

1 and whatnot. I thought it was being handled, so
2 this is kind of a lesson for me to know that I
3 need to know more about that stuff, bottom line.

4 Q. Did any of that -- Did any of the
5 telecom regulations affect your responsibilities
6 with these companies?

7 MR. HAWA: Objection. That's far too
8 vague for this witness to respond. What telecom
9 regulations are you talking about that apply?

10 MR. HARKRADER: Well, he said he
11 should have been more knowledgeable about telecom
12 regulations.

13 MR. HAWA: Are you asking him what he
14 is specifically referring to?

15 MR. HARKRADER: Yeah, we can do that.

16 BY MR. HARKRADER:

17 Q. What were you referring to when you
18 talked about the telecom regulations that you
19 wished you had known better, if that's a fair
20 characterization of what you said?

21 A. I guess what I was trying to say is

1 just knowing the whole process, which I don't
2 really know, as far as how to get a state
3 license. You know, and then if a complaint comes
4 into a state, how to handle that. Basically,
5 just to make sure those things are being done
6 properly is what I was really trying to say.
7 Just to be more involved so that things that I
8 have recently heard about -- you know, that we
9 are here to talk about -- don't occur again.

10 Q. Right. And what I am trying to
11 understand is was there any part of your job with
12 respect to your supervision of divisions one and
13 two that would require you to be familiar with
14 those types of regulations?

15 A. Well, let's see. Divisions one and
16 two. Maybe in division five, that's our quality
17 control. Like the verification companies, you
18 know, they would coordinate with our division
19 five to make sure sales are, you know, properly
20 sold and completely sold. So as far as any
21 regulations on verifications -- I mean, corporate

1 affairs would oversee that, and they would give
2 me -- you know, they would basically monitor and
3 make sure we were doing things in compliance, but
4 I would be involved as far as, you know. I am
5 not making myself clear. I should be responsible
6 to see that sales are properly verified, if that
7 makes sense. As far as new sales and customers
8 and acquisition of customers, I know that there
9 are laws coming out regarding the "Do Not Call"
10 list. So I need to help, you know -- when our
11 division seven gets all that information, I need
12 to make sure that any leads that we are calling
13 have been properly scrubbed against the "Do Not
14 Call" list. So I guess that's what I was trying
15 to say.

16 Q. Okay. Are you responsible for
17 divisions one through six -- or were you in 2001
18 and 2002?

19 A. Off and on. In 2001, I was senior to
20 that area and there most of the time. But then I
21 think as Kurtis told you guys, I went and climbed

1 a mountain in July of 2001, and times have been
2 interesting for me since that point as far as
3 health. And I missed most of 2002. The first
4 six months, practically, I was just homebound.
5 Then I started coming in randomly and, you know,
6 sticking my nose into different areas trying to
7 slowly get back to work and stuff like that.
8 But, yeah, technically those would be the areas
9 that I oversee now.

10 Q. Okay. Were you senior to Mr. Brzycki
11 during the times when the company was having some
12 EEOC matters?

13 A. Senior to him over divisions one and
14 two. But again, not the corporate affairs or
15 legal department.

16 Q. Okay. So the -- Do you know the EEOC
17 matters that I am referring to?

18 A. Yes.

19 Q. Do you remember when those happened?

20 A. It seems that the initial EEOC filings
21 were -- it seems like it was around January of

1 last year is when that popped up, and I was --
2 Yeah, because Kurtis called me at home. I was
3 sick and at home when we received that.

4 Q. Did there come a time where you
5 replaced Mr. Brzycki as the secretary/treasurer
6 of Business Options or U.S. Bell or Buzz Telecom?

7 A. Yes. I think officially last year I
8 was entered into the books. But, again, I am not
9 real good with all that corporate books and all
10 that, so -- I know now I am that, but it could
11 have been 2003, or it may have been 2002, I'm not
12 real positive on the exact date it went into the
13 books.

14 Q. When did you first find out that you
15 were going to take over for Mr. Brzycki in the
16 secretary/treasurer role?

