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BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION

MIKE AND GLENDA BECK,) Docket UW-132268
) Pages 96-339
 Complainants,)
)
 v.)
)
 CRISTALINA, LLC,)
)
 Respondent.)

EVIDENTIARY HEARING - VOLUME III

Pages 96-339

ADMINISTRATIVE LAW JUDGE ADAM E. TOREM

9:35 A.M.

MAY 21, 2014

Washington Utilities and Transportation Commission
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A P P E A R A N C E S

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2 EXH: MRK: AD: WDRN: DESCRIPTION:

3 COMPLAINANT'S WITNESS:

4 GLENDA BECK:

5	A-GB-1	--	167	--	1/1/10 Check No. 2474, \$68.30
6	A-GB-2	--	167	--	2/28/12 Check No. 2510, \$68.30
7	A-GB-3	--	167	--	4/1/12 Check No. 2544, \$77.83
8	A-GB-4	--	167	--	4/1/12 Check No. 2545, \$79.75
9	A-GB-5	--	167	--	6/10/12 Check No. 2605, \$80.10
10	A-GB-6	--	167	--	6/10/12 Check No. 2606, \$79.03
11	A-GB-7	--	167	--	7/12/12 Check No. 2643, \$79.14
12	A-GB-8	--	167	--	10/1/12 Check No. 2705, \$78.51
13	A-GB-9	--	167	--	10/1/12 Check No. 2706, \$81.90
14	A-GB-10	--	167	--	11/1/12 Check No. 2730, \$80.49
15	A-GB-11	--	167	--	2/16/13 Check No. 2823, \$78.66
16	A-GB-12	--	167	--	2/16/13 Check No. 2824, \$81.36
17	A-GB-13	--	167	--	4/5/13 Check No. 2840, \$79.25 4/5/13 Check No. 2839, \$79.23
18	A-GB-14	--	167	--	5/9/13 Check No. 2902, \$79.77
19	A-GB-15	--	167	--	6/16/13 Check No. 2937, \$79.58
20	A-GB-16	--	167	--	10/7/13 Check No. 3038, \$81.56
21	A-GB-17	--	167	--	10/7/13 Check No. 3039, \$80.10
22	A-GB-18	--	167	--	10/23/13 Check No. 3091, \$78.40
23	A-GB-19	--	167	--	11/1/13 Check No. 3068, \$79.34
24	A-GB-20	--	167	--	11/26/13 Check No. 3090, \$80.92
25					

0100

1	EXH:	MRK:	AD:	WDRN:	DESCRIPTION:
2	A-GB-21	--	167	--	11/28/13 Check No. 3092, \$79.86
3	A-GB-22	--	167	--	12/5/13 Check No. 3103, \$160.00
4	B-GB-23	--	169	--	11/5/13 First Notice of Disconnection
5	C-GB-26	--	169	--	1/1/11 Check No. 2074, \$63.90
6	C-GB-27	--	169	--	3/2011 Check No. 2147, \$68.10
7	C-GB-28	--	169	--	6/15/11 Check No. 2228, \$68.30
8	C-GB-29	--	196	--	7/31/11 Check No. 2270, \$68.30
9	C-GB-30	--	170	--	9/15/11 Check No. 2321, \$68.30
10	C-GB-31	--	170	--	10/11/11 Check No. 2334, \$68.30
11					
12	C-GB-34	--	170	--	12/26/13 Check No. 3129, \$78.25
13	C-GB-35	--	170	--	3/13/11 Handwritten Note from the Becks
14	C-GB-36	--	170	--	1/21/12 Letter from Cristalina
15	C-GB-37	--	170	--	First page of Letter from Cristalina dated 8/3/12
16					
17	C-GB-38	--	170	--	Second page of Letter from Cristalina dated 8/3/12
18	C-GB-39	--	170	--	Notice from Terryl Cooper
19	C-GB-40	--	170	--	10/17/13 Letter from Cristalina
20	F-GB-42	--	171	--	6/13/12 Letter from Becks
21	G-GB-45	--	171	--	2/2/10 Check No. 17726, \$287.00
22	G-GB-46	--	171	--	2/2/10 Check No. 177424, \$1,000
23					

24 (Continued...)

25

0101

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2					COMMISSION STAFF WITNESS:
3					STEVEN ELLIOTT
4	SE-1	--	229	--	37-page Complaint Record
5					
6					RESPONDENT'S WITNESS:
7					TONYA FARMER:
8	TF-9	284	304	--	2-page Spreadsheet Recalculation of ML-8
9					
10	TF-10	291	304	--	Photocopy of Invoice, April 5, 2014 to May 5, 2014, with attached envelope
11					
12					RESPONDENT'S WITNESS:
13					MARIA LINDBERG:
14	ML-8	--	276	--	Becks' Account Balance History
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OLYMPIA, WASHINGTON, MAY 21, 2014

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9:35 A.M.

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P R O C E E D I N G S

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7

JUDGE TOREM: Let's be on the record.

8

This is Docket UW-132268. Today is Wednesday, May

9

21, 2014. We're in Room 207 at the Utilities and Transportation

10

Commission headquarters in Olympia, Washington.

11

This is Administrative Law Judge Adam Torem. We've

12

had a brief discussion off the record with all the parties

13

assembled for today's evidentiary hearing in the matter of Beck

14

v. Cristalina.

15

The last time we were together in Olympia was back in

16

February for the prehearing conference, and to the best of my

17

knowledge, all parties have complied with the procedural

18

schedule, exchanged documents, and even subpoenaed a witness at

19

request. They've listed Mr. Steven Elliott as a witness, and

20

he's properly subpoenaed and is here with counsel today.

21

So we'll take appearances first for the Becks.

22

Mr. Kombol?

23

MR. KOMBOL: Judge Torem, my name is Barry Kombol.

24

I'm attorney for consumers, Mr. and Mrs. Beck. And Glenda Beck

25

is the lady seated to my left.

0103

1 And did you ask me to introduce witnesses?

2 JUDGE TOREM: Yeah. If you would identify so I have
3 a cast of characters here.

4 MR. KOMBOL: There are characters here, Your Honor.

5 JUDGE TOREM: Yes.

6 MR. KOMBOL: Glenda Beck is seated to my left. To my
7 right is Susan Burnett, who will offer testimony about her
8 review of the accounting that is in front of you -- well, the
9 exhibits that have been submitted, Your Honor.

10 JUDGE TOREM: Okay. Thank you.

11 For Cristalina?

12 MR. GILLETT: Yes, Your Honor. Eric Gillett for
13 Cristalina. And with me today is Maria Lindberg and Tonya
14 Farmer.

15 JUDGE TOREM: And for Commission Staff today, at
16 least representing in a partial role?

17 MS. BROWN: Sally Brown, Senior Assistant Attorney
18 General, appearing on behalf of Commission Staff Witness Steven
19 Elliott.

20 JUDGE TOREM: All right. Thank you.

21 What we're going to do, then, is take opening
22 statements and go directly into the Becks' case. My hope is
23 that we have today a complete hearing and we're not forcing
24 folks to come back to Olympia tomorrow. We have the room
25 reserved for tomorrow, but I think we can get through everything

0104

1 today. We'll take an appropriate lunch break and see how late
2 we need to go.

3 So if there's any concerns with scheduling, we'll
4 check in after the lunch hour and see where we are.

5 Mr. Kombol, are you ready to offer an opening?

6 MR. KOMBOL: Yes, Judge Torem.

7

8 COMPLAINTANT'S OPENING STATEMENT

9

10 MR. KOMBOL: Quite briefly, I appreciate the time
11 that this tribunal has given to my clients both in the winter of
12 2013 and '14, and also the time it's dedicating today.

13 I represent Mr. and Mrs. Beck, who are consumers of
14 water from a private utility company, Cristalina Water Company,
15 in Ravensdale, Washington. My clients have complained of
16 improper accounting and improper disconnection of service of
17 this essential utility service. The history of this is
18 something that you will catch probably some reference to, but
19 this is a long-going problem between this utility and even its
20 predecessors, owners, and these consumers.

21 At issue is allegations that Mr. and Mrs. Beck were
22 not paying and not timely paying; not paying their water service
23 charges as required by the utility.

24 What you will hear today, Your Honor, is that this
25 utility has a history of failing to give proper billing, failing

0105

1 to let their consumers know what charges are due, failing to
2 cash checks, and then imposing the consequences of the utility's
3 own accounting problems on consumers such as the Becks.

4 You will hear that the Becks have for several years
5 had to maintain records of their own out of fear of
6 disconnection, records of checks that they write and mail to the
7 company. Sometimes those checks are cashed, and, occasionally,
8 those checks are not cashed.

9 The consequences of the company's accounting
10 problems, personnel problems, whatever problems that exist
11 behind the scenes of this utility, have been brought to bear
12 upon Mr. and Mrs. Beck. And they believe they've been aggrieved
13 and that this tribunal has jurisdiction to offer remedy beyond
14 what it has already offered.

15 JUDGE TOREM: Okay.

16 Mr. Gillett?

17

18 RESPONDENT'S OPENING STATEMENT

19

20 MR. GILLETT: Your Honor, as the Court noted in the
21 last prehearing conference, the issue that is -- you know, that
22 we're here for today is to determine how much the Becks owe
23 Cristalina for unpaid water services, and that's the only issue
24 that we're here to discuss.

25 The issues of disconnection were the subject of a

0106

1 hearing back in December, and while the Complainants try to set
2 forth additional issues for this hearing, the Court determined
3 that the only issue that we're here for today is to determine
4 the amount that the Becks owe.

5 The history is certainly relevant to some extent, and
6 that is because there is a history of the Becks not paying for
7 water service. And even as was evidenced in the hearing back in
8 December of two thousand -- or maybe it was November of 2013,
9 while the Court determined that the procedure for disconnecting
10 the Becks back then was out of compliance and they needed to be
11 reconnected, the Court observed appropriately that the Becks had
12 not paid for water on several occasions, and the accounting that
13 we've provided in our exhibits, and as will be testified to
14 today, demonstrates that, in fact, that is true. The Becks have
15 failed to pay for water service on many occasions over the
16 course of many years, and then when they did begin paying for
17 water service, the amounts that were applied to -- to the
18 accounting, the payments that were made were applied to the
19 oldest valid balance.

20 What Mr. Elliott did -- and I think the evidence will
21 show from his report as well as his testimony -- is that he
22 simply zeroed out the Becks' account six years prior to the date
23 that he did his accounting in October of 2013, based on the
24 six-year statute of limitations and then going back that far did
25 an accounting of the Beck account and determined that the amount

0107

1 owing was in the range of \$3,000.

2 What we will present is evidence that, in fact,
3 Mr. Elliott, while his -- the math that he employed certainly
4 may have been appropriate -- and if the Court determines that
5 that's the right formula for making this accounting, then
6 Mr. Elliott's conclusions are correct and the amount is
7 appropriate as Mr. Elliott had indicated, we will show evidence
8 that, in fact, the amount that should have been calculated --
9 because you apply to the oldest balance the payment; when the
10 payment is made, you apply it to the oldest available balance --
11 it is a rolling six-year accounting period, and as it rolls
12 forward with the statute of limitations as -- as October goes to
13 November and goes to December and six years keeps rolling
14 forward on the back-end, you actually need to apply those
15 payments to that oldest valid balance, which was not zero, in
16 October of 2013.

17 You know, looking back six years and then moving it
18 forward, the balance actually -- when the Becks only make
19 payment of a minimum amount and -- and in this case, the
20 evidence will -- you know, will be that they made payment
21 consistent with their current bill at the time. But applying
22 that to an old balance, the balance actually has a tendency to
23 grow and not reduce because they're not taking care of --
24 they're not taking care of old debt. They're not taking care of
25 both the current and old debt and so the -- and so the debt

0108

1 continues to grow.

2 And so we'll present testimony consistent with our
3 exhibits that show that the balance due is actually around
4 \$15,000, and that's the amount that the Becks should be ordered
5 by the Court to pay. Thank you.

6 JUDGE TOREM: All right. Thanks, Mr. Gillett.

7 Mr. Kombol, who will be your first witness?

8 MR. KOMBOL: The first witness will be Glenda Beck.

9 JUDGE TOREM: Okay. I'm going to ask her to come and
10 sit up here, so if you need to move around, let me know. But I
11 want the court reporter be able to --

12 MR. KOMBOL: Yes.

13 JUDGE TOREM: -- take her testimony.

14 MR. KOMBOL: Thank you.

15 JUDGE TOREM: Ms. Beck, will you raise your right
16 hand? The other hand.

17 MS. BECK: Oh, sorry.

18 JUDGE TOREM: Do you, Glenda Beck, solemnly swear or
19 affirm that all testimony you'll provide in this hearing be the
20 truth?

21 MS. BECK: Yes.

22

23 GLENDA BECK,

24 witness herein, having been first duly sworn on oath, was

25 examined and testified as follows:

0109

1 JUDGE TOREM: All right. Please have a seat.

2 If you can state your first and last name and spell
3 your last name for the record.

4 THE WITNESS: My name is Glenda Beck; B-e-c-k.

5 JUDGE TOREM: Mr. Kombol, please go ahead.

6

7 D I R E C T E X A M I N A T I O N

8 BY MR. KOMBOL:

9 Q. Glenda, will you state your current address, please.

10 A. 27107 314th Avenue Southeast, Ravensdale, Washington
11 98051.

12 Q. How long have you lived there?

13 A. Since 1983.

14 Q. And you are connected, obviously, to the Cristalina
15 water system?

16 A. Correct.

17 Q. It was formerly called by a different name, but since
18 you've moved in there, you have been consistently a member of
19 that water system?

20 A. Yes.

21 Q. I'm going to ask you to briefly describe whether a
22 number of years ago there were some water issues with that
23 system that caused you and your family to have concerns over
24 water quality or quantity.

25 A. Yes.

0110

1 MR. GILLETT: I'm going to object to the relevance.

2 JUDGE TOREM: Mr. Kombol?

3 MR. KOMBOL: It's to --

4 JUDGE TOREM: Is it going to lead into direct
5 relevance to payments made or not made?

6 MR. KOMBOL: Yes.

7 JUDGE TOREM: Okay. Well, let's keep it going to the
8 issue that we established in the prehearing conference about
9 amount owed.

10 BY MR. KOMBOL:

11 Q. There was a failure to pay payments for a number of
12 years in the late 1990s and early part of this century; is that
13 true?

14 A. Yes.

15 Q. And why was there a failure to make payments at that
16 time?

17 A. I wasn't being issued bills, and when we lose power,
18 we had no water. And that would be in the wintertime weeks at a
19 time without any running water to flush toilets, wash clothes,
20 take baths.

21 Q. And that was before the time that Cristalina took
22 over; is that correct?

23 A. Yes.

24 Q. And at a certain point, in the early part of the
25 century, you started getting -- receiving bills from a different

0111

1 utility?

2 A. Correct.

3 Q. And what was the name of that utility?

4 A. Cristalina Water.

5 Q. And did they continue sending bills to you for the
6 amount that was allegedly owed to the former company?

7 A. Yes.

8 Q. Were they sending you monthly statements when they
9 first -- when Cristalina first started charging you?

10 A. No.

11 Q. What were they doing?

12 A. I would get bills, you know, here and there, so when
13 I got my bills, I would pay when they came.

14 Q. Before 2010, was there a different rate that you were
15 paying? In other words, were there some changes that came about
16 for water charges and volume usage, as well as capital
17 improvement charges?

18 A. Yes.

19 Q. Before that came about, do you recall what your water
20 bill was per month?

21 A. In the '80s, I was paying \$15 a month. And then in
22 the late '90s, it went from 15 to 25, then from 25 to 45.

23 Q. And so the last flat rate that you recall was
24 forty --

25 A. -- five dollars --

0112

1 Q. -- five dollars?

2 A. -- correct.

3 Q. Was that being charged to you at some time while
4 Cristalina was your utility provider?

5 A. I don't recall. I can't -- I would say yes.

6 Q. There was an issue that came about over the utility's
7 desire to be paid about 2010, wasn't there?

8 A. Correct.

9 Q. Describe that to us, would you, please.

10 A. They wanted me to pay the balance of twenty-seven --
11 actually, I think, \$25,000 and something.

12 Q. How did you discover that they wanted you to do that?

13 A. By when I wanted to refinance my house, I had a lien
14 against my house.

15 Q. And what steps did you take, then, to deal with the
16 lien or the claim of debt?

17 A. We went to you to see -- to get the lien taken off.

18 Q. Was that successful?

19 A. Yes, it was.

20 Q. Were you dealing with Cristalina at that time?

21 A. Correct.

22 Q. And around that time, were you getting bills for
23 water service at the rate of \$45 per month?

24 A. Yes.

25 Q. Were you making payments to Cristalina at that time?

0113

1 A. Yes.

2 Q. Did they accept payments?

3 A. Yes.

4 Q. Was there a time when they refused to take payments
5 from you around the time of the lien claim?

6 A. Yes.

7 Q. What did you do when they refused to make payment
8 to -- well, did you send checks to them?

9 A. Yes.

10 Q. And what happened?

11 A. They were never cashed.

12 Q. What did you do about that?

13 A. I don't remember what I did about it.

14 Q. Well...

15 A. I went to you --

16 Q. Yes.

17 A. -- to start making my payments through you.

18 Q. Yes.

19 A. And then that's how they were getting paid.

20 Q. So how much did you pay to me, your lawyer?

21 A. We paid \$2500 upfront to obtain you. And \$45 went to
22 Maria, and then 287 for four months. And then we sent her a
23 thousand dollars to dispute on the bill issue of being old --
24 owed.

25 Q. So you made payments to a different source, which was

0114

1 an attorney --

2 A. Correct.

3 Q. -- for a period of time?

4 A. Yes.

5 Q. And do you know if those \$45-a-month payments were
6 eventually tendered over to Cristalina?

7 A. No, I don't. I have no records of it on my
8 statements.

9 Q. Sometime after that, Cristalina began giving you
10 statements of a different sort, did they not?

11 A. Correct.

12 Q. And those included some other charges?

13 A. Yes, the breakdown of the water bill for 45. And
14 then before the meter started, it was just the 45 and the \$32
15 for the capital improvement.

16 Q. And sometime after that, the invoices got larger
17 because of volume charge?

18 A. Correct.

19 Q. Now, since 2010, when you make payments to
20 Cristalina, do you pay on the invoice you receive?

21 A. Correct.

22 Q. And have you been maintaining a file of your own?

23 A. Correct.

24 Q. Why do you maintain a file of your own keeping copies
25 of checks and invoices?

0115

1 A. Because of fear of being disconnected when I'm
2 current on my bills, so I do it to all my utilities.

3 Q. And when you get an invoice from Cristalina, does it
4 reflect the monthly charge that you owe?

5 A. Correct.

6 Q. Does it also reflect the capital charge --

7 A. Correct.

8 Q. -- and the volume charge --

9 A. Yes.

10 Q. -- and the base charge?

11 A. Yep.

12 Q. On those invoices that you received, do you see
13 assessment of late charges on your invoices?

14 A. No.

15 Q. When you make your payments -- or when you've made
16 your last 48, four years of payments to Cristalina, do you make
17 a notation on the check?

18 A. Correct. I put my account number, 1056, and then I
19 date what the usage is made for, from like three -- from like
20 April 5th through May 5th, and then I photocopy my checks on top
21 of the invoice and send my check to them.

22 Q. And when you are doing that, is it your intention --
23 or are you trying to make payment on the monthly service charge
24 that you're -- the water service you're receiving per month from
25 the utility?

0116

1 A. Correct; yes.

2 Q. And the checks that you submitted here -- correct me
3 if I'm wrong, but these checks would match the invoicing that
4 you're receiving for current service?

5 A. Correct.

6 Q. Do you recall a time when you didn't put on your
7 check the month for which you were paying service, water service
8 for?

9 A. No. I don't recollect any of them. I put all of it
10 on, the information that I need.

11 Q. Now, there appears to have been different charges on
12 these bills. Some of these bills would show a previous balance?

13 A. Correct.

14 Q. Would that previous balance be consistent? Would it
15 sometimes go up and down?

16 A. Yes.

17 Q. Did you ever know why it was going up and down?

18 A. No. I would always have -- I would always be in the
19 30 days, then I'll have 90 days with the huge amount. And then
20 the 60 days I would have over \$100, and then -- and on the
21 current month, I was always -- I was never at zero, so it may --
22 always made it look like I never paid any bills.

23 Q. Now, did you have occasion to deal with bills that
24 either didn't come to you or were late in arriving?

25 A. Yes. I paid the bills on -- timely when I'd get them

0117

1 through the mail, and then I wait for my next pay period and pay
2 it.

3 Q. Well, what I was asking is --

4 A. Oh.

5 Q. -- was there occasions over the last four years where
6 you would get a series of monthly bills or several monthly bills
7 in one statement?

8 A. Correct. There'll be -- there'll be two months'
9 bills in one month.

10 Q. Be clear on that.

11 A. Mm-hm.

12 Q. There will be two months in a statement? Two
13 invoices in a statement?

14 A. No. They would be individually mailed for the -- for
15 two in a month.

16 Q. So you'd get two envelopes --

17 A. Yes.

18 Q. -- the same day?

19 A. Mm-hm.

20 Q. But for different monthly periods?

21 A. Yes. And then I would also get two monthly bills,
22 one from previous years that I owed 28,000, and then I would get
23 one for the other balance.

24 So at one time I had two accounts: the old account
25 and the new account.

0118

1 Q. And so are you saying that at a certain time there
2 were some invoices for a huge amount of money that related not
3 to current water usage?

4 A. Correct.

5 Q. Did you ever make payments on that -- on the old
6 account invoices that you're describing that were claiming many
7 thousands of dollars on former?

8 A. Correct. I didn't make any payment on that.

9 Q. But at a certain time, you started receiving, then,
10 current monthly bills?

11 A. Correct.

12 Q. And then that had a different figure like 8,000
13 sometimes?

14 A. Thousand, mm-hm.

15 Q. Did that figure also change at a later time --

16 A. Yeah --

17 Q. -- from 8,000?

18 A. -- it changed this -- recently last year.

19 Q. Was there occasions when you would make payments to
20 Cristalina that wouldn't clear your bank?

21 A. Yes.

22 Q. Over the last four years, can you just give me a
23 rough estimate of how many times that happened?

24 A. Probably about three; three or four maybe?

25 Q. Did you ever have any communication with Cristalina

0119

1 Water Company about these checks that were not clearing?

2 Describe what you did about that.

3 A. In the summer of 2013, Stephanie came to my door with
4 copies of two invoices that apparently were never mailed out to
5 the customers. And she also mentioned that she --

6 MR. GILLETT: Objection. Hearsay.

7 JUDGE TOREM: Sustained.

8 MR. KOMBOL: I'll lay a foundation.

9 BY MR. KOMBOL:

10 Q. Do you know who this Stephanie is?

11 A. No. I never knew who she is until she came to my
12 door and introduced herself.

13 Q. And what did she tell you she was?

14 MR. GILLETT: Objection. Hearsay.

15 MR. KOMBOL: I'm laying foundation, Your Honor.

16 JUDGE TOREM: Can you rephrase the question?

17 BY MR. KOMBOL:

18 Q. Would you state what this woman named Stephanie said
19 she was doing?

20 MR. GILLETT: Objection.

21 BY MR. KOMBOL:

22 Q. Who she was?

23 MR. GILLETT: Hearsay.

24 JUDGE TOREM: Sustained.

25 She can testify to her personal knowledge, not to

0120

1 what somebody else said.

2 BY MR. KOMBOL:

3 Q. Do you know who Stephanie is?

4 A. Yeah, she came to my door.

5 Q. Do you know who she is and who she works for?

6 A. Yeah. She said she worked for --

7 MR. GILLETT: Objection. Hearsay.

8 THE WITNESS: -- Cristalina Water Company.

9 JUDGE TOREM: I'm going to allow that answer. That's
10 probative. It's what I need to know.

11 MR. GILLETT: Okay.

12 BY MR. KOMBOL:

13 Q. And did you have telephone conversations with the
14 woman who identified herself was Stephanie?

15 A. Correct; yes.

16 Q. And when she would call you, what would she identify
17 herself as calling you for?

18 A. To collect on the old bills, and that she was --

19 MR. GILLETT: Objection. Hearsay.

20 THE WITNESS: -- she was -- introduced her as --

21 JUDGE TOREM: Overruled.

22 THE WITNESS: -- Cristalina's bookkeeper.

23 BY MR. KOMBOL:

24 Q. So this woman named Stephanie had conversations with
25 you on the telephone?

0121

1 A. Correct.

2 Q. And she identified herself as being a bookkeeper?

3 A. Yes.

4 Q. And when she came to your door last summer, what did
5 she have with her?

6 A. She had the two following invoices that were never
7 mailed out, and she explained her situation, why they weren't
8 mailed out. And then she also said that she found two checks in
9 my file that were never cashed, and she asked me if she could
10 cash them if they were still good.

11 I said, Yes, they are still good. Go ahead and cash
12 them.

13 And then she gave me the copies of the two invoices
14 that weren't mailed out, which was the two months in a row.

15 Q. Did she give you any explanation of why she was at
16 your house with bills or why there was this delay in giving out
17 invoices?

18 A. Because she received numerous calls from customers
19 that they weren't getting their bills mailed or not receiving
20 invoices.

21 Q. Well, did she describe any personal problems that she
22 was having?

23 A. Yeah. She had --

24 MR. GILLETT: Objection. Hearsay.

25 THE WITNESS: She had an illness.

0122

1 JUDGE TOREM: Is there a relevance to Stephanie's
2 issues?

3 MR. KOMBOL: Well, just an explanation as to...

4 Relevance is that a utility is sending an agent out
5 to explain certain problems with billing and with her -- I guess
6 the relevance is what was already testified to over giving
7 statements, timely statements.

8 JUDGE TOREM: Mr. Gillett, you were going to further
9 your objection?

10 MR. GILLETT: Yeah, I think it's hearsay. What
11 Stephanie may or may not have said should not come out of this
12 witness. And the bills are the bills. The payments are the
13 payments. I mean, I think that that's -- it's an accounting
14 process, not -- and not a whole lot more than that.

15 And where we're going with this is -- I'm not sure.

16 JUDGE TOREM: So as to the hearsay, at some point it
17 becomes nonprobative, so I'm going to sustain the objection at
18 this point.

19 What I want, Mr. Kombol, really is the bills and the
20 amounts. I understand the story. I understand from previous
21 discussions in December and suggestions of issues that came up
22 at the prehearing conference in February that there's a
23 background as to why things happened.

24 I think it's better for you to take advantage of
25 Ms. Lindberg, or other testimony from Cristalina later to make

0123

1 your points as to any allegations of inability to run the
2 company the way you think a utility should be run.

3 For your witness, I need her payment -- I need her
4 knowledge of what she's done to stay current or not, or make
5 payments.

6 This agent, Stephanie, I really don't want part of
7 the record to be what her personal problems may or may not have
8 been, unless you want to inquire as to the employees of
9 Cristalina, but let's focus on the numbers.

10 BY MR. KOMBOL:

11 Q. When you received those two statements that were
12 given to you at your house, what did you do with them?

13 A. I, the next day, made checks out to them and sent
14 them in and photocopied my checks to the bill.

15 Q. There was some reference to checks that had not been
16 cashed?

17 A. Correct.

18 Q. Were the checks that were described to you as having
19 not being cashed ever run through your bank? Did you ever see
20 them on your bank statement as having been accepted by your bank
21 or negotiated by the company? I'm talking about the two checks
22 she described as having seen in your file --

23 A. Yes.

24 Q. -- and asked if she could deposit them.

25 A. Correct.

0124

1 Q. Did you ever see two older checks of that sort clear
2 your bank?

3 A. No, they haven't cleared.

4 Q. Now, you had, I believe, another telephone
5 conversation with Stephanie over your account balance; is that
6 correct?

7 A. Yes.

8 Q. And when she called you, who did she identify herself
9 as?

10 A. Stephanie, the bookkeeper at Cristalina.

11 Q. And what was her -- what did she tell you about your
12 account balance, or what was her statement to you?

13 A. She was giving me a verbal warning that I was heading
14 to be disconnected from Cristalina Water Company.

15 Q. And what was she asking you to pay?

16 A. The full balance of 8,000 that was due.

17 Q. And what did you tell her?

18 A. I said you need to talk to my attorney because he's
19 the one that's handling it, and if there's any issues with
20 Cristalina to further contact him.

21 Q. Now, over the last four years, do you recall a time
22 when you didn't make a water payment on your current water
23 service?

24 A. No. I've always made my water -- I made the water
25 bills.

0125

1 Q. And if there are some occasions where Cristalina is
2 claiming there weren't payments made, do you believe that's
3 because you didn't make a payment or because they may have lost
4 the checks?

5 MR. GILLETT: Objection. Calls for speculation.

6 JUDGE TOREM: Sustained.

7 BY MR. KOMBOL:

8 Q. With every month over the last four years, did you
9 keep copies of the checks you wrote?

10 A. Yes.

11 Q. Did you mail those by U.S. mail to Cristalina?

12 A. Yes.

13 Q. Does Cristalina, at times, seek to impose payment
14 terms that require a payment be made before the bill is even
15 sent? In other words, have you received bills from Cristalina
16 that demanded payment to be made before the bill was even
17 mailed? Do you understand what I'm asking?

18 A. Mm-hm, no.

19 JUDGE TOREM: Mr. Kombol, I don't understand what
20 you're asking.

21 BY MR. KOMBOL:

22 Q. Do you occasionally receive billings from Cristalina
23 with a due date of the payment expected before you even receive
24 the bill?

25 A. Yes.

0126

1 Q. And under threat of receiving a late charge if you
2 don't pay it?

3 A. Yes.

4 Q. When was the last time that happened?

5 A. Recently I got an invoice that's due the 5th --

6 Q. Of what?

7 A. -- of May of this year, but it's not mailed out till
8 May 8th.

9 Q. How do you know it wasn't mailed until May 8th?

10 A. Because I have the backup document from the envelope
11 that I kept --

12 Q. Is this...

13 A. -- and the invoice.

14 Q. Does this happen with Cristalina on a frequent basis
15 where you receive billings --

16 A. Yes.

17 Q. -- demanding payment --

18 A. Yes.

19 Q. -- when the payment due date has already passed?

20 A. Yes.

21 Q. Now, it's your position, I believe, that for the last
22 four years, you have been current in your monthly water bill --

23 A. Yes.

24 Q. -- is that correct?

25 A. Yes.

0127

1 Q. Now, you've had occasion to review your statement
2 history.

3 Does it appear as if Cristalina is crediting you with
4 the monthly payments that you're making based on the invoice
5 you're receiving?

6 A. No. I don't know. Can you...

7 Q. Well, on some occasions their statement -- or their
8 reconstruction of your account shows...

9 MR. GILLETT: I'm going to object to this
10 questioning. I mean, it sounds like Mr. Kombol was about to
11 testify as to what something says and what something is.

12 I think he needs to ask the witness a question,
13 whether she knows or she doesn't. I mean, it's leading in an
14 inappropriate way, so...

15 JUDGE TOREM: Mr. Kombol...

16 MR. KOMBOL: I withdraw the question, Your Honor.

17 JUDGE TOREM: Thank you. You have a number of
18 proposed exhibits that were mailed in. I want to make sure
19 we're on the right page here that they're not automatically
20 admitted.

21 Are you going to use any of those exhibits you sent
22 in according to the procedural schedule with these witnesses to
23 answer --

24 MR. KOMBOL: Yes, yes.

25 JUDGE TOREM: Okay. I think there's been a lot of

0128

1 talk about checks and invoices, and it would really help me and
2 develop the record here if we could start to put paper and dates
3 together and start to show me an amount due and an amount paid.

4 MR. KOMBOL: Well, are you asking me to move to admit
5 all the exhibits, Your Honor?

6 JUDGE TOREM: I'm asking you to use the exhibits and
7 then we'll see if they're relevant and then I can deal with a
8 motion to admit them.

