AND CONSULTING WORK.
9 I UNDERSTOOD THAT. I UNDERSTOOD WHAT SHE WAS SAYING ABOUT
10 AMERICAN MANAGEMENT SYSTEMS. I DID NOT HEAR HER SAY
11 ANYTHING ABOUT OTHER ACCOUNTING FIRMS BECAUSE AS I
12 UNDERSTOOD IT SHE DIDN'T KNOW ANYTHING ABOUT THEM AND
13 DIDN'T APPROACH THEM.

14 MR. OLSON: WELL, I WAS ASKING THE BASIS FOR HER
15 UNDERSTANDING THAT SHE WAS QUALIFIED TO BE A PARTNER.

16 THE COURT: WELL, SHE'S ASSUMING THAT THE FIRM IS
17 DOING THE SAME KIND OF BUSINESS THAT IT DID AND I'M
18 ASSUMING IT AND IF IT ISN'T DOING THE SAME KIND OF
19 BUSINESS THAT IT USED TO DO, IT'S GONE OUT OF THE
20 MANAGEMENT CONSULTING BUSINESS OR SOMETHING ELSE, THAT'S
21 YOUR BURDEN.

22 MR. OLSON: I UNDERSTAND THAT, BUT WE'RE AT THE
23 BEGINNING OF THIS --

24 THE COURT: SHE DOESN'T KNOW ANYTHING ABOUT
25 WHAT'S GOING ON THERE BECAUSE YOU HAVEN'T TOLD HER AND SHE

1 HASN'T ASKED. THAT'S WHAT I GATHERED WAS THE SITUATION.

2 MR. OLSON: THAT'S ALL I WAS ATTEMPTING TO
3 ESTABLISH, YOUR HONOR.

4 BY MR. OLSON:

5 Q YOU INDICATED THAT -- IN RESPONSE TO JUDGE GESELL'S
6 QUESTIONS THAT THINGS HAD CHANGED AT PRICE WATERHOUSE, THE
7 ORGANIZATION THAT YOU WERE VERY UNCOMFORTABLE WITH IN 1983
8 WAS AN ORGANIZATION THAT YOU WOULD BE VER COMFORTABLE WITH
9 NOW.

10 MR. HELLER: I DON'T THINK THAT WAS HER
11 TESTIMONY, YOUR HONOR.

12 MR. OLSON: IF IT WASN'T, THEN THE WITNESS CAN
13 CORRECT ME.

14 THE COURT: I UNDERSTOOD HER TO SAY SHE THOUGHT
15 THINGS HAD CHANGED.

16 MR. HELLER: SHE THOUGHT SHE HAD CHANGED, TOO.

17 A A LOT OF THINGS HAD CHANGED, MR. OLSON.

18 Q FINE. TELL US WHAT THINGS ARE CHANGED. YOU SAY
19 YOU'VE CHANGED, TOO. YOUR COUNSEL HAS JUST POINTED THAT
20 OUT. HOW HAVE YOU CHANGED?

21 A WELL, MY COUNSEL MADE THE STATEMENT, BUT I'M FIVE
22 YEARS OLDER, SIX YEARS OLDER. I'VE BEEN -- MY COUNSEL
23 ADVISES ME THAT I'VE MELLOWED. I'VE HAD FIVE YEARS TO
24 CONSIDER EVERY COMMENT THAT'S BEEN PUBLISHED ABOUT MY
25 PERSONAL CHARACTERISTICS. MY -- I MUST HAVE CHANGED TO

1 SOME EXTENT BECAUSE I GET ALONG REAL WELL WITH THE PEOPLE
2 I WORK WITH AT THE WORLD BANK AND I'VE NEVER HEARD ANY
3 COMMENTS COMPARABLE TO WHAT I'VE READ IN THE NEWSPAPERS
4 MADE ABOUT ME IN MY CURRENT WORK SITUATION. BUT I THINK
5 WE STARTED OFF ON THIS FROM THE POINT OF VIEW THINGS HAD
6 CHANGED AT PRICE WATERHOUSE IN TERMS OF THE CIRCUMSTANCES
7 WHEN I LEFT THE FIRM VERSUS THE CIRCUMSTANCES OF THE FIRM
8 NOW. DO YOU WANT ME TO GO BACK AND DEAL WITH THAT
9 QUESTION?

10 Q YES, PLEASE.

11 A FIRST OFF, WHEN I LEFT PRICE WATERHOUSE I WAS A
12 SENIOR MANAGER AND SOME OF THE CIRCUMSTANCES THAT MADE
13 THINGS A LITTLE DIFFICULT OR UNBEARABLE WERE THAT, ONE, I
14 WAS CAREER DEAD-ENDED. I COULD STAY A SENIOR MANAGER,
15 PERIOD. OKAY? NOW, IF I WERE TO RETURN TO PRICE
16 WATERHOUSE AS A PARTNER THAT IS A DIFFERENT SITUATION THAN
17 BEING A DEAD-ENDED, A DEAD-ENDED SENIOR MANAGER.

18 SECONDLY, AN AWFUL LOT OF PEOPLE THAT I WORKED
19 WITH OR WHO WORKED FOR ME -- I SHOULDN'T SAY AN AWFUL LOT,
20 A NUMBER OF PEOPLE WHO I WORKED WITH WHILE I WAS AT PRICE
21 WATERHOUSE ARE PARTNERS NOW. THESE ARE PEOPLE THAT I HAD
22 FUN WORKING WITH AND I, YOU KNOW, STILL ENJOY SEEING THEM.

23 THINGS HAVE CHANGED. YOU DEVELOP -- I HAVE A --
24 NOW, A CLEARER UNDERSTANDING OF WHO WAS IRRITATED BY ME OR
25 BY MY BEHAVIOR AND WHAT KINDS OF THINGS THOSE PEOPLE AT

1 LEAST ON THE RECORD FEEL WAS IRRITATING AND I DON'T
2 EXHIBIT THAT BEHAVIOR ANYMORE SO INFORMATION BRINGS CHANGE
3 AND ONE THING THAT THE FIVE YEARS THAT THIS LITIGATION HAS
4 BEEN GOING ON, EITHER JUST PASSING OR BECAUSE OF THE
5 LITIGATION IS BECAUSE THERE'S BEEN A TREMENDOUS AMOUNT OF
6 INFORMATION AND IT CHANGES PEOPLE'S WAYS OF THINKING, IT
7 CHANGES PEOPLE'S BEHAVIOR.

8 Q WHEN YOU LEFT YOU SAID YOU WERE NOT OFFERED ANY
9 PLACEMENT ASSISTANCE; DID I HEAR YOU CORRECTLY?

10 A I CERTAINLY DON'T REMEMBER ANY, MR. OLSON.

11 Q DID YOU ASK FOR ANY?

12 A I DIDN'T. I DIDN'T KNOW IT EXISTED.

13 Q DID YOU ASK WHETHER ANY EXISTED?

14 A NO, NOT THAT I KNOW OF.

15 THE COURT: WELL, I DON'T QUITE UNDERSTAND YOUR
16 ANSWER AND I DON'T MEAN TO DISAGREE WITH YOU. I
17 UNDERSTAND WHAT YOU'RE SAYING. EVERYBODY CHANGES.
18 ANYBODY WITH ANY BRAINS ALWAYS CHANGES A LITTLE BIT WITH
19 EXPERIENCE AND AGE AND ALL THAT. BUT YOU ARE AWARE THAT
20 THEY DON'T WANT YOU AS A PARTNER. THAT'S WHY I'M DRAGGED
21 THROUGH THIS DAY IN AND DAY IN, DAY IN AND DAY IN. THEY
22 DON'T WANT ANYTHING TO DO WITH YOU. THEY HAD A CHANCE TO
23 VOTE AND THEY -- APPARENTLY EVEN THOUGH YOU'VE GOT FRIENDS
24 OVER THERE THEY HAVE SET THEIR TEETH IN THE FACT THAT THEY
25 WON'T DO IT.

1 NOW, HAVE YOU TAKEN THAT INTO ACCOUNT? BECAUSE,
2 YOU KNOW, I'M JUST TALKING TO YOU AS A PERSON AND TRYING
3 TO UNDERSTAND. IT'S NOT ONLY THE PROBLEM THAT WHEN YOU
4 LEFT YOU LEFT BECAUSE IT WAS INTOLERABLEM BUT THESE
5 PEOPLE, I'M NOT SAYING THEY'RE RIGHT, YOU UNDERSTAND, I'M
6 NOT TRYING TO SAY THEY'RE RIGHT AT ALL, BUT THEY'RE ALL
7 SITTING HERE TO KEEP YOU OUT OF THE PARTNERSHIP AND YOU'RE
8 AN INTELLIGENT WOMAN, YOU'VE GOT A LOT OF EXPERIENCE AND
9 YOU'VE GOT -- YOU'VE SHOWN YOU MAKE A LIVING ON YOUR OWN.
10 YOU'VE PROBABLY SHOWN THEY WERE WRONG, SO WHAT IS THE
11 POINT OF WANTING TO PUT YOURSELF INTO A POSITION OF A
12 FUTURE OF FRICTION?

13 THAT'S WHAT I FIND SO DIFFICULT TO DEAL WITH
14 BECAUSE MY RESPONSIBILITY HERE IS AN EQUITABLE
15 RESPONSIBILITY. IT'S A MATTER OF TRYING TO UNDERSTAND AND
16 BE FAIR AND YOU -- IT JUST SEEMS TO ME THAT I'VE GOT TWO
17 PEOPLE THAT HAVE GOT THEIR MINDS MADE UP. THEY'RE GOING
18 TO BUTT HEADS TOGETHER AND I TO HAVE SAY TO YOU THAT IF
19 YOU GO BACK TO THE PARTNERSHIP, AND YOU MAY AS A RESULT OF
20 THESE PROCEEDINGS, I'M NOT SAYING ONE WAY OR THE OTHER
21 ABOUT THAT, BUT WE'LL BE BACK IN HERE AGAIN AND AGAIN ON
22 PROBLEMS RELATING TO YOUR RELATIONSHIP WITH THESE PEOPLE
23 THAT DON'T WANT YOU. NOW, THAT'S MY TROUBLE AND I CAN'T
24 GET AN ANSWER.

25 THE WITNESS: CONSULTING IS MY PROFESSION.

1 PRICE WATERHOUSE IS VERY SUCCESSFUL AT IT. I MADE A
2 CONTRIBUTION WHEN I WAS THERE. I CAN MAKE A CONTRIBUTION
3 AGAIN, AND I THINK THAT FOR ALL OF THE FACTS, THAT A LOT
4 OF, I'LL CHARACTERIZE THEM AS UNPLEASANT THINGS HAPPENED
5 WHEN I WAS AT PRICE WATERHOUSE, WE WERE ALL STILL
6 SUCCESSFUL AND WE ALL MANAGED ALTHOUGH THERE MAY HAVE BEEN
7 A CERTAIN AMOUNT OF FRICTION, WE ALL MANAGED TO GET THE
8 JOB DONE BECAUSE WE WERE PROFESSIONALS AND BECAUSE WE HAD
9 BUSINESS OBJECTIVES AND I HONESTLY BELIEVE THAT THERE
10 SHOULD BE A LOT LESS FRICTION FIVE YEARS LATER THAN THERE
11 WAS THEN. IT'S A BUSINESS.

12 THE COURT: BUT YOU WOULDN'T ACCEPT THEIR
13 JUDGMENT AT THE TIME ALONG WITH THE OTHER 22 PEOPLE WHO
14 DID AND NOW THE LINES ARE HARDENED AND I -- IT IS VERY
15 DIFFICULT FOR ME TO UNDERSTAND THESE FRIENDS OF YOURS IN
16 THE FIRM WHO APPARENTLY HAVE NO PERSUASIVE VOTE BECAUSE
17 THE WHOLE PROPOSITION HAS BEEN PUT UP TIME AND AGAIN
18 THAT -- LET'S GET SOME OF THIS BEHIND US AND WORK IT OUT
19 AND THEY HAVE BEEN ADAMENT, AS I UNDERSTAND IT. THEY
20 WOULDN'T HAVE ANYTHING TO DO WITH YOU.

21 NOW, THEY MAY BE TERRIBLLY WRONG, YOU MAY BE
22 TERRIBLY RIGHT, BUT I'M JUST TALKING TO YOU ABOUT IT AS A
23 HUMAN BUSINESS. A PROFESSIONAL RELATIONSHIP IS ONE THAT
24 YOU'RE WITH ALL THE TIME. AT LEAST I FOUND IT WHEN I
25 PRACTICED LAW FOR MANY YEARS. YOU SAW AS MUCH OF YOUR

1 PARTNERS AS YOU DID OF YOUR -- THE PEOPLE AT HOME. IT'S A
2 CONSUMING UNDERTAKING WITH OTHER PEOPLE AND HERE THE
3 PEOPLE DON'T WANT YOU.

4 THE WITNESS: BUT I DON'T BELIEVE THAT'S TRUE OF
5 A NUMBER OF PEOPLE THAT I GREW UP WITH HERE IN THE --

6 THE COURT: BUT THEY HAVEN'T GOT THE WHAMMY IN
7 THIS ORGANIZATION THAT YOU WANT TO JOIN.

8 THE WITNESS: SOME OF THEM ARE PARTNERS NOW.

9 THE COURT: I KNOW, BUT IF THEY HAD THE VOTES YOU
10 WOULD HAVE HEARD. THEY'D SAY WE LIKE THAT WOMAN AND WE
11 GOT ALONG VERY WELL WITH HER AND WE'D LIKE HER BACK. YOU
12 HAVEN'T HEARD THAT.

13 THE WITNESS: I'VE HEARD THAT FROM THEM. ANYWAY,
14 IF PRICE WATERHOUSE HAS VOTED ON THIS MATTER IT'S
15 SOMETHING THAT I DON'T KNOW ANYTHING ABOUT.

16 THE COURT: I TAKE IT COUNSEL IS REPRESENTING THE
17 POSITION OF THE FIRM. I MUST UNDERSTAND THAT, HE'S
18 REPRESENTING THE POSITION OF THE FIRM AS AN INSTITUTION.
19 I'M JUST BRINGING THAT TO YOUR ATTENTION. IT'S A VERY
20 TROUBLESOME ASPECT OF THE CASE. AND FROM A JUDGMENTAL
21 POINT OF VIEW I'M DISTRESSED THAT I HAVE TO MAKE THE
22 DECISION, BUT -- I'M CAPABLE OF IT, BUT I JUST WANT TO
23 KNOW HOW YOU FELT ABOUT IT AND WHETHER YOU REALIZE --

24 THE WITNESS: I THINK THAT RELATIVELY SPEAKING
25 THERE WERE A FAIRLY SMALL NUMBER OF PEOPLE WHO WERE

1 INFLUENTIAL A NUMBER OF YEARS AGO WHERE I WAS NOT WANTED.
2 I THINK THAT NUMBER PROBABLY OVERTIME HAS GOTTEN SMALLER
3 OF THE ORIGINAL, HOWEVER MANY, 22 OR SOME PEOPLE. ALSO
4 OVER THAT PERIOD OF TIME MORE PEOPLE THAT I KNEW AND THAT
5 WEREM YOU KNOWM PEOPLE THAT I WORKED WITH IN THE
6 PROFESSION ARE AT THE HIGHER RANKS OR AT THE PARTNERSHIP
7 LEVEL. I DON'T BELIEVE THAT THE PEOPLE WHO -- WITH WHOM I
8 USED TO WORK VERY WELL AND WITH WHOM I GOT ALONG AND WHO
9 WERE GREAT ADMIRERS OF MINE AND OF WHOM I WAS A GREAT
10 ADMIRER, I DON'T THINK THEY'VE CHANGED MUCH IN TERMS OF
11 SUDDENLY BECAUSE OF FIVE YEARS OF LITIGATION EITHER
12 THEY'VE CHANGED DRAMATICALLY OR I'VE CHANGED DRAMATICALLY.
13 WE ARE PEOPLE. BUT I HAVE A LOT OF PROFESSIONAL REGARD
14 FOR THE FIRM AND FOR MANY MANY MANY PEOPLE THERE.

15 THE COURT: WELL, THEY ALL HAD HIGH REGARD FOR
16 YOUR PROFESSIONAL COMPETENCE. THERE ISN'T ANY QUESTION
17 ABOUT THAT. THAT'S WHAT THE RECORD SHOWED. THERE ISN'T
18 ANY DISPUTE ABOUT YOUR PROFESSIONAL COMPETENCE IN THIS
19 CASE, EVER. THAT WASN'T THE CASE. THAT WASN'T WHAT THE
20 CASE WAS ABOUT. THERE WAS NO DISPUTE ABOUT YOUR
21 COMPETENCE. SO I ASSUME THEY KNOW YOU'RE COMPETENT, BUT
22 THEY DON'T WANT YOU. AND THAT'S -- IT ISN'T THAT THEY
23 HAVE ANY DOUBT ABOUT YOUR ABILITY.

24 THE WITNESS: I MAY BE DELUDED, BUT I FEEL THAT
25 THERE ARE PEOPLE THERE WHO WOULD BE HAPPY TO PRACTICE WITH

1 ME AND THERE CERTAINLY ARE LOTS OF THEM THERE THAT I'D BE
2 HAPPY TO PRACTICE WITH.

3 BY MR. OLSON:

4 Q DO YOU BELIEVE THAT YOU'RE QUALIFIED TO BE A PARTNER
5 IN THE FIELD OF MANAGEMENT CONSULTING WORK IN THE OTHER
6 BIG EIGHT FIRMS OR WHAT'S LEFT OF THE OTHER BIG EIGHT
7 FIRMS? I KNOW IT'S NOT EIGHT ANY MORE.

8 THE COURT: WHAT IS IT NOW, FOUR?

9 MR. OLSON: I THINK IT'S SIX.

10 THE COURT: SIX?

11 A I'M LESS IN TOUCH WITH THE CONSOLIDATION THAN YOU
12 ARE, SO IF THOSE FIRMS HAVE THE SAME CHARACTERISTICS THAT
13 THEY HAD WHEN I KNEW SOMETHING ABOUT THEM I DON'T KNOW.
14 PROBABLY. IT'S NOT SOMETHING I'VE GIVEN A GREAT DEAL OF
15 THOUGHT TO. IF YOU LOOK AT IT FROM THE POINT OF VIEW THAT
16 PRICE WATERHOUSE IS REALLY FAR MORE DISTINGUISHED THAN A
17 LOT OF THE -- OF WHAT USED TO BE THE BIG EIGHT THEN I
18 GUESS BY EXTRAPOLATION I SHOULD ANSWER THAT QUESTION YES.

19 MR. OLSON: THANK YOU.

20 MR. HELLER: NO QUESTIONS ON REDIRECT, YOUR
21 HONOR.

22 THE COURT: ALL RIGHT. THANK YOU.

23 MR. OLSON: OH, EXCUSE ME, YOUR HONOR. JUST AS A
24 MATTER OF HOUSEKEEPING, WE HAD SOME EXHIBITS THAT WE
25 WANTED TO --

1 THE COURT: IS THERE ANY PROBLEM ABOUT
2 AUTHENTICATION, IS THAT IT?

3 MR. OLSON: I DON'T THINK SO.

4 THE COURT: WHY DON'T YOU DISCUSS IT WITH
5 COUNSEL?

6 MR. HELLER: MAYBE WE COULD HAVE A TWO OR THREE
7 MINUTE BREAK, YOUR HONOR, IS THAT POSSIBLE?

8 THE COURT: WELL, I WAS TRYING TO PUSH THROUGH.
9 WE'RE GOING TO BREAK AT 12. WE'LL TAKE FIVE MINUTES NOW.

10 MR. HELLER: THANK YOU

11 (BRIEF RECESS)

12 MR. HURON: YOUR HONOR, THE PLAINTIFF'S NEXT
13 WITNESS IS THOMAS --

14 MR. SCHRADER: EXCUSE ME, WE DID AGREE IN YOUR
15 ABSENCE, YOUR HONOR. MAY I JUST STATE FOR THE RECORD WHAT
16 THEY ARE?

17 THE COURT: YES.

18 MR. SCHRADER: THE FIRST WHICH WOULD BE
19 DEFENDANT'S EXHIBIT NINE IS A NOTICE OF DEPOSITION-REQUEST
20 FOR DOCUMENT RESPONSE. EXHIBIT 10 IS PLAINTIFF'S
21 RESPONSE TO DEFENDANT'S REQUEST FOR DOCUMENTS.
22 DEFENDANT'S EXHIBIT 11 IS HEADED THE WORLD BANK, PERSONNEL
23 HISTORY, THE FORM FILLED OUT BY THE PLAINTIFF.

24 THE COURT: AND THOSE ARE NOT OBJECTED TO.

25 MR. HELLER: NO, THEY'RE NOT OBJECTED TO.

1 THE COURT: THEY'LL EACH BE RECEIVED, NINE, 10
2 AND 11.

3 MR. SCHRADER: THANK YOU, YOUR HONOR.

4 (DEFENDANT'S EXHIBITS 9, 10
5 AND 11 RECEIVED INTO
6 EVIDENCE)

7 MR. HURON: YOUR HONOR, THE PLAINTIFF'S NEXT
8 WITNESS IS THOMAS GALLAGHER.

9 (THOMAS GALLAGHER, WITNESS FOR PLAINTIFF, SWORN)

10 DIRECT EXAMINATION

11 BY MR. HURON:

12 Q WOULD YOU STATE YOUR NAME AND OCCUPATION FOR THE
13 RECORD?

14 A YES, THOMAS P. GALLAGHER, JR., I'M A REAL ESTATE
15 DEVELOPER.

16 Q WERE YOU AT ONE POINT MARRIED TO THE PLAINTIFF, ANN
17 HOPKINS?

18 A YES.

19 Q WHEN WERE YOU MARRIED INITIALLY?

20 A NOVEMBER OF 1974.

21 Q AND DID YOU SEPARATE AT SOMETIME?

22 A YES.

23 Q WHEN WAS THAT?

24 A FEBRUARY OF 1987.

25 Q SO YOU WERE MARRIED AT THE TIME SHE LEFT PRICE

1 WATERHOUSE IN EARLY 1984?

2 A YES.

3 Q DID YOU YOURSELF EVER WORK FOR A BIG EIGHT ACCOUNTING
4 FIRM?

5 A YES, I DID.

6 Q WHICH ONE?

7 A I WORKED FOR TOUCHE ROSS.

8 Q WHEN DID YOU WORK FOR TOUCHE?

9 A FROM 1973 UNTIL DECEMBER OF 1981.

10 Q WERE YOU A PARTNER AT ANY POINT?

11 A YES, I WAS.

12 Q AT WHAT PERIOD?

13 A FOR FOUR YEARS, FOR THE FOUR YEARS BEFORE I LEFT.

14 Q IS THAT '77 TO '81, ROUGHLY?

15 A YES.

16 Q DID YOUR DUTIES WHILE YOU WERE A PARTNER AT TOUCHE
17 INCLUDE HIRING PEOPLE AT SENIOR LEVELS?

18 A YES, THEY DID.

19 Q DO YOU EVER RECALL HIRING ANYONE WHO HAD BEEN PASSED
20 OVER FOR PARTNERSHIP IN ANOTHER BIG EIGHT FIRM?

21 A I DO NOT.

22 Q WHEN ANN HOPKINS LEFT PRICE WATERHOUSE IN JANUARY,
23 '84 --

24 THE COURT: WELL, WHAT DO YOU MEAN? I DON'T
25 UNDERSTAND THAT. DID ANYBODY EVER COME TO YOU AND ASK TO

1 BE -- WHO FITS THAT CATEGORY?

2 THE WITNESS: NONE THAT I CAN RECALL, YOUR HONOR.

3 THE COURT: WELL, YOU WOULDN'T RECALL IF THERE
4 WASN'T ANYONE, RIGHT?

5 MR. HURON: I THINK THAT'S RIGHT, YOUR HONOR.
6 WITH THOSE --

7 THE COURT: I DON'T SEE WHAT THE SIGNIFICANCE OF
8 THE QUESTION WAS EXCEPT IT WAS MISLEADING.

9 MR. HURON: I DIDN'T MEAN TO MISLEAD, YOUR HONOR.

10 THE COURT: ALL RIGHT. GO AHEAD.

11 BY MR. HURON:

12 Q DID YOU EVER REGARD POTENTIAL APPLICANTS OF THAT
13 NATURE.

14 MR. SCHRADER: I'M GOING TO OBJECT, YOUR HONOR.
15 FIRST OF ALL, I DON'T UNDERSTAND THE QUESTION.

16 THE COURT: I DON'T UNDERSTAND IT. THE OBJECTION
17 IS SUSTAINED.

18 BY MR. HURON:

19 Q LET ME MOVE ON. WHEN MISS HOPKINS LEFT PRICE
20 WATERHOUSE IN JANUARY OF '84 DID YOU AND SHE DISCUSS HER
21 SECURING OTHER EMPLOYMENT?

22 A YES, WE DID.

23 Q AT THAT POINT HOW DID YOU SEE HER ASSETS?

24 A I FELT THAT SHE HAD --

25 MR. SCHRADER: YOUR HONOR, I'M GOING TO OBJECT.

1 I'M NOT SURE, IS HE TESTIFYING AS AN EXPERT AT THIS POINT
2 IN TIME? IF HE IS, THERE HAS BEEN NO EXPERT STATEMENT.

3 THE COURT: I DON'T THINK HE CAN TESTIFY AS AN
4 EXPERT WITHOUT ANY FOUNDATION BEING LAID SO FAR. I MEAN
5 PUTTING ASIDE THE QUESTION OF SELF-INTEREST I DON'T THINK
6 YOU'VE GOT ANY BACKGROUND FOR HIM TO BE ABLE TO APPRAISE
7 HER ASSETS IN TERMS OF THE KINDS OF WORK SHE'S DOING.
8 THERE'S NO INDICATION HE BELONGED -- DOES ANY WORK IN HER
9 SPECIALTY AT ALL. AS I ASSUME, THIS MAN IS PROBABLY AN
10 ACCOUNTANT. I DON'T KNOW. WE HAVEN'T BROUGHT THAT OUT,
11 BUT I ASSUME HE WAS AN ACCOUNTANT, NOT A MANAGEMENT
12 CONSULTANT. AND NOT A PERSON WHO IS A DIAGNOSTICIAN WHO
13 WORKS OUT COMPUTER SYSTEMS. I DON'T KNOW. I DON'T HAVE
14 ANY BASIS TO KNOW WHETHER HE COULD TELL.

15 BY MR. HURON:

16 Q LET ME ASK A COUPLE OF FOUNDATION QUESTION,
17 MR. GALLAGHER. CAN YOU BRIEFLY DESCRIBE YOUR AREA OF
18 SPECIALTY?

19 A I WAS A MANAGEMENT CONSULTING PARTNER IN THE
20 WASHINGTON OFFICE. MOST OF MY PRACTICE CONSISTED OF WORK
21 FOR AGENCIES IN THE FEDERAL GOVERNMENT. MY SPECIALTY WAS
22 MANAGEMENT CONTROLS IN THAT AREA. I DID A LOT OF HEALTH
23 CARE WORK.

24 Q DID YOU MAKE AN ASSESSMENT OF WHAT YOU BELIEVED ANN.
25 HOPKINS' ASSETS WERE AND ADVISED HER FROM YOUR OWN

1 PERSPECTIVE WHAT YOU THOUGHT WOULD BE THE BEST COURSE FOR
2 HER TO PURSUE AT THAT TIME?

3 A I DID.

4 MR. SCHRADER: YOUR HONOR, I'M GOING TO OBJECT TO
5 ANY FURTHER TESTIMONY ALONG THESE LINES. I STILL DON'T
6 THINK THERE'S AN APPROPRIATE FOUNDATION. THIS PERSON HAS
7 LEFT THE FIELD IN 1981. HE'S NOT BEEN TENDERED AS AN
8 EXPERT WITNESS CONCERNING HER SKILLS, QUALIFICATIONS AND
9 WHAT ALTERNATIVE EMPLOYMENT WAS OUT THERE, SO I DON'T
10 THINK IT WOULD BE APPROPRIATE TO FOLLOW THAT LINE OF
11 TESTIMONY. WE'VE HAD 26B STATEMENTS FILED AND WE'VE HAD
12 OPPORTUNITY TO DEPOSE THEIR EXPERT.

13 THE COURT: I DON'T THINK YOU CAN QUESTION HIM AS
14 AN EXPERT. WHAT IS IT YOU'RE TRYING TO BRING OUT?

15 MR. HURON: I THINK THE MITIGATION OF EFFORTS
16 DEPENDS UPON IN PART ON WHO SHE CONSULTED, WHAT SHE DID AT
17 THAT TIME. I'M TRYING TO GET WHAT HER HUSBAND ADVISED HER
18 HER AT THAT POINT. I THINK IT BEARS ON THE REASONABLENESS
19 OF THE COURSE THAT SHE ULTIMATELY TOOK. IT'S NOT THE ONLY
20 CRITERION. THE DEFENDANTS ARE COMING IN HERE AND ARGUING
21 SHE WAS NOT REASONABLE IN HER MITIGATION EFFORTS. WHO SHE
22 TALKED TO AND WHAT SHE HEARD I THINK IS RELEVANT TO THAT
23 ISSUE.

24 THE COURT: WELL, THAT RAISES SOMETHING THAT I'M
25 TROUBLED ABOUT, THAT I HAVEN'T TAKEN UP WITH COUNSEL YET.

1 IT APPEARS TO ME FROM WHAT HAPPENED THIS MORNING THAT IT
2 IS THE POSITION OF THE DEFENDANT THAT THE OBLIGATION TO
3 MITIGATE COMMENCED IN 1984. THAT'S CERTAINLY THE
4 IMPRESSION I GOT FROM ALL THE QUESTIONING. I DON'T SEE
5 THAT THERE'S ANY OBLIGATION TO MITIGATE IN 1984. THERE
6 WASN'T ANY OBLIGATION TO MITIGATE UNTIL SOMEBODY SAID SHE
7 HAD SOME RIGHTS, AND I DIDN'T GIVE HER ANY RIGHTS. THE
8 COURT OF APPEALS FINALLY DECIDED THAT SHE HAD SOME RIGHTS
9 AND ACCORDINGLY, THEREFORE, AT THAT POINT I THINK IS WHEN
10 THE DUTY TO MITIGATE PROBABLY STARTED, SUBJECT TO WHAT LAW
11 THAT YOU GENTLEMEN CAN GIVE ME, AND THE DATE OF THAT
12 OPINION WAS ALMOST AT THE TIME THIS MAN NO LONGER WAS VERY
13 CLOSELY INVOLVED WITH YOUR CLIENT IN A MARRIAGE CAPACITY
14 ANYHOW.

L
15 MR. HURON: YOUR HONOR, I THINK WITH THAT COMMENT
16 I'D LIKE TO TAKE ONE MOMENT AND JUST TO DISCUSS WITH
17 MR. HELLER. WE MAY BE ABLE TO BE QUITE BRIEF AT THIS
18 JUNCTURE.

19 THE COURT: WELL, THE COURT OF APPEALS' DECISION
20 WAS THE FIRST TIME THAT THERE WAS ANY INDICATION THAT SHE
21 HAD ANY BACK PAY OR ANY OTHER KIND OF RIGHTS.

22 MR. HURON: I THINK THAT'S CORRECT, YOUR HONOR.

23 THE COURT: ISN'T THAT RIGHT? I SAID SHE HAD NO
24 DAMAGES.

25 MR. HURON: THAT'S CORRECT.

1 THE COURT: I DIDN'T SAY SHE COULD GO BACK. SO
2 WHY -- SHE HAD NOTHING TO MITIGATE. SHE WALKED OFF THE
3 JOB AND THAT WAS THE END OF IT. SO SHE DIDN'T HAVE ANY
4 DUTY TO MITIGATE UNTIL SHE HAD SOMETHING TO PROTECT, I
5 THINK. THAT'S THE LAW. I DON'T KNOW. I'M AVAILABLE FOR
6 INSTRUCTIONS ON THE LAW.

7 MR. SCHRADER: YOUR HONOR, I THINK SHE HAD A
8 DUTY -- I RESPECTFULLY SUBMIT THAT IS NOT CORRECT IN TERMS
9 OF THE LAW. I THINK SHE HAD A DUTY TO MITIGATE FRANKLY AT
10 THE POINT IN TIME THAT THE ALLEGED DISCRIMINATION OCCURRED
11 WHEN SHE WAS HELD.

12 THE COURT: I DON'T UNDERSTAND THAT AND SHE
13 HASN'T ESTABLISHED IT AND WHEN SHE GOT THROUGH A LONG
14 TRIAL --

15 MR. SCHRADER: THE OBLIGATION -- EXCUSE ME.

16 THE COURT: -- I FOUND SHE WAS NOT -- I FOUND
17 AFTER THE TRIAL THAT SHE WAS NOT FORCED OUT OF THE CASE.
18 THEREFORE, SHE HAD NO LONGER ANY RIGHTS AND I SAID THAT
19 SINCE NEITHER SIDE HAD PRESENTED ANY EVIDENCE OF DAMAGE
20 SHE WASN'T ENTITLED TO ANY DAMAGE, AND THEN WHEN YOU GOT
21 UPSTAIRS A NEW NOTION OF LAW DEVELOPED OF WHICH I WAS NOT
22 APPRISED, WHICH WAS THAT THE FAILURE OF LAWYERS TO PRESENT
23 PROOF WAS NOT AN EXCUSE FOR FINDING THERE WASN'T ANY PROOF
24 AND THEREFORE THE MATTER WAS REOPENED AND WE BEGAN TO HAVE
25 ANOTHER TRIAL AND SO AT SOMETIME WAY LATER AFTER THE COURT

1 OF APPEALS ACTED, THAT THERE WAS ANYTHING THAT SHE WAS
2 ENTITLED TO. SHE LOST THE CASE. ALL SHE HAD GOTTEN WAS A
3 DECLARATORY JUDGMENT THAT THERE HAD BEEN SEX
4 DISCRIMINATION. THAT'S ALL SHE HAD.

5 MR. SCHRADER: THE COROLLARY TO THAT STATEMENT
6 WAS THAT SHE COULDN'T RECOVER DAMAGES FOR THAT TIME PERIOD
7 PRIOR TO THE TIME THAT SHE --

8 THE COURT: WELL, THERE WAS NO REQUEST FOR RELIEF
9 PRESENTED TO ME. BOTH SIDES WALKED OUT OF THIS COURTROOM
10 WITH A PRIVATE AGREEMENT THAT THEY HADN'T TOLD ME ANYTHING
11 ABOUT AND SO WHILE SHE HAD ESTABLISHED A PRINCIPLE OF LAW
12 AND HAD A DECLARATORY JUDGMENT THAT STEREOTYPING WAS A
13 VIOLATION OF TITLE VII, THAT'S ALL SHE HAD. SHE HAD NO
14 RIGHTS. AND IT WAS ONLY,, IT WAS ONLY WHEN THE COURT OF
15 APPEALS DETERMINED THAT SHE HAD BEEN CONSTRUCTIVELY
16 DISCHARGED DID SHE GET ANY RIGHTS BECAUSE UNDER TITLE VII
17 LAW UNLESS SHE WAS CONSTRUCTIVELY DISCHARGED SHE WOULDN'T
18 HAVE HAD ANY RIGHT TO BACK PAY. AND SO LO AND BEHOLD THE
19 MOST DECISIVE THING THAT WAS DECIDED BY THE COURT OF
20 APPEALS ADVERSELY TO THE DEFENDANT WAS SOMETHING THAT THE
21 DEFENDANT DID NOT CHOOSE TO APPEAL.

22 AND THAT'S WHERE WE ARE AND I'VE MENTIONED THAT
23 THIS MORNING AND THAT'S -- THAT IS THE AMAZING IRONY OF
24 THIS CASE. THE ONLY THING THAT GIVES HER ANY RIGHT FOR
25 BACK PAY AT ALL IN THIS CASE IS THE DECISION OF THE COURT

1 OF APPEALS THAT SHE WAS CONSTRUCTIVELY DISCHARGED BECAUSE
2 OTHERWISE SHE HAD TO STAY ON THE JOB AND PURSUE HER
3 REMEDIES ON THE JOB AND SHE COULDN'T HAVE WALKED OFF.

4 THAT'S TITLE VII AND TITLE VII LAW IS ABSOLUTELY
5 CLEAR ON THAT. AND THAT'S THE CRUCIAL THING IN THE CASE
6 THAT I MENTIONED THIS MORNING THAT JUST PUTS THE WHOLE
7 MATTER INTO A VERY DIFFICULT ASPECT AND I REMINDED COUNSEL
8 OF THAT WHEN YOU WERE IN HERE LAST. I REMIND YOU OF IT
9 AGAIN. THAT DECISION IS THE LAW OF THE CASE. I INTEND TO
10 OBSERVE IT EVEN THOUGH I DISAGREES WITH IT, OF COURSE.
11 AND IT INFLUENCES EVERYTHING THAT'S GOING TO HAPPEN HERE.

12 MR. OLSON: YOUR HONOR, MAY I RESPOND BRIEFLY ON
13 THAT? WE HAVE DISCUSSED THIS WITH YOUR HONOR ON NUMEROUS
14 OCCASIONS, AS YOU'VE INDICATED. IT HAS BEEN
15 ACKNOWLEDGED -- IT'S BEEN ARGUED BY US AND NOT DISPUTED
16 AND ACKNOWLEDGED BY PLAINTIFFS THAT THE COURT OF APPEALS'
17 DECISION IS VACATED. IT IS NOT THE LAW OF THE CASE.

18 THE COURT: I CAN'T -- IT WAS NEVER CONSIDERED BY
19 THE SUPREME COURT AND I GOT A REMAND. I DIDN'T HAVE
20 ANYBODY TO TELL ME ANYTHING MORE THAN THAT. AND VACATE
21 DOESN'T MEAN ANYTHING. VACATE IS ANOTHER WORD OFTEN FOR
22 MOOTNESS. THAT'S ALL IT MEANS.

23 MR. OLSON: WE SUBMIT THAT THE COURT OF APPEALS'
24 DECISION ON THAT POINT WHICH IS PREDICATED UPON A FINDING
25 OF LIABILITY WHICH HAS BEEN OVERTURNED BY THE UNITED

1 STATES SUPREME COURT IS A NULLITY. IT CANNOT BE, WE
2 RESPECTFULLY SUBMIT, THE LAW OF THE CASE.

3 THE COURT: I TOLD YOU I THOUGHT IT WAS. I
4 CONTINUE TO THINK IT WAS. AND I URGED YOU TO GO TO THE
5 COURT OF APPEALS AND FIND OUT AND NEITHER ONE OF YOU WOULD
6 DO IT. I'VE DONE EVERYTHING I KNOW HOW ABOUT THAT.

7 MR. OLSON: I DON'T KNOW HOW WE WOULD COULD
8 APPEAL --

9 THE COURT: YOU COULD HAVE GONE TO THE COURT OF
10 APPEALS AND SAID WHAT DOES THE REMAND MEAN. I SUGGESTED
11 IT TO YOU WHEN WE WERE HERE. I SAID I DIDN'T KNOW WHAT
12 THE REMAND MEANT AND COUNSEL ON BOTH SIDES THOUGHT IT WAS
13 CONFUSING.

14 MR. OLSON: AND WE ALSO AGREED THAT THE COURT OF
15 APPEALS' DECISION HAD BEEN VACATED AND IT HAD NO FORCE AND
16 EFFECT.

17 THE COURT: WELL, WE DID. DID I AGREE WITH IT?
18 BECAUSE I DON'T AGREE WITH IT NOW. I DOUBT THAT I AGREED
19 WITH IT. I THINK YOU TOLD ME THAT IT HAD BEEN VACATED.