17 A. It seems like at the meeting a couple
18 of months ago, you know, when we updated all of
19 our books with our attorney.

20 Q. So you think it may have happened last
21 year, in 2002?

1 A. Well, when we updated our books and
2 the minutes for the different years. It may have
3 been, but I'm not sure.

4 Q. I am just trying to clarify -- you may
5 have been appointed secretary/treasurer of Buzz
6 Telecom?

7 A. Yeah. I think -- I mean, Bill, I
8 believe, was secretary/treasurer until he left
9 the company.

10 Q. Okay.

11 A. And so there may have been like a
12 transition thing, and then I took over that --

13 Q. Okay.

14 A. -- for part of 2002.

15 Q. And he left the company in roughly
16 October of 2002?

17 A. Yeah, end of October, I believe.

18 Q. Was it around that time period that
19 someone came to you and asked you to become
20 secretary/treasurer for the company?

21 A. I wish we were that efficient. But,

1 actually, I think it was decided upon again just
2 a couple of months ago at the meeting with the
3 attorney. It was like, "Oh, we need to elect
4 somebody."

5 Q. Okay. Was there ever a time when you
6 served as president of Buzz Telecom or Business
7 Options?

8 A. I held the post of president, but
9 never as an officer. And, actually, we have a --
10 we have changed this post title a number of
11 times. It's currently executive director, and
12 it's been that before. It's also been called
13 CEO, and it's also been called president. But
14 that's more of just nomenclature within our
15 company. And we are going with executive
16 director now because we realize it causes
17 confusion with what's actually corporate, you
18 know, officers. So as far as corporate officers,
19 no, I don't believe so.

20 Q. Okay.

21 A. I would be shocked if it's in the

1 books.

2 Q. I guess anything is possible.

3 A. Yes.

4 Q. When did you hold the position of
5 president, but not an officer?

6 A. Well, since 2001 -- it seems like
7 around the beginning of 2001, maybe the end of
8 2000 is when I became the executive director or
9 president.

10 Q. Do you still hold that position today?

11 A. Yes.

12 Q. What are the responsibilities of that
13 position?

14 A. Well, I have the fun of running the
15 day-to-day activities of the company --

16 Q. Okay.

17 A. -- and overseeing, technically, three
18 vice presidents -- the vice president of
19 administration, the vice president of operations,
20 and the vice president of expansion. However,
21 currently I hold the vice president of expansion

1 post from above. And so I am actually running
2 one vice president of operations, Elizabeth
3 Ontiveros Rosas. And then we have what we call a
4 deputy executive director, Gayle Perry, who I
5 also supervise. And she is holding, temporarily,
6 the vice president of administration post that
7 was held by Mr. Brzycki until we, you know, find
8 a good replacement.

9 Q. And you are vice president of
10 expansion as well?

11 A. I hold that post, yeah.

12 Q. Okay. Is secretary/treasurer -- I
13 assume secretary/treasurer is an actual officer
14 position?

15 A. It is -- As far as like the
16 corporation is concerned?

17 Q. Yes.

18 A. Yes.

19 Q. As opposed to the position of
20 president, but not an officer.

21 A. Yes.

1 Q. Have you had any other corporate
2 officer positions or held any other corporate
3 officer positions with Buzz, BOI, or U.S. Bell?

4 A. No.

5 Q. What was your understanding of why Mr.
6 Brzycki left the company?

7 A. It was time. He had decided he didn't
8 want to continue training. And then there was
9 some incompetence factors.

10 Q. What were those incompetence factors?

11 A. Well, I think it was late last year he
12 found that we had not been filing and paying,
13 which was in his area, federal USF payments.
14 That was the big one.

15 Q. When did you find that out -- that Mr.
16 Brzycki was not paying the federal USF funds?

17 A. He sent a dispatch to Kurtis and I, as
18 board members, in maybe June or July, something
19 like that, of last year.

20 Q. Were you back with the company at that
21 time, in June or July? Or were you off your sick

1 leave at that time?