9 MR. KOMBOL: All right.

10 JUDGE TOREM: But I don't want to get to the end of
11 this witness who's not going to have seen any of them and she's
12 back in her seat and then you ask me to admit them, because the
13 answer will be no.

14 So I want you to use them as we go. It would really
15 help me make sense of what Ms. Beck is talking about.

16 MR. KOMBOL: Your Honor, there's a large volume of
17 checks.

18 JUDGE TOREM: Great. There's a large volume of
19 payment schedule that's at issue here, isn't there?

20 MR. KOMBOL: Well, certainly, there is.

21 JUDGE TOREM: How were you intending to make a record
22 of what amount might or might not be...

23 MR. KOMBOL: Through the accountings and the checks,
24 yes, Your Honor.

25 JUDGE TOREM: Okay. So a witness needs to sponsor an

0129

1 exhibit.

2 MR. KOMBOL: Very well.

3 MR. GILLETT: What exhibit are we looking at?

4 MR. KOMBOL: Well, as I understand it, we're going to
5 start through A1.

6 Now, I -- if the Court is wanting me to admit every
7 one of these exhibits, Your Honor, I could do so, but...

8 JUDGE TOREM: What I've got marked in front of me,
9 Mr. Kombol, is you sent in Exhibits A and B initially, and then
10 you sent in Exhibit C and some additional documents that were
11 marked in an ongoing letter sequence.

12 MR. GILLETT: I mean, I don't have -- I mean,
13 Mr. Kombol appears to have a large volume of -- or he described
14 as a large volume of checks, and I have in my records, you know,
15 maybe half a dozen checks. I don't have a large volume of
16 checks, if that what we're talking about.

17 MR. KOMBOL: Well, there's a...

18 JUDGE TOREM: Mr. Kombol, it might be helpful if you
19 identify the exhibit for the record. And if it's the same
20 Exhibit A in the same page sequence you sent to the Commission
21 and I presume to Mr. Gillett...

22 MR. KOMBOL: I will do that, Your Honor.

23 JUDGE TOREM: Then perhaps it's just a question of
24 the number of pages.

25 From what I can see, Mr. Gillett, down on the lower

0130

1 left-hand side of each exhibit, Mr. Kombol's marked the pages as
2 Exhibit A-GB for Glenda Beck, and then a page number.

3 MR. GILLETT: Okay.

4 JUDGE TOREM: And this exhibit, A, runs a total of 21
5 pages; is that correct?

6 MR. KOMBOL: Yes, there are 21. It's not a half a
7 dozen. It's 22.

8 JUDGE TOREM: 22.

9 MR. KOMBOL: Yeah.

10 MR. GILLETT: Okay. Well, then, let me try to make
11 sense of what we have here.

12 JUDGE TOREM: So that's fine if you want to refer to
13 these checks as a group or individually, but I need you to say
14 something about Exhibit A.

15 MR. KOMBOL: Very well.

16 MR. GILLETT: Let me make sure that I have what he's
17 talking about, because I have his...

18 JUDGE TOREM: These were filed late March. 28th is
19 the date stamped in here. So these would have been the original
20 witness and exhibit list that came in in late March.

21 MR. GILLETT: Ah, Exhibit A.

22 JUDGE TOREM: Can you see, Mr. Gillett, in the lower
23 left-hand corner the additional markings all the way down in the
24 bottom of the page?

25 MS. BURNETT: In the corner by your finger.

0131

1 JUDGE TOREM: The lower left should be some
2 typewritten...

3 MR. GILLETT: Witness and exhibit list, March 5th?
4 Oh, that's when we received it. I'm sorry.

5 I have Exhibit A. This is what we received.

6 JUDGE TOREM: I'm going to hand you my copy,
7 Mr. Gillett, so you can see what's there. That was what was
8 filed with the Commission.

9 MR. GILLETT: Well, let's make sure I'm looking at
10 the same document.

11 JUDGE TOREM: It should essentially be four pages
12 describing the witnesses, and then the exhibit, A.

13 And if you see in my copy just where your hand is
14 holding it on the bottom left of each page?

15 MR. GILLETT: I don't have a copy of this. This is
16 what I don't have a copy of. I have Exhibit -- this is -- the
17 copy that I have here is this, the pleading, witness and exhibit
18 list, the blank sheet, Exhibit A...

19 MR. KOMBOL: And I think this is it.

20 MR. GILLETT: Yeah, but there's nothing behind it.

21 JUDGE TOREM: What I'm wondering is if you are
22 looking at an earlier copy. There was a set of exhibits sent in
23 that I note from March 26, 2014. There was a witness and
24 exhibit list, and then maybe there was a corrected witness and
25 exhibit list that came out.

0132

1 MS. BURNETT: Yeah, that's the one.

2 MR. GILLETT: Yeah. And...

3 MS. BROWN: I don't have that either.

4 MR. GILLETT: I don't have it.

5 MS. BROWN: I have what Mr. Gillett has.

6 MR. GILLETT: So...

7 JUDGE TOREM: There's a certificate of mailing about
8 a corrected filing of Complainant's witness list and exhibit
9 list that came to the Commission signed by Ms. Burnett on March
10 27, and I think that's the attachment that came with it.

11 If we need to get copies of that to everybody, we
12 can.

13 MR. KOMBOL: Well, it's right there.

14 MR. GILLETT: No...

15 MR. KOMBOL: 2474. 2474.

16 JUDGE TOREM: So what I'm seeing is that it went --

17 MR. GILLETT: Well, this is what he's looking at. I
18 don't have this.

19 JUDGE TOREM: Mr. Gillett?

20 MS. BURNETT: Then I had to redo the exhibit
21 numbering.

22 JUDGE TOREM: Mr. Gillett, what I'm seeing is that
23 the certificate of mailing says it was e-mailed to you at your
24 law firm at the e-mail address, as well as to Ms. Lindberg at
25 the Bellingham home's address.

0133

1 MR. GILLETT: Yeah.

2 JUDGE TOREM: If you didn't get it, then we need to
3 stop and make sure that you get a copy of it.

4 MR. GILLETT: Well, I don't have it.

5 JUDGE TOREM: Okay. So at this point --

6 MR. GILLETT: Can we get a copy of it? I'm not going
7 to stop -- try to stop you using the exhibits. I would just
8 like to have a copy of them.

9 JUDGE TOREM: Okay. So what we're going to do is
10 take a recess. We're going to get copies of that made for you
11 and for Ms. Brown so that everybody is literally on the same
12 page and can be referring to the same document.

13 MR. GILLETT: But now it appears that...

14 MR. KOMBOL: If I could maybe explain, I think I know
15 what the problem is. I think it's an identify question.

16 JUDGE TOREM: Go ahead, Mr. Kombol.

17 MR. KOMBOL: And I believe that when they were first
18 prepared, that check, 2474, was identified as Exhibit C. We
19 later tried to comply with the Commission's requirements to have
20 them labeled as A-GB-1. So that is A-GB-1 for identification
21 purposes, and I think if we went through, you'd see every one of
22 those -- let's go through the next one. It would be 2510.

23 MR. GILLETT: Oh, okay.

24 MR. KOMBOL: 2544 and...

25 MR. GILLETT: I see.

0134

1 MR. KOMBOL: And so the Commission...

2 MR. GILLETT: I don't need to stop for a copy. I
3 think I have a copy here.

4 Is that...

5 MS. BURNETT: Yeah.

6 MR. GILLETT: Yeah. Okay.

7 MS. BURNETT: And I resent it.

8 MR. KOMBOL: The error is on our part in not
9 identifying that. And I would be happy to give Counsel this so
10 he can -- when I refer to them, instead of Exhibit C, I can
11 refer to it by check number.

12 MR. GILLETT: That's easier for me. So you can refer
13 to them as both, and we can move forward.

14 MR. KOMBOL: Does that...

15 JUDGE TOREM: That will work.

16 MR. GILLETT: That'll work.

17 JUDGE TOREM: Ms. Brown, will that work for you if
18 they identify the individual check number so you can stay on
19 target down there?

20 MS. BROWN: Yes.

21 MR. KOMBOL: Just so you...

22 JUDGE TOREM: All right. Mr. Kombol, let's --

23 MR. KOMBOL: Yeah, I'll get going.

24 JUDGE TOREM: I just want us to be clear in the
25 record --

0135

1 MR. KOMBOL: Right.

2 JUDGE TOREM: -- so that both sides know what we're
3 talking about.

4 MR. KOMBOL: And I apologize over that. Neither me
5 nor my staff have used the kind of unique identification system
6 that is desired by this tribunal.

7 BY MR. KOMBOL:

8 Q. And so, Ms. Beck, would you look at the exhibit,
9 A-GB-1, and can you identify what you see there?

10 A. My signature, my check number, front and back copy of
11 my check.

12 Q. And by looking at it, do you know what this check
13 relates to?

14 A. My 2011 payment for December.

15 Q. To who?

16 A. To Cristalina.

17 Q. Now, I'll show you -- I'm going to show you a series.
18 I'll show you Check -- Exhibit No. 1, 2, 3, 4, 5, 6.

19 MR. GILLETT: Can you give us the check numbers
20 you're referring to?

21 MR. KOMBOL: Oh, sure. All right.

22 MR. GILLETT: So we don't have to...

23 BY MR. KOMBOL:

24 Q. I'm going to walk you through these checks.

25 Check No. 2474 that you just testified you looked at,

0136

1 this is a check that cleared your bank; is that correct?

2 A. Yes.

3 Q. 2510, Exhibit 2, is a check that cleared your bank?

4 A. Bank, mm-hm.

5 MR. GILLETT: Is that for -- what's the amount?

6 MR. KOMBOL: Sixty-eight thirty.

7 MR. GILLETT: Okay.

8 BY MR. KOMBOL:

9 Q. Check No. 2544 for seventy-seven eighty-three, that
10 cleared your bank?

11 A. Yes.

12 Q. And you've testified earlier that you made a memo on
13 each check, and your memo relates to when it says an account and
14 it says a date.

15 What was that relating to?

16 A. To the current bill that I received in the mail.

17 Q. The next check is No. 2545, for seventy-nine seventy
18 five.

19 Is that a check that cleared your bank?

20 A. Yes.

21 Q. Check No. 2605, \$80.10, that cleared your bank?

22 A. Yes.

23 Q. Check No. 2606, this also cleared your account?

24 A. Yes.

25 Q. Check 2643, \$79.14, that cleared your account?

0137

1 A. Yes.

2 Q. Check No. 2705 for \$78.51.

3 That cleared your account?

4 A. Yes.

5 Q. Check No. 2706 is Exhibit No. 9, and it is -- the
6 very next check in the -- in your check register, 2706, it is
7 dated the same day as 2705.

8 Can you explain to me why that might have been dated
9 the same day?

10 A. That's when I got two bills in the mail.

11 Q. And so you apparently mailed those both at the same
12 time?

13 A. Correct.

14 Q. Check No. 2730, \$80.49?

15 A. Correct.

16 Q. Check No. 2823, \$78.66?

17 A. Correct.

18 Q. Check No. 2824, \$81.36?

19 A. Correct.

20 MR. GILLETT: What's the question about those?

21 MR. KOMBOL: I've been asked to identify them.

22 MR. GILLETT: Oh, okay. That's all we're doing is
23 just identifying them?

24 MR. KOMBOL: I thought --

25 JUDGE TOREM: Well, I think he's asking did she make

0138

1 these payments; is that the overall question?

2 MR. KOMBOL: I guess I could go over the -- if you
3 would like to --

4 MR. GILLETT: I mean, if that's the question, I just
5 need to know that that's the relevant question.

6 JUDGE TOREM: That's, I think, what's being asked.
7 Mr. Kombol is asking did these checks clear your account, and --

8 MR. GILLETT: Okay.

9 JUDGE TOREM: -- it speaks for themselves that
10 they're payments to Cristalina.

11 MR. GILLETT: Yeah.

12 MR. KOMBOL: I hate to have to do this, but I mean, I
13 would offer the entire group as an efficient way of doing this.
14 But I guess those first -- I guess I'll ask.

15 BY MR. KOMBOL:

16 Q. Those first 13 checks that we just went through, were
17 those all payments on the Cristalina Water account?

18 A. Yes.

19 Q. And those all cleared your bank --

20 A. Yes.

21 Q. -- is that correct?

22 A. Yes.

23 Q. And they were all made for the water service that was
24 currently billed?

25 A. Yes.

0139

1 Q. Now we start with Exhibit No. A-GB-13, and there
2 is --

3 MS. BROWN: I'm sorry. You've lost me there.
4 Where are we?

5 MR. KOMBOL: It would be Checks No. 2840 and 2839
6 with a different format. They are attached to a statement.

7 MS. BROWN: Okay. I'm there. Thank you.

8 BY MR. KOMBOL:

9 Q. And you made two payments on October 5th of 2013, and
10 they were for two different periods; is that correct?

11 A. Correct.

12 Q. And those were paid off of a statement that you
13 received that you attached to the checks; is that correct?

14 A. Yes.

15 Q. And at that time...

16 MR. KOMBOL: Forgive me for a second.

17 Susan, do we have a copy of any of the statements?
18 Do we have any other copies of these statements that are
19 separate?

20 MS. BURNETT: Mm-mm.

21 MR. KOMBOL: No.

22 BY MR. KOMBOL:

23 Q. As we look through these, I'm going to look through
24 2902, 3038, and 3039.

25 These checks cleared your bank accounts also?

0140

1 A. Yes.

2 MR. GILLETT: I'm sorry. Can we go back?

3 Did you ask her whether the 2840 and the 2839 cleared
4 her bank account?

5 BY MR. KOMBOL:

6 Q. All right. Let's go back to Exhibit A-GB-13, checks
7 dated April 3rd -- April 5th of 2013, and another one in the
8 second amount of April 5, 2013.

9 Do you know if those cleared your bank account?

10 A. No.

11 Q. You don't know?

12 A. I don't know.

13 Q. And you've testified in the past that you made
14 payments to the utility, and they didn't appear to clear your
15 bank account?

16 A. Correct.

17 Q. Before we came here today, did you go back into your
18 banking records and ask for copies of all your check
19 statements --

20 A. Yes.

21 Q. -- looking for checks that were paid to Cristalina?

22 A. Yes.

23 Q. And so if there was not that copy --

24 A. Copies.

25 Q. -- those checks were just copies in your file?

0141

1 A. Yes.

2 Q. But your testimony is we can't -- it doesn't
3 appear --

4 A. It appears that they cleared my bank.

5 Q. It doesn't appear they cleared the bank?

6 A. Correct.

7 Q. All right. Now, on Exhibit GB-16 and GB-17 --

8 MR. GILLETT: And what checks would those be?

9 MR. KOMBOL: 3038 and 3039.

10 BY MR. KOMBOL:

11 Q. Now, these checks relate to water service from July
12 13 -- at least it says on this check -- to August 15, and then
13 the next check is June 10, '13 to July 12, 2013. Those checks
14 appear to have been written on October 7.

15 Do you have any idea why they would be written on the
16 same day?

17 A. I think those were the ones that were hand-delivered
18 to my door.

19 Q. Well...

20 A. I believe. I'm not for sure.

21 Q. Check No. 3091 is for \$78.40?

22 A. Yes, and I wrote "hand deliver invoice."

23 Q. And so it would appear that in two weeks in October,
24 you're making three payments?

25 A. Mm-hm.

0142

1 Q. Can you tell the tribunal -- tell the Judge why there
2 was this occasion when -- why in October are you making three
3 payments in three weeks?

4 A. Because I believe those were the ones that were
5 hand-delivered.

6 Q. That were -- by the Stephanie who said that she had
7 not --

8 A. Yes.

9 Q. -- gotten them out to you?

10 A. Correct.

11 Q. And that's the best, to your recollection, of why
12 this came up at this time?

13 A. Yes.

14 Q. Then we have another check, 3068, and that was in
15 November --

16 A. Mm-hm.

17 Q. -- is that correct?

18 A. Correct.

19 Q. And that was for water service billed.

20 It was soon after that that you were disconnected
21 from the system, wasn't it?

22 A. Yeah, correct.

23 Q. 3091 is a check that cleared your bank; is that
24 correct?

25 A. 3090.

0143

1 Q. 3090?

2 A. Yes.

3 Q. And then 3092 --

4 A. Two.

5 Q. -- is another check that cleared your bank --

6 A. Correct.

7 Q. -- is that correct?

8 A. Yes.

9 Q. And that was written two days later?

10 A. (Witness nods head.)

11 Q. Had you been receiving a number of invoices at this
12 time?

13 A. Yes.

14 Q. Check No. 205013, do you remember what that \$160
15 check related to?

16 A. It was deposit on disputed account, my account.

17 JUDGE TOREM: I'm sorry. The last check you're
18 talking about is which number?

19 MR. KOMBOL: 3013 [sic].

20 JUDGE TOREM: It's the last page of the exhibit,
21 right, 3103?

22 MR. KOMBOL: Oh, I'm sorry. I'm on 8. Yeah. I'm
23 sorry.

24 THE WITNESS: Yeah.

25 MR. KOMBOL: It's 3192 -- 3092. That's the last of

0144

1 the A exhibits.

2 THE WITNESS: Yes.

3 JUDGE TOREM: I'm sorry. I have a Check No. 3103.

4 MR. KOMBOL: Yeah. That...

5 JUDGE TOREM: That's A-22.

6 MR. KOMBOL: I guess that is A-22, yes.

7 JUDGE TOREM: Okay. So the question about the \$160
8 check that we're now talking about, what's the question?

9 BY MR. KOMBOL:

10 Q. The question is: Do you recall what this \$160 check,
11 a copy of which shows here is -- relates to...

12 A. A payment for disputed account. My disputed account.
13 And by then I was already cut off, disconnected for the water.

14 Q. And so you're tendering \$160?

15 A. To dispute the bill that I owed.

16 Q. And hoping to get reconnected, I guess?

17 A. Correct; yes.

18 Q. Was that your effort at that time?

19 A. Yes.

20 Q. I think that completes the copies of the checks that
21 we have here.

22 Now, I guess I'll next go to Exhibit No. B-GB-23.

23 Do you recognize this document?

24 A. (Witness reviews document.)

25 Yes.

0145

1 Q. Was this either posted or mailed? Posted at your
2 door or mailed to you?

3 A. That one was -- is that the first one?

4 Q. Yes.

5 A. Yes. That was on my door -- it was hand-delivered to
6 me.

7 Q. And it indicates you have zero current charges not
8 yet delinquent; is that --

9 A. Yes.

10 Q. Is that correct?

11 A. Yes.

12 Q. And you've testified that that has been your
13 practice.

14 Do you believe you ever were delinquent in your water
15 bills --

16 A. No.

17 Q. -- to Cristalina after 2010?

18 A. No, never delinquent.

19 Q. Now, we've heard reference to an \$8,000 claim.

20 At what time did the \$8,000 figure change to a
21 different figure?

22 A. After Steve Elliott went through his paperwork.

23 Q. And did you ever have any consent to changing the
24 figure, or did you just get different figures from different
25 bills?

0146

1 A. Yeah. I had no consent to any of this.

2 Q. And then after you received this, there was a
3 disconnection; is that correct?

4 A. Correct.

5 Q. This, Exhibit 23, indicates you may be charged a
6 security deposit on your account.

7 Were you ever told what the security deposit should
8 be?

9 MR. GILLETT: Objection. Relevance. This is all --
10 this is tied up with the disconnection that was handled by the
11 tribunal back in November.

12 JUDGE TOREM: Mr. Kombol?

13 MR. KOMBOL: I'll withdraw the question.

14 JUDGE TOREM: Okay.

15 BY MR. KOMBOL:

16 Q. I'm going to ask you to review Exhibit C-GB-26.

17 MR. GILLETT: Can I take a moment to find that while
18 you're -- this is on your older exhibits?

19 MS. BURNETT: You have to tell him what date it is
20 and such.

21 THE WITNESS: What date it was?

22 MR. GILLETT: What are we looking at?

23 MS. BURNETT: He doesn't have a number, so you have
24 to tell him what you're looking at.

25 MR. KOMBOL: Oh, I'm sorry. GB-26.

0147

1 THE WITNESS: 26? Page 26?

2 MR. GILLETT: It will just take me a minute. I think
3 I have seen this.

4 MS. BROWN: I don't know where we are.

5 MR. GILLETT: Yeah, I don't know where we are. I'm
6 trying to find it.

7 MS. BROWN: My exhibits don't track yours.

8 JUDGE TOREM: I believe Mr. Kombol is trying to get
9 us to look at his -- I think these are rebuttal exhibits that
10 came in. There's a fax line at the top on my copy that says May
11 2, 2014, and there's a 23-page fax.

12 Does that help anyone identify these documents from
13 May 2, 2014?

14 MR. GILLETT: How about a description of what it
15 looks like so --

16 THE WITNESS: You'd be looking at a --

17 JUDGE TOREM: Hold on. Let me take care of this as
18 opposed to a witness who doesn't have a paper in front of her.

19 These are invoices. They appear to be -- on the far
20 left of the invoice three-quarters of the way down, this one
21 says billing from February 1 to February 28, 2011.

22 MR. GILLETT: I don't have that.

23 MS. BROWN: I don't have that, but...

24 MS. BURNETT: It says "Terry Cooper," apparently,
25 above.

0148

1 MR. GILLETT: I found that document you're referring
2 to.

3 JUDGE TOREM: There are "Billing Questions," and
4 there is a Terryl Cooper with a 360 phone number; "Water
5 issues," and a Dick Unger. These are in the --

6 MR. GILLETT: I've got that document.

7 JUDGE TOREM: -- same series.

8 MR. GILLETT: I've got that document, if that's the
9 series you were about to walk through.

10 JUDGE TOREM: Ms. Brown, any luck finding it in your
11 files?

12 MS. BROWN: No. I don't wish to delay these
13 proceedings. However, if the parties intend to cross-examine
14 Mr. Elliott on any of these, then I'm going to have to suggest
15 that we -- if I can't locate them here that we take a recess.

16 And we should have all the same exhibits --

17 MR. GILLETT: I agree.

18 MS. BROWN: -- referred to in a consistent manner in
19 order to follow, so this is a source of frustration for me. And
20 I still haven't been able to locate them.

21 JUDGE TOREM: Mr. Kombol, I'm going to let you come
22 back up and resume your examination. Mr. Gillett has a copy.
23 We'll see if these become relevant for Mr. Elliott.

24 MS. BROWN: Great.

25 JUDGE TOREM: So you're directing all of our

0149

1 attention to what I have marked as Exhibit C-GB-26.

2 MR. KOMBOL: And it's an invoice that is dated
3 1/10 -- 1/1 of 2001.

4 JUDGE TOREM: 2001 or 2011?

5 MR. KOMBOL: 2011. I'm sorry.

6 JUDGE TOREM: And what's the due date on it? Up at
7 the top, I think, just so we're looking at the same...

8 MR. KOMBOL: Oh, the due date is February 15, 2011.

9 JUDGE TOREM: Okay. Mr. Gillett, are you satisfied
10 you're on the same page?

11 MR. GILLETT: I believe so.

12 And in fact, is it marked GB-26?

13 THE WITNESS: Yes.

14 MR. KOMBOL: You have it there now.

15 MR. GILLETT: Yes; I have that, yes.

16 JUDGE TOREM: Okay. So the copy you have now?

17 MR. GILLETT: I think we have that copy.

18 JUDGE TOREM: Excellent. Thank you.

19 BY MR. KOMBOL:

20 Q. Do you recognize this document, Mrs. Beck? Is this
21 something that you would occasionally receive from the water
22 company?

23 A. Yes.

24 Q. Now, it has some indications of payment and a check
25 number.

0150

1 Do you believe that's your check number, and does it
2 look like a payment you might have made around 2011?

3 A. Could be, yes.

4 Q. And then it indicates a finance charge?

5 A. Correct.

6 Q. Do you have any idea how that finance charge is
7 collected or is calculated?

8 A. No.

9 Q. Do you know what the credit memo is?

10 A. No.

11 Q. Now, it also indicates flat rate water, capital
12 improvement charge, capital repair surcharge.

13 The handwritten notes -- or I'm sorry.

14 The numbers that are printed, who put those numbers
15 down there, the \$68.30?

16 A. I did.

17 Q. So you were adding the billings?

18 A. The current month of the billing.

19 Q. Your effort was to do that?

20 A. (Witness nods head.)

21 Q. And you tendered a check in the amount of sixty-eight
22 thirty based on your calculation?

23 A. Correct.

24 Q. Now, this one says current balance at the bottom --

25 A. Correct.

0151

1 Q. -- and then it has a past due. And it has a 31 to 60
2 past due and a 61 to 90 past due.

3 At this time were you past due on any of those
4 amounts?

5 A. No.

6 Q. And the next exhibit, GB-27, GB-27 then indicates
7 water charges from March 1 to March 30, 2011, and this one says
8 zero days past due, 1 through 30, and then 31 to 61 days past
9 due goes to five eighty -- five forty -- eighty-four
10 fifty-seven; is that correct?

11 A. Yes.

12 Q. And that was a statement that was received or dated
13 just two months later, correct?

14 A. Correct.

15 Q. And the 61 to 90 days past due figure had gone down
16 to sixty-eight thirty?

17 A. Sixty-eight thirty.

18 Q. And that's the amount that you had paid, or at least
19 your ledgers indicate you had paid Check No. 2074,
20 sixty-eight -- \$68.30?

21 A. (Witness nods head.)

22 Q. Again, there's an invoice finance charge.
23 Do you have any idea what that's about?

24 A. No.

25 Q. I guess the next exhibit is GB-28, and this is

0152

1 your -- would this represent your copy of your...

2 A. Check.

3 Q. Of the check that you were writing?

4 A. Yep.

5 Q. And, again, in this check, you're calculating what
6 you owe on your own addition?

7 A. Yes.

8 Q. Now, on this one in May, it shows your current
9 balance is zero, 1 to 30 days past due is \$133, 31 to 60 days is
10 \$60.59, and 61 to 90 is \$62.46?

11 A. Forty-six cents.

12 Q. Did that make any sense to you?

13 A. No.

14 Q. Now, I have a check, 2321, that is Exhibit GB-30, and
15 is that your writing at the top?

16 A. Yes.

17 Q. And who was that addressed to, the here is my
18 payment, 2011 payment?

19 A. To Cristalina.

20 Q. Was that check -- did that clear your bank?

21 A. I don't know. I can't -- I don't have my statement,
22 bank statement with me.

23 Q. But this is some of the records that you keep --

24 A. Yes.

25 Q. -- of your account?

0153

1 A. Yes.

2 Q. Exhibit C-GB-34, do you recognize this document?

3 A. Yes.

4 Q. And where did this come from?

5 A. From Cristalina.

6 Q. And was it delivered or mailed?

7 A. Mailed.

8 Q. And that indicates that you owed \$78.25; is that --

9 A. Correct.

10 Q. -- correct?

11 A. Yes.

12 Q. And those were the charges?

13 A. Yes.

14 Q. And did you pay that check, \$78.25?

15 A. Yes.

16 Q. Did you write this? "This is your final bill with
17 Cristalina"?

18 A. No.

19 Q. This came with the bill?

20 A. Yes.

21 Q. And it indicates, "Your past owing is being sent to
22 collections."

23 A. Correct.

24 Q. Was that written by someone other than yourself?

25 A. Yes.

0154

1 Q. The thing that says "final bill," is that someone
2 else's handwriting?

3 A. Yes.

4 Q. But you did pay the \$78.25 --

5 A. Correct.

6 Q. -- on the statement?

7 Exhibit C-GB-35 is a note.

8 Do you recognize that note?

9 A. Yes.

10 Q. And who signed this note?

11 A. I did.

12 Q. What was the intention of this letter you wrote?

13 A. To let them know I didn't receive an invoice for the
14 March -- the month of March.

15 Q. March what?

16 A. 2011.

17 Q. Now, you have Exhibit No. GB-36.

18 Do you recognize the letter that is shown there?

19 A. Yes. It's from Cristalina Water Company signed by
20 Stephanie.

21 Q. Do these things come in the mail or by being posted?

22 A. Mail. That one came by the mail.

23 Q. And is this consistent with your practice at
24 Cristalina that they were not getting their billings out and
25 they were explaining themselves?

0155

1 A. Yes.

2 Q. Why they were getting late billings out?

3 A. Yes.

4 Q. Did you ever get a mini account summary from them?

5 A. No.

6 Q. And so she indicates there's a mini account summary,
7 but there was nothing included?

8 A. No.

9 Q. Have you ever seen a mini account summary of your
10 account unique to you from Cristalina?

11 A. No.

12 Q. Now, I'm going to show you the next exhibit, C-GB-37.
13 Do you recognize this document?

14 A. Yes.

15 Q. And did this come to you in the mail or posted on
16 your door?

17 A. In the mail.

18 Q. Now, is this letter from August 3, 2012, consistent
19 with your working relationship with Cristalina; that is to say,
20 not receiving July bills?

21 A. Correct.

22 Q. Bills coming late?

23 A. Yes.

24 Q. Is that consistent with your experience with this
25 company?

0156

1 A. Yes.

2 Q. Now, they also indicate that their bills are not
3 received in predictable times and are not accurate?

4 A. (Witness nods head.)

5 Q. Is it consistent with your working with this company
6 that their bills are not accurate?

7 A. Correct.

8 Q. Have they ever been accurate?

9 A. No.

10 Q. Could that be a reason why you keep records for
11 yourself to show that you're making payments and you're paying
12 on the invoices you're receiving?

13 A. Yes.

14 Q. Now, I'm going to show you the next document which is
15 C-GB-38.

16 And did you receive this letter in the mail or on --

17 MR. GILLETT: It's the second page of the same
18 letter.

19 MR. KOMBOL: Oh, I'm sorry.

20 THE WITNESS: Yeah.

21 BY MR. KOMBOL:

22 Q. I'm sorry. I'm sorry. GB-37 and 38. I'm sorry.
23 It's the same one.

24 The document, C-GB-39 is something that -- did you
25 receive this in the mail or posted to your door?

0157

1 A. In the mail attached to the invoice.

2 Q. And there was an invoice attached to that?

3 A. Correct.

4 Q. And this document is consistent with your experience
5 with this company that there were incorrect statements; is that
6 correct?

7 A. Yes.

8 Q. Did you ever call TerryL Cooper?

9 A. I think I left a voice mail, but he never returned
10 my -- she or he never returned my call.

11 Q. I'm showing you Exhibit No. C-GB-40. This is a
12 letter from about a month before you were disconnected?

13 A. Correct.

14 Q. And was this mailed to you or delivered to your
15 house?

16 A. Mailed.

17 Q. Do you know if any of the other neighbors in the
18 neighborhood received these? Did anybody ever show you similar
19 documents?

20 A. Yes.

21 Q. And now her, Ms. Lindberg's explanation that she
22 makes here, is that consistent with your history with this
23 company?

24 A. Yes.

25 Q. That there are problems with account payments?

0158

1 A. Yes.

2 Q. Now, Mrs. Lindberg does indicate she doesn't deposit
3 checks and that credits were issued to customers. She was
4 making some reference to checks she's not depositing and credits
5 that she's giving?

6 A. Correct.

7 Q. Did this give you concern about your account balance
8 with Cristalina and the accuracy of it?

9 A. Yes.

10 Q. Now, this is an indication that she's sending a June
11 billing for May 20 through June 11.

12 Do you recall getting a June billing that was about
13 five months late with this letter?

14 A. Yes.

15 Q. Did you pay that?

16 A. Yes.

17 Q. Now, it was -- I believe you were disconnected from
18 the Cristalina system about November 23rd?

19 A. Correct.

20 Q. Which is about three weeks after -- I'm sorry. About
21 five weeks after receiving this letter?

22 A. Correct.

23 Q. Now, I'm going to refer you to Exhibit F-GB-42 --

24 JUDGE TOREM: Now, Mr. Kombol, I'm going to stop you
25 for a minute.

0159

1 MR. KOMBOL: Yes.

2 JUDGE TOREM: These were the exhibits that you had
3 submitted as direct exhibits and rebuttal. I think what you're
4 about to walk through are -- I'm sorry -- for cross -- well,
5 let's see where you are.

