UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

-- X

In re
: Chapter 11 Case
Allegiance Telecom, Inc., et al., : No. 03-13057(RDD)
Debtors. : Jointly
-- X Administered

MARK TRESNOWSKI

New York, New York

Wednesday, October 1, 2003

Reported by:
Kathy S. Klepfer, RMR
Job No. 401

October 1, 2003
2:20 P.M.

DEPOSITION of MARK TRESNOWSKI, pursuant to notice at the offices of Akin, Gump, Strauss, Hauer & Feld, LLP, 590 Madison, New York, New York, before Kathy S. Klepfer, a Registered Merit Reporter and Notary Public of the State of New York.

APPEARANCES

AKIN, GUMP, STRAUSS, HAUER & FELD, LLP
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BY: PHILIP C. DUBLIN, ESQ.
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KIRKLAND & ELLIS
Attorneys for Debtors and Debtors in Possession and the Witness
Citigroup Center
153 East 53rd Street
New York, New York 10022-4611
BY: JONATHAN S. HENES, ESQ.

ALSO PRESENT:
PAUL A. STREET

IT IS HEREBY STIPULATED AND AGREED, by and between counsel for the respective parties hereto, that the sealing and filing of the within deposition be waived; that such deposition may be signed and sworn to before any officer authorized to administer an oath; that all objections, except as to form are reserved to the time of trial.

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(Time noted: 2:20 P.M.)

MARK TRESNOWSKI, called as a witness, having been duly sworn by a Notary Public, was examined and testified as follows:

EXAMINATION BY
MR. DUBLIN:

Q. Good afternoon, Mr. Tresnowski.

A. Good afternoon.

Q. As you are aware, I'm Phil Dublin from Akin Gump Strauss Hauer & Feld. We represent the official committee of unsecured creditors in the Allegiance Telecom bankruptcy case.

We're here today in connection with the debtors' motion with respect to the retention of Impala Partners, LLC with respect to their fee arrangement, and they operate as the debtors' CRO.

I'm going to ask you a series of questions today, and to the extent that I ask you a question and you determine that it's unintelligible, or if you have a problem understanding any part of it, please stop me, let me know what you don't understand, and I'll

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be happy, to the best of my ability, to try to make it more clear.

If you need to take a break, just let me know, and I'll be happy to accommodate you, except to the extent we are in the middle of a question. If you just would answer that question and then we can go ahead and take a break.

Can you please state your full name for the record?

A. Mark Tresnowski.

Q. I'm going to skip the usual formalities. I think you have been through this process a number of times. We don't need to know your title or your education. We're all aware of that already.

What did you do to prepare for today's deposition?

A. I really didn't do anything in the way of document review. All I really did was just kind of go through my own recollection and remember -- try to refresh myself without the aid of any documents or discussions with others as to the events that led up to the retention of

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Impala and what they have done at Allegiance and, in particular, the discussions surrounding their engagement letter.

Q. So you did not discuss with counsel or any other party your deposition today or what you would be discussing?

A. No, I did not.

Q. Is there any reason at all why you feel like you would not be able to testify today?

A. No.

Q. What is your recollection of when the relationship between Allegiance and Impala began?

A. It began in the late May, early June timeframe. The genesis of the relationship was a suggestion by the senior creditors that we consider retaining a CRO, chief restructuring officer, or firm that engaged in operational restructuring, and we considered that request and then went out and did a number of things to try to find someone who was good in that area.

Q. What's your general understanding of what a CRO would be brought in to do for the

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company?

A. I had no understanding prior to this experience, so I'll start with that.

As I looked into the concept, and again, initially it was suggested by our senior creditor, so I started by saying, what do you want? You're saying it's very important to get someone like this. Why is it very important, so what do you think they would bring to the process?

And as I recall, they said that they wanted, in our particular case, they wanted someone who could do several things: One, just do an independent assessment of the company, and by that I took them to mean from market position, product offerings, personnel, just a real independent, very experienced manager-type people would come in and say, here's what we see to not only them but to our board of directors and the unsecured creditors.

They wanted someone who had skill and experience in the bankruptcy process, in particular, the process of rejecting contracts, cutting costs, using the tools of bankruptcy to

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improve a company's cost structure and market position.

I think one of the other aspects of that is to also counsel the company during the process as to what do you do to hold the company together during this process, how do you deal with morale issues, how do you deal with customer perception issues. So that was also part of it.

And I think the other thing that they thought was important, and we tended to agree with them, is that our case had landed in a, you know, in a posture such that they thought it would be helpful to get an independent party to come in and communicate with the creditors and say here's what we see.

I mean, they were very frank and they said that, in terms of the business projections and the understanding and view of the business' future, they thought that the company didn't have the kind of credibility that they wanted, because this management team had operated the company for so many years.

Q. Who initiated the contact between the

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company and Impala?

A. I don't know. I think it may have been Royce Holland, our chairman. I know that Impala was recommended to us, highly recommended to us, by a number of different sources, two of whom were former colleagues of Royce's, who said that they had worked -- without being specific, that folks were at KMC and the other folks were at Velocita, that was the other company.

And they had heard that we were in the process of looking for a CRO, and they called unsolicited and said, hey, if you're looking for a CRO, the folks at Impala are just -- we've had a great experience with them, they have added a lot of value and you really ought to consider them. So it was definitely something that was initiated on the management side, as opposed to a lot of the other candidates came from the creditors.

Q. So, after the initial contact was made by Royce, at what point did you get involved in the process of the retention of Impala?

A. As with the other candidates, we had set up a process where the candidates would

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interview with various senior managers, myself included, and at least one and preferably two or three members of the board of directors, and then -- and I knew there were interviews going on with the creditors. I guess I was less involved in directing that.

I don't recall the day, but I was down in Dallas when Paul was down in Dallas, and we got together and talked about the potential engagement, his experiences, and what they could bring to us, what I thought we needed. And then, you know, then I was very involved in the process of selecting -- probably within a week or two after that of selecting them as the CRO.

Q. What was it that you believed you needed? You referenced that when you were talking with Mr. Street you were talking about what you thought you needed.

A. Yes, I think -- you know, it was interesting. I think the creditors, the senior creditors, if you will, came at this, you know, as an, almost as a demand, that they actually were going to hold up the cash collateral order unless we did this. And I never quite

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understood that because we didn't approach it as a negative thing. I mean, we approached it as something we certainly would want to look at.

And I think the specific things I had in mind were that, you know, we had no one on our management team, to my recollection, who had ever gone through a bankruptcy process, myself included. So we didn't have that kind of expertise walking the halls down there.

Secondly, we -- and that brings with it, again, as I said earlier, the contract rejection activities, the employee morale activities, the cost cutting activities, everything that goes with it was something we were going to cut our teeth on by ourselves. And we had outside advisors, obviously. We had a law firm and we had Greenhill, but we had no one resident at the company who would deal with that on a day-to-day basis, although we certainly had planned to do the best we could.

So we saw value clearly there, and I think I sat down with the creditors, senior creditors, sorry, the week after the bankruptcy and had a fairly sobering discussion with them

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where they said, you know, your projections don't have credibility. I contested that. I said they should have credibility, and they were put together in a credible way, but, I said, it's important that you feel that way.

And they said, we don't think they have credibility and, you know, they said, we don't really know why it's often hard for someone's who's built a company from scratch to see it accurately in a different market environment, and so we really, really stress that we think that you would benefit, we would benefit, and the process would benefit by having an outsider come in and live at the company and produce a set of financials that had credibility in their eyes.

Q. The projections that you are referring to, is this what's commonly referred to as the Triad III business plan?

A. I don't think so. No, I don't think that's what -- they didn't refer to that specifically. I think it was more of -- and I don't think they were -- it wasn't my impression they were looking at a set of projections and

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saying those don't have credibility. I think they were -- and I'm speculating a little bit here, but I think they were sitting there saying, you know, you folks have grown this business from scratch into a company that's got, you know, $800 million in revenue, but you don't understand bankruptcy, you don't understand how you can cut costs, you don't have a real good sense for the impact this will have on the business, and you also suffer from looking at it the way you've always looked at it and that gives you a bias that makes us uncomfortable. So we want someone else to come in here who doesn't have that bias and give us a fresh look at it.

Q. Those projections they were discussing, were they prepared by the company or by an advisor for the company?

A. The projections that were prepared prior to Impala's arrival were really a joint work product of the company and Greenhill.

Q. And it was the senior lenders' view that the joint effort by the company and Greenhill lacked credibility?

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A. I would state it differently. It was their view that it would be much better if the set of projections that they used to restructure the company on that we all used came from -- benefited from the input of someone else like a CRO.

Q. You mentioned earlier that you had interviewed a number of different CRO candidates. Who were they?

A. The three -- well, actually four, four were given what I would call full consideration down to the end. One was a group called CXO based out of Austin and Dallas, I think; one was a group -- it was an individual by the name of Keith Maeb, M-A-E-B, I believe, who had been recommended by the senior creditors and works more in an individual capacity; and then there was another gentleman by the name of C.P -- the initials C.P. -- Shangkar, and he didn't -- I don't think he did -- he was more like an executive-for-hire, and so he was a little bit different than the typical. He didn't have a lot of bankruptcy experience, but fresh ideas. Some of our private equity investors had worked

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with him and thought he was a good turn-around guy, if you will; and then Impala, of course, and then we took all four of those.

And with C.P. I don't think we ever got to the discussion of compensation or engagement terms. With the other three we did. So he kind of -- I say that just to point out that he kind of was dismissed from the process before we got to the very end.

Q. Was this process with the other -- as long as the process went on with these other three candidates in addition to Impala, was it the same process where the potential candidate would come in and speak with a number of members of the senior management and I think it was one or two members of the board --

A. Yes.

Q. -- I think, was that on an individual basis, or did they meet in groups with members of senior management and board members?

