

1 I started and there for a couple of years while I
2 was there. And Kimberly Perfetti was promoted to
3 be his boss. And when he left, she kind of
4 stepped down as the sales manager. And, you
5 know, we would have people that might stay with
6 the company, but being moved from that position
7 back and forth. But there was, you know -- it's
8 fairly a high turnover in sales everywhere, I
9 think, unless you're really, really good at it.
10 I don't think we ever had anyone who was really,
11 really good at it.

12 Q. When you started to work for Business
13 Options, where was the physical location of your
14 office?

15 A. Valparaiso, Indiana.

16 Q. And did there come a time when the
17 office location changed from Valparaiso?

18 A. Yes.

19 Q. Approximately when?

20 A. The way that it was set up was that we
21 had sales in Merrillville here at our office and

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1 the executives in Valparaiso. And at some point,
2 and I don't honestly remember, probably within
3 six months of me signing this agreement, I was
4 moved back to Merrillville to generate a sales
5 force. We had three or four people selling at
6 the time. And I was told to hire enough and get
7 a 25-person crew in there. And I moved back
8 myself and the sales manager Llewellyn Gray. And
9 we managed the Merrillville office and brought in
10 the number of people that we had.

11 Q. So the move to Merrillville, more or
12 less, was related to an increase in the number of
13 staff to sell the product?

14 A. Yes.

15 Q. The product being Business Options'
16 long distance telephone service?

17 A. That's correct.

18 Q. Did you have any responsibility in
19 determining what, if anything, the telemarketers
20 should say to prospective customers?

21 A. Not at that point, no.

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1 Q. Who did?

2 A. I don't know. I would imagine Kurtis.

3 Q. As I said, it's fair to say you don't
4 know if you don't know. Did they have a written
5 script to operate from?

6 A. Yes.

7 Q. That script was given to you?

8 A. No. Given to the sales manager.

9 Q. Given to the sales manager. Were you
10 asked to determine, in any fashion, whether the
11 sales script was in accord with state
12 regulations?

13 A. No.

14 Q. Were you asked to determine whether or
15 not the sales script was in accord with Federal
16 regulations?

17 A. No.

18 Q. Were you ever asked to determine
19 whether the sales script was consistent with
20 state regulations?

21 A. Later on, I was.

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1 Q. Approximately when?

2 A. Sometime in 2000 maybe.

3 Q. Who asked you?

4 A. Kurtis asked me to do so. The reason
5 being, we were working on obtaining a new billing
6 clearinghouse to bill through. And they required
7 certain verification scripts and sales scripts
8 that you use. And at that point, to become
9 within the state parameters. And their
10 parameters, I was asked to write those scripts.

11 Q. What parameters did you have to work
12 with?

13 A. The billing companies sent over just a
14 line item, these things have to be on your
15 script. And that way, they'll fulfill the
16 obligations of the state Governments and our
17 obligations. Basically, I wrote scripts that
18 matched step by step what they wanted.

19 Q. Was there ever a time when you looked
20 at the script in conjunction with what appeared
21 in Federal regulations?

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1 A. No. Not that I recall.

2 Q. Do you recall ever being asked to do
3 that?

4 A. No.

5 Q. With respect to verification scripts
6 as opposed to telemarketing scripts, were you
7 ever asked to determine whether or not
8 verification scripts were in accord with Federal
9 regulations?

10 A. Yes.

11 Q. Approximately when?

12 A. Again, 2000, 2001.

13 Q. And by whom were you asked?

14 A. Kurtis.

15 Q. And how did you go about determining
16 that verification scripts were in accord with
17 Federal regulations?

18 A. I went to the public library and got
19 the statutes concerning verifications for long
20 distance. And basically tried to paraphrase what
21 was in the statute concerning what was required

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1 to verify.

