

In The Matter Of:

*IN RE THE MATTER OF:
THE COMMISSION ON JUDICIAL CONDUCT*

WILLIAM HAMILTON

Vol. 2, June 30, 1997

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[1] BEFORE THE COMMISSION ON JUDICIAL CONDUCT
[2] OF THE STATE OF WASHINGTON

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[3] In re the Matter of:)
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[5] THE COMMISSION ON JUDICIAL)
[6] CONDUCT.)

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[9] Deposition Upon Oral Examination
[10] of
[11] WILLIAM HAMILTON - VOLUME II

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[1] Principally my specific duties, that I recall, were [2] more involved with the physical structure, some [3] redecorating, some remodeling and dealing with the [4] application process itself that had to do with Pacific Rec. [5] Q: How many times would you estimate that you met [6] with the day-to-day management of the bowling alley during [7] the time period September 1, 1992, through the end of [8] December 1992? [9] A: A couple times a week probably on average. I was [10] in and out of the facility at least that often. [11] Q: Other than meeting with the day-to-day management [12] that was in place and working on the application process for [13] licensing, do you recall anything else that you did? [14] A: Yes. As I stated, I was meeting with contractors, [15] and I was authorizing and making payments to different [16] agencies, the City of Tacoma for licensing and the Gambling [17] Commission, met repeatedly with the liquor control agency on [18] their application process, met with an accountant who [19] prepared the applications for me, met with several [20] contractors, when went in and reviewed the improvements that [21] were going on at the time. [22] Q: You say that you were authorizing and making [23] payments to different agencies. Were those payments in fact [24] being made by Pacific Lanes, Inc.? [25] A: The payments that I am talking about are the

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[1] payments that were made by Pacific Recreation Enterprises, [2] Inc. I was not involved in the day-to-day disbursement of [3] funds out of the operating account then nor am I now. [4] (Exhibit 8 marked) [5] for identification.) [6] Q: This is a document that was produced by you in [7] response to a subpoena. Can you tell me what this is. [8] A: This is a typewritten recap from the bank [9] statements of my Pacific Recreation Enterprise checking [10] account from the date the account received its first [11] deposit, on September 30, through the last check that was [12] written on December 10th, 1992. [13] Q: Does this reflect all expenditures made by Pacific [14] Recreation, Inc., in connection with the bowling alley [15] during that time period? [16] A: That's correct, all expenditures paid for, not all [17] debts incurred, I wouldn't think, because I was ordering [18] work all along in this period of time. [19] Q: When you say you were "ordering work," can you tell [20] me what that involved. [21] A: Well, I see no payment in here, as an example, to [22] the insurance agency, yet I placed insurance in the name of [23] Pacific Recreation Enterprises. [24] Q: Do you know who paid for that insurance? [25] A: I paid for that insurance. Pacific Rec paid for

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[1] SEATTLE, WASHINGTON; MONDAY, JUNE 30, 1997

[2] 10:30 A.M.

[3] [4] [5] WILLIAM HAMILTON, deponent herein, having been [6] first duly sworn on oath, was [7] examined and testified as [8] follows:

EXAMINATION
BY MR. TAYLOR:

[12] Q: Mr. Hamilton, can you tell me everything that you [13] did with regard to the management of Pacific Lanes Bowling [14] Alley from September 1, 1992, through December of 1992?

[15] A: Do you want a yes or no answer? I guess the [16] answer is no, I can't tell you everything that I did.

[17] Q: Can you describe for me those things that you did [18] in connection with the management of the bowling alley [19] during that time period.

[20] A: I met with the day-to-day management on an [21] irregular basis to determine the needs, if any, that they [22] might have for information or services that I could provide [23] while I was going through the application process and [24] approval process with the Gambling Commission and the Liquor [25] Board.

[1] that insurance but not until after the first of the year. I [2] can't say specifically, other than that, because I just was [3] reminded of that as I was reviewing the subpoenaed [4] information that I gave you in response to your April 9th [5] subpoena. But I am confident that there were other physical [6] types of work that was ordered during that period of time [7] because that was ongoing. Some of it was being paid for as [8] it went on, and some of it was out of the Pacific Lanes [9] account, and some of it was being ordered to be paid [10] subsequent to that on no specific terms, whenever they could [11] get at us.

[12] Ordering the insurance was done in September. The [13] policy wasn't issued until later on and then it was paid [14] for.

[15] Q: You have testified - [16] MR. SLOAN: Could we have a page and line [17] first.

[18] MR. TAYLOR: Sure; let me finish my question, [19] please.

[20] Q: You testified, at page 43 of your earlier [21] deposition that - and I am paraphrasing - that you had [22] made capital expenditures, in connection with the facility, in [23] the amount of six figures before the transaction closed. [24] Can you tell me what those expenditures were. [25] A: I see the answer on page 43. I am trying to get

[1] back to the beginning of the question. Maybe you could
[2] direct me to that.
[3] Q: Well, at line 14, "Separate and apart from those,
[4] you were making capital expenditures on the facility?
[5] "Answer: On the facility, that's correct.
[6] "Question: Those were before it closed.
[7] "Answer: By my best recollection, yes.
[8] "Question: How much?
[9] "Answer: Six figures, but I can't tell you
[10] exactly how much.
[11] "Question: And this was while it was still owned
[12] by Hoffman, Inc.?
[13] "Answer: Hoffman-Stevenson, Inc."
[14] That is where I am referring to.
[15] A: Okay. There were a number of projects that
[16] management felt needed to be done during the summer months.
[17] Grant Anderson advised me of those projects, that he felt
[18] that it would be justified that the staff had discussed with
[19] him at time that we were negotiating our purchase.
[20] I agreed with those because I had no way of
[21] knowing anything to the contrary. They had to do with the
[22] encapsulation of the asbestos, hanging another suspended
[23] ceiling, resurfacing the bowling lanes, putting up - I am
[24] trying to remember what they are called. I want to call it
[25] screening decorations.

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[1] And I said, "Well, go ahead and do those things,
[2] and I will pay for them after I take over," because they had
[3] to be done before the season began, and the season begins
[4] right at Labor Day - "season" meaning the league season.
[5] Those expenditures were made at my direction. I
[6] concurred with the improvements, and the funds were paid
[7] before closing in some instances, in most instances, out of
[8] the Pacific Lanes account at my direction.
[9] Q: So you personally didn't pay for these
[10] expenditures; is that correct?
[11] MR. SLOAN: Excuse me. The word
[12] "personally," are you referring to Bill Hamilton, the
[13] individual?
[14] MR. TAYLOR: I will cover all of the
[15] iterations. Right now I am referring to Bill Hamilton,
[16] individually.
[17] Q: Did you pay for these expenditures?
[18] A: I did not write a personal check for those or any
[19] improvements that have ever been made.
[20] Q: Did Pacific Recreation, Inc., pay the contractors?
[21] A: Pacific Recreation Enterprises, Inc., did not pay
[22] directly the contractors.
[23] Q: Is it correct that the money was paid by Pacific
[24] Lanes, Inc.?
[25] A: That's correct.

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[1] Q: Now, your testimony, at page 45 of your earlier
[2] deposition, at line 19 and 20, we addressed this, and you
[3] said that - actually line 16, you said that "They were
[4] actually being made by me." You are referring to yourself
[5] individually, and we clarified that, and I want to be sure
[6] that I understand how it happened.
[7] A: The word "they" being referred to what? Starting
[8] on line 13; is that what you are referring to?
[9] MR. SLOAN: First of all, Mr. Hamilton -
[10] Q: Take as much time as you want to get the context
[11] of this. You can read backwards. You can read forwards.
[12] Take the time to get the context. If it helps you -
[13] MR. SLOAN: Let him have the time to read it,
[14] Counsel.
[15] MR. TAYLOR: Certainly.
[16] A: The question?
[17] Q: My question is: You testified, in your earlier
[18] deposition, that you had paid for these capital expenditures
[19] individually. You are now testifying, as I understand it,
[20] the payments were made by Pacific Lanes, Inc. is that
[21] correct?
[22] A: I guess, when I was answering there on line 16, I
[23] was saying who authorized it. To answer your question, the
[24] actual funds were coming at my direction out of funds that
[25] were under my control.

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[1] Q: Those being the funds of Pacific Lanes?
[2] A: Of Pacific Lanes Incorporated. The revenue funds,
[3] from September 1st, 1992, on, were being collected
[4] and disbursed under my direction or with my authority.
[5] Q: Maybe you can explain then you testified that you
[6] were paying the money individually and that it was accounted
[7] for as loans by you to Pacific Recreation, Incorporated.
[8] Can you explain that, please.
[9] A: The only explanation that I could have with that
[10] is that I didn't concentrate on the time frame involved here
[11] because the methodology that I have used, since the
[12] formation of Pacific Rec, and with all of my other
[13] corporations, is that I capitalize it minimally and then I
[14] loan the corporation money; I borrow personally or provide
[15] personal funds from my personal revenues, loan it to the
[16] corporation.
[17] The corporation then makes the expenditures. So,
[18] the distinction between me individually writing checks and
[19] me individually loaning money to a corporation or me
[20] individually authorizing the corporation to pay, to me, is
[21] not all that different. I could have been more specific, I
[22] suppose, at that time, but it was being paid at my
[23] direction.
[24] Q: What sort of control did you have over the Pacific
[25] Lanes, Inc., checking account from September through

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[1] December of 1992?
[2] A: I was not a signer on the account. I never wrote
[3] a check on the account. I never made a deposit to the
[4] account. The control that I exerted was the control that I
[5] exert over it today, that is, that I communicate with the
[6] people that are writing the checks on a day-to-day basis, in
[7] this case Jackie Pagni, and they let me know whether they
[8] need money, whether they -
[9] I got a monthly profit and loss statement,
[10] somewhat belatedly, during that period of time, and managed
[11] the account, the business, from that standpoint.
[12] Q: Who had ultimate control over the checking account
[13] of Pacific Lanes, Inc., during the period September 1, 1992,
[14] through December 1992; was it you or was it Grant Anderson?
[15] A: Quite frankly, I don't know that either one of us
[16] had any control over it because I don't know that either one
[17] of us ever signed on the account. I know that I didn't sign
[18] on the account.
[19] Q: I am not asking - go ahead.
[20] A: Mrs. Pagni was the ultimate writer of the checks,
[21] and the checking account statement went to the CPA's firm.
[22] He reconciled the account and produced an operating
[23] statement from the spread that was prepared by Mrs. Pagni
[24] for him.
[25] Q: Let me ask the question differently. Who had

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[1] ultimate management authority over Pacific Lanes during the
[2] period September 1, 1992, through December 1, 1992, you or
[3] Grant Anderson?
[4] A: Me.
[5] Q: That was pursuant to an agreement with
[6] Mr. Anderson?
[7] A: That was pursuant to an understanding of the
[8] effective date of the transfer.
[9] Q: So things are clear, is it correct that, during
[10] the period September 1, 1992, through December 1, 1992, you
[11] personally did not make any payments for any capital
[12] improvements at Pacific Lanes?
[13] MR. SLOAN: Let me object to the form of the
[14] question. There is an ambiguity between you and the witness
[15] that is apparent to me and I think to you. When you say
[16] "personally," are you asking did he write the checks or was he
[17] ultimately financially responsible?
[18] MR. TAYLOR: I will ask it a different way.
[19] Q: During the period September 1, 1992, through
[20] December 1, 1992; did you personally provide, from any
[21] source, funds used to make capital expenditures and
[22] improvements at Pacific Lanes?
[23] A: Not that I recall.
[24] Q: During the period September 1, 1992, through
[25] December 1, 1992, did Pacific Recreation, Inc., pay for any

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capital improvements made at Pacific Lanes?

A: Did they disburse any funds? No.

Q: From your answer, are you suggesting that they may have paid for indirectly somehow?

A: No. I am implying what I stated before, that is, that Pacific Recreation Enterprises and I personally, as the owner of that corporation, incurred expenses, contracted for work, discussed things that needed to be done, business decisions in general, committed, maybe that is the better word. It doesn't necessarily mean that the work was being done at that time or the checks were being written at that time.

Q: Can you identify any contractors that you spoke with during the period September 1, 1992, through December 1, 1992, concerning improvements to the facility at Pacific Lanes.

A: Oh, gosh. There were problems with the roof. So I probably was discussing the roofing arrangement. The -

Q: Who did you speak with?

A: Heating and air-conditioning systems were going out, and I was ordering new HVAC equipment for installation and repair. The contractor on that was Wilson Refrigeration Services. I do recall that. Most of the subcontractors being used - Danard Electric was being used,

MR. SLOAN: Spell that for the reporter.

