

1 expansion when you left Buzz Telecom?

2 A. Uh-huh.

3 Q. Yes?

4 A. Yes.

5 Q. What's happening with you?

6 A. Well, this was presented to me as -- I
7 was called into Kurt's office. And he told me
8 what he really needs me to be handling all of the
9 legal stuff, not just for U.S. Bell or Buzz
10 Telecom, but for all the companies, all the
11 entities that he had. And he was going to be
12 placing me at Avatar as an employee there. And I
13 got that note the next day that I was removed
14 from my post. So it was presented to me in one
15 way and presented to the rest of the company in a
16 different way. But basically what happened was,
17 my job changed from vice-president of
18 administration to the legal guy. And all I did
19 from that day forward was handle regulatory,
20 legal, taxes, stuff like that for the rest of my
21 period.

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1 Q. And those were things you were
2 handling beforehand anyway?

3 A. Yes.

4 Q. As a result of this March 18, document
5 did your compensation change in any way?

6 A. No.

7 Q. So it would remain the same
8 notwithstanding what's noted in this document?

9 A. Correct. What I started to do was
10 handle tax reviews and things like that, that I
11 hadn't handled before. And I handled things for
12 all of the companies instead of just Buzz Telecom
13 and occasionally something else. And basically,
14 I was no longer in charge of HR and marketing.

15 Q. In other words, not being
16 vice-president of administration anymore, you
17 didn't have to deal with personnel and marketing?

18 A. Correct.

19 Q. The document claims that you were
20 warned for holding a post and not performing its
21 duties. What does that mean in English?

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1 A. What I think he's trying to say there
2 is that part of what occurred with Mike was my
3 responsibility because I didn't stop him from
4 doing it. I didn't stop him from harassing.

5 Q. Were you, in fact, warned by anyone?

6 A. No. They had asked me to take some
7 courses on ethics and I had not taken them. I
8 would consider that my warning.

9 Q. That related back to the employment
10 contract that we had looked at?

11 A. Yes.

12 Q. And that you were supposed to do some
13 kind of training?

14 A. This was actually a course that I
15 could have taken in Chicago. And it was about a
16 six month part-time course. I would have been
17 gone one or two days a week, but I didn't feel
18 like I had the time to do so. So I didn't.

19 Q. So that was something that got
20 somebody else upset?

21 A. Yes.

1 Q. Who was the somebody else?

2 A. Kurtis.

3 Q. Was anybody else upset about that?

4 A. I'm sure Keanan was also.

5 Q. I don't understand. What's the big
6 deal in not going to this course?

7 A. They feel that those courses have a
8 great deal of benefit to your position and to
9 what you're doing for the company. I was in
10 disagreement with that.

11 Q. Was this something that you and Kurtis
12 talked about?

13 A. Not really. He just asked me if I
14 would go. And I said I'd try to work on it when
15 I could do it. The time just never came when I
16 did.

17 Q. And so you understood your not going
18 to a course to be related to your removal as
19 vice-president of administration?

20 A. I was in disagreement with it, but
21 there wasn't much -- I wasn't really consulted,

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1 it just was done.

2 Q. And so this wasn't something that you
3 had a chance to discuss afterwards?

4 A. No. Like I said, it wasn't presented
5 to me like that. It was presented to me as -- I
6 really -- Kurtis told me that he did not want to
7 handle any of the legal stuff. He just didn't
8 have time to deal with it. And he wanted me to
9 deal with it all. And then I could consult with
10 him on big stuff and deal with the small stuff
11 myself. That came out the next day.

12 Q. So this was a surprise to you?

13 A. Yes. The language in it was a
14 surprise. I knew that I had changed positions,
15 but that was not presented to me in that way.

16 Q. Did this cause you some anger?

17 A. I wasn't surprised by it. It
18 contributed to me not being there anymore.

19 Q. You mean ultimately?

20 A. Yes.

21 Q. I'm going to show you a document

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1 that's dated March 19. So it's one day after the
2 document that we had just been talking about.
3 And it's Bate Stamp Numbers 00746. Who prepared
4 this document?

