

1 NO. 052-LH-0207

2 DALLAS INDEPENDENT SCHOOL) BEFORE THE INDEPENDENT
 DISTRICT,)
 3 Petitioner) HEARING EXAMINER
)
 4 VS.) FOR THE STATE OF TEXAS,
)
 5 ARDIS McCANN)
 Respondent) FREDERICK AHRENS

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10 *****

11 ORAL DEPOSITION OF
 12 KIP MENDRYGAL
 13 MARCH 22, 2007

14 *****

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18 ORAL DEPOSITION OF KIP MENDRYGAL, produced as a witness at
 19 the instance of the Respondent, and duly sworn, was taken in
 20 the above-styled and numbered cause on the 22nd day of March,
 21 2007, from 9:07 a.m. to 11:43 a.m., before Melissa Spivey, CSR
 22 in and for the State of Texas, reported by machine shorthand,
 23 at the offices of the Dallas Independent School District, 3700
 24 Ross Avenue, Dallas, Texas, 75204, pursuant to the Texas Rules
 25 of Civil Procedure.

A P P E A R A N C E S

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FOR THE PETITIONER:
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ALSO PRESENT:
MR. ARDIS McCANN

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1 P R O C E E D I N G S

2 (Exhibit No. 1 marked.)

3 KIP MENDRYGAL,

4 having been first duly sworn, testified as follows:

5 EXAMINATION

6 BY MR. ORTIZ:

7 Q. Sir, state your name, please, for the record.

8 A. Kip Mendrygal, last name M-e-n-d-r-y-g-a-l.

9 Q. Mr. Mendrygal, my name is Daniel Ortiz. Until
10 today, you and I -- until just minutes ago, you and I had not
11 met; is that correct?

12 A. That's correct.

13 MR. ORTIZ: Before I proceed with your
14 deposition, let me make -- or perhaps state what is my, at
15 least hope to be, agreement among lawyers. Craig, Exhibit 1 is
16 the notice of deposition that Mr. McCann noticed today for the
17 various witnesses.

18 MR. WOOD: That's correct.

19 MR. ORTIZ: And off the record immediately
20 preceding this deposition, counsel and I agreed, I believe,
21 that Dallas Independent School District is not making available
22 for deposition today because Dallas Independent School District
23 will not call in the school district's case in chief the
24 following witnesses: Derrell Coleman, Luis Tamez, Bruce
25 Weaver, Michael Hinojosa, Denise Collier, Maggie Condren

1 Phillips, Maria Jenkins, Cynthia Esparza, Estella Martinez,
2 Brenda Kirby and Ms. Amalia Macias. Is that correct?

3 MR. WOOD: That's correct.

4 MR. ORTIZ: Based upon the district's
5 representation, that Mr. McCann will forgo deposing these
6 individuals today. I understand also that we have still a lot
7 to do today and we plan to take this witness' deposition first
8 and immediately afterwards take the deposition of Peter Nielsen
9 and then Mr. Ron Peace, assuming Ron Peace is available at that
10 time. I understand he's at some court appearance.

11 MS. CARPENTER: That's correct.

12 MR. ORTIZ: And after Mr. Peace, then Ann
13 Dixon because Ms. Dixon has to be to catch a flight.

14 MR. WOOD: That's correct.

15 MR. ORTIZ: And then Steve Flores and then
16 Eric Anderson and perhaps Chris Adcox. We're not sure about
17 him yet.

18 MR. WOOD: Right.

19 MR. ORTIZ: We'll proceed today on that basis.
20 Have I misstated anything, Counsel?

21 MR. WOOD: No, that's correct.

22 MR. ORTIZ: Okay.

23 Q. (BY MR. ORTIZ) Now, let me again proceed with our
24 deposition. Sir, tell us how you're currently employed.

25 A. I'm an attorney for the law firm of Fish &

1 Richardson here in Dallas, Texas.

2 Q. How long have you been there?

3 A. Since August of 2003, so about three and a half
4 years.

5 Q. When and where did you graduate from law school?

6 A. University of Texas School of Law, 2003, Austin,
7 Texas.

8 Q. Are you licensed to practice law?

9 A. I am.

10 Q. As of when?

11 A. I don't remember exactly when. Sometime after I
12 graduated, probably a couple of months after I graduated.

13 Q. So October or November of '03 more or less?

14 A. Whenever I passed -- I'm sorry. I didn't mean to
15 interrupt you. Whenever I passed the Bar. I think it was
16 around Halloween of '03.

17 Q. And in connection with your duties at the law firm
18 that you're employed, have you been involved in the procurement
19 card investigation?

20 A. Yes, I have.

21 MR. ORTIZ: Excuse me. Counsel, let me for
22 the record make sure it's clear that Respondent invokes the
23 rule. And I guess just for identification purposes that we
24 ought to state on the record that I'm here, Shane Goetz, lawyer
25 on behalf of Mr. McCann is here, that Mr. McCann, of course, is

1 here, that Craig Wood, Sandra Carpenter, the witness and also
2 Ann Dixon. Can I assume correctly that Ms. Dixon is the school
3 district's representative?

4 MR. WOOD: No. She is the school district's
5 expert witness.

6 MR. ORTIZ: Unless she is the school
7 district's representative, I'm going to object to Ms. Dixon's
8 presence.

9 MR. WOOD: All right. My understanding is
10 that as the expert witness, she would be entitled to hear the
11 testimony of the district's witnesses in connection with the
12 formulation of her opinions. And certainly if you have any
13 objection to that, we could contact the hearing officer and
14 obtain a ruling with respect to her presence.

15 MR. ORTIZ: Well, are you suggesting that Ms.
16 Dixon's continuing to formulate her opinions and that the
17 testimony today may assist her in that regard?

18 MR. WOOD: Yes.

19 MR. ORTIZ: Well, I'll object then for the
20 basis that there's no legal authority which allows that, one.
21 Two, that the district yesterday responded -- or two days ago
22 to Respondent's request seeking disclosure of documents and
23 seeking disclosure under Rule 194 and her opinions have been
24 stated and I assumed have been formulated. So I certainly make
25 an objection to Ms. Dixon's presence. If we need to take a

1 recess or maybe on the record contact Mr. Ahrens, I think we
2 need to.

3 MR. WOOD: Okay. Let's do that.

4 MR. ORTIZ: Do you have his number?

5 THE COURT REPORTER: On or off?

6 MR. ORTIZ: Off the record now.

7 (Recess; 9:14-9:16.)

8 MR. ORTIZ: Daniel Ortiz, counsel for
9 Respondent is here, Sandra Carpenter is here but right now as
10 we talk not inside of our room, that Craig Carpenter,
11 co-counsel, is here, that Ann Dixon, the designated expert
12 witness by the school district is here, Ardis McCann is here
13 and Shane Goetz, co-counsel for Mr. McCann, is here. The
14 issue -- and we have a court reporter.

15 THE COURT: Wait a minute. Who's the
16 co-counsel with you?

17 MR. ORTIZ: Shane Goetz.

18 THE COURT: I think this -- does he work with
19 you or --

20 MR. ORTIZ: Yeah, sure. In the same office,
21 yeah.

22 THE COURT: Okay.

23 MR. ORTIZ: Yeah, anyway, that the issue is
24 that at the outset of the first deposition, I invoked the rule.
25 And Ann Dixon, the designated school district's expert witness,

1 is here; and I think she needs to be excluded. Mr. Woods
2 suggested, and I agreed, that we call you and get your ruling
3 on this.