A. It was on an individual basis, and it was basically, depending on schedules, wherever they could. I met with the CXO folks in New York, for example. I met with Paul in Dallas.

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Our senior managers met with all four of them. Our directors -- those tended to be individual meetings, like, you know, Paul may have had dinner or breakfast with a director, and I think in the case of Reid Hunt, I recall it was a phone call. I don't think it was a meeting. That's my recollection anyway.

But that was the process that was used for all of them.

Q. So after you had interviewed these four candidates, did everybody then get in a room or get on a conference call or whatever it was and compare notes and determine who they thought would be the best candidate for the company?

A. Yes.

Q. And did you take notes in connection with these interviews?

A. I did not. I'm not a note-taker by --

Q. Do you know if any other members of the senior management took notes?

A. I don't know. It would -- "I don't know" is the answer. They tended to not be those types of meetings. I mean, a lot of what

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you're looking for there is, of course, there's questions about experiences and things like that, but there's fit, you know, is this someone who's going to walk the halls here and fit in or are they going to walk the halls here and not fit in. So that was -- but someone may have taken notes, I don't know.

MR. DUBLIN: I would just ask if you can check with the company and see if the people at the interviews took notes, I would like to get copies of those.

Q. The process after you had these initial meetings, when the final decision was made on retaining Impala, was that decision made by management, or was that decision made by the board, a combination of the two? How did that happen?

A. My recollection is that there was clearly a board vote and the board made a determination, but as part of that determination, they asked for management's recommendation.

Q. And why was it management's -- well, first, I'm sorry, to the extent -- do you know

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if there are board minutes from that vote?

A. There should be. I can check that.

MR. DUBLIN: Again, we would like to get copies of the minutes from the meeting where the board determined to select Impala.

Q. Why was it that -- I guess senior management made the recommendation that Impala should be the CRO for the company?

A. Yes.

Q. Why was it that Impala was chosen by senior management as opposed to any of the other three candidates?

A. First of all, I will say it was a very strong sense of support for them, so it wasn't -- in other words, it was not a close call. And I think there were a number of things. I think there was a sense of personal fit with the style of Paul and Pete Keenoy -- Paul Street and Pete Keenoy. I met them both.

There was a tremendous amount of respect for their experience. I mean, these were -- they didn't fit the mold, at least the mold as we saw it. A lot of the CRO candidates seemed to be people who had an experience here

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or there and decided that they were chief restructuring officers, and here we had a team of very seasoned executives, many from General Electric, but then predating that to McKinsey & Company, in the case of Paul.

And you know, it was, frankly, it was just overwhelming that we were going to get some seasoned executives who have seen any number of businesses in different industries and have seen companies that needed to be restructured, companies that had worked, and we just thought we were getting a lot. So it was a very, in a sense, a very short discussion. It was one of those things where you say, Dan, what do you think? It's easy. Clay, what do you think? Royce? You know, great.

Q. Was the decision to retain Impala made before or after a discussion of the compensation arrangement for Impala?

A. I think it was after. My recollection -- that job usually falls to me, so my recollection is I talked to Paul, as I did with the other candidates, and I said, okay, let's talk about money. And we had a very open

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discussion about that, and so I had a sense for what that was going to be and conveyed that to the board. And so it was done prior to their decision.

Q. I just want to show you a document real quick. I have copies for everybody. I'm just going to give you all at the same time and I'll reference which document we use.

A. Great.

Q. The first document we would like to start with is the Motion of Debtors Pursuant to Sections 105 and 363 of the Bankruptcy Code for Approval of Services Agreement with Impala Partners, LLC.

Please take a moment to review the document.

(Pause.)

A. Okay.

Q. Have you ever seen this document before?

A. I believe so.

Q. What is it?

A. This is the -- our motion to engage Impala.

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MR. DUBLIN: I'd like to mark this exhibit as Tresnowski Exhibit 1.

(Tresnowski Exhibit 1, Motion of Debtors Pursuant to Sections 105 and 363 of the Bankruptcy Code for Approval of Services Agreement with Impala Partners, LLC, marked for identification, as of this date.)

Q. There is an exhibit to the motion. We'll just refer to it as "the motion," if that's okay.

A. Sure.

Q. That contains Impala's letterhead?

A. Yes.

Q. It's dated July 11, 2003?

A. Yes.

Q. Just take a second to look that over.

A. Yes, I'm familiar with this.

Q. What is it?

A. This is the actual engagement letter that we signed with Impala.

Q. The version that's attached, and I believe this is the document that was filed with the court, is not signed. To the extent counsel can provide us with a signed copy, we would

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appreciate getting one.

A. Okay.

Q. Were you the person primarily responsible for negotiating the terms of this agreement for the debtors?

A. Yes, I was.

Q. If I can ask you to turn to the -- on the first page, and just go to the third paragraph that's labeled "Services."

A. Uh-huh.

Q. Can you tell me what this paragraph describes as what Impala's role was going to be for the company?

A. I'm sorry, there's a paragraph labeled "Services"?

Q. It's on the first page.

A. Oh, I'm sorry. Here it is. It's on the first page.

MR. RATHKOPF: Objection to form.

A. I'm sorry, if you can repeat the question. You want me to describe what it -- what the service are, or --

Q. If you can just tell me what this paragraph says the role that CRO will perform

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for the company.

A. Well, I wouldn't be comfortable doing that unless I read it into the record, but it's -- it is a, you know, a complete description of the services that they will perform -- I'm sorry, it's not a complete description, it's a description that is inclusive in the sense that it has some general language and then some specifics, and those specifics being a reduction of costs, an increase in efficiency, improvement in sales productivity and profitability, management of operational bankruptcy task forces established by the company, and developing the company's long-term business strategy.

Q. Is that what it says, that third paragraph marked "Services," or is that just the general, what you view as being the role as the advisor as set forth in paragraph --

MR. HENES: Can I ask a question? Since it's all stated here, can't we just -- it says what it says, right? I'm just not sure why Mark has to read it.

MR. DUBLIN: I just want to make sure

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he understands that the document says what it says.

MR. HENES: Okay. Can you just ask him if he understands that? That would be easier.

Q. Do you understand that the purpose of this document was to delineate the services -- among other things, delineate the services that Impala will be providing for the debtor?

A. I don't understand it to be an exclusive list of the services.

Q. If you look, please, at, again, that paragraph, third paragraph labeled "Services," can you just read into the record that first sentence.

A. "Impala shall serve as the company's chief restructuring officer and provide advice and information to the company in connection with the restructuring."

Q. And then if you can turn to page 3 and look at paragraph 5.

A. Yes.

Q. That's "Role as Advisor." I believe that's the paragraph you were looking at a few

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moments ago. Can you again read into the record just the -- I think it's the tenth sentence, the one that begins "Impala's primary responsibility."

A. "Impala's primary responsibility is to advise on the operational restructuring of the company, including, but not limited to, (a) the reduction of costs and expenses and efficiencies; (b) the improvement of sales productivity and profitability; (c) management of the operational task forces established within the company; and (4) developing the company's long-term business strategy."

Q. Do you understand these four delineated items to be the primary, I understand not necessarily all of the responsibilities that Impala may have for the debtors, but the primary responsibilities?

A. I wouldn't -- no, I wouldn't say that. I mean, I just -- you know, what it says is their primary responsibility shall be to be the operational restructuring officer, and that that primary responsibility will include 1 through 4, but there might be other things. And we were

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getting into this engagement like any engagement: You want to leave some flexibility and let it develop over time with the circumstances. So it has a tendency to say that you'll do these things and not these things.

Q. Do you think, broad strokes, the items that are delineated here are typical or commonplace of what a CRO would perform for a company such as Allegiance in Chapter 11?

A. I really don't know.

Q. Again, let's go back to your initial discussions that I believe, after your group had coalesced around Impala, that you were then the guy that was going to go negotiate with Paul and with Peter to determine the fee structure and the scope of the engagement.

In the course of these discussions, did you discuss Impala's compensation or fee arrangement?

A. Yes.

Q. And what was discussed with respect to Impala's proposed fees?

A. We discussed two components: That there would be a monthly fee, if you will, and

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then there would be some kind of a success fee. Of course, there would be expense reimbursements and indemnification and other standard provisions, but the two kind of compensation components would be the monthly fee and the success fee.

Q. Okay. Can you describe the discussions with respect to the monthly fee?

A. We discussed what they thought was appropriate. We were aware of what some monthly fees were in some other cases. We looked at that, and, you know, like good corporate stewards, we tried to get the fee reduced.

And frankly, I had a conversation with Paul where I pushed him very hard and said, you know, why this, why not some other number, and he answered that to my satisfaction. And I talked to the other managers and the board as to how he came up with that number and said that, in my opinion, I thought it was a reasonable number.

Q. You said you had looked at some other monthly fee arrangements in other cases. Do you recall the cases that you looked at?

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A. I know one I looked at was the Metropolitan Fiber Networks, and I think the fee was 275, but -- and I also had some sense for what other people were charging. This is a experience not unlike hiring any professionals in bankruptcy. Word gets out that you're hiring someone of this kind and you get lots of e-mails and calls, and so I actually, whether I wanted it or not, I had the benefit of talking to more than just those four.

Someone from Wilson Alvarez called and someone from Glass something called. A lot of people called and, you know, and what I generally said was we're -- we've narrowed down our focus, we're looking for something specific, but, oh, by the way, if I thought about it, what do you charge? And I would get numbers -- and again, I didn't record this in any way, but I would get numbers that were in the 200,000, 300,000 dollar a month range.

Q. You mentioned specifically MFN, MetroMedia Fiber Network?

A. Yes.

Q. Do you remember which chief

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restructuring officer, which firm that was?