5 A. I did.

6 Q. And it's directed to the senior ethics
7 officer. Who is that?

8 A. Kurtis.

9 Q. Kurtis is the senior, okay. And then
10 there is sort of a heading. It says, "KR" and
11 then "Keanan Kintzel" and then it has your name.

12 A. KR is knowledge report. And knowledge
13 report is written about anything in the company
14 that you see that is not right and you think
15 should be corrected. I was asked to write that
16 because this issue with sexual harassment. This
17 young lady Tiffany Simms had written a report.
18 It was done after she was dismissed. She sat
19 down and wrote it. And it was severe criticism
20 of Mike Norville. And that's -- we had received
21 those types of reports many times in the past.

1 And I had brought them up with no solution. I
2 read the report.

3 Somewhere in the first paragraph was
4 an accusation that Mike had asked Tiffany out on
5 a date or something. And I just didn't believe
6 it. Some of the other things in the report
7 looked legitimate, but I -- my personal feeling
8 was there was not going to be any action taken.
9 So I would put it in her file. And if anyone
10 ever wanted to see it, they could take a look at
11 it.

12 Q. You said you were asked to write this?

13 A. I was asked by Keanan to write it
14 because he wanted me to basically put it in my
15 own file that I had some responsibility for what
16 had happened. That the report had been given to
17 me and I didn't take action with it. I added,
18 you know, the facts about Keanan also being aware
19 of that kind of thing happening because that's
20 where I felt the responsibility lied with both of
21 us.

1 Q. So in some respects, you thought you
2 were getting sandbagged here by Keanan?

3 A. Absolutely.

4 MR. HAWA: What's the Bate Stamp?

5 MR. SHOOK: 00746.

6 BY MR. SHOOK:

7 Q. Advancing one day. This is Bate Stamp
8 01153. And it relates to a completely different
9 matter all together.

10 (Witness Reviewing Document.)

11 (A short break was taken.)

12 Q. The document that I showed you is
13 01153. It's to COB, president, division four
14 manager. Who are those people?

15 A. COB is Kurtis, president is Keanan,
16 division four manager would have been Shalanda
17 Robinson. And it's from Elizabeth.

18 Q. What is Elizabeth telling these
19 people?

20 A. Telling them that we had a conference
21 call with Andrea Salinas (phonetic), who was our

1 representative at USBI, who was our billing
2 clearinghouse.

3 Q. "We" means you and she?

4 A. She and I, yes. They had some
5 concerns about increased call traffic on
6 complaints. What we assumed it was, was we had
7 just started a night crew, and we assumed they
8 were getting complaints because they were not
9 being properly supervised.

10 Q. This was in March of 2002. At this
11 point, what kind of monitoring was taking place
12 with respect to telemarketers?

13 A. At this point, we're monitoring every
14 telemarketer for an hour or two each week.

15 Q. The tape system is in place?

16 A. Yes. I'm not sure who was doing it at
17 night. We had a lot of initial problems getting
18 supervision at night. We had a couple
19 supervisors that were hired that just were not
20 very good. And I have no idea who was listening
21 to those tapes and what kind of discipline was

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1 taking place.

2 Q. How would that information work its
3 way up the line in terms of a -- let's say a
4 telemarketer did something that he or she wasn't
5 supposed to do. Could you describe the process
6 of what happened after that.

7 A. A report would be written to the
8 director of I&R. And that person would call the
9 individual and either recommend that they get
10 retrained on the script, which we had a trainer
11 there to do that. Or recommend disciplinary
12 action, suspension, firing, whatever. And that
13 report would then be sent to the person who was
14 senior over sales, which that person at that
15 time -- I believe that's after Mike was out of
16 the office. So it would have been Kathy Olive.