20 MR. HURON: YOUR HONOR, I THINK -- FOR THE
21 PLAINTIFF WE THINK THAT IT HAD BE VACATED.

22 THE COURT: SURE, WE LOOKED AT IT AND IT WAS
23 VACATED, BUT WHAT IS THE SIGNIFICANCE ON THAT POINT?

24 MR. HURON: EXACTLY.

25 MR. OLSON: IT'S HARD FOR ME TO UNDERSTAND HOW A

1 DECISION OF THE COURT OF APPEALS THAT'S BEEN VACATED CAN
2 BE THE LAW OF THE CASE. IT WAS INDEED PREDICATED ON A
3 FINDING OF LIABILITY THAT NO LONGER EXISTS. I THINK THAT
4 WE MAY --

5 THE COURT: I'VE TRIED -- YOU UNDERSTAND, I'VE
6 TRIED TO MAKE THIS CLEAR TO ALL OF YOU AND EVERYBODY HAS
7 BEEN PRETTY PIGHEADED ABOUT IT ON BOTH SIDES. THAT'S THE
8 WAY THIS CASE HAS GONE AND THAT'S THE WAY IT'S GOING TO
9 GO. WHATEVER I DO IS GOING TO BE APPEALED AGAIN AND THERE
10 WILL BE ANOTHER REMAND AND WE'LL HAVE ANOTHER COMPUTATION
11 OF BACK PAY. YOU KNOW, WE'RE IN THIS LONG AFTER I'M NOT
12 HERE AND I'VE BEEN TRYING TO TELL YOU MY CONCERNS ABOUT IT
13 IN EVERY WAY I KNOW HOW AND THERE IS A GRITTING OF THE
14 TEETH ON BOTH SIDES AND YOU DON'T AGREE. I'M GOING TO TRY
15 TO DO THE BEST I CAN.

16 MR. OLSON: WELL, WE MAY NEED A RULING, BOTH OF
17 US MAY NEED A RULING FROM YOUR HONOR AND MAYBE WE HAVE IT,
18 BUT I DON'T QUITE UNDERSTAND IT WITH RESPECT TO THESE
19 EVIDENTIARY ISSUES THAT WE'RE ADDRESSING NOW BECAUSE --

20 THE COURT: WELL, I WANT TO MAKE A RULING AS TO
21 WHEN THE DUTY TO MITIGATE IN THIS CASE STARTED BECAUSE I
22 THINK IT'S A CRUCIAL ASPECT OF MY DECISION. IT'S
23 SOMETHING THAT NEITHER ONE OF YOU HAS REALLY PAID ANY
24 ATTENTION TO IN YOUR BRIEFS BECAUSE I READ THEM OVER AGAIN
25 LAST NIGHT BUT WHEN I HEARD THE LINE OF QUESTIONING THAT

1 YOU WERE TAKING, MR. OLSON, I REALIZED THAT YOU HAD THE
2 VIEW APPARENTLY THAT THE DUTY TO MITIGATE CAME THE MINUTE
3 SHE WALKED OFF THIS JOB OR AT LEAST THE DATE THAT SHE
4 FILED THE SUPERIOR COURT CASE.

5 MR. OLSON: OR THE DATE WHEN SHE CONTENDS THE ACT
6 OF DISCRIMINATION -- ALLEGED DISCRIMINATION --

7 THE COURT: I UNDERSTAND, YOU WEREN'T GOING
8 FURTHER BACK THAN THAT AND I MUST SAY THAT SINCE I DIDN'T
9 FEEL IN MY MIND A LITTLE -- I PRESENTLY AM INFORMED ABOUT
10 THE LAW, THAT YOU HAVE NO DUTY TO MITIGATE UNTIL YOU HAVE
11 A RIGHT ESTABLISHED; THAT YOU DON'T HAVE TO MITIGATE
12 SOMETHING JUST BECAUSE YOU ASSERT A RIGHT, YOU HAVE TO
13 HAVE A RIGHT ESTABLISHED AND SHE NEVER HAD THE RIGHT
14 ESTABLISHED UNTIL THE COURT OF APPEALS CAME DOWN WITH THE
15 DECISION.

16 MR. OLSON: WELL, THEN THERE'S NO LIABILITY AS I
17 THINK YOU INDICATED IN RESPONSE TO MR. SCHRADER'S POINT.
18 THERE'S NO LIABILITY AT ANY POINT PRIOR TO THAT DATE.
19 THEN WE'RE ALL LOOKING AT A --

20 THE COURT: WELL, YOU CHANGED THE RULES OF THE
21 GAME IN THE COURT OF APPEALS. YOU CHANGED THE RULES OF
22 THE GAME. WE TRIED A CASE, I'LL GO BACK OVER WHAT I TOLD
23 YOU AGAIN, WE TRIED A CASE ON THE QUESTION OF WHETHER OR
24 NOT THERE WAS STEREOTYPING IN CONNECTION WITH THE DECISION
25 AFFECTING HER NOT GETTING A PARTNERSHIP. WE NEVER TRIED

1 IT IN RELATION TO HER NOT GETTING THE PARTNERSHIP ON THE
2 FIRST ROUND. I MADE IT PERFECTLY CLEAR IN MY OPINION AND
3 EVERYTHING ELSE THAT THE PARTNERSHIP PROCESS WAS A
4 CONTINUING ONE. I KNEW THERE WERE SOME 22 PEOPLE IN HER
5 GROUP THAT WERE HELD OVER A YEAR. I LOOKED AT THE WHOLE
6 PICTURE.

7 YOU WENT UP TO THE SUPREME COURT OR SOMEBODY WENT
8 UP THERE WITH THE IDEA OF UPSETTING THE WHOLE APPLE CART
9 BY TURNING THE WHOLE THING DOWN TO THE INITIAL DECISION,
10 WHICH IS MOST UNREALISTIC IN TERMS OF THE WAY PRICE
11 WATERHOUSE OPERATES AS A PARTNERSHIP AND IT HAD NO
12 RELATION TO WHAT I HAD DECIDED IN MY CASE AND SO
13 EVENTUALLY A NEW CASE WAS CONSTRUCTED BY ABLE COUNSEL ON
14 BOTH SIDES, NOT THE CASE THAT WAS TRIED DOWN HERE, AND IT
15 CAME BACK DOWN WITH A REMAND FROM THEM TO DO SOMETHING
16 THAT WAS NOT IN FOCUS IN MY COURT AND NEVER WAS IN FOCUS
17 IN MY COURT.

18 MR. OLSON: BUT THAT PART OF YOUR DECISION WAS
19 THAT THERE WAS NO DISCRIMINATION, THERE WAS NO LIABILITY
20 PREDICATED UPON THE SUBSEQUENT DECISION,

21 THE COURT: I GOT OVERRULED.

22 MR. OLSON: NO, THAT DECISION WAS NOT APPEALED
23 AND THAT DECISION WAS NOT OVERRULED. THE DECISION NOT TO
24 REPROPOSE THE PLAINTIFF WAS BASED UPON YOUR FINDINGS AND
25 CONCLUSIONS, NOT AN ACT OF DISCRIMINATION, AND ON WHICH

1 THERE IS NO LIABILITY. THAT WE COULDN'T VERY WELL HAVE
2 APPEALED THAT BECAUSE THAT WAS IN OUR FAVOR.

3 THE COURT: YOU COULD HAVE APPEALED THE
4 CONSTRUCTIVE DISCHARGE. SHE HAD NO RIGHT, ABSOLUTELY NO
5 RIGHT TO ANY BACK PAY EVER, IF SHE WAS NOT CONSTRUCTIVELY
6 DISCHARGED. I HELD IN YOUR FAVOR AND SAID SHE WASN'T.
7 THE COURT OF APPEALS SAID THAT I WAS WRONG. THE PLAINTIFF
8 WON THE COURT OF APPEALS' DECISION AND YOU NEVER APPEALED
9 IT TO THE SUPREME COURT. I EVEN HAD -- YOU WEREN'T HERE,
10 MR. OLSON, IT ISN'T ANYTHING PERSONAL, BUT I EVEN TRIED TO
11 PERSUADE WITH EVERYTHING I HAD FOR COUNSEL FOR PRICE
12 WATERHOUSE NOT TO GO TO THE SUPREME COURT IN THE MIDDLE OF
13 THE STREAM. I SAID THEY WERE GOING TO MUCK UP THE CASE IF
14 THEY DID. THEY OUGHT TO GO ON THROUGH AND GET A DAMAGE
15 DECISION AND THEN TAKE THE WHOLE THING UP AND I WAS TOLD I
16 DIDN'T UNDERSTAND THE PROCESS. I OBVIOUSLY DIDN'T BECAUSE
17 YOU GOT CERT. I DIDN'T THINK YOU WERE GOING TO GET CERT.
18 AND THEN YOU MADE YOUR OWN NOTION OF WHAT THE ISSUES WERE
19 IN THE CASE AND TOOK IT TO THE SUPREME COURT AND YOU
20 CHANGED ALL THE RULES. NOW, THAT'S WHAT HAPPENED.

21 MR. HURON: YOUR HONOR, IF I MAY JUST BRIEFLY GET
22 OUR POSITION ON THE EVIDENTIARY POINT. I THINK I AGREE
23 WITH YOU THAT I'M NOT SURE THAT THERE IS A DUTY TO
24 MITIGATE AS EARLY AS PRICE WATERHOUSE SAYS THERE IS. OUT
25 OF AN ABUNDANCE --

1 THE COURT: WELL, I'M WILLING TO HEAR FROM
2 COUNSEL AND THE LAW ON IT. I HAVEN'T DECIDED IT. I JUST
3 RAISED TO YOU WHAT SEEMS TO ME A VERY REAL PROBLEM. I
4 ALWAYS THOUGHT YOU FIRST HAD THE RIGHT TO DAMAGES BEFORE
5 YOU HAD ANYTHING TO MITIGATE. NOW, IF YOU'VE GOT LAW THAT
6 SAYS THAT ISN'T SO AND ANYBODY WHO BRINGS A TORT CASE OR
7 ANY KIND OF CASE HAS TO START MITIGATING RIGHT AWAY, THEN
8 WE'LL HAVE TO GET THAT LAW OUT AND I'LL HAVE TO LOOK AT IT
9 AND STUDY IT, BUT I'M NOT AWARE OF IT AT THE PRESENT TIME.
10 IT MAY BE OUT THERE.

11 MR. OLSON: WE'D BE SATISFIED WITH A DECISION
12 THAT THERE'S NO DUTY TO MITIGATE UNTIL AFTER THE COURT OF
13 APPEALS' DECISION BUT THERE'S NO DUTY TO MITIGATE BECAUSE
14 THERE ARE NO DAMAGES DURING THAT PREVIOUS PERIOD EITHER.
15 THAT HAS TO GO ALONG WITH IT.

16 THE COURT: WHAT THAT HAS TO DO IS INTERPRETING
17 WHAT IS THE EFFECT OF THE SUPREME COURT DECISION AND I'M
18 NOT QUITE CLEAR ABOUT THAT. THEY SAY THE WHOLE CASE
19 HINGES ON SOMETHING WE DIDN'T LITIGATE AT ALL AND THAT WE
20 GO BACK TO THE FIRST ISSUE.

21 MR. OLSON: I SHOULD ADD THAT THE SUPREME COURT
22 WOULD NOT HAVE GOTTEN A CONSTRUCTIVE DISCHARGE ISSUE
23 WHETHER IT HAD BEEN APPEALED BY PRICE WATERHOUSE OR NOT
24 BECAUSE THE SUPREME COURT FOUND THAT THERE HAD NOT BEEN --
25 LIABILITY HAD NOT BEEN --

1 THE COURT: WE CANNOT -- I DON'T SEE HOW YOU CAN
2 SAY THAT YOU CAN'T APPEAL A RULING THAT'S ADVERSE TO YOU
3 BY A COURT OF APPEALS. THAT SEEMS TO ME A CONCEPT THAT'S
4 DIFFICULT FOR ME TO UNDERSTAND. YOU DIDN'T EVEN TRY TO.

5 MR. OLSON: I'M SAYING THE SUPREME COURT COULD
6 NOT HAVE REACHED THAT ISSUE BASED UPON THE FINDING THAT IT
7 DID -- THAT IT DID MAKE, THAT THERE'S NO LIABILITY THAT
8 HAS BEEN ESTABLISHED.

9 THE COURT: MY POINT IS YOU NEVER APPEALED IT AND
10 YOU NEVER EVEN GAVE THEM THE CHANCE TO SAY, AND THE LAW OF
11 CONSTRUCTIVE DISCHARGE IS ALL OVER THE LOT. AND WE SET A
12 NEW HIGH IN THIS CASE AND YOU DIDN'T DO ANYTHING ABOUT IT
13 AND I KNOW -- NOW WE'RE TALKING ABOUT GOING BACK UP TO THE
14 COURT OF APPEALS THAT BELIEVES THERE WAS A CONSTRUCTIVE
15 DISCHARGE CASE. AND I MUST TAKE THAT INTO ACCOUNT. I
16 HAVEN'T ANY OTHER WAY. IF IT ISN'T -- IF THAT ISSUE IS
17 OPEN, WE'RE NOT LITIGATING IT. I DECIDED IT ON THE FACTS
18 I HAD. THEY TOLD ME I WAS WRONG. WHAT DO YOU EXPECT THE
19 TRIAL JUDGE TO DO? TO SAY, WELL, I'M GOING TO SAY IT JUST
20 THE WAY I DID BEFORE AND THEN THEY HAVE A SECOND CHANCE OF
21 CHEWING THE CHERRY? THAT WOULD BE A RIDICULOUS WAY TO RUN
22 A LAWSUIT, AND YOU HAVEN'T BROUGHT IT. EVEN IF IT WAS
23 VACATED YOU HAVEN'T COME BACK IN HERE AND RAISED ANY
24 QUESTION ABOUT CONSTRUCTIVE DISCHARGE.

25 MR. OLSON: BUT WE WERE SATISFIED WITH THE

1 FINDING THAT YOU DID MAKE WHICH WAS NOT DISTURBED ON
2 APPEAL IN ANY WAY, THAT THE DECISION NOT TO REPROPOSE THE
3 PLAINTIFF IS NOT THE BASIS FOR ANY LIABILITY.

4 THE COURT: ARE YOU GOING TO FIGHT THE
5 CONSTRUCTIVE DISCHARGE ON THE NEXT APPEAL?

6 MR. OLSON: WE DON'T BELIEVE THAT THERE IS A --

7 THE COURT: THEY HAVE A RIGHT TO FIGHT IT IF YOU
8 DON'T AND THEY SUCCEEDED LAST TIME.

9 MR. OLSON: WELL, IF THE BASIS FOR YOUR
10 CONCLUSION THAT THERE WAS A CONSTRUCTIVE DISCHARGE IS
11 BASED UPON A DECISION THAT IT'S THE LAW OF THE CASE WE
12 CERTAINLY WOULD FIGHT THAT, YOUR HONOR. THAT IS A
13 QUESTION OF LAW WE DO NOT AGREE THAT THE COURT OF APPEALS'
14 DECISION --

15 THE COURT: ALL RIGHT. YOU HAD YOUR SAY. I GAVE
16 YOU MANY TIMES TO RAISE IT UP. THAT'S WHERE WE ARE, AND
17 I'M GOING TO LUNCH. WHAT TIME DO YOU ALL WANT TO COME
18 BACK?

19 MR. HELLER: WHAT TIME DOES YOUR HONOR WANT US
20 BACK?

21 THE COURT: I'LL COME BACK ANY TIME YOU ALL WANT
22 TO COME BACK.

23 MR. HELLER: 1:15 OR 1:30, YOUR HONOR. IT'S UP
24 TO YOU.

25 THE COURT: WHATEVER YOU WANT. WHAT WOULD BE

1 AGREEABLE? THERE ARE A LOT OF YOU AND YOU'VE GOT TO MAKE
2 YOUR ARRANGEMENTS.

3 MR. OLSON: LET'S SAY 1:30.

4 THE COURT: 1:30? SEE YOU AT 1:30.

5 (LUNCH, 12:05 TO 1:30 P.M.)

6 AFTERNOON SESSION 1:30 P.M.

7 THE COURT: I WANT TO GO ON WITH THE TESTIMONY
8 BUT I WANT TO CALL ATTENTION OF THE DEFENSE TO THE
9 MANDATE. THE MANDATE DOES NOT VACATE THE COURT OF
10 APPEALS' DECISION. IT VACATES MY DECISION. IT'S JUST AS
11 CLEAR AS DAY.

12 MR. OLSON: WELL, YOUR HONOR, MAY I --

13 THE COURT: AND I'LL TAKE BRIEFS FROM BOTH SIDES
14 ABOUT IT. BUT I DON'T WANT TO INTERRUPT. WE HAVE PEOPLE
15 HERE WHO HAVE COME TO TESTIFY AND I THINK WE OUGHT TO GET
16 THE TESTIMONY, BUT THERE IS NO VACATING OF THE OPINION OF
17 THE COURT OF APPEALS WHATSOEVER. THEY SIMPLY VACATED THE
18 EARLIER MANDATE AND SUBSTITUTED A NEW MANDATE AND THAT'S
19 ALL IT IS. AND THEY VACATED MY OPINION.

20 MR. OLSON: WE HAVE BRIEFED THAT. THE
21 PLAINTIFF'S COUNSEL AGREED WITH US IN BRIEFS THAT WERE
22 FILED IN THIS COURT THAT THE COURT OF APPEALS' OPINION WAS
23 VACATED. I WOULD LIKE TO SAY ONE MORE THING, IF I MIGHT,
24 WITH RESPECT TO OUR POSITION CONCERNING THE TIME WHEN --

25 THE COURT: WELL, I WOULD RATHER HAVE IT IN

1 BRIEFS WHICH I'VE INDICATED TWICE SINCE I CAME BACK ON THE
2 BENCH NOW. WE'RE GOING TO GO AHEAD AND TAKE THE TESTIMONY
3 ON YOUR THEORY OF THE CASE SO YOU HAVE YOUR FULL RECORD
4 AND THEN WE'LL SEE WHAT WE'LL DO WITH IT.

5 MR. OLSON: THANK YOU, YOUR HONOR.

6 MR. HURON: YOUR HONOR, THAT IS WHAT I WAS GOING
7 TO SAY. WE UNDERSTAND THAT WE'D LIKE --

8 THE COURT: WELL, I'LL HEAR FROM BOTH OF YOU.

9 MR. HURON: -- A REMEDIAL RECORD AS SOON AS
10 POSSIBLE.

11 WITH THAT, I'D LIKE TO CALL MR. GALLAGHER FOR TWO
12 BRIEF QUESTIONS.

13 THE COURT: YOU MAY BRING HIM ON THE STAND.
14 (THOMAS GALLAGHER, WITNESS FOR PLAINTIFF, RESUMED THE
15 STAND)

16 THE COURT: YOU'RE STILL UNDER THE SAME OATH,
17 MR. GALLAGHER.

18 THE WITNESS: YES, YOUR HONOR.

19 THE COURT: ALL RIGHT.

20 BY MR. HURON:

21 Q BRIEFLY, MR. GALLAGHER, AT THE TIME YOUR WIFE LEFT --
22 ANN HOPKINS LEFT PRICE WATERHOUSE DID YOU GIVE HER ADVICE
23 AS TO WHAT YOU THOUGHT HER BEST COURSE WAS?

24 A I ADVISED HER TO SET UP HER OWN FIRM, CONSULTING
25 FIRM.

1 Q AFTER THE ORIGINAL LAWSUIT IN THIS MATTER WAS FILED I
2 GUESS IN SUPERIOR COURT IN MARCH OF 1984, AT THAT
3 TIMEFRAME AND THEREAFTER DID YOU STILL HAVE AT THAT POINT
4 ANY PROFESSIONAL OR PERSONAL CONTACTS WITH BIG EIGHT
5 FIRMS?

6 A PROFESSIONAL CONTACTS AND SOME PERSONAL CONTACTS,
7 YES.

8 Q WITHIN THOSE CIRCLES, WAS THE FACT THAT MISS HOPKINS
9 HAD FILED SUIT ALLEGING SEX DISCRIMINATION AGAINST PRICE
10 WATERHOUSE, WAS THAT A TOPIC OF DISCUSSION?

11 A YES.

12 MR. SCHRADER: I'M GOING TO OBJECT, YOUR HONOR,
13 THAT'S PURE HEARSAY AND I DON'T UNDERSTAND THE RELEVANCE.

14 MR. HURON: YOUR HONOR, I DON'T BELIEVE IT'S
15 HEARSAY. MY ONLY QUESTION WAS WHETHER OR NOT IT WAS
16 OFFERED AS A TOPIC OF DISCUSSION. IT'S NOT BEING OFFERED
17 AS THE TRUTH OF THE MATTER ASSERTED.

18 MR. SCHRADER: THEN I DON'T UNDERSTAND THE TOPIC
19 OF DISCUSSION.

20 MR. HURON: MAY I ASK ONE FURTHER QUESTION?

21 THE COURT: WELL, IF YOU'RE SAYING WAS THERE
22 DISCUSSION AMONG -- RELATING TO HER APPROACH FOR A JOB
23 I'LL TAKE IT BUT I'M NOT GOING TO TAKE TESTIMONY
24 CONCERNING THE KIND OF COURTHOUSE GOSSIP THAT GOES ON
25 AROUND HERE ON SIMILAR MATTERS. WE DON'T PAY ATTENTION TO

1 GOSSIP. NOW, IF THIS WAS A CONVERSATION IN WHICH HE WAS
2 INTERESTED IN PROMOTING ANY OF HIS WIFE'S EFFORTS TO GET
3 TO TOUCHE THEN I THINK THAT SHOULD BE SOMETHING WE OUGHT
4 TO HEAR ABOUT, BUT IF HE'S JUST GOING OUT AND HAVING A
5 BEER WITH SOME BOYS AND THEY'RE TELLING HIM HOW THEY THINK
6 OF SOMETHING THEY READ IN THE PAPERS, AND ALL THE PAPERS
7 ARE TOTALLY INACCURATE IN THE CASE, I DON'T THINK THAT
8 COUNTS FOR ANYTHING.

9 MR. HURON: YOUR HONOR, OUR ONLY POINT IN RAISING
10 THE QUESTION IS WE THINK, AND PERHAPS IT CAN BE
11 STIPULATED, THE FACT THAT THE SUIT WAS FILED RECEIVED SOME
12 AT LEAST LOCAL PUBLICITY AND I THINK THAT THAT'S SOMETHING
13 THAT BEARS ON THE ISSUE OF MITIGATION. THAT OUR POINT
14 WOULD BE, IF ANYTHING, IT WOULD HAVE MADE IT MORE
15 DIFFICULT FOR HER TO GET THE TYPE OF POSITION THAT THE
16 DEFENDANT SAYS SHE EASILY COULD HAVE GOTTEN ON A PARTNER
17 TRACK IN ANOTHER FIRM.

18 THE COURT: I'M NOT GOING TO DECIDE THIS CASE ON
19 THE BASIS OF GOSSIP.

20 MR. HURON: I HAVE NO FURTHER QUESTIONS.

21 THE COURT: THE OBJECTION IS SUSTAINED.

22 CROSS-EXAMINATION

23 BY MR. SCHRADER:

24 Q MY NAME IS WAYNE SCHRADER, ATTORNEY FOR THE
25 DEFENDANT. ARE YOU HERE BY WAY OF SUBPOENA TODAY?

1 A I AM NOT.

2 MR. SCHRADER: THANK YOU. NO FURTHER QUESTIONS.

3 THE COURT: ALL RIGHT. THANK YOU MR. GALLAGHER.

4 THE WITNESS: THANK YOU, SIR.

5 MR. HURON: YOUR HONOR, THE PLAINTIFF'S NEXT
6 WITNESS IS DR. JOSEPH TRYON. I BELIEVE HE'S OUTSIDE. IF
7 I MAY TAKE A MINUTE JUST TO GO GET HIM?

8 THE COURT: WE'LL BRING HIM IN.

9 WILL YOU GIVE ME THE NUMBERS OF HIS EXHIBIT SO I
10 HAVE THEM?

11 MR. HURON: YES, SIR. I'M GOING TO BE EXAMINING
12 HIM ABOUT EXHIBIT NUMBERS TWO THROUGH 15.

13 THE COURT: TAKE THESE BACK, BARBARA, AND GIVE ME
14 THOSE. THOSE ARE THE ONES I NEED.

15 (DR. JOSEPH TRYON, WITNESS FOR PLAINTIFF, SWORN)

16 MR. HURON: YOUR HONOR, IF I MAY, I BELIEVE THAT
17 PLAINTIFF'S EXHIBITS 14 AND 15, THE TWO STIPULATIONS, HAVE
18 BEEN RECEIVED IN EVIDENCE, IS THAT CORRECT?

19 THE COURT: THEY'RE BOTH IN EVIDENCE AS EXHIBITS
20 14 AND 15, AS I UNDERSTAND IT.

21 MR. HURON: THANK YOU.

22 THE COURT: PLAINTIFF'S EXHIBITS, THE TWO
23 STIPULATIONS ARE MARKED EXHIBITS 14 AND 15.

24 MR. HURON: THANK YOU.

25 DIRECT EXAMINATION

1 BY MR. HURON:

2 Q DR. TRYON, WOULD YOU PLEASE STATE YOUR FULL NAME FOR
3 THE RECORD AND YOUR OCCUPATION?

4 A JOSEPH L. TRYON, T-R-Y-O-N, I'M AN ECONOMIST AND I
5 TEACH AT GEORGETOWN UNIVERSITY.

6 Q DO YOU HAVE WITH YOU UP THERE COPIES OF CERTAIN
7 PLAINTIFF'S EXHIBITS, I THINK TWO THROUGH 15?

8 A YES, I DO.

9 Q DR. TRYON, WOULD YOU LOOK AT PLAINTIFF'S EXHIBIT
10 NUMBER TWO, PLEASE, AND I'D JUST LIKE TO ASK WHETHER
11 THAT'S A RESUME OF YOUR EDUCATION, EXPERIENCE,
12 PUBLICATIONS?

13 A YES, IT IS.

14 Q COULD YOU BRIEFLY DESCRIBE YOUR BACKGROUND AND
15 EXPERIENCE IN THE AREA OF ECONOMICS?

16 A I HAVE A DEGREE IN ECONOMICS, A BACHELOR'S DEGREE IN
17 ECONOMICS FROM THE UNIVERSITY OF MINNESOTA IN 1949, A
18 MASTER'S DEGREE IN ECONOMICS FROM HARVARD UNIVERSITY IN
19 1951 AND A DOCTORATE IN ECONOMICS FROM HARVARD UNIVERSITY
20 IN 1961. I HAVE BEEN TEACHING AT GEORGETOWN SINCE 1958
21 WITH A PERIOD OF ABOUT TWO AND A HALF YEARS OFF IN THE
22 MIDDLE OF THAT WHERE I TAUGHT -- I'M SORRY, I WORKED FOR
23 THE NATIONAL PLANNING ASSOCIATION, BUT BASICALLY MY CAREER
24 IS ESSENTIALLY A TEACHER.

25 Q DR. TRYON, HAVE YOU EVER PREVIOUSLY BEEN QUALIFIED IN

1 ANY CASE TO TESTIFY AS AN EXPERT ABOUT THE ECONOMIC LOSS
2 SUFFERED BY AN INDIVIDUAL?

3 A YES, I HAVE.

4 Q APPROXIMATELY HOW MANY TIMES?

5 A I HAVE ACTUALLY TESTIFIED ON CASES THAT INVOLVED LOST
6 INCOME I BELIEVE ABOUT 60 TIMES.

7 Q AND DID SOME OF THOSE INVOLVE EMPLOYMENT SITUATIONS?

8 A YES, SOME OF THEM.

9 Q WAS THERE EVER A SITUATION IN WHICH A PARTY SOUGHT TO
10 QUALIFY YOU AS AN EXPERT AND YOUR EXPERTISE WAS REJECTED
11 BY A COURT?

12 A NO.

13 MR. HURON: YOUR HONOR, AT THIS TIME I WOULD MOVE
14 ADMISSION OF PLAINTIFF'S EXHIBIT NUMBER TWO AND SUBMIT
15 DR. TRYON AS AN EXPERT IN THE FIELD OF ECONOMICS.

16 THE COURT: ANY PROBLEMS?

17 MR. OLSON; NO OBJECTION.

18 THE COURT: ALL RIGHT. YOU MAY PROCEED.

19 MR. HURON: THANK YOU.

20 BY MR. HURON:

21 Q DR. TRYON, HAVE YOU BEEN ASKED TO PREPARE AN ESTIMATE
22 OF THE LOSSES SUFFERED BY THE PLAINTIFF IN THIS CASE, ANN
23 HOPKINS, ASSUMING SHE HAD BEEN ADMITTED TO PRICE
24 WATERHOUSE AS A PARTNER AS OF JULY 1, 1983?

25 A YES.

1 Q ARE YOUR CONCLUSIONS SET FORTH IN A REPORT?

2 A THEY ARE SET FORTH IN A STATEMENT, A 26B4 STATEMENT
3 WHICH I MADE WHICH IS REPRODUCED AS PLAINTIFF'S EXHIBIT
4 THREE.

5 Q AND IF YOU COULD LOOK ALSO AT PLAINTIFF'S EXHIBIT
6 NUMBER FOUR AND I'LL BE REFERRING TO PLAINTIFF'S EXHIBIT
7 NUMBER FOUR, I THINK, PROBABLY THROUGHOUT YOUR TESTIMONY,
8 DR. TRYON, IS THAT -- DOES THAT REPRESENT A SUMMARY OF
9 YOUR PRINCIPAL CONCLUSIONS THAT ARE CONTAINED IN EXHIBIT
10 NUMBER THREE, THE REPORT?

11 A YES, THAT'S CORRECT.

12 Q I'D LIKE TO FOCUS FIRST ON THE ISSUE OF THE QUESTION
13 OF BACK PAY. DO YOU HAVE AN OPINION AS TO THE LOSS
14 SUFFERED BY THE PLAINTIFF ON JULY 1, 1983 THROUGH JUNE 30
15 OF LAST YEAR, OF 1989, INCLUDING INTEREST?

16 A YES, I DO.

17 Q IS THAT CONCLUSION SET FORTH ON PLAINTIFF'S EXHIBIT
18 NUMBER FOUR?

19 A YES, IT IS.

20 Q WHICH LINE?

21 A IT'S THE FOURTH LINE AND THE TOTAL LOSS AS I
22 PROJECTED IS \$554,728. THAT INCLUDES ACCUMULATED INTEREST
23 ON LOSSES THAT ARE BEYOND 1989.

24 Q DR. TRYON, IN GENERAL TERMS, CONCEPTUALLY, WHAT TYPES
25 OF DATA DID YOU RELY ON IN COMING TO THIS FIGURE?

1 A THERE ARE TWO KIND OF DATA THAT I USED FOR THIS
2 PURPOSE. FIRST, I -- ON THE BASIS OF INFORMATION
3 SUBMITTED BY PRICE WATERHOUSE I CALCULATED THE AVERAGE
4 EARNINGS FOR PARTNERS IN THE SAME CLASS AS MISS HOPKINS.

5 Q LET ME JUST INTERRUPT YOU THERE FOR A MOMENT. ARE
6 THOSE AVERAGE EARNINGS SET FORTH IN WHAT'S NOW PLAINTIFF'S
7 EXHIBIT 15 -- EXCUSE ME, 14?

8 A YES, THEY ARE.

9 Q OKAY. AND COULD YOU JUST BRIEFLY DESCRIBE THE
10 DATA -- THE BASE DATA YOU ORIGINALLY USED TO PUT THOSE
11 FIGURES TOGETHER?

12 A WE OBTAINED FROM PRICE WATERHOUSE THE TAX FORMS THAT
13 REPORT THE INCOMES AND SOME OTHER MATERIAL FOR EACH OF THE
14 INDIVIDUAL PARTNERS. THESE WERE THE ONES -- THE PARTNERS
15 WHO WOULD HAVE BEEN IN THE SAME CLASS AS MISS HOPKINS IF
16 SHE HAD BEEN TAKEN IN WHEN SHE APPLIED. THAT INFORMATION
17 INCLUDED SOME INDIVIDUALS WHO HAD INCOME WHICH WAS CLEARLY
18 NOT EARNED INCOME BUT THINGS LIKE MOVING EXPENSES AND SOME
19 OTHER THINGS LIKE THAT. THOSE PARTNERS THAT HAD UNUSUAL
20 SOURCES OF INCOME WERE SIMPLY ELIMINATED, AND AVERAGES WERE
21 TAKEN FROM THOSE THAT WERE IDENTIFIED BY PRICE WATERHOUSE
22 AS HAVING ESSENTIALLY UNDISTURBED INCOME.

23 Q SO IT WAS PRICE WATERHOUSE THAT ELIMINATED THE
24 EXTREMES, NOT YOU?

25 A YES, THAT'S RIGHT.

1 THE COURT: WELL, NOW, WERE THESE THE PEOPLE WHO
2 BECAME PARTNERS ON THE DATE THAT YOU WERE GIVEN, JULY 1,
3 '83, OR WERE THEY PEOPLE WHO WERE IN THE CLASS THAT WAS
4 UNDER CONSIDERATION AS OF THAT TIME?

5 THE WITNESS: THEY WERE THE ONES WHO ACTUALLY
6 STARTED AS PARTNERS ON JULY 1ST, 1983.

7 THE COURT: SO IF THERE WERE OTHERS THAT WERE
8 HELD OVER A YEAR FOR ONE REASON AND ANOTHER AND THEN
9 BECAME PARTNERS, YOU DIDN'T TAKE THOSE INTO ACCOUNT.

10 THE WITNESS: THAT IS CORRECT.

11 BY MR. HURON:

12 Q DR. TRYON, YOU WERE SAYING THAT ONE SET OF DATA YOU
13 LOOKED AT WAS THE AVERAGE EARNINGS OF THE PRICE WATERHOUSE
14 PARTNERS. WHAT OTHER DATA DID YOU LOOK AT IN ARRIVING AT
15 THE BACK PAY FIGURE?

16 A THE OTHER DATA ARE THE ACTUAL EARNINGS THAT MISS
17 HOPKINS HAD DURING THIS SAME PERIOD WHEN SHE WAS A PRIVATE
18 CONSULTANT AND THEN SUBSEQUENTLY WHEN SHE WAS APPOINTED TO
19 THE WORLD BANK AND ESSENTIALLY WHAT I DID WAS SIMPLY TAKE
20 THE DIFFERENCE BETWEEN THOSE TWO SETS OF DATA.

21 Q MISS HOPKINS' ACTUAL EARNINGS, WERE THOSE SIMPLY
22 TAKEN FROM HER TAX RETURNS?

23 A YES, THEY WERE RESTRICTED TO HER EARNINGS; THAT IS,
24 THERE'S NO INTEREST OR ANYTHING THAT BELONGS TO HER
25 HUSBAND WHEN THEY FILED JOINTLY OR ANYTHING LIKE THAT.

1 THIS IS STRICTLY HER EARNINGS FOR THE YEARS IN QUESTION.

2 Q DR. TRYON, COULD YOU LOOK AT TWO EXHIBITS --

3 THE COURT: MAY I INTERRUPT AGAIN JUST SO I
4 UNDERSTAND? IT'S GOING FINE. I DON'T WANT TO CAUSE ANY
5 TROUBLE. BUT IN THIS EXHIBIT 14 THAT I ASKED YOU ABOUT A
6 MOMENT AGO, HOW MANY PEOPLE WERE YOU AVERAGING THERE?
7 HAVE YOU ANY GENERAL IDEA?

8 THE WITNESS: YES, IT VARIES A LITTLE BIT FROM
9 ONE YEAR TO ANOTHER BECAUSE SOME INDIVIDUALS WERE
10 ELIMINATED IN JUST ONE OR TWO YEARS.

11 THE COURT: SURE.

12 THE WITNESS: AND THE NUMBER IS SOMEWHERE LIKE 37
13 TO 40, DEPENDING ON WHICH YEAR YOU'RE LOOKING AT.

14 THE COURT: 37 OR 40 PEOPLE IN HER CLASS THAT
15 WERE MANAGEMENT ADVISORY SERVICES.

16 THE WITNESS: NO, THEY'RE ALL KINDS -- ALL THREE
17 KINDS OF PARTNERS. THESE AVERAGES DO PERTAIN JUST TO
18 MANAGEMENT CONSULTANT TYPE --

19 THE COURT: THAT'S WHAT I'M ASKING YOU, HOW MANY
20 WERE THERE OF THOSE?

21 THE WITNESS: THOSE -- IT ALSO VARIES, BUT IT'S A
22 SMALLER SHARE. JUST A MINUTE AND I CAN CHECK IT.

23 THE COURT: I'M SURE IT WAS SMALLER. THAT'S WHY
24 I THOUGHT YOU MISUNDERSTOOD ME.

25 THE WITNESS: YES. IT'S ROUGHLY A DOZEN. IT

1 DOES VARY FROM ONE YEAR TO ANOTHER.

2 THE COURT: BUT IN THE RANGE OF A DOZEN.

3 THE WITNESS: YES, THAT'S RIGHT.

4 THE COURT: THANK YOU.

5 BY MR. HURON:

6 Q DR. TRYON, JUST BY WAY OF A LITTLE FURTHER
7 EXPLANATION THERE, DID YOU IN FACT COMPUTE AVERAGES FOR
8 ALL 40 OR SO PEOPLE WHO WERE IN THAT CLASS EACH YEAR?

9 A YES, I HAVE BOTH SETS OF AVERAGES.

10 Q CAN YOU TELL THE COURT ROUGHLY HOW THEY COMPARE TO
11 THE ACTUAL AVERAGES, JUST FOR THE DOZEN WHO WERE
12 MANAGEMENT CONSULTANTS?

13 A THEY ARE ACTUALLY QUITE CLOSE. IT'S ONLY A MATTER OF
14 TWO OR \$3000 DIFFERENCE IN ANY ONE YEAR AND THE MANAGEMENT
15 CONSULTANT PARTNERS ARE LOWER IN THE FIRST FOUR YEARS AND
16 THEN HIGHER IN THE LAST TWO, BUT THE DIFFERENCE IS
17 ESSENTIALLY ON THE ORDER OF MAGNITUDE OF A COUPLE OF
18 THOUSAND DOLLARS.

19 Q LOOKING AT MISS HOPKINS' ACTUAL INCOME DURING THIS
20 PERIOD AS REPORTED IN HER TAX RETURNS, WOULD YOU TAKE A
21 LOOK AT TWO EXHIBITS, PLAINTIFF'S EXHIBITS SIX AND 15?

22 IF I MAY, YOUR HONOR, BY WAY HAVE EXPLANATION,
23 EXHIBIT 15 CONTAINS IN STIPULATION FORM PRECISELY THE SAME
24 DATA --

25 THE COURT: THAT'S WHAT I UNDERSTOOD.

1 MR. HURON: OKAY. THAT'S REFERRED TO -- THAT
2 MR. SCHRADER MENTIONED.

3 THE COURT: IT WAS MENTIONED TO ME BY COUNSEL
4 WHEN THEY WERE OFFERED, YES.

5 MR. HURON: THANK YOU.

6 BY MR. HURON:

7 Q BUT LOOKING AT EXHIBIT SIX, FIRST OF ALL, DID YOU
8 PREPARE THAT TABLE SHOWING MISS HOPKINS' ACTUAL EARNINGS
9 DURING THE YEARS IN QUESTION?

10 A WHICH EXHIBIT ARE YOU REFERRING TO?

11 Q EXHIBIT SIX, I'M SORRY.

12 A EXHIBIT SIX.

13 Q RIGHT.

14 A YES, I DIDN'T DO ALL OF THESE CALCULATIONS, BUT IT
15 WAS DONE ACCORDING TO MY UNDERSTANDING OF WHAT WE NEEDED
16 FOR THE PURPOSE.