A. I think that was Impala. That's why I had looked at that.

Q. Did Impala provide you with any comparables to look at?

A. I think Paul offered to do that. I didn't -- I'm not really sure. I'm not really sure.

Paul and I had a very frank discussion about the number and what the right number was, and, you know, in the context of getting a real good sense from people I have talked to, looking at some filings and knowing that this was clearly in the ballpark, you know, I didn't want to turn it into a three-week project because we were in a sense of urgency to get going.

Q. And you just don't recall offhand, other than MFN, what filings you had looked at?

A. I don't.

Q. And other than speaking with Wilson Alvarez and I think it's Glass Associates --

A. Glass Associates, yes.

Q. -- you don't recall any other people that you had had contacted with other than the

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three firms you had interviewed?

A. Yes. Like I said, I did talk to the other three and I talked specifically about fees with CXO and with Keith Maeb. I may have talked to Chris Nichols at GE Capital about it as well because I think Chris had done somewhat of an independent search and talked to a number of people, some of whom we never did talk to, but --

Q. Do you recall the monthly fee structures that were posed by any of the other three candidates that the company had interviewed?

A. I don't have a specific recollection. The only recollection I have is they were in this ballpark.

Q. They were all in the 2 --

A. Kind of 2, 300,000 dollar a month ballpark.

Q. Did each of those also include a component for a success fee?

A. Yes, they did.

Q. We'll go back to that later on.

A. Sure.

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Q. Were there any internal Allegiance discussions about the compensation, potential compensation arrangement among yourself and others at the company?

A. Yes, there were.

Q. And with whom?

A. I know I talked to Dan and Royce about it. We, you know, I mean, I think our approach to this was like our approach to everything else. We didn't want -- well, we've engaged a lot of professionals over the course of the company, and I had worked with Dan and Royce and Tom in doing that, and, for better or worse, I was an outside professional one time in my career. So my view of this is, this project, in any context is you don't want to pay more than you have to pay, but if you're going to get good people, you're going to pay prices that reflect their experience, skills, and quality.

And so over the years, we have -- I had a real good sense for the management team's philosophy on this. Dan tends to be the most frugal. He minds the budget. And so I know I talked to Dan because he was working on the

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budget and trying to cut costs everywhere he could, and I asked him about this fee and we talked about it and again ultimately agreed that it was reasonable.

Q. Did the company request any of its other retained professionals, whether it's attorneys or Greenhill & Company, to put together some type of comparable analysis of restructuring advisory retentions in Chapter 11 cases?

A. I don't recall any.

Q. Do you recall if either of your advisors had volunteered information with respect to recent fee arrangements in connection with retentions of chief restructuring officers in Chapter 11 cases?

A. I recall -- well, when I said I didn't recall, I don't recall them preparing any kind of written summary of comparables, but I certainly recall talking to Kirkland -- certainly talking to Kirkland about what was reasonable, you know, what they thought was reasonable, and I probably talked to Mike Kramer at Greenhill as well.

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Q. But no recollection of if you definitely talked to Mike Kramer or not?

A. No. No. Again, I think my reference point would have been, to a certain extent, Kirkland, but then also to a certain extent Chris Nichols at GE just because, again, this whole concept was something that was introduced by them and they had -- they had interviewed a lot of people and had used a lot of people in recent credit. So Chris seemed like someone who had a lot of recent market data.

Q. At the time of the discussions, they were before the execution of the engagement letter on July 11?

A. Yes.

Q. Were there discussions with respect to the success fee in addition to the monthly fee?

A. Yes.

Q. And what were those discussions?

A. Well, I said to Paul, what do you, you know, what do you -- he made it clear there would be a success fee. I didn't volunteer that, but I wasn't surprised because Keith Maeb at CXO had said there had also been a success

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fee.

I asked them -- I asked Paul specifically, I said, how do you -- you know, what's the best way to approach this? Because I don't know, every engagement's a little bit different. And he said, they are a little bit different and the best way to approach it is let us get our feet wet, let us get on the ground and let's come back to you with something that we think makes sense and negotiate something.

Q. Were there any preliminary numbers exchanged on the success fee prior to the execution of the engagement letter on July 11th?

A. Very, very informally, in the sense of, you know, could be 5 million, could be more, could be less. I mean, I think 5 million was kind of thrown out there, but it was going to -- don't really know what we're going to be faced with here. You know, I don't want to recreate the conversation because I probably would get it wrong, but I know that from talking -- and it was either with Paul or some of these other people, they get into a company and find out there was a lot more work than they thought or

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they would get into a company and they would find out that there wasn't nearly as much work as they thought. And so what they preferred to do was go in and get the answers to those questions and then talk about a fee that they thought made sense.

And that was quite similar to the CXO approach. They were not going to -- because I pushed them too, and they said they would want to wait and see what made sense there. Keith Maeb had proposed something, and I think it was something like 2 percent of the enterprise value or something. You know, it struck me it was -- it was definitely like 1 and half or 2 percent of the entire enterprise value upon confirmation.

Q. I believe you testified earlier that a general fee discussion was among yourself and Paul?

A. Yes.

Q. Is that correct?

A. Yes.

Q. That's prior to the execution of the engagement letter?

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A. Right.

Q. What was, if you recall, Impala's initial offer to you on the monthly fee?

A. On the monthly fee?

Q. Yes.

A. It was -- well, the -- I just want to make it clear. I wasn't the only person they talked to. I was clearly the primary person who negotiated it, but Paul would have discussions with Royce. I wasn't in the interviews that he had with Royce and Dan and other people, so I don't know what they had talked to -- talked about, but the letter that came to me had 250 in it.

Q. And that was the initial letter that came to you?

A. That was the initial letter that came to me.

Q. And what was the final monthly fee number that was agreed upon by the company?

A. 250.

Q. 250?

A. Yes.

Q. Did the company ever seek to make a

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counterproposal to the 250 or, when presented with the 250, accepted the 250?

A. I had talked to Paul and pushed back and said, why 250? I mean, I'm more comfortable with 200 or, you know, Greenhill's at 175, and Paul said that it wasn't -- I'm just -- my recollection is that Paul said something like: This isn't a number I pulled out of the air, here's what went into it. I've discussed this with Dan and Royce.

And I think my approach was, look, lower numbers are better than higher numbers, but I'm happy to listen to your arguments and I'll talk to Dan and Royce and then I'll get back to you and let you know if we think this is reasonable. And I did that. I said to Dan -- I remember specifically talking to Dan saying, what do you think about this? And, you know, we just decided to come back and take that, take that number.

Q. And the board signed off on that $250,000?

A. Yes.

Q. Do you believe that $250,000 that was

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discussed reflected the market price for those services to be provided?

A. I thought it was a reasonable price under the circumstances, and the reason I answer it that way is that there were -- you know, what I want to stress is there was a big difference in the candidates we saw, and so -- and they all operated differently was the impression we strongly had as a management team.

And one of the things with Impala that we saw was an opportunity to get a, you know, you would get, in one package, you would get a CRO, a former kind of credit officer, understands credit agreements inside and out; you would get a, in Paul's case, a guy who was at McKinsey for, I don't know, ten years or something; and so you were getting a whole bundle of things that we just clearly weren't getting from the others, and that's why I say it was very easy decision to make.

So, was it market? I don't know that we even thought of it that way. Was it a fair compensation for what we were getting? We thought it was.

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Q. You said you thought it was reasonable under the circumstances.

A. Yes.

Q. What were the circumstances?

A. What they brought to the table. We thought it was a -- we were getting a lot of different things. That's why, when you had talked about their role, I mean, I know what I thought about Paul and Pete, and I met them both, I certainly didn't want to say, do these things and don't do these things. If you guys see other problems here, have at it, just let's get as much as we can.

Q. I would like to turn your attention to the thin document that's in front of you. It's a notice of hearing on motion of the debtors pursuant to Sections 105 and 363 of the bankruptcy code for approval of services agreement with the Impala Partners, LLC.

If you take a minute and just flip through that.

A. Yes, I'm familiar with that.

Q. And what is it?

A. This is the -- it's the, what I would

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call is the notice of hearing to approve the final success fee arrangement and the modification to the monthly fees that we had reached with Impala.

MR. DUBLIN: I would like to mark this as Tresnowski Exhibit 2.

(Tresnowski Exhibit 2, Notice of Hearing on Motion of the Debtors Pursuant to Sections 105 and 353 of the Bankruptcy Code for Approval of Services Agreement with Impala Partners, LLC, marked for identification, as of this date.)

Q. Were you the person primarily responsible for negotiating the terms of this modification to the engagement letter to the debtors?

A. I was primarily responsible, yes.

Q. Who else was responsible?

A. Royce was involved, Dan was involved, members of our board were involved. When I say "involved," I mean they were considering it and approving it, but I was the one taking proposals back and forth and negotiating with Paul.

Q. If you look at page 2 of the notice --

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A. Yes.

Q. -- the second paragraph, the second full paragraph on that page says "that the debtors and Impala, after negotiations, have agreed on the terms of a success fee."

A. Uh-huh.

Q. What do you view a success fee to be?

A. You know, it's a fee that you get when the job's done and, you know, you have delivered what you were engaged to deliver.

Q. Do you need to have a success in order to have a success fee?

A. I think that's more nomenclature than anything you can read a lot into. I mean, there's -- as I get schooled in this process of bankruptcy, a lot of people get paid what are called success fees, and you know, as far as I can see, they're fees that get paid at the end of the case. And again, I'm not an expert, but my sense is that, you know, if they have done their job and delivered, you know, they get that. If they haven't for some reason, if they get dismissed or something, they would just take whatever they got paid through that date.

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But I really, you know, I really view the word "success" as just, you know, a label.