17 Q. The process that you described -- did
18 that vary in any significant way while you were
19 director of I&R?

20 A. It would depend on who was there, who
21 was staffed, whether or not we had a full-time

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1 trainer on staff, they could train people.
2 Whether or not we had a quality control person
3 who would go in and monitor the tapes. It really
4 was dependent upon who was staffed and what post.
5 And what person was in that post, how much they
6 knew. There's a chance that they would tape them
7 and nobody would even listen to the tapes.

8 Q. And if I remember from earlier
9 testimony, did you retain director of I&R up to
10 the point in time when you left company's employ?

11 A. No.

12 Q. I'm misremembering then. What
13 happened there?

14 A. I was only in charge of the legal
15 stuff. Director of I&R fell under division one,
16 which was personnel issues.

17 Q. So in March of 2002, who would that
18 have been?

19 A. That would have been either Kelly
20 Adwell or Kurtis Kintzel. Kurtis moved in my
21 position until he hired a new person in charge of

1 administration.

2 Q. Who was that?

3 A. I believe the replacement was Gene
4 Chill.

5 Q. And about when did that take place?

6 A. I think that was a couple months. I
7 think that had to be in May or June.

8 Q. Of 2002?

9 A. Yes.

10 Q. So there was a period of time when
11 Kurtis was holding the responsibilities of the
12 director of I&R?

13 A. Yes. Kurtis held it from -- Kelly
14 did, I'm sure, 99 percent of the work. And if
15 she thought something was big enough, she might
16 take it to Kurtis. I'm sure Kelly was doing all
17 the work.

18 Q. So would I be correct in understanding
19 that the way this dispatch is drafted in terms of
20 who it was supposed to go to, that Kurtis would
21 have received a copy of this?

1 A. Correct.

2 Q. Meaning, 01153?

3 A. That's correct.

4 Q. The next document is dated April 3,
5 2002. So it's about two weeks later now. And
6 this is Bate Stamp 02230. It first of all, is
7 the "Bill" you?

8 A. Yes. I think my title changed to
9 corporate affairs officer.

10 Q. That's why it shows CA?

11 A. Yes.

12 Q. And VP Ops. is Elizabeth Ontiveros
13 Rosas?

14 A. Yes.

15 Q. And so "Dear Liz," that's her?

16 A. That's correct.

17 MR. HAWA: Was that before or after in
18 the chronology?

19 MR. SHOOK: We're now into April of
20 2002. So that's two weeks after the document
21 that we had just talked about before.

1 MR. HAWA: I must have misread the
2 number then. What's the number?

3 MR. SHOOK: Bate Stamp Numbers on the
4 one that I'm looking at right now and have given
5 to Mr. Brzycki is 02230.

6 THE WITNESS: It's a letter concerning
7 verification script. There was a sentence, I
8 think it was the last sentence on the script,
9 that gave the person an 800 number to call if
10 they wanted to cancel. And for some reason, it
11 was removed. And when I discovered that it was,
12 Liz, who was above our quality control, was our
13 liaison with whoever was doing verifications. So
14 I sent her a note to make sure it gets put back
15 in.

16 MR. HAWA: I think you have two copies
17 because one is not in here.

18 BY MR. SHOOK:

19 Q. The third sentence makes a statement
20 that it is a requirement. In terms of "it being
21 a requirement," what you're referring to is the

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1 inclusion in the verification script of the need
2 to have in the verification script that the
3 customer be informed of the toll free number?

4 A. Correct.

5 Q. And that they can call that number to
6 cancel service if they wish?

7 A. That's correct.

8 Q. There's a second part to the sentence
9 following "it is a requirement." And that is
10 "And actually, one of the reasons I think it is
11 okay to do blanket reprovision was when a person
12 has not cancelled." What is a blanket
13 reprovision?

14 A. As I understand it, when somebody had
15 fallen off after being on for, I think it was
16 seven days or less, they would reprovision them.
17 They would go in and take the phone number back
18 onto our service.

