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2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF TEXAS
4 HOUSTON DIVISION

5

6 In re ENRON CORPORATION SECURITIES
7 LITIGATION MDL DOCKET
No. 1446

8 -----X

This Document Relates to:

9 MARK NEWBY, et al., Individually
and On Behalf of All Others

10 Similarly Situated,

11 Plaintiffs,

vs. Civil Action No.

12 H-01-3624

13 ENRON CORP., et al., CLASS ACTION

14 Defendants.

15 -----X

16 THE REGENTS OF THE UNIVERSITY OF
CALIFORNIA, et al., Individually and
On Behalf of All Others Similarly
17 Situated,

18 Plaintiffs,

19 vs.

20 KENNETH L. LAY, et al.,

21 Defendants.

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22

DATE: September 27, 2004

23

WITNESS: WILLIAM COLLINS

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3 PAMELA M. TITTLE, et al.,

4 Plaintiffs,

vs. Civil Action No.

5 H-01-3913

6 ENRON CORP., et al.,

7

Defendants.

7 -----X

OFFICIAL COMMITTEE OF UNSECURED

8 CREDITORS OF ENRON CORP.,

9 Plaintiff,

10 vs. Civil Action No.

11 H-04-0091

12

ANDREW S. FASTOW, MICHAEL J. KOPPER,

12 BEN GLISAN, JR., RICHARD B. BUY,

RICHARD A. CAUSEY, JEFFREY K.

13 SKILLING, KENNETH L. LAY, JEFFREY

McMAHON, JAMES V. DERRICK, JR.,
14 KRISTINA M. MORDAUNT, KATHY LYNN,
ANNE YAEGER-PATEL, ARTHUR ANDERSEN,
15 LLP, and CARL FASTOW, as Administrator
of the Fastow family Foundation,

16
Defendants.

17 -----X

ELAINE L. CHAO, Secretary of the
18 United States Department of Labor,
19 Plaintiff,

20 vs. Civil Action No.
H-03-2257
21 (Consolidated with
H-01-3913)

22 ENRON CORP., et al.,
23 Defendants.

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24 (Caption continued on next page)

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2 UNITED STATES BANKRUPTCY COURT

3 SOUTHERN DISTRICT OF NEW YORK

4 -----x

5 In re Chapter 11
No. 01-16034 (AJG)

6

ENRON CORP., et al.,

7

Debtors.

8

-----x

9 ENRON CORP., et al.,

10 Plaintiffs,

vs. Adversary Proceeding
11 No. 03-09266 (AJG)

12 CITIGROUP INC., et al.,

13 Defendants.

14 -----X

September 27, 2004

15 9:03 a.m.

16 Videotaped deposition of

17 WILLIAM COLLINS, held at The Westin Portland,

750 Southwest Alder Street, Portland, Oregon

18 97205, before Lisa A. Knight, a Certified

Shorthand Reporter, Certified Realtime

19 Reporter, and Notary Public within and for the

State of Colorado.

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5
BY: PAULA ODYSSEOS, ESQ.
6 (Appearing telephonically)
7 ALSO PRESENT:
8 DANE PETERSON, Videographer,
LegalLink Action Video
9
(Index at rear of transcript)

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2 STIPULATIONS
3 Upon completion of the transcription of
today's session, the original transcript shall
4 be sent to counsel for the witness by the court
reporter. Counsel shall promptly forward it to
5 the witness for review, correction, and
signature under penalty of perjury. The witness
6 shall have 30 days from the day of receipt
within which to review, make any correction,
7 sign the deposition transcript under penalty of
perjury and return it to counsel. The witness's
8 counsel shall then forward the original
transcript plus corrections to the court
9 reporter, who will promptly notify all counsel

of its receipt and any changes to testimony
10 made by the witness.
11 If the witness is not represented
by counsel, the original transcript will be
12 sent to the witness by the court reporter.
After review, correction, and signature within
13 30 days from the date of receipt, the witness
shall return the original transcript to the
14 court reporter, who will notify all counsel of
its receipt and any changes to testimony by the
15 witness.
16 The court reporter will deposit
the original transcript in the Document
17 Depository. If, for any reason, the original is
lost, misplaced, not returned, not signed, or
18 unavailable, a certified copy may be used in
its place for all purposes. The court reporter
19 is otherwise relieved of any statutory duties.
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2 M O R N I N G S E S S I O N
3 9:03 a.m.
4 VIDEOGRAPHER: This is the
5 videographer, Dane Peterson, speaking of
6 LegaLink Action Video, 420 Lexington Avenue,
7 New York, New York.
8 Today is September 27, 2004. The
9 time is 9:03. We are at the Westin Hotel,
10 750 Southwest Alder Street in Portland, Oregon,
11 to take the videotaped deposition of Bill
12 Collins in re Enron Securities Litigation and
13 other related matters in the United States
14 District Court, Southern District of Texas,
15 Houston Division, MDL docket No. 1446.
16 Will the court reporter, Lisa
17 Knight of Manhattan LegaLink, please swear in
18 the witness.
19 WILLIAM COLLINS,
20 having been first duly sworn by the Notary
21 Public (Lisa A. Knight), was examined and
22 testified as follows:
23 EXAMINATION BY MR. YOUNGWOOD:
24 Q. Good morning, Mr. Collins.
25 A. Good morning.

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2 Q. We got a chance to meet right
3 before we started, but let me introduce myself
4 again on the record. My name is John

5 Youngwood. I am from Simpson Thacher &
6 Bartlett, and we represent J.P. Morgan Chase
7 and affiliated entities in a collection of
8 Enron-related litigations.
9 You are not represented by counsel
10 today; is that right?
11 A. That's right.
12 Q. And you're willing to proceed with
13 this deposition without counsel?
14 A. Yes.
15 Q. Okay. You know that you could
16 have counsel here if you wanted?
17 A. Yes.
18 Q. Okay. I'm going to hand you a
19 document -- actually, before I do that, let me
20 just start with a few simple instructions.
21 Again, we spoke a little bit
22 before we started. This deposition is being
23 conducted in many, many cases, and the
24 advantage to the witness of that hopefully is
25 that you will be here once and not have people

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2 from those many, many cases serve you with
3 repeated subpoenas.
4 The downside of it is, there are
5 many lawyers in this room, and while I promise
6 you that not every one of us will ask you
7 questions after I'm done, I will be asking
8 questions this morning and perhaps a little bit
9 of this afternoon, and I think Mr. Kilduff, who
10 is sitting across the table, will question
11 after me. There will be some other
12 questioners. But we're all going to work
13 together to try to get you out of here as soon
14 as possible.
15 During the course of the day and
16 tomorrow, if it continues to tomorrow, we'll
17 take a break in the morning and at least two
18 breaks in the afternoon. We'll take a break
19 for lunch. But again, if at any time -- and,
20 again, really, because you don't have a lawyer
21 here who -- sometimes lawyers are good at
22 reminding people for breaks, you should speak
23 up and ask for a break, and we can take a
24 break.
25 A. Okay.

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2 Q. If you don't understand one of my
3 questions, please help me understand what you
4 don't understand. I really only want you to
5 obviously answer questions that you understand.
6 We both need to work hard -- you
7 joked before we started that you spent time in

8 New York and speak quickly. I think you've
9 already figured that I speak quickly. We both
10 need to try to do our job to speak slowly and
11 clearly so that the court reporter can get it
12 down.
13 And, finally -- and this also is
14 hard -- we need to try not to speak over each
15 other. It's not a conversation, it's question,
16 answer, question, answer. And we have to try
17 hard not to interrupt or speak over each other
18 because that, too, will cloud the record.
19 Any questions before we begin?
20 A. Are we anticipating that Tuesday
21 evening will be the end of this deposition or
22 is it scheduled to continue on Wednesday?
23 Q. I think we've all agreed to get
24 you out of here in no more than two days.
25 A. Okay.

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2 Q. So that's correct. And I think
3 everyone is willing to work a little bit past
4 our normal times to do it.
5 A. Okay.
6 Q. Frankly, cross our fingers, we
7 hope you're not here actually into Tuesday
8 evening.
9 A. Okay.
10 Q. Any other questions?
11 A. Nope.
12 Q. Okay.
13 A. Oh, yeah. Does the hotel have
14 parking?
15 Q. No.
16 A. No. Okay.
17 Q. Okay. You received a subpoena
18 asking you to attend this deposition today; is
19 that right?
20 A. That's right.
21 Q. I am going to give you a copy of a
22 document I am marking as Exhibit 50401.
23 MR. YOUNGWOOD: It's the subpoena
24 that was issued to Mr. Collins, and it was
25 posted on ESL. I've few extra copies if anyone

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2 needs one.
3 Q. Take a look at that, Mr. Collins,
4 and please let me know if you recognize this.
5 A. Yes, I recognize it.
6 Q. Is this the subpoena you received?
7 A. I believe so.
8 Q. Okay. And you're appearing here
9 pursuant to this subpoena, correct?
10 A. That's right.

11 Q. At the end of the document, pages
12 7 and 8, there are a number of document
13 requests listed, if you could turn to those
14 pages.
15 A. Okay.
16 Q. Am I correct that you collected
17 and produced to my law firm documents in
18 response to these items?
19 A. That's right.
20 Q. Okay. And you attempted to give
21 us everything in your personal possession that
22 was responsive to these requests; is that
23 correct?
24 A. That's right.
25 Q. All right. I'm going to mark --

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2 I'm not actually sure quite how to mark it, but
3 for now, I am going to mark it on the outside
4 of the case. It's a CD.
5 MR. YOUNGWOOD: It was provided to
6 Lex Lutio, and we also brought extra copies.
7 It's going to be marked as 50402.
8 Q. Let me hand that to you, sir, and
9 ask if you recognize it.
10 A. Yes, I do.
11 Q. What is it?
12 A. It's a CD that was produced both
13 for internal use and marketing purposes.
14 Q. Produced by Enron Communications?
15 A. Under contract to Enron
16 Communications. It was produced by FYI-Net.
17 Q. Okay. And when was it produced?
18 When was it created?
19 A. In 1999.
20 Q. Do you know when in '99?
21 A. My recollection would be the
22 second quarter of the year, but I don't recall
23 more specifically.
24 Q. Did you have anything to do with
25 its creation or production?

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2 A. Tangentially, yes, some.
3 Q. You produced the CD that I've
4 handed you to my law firm, Exhibit 50402, in
5 response to the subpoena; is that right?
6 A. That's right.
7 Q. Okay. We'll put it to the side,
8 and we will get back to it later in the day. I
9 just wanted to mark it for now.
10 MR. KILDUFF: Just for the record,
11 I will object to the form -- I guess I am
12 limited to -- but we don't know what's on here,
13 and there's no way -- it's a little odd. I am

14 going put an objection on the record since
15 there is no way he can confirm the content, as
16 he sits there, in terms of identifying what
17 this is. Does that make sense? You have given
18 him --
19 MR. YOUNGWOOD: You can object.
20 You can object.
21 MR. KILDUFF: Okay. Object.
22 Q. Do you recognize that as the disk
23 that you produced to us, sir?
24 A. It is -- it does appear to be.
25 Q. Okay. And would it help you to

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2 have a computer to open it to confirm that it's
3 what you produced to us?
4 A. If you wanted me to confirm it,
5 yeah.
6 Q. Okay. We'll do that later in the
7 day, but in terms of the label on it, the
8 appearance of it, that appears to be the exact
9 disk that you produced to us, not a copy but
10 the exact disk; is that right?
11 A. That's right. That's right.
12 MR. YOUNGWOOD: I will represent
13 that that is the exact original of the CD that
14 Mr. Collins produced to us within the last
15 couple of weeks, and that the copies we've
16 circulated, although the label is different,
17 are as best we could do exact digital copies of
18 the CD and should run on a properly equipped
19 computer.
20 Q. I am going to hand you what I'm
21 going mark as Exhibit 50403 ask you to take a
22 moment to look at it, sir, and tell me if you
23 recognize it.
24 MR. WRIGHT: While he's looking at
25 it, could you give us the Bates number please?

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2 MR. YOUNGWOOD: I'm sorry. It's
3 the questionnaire. It has no Bates number.
4 A. Yes, I recognize it.
5 Q. Okay. What is that, sir?
6 A. It's a form -- it's a cover sheet
7 to a civil action, and it's a sworn declaration
8 by me.
9 Q. Okay. And so starting on page 3,
10 there's handwriting. That's your handwriting
11 from page 3 all the way through to page 8?
12 A. Yes, it is.
13 Q. And on page 8, there's a
14 signature. Am I correct that that's your
15 signature?
16 A. Yes, it is.

17 Q. And it's dated August 26, 2004.
18 Is that when you completed this document?
19 A. That's right.
20 Q. Okay. Am I correct that you
21 attempted to be as accurate as possible when
22 you completed it?
23 A. Within the space allowed, yeah.
24 Q. There are no known inaccuracies
25 here?

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2 A. No.
3 Q. You could have elaborated more on
4 some answers but -- you did write down what's
5 -- as complete as you could?
6 A. That's true.
7 Q. Okay. Let's go over, actually,
8 some of the aspects of it. You were educated
9 at the University of Minnesota; is that right?
10 A. That's right.
11 Q. And you graduated in 1986; is that
12 right?
13 A. That's correct. I also attended
14 another college. I don't know why I didn't
15 list that.
16 Q. What was that?
17 A. I attended the following colleges
18 and received a degree in the following subject
19 matters. Well, I attended Babson College in
20 Boston for two-and-a-half, almost three years.
21 Q. Before you went to the University
22 of Minnesota?
23 A. I went to the University of
24 Wisconsin and then to the University of
25 Minnesota. It took me five years to get my

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2 undergraduate degree. I don't know why I
3 didn't list those there. I think because I
4 thought it said "received a degree." I only
5 received a degree from the University of
6 Minnesota.
7 Q. Okay. And that was in '86; is
8 that right?
9 A. That's right.
10 Q. Okay. What employment did you
11 obtain after graduating?
12 A. First company I worked for was
13 actually a group of three companies, but we
14 were known as Graphics & Information Systems.
15 The second company was CAD/CAM Technologies.
16 And I forget the name of the third company. We
17 were a group of companies, very small
18 companies. It was about a 20-person firm, and
19 I was marketing manager.

20 Q. And how long were you at those
21 collection of companies?
22 A. Between a year and two years.
23 Q. And what did you do after that?
24 A. I moved to New York City and
25 worked for a company called Ad Com

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1
2 Communications.
3 Q. And what did you do there?
4 A. I was an account executive.
5 Q. During what time period?
6 A. That was in the early '80s.
7 Q. Okay. You graduated from college
8 in '86. Am I confused?
9 A. Early '90s. I'm sorry.
10 Q. Okay. Where did you go after
11 that?
12 A. After that, I started my own
13 company -- well, I started my own company in
14 cooperation with one of my clients. My client
15 was Speed Graphics, and my company was called
16 Advanced Multimedia Systems. That's AMS. And
17 I started that inside of Speed Graphics as a
18 -- while on salary with them as kind of a joint
19 venture.
20 Q. And that company was closed down,
21 correct?
22 A. My company was, yeah.
23 Q. Right. In what year?
24 A. Well, it was ten years and four
25 months ago, so . . .

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2 Q. '94?
3 A. 1994, thereabouts. Well,
4 actually, no; '93, I believe.
5 Q. Okay. And at that point, what did
6 you do?
7 A. I went and worked for a company
8 which is now call WorldCom but at the time was
9 Metropolitan Fiber Systems -- or Services, MFS.
10 Q. And what did you do there?
11 A. I was an account executive.
12 Q. Okay. And then did you go to
13 -- I'm sorry. How long were you at the company
14 that became WorldCom?
15 A. In that position then, I was there
16 for about two years, a little bit less, I
17 think.
18 Q. Okay. So to '96?
19 A. Yes.
20 Q. And then did you go to Xing
21 Technologies; is that right?
22 A. That's correct.

23 Q. What did you do there?
24 A. I was executive vice president of
25 business development.

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2 Q. And you were there for about a
3 year; is that correct?
4 A. Yeah.
5 Q. At which point, am I correct, that
6 you went back to WorldCom?
7 A. I went back to WorldCom as a
8 contractor on a consulting contract.
9 Q. For about a six-month period or
10 so?
11 A. That's correct.
12 Q. What was your -- did you have -- I
13 understand you were a consultant, but did you
14 have a job description or --
15 A. Business development.
16 Q. And it was at that point that you
17 joined Enron, sometime in June '98; is that
18 right?
19 A. Thereabouts, yeah.
20 Q. Okay. So am I correct that at the
21 time you joined Enron, you had been working in
22 the telecommunications, digital media-type
23 system for about 15 years?
24 A. Thereabouts.
25 Q. I am going to hand you a document

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2 that I'm going to mark as 50404. It Bates
3 numbers ECTe012850476. You can take a look at
4 the whole thing. I've actually opened it to
5 the -- I think it's the fifth page into it,
6 where your name appears at the top.
7 A. Okay.
8 Q. And just for your reference, the
9 first page of it dates this as of September 1,
10 '99. So we skipped a little bit forward in
11 time where we left off in the last question.
12 But if you could read the paragraph that
13 describes yourself.
14 A. Sure.
15 Q. And, particularly, focusing on the
16 part where it begins four lines down, "Bill
17 brings 15-plus years industry experience"
18 through the end.
19 A. Do you want me to start at that
20 sentence?
21 Q. You don't have to read this out
22 loud. Just read it to yourself.
23 A. Oh, I see.
24 Q. My question to you, when you're
25 done, is, is it accurate? Is that an accurate

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1
2 description of your background?
3 A. Yes, it's accurate.
4 Q. Okay. So while one of the things
5 you did at WorldCom or MFS was handle
6 multimedia networking projects; is that right?
7 A. That's correct.
8 Q. And you worked on the deployment
9 of the NBC Desktop Video Network; is that
10 right?
11 A. That's correct.
12 Q. As well as the Reuters Financial
13 News National Network and Dow Jones Investor
14 News Network?
15 A. That's correct.
16 Q. You can put that document to the
17 side.
18 How did you hear about a job
19 opportunity at Enron? How did that come about?
20 A. It came about because
21 approximately a week after a presentation I did
22 with Scott Yeager to Peter VanCamp, who was CEO
23 of CompuServe, which was about to become
24 WorldCom Advanced Networks -- it came about
25 because after of that presentation, WorldCom

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2 and Microsoft -- I was living in Seattle at the
3 time -- well, it came about because of a
4 presentation that WorldCom decided not to
5 pursue. And Scott Yeager and I thought we
6 would search around for somebody else who would
7 be interested.
8 I was not involved in searching
9 for Enron, but I got a call from Scott Yeager,
10 who informed me that he had discovered that
11 Enron was interested in a business plan.
12 Q. And how did you know Mr. Yeager?
13 A. I knew him from the early to
14 mid-'90s when he basically sold me fiberoptic
15 services to my company in New York City. He
16 then became my boss at Metropolitan Fiber
17 Systems and WorldCom, and he was also vice
18 president of business development at WorldCom
19 when I was the liaison to Microsoft for
20 WorldCom under contract and living in Seattle.
21 So I've worked with Scott in
22 various capacities over quite a long time
23 period.
24 Q. And where was Mr. Yeager employed
25 at the time he informed you that he was aware

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2 that Enron was interested in a business plan?
3 A. He was employed at WorldCom.
4 Q. Okay. And by "business plan,"
5 what do you mean by that?
6 A. We had developed a document called
7 the SPVPN business plan, and that stood for
8 special purpose virtual private network
9 business plan. And that was originally
10 conceived -- or it was conceived in the time
11 frame that we're talking about, approximately
12 '98, as a joint venture between Microsoft and
13 WorldCom.
14 Q. And Mr. Yeager told you -- I'm
15 sorry, the "we," who did you mean by "we," We
16 had developed a document? Who was the "we"?
17 A. Scott Yeager, John Griebeling, and
18 myself.
19 Q. And when Mr. Yeager told you that
20 Enron was interested in a business plan, you
21 understood him to mean that they might be
22 interested in your business plan?
23 A. Correct.
24 Q. Okay. What happened next?
25 A. Well, I had never heard of Enron.

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2 As a matter of fact, during that phone call, I
3 wrote down I-n-r-o-n because I didn't know how
4 Enron was spelled. So the first thing I did is
5 I looked up and read about Enron.
6 Q. Okay. And what happened next?
7 A. We proceeded to have a series of
8 meetings in Houston and in Portland over the
9 course of a month and a half, two months,
10 during which time I met Joe Hirko, Ken
11 Harrison, Steve Elliott, Jon Thompson, and some
12 other Enron employees.
13 Q. This is spring of '98; is that the
14 time period we're in right now?
15 A. I believe so. Second quarter,
16 yeah, thereabouts.
17 Q. Okay.
18 A. Second quarter of '98.
19 Q. Okay. And did they, at some
20 point, offer you a job?
21 A. Yes.
22 Q. What job did they offer you?
23 A. Director of business development.
24 Q. And what did you understand your
25 duties would be as director of business

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1
2 development?
3 A. My basic duties were to articulate
4 and evangelize the business plan within the

5 company and within the business community.
6 Q. By "company," are we talking about
7 Enron Communications at this point?
8 A. Yeah. At the time, ECI or Enron
9 Communications, Inc. was the name of the
10 division I worked for or the wholly owned
11 subsidiary.
12 Q. Am I correct, it remained Enron
13 Communications through your entire employment
14 with Enron; the name change didn't come until
15 after you left?
16 A. I don't know when they officially
17 implemented the name change. I know they
18 announced it in 2000.
19 Q. And the name change we're talking
20 about is to Enron Broadband Systems?
21 A. Systems or Services.
22 Q. Services. Sorry. Thank you.
23 Yeah.
24 A. Yes.
25 Q. Or EBS?

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2 A. Yeah.
3 Q. When you took the job, did
4 Mr. Hirko or Mr. Harrison or any of the other
5 individuals you just mentioned give you a sense
6 of what they hoped Enron Communications would
7 become?
8 A. Yes.
9 Q. What did they say? Specifically,
10 if you know what individual said it, please
11 tell me that.
12 A. Well, in the course of negotiating
13 my employment agreement, which included stock
14 options in ECI, Joe Hirko told me that the plan
15 was to take ECI public and to -- was to take
16 ECI public, I mean, as far as that goes.
17 Q. When you took the job, what kind
18 of business did you understand ECI would be
19 pursuing?
20 A. Well, what we described in the
21 SPVFN business plan as application enabled
22 networking services.
23 Q. What does that mean?
24 A. That means networking services
25 that have a high degree of software control and

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2 integration -- integrated software control.
3 Q. Did Mr. Yeager also join ECI about
4 the same time as you?
5 A. Thereabouts.
6 Q. Did someone else join at the same
7 time as the two of you?

8 A. Jeff Foster.
9 Q. At the time that you joined ECI in
10 -- by "ECI," I mean Enron Communications, Inc.
11 If I am unclear, please ask me to specify --
12 A. That's fine.
13 Q. -- but that's what I mean by
14 "ECI." How many employees did the company
15 have, ECI?
16 A. If I had to guess, I would say
17 between 20 and 30.
18 Q. Were you based in Portland?
19 A. Yes.
20 Q. Were you based in Portland during
21 your entire time at ECI?
22 A. Yes.
23 Q. And you left, just to -- quick
24 -- flash quickly to your departure, you left
25 ECI or EBS, as it may have been known then, in

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2 early January 2000; is that right?
3 A. My recollection is that I resigned
4 in December of 1999.
5 Q. Okay.
6 A. It may have been the first week of
7 2000, but my recollection is that I resigned in
8 '99.
9 Q. Okay. Right around New Year's,
10 either way?
11 A. Yeah, plus or minus a few days,
12 right around New Year's.
13 Q. Okay. I will show you a document
14 or two that might help you recollect.
15 Actually, why don't I just do that now so we
16 have it clear on the record.
17 I am going to hand you what's been
18 marked as 50405, one-page document,
19 ECTe015865067. Take a moment to look at it,
20 and please let me know if it refreshes your
21 recollection in any way as to when you
22 announced your departure from Enron.
23 A. It would appear January 2nd, 2000.
24 Q. Okay. You can put that document
25 to the side. Let's go -- so you were at ECI or

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2 EBS from June '98 through the end of '99, right
3 into a day or two of 2000; is that correct?
4 A. That's correct.
5 Q. Okay. What did you do when you
6 started work at ECI in June of '98? What
7 duties did you assume?
8 A. Well, the first thing I did is I
9 got up in front of the employees, particularly
10 the management team, and briefed them as to the

11 future of the business plan of the company.
12 Jeff Foster lived in Denver and Scott had not
13 yet moved to Portland, and Scott Yeager lived
14 in Houston. I moved from Seattle to Portland,
15 which was a small move for me, and basically
16 began educating the employees about what was
17 then really just a potential new plan for the
18 company.

19 Q. As best you can recall, what did
20 you say to the employees at this meeting?

21 A. Well, a series of meetings. Well,
22 I tried to educate them about the business
23 metrics, the technology, and the market
24 opportunities that we had previously explained
25 to Joe Hirko and Ken Harrison and Steve Elliott

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2 as -- and Stan Hanks as the rationale for why
3 we were being brought on board.

4 Q. What market opportunities did you
5 describe?

6 A. Generally speaking, we described
7 -- I described the evolution of the
8 telecommunications marketplace as one from a
9 commodity business towards a value-added
10 business and attempted to put into context the
11 role of the Internet and what opportunities
12 that created in the marketplace.

13 Q. Did you describe any specific
14 products or services that you hoped ECI would
15 be able to sell?

16 A. Yes. I drew upon my background in
17 multimedia networking to describe a number of
18 services that would be based on digital video.

19 Q. What did you describe? What
20 specific services, if you remember?

21 A. Well, what would eventually become
22 known as Product 1, Product 2, Product 3 before
23 they became known as Media Transport, Media
24 Cast, and Media Distribution. So those three
25 specifically.

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2 Q. Okay. I've also heard the term
3 Media Conferencing. Does that fit into one of
4 those three or is that something else?

5 A. No. It was not a proponent of
6 Media Conferencing, never endorsed it and never
7 suggested we get go it.

8 Q. So that was not Product 1,
9 Product 2, or Product 3?

10 A. That was Product 4.

11 Q. That was Product 4. Okay.
12 Another term that frequently is mentioned is
13 the broadband operating system or the "BOS."

14 Was that something considered or discussed at
15 this time?
16 A. Not really, not that I recall.
17 Q. Okay. And there was also the
18 concept of the Enron Intelligence Network or
19 the EIN. Was that considered or discussed at
20 this time?
21 MR. KILDUFF: Object to form.
22 A. Enron Intelligent Network, not
23 "intelligence."
24 Q. Yes. Thank you.
25 A. Enron Intelligent Network was the

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2 term that we applied to all the services
3 generally. So the services would comprise the
4 Enron Intelligent Network in addition to some
5 other things that were part of Product 5 and
6 Product 6.
7 Q. What were Products 5 and 6?
8 A. I don't recall what 5 is, but I do
9 recall that Product 6 was the EIN API.
10 Q. EIN API is the application program
11 interface; is that right? What is the -- let
12 me --
13 A. Programming interface, I believe,
14 application programming -- well, let's see.
15 API, application program -- now that I heard
16 you say "program," I can't recall. API
17 generally means application programming
18 interface.
19 Q. Okay. And what is that?
20 A. Well, it is an API, which means
21 that it's a way for -- conceptually, it's a way
22 for programmers to access the functionality of
23 the built-in intelligence designed to operate
24 on the Enron network.
25 Q. And by "programmers," those could

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2 be programmers within Enron or outside of
3 Enron?
4 A. Correct.
5 Q. And was this EIN API something
6 that was considered or discussed as early as
7 June '98?
8 A. It was discussed conceptually but
9 it wasn't discussed specifically as Product
10 No. 6 until the third or fourth quarter of '98.
11 Q. Let's go back through Products 1
12 through 4. What was Media Transport supposed
13 to be?
14 A. Media Transport was a service
15 designed to replace traditional based band
16 video transmission services provided by

17 telecommunications carriers for content
18 originators.
19 So it's a service designed to
20 carry broadcast-quality video from one point to
21 another point on a scheduled as-needed basis;
22 specifically was designed to compete with AT&T
23 and Williams Communications' vivax service, as
24 well as services provided by satellite
25 operators.

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2 Q. Could you give me an example of a
3 potential user of Media Transport.
4 A. If somebody wanted to host an
5 event, say a sporting event, and their earth
6 station to reach their satellite network is in
7 another city, they would connect the event
8 venue to the earth station via Media Transport.
9 So it would carry a signal from
10 Point A to Point B for subsequent
11 redistribution or editing, so it's called a
12 video backhaul service. It gets video from a
13 point of origination from a point of
14 distribution or recording or editing.
15 Q. Media Cast, what was Media Cast
16 supposed to be? That was Product 2.
17 A. Media Cast conceptually was
18 webcasting over the Internet to end users'
19 desktops; also conceived of as a service for
20 content providers; but the plan was to give
21 them an alternative path to consumers as an
22 alternative to traditional cable casting or
23 broadcast over-the-air casting.
24 So it was designed to provide
25 higher-quality webcasting than was otherwise

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2 possible on the traditional Internet.
3 Q. Media Distribution, Product 3,
4 what was that supposed to be?
5 A. I think that was Product 1. Media
6 Distribution was Product 1, I believe. Media
7 Cast was Product -- I don't remember anymore.
8 Q. Okay.
9 A. Media Cast and Media Transport
10 were 2 and 3.
11 Q. Okay.
12 A. I think for the purposes of today,
13 we should just say that Media Cast was
14 Product 3 and Media Transport was Product 2.
15 For a long time in the company, we
16 didn't have names for them while they're doing
17 trademark searches and so forth, so we just
18 called them Product 1, 2, 3, 4, 5, 6.
19 Eventually, it became so

20 prevalent, because it was such an easily
21 adopted shorthand, that they had to issue an
22 edict that nobody was allowed to refer to them
23 as those anymore because even after we got
24 names, people continued to call them Products
25 1, 2, 3, 4.

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2 But, in any case, I believe Media
3 Transport was Product No. 2. Media Cast was
4 Product No. 3, and Media Distribution was
5 Product No. 1.
6 Q. Okay.
7 A. Media Distribution was conceived
8 of as a service to deliver content to
9 television stations that they would
10 subsequently broadcast over the air.
11 Q. Conferences, which you discussed
12 briefly, when did the idea for conferencing
13 originate, if you know?
14 A. I recall very specifically.
15 Jeff Foster, Scott Yeager, and myself were in a
16 room with a white board. And we had an
17 agreement that we weren't going to leave that
18 room until we could come up with a product
19 strategy.
20 And I drew six columns on a white
21 board, and I said, I'll do 1, 2, and 3, Media
22 Distribution, Media Cast, and Media Transport;
23 and Jeff said, I'll do conferencing. That was
24 Product No. 4. And Scott said something to the
25 effect that I will do Products 5 and 6.

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2 And we wrote them down. I took a
3 Polaroid snapshot of the white board, and we
4 walked out of the room and told Joe Hirko that
5 we had the product strategy.
6 Q. When was this?
7 A. In the summer of '89 -- of '98.
8 Q. What was Conferencing -- what was
9 Conferencing supposed to be after that meeting?
10 What was the concept for Conferencing?
11 A. Well, the three services that I
12 helped design were all based on a fundamental
13 principle that you're leveraging efficiencies
14 in a network. So you can take one copy of a
15 web cast to a city and fan it out to any number
16 of endpoints.
17 Conferencing was based on
18 traditional telephony, which is any to any.
19 And I didn't see any business merit in using
20 that in our network, and still don't see a lot
21 -- still believe that Conferencing does not
22 offer an exponential improvement in

23 efficiencies as did the other products,
24 potentially.
25 Q. I just want to -- my question is

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2 actually much simpler than the answer you just
3 gave. I just want to understand right now,
4 what was Conferencing supposed to be? What
5 service was it supposed to provide?
6 A. A videoconferencing service that
7 would go from meeting room to desktop or
8 desktop to meeting room. So it was a
9 commercial corporate conferencing service such
10 as you might use to give a videotaped
11 deposition in another city.
12 Q. 5 -- Product 5, you don't remember
13 what that was?
14 A. I believe Product 5 was Bandwidth
15 Trading, come to think of it.
16 Q. Okay. And what was that
17 envisioned to be?
18 A. That was envisioned to be a way
19 for users to buy and sell bandwidth over the
20 Enron Intelligent Network. How one traded upon
21 that was immaterial to the product definition.
22 So it was bandwidth.
23 Q. EIN API, that was Product 6?
24 A. As I -- yes.
25 Q. And we've discussed what the

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2 thoughts were for that already. Now, at the
3 time you left this meeting, these six products
4 were concepts, correct?
5 A. Right. They represented our
6 concepts for the product line strategy.
7 Q. Okay. They weren't finished
8 products at this point, obviously.
9 A. Right. Basically, they weren't
10 yet-begun products.
11 Q. They were ideas?
12 A. Yep.
13 Q. Okay. And I think you've told me
14 that the first three were your responsibility
15 after that meeting; is that fair or --
16 A. Well, they were my conceptual
17 brainchilds [sic], let put it that way.
18 Q. Okay. Okay.
19 A. I didn't have much responsibility
20 in overseeing their implementation, but I'm
21 sure we'll get to that.
22 Q. Okay. Well, my next question is,
23 could you take me through the next couple of
24 months and tell me what work was done on one or
25 more of these six products. What did Enron do

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2 to try and turn them from ideas, as you just
3 testified, to products?

4 A. At some point -- I don't recall
5 when -- Product No. 1 was deemed impractical
6 initially, so no work was done on Product
7 No. 1.

8 Q. And that's because we had some
9 back and forth on the numbers. That's Media
10 Distribution?

11 A. What would eventually be called
12 Media Distribution. Whether or not it was at
13 that point, I don't recall.

14 Q. Okay.

15 A. So Product No. 2, which is Media
16 Transport, and Product No. 3, what I can speak
17 to, is that I began to educate the engineers
18 and the executive team and the rest of the
19 company about how one would go about creating
20 those services.

21 Q. Engineers, how many engineers were
22 assigned to work on these products?

23 A. Initially, two or three.

24 Q. And what time period are we in
25 now?

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2 A. Generally speaking, we're in the
3 fall of '98.

4 Q. Okay. Did the engineers begin
5 work on these products, Transport and Media
6 Cast?

7 A. Yes.

8 Q. Okay. What work did they do in
9 '98 on these two products?

10 A. Well, I like to revise my remarks
11 a little bit. There were more than two or
12 three because there were two or three in
13 Portland and there were two or three or more in
14 Houston.

15 So there were engineers that
16 -- what we refer to as Modulus. Even though we
17 had acquired them and there were engineers
18 within the Portland company, which was more on
19 the networking side and on the systems side.
20 So there were systems engineers, network
21 engineers, and software engineers.

22 And they each did different
23 things. We tried to -- I tried to help
24 coordinate that they would all be trying to
25 accomplish what could realize the vision of the

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2 business plan.