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[1] Refrigeration to do work on Pacific Lanes?

[2] A: Yes, I did.

[3] Q: And were they paid during that time period?

[4] A: Yes, they were.

[5] Q: Who were they paid by?

[6] A: They were paid through the account called Pacific Lanes Incorporated.

[7] Q: What do you mean "paid through"? Is that different than paid by Pacific Lanes?

[8] A: Pacific Lanes made the expenditure at my direction.

[9] Q: And, during the period September 1, 1992, through December 1, 1992, did Wilson Refrigeration do any work on Pacific Lanes?

[10] A: They did.

[11] Q: Were they paid for that work?

[12] A: They were.

[13] Q: By whom?

[14] A: They were paid by the account called Pacific Lanes Incorporated, at my direction.

[15] Q: During the period September 1, 1992, through December 1, 1992, did Danard Electric perform work at Pacific Lanes?

[16] A: I presume they did. They are in and out of there all of the time.

[17] MR. SLOAN: Spell that for the reporter.

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[1] THE WITNESS: D-a-n-a-r-d.

[2] A: The ceiling was being put up by Story Acoustics

[3] for the first time at that time. Subsequently, it had been

[4] torn down and put up again last year. I was dealing with

[5] Hart Crowser at the time on asbestos survey work.

[6] Q: Wasn't that - go ahead. Go ahead.

[7] A: You started to say wasn't that earlier?

[8] Q: No. Hart Crowser, wasn't that in the spring of

[9] 1993?

[10] A: Possibly.

[11] Q: Okay. I am not asking about anything that

[12] happened in 1993.

[13] A: And I am not sure - we are talking about

[14] something that happened five years ago. I am trying to

[15] remember what happened earlier this morning at this point.

[16] Q: The heating and air conditioning, were you having

[17] discussions with HVAC contractors about Pacific Lanes during

[18] the period September 1992 through December 1992?

[19] A: Yes, I was.

[20] MR. SLOAN: Counsel, inadvertently, the form

[21] of your question switched when you said "through December."

[22] What period of time are you addressing your question to?

[23] Q: September 1, 1992, through December 1, 1992.

[24] A: The question was was I having discussions with

[25] contractors and the answer is yes.

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[1] Q: With HVAC contractors?

[2] A: Yes.

[3] Q: That would be -

[4] A: Wilson Refrigeration.

[5] Q: During the period September 1, 1992, through

[6] December 1, 1992, did you enter into any contracts with

[7] Wilson Refrigeration for Wilson Refrigeration to do work on

[8] Pacific Lanes?

[9] A: I don't believe that I signed a contract.

[10] Q: During the period September 1, 1992, through

[11] December 1, 1992, did you enter into any contracts with

[12] Danard Electric for Danard Electric to do work on Pacific

[13] Lanes?

[14] A: I did not.

[15] Maybe I can save you some time. I didn't enter

[16] into any contracts then. I have not entered into any

[17] contracts since, and I have paid these people thousands of

[18] dollars during that period of time under my direction

[19] through Pacific Lanes Incorporated, subsequent to that time

[20] through Pacific Recreation Enterprises, and I don't believe

[21] that I have ever signed a contract with any subcontractor,

[22] to the best of my recollection.

[23] Q: Let me rephrase my question.

[24] During the period September 1, 1992, through

[25] December 1, 1992, did you retain or otherwise hire Wilson

[1] first deposition, those questions came up here. And during
[2] my copying the information for your January subpoena, I had
[3] written in pencil, up in the corner of the earlier document,
[4] the word "draft." Because I could not recall why I would
[5] have two documents that, looked at rather quickly, said the
[6] same thing.

[7] So, after receiving your second subpoena or about
[8] that time, sometime around that and the first deposition,
[9] when these questions - several questions came up here in my
[10] mind. I went to the Liquor Control Commission and the
[11] Gambling Commission to review my file to see if maybe there
[12] wasn't something in there that would jog my memory, an
[13] earlier document, a draft, something.

[14] I didn't discover anything in either of those
[15] files that would lead me to that conclusion. So I contacted
[16] the liquor agent that helped me through this process, and I
[17] met with him, showed him what I had discovered, specifically
[18] what I discovered when I picked up my file from Schafer's
[19] office, and, in that file was the original or a scratched-up
[20] draft of the purchase agreement.

[21] And I said I am trying to figure out why I would
[22] have drafted the different - between the August 26th and
[23] September 19th document, other than to type in what had been
[24] done or what was in there in pencil, which were the option
[25] prices.

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[1] His comment to me was in the first paragraph of
[2] those documents, and that is that the - which are not in
[3] evidence here right now.

[4] Specifically the draft one in Schafer's file,
[5] which I gave to him, probably, for the address of the property
[6] and the name of the selling company and things of this
[7] nature and, in the August 26th document, which had the
[8] penciled-in option prices, those documents show the buyer
[9] as being William Hamilton for a corporation to be formed.
[10] Both documents show September 1st closing dates.

[11] The first draft in Schafer's file, which I assume
[12] that you have a copy of by now, was typed on it
[13] "September 30." I crossed it out and wrote "September 1st,"
[14] and that became the source document for Grant Anderson's
[15] office to prepare the one that was ultimately signed on
[16] September 26 - excuse me, August 26, 1992.

[17] The liquor agent informed me that that wouldn't
[18] have been something that they would have taken with a
[19] submission with an application, and I would have been so
[20] informed by him because I wasn't going to be the licensee.
[21] It was going to be a corporation. Unlike, in a real estate
[22] transaction, where I am comfortable with assigning earnest
[23] monies or things of this nature or being a nominee, that is
[24] not permitted in these agency-controlling transactions.

[25] So I had to form the corporation. The corporation

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[1] had to get its uniform business number from the state. We
[2] had to apply for and receive our tax ID number before we
[3] could even file the application with the regulatory
[4] agencies.

[5] By the time that happened, the earnest money
[6] agreement had to be redrafted, one, because the closing date
[7] had passed of September 1st. It was signed on September
[8] 19th. And, two, we filled in the specific name of the
[9] corporation at that time.

[10] Other than that, I don't think there - of those
[11] two changes, I don't think there are any changes between the
[12] August 26 document and the September 19 document, and it was
[13] drafted for those purposes because we had to have the name
[14] and all of the regulatory numbers and dates of filing, et
[15] cetera, et cetera, et cetera. And I didn't get that
[16] information from Mr. Schafer until - well, the filing
[17] information and copies of the documents until after the 1st
[18] of September and then the tax ID number and things of this
[19] nature that were being done by the accountant, Michael
[20] Favors, who was preparing the applications. I don't believe
[21] that was received until October 6th or 7th or something like
[22] that.

[23] But those applications needed the actual filing
[24] dates of the corporation and things of that nature. That is
[25] why those documents were drafted differently, and that is

[1] why these applications were not ultimately filed until right
[2] at the end of September, according to the -
[3] Q: Did you attempt to obtain a license prior to
[4] September 1, 1992?
[5] A: I believe that I went in to the agencies, is my
[6] recollection. I went in to the agencies, picked up the
[7] applications, conversed with the people in the agency or the
[8] liquor inspector that was assigned to the case or someone
[9] and determined that I needed to have the corporation formed.
[10] Q: So you did not submit an application at that time?
[11] A: I don't recall submitting an application.
[12] Q: At that time?
[13] A: At that time.
[14] Q: The easiest way - and if you could hand me this
[15] transcript, I want to make sure that we are clear on one
[16] thing.

[17] Exhibit No. 1 to the transcript of your first
[18] deposition, on the first page, in the upper left-hand
[19] corner, bears a handwritten notation that says "draft." Do
[20] you see that?

[21] A: I see that.
[22] Q: Is that your handwriting?
[23] A: That is my handwriting.
[24] Q: Is that your handwriting?
[25] A: Yes, it is my handwriting.

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[1] Q: When did you place that notation on that document?
[2] A: As I was copying these documents for the January
[3] 1997 subpoena.
[4] Q: So you did not place that notation on that
[5] document back in 1992?
[6] A: No, I did not.
[7] Q: After taking that document and writing "draft" on
[8] it in 1997, did you give it to anybody?
[9] A: I gave it to you.
[10] Q: Did you give it to anybody else bearing the
[11] notation "draft"?
[12] A: I believe several people - and I don't know who
[13] they would be; I know counsel has seen it; I believe my
[14] accountants got copies of it; maybe Judge Anderson had seen
[15] it in our discussions as to - my discussions with him as to
[16] why there would be two documents, what that actually meant.
[17] Q: Do you have a recollection of giving Judge
[18] Anderson a copy of what is now Exhibit 1, bearing the
[19] handwritten notation that says "draft"?
[20] A: It is quite possible I could have done that.
[21] Q: Do you have a recollection of doing that?
[22] A: I have no recollection specifically of doing it or
[23] not doing it.
[24] Q: Do you have a recollection of giving Mr. Iverson a
[25] copy -

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[1] A: I have no specific recollection, Counsel -
[2] MR. SLOAN: Both of you are stepping on the
[3] other's answers, slow down.
[4] Q: Do you have any recollection of providing what was
[5] Exhibit 1, to your original deposition, providing a copy of
[6] that to Mr. Iverson, which bore the handwritten notation
[7] "draft" in the upper right-hand corner of the first page?
[8] A: I have no specific recollection of either giving
[9] it to him or not giving it to him.
[10] Q: Putting aside your counsel, do you recall anyone
[11] else who you would have given a copy of Exhibit 1 to your
[12] original deposition bearing the notation "draft"?
[13] A: I might have given it also to the liquor
[14] control agent as I was questioning him as to why I might
[15] have had that.
[16] Q: Anybody else?
[17] A: I gave one to you, okay.
[18] Q: Anybody else?
[19] A: Not that I recall.
[20] (Exhibit 11 marked
[21] for identification.)
[22] Q: What is Exhibit 11?
[23] A: Exhibit 11 is the - photocopies of the checking
[24] account register for Pacific Lanes, Inc.'s checking account.
[25] There were other accounts for different purposes that were

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maintained at that time.

Q: By Pacific Lanes?

A: Yes, payroll. I don't recall the other accounts.

I maintained more than one account. The payroll account is an account where you deposit the amount of payroll and wait for the checks to clear, so you do not muddy up the primary account with outstanding checks.

Q: Before we go any further. You said there were various accounts maintained by Pacific Lanes?

A: I know of those two accounts. I believe there was one - they maintained a separate account for the restaurant.

Q: Weren't all payments made out of the account that is represented by Exhibit 11?

A: All of the payments that I authorized specifically to deal with the physical improvements of the premises I believe were paid out of this account.

Q: Didn't payroll come out of this account, as well?

A: There would be a transfer from a pay - from this account to a payroll account, probably, although I don't know that specifically. I know that is what we do now.

Q: Who maintained Exhibit 11?

A: Jackie Pagni.

Q: Does your handwriting appear anywhere on Exhibit 11?

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[1] firm a management fee during the period September, October, November and December of 1992. What, if anything, was [2] Mr. Anderson's law firm doing to earn that management fee?

[3] A: Firstly, as I stated earlier today, I did not

[4] review this checking account register. I would not be aware [5] and was not aware, until after the fact, that any funds were [6] being paid to them out of this account.

[7] Q: Can you answer my question now, please.

[8] A: I believe I have.

[9] Q: What, if anything, was Judge Anderson's firm doing [10] to earn a monthly management fee from Pacific Lanes during [11] the period September 1992, through December 1992?

[12] MR. SLOAN: Let me object to the form of the [13] question by its reference to "Judge Anderson's firm."

[14] Q: Mr. Anderson's firm.

[15] MR. SLOAN: Why don't we just say Tuell,

[16] Anderson. That would be more precise. I am not sure of the [17] dates and relationships there. I think the form of the [18] question is objectionable. If you will restate it that way,

[19] I will not object.

[20] MR. TAYLOR: I will rephrase it.

[21] Q: What, if anything, was Mr. Anderson's law firm doing [22] from September through December of 1992, to earn an \$1800

[23] management fee from Pacific Lanes?

[24] MR. SLOAN: Same objection, Counsel. Again,

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A: The photocopies on the outside of the first page,

Q: The first page -

A: Or the last page. I am not sure which page this is on. It is on the outside of the exhibit. That is my handwriting.

Q: You are referring to the entry that says "P/Lanes, Inc., checkbook register 8/92 - 12/92."

Other than that, does your handwriting appear anywhere -

A: I don't believe so.

Q: The entry that you are referring to, on the front page, you made that entry when?

A: I believe that was on a sticky note that was attached to all four months of Pacific Lanes' checkbook register copies that were provided in response to your subpoena.