2 Q. And by "statute," are you thinking of
3 the communications act?

4 A. Uh-huh.

5 Q. Are you also thinking of the Code of
6 Federal Regulations?

7 A. I'm not sure.

8 Q. Let me show you one of our wonderful
9 little books here. This is -- because this was
10 revised as of October 1, 2002, this certainly
11 concerns a period that post dates what you've
12 been talking about. But in terms of the basic
13 framework itself, what I'm going to show you is
14 section 64.1120 of the Commission's rules that's
15 found in 47 Code of Federal Regulations. I'm not
16 going to ask you to study it, but just glance
17 through it.

18 A. Okay. This looks very familiar. This
19 is what I looked at.

20 Q. So you recall having looked at least
21 something similar to what I showed you?

1 A. Yes.

2 Q. And this was the research that you
3 personally did at the local public library?

4 A. Uh-huh.

5 Q. I didn't ask this before, but you do
6 not have a law background, do you?

7 A. No.

8 Q. In other words, you don't have a law
9 degree?

10 A. No.

11 Q. Do you have any paralegal training?

12 A. No.

13 Q. With respect to what you did in
14 connection with the verification script, that is,
15 preparing it on the basis of what you saw in the
16 Federal regulations, did anybody review your
17 product?

18 A. I'm sure that Kurtis and Keanan did.
19 I don't remember which one specifically. Anytime
20 I did a script, I had to show it to somebody
21 before I could issue it to somebody.

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1 Q. What happened after you prepared the
2 script in terms of where did it go next?

3 A. Next, it would go to the sales manager
4 and to whichever verification company we were
5 using at the time. And also before I would give
6 it to anybody, I would issue it to the billing
7 clearinghouse and I would get their approval
8 first. Because if they didn't approve of it, we
9 couldn't use it. That was really a regular step
10 for me on sales or verification scripts, getting
11 the billing clearinghouses approved.

12 Q. Was there more than one billing
13 clearinghouse that was used?

14 A. We used two that I remember. One was
15 USBI, and that was -- we were using them when I
16 starred doing the regulatory work. We also used
17 another one, I'm not sure of its name. HBOS
18 maybe, that sounds familiar. And then we went
19 back to USBI.

20 Q. Do you recall whether or not you
21 received written approval from either of the two

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1 billing clearinghouses that you mentioned?

2 A. I don't remember how they approved
3 them. It may have been as simple as just a phone
4 call, "That's okay, go ahead and use it." I
5 don't remember specifically.

6 Q. With respect to the verification
7 companies, what verification companies were you
8 aware of that Business Options used?

9 A. Well, there were several. When I
10 started out, we were doing it internally. I
11 don't remember the girl's name that was doing it.
12 But we had a staff in there that was doing it.
13 And then when we became aware that it was
14 supposed to be a separate entity, we set up a
15 girl in business to do it for a while. And she
16 was separate from the company. And then it was
17 brought back into the building. And I think
18 Keanan ran it for a while. I think he was
19 working for Dreamquest at the time. And then
20 when he came into the Business Options, we
21 basically set up an employee in business, Tony

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1 Lowe (phonetic) and his company was A&M
2 Verifications. We used them for a couple of
3 years. And then we had some trouble and they
4 left. And then we had our accountant doing it.
5 And that was F&S, maybe, Verifications. But he
6 was doing it when I left.

7 Q. I think we've seen it described as
8 F&G.

9 A. F&G.

10 Q. Or maybe F/G.

11 A. Something like that. I know
12 Furmankiewicz because that's our accountant's
13 last name, but I don't know who --

14 Q. Who the "G" is?

15 A. Yes. I don't know the other. But
16 that's how we did it. And we always had it --
17 with the exception of the girl who we set up,
18 because we set her up in a different building and
19 we were faxing orders to her. And for a while,
20 U.S. Republic did it, but that was on a separate
21 product. But they were usually in our building

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1 so we could walk orders down to them.

2 Q. In terms of the employees that the
3 entities that were in the same building as you,
4 where did those employees come from?