Q. What is the proposed success fee for Impala in these cases?

A. $2 and a half million.

Q. Is it your understanding that Impala is entitled to the success fee upon confirmation of any plan of reorganization or upon a sale of substantially all of the debtors' assets?

A. Yes.

Q. Is that without regard to the provisions of that plan or without -- I'm sorry, without regard to the provisions of the plan?

A. That's correct.

Q. Is that without regard to any consideration that may be received by the estate in connection with the sale of substantially all of the debtors' assets?

A. That is correct.

Q. So what exactly does Impala have to do in order to earn the success fee?

A. They have to perform the services that we engage them to perform, see the process through to fruition, and then they would earn

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the fee.

Q. What are the services that the company engaged them to perform?

A. Well, as I testified earlier, there was a, you know, whole host of services, and the significant -- you know, there's lots of significant ones. They include helping us cut costs, and last count, I think we have cut over $80 million of annual cost out of the business; helping us put together a very detailed, very thorough business plan and financial forecast. And they have done that.

And they were engaged to explain that forecast, defend it, and, if they did their job well, establish its credibility. And again, from my feedback I've gotten, they have done that very well. It's been very well received. And people have difference of opinion on assumptions, which you would expect, but I've not heard any suggestion that it was anything less than what we had wanted, you know, which was a very detailed, thorough, thought-out plan.

They have been involved in issues of communication with employees, letters to

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customers, how do you try to retain your revenue. They have been involved of late in go-to-market strategy, how can you sell more products and fill up the network. And so, I mean, I can go back through the engagement letter, but they have done all the things, generally, that they have been engaged to do. And they continue to do it. I mean, the engagement's not over.

Q. But none of these -- the engagement letter does not provide that any of these things need to be completed in order for Impala to obtain the success fee?

A. No. No. The success fee is only contingent on a -- the confirmed plan or a sale of the company.

Q. Who negotiated the success fee on behalf of Impala?

A. Primarily, Paul Street.

Q. And did Impala make the first offer to the company or did the company make an initial proposal to Impala? We're talking just about the success fee.

A. The success fee, I think Impala

probably made the first proposal. They made the first proposal to us and then we negotiated.

Q. Do you recall what the initial proposal was?

A. Yes. It was fairly complex. It was there was going to be a fee that was payable based on $20 million increments of cost reduction versus the May 2003 run rate, and they could have earned up to $5 million there, but the cost reduction would have had to have been I think in excess of what we actually achieved. So I don't know what they would have actually earned, but it could have been as much as 5 million.

And then there was a fee, an additional fee, that was tied to when the plan got filed, and I think those two numbers would add up to, you know, best case scenario, something like 7 or 8 million. And then there was a different fee of about 3 million if we sold the company in a way that precluded them from earning the other fees.

Q. So the 3 million is not cumulative with --

A. It wasn't, no, it wasn't additive to the other number. I mean, we didn't draft the document, but that was clearly my understanding. The way we were going to draft it is that that was a failsafe, if you will. If they were deprived -- you know, if they had devoted all their time and energy and allocated resources to it, and then we sold the company out from under them, that would be their compensation.

Q. Was this initial proposal in writing?

A. I think so. I mean, actually, I don't know if I memorialized it in writing or if they gave it to me in writing. There was a writing that may have had this in it. It may have just been my notes. I don't recall.

Q. To the extent you have those notes of that writing, we would like to get a copy of that as well.

A. Sure.

Q. What did the company do with this initial proposal?

A. We immediately sat down with Pete and Paul and talked about it and we asked, you know, how they came up with it, what were their

thoughts, and then we said, okay, we'll think about it, we'll talk to the board about it.

And then we were also getting input from the creditors at that point. I mean, this was something that both the unsecured creditors and the senior creditors -- secured creditors, rather, were saying, you know, what are you going to do about Impala, what's their fee going to be, and so there was a lot of discussion about it.

Q. What was the company's counterproposal?

A. Unfortunately, we didn't make one. Then we were, you know, we were struggling, to be honest with you, to -- we wanted something that was fair. I mean, there was no question in our mind that they were delivering value and they were going to be a very important part of the process, and there was no question in our mind that they were folks who could go out and earn lots of money doing engagements for other people. So if we couldn't come to terms with them, they would go get that money someplace else.

So we had a real good sense of what their market value was. We had a real good sense of how important they were in our process. And we struggled a bit, you know. We wanted to make -- we wanted to avoid a fight with the creditors. We wanted to do something the creditors thought would be fair. So there was dialogue going back and forth.

We spent a lot of time internally debating success. You know, if you're going to do a success fee -- and this was a recurring theme throughout the whole bankruptcy process with, you know, whether it's our own curb or engagement of any professional or whatever, you know, you sit there and say, well, what's success?

And, you know, for every formulation you can come up with, you can come up with deficiencies in that formulation that might lead you astray, that might lead you to do things that weren't good for the enterprise, but they were good for this constituency or vice-versa and that you don't get a very satisfactory response.

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And again, I've been through this now with, you know, went through it with Greenhill, and I think we struggled quite a bit. Paul and I talked about it, and I think we were both unhappy that we hadn't resolved it and it had lingered, frankly.

The agreement we had with them was to get them a proposal -- well, to get it done in like 30 days after their engagement, and then we had like a 15-day slippage where we would get together and negotiate it if we had any differences. And we had, somewhat unfairly to Impala, we had kind of blown past those deadlines, and they were still working away and we were kind of getting down to the end of August.

And I think frankly because it was such a difficult issue that, you know, we just -- we couldn't come to a resolution, and then finally we just said, look, we got to do something here. You guys are valuable, you can go do things for other people and make a lot more money than certainly just making your monthly, and we need you guys.

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Our board felt adamant, absolutely adamant, that it would be a huge setback in the case if we lost Impala, and we said -- and I don't recall the exact sequence of conversations, but the gist of it was like, hey, Paul, let's do something here, let's cut a deal, let's make it simple, everyone's getting tangled up, if I can say it, in their underwear trying to figure out how do you define success, and we just said let's just cut a deal, let's just get certainty on both sides, we know what we're going to pay, you guys are, unfortunately because of circumstances and maybe because of our own delay, you guys have performed, you know, some significant percent of the work to be done.

So there wasn't a lot of risk that we weren't going to get stuff from them, because they had done it and they had lived with us for going on three months now. So we just said, after many meetings and board meetings or board, you know, individual conversations with board members, we just said, here's the deal, we've gone back and forth and back and forth and back

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and forth, here's the deal, we think it works, they think it works, let's get on with it.

Q. Let's just take a step back.

A. Sure.

Q. You referenced that you went back and forth and back and forth.

A. Uh-huh.

Q. And please correct me if I'm wrong, I take that to mean you went back and forth on how much the success fee should be?

A. It wasn't -- no, it wasn't a numbers type of discussion. There were numbers -- obviously there were numbers engaged in it, but it was, you know, the issue was do we put these guys at risk somehow in a success formula and then maybe there's a higher payout, or do we have less risk at a lower payout that's certain, which means we run some risk then because they're going to get the payout, you know, just when there's a plan. So I think the back and forth was more on concepts than anything else.

Q. What was the debtor's reasoning in removing the metric concept that Impala had included in its original construction to go down

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to a flat fee arrangement?

A. Yes, that is something we didn't do lightly. And I know that's not an unusual way to structure these fees. The problem we had with that is that -- and Impala was sensitive to this too, you know -- cutting costs is not an absolute good. You know, it's good up to a point and then it can turn bad.

And you know, we had talked about, well, you could just have an incentive based on cost-cutting, which was kind of like their proposal, and the board of directors could be the governor on that, but we didn't want to really get in a situation where, for example, Paul said, ghees, I think we should close the XYZ facility, I really think that's the right thing to do, and then we would have to evaluate that -- not we, but mainly the board, knowing that it came out of his pocket.

You know, I mean, it wasn't a good dynamic that we wanted to have, because we hadn't -- we had worked in a very open fashion, you know, where we did the right thing. That's kind of the -- you do the right thing. And so I

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think that made us uncomfortable.

The same thing with getting a plan filed. As I told -- in a different context I've told people, I said no one wants to get a plan filed faster than the people working on this deal, I mean, across the board. And so I didn't need -- I didn't feel like I needed an economic incentive for everyone -- anyone to try to get this thing done.

And that includes -- I mean, I know the argument you can make, well, they're getting a monthly fee and so the longer it goes, the better, but these are guys that have got other opportunities, other demands, and not something I could -- didn't really have any concern about them sitting around milking the engagement. That was not -- I wouldn't have -- I don't think we would have engaged someone where we would have those types of concerns.

Q. Did the company look at comparable success fees in other cases?

A. We did. We certainly did do that, and we did have -- we had a number of things. And I'll caution you there's some documents, there's

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a summary, and it's a little bit -- you have to take into account there was a summary of, I don't know who, but the banks have put together a summary and they had shared it with us, Kirkland had put together a summary, and I think there was a consolidated summary. We'll get all these documents for you.

But the other thing that we had was from Paul; he had sent us engagement letters that they had in other engagements. So, I mean, I guess here's the point I'm trying to make: We looked at comparables in other situations, but we also looked at what Impala did in other engagements, because Impala did a range of engagements. They weren't necessarily CRO-type engagements. They did -- they had been involved in the Conseco deal, they had been involved in some of the Enron unraveling of partnership deals, and, you know, if I can say, they generally got very well-compensated.

And so it's a bit tough to compare an Impala to a Wilson Alvarez, for example -- is that the name? No, that's the baseball player.

Q. Alvarez & Marcel.

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A. Alvarez & Marcel.

Q. He's a very good baseball player this year.

A. If I can get it in the record, the Cubs yesterday.

MR. RATHKOPF: It may be the only time.