Q: You placed that note on what is now Exhibit 11 while you were in the process of assembling documents responsive to the subpoena?

A: That's correct.

Q: At the time Exhibit 11 was being maintained and filled out on a daily basis, what review, if any, did you make of Pacific Lanes' checkbook?

A: I don't believe that I reviewed Pacific Lanes' checkbook at all at that time, nor do I review Pacific

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[1] you said "Mr. Anderson's law firm." Why don't we say the [2] law firm of Tuell, Anderson.

[3] MR. TAYLOR: Okay.

[4] Q: What, if anything - let's make sure we got the [5] right name.

[6] What, if anything, was the law firm of Tuell, Anderson & Fisher doing during the period September 1992, through December 1992, to earn an \$1800 monthly management fee from Pacific Lanes?

[7] A: One, I stated that I didn't know the money was going out any more than I knew the \$750 to Millie Hoffman

[8] was going out right above it. Specifically, there was a corporation known as Pacific Lanes Incorporated. I had an obligation to that corporation; I have no idea what other

[9] activities took place in that corporation. As it relates to the day-to-day management of Pacific Lanes, a bowling

[10] center, I know of no specific management duties that were being performed by that firm or anyone in that firm, other

[11] than maybe a general oversight pending the closing. But I don't know what they did or when this \$1800 started, and I don't know what they did and how they accounted for their

[12] time before then, this period of time. This was the business as usual, unfortunately, for me that took the money

[13] out of my revenues news.

[14] Q: The recap sheet, that is reflected by page 3 of

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Recreation's checkbook now.

Q: Did you make an effort to determine what, if any, expenses were being paid by Pacific Lanes during this time period?

A: My agreement with management was that it would be business as usual, and I would be providing them with invoices would be provided to them for work that I was doing, and, if they needed any money, let me know. The same process that I use today.

Q: You said, "Invoices would be provided for work that they were doing?"

A: That's correct.

Q: The check registers for September, October, November, and December all show, on a monthly basis, Pacific Lanes was paying 1800 to the law firm of Tuell, Anderson & Fisher for management fees. What were they doing to earn that money?

MR. SLOAN: Counsel, the number 11 that I have only shows August of '92.

MR. TAYLOR: I was referring to the remainder

- I can make them exhibits, if you like.

MR. SLOAN: If we are going to refer to

specific dates, it would be helpful -

MR. TAYLOR: Let me ask it a different way.

Q: Pacific Lanes continued to pay Mr. Anderson's law

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[1] Exhibit 11, did you review this at the time it was prepared [2] or shortly thereafter?

[3] A: I believe you are speaking of the left-hand side.

[4] These are checkbook registers. The right-hand side is where [5] they list the checks, and the left-hand side would be where [6] they allocate - no, this was done well after the fact,

[7] after the checks were written. These allocations were made [8] according to a chart of accounts provided by the accountant,

[9] and Jackie Pagni would make a decision as to where these [10] checks would go. Some of them would possibly stay there and [11] some of them were probably corrected by the accountant.

[12] Q: As the person ultimately responsible for Pacific

[13] Lanes, during the period September 1, 1992, through December [14] 1, 1992, weren't you curious as to what was happening with [15] the bank accounts?

[16] A: I believe I stated in my previous testimony or [17] deposition that I wasn't that involved or curious. I got

[18] accounting reports from the accountant. I owed these people [19] roughly a million dollars. Well, I did owe a million [20] dollars at the time. I had my hands full with other

[21] business affairs, as well as this transaction. There wasn't [22] enough money going through here that would change the [23] balance - I was going to have to close with a hundred [24] thousand dollars. It never entered my mind that we were [25] doing anything other than business as usual, which is

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[1] collecting the money on a daily basis, buying the food,
[2] making the payroll.
[3] You didn't - I don't even - I didn't recall that
[4] they didn't pay for any insurance during this period of time
[5] because the bill hadn't come in yet, things of that nature.
[6] I know you find this strange, but I wished that I could -
[7] this is not unusual for me.

[8] Q: You executed a promissory note to
[9] Hoffman-Stevenson in connection with your purchase?

[10] A: I executed a promissory note to Pacific Lanes
Incorporated.

[11] Q: Pacific Lanes Incorporated, and that was for
[12] \$250,000?

[13] A: \$250,000.

[14] Q: Did you, at some point, make an agreement with
[15] Judge Anderson whereby the amount of that note would be
[16] reduced to reflect earnings of the corporation during the
[17] period September through December 1992?

[18] MR. SLOAN: I'm sorry. I lost the question.

[19] Could we have it either read or restated. I just missed it.

[20] MR. TAYLOR: I will restate it.

[21] Q: Did you, at some point, make an agreement with
[22] Mr. Anderson, whereby the amount of the note would be
[23] reduced to reflect the earnings of Pacific Lanes during the
[24] period September through December 1992?

[25] Page 141

[1] MR. SLOAN: When you say "Pacific Lanes" -

[2] MR. TAYLOR: The bowling alley.

[3] MR. SLOAN: As opposed to Pacific Lanes,

[4] Inc., the corporation?

[5] Q: Do you draw that distinction, Mr. Hamilton?

[6] A: Well, I drew the distinction earlier that there is
[7] a corporation which probably has other activities that have
[8] nothing to do with the bowling center that I am not privy
[9] to.

[10] Q: Let me break down the question. There was an
[11] agreement made to reduce the amount of the note, was there
[12] not?

[13] A: There was never an agreement, to the best of my
[14] recollection, to reduce the amount of the note until the
[15] spring of 1993 with Steve Fisher and Rick Hoevel, primarily
[16] Fisher.

[17] Q: At the time the note was executed, in December
[18] 1992, did you ever discuss with Mr. Anderson the notion that
[19] you would receive credit on the purchase price for amounts
[20] earned by the bowling alley from September through December
[21] 1992?

[22] A: At the time that we closed, on December 4th, 1992,
[23] I don't know that we specifically rediscussed anything,
[24] other than the fact that we had been operating under the
[25] basis that I was in control of revenues, whatever they may

[1] be, the losses, whatever they may be, from September 1st,
[2] 1992, through whatever date it closed, which happened to be
[3] December 4th, would be mine to either bear the reward or pay
[4] the difference.

[5] Q: At the time that you signed the note, did you
[6] believe that the obligation represented by the note would be
[7] adjusted, depending on the earnings or lack thereof of the
[8] bowling alley?

[9] A: No.

[10] Q: What did you believe?

[11] A: I don't think that I thought about it, one way or
[12] the other, because we didn't know the results of the
[13] operation at that time. I can't tell you when I received
[14] the financial statement for that period of time. It was
[15] well after - in other words, I didn't receive September's, I
[16] am sure, for a month or two. That certainly wouldn't have
[17] told me anything. I was making expenditures, ordering work
[18] to be done.

[19] I use the example again of the insurance. I was
[20] not even aware that that hadn't been paid for, billed or
[21] delivered or anything of that nature. Subsequent to that, I
[22] certainly have made sure that I have the policy before I pay
[23] for it and they get them out a little faster.

[24] But I don't believe there was any discussion as to
[25] the fact that there would be an adjustment, one way or the

[1] other. Otherwise, if I felt that that estate had taken
[2] money out of my revenue that I was managing, I possibly
[3] wouldn't have given them the hundred thousand dollars. It
[4] was my intent, from the inception of this transaction, that
[5] I would loan a hundred thousand dollars personally to a
[6] corporation, plus or minus some - which turned out to be
[7] another \$10,000 during this period of time, to my own
[8] corporation for formation and that that would be the extent
[9] of my investment, and that the revenues, beginning September
[10] 1st, 1992, would build, less any authorized expenditures for
[11] capital improvements, which I did recognize I was making.

[12] So that those cash balances would be there come
[13] the first of May to operate from that time through August,
[14] again, which is the downtime of the year. That has happened
[15] consistently every year including this one.

[16] After I gave them the hundred thousand dollars,
[17] that money was gone. It was probably 90 to 120 days later
[18] when the accounting for the end of the year, which was the
[19] end of their year - when that was done, that the accountant
[20] informed me that this is the amount of money that they -
[21] the estate, Pacific Lanes, Inc., expended that was not for
[22] the direct benefit of your operation of Pacific Lanes, the
[23] bowling alley.

[24] I suppose they could have written me a check, but
[25] they didn't have the money. That is what I would have

[26] Page 144

[1] preferred, but it just didn't happen that way. The only
[2] alternative that I had was to take credit on the loan and
[3] that is what was negotiated - not negotiated, that is
[4] just what was authorized, I suppose, by Steve Fisher, who
[5] was handling the estate at that time because of his
[6] understanding of the date that I took over which was
[7] September 1st.

[8] Q: At the time that you signed the note for \$250,000,
[9] on December 4th, did you intend to bind yourself to pay
[10] \$250,000?

[11] A: I certainly did.

[12] Q: You did?

[13] A: I certainly did. I had no reason to think
[14] anything to the contrary. I had no reason to think that
[15] anybody at that time - that there was money being taken out
[16] of the checking account. I didn't sit down and add all of
[17] this up. I never have sat down and added it up. I relied
[18] 100 percent on the information provided by the CPA. That is
[19] his job.

[20] MR. SLOAN: When it is convenient, I need a
[21] short break.

[22] MR. TAYLOR: Couple more questions.

[23] MR. SLOAN: That is fine.

[24] Q: You are aware that that note was subsequently
[25] provided to First Interstate Bank as collateral for a loan?

[26] Page 145

[1] A: I am aware now that it was provided. I was aware
[2] when I paid the loan off in November or December, whenever
[3] it was, of 1993, and I got it back from the bank, rather
[4] than from Fisher's office. I had to get a photocopy from
[5] Fisher's office marked "paid in full." That is when I was
[6] aware it had been pledged to the bank.

[7] Q: Is that the first time that you learned it had
[8] been pledged to the bank?

[9] A: By my recollection, yes.

[10] MR. TAYLOR: How about a break now?

[11] MR. SLOAN: Thank you.

[12] (Short recess.)

[13] Q: The transaction or the closing papers were signed
[14] on December 4 of 1992?

[15] A: Yes, they were.

[16] Q: Do you know why, on December 15th of 1992, Pacific
[17] Lanes wrote a check to Grant Anderson for \$2100?

[18] A: That is about the time that I had authorized some
[19] cash Christmas gifts to the staff of some 40 people, and I
[20] believe - I don't know the specific amount - but I believe
[21] I had the check issued to Grant, asked him to come over,
[22] cash the check so that the management staff wouldn't know
[23] that, you know, that I was giving him the money, et cetera,
[24] et cetera, and he could stand up and say, "Thank you for all
[25] of your fine attention. It is now formally closed. Here is

11 a little token."
12 It didn't work. Everybody knew where the money
13 came from because that had never happened before. But that
14 was the purpose for that, if I recall that. I don't recall
15 the specific dollar amount. But that is about the time each
16 year that I do such a thing.

17 Q: Why didn't you want the employees to know where
18 the money was coming from?

19 A: I am speaking of the management employees. I am
20 speaking of Jackie specifically that - it was kind of a
21 last hurrah for Grant. He was leaving practice. They
22 wouldn't see him formally. He had been Chuck's attorney
23 for, I don't know, 15, 20 years by that time. He had been
24 the general operator of the thing. They had relied on him;
25 he had had a personal relationship. There were a lot of
tears and things of that nature, camaraderie. And I just
felt it was appropriate that Grant be the one to say thank
you. I say thank you every year since then.

19 Q: Who was the money supposedly coming from?

20 A: It was coming from Pacific Lanes. It was their
21 Christmas gift, the first time they had received a Christmas
22 gift ever, and it was just appropriate, and I just wanted
23 him to hand it out, and I didn't particularly think that I
24 would want to draw a road map and, you know, take the money
25 out of the till or something of that nature, have the staff

11 go get the money, this type thing, just a social event.

12 Q: Whose money was it that was being paid?

13 A: It was my money. It was the corporation's money
14 under my direction.

15 Q: Isn't it true that, in the adjustment process, you
16 took the revenues, minus the expenses, to come up with, in
17 effect, the money that you were credited and that this money
18 got paid by the estate ultimately?

19 A: I don't know that.

20 Q: What did you and Judge Anderson discuss about
21 this?

22 A: I don't know that we discussed anything. I think
23 - my recollection was that I had him come for this staff
24 meeting. Meetings of that nature normally take place around
25 2, 3 o'clock in the afternoon before the evening shift. We
only had one cocktail lounge at the time. So, when the
evening shift would come on, that is when, principally, the
management was there, the people that dealt with the
customers.