3 Q. Okay. You used a term "Modulus."

4 That refers, am I correct, to a company that

5 Enron acquired?

6 A. Yes.

7 Q. Okay. And so when you say the

8 Modulus -- well, when you referred to Modulus,

9 you were referring to the people who formerly

10 worked for that company?

11 A. Correct. They remained in their

12 corporate location in Houston, I believe, until

13 the latter half of '99. So they had the same

14 offices they did when -- prior to Enron

15 acquiring them, so we continued to just call

16 them Modulus.

17 Q. Okay. Who were they?

18 A. Rex Shelby, David Berberian,

19 Larry Ciscon, later, Mark Palmer -- not the

20 Mark Palmer in the PR department of Enron, but

21 Mark Palmer, the Modulus -- Enron

22 Communications Inc. employee -- as well as some

23 other individuals that I don't remember the

24 names of right now.

25 Q. Okay. And you said they stayed

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2 there until the later half of '99. Did they

3 then come to Portland?

4 A. No. I believe they moved into the

5 tower.

6 Q. In downtown Houston?

7 A. In downtown Houston.

8 Q. Okay.

9 A. But I don't know that to be true.

10 I never saw them there.

11 Q. Okay. They never came to

12 Portland? They didn't take up permanent

13 residence in Portland?

14 A. No. Rex had an apartment here,

15 but that's all I knew about.

16 Q. Okay. So by the end of '98, what

17 was the status of Media Cast?

18 A. Media Cast was -- the end of '98

19 -- at the end of '98, I believe the last week

20 of December in '98, I had just concluded

21 negotiating a contract with RealNetworks that

22 represented the first commercial contract by

23 ECI with an outside party for Media Cast.

24 That contract -- I don't remember

25 the actual amount, but it was something on the

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2 order of \$5 million licensing fee for their

3 off-the-shelf software, \$1 million for custom

4 software tools that they had not licensed to

5 anybody else, and a reciprocal resale agreement
6 that allowed them to resell our products but
7 did not commit them to reselling our products
8 and allowed us to resell their networking
9 services but did not commit us to reselling
10 their networking services.

11 So I believe -- my recollection is
12 that they expended great energy to get it done
13 prior to the end of the year. I remember I was
14 scheduled to go on a two-week vacation, and I
15 had to cancel it so that I could work through
16 to get the contract done by the end of the
17 year.

18 Q. Okay. This is the end of '98?

19 A. Correct.

20 Q. How about the software, itself,
21 the Media Cast software, what was the state of
22 that as of the end of '98?

23 A. Well, Rex and David had -- David
24 Berberian, Joe Hirko, Scott Yeager, and others
25 had presented a schematic topology, if you

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2 will, about the design of the Media Cast
3 systems, network, and software, but in order to
4 be -- but we had contracted with RealNetworks
5 for commercial software in order to implement
6 that service.
7 So most of what we were
8 implementing was provided to us, although there
9 was a framework that was presented by senior
10 management as to the additional aspects of the
11 service that were to be developed in-house.

12 Q. Okay. So let me try and
13 summarize, make sure I understand. You had
14 contracted to use some software already created
15 by RealNetworks as of the end of '98?

16 A. Yes.

17 Q. And as for the rest of the
18 software that would become Media Cast, there
19 was a plan to create it?

20 A. Yes.

21 Q. Internally at Enron?

22 A. Yes.

23 Q. Okay. And that basically was the
24 state of Media Cast software as of the end of
25 '98?

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2 A. Pretty generally speaking, yeah.

3 Q. Okay. The software that was going
4 to go on top of or go with the real network
5 software, that didn't exist yet; is that right?

6 A. If it existed, it existed in bits
7 and pieces. For example, InterAgent existed

8 but it wasn't yet integrated into the network.
9 Other aspects of the service had not yet even
10 been ordered, so -- for example -- so there was
11 a lot of bits and pieces to work with, and
12 pretty much none of it had been integrated in
13 any way that would represent recognizable
14 progress.

15 Q. Okay.

16 A. We didn't even have the software
17 from RealNetworks yet.

18 Q. How about Media Transport, what
19 was the state of Media Transport at the close
20 of '98?

21 A. My recollection is that we had
22 begun to negotiate with a company in Oregon
23 called Techtronics. And they were developing a
24 piece of computer hardware that we would use to
25 implement that service in our network.

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2 So my recollection is that we had
3 identified a piece -- a component that we would
4 use to be provided from a local company and
5 that we had done some preliminary development
6 but nothing beyond that.

7 Q. And by this point, close of '98,
8 can you tell me how many software engineers
9 were working on Media Cast at Enron?

10 A. Software engineers, if I had to
11 guess, I would say two or three, perhaps.

12 Q. Okay. Was there a problem with my
13 term "software engineer"?

14 A. Well, I am not sure that was a job
15 title we used within the company, so -- I take
16 it to mean engineers working on software, a
17 little bit broader; probably you could say four
18 or five.

19 Q. Okay. And how about for
20 Transport, how many engineers working on
21 software were working on Transport?

22 A. I'm only aware of one individual
23 who was working on Transport who wasn't also
24 working on Media Cast. So those -- to my
25 knowledge, the same five or six people -- and

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2 I'd say two or three, but if you include their
3 managers, it's five or six.

4 I mean, was Rex working on
5 software while he was vice president of
6 engineering and operations? So, technically,
7 he's working on software. Did he write any
8 code? No. But -- not to my knowledge.

9 So a small handful of people. And
10 by "handful," I mean three to six.

11 Q. Okay. And were these the same
12 individuals? You already mentioned,
13 Mr. Shelby, Mr. Berberian, Mr. Ciscon,
14 Mr. Palmer. Were those --
15 A. There were some other individuals
16 that were Portland based, and that included
17 Shauna Meyer, Jim Irvine -- if he had been
18 hired yet, and I don't recall if he had. He
19 was hired there somewhere around that time
20 frame -- Shauna, Jim, Mark Kaiser, Brett
21 Watson; I guess you could say Stan Hanks and
22 perhaps one or two other support people.
23 Q. How about the other products that
24 we discussed earlier, Media Distribution,
25 nothing is going on, correct?

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2 A. Correct.
3 Q. And I'm still focusing year end
4 '98. Conferencing, what's going on with
5 Conferencing in year end '98?
6 A. My recollection is that
7 -- nothing.
8 Q. Bandwidth Trading?
9 A. The original woman who was in
10 charge of Bandwidth Trading, by that time, I
11 believe had been replaced by Tom Gros. And I
12 believe that Tom Gros was spending time with
13 -- I met with Tom Gros a couple which times and
14 attended meetings that Tom Gros attended and
15 understood him to be in -- so-called in charge
16 of Bandwidth Trading.
17 Q. And do you know what he was doing?
18 A. Pretty conceptual footwork.
19 Basically, we were educating him about what is
20 bandwidth.
21 Q. Okay. What is bandwidth?
22 A. I guess, technically, it's
23 spectrum -- electromagnetic spectrum, but in
24 the context of a telecommunications company,
25 it's capacity. And while Tom understood the

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2 concept of capacity, he required a lot of
3 attention to educating him about how the Enron
4 Intelligent Network would provision and control
5 and bill for capacity.
6 And he didn't have much trouble
7 understanding those concepts, it didn't appear
8 to me he did, but he had a lot of difficulty in
9 understanding how customers would relate to
10 those concepts as presented to them in a
11 product strategy, or so it appeared to me.
12 Q. Other than educating Mr. Gros
13 during this time period, does anything else

14 advance with respect to Bandwidth Trading?
15 A. Well, I talked at length with
16 Scott Yeager and Joe Hirko and Steve Elliott
17 and others about Bandwidth Trading. I was not
18 a proponent of Bandwidth Trading and did not
19 believe it would contribute to the commercial
20 success of the company.
21 I was told by Scott Yeager
22 specifically that it was a wonderful Trojan
23 Horse, and it was a way to get Enron pregnant
24 in the development of an intelligent network.
25 So it was discussed. And I was

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2 told by Scott Yeager to support the concept
3 whether or not I believed in it, and that we
4 would focus on educating Tom Gros so that his
5 activities would be consistent with what we
6 believed we could develop.
7 Q. Let me parse some of your answer
8 here to make sure I understand you. At the end
9 of it, "what we believed we could develop,"
10 what did you mean by that?
11 A. We did believe we could develop a
12 way for usage sensitive bandwidth to be
13 provisioned and controlled by the Enron
14 Intelligent Network control layer.
15 We believed that it -- that would
16 lay the foundation for Bandwidth Trading if the
17 Bandwidth Trading contracts and business plan
18 were consistent with what we intended to build.
19 Getting those things -- two things
20 to match and to -- appeared to be a big
21 challenge at that stage.
22 Q. You mentioned the term Trojan
23 Horse and the way to get Enron pregnant. What
24 did you mean by that?
25 A. Those were terms that were used in

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2 conversations by Scott Yeager, in order to
3 convince me that it was good to be aligned with
4 the desire of Tom Gros and Joe Hirko and Steve
5 Elliott and Ken Harrison to use Bandwidth
6 Trading as part of the story for the business
7 plan.
8 So Scott Yeager told me, Enron
9 -- something to the effect that Enron wants to
10 do Bandwidth Trading. We may end up making
11 more money on the other services, but if we say
12 that our objective is Bandwidth Trading, in the
13 process, we'll get Enron pregnant to the degree
14 that they have to develop the software
15 necessary for the other services to work.
16 In other words, we said to the

17 senior executives at Enron, we will enable
18 Bandwidth Trading by developing these other
19 products; that these lay the foundation for
20 Bandwidth Trading over time.
21 Scott referred to that as a Trojan
22 Horse strategy because in some cases,
23 particularly my case, my interest was in seeing
24 services developed, not in contributing to
25 Bandwidth Trading strategies.

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2 So he was saying that if you
3 support the Bandwidth Trading philosophy, you
4 will get the technology and the resources to
5 develop the products that you're an advocate
6 for.
7 He referred to that, generally
8 speaking, as getting "Enron pregnant."
9 Q. When did this -- was this one
10 conversation you're referring to or many with
11 Mr. Yeager?
12 A. Several. At least several.
13 Q. During what time frame?
14 A. I believe the fourth quarter of
15 '89 [sic] and the first quarter of '99.
16 Q. Okay.
17 A. '98 and '99.
18 Q. Did Mr. Yeager state whether or
19 not he believed in the philosophy of Bandwidth
20 Trading?
21 A. Well, I attended meetings where he
22 and Tom Gros and I and sometimes others
23 discussed at length what would be involved in
24 implementing a Bandwidth Trading strategy. Tom
25 Gros generally was very resistant to our input

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2 so we argued a lot.
3 Q. You and Mr. Yeager on one side and
4 Mr. Gros on the other of these arguments or was
5 it different than that?
6 A. Intellectually speaking, yes.
7 Q. And so Mr. Gros had a vision for
8 Bandwidth Trading that was inconsistent with
9 your vision and Mr. Yeager's vision, as you
10 understood it?
11 A. That's what I'm saying.
12 Q. Okay. And what was his -- could
13 you tell me what the differences were in the
14 visions.
15 A. Scott and I were generally arguing
16 that it needed to be a customer-driven service,
17 not a trader-driven service; that Bandwidth
18 Trading would naturally evolve out of providing
19 customers bandwidth on demand, and that

20 bandwidth on demand was the wholly grail in the
21 telecommunications industry, not Bandwidth
22 Trading.
23 So if he wanted to understand the
24 business case of bandwidth on demand as viewed
25 from the customers' perspective, he would end

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2 up with what he needed for Bandwidth Trading.
3 My recollection is that he showed
4 very little interest in the customers'
5 perspective of the large corporate user, and he
6 looked at things solely from the position of
7 the trader. And Scott and I would argue or did
8 argue that he needed to understand the end
9 users' perspective better.
10 Q. And, am I correct, it was your
11 belief that the philosophy or the plan, as
12 expressed by Mr. Gros, was unlikely to be
13 successful?
14 A. I didn't have any particular
15 knowledge about what Bandwidth Trading might
16 be. My knowledge was about what customers
17 wanted in bandwidth on demand.
18 My perspective was that bandwidth
19 trading was predicated on having bandwidth on
20 demand. I have a great deal of experience of
21 -- in selling to Fortune 500 companies
22 telecommunication services where the customers
23 are highly motivated to acquire bandwidth on
24 demand.
25 Whether or not a trader can trade

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2 around that same business proposition really
3 was of no interest to me, and I had no
4 credibility to make any judgment on it. I was
5 simply trying to get Tom Gros and Joe Hirko and
6 Steve Elliott and Ken Harrison and others to
7 understand the customers' motive for having
8 bandwidth on demand and what we would have to
9 do in order to make that possible.
10 That was a fundamental underlying
11 premise of the Enron Intelligent Network. The
12 fact that it created business opportunities for
13 Bandwidth Trading was of little interest to me,
14 but I was told to appear to be more interested
15 than I was, perhaps.
16 Q. By Mr. Yeager?
17 A. Yes, at least Mr. Yeager and
18 others.
19 Q. Which others?
20 A. Joe Hirko, specifically.
21 Q. What did Mr. Hirko say to you on
22 this subject?

23 A. Loosely speaking, whether you like
24 it or not, this is Enron, and we're partly a
25 trading company, and we're laying the

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2 foundation for trading, so don't argue the
3 semantics of it.
4 I'm speaking generally from what
5 he said, which was basically, Don't argue the
6 semantics of it. We're saying that you want
7 the same thing, so get on board and get with
8 the program.

9 Q. Anyone else say these things
10 -- types of things to you?

11 A. Not that I recall right now. I
12 tried, as best I could, to stay out of the
13 Bandwidth Trading debate.

14 Q. Who did Mr. Yeager -- who did you
15 understand Mr. Yeager to be -- strike that.
16 You referred to Mr. Yeager and Mr. Hirko in
17 terms of saying that you should appear to be
18 more interested in this concept of Bandwidth
19 Trading than you were.

20 To whom did you understand
21 Mr. Yeager to be asking you to appear more
22 interested in front of?

23 A. The other employees of Enron and
24 other potential business partners.

25 Q. Okay. Did you understand him to

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2 be referring to anyone more senior at the
3 company, more senior than Mr. Yeager?
4 A. Eventually. I was part of the
5 presentation of the business plan to the Enron
6 executive committee in Houston; and by that, I
7 mean the executive committee of the parent
8 company. And we had a great deal of
9 discussions about what that presentation would
10 be. I attended the presentation with Joe and
11 Scott and Rex and Ken Harrison and Peggy
12 Fowler.

13 And so there was an awful lot of
14 discussion about what my role should be in
15 representing to senior management the nature of
16 the opportunities that we were presenting to
17 Enron senior executives.

18 Q. This meeting you've referred to,
19 presentation of the business plan to the
20 executive committee in Houston, when did that
21 take place?

22 A. As best I can recollect, it was
23 either the fourth quarter of '98 or first
24 quarter of '99.

25 Q. So right around the time frame

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2 we've been discussing, correct?

3 A. Correct.

4 Q. Yeah. Okay. You referred to
5 discussion about what your role should be in
6 representing things to management at this
7 meeting. This is discussion among you,
8 Mr. Hirko, and Mr. Shelby?

9 A. And Mr. Yeager and Mr. Harrison
10 and others.

11 Q. Tell me more about those
12 conversations. What role did they want to you
13 play?

14 A. They mostly wanted me to shut up.
15 I was told not to speak in the presentation of
16 the -- to the executive committee. I did speak
17 anyway, but they wanted to -- they wanted us to
18 -- they said they wanted me to be consistent
19 with their intentions, that we would thereby
20 present a unified story or presentation.
21 So there was a lot of negotiation
22 -- not negotiation, a lot of discussion about
23 my point of view versus some other points of
24 view and how to reconcile those so that we
25 would appear in front of the executive

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2 committee and other places to be singing off
3 the same song sheet.

4 Q. And what were the differences
5 between your point of view and their points of
6 view, as you recall? What were the items in
7 contention?

8 A. Well, the biggest item in
9 contention was the acquisition of Modulus. I
10 was always against the plan to acquire Modulus
11 for the purported \$30 million and to put Rex
12 and Dave in charge of engineering. I thought
13 it was a bad idea. I thought acquiring the
14 company was a bad idea, and I was very vocal
15 about it.

16 When I started to be vocal about
17 my lack of belief in Bandwidth Trading, I
18 started to bang heads with Joe and Steve
19 Elliott -- Joe Hirko, Steve Elliott, Jim
20 Crowder, Stan Hanks, Tom Gros, Ken Harrison,
21 and others.

22 So we met a number of times and
23 collaborated on a presentation for the Enron
24 executive committee. And in the course of
25 those -- in the course of that development, we

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2 talked a lot about what we were presenting and
3 would be presenting.
4 Q. Who was at the executive committee
5 meeting?
6 A. My guess is there were about 30
7 people there. It was in a hotel in Houston.
8 At one end of the table was Ken Lay and Jeff
9 Skilling and in a big U-shaped table, there
10 were what I was told the other operating chiefs
11 of the operating divisions. I recognized
12 Rebecca Marks. She was there to present that
13 day. The two agenda items that day, my
14 understanding, were us and her plan for water
15 -- I don't remember the name of the plan.
16 And --
17 Q. Azurix?
18 A. Yeah. Thank you, Azurix. And I
19 don't know if it was called that yet but it
20 might have been.
21 So we were there to pitch the plan
22 to the executive committee so that the other
23 operating heads could either concur or object
24 to our use of resources within the company.
25 We were asking for a lot of money.

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2 We needed a lot of money to acquire Modulus.
3 And the forum for that -- the final forum for
4 that was the executive committee presentation
5 that we prepared.
6 So I was included in that. I
7 operated the computer for the presentation, but
8 I was not introduced to everybody in the room.
9 And I only recognized some of the operating
10 heads. And I assume not all the operating
11 heads were there but approximately 25 to 30
12 individuals were in the room. It was an
13 all-day meeting offsite in a hotel.
14 Q. In Houston?
15 A. In Houston.
16 Q. Okay. You said you did speak at
17 the meeting.
18 A. (Nodded head up and down.)
19 Q. Yes?
20 A. Yes.
21 Q. You have to -- you have to -- nods
22 don't come up on the transcript. What did you
23 say?
24 A. A question was raised about
25 competitive advantage and whether or not Enron

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2 would have competitive advantage relative to
3 other carriers, such as AT&T, Sprint, and
4 WorldCom.

5 And I recall distinctly that
6 Ken Lay said, Well, we have a perceived
7 advantage because people perceive that we can
8 lay fiber along our pipeline right of way,
9 even though we don't lay fiber along our
10 pipeline right of way.
11 I said, Well, there's something
12 -- I interjected at that point and said that
13 there's something more fundamental, which is
14 that we were not intending to compete for basic
15 telephony services. And because of that, I
16 believed -- we, and others, believed the plan
17 was we could interconnect with ISPs and other
18 carriers in a way that would be a conflict of
19 competitive interest for another carrier.
20 In other words, AT&T, Sprint, and
21 WorldCom could not go to Verizon, Nynex, and
22 others and say, Let us attach to your network
23 because it would be part of a poaching strategy
24 to steal customers for long-distance business
25 -- could be perceived that way.

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2 Traditionally, telecommunications
3 carriers don't let competitors interconnect in
4 that way, to derive revenue from their networks
5 in the way that we were suggesting.
6 So I explained to the executive
7 committee my point of view, that we could be a
8 networking Switzerland, so to speak; that
9 because we did not compete for dial-tone
10 traffic, we stood a greater chance of
11 interconnecting with those who did,
12 specifically the regional Bell operating
13 companies. That's what I said.
14 Q. Okay. You said this was in
15 response to a question by Mr. Lay or a
16 statement by --
17 A. No. He was responding to a
18 question one of the other attendees had raised,
19 and during his response, elaborated further.
20 Q. I just want to make sure I
21 understand what part of your answer was Mr. Lay
22 or your recollection of Mr. Lay speaking. You
23 said, "And I recall distinctly that Ken Lay
24 said, We have a perceived advantage because
25 people perceive that we can lay fiber along our

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2 pipeline right of way even though we don't lay
3 fiber along our pipeline right of way."
4 That whole sentence, I just read
5 part of his statement or was part of that
6 you --
7 A. Yeah. That's partially what he

8 offered up.
9 Q. Okay. Including the fact
10 -- including the part of it that says "even
11 though we don't lay fiber along our pipeline
12 right of way"?
13 A. He may have said "generally don't
14 lay fiber along." Yeah. There may have been
15 an instance where we had some right of way,
16 but . . .
17 Q. Did Mr. Skilling say anything that
18 you recall at this meeting?
19 A. Oh, he said a lot.
20 Q. What do you recall?
21 A. Well, as the presentation -- Joe
22 stood up and gave -- we had stopped in San
23 Francisco on the way to Houston in a private,
24 chartered jet and picked up a gentleman from
25 Cisco. And the gentleman from Cisco gave his

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2 presentation first.
3 Speaking generally, it was a very
4 well-received presentation. Ken Lay and
5 Jeff Skilling and others seemed very favorably
6 disposed after his presentation. Joe Hirko
7 then stood up and gave the presentation that we
8 had prepared. And when I say "we,"
9 specifically there that day was Ken Harrison,
10 Rex Shelby, myself, Scott Yeager, and
11 Joe Hirko.
12 And other people had been involved
13 in presenting -- in drafting the presentation,
14 but we were there to present it. Jeff Skilling
15 answered a number of questions during the time
16 of the presentation that were raised by other
17 operating heads of divisions of Enron. And he
18 -- my impression was that he was attempting to
19 move along the discussion and to help us
20 persuade the other operating heads that their
21 resource would not be infringed on by granting
22 the communications division its budget
23 requests, and that he was very supportive of
24 the opportunity to give us what we were asking
25 for.

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2 So, I mean, I can recall more
3 specifically certain things, but that's the
4 general nature. He was being supportive. He
5 was generally cutting off those who were nay
6 sayers, and he was generally elaborating on
7 those who were voicing their support of the
8 plan.
9 So my recollection is that he
10 basically was running the meeting and Ken Lay

11 was basically just sitting there and going
12 along and concurring and occasionally offering
13 in some comments.
14 Q. Were there other occasions during
15 the meeting that you spoke other than the one
16 you just mentioned?
17 A. Not really. Not that I recall.
18 Q. Okay. Did Mr. Skilling say
19 anything that you disagreed with at the
20 meeting?
21 A. Oh, I laugh because some of the
22 questions by the other operating heads of Enron
23 I thought were -- betrayed [sic] a not very
24 intelligent awareness of what the networking
25 business was or could be.

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2 For example, one individual -- and
3 I don't know this individual's name -- said
4 that are they -- are the photons in the
5 fiberoptic cable similar to the molecules in a
6 gas line?
7 And I wanted to interject and to
8 give an answer, but I didn't. And I listened
9 to Jeff Skilling explain his perspective of how
10 molecules of gas and photons of fiberoptic
11 wavelengths are similar in some ways and
12 dissimilar in other ways.
13 I remember that specifically
14 because I was a little bit shocked that
15 somebody would ask that question. It didn't
16 seem like a very smart question to me.
17 Q. Okay. Other than that example,
18 any statements Mr. Skilling made that you
19 thought were factually wrong?
20 A. We weren't really talking about
21 facts, per se. We were talking about plans.
22 Q. Okay.
23 A. We were presenting a vision
24 document, a budget request, a strategy
25 document. And he was talking a little bit

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2 about the evolution of that. My recollection
3 is that he opened with about ten minutes of
4 remarks about the evolution of broadband.
5 I recall a joke being made that
6 they didn't know that they had acquired the
7 broadband division -- well, I don't recall that
8 very clearly, but there was an ongoing joke
9 that Joe, after he engineered -- as chief
10 financial officer of Portland General Electric,
11 after he completed the negotiations for the
12 sale of PGE to Enron, that he didn't know what
13 to do and found the communications opportunity

14 appealing.
15 And I recall Jeff Skilling making
16 some comment about the fact that Joe really
17 wanted to be able to do that. And, at the
18 time, it wasn't perceived as a strategic
19 resource but that he had come a long way in
20 understanding the potential represented by the
21 opportunity.
22 Q. Okay. You said that one of the
23 issues I think that came up at the meeting was
24 the acquisition of Modulus for \$30 million.
25 A. Yeah. That was one of the

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2 fundamental purposes of our presentation.
3 Q. So this was before the acquisition
4 of Modulus?
5 A. Before it closed, correct.
6 Q. Does that help you place the
7 timing of the meeting any better?
8 A. The Modulus transaction dragged on
9 for a long time, to the extent where we started
10 interacting with Rex and Dave as though it were
11 concluded. But I don't know when the closing
12 documents were executed --
13 Q. Okay.
14 A. -- so --
15 Q. Go ahead.
16 A. I do know that they weren't going
17 to get any money until we had this presentation
18 beyond their salaries or whatever. They may
19 have been on -- I don't even know if Rex and
20 Dave were on salary yet, so it could have been
21 November of '98, it could have been January of
22 '99. I don't recall that clearly, when that
23 meeting was.
24 Q. Okay.
25 A. Or it could have been another

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2 time. I don't remember.
3 Q. Okay. Let me finish up. Just
4 taking you back to that time frame, the end of
5 the year '98, early '99, what was the status of
6 the EIN API, Product 6?
7 A. Nothing yet had been done on it
8 except some conceptual work that was done in
9 the process of getting hired. We had to show
10 people what it potentially could be, so it's
11 possible to say very, very little.
12 Q. Okay. And the BOS, which you said
13 really didn't even exist as a concept when you
14 joined the company, did it yet exist as a
15 concept at the end of '98, early '99?
16 A. Product No. 6, otherwise known as

17 the EIN API, is based on a presumption that
18 there's an underlying software layer. Whether
19 you called that underlying software layer an
20 operating system, control bus, a messaging bus,
21 that can be a very complicated conversation.
22 The fact that you would have an
23 API is based on the concept of having something
24 underneath the API that programmers are talking
25 to.

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2 So we had used the term "operating
3 system," we had not used the term "operating
4 broadband system." We had used the term
5 "operating system" during the negotiations to
6 get hired with Joe Hirko, Ken Harrison,
7 Steve Elliott, Jon Thompson, and others, but it
8 was not discussed as an operating system in the
9 product line strategy and wouldn't be until the
10 third quarter of '99
11 Q. Okay.
12 MR. YOUNGWOOD: Why don't we take
13 our first break for the morning, if that works
14 for you.
15 THE DEONENT: Okay.
16 VIDEOGRAPHER: This marks the end
17 of Videotape No. 1 of the deposition of William
18 Collins. Going off the record. The time is
19 10:30.
20 (Break taken.)
21 VIDEOGRAPHER: We're back on the
22 record. This is the beginning of Tape 2 in the
23 deposition of William Collins. The time is
24 10:49.
25 Q. Mr. Collins, I want to move

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2 forward now into the spring or the first couple
3 of months of '99. What work did you do during
4 the first, say, three, four, five months of
5 '99?
6 A. Most of the work that I did was
7 within the company as opposed to with other
8 companies. It was contributing to the
9 development and the future marketing and
10 business case metrics of Media Cast and Media
11 Transport. I worked on things like pricing, in
12 terms of service, marketing strategies, that
13 type of thing.
14 Q. Okay. There came a time, am I
15 correct, in the spring of '99 when Enron
16 Communications attended the National
17 Association For Broadcasters Conference; is
18 that right?
19 A. Yeah, that's right.

20 Q. Do you know where the conference
21 took place that year?
22 A. In Las Vegas.
23 Q. Did you attend it?
24 A. Yes, I did.
25 Q. And do you recall at all when it

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2 took place?
3 A. My recollection is about May.
4 Q. Okay. Let me mark a document that
5 might help you. I am going to mark the next
6 document as 50- -- I'm sorry. I am not going
7 to mark it. It's already marked. It's
8 Exhibit 325, one of the core-marked exhibits,
9 Exhibit 325. It doesn't have Bates numbers.
10 It's a press release dated May
11 -- dated April 19, '99, entitled Enron
12 Communications Launches ePowered Media Cast at
13 NAB.
14 If you could take a moment to look
15 at that, sir, and let me know if that refreshes
16 your recollection as to when, approximately,
17 the conference took place. You may need to
18 look at it a little bit.
19 A. My recollection is refreshed that
20 it may have been in April, not May.
21 Q. Okay. What I'd like to do is just
22 now bring you to that time period, the time of
23 the NAB conference, and ask you to go through
24 with me, one at a time, the products that we've
25 been discussing so that we can understand

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2 better what the status of those products was as
3 of the time of the NAB conference in 1999.
4 And so starting with -- let's
5 start with the Media Distribution, anything
6 happen with Media Distribution?
7 A. No.
8 Q. No. Media Transport, what was the
9 state of Media Transport as of the state of the
10 NAB conference?
11 A. Well, we had it working, to use
12 the industry term, on the bench, which means
13 that when you put one computer next to another
14 computer in the same room, you could
15 demonstrate Media Transport over a cable that
16 connected the two computers to simulate the
17 network.
18 My recollection is that it was not
19 yet deployed anywhere beyond the development
20 lab. We demonstrated it in the trade show
21 booth the way we would demonstrate it in the
22 lab -- the development lab. So it had

23 progressed, and it had evolved, but it had not
24 yet been deployed, as best I can recollect.
25 Q. Okay. How about Media Cast, what

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2 was the state of Media Cast as of the NAB
3 conference?
4 A. Media Cast was further along. We
5 had implemented the RealNetworks software that
6 I had helped licensed. We had deployed some
7 computer servers. We had acquired some ISP
8 connections. So in a limited manner, it was
9 developed and deployed in its initial fashion.
10 Q. Did it become commercially
11 available at some point?
12 A. Initially, Media Cast became
13 commercially available for one-off
14 opportunities, for example, the CountryCool
15 Music Awards; that was a one-night
16 presentation. The Drew Carey event was a
17 one-night presentation.
18 So there was limited use of Media
19 Cast for certain presentations, but I do not
20 believe that it was considered commercially
21 ready for continual customer use.
22 Q. The Drew Carey and the CountryCool
23 you referred to, do you remember when those
24 took place?
25 A. I don't remember what month those

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2 were in.
3 Q. Before or after the NAB
4 conference?
5 A. I remember them as after.
6 Q. Okay. So as of the NAB
7 conference, even those one-off events had not
8 taken place yet; is that right?
9 A. That's my recollection. I don't
10 recall that we had any customer traffic prior
11 to NAB.
12 Q. Okay. Conferencing, what was the
13 state of conferencing as of the 1999 NAB
14 conference in Las Vegas?
15 A. I believe Jeff Foster was
16 developing the business case and negotiating
17 with potential partners for that service, but I
18 really wasn't involved much in that. It
19 certainly wasn't introduced at NAB -- it was as
20 a product or a service that I recall.
21 Q. Bandwidth Trading, what was the
22 state of the Bandwidth Trading as of the '99
23 NAB conference?
24 A. I am not aware that anything had
25 been done in the marketplace as to Bandwidth

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2 Trading by that time. So I believe Tom Gros
3 was still developing a reference Bandwidth
4 Trading contract. I was being told that that's
5 what he was doing.

6 Q. And the EIN API, what was the
7 status of that as of the NAB?

8 A. I'm not aware -- well, I'm not
9 aware that anything had been done beyond the
10 conceptual level for that product specifically,
11 although there were certain elements of what
12 would be needed in the EIN API that were being
13 worked on.

14 Q. What elements were those?

15 A. There was a component of Media
16 Transport that required bandwidth reservation,
17 and that component was being worked on by the
18 people at Modulus in Houston -- or Modulus was
19 now ECI but the people at the Modulus offices
20 in Houston.

21 There was efforts made by that
22 time to develop the billing software necessary
23 to invoice customers that -- and those -- what
24 we referred to as the scheduler, which is a
25 necessary ingredient to an eventual EIN API as

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2 being developed for Media Transport, and the
3 billing mechanism were being worked on. Those
4 two components come to mind in terms of an
5 eventually EIN API.

6 Q. The "I" in the EIN, "Intelligent,"
7 what was meant by that? What did you
8 understand that to mean.

9 A. "Intelligent" initially meant that
10 a database would be able to track the state of
11 the network at any moment in time and into the
12 future. So some networks are deterministic and
13 some networks are not deterministic.
14 The Internet is an example of a
15 network that is stateless. It is not a
16 deterministic platform. You can't profile it
17 at any moment in time and quantitatively
18 describe its state relative to the traffic it's
19 carrying.

20 A dedicated fiberoptic network is
21 nothing but deterministic. You can't actually
22 see into it and alter its capacity. We were
23 attempting to do something that was bridging
24 those two disparate elements -- network types.
25 So the intelligence of the network

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2 was the technology necessary to control,
3 provision, bill, monitor, maintain, and operate
4 a network with a deterministic state.

5 Q. And how much progress had been
6 made on the intelligence of the network, as
7 you've defined it, as of the NAB conference?

8 A. In a word, not much.

9 Q. When you were at Enron, did you
10 review press releases, such as the one you have
11 in front of you, prior to their issuance?

12 You're looking at Exhibit 325, for the record.
13 I'm not asking you if you actually read
14 Exhibit 325; I was asking you if it was part of
15 your practice to review press releases.

16 A. Speaking almost conversationally
17 about it, initially -- let's just start
18 there -- there was a press release issued early
19 in 1999 that I edited extensively prior to its
20 release. I was reprimanded for interjecting my
21 thoughts, and I was removed from all future
22 press release distribution prior to their
23 release.

24 I have a degree in journalism. I
25 thought I had done a good job of editing the

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2 initial press release. I used track changes,
3 such as our policy, at -- in collaborations.
4 And I remember that there was not one sentence
5 that I left as-is in the initial press release
6 that I edited. So I was subsequently excluded
7 from press release review.

8 Q. Who excluded you, do you know?

9 A. I was told by Tracy Smith and
10 Jim Crowder that Joe Hirko and Scott Yeager no
11 longer wanted me to be in the business of
12 reviewing press releases prior to their
13 release.

14 Q. Did you ever discuss this issue
15 with Mr. Hirko or Mr. Yeager?

16 A. I recall discussing it, so to
17 speak, via e-mail.

18 Q. And what were the nature of those
19 discussions?

20 A. Very brief and very perfunctory.
21 I recall Joe thanking me for my participation
22 in the review of the initial press release.
23 And I recall him assuring me that public
24 relations would be handled in a way that best
25 suited the company according to the processes

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2 that best suited the company.