6 MR. GILLETT: I'm not sure where he's at now because
7 he's, again, moved into a different -- that was the end of the
8 set of documents that I had from...

9 JUDGE TOREM: I believe there were some recent
10 filings that came in essentially as cross-exam exhibits, and I'm
11 not sure that you had intended to use them with this witness
12 from the way they came in. I think I remember seeing them. I
13 have to put my hands on exactly where they are this morning, but
14 can you take a look and make sure before you ask the next
15 question?

16 MR. KOMBOL: I certainly will. And, Your Honor, like
17 many lawyers, I'm lost without my assistant, and she prepared
18 the cross. And I...

19 MS. BURNETT: Yeah.

20 MR. KOMBOL: She's telling me now that these are
21 probably related to anticipated cross-examination.

22 MS. BURNETT: Those are further checks we found
23 after -- further checks and letters that we found to support
24 that she had made payments.

25 MR. KOMBOL: Oh, oh, oh. This may not be

0160

1 cross-examination, then. It may be late material that was
2 recently discovered, and maybe it was included in the
3 cross-examination materials; is that...

4 MS. BURNETT: (Nods head.)

5 MR. KOMBOL: So I'm embarrassed to say that that's
6 apparently what these are. They were sent out to the
7 Commission, and I think they were shared with all the parties.

8 MS. BURNETT: Mm-hm, in the cross-exam.

9 MR. KOMBOL: In the cross --

10 JUDGE TOREM: So what I've got is a packet, then,
11 that came in to the Commission on May the 19th. It was signed
12 out by you, Mr. Kombol, on May the 16th.

13 Did you receive that packet of exhibits, Mr. Gillett?

14 MR. GILLETT: I did as cross-examination exhibits.

15 JUDGE TOREM: And so which documents are you looking
16 to have this witness authenticate or otherwise testify about
17 which pages?

18 MR. KOMBOL: The letter or the note -- the memorandum
19 of Wednesday, June 13, 2012.

20 JUDGE TOREM: Is there an identifier on any of the
21 pages there?

22 MR. KOMBOL: On mine, and I think before the
23 Commission, it's F-GB-42. And F would -- I think would be what
24 you like -- what have been identified as cross, but it really
25 isn't a cross.

0161

1 JUDGE TOREM: So this is a memo -- or at least the
2 typewritten names on it from Ms. Beck?

3 MR. KOMBOL: That's right.

4 JUDGE TOREM: Mr. Gillett, do you have that one?

5 MR. GILLETT: I do.

6 JUDGE TOREM: Any objection to him proceeding?

7 MR. GILLETT: Not with that. Not with that
8 particular document.

9 JUDGE TOREM: All right. So we're now on -- if
10 Ms. Brown has the copy recently filed May 19th, it's labeled
11 Exhibit F-GB-42.

12 All right. Go ahead, Mr. Kombol.

13 BY MR. KOMBOL:

14 Q. Do you recognize this typewritten document, F-GB-42,
15 that's dated June 13, 2012?

16 A. Yes.

17 Q. Who prepared that?

18 A. I did.

19 Q. Was this ever mailed to anyone?

20 A. Yes, it was mailed to Cristalina.

21 Q. And was it mailed separately from a bill or along
22 with a bill?

23 A. Along with the bill.

24 Q. And would it be fair to say that you're describing
25 frustration you have on failure to apply checks?

0162

1 A. Correct.

2 Q. And complained that there were two missing monthly
3 payments, and you're telling them that you made payments?

4 A. Correct.

5 Q. And offering a copy?

6 A. Yes.

7 Q. Now, do you know if these two checks ever cleared the
8 bank, 7783 and 7975?

9 A. I don't know.

10 Q. You couldn't know offhand?

11 A. No, I couldn't know offhand.

12 Q. But you sent a check for current water usage for
13 March to April?

14 A. Correct.

15 Q. And you gave them a check number?

16 A. Correct.

17 Q. And did they ever tell you, we're not going to cash
18 these checks for current water usage?

19 A. No.

20 Q. Did anybody call you and say, We're applying these to
21 a different place than current water usage?

22 A. I don't recollect.

23 Q. I guess I'll draw your attention to G-GB-45, and this
24 is a check from a law firm, law office trust account of \$287?

25 Does this relate to the description you gave to

0163

1 making payments to your attorney for water service --

2 A. Correct.

3 MR. GILLETT: Objection. Hearsay.

4 BY MR. KOMBOL:

5 Q. -- at a certain point?

6 A. Correct.

7 MR. GILLETT: Those are checks written by her
8 attorney. It's not her, so it's hearsay.

9 JUDGE TOREM: Overruled. She's not testifying that
10 she made these. She's just saying that this refers -- this is
11 the sort of thing she understands that payments were made. It's
12 not --

13 MR. GILLETT: Then lack of foundation. I haven't
14 heard anything. I don't know why she thinks she knows that.

15 JUDGE TOREM: There was earlier testimony,
16 Mr. Gillett, that she made payments to Mr. Kombol, and
17 Mr. Kombol sent checks on. She's just verifying that this is
18 the sort of understanding.

19 MR. GILLETT: Okay.

20 JUDGE TOREM: I'm going to allow the question and the
21 answer.

22 MR. GILLETT: Okay.

23 BY MR. KOMBOL:

24 Q. And quite simply, we're referring back to a period of
25 November-December of '09, and the first two months of '10.

0164

1 And you recall that your monthly water bill at that
2 time was about \$45 a month?

3 A. Correct.

4 Q. And you were making those payments to a different
5 place at least for a few months --

6 A. Yes.

7 Q. -- before things got into a different status in 2010?

8 A. Correct.

9 Q. Did you ever do anything like that after the spring
10 of 2010? In other words --

11 A. No.

12 Q. -- did you make payments to Cristalina directly from
13 2010 on?

14 A. Yes. I made them directly.

15 Q. If I could just...

16 MR. KOMBOL: One second, Your Honor.

17 JUDGE TOREM: (Nods head.)

18 (Pause in the proceedings.)

19 MR. KOMBOL: I have no other questions, Your Honor.

20 JUDGE TOREM: Mr. Gillett, before I see if you're
21 ready for cross-examination, Mr. Kombol, did you want to move to
22 admit any of the documents we just walked through?

23 MR. KOMBOL: Thank you, Your Honor.

24 I will move to admit the exhibits that we have just
25 referred to in Plaintiff's set of exhibits.

0165

1 JUDGE TOREM: So let me see if I can, for the record,
2 and help Mr. Gillett decide if he has any objections, sum up
3 which exhibits these are.

4 Exhibit A-GB-1 through 22, I believe almost every one
5 of those pages was referred to.

6 Mr. Gillett, do you have any concerns or objections
7 to the series of checks and invoices we started with?

8 MR. GILLETT: I have raised objections at various
9 times this morning to certain exhibits, and I'm going to be
10 unable to recall exactly what those were. They weren't offered
11 individually, so it's impossible, frankly, for me to tell you
12 whether I have no objection to any of them.

13 JUDGE TOREM: Do you want to walk through them one at
14 a time again because I want --

15 MR. GILLETT: What I would ask is if it's sufficient
16 for the record that my objections that I raised at the time that
17 the exhibits were offered be accepted, then we don't have to
18 walk through each one again. It's just -- I mean, the way that
19 Mr. Kombol proceeded and not offering them after making a --
20 after asking the witness questions, I didn't have any call to
21 object to their admission for your consideration.

22 So I would let my objection stand, if the Court would
23 agree, that that's a sufficient objection.

24 JUDGE TOREM: What I'm hearing you ask is that I note
25 your objection for the record and then essentially admit the

0166

1 documents anyway?

2 MR. GILLETT: Well, if you're going to admit them,
3 yeah. I mean, I don't know how otherwise would I proceed. You
4 know, we'll walk through each one and I'll make an objection and
5 you'll either...

6 JUDGE TOREM: Well, Mr. Gillett, I sympathize with
7 the fact of a bulk offering and having a problem stating
8 individual objections.

9 If you want me to rule substantively on anything as
10 opposed to just noting your objection, which I'm totally not
11 sure what it is to individual documents, I'll just admit them
12 wholesale and sort it out myself.

13 However, I'm giving you an opportunity to state
14 individual objections. Your earlier objections that I have
15 ruled on, sustained or overruled, have been to hearsay
16 testimony, and I don't recall hearing specific objections to
17 individual documents being not admissible. I know some
18 relevance that we discussed. I redirected questions. I really
19 hope I'm not missing something at this end of the table.
20 There's a lot to keep track of this morning. But if you have a
21 specific objection, now is the time to state it.

22 MR. GILLETT: Yeah. The objection that I did
23 raise -- and this, as I think back, may be the only one to a
24 document was the hearsay objection to Mr. Kombol's check.

25 JUDGE TOREM: Okay. And that one I overruled because

0167

1 there had been previous foundation and it wasn't for the truth
2 of the payment per se, but simply that she remembered that
3 method of payment.

4 MR. GILLETT: (Nods head.)

5 JUDGE TOREM: So looking at Exhibit A, there were 22
6 pages. The bulk of them were individual checks that Ms. Beck
7 identified and gave you numbers and amounts as she walked
8 through it with Mr. Kombol.

9 Do you have objections to any of what you recall
10 being in Exhibit A --

11 MR. GILLETT: No.

12 JUDGE TOREM: -- 1 to 22?

13 All right. So for the record, A-GB pages 1 through
14 22 are admitted.

15 (Exhibit Nos. A-GB-1 to A-GB-22 were admitted into
16 the record.)

17 JUDGE TOREM: Exhibit B started -- there were only a
18 few pages referred to, so let me get to those.

19 GB-23 was the disconnection notice, and that was the
20 only part of it that was discussed with this witness.

21 Any objection to the disconnection first notice on
22 November 5th?

23 MR. GILLETT: Well, I did object on relevance, and
24 the Court sustained that objection, so I don't know what the
25 purpose of admitting the document would be.

0168

1 JUDGE TOREM: I think it was a discussion as to the
2 earlier objection that I sustained about the disconnection was
3 the back and forth about what happened. But this document, I
4 don't know that you raised an objection when she brought it up.
5 It was about the balance of three thousand four hundred
6 twenty-three seventy-eight. That was the purpose, I think, of
7 what was the balance due on that date.

8 MR. GILLETT: Well, I continue to object to the
9 relevance of the document.

10 JUDGE TOREM: Mr. Beck [sic], are you wanting to
11 offer this document at this time or...

12 MR. KOMBOL: I would offer that document. And I
13 don't recall if -- would you tell me which one it is so I can
14 make certain?

15 JUDGE TOREM: It's Exhibit B-GB-23.

16 MR. KOMBOL: Thank you. I would offer it for
17 purposes of proof of what the current charges not yet delinquent
18 are, as well as the allegations made by the company as to what
19 the past due balance was because it has certainly relevance to
20 what the company is claiming both as a current and past due
21 balance or has claimed.

22 JUDGE TOREM: And, Mr. Gillett, your objection is as
23 to the relevance of the disconnection or the amount of the
24 balance or both?

25 MR. GILLETT: The disconnection. And so I mean part

0169

1 of the document may be unobjectionable, the dollars and cents,
2 for lack of a better phrase.

3 JUDGE TOREM: All right. Well, you and I understand
4 what I ordered back at the prehearing conference that the only
5 issues are the amounts due, so for that purpose, I'm admitting
6 the document. I think we are of the mutual understanding that
7 I'm not delving into the other reasons or the history of the
8 account. I want to get to the bottom of the amounts owed, and
9 that's what the scope of the hearing should be.

10 So B-GB-23 for that purpose is admitted for the
11 amount due allegations.

12 (Exhibit No. B-GB-23 was admitted into the record.)

13 JUDGE TOREM: The additional documents that were
14 referred to, Mr. Gillett, are what we located as Exhibit
15 C-GB-26, these were the series of invoices that had -- the first
16 one had the due date of February 15, 2011, and these were the
17 ones that were testified to as to the amounts due for past due
18 amounts going back 30, 60, 90 days, et cetera.

19 MR. GILLETT: Yeah, no objection.

20 JUDGE TOREM: Okay. So that's Exhibits GB-26, 27,
21 and 28.

22 (Exhibit Nos. C-GB-26 through C-GB-28 were admitted
23 into the record.)

24 JUDGE TOREM: The witness next testified to Exhibit
25 GB-30 and 31. These were checks about September and October

0170

1 payments.

2 Any objection to those?

3 MR. GILLETT: No.

4 (Exhibit Nos. C-GB-30 and C-GB-31 were admitted
5 into the record.)

6 JUDGE TOREM: And then I believe the last few were
7 Exhibits 34 and 35. These were an invoice from Cristalina that
8 said the final bill. A note about the missing March statement.
9 Those were pages 34 and 35. 36 was the January 2012 letter from
10 the water company; 37 and 38 was the two-page letter from the
11 water company; 39 was the To all Cristalina Customers from
12 Terryl Cooper, the bookkeeper, and Exhibit 40, GB-40, was the
13 October 17, 2013 letter.

14 Any objections to essentially 34 through 40?

15 MR. GILLETT: As to the letters drafted by somebody
16 from Cristalina, hearsay.

17 JUDGE TOREM: I'll admit them at this time and note
18 that some of their authors will be called as witnesses. And it
19 may be worth if they're going to be given any additional weight,
20 that these matters be inquired into with the appropriate
21 witnesses. But for the fact that a letter was delivered, I'll
22 allow them for that purpose.

23 So I'm noting the hearsay objection as to the letters
24 not authored by this witness.

25 (Exhibit Nos. C-GB-34 through C-GB-40 were admitted

0171

1 into the record.)

2 JUDGE TOREM: The only other documents were
3 identified as F-GB-42, a letter authored by Ms. Beck, and GB-45
4 and 46 were those checks from Mr. Kombol's office.

5 And you've stated your objection, and I have
6 overruled it as to the checks to Mr. Kombol's office.

7 Did you have any objections to 42?

8 MR. GILLETT: No, Your Honor.

9 JUDGE TOREM: All right. So that we're all on the
10 same page, then, 42 is -- F-GB-42 is admitted. And G-GB-45 and
11 46 are admitted.

12 (Exhibit Nos. F-GB-42 and G-GB-45 and G-GB 46 were
13 admitted into the record.)

14 JUDGE TOREM: And I think that takes care of all
15 those documents that you went through, Mr. Kombol?

16 MR. KOMBOL: Yes; yes, Your Honor.

17 JUDGE TOREM: Any other questions for this witness?

18 MR. KOMBOL: I do. And there was reference made to
19 it before, and I would ask that this witness identify one final
20 document.

21 And I'll ask her --

22 MR. GILLETT: What exhibit number is it?

23 MR. KOMBOL: It's not been shown.

24 MR. GILLETT: Oh, then I object.

25 JUDGE TOREM: What's the document, Mr. Kombol?

0172

1 MR. KOMBOL: The document is a bill from Cristalina
2 from two weeks ago.

3 JUDGE TOREM: Can you hand it up to me?

4 MR. KOMBOL: Certainly.

5 JUDGE TOREM: So this is an invoice seeking payment
6 between April 5th and May 5th of this year, 2014?

7 MR. KOMBOL: That's right.

8 JUDGE TOREM: Can you hand that to Mr. Gillett so he
9 can take a look at it?

10 MR. KOMBOL: And I've made reference -- the envelope
11 is at issue, too, but I'll show this to Mr. Gillett.

12 MR. GILLETT: All right. I've seen it.

13 JUDGE TOREM: So, Mr. Kombol, why are we seeing this
14 for the first time today?

15 MR. KOMBOL: Well, because it wasn't received till
16 last week.

17 JUDGE TOREM: All right. So I'm sorry. I did not
18 look at the envelope.

19 What's the date of mailing that you can read from the
20 envelope?

21 MR. KOMBOL: May 8.

22 JUDGE TOREM: Okay. So today is May 21st, and this
23 was...

24 MR. KOMBOL: Received sometime ten days ago, I
25 assume. I don't know when it was received. The witness could

0173

1 tell.

2 JUDGE TOREM: And it's going to be relevant to the
3 amounts owed today claim, or is this just showing the most
4 current invoice? Is that what it appeared to be?

5 MR. KOMBOL: It'll be relevant to the amount owed and
6 the assessment of fees and charges, yes. The practice made of
7 fees and charges, Your Honor.

8 JUDGE TOREM: Mr. Gillett, do you want to state your
9 objection now that you've actually seen the document and heard
10 what...

11 MR. GILLETT: Yes, Your Honor. I have seen the
12 document, and I've heard that it was something that they
13 possessed sometime in early May.

14 And as the Court noted, it's May 20th or 21, and
15 we've had subsequent filings by the Becks since then, so there's
16 no good reason for them not to not have provided this document
17 before the -- where Mr. Kombol actually, in fact, said he was
18 done asking this witness questions now.

19 JUDGE TOREM: Mr. Kombol, let me just suggest that
20 you -- when you have an opportunity to cross-examine
21 Ms. Lindberg, bring that back.

22 MR. KOMBOL: I --

23 JUDGE TOREM: Counsel, at some point I need to know
24 what all the documents are going to be. I understand the
25 frustration, but, Mr. Gillet, I'm not sure that there's any

0174

1 prejudice to your client's case if this document truly was
2 produced by your client. And if it's relevant to an assertion
3 of an amount due, we'll get to it later.

4 MR. GILLETT: Well, Your Honor, the prejudice is hard
5 to predict when the documents show up at the last moment and I'm
6 asked to try to figure out what he's going to do with it.

7 JUDGE TOREM: I fully understand that, but it seems
8 to me that all the documents that are going to be produced in
9 this room are by people in this room. And I can't really see,
10 other than the amount of time we're putting in, that anybody's
11 being prejudiced except the clients that are sitting here paying
12 by the hour today.

13 I would like to get to the bottom of this.
14 Procedurally I understand the nature and the right to make
15 objections and to have a fair presentation and a creation of a
16 record, but we're frustrating the ultimate purpose of getting to
17 the two issues that we have here.

18 MR. GILLETT: Well, let's get to that. I agree with
19 you, Your Honor.

20 JUDGE TOREM: So I think it's best --

21 MR. GILLETT: So if he wants to ask the question, he
22 can ask the question.

23 JUDGE TOREM: I think it'll be best asked to your
24 client when she testifies --

25 MR. GILLETT: Well, I don't --

0175

1 JUDGE TOREM: -- as to the nature of the amount that
2 they're asserting is due.

3 MR. GILLETT: Okay.

4 JUDGE TOREM: It's your client that asserts an amount
5 owed. It's the Becks having an opportunity to say what they
6 paid. Unless there's testimony, Mr. Kombol, that a payment has
7 been made since you've submitted all these checks, that would be
8 relevant from this witness to tell me any payments that are not
9 reflected in documents before me.

10 Are there any that you know of?

11 MR. KOMBOL: I don't believe there's been any
12 recent -- well, I could ask her.

13 BY MR. KOMBOL:

14 Q. Have you made a payment to Cristalina over the last
15 month or so?

16 A. Yes.

17 Q. Do you recall how much it was?

18 A. The current amount for the bills for January,
19 February, March, April.

20 Q. Wait a minute.

21 A. My billing statements.

22 Q. I asked if you made a payment in the last couple of
23 weeks.

24 Are you saying you made a large payment to Cristalina
25 over...

0176

1 A. No, no. Just recent payments for the amount due.

2 Q. The last month's due --

3 A. Yes.

4 Q. -- was paid recently?

5 A. Yes.

6 Q. And you don't have a copy of that check, but --

7 A. No, because it hasn't...

8 MR. KOMBOL: I think there's no large payment, so I
9 think the question is, is there a large reduction? Not likely.
10 I think she says there hasn't been.

11 JUDGE TOREM: Okay. Thank you.

12 So before we do cross-examination, Ms. Beck, we'll
13 give everybody a 10-minute comfort break. Let's come back at
14 11:20.

15 Mr. Gillett, do you have an estimation of how long
16 you need to cross-exam this witness?

17 MR. GILLETT: Fifteen minutes.

18 JUDGE TOREM: Okay. So we'll come back at 11:20, in
19 ten minutes on that wall clock, and begin with
20 cross-examination.

21 So, Ms. Beck, you'll come back to this chair in ten
22 minutes.

23 THE WITNESS: Okay. Thanks.

24 JUDGE TOREM: Thank you. We're at recess.

25 (A break was taken from 11:10 a.m.)

0177

1 to 11:24 a.m.)

2 JUDGE TOREM: Let's be back on the record.

3 Ms. Beck is tendered for cross-examination, I
4 believe.

5 Mr. Kombol, were there anything further with this
6 witness from your perspective?

7 MR. KOMBOL: No, Your Honor.

8 JUDGE TOREM: All right.

9 Mr. Gillett, cross-exam.

10 MR. GILLETT: Thank you, Your Honor.

11

12 C R O S S - E X A M I N A T I O N

13 BY MR. GILLETT:

14 Q. Ms. Beck, when did you move into your home?

15 A. September of 1983.

16 Q. And isn't it true that it wasn't until May of --
17 September of 2009 that you first made a payment to the water
18 company --

19 A. No.

20 Q. -- for this home?

21 A. No.

22 Q. Isn't it true that for a number of years you and your
23 husband simply didn't make payments to the water company?

24 A. No.

25 Q. Do you have -- and have you provided any checks to

0178

1 show evidence of payments any time before 2009?

2 A. Rephrase that.

3 JUDGE TOREM: Do you understand the question?

4 THE WITNESS: No.

5 BY MR. GILLETT:

6 Q. Do you have any checks that would show that you made
7 payments to Cristalina or its predecessor company before 2009?

8 A. No, I don't have any.

9 Q. All right. And do you have any copies of any
10 invoices from Cristalina or its predecessor company prior to
11 2009 showing that they received checks from you?

12 A. Yes? No? I don't know. I don't -- I'm confused.

13 Q. Okay.

14 A. Repeat that.

15 Q. Do you have any invoices or other evidence from
16 Cristalina or its predecessor company that they received any
17 money from your or your husband for water services before
18 September of 2009?

19 A. No, not on hand.

20 Q. You would agree, wouldn't you, that in September of
21 2009, you were making payments for your monthly bill?

22 A. Yes, to my attorney.

23 Q. So you started paying your attorney to -- you started
24 giving money to your attorney to give to the water company in
25 September of 2009?

0179

1 A. Between -- well, could be from there. I know it's
2 from July and later. I don't know the exact date. And I
3 started in 2009 with Barry, payment to him.

4 Q. All right. The two checks that your attorney
5 presented to the Court, one was for \$287 that is made payable to
6 Cristalina dated February 2, 2010?

7 A. (Witness nods head.)

8 Q. And the other is a check from February 12 of 2010 for
9 a thousand dollars that purportedly makes payment to Cristalina.

10 Do you have any other checks --

11 A. From 2009?

12 Q. -- from 2009?

13 A. No, I can't. I have to order them from the bank.

14 Q. Presumably, you didn't have to order the checks that
15 Mr. Kombol wrote on his account?

16 A. No.

17 Q. Those came from Mr. Kombol?

18 A. Yes.

19 Q. Did you ask Mr. Kombol to provide you with all the
20 checks that he had written on your behalf so you could present
21 them at this hearing?

22 A. No, I didn't ask.

23 Q. Do you know of any other checks besides these two
24 that were written by Mr. Kombol on your behalf?

25 A. No.

0180

1 Q. I think you testified earlier that you went to
2 Mr. Kombol and you provided him with monies to write a check for
3 a thousand dollars and for \$287; is that right?

4 A. I put money -- we put money in his trust account.

5 Q. Oh, okay. That was the \$2500 you referred to?

6 A. Correct.

7 Q. And was that as a retainer to retain Mr. Kombol?

8 A. Yes.

9 Q. That was for his services for you?

10 A. Yes.

11 Q. Because your attorney charges you for services,
12 right?

13 A. Correct.

14 Q. Okay. So that wasn't for payment of water bills?
15 That was for payment of Mr. Kombol?

16 A. No. It was payment for water bills.

17 Q. And then how are you paying Mr. Kombol? Is that some
18 other amount?

19 A. Monthly bills.

20 Q. The \$2500 that you provided to him, do you know if
21 that went to pay for your services to Mr. Kombol, any part of
22 that --

23 A. No.

24 Q. -- do you know?

25 A. No.

0181

1 Q. You don't know?

2 A. No, I don't.

3 Q. Okay.

4 (Mr. Gillett confers with Ms. Lindberg and Ms. Farmer.)

5 (Pause in the proceedings.)

6 JUDGE TOREM: Mr. Gillett, are you looking for
7 something in particular?

8 MS. LINDBERG: Yes.

9 MR. GILLETT: Yeah, and don't think it's been...
10 Yeah, do you know what check number we're looking
11 for?

12 MS. LINDBERG: 3037.

13 MR. GILLETT: 3037?

14 (Pause in the proceedings.)

15 MS. LINDBERG: Is that it?

16 (Mr. Gillett confers with Ms. Lindberg.)

17 MR. GILLETT: I don't have any further questions.

18 Thanks, Your Honor.

19 MR. KOMBOL: No redirect, Your Honor.

20 JUDGE TOREM: Thank you, Ms. Beck. You can return to
21 your chair.

22 Mr. Kombol, who would your next witness be?

23 MR. KOMBOL: My next witness would be Susan Burnett.

24 And I'm having a little challenge with how to
25 organize her testimony in a way that would be helpful for

0182

1 calculation purposes.

2 I don't know if you're planning on a lunch break
3 soon.

4 JUDGE TOREM: Eventually.

5 MR. KOMBOL: I don't even know. I've lost track of
6 time.

7 What time is it?

8 JUDGE TOREM: It's now 11:34.

9 How long would Ms. Burnett's testimony take in the
10 way you currently intend to present it?

11 MR. KOMBOL: About an hour.

12 Do you think you can go through it?

13 MS. BURNETT: Sure.

14 MR. KOMBOL: My challenge is there's -- I'll be frank
15 here.

16 My challenge is there seems to be not two accounting
17 histories, but I have now seen a third accounting history.

18 If I could explain, we've got the --

19 JUDGE TOREM: Well, Mr. Kombol, I'll just let you put
20 on your witness as to what you want me to consider. If you want
21 to present three different accounting histories or testimony
22 about it, that's up to you.

23 MR. KOMBOL: That is --

24 JUDGE TOREM: This isn't time for argument or
25 briefing.

0183

1 MR. KOMBOL: No.

2 JUDGE TOREM: I may ask for post-hearing briefs and a
3 summary of accounting statements at the rate this is going.

4 MR. KOMBOL: Let me tell you why. Just today I have
5 seen a new style of account history. And not that it was a
6 surprise. You didn't furnish it to me, but the State gave this
7 to me.

8 It's an account history that the State has, correct,
9 Counsel?

10 MS. BROWN: Correct.

11 JUDGE TOREM: So for the record, you're referring to
12 the document that Ms. Brown handed up this morning as the
13 supporting exhibit that had the blue flag for completeness as to
14 everything in Mr. Elliott's file?

15 MR. KOMBOL: That's right.

16 JUDGE TOREM: Okay.

17 MR. KOMBOL: And accounting should be clear and easy,
18 and if you're operating off or two or three different type of
19 systems -- I suppose if we can use this, then I can have my --
20 my witness testify. I just saw it today, and I don't know if
21 there's any objection to our using this.

22 MR. GILLETT: I don't think so.

23 (Mr. Gillett confers with Ms. Lindberg.)

24 MR. GILLETT: Well, yeah. At the risk of sounding
25 like I'm slowing things down with the documents that Cristalina

0184

1 generated, the only issue is that they weren't provided as
2 exhibits here, and so we may not have considered those documents
3 in preparation for today. So we'd like to look at them and know
4 what we're looking at before it becomes important.

5 JUDGE TOREM: So, Mr. Kombol, you're suggesting that
6 your witness would testify based on an exhibit that was just
7 handed up this morning by Mr. Brown? And she's prepared with
8 her own exhibits, right?

9 MS. BURNETT: Mm-hm.

10 MR. GILLETT: She seems to be saying "yes."

11 JUDGE TOREM: Yeah. She's indicated she's ready to
12 proceed, so...

13 MR. KOMBOL: Right. Okay. If it's understood, I
14 would like to refer to this. And if there is discrepancy --
15 here's my problem. Some of them have check numbers. Some of
16 them have amounts. Some of them have missing items. Some of
17 them don't.

18 My effort with this witness is to reconcile, to get
19 to a bottom figure. I think that would be...

20 JUDGE TOREM: Well, again, Mr. Kombol, what I'm going
21 to direct you to do is have your witness testify to what she has
22 personal knowledge of. This document that she's not seen, I'd
23 suggest you not bring it to her and waste time this morning
24 getting her familiar with it.

25 That document is for Mr. Elliott's testimony; is that

0185

1 correct, Ms. Brown?

2 MS. BROWN: Yeah; that's correct.

3 JUDGE TOREM: So when Mr. Elliott testifies, if you
4 want to recall your witness for her -- I don't know -- agreement
5 or disagreement with whatever Mr. Elliott says --

6 MR. KOMBOL: Very well.

7 JUDGE TOREM: -- then she would have personal
8 knowledge as to what this stands for.

9 MR. KOMBOL: Okay.

10 JUDGE TOREM: You prepared her to come today on
11 separate documents.

12 MR. KOMBOL: That's right.

13 JUDGE TOREM: I think we're ready to go with those.

14 MR. KOMBOL: Very well. Thank you.

15 JUDGE TOREM: Ms. Burnett, would you come and take
16 the witness stand, please.

17 Do you want to set your documents down, please,
18 ma'am?

19 MS. BURNETT: Yes.

20 JUDGE TOREM: Raise your right hand.

21 Do, you Susan Burnett, solemnly swear or affirm that
22 all the testimony you provide in this proceeding will be the
23 truth?

24 MS. BURNETT: Yes.

25

0186

1

SUSAN BURNETT,

2

witness herein, having been first duly sworn on oath, was

3

examined and testified as follows:

4

5

JUDGE TOREM: All right. Please state your first and last name and spell them both for the record.

7

THE WITNESS: Susan Burnett; S-u-s-a-n, B-u-r-n-e-t-t.

9

JUDGE TOREM: Mr. Kombol, please go ahead.

10

11

D I R E C T E X A M I N A T I O N

12

BY MR. KOMBOL:

13

Q. Ms. Burnett, do you work at my law firm?

14

A. Yes, I do.

15

Q. How long have you been a legal secretary?

16

A. I believe at least 25 years or more.

17

Q. And do you also operate a business with your husband?

18

A. Yes. I own a construction business.

19

Q. And what is the name of that business?

20

A. It's All Phase Maintenance Incorporated.

21

Q. And it's a licensed and bonded --

22

A. Yes.

23

Q. -- contracting firm?

24

A. Yes.

25

Q. Who does the accounting for that business?

0187

1 A. I do every piece of accounting.

2 Q. And who does the billing for that business?

3 A. I do all the invoicing.

4 Q. In the law office that you work for, my firm, who
5 does the invoicing and billing?

6 A. I do all the invoicing.

7 Q. And what system of billing do you use at home in your
8 home business, in your family business?

9 A. I use Peachtree accounting system.

10 Q. And in the office where you're working, what type of
11 accounting system do you use?

12 A. I also use Peachtree accounting and Tabs3.

13 Q. And are you familiar with the manner in which
14 invoices can be generated and sent to customers?

15 A. Definitely.

16 Q. And how payments are posted to accounts?

17 A. Yes.

18 Q. Did you have occasion to review documents that were
19 submitted here by Cristalina in support of their claim that
20 monies are owed by the Becks?

21 A. Yes.

22 Q. And could you recognize the type of accounting system
23 they were using in going through the documents and materials you
24 reviewed?