17 Q THANK YOU. AND YOU MAY HAVE TOUCHED ON THIS, BUT
18 WHERE JOINT RETURNS HAD BEEN USED, I TAKE IT YOU DID NOT
19 INCLUDE HER HUSBAND'S EARNINGS?

20 A NO, HER HUSBAND'S EARNING WERE EXCLUDED.

21 Q AND I THINK YOU ALSO SAID YOU DID NOT INCLUDE
22 INVESTMENT EARNINGS, THINGS LIKE THAT?

23 A NO, JUST ESSENTIALLY LABOR EARNINGS.

24 Q OKAY. I NOTICE THAT IN THREE YEARS, 1985, '87 AND
25 '88, YOU SUBTRACTED ONE-HALF OF A SELF-EMPLOYMENT TAX.

1 WHY DID YOU DO THAT?

2 A THE DATA INCLUDED IN THOSE THREE YEARS INCLUDED THE
3 PAYMENT OF SELF-EMPLOYMENT TAX WHICH GOES TO SOCIAL
4 SECURITY BECAUSE MISS HOPKINS WAS ESSENTIALLY A CONTRACT
5 TYPE EMPLOYEE TO HER OWN CORPORATION IS WHAT IT AMOUNTED
6 TO. IN ANY CASE, SHE PAID THE TOTAL SOCIAL SECURITY TAX
7 FOR HERSELF IN ORDER TO MAKE IT COMPARABLE TO THE USUAL
8 DEFINITION OF INCOME FOR A WAGE EARNER. I SUBTRACTED HALF
9 OF THAT SELF-EMPLOYMENT TAX AND THAT MAKES IT ESSENTIALLY
10 COMPARABLE TO THE ORDINARY EMPLOYEE WHO ONLY PAYS HALF OF
11 THE SOCIAL SECURITY TAX, IF HE'S A STRAIGHTFORWARD
12 EMPLOYEE.

13 Q JUST TWO QUESTIONS ABOUT THAT, DR. TRYON. FIRST, IS
14 THE AMOUNT OF THE SELF-EMPLOYMENT TAX SET FORTH ON THE
15 THREE FORMS AT THE END OF THE EXHIBIT THAT MISS HOPKINS
16 PREVIOUSLY IDENTIFIED? YOU ACTUALLY MAY NOT HAVE BEEN IN
17 COURT WHEN SHE IDENTIFIED IT. THE END OF EXHIBIT SIX.

18 A YES, IT'S IN -- I'M SORRY, IT'S NOT ON EXHIBIT SIX.

19 MR. HURON: IF I MAY, YOUR HONOR?

20 A MY COPY ONLY HAS ONE SHEET.

21 HERE THEY ARE. HERE THEY ARE.

22 THE COURT: WELL, ARE THESE FIGURES BEFORE TAX OR
23 AFTER TAX?

24 THE WITNESS: THEY ARE BEFORE TAX: THAT IS,
25 BEFORE INCOME TAX. THE ADJUSTMENT FOR SOCIAL SECURITY IS

1 JUST TO MAKE IT CONSISTENT WITH THE SORT OF INCOME THAT
2 YOU GET AS AN EARNER.

3 THE COURT: YES, BUT THESE ARE ALL BEFORE-TAX
4 FIGURES.

5 THE WITNESS: EXACTLY.

6 MR. HURON: THEY ARE, YOUR HONOR.

7 BY MR. HURON:

8 Q NOW, IN THE AGGREGATE, THE THREE ADJUSTMENTS FOR
9 SOCIAL SECURITY, THE SELF-EMPLOYMENT TAX, HOW MUCH DO
10 THOSE AMOUNT TO, APPROXIMATELY?

11 A THEY'RE ONLY A MATTER OF ONE OR \$2000.

12 Q EACH TIME?

13 A YES, I THINK THE MAXIMUM WAS -- LET'S SEE, 20, \$2900.

14 Q AND THAT WOULD BE ONE-HALF OF THAT, IS THAT RIGHT?

15 A NO, IT'S ONE-HALF OF -- 5817 WAS THE LARGEST ONE.

16 Q I SEE. I SEE. LOOKING AGAIN, IF YOU WOULD, AT THE
17 SUMMARY TABLE, WHICH IS PLAINTIFF'S EXHIBIT NUMBER FOUR,
18 IF YOU LOOK FIRST AT LINE THREE WHICH IS CAPTIONED NET
19 LOSS, THAT FIGURE, 478,141, IT'S OBVIOUS, DR. TRYON, BUT
20 WHAT DOES IT REPRESENT?

21 A IT REPRESENTS THE DIFFERENCE BETWEEN WHAT SHE
22 ACTUALLY EARNED OVER THIS SIX YEAR PERIOD AND WHAT SHE
23 WOULD HAVE EARNED HAD SHE BEEN A PARTNER AT PRICE
24 WATERHOUSE.

25 THE COURT: THEN YOU PUT IN THE INTEREST FACTOR.

1 THE WITNESS: YES, THE INTEREST IS ADDED ON
2 AFTERWARDS TO GET THE FINAL FIGURE OF \$554,728.

3 BY MR. HURON:

4 Q WHAT INTEREST RATE DID YOU USE AND WHY DID YOU CHOOSE
5 IT?

6 A THE INTEREST RATE VARIES FROM ONE YEAR TO ANOTHER,
7 BUT IT REPRESENTS WHAT WOULD BE EARNED ON WHAT I THINK IS
8 AN APPROPRIATE TYPE OF INVESTMENT FOR FUNDS IN CASES LIKE
9 THIS. MUNICIPAL BONDS, HIGH GRADE, AND THE SERIES THAT I
10 USED TO CALCULATE THIS IS A SERIES WHICH IS -- WHICH IS
11 PROVIDED BY STANDARD & POORS. IT'S CALLED A BOND BUYER'S
12 INDEX. THIS SHOWS THE ANNUAL YIELD ON HIGH GRADE
13 MUNICIPAL BONDS. THE DATA ARE ACTUALLY PUBLISHED IN A
14 NUMBER OF PLACES, BUT I TOOK IT FROM THE ECONOMIC REPORT
15 OF THE PRESIDENT FOR JANUARY, 1989.

16 Q AND WHY DID YOU SELECT MUNICIPAL BONDS?

17 A THIS IS AN EMPLOYMENT CASE AND IN DUE TIME ANY KIND
18 OF COMPENSATION THAT IS AWARDED MISS HOPKINS WILL HAVE TO
19 BE TAXED AND WILL BE -- THE TAX CONSEQUENCES WILL BE
20 SETTLED WITH THE IRS. UNDER THOSE CIRCUMSTANCES TAXES
21 SHOULD NOT BE TAKEN OUT AND YOU SHOULDN'T LOSE ANY
22 COMPENSATION IN THE FORM OF TAXES ON INTEREST EARNED.
23 THEREFORE, I USED A NON-TAXABLE INTEREST RATE FOR THE
24 PURPOSE. MUNICIPAL BONDS ARE SUCH A NON-TAXABLE
25 INSTRUMENT AND THEIR YIELD LOSES NOTHING TO TAXES.

1 Q WITH RESPECT TO BACK PAY, DR. TRYON, IS IT CORRECT
2 THAT YOU STOPPED YOUR ANALYSIS AS OF JUNE 30, 1989, LAST
3 YEAR?

4 A THAT'S RIGHT.

5 Q WHY DID YOU STOP IT AT THAT DATE?

6 A THAT WAS THE LAST YEAR FOR WHICH WE HAD COMPLETE
7 INFORMATION. THE PRICE WATERHOUSE DATA ARE ON A FISCAL
8 YEAR BASIS WHICH GOES FROM JULY 1ST TO JUNE 30TH AND THE
9 LAST FISCAL YEAR ENDED JUNE 30TH, 1989.

10 Q DR. TRYON, I'D LIKE YOU TO ASSUME FOR A MOMENT THAT
11 MISS HOPKINS WERE TO BECOME A PARTNER IN PRICE WATERHOUSE
12 AS OF JULY 1ST OF THIS YEAR, 1990. WOULD IT BE
13 POSSIBLE -- CAN YOU TELL ME HOW MUCH MORE BACK PAY WOULD
14 HAVE ACCRUED IN THAT ONE YEAR BETWEEN LAST JUNE 30TH AND
15 THIS JUNE 30TH?

16 A WELL, THERE WOULD BE ADDITIONAL LOST EARNINGS AND
17 THERE WOULD BE ADDITIONAL INTEREST.

18 Q RIGHT.

19 A THE ADDITIONAL INTEREST WOULD HAVE AMOUNTED TO
20 \$39,940. THE LOST EARNINGS WOULD BE THE DIFFERENCE
21 BETWEEN WHAT SHE WOULD HAVE EARNED AT PRICE WATERHOUSE AND
22 WHAT SHE HAS EARNED AT THE WORLD BANK FOR THIS ONE YEAR
23 AND I CALCULATE THAT TO BE -- THE MINIMUM FIGURE IS
24 \$87,813. ADDING THOSE TWO TO THE ORIGINAL FIGURE WHICH I
25 GAVE GIVES A FINAL TOTAL IF YOU INCLUDE THIS ADDITIONAL

1 YEAR OF LOSSES TO JUNE 30TH, 1990, IT WOULD BE \$682,481.

2 Q DR. TRYON, I'D LIKE TO TURN NOW TO THE QUESTION OF
3 FRONT PAY AND ASK, FIRST OF ALL, DID YOU ESTIMATE THE
4 LOSSES THAT MISS HOPKINS WOULD INCUR IN THE FUTURE,
5 BEGINNING AS OF JULY 1, JULY 1, '89?

6 A YES, I DID.

7 Q FIRST OF ALL, DID YOU ASSUME A CERTAIN LIFE
8 EXPECTANCY?

9 A YES, HER LIFE EXPECTANCY AS A 46-YEAR OLD WOMAN IS AN
10 ADDITIONAL 34.9 YEARS, AND THAT WOULD TAKE HER TO THE YEAR
11 2025.

12 Q DID YOU ASSUME A CERTAIN RETIREMENT DATE?

13 A YES, I DID.

14 Q WHAT WAS THAT.

15 THE COURT: BUT WHY?

16 THE WITNESS: THE RETIREMENT DATE?

17 THE COURT: YES. NO, WHY WOULD YOU BE FIGURING
18 TO THAT DATE? YOU'D HAVE GIVEN HER UNDER YOUR THEORY OVER
19 A MILLION DOLLARS WAY BEFORE THAT. DO YOU THINK SHE'S
20 STILL GOING TO WORK AT A JOB SHE DOESN'T WANT? SHE SAYS
21 SHE DOESN'T LIKE THE JOB. SHE DOESN'T WANT IT. DO YOU
22 FIGURE SHE'S GOING TO CONTINUE TO WORK AT THAT JOB, IF SHE
23 WORKS ENOUGH TO GET HALF OF THAT? UNDER YOUR FIGURES, AS
24 I UNDERSTAND IT, IN HALF THE TIME BEFORE RETIREMENT SHE'D
25 GET ABOUT A MILLION DOLLARS. SO WHAT'S THE PROBLEM?

1 THE WITNESS: WELL, THE ASSUMPTION THAT I MADE
2 WAS THAT SHE WOULD INDEED WORK TO NORMAL RETIREMENT.

3 THE COURT: I KNOW, BUT I WONDERED WHY? WHAT'S
4 THE BASIS FOR THAT ASSUMPTION?

5 MR. HURON: YOUR HONOR, I THINK IT'S FAIR TO SAY
6 THAT HE TOOK THAT ASSUMPTION FROM COUNSEL.

7 THE COURT: WELL, I UNDERSTAND, BUT HE'S THE
8 EXPERT.

9 MR. HURON: SURE, SURE.

10 THE COURT: DO YOU THINK THAT'S THE WAY TO DO IT
11 IS WHAT I'M ASKING YOU? SURE YOU DID WHAT COUNSEL TOLD
12 YOU BECAUSE THAT GETS THE BIGGEST FIGURE, BUT I'M ASKING
13 YOU WHETHER YOU THINK THAT'S ECONOMICALLY SOUND.

14 THE WITNESS: I DID NOT LISTEN TO MISS HOPKINS'
15 TESTIMONY SO I DON'T KNOW EXACTLY WHAT SHE SAID ON THIS,
16 BUT AT ANY RATE MY CLEAR ASSUMPTION IS THAT SHE WANTED TO
17 BE A PARTNER. SHE APPLIED --

18 THE COURT: BUT THIS IS FRONT PAY. THIS WOULD
19 MEAN SHE WOULDN'T BE A PARTNER.

20 THE WITNESS: NO, YOUR HONOR, THE LOSS IS
21 CALCULATED ON THE ASSUMPTION THAT SHE WOULD INDEED HAVE
22 BEEN A PARTNER AND --

23 THE COURT: FRONT PAY?

24 THE WITNESS: YES.

25 MR. HURON: YOUR HONOR, IF I MAY ADDRESS THAT

1 BRIEFLY, AND I THINK MR. HELLER PERHAPS GOT INTO THAT A
2 LITTLE BIT IN HIS OPENING THIS MORNING. IF
3 MISS HOPKINS --

4 THE COURT: WELL, I THINK WE HAVE AN EXPERT NOW.
5 YOU BRING IT OUT THROUGH THE EXPERT. I DON'T THINK THIS
6 IS A MATTER FOR COUNSEL TO BE TESTIFYING.

7 MR. HURON: I DON'T MEAN TO TESTIFY, YOUR HONOR.

8 THE COURT: SO YOU BRING IT OUT THROUGH HIM. I'M
9 JUST SURPRISED THAT FRONT PAY IS BASED UPON PARTNERSHIP
10 EARNINGS FOR THAT LENGTH OF TIME.

11 THE WITNESS: YOUR HONOR, I THINK I CAN ANSWER
12 THIS QUESTION. IF MISS HOPKINS HAD BEEN APPOINTED AS --
13 TAKEN IN AS A PARTNER SHE WOULD HAVE STAYED WITH THE FIRM.

14 THE COURT: WHAT IS THE BASIS FOR THAT
15 ASSUMPTION? YOU TOLD ME A MOMENT AGO THAT A GOOD NUMBER
16 OF THE PEOPLE DROPPED OUT IN HER CLASS. YOU MENTIONED
17 THAT TWO OR THREE OF THE PEOPLE THAT HAD COME IN ON HER
18 CLASS HAD ALREADY DROPPED OUT.

19 THE WITNESS: I THINK THE ATTRITION OVER THE SIX
20 YEAR PERIOD WAS SOMETHING LIKE MAYBE TEN OR 16 PERCENT.

21 THE COURT: YES, AND THAT'S ONLY A LITTLE SHORT
22 PERIOD. NOW WE'RE TALKING 21 YEARS, AREN'T WE?

23 THE WITNESS: YES.

24 THE COURT: SO MAYBE --

25 BY MR. HURON:

1 Q HOW MANY YEARS ARE WE TALKING UNTIL THE PRICE
2 WATERHOUSE RETIREMENT DATE?

3 A HER -- THE NORMAL RETIREMENT DATE AT PRICE WATERHOUSE
4 IS THE FISCAL YEAR, AT THE END OF THE FISCAL YEAR IN WHICH
5 SHE TURNED 60. THAT WOULD BE FOR HER THE YEAR 2004.

6 Q SO IT WOULD BE ABOUT 15 MORE YEARS?

7 A YES, THAT'S RIGHT. I HAVE EXPLICITLY ASSUMED THAT
8 SHE WOULD HAVE STAYED IN AT PRICE WATERHOUSE.

9 THE COURT: YES, I JUST WONDERED WHETHER YOU
10 THINK THAT'S ECONOMICALLY SOUND FROM WHAT YOU KNOW.

11 THE WITNESS: UNLESS YOU HAVE SOME INFORMATION
12 THAT WOULD SUGGEST THAT SHE WOULD HAVE LEFT --

13 THE COURT: I HAVE NO INFORMATION. I HAVE NONE.

14 THE WITNESS: WELL, I THINK IT'S THE APPROPRIATE
15 ASSUMPTION UNLESS THERE'S SOMETHING TO SUGGEST THAT SHE
16 WOULD HAVE LEFT PRICE WATERHOUSE IF SHE HAD BECOME A
17 PARTNER.

18 THE COURT: IN OTHER WORDS, YOUR STUDY OF THIS
19 FIELD OF EMPLOYMENT INDICATES THAT PEOPLE WHO BECOME
20 ENORMOUSLY COMPENSATED BECAUSE THEY ARE PARTNERS IN A
21 BUSINESS STICK WITH THAT BUSINESS UP TO THE FULL TIME THAT
22 THEY ARE REQUIRED TO QUIT AND THAT NONE OF THEM -- THERE'S
23 NO LIKELIHOOD THAT PEOPLE WILL, HAVING MADE A FORTUNE LONG
24 BEFORE THAT, DECIDE THEY'D LIKE TO DO SOMETHING DIFFERENT?

25 THE WITNESS: I'M SURE THAT THERE IS SOME

1 PROBABILITY THAT A PERSON WILL LEAVE A PARTNERSHIP.
2 UNFORTUNATELY I DON'T HAVE ANY SPECIFIC DATA ON THIS.

3 THE COURT: ARE THERE DATA ABOUT THAT?

4 THE WITNESS: I HAVE NEVER SEEN THAT, BUT AS YOU
5 POINTED OUT, THERE WAS SOME ATTRITION ALREADY.

6 THE COURT: THAT'S WHY I'M WONDERING. I CAN
7 UNDERSTAND WHY YOU DID WHAT YOU DID, DR. I'M NOT
8 CRITICIZING WHAT YOU DID AT ALL. I JUST WANT TO GET YOUR
9 FEEL FOR IT BECAUSE APPARENTLY YOU'VE HAD A LOT OF
10 EXPERIENCE WITH EMPLOYMENT CASES WHICH YOU SAID IN YOUR
11 CURRICULUM VITAE AND I WAS WONDERING WHETHER ECONOMICALLY
12 YOU THINK THAT'S A RATIONAL ASSUMPTION.

L
13 THE WITNESS: WELL, THIS PARTICULAR ISSUE DEALS
14 WITH WHETHER INDIVIDUALS REMAIN PARTNERS IN HIGH PAID
15 POSITIONS, THE SORT THAT PRICE WATERHOUSE HAS. AND I
16 DON'T HAVE ENOUGH INFORMATION TO --

17 THE COURT: ALL RIGHT.

18 THE WITNESS: JUST A MINUTE, IF I MAY. I'LL JUST
19 SAY I DON'T HAVE ANY SPECIFIC INFORMATION AS TO HOW LONG
20 THE AVERAGE PERSON STAYS WITH PRICE WATERHOUSE. HOWEVER,
21 IF YOU LEAVE A PARTNERSHIP LIKE THAT QUITE COMMONLY
22 IT'S -- IF YOU'VE BEEN SUCCESSFUL YOU GO TO ANOTHER. MY
23 IMPRESSION IS THAT LAW FIRMS --

24 THE COURT: SHE DOESN'T WANT TO GO TO ANY OTHER
25 ONE, SHE WANTS THIS ONE.

1 THE WITNESS: YES.

2 THE COURT: AND SO -- AND I NOTICED THE
3 PARTNERSHIP AGREEMENT IS FULL OF PROVISIONS THEY KEEP
4 PUTTING IN ABOUT GETTING OUT BEFORE 60.

5 THE WITNESS: YES.

6 THE COURT: ALL KINDS OF THINGS, SO I FIGURED
7 THERE WAS SOME COMPULSION ON PARTNERS OF SOME KIND TO GET
8 OUT BECAUSE THEY'RE PUTTING ADDENDUM AFTER ADDENDUM ON
9 THEIR AGREEMENT TO ACCOMMODATE PEOPLE WHO WANT TO GET OUT
10 OF THE PARTNERSHIP, YOU SEE? SO I FIGURED THEY HAD A
11 PROBLEM OF SOME KIND WITH PEOPLE WHO WANTED TO GET OUT OR
12 THEY WERE BEING FORCED OUT.

13 THE WITNESS: WELL, I WOULD LIKE TO SAY THAT IT'S
14 MY IMPRESSION, BUT THIS IS NOT BASED ON ANY SPECIFIC
15 INFORMATION THAT I CAN TURN TO, THAT IN THE ACCOUNTING
16 PROFESSION THEY STAY LONGER AS PARTNERS THAN IN THE LEGAL
17 PROFESSION. IT'S NOT UNCOMMON, AS I'M SURE YOU ARE QUITE
18 AWARE, THAT LAWYERS MOVE FROM ONE FIRM TO ANOTHER AND I
19 THINK THAT THE ACCOUNTING PROFESSION IS SOMEWHAT MORE
20 STABLE THAN THE LEGAL PROFESSION IN THIS REGARD, BUT A
21 TYPICAL TRANSFER IS TO ANOTHER PARTNERSHIP.

22 THE COURT: VERY WELL. AND THEN PRESUMABLY THAT
23 WOULD BE AT EQUAL OR HIGHER PAY.

24 THE WITNESS: SIMILAR, YES, SIR.

25 THE COURT: BECAUSE WHY TRANSFER OTHERWISE?

1 THE WITNESS: YES, SIR.

2 BY MR. HURON:

3 Q DR. TRYON, DO YOU HAVE AN OPINION AS TO THE RANGE OF
4 THE FUTURE LOSSES THAT THE PLAINTIFF WOULD INCUR, REDUCED
5 TO PRESENT VALUE, DO YOU HAVE A BOTTOM LINE OPINION ON
6 THAT?

7 A REDUCED TO PRESENT VALUE?

8 Q CORRECT.

9 A YES, THIS WAS -- THIS WAS DONE ESSENTIALLY THE SAME
10 WAY; THAT IS, PROJECTING PRICE WATERHOUSE EARNINGS AND
11 RETIREMENT BENEFITS AND THEN SUBTRACTING WHAT WOULD BE HER
12 EARNINGS IN HER WORLD BANK JOB, INCLUDING RETIREMENT
13 EARNINGS, AND I ESTIMATE THE RANGE IN PRESENT VALUE TERMS
14 TO BE \$2,350,353. THAT'S THE LOWER BOUND, AND THE UPPER
15 BOUND, \$2,811,296.

16 Q AND IS THAT LINE NUMBER TWELVE ON PLAINTIFF'S EXHIBIT
17 NUMBER FOUR?

18 A YES, EXACTLY. THAT'S ESSENTIALLY THE BOTTOM LINE, OR
19 FRONT PAY.

20 Q IN ESTIMATING MISS HOPKINS' FUTURE EARNINGS AT PRICE
21 WATERHOUSE, YOU MENTIONED THAT WAS ONE COMPONENT OF WHAT
22 YOU DID, IS THAT RIGHT?

23 A YES.

24 Q WHAT BASE DID YOU START WITH?

25 A THE BASE THAT I STARTED WITH WAS THE AVERAGE EARNINGS

1 IN FISCAL 1989 FOR ALL PARTNERS IN PRICE WATERHOUSE IN THE
2 CLASS THAT SHE WAS IN. ALL THESE THAT WERE UNDISTURBED BY
3 SPECIAL EARNINGS OF ONE SORT OR ANOTHER.

4 Q NOW, WAS THAT -- I'M SORRY?

5 A THAT FIGURE IS \$170,962.

6 Q AND IS THAT HIGHER OR LOWER THAN THE AVERAGE FOR THAT
7 YEAR FOR THE -- JUST THE MANAGEMENT CONSULTING PARTNERS?

8 A THE MANAGEMENT CONSULTING PARTNERS WERE A COUPLE OF
9 THOUSAND DOLLARS HIGHER THAN THAT.

10 Q OKAY. DID YOU STARTING WITH THAT BASE OF ABOUT
11 170,000, I GUESS 171,000, DID YOU THEN ASSUME THAT THAT
12 WOULD INCREASE SOME PERCENTAGE EACH YEAR, STRETCHING OUT?

13 A YES, THERE ARE THREE DIFFERENT FACTORS THAT I TOOK
14 INTO ACCOUNT TO PRODUCE THE ANNUAL INCREASE. THEY ARE
15 INFLATION, AND SO-CALLED PRODUCTIVITY ADVANCE. THOSE ARE
16 BOTH GENERAL INFLUENCES WHICH SHOULD WORK ON INCOMES OF
17 ALL WORKERS. AND THEN THE THIRD FACTOR IS WHAT I CALLED
18 AGE AND EXPERIENCE. IT'S THE INCREASE IN PAY WHICH GOES
19 ALONG WITH ADDED RESPONSIBILITY AND THE EXPERIENCE AND
20 SKILLS, THINGS OF THAT NATURE.

21 Q TOGETHER, DR. TRYON, THESE THREE FACTORS, HOW MUCH
22 DID THEY AMOUNT TO EACH YEAR?

23 A WELL, IT VARIES FROM YEAR TO YEAR. THE INFLATION AND
24 PRODUCTIVITY ADVANCES ARE A FIXED AMOUNT, BUT THE AGE AND
25 EXPERIENCE INCREASE VARIES, BUT ON THE WHOLE IT COMES OUT

1 TO BE ABOUT 8.3 PERCENT, SOMETHING LIKE THAT. IT VARIES
2 THOUGH.

3 Q LET ME BREAK THOSE THREE DOWN.

4 THE COURT: WELL, IF ONE IS TRYING TO TAKE TAXES
5 INTO ACCOUNT YOU'RE IN TROUBLE, AREN'T YOU? BECAUSE AS
6 THE DOLLAR BECOMES WORTH LESS AND LESS AND LESS; IN FACT
7 IT'S NOT WORTH MUCH ANY MORE AT ALL, YOU KNOW THAT TAXES
8 ARE GOING TO GET HIGHER.

9 THE WITNESS: YOU MEAN BECAUSE OF THE PROGRESSIVE
10 TAX STRUCTURE?

11 THE COURT: INFLATION, INFLATION, INFLATION IS
12 GOING TO RESULT IN HIGHER TAXES, ISN'T IT?

13 THE WITNESS: YES.

14 THE COURT: AND SO TAKE HOME, I DON'T KNOW WHAT
15 TAKE HOME IS GOING TO BE, BUT IT'S --

16 THE WITNESS: WELL, ACTUALLY THERE IS A LIMIT TO
17 THE TAX RATE, THE PRESENT LIMIT IS -- IN THE FUTURE IS
18 GOING TO BE 28 PERCENT.

19 THE COURT: AS AN ECONOMIST DO YOU THINK THAT'S
20 GOING TO STICK? YOU'RE REASSURING TO ALL OF US. I'M NOT
21 AT ALL SURE.

22 THE WITNESS: IF I MAY ANSWER YOUR QUESTION
23 SLIGHTLY DIFFERENTLY, AS A DEMOCRAT WHO IS AN ECONOMIST I
24 THINK IT OUGHT TO BE GOING UP, BUT AT ANY RATE IT IS 28
25 PERCENT.

1 THE COURT: YES.

2 THE WITNESS: HOWEVER, THE TAX CONSEQUENCES ARE
3 SOMETHING THAT THE PERSON WHO GETS AN AWARD HAS TO WORRY
4 ABOUT AFTERWARDS AND SO I DON'T NEED TO CONCERN MYSELF
5 WITH THAT ISSUE.

6 BY MR. HURON:

7 Q THE FIGURE YOU'RE PROJECTING IS GROSS INCOME WHICH
8 WOULD BE TAXABLE?

9 A THAT'S CORRECT. IT'S GROSS INCOME.

10 THE COURT: SOMETIMES PEOPLE WHO ARE DOING THE
11 KIND OF ESTIMATING YOU'RE DOING DON'T GIVE ANYBODY ANY
12 INTEREST AND SET IT OFF AGAINST TAXES AND JUST TAKE THE
13 FLAT FIGURE.

14 THE WITNESS: WELL, IN ROUGH TERMS INFLATION AND
15 INTEREST OFFSET EACH OTHER, BUT I PREFER TO SHOW IT
16 EXPLICITLY.

17 THE COURT: YES.

18 THE WITNESS: I THINK -- MY IMPRESSION IS THAT
19 THE COURTS ARE NOT TERRIBLY HAPPY ABOUT ECONOMISTS DOING
20 THAT KIND OF THING.

21 THE COURT: WELL, EITHER WAY -- I HAD A CASE THE
22 OTHER DAY WHERE I WAS TOLD IN A VERY FEW YEARS A CARPENTER
23 WILL BE MAKING \$750,000 A YEAR.

24 THE WITNESS: I DON'T THINK IT'S GOING TO BE A
25 VERY FEW.

1 THE COURT: AND NOT HAVING HIRED ONE I DECIDED
2 I'D BETTER GET ONE IN A HURRY, BUT THE JURY DIDN'T BELIEVE
3 THE ECONOMIST. I TOOK NO POSITION.

4 THE WITNESS: I DON'T PROJECT MISS HOPKINS TO
5 EARN THAT MUCH.

6 THE COURT: ALL RIGHT.

7 BY MR. HURON:

8 Q DR. TRYON, JUST BREAKING DOWN THAT EIGHT PERCENT PLUS
9 FIGURE ANNUAL INCREASE THAT YOU WERE PROJECTING INTO THE
10 THREE COMPONENTS YOU'RE TALKING ABOUT, HOW MUCH WERE YOU
11 PROJECTING FOR INFLATION EACH YEAR AND WHAT WAS THAT BASED
12 ON?

L 13 A 4.6 PERCENT. 4.6 PERCENT IS THE AVERAGE ANNUAL
14 INCREASE IN THE CONSUMER PRICE INDEX OVER THE HISTORICAL
15 PERIOD 1955 TO 1988.

16 Q AND YOU MENTIONED ALSO THE SECOND COMPONENT I BELIEVE
17 IS WHAT YOU CALLED PRODUCTIVITY ADVANCE, IS THAT RIGHT?

18 A YES, THAT'S RIGHT.

19 Q DID YOU USE ONE OR MORE THAN ONE SET OF ASSUMPTIONS
20 WHEN YOU'RE TALKING ABOUT THAT SPECIFIC COMPONENT?

21 A I USED 1.5 PERCENT AS THIS STANDARD SET OF
22 ASSUMPTIONS THAT I USED FOR CASES OF THIS SORT AND THEN AS
23 AN ALTERNATIVE I USED THE FIGURE OF .8 PERCENT, ROUGHLY
24 HALF OF THE 1.5 PERCENT. THAT WAS MORE SPECIFIC TO PRICE.
25 WATERHOUSE AND I'LL BE GLAD TO EXPLAIN IT WHEN YOU WOULD

1 LIKE ME TO.

2 Q FINE. I'D LIKE TO DO THAT IN JUST A MINUTE, BUT IF I
3 COULD JUST ASK ONE QUESTION. YOU HAVE A RANGE ON
4 PLAINTIFF'S EXHIBIT FOUR, YOUR BOTTOM LINE FIGURE IS A
5 RANGE BETWEEN 2.3 MILLION AND 2.8 AND THAT'S BASED ON SOME
6 OTHER RANGES. ARE THOSE RANGES ATTRIBUTABLE TO ANYTHING
7 OTHER THAN YOUR TWO SETS OF ASSUMPTIONS ABOUT PRODUCTIVITY
8 ADVANCE; THAT IS, ON THE ONE HAND 1.5 PERCENT VERSUS .8
9 PERCENT?

10 A NO, THAT RANGE IS ENTIRELY THE RESULT OF THOSE TWO
11 ALTERNATIVES. THERE AREN'T ANY OTHER CHANGES IN THE
12 STRUCTURE OF THE PROJECTIONS EXCEPT THE PRODUCTIVITY
13 FIGURE.

14 Q OKAY. NOW, COULD YOU EXPLAIN THOSE TWO FIGURES, WHAT
15 YOUR BASIS FOR USING BOTH 1.5 ON ONE HAND AND
16 ALTERNATIVELY .8 FOR PRODUCTIVITY ADVANCE?

17 A THE 1.5 IS THE HISTORICAL AVERAGE OF INCREASE OVER
18 AND ABOVE INFLATION OF WORKERS INCOMES OVER THE PERIOD
19 1955 TO 1987. THAT WAS THE MOST RECENT YEAR FOR THE KIND
20 OF DATA WHICH I WAS USING. THIS IS OVER AND ABOVE
21 INFLATION. AND IN GENERAL WE EXPECT THAT ITS INCREASES IN
22 PRODUCTIVITY OF THE ECONOMY AS A WHOLE, BUT ACTUALLY
23 PRODUCES ANY GROSS OVER AND ABOVE INFLATION. THAT'S A
24 HISTORICAL FIGURE FOR AMERICAN WORKERS AS REPORTED IN SOME
25 CENSUS DATA.

1 Q DR. TRYON, GENERALLY WHEN YOU'RE MAKING PROJECTIONS
2 LIKE THIS, NOT JUST IN THIS CASE BUT GENERALLY, IS THAT
3 GENERAL PRODUCTIVITY FIGURE YOU RELY ON, 1.5 OR WHATEVER
4 IT HAPPENS TO BE AT THAT PARTICULAR TIME?

5 A YES, THAT'S WHAT I USE IN ALL OF MY PROJECTIONS.

6 Q OKAY. ABOUT WHAT .8 WHICH IS A SOMEWHAT LOWER
7 FIGURE? HOW DID YOU SELECT THAT AND WHY?

8 A FOR PRICE WATERHOUSE, IF YOU LOOK AT THE APPROPRIATE
9 DATA, ACTUALLY I THINK IT WAS THE PARTNERS' EARNINGS,
10 AVERAGE EARNINGS OVER A HISTORICAL PERIOD, IT'S A SHORTER
11 PERIOD, BUT AT ANY RATE IT GOES BACK TO I BELIEVE 1972 THE
12 FIGURE IS SOMEWHAT LOWER, AND TO PROVIDE A CONSERVATIVE OR
13 CAUTIOUS SET OF PROJECTIONS I INTRODUCED THE PRODUCTIVITY
14 ADVANCE OF ONLY .8 PERCENT AS AN ALTERNATIVE. THIS IS
15 ACTUALLY VERY SPECIFIC TO PRICE WATERHOUSE. AND THAT'S
16 THE ONLY DIFFERENCE BETWEEN THE TWO SETS OF PROJECTIONS
17 THAT I DID.

18 IN EFFECT, WHAT IT IS, IT'S A SORT OF A CAUTIOUS
19 OR CONSERVATIVE ASSUMPTION ABOUT HOW WELL PRICE WATERHOUSE
20 WILL DO IN THE FUTURE. IF THEY WERE TO SIMPLY CONTINUE
21 THEIR OPERATIONS AND ESSENTIALLY STAY WITHIN THE
22 MAINSTREAM OF THE ECONOMY WITH NORMAL GROSS AND EARNINGS
23 AND OTHER CHARACTERISTICS OF THE FIRM THE 1.5 WOULD BE
24 APPROPRIATE, I BELIEVE, BUT IF THERE IS ANY SUGGESTION
25 THAT PRICE WATERHOUSE IS NOT GOING TO DO SO WELL, A

1 SOMEWHAT PESSIMISTIC ASSUMPTION ABOUT THEIR GROWTH, THEN
2 THE .8 PERCENT WOULD BE THE APPROPRIATE FIGURE, I BELIEVE.

3 Q DR. TRYON, THE THIRD COMPONENT OF THIS ANNUAL EIGHT
4 OR SO PERCENT INCREASE IS SOMETHING I THINK YOU CALLED IT
5 AGE OR AGE AND EXPERIENCE. CAN YOU JUST EXPLAIN GENERALLY
6 WHAT THAT MEANS BEFORE I ASK HOW YOU DERIVED IT?

7 A YES. THE INDIVIDUAL WILL IN ADDITION TO THE GENERAL
8 INCREASES WHICH COME ECONOMY-WIDE ESSENTIALLY, THE
9 INDIVIDUAL WILL BENEFIT FROM THE FACT THAT HIS OR HER
10 SKILLS AND RESPONSIBILITIES INCREASE OVERTIME AND THE
11 EMPLOYER IS WILLING TO PAY MORE FOR THE SERVICES OF THAT
12 INDIVIDUAL. TYPICALLY, THE PATTERN THAT IS DEVELOPED FOR
13 THIS, IT'S ONE WHICH GOES UP SHARPLY IN THE YOUNGER YEARS
14 AND THEN BEGINS TO TAPER OFF IN THE LATE FORTIES AND
15 FIFTIES. IT DEPENDS ON THE PARTICULAR OCCUPATION, AND
16 THERE ARE SOME OTHER INDIVIDUAL CHARACTERISTICS ABOUT THE
17 INDIVIDUAL WORKER THAT YOU'RE LOOKING AT, BUT IN GENERAL
18 IT IS SOMETHING THAT GOES UP RAPIDLY IN THE EARLY YEARS
19 AND THEN TAPERS OFF IN THE LATER YEARS.

20 Q DR. TRYON, ARE THE THREE COMPONENTS THAT YOU'VE
21 IDENTIFIED AS PART OF THE ANNUAL PERCENTAGE INCREASE IN
22 EARNINGS; THAT IS, INFLATION, PRODUCTIVITY ADVANCE AND
23 THIS FACTOR OF AGE AND EXPERIENCE YOU'VE JUST BEEN
24 ADDRESSING, ARE THOSE THREE FACTORS NORMALLY USED BY
25 ECONOMISTS IN ESTIMATING FUTURE INCOME?

1 A IN ESSENCE THAT'S THE WAY ANY OF THESE SHOULD BE
2 DONE. WHEN IT COMES TO PEOPLE WHO ARE IN CIVIL SERVICE
3 JOBS THE METHOD IS SOMEWHAT DIFFERENT IN THAT IT DOESN'T
4 LOOK EXACTLY THE SAME BUT IN EFFECT IT PRODUCES
5 APPROXIMATELY THE SAME SET OF FACTORS AND I'LL EXPLAIN
6 THAT WHEN WE TALK ABOUT THE WORLD BANK JOB WHERE MISS
7 HOPKINS IS ASSUMED TO BE A CIVIL SERVANT, IN EFFECT. BUT
8 I THINK THAT MOST ECONOMISTS WHO DO THIS KIND OF WORK
9 WOULD RECOGNIZE THESE THREE FACTORS AS GENERALLY BEING THE
10 MOST IMPORTANT ONES TO TAKE INTO ACCOUNT.

11 Q NOW, IS THE THIRD FACTOR, THAT IS AGE AND EXPERIENCE,
12 HOW SOMEONE MOVES UP THE LADDER IN A PARTICULAR FIRM, IS
13 THAT SOMETHING THAT YOU HAVE TO LOOK AT SPECIFIC TO A
14 COMPANY OR AN EMPLOYER OR IT'S BEST TO?

15 A NORMALLY IT'S SPECIFIC TO THE INDIVIDUAL, HIS OR HER
16 AGE, AND THE OCCUPATION. IN THIS PARTICULAR CASE IT'S SET
17 IN TERMS OF THE COMPANY ITSELF BECAUSE WE'RE ASKING HOW
18 DOES AN INDIVIDUAL DO WITHIN PRICE WATERHOUSE IF SHE WERE
19 TO STAY WITH PRICE WATERHOUSE FOR HER CAREER, HOW WOULD
20 SHE PROGRESS WITHIN PRICE WATERHOUSE.

21 Q DID THE FIRM PROVIDE DATA THAT WOULD ENABLE YOU TO
22 MAKE THIS PROJECTION?

23 A YES, THEY PROVIDED SOME INFORMATION ABOUT THE NUMBER
24 OF SHARES THAT -- WHAT THEY DESIGNATED AS FULLY
25 PARTICIPATING PARTNERS, HOW MANY SHARES SHE WOULD HAVE,

1 DEPENDING ON THE NUMBER OF YEARS THAT THEY HAD BEEN WITH
2 THE FIRM, THAT IS, THEIR EXPERIENCE.

3 THE COURT: BUT THOSE -- IN A PARTNERSHIP, WHAT
4 THE PARTNERS MAKE HAS NOTHING TO DO WITH THEIR ABILITY
5 EXCEPT IN A VERY GENERAL WAY. THEY'RE ALL IN AN
6 ENTERPRISE MAKING PROFITS OFF OF OTHER PEOPLE'S
7 ACTIVITIES.