3 Q. Okay. So going forward -- let me
4 step back. That press release that you edited

5 early in the year, do you remember what the
6 subject was?
7 A. It was our first-ever press
8 release about the Enron Intelligent Network.
9 So it was a press release about the Enron
10 Intelligent Network.
11 Q. Let me hand you what was
12 previously marked as Exhibit 304. It's a press
13 release dated January 21, 1999, titled Enron
14 Communications Introduces Enron Intelligent
15 Network to Deliver High Bit Rate Applications.
16 It does not have any Bates numbers on it.
17 A. I believe this is the press
18 release that I edited, and that my suggested
19 edits are nowhere reflected in this.
20 Q. Okay. Did you have an opportunity
21 to read the press release in '99 at the time it
22 was issued?
23 A. Yes.
24 Q. Okay. Going forward, I take it,
25 until you have -- well, through your departure

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2 from Enron, you did not have the opportunity to
3 review press releases in advance of their
4 release; is that correct?
5 A. Generally speaking, that's
6 correct. Once in a while, later in the year,
7 Claudia Johnson would come to me and ask me if
8 something was technically accurate or not, but
9 I'm not aware that she ever revised any press
10 releases based on my input.
11 Q. Did you, even though you didn't
12 have the opportunity to review, on a general
13 basis, press releases through the rest of '99
14 before their issuance, did you read them when
15 they were issued?
16 A. Yeah.
17 Q. Okay. Did you ever find
18 inaccuracies in the press releases when you
19 read them?
20 A. Yeah. As a matter of fact, I've
21 described this one as a bald-faced lie.
22 Q. 304. It's on the bottom.
23 A. Yeah. I'm referring to 304. I'm
24 just rereading it to see if this was the one
25 that I had previously commented on.

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2 Yeah, this is the one that I
3 really felt grossly misrepresented the status
4 of the network at the time it was issued.
5 Q. Okay. I need to be a little
6 careful with my questioning, and let me tell
7 you why so you can try and be careful with your

8 answers.
9 There's an order issued by the
10 Court -- and my statement here is not meant to
11 interpret or put a rule on the order but just
12 to generally alert you -- and other counsel can
13 speak if they want, but I am not trying to
14 negotiate the order -- that places some
15 limitations on our ability to question you with
16 respect to any interviews you've specifically
17 had with the federal government concerning
18 criminal investigations into the collapse of
19 Enron and/or any appearance you may have made
20 before a grand jury.
21 So I don't want you to -- I'm not
22 -- I don't know at this point what your
23 reference was to having previously commented on
24 this, but I don't want you, in an answer, to
25 say I told the, you know, FBI this or I told

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2 the DOJ whatever.
3 I am still going to question you,
4 and I am entitled to the substance of your
5 thoughts, your beliefs, your actions, and all
6 that, even if they covered the same questions,
7 but what I don't want is a transcript of what
8 you told any of those organizations if, in
9 fact, you even had those conversations.
10 Going back to 304, when did you
11 conclude that it was a bold-faced lie?
12 A. Well, I'm saying I characterized
13 that in the -- it as that in the year 2004, but
14 at the time, my recollection is that I had
15 extensively edited this to make it -- suggested
16 edits to the extent that not a single sentence,
17 except for one at the end, was unedited in the
18 process I was just talking about a couple
19 minutes ago.
20 So I was troubled at the time that
21 it was being drafted in January to such a
22 degree that I spent a considerable time editing
23 it and suggesting an entire rewrite of this
24 press release prior to it being issued.
25 Q. Who did you give your markup to?

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2 A. I recall it being an e-mail group
3 that included Joe Hirko, Tracy Smith,
4 Jim Crowder, Scott Yeager, and maybe others. I
5 don't recall.
6 Q. Did any of them respond to you?
7 A. I recall that e-mail was exchanged
8 that I was copied on saying that -- and I
9 believe it was an e-mail from Joe Hirko, but
10 -- saying that the purview of the language in

11 the press releases remained within the
12 marketing department; and that Bill in business
13 development shouldn't be involved, and thanking
14 me for my input.

15 Q. Sitting here today, you believe
16 this press release to have been inaccurate at
17 the time it was issued?

18 A. Grossly inaccurate.

19 Q. Okay. Could you point out what
20 you considered to be the more significant
21 inaccuracies in Exhibit 304? What probably
22 makes sense is if you read the sentence that
23 you think is inaccurate and explain why it's
24 inaccurate. That would probably create the
25 most easily to understand --

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2 A. The first paragraph, the last
3 sentence reads, "The EIN brings to market a
4 reliable bandwidth-on-demand platform for
5 delivering data, applications, and streaming
6 rich media to the desktop."
7 I do not believe in January -- on
8 January 21 in 1999 that we had the ability to
9 bring to market -- which to me means make
10 available to customers -- a reliable bandwidth-
11 on-demand platform for delivering data
12 applications and streaming rich media to the
13 desktop.
14 I believe at that point, we had a
15 plan for doing that, but the tense of the verb
16 "bring" is present tense and not future tense.
17 Further down on the page,
18 "InterAgent brings a number of advanced
19 messaging features including fault tolerance,
20 load balancing, quality-of-service message
21 delivery, and cross-language interoperability
22 that ensures messages are routed reliably and
23 efficiently throughout the EIN."
24 My knowledge of the situation,
25 such as it was, is that InterAgent was nowhere

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2 deployed in our network in January of 1999,
3 and, in fact, wouldn't be anywhere deployed
4 during 1999, but that's a separate issue.
5 Certainly, by January of 1999, I
6 believe it's a misrepresentation to say in the
7 present tense that it is bringing -- and I'm
8 paraphrasing there -- a number of advanced
9 features of the list of which I already read.
10 So where the press release lapses
11 into future, forward-looking statements, not
12 much one can say about whether or not that's
13 accurate. That was certainly our plan. I

14 would say that on the next page of the press
15 release, in quotes, The EIN, with its
16 revolutionary architecture, is currently -- I'm
17 sorry -- is enabling a whole new breed of
18 powerful solutions that are currently not
19 available due to quality and cost constraints.
20 We aim to remove these barriers -- well, that's
21 future tense. So let's just leave it at that
22 half of the quote.
23 The EIN, with its revolutionary
24 architecture, is enabling a whole new breed of
25 powerful solutions. Well, I believe that to be

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2 fundamentally accurate because my recollection
3 is that we had not enabled any new solutions,
4 much less a whole new breed of powerful
5 solutions.
6 Q. You stated, sir -- the court
7 reporter recorded that you believed that to be
8 fundamentally accurate. Did you mean to say
9 "inaccurate"?
10 A. Yeah. I'm sorry. I didn't hear
11 myself misspeak.
12 Q. Okay. So you believe the sentence
13 you just read, The EIN, with its revolutionary
14 architecture, is enabling a whole new breed of
15 powerful solutions that are currently not
16 available due to quality and cost constraints
17 to have been inaccurate at the time this press
18 release was issued, correct?
19 A. Correct.
20 Q. Anything else in this release,
21 sir?
22 A. Well, I am just going back to the
23 beginning of the press release and rereading it
24 because I jumped around a little bit, but the
25 very first sentence of the press release, Enron

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2 Communications, Inc. Introduced today the Enron
3 Intelligent Network (EIN), an application
4 delivery platform enabled with intelligent
5 messaging software that will enhance the
6 company's existing pure IP fiberoptic network
7 to create next-generation applications
8 services.
9 Now, it shifts tense at the end of
10 the sentence, the last clause, to --
11 irrespective of that last clause, the sentence
12 is proclaiming that the network is in existence
13 with this capability, as I read it. And I
14 believe that to be fundamentally inaccurate.
15 I would go further to say that
16 it's inaccurate in the way -- in its use of the

17 term "IP." I was always bothered by this and
18 I'm still bothered by it because we never had a
19 pure IP network. And I can talk about that
20 further if need be, but so -- in a number of
21 ways, that first sentence is inaccurate.
22 And anyway -- and in any place in
23 the press release that it refers back to that
24 premise, it's building upon an inaccuracy.
25 Q. What did you mean --

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2 A. Let's go one step further.
3 Q. Sure.
4 A. The headline is inaccurate because
5 -- well, no, I take that back. "Introduces
6 Enron Intelligent Network" isn't proclaiming to
7 have it deployed but the first sentence is. So
8 the first sentence and anything that refers
9 back to that premise in the press release is
10 fundamentally inaccurate.
11 Q. Okay. You said, We never had a
12 pure IP network. What did you mean by that?
13 A. Well -- and I'm not here as an
14 engineer for -- per se, but we used that term
15 to mean that the routers connected directly to
16 the fiberoptics in a unique manner that was
17 different than other telecommunications
18 carriers connected to networks.
19 In fact, we had what's called a
20 lightwave mux between the router and the
21 network, so we started used the term "pure IP"
22 with the assumption that we would remove one of
23 the layers of the network that made it not
24 pure, so to speak. But we never removed that
25 layer of the network.

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2 So pure IP, as we used it,
3 internally, meant routers were generating the
4 lightwaves that created the capacity on the
5 network, but, in fact, the routers were not
6 generating the lightwaves that were creating
7 the capacity.
8 So I recall specifically joking
9 with some of the executives that even that
10 fundamental premise was inaccurate. And it's
11 here in the press release in a way that I
12 believe is inaccurate.
13 Q. Let me give you what was
14 previously marked as Exhibit 303. Hold on one
15 second.
16 A. Can I take a quick break? I need
17 to use the restroom real quick.
18 MR. YOUNGWOOD: Sure.
19 (Break taken.)

20 VIDEOGRAPHER: We're back on the
21 record. The time is 11:21.
22 Q. You said at the end, Mr. Collins,
23 of your answer, that you specifically recalled
24 joking with executives about the IP -- pure IP
25 issue. What did you mean by "joking"?

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2 A. Well, I recall joking about the
3 fact that this wasn't true, but if we made it
4 true, nobody would really care. And in that
5 particular conversation, I recall saying it's
6 not even true that we have a pure IP network.
7 Q. Do you mean joking like humor
8 joking or do you mean joking in a different
9 sense of the word?
10 A. I mean trying to make light of a
11 very serious situation by resorting to humor.
12 Q. And by "executives," who are you
13 referring to?
14 A. Joe Hirko, Stan Hanks, and
15 Scott Yeager.
16 Q. I am going to hand you what was
17 previously marked -- I don't believe I did
18 before the break -- as Exhibit 303. It's
19 another press release. It does not have Bates
20 numbers. It's also dated January 21, 1999.
21 Its title is Enron Communications and
22 RealNetworks Form Strategic Alliance to Deliver
23 Broadband Streaming Media Service.
24 Did you also have a role in
25 editing or trying to edit this press release

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2 that bears the same date as Exhibit 304?
3 A. I may have because I was the
4 individual who negotiated the contract with
5 RealNetworks in conjunction with the in-house
6 attorneys and management input, but I was the
7 point person in charge of the RealNetworks
8 relationship, so without reading it in detail
9 right now, I may have contributed to the press
10 release.
11 Q. Okay. Why don't you take a moment
12 to flip through it and tell me if there is
13 anything in here that you believe is inaccurate
14 as of the time January 21, 1999.
15 A. Well, I've never quite understood
16 what is a strategic alliance as opposed to a
17 customer vendor relationship. So my way of
18 thinking, RealNetworks, in order to form a
19 strategic alliance, had to offer up something
20 besides a willingness to take our money.
21 We had given them money and they
22 had offered software in return, but I'm a

23 little bit bothered by the fact that that's
24 characterized as "strategic alliance," but I
25 suppose that's open to debate.

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2 We gave them money, they gave us
3 no money. We committed to do things for them,
4 they committed to do nothing for us except give
5 us product. So, to me, the title should
6 -- would be more accurate if it says Enron
7 Communications has become a customer of
8 RealNetworks and has purchased software from
9 them.
10 How you get from that to strategic
11 alliance, I don't know, but . . . I mean,
12 otherwise, it basically describes very general
13 things and doesn't make any particular big
14 claims.
15 Q. If I could point you to the second
16 page where it says, About the Enron Intelligent
17 Network. Could you read that to yourself and
18 tell me if you believe that was an accurate
19 description of the state of the Enron
20 Intelligent Network as of January 21, 1999.
21 A. Well, the first sentence is
22 fundamentally accurate because of the clause
23 "is an architecture." As long as it's an
24 architecture based on a unique approach, I
25 don't believe it's claiming that InterAgent is

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2 in the network or pure IP technology is in the
3 network.
4 But when it goes on to say that
5 the intelligence of the network comes from
6 Enron Communications' standard-based
7 InterAgent, a realtime intelligent messaging
8 technology that supports the development and
9 maintenance of distributed applications across
10 diverse network environments, I think that
11 lapses into making an assertion that is
12 fundamentally false because it says that the
13 intelligence of the network is existing within
14 the network.
15 That's how I read the intelligence
16 of the network, comes from the rest of the
17 sentence, and brings to market a reliable
18 bandwidth-on-demand platform for delivering
19 data, applications, and streaming rich media to
20 the desktop.
21 As of January 21, 1999, we had not
22 brought this to market, so I think that's
23 fundamentally inaccurate. When it says, EIN
24 will allow customers to access on-the-fly
25 capacity, tiered quality of service, data,

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2 application and content capabilities purchased
3 entirely on an as-used basis, that's forward
4 looking so it's fundamentally accurate.
5 Q. Okay. Put that document to the
6 side.
7 Were there other press releases
8 you recall reading while at Enron after they
9 had been issued that you believed to contain
10 inaccuracies?
11 A. Yeah. Yes.
12 Q. Do you remember the subjects of
13 any of them?
14 A. Some of the subjects were about
15 customers or events that we hosted or services
16 that we were announcing. My recollection is
17 that all of those press releases reiterated
18 some of what was becoming boilerplate language.
19 And the boilerplate language I'm referring to
20 is in the paragraph -- in the last press
21 release we discussed, which is 303 --
22 Exhibit 303, the paragraph entitled About the
23 Enron Intelligent Network.
24 That boilerplate started to appear
25 in every press release, as I recall. And my

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2 belief is that it was never accurate in 1999.
3 Q. InterAgent is a phrase that we've
4 mentioned a few times today. What was the
5 InterAgent software?
6 A. Well, I always understood
7 InterAgent to be a toolkit that somebody would
8 license if they're developing software to
9 enable interprocess communications. In other
10 words, it's software that facilitates one
11 program communicating with another program
12 across a network.
13 Now, you can build on that and
14 make it do a lot of things, but, ultimately, it
15 resolves back to the fact that it's a messaging
16 technology. And it's not messaging for human-
17 to-computer communications, it's messaging
18 technology for computer-to-computer processes.
19 So InterAgent is messaging technology for
20 software processes.
21 Q. And what were Enron's plans to use
22 InterAgent? How did you plan to use it?
23 A. We planned to use InterAgent to
24 communicate to the routers in the network, to
25 the servers, to other monitoring and

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2 maintenance equipment. And we intended to
3 facilitate the communication between
4 provisioning -- which is otherwise known as
5 bandwidth reservation -- and billing -- which
6 is the reconciliation for customer invoicing --
7 and other operational considerations. That's
8 -- in other words, it was to be what we called
9 the messaging bus between the components of
10 what would later be called the broadband
11 operating system.

12 Q. During your time at Enron, was
13 Enron ever able to use InterAgent in the way
14 you just described?

15 A. In my time at Enron, I was not
16 aware of InterAgent ever being deployed or used
17 anywhere in the network, much less as being
18 used as I just described.

19 Q. I am going to hand you
20 Exhibit 327, previously marked; again, a press
21 release not Bates stamped, Monday, April 19,
22 1999, with the headline, Enron Intelligent
23 Network Lit, Tested and Ready to Deliver New
24 World Internet Applications. Do you recall
25 that press release, sir?

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2 A. Yes, I do.

3 Q. Do you remember reading it about
4 the time it was issued?

5 A. Yes, I do.

6 Q. Okay. Did you come to the
7 conclusion at that time that it contained any
8 inaccuracies?

9 A. Generally speaking, yes. Anywhere
10 that this asserts that there is, in the present
11 tense, an intelligent network that is
12 functioning in the ways that are based on how
13 we define intelligence and intelligent network,
14 yes, it's inaccurate.

15 Q. Okay. Are there specific
16 sentences in here that you're thinking of?

17 A. Do you want to go through
18 paragraph by paragraph or --

19 Q. I don't need you to give me
20 actually every one --

21 A. The title, Lit, Tested and Ready
22 to Deliver New World Internet Applications,
23 there may have been a small part of the network
24 that was lit. The portion of the network that
25 was lit wasn't tested as a platform for new

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2 world applications as it's defined in this
3 press release. And "ready to deliver," if that
4 means ready for customer use, then it's

5 fundamentally inaccurate.
6 Q. The first sentence follows up on
7 the headline, at least textually, reads, "Enron
8 Communications, Inc. announced today that Enron
9 Intelligent Network (EIN), a new Internet
10 application delivery platform is lit and ready
11 to deliver the first in a suite of new world
12 network applications developed by the company,
13 including ePowered Media Cast and ePowered
14 Media Transport."
15 Would you have the same comments
16 that you had about the heading for that
17 sentence? Do you believe that sentence was
18 inaccurate at the time it was issued?
19 A. It is specifically in reference to
20 ePowered Media Transport. ePowered Media
21 Transport at my time, and beyond my time at the
22 company, was never ready for -- was never ready
23 to deliver customers the service in a
24 commercial production capacity.
25 If you reread the sentence and

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2 take out "Media Transport" and just focus on
3 Media Cast, I think that it's probably accurate
4 because if you say that it's lit and ready to
5 deliver the first suite of network applications
6 developed by the company, I don't know, I think
7 we were approaching that status with Media
8 Cast.
9 Q. Approaching or ready as of
10 April 19?
11 A. I don't recall us being ready by
12 April 19th, but it could probably be argued
13 either way.
14 Q. Let me give you one more. It's
15 marked as Exhibit 326.0001. It's another
16 April 19, 1999 press release. It's titled
17 Enron Communications Launches ePowered Media
18 Transport at NAB for new methods of Broadband
19 Video Media Transfer. Do you recall this press
20 release?
21 A. Yes, I do.
22 Q. Do you recall reading it at about
23 the time it was issued?
24 A. Yes, I do.
25 Q. Okay. Do you recall believing at

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2 that time -- do you recall forming a belief at
3 the time as to whether or not it contained any
4 inaccuracies?
5 A. Yes, I do.
6 Q. Okay. What did you conclude as to
7 whether or not it contained inaccuracies?

8 A. Well, the first sentence, for
9 example, says Enron Communications, Inc., a
10 leader in the delivery of high bandwidth
11 information and applications, announced today
12 -- stop right there. I don't think we were a
13 leader yet in the delivery of high bandwidth
14 information and applications.
15 If you can be a leader without any
16 customers and without any revenue, perhaps we
17 were a leader, but as of April 19, I don't
18 believe we had any customers or any
19 testimonials from potential customers that we
20 had done anything beyond licensing real network
21 software and hooking it up to the Internet, so
22 -- as well as build a fiber platform from
23 Portland to Los Angeles via Salt Lake City.
24 But in terms of developing an
25 intelligent network -- so Media Transport at

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2 this time didn't work. We had serious
3 technical problems preventing it from working
4 and preventing us from making it commercially
5 available. So I don't know.
6 If the premise of this is to say
7 by "launches," it means that -- let's just go
8 on here. I mean, ePowered Media Transport
9 demonstrates the incredible capabilities of the
10 Enron Intelligent Network, and video is one of
11 the most demanding, quality-of-service
12 sensitive applications to run over an Internet
13 Protocol (IP) network.
14 Q. That's the last paragraph on the
15 first page?
16 A. Yeah. And it goes on. However,
17 the pure IP Enron Intelligent Network has
18 proven it can enable user control and
19 electronic provisioning of the video content
20 from the desktop, says Rex Shelby. I mean,
21 we're getting into -- and then it goes on to
22 describe further capabilities of the Enron
23 Intelligent Network.
24 And my recollection is that as of
25 April 19, we really couldn't do those things.

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2 Q. We couldn't do the things in the
3 quotation --
4 A. That Rex is describing here, that
5 I believe Joe describes elsewhere. I don't
6 know if Joe is quoted on this one or not; on
7 the last press release that Joe was describing,
8 Joe Hirko.
9 Q. Okay. Focus on Exhibit 326.0001.
10 A. It appears to me that Rex is the

11 only individual quoted in this.
12 Q. And the several lines of
13 quotation, the two sentences that begin the
14 last paragraph on the first page that you just
15 read, you believe those to be an inaccurate
16 description of ECI's abilities as of April 19,
17 1999, correct?
18 A. Well, there's a lot of loose
19 language in this that I'm trying to read it
20 from a different perspective, but let's
21 continue on to the last sentence in the
22 paragraph because one can parse the first two
23 sentences back and forth and back and forth in
24 any number of ways, but the last sentence in
25 the paragraph goes on.

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2 The Enron Intelligent Network can
3 cater to traffic types with any quality of
4 service requirements -- and "any" is italicized
5 for emphasis -- an example of the radical
6 potential of coupling gigabit IP routing with
7 an intelligent network to address real-world
8 customer needs.
9 The result is a reduction of
10 costs, an increase of end user control, and a
11 step towards realizing the potential of
12 broadcast and IP network convergence.
13 Unlike the first two sentences of
14 the paragraph, this -- these sentences state
15 much more forcefully the present tense and the
16 breadth of capabilities as though they were
17 existing features. And I believe that is
18 inaccurate.
19 Q. Okay. Moving forward now in time
20 past the NAB conference, what development, if
21 any, did Media Cast undergo through the
22 remainder of 1999?
23 A. Well, a lot of developments, but
24 without going through the pedantics of trying
25 to focus on things that were relevant as

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2 opposed to -- I mean, there's 200 developments.
3 Every day, there were developments.
4 But to get down to the essence of
5 the issue at hand, we had announced a service.
6 We didn't have any customers for it. We were
7 having a lot of trouble operationally, and we
8 needed to do certain things to bridge that gap.
9 And one of the things that we did
10 that I think is particularly relevant is that
11 we started to acquire capacity to the vanilla
12 public Internet, and we started to acquire a
13 lot of capacity to the public Internet.

14 And we did that so that we could
15 start carrying traffic and whether or not we
16 represented it as going out over the Enron
17 Intelligent Network, we could show customer
18 activity.
19 And I think that's particularly
20 relevant because we would continue, in 1999, to
21 deliver to end users content via the public
22 Internet that never traversed or traversed in a
23 very minor capacity the Enron network
24 whatsoever.
25 And I have -- so we were beginning

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2 to do things that enabled us to make claims and
3 to have customers or initial customer activity.
4 And there were a lot of debates in the
5 organization about the merits of doing that and
6 what that meant to our credibility, what it
7 meant to our business plan, what it meant to
8 our pricing strategy. There was a lot of
9 discussion about that. And it was -- well,
10 so . . .
11 Q. When were these debates taking
12 place?
13 A. In the second, third, and fourth
14 quarters of 1999.
15 Q. And what did the debate consist
16 of? Who took what view?
17 A. The position that we should use
18 the Internet to deliver customer traffic
19 irrespective of the status of the Enron
20 Intelligent Network was first championed by
21 Scott Smith. Scott Smith was director of
22 product engineering, and Scott Smith was
23 notorious for confronting management in an
24 almost belligerent fashion.
25 He chose to confront Joe and to

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2 confront Scott Yeager and to confront Rex
3 Shelby and others with the pressing need that
4 we develop a means to reach customer desktops
5 irrespective of the operational status of the
6 internal network.
7 Initially, Joe was very resistant
8 to that idea, and, initially, Scott Yeager was
9 very resistant to that idea. But over the
10 course of about three or four weeks, they
11 changed their position and endorsed Scott
12 Smith's approach. They did that by approving
13 the purchase orders issued for capacity to the
14 Internet, specifically to InterNAP -- Inter
15 N-A-P -- in Seattle, Washington.
16 We began to deploy capacity to

17 InterNAP in order to route customer traffic to
18 end user desktops that -- irrespective of any
19 activity on the Enron Intelligent Network.
20 Q. When was this?
21 A. Throughout the second half of
22 1999.
23 Q. Was this an abandonment of the
24 Enron Intelligent Network?
25 A. No. In my mind, it was an

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2 acknowledgment of the status of the development
3 of the Enron Intelligent Network and the need
4 to take additional actions to bridge the gap
5 between the status and the other needs of the
6 business plan.
7 Q. And what acknowledgment was this
8 action making with respect to the EIN?
9 A. It was a remedial action designed
10 to enable us to demonstrate customer activity
11 without waiting for further development of the
12 intelligence. And, in fact, that's what it was
13 used for.
14 Q. What was the -- we probably should
15 pick a date here to discuss. If we -- you
16 know, we started by discussing -- well, earlier
17 this morning, we discussed the end of '98.
18 Then we discussed the NAB conference at the end
19 of April. Is there a next logical date to move
20 forward in terms of --
21 A. My recollection -- and I am going
22 to start talking a little bit more
23 conversationally at this point just to try to
24 facilitate things. NAB was a very successful
25 event for us in that 40,000 people attended the

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2 trade show. And we sponsored a penthouse suite
3 at the Bellagio, and we had a remarkable
4 turnout at that penthouse suite.
5 Mark Palmer came from corporate
6 and reported back. He told us that he reported
7 back to Houston that it was astonishing what
8 potential customers were saying to us.
9 And it was a very mixed blessing
10 because the preoccupation in the first half of
11 the year, one of them was whether or not we
12 were building services that customers would
13 want. And Joe and other people in the Enron
14 hierarchy largely had to base their confidence
15 on the representations that we would make to
16 them.
17 But at NAB, they got to meet
18 customers firsthand. They got to meet the vice
19 presidents of video transmission for all of the

20 major networks, CBS, ABC, NBC. They got to
21 meet dozens, if not hundreds and potentially
22 thousands, of people that came to our booth,
23 talk about the -- their desire to avail
24 themselves of our services.
25 So from the moment of NAB and our

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2 participation with a million-dollar trade show
3 booth to launch Media Cast and Media Transport,
4 from that moment of the trade show and beyond,
5 there was really very little discussion about
6 whether or not customers wanted to purchase our
7 services.
8 Joe and others had met firsthand
9 in the booth and in our hospitality suite and
10 at the functions that we sponsored with
11 customers and were very confident that there
12 was a market for the services that we were
13 wanting to offer -- that we were offering.
14 But after NAB, the problem became
15 one of accepting contractual relationships with
16 customers for the delivery of those services.
17 It was not about demand in the marketplace, it
18 was about delivering services under contract,
19 committing to contracts to deliver services.
20 And the company was very
21 reluctant. When I say "the company," I mean
22 the sales organization, April Hodgson,
23 specifically, was unwilling to accept contracts
24 with customers unless it could be demonstrated
25 that the network could do what we were -- what

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2 we would accept contracts for.
3 And it is in that context that the
4 customer activity began to be focused on taking
5 customer traffic and dumping it onto the
6 Internet. So a real shift occurred around the
7 time of NAB. And, in fact, I was presented by
8 Joe Hirko at a company function after the trade
9 show with a T-shirt that said "I told you so."
10 And I got to wear it for a day at
11 the company because I was the -- one of the
12 individuals that had always represented that
13 customer demand would be very high if we could
14 deliver the capabilities. And I was known for
15 that.
16 And I came from the content
17 provider universe of selling services to
18 customers and had a pretty good grip, I
19 thought, on what they would be willing to pay
20 for them.
21 Other people that hadn't been
22 exposed to that industry as much very much

23 questioned whether customers would pay for
24 Media Transport and pay for Media Cast. So the
25 trade show marked a turning point where it was

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2 no longer Bill's word or anybody else's word
3 that customers would -- were ready to purchase
4 the services. The problem became one of
5 delivering the goods, so to speak.
6 And that led to a lot of
7 developments, one of which was acquiring a lot
8 more Internet capacity because we couldn't
9 deliver things over the Enron Intelligent
10 Network.
11 Q. Let's continue with Media Cast.
12 By the end of the year, what was the state of
13 Media Cast? Could you, to use your words,
14 deliver the goods to customers with respect to
15 Media Cast?
16 A. Let's introduce a new term here
17 -- I'm going to introduce a new term. We
18 called low-bandwidth rate the service that we
19 dumped over the Internet, which is really no
20 different than any website could offer up. And
21 we called high-bandwidth rate what we could
22 deliver over an ePowered ISP to an end user's
23 desktop.
24 The reach of the high-bandwidth
25 rate services was limited by the number of

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2 computers in the network and the number of ISP
3 pops that we reached into.
4 So we were reaching into ISP pops,
5 and we were deploying servers to those ISPs,
6 but I'm not aware of any customer that we had
7 that was linking to those servers and using the
8 service.
9 So it had progressed operationally
10 but with very few exceptions -- and there are
11 some exceptions, like CountryCool awards, like
12 Drew Carey, where some users were able to get
13 some content over an ePowered ISP, essentially,
14 it was not a commercially viable service by the
15 end of 1999.
16 Q. CountryCool awards, Drew Carey,
17 those were one-off, one-time experiences?
18 A. We had also announced a digital
19 entertainment network, DEN, D-E-N. We
20 announced them as a customer. I'm not aware
21 they ever used the network. I got a purchase
22 order for RealNetworks for using our network.
23 They never used the service.
24 So we announced additional
25 customers, but as of the end of 1999, I'm not

00120

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2 aware that any of those customers had used the
3 service.

4 Q. Just to get an answer to my
5 question, CountryCool awards, Drew Carey, those
6 were one-off, one-time events?

7 A. Oh, sorry. Yes.

8 Q. Do you have an understanding as to
9 why DEN or RealNetworks didn't use the service?

10 A. Based on the status of the
11 deployment, it didn't deliver much value to
12 them.

13 Q. As of the end of '99?

14 A. As of the end of '99.

15 Q. Media Transport, what was the
16 status of Media Transport as of the end of '99?

17 A. There were a lot of people that
18 wanted to buy the service from us, and there
19 were no contracts that I'm aware of that were
20 ever executed because it didn't work, and we
21 couldn't deliver the service in a commercially
22 viable manner.

23 Q. Media Conferencing or -- what was
24 the status of that at the end of '99?

25 A. It was under development, and it

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2 was not yet launched as a service.

3 Q. So not a commercially viable
4 product?

5 A. Correct.

6 Q. And you've already said about
7 Media Cast, Media Transport, also not a
8 commercially viable product as of the end of
9 '99, correct?

10 A. Correct.

11 Q. Media Distribution, did that ever
12 pick up again?

13 A. I had worked on that in the fall
14 of '99, and I think it had been officially
15 nixed by David Cox. And I was told to drop all
16 development.

17 Q. So safe to say it was not a
18 commercially viable product at the end of '99?

19 A. No. Correct.

20 Q. Okay. What was the status of
21 Bandwidth Trading at the end of '99?

22 A. I believe that Tom Gros had
23 executed the first Bandwidth Trading contract,
24 but I do know -- my knowledge of it is that it
25 was not for use of the Enron Intelligent

00122

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2 Network; it was just a contract to buy and sell
3 bandwidth.
4 I do know that in 1999, I attended
5 a meeting with the president of Global Crossing
6 with Ted Seitz, and we had discussed the
7 initial contract with Global Crossing -- if it
8 was Global Crossing that did the first
9 contract. It may or may not have been, but I
10 think it was.
11 Q. So other than this one possible
12 contract that you've referred to, was there
13 any --
14 A. I am not aware that there was any
15 other trading activity in the bandwidth space,
16 and certainly there was none enabled by the
17 Enron Intelligent Network.
18 Q. How about the EIN API, what was
19 the status of the EIN API as of the end of '99?
20 A. Well, to the extent that there was
21 software developed for Media Cast or Media
22 Transport, some of the underpinnings of the EIN
23 API had evolved, but I recall a reorganization
24 done in the fourth quarter of 1999 that
25 assigned people to the EIN API for the first

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2 time.
3 So we're talking about the first
4 time it even had a product manager was in the
5 fourth quarter of 1999. And when Rex and
6 David Berberian were demoted, in a sense --
7 even though their titles didn't change, they no
8 longer had a reporting structure up through to
9 them. They were assigned the EIN API on the
10 org chart -- that is the first time that the
11 EIN API showed up as a box on an org chart.
12 Q. This is fourth quarter of '99?
13 A. Yeah.
14 Q. Okay. And so you said there were
15 underpinnings of the EIN API. What do you mean
16 by "underpinnings"?
17 A. Media Transport required a
18 bandwidth reservation mechanism. In order to
19 develop bandwidth -- what did I say,
20 reservation mechanism. In order to develop the
21 bandwidth reservation mechanism for the
22 Bandwidth Trading and for the EIN API, the goal
23 was -- the plan was to implement it in Media
24 Transport.
25 Media Transport is a simpler case

00124

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2 of bandwidth reservation than Bandwidth Trading
3 or the EIN API. It's very simple, in fact.
4 It's for a point to point, two-point network.

5 If you can do point to point, two-point
6 network, bandwidth reservation, you can move on
7 to multi point to multi point to multi point.
8 So there were people in 1999
9 working on the bandwidth reservation mechanisms
10 for Media Transport. There were people in 1999
11 working on bandwidth reservation mechanisms for
12 Media -- Bandwidth Trading to extend the
13 functionality as it existed in Media Transport.
14 So the underpinning -- and,
15 similarly, I could make those same statements
16 about the billing system for Media Cast. That
17 was designed to be broad enough to cover
18 Bandwidth Trading, Media Transport, and
19 eventually be a platform for the EIN API.
20 The problem is, the bandwidth
21 reservation mechanism for Media Transport
22 didn't work, and the billing system for Media
23 Cast didn't work. So it's a bit of a stretch
24 to say anybody that was working on the EIN API,
25 in my opinion, because the product line

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2 strategy was to develop Products 1 through 5,
3 take the components of those and see them form
4 the underpinnings of the EIN API, which would
5 later become synonymous with the BOS, or
6 broadband operating system.
7 So it's -- things were not
8 progressing to the extent that I knew about it
9 in the EIN API beyond those preliminary efforts
10 for the product line strategy.
11 Q. Okay. And how about the
12 -- perhaps this answer is embedded in your
13 prior answer, but let me ask it more pointedly.
14 The "I" the Intelligence in the EIN, what was
15 the status of the intelligence in the EIN as of
16 1999?
17 A. Nothing existed that was
18 commercially released that we had as a paying
19 customer, put it that way, that relied on
20 intelligence in the network beyond that
21 provided by Media Cast, which was fundamentally
22 built upon the software from RealNetworks.
23 So if you exclude what was
24 functional because of the software from
25 RealNetworks, there was nothing commercially

00126

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2 viable that relied on internally developed
3 intelligent networking software that I'm aware
4 of.
5 Q. Okay. And, finally -- and then
6 we'll take our lunch break -- the BOS, what was
7 the status of the BOS as of the end of '99?