25 A. My task was to show that my client was making monthly

0188

1 payments like she said she was doing, and I tried to use the
2 system that Cristalina was using. I started to approach it from
3 a bookkeeper's standpoint, and it didn't work because the way
4 they were applying was they bill something out on a certain date
5 and then they -- when the payment came in, they're applying it
6 on a date. They weren't applying it to the invoice for the
7 amount that was being paid, so I was really having a hard time
8 tracking and doing a good track of everything.

9 And so after reviewing --

10 Q. Before you go farther --

11 A. Mm-hm.

12 Q. -- can you tell me what materials that you were
13 looking at that were giving you some difficulty?

14 Do you have those in front of you, or can I show them
15 to you?

16 A. Yeah, I know exactly what I was looking at.

17 So, basically, my -- I tried to reconstruct what they
18 did. I have -- I made a chart.

19 Q. Before you go through it --

20 A. Mm-hm.

21 Q. -- because this is kind of important.

22 A. Sure.

23 Q. And you spent many hours; am I correct?

24 A. Yes, many hours.

25 Q. Can we refer to where you started with their

0189

1 accounting and refer to an exhibit number.

2 A. Okay.

3 Q. Would that be helpful?

4 A. ML-5.

5 Q. Would that be helpful if we can start with a place?

6 JUDGE TOREM: (Nods head.)

7 BY MR. KOMBOL:

8 Q. If you will refer to where you started, please?

9 A. Right. I took ML-5 because it showed blanks and
10 showed that there were nonpayments. And my goal was to show
11 that my client did make that payment because she was adamant
12 that she had made all her monthly payments.

13 Q. All right. If you'll look at ML-5, and I guess --

14 JUDGE TOREM: Let me make sure I understand where we
15 are with ML-5.

16 Mr. Gillett, this was an exhibit for Ms. Lindberg's
17 testimony. I just want to make sure I have the right pages in
18 front of me because the way it's stapled, it's hard for me to
19 see. It looks like it is a three-page document; is that
20 correct?

21 (Mr. Gillett confers with Ms. Lindberg and Ms. Farmer.)

22 JUDGE TOREM: Mr. Gillett, what you submitted was a
23 three-page document; is that correct?

24 MR. GILLETT: I'm trying to confirm that, Your Honor,
25 to see if I've got duplicates here.

0190

1 (Mr. Gillett confers with Ms. Lindberg and Ms. Farmer.)

2 JUDGE TOREM: Mr. Gillett, I just want to make sure
3 that I have the same pages in front of me that the witness might
4 be testifying to and that you have those as well.

5 So ML-5, how many pages did you intend to submit for
6 that exhibit? I have one that's marked ML-5 in the top
7 right-hand corner. It says -- the first line is May 2009.
8 There's a corrected late fee column of \$112.28 --

9 MR. GILLETT: Yes.

10 JUDGE TOREM: -- and a corrected billing of \$45.

11 MR. GILLETT: Yes.

12 JUDGE TOREM: That's the first page of the exhibit.

13 MR. GILLETT: Yes. What is your second page?

14 JUDGE TOREM: The second page I have, it looks like a
15 slightly different table. It has four columns, "Date,"
16 "Amount," "Interest," and "Balance." The first date is May of
17 '03. The third page that I have has a May of 2009 again. It
18 has an invoice number and an amount billed. That's the order of
19 the pages that were submitted to me in the submission that came
20 in April 25th.

21 MR. GILLETT: One second.

22 MS. BROWN: I have that as well.

23 MR. GILLETT: Okay.

24 JUDGE TOREM: So when we refer to Exhibit ML-5,
25 Mr. Kombol, we'll refer to the pages in that order, okay?

0191

1 (Mr. Gillett confers with Ms. Farmer.)

2 MR. KOMBOL: Page 3?

3 JUDGE TOREM: This is 2. That's 2, and page 3 is the
4 other one that has the invoice numbers.

5 MR. KOMBOL: And that's 3. Okay. This is 3.

6 JUDGE TOREM: Counsel, this is just the order that
7 they came to me, so...

8 MR. GILLETT: No, I understand, Your Honor.

9 MR. KOMBOL: So that we're all talking about the same
10 thing --

11 JUDGE TOREM: That's what I want to make sure
12 upfront.

13 MR. KOMBOL: This is 1?

14 JUDGE TOREM: I don't even know what that is.

15 MR. KOMBOL: Oh.

16 JUDGE TOREM: This one has a...

17 MR. KOMBOL: Is this what you called "1"?

18 JUDGE TOREM: This is 1.

19 MR. KOMBOL: Oh, this is 1?

20 JUDGE TOREM: Correct.

21 MR. KOMBOL: That's 1.

22 JUDGE TOREM: That's the one that starts with ML-5.

23 MR. KOMBOL: Right.

24 JUDGE TOREM: 2 is this one.

25 MR. KOMBOL: That one's 2. Okay.

0192

1 JUDGE TOREM: 3.

2 MR. KOMBOL: Is that one. This one?

3 JUDGE TOREM: Mm-hm.

4 MR. KOMBOL: All right. Okay.

5 JUDGE TOREM: I'm not sure what the other sheet is.

6 MR. KOMBOL: Is that what you looked at?

7 THE WITNESS: Sure.

8 MR. KOMBOL: And this is 1. All right.

9 JUDGE TOREM: All right. Ready?

10 MR. KOMBOL: Yes.

11 BY MR. KOMBOL:

12 Q. All right. So I guess I'll go back to your task, as
13 I think you described it, was to look at Exhibit ML-5 that you
14 received, compare that document with what your client -- or what
15 Mr. Kombol's client, what Mrs. Beck was telling you had
16 happened; is that correct?

17 A. Correct.

18 Q. And you were working off of this, what appears to be
19 a computer-generated summary of --

20 A. Payments.

21 Q. -- billing and payments?

22 A. Mm-hm.

23 Q. And this is something that you -- is it fair to say
24 you didn't recognize this as an accounting system but a summary
25 report? Would that be accurate?

0193

1 A. Yes.

2 Q. Now, I'm going to ask you to -- I guess it doesn't
3 matter.

4 That first page of ML-5 indicates some lines of
5 dashes which would indicate to you what if there's a dash under
6 amount paid?

7 A. If there was a dash, that meant they didn't receive a
8 payment for that bill for -- just like for instance, December of
9 2009. The bill was \$77. There's a dash, so they didn't receive
10 a payment for that bill.

11 Q. And so your understanding was if an amount paid was
12 in brackets, that was a credit against the account?

13 A. Correct.

14 Q. And that it was also showing at times the date
15 received; is that correct?

16 A. Yes, at times.

17 Q. It purported to show that?

18 A. Mm-hm.

19 Q. Now, comparing that with the materials your client,
20 or Mrs. Beck, the Beck family gave you, did you find
21 inaccuracies in this summary statement?

22 A. I found approximately 14 checks that weren't
23 referenced on this, ML-5.

24 Q. And were you asked to find the -- find and produce
25 the payments that you found in the Beck family records?

0194

1 A. Yes, I did.

2 Q. All right. So I don't know. What would be the
3 clearest way for you to tell us, perhaps starting where you saw
4 a series of payments that weren't reflected.

5 Where would you like to start?

6 A. So, for instance, July 2011, there should have been a
7 payment for sixty-eight thirty.

8 Q. Now, that's what was indicated was a corrected
9 billing?

10 A. Right.

11 Q. And so the document there shows a dash; is that
12 correct?

13 A. Correct.

14 Q. What did the records shown to you by the Beck family
15 tell you?

16 A. And so when I went through her files, I found a check
17 that said, you know, July on it, and it's our exhibit, C-GB-29.
18 And it was for the exact amount of the sixty-eight thirty, and
19 it referenced the date of July.

20 Q. And now I don't know what -- whether you would like
21 me to go back.

22 MR. KOMBOL: Ms. Burnett also assembled these
23 documents, Judge.

24 Shall I go back and reference because those documents
25 were admitted, I believe?

0195

1 MS. BURNETT: C-GB-29.

2 MR. KOMBOL: Where is my copy? Right here?

3 And so for purposes -- I would like her to verify
4 that when she calls out an exhibit, if she identifies it for the
5 record, I hope.

6 MR. GILLETT: And could you identify the check
7 number, please?

8 MR. KOMBOL: Yes.

9 THE WITNESS: Sure. So we're looking at -- the
10 exhibit is 29, C-GB-29.

11 BY MR. KOMBOL:

12 Q. The check?

13 A. The date on her check is July 31, 2011. The amount
14 is sixty-eight thirty. And in her reference she says it's a
15 July 2011 payment, and it's Check 2270.

16 JUDGE TOREM: Mr. Gillett, were you able to locate
17 that document?

18 THE WITNESS: Oh, you don't have yours.

19 MR. GILLETT: Yeah, I don't have that. But if I
20 can -- if it's okay --

21 THE WITNESS: Yeah. Sure.

22 MR. GILLETT: -- if I can follow along with this --

23 THE WITNESS: Sure. This will work.

24 MR. GILLETT: -- document, I think I'll be...

25 JUDGE TOREM: This particular check was not

0196

1 referenced by the prior witness. It was one that I listed the
2 amount. GB-26, 27, and 28 were discussed, and then we skipped
3 to 30 and 31.

4 MR. KOMBOL: Really?

5 JUDGE TOREM: So it's not admitted yet.

6 Mr. Gillett, how would you like to proceed?

7 Do you want me to have him recall the witness to
8 offer this, or will you stipulate that -- to the admissibility
9 of this particular check?

10 MR. GILLETT: Yeah, I'll stipulate to the
11 admissibility of the check, not necessarily what it stands for.

12 (Exhibit No. C-GB-29 was admitted into the record.)

13 MR. KOMBOL: I'm sorry, Your Honor. I thought I had
14 gone through them all. And if I didn't, it was an omission. So
15 I guess if we do this too many times, I've got a problem.

16 BY MR. KOMBOL:

17 Q. Shall we go to the next time you found a discrepancy?

18 A. Yeah, mm-hm. So then November 2011, it shows a zero
19 balance.

20 Q. No, I'm sorry. It doesn't show a zero balance.

21 What is the bill for November of 2011?

22 A. It's sixty-eight thirty.

23 Q. Yes.

24 A. And it shows a dash, meaning that they didn't receive
25 a payment.

0197

1 Q. And under the payment date, there is no entry,
2 correct?

3 A. No, no. Nothing.

4 Q. All right. What did the Beck family records reveal
5 to you?

6 A. So if you go to C-GB-32, there is a check referenced,
7 2403, for the exact same amount, sixty-eight thirty, and it
8 references its November payment.

9 Q. Now, you are referring -- and if I'm going fast, stop
10 me.

11 You have prepared a grid. The work you're looking
12 for highlighted is a grid that you prepared while you were doing
13 this sort of auditing --

14 A. Mm-hm.

15 Q. -- of documents?

16 A. Yes.

17 Q. And you submitted that to the -- to the hearing, and
18 it contains the checkoffs that you did and what you were
19 investigating; is that correct?

20 A. Correct.

21 Q. All right. Would you indicate the next place you
22 found a discrepancy between Cristalina's records and the Beck
23 family?

24 A. And then February 2012, they billed for seventy-seven
25 eighty-three, and there's a dash.

0198

1 And our A-GB-3, which we previously submitted -- hang
2 on a second. Yeah, one more.

3 Q. 3? The next one?

4 A. Yeah, the next one -- is -- no, right here.
5 Okay. -- is Check No. 2544, and it's for the exact same amount,
6 seven seven eight three, and it references the date of February
7 2012.

8 Q. Do you have any other examples?

9 A. In May, they say there's a seventy-nine oh three
10 payment they didn't receive.

11 MR. GILLETT: May of what?

12 THE WITNESS: Or it was just dashed. Excuse me.

13 MR. GILLETT: Oh, 2012?

14 THE WITNESS: Yeah, May 2012, seventy-nine oh three.
15 And our A-GB-6 shows Check 2606 for seven nine oh three, and it
16 references in the re, May of 2012.

17 BY MR. KOMBOL:

18 Q. Did you find -- you can continue on.

19 A. August and September. So in August of 2012, they
20 billed eighty-one ninety. And our A-GB-9 shows it was paid with
21 Check No. 2706, \$81.90, and it references that month of August.

22 The following month is September. They show a dash
23 also. They show a billing of eighty forty-nine. And if you go
24 to the next exhibit, A-GB-10, you'll see Check 2730 for \$80.49,
25 and it references the month of September.

0199

1 MR. GILLETT: Which month are you referring to?

2 THE WITNESS: September 2012.

3 MR. GILLETT: On your chart?

4 THE WITNESS: September 2012.

5 MR. GILLETT: And the check number was?

6 THE WITNESS: 2730. And this is all on that one grid
7 I submitted, and I'm taking this all off of...

8 So, basically, for every dash they had, I was able to
9 find payments plus extra payments, and I found a shortage not
10 applied of \$1,822.56.

11 BY MR. KOMBOL:

12 Q. Now, this system, or at least the materials you
13 reviewed, did not have check numbers in the -- in the columns
14 that were -- just what on what was furnished --

15 A. Right.

16 Q. -- by Cristalina --

17 A. At the beginning.

18 Q. -- there was nothing there?

19 A. Mm-hm.

20 Q. One second.

21 A. Mm-hm.

22 Q. There were some places in their exhibit, ML-5, that
23 have, for example, payments of a hundred and fifty-seven
24 sixty-eight or a hundred and fifty-nine thirteen.

25 Did you find that those were accurate to what the

0200

1 Becks had done? In other words, did the Becks make a payment of
2 a hundred and fifty-nine thirteen, or did that constitute two
3 monthly payments when they were doing that?

4 A. It would constitute two monthly payments because
5 Ms. Beck was consistent from Day 1, all four years. She
6 consistently made her checks out for the exact amount of each
7 monthly bill for tracking purposes.

8 Q. So would it suggest to you that if an entry was made
9 of an amount, for example, one fifty-seven sixty-eight, that
10 that could have been two checks deposited on the same day, so a
11 credit to the account on the same day?

12 JUDGE TOREM: So, for the record, are you referring
13 to the April 2012 payment of a hundred and fifty-seven
14 sixty-eight on page 1 of Exhibit ML-5?

15 MR. KOMBOL: Yeah. Just for example purposes I'm
16 referring to that.

17 BY MR. KOMBOL:

18 Q. And...

19 A. But since it didn't have a check, this is all I had
20 to work off of. It didn't have a check number or anything, and
21 I couldn't tell how much that made up. It just made systems go
22 to the normal systems that I've used in all the law firms I've
23 worked at and the construction business and to find the invoice
24 and apply it to it and make sure it was paid and -- and just go
25 through there, because my goal was to show that she was making

0201

1 every bill payment that she was supposed to.

2 Q. So to summarize, ML-5, this document was not -- it
3 didn't generate invoices and receipts? It was a running account
4 balance; is that correct?

5 A. Of the dates they received the money, mm-hm.

6 Q. Now, I would like to refer to something that will
7 come in later.

8 MR. KOMBOL: May I see Mr. Elliott's document? And
9 I'll bring this back. This has been written on.

10 BY MR. KOMBOL:

11 Q. I would like to refer to the State's -- Mr. Elliott's
12 exhibit and ask the witness if -- did you ever have -- let me go
13 to the place where it appears.

14 Are you familiar with the billing history report in
15 accounting? Do you ever work with those?

16 A. (Witness reviews document.)

17 Like a summary.

18 Q. Do the accounting systems that you use in your
19 business and in your law firm --

20 A. Right.

21 Q. -- generate histories of accounts and particular to
22 an account and put all the data in as to what the check numbers
23 were --

24 A. Correct.

25 Q. -- and what the billings were?

0202

1 A. This one shows check numbers, shows exact amounts,
2 and et cetera.

3 Q. Were you furnished any of the material that's
4 reflected in this called a "Billing History Report" --

5 A. No.

6 Q. -- while you were doing your work?

7 This does have check numbers, so, apparently, would
8 this suggest to you that Cristalina has records that show check
9 numbers, at least this document?

10 A. Sure.

11 Q. Now, on the one that the State has produced, would
12 you -- on February 22nd of 2012, what does their balance show on
13 the one they produced, ML-5, February 2012?

14 A. This is two thousand...

15 Q. I'm sorry. ML-5, page 1, for February of 2012, what
16 does...

17 A. February...

18 Q. What does their ML-5 show?

19 A. Oh, eleven thousand nine hundred twenty-nine.

20 Q. Now, in the document the State has produced, what
21 does February 2012 indicate is the balance there?

22 A. Eight thousand three hundred ninety-eight.

23 Q. Now, in your experience as a bookkeeper, can you
24 reconcile those two figures or know how those figures were
25 arrived at?

0203

1 A. No.

2 Q. What would you need to know how to come up with
3 balances of those different amounts?

4 A. Well, this is -- this here is only for a short span
5 of time, like a little over a year, and this would have been
6 great for the whole history if we had that.

7 Q. Have you seen any records here that show how late
8 fees were calculated on this account; the manner in which they
9 calculated late fees?

10 A. I honestly don't know how you would compute late fees
11 on this because in all my research, there was 16 bills that she
12 received, like they were due, and she received them after the
13 fact. There were like two bills she never even received, and so
14 basically 14 checks she paid were never even reported on ML-1 or
15 ML-8. And so, basically, over 32 months, there were challenges
16 out of the 52 months that I was reviewing, so, I mean, it's
17 really hard.

18 How does a company assess a late fee on someone when
19 that person didn't even get the bill till after it was even due?
20 I mean, I could not as a company feel comfortable even assessing
21 a late fee if I couldn't get my bills out on the first of every
22 month or on a certain date.

23 Q. How many hours do you think you put into this
24 auditing of the Becks' records versus Cristalina's
25 documentation?

0204

1 A. I put in like seven hours.

2 MR. KOMBOL: I have no other questions.

3 JUDGE TOREM: Mr. Gillett, cross-exam?

4 MR. GILLETT: Yes. Thank you, Your Honor.

5

6 C R O S S - E X A M I N A T I O N

7 BY MR. GILLETT:

8 Q. So, Ms. Burnett, you'd agree that the payments that
9 you've referenced in ML-5 where they show a -- well, I guess the
10 nonpayments, the dash marks starting with July of 2011 for
11 sixty-eight thirty, may actually be reflected as a payment
12 received in a later date?

13 A. It could, but I couldn't decipher that because there
14 was no check numbers given.

15 Q. And we submitted an exhibit, ML-8.

16 Did you have a chance to review that --

17 A. Yes, I did.

18 Q. -- one that has the check numbers?

19 A. Yes, I did.

20 Q. And did you find those check numbers? Let's just go
21 to July of 2011 on ML-8 and compare it to ML-5.

22 A. Yeah. I went through each one of those ones --

23 Q. Okay.

24 A. -- that were added, and I still found 13 to 14 checks
25 that weren't still on ML-8 that I had found payments and gave

0205

1 exhibits for.

2 Q. Well, now -- and when you say you "found payments,"
3 you found a check, a copy of a check that was provided to you by
4 the Becks?

5 A. Mm-hm.

6 Q. And you didn't see a -- did the Becks provide you
7 with a bank statement?

8 A. Based on the time frame that we had to respond to
9 this, it took -- you know, seven hours.

10 Q. Answer "yes" or "no."

11 A. So, no, I was unable to do that at that time.

12 Q. And so you don't have any evidence that their bank
13 withdrew any of those amounts and charged the Becks' account for
14 those amounts, correct?

15 A. No.

16 Q. That's correct?

17 A. That's correct.

18 Q. Okay. So, in fact, if the Becks wrote a check and
19 either never sent it or it was never received by Cristalina,
20 that would not be an amount that would be reflected as received
21 by Cristalina, correct, on these documents, right?

22 A. I know that I researched her file and found like the
23 letter saying that she had made three payments and why isn't it
24 applied and that she was frustrated with the application.

25 Q. Yeah. I know she said that --

0206

1 A. Mm-hm.

2 Q. -- but isn't it true that if she -- regardless of
3 whether she writes a check, if it's not cashed by a bank and
4 debited from her account, it never -- she never spent the money,
5 right?

6 A. Yep.

7 Q. Okay. And you didn't talk about ML-8 today, but you
8 did have a chance to review that, correct?

9 A. Definitely.

10 Q. And all those checks that you referred the Court to,
11 that being for July of 2011, November of 2011, February of 2012,
12 May of 2012, and August of 2012, in fact, when you look at
13 the -- ML-8, you see that those check numbers for those payments
14 are actually reflected as having been received by Cristalina and
15 deposited and debited from the Becks' account, correct?

16 A. Correct. I did not see where they applied the two
17 from our attorney office in 2010. That would make up for all
18 these dashes here, and I did find letters stating that the
19 attorney had received those payments and acknowledged that he
20 received them and forwarded them to Cristalina. We can't be
21 responsible for them to deposit them and apply them to the
22 correct account, which I did note in a letter saying there were
23 problems that people were getting payments applied to a
24 different person's account, too.

25 Q. Well, you didn't provide a copy of -- we saw copies

0207

1 of the fronts of Mr. Kombol's checks, right?

2 A. Correct.

3 Q. We didn't see anything from a bank indicating receipt
4 and negotiation of that check?

5 A. No. I could get that for you. Mr. Kombol does have
6 the letter saying the attorney received it and did give it to
7 Cristalina, though.

8 Q. This was sent to an attorney, not to Cristalina?

9 A. The two checks were sent to the attorney that were of
10 record.

11 Q. For the record, that wasn't me, right?

12 A. No.

13 Q. Okay. So, you know, you said that there were, did
14 you say, 13 other checks besides the ones that you've already
15 talked about that weren't applied to the Becks' account from
16 Cristalina?

17 A. I could go through the items that were not applied,
18 if you would like, if you would like to itemize them.

19 JUDGE TOREM: Mr. Kombol --

20 MR. GILLETT: Yeah, what's going on?

21 JUDGE TOREM: -- this is cross-examination.

22 Do you need something from the witness or for the
23 witness?

24 MR. KOMBOL: I just want to see what she's looking
25 at. I'm sorry. I...

0208

1 JUDGE TOREM: It's Mr. Gillett's turn to ask the
2 questions, so...

3 MR. KOMBOL: All right. I just wanted...

4 JUDGE TOREM: Please, if you just have a seat, it
5 would be much less cumbersome and let Mr. Gillett conduct his
6 examination.

7 Go ahead, sir.

8 MR. GILLETT: Okay.

9 BY MR. GILLETT:

10 Q. So could you walk me through the other checks? I
11 mean, because what I have seen so far is that the checks that
12 you described on your direct examination, in fact, are reflected
13 as having been received and credited to the Becks on ML-8.

14 A. Mm-hm.

15 Q. So show me.

16 A. Okay.

17 Q. Show me on ML-8. And why don't we use ML-8, since it
18 has the check numbers and you indicated that that would have
19 been helpful to you.

20 A. Mm-hm. Oh, okay. Let's see.

21 Q. So let's look at ML-8, and show me on ML-8 the checks
22 that you're talking about that were not credited by Cristalina
23 on the Becks' account.

24 A. Okay. Just give me one more second. I want to look
25 at something real quick.

0209

1 A. Okay. So if you go to our G-GB-44.

2 Q. What month would it be referring to? That might be
3 helpful.

4 A. Sure. That is for November 2009.

5 Q. Mm-hm.

6 A. On that exhibit, G-GB-44, there are two checks that
7 are on that one, and one is Check No. 1676 and 1689. And
8 they're both -- one's for \$77, and the 1689 is for \$70, and I
9 could not find that.

10 And then like you said, when I got M-8 at the very
11 end, I -- that's why I did a second chart and redlined because
12 then I used your M-8 and tried to figure out, okay, did I miss
13 something? And these were checks, and then that's why I
14 provided these in the cross because I wanted to show you that,
15 you know, these had been paid.

16 Q. Well, in fact, you're referring to GB-45; is that
17 right?

18 A. 44.

19 Q. Oh, 44?

20 A. Yes, right here (indicating).

21 Q. Oh, I'm sorry.

22 A. Sure. Right here (indicating).

23 Q. Yeah, GB-44. And those are two checks that don't
24 show whether they were negotiated by a bank or not, correct?

25 A. No. They're checks written to Cristalina.

0210

1 Q. So there's no evidence that the bank deposited and
2 debited the Becks' accounts?

3 A. No. I'm sure we can provide that for you.

4 Q. Okay. But it's not here?

5 A. No.

6 Q. There's no evidence today that the Becks' account was
7 debited --

8 A. No.

9 Q. -- either for --

10 A. No.

11 Q. -- for either check, 1676 or 1689, correct?

12 A. Right.

13 Q. Okay.

14 A. And also the two -- and we've already discussed this.
15 This might be duplicate of my answer before, but also the two
16 attorney checks were not -- were not showing on here, so that
17 was a huge sum of twelve eighty-seven.

18 Q. Well, one check was for a thousand, and one check was
19 two eighty-seven --

20 A. Mm-hm.

21 Q. -- correct?

22 A. Total.

23 Q. Yeah.

24 A. And then they issued a credit memo. I mean, this
25 sounds really silly, but they did issue a credit memo on January

0211

1 4, 2011, of 40 cents, but there was no credit memo in their
2 accounting system that that had ever happened.

3 In April of 2011 -- let me get my bearings here
4 because this one is different -- the payment was received. And
5 it is noted on their ML-1, but isn't on their ML-8, and they had
6 left the check number out on ML-1. I'm sorry. This sounds
7 really confusing, but my client had paid June 2011 for
8 sixty-eight thirty, and it's -- it was Check 2186, which is the
9 blank that was there and...

10 Q. So that's reflected on ML-8, too?

11 A. Mm-hm.

12 Q. It's just marked with x's?

13 A. Yeah.

14 Q. Yeah. So Cristalina accounted for that check as
15 well?

16 A. Mm-hm.

17 Q. And that was GB what?

18 A. That was actually just noted on...

19 Q. Oh, okay. You don't have it?

20 A. It's listed on their ML-1, but not on their ML-8, so
21 I was very confused about that.

22 Q. Okay.

23 A. December 2012, they made a payment on A-GB-13, in the
24 amount of 79.23.

25 Q. And that's Check No. 2840?

0212

1 A. 2839 --

2 Q. Oh, 2839?

3 A. -- for seventy-nine twenty-three.

4 Q. Yeah.

5 A. And it mentions 12 of 2013, but I could not find it
6 on the ML-8 at all.

7 Q. And, in fact, that's yet another check --

8 A. Mm-hm.

9 Q. -- that there's no evidence that it was debited from
10 their account, correct?

11 A. Mm-hm, yeah. And on this same exhibit, the 2840 for
12 seventy-nine twenty-five.

13 Q. That's Check 2840, and, again, there's no evidence
14 that it was debited from the Becks' account, correct?

15 A. Yeah. And -- let's see. The next one that wasn't
16 shown on ML-8 was A-GB-22 -- hang on a second -- and it covered
17 two payments for February and March of 2013 for the amount of
18 one sixty-two.

19 Q. Oh, this is the check that's actually dated December
20 5th of 2013?

21 A. Mm-hm.

22 Q. And you're saying that that was to account for a
23 payment of...

24 A. Right, and they never had received that bill.

25 Q. And this is the -- this is A-GB-22 that you're

0213

1 referring to?

2 A. Mm-hm.

3 Q. And that's the check that's Check No. 3103?

4 A. Right.

5 Q. For \$160?

6 A. Mm-hm.

7 Q. And you're saying that that was to pay off a balance
8 from February of 2013?

9 A. Yeah, where they -- she never received bills on.

10 Q. Right. Well, in fact, if you look at the memo column
11 on that, doesn't it say deposit of disputed account? It doesn't
12 reference any particular amount or invoice; isn't that right?

13 A. No. That was the only two months that they had not
14 paid and because they had never received a bill.

15 Q. And isn't it true...

16 MR. GILLETT: Well, I object to the hearsay statement
17 that they never received a bill.

18 BY MR. GILLETT:

19 Q. But isn't it true that this was at the time, December
20 of 2013, that the Becks were disconnected and were trying to get
21 reconnected and were sending money to Cristalina to try to get
22 reconnected?

23 A. It could be. I wasn't -- I only delved into the
24 accounting part to show what payments.

25 Q. Okay. But you're Mr. Kombol's legal secretary. You

0214

1 were aware that that was going on at that time, correct?

2 A. At Thanksgiving time?

3 Q. Yeah.

4 A. Yeah, yeah. I remember at Thanksgiving they got
5 their water cut off.

6 Q. Right. And what you're trying to tell us is that
7 this -- well, first, let me -- this is yet another check that --

8 A. Mm-hm.

9 Q. -- there's no evidence that it was debited from the
10 Becks' account, correct?

11 A. Correct.

12 Q. So, presumably, that money is still sitting in the
13 Becks' account, correct?

14 A. Could be.

15 Q. Well, I mean, it's...

16 A. I don't know.

17 Q. Yeah. There's no evidence that it left the Becks'
18 account, correct?

19 A. No, evidence that I have.

20 Q. Yeah. And, in fact -- okay.

21 Okay. Anything else?

22 A. There are three others.

23 Q. And what are the other three?

24 A. Okay. A-GB-15.

25 Q. And for what month are we talking about?

0215

1 A. And that is for May 2013. It's Check No. 2937.
2 Amount is seventy-nine fifty-eight.

3 Q. Okay. And that's another check that there's no
4 evidence that it was ever debited against the Becks' account,
5 correct?

6 A. Correct, mm-hm.

7 Q. And, in fact, there's no evidence that it was even
8 mailed from the Becks to Cristalina, correct?

9 A. Correct.

10 Q. It's just a photocopy of a check that the Becks
11 provided to you, correct?

12 A. Mm-hm.

13 Q. "Yes"?

14 A. Yes.

15 Q. Okay.

16 A. I believe this next one, though, I don't know if
17 that's considered a back of the negotiation of the check, but...

18 Q. Yeah. Which one are you referring to?

19 A. We are going now to June 2013, A-GB-20 exhibit. It's
20 for eighty ninety-two, which is Check 3090 for November 26 of
21 2013, and there's a back of a check copied on this one.

22 Q. If you look at the next page of GB-8? Do you have --

23 A. GB-8?

24 Q. No, it's not GB-8. ML-8.

25 A. ML-8. Okay.

0216

1 Q. And if you look at the December 2013 column?

2 A. Yeah.

3 Q. And you look across there and you see three check
4 numbers represented?

5 A. Yeah. It's really hard to decipher what each of
6 those checks would be.

7 Q. Yeah. The 3091 would be a check number, 3092 would
8 be a check number, and then following that is...

9 A. There's no 3090.

10 Q. Yeah. There's no 3090?

11 A. No.

12 Q. All right. If, in fact, that check was -- or that
13 entry was just incorrect and it should reflect 3090, would you
14 have any reason to suspect that that two thirty-nine eighteen
15 total payment would be reflective of those three checks?

16 A. How would I know? I need to know what 3091
17 represents, I need to know what 3092 represents, and what 3093
18 to even answer that question.

19 Q. Okay. All right.

20 A. But 3090 -- I mean, I first used the system. I'm
21 going to be honest with you. I first used the system of M-1 and
22 could not find that payment reflected there. And then when you
23 sent me the M-8, I checked check numbers and made sure it was on
24 that.

25 Q. Yeah.

0217

1 A. And I'm just trying to do a lot of
2 cross-referencing --

3 Q. Okay. All right.

4 A. -- and applying.

5 Q. So I can see where you were confused about this check
6 number, 3093, if it, in fact, was supposed to be 3090.

7 You wouldn't be able to tell that, correct?

8 A. Well, I actually show 3093 for eighty ninety-two, so
9 you're trying to say that 3093 is a typo for 3103?

10 Q. 3090?

11 A. Is that what you're saying to me?

12 Q. I'm not saying anything. I'm just asking you if you
13 know.

14 A. Well, it's -- I'm taking facts. I'm taking facts
15 that I show that they show a check on ML-8 for 3093 for eighty
16 ninety-two.