A. Let's get back on track here.

But one of the things we struggled with is they looked at the -- we looked at the comparables, and you have what I call CRO firms and they do CRO engagements, they do one after the other, and they have a very standardized way of going about it, and then you have firms that don't fit the mold as well.

And I had talked to Paul about this, and he said, you know, we do all kinds of engagements. And I said, well, send me a bunch of letters, send me engagement letters so I can see them and get a sense. And he sent those to me. And again, it was very much -- the decision-making process on our end was very much what are these particular folks worth in this particular situation, but certainly not without

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regard to market comparables, because those are relevant.

Q. Can you recall any -- first, I would like to get copies of those engagement letters that Paul sent to you.

A. Yes.

Q. Can you recall any of the cases that you looked at for CROs of Wilson -- I mean of Alvarez & Marcel or a Zulfo Cooper or somebody like that that had done these types of things, do you recall any cases that you -- comparables that you looked at?

A. There was -- I mean, there was a chart. I remember the MFN. I think MFN had a fee of about -- I think it was about 2 and a half million. I think they brought in Zulfo Cooper, I believe. And they had an arrangement. I generally remember that it was about $2 and a half million, although there was some success kind of criteria that were in there, and that was different than ours.

Q. They were metrics as opposed to a flat fee?

A. They were metrics as opposed to a flat

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fee, and I inquired specifically about that with people who had familiarity with the case and said, you know, why did they do it that way, and they said that, well, they're basically running the company.

Because Paul and I had many discussions, and one of them was, you know, why aren't you guys -- why don't we tie it to free cash flow or something, and the point they made was that they weren't running the company. I mean, they weren't -- unlike other cases, Allegiance wasn't a case where you kick out the management team, they were gone, and you brought someone in to run the company and, therefore, you could hold them totally responsible for performance.

That wasn't their role. It isn't their role today. So, again, it was just one of those things that made us -- it made it reasonable for us to think that a flat fee was going to be the more realistic way to go.

Q. Do you recall looking at any comparables where a restructuring advisory firm was being brought in to do the same types of

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tasks as Impala was being brought in the Allegiance case where they received a flat fee?

A. I was not aware of, you know, cases where that was true. I mean, it's a hard for me to see that from a survey, but the -- you know, again, what I had heard is that the CXO management team in effect -- I'm sorry, the CTC management team had effectively left and CXO was in there running it. And it seemed like in the vast majority of these cases that was true.

And I may be completely wrong about this, my understanding was that WorldCom, J. Alix came in to run it, and then they brought in a new management team but then they had some continuing role. But it was different for us, because every time we looked at it, they all looked like different types of engagements, and I was not aware of an engagement where someone was brought in with the exact same mandate that we had brought Impala into our company.

Q. Had you asked Impala if they were aware of any other cases which would be comparable or whether they were engaged in other cases with comparables so you would have

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something to look at analyzing the success fee?

A. Yes. I mean, I had talked to them about, you know, what do you guys -- what do you guys get paid for what you do? Because you're the best market comparable out there, and they had given us a bunch of examples where they got compensated very well.

And some had some criteria, some didn't, but it was, you know, the specific discussion I recall, at least the one that was influential on our decision-making process, was that Impala had a different kind of way of doing business. They were very selective in the cases they took. They took cases where they thought they could add a lot of value, where they would get very senior-level involvement, in this case, you know, two of the principals and an associate. And they structure their fees accordingly, as opposed to some of the bigger shops that didn't do it that way.

MR. RATHKOPF: Paul has to leave, so he --

MR. DUBLIN: Can we go off the record?

MR. RATHKOPF: You previously

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requested that copies of any letters that Paul gave to Mark Tresnowski be produced. We're going to object and not produce them because the companies that authorized Paul to give them to Allegiance did not authorize that to go beyond Allegiance to be published or destroy the confidentiality of those engagements.

MR. DUBLIN: To the extent any of those are a matter of public record, we would like to receive those.

MR. RATHKOPF: That's fine.

(Recess; time noted: 3:29 P.M.)

(Time noted: 3:38 P.M.)

BY MR. DUBLIN:

Q. Mr. Tresnowski, I'm just reading from the transcript here. One of the last things that you mentioned was that there were three people from Impala that are working on this engagement?

A. Yes.

Q. Who are they?

A. Paul Street, Pete Keenoy, K-E-E-N-O-Y, and Aamir Chinoy. I think it's C-H-I-N-O-Y.

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I'm not sure.

Q. We have the names.

A. Okay. I know him as Aamir. They are the ones working full-time in the company. I don't know if there are some people behind them or not.

Q. Do you know how much of these people, the three individuals you just mentioned, their respective time is spent on Allegiance?

A. Yes. I think it's full-time for Pete and Aamir, and it may be full-time for Paul. I know it's like Fridays he's back East, but he's usually on the phone on this deal. So kind of my impression is that this is their -- just about full-time for all of them.

Q. So for Pete and for Aamir, they are at Allegiance's offices Monday through Friday during business hours?

A. That's my -- yes, that's my understanding. But Paul is there I think four days a week, three or four days a week. Then they all three have offices right up across the hall from Royce and Dan, so ...

Q. Does the company keep track of the

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hours that the Impala employees work?

A. No.

Q. To the best of your knowledge, does Impala keep track of its hours?

A. I don't believe so.

Q. You mentioned earlier that Impala was involved in the preparation of the company's business plan?

A. Yes.

Q. What exactly did they do in connection with the business plan?

A. Well, it's a fairly broad question. They had a lot of input into things that went into the business plan, including cost cutting, but in terms of the plan itself, they in essence owned the plan. They kept the model. Aamir kept it on his computer, maybe Pete did as well, but all of the inputs in the company came into Impala. You know, my legal budget, for example, went into Impala, all of the inputs on the expense items, revenue items, and they would take it and then, you know, interact with people and come up with assumptions for areas of the plan that needed assumptions and just develop,

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you know, typical process of developing a business plan. But they were very much running the process and, if you will, kind of owning the model.

Q. Who, apart from Impala, was involved in preparing the business plan?

A. You know, I -- it's -- I'd have to say the entire senior management team was involved, but I think in particular Dan Yost, Royce Holland, Clay Myers, Tom Lord, I mean they were all involved. The only person who was excluded was our vice-president of business planning, Sanji Sapi, because he's being investigated by counsel, by outside counsel, so we didn't want him to have any role in the process. So he's not been involved.

Q. Did any of the company's other outside advisors assist in the preparation of the business plan?

A. Yes. Greenhill was very involved in the -- you know, just to step back, there were lots of inputs into the plan that Impala was involved in. For example, the various task forces that we have, Impala's a member of every

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task force. And so they're involved in all the decision making that leads up to the input into the plan.

When we got to the stage of taking all of the inputs, putting a plan together, and trying various assumptions and testing the reasonableness of them, a Greenhill team kind of moved into Dallas with the Impala team, and they both worked together with our management team and came up with the plan.

Q. Was it Impala that came up with the plan and then Greenhill reviewed it with them, or Greenhill actually did work on the plan with Impala?

A. I think Greenhill did work side-by-side with Impala on the plan.

Q. Has Impala been involved in the preparation of a plan of reorganization for the company?

A. Not directly, no.

Q. Has Impala been involved in working with the company analyzing alternative transactions?

A. They are getting involved in that

process.

Q. What is Impala's role to be?

A. We are, as you may know, we're looking at a couple of transactions. One, for example, is a business combination that would -- that the creditors would take interest in the combined entity, and so we're trying to develop a model what those combined companies would look like. And they're involved in looking at the combined model and really -- and I'm not an expert in financial modeling, so bear with my explanation here, but there's financial models and they have characteristics and, as I understand it, when you take another company and try and combine it and do a combined model, you got to have some consistencies in the way you categorize certain costs and the way your assumptions mesh, and so they're very instrumental on pushing those two models together and I think also making sure that the same level of detail in the stand-alone model is important to the combined model.

Q. Is Impala's job -- will Impala's job include analyzing the model and making a recommendation to the company on how to proceed

with respect to the proposed transaction?

A. I think they will definitely have a role in that. I don't know that they will -- you know, I think we're trying to figure that out right now. I think one of the things we're looking from them is -- to help us with is that if, for example, a particular transaction we're looking at, if both companies are cash flow positive and can service debt, then, you know, it looks like a good deal, you know; if they're going to burn cash and not be able to service debt, it's not as good of a deal. So we're just trying to get a sense for that.

And I think our attitude is, we've got Impala, we've got Greenhill, we've got smart people at the company; everyone get in the room here and pitch in and roll up your sleeves and help us out.

Q. I just want to turn back to Tresnowski Exhibit 1 for a moment.

A. Sure.

Q. Back to the Impala engagement letter dated July 11th that we referred to.

A. Uh-huh.

Q. Back to paragraph 5, which was their role as the advisor?

A. Uh-huh.

Q. You had read into the record the -- four of the responsibilities that Impala would have in connection with their restructuring of the company.

A. Uh-huh.

Q. Which included the reduction of costs and increasing efficiencies, the improvement in sales productivity and profitability, management of the task forces that you just mentioned, and working on the long-term business strategy, which I believe would be part of the business plan that we just discussed.

A. Yes.

Q. In any of your meetings with Impala representatives, did you ever indicate, or did any representatives of Allegiance indicate, that the company was in the process of analyzing ways to cut costs or increase efficiencies or improve sales force productivity?

A. Yes, we certainly did.

Q. And were these efforts undertaken

prior to Impala being retained?

A. Yes.

Q. What had Allegiance done at the time that Impala was retained to achieve those goals of cutting costs and increasing efficiencies and improving sales force productivity?

