

OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS
FOR MONTGOMERY COUNTY

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ERIK BELFIORE,	:	
	:	
Complainant,	:	Case No. E-05548
	:	OZAH No. 14-02
v.	:	
	:	
MERCHANT LINK, LLC.	:	
	:	
Respondent.	:	
-----x	:	

A hearing in the above-entitled matter was held on
February 12, 2015, commencing at 9:33 a.m., at the Office of
Zoning and Administrative Hearings, 100 Maryland Avenue,
Rita Davidson Memorial Hearing Room, Rockville, Maryland
20850 before:

Lutz Alexander Prager
Hearing Examiner

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A P P E A R A N C E S					P R O C E E D I N G S
On Behalf of the Complainant:					MR. PRAGER: All right. We're on the record.
William Johnson, Esq.					Good morning, this is a continuation of the hearing in
					Belfiore versus Merchant Link, LLC, and Mr. Daniel Lane is
					on the witness stand. Mr. Lane, as I had mentioned
					yesterday, you are still under oath. Do you understand
					that?
On Behalf of the Respondent:					MR. LANE: Yes, sir.
Peter Petesch, Esq.					MR. PRAGER: All right. Mr. Petesch, he's your
Steven A. Kaplan, Esq.					witness at the moment, so you may continue your examination.
					MR. PETESCH: Thank you very much. Mr. Lane we
					were talking yesterday about attempts to increase Erik
					Belfiore's salary in the fall of 2011. I just want to get
					you there mentally.
					MR. LANE: Uh-huh.
					MR. PETESCH: Can you tell me or can you tell us,
					who Wendy Nussbaum is?
					MR. LANE: She was the Director of Human Resources
					at the time for Merchant Link.
					MR. PETESCH: In connection with Mr. Belfiore's
					raise, did you get Wendy Nussbaum involved in any way?
					MR. LANE: Yes. I asked her to pull some market
					data for Chief Operating Officers in the D.C. area, to help
					validate the salary increase.
					MR. PETESCH: Okay. I'm going to first show you
WITNESSES:					
Direct					Cross
Redirect					Recross
Daniel Lane					
By Mr. Petesch:					4
By Mr. Johnson:					124
					82
Renee Dantzler					
By Mr. Johnson:					132
By Mr. Kaplan:					156
					178
Timothy Rynell Robinson					
By Mr. Johnson:					181
By Mr. Petesch:					200
					211
					</

<p style="text-align: right;">Page 6</p> <p>1 MR. PRAGER: All right. Respondent's Exhibit 83 2 is admitted. 3 (Respondent's Exhibit No. 83 4 previously marked for 5 identification was received 6 into evidence.) 7 MR. PETESCH: Now Mr. Lane, I had asked you some 8 questions before about Wendy Nussbaum and I'm going to ask 9 you to refer to Joint Exhibit Number 85 also in your black 10 book. 11 MR. PRAGER: Bear with me for a moment. 12 MR. PETESCH: Sure. 13 MR. PRAGER: All right, Mr. Petesch. 14 MR. PETESCH: Thank you. Mr. Lane, are you at 15 Exhibit Number -- 16 MR. LANE: Yes, I am. 17 MR. PETESCH: -- 85? 18 MR. LANE: Yes, I am. 19 MR. PETESCH: Can you tell us what this is? These 20 look to be a series of e-mails, but can you describe what 21 these are and the purpose? 22 MR. LANE: Yes, I believe this is an e-mail 23 exchange I had with Wendy to prepare the, prepare the 24 adjustment to be processed and to be approved by the Board 25 of Directors.</p>	<p style="text-align: right;">Page 8</p> <p>1 MR. PETESCH: Thank you. Now Mr. Lane there is 2 other text or draft text in this e-mail and I'm referring to 3 the second page of Exhibit Number 85, making the observation 4 that his salary is significantly below market for a COO in 5 an organization our size. Do you see that? 6 MR. LANE: Yes. 7 MR. PETESCH: Were you referring to salary or 8 total compensation in that reference? 9 MR. LANE: Salary. 10 MR. PETESCH: And with respect to Mr. Belfiore and 11 this effort to compare him to other Chief Operating Officers 12 outside the organization, was Mr. Belfiore, in your mind a 13 conventional Chief Operating Officer, given his duties at 14 Merchant Link? 15 MR. LANE: No. I think typically a Chief 16 Operating Officer had a broader range of responsibility than 17 Erik had at the time. 18 MR. PETESCH: And did you take that into account 19 at that time? 20 MR. LANE: Yes, I did. 21 MR. PETESCH: Did you believe at the time that he 22 needed to be put on a par, at least on salary with the local 23 market average for a Chief Operating Officers? 24 MR. LANE: Well, again I think the typical COO 25 market average for a COO would have been higher because a</p>
<p style="text-align: right;">Page 7</p> <p>1 MR. PETESCH: Okay. At this point had you started 2 consulting with at least the Compensation Committee members 3 of the Board? 4 MR. LANE: I don't recall. I, I, I don't recall, 5 I probably had had e-mail conversations, or excuse me, phone 6 conversations but I just don't recall the timing of this. 7 MR. PETESCH: Okay. And what were you asking 8 Wendy to do in these e-mails? 9 MR. LANE: I was asking her to review my e-mail 10 that I was preparing to send to the Board of Directors, or 11 to the Compensation Committee. 12 MR. PETESCH: Okay. I move for admission of 13 Exhibit Number 85. 14 MR. PRAGER: Mr. Johnson? 15 MR. JOHNSON: No objection, Your Honor. 16 MR. PETESCH: Now there is -- 17 MR. PRAGER: Just a moment. 18 MR. PETESCH: Sure. 19 MR. PRAGER: Respondent's Exhibit 85 will be 20 admitted. 21 (Respondent's Exhibit No. 85 22 previously marked for 23 identification was received 24 into evidence.) 25 MR. PRAGER: Mr. Petesch?</p>	<p style="text-align: right;">Page 9</p> <p>1 COO's responsibility is typically broader than what Erik's 2 responsibility was. So I felt his salary should be somewhat 3 below quote average. 4 MR. PETESCH: Now at the same time, I'll refer to 5 you Joint Exhibit Number 87, which is also Belfiore Exhibit 6 Number 62. I don't know which, since he's in the black 7 binder, can we stipulate that 87 equals 62 as we did 8 yesterday? 9 MR. PRAGER: All right. We went through this 10 yesterday -- 11 MR. PETESCH: Yes. 12 MR. PRAGER: -- yes, but let's refer to 62. You 13 can use it if he has it in front of him, you can use your 14 87, but it will be -- 15 MR. PETESCH: When I ask questions, I'll refer to 16 it as Belfiore Exhibit Number 62. 17 MR. PRAGER: Exactly. 18 MR. PETESCH: Great. Mr. Lane, are you at that 19 document that's been previously admitted as Belfiore Exhibit 20 Number 62? 21 MR. LANE: Yes. 22 MR. PETESCH: And is this part of your 23 correspondence or your follow up with members of the 24 Compensation Committee of the Board? 25 MR. LANE: Yes, it is. It's correspondence with</p>

<p style="text-align: right;">Page 10</p> <p>1 Barry McCarthy who was the First Data representative on the 2 Compensation Committee. 3 MR. PETESCH: And prior to this e-mail had you 4 been having conversations with the members of the 5 Compensation Committee, Dan Charron and Barry McCarthy? 6 MR. LANE: Yes, I had. 7 MR. PETESCH: Regarding Mr. Belfiore's salary? 8 MR. LANE: Yes. 9 MR. PETESCH: Did you ever forward any of Wendy 10 Nussbaum's research on salaries and such to the Compensation 11 Committee? 12 MR. LANE: I did, yes. 13 MR. PETESCH: I'm going to ask you to take a look 14 at Merchant Link Exhibit Number, I'd like to do a whole 15 series of them, 90 through 96, if that is acceptable to the 16 Hearing Examiner, it might make things go faster. 17 MR. PRAGER: Well you can certainly ask about it 18 and information and then we'll go through each of them as -- 19 MR. PETESCH: Certainly. 20 MR. PRAGER: -- in terms of admission. 21 MR. PETESCH: Let's start with Joint Exhibit 22 Number 90. 23 MR. PRAGER: Bear with me. 24 MR. PETESCH: Sure. 25 MR. PRAGER: All right, Mr. Petesch.</p>	<p style="text-align: right;">Page 12</p> <p>1 (Respondent's Exhibit No. 90 2 previously marked for 3 identification was received 4 into evidence.) 5 MR. PETESCH: I ask you to turn to Exhibit Number 6 91. 7 MR. LANE: Okay. We're there. 8 MR. PETESCH: Do you recognize this document? 9 MR. LANE: Yes, I do. 10 MR. PETESCH: Was this part of Wendy Nussbaum's 11 research as well? 12 MR. LANE: Yes, it was. 13 MR. PETESCH: And was this to your knowledge 14 submitted with your e-mails to the Board of Directors 15 Compensation Committee? 16 MR. LANE: Yes, it was. 17 MR. PETESCH: Move for admission of Joint Exhibit 18 Number 91. 19 MR. PRAGER: All right. Respondent's Exhibit 9 20 will be -- I'm sorry, I forgot to ask Mr. Johnson. Do you 21 have any objection? 22 MR. JOHNSON: No, Your Honor, no opposition. 23 MR. PRAGER: Joint Exhibit, I'm sorry, now I'm 24 getting confused. Respondent's Exhibit 91 will be admitted. 25 (Respondent's Exhibit No. 91</p>
<p style="text-align: right;">Page 11</p> <p>1 MR. PETESCH: Mr. Lane, do you recognize this? 2 MR. LANE: Yes. This was one of the documents 3 that Wendy gathered to assess market, market rates for Chief 4 Operating Officers. 5 MR. PETESCH: And was this among the documents 6 forwarded to the Compensation Committee? 7 MR. LANE: I believe it was, yes. 8 MR. PETESCH: I move for admission of Exhibit 90. 9 MR. PRAGER: Mr. Johnson? 10 MR. JOHNSON: No opposition, Your Honor. 11 MR. PRAGER: Let me just understand your answer, 12 Mr. Lane. You don't know whether this was in fact 13 submitted, it's your belief that it was, but you have no 14 direct knowledge one way or another? 15 MR. LANE: Correct. I know we did submit some 16 documents. I don't remember if we sent all six of these 17 documents to the Compensation Committee. 18 MR. PETESCH: Are you confident -- 19 MR. PRAGER: Just a moment. 20 MR. PETESCH: Sure. 21 MR. PRAGER: Counsel has managed to deforest most 22 of Brazil with all of this paper. 23 MR. PETESCH: Hopefully it's recycled paper. 24 MR. PRAGER: So it will take me a while to catch 25 up. Respondent Exhibit 90 will be admitted.</p>	<p style="text-align: right;">Page 13</p> <p>1 previously marked for 2 identification was received 3 into evidence.) 4 MR. PETESCH: Thank you. I'll ask you to take a 5 look at what's been called Joint Exhibit, but we'll call it 6 Respondent's Exhibit Number 92. 7 MR. LANE: Yes. 8 MR. PETESCH: Do you recognize this document? 9 MR. LANE: Yes, I do. 10 MR. PETESCH: Was this part of Wendy Nussbaum's 11 research? 12 MR. LANE: It was. 13 MR. PETESCH: Was this forwarded to the 14 Compensation Committee of the Board? 15 MR. LANE: Again, I, I think it likely was, I 16 don't remember whether this specific document went over. 17 MR. PETESCH: Move for admission of Joint Exhibit 18 Number 92. 19 MR. PRAGER: Mr. Johnson? 20 MR. JOHNSON: No objection, Your Honor. 21 MR. PRAGER: Respondent's Exhibit 92 will be 22 admitted into the record. 23 (Respondent's Exhibit No. 92 24 previously marked for 25 identification was received</p>

<p style="text-align: right;">Page 14</p> <p>1 into evidence.)</p> <p>2 MR. PETESCH: Let's take a look at Joint Exhibit</p> <p>3 or Respondent's Exhibit Number 93.</p> <p>4 MR. LANE: Yes.</p> <p>5 MR. PETESCH: Do you recognize that document?</p> <p>6 MR. LANE: I do.</p> <p>7 MR. PETESCH: Was that part of Wendy Nussbaum's</p> <p>8 research?</p> <p>9 MR. LANE: Yes, it was.</p> <p>10 MR. PETESCH: Is it your belief that this document</p> <p>11 was also forwarded to the Compensation Committee?</p> <p>12 MR. LANE: Yes, it is.</p> <p>13 MR. PETESCH: I move for admission of Joint</p> <p>14 Exhibit Number 93.</p> <p>15 MR. PRAGER: Mr. Johnson?</p> <p>16 MR. JOHNSON: No objection, Your Honor.</p> <p>17 MR. PRAGER: Respondent's Exhibit 93 will be</p> <p>18 admitted.</p> <p>19 (Respondent's Exhibit No. 93</p> <p>20 previously marked for</p> <p>21 identification was received</p> <p>22 into evidence.)</p> <p>23 MR. PETESCH: Well let's look at Joint Exhibit</p> <p>24 Number 94.</p> <p>25 MR. LANE: Yes.</p>	<p style="text-align: right;">Page 16</p> <p>1 MR. LANE: Yes it was.</p> <p>2 MR. PETESCH: Is it your belief that this document</p> <p>3 was forwarded to the Compensation Committee of the Board?</p> <p>4 MR. LANE: Yes.</p> <p>5 MR. PETESCH: Move for admission of Joint Exhibit</p> <p>6 Number 95.</p> <p>7 MR. PRAGER: Mr. Johnson?</p> <p>8 MR. JOHNSON: No objection, Your Honor.</p> <p>9 MR. PRAGER: Respondent's Exhibit 95 will be</p> <p>10 admitted.</p> <p>11 (Respondent's Exhibit No. 95</p> <p>12 previously marked for</p> <p>13 identification was received</p> <p>14 into evidence.)</p> <p>15 MR. PETESCH: Take a look at Joint Exhibit Number</p> <p>16 96, please.</p> <p>17 MR. LANE: Yes.</p> <p>18 MR. PETESCH: Do you recognize this document?</p> <p>19 MR. LANE: Yes.</p> <p>20 MR. PETESCH: Was this part of Wendy Nussbaum's</p> <p>21 research conducted on salaries?</p> <p>22 MR. LANE: Yes.</p> <p>23 MR. PETESCH: And is it your belief that this</p> <p>24 document was also forwarded to the Compensation Committee of</p> <p>25 the Board?</p>
<p style="text-align: right;">Page 15</p> <p>1 MR. PETESCH: Do you recognize that?</p> <p>2 MR. LANE: Yes, I do.</p> <p>3 MR. PETESCH: Was this part of Wendy Nussbaum's</p> <p>4 research?</p> <p>5 MR. LANE: Yes.</p> <p>6 MR. PETESCH: Is it your belief that this document</p> <p>7 was also forwarded to the Compensation Committee?</p> <p>8 MR. LANE: Yes.</p> <p>9 MR. PETESCH: I move for admission of Joint</p> <p>10 Exhibit Number 94.</p> <p>11 MR. PRAGER: Mr. Johnson?</p> <p>12 MR. JOHNSON: No objection.</p> <p>13 MR. PRAGER: Respondent's Exhibit 94 will be</p> <p>14 admitted.</p> <p>15 (Respondent's Exhibit No. 94</p> <p>16 previously marked for</p> <p>17 identification was received</p> <p>18 into evidence.)</p> <p>19 MR. PETESCH: Thank you. Just a couple more. Now</p> <p>20 let's take a look at Joint Exhibit Number 95.</p> <p>21 MR. LANE: Yes.</p> <p>22 MR. PETESCH: Do you recognize this document?</p> <p>23 MR. LANE: I do.</p> <p>24 MR. PETESCH: Was this part of Wendy Nussbaum's</p> <p>25 research?</p>	<p style="text-align: right;">Page 17</p> <p>1 MR. LANE: Yes.</p> <p>2 MR. PETESCH: I move for admission of Joint</p> <p>3 Exhibit Number 96.</p> <p>4 MR. PRAGER: Mr. Johnson?</p> <p>5 MR. JOHNSON: No objection, Your Honor.</p> <p>6 MR. PRAGER: Okay. Respondent's Exhibit 96 will</p> <p>7 be admitted.</p> <p>8 (Respondent's Exhibit No. 96</p> <p>9 previously marked for</p> <p>10 identification was received</p> <p>11 into evidence.)</p> <p>12 MR. PETESCH: What was the response, if you</p> <p>13 recall, from the Compensation Committee after forwarding</p> <p>14 information on market salaries and such?</p> <p>15 MR. PRAGER: Can you rephrase that? Because I</p> <p>16 think the testimony has been that the committee was polled</p> <p>17 individually rather than as a committee. So if you could</p> <p>18 bifurcate Mr. Charron and Mr. McCarthy, it probably would be</p> <p>19 more helpful.</p> <p>20 MR. PETESCH: Sure. Mr. Lane, were there two</p> <p>21 members of the Compensation Committee?</p> <p>22 MR. LANE: There were.</p> <p>23 MR. PETESCH: And did you speak with them</p> <p>24 regarding Mr. Belfiore's salary together or did you speak</p> <p>25 with them individually?</p>

<p style="text-align: right;">Page 18</p> <p>1 MR. LANE: Initially I spoke with them 2 individually and then, and then we had a Compensation 3 Committee meeting and I spoke with them together. But 4 initially I had phone calls, phone conversations with each 5 of them individually. 6 MR. PETESCH: Okay. Do you recall speaking to 7 them either individually or collectively after you forwarded 8 Wendy Nussbaum's research on market salary rates? 9 MR. LANE: Individually, yes. 10 MR. PETESCH: Okay. And if you could break down 11 the feedback that you received from each one, let's start 12 with Mr. McCarthy, if you recall. 13 MR. LANE: Barry's feedback was primarily that he 14 wanted me to establish some goals or milestones for Erik and 15 he was more in favor of staging up the increase rather than 16 giving it to him all, all at once. Because he felt like it 17 was a very large increase in spite of the market data and 18 then after some back and forth wanted to discuss it at a 19 Compensation Committee hearing to get Dan Charron's input. 20 Dan didn't have a lot of feedback to the market data, 21 frankly. 22 MR. PETESCH: Did you have any feedback to Barry 23 McCarthy on his proposal to phase it in or create 24 milestones? 25 MR. LANE: Yes, I said I would, I would do that</p>	<p style="text-align: right;">Page 20</p> <p>1 but you have to bear with me while I locate all of these 2 documents. 3 MR. PETESCH: I'm just trying to stay within my 4 estimated time frame. 5 MR. PRAGER: I appreciate that. Respondent's 6 Exhibit Number 97 will be admitted. 7 (Respondent's Exhibit No. 97 8 previously marked for 9 identification was received 10 into evidence.) 11 MR. PETESCH: Thank you. At this stage on October 12 25th of 2011, had the Compensation Committee reached a final 13 decision regarding approval or disapproval of the request to 14 raise Mr. Belfiore's salary? 15 MR. LANE: No, they hadn't. 16 MR. PETESCH: Now let's fast forward to November 17 11th of 2011. By November 11th of 2011, had the 18 Compensation Committee reached a final decision regarding 19 Mr. Belfiore's salary? 20 MR. LANE: No, they had not. 21 MR. PETESCH: Between this time, October 25th of 22 2011 and November 11th of 2011, had you continued your 23 efforts to have Mr. Belfiore's salary raised? 24 MR. LANE: Yes. 25 MR. PRAGER: Could you explain what you did after</p>
<p style="text-align: right;">Page 19</p> <p>1 and develop those milestones and incorporate that into the, 2 into the conversation. 3 MR. PETESCH: Okay. And I'm going to refer you to 4 Joint Exhibit Number 97. 5 MR. PRAGER: Just a moment. All right, Mr. 6 Petesch. 7 MR. PETESCH: Mr. Lane, do you recognize this 8 document? 9 MR. LANE: Yes. 10 MR. PETESCH: And can you tell us what it is? 11 MR. LANE: It's an e-mail from Wendy Nussbaum to 12 Erik Belfiore on, after the Compensation Committee met and 13 she's updating him on the outcome of the Compensation 14 Committee meeting where they wanted her to gather more 15 historical information on his total compensation and she's 16 asking him to provide any input that he has as, for part of 17 that process. 18 MR. PETESCH: Okay. First, I move for admission 19 of Joint Exhibit or Respondent's Exhibit Number 97. 20 MR. PRAGER: Mr. Johnson? 21 MR. JOHNSON: No objection, Your Honor. 22 MR. PETESCH: Had -- 23 MR. PRAGER: Just a moment. 24 MR. PETESCH: I'm sorry. 25 MR. PRAGER: I know you're anxious, Mr. Petesch,</p>	<p style="text-align: right;">Page 21</p> <p>1 the 25th? 2 MR. LANE: Sure. Wendy was focused on pulling AIP 3 and LTIP historical data. Our records were not as organized 4 as they could have been because we had recently or were in 5 the process, or had recently pulled all of our HR out of 6 Paymentech into Merchant Link. So we were in the process of 7 building our HR Department, so that took longer than it 8 should have because the records were not all in one place 9 and I was also working to develop the goals that Barry was 10 focused on. In addition, to schedule meetings with these 11 two individuals, they travel a lot, they're busy, we had to 12 work through their personal assistants, so it was 13 challenging to get time on their calendar for follow up 14 meetings. So that's what was happening in the process, 15 after this e-mail was sent. 16 MR. PRAGER: Mr. Petesch? 17 MR. PETESCH: Thank you. Mr. Land, I'm going to 18 ask you to take a look at Joint Exhibit Number or Merchant 19 Link Exhibit Number 88. 20 MR. LANE: Yes. 21 MR. PETESCH: Do you recognize this document? 22 MR. LANE: Yes. 23 MR. PETESCH: And can you just summarize for us 24 what it is? 25 MR. LANE: It's a series of e-mails between me and</p>

<p style="text-align: right;">Page 22</p> <p>1 Barry McCarthy, where I was trying to get or ask Barry to, 2 to raise Erik's salary to \$172,000. 3 MR. PETESCH: Now looking an e-mail from you to 4 Barry McCarthy on October 17th of 2011 at 2:17 p.m., that's 5 on the first page. Do you see that? 6 MR. LANE: Yes. 7 MR. PETESCH: Does that refresh your recollection 8 as to your feedback to Barry's suggestion of, for lack of a 9 better word, milestones or a phased in increase? 10 MR. LANE: Yes, it does. 11 MR. PETESCH: And what's your recollection on 12 that? 13 MR. LANE: So Barry had talked to me about the 14 milestones and over the weekend I was concerned that putting 15 the milestones in place would mean that the increase would 16 be implemented over a period of time rather than all at 17 once. I was concerned that that was different than the 18 commitment I had made to, to Erik. So I sent another e-mail 19 to Barry asking him to reconsider that position and then 20 Erik, or excuse me, Barry didn't respond to that e-mail so 21 I sent him another e-mail again asking him, trying to push 22 that along and evidently that prompted him to have a 23 conversation with Dan Charron and they exchanged voice 24 messages and he asked me then to schedule the Comp Committee 25 meeting.</p>	<p style="text-align: right;">Page 24</p> <p>1 the actual document. So the actual document actually is in 2 this binder. There's a series of other e-mails, but we also 3 have it in our 62, with the actual the salaries. 4 MR. PETESCH: The actual salaries are in, I stand 5 corrected then. 6 MR. PRAGER: All right. 7 MR. PETESCH: Thank you. 8 MR. PRAGER: Yes, I knew that I had seen them but 9 I didn't know whether it was the same dates that as this 10 document. With that understanding that this is not a 11 complete document but that the information is elsewhere in 12 the record already, this document will be admitted. 13 MR. PETESCH: And that would be within I believe 14 Belfiore Exhibit Number 62, correct? 15 MR. JOHNSON: Yes. And I thought I saw it in 16 yours as well, let me check again. 17 MR. PETESCH: Okay. Thank you. I appreciate 18 that, Mr. Johnson. Thank you. Yes. Yes, it's in a -- 19 MR. PRAGER: Excuse me, let's go off -- 20 MR. JOHNSON: I'm sorry. 21 MR. PRAGER: -- the record. 22 (OFF THE RECORD.) 23 (ON THE RECORD.) 24 MR. PRAGER: We'll go back on the record, during 25 this brief recess counsel for both parties agreed that the</p>
<p style="text-align: right;">Page 23</p> <p>1 MR. PETESCH: Okay. And then when was the Comp 2 Committee meeting scheduled for? 3 MR. LANE: The 25th of October. 4 MR. PETESCH: I move for admission of Exhibit 5 Number 88. 6 MR. PRAGER: Mr. Johnson? 7 MR. JOHNSON: No objection, Your Honor. 8 MR. PRAGER: I have a question about this 9 document. Mr. Lane, can you look at the bottom of the 10 second page of the document and it says some comparable 11 salaries in Merchant Link and then it gives a list of names, 12 but no salaries. And I have seen another e-mail that does 13 include salaries and this same list. Was this particular 14 document redacted before it was submitted to your lawyers, 15 do you know? 16 MR. LANE: Yes. I'm sure it would have included 17 the salaries that, that was the case I was making. 18 MR. PETESCH: This was not a redacted document. 19 When we're redacting a document in production we put black 20 marks, just to be very clear, transparent that we're doing a 21 redaction. 22 MR. JOHNSON: Actually, Your Honor, this was a 23 document that actually was redacted. Counsel may not be 24 privy to it because it was prior counsel that had handled it 25 and we actually did a motion to compel for them to produce</p>	<p style="text-align: right;">Page 25</p> <p>1 information that I was asking about is in Complainant's 62 2 and Complainant's Exhibit 87, is that correct? 3 MR. BELFIORE: Respondent's Exhibit. 4 MR. PRAGER: In Merchant Link's Exhibit -- 5 MR. BELFIORE: Yes. 6 MR. PRAGER: -- Number 87. 7 MR. JOHNSON: Yes, Your Honor. 8 MR. PRAGER: All right. Mr. Petesch, do you agree 9 as well? 10 MR. PETESCH: Yes, I agree and I thank you for 11 your indulgence. But and you were asking a question, may I 12 resume? 13 MR. PRAGER: Yes, please. 14 MR. PETESCH: Thank you. The Hearing Examiner did 15 ask you a question and I'm referring right now to Exhibit 16 Number 88, but it could just as well be referring to Exhibit 17 Number 62, Belfiore Exhibit Number 62. You were asked about 18 a passage in there and some comparable salaries in Merchant 19 Link and then a number of individuals are listed. Do you 20 see that, Mr. Lane? 21 MR. LANE: Yes, I do. 22 MR. PETESCH: Okay. And you included yourself as 23 CEO in that list, do you see that? 24 MR. LANE: Yes. 25 MR. PETESCH: Did you regard yourself as being</p>

<p style="text-align: right;">Page 26</p> <p>1 comparable in duties at the time to Mr. Belfiore?</p> <p>2 MR. LANE: No, I didn't.</p> <p>3 MR. PETESCH: Did you regard the others as being</p> <p>4 comparable in duties to Mr. Belfiore?</p> <p>5 MR. LANE: Well I think the word I used is</p> <p>6 comparable. I, I don't know if there is a Webster</p> <p>7 difference between comparable and comparable but I wanted to</p> <p>8 give Barry McCarthy visibility into the top management at</p> <p>9 Merchant Link and what some of their salaries were.</p> <p>10 MR. PETESCH: Okay. Now in terms of the others in</p> <p>11 senior management that you had listed at Merchant Link,</p> <p>12 besides Mr. Belfiore, did any of those other individuals</p> <p>13 come up from the ranks of middle management at Merchant</p> <p>14 Link?</p> <p>15 MR. LANE: No.</p> <p>16 MR. PETESCH: Mr. Lane, a separate question, had</p> <p>17 any white employees risen through the ranks of middle</p> <p>18 management at Merchant Link faster than Erik Belfiore had in</p> <p>19 terms of total compensation?</p> <p>20 MR. LANE: One person I can think of is Sue Zloth.</p> <p>21 She was hired in, well you said faster than, so not faster</p> <p>22 than. She was hired in 1997 and had risen through the ranks</p> <p>23 to a VP level but not faster than Erik.</p> <p>24 MR. PETESCH: And was Sue Zloth's name on any of</p> <p>25 the patents for Merchant Link technology?</p>	<p style="text-align: right;">Page 28</p> <p>1 his level of engagement upon his return from medical leave</p> <p>2 yesterday. Do you recall our covering that yesterday?</p> <p>3 MR. LANE: Yes. Yes, I do.</p> <p>4 MR. PETESCH: Was Mr. Belfiore engaged upon his</p> <p>5 return from medical leave?</p> <p>6 MR. LANE: He was not fully engaged, no.</p> <p>7 MR. PETESCH: Now even prior to his medical leave,</p> <p>8 in the year 2001, do you recall Mr. Belfiore ever having</p> <p>9 attended any Board of Directors meetings for Merchant Link?</p> <p>10 MR. LANE: In the year 2011?</p> <p>11 MR. PETESCH: Yes, sir.</p> <p>12 MR. LANE: Well, again part of that in the middle</p> <p>13 of that year, he was out on medical leave. I don't --</p> <p>14 MR. PETESCH: Sure.</p> <p>15 MR. LANE: -- I don't remember if he attended the</p> <p>16 very first, they were typically held quarterly, so I know he</p> <p>17 didn't attend a couple of board meetings towards the end of</p> <p>18 2011, after he had returned from medical leave.</p> <p>19 MR. PETESCH: Okay. Is there anything that would</p> <p>20 refresh your recollection as to whether Mr. Belfiore was</p> <p>21 attending board meetings in 2011.</p> <p>22 MR. LANE: The board minutes would reflect his</p> <p>23 attendance.</p> <p>24 MR. PETESCH: Okay. I'm going to refer you to</p> <p>25 Belfiore Exhibit Number 55, part of which has been admitted,</p>
<p style="text-align: right;">Page 27</p> <p>1 MR. LANE: Yes. Yes, she had her name on both</p> <p>2 patents.</p> <p>3 MR. PETESCH: I'm going to shift gears right now</p> <p>4 to an area that we covered a little bit yesterday after Erik</p> <p>5 Belfiore had returned from his leave of absence. Still</p> <p>6 around the time that we're discussing the raises.</p> <p>7 MR. JOHNSON: Objection, Your Honor. I think we</p> <p>8 need to have a clarification for the record, because I think</p> <p>9 counsel made the same statement yesterday. Leave of absence</p> <p>10 versus medical leave.</p> <p>11 MR. PETESCH: Okay.</p> <p>12 MR. JOHNSON: Yes, it was a medical leave, not a</p> <p>13 leave of absence. That's two different connotations.</p> <p>14 MR. PRAGER: All right. It's a point well worth</p> <p>15 making. Mr. Petesch --</p> <p>16 MR. PETESCH: I'm happy to use the term medical</p> <p>17 leave. I often use them interchangeably but if it makes</p> <p>18 everyone more comfortable, I'm happy to use medical leave.</p> <p>19 I'm just trying to get you to that period of when Mr.</p> <p>20 Belfiore was returning from medical leave.</p> <p>21 MR. LANE: Yes, sir.</p> <p>22 MR. PETESCH: He returned from medical leave in</p> <p>23 the late summer or early fall of 2011?</p> <p>24 MR. LANE: Yes.</p> <p>25 MR. PETESCH: And were talking a little bit about</p>	<p style="text-align: right;">Page 29</p> <p>1 but part of which has not.</p> <p>2 MR. PRAGER: Yes, just to clarify for the record</p> <p>3 55A which are pages 000912 through 917, 55B which is 00057</p> <p>4 through 58 and 55C which is 00059 through 60 have been</p> <p>5 admitted.</p> <p>6 MR. PETESCH: Mr. Lane, I'm going to ask you to go</p> <p>7 to a page bearing a bate stamp of ML00043 within this</p> <p>8 exhibit.</p> <p>9 MR. PRAGER: Just a moment.</p> <p>10 MR. PETESCH: Sure.</p> <p>11 MR. LANE: Okay. I'm there.</p> <p>12 MR. PETESCH: What is the date of these minutes</p> <p>13 for the Board of Managers?</p> <p>14 MR. LANE: This was January 4, 2011.</p> <p>15 MR. PETESCH: Okay. Was Mr. Belfiore in</p> <p>16 attendance at that board meeting?</p> <p>17 MR. LANE: No, he wasn't.</p> <p>18 MR. PETESCH: And let's, for reference purposes,</p> <p>19 call this Exhibit Number --</p> <p>20 MR. PRAGER: 55D.</p> <p>21 MR. PETESCH: -- 55D.</p> <p>22 MR. KAPLAN: Whose?</p> <p>23 MR. PETESCH: Pardon me?</p> <p>24 MR. KAPLAN: Whose?</p> <p>25 MR. PETESCH: I think we should just stick with</p>