17 Q. Do you have a Check 3091; do you know?

18 A. I do have a 3091. It's on GB-18.

19 Q. And what's the amount of 3091?

20 A. That's GB-18.

21 Q. Yeah. What's the dollar amount?

22 A. Seventy-eight forty.

23 Q. And what's the dollar amount for 3092?

24 A. Seventy-nine eighty-six.

25 Q. And what's the -- what's -- the amount of 3090 is

0218

1 eighty ninety-two?

2 A. Mm-hm.

3 Q. And what do those numbers add up to?

4 MR. KOMBOL: Your Honor, the documents speak for
5 themselves.

6 JUDGE TOREM: I'll allow the question.

7 THE WITNESS: Two three nine eighteen.

8 BY MR. GILLETT:

9 Q. Two three nine eighteen?

10 A. Mm-hm.

11 Q. So that's the amount that is reflected as debited --
12 credited, in fact, against the Becks' account under that
13 December 2013 column on...

14 A. So which of these checks was in error? Which number
15 is incorrect?

16 Q. I don't know, but what I want you to tell me is: Do
17 you agree that adding up those three checks, 3091, 3092, and the
18 check here of 3090 of eighty ninety-two --

19 A. Yes.

20 Q. -- equals the amount --

21 A. It does.

22 Q. -- that was...

23 So, in fact, this check appears to have been, as it's
24 reflected on its back as having been negotiated --

25 A. Sure.

0219

1 Q. -- appears to be --

2 A. Sure.

3 Q. -- you know, accounted for?

4 A. So on the front what I did also was I added up all
5 their monies that they said they had received and all the checks
6 that we had sent out, and there still was like an eighteen
7 twenty-two not applied to their account.

8 (Mr. Gillett confers with Ms. Farmer.)

9 BY MR. GILLETT:

10 Q. And that, at least in part, is reflective of the
11 checks that we've been discussing --

12 A. Sure.

13 Q. -- that while they appear to exist as the front page
14 of a photocopy of a check, there's no evidence that they were
15 debited against the Becks' account, correct?

16 A. No. And, in fact, two of the checks that -- that
17 were noted that -- well, that would be hearsay, so I can't say
18 that.

19 Q. Okay.

20 MR. GILLETT: I don't think I have any other
21 questions. Thank you very much.

22 JUDGE TOREM: Mr. Kombol, any redirect?

23 MR. KOMBOL: I would like to have a chance. There
24 was a lot of stuff that went there, and I'm trying to take
25 notes, Your Honor.

0220

1 If I could redirect after having a chance to talk to
2 my client...

3 MR. GILLETT: No.

4 JUDGE TOREM: Mr. Kombol, I think --

5 MR. KOMBOL: Are we going to go through lunch?

6 JUDGE TOREM: Well, I would like to get this witness
7 off and then take a lunch break. I don't want to come back and
8 have redirect after lunch. I'd like to do it now.

9 MR. KOMBOL: May I have two or three minutes to
10 discuss --

11 JUDGE TOREM: Please take -- take two minutes.

12 MR. GILLETT: Not with the witness.

13 JUDGE TOREM: But I don't understand what -- if you
14 want to organize your notes, that's great. But I'm not sure.
15 She has her documents in front of her. If there's something
16 that wasn't clear you want to go over, ask.

17 MR. KOMBOL: I was trying to watch while she was
18 going over the materials, Your Honor, and there was lots of
19 figures. Lots of column entries. I think we went over maybe a
20 dozen checks. I would like to know -- I would like to ask my
21 witness if she recalls something.

22 May I confer with her?

23 MR. GILLETT: No.

24 THE WITNESS: But on the record, please.

25 MR. GILLETT: Yeah, not confer.

0221

1 MR. KOMBOL: It's impossible for me to go into --
2 there was too much material. I can't do that. I may ask to
3 recall her. I'll just let you know. If there were some things
4 that need clarification, I may ask to recall her. But I can't
5 do that right now, Your Honor. It would be a waste of time and
6 effort.

7 (Mr. Kombol confers with the witness.)

8 MR. KOMBOL: Hm?

9 MR. GILLETT: I'm going to object to the conferring.

10 JUDGE TOREM: So, Mr. Kombol, you don't have any
11 redirect?

12 MR. KOMBOL: I can't offer any redirect at this time,
13 Your Honor.

14 JUDGE TOREM: Okay. Ms. Burnett, you can step down.

15 MS. BURNETT: Thanks.

16 JUDGE TOREM: It's now 12:25. Let's take an hour for
17 lunch. Let's come back at 1:30.

18 Mr. Kombol, do you have other witnesses you are
19 intending to present?

20 MR. KOMBOL: No.

21 JUDGE TOREM: Okay. So when we come back,
22 Mr. Gillett, I'm going to take your witnesses, unless you wanted
23 to call Mr. Elliott first.

24 MR. GILLETT: Oh, because then we would stay -- do we
25 just stay here and do that?

0222

1 JUDGE TOREM: No, no. I meant first after lunch.

2 MR. GILLETT: I will take him first after lunch.

3 JUDGE TOREM: Okay. So, Mr. Elliott, you'll be
4 prepared to testify at 1:30. I'll swear you in at that time,
5 and then I'm going to let Ms. Brown do whatever introduction she
6 needs with the witness.

7 And, Ms. Brown, if you want to go through the exhibit
8 you're providing --

9 MS. BROWN: Mm-hm.

10 JUDGE TOREM: -- to have it authenticated -- and I'm
11 not sure what other questions you might have --

12 MS. BROWN: That's fine.

13 JUDGE TOREM: -- that would be helpful.

14 And if you and Mr. Gillett want to confer so he knows
15 how much detail you want to go into that and how much he would
16 have to go into it, that might even make things smoother after
17 lunch.

18 MS. BROWN: No way.

19 Yeah, that would be fine.

20 JUDGE TOREM: All right. So we'll take a recess
21 until 1:30 and then begin with Cristalina's case at that time.

22 MS. BROWN: All right. Thank you.

23 (A luncheon recess was taken
24 from 12:27 p.m. to 1:33 p.m.)

25

0223

1

MAY 21, 2014; AFTERNOON SESSION

2

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4

JUDGE TOREM: Let's be back on record. We're all reassembled in Room 207, and Steven Elliott has taken a seat on the witness stand.

7

I'm going to swear him in and let Ms. Sally Brown take care of any of the formalities.

9

Mr. Elliott, could you raise your hand?

10

Do you, Steven Elliott, solemnly swear or affirm that all testimony you'll provide in the course of this proceeding will be the truth?

13

MR. ELLIOTT: I do.

14

15

STEVEN ELLIOTT,

16

witness herein, having been first duly sworn on oath, was

17

examined and testified as follows:

18

19

JUDGE TOREM: Please have a seat.

20

21

D I R E C T E X A M I N A T I O N

22

BY MS. BROWN:

23

Q. Good afternoon, Mr. Elliott.

24

A. Hi.

25

Q. Please state your full name for the record, spelling

0224

1 your last.

2 A. Steven Elliott; E-l-l-i-o-t-t.

3 Q. And where do you work?

4 A. The Washington Utilities and Transportation
5 Commission.

6 Q. What is your current assignment?

7 A. My current assignment is Information Technology
8 Specialist I.

9 Q. And did you hold other posts --

10 A. Yes, I have.

11 Q. -- in the recent past?

12 A. Yes.

13 Q. Would you please describe for us those previous
14 assignments?

15 A. Most previous to this, I worked in the consumer
16 protection section as a Consumer Program Specialist II. I was
17 there from June of 2012 through January of 2014.

18 Q. And prior to that?

19 A. Prior to that, I was with the Records Center as a
20 Customer Service Specialist I. I was there from August of 2007
21 through May of 2012.

22 Q. And could you please describe your duties with your
23 employment as a Consumer Specialist I in the consumer protection
24 division?

25 A. In consumer protection division I was -- I was

0225

1 responsible for fielding complaints from consumers of regulated
2 companies and passing complaints over to companies analyzing
3 the -- the data the company provides against the rules and
4 statutes that they are held to and ensuring that the company is
5 within the rules and regulations that we have for them.

6 Q. And were you assigned to handle the Beck v.
7 Cristalina complaint?

8 A. Yes.

9 Q. And what did you do to investigate that complaint?

10 A. To investigate that complaint, it came in as a
11 complaint that not all of the customers' payments were being
12 applied timely to their account, so as a course of that
13 complaint, I passed it over to the company. And once I received
14 a response, it kind of evolved into ensuring that the customer
15 was being billed accurately, as there was a question of the
16 records the company was producing, how often the customer was
17 being billed, and the accuracy of those bills.

18 Q. Okay. And you stated that you passed the complaint
19 to the company.

20 Is that what consumer protection typically does, or
21 was that an unusual event in this case?

22 A. No, that's something that we typically do. When we
23 receive a complaint, we have a list of company contacts that we
24 have stored in the database. And we typically send an e-mail to
25 the contacts that we have for that company letting them know

0226

1 that a complaint has been received, what the nature of the
2 complaint is, the contact information and customer information
3 for the customer that filed the complaint, and a statutory
4 deadline where they need to provide us responsive information to
5 the complaint.

6 Q. And then following that, is there a fair amount of
7 back and forth between the company and the company's responsive
8 representatives and the Commission?

9 A. Yes; yeah. If we don't receive everything that we
10 need to fully investigate the complaint with the first round of
11 information that we receive from the company, it isn't unusual
12 for us to have to go back and forth with the company or the
13 customer a few times to make sure that we get the full picture.

14 Q. Okay. I would like to direct your attention to an
15 exhibit that's been marked for identification as SE-1,
16 consisting of 37 pages and three documents.

17 Do you have that before you?

18 A. Yes, I do.

19 Q. And what is that?

20 A. This right here is a complete copy of the complaint
21 record for this complaint. The first two pages are just -- are
22 the cover page that includes all of the pertinent information
23 about contact details, account information, as well as a general
24 summary of the initial complaint description and a copy of the
25 results of the investigation, followed by a listing of any

0227

1 violations that we discovered throughout the complaint.

2 Q. Okay. And this particular complaint was closed on
3 when?

4 A. It was closed on October 3, 2013.

5 Q. Okay. That's important. Thank you.

6 And then following the complaint history, I see a
7 two-page -- correction -- three-page color exhibit.

8 Can you describe what that consists of and who
9 prepared that, please?

10 A. Yes. This is the final version of a document that I
11 was working on to try to reconcile the customer's account based
12 off of the information that I received from the company. I used
13 the company's figures where they were available, and where they
14 were not available, I referred to the company's tariff to try to
15 fill in any gaps that I found.

16 Q. Okay. And following those three pages?

17 A. Following those three pages is a -- this is the only
18 response document that I received from the company throughout
19 the duration of the complaint.

20 Q. And when you say -- I'm sorry to interrupt.

21 When you say "document," do you mean the balance of
22 the 37 pages you received from the company?

23 A. The remaining nine or ten pages at the end?

24 Q. Yes.

25 A. This right here is the only document that I received

0228

1 from the company during the course of my investigation, and it
2 is a -- it appears to be a listing of all of the transactions
3 affecting the customer's account from January of 2000 through
4 May of 2013.

5 Q. Okay. Thank you. And, Mr. Elliott, you were
6 subpoenaed to testify here today by both parties; is that
7 correct?

8 A. Yes, I was.

9 MS. BROWN: Okay. Your Honor, Mr. Elliott is
10 available for questioning.

11 JUDGE TOREM: I just have one clarifying question.

12 THE WITNESS: Sure.

13

14 E X A M I N A T I O N

15 BY JUDGE TOREM:

16 Q. You referred to it as one document you received?

17 A. It was, yes.

18 Q. Like, essentially, pages 28 through 37 is the
19 document you're referring to?

20 A. Yes, yes.

21 Q. And it looks like there's a variety of different
22 types of reports.

23 Were these -- all of these are what you're referring
24 to as received from the company?

25 A. Yes. They were all received as a single PDF file.

0229

1 Q. Okay. So that was one document because you got it
2 all electronically --

3 A. Yes.

4 Q. -- in one piece?

5 A. Yes.

6 MS. BROWN: Your Honor, I would move the admission
7 now of SE-1.

8 MR. GILLETT: No objection.

9 MR. KOMBOL: No objection.

10 JUDGE TOREM: All right. So Exhibit SE-1 is
11 admitted.

12 (Exhibit No. SE-1 was admitted into the record.)

13 JUDGE TOREM: You feel free to refer to it, and
14 counsel for both parties will have an opportunity to refer to it
15 as well. Hopefully, pages 1 through 37 will all be on the same
16 page when we get to that point.

17 I'm going to allow Mr. Gillett to question you first.
18 We received his subpoena first, so we'll literally do first
19 come, first served, and turn you over to Mr. Gillett.

20 If you need a break for any reason, please let me
21 know.

22 Mr. Gillett, go ahead, and then, Mr. Kombol, I'll
23 allow you to pose additional questions.

24 And, Ms. Brown, if you think there's any
25 clarifications that need to be made, just please interject as

0230

1 needed.

2 MS. BROWN: Thank you.

3 MR. GILLETT: Thank you, Your Honor.

4

5 C R O S S - E X A M I N A T I O N

6 BY MR. GILLETT:

7 Q. Mr. Elliott, I'll try not to cover old ground here,
8 but your job, as I understand it, was to address the complaint
9 by the Becks that they had not -- that their account with
10 Cristalina was not correct?

11 A. Yes; that's correct.

12 Q. Okay. And so you set about to figure out what the
13 correct number would be; is that right?

14 A. Uh...

15 Q. The correct amount that they owed?

16 A. Initially, that wasn't what I intended to do, but
17 that's what I ended up having to do once I received the account
18 history from the company.

19 Q. Okay. And I think this shows up in a couple of
20 different places on Exhibit SE-1, but it's right here on the
21 first page, so that might be the easiest to look at at this
22 moment.

23 If we look at the first page under results; do you
24 see that?

25 A. Yes.

0231

1 Q. And it says -- and this is your writing?

2 A. Yes, it is.

3 Q. Okay. So you wrote (as read): "Because of the
4 rampant problems with the customer's account, the account
5 history was redone."

6 And that means that you redid it; is that right?

7 A. Correct.

8 Q. And is that the document that you referred to that is
9 this color spreadsheet, pages 25 through 26 or 27?

10 A. It is.

11 Q. And the information on that spreadsheet led you to a
12 certain conclusion about what the customer's correct balance
13 is --

14 A. Yes.

15 Q. -- as of June 2013?

16 A. Correct.

17 Q. All right. Your calculations don't address anything
18 after June of 2013, correct?

19 A. That is -- with one small exception. During the
20 course of the investigation, it was determined that the February
21 2013 bill was mistakenly billed twice. It was first billed as
22 an incorrect amount, and then in March 2013, it was rebilled at
23 a corrected amount but the initial incorrect bill was not
24 credited back. I discovered that during the course of my
25 investigation, and as a result on August 15, 2013, a credit was

0232

1 made in that amount.

2 Q. Okay.

3 A. But beyond that, the account was only reconciled up
4 to the...

5 Q. June of 2013?

6 A. Correct; yes.

7 Q. All right. And the amount that you determined that
8 the Becks owed Cristalina as of June of 2013 was \$3,423.78,
9 correct?

10 A. Let me double-check.

11 (Witness reviews document.)

12 Yes.

13 Q. Okay. So let's talk about what you did to come to
14 that amount. Look on page 25.

15 Is there a name for this particular part of the
16 exhibit? What would you call this spreadsheet, or that I'm
17 calling a spreadsheet?

18 A. I would call that -- you know, I don't really recall
19 what the particular name of the file itself was, but this would
20 be my reconciliation of the customer's account.

21 Q. Okay. So I'll call it "your reconciliation."

22 A. That works.

23 Q. And I'll try to use that term when I refer to this
24 document.

25 So let's look at your reconciliation, and look at --

0233

1 can you explain to us what you did to come up with your final
2 figure?

3 A. Sure. What I did was I used the account history that
4 was provided by the company and went back. I started at a
5 six-year period, per the statute of limitations on the accounts
6 receivable, and zeroed out the balance starting from that day
7 forward.

8 Q. Okay. So when you say you "zeroed out the balance,"
9 what you did was to take whatever balance Cristalina showed on
10 its books for -- how far back do we go? Six years? What was
11 that date?

12 A. The account history that Cristalina gave me went all
13 the way back through January of 2000.

14 Q. And so where did you start?

15 A. I started at October 1, 2007.

16 Q. Okay. So anything that was on the books before --
17 August or October?

18 A. October.

19 Q. -- October of 2007, you crossed out?

20 A. Correct.

21 Q. And brought it to a zero?

22 A. Correct.

23 Q. Okay. And so then you started looking at invoices
24 after that date and compared that to payments made by the Becks?

25 A. During the course of my investigation, I actually

0234

1 didn't receive any documentation, supporting documentation for
2 the Becks. All the information here was based off of the
3 information that I received from Cristalina.

4 Q. Okay. And -- okay. So then I interrupted you.

5 So then what did you do to make your calculations?

6 A. So to make my calculations, I just took what the --
7 where available I used the information from the transaction
8 history. There were portions where the company either charged
9 an incorrect amount, or missed charging a late fee or bills
10 altogether, and where appropriate, I inserted those based off of
11 the company's tariffs as they were approved at that time.

12 Q. Okay. And based on the input of those numbers, you
13 came up with the balance owing of \$3,423.78?

14 A. Yes.

15 Q. Okay. And then at that time, you, or the UTC,
16 instructed Cristalina to recalculate what the Becks owed?

17 A. Yes.

18 Q. And I'm looking at page 22 of SE-1.

19 It is the e-mail that you sent to Ms. Lindberg on
20 October 3rd of 2013; is that right?

21 A. At 2:31 p.m.?

22 Q. At 2:31 p.m., yes.

23 A. Yes.

24 Q. And that's where you first advised Cristalina of your
25 conclusions that we've been talking about here?

0235

1 A. Yes.

2 Q. Okay.

3 MR. GILLETT: Thank you. That's all I have.

4 JUDGE TOREM: Okay. Mr. Kombol?

5

6 C R O S S - E X A M I N A T I O N

7 BY MR. KOMBOL:

8 Q. Mr. Elliott, how long have you worked for the
9 Commission?

10 A. I have worked for the Commission since August of
11 2007, so six years and -- I don't know -- eight months.

12 Q. Is your role as an investigator of complaints,
13 consumer complaints?

14 A. It is not currently my role. It was at the time of
15 this complaint.

16 Q. How long had you been an investigator back in the
17 summer of 2013?

18 A. Let's see. At the time that this complaint came in,
19 it was approximately one year.

20 Q. The complaint you are investigating was -- I guess
21 for ease of answering, you were here in the earlier part of the
22 hearing where -- the morning session? You were present
23 listening to the testimony; am I correct?

24 A. Yes.

25 Q. Was the complaint that you received from the consumer

0236

1 similar to the complaints of recordkeeping, of bill disputes, of
2 lack of receipt of billing from the company? Was that what you
3 were investigating in the summertime of last year?

4 A. I'm sorry. I'm confused.

5 Can you restate the question?

6 Q. Were you investigating the complaints of the Beck
7 family over the confusion in their billings, failure of the
8 company to cash their checks, questions over the account
9 balance? Was that the nature of the complaint that you heard
10 that you were investigating?

11 A. Initially, the complaint was that the customer had
12 payments that they felt the company had not applied to their
13 account, and during the course of the investigation, I found
14 that there were some inadequacies to the company's recordkeeping
15 where it came to the customer's account history.

16 Q. Did it come to your attention that there had been
17 billings that had been returned and unopened? That the company
18 could not determine whether their bills or invoices had been
19 delivered or whether they had been returned?

20 A. Yes. There was an instance that they admitted
21 where -- that there were some bills that were returned due to
22 nonsufficient postage, but they weren't able to tell me what
23 accounts those were tied to because they only kept the
24 envelopes, which were window envelopes and had no other
25 identifying marks opposed to which customer accounts those may

0237

1 have been reconciled with.

2 Q. And was it the company that failed to put stamps on
3 these envelopes and then were returned from the post office --

4 MR. GILLETT: Objection.

5 BY MR. KOMBOL:

6 Q. -- to the company?

7 MR. GILLETT: Calls for speculation.

8 JUDGE TOREM: Sustained.

9 If you want to rephrase that.

10 BY MR. KOMBOL:

11 Q. Were you able to review any of those envelopes to
12 determine the reason they had been returned? Did you look at
13 them? Examine them?

14 A. No.

15 Q. Did you hear anything from any representative of
16 Cristalina Water Company as to why those envelopes had been
17 returned?

18 A. They indicated that it was most likely due to
19 insufficient postage.

20 Q. Did they say they had retained them in their office
21 files or had discarded them?

22 A. I believe that it was that they had kept the original
23 envelopes; however, they weren't able to tell which accounts or
24 customers were affected.

25 Q. Did they tell you how many of those envelopes there

0238

1 were?

2 A. I'm not certain off the top of my head. I would have
3 to double-check in the information I have in here.

4 Q. And what was the staff person or the representative
5 of Cristalina who was telling you this and had told you this
6 information?

7 A. I'm not certain without consulting in here. It may
8 have been -- it may have been Maria, or it may have been
9 Stephanie.

10 Q. There were two people that you were working with.
11 From reading this report, it looks like there were two
12 representatives of the company: one was Maria, and the other
13 was Stephanie.

14 And so it was one of the two of those people,
15 correct?

16 A. Correct.

17 Q. The complaint was taken in June of 2013 --

18 A. Mm-hm.

19 Q. -- and there is a number of references to inadequate
20 response by the company.

21 In your opinion, as a utility investigator, did they
22 offer the utility -- the Commission and its investigator an
23 adequate response to your inquiries?

24 MR. GILLETT: Objection. Vague and relevance.

25 JUDGE TOREM: Mr. Kombol, what are you trying to ask

0239

1 him about?

2 BY MR. KOMBOL:

3 Q. Well, you were asking for records; am I correct?

4 A. Yes.

5 Q. Were you getting responses timely to your records
6 request?

7 MR. GILLETT: Objection. Relevance.

8 JUDGE TOREM: I'll allow it. I think this goes to
9 the nature of the cooperation of the company.

10 Is that what we're getting at?

11 MR. KOMBOL: Yes.

12 JUDGE TOREM: Let's get back to the actual numbers
13 shortly, but we can delve into this just a little bit.

14 BY MR. KOMBOL:

15 Q. Did you receive timely and cooperative responses to
16 your requests for records from the company?

17 A. No, and I recorded violations as such in the
18 complaint.

19 Q. And did you discover that there were some checks that
20 the customer had sent to the company that had not been deposited
21 and not been cashed?

22 A. I don't recall.

23 Q. I guess I'll refer you to an entry of June 10 --

24 MR. GILLETT: What page?

25 BY MR. KOMBOL:

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1 Q. -- an e-mail. It's probably page 3 in the...

2 MR. GILLETT: What's the date?

3 MR. KOMBOL: June 10, 2013.

4 JUDGE TOREM: This is page 4 of the overall exhibit?

5 MR. KOMBOL: It would be page 4.

6 BY MR. KOMBOL:

7 Q. Reviewing that e-mail, does that refresh your
8 recollection as to the existence of uncashed checks?

9 A. (Witness reviews document.)

10 Q. Do you want me to ask you? Did --

11 A. I was just reading through it.

12 Q. Oh, I'm sorry. I'm sorry.

13 A. That's all right.

14 No. I don't see anything in here that talks about
15 uncashed checks. I see that they referenced three checks that
16 were received and posted to the customer's account, and that
17 they have not received any of the checks that I had previously
18 asked them about.

19 Q. Oh, I see. They're confirming the fact that there
20 were checks that were sent out and they're confirming the day it
21 was posted that those checks were deposited into their bank; is
22 that correct?

23 A. Oh, I didn't know that was a question. Yes.

24 Q. Did you inquire as to the reason for checks being
25 dated on the same day were all received in envelopes that were

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1 postmarked the same day?

2 A. I don't believe I did. That doesn't seem unusual.

3 Q. You have indicated that there were late -- please let
4 me know or let us know how you reached the conclusion that every
5 late fee that was calculated by Cristalina was incorrect.

6 A. I -- let's see. I used the account history
7 transaction list and billing history report to calculate what
8 the late fee should have been for a given period and compared
9 that against the actual finance charge that was charged and then
10 used a calculation to determine what percentage of the previous
11 balance the actual finance charge was for that period.

12 Q. Is the company authorized a certain amount of a
13 finance charge or a late fee?

14 A. Yes. Since their initial tariff in 2003, their
15 approved tariff rate is 2 percent.

16 Q. And what were they charging? What was the company
17 charging as a late fee that you thought would be incorrect?

18 A. I didn't find a single instance where it was actually
19 2 percent. It fluctuated pretty wildly anywhere from -- you
20 know, I don't want to hazard a guess at the actual numbers
21 because I don't have them here in front of me. But it was -- it
22 was -- there was not a single instance where it was 2 percent.

23 Q. Tell me what your methodology would be to calculate a
24 late fee. Under your understanding of the permissible
25 calculation, what would you use as the basis for calculating?

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1 A. I would refer to the company's tariff to find out
2 what the percentage allowable is for their late fee, in this
3 instance, 2 percent. I would then take the overdue or past due
4 balance from the previous billing period and multiply that by 2
5 percent.

6 Q. What about a situation where the customer is paying
7 their account every month? Would there ever be an occasion
8 where they would be late in that payment? I mean, did you check
9 and see whether the customer was late in making monthly
10 payments?

11 A. The late fee is applied towards the total balance
12 owed by the customer. So if, for example, they had an account
13 balance at the time that was over a thousand dollars and the
14 current charges are only \$77, the late fee is applied towards
15 the entire balance owed by the customer, not just against the
16 current charge for that specific period.

17 Q. If there was a disputed account, how could it be
18 resolved what the correct balance was in a disputed account
19 situation? Would the utility just set forth the balance and
20 start charging off of that?

21 MR. GILLETT: Object to the form of the question.
22 Vague what "disputed account" means. It's vague.

23 JUDGE TOREM: Mr. Elliott, did you understand what he
24 was trying to ask?

25 THE WITNESS: No.

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1 JUDGE TOREM: Well, objection sustained.

2 BY MR. KOMBOL:

3 Q. Did your records or the calculations you created come
4 up with an opening balance against which a charge could be
5 assessed?

6 A. The calculations that I used -- if you look at the
7 second column of the colored calculations, you'll notice that
8 there's actually two columns in here. There's a column for
9 company figures and a column for my figures.

10 A column there entitled under "My Figures" starts
11 with a zero balance on October 1, 2007. Because no payments
12 were applied towards that customer's account until September of
13 2009, at that time there was already a pretty hefty balance
14 accrued of \$1,480.48, and any subsequent late fees would be
15 applied towards that late balance regardless of whether or not
16 they're paying only the current new water charges.

17 Q. Now, I think -- and if we will refer to the first
18 page of SE No. 1, I thought that -- well, the last paragraph of
19 that indicates the company failed to retain copies of bills for
20 the last 36-month period or keep adequate records of customer
21 bills that were returned.

22 If they didn't keep copies of the bills for 36
23 months, how could you have assumed that there were zero payments
24 from 2009 through 2007?

25 A. Because as part of the company's response to me, they

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1 included what they titled a "Transaction List." It appears to
2 be just a dump of the customer's account history from -- from
3 their old accounting software, and it starts on, it looks like,
4 5/31/2000, and it ranges all the way through January 9, 2012.
5 And what I did with this information is I compared it against
6 the allowable rates that the company was allowed to charge in
7 their Commission-approved tariff that was in effect at these
8 times. Anything from before 2003 was before the company's
9 tariff in the company's current form was in effect, so those
10 were not as closely examined.

11 And when I got to the six-year retention period, I
12 basically cut the balance of the customer's account at that time
13 down to zero, because after six years, anything that the
14 customer's owing to the company is beyond the statute of
15 limitations.

16 So I started with just -- with a tabula rasa, a clean
17 slate, at 10/01/2007. And using the translation list provided
18 by Cristalina, I compiled a list of monthly payments, monthly
19 finance charges or late fees, and monthly bills and where those
20 were missing or lacking, I turned to the company's tariff to
21 fill in the blanks.

22 The company was charging just base rate service plus
23 surcharges for a large portion of this account period. It
24 wasn't until 2012 with the February bill that they started
25 charging metered rates for everything. Everything before that

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1 was a flat rate and because of that, it made it very simple to
2 calculate what a bill should have been for that time period.

3 Q. The assumptions you have made on the transaction
4 list, and I'll refer to this as, I think, pages -- there is a
5 seven-page transaction list -- six-page transaction list; am I
6 correct?

7 A. That appears to be correct.

8 Q. You did not audit the company's deposit records to
9 determine whether the postings of any credits were actually
10 made, did you? Any credit memos, were those audited?

11 A. No. That was beyond the scope of the...

12 Q. And so is it safe to say that you relied upon this
13 set of records furnished by the company as if it were accurate
14 without a doubt?

15 A. I relied upon these sets of records because they were
16 the only set of records I was able to receive from the company
17 throughout the duration of the complaint.

18 Q. And did you ask of the consumer, the customer,
19 whether there were periods of time during 2001, or during the
20 period of this transaction list, whether there was no water
21 service?

22 MR. GILLET: Objection. Relevance.

23 BY MR. KOMBOL:

24 Q. Did you ever ask them that?

25 JUDGE TOREM: I'll allow the question.

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1 THE WITNESS: No, I did not.

2 BY MR. KOMBOL:

3 Q. Do you know whether water was available to customers
4 at all times during this period the company furnished you
5 financial or billing records?

6 MR. GILLETT: Objection. Relevance.

7 JUDGE TOREM: Mr. Kombol, do you want to state the
8 relevance of the question?

9 MR. KOMBOL: Well, a consumer is entitled to receive
10 products for what they're paying for, and if the consumer -- I
11 mean, if this fella -- if we don't have evidence that the
12 services were provided, I don't know whether it's appropriate
13 for them to be billed.

14 My question is whether he knew whether services were
15 provided.

16 MR. GILLETT: Okay. Can I respond to that?

17 JUDGE TOREM: (Nods head.)

18 MR. GILLETT: The Becks have put on their case.
19 There was no testimony or documentation to suggest that this is
20 about a water provision issue. Everything that we have heard so
21 far is all about checks were sent, checks were received, checks
22 were deposited or not deposited.

23 Asking Mr. Elliott, or asking any witness, frankly,
24 about this point, about the provision of water service and how
25 that relates to whether or not the Becks should have to pay a

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1 bill, seems completely irrelevant.

2 I mean, what Mr. Kombol seems to be driving at is a
3 notion that, well, even if they were billed, they didn't have to
4 pay because they -- it's their position they didn't receive
5 water.

6 That's not what this hearing has been constructed to
7 be about, and I just don't understand how that can ever be
8 relevant to the issue that is placed before this tribunal at
9 this time.

10 JUDGE TOREM: Mr. Kombol, anything to respond to the
11 explanation?

12 MR. KOMBOL: I think throughout this proceeding, Your
13 Honor, the question of adequate service and furnishing of water
14 service has been one of the issues, and inquiry into whether the
15 services they're billed are provided for, I think, is relevant.

16 JUDGE TOREM: Mr. Elliott -- let me first find out if
17 this witness has any possible information which could shorten
18 this conversation a lot.

19

20 E X A M I N A T I O N

21 BY JUDGE TOREM:

22 Q. Do you have any information that came to you during
23 the course of your investigation that the Becks complained that
24 there was no service and, therefore, they shouldn't be billed?

25 A. I don't -- I don't recall receiving that. I would

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1 have to double-check in my complaint record truthfully.

2 Q. And is there any recollection of any interaction with
3 the company when they told you they weren't able to provide
4 service to their customers during this period of time?

5 A. I believe there was a water boil advisory that was
6 issued in 2013. I just don't recall the time period when that
7 was in effect; whether it was in effect during the course of
8 this complaint or if it occurred afterwards.

9 Q. The water boil order, it sounds to me like water was
10 provided, but the potability might be an issue as opposed to the
11 availability of the water itself?

12 A. Yes.

13 Q. So are you aware of any period of time from that
14 October 2007, six years back and looking forward to the current
15 date, where Cristalina was not providing water to the homes?

