

Tresnowski

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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

1 Tresnowski

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

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

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

12 A. Yes.

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

16 A. I don't.

17 Q. I guess, do you know now?

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

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

21 A. I think it's decreased significantly.

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

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

1 Tresnowski

2 be very hard to calculate.

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

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

7 Q. Do you know where we are now?

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

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

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

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

1 Tresnowski

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

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

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

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

1 Tresnowski

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

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

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

1 Tresnowski

2 pushed them.

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

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

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

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

Tresnowski

1
2 explaining the business to people and defending
3 their view of the business, debating other views
4 of the business, and I think that as we come
5 into the stage right now where you say, okay,
6 hopefully we're all kind of coalescing at a view
7 of the business and what it's going to do in the
8 future, and my hope is that we all, everyone
9 around the table kind of says, okay, what do you
10 want to do with this? What's the best outcome?
11 How do you maximize things for people? And I
12 think that that's, you know, of necessity going
13 to involve looking at combinations.

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

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

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

1 Tresnowski

2 Impala has performed?

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

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

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

1 Tresnowski

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

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

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

11 A. Sure.

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

15 A. Yes.

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

22 A. Yes, I was.

23 Q. Do you recall who made the
24 presentation?

25 A. I believe Dan Yost was the primary

1 Tresnowski

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

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

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

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

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

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

20 A. Royce and Dan.

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

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

1 Tresnowski

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

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

10 A. Not to my knowledge.

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

13 A. I think they are, yes.

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

17 A. I don't believe so.

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

21 A. I don't think so.

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

1 Tresnowski

2 A. Yes, they have.

3 Q. Can you give me some examples?

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

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

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

1 Tresnowski

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

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

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

Tresnowski

1
2 this facility, what are the alternatives to
3 having the facility, and then they make
4 recommendations. And on a number of cases they
5 just -- we're going to close down the
6 co-location, we're going to power it down and
7 either abandon or sell off the equipment.

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

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

21 A. Sure.

22 Q. If you flip to page 23.

23 A. Yes.

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

1 Tresnowski

2 A. Uh-huh.

3 Q. References the closing of five sales
4 offices?

5 A. Uh-huh.

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

8 A. Yes.

9 Q. And they were closed as of June 12th,
10 2003?

11 A. Yes.

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

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

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

17 A. I don't believe so.

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

24 A. Yes, they have.

25 Q. Have any additional headcount

1 Tresnowski

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

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

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

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

21 The real tough thing was taking out an
22 additional -- I don't know whether it was 3 or
23 400 heads in July, and that was one where they,
24 you know, they were side-by-side with Dan and
25 other people going through that process.

1 Tresnowski

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

4 A. Uh-huh.

5 Q. Have these reductions referenced here
6 been implemented?

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

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

14 A. Yes.

15 Q. Included here? Referenced here?

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

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

1 Tresnowski

2 efficiencies we want to get to.

3 Q. How many more?

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

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

12 A. Yes.

13 Q. And the fee?

14 A. Yes.

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

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

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

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

1 Tresnowski

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

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

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

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

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

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

1 Tresnowski

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

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

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

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

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

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

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

20 EXAMINATION BY

21 MR. RATHKOPF:

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

Tresnowski

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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

Tresnowski

1
2 Chapter 11 cases; is that correct?

3 A. That's correct.

4 Q. And why is the business plan so
5 important?

6 A. It's, you know, it's really the
7 foundation for a reorganization or, if it turns
8 out, you know, a sale of the company. And one
9 of the things that we learned from the process
10 we had gone through to date is that it was
11 difficult to make progress on a plan of
12 reorganization.

13 We had talked to our creditors and
14 didn't make, frankly, much progress, and the
15 reason it kept coming back to us is everyone
16 disagreed on the business plan. And so it was
17 clear to us that if that disagreement continued,
18 it would bode ill for the entire process; and
19 conversely, if you could eliminate that
20 disagreement, it would open up the process for a
21 resolution. So it was the essential piece of
22 the puzzle, as far as we were concerned.

23 Q. And they have completed that plan, as
24 you have testified?

25 A. Yes, they had largely completed that

Tresnowski

1
2 plan, you know, at the end of August. I mean,
3 we really, from the end of August, third week of
4 August to the delivery date, you know, that's
5 when you're testing and fine-tuning and, you
6 know, but basically it was done.

7 Q. If the bankruptcy court in these cases
8 confirms a plan or enters an order authorizing
9 the sale of substantially all of the debtors'
10 assets, would you deem that to be a success?

11 A. Yes. Yes, I think that -- just
12 elaborate a bit as to why. I think that it
13 makes sense, and I think I speak for the whole
14 management team in the way we view this is that
15 one thing that has been clear to us is that you
16 don't get a bankruptcy confirmed or a business
17 sold unless you have either consensus among the
18 stakeholders or you're able to weather
19 objections and overcome them. And either way,
20 that's not easy.

21 It's not easy to get a consensus, it's
22 not easy to overcome objections, but from the
23 perspective of the enterprise and keeping it
24 healthy and generating as much wealth as you
25 possibly can, getting it done is the goal.

1. Tresnowski

2. Q. And because Impala's preparation of
3. the plan is critical to that, would it be fair
4. to say that if a plan is confirmed or a sale is
5. approved by the court, that Impala was
6. successful in these cases?

7. A. Yes, I would agree with that
8. conclusion.

9. Q. Okay. In terms of the success fee,
10. there was a lot of testimony that there's no
11. metrics in it currently. By the time the
12. success fee was negotiated, where was Impala in
13. terms of the cost-cutting initiatives and the
14. preparation of the plan?