26 All during the day, the primary mover and shaker
27 in there was Jackie Pagni. The rest of the people all
28 worked at night - not all of them, but, obviously - there is
29 a different kitchen crew coming on at that time. The bar
crew is coming on at that time. So you are dealing with
less than a half a dozen people there during the day at that

11 time the way they ran the business, and I just kept it going
12 that way because I didn't know any different. I was in the
13 learning process as to how the operation - how I might want
14 to change the day-to-day operation.

15 So I asked Grant to join us and kind of - you
16 know, he made the formal announcement of the closing,
17 et cetera, et cetera, and that he would no longer be coming
18 over there on a formal basis, and I think, at that time, was
19 when I said, "Here, endorse this check."

20 I ran it over to the bank and got cash for it.

21 The bank is in our parking lot or vice versa. We are right
22 next door. And I determined, in my own mind, the amount of
23 money that I wanted to give to each employee, and I didn't
24 want there to be a lot of dialogue with, you know, prejudice
25 of one manager over another. I mean, we are not talking
about any money.

26 But, the very next year, as a perfect example,
27 when I wanted to do the same thing, I was given a lot of
28 dialogue by Jackie's daughter. This was after Jackie
29 died - about why pay this person this and why pay that
person that. I just felt it was important that everybody,
even if they came to work the day before, get a token, you
know, \$25.

29 Q: Is this different from the money that you paid to
employees in September of 1992?

11 A: I am not so sure it is not the same.
12 Q: You told the Liquor Control Board people, when you
13 started in 1992, that you paid all of the employees a
14 hundred dollars.
15 A: I told the Liquor Board that when?
16 Q: When we were there just recently, within the past
17 few months, or it may have been the Gambling Commission. I
18 can get my notes out if I need to.
19 A: I don't know that and I don't know that it would
20 be any different.
21 MR. SLOAN: I think, if you are going to
22 quote him, that you ought to be more specific in the quote.
23 MR. TAYLOR: I will be very specific.
24 Q: Did you pay any money to any employees, in
25 September of 1992, any employees of Pacific Lanes?
26 A: I am not so sure that I paid them in September and
27 in December or if I just paid them in December. If you
28 hadn't asked me about that check, I probably wouldn't have
29 even thought about it now. I know that I paid them some
money.
21 Q: Is it correct you don't recall paying money to
22 employees in September 1992?
23 A: Mr. Taylor, I believe, in September of 1992, when
24 the transfer was made and there was a general
25 management-style meeting, and I am not talking about

11 everybody that ever worked there, that I did pay some money
12 to some primary people. I don't want to sound like I am
13 going back and forth, and I know that is what it sounds
14 like. But I am trying to remember what happened over five
15 years ago. I believe I gave some currency and, you know,
16 \$50 and \$100 amounts to a half a dozen people at that time.
17 I also, based on this question, because it is not
18 \$1800, which I see in the September thing, at least in that
19 month, I do recall now that I asked Grant to come to a
20 meeting after the closing at the end of the year and gave
21 every employee, at every level, some token Christmas gift.
22 Q: When did you implement a benefit package at
23 Pacific Lanes?
24 A: Shortly after my formal acquisition. Some people
25 were being afforded benefits and I found that others were
not and the policies that were in place were not
particularly being adhered to.
26 Q: When you say "shortly after the formal
27 acquisition," what date do you consider to be the formal
28 acquisition?
29 MR. SLOAN: Is that vis-a-vis the
implementation of the benefit package or is that an isolated
question?
24 MR. TAYLOR: In relation to the answer he
25 just gave.

11 time the way they ran the business, and I just kept it going
12 that way because I didn't know any different. I was in the
13 learning process as to how the operation - how I might want
14 to change the day-to-day operation.

15 So I asked Grant to join us and kind of - you
16 know, he made the formal announcement of the closing,
17 et cetera, et cetera, and that he would no longer be coming
18 over there on a formal basis, and I think, at that time, was
19 when I said, "Here, endorse this check."

20 I ran it over to the bank and got cash for it.

21 The bank is in our parking lot or vice versa. We are right
22 next door. And I determined, in my own mind, the amount of
23 money that I wanted to give to each employee, and I didn't
24 want there to be a lot of dialogue with, you know, prejudice
25 of one manager over another. I mean, we are not talking
about any money.

26 But, the very next year, as a perfect example,
27 when I wanted to do the same thing, I was given a lot of
28 dialogue by Jackie's daughter. This was after Jackie
29 died - about why pay this person this and why pay that
person that. I just felt it was important that everybody,
even if they came to work the day before, get a token, you
know, \$25.

29 Q: Is this different from the money that you paid to
employees in September of 1992?

11 MR. SLOAN: What does that mean, Counsel?
12 MR. TAYLOR: That is what I was asking.
13 A: The formal closing was December 4.
14 Q: Stop, please. Stop. Let me get my question out.
15 Patrice will start yelling at us.
16 You testified about a benefit package shortly
17 after the formal closing. What I was asking is: What date
18 did you consider to be the formal closing with regard to
19 your answer about the benefit package?
20 A: The formal closing would have been December 4. I
21 am not certain, when I started to review the actual
22 benefits, whether it was before or after that period, nor
23 can I state when I added people and formalized the process.
24 If you are here this length of time, you get benefits.
25 Q: Did Pacific Recreation ever transfer any funds
into the bank account of Pacific Lanes, Inc.?
26 A: I can't answer that.
27 I guess I can answer that. You gave me a copy of
28 the checking account register that I provided you. There
29 were two checks written December 4th for \$50,000 each, one
to Pacific Lanes, Inc., and one to Hoffman-Stevenson, Inc.
22 Q: Putting those two checks aside.
23 A: I don't recall that there were any checks during
24 that period of time.
25 Q: In early December 1992, did you suggest to Mark

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[1] Rauschert that he should call Judge Anderson because Judge
[2] Anderson was a likely prospect for buying a Cadillac?
[3] A: I don't know the date, specifically, but I have,
[4] on several occasions, when people ask me that they are
[5] interested in acquiring a Cadillac, you know, friends,
[6] someone like that that says, "How do you like your Cadillac,
[7] gee, they are sure nice" or are they this or they are that,
[8] I would say, "Here, call this young man. He was very
[9] attentive and he has taken good care of me."
[10] If I recall, the contact with Grant was he made
[11] such a statement, and, I said, "Well, here he is; here is
[12] the salesman. I believe he is a very attentive, competent
[13] guy. He has been there a long time." And, I said, "Here is
[14] his phone number; here is his name; call him."
[15] Q: You suggested to Mr. Anderson that he call
[16] Mr. Rauschert?
[17] A: And I believe, in Grant's specific case, he said,
[18] "Well, have him call me at my office." So I contacted Mark
[19] and asked him - gave him the phone number and said, "Call
[20] him." I don't recall when that was. It was in response to
[21] a question by Grant Anderson.
[22] Q: I asked you, at your last deposition, on page 87,
[23] the question: "Did you suggest to Mr. Anderson, prior to
[24] his purchase, that he should go to this particular
[25] dealership and buy a Cadillac?

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[1] And your answer is "No." I guess I am trying to
[2] understand here.
[3] A: I don't see any inconsistency in that statement.
[4] Q: Very well.
[5] A: He asked me - Grant Anderson asked me who I dealt
[6] with.
[7] Q: In your counsel's letter to me, of June 27, 1997,
[8] he said, "We have furnished you documents earlier and will
[9] have others to conclusively establish that Mr. Hamilton was
[10] in control of the bowling alley in September 1992." Did you
[11] bring with you any other such documents?
[12] A: Well, I asked you if you had or wanted a copy of
[13] Mr. Schafer's file that we picked up from him.
[14] Q: Is there anything in there that conclusively
[15] establishes or relates to whether or not you were in control
[16] of the bowling alley in September of '92?
[17] MR. SLOAN: You are using the words that I
[18] selected of my own choosing and asking Mr. Hamilton to adopt
[19] them. He may or may not want to adopt my words. So I would
[20] object to the form of the question as argumentative.
[21] Q: Go ahead and answer.
[22] A: Okay. In the file - and the reason I went to
[23] pick up this file is that, in reviewing information in
[24] preparation of your second subpoena in April, I ran across
[25] an envelope of some paid bills that were paid that I had in

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[1] my possession for physical improvements, organization,
[2] things of this nature. One of those bills was Mr. Schafer's
[3] bill to me. And I will just stay on that subject for just a
[4] moment here. And I will give this to you.
[5] It is a photocopy of a bill that I paid October
[6] 5th, 1992. It is dated September 5th, 1992. It refers to a
[7] meeting in Schafer's office on August 17, 1992, his first
[8] billing notations where he says "Checking microfiche at
[9] library for availability of desired corporate name," because
[10] I had come to him with that name.
[11] "Meeting with W. Hamilton regarding formation of
[12] Pacific Recreation Enterprises, Inc., and acquisition of
[13] Pacific Lanes," and then the notation "reviewing documents."
[14] I did not recall that I had ever dealt with him
[15] with any documents. So I am saying now I wonder what he has
[16] in his file that I might have given him because I didn't
[17] recall that I spent more than 10 or 15 minutes in his office
[18] and that was borne out when, from beginning to end he spent
[19] two and a half hours and billed me \$300 for the forming of
[20] this corporation. That covers three calendar days.
[21] So, I couldn't have spent much time with him if he
[22] also spent time going to the library and checking with the
[23] microfiche and preparing all of these documents.
[24] So I - Phil and I were together one day, shortly
[25] thereafter, when I was putting this stuff together, and I

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[1] said, "Let's stop in and let me see my file. This is not
[2] the only file that I have down there," which I didn't even
[3] recall until Schafer asked me if I wanted all of my files,
[4] which by the way he has never given to us, I just recalled.
[5] So we stopped in there and asked him for this
[6] file. It was after leaving there with this file that I
[7] noticed that here was the original - this is the
[8] post-scratch paper copy of the agreement, "Business
[9] Acquisition and Lease Agreement." This is where - this is
[10] all of my writing on here where I am filling in some of the
[11] blanks.
[12] There are a couple of things that surprised me in
[13] there. I kept looking at the words on number 6 and number
[14] 8 because I can't even read my own writing most of the time.
[15] That word is "onerous." I found a couple of these provisions
[16] in the agreement were going to be rather onerous to me, and
[17] I wanted to discuss those with Grant Anderson to see if they
[18] were absolutely necessary. Obviously, they were, because
[19] they were in each subsequent draft.
[20] But, it is on the last page, paragraph 13 E, I
[21] believe it is, where it was typed that "This matter should
[22] be closed as soon as reasonably possible but no later than
[23] September 30, 1992," and I had crossed out the "30" and put
[24] a "1" alongside of that.
[25] I felt that this was important because it clearly

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[1] states - and this is not in my possession; this was in
[2] someone else's possession - and this was one of the things
[3] that I was looking for, not this specific document but
[4] anything along this line that I could find from any
[5] regulatory agency, any memoranda, any notations, anything.
[6] I saw, reviewing documents, it just - I wonder
[7] what he reviewed. So I went down there and looked at the
[8] file and got the file.
[9] The other thing that I noted, at that particular
[10] time, and I mentioned this to Phil, was there were no notes
[11] of any kind in this file. And I found that somewhat
[12] curious, given the fact that Mr. Schafer's affidavits and
[13] sworn statements and so on have always referred to "notes" of
[14] some conversation that he had with me. And I have stated
[15] that I didn't spend enough time with the man for him to take
[16] notes. I didn't tell him anything that there was anything
[17] to take notes on. I felt, if there were notes about my
[18] file, they should be in my file, and this just confirmed,
[19] for me, at least, that there were no notes, which was my
[20] recollection that he didn't take notes because they are not
[21] present. So I kept the file. We kept the file.
[22] It is in this file that I am recalled as to the
[23] fact that they sent things to Michael Favors who had just
[24] joined an old associate out in Auburn. Also, in this file,
[25] I believe there is some notation to the fact that corporate

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[1] documents were transferred - transported to me. Here,
[2] September 4, it says "Mailed September 4, 1992," from his
[3] administrative assistant. It says, "Dear Mr. William
[4] Hamilton, here is your Certificate of Incorporation to your
[5] new business Pacific Recreation Enterprises, Inc. I have
[6] three-hole punched it for your minute book. Have a pleasant
[7] afternoon."
[8] So, this is consistent with my recollection that I
[9] needed this information; I needed the information that was
[10] provided for me by mail on September 4th before I could
[11] complete the applications or before Mr. Favors could
[12] complete the applications to get them in for filing.
[13] So, yes, that is part of the information that I
[14] wanted to give you. I felt that that - he feels that that
[15] conclusively and I feel that that conclusively -
[16] MR. SLOAN: Don't say what we have talked
[17] about.
[18] THE WITNESS: Having never read your letter,
[19] I suppose I can't. I am just responding what we have said
[20] to him.
[21] Q: What else have you brought with you to show
[22] control of the bowling alley by September of 1992?
[23] A: I, in response to your subpoena of April 9th,
[24] provided you with a copy of the billing statement from
[25] attorney Pat Comfort. It refers to a June 1992, meeting in

1 his office. When I ran across this billing, it reminded me
1 that I had even met with him.