<p style="text-align: right;">Page 30</p> <p>1 Belfiore or complainant's exhibit, yes?</p> <p>2 MR. PRAGER: Yes.</p> <p>3 MR. PETESCH: And it would be a two page document,</p> <p>4 and I move for admission of Exhibit Number 55D.</p> <p>5 MR. JOHNSON: For a point of clarification, I'm</p> <p>6 looking at February 16th, so I might have got that mixed up.</p> <p>7 MR. PETESCH: We'll go to that, let's go to that</p> <p>8 one next.</p> <p>9 MR. PRAGER: Let's --</p> <p>10 MR. PETESCH: Sure.</p> <p>11 MR. JOHNSON: Okay. I see January 4th.</p> <p>12 MR. PRAGER: I know that Mr. Petesch wants to</p> <p>13 hurry along and I appreciate that. But at this moment, Mr.</p> <p>14 Johnson, you need to focus on the January 4th --</p> <p>15 MR. JOHNSON: Yes.</p> <p>16 MR. PRAGER: -- meeting. Do you have any</p> <p>17 objections to that being admitted?</p> <p>18 MR. JOHNSON: No objection, Your Honor.</p> <p>19 MR. PRAGER: All right. Now I have a question</p> <p>20 for Mr. Lane --</p> <p>21 MR. PETESCH: Sure, please.</p> <p>22 MR. PRAGER: -- on this exhibit. Am I correct in</p> <p>23 saying that there are no employees of Merchant Link at this</p> <p>24 meeting?</p> <p>25 MR. LANE: Yes, sir, this was a meeting held, this</p>	<p style="text-align: right;">Page 32</p> <p>1 (Complainant's Exhibit No. 55D</p> <p>2 was marked for identification.)</p> <p>3 MR. PRAGER: Very well.</p> <p>4 MR. PETESCH: And we take no exception to that</p> <p>5 ruling either.</p> <p>6 MR. PRAGER: All right.</p> <p>7 MR. PETESCH: Let's move ahead to a document</p> <p>8 bearing bate stamp ML00047, which is entitled minutes of</p> <p>9 meeting of board of managers of Paymentech, Merchant Link</p> <p>10 Holdings, LLC, February 16th of 2011. Are you there, Mr.</p> <p>11 Lane?</p> <p>12 MR. LANE: I am, yes.</p> <p>13 MR. PRAGER: Just a moment. All right. We will</p> <p>14 mark this as 55E. Complainant's 55E.</p> <p>15 (Complainant's Exhibit No. 55E</p> <p>16 was marked for identification.)</p> <p>17 MR. PETESCH: Yes. And were you in attendance at</p> <p>18 this meeting, Mr. Lane?</p> <p>19 MR. LANE: Yes, I was.</p> <p>20 MR. PETESCH: Was Mr. Belfiore in attendance at</p> <p>21 this meeting?</p> <p>22 MR. LANE: No, he was not.</p> <p>23 MR. PETESCH: I move for admission of Exhibit</p> <p>24 Number 55E, which is a three page document.</p> <p>25 MR. PRAGER: Mr. Johnson?</p>
<p style="text-align: right;">Page 31</p> <p>1 was not a meeting to update the Board on the status of</p> <p>2 Merchant Link. This was an off cycle meeting because the</p> <p>3 owners were considering again selling the business. So it</p> <p>4 was a meeting of the Board of Directors and the investment</p> <p>5 bankers who were, and the secretary, who were updating,</p> <p>6 getting an update from the investment bankers on the status</p> <p>7 of the sale of the business.</p> <p>8 MR. PRAGER: And your name doesn't appear on this?</p> <p>9 MR. LANE: Correct. There were no Merchant Link</p> <p>10 employees at this meeting.</p> <p>11 MR. PRAGER: So Mr. Petesch, what is the point of</p> <p>12 this document?</p> <p>13 MR. PETESCH: I'm just authenticating it as board</p> <p>14 minutes, and I will move along. I don't have to move have</p> <p>15 that admitted, although --</p> <p>16 MR. PRAGER: Well, I don't see what evidentiary</p> <p>17 purpose it serves.</p> <p>18 MR. PETESCH: At this point I concur with you and</p> <p>19 I'd prefer to move to the February 16, 2011 --</p> <p>20 MR. PRAGER: Right.</p> <p>21 MR. PETESCH: -- which I would mark as 55E.</p> <p>22 MR. PRAGER: All right. Let me just for the</p> <p>23 record then say that the Complainant's Exhibit 55D which</p> <p>24 consists of pages ML00043 and 44 have been marked for</p> <p>25 identification, but have not been admitted.</p>	<p style="text-align: right;">Page 33</p> <p>1 MR. JOHNSON: No opposition, Your Honor.</p> <p>2 MR. PETESCH: Moving ahead.</p> <p>3 MR. PRAGER: Just a moment.</p> <p>4 MR. PETESCH: Sure.</p> <p>5 MR. PRAGER: Complainant's Exhibit 55E is</p> <p>6 admitted.</p> <p>7 (Complainant's Exhibit No. 55E</p> <p>8 previously marked for</p> <p>9 identification was received</p> <p>10 into evidence.)</p> <p>11 MR. PRAGER: But I have a question for Mr. Lane</p> <p>12 about this and just in general because I assume Mr. Petesch</p> <p>13 you're going to be asking about other meetings.</p> <p>14 MR. PETESCH: Yes.</p> <p>15 MR. PRAGER: Explain to me who is invited to these</p> <p>16 meetings, who is required to be in these meetings and how</p> <p>17 does one determine whether to attend or not?</p> <p>18 MR. LANE: The meetings are, the, the Board of</p> <p>19 Directors asked us to, to provide them and this goes way</p> <p>20 back, asked us, by us the management team at Merchant Link</p> <p>21 to provide regular Board update meetings on average once a</p> <p>22 quarter. So those meetings are scheduled in advanced based</p> <p>23 on the availability of the board members and they're again,</p> <p>24 they're very difficult to schedule because these folks are</p> <p>25 busy and they travel a lot. So once the date is set, it's</p>

<p style="text-align: right;">Page 34</p> <p>1 expected that the officers of the company the other senior 2 executives representing the key areas of the company attend 3 those meetings and provide those updates. The invitees to 4 the meeting is left up to the, the, the President of 5 Merchant Link to invite a local representatives or schedule 6 to make sure the management team attends those meetings, 7 although it's certainly expected by the Board that all the 8 officers would be in attendance at the meeting. 9 MR. PRAGER: And you've used two terms that I'm 10 not fully conversant with. Management team and officers. 11 First of all, is there a distinction between the two? 12 MR. LANE: There is. The officers of the company 13 are, are those employees that have officer in their title 14 and the, but we have EVP's and VP's who, Executive Vice 15 Presidents and Vice Presidents who are considered to be the 16 most senior, along with the officers, the most senior 17 executives of the company. So when I meet with my executive 18 team it includes vice presidents and officers, but they're 19 all executives in the company. From the Board of Directors 20 standpoint there is a distinction between and officer and an 21 EVP. 22 MR. PRAGER: All right. And on February 6th who 23 were the officers of the company? 24 MR. LANE: On February 6th, Dan Charron was the 25 Acting President. I, I don't know if his interim title</p>	<p style="text-align: right;">Page 36</p> <p>1 MR. LANE: It's very fast paced, high stress. 2 Particularly that year there was, there were two different 3 large system implementations, the CRM system and the ERP 4 system. Those were services that Paymentech had been 5 providing Merchant Link and we were in the process of 6 transitioning those over to Merchant Link. There was a lot 7 of pressure and deadline pressure to get those done. There 8 was rumors swirling around about the business being sold. 9 There was transition happening with management team and a 10 lot of demanding customers. So it was a stressful, fast 11 paced time period and that's generally the culture at 12 Merchant Link. There's not a lot of room for mistakes. 13 Everybody needs to pull their load, it's a, it's a pretty 14 high pressure environment. 15 MR. PETESCH: Now Mr. Lane, were you here for 16 testimony by Mr. Belfiore regarding not receiving the deck, 17 a slide deck in time for a meeting? 18 MR. LANE: Yes, I was. 19 MR. PETESCH: Were you also invited to attend that 20 meeting for which the slide deck was prepared? 21 MR. LANE: Yes, I was. 22 MR. PETESCH: Did you receive the slide deck any 23 faster than Mr. Belfiore? 24 MR. LANE: No, I didn't. 25 MR. PETESCH: Now I refer you to, and again this</p>
<p style="text-align: right;">Page 35</p> <p>1 included President and CEO. I was the Chief Technology 2 Officer, Erik was the Chief Operating Officer and that was 3 it. 4 MR. PRAGER: Thank you. 5 MR. PETESCH: Without flipping through the 6 document, Mr. Lane, do you recall in 2011 Erik Belfiore 7 attending any Board of Directors meetings? 8 MR. LANE: Again, during his medical leave, he 9 certainly didn't but that was understood. After he came 10 back from medical leave there were some, there were at least 11 two Board of Directors meetings that Erik didn't attend. 12 One I remember he had a doctor's appointment for, I don't 13 remember the reason why he didn't attend the other. But 14 based on what I've just read and my recollection, no I don't 15 recall him attending any board meetings in 2011. 16 MR. PETESCH: Was he excluded from attending those 17 Board of Directors meetings? 18 MR. LANE: No, he was expected to attend the Board 19 of Directors meetings. 20 MR. PETESCH: Are you aware of any effort 21 generally at Merchant Link to exclude Erik Belfiore from 22 meetings at Merchant Link? 23 MR. LANE: No, I'm not. 24 MR. PETESCH: How would you describe the 25 environment or the pace at Merchant Link?</p>	<p style="text-align: right;">Page 37</p> <p>1 is post medical leave of absence. I'm going to refer you to 2 Joint Exhibit Number 82, i.e., the Merchant Link Exhibit 82. 3 MR. LANE: Okay. I'm there. 4 MR. PETESCH: Okay. Do you recognize this 5 document? 6 MR. LANE: Yes, I do. 7 MR. PETESCH: Can you summarize for us what this 8 is? 9 MR. LANE: Yes. This is an e-mail exchange 10 between Laura Kirby-Meck, several individuals at Merchant 11 Link, Mary Anderson, Erik Belfiore and myself, discussing an 12 MRT meeting which was Management Review Team which was a 13 pricing committee and a pricing process for pricing custom, 14 customer deals. 15 MR. PETESCH: And on November 4th of 2011 there's 16 an e-mail from you to Erik and Laura at 3:59 p.m., that says 17 Erik I don't want to debate this publically since Tim left, 18 I've relied on sales people to convey deal information to me 19 and Laura is still getting up to speed, so needs the sales 20 people to attend to help us the certain details. Dan. What 21 was that all about? 22 MR. LANE: Erik was, Erik was questioning the MRT 23 process, so we had a meeting scheduled to discuss Shari's, 24 which is a restaurant chain and a contract and deal we were 25 putting in place with them. Erik sent an e-mail to the MRT</p>

<p style="text-align: right;">Page 38</p> <p>1 group asking when did this become a process, I don't agree</p> <p>2 and this was not the previous custom and challenging whether</p> <p>3 the meeting should be called with those individuals. So I</p> <p>4 replied that I didn't want to debate it publically, meaning</p> <p>5 I didn't want Erik copying all those people. Since Tim</p> <p>6 left, Tim Kinsella is our previous sales VP, Laura Kirby-</p> <p>7 Meck is the new, was the recently hired Sales EVP and I was</p> <p>8 saying to Erik that I thought it was appropriate for Laura</p> <p>9 to invite the people who are more familiar with the deal to</p> <p>10 the meeting, to help us get the information we needed to</p> <p>11 make the pricing decisions for the, for that customer.</p> <p>12 MR. PETESCH: Was this reflective of Mr.</p> <p>13 Belfiore's overall attitude and I'll stick to attitude, upon</p> <p>14 his return from medical leave?</p> <p>15 MR. LANE: Yes, this was a typical e-mail or, or</p> <p>16 kind of conversation I was having with Erik and the tone,</p> <p>17 and the tone in the e-mail was typical of his attitude.</p> <p>18 MR. PETESCH: And how would you characterize his</p> <p>19 attitude post medical leave?</p> <p>20 MR. LANE: Terse, confrontational, sometimes</p> <p>21 combative.</p> <p>22 MR. PETESCH: Okay. I move for admission of</p> <p>23 Merchant Link Exhibit Number 82.</p> <p>24 MR. PRAGER: Mr. Johnson?</p> <p>25 MR. JOHNSON: No objection, Your Honor.</p>	<p style="text-align: right;">Page 40</p> <p>1 MR. LANE: Okay.</p> <p>2 MR. PETESCH: And ask you what is Microsoft</p> <p>3 Dynamics CRM Program? What is that?</p> <p>4 MR. LANE: Microsoft Dynamics CRM, CRM stands for</p> <p>5 customer relationship management and it is a system used to</p> <p>6 manage our entire customer demographic from the time they</p> <p>7 board Merchant Link and become customers and through the</p> <p>8 entire lifecycle of our relationship with those customers.</p> <p>9 So it, it interfaces with our management reporting system,</p> <p>10 our billing system, our tech support group uses it to open</p> <p>11 trouble cases when merchants call in with issues. It's used</p> <p>12 to house all of the account numbers and demographic</p> <p>13 information associated with the merchants and it's, behind</p> <p>14 it is a huge database of all of this information stored on</p> <p>15 servers at, well at Merchant Link.</p> <p>16 MR. PETESCH: Okay. Beyond its function, what is</p> <p>17 its overall significance to the mission of Merchant Link?</p> <p>18 MR. LANE: Well aside from our transaction</p> <p>19 switches, it's core of what we use to manage our business.</p> <p>20 It's, it's, we can't install a customer without it. We</p> <p>21 can't solve a customer problem without it. We can't do our</p> <p>22 billing without it. We can't do any of our reporting</p> <p>23 without it. So it's a key core system to, to what we do day</p> <p>24 to day.</p> <p>25 MR. PETESCH: Okay. And is this is the system</p>
<p style="text-align: right;">Page 39</p> <p>1 MR. PRAGER: Before I admit this, actually my</p> <p>2 notes and I may be wrong, say that this has already been</p> <p>3 admitted. Mr. Johnson, is that so?</p> <p>4 MR. PETESCH: Would this Erik Belfiore Number 28?</p> <p>5 No, I don't think so.</p> <p>6 MR. PRAGER: All right. Well, I may be wrong. So</p> <p>7 just to be on the safe side, Respondent's Exhibit Number 82</p> <p>8 will be admitted.</p> <p>9 (Respondent's Exhibit No. 82</p> <p>10 previously marked for</p> <p>11 identification was received</p> <p>12 into evidence.)</p> <p>13 MR. PRAGER: Before you ask any further questions,</p> <p>14 Mr. Petesch, I have some questions. Ms. Kirby-Meck did not</p> <p>15 report to Mr. Belfiore, is that right?</p> <p>16 MR. LANE: That's right, she reported to me.</p> <p>17 MR. PRAGER: Okay. And this exchange which ends</p> <p>18 with the Belfiore e-mail saying so what, do you recall if</p> <p>19 there was a further exchange, did you respond to that?</p> <p>20 MR. LANE: I don't recall. I may have, I, I don't</p> <p>21 remember if I continued debating with him on e-mail or went</p> <p>22 and spoke to him about it or, or not.</p> <p>23 MR. PRAGER: Thank you.</p> <p>24 MR. PETESCH: Thank you. I'm going to switch</p> <p>25 subjects at the moment.</p>	<p style="text-align: right;">Page 41</p> <p>1 being used today at Merchant Link?</p> <p>2 MR. LANE: It is, yes.</p> <p>3 MR. PETESCH: When was this system implemented?</p> <p>4 MR. LANE: Well, the decision, it, it was</p> <p>5 implemented over a period of almost two years. It started</p> <p>6 in fall or late 2010 and went throughout 2011 and it went</p> <p>7 live in March of 2012.</p> <p>8 MR. PETESCH: Did you have a deadline to get it</p> <p>9 implemented?</p> <p>10 MR. LANE: I, yes, we did.</p> <p>11 MR. PETESCH: Can you explain that?</p> <p>12 MR. LANE: Sure. Paymentech had, excuse me,</p> <p>13 Merchant Link had been a wholly owned subsidiary of Chase</p> <p>14 Paymentech and while many of your functions we ran</p> <p>15 autonomously there were some services and function that</p> <p>16 Paymentech had provided to us a wholly owned subsidiary</p> <p>17 because of efficiency or because Merchant Link didn't have</p> <p>18 the local expertise to run those functions. The CRM system</p> <p>19 was one of those. We had, we were on a system called</p> <p>20 PeopleSoft that Paymentech had stood up for us and we had</p> <p>21 used for many years. And then after Merchant Link became a</p> <p>22 joint venture and, and Paymentech and First Data were</p> <p>23 contemplating selling the business, they were giving us</p> <p>24 direction to separate the components of that Paymentech had</p> <p>25 been providing to Merchant Link to systematically begin</p>

<p style="text-align: right;">Page 42</p> <p>1 separating those from Paymentech. The CRM was one of those 2 key components, so they essentially put us on notice that we 3 had to separate that component from Paymentech and they gave 4 us a deadline by when that had to be done. Paymentech was 5 part of J.P. Morgan Chase, a large bank, the PeopleSoft 6 system were running on servers that Chase, Chase Bank's, 7 didn't meet Chase Bank's standards, so they had given 8 Paymentech a deadline and said you have to shut these 9 servers down by whatever that date was, mid-March 2012 and 10 therefore it was a drop dead deadline for us to be off of 11 that system.</p> <p>12 MR. PETESCH: What would the consequences have 13 been if you didn't make the deadline in implementing your 14 new system, the Microsoft Dynamic System?</p> <p>15 MR. LANE: They could have literally gone in and 16 turned the power down on those servers, and we wouldn't have 17 had, we wouldn't have been able to run our business.</p> <p>18 MR. PETESCH: Who made the ultimate decision at 19 Merchant Link to select the Microsoft Dynamic System versus 20 other systems?</p> <p>21 MR. LANE: Ben Chudasama (phonetic sp.) and I 22 approved the decision. I was aware of the decision, but Ben 23 Chudasama was running the project and he made the decision.</p> <p>24 MR. PETESCH: Did you attach any importance to the 25 management team and by that I mean the senior executives at</p>	<p style="text-align: right;">Page 44</p> <p>1 of that in making the CRM system work.</p> <p>2 MR. LANE: Well it's critical because the, when 3 the system, when the system went live there was no going 4 back. We were moving onto this new system. Again, a very 5 long implementation project so when that system went live as 6 users needed to know how to use the system and so her role 7 was to train those users and make sure they were ready to go 8 when we cut over to the new system.</p> <p>9 MR. PETESCH: Did there come a time when you 10 became aware of a complaint by Ms. Dantzler relating to the 11 CRM project?</p> <p>12 MR. LANE: Yes. I, I became aware that Wendy 13 Nussbaum came to me and said that, that Erik had called 14 Renee into his office and asked her to essentially sabotage 15 the implementation of the system.</p> <p>16 MR. PETESCH: What was your reaction to that?</p> <p>17 MR. LANE: I was frustrated, I was, I was a little 18 sad, I was, I felt a little betrayed by it.</p> <p>19 MR. PETESCH: I'm going to you ask you to take a 20 look at what's previously been admitted as Belfiore Exhibit 21 Number 82. It's also in our booklet as Joint Exhibit Number 22 111, but let's go with the Belfiore Exhibit Number 82.</p> <p>23 MR. LANE: Yes.</p> <p>24 MR. PETESCH: Do you recognize this document? 25 MR. LANE: I do.</p>
<p style="text-align: right;">Page 43</p> <p>1 Merchant Link supporting the implementation project?</p> <p>2 MR. LANE: Absolutely. We had the, the team 3 needed to be, everybody knew it was an important project and 4 they needed to support, support getting it done. Everybody 5 knew the consequences of not getting it done.</p> <p>6 MR. PETESCH: Did Mr. Belfiore express support 7 over the decision to select the Microsoft Dynamic System 8 versus an alternative system to you?</p> <p>9 MR. LANE: Initially, well, he was always opposed 10 to the choice of the system. Initially he said he would 11 move forward with it, but as the implementation progressed, 12 he became more and more frustrated and dissatisfied with the 13 Microsoft Dynamic System and, and the choice of that as a 14 system.</p> <p>15 MR. PETESCH: Who is Renee Dantzler?</p> <p>16 MR. LANE: She is a training specialist at 17 Merchant Link.</p> <p>18 MR. PETESCH: Did she have a role with respect to 19 the CRM implementation project?</p> <p>20 MR. LANE: She did. She was, she was responsible 21 for training the users, all the users of the system on how 22 to use the system and that's an ongoing role so she had to 23 learn how to use the system herself and then help train the 24 users on how to use the system.</p> <p>25 MR. PETESCH: And describe for me the significance</p>	<p style="text-align: right;">Page 45</p> <p>1 MR. PETESCH: Can you tell us what it is?</p> <p>2 MR. LANE: This is the, the write up from Renee 3 Dantzler describing the meeting she had with Erik Belfiore.</p> <p>4 MR. PETESCH: Okay. Can you characterize at least 5 in your understanding the gist of what she's describing in 6 here?</p> <p>7 MR. LANE: Yes. She's describing, my 8 understanding that she's describing a request by Erik to 9 come see her. She got to his office, the door was locked. 10 She had to knock on the door to get in. Erik asked her to 11 close the door behind her, he asked her to essentially go 12 out and disparage and, and trump up negative feelings 13 towards the CRM implementation and he did it in a way that 14 implied that by saying things like I helped get you your 15 job, by using foul language, by asking her not to, to share 16 this meeting with her supervisor, he did it in an 17 intimidating way and in a way that was intentionally, was 18 intentional and in a way that he knew that Renee wouldn't be 19 comfortable with.</p> <p>20 MR. PETESCH: How could Renee Dantzler have 21 sabotaged or --</p> <p>22 MR. PRAGER: Excuse me, would you keep the door 23 open please?</p> <p>24 COURT REPORTER: I was getting feedback from the 25 hall, I'm sorry. Okay. We can --</p>

<p style="text-align: right;">Page 46</p> <p>1 MR. KAPLAN: We've been there, done that.</p> <p>2 COURT REPORTER: That's fine.</p> <p>3 MR. PRAGER: It's a public hearing and the door</p> <p>4 needs to be open.</p> <p>5 COURT REPORTER: Understood.</p> <p>6 MR. PRAGER: Thank you.</p> <p>7 MR. PETESCH: Thank you. Let me strike that</p> <p>8 question and start again. How could Renee Dantzler have</p> <p>9 sabotaged or undermine the CRM project?</p> <p>10 MR. LANE: Well she was going to be interacting</p> <p>11 with all the users of the system and in that role it was</p> <p>12 important for her to, to make sure the users understood how</p> <p>13 to use the system again and if she did anything to, other</p> <p>14 than that to help them get up to speed quickly, to, to move</p> <p>15 forward the progress of the system, she'd be undermining the</p> <p>16 progress of, of the system. So by saying negative things</p> <p>17 about it, by, by encouraging users to feel or speak</p> <p>18 negatively about the system, by failing to train them</p> <p>19 property on the system, any of those things would have been</p> <p>20 undermining the project.</p> <p>21 MR. PETESCH: Now you had I think, I believe</p> <p>22 earlier described, I suppose for lack of a better word, the</p> <p>23 technique that Mr. Belfiore used in saying that he helped</p> <p>24 get her her job and the secretiveness of it. Was that alone</p> <p>25 what you saw as problematic?</p>	<p style="text-align: right;">Page 48</p> <p>1 using that behavior to ask Renee Dantzler to do something</p> <p>2 destructive to Merchant Link.</p> <p>3 MR. PETESCH: Okay. Did you regard her complaint</p> <p>4 as a workplace harassment complaint or a workplace</p> <p>5 discrimination complaint?</p> <p>6 MR. LANE: No, I didn't.</p> <p>7 MR. PETESCH: Did you see any other statements in</p> <p>8 connection with the Dantzler/Belfiore conversation?</p> <p>9 MR. LANE: Yes, I did.</p> <p>10 MR. PETESCH: Okay. I'm going to ask you to take</p> <p>11 a look at what's been marked Joint Exhibit or Merchant Link</p> <p>12 Exhibit Number 111. I'm sorry, 110. My mistake.</p> <p>13 MR. JOHNSON: Your Honor, prior to testimony we'd</p> <p>14 like to object as being hearsay without Mr. Zach Minton here</p> <p>15 to testify or Ms. Wendy Nussbaum to testify as to this</p> <p>16 document. This is a, it seems to be a more extensive write</p> <p>17 up than what has been provided by Ms. Renee Dantzler.</p> <p>18 MR. PETESCH: May I respond?</p> <p>19 MR. PRAGER: Yes, please.</p> <p>20 MR. PETESCH: First of all, as Your Honor stated</p> <p>21 earlier in the proceedings, hearsay evidence may be</p> <p>22 admitted. But secondly it's being offered for purposes of</p> <p>23 reliance and not necessarily for the truth of the matter</p> <p>24 asserted, which is classic hearsay. And my questioning to</p> <p>25 the witness will be whether this is information or input</p>
<p style="text-align: right;">Page 47</p> <p>1 MR. LANE: No.</p> <p>2 MR. PETESCH: Had you been made aware prior to</p> <p>3 that of any conduct on the part of Mr. Belfiore that you</p> <p>4 would characterize as perhaps bullying?</p> <p>5 MR. LANE: Yes.</p> <p>6 MR. PETESCH: Can you elaborate on that?</p> <p>7 MR. LANE: Yes. Erik, I had received reports from</p> <p>8 time to time that Erik hung up on, yelled at people and hung</p> <p>9 up on them. He told an individual that he didn't want to</p> <p>10 see them on his floor, by that meaning the ninth floor. He,</p> <p>11 his e-mails were curt and dismissive. His, his tone with</p> <p>12 certain people that he didn't respect or that he felt</p> <p>13 weren't at his level was curt and dismissive.</p> <p>14 MR. PRAGER: Excuse me, you mentioned a person</p> <p>15 that he didn't want on the ninth floor. Can you identify</p> <p>16 the person?</p> <p>17 MR. LANE: George Bertrand.</p> <p>18 MR. PRAGER: Okay. Thank you.</p> <p>19 MR. PETESCH: In isolation that bullying behavior,</p> <p>20 is that what you saw as the problem with Ms. Dantzler's</p> <p>21 complaint?</p> <p>22 MR. LANE: No.</p> <p>23 MR. PETESCH: What was the biggest problem that</p> <p>24 you saw with Ms. Dantzler's complaint?</p> <p>25 MR. LANE: The biggest problem was that he was</p>	<p style="text-align: right;">Page 49</p> <p>1 that he relied upon in making his decision and considered.</p> <p>2 MR. JOHNSON: I'm not certain if reliance would --</p> <p>3 MR. PRAGER: No, just --</p> <p>4 MR. JOHNSON: I'm sorry, Your Honor.</p> <p>5 MR. PRAGER: Mr. Petesch, perhaps you can have the</p> <p>6 witness tell me, but perhaps you can tell me directly. At</p> <p>7 the top of this document it says redacted. Who redacted it</p> <p>8 and what's redacted?</p> <p>9 MR. KAPLAN: We can find out.</p> <p>10 MR. PETESCH: This may have been, this was an e-</p> <p>11 mail that may have been forwarded. This is an e-mail and</p> <p>12 there was forwarding, I believe I did not perform the</p> <p>13 redaction myself, but at some stage and I don't know the</p> <p>14 dates, it may have been forwarded to counsel and that would</p> <p>15 explain the redaction to it. We can verify that.</p> <p>16 MR. PRAGER: Yes, please do.</p> <p>17 MR. PETESCH: I'll ask Mr. Kaplan to take care of</p> <p>18 that.</p> <p>19 MR. PRAGER: All right. The objection is</p> <p>20 overruled to the extent for the moment Mr. Lane can testify</p> <p>21 as to his understanding of what this document contained.</p> <p>22 MR. PETESCH: Mr. Lane, do you recognize this</p> <p>23 document?</p> <p>24 MR. LANE: Yes, I do.</p> <p>25 MR. PETESCH: Can you tell us what this is?</p>

<p style="text-align: right;">Page 50</p> <p>1 MR. LANE: This is an e-mail from Zach Minton who 2 was the Manager of the Learning and Development Department 3 and Renee Dantzler's supervisor to Wendy Nussbaum who was 4 our HR Director recounting his conversation with Renee after 5 her meeting with Erik Belfiore. 6 MR. PETESCH: Okay. And what is the significance 7 to you of this statement? 8 MR. PRAGER: Let me interrupt for just a moment 9 and ask something. You're familiar with it. Did you 10 receive a copy of this on either November 10th or 11th? 11 MR. LANE: Yes, I, I received a copy of this, well 12 I didn't receive a copy, Wendy had it and showed me and I 13 read it in her office. 14 MR. PRAGER: Thank you. 15 MR. PETESCH: Thank you. And did she show it to 16 you contemporaneously with the time that she received it 17 November 10th? 18 MR. LANE: Yes. 19 MR. PETESCH: Okay. And did you in fact review 20 it? 21 MR. LANE: I did, yes. 22 MR. PETESCH: What significance, if any, did you 23 draw from this document? 24 MR. LANE: Well, it, it corroborated Renee's e- 25 mail. Zach was upset about it from this e-mail and that,</p>	<p style="text-align: right;">Page 52</p> <p>1 Link Exhibit Number 110. 2 MR. PRAGER: Mr. Johnson? 3 MR. JOHNSON: Yes, Your Honor, we have a standing 4 objection with regard to the hearsay as it relates to this 5 document, this document is excessive with regard to the 6 actual complaints by Ms. Dantzler. Mr. Lane has testified 7 that, or his counsel had said that he's relied on it, it is 8 not being offered for the truth of the matter asserted. In 9 fact, if he's relying on it, it is about the truth of the 10 matter asserted. I don't think you can distinguish the two. 11 So given that he's relying on this for the truthfulness, if 12 the actual author of the document or Ms. Nussbaum is not 13 here to actually verify the credibility of the document, 14 then it should not come in and it is hearsay. 15 MR. PRAGER: Well your objection is overruled to 16 the extent that this is, there's been a basis that this is 17 what he looked at and this is what he considered when making 18 up his mind about firing Mr. Belfiore. That does mean, 19 however, and this document is not accepted for the facts 20 that are stated in it. They may be accurate, they may be 21 false. We have no way of knowing. But it is clear that he 22 looked at this at the time, thought it was accurate and 23 acted accordingly. So with that understanding, Merchant 24 Link Exhibit Number 110 is admitted. 25 (Respondent's Exhibit No. 110)</p>
<p style="text-align: right;">Page 51</p> <p>1 and there was no reason for Zach to make this up. He, he 2 came to Wendy unsolicited and so it further validated the 3 events that Renee described. 4 MR. PETESCH: Did you take this into consideration 5 with any later recommendations or decisions that you made 6 regarding Mr. Belfiore's employment? 7 MR. LANE: I did. I, I, this was part of the, 8 part of what influenced my decision to terminate Mr. 9 Belfiore. 10 MR. PETESCH: Now again, even in Mr. Minton's 11 statement he refers to and I refer you to the second page, 12 the second to the last paragraph which starts, through the 13 whole experience Renee explained to me that she felt very 14 intimidated by Erik because of his using his position of 15 power to get her to act on things that contradicted what her 16 job function is. Again, was this another instance or 17 complaint simply of bullying? 18 MR. LANE: Well bullying was part of it. 19 MR. PETESCH: What if anything then made Ms. 20 Dantzler's complaint and Mr. Minton's complaint any 21 different from prior bullying complaints? 22 MR. LANE: Well again, the bullying in this case 23 was to, to coerce Renee into doing something destructive to 24 Merchant Link. 25 MR. PETESCH: I move for admission of Merchant</p>	<p style="text-align: right;">Page 53</p> <p>1 previously marked for 2 identification was received 3 into evidence.) 4 MR. PETESCH: Thank you. Mr. Lane -- 5 MR. PRAGER: But -- 6 MR. PETESCH: Yes. 7 MR. PRAGER: -- let me again, when the briefing of 8 this takes place, it's with the understanding that I have 9 not accepted the truth of the allegations made in this 10 document. 11 MR. PETESCH: Understood. Mr. Lane, when you 12 became aware of the conversation between Renee Dantzler and 13 Erik Belfiore what happened next? 14 MR. LANE: I had a discussion with our HR Director 15 and -- 16 MR. PETESCH: That's Wendy Nussbaum? 17 MR. LANE: Wendy Nussbaum, and I, I decided that 18 we needed to terminate Erik Belfiore. We asked our 19 attorney, Harry Jones, to draft -- 20 MR. PRAGER: Just a moment. He's just saying what 21 he asked. 22 MR. PETESCH: Okay. That's fine. I would 23 admonish you -- 24 MR. PRAGER: Yes, what did you ask him? 25 MR. PETESCH: -- not to volunteer advice from an</p>

<p style="text-align: right;">Page 54</p> <p>1 attorney.</p> <p>2 MR. PRAGER: What did you tell or ask Mr. Jones?</p> <p>3 MR. LANE: To draft a termination letter for us.</p> <p>4 And, and then we proceeded to, I believe it was the next day</p> <p>5 that we went up Erik's office and his office was locked. We</p> <p>6 knocked on the door, came in and presented him with the</p> <p>7 termination letter and told him that he was terminated.</p> <p>8 MR. PETESCH: Had you consulted with the Board of</p> <p>9 Directors prior to that?</p> <p>10 MR. LANE: I did, and I left that part out.</p> <p>11 MR. PETESCH: What did you do to consult the Board</p> <p>12 of Directors?</p> <p>13 MR. LANE: I made phone calls and told them that</p> <p>14 we had an urgent matter to discuss and got them on the phone</p> <p>15 and shared the events of, and recounted the, the e-mails and</p> <p>16 conversations that Wendy had with Renee and told them that I</p> <p>17 recommended that we move forward with the termination and</p> <p>18 they agreed.</p> <p>19 MR. PETESCH: Okay. Was there any dissent amount</p> <p>20 the members of the Board of Directors or the Board of</p> <p>21 Managers?</p> <p>22 MR. LANE: No, there wasn't.</p> <p>23 MR. PETESCH: Were the statements by Mr. Minton</p> <p>24 and Ms. Dantzer gathered in connection with an</p> <p>25 investigation?</p>	<p style="text-align: right;">Page 56</p> <p>1 action short of termination for Mr. Belfiore?</p> <p>2 MR. LANE: I'm sure I thought about alternative</p> <p>3 actions, but I felt the, the offense was so egregious and so</p> <p>4 intentional that termination was the appropriate, was the</p> <p>5 appropriate course of action.</p> <p>6 MR. PETESCH: Did you view this as a mistake by</p> <p>7 Mr. Belfiore? Let me preface that by saying that in your</p> <p>8 tenure at Merchant Link had you ever made mistakes before?</p> <p>9 MR. LANE: Absolutely.</p> <p>10 MR. PETESCH: Did you view this as a mistake by</p> <p>11 Mr. Belfiore?</p> <p>12 MR. LANE: No, I didn't. Again, I viewed it as</p> <p>13 his intentional action and he full well knew what he was</p> <p>14 doing.</p> <p>15 MR. PETESCH: Did you feel with respect to the</p> <p>16 undermining of the CRM project as characterized in the</p> <p>17 statements, did you feel as if your reputation was also on</p> <p>18 the line?</p> <p>19 MR. LANE: I did. I felt like well I, I'm sorry.</p> <p>20 MR. PRAGER: Go ahead.</p> <p>21 MR. LANE: I had, I had been advocating for Erik</p> <p>22 recently and, and advocating to the Board of Directors, so</p> <p>23 to turn around and recommend his termination, called into</p> <p>24 question my judgment as to why I had been previously</p> <p>25 advocating for him. And our further with the CRM project it</p>
<p style="text-align: right;">Page 55</p> <p>1 MR. LANE: Yes.</p> <p>2 MR. PETESCH: And who performed that</p> <p>3 investigation?</p> <p>4 MR. LANE: Wendy Nussbaum.</p> <p>5 MR. PETESCH: To your knowledge was Mr. Belfiore</p> <p>6 interviewed in that investigation?</p> <p>7 MR. LANE: No, he wasn't.</p> <p>8 MR. PETESCH: Did you know that Mr. Belfiore had</p> <p>9 not been interviewed prior to his termination?</p> <p>10 MR. LANE: Yes, I did.</p> <p>11 MR. PETESCH: Did that concern you?</p> <p>12 MR. LANE: It didn't concern me. I was really</p> <p>13 focused on what Wendy was recommending and listening to her</p> <p>14 recount the story and the conversation she had with Renee</p> <p>15 and I really relied on her judgment as to the investigation</p> <p>16 and the authenticity of the events.</p> <p>17 MR. PETESCH: Did you see any reason why Renee</p> <p>18 Dantzer would have fabricated the incident?</p> <p>19 MR. LANE: No reason.</p> <p>20 MR. PETESCH: Had Mr. Belfiore been interviewed,</p> <p>21 is there anything that he could have said that would have</p> <p>22 convinced you to do something different or convinced you</p> <p>23 that Ms. Dantzer's statement was not true?</p> <p>24 MR. LANE: No.</p> <p>25 MR. PETESCH: Did you consider any disciplinary</p>	<p style="text-align: right;">Page 57</p> <p>1 was, it was a highly visible project both with our staff and</p> <p>2 our Board of Directors. So had we not got that done on time</p> <p>3 that would have called into question our operational</p> <p>4 abilities.</p> <p>5 MR. PETESCH: How did you feel about terminating</p> <p>6 Mr. Belfiore?</p> <p>7 MR. LANE: I felt terrible. I felt, again,</p> <p>8 frustrated, saddened and, and, and betrayed.</p> <p>9 MR. PETESCH: Now Mr. Lane, you were aware at the</p> <p>10 time of termination that Mr. Belfiore had made an internal</p> <p>11 complaint via an October 21st e-mail that's been marked and</p> <p>12 discussed in this matter, alleging race discrimination. Did</p> <p>13 that complaint by Mr. Belfiore factor in favor of your</p> <p>14 decision for termination?</p> <p>15 MR. LANE: It did not.</p> <p>16 MR. PRAGER: Mr. Petesch, how much longer do you</p> <p>17 think you will need before we finish?</p> <p>18 MR. PETESCH: I have no further questions.</p> <p>19 MR. PRAGER: All right. That's appropriate.</p> <p>20</p> <p>21 MR. PETESCH: Good timing.</p> <p>22 MR. PRAGER: Yes, very good timing. So we'll go</p> <p>23 off the record.</p> <p>24 (OFF THE RECORD.)</p> <p>25 (ON THE RECORD.)</p>