2 A. Well, I was part-time; I was back.

3 Q. Okay. What is a dispatch?

4 A. Oh, that's like a memo.

5 MR. HAWA: It should have been in your
6 documents. If you don't have it, I can get it.

7 MR. HARKRADER: I am sure we have it.

8 MR. HAWA: Okay.

9 MR. HARKRADER: But thank you.

10 BY MR. HARKRADER:

11 Q. Were there any other incompetence
12 factors with respect to Mr. Brzycki?

13 A. I can speak more of the areas where I
14 worked with him. Our division two never got
15 established, other than a handful of calling
16 cards got designed. Bill is an amateur
17 photographer, and he did spend some time -- he's
18 pretty good actually, and he spent some time on
19 trips taking pictures of lighthouses and
20 different things. And then he got them onto
21 calling cards, which looked really good, but we

1 never really got them out to the customers
2 effectively. And that was really it in division
3 two, which was kind of a lament for me -- I
4 really wanted to do more in that division.

5 Q. Okay.

6 A. In the division one area, I would say
7 Bill was not bad at doing a lot of the day-to-day
8 stuff if we had to fire somebody or as far as
9 organizing the hiring line. He wasn't great at
10 it, meaning that there seemed -- I had to
11 constantly be putting attention in on that area
12 to correct things. In telemarketing, there's --
13 at least what I found -- a high turn rate of
14 sales representatives; turn rate, meaning they
15 quit a lot. It's just a hard job to do, so you
16 have to keep hiring an abundance to keep the
17 production levels high. And Bill struggled with
18 that at times, keeping a, you know, good
19 demographic base of staff that, you know, people
20 who could actually speak and read and stuff like
21 that and do the job. So, anyway, I seemed to

1 have to go in and handle some of that area. But,
2 anyway, there was some non-compliance issues, I
3 guess. I'm not being real specific because I
4 don't have anything in front of me. But I was a
5 little frustrated, you know, as far as where I
6 wanted the area to go and become and what he was
7 keeping it as, if that makes sense.

8 Q. It does.

9 A. Okay.

10 Q. Did you have discussions with him
11 about your frustrations?

12 A. Yes. In fact, my first trip to the ER
13 back in July was in the middle of a meeting with
14 Bill when I had a whole list of his stack of
15 non-compliance reports. We call them
16 non-compliance reports. If I give somebody an
17 order, and they don't comply. And I had a stack
18 of those, and I was about to go in and deal with
19 my frustrations with him, and I ended up needing
20 Bill to drive me to the ER instead. So I
21 remember that conversation, obviously. But there

1 were others.

2 Q. Okay. You were not supervising Mr.
3 Brzycki, were you, with respect to his Universal
4 Service obligations?

5 A. No.

6 Q. Okay.

7 A. That fell into our Department 20 under
8 division seven, corporate affairs.

9 Q. Okay. So your brother Kurtis would
10 have supervised that?

11 A. Correct, from the chairman post.

12 Q. Were there any other areas of Mr.
13 Brzycki's performance where you felt he was
14 incompetent other than the ones we have
15 discussed?

16 A. I mean, there were some back issues.
17 I know just because I was around in the
18 mid-Nineties that Kurtis had him over the
19 treasury area. And at that time, we ran into
20 some -- well, bottom line, we hadn't paid all of
21 our payroll taxes and ended up with a pretty

1 significant debt with the IRS. So, definitely,
2 that was a big scene that has now been handled --
3 or payments are being made and all that. It
4 seems like there was another pretty big
5 situation. Well, the EEOC cycle -- you know,
6 that came up under his watch while he was over
7 human resources. So that was another pretty big
8 deal.

9 Q. Okay.

10 A. But I guess the underlying thing that
11 I would be frustrated with as to that was the one
12 department we had in our division one -- Well,
13 there are three departments in division one. One
14 is for personnel things get handled; then one is
15 communications -- you know, faxes, mail, things
16 like that. Those two areas, he did pretty -- you
17 know, they were passable.