1 I contacted Mr. Comfort; he pulled the file out
1 and confirmed the meeting date of June 5th. His notes and
1 my recollection, once we got talking about it, were similar
1 and that he had advised me that the time to own these things
1 is not in the middle of the summer. I contacted him, not in
1 his capacity as an attorney, but as a friend and an
1 associate. We had been - I had known Pat for a number of
1 years. His brother was on my board.

1 Specifically, he had had an unsuccessful stint as
1 an owner of a bowling center and I was aware of that.

1 I had run across just some scribblings on a piece
1 of note bringing up questions as I was going through this
1 analysis which I will provide for you. One of the things
1 that it shows is that - the difference between winter and
1 summer, that the revenues go down substantially and that I
1 would be short a substantial amount of money during the
1 summer months.

1 Q: Could I take a look at that, please.

1 MR. SLOAN: I think it would be appropriate
2 to mark these exhibits, really.

3 (Discussion off the record.)

4 MR. SLOAN: You referred to Doug Schafer's
5 bill; you referred to Doug Schafer's file, Pat Comfort's

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(1) (Exhibit 15 marked
2 for identification.)
3 Q: What is next?
4 (Exhibits 16 and 17 marked
5 for identification.)
6 Q: Exhibit 16 is a bill from Wilson Refrigeration
7 Service?
8 A: Exhibit 16 is an invoice from them, dated August
9 27, 1992.
10 Q: To Pacific Lanes?
11 A: To Pacific Lanes, Inc.
12 Q: What does this have to do with you?
13 A: If I ordered the work that was done and the money
14 was paid at my direction, as with the next invoice. There
15 are two invoices. It was just a job that was split in two.
16 Q: This is before even September 1st of 1992. How
17 did this happen?
18 A: That is the date that I met with them.
19 Q: The bill was submitted on that date, was it?
20 A: Not necessarily. That date that I received it,
21 that might have been the date that they went back and dated
22 it. But we didn't pay that until September, after the work
23 was done, right along with this date. These are some new
24 heat pump units that were put in one end of the building.
25 Q: The work reflected on Exhibit 16, it says, "Date

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1 bill and your notes of Pat Comfort's conversation. Do you
2 want to mark those collectively? What do you want to mark?

3 MR. TAYLOR: Why don't we mark them one at a

4 time. It is easiest.

5 MR. SLOAN: We would like the originals back.

6 You can certainly make copies of it.

7 THE WITNESS: I have made a copy.

8 (Exhibits 12 and 13 marked

9 for identification.)

10 MR. SLOAN: The prior thing was Bill's notes
11 of conversations with Pat Comfort. 13 is Doug's file.

12 MR. TAYLOR: Is it is Mr. Hamilton's notes.

13 MR. SLOAN: Conversation with Pat, right?

14 MR. TAYLOR: Yes.

15 THE WITNESS: Not necessarily.

16 MR. SLOAN: What is it?

17 (Discussion off the record.)

18 Q: Handing you Exhibit 12, can you tell us what that
19 is, please.

20 A: It is my scribblings about a lot of information.

21 It has to do with - it probably covers a long period of

22 time.

23 Q: Let me ask you a couple of questions about it.

24 The entry "P/R," what does that stand for?

25 A: Payroll. What I am doing is I am describing the

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1 nut. The payroll in the summer. It is - I have given two
2 numbers here. It looks like it totals \$15,500. Why I draw
3 that conclusion to 20, I will never know, but it,
4 apparently, goes, in the wintertime, to \$28,000. I am
5 getting this from financial information from Pacific Lanes.

6 Q: It looks like "Claw to gambling"?

7 A: These are questions that I am asking while I am
8 putting together and I am analyzing this financial

9 information. Where does the "claw" money go. Claw is a game.

10 MR. SLOAN: C-l-a-w.

11 A: Little stuff that picks up the teddy bears.

12 MR. SLOAN: In the steam shovel claws.

13 A: "Where does the money go?" That is what I am
14 asking. Does it go into gambling? What about the game
15 room? What about all of the machines?

16 (Exhibit 14 marked

17 for identification.)

18 Q: Did you bring any other documents that relate to
19 your control of the bowling alley?

20 A: Do you want me to describe it as I give it to you?

21 Q: That is all right. We will mark it here in a

22 second.

23 MR. TAYLOR: It is 15, and that is Orcutt,

24 Favors' bill.

1 could open. And I had concurred with those decisions back
2 in the early summer. This was not part of that work order
3 that was already in the mill when I agreed to buy the place
4 and pay those bills. They could have stopped, but I wanted
5 the work done, too. This was as a result of something that
6 had failed right during the end of their ownership.

7 Q: Pacific Lanes paid these bills ultimately,

8 correct?

9 A: Pacific Lanes Incorporated checking account paid
10 those billings under my direction.

11 Q: When you say, "under my direction," what do you
12 mean?

13 A: We have been through this a number of times. I
14 look at that - when I say "my funds," Pacific Lanes
15 Incorporated, was the checking account being used, after
16 September 1st, for the depository of the funds under my
17 control.

18 Q: But you are not saying you specifically directed
19 the payment of the bill that is reflected by Exhibit 16, are
20 you?

21 A: I am saying that I specifically ordered the work,
22 and I specifically directed the payment of it in September
23 1992.

24 MR. TAYLOR: Off the record.

[1] (Exhibits 18 through 32 marked
[2] for identification.)
[3] Q: Exhibit No. 19, what is that?
[4] A: Exhibit 19 is a photocopy of the notice, dated
[5] October 6, from the Internal Revenue Service, establishing
[6] the tax ID number for Pacific Recreation Enterprises, Inc.
[7] Q: What does that have to do with your control of the
[8] bowling alley?
[9] A: The significance of that would be that these
[10] documents take anywhere from a matter of weeks to a matter
[11] of months to get. So I felt that this provided more
[12] evidence that I was intending to be in business. I was just
[13] going through the motions, the minutiae, of getting all of
[14] the pieces of paper in order, not knowing how long they
[15] would take. I didn't realize this took weeks or months at
[16] the time.
[17] Q: Exhibit 20, how does that relate to your ownership
[18] or control of the bowling alley?
[19] A: This is the November 3rd recognition by the
[20] Gambling Commission that they had a substantially complete
[21] file, to use my word, that they had finally gotten all the
[22] documents that they needed, and this is the first formal
[23] written communication from them of my application and what
[24] is necessary to complete it.
[25] Q: Back in 1992, did you tell the Gambling Commission

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[1] Q: Exhibit 22, you read it before you signed it?
[2] A: Probably.
[3] Q: Any reason to believe you didn't read it?
[4] A: I was probably standing there giving her some
[5] information; she was writing information. I don't recall
[6] the specific conversation, other than the fact that, in
[7] reviewing the document recently, I saw that it had a date
[8] prior to December on it, and I thought these are all in
[9] keeping the chronology of this. It is all there, November
[10] 3rd, first communication from the Gambling Commission;
[11] November 13, their confirmation. The very next day I go to
[12] the City and get the licenses, et cetera, et cetera.
[13] Q: Exhibit 23, what does that reflect?
[14] A: 23 is the front page of a Gambling Commission
[15] handout, dated May 10, 1992. My son and I attended a
[16] training session, which is a requirement of the Gambling
[17] Commission, sometime in the summer of 1992, along with other
[18] people from the bowling center.
[19] Q: I'm sorry. When did you say you attended the
[20] training session?
[21] A: In the summer of 1992.
[22] Q: You are not testifying that you attended it in
[23] May -
[24] A: No. I don't know the specific date we attended
[25] it. I just know it was on or about the time we took control

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[1] that you were in control of Pacific Lanes Bowling Alley?
[2] A: I don't believe that I stated that I was in
[3] control to anyone.
[4] Q: Is there a reason you did not tell the Gambling
[5] Commission that you were in control of Pacific Lanes from
[6] September 1992 forward?
[7] A: I don't believe it was part of the process.
[8] Q: Exhibit 22, what is that?
[9] A: Exhibit 22 follows Exhibit 21.
[10] 21, which you didn't ask about, is the final
[11] notification a week later from the Gambling Commission that
[12] they had approved my application. This is as close as
[13] you get to an approval, I find. They say they are prepared
[14] to issue a license after I close, and I have got an earnest
[15] money agreement that says I won't close until I get a
[16] license. So we are in a Catch 22. But, relying on that,
[17] after discussing that with him, what it really meant when I
[18] got it, I went out that very day to the City of Tacoma and
[19] purchased a number of operating licenses.
[20] This just happens to be a receipt from the City of
[21] Tacoma for some \$720, but it covers a number of licenses,
[22] and that document implies that an October 1st operating date
[23] was in order.
[24] I was confident at that moment, even though I am
[25] making this payment on November 13, I am confident at that

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[1] of the operation because neither of us could have anything
[2] do with the corporation, with the gambling operation, until
[3] we took this.
[4] I was operating the business as a nominee, as it
[5] were, of Pacific Lanes Incorporated. I was not a manager.
[6] The designated manager of the gambling was Jackie Pagni. I
[7] asked both the Gambling Commission and the Liquor Control
[8] Board agents that processed my application if they had any
[9] recollection of me disclosing to them that I was operating.
[10] The young lady at the Gambling Commission, whose
[11] name escapes me at the moment, although I had quite a bit of
[12] communication with her, because she was in the process of
[13] having a child and had to leave in the middle of this
[14] process and my first grandchild was being born at the same
[15] time - and, she says, "Well, if we would have known that,
[16] that would have been a secretion of interest or something
[17] and you might have gotten in trouble."
[18] I said, "Well, I certainly was, and, if I am in
[19] trouble, I am in trouble."
[20] The Liquor Control agent said he was fully aware
[21] that I was operating under the license of Pacific Lanes,
[22] Inc., but that I was not exercising any direction about
[23] either regulated industry. I was there protecting my
[24] investment and directing the physical improvements that
[25] needed to be done.

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[1] time I received the only approval that I wasn't in intimate
[2] contact with, since I was in almost daily contact with
[3] Mr. Cothran from the Liquor Board. I had been assured by
[4] him they had no problems with that; they were just rounding
[5] up the necessary final papers.
[6] Q: Exhibit 22, you are making an application for a
[7] bowling alley to commence October 1, 1992; is that right?
[8] A: I didn't write that information in there. The
[9] clerk did. They said approximately when did you start, and
[10] I said in September.
[11] Q: And they wrote "October"?
[12] A: And they wrote "October." I said, "I have been
[13] there since September." She said something to do - "We
[14] have to pick a date." So, I said, "October 1st."
[15] Q: So you picked the date October 1st that appears on
[16] Exhibit 22?
[17] A: I am not certain that I did or she did. When I
[18] found this, it just looked to me like here is some evidence,
[19] that I am telling people and people are responding to the
[20] fact that I was in control of the thing prior to closing, in
[21] control of the operation, and I am telling the City of
[22] Tacoma that my corporation is formed. This is - that isn't
[23] even my writing. I am standing at the counter, if I recall,
[24] and I had to go to a number of agencies that day within the
[25] city jurisdiction.

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[1] Q: Are you testifying now that you told the Gambling
[2] Commission, back in 1992, of your managerial
[3] responsibilities?
[4] A: No, I am not. I am saying I asked the question of
[5] the agent a few weeks ago, in response to trying to find
[6] documents that I didn't have in my file to respond to your
[7] subpoena - I was asking if they had any recollection of
[8] that. One agency did and one agency didn't.
[9] Q: Exhibit 24, what is this?
[10] A: Exhibit 24 is an amortization schedule run off a
[11] computer in my office, dated August 16, 1992, that reflects
[12] the \$250,000 note at 7 and a half percent. This particular
[13] one just shows a payment of 2967.54 and I don't remember why
[14] that was. It was roughly a ten-year payout, and I agreed
[15] to pay \$300 a month. I just wanted to see where the
[16] balances would be.
[17] Q: Exhibit 25?
[18] A: Exhibit 25 is an amortization schedule run
[19] shortly thereafter, on August 23, for \$650,000 at \$6000 a
[20] month. This was the document, the procedure, that I used to
[21] fill in those handwritten blanks in that September 26th -
[22] I'm sorry - August 26, 1992, earnest money agreement.
[23] I only took a picture of the first page.
[24] Q: Exhibit 27?
[25] MR. SLOAN: Your last comment was pertaining

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1 to Exhibit 26?