<p style="text-align: right;">Page 58</p> <p>1 MR. PRAGER: All right. We're back on the record. 2 Mr. Lane, I don't take the best notes in the world so you'll 3 have to bear with me. I'm going to skip around quite a bit. 4 MR. LANE: Okay. 5 MR. PRAGER: It won't be a consistent line of 6 questioning. But and you may have testified to this, but I 7 want the record to be clear. First of all, who set pay for 8 high level managers at Merchant Link in 2008? 9 MR. LANE: I'm sorry, I'm having to get my mind, 10 so in 2008 Chris Justice was the President and CEO so he set 11 the pay for all of his direct reports. 12 MR. PRAGER: And did he have to go through a 13 committee to do that? 14 MR. LANE: He did not. There was, there was at 15 the time our HR system was part of Paymentech and he 16 essentially reported to Dan Charron in Paymentech. So he 17 would submit all of Merchant Link's pay increases and 18 bonuses in a spreadsheet to Dallas, including his own 19 director reports. But there were no committees, committee 20 meetings or board meetings for officer compensation because 21 the Board of Directors at Paymentech at the time wasn't an 22 official board, it was, we were viewed by Paymentech as a, 23 as a division, essentially of Paymentech. 24 MR. PRAGER: All right. And what about the same 25 question for 2009, who set the pay scales for top</p>	<p style="text-align: right;">Page 60</p> <p>1 setting pay in 2008, 2009, 2010 and 2011? And if you want 2 to break that down as to different periods, let me know. 3 MR. LANE: It's the same, it was the same process, 4 there was a, the process started with a budgeted total 5 amount for the company which was typically around 3 percent, 6 sometimes a little bit less. And there was a review process 7 done so each manager would rate their employees, I'm giving 8 you some background here, and that rating fed into a table 9 which provided a guideline for that particular rating which 10 again was typically below the three, the typical increase 11 was below 3 percent because we had to hit 3 percent overall 12 and that had to take into account promotions and other 13 larger increases. The, at the senior management ranks, 14 those reviews often weren't done formally so there was a 15 system to input the increases and again as I testified 16 earlier there were, we were in transition during that time 17 of pulling the HR records and HR system from Paymentech that 18 had a, who had a very structured system. We went from there 19 to a system called UltiPro and from there to a system called 20 ADP so there, some of these systems there was, there was 21 some inconsistency in the way the process was administered 22 year to year and I'm going to have trouble remembering the 23 details of what it was like year over year. But in general 24 whether it was Dan Charron, Chris Justice, the reviews at 25 the senior ranks were often done more informally and, and</p>
<p style="text-align: right;">Page 59</p> <p>1 management? 2 MR. LANE: Dan Charron. Well prior to, Chris left 3 in March so I believe, I believe that year and the merit 4 increases would have been done before Chris left. So Chris 5 would have set the, the merit increases which were our 6 annual increases based on our reviews, he would have set 7 them in 2009 and then after he left that would have 8 transitioned to Dan Charron. And at that time Chris would 9 have received or would have needed to get the Board approval 10 of those, of, of officer compensation. 11 MR. PRAGER: Chris or Charron? 12 MR. LANE: Prior -- 13 MR. PRAGER: I mean Mr. Justice or Mr. Charron? 14 MR. LANE: Well prior to Chris leaving it would 15 have been Christ and after Chris leaving it would have been 16 Dan Charron. 17 MR. PRAGER: All right. And now the same question 18 as to 2010. 19 MR. LANE: Dan Charron. 20 MR. PRAGER: Okay. And 2011? 21 MR. LANE: 2011 would have been Dan Charron 22 because I took over in March, mid-March and again the merit 23 increases in AIP have been done prior to that. 24 MR. PRAGER: All right. Was this done by 25 intuition or was there a pay scale that was actually used in</p>	<p style="text-align: right;">Page 61</p> <p>1 somewhat more so that more conversationally. What I'm 2 saying is Dan would say, hey Dan I gave you, Dan Charron 3 would say to me, for example, hey Dan I gave you a meets 4 expectations and at 2 percent raise or whatever it was. We, 5 he wouldn't go through the formal review process necessarily 6 with me. 7 MR. PRAGER: And that was the way it was until 8 2011, would you say? 9 MR. LANE: Yes, I would say that was the way it 10 was until 2011. 11 MR. PRAGER: Now Mr. Belfiore introduced an 12 earlier review that he received, I think it was 2007 which 13 was in writing and which was complimentary to his work -- 14 MR. LANE: Yes. 15 MR. PRAGER: -- at some point he'd also received 16 an award or at least recognition. I take it you're saying 17 that was abandoned after 2007? 18 MR. LANE: The award was abandoned after 2007 and 19 the, the review system that was used in 2007 was 20 Paymentech's review system and then we transitioned onto 21 again a couple of different systems, so, so some of those 22 processed were sloppier. 23 MR. PRAGER: And if I understand you correctly, 24 they would have been to below top management would be more 25 formal than top management?</p>

<p style="text-align: right;">Page 62</p> <p>1 MR. LANE: Yes, that's correct.</p> <p>2 MR. PRAGER: Is that correct?</p> <p>3 MR. LANE: That's correct.</p> <p>4 MR. PRAGER: I don't understand the</p> <p>5 implementation, not the theory of your grades and salaries.</p> <p>6 Obviously each grade had some sort of bandwidth but I don't</p> <p>7 quite understand if one gets promoted from grade 12 to 13,</p> <p>8 isn't there a salary increase that does with that</p> <p>9 automatically? And if not, why not?</p> <p>10 MR. LANE: The, the, the job, the grade is</p> <p>11 associated with a job and a job description. So a manager</p> <p>12 of financial analysis would have a grade associated with it.</p> <p>13 When a person gets promoted, their job, their job title and</p> <p>14 job description would change and with that the associated</p> <p>15 grade would change. So there, when a person is promoted</p> <p>16 from one job into another, there is a salary increase</p> <p>17 associated with that. If a grade was changed without</p> <p>18 changing a person's title, it was due either to an</p> <p>19 adjustment or a reclassification of that job. And that</p> <p>20 didn't necessarily always mean an automatic increase because</p> <p>21 of the, the band that, that, that job grade could have a</p> <p>22 band that overlapped the job grade above or below it.</p> <p>23 MR. PRAGER: And now Mr. Belfiore was raised four</p> <p>24 grades, as I recall, I think, from 12 to 16 but it may have</p> <p>25 been from 14 to 16. But he held the same job title</p>	<p style="text-align: right;">Page 64</p> <p>1 wasn't an increase in salary when Erik was first promoted to</p> <p>2 Chief Operating Officer. But you were asking about when</p> <p>3 the, the grade got changed.</p> <p>4 MR. PRAGER: Yes.</p> <p>5 MR. LANE: I, I, I don't believe it was even</p> <p>6 discussed. I believe Mr. Charron identified the grade as</p> <p>7 being wrong and asked that I request, or requested that I</p> <p>8 change it and didn't find that a salary was wrong or you</p> <p>9 know there was nothing, I think that jumped out him that,</p> <p>10 that he felt the salary needed to be changed at the time. I</p> <p>11 think he was aware that Mr. Belfiore's salary had already</p> <p>12 been increased and so I think that 14 stood out on the list</p> <p>13 as being incorrect.</p> <p>14 MR. PRAGER: Right. And to the best of your</p> <p>15 knowledge, at any time between 2008 and 2011 was there</p> <p>16 anything in writing limiting pay increases to 10 percent?</p> <p>17 MR. LANE: No.</p> <p>18 MR. PRAGER: You either promoted or hired Denise</p> <p>19 Williams to a job which I believe you testified to yesterday</p> <p>20 was equivalent to the COO's position but not the COO title.</p> <p>21 Is that correct? Am I mischaracterizing your testimony?</p> <p>22 MR. LANE: Not, you're not mischaracterizing it.</p> <p>23 That's correct.</p> <p>24 MR. PRAGER: So she inherited at some point the</p> <p>25 same functions that Mr. Belfiore had?</p>
<p style="text-align: right;">Page 63</p> <p>1 throughout the period from 2008 to 2011. How could</p> <p>2 something like that happen, well, let me divide that</p> <p>3 question. First of all, given the job title do you have an</p> <p>4 explanation as to why he was not at a higher grade much</p> <p>5 earlier than his grade promotion in this case?</p> <p>6 MR. LANE: I have a, a good guess. The, the job,</p> <p>7 the Chief Operating Officer and it was a 14 to 16 change.</p> <p>8 The Chief Operating Officer should have been a grade 16.</p> <p>9 What I suspect happened is when Chris Justice promoted him</p> <p>10 to Chief Operating Officer was around the time we were in</p> <p>11 the process of those HR transition, or payroll HR</p> <p>12 transitions and it was simply an oversight that his grade</p> <p>13 wasn't moved up in the system at that time. And then Dan</p> <p>14 Charron noticed the oversight and requested that it be</p> <p>15 changed.</p> <p>16 MR. PRAGER: And you don't know why there wasn't</p> <p>17 an increase in salary at the time?</p> <p>18 MR. LANE: I don't know, no.</p> <p>19 MR. PRAGER: And the only person who would know</p> <p>20 would be Mr. Charron?</p> <p>21 MR. LANE: And Mr. Justice.</p> <p>22 MR. PRAGER: Well I think Mr. Charron was already</p> <p>23 in his position for some time.</p> <p>24 MR. LANE: I'm sorry, at the, I, I misunderstood</p> <p>25 you earlier question. I thought you were asking why there</p>	<p style="text-align: right;">Page 65</p> <p>1 MR. LANE: With a couple of, with yes, and as I, I</p> <p>2 think I said yesterday, Mr. Belfiore also had a billing</p> <p>3 operations department which was a small and new department,</p> <p>4 but aside from that, she inherited the departments that Mr.</p> <p>5 Belfiore had, yes.</p> <p>6 MR. PRAGER: And was she a new hire?</p> <p>7 MR. LANE: She was, no, she, she, well I, she was</p> <p>8 promoted into that position. She was in the Service</p> <p>9 Delivery Department.</p> <p>10 MR. PRAGER: All right. And what was her starting</p> <p>11 salary as far as you know?</p> <p>12 MR. LANE: In the new position?</p> <p>13 MR. PRAGER: Correct.</p> <p>14 MR. LANE: I don't remember exactly, I believe it</p> <p>15 was around \$120,000.</p> <p>16 MR. PRAGER: So your testimony would be that it</p> <p>17 was less than Mr. Belfiore's?</p> <p>18 MR. LANE: Yes. I'm certain of that.</p> <p>19 MR. PRAGER: All right. And do you know what pay</p> <p>20 grade she was promoted at that point?</p> <p>21 MR. LANE: I can't recall exactly. It would have</p> <p>22 either been a 13 or a 14.</p> <p>23 MR. PRAGER: But not a 16, you would say?</p> <p>24 MR. LANE: I'm certain it was not a 16.</p> <p>25 MR. PRAGER: This morning you testified about a</p>

<p style="text-align: right;">Page 66</p> <p>1 number of exhibits, e-mails between you and Ms. Nussbaum 2 and you and Mr. McCarthy. Did you keep Mr. Belfiore 3 informed about what was happening to his, well his request 4 and your request for a pay increase? 5 MR. LANE: I did, I didn't give him an update 6 every step of the way, but I did share with him a 7 conversation I had had with Dan Charron. And as we looked 8 at earlier, well indirectly Wendy Nussbaum shared an update 9 with Erik after the Compensation Committee. But I did not 10 share with him an update every step of the way, no. 11 MR. PRAGER: Now there was some testimony at some 12 point I don't know whether it's part of your testimony that 13 as far as your subordinates when you were not the CEO that 14 is, when you were -- 15 MR. LANE: Uh-huh. 16 MR. PRAGER: -- the Chief Technology Officer, that 17 you had substantial latitude apparently in determining the 18 pay of your direct reports and people below you, below them, 19 is that correct? 20 MR. LANE: Yes. 21 MR. PRAGER: Was that power as far as you know 22 also given to Mr. Belfiore for his direct reports? 23 MR. LANE: Yes. And, and I would say that that 24 latitude was within our, again that 3 percent budgeting 25 process. So if either me or Mr. Belfiore wanted to increase</p>	<p style="text-align: right;">Page 68</p> <p>1 also able to allocate and he had a pool of grant money that 2 was allocated to Merchant Link. So Chris Justice made the 3 recommendations. They rolled up and as long as they fit 4 within his allocated pool, I'm sure Dan would approve them. 5 Post 2008, Dan Charron assumed that role but then he would 6 have to take those recommendations to the Board because we 7 were a joint venture. He was in the role of President and 8 Chairman of the Board of Paymentech. So he would have been 9 approving as the Paymentech owner and he would have also had 10 to take them to First Data to get their approval. 11 MR. PRAGER: And is that the way it still works as 12 of now? In 2012 when you were Chief Executive Officer, how 13 did you determine long term incentive plan adjustments? 14 MR. LANE: Yes, that's the way it works. So I, 15 I'm aware of what our pool of money is and that's, that pool 16 has been allocated by our Board so they, they, they tell me 17 this is the pool of money that you have to distributing 18 grants. And then I decide and I do seek input from my 19 senior team, how that pool is distributed. And then that 20 entire, actually that entire pool is then approved by the 21 First Data and Paymentech owner, the Compensation Committee 22 before those grants are issued. 23 MR. PRAGER: And is there anything in writing 24 justifying giving one employee let's say \$10,000 and another 25 one \$20,000?</p>
<p style="text-align: right;">Page 67</p> <p>1 someone's salary outside of the guidelines even if they were 2 a senior executive in the company, that I would have had to 3 have provided justification of that to either Mr. Justice or 4 Mr. Charron, depending on who was my, my supervisor at the 5 time. But I had, as long as it was within the, the 6 budgeted, the budgeted amount for my department, I had 7 latitude to do that. 8 MR. PRAGER: Tell me please to the best of your 9 knowledge and again if this change between 2008 and 2011 how 10 are the long term incentive plan adjustments determined for 11 each employee? 12 MR. LANE: The long term, it did change. The long 13 term incentive grants when we were a wholly owned subsidiary 14 were handled initially by Mr. Justice, so Chris Justice had 15 a list of eligible employees and he would essentially 16 unilaterally decide what those grants should be. He would 17 perhaps seek input from his senior staff, but it was up to 18 him to make those recommendations. And then Dan Charron in 19 Paymentech, and again this is 2008 and prior, Dan Charron 20 would approve those adjustments. And then those would get 21 folded or rolled into the Paymentech HR and Benefit system 22 as part because we were part of their long term incentive 23 program. And we were one of the divisions that Dan Charron 24 managed in Paymentech. So I'm sure, I don't know this, but 25 I'm sure Dan Charron had a pool of grant money that he was</p>	<p style="text-align: right;">Page 69</p> <p>1 MR. LANE: No. Not for this, not for the LTIP 2 grant. 3 MR. PRAGER: So it's all done informally, is that 4 what you're saying? Or it's just that when this goes 5 forward to Paymentech or your parent companies that they 6 just take your work for it? 7 MR. LANE: Yes. Well, it, it is done 8 discretionary, so it's within my discretion to issue those 9 grants. For the officers of the company, they're, that, 10 those grants are especially scrutinized and require, they're 11 viewed as part of the overall officer compensation by the 12 Board. But below the officers, the Board, they don't know 13 those individuals are and it's my discretion as to how those 14 grants are administered. 15 MR. PRAGER: The long term incentive plan bonus 16 that Mr. Belfiore got, which I believed was testified to at 17 one point as \$50,000. You weren't involved with that, or 18 were you? 19 MR. LANE: I was not involved in setting that 20 amount, no. I may have been involved again during that 21 period of time the HR Department reported to me, so I may 22 have been involved in sending the files back and forth, but 23 I wasn't involved in creating the amount. 24 MR. PRAGER: Did you ever complain in writing 25 about Mr. Belfiore's surliness or bullying or other behavior</p>

<p style="text-align: right;">Page 70</p> <p>1 that you found objectionable?</p> <p>2 MR. LANE: I did not.</p> <p>3 MR. PRAGER: Did you put anything in writing to</p> <p>4 Mr. Belfiore, I believe you testified that you had talked to</p> <p>5 him, but you never put anything in writing about any of</p> <p>6 this.</p> <p>7 MR. LANE: I had conversations and e-mail</p> <p>8 conversations so to the extent that we had e-mail, we</p> <p>9 exchanged e-mails back and forth, that was in writing, but I</p> <p>10 never wrote up anything more formal and put that in writing.</p> <p>11 MR. PRAGER: Your October or November 2011 e-mail</p> <p>12 exchange with Mr. McCarthy and Mr. Charron, in which you say</p> <p>13 that Mr. Belfiore's salary was below the level that you</p> <p>14 thought was reasonable or comparable at the time. Do you</p> <p>15 have any explanation for this disparity?</p> <p>16 MR. LANE: I didn't provide an explanation to</p> <p>17 them, no, in that conversation.</p> <p>18 MR. PRAGER: And do you have an explanation now</p> <p>19 for the disparity?</p> <p>20 MR. LANE: That's a good question. I think, I</p> <p>21 think it was, part of the disparity was frankly</p> <p>22 circumstances. I, I think there were two factors, one was</p> <p>23 the circumstance of him coming into Merchant Link at a</p> <p>24 relatively low salary and low position and climbing quickly</p> <p>25 and it was unusual and difficult even when employees climb</p>	<p style="text-align: right;">Page 72</p> <p>1 when he said do the right thing.</p> <p>2 MR. PRAGER: All right. Now in your organization</p> <p>3 in 2011, in the summer and fall of 2011 and beyond, I guess,</p> <p>4 who were the principal users of the CRM to be?</p> <p>5 MR. LANE: The principal users were the service</p> <p>6 delivery staff so that, and the people who were entering the</p> <p>7 new orders into the system, which was the installation and</p> <p>8 the implementation departments. And the people who were</p> <p>9 opening cases when merchants called in with problems, which</p> <p>10 was the text support group. In addition, the, those were</p> <p>11 the heaviest always on the system users but there were the</p> <p>12 other area was the accounting and billing functions that</p> <p>13 were pulling reporting data from that system to run reports</p> <p>14 and do the billing activities.</p> <p>15 MR. PRAGER: Am I correct in stating that billing,</p> <p>16 accounting and service delivery functions were at that point</p> <p>17 within Mr. Belfiore's purview?</p> <p>18 MR. LANE: Not quite, well partially correct.</p> <p>19 MR. PRAGER: That's the story of my life.</p> <p>20 MR. LANE: I'm sorry. The, the, in early 2011</p> <p>21 along with the CRM system we were also pulling the</p> <p>22 accounting and billing and financial functions from</p> <p>23 Paymentech into Merchant Link and so the billing process was</p> <p>24 very complicated. We had local, we had local billing</p> <p>25 representation but again a lot of those functions were being</p>
<p style="text-align: right;">Page 71</p> <p>1 quickly to get them large increases. I would say that was</p> <p>2 one and I would say secondly the circumstances surrounding</p> <p>3 the uncertainty of the company, so between 2008 and 2012</p> <p>4 there were several changes in systems and personnel and the</p> <p>5 ownership of the company. There was questions of, the</p> <p>6 owners were considering selling the business so there were,</p> <p>7 they weren't, there were probably points of time where had</p> <p>8 we had a CEO and a more established management team in</p> <p>9 place, I think there might have been more focus on Erik's</p> <p>10 salary and, and it, it might have been addressed earlier.</p> <p>11 But there was a lot of transition at the time and I, I think</p> <p>12 the organization as a whole, if you will, lost focus on it.</p> <p>13 MR. PRAGER: Did Mr. Belfiore approach you when</p> <p>14 you became the CEO to discuss his salary before September or</p> <p>15 October of 2011?</p> <p>16 MR. LANE: No, he didn't. Well I, I take that,</p> <p>17 I'm sorry, he did in that summer, towards the end of that,</p> <p>18 it might have been July, August. We had a phone call while</p> <p>19 he was on medical leave so and he said you know Dan, I, I</p> <p>20 think I testified to this yesterday, I, he, he said you need</p> <p>21 to do the right thing. And I said Erik I'm sensing your</p> <p>22 checked out, you're not engaged, you need to come back</p> <p>23 engaged and so that was the first time that he had made me</p> <p>24 aware that his, and I'm not even sure at that time he</p> <p>25 specifically said my salary is low but I knew what he meant</p>	<p style="text-align: right;">Page 73</p> <p>1 provided by Paymentech in 2011 and I can't remember exactly,</p> <p>2 but that local billing function initially in 2011, yes,</p> <p>3 reported to Erik Belfiore.</p> <p>4 MR. PRAGER: Okay. Would it be fair to say that</p> <p>5 the largest number of users of the CRM system would have</p> <p>6 been people who reported to Mr. Belfiore?</p> <p>7 MR. LANE: Yes.</p> <p>8 MR. PRAGER: Wouldn't an executive have a</p> <p>9 responsibility to the people who worked under him to assure</p> <p>10 that the tools they were given worked properly?</p> <p>11 MR. LANE: Yes, they would.</p> <p>12 MR. PRAGER: And wouldn't it be good management</p> <p>13 for a manager to fight hard but not, not, not under the</p> <p>14 table, but to fight hard to get any new system to meet the</p> <p>15 demands of the people who were subordinate to him?</p> <p>16 MR. LANE: Yes, that's part of a manager's</p> <p>17 responsibility but as a manager the, the more senior a</p> <p>18 manger is in an organization, the more important it is that</p> <p>19 that manager has a global view of the organization in mind</p> <p>20 and the system of choice. And the system implementation had</p> <p>21 several factors including the cost of the system, the</p> <p>22 difficulty in the ability for our programmers to write code</p> <p>23 to get the system implemented, the, the ability to get the</p> <p>24 system implemented in time for the deadlines. So this, this</p> <p>25 system interfaced to do other applications within Paymentech</p>

<p style="text-align: right;">Page 74</p> <p>1 and we had to write software to interface with all of these. 2 So there were a lot of considerations as to why that system 3 was chosen and I would admit it wasn't the best user 4 interface for those users. But there were other factors 5 that made it the best system for Merchant Link. 6 MR. PRAGER: Right. I'm not asking whether CRM 7 should have been implemented, I'm asking whether or not once 8 it was chosen wouldn't it be the responsibility of the 9 manager to make sure that it had as many bells and whistles 10 as possible to make it effective with respect to the people 11 who were subordinate to him? 12 MR. LANE: Yes. 13 MR. PRAGER: All right. And now you heard Mr. 14 Sanders's testimony yesterday in which he said that he and 15 his either subordinates and or his people at his level is 16 middle management level, had gone a number of times to Mr. 17 Belfiore complaining about defects, what they considered 18 defects, in the system and asking for assistance in getting 19 the CRM project adjusted. 20 MR. LANE: Yes, sir. 21 MR. PRAGER: All right. Were you aware of these 22 exchanges between Mr. Belfiore and the people who work under 23 him with respect to the CRM? 24 MR. LANE: Yes, I wasn't aware of every exchange 25 but I was aware that they were bringing complaints about the</p>	<p style="text-align: right;">Page 76</p> <p>1 interacting with all of the users, all those support users 2 who were going to be using the system. So had Ms. Dantzler 3 wanted to, she could have done a poor job training them and 4 she could have drummed up negative feedback and simply not 5 put good effort into her role of training them. And that 6 would have, that would have caused the users to boycott or 7 revolt, or whatever word you want to use to simply say, 8 throw up their hands and say I don't want to use this 9 system, I can't use this system rather than participate in 10 the implementation of the system. So she could have fueled 11 the fire towards that end. 12 MR. PRAGER: And do you think that it would have 13 fueled the fire more than say Mr. Sanders who is actually 14 working on the CRM who objected to various portions of the 15 CRM? 16 MR. LANE: Not necessarily more but she was going 17 to be interacting with those users of the system on a daily 18 basis across all departments. So Mr. Sanders and he would 19 have been one of the users of that system that, that Ms. 20 Dantzler would be training. 21 MR. PRAGER: Right. But she wouldn't train him, 22 right? 23 MR. LANE: She could have been, yes. 24 MR. PRAGER: Oh really? 25 MR. LANE: Yes.</p>
<p style="text-align: right;">Page 75</p> <p>1 system to Mr. Belfiore. 2 MR. PRAGER: All right. Now, what was Ms. 3 Dantzler's technical background, if any? 4 MR. LANE: She had worked in the service delivery 5 group in the implementation and installation group which is 6 somewhat technical so she had the ability, she knew how our 7 customer's products worked, she knew how our internal 8 systems worked. But she wasn't in the tech, technical 9 support group that was handling the more technical customer 10 calls. So I would say average. 11 MR. PRAGER: All right. Was she basically a 12 training person with respect to CRM, is that -- 13 MR. LANE: Yes. 14 MR. PRAGER: -- but she herself would not be a 15 user of it, is that correct? 16 MR. LANE: She would not be a daily user of it. 17 She would have to be, remain familiar with the system so she 18 could train new employees when they came to Merchant Link. 19 MR. PRAGER: You thought in using, I think, her 20 language, that Mr. Belfiore wanted to sabotage the project, 21 is that correct? 22 MR. LANE: Yes, sir. 23 MR. PRAGER: Tell me how Ms. Dantzler could have 24 sabotaged the project. 25 MR. LANE: Ms. Dantzler was going to be</p>	<p style="text-align: right;">Page 77</p> <p>1 MR. PRAGER: All right. Now your handbook talks 2 about your being, Merchant Link's handbook talks about 3 talking to someone who is accused of harassment as part of 4 the investigation of harassment, is that correct? 5 MR. LANE: Yes. 6 MR. PRAGER: You didn't draw up that handbook, did 7 you? 8 MR. LANE: No, sir. 9 MR. PRAGER: All right. Even though you were at 10 some point in charge of Human Resource or Human Relations? 11 MR. LANE: Correct. I mean I, I don't have human 12 resources expertise and when I was in charge of it, we had a 13 Director of Human Resources who drew up the handbook. 14 MR. PRAGER: Now, I'm not sure how one construes 15 the handbook, it could be harassment can deal with such 16 things as sexual harassment or verbal harassment or other 17 harassment at work. But in any event, whether relatively 18 trivial or very serious, there is the idea that the accused 19 is going to be given an opportunity to rebut whatever 20 charges there are, is that correct? 21 MR. LANE: Yes. 22 MR. PRAGER: But you felt that there was no need 23 to get a rebuttal from a senior manager to an accusation by 24 a relatively low level employee? 25 MR. LANE: That's correct. Yes.</p>

<p style="text-align: right;">Page 78</p> <p>1 MR. PRAGER: And why was that?</p> <p>2 MR. LANE: I, I, I found the accusation completely</p> <p>3 credible. I trusted my Director of Human Resources, Wendy</p> <p>4 Nussbaum, and I felt the, the accusation required immediate</p> <p>5 action, and for those reasons.</p> <p>6 MR. PRAGER: All right. Well Ms. Nickle was</p> <p>7 merely repeating what she heard from Ms. Dantzler, right?</p> <p>8 MR. LANE: And Mr. Minton, yes.</p> <p>9 MR. PRAGER: Well and Mr. Minton was repeating. I</p> <p>10 mean it all comes from Ms. Dantzler. She was the only one</p> <p>11 who participated in the conversation with the exception of</p> <p>12 Mr. Belfiore, right?</p> <p>13 MR. LANE: Yes.</p> <p>14 MR. PRAGER: So they were just repeating what they</p> <p>15 heard with whatever embroidery or not Ms. Dantzler made in</p> <p>16 talking to them after the event?</p> <p>17 MR. LANE: Yes. Ms. Dantzler had no reason to, to</p> <p>18 make up a story like this or had no reason to had, had,</p> <p>19 certainly wasn't aware of anything that was going on with</p> <p>20 Erik with regards to his complaint. And it, you know, she,</p> <p>21 she hadn't been involved in, in any of that. So it, you</p> <p>22 know, there was no reason for her to simply fabricate this,</p> <p>23 this story.</p> <p>24 MR. PRAGER: I understand. But there is a</p> <p>25 question of fabrication. There is also the question of</p>	<p style="text-align: right;">Page 80</p> <p>1 question then. In your work as a manger had you ever fired</p> <p>2 or disciplined someone without giving the other person an</p> <p>3 opportunity to defend themselves?</p> <p>4 MR. LANE: Well, I had fired or disciplined people</p> <p>5 without me directly speaking with them, yes. In, in terms</p> <p>6 of giving them an opportunity to defend themselves.</p> <p>7 MR. PRAGER: But in those instances did you have</p> <p>8 anyone else talk to the perpetrators or the people who were</p> <p>9 being fired or disciplined before you acted?</p> <p>10 MR. LANE: Yes.</p> <p>11 MR. PRAGER: So you did in fact have the other</p> <p>12 side of the story in those instances that we're talking</p> <p>13 about?</p> <p>14 MR. LANE: In that instance, yes.</p> <p>15 MR. PRAGER: Was it just one instance?</p> <p>16 MR. LANE: You'd have to give me a minute to</p> <p>17 think. I, I haven't fired very many people so the one</p> <p>18 instance I'm thinking, I, I can only recall right now one</p> <p>19 instance, yes.</p> <p>20 MR. PRAGER: All right. I think at the moment</p> <p>21 that exhausts the questions that I have. My slow mind may</p> <p>22 develop some others at some point --</p> <p>23 MR. LANE: Okay.</p> <p>24 MR. PRAGER: -- based on further testimony. But</p> <p>25 since you're going to be around not only this afternoon but</p>
<p style="text-align: right;">Page 79</p> <p>1 misinterpretation. Parents and children, husbands and</p> <p>2 wives, employees and employers have lots and lots of</p> <p>3 misunderstandings, words are often used imprecisely. Why</p> <p>4 wouldn't you want to get the other side, even if you say</p> <p>5 this is plausible, why wouldn't you want at least another</p> <p>6 side of the, I'm searching for words, but the other side of</p> <p>7 the story before you make up your mind definitively?</p> <p>8 MR. LANE: Again, I felt, I, I felt I had to act</p> <p>9 quickly. I felt I had to act decisively and, and everything</p> <p>10 I heard fit a pattern and was completely credible. And</p> <p>11 Wendy Nussbaum, I, was reliable and I had relied on her in</p> <p>12 the past. And I, I simply chose to go that route.</p> <p>13 MR. PRAGER: You needed to move quickly and</p> <p>14 decisively, I believe were your words. It would seem to me</p> <p>15 easier to say in retrospect perhaps but to move quickly and</p> <p>16 decisively you could have suspended Mr. Belfiore while you</p> <p>17 investigated, couldn't you?</p> <p>18 MR. LANE: I could have, yes.</p> <p>19 MR. PRAGER: But you chose not to?</p> <p>20 MR. LANE: I did. I chose not to. I'm not sure I</p> <p>21 had considered that as an option. I can't remember having</p> <p>22 ever done that as a, as a manger or a VP or executive in my</p> <p>23 career. So the, the option may not have even entered my</p> <p>24 mind.</p> <p>25 MR. PRAGER: Well, let me ask you a different</p>	<p style="text-align: right;">Page 81</p> <p>1 probably next week, if there are any others that would occur</p> <p>2 to me, I'll ask them at that point. Mr. Johnson, it doesn't</p> <p>3 make any sense for you to start at this point in doing your</p> <p>4 redirect or re-cross examination. So I think at that point</p> <p>5 we will break for lunch and resume at 10 minutes of 1:00</p> <p>6 p.m. All right.</p> <p>7 MR. JOHNSON: Yes, Your Honor.</p> <p>8 MR. PRAGER: We'll go off the record.</p> <p>9 (OFF THE RECORD.)</p> <p>10 (ON THE RECORD.)</p> <p>11 MR. PRAGER: So we're back on the record. During</p> <p>12 or after the recess, Mr. Petesch made a report about</p> <p>13 Respondent's Exhibit 110. Would you care to repeat that for</p> <p>14 the record, please --</p> <p>15 MR. PETESCH: Yes, Your Honor.</p> <p>16 MR. PRAGER: -- Mr. Petesch?</p> <p>17 MR. PETESCH: Yes, Your Honor. The Court asked us</p> <p>18 to re-examine and make a representation as to what had been</p> <p>19 redacted at the top of the document and as suspected, it was</p> <p>20 indeed a subsequent transmission of that e-mail to outside</p> <p>21 counsel for the company. And so it was redacted under the</p> <p>22 cloak of privilege.</p> <p>23 MR. PRAGER: All right. And Mr. Johnson, do you</p> <p>24 have any comment on that report?</p> <p>25 MR. JOHNSON: No, Your Honor.</p>