A. We have an ongoing process, as any management team would do, of stepping back and looking at the company and trying to improve it, but specifically cost cutting was important, and it's been important since, I don't know, sometime in 2002, kind of increased importances, and preservation of cash because it became so critical and the capital markets had shut down.

But specifically what we had done, and really I think almost simultaneous with the bankruptcy filing, so it was probably almost a month before Impala got formally engaged, is we put task forces together and we divided up the company into critical areas of focus, network costs, sales and general administrative expenses, the go-to-market strategy and a bunch of different task forces, and we said, okay, who are the kind of day-to-day experts in these

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areas, let's put them on the task force and then let's drive progress in each one of the task forces.

Q. Just prior to July 11th, with the execution of the engagement letter by the Impala company board, could you put a dollar number on the amount of cost-cutting initiatives or the identification of cost-cutting initiatives that the company should undertake as of that time?

A. I think you could, and I think we did. I mean, I think we were looking at something in the neighborhood of $60 million in cost cutting.

Q. And you had identified the company had identified the way to cut those $60 million in costs?

A. I think, yes, generally we have for each one of them.

Q. And since July 11th how much additional cost-cutting initiatives or identifying ways of cutting additional costs has Impala found?

A. Boy, you know, it's hard to quantify that because it's -- you know, that question would kind of imply that Impala came in as an

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independent force, and what they really did was they joined into each one of the task forces and helped drive the process.

I mean, one of the things that, you know, was clear to us and one of the reasons we were interested in getting a CRO was that we could identify areas where you would reduce costs. I mean, you've got a lot of network costs, and so you're going to reduce those network costs. And you have some feel for how much you should be able to do, but someone has got to kind of take charge of that process and execute it.

I'll give you a good example. We have a lot of fiber leases, dark fiber leases with MFN and a lot of other providers, and so we can sit there and say, okay, there's a task force and one of the things we're going to do is reduce those costs on MFN. But someone needs to go out there and be a, first of all, have a real good sense for what's achievable and how to get it done and go and negotiate it and, you know, just cut a deal, and that's really what Impala has done. That's an area where Paul

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individually has kind of taken the lead on it.

But, you know, it's always Paul and one or two people from the company or Pete and one or two people from the company. The same thing with our headquarters lease. I think that was maybe more Pete than Paul, but it was, you know, we sat there and said, ghees, we've got a lease that we entered into three years ago, market rates have gone down, we can reject it in bankruptcy, you should be able to save X, and that's one thing, but then getting to X or getting better than X, someone's got to, you know, go around, get comparables, convince the landlord that you're serious and sit down and negotiate a deal and deliver it and then understand, while you're doing that, you know, cure costs and residual claims and how all that stuff works together.

So Impala didn't come and say, okay, you've done 60, we're going to add -- I think it was like 80. You know, we're going to add 20. What they came and said, okay, you're going to do 60, let's find out some more, but also let us kind of, you know, man the ship here and get

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there with you.

Q. Was the company's general view that they would not be able to implement, fully implement that 60 million and find additional without a chief restructuring officer?

A. I don't know. We certainly thought they would help a lot. You know, but if you're saying, you know, would you have failed to do that without them? I think we certainly -- we had a concern that that would be a risk. I don't think we ever think we're going to fail at anything, but I think we certainly thought that was a risk.

One of the things that was pressing and, you know, I know people -- I've said this to other -- to creditors and they kind of question me, but there's not -- you know, everyone at the company had a full-time job before we went into bankruptcy. So everyone was very busy doing what they were doing, and to take two very experienced executives like Pete and Paul and add them to your team and say your job, your only real job, is to do these things is tremendously helpful.

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And, you know, I have one creditor that said, what can two guys do? What can three guys do? And the answer is a tremendous amount. They really do a tremendous amount. And if they don't do it, could we do it? Yeah, because we've done things like this before. I think the problem is if you're doing that, you're not doing something else. And then, you know, it's hard to calculate the costs you suffer by taking your eye off those other balls, so --

Q. You mentioned a couple of times that one of the jobs for Impala was to increase efficiencies. What does that mean?

A. You know, what they do -- it can be many things, but one of the things they do is they could be pretty rough guys. You know, the network people come in and they will say, I can reduce these circuit costs and I can get it done in six months, and Paul says, that's crazy, we're not waiting six months, you got 30 days. I can't do it in 30 days. Well, why aren't you doing it in 30 days?

And I got a lot of people that come into my office and say, God, these guys from

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Impala are really tough. That's kind of what they do, they drive people, they test people. And they're in a somewhat of a unique situation where they can do that. They don't need to have, you know, an ongoing business relationship with a guy who's in charge of circuit costs. They don't need to have an ongoing relationship with the ILECS, whereas we do.

It's a little bit tougher for us to come in and beat them over the head, or MFN, for example. But Paul can do that because that's his job. So he comes in and, you know, I don't know if -- that's what I think of when you say "drive efficiencies," basically push people beyond where they think they can go and bring a sense of -- what I think they do, and what you don't get otherwise, is a sense of, you're in bankruptcy, time is of the essence. The business isn't going to function in bankruptcy forever and you don't have six months, you have 30 days. If you can't do everything in 30 days, what can you do in 30 days? And, you know, that's the give and take that's going on on a daily basis with them.

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Q. Did anyone from Impala represent to you or, to your knowledge, represent to anybody else in the company that they had the ability to identify additional cost savings, efficiencies, or productivity increases?

A. Did anyone from Impala -- yes, I think that they were hopeful that they could identify some more, and they certainly communicated that to us and probably to other people.

Q. Have they?

A. I think they have. It's hard for me to quantify, because you would have to calculate the cumulative effect of conversations like the hypothetical one I just showed you. I mean, because it literally -- you know, and I'm in Dallas quite a bit, so I see them, and they're the first guys in there and the last guys home at night. So they're sitting there all day long, pushing people. And, you know, what's the quantitative impact on that? I don't know. I mean, I think it's meaningful, very meaningful, but I don't know what it is.

You know, when -- I'll just, again, one of the areas that I've been involved in a

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little bit is MFN. They say, you know, ghees, I don't know if I can get them the $43 of fiber mile. Paul's like, what do you mean? Let's go 26. Oh, okay, 26. So it's just push them, push them, push them.

I don't know where we're going to wind up on that, but, you know, they're definitely, you know, an aggressive group of guys.

Q. I just want to focus on a couple of different things there.

A. Yes.

Q. Do you happen to know what the debtors' monthly network expense was prior to when Impala was retained?

A. I don't.

Q. I guess, do you know now?

A. No, I don't know that number.

Q. Do you know if it's increased or decreased since Impala was retained?

A. I think it's decreased significantly.

Q. And how was the debtors' sales force performing prior to Impala's retention?

A. I think that there was a real problem with productivity, and one of the things we had

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heard from advisors to your committee and to the banks was that, vis-a-vis other CLECS, our sales force was not as productive.

Q. Has that changed since Impala was retained?

A. Yes. I think productivity per head has definitely increased.

Q. Do you think that could be attributed to Impala's presence and Impala's work at the company?

A. I don't know the answer to that. I mean, the -- that's something I've looked at over the years. You have, to simplify, if you have 30 sales reps. in Manhattan and they're selling -- I'll just make up a number -- a hundred lines a month, and you go down to 20, their productivity goes up kind of just by the math. I mean, because there's fewer people going out to get those lines.

And we've reduced the sales force, so productivity has gone up. And how much of it is what Impala did or how much of it is the, you know, fewer people chasing the same number of fish in the barrel, I just don't know. It would

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be very hard to calculate.

Q. Do you know what the debtors' churn rate was prior to the Impala retention?

A. I think it was about 2.7, 2.8 percent per month.

Q. Do you know where we are now?

A. We got to about 2.4 percent in May, and then we went back up a little bit, and I think most recently, which would probably be August, it was 2.5 percent. So it's kind of like 2.7, 2.8. May would dip down to 2.5 or so, and then went back up to the prefiling rates and then went down again in August.

Q. Do you have a rationale for that fluctuation in the churn rate?

A. Well, you know, as my boss says, a month doesn't make a trend, but what I would like to think is that the churn is decreasing and that is a trend, and that it's decreasing because we are taking better credit, you know, less credit risk on customers and we're providing better service.

And my sense is that that is true, that we are -- that we will see less churn in

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the future due to process improvements that we're making now. Although, you know, I have to weigh that against the fact that being in bankruptcy creates churn. You know, customers leave, competitors take advantage of the fact that you're in bankruptcy, and so many factors come in to influence churn, it's hard to figure out, you know, if you're making progress or not.

Q. What would you view as Impala's accomplishment to date?

A. I think that they did an excellent job in putting this -- pulling this plan together. I mean, I was really impressed that -- because we put them under a lot of pressure, especially at the end of August.

But we put together a plan that was as detailed a plan as at least this company has ever seen. We went from the market level up, from the circuit level up across a nationwide phone company, and did it in detail, and the thought that went into it and the assumptions that went into it and got a very receptive response from at least the advisors that I had talked to at both levels of the creditor group.

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And I think that was an accomplishment because there was so much confusion, skepticism, whatever you want to call it, about the Allegiance business model. I mean, what's the company really going do? Where is it really going? Difficult -- it's a complex company in a complicated market.

So, you know, when I go back to May and I listen to the senior creditors, at least, saying, this is what you need to get this thing done, to get a bankruptcy done that people will get on board with, and I sit here in September and we have that thing, and so I say that's good. Because this is a huge enterprise that's, you know, there's a lot of money here at stake for your clients and the senior creditors and to get a foundation on which we can do a plan, you know, very, very valuable. So I think that's an accomplishment.

I think they have, again, I think they have pushed the management team -- not necessarily the management, the employees of the company in these areas further than we would have pushed them or would have known to have

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pushed them.