19 Q. And what was the justification for
20 doing that?

21 A. We would assume that when they were

1 put on our service, their other carrier took them
2 back.

3 Q. That was an assumption as opposed to
4 actual knowledge that that had occurred?

5 A. In my case it was. It was presented
6 to me that way.

7 Q. Who, to your understanding, made the
8 decision that that was something that Business
9 Options could do?

10 A. That was something that was originally
11 presented by George Vasquez. And I remember that
12 we discussed it in the executive council, whether
13 or not we could do it. And the discussions went
14 back and forth about time lines.

15 I think that the conclusion we all
16 came to was that, if somebody had fallen off that
17 quickly, then there was a problem with either we
18 didn't provision them correctly or their previous
19 carrier had taken them back or what have you.
20 And we should re-provision them because we did not
21 want them to be without service because we would

1 got get in a lot trouble for that. So that was
2 why that decision was made.

3 Q. Was it discussed that there was --
4 also a possible reason for that to have occurred,
5 and that is that the customer him or herself had
6 actually changed the service on his or her own?

7 A. I think we discussed that, but we came
8 to the conclusion that that probably wouldn't
9 happen that quickly. They hadn't received a bill
10 yet. And would you know? I wouldn't know if
11 somebody changed my service within seven days. I
12 wouldn't know until I received a bill.

13 Q. So to reprovisioning is supposed to
14 take place only if the fall off occurs during the
15 first seven days?

16 A. I think -- yes. Somewhere in that
17 time period was my understanding of it. I wasn't
18 doing the reprovisioning, so I don't know for
19 sure. But my understanding was that it was a
20 very quick process. Because once they receive
21 the bill, if they change their service, then they

1 probably changed their service because our name
2 was on the their bill and they didn't want it.

3 Q. Would it surprise you to know that
4 that is, in fact, what happened sometimes?

5 A. No.

6 Q. That a person received a bill,
7 called -- not Business Options, but called his or
8 her own carrier and changed the long distance
9 service?

10 A. No. It wouldn't surprise me to hear
11 that.

12 Q. What justification could there be for
13 Business Options to reprovision at that point?

14 A. None. If the customer had cancelled,
15 there's no justification for it.

16 Q. Do you know whether or not it was ever
17 discussed in executive council meetings that such
18 reprovisioning was taking place? That is,
19 reprovisioning well after the seven-day period
20 that you talked about.

21 A. I don't recall. We discussed it

1 several times.

2 Q. And in terms of the "we" --

3 A. Just the members of executive council,
4 Kurtis, Keanan, George, Kim Perfetti, myself.
5 Occasionally, Gary Carter would have been in on
6 those meetings, but that wasn't a regular -- but
7 we discussed the reprovisioning several times.
8 And it was my understanding that that was the
9 conclusion that we came to. Now, that may have
10 changed without it being discussed again. But
11 that was my understanding.

12 Q. The actual reprovisioning would have
13 been done by which group of people?

14 A. It would have been done by Liz. And
15 probably her people in division four, which was
16 run by Shalanda Robinson.

17 Q. The next sentence makes reference to
18 attaching a copy of the script that we got from
19 verifications today. And unfortunately, I don't
20 have that to show you. What was happening there,
21 if you can remember, in terms of why was there a

1 new verification script?

2 A. If I remember this correctly, this
3 came up because we sent a verification to one of
4 the states. And they called back and said, "You
5 don't have this on there." And I requested a
6 copy of the script and got it. And that sentence
7 had just been deleted. "If you wish to cancel,
8 please call our toll free number." I just
9 attached that script to it and, you know, wrote
10 in "Here's where the sentence should be." And I
11 sent it over. I do remember that that was a
12 state Government who said, "This is not a
13 legitimate verification because you don't have
14 that sentence on there." So anyone that we had
15 sold there was not legitimate. I don't remember
16 if it was a Vermont case or one of those, but it
17 was a state Government issue.