18 But the third was inspections and
19 reports. And that area, I would say he was
20 fairly weak. I mean, he could do some of the
21 basic stuff. But if there was any ethical

1 situation that would arise -- maybe somebody, a
2 sales representative -- well, I really don't know
3 how to explain it. The major things, he handled,
4 I guess. But it could have been better.

5 Q. Okay.

6 A. It just could have been better. I
7 mean, it's better now. With Gayle Perry there,
8 it's like night and day, so --

9 Q. Okay.

10 A. I can give you one example, actually,
11 now that I think about it. A couple of years ago
12 we had a verification company, A&M Verifications.
13 And at some point, A&M Verifications decided to
14 expand to the 7-Eleven business. They opened up
15 basically a little candy shop, donut shop or
16 whatnot right in there little business there.
17 And that drove me batty. I was constantly Bill
18 to handle it, and it didn't happen until
19 basically we changed verification companies on my
20 order because I was so fed up with it. But it
21 seemed like a simple thing, but it just didn't

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1 get handled.

2 Q. Was he vice president of admin at one
3 point?

4 A. Uh-huh.

5 Q. Is that when you referred to his
6 supervision of the human resource group -- is
7 that when he was vice president of admin?

8 A. Yeah. He was for quite awhile. I
9 don't know the exact dates, but he was that for
10 awhile.

11 Q. When was he overseeing the treasury
12 responsibilities; do you remember?

13 A. I think he had an accounting degree
14 from Purdue Calumet here locally, and he had been
15 working nights as a driver for UPS. Anyway,
16 that's irrelevant. So he got hired right out of
17 college, and I think that's when Kurtis put him
18 over that area -- right in '95.

19 Q. Did you have any responsibility for
20 hiring him?

21 A. No.

1 Q. Did you and Kurtis discuss Mr. Brzycki
2 leaving the company before he left?

3 A. Yes.

4 Q. Did you help fire him?

5 A. I don't know if that's actually how it
6 played out. There was a severance agreement, and
7 it was kind of like a mutual understanding
8 almost. Bill was -- I don't know if he was
9 burned out, frustrated that he wasn't an owner
10 and had more power -- I don't really know; I
11 can't really speak for him. But it seemed it was
12 time. We were having a hard time getting him to
13 elevate to where we needed him to be. He was on
14 a pretty high post, and going backwards wasn't
15 really an option for Bill. He also had
16 aspirations of starting a photography business.
17 So it just seemed like with everything that went
18 on that -- I mean, I think we would have
19 terminated him, I guess. It probably would have
20 come to that, but we ended up just having
21 discussions, and he decided it was time to bow

1 out, so we did a severance package.

2 Q. Did you initiate those discussions
3 with him?

4 A. Yes.

5 Q. About when was that?

6 A. Oh, maybe within 30 days of his
7 departure, I would say.

8 Q. Did you talk to your brother before
9 you initiated those discussions?

10 A. Yes.

11 Q. And what did you and your brother
12 discuss with respect to Mr. Brzycki's continued
13 employment?

14 A. We talked about giving Bill the option
15 to full-time train so that he could get better.
16 You know, we were basically removing him from a
17 position and training the guy to become a better
18 manager. Or if he didn't want to do that, he
19 could leave. That's what we talked about.

20 Q. And would that pretty much summarize
21 the discussion you had with Mr. Brzycki -- did

1 you give him the option of full-time training?

2 A. Yes.

3 Q. And what was his response to that?

4 A. He was very appreciative, actually,
5 and wanted to think about it. I think I gave him
6 a few days to a week. And then he came back and
7 said, "No, I think I want to, you know -- Let me
8 back up. Actually, when I talked to him
9 initially, I talked to him potentially about a
10 severance package or full-time training. So he
11 had a few days to a week to think about those two
12 options. When he came back, he said, "Well, I
13 want to do the severance package and give this
14 photography thing a shot." Which I was actually
15 pretty shocked. I thought he would stay and go
16 for the training.

17 Q. Why is that?

18 A. I just did. I mean, he had been there
19 for six, seven years, and I didn't see him
20 leaving. He had an option of full-time training,
21 which was a pretty good offer.