16 A. Neither the company nor the customer gave me any sort
17 of -- any concrete piece of information that -- that there was
18 any sort of water availability issue during that course of time.

19 Q. Had that been the case, would the company under
20 tariff be allowed to send a bill if they weren't providing
21 water?

22 A. I would have to double-check in the water -- in the
23 water rules for the Washington Administrative Code, but I
24 believe the company would still have to at least bill for any
25 base charges and any usage that was incurred.

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1 JUDGE TOREM: Okay. But to sum up, I don't think,
2 Mr. Kombol, he has any information.

3 BY JUDGE TOREM:

4 Q. Mr. Elliott, you don't have any indication from the
5 Becks or from Cristalina that there was a provision of water
6 issue during the course of your investigation?

7 A. Yes; that's correct.

8 JUDGE TOREM: Okay. So there's nothing further to be
9 asked of this witness in that regard.

10

11 C R O S S - E X A M I N A T I O N (Continued)

12 BY MR. KOMBOL:

13 Q. The other issue in the five-page accounting of the
14 transaction was again -- assumes that the records of the water
15 company are accurate in regards to either no payment or payment
16 by the customer?

17 A. That is correct.

18 Q. So if there were payments by the customer at some
19 time -- at any time in 2007 or '8 or '9, you would be relying
20 upon the absence? This, that was furnished to you, would be
21 evidence of non -- no payments, but you didn't verify with them
22 in any other way; is that correct?

23 A. Verify with who?

24 Q. With Cristalina.

25 A. This is the only information that I was able to

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1 receive from Cristalina during the course of the complaint, so
2 this would be my sole source of information.

3 Q. Did you ask the Becks whether they had made payments?

4 A. I may have. I would have to double-check. I don't
5 think I had too many conversations with the Becks during the
6 course of the complaint.

7 Q. Are all of the documents that were furnished to you
8 by Cristalina included in this packet of materials?

9 A. Yes.

10 Q. There's nothing else that was furnished to you?

11 A. The only document I received from Cristalina was a
12 10-page PDF which comprises this transaction list, account
13 history, and customer notification letter.

14 Q. How long from the first request that you made that --
15 how long was it from the time you first requested that material
16 until it was furnished to you by Cristalina?

17 A. (Witness reviews document.)

18 The first instance where I requested an account
19 history from Cristalina was June 13, 2013, and the account
20 history that I received from the company was received on July 3,
21 2013.

22 Q. Was that an adequate response, or was there
23 additional requests made of Cristalina?

24 A. I logged it as an incomplete response because I was
25 trying to receive some additional information, including copies

0251

1 of the customer's bills.

2 Q. So what you got on July 3rd -- would you identify
3 what you received on July 3rd; what records you received on July
4 3rd from Cristalina?

5 A. You want me to identify these again?

6 Q. Yeah. What was it that -- yeah; yes.

7 A. It was the one document, the sole document that I
8 received from Cristalina, as previously explained.

9 Q. The transaction?

10 A. The transaction list, the billing history report, the
11 customer notice letter that was sent out. It was all just one
12 single PDF document received from Cristalina.

13 Q. And -- I'm sorry. You made a request for a
14 subsequent set of materials?

15 A. Yes.

16 Q. And what did you -- what was the other -- what were
17 the other materials you requested?

18 A. The other materials that I requested, well, I had a
19 few different sets of requests. On July 5th, I requested some
20 additional information. I indicated that the account history
21 received was more than I realistically needed. I just needed to
22 really review from about November 2012 forward.

23 I also indicated that I didn't receive a copy of the
24 customer's March 2013 bill that I previously requested, and I
25 didn't receive any information on whether or not any of the

0252

1 customer's bills were either not sent, returned from November
2 2012 through January 2013.

3 And then at a later date, I also requested some
4 additional information.

5 Q. So those requests for additional information were
6 made in the first part of July?

7 A. Correct. It was made on July -- July 5th, two days
8 after receiving the response from Cristalina, and it looks like
9 I made a subsequent request for information on August 7, 2013,
10 found on page 10.

11 Q. On August 5th, the consumer called you and let you
12 know that she was not receiving bills; is that correct?

13 A. Yes.

14 Q. At what point did you receive a response from
15 Cristalina to your request of July 5 and August 7 of 2013?

16 A. I did not receive the documents that I had requested.
17 I did receive some answers from the company on different
18 occasions. It looks like -- it looks like most of my questions
19 were answered on August 14, 2013.

20 Q. Wouldn't a utility typically be keeping the documents
21 that you were requesting?

22 MR. GILLET: Objection. Calls for speculation.
23 Vague.

24 JUDGE TOREM: Mr. Elliott, did you understand the
25 question?

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1 THE WITNESS: That he wants me to state whether it's
2 typical for a water company to retain the types of information
3 and records that I requested.

4 JUDGE TOREM: You can answer the question.

5 THE WITNESS: I haven't worked a lot of water
6 complaints during the course of my -- during the course of my
7 tenure in the consumer protection section. I would be afraid to
8 answer the question, because I feel like it would be making an
9 opinion or generality, so I really don't feel comfortable
10 addressing that question.

11 BY MR. KOMBOL:

12 Q. Well, then, if you could let me know: What was it
13 that -- if you'll review your records and let us know, what was
14 it on July 5th that you were wanting to receive from the company
15 that helped with your investigation?

16 A. (Witness reviews document.)

17 MS. BROWN: I'm going to object. I think this is
18 asked and answered.

19 JUDGE TOREM: Mr. Kombol?

20 MR. KOMBOL: I don't recall if that was answered. My
21 notes don't show what he asked for, but I might not have been
22 taking as good as notes as you.

23 MR. GILLETT: I'll join.

24 JUDGE TOREM: Mr. Elliott already answered what he
25 did and what he asked for. He has answered this question. I

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1 sustain the objection.

2 MR. KOMBOL: I don't recall.

3 Do you know what he asked for? I don't -- I
4 didn't...

5 JUDGE TOREM: If you look on page 7 of the document,
6 it speaks for itself.

7 MR. KOMBOL: Okay. Thank you.

8 JUDGE TOREM: Mr. Kombol, are you going to have
9 questions for Mr. Elliott about the amounts and how he
10 calculated it? Because I think we have spent a little bit more
11 time than I had hoped on the process of his investigation. That
12 may be relevant to whether Cristalina violated any WAC
13 requirements or RCW requirements from water companies, but it's
14 not the basis of this hearing.

15 BY MR. KOMBOL:

16 Q. The conclusion that you made as to when you could go
17 back and start calculating the amount of -- start calculating
18 the balance that could be collected, that's a legal conclusion,
19 isn't it?

20 MR. GILLETT: Object to the form.

21 JUDGE TOREM: Can you rephrase that?

22 BY MR. KOMBOL:

23 Q. Are you aware of any law that allows a utility to
24 collect back six years of past due utility charges?

25 A. Revised Code of Washington 4.16.040(2) is about

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1 statute of limitations. And it allows a company to perform an
2 action upon an account receivable, and it limits that action to
3 six years.

4 Q. Did you receive an advisory opinion from any agency
5 of the government as to that conclusion?

6 A. No.

7 Q. And so you researched that issue on your own?

8 A. Yes.

9 Q. Did you go into any deeper research other than to
10 look at that code section of the Washington --

11 MR. GILLETT: Objection. Relevance.

12 JUDGE TOREM: I'll allow it.

13 THE WITNESS: I consulted with my supervisor, and she
14 concurred with my findings.

15 BY MR. KOMBOL:

16 Q. Do you know who she might have consulted on that
17 issue besides the code?

18 A. I wouldn't have any way of knowing that, sir.

19 Q. Would you help me understand what the -- on
20 Cristalina's transaction list by customer what, you know, the
21 letters under NUM (phonetic) mean, or any of those?

22 At the top, there's a bar, and it says NUM. Well,
23 the columns are Type, Date, NUM, Memo, Account, CIR, Split, and
24 Amount.

25 A. Under the NUM column, I did not ask for or receive

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1 clarification on that column.

2 Q. So those numbers, you don't know what they really are
3 about?

4 A. No. I didn't think they had any bearing to the
5 account history that I was trying to compile.

6 Q. There are some columns that talk about payment; do
7 you see those on the type?

8 JUDGE TOREM: Mr. Kombol, would you direct us to a
9 page that has a payment?

10 MR. KOMBOL: Oh, sure absolutely. Yes.

11 BY MR. KOMBOL:

12 Q. Well, all right. Starting in 2000 on the first page,
13 there's credit memos. There's four of them on that page.

14 Do you know what those have to do with?

15 A. They appear to be credits placed on the account.
16 Beyond that, I don't know, because they fell outside of the
17 scope of the transaction history I was compiling.

18 Q. Right. On the next page, No. 2, there's a credit
19 memo, and that's 8/2004.

20 A. Again, that's...

21 Q. You don't know what that's about?

22 A. That's outside of the scope.

23 Q. On page 5, there seems to be payments, a number of
24 payments?

25 MR. GILLETT: What's page 5?

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1 BY MR. KOMBOL:

2 Q. Do you believe those are...

3 THE WITNESS: Page 35.

4 BY MR. KOMBOL:

5 Q. Do you believe that those are consumer payments?

6 A. I'm sorry. Can you repeat the question?

7 Q. On page 5, there appear to be a number of payments
8 listed.

9 What do you believe those are all about?

10 A. I believe that they were payments by the customer
11 towards their account.

12 Q. What does the word "undeposited funds" mean?

13 A. I didn't ask or receive clarification on that.

14 Q. What does the number 39 mean? Well, let's go to --
15 for example, let's go to the entry of 9/23/2009.

16 A. Okay.

17 Q. It says payment on the left; am I correct?

18 A. Yes.

19 Q. And it has a date of 9/23 of 2009, correct?

20 A. Correct.

21 Q. It has a memo of 39.

22 Do you know what that means?

23 A. No. I did not ask or receive clarification on that.

24 Q. Do you know what undeposited funds mean?

25 A. No, I already answered that question.

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1 Q. And then there's an amount, but it's not bracketed;
2 and I correct? The \$45 amount is not bracketed?

3 A. No.

4 Q. In other words, it doesn't have a bracket as if it
5 was an accounting negative?

6 A. That is correct. But if you'll notice in my chart
7 that I did treat it as a customer payment and a credit.

8 Q. Right. But this was furnished by Cristalina?

9 A. Yes.

10 Q. And so you'd assume that it was a credit?

11 A. I would imagine so, if it says it's a payment.

12 Q. But in accounting parlance, one would put either a
13 minus next to it or a bracket around it; am I right?

14 A. I -- I'm not...

15 JUDGE TOREM: Mr. Kombol, he didn't prepare this
16 document.

17 THE WITNESS: Yeah.

18 MR. KOMBOL: I understand.

19 JUDGE TOREM: You don't need to answer that question.

20 He took this number and apparently put it into a
21 separate document, right?

22 MR. KOMBOL: That's correct.

23 JUDGE TOREM: So I don't want to ask him a lot of
24 time about how Cristalina compiled this document. I think what
25 we've got now is he took anything that says payment -- is this

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1 correct, Mr. Elliott? -- and applied it as a credit and assumed
2 the Becks sent this amount of funds to the company; is that
3 right?

4 THE WITNESS: Correct.

5

6 E X A M I N A T I O N

7 BY JUDGE TOREM:

8 Q. And so you did that for all the ones that are on page
9 35 of the exhibit and page 36 as well, correct?

10 A. Correct.

11 Q. And the final payment that you applied would have
12 been the one for January 1, 2012, in the amount of \$68.30?

13 A. That was the final off of that particular page.
14 There was a billing history report that was also provided that
15 listed out a more granulated -- and a view of the customer's
16 account history from February 22, 2012, through May 30th of
17 2013, and that information broke out payments received in
18 brackets.

19 Q. Okay. So that's page 28 of the overall exhibit?

20 A. Correct; yes, it is.

21 MR. KOMBOL: Is that a color-coded one?

22 JUDGE TOREM: It's the one directly after the color
23 codes.

24 BY JUDGE TOREM:

25 Q. So between pages 35 and 36 and page 28, do you see

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1 any other payments that you recorded and applied for the Becks?

2 A. No.

3 Q. If it's labeled as essentially a bracket on page 28
4 or a payment on page 35 and 36, that's everything that you
5 included in your page 25 to 27 color-coded tabulation?

6 A. That's correct.

7 JUDGE TOREM: Mr. Kombol, any other questions about
8 where he got the numbers and how he applied them?

9 MR. KOMBOL: I think it is clear where he got the
10 numbers.

11 I have no other questions.

12 JUDGE TOREM: Any follow-up?

13 MR. GILLETT: Just a couple, Your Honor.

14

15 R E C R O S S - E X A M I N A T I O N

16 BY MR. GILLETT:

17 Q. So, Mr. Elliott, the first time that you requested
18 information from Cristalina was on June 13 of 2013?

19 A. In the first -- when I first passed the complaint, I
20 did receive some information from it, and then I clarified the
21 additional information that I needed on June 13th.

22 Q. Right. And so when did you first ask them for
23 information before June 13?

24 A. Before June 13th, it was on June 6th when I initially
25 opened the complaint.

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1 Q. Okay.

2 A. The information you see in the complaint description
3 box on the first page, that would be the information that I
4 passed along to the company.

5 Q. Okay.

6 A. And the only other things that would be included on
7 the e-mail to the company would just be my signature block.

8 Q. So in terms of the timeliness of the response, you
9 initiated contact with Cristalina on June 6?

10 A. June 6, correct.

11 Q. And sometime before June 13, you received some
12 information back from them. And then on June 13, a week after
13 you first asked them for information, you sent them a follow-up
14 and said, Hey, I need this additional information?

15 A. Correct.

16 Q. And then two weeks after that, on July 3rd, they
17 responded to you with this data that we've been talking about
18 that is the accounting?

19 A. Correct.

20 Q. And then after you received that on July 5th, you
21 asked them for some additional information, and they -- and you
22 were back and forth with them on e-mails, right?

23 A. Yes.

24 Q. And then on August 7th, you sent them a list of
25 questions that you needed to have answered, correct?

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1 A. Correct.

2 Q. And on August 14th, a week after that, they responded
3 to that inquiry?

4 A. Let me double-check. One moment, please.

5 (Witness reviews document.)

6 Yes.

7 Q. And then after that, you had enough information that
8 you could run the calculations that you performed that are part
9 of your file, correct?

10 A. No. After that, I did have some additional
11 questions. I did do some additional back and forth with the
12 company --

13 Q. Okay.

14 A. -- and there were some documents that I requested
15 that I never received.

16 Q. All right. That would be the March bill?

17 A. The March bill, and then I requested an updated
18 account history in -- let's see. In Sep -- let's see. Give me
19 just one moment here.

20 (Witness reviews document.)

21 September 3rd, I also requested a copy of the
22 customer's most recent statement, which I did not receive. And
23 on September 24th, in an effort to close the complaint, I
24 requested an update of their account history so I could try to
25 have an updated scope to calculate the customer's account

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1 history and balance, and I did not receive that either.

2 Q. Do you know whether Cristalina was under the purview
3 of the UTC before 2007?

4 A. Yes. They had a tariff that was filled with us and
5 approved in 2003.

6 Q. You mentioned that the -- I'm not sure if you used
7 the word "finance charge," but I think that's what we were
8 talking about.

9 You saw a variable finance charge on --

10 A. Mm-hm.

11 Q. -- the Cristalina accounts, right?

12 A. Correct.

13 Q. And the appropriate finance charge was 2 percent?

14 A. Correct.

15 Q. And you said that all those charges were incorrect,
16 right?

17 A. Yes. They were either greater or less than 2
18 percent.

19 Q. And so you recalculated that, and that 2 percent is
20 reflected in your calculation --

21 A. That's correct.

22 Q. -- of the amount owed?

23 A. Yes.

24 Q. Okay.

25 MR. GILLETT: That's all I have. Thanks.

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1 JUDGE TOREM: Mr. Kombol, any follow-up?

2 MR. KOMBOL: Just two. I don't recall this either,
3 but this document was admitted?

4 MR. GILLETT: Yes.

5 JUDGE TOREM: Correct.

6 MR. KOMBOL: The entire exhibit was admitted?

7 JUDGE TOREM: Yes, it was.

8

9 R E C R O S S - E X A M I N A T I O N

10 BY MR. KOMBOL:

11 Q. The entries made by the State in this exhibit were
12 made by you; is that correct?

13 A. Yes. If it was -- if the entry was an e-mail, we
14 have a macro that we run out of Outlook that imports the e-mail
15 directly into the system. The only alterations I make after it
16 has been imported is to remove any signature blocks to make the
17 whole thing a little easier to read overall.

18 Other than that, anything that's entered as a voice
19 mail action or phone conversation is information that I enter by
20 hand.

21 Q. One last question, and I'm going to go back to my
22 cross. I'm going to go back to my cross.

23 There was an occasion, I believe, in speaking to
24 Mrs. Beck, you asked her why she had incurred a bill up to
25 \$8,000, and she gave you a response; do you recall what that

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1 response was?

2 MR. GILLETT: Objection. Hearsay.

3 JUDGE TOREM: Mr. Beck [sic], can you direct me to
4 where this might be in the document?

5 MR. KOMBOL: Yeah.

6 JUDGE TOREM: Because it would be relevant to ruling
7 on the hearsay objection if it's already been admitted into
8 evidence and that might be moot.

9 MR. KOMBOL: Yes, August 7 of 2013.

10 JUDGE TOREM: So we're looking at page 10 of this
11 exhibit?

12 MR. KOMBOL: I don't have a numbered one. I'm sorry.

13 THE WITNESS: It looks like page 11.

14 JUDGE TOREM: All right. Mr. Elliott seems to have
15 found something on page 11.

16 BY MR. KOMBOL:

17 Q. It looks like you asked why there had been such large
18 a disputed account.

19 That was a concern of yours, correct?

20 A. Yes, because it's unusual to see such a large opening
21 balance.

22 Q. And her response to you was?

23 A. (Witness reviews document.)

24 It looks like I have written in here that she said it
25 was from long ago, the company had billed her for old service,

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1 attorneys were involved, and all but the last three years should
2 have been cleared off.

3 Q. You made a comment that -- just now that it's unusual
4 to see a utility have such a large opening balance.

5 What makes you say that?

6 A. I would say that customers typically are not able to
7 accrue such a large balance without being disconnected at some
8 point, and once a customer is disconnected, there's prior
9 obligation rules that would then put that money aside. It would
10 still be money that the customer owes to the company, and the
11 company still has a right to attempt to collect on it but can no
12 longer put them under the threat of disconnection for that
13 balance.

14 Q. Now, that's a conclusion that you drew from -- is
15 there a statute? You drew that conclusion from your knowledge
16 of the utility rules as relating to water companies?

17 A. As relating to water, electric, and gas companies all
18 have prior obligation rules, those are WACs 480-110, 480-140 --
19 140, 150. I don't remember the exact provision for each subset
20 of rules, but they all have -- they all have rules in place that
21 if a customer is disconnected by a company and they need to have
22 their service restored, then any prior balance that they had on
23 that account would be set aside once the customer pays for a --
24 pays a reconnect fee and deposit where applicable and then that
25 balance that they were disconnected for is set aside. It's

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1 still money that the customer owes, and it's still money that
2 the company is allowed to collect. They can just no longer
3 threaten disconnection over that balance.

4 Q. And that's your understanding of the prior
5 disconnection rules?

6 A. Prior obligation.

7 Q. Prior obligation rules.

8 And there's a system set forth in statute.

9 Did you discuss this with any of the parties?

10 MR. GILLETT: Objection. Relevance.

11 JUDGE TOREM: Sustained. I was about to interject my
12 own objection.

13 MR. KOMBOL: No other questions. No other questions.

14 JUDGE TOREM: Okay.

15 Mr. Elliott, I just have a couple of questions so I
16 understand --

17 THE WITNESS: Certainly.

18 JUDGE TOREM: -- pages 25 to 27.

19

20 E X A M I N A T I O N

21 BY JUDGE TOREM:

22 Q. It's already been established that you were here
23 earlier and heard the Becks' case; is that correct?

24 A. Yes.

25 Q. In the course of your calculating this, I think it's

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1 been established that the only payments, which appear to be in
2 the "My Figures" column bracketed in red, all of those are from
3 pages 35 and 36, as well as the page 28 billing history report;
4 is that correct?

5 A. That's correct.

6 Q. And this morning you heard testimony from Glenda Beck
7 and from Ms. Susan Burnett about payments that may have included
8 these and payments that may be in addition to these; is that
9 correct?

10 A. Yes.

11 Q. Were you keeping close enough track to know whether
12 payments that are not recorded here were testified about this
13 morning?

14 A. Some of the payments that were being discussed were
15 beyond this complaint. There was a lot of payments being
16 discussed in the latter half of 2013 after this complaint closed
17 on October 3, 2013.

18 Beyond that there were some payments that were
19 discussed, but it sounded to me that most of them were -- were
20 accounted for without -- without being able to sit down and look
21 at the numbers in front of me, I wouldn't be able to say for
22 certain one way or another. I'm more of a numbers guy, hands-on
23 kind of thing.

24 Q. So if I was able to reconcile the other documents,
25 any payments between September of 2009 and the end date on this,

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1 June of 2013, should generally be record already?

2 A. Yes.

3 Q. And if I found additional checks that show they've
4 been processed by the bank that weren't here, if you were the
5 numbers guy doing that, would you apply those payments?

6 A. If they were shown as cash by the bank, then I would
7 apply -- I would then apply the payment in the appropriate place
8 in here. And that would affect the ending balance not only just
9 by that amount, but also by any late fees that may have been
10 incurred based upon that balance going forward.

11 Q. So, for instance, if I found one that was January of
12 2013 and inserted a payment, it would have a cascading effect
13 forward as to the late fees and other payments?

14 A. Yes.

15 Q. And the only reason you wouldn't have included that
16 payment is you didn't have evidence of it in the company's
17 records, correct?

18 A. Yes, and I did not receive any records from the
19 customer that provided any sort of basis for which to try to
20 determine anything.

21 Q. And if I understood from Mr. Kombol's questions, you
22 didn't affirmatively ask the Becks for all of those bank records
23 one way or the other?

24 THE WITNESS: Correct.

25 JUDGE TOREM: Okay. Thank you. I think I understand

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1 your calculations and how they'll affect the outcome of the case
2 and how they interact with the other evidence.

3 BY JUDGE TOREM:

4 Q. From all these other questions in mind, is there some
5 anything else that you think I need to know in figuring this
6 out?

7 A. No. Nothing immediately springs to mind.

8 JUDGE TOREM: Counsel, any other questions?

9 MR. KOMBOL: I don't have any.

10 JUDGE TOREM: Ms. Brown, are you shaking your head
11 "no"?

12 MS. BROWN: (Nods head.)

13 JUDGE TOREM: All right. Mr. Elliott, then it's
14 almost 2:45. You can be excused. Thank you.

15 Ms. Brown, are you going to keep the witness here for
16 the rest of the proceeding, or are the two of you going to
17 retire?

18 MS. BROWN: Retire, with your permission, Your Honor.
19 I don't imagine the parties want to recall Mr. Elliott.

20 MR. GILLETT: No.

21 JUDGE TOREM: All right. Then, parties, let's take
22 about a five-, six-minute break. Come back at ten minutes to
23 three.

24 And, Mr. Gillett, if you'll have your witness,
25 whichever one you want to call, ready to go.

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1 MR. GILLETT: Okay. Thank you.

2 JUDGE TOREM: All right. We'll be at recess until
3 ten of.

4 MS. BROWN: Thank you.

5 (A break was taken from 2:44 p.m.
6 to 2:57 p.m.)

7 JUDGE TOREM: All right. It appears we're ready to
8 go back on record.

9 Ms. Brown and Mr. Elliott have left us, and it looks
10 like we're going to start with Tonya Farmer; is that correct?

11 Shall I swear her in, Mr. Gillett?

12 MR. GILLETT: Yes, please.

13 JUDGE TOREM: All right. Ms. Farmer, could you raise
14 your right hand?

15 Do you, Tonya Farmer, solemnly swear or affirm that
16 all testimony you'll provide in the course of this be proceeding
17 to be the truth?

18 MS. FARMER: Yes, Your Honor.

19

20 TONYA FARMER,

21 witness herein, having been first duly sworn on oath, was

22 examined and testified as follows:

23

24 JUDGE TOREM: If you'll state your first and last
25 name and spell both for the court reporter.

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1 THE WITNESS: Tonya, T-o-n-y-a; Farmer, F-a-r-m-e-r.

2 JUDGE TOREM: Mr. Gillett, go ahead.

3 MR. GILLETT: Thank you, Your Honor.

4

5 D I R E C T E X A M I N A T I O N

6 BY MR. GILLETT:

7 Q. Ms. Farmer, can you explain to the Court where you're
8 employed?

9 A. Yes, I'm an employee for Cristalina.

10 Q. And how long have you been employed there?

11 A. Nearly two months now.

12 Q. Okay. Give the Court a little sketch of your
13 educational history.

14 A. I graduated from Seattle University in 2002 with a
15 degree in accounting and worked for several years and then went
16 to law school and graduated law school in 2013.

17 Q. And what work have you done in the area of
18 accounting?

19 A. I worked in accounting for more than 20 years, so
20 that encompasses several different industries from restaurants
21 to healthcare to construction to entertainment.

22 Q. And when you began working for Cristalina, were you
23 asked to try to do any reconciliation of accounts?

24 A. Yes.

25 Q. And did that encompass a substantial amount of your

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1 work?

2 A. A great deal; yes, it did.

3 Q. And of the work that you did reconciling accounts,
4 did you spend a substantial amount of that time working on a
5 reconciliation of the Becks' account?

6 A. Yes.

7 Q. And you have seen the calculation and you listened to
8 the testimony of Mr. Elliott today, correct?

9 A. I did.

10 Q. And Mr. Elliott talked about a calculation that he
11 made of the amount that the Becks owed Cristalina as of October
12 of 2013, right?

13 A. Yes, he did.

14 Q. And that amount was slightly over \$3,000, right?

15 A. Correct.

16 Q. You also have seen from Mr. Elliott's exhibit and his
17 testimony that he zeroed out the account of the Becks after a
18 certain date, correct?

19 A. Correct.

20 Q. And then that's how he began his calculation of what
21 the Becks owed Cristalina, correct?

22 A. That's how I understood it.

23 Q. Did you take a different approach to calculating what
24 the Becks owe Cristalina?

25 A. I did.

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1 Q. And can you explain what that approach included?

2 A. That approach also took into consideration statute of
3 limitations, but what I did is go back to the date in which the
4 Becks first began paying their bill. And at that time, their
5 account was not a zero balance. Their account was \$6,014.50,
6 which was a calculation that I did for the previous six years.
7 Everything prior to that was cut off, and so every additional
8 payment that was made by them went against the outstanding
9 balance, not what was written in the memo or what the current
10 invoice is. That current invoice got added onto the front. As
11 it moved, that whole amount kept moving and then at the end, the
12 amount dropped off. So you've always got a rolling statute of
13 limitations amount of six years so that every additional payment
14 that was made went against the balance and interest was incurred
15 on the balance.

16 Q. Okay. All right. Take a look at what we have marked
17 as Exhibit ML-8.

18 And this is a document that's already been discussed.

19 MR. GILLETT: I don't know if it was moved for
20 admission.

21 JUDGE TOREM: No. It only came up in cross-exam.

22 MR. GILLETT: Yeah.

23 JUDGE TOREM: And I don't recall admitting any of the
24 ML documents.

25 MR. GILLETT: Okay. All right.

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1 BY MR. GILLETT:

2 Q. So take a look at what is ML-8.

3 Do you have that document in front of you?

4 A. Yes.

5 Q. And on here you have an ending balance of \$20,318.60,

6 correct?

7 A. Correct.

8 Q. And just tell us about this document.

9 What is this document and how was it created?

10 A. This was created in Excel spreadsheet, so...

11 Q. And it's something you created?

12 A. It is something I created.

13 Q. And let me ask you another -- just a basic question.

14 A. Mm-hm.

15 Q. This is not a document that is the normal accounting

16 document of Cristalina, correct?

17 A. No, this is not accounting. This is not the output

18 of accounting software. This is the output of an Excel

19 spreadsheet.

20 Q. Yeah, you taking information from accounting

21 software --

22 A. Correct.

23 Q. -- and inputting it in and creating a document for

24 the purposes for the hearing?

25 A. Yes. This is a combination of formula, and a

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1 combination of just manual entry.

2 Q. Okay. And so this document is the summary based on
3 the numbers you used here of your opinion as to what the Becks
4 owe Cristalina?

5 A. Correct, based on the checks that were received and
6 deposited.

7 Q. Okay.

8 MR. GILLETT: So we'd move for the admission of ML-8.

9 JUDGE TOREM: Any objection?

10 MR. KOMBOL: No objection, Your Honor.

11 JUDGE TOREM: Okay. ML-8 is admitted.

12 (Exhibit No. ML-8 was admitted into the record.)

13 BY MR. GILLETT:

14 Q. Okay. Tell us, then, how you -- what you did and
15 tell us what this means.

16 A. The first thing we had to do was start with a
17 beginning balance, and that beginning balance had to have a
18 lookback of six years based on when the Becks first began paying
19 so it would be something to apply against.

20 Q. When did you calculate or determine that the Becks
21 first began to pay Cristalina for water? What was the date
22 that --

23 A. 2009.

24 Do you want the exact date?

25 Q. The month, yeah.

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1 A. May I refer to my worksheet --

2 Q. Oh, sure.

3 A. -- to answer the question?

4 Q. Oh, absolutely.

5 A. I have it right in front of me.

6 Q. Okay. Yeah. Sure. You can do...

7 A. It was 9/23/2009.

8 Q. And so looking at that date, that's the date, the
9 operative date, six years back that you used to calculate what
10 the Becks owed?

11 A. Actually, to be very clear, I actually started in May
12 2009, and that was September of 2009.

13 Q. So even before they started to pay?

14 A. Yeah.

15 Q. Yeah. Okay. And so then that gave you an opening
16 balance of \$6,014.05?

17 A. Yes. And that is -- that particular six zero four
18 nine oh five number comes from a separate worksheet.

19 Q. Okay.

20 A. And that separate worksheet was just their base water
21 rate at that time, times 2 percent, which my client supervisor
22 told me was the interest rate to be calculated on unpaid
23 amount -- unpaid balance.

24 Q. Okay. And, so, yeah, back in this time frame, it was
25 a flat rate that the Becks were being charged?

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1 A. Yeah.

2 Q. It wasn't a metered rate that varied month to month?

3 A. Correct.

4 Q. Okay. And let me ask a few other questions that
5 aren't directly related to your calculation, but, you know,
6 you've heard testimony this morning. I think it was from
7 Ms. Burnett, principally, that there were checks that may not
8 have been accounted for in the Cristalina paperwork that is
9 summarized here on ML-8, correct?

10 A. Correct.

11 Q. Were you able to make a determination, based on
12 Ms. Burnett's testimony and her exhibit, as to whether, in fact,
13 Cristalina did credit those amounts that she was disputing?

14 A. The checks that were disputed or unaccounted for
15 according to the witness, I have no record of them ever going
16 into our books. Although we received copies of those checks,
17 there was no way to determine from the face of those checks
18 whether they were just simply photocopies of a check or if they
19 went through the bank account. And the only way to determine
20 that would be to look at the back of the check, which, you know,
21 normally when you order a canceled check from a bank, you get
22 both front and back and that lets you know that it went through
23 the system. And --

24 Q. Okay. Well, let me ask you this: In fact, you saw
25 two kinds of checks --

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1 A. Mm-hm.

2 Q. -- if I could describe them as such?

3 You saw checks provided by the Becks that were just
4 the front copies of checks?

5 A. Yes.

6 Q. And those included, in fact, two checks from
7 Mr. Kombol, and then you saw checks that included the front and
8 the back?