4 THE COURT: I'm sorry. Who's testifying that
5 you want to exclude?

6 MR. ORTIZ: No. No. No. The witness is Kip
7 Mendrygal. And I mispronounced his name and I'm sorry.

8 THE WITNESS: Plenty close enough.

9 MR. ORTIZ: Okay. But the witness is not the
10 issue. Ann Dixon is also present and that's the issue.

11 THE COURT: It's whether the expert witness
12 can be present at the deposition when you invoke the rule,
13 correct?

14 MR. ORTIZ: Yes, exactly. I asked counsel if
15 she was the school district's representative, and counsel said
16 no. Correct me if I'm wrong, Craig, on anything.

17 MR. WOOD: That's correct.

18 MR. ORTIZ: Okay. And so the issue is that
19 can the expert witness sit in. I don't think so, you know, and
20 I object.

21 THE COURT: Okay. I got your objection.

22 MR. ORTIZ: Okay.

23 THE COURT: Can somebody tell me what kind of
24 expert this witness is?

25 MR. WOOD: Basically, Your Honor, that she

1 will testify the grounds that are proposed -- the grounds for
2 Mr. McCann's termination are appropriate grounds for
3 termination in a school district in Texas, they constitute good
4 cause and that -- the other grounds that he failed to adhere to
5 directives or comply with directives, the grounds that are
6 listed in the petition.

7 THE COURT: For good cause is what you're
8 saying?

9 MR. WOOD: Yes.

10 THE COURT: What has she done or how does she
11 qualify as an expert?

12 MR. WOOD: She has been a superintendent at a
13 number of districts, Your Honor.

14 THE COURT: Okay.

15 MR. ORTIZ: By the way, we plan to file a
16 motion to have her excluded. We don't believe that an expert
17 witness can testify regarding an ultimate issue that's in the
18 exclusive jurisdiction of the finder of fact and/or judge and
19 that's you. But the unrelated issue right now, Mr. Ahrens, is
20 that I don't think she can be present during the deposition
21 without violating the rule.

22 THE COURT: Well, then what's your feeling at
23 trial or at the hearing?

24 MR. ORTIZ: Well, at the hearing, I'll make
25 two objections. Number one, if she stays in here, that school

1 district violated the rule by having Ann Dixon's presence,
2 number one. And number two, like I said, I plan to file a
3 motion, give you law regarding her inability to testify because
4 good cause is an ultimate issue that you should find and should
5 not be formulated by any expert, Ann Dixon or not.

6 THE COURT: Okay. But she's going to -- well,
7 we don't need to get into that. The present thing is you want
8 her excluded. How many witnesses was she -- well, from the
9 DISD, are you proposing she stay in for all testimony?

10 MR. WOOD: Yes. There are approximately six
11 witnesses including Dr. Dixon who will testify, so I guess
12 about five to six additional witnesses besides Dr. Dixon
13 herself.

14 THE COURT: Okay. Now, when you're done with
15 the deposition, you do get a report, don't you --

16 MR. WOOD: Yes, we do.

17 THE COURT: -- from the court reporter?

18 MR. WOOD: Yes, we do.

19 THE COURT: Can't she just look at that in
20 terms of getting her opinion?

21 MR. WOOD: She absolutely could, Your Honor.

22 THE COURT: Well, let's not start off on a big
23 hassle. Why don't you leave her out and she can review the
24 transcript. She'll also be at the trial, and we'll have
25 another motion to consider apparently.

1 MR. WOOD: That's reasonable, Your Honor.

2 MR. ORTIZ: Okay. Thank you very much.

3 THE COURT: Okay. But before we go any
4 further, Mr. Ortiz, you had asked me about a hearing room. Has
5 that issue been resolved?

6 MR. ORTIZ: Sandra Carpenter and/or Craig Wood
7 and I have not talked about it yet.

8 THE COURT: But for your information, your
9 other counsel who you replaced had asked that same thing in a
10 preconference -- or a prehearing conference.

11 MR. ORTIZ: Okay. I didn't know that.

12 THE COURT: I didn't think you did. And I had
13 instructed Ms. Carpenter to go ahead and get an appropriate
14 room and had suggested the boardroom I think as you had.

15 MR. ORTIZ: Okay. Sandra walked in. Ms.
16 Carpenter walked in, Mr. Ahrens.

17 THE COURT: Let's ask her while we've got
18 everybody on the phone.

19 MS. CARPENTER: Good morning.

20 MR. ORTIZ: Mr. Ahrens is asking, Ms.
21 Carpenter, if the issue regarding where this hearing will take
22 place has been resolved. I told him that I don't know; and I
23 think he said, Ms. Carpenter, that he agrees with my suggestion
24 that the boardroom -- either one of the two boardrooms that can
25 be used.

1 THE COURT: Well, wait a minute. Ms.
2 Carpenter, let me just -- I reminded Mr. Ortiz that the prior
3 counsel and you and I at a prehearing conference had discussed
4 the issue about an appropriate hearing room.

5 MS. CARPENTER: Yes.

6 THE COURT: And that you were going to talk
7 with DISD to see where we could hold the hearing. I think a
8 suggestion had come up at that hearing that we do it in the
9 boardroom. Where are we on that?

10 MS. CARPENTER: I do -- I have spoken with the
11 district representatives. They are securing a room. I'm not
12 sure yet if it's going to be the boardroom or if it's going to
13 be that -- I think it's a board conference room that is of a
14 fairly decent size as well. But I did tell them and they are
15 in the process of securing a room for us that is larger than
16 one of the regular hearing rooms that would only seat about
17 four people.

18 THE COURT: Yeah, I know. Those hearing rooms
19 you can't get much more than the parties in those. Well, if
20 you come up with the alternative, could you just out of
21 courtesy maybe show Mr. Ortiz where we're going to have the
22 hearing?

23 MS. CARPENTER: Yes. And I'll double-check at
24 a break at some point today and see if we, in fact, have rooms
25 definitely secured because they haven't told me yet. And if

1 so, then we'll find out where that room is; and I will
2 certainly take them by there so they can see it.

3 THE COURT: Listen, I would appreciate that.
4 When I had the hearing for the superintendent at
5 Wilmer-Hutchins, the first room proposed by the district was
6 about 8 by 12. I ended up going around those offices and
7 finally held the hearing right outside the superintendent's
8 office because that was the only appropriate space.

9 MS. CARPENTER: Okay.

10 THE COURT: I really don't want to do that on
11 Thursday.

12 MS. CARPENTER: We will try our best to avoid
13 that. I don't think that's going to be the case this time, and
14 I will try to see in a break if we can find out which room has
15 been secured.

16 THE COURT: Listen, I'll leave it in your
17 capable hands.

18 MS. CARPENTER: Thank you.

19 THE COURT: Okay. Anything else?

20 MR. WOOD: No. Thank you, Your Honor.

21 MR. ORTIZ: No. Thank you.

22 THE COURT: Okay.

23 MR. ORTIZ: Bye-bye.

24 THE COURT: Bye now.

25 MR. WOOD: Mr. Ortiz, I'm going to ask you --

1 given the fact that Dr. Dixon will not be sitting in on the
2 depositions, I'm going to request that we take her next.