8 A. We use the term BOS and EIN API
9 synonymously, and -- so everything I just said
10 about the EIN API, if you substitute BOS, you
11 get the same statements.
12 There was no more development on
13 the BOS than there was on the EIN API. I am
14 not aware of any groups off, secreted away,
15 working on things that I was not privy to.
16 And I provided status reports of
17 our SWAT team meetings that -- from the fourth
18 quarter of 1999 in my response to the
19 deposition that show specifically which
20 engineers were assigned to what processes and
21 -- so, therefore, I think I had pretty good
22 insight into the goings-on of the company. I'm
23 sure others would disagree.
24 Q. And so there was no commercially
25 viable BOS product as of the end of '99,

00127

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2 correct?
3 A. Right.
4 Q. Okay.
5 MR. YOUNGWOOD: Let's take our
6 lunch break. We're going to take one hour.
7 VIDEOGRAPHER: Here marks the end
8 of Tape 2 of deposition of William Collins.
9 The time is 12:08. We're going on the record.
10 (Lunch break taken.)
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2 A F T E R N O O N S E S S I O N
3 1:11 p.m.
4 VIDEOGRAPHER: Here marks the
5 start of Tape 3 in the deposition of William
6 Collins. We're back on the record. The time
7 is 1:11.
8 Q. Good afternoon, Mr. Collins.
9 A. Good afternoon.
10 Q. We're going to start by just

11 returning to that CD we started the day with.
12 It's Exhibit 50402. Right.
13 We have given you a computer
14 during the lunch break, and I know you had a
15 few moments to take a look at the CD. What I
16 would like you to do now is just, on the
17 record, put the CD back into the computer and
18 load it and just look at it sufficient to
19 enable you to identify the CD for us.
20 A. Loaner password.
21 Q. Welcome.
22 A. Okay. So I'm at the welcome
23 screen.
24 Q. Well, you had an opportunity to
25 look at this during the lunch break. Again,

00129

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2 look further if you need to, but my question
3 is, what is this CD?
4 A. It's a marketing collateral item.
5 Q. Used by ECI?
6 A. Yes, used by ECI and given to
7 customers and other business parties.
8 Q. Okay. During what time period do
9 you believe it was given out?
10 A. I seem to recall it was done in
11 time for NAB, but I might be wrong about that.
12 Q. Within that spring 1999 time
13 frame?
14 A. Spring/summer.
15 Q. Okay.
16 A. That's my recollection.
17 Q. And, am I correct, it contains
18 some PowerPoint presentations?
19 A. Yes.
20 Q. And it contains some videos?
21 A. Yeah.
22 Q. And --
23 A. Animations?
24 Q. -- animations, including
25 animations designed to show the qualities of

00130

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2 Media Transport?
3 A. I believe so, yes.
4 Q. Okay. If you need to, maybe you
5 can find the movie screen.
6 A. I saw a lot of versions of this CD
7 during the development of it --
8 Q. Right.
9 A. -- and some stuff got dropped off.
10 Q. Take a look and see if you can
11 find the movies page.
12 MR. KILDUFF: Can he describe on
13 the record what he's doing so we can figure out

14 where he's going on ours?
15 MR. YOUNGWOOD: Sure. Sure.
16 A. I just went to what was called
17 the -- I believe, applications. Let's see.
18 Content and Applications. So I double-clicked
19 on Content and Applications to see what -- I'm
20 going to look under ePowered Application
21 Services and see if Media Transport is there.
22 It does not appear to be.
23 So I'm going to go back and look
24 under -- it doesn't let me go back. Oh. Here
25 we go. ePowered Delivery Products. Here's

00131

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2 Media Transport. Okay.
3 So I'm looking at a screen that
4 has Media Cast, Media Transport, Media
5 Delivery, products otherwise known as 1, 2, 3,
6 but 2, 3, 1. And your question was, does it
7 describe Media Transport?
8 Q. Yes.
9 A. And there's a button here. If I
10 click it, it says Watch ePowered Media
11 Transport. Do you want me to do that?
12 Q. You can do it. And I am not going
13 to have you watch the whole thing but enough
14 for you to --
15 (CD playing.)
16 A. I'm going to mute it.
17 Q. Okay. That's fine.
18 A. It's playing an animation. I'm
19 familiar with the animation.
20 Q. Okay. And does that concern Media
21 Transport?
22 A. Yes, it.
23 Q. And are there other animations or
24 PowerPoints that deal with Media Cast?
25 A. Yes.

00132

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2 Q. And others that deal with the EIN,
3 itself?
4 A. Yes.
5 Q. Okay. You said it was given to
6 customers, I think, or potential customers.
7 A. I believe so.
8 Q. Okay. Did you personally give it
9 to any customers?
10 A. I recall handing out a lot of
11 them, yeah.
12 Q. And would you, I guess --
13 sometimes, you would hand them out and give
14 them to the customers; sometimes you would show
15 them to the customer on a computer?
16 A. Yeah.

17 Q. Okay. Within ECI, itself, were
18 these disks generally available to people who
19 needed them?
20 A. Yes.
21 Q. Okay. And how about at the senior
22 executive level, say Mr. Hirko, for example,
23 would he have had access to this CD?
24 A. Yes. As a matter of fact, I'm at
25 the thing where Fred "X" is going to jump out

00133

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2 the window. He would have had access to this,
3 yes.
4 Q. Okay. You can put the computer to
5 the side. I think we're done with that.
6 I want to return to briefly
7 discuss the CountryCool webcasting that we
8 discussed this morning, which, I think I'm
9 correct, you described as kind of one-off
10 event.
11 A. It was a one-night event.
12 Q. What did it consist of?
13 A. It was a live event somewhere in
14 the Southeast, I think Nashville, but I'm not
15 sure of the city. And the video feed was
16 picked up by Enron and broadcast over the
17 Internet as a feature of the CountryCool
18 website.
19 Q. Did Enron earn money doing this
20 project?
21 A. My understanding is that the
22 customer did pay us several thousand dollars.
23 Q. "Several thousand" as in less than
24 10,000?
25 A. Yeah.

00134

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2 Q. And the Drew Carey show, what was
3 that?
4 A. That was an over-the-air
5 simulcast, and it was an Internet web cast
6 where users could go to the Drew Carey website
7 and receive video feeds over the Internet that
8 were not available in the over-the-air
9 broadcast.
10 Q. Okay. And did Enron receive
11 payment for that service?
12 A. I do not believe so.
13 Q. Were there any problems in the
14 CountryCool event? Any problems carrying off
15 the event?
16 A. It was a big production for us.
17 We had a lot of people involved in the event,
18 but I don't recall specific problems, per se.
19 Q. Do you know how many customers

20 were served?
21 A. In our parlance, the customer is
22 CountryCool, so do you mean viewer?
23 Q. I mean viewers.
24 A. No, I don't recall.
25 Q. Do you know if any of those

00135

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2 viewers had trouble receiving the video stream?
3 A. Yes. I believe there was a report
4 done that showed that some percentage could not
5 receive this stream.
6 Q. I am going to give you what I'm
7 marking as 50406, Bates stamp ECTe003533335
8 and the second page ending with -36. Take a
9 moment to look at this two-page document. Once
10 you've done so, please tell me if you can
11 identify it.
12 A. Yes, I can identify it.
13 Q. What is it?
14 A. It's an e-mail from Peter Ghavami,
15 G-h-a-v-a-m-i, to what appears to be most of
16 the management team of ECI and some of the
17 director-level employees. And it -- that's
18 what it appears to be.
19 Q. And he sent it on or about
20 October 1, 1999?
21 A. Yeah. That's what it says.
22 Q. And included -- you received a
23 copy; is that correct?
24 A. Yeah, I'm included.
25 Q. Okay. And Mr. Hirko, Mr. Yeager,

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2 they all received copies, right?
3 A. That's correct.
4 Q. Mr. Shelby, Mr. Berberian --
5 A. Yep.
6 Q. -- and a number of others?
7 A. Yep.
8 Q. And this concerns CountryCool,
9 correct?
10 A. Yes.
11 Q. Is e-mail a common way for ECI or
12 EBS employees to communicate with each other?
13 A. Yes.
14 Q. It's part of the normal business
15 practice is to send e-mails to each other?
16 A. Yes.
17 Q. And this was one of the e-mails
18 you received as -- in the course of your
19 employment at ECI; is that correct?
20 A. That's correct.
21 Q. Does looking at this document in
22 any way refresh your recollection concerning

23 how many viewers actually received the stream
24 in connection with CountryCool?
25 A. Yes. It says that approximately

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2 20,000 users out of 30,000 attempts were able
3 to receive this stream.
4 Q. So one-third of the users who
5 tried to receive the stream were unable to do
6 so?
7 A. That's correct.
8 Q. Okay. Is that -- would you
9 consider that or did you consider that to be a
10 problem?
11 A. At the time, I don't recall.
12 Q. Okay. Was the product supposed to
13 have a higher success rate than two out of
14 three?
15 MR. KILDUFF: Object to the form.
16 A. See, the -- yes.
17 Q. What percentage of viewers was the
18 product designed to be able to successfully
19 send the stream to?
20 A. 100 percent of those that
21 requested it.
22 Q. Okay. You can put that document
23 to the side.
24 A. It refers to an attachment. Are
25 you going share the attachment or not?

00138

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2 Q. I actually don't have the
3 attachment.
4 A. Okay.
5 Q. I am going to hand you a document
6 I've marked as 50407. It's Bates stamped.
7 ECTe003148033 is the first page and -8036 is
8 the last page. Please take a moment to look at
9 it.
10 A. Just, for the record, can I say
11 that last night, I was e-mailed documents by
12 your firm --
13 Q. Right.
14 A. -- and I had a chance to review a
15 lot of these last night. So if I appear to be
16 glancing them over pretty quickly, it's because
17 I had a chance to read them all thoroughly last
18 night.
19 Q. Thank you.
20 MR. YOUNGWOOD: For anyone else's
21 interest, we did, as a courtesy, send
22 Mr. Collins some number of the documents that
23 were predesignated by the parties, just so he
24 could have the opportunity to see them in
25 advance of the deposition.

00139

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2 Q. Do you recognize this document
3 that's been marked as 50407?

4 A. I recognize it from last night,
5 but I don't recognize it from my time during
6 Enron.

7 Q. Okay. Do you know whose notes
8 these are?

9 A. I was not able to figure that out,
10 no.

11 Q. Okay.

12 A. I have a guess.

13 Q. What's your guess?

14 A. Kevin Garland.

15 Q. Do you have any recollection of
16 attending a meeting in October -- on or about
17 October 12, '99, with Mr. Garland, Mr. Key,
18 Kirk Neuner, Laura Howenstine, and somebody
19 with a first name "Will"?

20 A. I remember a number of meetings
21 with that group of people.

22 Q. You see the reference to "Will."
23 Who is -- do you know who the "Will" is?

24 A. I remember speaking with him. I
25 don't remember his last name.

00140

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2 Q. And Key, I said that as a last
3 name. Do you know if that's a last name or
4 first name?

5 A. I don't recognize it.

6 Q. And one of these meetings, do you
7 recall discussing the status of the IP QoS?

8 A. Yes.

9 Q. What does that mean, IP QoS?

10 A. "QoS" stands for quality of
11 service. "IP" stands for Internet protocol.
12 So it's Internet protocol quality of service.

13 Q. Okay. Do you recall having
14 discussions with people as to whether or not
15 the IP QoS was ready?

16 A. Yes, because one of the premises
17 of the Enron Intelligent Network was that we
18 were implementing QoS irrespective of the fact
19 that it was not available through Internet
20 protocol. So, yes, I recall making that
21 distinction.

22 Q. And was the IP QoS ready as of
23 mid-October 1999?

24 A. Well, IP is a standard, and IP QoS
25 in the standard -- I don't know how to

00141

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2 -- there's a lot of ways to do QoS with TCP/IP,
3 and, generally, they were not commercially
4 available.
5 If one looks in the record, you
6 can find lots of IP QoS because IP, itself, is
7 a collaborative process, and it evolves over
8 time, and there's a lot of ongoing
9 collaboration in the community about how to
10 implement QoS.
11 When I say "IP QoS is not
12 available," that's what I'm referring to, is
13 the standard TCP/IP, as implemented in the
14 public Internet.
15 Q. Was there discussion at the time
16 of adding ATM?
17 A. Yes, there was.
18 Q. Okay. What does "ATM" mean?
19 A. It stands for asynchronous
20 transfer mode.
21 Q. And what was the discussion
22 concerning ATM at the time?
23 A. I thought implementing ATM would
24 solve our problems for Media Transport because
25 that's the normal way -- because I had done

00142

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2 that at WorldCom, and it had worked
3 successfully.
4 Q. And is that -- which problems of
5 Media Transport did you think it would solve?
6 A. The quality-of-service problem.
7 Q. Did it?
8 A. We never implemented it, so . . .
9 Q. You can put that to the side.
10 Do you recall conversations or
11 discussions in November of 1999 concerning the
12 possibility of selling off the part of the
13 company that you were calling at the time the
14 "Modulus gang" to Sun or some other third
15 party?
16 A. Yes, I do.
17 Q. What do you recall about those
18 conversations?
19 A. I recall that I discussed that
20 concept with John Bloomer, John Griebeling,
21 Scott Yeager, David Cox, among others.
22 Q. And whose idea was it?
23 A. I think it was my idea.
24 Q. And what was the idea, exactly?
25 A. The idea was to -- to get

00143

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2 Rex Shelby, Dave Berberian, Larry Ciscon,
3 Mark Palmer, and the other people that worked
4 in the division formerly known as Modulus to be

5 employed elsewhere so that we could pursue the
6 implementation of the EIN without their input.
7 Q. Why did you -- is that something
8 you wanted to do?
9 A. Yes.
10 Q. And why was that?
11 A. They were not getting the job
12 done.
13 Q. This is as of November '99?
14 A. Correct.
15 Q. And what was Mr. Yeager's reaction
16 to this proposal?
17 A. Generally, it was unfavorable. He
18 was not willing to pursue it with management,
19 that I'm aware of.
20 Q. Mr. Cox, do you recall his views?
21 A. Initially, he was encouraging, and
22 then he did not act upon the information or
23 pursue it any further.
24 Q. And Mr. Griebeling?
25 A. He took no position. He took no

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2 position on it at the time.
3 Q. Hold on one second, Mr. Collins.
4 We need to mark the next exhibit.
5 (Pause.)
6 Q. Mr. Collins, I am going to hand
7 you what we're marking as Exhibit 50408. It
8 has Bates number ECTe015865771 as the first
9 page and -774 as the last page. Take a moment
10 to look at it.
11 A. I recall reading this last night.
12 Q. Okay. It's an e-mail drafted by
13 you, correct?
14 A. Yeah.
15 Q. On November 16, 1999, correct?
16 A. Correct.
17 Q. And you sent it to Mr. Yeager,
18 correct?
19 A. That's right.
20 Q. Okay. You sent this while you
21 were employed at ECI, correct?
22 A. That's correct.
23 Q. And you did it in relation to your
24 work at ECI, correct?
25 A. That's right.

00145

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2 Q. You titled it, between you and me.
3 Is that right?
4 A. Yes.
5 Q. Why did you title it that?
6 A. Because I did not want other
7 members of the management team to know I was

8 proposing this.
9 Q. Because it was -- this e-mail, am
10 I correct, concerns the proposal of selling off
11 the group that formerly worked at Modulus,
12 right?
13 A. That's right.
14 Q. Which you considered to be a
15 sensitive proposal.
16 A. Yes.
17 Q. Okay. If you could read the first
18 four lines of the e-mail, just starting with
19 the addressee.
20 A. "Scott, when you see below just
21 one of many things Sun is doing, it makes me
22 think along the following lines: Let's sell
23 Modulus gang to Sun while Sun perceives EIN API
24 to be do-able (it may require a company with
25 Sun's weight to pull it off, actually)."

00146

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2 Q. You can stop there for moment.
3 The things -- where you say -- when you see
4 below just one of the many things that Sun is
5 doing, you're referring to a press release that
6 you attached to the e-mail; is that right?
7 A. A press release issued by, I
8 believe, Sun Microsystems.
9 Q. Okay. And that's this
10 November 12, 1999 press release on pages 2
11 through 4 of this document?
12 A. Correct.
13 Q. Going back to your e-mail, you
14 used the words while Sun perceives EIN API to
15 be "doable." What did you mean by that?
16 A. That the -- EIN could be quickly
17 and effectively developed and implemented.
18 That's what I mean by "doable."
19 Q. Was there a risk that several
20 months down the road or longer that EIN API
21 might not continue to appear to be doable?
22 MR. KILDUFF: Object to the form.
23 THE DEPONENT: Since there's no
24 judge here, I assume I just answer, even though
25 somebody objects?

00147

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2 Q. Yeah. I should have included that
3 in the beginning. Mr. Kilduff may object to
4 questions. I may object.
5 A. For the record.
6 Q. It's just for the record.
7 A. Can I object?
8 Q. You can object, but you still get
9 to answer.
10 A. All right. So could you repeat

11 the question, please.
12 Q. Yes. Was there a risk that
13 several months down the road or longer that EIN
14 API might not continue to appear to be doable?
15 MR. KILDUFF: Object to the form.
16 A. Yes.
17 Q. Why did you think there was such a
18 risk?
19 A. I guess the main reason would be
20 that we were publicly describing the status as
21 being much further along than it actually was.
22 And as that became more clear to more people,
23 it may be perceived that -- it might be
24 perceived that to bring the status to be
25 consistent with our public statements would

00148

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2 require either more time or more money than
3 would be available.
4 Q. If you could continue down the
5 page all the way to the paragraph, it's almost
6 the end, that says -- starts with the words
7 "Might be a crazy idea."
8 A. Okay.
9 Q. If you read from there to the end
10 of your e-mail.
11 A. "Might be a crazy idea but figured
12 I'd share it with you. Bloomer and I talked
13 about it over beers the other night but he
14 doesn't know I'm sharing my thoughts with you
15 (I think he's afraid to rock the boat too
16 much). He has serious doubts (as does
17 everybody) about Rex et al being able to create
18 an API that carries any weight and does
19 anything significant (like work)."
20 "Could be 'deal of the decade.'"
21 "Deal of the decade" is in quotes. Bill.
22 Q. You refer to serious doubts about
23 Rex, et al., being able to create an API that
24 carries any weight and does anything
25 significant (like work). What did you mean by

00149

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2 that?
3 A. That Rex and those that report to
4 Rex in the engineering organization did not
5 appear to have the expertise or the time or the
6 resources necessary to effectively develop the
7 EIN API.
8 Q. And you use the words "as does
9 everyone." What did you mean by "everyone"?
10 A. That's kind of an exaggerated
11 generalization to mean those that I work with,
12 those that I was in regular communication with.
13 Q. Did you mean a number of people?

14 A. Yeah. I meant my peers at the
15 company.
16 Q. Can you name some of the people
17 that you think likely shared this general
18 belief as of mid-November '99?
19 A. Well, I would start with those
20 that I was closest to, and that would be the
21 engineering organization in Portland. That
22 would be Shauna Meyer, Jim Irvine,
23 Jim Williams, and some of the other operations
24 people, including John Griebeling and John
25 Bloomer, as I say here. Within the management

00150

1
2 team, Jon Thompson and David Cox and some of
3 the other executives of the company that were
4 -- and some of the other executives of the
5 company.
6 Q. Did you ever hear people at ECI
7 refer to the EIN in late '99,
8 November/December in joking terms?
9 A. Yes.
10 Q. What types of ways would people
11 describe the EIN?
12 A. Well, the EIN, which was
13 predicated on the implementation of InterAgent,
14 was -- InterAgent was referred to as "magic
15 dust." So if you sprinkled InterAgent on
16 everything, it would make the EIN intelligent.
17 That was a very -- fairly common joke.
18 There was a joke that if you had
19 drank the Enron Koolaid, you believed that
20 InterAgent made the EIN intelligent.
21 There was a joke about Joe Hirko
22 smoking crack, and that his crack-smoking
23 habit -- jokingly referred to -- was
24 responsible for the delusional state that he
25 appeared to be in about the potential

00151

1
2 implementation ability of the EIN.
3 There were -- those -- there are a
4 few jokes.
5 Q. Was this, like you testified
6 earlier, an example of people using humor to
7 diffuse a very serious situation?
8 A. Yes, it was.
9 Q. Or perhaps "diffuse" is the wrong
10 word but --
11 A. Cope with.
12 Q. -- cope with a very serious
13 situation.
14 A. Yeah.
15 Q. It was pretty serious that the EIN
16 wasn't as advanced as it was supposed to be; is

17 that right?
18 A. Yes. It was -- causing no end of
19 grief to any number of people.
20 Q. Put that document to the side.
21 I am going to hand what you we're
22 marking as 50409, ECggg000132072.
23 A. My favorite e-mail.
24 Q. I take it you recognize this
25 document.

00152

1
2 A. This was quoted in the New York
3 Times. I don't know who gave it to the New
4 York Times. I didn't.
5 Q. But you recognize the document?
6 A. Yes, I do.
7 Q. And what is it, exactly? It's a
8 series of e-mails, correct, or at least two
9 e-mails?
10 A. Yes. It's a series of e-mails
11 from John Bloomer and myself, which was copied
12 to a number of people, including senior
13 management of ECI.
14 Q. And Mr. Bloomer wrote the original
15 e-mail, am I correct, on December 19, 1999?
16 A. Yes.
17 Q. And he sent it to -- you've
18 already testified, to you, correct?
19 A. Yes.
20 Q. Mr. Cox, Mr. Yeager, correct?
21 A. Correct.
22 Q. And Mr. Griebbling and Mr. Kevin
23 Garland, correct?
24 A. That's right.
25 Q. What position did Mr. Cox hold at

00153

1
2 the time, do you know?
3 A. At this time, he was my manager --
4 and -- or the manager of my manager, depending
5 on which org chart you looked at, but I was to
6 report up through David Cox. And I believe he
7 was vice president of sales and -- vice
8 president of sales, possibly business
9 development. I don't recall his title exactly.
10 Q. Mr. Yeager, what position did he
11 hold at the time?
12 A. By December 20th, I believe he had
13 been promoted to office of the -- I don't know,
14 office of the president, office of the CEO, and
15 he may have been managing director at that
16 point. Either way, his duties were still
17 business development.
18 Q. And then Mr. Griebbling, what was
19 he doing at the time?

20 A. By then, his title had become vice
21 president of network engineering.
22 Q. And Mr. Garland?
23 A. I don't remember his exact title,
24 but he was mergers and acquisitions.
25 Q. How about Mr. Bloomer, do you

00154

1
2 recall what position he held?
3 A. At that time, he was vice
4 president of engineering, but there might have
5 been a qualifier. It might have been something
6 engineering. Griebeling was network engineering
7 and Bloomer was, I don't remember, something
8 engineering
9 Q. Your position, had it changed at
10 all? Had your title changed?
11 A. It had changed for one day but
12 that was earlier in the year. I was director
13 of business development.
14 Q. At the time of this e-mail?
15 A. At the time of this e-mail.
16 Q. Mr. Bloomer you understood to have
17 sent this e-mail as part of his work for
18 reason, correct?
19 A. That's right.
20 Q. And then you responded to the
21 e-mail the next day on December 20. Do I have
22 that right?
23 A. Yeah.
24 Q. And you copied -- you sent it to
25 Mr. Bloomer, correct?

00155

1
2 A. Yeah.
3 Q. And you copied Mr. Cox,
4 Mr. Yeager, Mr. Griebeling, and Mr. Garland,
5 correct?
6 A. Yes.
7 Q. Okay. And in responding, you were
8 acting as part of your work, right?
9 A. That's right.
10 Q. And, am I correct, what you did is
11 rather than write a whole new separate e-mail,
12 you annotated Mr. Collins' e-mail --
13 Bloomer.
14 Q. I'm sorry, Mr. Bloomer's e-mail --
15 thank you -- is that right?
16 A. That's right.
17 Q. And that you -- so the reader
18 could tell, you used red?
19 A. Yes.
20 Q. What I'd like to do is go to the
21 last page.
22 A. Yes.

23 Q. Ends with Bates No. 132074. And
24 look under the section headed 5. The black
25 text, am I correct, is text that Mr. Bloomer

00156

1
2 wrote, right?
3 A. That's right.
4 Q. And then the five lines under it
5 are in red are text that you wrote in response,
6 right?
7 A. That's right.
8 Q. Can you read Mr. Bloomer's text
9 into the record, please.
10 A. "The BOS must be ubiquitous. I do
11 believe that a grass-roots type movement,
12 releasing a bunch of perl scripts to drive
13 SNMP_Puts() into routers and access
14 differentiating services is a must for us to
15 succeed and scale - to catalyze demand. We are
16 smarter, and can move quicker than the rest of
17 the industry, but nimbleness is a must 'cuz
18 it's the big guys with box or major OS/server
19 software pull through that will win the BOS
20 game, in my humble estimation. Evidence, the
21 state of the middleware and web transaction
22 processing services markets are today. BEA
23 acquires weblogic, Sun gets NetDynamics,
24 Microsoft . . . the list goes on."
25 Q. Okay. What did you understand

00157

1
2 Mr. Bloomer to be saying here?
3 A. Well, the first sentence is saying
4 that controlling routers through software is a
5 necessary requirement for us to succeed and
6 scale. He then goes on to say that we have to
7 be smarter and move quicker than the rest of
8 the industry, otherwise, we can't compete with
9 box makers -- that's computer manufacturers --
10 or major OS/server software people. That's
11 Microsoft and so forth.
12 And then he gives a couple of
13 examples.
14 Q. The heading, "The Bos Must Be
15 Ubiquitous," what did you understand him to
16 mean by that?
17 A. That in order to successfully
18 create an operating system, we would have to
19 drive it out into the market to create some
20 sort of critical mass; and that critical mass
21 means some measure of ubiquity.
22 Q. If you could now go to your
23 response and just, for now, read me the first
24 two sentences.
25 A. I say, The BOS dreams of being

00158

1
2 ubiquitous - but as long as it's not doing
3 anything in our network and it isn't ready and
4 doesn't work - the analogy to other industry
5 technologies is not quite apropos. We're not
6 in much of a position today since -- we're not
7 -- strike that. We're not in much of a
8 position since today, BOS and EIN API has
9 -- should be "have" -- but has zero market
10 share, zero customers, zero installed base.
11 Q. Was that correct, that as of the
12 date you wrote this, December 20, that the BOS,
13 EIN API had zero percent market share?
14 A. Yes.
15 Q. And no customers, correct?
16 A. None that I knew of.
17 Q. No installed base?
18 A. Not that I knew of.
19 Q. What do you mean by "installed
20 base"?
21 A. Software wasn't installed
22 anywhere.
23 Q. Okay. You then use some colorful
24 language, I guess, to make your point. Can I
25 ask you to read that into the record, please.

00159

1
2 A. Sure. "I don't care what lipstick
3 and rouge you paint that bitch up with - she's
4 still just dead meat lying on the sofa, just
5 threatening to stand up and steal the show."
6 Q. Okay. I understand that's
7 colorful language, but what were you -- what
8 was the point you're trying to make here in
9 your overall response to Mr. Bloomer?
10 A. That denying the fact that we
11 didn't have much to work with wasn't going to
12 get us to a solution. You can say that the BOS
13 must be ubiquitous, but if it doesn't exist, it
14 doesn't work. And it isn't installed anywhere,
15 you have to start from there and move forward,
16 as opposed to simply state that it must be
17 everywhere.
18 Q. Did you receive any response to
19 this e-mail?
20 A. I don't think so. Not that I
21 recall.
22 Q. Earlier in the e-mail -- I just
23 have a few more questions about this document
24 -- there's mention on pages -- starting on the
25 bottom of page 1 and then continuing on to

00160

1

2 page 2 about a potential deal with Microsoft.
3 A. I would say deals.
4 Q. What were those deals to be?
5 A. I recall three deals. The first
6 two were to make Microsoft a customer, and the
7 third was to make Microsoft an equity
8 participant in our communications business.
9 Q. And in what way did you want to
10 make Microsoft a customer?
11 A. I wanted them to buy minutes of
12 usage for Media Cast and distribute those to
13 their content partners so that their content
14 partners would have access to our network using
15 a Microsoft marketing subsidy.
16 Q. And by making Microsoft an equity
17 participant, you wanted them to invest?
18 A. Yes.
19 Q. If you go down toward the bottom
20 of that second page, end with Bates No. 2073,
21 you have some red text, which I take is text
22 you wrote, correct?
23 A. That's correct.
24 Q. I would like to focus you in on
25 the second sentence below the -- I'm looking at

00161

1
2 the words that begin, I hoped Microsoft would
3 never have heard. Do you see that?
4 A. Yes.
5 Q. Could you read from there to the
6 end of the paragraph, please.
7 A. I'd hoped Microsoft would never
8 -- I'm sorry. Start again. "I'd hoped
9 Microsoft would have never heard the words
10 'Broadband Operating System' from us or in the
11 context of what we are doing with Sun until
12 after we ink a deal with MFST and get past the
13 analysts' meeting -- since you can bet they are
14 going to have a strong reaction to having an
15 investment and tactical deal appear to be
16 dressed up as something they are doing to
17 support the development of a new operating
18 system that they don't own and control, that we
19 position is to make up for shortcomings in
20 Windows 2000 et al. In my mind there is no
21 potential bigger show stopper than us thinking
22 we are going to tell them that they need US to
23 support THEM in the evolution of their
24 OPERATING SYSTEM strategy . . . so I'll defer
25 to Rich on this to mitigate the conflict and

00162

1
2 get the information as to what Skilling and
3 Berberian put in front of Palmer" next week
4 -- "last week."

5 Q. Okay. So what was the concern you
6 had here with respect to ECI's dealings with
7 Microsoft?

8 A. By the time I wrote this, I had
9 been told by Rich DiMichele that while I was
10 downstairs in an office -- Greg Maffei's
11 office, the CFO of Microsoft -- when I say I
12 was in his office, I wasn't in his personal
13 office. I was in an office next to his
14 personal office, and he was in a meeting, but I
15 was on the Microsoft campus.
16 I was in Greg Maffei's office
17 area, and I was with Rich DiMichele and one of
18 his employees from Houston. And I was later
19 told, either the following day or later in the
20 week, that while I and -- was downstairs in
21 that meeting with Rich and the other analyst,
22 that Jeff Skilling and Dave Berberian were
23 meeting with Steve Balmer upstairs in that same
24 building.
25 So I am referring to the fact that

00163

1
2 I was told by Rich DiMichele that Dave
3 Berberian, with Jeff Skilling present and
4 agreeing -- this is what I was told by Rich
5 DiMichele -- that Dave Berberian told Steve
6 Balmer at Microsoft that they should support
7 the development of our operating system as
8 -- while I'm downstairs negotiating with the
9 CFO of Microsoft, his lieutenant -- he was not
10 in the meeting, but he had authorized the
11 meeting and he was just not present -- that we
12 would abandon the EIN API and broadband
13 operating system and support Windows as our
14 technical platform of record.
15 So I never did find out if it was
16 true, that we were all in the building at the
17 same time. I find it highly improbable, I
18 think it's a high hypocritical [phonetic], but I
19 think what happened -- I think Rich DiMichele
20 was reconveying -- was conveying to me that
21 something happened with Berberian and Skilling.
22 He told me that they flew up on
23 the corporate jet to the Microsoft campus. I
24 don't know if they were there at the same time
25 we were there. I don't -- so that's the part I

00164

1
2 think that is hypocritical [phonetic]. But there
3 was some sort of simultaneous negotiations
4 going on, and we were negotiating opposite
5 strategies. So I was a little bit upset about
6 that.
7 Q. Your strategy was to have Enron

8 give up development of the BOS and the EIN API?
9 A. Insofar as it would run on a Sun
10 Solaris operating system, yes.
11 Q. Okay. Why did you think that was
12 a good strategy?
13 A. Through previous negotiations with
14 Microsoft, I knew that they had, as a corporate
15 objective, becoming an operating system able to
16 manage telecommunications networks, so I
17 believed that they would -- and they responded
18 and said, yes, that's -- let me try to give you
19 a more direct answer.
20 Can you repeat the question?
21 Q. Well, my question is, why did you
22 think it was a good strategy, but in reference
23 to -- to broaden it or to encompass your prior
24 answer and my prior question, why did you think
25 it was a good strategy for Enron to give up the

00165

1
2 development of the BOS and the EIN API?
3 A. Because Microsoft has thousands of
4 programmers able to write software, and we were
5 having trouble writing software ourselves.
6 Q. How many programmers did you have
7 writing the BOS and the EIN API software at
8 this time, late '99?
9 A. Let's just say fewer than five.
10 Q. I am going to hand you what I am
11 marking as 50410, ECTe003686936 through -6940.
12 A. Okay.
13 Q. Do you recognize this?
14 A. Yes, I do.
15 Q. This is an e-mail from you dated
16 December 27, 1999, correct?
17 A. That's right.
18 Q. And you sent it to Mr. Yeager,
19 correct?
20 A. That's correct.
21 Q. You titled it open issues,
22 correct?
23 A. That's right.
24 Q. This time you wrote it, you were
25 still working for ECI, right?

00166

1
2 A. That's right.
3 Q. And you wrote it in connection
4 with your business duties at ECI?
5 A. That's right.
6 Q. You tried to be accurate in
7 writing it, correct?
8 A. Yeah.
9 Q. And, in fact, the prior e-mails
10 we've looked at, including 50409, you tried to

11 be accurate when you wrote that, too, correct,
12 the portions of that that you wrote?
13 A. Yes, I did.
14 Q. There are a number of topics
15 covered here, but before we get to a few of
16 them, could you tell me what the general
17 purpose of writing this e-mail was.
18 A. I was in a very uncomfortable
19 position. I was very uncomfortable at Enron.
20 I was very uncomfortable at my role at Enron,
21 and I was very uncomfortable in what I was
22 being asked to do in the negotiations with
23 Microsoft.
24 Those issues were causing me to
25 seriously question the future of my career at

00167

1
2 Enron, so I was essentially venting my
3 frustrations. This is eventually what this
4 e-mail is about.
5 Q. Let me turn you to page 2 of it.
6 And there is a section that begins, "And the
7 result, Scott, is pretty disheartening." Do
8 you see that?
9 A. Yes, I do.
10 Q. Let me ask you to read from there
11 the word "and" through two full paragraphs to
12 the words "business plans furthered."
13 A. Okay.
14 Q. Okay?
15 A. "And the result, Scott, is pretty
16 disheartened. Transport is dead. Except for
17 the part that will feed Media Cast that
18 April says can't be sold and that Boris will
19 not accept in an order from Microsoft, it's
20 dead.
21 "Conferencing is dead. Nobody
22 even pretends we'll have a conferencing network
23 anytime before near end of year 2002. Cast is
24 getting better but it still doesn't operate in
25 production mode with any customers of note and

00168

1
2 relative to the industry, it's the weakest of
3 all the webcasting networks out there -- not in
4 design but in reality. InterVU, Akamai,
5 Digital Island, Exodus, RBN, broadcast.com,
6 iBeam, Sandpiper -- they all have something
7 going for them that is their underlying value
8 proposition and they've all got these large
9 operational networks where they have their
10 company's full focus and support on all the
11 issues associated with them getting problems
12 addressed and their business plans furthered."
13 Q. You said that you were venting,

14 but the factual descriptions you have in here
15 are Transport, Conferencing, and Media Cast.
16 Are those accurate?
17 A. I think "dead" is an exaggeration.
18 They weren't dead in the use of the word dead
19 to mean absence of all activity. They were
20 still being developed, but I was saying as a
21 practical matter, on a strategic level, they're
22 dead.
23 Q. That's Transport and Conferencing?
24 A. And Conferencing.
25 Q. Okay. There's a reference in

00169

1
2 terms of Transport, where it says, "Except for
3 the part that it feed Media Cast that
4 April says can't be sold," what was it that you
5 were saying April said couldn't be sold?
6 A. A low-quality version of Media
7 Transport that would not be discernible as a
8 low-quality Media Transport because it would be
9 used to feed content over the Internet where
10 the users would have such a low-quality of
11 service that they couldn't tell that the
12 service wasn't working properly.
13 Q. Who's April?
14 A. April is April Hodgson or -- I
15 think she calls herself Hodgson, vice president
16 of sales -- at this time, she had been hired, I
17 believe, as vice president of sales.
18 Q. And then there's a reference to
19 that also in the context of Transport, and that
20 Boris will not accept an order from Microsoft.
21 What did you mean by that?
22 A. I had been negotiating a contract
23 with Microsoft and their outside law firm,
24 Preston Gates. And Boris, who David Cox had
25 interjected as my manager, was refusing to

00170

1
2 accept the language of the contract as
3 negotiated with Microsoft. So I was not being
4 allowed to book the order and have the contract
5 with Microsoft executed because Boris had
6 issues with it.
7 Q. What was Boris's last name?
8 A. It's on one of these e-mails
9 somewhere. I don't -- Breshnoff or something,
10 I think. Eastern European last name. I don't
11 recall.
12 Q. Then you go on to discuss
13 Conferencing. You say, "Nobody even pretends
14 we will have a conferencing network anytime
15 before near end of year 2000." Do you think
16 that's true, that nobody thought there was

17 going to be a conferencing network anytime
18 before the end of year 2000?
19 A. I don't know what other people
20 thought, but I know that I thought that it was
21 not going to happen. And I'm saying "nobody"
22 loosely to mean those that I do work with. So
23 I'm saying that nobody in the company is even
24 pretending -- conferencing was being pushed
25 back and pushed back and pushed back further.