5 A. For the most part, they were either
6 hired or directed there by me. But when A&M was
7 doing it, he did his own hiring and recruiting.

8 Q. Roughly what period of time was A&M
9 the verification company for Business Options?

10 A. 2000, 2001, somewhere in that calendar
11 area.

12 Q. Was there ever a point in time where
13 an entity called Great Lakes Verification Company
14 was used?

15 A. I believe that's the company that
16 Keanan ran, Great Lakes. And it may have been
17 the name of who was doing it when I started. But
18 I -- at first, I really didn't have anything to
19 do with -- all I did was recruit people. And I
20 worked on the regulatory stuff. I didn't really
21 have much hands-on with verification or sales.

1 So I don't really recall the names that well.

2 Q. This is a document that bears a date
3 of April 2, 1998. So in terms of the timing,
4 it's about roughly ten months after this
5 employment agreement is dated. And it bears Bate
6 Stamp Numbers 00850. And I would just ask you to
7 look at it. And then I will ask a question or
8 two about it.

9 (Witness Reviewing Document).

10 Q. Have you ever seen this document
11 before today?

12 A. I don't remember ever seeing it.

13 Q. In the second sentence, which reads,
14 "On Friday, 27 March, legal forwarded a state
15 form for requiring current officer information.
16 Officers are set forth as follow: President,
17 Kurtis J. Kintzel; Secretary, Kimberly J.
18 Perfetti; treasurer, William C. Brzycki." The
19 reference there to legal, do you know who that
20 would be?

21 A. Me.

1 Q. That would be you?

2 A. The department, I believe, is titled
3 "Regulatory Affairs," but was considered in the
4 company legal. If something were to come in, it
5 would be given to me if sent by any attorney or
6 Government entity.

7 Q. The references at the top right where
8 it has -- it looks like DI&R, what does that
9 mean?

10 A. Director of inspections and reports.

11 Q. And what is that?

12 A. That is a department in the company
13 that whenever anything is going on that is off of
14 policy or unethical or someone is not doing their
15 job, they would send a report to that department.
16 That department would investigate it and figure
17 out what's going on and straighten it out.

18 Q. And underneath it where it says COB
19 COMM, what does that represent?

20 A. Chairman of the board communicator.
21 Communicator is the title of basically the

1 administrative assistant or secretary, that
2 person is the line of defense before you would
3 get to the chairman of the board. Anything that
4 you that you wanted to communicate with them
5 about, you would give it to her. And she would
6 forward it to him based on whether or not she
7 felt it was important enough for him to see it.
8 And if she did not, she would handle it and send
9 it back out.

10 Q. And then in terms of the cc's, it has
11 COB PRES and then EXEC ESTO, what is that?

12 A. COB is chairman of the board. EXEC
13 ESTO is the executive establishment officer. The
14 executive establishment officer would be the
15 person in the company who goes around and gets
16 everything set up for new employees and also
17 ensures that the job descriptions for a person
18 are written and they get trained on the company's
19 policies and procedures. And also that they get
20 any required training that might have to occur
21 outside the company.

1 Q. In terms of who the people might be at
2 this point in time to April '98, would I be
3 correct that COB would be Kurtis?

4 A. Yes.

5 Q. And who would the president be?

6 A. I think that's too soon for the
7 president to be Keanan. The president might also
8 have been Kurtis at the time. The only president
9 we've ever had besides Kurtis is Keanan, but I'm
10 not sure that he was president in '98.

11 Q. And then the EXEC ESTO?

12 A. Sherry Perfetti.

13 Q. That's somebody different from
14 Kimberly Perfetti?

15 A. That is Kimberly Perfetti's aunt.

16 Q. In terms of the information that
17 appears toward the bottom when it talks about the
18 different states. The first point is concerning
19 the annual report for Ohio. The second, an
20 annual report for South Dakota. Third, a city
21 license for Chickasaw, Alabama. The fourth,

1 concerning the Oklahoma tax commission. What is
2 the import of that information?