3 MR. ORTIZ: Fine.

4 MR. WOOD: Is that fine?

5 MR. ORTIZ: Fine. I don't care if we stop
6 this deposition and just proceed with her deposition. It's up
7 to you. I don't care. I mean, I'm being easy.

8 MR. WOOD: Because Mr. Mendrygal may have --
9 and if I mispronounce that, I apologize.

10 THE WITNESS: You're right on. You're right
11 on. That's all right.

12 MR. WOOD: Mr. Mendrygal may have other
13 obligations. Let's go ahead and proceed with his deposition
14 and get him back to his regular duties. And we'll just have
15 the record reflect obviously that Dr. Dixon has left the room.

16 THE WITNESS: And, Mr. Ortiz, just so that --
17 I mean, it's not any sort of a secret. But I've been
18 subpoenaed for a federal criminal trial going on right now, and
19 I was released informally by the FBI and Judge Lindsey to be
20 here for the deposition. But I have my phone on vibrate just
21 in case they call me and I'm up. I don't think it's going to
22 happen. They promised me it wouldn't happen until after lunch,
23 but just that's sort of the obligation that's ongoing today.

24 Q. (BY MR. ORTIZ) What federal trial is that?

25 A. United States versus Marsha Ollison. She's a former

1 district employee.

2 Q. What were you retained to do on behalf of Dallas
3 Independent School District in connection with the procurement
4 card investigation?

5 A. Our law firm was hired to do an independent
6 investigation into allegations of misuse of the district's
7 p-card.

8 Q. And to carry out this assignment, what did you do?

9 A. Well, we did a lot of things. We started by getting
10 involved in the solicitation and collection of the p-card
11 documents which were located out in the field. They were not
12 centrally located. They were located in the possession of each
13 cardholder. We also acted as an immediate interface between
14 the district and the FBI, the district and the district
15 attorney's office and the district and the United States
16 attorney's office in responding to and gathering documents
17 responsive to two federal subpoenas.

18 Q. Anything else?

19 A. Oh, there's a lot of stuff. That was the beginning.

20 Q. Well, I need to know them all.

21 A. Okay. That was the beginning. Of course, once we
22 solicited and gathered the p-card documents, we were also
23 responsible for the creation of an electronic database of the
24 p-card transactions. And that's what we were going to use to
25 evaluate whether or not there were any issues with any

1 individuals as they related to the p-card program. After we
2 gathered and --

3 Q. Hang on, please. I just interrupted you. You were
4 about to say, after you gathered.

5 A. After we gathered and created the electronic
6 database, we then went through the process of processing the
7 receipts turned in by each individual pursuant to the
8 superintendent's request and determining who, if anyone, we
9 needed to do further follow-up with.

10 Q. Let's talk about this in more detail. About when
11 did you begin your duties here at -- let me refer to the
12 procurement card investigation as the p-card investigation. Is
13 that fair enough? Will you understand what I am referring to?

14 A. Yes.

15 Q. When did you begin your work for the Dallas
16 Independent School District in connection with the p-card
17 investigation?

18 A. The exact date I don't know. I know that the story
19 broke in the Dallas Morning News on July 4th. Sometime
20 subsequent to that, our firm was contacted to do this
21 investigation. It would have been sometime in the mid to late
22 July time frame of 2006.

23 Q. So the Dallas Morning News, as you state, broke the
24 story on or about July 4th, 2006?

25 A. Sometime around that time.

1 Q. And, of course, it is your understanding, at least
2 in part, because of this story breaking in the Dallas Morning
3 News, that the district retained your law firm to begin its
4 investigation; is that correct?

5 MR. WOOD: Objection; form.

6 A. I don't know that it was because of the Dallas
7 Morning News. I know that it was because of concerns inside
8 the district with regard to the p-card program.

9 Q. (BY MR. ORTIZ) So then you began your work sometime
10 late July '06?

11 A. Sometime in the late July '06 time frame.

12 Q. And one of the first -- and who else at your law
13 firm was working on this project?

14 A. Immediately it was myself, Paul Coggins, who's a
15 partner and the former United States attorney for the Northern
16 District of Texas, Madeleine Johnson, who's another partner
17 with our law firm and the former city attorney, were the three
18 people that were engaged in the process at the attorney level.
19 There was also a paralegal named Amalia Macias who was
20 retained -- not retained. She was gathered in by us in order
21 to provide paralegal support for the project.

22 Q. What has Mr. Coggins done in connection with this
23 investigation?

24 A. That would really be a question for him. He's done
25 a lot of the supervisory-level guidance of the investigation.

1 He has --

2 Q. What does that mean?

3 A. He has provided supervisory guidance in the
4 investigation.

5 Q. Yeah, but what does supervisory guidance mean in
6 connection with this project?

7 A. He steers the ship. He has the high-level meetings,
8 we have strategic discussions with him regarding what we're
9 going to do next and how, those sorts of discussions, Madeleine
10 Johnson the same.

11 Q. And one of the first things you began doing was
12 collecting the documents from the field, as you say?

13 A. That's correct.

14 Q. What specifically does that mean?

15 A. Each p-cardholder -- and there were about somewhere
16 between 12 and 1,700 p-cardholders.

17 Q. 12, numeric 12?

18 A. 1,200 and 1,700.

19 Q. 1,200?

20 A. 1,200 to 1,700 p-cardholders throughout the entire
21 duration of the program, only a fraction of which we are
22 looking at in the time frame of our investigation. Each of
23 those cardholders doesn't maintain the documents in a central
24 location. They maintain them in their possession out in the
25 field on district property. And so because they were located

1 on district property outside of a central location, we had to
2 get them centrally so that we could begin reviewing them
3 efficiently.

4 Q. From what time period to what time period were you
5 looking at?

6 A. January 1 of 2003 through the termination of the
7 program sometime in June or July of 2006.

8 Q. So then January 2003 is the time -- or about the
9 time that the p-card program began?

10 A. No.

11 Q. I thought you said that you were looking at the
12 duration of the entire program, but --

13 A. No.

14 Q. -- maybe I misunderstood you.

15 A. No. We were only looking at a fraction of the
16 duration of the entire program. The program began as a pilot
17 program in 1999 and went into full implementation sometime in
18 2000. And so the entire time frame of 2000 to 2003 we did not
19 look at as part of our investigation.

20 Q. Why not?

21 A. We decided that with the resources that were going
22 to be devoted to the project, that we were going to look at a
23 time frame that was going to be most recent and it also
24 happened to match the time frame of the investigation being
25 conducted by the FBI in their parallel investigation into the

1 p-cards.

2 Q. You say we decided. Who is that?

3 A. Our law firm.

4 Q. So your law firm decided that your investigation
5 would be from January '03 through June, July '06; is that
6 correct?

7 A. That's correct.

8 Q. And that time frame coincided with the FBI's
9 investigation?

10 A. That's correct.

11 Q. Between January of '03 and June or July of '06,
12 there were between 1,200 and 1,700 individuals who had p-cards?

13 A. That's correct.

14 Q. And how did you go about informing people like Mr.
15 McCann -- back in late July, August, whenever it was, of '06
16 that you first began collecting this information, documents
17 from the field, how did you go about letting them know that I
18 need y'all's documents?