00171

1
2 It had been pushed back so far down the back
3 that it wasn't even being discussed as
4 potentially viable in the first half of 2000.
5 Q. Then you go on in the next
6 paragraph to discuss Media Cast; is that right?
7 A. That's right.
8 Q. Okay. And you call it the weakest
9 of all the webcasting networks out there.
10 A. Yes.
11 Q. Right. And then you say, "not in
12 design but in reality." What do you mean by
13 that, "not in design but in reality"?
14 A. Conceptually, I believe it to be
15 better than all those other networks but not as
16 implemented.
17 Q. Going down on the page -- you
18 don't need to read it but there is a reference
19 here to a due diligence -- you can read it to
20 yourself, you don't need to read it out loud,
21 to a due diligence process. Do you see that?
22 A. Is that the last paragraph on the
23 page?
24 Q. Yes. Yes.
25 A. Yes.

00172

1
2 Q. What does this portion of the
3 e-mail concern?
4 A. The Microsoft deal. By that, more
5 specifically, the Microsoft equity deal.
6 Q. And what's the due diligence
7 reference?
8 A. Well, I was being asked to make
9 representations and warranties to Microsoft
10 that I did not feel were truthful, so I was
11 concerned about what they would uncover in the
12 due diligence process. And I'm talking about
13 that -- I'm talking about what we would likely
14 encounter during a due diligence process with
15 Microsoft.
16 Q. You were concerned they might
17 discover facts about ECI that ECI might not
18 want them to learn?
19 A. Yes, I was concerned about that.

20 Q. What sort of facts were you
21 concerned they might discover?
22 A. We were representing that we were
23 further along in the development of an
24 operating system than we were. That was my
25 number one concern.

00173

1
2 Q. Any other concerns?
3 A. I was concerned about the
4 credibility of management and what would happen
5 if they start trying to talk in specifics with
6 our management team about a Microsoft strategy.
7 So I'm describing here some of those concerns
8 also.
9 Q. What did you think they would
10 learn if they had such a conversation with
11 management?
12 A. That our management was not able
13 to discuss intelligently what it might mean to
14 have a Microsoft-based Enron Intelligent
15 Network instead of a Sun-based Enron
16 Intelligent Network.
17 Q. By "our management," who are you
18 referring to?
19 A. Joe Hirko, Ken Rice, David Cox,
20 Steve Elliott, Kevin Garland, Rich DiMichele,
21 Stan Hanks, Jon Thompson, April Hodgson, and
22 some of the other vice presidents. By then, we
23 had a lot of vice presidents.
24 Q. We'll leave this e-mail in a
25 moment but before we do, I just want to

00174

1
2 -- strike that. Let's go on to another
3 document.
4 50411 as the following Bates
5 numbers ECTe015865820 as the first page, -824
6 is the last page. Take a look to look at that,
7 sir.
8 A. I recognize this.
9 Q. What is it?
10 A. It's a thread of e-mails between
11 me, Microsoft, and Rich DiMichele from Enron.
12 Q. And these e-mails all concern or
13 were written -- to the extent you wrote them,
14 written in the course of your work for ECI,
15 correct?
16 A. That correct.
17 Q. And they concern this potential
18 Microsoft deal; is that right?
19 A. That's correct.
20 Q. Okay. Looking at the top one on
21 the sheets, that was written by you on
22 December 28, '99, correct?

23 A. That's correct.
24 Q. You sent it to Mr. DiMichele and
25 Mr. Yeager, correct?

00175

1
2 A. That's right.
3 Q. What position did Mr. DiMichele
4 have at the time, if you know?
5 A. I seem to recall on his business
6 card that it said managing director of Enron,
7 the parent corporation, but it's possible that
8 he had been formally transferred into our
9 division. I don't recall that.
10 Q. Now, your e-mail concerns this due
11 diligence process, again, right?
12 A. Yes.
13 Q. Okay.
14 A. Partly.
15 Q. Could you read -- it's not that
16 long. Could you just read the e-mail into the
17 record, please.
18 A. "Rich, Per my earlier e-mail, Greg
19 is willing to work towards a memo of
20 understanding this week and I'll try to
21 accommodate him and do the 'we/they' on the
22 commercial side and involve Yeager and Bloomer
23 and Griebeling as necessary.
24 "I'm not as concerned as you seem
25 to be about getting them to Portland since we

00176

1
2 are, after all, Enron, and I'm not so certain
3 the due diligence needs to include an office
4 inspection. I say this partly for two reasons:
5 The Portland office is a mess because everybody
6 is having their office moved (lots of people
7 are working out of home), but also because the
8 Portland team is fairly disjointed
9 intellectually. There is a lot of friction
10 between the departments and between management
11 and the staff -- and staff.
12 "So my suggestion is that we
13 respond to their finance people by forcing them
14 to articulate what they need for due diligence
15 from the No. 27 company on the Fortune 500
16 list. Then, whatever they ask for in that
17 regard, I'll get them to Houston and give them
18 the senior exec treatment (Skilling, Rice, Cox,
19 Yeager, etc) and keep things very high level on
20 the equity side. But I defer to your judgment
21 on all those matters -- just my two cents
22 regarding Portland.
23 "I'll see what I can make happen
24 this week and expect next week to get into the
25 nitty-gritty. It's rubber/road time and the

00177

1
2 clock shows no sign of not ticking next year.
3 Bill."
4 Q. The portion about the due
5 diligence, is, again, part of your effort to
6 find a way not to let Microsoft look too deeply
7 into ECI; is that right?
8 A. No, I wouldn't say that's right.
9 It's not to come to Portland to look too deeply
10 into ECI.
11 Q. And what did you think they would
12 find in Portland if they came?
13 A. Primarily Joe Hirko.
14 Q. And why didn't you want them to
15 meet Joe Hirko?
16 A. He was not particularly adept at
17 speaking intelligently about the merits of our
18 technical strategy.
19 Q. Okay. And what position did he
20 hold at the time?
21 A. Co-CEO.
22 Q. Of the company?
23 A. Yes.
24 Q. You can put that document to the
25 side.

00178

1
2 I am going to give you 50412,
3 ECTe015865795 is the first page and -797 is the
4 last page.
5 A. I recognize these.
6 Q. What is it?
7 A. It's an e-mail I wrote on
8 December 20, '99. It's addressed to David Cox,
9 and it's CCed Boris Bres- -- oh, it's Brevnov.
10 Q. That was the Boris you referred to
11 earlier?
12 A. Yeah -- Scott Yeager. And in the
13 subject line, I say, "The 'Truth'" -- and the
14 truth is in single quotes -- "Behind the MFST
15 Deal #1."
16 Q. Okay. And what's the general
17 subject covered by this e-mail?
18 A. Deal No. 1 is making Microsoft a
19 customer of Enron. And by "customer," I mean
20 the subsidizing partner that will purchase
21 minutes of usage from us and give them to
22 customers.
23 Q. Now, you describe this in here as
24 -- this conversation as a work of fiction,
25 right?

00179

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2 A. Correct.
3 Q. So this conversation repeat is not
4 verbatim of any conversation you actually had?
5 A. Right. It's derived from a
6 conversation I had in the San Jose Doubletree
7 Hotel, but it does not purport to be accurate.
8 Q. Okay. And the conversation was
9 with Mr. Navin Chadah; is that right?
10 A. That's correct.
11 Q. And he works for Microsoft, or at
12 least at the time worked for Microsoft?
13 A. That's correct.
14 Q. And -- okay. You said that this
15 is not a specific description of the
16 conversation. Perhaps without the e-mail,
17 then, why don't you tell me about the meeting
18 you had with Mr. Chadah at the San Jose
19 Doubletree Hotel.
20 A. We were talking about a road map
21 to getting two or three deals done. The first
22 of the deals would be Microsoft as a customer
23 and a distribution partner. Two of the three
24 deals would be that, and the third deal would
25 be as an equity participant, either in a

00180

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2 tracking stock, in a spin-off, or an Enron ENE
3 stock.
4 And I'm trying to communicate to
5 Scott and Boris and David, who are having a
6 hard time understanding why Microsoft wants
7 certain things or views the world in a certain
8 way -- I'm trying to come up with a mechanism
9 -- a means of communicating their issues.
10 They -- Navin, specifically, is
11 very blunt and to the point. And he wants to
12 get things boiled down into a very succinct
13 business agreement. I'm having a lot of
14 trouble with David and Scott and Boris and
15 others at this time, getting them to understand
16 Microsoft's view of the world.
17 So I had a discussion with Navin
18 about these deals. And I talked with Navin
19 about these topics, about Media Cast, Media
20 Transport, and purchasing equity in Enron. And
21 I think it's fair to say I'm fairly frustrated
22 at the response I'm getting within the company
23 to these opportunities.
24 Q. Were you able to ever successfully
25 communicate with Mr. Yeager, Mr. Bernov

00181

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2 [phonetic], or Mr. Cox about these issues?
3 A. I don't know what they took away
4 from this or other e-mails or what other

5 discussions, but I do know that the deals
6 -- all of the deals with Microsoft did not
7 happen while I was there.
8 Q. Okay. You wrote this e-mail --
9 this December 20 e-mail as part of your work
10 responsibilities; is that right?
11 A. That's correct.
12 Q. Okay. To try and -- even though
13 the tool you used was a fictional description
14 of a conversation?
15 A. I wanted to be able to put things
16 in quotes without being accused of misquoting
17 somebody, so I --
18 Q. Right. But the substance of it
19 was -- you were trying to convey in this e-mail
20 the substance of the issues you were having
21 with Microsoft; is that right?
22 A. And the tone of the discussion,
23 yes.
24 Q. Right. And in a way that you
25 hoped Mr. Cox, Mr. Brevnov, and Mr. Yeager

00182

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2 would understand; is that right?
3 A. Yes.
4 Q. Okay. You can put that to the
5 side.
6 I am going to hand you what I'm
7 marking as 50413.
8 MR. YOUNGWOOD: It is a one-page
9 document. We did not predesignate it, somebody
10 else did. I wish I could find out who. I can
11 find out on a break. It does not have a Bates
12 number. It was posted on the FTP site as --
13 This is -- I will try to describe it for
14 everybody, but I, unfortunately, can't do
15 better than that.
16 It's a Hotmail document, has a
17 number of dates on it. The most recent date is
18 July 19, 2002 date, but it also has some
19 January 30, 2000 dates.
20 And what I will actually do for
21 everybody is mark it, have the witness identify
22 it, and why don't we take our first afternoon
23 break, which might help people locate it on
24 their computers.
25 Q. So I am handing you 50413. Take a

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2 moment to look at that and tell me if you
3 recognize it, Mr. Collins.
4 MR. YOUNGWOOD: Perhaps, what
5 we'll do at the break is make copies of it so
6 no one is searching.
7 A. Yes, I do recognize this, although

8 I have not seen it recently.
9 Q. Okay. What do you recognize it to
10 be?
11 A. It's an e-mail between myself and
12 Brett Watson after -- oh, it says Greg -- oh.
13 It's an e-mail between myself and Brett Watson
14 before somebody forwarded it to Greg Ruppert,
15 after both of us are no longer employees of
16 Enron.
17 Q. Okay. And who was Mr. Watson?
18 A. He was, for a time, an employee of
19 Enron Communications; and I believe he was the
20 first individual to resign in 1999. And I
21 believe he was the first individual to take
22 Ken Rice up on his offer to "Come talk to me
23 anytime."
24 Q. Okay. When did he resign?
25 A. Approximately the middle of

00184

1
2 -- wait. I don't -- sometime in 1999. I
3 believe the first half of the year.
4 Q. Okay. And then Greg Ruppert, who
5 is that?
6 A. I have no idea. This e-mail
7 appears to be from me to Greg Ruppert. And I
8 don't know. Greg Ruppert. I can't place that
9 name.
10 Q. Okay.
11 MR. YOUNGWOOD: Why don't we go
12 off the record, take our first break. We'll
13 make copies of this.
14 MS. SALAZAR: 1A0288B0100005.
15 MR. YOUNGWOOD: Why don't we take
16 our break.
17 VIDEOGRAPHER: Okay. This marks
18 the end of Tape 3. Going off the record, the
19 time is 2:27.
20 (Break taken.)
21 VIDEOGRAPHER: We're going back on
22 the record. This is the beginning of Tape 4 of
23 the deposition of William Collins. The time is
24 2:42.
25 Q. Mr. Collins, I probably have only

00185

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2 about another 10 or 15 minutes, at most, of
3 questions --
4 A. Okay.
5 Q. -- and then I will pass to
6 Mr. Kilduff.
7 Let's continue to look at the
8 document you were looking at before the break,
9 which is 50413. We now have a Bates number for
10 it. It's 1A0288B0100005. There was a bit of a

11 conversation at the break that you participated
12 in part. Do you know who Mr. Ruppert is or do
13 you remember who Mr. Ruppert is?
14 A. I seem to recall that he's an FBI
15 agent.
16 Q. And you forwarded this e-mail to
17 him in the summer of 2002?
18 A. I believe so, at his request.
19 Q. Let's focus on the rest of the
20 e-mail, not the part that you forwarded to
21 Mr. Ruppert but the rest of it. You said of
22 Mr. Watson that he was one of the first to go
23 to Mr. Rice. Did I hear that correctly?
24 A. Yes, I did. I said that.
25 Q. What did you mean by that?

00186

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2 A. When Ken Rice was hired, he told
3 us, If you ever have any issues about the
4 company, you're welcome to come and talk to me
5 directly. Brett Watson, I believe in the day
6 after he was demoted and the day before he
7 resigned, went to Mr. Rice and articulated some
8 of his concerns.
9 Q. When was he demoted?
10 A. My recollection is the second
11 quarter of 1999, but it -- that's the best of
12 my recollection.
13 Q. Do you know why he was demoted?
14 A. He was demoted because he was -- I
15 think the term used -- not a "team player," but
16 there was a little bit more specificity to it
17 than that. But, generally speaking, he was
18 having confrontations with management, and he
19 was reassigned or demoted because of his
20 perceived inability to do what management
21 desired.
22 Q. Do you know what the additional
23 specificity was?
24 A. I recall vaguely that he had very
25 specific technical concerns and very specific

00187

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2 business concerns, and that he voiced them to
3 Joe Hirko and Scott Yeager. And he was -- and
4 they were responding to that and reassigned
5 him, which I believe was a demotion. And then
6 he apparently had decided to resign. And
7 before leaving, he told me he went to Ken Rice
8 and talked to Ken Rice directly about concerns
9 that he had.
10 Q. Do you know what he specifically
11 raised with Mr. Rice? Did he tell you?
12 A. He told me some of the things.
13 Q. What do you remember?

14 A. He -- well, there are a list of
15 issues. I will go through some of the things
16 that I recall off the top of my head.
17 Engineering expertise and resources, depth of
18 talent, management qualifications, management
19 team composition, management processes,
20 management hierarchical issues, who reported to
21 whom.
22 He was an engineer, but he was an
23 engineer with a lot of concerns about the
24 business issues, so he was -- he told me that
25 he vented to Ken Rice about both business and

00188

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2 engineering issues.
3 Q. And did you keep in touch with
4 Mr. Watson after he left reason and while you
5 were still employed there?
6 A. I don't know if, while I was still
7 employed there. This e-mail is from after I
8 left. I don't recall talking to him about
9 between the time he resigned and between the
10 time I resigned.
11 Q. Let's look at this e-mail now.
12 And we're, again, skipping the part concerning
13 Mr. Ruppert, but looking at the rest of the
14 page, do you have a sense of how to read this?
15 Do you read that the first message as the one
16 on the top and the last the one on the bottom?
17 A. Yeah. He's responding to my
18 e-mail, in part, I believe. He cut and pasted
19 part of my e-mail. The sentences that he cut
20 and pasted that I wrote are preceded by a -- is
21 that a caret or what is it?
22 Q. The arrow-ish?
23 A. Arrow-ish caret. So sentences
24 that have that at the beginning are from my
25 original e-mail, and then he's writing in

00189

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2 response to those.
3 Q. Okay. If you could read to
4 yourself the lines on the top with the -- that
5 appear to be your text. Begin with the words
6 "I found the total" and end with "squandered."
7 Just read that to yourself.
8 A. Yeah. I just did that during the
9 break.
10 Q. Okay. Does that paragraph
11 accurately reflect your views regarding Enron
12 as of late January 2000?
13 A. I would say it's a conversational
14 or emotional characterization of some of my
15 views and that I'm not attempting to be
16 particularly accurate or illustrative beyond

17 conveying a certain sense of frustration.
18 Q. Well, let's go through it so -- I
19 want to know what your views were. And to the
20 extent this doesn't reflect your views, you can
21 tell me. Could you begin by reading -- I will
22 stop you when I have questions. How about
23 that?
24 A. Okay. Do you want me to read?
25 Q. Please.

00190

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2 A. "I found the total incompetence of
3 the management team to be intolerable." I will
4 stop right there.
5 Q. Okay. Did you think there were
6 problems with management when you were at
7 Enron?
8 A. Yes, but that's not what this
9 says. This says "total incompetence." Did I
10 think every manager at Enron was totally
11 incompetent? The answer is no.
12 Q. Okay. Did you think there were
13 problems with management?
14 A. Yes.
15 Q. Significant problems with
16 management?
17 A. Yes.
18 Q. Significant problems with many of
19 the people in management?
20 A. Yes.
21 Q. Okay. Who? Who did you think
22 -- would you include as being people with
23 significant problems in the management?
24 A. Ken Rice, Joe Hirko, Steve
25 Elliott, Jim Crowder, Stan Hanks, Ted Seitz,

00191

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2 Jeff Foster, Kevin Garland, Rich DiMichele,
3 David Cox, April Hodgson.
4 Q. Mr. Shelby?
5 A. Mr. Shelby, Mr. Berberian,
6 Mr. Palmer, Mr. Cox. I think I said him
7 already.
8 Q. Okay.
9 A. And I would go further to say some
10 of the support staff that joined the company in
11 the latter part of 1999, including Christina
12 Mordant and some of the other vice presidents
13 whose names escape me right now that joined in
14 the second half of 1999.
15 Q. Why don't you now read the next
16 couple of sentences, which I think you've
17 already discussed, are your true views. But
18 just so the record is complete, if you could
19 read those, please.

20 A. I say here, "Joe was the worst
21 imaginable, and I found Steve Elliott and the
22 whole lot of Houstonites to be worthless. It
23 became a total farce. David Cox, Ken Rice,
24 Kevin Garland, Jim Crowder, Rex, etc. - as
25 unqualified a team as ever assembled in the

00192

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2 history of the communications industry. They
3 are delusional and the fact that the stock went
4 up recently was a fluke -- it's not based on
5 probability of success."
6 Q. If you could stop there. There's
7 a reference to the stock going up. What's that
8 a reference to?
9 A. It's a reference to the two or
10 three days preceding the analyst event on
11 January 20 of 2000 and the several months after
12 the analyst event, the first quarter and second
13 quarter of the year 2000.
14 Q. Okay. And did you think that was
15 a justified reaction of the markets to the
16 state of EBS?
17 A. No, I did not.
18 Q. Why not?
19 A. Because I felt that the
20 representations made at the analyst event on
21 January 20 of 2000 were not an accurate
22 portrayal of our business or our business
23 prospects.
24 Q. What about the statements made at
25 that conference do you think was about -- let's

00193

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2 take it in parts, the current state of the
3 business.
4 A. Well, an awful lot was said at
5 that analyst event. I mean, we're going to
6 -- at that analyst event, a presentation was
7 given by Ken Rice, by Joe Hirko, by Jeff
8 Skilling, by -- via videotape, Rex Shelby,
9 Dave Berberian, any number of people.
10 And I have watched the videotape
11 of the analyst conference, and I have read a
12 transcript, and I have opinions about the
13 veracity of the statements that were made.
14 Q. Do you remember any specific
15 statements?
16 A. Sure. I remember the statement by
17 Jeff Skilling that the software is available in
18 beta form. And I don't know if I'm accurately
19 characterizing his words precisely, but he made
20 a statement, something to the effect that the
21 broadband operating system will be readily
22 available in the beta form.

23 And I recall statements by him and
24 Ken Rice about the commercial value of the
25 potential communications business and what they

00194

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2 say they felt it should be reflected as in the
3 price of the stock.
4 I listened to Joe Hirko make
5 claims about the status of the network and the
6 probability to commercial success in the year
7 2000. And I thought those were, in some cases,
8 entirely inaccurate and, in some cases, partly
9 inaccurate, and, in some cases, accurate.
10 I would say that about all the
11 people that made comments that day; that there
12 was a lot of different things said about the
13 network that -- take, for example, Rex's
14 videotaped presentation. Rex's videotaped
15 presentation describes some things that were
16 entirely inaccurate, prima facie, or whatever.
17 So -- and some of them stick out
18 in my mind. He said we could control every
19 router in our network within InterAgent, and
20 Cisco had refused to allow us to communicate
21 with their routers at all. So we couldn't
22 communicate with a single router in our
23 network, and Rex said we communicated with
24 every router in our network.
25 I could go on. I mean, there was

00195

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2 an awful lot said that day, and there was an
3 awful lot of statements made. And I don't
4 know. Do you want me to continue to try to --
5 Q. Yes. Yes, what you remember.
6 Please.
7 A. Well, to put a little context in
8 this, I had resigned by that time because I did
9 not want to be in the company when the analyst
10 event occurred based on my knowledge of what
11 they were planning -- "they" -- and I mean the
12 senior management team was planning to present.
13 I had seen some of the
14 presentations. I had participated in some of
15 the discussions about the analyst event, and I
16 was exceedingly nervous about the
17 representations that were likely to be made and
18 the effect that that would have on the future
19 of the company.
20 I expressed a lot of those
21 reservations. And I ultimately chose to resign
22 and exercise all of my vested options and sell
23 them prior to the analyst event because I
24 -- well, I thought some very bad things were
25 going to happen.

00196

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2 And it was not until three years
3 later, approximately, that I saw a videotape of
4 that event. I, after I left Enron, only
5 communicated in a very small amount with
6 employees that stayed there. And I watched
7 news accounts of the analyst event, but it
8 wasn't in my mind for a long time because I
9 didn't attend the event. I was no longer an
10 employee when that event occurred.
11 So I have recently read a
12 transcript of the event, and I have recently
13 reviewed my thoughts about the accuracy of the
14 statements that were made at the event, and I
15 have found a large number of statements that
16 were made that I disagreed with at the time as
17 to their accuracy; in some ways, we've been
18 talking about that all day.
19 I mean, some of the -- a lot of
20 the statements that were made were just things
21 that we've discussed. So I think I've told you
22 off the top of my head the first ones that come
23 to mind.
24 Q. You said that before you left, you
25 expressed a lot of your reservations. Do I

00197

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2 understand that correctly to mean that you
3 expressed your reservations to people at Enron
4 before you left the company?
5 A. Yes. For example, some of the
6 e-mails I've read back today for the record,
7 when I say Transport's dead, EIN API is not
8 being worked on, it's -- all my
9 characterizations about the status, I meaning,
10 that was the overwhelmingly preoccupation of
11 myself and others in the latter half of 1999,
12 to the point where we had daily SWAT meetings
13 and status reports.
14 And I -- so . . .
15 Q. When you say overwhelming
16 preoccupation of yourself and others was in
17 preparing for the analyst conference or was it
18 something else?
19 A. Was -- I would say the
20 overwhelming preoccupation was the bringing to
21 market of the services and the implementation
22 of the strategies that we had articulated, in
23 some cases publicly, in the form of press
24 releases, in other cases in presentations like
25 CDs or trade shows, like NAB. So I would say

00198

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2 we were fairly well -- speaking for myself, I
3 was fairly well consumed with the issue of
4 trying to make the business a success.
5 And there was a great deal of
6 discrepancy between what we had described
7 publicly and what I believed to be true on the
8 inside of the company as to the status of where
9 we were and what our commercial prospects were.
10 Q. And who, specifically, do you
11 think you conveyed that message to, the
12 discrepancies between the public comments and
13 the truth inside the company? Which
14 individuals do you think were aware of your
15 views on that subject by the time you left the
16 company?
17 MR. KILDUFF: Object to the form.
18 MR. YOUNGWOOD: Let me change it.
19 Q. Which individuals did you share
20 your views with?
21 A. I shared my views with Scott
22 Yeager, David Cox, Jim Crowder, Ted Seitz,
23 Steve Elliott, Joe Hirko, April Hodgson,
24 Kenny Burrows, Lorraine Simmons, Shauna Meyer,
25 a group including those individuals.

00199

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2 Q. How about Mr. Skilling, did you
3 ever have an opportunity to share your views
4 with Mr. Skilling?
5 A. No, I did not.
6 Q. How about -- I know some of these
7 people were in Houston, but how about people
8 outside of ECI itself, anyone else in the
9 corporate structure of Enron?
10 A. Rich DiMichele. I don't know if
11 he was inside ECI or outside, but I think he
12 was part of the Enron corporate structure. I
13 talked about some concerns with Christina
14 Mordant, but that was in a particular context
15 of some commercial issues. She was in ECI at
16 the time.
17 So I had very little contact with
18 people outside of the communications division
19 within Enron, if that's what you're asking.
20 Q. Okay. At the time you left Enron,
21 were you somewhat pessimistic on EBS's future?
22 A. Yes, I was.
23 Q. Okay. Were you doubtful that
24 Enron would be able to successfully develop
25 Media Transport in a manner consistent with its

00200

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2 public statements regarding Media Transport?
3 A. Yes, I was.
4 Q. Were you doubtful that Enron would

5 be able to successfully develop conferencing in
6 a manner consistent with its public statements
7 regarding conferencing?
8 A. Yes, I was.
9 Q. How about BOS, were you
10 pessimistic that Enron would be able to develop
11 the BOS in a manner consistent with public
12 statements regarding the BOS?
13 A. Yes, I was.
14 Q. And EIN API, were you pessimistic
15 that Enron would be able to develop EIN API in
16 a manner consistent with its public statements
17 regarding eastern API?
18 A. Yes, I was.
19 Q. Media Cast, were you pessimistic
20 that Enron would be able to develop Media Cast
21 in a manner consistent with its public
22 statements regarding Media Cast?
23 A. Yes, I was.
24 Q. How about Bandwidth Trading, were
25 you pessimistic that Enron would be able to

00201

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2 develop Bandwidth Trading in a manner
3 consistent with its public statements regarding
4 Bandwidth Trading?
5 A. Yes, I was.
6 Q. Let's finish reading through this
7 portion of the e-mail. I think we're up to "I
8 bailed to jump."
9 A. "So I bailed to jump into
10 Vectrix.com -- am going to set up a multimedia
11 service bureau and hosting business here in
12 Portland and get something going before they go
13 public in April. So I'm trying to leave behind
14 the Enron experience -- which was a travesty"
15 -- and get in -- "and get at least into working
16 with people who are running a company for
17 success. A shame that so little good was
18 accomplished and so much opportunity
19 squandered."
20 Q. Since leaving Enron and obviously
21 leaving out Mr. Watson, have you been in
22 contact with any other EBS employees?
23 A. From time to time, yes.
24 Q. Can you tell me who, please.
25 A. Last week, John Bloomer called me

00202

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2 and asked me some questions.
3 Q. Mr. Bloomer called you during
4 -- not during his deposition but -- --
5 A. Between the first day and the
6 second day.
7 Q. -- between the first day and

8 second day. Anybody else?

9 A. I've e-mailed John Griebeling a
10 couple times. I have -- after I resigned and
11 left, I sent a letter to Ken Rice. I sent a
12 separate letter to Scott Yeager. I
13 communicated with Michael Boyd and Linda
14 DeHahn. I communicated with Jon Thompson and
15 his wife, Shaunessi, both Enron employees. I
16 communicated with Jim Irvine and Shauna Meyer.
17 I hired them at Vectrix.

18 Q. Let me ask you about Ms. Meyer.
19 Did you ever discuss with her her views about
20 Enron after she left?

21 A. In depth.

22 Q. What? Can you summarize what you
23 understand her views to be, please.

24 A. Well, like I say, she came to work
25 for me or with me -- initially for me and then

00203

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2 with me at Vectrix. And she, for example,
3 asked me to go to NAB in 2000. And I agreed
4 and sent her and Jim Irvine to NAB. And they
5 met there with Ken Rice, and they had a
6 discussion about the prospects of being able to
7 implement the blockbuster deal. And I told her
8 to see if Ken Rice was willing to hire Vectrix
9 as a consulting company, to put us under
10 contract to help them implement the blockbuster
11 technology.
12 That's an example of -- oh, and in
13 the course of those discussions, Shauna
14 repeatedly and forcefully made clear that she
15 did not feel that Enron was going to be able to
16 successfully implement the services, and that
17 we still had something to offer them, and that
18 we should attempt to get under contract with
19 them to help them.

20 Q. When did she leave Enron?

21 A. My recollection is that it was the
22 week after the second vesting period, which
23 would have been June 28th, but -- actually, no.
24 I think -- I don't -- sometime in the first or
25 second quarter of the year 2000.

00204

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2 Q. The other people that you listed,
3 Mr. Irvine, Mr. Thompson, leaving aside
4 Mr. Rice and Mr. Yeager, had you had any
5 conversations with any of them concerning their
6 views of EBS or their views as to what happened
7 at EBS?

8 A. Not really. In the limited
9 contact that I did have with people -- well,
10 yes, I did, with Jon Thompson. Yes, I did. So

11 I did discuss it with Jon Thompson a number of
12 times because he remained as an employee.
13 He would visit me at my house in
14 Hood River, and we would talk about what was
15 going on inside Enron. And -- but, for the
16 most part, I -- I didn't seek out others and
17 -- I mean, I can think now, as I talk about
18 times where I bumped into people at airports or
19 in restaurants and talked with them. Some of
20 those conversations included characterizations
21 of the state of things at Enron.

22 Q. What were Mr. -- if you know, what
23 were Mr. Thompson's views as to what went wrong
24 or what happened at EBS?

25 A. Oh. He described it specifically,

00205

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2 and I'm quoting, "The train has left the
3 tracks."

4 Q. When did he say that?

5 A. Approximately the third quarter of
6 the year 2000. Sometime in the third quarter
7 of the year 2000.

8 Q. Was he still at EBS then?

9 A. Yes, he was.

10 Q. Okay. Just one second, please.

11 Okay.

12 Mr. Collins, I'm done with my
13 questions for now. I reserve whatever time the
14 bank defendants have left for later in the
15 deposition, if needed. And I think Mr. Kilduff
16 will question you next. Thank you very, very
17 much for your time.

18 A. You're welcome.

19 EXAMINATION BY MR. KILDUFF:

20 Q. Mr. Collins, my name is Jeff
21 Kilduff. I represent Jeff Skilling. I want to
22 follow up on some of the items you've already
23 testified about, perhaps go into a few new
24 areas.

25 What I want to start with is your

00206

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2 job position and title. I don't know if we
3 really established what it was you were hired
4 to do for Enron. Why don't you take me through
5 your first job title, and if it changed, let me
6 know when and how.

7 A. I was hired as director of
8 business development, and I was not
9 particularly happy about that. I wanted to be
10 hired as vice president of business
11 development. And I continued to lobby to
12 become vice president of business development.
13 And for -- and at one point,

14 Joe Hirko and Steve Elliott agreed that I
15 should be promoted. They promoted me. And
16 when Scott Yeager found out about it, he threw
17 a fit and had me put back as director of
18 business development.
19 So for the remainder of my time at
20 Enron, I got the permission to use "senior" in
21 front of the director title, and I started to
22 print senior director of business development
23 because, as it turned out, "senior" is not an
24 official capacity, and so you're free to add it
25 to your title if you so see fit. That was my

00207

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2 understanding.
3 Q. What was the difference between a
4 director title and a VP title?
5 A. Well, I was told that all VPs were
6 officers of the corporation and all directors
7 were not officers of the corporation. I said
8 that I was not trying to become an officer of
9 the corporation, I was trying to get a status
10 -- the status of a title as VP for the benefit
11 of my career and for the benefit of my
12 negotiations with customers in other companies,
13 such as Microsoft and others.
14 Q. And what were your
15 responsibilities as director of business
16 development?
17 A. They were to evangelize and
18 educate employees about the business plan; to
19 conduct negotiations on behalf of the company
20 with industry participants, such as
21 RealNetworks or Microsoft; and to help build
22 the organization, help develop the business
23 strategy, at times, that included working with
24 finance people to create a pricing plan for our
25 services; at other times, it was things such as

00208

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2 going to the executive committee meeting of
3 Enron and helping present the business plan
4 there.
5 So I would say most of my
6 responsibilities were educational and
7 informational in nature. I had one direct
8 report for a brief period of time, and
9 otherwise, had no reports, so . . .
10 Q. Who was your direct report and
11 when?
12 A. His name was Thor -- I forget
13 Thor's last name. And it was in a time in the
14 first or second quarter of '99, and it lasted
15 approximately a month or two. Thor would
16 resign from Enron and move on.