9 A. Correct.

10 Q. And on each of those checks that included the front
11 and the back, on the back, there was some...

12 A. Endorsement from the bank.

13 Q. From the bank. And that would indicate that the bank
14 had deposited the check and presumably debited the Becks'
15 account, correct?

16 A. Correct.

17 Q. So let's just talk about those checks, the ones that
18 have the bank endorsement on them, okay?

19 Were all of those accounted for on the Cristalina
20 books.

21 A. Yes.

22 Q. Okay. And those are all included on your
23 documentation summarized here in ML-8?

24 A. Yes.

25 Q. Okay. Now, as to the other checks, the ones that

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1 were just the front side copies that didn't have any indication
2 that they were negotiated by a bank, were you able to -- were
3 you able to determine whether any of those checks were accounted
4 for in Cristalina's books?

5 A. Yes. There are two attorney's checks.

6 Q. Yes.

7 A. One was for \$247. The other one was for a thousand
8 dollars. The one thousand check never entered our account. It
9 was never cashed. The \$247 check did. We did get that. We did
10 apply it to the Becks' account.

11 In fact, may I look at the sheet to refresh my
12 memory?

13 Q. Yeah, and let the Court know where that one is
14 accounted for on ML-8, if you can.

15 A. That one is accounted for on March 2010. There was
16 an aggregate amount, and I understand it must have posed some
17 difficulty to see that embedded in there, but the 357 aggregate
18 amount is \$257 plus 70. They're two different checks. Check
19 No. 17726, the check number in question, and 1736.

20 Q. Okay. All right. So that particular check of
21 Mr. Kombol's actually did make it into the account?

22 A. Yes.

23 Q. And there's no evidence that the thousand dollar
24 check was ever negotiated by the bank and --

25 A. None.

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1 Q. Okay.

2 MR. GILLETT: Your Honor, I have two additional pages
3 on ML-8 that I haven't been referring to because they weren't
4 necessary for Ms. Burnett.

5 But do you have a four-page exhibit or just a
6 two-page exhibit?

7 JUDGE TOREM: It's a two-page exhibit that was filed
8 ML-8. It runs from May of 2009 to April of 2014.

9 MR. KOMBOL: All right.

10 (Mr. Gillett confers with Ms. Lindberg.)

11 (Pause in the proceedings.)

12 BY MR. GILLETT:

13 Q. Ms. Farmer, last night when we were talking about
14 this exhibit, ML-8, did we talk about yet a different
15 calculation that would be slightly different than this \$20,000
16 figure?

17 A. Yes.

18 Q. And explain what that different calculation would be.

19 A. The calculation, based on what I have already said,
20 is the same as far as like adding on the additional invoice at
21 the end of the additional interest. Whenever the payment takes
22 place, apply the payment to the balance.

23 But what differed is yesterday when we were
24 discussing it, I was like, Wait a minute. If we are moving this
25 statute of limitations, if you can imagine it moving along a

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1 timeline, kind of like a game show thing moving stop, we
2 actually have to drop the oldest invoice off the back-end of it.

3 And so last night I wrote up a spreadsheet, inserted
4 another column, and deleted the oldest invoice with every
5 additional month that passed to stay in the spirit of a six-year
6 statute of limitations.

7 Q. And did that, in fact, reduce the amount that the
8 Becks' --

9 A. It did.

10 Q. -- owe Cristalina?

11 A. It did.

12 Q. And what number did that reduce it to?

13 A. May I refer to my spreadsheet?

14 Q. Yes.

15 A. Around \$15,000; fifteen six seventy-one ninety-six.

16 Q. Okay. Thank you.

17 JUDGE TOREM: Can you repeat the whole number?

18 Fifteen thousand?

19 THE WITNESS: Fifteen thousand six seventy-one
20 seventy-six.

21 BY MR. GILLET:

22 Q. Ninety-six.

23 A. Ninety-six.

24 THE WITNESS: Sorry, Your Honor.

25 JUDGE TOREM: Six seventy-one ninety-six?

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1 THE WITNESS: Yes.

2 JUDGE TOREM: Thank you.

3 MR. KOMBOL: You don't have it?

4 JUDGE TOREM: That document is not in evidence; is
5 that correct?

6 MR. GILLETT: That's correct.

7 JUDGE TOREM: This is a document that I understand
8 was prepared yesterday --

9 THE WITNESS: Last night.

10 JUDGE TOREM: -- in response to further discussions,
11 so if I understand correctly, the number that we do have,
12 Mr. Kombol, on ML-8 was \$20,318.60.

13 MR. KOMBOL: I've got that document.

14 JUDGE TOREM: And I believe, as I understand this
15 testimony from Ms. Farmer, is that a separate approach --
16 whether it's the company's current position or not, I'll allow
17 counsel to proffer -- is that the amount due would be if you
18 dropped off a six-year running total in the back, as well the
19 oldest invoices, it would actually come out to fifteen thousand
20 six seventy-one ninety-six, so I think I understand the
21 testimony at this point.

22 Go ahead, Mr. Gillett.

23 MR. GILLETT: Yes. And, in fact, we would offer that
24 as an exhibit so that the parties have the calculation in front
25 of them, and we would call that ML-9.

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1 JUDGE TOREM: Let me correct the labeling of it.

2 Since this is Ms. Farmer's exhibit --

3 MR. GILLETT: Oh, sorry.

4 JUDGE TOREM: -- we can keep the number sequence
5 going and just call it "TF-9."

6 MR. GILLETT: Sorry.

7 JUDGE TOREM: Do you have copies to offer?

8 MR. GILLETT: I do.

9 JUDGE TOREM: So that's a two-page spreadsheet?

10 Ms. Farmer, can you hand me that copy?

11 Thank you.

12 Mr. Kombol, you now have that in front of you?

13 MR. KOMBOL: I do have it, yes.

14 JUDGE TOREM: So let's at least mark this as Exhibit
15 TF-9.

16 (Exhibit No. TF-9 was marked.)

17 JUDGE TOREM: Let me give you a moment to compare it
18 with ML-8.

19 And, Mr. Gillett, there was testimony about this
20 being an additional column or calculation. Maybe have the
21 witness walk us through the differences in the calculation.

22 MR. GILLETT: Yes.

23 BY MR. GILLETT:

24 Q. If you could compare ML-8 to TF-9, explain to the
25 Court what the differences are. I mean, the first obvious

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1 difference is one comes to a conclusion that the Becks owe
2 20,318.60 --

3 A. Correct.

4 Q. -- and the other is that they owe fifteen six
5 seventy-one...

6 A. Correct. There are two outstanding -- or let me
7 retract that word -- not outstanding, but two big differences.

8 One is of the new -- what did he call it? -- TF-9?

9 Q. Uh-huh.

10 A. And TF-9, I didn't put the check number column in
11 there, so I didn't put that in there.

12 And the other significant difference is a column
13 called "SOL Drop Amount," "SOL" standing for statute of
14 limitations. And that's just -- and then I just dropped that
15 throughout the entire spreadsheet for six years and with every
16 additional month it was reduced by the oldest.

17 Q. Correct.

18 A. And there's also another column called the statute of
19 limitations drop month, so when you're in May, if you look
20 straight across, there's nothing there. But once you get to
21 June 2009, you have to drop May 2003 and so on and so forth.

22 So in July 2009, you're dropping June 2003, which is
23 six years back.

24 Q. Right. So we have this column, SOL drop month and
25 year, and then the drop amount?

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1 A. Correct.

2 Q. And the drop amount was the \$45?

3 A. Yeah, it's a flat.

4 Q. Because it was a flat fee?

5 A. Flat fee at the time.

6 Q. Yeah, all the way up until?

7 MS. LINDBERG: 2012; February of 2012.

8 BY MR. GILLETT:

9 Q. Right. Okay. So, yeah.

10 So since the flat rate changed to a metered rate in
11 2012, if we look on the second page of your TF exhibit, the last
12 date that's dropped is April of 2008, when it was still a flat
13 rate?

14 A. Correct.

15 Q. Okay. I understand now.

16 MR. GILLETT: I don't have any further questions.

17 Thanks.

18 JUDGE TOREM: Mr. Kombol, cross-exam?

19

20 C R O S S - E X A M I N A T I O N

21 BY MR. KOMBOL:

22 Q. As I understand it, you've been working for
23 Cristalina for a couple of months assisting with accounting; is
24 that correct?

25 A. Yes.

0287

1 Q. Did you have any experience with Cristalina, say, in
2 their business years of 2013 or '12 or '10 of '11?

3 A. No.

4 Q. And did you audit any of their records from that
5 time?

6 A. I'm not an auditor, so I -- "audit" is a term of art
7 in accounting, so if you could...

8 JUDGE TOREM: I think that was a "no"; is that right?

9 MR. GILLETT: Yeah. It sounded like it's a long
10 "no."

11 THE WITNESS: No; no, I didn't audit.

12 BY MR. KOMBOL:

13 Q. All right. And so you didn't review bank statements,
14 you didn't review old statements that were mailed, you didn't
15 look through customers' records; is that correct?

16 A. I mean, if you can be more specific, because that's
17 something an accountant and a bookkeeper always does, so,
18 generally, we're always doing that sort of thing on a daily
19 basis.

20 Q. For purposes of this calculation, did you use the
21 summaries from the computing software that Cristalina has --

22 A. Yes.

23 Q. -- as the basis for transposing these numbers?

24 A. Yes.

25 Q. And you created a spreadsheet, assuming that what the

0288

1 Cristalina folks' accounting software gave you was accurate?

2 A. I didn't assume anything. I actually referred to
3 copies of checks, too, in our records.

4 Q. So you did do some record checks?

5 A. Yes.

6 Q. But your basis, I'm going to assume, was some data
7 that the computers printed that you used as dates of receipts,
8 amounts of bills, when they were posted; is that correct?

9 A. Yes.

10 Q. All right. Did you also look at old invoices from
11 Cristalina files on the Beck account?

12 A. I looked at the invoices like in the records. I
13 mean, I didn't pull out paper copies and look at a paper copy.
14 I didn't feel it was necessary.

15 Q. So you didn't look at the different -- oh, okay.

16 Does Cristalina keep all of those statements of
17 accounts, the invoices on this particular account?

18 A. There are electronic copies of statements retained on
19 the computer, yes.

20 Q. But you didn't look at all of them?

21 A. No.

22 Q. Now, do you know, based on your examination of those
23 four years of records, how many of Cristalina's invoices went
24 out on time?

25 A. There is no way for me to say that. I've only worked

0289

1 for Cristalina for two months, so one would have to have been
2 employed by the company to be able to make that assertion.

3 Q. You have reviewed the invoices that Cristalina bills,
4 and is it accurate to say that their current invoices indicate
5 the late fees are 2 percent monthly, and they do have a due
6 date; is that correct?

7 A. The 2 percent monthly is part of my calculations that
8 I did on the Excel spreadsheet based on my initial figure for
9 six years back, so I did not open up invoices and look at their
10 interest rate and see what it was. I didn't do any of that.
11 This is all my calculations.

12 Q. Do you have an invoice available to look at now from
13 Cristalina?

14 A. I don't.

15 Q. Well, why don't I give you one.

16 MR. GILLETT: What's the exhibit number?

17 MR. KOMBOL: I think we marked...

18 (Mr. Kombol confers with Ms. Burnett.)

19 MR. KOMBOL: No, no. The envelope one.

20 (Mr. Kombol confers with Ms. Burnett.)

21 BY MR. KOMBOL:

22 Q. I think this was the most recent document, and I have
23 given you copies.

24 MR. KOMBOL: Didn't I give you a copy?

25 MR. GILLETT: No. I don't think you gave us a copy.

0290

1 You were talking about it earlier.

2 MR. KOMBOL: I would like to have it identified for
3 the record, so she could review it.

4 JUDGE TOREM: So are we referring to a new exhibit or
5 a previous exhibit that's been admitted?

6 MR. GILLETT: I don't believe it's been admitted --

7 MR. KOMBOL: It has not been admitted.

8 MR. GILLETT: -- or marked.

9 JUDGE TOREM: Okay. So this was the most recent
10 invoice you handed up earlier?

11 MR. GILLETT: And I think we objected on relevance,
12 and you sustained that objection.

13 JUDGE TOREM: Right. And we suggested that it might
14 be better asked of the company that produced it, so I think we
15 are at that point.

16 MR. GILLETT: Okay.

17 JUDGE TOREM: So let's start fresh again.

18 If you have photocopies of the actual document now?

19 MR. KOMBOL: I do.

20 JUDGE TOREM: So I'm being handed a copy, a photocopy
21 of --

22 MR. KOMBOL: And I'll give her the original.

23 MR. GILLETT: Okay.

24 JUDGE TOREM: All right. So this has photocopies of
25 the mailing and the postage on it as well.

0291

1 All right. So let's hand the original to the
2 witness.

3 MR. KOMBOL: May I mark it?

4 JUDGE TOREM: Let's go ahead and mark this as TF-10.

5 (Exhibit No. TF-10 was marked.)

6 MR. KOMBOL: "P," as in Paul?

7 THE WITNESS: "T."

8 JUDGE TOREM: "T," as in Tonya.

9 MR. GILLETT: As in Tonya.

10 JUDGE TOREM: Tonya Farmer, and the number 10, so
11 we'll just put it in the sequence since it's associated with
12 this witness, at least for now.

13 BY MR. KOMBOL:

14 Q. I'm going to hand you, Ms. Farmer, TF-10, a document.

15 JUDGE TOREM: And, for the record, this is the same
16 invoice we discussed earlier with a bill from April 5, 2014, to
17 May 5, 2014. It looks like a \$40 base charge and a meter charge
18 of \$7.31, and that capital improvement levy of \$32. We've
19 talked about it earlier today.

20 Mr. Kombol, is that an adequate description?

21 MR. KOMBOL: That describes it, yes.

22 JUDGE TOREM: And the second page, again -- it's a
23 two-page exhibit, right? Essentially, it's the invoice. I see
24 what I could call an incomplete copy on the back on the invoice
25 but the postage meter is on page 2 of the document.

0292

1 Is there a third page intended, or was that...

2 MR. KOMBOL: No; no third page intended.

3 Oh, I see. You might have gotten -- I'm sorry. The
4 first one was not clear enough to see.

5 JUDGE TOREM: Right. So we'll disregard --

6 MR. KOMBOL: The back page.

7 JUDGE TOREM: -- the backside of the first page and
8 simply look at the one that has the postage meter, so it's a
9 two-page document. All right.

10 MR. KOMBOL: So may I continue?

11 JUDGE TOREM: Please do.

12 BY MR. KOMBOL:

13 Q. Ms. Farmer, based upon your working at Cristalina
14 Water Company, are you familiar with this type of invoice?

15 A. I'm the one that created it.

16 Q. These are your invoices that you created?

17 A. I created this invoice.

18 Q. And does it state what Cristalina believes it can
19 lawfully assess its customers for late charges?

20 A. This particular balance due does not reflect what I
21 just testified what I and Cristalina believe is due.

22 Q. But you --

23 A. I'm talking about the total amount due, the past due,
24 thirty-four eighty-two, forty-four thirty-five. That differs
25 from what -- the calculation on my spreadsheet.

0293

1 Q. So between May 5th when this was generated -- was
2 this generated on May 5th?

3 A. It was generated on May 5th.

4 Q. Between May 5th and now, Cristalina's position on
5 what would be past due has changed?

6 MR. GILLETT: Objection. Calls for speculation.
7 Lacks foundation.

8 JUDGE TOREM: Overruled. I think Ms. Farmer can
9 answer that question.

10 MR. GILLETT: Okay.

11 THE WITNESS: You know, part of my goal was to come
12 here today with a calculation and testify as to what I believed
13 was the balance due. Of course when you do that, it's going to
14 differ from what's in the records, and so that's -- and I think
15 there are some adjustments that are reflected here that were
16 dictated by the UTC, and because the UTC tells you to do
17 something, you just do it.

18 And they have testified as to what they believe is
19 owed, and I have testified to what I believe is owed, and so
20 there you're going to find a difference in the numbers.

21 BY MR. KOMBOL:

22 Q. The billing that is in front of you, do you help
23 Cristalina send these bills out?

24 A. I don't help them. I send them out.

25 Q. Well, this particular one -- well, how long has this

0294

1 bill been used by Cristalina?

2 A. I can't answer specifically on that, but I can tell
3 you that there -- are you talking about this bill or the
4 formatted bill?

5 Q. The formatted bill --

6 A. The formatted bill.

7 Q. -- that you testified you created.

8 A. I couldn't tell you how long they have been using
9 this particular format.

10 Q. Well...

11 A. Probably since the end of 2012. That's a ballpark,
12 because the software system changed at that point.

13 Q. I thought you said you created this?

14 A. I did. But you said for how long have you been using
15 this, this form --

16 Q. Oh, I see.

17 A. -- and so I'm giving you the answer to that question.

18 Q. You've been working there since 2012?

19 A. No. I said the software changed in 2012. The
20 software system changed, so this is an output of a particular
21 accounting software system that's only been employed since
22 probably the end of 2012. So before then it was a different
23 software system, so I'm answering your question.

24 Q. Okay. So this bill generates a notice that late fees
25 are 2 percent monthly, and it gives a due date of 5/7 of 2014 --

0295

1 A. Yeah. And this --

2 Q. -- am I correct?

3 A. Right. This particular bill, the only thing that was
4 wrong with this bill outright is the due date was wrong. And
5 the meter readings were correct. The from and to were correct.
6 The charges were correct.

7 When I did this, it was the second running of
8 statements I'd ever done for the company, and it was just a
9 keying error. And so the client, nor this client, nor any of
10 the other customers were charged a late fee based on that date.

11 Q. So the company --

12 A. The late fee is 5/20.

13 Q. So what we don't know --

14 A. The due date is 5/20. The late fee assessed charge
15 is 5/21.

16 Q. So in this circumstance, you're confident that the
17 company will waive any late fee or won't post it?

18 A. Oh, absolutely.

19 Q. Okay. Now, help me with the program that indicates
20 aging one month. Oh, incidentally, are you satisfied that this
21 was not mailed out until three days after the due date of
22 payment?

23 A. Three days after the due date of the payment would
24 actually be 5/9, and it says due by 5/6. Three days after that
25 would be 5/9. This was actually mailed out two days on 5/8.

1 Q. Okay. It was mailed on the 8th of May, and the bill
2 was due on the 6th of May?

3 A. No, sir. I just testified earlier that that was an
4 error. It was actually due on 5/20.

5 Q. Oh.

6 A. I just testified to that.

7 Q. Okay. Tell me about how you came up -- how it came
8 up with one month aging of 167 -- \$167.17.

9 A. That is not anything I feel like I could answer right
10 now without having access to the software. I don't feel
11 comfortable just hazarding a guess on that.

12 Q. Well, if I were to tell you that the records here in
13 front of the Commission indicate that our exhibit, ML-5,
14 indicates that Check No. 3192 was received on March 3rd of this
15 year and 3234 was received on April 14th of this year and those
16 were invoices for March and April, how could there be a \$166.17
17 aged one month?

18 A. The answer to your question is based on some
19 testimony that I had already given about my reasoning for coming
20 up with a balance, is that we don't apply a check received to
21 whatever's written in the memo. We apply a check received to
22 the balance due at that time.

23 And so whenever, you know, this particular customer
24 had -- we can go back to May 2009. I think it's a really good
25 example because it's the beginning of the exhibit, the \$6,014.

0297

1 The next payment that that person -- that the Becks made didn't
2 go specifically to a current invoice. It went against the
3 balance due, the 6,014.

4 Q. I believe, Ms. Farmer, I understand. I understand
5 the system that you have --

6 A. Okay.

7 Q. -- tried to use here.

8 What I'm trying to understand is this bill that you
9 created the system for and how can we have aging of one month on
10 this bill of \$166.17? What would that figure represent?

11 A. You know, I would have to see the actual, actual
12 previous month's bill, which I don't have access to right now.
13 I'm trying to find out how much that bill was.

14 Q. Well, of course, this is May. This is May's bill.
15 And if it's a prior month and their tariff is -- are you
16 suggesting this would have a tariff of \$166.17 for the prior
17 month? Is that what you're saying?

18 A. I didn't even answer your question. I said that I
19 don't feel comfortable with hazarding a guess about what the one
20 hundred sixty-six seventeen is because I haven't even -- I don't
21 have access to the previous month's invoice. I can't make a
22 determination. I would have to see what is one month past due.

23 Q. Well, you know the system that they have.

24 Why not --

25 A. I haven't memorized the system.

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1 Q. Well, then help me understand what one month past due
2 would mean to you.

3 MR. GILLETT: Objection. Relevance. Vague.

4 JUDGE TOREM: I'm going to sustain the objection.

5 Mr. Kombol, I'm not sure that even if we do
6 understand the vagaries of what's one month past due or two
7 months past due or three, that I'm going to factor that into any
8 calculation that I'm trying to make here. I'm trying to get a
9 bottom line number, not whatever the rolling total is for next
10 month.

11 I think if we go back to Exhibits ML-8 and TF-9,
12 those are the numbers that the company's assessed and asserting
13 are the bill amount owed by your clients, so understanding the
14 intricacies of the invoice itself is perhaps desirable in some
15 other forum but not necessarily relevant to the bottom line of
16 this case.

17 MR. KOMBOL: All right. I'll go back to -- and may I
18 show Ms. Farmer some documents that were generated by Cristalina
19 in 2011?

20 JUDGE TOREM: For what purpose?

21 MR. KOMBOL: To calculate what we're trying to
22 calculate here.

23 JUDGE TOREM: Well, I'm not sure that what we're
24 trying to calculate is relevant. That's what I just said.

25 I'm not sure that I care what's 30 days, 60 days, or

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1 90 days due. We're doing an overall calculation, so any one
2 invoice and what those numbers stand for, tell me why that would
3 be relevant.

4 MR. KOMBOL: Very well.

5 JUDGE TOREM: No, don't ask her, but tell me why --

6 MR. KOMBOL: No.

7 JUDGE TOREM: -- it would be relevant.

8 MR. KOMBOL: Okay. The statements that were
9 generated back in 2011 indicate what the monthly rate is.

10 JUDGE TOREM: Which is?

11 MR. KOMBOL: Flat rate, plus capital improvement
12 surcharge, plus a capital repair surcharge.

13 JUDGE TOREM: Okay.

14 MR. KOMBOL: It gives an indication of what currently
15 monthly rates are. The evidence is that this customer paid that
16 specific amount and that for some reason -- and I would like to
17 inquire of the accounting expert -- there was...

18 JUDGE TOREM: Mr. Kombol, what's the amount due
19 current on that particular month, and which month is it?

20 MR. KOMBOL: What is stated as an amount due is
21 \$7,199.79.

22 JUDGE TOREM: That's not what I'm asking. You told
23 me what the monthly rates were.

24 Tell me what the numbers are and tell me what month
25 you're referring to, please.

0300

1 MR. KOMBOL: Oh, I'm referring to February 1 to
2 February 28, 2011.

3 JUDGE TOREM: Okay.

4 MR. KOMBOL: \$32. Capital improvement, \$32. Capital
5 repair surcharge, \$4.30.

6 JUDGE TOREM: Okay.

7 MR. KOMBOL: \$68.30.

8 JUDGE TOREM: And if look at Exhibit TF-9, I'm seeing
9 February 2011, \$68.30?

10 MR. KOMBOL: Correct.

11 JUDGE TOREM: And a payment of \$68.30.

12 MR. KOMBOL: Correct.

13 JUDGE TOREM: So why is that invoice -- why do I need
14 to have you belabor this particular accountant, who's worked for
15 two months, neither of which is the months in question about
16 that invoice?

17 MR. KOMBOL: All right. I thought she was being put
18 on as an accounting expert for the company. I then -- then I'm
19 going to assume that Ms. -- that the owner of the company will
20 have to answer some of questions.

21 JUDGE TOREM: Maybe I haven't been clear.

22 Why do I care what the invoice says other than what
23 it's already reflected in other exhibits?

24 Please tell me why I should care what the 30-day,
25 60-day, or 90-day amounts are.

0301

1 MR. KOMBOL: Oh, I'm not talking about that now.

2 You've asked me --

3 JUDGE TOREM: Okay. Good.

4 MR. KOMBOL: All right.

5 JUDGE TOREM: So why are we going to bring that up?

6 MR. KOMBOL: I don't mean to irritate you, Your

7 Honor --

8 JUDGE TOREM: I'm looking at the clock.

9 MR. KOMBOL: -- but if you'll look at C-27 --

10 JUDGE TOREM: I'm looking at the clock.

11 MR. KOMBOL: Right.

12 JUDGE TOREM: And every time it ticks closer to five
13 o'clock, it's closer to you all coming back at 9:30 tomorrow
14 morning.

15 MR. KOMBOL: All right. If you will look at C-27 and
16 C-28?

17 JUDGE TOREM: Okay. Give me a second to get those in
18 front of me.

19 I've got C-27 and C-28 in front of me.

20 What numbers on here do you want to ask Ms. Farmer
21 about?

22 MR. KOMBOL: Well, I think it's clear that we're not
23 going to ask Ms. Farmer, because she's not familiar.

24 But if you'll look at the top three boxes, due date
25 of April 16, 2011, and then the next one is two months prior,

0302

1 February 15th of 2011, we have an amount due of 11,000 going to
2 7,000.

3 Now, I would like an accounting firm or the owner of
4 the company to explain how that could have happened in two
5 months' period when there were payments being made.

6 JUDGE TOREM: Let me just be sure if the witness has
7 any basis to answer this question.

8 I'm going to show you, Ms. Farmer, what's been marked
9 as GB-26, and I believe the number at the top and the amount due
10 on that one is seven thousand one hundred ninety-nine
11 seventy-eight; is that correct, Mr. Kombol?

12 MR. KOMBOL: The document says \$7,199.78.

13 JUDGE TOREM: All right. That's the right document
14 we're looking at.

15 I believe his question is: Do you have any reason to
16 know why that number changed in February 15, 2011 to the next
17 page, Exhibit C-GB-27, April 16, 2011, two months later, to
18 8,143; is that right?

19 MR. KOMBOL: That's what it says.

20 THE WITNESS: I do not have a basis.

21 MR. KOMBOL: That's what the document says.

22 THE WITNESS: I do not have a basis to answer that.

23 MR. KOMBOL: If she has no basis to answer that and
24 doesn't know what was happening, then I will have to ask the
25 owner of the company.

0303

1 JUDGE TOREM: Okay. That would be fine.

2 BY MR. KOMBOL:

3 Q. My last question. On the calculations you did on
4 TF-9, I believe the assumptions on TF-9 are that those
5 statements were all delivered timely.

6 You would assume that -- that the statements were
7 delivered to this customer timely so as to be allowed to impose
8 a late charge?

9 A. No. I assumed a late charge because they never paid.

10 Q. So you're assuming there was something delivered to
11 the customer that was a request for payment?

12 A. Yeah. That's fundamental, when you're listing out
13 invoices that, yeah, you gave them to the customer. But they
14 didn't start paying until 2009, according to our records.

15 MR. KOMBOL: No other questions.

16 JUDGE TOREM: Mr. Gillett, do you have further
17 questions for this witness or the documents you introduced with
18 her, ML-8 and TF-9?

19 MR. GILLETT: I would move -- again move for the
20 admission of TF-9.

21 JUDGE TOREM: Any objections?

22 MR. KOMBOL: TF-9 is an accounting that she testified
23 to.

24 JUDGE TOREM: So any objections?

25 MR. KOMBOL: No objections, no.

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1 JUDGE TOREM: Okay. So TF-9 will be admitted.

2 (Exhibit No. TF-9 was admitted into the record.)

3 JUDGE TOREM: So just so we're clear, ML-8 was
4 already admitted.

5 MR. GILLETT: And I don't believe you admitted TF-10.

6 JUDGE TOREM: There was no request.

7 Did you want TF-10 admitted?

8 MR. KOMBOL: I will move for the admission of TF-10.
9 I was expecting to ask the owner of the company to, but I will
10 move for the admission.

11 JUDGE TOREM: Any objections?

12 MR. GILLETT: I'd object at this time.

13 JUDGE TOREM: You do object or you don't.

14 MR. GILLETT: I do.

15 JUDGE TOREM: On what basis?

16 MR. GILLETT: Well, relevance. Lack of foundation.
17 I mean, there's been no witness testimony that -- I'll withdraw
18 the objection.

19 JUDGE TOREM: I'm going to admit TF-10. I will
20 correct that your witness did say she created it, so --

21 MR. GILLETT: Yeah, that's right.

22 JUDGE TOREM: -- it'll be admitted.

23 MR. GILLETT: Yeah.

24 (Exhibit No. TF-10 was admitted into the record.)

25 JUDGE TOREM: I have a question for the witness

0305

1 regarding the spreadsheets either way, whether it's TF-9 or
2 ML-8.

3

4

E X A M I N A T I O N

5 BY JUDGE TOREM:

6 Q. Let me direct your attention to ML-8.

7 Ms. Farmer, you testified that how you calculated the
8 balance of \$6,014.05, and when I looked at -- let me find the
9 right one. I believe it's in Document ML-5.

10 You said there was a separate spreadsheet. I don't
11 think that it's been sent to me, but TF -- ML-5 --

12 A. Is that the one I was referring to.

13 Q. -- page 2, starts in May 2003 with a \$45 payment and
14 then starts to assume \$45 a month, plus 2 percent a month; is
15 that correct?

16 A. (Witness nods head.)

17 MR. GILLETT: That's ML-2?

18 JUDGE TOREM: This is page 2 of ML-5. It runs from
19 May of 2003 to October of 2007, and then the rest of that is not
20 present. I'm going to show my copy of ML-5 to the witness.

21 THE WITNESS: (Witness reviews document.)

22 Is that on the back?

23 BY JUDGE TOREM:

24 Q. There are three pages to this exhibit, as we have
25 already discussed earlier, and none of which appear to be the

0306

1 continuation on page 2.

2 MS. LINDBERG: The Judge is missing page 2.

3 JUDGE TOREM: Well, these are the exhibits that came
4 in.

5 BY JUDGE TOREM:

6 Q. Am I correct that this calculation does not carry out
7 for the six years to get to this 6,015 number?

8 MS. LINDBERG: Yes, he's correct.

9 BY JUDGE TOREM:

10 Q. Okay. So you're showing me a separate copy of this
11 page that ends, so my question was: Had this calculation
12 continued on, it would get to that 6,015 number?

13 A. (Witness nods head.)

14 Q. Okay. I'll leave it to the attorney to procure the
15 state of the evidence later, but I just wanted -- that's the
16 source where you did your calculation; is that correct?

17 A. Yes, Your Honor.

18 Q. And so the interest amounts had grown from a dollar
19 eighty back in June of '03. Two percent was running at the
20 bottom of this page \$64.64, and it just continued to grow by a
21 few dollars each month.

22 A. Ending in May of 2009, if the interest was one
23 seventeen ninety-two.

24 Q. Okay. I just wanted to --

25 MR. GILLETT: For a total amount of what?

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1 THE WITNESS: Six thousand fourteen oh five.

2 JUDGE TOREM: Okay.

3 MR. GILLETT: And is that the number that you used as
4 the starting point?

5 THE WITNESS: I used the six thousand fourteen oh
6 five number.

7 BY JUDGE TOREM:

8 Q. And that's the same number in ML-8 --

9 A. The starting balance.

10 Q. -- and TF-9?

11 A. Mm-hm.

12 MR. KOMBOL: Judge Torem, you've raised a question
13 that I would like to ask about this.

14 JUDGE TOREM: When I'm done.

15 MR. KOMBOL: Okay.

16 BY JUDGE TOREM:

17 Q. Mr. Kombol asked you a question about the
18 assumptions, and I think you answered yes to both that you
19 assumed that the flat rate of \$45 a month was going on that
20 entire time until we get to somewhere in June of 2009 there are
21 billings for seventy-seven fifty-seven and different amounts
22 start to go into affect.