19 A. There were two steps in that process. The first
20 step was a letter by the superintendent, Dr. Hinojosa, that was
21 drafted and released on July 20th of 2006. I think that's the
22 date. And that requested every p-cardholder currently employed
23 by the district to turn in their documents. And by documents,
24 I mean all of their p-card receipts from January 1 of 2004 to
25 June 30th of 2006. That letter had already been issued by the

1 time we were officially engaged to do the investigation.

2 At that time, we were notified that the FBI's
3 investigation was going to actually reach back from January 1
4 of 2003 through June 30th of 2006. And so at that time, we
5 issued a second letter; and the second letter made a second
6 call for documents expanding the scope of the documents that
7 were required to be turned in not only as far as the time frame
8 goes, reaching back an additional year to January 1 of 2003
9 through 2006, but also expanding the types of documents we
10 requested.

11 Q. And the second letter went out when?

12 A. If you --

13 Q. About August something, right?

14 A. It's going to be August something.

15 Q. Yeah, I'll show it to you in a bit.

16 A. Okay.

17 Q. I'm not trying to trick you up on dates.

18 A. That's fine.

19 Q. I'm just trying to make sure we're talking about the
20 same letter. And then when did you complete y'all's -- this
21 e-database that y'all developed from the review of all of these
22 documents?

23 A. The exact date, I don't know. It was going on in
24 parallel to the collection of the physical receipts and the
25 physical p-card documents, and so it was going on as a parallel

1 process. As far as the date when it was officially completed,
2 I don't know. I know that Chris Adcox would know that
3 information.

4 Q. And you and this investigator -- what's his name,
5 Tip -- not Tip.

6 A. That's me. Pete Nielsen?

7 Q. -- Pete Nielsen --

8 A. That's correct.

9 Q. -- met for the first time Mr. McCann sometime in
10 November of '06; is that correct?

11 A. That's correct.

12 Q. Do you have a better recollection of the date that
13 y'all met with Mr. McCann?

14 A. Are you talking about do I recall the first date
15 that we met with Mr. McCann?

16 Q. Yes.

17 A. I know it's going to be in about November of 2006.

18 Q. At that time, had this electronic database been
19 developed?

20 A. That had been developed at least 30 to 45 days
21 before we met with Mr. McCann.

22 Q. And did you interview all 1,200 to 1,700
23 cardholders?

24 A. No, we did not.

25 Q. About how many did you interview?

1 A. To date, we've interviewed about 200 people.

2 Q. And you say we. Who is that?

3 A. Myself and Mr. Nielsen and in a very rare
4 instance -- Madeleine Johnson participated in one interview and
5 Paul Coggins participated in one interview.

6 Q. Why was that?

7 A. Mr. Coggins and I interviewed Ms. Ollison. She was
8 the first person we had interviewed and we had not yet retained
9 Mr. Nielsen to help us do the investigation.

10 Q. Ms. who?

11 A. Mr. Nielsen.

12 Q. No.

13 A. Marsha Ollison?

14 Q. Yes. Marsha Ollison, who is that?

15 A. Marsha Ollison is a p-cardholder in the district.

16 Q. And then Ms. Johnson?

17 A. Ms. Johnson assisted in an interview of Ms. Brokaw,
18 the head of the program.

19 Q. Why was that?

20 A. Just because she had an interest in getting a
21 background for how the program had been created and developed.

22 Q. What criteria did you utilize to determine why you
23 chose 200 to interview versus all of them or some other number?

24 A. The criteria that we used to develop the list of
25 people we were going to interview was done immediately when we

1 created the electronic database. And one of the things that we
2 decided early on is that we were going to choose five criteria
3 to try to take this large group of 1,200 people and put it into
4 a more manageable group of people that we wanted to do some
5 further follow-up with.

6 Q. Okay. And that five criteria, what is that?

7 A. The first criteria we used is we asked Navigant to
8 give us a list of the top 100 spenders in the district by total
9 dollar amount expended from January 1, 2003 through June of
10 2006.

11 Q. The second?

12 A. The second criteria was a list of people who spent
13 large amounts of money on shopping cards, gift cards at various
14 vendors; Wal-Mart, Target, Home Depot, who spent large amounts
15 of money buying gift cards. We thought that that was worthy of
16 following up with.

17 Q. Why was that?

18 A. Gift cards per se were not suspicious. In fact,
19 they were permitted by the rules. But we thought that if
20 somebody was buying large amounts of gift cards, it provided
21 opportunities for somebody, if they wanted to, to either
22 exhibit poor record-keeping or worse, buy things that possibly
23 weren't appropriate.

24 Q. What was considered large numbers?

25 A. We -- I believe we drew a line at anybody that had

1 spent more than \$2,500 cumulative between three major vendors
2 where a lot of gift cards were purchased; and that was
3 Wal-Mart, Target and Home Depot.

4 Q. And Wal-Mart, Home Depot and?

5 A. Target.

6 Q. The third criteria?

7 A. The third criteria we used were people who spent a
8 lot of money at department stores; Dillard's, Foley's, Ross,
9 Marshall's, TJ Maxx, Kohl's, JC Penney, Sears, places where the
10 purchases may or may not have an educational purpose.

11 Q. What was considered lots of money?

12 A. Anything more than -- I believe we drew the line at
13 \$1,000 cumulative of the stores that I named there. And there
14 may be one or two more stores. I'd have to -- I'd have to go
15 back and look.

16 Q. The fourth criteria?

17 A. The fourth criteria were people who had been subject
18 to another parallel investigation. What I mean by that is for
19 several months leading up to the story breaking in the Dallas
20 Morning News about allegations of p-card abuse, there were
21 several open records requests that were filed by third parties;
22 the Dallas Morning News, certain self-proclaimed watchdogs who
23 were investigating certain expenditures by certain individuals.
24 We decided that if somebody else was investigating somebody for
25 p-card issues, we might as well follow up as well. In --

1 Q. Go ahead.

2 A. In addition, once the FBI became involved, in lieu
3 of serving a subpoena, because we had the documents together in
4 such an organized fashion, they began making requests for
5 records of certain individuals. If the FBI requested the
6 records for an individual, we thought it was worthy of
7 follow-up and we added them to our list as well.

8 Q. About how many individuals fell into this fourth
9 category?

10 A. I'd just be guessing if I told you, but I want to
11 say --

12 Q. Any guesstimate you have.

13 A. I want to say somewhere between 25 and 50.

14 Q. Was Mr. McCann one of them?

15 A. Not that I recall. I don't think he was. I'd have
16 to go back and look to tell you for sure, but I don't believe
17 he was.

18 Q. Look at what?

19 A. I'd have to go back and look at the list of open
20 records requests that I used to generate this list of people.

21 Q. The fifth and final criteria?

22 A. The fifth and final criteria was one that we
23 developed as we went along in our investigation. And that
24 was -- one of the questions that we asked that the district was
25 interested in is we tried to ask each individual whether or not

1 they knew anybody -- through direct knowledge or rumor, gossip,
2 innuendo, second-hand, third-hand or fourth-hand knowledge
3 anybody that may have used their p-card inappropriately.