17 Q. Who did you report to?
18 A. Initially, it was Scott Yeager.
19 Later, it was David Cox. For a time, it was
20 Boris Breshnoff [sic]. And for the day that I
21 was a vice president, I was told that I did not
22 have to report to Scott Yeager. That was part
23 of my objective. So for a day, I guess I
24 reported to Joe Hirko.
25 Q. Why did you join Enron if you

00209

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2 didn't get the VP title you were hoping for?
3 A. Primarily because in the last
4 incarnation of this business plan, which was at
5 Xing technologies -- or at WorldCom -- WorldCom
6 didn't want to do it. Xing Technologies didn't
7 want to do it. And the reason is because of
8 the amount of capital and the amount of
9 resources that are necessary, not very many
10 places had the resources or the opportunity or
11 the motivation to develop such an undertaking.
12 So I compromised quite a bit in
13 order to be part of implementing the plan.
14 Q. And you joined sometime in
15 mid-'98?
16 A. That's correct.
17 Q. How did it come about that you
18 were paid \$150,000 in the middle of '99? And
19 what was it for?
20 A. In the middle of '99?
21 Q. Yeah.
22 MR. YOUNGWOOD: Objection to form.
23 A. Oh, okay. I had negotiated that
24 as a condition of my employment with Joe Hirko
25 that I was entitled to expense reimbursement

00210

1
2 for the development of the business plan
3 incurred prior to joining Enron.
4 My recollection is that it was an
5 even hundred thousand, but I will take your
6 word if you said it was 150-.
7 Q. What expenses did you incur in
8 creating the business plan prior to joining
9 Enron?
10 A. I created travel expenses, moving
11 expenses -- travel expenses and business plan
12 development expenses, including my time spent
13 developing previous versions of the business
14 plan that I was never compensated for by other
15 parties.
16 Q. As part of your negotiation before
17 arriving at Enron, you had reached an agreement
18 with Mr. Hirko that that amount would not paid
19 to you?

20 A. He said yes, if the business plan
21 was, in fact, used by Enron, which is why he
22 paid it significantly after I was hired.
23 Q. That's why it took a year?
24 A. Correct.
25 Q. Let me show you what we'll mark as

00211

1
2 the next exhibit, 50414, production numbers EC
3 002517771 through -808. And it's a compilation
4 of documents produced in this group with your
5 name on the top. It appears to be out of a
6 personnel file of some type.
7 Get you to take a look at that.
8 And the document I want you to look at is on
9 the very first -- one page in, on the second
10 page of the document, page -72.
11 A. Okay. I'm looking at that.
12 Q. Do you recognize this document as
13 the agreement paying you \$150,000 relating to
14 the business plan you just described?
15 A. Yes, I do.
16 Q. And that's dated June 1999. Do
17 you see that?
18 A. Yes, I do.
19 Q. Do you remember if there was a
20 particular date?
21 A. No, I don't.
22 Q. Who else was involved, if anyone,
23 other than Mr. Hirko and you in negotiating
24 this agreement?
25 A. I'm not aware of anyone else.

00212

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2 Q. How were you paid?
3 A. Check.
4 Q. To your knowledge, did Mr. Yeager
5 obtain any money relating to the business plan
6 outside of his normal compensation at Enron?
7 A. Yes.
8 Q. How much did he receive?
9 A. I don't know.
10 Q. How did you learn that?
11 A. He told me he was given a contract
12 for his company, FYI-Net, for the production of
13 this CD, among other things.
14 Q. This business plan you said it
15 -- you tried to sell it to Xing; is that right?
16 A. Yes, I did.
17 Q. Who did you consider to be the
18 owners of the business plan?
19 A. Myself. And I contractually
20 reserved that right, in my agreement with
21 WorldCom -- and I produced that on demand to
22 Joe Hirko -- from an attorney at WorldCom that

23 explicitly stated that I reserved the
24 intellectual property rights for the business
25 plan. For all I know, that's in this file, if

00213

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2 it's my complete human resources file.
3 Q. Did you also -- did you consider
4 that Mr. Yeager, is really my question, was
5 also a co-owner or author of this plan?
6 A. Yes.
7 Q. You took no issue with his
8 receiving compensation relating to the plan
9 outside of his compensation relating to Enron;
10 is that right?
11 A. Yes, I did take issue with it. I
12 mean, I was not happy about it whatsoever. I
13 took a lot of issue with it.
14 Q. Why is that?
15 A. Because I was privy to information
16 that -- well, I was privy to information that
17 he had negotiated a much bigger compensation
18 package and a better title than he had
19 negotiated for me. And he was the person
20 negotiating my compensation on behalf of -- on
21 my behalf. And I refused to join the company
22 until I sat down with Joe Hirko and negotiated
23 some additional benefits, of which this
24 \$150,000 is a part.
25 So I was not happy that Rex and

00214

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2 Dave were getting \$30 million on the way in,
3 and I was being told to hang out and see what
4 happened to the stock price as the lion's share
5 of my remuneration [sic] for what I considered
6 to be seven years of effort leading up to the
7 opportunity. So it was and still is an issue.
8 Q. How did it come about after
9 -- well, after you left, you went back to
10 executives at Enron and you asked for more
11 money relating to the bits plan; is that right?
12 A. Yes, I did.
13 Q. And looking at the exhibit we just
14 marked, page -72, states that you waive any and
15 all claims for and releases ECI, any entity
16 controlling, controlled by, or under common
17 control with ECI (affiliates) and past, present
18 and future officers, directors, employees, and
19 agent of ECI, and it goes on.
20 Did you not understand that you
21 had released the claims through this payment
22 150,000 in June of 1999?
23 MR. YOUNGWOOD: Objection to form.
24 A. Yes, I understood, but I also made
25 the case that it was a moral obligation, not a

00215

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2 legal obligation.

3 Q. What was the moral obligation that
4 was owed to you by Enron after you resigned at
5 the beginning of 2000?

6 A. When I had sought an employment
7 contract and I had sought cash consideration
8 for the value of the business plan, I was told
9 by Joe Hirko and Steve Elliott that my
10 consideration for its full value was
11 represented in my getting a disproportionately
12 large number of stock options in Enron
13 Communications.
14 I had approximately five times the
15 stock options of any other director. And I
16 certainly wasn't being compensated for my
17 duties at the company because I didn't have any
18 line responsibilities, and I had very -- I had
19 no management duties whatsoever.
20 So they had said to me when I
21 asked for an employment agreement that said
22 that I would receive my options with -- if I
23 was terminated with or without cause, they
24 said, Well, you've got your options, and all
25 you have to do is hang out and wait for them to

00216

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2 vest, and that's your compensation for the
3 plan.

4 That's why I felt they still owed
5 it to me, even though I resigned.

6 Q. You were initially granted 75,000
7 options; is that right?

8 A. In ECI, correct.

9 Q. In ECI. And as a result of the
10 -- there was a decision made not to spin off
11 ECI in an IPO. Do you remember that?

12 A. Correct.

13 Q. When was that?

14 A. Summer of '99. I don't remember
15 exactly.

16 Q. Do you recall what happened to
17 your ECI options at that point in time?

18 A. They were converted to a package
19 that included cash, a stock award, and stock
20 options in ENE.

21 Q. Do you recall how much cash you
22 received as a result of the decision not to
23 spin off ECI?

24 A. I received approximately
25 \$1.2 million.

00217

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2 Q. How much stock did you -- or
3 options did you receive at that time?
4 A. My recollection is 250,000
5 options, but I think it may have been 500,000
6 options. I received one-quarter of the number
7 of options granted Joe Hirko and Scott Yeager.
8 And I believe they each had 2 million options.
9 So that would have meant I had the 500,000
10 options, but I may have remembered it wrong.
11 Q. Let me direct your attention to
12 page 17787. It's midway in the document.
13 A. I'm sorry. Do you have --
14 Q. -787. It's a February 17, 2000
15 letter.
16 A. What am I looking for? Oh, to
17 Ken Rice or who is it directed to?
18 Q. To Ken Rice.
19 A. Yes.
20 Q. From -- do you recognize that?
21 A. I just passed it. Do I recognize
22 it? Yeah. Here it is, February 17, 2000.
23 Q. Right.
24 A. Yes, I wrote this letter.
25 Q. That is the letter you wrote after

00218

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2 leaving Enron?
3 A. That's correct.
4 Q. On the second page, you see
5 there's a parenthetical there -- well, right
6 before the parenthetical, it says, "As
7 consideration, I was given ten times the stock
8 options in ECI of other directors." Do you see
9 that?
10 A. I'm sorry. I'm still looking.
11 Q. It's the second paragraph from the
12 end.
13 A. Oh, I see. Yes, I do see that.
14 Q. And you had testified earlier you
15 thought you received five times as many options
16 as other directors. Do you think the number
17 was ten, now that you see this document?
18 A. Yes, I do -- well, it was ten
19 times the number when I joined the company.
20 Other directors would later be given more
21 options, and it would later become five times
22 the options of other directors. So I'm
23 referring to when I first joined the company in
24 the letter, and I was referring to later in the
25 year when I mentioned the five times number.

00219

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2 Q. And if I could get you to flip to
3 page -774 in this file, see if you recognize a
4 waiver and rescission agreement stating an

5 amount of \$1.113 million payment relating to
6 your ECI stock. -774.
7 A. 7704?
8 Q. No. The last three digits, -774.
9 A. Oh. I'm looking at 7788. Oh.
10 774. Yes, I'm familiar with this document.
11 Q. And this is the document that,
12 among other things, sets forth the amount of
13 cash you're receiving is relating to your ECI
14 stock; is that right?
15 A. Yes.
16 Q. And you did receive that money?
17 A. Yes.
18 Q. Let me get you to go back to that
19 letter we were just looking at, your letter to
20 Ken Rice dated February 17 on page -787.
21 A. Okay.
22 Q. If you could just summarize for
23 me, please, why you sent him this letter on
24 that date.
25 A. Well, I think it's fair to say

00220

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2 that I was fairly emotionally distraught. I
3 had expressed some of these concerns to Joe and
4 Scott during the year, and I had been pretty
5 severely reprimanded for that in the form of an
6 official reprimand in my personnel file.
7 So, in my mind, the issue was
8 unresolved, and I was attempting to resolve
9 something that still bothered me that I could
10 not do, according to the reprimand, while I was
11 still at Enron.
12 Q. Help me out. What were you
13 reprimanded for and when?
14 A. I was reprimanded for pulling out
15 five versions of the business plan that I had
16 written over the course of several years --
17 five or six years, and showing them to Joe
18 Hirko and saying that he had not been properly
19 informed by Scott Yeager during my employment
20 negotiations as to the true nature of my
21 contributions to the plan.
22 And I did that on an airplane when
23 I was sitting next to Joe. Joe got back to the
24 office, told human resources that I had
25 threatened him. And he called me into his

00221

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2 office -- Scott Yeager's office, and Scott
3 Yeager and Joe told me -- gave me an official
4 reprimand -- gave me a written reprimand.
5 I was summoned to human resources.
6 I was given the week off, and I was told that I
7 had to agree to the terms of the reprimand in

8 order to remain employed at Enron.
9 Q. When did that occur?
10 A. In the summer of 1999.
11 Q. What about that drove you to write
12 this February 17 letter?
13 A. Well, I was told not to bring it
14 up again, the nature of my renumeration [sic],
15 the terms, the negotiating process. I had to
16 agree not to bring it up inside the company as
17 an employee.
18 And so after I left the company, I
19 tried to resolve it by writing to Ken Rice,
20 when I had nothing left to lose, and get him to
21 see it my way. It was an effort to get some
22 closure on the issue.
23 Q. All in all, in the year 1999, you
24 obtained compensation and other payments from
25 Enron, in total, how much?

00222

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2 A. In total, about \$2.3 million.
3 Q. In 1999?
4 A. Yes.
5 Q. And the bulk of that was not your
6 salary, right?
7 A. Correct.
8 Q. Is it fair to say the bulk of that
9 was compensation, in part -- well, the bulk of
10 it was compensation for your bringing the
11 business plan to Enron?
12 A. Well, in some respects, yes.
13 Q. I mean, you just told me that you
14 were told you could come in. You didn't have
15 any reports. You could hang out, wait for your
16 options to vest and then cash.
17 A. And that's what it's for. I mean,
18 that's primary -- the -- but they changed after
19 I got there, and they started to say, Well, and
20 you have to do this. And after we reorganize,
21 now you have to do this, and then you have to
22 do that. So, yes, that was my view of the
23 situation, was that whether I stayed at the
24 company or left the company, that's how it had
25 been presented to me initially.

00223

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2 Q. The business plan ultimately
3 migrated, if you will, from what it was
4 originally drafted for in a previous company to
5 a business plan for Enron's broadband services;
6 is that fair?
7 A. That's fair.
8 Q. And that was a valuable business
9 plan that you were compensated, perhaps you
10 think not enough, but you were compensated well

11 for; is that fair?
12 A. That's fair.
13 Q. You were compensated maybe
14 2 million of the \$2.3 million in 1999 relating
15 to the business plan?
16 A. And my duties as an employee,
17 yeah. I mean, some of both.
18 Q. You believed in the business plan.
19 A. Yes.
20 Q. It was a good roadmap for EBS to
21 pursue, do you agree with that?
22 A. Yes, I do.
23 Q. And that business plan became,
24 essentially, the strategic plan for EBS on a
25 going-forward basis, right?

00224

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2 A. In large part, yeah.
3 Q. And that business plan also
4 ultimately became what was known as, under
5 Scott Yeager's name, "Yeager's Strategic Plan";
6 is that right?
7 A. That's true.
8 Q. Yeager drafted a business plan
9 late in '99 that, in large measure, found its
10 origins in the business plan that you
11 originally presented to Enron.
12 A. Yes.
13 Q. Did you see that strategic plan
14 that Yeager put together in the fall of 1999?
15 A. In the fall of '99?
16 Q. Yes.
17 A. Yes, I did. I know which one
18 you're referring to now.
19 Q. Did you comment on it?
20 A. To whom?
21 Q. To anyone.
22 A. Yes, I did.
23 Q. Who?
24 A. I commented -- well, I talked
25 about it with Scott, and I talked about it with

00225

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2 people who brought it to me and asked me to
3 explain certain things in it. I remember
4 either -- I remember people in Kevin Garland's
5 group coming to me and talking about it. I
6 remember talking about it with some other
7 people, but I don't remember specifically who I
8 talked about it with, except Scott Yeager.
9 Q. Do you recall ever telling
10 Scott Yeager that any of the content of that
11 draft strategic plan was inaccurate?
12 A. Yes, I do.
13 Q. What parts were inaccurate?

14 A. Well, I think he copied it, and it
15 still said "WorldCom" on the cover. And
16 although he may have changed that -- I do know
17 that both our names were on the cover, but he
18 was taking out a plan that we had written over
19 a year earlier and then using it as an
20 educational vehicle for the senior management
21 of the -- within, primarily, corporate
22 headquarters in Houston. That's what he told
23 me he was doing with it.
24 But the product strategy and the
25 product names and the technology were as

00226

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2 fundamentally different. So I said to Scott
3 that it -- I'm glad that my name was still on
4 it, and I'm glad that our previous efforts were
5 useful, but -- there we go. He did change the
6 name on it. Now that I see that you've pulled
7 out the document. He did -- well, I don't
8 know. There must be different versions. I'm
9 sorry.
10 Q. I didn't mean to interrupt your
11 answer there by --
12 A. I talked to Scott about it a
13 little bit.
14 Q. But do you remember -- let me show
15 it to you now and ask you -- and we'll mark
16 this one as Exhibit 50415, production numbers
17 ECSH 40688 through 725, Exhibit 50415. And
18 just so the record is clear, is this the one
19 you were just referring to that you thought may
20 have been mislabeled MCI?
21 A. Yes.
22 Q. And what do you recognize this
23 exhibit as?
24 A. Well, it's the business plan that
25 Scott and I and John Griebeling wrote for

00227

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2 WorldCom with edits to change the name from
3 WorldCom to Enron; but it's the same page
4 layout, it's the same diagrams, it's the same
5 wording, largely, as far as I can tell.
6 So it's the plan that existed
7 previous to us that I had previously -- earlier
8 in the day talked about presenting to Peter
9 VanCamp and other WorldCom management, that I
10 had been hired under contract to develop for
11 WorldCom. It's a subset of that plan.
12 Q. And I understand you have a
13 college degree in journalism and then moved
14 into marketing after college; is that accurate?
15 A. Yes.
16 Q. How did you develop an

17 understanding of the technical telecom aspects
18 of the Internet that allowed you to be in a
19 position to draft something such as
20 Exhibit 50415?
21 A. I spent ten years in New York City
22 involved in the telecommunications industry,
23 and a little bit less than half of that was
24 owning my own systems integration company. And
25 when I owned my own systems integration

00228

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2 company, I specialized in building wide-area
3 networks for my customers in New York City.
4 And as I talked about earlier
5 today, that's how I met Scott Yeager, when I
6 was trying to purchase fiberoptic services in
7 New York City for my company. He introduced me
8 to Rick Adams, the founder of UUNET. And I
9 helped build the first Internet pop in New York
10 City.
11 So my company -- so to answer your
12 question more directly, I learned in a hands-on
13 manner by developing under contract projects
14 for my customers when I had a systems
15 integration company.
16 Q. You have no formal education in
17 programming; is that right?
18 A. I was a computer science major for
19 a while at the University of Minnesota, but I
20 dropped and changed my degree to journalism.
21 Q. You were never involved at Enron
22 in actually doing any of the software coding
23 -- programming?
24 A. No coding and no programming.
25 Q. You didn't have any other

00229

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2 programmers reporting to you?
3 A. None of the programmers reported
4 to me.
5 Q. You didn't -- are you capable of
6 reading computer code today?
7 A. Not particularly.
8 MR. YOUNGWOOD: Objection to form.
9 Q. Were you ever asked to look at any
10 of the Code relating to the BOS?
11 A. No.
12 Q. Were you ever asked to look at any
13 of the Code relating to the API interface?
14 A. No.
15 Q. Did you look at any coding while
16 you were at Enron, asked to comment on?
17 A. Not coding, no.
18 Q. You weren't hired to be a computer
19 programmer.

20 A. That's right.
21 Q. And you weren't hired to be a
22 software guy, if you will, right?
23 A. Just as an architect of the
24 software platform but not as a software
25 implementer and not a software coder or

00230

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2 programmer.
3 Q. You also weren't hired to take
4 control of the hardware side of the network,
5 right?
6 A. That's right.
7 Q. Were you responsible to try to
8 sell to Enron current and potential customers?
9 A. Specifically when I began to
10 report to David Cox, that was one of his first
11 acts, was to give me a mandate to pick three
12 customers and go and get three signed contracts
13 for using the Enron network.
14 Q. When did that occur?
15 A. As early as the third quarter of
16 '99 or as late as the fourth quarter of '99,
17 somewhere in the fall and early winter of '99.
18 Q. Was that dynamic, you reporting to
19 David Cox in this partial sales role, one of
20 the things that drove you out of the company?
21 A. Not particularly.
22 Q. Did you have -- what were the
23 three customers?
24 A. Microsoft, RealNetworks, and
25 encoding.com; all of them in Seattle.

00231

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2 Q. Did you have any success in your
3 sales efforts?
4 A. Yes. I got a purchase order from
5 RealNetworks; I got a draft agreement from
6 Microsoft where they agreed to pay us -- and
7 that's what I described earlier that Boris
8 Breshnoff would not allow final sign-off of;
9 and I did not get a contract from encoding.com,
10 but I had a term sheet from them as to what it
11 would take to do a deal.
12 Q. Was -- were you trying to close a
13 deal before the end of the calendar year?
14 MR. YOUNGWOOD: Objection to form.
15 A. Yes.
16 Q. Okay. And what was it that was
17 driving that date that you were trying to close
18 by?
19 A. Well, the analyst conference. So
20 the end of the year, beginning of the year
21 2000. I mean, during that time frame, it was
22 during that time frame, December and January.

23 Q. We'll get back to that in a
24 minute. Let me show you this next document,
25 which we'll mark 50416, and it's a 12/17/99

00232

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2 copy of an e-mail attaching a Yeager strategic
3 plan for ECI, production numbers ECTe003164134
4 through -4200.
5 A. Okay.
6 Q. I will just direct your attention
7 to the e-mail below the top e-mail where you
8 appear to be listed on the "To" line, about
9 four lines down in the middle. Do you see
10 that?
11 A. Yes.
12 Q. Do you remember receiving a copy
13 of this on or about 12/17/99?
14 A. I think so, yes.
15 Q. Do you remember commenting on it?
16 A. No.
17 Q. Would you have read it at the
18 time?
19 A. I think I would have looked it
20 over. I'm not sure I ever read it in detail.
21 Q. This strategic plan, that draft
22 strategic plan, you recognize it as the one
23 that Scott Yeager was working on prior to your
24 departure from Enron?
25 A. Well, I mean, it's different from

00233

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2 this one. Are you talking this is strategic
3 and this is conceptual or --
4 Q. Well, I'm talking -- my next
5 question was whether you believe that
6 Exhibit 50416 evolved from and is a later
7 version of what we previously marked as
8 Exhibit 50415.
9 A. Yeah. My recollection of what's
10 Exhibit 50416 is not that Scott Yeager
11 developed it but that Peter Ghavami developed
12 it, so I -- and some others. So if I'm
13 remembering correctly, what it is -- well, I
14 don't even know. This says here Raviv from
15 Diamond Technologies, "Attached, please find a
16 draft copy of Scott Yeager's strategic plan for
17 ECI."
18 Yeah. I'm not familiar with the
19 genesis of this document and who worked on it
20 or what my reaction was to it at the time that
21 it was distributed.
22 Q. So it's fair to say you don't
23 recall telling anyone that you believed
24 anything in this document was inaccurate?
25 MR. YOUNGWOOD: Objection to form.

00234

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2 A. I don't recall saying to anyone
3 -- I don't recall this document being brought
4 up in discussions of the accuracy of what is
5 described in this document or -- to answer your
6 question, no. I never commented -- I don't
7 recall commenting about the accuracy of this
8 document.

9 Q. Okay. And then I want to go back
10 to that file that we started with,
11 Exhibit 50414, and in particular, again, to
12 your letter to Ken Rice of February 17, 2000,
13 on page -787.

14 A. Yes.

15 Q. I believe you testified earlier
16 that one of the reasons you wanted to leave
17 Enron is that -- it had to do with what you
18 believed to be the discrepancies between the
19 state of the Enron network and the EIN and the
20 public statements that were made about that; is
21 that fair?

22 A. Yes, it is.

23 Q. And can you tell me if anything in
24 this document is referencing that concern? And
25 I'm looking at the letter that is dated

00235

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2 February 17, 2000.

3 A. No, this does not really address
4 anything like that -- I mean, no, it doesn't.

5 Q. This is really just efforts after
6 your departure to try to obtain additional
7 money for the plan that you brought to Enron,
8 right?

9 A. That's right, as well as
10 emotionally relieve some of the pressure I was
11 feeling.

12 Q. Then, earlier, you were shown
13 Exhibit 50410. If I could get you to look at
14 that. That's the 12/27 e-mail to Scott Yeager.
15 I believe you spent some time testifying about
16 that earlier.

17 A. Yes.

18 Q. As of 12/27/99, this open issues
19 memo, can you point to anything in here where
20 you could show where you were telling
21 Mr. Yeager you were concerned about
22 discrepancies between public statements and the
23 current state of EIN?

24 A. Well, I would say that when I
25 write "Transport is dead" and then a sentence

00236

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2 and then "Conferencing is dead," I am, in fact,
3 talking about the fact that those products are
4 not viable.
5 So in that sense -- and then I go
6 on to talk about Media Cast. In that sense, I
7 do believe I am talking about the discrepancy
8 between the plan and the reality. In fact, I
9 say here, the discrepancies -- I say here
10 somewhere the gap between reality and design so
11 -- design and reality.
12 So, in a sense, I would say that
13 that's an example of talking to Scott about
14 those very issues.
15 Q. You never, in this document,
16 though, in plain words state that you're
17 concerned about the discrepancy between the
18 public statements and the actual current state
19 of technology.
20 MR. YOUNGWOOD: Objection to form.
21 A. I never make a statement that says
22 that I'm worried about the discrepancy between
23 the public statements and the status of the
24 network.
25 Q. In fact, if I can get you to look

00237

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2 at page -2130, you're trying to go through
3 different options, in terms of what your future
4 may hold at Enron. And one of them is a leave
5 of absence. Do you see that at the top of page
6 -2130?
7 A. Yes, I do.
8 Q. So you were asking to stick
9 around, right?
10 A. That was one of the scenarios,
11 yeah.
12 Q. Were you afraid you were going to
13 be fired? I see the third line down. "Let me
14 exit gracefully (resign)." Do you see that?
15 A. I was very worried about being
16 fired after the analyst presentation.
17 Q. Well, can you explain to me,
18 please, why, on 12/27/99, a good three and a
19 half weeks before the analyst presentation, you
20 are proposing that one option to Mr. Yeager --
21 you're proposing this -- is to let you "exit
22 gracefully (resign)"?
23 A. Yeah.
24 Q. Why are you raising that three
25 weeks before the analyst conference?

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2 A. Because I was worried about
3 getting fired after the analyst conference.
4 Q. And why were you worried about

5 getting fired after the analyst conference?
6 A. I thought I'd be blamed for some
7 measure of the hell that was going to be paid
8 in the future.
9 Q. Did you -- what role, if any, did
10 you have in helping to prepare for the analyst
11 conference?
12 A. Very little role.
13 Q. You never told anybody explicitly
14 in writing that you believed you would be fired
15 because of problems that would arise after the
16 analyst conference. Never happened?
17 A. Never happened.
18 Q. Another option was to be promoted
19 to an EVP. I'm looking at the fourth bullet
20 down, middle of that page, middle of that
21 paragraph --
22 A. Yeah.
23 Q. -- you were still trying to get
24 your vice president title?
25 A. Yep.

00239

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2 Q. And going back up to the top, I'm
3 reading the last line of that paragraph, the
4 leave of absence. Why don't you just read that
5 whole paragraph aloud.
6 MR. KORN: Just so the record is
7 clear, what page are you looking at?
8 MR. KILDUFF: -2130.
9 MR. YOUNGWOOD: You have a
10 different Bates number than what the witness
11 has marked.
12 MR. KILDUFF: I'm sorry. I will
13 get you the right one.
14 MR. YOUNGWOOD: It's -6939. I
15 think it's the same document, just a different
16 Bates number.
17 MR. KILDUFF: Yeah, it is. I was
18 prepared to use this as well, and you used a
19 different version. Do you see it there?
20 MR. KORN: I do.
21 A. I wrote, Ask for a leave of
22 absence. If you really believe the company is
23 going to get out of this mess, give me a leave
24 to go get my head together. Since I'm so
25 burned out, I need a break. And when I come

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2 back, I can plug into the process in a new way.
3 This is my actual -- this is actually my first
4 choice, six months off, unpaid, but still
5 vesting. Anything less and I'm going to think
6 I come back in time to get fired before I vest
7 again.

8 Q. Okay. So your leave-of-absence
9 option was a method to get the benefit of your
10 stock option vesting but not require any work
11 for another six months; is that fair?
12 A. Yeah.
13 Q. And were you burned out?
14 A. Yes.
15 Q. Can you tell me what you mean by
16 that.
17 A. I was exhausted from a year of
18 strenuous work under very stressful
19 circumstances, and I was, more specifically,
20 exhausted from the negotiations with Microsoft
21 and the attempt to alter the course of the
22 business plan at the 11th hour. Those -- it
23 was a very, very stressful time, and I was
24 physically and emotionally exhausted.
25 Q. "Alter the course of the business

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2 plan," what are you referring to?
3 A. All through the business plan?
4 Q. Alter the course of the business
5 plan. I thought you said that.
6 A. Yes, I did, but when you just
7 asked me about it, I heard "all through the
8 course of the business plan."
9 Q. Oh, no. I'm sorry. What did you
10 mean by the expression "alter the course of the
11 business plan"?
12 A. I was attempting, in December of
13 '99, to get Enron to do a deal with Microsoft
14 to throw the Modulus gang overboard and to get
15 us out from developing a broadband operating
16 system using our own technical resources. And
17 I was unsuccessful in that effort, for a
18 variety of reasons. And I was disheartened by
19 that, so I was attempting to alter the plan,
20 alter the analyst presentation, and it didn't
21 come to pass.
22 Q. So I just want to be clear. It
23 was your efforts to alter the business plan as
24 opposed to others.
25 A. No. I mean, I -- I may have been

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2 the first individual to hear from Microsoft
3 that they wanted to pursue a much larger deal
4 than giving me a purchase order which I had
5 gone up there to find -- to acquire. So -- but
6 other people were involved in the notion that a
7 deal with Microsoft could be a viable
8 alternative to a deal with Sun Microsystems,
9 and so I was not solely responsible for that.
10 Q. At this point in time,

11 December '99, given the difference of opinion
12 in the company with respect to Microsoft, did
13 you feel as though your role in the company had
14 been marginalized?
15 A. Yeah. Essentially, yes.
16 Q. And you made some statements that
17 you testified to earlier about the different
18 products. Transport is dead. Cast is getting
19 better. Do you remember that? It's on the
20 second page.
21 A. Yeah, I remember that.
22 Q. And I believe you just used in
23 your testimony a different term, "not viable."
24 I think you said some of the products you
25 didn't believe -- that you said it was not

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2 viable. Do you remember saying that?
3 A. Yeah.
4 Q. Did others at the company at the
5 time still believe that these products were
6 viable?
7 MR. YOUNGWOOD: Objection to form.
8 A. I don't really know what other
9 people believed.
10 Q. Okay. Did anyone tell you that
11 they believed Media Cast was a great product
12 that had a great potential in the marketplace?
13 MR. KORN: Objection to form.
14 A. Yes. I mean, yes.
15 Q. There was a difference of opinion
16 at the company as to the likely success of
17 different products, right?
18 A. Yes.
19 Q. Some people were very optimistic,
20 still, in December of '99 with respect to Media
21 Cast?
22 A. Well, that's true.
23 Q. And some people were very
24 optimistic still about Media Transport, right?
25 A. Sure.

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2 Q. And others were still optimistic
3 about Media Conferencing?
4 A. That's true.
5 Q. And others were very optimistic
6 about the BOS?
7 A. Well, that's true.
8 Q. And there was a difference of
9 between -- perhaps between you and those other
10 people; is that fair?
11 A. Yes.
12 Q. Your optimism, though, by the end
13 of December, had faded substantially; is that

14 fair?
15 A. Well, I mean, I still think it was
16 a good idea, but my optimism as to whether or
17 not it could be commercially viable was
18 basically compromised.
19 Q. In December of '99, you didn't
20 believe that the product -- that it was
21 impossible to the product to attain commercial
22 success. And I'm talking about Media Cast.
23 A. I did not believe it was
24 impossible for it to attain commercial success.
25 Q. You did not believe there were any

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2 insurmountable obstacles that would keep it
3 from becoming a commercial success; is that
4 fair?
5 MR. YOUNGWOOD: Objection to form.
6 A. And we're discussing Media Cast?
7 Q. Yes. Yes. Media Cast.
8 A. No. Media Cast, I thought, had
9 the potential to be commercially successful.
10 Q. Well, let's talk about the Media
11 Transport. Did you believe that Media
12 Transport could be become commercially
13 successful?
14 A. At the end of '99?
15 Q. That there was still a possibility
16 that it could, yes, at the end of '99.
17 A. Well, not really. I mean, I say
18 here it's dead. And by "dead," I mean it's not
19 commercially viable. Media Transport, as a
20 concept, is commercially viable, but I no
21 longer believed it was commercially viable
22 within Enron, within the management structure,
23 within the organization, such as it existed.
24 And that's what I mean when I say it's "dead."
25 Q. Did you believe that it was

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2 technologically impossible to deliver the Media
3 Transport product in December '99?
4 MR. KORN: Objection to form.
5 A. Not technologically impossible in
6 a conceptual sense. Technologically impossible
7 within Enron, yes.
8 Q. When you say "within Enron," with
9 what you deem to be appropriate changes in
10 management and deployment of resources, did you
11 believe that Media Transport could become
12 commercially viable?
13 MR. YOUNGWOOD: Objection to form.
14 A. Yes, I did.
15 Q. We talked about the EIN and the
16 BOS, and I think -- would you agree, that there

17 was confusion within the company, in
18 December of '99, as to what the BOS was versus
19 what the intelligence in the EIN was?
20 A. Sure.
21 Q. And if I could get you to explain,
22 again, what you believe to be the distinction,
23 if there is any, between the "I" in EIN and the
24 BOS.
25 A. Sure. The number one distinction

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2 would be the EIN API. There's nothing about
3 having an intelligent network that suggests
4 other people can have access to those features
5 unless you publish an API.
6 If you publish an API to an
7 operating system, in my mind, by definition, it
8 means that the API is for the use of
9 application developers. That means that the
10 applications harness the features of the
11 operating system.
12 There's nothing in describing a
13 network as intelligent that has those specific
14 implications or denotations or whatever else.
15 Q. There was certain what you would
16 consider "intelligence" at the application
17 level in December of '99; is that right?
18 A. I can think of particular
19 intelligence that we had implemented, sure.
20 Q. Reservationing, provisioning?
21 A. No.
22 Q. No?
23 A. (Shook head side to side.)
24 Q. Was there reservationing
25 intelligence in the Media Cast product?

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2 A. No.
3 Q. Was there reservationing in the
4 Media Transport product?
5 A. Not that I ever saw. I mean, I
6 saw a diagram that says it was supposed to be
7 developed, but I -- and I saw a mock-up of a
8 user interface for what that development would
9 look like, but I never saw it demonstrated.
10 Q. You don't know if it existed or
11 not, then.
12 MR. YOUNGWOOD: Objection to form.
13 A. I was involved in a lot of
14 discussions and conferences and meetings about
15 the roadblocks to success. And in those
16 meetings -- and I'm thinking of one in
17 particular that took place in Houston --
18 John Griebeling and John Bloomer detailed in
19 writing what the roadblocks to success were

20 technically in the presence of the salespeople
21 and the sales management, so that there could
22 be a resolution about what's a sales problem
23 and what's a technical problem.
24 And in that list of issues, which
25 I provided on CD-ROM, by the way, in response

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2 to the subpoena or -- it itemized technical
3 problems with Media Transport that prevented it
4 from being commercially viable. And --
5 Q. I think we had gotten off the
6 subject a little bit. Let's go back to
7 intelligence. You said you did agree there
8 were certain aspects of intelligence at the
9 application level. What were they?
10 A. Well, the technology that we
11 licensed from RealNetworks included \$1 million
12 worth of software that had not been available
13 to their other customers. We were the first
14 customer to get it. And we used that to create
15 a billing system and a tracking system for
16 Media Cast that gave us a certain degree of
17 intelligence in the network.
18 That was not software that we had
19 developed internally but, nonetheless, it was
20 software that we deployed and acquired.
21 Otherwise, that's what I was referring to.
22 Q. Okay. And did you consider any of
23 the InterAgent messaging intelligence?
24 A. In and of itself, no, but it could
25 be harnessed to create intelligent networking

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2 features. In and of itself, I don't consider
3 it to be network intelligence.
4 Q. InterAgent was purchased by Enron
5 for purposes of implementing an intelligence
6 layer on the network; is that correct?
7 A. That's correct.
8 Q. And as of December '99, am I
9 correct that there -- that you still believe
10 that BOS was technologically feasible?
11 MR. KORN: Objection to form.
12 A. I'm not sure I thought about it in
13 that general of terms -- in that general a way.
14 Q. Given the right resources and the
15 right deployment and the right execution, did
16 you believe in December of '99 that BOS was
17 technologically feasible?
18 MR. YOUNGWOOD: Objection to form.
19 A. Yes.
20 Q. You didn't see any insurmountable
21 obstacles -- again, with the caveat that the
22 right resources and right execution was in

23 place -- to commercial viability of the BOS; is
24 that correct?
25 MR. YOUNGWOOD: Objection to form.