<p style="text-align: right;">Page 82</p> <p>1 MR. PRAGER: All right. Thank you. Mr. Johnson, 2 you may ask your questions, sir. 3 MR. JOHNSON: Thank you, Your Honor. Good 4 afternoon, Mr. Lane. There were some questions that the 5 complainant had with regard to questions asked by your 6 counsel on redirect, I'm sorry, that would have been cross, 7 your cross. 8 MR. PETESCH: My questions, such as they were. 9 MR. JOHNSON: Mr. Lane, you stated that, you 10 mentioned that you had patents. I have a couple of 11 questions with regard to your patents. Were your patents, 12 was the nature of your patents of the nature of intellectual 13 property? 14 MR. LANE: Yes. 15 MR. JOHNSON: And was it tangible, was a program 16 code or a process? 17 MR. LANE: They were, I guess, technical 18 processes. I'm, I'm not sure. They were technology 19 processes. 20 MR. JOHNSON: And were the patents centered around 21 a process called Tokenization? 22 MR. LANE: Yes. That was one and the other one 23 was around some encryption technology. 24 MR. JOHNSON: And how many people's names were 25 submitted for the patents?</p>	<p style="text-align: right;">Page 84</p> <p>1 MR. JOHNSON: Okay. 2 MR. PRAGER: And Mr. Lane himself is not at issue, 3 Mr. Belfiore's salary and his termination is. But I'm not 4 quite sure what this has to do with any of that. 5 MR. JOHNSON: Okay. Thank you, Your Honor. Now 6 Mr. Lane you mentioned that there was some tensions with 7 micros, correct? 8 MR. LANE: Yes. 9 MR. JOHNSON: And can you describe these tensions? 10 MR. LANE: The tensions were around the, a billing 11 dispute at the time. 12 MR. JOHNSON: And can you describe the billing 13 dispute? 14 MR. LANE: Yes. Micros discovered that their 15 database of, well let me back up. Each month Merchant Link 16 billed Micros for a certain number of installed customer 17 sites who were subscribing to an annual support service. 18 And Micros, the primary crux of the dispute was that Micros 19 was disputing the number of sites that we were billing them 20 for. So we were billing them for approximately 25,000 to 21 30,000 sites under annual support and they thought the 22 number was less than that. 23 MR. JOHNSON: Now wasn't the Micros contract a 24 cancelled contract with no exclusivity going forward? 25 MR. LANE: Micros had, well I think what you're</p>
<p style="text-align: right;">Page 83</p> <p>1 MR. LANE: I don't recall exactly, approximately 6 2 to 10. 3 MR. JOHNSON: And were the patents created while 4 you were employed with Merchant Link? 5 MR. LANE: Yes. 6 MR. JOHNSON: And what was the actual program used 7 to do the encryption? 8 MR. LANE: The actual program used, there were a 9 number of programs. There was a program in the point of 10 sale system and a program in our data centers. 11 MR. JOHNSON: And did you or someone at Merchant 12 Link develop this program? 13 MR. LANE: Yes. 14 MR. PRAGER: Mr. Johnson, I'm not sure where is 15 this supposed to be leading? 16 MR. JOHNSON: Your Honor, I believe there was, I 17 would guess there was an attempt to create ownership in the 18 patent desk to distinguish Mr. Lane from the rest of the 19 employees in terms being an actual owner of the company. 20 MR. PRAGER: I'm not sure I understood the 21 testimony to be to that effect. But I'd like to hurry that 22 along -- 23 MR. JOHNSON: Sure. 24 MR. PRAGER: -- because it seems to be very 25 peripheral to the issues here.</p>	<p style="text-align: right;">Page 85</p> <p>1 referring to is we had an exclusive contract with Micros for 2 a number of years and then in our most renewal of the 3 contract the, one of the key terms of the contract which was 4 exclusivity was, that term was removed from the contract. 5 MR. JOHNSON: Now isn't it true that Merchant Link 6 needed a new deal with Micros regarding its attempt to sell 7 the business? 8 MR. LANE: Yes. I mean, I, I assume you're 9 referring to, I'm trying to remember the 2010 time period or 10 so. 11 MR. JOHNSON: Now can you describe to me what is 12 the impact on the, on the no exclusivity clause for the 13 Merchant Link business? 14 MR. LANE: The exclusivity, so under the 15 exclusivity clause, all of the, all of the new customers 16 would be put onto Merchant Link's gateway and without that 17 clause, those customers had the option of using other 18 payment gateways or banks to provide their service. 19 MR. PRAGER: Mr. Johnson, before you go on, again 20 I'm very confused. I have no idea what this has to do with 21 anything that's at issue in this case. 22 MR. JOHNSON: Yes, there was testimony given 23 yesterday -- 24 MR. PRAGER: Yes. 25 MR. JOHNSON: -- with regard to Mr. Belfiore's</p>

<p style="text-align: right;">Page 86</p> <p>1 performance on the Micros contract and it was stated that</p> <p>2 Mr. Belfiore was removed from the contract. It was stated</p> <p>3 that he threatened the existence of the Micros contract all</p> <p>4 together.</p> <p>5 MR. PRAGER: Okay. Thank you.</p> <p>6 MR. JOHNSON: Yes, sir. Mr. Lane, isn't it true</p> <p>7 Micros threatened to sue Merchant Link for overbilling?</p> <p>8 MR. LANE: Yes.</p> <p>9 MR. JOHNSON: And isn't it true that Mr.</p> <p>10 Belfiore's group provided evidence that no such overbilling</p> <p>11 occurred?</p> <p>12 MR. LANE: Yes.</p> <p>13 MR. JOHNSON: And isn't it true that Mr. Charron</p> <p>14 communicated that Micros communicated to Mr. Belfiore to</p> <p>15 delay granting commissions to Micros until there was</p> <p>16 approval of the invoices?</p> <p>17 MR. LANE: No, I don't think that's true.</p> <p>18 MR. JOHNSON: Now isn't it true that Mr. Charron</p> <p>19 eventually relented and forgave the underpayment of the</p> <p>20 Micros invoices?</p> <p>21 MR. LANE: Yes, that's true.</p> <p>22 MR. JOHNSON: Now Mr. Lane you mentioned that Mr.</p> <p>23 Tim Kinsella had performance issues, correct?</p> <p>24 MR. LANE: Yes.</p> <p>25 MR. JOHNSON: And can you describe those</p>	<p style="text-align: right;">Page 88</p> <p>1 MR. JOHNSON: And wasn't Mr. Tim Kinsella the lead</p> <p>2 on the Micros contract?</p> <p>3 MR. LANE: Well he, he, he owned the primary sales</p> <p>4 relationship with Micros. It, it depends what time frame</p> <p>5 you're referring to, but I don't think there really was a</p> <p>6 lead on the Micros contract. When Chris Justice was here,</p> <p>7 Chris was the lead. When Dan Charron was here, it was a</p> <p>8 shared responsibility between me, Dan and Tim. And then</p> <p>9 after I took over I assumed the lead.</p> <p>10 MR. JOHNSON: Now isn't it true that Mr. Tim</p> <p>11 Kinsella was notified about his poor performance?</p> <p>12 MR. LANE: By me?</p> <p>13 MR. JOHNSON: By Merchant Link.</p> <p>14 MR. PRAGER: Is that a question?</p> <p>15 MR. LANE: That was a question, I'm, I'm asking</p> <p>16 you can you clarify the question please?</p> <p>17 MR. JOHNSON: Was Mr. Tim Kinsella notified by</p> <p>18 Merchant Link or human recourses about his poor performance?</p> <p>19 MR. LANE: When, when I began I, I don't know</p> <p>20 about before I began supervising him. But when I began</p> <p>21 supervising him I had some discussions with him about his</p> <p>22 poor performance. And actually I do remember one meeting</p> <p>23 Dan Charron had with him about his not hitting his sales</p> <p>24 numbers.</p> <p>25 MR. JOHNSON: And was his poor performance used to</p>
<p style="text-align: right;">Page 87</p> <p>1 performance issues?</p> <p>2 MR. LANE: Yes. He was our head of our sales</p> <p>3 group and he was failing to hit the sales targets for the</p> <p>4 company and he was, I was hearing reports that he was not</p> <p>5 doing a good job managing customer negotiations.</p> <p>6 MR. JOHNSON: And isn't it true that Mr. Kinsella</p> <p>7 also had character issues, correct?</p> <p>8 MR. LANE: Yes.</p> <p>9 MR. JOHNSON: What were those character issues?</p> <p>10 MR. LANE: He was, let's see, how do I describe</p> <p>11 it? Sometimes he was disingenuous so he would say what he</p> <p>12 wanted people to hear to get things done. He, I'm trying</p> <p>13 to, I think he was, he was a sales person, he traveled a</p> <p>14 lot. I think he, he spent more than his expense reports,</p> <p>15 you know, warranted at times, things like that.</p> <p>16 MR. JOHNSON: And did he also engage in identity</p> <p>17 theft for one of the employees?</p> <p>18 MR. LANE: Identity theft, I don't recall an</p> <p>19 incident like that. You'd have to refresh my memory.</p> <p>20 MR. JOHNSON: Did he use Mr. Bertrand's identity</p> <p>21 out in Arizona and I believe he got caught because he got a</p> <p>22 ticket and never paid it.</p> <p>23 MR. LANE: He, he did, he used, he borrowed, I</p> <p>24 think you're referring to the incident when he borrowed Mr.</p> <p>25 Bertrand's rental car and used the rental car.</p>	<p style="text-align: right;">Page 89</p> <p>1 reduce his LTIP award?</p> <p>2 MR. LANE: Yes.</p> <p>3 MR. JOHNSON: Do you recall how much his LTIP</p> <p>4 award was reduced?</p> <p>5 MR. LANE: I don't remember the exact amount, I</p> <p>6 know it was a significant reduction.</p> <p>7 MR. JOHNSON: If I said it was \$35,000 would that</p> <p>8 be a number close --</p> <p>9 MR. LANE: Yes.</p> <p>10 MR. JOHNSON: -- to recollection?</p> <p>11 MR. LANE: Yes, it would.</p> <p>12 MR. JOHNSON: Now was there anything done to Mr.</p> <p>13 Belfiore's compensation to reflect any performance or</p> <p>14 behavioral issues?</p> <p>15 MR. LANE: No, sir.</p> <p>16 MR. JOHNSON: Now in fact you advocated for him to</p> <p>17 receive a raise in the face of allegations of bad</p> <p>18 performance and surliness, was actually a detriment to the</p> <p>19 company and yourself?</p> <p>20 MR. LANE: Can you repeat the question?</p> <p>21 MR. JOHNSON: The fact that you advocated for him</p> <p>22 to get a raise in the face of the allegations of bad</p> <p>23 performance and surliness, was detrimental to the company</p> <p>24 and yourself.</p> <p>25 MR. PETESCH: I'm going to object as being</p>

<p style="text-align: right;">Page 90</p> <p>1 compound.</p> <p>2 MR. PRAGER: Why don't you rephrase the question.</p> <p>3 MR. JOHNSON: Sure. Did your allegation of Mr.</p> <p>4 Belfiore's bad performance reflect badly upon the company?</p> <p>5 MR. LANE: I, I, it reflected badly on the culture</p> <p>6 of the company, yes.</p> <p>7 MR. JOHNSON: And your allegation of Mr.</p> <p>8 Belfiore's performance was never documented?</p> <p>9 MR. LANE: Except for the e-mails that I mentioned</p> <p>10 before between me and Mr. Belfiore, that's correct.</p> <p>11 MR. JOHNSON: And are you familiar with Mr. Chris</p> <p>12 Sutherland?</p> <p>13 MR. LANE: Yes, I am.</p> <p>14 MR. JOHNSON: And describe how you are familiar</p> <p>15 with Mr. Chris Sutherland.</p> <p>16 MR. LANE: I hired Chris Sutherland as our VP of</p> <p>17 Security.</p> <p>18 MR. PRAGER: Excuse me, that has already appeared</p> <p>19 in some documents and I'm not quite sure what a Vice</p> <p>20 President of Security is. Is this physical security at your</p> <p>21 offices or security on your system?</p> <p>22 MR. LANE: It's security of the system, like cyber</p> <p>23 security to prevent our systems from being hacked from the</p> <p>24 outside world. There's a small component of it that's</p> <p>25 physical security like badge access and things like that.</p>	<p style="text-align: right;">Page 92</p> <p>1 relevance. So I will permit the question to be asked and an</p> <p>2 answer has been given. Mr. Johnson?</p> <p>3 MR. JOHNSON: Yes, Your Honor. Did you perform a</p> <p>4 background check on Mr. Chris Sutherland before he was</p> <p>5 hired?</p> <p>6 MR. LANE: No, we were performing it as he was</p> <p>7 hired. In other words, it started before he was hired, it</p> <p>8 was completed after he was hired.</p> <p>9 MR. JOHNSON: Now is that the normal procedure to</p> <p>10 do background checks after employees are hired?</p> <p>11 MR. LANE: Normally they're completed before an</p> <p>12 employee is hired.</p> <p>13 MR. JOHNSON: And what was the difference with Mr.</p> <p>14 Chris Sutherland as to why his background check was not</p> <p>15 completed before he was hired?</p> <p>16 MR. LANE: He had some overseas employment and</p> <p>17 education and overseas, the international background checks</p> <p>18 took much longer to get the results back. So, so we allowed</p> <p>19 him to start before the background check was completed.</p> <p>20 MR. JOHNSON: Now how important is education in</p> <p>21 the determination of an employee's salary?</p> <p>22 MR. LANE: It's one of the factors of, that we</p> <p>23 consider.</p> <p>24 MR. JOHNSON: And how much weight would education</p> <p>25 carry in a salary decision?</p>
<p style="text-align: right;">Page 91</p> <p>1 But primarily it's the electronic cyber security.</p> <p>2 MR. PRAGER: Thank you. Mr. Johnson?</p> <p>3 MR. JOHNSON: Yes, thank you, Your Honor. Now Mr.</p> <p>4 Lane, did Mr. Chris Sutherland perform his job</p> <p>5 satisfactorily?</p> <p>6 MR. LANE: He was only there a very short period</p> <p>7 of time and so during the short period of time that he was</p> <p>8 there, he was performing his job satisfactorily.</p> <p>9 MR. JOHNSON: And you said it was a short period</p> <p>10 of time. Did you terminate Mr. Chris Sutherland?</p> <p>11 MR. LANE: I did, or I in collaboration with our</p> <p>12 HR Department.</p> <p>13 MR. JOHNSON: And why did you terminate Mr. Chris</p> <p>14 Sutherland?</p> <p>15 MR. LANE: We learned that he had falsified</p> <p>16 credentials on his resume and, and the interview process.</p> <p>17 MR. JOHNSON: Now did Mr. Chris Sutherland receive</p> <p>18 a severance package?</p> <p>19 MR. LANE: No.</p> <p>20 MR. JOHNSON: Did Mr. Tim Kinsella receive a</p> <p>21 severance package?</p> <p>22 MR. LANE: Yes.</p> <p>23 MR. KAPLAN: Objection. Relevance.</p> <p>24 MR. PRAGER: Well I think it shows perhaps</p> <p>25 disparity of treatment. Again it goes to weight not</p>	<p style="text-align: right;">Page 93</p> <p>1 MR. LANE: I think it depends on the position in a</p> <p>2 specialized position then having the specialized education</p> <p>3 is extremely important and in a less specialized position or</p> <p>4 a more junior position. I think the education is less</p> <p>5 important.</p> <p>6 MR. JOHNSON: And do you recall what was the</p> <p>7 education level of Mr. Tim Kinsella?</p> <p>8 MR. LANE: I believe he has a degree from the</p> <p>9 University of Nevada Las Vegas in the hospitality management</p> <p>10 program.</p> <p>11 MR. JOHNSON: Can you reconcile for the Court the</p> <p>12 difference between Mr. Tim Kinsella's character issues and</p> <p>13 Mr. Belfiore's character issues?</p> <p>14 MR. LANE: Well, Mr. Kinsella's, they, they were</p> <p>15 different people they had different character issues. So</p> <p>16 the, the types of activities that Tim Kinsella, the</p> <p>17 character issues that I think he had were consistent with</p> <p>18 sales people. Sales people travel a lot, they meet with</p> <p>19 clients a lot, they have large expense accounts. They're</p> <p>20 often in a position where they're having to sell our</p> <p>21 products so they're selling ahead often of what's available</p> <p>22 and Mr. Kinsella kind of fit that profile. He was a little</p> <p>23 bit fast and loose and if you will, and, and that, that kind</p> <p>24 of fit his job and profile. Mr. Belfiore I think his</p> <p>25 character issues were more in terms of sometimes being</p>

<p style="text-align: right;">Page 94</p> <p>1 hostile or dismissive or bullying people. So different, 2 different types of issues, I think. 3 MR. JOHNSON: And because Mr. Kinsella's issues 4 were closely related to sales, he was allowed to retire and 5 received a severance package, correct? 6 MR. LANE: No, I, I don't think the severance 7 package was related to his character issues, it was related 8 to his performance and he, he wasn't performing. We started 9 to have discussions about his lack of performance and he 10 said he didn't think he could succeed under my expectations 11 and let's talk about a, a severance package. So we had a 12 negotiation and negotiated a severance. 13 MR. JOHNSON: Now all the testimony and evidence 14 presented thus far said that Mr. Belfiore was actually 15 performing. So why wasn't Mr. Belfiore offered a severance 16 package? 17 MR. LANE: Well because I, I think Mr. Belfiore 18 exactly, you just said it, he was performing up until the 19 end and then there was this incident that crossed the line. 20 MR. JOHNSON: And there's no policy written 21 anywhere that we could look at that says certain types of 22 activity of corporate officers are not required or does not 23 allow for severance package? 24 MR. LANE: No, sir. 25 MR. JOHNSON: Now Mr. Lane, when did Christina</p>	<p style="text-align: right;">Page 96</p> <p>1 checking to make sure that this is not an exhibit that's 2 already in the record. 3 MR. JOHNSON: To my knowledge, Your Honor, this is 4 not -- 5 MR. PETESCH: I think it's 55F. 6 MR. JOHNSON: Did we get to F yet? 7 MR. PETESCH: No, we didn't, you're right. We 8 didn't. 9 MR. JOHNSON: So it would be 55F. I think you left 10 off at 55E. 11 MR. PRAGER: Right, it is not. 12 MR. PETESCH: It would be right now. 13 MR. PRAGER: You're referring to an exhibit which 14 it will now be marked as Complainant Exhibit 55F. 15 (Complainant's Exhibit No. 55F 16 was marked for identification.) 17 MR. PRAGER: And it consists of three pages 18 beginning with ML00050 and ending in 00052. Go ahead. 19 MR. JOHNSON: Thank you, Your Honor. Now Mr. 20 Lane, do you recognize Complainant's Exhibit Number 55F? 21 MR. LANE: Yes. 22 MR. JOHNSON: And could you describe Complainant's 23 Exhibit 55F for the Court, please? 24 MR. LANE: It's board minutes from a board meeting 25 on April 22, 2011.</p>
<p style="text-align: right;">Page 95</p> <p>1 Smith come to Merchant Link? 2 MR. LANE: It was approximately late 2010, early 3 2011. 4 MR. JOHNSON: And was she hired as a corporate 5 officer? 6 MR. LANE: Yes, she initially started, I believe 7 on a contract basis and then became an employee and then 8 became the Chief Financial Officer. 9 MR. JOHNSON: Are there board minutes to reflect 10 that she was hired on as a corporate officer? 11 MR. LANE: Yes, there are. 12 MR. JOHNSON: And do you recall the date of those 13 board minutes? 14 MR. LANE: I believe it was the middle of 2011 15 sometime. I'm not sure if it was a board minutes or it may 16 have been a board resolution. I think I saw it as a I was 17 flipping through these, somewhere in these exhibits. 18 MR. PRAGER: Can you help us out, Mr. Petesch? 19 MR. PETESCH: No, it wouldn't be my exhibit. 20 MR. JOHNSON: Yes, if you look at Complainant's 21 Exhibit Number 55. 22 MR. LANE: Yes, sir, I'm there. 23 MR. JOHNSON: I believe it has Merchant Link 24 00050, to make certain we're all on the same page. 25 MR. PRAGER: Just a moment. All right. Just</p>	<p style="text-align: right;">Page 97</p> <p>1 MR. JOHNSON: And can you identify Ms. Christina 2 Smith on the meetings for the Board of Managers? 3 MR. LANE: Yes. She's listed, yes. 4 MR. JOHNSON: And what is her position? 5 MR. LANE: It's listed as finance. 6 MR. JOHNSON: And at this particular time, was she 7 a corporate officer? 8 MR. LANE: No, she wasn't. 9 MR. JOHNSON: Was she an interim CFO? 10 MR. LANE: Yes. She was brought in initially at, 11 this was before her election to, to be an officer but we 12 understood that it was on an interim basis. She was helping 13 us implement our ERP system and stand up our finance and 14 accounting department. 15 MR. JOHNSON: And should there have been board 16 minutes to elect her as Interim CFO? 17 MR. LANE: Yes, there, there, I think the next 18 board minutes on August 3rd on page ML55 there's, it covers 19 her election to CFO. 20 MR. PETESCH: I have a relevancy, is this going 21 anywhere objection -- 22 MR. JOHNSON: Sure. 23 MR. PETESCH: -- on this line. 24 MR. PRAGER: That's a valid point. What is the 25 point of this?</p>

<p style="text-align: right;">Page 98</p> <p>1 MR. JOHNSON: Your Honor, potential comparator. 2 MR. PRAGER: I'm sorry? 3 MR. JOHNSON: Potential comparator. 4 MR. PRAGER: All right. I'll allow the question. 5 It might be relevant. 6 MR. JOHNSON: And Your Honor, Complainant moves 7 into evidence Complainant's Exhibit 55F. 8 MR. PRAGER: Do you really need to? I mean it's 9 been testified that she was, I'm not sure what value it adds 10 to what's already been testified to. It doesn't really 11 support or, I mean, what's the point? 12 MR. JOHNSON: Well, actually, Your Honor, in the 13 two steps that we're going through right now of the board 14 minutes, Ms. Smith was hired as a finance executive. 15 Individually, she was given a promotion to corporate officer 16 and we just want to put it in the record to show that and, 17 and also her salary. 18 MR. PETESCH: Well we have a stipulation on 19 salary. 20 MR. PRAGER: Right. Well it just clutters up the 21 record, but I will label this as Complainant's Exhibit 55G. 22 (Complainant's Exhibit No. 55G 23 was marked for identification.) 24 MR. PRAGER: And you've moved to admit it, Mr. 25 Johnson?</p>	<p style="text-align: right;">Page 100</p> <p>1 only there, she was only at Merchant Link, I don't know 2 about a year, a little less than a year. 3 MR. JOHNSON: And could you please turn to what 4 has been marked for identification as Complainant's Exhibit 5 Number 62? 6 MR. LANE: Yes. 7 MR. PRAGER: Now just for the record, Mr. Petesch 8 said that the joint stipulation which is Hearing Examiner 9 Exhibit 4, already has stated what Ms. Smith earned and on 10 page 3 of that exhibit, paragraph 24, said she earned a 11 monthly salary of \$25,125 and she was not eligible for 12 either LTIP or AIP. Is there any reason Mr. Lane, to doubt 13 something that both parties have agreed is the correct sum? 14 MR. LANE: No, sir. 15 MR. PRAGER: All right. Thank you. 16 MR. JOHNSON: Thank you, Your Honor. Now Mr. 17 Lane, looking at Complainant's Exhibit Number 62 -- 18 MR. LANE: Yes. 19 MR. JOHNSON: -- you have described it as an 20 attempt to reach out to Mr. Barry McCarthy in order to get 21 Mr. Belfiore's raise approved, correct? 22 MR. LANE: Yes. 23 MR. JOHNSON: And in your e-mail you represented 24 that not getting his salary raise would expose Merchant Link 25 to some liability, correct?</p>
<p style="text-align: right;">Page 99</p> <p>1 MR. JOHNSON: Yes, Your Honor. 2 MR. PRAGER: Mr. Petesch, any objections other 3 than redundancy? 4 MR. PETESCH: None other than relevance and 5 redundancy. 6 MR. PRAGER: All right. Exhibit 55G is admitted. 7 (Complainant's Exhibit No. 55G 8 previously marked for 9 identification was received 10 into evidence.) 11 MR. PRAGER: Mr. Johnson, you never moved to admit 12 55F, were you planning to do that? 13 MR. JOHNSON: Yes, Your Honor. 14 MR. PRAGER: Mr. Petesch? 15 MR. PETESCH: Same objection. 16 MR. PRAGER: The same objections. Well, I'm with 17 you, Mr. Petesch, but I'm going to allow it in anyway. 18 MR. PETESCH: It's not an apocalyptic objection. 19 MR. PRAGER: All right. Just so the record is 20 clear, Exhibit 55 F are the pages ML00050 to 52. And 21 Exhibit 55G is 00053 through 56. Mr. Johnson. 22 MR. JOHNSON: Thank you, Your Honor. Mr. Lane, 23 what was Ms. Christina Smith's salary? 24 MR. LANE: I don't remember exactly, it was 25 something in the neighborhood of \$275,000 I think. She was</p>	<p style="text-align: right;">Page 101</p> <p>1 MR. LANE: I'm, I'm looking for it, just a minute, 2 please. 3 MR. PRAGER: Do you want to help him out, Mr. 4 Johnson and help me out at the same time? Where are we? 5 MR. JOHNSON: Sure, Your Honor. 6 MR. LANE: I found, I think I found the sentence. 7 It's under, on page 2 under the paragraph labeled 8 background, the last sentence of the first paragraph. 9 MR. PRAGER: Why don't you read that into the 10 record, Mr. Lane? 11 MR. LANE: Yes, sir. I'd like to make the 12 adjustment immediately because there is some exposure to ML 13 should Erik challenge his compensation. 14 MR. PRAGER: Thank you. Mr. Johnson? 15 MR. JOHNSON: Yes. Mr. Lane, what exposure were 16 you speaking of in that particular sentence? 17 MR. LANE: I think I was, I was speaking of both 18 legal exposure as well as exposure of precedence that, that, 19 that it was setting a precedent that where his salary was 20 not in line with other senior executives. 21 MR. JOHNSON: Now was his salary also in line with 22 other corporate officers? 23 MR. LANE: Can you repeat that? 24 MR. JOHNSON: Was his salary in line with other 25 corporate officers?</p>

<p style="text-align: right;">Page 102</p> <p>1 MR. LANE: No, his salary was lower than again, 2 there were, his salary was lower than other corporate 3 officers. I guess the only other corporate officer at that 4 time was Christina Smith. 5 MR. JOHNSON: And Christina Smith was a recent 6 hire, correct? 7 MR. LANE: Yes. Again, she came in on an interim 8 basis to help us transition our ERP system and build a 9 finance and accounting department. 10 MR. JOHNSON: Now previously you testified that 11 Mr. Belfiore did not have a lot of responsibility at 12 Merchant Link, correct? 13 MR. LANE: I'm not sure that was my testimony. I 14 think I testified that he did not have the responsibilities 15 of what a typical COO would have. But he still had a lot of 16 responsibilities. 17 MR. JOHNSON: And Mr. Belfiore, his COO 18 responsibilities came from you, correct? From when you were 19 COO correct? 20 MR. LANE: His, his COO responsibilities were a 21 subset of my responsibilities from when I was COO. 22 MR. JOHNSON: And so he took over service 23 delivery, correct? 24 MR. LANE: Yes, sir. 25 MR. JOHNSON: He was also responsible for legal,</p>	<p style="text-align: right;">Page 104</p> <p>1 but I don't remember that as a formal process and I, I, it 2 was never on a org chart or anything like that. 3 MR. PRAGER: All right. Well, the record will, 4 I'm sure the claim, and I'm not going to ask you about it, 5 but my impression is that Mr. Belfiore was going to law 6 school but did not have a degree at the time. And we'll 7 determine that at some point. 8 MR. LANE: Yes, sir. 9 MR. JOHNSON: Now in 2010, Mr. Belfiore received 10 his Juris Doctorate, correct? 11 MR. LANE: Yeah, again I don't remember the exact 12 date, but that's, that's quite possible, yes. 13 MR. JOHNSON: And the date of this particular e- 14 mail is October 13, 2011, correct? 15 MR. LANE: Yes. 16 MR. JOHNSON: And in this e-mail in the paragraph 17 just beneath where you stated there was exposure to ML, you 18 mention that he's responsible for the legal billing 19 operations department and service delivery department as 20 justification for his raise, correct? 21 MR. LANE: Yes. 22 MR. JOHNSON: And in the very next paragraph you 23 compare his salary with the market data for COO's in the 24 District of Columbia and nationally, correct? 25 MR. LANE: Yes.</p>
<p style="text-align: right;">Page 103</p> <p>1 correct? 2 MR. LANE: He was responsible for our, well it 3 again, it depends on time frame. When I believe after Chris 4 left and when Dan Charron came in, Erik had responsibility 5 for our legal, which was interact, that we had, we didn't 6 have a legal department, our legal process was interacting 7 with outside counsel. 8 MR. JOHNSON: And there's a reason why he was 9 placed in charge of legal was because he had now had a legal 10 background, a law degree? 11 MR. LANE: No, I don't think that had any, I mean, 12 I'm sure it was a factor, but I don't think that was the 13 only factor. 14 MR. PRAGER: I'm sorry to interrupt. But when did 15 he have the responsibility for the legal department? 16 MR. LANE: Well, I'm trying to remember, it's, 17 it's fuzzy because we didn't have a legal department. We, 18 we got our outside attorney involved when we had, typically 19 our, our main legal activity was negotiating contracts with 20 our large customers. Those were sporadic and, and so the 21 legal activity was primarily keeping our contracts organized 22 and participating in contract discussions. I participated 23 in them. Erik participated in them as well as other 24 executives involved in negotiating the deal. I believe Dan 25 Charron gave legal to Erik when he became Interim President,</p>	<p style="text-align: right;">Page 105</p> <p>1 MR. JOHNSON: And those salaries have a range that 2 you place up there between \$204,786 as a low point, or it 3 says midpoint and \$212,014 first quartile correct? 4 MR. LANE: Correct. 5 MR. JOHNSON: And the salary you and Mr. Belfiore 6 actually agreed to was \$172,000, correct? 7 MR. LANE: Correct. 8 MR. JOHNSON: And that's substantially lower than 9 what has been identified as market averages for the District 10 of Columbia and nationally, correct? 11 MR. LANE: Yes. 12 MR. JOHNSON: Now Mr. Lane, you testified about 13 Mr. Belfiore earlier about Mr. Belfiore going to law school. 14 When did Mr. Belfiore report to Mr. Chuck Harris? 15 MR. LANE: Chuck Harris hired Mr. Belfiore and he 16 reported, Mr. Belfiore reported to Chuck Harris until he 17 left which, until Chuck left. Chuck Harris was our 18 President and I believe and that was just prior to Chris 19 Justice coming in. So I believe it was sometime in 2005. 20 MR. JOHNSON: And Mr. Chuck Harris never actually 21 worked at the Silver Spring location? 22 MR. LANE: No, he did work at the Silver Spring 23 location. He lived in Bethesda and worked in our office. 24 MR. JOHNSON: Not during the time that Mr. 25 Belfiore was there at Merchant Link, correct?</p>

<p style="text-align: right;">Page 106</p> <p>1 MR. LANE: That may have been, no, I don't, I 2 don't remember, I don't think that is correct, but maybe it 3 is. I'm not sure. 4 MR. JOHNSON: Now -- 5 MR. LANE: I, I remember him being in our office 6 the whole time he was employed at Merchant Link. In the 7 very beginning of Chuck's employment, he was hired from 8 Dallas and he moved to Maryland when he took the job at 9 Merchant Link. 10 MR. JOHNSON: And you have no personal knowledge 11 of any arrangements made with Mr. Belfiore regarding his 12 attending law school, correct? 13 MR. LANE: No, sir. 14 MR. JOHNSON: In fact, you have no personal 15 knowledge of any arrangement that Mr. Belfiore made with any 16 of his superiors other than that he was allowed to go to law 17 school, correct? 18 MR. LANE: That's correct. 19 MR. JOHNSON: And did Mr. Belfiore get additional 20 responsibilities because of law school? 21 MR. LANE: No, I don't think so. No. 22 MR. JOHNSON: Was Mr. Belfiore made the point 23 person in the negotiations for the Best Buy contract? 24 MR. LANE: No, Chris Justice was the point person 25 in the negotiation with Best Buy.</p>	<p style="text-align: right;">Page 108</p> <p>1 MR. JOHNSON: Did Ms. Christina Smith complete the 2 budget for year 2011? 3 MR. LANE: Yes. Yes, I, I don't remember 4 specifically but I'm, she was there at the time. So 5 typically budgets were done a year prior so it was, I, I 6 can't recall when she exactly came in and whether the budget 7 was completed before she came in or whether she completed it 8 after she arrived. 9 MR. JOHNSON: All right. Did you request in 10 September of 2011 for Mr. Belfiore to take over the 11 budgeting process? 12 MR. LANE: No, I don't remember doing that. 13 MR. JOHNSON: Do you recall when the budget was 14 finally approved for fiscal year 2011? 15 MR. LANE: I do not. 16 MR. JOHNSON: Now when Mr. Belfiore first started 17 Merchant Link, was there financial personnel on staff to 18 train Mr. Belfiore? 19 MR. LANE: I don't think so there was a woman who 20 worked in the, as the financial manager before Mr. Belfiore 21 and I don't remember, I think she had left before Mr. 22 Belfiore came on board. So I don't think there was anybody 23 there when he started. 24 MR. JOHNSON: So isn't it true that Mr. Belfiore 25 actually learned the Merchant Link finance process on his</p>
<p style="text-align: right;">Page 107</p> <p>1 MR. JOHNSON: And did Mr. Justice delegate work 2 regarding Best Buy contract to Mr. Belfiore? 3 MR. LANE: To both Mr. Belfiore and myself. I got 4 a call from Chris Justice on Christmas Day actually, about 5 providing information because we were hot and heavy in 6 negotiations so I was very much involved. 7 MR. JOHNSON: And didn't Merchant Link reimburse 8 Mr. Belfiore for taking a contracts class at Catholic 9 University Law School? 10 MR. LANE: I don't know. 11 MR. JOHNSON: Now Mr. Lane, returning to Ms. 12 Christina Smith, did you terminate Ms. Christina Smith? 13 MR. LANE: No, she resigned. 14 MR. JOHNSON: And was there a reason why she 15 resigned? 16 MR. LANE: She, again when she came in it was 17 understood and that she was going to be at Merchant Link on 18 an interim basis. So that was the plan all along. There 19 may have been some discussion along the way as to whether it 20 made sense to bring her in on a permanent ongoing basis, but 21 those were short discussions and she wasn't interested in 22 that. 23 MR. JOHNSON: Now were you comfortable with Ms. 24 Smith's grasp of the business and in budgeting skills? 25 MR. LANE: Yes.</p>	<p style="text-align: right;">Page 109</p> <p>1 own? 2 MR. LANE: Well he had help from the, Chuck 3 Harris, the president at the time, but other than that, 4 yeah, pretty much on his own. 5 MR. JOHNSON: But Mr. Chuck Harris actually left 6 shortly after Mr. Belfiore was employed, correct? 7 MR. LANE: Yes. 8 MR. JOHNSON: To your knowledge, did Mr. Belfiore 9 ever miss a budget timeline? 10 MR. LANE: No, not to my knowledge. 11 MR. PETESCH: Running objection on where this is 12 going and relevance of the history. 13 MR. PRAGER: Well the question's been asked and 14 answered and well, Mr. Johnson, you can explain the 15 relevance. 16 MR. JOHNSON: Yes, actually, Mr. Lane had 17 previously testified about Mr. Belfiore's job performance 18 and there was some indication that at least he was leading 19 up to Mr. Belfiore had not been performing. So we just 20 wanted to put on the record that Mr. Belfiore has. 21 MR. PRAGER: All right. But we're talking about - 22 - 23 UNIDENTIFIED PERSON: I understand. 24 MR. PRAGER: -- a very different time periods. 25 When Mr. Belfiore was the finance manager, we're talking</p>