4 Some people gave us information nonconfidentially,
5 some people reported information to the district
6 confidentially, some people called the district hotline
7 anonymously. And if somebody was going to give us a tip on
8 somebody that may have been using the p-card inappropriately,
9 we were going to follow up on it.

10 Q. These five criteria, is that in writing anywhere?

11 A. The five criteria, is that in writing? Yes, it is.

12 Q. What document?

13 A. It's part of our -- it's part of a draft of our
14 final report that's going to be issued to the district in
15 connection with the completion of the investigation.

16 Q. When do you anticipate that final report being done?

17 A. Right now we've told the district we'd like to have
18 it to them by May 31st of 2007.

19 Q. Do you have a draft?

20 A. A partially-completed draft of part of it, that's
21 right.

22 Q. Was Mr. McCann on the top 100 spenders?

23 A. Yes, he was.

24 Q. What number?

25 A. He's going to be in the top 20. I can't remember.

1 Maybe 10 or 15, 17, something like that.

2 Q. And is there such a list?

3 A. Yes, there is.

4 Q. What's it called?

5 A. It's called the top 100 spenders list.

6 Q. You've provided that to counsel?

7 A. I haven't provided it to anybody.

8 Q. Is that part of this investigation?

9 A. Yes, it is.

10 Q. Counsel did not request it?

11 A. Now, who is counsel?

12 Q. Well, Sandra Carpenter, Craig Wood.

13 A. No. I haven't given it to the district. It was a
14 document that Navigant created at my request and that we
15 haven't released to any person for any reason.

16 Q. Did Mr. McCann meet this second criteria, that list
17 of folks that spent over \$2,500 in gift cards?

18 A. I don't believe he did.

19 Q. Did he meet this third criteria that spent a lot of
20 money at department stores?

21 A. I don't believe he did.

22 Q. I've already asked you, I think, but let me ask you
23 again to make sure. You do not think he was part of those 25
24 to 50 folks who fell into being subject to other investigations
25 pursuant to, in part at least, an open records request; is that

1 correct?

2 A. I don't believe he did. Although, people may have
3 fallen into multiple categories, but I don't believe Mr. McCann
4 was part of that. But I'd have to go back to look to tell you
5 for sure.

6 Q. To look at what?

7 A. To go back and look at the list of open records
8 requests that had been filed with the district.

9 Q. Have you provided that list of open records requests
10 which have been filed at the district with Sandra Carpenter?

11 A. I have not.

12 Q. Why not?

13 A. I haven't released that list to anybody. We have an
14 ongoing investigation.

15 Q. Did Mr. McCann fall into the last criteria that
16 someone suggested, confidentially or not, that Mr. McCann may
17 have used his p-card inappropriately?

18 A. No, he did not.

19 Q. So the single criteria Mr. McCann fell into, if you
20 will, is the first one you listed, that he was one of the top
21 100 spenders?

22 A. That's correct, barring if he did or did not appear
23 on that open records requests list, which I'd have to go back
24 and look at. But he definitely fell in the top 100 spenders.

25 Q. You say you interviewed about 200 of the 1,200 to

1 1,700 folks who had p-cards. Did you interview all of the 100
2 in the 100 top spenders?

3 A. Not yet.

4 Q. How many of the 100 top spenders have you
5 interviewed?

6 A. I'd just be guessing again. I'd need to take a look
7 at the list and see. But probably about 60 or 65 have either
8 been interviewed or further investigated in some other way.

9 Q. Peter Nielsen -- is that his name, Peter Nielsen?

10 A. Peter Nielsen, correct.

11 Q. Now, you testified a bit ago, I'm pretty sure, that
12 you and Mr. Nielsen have interviewed together those about 200
13 folks that you've interviewed except for the one that Mr.
14 Coggins helped you with and the one that Ms. Johnson helped
15 with.

16 A. Mr. Nielsen was present for the one with Ms. Johnson
17 as well.

18 Q. Okay. But is that true, that of the 200 folks
19 you've interviewed, Mr. Nielsen interviewed with you?

20 A. With the exception of the one that Mr. Coggins did,
21 that's correct. And there have been a few pre or post
22 corroboration interviews that I've done without Mr. Nielsen
23 present and vice versa as well.

24 Q. Give the hearing examiner an idea of your role in
25 this investigation as it relates to Pete Nielsen's role.

1 A. Pete Nielsen is a 30-year former law enforcement
2 official. We brought him into the case as an employee of our
3 firm in order to help provide investigative know-how,
4 investigative experience and -- a lot of investigative
5 experience. Mr. Nielsen was involved at the ground level in
6 reviewing receipts, analyzing receipts, looking at signatures,
7 looking at the types of purchases that were made and doing some
8 of the day-to-day labor that was required to get up to speed as
9 to whether or not we needed to do further investigation with a
10 person.

11 Q. Were you also involved in that day-to-day, that
12 groundwork labor that you just described Pete Nielsen doing?

13 A. Not as much. There were some cases that I was
14 involved early on to get a flavor for what things looked like
15 so that I would have a total experience as part of the
16 investigation. Most of it and, in fact, the majority is going
17 to be done by Pete Nielsen.

18 Q. So the majority of, let me loosely characterize it,
19 you know, as being groundwork, Mr. Nielsen's done?

20 A. That's correct.

21 Q. And you participated but in a secondary sense?

22 A. Not in a secondary sense but in lesser amounts than
23 Mr. Nielsen.

24 Q. Who developed this list of the 100 top spenders, Mr.
25 Nielsen and/or you?

1 A. Neither.

2 Q. Who did?

3 A. Navigant.

4 Q. Who is Navigant?

5 A. Navigant Consulting is our forensic accounting
6 consultant that we engaged to handle and organize the
7 electronic data in a way that would be useful and efficient for
8 us to review.

9 Q. So then Navigant is the outfit that actually
10 developed this electronic database?

11 A. Correct.

12 Q. Through interfacing with primarily Mr. Nielsen?

13 A. Through interfacing primarily with me.

14 Q. Okay. And through this electronic database,
15 Navigant also determined who of the p-card folks that spent the
16 most money regarding gift cards?

17 A. Correct.

18 Q. And department stores?

19 A. Correct.

20 Q. But if I understood you correctly, Navigant probably
21 was not involved in determining those 25 to 50 folks who are
22 subject of other investigations out there.

23 A. That's correct.

24 Q. And who determined that, you and/or Mr. Nielsen?

25 A. That would be myself based upon my solicitation of

1 documents from DISD's legal group that were submitted as part
2 of the open records requests and my interfacing with the FBI.

3 Q. Give us an idea from the time you began work on the
4 p-card project in late July, August, whenever it was, of '06 of
5 how much of your time expended as an employee of your law firm
6 on a weekly basis that would be devoted to the p-card
7 investigation.

8 A. Somewhere between 80 and 100 percent; some weeks 100
9 percent, some weeks 80 percent, average probably 90 percent.

10 Q. We lawyers know that there's a difference between
11 hours worked a week and hours billed a week, correct?

12 A. That's correct.

13 Q. Beginning August 1 of '06, about how many hours a
14 week did you work?

15 A. Many more than were billed.

16 Q. I bet. Guesstimate about how many hours worked and
17 then how many hours billed. It's also clear on the record that
18 this is a guesstimate.