8 THE WITNESS: THAT'S PERFECTLY TRUE, YOUR HONOR,
9 BUT --

10 THE COURT: I MEAN TAKE LAWYERS, I KNOW ABOUT
11 LAWYERS, LAWYERS MAKE ENORMOUS MONEY SOMETIMES AS PARTNERS
12 THAT HAS VERY LITTLE RELATION TO THE VALUE OF THEIR
13 INDIVIDUAL WORTH EXCEPT AS IT MEASURES HOW THEY ARE VIEWED
14 IN RELATION TO OTHERS IN THE GROUP, BUT IF THE FIRM IS
15 SUCCESSFUL ONE YEAR THEY ALL MAKE MORE MONEY AND IF IT'S
16 NOT SUCCESSFUL THEY DON'T MAKE MUCH MONEY.

17 THE WITNESS: THAT'S ABSOLUTELY CORRECT.

18 THE COURT: SO THIS IS WHAT WE'RE TALKING ABOUT.
19 WHAT WE'RE TALKING ABOUT IS TREATING -- HERE TODAY WE'RE
20 TREATING THE PARTNERSHIP AS A CORPORATION. BECAUSE THAT'S
21 THE ONLY WAY YOU COULD THINK ABOUT IT. AND THEN YOU'RE
22 TALKING ABOUT SHARE VALUES, YOU'RE NOT TALKING ABOUT WORK,
23 YOU'RE TALKING ABOUT SHARE VALUES. AND THAT SEEMS TO ME
24 TO PUT A TREMENDOUS PREMIUM, ECONOMICALLY, UPON
25 DETERMINING WHAT THE FUTURE OF THE ACCOUNTING BUSINESS IS

1 GOING TO BE, BECAUSE THE ACCOUNTING BUSINESS -- I MEAN IF
2 YOU GET INTO THIS FRONT PAY KIND OF ANALYSIS, THE FUTURE
3 OF THE ACCOUNTING BUSINESS MAY BE VERY DISMAL AS COMPUTERS
4 START THINKING FOR PEOPLE AND NOBODY DOES ANY WORK. THEY
5 ALL GO PLAY GOLF AND THE COMPUTERS DO IT AND SO YOU
6 WONDER, CERTAINLY ALREADY EVEN WITH AN INDIVIDUAL, THE
7 COMPUTER CUTS DOWN THE AMOUNT OF TIME HE HAS TO GO TO AN
8 ACCOUNTANT, UNLESS IT'S A TAX ACCOUNTANT, AND IT SEEMS TO
9 ME THAT WHEN WE'RE DEALING IN FRONT PAY WE'RE LOOKING AT
10 WHAT ARE THE PROSPECTS OF A PARTNERSHIP IN ACCOUNTING AND
11 MANAGEMENT CONSULTING.

12 WELL, NOW, WE KNOW THEY'RE BEGINNING TO COLLAPSE,
13 SOME OF THEM, AND THEY'VE BEEN SUED A LOT AND THERE'S ALL
14 KINDS OF THINGS HAPPENING TO THEM THAT HAS NOTHING TO DO
15 WITH THE INDIVIDUAL'S PERFORMANCE AT ALL. IT HAS TO DO
16 WITH MISTAKES THAT PARTICULAR PARTNERS MAY HAVE MADE OR
17 THE TIMES AND A WHOLE BUNCH OF OTHER FACTORS AND I'M JUST
18 TALKING TO YOU -- YOU'VE BEEN VERY GENEROUS IN YOUR
19 COMMENTS ABOUT THESE PROBLEMS AND MAYBE YOU CAN HELP ME,
20 BUT IN SOME WAY THAT RATHER TAKES ME -- GIVES ME THE
21 FEELING I SHOULDN'T FIDDLE WITH FRONT PAY.

22 THE WITNESS: WELL --

23 THE COURT: THAT THERE ARE TOO MANY INTOLERABLE
24 UNCERTAINTIES THERE THAT DON'T FIT THE FORMAL EMPLOYMENT
25 MODEL.

1 THE WITNESS: I UNDERSTAND EXACTLY WHAT YOU ARE
2 SAYING AND THAT -- IT'S THE UNCERTAINTY ABOUT THE
3 ACCOUNTING INDUSTRY PERHAPS AS A WHOLE THAT --

4 THE COURT: YES, I'M NOT TALKING ABOUT PRICE
5 WATERHOUSE. THEY'RE NOT ANY DIFFERENT THAN ANYBODY ELSE.

6 THE WITNESS: I CAN'T REALLY OFFER ANY PARTICULAR
7 OPINION ABOUT THE PROSPECTS OF THE ACCOUNTING INDUSTRY,
8 BUT THE INTENTION OF OFFERING THIS ALTERNATIVE SET OF
9 PROJECTIONS IN WHICH THE PRODUCTIVITY FIGURES ARE REDUCED,
10 THIS -- MY INTENTION WAS TO TRY TO RELATE IT TO THE RECENT
11 HISTORY OF THE FIRM.

12 THE COURT: AND THAT'S THE BEST MEASURE YOU CAN
13 GET.

14 THE WITNESS: YES, THAT'S RIGHT.

15 THE COURT: I UNDERSTAND THAT.

16 THE WITNESS: UNLESS THERE IS SOME ACTUAL
17 PROSPECT THAT SOMETHING DIRE IS GOING TO HAPPEN TO PRICE
18 WATERHOUSE, I THINK THAT THAT WOULD BE AN APPROPRIATE
19 ALTERNATIVE TO CONSIDER. IN A SENSE IT TRIES TO TAKE INTO
20 ACCOUNT THE CONCERNS WHICH YOU HAVE JUST EXPRESSED.

21 THE COURT: YES, AND IN OTHER WORDS YOU'RE SAYING
22 THAT UNLESS THERE'S SOMETHING OVER THE HORIZON THAT
23 INDICATES THAT, FOR INSTANCE, THAT THE MANAGEMENT
24 CONSULTANTS AREN'T GOING TO FIRE THE ACCOUNTANTS AND RUN
25 THE THINGS THEMSELVES, WHICH THEY MIGHT DO AFTER ALL THE

1 COMPUTER BUSINESS GETS THE WAY IT IS, I OUGHT TO TREAT THE
2 PAST AS A PROPER PROLOGUE FOR THE FUTURE.

3 THE WITNESS: THAT'S RIGHT. AND I HAVE PRODUCED
4 TWO SETS OF PROJECTIONS. ONE WHICH ASSUMES THAT PRICE
5 WATERHOUSE SIMPLY PROGRESSES WITHIN THE FRAMEWORK OF THE
6 ECONOMY AS A WHOLE. THE OTHER --

7 THE COURT: AND THEN THEIR OWN EXPERIENCE.

8 THE WITNESS: AND THEN THEIR OWN EXPERIENCE,
9 WHICH IS SOMEWHAT LESS ROSY.

10 BY MR. HURON:

11 Q DR. TRYON, WHEN YOU WERE LOOKING AT WITHIN THE
12 OVERALL FRAMEWORK THE COMPONENT OF AGE AND EXPERIENCE, HOW
13 SOMEONE MOVES UP THE RUNGS, AS IT WERE, WITHIN AN
14 ENTERPRISE I THINK I WAS ASKING YOU WHETHER PRICE
15 WATERHOUSE HAD PROVIDED DATA THAT WAS HELPFUL IN THIS
16 EFFORT TO YOU AND I'D LIKE YOU TO LOOK AT PLAINTIFF'S
17 EXHIBITS SEVEN AND EIGHT FOR STARTERS.

18 A YES.

19 THE COURT: ONE IS THE MODEL. YOU MUST HAVE USED
20 THAT. THE SHARE ALLOCATIONS STUDY.

21 THE WITNESS: THAT'S RIGHT. I'M AFRAID IT'S NOT
22 IN THIS SET THAT I HAVE HERE.

23 THE COURT: IT'S NUMBER SEVEN, THE SECOND PAGE OF
24 NUMBER SEVEN ON MY COPY.

25 THE WITNESS: JUST A MINUTE. IT MAY BE OUT OF

1 ORDER.

2 THE COURT: BUT I TAKE IT THAT'S ONE OF THE
3 THINGS THAT YOU USED.

4 THE WITNESS: IT WAS EXHIBIT NUMBER SEVEN.

5 THE COURT: IT STARTED OUT AT 200 AND UP TO 550
6 SHARES.'

7 THE WITNESS: THAT'S RIGHT.

8 THE COURT: YES, AFTER 25 YEARS.

9 THE WITNESS: THIS IS A SCHEDULE WHICH WAS
10 PROVIDED AS SHOWING WHAT A PARTNER IS EXPECTED TO HAVE IN
11 THE WAY OF SHARES IF THAT PERSON IS PERFORMING FULLY AS
12 EXPECTED. THE REASON THAT THIS IS HELPFUL IN WORKING THIS
13 OUT IS BECAUSE THE SHARES FORM THE BASIS FOR CALCULATING
14 THE INCOME EACH YEAR.

15 THE COURT: YES, YES.

16 THE WITNESS: AND ALTHOUGH IT'S NOT A SIMPLE
17 PROPORTIONALITY TO THE NUMBER OF SHARES, THE FORMULA HAS
18 BEEN PROVIDED FOR ONE YEAR THAT THEY USE FOR THE PURPOSE
19 AND IT'S EASY ENOUGH TO CONVERT THE NUMBER OF SHARES INTO
20 A DOLLAR FIGURE FOR EACH YEAR OF EXPERIENCE.

21 BY MR. HURON:

22 Q IS THAT FORMULA SET FORTH AT THE TOP OF EXHIBIT
23 NUMBER EIGHT, DR. TRYON?

24 A THAT'S RIGHT. IT'S IN EXHIBIT NUMBER EIGHT. THIS IS
25 FOR FISCAL 1990 WHICH IS THE CURRENT FISCAL YEAR. THAT

1 ONE THAT'S IN -- THAT'S GOING AT THE PRESENT TIME. AND IN
2 THIS DOCUMENT, EXHIBIT NUMBER EIGHT, THE FORMULA IS GIVEN
3 SO THAT YOU CAN CONVERT THE NUMBER OF SHARES THAT A
4 PARTNER HAS DIRECTLY INTO INCOME. IT WOULD OF COURSE BE
5 INCOME IN TERMS OF THE DOLLARS FOR THAT PARTICULAR YEAR,
6 SO THAT THEY ARE ESSENTIALLY CONSTANT DOLLAR FIGURES. I
7 HAVE DONE THAT AS THE PLAINTIFF'S EXHIBIT NUMBER NINE.

8 Q EXHIBIT NUMBER NINE THEN IS AN INDEX YOU PREPARED?

9 A YES, THAT'S CORRECT. IT SHOWS, GIVEN THE NUMBER OF
10 SHARES, HOW MUCH THAT WOULD TRANSLATE INTO FISCAL '90 OR
11 THE YEAR 1989 TO 1990, HOW MUCH IT WOULD TRANSLATE INTO IN
12 TERMS OF DOLLARS AS OF THAT PARTICULAR YEAR.

L
13 Q AND IS THAT WHERE -- FROM THIS INDEX YOU ULTIMATELY
14 DERIVED THE FIGURES THAT AVERAGED AROUND 2.2 PERCENT EACH
15 THE INCREASE IN EARNINGS ATTRIBUTABLE TO AGE AND
16 EXPERIENCE?

17 A YES.

18 THE COURT: ISN'T ALL THIS METHODOLOGY EXPLAINED
19 IN TWO?

20 Q IN EXHIBIT THREE?

21 A YES, IT IS.

22 MR. HURON: I THINK IT IS, YOUR HONOR.

23 BY MR. HURON:

24 Q FINE. LET ME ASK ONE --

25 THE COURT: I THINK -- IT SEEMS TO ME THAT THE

1 EXHIBITS CLEARLY ARE KEYED INTO THE METHODOLOGY AND I
2 SUPPOSE THE PROBLEM IS NOT TO -- SO MUCH TO QUESTION THE
3 FIGURES, BUT -- HOPEFULLY THOSE FIGURES MAY BE CORRECT,
4 BUT TO QUESTION THE PREMISES THAT UNDERLIE THE METHOD. I
5 HOPE THAT'S IT. I HOPE WE'RE NOT GOING TO GET INTO A
6 FIGURING BATTLE. IT'S THE QUESTION OF WHICH IS THE BEST
7 WAY TO GO AT IT.

8 MR. HURON: I WILL TRY TO ABBREVIATE THE
9 REMAINDER OF MY DIRECT EXAMINATION WITH THAT IN MIND.

10 THE COURT: THANK YOU.

11 BY MR. HURON:

12 Q ONE THING THAT'S NOT IN THIS REPORT, DR. TRYON,
13 PLAINTIFF'S EXHIBIT SEVEN, THAT SHARE SCHEDULE REFERS TO
14 PARTNERS PERFORMING FULLY AS EXPECTED?

15 A YES.

16 Q WERE YOU ABLE TO CROSS-CHECK TO SEE WHETHER THE
17 AVERAGE PRICE WATERHOUSE PARTNER IN ANY CLASS MAY HAVE
18 MORE OR FEWER SHARES THAN IS SET FORTH; IS THAT AN AVERAGE
19 OR WHAT?

20 A I THINK IT'S EXACTLY WHAT THE PHRASE SUGGESTS,
21 PERFORMING FULLY AS EXPECTED IS NOT THE SAME THING AS THE
22 AVERAGE AND I LOOKED AT IT FOR THOSE WHO HAD SIX YEARS OF
23 EXPERIENCE AND ACCORDING TO THIS SCHEDULE YOU SHOULD HAVE
24 340 SHARES.

25 Q RIGHT.

1 A BUT THE CLASS THAT MISS HOPKINS WAS IN, IF YOU
2 CHECKED THE NUMBER OF SHARES WHICH ARE AVAILABLE ON ONE OF
3 THE PIECES OF CORRESPONDENCE THAT WE HAVE, AS I RECALL I
4 THINK 32 OUT OF THE 38 WERE ACTUALLY ABOVE THE -- AT OR
5 ABOVE THE FIGURE THAT'S IN THIS TABLE, SO THAT I INTERPRET
6 THIS AS BEING SORT OF AN ADEQUATE PERFORMANCE, NOT
7 NECESSARILY AVERAGE. THE AVERAGE PERHAPS -- IN FACT, I
8 WOULD EXPECT THE AVERAGE TO BE SOMEWHAT HIGHER IN TERMS OF
9 INCOME THAN THIS PROJECTS.

10 Q SO USING THESE FIGURES, IT'S CONSERVATIVE?

11 A YES, I BELIEVE SO.

12 Q I'D LIKE TO MOVE AHEAD TO -- AND BRIEFLY, DR. TRYON,
13 TO THE AREA OF RETIREMENT INCOME. DOES PLAINTIFF'S
14 EXHIBIT NUMBER EIGHT GIVE YOU THE FORMULA FOR COMPUTING
15 RETIREMENT AT PRICE WATERHOUSE?

16 A YES, IT SHOWS HOW TO CONVERT THE SHARES THAT THE
17 INDIVIDUAL HAS AT THE END OF HIS WORKING CAREER INTO A
18 NUMBER OF RETIREMENT SHARES. IT'S NOT A ONE FOR ONE, BUT
19 THERE'S A SIMPLE FORMULA FOR CALCULATING IT, AND THEN THE
20 SHARES ARE -- THE ACTUAL INCOME THAT IS GENERATED FROM IT
21 IS ALSO EXPLAINED IN THIS SAME DOCUMENT.

22 Q AND THEY KEEP THE SAME NUMBER OF SHARES THROUGHOUT
23 RETIREMENT, BUT THE SHARE VALUE MAY INCREASE, IS THAT
24 RIGHT?

25 A THAT'S MY UNDERSTANDING, YES.

1 Q AND DID YOU COMPUTE INCREASES, PROJECTED INCREASES?
2 SHARE VALUE?

3 A YES.

4 Q DID YOU USE TWO FORMULAS FOR THAT, PRODUCTIVITY
5 ASSUMPTION OF 1.5, ECONOMYWIDE, VERSUS .8 PRICE WATERHOUSE
6 SPECIFIC?

7 A YES, THAT'S CORRECT. THE SHARE VALUE SHOULD GO UP
8 APPROXIMATELY AS INCOMES WITHIN THE FIRM AND IT DOES
9 HISTORICALLY, AND THEREFORE IT SHOULD BE SUBJECT TO THE
10 SAME GENERAL INFLUENCES, NOT THE AGE SPECIFIC ONES, BUT
11 THE GENERAL INFLUENCES THAT I HAVE INCORPORATED HERE AND
12 AS I'VE SAID THE ALTERNATIVE IS THE ONE THAT IS MORE
13 SPECIFIC TO PRICE WATERHOUSE, BUT BOTH OF THEM ACCOMPLISH
14 THE SAME THING.

15 Q LOOKING AT PLAINTIFF'S EXHIBIT NUMBER FOUR. AGAIN,
16 FOCUSING LINES FIVE THROUGH SEVEN, DO THOSE SUMMARIZE YOUR
17 COMPUTATIONS ABOUT THE TOTAL INCOME MISS HOPKINS COULD BE
18 EXPECTED TO EARN AS A PRICE WATERHOUSE PARTNER PERFORMING
19 AT FULLY AS EXPECTED?

20 A YES, FIVE COVERS THE EARNINGS AND SIX COVERS THE
21 RETIREMENT BENEFITS.

22 Q AND LINE SEVEN IS THE RANGE?

23 A YES, LINE SEVEN IS THE COMBINATION OF THE TWO.

24 Q DID YOU MAKE COMPARABLE -- DID YOU TAKE A COMPARABLE
25 APPROACH TO HER EMPLOYMENT AT THE WORLD BANK?

1 A YES, I DID.

2 Q WHAT BASE DID YOU START WITH THERE?

3 A THE PAY THAT SHE STARTS OUT WITH. THE ACTUAL
4 PROJECTIONS ARE IN PRINTOUT TWO. AND --

5 Q EXHIBIT THREE?

6 A YES, THAT'S RIGHT. AND --

7 THE COURT: THEY'RE ON THE TABLE, YES.

8 MR. HURON: THAT'S PAGE EIGHT, YOUR HONOR.

9 BY MR. HURON:

10 Q AND ARE THOSE PROJECTIONS MADE IN -- CONCEPTUALLY THE
11 SAME WAY YOU MADE THE PROJECTIONS AT PRICE WATERHOUSE?

12 A ESSENTIALLY THEY ARE. THE STARTING SALARY IS HER
13 CURRENT PAY WHICH ON A GROSS BASIS IS \$92,444, AND THAT
14 WOULD BE FOR THE CURRENT FISCAL YEAR. THEN THE REST OF IT
15 IS VERY SIMILAR. THE INFLATION ALLOWANCE AND THE
16 PRODUCTIVITY ALLOWANCE ARE THE SAME.

17 Q AND THE PRODUCTIVITY ALLOWANCE IS 1.5 SO YOU DID NOT
18 HAVE A CONSERVATIVE WORLD BANK FIGURE. YOU ASSUMED SHE
19 WOULD EARN MORE MONEY RATHER THAN LESS AT THE WORLD BANK?

20 A THAT'S CORRECT. I THINK IT'S APPROPRIATE TO EXPECT
21 THE WORLD BANK TO KEEP UP WITH EARNINGS IN THE ECONOMY IN
22 GENERAL.

23 Q WHAT WAS THE TOTAL --

24 THE COURT: WELL, THEY DO THAT BY HIRING PEOPLE
25 THAT DON'T HAVE TO PAY TAXES.

1 THE WITNESS: YES, SIR. THAT'S PARTLY TRUE.
2 THEY ARE CONSIDERED TO BE QUITE GENEROUS EMPLOYERS.

3 THE COURT: I KNOW IT'S DIFFERENT FOR AMERICAN
4 CITIZENS BUT --

5 THE WITNESS: THEY PAY THE TAXES FOR AN AMERICAN
6 CITIZEN OR AT LEAST THEY GIVE THEM MONEY TO PAY FOR THAT
7 AND I INCLUDED THAT PAYMENT AS PART OF THE GROSS PAY.

8 THE COURT: YES.

9 THE WITNESS: WELL, THE THIRD FACTOR WHICH IS
10 EQUIVALENT TO THE AGE AND EXPERIENCE WAS TO MOVE HER UP
11 WITHIN THE PAY SCHEDULE OF THE WORLD BANK. BASICALLY THE
12 WORLD BANK HAS A PAY SCHEDULE WHICH IS -- IN MANY WAYS
13 IT'S VERY SIMILAR TO THE U.S. FEDERAL GOVERNMENT'S CIVIL
14 SERVICE PAY SYSTEM. AND THAT SYSTEM YOU MOVE UP THROUGH A
15 SINGLE GRADE LEVEL IN STEPS AND THEN YOU GET A PROMOTION
16 FROM ONE GRADE TO ANOTHER. FROM TIME TO TIME EVERY YEAR.
17 AS A MATTER OF FACT, THE WHOLE SCHEDULE IS MOVED UP AND
18 THE PROGRESSION THAT THE INDIVIDUAL HAS WILL REFLECT BOTH
19 THE INCREASE IN THE SCHEDULE AND THE MOVEMENT WITHIN THE
20 SCHEDULE. THAT'S EXACTLY THE SAME AS FAR AS THE WORLD
21 BANK IS CONCERNED.

22 Q DID YOU RELY ON PLAINTIFF'S EXHIBITS 11 THROUGH 13,
23 THOSE WORLD BANK DOCUMENTS, WHEN YOU WERE MAKING YOUR
24 PROJECTIONS ABOUT WHAT MISS HOPKINS' EARNINGS WOULD BE AT
25 THE WORLD BANK?

1 A YES, THEY COVERED THE WORLD BANK COMPENSATION SYSTEM.
2 THAT'S WHAT EXHIBIT 11 IS DEVOTED TO. THE EXHIBIT 12
3 GIVES THE PRESENT -- THE SALARY STRUCTURE AT THE WORLD
4 BANK, AND EXHIBIT 13 DESCRIBES THE STAFF RETIREMENT PLAN.

5 Q AND I THINK I SKIPPED THIS, BUT DID YOU RELY ON
6 PLAINTIFF'S EXHIBIT 10 WHEN YOU WERE COMPUTING RETIREMENT
7 AT PRICE WATERHOUSE FOR MISS HOPKINS IN THAT RETIREMENT
8 BENEFIT?

9 A WELL, EXHIBIT 10 --

10 Q SHARE VALUE?

11 A SHOWS THE SHARE VALUE. AND IN ORDER TO PROJECT THE
12 RETIREMENT BENEFITS YOU ALSO HAVE TO PROJECT THE SHARE
13 VALUE. SHARE VALUE DOESN'T PLAY ANY -- PLAY ANY PART IN
14 THE ANNUAL EARNINGS WHILE A PARTNER IS ACTIVE. IT'S
15 CALCULATED AS INCOME, BUT IT DOES PLAY A PART AS FAR AS
16 THE RETIREMENT BENEFITS ARE CONCERNED. THEREFORE, YOU
17 NEED TO PROJECT THE SHARE VALUE. AS I THINK I INDICATED,
18 THERE ARE GOOD REASONS TO THINK THAT THE SHARE VALUE OUGHT
19 TO INCREASE AT THE SAME RATE AS EARNINGS IN GENERAL WITHIN
20 THE FIRM AND HISTORICALLY THEY HAVE INDEED DONE SO. SO I
21 WAS CONFIDENT IN PREDICTING OR IN PROJECTING THE SHARE
22 VALUES THAT I COULD USE THE SAME ANNUAL INCREASES THAT I
23 DID FOR INFLATION AND PRODUCTIVITY EVENTS.

24 Q AND THERE YOU ALSO USED A FEW ALTERNATIVES ON
25 PRODUCTIVITY, 1.5 AND .8?

1 A THAT'S CORRECT.

2 Q DR. TRYON, A GENERAL QUESTION. AS I UNDERSTAND IT,
3 WITH PRICE WATERHOUSE AND FOR THE WORLD BANK, FOR BOTH
4 SETS OF PROJECTED EARNING YOU'RE ASSUMING ANNUAL INCREASES
5 IN THE RANGE OF AROUND EIGHT PERCENT OR SLIGHTLY ABOVE
6 THAT, IS THAT RIGHT?

7 A IT WORKS OUT TO BE VERY SIMILAR, YES.

8 Q IF YOU'RE USING THE SAME PERCENTAGE INCREASE EACH
9 YEAR TO BOTH ENTERPRISES WHY THE BIG DIFFERENCE OVERTIME
10 IN THE EARNINGS?

11 A WELL, SIMPLY BECAUSE PRICE WATERHOUSE PARTNERS EARN
12 ROUGHLY TWICE AS MUCH AS MISS HOPKINS IS EARNING AT THE
13 WORLD BANK. HER EARNINGS AT THE WORLD BANK, IF YOU
14 COMPARE THE TWO SETS OF PROJECTIONS, RUN SURPRISINGLY
15 CLOSE TO HALF OF WHAT SHE WOULD HAVE HAD AT PRICE
16 WATERHOUSE. IT'S ALL THE BEGINNING LEVEL THAT YOU WORK
17 FROM.

18 Q SO IT'S A GAP AT THE START AS EVERYTHING ELSE?

19 A THAT'S RIGHT.

20 Q I WANT TO FINISH UP, DR. TRYON, BY ASKING --

21 THE COURT: WELL, REALLY WHAT THAT SAYS IS THAT
22 ANYONE WITH BUSINESS SKILLS WHO WANTS TO MITIGATE SHOULD
23 NEVER GO TO WORK FOR THE GOVERNMENT.

24 THE WITNESS: IF THAT'S THE ONLY ALTERNATIVE ---

25 THE COURT: ISN'T THAT WHAT THAT SAYS?

1 THE WITNESS: YES, INDEED.

2 BY MR. HURON:

3 Q BUT IS THE WORLD BANK IN YOUR EXPERIENCE -- HOW DOES
4 THE PAY RELATE TO WHAT THE CIVIL SERVICE OR THE FEDERAL
5 GOVERNMENT DOES?

6 A THE PAY SCHEDULE AT THE WORLD BANK FOR AMERICANS IS
7 DECIDEDLY ABOVE THE FEDERAL GOVERNMENT'S PAY SCALE BECAUSE
8 THEY DO HAVE THIS FEATURE OF -- THEY PAY GENEROUSLY TO
9 START OUT WITH, BUT IN ANY CASE THEY HAVE THE FEATURE THAT
10 THEY PAY THEIR TAXES FOR YOU AND WHEN YOU ADD THAT IN AS
11 PART OF YOUR INCOME IT'S CLEAR THAT WORLD BANK EMPLOYEES
12 ARE PAID WELL ABOVE THE COMPARABLE POSITIONS IN THE
13 FEDERAL CIVIL SERVICE.

14 THE COURT: BUT YOU DON'T GIVE HER ANY CREDIT FOR
15 THAT. YOU DON'T GIVE HER ANY CREDIT FOR THAT AT ALL IN
16 YOUR COMPUTATIONS. IN OTHER WORDS, THE FACT THAT SOMEBODY
17 ELSE PAID HER TAXES YOU DON'T INCLUDE AS PART OF HER PAY.

18 THE WITNESS: OH, YES, I DO.

19 THE COURT: YOU PUT IT ALL IN?

20 THE WITNESS: THE FIGURES FOR MISS HOPKINS AT THE
21 WORLD BANK INCLUDE THE ALLOWANCE FOR TAXES. THE FIRST
22 FIGURE, 90,444 BUT --

23 THE COURT: DID YOU PREPARE AN INDEPENDENT TAX
24 RETURN FOR HER?

25 THE WITNESS: NO, SHE HAS TO DO THAT.

1 ESSENTIALLY WHAT HAPPENS IS THE WORLD BANK GIVES MONEY
2 TO --

3 THE COURT: SO YOU JUST TAKE WHAT THEY GIVE HER.
4 SAY IT IS --

5 THE WITNESS: RIGHT, THEY GAVE US THE INFORMATION
6 AS TO WHAT THE EQUIVALENT GROSS FIGURE IS. I HAVE BOTH
7 THE NET WHICH IS IN THE NEIGHBORHOOD OF 62,000, I THINK,
8 AND THE GROSS --

9 THE COURT: SO YOU GOT IT IN ALL THE WAY THROUGH
10 IN THE PROJECTIONS AS WELL.

11 THE WITNESS: THAT'S RIGHT.

12 THE COURT: HOW DO YOU PROJECT FUTURE TAXES THEN?

13 THE WITNESS: SINCE THE TAX CONSEQUENCES ARE NOT
14 NECESSARY TO PROJECT HERE I SIMPLY IGNORE THEM. THERE ARE
15 NO TAXES TAKEN OUT IN PRICE WATERHOUSE. THERE ARE NO
16 TAXES TAKEN OUT OF THE WORLD BANK. BUT WHEN MISS HOPKINS
17 IS AWARDED SOMETHING BY THE COURT SHE WILL HAVE TO GO TO
18 IRS AND SETTLE FOR TAXES ON THESE EARNINGS. I DON'T --
19 I'M NOT FAMILIAR WITH THE DETAILS, BUT I KNOW THAT
20 EVENTUALLY SHE WILL BE SUBJECT TO A TAX LIABILITY AND
21 THEREFORE THE LOSSES SHOULD INCLUDE ENOUGH TO COVER THAT
22 TAX LIABILITY. AS I UNDERSTAND IT, THIS IS STANDARD
23 TREATMENT FOR EMPLOYMENT CASES. IT IS NOT THE SAME AS IN
24 A PERSONAL INJURY SUIT WHERE YOU NEVER HAVE TO SETTLE UP
25 WITH THE GOVERNMENT.

1 JOBS AT THE 80 TO \$100,000 LEVEL NONETHELESS?

2 A THERE WAS ONE SPECIFIC INDIVIDUAL WHO HAD A CONTRACT,
3 AN EMPLOYMENT CONTRACT ISSUE WITH HER FORMER EMPLOYER WHO
4 WAS PRESENTED BY US AS A CANDIDATE FOR A POSITION WHICH
5 PAID IN EXCESS OF \$100,000 WHERE THE POTENTIAL EMPLOYER
6 KNEW ABOUT THE LAWSUIT, HIRED THE PERSON AS ONE OF SEVERAL
7 CANDIDATES AND THE PERSON HAS GONE ON, IT HAPPENS TO BE A
8 WOMAN, HAS GONE ON TO BE A PARTNER IN THIS FIRM.

9 Q AND DO YOU KNOW OF ANY OTHER -- HAVE YOU HAD ANY
10 OTHER EXPERIENCES IN WHICH THAT WAS A BLOCK OR A PERSON
11 WHO HAD THAT KIND OF AN IMMEDIATE HISTORY OF EMPLOYMENT
12 LITIGATION DIDN'T GET HIRED?

13 A NO, I HAVE NO OTHER --

14 THE COURT: ARE ANY OF THESE BIG SYSTEM
15 CONSULTING FIRMS RUN BY WOMEN?

16 THE WITNESS: I DON'T KNOW. I KNOW THAT OF TWO
17 SPECIFIC INSTANCES -- WELL, I'LL SAY ONE FOR SURE, IN ONE
18 INSTANCE WHERE THERE'S A VERY SENIOR INDIVIDUAL IN THE
19 FIRM WHO IS A WOMAN.

20 BY MR. HEDER:

21 Q MR. HEDER, YOU ALSO SAID THAT BEING TURNED DOWN FOR
22 PARTNERSHIP AT PRICE WATERHOUSE WOULD NOT NECESSARILY BE A
23 HANDICAP OR A DRAWBACK I BELIEVE WAS THE WORD USED IN THE
24 QUESTION TO GETTING A JOB SUCH AS YOU WERE TALKING ABOUT.
25 NOW, AGAIN, THAT SEEMS TO IMPLY THE POSSIBILITY. WHAT --

1 HAVE YOU HAD THAT KIND OF EXPERIENCE WITH PEOPLE AND, IF
2 SO, WHAT HAVE YOUR CLIENTS DONE IN THOSE CASES?

3 A WE HAVE HAD THOSE EXPERIENCES, BOTH WITH PEOPLE WHO
4 HAVE NOT BECOME PARTNERS ON THE AUDIT SIDE AS WELL AS ON
5 THE MANAGEMENT CONSULTING SIDE. THE OTHER FIRMS HAVE
6 LOOKED AT THE RECORD AND LOOKED AT THE EXPERIENCE OF THE
7 PERSON AND WE DO GET PAID TO PERFORM, TO BRING IN
8 QUALIFIED CANDIDATES TO CLIENTS. WE DON'T GET HIRED AGAIN
9 IF THE CLIENTS DON'T THINK THAT THE CANDIDATES ARE
10 QUALIFIED. SO WE ARE HEAVILY INCENTIVED TO BRING --
11 PRODUCE HIGHLY QUALIFIED PEOPLE AND WHEN WE DO THAT WE DO
12 THAT BASED ON THE TRACK RECORD, THE EXPERIENCE, THE
13 SKILLS, AND TO FIT WITH THE POTENTIAL CLIENT AND THE
14 ABSENCE OR THE -- NOT MAKING IT TO PARTNER HAS NOT BEEN A
15 SINGLE ITEM AS A DRAWBACK. NOBODY HAS SAID WE CAN'T HIRE
16 THIS PERSON BECAUSE THEY'RE NOT A PARTNER, OR THEY DIDN'T
17 MAKE PARTNER.

18 Q HAVE YOU HAD CASES WHERE YOU FOUND TWO PEOPLE WHO
19 WERE GOOD FITS AND ONE OF THEM HAD THAT PROBLEM AND THE
20 OTHER ONE HAD NONE, NO PROBLEM LIKE THAT?

21 A I DON'T THINK IT'S A PROBLEM.

22 Q WELL, I MEAN HAD THAT HISTORY AND THE OTHER HAD NONE?

23 A YES, AND THE NON-PARTNER WAS THE DESIRED, THE
24 PREFERABLE CANDIDATE.

25 Q DOES THAT STRETCH OUT THE TIME THAT IT MAY TAKE TO

1 FIND A JOB WHEN YOU HAVE TO HAVE -- AT LEAST HAVE
2 INQUIRIES INTO THESE KINDS OF BACKGROUND PROBLEMS?

3 A NO, I DON'T THINK SO.

4 THE COURT: WELL, HAVE YOU EVER HAD ANYBODY THAT
5 YOU HAD TO PLACE THAT DIDN'T HAVE A PROBLEM? THAT'S WHY
6 THEY COME TO YOU. THEY'VE GOT A PROBLEM. ISN'T THAT
7 RIGHT? THEY HAVEN'T GOT THE JOB THEY WANT.

8 THE WITNESS: NO, SIR.

9 THE COURT: THEY COME TO YOU EVEN THOUGH THEY'RE
10 ENTIRELY HAPPY.

11 THE WITNESS: THEY DON'T COME TO US.

12 THE COURT: YOU GO DO THEM.

13 THE WITNESS: WE GET RETAINED BY THE HIRING
14 ORGANIZATIONS TO TRY TO FIND PEOPLE WHO ARE QUALIFIED,
15 TALENTED --

16 THE COURT: THEN THE QUESTIONS ARE A LITTLE BIT
17 MISDIRECTED, AREN'T THEY? HAVE YOU GONE PURPOSEFULLY AND
18 LOOKED FOR PEOPLE WHO WERE DENIED PARTNERSHIP OF FIRMS
19 THAT YOU THINK HAVE OUTSTANDING REPUTATIONS WITH THE IDEA
20 OF TRYING TO PLACE THEM SOMEWHERE ELSE?

21 THE WITNESS: WE HAVE SEARCHED FOR PEOPLE AT
22 OTHER FIRMS WHO HAVE NOT MADE PARTNER YET BECAUSE THEY
23 WOULD BE ATTRACTIVE CANDIDATES BECAUSE THEY'RE NOT TOTALLY
24 TIED INTO THAT FIRM YET SPECIFICALLY, TO COME TO WORK FOR
25 OUR CLIENTS, AND WE'VE DONE THAT QUITE REGULARLY.

1 THE COURT: DO YOU RAID PARTNERS TOO? DO YOU TRY
2 TO FIND PEOPLE WHO ARE PARTNERS TO TAKE THEM AWAY FROM ONE
3 FIRM, TAKE THEM TO ANOTHER?

4 THE WITNESS: YES.

5 THE COURT: SO IT'S LIKE A LAW PRACTICE. AND YOU
6 WILL GO AFTER PEOPLE WHO HAVE BEEN TURNED DOWN FOR
7 PARTNERS.

8 THE WITNESS: YES.

9 THE COURT: YOU DON'T MAKE THEM COME TO YOU
10 ALWAYS. YOU SOMETIMES GO LOOK FOR THEM.

11 THE WITNESS: WE ALWAYS GO LOOK FOR THEM. WE
12 LOOK FOR QUALIFIED PEOPLE. WE FIND THEM BY ASKING OTHER
13 QUALIFIED PEOPLE WHO THEY KNOW ARE VERY GOOD, AND VERY
14 OFTEN THE RESPONSE HAS BEEN I KNOW A VERY GOOD PERSON, IT
15 DOESN'T LOOK LIKE THEY'RE GOING TO MAKE PARTNER FOR A
16 COUPLE OF YEARS OR MAYBE NOT AT ALL AT THIS FIRM, BUT I
17 THINK THEY'RE VERY GOOD. WHY DON'T YOU CHECK THEM OUT?

18 THE COURT: SO THEN YOU CHECK THEM OUT.

19 THE WITNESS: YES.

20 THE COURT: YES.

21 BY MR. HELLER:

22 Q NOW, IF I UNDERSTOOD YOU CORRECTLY ON DIRECT
23 EXAMINATION, YOU FOUND MISS HOPKINS IN SOME KIND OF A DATA
24 BANK AT YOUR OWN FIRM, IS THAT CORRECT?

25 A NO.

1 Q YOU SAID IN ADDITION TO LOOKING AT HER DEPOSITIONS
2 AND MATERIALS THAT WERE HANDED TO YOU BY I BELIEVE THE
3 LAWYERS AT PRICE WATERHOUSE YOU HAD SOME OTHER SOURCE OF
4 INFORMATION?

5 A JUST GENERAL INFORMATION ABOUT THE BUSINESS AND ABOUT
6 PEOPLE WITH HER GENERAL BACKGROUND.

7 Q ALL RIGHT. WHEN YOU SEARCHED, WHEN YOU -- I GUESS
8 NOW WE'RE TALKING ABOUT THE PERIOD WHEN YOU WERE WITH EGON
9 ZEHNDER. WHEN YOU SEARCHED HOW DID EGON ZEHNDER AND YOU
10 GO ABOUT SEARCHING FOR PEOPLE TO FIT THESE BIG SYSTEMS
11 NEEDS?

12 A WE LOOKED FOR CONTACTS AND PEOPLE IN FIRMS THAT DID
13 BIG SYSTEMS PROJECTS. THE BEST WAY TO DO THAT IS TO TALK
14 TO PEOPLE WHO HAVE LEFT THOSE FIRMS OR WHO WERE LEAVING
15 THOSE FIRMS WHO SYSTEMATICALLY WRITE AND CONTACT ALL OF
16 THE SEARCH FIRMS IN THAT AREA SO YOU HAVE A VERY GOOD
17 CONTACT BASE TO TALK TO PEOPLE ABOUT WHO IS GOOD AT
18 SYSTEMS, WHO KNOWS HOW TO MANAGE PROJECTS. AND YOU
19 DEVELOP A NETWORK OF PEOPLE IN THAT FASHION.

20 THE COURT: HAVE YOU HAD CLIENTS WHO HAVE COME TO
21 YOU LOOKING FOR WOMEN BECAUSE THEY FEEL THEY HAVE TO DO
22 SOMETHING ABOUT THEIR FEMALE SITUATION?