18 Q. By this time, you had left South
19 Dakota, so it couldn't have been that, right?

20 A. It couldn't have been South Dakota.

21 Q. With the next sentence it asks, "Could

1 you please have Angela get this back in." Who is
2 Angela?

3 A. I guess that Angela was the person who
4 was supervising the verifications.

5 Q. You don't remember who Angela was?

6 A. No.

7 Q. Unfortunately, we're going to drop
8 back to the Mike Norville situation a little bit.
9 This is Bate Stamp 00745 dated April 8, 2002. So
10 it's a couple of -- five days after the last one
11 we had just looked at. And if you could please
12 just take a look through this.

13 (Witness Reviewing Document.)

14 Q. The director of I&R at this point is
15 whom?

16 A. Kelly Adwell.

17 Q. That's who it's going to?

18 A. Yes.

19 Q. And the president is the person who
20 it's from?

21 A. That's correct.

1 Q. And the president is Keanan?

2 A. Un-huh.

3 Q. That's a yes?

4 A. Yes.

5 Q. And in terms of the cc's, it has a
6 number of cc's. The first of which is I&R,
7 that's just a department or division or
8 something?

9 A. That's, again, the director of I&R --
10 every employee was assigned an ethics folder.
11 And anything written in any report or that type
12 of thing, I&R would receive a copy and put in the
13 folder. I assume that's why you cc'd them.
14 Typically that was not done.

15 Q. And COB would be Kurtis?

16 A. Kurtis.

17 Q. The VPO would be whom?

18 A. Elizabeth.

19 Q. CAO would be you?

20 A. Yes.

21 Q. Division one manager, who is that?

1 A. Kelly Adwell.

2 Q. Who was the director of personnel?

3 A. Margaret Robertson.

4 Q. And the gist of this is that Keanan is
5 disagreeing with something that you had written?

6 A. Disagreeing with the previous report
7 we looked at that said that I had presented these
8 issues in the past.

9 Q. Plausible deny --

10 A. Poor memory or judgment or what have
11 you. Basically, it's him saying that he's not
12 responsible for it.

13 Q. The gist of this is essentially that
14 he's disagreeing with assertions that you had
15 made and the previous report that we had talked
16 about?

17 A. Correct.

18 Q. That you had brought certain matters
19 to his attention?

20 A. That's correct.

21 Q. He's saying, "I didn't know"?

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1 A. Correct.

2 Q. And I take it that you would disagree
3 with what he's claiming here?

4 A. Yes.

5 Q. The next document I want to show you
6 is Bate Stamp 01159 dated April 29, 2002.

7 A. I think what happened was --

8 Q. First of all, the CAO, that means it's
9 directed to you?

10 A. Yes. Corporate affairs officer.

11 Q. From Keanan?

12 A. Yes.

13 Q. And he cc's Kurtis and the VPO?

14 A. Elizabeth.

15 Q. And then also looks like in
16 parenthesis division five verifications.

17 A. Yes. The verifications company
18 liaison would have fallen in our division five.

19 Q. And who would have been responsible
20 for that?

21 A. Elizabeth.

1 Q. And this is a request or directive to
2 you to do what?

3 A. I think what happened was, after A&M
4 Verifications, which was Tony Lowe, left, the
5 verifications company that came in were given old
6 verification scripts that said "Great Lakes."
7 And they were using those. So he wanted me to
8 write them with the correct name on it. And then
9 give them to them. And also rewrite the sales
10 script to make sure that it was still in
11 compliance basically with our billing
12 clearinghouse. Because over time, those things
13 tended to change without anyone necessarily being
14 made aware of it. The manager would tweak the
15 sales script to make it more sales friendly
16 without asking myself or Kurtis or Keanan because
17 they knew that they would get a negative on it.
18 But their sales stats would go up. And that
19 happened. And typically, Keanan would ask me to
20 make the appropriate changes and redistribute.

21 Q. In terms of Great Lakes Verifications,