23 All of these calculations are in page 2 of ML-5, and
24 that whole \$45 a month, 2 percent a month on top of that late
25 assumes that they owed that amount because they were billed that

0308

1 amount; is that correct?

2 A. (Witness nods head.)

3 Q. And if Mr. Kombol's arguments earlier are that some
4 bills didn't go out on time, there might have to be slight
5 adjustments of when the 2 percent would be affixed to that
6 account?

7 A. (Witness nods head.)

8 Q. Do you think that would dramatically change the
9 total?

10 A. I don't think it would dramatically change the total.

11 Q. And it's your position, as far as doing the company's
12 books and doing this calculation, that they did have water
13 service provided by the company every month. They did owe the
14 flat rate every month. The exact date of the interest charge
15 may slip one way or the other, depending on when the bill was
16 delivered, and the due date?

17 A. I don't think that number would change because they
18 didn't pay up until 2009. They didn't pay, so it wouldn't
19 matter whether -- when you assess the interest.

20 Q. Okay.

21 A. It's on a monthly basis. Whether it was on the 1st
22 or whether it was on the 10th, it wouldn't change the bottom
23 line figure.

24 Q. All right. And TF-9 came up with the final amount
25 due as of May 2014 of fifteen thousand six seventy-one

0309

1 ninety-six.

2 Are you at liberty to testify as to -- is that what
3 the company's final amount is, or is that for Ms. Lindberg to
4 say?

5 A. I always say it's for -- it's more me to say. It's
6 fifteen six seventy-one -- or fifteen -- fifteen six
7 seventy-one.

8 Q. And the 96 cents.

9 So that's the company's position --

10 A. And 96 cents.

11 Q. -- as to what it's owed?

12 A. That is our final position.

13 JUDGE TOREM: Okay. Thank you.

14 Does that raise any further questions, Mr. Gillett?

15 MR. GILLETT: No, Your Honor.

16 JUDGE TOREM: Mr. Kombol, did I ask the questions you
17 wanted or...

18 MR. KOMBOL: No, you didn't.

19 JUDGE TOREM: All right. You can go ahead.

20

21 R E C R O S S - E X A M I N A T I O N

22 BY MR. KOMBOL:

23 Q. And I would like to refer you to ML-5, please.

24 JUDGE TOREM: Which page of it?

25 MR. KOMBOL: I think the simplest one is the first

0310

1 page.

2 BY MR. KOMBOL:

3 Q. The calculation basis you did for assessing a late
4 fee imposes a late fee every month and runs a running balance so
5 that there is eventually a late fee on a late fee?

6 A. Yeah, it's compounded interest.

7 Q. It's compounded late fees. The principal amount --
8 now, in accounting parlance, I believe a principal amount is
9 what is owed.

10 Interest is not the principal; am I correct?

11 A. Could you restate that question again? What do
12 you...

13 Q. Well, a principal balance owed would be -- in this
14 example, May 3rd would be \$45; am I right? That's principal
15 balance owed, correct?

16 A. That's the bill.

17 Q. That's the kind of balance it would be owed.

18 When it wasn't paid, there's an assessment being made
19 of 2 percent, correct?

20 A. (Witness nods head.)

21 Q. And so that in your accounting system -- or your
22 calculations added a dollar eighty to the principal balance, and
23 then the next month, there was a 2 percent charge on that
24 principal plus interest?

25 A. Correct; compounded interest, yeah.

0311

1 Q. So the interest is compounding, and the balance is
2 increasing by both the principal amount plus late charges on
3 both?

4 A. On the unpaid amount; yes, sir.

5 MR. KOMBOL: No further questions.

6 JUDGE TOREM: Okay. Thank you.

7 Anything else for this witness?

8 MR. GILLETT: No, Your Honor.

9 JUDGE TOREM: All right. It's ten minutes to four.

10 Do you we need a quick stretch break before

11 Ms. Lindberg takes the stand or not?

12 MR. GILLETT: Sure. Just about five minutes is all
13 we need.

14 JUDGE TOREM: Okay. So let's be back as quickly as
15 we can. We'll be at recess for five minutes.

16 (A break was taken from 3:51 p.m.

17 to 4:02 p.m.)

18 JUDGE TOREM: All right. Let's be back on the
19 record. It's a little after four o'clock.

20 Ms. Lindberg, if you'll stand and raise your right
21 hand.

22 Do you, Maria Lindberg, solemnly swear or affirm that
23 all testimony you'll provide in this proceeding will be the
24 truth?

25 MS. LINDBERG: I do.

0312

1

MARIA LINDBERG,

2

witness herein, having been first duly sworn on oath, was

3

examined and testified as follows:

4

5

JUDGE TOREM: All right. Thank you.

6

Mr. Gillett?

7

MR. GILLETT: Thank you, Your Honor.

8

9

D I R E C T E X A M I N A T I O N

10 BY MR. GILLETT:

11

Q. Ms. Lindberg, what is your position at Cristalina?

12

A. I manage Cristalina.

13

Q. And how long have you been associated with

14

Cristalina?

15

A. Since about 1999, 2000; 2000.

16

Q. And during that time, have the Becks been customers

17

of Cristalina?

18

A. Yes.

19

Q. And during that entire time?

20

A. Yes.

21

Q. Over the course of that time, have there been

22

instances when the Becks have not paid their invoices timely?

23

A. Yes. We have no payments from the Becks from my

24

records. My records started showing a balance of the Becks of

25

\$6,000, so I'm assuming they didn't pay much before that, and

0313

1 then I received no payments from the Becks from 2000 to 2009;
2 September 2009.

3 Q. And were the Becks billed during that time period --

4 A. Yes.

5 Q. -- between 2000 and 2009?

6 A. Yes. There was a different system in place before I
7 started QuickBooks in May of 2000. And it was a little booklet
8 system, so my records show the book -- the records as of --
9 QuickBooks as of 2000.

10 Q. All right. Mr. Elliott. You were here for his
11 testimony?

12 A. Yes.

13 Q. And he talked about his surprise at seeing a large
14 balance owing by the Becks when he went back and did his
15 accounting of what they owed Cristalina; you heard that?

16 A. Yes.

17 Q. And when asked by Mr. Kombol, he suggested that,
18 well, that's because in his experience, if people owe money for
19 water service, the water operator will disconnect them and then
20 the balance will go off the books and they'll get paid.
21 They'll get paid, then they'll reconnected them; you heard that
22 testimony?

23 A. Yes.

24 Q. So is there a way to explain to the Judge why, you
25 know, you had this, according to Mr. Elliott, an unusually large

0314

1 balance that was owed by the Becks?

2 A. Yes. We were not metered and had no way to
3 disconnect anybody until we put meters in.

4 Q. And the meters went in at what time?

5 A. 2010, 2011.

6 Q. Okay. Is it possible that from time to time that the
7 Becks didn't receive their invoice in the normal time frame that
8 Cristalina hoped to put the invoices out?

9 A. Yes.

10 Q. Was that the normal course of things, or was that --

11 A. That was not the normal course of things.

12 Q. Were you involved in the day-to-day accounting for
13 Cristalina, and, specifically, for the Becks' account?

14 A. No.

15 Q. Were you aware of the Becks?

16 A. Yes.

17 Q. And are you personally aware of all of the Cristalina
18 customers?

19 A. No.

20 Q. The Becks were unusual in that regard, then?

21 A. Yes.

22 Q. And how did the Becks come to your attention? If you
23 can recall, generally, when did the Becks first come to your
24 attention as customers of Cristalina?

25 A. In 2000, I had a water operator. When I took over

0315

1 the system, he personally delivered bills to everybody's doors,
2 so that's how we started letting people know where the billing
3 payments needed to go. And then -- again, what was the
4 question?

5 Q. How did the Becks first come to your attention?

6 A. There were a few clients that despite us trying to
7 get them to pay, I had to get an attorney to help get payments
8 from. And at the time the attorney put liens on people's
9 property and the Becks tried to refinance their house and that
10 is when my attorney and myself found out that we could not put
11 liens as a utility on people's houses, so that's when they first
12 came on the radar.

13 And then when we did have the ability to disconnect,
14 the Becks had threatened my water operator.

15 MR. KOMBOL: I'll object. I'll object to foundation
16 and to hearsay.

17 JUDGE TOREM: Mr. Gillett, any response?

18 MR. GILLETT: No, Your Honor. I don't think I had a
19 specific question as to that, so...

20 JUDGE TOREM: I think it's not necessary to go into
21 that part. It's not relevant --

22 THE WITNESS: Okay.

23 JUDGE TOREM: -- to this case, so I'll just strike
24 that part of the testimony about the water operator.

25 THE WITNESS: Okay.

0316

1 JUDGE TOREM: I know we had some discussion of that
2 back in December --

3 THE WITNESS: Right.

4 JUDGE TOREM: -- but it's not relevant to the numbers
5 today.

6 BY MR. GILLETT:

7 Q. So let me ask you this, if I can get back in my mind
8 of track here.

9 We've already testified about timely payments?

10 A. Yes.

11 (Mr. Gillett confers with Ms. Farmer.)

12 MR. GILLETT: Those are all the questions I have,
13 Your Honor.

14 JUDGE TOREM: Really?

15 Okay. Cross-exam?

16 MR. KOMBOL: Yes.

17

18 C R O S S - E X A M I N A T I O N

19 BY MR. KOMBOL:

20 Q. I'll go back to this document that we talked about.

21 A. Mm-hm.

22 JUDGE TOREM: So this is TF-10?

23 MR. KOMBOL: TF-10, yes.

24 BY MR. KOMBOL:

25 Q. I'll be handing you TF-10, which is a two-page

0317

1 document.

2 A. Yep.

3 Q. How long has Cristalina may have been using that
4 style of billing?

5 A. Since February of 2012.

6 Q. Oh, it's been in place for that long?

7 A. Yeah.

8 Q. And all these statements are identical. They say
9 late fees, 2 percent monthly if not paid by a certain date?

10 A. Correct.

11 Q. And you heard testimony from Mr. Elliott and also
12 from Mrs. Beck that you had trouble getting statements out to
13 your customers; was that accurate?

14 A. No. We haven't had trouble getting statements out to
15 our customers. There was a few occurrences that happened.

16 Q. There was testimony that there were envelopes
17 returned for no postage.

18 Has that happened with your water company?

19 A. I don't deal with the -- picking up the checks or the
20 deposits, so I can't speak to that.

21 Q. Well, how would you know that statements didn't go
22 out to customers if you didn't deal with it?

23 A. Because when I went back the last year just to go
24 over my accounts and audit them, I found that May's statements
25 did not go out. And I wrote a letter to all my customers

0318

1 saying, I'm sorry. This May statement didn't go out, and I
2 apologize.

3 Q. When did you write that letter?

4 A. I believe it was in October.

5 Q. In October of last year.

6 Is that the letter that's set forth at page D-41?
7 D-40. I'm sorry.

8 MR. GILLETT: Which letter?

9 JUDGE TOREM: Give me a second, Mr. Kombol, to see if
10 we can catch up with you.

11 MR. GILLETT: Yeah. Since I'm not dealing with your
12 D reference, what -- can I just take a quick look at that?

13 MR. KOMBOL: Oh, sure.

14 MR. GILLETT: Yep.

15 JUDGE TOREM: Which page are you suggesting it is?

16 MR. KOMBOL: Page 40.

17 JUDGE TOREM: Oh, 40.

18 So we're going to show you what's been marked as
19 Exhibit -- I think it's C-GB-40. It's a letter dated October
20 17, 2013, and that appears to be your signature at the bottom;
21 is that correct?

22 THE WITNESS: Correct.

23 JUDGE TOREM: Is that the number we're looking at,
24 Mr. Kombol?

25 MR. KOMBOL: Yes.

0319

1 BY MR. KOMBOL:

2 Q. Is it accurate -- when you say many anomalies were
3 found in your accounting system, was that accurate?

4 A. There were, yes.

5 Q. And that there were occasions -- you said May and
6 June -- where billings were not completed?

7 A. No. It was one billing from May to -- from May to
8 June. May 1st to June.

9 Q. And then you also say in the two sentences later, "At
10 the same time, we discovered the invoices were not being sent
11 timely."

12 Now, that would suggest that there's more than just
13 May or June.

14 Are you saying -- when you say "we discovered the
15 invoices were not being sent timely," are you suggesting that
16 refers up to the May-June billing?

17 A. I, at this time, knew that August was not delivered
18 timely.

19 Q. So your statement is that was referring to only
20 August, not --

21 A. And that May, May to June.

22 Q. Okay. Now, in August 3rd of 2012, you wrote a letter
23 to your customers, didn't you? And I'll refer you to Exhibit
24 C-GB-37, a letter to Dear Cristalina Customer.

25 MR. KOMBOL: I'm sorry. This was not yours. This

0320

1 was Stephanie's.

2 THE WITNESS: Yeah.

3 BY MR. KOMBOL:

4 Q. Do you have that in front of you?

5 A. (Witness reviews document.)

6 Q. Did you direct Stephanie to send that letter out?

7 A. I did not.

8 Q. Do you think this was sent out -- did you know this
9 letter was sent out?

10 A. No, I did not.

11 Q. And so if Stephanie said this to customers about
12 inaccurate bills, that was a statement that's not true?

13 A. I don't know if it's true or not. I didn't write the
14 letter. I did not authorize this letter.

15 Q. Okay. Was Stephanie someone who did send out
16 statements late because she was on vacation or ill?

17 A. She did not tell me that they were because of
18 vacation or illness. She did not disclose to me that she sent
19 out late payments -- late statements.

20 Q. Is this letterhead that Cristalina uses?

21 A. Yes, it's been used.

22 Q. And Stephanie Opsteegh was working for you in --

23 A. She was, yes.

24 Q. -- I believe, August of 2012?

25 A. Yes.

0321

1 Q. She continued working there until October of 2013?

2 A. Incorrect. She was --

3 Q. September?

4 A. Incorrect.

5 Q. When did she leave?

6 A. She was fired in August of '13; 2013.

7 Q. Okay. Was she fired because of failure to maintain
8 books and records and send out statements on time?

9 A. She was fired because of my realizing that the
10 statements were not sent on time, the May and the August --
11 well, I found out in August, and then in researching I found out
12 they were not sent out in May. A customer directly had
13 contacted me.

14 Q. Well, this letter is dated a year before?

15 A. What are you talking about?

16 Q. This letter, CB-37, is dated August of 2012.

17 A. Yeah. This is not the letter I wrote. This is her
18 letter.

19 MR. GILLETT: You asked her when she was fired, and
20 she told you it was in 2013.

21 MR. KOMBOL: Right.

22 THE WITNESS: Correct. I did not know about this
23 letter.

24 BY MR. KOMBOL:

25 Q. So for a 12-month period, a lady was handling your

0322

1 business affairs and sending things out to customers making
2 admissions on your letterhead?

3 A. Correct.

4 MR. GILLETT: Objection. Mis --

5 BY MR. KOMBOL:

6 Q. And you didn't know -- making statements on
7 letterhead that she kept? Do you have any reason to doubt that
8 this went out to your customer?

9 A. I don't know. I can't speak to it. I don't know.

10 Q. Who was doing the accounting -- when did Ms. -- when
11 did Stephanie start working for your company?

12 A. Sometime in 2011, I believe.

13 Q. Was she doing a good job in 2011 when she started
14 working?

15 A. Yes.

16 Q. And you had a different billing system, did you,
17 then?

18 A. Yes.

19 Q. Now, it's true, isn't it, that you disconnected the
20 Becks' water service back in 2009?

21 A. That is incorrect.

22 Q. You didn't disconnect them?

23 A. No.

24 Q. It's true, isn't it, that in the summer of 2009,
25 before upgrades were done to the system, many of your customers

0323

1 had no water service; isn't that true?

2 A. There were a couple outages, if that's what you're
3 speaking of, because everybody was receiving water.

4 Q. Are you certain about that?

5 A. Nobody had told me that they did not have water
6 besides the outages that I know of. I know there was complaints
7 of low water pressure.

8 Q. Tell me about outages.

9 When you recall hearing about outages, what do you
10 mean by "outages"?

11 A. The power would go out and people would not have
12 water.

13 Q. Are you talking about winter outages through storms?

14 A. Yeah; whenever that would happen, yeah.

15 Q. Do you recall outages in the summertime?

16 A. There were some broken pipes, and so people would not
17 have water if a main pipe broke. There was -- yeah. There were
18 instances that people didn't have water because there was damage
19 done and we had to shut it off to fix it.

20 Q. And that was 2009, 2010?

21 A. I don't recall exactly, but it's happened more than
22 once that pipes have broken.

23 Q. Did you tell folks that you would be crediting them
24 for periods when they didn't have water?

25 A. I did. I did say that, and I did do it a few times.

0324

1 Q. How do you know who didn't have water to give credits
2 to?

3 A. With the outages, it was everybody. I didn't --
4 yeah, it was everybody. If there was an outage, it was
5 everybody.

6 Q. Now, you're familiar with your company's records,
7 aren't you?

8 MR. GILLETT: Objection. Vague.

9 THE WITNESS: I don't know what records you're
10 speaking of.

11 BY MR. KOMBOL:

12 Q. Your financial accounting records. You've brought
13 them here asking these people to be liable, correct?

14 A. What specific financial records? I mean, I'm...

15 Q. Well, would you look through those records and tell
16 me where credits were given to the Becks for outages? Where you
17 indicated that you gave credits, are there any showing?

18 A. Yes, it's in Steven's.

19 (Witness reviews document.)

20 JUDGE TOREM: The witness is looking at Exhibit SE-1.

21 And which pages might reflect the credits? There's a
22 transaction list by customer pages at the end, Ms. Lindberg.

23 THE WITNESS: Yeah, the transaction -- yeah. It may
24 have only been this one.

25 (Witness reviews documents.)

0325

1 (Pause in the proceedings.)

2 THE WITNESS: I don't know how QuickBooks works, and
3 so I know that sometimes not all this stuff shows up.

4 And so maybe that customer transaction report doesn't
5 show a credit memo, because I have a credit memo for 4/1/2004
6 for \$3 on this sheet, and I think I saw one for \$4 somewhere
7 else.

8 BY MR. KOMBOL:

9 Q. Well, I'll continue on. We're running short of time.

10 A. Right.

11 Q. I think I would like to withdraw --

12 A. So, yes, I have, but it wasn't on that report. But
13 it's on their all transactions report.

14 Q. All right. There was water problems. The system had
15 slow, no water at times?

16 A. Correct.

17 Q. It got straightened out through a lot of work?

18 A. Correct.

19 Q. And there was a loan and that's all --

20 A. Yeah. And I got in big trouble from the UTC for
21 crediting people, and so I'm no longer able to credit people for
22 no water or low water usage. They have to go directly to the
23 UTC to get a complaint and get that forwarded, so...

24 Q. All right. Let's go back to the last bit of -- the
25 last I want to inquire of you is to go back to these invoices

0326

1 that are Exhibits C-GB-27 and 26.

2 And these were the documents that the accountant was
3 not able to respond to, and I'm just going to go into these.

4 JUDGE TOREM: Okay. So this is Exhibit C-GB-26.
5 This is the invoice with the due date of February 15, 2011.

6 MR. KOMBOL: Yes, Your Honor.

7 JUDGE TOREM: And the following page, the April 16,
8 2011.

9 MR. KOMBOL: And may I just...

10 JUDGE TOREM: Certainly.

11 MR. KOMBOL: So we're referring to the same document.

12 BY MR. KOMBOL:

13 Q. Are you familiar, Ms. Lindberg, with this type of
14 accounting system and the statements that you were sending out
15 at this time?

16 A. No, I'm not familiar with it. I'm not an accountant
17 and I'm not a bookkeeper.

18 Q. Who chose this invoicing system?

19 A. It's QuickBooks, and so -- it's QuickBooks, and then
20 I know that the bookkeeper worked with the UTC to make sure
21 everything was right because it's not a -- it's not a standard
22 form. I know the bookkeeper had to work with the UTC to make
23 sure that everything that needed to be on there is on there.

24 Q. And who is the bookkeeper?

25 A. At that point, it looks like it was Terryl Cooper.

0327

1 Q. And Stephanie Opsteegh replaced Terryl Cooper?

2 A. Correct.

3 Q. And we know that it's Terryl because of some contact
4 information up here (indicating)?

5 A. Correct.

6 Q. Well, actually, it says Stephanie.

7 A. It says Terryl here.

8 Q. It says Stephanie here; am I right?

9 JUDGE TOREM: Are you looking at the same page?

10 THE WITNESS: No, there's two pages.

11 MR. GILLETT: No, two different invoices.

12 BY MR. KOMBOL:

13 Q. 2/6 is Stephanie, 2/6 is Terryl, so could we be
14 around the time when they're swapping out?

15 A. Yeah, when they're switching. That could be true.

16 Q. Is...

17 A. Yes.

18 Q. All right. Maybe this will help me understand or
19 help us get to the bottom of it.

20 Can you tell me how a balance due could be reflected
21 on the statement from January of 2011, which would suggest that
22 \$7,199 is due?

23 A. Mm-hm.

24 Q. And then whether payments were made or not --

25 A. It went up.

0328

1 Q. -- by March 1, 2011, two months later, this
2 accounting software would reflect a thousand dollar higher
3 charge?

4 A. I can't tell you why it did that.

5 Q. Can you also tell me these bottom figures, about 30
6 days past due, 60 -- 31 to 60 and 61 to 90? Can you explain to
7 me how No. 26 would be \$68, and then the next one would be a
8 different figure, and then there would be in the March statement
9 zero 30 days past due but then a \$584.57 past due amount in the
10 31 to 60? Can you explain why that would be?

11 A. I can't. It looks like there was some discrepancy
12 between the two months with changing bookkeepers. I'm not a --
13 I don't know.

14 Q. What we do know -- or is it fair to assume that
15 Terryl -- is it Cooper?

16 A. Mm-hm.

17 Q. Terryl Cooper was doing some work putting that
18 person's signature; at least had their contact information on
19 this invoice?

20 A. Yeah.

21 Q. And by March, we have Stephanie doing stuff?

22 A. Correct.

23 Q. And Stephanie is doing stuff that is hard to explain?

24 MR. GILLETT: Objection.

25 THE WITNESS: I have no idea.

0329

1 MR. GILLETT: Vague.

2 THE WITNESS: I mean, I don't know if it was Terry
3 or Stephanie. I have no idea.

4 BY MR. KOMBOL:

5 Q. Well, at the same time as they're changing, the
6 balance due is changing in ways that we can't explain; am I
7 right?

8 A. Yeah, yeah. I can't explain it, correct.

9 Q. And if you got an invoice like that, you would have
10 questions, wouldn't you?

11 MR. GILLETT: Objection. Relevance. Calls for
12 speculation.

13 JUDGE TOREM: I'll allow Ms. Lindberg to answer the
14 question.

15 I think that he's asking you if you were a customer,
16 how would you react to those sequence of invoices; is that
17 correct, Mr. Kombol?

18 THE WITNESS: Yeah.

19 MR. KOMBOL: That's in essence what...

20 THE WITNESS: I would call the company and ask for a
21 history, right.

22 BY MR. KOMBOL:

23 Q. And be troubled about the accounting? Maybe
24 troubled --

25 A. Yeah. I would want to -- I would want to see, yeah.

0330

1 I would want the see the history.

2 MR. KOMBOL: Oh, what's that?

3 (Mr. Kombol confers with Ms. Burnett.)

4 MR. KOMBOL: Oh, oh, oh. Yeah. On -- I lost the
5 exhibit -- TF-10. Did I lose it? It should be over there.

6 JUDGE TOREM: I think Ms. Lindberg has TF-10
7 underneath all of the other work papers in front of her.

8 MR. KOMBOL: That's right. Okay.

9 BY MR. KOMBOL:

10 Q. Now, the figures that were used as the -- well, we've
11 had a lot of balance due figures that we've talked about.

12 A. Right.

13 Q. We've had 20. We've had 15. We've had 8.

14 A. Correct.

15 Q. We've had 3.

16 This was generated with your authority?

17 A. This was generated with my authority by --

18 MR. GILLETT: Wait for a question.

19 THE WITNESS: What?

20 Yes, yes.

21 BY MR. KOMBOL:

22 Q. And it was based upon your belief that work done by
23 Mr. Elliott was accurate or at least acceptable?

24 A. No. It was based on what I was told to do by the
25 UTC. I don't have a choice. So, no, I didn't not think it

0331

1 accurate. There's nothing I can do about it. I have to do what
2 the UTC says.

3 So, no, I don't agree with it, but there's nothing I
4 can do. I told Steve Elliott I didn't agree with it, but
5 there's nothing I can do. I do what the UTC tells me to.

6 MR. KOMBOL: And I think that's been admitted, and
7 I'll conclude my -- I think I have no other questions.

8 JUDGE TOREM: Thank you, Mr. Kombol.

9 Mr. Gillett, anything? Further follow-up?

10 MR. GILLETT: No.

11 JUDGE TOREM: Give me a moment to see if I have any
12 questions for Ms. Lindberg.

13 (Pause in the proceedings.)

14

15 E X A M I N A T I O N

16 BY JUDGE TOREM:

17 Q. Ms. Lindberg, you testified that you were aware of
18 some outages?

19 A. Yes.

20 Q. Do you know about the lengths of any of those
21 outages?

22 A. I can't recall. Sometimes it was a day, two days.

23 Q. So they were days at a time?

24 A. Yeah.

25 Q. Not months at a time?

0332

1 A. Oh, no. No, no, no.

2 Q. And to best of your knowledge, if you promised to
3 make an adjustment to a bill for periods of outage, the
4 customers, as a whole, were credited?

5 A. Yes. Until I was told I could not do that and got in
6 trouble.

7 Q. And you said the UTC directed you to stop making
8 those kind of adjustments?

9 A. Yeah. They said I was not authorized to do so; that
10 they had the jurisdiction over that; and that anybody that
11 wanted credit had to do a formal compliant through them. I was
12 actually fined for doing that.

13 (Reporter interruption for clarification.)

14 BY JUDGE TOREM:

15 Q. How many customers does Cristalina serve?

16 A. Eighty-four.

17 Q. Eighty-four.

18 JUDGE TOREM: Those are all the questions I had.

19 Mr. Gillett, anything further?

20 MR. GILLETT: No, Your Honor.

21 JUDGE TOREM: Mr. Kombol, anything further?

22 MR. KOMBOL: No, Your Honor.

23 JUDGE TOREM: Thank you, Ms. Lindberg. You can step
24 down from the witness chair and back to the other end of the
25 table.

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1 MS. BECK: I'll take a copy. That's fine.

2 JUDGE TOREM: All right.

3 MR. KOMBOL: May I exchange?

4 JUDGE TOREM: Well, I want to keep the one that I
5 have marked on, and I'll take the original --

6 MR. KOMBOL: All right.

7 JUDGE TOREM: -- and put it in my files. Thank you.
8 So long as Ms. Beck is assured she has a copy for her purposes,
9 I think we're good on that.

10 MS. BECK: That's good.

11 JUDGE TOREM: All right. So from here, would you
12 prefer to give a closing summation verbally today, or is there a
13 need for some specific areas for a closing brief? I don't want
14 to put you to more work than you think I need to hear from you,
15 but is there some way of putting everything we heard together
16 today into a nice wrapped up form?

17 MR. GILLETT: I think so.

18 JUDGE TOREM: And how would you like to proceed,
19 Mr. Gillett?

20 MR. GILLETT: I would like to proceed orally. And,
21 you know, I think it's five minutes or less, but, you know,
22 being a lawyer and finding myself talking for a lot longer than
23 I think I'm going to talk, it might be ten minutes.

24 JUDGE TOREM: Okay. Mr. Kombol, how would you like
25 to proceed?

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1 MR. KOMBOL: Well, I have a desire to put some law in
2 front of you, and so I anticipate no matter what we do,
3 submitting a memorandum of legal authorities with respect to the
4 essential issues. We have accounting issues and we have statute
5 of limitations issues, so I would like to be able to do that.

6 JUDGE TOREM: Okay. How long would you need to
7 submit your memorandum?

8 MR. KOMBOL: Oh, I think I can do it, you know, by
9 next Friday. No, that's not good.

10 MS. BURNETT: I'm out of town.

11 MR. KOMBOL: By the Friday after, by the 5th of June,
12 is when I think I can get a memorandum done.

13 MR. GILLETT: Is that what the Friday after is, the
14 5th of June?

15 MR. KOMBOL: I think after Memorial Day, yeah.

16 But if...

17 MR. GILLETT: I mean, if we're going to do written
18 briefs, I don't think that there's any need to do oral closings.

19 So my suggestion would be if he's going to submit on
20 the 5th, then I would submit something a week later.

21 JUDGE TOREM: The dates involved, Friday is the 6th
22 of June.

23 MR. GILLETT: Oh, then the 6th.

24 And, Mr. Kombol, you think that you would like to
25 essentially send out a memorandum of authorities regarding

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1 accounting issues, statute of limitation issues, as well as a
2 quick summary of your client's position?

3 MR. KOMBOL: You know, that's how -- I basically
4 write memos that way where I do a summary of position, and I lay
5 it out with authority and probably just address the issues or
6 address the accountings that were done. I'm not going to go
7 heavy on facts because you have the facts.

8 Counsel, do you agree that a brief summary of facts
9 is what we should do? And then if there's legal issues...

10 MR. GILLETT: Yes. I'll respond to your legal
11 issues, and I think the summary of facts would be relatively
12 short.

13 MR. KOMBOL: Yes.

14 JUDGE TOREM: All right. That would be fine. If I
15 need something further, I'll send out in Commission style a
16 bench request for a specific point and a specific question to
17 be answered and provide you each a deadline by which to respond.
18 So I'll wait till I get the memoranda.

19 Mr. Gillett, if he files on Friday, the 6th, I
20 hope -- then Mr. Kombol will send that in electronically and
21 copy both of us directly by e-mail so you get it on the Friday
22 and don't have to wait for the mail to come or something on the
23 following week.

24 How long would you need? One week or two?

25 MR. GILLETT: Well, and I guess it would depend on

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1 how long the memorandum is.

2 Why don't I say two because I just don't know.

3 JUDGE TOREM: All right. So that would put it out to
4 June 20th.

5 MR. GILLETT: Yeah.

6 JUDGE TOREM: All right. So then the record,
7 assuming I don't need anything further, would close Friday, June
8 20th. I will read these probably toward the end of June.
9 I'll probably not start crafting an opinion until we get into
10 July due to some other commitments, so I hope that I will know
11 by a few weeks after your filing if I need anything else and be
12 able to promptly ask you for it and look to get an order out the
13 following month or early into August. That's depending on how
14 complex it turns out to be.

15 Counsel, anything else?

16 MR. KOMBOL: Just thank you for your patience. I
17 didn't mean to frustrate you. We'd all rather be somewhere else
18 I know.

19 JUDGE TOREM: Understood. Understood.

20 All right. So Friday, June 6th, Mr. Kombol, and
21 Friday, June 20th, for Mr. Gillett.

22 I'm not going to send out a separate order for those
23 dates, so they're in the record.

24 And if there's nothing else today?

25 MR. GILLETT: June 6 and June 20, okay.

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1 JUDGE TOREM: Mr. Kombol, anything else for the
2 record?

3 MR. KOMBOL: No, no. Nothing at all.

4 JUDGE TOREM: All right. Then we are adjourned at
5 about almost 4:40. Thank you.

6 MR. GILLETT: Thank you, Your Honor.

7 MR. KOMBOL: Thank you, Your Honor.

8 (Proceeding adjourned at 4:38 p.m.)

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C E R T I F I C A T E

STATE OF WASHINGTON)

) ss

COUNTY OF KING)

I, SHELBY KAY K. FUKUSHIMA, a Certified Shorthand Reporter
and Notary Public in and for the State of Washington, do hereby
certify that the foregoing transcript is true and accurate to
the best of my knowledge, skill and ability.

IN WITNESS WHEREOF, I have hereunto set my hand and seal
this 3rd day of June, 2014.

SHELBY KAY K. FUKUSHIMA, CCR

My commission expires:
June 29, 2017

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