One of the things that -- I'm a recovering lawyer, so I read books on business, but one of the books I'm reading is a book called "Execution." And it was interesting, it says most companies fail because they don't execute, not because they don't have plans. Most companies have really good plans, they just don't get it done.

And I think Impala has come in and said, it doesn't work, we got to get it done, here's the deadline, you got to make it happen. And so taking, whether it's a 60 million or 80 million dollar cost reduction from a piece of paper and a Power Point slide to account X in a bank, that's an accomplishment.

Did they do that on their own? No. Were they instrumental in that? I think they were. But I also think, you know, you got to give a lot of credit to the Dan Yosts and guys like that who are in the operation team who are doing that as well.

I think that their job's not over. I think that they're going to be instrumental in

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explaining the business to people and defending their view of the business, debating other views of the business, and I think that as we come into the stage right now where you say, okay, hopefully we're all kind of coalescing at a view of the business and what it's going to do in the future, and my hope is that we all, everyone around the table kind of says, okay, what do you want to do with this? What's the best outcome? How do you maximize things for people? And I think that that's, you know, of necessity going to involve looking at combinations.

That may not be the answer. Maybe we do a stand-alone thing, but look at combinations, and I just think Impala's going to be real central for that process, too, in terms of, what do you guys think, you know. And again, that's something they're starting to do right now.

So, I'm trying to think what other accomplishments. I don't know. These are the main things that come to mind.

Q. Is there anything that you have not been satisfied with as far as the work that

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Impala has performed?

A. Well, that's a tough question, because I would be more satisfied if churn was 1.5 percent and, you know, sales were going up 20 percent a month. And I mean, at a real kind of personal level, I think this company, you know, I just think the market opportunity is so huge I would just love to see more results.

But, you know, can Impala overcome a recession and a regulatory climate that's, you know, as cloudy as can be? And I don't think -- I'm not sure it's fair to hold them to that. But, yes, I'm never satisfied in terms of what can be done with the company. But I don't think, you know, I would point the finger at Impala for that, I think -- or at anyone. Those are just circumstances.

But, you know, I think, again, I just -- the one thing that I thought was absolutely critical and that I frankly was going to judge their effectiveness on was creating a plan that people said, you know, that looks like the plan. I mean, we may have a little bit difference of assumptions here, but

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fundamentally in terms of the integrity, how it was put together, that's the plan.

And my sense is everyone is sitting around the table saying that, so that's the first step in getting this thing done, which is kind of what I wanted to do.

Q. Let's turn to the -- we're almost done. Let's turn to the task forces that you had mentioned earlier.

A. Sure.

Q. You had testified that one of Impala's primary responsibilities is the management of the operational task forces. That's correct?

A. Yes.

Q. And were you present at a meeting between the debtors and members of the creditors committee, I believe the meeting was held here on June 12th, where a presentation was made with respect to a number of things, including these task forces?

A. Yes, I was.

Q. Do you recall who made the presentation?

A. I believe Dan Yost was the primary

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presenter, and I think Royce had some things to add because Royce is -- when you get to the network areas, that was mainly Royce's area.

Q. If you can just look at the document that's in front of you and just identify for me what it is.

A. This is the written copy of the presentation that was delivered at the meeting you just mentioned, is what it looks like to me.

MR. DUBLIN: I would like to mark this exhibit as Tresnowski Exhibit 3.

(Tresnowski Exhibit 3, written copy of presentation, marked for identification, as of this date.)

Q. If you can turn to page 7 of the exhibit. Starting on page 7 and going through to page 10 lists a number of task forces. Who suggested that these task forces be established?

A. Royce and Dan.

Q. And who was responsible for the implementation of the task forces?

A. I think it was Dan. I mean, the concept of a task force is a classic Royce Holland concept. We're going to get people to

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focus on it, we're going to fix this problem, and then I believe Royce was -- then said to Dan, you know, basically let's put these things together, let's have a meeting on each one of them, let's define their charter and let's get going.

Q. Did Impala suggest creation of any of the task forces?

A. Not to my knowledge.

Q. And are all these task forces still in place?

A. I think they are, yes.

Q. Since the time that Impala was engaged, have they suggested that any new task forces should be formed?

A. I don't believe so.

Q. Has Impala requested since its retention that any task forces should be done away with?

A. I don't think so.

Q. And is it your understanding that Impala has been significantly involved in the following through of these task forces with their initiatives?

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A. Yes, they have.

Q. Can you give me some examples?

A. They have -- I'll just go through. There's many task forces, but if you look at -- the regulatory task force is a good example, the regulatory contracts committee. One of the issues there we have is what we're going to do with the contracts with the Bell Telephone Companies. And you know, there again, there -- and that's a committee that I'm involved in as well.

You know, Pete Keenoy would be involved in these meetings, and I think really framing discussion, driving processes to action and saying, okay, well, this is good, so who's going to do what? How are we going to get it done? And then, if they think it's appropriate, you know, they will get directly involved.

The two areas that come to mind is, in the real estate task force, they got directly involved and negotiated with the landlord, and the contracts committee, you know, they get directly involved because another area where my responsibilities have intersected with them is

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looking at our HR area, you know, why do you engage -- they would go, why do you engage this consultant? What do they do? Do we need them? Can we get a better price? This is something Impala would be saying.

You have got this software license. What is that? Why do you need it? What would it be like without it? If you didn't have it, would you add half or subtract? So they kind of go through with every business group and look at the -- the SG & A task force is one where, you know, Dan's very involved in that, but they will sit down and, you know, with each business head, each head of every business unit and say, you know, why do you have three regulatory lawyers? Can you get by with less? You know, I want to understand your case as to why you're doing this. So they do that.

They're also heavily involved -- the network task force is one of the most important because that's where a lot of costs are, and I know they're involved in that one looking at each one of our co-locations and basically making people justify, you know, why do you have

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this facility, what are the alternatives to having the facility, and then they make recommendations. And on a number of cases they just -- we're going to close down the co-location, we're going to power it down and either abandon or sell off the equipment.

But, you know, on all these tasks forces we made it clear to them when they came in that we had these in place. I mean, if they would have done it a different way, they weren't given the chance to do that. We said, look, we got a task force in place, we've hit the ground running here, and your job is to come into our structure and add value in our structure. We understand that you might propose a different way of doing it, but, you know, we don't have to time to lose here so let's get going.

Q. If we can just run through a couple of examples.

A. Sure.

Q. If you flip to page 23.

A. Yes.

Q. It makes reference to the activities of the real estate reduction task force.

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A. Uh-huh.

Q. References the closing of five sales offices?

A. Uh-huh.

Q. These are, it's my understanding, offices that have been closed?

A. Yes.

Q. And they were closed as of June 12th, 2003?

A. Yes.

Q. Have any additional sales offices been identified for closure or been closed since?

A. I don't think so. I don't think so.

Q. Has Impala suggested that sales offices should be closed?

A. I don't believe so.

Q. If you flip to 25 for a second, which is restructuring activities and it's field sales and headcount reductions, have the headcount reductions referenced here -- I assume since it goes through June they have all been implemented?

A. Yes, they have.

Q. Have any additional headcount

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reductions in the field and sales area been implemented since this time?

A. Yeah, we did -- actually, the most significant reduction in force we had was the end of July, and there was some trailing amount in August, but that was the big reduction in force.

Q. Was that a headcount reduction that was identified by representatives or employees of the company as opposed to any outside advisors?

A. That was -- that one, in that one, Impala was intimately involved. You know, the ones you're talking about here really predated their involvement. I mean, this was, you know, you knew you had some sales offices you could get rid of and consolidate, and now that you had the ability to reject real estate leases, it was easy to make that decision.

The real tough thing was taking out an additional -- I don't know whether it was 3 or 400 heads in July, and that was one where they, you know, they were side-by-side with Dan and other people going through that process.

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Q. If you flip to page 27, which is the SG & A cost reductions?

A. Uh-huh.

Q. Have these reductions referenced here been implemented?

A. I actually think we've done more than this at this point. It says August would go down to 3,232 employees. I think we're right now just below 3,000. So I think we've done these and some.

Q. Was the headcount reduction that you referenced a few minutes ago for a July?

A. Yes.

Q. Included here? Referenced here?

A. Yes, they're included here but then there were more than that. I think that's what happened in July. And again, Impala's central in this process. They said, you know, this ain't going to get it done. We need to get below 3,000.

I don't think that's -- I don't think there was anything particular about that goal, but they said we got to take more heads than this out in order to get, you know, to the

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efficiencies we want to get to.

Q. How many more?

A. I think it was about -- again, I think it's about another 230 heads from this plan.

Q. I just want to take a step back to something we discussed at the beginning, which was, and correct me if my recollection is incorrect, was that you were one of the main people involved in connection with the negotiation of Impala's retention?

A. Yes.

Q. And the fee?

A. Yes.

Q. And I believe you had referenced that you had not been involved in this type of engagement before personally?

A. That's correct. Not a CRO, no.

Q. Had any member of management or of the board been involved in that type of undertaking before?

A. I don't believe so, with the possible exception -- well, I don't believe anyone in management had been involved in that type of engagement before, including me. As to our

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board, I think that Jim Perry and Paul Finnegan had experience with it because they had other companies that had engaged people like that. They had some experience.

Andy Lipman, who is a lawyer and is involved in a lot of companies and served on a lot of boards, probably has some experience. He certainly -- he actually -- he seemed to know a lot of the people who were CROs, so he had personal knowledge of people. But beyond that, I don't think so.

Q. It was Jim Perry and who was it, Paul?

A. Paul Finnegan, who was Jim's partner at Madison Deerborn, was also on the board.

Q. What was Jim and Paul's role in connection with the Impala retention?

A. I would say they were less involved than some of the other directors. They are general partners of Madison Deerborn Capital, which was our largest shareholder when we into bankruptcy, and so we had kind of had a habit of keeping them out of some of the decisions if we wanted just independent directors to focus on it.