1 THE WITNESS: 25. I don't know where 26 is.

1 He asked about 17, so -

1 A: 27, I just ran across in the file. It is dated
2 September 14, 1992. It is a fax from Commonwealth Title
3 Company. I believe this was in response to an inquiry that
4 I made to the title company to provide me with the legal
5 description and a plot plan, if that is the word, of the
6 property in which I was leasing. This became, along with
7 these amortization schedules, the documents that I provided
8 to Grant Anderson so that he could complete - so we are
9 talking about the same thing. "Here is what I am going to
10 lease; here is what I am going to option; here is where
11 these numbers came from," et cetera.

9 Q: Exhibit 30.

10 A: I don't even know how that got in there. That is
11 just a cash receipt. I went out and bought some planters.
12 People throw their cigarette butts on the ground and I put
13 some planters out in the front of the bowling alley. It is
14 dated October 5, 1992. I just - it was in the paid
15 receipts and I thought, well, I remember doing that. For me
16 to go buy those, obviously, I would have had to have some
17 experience as to why I wanted them. A month's worth of
18 picking up cigarette butts was enough for me.

19 Ironically, someone stole those and I had to

20 replace them.

21 MR. SLOAN: To quote the sport's columnist of
22 the Mike Tyson fight, it was irresponsible.

23 Q: Exhibit 31.

24 A: Exhibit 31 is a letter, dated September 16, 1992,
25 from Bratrud, B-r-a-t-r-u-d, Middleton Insurance brokers
1 to USF&G Insurance advising, in writing, of a prior phone
2 conversation with the insurance company the necessity of
3 setting up a separate property from the Hoffman-Stevenson
4 file, extrapolating that or extracting that asset of the
5 bowling alley from their other coverages for a new owner.

6 It gives them the name of the corporation,

7 "Pacific Rec"; coverages; the fact that Hoffman-Stevenson
8 and Pacific Lanes need to be an additional named insured as
9 a landlord and a loss payee, respectfully, and their
10 anticipation of an effective date of October 1. "Need to
11 let" - "they need," USF&G "needs to let the new owner
12 know the cost breakdown ASAP."

13 I felt this, which I got from the insurance

14 company's files, along with the policy of that same date,
15 would indicate that I obviously was committed; I was in
16 control; I was incurring expenses. The insurance policy
17 premium on that was some \$13,700.

18 Q: When was the premium paid?

19 A: The premium was paid by Pacific Recreation

20 enterprises after the first of the year and was part of the
21 adjustments that were made by the accountant out of the
22 Pacific Recreation account, the second stage of those
23 adjustments.

24 Q: So the premium for the policy then, represented by
25 Exhibit 32, was not paid until sometime in 1993?

1 A: Sometime in 1993, yet the coverage was backdated.
2 So, therefore, it needed to be adjusted on the books because
3 the benefit -

4 Q: What was the back date selected for the backdated
5 coverage?

6 A: The coverage wasn't backdated. The premium was
7 paid and the premium was backdated.

8 MR. TAYLOR: Could I have the last answer
9 read back, please.

10 (The previous two questions

11 and answers were read.)

12 Q: Which was it?

13 A: Well, the coverage was placed in September.

14 The policy was dated October 1st, 1992. The policy was
15 delivered sometime in '93, along with the premium bill. It
16 was paid for by Pacific Recreation Enterprises, yet the
17 coverage was prior to Pacific Recreation Enterprises paying
18 for it. So that money should have been out of Pacific
19 Lanes because they had coverage from October of '92, through

20 December of '92.

21 Q: So Pacific Lanes paid a percentage of the premium

22 for October, November and December of '92?

23 A: That's correct; Pacific Rec paid that.

24 Q: Pacific Recreation?

25 A: Paid that in January or February of whenever it
1 was.

2 Q: I want to be clear.

3 The percentage of the premium attributable to
4 October, November and December of 1992, who paid that?

5 A: The premium was paid by Pacific Rec. The

6 post-closing adjustments, done by the accountant, took that
7 money as a debit adjustment on those adjustment forms that
8 you were provided earlier.

9 Q: Reducing - did that increase or reduce the amount
10 of the adjusted price that was paid?

11 A: It reduced the amount.

12 Q: So you were basically given credit for making that
13 payment?

14 A: Exactly.

15 Q: Why wasn't there a policy in place as of September
16 1st, 1992?

17 A: My recollection is there was a policy in place for

18 Hoffman-Stevenson Incorporated, that covered all of

19 Hoffman-Stevenson's assets, including the bowling center.

1 Q: Why wasn't there a policy in place for Pacific

2 Recreation as of September 1, 1992?

3 A: Pacific Recreation Enterprises, Inc., I was not
4 even informed from Mr. Schafer that the corporation had been
5 formed until after September 4th, which is when they mailed
6 to me, from his office, the incorporation papers. So I
7 didn't have the name of the company even, other than the
8 fact that is what I told him to select. But I had had no
9 further communication from him, other than to sign the
10 papers. I wanted to make sure that I had a legitimate
11 corporation.

12 (Exhibit 33 marked

13 for identification.)

14 Q: What is Exhibit 33?

15 MR. TAYLOR: Off the record.

16 (Discussion off the record.)

17 (Exhibit 34 marked

18 for identification.)

19 Q: Exhibit 33, the first page of Exhibit 33, what is

20 that?

21 A: The first page of Exhibit 33 is a schedule

22 prepared by my accountant at my request in response to your
23 April '97, subpoena to show the year-end balances and any
24 activity that he could determine on the owner's loan account
25 where I was, as the owner, loaning money to Pacific

1 Recreation Enterprises, Inc.

2 Q: Is it correct there were no loans made by you to

3 Pacific Recreation, Inc., prior to January of 1993?

4 A: No, that is not correct.

5 Q: Why aren't they shown then on this document?

6 A: I don't know.

7 Q: What loans did you make prior to 1993, to Pacific

8 Recreation?

9 A: You were provided a checking account recap
10 statement. I am not so sure what the question was in the
11 subpoena, but he was given a copy of the subpoena to respond
12 to. I believe the checking account recap showed I had
13 loaned the corporation \$110,000 prior to January 1st, 1993.

14 Q: We have got that as Exhibit 8.

15 A: I have a copy of it here.

16 Q: What does Exhibit 8 show?

17 A: Exhibit 8 is the checking account recap of Pacific
18 Recreation's checking account, showing a deposit from a line
19 of credit that I had established for \$10,000 on November 30,
20 '92, and a hundred thousand dollars on December 4th, '92.
21 So the loan account recap, that is Exhibit 33, has to be
22 increased by \$110,000.

23 Q: You had testified last time, at page 45, that
24 capital expenditure payments were made by you in 1992, and
25 accounted for as loans by you to Pacific Recreation. Does

[1] that information appear someplace in Exhibit 33?
[2] A: No. That is what I just stated. He left off the
[3] '92 contributions that are referred to in Exhibit 8.
[4] Q: The '92 contributions consisted of a hundred
[5] thousand dollars that was paid in connection with the
[6] purchase of the business and did not relate to capital
[7] expenditures; is that correct?
[8] A: To me, I am purchasing not new capital
[9] expenditures, not improvements, but I am purchasing the
[10] capital assets. I didn't buy a corporation; I bought assets
[11] from a corporation. So, yes, I would say those are
[12] purchase of capital assets.
[13] Q: In your prior deposition, you were calling those
[14] capital expenditures, painting, repair of broken
[15] heating/cooling facilities, construction for a
[16] cocktail lounge, architectural work and lane refinishing.
[17] Are you changing that testimony?
[18] A: I don't know if I would call it changing it,
[19] Counsel. I am just saying, when you purchase assets,
[20] capital assets are capital assets. I suppose I didn't think
[21] about the fact or you didn't ask the question as to what I
[22] - or I was focusing on the fact that what did I put in the
[23] bowling center after I paid for it. I don't know the spirit
[24] or what level of discussion you are talking about.
[25] Q: Why don't you review pages 42 through 46 of your

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[1] - was used for the purchase of the initial down payment on
[2] the equipment and the physical assets, goodwill and whatnot
[3] of Pacific Lanes and the lease deposit with
[4] Hoffman-Stevenson, Incorporated.
[5] Q: It is your testimony - I want this very clear on
[6] the record, Mr. Hamilton - it is your testimony that the
[7] \$130,000 entry, in January of 1993, relates to monies
[8] expended to improve the physical facility of Pacific Lanes
[9] in 1992?
[10] MR. SLOAN: That is misstating his testimony,
[11] Counsel.
[12] MR. TAYLOR: That is why I want it clear.
[13] A: I can't answer that question. I can't answer that
[14] question yes or no because I don't know. I do know, from
[15] this report, that the accountant is telling me that there
[16] was a loan, in January of 1993, by me, to Pacific Recreation
[17] Enterprises Inc. for \$130,000.
[18] Q: But there was no outflow in the account until
[19] March of \$20,000, April of \$1100. What I am trying to get
[20] at is -
[21] MR. SLOAN: Can I help you?
[22] MR. TAYLOR: Please.
[23] MR. SLOAN: I believe "outflow" pertains to
[24] payments back to the owner, not to third parties. But,
[25] please, Paul, ask Mr. Hamilton that. I think what you are

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[1] prior deposition, and let's be very precise about what we
[2] are talking about.
[3] MR. SLOAN: Could we see the other copy,
[4] Counsel.
[5] Start at 40, line 7 or 9, so you get more in
[6] the flow of it.
[7] A: How far did you want me to read?
[8] Q: As far as you need to to put your answer into
[9] context.
[10] A: I am not even sure I know the question.
[11] Q: You testified in your prior deposition, beginning
[12] at page 44, continuing through page 46, that you made loans
[13] to Pacific Recreation for capital expenditures relating to
[14] various improvements on the facility. What I am asking
[15] about now is where, on Exhibit 33, the Owner's Loan Account
[16] Recap, where did those expenditures show up?
[17] MR. SLOAN: I think the question should be do
[18] they appear on 33 as opposed to where. Maybe they show up
[19] elsewhere. He need not be boxed by your question.
[20] Q: Let's start with do they appear on Exhibit 33?
[21] A: Let's get the whole question since apparently -
[22] MR. SLOAN: Wait one second.
[23] THE WITNESS: Read the question, if you will,
[24] please.
[25] (The question was read.)

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[1] doing is believing outflows go to third parties.
[2] MR. TAYLOR: I was.
[3] THE WITNESS: I understand the question.
[4] MR. SLOAN: All right.
[5] Q: Outflows refers to?
[6] A: Payments back to me from the corporation.
[7] Q: Now, if I want to get to the records that show
[8] that these capital expenditures were treated on Pacific
[9] Recreation's books, as a loan from you to the corporation,
[10] what books do I need?
[11] A: You have the accountant's recap of the amount of
[12] money that I, as an individual, loaned to the corporation.
[13] Q: You are referring to Exhibit 33?
[14] A: That's right.
[15] Q: Okay.
[16] A: During the period of time covered by this report?
[17] Q: Okay.
[18] A: What that money was used for - this is just the
[19] loan account.
[20] Q: That is right.
[21] A: There are loans from other lenders directly to the
[22] corporation guaranteed by me personally, during this same
[23] period of time, that are not covered by this. There are
[24] operating revenues into the corporate checking account of
[25] Pacific Recreation Enterprises during this period of time.