19 A. That's right. This would just be my best guess. If
20 I were to guess, I would say somewhere between 45 to 50 hours
21 worked on average and I would say --

22 Q. Total hours?

23 A. No, just on the DISD investigation.

24 Q. Okay.

25 A. 45 to 50 hours worked and I would say 35 to 45 hours

1 billed.

2 Q. During this same period of time, did anyone else at
3 your law firm expend as much time as you did on the p-card
4 project?

5 A. Our paralegal Amalia Macias is going to be close
6 because she was doing a lot of work assisting Mr. Nielsen in
7 his investigation. Mr. Nielsen is not technically an employee
8 of our firm, but he was engaged as our agent for this process.
9 He's going to have as much time as I will devoted to this
10 project.

11 Q. And then Mr. Coggins and Ms. Johnson you've already
12 testified expended some time --

13 A. Some time.

14 Q. -- in a supervisory capacity.

15 A. I couldn't even guess as to an amount of time.

16 Q. I'm not asking you. Anyone else at your firm?

17 A. If they have, I'm not aware of it.

18 MR. ORTIZ: Let me mark some exhibits.

19 (Exhibit Nos. 2 through 14 marked.)

20 MR. ORTIZ: Let's go off the record.

21 (Recess; 9:58-10:09.)

22 Q. (BY MR. ORTIZ) I'm going to show you a set of
23 documents, and I'm not going to even mark them.

24 A. Okay.

25 Q. But let me identify them. They are Board Policy DH

1 (Legal), DH (Local), DF (Local) and DF (Legal). Let me
2 represent to you that these deal with employee standards of
3 conduct and also termination proceedings. Are you familiar
4 with these board policies?

5 A. Not at all.

6 Q. So it's clear, your responsibilities were, as
7 stated, to investigate the p-card program, correct?

8 A. That's correct. We didn't have anything to do with
9 disciplinary recommendations or anything like that.

10 Q. Okay. And so it's clear that you did not -- that
11 you neither made a recommendation regarding disciplinary issues
12 regarding any employee nor were you asked to?

13 A. That's correct.

14 (Exhibit No. 15 marked.)

15 MR. ORTIZ: Off the record.

16 (Recess; 10:10-10:11.)

17 Q. (BY MR. ORTIZ) Let me show you, sir, what's marked
18 Exhibit 15 and represent to you it's a letter dated January 30,
19 2007 to my client from Steve Flores. Have you ever seen this
20 document before?

21 A. No, I've never seen this document before.

22 Q. And you certainly do not know one way or the other
23 whether or not good cause exists for Dallas Independent School
24 District to terminate Mr. McCann's employment, do you?

25 A. I don't know one way or the other.

1 (Exhibit No. 16 marked.)

2 Q. (BY MR. ORTIZ) Sir, let me show you what's marked
3 Exhibit 16 and let me represent to you it is Bates stamped
4 13308 through 13312. Let me represent to you it's documents
5 produced by the school district in connection with the
6 discovery in this case. Have you ever seen this set of
7 documents before?

8 A. I haven't seen these before.

9 Q. So I take it you don't know whose notes these are?

10 A. Oh, I know whose notes they are.

11 Q. Whose notes are they?

12 A. They look to me like the handwriting of Pete
13 Nielsen.

14 (Exhibit No. 17 marked.)

15 MR. ORTIZ: Mr. Wood, I've marked Exhibit 17
16 as an exhibit Board Policy DH (Legal), DH (Local), DF (Local),
17 DF (Legal). And the last one's missing the first page, but it
18 is DH (Exhibit). And can we agree for all the depositions
19 taken today and tomorrow that we use the same run in exhibits
20 so they'll be some order to this?

21 MR. WOOD: Yes, that's fine. And as far as
22 the incomplete exhibit, can we also agree that we will obtain a
23 complete copy of that exhibit and include it?

24 MR. ORTIZ: On DH (Exhibit)?

25 MR. WOOD: Yes.

1 MR. ORTIZ: Sure. Yeah, let's do that before
2 we leave. I thought I had it all.

3 (Exhibit No. 18 marked.)

4 Q. (BY MR. ORTIZ) Sir, let me show you what's marked
5 Exhibit 18, and let me represent to you it's a letter from
6 Derrell Coleman to Mr. McCann dated January 26, 2007. Have you
7 ever seen this document before?

8 A. I've never seen that document before.

9 Q. And do you know Derrell Coleman?

10 A. I know him through this investigation. I don't know
11 him outside of this investigation.

12 Q. Who have you dealt with in connection with this
13 p-card investigation who are employed at Dallas Independent
14 School District?

15 A. Boy, there would be scores of people.

16 Q. And let's talk about who you would deal with most
17 often.

18 A. Now, you're talking outside of the people that we
19 interviewed?

20 Q. Right. Right.

21 A. Okay.

22 Q. The administrators, investigators, other district
23 employees that you reported to, consulted with in any nature
24 concerning the p-card investigation you were doing.

25 A. I guess if we start from the top down, I'd start

1 with Dr. Hinojosa.

2 Q. And what kind of -- describe the working
3 relationship y'all had. How often would you meet?

4 A. We've probably met with Dr. Hinojosa three or four
5 times to give him general updates on the progress of the
6 investigation.

7 Q. And you said we.

8 A. We; myself, Paul Coggins and Madeleine Johnson, some
9 combination of us, on probably four or five occasions.

10 Q. From about when to when?

11 A. From the beginning of the investigation to current.

12 Q. Were the updates all verbal or was anything reduced
13 to writing?

14 A. Everything would be a verbal report.

15 Q. And anything with respect to Mr. McCann?

16 A. Not specifically. Not specifically that I can
17 recall. If there was, I just -- nothing comes to mind.

18 Q. If Mr. McCann was discussed in any of these four or
19 five sessions, it was not significant?

20 A. It would not have been the reason for our meeting or
21 a significant part of the meeting.

22 Q. When was the last time you met with Mr. Hinojosa,
23 about when?

24 A. I want to say it's going to be -- well, I met with
25 him Tuesday in the hall. We were both subpoenaed to the same

1 criminal trial. Nothing of substance was discussed about the
2 p-card investigation. The last time we had any sort of a
3 meeting with him to discuss p-cards would have been probably 30
4 days ago.

5 Q. So sometime late February?

6 A. Would just be a guess.

7 Q. Who else besides Michael Hinojosa?

8 A. Well, I should have started -- I don't know who the
9 top is, but we've met with the board twice to present general
10 status reports about our investigation. No individuals or
11 names would have been discussed absent those who -- that's not
12 true -- with one exception, those who had been indicted and it
13 was public information, that there were ongoing federal
14 criminal trials pending for two individuals.

15 Q. Those two meetings with the general school board,
16 about when was that?

17 A. The first one would have been about -- and it would
18 have been in the fall.

19 Q. Of '06?

20 A. Of '06. The second one would have been about 30
21 days ago.

22 Q. Late February?

23 A. Sometime in late February, again, just a guess.

24 Q. And you say we. Who is we?

25 A. Myself, Paul Coggins and Madeleine Johnson went to

1 the first board meeting. Paul Coggins presented at that
2 meeting. Paul Coggins and I went to the second board meeting.
3 Paul presented at that meeting; although, I was there to answer
4 specific questions by the trustees about this investigation.