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And then, as we've come along here, we've changed that because it doesn't look like the equity holders have a conflict here, but the -- so they were less involved in it.

It was primarily Reid Hunt, Jack Goldberg, and Andy Lipman who were interviewing CRO candidates and considering the process and dealings with us. As a matter of fact, all three of those interviewed Impala.

MR. DUBLIN: I don't have any more questions right now. If you want to ask anything --

MR. HENES: Yes. We'll take a step -- we'll go off the record.

(Recess; time noted: 4:21 P.M.)

(Time noted: 4:28 P.M.)

MR. RATHKOPF: I have just really one question that I would like to ask.

EXAMINATION BY
MR. RATHKOPF:

Q. Mr. Tresnowski, when you were questioned earlier, a few minutes ago, you were asked about what had happened since July 11th, the date of the engagement letter. Is that date

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the date that Impala first began to render services to the company?

A. No, I believe they started -- I think it was like the first full week of June or thereabouts, but they -- we had selected them and -- we had their engagement letter and we had selected them, and then we wanted to go through a process through our advisors and our counsel to solicit the input of the unsecured creditors and their counsel and the secured creditors and their counsel, so -- and that took a long time. But they had started working early in June.

Q. And by second or third week in June, were they working basically full-time in Dallas?

A. Absolutely.

MR. RATHKOPF: I have no further questions.

MR. HENES: I've got a few questions.

MR. DUBLIN: Okay.

EXAMINATION BY
MR. HENES:

Q. I believe you testified earlier that the business plan, the preparation of that was one of the most important parts so far of these

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Chapter 11 cases; is that correct?
A. That's correct.
Q. And why is the business plan so important?
A. It's, you know, it's really the foundation for a reorganization or, if it turns out, you know, a sale of the company. And one of the things that we learned from the process we had gone through to date is that it was difficult to make progress on a plan of reorganization.
We had talked to our creditors and didn't make, frankly, much progress, and the reason it kept coming back to us is everyone disagreed on the business plan. And so it was clear to us that if that disagreement continued, it would bode ill for the entire process; and conversely, if you could eliminate that disagreement, it would open up the process for a resolution. So it was the essential piece of the puzzle, as far as we were concerned.
Q. And they have completed that plan, as you have testified?
A. Yes, they had largely completed that

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plan, you know, at the end of August. I mean, we really, from the end of August, third week of August to the delivery date, you know, that's when you're testing and fine-tuning and, you know, but basically it was done.
Q. If the bankruptcy court in these cases confirms a plan or enters an order authorizing the sale of substantially all of the debtors' assets, would you deem that to be a success?
A. Yes. Yes, I think that -- just elaborate a bit as to why. I think that it makes sense, and I think I speak for the whole management team in the way we view this is that one thing that has been clear to us is that you don't get a bankruptcy confirmed or a business sold unless you have either consensus among the stakeholders or you're able to weather objections and overcome them. And either way, that's not easy.
It's not easy to get a consensus, it's not easy to overcome objections, but from the perspective of the enterprise and keeping it healthy and generating as much wealth as you possibly can, getting it done is the goal.

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Q. And because Impala's preparation of the plan is critical to that, would it be fair to say that if a plan is confirmed or a sale is approved by the court, that Impala was successful in these cases?
A. Yes, I would agree with that conclusion.
Q. Okay. In terms of the success fee, there was a lot of testimony that there's no metrics in it currently. By the time the success fee was negotiated, where was Impala in terms of the cost-cutting initiatives and the preparation of the plan?
A. Well, they were, again, they were essentially complete. And we had spent a lot of time looking at this, and I'm certainly well aware that there are metrics in these types of engagements, in some of them, and so we spent a lot of time thinking, okay, well, should we have metrics? So, okay, what would the metric be? Well, it would be that they would complete the plan.
Everyone talked about that and they said, okay, we'll put that in, they got to

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complete the plan. I said, that's kind of silly, they've already done that. What else do they have to do? They have to defend the plan and work with us to build consensus around -- and I said, just as a lawyer, I said, you want me to write that? That they're going to defend the plan and build a -- of course, they're going to do that. They're professionals, they will never get another engagement if they don't.
So, this had been going on for weeks, and we just said, look, we're making this too complicated. They have done most of what they're supposed to do, the rest of what they're going to do we're highly confident they're going to do it, let's get this thing behind us.
And besides that, you know, again, I thought it was a reasonable deal in the sense that, you know, we were talking about -- in the very first meeting with them they were talking about $5 million and in their proposals we were looking at 5 to 8 million dollars. And so we were, you know, I think we did a pretty good job and we were down to $2.5 million and, you know, we were kind of at that juncture where you lay a

bunch of conditions on top of that.

And we thought about doing that very thing. You got to finish the plan, you got to defend it, you got to show up at work and you got to -- we just said, you know, that's not worth it.

Q. Do you recall what the initial offer that Impala made for the success fee and the metrics for cost cutting, do you recall what they -- how that was set up?

A. I think it was a million dollars for every $20 million of cost cutting over the May run rate, and that's when I said we had 60 million or 80 million, it's over the May run rate that I'm talking about. So -- and I think we're coming in at 80 million. It may be more at the end of the day, but --

Q. And so based on that approximately what -- if that was the deal with those metrics, what would their success fee have been?

A. It would be at least 4 million and then going up from there.

Q. So, based on this entire case and negotiations with Impala and where the cases are

today, do you believe that the $2.5 million success fee is a reasonable fee?

A. Yes.

MR. HENES: No more questions.

MR. DUBLIN: A couple of more questions.

THE WITNESS: Sure.

EXAMINATION BY

MR. DUBLIN:

Q. If a plan is confirmed in these cases --

A. Uh-huh.

Q. -- and unsecured creditors get little to no recovery, is that a success?

A. Not for the unsecured creditors, and you know, again, I guess I would come back to the definition that I had before, which is that to me there's two ways to get a bankruptcy done. And again, I'm not the expert, but based on several months' of experience, you get a consensus and everyone agrees and everyone kind of -- they may not get what they want, but they get something they're willing to agree to. That's the preferred approach.

If you can't get there, people object and you try to overcome those objections based on the merits of the case. There's X value, and it's just not enough value for everyone. And I think, you know, is that a success? Yeah, it may be in that -- if that's what it comes to, that may be a success.

You know, but under either scenario -- I think that my view of is that, under either scenario, the business plan that's been produced by these kind of outsiders who came in and looked at it becomes the central focus, you know, because even if you disagree with it, it's the model on which you can say, look, I understand that model, but here's the different assumptions we would make, and based on these assumptions, it's worth more or whatever.

But it's a thing everyone looks at in the middle of the table and pushes around to see, you know, to focus the argument. Whereas, prior to that, I don't think we had -- I mean, for whatever reason, we had people saying I don't even want to talk about your model, you know, and that was a bad situation. So...

Q. Does the debtor have a duty to maximize recovery for its unsecured creditors?

A. I go back to Chancellory Allen. I think his definition is that the debtor has a duty of maximizing the wealth-generating capacity of the enterprise. That's kind of my litmus test. But I've read many cases and they say slightly different things, so...

Q. So you would view it that a debtor has an obligation to maximize the value of the estate?

A. Yes.

Q. For the benefit of -- maximize the value of the estate for the benefit of all creditors?

A. Interestingly, he didn't say that, so I don't want to get into a legal -- I mean, again, I think that that, you know -- and this is something we take seriously and have talked about extensively, is, you know, we are trying to make this enterprise as valuable as we possibly can in whatever form that is, whether it's stand-alone or with some other company, and not an easy thing to do, but it's what we're

Tresnowski

trying to do.

MR. DUBLIN: Take one second.

We can go off the record.

(Pause.)

BY MR. DUBLIN:

Q. You were questioned a few minutes ago by Mr. Rathkopf that, when did Impala begin to work for the company?

A. Yes.

Q. And you testified that it was prior to the date of the engagement letter. Do you know the date as of which Impala started getting compensated for the work it was performing for the company?

A. I don't. I don't know the answer to that.

Q. Out of the information that we looked at in Exhibit 3, the task force document?

A. Yes.

Q. And the cost-cutting initiatives that are set forth on there, were those prepared with the input of Impala or were those prepared by the debtors' management employees?

A. I think those had the input of Impala,

Tresnowski

is my recollection.

Q. It's your understanding that it included additional cost-cutting initiatives and identification of additional savings by Impala?

A. You know, I just -- I don't know the nature of the input, but I have a recollection that they were on board and we said we were going to make this presentation and they got involved in it. What they did, I just wasn't directly involved, so ...

MR. DUBLIN: I don't have any other questions.

THE WITNESS: Thanks.

(Time noted: 4:41 P.M.)

____

MARK TRESNOWSKI

Subscribed and sworn to
before me this day
of 2003.

____

CERTIFICATE

STATE OF NEW YORK)
: ss
COUNTY OF NEW YORK)

I, Kathy S. Klepfer, a Registered Merit Reporter and Notary Public within and for the State of New York, do hereby certify:

That MARK TRESNOWSKI, the witness whose deposition is herein before set forth, was duly sworn by me and that such deposition is a true record of the testimony given by such witness.

I further certify that I am not related to any of the parties to this action by blood or marriage and that I am in no way interested in the outcome of this matter.

In witness whereof, I have hereunto set my hand this 1st day of October, 2003.

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KATHY S. KLEPFER, RMR

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DATE OF DEPOSITION: October 1, 2003
NAME OF WITNESS: Mark Tresnowski
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1. To clarify the record.
2. To conform to the facts.
3. To correct transcription errors.

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