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[1] A: Yes.
[2] Q: Yes, they do?
[3] A: Yes.
[4] Q: Where?
[5] A: All of the inflows of money, which are loans from
[6] me to Pacific Recreation Enterprises, Inc., reflect monies
[7] that I was loaning to the corporation for physical
[8] improvements and/or operating.
[9] Q: Let's break it down. The first inflow, that
[10] appears on Exhibit 33, is 130,000, right?
[11] A: That's correct.
[12] Q: That is in January?
[13] A: Of 1993.
[14] Q: Are you saying some portion of that money was used
[15] to pay for capital expenditures that had been made in 1992?
[16] A: I would guess that, yes. I don't know that
[17] specifically.
[18] Q: And we know that a hundred thousand dollars of
[19] the 130,000 was used to purchase the business?
[20] A: No, I don't believe it is. I believe the \$110,000
[21] that went in in 1992 is not shown on this report at all. So
[22] this report needs to be increased by \$110,000 which we
[23] talked about previously. In other words, the \$130,000 might
[24] have been going into physical improvements; the \$110,000, in
[25] 1992, that is not reflected on this exhibit, would augment

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[1] You combine all of those sources, the operating revenues,
[2] the loans from me, the loans directly to the corporation
[3] from other lenders, and then, out of the checking account of
[4] Pacific Recreation Enterprises, Incorporated, starting in
[5] 1993, there will be funds expended for physical
[6] improvements.
[7] Q: Prior to the creation of Exhibit 33, was there any
[8] document or documents in Pacific Recreation's possession
[9] which showed a shareholder's loan account?
[10] A: Not that I recall. I didn't draw notes between my
[11] corporation and myself.
[12] Q: I asked you, at page 46, line 9, "These capital
[13] expenditures then ultimately were treated on Pacific Rec's
[14] books as a loan from you to the corporation?
[15] "Answer: That's correct."
[16] What were you testifying about?
[17] A: I would say that same statement today. That is
[18] correct.
[19] Q: Where, what piece of paper?
[20] A: There is no piece of paper. There is a financial
[21] statement. There is a set of general ledger books on a
[22] computer kept by the accountant. He sees a deposit to the
[23] checking account that says "Loan from William Hamilton."
[24] He enters that as a loan payable.
[25] Q: What document is he looking at when he sees

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something that says "Loan from William Hamilton"?
A: Probably the checkbook register from Pacific

Recreation Enterprises Incorporated. I guess my question to you -

Can we go off the record?

Q: Sure.

(Discussion off the record.)

Q: Turning to the second page of Exhibit 33, please.

What is that?

A: This, again, is the accountant's exhibit that I asked him to prepare for the adjustments that were made when we recast the monies that I had put in as automobile expense to a non-deductible expense and the effect that had on my loan account since those monies were then shown as a payment on the loan to me personally and the effect that it had on the operating statement of Pacific Recreation Enterprises, Inc.

Q: When was this adjustment done, the adjustment that is reflected on the second page of Exhibit 33?

A: After my first deposition here in January, when you raised the issue of whether these would be deductible or not deductible, I went back and confirmed with my accountant that they in fact - these payments should not have been deductible because gifts are not deductible, and, even though it wouldn't make any difference on the corporate

books, as far as the taxability was concerned, up through fiscal '95, that all the offset would be would be a reduction in the amount the corporation owed me as an individual. So I asked him to make those adjustments and file the necessary amended tax returns. That would have been in January or February of 1997.

He informed me that he would get at it as soon as he could. But since it wouldn't make any difference materially, he would probably do this after tax season and he, in fact, did so on - well, I signed it on April 18 which is three days after April 15th, which was the controlling date for him. That is Exhibit 34.

Q: Please read pages 90 and 91 of your prior deposition.

A: Okay.

Q: What adjustment was made to any of the books in 1996, relating to the \$8000 cash that you received from Judge Anderson in 1995?

A: We know now that no adjustment was made during 1996.

Q: During 1996, no adjustment was made?

A: That's correct.

At the end of fiscal 1996, there was a general adjustment closing out all of the miscellaneous expenses for rent that I never had taken. I had purchased some land

adjacent to the bowling alley in two instances, using bowling alley funds, corporation funds, for a down payment, yet the loan was to me personally. All of these kinds of adjustments were closed out as of the end of fiscal 1996, and I presumed, since the accountant was aware of this and there were a number of adjustments which resulted in the note being consolidated to this \$225,000 amount, that was shown on the books as of the end of fiscal 1996.

Q: Which note?

A: The note from the corporation to me.

Q: Is there an actual note?

A: No, there is no note, but I mean the note payable balance on the corporate books.

Q: So your testimony, at page 91, lines 8 through 12, was incorrect; is that right?

A: No. I think I just restated that. What I stated then is I can't tell you how the accountant would have handled it - referring, I guess, to the \$8,000 - all I know is the entire payable, meaning all of these ins and outs, why I was providing assets for the bowling alley and the bowling alley provided lumps of cash, and the bowling alley had taken some deductions for rent that it had never paid to me in the same year, they all went away. There was a net adjustment. There was a loan payable to me from the corporation, and we ended up striking a balance of \$225,000.

[1] There is no exhibit that shows that or anything. I have never seen the adjustment.
[2] Q: The second page of Exhibit 33, that reflects an adjustment.
[3] MR. SLOAN: I think it is a dangling participle.
[4] Q: Let's carry it through to the final step.
[5] The \$8,000 in cash that you received from Judge Anderson was used to reduce your shareholder loan account by 8000. Is that what happened?
[6] A: That was the effect of what has happened, right along with every other payment that was ever made on the automobile.
[7] Q: Well, how then, on your personal tax return, was the \$8000 treated?
[8] A: It doesn't have to be, so it wasn't. It is not income. It is a reduction of debt. When I loaned money to the corporation, I don't deduct it. So when they make payments, I don't claim it as income. It is a loan.
[9] Q: Let's do Exhibit 34 now, which is the amended corporate return.
[10] Turning to the second page of that, please. It says "Personal expenses mistakenly (sic) run through the business." Who made the mistake?
[11] A: I did.

[1] Q: What was the mistake?
[2] A: The mistake was that I didn't catch the fact that the payments, which were in fact a gift, were being deducted as automobile expenses and gifts, as opposed to donations, are not tax deductible. When it was discovered, which was before this action, it was - it would not have made any difference taxwise because we still hadn't broken into the black. So I was still operating with a net operating loss carry forward, and that was my accountant's response, and the point was, when we get to that point, we will have to deal with this. In fact, we got to that point and dealt with it.
[3] This amended tax return, which is Exhibit 34 and 33, the second page, reflect those adjustments year by year by year.
[4] Exhibit 33 shows, in 1993, there was car payments made totaling \$6400. The stockholder loan preadjustment was \$324,750. After you take the \$6400 off as the payment, the loan amount came down to \$318,350.
[5] The net operating loss preadjustment was 66,928.
[6] If you take the \$6400 as a deduction and remove it, it increases the income, therefore, it lowers the loss by \$6400, and so on and so on through 1995, where, after adjusting \$31,185, which was the amount of money paid, including the \$8,000, I still had a net operating loss

[1] carry-forward of \$411.
[2] It isn't until August of '96, when we make the adjustment, that my income, pretax income, of \$3,127 is adjusted up to \$31,315 and the income tax changes for fiscal 1996 from \$469 to \$4697. So I filed an amended tax return for additional tax due for fiscal 1996 of \$4228.
[3] Q: Who was handling the books and records of Pacific Recreation during the time period when the Cadillac payments were being treated as business expenses?
[4] A: All of the accounting has always been done by Frind & Iverson. They take the information from the checking account register. I don't sit down and say "Capitalize this one; deduct that one," any more than they did for Pacific Lanes or I am sure any other system. Now, they handled those records up until the fall of 1994. Since then, we have had an in-house bookkeeper.
[5] Q: Didn't you tell the accountants to treat the Cadillac payments as a business expense?
[6] A: Specifically, I don't recall. I list, in my check register, "auto" and a dollar amount; "auto" and a dollar amount. And I just presumed, I guess, that they were going to take them as automobile expenses. So, if that is an instruction, then that is what it would be and he, in fact, did take them as automobile expenses.
[7] Q: You presumed that the accountant would be treating

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[1] the Cadillac payments as business expenses; is that correct?
[2] A: That's correct, erroneously. "Erroneously,"
[3] meaning I was not aware that those were not deductible
[4] expenses, that the gift of the Cadillac payments was not
[5] deductible.
[6] Q: So, prior to this point in time -
[7] A: "This point" being -
[8] Q: Prior to your decision that you could no longer
[9] deduct these, it was your view that gifts were deductible
[10] expenses of a company?
[11] A: Yes.
[12] Q: I would find other gifts of Pacific Recreation
[13] deducted from Pacific Rec's books, correct.
[14] MR. SLOAN: There is no evidence there is any
[15] other gifts.
[16] A: There are no other gifts. I guess the answer to
[17] your question is there are no other gifts. I have made some
[18] donations and those were deducted.
[19] Q: Charity?
[20] A: Charitable, political. I believe you were
[21] provided copies of checks for donations to the reelection
[22] campaign early on in this transaction.
[23] Q: So -
[24] A: Or the election campaign, I should say.
[25] Q: To summarize it, you believed gifts were a

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[1] deductible expense to the corporation?
[2] MR. SLOAN: Excuse me. Didn't we just answer
[3] that?
[4] MR. TAYLOR: I am trying to summarize things
[5] here.
[6] MR. SLOAN: I think it has been asked and
[7] answered.
[8] Q: You believed gifts were deductible expenses for a
[9] company?
[10] MR. SLOAN: He already answered that. You
[11] are being repetitive.
[12] MR. TAYLOR: You made your objection.
[13] MR. SLOAN: I am also telling you you can't
[14] do that.
[15] MR. TAYLOR: We have a remedy under Rule 30.
[16] MR. SLOAN: I taught you one remedy you
[17] weren't aware of today. Maybe I will teach you some more.
[18] MR. TAYLOR: Do anything you want, Mr. Sloan.
[19] MR. SLOAN: You are stepping beyond the
[20] bounds of your appointed mission in this deposition. You
[21] are to be a fact-finder and lighten up.
[22] MR. TAYLOR: I am not to be a fact finder.
[23] MR. SLOAN: Counsel, I respectfully feel what
[24] you are doing now and why I am going to move for protection
[25] from the commission is that you are abusing your role.

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[1] There is, apparently, a typographical error on 33, too, and
[2] I think it could be significant. I want to ask
[3] Mr. Hamilton.
[4] See where it says "net operating loss
[5] preadjustment"? And then it says "net operating loan." I
[6] think we can all agree that is "loss."
[7] MR. TAYLOR: I have assumed that.
[8] MR. SLOAN: I think it could be confusing to
[9] a third party.
[10] Q: Let's move forward.
[11] The treatment in the shareholder loan account
[12] relating to the final cash Cadillac payment -
[13] MR. SLOAN: We are on what exhibit, Counsel?
[14] Q: - where would I find that in the first page of
[15] Exhibit 33?
[16] A: You wouldn't.
[17] Q: Why not?
[18] A: Because this was prepared as of the end of fiscal
[19] 1996, and it brought the loan balance to \$225,000 after all
[20] year-end adjustments. The adjustments for the Cadillac, in
[21] total, were not made until April of 1997. That is what
[22] adjusted - that loan account of \$225,000 has now been
[23] adjusted downward pursuant to the second page of Exhibit 33
[24] to \$193,815.
[25] Q: Is Exhibit 33, the first page, supposed to be a

[1] month-by-month recap of all activity in the shareholders'
[2] loan account from January 1993, through August of 1996; is
[3] that what Exhibit 33 purports to be?
[4] A: Done at that time, yes. This is right off the
[5] corporate books as kept by the accountant.
[6] Q: Shouldn't there be something on the first page of
[7] Exhibit 33 that refers to the way or accounts for the way
[8] you treated this cash Judge Anderson gave you?
[9] A: Exhibit 33 is two pages.
[10] Q: That's right.
[11] A: Page 1 is the way the loan account was reflected
[12] on the books of the corporation, prior adjustment.
[13] Q: Prior to the adjustments that were made within the
[14] past two months?
[15] A: Within the past two months, when we filed the
[16] amended tax return and took those non-deductible expenses as
[17] payments to me on my loan. That is why the second page of
[18] Exhibit 33 shows the stockholder loan account,
[19] post-adjustment, going from a high of \$318,000, in August of
[20] '93, and that in no way reflects what happened during 1993
[21] or '94 and '95. These are just year-end numbers. So that
[22] the August of 1996 number is shown at \$193,815 which is a
[23] write-down from the \$225,000 by the amount of, not just the
[24] \$8000, but all of the monies paid as a gift on the Cadillac.
[25] Q: Is it correct that there is nothing in the books,

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[1] prior to the creation of Exhibit 33, that reflects or
[2] accounts for the \$8000 in cash that Judge Anderson gave you
[3] in 1995?
[4] A: Correct.
[5] Q: Thank you.
[6] MR. SLOAN: Was that a "thank you" for the
[7] finality of the deposition?
[8] MR. TAYLOR: Very close.
[9] A: I believe I even stated that in my deposition.
[10] Q: Page 90 and 91 of the deposition, beginning at
[11] line 16 of page 90 and to page 91, line 12; have you had a
[12] chance to read that?
[13] MR. SLOAN: I think you are rushing him.
[14] MR. TAYLOR: I don't intend to.
[15] MR. SLOAN: You are rushing me.
[16] Go ahead.
[17] Q: Was that testimony that you gave in your prior
[18] deposition accurate?
[19] MR. SLOAN: You are referring specifically to
[20] the question - the answer given between 8 and 12 on page
[21] 91?
[22] MR. TAYLOR: I am referring to testimony on
[23] page 90, line 23, "It hit the corporation's books in" -
[24] A: I'm sorry, 90 or 91?
[25] Q: Page 90, line 23. "It hit the corporation's books

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[1] in the form of a credit against the payable to me." Was
[2] that accurate at the time that you gave that testimony?
[3] A: Since I read the wrong page, I am going to wait a
[4] moment here.
[5] Q: Okay.
[6] A: You are referring to what line here?
[7] Q: Line 23 of page 90.
[8] MR. SLOAN: Excuse me. I think,
[9] Mr. Hamilton, I want you to read starting at the top of the
[10] page, if you haven't done so already, page 90, line 1.
[11] MR. TAYLOR: That is fine.
[12] Q: First, at line 23, you say, "It hit the
[13] corporation's books in the form of a credit against the
[14] payable to me." Was that accurate?
[15] A: Now it is accurate.
[16] Q: Was it accurate at the time that you gave that
[17] testimony?
[18] MR. SLOAN: Counsel, I am going to object to
[19] that without putting it in the context of the answer that
[20] you solicited in response to your question at line 1 of that
[21] page.
[22] MR. TAYLOR: That is fine. You have made
[23] your objection.
[24] MR. SLOAN: You are being argumentative and
[25] deceptive, and I resent that. He tells you up above it did

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not hit the books. Then you come down below and now you are impeaching him. You have got an inconsistent answer up above. I think it is improper.