5 Q. Was Mr. McCann mentioned?

6 A. Not at all.

7 Q. Who else?

8 A. Well, going down from Dr. Hinojosa, there would be
9 the legal review committee which was composed of Steve Flores,
10 Dr. Peace, Dr. Ron Peace, Dr. Denise Collier and Mr. Eric
11 Anderson.

12 Q. And how often did you meet with this legal review
13 committee?

14 A. I believe we've had two meetings with them to
15 discuss the findings of our investigation and the specific
16 reports that we've drafted for individuals.

17 Q. When were these two meetings?

18 A. Boy, I'd just be guessing. I think it was going to
19 be -- the first one was around -- I think they're both --

20 (Interruption.)

21 MS. CARPENTER: Do we need to get these
22 copied?

23 MR. WOOD: Eventually.

24 Q. (BY MR. ORTIZ) We were interrupted, sir. You were
25 about to answer.

1 A. I believe they're both in the spring of '07.
2 They're going to be about 40 days apart. I just don't -- I
3 just don't know what the exact dates are right now.

4 Q. The spring of '06?

5 A. Spring of '07, January, February, March of --
6 January or February of '07. I believe they're both going to be
7 in the Spring of '07; although, one may have been before the
8 Christmas break. One may have been in December of '06.

9 Q. So you met with them twice, and one may have been
10 before Christmas '06 or sometime within a week or so
11 thereafter; is that correct?

12 A. No. They would have been about 40 days apart, the
13 two meetings.

14 Q. I understand that.

15 A. Okay.

16 Q. But the first meeting occurred either sometime
17 shortly before Christmas or sometime within two to three weeks
18 after Christmas, the first meeting?

19 A. I believe that's correct.

20 Q. And then the second meeting would have been sometime
21 within 30, 45 days thereafter after the first meeting; is that
22 correct?

23 A. I want to say that's correct.

24 Q. So would you say the second meeting occurred
25 probably sometime in February?

1 A. It probably would have been in the late January,
2 early February time frame.

3 Q. Who met with them?

4 A. Pete Nielsen and I met with them.

5 Q. You said that you gave them y'all's findings. What
6 do you mean by that?

7 A. That's correct. The way this was set up was for us
8 to present the findings that were present in the written
9 reports for any individuals that we generated a written report
10 for. And so Pete Nielsen and I gave this presentation to those
11 four individuals; although, there were other people there as
12 well.

13 Q. There were other people there as well?

14 A. For the district.

15 Q. Who was that?

16 A. It would have been Jack Elrod, the general counsel,
17 Derrell Coleman, Luis Tamez, Bruce Weaver. And I believe at
18 two of the meetings there was somebody, and I'm not sure who
19 her name was. She was a younger girl who was there -- I don't
20 know whether she was taking notes or doing minutes of some
21 kind, but there was somebody there.

22 Q. Valerie Carrillo?

23 A. I'm not even sure I'd recognize her if I saw her.

24 Q. And we'll talk about the written reports here in a
25 bit because I think the written reports are maybe contained in

1 these exhibits that we just had copied.

2 Do you know whether or not the legal review
3 committee as a result of these two sessions you had with them
4 decided to recommend termination of any school district
5 employee?

6 A. Do I know that they have?

7 Q. Yes.

8 A. We didn't participate in those discussions, but I
9 know there were discussions in our presence where they
10 discussed what the appropriate disciplinary level would be for
11 given employees.

12 Q. What do you remember about those discussions as it
13 relates to Mr. McCann?

14 A. Not much other than I think the end result was that
15 they recommended termination.

16 Q. What do you remember about those discussions, if any
17 of those discussions included Dinah Marks?

18 MR. WOOD: Objection; form.

19 A. Dinah Marks I think was basically the same thing. I
20 think they ended up recommending termination for her.

21 Although, the specifics of why they were -- and I know that
22 there was -- you know, the four of them discussed amongst
23 themselves to come to a consensus; and that's the best I can
24 recall. We try not to pay too close of attention because we
25 weren't involved in that process.

1 Q. (BY MR. ORTIZ) Of course, you investigated Dinah
2 Marks as well, did you not?

3 A. That's correct.

4 Q. And were your findings different, significantly or
5 otherwise, with respect to Ms. Marks and Mr. McCann?

6 A. They were completely different cases.

7 Q. What do you mean?

8 A. The substance matter of the reports was very
9 different between Mr. McCann and Dr. Marks.

10 Q. Do you believe if the district proposed termination
11 for one, it should propose termination for both?

12 A. Oh, I don't have any opinion on that at all. We --
13 like I said, I may even be wrong about what the recommendation
14 was for Dr. Marks because we really tried to stay out of it.

15 Q. Who else did you speak with besides the legal review
16 committee?

17 A. We had regular contact with Gary Hodges, who's the
18 assistant chief of DISD police, and some of his officers who
19 helped provide us security at various locations and facilitate
20 site inspections and surprise site visits for some individuals.

21 Q. Who else?

22 A. We would have interacted with some people from
23 internal audit including Fairy Allen and Wesley Owens to
24 provide us background for any internal audit procedures that
25 had been done related to any of our investigation.

1 Q. You visited, at least generally, with Luis Tamez,
2 Derrell Coleman and Bruce Weaver at these two sessions in which
3 you presented to the legal review committee; is that correct?

4 A. That's correct.

5 Q. Did you visit with them more directly at any other
6 time?

7 A. Yes, we did. And they actually helped facilitate
8 the scheduling of interviews that we do as part of the p-card
9 investigation. There's another gentleman who works over there,
10 Robert Hernandez, who's my point of contact to schedule any
11 interviews for district employees.

12 Q. Other than assisting in housekeeping matters such as
13 scheduling interviews, did Robert Hernandez, Derrell Coleman,
14 Bruce Weaver or Luis Tamez participate in any other way with
15 respect to this p-card investigation?

16 A. They on a few rare occasions provided me with
17 personnel information such as we can't schedule this employee
18 because he or she left the district or we can't schedule this
19 employee because he or she is on administrative leave, those
20 sorts of matters.

21 Q. And is it fair to say that Robert Hernandez, Luis
22 Tamez, Derrell Coleman and Bruce Weaver did not assist in the
23 p-card investigation of any substantive nature?

24 A. Not in any way.

25 Q. Do you know why it was that they did not assist?

1 A. It's an independent investigation. If they wanted
2 to do the investigation themselves, they had the right to do
3 that. They brought us in so that somebody who was outside the
4 district, an independent, would come in and call balls and
5 strikes as they saw them.

6 Q. Let's talk about these exhibits. Let me -- well,
7 here you go. Look at this stack of exhibits here in front of
8 you. Let's go to Exhibit 2.

9 A. Yes.

10 Q. And is that a copy of this form letter that you were
11 referring to earlier, the one dated July 20, 2006 from
12 Superintendent Hinojosa?

13 A. That's correct. That looks like this is what this
14 is.

15 Q. And this letter is the one that -- neither you nor
16 anyone at your law firm assisted in the drafting of this letter
17 because it was sent before y'all got involved?

18 A. That's correct.

19 Q. And the second -- this Exhibit 3, is that the second
20 letter earlier in this deposition you made reference to, the
21 second letter Hinojosa sent that effectively expanded this
22 investigation?