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1 Q. Now, what would the training have
2 consisted of?

3 A. We really hadn't gotten that far, but
4 management training, more to improve his
5 management skills.

6 Q. Would you have sent him to a graduate
7 course around here?

8 A. We were looking at sending him to the
9 Hubbard College of Administration in Los Angeles.
10 Bill had a degree, and had basic skills. What I
11 saw with him, you know, regardless of all the
12 individual mistakes or whatever that people make,
13 there was -- he didn't see when he was
14 overwhelmed and needed more people. And he kind
15 of played it as though everything was fine when
16 in reality he was overwhelmed, and then big
17 mistakes occurred. So the management area,
18 that's really what I saw as his big weakness, so
19 I was focusing on that.

20 Q. When you replaced Mr. Brzycki as
21 secretary/treasurer, did you assume a financial

1 role for the companies?

2 A. That's a good question. I never even
3 thought of that. To me, it's more of just a
4 corporate name change. I can tell you that I did
5 start to get involved with -- At Avatar, I also
6 hold the post of director of finance, part-time,
7 needless to say. So it's just a big name. But
8 really what it means is I tried to make sure that
9 all the different companies keep their books
10 organized.

11 Q. How long have you had that position?

12 A. We created it this year, I think,
13 actually. So six or seven months.

14 Q. It was created in January of this
15 year?

16 A. That seems about the right time when
17 Avatar really got its own place and everything,
18 created its own functional organizational chart
19 with different functions, stuff like that.

20 Q. Do you have a background in finance?

21 A. No. But I am -- I like computers, and

1 I like engineering type stuff, so I am learning.
2 I coordinate with our accountants on any major
3 stuff.

4 Q. Do you work with the accountants on
5 tax filings?

6 A. As far as corporate tax filings --
7 well, yes, would be my answer. On payroll type
8 stuff, the monthlies, the quarterlies, the
9 yearlies, the -- you know, the state filings --
10 you know, you see one, you see five reports on
11 all that type of payroll stuff, tax stuff. The
12 corporate taxes, I help them by making sure they
13 have access to the computers and keeping the
14 books organized, and then they do all of the
15 corporate tax preparations, of which I kind of
16 go, "Okay," and then Kurtis signs. Because
17 that's over my head.

18 Q. With respect to the financial
19 documents that you look at or that you kind of
20 coordinate, it sounds like -- how is that
21 different from the way things were before you

1 were director of finance for Avatar?

2 A. How is it different now?

3 Q. Uh-huh.

4 A. Um --

5 Q. Let me see if I can ask a better
6 question than that.

7 A. Okay.

8 Q. You have a certain number of
9 responsibilities with respect to your position as
10 director of finance, and I assume that people
11 will give you financial information, and you
12 coordinate it and make sure that it's right. Is
13 that fair to say?

14 A. Yeah. Let me give you an example.

15 Q. Please do.

16 A. Okay. I don't really deal with
17 balance sheets and P & L's, although I am working
18 on learning what those are all about. I deal
19 more with -- well, I will give you an example.
20 Facilitel -- let's say they bring in \$10,000 in
21 income this week, and they want to spend \$5,000

1 on payroll, \$3,000 on rent, and \$2,000 on
2 miscellaneous vendor-type stuff. So I make sure
3 they stay organized and try to account for all of
4 their income and expenses, and let them get
5 organized in a way to present it to Kurtis, who
6 is actually the finance banking officer, in a way
7 where that he can make a quick decision on
8 whether they are using their income in a way to
9 expand the company. And then I have an
10 assistant -- I have trained him, and he does a
11 lot of the preparation on that every week. So we
12 do that for Facilitel, TB-247, Buzz and Avatar --
13 we get it all organized and prepared so that
14 Kurtis can make proper decisions. Does that make
15 sense?

16 Q. It does, yes. Is Business Options
17 included within that list of companies?

18 A. Yes.

19 Q. That would be under a part of Buzz?

20 A. Actually, we do a separate one for
21 Business Options. And currently -- and this may