MR. TAYLOR: With all due respect, he has testified it hit the corporation's books and he has testified it didn't hit the corporation's books. I am trying to find out what is correct.

MR. SLOAN: The answers speak for themselves. I see no problem with it.

MR. TAYLOR: That is fine. You have made your objection.

MR. SLOAN: I have made my objection.

Q: Page 90, line 23, your answer says, "It hit the corporation's books in the form of a credit against the payable to me." Was that testimony accurate at the time that you gave that testimony?

A: No, it wasn't.

Q: Why did you testify in that fashion?

A: Because that is what I thought had happened. When I went back and discussed it with the accountant, I found that he had not made that adjustment, so I instructed him to do so. It is the same if you look at line 9 or starting at line 7 you asked the question, "Did the money ever make it into Pacific Recreation?"

I said, "No." Pacific Recreation owed me money

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transcript of your deposition taken on January 21, 1997?

A: I read parts of it, yes.

Q: In the course of that review, did you come across any testimony which you now believe to be inaccurate?

A: I could make lots of corrections, I believe, to this, not in what I testified, but what I know now to be the facts. The relevancy of those, however - another presumption on my part, as it relates to what we are doing are, I don't think, material.

Q: Let's go through them just to be clear.

A: Why don't I go through it and I will make a complete correction of every line.

Q: What I want to know is, as you sit here right now, are you aware of any testimony given in your January 21, 1997, deposition that is incorrect?

MR. SLOAN: He just testified to some.

A: I just testified to some.

Q: Other than language we already discussed.

A: I read a little bit here, page 16, line 13, I started to keep notes and then I got bored. We have already covered that today where I stated this is a draft of the acquisition of lease agreement - acquisition and lease agreement. I wanted to clarify that I had written the word "draft" on there and we discussed that earlier today. It was not a draft. It was an agreement. I had written "draft" on

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that it expensed in '93 for rent that had never been paid. It was just in accounts payable. I didn't recall it had been expense. So they never paid me and I never took it as income.

So, I state there that I had never been paid and then I go on to state on line 11, "I accounted for all of that in this manner."

In other words, there was one big adjustment of all of these dollars back and forth at the end of '96, fiscal, excluding anything to do with the Cadillac. That is what resulted in the \$225,000 loan balance being struck. That is on Exhibit 3 - excuse me, 33 page 1.

Subsequent to my deposition here, I went back and revisited this with the accountant, and, he said, "Well, even though there is no taxable effect to you personally, we should probably adjust this car thing at the same time." The effect of that is it lowered the deductions for the corporation, resulting in some corporate tax due and it - which it never made an effect prior to that, and it lowered the loan balance of the corporation to me personally.

But back on lines 10 and 11 of page 90, I was saying it was taxable income to me, I thought. Subsequent to that, I recall that he said we could always put it against the loan balance, and that is what I responded down in lines 23 and 24, same page.

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So, am I inconsistent, not inconsistent, I am confused at the time I am making this. It is either taxable income to me on lines 12 or 13, or it goes against a corporate payable to me. Either way, I am taking credit for the fact that the deduction or the donation is made by me.

The fact that I chose to use dollars from a corporate checking account that I own 100 percent of may seem significant to you, but it is irrelevant to me since it is all my money, and I guess I didn't draw the straight line to this for my accountant. When he realized that, we made the corrections. When I realized that, based on your comment, your questioning of it.

Further, on line 25 you say, "So you reduced the payable by \$8000?" And my answer was "Exactly." I reduced it by at least \$8000. It was the entire \$31,185 that the corporation had written checks for, but the amount of dollars that I personally didn't receive or that I donated or gifted to Judge Anderson was \$31,185 less \$8000, give or take some change, whatever that dollar amount was. So it is about \$23,000. That is not inconsistent with any numbers that we have had in the past.

Now even Uncle Sam is straight on it.

MR. SLOAN: That does not entitle you to bill him for tax advice, Mr. Taylor.

Q: You had the opportunity this morning to review the

to do a 105-page depo review, Mr. Taylor.

Q: Mr. Hamilton, as you sit here right now, can you tell me, other than what you have already testified about today, can you tell me anything that is incorrect or inaccurate in your January 21, 1997, transcript?

A: I made one other written comment before I left and came in here, so we wouldn't have to wait all day for me.

Q: Very well.

A: Page 28 and 29. I don't know that I made a page - lines 1 and 2 on page 29. I made a note - lines 1 and 2, page 29, where it says, "finding it necessary to hire counsel, pay counsel, for the first time, that I recall, in 20-some years." That is inaccurate in that I had paid several attorneys over the years for doing work for me. What I meant to say then was that casual-inquiry questions, what to do with this, how to do that, questions about general things that you would ask a lawyer that I am now paying for every time I ask a question, hundreds of dollars, just to answer the phone, every -

MR. TAYLOR: Off the record.

(Discussion off the record.)

MR. TAYLOR: Back on the record.

A: What I am talking about is I get bills with case numbers on them or billing file numbers and there are a number of those every month. These are not ongoing files.

[1] These are files where a question may come up six months
[2] after we have dealt with the matter, and yet there is
[3] another bill. This was not the case with Grant Anderson.
[4] It is not the case with my accountants. But I am stepping
[5] into the real world.

[6] The amount of money we are talking about here, as
[7] it relates to this thing, pales at the amount of money that
[8] I am spending and time that I am spending from productive
[9] resources, as I am sure the investigation costs, as it
[10] relates to me, the amount of money that I am spending far
[11] exceeds any benefit if in fact you perceive what you
[12] definitely do, that I derived a benefit from this.

[13] Q: Is there anything else as you sit here?

[14] A: I didn't review the deposition beyond this amount,
[15] other than what you have pointed out to me and I have
[16] pointed out a few corrections on those specific passages,
[17] Not corrections in my testimony. I am not saying that I
[18] didn't testify to that. I am saying, as I now understand
[19] the question, I believe I would have probably testified
[20] differently.

[21] Q: At this point, as you sit here right now, you have
[22] no other corrections to make to your January 21, 1997,
[23] transcript?

[24] A: I have not read the rest of it. Therefore, I have
[25] no corrections to make to it.

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[1] Q: You had previously read the transcript in its
[2] entirety, correct?

[3] A: I had read the transcript in its entirety.

[4] Q: And you made written corrections to the
[5] transcript?

[6] A: I made some written corrections.

[7] Q: Very well. I don't have anything further,

[8] Mr. Hamilton.

[9] MR. SLOAN: I want to say a couple of things
[10] for the record itself. What time is it?

[11] THE WITNESS: Assuming my clock is right, it
[12] is quarter to 2.

[13] MR. SLOAN: It is a quarter to 2. With the
[14] exception of two short breaks, we have been at it since
[15] whatever time the court reporter reflected the starting
[16] time. I recognize Mr. Hamilton is a verbose witness and I
[17] also recognize that he brought some documents and discussed
[18] them that perhaps Mr. Taylor didn't anticipate, at least the
[19] length of the explanation. Nonetheless, he estimated a time
[20] of an hour and a half for his cross-examination. We have
[21] gone considerably beyond that.

[22] Although, I did not want him to review the
[23] entire transcript on the record for additional changes, we
[24] are here now and we would like this process of expense and
[25] time to be completed.

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[1] So, Mr. Taylor, I did tell you, before we
[2] started, I am going to move to quash portions of a subpoena
[3] issued pertaining to Mr. Hamilton's other records from his
[4] accountant. I invite you to make inquiry now of any other
[5] topics that you may wish to inquire of Mr. Hamilton.

[6] Otherwise, we will move to quash any additional attempts to
[7] redepose him or inconvenience him.

[8] Next, we are here in your office in Seattle.

[9] We both came from Tacoma. I would ask that any further
[10] proceedings be at his office or my office in Tacoma to save
[11] that additional time and expense.

[12] MR. TAYLOR: The record speaks for itself.

[13] (The deposition concluded

[14] at 1:55 p.m.)

[15] (Signature was not waived.)

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[1] AFFIDAVIT

[2]
[3] STATE OF WASHINGTON)
[4] COUNTY OF KING) ss.

[5]
[6] I have read my within deposition,
[7] and the same is true and correct, save and
[8] except for changes and/or corrections, if any,
[9] as indicated by me on the "CORRECTIONS" leaf
[10] page hereof.

[11] WILLIAM HAMILTON

[12]
[13]
[14]
[15] SUBSCRIBED AND SWORN to before me
[16] this _____ day of _____, 1997.

[17]
[18]
[19]
[20]

[21] NOTARY PUBLIC in and for
[22] the State of Washington,
[23] residing at _____.
[24] My commission expires

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[1] CERTIFICATE

[2]
[3] STATE OF WASHINGTON)
[4] COUNTY OF KING) ss.

[5]

[6] I, the undersigned officer of the Court,
[7] under my commission as a Notary Public in and for
[8] the State of Washington, hereby certify that the
[9] foregoing deposition upon oral examination of the
[10] witness named herein was taken stenographically
[11] before me and thereafter transcribed under my
[12] direction;

[13] That the witness before examination was
[14] first duly sworn by me to testify truthfully; that
[15] the transcript of the deposition is a full, true
[16] and correct transcript of the testimony, including
[17] questions and answers and all objections, motions,
[18] and exceptions of counsel made and taken at the
[19] time of the foregoing examination;

[20] That I am neither attorney for, nor a
[21] relative or employee of any of the parties to the
[22] action; further, that I am not a relative or
[23] employee of any attorney or counsel employed by the
[24] parties hereto, nor financially interested in its
[25] outcome.

[16] IN WITNESS WHEREOF, I have hereunto set my
[17] hand and seal this 7th day of July, 1997.

[18]

[19]

[20]

[21] Patrice E. Starkovich
[22] NOTARY PUBLIC in and for the
[23] State of Washington, residing
[24] at Seattle.
[25] My Commission Expires 5-31-2000.

PATRICE STARKOVICH
REPORTING SERVICES
P.O BOX 22884
SEATTLE, WASHINGTON 98122
(206) 323-0919
FAX 328-0632

July 7, 1997

To: Mr. Philip R. Sloan
Sloan, Brobrick & Oldfield
P.O. Box 7127
2601 North Alder Street
Tacoma, Washington 98407-0127

Re: The Commission on Judicial Conduct

Deposition of: William Hamilton, Volume II

Date Taken: June 30, 1997

Cause No.: 96-2179

PLEASE TAKE NOTICE THAT:

For your convenience, please call Melissa Watkins at 206
565-4181 to arrange an appointment for reading and signing
the deposition at her offices in Tacoma.

Instruct the deponent to review the deposition, record any
corrections over his signature on the Correction Sheet, and
sign the Affidavit before a Notary Public. If there are
corrections, please furnish other counsel with copies.
Return both forms to this office for their inclusion in the
original transcript. The transcript will be forwarded to
the appropriate party _____.

Thank you for your assistance in obtaining signature.

By: Patrice E. Starkovich RPR, CSR

cc: Paul R. Taylor