15. A. Well, they were, again, they were
16. essentially complete. And we had spent a lot of
17. time looking at this, and I'm certainly well
18. aware that there are metrics in these types of
19. engagements, in some of them, and so we spent a
20. lot of time thinking, okay, well, should we have
21. metrics? So, okay, what would the metric be?
22. Well, it would be that they would complete the
23. plan.

24. Everyone talked about that and they
25. said, okay, we'll put that in, they got to

1 Tresnowski

2 complete the plan. I said, that's kind of
3 silly, they've already done that. What else do
4 they have to do? They have to defend the plan
5 and work with us to build consensus around --
6 and I said, just as a lawyer, I said, you want
7 me to write that? That they're going to defend
8 the plan and build a -- of course, they're going
9 to do that. They're professionals, they will
10 never get another engagement if they don't.

11 So, this had been going on for weeks,
12 and we just said, look, we're making this too
13 complicated. They have done most of what
14 they're supposed to do, the rest of what they're
15 going to do we're highly confident they're going
16 to do it, let's get this thing behind us.

17 And besides that, you know, again, I
18 thought it was a reasonable deal in the sense
19 that, you know, we were talking about -- in the
20 very first meeting with them they were talking
21 about \$5 million and in their proposals we were
22 looking at 5 to 8 million dollars. And so we
23 were, you know, I think we did a pretty good job
24 and we were down to \$2.5 million and, you know,
25 we were kind of at that juncture where you lay a

1 Tresnowski

2 bunch of conditions on top of that.

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

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

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

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

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

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

Tresnowski

1 today, do you believe that the \$2.5 million
2 success fee is a reasonable fee?
3

4 A. Yes.

5 MR. HENES: No more questions.

6 MR. DUBLIN: A couple of more
7 questions.

8 THE WITNESS: Sure.

9 EXAMINATION BY

10 MR. DUBLIN:

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

13 A. Uh-huh.

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

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

1 Tresnowski

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

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

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

1 Tresnowski

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

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

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

13 A. Yes.

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

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

Tresnowski

1
2 trying to do.

3 MR. DUBLIN: Take one second.

4 We can go off the record.

5 (Pause.)

6 BY MR. DUBLIN:

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

10 A. Yes.

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

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

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

20 A. Yes.

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

25 A. I think those had the input of Impala,

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Tresnowski

is my recollection.

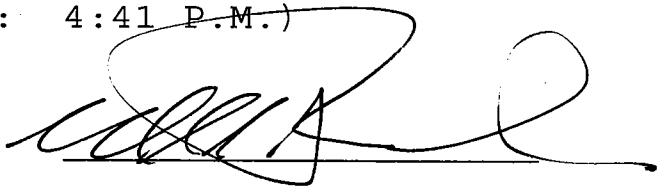
Q. It's your understanding that it included additional cost-cutting initiatives and identification of additional savings by Impala?

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.

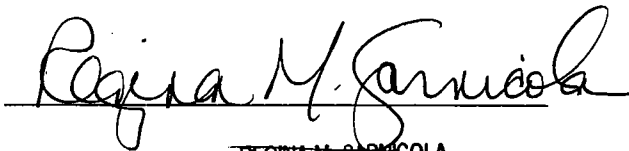
THE WITNESS: Thanks.

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



MARK TRESNOWSKI

Subscribed and sworn to before me this 7th day of October 2003.



~~REGINA M. SARNICOLA~~
Notary Public of New York

REGINA M. SARNICOLA
Notary Public, State of New York
No. 01SA5026825
Qualified in Nassau County
Commission Expires April 25, 19~~2005~~ 2006

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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.

KATHY S. KLEPFER, RMR

INDEX

1		
2		
3		
4		
5	TESTIMONY OF M. TRESNOWSKI:	PAGE
6	By Mr. Dublin	5, 103
7	By Mr. Rathkopf	96
8	By Mr. Henes	97
9		
10	TRESNOWSKI EXHIBITS:	PAGE
11	Exhibit 1, Motion of Debtors Pursuant	22
12	to Sections 105 and 363 of the	
13	Bankruptcy Code for Approval of Services	
14	Agreement with Impala Partners, LLC	
15	Exhibit 2, Notice of Hearing on Motion	41
16	of the Debtors Pursuant to Sections 105	
17	and 353 of the Bankruptcy Code for	
18	Approval of Services Agreement with	
19	Impala Partners, LLC	
20	Exhibit 3, written copy of presentation	86
21		
22		
23	REQUESTS FOR PRODUCTION:	
24	Page 18, Line 9	
25	Page 22, Line 22	
	Page 47, Line 17	
	Page 57, Line 4	
	Page 61, Line 10	

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

NAME OF CASE: In re Allegiance Telecom, et al.
DATE OF DEPOSITION: October 1, 2003
NAME OF WITNESS: Mark Tresnowski

Reason Codes:

- 1. To clarify the record.
- 2. To conform to the facts.
- 3. To correct transcription errors.

Page _____ Line _____ Reason _____
From _____ to _____

Page _____ Line _____ Reason _____
From _____ to _____

Page _____ Line _____ Reason _____
From _____ to _____

Page _____ Line _____ Reason _____
From _____ to _____

Page _____ Line _____ Reason _____
From _____ to _____

Page _____ Line _____ Reason _____
From _____ to _____

Page _____ Line _____ Reason _____
From _____ to _____

Page _____ Line _____ Reason _____
From _____ to _____

Page _____ Line _____ Reason _____
From _____ to _____

Page _____ Line _____ Reason _____
From _____ to _____

Page _____ Line _____ Reason _____
From _____ to _____

MARK TRESNOWSKI