23 THE WITNESS: YES.

24 THE COURT: AND THAT WOULD INCLUDE PEOPLE IN THE
25 SYSTEMS BUSINESS.

1 THE WITNESS: NOT SPECIFICALLY, NOT SPECIFICALLY,
2 BUT IT WOULD INCLUDE A BIG EIGHT FIRM THAT HAS SAID THAT.

3 THE COURT: A BIG EIGHT FIRM.

4 THE WITNESS: THAT HAS SAID THAT.

5 BY MR. HELLER:

6 Q EGON ZEHNDER WAS DOING THAT KIND OF SEARCHING BACK IN
7 1984 AND '87, WAS IT NOT?

8 A YES.

9 Q AND YOU DID NOT FIND MISS HOPKINS, IS THAT CORRECT?

10 A WE DID NOT.

11 MR. HELLER: I HAVE NO FURTHER QUESTIONS.

12 MR. OLSON: I HAVE NO FURTHER QUESTIONS.

13 THE COURT: THANK, SIR.

14 MR. SCHRADER: THE DEFENDANTS CALL NEIL REDFORD.

15 (NEIL REDFORD, WITNESS FOR DEFENDANT, SWORN)

16 DIRECT EXAMINATION

17 BY MR. SCHRADER:

18 Q WOULD YOU STATE YOUR NAME AND SPELL IT FOR THE RECORD
19 PLEASE, MR. REDFORD?

20 A M. NEIL REDFORD, THAT'S N-E-I-L, R-E-D-F-O-R-D.

21 Q BY WHOM ARE YOU PRESENTLY EMPLOYED?

22 A BELL, REDFORD, GLENN.

23 Q IS THAT A COMPANY THAT YOU HAVE AN INTEREST IN?

24 A YES, I'M THE PRESIDENT.

25 Q AND HOW LONG HAVE YOU BEEN WITH BELL, REDFORD, GLENN?

1 A THE LAST SIX YEARS.

2 Q CAN YOU DESCRIBE FOR THE COURT THE NATURE OF THE
3 BUSINESS OF BELL, REDFORD, GLENN?

4 A WE HAVE AN EXECUTIVE OUT PLACEMENT ORGANIZATION.

5 Q WHAT EXACTLY DOES THAT MEAN? YOU HEARD MR. MEDER
6 TESTIFY. IS THAT THE SAME KIND OF BUSINESS THAT MR. MEDER
7 IS INVOLVED IN?

8 A NO, WE'RE ON THE OTHER END OF THE SPECTRUM. IT'S
9 WHEN COMPANIES HAVE TO GET RID OF EXECUTIVES THEY HIRE US
10 TO ASSIST THEM IN FINDING NEW EMPLOYMENT.

11 Q DOES YOUR COMPANY ACTUALLY GO AND FIND THE OTHER JOB,
12 IF YOU WILL, OR JOBS FOR THESE PEOPLE?

13 A NO, SIR, WE ASSIST THESE PEOPLE IN BEING BETTER ABLE
14 TO FIND THEIR OWN JOBS.

15 Q DO YOU COUNSEL THEM IN HOW TO GO ABOUT LOOKING FOR
16 SUITABLE ALTERNATIVE EMPLOYMENT?

17 A THAT'S CORRECT.

18 Q IS THAT THE ESSENCE OF WHAT YOUR BUSINESS IS?

19 A THAT'S CORRECT.

20 Q NOW, HAS YOUR WORK WITH BELL, REDFORD, GLENN INVOLVED
21 WORK WITH ANY BIG EIGHT FIRMS, IF YOU WILL?

22 A WITH PRICE WATERHOUSE.

23 Q AND PRIOR TO, AND I'LL COME BACK TO THAT LATER, BUT
24 PRIOR TO BEING WITH BELL, REDFORD, GLENN, WERE YOU
25 INVOLVED IN THIS SAME PLACEMENT BUSINESS WITH ANY OTHER

1 COMPANIES?

2 A YES, WITH A FIRM BY THE NAME OF DRAKE, BEAM, MORIN.

3 Q HOW LONG WERE YOU WITH DRAKE, BEAM, MORIN?

4 A APPROXIMATELY EIGHT YEARS.

5 Q IN WHAT CAPACITY WERE YOU THERE?

6 A I WAS AN EXECUTIVE VICE-PRESIDENT THERE.

7 Q DID YOU SUPERVISE OTHERS WORKING UNDER YOU WHO WERE
8 ENGAGED IN PLACEMENT COUNSELING?

9 A YES.

10 Q IS DRAKE, BEAM, MORIN -- CAN YOU DESCRIBE THE SIZE OF
11 THAT FIRM AS IT RELATES TO OTHERS IN THAT SERVICE?

12 A THEY'RE BY FAR THE GREATEST, THE LARGEST-SIZED FIRM.

L
13 Q NOW, DID -- FOCUSING ON DRAKE, BEAM FOR THE MOMENT,
14 DID DRAKE, BEAM MAINTAIN OR DEVELOP ANY STATISTICAL
15 INFORMATION CONCERNING THE OUT PLACEMENTS THAT IT HAD
16 COUNSELED OR THE PERSONS THAT IT HAD COUNSELED FOR OUT
17 PLACEMENTS?

18 A WE DID INDEED. I STARTED THAT STATISTICAL ANALYSIS.

19 Q AND WHAT KINDS OF PEOPLE WERE YOU DEALING WITH AT
20 DRAKE, BEAM, MORIN, IF YOU CAN DESCRIBE IT IN TERMS OF
21 PROFESSIONAL, WHITE COLLAR, SALARY RANGE? CAN YOU GIVE
22 THE COURT SOME KIND OF WORD PICTURE OF THAT?

23 A EVERYTHING FROM CHAIRMEN OF THE BOARDS DOWN TO
24 FACTORY WORKERS.

25 Q NOW, WITH BELL, REDFORD, GLENN, THE WORK THAT YOU DO

1 WITH PRICE WATERHOUSE, WHAT KINDS OF -- I DON'T WANT TO
2 SAY PERSONS, BUT ARE YOU DEALING WITH OUT PLACEMENT OF
3 MANAGERS AND SENIOR MANAGERS, THAT LEVEL?

4 A THAT'S CORRECT, AND SOME PARTNERS.

5 Q AND THE STATISTICAL DATA, I'M JUMPING AROUND A LITTLE
6 BIT WITH DRAKE, BEAM, WHAT DID IT CONCERN, THE KINDS OF
7 JOBS THAT PEOPLE WERE PLACED IN, AND THE SALARIES?

8 A YES, WHAT THEY CAME FROM, HOW LONG IT TOOK THEM TO
9 GET THE JOB, WHAT WAS THEIR RATE OF PAY IN RELATIONSHIP TO
10 WHAT THEY WERE MAKING PRIOR TO THAT. JUST ABOUT
11 EVERYTHING WE COULD THINK OF THAT PEOPLE WOULD BE
12 INTERESTED IN.

13 Q DO YOU MAINTAIN DATA OF THAT SAME TYPE WITH BELL,
14 REDFORD, GLENN?

15 A WE DO.

16 Q NOW, CAN YOU BRIEFLY DESCRIBE JUST FOR BACKGROUND
17 PURPOSES YOUR EDUCATION?

18 A I HAVE AN UNDERGRADUATE AND GRADUATE DEGREES. MY
19 GRADUATE DEGREE WAS IN PSYCHOLOGY AT THE UNIVERSITY OF
20 FLORIDA.

21 Q NOW, CAN YOU DESCRIBE A LITTLE BIT, IN A LITTLE MORE
22 DETAIL FOR THE COURT EXACTLY WHAT BELL, REDFORD, GLENN
23 DOES FOR THE PERSONS FROM PRICE WATERHOUSE THAT IT
24 COUNSELS IN THE OUT PLACEMENT AREA?

25 A WELL, WE HAVE SEVERAL PROGRAMS, BUT BASICALLY THE

1 CONTENT IS SIMILAR. YOU FIRST HAVE TO DEAL WITH THE
2 INDIVIDUAL'S BACKGROUND AND WHAT THEY WANT TO DO. SO,
3 DEFINITION OF WHERE THEY WANT TO GO AND SINGULARLY OR
4 PERHAPS MOSTLY, IN OTHER WORDS, IF THEY WANT A CORPORATE
5 JOB OR THEY WANT TO OPEN UP THEIR OWN BUSINESS AT THE SAME
6 TIME. IT'S NOT SUGGESTED THAT THEY DO THAT, BUT IF THAT'S
7 THEIR WISH WE CAN WORK WITH THAT, BUT A DEFINITION OF
8 WHERE THEY WANT TO BE.

9 THEN WE HAVE TO GET THE TOOLS FOR THEM TO MARKET
10 THEMSELVES WELL. THAT REQUIRES A RESUME AND A CONCEPT OF
11 THE TYPES OF COMPANIES THEY MAY BE TARGETING OR IF IT'S
12 BUSINESS THAT THEY'RE GOING TO GO INTO DO THEY HAVE THE
13 MONEY TO SUSTAIN THEMSELVES. FROM THERE WE WORK OUT HOW
14 THEY GET INTERVIEWED SO THAT THEY BECOME GOOD AT THEIR
15 INTERVIEWS, AND/OR RAISING MONEY IF IT'S GOING INTO
16 BUSINESS. AND THEN WE STAY WITH THEM UNTIL THEY GET
17 LOCATED.

18 Q DO YOU COUNSEL PEOPLE ON THE NUMBER AND TYPE OF
19 CONTACTS THAT THEY MIGHT WANT TO GENERATE, IF YOU WILL, IN
20 THEIR JOB SEARCH?

21 A WELL, THERE ARE VARIOUS SOURCES AND THIS IS PART OF
22 THE MARKETING CAMPAIGN. FOR EXAMPLE, WE KNOW THAT MANY OF
23 OUR PEOPLE GET JOBS THROUGH SEARCH ORGANIZATIONS. AND SO
24 WE WOULD WANT TO HAVE THEM CONTACT GREAT NUMBERS OF SEARCH
25 ORGANIZATIONS. WE KNOW THAT BY FAR THE GREATEST NUMBER OF

1 JOBS ARE GOTTEN THROUGH CONTACTS AND SO WE ASK THEM TO
2 DEVELOP THEIR CONTACT LIST AND THEN IF THEY LEARN HOW TO
3 DEVELOP THAT CONTACT LIST, TO MAKE EVEN MORE CONTACTS.
4 IT'S A QUESTION OF NUMBERS. WE TEACH THEM THE IDEA THAT
5 THE MORE NUMBERS YOU HAVE THE MORE LIKELY YOU ARE TO GET A
6 JOB FASTER.

7 Q NOW, INsofar AS YOUR WORK WITH PRICE WATERHOUSE
8 PEOPLE IS CONCERNED ARE YOU DEALING WITH PERSONS
9 FUNDAMENTALLY WHO HAVE BEEN TOLD THAT THEY'RE NOT GOING TO
10 MAKE PARTNER IN THE FIRM?

11 A THAT'S CORRECT.

12 Q AND HOW MANY PEOPLE DID YOU WORK WITH IN 1989 FROM
13 PRICE WATERHOUSE?

14 A 61.

15 Q DID THAT INCLUDE PERSONS IN THE MANAGEMENT CONSULTING
16 AREA?

17 A YES.

18 Q NOW, LET ME ASK YOU WITH RESPECT TO AND FOCUSING ON
19 THE PEOPLE FROM PRICE WATERHOUSE, WHEN YOU'RE COUNSELING
20 THOSE PEOPLE WITH RESPECT TO THINGS SUCH AS THE NUMBER
21 OF -- DO YOU COUNSEL THEM WITH RESPECT TO SUCH THINGS AS
22 THE NUMBER OF RESUMES AND LETTERS THAT THEY OUGHT TO SEND
23 OUT IN ORDER TO GIVE THEM SOME ASSURANCE OF FINDING
24 EMPLOYMENT?

25 A OH, INDEED.

1 Q AND WHAT IS THE CUSTOMARY, IF YOU WILL, AND USUAL
2 NUMBER OF RESUMES AND LETTERS THAT YOU FIND YOUR PEOPLE
3 SENDING OUT?

4 A WELL, IT DEPENDS UPON THEIR JOB FOCUS. IF IT'S A
5 LOCAL KIND OF SITUATION, THEN THAT WOULD BE ONE NUMBER.
6 IF IT WAS A NATIONWIDE OR FOR THAT MATTER A WORLDWIDE
7 SEARCH, THAT WOULD REQUIRE GREAT NUMBERS, MORE
8 CORRESPONDENCE AND MORE CONTACTS. IN THE CASE OF -- LET'S
9 TAKE SOMEBODY FROM NEW YORK. WE WOULD PROBABLY HAVE THEM
10 COMMUNICATE WITH MAYBE 150 SEARCH ORGANIZATIONS. IN THE
11 WASHINGTON AREA, IT WOULD PROBABLY BE 50 TO 60. IF IT
12 WERE NATIONWIDE IT COULD BE ANYWHERE FROM 200, DEPENDING
13 ON LOCATIONS. IF IT'S JUST DALLAS OR SAN FRANCISCO, MAYBE
14 200. IF IT WAS INDEED NATIONWIDE IT MIGHT BE UP TO 800.

15 Q HOW WOULD THEY FIND OUT WHERE THESE SEARCH
16 ORGANIZATIONS ARE? IS THERE ANYTHING PUBLISHED THAT LISTS
17 THEM?

18 A YES, THERE ARE.

19 Q WHAT ARE THE PUBLICATIONS?

20 A KENNEDY & KENNEDY IS PROBABLY THE MASTER OF THAT.
21 THERE'S OTHER PUBLICATIONS, BUT THIS COMPANY PUTS IT OUT.
22 IT'S A RATHER LARGE BOOK.

23 Q AND THAT BOOK LISTS VARIOUS SEARCH ORGANIZATIONS, IS
24 THAT CORRECT?

25 A IT DOES.

1 Q AND WOULD IT DEFINE THEM IN TERMS OF WHETHER THEY
2 HANDLE THE KINDS OF PEOPLE THAT MIGHT COME TO YOU FROM
3 PRICE WATERHOUSE?

4 A THEY DO BREAK IT DOWN BY SPECIALTY, BUT MY FINDING
5 OVER THE YEARS, AND I HAVE BEEN IN THE SEARCH BUSINESS
6 ALSO; IS THAT ANY GOOD SEARCH ORGANIZATION REALLY DOES NOT
7 STOP AND SAY WE WON'T ACCEPT THAT JOB BECAUSE WE DON'T
8 SPECIALIZE IN THAT. SO REALLY IF IT'S A GOOD SEARCH
9 ORGANIZATION THAT WE'VE HAD GOOD EXPERIENCE WITH OR
10 KNOWLEDGE OF WE WOULD HAVE OUR PEOPLE SEND RESUMES TO
11 THEM.

12 Q IS -- MAY I APPROACH THE WITNESS AND SHOW HIM A BOOK,
13 YOUR HONOR?

14 THE COURT: YES.

15 BY MR. SCHRADER:

16 Q SHOWING YOU A BOOK WHICH IS TITLED THE DIRECTORY OF
17 EXECUTIVE RECRUITERS, 1990.

18 A THAT'S IT.

19 Q WHAT IS THAT, SIR?

20 A THIS WOULD BE THE ENTIRE LISTING OF THE RECOGNIZED
21 EXECUTIVE SEARCH ORGANIZATIONS IN THE WHOLE COUNTRY. IN
22 THE WORLD.

23 Q NOW, WHY IS IT THAT YOU HAVE YOUR PEOPLE THAT YOU'RE
24 COUNSELING SEND THEIR LETTERS AND RESUMES TO THE SEARCH
25 FIRMS? IS THAT HOW THEY GET INTO THE DATA BANKS OF THE

1 SEARCH FIRMS?

2 A THAT'S TRUE, AND OUR EXPERIENCE IS THAT PARTICULARLY
3 AT THE HIGHER LEVELS, IT'S ANYWHERE FROM 20 TO 25 PERCENT
4 WILL GET LOCATED THROUGH AN EXECUTIVE SEARCH ORGANIZATION.

5 Q HIGHER LEVELS MEANING HIGHER LEVELS OF SALARIES GOING
6 IN?

7 A YES, 80,000 AND UP.

8 Q NOW, WHAT PERCENTAGE OF THE PEOPLE, THE SENIOR
9 MANAGERS AND MANAGERS THAT HAVE COME TO YOU FROM PRICE
10 WATERHOUSE IN 1989 WERE YOU ABLE TO PLACE AT SALARIES
11 HIGHER THAN THEY WERE EARNING AT PRICE WATERHOUSE? I SAY
12 YOU PLACE, REALLY WHAT I MEAN TO BE MORE ACCURATE, WERE
13 ABLE TO PLACE THEMSELVES AT SALARIES HIGHER?

14 A ABOUT 50 PERCENT.

15 THE COURT: WHAT PERCENT IS THAT?

16 THE WITNESS: 50 PERCENT.

17 THE COURT: 50 PERCENT.

18 BY MR. SCHRADER:

19 Q NOW, DOES THAT INCLUDE PERSONS IN THE MANAGEMENT
20 CONSULTING AREA?

21 A IT DID.

22 Q HAVE YOU -- HAVE ANY OF THE PEOPLE, SENIOR MANAGERS
23 FROM PRICE WATERHOUSE WHO YOU'VE COUNSELED BEEN ABLE TO
24 LAND POSITIONS WITH BIG EIGHT FIRMS ON A PARTNERSHIP
25 TRACK?

1 A YES.

2 Q HOW MANY?

3 A THREE.

4 Q DO YOU KNOW WHICH FIRMS THOSE HAVE BEEN?

5 DO YOU RECALL?

6 A I DO.

7 Q WHAT ARE THEY?

8 A I'D RATHER NOT MENTION THEM.

9 Q WELL, YOU'RE NOT MENTIONING THE NAMES, SO I THINK FOR
10 PURPOSES --

11 THE COURT: NO, THE FIRMS ARE WHAT WE TALKING
12 ABOUT, NOT THE PEOPLE.

13 BY MR. SCHRADER:

14 Q I'M NOT ASKING WHO THE PERSONS WERE, BUT WHAT ARE THE
15 FIRMS. EXCUSE ME.

16 A COOPERS -- I WAS NOT PREPARED TO ANSWER THAT BECAUSE
17 I THOUGHT THAT WAS PROPRIETARY INFORMATION. BUT -- I HAVE
18 TO THINK.

19 THE COURT: WELL, IF YOU DON'T REMEMBER, YOU
20 DON'T REMEMBER.

21 THE WITNESS: YES.

22 BY MR. SCHRADER:

23 Q YOU DEAL OBVIOUSLY WITH MORE PEOPLE THAN JUST FROM
24 PRICE WATERHOUSE IN YOUR BUSINESS, IS THAT CORRECT?

25 A WELL, NO, THOSE ARE NOT FIRMS THAT I HAVE CONTACT

1 WITH. THESE ARE THE PEOPLE THAT I HAVE DEALT WITH WHO GOT
2 JOBS WITH THOSE FIRMS.

3 Q YES, I MEANT YOUR FIRM PLACES PEOPLE FOR COMPANIES
4 OTHER THAN PRICE WATERHOUSE, IS THAT CORRECT?

5 A YES.

6 Q SO YOU HAVE A LARGER NUMBER THAN 61 PEOPLE OR 49 TO
7 TRY AND REMEMBER IN TERMS OF WHERE THEY WENT?

8 A OH, INDEED.

9 Q NOW, WHAT IS THE AVERAGE TIME THAT IT HAS TAKEN
10 PEOPLE FROM PRICE WATERHOUSE TO GET PLACED, IF YOU CAN
11 RECALL?

12 A 16 WEEKS, 16 AND A HALF WEEKS.

L
13 Q HAVE YOU -- PUTTING ASIDE PEOPLE FROM PRICE
14 WATERHOUSE FOR THE MOMENT, HAVE YOU BEEN ABLE TO PLACE OR
15 ASSIST PEOPLE IN GETTING PLACED WITH FIRMS LIKE BOOZ ALLEN
16 AND MC KINSEY IN THE PAST?

17 A YES, I HAVE.

18 Q HAVE ANY OF THOSE PEOPLE GONE ON TO BECOME PARTNERS
19 IN THOSE FIRMS?

20 A TO MY KNOWLEDGE, YES.

21 Q NOW, YOU'VE HAD AN OPPORTUNITY TO BE HERE AND HEAR
22 PLAINTIFF'S TESTIMONY. HAVE YOU REVIEWED THE PLAINTIFF'S
23 DEPOSITION IN THIS CASE?

24 A I HAVE.

25 Q AND HAVE YOU REVIEWED HER RESUME, IF YOU WILL?

1 A I HAVE.

2 Q AND HER WORLD BANK PERSONNEL HISTORY?

3 A I HAVE.

4 Q AND I WANT TO ASK YOU BASED UPON YOUR EXPERIENCE AND
5 WHAT YOU'VE COUNSELED AND SEEN WITH RESPECT TO THE PEOPLE
6 WHO HAVE COME THROUGH PRICE WATERHOUSE YOUR OPINION. DID
7 THE PLAINTIFF TAKE ADEQUATE STEPS TO TRY AND FIND A
8 POSITION WITH A MAJOR CONSULTING FIRM AFTER SHE LEFT PRICE
9 WATERHOUSE?

10 A IN MY OPINION, NO.

11 Q WHY, SIR? WHY DO YOU HOLD THAT?

12 A WELL, AS I READ THE DEPOSITION I BELIEVE SHE
13 MENTIONED THREE OR FOUR EXECUTIVE SEARCH ORGANIZATIONS.
14 THAT WOULD CERTAINLY NOT CONSTITUTE AN ADEQUATE NUMBER.
15 IN TERMS OF CONTACTING PEOPLE THERE COULDN'T BE OVER MORE
16 THAN TWELVE THAT I SAW THAT SHE CONTACTED, ACCORDING TO
17 THE DEPOSITION. THAT IS WHOLLY INADEQUATE, IN MY
18 ESTIMATION.

19 Q HOW MANY SEARCH FIRMS, MAYBE I'M COVERING GROUND I'VE
20 COVERED BEFORE, WOULD YOU HAVE RECOMMENDED SHE CONTACT?

21 A WELL, SHE HAD MENTIONED THERE THAT SHE WAS INTERESTED
22 AND I HEARD HER TESTIFY HERE THAT SHE WAS INTERESTED IN A
23 NATIONWIDE POSSIBILITY. I WOULD HAVE HER AT THE VERY
24 MINIMUM CONTACT 200 SEARCH ORGANIZATIONS AND IN TERMS OF
25 NUMBERS OF PEOPLE WE ALWAYS FIND THAT WHEN ONE SITS DOWN

1 AND STARTS WRITING ONES ACQUAINTANCES DOWN THAT THERE ARE
2 AT LEAST 30 TO 50 PEOPLE THAT THEY KNOW THAT CAN BE OF
3 SOME HELP. AND THAT GETS THEM ANOTHER 30 OR 50 PEOPLE AND
4 IT KEEPS EXPANDING OUT. THAT'S WHAT WE CALL THE CONTACT
5 NETWORK.

6 Q 'IS' IT MORE IMPORTANT TO EXPAND THE SCOPE OF YOUR
7 SEARCH AND THE NUMBER OF RESUMES AND LETTERS WHEN YOU'RE
8 LOOKING FOR AN UPPER TIER JOB IN TERMS OF COMPENSATION AND
9 THE LIKE? IN TERMS OF THE SUCCESS, THE CHANCES OF
10 SUCCESS?

11 A JUST TO FIND A JOB, IT'S ESSENTIAL, WHETHER IT'S
12 HIGHER, LOWER OR LESS.

L
13 Q NOW, HAVE THERE <BEEN WOMEN WHO YOU'VE COUNSELED IN
14 THE OUT PLACEMENT AREA?

15 A YES, INDEED.

16 Q APPROXIMATELY WHAT PERCENTAGE OF THE PEOPLE FROM
17 PRICE WATERHOUSE THAT YOU'VE COUNSELED HAVE BEEN WOMEN?

18 A 25 PERCENT.

19 Q HAVE YOU NOTICED ANY DIFFERENCE IN THE ABILITY OF THE
20 WOMEN TO LAND EMPLOYMENT -- ANY DIFFERENCE BETWEEN THE
21 WOMEN AND THE MEN?

22 A NO.

23 Q AND BY DIFFERENCE, I MEAN DIFFERENCE IN TERMS OF THE
24 QUALITY OF THE JOBS OR THE TIME IT TAKES TO FIND A JOB?

25 A NO.

1 Q NOW, THE PLAINTIFF'S AGE, IN YOUR OPINION, WOULD THE
2 PLAINTIFF'S AGE HAVE BEEN AN IMPEDIMENT TO HER JOB SEARCH
3 OR HER ABILITY TO LAND A GOOD JOB?

4 A I'VE DONE A LOT OF STATISTICAL ANALYSIS ON THAT IN
5 THE PAST AND WE FIND THAT AGE DOES NOT BECOME AN ELEMENT
6 UNTIL ABOUT 55.

7 Q IF YOU WERE COUNSELING THE PLAINTIFF TODAY TO FIND
8 EMPLOYMENT I GATHER YOU WOULD COUNSEL HER TO SEND OUT THE
9 SAME NUMBER OF RESUMES AND LETTERS AND THE LIKE.

10 MR. HELLER: OBJECTION, YOUR HONOR. THAT'S
11 PURE --

12 THE COURT: SUSTAINED. I DON'T SEE TODAY IS
13 RELEVANT.

14 BY MR. SCHRADER:

15 Q LET ME ASK YOU THIS, THE PLAINTIFF --

16 THE COURT: I DON'T UNDERSTAND WHETHER THE
17 SERVICE THAT YOU ARE PERFORMING FOR PRICE WATERHOUSE IS A
18 SERVICE THAT YOU AUTOMATICALLY PERFORM FOR ANYONE WHO IS
19 LEAVING, SO TO SPEAK, OR WHETHER THE PERSON HAS TO COME TO
20 YOU AND ASK FOR THE HELP. I DON'T KNOW HOW YOU GET IN
21 TOUCH WITH, LET'S SAY, SOMEBODY WHO WASN'T -- DIDN'T MAKE
22 PARTNERSHIP.

23 THE WITNESS: WELL, THE SYSTEM IS THAT THE
24 MANAGER OFFERS OUR SERVICES IF THEY ARE INTERESTED IN
25 TAKING ADVANTAGE OF IT.

1 THE COURT: AND WAS THAT THE CASE IN 1983?

2 THE WITNESS: I WAS NOT ASSOCIATED WITH PRICE
3 WATERHOUSE.

4 THE COURT: WHEN DID YOU COME ABOARD?

5 THE WITNESS: LAST YEAR.

6 THE COURT: SO YOUR EXPERIENCE DOESN'T RELATE IN
7 ANY WAY TO THIS CASE EXCEPT IN SORT OF A GENERAL WAY
8 BECAUSE YOU WEREN'T DEALING WITH PEOPLE AT THAT TIME AND
9 THERE WAS NO SUCH THING IN PLACE. MR. CONNOR WAS A LITTLE
10 UNCERTAIN AS TO JUST WHEN YOU GOT STARTED IN HIS MIND I
11 THINK AT ONE TIME, AND I TAKE IT YOU WERE ALREADY -- YOU
12 WERE JUST RECENTLY IN THIS BUSINESS FOR THEM.

L 13 THE WITNESS: THAT'S CORRECT.

14 THE COURT: WAS SOMEBODY ELSE DOING IT BEFORE
15 YOU?

16 THE WITNESS: YES.

17 THE COURT: AND WHO WAS THAT?

18 THE WITNESS: WRIGHT ASSOCIATES.

19 THE COURT: DO YOU KNOW WHETHER THEY WERE WORKING
20 ON THAT SAME BASIS?

21 THE WITNESS: WE ALL WORK ABOUT THE SAME WAY.

22 THE COURT: BUT I MEANT WITH RELATION TO HOW THEY
23 GOT CLIENTELE FROM PRICE WATERHOUSE?

24 THE WITNESS: I'M NOT CERTAIN, BUT I WOULD ASSUME
25 IT WAS THE SAME WAY.

1 THE COURT: YOU DON'T KNOW.

2 THE WITNESS: I DON'T KNOW.

3 THE COURT: THANK YOU.

4 MR. SCHRADER: NO FURTHER QUESTIONS.

5 CROSS-EXAMINATION

6 BY MR. HELLER:

7 Q NOW, MR. REDFORD, I TAKE IT YOU BELIEVE WHAT YOU DO
8 FOR PEOPLE IS VERY HELPFUL FOR THEM IN GETTING NEW JOBS,
9 ISN'T THAT CORRECT?

10 A THAT'S CORRECT.

11 Q YOU DON'T TAKE WALK-INS, DO YOU?

12 A NO, I DON'T, SIR.

13 Q IN OTHER WORDS, YOU WORK WITH EMPLOYERS WHO HAVE A
14 NEED TO PLACE, OUTPLACE IS I GUESS THE WORD USED, SOME OF
15 THE PEOPLE WHO HAVE BEEN WITH THEM IN THE PAST?

16 A THAT'S CORRECT.

17 Q AND WAS THAT TRUE OF DRAKE, BEAM & MORIN, TOO?

18 A THAT'S CORRECT.

19 Q SO IF MISS HOPKINS HAD COME TO YOU TO GET THE
20 NECESSARY EXPERIENCE AND KNOWLEDGE THAT YOU TESTIFIED
21 ABOUT TODAY YOU WOULD HAVE SAID, WELL, WE JUST CAN'T HELP
22 YOU, I'M SORRY, YOU HAVE TO COME TO US THROUGH A FIRM THAT
23 YOU USED TO WORK FOR; ISN'T THAT CORRECT?

24 A ESSENTIALLY THAT'S CORRECT, BUT IF SHE ACTUALLY GOT
25 TO MY OFFICE I WOULD PROBABLY OFFER SOME ADVICE TO HER.

1 Q BUT KNOWING HOW YOU OPERATE SHE WOULDN'T GET THERE?

2 A SHE WOULDN'T GET US, BUT I WOULD SUGGEST SOME OTHER
3 PLACES SHE MIGHT GO.

4 Q NOW, WERE YOU AWARE BEFORE I TOOK YOUR DEPOSITION ON
5 JANUARY 12TH OF MR. MEDER'S FIRM?

6 A NO, SIR.

7 Q SO IN YOUR DATA BANK OF PLACEMENT ORGANIZATIONS FOR
8 PEOPLE WITH MISS HOPKINS' SKILLS YOU DIDN'T KNOW ABOUT MR.
9 MEDER'S RECRUIT FIRM?

10 A QUITE POSSIBLY IF HE IS IN THE RECRUITING BOOK WE
11 WOULD HAVE SENT MATERIALS TO HIM, IF SOMEONE WERE
12 INTERESTED IN THE CHICAGO AREA OR IF, IN FACT, THEY WERE
13 IN THE CHICAGO AREA.

14 Q NOW, YOU SAID YOU HAD PLACED THREE PERSONS WHO BECAME
15 PARTNERS IN OTHER BIG SIX OR BIG EIGHT ACCOUNTING FIRMS.
16 DO YOU RECALL HOW MANY PEOPLE YOU PLACED WITH THOSE FIRMS
17 WHO DIDN'T BECOME PARTNERS?

18 A SIR, I SAID THAT THE THREE PEOPLE WERE PLACED IN BIG
19 EIGHT ACCOUNTING FIRMS. I DON'T BELIEVE THEY WERE
20 PARTNERS.

21 Q I SEE. NONE OF THEM THAT YOU PLACED BECAME PARTNERS,
22 IS THAT CORRECT?

23 A WELL, THEY'RE NOT PARTNERS YET.

24 Q AND YOUR FIRM HAS BEEN IN EXISTENCE SINCE HOW LONG?

25 A SIX YEARS.

1 Q HAVE YOU HAD ANY PEOPLE SENT TO YOU FROM PRICE
2 WATERHOUSE WHO WERE PASSED OVER FOR PARTNERSHIP IN THE
3 TIME THAT YOU WORKED WITH PRICE WATERHOUSE?

4 A OH, YES.

5 Q AND YOU'VE PLACED HOW MANY OF THOSE PEOPLE ELSEWHERE
6 AT A BETTER INCOME?

7 A AT BETTER INCOME, APPROXIMATELY 50 PERCENT.

8 Q HOW MANY OF THEM HAVE THERE BEEN?

9 A THERE WERE 61 PEOPLE.

10 Q NO, I'M TALKING ABOUT PEOPLE PASSED OVER FOR
11 PARTNERSHIP, NOT JUST PEOPLE WHO ARE LEAVING, THEY'RE
12 MANAGERS, AND THEY DECIDED TO MOVE ON FOR ONE REASON OR
13 ANOTHER. I'M TALKING ABOUT PEOPLE WHO WERE ACTUALLY
14 PROPOSED TO PARTNERSHIP IN PRICE WATERHOUSE, DIDN'T GET IT
15 AND NOW ARE SENT TO YOUR FIRM FOR ASSISTANCE IN GOING
16 ELSEWHERE. HOW MANY OF THOSE?

17 A APPROXIMATELY 29.

18 Q AND HOW MANY OF THOSE PLACED ELSEWHERE AT EQUAL OR
19 BETTER INCOME?

20 A APPROXIMATELY TEN. EQUAL. YOU SAID EQUAL AND
21 BETTER?

22 Q EQUAL OR BETTER.

23 A EQUAL OR BETTER, WE'RE TALKING ABOUT 75 PERCENT.

24 Q ALL RIGHT. WHAT WAS THE TEN THEN? THAT WAS ABOUT
25 ONE-THIRD. WHAT WAS THAT?

1 A THOSE WERE AT THE SAME AMOUNT.

2 Q HOW MANY PEOPLE HAVE YOU EVER HAD TO PLACE IN
3 POSITIONS WHICH EARN IN THE MID-RANGE FROM 50 TO \$100,000
4 OR SEEKING THAT KIND OF A POSITION WHO HAD FILED
5 DISCRIMINATION SUITS AGAINST OR EMPLOYMENT LITIGATION
6 SUITS WITH THEIR PREVIOUS EMPLOYER?

7 A OVER MY EXPERIENCE I'VE BEEN AWARE OF PROBABLY 20
8 CASES.

9 Q HOW MANY OF THOSE HAVE BEEN CASES THAT HAVE RECEIVED
10 PUBLICITY?

11 A TO VARYING AMOUNTS I WOULD SUPPOSE SEVERAL, BUT
12 THAT'S A SUPPOSITION.

L 13 Q BUT WHEN I ASKED YOU ON THE DEPOSITION BACK ON
14 JANUARY 12 YOU REALLY SAID TRY AND KEEP IT QUIET, DIDN'T
15 YOU?

16 A OH, I WOULD NEVER ADVOCATE THAT ANYBODY OFFER THAT AS
17 A PIECE OF INFORMATION IN SEEKING A JOB.

18 Q DID CONTEMPLATE HOW THEY WOULD DEAL WITH THE FACT
19 THAT WHILE THEY WERE IN A NEW JOB THEY MIGHT HAVE
20 OBLIGATIONS WITH WHATEVER CASE THEY STARTED, THAT THEY
21 WOULD HAVE TO GO DOWN AND GO TO COURT OR GIVE A DEPOSITION
22 OR SOMETHING ELSE THAT WOULD CLEARLY LET THEIR EMPLOYER
23 KNOW THAT THEY HAD THAT KIND OF LITIGATION GOING?

24 A I WOULD PROBABLY ASK THEM TO STRETCH THEIR
25 IMAGINATIONS AND SAY THAT THEY HAD SOME SORT OF LEGAL

1 BUSINESS TO TAKE CARE OF. I WOULD NOT SUGGEST TO THEM TO
2 SAY THAT I AM SUING A COMPANY THAT I WAS EMPLOYED BY.

3 MR. HELLER: I DON'T THINK I HAVE ANY FURTHER
4 QUESTIONS.

5 MR. SCHRADER: NOTHING FURTHER.

6 THE COURT: YOU'RE EXCUSED, THANK YOU, SIR.

7 HOW MANY MORE WITNESSES DO WE HAVE?

8 MR. BOUTROSE: JUST ONE MORE, YOUR HONOR.

9 THE COURT: THAT'S THE FIGURE MAN, RIGHT?

10 MR. BOUTROSE: HE'LL BE TESTIFYING ON ECONOMIC
11 STATISTICS.

12 THE COURT: THAT'S WHAT I MEAN BY FIGURES. I
13 THINK WE'D BETTER ALL HAVE A TEN MINUTE STRETCH BEFORE WE
14 HAVE TO TACKLE HIM. TEN MINUTES.

15 (BRIEF RECESS)

16 MR. BOUTROSE: THE DEFENDANT CALLS DR. PAUL J.
17 ANDRISANI.

18 (DR. PAUL J. ANDRISANI, WITNESS FOR DEFENDANT, SWORN)

19 MR. HURON: EXCUSE ME, YOUR HONOR, IF I MAY, I
20 HAVE A CALL IN TO DR. TRYON. IF HE RECEIVED MY MESSAGE,
21 HE'S ON HIS WAY OVER. IF THERE'S NO OBJECTION I'D LIKE TO
22 HAVE HIM SEATED NEXT TO ME WHEN HE COMES IN.

23 THE COURT: OH, THAT'S ALL RIGHT WITH ME.

24 MR. HURON: THANK YOU.

25 THE COURT: YOU DON'T MIND WHERE HE SITS, DO YOU?

1 MR. BOUTROSE: NO.

2 YOUR HONOR, IF I MAY APPROACH THE WITNESS? I'M
3 JUST GOING TO GIVE HIM THE EXHIBITS THAT WE MAY BE
4 REFERRING TO.

5 THE COURT: WHAT EXHIBIT IS THAT?

6 MR. BOUTROSE: WE MAY BE REFERRING TO DEFENDANT'S
7 EXHIBITS A6, WHICH IS HIS VITAE, AND A18 AND DEFENDANT'S
8 A7 AND WE MAY ALSO REFER TO PLAINTIFF'S EXHIBIT A3, A6 AND
9 A13.

10 DIRECT EXAMINATION

11 BY MR. BOUTROSE:

12 Q DR. ANDRISANI, FOR THE RECORD STATE YOUR NAME?

13 A I'M PAUL J. ANDRISANI.

14 Q AND WHERE DO YOU LIVE?

15 A I LIVE IN WILMINGTON, DELAWARE.

16 Q AND WHAT IS YOUR OCCUPATION?

17 A I'M ASSOCIATE DEAN OF THE SCHOOL OF BUSINESS AND
18 MANAGEMENT AT TEMPLE UNIVERSITY IN PHILADELPHIA, PROFESSOR
19 OF HUMAN RESOURCE MANAGEMENT AND DIRECTOR FOR OUR CENTER
20 FOR LABOR AND RESOURCE STUDIES AT THE UNIVERSITY.

21 Q HOW LONG HAVE YOU BEEN IN THOSE POSITIONS?

22 A I'VE BEEN AT TEMPLE UNIVERSE FOR 16 YEARS. I'VE BEEN
23 ASSOCIATE DEAN, THIS IS MY SECOND YEAR, AND BEEN A FULL
24 PROFESSOR OF HUMAN AND RESOURCE MANAGEMENT SINCE FIVE OR
25 SIX YEARS ANYWAY, I SUSPECT. EXCUSE ME, SIX OR SEVEN

1 YEARS.

2 Q AND COULD YOU DESCRIBE THE NATURE OF YOUR PRESENT
3 DUTIES AT TEMPLE?

4 A YES, I'M ACADEMIC ASSOCIATE DEAN. WE HAVE 180
5 FULLTIME FACULTY MEMBERS, PH.D'S, WE HAVE A LOT OF PART
6 TIME ADJUNCT FACULTY MEMBERS AND 300 DOCTORAL STUDENTS,
7 ABOUT 1700 MASTER'S STUDENTS AND 4500 UNDERGRADUATE
8 BUSINESS STUDENTS.