<p style="text-align: right;">Page 110</p> <p>1 about prior to 2008 and I think the testimony that Mr. Lane 2 gave about not performing had to do with the 2011 possibly 3 late 2010 period. Is that correct, Mr. Lane? 4 MR. LANE: Yes, sir. 5 MR. PRAGER: Thank you. 6 MR. JOHNSON: And Your Honor, just to clarify, 7 there was testimony by Mr. Lane that Mr. Belfiore did not 8 understand the business. 9 MR. PRAGER: All right. Thank you. 10 MR. JOHNSON: Now Mr. Lane, the question was asked 11 by your counsel have any whites risen faster in their 12 position at Merchant Link and your response was no, correct? 13 MR. LANE: I think he asked whether there were any 14 middle managers who had risen faster than Mister, Mr. 15 Belfiore and my answer was no, correct. That I can recall. 16 MR. JOHNSON: Okay. And the follow up to that 17 question was, I guess have any white middle manager risen 18 faster than Mr. Belfiore in income and you responded yes, 19 correct? 20 MR. PETESCH: The record -- 21 MR. LANE: I don't -- 22 MR. PETESCH: -- will speak for itself. 23 MR. PRAGER: Well the record will speak for 24 itself, but since we don't remember the record as well, or 25 at least I don't, I'll let Mr. Johnson ask and Mr. Lane, the</p>	<p style="text-align: right;">Page 112</p> <p>1 MR. LANE: Yes, I think so. 2 MR. PRAGER: Let me just, so I understand the 3 question and I understand the answer, you're asking, Mr. 4 Johnson, if those job titles existed? 5 MR. JOHNSON: Yes, Your Honor, and I want to limit 6 that actually to just Vice Presidents. Did you create new 7 positions entitled Vice Presidents? 8 MR. LANE: At some point after I, it's hard for me 9 to keep my, our org chart in my head over this time period. 10 But I don't remember creating a new Vice President position 11 after I became, right after I became CEO. 12 MR. JOHNSON: Mr. Lane, do you recall promoting 13 Mr. Jay Konar to Vice President? 14 MR. LANE: Yes. 15 MR. JOHNSON: And Mr. Konar's position was Vice 16 President of Network Operations, correct? 17 MR. LANE: Correct. 18 MR. JOHNSON: And did anyone else occupy the 19 position of Vice President of Network Operations before Mr. 20 Jay Konar? 21 MR. LANE: No, sir. 22 MR. JOHNSON: Did that position exist before Mr. 23 Jay Konar? 24 MR. LANE: Not, not, it hadn't existed in a long 25 time, no. It may have existed way back, but no, sir.</p>
<p style="text-align: right;">Page 111</p> <p>1 testimony may be redundant or it may be different this time 2 around. So I'll allow him to answer the question. Would 3 you restate it, Mr. Johnson? 4 MR. JOHNSON: Yes, Your Honor. Mr. Lane, have any 5 white middle managers risen in income faster than Mr. 6 Belfiore? 7 MR. LANE: Not that I recall, no. 8 MR. JOHNSON: Now when Mr. Lane, when you first 9 took the job as CEO, did you make any new hires? 10 MR. LANE: Well, yes, after I, as I said shortly 11 after I got the CEO job Tim Kinsella left and I hired Laura 12 Kirby-Meck. I'm trying to remember but yes, I'm, and then 13 thereafter I hired other people. 14 MR. JOHNSON: And after you became CEO, did you 15 promote individuals within your organization? 16 MR. LANE: I may have, I don't, can you refresh 17 my memory? I, I don't know what you're, I may have, I don't 18 remember promoting anybody immediately after I was hired, 19 no, but -- 20 MR. JOHNSON: Did you create new positions after 21 you became CEO, new positions such as Vice Presidents and 22 Executive Vice Presidents? 23 MR. LANE: I don't think so, no. 24 MR. JOHNSON: Did those positions exist before you 25 became CEO, Executive Vice President and Vice President?</p>	<p style="text-align: right;">Page 113</p> <p>1 MR. JOHNSON: Now Mr. Jay Konar would be one of 2 the individuals whose salary risen faster than Mr. 3 Belfiore's, correct? 4 MR. LANE: I, I, I, it may have, I don't remember. 5 He was brought in at a director level, I don't consider that 6 a middle manager. He was, he was brought in in a senior 7 level from day one. And I, but I think he was hired in 8 approximately, approximately the same time as Erik, maybe 9 2007. 10 MR. JOHNSON: Could we turn to what has already 11 been entered into evidence as Complainant's Exhibit Number 12 2? 13 MR. LANE: I'm there. 14 MR. JOHNSON: All right. And before we do to 15 2010, let's go to Exhibit Number 3, which is 2008, it's 16 already entered into evidence as 2008. 17 MR. LANE: Okay. I'm there. 18 MR. JOHNSON: And Mr. Lane, can you identify Mr. 19 Jay Konar on this chart? I believe he's in the second set 20 of numbers from the top, set of people from the top? 21 MR. LANE: Yes, it's the Jayakrishnan at midway 22 through I see him. 23 MR. JOHNSON: And can you identify his salary for 24 the record? 25 MR. LANE: \$112,156.</p>

<p style="text-align: right;">Page 114</p> <p>1 MR. JOHNSON: And what is Mr. Konar's title?</p> <p>2 MR. LANE: Manager of Network Operations.</p> <p>3 MR. JOHNSON: Now staying on this same exhibit,</p> <p>4 Mr. Lane, can you find anybody who has had the title of Vice</p> <p>5 President of anything?</p> <p>6 MR. LANE: Well Sue, there's some titles in here</p> <p>7 like Erik Belfiore's say G.M. Customer Service. That wasn't</p> <p>8 his title at the time. Susan Zloth on page 2 says G.M. of</p> <p>9 Project Manager. She was a Vice President. So I don't</p> <p>10 think these titles necessarily align with the person's real</p> <p>11 title. These were titles that were used in our financial</p> <p>12 system, but to answer your question, no there was nobody on</p> <p>13 here that is listed as Vice President.</p> <p>14 MR. JOHNSON: And what is Mr. Konar's service</p> <p>15 date?</p> <p>16 MR. LANE: I, my eyes are bad, but I think it's</p> <p>17 9/1/2006.</p> <p>18 MR. JOHNSON: And that's about a year after Mr.</p> <p>19 Belfiore was hired, correct?</p> <p>20 MR. LANE: Yes, sir.</p> <p>21 MR. JOHNSON: Now we can turn our attention to</p> <p>22 what has been marked for identification as Complainant's</p> <p>23 Exhibit Number 2, which is already in evidence. Are you on</p> <p>24 the page, Mr. Lane?</p> <p>25 MR. LANE: Yes, sir.</p>	<p style="text-align: right;">Page 116</p> <p>1 MR. PETESCH: Salaries.</p> <p>2 MR. PRAGER: -- salaries and the salaries</p> <p>3 obviously also deal with --</p> <p>4 MR. PETESCH: It's part of it.</p> <p>5 MR. PRAGER: -- AIP, the annual percentage and</p> <p>6 though we don't know what they were for these two</p> <p>7 individuals they are a percentage of salaries. So there are</p> <p>8 two components of total compensation. So your objection is</p> <p>9 overruled.</p> <p>10 MR. LANE: Could you repeat the question, please?</p> <p>11 MR. JOHNSON: Is it true Mr. Jay Konar's salary</p> <p>12 surpassed Mr. Erik Belfiore's salary, correct?</p> <p>13 MR. LANE: Yes, sir. Yes, sir.</p> <p>14 MR. JOHNSON: And what is Mr. Jay Konar's title?</p> <p>15 MR. LANE: On this document it's Director of</p> <p>16 Network Operations.</p> <p>17 MR. JOHNSON: And on this particular document, Mr.</p> <p>18 Belfiore is a corporate officer, correct?</p> <p>19 MR. LANE: On this particular document, Mr.</p> <p>20 Belfiore's title is listed as COO.</p> <p>21 MR. JOHNSON: Now is it your testimony today that</p> <p>22 titles do not mean anything with regard to compensation?</p> <p>23 MR. LANE: No. No, sir.</p> <p>24 MR. PRAGER: Now I'm sorry, I didn't understand</p> <p>25 your answer. No, they didn't have anything to do with</p>
<p style="text-align: right;">Page 115</p> <p>1 MR. JOHNSON: Now can you identify Mr. Jay Konar</p> <p>2 on this exhibit for 2010?</p> <p>3 MR. PRAGER: To save time, can you tell us where</p> <p>4 you're looking?</p> <p>5 MR. JOHNSON: I'm sorry, Your Honor.</p> <p>6 MR. BELFIORE: The eighth name down.</p> <p>7 MR. JOHNSON: The eighth name from the top.</p> <p>8 MR. LANE: Yes.</p> <p>9 MR. JOHNSON: And can you state for the record,</p> <p>10 Mr. Konar's salary in 2010?</p> <p>11 MR. LANE: \$134,500.50.</p> <p>12 MR. JOHNSON: And can you state for the record Mr.</p> <p>13 Belfiore's salary which is I guess two down from Mr. Konar.</p> <p>14 MR. LANE: \$123,600.</p> <p>15 MR. JOHNSON: According to the two exhibits we</p> <p>16 just discussed, Mr. Konar's salary exceeded Mr. Belfiore's,</p> <p>17 correct?</p> <p>18 MR. PETESCH: I'm going to object to the line of</p> <p>19 questioning as mischaracterizing the record on my line of</p> <p>20 questioning, which elicited information on rising faster in</p> <p>21 terms of total compensation and I'm looking at the question</p> <p>22 that I asked right now, but the record will speak for</p> <p>23 itself.</p> <p>24 MR. PRAGER: Well your objection is overruled, at</p> <p>25 this point we're looking at --</p>	<p style="text-align: right;">Page 117</p> <p>1 compensation or no, that's not correct interpretation of</p> <p>2 your previous testimony?</p> <p>3 MR. LANE: Titles are, my testimony is titles are</p> <p>4 related to compensation.</p> <p>5 MR. PRAGER: Thank you.</p> <p>6 MR. JOHNSON: And this is 2010, so this is after</p> <p>7 the merger, correct?</p> <p>8 MR. LANE: After the forming of the JV, yes.</p> <p>9 MR. JOHNSON: The joint venture, I'm sorry.</p> <p>10 MR. LANE: Yes. Yes.</p> <p>11 MR. JOHNSON: Now we previously made a distinction</p> <p>12 between people with technical backgrounds and the rest of</p> <p>13 the employees, correct?</p> <p>14 MR. LANE: Yes, sir.</p> <p>15 MR. JOHNSON: And it was your testimony that</p> <p>16 people with tech backgrounds commanded a higher salary,</p> <p>17 correct?</p> <p>18 MR. LANE: Yes, sir. My testimony was people with</p> <p>19 specialized skills can command higher salaries in certain</p> <p>20 situations and Merchant Link had some technical people with</p> <p>21 very specialized skills who were able to command higher</p> <p>22 salaries.</p> <p>23 MR. JOHNSON: And isn't the management of the</p> <p>24 company a specialized skill?</p> <p>25 MR. LANE: Management of the company is the role</p>

<p style="text-align: right;">Page 118</p> <p>1 of the CEO, President and CEO and that's a broad range of 2 specialized skills.</p> <p>3 MR. JOHNSON: And the corporate officers wouldn't 4 they also have to have a specialized skill to run their 5 organization?</p> <p>6 MR. LANE: Actually, I don't think so. I think 7 that by specialized, I mean a skill very tailored to a 8 specific type of job and a corporate officer is a very broad 9 label and, and implies a broad set of responsibilities. So 10 I think it's actually somewhat opposite of a specialized 11 skill.</p> <p>12 MR. JOHNSON: So wouldn't the necessity to 13 understand management science be pertinent to the role of a 14 corporate officer?</p> <p>15 MR. LANE: It would be helpful.</p> <p>16 MR. JOHNSON: And isn't a corporate officer a 17 grade or an organizational level above any tech position 18 that's listed?</p> <p>19 MR. LANE: Yes.</p> <p>20 MR. JOHNSON: And such that if a tech person 21 wanted to become a corporate officer they would have to 22 receive a promotion, correct?</p> <p>23 MR. LANE: There are tech people who are corporate 24 officers. Often times founders of companies are software 25 programmers and they are corporate officers. So it's not</p>	<p style="text-align: right;">Page 120</p> <p>1 MR. LANE: Yes. Or a year --</p> <p>2 MR. JOHNSON: And you approved -- I'm sorry.</p> <p>3 MR. LANE: Yeah. I'm sorry, yes, approximately a 4 year, yes.</p> <p>5 MR. JOHNSON: And you approved that salary, 6 correct?</p> <p>7 MR. LANE: Yes.</p> <p>8 MR. JOHNSON: And on this very same date of this 9 promotion for Mr. Jay Konar, Mr. Belfiore's salary was 10 \$130,000, correct?</p> <p>11 MR. LANE: I'm sorry the date of the promotion of 12 Jay?</p> <p>13 MR. JOHNSON: Yes, October 13, 2011.</p> <p>14 MR. LANE: Yes, that's correct. That wasn't the 15 date of the promotion though.</p> <p>16 MR. JOHNSON: Do you recall the date of the 17 promotion?</p> <p>18 MR. LANE: I do not, no.</p> <p>19 MR. JOHNSON: And is a V.P. of Network Operations 20 an officer of the company?</p> <p>21 MR. LANE: No, sir.</p> <p>22 MR. JOHNSON: Now I want to turn your attention to 23 what we previously had identified as, I'm sorry, strike 24 that. I want to turn your attention to what has previously 25 been identified as Number 55F.</p>
<p style="text-align: right;">Page 119</p> <p>1 always the case that a, that a, that you needed to get 2 promoted to be a corporate officer from a tech position. At 3 Merchant Link that would be the case.</p> <p>4 MR. JOHNSON: So at Merchant Link they would have 5 to have a promotion in order to become a corporate officer?</p> <p>6 MR. LANE: Yes.</p> <p>7 MR. JOHNSON: Now when we discussed what was 8 identified as Complainant's Exhibit 62, and we just left 9 from that exhibit, but Mr. Jay Konar received another 10 promotion, correct?</p> <p>11 MR. LANE: Yes.</p> <p>12 MR. JOHNSON: And pursuant to that promotion, he 13 actually got an increase in his salary from \$134,500.50 to 14 \$160,000, correct?</p> <p>15 MR. LANE: He may have, I don't remember the exact 16 amount of the promotion.</p> <p>17 MR. JOHNSON: I'm going to turn to Complainant's 18 Exhibit 62 just to check that.</p> <p>19 MR. LANE: Yes, that's what it says.</p> <p>20 MR. JOHNSON: Yes, see Mr. Konar was promoted to 21 Vice President of Network Operations and to a salary of 22 \$160,000.</p> <p>23 MR. LANE: Yes, sir.</p> <p>24 MR. JOHNSON: And that was within the span of one 25 year, correct?</p>	<p style="text-align: right;">Page 121</p> <p>1 MR. LANE: Can you refresh my memory on which one 2 F is, please?</p> <p>3 MR. JOHNSON: I believe that's the ML00053, is it 4 53?</p> <p>5 MR. PETESCH: No, I've got G for that.</p> <p>6 MR. PRAGER: No, that's 55G is 53.</p> <p>7 MR. JOHNSON: So I'm sorry, Your Honor, so F is --</p> <p>8 MR. PETESCH: F has been marked but not admitted.</p> <p>9 MR. PRAGER: Correct.</p> <p>10 MR. JOHNSON: Yes. F is ML000, I'm sorry, Your 11 Honor, I'm starting to get confused by these.</p> <p>12 MR. PRAGER: Join the club.</p> <p>13 MR. JOHNSON: Okay. What we have as marked as 14 ML00047. That's February 16, 2011.</p> <p>15 MR. PRAGER: That is Exhibit 55E.</p> <p>16 MR. JOHNSON: 55E. Thank you, Your Honor.</p> <p>17 MR. LANE: Yes, I'm here.</p> <p>18 MR. JOHNSON: Yes. Mr. Lane, you testified that 19 Mr. Belfiore was not present at this particular board 20 meeting, correct?</p> <p>21 MR. LANE: Yes.</p> <p>22 MR. JOHNSON: And did you state the reason why Mr. 23 Belfiore was not present at this particular board meeting?</p> <p>24 MR. LANE: No.</p> <p>25 MR. JOHNSON: And to your knowledge can you say</p>

<p style="text-align: right;">Page 122</p> <p>1 that Mr. Belfiore took a leave, took vacation leave to study 2 for the bar exam, correct? 3 MR. LANE: It's possible, I don't recall. 4 MR. JOHNSON: And at this particular board 5 meeting, Christina Smith is listed as the finance person, 6 correct? 7 MR. LANE: Yes, sir. 8 MR. JOHNSON: And Ms. Christina Smith actually 9 took over the financial responsibilities for Mr. Belfiore, 10 correct? 11 MR. LANE: Again, Christina Smith took over some 12 financial responsibilities that Erik Belfiore was handling. 13 But in addition she was bringing in a new ERP system and 14 building out our complete finance and accounting department. 15 So it's a little bit of apples and oranges comparison. 16 MR. JOHNSON: And so in regards to the finance 17 portion of this particular board meeting, she took over the 18 responsibilities of Mr. Belfiore? 19 MR. LANE: Yes. 20 MR. PRAGER: Let me interrupt, I'm sorry, but just 21 to this isn't forgotten. I had the impression early on that 22 is before the testimony, that Ms. Smith was succeded 23 (phonetic sp.) from Paymentech, is that correct or is that a 24 misunderstanding? 25 MR. LANE: I don't know what that word means. I'm</p>	<p style="text-align: right;">Page 124</p> <p>1 MR. PRAGER: All right. 2 MR. PETESCH: Mr. Lane, I believe on direct and 3 I'll make sure that I got the question right, I thought I 4 asked you the question did anyone rise from the ranks of 5 middle management faster than Erik Belfiore in terms of 6 total compensation. And if I didn't ask that, I will ask 7 that again to you. Did anyone rise faster than Erik 8 Belfiore in terms of total compensation? 9 MR. LANE: Not that I -- 10 MR. PRAGER: Just a moment. 11 MR. LANE: Sorry. 12 MR. PRAGER: Again, this has been a problem 13 throughout and I asked Mr. Johnson to clarify so I'm going 14 to ask you to clarify. What period are we talking about? 15 MR. PETESCH: From 2008 to 2011. 16 MR. LANE: Not that I recall, no. 17 MR. PETESCH: And you were asked some questions 18 about a Mr. Konar. 19 MR. LANE: Yes. 20 MR. PETESCH: Jayakrishnan Konar, otherwise known 21 as Jay? 22 MR. LANE: Yes. 23 MR. PETESCH: And we have a stipulation here and 24 I'll just ask you. Do you have any reason to believe that 25 it is incorrect that in 2011 Jayakrishnan Konar, Vice</p>
<p style="text-align: right;">Page 123</p> <p>1 sorry. 2 MR. PRAGER: That is that she retained her 3 connection with Paymentech, but was working for Merchant 4 Link and being paid for Merchant Link but had not severed 5 her connection with Paymentech. 6 MR. LANE: No, that's not correct. 7 MR. PRAGER: Okay. Thank you. 8 MR. JOHNSON: Now did Ms. Christina Smith have a 9 severance agreement? 10 MR. LANE: She may have had a severance agreement 11 with Paymentech. She did not have a severance agreement 12 with Merchant Link. 13 MR. JOHNSON: And would that have affected her 14 employment with Merchant Link? 15 MR. LANE: Her Paymentech severance agreement? 16 MR. JOHNSON: Yes. 17 MR. LANE: It could have. I, I don't know, I 18 never saw it. 19 MR. JOHNSON: Your Honor, no further questions for 20 Mr. Lane. 21 MR. PRAGER: All right. Mr. Petesch, do you have 22 anything that you haven't already asked about that you need 23 to ask about on the basis of my questions and Mr. Johnson's 24 questions? 25 MR. PETESCH: Very briefly.</p>	<p style="text-align: right;">Page 125</p> <p>1 President Network Operations earned a base salary of 2 \$160,000, was eligible to earn 25 percent of that salary in 3 AIP, and received an LTIP Grant of \$50,000. Do you have any 4 reason to doubt that that's correct? 5 MR. LANE: No, I Have no reason to doubt that. 6 MR. PETESCH: And -- 7 MR. PRAGER: And Mr. Petesch, what paragraph? 8 MR. PETESCH: I'm sorry, paragraph 26. 9 MR. PRAGER: You're referring to paragraph 26 of 10 the Hearing Examiner's Exhibit 4? 11 MR. PETESCH: Yes, sir. 12 MR. PRAGER: All right. Thank you. 13 MR. PETESCH: And what was Mr. Belfiore's LTIP 14 Grant? 15 MR. LANE: I believe it, I, I don't remember 16 sitting here. Can you help me out? 17 MR. PETESCH: We can go to an exhibit on that, 18 that was identified a long time ago -- 19 MR. JOHNSON: This is a joint stipulation. 20 MR. PETESCH: -- but's also in the joint 21 stipulation. 22 MR. PRAGER: What paragraph are we talking about? 23 MR. JOHNSON: 16. 24 MR. PRAGER: Just a moment. Only one person can 25 talk.</p>

<p style="text-align: right;">Page 126</p> <p>1 MR. JOHNSON: I'm sorry, Your Honor.</p> <p>2 MR. PETESCH: But it was very helpful of Mr.</p> <p>3 Johnson to get that so, I appreciate it and do you have any</p> <p>4 reason to believe looking at paragraph 16 on Hearing</p> <p>5 Examiner Exhibit Number 4 that complainant, a/k/a Mr.</p> <p>6 Belfiore received an LTIP Grant of \$75,000?</p> <p>7 MR. LANE: I believe that's correct, yes.</p> <p>8 MR. PETESCH: What is the importance of Vice</p> <p>9 President of Network Operations to the company?</p> <p>10 MR. LANE: It's a highly critical role. It's</p> <p>11 essentially heading up all of our technology and IT</p> <p>12 infrastructure. So I talked about in my previous testimony</p> <p>13 about our transactions which is our databases, our network</p> <p>14 lines, all of our desktop processes, all of the technology</p> <p>15 that carries four billion transactions a year, the off hour</p> <p>16 calls, the managing of our 24 by 7 network operations</p> <p>17 center. Jay managed that entire infrastructure.</p> <p>18 MR. PRAGER: Let me interrupt because I'm not</p> <p>19 quite sure I understand. What is the relationship, if any,</p> <p>20 between Mr. Konar and Mr. Chudasama?</p> <p>21 MR. LANE: Mr. Chudasama managed the software that</p> <p>22 ran on all of the platforms and Mr. Konar managed the</p> <p>23 platforms.</p> <p>24 MR. PRAGER: Thank you.</p> <p>25 MR. LANE: And those two things in combination</p>	<p style="text-align: right;">Page 128</p> <p>1 is, first I'm going to ask Mr. Lane, but then it may also be</p> <p>2 something for Mr. Petesch. Is there or was there a company</p> <p>3 organizational chart for early 2011 so that I could</p> <p>4 understand the relationships between these various positions</p> <p>5 and subsets of divisions and subdivisions?</p> <p>6 MR. LANE: I think it would be difficult to locate</p> <p>7 an organizational chart from that time period. I could do a</p> <p>8 great deal of it from my memory I think, but there, I don't</p> <p>9 think there is a document that's archived that's the org</p> <p>10 chart at that time.</p> <p>11 MR. PRAGER: All right. I'm going to ask Mr.</p> <p>12 Petesch and Mr. Lane to confer and see if you can locate any</p> <p>13 such thing that could be helpful to me to try to figure out</p> <p>14 this. And just report back.</p> <p>15 MR. PETESCH: I will represent that I've seen no</p> <p>16 such animal thus far.</p> <p>17 MR. PRAGER: All right.</p> <p>18 MR. JOHNSON: Your Honor, if we may? With regard</p> <p>19 to the board minutes that counsel has just stated that their</p> <p>20 client has found, we did request those in discovery and they</p> <p>21 stated they did not exist. And also since we have been</p> <p>22 allowed to admit the deposition of Dan Charron he was also</p> <p>23 asked about those particular exhibits and --</p> <p>24 MR. PRAGER: Just a moment.</p> <p>25 MR. JOHNSON: -- obviously we want the Court to</p>
<p style="text-align: right;">Page 127</p> <p>1 were the technology that, that drove the, drove the data.</p> <p>2 MR. PETESCH: And did Mr. Konar's position or</p> <p>3 duties require any specialized skill sets?</p> <p>4 MR. LANE: Yes, sir.</p> <p>5 MR. PETESCH: And are these different skills from</p> <p>6 what Mr. Belfiore brought to the table?</p> <p>7 MR. LANE: Yes.</p> <p>8 MR. PETESCH: Nothing further, thank you.</p> <p>9 MR. PRAGER: All right. I have two questions but</p> <p>10 one of them may already have been answered and that is, but</p> <p>11 I just don't recall. Are there any board minutes reflecting</p> <p>12 Mr. Belfiore's discharge?</p> <p>13 MR. LANE: Yes, I believe there are. I haven't</p> <p>14 seen them recently, but there should be board minutes that</p> <p>15 reflect his discharge.</p> <p>16 MR. KAPLAN: Mr. Prager, that's what you had asked</p> <p>17 us to provide.</p> <p>18 MR. PRAGER: Yes.</p> <p>19 MR. KAPLAN: And we got an e-mail late last night</p> <p>20 about it, and the answer is yes. Some of it's privileged,</p> <p>21 so we're sort of talking amongst ourselves about how to</p> <p>22 present that to you. But we got it last night and we can</p> <p>23 talk further about it later this afternoon or tomorrow</p> <p>24 morning.</p> <p>25 MR. PRAGER: All right. And the other question</p>	<p style="text-align: right;">Page 129</p> <p>1 obviously compare and consider.</p> <p>2 MR. PETESCH: Well let me just --</p> <p>3 MR. PRAGER: All right. Just a second.</p> <p>4 MR. PETESCH: Yes.</p> <p>5 MR. PRAGER: That's a valid point, and it should</p> <p>6 have been turned over if it exists. But I think it is quite</p> <p>7 important if it does exist, that it be entered into the</p> <p>8 record and you will have an opportunity, obviously, to talk</p> <p>9 about and to contest its genuineness, if you wish and to ask</p> <p>10 about its contents, if you wish. But I think the document,</p> <p>11 if it exists, is important and I think for your perspective,</p> <p>12 it should be more important if it doesn't exist. So with</p> <p>13 that, we will go on a recess and go off the record.</p> <p>14 Before we take this recess, Mr. Lane, you may step</p> <p>15 down as a witness, but you realize that you're likely to be</p> <p>16 recalled and when you are recalled, you will still be under</p> <p>17 oath.</p> <p>18 MR. LANE: Yes, sir.</p> <p>19 MR. PRAGER: All right. Thank you. We'll go off</p> <p>20 the record.</p> <p>21 (OFF THE RECORD.)</p> <p>22 (ON THE RECORD.)</p> <p>23 MR. PRAGER: We'll go back on the record. It</p> <p>24 occurred to me that if the organizational chart we were</p> <p>25 talking about before the recess can't be found or doesn't</p>

<p style="text-align: right;">Page 130</p> <p>1 exist, it would be helpful if the two parties and their 2 counsel could get together and perhaps draw up on and 3 stipulate to it. And I'm talking now about the period in 4 early 2011. If there were massive changes, the most 5 relevant time period for me is the late 2010, 2011 period. 6 But if you can agree to what the organization looked like at 7 that time, it would be helpful. Yes, Mr. Petesch? 8 MR. PETESCH: Yes. Are you referring to post pre 9 or post Dan Lane becoming CEO in 2011? 10 MR. KAPLAN: Yes, that's a good question. 11 MR. PRAGER: I think it's a good question, but 12 rather than wasting time here now, why don't you talk to 13 each other? Because I'm not sure, Mr. Lane is not on the 14 stand right now. Why don't we see if there were any 15 significant differences, other than the fact that he got 16 promoted and somebody came in afterwards. 17 MR. PETESCH: Okay. 18 MR. PRAGER: But the organizational chart may not 19 have changed, just because the people who ran those 20 divisions changed. 21 MR. PETESCH: Sure. Sure. 22 MR. PRAGER: All right. Mr. Johnson, you may call 23 your next witness. 24 MR. JOHNSON: Yes, Your Honor. The complainant 25 calls Ms. Renee Dantzler.</p>	<p style="text-align: right;">Page 132</p> <p>1 MR. JOHNSON: And Ms. Dantzler, did you attend 2 college? 3 MS. DANTZLER: I did attend college. 4 MR. JOHNSON: And where did you attend? 5 MS. DANTZLER: I attended Montgomery College and 6 Cedar Valley Community College. 7 MR. JOHNSON: And did you earn your degree there? 8 MS. DANTZLER: I did not. 9 MR. JOHNSON: Now Ms. Dantzler, are you familiar 10 with the respondent, Merchant Link? 11 MS. DANTZLER: The, I'm sorry? 12 MR. JOHNSON: Merchant Link, the respondent, 13 Merchant Link? 14 MS. DANTZLER: Yes. 15 MR. JOHNSON: And how do you know the respondent, 16 Merchant Link? 17 MS. DANTZLER: I am employed by Merchant Link. 18 MR. JOHNSON: And what is your position? 19 MS. DANTZLER: I am the training specialist. 20 MR. JOHNSON: And how long have you held this 21 position? 22 MS. DANTZLER: Since August of 2008. 23 MR. JOHNSON: And what was your position prior to 24 being the training specialist? 25 MS. DANTZLER: I worked as an installation</p>
<p style="text-align: right;">Page 131</p> <p>1 MR. PRAGER: Would you come up here please and 2 have a seat at the far end? 3 MS. DANTZLER: Uh-huh. 4 MR. KAPLAN: For the record, I'll be questioning 5 Ms. Renee Dantzler after he's done. 6 MR. PRAGER: All right. 7 MR. KAPLAN: We're switching off. 8 MR. PRAGER: Good. Thank you. Ms. Dantzler, 9 would you have a seat please and raise your right hand? Do 10 you swear to tell the truth, the whole truth, and nothing 11 but the truth under penalty of perjury? 12 MS. DANTZLER: I do. 13 MR. PRAGER: And state your full name for the 14 record, please. 15 MS. DANTZLER: Renee Dantzler 16 MR. PRAGER: All right. Thank you. Mr. Johnson? 17 MR. JOHNSON: Thank you, Your Honor. Good 18 afternoon, Ms. Dantzler. Could you please state your 19 address for the record, please? 20 MS. DANTZLER: 20808 Scottsbury Drive, in 21 Germantown, Maryland. 22 MR. JOHNSON: And how long have you been at this 23 address? 24 MS. DANTZLER: I've been at that address for two 25 years and two months.</p>	<p style="text-align: right;">Page 133</p> <p>1 representative. 2 MR. JOHNSON: And what is your current salary at 3 Merchant Link? 4 MS. DANTZLER: \$60,000. 5 MR. JOHNSON: And prior to working at Merchant 6 Link, where were you employed? 7 MS. DANTZLER: I, I worked Paymentech which is a 8 parent company of Merchant Link. 9 MR. PRAGER: Ms. Dantzler, would you be good 10 enough to keep your voice up? 11 MS. DANTZLER: Okay. I'm sorry, I'm not a -- 12 MR. PRAGER: Thank you. 13 MS. DANTZLER: -- very loud speaker. Yes. 14 MR. JOHNSON: And how long were you employed at 15 Paymentech? 16 MS. DANTZLER: Five and a half years. 17 MR. JOHNSON: And what was your position there? 18 MS. DANTZLER: I worked as the quality control 19 specialist team lead. 20 MR. JOHNSON: And you remember your final salary 21 at Paymentech? 22 MS. DANTZLER: No, I don't remember. 23 MR. JOHNSON: Now at Merchant Link, can you 24 describe for the Court your job duties? 25 MS. DANTZLER: My current job duties?</p>