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2 A. Well, your caveat doesn't say in
3 or out of Enron. Within Enron, I perceived
4 insurmountable difficulties in bringing a
5 commercially viable BOS to market, yes, I did.
6 Q. Those were management?
7 A. Management is one, and the gulf
8 between our publicly stated announcements and
9 the true status of the network was the primary
10 other one.
11 Q. Why is that an obstacle?
12 A. The analogy I used at the time
13 when I talked about it with people at Enron, I
14 used the analogy of painting the San Francisco
15 Bay bridge. By the time you start painting one
16 end and you get to the other end, the other end
17 needs to be painted.
18 And I said that by the time we get
19 to such a point that we've caught up to where
20 we say we are, we'll need to be much further
21 along than -- and so I was using -- I was
22 drawing that analogy and saying -- as a way of
23 saying that we can never catch up.
24 And I further drew the -- further
25 explained to people that we had a problem, that

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2 even if we could all agree on what needed to be
3 done, by the time we implemented it, what we
4 needed to do would have changed.
5 So -- and I use that as a way of
6 describing the dysfunctional nature of the
7 management -- of management.
8 Q. Who did you tell that to?
9 A. I talked about that with probably
10 10 to 15 people. Some of the people that I can
11 recall right now include John McClain,
12 Steve McCarrel, Dave Petersen, Jon Thompson,
13 David Cox. Generally, I did not express those
14 opinions to Hirko, Yeager, or Rice, primarily,
15 in my mind, because of the reprimand that I was
16 given specifically that said in meetings where
17 business decisions are being -- where
18 implementation strategies are being discussed,
19 the wisdom of the decision to do certain things
20 is not subject to debate.
21 So, generally, I only spoke about
22 those reservations with other directors and
23 with people I considered loyal to me.
24 Q. Am I correct that you also did not
25 raise this issue of the discrepancy between the

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2 current state of the technology and the public
3 statements about the technology with upper EBS
4 management?

5 A. No. Throughout '99, there were
6 numerous instances where I did raise those
7 issues with management directly. But I thought
8 we were talking about at the time, at the end
9 of the year, specifically, in December of '99.

10 And, at that point, I was really
11 not in the business of expressing those
12 reservations. But throughout the year, there
13 were numerous instances where I met with Joe,
14 with Steve Elliott, with Scott Yeager in
15 meetings attended by Ken Rice and other senior
16 executives, and we talked freely about the
17 obstacles to success.

18 Q. But particularly about what you
19 perceived as a discrepancy between the public
20 statements and --

21 A. Sure.

22 Q. Why were you not concerned about
23 this reprimand issue and the ability to raise
24 them at other times when you didn't feel
25 comfortable raising them in December of '99?

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2 A. There were opportunities to bring
3 it up when it was not viewed as dissent. I can
4 give an example.

5 The night of our hospitality
6 reception at the Bellagio hotel at the end of
7 NAB, I talked to Joe about the fact that we
8 have to now make work what we've demonstrated
9 at the trade show, but it was done in a
10 celebratory fashion; it wasn't done in a
11 meeting where I was a dissenter and drawing
12 attention to unwanted facts.

13 It was done almost as a toast
14 -- as the rejoinder in a toast. You know, it's
15 great. Joe said, This is the highlight of my
16 professional career. I said, Yes, but now we
17 have to make it work.

18 I mean, I can think of examples
19 where we talked about and -- I can remember
20 times sitting in Rex Shelby's office going
21 through with Rex Shelby my serious reservations
22 about the difference between our publicly
23 stated capabilities and where his organization
24 was at. And I did that as a courtesy, partly
25 because I was leading an effort to get him

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2 demoted or fired, and I wanted to bring up my
3 concerns with him directly in person before I
4 did that.
5 I was successful in getting him
6 reassigned but not demoted or fired. John
7 Bloomer and John Griebeling were old friends of
8 mine. I had worked for them for a long time.
9 When they were brought in to take over the
10 engineering organization for Rex and Dave, that
11 was viewed as a fairly significant coup, if you
12 will.
13 Q. Am I correct, that you have never
14 had any conversations of the type pointing out
15 your perceived discrepancies between public
16 statements and current state of technology;
17 that you never had those conversations with
18 Jeff Skilling?
19 A. I never had those conversations
20 with Jeff Skilling.
21 Q. Am I correct that you never had
22 those conversations with Ken Harrison?
23 A. I never had those conversations
24 with Ken Harrison.
25 Q. Am I correct that you never had

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2 those conversations with Ken Lay?
3 A. That's true.
4 Q. And other than the people you've
5 told me about, are there any other upper-level
6 EBS management people that you had such
7 conversations with?
8 A. Well, I left off the ones that
9 were most obvious because -- and most detailed,
10 and that's John Bloomer and John Griebeling, the
11 two vice presidents of engineering. I talked
12 with them freely, candidly, openly about these
13 issues.
14 Q. Let's go back to what we talked
15 -- you talked about this morning. I believe
16 you stated that in January of '99, you
17 commented on a particular press release. Do
18 you remember that testimony?
19 A. Yes, I do.
20 Q. And I believe you said you
21 commented in the form of track changes.
22 A. Correct.
23 Q. In the documents you've produced
24 in this litigation, have you seen that
25 document?

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2 A. No, I haven't.
3 Q. And we've seen a lot of your
4 e-mails. Did you generally keep copies of your

5 e-mails?
6 A. No.
7 Q. You didn't archive them?
8 A. No.
9 Q. Did you keep a copy, to your
10 recollection, of the track changes comments
11 that you recall making in January of 1999?
12 A. No, I didn't. And, just for the
13 record, I didn't provide most of these e-mails.
14 Q. Yeah. I understand.
15 A. Okay.
16 Q. But you did produce some documents
17 in response to the subpoena.
18 A. Oh, a lot of documents. I
19 mean . . .
20 Q. You haven't seen this track
21 changes document you recall since leaving
22 Enron?
23 A. That's right.
24 Q. Do you know to whom it was
25 addressed?

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2 A. My recollection is Tracy Smith,
3 but I believe it was CCed to a number of
4 people. I do know that -- I recall Joe
5 responding to it, and I recall Scott responding
6 to it. And I believe Tracy worked for Jim
7 Crowder at the time, so I would have CCed him
8 also, but I don't remember talking with him
9 specifically about it.
10 Q. Do you recall telling anyone at
11 that time that you believed the content of the
12 press releases was false?
13 A. Yes.
14 Q. Who did you tell that to?
15 A. Well, I recall talking about it
16 with Jim Crowder, Tracy Smith, Scott Yeager,
17 Joe Hirko, Ted Seitz, Steve Elliott.
18 Q. Specifically, though, do you
19 recall whether -- putting aside wordsmithing,
20 whether you believed that you told them that a
21 particular statement within that press release
22 was false?
23 A. Yes. I recall going to Joe Hirko
24 and talking about that specifically. And I
25 remember his response was that -- part of his

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2 response was that we're drawing the line in the
3 sand, and that it's a strategic move to draw a
4 line in the sand.
5 And I remember Scott Yeager saying
6 that we have to stake out some turf and stake
7 out some territory and defend it. And that's

8 the purpose of the press release.
9 So I did speak very directly about
10 that with them, and I did get reaction from
11 them, that I recall.
12 Q. You have seen a lot of e-mails.
13 You regularly used e-mails as a form of
14 communication at the company at the time,
15 right?
16 A. Yes, I did.
17 Q. Okay. Do you recall whether you
18 ever wrote an e-mail on this subject in the
19 January/February 1999 time frame?
20 A. Well, yes. And that would be the
21 e-mail that included the attachment with the
22 revised press release. Basically, the
23 revisions in the press release were to take out
24 what I thought was inaccurate and unnecessarily
25 inaccurate, I might add.

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2 So that e-mail specifically, by
3 virtue of the attachment, did address those
4 issues.
5 Q. And were there any subsequent
6 e-mails that you sent to any management about
7 what you perceived to be false statements in
8 the January press release?
9 A. Not that I recall.
10 Q. Then, in April, you were at the
11 NAB show in Las Vegas, right?
12 A. That's right.
13 Q. You manned the booth?
14 A. Some of the time, yeah.
15 Q. You participated in the
16 preparation for what was quite an expensive
17 presentation; is that right?
18 A. Yes.
19 Q. Over \$1 million was expended.
20 A. Around a million.
21 Q. Okay. And part of that was to
22 create the CD that was earlier marked as 50402?
23 MR. YOUNGWOOD: Objection to form.
24 A. That was beyond the NAB budget.
25 That was produced irrespective of NAB.

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2 Q. Was 50402 created before NAB?
3 A. Yes.
4 Q. What was your role in creating the
5 disk that's Exhibit 50402?
6 A. Well, I went to FYI-Net, worked
7 with some of the animators to help them
8 understand what should be animated. I
9 contributed to some of the PowerPoints that are
10 on the CD. I contributed to some of the

11 wording and some of the written descriptions.
12 So I was one of the collaborators helping
13 create content for that.
14 Q. Was it your intent that the
15 content of Exhibit 50402 be accurate?
16 A. Yes.
17 Q. And do you believe it is?
18 A. Yeah.
19 Q. Do you believe that it truthfully
20 represented the state of Enron technology and
21 products as of the date of the CD?
22 A. No.
23 Q. Why not?
24 A. It doesn't represent the state of
25 the products. If you view it and read it, the

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2 content of the CD to represent the design of
3 the products, then it's entirely accurate as to
4 what we were -- had conceived of and were
5 designing. I don't think it makes
6 representations about the status of anything.
7 Q. Okay. And did you provide that to
8 clients -- to potential customers?
9 A. I didn't like the CD. I thought
10 it was an embarrassing -- I mean, you found me
11 earlier laughing at Fred "X", the bird that
12 jumps out the window. I mean, there is a lot
13 of sophomoric humor on there. There is a lot
14 of bad animation. There was a lot of things
15 that I wasn't comfortable with.
16 Q. But I -- correct me if I'm wrong,
17 I thought you testified you remember handing
18 out CDs at the NAB show.
19 A. At NAB, I did, but I thought you
20 were asking me about specifically with
21 customers that I was personally involved with,
22 like Microsoft or Encoding or Real. I don't
23 recall ever showing it to anybody in those
24 customers that I was negotiating with.
25 Q. Putting aside the sophomoric humor

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2 and other criticisms you may have of it, did
3 you believe that anything contained in it was
4 misleading in any way?
5 A. Yeah. There's a diagram of a
6 national network that shows fiberoptic
7 capacity. And the fiberoptic capacity that it
8 shows I knew not to be capacity that we had
9 available in our network.
10 The animation I'm thinking of
11 shows a very detailed penetration into U.S.
12 markets, you know, with this expanding spider
13 web of connections. And I remember -- and that

14 I thought that it portrayed a level of
15 deployment that if somebody represented it as
16 the current status of our network would be
17 inaccurate.
18 But I'm not aware that anything on
19 the CD states or the audio tracks state that
20 that's what we're representing.
21 Q. You never asked anybody to take
22 that out of the CD presentation, right?
23 A. No, I never asked anybody to take
24 it out.
25 Q. And then at NAB, did you also

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2 -- the NAB conference, also hand out copies of
3 the various press releases that had coincided
4 with the conference?
5 A. I may have in publicity kits. I
6 don't recall that specifically.
7 Q. These are the press releases that
8 you earlier testified that you take issue with
9 the use of some present-tense language?
10 MR. YOUNGWOOD: Objection to form.
11 Q. Do you remember those?
12 A. Yes.
13 Q. Okay. And do you recall that you
14 handed out copies of those press releases as
15 part of your role in manning the booth at the
16 NAB conference?
17 MR. YOUNGWOOD: Okay to form.
18 A. No, I don't recall that.
19 Q. Do you remember them being printed
20 and available to the public at the conference?
21 A. Yes.
22 Q. What did you do at the booth?
23 A. I met with potential customers,
24 prospects. I introduced prospects to
25 management, because I've been going to NAB for

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2 a long time, and I recognized a lot of faces,
3 and so I made introductions. I talked with
4 employees. I entertained people in the city.
5 I did a lot of things.
6 Q. You were free to have open
7 discussions with the people that came by the
8 booth?
9 A. Yes.
10 Q. Nobody was policing you?
11 A. They kept a pretty short leash on
12 me in the booth.
13 Q. Nobody told you to lie.
14 A. No.
15 Q. And you didn't lie, did you?
16 A. Not that I recall.

17 Q. Nobody told you that there were
18 certain things you couldn't say; is that right?
19 A. There was some discussion about
20 what's appropriate to say and what isn't
21 appropriate.
22 Q. Who said -- who had these
23 discussions with you?
24 A. Guy [sic] Yeager, Joe Hirko,
25 either Claudia or Tracy, Jim Crowder. We

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2 talked among ourselves about what's appropriate
3 and what's not appropriate.
4 Q. What was considered not
5 appropriate?
6 A. I believe it was considered not
7 appropriate to say that we were willing to
8 accept orders for services. And I think at
9 that point, we had an agreement that we would
10 not be executing contracts at the trade show.
11 Q. Okay. Anything else was not
12 appropriate?
13 A. I remember being told by Joe Hirko
14 not to talk much with Mark Palmer, the vice
15 president of public relations from Enron
16 corporate.
17 Q. Okay. Anything else that was
18 considered not appropriate?
19 A. Nothing comes to mind, no.
20 Q. As of April at the NAB show, is it
21 fair to say you were quite optimistic about the
22 potential success of Enron Communications?
23 A. Yes.
24 Q. And you were enthusiastic?
25 A. Yes.

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2 Q. Energetic?
3 A. Yep.
4 Q. Then there came a point later in
5 '99 when Mr. Bloomer joined. Do you remember
6 that?
7 A. Yes, I do.
8 Q. Did you have an understanding as
9 to why he was brought in?
10 A. Yes.
11 Q. What was that understanding?
12 A. He was brought in to bring
13 seasoned technical management capabilities to
14 the management team.
15 Q. Did you view that as a positive
16 addition to the management team?
17 A. Yes, I did.
18 Q. And do you recall that
19 Mr. Griebeling also joined in about the same

20 time?
21 A. That's right.
22 Q. Do you recall why he was -- why he
23 joined Enron?
24 A. Same reason.
25 Q. And the company wanted to fill

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2 positions that they believed needed to be
3 filled in order to improve the likely success
4 of the products; is that fair?
5 A. Yes, it is.
6 Q. And you agreed with those
7 decisions, to add those people?
8 A. Yes.
9 Q. How did Mr. Bloomer's role differ
10 from your role?
11 A. He had an entire hierarchy of
12 employees reporting up to him. He had direct
13 access to Ken and Joe. I believe he was the
14 direct report of the co-CEOs. He had an
15 assurance by Joe and others that Joe described
16 as the right to do whatever was necessary.
17 So he had a lot of authority, a
18 lot of responsibility, and a lot of recognition
19 within the company about his status.
20 Q. One of the first things he did is
21 form the SWAT teams; is that right?
22 A. That's correct.
23 Q. And what were the SWAT teams?
24 A. The SWAT teams were
25 representatives of most of the departments

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2 within the company. And they -- it was key
3 individuals who had implementation
4 responsibility for various aspects of Media
5 Cast, Media Transport. And it was specifically
6 an objective to get certain things done by the
7 end of the year or -- I use the "end of the
8 year" loosely, by the analyst conference, which
9 meant things had to be done by the end of the
10 year.
11 So it was a tactical approach to
12 managing risks and implementation issues.
13 Q. Did you believe it was a good
14 thing for the company?
15 A. Yes.
16 Q. Why is that?
17 A. It really highlighted the need of
18 the company to change the way we were going
19 about conducting our operations. So I often
20 -- I mean, I had talked earlier in the year
21 with Joe about how -- one of the troubling
22 aspects that we were faced with was denial, the

23 fact that people were denying that there was
24 things of a critical nature that we had to
25 address.

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2 And this represented a step beyond
3 the denial, in my opinion. And it was an
4 active act agreed to by Joe and Ken that things
5 had to change. And when Joe made the executive
6 decision to replace Dave and Rex with John and
7 John, it was viewed, in my mind, as a very
8 positive development.

9 Q. And when was that?

10 A. Fourth quarter of '99, early -- I
11 don't know, October -- September/October.

12 Q. What was your role in that
13 process, the SWAT teams?

14 A. Well, the first thing John -- one
15 of the first things John Bloomer did when he
16 joined the company was he came into my office
17 and said, Who should be on the SWAT team? And
18 we called it "Making Santa's list," going
19 through and who, in my opinion, was bad and who
20 was good. And I gave him a full briefing on
21 who I thought should be on the SWAT team based
22 on my experience of working with those
23 employees. And, largely, he followed those
24 suggestions.

25 I did not include myself as a

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2 member of the SWAT team, and I did not go to
3 very many of the meetings. I think I only went
4 to one.

5 Q. At about the same time, do you
6 recall the consulting -- the management
7 consulting firm of McKinsey being involved in
8 Portland?

9 A. Yes.

10 Q. What was their role?

11 A. I was told by David Cox that their
12 role was to come in and, quote, unquote, "cut
13 through the shit." And that they were being
14 brought in, I was told by David Cox, because
15 Jeff Skilling had faith in their credibility
16 and that Ken Rice had agreed that it was
17 necessary to do.

18 So I was subsequently told by
19 Shauna Meyer and Jim Irvine that they were
20 attending every SWAT meeting, taking notes,
21 making themselves available to people, and
22 writing a report.

23 Q. Did you view that as a positive
24 development?

25 A. Yes.

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2 Q. Why?

3 A. Because there was a lot of finger
4 pointing going on, and they had an ability to
5 rise above the political in-fighting and to
6 separate the wheat from the chaff in some of
7 the activities of the company. So it was
8 -- and they had the confidence of senior
9 management.

10 Q. Were you interviewed by anyone
11 with McKinsey?

12 A. I do not recall being interviewed
13 by anybody from McKinsey.

14 Q. Do you recall being asked for an
15 interview?

16 A. No, I don't.

17 Q. Do you recall any meetings with
18 them?

19 A. I remember one or two meetings
20 with them, but they were meetings where they
21 were present. In addition to the SWAT team
22 meetings, we had status meetings, and they
23 began to come to the status meetings. I may,
24 after one of those meetings, have sat down with
25 one of the gentlemen from McKinsey and given

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2 him some technical information.
3 So I remember some contact with
4 them. I remember seeing them. I don't
5 remember the individual or what they looked
6 like or who they were.

7 Q. You were physically located in
8 Portland at the time, right?

9 A. That's correct.

10 Q. Is that the Rock Bottom facility?

11 A. We had moved over from Rock Bottom
12 to the other new office, so no, it wasn't Rock
13 Bottom.

14 Q. The new office?

15 A. The new office building.

16 Q. And did you observe the McKinsey
17 people physically in the office space?

18 A. Yes.

19 Q. Did you observe that they had
20 access -- open access to the people and places?

21 A. Yes. As a matter of fact, I saw
22 them at the SWAT team meetings, and I was told
23 by Shauna Meyer that they were asking a lot of
24 very detailed questions and showing a real
25 interest and doing their work.

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2 Q. To your knowledge, was there any
3 information they requested that they were
4 denied?
5 A. Not to my knowledge, no.
6 Q. Did you see the results of any of
7 their work in the form of any kind of reports,
8 PowerPoints, or other documents?
9 A. Yeah, as a matter of fact, I did.
10 Q. What did you see?
11 A. I saw one particular document, it
12 was labeled as a draft document. I believe the
13 date on the document was December 11th. The
14 document described an entire approach to
15 evaluating the product line strategy through a
16 series of tollgates.
17 So it was a document about
18 tollgates, and it was a product by product
19 listing of what products had been through what
20 tollgates.
21 Q. Did you take issue with any of
22 their assessment, if you will?
23 A. I didn't see that document. I
24 don't recall seeing it until after I left the
25 company.

00275

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2 Q. When did you see it?
3 A. When Shauna Meyer gave it to me in
4 the year 2000.
5 Q. Can you tell me why Shauna Meyer
6 would be giving you an Enron-McKinsey document
7 in 2000?
8 A. Because she came to work for me in
9 Portland for Vectrix; and I asked her for a
10 copy of her hard drive, and she gave it to me,
11 off her Enron computer.
12 Q. Did you produce copies of those
13 documents in response to your subpoena?
14 A. Yes.
15 Q. So you still have her -- a copy of
16 her hard drive?
17 A. On CD-ROM. And I produced it.
18 Q. Did you distinguish between your
19 documents, if you will, and the documents that
20 were printed off of her hard drive?
21 A. No, because I didn't have any
22 documents. So all the documents on those
23 CD-ROM drives came from Shauna Meyer, even
24 though there's a folder -- even though there's
25 a folder on one of the CDs that says "Shauna's

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2 Documents," they're all from Shauna. But
3 Shauna had a folder called "Shauna's Documents"
4 on her hard drive.

5 So if you look at all the folders,
6 you will see a folder that says "Shauna's
7 Documents," but the entire contents of the CDs
8 are from Shauna, as I recall. I don't recall
9 anything on there that was not, but . . .
10 Q. Okay. What -- we're going to have
11 to take a break to change a tape in a minute.
12 Why don't I mark this, and we can take the
13 break. I am going to mark the document -- why
14 don't we take the break now. I'm not sure if I
15 can actually use this.
16 VIDEOGRAPHER: Okay. This marks
17 the end of Tape 4 of the deposition of William
18 Collins. Going off the record. The time is
19 4:38.
20 (Break taken.)
21 VIDEOGRAPHER: Here marks the
22 start of the Videotape No. 5 in the deposition
23 of William Collins. We're back on the record,
24 and the time is 4:51.
25 Q. Mr. Collins, I wanted to ask you

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2 about the decision of ECI to stay part of Enron
3 and not do a spin-off. Do you remember that
4 occurring sometime in '99?
5 A. Yes.
6 Q. When was that?
7 A. Well, we called it being made core
8 to Enron. Is that what you're referring to?
9 Q. Okay. Made core.
10 A. Okay. I recall it being in the
11 second quarter of '99, but I don't recall
12 specifically.
13 Q. Was that disappointing to you?
14 A. Yes.
15 Q. Why?
16 A. I was of the opinion that I would
17 make more money if ECI went public than I would
18 as an Enron employee.
19 Q. Did you view it as a negative in
20 any respect with regard to the commitment of
21 resources to the Enron products that were under
22 development at the time?
23 A. No.
24 Q. Did you get the impression that it
25 affected the way people worked at the company,

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2 in terms of having any kind of negative impact?
3 A. No. Quite the contrary. Very
4 positive. Well, it impacted the morale of some
5 of the communications employees, but I think I
6 knew, and others told me they knew, that,
7 ultimately, it probably bettered our chances of

8 success, even though we didn't necessarily like
9 it.
10 Q. Did you agree with that, that it
11 bettered your chances of success?
12 A. Yes.
13 Q. And why is that?
14 A. It was an embrace by Enron senior
15 management of our potential to contribute to
16 the company; and, in some ways, it was a
17 validation of our efforts.
18 So I -- I was more upset about it
19 until I found out that some of the process
20 would include a cash payment. I mean, we were
21 all afraid of what it would mean to get Enron
22 stock, which we didn't see having the value of
23 an IPO, but they softened that blow a bit by
24 making a stock grant and a cash payment part of
25 the process.

00279

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2 Q. And let me show you a document
3 that we'll mark as Exhibit 50417, with
4 production numbers EDL007275 through -77. And
5 it's dated May 28, 1999, from Nancy Young to a
6 whole lot of people.
7 A. Okay.
8 Q. Do you recognize this as an e-mail
9 relating to the announcement by Mr. Skilling
10 that ECI would remain core Enron?
11 A. Yes, I recognize that as that.
12 Q. And that was sometime the end of
13 May 1999; is that right?
14 A. That's right.
15 Q. Who was Nancy Young?
16 A. Joe Hirko's secretary.
17 Q. Did you attend any meeting when
18 this announcement was made?
19 A. No. I was in Spain at the time,
20 on business --
21 Q. Okay.
22 A. -- with Ted Seitz.
23 Q. Were there any individuals at
24 Enron and ECI, then, who you believe were
25 negatively affected by the announcement in

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2 terms of their work performance?
3 A. Yes.
4 Q. Who?
5 A. Well, first and foremost, I would
6 say Scott Smith. He was very vocal about his
7 dissatisfaction; and it seemed to compromise
8 his status, to some extent.
9 I was traveling with Ted Seitz at
10 the Global Crossing major customer meeting in

11 Madrid, and Ted was not pleased about it, but I
12 don't think -- more specifically, to answer
13 your question, his performance was compromised
14 by his displeasure, but some people were very
15 vocal about their displeasure to the point
16 where I think it compromised their status in
17 the company. Scott Smith comes to mind.
18 John Thompson comes to mind.
19 Q. You wouldn't put yourself in that
20 category?
21 A. No, I wouldn't.
22 Q. You remained optimistic after the
23 announcement that you could still have a
24 successful career at Enron?
25 A. Yes.

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2 Q. A lucrative career?
3 A. Yes.
4 Q. You remained enthusiastic about
5 the products?
6 A. At the time of the announcement,
7 yes, I did.
8 Q. What is ISPCon, I-S-P-C-o-n?
9 A. Oh, boy. I saw that I used that
10 acronym in an e-mail, but I don't remember what
11 it stands for.
12 Q. Do you remember a conference
13 called the ISPCon Conference?
14 A. No, I don't.
15 Q. Let me mark this, and see if this
16 will refresh your recollection, as
17 Exhibit 50418, a multipage document beginning
18 ECSH 000054270 through -292, dated October
19 -- well, dated October 26 through 28. If I can
20 get you to flip through there, I think you will
21 see your name at least on one page.
22 A. Oh, in terms of booth duty? Or
23 let's see. Customer appointments?
24 Q. Page 283.
25 A. Okay.

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2 Q. I just wanted to see if this
3 refreshed your recollection as to whether you
4 knew what ISPCon -- maybe that's it. ISP is
5 that an acronym for something?
6 A. Internet service provider, yeah.
7 Q. Is there an ISP conference in
8 San Jose the end of October 1999 that you
9 attended?
10 A. Oh, yes. Yeah.
11 Q. Do you remember now?
12 A. Yeah.
13 Q. If I could direct your attention

14 to page -283, you will see your name listed
15 under a preliminary staffing plan, Roman XI
16 under Distribution Sales Teams?
17 A. Yeah, that's right.
18 Q. What role did you have at this
19 conference?
20 A. I guess I was there to work the
21 booth, but I recall begging off so that I could
22 go meet with Microsoft that -- meeting that I
23 described in the San Jose Fairmont, or one of
24 those hotels, I believe occurred at the same
25 time as this.

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2 So I remember that I showed up as
3 being listed at booth duty, and I don't believe
4 I participated in the show. I believe I walked
5 by the booth, looked at it, saw what a small
6 show it was, and decided to focus on my
7 objectives with Microsoft.
8 Q. Do you recall whether you were
9 provided any instruction as to what you could
10 and couldn't talk about at the booth?
11 A. No.
12 Q. Do you recall anything being
13 scripted, in terms of any type of presentation
14 that you were to provide at the show?
15 A. No.
16 Q. Do you recall what was -- if
17 anything was demonstrated at the booth?
18 A. I recall that we recycled some of
19 the content that we acquired for the booth at
20 NAB, so I think we were showing content that we
21 had the rights to use from potential content
22 providers that we had acquired earlier in the
23 year, but I don't remember anything beyond that
24 and this CD -- movies from this CD.
25 Q. Do you recall whether you came

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2 away from any of the preparation for this
3 conference with a concern that people were
4 asking you to, in any way, misstate the
5 technology of Enron?
6 A. No, I don't recall that.
7 Q. You never complained to anyone in
8 the end of October '99 that you were being
9 asked to misstate the technology at the
10 conference; is that fair?
11 A. That's fair.
12 Q. Let's go back. You had mentioned
13 a reprimand earlier. And I am going to mark as
14 Exhibit 50419 a two-page letter to you from
15 Yeager dated February 5, 1999. I think that's
16 an incorrect date, but we'll get to that in a

17 second. It Bates production number ECTN
18 000803896 through -97.
19 A. Okay.
20 Q. Do you recognize this document?
21 A. Yes.
22 Q. Should that date be March 5, 1999?
23 A. It's possible. I don't know.
24 Q. If you read the first sentence
25 where it says, "Bill, the purpose of this memo

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2 is to confirm our conversation we had with you
3 on Thursday, February 25th, 1999" -- do you see
4 that?
5 A. Yeah, that would make sense.
6 Q. Does the conversation you had with
7 Mr. Hirko on February 25, does that date seem
8 right, end of February?
9 A. Yeah.
10 Q. Was that the conversation on the
11 airplane?
12 A. No.
13 Q. What conversation is he referring
14 to?
15 A. That's the follow-up conversation
16 that I had talked about in Scott Yeager's
17 office with Joe Hirko, me, and Scott Yeager.
18 Q. Did you have an understanding what
19 was being referred to in the second sentence
20 where it says, "As we discussed, your conduct
21 has been inappropriate and has affected the
22 productivity of certain members of the ECI team
23 and sent a conflicting and confusing message
24 internally as well as externally"?
25 A. Do I understand what they were

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2 referring to?
3 Q. Yes. What was your understanding
4 when you read that?
5 A. I understood what their point of
6 view to be.
7 Q. Tell me what that -- what your
8 understanding of what their point of view was.
9 A. That my conduct was inappropriate
10 and affected certain members of the ECI team.
11 I didn't agree with it.
12 Q. Okay. What, in particular?
13 What's the conduct that you understand is being
14 referred to here?
15 A. This, specifically, I believe, was
16 of that -- that sentence was about my conduct
17 in a meeting that Joe had hosted where I raised
18 some issues in the meeting.
19 And it goes on -- I think that's

20 referred back to the third paragraph down,
21 where we're talking about channel marketing, so
22 it was in a marketing meeting. So I guess this
23 sentence up on the top is referring to the
24 productivity of certain members of the ECI team
25 and sent a conflicting and confusing message

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2 because in a particular meeting, I disagreed
3 with the strategy. And I think that's what
4 it's referring to.
5 Q. Well, then the last sentence of
6 that first paragraph says, "Specifically, the
7 following behaviors have been observed and will
8 not be tolerated going forward." The first one
9 states, quote -- I am quoting from the letter
10 here -- "Your inappropriate approach for
11 payment for your input on the video services."
12 A. And that's referring to the
13 conversation I had with Joe in the airplane.
14 Q. Which is what are the -- what
15 video services are being referred to here?
16 A. Media Cast, Media Transport, and
17 Media Distribution.
18 Q. You had approached Mr. Hirko on a
19 plane ride suggesting that you had not been
20 fully compensated for your input on the
21 business plan?
22 A. That's correct.
23 Q. At this point in time, had you
24 already reached the decision with Mr. Hirko
25 that you would be compensated for the

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2 reimbursement of expenses in the event the
3 business plan were to be used?
4 A. Yes.
5 Q. Had you fixed that sum at 150,000
6 at this point in time?
7 A. Prior to being hired.
8 Q. So you had approached him for
9 dollars above and beyond the 150,000?
10 A. That's correct.
11 Q. Did you give him a number?
12 A. I talked about a number of
13 different scenarios that might satisfy me. I
14 may have talked about what I would consider a
15 cash payment, but as I recall, my objective was
16 to get my options to vest whether I was
17 dismissed for cause or with -- with or without
18 cause.
19 Q. And they did not make any changes
20 to your compensation or options package at that
21 point in time; is that right?
22 A. That's right.

23 Q. Then the second paragraph begins,
24 "Your angry attitude towards me has led you to
25 conduct yourself inappropriately in the

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2 company." Do you see that?
3 A. Yes, I do.
4 Q. And that -- the person that is
5 writing this is Scott Yeager, right?
6 A. That's right.
7 Q. Do you know what he's referring to
8 there with respect to the angry attitude
9 towards him?
10 A. Not specifically. I mean,
11 generally. I don't know. I mean . . .
12 Q. Did you believe you were going to
13 be terminated at this point in time?
14 A. No.
15 Q. What did you understand the zero
16 tolerance program to be? I'm focusing on the
17 last sentence of the second-to-the-last
18 paragraph on the page where it says, "You
19 indicate that you can but we will move forward
20 with a zero tolerance situation."
21 A. I understood that I am not allowed
22 to be angry at Scott, approach Joe for payment,
23 or dissent in meetings where we're talking
24 about previously agreed-upon strategies.
25 So each of these paragraphs above

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2 that sentence that are bulleted talk about a
3 particular behavior. And I took it to mean
4 that there was a zero-tolerance policy going
5 forward about any of those behaviors.
6 Q. And how did you respond to this
7 letter?
8 A. Very carefully. I responded by
9 saying that I understood their point of view
10 and that I was prepared to accept the terms of
11 the reprimand with one caveat, and I said that
12 after a year on the job with no additional
13 transgressions, I would like this removed from
14 my personnel file.
15 Q. Let me mark as Exhibit 50420 a
16 March 18, '99 letter from you to Scott Yeager
17 and others with production numbers ECTN
18 000803898 through -899.
19 A. Okay. I see this.
20 Q. Is that your letter in response to
21 the earlier exhibit, 50419?
22 MR. YOUNGWOOD: Objection to form.
23 A. Yes.
24 Q. And you wrote this?
25 A. Yes.

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2 Q. And this is the letter you said
3 you recall -- this was your response to the
4 earlier letter?

5 A. That's right.

6 Q. And you state in the second
7 sentence, "I acknowledge that my recent
8 behaviors were inappropriate, and I recognize
9 the negative impact they have." Do you see
10 that?