9 Q AND AS DIRECTOR OF THE HUMAN RESOURCE STUDIES?

10 A YES, WE HAVE A CENTER FOR LABOR AND HUMAN RESOURCE
11 STUDIES, WE HAVE FACULTY INVOLVED IN RESEARCH ON LABOR AND
12 HUMAN RESOURCE MANAGEMENT, AND I'VE BEEN INVOLVED FOR
13 SEVERAL YEARS NOW.

14 Q WHILE AT TEMPLE CAN YOU TELL US THE KINDS OF CLASSES
15 YOU'VE TAUGHT?

16 A YES, I'VE TAUGHT JUNIORS, SENIORS, MBA STUDENTS AND
17 DOCTORAL STUDENTS AND I'VE TAUGHT CLASSES IN LABOR
18 ECONOMICS, INDUSTRIAL RELATIONS, HUMAN RESOURCE
19 MANAGEMENT, MANAGEMENT.

20 Q AND IF YOU COULD TELL US YOUR AREAS OF EXPERTISE?

21 A YES, MY SPECIALITY IS LABOR MARKET ECONOMICS AND
22 STATISTICS AND HUMAN RESOURCE MANAGEMENT.

23 Q BRIEFLY, WHAT DOES LABOR MARKET ECONOMICS AND
24 STATISTICS INVOLVE?

25 A LABOR MARKET ECONOMICS IS THE STUDY OF SUPPLY AND

1 DEMAND IN THE LABOR FORCE AND PARTICULARLY HOW
2 COMPENSATION AND OCCUPATIONS ARE ALLOCATED IN THE LABOR
3 FORCE. WE USE STATISTICS, OF COURSE, TO STUDY THE
4 ECONOMICS OF LABOR MARKETS.

5 Q AND HUMAN RESOURCE MANAGEMENT?

6 A HUMAN RESOURCE MANAGEMENT IS NOT QUITE AS BROAD.
7 IT'S THE STUDY OF A FIRM AND HOW FIRMS CONDUCT THEIR
8 BUSINESS PRACTICES WITH RESPECT TO PERSONNEL AND EMPLOYEE
9 RELATIONS IN MANAGING THEIR WORK FORCE.

10 Q THIS WOULD INCLUDE CORPORATIONS, LARGE BUSINESSES?

11 A YES, AND SMALL.

12 Q AND PARTNERSHIPS. AND, JUST BRIEFLY, YOUR
13 EDUCATIONAL BACKGROUND?

14 A I HAVE A BACHELOR'S, A MASTER'S AND A PH.D AND I DID
15 POST-DOCTORAL STUDIES ALSO IN LABOR ECONOMICS.

16 Q WHERE?

17 A IN OHIO STATE UNIVERSITY.

18 Q YOU WERE QUALIFIED IN THE EARLIER PROCEEDINGS IN THIS
19 CASE AS AN EXPERT WITNESS?

20 A YES.

21 Q AND YOU'VE BEEN QUALIFIED AS AN EXPERT IN OTHER
22 EMPLOYMENT CASES?

23 A YES.

24 Q AND YOU'VE TESTIFIED FOR BOTH PLAINTIFFS AND
25 DEFENDANTS?

1 A YES, SIR.

2 MR. BOUTROSE: YOUR HONOR, DEFENDANT'S A6 IS A
3 COPY OF DR. ANDRISANI'S RESUME. I MOVE THAT IT BE
4 INTRODUCED INTO EVIDENCE.

5 THE COURT: I'LL RECEIVE IT.

6 (DEFENDANT'S EXHIBIT A6
7 RECEIVED INTO EVIDENCE)

8 MR. BOUTROSE: AND I ALSO MOVE THAT HE BE
9 QUALIFIED AS AN EXPERT IN LABOR MARKET ECONOMICS AND HUMAN
10 RESOURCE MANAGEMENT.

11 MR. HURON: NO OBJECTION.

12 BY MR. BOUTROSE:

13 Q DR. ANDRISANI, ARE YOU FAMILIAR WITH THE LABOR MARKET
14 FOR HIGH LEVEL EXECUTIVE PROFESSIONALS?

15 A YES, I AM.

16 Q THAT WOULD INCLUDE PEOPLE WITH THE PLAINTIFF'S SKILLS
17 AND EXPERIENCE AND HER BACKGROUND?

18 A YES.

19 Q AND IN PREPARING FOR YOUR TESTIMONY TODAY COULD YOU
20 JUST BRIEFLY DESCRIBE SOME OF THE THINGS YOU'VE CONSULTED,
21 REVIEWED AND PERHAPS OTHER THINGS THAT YOU'VE DONE TO
22 PREPARE?

23 A SURE. MY GENERAL BACKGROUND IN STUDY OF LABOR
24 MARKETS AND HUMAN RESOURCE MANAGEMENT -- OF COURSE, I'M
25 RELYING ON -- ON DR. TRYON'S SEVERAL REPORTS, I'VE HEARD

1 THE TESTIMONY OF MR. BEACH, THE TESTIMONY OF MR. REDFORD,
2 THE TESTIMONY OF MR. MEDER, I'VE HEARD DR. TRYON. I'VE
3 BEEN GIVEN INFORMATION, PROVIDED INFORMATION BY COUNSEL ON
4 SENIOR MANAGERS, THEIR EXPERIENCE AT PRICE WATERHOUSE,
5 THEIR DEGREE OF ABILITY, PEOPLE IN PLAINTIFF'S CLASS THAT
6 MADE PARTNERSHIP AND HOW WELL THEY'VE DONE IN TERMS OF
7 THEIR EARNINGS.

8 Q HAVE YOU REVIEWED IN CONNECTION WITH THE TESTIMONY
9 DEFENDANT'S A7 WHICH YOU HAVE IN FRONT OF YOU, IT'S THE
10 CHART OF THE STAFF MEMBERS WHO LEFT PRICE WATERHOUSE THAT
11 HAVE BECOME PARTNERS IN OTHER FIRMS?

12 A YES, I HAVE. I REVIEWED THAT. I HAVE REVIEWED A LOT
13 OF OTHER DOCUMENTS.

14 Q ALSO HAVE YOU CONSULTED ANYONE IN ANY OTHER BIG EIGHT
15 FIRMS OR BIG SIX FIRMS?

16 A YES, I'VE TALKED TO SEVERAL OF OUR ALUMNI FROM TEMPLE
17 UNIVERSITY WHO ARE IN BIG SIX ACCOUNTING FIRMS. I ALSO
18 TALKED TO THE CHAIRMAN OF OUR ACCOUNTING DEPARTMENT AT
19 TEMPLE UNIVERSITY AND JUST SPOKE IN GENERAL WITH OTHERS,
20 NOT ABOUT THE SPECIFIC NAME OF THE PLAINTIFF OR THE
21 PARTICULAR CASE, BUT JUST THE -- JUST DISCUSSING THE
22 SITUATION OF MOBILITY AT SENIOR MANAGER LEVELS AND THE
23 PROFITABILITY AND VIABILITY OF LARGE PUBLIC ACCOUNTING
24 FIRMS AND MANAGEMENT CONSULTING FIRMS.

25 Q I'D LIKE TO TURN TO PROFESSOR TRYON'S MOST RECENT

1 REPORT WHICH IS PLAINTIFF'S EXHIBIT A3 WHICH YOU SHOULD
2 HAVE IN FRONT OF YOU. YOU SAID THAT YOU SAT IN YESTERDAY
3 AND LISTENED TO PROFESSOR TRYON'S TESTIMONY AND IN HIS
4 REPORT PROFESSOR TRYON ASSUMES THAT PRICE WATERHOUSE WILL
5 BE WILLING TO PAY THE PLAINTIFF SIGNIFICANTLY HIGHER
6 COMPENSATION THAN ANY OTHER FIRM OR ANY OTHER EMPLOYER.
7 DO YOU THINK THAT'S A REASONABLE ASSUMPTION?

8 A NO.

9 MR. HURON: I WOULD OBJECT, YOUR HONOR, TO THE
10 CHARACTERIZATION OF THE REPORT. I'M NOT SURE THAT THE
11 REPORT MAKES THAT ASSUMPTION. THE REPORT COMPARES
12 PROJECTED EARNINGS OF PRICE WATERHOUSE WITH HER EARNINGS
13 AT THE WORLD BANK.

14 MR. BOUTROSE: YOUR HONOR, I BELIEVE --

15 THE COURT: HE WAS ASKED A SPECIFIC QUESTION, IN
16 MY RECOLLECTION.

17 MR. HURON: VERY WELL.

18 MR. BOUTROSE: YES, AND HE STATED THAT WAS HIS
19 ASSUMPTION.

20 THE COURT: YOU MAY PROCEED.

21 A YES, THAT'S THE KEY ASSUMPTION OF THE REPORT.

22 Q DO YOU THINK IT'S A REASONABLE OR AN APPROPRIATE
23 ASSUMPTION?

24 A ABSOLUTELY NOT A REASONABLE OR APPROPRIATE
25 ASSUMPTION.

1 Q WHY NOT?

2 A IT WOULD REALLY BE A REMARKABLE EVENT IN THE LABOR
3 MARKET UNLESS THERE WERE SOME OTHER FACTS SUCH AS LIKE IN
4 A PERSONAL INJURY SUIT OR A WRONGFUL DEATH OR SOME REASON
5 WHY A PERSON COULD NOT ENCOUNTER THE SAME EARNING STREAM
6 AFTERWARDS AS BEFORE. YOU CAN UNDERSTAND WITH AN EVENT
7 LIKE THAT. BUT ABSENT ANYTHING OF THAT SORT, IF A PERSON
8 COULD MAKE IN THE ORDER OF ABOUT 13 TO 13 AND A HALF
9 MILLION DOLLARS AT PRICE WATERHOUSE, OR WHATEVER AMOUNT
10 THEY COULD MAKE AT PRICE WATERHOUSE, PROFESSOR TRYON'S
11 FIGURES COME OUT TO THAT HIGH, ABOUT 13, 13 AND A HALF
12 MILLION.

13 Q WHAT DOCUMENT ARE YOU LOOKING AT?

14 A I'M LOOKING AT THE SUMMARY OF PLAINTIFF'S LOSSES.

15 Q AND I BELIEVE THAT'S PLAINTIFF'S EXHIBIT FIVE --
16 FOUR, EXCUSE ME.

17 A YES. THE KEY POINT THOUGH IS THAT WHATEVER THE
18 PLAINTIFF COULD HAVE MADE AT PRICE WATERHOUSE I CAN'T SEE
19 WHY THE PLAINTIFF WOULD MAKE SO MUCH LESS ANYWHERE ELSE.
20 THAT TO ME IS JUST EXTREMELY DIFFICULT TO ACCEPT AND
21 UNDERSTAND.

22 Q YOU SAID TWELVE TO 13 MILLION AT PRICE WATERHOUSE AND
23 WHAT LINE ON THAT EXHIBIT --

24 A WELL, DR. TRYON HAS -- FOR BACK PAY LOSSES HE'S
25 CALCULATED \$556,181, INCLUDING INTEREST. FOR FRONT PAY

1 LOSSES TOTAL INCOME AS A PRICE WATERHOUSE PARTNER, 11.1
2 MILLION TO 12.7 MILLION. IF YOU ADD THE FRONT PAY AND THE
3 BACK PAY TOGETHER AND YOU'RE TALKING -- YOU'RE TALKING
4 ABOUT 11,650,000 UP TO ABOUT 13,200,000.

5 Q AND AT THE WORLD BANK WHAT DOES HE HAVE THERE?

6 A 'AT' THE WORLD BANK THE TOTAL THERE WOULD BE 5,213,000.

7 Q AND --

8 A SO THERE'S A PHENOMENAL GAP BETWEEN PRICE WATERHOUSE
9 EARNINGS AND THE EARNINGS ELSEWHERE.

10 Q SO THAT ASSUMPTION THAT ONLY PRICE WATERHOUSE WOULD
11 BE WILLING TO PAY THAT AMOUNT, THAT THEY WOULD BE WILLING
12 TO PAY THAT AMOUNT TO THE PLAINTIFF, IS THERE AN ECONOMIC
13 LABEL WE CAN ATTACH TO THAT?

14 A THERE'S A CASE WE TALK ABOUT IN LABOR MARKETS CALLED
15 THE CASE OF BI-LATERAL MONOPOLY WHERE YOU MIGHT FIND THIS
16 SORT OF OCCURRENCE, WHERE THE WAGE WOULD BE THAT
17 DIFFERENT.

18 Q WHEN YOU SAY MIGHT, HOW OFTEN WOULD THAT OCCUR?

19 A IT'S VERY RARE. I MEAN, FOR EXAMPLE, THE TYPICAL
20 EXAMPLE THAT WE GIVE IS A COMPANY TOWN, THERE'S ONLY ONE
21 EMPLOYER AND A UNION. AND BOTH NEED THE OTHER. THE
22 COMPANY HAS TO HAVE THE UNION AND SO HENCE THEY'RE WILLING
23 TO PAY FOR THE UNION A HECK OF A LOT MORE THAN THE WORKERS
24 WOULD HAVE GOTTEN OTHERWISE. THE UNION HAS TO HAVE THE
25 COMPANY BECAUSE THEY'RE THE ONLY GAME IN TOWN FOR JOBS.

1 IN THAT CASE THE WAGE IN THAT COMPANY TOWN IS GOING TO BE
2 SOMETHING HIGHER THAN WHAT A MARKET WOULD DETERMINE IF
3 INDIVIDUALS BARGAINED ON THEIR OWN. THAT IS THE TYPICAL
4 CASE WE TALK ABOUT, BI-LATERAL MONOPOLY, WHERE AN EMPLOYER
5 HAS MONOPOLY POWER OVER AN EMPLOYEE AND AN EMPLOYEE HAS
6 MONOPOLY POWER OVER AN EMPLOYER, IN A SENSE. IT'S ALMOST
7 HARD TO IMAGINE HOW THAT CONDITION COULD BE IN ANY WAY
8 ANALOGOUS TO THE SITUATION WE HAVE HERE, IN MY
9 PROFESSIONAL OPINION.

10 Q AND IN TODAY'S -- I IMAGINE THAT IN TODAY'S ECONOMY,
11 THOSE ONE-UNION ONE-COMPANY TOWNS WOULD BE EVEN RARER THAN
12 THEY MAY HAVE BEEN YEARS AGO?

13 A ABSOLUTELY.

14 Q HAVE YOU FORMED YOUR OWN CONCLUSION AS TO THE PROPER
15 METHODOLOGY IN CALCULATING THE PLAINTIFF'S LOSSES, IF ANY,
16 IF LIABILITY IS DETERMINED IN THIS CASE?

17 A YES.

18 Q COULD YOU DESCRIBE YOUR METHODOLOGY?

19 A WELL, I THOUGHT THAT THE KEY ASSUMPTION OF
20 DR. TRYON'S REPORT THAT UNDERLIE DR. TRYON'S REPORT WAS
21 FAULTY. THAT IT WAS ALMOST IMPOSSIBLE OR AT LEAST
22 EXTREMELY UNREASONABLE TO ASSUME THAT WHATEVER EARNINGS
23 THE PLAINTIFF COULD HAVE EARNED AT PRICE WATERHOUSE IN THE
24 FUTURE, THAT THE PLAINTIFF COULD EARN THAT INCOME NOWHERE
25 ELSE. THAT'S THE KEY DIFFERENCE. I THINK THAT -- I ALSO

1 TOOK NOTE OF THE FACT THAT THE PLAINTIFF, AT LEAST I'M
2 TOLD BY COUNSEL, THAT THE PLAINTIFF QUIT HER JOB AT PRICE
3 WATERHOUSE. AND I'M ALSO TOLD THAT THE PLAINTIFF QUIT THE
4 JOB WITHOUT HAVING ANOTHER JOB LINED UP, WHICH IS A
5 VIOLATION OF ALL THE CARDINAL LAWS OF LABOR MARKETS, TO
6 LOOK FOR A JOB WHEN YOU HAVE A JOB AS OPPOSED TO LOOKING
7 FOR A JOB WHEN YOU DON'T HAVE A JOB. I ALSO LOOKED AT THE
8 FACT THAT THE PLAINTIFF WENT INTO BUSINESS FOR HERSELF AS
9 OPPOSED TO SEEKING WORK ELSEWHERE OR REMAINING AT PRICE
10 WATERHOUSE AS A SENIOR MANAGER, FOR EXAMPLE. AND I TOOK
11 INTO ACCOUNT -- I LOOKED AT SOME OTHER ASSUMPTIONS THAT
12 DR. TRYON MADE AS WELL. IN PARTICULAR WITH RESPECT TO THE
13 DISCOUNT RATE, FUTURE INTEREST RATES, INFLATION RATE,
14 GROWTH IN PARTNER SHARE, ET CETERA. I EXAMINED EACH OF
15 THOSE POINTS THAT WERE ASSUMPTIONS IN HIS REPORT.

16 Q AND IN APPLYING YOUR METHODOLOGY TO THIS --
17 SPECIFICALLY TO THE FACTS HERE, WHAT HAVE YOU DONE?

18 A WELL, I MEAN I DID A LOT OF THINGS, AS I MENTIONED.
19 BUT I TAKE IT WHAT YOU'RE ASKING IS WHAT'S THE BOTTOM
20 LINE?

21 Q IF YOU COULD JUST SKETCH OUT THE BOTTOM LINE IN YOUR
22 CALCULATIONS?

23 A IN MY OWN MIND THE PLAINTIFF COULD HAVE EARNED SENIOR
24 MANAGER SALARY AT PRICE WATERHOUSE THE FIRST YEAR AND I
25 UNDERSTAND THAT THAT SALARY WOULD HAVE BEEN ABOUT \$70,000.

1 IF THE PLAINTIFF HAD MADE PARTNER THAT YEAR, '83, '84, THE
2 CLASS, THE AVERAGE FOR HER PEERS WAS \$109,151. THE
3 DIFFERENCE THEN FOR THAT ONE YEAR PERIOD WOULD BE \$39,151.
4 IF WE BROUGHT THAT FIGURE FORWARD, THAT LOSS FORWARD, WHAT
5 SHE WOULD HAVE MADE AS A SENIOR MANAGER AT PRICE
6 WATERHOUSE, AND I WOULD ADD I THINK SHE COULD MAKE THAT
7 SAME SALARY SOMEWHERE ELSE AS WELL.

8 Q WHY DO YOU USE THE ONE YEAR PERIOD?

9 A WELL, I'M JUST STARTING WITH THE FIRST YEAR.

10 Q OKAY.

11 A THAT THAT LOSS OF 39,151 BROUGHT FORWARD WITH
12 INTEREST, AND I TOOK INTEREST AT THE INFLATION RATE DURING
13 THAT PERIOD FROM 1983, '84 FORWARD. I TOOK THE INFLATION
14 RATE PLUS I ADDED TWO PERCENT WHICH I THINK IS THE
15 APPROPRIATE THING TO DO, WOULD BE \$54,383. THE NEXT YEAR
16 THE PLAINTIFF VERY WELL COULD HAVE MADE PARTNER AT PRICE
17 WATERHOUSE.

18 FROM WHAT I UNDERSTAND, I ASKED FOR INFORMATION
19 AND RECEIVED INFORMATION WHICH -- AND I ASKED MANY OTHER
20 PEOPLE WHO TELL ME IT'S NOT UNUSUAL FOR A PERSON TO BE
21 HELD AND NOT TO BE MADE PARTNER THE FIRST TIME THEY GO UP.
22 IF SHE HAD MADE PARTNER THE NEXT YEAR AT PRICE WATERHOUSE
23 HER LOSS THEN IN MY ESTIMATION WOULD BE \$54,383, FOR THE
24 REASONS THAT I GAVE YOU.

25 IF SHE DIDN'T MAKE PARTNER THE NEXT YEAR PERHAPS

1 SHE WOULD HAVE MADE IT -- EXCUSE ME. LET ME BACK UP ONE
2 SECOND. I ALSO ASKED FOR INFORMATION FROM PRICE
3 WATERHOUSE AND OBTAINED IT OF THE 20 PEOPLE WHO WERE HELD
4 IN THE PLAINTIFF'S CLASS OF PERSONS WHO WERE SEEKING
5 PARTNERSHIP. OF THOSE 20, 16 MADE IT THE NEXT YEAR.

6 SO I THINK IT'S VERY REASONABLE TO ASSUME THAT
7 NOT MAKING IT, BEING HELD THE FIRST YEAR, HAD SHE NOT
8 QUIT, OR WHAT I'M TOLD, THERE WAS MISCONDUCT, HAD THERE
9 NOT BEEN MISCONDUCT WHICH CAUSED HER NOT TO BE PUT FORTH
10 FOR PARTNERSHIP THE FOLLOWING YEAR, SHE VERY WELL COULD
11 HAVE GONE UP FOR PARTNERSHIP THE NEXT YEAR AND MADE IT.
12 IF SHE HAD HER DAMAGES WOULD HAVE BEEN 54,383. BUT --

13 Q JUST TO CLARIFY, THE MISCONDUCT YOU'RE REFERRING
14 TO --

15 THE COURT: I DON'T UNDERSTAND THIS WHOLE
16 SCENARIO. IT DOESN'T BEAR ANY RELATION TO THIS CASE.
17 WE'RE TALKING ABOUT SOMEBODY ELSE'S CASE. WE'RE NOT
18 TALKING ABOUT THIS CASE. THIS WOMAN COULDN'T HAVE STAYED
19 AT PRICE WATERHOUSE. SHE WAS FORCED OUT. SHE WAS
20 CONSTRUCTIVELY DISCHARGED. SO ALL OF THAT SUPPOSITION IS
21 PURE HYPOTHETICAL. IN ADDITION, IF YOU CARRY IT ON AS HE
22 APPARENTLY IS ABOUT TO DO, HE'S CARRYING IT OUT IN A
23 PERIOD WHEN I'VE BEEN HEARING TESTIMONY ALL DAY THAT THEY
24 DON'T WANT HER ANYHOW. SO YOU'RE TALKING ABOUT SOMETHING
25 THAT HAS NO RELATION TO THE CASE AND I'M WILLING TO HAVE

1 YOU MAKE IT AS AN OFFER OF PROOF AND I'M NOT CRITICAL OF
2 THE WITNESS BECAUSE HE'S DOING WHAT HE WAS ASKED TO DO,
3 I'M NOT GOING TO PAY ANY ATTENTION TO IT. IT HASN'T
4 ANYTHING TO DO WITH THE CASE. IT'S JUST OFF THE MARK.

5 MR. BOUTROSE: IF I CAN JUST BRIEFLY EXPLAIN THE
6 UNDERLYING RATIONALE. ONE, AS I UNDERSTOOD IT, YOU DIDN'T
7 WANT TO GET BACK INTO WHETHER OR NOT THE CONSTRUCTIVE
8 DISCHARGE ISSUE WAS ALIVE OR DEAD. SO I'M --

9 THE COURT: YOU'RE ASSUMING THAT -- THE
10 ASSUMPTION IS THAT SHE WASN'T CONSTRUCTIVELY DISCHARGED?

11 MR. BOUTROSE: WELL, I'M GOING TO PRESENT
12 EVIDENCE --

13 THE COURT: I THOUGHT SHE WAS. THEN I WAS WRONG.
14 I THOUGHT SHE COULD HAVE STAYED. I THOUGHT SHE COULD DO
15 JUST WHAT THIS MAN WAS TALKING ABOUT. BUT I WAS TOLD I
16 WAS WRONG. AND THAT'S OUR SYSTEM. I WAS TOLD BY THE
17 COURT OF APPEALS THAT I WAS WRONG. AND THAT'S AN ACCEPTED
18 FACT IN THE CASE AND I DON'T SEE WHY WE CAN GO AHEAD --

19 THE WITNESS: YOUR HONOR, I THINK PART OF THIS
20 WAS MY FAULT. I WAS TOLD THAT, TOO, WHAT YOU HAD JUST
21 SAID, THAT HAD BEEN RULED ON AND I GUESS I JUST GOT OFF
22 THE TRACK IN EXPLAIN MY SCENARIO. ESSENTIALLY WHAT I WAS
23 SAYING WAS THAT IF SHE COULD MAKE IT AT PRICE WATERHOUSE
24 THE FOLLOWING YEAR, BEING HELD THE FIRST YEAR WOULD NOT BE
25 A TREMENDOUS PROBLEM AND WHAT COULD HAVE HAPPENED THE

1 FOLLOWING YEAR AT PRICE WATERHOUSE COULD HAVE HAPPENED THE
2 FOLLOWING YEAR SOMEWHERE ELSE, BUT FOR THE WHOLE ISSUE OF
3 THE CONSTRUCTIVE DISCHARGE AND THE ALLEGED MISCONDUCT. I
4 THINK I MISCHARACTERIZED IT.

5 MR. BOUTROSE: YOUR HONOR, IF I CAN JUST -- WE'RE
6 PREPARED TO PRESENT AND WE WON'T GO ON TOO LONG, EVIDENCE
7 UNDER BOTH THEORIES, CONSTRUCTIVE DISCHARGE AND NOT
8 CONSTRUCTIVE DISCHARGE.

9 THE COURT: WELL, I SAY I WANT YOU TO DO THAT,
10 BUT WE ARE GETTING TO A POINT WHERE, YOU KNOW, WE OUGHT TO
11 BE ADDRESSING THE REALITIES OF THE CASE.

12 MR. BOUTROSE: AND I WOULD JUST LIKE TO MAKE ONE
13 OTHER POINT. THE FACT THAT YOUR DECISION, DETERMINATION
14 THAT THE REPROPOSAL DECISION IN 1984 WAS NONDISCRIMINATORY
15 AND THE FACT THAT THE RECORD -- WE SUBMIT THAT THE RECORD
16 REFLECTS THAT PLAINTIFF'S CONDUCT PLAYED AN IMPORTANT ROLE
17 IN THAT DECISION NOT TO REPROPOSE HER ACTS AS A SEPARATE
18 REASON FOR LIMITING HER RECOVERY TO THE ONE YEAR DELAY AND
19 WE'VE SET THAT FORTH IN OUR BRIEFS ON REMAND AND SO I
20 WON'T GO INTO IT IN DETAIL. THAT'S AN ALTERNATIVE THEORY
21 FOR THE FIRST SCENARIO AND AS I SAID WE WON'T BELABOR THE
22 POINT.

23 THE COURT: WELL, YOU SEE, YOU'VE ASKED -- YOU'VE
24 PROPOSED TO ME THAT I DECLARE THAT SHE'S ELIGIBLE -- TO BE
25 CONSIDERED ELIGIBLE FOR PARTNERSHIP AND THEN MR. CONNOR

1 GOT ON THE STAND AND INDICATED THAT THEY'D OBEY AN ORDER
2 TO MAKE HER A PARTNER BUT OTHERWISE HE MADE IT CLEAR SHE
3 WOULD NEVER BE A PARTNER, SO MAKING HER ELIGIBLE TO BE A
4 PARTNER WOULD BE UTTERLY NONSENSICAL RELIEF BECAUSE
5 MR. CONNOR QUITE FRANKLY, I'M NOT SAYING I DISAGREE WITH
6 HIM, HE SAID SHE WOULD NOT BE WELCOMED. THE OTHERS
7 WOULDN'T MAKE HER A PARTNER. I'M NOT TAKING A POSITION
8 WHETHER SHE'S GOING TO BE MADE A PARTNER OR NOT BE MADE A
9 PARTNER. THAT'S THE ONLY WAY SHE'S GOING TO BE MADE A
10 PARTNER, BY ORDER. THAT'S WHAT YOU WORKED OUT BETWEEN
11 YOU, BUT YOU NEVER DID.

12 BY MR. BOUTROSE:

13 Q LET'S MOVE ON, DR. ANDRISANI, TO THE QUESTION OF HER
14 LEAVING PRICE WATERHOUSE AND GOING OUT INTO THE MARKET,
15 AND YOU HEARD MR. MEDER AND MR. REDFORD AND YOU'VE
16 REVIEWED EXHIBITS -- DEFENDANT'S EXHIBIT A7 REGARDING THE
17 MOBILITY OF PRICE WATERHOUSE SENIOR MANAGERS WHO LEFT THE
18 FIRM. DO YOU HAVE CALCULATIONS THAT REFLECT YOUR
19 EVALUATION OF THAT?

20 A YES, THAT'S CORRECT, AND THAT'S WHAT I GUESS I GOT
21 OFF THE TRACK AND DIDN'T GET TO; THAT AFTER THAT FIRST
22 YEAR IF SHE HAD GONE SOMEPLACE ELSE, ASIDE FROM PRICE
23 WATERHOUSE, I WOULD HAVE EXPECTED THAT THE SITUATION MIGHT
24 HAVE TAKEN A LITTLE LONGER SINCE SHE WASN'T GOING TO JUST
25 GET REPROPOSED IN THE NEXT YEAR, WOULD HAVE TAKEN A LITTLE

1 LONGER, BUT IS NOT SOMETHING THAT WOULDN'T HAVE EVENTUALLY
2 HAPPENED. IF SHE COULD HAVE MADE PARTNER AT PRICE
3 WATERHOUSE SHE COULD HAVE EVENTUALLY MADE PARTNER
4 SOMEWHERE ELSE, IN MY OPINION.

5 IF SHE COULD HAVE GENERATED THIS KIND OF EARNING
6 STREAM, WHATEVER IT MIGHT BE, DR. TRYON AND I AGREED ON IT
7 TO THE LAST PENNY, IF SHE COULD HAVE MADE IT AT ONE PLACE,
8 MY OPINION, YOUR HONOR, IS ESSENTIALLY SHE COULD MAKE IT
9 SOMEPLACE ELSE. IF IT HAD BEEN AT PRICE WATERHOUSE,
10 ABSENT THE CONTROVERSY OVER THE MISCONDUCT AND THE
11 CONSTRUCTIVE DISCHARGE OR NOT, PRICE WATERHOUSE WOULD HAVE
12 BEEN THE EASIEST SCENARIO, SHE COULD HAVE MADE IT THE NEXT
13 YEAR WHERE 16 OUT OF 20 PEOPLE WHO WERE HELD DID. IF IT
14 HAD BEEN SOMEPLACE ELSE IT WOULD HAVE TAKEN A LITTLE
15 LONGER, MAYBE A SECOND YEAR, A THIRD YEAR, POSSIBLY MAYBE
16 A FOURTH YEAR.

17 THE COURT: AND WHY ON YOUR EXPERIENCE DO YOU
18 SAY -- ASSUME FOR A MINUTE, AS SOME OF THE TESTIMONY
19 SUGGESTS, A TWO OR THREE YEAR LAG. WHAT KIND OF PLACE
20 WOULD SHE -- DO YOU SUGGEST SHE WOULD HAVE MADE IT, BASED
21 ON YOUR EXPERIENCE?

22 THE WITNESS: BASED ON MY EXPERIENCE, YOUR HONOR,
23 I WOULD SAY, FIRST OF ALL, TO MY STUDENTS IN CLASS IF SHE
24 COULD DO IT HERE SHE COULD DO IT SOMEPLACE ELSE.
25 SECONDLY, THERE ARE BIG SIX ACCOUNTING FIRMS. THERE ARE A

1 LOT OF FIRMS THAT AREN'T BIG EIGHT OR BIG SIX ACCOUNTING
2 FIRMS THAT ARE COMPETING VIGOROUSLY AND TRYING TO BREAK
3 INTO THAT NICHE THAT WILL EVENTUALLY. MANAGEMENT
4 CONSULTING FIRMS ARE GROWING RAPIDLY. THERE ARE A LOT OF
5 BUSINESSES WHERE A PERSON WITH THE KIND OF CAPABILITIES
6 THAT COULD GENERATE THIS KIND OF INCOME STREAM STREAM
7 COULD FIND WORK.

8 IT'S EXTREMELY DIFFICULT FOR ME AS A LABOR MARKET
9 ECONOMIST TO BELIEVE THAT PRICE WATERHOUSE WOULD HAVE BEEN
10 THE ONLY FISH IN THE SEA OR THAT SHE WOULD HAVE BEEN
11 DAMAGED GOODS IN SOME WAY AND HENCE COULDN'T CATCH UP
12 SOMEPLACE ELSE. THE EASIEST SCENARIO WOULD HAVE BEEN
13 PRICE WATERHOUSE, OF COURSE, THE NEXT YEAR, BUT ABSENT
14 THAT, LOOKING SOMEPLACE ELSE. IT WOULD HAVE BEEN MY
15 OPINION THAT ONE OR TWO YEARS, WHETHER SHE MAKES PARTNER
16 OR NOT IS ANOTHER MATTER, BUT SHE SHOULD BE ABLE TO GET
17 BACK UP ON TRACK AND MAKE THAT KIND OF MONEY AGAIN. THREE
18 OR FOUR YEARS MAYBE ON THE OUTSIDE, MAKING THE KIND OF
19 MONEY SHE'D BE MAKING AT PRICE WATERHOUSE.

20 BY MR. BOUTROSE:

21 Q IF IT HAD TAKEN HER TWO YEARS WHAT IS YOUR BELIEF
22 THAT THE LOSS WOULD HAVE BEEN?

23 A WHEN I LOOKED AT THE SECOND YEAR IS AGAIN HOW HER
24 PEERS WHO WOULD HAVE BECOME PARTNERS IN '83, WHAT THEY
25 WERE DOING THE SECOND YEAR, THEY WERE EARNING 111,000 ON

1 AVERAGE. AS A SENIOR MANAGER ASSUMING SHE WENT SOMEPLACE
2 ELSE AND EARNED ESSENTIALLY WHAT SHE WAS EARNING AT PRICE
3 WATERHOUSE, LET'S SAY, I FIGURED AN 8.2 PERCENT RAISE OVER
4 HER \$70,000 IN PRICE WATERHOUSE AND THAT WAS DR. TRYON'S
5 ESSENTIAL NUMBER, THAT WOULD GIVE HER 85,740. THAT WOULD
6 GIVE HER A DIFFERENCE BETWEEN WHAT THE PARTNERS AT PRICE
7 WATERHOUSE WERE MAKING THAT SECOND YEAR AND WHAT SHE COULD
8 HAVE MADE AS A SENIOR MANAGER OF 35,260. ADDING AN
9 INTEREST BRINGS IT UP TO 46,076. A TOTAL FOR A TWO YEAR
10 CATCH-UP WOULD HAVE BEEN \$100,459.

11 IF THERE'S A THIRD YEAR CATCH-UP OR A FOURTH YEAR
12 CATCH-UP I JUST FOLLOWED THE SAME PROCEDURE OUT. HOW DID
13 HER PEERS AT PRICE WATERHOUSE WHO BECAME PARTNERS, HOW DID
14 THEY DO MINUS WHAT HER 70,000 BASE SALARY GROWING AT AN
15 EIGHT PERCENT CLIP SUBTRACTING ONE FROM THE OTHER, ADDING
16 ON INTEREST AT THE CONSUMER PRICE INDEX PLUS AN ADDITIONAL
17 TWO PERCENT RATE, I GUESS IF IT TOOK FOUR YEARS, YOUR
18 HONOR, IT WOULD BE \$236,866. IF IT WERE THREE YEARS,
19 152,789.

20 AFTER THAT SHE WOULD HAVE EVENTUALLY BE CATCHING
21 UP TO THE EARNING STREAM SHE WOULD HAVE HAD AT PRICE
22 WATERHOUSE, IN MY OPINION. TO TAKE A WHOLE LOT LONGER
23 THAN THAT I WOULD THINK WOULD BE VERY UNUSUAL AND IN MY
24 MIND IN AN ECONOMY OF 130,000,000 PEOPLE OR SO WORKING;
25 MANY EMPLOYERS, PARTS OF THE ECONOMY, PARTICULARLY THE

1 PART DEALING WITH MANAGEMENT CONSULTING GROWING VERY
2 RAPIDLY, IT JUST DOES NOT SEEM REASONABLE FOR ME TO
3 CONCLUDE THAT IT WOULD HAVE TAKEN MUCH LONGER THAN THAT.

4 Q I'D LIKE YOU TO TURN TO PLAINTIFF'S EXHIBIT A6 WHICH
5 I HANDED YOU, IF YOU CAN FIND THAT IN THOSE DOCUMENTS.
6 THAT IS PLAINTIFF'S ACTUAL EARNINGS AS REPORTED IN TAX
7 RETURNS, ACCORDING TO PROFESSOR TRYON'S CALCULATIONS.
8 DR. ANDRISANI, IN ANALYZING THE ACTUAL EARNINGS AS THEY
9 CALL THEM HERE FROM HER TAX RETURNS ON PLAINTIFF'S EXHIBIT
10 A6 AND IN DR. TRYON'S REPORT, DID YOU REVIEW HER FEDERAL
11 INCOME TAX RETURNS?

12 A YES, I DID.

13 Q HER INDIVIDUAL RETURNS?

14 A YES, I DID.

15 Q AND DID YOU REVIEW THE RETURNS OF THE HOPKINS
16 COMPANY, THE PLAINTIFF'S COMPANY?

17 A YES.

18 Q AND BASED UPON THAT REVIEW, DO YOU AGREE WITH THE
19 ACTUAL EARNINGS CALCULATIONS SET FORTH IN PLAINTIFF'S
20 EXHIBIT SIX?

21 A NO.

22 Q WOULD YOU BRIEFLY DESCRIBE WHY YOU DISAGREE?

23 A WELL, IN ECONOMICS THERE'S A TERM WE HAVE IT'S CALLED
24 A SHADOW INCOME. WHAT A PERSON IS ACTUALLY WORTH. YOU
25 MIGHT NOT NECESSARILY OBSERVE IT OR SEE IT. AND I THINK

1 THAT'S WHAT'S HAPPENING HERE. THE PLAINTIFF'S CONSULTING
2 REVENUES CAME TO A TOTAL OF ABOUT \$458,000 THE PLAINTIFF
3 EARNED.

4 Q AND THIS WAS HER SELF-EMPLOYMENT OR EMPLOYMENT
5 THROUGH THE CORPORATE --

6 A EXACTLY, WHETHER IN CORPORATE FORM OR THE PERSONAL
7 FORM, SELF-EMPLOYED.

8 Q FOR WHAT YEARS?

9 A '84 THROUGH '88. AND WITH BUSINESS REVENUES OF
10 458,000 THERE WERE SALARIES TAKEN OF 209 -- 210,000. SO
11 ABOUT 46 PERCENT OF THE TOTAL BUSINESS REVENUE WAS TAKEN
12 AS SALARY. THERE'S A LOT OF OTHER MONEY IN THE REVENUE
13 THERE THAT SOME OF WHICH MIGHT HAVE BEEN SALARIES OR
14 VARIOUS DEDUCTIONS FOR VARIOUS SORTS OF THINGS.

15 THE LONG AND THE SHORT OF IT IS THE REAL EARNINGS
16 THAT THE PLAINTIFF SHOULD HAVE HAD AS AN OFFSET SHOULD NOT
17 NECESSARILY BE THE ACTUAL EARNINGS THAT ARE REPORTED ON
18 THE W2 OR REPORTED ON THE TAX RETURN, BUT THEY SHOULD BE
19 WHAT THE PLAINTIFF WAS WORTH IN THE LABOR MARKET AND THE
20 DIFFERENCE HERE BETWEEN WHAT THE PLAINTIFF WAS WORTH IN
21 THE LABOR MARKET AND WHAT IS SHOWN ON THE W2 IS REALLY A
22 LOT OF INVESTMENT IN STARTING A NEW BUSINESS. AND IF THAT
23 BUSINESS HAD BEEN EXTREMELY SUCCESSFUL THE PLAINTIFF WOULD
24 HAVE GOTTEN ALL THAT MONEY BACK PLUS MUCH MUCH MORE, A
25 RETURN ON THAT INVESTMENT THAT WOULD HAVE COMPENSATED THE

1 PLAINTIFF FOR ALL OF THE RISKS THAT THE PLAINTIFF WOULD
2 TAKE IN STARTING A NEW BUSINESS. THAT'S KNOWN AS VENTURE
3 CAPITAL.