<p style="text-align: right;">Page 134</p> <p>1 MR. JOHNSON: Yes.</p> <p>2 MS. DANTZLER: My responsibility is documentation</p> <p>3 and training for new employees and existing employees,</p> <p>4 product training.</p> <p>5 MR. JOHNSON: Now do you supervise any employee in</p> <p>6 that position?</p> <p>7 MS. DANTZLER: No.</p> <p>8 MR. JOHNSON: Now Ms. Dantzler, are you familiar</p> <p>9 with the complainant, Erik Belfiore?</p> <p>10 MS. DANTZLER: Yes.</p> <p>11 MR. JOHNSON: And can you describe to the Court</p> <p>12 how you know Mr. Belfiore?</p> <p>13 MS. DANTZLER: Because he used to work at Merchant</p> <p>14 Link.</p> <p>15 MR. JOHNSON: Did you have a personal relationship</p> <p>16 with Mr. Belfiore?</p> <p>17 MS. DANTZLER: No.</p> <p>18 MR. PRAGER: I'm not sure I understand the</p> <p>19 question. What does a personal relationship mean?</p> <p>20 MR. JOHNSON: Did you know Mr. Belfiore outside of</p> <p>21 your employment?</p> <p>22 MS. DANTZLER: No, I did not.</p> <p>23 MR. JOHNSON: Now were you a direct report of Mr.</p> <p>24 Belfiore?</p> <p>25 MS. DANTZLER: No.</p>	<p style="text-align: right;">Page 136</p> <p>1 MR. JOHNSON: And which employees did you have to</p> <p>2 train on how to use it?</p> <p>3 MS. DANTZLER: Every Merchant Link employee. Now</p> <p>4 to your knowledge, were the Merchant Link employees</p> <p>5 dissatisfied with the CRM system?</p> <p>6 MR. JOHNSON: To my knowledge, yes.</p> <p>7 MS. DANTZLER: And to your knowledge, did Mr.</p> <p>8 Belfiore influence the Merchant Link employees to be</p> <p>9 dissatisfied with the system?</p> <p>10 MR. JOHNSON: I'm not sure I understand the</p> <p>11 question.</p> <p>12 MS. DANTZLER: Did Mr. Belfiore influence the</p> <p>13 Merchant Link employees to be dissatisfied with the CRM?</p> <p>14 MS. DANTZLER: I don't know the answer to that</p> <p>15 question.</p> <p>16 MR. JOHNSON: I'd like to turn your attention to</p> <p>17 what has already been admitted as Complainant's Exhibit</p> <p>18 Number 82. If you look in the white binder, that's the</p> <p>19 complainant binder --</p> <p>20 MR. PETESCH: Do you mind if I go around and help</p> <p>21 her?</p> <p>22 MS. DANTZLER: I have it.</p> <p>23 MR. PETESCH: Okay. She's got it.</p> <p>24 MS. DANTZLER: I have it.</p> <p>25 MR. JOHNSON: All right. Now Ms. Dantzler, you</p>
<p style="text-align: right;">Page 135</p> <p>1 MR. JOHNSON: And who was your direct report?</p> <p>2 MS. DANTZLER: Zachary Minton.</p> <p>3 MR. JOHNSON: And how long have you worked for Mr.</p> <p>4 Zachary Minton?</p> <p>5 MS. DANTZLER: I worked for Zachary Minton from</p> <p>6 August of 2008 until he left last year.</p> <p>7 MR. JOHNSON: Now Ms. Dantzler, are you familiar</p> <p>8 with what is the CRM?</p> <p>9 MS. DANTZLER: Yes.</p> <p>10 MR. JOHNSON: And can you describe it for the</p> <p>11 Court, please?</p> <p>12 MS. DANTZLER: The CRM is our customer</p> <p>13 relationship management database where we house and store</p> <p>14 all of our customer records.</p> <p>15 MR. JOHNSON: And were you involved with the</p> <p>16 selection of the CRM project?</p> <p>17 MS. DANTZLER: No, I was not.</p> <p>18 MR. JOHNSON: Were you involved with the</p> <p>19 implementation of the CRM project?</p> <p>20 MS. DANTZLER: Yes.</p> <p>21 MR. JOHNSON: And can you please describe your</p> <p>22 involvement with the CRM implementation project?</p> <p>23 MS. DANTZLER: My involvement was to learn the</p> <p>24 system so that I can train, train the employees on how to</p> <p>25 use it.</p>	<p style="text-align: right;">Page 137</p> <p>1 recognize Complainant's Exhibit Number 82?</p> <p>2 MS. DANTZLER: Yes.</p> <p>3 MR. JOHNSON: And can you please describe this for</p> <p>4 the Court?</p> <p>5 MS. DANTZLER: This is a letter that I wrote to</p> <p>6 human resources regarding an incident.</p> <p>7 MR. JOHNSON: And when you say describing an</p> <p>8 incident, can you be more specific with the Court?</p> <p>9 MS. DANTZLER: Regarding a meeting that I had with</p> <p>10 Mr. Belfiore.</p> <p>11 MR. JOHNSON: And what is the date of this</p> <p>12 particular exhibit?</p> <p>13 MS. DANTZLER: November 10, 2011.</p> <p>14 MR. JOHNSON: Now prior to November 10, 2011, did</p> <p>15 you communicate with Mr. Belfiore?</p> <p>16 MR. KAPLAN: Objection.</p> <p>17 MR. PRAGER: I'm sorry what was the question?</p> <p>18 MR. JOHNSON: Prior to November 10, 2011, did you</p> <p>19 communicate with Mr. Belfiore?</p> <p>20 MR. KAPLAN: It just seemed very vague to me. As</p> <p>21 a the question but that's all.</p> <p>22 MR. PRAGER: Well she can answer.</p> <p>23 MS. DANTZLER: Yes.</p> <p>24 MR. PRAGER: The objection is overruled.</p> <p>25 MS. DANTZLER: Yes.</p>

<p style="text-align: right;">Page 138</p> <p>1 MR. JOHNSON: And prior to that communication did</p> <p>2 Mr. Belfiore discuss the CRM with you?</p> <p>3 MS. DANTZLER: With me individually?</p> <p>4 MR. JOHNSON: Yes.</p> <p>5 MS. DANTZLER: No.</p> <p>6 MR. JOHNSON: Do you ever recall having any</p> <p>7 conversation with Mr. Belfiore about the CRM prior to</p> <p>8 November 10, 2011?</p> <p>9 MS. DANTZLER: I do not recall.</p> <p>10 MR. JOHNSON: Now Mr. Belfiore called you to his</p> <p>11 office, correct?</p> <p>12 MS. DANTZLER: Yes.</p> <p>13 MR. JOHNSON: And on November 10, 2011, you</p> <p>14 actually went to his office, correct?</p> <p>15 MS. DANTZLER: Yes.</p> <p>16 MR. JOHNSON: And --</p> <p>17 MS. DANTZLER: Well, no. November 10th is not the</p> <p>18 date that I went to his office, that's the date of the</p> <p>19 letter.</p> <p>20 MR. JOHNSON: The date of the letter. Okay. So</p> <p>21 on November 9th you actually went to Mr. Belfiore's office?</p> <p>22 MS. DANTZLER: I don't remember the exact date,</p> <p>23 but yes, around that same time.</p> <p>24 MR. JOHNSON: Actually if you look at your letter,</p> <p>25 I believe it says on the afternoon of November 8th, is that</p>	<p style="text-align: right;">Page 140</p> <p>1 them that other people was happy with the project?</p> <p>2 MS. DANTZLER: No, to persuade them to not be</p> <p>3 happy with the project.</p> <p>4 MR. JOHNSON: And Ms. Dantzler, exactly what did</p> <p>5 Mr. Belfiore say to you that lead you to believe that he was</p> <p>6 trying to say I want you to persuade others not to be happy</p> <p>7 with the project?</p> <p>8 MS. DANTZLER: Okay. Mr. Belfiore said to me that</p> <p>9 I was, he was the reason that I got my job and why I had the</p> <p>10 success this time around in getting my job and that I owed</p> <p>11 him and that I owed it to other people on the floor to help</p> <p>12 them to champion whatever his cause was.</p> <p>13 MR. JOHNSON: And he said to you I want you to</p> <p>14 tell them to champion my cause?</p> <p>15 MS. DANTZLER: No. I'm paraphrasing.</p> <p>16 MR. JOHNSON: And this is the exact terminology</p> <p>17 you placed in your letter that you wrote on November 10th to</p> <p>18 Wendy Nussbaum?</p> <p>19 MS. DANTZLER: Are you asking me if that's --</p> <p>20 MR. JOHNSON: Yes.</p> <p>21 MS. DANTZLER: -- what I put in my letter?</p> <p>22 MR. JOHNSON: Yes.</p> <p>23 MS. DANTZLER: No. Now if you want me to refresh</p> <p>24 my memory by reading the letter --</p> <p>25 MR. JOHNSON: Sure.</p>
<p style="text-align: right;">Page 139</p> <p>1 your recollection as well?</p> <p>2 MS. DANTZLER: Yes, if I put it there, yes.</p> <p>3 MR. JOHNSON: Now can you describe to the Court</p> <p>4 the events that occurred at the meeting that you had in Mr.</p> <p>5 Belfiore's office on November the 8th?</p> <p>6 MS. DANTZLER: Are you asking me to refer back to</p> <p>7 the letter, or what I recall today.</p> <p>8 MR. JOHNSON: Yes. What do you recall today?</p> <p>9 MS. DANTZLER: I recall going to Mr. Belfiore's</p> <p>10 office and knocking on the door and remembering eventually</p> <p>11 going in his office. And then the door being closed and us</p> <p>12 having a conversation about several things, one being the</p> <p>13 CRM.</p> <p>14 MR. JOHNSON: And what was the discussion about</p> <p>15 the CRM? What was that about?</p> <p>16 MS. DANTZLER: The discussion was about how did I</p> <p>17 feel about the project itself and for me to assist him in</p> <p>18 the, in persuading others that we were unhappy with the,</p> <p>19 with the project.</p> <p>20 MR. JOHNSON: Just when you say persuading others,</p> <p>21 specifically identify who he meant.</p> <p>22 MS. DANTZLER: Employees, service delivery</p> <p>23 employees, specifically.</p> <p>24 MR. JOHNSON: So he was asking you to dissuade</p> <p>25 them not to be happy to happy with the project or persuade</p>	<p style="text-align: right;">Page 141</p> <p>1 MS. DANTZLER: Okay. Okay.</p> <p>2 MR. JOHNSON: Now Ms. Dantzler, did Mr. Erik</p> <p>3 Belfiore ever state to you I want you to help me sabotage</p> <p>4 the CRM?</p> <p>5 MS. DANTZLER: No, he did not state that.</p> <p>6 MR. JOHNSON: Now do you recall taking a</p> <p>7 deposition?</p> <p>8 MS. DANTZLER: Yes, I do.</p> <p>9 MR. JOHNSON: And Your Honor, I'd like to turn the</p> <p>10 Court's attention to complainant's deposition which would be</p> <p>11 85, Complainant's Exhibit 85.</p> <p>12 MR. PRAGER: All right. Mr. Johnson, what page</p> <p>13 are we talking about?</p> <p>14 MR. JOHNSON: Your Honor, we would be talking</p> <p>15 about page 4. I'm sorry, Your Honor, page 17, I have four</p> <p>16 of it tabbed. Ms. Dantzler, do you see page 17 in front of</p> <p>17 you?</p> <p>18 MS. DANTZLER: I do.</p> <p>19 MR. PRAGER: All right, Mr. Johnson.</p> <p>20 MR. JOHNSON: Now Ms. Dantzler, do you recall me</p> <p>21 asking you whether or not Mr. Belfiore was attempting to</p> <p>22 sabotage the CRM?</p> <p>23 MS. DANTZLER: No, I don't recall you asking me</p> <p>24 that.</p> <p>25 MR. JOHNSON: And I'm sorry, Your Honor, could you</p>

<p style="text-align: right;">Page 142</p> <p>1 please turn to the next page, page 18? Ms. Dantzler, could 2 you look down to paragraph 18 on page 18? Are you there 3 yet, Ms. Dantzler? 4 MS. DANTZLER: Yes, I am. 5 MR. JOHNSON: And I can start for you. It says, 6 question, did he suggest that you sabotage the CRM? 7 MS. DANTZLER: And I said yes. 8 MR. JOHNSON: And then I asked you, in those 9 words? 10 MS. DANTZLER: And I said no. 11 MR. JOHNSON: And then I asked you, what words 12 would you be speaking of? 13 MS. DANTZLER: I felt like he wanted it sabotaged 14 and that he implied that I should do all that I could to 15 side with him against it. 16 MR. JOHNSON: Now please help the Court reconcile 17 how is it you've come to believe that or you feel that he 18 implied that he wants you to do all you could to side with 19 him? 20 MR. KAPLAN: I would just like to say objection, 21 her earlier testimony seems to be inconsistent with what she 22 said in her deposition. I don't, it seems very consistent 23 with it, so I wasn't sure what the purpose was of reading 24 that into the record. 25 MR. PRAGER: The purpose I assume is to talk about</p>	<p style="text-align: right;">Page 144</p> <p>1 CRM. However, you still haven't told us exactly why he 2 didn't say it in those words, but you felt like he implied 3 it. Please help us to understand how you get from he didn't 4 say it in those words and I implied it. 5 MS. DANTZLER: I, I can't tell you three years 6 ago. I just know how it made me feel being in that meeting. 7 MR. JOHNSON: And you felt like he was using his 8 authority to influence you? 9 MS. DANTZLER: I knew that's what he was doing. 10 MR. JOHNSON: And you felt like by him saying pay 11 it forward, help somebody else out, that meant sabotage CRM, 12 correct? 13 MS. DANTZLER: Not that specifically, but other 14 things he said in that meeting. 15 MR. JOHNSON: And when he mentioned that he helped 16 you get your job, was that incorrect? 17 MS. DANTZLER: That was very incorrect. 18 MR. JOHNSON: And how do you know this? 19 MS. DANTZLER: I know because I'm a faith woman 20 and I told him and I recall saying I am where I am today 21 because that's where God wanted me to be. And -- 22 MR. JOHNSON: So -- I'm sorry. Go ahead. 23 MS. DANTZLER: -- and if God so used him, thank 24 you, but, but he's not the reason why I was where I was. 25 MR. JOHNSON: So it's possible and your testimony</p>
<p style="text-align: right;">Page 143</p> <p>1 the veracity and reliability of her recollection. 2 MR. KAPLAN: Right. 3 MR. PRAGER: To the extent that was an objection 4 it's overruled. Mr. Johnson, go ahead. 5 MR. JOHNSON: Ms. Dantzler, can you please tell us 6 or tell the Court exactly what was said to make you feel or 7 that Mr. Belfiore implied that he wanted you to do all that 8 you could do to side with him against the CRM. 9 MS. DANTZLER: Because he had suggested to me that 10 I owed him a favor, first, first and foremost, the meeting 11 was confidential which made me feel alarmed to begin with. 12 That he asked me to not to tell anyone about this meeting, 13 my manager included and I felt like he should have been 14 discussing those issues with my manager. In the 15 conversation, I recall him saying that he wasn't happy with 16 the CRM. He asked me was I happy with it and proceeded to 17 say that no one was happy with it and it wasn't the, the 18 database that he wanted. He wasn't, he made it clear that 19 he wasn't happy about the decision to go with the CRM and 20 continued to talk about what we would do to not make it 21 successful. I don't remember specifically but I remember 22 the conversation totally being about his dislike for the 23 CRM. 24 MR. JOHNSON: Now Ms. Dantzler, that's a pretty 25 in-depth testimony about what Mr. Belfiore wanted to do to</p>	<p style="text-align: right;">Page 145</p> <p>1 that God used him to help you get your job? 2 MS. DANTZLER: Sure, it's possible. 3 MR. JOHNSON: Okay. 4 MR. KAPLAN: Objection. This isn't a hostile 5 witness which hasn't been identified as one and it seems 6 like he's badgering her a little bit. 7 MR. PRAGER: Well I think since she is the 8 principal reason that Mr. Belfiore got fired, that we had 9 testimony this morning that Mr. Lane believed her. I think 10 it's proper to consider her a hostile witness. So your 11 objection is overruled. 12 MR. JOHNSON: Ms. Dantzler, how long did the 13 conversation between you and Mr. Belfiore last? 14 MS. DANTZLER: I don't recall the length of time. 15 MR. JOHNSON: If I say five minutes, would that be 16 close? 17 MS. DANTZLER: No. 18 MR. JOHNSON: If I say 10 minutes, would that be 19 close? 20 MS. DANTZLER: No. 21 MR. JOHNSON: Were you in his office 20 minutes? 22 MS. DANTZLER: At least. 23 MR. JOHNSON: Now Ms. Dantzler, over the course of 24 20 minutes, did Mr. Belfiore specifically tell you what he 25 wanted you to do in order to sabotage the system?</p>

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1 MS. DANTZLER: I don't recall.

2 MR. JOHNSON: And in your statement to human

3 resources, did you state that Mr. Belfiore said he wanted to

4 organize a revolt against the CRM?

5 MS. DANTZLER: That he did want to or that I felt

6 like he wanted to?

7 MR. JOHNSON: You tell me, Ms. Dantzler.

8 MS. DANTZLER: The, the impression I got is that

9 he was trying to do that, yes.

10 MR. JOHNSON: Now Ms. Dantzler, do you have the

11 capabilities to sabotage the CRM?

12 MS. DANTZLER: Indirectly, possibly.

13 MR. JOHNSON: And how would that be done?

14 MS. DANTZLER: As one of the primary trainers, I

15 could have made it un-effective by not training employees.

16 MR. JOHNSON: And wouldn't your manager be

17 responsible for what you do?

18 MS. DANTZLER: Yes.

19 MR. JOHNSON: So in other words it's really your

20 manager's responsibility as to make certain that you make

21 the CRM work?

22 MS. DANTZLER: Yes, which is why I went directly

23 to my manager after the, shortly thereafter.

24 MR. JOHNSON: Did you tell your manager Erik wants

25 to organize a revolt against the CRM?

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1 MS. DANTZLER: I may not have used those exact

2 words, but yes, I probably did say that that was the

3 impression I got.

4 MR. JOHNSON: Let me ask you this question, Ms.

5 Dantzler. Who was the head of the CRM?

6 MS. DANTZLER: I don't know.

7 MR. JOHNSON: How did you come to get involved

8 with the CRM?

9 MS. DANTZLER: My manager pulled my team in to

10 assist with the implementation.

11 MR. JOHNSON: Now did you talk with other managers

12 about the CRM?

13 MS. DANTZLER: Yes, because we met weekly.

14 MR. JOHNSON: And when did you actually start

15 working on the CRM?

16 MS. DANTZLER: I don't know exactly the time

17 frame. Maybe a few months after it had, the, the system was

18 chosen and they was working on requirements.

19 MR. JOHNSON: And do you remember working with Mr.

20 Jomaine Sanders on the CRM?

21 MS. DANTZLER: In the meetings, yes.

22 MR. JOHNSON: And wasn't Mr. Jomaine Sanders's job

23 to address the concerns of, I guess of his people with

24 regard to any dislike for CRM?

25 MS. DANTZLER: Yes.

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1 MR. JOHNSON: And during that time period, wasn't

2 Mr. Belfiore on a medical leave?

3 MS. DANTZLER: I don't know.

4 MR. JOHNSON: Did you see Mr. Belfiore while you

5 were talking to Mr. Jomaine Sanders about the CRM?

6 MS. DANTZLER: No there were occasions I didn't

7 see Mr. Belfiore.

8 MR. JOHNSON: And Mr. Jomaine Sanders shared with

9 you that the CRM was just a disliked tool by most of his

10 employees, correct?

11 MS. DANTZLER: I don't recall that conversation.

12 MR. JOHNSON: Do you recall that there was some

13 issues with employees not liking the CRM?

14 MS. DANTZLER: Yes.

15 MR. JOHNSON: And at that particular time, did

16 anybody say Mr. Belfiore told us not to like the CRM.

17 MS. DANTZLER: No.

18 MR. JOHNSON: Is it possible to organize a revolt

19 that has already started?

20 MR. PRAGER: I'm sorry, I didn't understand the

21 question.

22 MR. JOHNSON: I'll rephrase Your Honor.

23 MR. PRAGER: Okay.

24 MR. JOHNSON: Ms. Dantzler, if the employees

25 already dislike the CRM, is it possible for Mr. Belfiore to

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1 come in after the fact and organize them to dislike the CRM

2 that they already dislike?

3 MS. DANTZLER: I'm not sure I'm, I'm understanding

4 that question.

5 MR. PRAGER: I'm not sure I understand it either

6 and it seems to me that you can certainly organize

7 opposition that already exists. So I guess I'm not quite

8 sure what you're --

9 MR. JOHNSON: That's fine, Your Honor, because

10 that's where I was going with it. Ms. Dantzler, that the

11 dislike for the CRM existed before Mr. Belfiore got involved

12 with it, correct?

13 MS. DANTZLER: That's correct.

14 MR. JOHNSON: Now during your meeting with Mr.

15 Belfiore, Ms. Dantzler, did Mr. Belfiore say anything that

16 was negative or inappropriate to you?

17 MS. DANTZLER: Yes.

18 MR. JOHNSON: And what was it that Mr. Belfiore

19 said to you?

20 MS. DANTZLER: He cussed. He used the F word in

21 the meeting, which I asked him not to. I asked him to

22 pardon his French. He did not use that cuss word but used

23 other cuss words throughout the conversation.

24 MR. JOHNSON: So you said the F word, do you mean

25 fucking?

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1 MS. DANTZLER: Yes, I do.
2 MR. JOHNSON: Now Ms. Dantzler, once again do you
3 recall you and I in a deposition discussing whether or not
4 Mr. Belfiore used negative or inappropriate language towards
5 you?
6 MS. DANTZLER: I do not recall that.
7 MR. JOHNSON: Your Honor, in Complainant's Exhibit
8 Number 85, I'd like to turn the Court's attention to page
9 16.
10 MR. PRAGER: Just a moment. All right, have you
11 found it --
12 MS. DANTZLER: I have.
13 MR. PRAGER: -- Ms. Dantzler?
14 MS. DANTZLER: I have it.
15 MR. JOHNSON: Ms. Dantzler, at the top of page 16
16 I asked you the question during the meeting did Mr. Belfiore
17 say anything negative or insensitive towards you. What was
18 your answer?
19 MS. DANTZLER: And I said no because he did not
20 say anything negative towards me, but he did say something
21 negative to me.
22 MR. JOHNSON: He said fucking. That's not
23 negative to you?
24 MS. DANTZLER: He was referring to something else
25 and used that word as a description.

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1 MR. JOHNSON: And that offended you?
2 MS. DANTZLER: It did.
3 MR. JOHNSON: It was an insensitive remark to make
4 in front of you?
5 MS. DANTZLER: I just, yeah, I think it was.
6 MR. JOHNSON: Now Ms. Dantzler, you reported this
7 incident to Mr. Zachary Minton, correct?
8 MS. DANTZLER: Yes.
9 MR. JOHNSON: And Mr. Zachary Minton told you to
10 proceed to Ms. Wendy Nussbaum, correct?
11 MS. DANTZLER: Yes, he told me to go to human
12 resources.
13 MR. JOHNSON: Now prior to going to Ms. Nussbaum,
14 did you type up your letter to human resources?
15 MS. DANTZLER: No.
16 MR. JOHNSON: When you arrived at human resources,
17 did you while there write up your complaint?
18 MS. DANTZLER: No.
19 MR. JOHNSON: Who wrote up your complaint, Ms.
20 Dantzler?
21 MS. DANTZLER: I wrote up my complaint.
22 MR. JOHNSON: This particular exhibit, this was
23 typewritten by you?
24 MS. DANTZLER: The, on the other page, yes.
25 MR. JOHNSON: And these are --

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1 MR. PRAGER: Which exhibit are you --
2 MR. JOHNSON: I'm sorry, we're at 82, I'm sorry,
3 Your Honor, we keep 82, 85, but we're back on her actual
4 statement.
5 MR. PRAGER: Which is what?
6 MS. DANTZLER: Excuse me.
7 MR. PRAGER: Which is what exhibit?
8 MR. JOHNSON: Exhibit 82.
9 MR. PRAGER: Go ahead.
10 MR. JOHNSON: Now Ms. Dantzler, did you dictate
11 this particular complaint to Ms. Wendy Nussbaum?
12 MS. DANTZLER: I informed her of the incident.
13 MR. JOHNSON: And did she type this up?
14 MR. PRAGER: I think you've asked that and she
15 answered it. She said she typed it up herself.
16 MR. JOHNSON: Now Ms. Dantzler approximately what
17 time did you go see Ms. Wendy Nussbaum on November 10th?
18 MS. DANTZLER: I don't remember the time.
19 MR. JOHNSON: Did you go see her in the morning?
20 Did you go see her in the afternoon?
21 MS. DANTZLER: I do not recall the time of day.
22 MR. JOHNSON: Now Ms. Dantzler, when you told Mr.
23 Zach Minton the details of your meeting with Mr. Belfiore,
24 did he take a written statement from you?
25 MS. DANTZLER: I don't recall.

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1 MR. JOHNSON: And how much time did you spend with
2 Mr. Zach Minton?
3 MS. DANTZLER: I don't recall that either.
4 MR. JOHNSON: Now Ms. Dantzler, have you ever been
5 in an altercation with an employee at Merchant Link?
6 MS. DANTZLER: Can you expound on what you mean by
7 altercation?
8 MR. JOHNSON: A terse exchange.
9 MS. DANTZLER: Yes.
10 MR. JOHNSON: Have you proceeded to call an
11 employee at Merchant Link a name?
12 MS. DANTZLER: Yes.
13 MR. JOHNSON: And what did you call this
14 particular employee?
15 MS. DANTZLER: A lazy-A negro.
16 MR. JOHNSON: And were you written up for calling
17 him a lazy-A negro?
18 MS. DANTZLER: Yes.
19 MR. JOHNSON: Did you say A or did you say ass?
20 MS. DANTZLER: I said A.
21 MR. JOHNSON: And when you called him the lazy-A
22 negro, did he feel that you had said something insensitive
23 or negative towards him?
24 MS. DANTZLER: I don't know how he felt.
25 MR. JOHNSON: Did you think that you said

<p style="text-align: right;">Page 154</p> <p>1 something insensitive or negative towards him?</p> <p>2 MS. DANTZLER: Yes, I did.</p> <p>3 MR. JOHNSON: And Ms. Dantzler, were you placed on</p> <p>4 probation for making this particular comment?</p> <p>5 MS. DANTZLER: Yes.</p> <p>6 MR. JOHNSON: And how long did the probation last?</p> <p>7 MS. DANTZLER: I don't know.</p> <p>8 MR. JOHNSON: Were you threatened with termination</p> <p>9 of your employment?</p> <p>10 MS. DANTZLER: Yes.</p> <p>11 MR. JOHNSON: And obviously you were not</p> <p>12 terminated, correct?</p> <p>13 MS. DANTZLER: Correct.</p> <p>14 MR. JOHNSON: Now Ms. Dantzler, did you actually</p> <p>15 go and attempt to sabotage the CRM?</p> <p>16 MS. DANTZLER: No.</p> <p>17 MR. JOHNSON: And did Mr. Belfiore threaten to</p> <p>18 have you fired?</p> <p>19 MS. DANTZLER: No.</p> <p>20 MR. JOHNSON: The only thing he did was suggest</p> <p>21 that you do him a favor and help someone else?</p> <p>22 MS. DANTZLER: I wouldn't say that was the only</p> <p>23 thing.</p> <p>24 MR. JOHNSON: One second, Your Honor.</p> <p>25 MR. PRAGER: Certainly. We'll go off the record</p>	<p style="text-align: right;">Page 156</p> <p>1 MR. PRAGER: All right. Thank you. Mr. Kaplan?</p> <p>2 MR. KAPLAN: Thank you.</p> <p>3 MR. PRAGER: Do you have any questions?</p> <p>4 MR. KAPLAN: Yes, a few questions. Good</p> <p>5 afternoon. The incident where you called another employee a</p> <p>6 lazy-A negro, what year was that?</p> <p>7 MS. DANTZLER: That was in 2006.</p> <p>8 MR. KAPLAN: And was that before Ms. Wendy</p> <p>9 Nussbaum was hired?</p> <p>10 MS. DANTZLER: Yes. Yes.</p> <p>11 MR. KAPLAN: Now looking at your statement, 82, if</p> <p>12 you want to get that in front of you.</p> <p>13 MS. DANTZLER: I have it.</p> <p>14 MR. KAPLAN: In the first paragraph you say after</p> <p>15 a brief hesitation I said okay. Do you see that? The</p> <p>16 sentence before you write I ran into Erik Belfiore in the</p> <p>17 hallway on the ninth floor and he said to me, Renee, I need</p> <p>18 to see you. I'm sorry. I need to see you, come see me and</p> <p>19 then you write after a brief hesitation I said okay. Do you</p> <p>20 see that?</p> <p>21 MS. DANTZLER: I see that.</p> <p>22 MR. KAPLAN: Why did you write after a brief</p> <p>23 hesitation?</p> <p>24 MS. DANTZLER: In my recollection, I didn't have</p> <p>25 much interaction with Mr. Belfiore and was not, in, in my</p>
<p style="text-align: right;">Page 155</p> <p>1 for a moment.</p> <p>2 (OFF THE RECORD.)</p> <p>3 (ON THE RECORD.)</p> <p>4 MR. PRAGER: Okay. We're back on the record.</p> <p>5 MR. JOHNSON: Now Ms. Dantzler, did Mr. Belfiore</p> <p>6 threaten you physically?</p> <p>7 MS. DANTZLER: No.</p> <p>8 MR. JOHNSON: Did Mr. Belfiore ask you to do</p> <p>9 anything that your boss would never ask you to do?</p> <p>10 MS. DANTZLER: Yes.</p> <p>11 MR. JOHNSON: And what would that be?</p> <p>12 MS. DANTZLER: To not do my job.</p> <p>13 MR. JOHNSON: And he told you not to train people?</p> <p>14 MS. DANTZLER: Not to do a good job at it.</p> <p>15 MR. JOHNSON: He said specifically Ms. Dantzler,</p> <p>16 don't go a good job?</p> <p>17 MS. DANTZLER: No, he did not say that</p> <p>18 specifically.</p> <p>19 MR. JOHNSON: You felt like he implied that?</p> <p>20 MS. DANTZLER: Yes.</p> <p>21 MR. JOHNSON: Is it possible that your</p> <p>22 implications could have been wrong?</p> <p>23 MS. DANTZLER: Yes, it's possible.</p> <p>24 MR. JOHNSON: No further questions for the</p> <p>25 witness, Your Honor.</p>	<p style="text-align: right;">Page 157</p> <p>1 few encounters with him I was not comfortable, so I was a</p> <p>2 little hesitant because I didn't know what he wanted with</p> <p>3 me.</p> <p>4 MR. KAPLAN: Now when you wrote this statement,</p> <p>5 did you try be as accurate as possible?</p> <p>6 MS. DANTZLER: Yes.</p> <p>7 MR. KAPLAN: So I want to get the timing accurate.</p> <p>8 You saw Mr. Belfiore on Tuesday, November 8th, is that</p> <p>9 correct, in his office?</p> <p>10 MS. DANTZLER: I believe so, if I put it there,</p> <p>11 yes.</p> <p>12 MR. KAPLAN: Okay. And then right after you had</p> <p>13 the meeting with him, what did you do next?</p> <p>14 MS. DANTZLER: I immediately called my husband who</p> <p>15 is my, my supporter of everything, and usually when I'm</p> <p>16 having a not so great day, I call him. And so I immediately</p> <p>17 called my husband.</p> <p>18 MR. KAPLAN: And why did you call your husband?</p> <p>19 MS. DANTZLER: To tell him that Mr. Belfiore asked</p> <p>20 me to keep that conversation confidential and I didn't feel</p> <p>21 comfortable with that and to ask him what he thought I</p> <p>22 should do.</p> <p>23 MR. KAPLAN: And where do you speak to, in</p> <p>24 relation to Mr. Belfiore's office, where did you have that</p> <p>25 conversation with your husband?</p>

<p style="text-align: right;">Page 158</p> <p>1 MS. DANTZLER: There's a corridor where there are 2 elevators so after I left his office I walked down the hall 3 and went, went to the elevators and stood in the hallway and 4 called my husband. 5 MR. KAPLAN: So then less a minute? 6 MS. DANTZLER: Yeah. I was dialing him before I 7 got out there. 8 MR. KAPLAN: Okay. And then he recommended that 9 you go talk to Mr. Minton? 10 MS. DANTZLER: He did, yes. 11 MR. KAPLAN: Okay. And did you go see Mr. Minton 12 right away? 13 MS. DANTZLER: I recall going to his office, but 14 he was not there. 15 MR. KAPLAN: Okay. So what would you do in the 16 meantime? 17 MS. DANTZLER: That day I kept checking for him. 18 He was probably in meetings, so I went back to work. 19 MR. KAPLAN: Okay. But do you know about what 20 time you had met with Mr. Minton? 21 MS. DANTZLER: I recall meeting with Mr. Minton 22 the next day. 23 MR. KAPLAN: Okay. So you met with Mr. Minton the 24 next day? 25 MS. DANTZLER: The next day.</p>	<p style="text-align: right;">Page 160</p> <p>1 MS. DANTZLER: I was interviewed by several 2 people. I was interviewed by Zachary Minton, I was 3 interviewed by the team members, and then I had to do an, 4 kind of a training interview with several managers and 5 executives in the room. 6 MR. KAPLAN: Okay. And did Mr. Belfiore interview 7 you? 8 MS. DANTZLER: No, he did not. 9 MR. KAPLAN: Okay. After you left Mr. Minton's 10 office, what did you do next? 11 MS. DANTZLER: I went to human resources as he had 12 suggested. 13 MR. KAPLAN: Okay. And then you went to speak to 14 Ms. Nussbaum? 15 MS. DANTZLER: Yes. 16 MR. KAPLAN: Okay. So this would have been on the 17 next day, November 9th? 18 MS. DANTZLER: Yes, I'm not sure certain that I 19 spoke to her at that moment, because she may not have been 20 there. But I know that was the next thing that I did. 21 MR. KAPLAN: Okay. And do you recall how long you 22 spent with Ms. Nussbaum? 23 MS. DANTZLER: I don't recall. 24 MR. KAPLAN: Okay. And then did she ask you to 25 write a written statement?</p>
<p style="text-align: right;">Page 159</p> <p>1 MR. KAPLAN: Okay. Well why don't you tell me, do 2 you recall as you're sitting here today, what you told Mr. 3 Minton? 4 MS. DANTZLER: That I was called into Erik's 5 office, he asked me to keep the conversation confidential 6 and that I felt as though he was, wanted me not to do my job 7 and one of my directives from Mr. Minton was because we knew 8 people did not like the CRM, not only train it, but adoption 9 was one of the things that we were responsible for, user 10 acceptance, and the conversation that I had with Mr. 11 Belfiore contradicted my direction from Zach. So I talked 12 about that and I told him I felt like he was bullying me and 13 trying to sway me to do something that is not a directive 14 from Zach as my, my manager. And I just told him I didn't 15 know what to do. I felt very uncomfortable about the whole 16 situation. 17 MR. KAPLAN: Okay. One moment. Did you tell Mr. 18 Minton that you felt intimidated as well by Mr. Belfiore? 19 MS. DANTZLER: Yes, I'm not sure I used that word, 20 but yes. 21 MR. KAPLAN: Now when were you promoted to, what's 22 your title now? 23 MS. DANTZLER: Training Specialist. 24 MR. KAPLAN: Training Specialist. Who interviewed 25 you for that job?</p>	<p style="text-align: right;">Page 161</p> <p>1 MS. DANTZLER: She did. 2 MR. KAPLAN: And do you recall if you wrote it 3 that same day or was it the next day? 4 MS. DANTZLER: I don't recall. 5 MR. KAPLAN: Okay. 6 MS. DANTZLER: It was probably the same or the 7 next day. 8 MR. PRAGER: The record reflects that it was 9 written on November 10th and the meeting was on the 8th, 10 that is the meeting with Mr. Belfiore was on the 8th. For 11 the record, it's fairly clear when it was written. 12 MR. KAPLAN: If you look on the second page of 13 your statement, you write he said and again you said you 14 paraphrased it, I want you to complain that this database is 15 not good. This is toward the end of that big first 16 paragraph, do you see that? And then you said I told him I 17 do not have a problem with pointing out our deficiencies 18 that I identify as such. But it will not be because you 19 called me into your office because I feel these things need 20 to be considered. Do you see that? 21 MS. DANTZLER: I do. 22 MR. KAPLAN: Does that refresh your memory at all 23 about what he may have said? 24 MS. DANTZLER: Yes, it does. 25 MR. KAPLAN: And what is it that --</p>