11 A. Yes.

12 Q. And, again, this is talking about
13 the same general behavior with raising issues
14 in meetings, disagreeing with strategies, and
15 asking Mr. Hirko for additional payment for the
16 business plan; is that right?

17 A. And -- yes, and behaving badly
18 towards Scott Yeager.

19 Q. Okay. Did your working
20 relationship at Enron change after this event?

21 A. I believe so, yeah.

22 Q. In what respect?

23 A. I was -- I took this incident to
24 be an example that Joe and Steve would support
25 Scott before they would support me in any

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2 particular instance. And I viewed it as a loss
3 of a certain stature in their eyes and in the
4 eyes of others within the company. So I took
5 this to be a pretty significant "wing
6 clipping."

7 Q. You had mentioned that at one
8 point in time, you had been given, for a very
9 brief period of time, the title of vice
10 president and then had that stripped within a
11 day or so. Do you remember that testimony?

12 A. Yes.

13 Q. Where, in time, does that compare
14 to the events here at the end of February,
15 early March of '99?

16 A. It was just prior to this. And I
17 believe that's what Scott's referring to, in
18 the second paragraph, when he says, "This has
19 led you to conduct yourself inappropriately in
20 the company. Your role is an employee
21 reporting to me. No other arrangement was
22 applied or alluded to at any time."
23 I told him that Joe and Steve
24 agreed that I didn't have to report to him
25 anymore. Well, that's what he's talking about.

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2 And he got Joe and Steve to revoke my promotion
3 and to report directly to him. And he's making
4 it very clear here, I can't get out of that.
5 Q. Now, when you joined Enron, were
6 you -- did you consider Mr. Yeager a friend?
7 A. Sometimes I considered him a
8 friend. I called it a marriage without sex.
9 It was a love/hate relationship.
10 Q. Did there come a time when the
11 relationship changed that you didn't consider
12 it one of being a friend at all?
13 A. Yeah.
14 Q. When was that?
15 A. Well, off and on -- I had a pretty
16 big chip on my shoulder from the moment I was
17 hired as a director. I was a senior vice
18 president at my previous job, I would be a
19 senior vice president at my next job, and I was
20 brought in as a director, not because -- I
21 mean, it says right here on my employment
22 application, I'm applying for a position of
23 vice president.
24 Scott was the one who told them,
25 Don't give him that title. And he told me as

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2 much. And he was of the continual opinion that
3 I was not management material. And he kept me
4 on a very short leash, rarely had anybody
5 report to me, rarely had me represent the
6 company in forums that would provide me
7 visibility within the organization.
8 And so from the moment I joined
9 Enron with Scott, we had a rocky relationship.
10 Q. And, to this day, are you no
11 longer in contact with Mr. Yeager?
12 A. I haven't been in contact with him
13 since I sent him a letter after I resigned
14 saying I hoped there was no hard feelings. And
15 he chose not to respond to it. The last
16 contact I had from him was when a private
17 investigator jumped out of a car and said, Hi.
18 I'm a friend of Scott Yeager's. Would you like
19 to talk to me? And I . . .
20 Q. In light of this event in
21 February/March time frame, did you give some
22 thought to leaving the company at that point in
23 time?
24 A. Yeah.
25 Q. Why didn't you?

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2 A. Because I couldn't get vested in
3 my stock options because Joe wouldn't agree to
4 compensate me if I was dismissed with or

5 without cause. If he had agreed to that, I
6 probably would have.
7 Q. Did this short leash, as I think
8 you used the term, that Yeager kept you on, did
9 it impact your ability in the sales side of
10 your job?
11 A. At times it did, yes.
12 Q. And these would be in your sales
13 to Microsoft or to RealNetworks?
14 A. I'm thinking more specifically of
15 other companies earlier in the year that I was
16 involved in, sales or joint ventures, strategic
17 relationships.
18 Q. Did you have a longstanding
19 relationship with people at RealNetworks?
20 A. Not a longstanding one, no.
21 Q. When did you first start dealing
22 with them?
23 A. After -- let's see. After I left
24 Xing and before I joined WorldCom -- well, I
25 don't know if that's -- I first had a

00296

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2 relationship with RealNetworks when I worked at
3 Xing Technologies.
4 Q. When did you first deal with
5 RealNetworks as an Enron employee?
6 A. Several months after joining the
7 firm when I negotiated our -- a definitive
8 agreement with them.
9 Q. And did there come a point in time
10 when you acquired some of RealNetworks' stock?
11 A. Yes, because they bought Xing
12 Technologies, and I, as part of my severance
13 package from Xing Technologies, still had
14 shares in Xing. So Xing is now Real.
15 And I got a liquidity event
16 because Xing shares, which were not tradable or
17 registered -- whatever the term is -- were now
18 RealNetworks shares, which was a publicly
19 traded company. So when that happened, I sold
20 my shares in RealNetworks.
21 Q. Right when they concerted from
22 Xing to Real?
23 A. I believe within days of that,
24 yeah. I do believe so.
25 Q. That would have been

00297

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2 September 1999?
3 A. Thereabouts, yeah.
4 Q. Is there any particular reason why
5 you didn't hold the shares?
6 A. I thought RealNetworks shares were
7 dramatically overpriced.

8 Q. And as of September 1999, what if
9 any business dealings did you have with
10 RealNetworks?
11 A. After September of --
12 Q. No. As of September 1999.
13 A. Oh. As of. Well, as of
14 September, I didn't -- I was part of the team
15 to manage the relationship with RealNetworks,
16 so they were still a business development
17 relationship that I had a role in maintaining.
18 Q. At that point in time, Enron
19 had already acquired the license, the
20 \$5 million/1 million set of software you talked
21 about earlier?
22 A. Right.
23 Q. That occurred when?
24 A. Very end of December '98 or
25 beginning the '99.

00298

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2 Q. And you were still attempting to
3 establish certain business transactions with
4 them in the '99 period?
5 A. Well, specifically in November of
6 '99, which happens to be after I sold my stock,
7 I was trying to get them to give me a purchase
8 order for the use of our network so that we
9 could call them a "customer" instead of just a
10 "strategic partner."
11 Q. What was your role with respect to
12 business dealings with Sun in the 1999 time
13 frame?
14 A. Well, generally, it was very
15 limited with the exception of I cooperated with
16 a gentleman there by the name of Bill Correll,
17 who was in charge of their multimedia strategy
18 or one of the individuals in charge of that.
19 So, for example, he invited me, at
20 Sun's behalf, to speak at a conference in New
21 York City, which I did. With the exception of
22 activities with Bill Correll, I met with -- who
23 I believe is John Hannon, our account executive
24 assigned to Enron. And I met with John Hannon
25 once or twice and tried to get him to alter the

00299

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2 strategy that was ultimately unveiled at the
3 analyst conference.
4 I tried to get them to appear to
5 initiate an initiative with us that would be
6 different than what was negotiating. So that I
7 had a little bit of contact with them in that
8 context, but, otherwise, I really didn't have
9 any contact with them.
10 Q. Were you involved at all in the

11 licensing of InterAgent to Sun in April 1999?
12 A. No.
13 Q. Do you know who was involved in
14 that?
15 A. No, I don't.
16 Q. I am going to show you a document
17 that we will mark as Exhibit 50421, a one-page
18 e-mail from a Matt Harris dated April 16, 1999,
19 production Number MSP03405. You will note you
20 were on the "To" line, second line down to the
21 right-hand side.
22 A. Okay. Is there a question?
23 Q. I just wanted to give you a chance
24 to read it.
25 A. Okay. Thanks. Yeah. I've kind

00300

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2 of -- I've read it.
3 Q. Okay. Do you recall -- the
4 subject line is Media Cast Deployed! Do you
5 remember seeing this e-mail on or about
6 April 16, '99?
7 A. Yeah.
8 Q. And it says in the first line,
9 Wanted to let you know that we have -- we have
10 our first successful deployment of ePowered
11 Media Cast via distributed servers to
12 distribution partners, exclamation point.
13 A. Yeah.
14 Q. What is that referring to?
15 A. I read it to mean we've put our
16 first server in an ISP pop that enables us to
17 send content from us to the ISP.
18 Q. Okay. Then it goes on to say, "We
19 have successfully distributed ePowered Media
20 Cast Showcase," capital S. Do you see that?
21 A. Yeah.
22 Q. What is "Media Cast Showcase"?
23 A. It's content that we're not being
24 paid to distribute, that we've essentially
25 borrowed on terms that we can use it for

00301

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2 demonstration purposes.
3 Q. And then it gives a showcase site
4 at -- it gives the Internet site there. Do you
5 see that?
6 A. Yes, I do.
7 Q. What would you get if you clicked
8 on that site back in April of '99?
9 A. Some clips of video that show ABC
10 News, Bloomberg, America's Health Network
11 content over the Internet, I believe.
12 Q. Did you see this as a positive
13 development?

14 A. I saw it as Matt Harris taking
15 credit for stuff that he didn't -- wasn't
16 involved in, but . . .
17 Q. Putting that aside, did you see
18 this as a positive development that indicated
19 to you that Media Cast was beginning the
20 process of, perhaps, commercial viability?
21 A. No. I viewed this as yet another
22 example to put window dressing on a -- on
23 demonstration content. I mean, I view this as
24 an acknowledgment that prior to this date,
25 there was not a single server deployed in

00302

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2 E-Media Cast ISP distribution partner, and that
3 now we had one server with sample content that
4 customers had borrowed -- we had borrowed from
5 customers, so I don't know.
6 It can be looked at as a glass
7 half full, glass half empty. It's kind of a
8 marker that says we're not further along than
9 this, but it's also a statement that we're
10 making progress, so it's both.
11 Q. What indicates to you that it was
12 deployed on a single server as opposed to the
13 plural use of servers, in the first sentence?
14 A. Oh, I guess I misread that, and
15 -- these are among -- the first, second, and
16 third servers that we've ever deployed I think
17 comprise the servers that he's referring to.
18 So he's not saying in addition to those servers
19 we deployed last month. He's saying these are
20 the first servers that we have deployed. So
21 that includes the first server.
22 Q. There's a reference to "ePowered
23 ISP use." Do you see the three, Epoch,
24 Easystreet, and InterNAP?
25 A. Yes.

00303

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2 Q. What is an ePowered ISP?
3 A. It's an ISP that allows us -- and
4 when I say "us," I mean Enron -- to put our
5 technology inside their network and to connect
6 to that technology from our backbone, not just
7 through the Internet. So it's a process by
8 which we extend our network to their network,
9 and we collocate technology in their point of
10 presence.
11 Q. Was anybody else doing that at the
12 time?
13 A. Other people were doing it, such
14 as Akamai, but they weren't doing it with the
15 benefit that they had that second half of the
16 equation, which is the fiber connectivity to

17 the ISP.
18 So we were building an extra net
19 or an overlay network to our technology so that
20 it was dual attached. It was attached to the
21 Enron network and it was attached to the
22 Internet, but this was the whole premise of the
23 Media Cast topology, which is that we had
24 controlled bandwidth within the Internet and
25 access to their customers from their point of

00304

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2 presence. So nobody was doing that.
3 Q. Was what you just described part
4 of the architecture that was embodied in your
5 initial business plan?
6 A. Yes, fundamental to it.
7 Q. This concept is fundamentally the
8 concept that you and Yeager brought to the
9 company; is that right?
10 A. Well, it's fundamental to the
11 concepts that we brought to the company, yeah.
12 It's not the fundamental concept.
13 Q. But one of?
14 A. It's one of them.
15 Q. Okay. And is this an accurate
16 statement, that these three ISPs are ePowered
17 ISPs, Epoch, Easystreet, and InterNAP, as of
18 April 1999?
19 A. Well, one could -- the answer I
20 don't know is -- the original definition of an
21 ePowered ISP is one that agreed to a
22 revenue-sharing agreement so that we didn't
23 have to pay them. We shared the risk with
24 them.
25 My understanding is that InterNAP

00305

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2 did not agree to that; that we had to sign a
3 contract to purchase capacity from them. So
4 from my way of thinking, it wasn't an ePowered
5 ISP. They were a vendor. And we made a
6 distinction between the two.
7 Now, I don't know if Matt was
8 using the word in that context or not or the
9 term in that context or not.
10 Q. Well, do you know whether the
11 agreement to purchase or to pay InterNAP as a
12 vendor, as you call it, whether that had
13 occurred yet by April of 1999?
14 A. I don't know. I don't think so,
15 but . . .
16 Q. I thought from your testimony
17 earlier today that you indicated that was later
18 in the year. Do you know whether that was?
19 A. Yes. This goes against my

20 recollection because I was not aware at this
21 time that we had ePowered InterNAP, so I don't
22 -- it may be that what Matt is referring to is
23 doing this in Portland with InterNAP and what I
24 was referring to is doing it up in Seattle at
25 their main network node. So I don't know.

00306

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2 Q. I am going to mark as
3 Exhibit 50422 another one-page e-mail with
4 production number MSP06281 dated, it looks
5 like, June 11, 1999.
6 A. Okay.
7 Q. Do you remember this e-mail?
8 A. I had not recalled it prior to you
9 handing it to me. I don't remember reading it
10 in 1999.
11 Q. It says, "Congrats to all! This
12 is a great milestone" on the top e-mail, with
13 the subject line, ePowered Media Transport
14 enters customer beta. Do you see that?
15 A. Yes.
16 Q. And then if you look at the Mark
17 Palmer e-mail below it dated 6/11/99, it says,
18 "Yesterday, our ePowered Media Transport
19 product entered beta testing with the first
20 customer, Waterfront, using the web interface."
21 A. Yes.
22 Q. Do you recall what the status was
23 of Media Transport in June of '99 with respect
24 to a customer called Waterfront?
25 A. Well, I think this is an

00307

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2 inaccurate characterization of Waterfront. I
3 was responsible for introducing Waterfront to
4 Enron, and I'm not aware that they were a
5 customer. This is an engineer, Mark S. Palmer,
6 characterizing a vendor as a customer, in my
7 opinion, inaccurately.
8 Q. Do you recall ever telling
9 Mr. Palmer that he was inaccurately describing
10 Waterfront as a customer?
11 A. I remember talking to Mark Palmer
12 about this fairly extensively because he was
13 complaining that his knowledge of the customer
14 universe at large was coming from us, as
15 intermediaries.
16 So I arranged for him to go to New
17 York and to meet the people at Waterfront and
18 to view their operations without any of us
19 business development folks -- which he referred
20 to as salespeople -- cluttering up the process.
21 So my understanding is that Mark
22 went to Waterfront in order to get firsthand

23 knowledge of how a video network is operated
24 and what the customer's perspective is.
25 The problem is is that from my

00308

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2 -- well, Waterfront is in the video services
3 distribution business. They're a network
4 operator. They're not a content originator.
5 So we were plugging into the
6 Waterfront network, and we had given them a
7 purchase order so that we could reach ABC, NBC,
8 CBS and a couple other hundred content
9 originators in New York. So I don't know if
10 they were ever a customer, and I don't believe
11 this is accurate, but . . .
12 Q. But do you recall -- I think my
13 question was, do you recall ever telling
14 Mr. Palmer that you don't believe that he is
15 accurately describing Waterfront as a customer?
16 A. No, I don't recall that.
17 Q. Okay.
18 A. Sorry.
19 Q. Do you have an understanding of
20 what the reference is to "beta testing for
21 Media Transport" in this e-mail?
22 MR. YOUNGWOOD: Objection to form.
23 A. Well, I think I do. I mean, yeah.
24 As I testified earlier, I saw a mock-up of the
25 web interface to the Media Transport platform,

00309

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2 and I think that they were testing that
3 interface -- well, he says "using the web
4 interface," but he doesn't say specifically
5 what they're beta testing.
6 So the answer to your question is
7 no, I don't know what he's referring to when he
8 says "beta testing."
9 Q. As of June 1999, what -- was there
10 something that was referred to internally at
11 Enron as the "web interface"?
12 A. Yes. It was that scheduler applet
13 or application that was being coded by Mark
14 Palmer's team to be our first in-house
15 developed application, elements of which would
16 later -- were designed to comprise the BOS.
17 Q. That application, is that -- is it
18 typical, an application like that would undergo
19 besting testing with a customer?
20 A. Absolutely.
21 Q. Do you know in June 1999 whether
22 there was a beta test software for the
23 Transport using the web interface?
24 A. No, because I don't know if they
25 were testing the interface to see if how we

00310

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2 laid out the calendar and the start and the
3 stop times and the things that I described as a
4 mock-up. Were they sitting and testing that on
5 a computer or were they testing the
6 implementation that was behind that, the
7 controls of the software that would enable the
8 network to do certain things? So I don't know
9 what's being referred to there.

10 Q. I think you testified that you had
11 introduced Waterfront to Enron; is that right?

12 A. Yeah.

13 Q. After that introduction, were you
14 involved at all in the relationship between
15 Enron and Waterfront?

16 A. Very little. As soon as
17 April Hodgson came on, she had the same
18 contacts I did, and she assumed the
19 responsibility for that relationship.

20 Q. So as you sit here, you just don't
21 know what was really going on in terms of beta
22 testing with Waterfront, whatever that phrase
23 may be.

24 A. That's true. I don't really know
25 what was going on with that.

00311

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2 Q. There's a reference here to
3 Bill C., third line down in that long group of
4 congratulations. Do you see that?

5 A. Can I interject, to finish
6 answering your last question?

7 Q. I didn't mean to interrupt.

8 A. You didn't interrupt, but I just
9 thought of something that I should have -- I
10 did hire an independent contractor to write a
11 status report on Media Transport to show the
12 implementation details. And I provided that in
13 response to the deposition -- whatever you call
14 it, the subpoena. And so I just wanted to be
15 on the record saying that I continued
16 throughout 1999 to have a hands-on role on the
17 status of Media Transport, and to the extent
18 that I actually published a report inside the
19 company that was prepared by a contractor
20 working for me, and it was a fairly significant
21 report.

22 So I'm just saying that I was
23 privy to a lot of information about the status,
24 but I don't remember this.

25 Q. Okay. The reference to "Bill C.,

00312

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2 for dreaming much of this up," do you see that?
3 A. Yes, I do.
4 Q. Do you have an understanding as to
5 what that is referring to?
6 A. Yes.
7 Q. What is that?
8 A. I basically described what this
9 service should be in the business plan that
10 -- and basically architected this product as a
11 product.
12 Q. As you sit here today, do you
13 remember whether you viewed this as a major
14 milestone in the Media Transport product
15 evolution?
16 MR. YOUNGWOOD: Objection to form.
17 Q. Let me rephrase that. Mr. Palmer
18 uses the term "this is a great milestone." Do
19 you have any opinion, as you sit here today,
20 whether you agree with that statement?
21 MR. KORN: Objection to form.
22 Q. In fact, let me strike that
23 because I think I am misreading this e-mail.
24 The top e-mail, it's kind of blanked out, you
25 can't see who it's from, but just the

00313

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2 statement, generally, "this is a great
3 milestone," do you agree with that statement?
4 A. Yes.
5 Q. Why is that?
6 A. Anything that got our technology
7 into customer environments is a good or great
8 milestone. So it's describing product
9 -- progress, and it's recognizing, down below
10 in the e-mail, that a lot of people doing a lot
11 of hard work.
12 Q. I'm going to mark something that's
13 been marked before but I don't have the
14 previous exhibit number, so here we go again.
15 It's a compilation of Media Transport operation
16 guides, sales guide, and product guide.
17 A. Okay.
18 Q. And I will get a clean copy of
19 that. We will mark this as 50423. It's got a
20 cover e-mail from Bill Collins dated 10/25/99,
21 and bears production numbers Yeager,
22 Y-e-a-g-e-r, cap S, 000006357 through 6478.
23 A. Okay.
24 (A discussion was had off the
25 record.)

00314

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2 A. Okay.
3 Q. Do you recognize what we've marked
4 as Exhibit 50424?

5 A. Yes.
6 Q. What do you recognize it as?
7 A. Well, the cover sheet is an e-mail
8 from Jeanette Busse. She's thanking me for
9 Peter Hartz' report. That was the report I was
10 just referring to. I guess it was done in
11 October. I recalled it being done in
12 November or December, but -- and then it's an
13 operations sales guide and product guide to
14 ePowered Media Transport.
15 Q. It's actually three guides,
16 correct? An operations guide --
17 A. Yeah.
18 Q. -- beginning on page 6358?
19 A. That's correct.
20 Q. And then a sales guide on 6422?
21 A. That's correct.
22 Q. And then a product guide on 6453.
23 A. That's correct.
24 Q. What are these reports intended to
25 be?

00315

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2 A. They are intended to be documents
3 for internal consumption that show other
4 members of Enron Communications how to present
5 the service to customers or how to understand
6 its operational characteristics and technology
7 or how to understand features of it as a
8 product offering.
9 Q. You mentioned this Peter Hartz.
10 He's the outside independent contractor you
11 used to --
12 A. That's right.
13 Q. And how did Mr. Hartz, to your
14 knowledge, collect the information that
15 ultimately is embodied in 50424, the exhibit?
16 A. This exhibit?
17 Q. Yeah.
18 A. He didn't participate in this.
19 Q. Okay. Help me understand what
20 -- who created this?
21 A. When you say "this" --
22 Q. This exhibit.
23 A. This exhibit?
24 Q. The exhibit starting with the
25 operations guide and going to the sales guide

00316

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2 and the product guide, who created them?
3 A. Well, according to the previous
4 exhibit, Exhibit 50422, Mark Palmer thanks
5 somebody here for writing the documents
6 -- where is it? I've lost it now. Oh.
7 "Leigh E., for creating spiffy and thorough

8 manual in pdf, no less." So it's possible that
9 Leigh E. wrote these. I don't know.
10 Q. Well, let me take you back to the
11 cover e-mail. It says, "Thank you for a copy
12 of Peter Hartz' report."
13 A. Yeah, which is not attached.
14 Q. That is not what is attached.
15 Something else is.
16 A. That's right.
17 Q. And what is Peter Hartz' report?
18 A. I sent Peter Hartz' report on the
19 above e-mail, and she's sending me these. So I
20 sent her a report, and she's sending me some
21 information.
22 Q. Okay. And you're getting these
23 three guides for purposes of forwarding to
24 Bloomer and Griebeling because they've just
25 recently arrived, and you're trying to educate

00317

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2 them on the product?
3 A. It appears so, yes.
4 Q. Okay. And who drafted these three
5 guides?
6 A. I don't know.
7 Q. Did you provide any input?
8 A. Yes. I helped train Jeanette
9 Busse, who was the product manager for this
10 service, I believe. And I had met with -- I
11 mean, I can see in here that some of the
12 programmers must have contributed a lot to
13 this. And I had met with some of the
14 programmers about what the features -- the
15 characteristics of the service should include.
16 So I was a contributor but not a
17 direct participation in the drafting of these
18 documents.
19 Q. Do you know if they were ever
20 finalized?
21 A. The documents?
22 Q. Yes.
23 A. No, I don't.
24 Q. There's a reference on the e-mail
25 from Jeanette Busee, "Each of these documents

00318

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2 are draft form and are currently being
3 finalized." Do you see that?
4 A. Yes.
5 Q. Do you recall whether, about this
6 time, you would have reviewed this for
7 accuracy, these guides?
8 A. As I sit here today and I get my
9 memory refreshed, I remember this is a pretty
10 exciting thing because I had not previously

11 been aware of some of what these things
12 illustrate and show.
13 So as I sit here and review these,
14 I'm recalling certain things about these
15 documents that they were making me aware of
16 that I had not otherwise been aware of.
17 For example, the use of InterAgent
18 in this service platform, I described earlier
19 that InterAgent and the scheduler and the
20 billing mechanisms for eventual use in the
21 broadband operating system were initially to be
22 developed for this product.
23 And as I look through this and I
24 read how InterAgent is being used for the
25 implementation of this product, I am reminded

00319

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2 that InterAgent was, in fact, deployed on the
3 network, to the extent that it was used in the
4 development of this product, and that I had
5 forgotten that.
6 Q. Am I correct that when you say
7 "deployed on the network," that you would agree
8 that that is some form of intelligence on the
9 network?
10 A. Yeah.
11 Q. As of October '99?
12 A. Yes. To the extent this is
13 implemented, this is describing intelligent
14 network features.
15 Q. Okay.
16 A. And specifically in reference to
17 scheduling and invoicing.
18 Q. Okay. And going back, you had
19 grabbed Exhibit 50422, the e-mail
20 congratulating people, this "Leigh E. for
21 creating spiffy and thorough manuals in pdf, no
22 less." Do you know if that's a reference to
23 the manuals, Exhibit 50424?
24 A. I don't know that. I was just
25 drawn to her name because I don't recognize her

00320

1
2 name. And when you first showed me the e-mail,
3 I was not -- I had not recalled that there were
4 manuals. Then you provided the next exhibit,
5 50423, and I started to recall that these
6 manuals did, in fact, exist, and that these
7 are, in fact, them. So I'm getting my memory
8 refreshed about things that I haven't seen for
9 five years.
10 Q. Okay. Let me have you flip to
11 page 6364. And that's in the first operations
12 guide.
13 A. Okay.

14 Q. There's a reference there, second
15 line down --
16 A. My page ends at 60.
17 Q. Your ends at 60? 6364.
18 A. Oh, I see.
19 Q. I think you're a hundred pages
20 ahead.
21 A. 63 -- yep, you're right. 63
22 -- okay.
23 Q. There's a reference there -- well,
24 heading, Installing and Configuring ePowered
25 Media Transport. The first -- second sentence

00321

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2 there says, "Before installing any ePowered
3 Media Transport components, InterAgent must be
4 installed." Do you see that?
5 A. Um-hum.
6 Q. You need to answer orally.
7 A. Oh. Yes.
8 Q. And do you have an understanding,
9 when you read that, as to what is being
10 referred to with respect to the installation of
11 InterAgent?
12 A. I understand what InterAgent is
13 and I understand that they're saying -- what I
14 understand they're saying, so -- I'm sorry.
15 Q. Do you think that's an accurate
16 statement, in order to -- well, if you're
17 installing the Media Transport components, that
18 InterAgent would also have to be installed?
19 A. Yeah, I assume so. I mean, yeah.
20 Q. Why is that?
21 A. Because what they're describing
22 here is how billing and reservation communicate
23 to create capabilities, and that's the role
24 that InterAgent is conceived of as doing, which
25 was communicating between software processes

00322

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2 for the purposes of creating network
3 intelligence, and, specifically, network
4 intelligence that enabled bandwidth
5 reservations or video bandwidth reservations
6 and billing.
7 Q. And if you look on page 6367 --
8 and I'm looking under the heading starting the
9 End User GUI, graphical user interface; is that
10 right?
11 A. Yeah.
12 Q. -- it says, Start the reservation
13 manager. "The reservation manager runs in the
14 Portland network operations center (NOC)." Do
15 you see that?
16 A. Yeah.

17 Q. What was the reservation manager?
18 A. Well, my understanding is the
19 reservation manager was something that said
20 when do you want to use Media Transport? For
21 what duration of time? And when do you want to
22 stop using it?
23 Q. And that's something you would
24 call intelligence, right?
25 A. Yeah.

00323

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2 Q. Let me get you to flip to page
3 6372, and the chapter is Flow Control. And, in
4 particular, I want you to focus on the second
5 bullet point where it says, "The web server
6 with which the end user's computer is
7 interacting distributes the necessary
8 reservation information to the InterAgent
9 router running on a computer in the network
10 operation center (NOC). The router then sends
11 the information to the reservation manager to
12 schedule the reservation correctly."
13 A. Yeah.
14 Q. Is that an accurate description of
15 the -- how the reservation component works?
16 A. It appears to be.
17 Q. Then on page -- just so I
18 understand the GUI, is that the screen that
19 would come up that would allow you to actually
20 perform the function of reservationing?
21 A. Yes.
22 Q. Page 6388, there's a Chapter. 5,
23 is that pronounced demons [phonetic],
24 d-a-e-m-o-n-s?
25 A. I always called it daemon, but it

00324

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2 may be demon, daemon.
3 Q. It says, "The ePowered Media
4 Transport system depends on a variety of
5 daemons, each of which has particular
6 responsibilities." Do you see that?
7 A. Yes.
8 Q. And then I'm skipping down. It
9 says, "Daemons that must be running are
10 transmitd" -- I guess that's a typo --
11 "received, encoded, decoded, alarmd."
12 A. No, it's not a typo. "Transmitd"
13 is a process. It's receive-d, encode-d,
14 decode-d, alarm-d, and diskman.
15 Q. Are these messages that are
16 handled by the InterAgent software, these
17 daemons?
18 A. No. My understanding is that
19 these daemons -- well, I think we did say

20 demons [phonetic], but anyway. These daemons
21 rely on InterAgent to communicate with each
22 other. So that's my understanding of the way
23 this is being described.

24 Q. Well, what are daemons?

25 A. They're subroutines or their

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2 software, subcomponent -- components of -- the
3 processes that run under an operating system,
4 in this case, under a UNIX-based operating
5 system. And they perform functions. So
6 they're programs.

7 Q. Do you consider them intelligence?

8 A. No.

9 Q. What do you consider them?

10 A. They're background processes, the
11 same way this computer has a lot of things
12 going on that you don't see it doing. It's
13 monitoring its temperature, its status. It's
14 -- so demons or daemons are background
15 processes that get initialized when a computer
16 is booted; and, in and of themselves, they're
17 -- they have to be communicated with in order
18 to create intelligence, as we use the term.

19 Q. Okay. And going on to the sales
20 guide, page 6428 --

21 A. 6248?

22 Q. 6428.

23 A. Oh, 6428. Okay. Yeah.

24 Q. There's a reference at the bottom
25 of that page, "The interface allows users to

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2 reserve system resources, perform scheduling,
3 and make billing inquiries over a secure
4 connection." Do you see that?

5 A. Can you point on the page where it
6 is?

7 Q. The very bottom of the page.

8 A. Oh, I didn't see it. Okay. Yes,
9 I see it now.

10 Q. Okay. What is that referring to?

11 A. The reservation and scheduling and
12 billing that a customer would do to use the
13 service.

14 Q. Okay. And then on page 6443,
15 there's a set of FAQs there.

16 A. Are you still on the sales guide?

17 Q. I am.

18 A. 6443?

19 Q. I think I am.

20 A. Okay.

21 Q. Okay. One of the FAQs that's
22 offered here in the sales guide is, When will

23 you be offering the service to the public?
24 Answer: We will offer the service in fall '99.
25 Do you see that?

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2 A. Yes.
3 Q. As of October '99, was there an
4 expectation that you could still deliver the
5 service in the fall of '99?
6 A. As of October? Isn't October the
7 fall?
8 Q. Yeah.
9 A. Okay. So --
10 Q. I think the fall ends in the third
11 week in December.
12 A. Okay. Oh, does it really? So
13 you're saying was the expectation in October
14 that by the third week in December, this could
15 still be delivered?
16 Q. Yes.
17 A. And I would say yes, the
18 expectation was that.
19 Q. And there was some new testing
20 opportunities, some new opportunities with new
21 clients at about this time, wasn't there,
22 potential clients?
23 A. Yeah. There was a lot of them.
24 Q. NBC was one of them?
25 A. Yeah.

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2 Q. ABC?
3 A. I seem to recall that, yeah.
4 Q. What others do you recall?
5 A. Oh, I recall CNN was very
6 interested and an awful -- I mean, we had
7 literally thousands of leads from NAB, and my
8 guess is that half of them were interested in
9 Media Transport. So there were a lot of people
10 that were interested.
11 Q. And as of October 25, 1999, the
12 arrival of Bloomer and Griebeling, are you
13 optimistic that Media Transport is a viable
14 -- has a -- could be a commercially viable
15 product for Enron?
16 MR. YOUNGWOOD: Objection to form.
17 A. Yes.
18 MR. KILDUFF: It is 6:00 on the
19 money. Call it a day.
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VIDEOGRAPHER: This concludes the
Tape 5 of the deposition of William Collins.
Going off the record. The time is 6:01.
(Time noted: 6:01 p.m.)

WILLIAM COLLINS

Subscribed and sworn to before me
this ____ day of _____, 2004.

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STATE OF OREGON) Pg__of__Pgs
ss:
COUNTY OF MULTNOMAH)
I wish to make the following changes, for
the following reasons:
PAGE LINE
____ CHANGE: _____
____ REASON: _____
____ CHANGE: _____
____ REASON: _____

00331

Collins, 1/2/00, Bates
 17 ECTe015865067.)
 (Deposition Exhibit 50406 for 135
 18 identification, E-mail to
 Hirko and others from Ghavami,
 19 10/1/99, ECTe003533335 through
 -3336.)
 20 (Deposition Exhibit 50407 for 138
 identification, Meeting Notes,
 21 10/12/99, Bates ECTe003148033
 through -8036.)
 22 (Deposition Exhibit 50408 for 144
 identification, E-mail to
 23 Yeager from Collins, 11/16/99,
 Subject: Between you and me,
 24 Bates ECTe015865771 through
 -5774.)
 25

00333

1	E X H I B I T S	
2	DESCRIPTION	PAGE
3	(Deposition Exhibit 50409 for	151
4	identification, E-mail to	
5	Bloomer and others from Cox,	
6	12/20/99, Subject: Re:	
7	Microsoft Strategy - coupling	
8	the wolf pack, Bates	
9	ECggg000132072 through -2074.)	
10	(Deposition Exhibit 50410 for	165
11	identification, E-mail to	
12	Yeager from Collins, 12/27/99,	
13	Subject: Open issues, Bates	
14	ECTe003686936 through -6940.)	
15	(Deposition Exhibit 50411 for	174
16	identification, E-mail string,	
17	starting with e-mail to	
18	DiMichele from Collins,	
19	12/28/99, Subject: Re: Nest	
20	[sic] Steps, Bates	
21	ECTe015865820 through -5824.)	
22	(Deposition Exhibit 50412 for	178
23	identification, E-mail to Cox	
24	from Collins, 12/20/99,	
25	Subject: The 'Truth' Behind	
26	the MFST Deal #1, Bates	
27	ECTe015865795 through -5797.)	
28	(Deposition Exhibit 50413 for	182
29	identification, E-mail to	
30	Ruppert from Collins, 7/19/02,	
31	Subject: FW: Enron wreckage,	
32	Bates 1A0288B0100005.)	
33	(Deposition Exhibit 50414 for	211
34	identification, Compilation of	
35	documents, "William Collins,"	
36	Bates EC 002517771 through	
37	-7808.)	

20 (Deposition Exhibit 50415 for 226
identification, Enron
21 Communications, Inc.,
conceptual Business Plan, F.
22 Scott Yeager, 9/16/99, Bates
ECSH 40688 through -725.)
23
24
25

00334

1	E X H I B I T S	
DESCRIPTION		PAGE
2 (Deposition Exhibit 50423 for		313
3 identification,E-mail to Bloomer		
4 and Griebeling from Collins,		
5 10/25/99, Subject: Files to		
6 review re medial transport, with		
7 attachments, Bates YeagerS000006357		
8 through -6478.)		
9		
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</Transcript>

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