4 SO IN MY OPINION THE PLAINTIFF ACCEPTED A LOWER
5 SALARY IN A BUSINESS AND THAT FORGONE SALARY WAS
6 ESSENTIALLY FINANCING VENTURE CAPITAL IN A NEW BUSINESS.

7 IF THE BUSINESS SUCCEEDED THE PLAINTIFF WOULD THE
8 GOTTEN MONEY BACK, BUT NOT IN THE EARLY YEARS. THE
9 PLAINTIFF WOULDN'T HAVE GOTTEN IT BACK UNTIL LATER AND
10 WOULD HAVE GOTTEN HOPEFULLY A -- WELL, NOT HOPEFULLY. IF
11 THE PLAINTIFF HAD SUCCEEDED THE PLAINTIFF WOULD HAVE
12 GOTTEN THE MONEY BACK PLUS NOT ONLY A REASONABLE INTEREST,
13 BUT, IN ADDITION, A REASONABLE INTEREST FOR INCURRING THE
14 RISK, THE SUBSTANTIAL RISK OF STARTING A NEW BUSINESS.

15 Q NOW, IN CALCULATING BACK PAY, THE YEARS ARE 1983 TO
16 1989.

17 A THAT'S CORRECT.

18 Q THE TAX RATES WENT DOWN DURING THOSE YEARS, CORRECT?

19 A THAT'S CORRECT.

20 Q DID PROFESSOR TRYON TAKE THAT INTO CONSIDERATION IN
21 HIS REPORT?

22 A I DON'T BELIEVE SO.

23 Q AND IS THAT APPROPRIATE? SHOULD HE HAVE TAKEN THAT
24 INTO CONSIDERATION?

25 A I THINK HE SHOULD AND THEORETICALLY YOU CERTAINLY

1 SHOULD. IF WE AGREE ON HOW MUCH MONEY WAS ACTUALLY LOST,
2 LET'S SAY, WE HAVE AN AGREEMENT ON THAT, IF YOU TAKE THE
3 TAX BRACKET TODAY AS A 28 PERCENT BITE THAT'S GOING TO
4 GIVE THE PLAINTIFF 72 CENTS OUT OF EVERY DOLLAR. BUT IF
5 THE PLAINTIFF HAD GOTTEN THE MONEY BACK IN THE ACTUAL
6 YEARS THE PLAINTIFF WOULDN'T HAVE GOTTEN 72 CENTS ON THE
7 DOLLAR. SHE WOULD HAVE ONLY GOTTEN IN THE EARLY YEARS
8 MAYBE 50 CENTS ON THE DOLLAR AND AS TAX BRACKETS BEGAN TO
9 COME DOWN PLAINTIFF WOULD HAVE GOTTEN MORE AND MORE ON
10 EVERY DOLLAR SO ESSENTIALLY CALCULATING THE TAX IN A YEAR
11 WHEN TAX BRACKETS ARE LOW YOU AGGRANDIZE THE PLAINTIFF
12 BECAUSE THE PLAINTIFF WOULD HAVE GOTTEN MONEY IN THE YEARS
13 THE TAX BRACKET WAS HIGHER.

14 Q AND THAT WOULD BE A CONVERSE EFFECT IF THE TAX RATES
15 GO UP IN THE FUTURE FRONT PAY?

16 A YES, IN THE FUTURE WITH FRONT PAY IF TAX BRACKETS GO
17 UP, WELL, THEN BY SAYING ALL THESE FUTURE DOLLARS,
18 WHATEVER THEY WOULD BE ARE ONLY GOING TO GET TAXED AT 28
19 PERCENT GIVES THE PLAINTIFF 72 CENTS ON EVERY FUTURE
20 DOLLAR, WHEREAS IN REALITY IF THE PLAINTIFF WERE TO
21 ACTUALLY EARN THESE DOLLARS IN THE FUTURE FROM PRICE
22 WATERHOUSE SHE WOULDN'T GET 72 CENTS ON THE DOLLAR IF
23 TAXES GO UP. SHE'D GET LESS THAN 72 CENTS ON THE DOLLAR.

24 Q AND THAT ISN'T FACTORED INTO THE PLAINTIFF'S --

25 A NOT THAT I CAN -- NO.

1 Q WITH RESPECT TO THE INTEREST RATE TO BE APPLIED TO
2 FRONT PAY, DR. TRYON USED 5.8 PERCENT DISCOUNT RATE?

3 A YES, AND AFTER TAX 5.8 PERCENT.

4 Q ASSUMING THAT AN AFTER TAX RATE IS APPROPRIATE WHAT
5 INTEREST RATE DO YOU BELIEVE SHOULD BE APPLIED?

6 A WELL, I THINK A MORE REASONABLE RATE WOULD BE THE
7 CURRENT RATE WHICH IS ABOUT 7.2 AS DR. TRYON, I BELIEVE,
8 SAID YESTERDAY. IF YOU LOOK AT THIS DECADE YOU'LL SEE TAX
9 EXEMPTS AVERAGING AROUND NINE PERCENT. IF YOU LOOK AT THE
10 LAST FIVE YEARS, '84 THROUGH '89 YOU'LL SEE THEM AVERAGING
11 AROUND 8.2 PERCENT. RIGHT NOW THEY'RE RUNNING AROUND 7.2,
12 AND I THINK THAT WOULD BE A MORE APPROPRIATE FIGURE. ONE
13 CAN LOOK AT THE PAST, THE PAST 30 YEARS AND SAY THAT'S THE
14 BEST PREDICTOR OF THE FUTURE, BUT I THINK GIVEN THE
15 FEDERAL BUDGET DEFICIT AND CAPITAL NEEDS AND PEOPLE'S
16 SAVING BEHAVIOR, THAT THE MORE RECENT PAST IS A BETTER
17 PREDICTOR OF THE FUTURE THAN THE VERY DISTANT PAST.

18 Q WOULD THAT BE TRUE FOR PROJECTING THE SHARE VALUES OF
19 PRICE WATERHOUSE OR THE PROFITABILITY OF PRICE WATERHOUSE,
20 IN YOUR OPINION?

21 A DO YOU MEAN PROJECT THAT 7.2 ALSO.

22 Q WOULD IT BE TRUE THAT THE MORE RECENT YEAR WOULD BE
23 MORE PREDICTIVE?

24 A ABSOLUTELY. YOU HAVE TO ASK YOURSELF WHAT'S THE BEST
25 PREDICTOR ON THE FUTURE AND IF YOU LOOK AT THE PHENOMENAL

1 GROWTH OF THE LAST 30 YEARS AND YOU THINK IT CAN BE
2 DUPLICATED, FINE? I THINK --

3 THE COURT: WE'RE TALKING HERE ABOUT SHARES.

4 THE WITNESS: I UNDERSTAND, YOUR HONOR.

5 THE COURT: WE'RE TALKING ABOUT SHARES IN A
6 CORPORATION.

7 THE WITNESS: I UNDERSTAND.

8 THE COURT: WE'RE TALKING ABOUT LOWER CAPITAL
9 GAINS, AREN'T WE? IN FACT, IT LOOKS LIKE WE'RE NOT GOING
10 TO HAVE TO PAY ANY CAPITAL GAINS TAX MAYBE. I DON'T KNOW.
11 SO I SUPPOSE THAT PRICE WATERHOUSE, I DON'T KNOW THIS, IT
12 MUST BE IN THE DOCUMENTS I SUPPOSE, IT BUYS BACK SHARES OR
13 CANCELS SHARES. I DON'T KNOW WHAT THEY DO. I HAVEN'T GOT
14 THE FOGGIEST IDEA. ALL THAT'S PART OF THIS EQUATION I'M
15 SUPPOSED TO LOOK AT, BUT I DON'T HAVE ANY IDEA ABOUT THAT.

16 THE WITNESS: MY POINT IS ESSENTIALLY, YOUR
17 HONOR, THAT IF YOU'RE GOING TO PROJECT THE FUTURE YOU MAY
18 WANT TO WEIGHT THE EVENTS OF THE RECENT PAST MORE HEAVILY
19 THAN THE EVENTS OF THE DISTANT PAST. IT REALLY DEPENDS ON
20 HOW YOU THINK THE FUTURE IS GOING TO UNFOLD.

21 THE COURT: WELL, YOU COULD, I SUPPOSE, FASHION A
22 FRONT PAY APPROACH THAT WOULD WAIT UNTIL THE YEAR'S GONE
23 BY AND THEN EACH YEAR COME INTO COURT AND WE'D HAVE
24 ANOTHER LAWSUIT AND TALK ABOUT IT AND FIX THE FIGURES FOR.
25 THAT YEAR IN RELAYING TO THE TAXES AND THE INTEREST RATE

1 AND THEN WE WAIT FOR ANOTHER YEAR AND ANOTHER JUDGE WOULD
2 DO IT. MAYBE SOME OF MY LAW CLERKS WOULD HAVE CHILDREN
3 AND MAYBE THEY'D BECOME JUDGES AND THEY'D BE DOING IT, AND
4 WE'D JUST GO AHEAD AND THEN, OF COURSE, IF THE VAGARIES OF
5 LIFE AFFECTED IT WE'D BE TAKING CARE OF THAT TOO. IF
6 SOMEBODY COULDN'T WORK, IF THEY GOT ILL OR THEY GOT
7 OFFERED A BETTER JOB AND THEY LEFT THE FIRM THEY COULD
8 TAKE CARE OF THAT. WE COULD GO AHEAD WITH EACH YEAR,
9 RIGHT? THAT WOULD BE CALLED A STRUCTURED SETTLEMENT.

10 MR. BOUTROSE: WE'VE ASSUMED THAT THE PLAINTIFF
11 HAS ASKED FOR A LUMP SUM AND SO WE MADE OUR PROJECTIONS
12 BASED ON THAT.

13 THE COURT: I KNOW, WHAT THEY'RE ASKING FOR AND
14 WHAT THEY'RE GOING TO GET MAY BE TWO DIFFERENT THINGS.

15 MR. BOUTROSE: BUT IT IS A POSSIBILITY.

16 THE COURT: THIS FRONT PAY IS VERY DIFFICULT.

17 MR. BOUTROSE: WITH SUCH UNCERTAINTIES IN
18 CALCULATING AND PROJECTING I GUESS A STRUCTURED SETTLEMENT
19 OR A STRUCTURED AWARD IS A POSSIBILITY.

20 BY MR. BOUTROSE:

21 Q AS FOR THE INTEREST RATE TO BE APPLIED TO THE BACK --
22 ANY BACK PAY AWARD, DR. TRYON USED APPROXIMATELY WHAT?

23 A I REPLICATED HIS NUMBERS AND MY RECOLLECTION IS THAT
24 HIS NUMBERS RANGE FROM ABOUT EIGHT PERCENT TO ABOUT 11
25 PERCENT ON THREE-YEAR TREASURIES IN THE PAGE -- IN THE

1 BOOK THAT HE CITED, ALTHOUGH HE SAID ON THE STAND
2 YESTERDAY SOME LOWER NUMBERS, PERHAPS THE DIFFERENCE
3 BEING -- MAY HAVE CORRECTED FOR -- AFTER TAX VERSUS BEFORE
4 TAX TREATMENT.

5 Q AND IN WHAT DO YOU BELIEVE THE INTEREST RATE SHOULD
6 BE APPLIED?

7 A OH, GOING BACK I WOULD LOOK AT THE CONSUMER PRICE
8 INDEX FOR THAT PERIOD AND I WOULD ADD TWO PERCENT TO
9 ADJUST FOR LOST PURCHASING POWER. THE FACT THAT YOU'RE
10 GETTING THE MONEY TODAY AS OPPOSED TO THE PAST AND THE
11 VALUE OF THE DOLLAR HAS DECLINED SOME AND I COMPENSATE FOR
12 THAT AND I COMPENSATE FOR AN ADDITIONAL TWO PERCENT A
13 YEAR, TO PUT OFF DELAYING PURCHASING THINGS. WELL, THAT
14 WOULD BE -- DURING THAT PERIOD THE CPI RAN 3.6 PERCENT SO
15 I WOULD GIVE 5.6 PERCENT.

16 Q NOW --

17 A I SHOULD ADD --

18 THE COURT: WHAT IS YOUR DOLLAR FIGURE?

19 THE WITNESS: FOR BACK PAY?

20 THE COURT: YES.

21 THE WITNESS: I DON'T HAVE IT. WE'RE REALLY
22 TALKING ABOUT SMALL DOLLARS, YOUR HONOR.

23 THE COURT: THAT'S WHAT I THOUGHT. THERE WASN'T
24 MUCH DIFFERENCE.

25 THE WITNESS: IT'S NOT GOING TO MAKE MUCH OF A

1 DIFFERENCE BECAUSE THERE'S NOT EVEN \$80,000 IN INTEREST
2 THAT DR. TRYON HAS IN THERE FOR BACK PAY. YOU ASKED ME
3 THE QUESTION IS THE INTEREST RATE THAT HE USED A BIT -- IS
4 IT APPROPRIATE OR TOO HIGH OR WHAT, AND THE ANSWER IS I
5 THINK IT IS A BIT HIGH.

6 Q NOW, DR. TRYON ASSUMED THAT THE PLAINTIFF WOULD HAVE
7 STAYED AT PRICE WATERHOUSE UNTIL THE YEAR 2004. DO YOU
8 THINK THAT'S A VALID ASSUMPTION TO MAKE IN THIS CASE?

9 A I THINK IT'S AN ASSUMPTION THAT HAS A LOT OF RISK TO
10 IT. I THINK IT'S A VERY QUESTIONABLE ASSUMPTION, FOR A
11 NUMBER OF REASONS.

12 Q AND BRIEFLY WHAT ARE THOSE REASONS?

13 A I WAS VERY MUCH IMPRESSED WITH WHAT I HEARD YESTERDAY
14 AND I UNDERSTAND TODAY THAT OUT OF THE 47 PEOPLE WHO
15 BECAME PARTNERS THE YEAR AT ISSUE, THAT I UNDERSTAND TODAY
16 THAT TEN ARE NO LONGER PARTNERS AT PRICE WATERHOUSE. THAT
17 TELLS YOU SOMETHING. PLUS ALSO I'VE SEEN SOME
18 INFORMATION --

19 THE COURT: WHAT DO YOU MEAN IT TELLS YOU
20 SOMETHING?

21 THE WITNESS: WELL, IT TELLS ME THAT PARTNERS
22 DON'T ALL STAY. THEY LEAVE. THEY WITHDRAW, THEY LEAVE
23 THE FIRM.

24 THE COURT: WHAT DOES IT TELL BUT INCOME? WE'RE
25 DEALING WITH MONEY. WE'RE NOT DEALING WITH THE COMPANY

1 NOW, WHAT DOES IT TELL BUT MONEY?

2 THE WITNESS: IF YOU'RE NOT THERE YOU CAN'T MAKE
3 THE MONEY, THAT'S FOR SURE.

4 THE COURT: WELL, DIDN'T THEY TELL YOU IF YOU'RE
5 A PARTNER THEN YOU'D MAKE MORE MONEY, SO YOU LEAVE AND GO
6 SOMEWHERE ELSE?

7 THE WITNESS: EXACTLY, WHICH MEANS YOU WOULDN'T
8 BE GOING SOMEPLACE ELSE FOR HALF THE MONEY, YOU'D BE
9 LEAVING AND GOING SOMEPLACE ELSE BECAUSE YOU WOULD MAKE
10 MORE MONEY THAN YOU HAVE THERE.

11 THE COURT: WHAT IT TELLS ME IS THAT THE WISE
12 PERSON GETS OUT OF THE RAT RACE, BUT THAT, YOU SEE, IS A
13 PERSONAL POINT OF VIEW, NOT AN ECONOMIC POINT OF VIEW.

14 THE WITNESS: THEY MAY BE GETTING INTO A RAT
15 RACE. IF YOU'RE NOT THERE YOU'RE NOT GOING TO MAKE THAT
16 HUGE EARNING STREAM THAT DR. TRYON PROJECTED. AND THE
17 PEOPLE IN THE PARTNERSHIP CLASS AT ISSUE, TEN OUT OF 47 I
18 UNDERSTAND DID LEAVE. TO DATE THAT'S ONLY A SIX-YEAR
19 PERIOD. IN THE FUTURE YOU EXPECT MORE.

20 SECONDLY I LOOKED AT INFORMATION ON HOW MANY
21 OTHER PEOPLE LEAVE PRICE WATERHOUSE AND I LOOKED AT THEIR
22 AGES WHEN THEY LEFT AND DURING THIS DECADE IT'S BECOME A
23 GROWING PHENOMENON THAT PARTNERS LEAVE PRICE WATERHOUSE
24 AND I UNDERSTAND FROM SPEAKING WITH OTHERS THAT THIS IS
25 NOT UNUSUAL. IT'S HAPPENING ELSEWHERE TOO. PEOPLE LEAVE.

1 THEY DON'T STAY PARTNERS.

2 BY MR. BOUTROSE:?

3 Q AND YOU THINK THAT WOULD BE RELEVANT TO THE NUMBER OF
4 YEARS THAT IT WOULD BE REASONABLE AND APPROPRIATE TO
5 PROJECT PAY AND LOSSES?

6 A I THINK YOU SHOULD CONSIDER IT. IT SHOULD BE TAKEN
7 INTO ACCOUNT AND IT MAKES THOSE BIG DOLLAR NUMBERS --

8 THE COURT: WELL, DOES IT MEAN MORE DOLLARS OR
9 LESS? NUMBERS?

10 THE WITNESS: TO ME IT WOULD MEAN LESS DOLLARS.

11 THE COURT: WHY?

12 THE WITNESS: BECAUSE YOU'RE NOT GOING TO GET ALL
13 THOSE YEARS OF INCOME AT PRICE WATERHOUSE AND IT ALSO
14 TELLS ME LESS DOLLARS BECAUSE IF YOU'RE NOT GOING TO GET
15 IT AT PRICE WATERHOUSE YOU WOULDN'T BE GETTING WORLD BANK
16 SALARIES, PEOPLE LEAVING PRICE WATERHOUSE, LEAVING
17 PARTNERSHIP POSITIONS TELLING THEM THERE'S MOBILITY,
18 TELLING ME THAT THEY CAN FIND EARNINGS AT THOSE LEVELS
19 SOMEPLACE ELSE.

20 THE COURT: DOESN'T IT MEAN THAT THEY HAVE FOUND
21 THAT THEY CAN STILL LIVE THE SAME WAY THEY HAD BEFORE?
22 AND THAT'S MAYBE THAT'S WHY THEY LEFT? YOU MEAN THEY'RE
23 ALL JUMPING OFF THE SHIP TO MAKE LESS MONEY.

24 THE WITNESS: EXACTLY THE OPPOSITE.

25 THE COURT: THEY'RE LEAVING TO MAKE MORE MONEY.

1 AND SO YOU'RE SAYING THERE'S MORE MONEY OUT THERE THAN
2 BEING IN PRICE WATERHOUSE IS WHAT YOU'RE SAYING FOR PEOPLE
3 OF THESE SKILLS.

4 THE WITNESS: OR AS MUCH ELSEWHERE AS AT PRICE
5 WATERHOUSE AND SO HENCE THE DIFFERENCE BETWEEN THE WORLD
6 BANK FIGURES AND THE PRICE WATERHOUSE FIGURES; THAT IS,
7 THAT HUGE GAP OR THAT HUGE LOSS WOULD BE LOWERED. THAT'S
8 WHAT IT TELLS ME, THAT THE HUGE LOSS YOU'RE SEEING OUT
9 THERE YEAR AFTER YEAR BETWEEN THE WORLD BANK AND BETWEEN
10 PRICE WATERHOUSE JUST IS REALLY NOT REASONABLE TO BELIEVE
11 BECAUSE WHY WOULD PEOPLE OF ALL AGES, YOUNG PEOPLE BE
12 LEAVING, FOR EXAMPLE, THE 10 OF THE 47, WHY WOULD THEY
13 LEAVE --

14 THE COURT: YOU DON'T STAY IN ANY KIND OF
15 GOVERNMENT SERVICE WITH THE IDEA OF MAKING MONEY. NOBODY
16 GOES TO ANY FORM OF GOVERNMENT WITH THE IDEA OF MAKING
17 MONEY.

18 THE WITNESS: EXACTLY, YOUR HONOR, I COULDN'T PUT
19 IT BETTER.

20 BY MR. BOUTROSE:

21 Q DR. ANDRISANI --

22 A IF I COULD JUST ADD ANOTHER POINT OR SO ABOUT -- I
23 NOTICE THERE ARE A LOT OF PARTNERS LEAVING AND THAT THE
24 TREND TOWARDS PARTNERS LEAVING WAS INCREASING AND THAT
25 TELLS ME THAT THE LOSSES THAT DR. TRYON'S PROJECTING WOULD

1 BE OFF. THE OTHER POINT IS THAT A PERSON CAN DIE. IF YOU
2 DO YOU WOULDN'T GET THIS INCOME STREAM. YOU WOULDN'T BE
3 ENCOUNTERING THESE LOSSES. DYING IS A RISK, A REAL RISK
4 YOU HAVE TO TAKE INTO ACCOUNT.

5 ANOTHER POINT IS THAT A PERSON TODAY ASKING TO BE
6 GIVEN DOLLARS TODAY WOULD I THINK ACCEPT A SMALLER AMOUNT
7 THAN THE AMOUNT THAT YOU WOULD PROJECT THEY WOULD GET, IF
8 THEY TURNED OUT TO BE THE AVERAGE PERSON. IF YOU THINK
9 THAT MISS HOPKINS WOULD GET ALL THIS MONEY AND WOULD TURN
10 OUT TO BE THE AVERAGE PERSON AND WOULD LIVE TO BE 80 YEARS
11 OF AGE, YOU KNOW, YOU TAKE YOUR CHANCES AND PLAY THE GAME.

12 BUT IF YOU REALIZE THAT THIS EARNING STREAM AND
13 ALL OF THIS BUSINESS OF GENERATING EARNING STREAM AT PRICE
14 WATERHOUSE AND ELSEWHERE IS EXTREMELY RISKY YOU HAVE TO
15 DISCOUNT FOR THAT RISK AND THE ONLY DISCOUNTING FACTOR DR.
16 TRYON HAD IN THERE WAS THE 5.8 PERCENT.

17 Q AND YOU'VE REVIEWED THE CALCULATIONS OF RETIREMENT
18 BENEFITS?

19 A YES.

20 Q THAT PROFESSOR TRYON DID?

21 A YES.

22 Q YOU UNDERSTAND THERE'S A DIFFERENCE BETWEEN THE
23 VARIABLE AND FIXED PLAN?

24 A YES.

25 Q BASED ON YOUR OPINION AND YOUR EVALUATION OF THE

1 DIFFERENCES BETWEEN -- WHAT DO YOU UNDERSTAND THE CRITICAL
2 DIFFERENCE IS BETWEEN THOSE TWO PLANS IN TERMS OF --

3 A WELL, AS DR. TRYON SHOWED, YOU GET A LOT LESS MONEY
4 IF YOU OPT FOR THE FIXED PLAN THAN IF YOU OPT FOR THE
5 VARIABLE PLAN.

6 Q UNDER HIS PROJECTIONS?

7 A YES, UNDER HIS PROJECTIONS IT WOULD MAKE A BIG
8 DIFFERENCE.

9 Q WOULD A REASONABLE PERSON -- WOULD IT BE AN
10 ECONOMICALLY SOUND CHOICE IN YOUR OPINION TO TAKE THE
11 FIXED PLAN?

12 A IT CERTAINLY COULD BE. I THINK TO DISMISS IT OUT OF
13 HAND AND SAY THAT NOBODY IN THEIR RIGHT MIND WOULD TAKE
14 THIS PLAN IS EXTREMELY UNREASONABLE. I THINK THERE'S SOME
15 VERY GOOD OBVIOUS REASONS WHY PEOPLE WOULD OPT PERHAPS FOR
16 THE FIXED PLAN.

17 Q WHAT REASONS?

18 A ONE REASON IS THAT WHILE ON AVERAGE THE AVERAGE
19 PERSON MIGHT DO BETTER WITH THE VARIABLE PLAN THAT DOESN'T
20 MEAN THAT EVERYBODY WILL. IT REALLY DEPENDS ON WHAT
21 ENFOLDS IN THE FUTURE. SOME PEOPLE MIGHT WANT TO BET
22 AGAINST THE FIRM. THEY MAY FEEL THAT THE FIRM ISN'T GOING
23 TO DO THAT WELL IN THE FUTURE, THAT ITS BEST DAYS ARE
24 BEHIND IT AND, HENCE, THE ABILITY OF THE VARIABLE PLAN TO
25 GENERATE THOSE LARGE DOLLARS, THAT ABILITY JUST WON'T BE

1 THERE. SO PEOPLE MIGHT BET AGAINST THE PLAN AND TAKE THE
2 GUARANTEE AS OPPOSED -- THE FIXED AS OPPOSED TO THE
3 VARIABLE.

4 ANOTHER REASON IS IF YOU WANT TO CONTINUE WORKING
5 AND IF A PERSON IS GOING TO RETIRE AT 60 AND EXPECT TO
6 LIVE TO BE 80 THEY MIGHT WANT TO CONTINUE WORKING. IF YOU
7 WANT TO CONTINUE WORKING AND GENERATING BIG BUCKS THEN THE
8 FIXED PLAN BECOMES THE ALTERNATIVE OF CHOICE, AND THEN
9 ANOTHER REASON IS A SIMPLE ONE, THAT SOME PEOPLE JUST
10 DON'T WANT TO PLAY THE GAME AND TAKE THE CHANCES. THEY
11 MIGHT KNOW THAT ON AVERAGE IF YOU PLAY THIS GAME A
12 THOUSAND TIMES AND SPIN THE WHEEL OF FORTUNE A THOUSAND
13 TIMES YOU'LL COME UP WITH A REAL BIG NUMBER, BUT THEY MAY
14 OPT NOT TO SPIN KNOWING FULL WELL THEY'D RATHER TAKE A
15 FIRM AMOUNT, A FIXED AMOUNT THAT'S SMALLER BUT AVOID THE
16 RISK OF PLAYING THE GAME AND LOSING IT ALL.

17 Q I'D LIKE YOU TO REFERR TO DEFENDANT'S A18 JUST
18 BRIEFLY?

19 A EXCUSE ME, I DON'T THINK I HAVE THAT IN FRONT OF ME.

20 I DO.

21 Q AND THIS IS THE PRICE WATERHOUSE SHARE VALUE
22 PROJECTIONS 1984 TO '89, THE INCREASE, THE ACTUAL INCREASE
23 IN THE SHARE VALUE WHICH WAS 5.38 PERCENT. PROFESSOR
24 TRYON'S IMPLIED SHARE VALUE INCREASED FOR THE YEARS 1990'
25 TO 1995, PROJECTED SHARE VALUES RISE AT A RATE OF 34.8

1 PERCENT. WERE YOU HERE THIS MORNING TO -- DID YOU HEAR
2 MR. CONNOR'S TESTIMONY ABOUT THE UNCERTAINTIES IN THE
3 ACCOUNTING MARKET?

4 A YES.

5 Q AND BASED ON THAT TESTIMONY AND BASED ON THE ACTUAL
6 INCREASE FOR THE LAST FIVE YEARS OF THE PRICE WATERHOUSE
7 SHARE VALUES, DO YOU BELIEVE THAT IT'S REASONABLE TO
8 ASSUME OR APPROPRIATE TO ASSUME THAT THE RISE WILL
9 DRAMATICALLY INCREASE OR INCREASE BY 35 PERCENT OVER THE
10 NEXT FIVE YEARS?

11 A I THINK IT'S A VERY RISKY ASSUMPTION, VERY
12 OPTIMISTIC. VERY ROSY. I'M SURE EVERYONE IN PRICE
13 WATERHOUSE WOULD LOVE TO SEE IT HAPPEN, BUT I THINK IT'S
14 EXTREMELY RISKY AND VERY OPTIMISTIC ESPECIALLY AFTER THE
15 HISTORY OF THE LAST FIVE YEARS AND LOOKING AT THE
16 TREMENDOUS COMPETITION IN THE INDUSTRY.

17 MR. BOUTROSE: I HAVE NO FURTHER QUESTIONS.

18 MR. HURON: IF I CAN HAVE ONE MOMENT, YOUR HONOR.

19 YOUR HONOR, I WILL TRY TO BE AS BRIEF AS I CAN.

20 I DO WANT TO FOLLOW UP ON A FEW OF THESE POINTS.

21 CROSS-EXAMINATION

22 BY MR. HURON:

23 Q I TAKE IT YOUR -- THE KEY ASSUMPTION YOU'RE
24 UTILIZING, DR. ANDRISANI, IS THAT AFTER TWO YEARS OR THREE
25 YEARS OR FOUR YEARS THE PLAINTIFF HERE, ANN HOPKINS, COULD

1 HAVE BEEN MAKING SOMEWHERE ELSE AS MUCH AS SHE WOULD HAVE
2 BEEN MAKING AS A PARTNER AS PRICE WATERHOUSE AT THAT TIME?

3 A YES, AND THEREAFTER.

4 Q SURE, AND THEN THEREAFTER HER EARNINGS, AND I THINK
5 WHAT YOU HAVE SAID IS, FOR EXAMPLE, PERHAPS A PARTNER IN
6 ANOTHER BIG EIGHT FIRM AS ONE POSSIBILITY?

7 A THE POINT IS NOT AS A PARTNER, AT LEAST MAKING THAT
8 INCOME LEVEL. THE POINT IS WILL THE INCOME BE THE SAME.
9 THE PARTNERSHIP IS A COROLLARY OF IT, BUT NOT ABSOLUTELY
10 ESSENTIAL. YOU DON'T HAVE TO GO TO A BIG SIX ACCOUNTING
11 FIRM TO EARN BIG BUCKS OR WHAT YOU WOULD HAVE EARNED AT
12 PRICE WATERHOUSE.

L
13 Q DO YOU HAVE A COPY OF EXHIBIT A14?

14 A I HAVE PLAINTIFF'S 6 AND PLAINTIFF'S 15.

15 OKAY.

16 Q WHAT WAS A PARTNER IN MISS HOPKINS' CLASS AT PRICE
17 WATERHOUSE EARNING IN 1987?

18 A IN 1987 I SEE \$159,265.

19 Q SO WHAT YOU'RE SAYING IS, IF I UNDERSTAND YOU
20 CORRECTLY, THAT THERE IS NO REASON WHY MISS HOPKINS
21 COULDN'T HAVE GOTTEN A JOB IN 1984 WITH ANOTHER FIRM THAT
22 BY 1987 SHE WOULD HAVE BEEN MAKING 160; IS THAT RIGHT?

23 A I THINK THAT'S TRUE.

24 Q AND YOU SAID THAT THERE ARE OTHER FISH IN THE SEA
25 BESIDES PRICE WATERHOUSE?

1 A ABSOLUTELY.

2 Q WHICH FISH AS OF 1984 CAN YOU IDENTIFY THAT WOULD
3 HAVE EXTENDED AN OFFER TO MISS HOPKINS?

4 A I CAN'T NAME A SPECIFIC FIRM THAT WOULD HAVE PAID OR
5 WOULD HAVE MADE AN OFFER TO MISS HOPKINS.

6 Q OKAY.

7 A IT DEPENDS ON LOTS OF THINGS. MY POINT WAS
8 ESSENTIALLY AS I MADE IT. IT'S HARD FOR ME TO IMAGINE
9 THAT PRICE WATERHOUSE IS THE ONLY FISH IN THE SEA.

10 Q THAT'S WHAT I UNDERSTOOD YOU TO SAY, DOCTOR. I THINK
11 YOU'RE ALSO ASSUMING, ARE YOU NOT, THAT IF MISS HOPKINS
12 HAD GONE AND BECOME A PARTNER IN ANOTHER BIG EIGHT FIRM
13 THAT SHE WOULD HAVE MADE AS A PARTNER THERE THE SAME
14 AMOUNT AS SHE WOULD HAVE MADE AS A PARTNER AT PRICE
15 WATERHOUSE. IN OTHER WORDS, THAT THE PARTNER DRAWS ARE
16 PRETTY MUCH THE SAME IN THE BIG EIGHT?

17 A NO, NOT AT ALL.

18 Q YOU'RE NOT ASSUMING THAT.

19 A NOT NECESSARILY. THERE ARE FIRMS THAT PAY MORE THAN
20 PRICE WATERHOUSE THAT AREN'T IN THE BIG SIX. THERE ARE
21 FIRMS PAYING MORE THAN PRICE WATERHOUSE THAT ARE IN THE
22 BIG SIX. THERE ARE PEOPLE AT PRICE WATERHOUSE WHO ARE
23 PARTNERS IN HER CLASS THAT DON'T EARN THE AVERAGE. THESE
24 AVERAGES ARE AVERAGES. THERE ARE A LOT OF PEOPLE MAKING
25 ABOVE THAT 160,000. THERE ARE A LOT OF PEOPLE MAKING

1 LESS. MY POINT IS THAT WHATEVER SHE COULD HAVE DONE IN
2 ONE PLACE IT'S HARD FOR ME TO IMAGINE THAT MAKING A
3 TRANSITION AND IMPROVING WHAT SHE'S LEARNED SOMEPLACE
4 ELSE, THAT SHE COULDN'T DO IT THERE ALSO.

5 Q YOU SAID YOU WERE IN COURT YESTERDAY WHEN MR. BEACH
6 TESTIFIED?

7 A YES, SIR.

8 Q AND DID YOU RECALL HIM TESTIFYING THAT AS OF JUST A
9 COUPLE OF YEARS AGO SENIOR MANAGERS AT HIS FIRM WERE
10 MAKING 70,000?

11 A DID HE SAY THAT OF AVERAGE? I ASSUMED HIM TO SAY ON
12 AVERAGE.

13 Q I THINK MR. HELLER USED THE PHRASE ON THE CUSP OF
14 PARTNERSHIP. DO YOU RECALL THAT EXCHANGE?

15 A I TOOK THAT TO MEAN ON AVERAGE.

16 Q AND DO YOU RECALL HIS SAYING THAT A FIRST YEAR
17 PARTNER WHO HAD BEEN MAKING THAT AMOUNT WOULD MAKE ABOUT
18 20 PERCENT MORE?

19 A ON AVERAGE. SOME WHO CAN MAKE RAIN, AS THEY SAY IN
20 THE TRADE; SOME WHO CAN BRING IN CLIENTS WHO CAN SHOW WHAT
21 THEY'RE REALLY WORTH AND BE ABLE TO GENERATE THE DOLLARS.
22 I MEAN SHE GENERATED CLOSE TO \$500,000 IN REVENUE IN THE
23 SHORT PERIOD OF TIME SHE HAD HER BUSINESS. THAT DOESN'T
24 NECESSARILY CORRELATE WITH THE AVERAGE AT TOUCHE ROSS.

25 Q SO YOU'RE SAYING IF SHE HAD BEEN A PARTNER AT PRICE

1 WATERHOUSE SHE PROBABLY WOULD HAVE PERFORMED BETTER THAN
2 EXPECTED; IS THAT WHAT YOU'RE SAYING?

3 A NO, I'M SAYING WHATEVER SHE WOULD HAVE DONE AT PRICE
4 WATERHOUSE IF SHE COULD HAVE GENERATED THIS STREAM OF
5 REVENUE AND FOLLOWED A STREAM OF EARNINGS THERE I CAN'T
6 SEE WHY AFTER SOME TIME FOR MAKING A TRANSITION SOMEPLACE
7 ELSE SHE COULDN'T DO IT SOMEPLACE ELSE. I DON'T WANT TO
8 REPEAT THE FISH IN THE SEA BUT IT'S THE SAME POINT.

9 Q BUT YOU DID UNDERSTAND MR. BEACH TO SAY ON AVERAGE A
10 FIRST YEAR PARTNER AT HIS FIRM WHO HAD BEEN MAKING ABOUT
11 70,000 AS A SENIOR MANAGER WOULD BE MAKING IN THE
12 MID-EIGHTIES?

13 A YES. AS I RECALL, HE SPECULATED. THAT WAS HIS BEST
14 GUESS AND AGAIN IT IS MY UNDERSTANDING IT WAS AN AVERAGE.

15 Q AND YOU RECALL, DON'T YOU, THAT MISS HOPKINS AT THE
16 TIME SHE LEFT PRICE WATERHOUSE BACK IN '84 WAS MAKING AS A
17 SENIOR MANAGER WAY BACK THEN ABOUT 70,000, RIGHT?

18 A YES, THAT'S CORRECT.

19 Q AND IF SHE HAD GONE TO BE A FIRST YEAR PARTNER, WHAT
20 WOULD SHE HAVE MADE THEN?

21 A THAT FIRST YEAR THE ESTIMATE WAS 107,157.

22 Q SO SHE WOULD HAVE MADE ON AVERAGE \$107,000 AT PRICE
23 WATERHOUSE, WHEREAS ON AVERAGE AT MR. BEACH'S FIRM SHE
24 WOULD HAVE MADE 85,000, RIGHT?

25 A WELL, MAYBE AT PRICE WATERHOUSE SHE ONLY WOULD HAVE

1 GOTTEN A TEN PERCENT HIT ALSO OR 20 PERCENT HIT. IF SHE'S
2 MAKING 70 AND THEY ONLY GAVE HER A 20 PERCENT HIT THAT
3 WOULD BE 84.

4 Q THAT'S NOT WHAT HAPPENED AT PRICE WATERHOUSE, IS IT?

5 A WELL, SHE COULD HAVE BEEN BELOW AVERAGE AT PRICE
6 WATERHOUSE, SURE.

7 Q AND YOU HEARD OTHER TESTIMONY TODAY FROM PEOPLE FROM
8 OTHER FIRMS SAYING THAT THERE'S THE SAME PHENOMENON, THAT
9 THEY GENERALLY PAY FIRST YEAR PARTNERS 15 TO 20 PERCENT
10 MORE THAN SENIOR MANAGERS, IS THAT RIGHT?

11 A NO, I DIDN'T. I WASN'T HERE FOR THAT.

12 Q WOULD YOU TAKE A LOOK AT DEFENDANTS EXHIBIT A7, THIS
13 LIST OF PEOPLE WHO LEFT PRICE WATERHOUSE AND WENT TO
14 ANOTHER FIRM, SUBSEQUENTLY BECAME A PARTNER? I THINK YOU
15 HAVE IT THERE?

16 A YES.

17 Q AND I BELIEVE I'M ACCURATE THAT ON THIS LIST THERE
18 WERE FOUR PEOPLE WHO ACTUALLY HAD BEEN PROPOSED FOR
19 PARTNERSHIP AT PRICE WATERHOUSE BUT HAD BEEN PASSED OVER.
20 THEY'RE MARKED WITH AN ASTERISK, DO YOU SEE THAT?

21 A I SEE THE ASTERISK. I SEE ONE, TWO, THREE, FOUR,
22 OKAY.

23 Q AND THAT COVERS THE TIME PERIOD 1980 TO 1987?

24 A THAT'S MY UNDERSTANDING.

25 Q YOU HEARD MR. CONNOR TESTIFY THAT IN 1983 ALONE THERE

1 WERE ABOUT 21 PEOPLE WHO WERE REJECTED OUTRIGHT FOR
2 PARTNERSHIP AT PRICE WATERHOUSE?

3 A I DON'T RECAL THAT. I CAME IN DURING HIS TESTIMONY,
4 SO I MAY HAVE MISSED THAT.

5 Q LET ME ASK YOU TO ASSUME THAT ROUGHLY 20 PERCENT OF
6 THE CANDIDATES A YEAR AT PRICE WATERHOUSE ARE OUTRIGHT
7 REJECTED AND THAT THERE ARE A MINIMUM -- HAVE BEEN A
8 MINIMUM OF 80 CANDIDATES A YEAR SINCE 1980?