<p style="text-align: right;">Page 162</p> <p>1 MS. DANTZLER: I --</p> <p>2 MR. KAPLAN: -- go ahead.</p> <p>3 MS. DANTZLER: I just remember him saying that we</p> <p>4 needed to kind of, and I'm paraphrasing here, kind of make a</p> <p>5 big stink about, about the database, complain about it.</p> <p>6 Because I think that he still wanted us to go with the other</p> <p>7 database.</p> <p>8 MR. KAPLAN: Did you have any reason to get Mr.</p> <p>9 Belfiore in trouble?</p> <p>10 MS. DANTZLER: No.</p> <p>11 MR. KAPLAN: I have no further questions.</p> <p>12 MR. PRAGER: Ms. Dantzler, I have some questions</p> <p>13 about your statement. But before I do that, let me just</p> <p>14 understand. A couple of times you referred to members of</p> <p>15 the team. Who are you talking about?</p> <p>16 MS. DANTZLER: Members of the service delivery</p> <p>17 department. Those were the users of the system.</p> <p>18 MR. PRAGER: I see. And were there any other</p> <p>19 training officers or training specialists other than</p> <p>20 yourself at that point?</p> <p>21 MS. DANTZLER: Yes.</p> <p>22 MR. PRAGER: And were they also involved with the</p> <p>23 CRM project or were you the only one?</p> <p>24 MS. DANTZLER: I was the only trainer involved.</p> <p>25 MR. PRAGER: All right. Now you wrote a two and a</p>	<p style="text-align: right;">Page 164</p> <p>1 uncomfortable before that time or did it start around the</p> <p>2 time that you were dealing with the CRM?</p> <p>3 MS. DANTZLER: I would say it started around the</p> <p>4 time of the CRM.</p> <p>5 MR. PRAGER: Okay. Now you make a number of</p> <p>6 statements. He does a little bit of posturing about that he</p> <p>7 he's the Chief Operating Officer and that he has an MBA.</p> <p>8 But then he says I want you to advocate for us and make sure</p> <p>9 we are getting our requirements met. What did you</p> <p>10 understand by advocate for us? Who is the us that you think</p> <p>11 he was referring to?</p> <p>12 MS. DANTZLER: The us would have been the service</p> <p>13 delivery team.</p> <p>14 MR. PRAGER: All right.</p> <p>15 MS. DANTZLER: Employees.</p> <p>16 MR. PRAGER: And when he says and make sure we are</p> <p>17 getting our requirements met, who do you think he was asking</p> <p>18 you to advocate to, if there is such a language. Who did he</p> <p>19 want you to go back to tell that the requirements were not</p> <p>20 being met and should be met?</p> <p>21 MS. DANTZLER: The developers.</p> <p>22 MR. PRAGER: All right.</p> <p>23 MS. DANTZLER: Who were implementing the, the</p> <p>24 database.</p> <p>25 MR. PRAGER: So that this point, at least in this</p>
<p style="text-align: right;">Page 163</p> <p>1 half page document. The first paragraph has nothing to do</p> <p>2 with CRM and in fact, nothing on the first page of that</p> <p>3 document has anything to do with the CRM. It talks about</p> <p>4 how you engaged with Mr. Belfiore first and then Mr.</p> <p>5 Belfiore's statement that he had helped you get your job and</p> <p>6 then he used a number of expletives, not directed at you, I</p> <p>7 think your testimony was. So at that point were you on edge</p> <p>8 given this interaction?</p> <p>9 MS. DANTZLER: Yes, very much so.</p> <p>10 MR. PRAGER: All right. And I think you had said</p> <p>11 at some point that even before this conversation you were</p> <p>12 not and I think the word was comfortable, you were not</p> <p>13 comfortable with Mr. Belfiore in your previous meetings with</p> <p>14 him. Could you explain to me why you weren't comfortable</p> <p>15 with him?</p> <p>16 MS. DANTZLER: Mr. Belfiore had a very obnoxious</p> <p>17 personality as of late. I say towards the end of his stay</p> <p>18 at Merchant Link. And the few times he was in the CRM</p> <p>19 meetings, he ranted, he raved, you could hear him on the</p> <p>20 floor ranting and raving and that made me uncomfortable.</p> <p>21 And the fact that he wanted to have an interaction with me</p> <p>22 made me wonder, I, I really did not want to have that, that</p> <p>23 conversation with him or any conversation with him.</p> <p>24 MR. PRAGER: And prior to the CRM meetings, was</p> <p>25 Mr. Belfiore's attitude different, were you also</p>	<p style="text-align: right;">Page 165</p> <p>1 sentence, it wasn't that you were supposed to go and tell</p> <p>2 his subordinates or the people who were implementing the CRM</p> <p>3 to do anything, it was a message going up rather than down,</p> <p>4 is that correct or across?</p> <p>5 MS. DANTZLER: Across. That's correct.</p> <p>6 MR. PRAGER: I'm sorry --</p> <p>7 MS. DANTZLER: Across, that's correct.</p> <p>8 MR. PRAGER: Across to whom?</p> <p>9 MS. DANTZLER: Across to the, the team of</p> <p>10 developers that were involved in the CRM project.</p> <p>11 MR. PRAGER: The developers. I am now confused.</p> <p>12 Are the developers the people in Mr. Belfiore's group or are</p> <p>13 the developers in the technical whatever division it might</p> <p>14 be?</p> <p>15 MS. DANTZLER: Yes, they're in the software</p> <p>16 development group.</p> <p>17 MR. PRAGER: All right. So that's not Mr.</p> <p>18 Belfiore's group?</p> <p>19 MS. DANTZLER: No.</p> <p>20 MR. PRAGER: Thank you. And then the next</p> <p>21 sentence, you agreed with him in a way and said we've got to</p> <p>22 find, there's some things that were not user friendly or</p> <p>23 trainable?</p> <p>24 MS. DANTZLER: Yes.</p> <p>25 MR. PRAGER: And you had in fact also pointed that</p>

<p style="text-align: right;">Page 166</p> <p>1 out to others, isn't that correct? You and Mr. Minton?</p> <p>2 MS. DANTZLER: Yes.</p> <p>3 MR. PRAGER: And then he makes some demeaning</p> <p>4 remark about Mr. Minton not being on his level, is that</p> <p>5 correct?</p> <p>6 MS. DANTZLER: Yes.</p> <p>7 MR. PRAGER: And then I'm skipping a sentence, he</p> <p>8 says and you put in the word paraphrasing, quote he said,</p> <p>9 paraphrasing, I want you to complain that the database is</p> <p>10 not good. Now to whom were you supposed to complain as far</p> <p>11 as you could tell at the time?</p> <p>12 MS. DANTZLER: I don't know. I'm guessing to the,</p> <p>13 to the other members in the group --</p> <p>14 MR. PRAGER: Which would be?</p> <p>15 MS. DANTZLER: -- in the, in the meeting we had a</p> <p>16 team of individuals who were working on the projects,</p> <p>17 developers, managers of service delivery, my manager, myself</p> <p>18 and another team member.</p> <p>19 MR. PRAGER: All right. And did you understand</p> <p>20 him that you were supposed to complain to the people who</p> <p>21 worked for Mr. Belfiore or to other people?</p> <p>22 MS. DANTZLER: Complain to other people.</p> <p>23 MR. PRAGER: Not to Mr. Belfiore's staff, is that</p> <p>24 correct?</p> <p>25 MS. DANTZLER: That's correct.</p>	<p style="text-align: right;">Page 168</p> <p>1 attempt by him to sabotage the project, is that correct?</p> <p>2 MS. DANTZLER: That's correct.</p> <p>3 MR. PRAGER: Could it also have been interpreted</p> <p>4 as an attempt to improve the project?</p> <p>5 MS. DANTZLER: It could have been, yes.</p> <p>6 MR. PRAGER: All right. Thank you. I think those</p> <p>7 are the all the questions I have. But Mr. Johnson has an</p> <p>8 opportunity to ask further questions based on testimony</p> <p>9 you've already given either in response to Mr. Kaplan's</p> <p>10 questions or to my questions.</p> <p>11 MR. JOHNSON: Thank you, Your Honor. Ms.</p> <p>12 Dantzler, prior to meeting Mr. Belfiore, it's your testimony</p> <p>13 that you already had a preconceived idea of who he was,</p> <p>14 correct?</p> <p>15 MS. DANTZLER: Correct.</p> <p>16 MR. JOHNSON: And this preconceived idea of who he</p> <p>17 was, was just based on your seeing him around Merchant Link,</p> <p>18 correct?</p> <p>19 MS. DANTZLER: Correct.</p> <p>20 MR. JOHNSON: This preconceived idea wasn't based</p> <p>21 on any personal interaction that you had with Mr. Belfiore,</p> <p>22 correct?</p> <p>23 MS. DANTZLER: Correct.</p> <p>24 MR. JOHNSON: So did you feel uncomfortable at the</p> <p>25 idea of going to Mr. Belfiore's office?</p>
<p style="text-align: right;">Page 167</p> <p>1 MR. PRAGER: All right. And then in the next</p> <p>2 paragraph you say quote he said I need you to advocate for</p> <p>3 the people on the floor, end quote. Again, what did you</p> <p>4 understand at the time when he said you need to advocate to</p> <p>5 the people on the floor. To whom were you supposed to</p> <p>6 advocate?</p> <p>7 MS. DANTZLER: Again to the same group that was</p> <p>8 working on the project. All right. And then finally on the</p> <p>9 next page you say quote again, he said I need you in my</p> <p>10 corner, we're not getting what we need from the CRM and I</p> <p>11 need you to go to these meetings and say something. Again,</p> <p>12 would your testimony be the same that this is to the same</p> <p>13 people we were talking about before that you were supposed</p> <p>14 to advocate to or is this is a different group of people?</p> <p>15 MS. DANTZLER:</p> <p style="padding-left: 40px;">The same people.</p> <p>16 MR. PRAGER: And you take it, you came to the</p> <p>17 conclusion, I gather that the language that he used at the</p> <p>18 time was somehow that given what you've said in these</p> <p>19 paragraphs that this was an attempt to sabotage the project</p> <p>20 or could it also have been interpreted as an attempt to</p> <p>21 improve the project?</p> <p>22 MS. DANTZLER: I'm sorry, can you ask, I didn't</p> <p>23 hear the first part.</p> <p>24 MR. PRAGER: Okay. Of course. I think you said</p> <p>25 the language he used, you ultimately interpreted as an</p>	<p style="text-align: right;">Page 169</p> <p>1 MS. DANTZLER: I did, yes.</p> <p>2 MR. JOHNSON: So when you walked into the office</p> <p>3 and commenced talking to Mr. Belfiore, is it possible that</p> <p>4 you felt in such a way that you were kind of scared just to</p> <p>5 be there?</p> <p>6 MS. DANTZLER: No.</p> <p>7 MR. JOHNSON: So once you arrived to Mr.</p> <p>8 Belfiore's office, you basically composed yourself?</p> <p>9 MS. DANTZLER: I did, yes.</p> <p>10 MR. JOHNSON: Okay. And during the conversation</p> <p>11 that you had with Mr. Belfiore based on your statement they</p> <p>12 were pretty harmless statements, correct?</p> <p>13 MR. PRAGER: I'm sorry, Mr. Johnson, which</p> <p>14 statements are you talking about?</p> <p>15 MR. JOHNSON: Let's go over one by one. The first</p> <p>16 one on the second page, and this is the one, two, three,</p> <p>17 four, five, six, seven, it starts on the seventh line down</p> <p>18 from the top when you say then he went on to say. All</p> <p>19 right.</p> <p>20 MS. DANTZLER: Okay.</p> <p>21 MR. JOHNSON: Now Mr. Belfiore says I understand</p> <p>22 you are working on Dynamic CRM Project. That's a pretty</p> <p>23 harmless statement, correct?</p> <p>24 MS. DANTZLER: Yes, it is.</p> <p>25 MR. JOHNSON: Mr. Belfiore goes on to say I talked</p>

<p style="text-align: right;">Page 170</p> <p>1 to Dan about the decision to go with Dynamics and I told him 2 if we are not going to the database we want could we make 3 sure we get what we need and want in Dynamics and he said 4 Dan agreed. That's a pretty harmless statement, correct? 5 MS. DANTZLER: Yes, it is. 6 MR. JOHNSON: And we're still talking about the 7 CRM, correct? 8 MS. DANTZLER: Correct. 9 MR. JOHNSON: Okay. And he goes further down let 10 me see, three more lines down you'll see in the line it 11 starts with I am COO and I have an MBA. There's a sentence 12 that follows that that starts with he said. Do you see 13 that? 14 MS. DANTZLER: I do. 15 MR. JOHNSON: All right. He said I want you to 16 advocate for us and make sure we are getting our 17 requirements met. That's a pretty harmless statement as 18 well, correct? 19 MS. DANTZLER: It is. 20 MR. JOHNSON: And that doesn't mean I want to 21 sabotage CRM, correct? 22 MS. DANTZLER: That statement does not, no. 23 MR. JOHNSON: And further down in this particular 24 document with the line that starts with said in parenthesis, 25 paraphrasing, at the end of this I want you to complaint</p>	<p style="text-align: right;">Page 172</p> <p>1 MR. JOHNSON: So is he telling you to do it a 2 certain way here? 3 MS. DANTZLER: No. 4 MR. JOHNSON: But he's asking you really to, if 5 the complaint is the word that you want to use, he's asking 6 you really to go to the people who need to know that there 7 are complaints, correct? 8 MS. DANTZLER: Yes. 9 MR. JOHNSON: So in effect he's doing his job, 10 correct? 11 MS. DANTZLER: By speaking to me about it, no I 12 don't think so. 13 MR. JOHNSON: You were the liaison to these 14 particular people that needed to hear this information, 15 correct? 16 MS. DANTZLER: No. 17 MR. JOHNSON: So you would gather information 18 about the system, but you were supposed to send this 19 information to who? 20 MS. DANTZLER: I was gathering information to put 21 together a training program that was my, my only role in 22 this project. I was not a decision maker or an influencer. 23 MR. JOHNSON: And he pretty much knew that you 24 didn't have any impact on the CRM whatsoever, correct? 25 MS. DANTZLER: Yes.</p>
<p style="text-align: right;">Page 171</p> <p>1 that the database is not good. Now isn't that a harmless 2 statement as well? 3 MS. DANTZLER: That is. 4 MR. JOHNSON: Okay. Let's move on to the next 5 sentence. Now you followed up and said I told him I do not 6 have a problem with, I have a problem with pointing out 7 deficiencies that identified as such but it will not be 8 because you called me in your office. That sounds like 9 you're getting defensive, correct? 10 MS. DANTZLER: It sounds like it. 11 MR. JOHNSON: And once again nothing was said bad 12 about the CRM. Could it be that you felt like he was trying 13 to tell you how to do your job? 14 MS. DANTZLER: No, he was not trying to tell me 15 how to do my job. He was trying to tell me to do the 16 opposite of my job. 17 MR. JOHNSON: And based on the sentence we just 18 read, which one of those said you should do the opposite of 19 your job? 20 MS. DANTZLER: I want you to complain, and I 21 rephrased by saying I have a problem with pointing out 22 deficiencies. I wasn't going to complain. 23 MR. JOHNSON: So a person who points out 24 deficiencies, isn't that considered complaining? 25 MS. DANTZLER: It depends on how you do it.</p>	<p style="text-align: right;">Page 173</p> <p>1 MR. JOHNSON: So it was kind of a harmless 2 statement to make to you, correct? 3 MS. DANTZLER: No, it wasn't harmless. 4 MR. JOHNSON: It wasn't harmless? 5 MR. PRAGER: I'm sorry, can keep your voice up 6 please -- 7 MS. DANTZLER: I'm sorry. 8 MR. PRAGER: -- Ms. Dantzler. 9 MR. JOHNSON: It wasn't harmless? 10 MR. PRAGER: I -- 11 MR. JOHNSON: I'm sorry, Your Honor. 12 MR. PRAGER: -- didn't hear what she said. It may 13 be on the record, but I believe the question was it wasn't a 14 harmless? 15 MR. JOHNSON: I think I said it was a harmless 16 statement and then she responded no. 17 MR. PRAGER: Okay. And what is your response? 18 MS. DANTZLER: I'm sorry, can you ask the question 19 again? 20 MR. JOHNSON: I stated it was a harmless 21 statement. 22 MS. DANTZLER: And we're referring to the 23 statement of complaining? 24 MR. JOHNSON: To complain to I guess to the people 25 who needed to hear the complaints.</p>

<p style="text-align: right;">Page 174</p> <p>1 MS. DANTZLER: I didn't see it as a harmless 2 statement. 3 MR. JOHNSON: You saw it as him asking you to do 4 something that you normally would not do? 5 MS. DANTZLER: Correct. 6 MR. JOHNSON: So he was asking you to get 7 information, the correct information to the people who 8 needed to hear it? 9 MS. DANTZLER: He was asking me to get information 10 to the people who he thought needed to make the decisions. 11 MR. JOHNSON: And were they the people who needed 12 to make the decisions? 13 MS. DANTZLER: Yes. 14 MR. JOHNSON: Now if we go down to the very next 15 paragraph, the one that starts with I asked Erik why did you 16 call me in your office, exactly what is you want from me. 17 And in the next sentence he said I need you to advocate for 18 the people on the floor. That's a pretty harmless 19 statement, correct? 20 MS. DANTZLER: Correct. 21 MR. JOHNSON: That's him helping his staff, 22 correct? 23 MS. DANTZLER: Correct. 24 MR. JOHNSON: And if he's helping his staff, he's 25 helping the company, correct?</p>	<p style="text-align: right;">Page 176</p> <p>1 MR. JOHNSON: And on what basis? 2 MS. DANTZLER: I wouldn't believe it just on his, 3 his, the way he acted towards the project and he was asking 4 me to do something that I felt a man in his position had 5 more power to see those changes happen than I. And so, no, 6 I don't believe that. 7 MR. JOHNSON: So really your testimony today is 8 that you felt the conversation was really all about you? 9 MR. KAPLAN: Objection. That's not the testimony. 10 MR. PRAGER: No, but it's an aggressive question 11 and she can answer it. So it's overruled. 12 MS. DANTZLER: No. No. 13 MR. JOHNSON: So when Mr. Belfiore is advocating 14 for his people, you stated that's not necessarily a good 15 thing for the company, correct? 16 MS. DANTZLER: Not in this particular situation. 17 MR. JOHNSON: And did you feel offended when Mr. 18 Belfiore said tell your story of how you got your position 19 to the folks on the floor? 20 MS. DANTZLER: Yes. 21 MR. JOHNSON: And that was the real reason why you 22 were flustered after this particular meeting, correct? 23 MS. DANTZLER: No. 24 MR. JOHNSON: So you felt offended, but that 25 wasn't why you were flustered?</p>
<p style="text-align: right;">Page 175</p> <p>1 MS. DANTZLER: I don't agree with that. 2 MR. JOHNSON: So you don't believe that if he 3 helps his staff he's helping the company? 4 MS. DANTZLER: Not in this regard. 5 MR. JOHNSON: And when you say not in this regard, 6 what regard are you speaking of? 7 MS. DANTZLER: If I may expound on my response? 8 MR. PRAGER: Yes, go ahead. 9 MS. DANTZLER: We all have things that happen at 10 work that we don't like. Things are implemented, we're 11 asked to do things that we don't particularly want to do in 12 our job and I felt like this was one of those things. And 13 going against the grain in this situation I think was not 14 wise. We had made a major purchase already, we had already 15 purchased it, we might as well move forward and make the 16 best of it. And I didn't have a problem advocating for the 17 people on the floor and trying to help them, but my job in 18 advocating for them was for them to learn how to deal with 19 this change. Change occurs all the time. So one of my 20 responsibilities was to make sure that although we were not 21 happy with the CRM that we were to make the best of the CRM. 22 MR. JOHNSON: And if I were to tell you that it's 23 been Mr. Belfiore's testimony as well that we are to make 24 the best of it, would you believe that? 25 MS. DANTZLER: No, I wouldn't believe that.</p>	<p style="text-align: right;">Page 177</p> <p>1 MS. DANTZLER: That is not the only reason I was 2 flustered. 3 MR. JOHNSON: Another reason that you state, at 4 least based on what you provided to Ms. Nussbaum is (1) that 5 Mr. Belfiore was advocating for his group, (2) he said I 6 want to advocate for us, (3) make sure we're getting our 7 requirements met, (4) I talked to Dan about a decision to go 8 with Dynamics and I told him if we're not going to get the 9 database we want, could you we make sure we get what we need 10 and want in Dynamics. Ms. Nussbaum, I'm sorry, Ms. 11 Dantzler, please help the Court understand why those 12 statements in addition to him telling, to you telling folks 13 on the floor how you feel, please describe for the Court why 14 that made you leave his office feeling flustered? 15 MR. KAPLAN: Objection to the extent that was 16 already asked and answered on direct. 17 MR. PRAGER: Yes, I think you're just at this 18 point just repeating yourself. 19 MR. JOHNSON: Not a problem, Your Honor. I think 20 I made my point. If there's going to be a re-cross, we turn 21 the witness over to them. 22 MR. KAPLAN: Just a couple of questions. In 23 totality, do you find his entire demeanor and conversation 24 directed to you harmless? 25 MS. DANTZLER: No.</p>

<p style="text-align: right;">Page 178</p> <p>1 MR. KAPLAN: And why is that?</p> <p>2 MS. DANTZLER: Because he was very loud, he was</p> <p>3 very aggressive in his conversation. He was, he used cuss</p> <p>4 words which made me feel uncomfortable, the fact that he was</p> <p>5 asking me to do something outside of what direction my</p> <p>6 manager had given me and did not speak to my manager made me</p> <p>7 feel uncomfortable.</p> <p>8 MR. KAPLAN: So it wasn't just a sentence out of</p> <p>9 context, it was the entire way he said things and how he</p> <p>10 said things and ask you to keep confidential, all of that is</p> <p>11 what made you come to the realization of what your ultimate</p> <p>12 perception was?</p> <p>13 MS. DANTZLER: Yes, I didn't understand the whole</p> <p>14 confidentiality. If I'm advocating for his people, if I'm</p> <p>15 doing something to make the better of the CRM, why would</p> <p>16 that be private? Any time you ask someone to keep something</p> <p>17 quiet, that alarmed me.</p> <p>18 MR. PRAGER: And Mr. Kaplan, you're almost and</p> <p>19 perhaps you even exceeded your questions as leading. Would</p> <p>20 you --</p> <p>21 MR. KAPLAN: Sorry.</p> <p>22 MR. PRAGER: -- make sure that you don't lead the</p> <p>23 witness?</p> <p>24 MR. KAPLAN: Sure. And when you went to speak to</p> <p>25 Ms. Nussbaum, what is it that you told the human resources</p>	<p style="text-align: right;">Page 180</p> <p>1 MS. DANTZLER: If I recall, I just did not want my</p> <p>2 name to be part of his complaint saying that Renee agrees</p> <p>3 with me or the training department agrees with me.</p> <p>4 MR. PRAGER: All right. And when you say, and who</p> <p>5 did you think he might be saying this to?</p> <p>6 MS. DANTZLER: To that same team.</p> <p>7 MR. PRAGER: To the team.</p> <p>8 MS. DANTZLER: To the team that was working on the</p> <p>9 CRM project.</p> <p>10 MR. PRAGER: I will give Mr. Johnson ten seconds</p> <p>11 if he wants to just about this sentence. We're not going to</p> <p>12 go.</p> <p>13 MR. JOHNSON: Ms. Dantzler, one question. Were</p> <p>14 you ever in a meeting with Mr. Belfiore regarding the COO --</p> <p>15 MR. PRAGER: No, no, that exceeds --</p> <p>16 MR. JOHNSON: I'm sorry.</p> <p>17 MR. PRAGER: Only that sentence that I raised. Is</p> <p>18 there something in her testimony about that sentence that</p> <p>19 you need to ask about?</p> <p>20 MR. JOHNSON: Your Honor, I don't see anything</p> <p>21 with regard to this particular question. One second.</p> <p>22 Your Honor, no, there's nothing further on this</p> <p>23 particular question.</p> <p>24 MR. PRAGER: All right. Thank you. Ms. Dantzler,</p> <p>25 thank you for coming and you're excused.</p>
<p style="text-align: right;">Page 179</p> <p>1 director about your belief about what Mr. Belfiore was</p> <p>2 attempting to do?</p> <p>3 MS. DANTZLER: I told her that I felt like he was</p> <p>4 trying to build a team of revolvers that was the --</p> <p>5 MR. JOHNSON: Objection, Your Honor. That is her</p> <p>6 statement, I'm sorry, Your Honor.</p> <p>7 MR. PRAGER: Well it is her statement now.</p> <p>8 MR. JOHNSON: Yes.</p> <p>9 MR. PRAGER: You can dispute it at some point</p> <p>10 that's not what she said, but that's what she's testifying</p> <p>11 now. Your objection is overruled.</p> <p>12 MR. KAPLAN: Finish your answer.</p> <p>13 MS. DANTZLER: That's what I felt like in that he</p> <p>14 was trying to undermine the CRM project. That's what I felt</p> <p>15 like at that time.</p> <p>16 MR. KAPLAN: I have no further questions.</p> <p>17 MR. PRAGER: All right. I have one question and I</p> <p>18 should have asked it before, but I'm going to ask you now.</p> <p>19 At the very end or the next to the last sentence of your</p> <p>20 statement you say I was concerned that Erik would try to use</p> <p>21 my name in his complaints about Dynamics and say I said</p> <p>22 something that I did not say to make his. I'm not quite</p> <p>23 sure I understand the full sentence. But tell me why you</p> <p>24 thought Mr. Belfiore would use your name in his complaints</p> <p>25 and, well let's start with that.</p>	<p style="text-align: right;">Page 181</p> <p>1 MS. DANTZLER: Thank you.</p> <p>2 MR. PRAGER: All right. I think this is an</p> <p>3 opportune moment, we'll go until about 5 of 4:00 p.m. and</p> <p>4 we'll be off the record.</p> <p>5 (OFF THE RECORD.)</p> <p>6 (ON THE RECORD.)</p> <p>7 MR. PRAGER: All right. Mr. Johnson, will you</p> <p>8 call your next witness?</p> <p>9 MR. JOHNSON: Yes, Your Honor, the complainant,</p> <p>10 Erik Belfiore, calls to the stand, Mr. Timothy Robinson.</p> <p>11 MR. PRAGER: Okay. Would you raise your right</p> <p>12 hand, please? Do you swear to tell the truth, the whole</p> <p>13 truth, and nothing but the truth under penalty of perjury?</p> <p>14 MR. ROBINSON: I do.</p> <p>15 MR. PRAGER: Would you state your full name for</p> <p>16 the record, please?</p> <p>17 MR. ROBINSON: Timothy Rynell Robinson.</p> <p>18 MR. PRAGER: Thank you.</p> <p>19 MR. JOHNSON: Good afternoon, Mr. Robinson. Would</p> <p>20 you please state your address for the record?</p> <p>21 MR. ROBINSON: 18907 Saint Albert Drive,</p> <p>22 Brookville, Maryland.</p> <p>23 MR. JOHNSON: And how long have you been at this</p> <p>24 address?</p> <p>25 MR. ROBINSON: Since 2000.</p>

<p style="text-align: right;">Page 182</p> <p>1 MR. JOHNSON: And Mr. Robinson, are you familiar 2 with the respondent, Merchant Link? 3 MR. ROBINSON: Yes. 4 MR. JOHNSON: And can you describe to the Court 5 how you're familiar with the respondent, Merchant Link? 6 MR. ROBINSON: I was an employee for Merchant 7 Link. 8 MR. JOHNSON: And how long were you employed with 9 Merchant Link? 10 MR. ROBINSON: I was employed at Merchant Link 11 from 2013, 2009 until 2013 I believe. 12 MR. JOHNSON: Now Mr. Robinson, did you attend 13 college? 14 MR. ROBINSON: Yes. 15 MR. JOHNSON: And where did you attend college? 16 MR. ROBINSON: The University of Rochester. 17 MR. JOHNSON: And did you earn a degree? 18 MR. ROBINSON: Yes. 19 MR. JOHNSON: And what degree did you earn? 20 MR. ROBINSON: A Bachelor's Degree in economics 21 with concentration in finance. 22 MR. JOHNSON: And when did you earn your degree? 23 MR. ROBINSON: 1992. 24 MR. PRAGER: Mr. Robinson, this is being recorded. 25 It would be a good thing for everybody if you could raise</p>	<p style="text-align: right;">Page 184</p> <p>1 ensuring that they were disbursed to the customers. 2 MR. JOHNSON: Mr. Robinson, were you Mr. 3 Belfiore's direct report? 4 MR. ROBINSON: Yes. 5 MR. JOHNSON: And did you attend and participate 6 in meetings with Mr. Belfiore? 7 MR. ROBINSON: Yes, I did. 8 MR. JOHNSON: And could you recount for the Court 9 whether or not you've ever seen Mr. Belfiore behave in an 10 inappropriate manner at the Merchant Link? 11 MR. ROBINSON: No. 12 MR. JOHNSON: Mr. Robinson, are you familiar with 13 a Renee Dantzler? 14 MR. ROBINSON: Yes. 15 MR. JOHNSON: And how do you know Ms. Renee 16 Dantzler? 17 MR. ROBINSON: I met Renee at Merchant Link. 18 MR. JOHNSON: And did you have the opportunity to 19 interact with Ms. Dantzler? 20 MR. ROBINSON: Yes, from the Training Department. 21 MR. JOHNSON: And can you describe the 22 interaction? 23 MR. ROBINSON: She trained me on my initial, 24 initial attendance at Merchant Link and passing conversation 25 in the hallway.</p>
<p style="text-align: right;">Page 183</p> <p>1 your voice when you answer the questions. 2 MR. ROBINSON: Okay. 3 MR. PRAGER: Go ahead, Mr. Johnson. 4 MR. JOHNSON: Thank you, Your Honor. Now Mr. 5 Robinson, are you familiar with the complainant, Erik 6 Belfiore? 7 MR. ROBINSON: Yes. 8 MR. JOHNSON: And how do you know Mr. Belfiore? 9 MR. ROBINSON: I grew up with him across the 10 street. 11 MR. JOHNSON: And Mr. Robinson did Mr. Belfiore 12 assist you in obtaining employment with the respondent, 13 Merchant Link? 14 MR. ROBINSON: Mr. Belfiore made me aware of a 15 position at Merchant Link. 16 MR. JOHNSON: And were you hired by Merchant Link? 17 MR. ROBINSON: Yes, I was. 18 MR. JOHNSON: And what was your salary at Merchant 19 Link? 20 MR. ROBINSON: I was at \$75,000. 21 MR. JOHNSON: Now Mr. Robinson could you please 22 describe for the Court your job duties at Merchant Link? 23 MR. ROBINSON: I was a billing operations manager. 24 I was responsible for the monthly billing at Merchant Link 25 as far as the accounts, setting up the invoices, and</p>	<p style="text-align: right;">Page 185</p> <p>1 MR. JOHNSON: Now Mr. Robinson were you familiar 2 with or do you know what is the Dynamics CRM? 3 MR. ROBINSON: Yes. 4 MR. JOHNSON: Can you describe that for the Court, 5 please? 6 MR. ROBINSON: That is the CRM that was 7 implemented at Merchant Link, or was being implemented at 8 the time when I was leaving. 9 MR. JOHNSON: Now were you part of the process of 10 selecting the CRM? 11 MR. ROBINSON: Yes, I was. 12 MR. JOHNSON: Can you describe for the Court 13 exactly what happened during the process of selecting the 14 CRM? 15 MR. ROBINSON: Yes, the Development Department put 16 forward several different selections for the CRM and there 17 was a voting an evaluation process for them. The management 18 team selected, as far as the choice that they would prefer 19 was Sage, and we ended up going with Microsoft Dynamics as 20 we were told that it would be able to do all of the 21 functions that we were looking for out of Sage. 22 MR. JOHNSON: Now were you also part of the 23 implementation of the CRM? 24 MR. ROBINSON: Not so much as far as the 25 implementation, input was requested from time to time.</p>

<p style="text-align: right;">Page 186</p> <p>1 MR. JOHNSON: And what type of input was requested</p> <p>2 of you?</p> <p>3 MR. ROBINSON: Billing information as far as what</p> <p>4 billing, how billing was going to be using that, that</p> <p>5 information and what fields I used in the current CRM which</p> <p>6 was PeopleSoft, and they needed to try and mirror that in</p> <p>7 Dynamic.</p> <p>8 MR. JOHNSON: No would you have used the CRM in</p> <p>9 your daily business activities?</p> <p>10 MR. ROBINSON: Yes.</p> <p>11 MR. JOHNSON: And when you used the CRM, did you</p> <p>12 have any complaints about the CRM?</p> <p>13 MR. ROBINSON: Yes.</p> <p>14 MR. JOHNSON: And to whom did you take your</p> <p>15 complaints?</p> <p>16 MR. ROBINSON: To Erik as well as members of the</p> <p>17 development Team.</p> <p>18 MR. JOHNSON: And what was the response to your</p> <p>19 complaints?</p> <p>20 MR. ROBINSON: We'll fix it.</p> <p>21 MR. JOHNSON: Did they ever fix it?</p> <p>22 MR. ROBINSON: No.</p> <p>23 MR. JOHNSON: To your knowledge did the other</p> <p>24 employees like the CRM?</p> <p>25 MR. ROBINSON: To my knowledge --</p>	<p style="text-align: right;">Page 188</p> <p>1 MR. ROBINSON: Yes.</p> <p>2 MR. JOHNSON: And did the complaints that you just</p> <p>3 testified to occur while Mr. Belfiore was on medical leave?</p> <p>4 MR. ROBINSON: Yes.</p> <p>5 MR. JOHNSON: And do you recall what happened once</p> <p>6 Mr. Belfiore returned to work from medical leave?</p> <p>7 MR. ROBINSON: I remember when he returned that</p> <p>8 there was sort of a line at his door.</p> <p>9 MR. JOHNSON: And why was there a line at his</p> <p>10 door?</p> <p>11 MR. ROBINSON: About the complaints and that</p> <p>12 nothing was being done to address them.</p> <p>13 MR. JOHNSON: And do you recall what Mr. Belfiore</p> <p>14 did with regard to the complaints?</p> <p>15 MR. ROBINSON: He told them to continue with</p> <p>16 procedure, make sure it was jotted down and he said he would</p> <p>17 speak with the executive team.</p> <p>18 MR. JOHNSON: Now at any point in time, do you</p> <p>19 recall Mr. Belfiore attempting to organize a revolt against</p> <p>20 the CRM?</p> <p>21 MR. ROBINSON: No.</p> <p>22 MR. JOHNSON: Do you recall Mr. Belfiore</p> <p>23 attempting to sabotage the CRM?</p> <p>24 MR. ROBINSON: No.</p> <p>25 MR. JOHNSON: Would Mr. Belfiore have a reason to</p>
<p style="text-align: right;">Page 187</p> <p>1 MR. JOHNSON: Yes.</p> <p>2 MR. ROBINSON: -- no.</p> <p>3 MR. JOHNSON: At any point in time did Mr.</p> <p>4 Belfiore tell you to dislike the CRM?</p> <p>5 MR. ROBINSON: No, it was just the opposite.</p> <p>6 MR. PRAGER: What do you mean by that?</p> <p>7 MR. ROBINSON: We were told to evaluate it and</p> <p>8 give our input and not to, not to take anything for granted.</p> <p>9 To make sure that we followed all the steps.</p> <p>10 MR. PRAGER: You said we were told. Mr. Belfiore</p> <p>11 told you that or somebody else told you that?</p> <p>12 MR. ROBINSON: The management team, Mr. Belfiore</p> <p>13 told us during our management meetings the complaints about</p> <p>14 the CRM, we would tell him and he would instruct us write</p> <p>15 everything down, document it, and take it back to them.</p> <p>16 MR. PRAGER: Thank you. Mr. Johnson?</p> <p>17 MR. JOHNSON: Your Honor, minor housekeeping.</p> <p>18 Maybe I missed it. Did you swear in Mr. Robinson?</p> <p>19 MR. PRAGER: Yes.</p> <p>20 MR. JOHNSON: Okay. I missed it.</p> <p>21 MR. PRAGER: It's that sort of day.</p> <p>22 MR. PETESCH: We were wondering if we were back on</p> <p>23 the record, but so, playing to William's defense here.</p> <p>24 MR. JOHNSON: Now Mr. Robinson, do you recall that</p> <p>25 Mr. Belfiore took medical leave?</p>	<p style="text-align: right;">Page 189</p> <p>1 sabotage the CRM?</p> <p>2 MR. ROBINSON: No.</p> <p>3 MR. JOHNSON: Is it possible for Mr. Belfiore to</p> <p>4 sabotage the CRM?</p> <p>5 MR. ROBINSON: No, not that I know of.</p> <p>6 MR. JOHNSON: Can you describe to the Court</p> <p>7 whether or not Ms. Dantzler, is it possible for Renee</p> <p>8 Dantzler to sabotage the CRM?</p> <p>9 MR. ROBINSON: Not that I know of because she was</p> <p>10 on the training side of it and that would be after the CRM</p> <p>11 was implemented.</p> <p>12 MR. JOHNSON: Is it possible to sabotage the CRM</p> <p>13 through your subordinates?</p> <p>14 MR. ROBINSON: Through my subordinates?</p> <p>15 MR. JOHNSON: Yes.</p> <p>16 MR. ROBINSON: I have none.</p> <p>17 MR. JOHNSON: Through Mr. Belfiore's subordinates?</p> <p>18 MR. ROBINSON: Not that I know of because the</p> <p>19 implementers of the CRM reported to development.</p> <p>20 MR. JOHNSON: Are you still employed with the</p> <p>21 respondent, Merchant Link?</p> <p>22 MR. ROBINSON: No.</p> <p>23 MR. JOHNSON: Tell the Court exactly what was</p> <p>24 going on with CRM at the time of you left Merchant Link.</p> <p>25 MR. ROBINSON: The CRM was being issues were being</p>