3 A. Basically, what she's saying is that
4 something was filled out incorrectly and it
5 should be straightened out. Or was routed to the
6 wrong person or something. And then she's trying
7 to detail out everything that was sent with it.

8 Q. And in terms of KJ Perfetti, what is
9 her role in the larger scheme of things at this
10 point in time?

11 A. She was basically Kurtis's
12 administrative assistant.

13 Q. I'm going to show you a document Bate
14 Stamped pages 01139 and 01140. They appear to
15 bear a date of 4-15-98. And I'd just ask you to
16 glance through it. And if you can, tell me what
17 this document is.

18 A. This looks like instructions to my
19 assistant on handling complaints that come in.

20 Q. So that's your handwriting?

21 A. Yes.

1 Q. And Heather is your assistant at that
2 time?

3 A. Uh-huh.

4 Q. And in the upper left-hand corner
5 where it has DIR department one, is that your
6 department?

7 A. That's one of the departments that was
8 underneath me. The way that our -- that their
9 board was set up was that the vice-president of
10 establishment was over parts of the division
11 seven, division one, division two. And division
12 one helped department one, two, three, division
13 two, four, five, six.

14 Q. And what do those numbers represent?

15 A. Each department has a different
16 responsibility. Department one was basically
17 personnel. Department two was inspections and
18 reports that we discussed earlier. I don't
19 really remember what the rest of the departments
20 were. Division two was marketing, which we
21 didn't do a whole lot in. It was like

1 publishing, that kind of thing. And division
2 seven was for regulatory affairs. So all the
3 legal stuff was in there. I used to know all the
4 names of all the departments, but as you leave,
5 you try to forget that stuff.

6 Q. Are you using division and department
7 interchangeably?

8 A. No. They're different. A division
9 holds three departments. So the way it's set up
10 is, the vice-president runs three divisions. A
11 manager runs three departments within a division.
12 And then a director would run one department.
13 Typically, what I had was myself as the
14 vice-president and maybe a department had an
15 administrative assistant.

16 Q. And so your responsibility at about
17 this point in time, April of '98, was over more
18 than one department?

19 A. Yes. Really seven or eight
20 departments.

21 Q. Okay. And then as far as divisions

1 are concerned, again, it was more than one
2 division?

3 A. Three divisions. The division seven,
4 only partially. But basically those three
5 divisions. And there was always a need to --
6 after somebody had been there for a while, to
7 give them a title. So the director of department
8 one was the most common title that I would give
9 to somebody because that would enable them to do
10 interviews and help me out with hiring and firing
11 if need be.

12 Q. This document bears a date of April
13 15, 1998 and Bate Stamp Numbers 01138. What is
14 that document doing?

15 A. A compliance report is written
16 whenever an order request is given just to show
17 that you complied with it. Typically, this would
18 have been attached to a list of statistics or a
19 report that I had written or whatever. And this
20 is just showing that the PUC reports --
21 basically, we kept a record of how many were done

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1 per week to track what you're doing. And at
2 staff meetings, we would go over our statistics
3 every week. I might say, you know, "This week,
4 we did five reports. We handled three
5 complaints. We fired three people. We hired 12
6 people." I would have a whole list of statistics
7 that I would go through.

8 Q. The upper left-hand corner, where it
9 has underlined CEO/EXECUTIVE COUNCIL, that means
10 you gave this report to those entities?

11 A. Yes. CEO was chief executive officer,
12 that was Kurtis. He held that and chairman of
13 the board. And executive council is the council
14 of upper-level executives, which would be
15 vice-presidents and above at that time. Which
16 would have included myself. Based on the time
17 line I'm not sure, but potentially Sherry
18 Perfetti, Kim Perfetti, and Kurtis. So when you
19 complied with an order from the executive
20 council, you would issue one of those notes to
21 each person.