9 A OKAY.

10 Q SO BETWEEN '80 AND '87 HOW MANY CANDIDATES ROUGHLY
11 WOULD HAVE BEEN REJECTED OUTRIGHT, THERE WOULD HAVE BEEN
12 UPWARDS OF A HUNDRED, RIGHT?

13 A YOU LOST ME ON THAT. 80 MADE IT, OKAY.

14 Q 80 ARE PROPOSED EACH YEAR AT A MINIMUM. 20 PERCENT
15 OR 16 AT LEAST ARE REJECTED OUTRIGHT EACH YEAR?

16 A SO YOU HAVE 64 THAT WILL MAKE IT.

17 Q I'M JUST TALKING ABOUT THE PEOPLE WHO ARE REJECTED,
18 OKAY?

19 A OKAY.

20 Q AND YOU'RE TALKING ABOUT A SIX-SEVEN YEAR TIME SPAN,
21 '80 TO '87, RIGHT?

22 A RIGHT.

23 Q THAT'S OVER A HUNDRED, IS IT NOT?

24 A 16 TIMES SIX WOULD BE RIGHT AROUND 100, SO TIMES
25 SEVEN OR EIGHT, SURE.

1 MR. BOUTROSE: YOUR HONOR, I'M GOING TO OBJECT.
2 AS WAS STATED EARLIER THIS MORNING THIS LIST DOES NOT
3 PURPORT TO BE A DEFINITIVE LIST OF ALL THE PEOPLE WHO LEFT
4 THE FIRM, BECAME PARTNERS IN OTHER OFFICES.

5 THE COURT: OH, I KNOW IT ISN'T. HE ISN'T SAYING
6 THAT EITHER. HE'S WORKING UP TO SOMETHING. I'M WAITING
7 WITH BAITED BREATH. WHAT IS IT?

8 BY MR. HURON:

9 Q DR. ANDRISANI, YOU'RE AN ECONOMIST. IF MORE THAN 100
10 PEOPLE WERE REJECTED OUTRIGHT FOR PRICE WATERHOUSE AND
11 PRICE WATERHOUSE CAN ONLY IDENTIFY FOUR THAT WOUND UP AS
12 PARTNERS IN OTHER FIRMS DOESN'T THAT SUGGEST TO YOU THAT
13 THE ODDS ARE PRETTY LONG IN MAKING THAT SORT OF SWITCH
14 ONCE YOU HAVE BEEN REJECTED?

15 A I WANT TO MAKE SURE I UNDERSTAND YOUR POINT. IF ALL
16 THAT'S TRUE THAT MAY TELL YOU THAT THE ODDS MAY BE LONG
17 POSSIBLY; IF THIS WERE A DEFINITIVE LIST IN YOUR
18 HYPOTHETICAL OF MAKING PARTNER. BUT DON'T JUMP FROM THAT
19 CONCLUSION TO THE CONCLUSION THAT THEREFORE YOU DON'T MAKE
20 THE MONEY. YOU CAN GO OUT OF THE BIG SIX AND GO TO WORK
21 FOR A CLIENT. YOU CAN GO OUT OF THE BIG SIX AND GO TO
22 WORK FOR A FIRM THAT'S OUTSIDE THE BIG SIX, THAT'S ON THE
23 EDGE OF IT, OR ANOTHER FIRM, AND STILL MAKE THE SAME
24 AMOUNT OF MONEY. IN MY MIND WHAT I SEE AS THE MAIN ISSUE.
25 IS CAN YOU MAKE THIS MONEY ELSEWHERE, NOT NECESSARILY

1 WHETHER YOU GET -- I DON'T THINK WE'RE TALKING ABOUT TITLE
2 AND THE TRAPPINGS OF OFFICE. I THOUGHT WE WERE TALKING
3 ABOUT MONEY, AND THAT'S WHAT I'M FOCUSING ON.

4 Q THAT'S WHAT WE'RE TRYING TO FOCUS ON.

5 A OKAY. THAT'S WHAT I THOUGHT.

6 Q YOU HAD SAID THAT YOU HAD LOOKED AT MISS HOPKINS'
7 CORPORATE TAX RETURNS AND INDICATED SHE BROUGHT IN ABOUT
8 450,000 --

9 A NO.

10 Q EXCUSE ME?

11 A I DID NOT.

12 Q HER CONSULTING INCOME, EXCUSE ME.

13 A YES, BOTH HER CORPORATE AND HER PERSONAL BUSINESS
14 INCOME.

15 Q AND A LESSER AMOUNT WAS TAKEN AS SALARY?

16 A YES.

17 Q AND YOU'RE NOT AN EXPERT ON THE TAX LAWS, RIGHT?

18 A NO.

19 Q YOU WEREN'T TRYING TO SUGGEST THAT IN ANY WAY ANY OF
20 THE DEDUCTIONS WERE INAPPROPRIATE?

21 A ABSOLUTELY NOT. I ASSUMED THEY WERE ALL APPROPRIATE.
22 MY POINT WAS NOT AS TO THE APPROPRIATENESS OF IT, I'LL
23 LEAVE THAT TO THE IRS, BUT MY POINT IS SIMPLY IF YOU LOOK
24 AT THE EARNINGS THAT ARE DECLARED OUT OF THE GROSS REVENUE
25 WHEN AN OFFICER OF THE BUSINESS IS IN A POSITION TO TAKE

1 MORE SALARY AS OPPOSED TO LESS; FINANCE, BUYING COMPUTERS
2 AND SO FORTH FROM A BANK RATHER THAN OUT OF YOUR SALARY,
3 THAT THE SALARY AS REPORTED IN THE TAX FORMS WHILE IT MAY
4 BE APPROPRIATE FOR THE IRS ISN'T NECESSARILY THE
5 APPROPRIATE OFFSET IN A PROCEEDING OF THIS SORT.

6 Q WHY ISN'T THE SAME THING TRUE OF A PARTNER IN PRICE
7 WATERHOUSE? PRESUMABLY THE PARTNER IS NOT TAKING OUT A
8 HUNDRED PERCENT OF THE INCOME -- OF HIS OR HER SHARE OF
9 THE INCOME GENERATED BY THE FIRM, RIGHT? A LOT OF IT IS
10 USED TO PAY OVERHEAD AND SO FORTH. ISN'T THAT TRUE OF ANY
11 ENTERPRISE, DR. ANDRISANI?

12 A THAT'S TRUE. THEN WHAT DOES THAT MEAN? WHAT
13 CONCLUSION DOES IT LEAD YOU TO? THAT DOESN'T CHANGE MY
14 CONCLUSION ONE BIT. MY POINT IS THAT THIS IS VENTURE
15 CAPITAL. THIS IS VENTURE CAPITAL, FOREGONE EARNINGS,
16 EARNINGS FOREGONE TO INVEST IN BUILDING A BUSINESS AND
17 THESE FOREGONE EARNINGS WOULD HAVE BEEN RECOUPED IF THE
18 BUSINESS HADN'T FAILED.

19 Q WERE YOU HERE THIS MORNING WHEN MR. CONNOR WAS
20 TESTIFYING ABOUT PARTNERS WHO WITHDREW AFTER A COUPLE OF
21 YEARS BECAUSE THEY DIDN'T ACCUMULATE A SUBSTANTIAL NUMBER
22 OF SHARES, I THINK AROUND 300 OR SO SHARES IN THE FIRST
23 COUPLE OF YEARS?

24 A I THINK I REMEMBER HEARING SOMETHING ABOUT THAT.
25 THAT THERE WERE SOME PEOPLE WHO AFTER A FEW YEARS

1 WITHDREW.

2 Q AND LOOKING AT DEFENDANT'S A20 WHICH IS A LIST -- DO
3 YOU HAVE THAT? THE LIST --

4 A I HAVE D18. I HAVE SOME HERE. PLAINTIFF'S FIVE,
5 SIX, 13. 17, 18. NO, I DO NOT.

6 Q LOOKING AT THAT, DEFENDANT'S A20, AND ASSUMING FOR
7 THE MOMENT THAT A PARTNER PERFORMING AS EXPECTED WOULD
8 HAVE HAD 340 SHARES, ISN'T IT EVIDENT THAT A GOOD NUMBER
9 OF THOSE PARTNERS WERE PEOPLE WHO WERE NOT PERFORMING AS
10 EXPECTED, THE ONES WHO WITHDREW? THE ONES IN MISS
11 HOPKINS' CLASS I'M REFERRING TO.

12 A THERE WERE SOME LOW NUMBERS.

13 Q ABOUT HALF OF THEM, RIGHT?

14 A ABOUT HALF OF WHAT? ABOUT HALF OF THE WITHDRAWALS?

15 Q YES.

16 A AND WHERE DID YOU GET YOUR 340? THAT'S YOUR AVERAGE,
17 YOU'RE SAYING, FOR 60 -- FOR SIX YEARS.

18 Q PERFORMING AS EXPECTED FOR SIX YEARS.

19 THAT'S FROM PLAINTIFF'S EXHIBIT A7, YOUR HONOR.

20 A YES.

21 Q YOU HAVE NO REASON AT ALL TO PREDICT THAT MISS
22 HOPKINS WOULD PERFORM LESS THAN AS EXPECTED, DO YOU?

23 A NO, I HAVE NO REASON.

24 Q DR. ANDRISANI, YOU TESTIFIED ABOUT DEFENDANT'S A18,
25 AND I'D LIKE TO ASK YOU A COUPLE OF QUESTIONS ABOUT IT.

1 UP AT THE TOP YOU HAVE A CHART SHOWING WHAT PRICE
2 WATERHOUSE SHARE VALUE HAS ACTUALLY DONE FOR THE LAST FIVE
3 YEARS AND THEN YOU SHOW DR. TRYON'S IMPLIED SHARE VALUE
4 FOR THE NEXT FIVE, IS THAT RIGHT?

5 A YES.

6 Q NOW, IN FACT, DR. TRYON HAD TWO SETS OF IMPLIED SHARE
7 VALUES, DIDN'T HE?

8 A THAT'S MY BEST RECOLLECTION.

9 Q AND THIS ONE IS USING 1.5 PERCENT PRODUCTIVITY
10 ADVANCE, RIGHT?

11 A WELL, 1.5 NATIONAL PRODUCTIVITY ADVANCE AS OPPOSED TO
12 THE AGE, EXPERIENCE.

13 Q AND HIS OTHER PRODUCTIVITY ADVANCE WAS .8 WHICH IS
14 SPECIFIC TO PRICE WATERHOUSE, RIGHT?

15 A YES.

16 Q AND HE DERIVED THAT FROM --

17 A OH, EXCUSE ME, .8, BUT THEN YOU ADD TO IT THE REST OF
18 THE FIGURES. THIS IS RISING SO BIG NOT JUST BECAUSE OF
19 THE .3 OR THE 1.5, THIS IS RISING SO DRAMATICALLY, AS I
20 UNDERSTAND IT, BECAUSE OF OTHER FACTORS.

21 Q ONE OF THE OTHER FACTORS IS INFLATION THAT HE
22 TESTIFIED ABOUT?

23 A INFLATION, AND THE AGE, EXPERIENCE.

24 Q WELL, THE RECORD WILL REFLECT. DON'T YOU RECALL
25 DR. TRYON'S SAYING THAT IN IMPLYING SHARE VALUE HE DID NOT

1 TAKE THAT INTO CONSIDERATION, ONLY INFLATION AND
2 PRODUCTIVITY ADVANCE?

3 A I GUESS -- IF THAT'S WHAT THE RECORD REFLECTS. THERE
4 ARE SO MANY THINGS IN THE REPORT.

5 THE COURT: I WOULD TELL YOU NOW ON ALL OF THIS
6 I'M LOST, I DON'T EVEN KNOW WHAT EITHER ONE OF YOU IS
7 TALKING ABOUT, IF IT'S OF ANY HELP. I'VE LOST IT. YOU'RE
8 HAVING NOT AN EXAMINATION OF A WITNESS, BUT YOU'RE HAVING
9 A CONFERENCE BETWEEN YOU ABOUT PROBLEMS IN THE CASE AND I
10 DON'T IDENTIFY WHEN YOU SIGNAL A PROBLEM WHAT ITS
11 CONSEQUENCES ARE AND, THEREFORE, I DON'T KNOW WHETHER IT'S
12 A BIG CONSEQUENCE OR A LITTLE CONSEQUENCE OR JUST
13 SOMETHING YOU'D LIKE TO BRING OUT BECAUSE SOMEBODY TOLD
14 YOU IT WAS A GOOD THING TO BRING OUT AND SO I'M BEGINNING
15 TO -- I'M LOSING MORE AND MORE OF FEELING I'M WITH THE
16 CASE AND I JUST WANT TO TELL YOU THAT BECAUSE -- IT SHOWS
17 I NEED HELP. IT MUST HAVE BEEN OVER MY HEAD WITH RESPECT
18 TO THAT.

19 MR. HURON: I DOUBT THAT, YOUR HONOR.

20 THE COURT: WELL, I'M QUITE SURE I MAY BE AND I
21 DON'T UNDERSTAND WHAT'S GOING ON NOW AND SINCE YOU WANT ME
22 TO UNDERSTAND, I'M TRYING TO SIGNAL IT. PERHAPS YOU COULD
23 IDENTIFY MORE CLEARLY -- ARE WE TALKING AS WE WERE A
24 MOMENT AGO ABOUT \$6000 OR ARE WE TALKING ABOUT SOMETHING
25 REALLY BIG, OR WHAT ARE WE DOING?

1 MR. HURON: LET ME JUST ASK, AND I'M TOWARD THE
2 END -- IN FACT, AT THE END OF THIS CROSS, YOUR HONOR.

3 BY MR. HURON:

4 Q DR. TRYON'S FIGURES, HIS IMPLIED SHARE VALUES WERE
5 BASED ON PRICE WATERHOUSE DATA GOING BACK 17 OR 18 YEARS,
6 ISN'T THAT RIGHT?

7 A RIGHT. THAT'S MY UNDERSTANDING. THIS IS BASED ON A
8 LONG TIME PERIOD AND YOU SEE A TREMENDOUS AMOUNT OF GROWTH
9 OVER A FIVE OR SIX YEAR PERIOD OF 35 PERCENT.

10 Q SO THE DIFFERENCE IS YOU THINK IT SHOULD BE A SHORTER
11 PERIOD', HE THINKS YOU SHOULD LOOK FURTHER BACK?

12 A THAT'S ONE MAIN PROBLEM. THE OTHER PROBLEM IS WHAT'S
13 THE BEST PREDICTOR OF THE FUTURE. IF YOU REALLY THINK THE
14 FUTURE IS GOING TO BE LIKE THE LAST 17 YEARS, THEN I THINK
15 DR. TRYON IS RIGHT; BUT IT'S -- I THINK IT'S VERY RISKY TO
16 THINK THE ECONOMY OF THE FUTURE WILL BE LIKE THE LAST 17
17 YEARS. EVERYBODY WHO I'VE TALKED TO AND EVERYTHING I READ
18 ABOUT HOW THE WHOLE INDUSTRY IS DOING SUGGESTS THE SAME
19 THING, AND THEN WHEN YOU LOOK AT WHAT PRICE WATERHOUSE HAS
20 BEEN DOING IN THE LAST FIVE YEARS YOU REALLY HAVE TO BE
21 OPTIMISTIC TO THINK YOU'RE GOING TO GENERATE 34.8 PERCENT.

22 Q ARE YOU AWARE OF ANY PUBLIC DATA ON EARNINGS IN THE
23 ACCOUNTING INDUSTRY, THE BIG EIGHTS?

24 A THERE ARE DATA ON HOW CONSULTING COMPANIES ARE DOING.
25 AND HOW THE FIELD IS CHANGING. I CAN'T PUT MY FINGERS ON

1 ACTUAL EARNINGS. I DON'T HAVE ANYTHING IMMEDIATELY THAT
2 COMES TO MIND.

3 MR. HURON: ONE MOMENT, PLEASE, YOUR HONOR.

4 A WITH THIS SMALL GROWTH HERE OVER THE LAST FIVE YEARS
5 AND EVEN WITH INFLATION TAKEN INTO ACCOUNT IT'S JUST VERY
6 SMALL.

7 MR. HURON: YOUR HONOR, I HAVE NO FURTHER CROSS.

8 MR. BOUTROSE: I HAVE NO REDIRECT, YOUR HONOR.

9 THE COURT: ALL RIGHT, SIR, THANK YOU.

10 THE WITNESS: THANK YOU, YOUR HONOR.

11 MR. OLSON: WE ARE READY TO CLOSE, YOUR HONOR,
12 WITH THE EXCEPTION OF ONE PIECE OF EVIDENCE AND I'LL OFFER
13 IT IN THE FORM OF A STIPULATION. YOU INDICATED A FEW
14 MOMENTS AGO SOME UNCERTAINTY WITH RESPECT TO WHAT WAS
15 MEANT BY A SHARE, A PRICE WATERHOUSE SHARE. I WOULD OFFER
16 TO STIPULATE WITH PLAINTIFF'S COUNSEL THAT A SHARE IN
17 PRICE WATERHOUSE AS WE'VE BEEN DISCUSSING DURING THIS CASE
18 IS AN ALLOCATION OF INCOME FOR THAT PARTICULAR YEAR. IT
19 IS NOT A CAPITAL ASSET BUT IS SIMPLY HOW MUCH OF A PORTION
20 OF THE TOTAL PIE A PARTNER OR PRINCIPAL WOULD GET IN THAT
21 PARTICULAR YEAR.

22 THE COURT: ALL RIGHT, BUT I UNDERSTOOD THAT IT
23 REFLECTED, MAYBE I MISUNDERSTOOD THE TESTIMONY, I
24 UNDERSTOOD THAT IT REFLECTED MORE THAN WHAT HAPPENED IN
25 THE UNITED STATES.

1 MR. HELLER: NO, I THINK THAT'S NOT TRUE, YOUR
2 HONOR. I BELIEVE THAT EACH PRACTICING FIRM, INCLUDING THE
3 PRICE WATERHOUSE UNITED STATES WHICH WE'VE REALLY BEEN
4 TALKING ABOUT FOR ALL BUT A FEW SECONDS, IS INSULATED FROM
5 THE OTHERS. THERE MAY BE A REVERBERATION WHEN A FOREIGN
6 FIRM IS NOT ABLE TO PAY A FULL RETIRMENT SALARY. THERE
7 MAY BE WAVES THROUGH PRICE WATERHOUSE WORLD FIRM WHICH
8 MR. CONNOR CHAIRS, BUT I DON'T THINK THERE'S ANY
9 ECONOMICALLY --

10 THE COURT: THESE ARE NOT -- I WASN'T QUITE CLEAR
11 IN MY MIND WHETHER THESE WERE THE ORDINARY PARTNER SHARES
12 WITH WHICH I'M TOTALLY FAMILIAR. I'VE PRACTICED LAW AND
13 HAD SHARES IN A BIG FIRM, OR WHETHER IT WAS MEASURED IN
14 SOME MORE FUNGIBLE WAY BECAUSE OF THE DIFFERENT UNITS, YOU
15 SEE.

16 MR. HELLER: NO, THESE ARE NOT -- MY
17 UNDERSTANDING IS --

18 THE COURT: SO YOU JUST TAKE THE EARNINGS OF THE
19 AMERICAN BUSINESS AND THE CAPITAL NEEDS OF THE AMERICAN
20 BUSINESS AND ALL OF THESE ARE COMPUTED.

21 MR. OLSON: YES, IN THE VERY SAME WAY.

22 THE COURT: YOU DON'T HAVE TO HAVE A STIPULATION.
23 I JUST WANTED TO UNDERSTAND THAT.

24 MR. OLSON: I WANTED THEM TO EXPLAIN THAT, AND WE
25 WOULD HAVE ASK YOUR PERMISSION TO HAVE MR. CONNOR

1 RECALLED.

2 MR. HELLER: I THINK PROFESSOR TRYON USED SHARE
3 VALUES BECAUSE WHEN YOU RETIRE THE NUMBER OF SHARES GET
4 FIXED AND YOU DON'T ANY LONGER HAVE THE GROWTH TO THE FIRM
5 COMPLETELY. YOU HAVE SOME OF IT.

6 THE COURT: THAT'S RIGHT. I UNDERSTAND IT.

7 MR. OLSON: WITH THAT EXPLANATION, THE DEFENDANTS
8 REST, YOUR HONOR.

9 THE COURT: ARE YOU GOING TO HAVE ANY REBUTTAL?

10 MR. HELLER: THE PLAINTIFFS ARE NOT GOING TO HAVE
11 ANY REBUTTAL, YOUR HONOR. THE CASE IS CLOSED AS FAR AS
12 WE'RE CONCERNED AS FAR AS EVIDENCE AT LEAST.

13 THE COURT: ALL RIGHT. LET ME TELL YOU WHERE WE
14 GO FROM HERE THEN, I GUESS. I WANT PROPOSED FINDINGS AND
15 I'M NOW CONFRONTED WITH ANOTHER PART OF THE CASE THAT I
16 WASN'T CONFRONTED WITH. YOU SEE, THE PLAINTIFF HAS
17 REQUESTED INJUNCTIVE ACTIONS OF VARIOUS KINDS AGAINST
18 PRICE WATERHOUSE WHICH IS PROBABLY THE MOST IMPORTANT PART
19 OF THE CASE FROM MY POINT OF VIEW AND I DIDN'T GET INTO
20 THAT AT ALL BECAUSE I FELT THAT SHE WAS NOT CONSTRUCTIVELY
21 DISCHARGED AND THEREFORE SHE HAD NO RIGHT TO INJUNCTIVE
22 RELIEF. NOW SHE'S CONSTRUCTIVELY DISCHARGED IN MY OPINION
23 AT THE PRESENT TIME, SHE'S ENTITLED TO INJUNCTIVE RELIEF
24 AGAINST PRICE WATERHOUSE OF THE NATURE THAT WAS REQUESTED
25 IN THE COMPLAINT AND YOU'RE GOING TO HAVE TO WORK OUT WHO

1 WE'RE GOING TO DO IT, HOW WE'RE GOING TO GET THE FIRM INTO
2 COMPLIANCE WITH SEX DISCRIMINATION LAWS AND HOW WE'RE
3 GOING TO BE SURE THEY'RE CARRYING OUT THOSE LAWS IN
4 ACCORDANCE WITH THE LAW OF THE LAND AND ALL THE REST OF
5 IT. THAT'S NOW IN THE CASE AND I THEREFORE NEED TO HAVE
6 PROPOSALS FROM THE PARTIES AS TO THE NATURE OF THOSE
7 INJUNCTIVE PROVISIONS TO GUIDE ME IN DECIDING WHAT OUGHT
8 TO BE DONE.

9 THERE'S QUESTIONS OF TIME, THERE'S QUESTIONS OF
10 REPORTING. THERE'S QUESTIONS OF PHYSICAL IMPLEMENTATION.
11 THE QUESTION OF WHETHER PARTNERSHIP SELECTION PROCEDURES
12 SHOULD BE CHANGED IN ORDER TO RECOGNIZE THE EXTENT OF THE
13 SEX DISCRIMINATION IN THE PAST FEW YEARS, AND SO FORTH.
14 SO I'LL WANT SOME HELP ON THAT.

15 NOW, IN ADDITION I THINK YOU OUGHT TO BECAUSE
16 CERTAINLY I PROMISED THIS TO YOU, IF I'M WRONG ABOUT THE
17 CONSTRUCTIVE DISCHARGE POINT I CERTAINLY NEED TO BE
18 EDUCATED AND I TOLD THE DEFENDANT THAT THE DEFENDANT
19 SHOULD HAVE A FULL OPPORTUNITY TO BRIEF THE QUESTION TO
20 ME, THAT I'M NOT BOUND BY THE COURT OF APPEALS'
21 DETERMINATION OF CONSTRUCTIVE DISCHARGE AND I THINK YOU
22 OUGHT TO HAVE THAT OPPORTUNITY AND I'D NATURALLY WANT TO
23 HEAR WHAT YOU HAVE TO SAY ABOUT IT BECAUSE I AGAIN SAY I
24 THINK IT'S A PROBLEM IN THE CASE FROM THE BEGINNING WHICH
25 ALL OF YOU AVOIDED. I UNDERSTAND WHY THE PLAINTIFF

1 AVOIDED IT. AND AFTER THE COURT OF APPEALS' DECISION.
2 THEY WON, SO WHY SHOULD THEY DO ANYTHING MORE ABOUT IT?
3 BUT THE DEFENDANT AVOIDED IT AND THE SUPREME COURT -- I
4 SAW THIS MORNING THE SUPREME COURT MADE QUITE A POINT OF
5 THE FACT THAT IT HAD NOT BEEN APPEALED, WHICH WAS THE
6 SUPREME' COURT'S WAY OF SAYING THAT'S IT.

7 NOW, IN ADDITION TO THAT THE ONLY OTHER PROBLEM
8 THAT'S PRESENT HERE IS THE ATTORNEY FEE PROBLEM AND I AM
9 OF THE VIEW THAT SINCE THE CASE IS OBVIOUSLY GOING TO BE
10 APPEALED AGAIN ON AND ON TO THE SUPREME COURT AND BACK
11 AGAIN, MAYBE THAT GETTING INTO THE QUESTION OF ATTORNEY'S
12 FEES AT THIS STAGE IS PROBABLY NOT A WISE THING TO DO, BUT
13 IF THERE IS A THOUGHT ON THE PART OF THE PARTIES THAT IT
14 WOULD BE PREFERABLE FOR THE COURT TO MAKE SOME RESOLUTION
15 WITH RESPECT TO ATTORNEY'S FEES UP TO THIS POINT I'M QUITE
16 PREPARED TO DO THAT. BUT THEN THAT INVOLVES TWO THINGS
17 FROM THE POINT OF VIEW OF THE LAWYERS, BOTH OF YOU.

18 FIRST OF ALL, IT INVOLVES OUR COURT RULE WHICH
19 REQUIRES A CONSCIENTIOUS EFFORT TO RESOLVE IT SHORT OF
20 LITIGATION. I HAVEN'T BEEN VERY SUCCESSFUL IN RESOLVING
21 ANYTHING IN THIS CASE SHORT OF LITIGATION, BUT I THINK I
22 OUGHT TO LET THE RULE OPERATE IN ITS NORMAL FORM AND THEN
23 IF YOU DISAGREE ABOUT IT AND IF YOU BOTH FEEL OR ONE OF
24 YOU FEELS DIFFERENTLY AND THE OTHER DOESN'T I'LL HAVE TO
25 HEAR FROM YOU, AND IF THIS JUDGMENT IS TO CONTAIN

1 ATTORNEY'S FEES, I'M GOING TO HAVE TO DO IT. AND I DON'T
2 WANT TO GET TRAPPED AGAIN BY PRIVATE ARRANGEMENTS BETWEEN
3 COUNSEL. THIS IS GOING TO HAVE TO BE CLEARLY UP FRONT
4 ABOUT ATTORNEY'S FEES. EITHER YOU WANT IT DECIDED NOW OR
5 YOU DON'T WANT IT DECIDED NOW OR IF YOU DISAGREE I'LL HAVE
6 TO DÉCIDE WHICH WAY TO DO IT, BUT WE'VE GOT PLAY WITH IT
7 ON THE RECORD.

8 AND IN THAT CONNECTION I AM UNCERTAIN AT THE
9 PRESENT TIME IN MY MIND AND WOULD NEED GUIDANCE IF WE'RE
10 INTO THAT AS TO WHAT EXTENT I'M SETTING FEES AND TO WHAT
11 EXTENT WE'RE TALKING ABOUT FEES IN THE COURT OF APPEALS
12 AND THE SUPREME COURT. IN OUR CIRCUIT THERE'S
13 CONSIDERABLE CONFUSION OR UNCERTAINTY IN THE MINDS OF THE
14 DISTRICT JUDGES AS TO WHAT IT IS THE COURT OF APPEALS
15 PREFERS IN THE WAY OF MATTERS OF THIS KIND, WHETHER THEY
16 PREFER THAT THIS COURT EXAMINE THE PROBLEM INITIALLY.

17 NOW, IF THAT'S SO I KNOW NOTHING ABOUT THE APPEAL
18 AND ALL THE BRIEFS AND ALL THE TIME AND ALL THAT. THAT
19 HASN'T BEEN MY -- I'M NOT IN THAT. ON THE OTHER HAND, IF
20 THEY'RE GOING TO SET APPELLATE FEES, IF WE'RE JUST TALKING
21 ABOUT WORK DONE IN MY COURT THAT'S ANOTHER MATTER. WE
22 OUGHT TO HAVE THAT CLEAR AS TO WHAT THE COURT OF APPEALS
23 WOULD EXPECT BY THE REMAND AND THE REST OF IT. I HAVE NO
24 IDEA. I DON'T KNOW WHETHER YOU'VE BEEN COMPENSATED FOR
25 YOUR SUCCESSFUL APPELLATE WORK OR NOT.

1 MR. HELLER: YOUR HONOR, WE DID SEEK AN AWARD
2 STRICTLY FOR THE PROCEEDING IN THE COURT OF APPEALS THE
3 FIRST TIME WE WERE THERE. THEY WERE TAXED AS COSTS. THEY
4 WERE NOT OPPOSED. I MAY NOT HAVE REMEMBERED THAT
5 CORRECTLY. WE NEVER COLLECTED THEM BECAUSE OF CERTIORARI
6 AND WE KNEW THAT MONEY SHOULD NOT BE GOING BACK AND FORTH
7 WHILE THE CASE WAS OPEN.

8 THE COURT: I JUST WANT TO KNOW IF I'M TO DO
9 ATTORNEY'S FEES, WHAT COUNSEL THINK I'M TO DECIDE.

10 MR. HELLER: YES, MY INCLINATION IS TO SAY THAT
11 WE SHOULD BRIEF THAT, YOUR HONOR, AND WE SHOULD UNDERGO TO
12 GO INTO THE LOCAL RULE OR IF THERE'S AN APPEAL BY THE
13 DEFENDANT OR IF THERE'S AN APPEAL BY THE PLAINTIFF THAT
14 WOULD MOOT IT IF YOUR HONOR DECIDES AGAINST US.

15 THE COURT: EXCEPT IT WOULD GIVE YOU AN
16 OPPORTUNITY TO AVOID ONE APPEAL SINCE YOU'RE SO DEEP IN
17 THE APPELLATE PHILOSOPHY. YOU WOULDN'T HAVE TO APPEAL A
18 LATER JUDGMENT ABOUT ATTORNEY'S FEES IF YOU PREVAILED IN
19 THE COURT OF APPEALS, YOU'D HAVE THAT, AND THAT COULD BE
20 ATTACKED AS PART OF THE APPEAL BEING TAKEN BY PRICE
21 WATERHOUSE.

22 MR. HELLER: WELL, THAT'S WHAT I WOULD THINK,
23 YOUR HONOR, AND IF WE WERE AWARDED FEES I ASSUME THIS
24 WOULD BE IN EFFECT A STAY OF EXECUTION.

25 THE COURT: A STAY OF IT PENDING WHAT HAPPENS.

1 MR. HELLER: WHILE THERE WAS AN APPEAL TAKEN, BUT
2 I THINK IT WOULD BE GOOD TO TRY AND BRIEF AND RESOLVE
3 THOSE QUESTIONS AS WELL AND GET IT ALL OUT OF THE WAY, SO
4 THAT THE COURT OF APPEALS OR YOU OR A SETTLEMENT WILL HAVE
5 CLEARLY IN FRONT OF IT EVERYTHING THAT GOES UP UP UNTIL
6 THE TIME YOU MAKE THE DECISION.

7 THE COURT: WELL, AS YOU SEE, WHAT I'M TALKING
8 ABOUT IS DOING THAT, BUT I'M ALSO POINTING OUT THAT IT'S
9 JUST AN ENORMOUS AMOUNT OF FURTHER WORK AND UNCERTAINTY
10 AND ARGUMENT AND PROBABLY TESTIMONY ON THE DECREE PART;
11 YET IF THERE'S DISAGREEMENT ABOUT THAT AND I'M LOOKING
12 FORWARD TO ANOTHER YEAR WITH YOU GENTLEMEN AND I'M GOING
13 TO DO THE BEST I CAN AS I HAVE UNSUCCESSFULLY DONE SO FAR.

14 MR. OLSON: WE HAVE SUBMITTED PROPOSED FINDINGS
15 WITH RESPECT TO THE LIABILITY PHASE AND I PRESUME WHEN YOU
16 SAY --

17 THE COURT: NO, THAT'S BEHIND US. I'M GOING TO
18 GIVE YOU AN OPINION ON THAT. I'VE JUST HELD IT BACK UNTIL
19 THIS IS OVER, BUT I'M TALKING ABOUT FINDINGS ON THE LAST
20 TWO DAYS.

21 MR. OLSON: WHAT WOULD YOU PREFER IN THE WAY OF
22 SCHEDULE, YOUR HONOR?

23 THE COURT: WELL, I'LL GET TO WORK ON THEM WHEN I
24 GET THEM, BUT COUNSEL I THOUGHT MIGHT WANT TO SIT DOWN AND
25 HAVE A DISCUSSION ABOUT THE BRIEFING SCHEDULE AND THEN

1 GIVE IT TO ME IF YOU COULD AGREE. I URGE YOU TO AGREE
2 AGAIN AS I ALWAYS DO AND I THINK YOU WOULD BE ABLE TO
3 AGREE ON THAT AND I'LL GO ALONG WITH WHATEVER YOU COME
4 ALONG WITH.

5 MR. HELLER: WELL, YOU WANT THE TRANSCRIPT
6 OBVIOUSLY.

7 THE COURT: YOU'RE GOING TO HAVE TO TALK TO HER
8 AS TO WHEN THE TRANSCRIPT IS GOING TO BE AVAILABLE. WE'VE
9 GOT CRIMINAL BUSINESS THAT PUSHES US PRETTY HARD ON
10 TRANSCRIPTS THESE DAYS AND PERHAPS AFTER I LEAVE THE BENCH
11 YOU CAN TALK TO HER ABOUT HER ESTIMATE AT THAT TIME.

12 MR. HELLER: WHY DON'T WE SEE IF WE CAN PROPOSE A
13 TIMETABLE FOR YOUR HONOR? JUST THE ONE QUESTION, DO YOU
14 WANT THESE THINGS SUBMITTED SIMULTANEOUSLY WITH OR WITHOUT
15 REPLY, OR DO YOU WANT THEM IN SEQUENCE?

16 THE COURT: WELL, I RATHER THINK THAT WHERE YOU
17 ARE CLAIMING FEES OR WHERE YOU ARE CLAIMING SPECIFIC
18 INJUNCTIVE PROVISIONS IT WOULD BE BETTER FOR YOU TO GO
19 FIRST AND FOLLOW AND THEN FOLLOW THE FORMAL PRACTICE
20 RATHER THAN SIMULTANEOUSLY.

21 MR. HELLER: WE'LL GO FIRST AND I'LL DEPEND UPON
22 THE TRANSCRIPT.

23 THE COURT: ON THE OTHER HAND, WHETHER YOU'RE
24 BOTH TRYING TO INSTRUCT ME ON SOMETHING THAT THEY'VE BEEN
25 TALKING ABOUT FOR A COUPLE OF YEARS MAYBE BOTH OF YOU CAN

1 GIVE ME YOUR VIEWS ABOUT CONSTRUCTIVE STATEMENT. I DON'T
2 KNOW.

3 MR. HELLER: I'D BE PREPARED TO SUBMIT THAT BRIEF
4 ONE WAY OR THE OTHER AND YOU CAN LOOK AT IT WITHOUT REGARD
5 TO ANY FACTS I THINK WE'VE PRESENTED IN THE LAST 15 DAYS.

6 THE COURT: WHY DON'T YOU WORK OUT YOUR SCHEDULE?
7 ANYTHING YOU CAN DO IS SATISFACTORY TO ME, BUT I DO THINK
8 THAT IN THIS STAGE WE OUGHT TO -- I'D LIKE TO MOVE ALONG,
9 I WOULD REALLY OF COURSE IF I HAD MY DRUTHERS, I WOULD
10 LIKE TO GET THIS DONE BEFORE THE SUMMER IF IT'S POSSIBLE
11 TO DO IT, BUT THAT NOT ONLY RELATES TO YOU GENTLEMEN'S
12 COOPERATION BUT THE UNCERTAINTIES OF MY OWN FUTURE IN
13 TERMS OF CASE LOAD AND THINGS OF THAT SORT THAT I HAVE NO
14 WAY OF -- THERE IS NO ECONOMIST THAT CAN TELL ME EVEN WHAT
15 I'M GOING TO HAVE TO DO TOMORROW, LET ALONE WHAT I'M GOING
16 TO DO 21 YEARS OR 15 YEARS FROM NOW.

17 MR. HELLER: YOUR HONOR I WOULD THINK WE CAN GET
18 EVERYTHING IN TO YOU EXCEPT FOR THE FEE QUESTIONS BECAUSE
19 THOSE WOULD STILL BE OPEN PROBABLY UNTIL WE FINISH ALL THE
20 WORK. AS I UNDERSTAND THE LOCAL RULE, THAT COMES UP AFTER
21 YOU'VE MADE A DECISION WITHIN 30 DAYS. I THINK WE SHOULD
22 GET EVERYTHING IN TO YOU DEPENDING ON MISS ZIZZO'S
23 TIMETABLE FOR THE TRANSCRIPT BY APRIL 15 OR APRIL 30, NO
24 LATER.

25 THE COURT: WELL, YOU WORK IT OUT AND DISCUSS IT

1 AMONG YOURSELVES. IF YOU DISAGREE, THEN I'LL SET A
2 SCHEDULE.

3 MR. OLSON: AND I PRESUME WHAT YOU MEAN, AND MAY
4 I ASK WITH RESPECT THE PROPOSED FINDINGS ON THE REMEDIAL
5 PHASE ARE YOU CONTEMPLATING THAT WE WOULD SUBMIT FOR YOU A
6 BRIEF IN THE FORM OF A CLOSING ARGUMENT PLUS PROPOSED
7 FINDINGS AND CONCLUSIONS, AND MAY WE DO IT THAT WAY?

8 THE COURT: WELL, YES, I'M PARTICULARLY
9 ANXIOUS -- YOU SEE, I TEND TO -- BUT I THOUGHT I HAD
10 DISCRETION HERE AND I HAVE BEEN APPROACHING IT AS THOUGH I
11 DID. IT MAY BE I DON'T. AND PERHAPS IT IS WELL TO HAVE
12 SOME BRIEFS AS WELL, BUT I HAD VIEWED THIS AS AN EQUITABLE
13 DECISION ON MY PART SITTING ON THE BENCH AND NOT A JURY
14 AND SO I SUPPOSE TO SOME EXTENT SOME ARGUMENT IN THE
15 BRIEFS AS WELL AS PROPOSED FINDINGS WOULD BE HELPFUL BOTH
16 WAYS.

17 MR. OLSON: THANK YOU, YOUR HONOR.

18 (PROCEEDINGS CONCLUDED AT 4:15 P. M.)

19 I CERTIFY THAT THE FOREGOING IS A CORRECT
20 TRANSCRIPT FROM THE RECORD OF PROCEEDINGS IN THE
21 ABOVE-ENTITLED MATTER.

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WITNESSES: DIRECT CROSS REDIRECT RECROSS

D. GRAY	192	194		
J. GRIMM	198	199		
W. WREN	203	204	206	
S. SMITH	207	216		
J. CONNOR	226	260		
P. MEDER	276	289		
N. REDFORD	296	311		
P. ANDRISANI	316	349		

EXHIBITS: FOR IDENTIFICATION IN EVIDENCE

FOR THE DEFT.		
A7		225
A4		278
A6		319

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