<p style="text-align: right;">Page 190</p> <p>1 addressed. It seems as though many problems would come up 2 where the CRM wasn't functioning as advertised, so there was 3 a lot of Band Aids. They'd fix one problem and then move on 4 to another and then another and that seemed like ongoing 5 repair. 6 MR. JOHNSON: Are you familiar with Mr. Belfiore's 7 management style? 8 MR. ROBINSON: Yes. 9 MR. JOHNSON: How would you characterize his 10 management style? 11 MR. ROBINSON: Passionate. 12 MR. JOHNSON: And did Mr. Belfiore serve as a 13 mentor to you? 14 MR. ROBINSON: Yes, whether he knew it or not. 15 MR. JOHNSON: Did Mr. Belfiore provide you any 16 growth opportunities? 17 MR. ROBINSON: Yes. 18 MR. JOHNSON: Now did you ever hear or witness Mr. 19 Belfiore engage in any conduct that was harassing or 20 bullying behavior? 21 MR. ROBINSON: No. 22 MR. JOHNSON: Did Mr. Belfiore ever discuss with 23 you individuals who were circumventing him to get to other 24 directors? 25 MR. ROBINSON: Yes.</p>	<p style="text-align: right;">Page 192</p> <p>1 requests to be routed through Mr. Belfiore from you? 2 MR. ROBINSON: Because it actually affects the 3 company and its bottom line. 4 MR. JOHNSON: Now do you have the authority to 5 make unapproved billing changes? 6 MR. ROBINSON: No. 7 MR. JOHNSON: Whose approval is required to enact 8 billing or pricing changes? 9 MR. ROBINSON: Mr. Belfiore, who I report to. 10 MR. JOHNSON: Your Honor, at this time, the 11 Complainant wishes to identify Complainant's Exhibit Number 12 34. 13 MR. BELFIORE: The big white book. 14 MR. JOHNSON: Mr. Robinson, the big white book. 15 MR. ROBINSON: Got it. What number? 16 MR. JOHNSON: 34. 17 MR. PRAGER: Go ahead. 18 MR. ROBINSON: Thank you, Your Honor. Mr. 19 Robinson, what has been identified Complainant's Exhibit 20 Number 34 is in front of you. Do you recognize 21 Complainant's Exhibit Number 34? 22 MR. JOHNSON: Yes. 23 MR. ROBINSON: And can you please describe 24 Complainant's Exhibit Number 34? 25 MR. JOHNSON: It's an e-mail from Mary Anderson</p>
<p style="text-align: right;">Page 191</p> <p>1 MR. JOHNSON: Can you give us an example? Give 2 the Court an example. 3 MR. PRAGER: Again, let's talk about time frames. 4 MR. JOHNSON: Okay. Thank you, Your Honor. Mr. 5 Robinson during the year of 2011, do you recall any 6 incidents of individuals circumventing Mr. Belfiore's 7 authority? 8 MR. ROBINSON: Yes. 9 MR. JOHNSON: And could you give the Court an 10 example please? 11 MR. ROBINSON: Tim Kinsella who was I believe the 12 V.P. of Sales at the time, I'm not sure of his title at this 13 point, would often call me about deals that he had put 14 together and saying okay can we just put this price in or 15 that price in. Different prices and me, having 16 understanding corporate process, said what are you doing? 17 No, you need to follow the process, go through the process. 18 You can't come directly to me. Okay. I would have 19 conversations with Mr. Belfiore, informed him of what was 20 going on, he said he would talk to him, take care of it. He 21 informed me hey I've spoken to him, all right, anything like 22 that should come to me and not directly to you and they know 23 that specifically. That would last for maybe a couple of 24 weeks or so and I would get those same types of requests. 25 MR. JOHNSON: Now why is it necessary for billing</p>	<p style="text-align: right;">Page 193</p> <p>1 describing a project. 2 MR. ROBINSON: And could you please identify who 3 is Mary Anderson? 4 MR. JOHNSON: Mary Anderson was a product manager. 5 She worked out of Colorado, I believe and worked directly 6 with some of the merchants, some the larger merchants. 7 MR. ROBINSON: And can you state for the Court the 8 date of this particular exhibit? 9 MR. JOHNSON: October 18, 2011. 10 MR. ROBINSON: Now is Mr. Belfiore listed on this 11 e-mail? 12 MR. JOHNSON: No, he isn't. 13 MR. ROBINSON: Now should Mr. Belfiore be listed 14 on this e-mail? 15 MR. JOHNSON: Yes, he is or should. 16 MR. ROBINSON: And why should Mr. Belfiore be 17 included on this e-mail? 18 MR. JOHNSON: It's a billing related matter and 19 I'm, I'm looking at with one of our larger customers. And 20 it's trying to get some type of change in billing in this 21 particular case, ACH info and, and the like, he should be 22 included on here. 23 MR. ROBINSON: And Mary Anderson have any 24 authority to change pricing or billing? 25 MR. JOHNSON: Not that I know of.</p>

<p style="text-align: right;">Page 194</p> <p>1 MR. ROBINSON: Is she attempting to get a change 2 in pricing or billing? 3 MR. JOHNSON: It looks like it. 4 MR. ROBINSON: Your Honor, Complainant moves into 5 evidence Complainant's Exhibit Number 34. 6 MR. PRAGER: Any objections? Who is representing 7 Merchant Link? 8 MR. PETESCH: I'm the lucky one. 9 MR. PRAGER: Okay. 10 MR. PETESCH: And I have no objections beyond 11 relevance. 12 MR. PRAGER: All right. 13 MR. JOHNSON: Now -- 14 MR. PRAGER: Just a moment. Complainant's Exhibit 15 34 will be admitted. 16 (Complainant's Exhibit No. 34 17 previously marked for 18 identification was received 19 into evidence.) 20 MR. PRAGER: Mr. Johnson? 21 MR. JOHNSON: Thank you, Your Honor. Now Mr. 22 Robinson, in reviewing Complainant's Exhibit Number 34 and 23 understanding that this was an attempt to change the 24 billing, how did this make you feel? 25 MR. ROBINSON: I brought it to Mr. Belfiore's</p>	<p style="text-align: right;">Page 196</p> <p>1 MR. JOHNSON: And can you please describe 2 Complainant's Exhibit Number 35 for the Court? 3 MR. ROBINSON: This is a, an e-mail from Mr. 4 Belfiore to Ms. Anderson instructing her that she needed to 5 include himself and one of Mr. Belfiore's direct report, Mr. 6 Messin (phonetic sp.) on e-mails of this nature. 7 MR. JOHNSON: And what is the date of this 8 particular e-mail? 9 MR. ROBINSON: September 20, 2011. 10 MR. JOHNSON: And in the e-mail chain, was this e- 11 mail originally sent to you? 12 MR. ROBINSON: Yes, it was it looks like from 13 Mister, Ms. Anderson. 14 MR. JOHNSON: Okay. And what is the substance of 15 the e-mail that was sent to you? 16 MR. ROBINSON: It's an e-mail requesting immediate 17 billing, an invoice be created to, to be sent to Bank of 18 America. 19 MR. JOHNSON: And on September 20, 2011, who had 20 responsibility with regard to billing? 21 MR. ROBINSON: I did. 22 MR. JOHNSON: And who had responsibility with 23 regard to any changes related to billing? 24 MR. ROBINSON: Mr. Belfiore. 25 MR. JOHNSON: And is it your testimony that Mr.</p>
<p style="text-align: right;">Page 195</p> <p>1 attention because this is putting me in a bad position to 2 get me in hot water, so to speak. And this was something 3 that had occurred on more than one occasion and essentially 4 I had a conversation with Ms. Anderson about that. 5 MR. JOHNSON: And what was the details of that 6 conversation? 7 MR. ROBINSON: The details were that I was not 8 authorized to make any type of billing decisions like this, 9 especially these type and they should go through Mr. 10 Belfiore. 11 MR. JOHNSON: And is it your testimony today that 12 she refused to go through Mr. Belfiore? 13 MR. ROBINSON: She didn't refuse in words, but 14 subsequently I would receive additional e-mails of this 15 nature. 16 MR. JOHNSON: Your Honor, at this time the 17 Complainant wishes to mark for identification Complainant's 18 Exhibit Number 35. 19 (Complainant's Exhibit No. 35 20 was marked for identification.) 21 MR. PRAGER: All right, Mr. Johnson. 22 MR. JOHNSON: Mr. Robinson, before you is 23 Complainant's Exhibit Number 35. Do you recognize 24 Complainant's Exhibit Number 35? 25 MR. ROBINSON: Yes.</p>	<p style="text-align: right;">Page 197</p> <p>1 Belfiore should have been copied on this particular e-mail? 2 MR. ROBINSON: Definitely. 3 MR. JOHNSON: Your Honor, at this time the 4 Complainant moves into evidence Complainant's Exhibit Number 5 35. 6 MR. PETESCH: No objection -- 7 MR. PRAGER: Mr. Petesch? 8 MR. PETESCH: No objection beyond relevance. 9 MR. PRAGER: Complainant's Exhibit 35 will be 10 admitted. 11 (Complainant's Exhibit No. 35 12 previously marked for 13 identification was received 14 into evidence.) 15 MR. PRAGER: Mr. Johnson? 16 MR. JOHNSON: Thank you, Your Honor. Mr. 17 Robinson, how often did you find yourself having to notify 18 Mr. Belfiore that he was not being included on e-mails 19 communications? 20 MR. ROBINSON: I would say at least once, twice a 21 month and it, it depended. Sometimes it would be more. 22 MR. JOHNSON: Now Mr. Robinson you are a close 23 confidant of Mr. Belfiore, correct? 24 MR. ROBINSON: That is correct. 25 MR. JOHNSON: And were you aware that Mr. Belfiore</p>

<p style="text-align: right;">Page 198</p> <p>1 had contested his salary at Merchant Link?</p> <p>2 MR. ROBINSON: Yes.</p> <p>3 MR. JOHNSON: Did you observe how Mr. Belfiore was</p> <p>4 being treated by Merchant Link and Mr. Dan Lane after he</p> <p>5 made a claim?</p> <p>6 MR. ROBINSON: Yes.</p> <p>7 MR. JOHNSON: And can you describe to the Court</p> <p>8 how Mr. Belfiore was being treated?</p> <p>9 MR. ROBINSON: It seems as though there were</p> <p>10 certain things similar to the e-mail. He, there were</p> <p>11 certain meetings he would discuss with me that he found out</p> <p>12 after the fact as far as being excluded. Certain meetings</p> <p>13 that he should have been a part of, I thought, he was not</p> <p>14 being made aware of or being a part of those meetings. It</p> <p>15 seems as though the service group or the operations group,</p> <p>16 which he managed, myself as well as other managers were</p> <p>17 getting input from others, if you will, as to we want you to</p> <p>18 do this and similar to the e-mails that we see here. We</p> <p>19 were told we need to talk to Erik about that.</p> <p>20 MR. JOHNSON: Now do you know Wendy Nussbaum?</p> <p>21 MR. ROBINSON: Yes.</p> <p>22 MR. JOHNSON: And are you aware of how Mr.</p> <p>23 Belfiore was being treated by Wendy Nussbaum after he made a</p> <p>24 claim against Merchant Link?</p> <p>25 MR. ROBINSON: Not directly.</p>	<p style="text-align: right;">Page 200</p> <p>1 MR. JOHNSON: Now Mr. Robinson, were you treated</p> <p>2 any differently by anybody at Merchant Link after Mr.</p> <p>3 Belfiore made his claim?</p> <p>4 MR. ROBINSON: Seemed to be.</p> <p>5 MR. JOHNSON: Your Honor, no further witness or</p> <p>6 direct examination for Mr. Timothy Robinson. We tender the</p> <p>7 witness for cross-examination.</p> <p>8 MR. PRAGER: Okay. Well, I assume one of your</p> <p>9 questions will be to follow up, sorry, Mr. Petesch, you're</p> <p>10 to follow up. I didn't understand that it seems to be</p> <p>11 answer as to who, what, where, how. So maybe since that was</p> <p>12 on the floor, why don't you follow up.</p> <p>13 MR. PETESCH: Just to twist things around, if you</p> <p>14 don't mind my --</p> <p>15 MR. PRAGER: I don't.</p> <p>16 MR. PETESCH: -- hitting that one a little bit</p> <p>17 later. Mr. Robinson, good afternoon, I'm Peter Petesch.</p> <p>18 MR. ROBINSON: Good afternoon.</p> <p>19 MR. PETESCH: I'm one of the attorneys for</p> <p>20 Merchant Link.</p> <p>21 MR. ROBINSON: Okay.</p> <p>22 MR. PETESCH: You had testified a couple of</p> <p>23 questions ago that you were asked questions about Mr.</p> <p>24 Belfiore being treated differently after he had complained</p> <p>25 about his wages?</p>
<p style="text-align: right;">Page 199</p> <p>1 MR. JOHNSON: Was Mr. Belfiore being treated</p> <p>2 differently by the staff after he made his claim?</p> <p>3 MR. ROBINSON: It seemed so.</p> <p>4 MR. PRAGER: What do you mean staff, Mr. Johnson?</p> <p>5 I have no idea what you're talking about. Are you talking</p> <p>6 about Mr. Belfiore's superiors? Well let me ask, Mr.</p> <p>7 Robinson, maybe he knows. Do you know if there was general</p> <p>8 knowledge that Mr. Belfiore had asked for an increase in</p> <p>9 salary or was this something that only you and maybe Mr.</p> <p>10 Belfiore's superiors were privileged, or was it common</p> <p>11 knowledge?</p> <p>12 MR. ROBINSON: I don't believe it was common</p> <p>13 knowledge.</p> <p>14 MR. PRAGER: All right.</p> <p>15 MR. ROBINSON: I believe it was myself and Mr.</p> <p>16 Belfiore's superiors.</p> <p>17 MR. PRAGER: Thank you.</p> <p>18 MR. JOHNSON: Now --</p> <p>19 MR. PRAGER: Are those the people that, I don't</p> <p>20 know what you mean by staff.</p> <p>21 MR. JOHNSON: Yes, Your Honor. Actually I should</p> <p>22 have been a little bit more descriptive, but the Court has</p> <p>23 covered it so I don't think there is a need to go over it</p> <p>24 again.</p> <p>25 MR. PRAGER: Thank you.</p>	<p style="text-align: right;">Page 201</p> <p>1 MR. ROBINSON: Uh-huh.</p> <p>2 MR. PETESCH: Or his compensation?</p> <p>3 MR. ROBINSON: Uh-huh.</p> <p>4 MR. PRAGER: Don't nod your head.</p> <p>5 MR. ROBINSON: Yes.</p> <p>6 MR. PETESCH: Oh yes, you've have to, this is a</p> <p>7 transcript taken down to paper. So I'm going to ask you</p> <p>8 some other questions that would seem strange to you but --</p> <p>9 MR. ROBINSON: Yes.</p> <p>10 MR. PETESCH: -- but let me get to this one. How</p> <p>11 did you become aware of the, for lack of a better word,</p> <p>12 differential treatment after he complained? Was that</p> <p>13 through Mr. Belfiore himself?</p> <p>14 MR. ROBINSON: It was through Mr. Belfiore, our</p> <p>15 conversations where we would talk about meetings that had</p> <p>16 occurred or I would be in a meeting and he wouldn't be in</p> <p>17 that meeting and I felt that he should, should have been at</p> <p>18 that meeting.</p> <p>19 MR. PETESCH: Okay. But you don't know if he was</p> <p>20 invited to that meeting or not, right?</p> <p>21 MR. ROBINSON: Yes. In, in certain cases, yes. I</p> <p>22 would say that his callor (phonetic sp.) like through our</p> <p>23 conversations in his office, why wasn't I at that meeting.</p> <p>24 Look nothing on my calendar.</p> <p>25 MR. PETESCH: Yes, but you can reject a meeting</p>

<p style="text-align: right;">Page 202</p> <p>1 and it won't go on your calendar, right?</p> <p>2 MR. ROBINSON: I guess so.</p> <p>3 MR. PETESCH: That would be correct, I guess so?</p> <p>4 MR. ROBINSON: Yes.</p> <p>5 MR. PETESCH: Okay. So it doesn't necessarily</p> <p>6 mean that he wasn't invited to the meeting if it wasn't on</p> <p>7 his calendar, right?</p> <p>8 MR. ROBINSON: That is correct, but we would have</p> <p>9 conversations about that type of stuff. So are you stating</p> <p>10 that Mr. Belfiore had a reason to lie to me about --</p> <p>11 MR. PETESCH: I'm not implying anything. I'm just</p> <p>12 asking if in making the observation that he was being</p> <p>13 treated differently that you were relying on, principally on</p> <p>14 what Mr. Belfiore was telling you.</p> <p>15 MR. ROBINSON: That and also like I said, in</p> <p>16 certain meetings that I was in and he was not a part of that</p> <p>17 I thought he should have been, so.</p> <p>18 MR. PETESCH: I want to go back to the CRM</p> <p>19 project, if I may.</p> <p>20 MR. ROBINSON: Okay.</p> <p>21 MR. PETESCH: And by November of 2011, would it be</p> <p>22 fair to say that the CRM system, the Microsoft Dynamic CRM,</p> <p>23 that candidate had already been selected?</p> <p>24 MR. ROBINSON: I believe so.</p> <p>25 MR. PETESCH: It was in the implementation</p>	<p style="text-align: right;">Page 204</p> <p>1 MR. PETESCH: -- the vendor outside?</p> <p>2 MR. ROBINSON: The developers within Merchant</p> <p>3 Link.</p> <p>4 MR. PETESCH: Okay. The Ben Chudasamas of the</p> <p>5 world?</p> <p>6 MR. ROBINSON: Correct.</p> <p>7 MR. PETESCH: Okay.</p> <p>8 MR. ROBINSON: And his groups.</p> <p>9 MR. PETESCH: Would you agree with me that to use</p> <p>10 the CRM system effectively that people using it should be</p> <p>11 trained effectively?</p> <p>12 MR. ROBINSON: Yes.</p> <p>13 MR. PETESCH: Now I want to go jump over to some</p> <p>14 of your testimony on Tim Kinsella.</p> <p>15 MR. ROBINSON: Okay.</p> <p>16 MR. PETESCH: Tim Kinsella was in charge of the</p> <p>17 marketing wing of the company?</p> <p>18 MR. ROBINSON: Correct. Sales.</p> <p>19 MR. PETESCH: At the time he was the highest level</p> <p>20 of the marketing wing of the company?</p> <p>21 MR. ROBINSON: Correct.</p> <p>22 MR. PETESCH: Knowing Erik Belfiore as well as you</p> <p>23 did, would you characterize Tim Kinsella's and Erik</p> <p>24 Belfiore's relationship as a warm relationship?</p> <p>25 MR. ROBINSON: I would say it was cordial.</p>
<p style="text-align: right;">Page 203</p> <p>1 process.</p> <p>2 MR. ROBINSON: Okay. Okay.</p> <p>3 MR. PETESCH: If you don't know --</p> <p>4 MR. ROBINSON: Yes.</p> <p>5 MR. PETESCH: -- you don't know.</p> <p>6 MR. ROBINSON: No, I --</p> <p>7 MR. PETESCH: I'm not trying to put words in your</p> <p>8 mouth.</p> <p>9 MR. ROBINSON: No, I'm trying to recall the dates.</p> <p>10 MR. PETESCH: Sure.</p> <p>11 MR. ROBINSON: I think what happened is there was</p> <p>12 a vote on which CRM and actually Sage was the selected CRM</p> <p>13 and for some reason the development we ended up going with</p> <p>14 Microsoft Dynamics.</p> <p>15 MR. PETESCH: Okay.</p> <p>16 MR. ROBINSON: Which was the impetus of the</p> <p>17 displeasure and I guess to quell the displeasure the</p> <p>18 developers told us that they could make Dynamics look like</p> <p>19 Sage.</p> <p>20 MR. PETESCH: Okay.</p> <p>21 MR. ROBINSON: And perform just as well.</p> <p>22 MR. PETESCH: When you refer to the developers,</p> <p>23 are you referring to the developers within Merchant Link or</p> <p>24 --</p> <p>25 MR. ROBINSON: Correct.</p>	<p style="text-align: right;">Page 205</p> <p>1 MR. PETESCH: Cordial. But very businesslike?</p> <p>2 MR. ROBINSON: Yes.</p> <p>3 MR. PETESCH: Now do you have any reasons sitting</p> <p>4 here to believe that Mr. Kinsella went to you on issues</p> <p>5 instead of Erik Belfiore because of Mr. Belfiore's race?</p> <p>6 MR. ROBINSON: I have no reason to make a judgment</p> <p>7 call on that. I can't tell you what Tim Kinsella, why he</p> <p>8 made certain decisions.</p> <p>9 MR. PETESCH: I'm going to ask you a question that</p> <p>10 you're going to find extremely bizarre and strange, but</p> <p>11 we're on a transcribed --</p> <p>12 MR. ROBINSON: Go for it.</p> <p>13 MR. PETESCH: -- record. You yourself are African</p> <p>14 American, correct?</p> <p>15 MR. ROBINSON: Correct.</p> <p>16 MR. PETESCH: I told you a silly question. And no</p> <p>17 offense intended by it. I want to jump ahead to October of</p> <p>18 2011, if I may.</p> <p>19 MR. ROBINSON: Okay.</p> <p>20 MR. PETESCH: And you were shown Exhibit Number</p> <p>21 34. That was an e-mail from a Mary Anderson --</p> <p>22 MR. ROBINSON: Uh-huh.</p> <p>23 MR. PETESCH: -- copying a bunch of people,</p> <p>24 yourself included but not Mr. Belfiore. Well Mr. Belfiore</p> <p>25 over the summer had been out for a long period of time on</p>

<p style="text-align: right;">Page 206</p> <p>1 medical leave, correct?</p> <p>2 MR. ROBINSON: Correct.</p> <p>3 MR. PETESCH: And how often did you interact in</p> <p>4 the course of a day with Mr. Belfiore, in October of 2011?</p> <p>5 MR. ROBINSON: Okay. I'm trying to remember if he</p> <p>6 was --</p> <p>7 MR. PETESCH: Was it regularly --</p> <p>8 MR. ROBINSON: -- back from, back from leave.</p> <p>9 MR. PRAGER: Let --</p> <p>10 MR. PETESCH: Okay.</p> <p>11 MR. PRAGER: -- the witness answer.</p> <p>12 MR. PETESCH: Sure.</p> <p>13 MR. ROBINSON: When Mr. Belfiore was back from</p> <p>14 leave or at the office, I would interact with him probably</p> <p>15 four or five times a day.</p> <p>16 MR. PETESCH: Okay. Was your work station located</p> <p>17 close to his office?</p> <p>18 MR. ROBINSON: No.</p> <p>19 MR. PETESCH: Would you on occasion in interacting</p> <p>20 with Mr. Belfiore go to his office?</p> <p>21 MR. ROBINSON: Yes.</p> <p>22 MR. PETESCH: When you went to his office was his</p> <p>23 door typically open or was it closed?</p> <p>24 MR. ROBINSON: When I first started at Merchant</p> <p>25 Link his door would be open.</p>	<p style="text-align: right;">Page 208</p> <p>1 Department?</p> <p>2 MR. ROBINSON: I believe so.</p> <p>3 MR. PETESCH: Okay. Do you have any reason to</p> <p>4 believe that Mary Anderson didn't copy Mr. Belfiore on these</p> <p>5 two e-mails that you showed us because of his race?</p> <p>6 MR. ROBINSON: I have no idea if it was race</p> <p>7 driven, but there were several times where she did. She</p> <p>8 never put that it was his race.</p> <p>9 MR. PETESCH: She copied you on it, right?</p> <p>10 MR. ROBINSON: Exactly.</p> <p>11 MR. PETESCH: Would it be fair to say that by</p> <p>12 November of 2011 that Mr. Belfiore, your friend, harbored</p> <p>13 some anger toward the company? This is before his</p> <p>14 termination, I want to put in a proper time and space.</p> <p>15 MR. ROBINSON: Okay. I would say that he was</p> <p>16 upset because he wasn't being treated fairly. He mentioned</p> <p>17 to me and we had discussions about the fact that Ms.</p> <p>18 Anderson was not communicating through proper channels. Mr.</p> <p>19 Kinsella and the like weren't communicating through proper</p> <p>20 channels and that they were not being reprimanded to do so</p> <p>21 and function as a proper company should function. And with</p> <p>22 him being left out of the loop, that affected his ability to</p> <p>23 do his job.</p> <p>24 MR. PETESCH: Now this is both before and after</p> <p>25 October 21st of 2011?</p>
<p style="text-align: right;">Page 207</p> <p>1 MR. PETESCH: Okay.</p> <p>2 MR. ROBINSON: Towards the latter part, before he</p> <p>3 left, his door would be closed.</p> <p>4 MR. PETESCH: Okay. And by the latter part you</p> <p>5 would also include October of 2011?</p> <p>6 MR. ROBINSON: Yes. And this was essentially you</p> <p>7 know knock on the door and the conversation would be, you</p> <p>8 know, they're looking for something, you know, they're</p> <p>9 harassing me so I just keep my door closed. If someone</p> <p>10 wants to talk to me they can call, knock on the door,</p> <p>11 whatever.</p> <p>12 MR. PETESCH: Who did Mr. Belfiore confide in you</p> <p>13 was harassing him in October of 2011?</p> <p>14 MR. ROBINSON: He informed me that he would get</p> <p>15 Ms. Nussbaum would come up and with certain things seemed to</p> <p>16 be out of the blue and yeah.</p> <p>17 MR. PETESCH: Did Mr. Belfiore ever make you aware</p> <p>18 of a disagreement with Ms. Nussbaum regarding the assignment</p> <p>19 of another employee, moving her to another floor?</p> <p>20 MR. ROBINSON: Yes.</p> <p>21 MR. PETESCH: This was an employee under Ms.</p> <p>22 Nussbaum's supervision?</p> <p>23 MR. ROBINSON: I'm not sure.</p> <p>24 MR. PETESCH: Do you have any reason sitting here</p> <p>25 to believe that Mary Anderson, she was in the Marketing</p>	<p style="text-align: right;">Page 209</p> <p>1 MR. ROBINSON: When you say this is?</p> <p>2 MR. PETESCH: That the short circuiting of Mr.</p> <p>3 Belfiore by these individuals, who you named, Mr. Kinsella -</p> <p>4 -</p> <p>5 MR. ROBINSON: Yes.</p> <p>6 MR. PETESCH: -- this is before and after --</p> <p>7 MR. ROBINSON: Yes.</p> <p>8 MR. PETESCH: -- October 21st?</p> <p>9 MR. ROBINSON: Yes.</p> <p>10 MR. PETESCH: You were asked some questions about</p> <p>11 Ms. Dantzler, Renee Dantzler.</p> <p>12 MR. ROBINSON: Yes.</p> <p>13 MR. PETESCH: Were you in Erik Belfiore's office</p> <p>14 on November 8th of 2011, if you recall?</p> <p>15 MR. ROBINSON: I don't recall.</p> <p>16 MR. PETESCH: Do you recall any instances when you</p> <p>17 were leaving Mr. Belfiore's office and Ms. Dantzler came</p> <p>18 into his office?</p> <p>19 MR. ROBINSON: That's possible. I, I don't recall</p> <p>20 because the, we would have interactions where people would</p> <p>21 come in all the time.</p> <p>22 MR. PETESCH: I have no further questions of you.</p> <p>23 MR. PRAGER: All right. I have a couple here.</p> <p>24 MR. ROBINSON: Okay.</p> <p>25 MR. PRAGER: See I'm not quite sure I understand</p>

<p style="text-align: right;">Page 210</p> <p>1 who worked for whom. Did Ms. Anderson work for, you called 2 her as in marketing and Mr. Kinsella in sales, was that the 3 same department or -- 4 MR. ROBINSON: Yes. 5 MR. PRAGER: -- is that a different department? 6 MR. ROBINSON: Same department. 7 MR. PRAGER: And Ms. Kinsella was the head of that 8 department and Ms. Anderson was one of his subordinates, is 9 that correct? 10 MR. ROBINSON: That is correct. 11 MR. PRAGER: All right. And I believe you said 12 that Ms. Anderson was not here in the -- 13 MR. ROBINSON: Local. 14 MR. PRAGER: -- Washington area, she was out in 15 Colorado, is that correct? 16 MR. ROBINSON: That is correct. 17 MR. PRAGER: Is there any reason to believe that 18 Ms. Anderson would have known about Mr. Belfiore's claim for 19 increased compensation or racial discrimination? 20 MR. ROBINSON: Not that I know of. 21 MR. PRAGER: All right. And what Mr. Kinsella, 22 with whom you interacted a little more frequently. Do you 23 think that he would have known about Mr. Belfiore's claim 24 against Merchant Link that he was being discriminated 25 against in pay?</p>	<p style="text-align: right;">Page 212</p> <p>1 list I believe. 2 MR. JOHNSON: All right. Thank you. 3 MR. PRAGER: I'm sorry and both counsel will have 4 a chance, I just realized that I didn't write it down, but I 5 do have another question. Aside from Mr. Kinsella and Ms. 6 Anderson, do you from your personal knowledge know of any 7 other people who went directly to you rather than to go to 8 Mr. Belfiore? 9 MR. ROBINSON: Mr. Chudasama would occasionally 10 come to me for certain things and I'd point him to Erik. 11 Generally his conversations would be at the doorway, coming 12 in, hey I need you to do something for me. Okay. We need 13 to do X, Y and Z, whatever. That needs to go through Erik. 14 Okay. 15 MR. PRAGER: And these occurrences would be both 16 before and after Mr. Belfiore returned from his sick leave? 17 MR. ROBINSON: Yes. 18 MR. PRAGER: Thank you. Mr. Johnson, did you have 19 any follow up based on what I just asked? 20 MR. JOHNSON: No further questions, Your Honor. 21 MR. PRAGER: Okay. Mr. Petesch, any questions? 22 MR. PETESCH: None from me. 23 MR. PRAGER: Okay. Thank you, Mr. Robinson, 24 you're excused. 25 MR. ROBINSON: Thank you.</p>
<p style="text-align: right;">Page 211</p> <p>1 MR. ROBINSON: I don't know if that was shared 2 with him, at the, at the executive level. 3 MR. PRAGER: Fair enough. And one additional 4 question, were you ever interviewed by Ms. Nussbaum at any 5 time before or after Mr. Belfiore was fired about Mr. 6 Belfiore? 7 MR. ROBINSON: No. 8 MR. PRAGER: And did Mr. Lane ever interview you 9 about Mr. Belfiore either before or after he was -- 10 MR. ROBINSON: No. 11 MR. PRAGER: -- fired? All right. I don't have 12 any further questions. Do you have anything more on 13 redirect, Mr. Johnson? 14 MR. JOHNSON: Yes, Your Honor, just one question 15 actually. Mr. Robinson, counsel asked you about Mr. 16 Belfiore's calendar and he mentioned Mr. Belfiore could 17 reject, I guess a request or something on the calendar. If 18 he rejected anything on the calendar, can't you still see 19 who was invited on the calendar? 20 MR. ROBINSON: I believe so. 21 MR. JOHNSON: can you tell whether they declined 22 or not? 23 MR. ROBINSON: Yes, I mean in, like in this 24 particular case, if there was an invite you'd see that the 25 person would still be on the e-mail distro (phonetic sp.)</p>	<p style="text-align: right;">Page 213</p> <p>1 MR. PRAGER: We'll go off the record, please? 2 (OFF THE RECORD.) 3 (ON THE RECORD.) 4 MR. PRAGER: The session today is closed. We will 5 resume this hearing tomorrow morning at 9:30 a.m. Okay. 6 We're off the record now. 7 (Whereupon, at 4:48 p.m., the hearing was 8 concluded.) 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>

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C E R T I F I C A T E

DEPOSITION SERVICES, INC., hereby certifies that
the attached pages represent an accurate transcript of the
electronic sound recording of the proceedings before the
Office of Zoning and Administrative Hearings for Montgomery
County in the matter of:

Erik C. Belfiore v. Merchant Link, LLC

OZAH Case No.: 14-02

Office of Human Rights Referral No.: E-05548

By:

Diane Wilson, Transcriber

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