1 Q. The executive council, did it meet
2 with any regularity?

3 A. On and off, it would meet once a week.
4 And that would probably last three to six months.
5 And then we probably wouldn't meet for a while.
6 Then we would go back to meeting weekly. The
7 purpose of the meeting really was to discuss our
8 statistics, how things were going in the company.
9 And for Kurtis to disseminate and information
10 that we needed to know. And if he thought
11 something needed to be done in your area, that's
12 where he would say, "Hey, why don't you get this
13 done this week or this done next week" or what
14 have you. A lot depended on how often Kurtis or
15 Keanan was in the office to run the meeting.
16 And, you know, just how things were going.

17 If things were going really well,
18 typically it wasn't as important to have a
19 meeting. Usually, it was more important to have
20 one when things weren't going as well so we could
21 try to straighten things out.

1 Q. In terms of the PUC reports during
2 this period, April of 1998, what is it generally
3 that you were supposed to do with respect to a
4 PUC report?

5 A. Typically, when something would come
6 in -- usually during that time of year, it was
7 probably annual reports. They would come in,
8 we'd fill them out and send them off.

9 Q. What was involved in an annual report?

10 A. They typically wanted your sales for
11 the year, the previous calendar year.

12 Q. They wanted to know the sales that
13 were done in that particular state?

14 A. Yes.

15 Q. For the proceeding calendar year?

16 A. Uh-huh.

17 Q. So typically, a report that would be
18 sent in the April, 1998 time range would deal
19 with the 1997 report of sales activity in the
20 particular state?

21 A. Yes. With the exception of -- there

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1 were two or three states who required quarterly
2 information.

3 Q. How much time, ordinarily, would you
4 have to deal with such reports?

5 A. Most are due by the end of March.
6 There are some that are spread out even to June.
7 The problem that we had at that time was getting
8 information because it was a -- you had to do a
9 query in our database to get each month for each
10 state. And we had a really hard time getting the
11 information from our billing clearinghouse.
12 There's a chance that all of those were due in
13 January or February, but we just didn't have the
14 information to get them. So until probably 2000,
15 we just didn't have access to information
16 internally. So most often, those went out late.

17 Q. And that was almost entirely as a
18 consequence of your being unable to get the
19 accurate information you needed from the billing
20 company?

21 A. Yes. Because we did not have an

1 internal database that we could run it on. We
2 had a -- like an Excel database that held our
3 customers. But we did not do any of the billing
4 or generation of the billing internally. Once we
5 started doing that internally, which, I think was
6 in 2000, then we could actually go into our own
7 database and find the information. It was real
8 easy. But previous to that, we would have to
9 make a call, get the information sent over. It
10 was just a very time-consuming process.

11 Q. But you ended up having to do that
12 state by state by state?

13 A. Yes. You had to do at least two
14 reports per state. One for whatever the
15 commission was on your sales. And one to the
16 secretary of state, usually just a general
17 information report. And then some states want,
18 you know, for the department of taxation, for the
19 department of revenue. Some states, you did five
20 or six reports a year. Some states, you did one
21 or two. And then you had to do the USF also

1 monthly for eight or nine states.

2 Q. Some of the individual states had USF
3 obligations?

4 A. Yes.

5 Q. And by "USF," we're referring to
6 Universal Service Funds?

7 A. Yes. So we were doing those. We
8 didn't really start doing those until probably
9 '98 or '99 sometime. I don't remember exactly
10 when. But we didn't really have any information
11 on that when I started. So that was something --

12 Q. How did you become aware that the
13 states that you -- the eight or nine states had
14 Universal Service obligations?

15 A. They sent us a letter asking where
16 their reports were. We went back and got the
17 information in the reports and sent them in and
18 started doing it on a monthly basis. Some were
19 quarterly if you didn't have much usage. And we
20 never had very many customers in Montana. But
21 until they send us a notice saying, "Hey, where's