23 A. That's correct.

24 Q. And as a result -- and do you know who was sent the
25 letter that's marked Exhibit 2 and 3?

1 A. I don't. I know that -- I understand that it was
2 sent to the p-cardholders, but I never saw a list of who
3 ultimately received the letter.

4 Q. And as a result of these two letters, you understood
5 that the p-cardholders were to bring in receipts?

6 A. That's correct.

7 Q. And other requested documentation?

8 A. That's correct.

9 Q. And from this information, that Navigant prepared
10 this e-data --

11 (Interruption.)

12 MR. ORTIZ: Is that yours?

13 MR. McCANN: It's mine.

14 MR. ORTIZ: Oh, okay.

15 Q. (BY MR. ORTIZ) And as a result of these two
16 letters, this July 20 and the August 7th letter, that the
17 p-cardholder should have brought in receipts; and from that
18 information, that you, Mr. Nielsen and/or Navigant developed
19 this electronic data?

20 A. No. The receipts were not used at all to generate
21 the electronic data. The electronic data was gathered directly
22 from DISD's Oracle database system, which is their central hub
23 of information. And Navigant received their electronic data to
24 create the electronic database directly from DISD's on-line
25 database. And so the receipts had nothing to do with the

1 creation of the database.

2 Q. What did the receipts assist with?

3 A. The electronic data can only give you so much
4 context when you're trying to do an investigation like this.
5 We could see a transaction that on its face may look like
6 something that we would want to further investigate. The
7 receipts breathe life into what was actually purchased on each
8 particular transaction.

9 And so the on-line database was used to generate a
10 report that functioned like a consolidated credit card
11 statement. Here is everything that that cardholder bought
12 during the time frame of our investigation. The receipts
13 themselves were used then to give context to that report so
14 that we knew what was worthy of follow-up.

15 Q. Take a look at Exhibit 4. Does this appear to be a
16 true and correct copy of this interview protocol form signed by
17 Mr. McCann?

18 A. It does.

19 Q. And that's Mr. Nielsen's signature and also your
20 signature?

21 A. That's correct.

22 Q. And does that mean that you were interviewed
23 11/15/06?

24 A. That's correct.

25 Q. What do you recall from this interview?

1 A. I recall several things. We brought Mr. McCann in
2 for an interview on the basis that when we were reviewing his
3 receipts, we found that there was a substantial number of
4 receipts missing. I think it was over 50 percent, possibly
5 close to 60 percent. And we wanted to ask him what happened to
6 the receipts, and so we did.

7 Q. Now, take a look at Exhibit 8. Is that your letter
8 to Mr. Weaver dated December 18th, 2006?

9 A. Yes, that's correct.

10 Q. Let's trade this. It's going to help me ask
11 questions.

12 A. Sure.

13 Q. Was that the first report that you prepared about
14 Mr. McCann?

15 A. That's correct. This is the first report that was
16 transmitted to the district about Mr. McCann.

17 Q. And in the first -- in the last paragraph, the
18 numbered Paragraph 1, you indicate that he had only about 42
19 percent of his total purchases in receipts.

20 A. That's correct.

21 Q. How did you get ahold of those receipts that you had
22 which formed the basis of this 42 percent?

23 A. That was based upon the receipts that Mr. McCann
24 turned in pursuant to Exhibits 2 and 3 that we talked about
25 earlier.

1 Q. Who did he turn them in to? Do you know?

2 A. He turned them in to the DISD legal office, I
3 believe. I wasn't present for him physically turning in his
4 receipts. All cardholders were instructed to take them to DISD
5 legal.

6 Q. And do you believe 42 percent -- that only having 42
7 percent of receipts out of 835 transactions is a substantial
8 number of receipts missing?

9 A. To us, that was a substantial number of receipts
10 missing based upon the dollar value that was represented by
11 that 60 percent that was missing.

12 Q. Who drafted this exhibit?

13 A. I did.

14 Q. This three-page memo?

15 A. I did.

16 Q. Now, Exhibit B, what is that?

17 A. Exhibit B is what I referred to before as the --
18 we've used colloquially -- let's just skip that word. We've
19 used the term "Navigant transaction report" to describe this
20 document. This is a document that is generated by Navigant
21 Consulting, our forensic accountants, that represents a
22 consolidated credit card statement for every transaction that
23 each p-card individual executed during the time frame of our
24 investigation.

25 Q. Is this at least part of this electronic database

1 that you talked about earlier?

2 A. This was generated directly from the electronic
3 database. And one of the things we asked Navigant to do is to
4 be able to spit out a report on any individual that we were
5 interested in following up on, and this is what the database
6 created by Navigant spit out for Mr. McCann.

7 Q. Take a look at this Exhibit B, particularly from
8 Bates stamped 69 on. Someone wrote on at least three
9 transactions there, receipt missing. Do you see that?

10 A. That's correct.

11 Q. And, like, who wrote that, if you know?

12 A. That was our paralegal Amalia Macias. She wrote
13 that.

14 Q. Does that mean that on this page, the one Bates
15 stamped 69, that Mr. McCann had receipts for all of those
16 transactions except for the ones noted?

17 A. No.

18 Q. What does that mean?

19 A. That means that these were particular transactions
20 that I had highlighted in a preliminary review of Mr. McCann's
21 transaction report that I was interested in seeing the receipts
22 for. There were many of them that I wanted to see. I happened
23 to highlight some of them so that the investigators could go
24 and pull those receipts for me and for us to look at. She
25 wrote next to them receipt missing because I was going to ask

1 her why wasn't the receipt there, and she wanted to designate
2 that note for herself that they were missing.

3 Q. Now, from looking at that, does Bates stamp 69
4 through 73 represent all of the transactions that Mr. McCann
5 was involved with?

6 A. No. If you look at Page 67 through 73, that is a
7 summary table that lists out the number and total dollar value
8 of his 835 transactions. You can also find that information on
9 the page Bates labeled 65 which again shows the transactions
10 broken down by school year, 2003, 2004, 2005 and 2006, again
11 totaling 835 transactions.

12 If you also look at Pages 74 through 101, you'll see
13 those transactions broken down and ordered by date and credit
14 card number. Mr. McCann had multiple credit cards. And if you
15 add up all those transactions at the end, you'll see that also
16 matches the 835 transactions you see on the other pages.

17 Q. Okay. Did you designate in any way on this Exhibit
18 B which of these transactions Mr. McCann had a receipt for and
19 which ones he did not have?

20 A. I did not but that was done.

21 Q. By who?

22 A. That was done by Mr. Nielsen.

23 Q. And how is it noted on Exhibit B, if it is?

24 A. It's not noted on this copy because we have a
25 black-and-white copy. But I believe that there's a color copy

1 in which Mr. Nielsen and Ms. Macias at different times went
2 through Mr. McCann's receipts and highlighted transactions for
3 which he had a receipt. And the transactions which were not
4 highlighted were transactions where there was no receipt
5 present.

6 Q. So Mr. McCann would have to look at the actual
7 original of this document to know what Mr. Nielsen and/or Ms.
8 Macias believes that Mr. McCann had a receipt for; is that
9 correct?

10 A. He would have to look at a highlighted copy, not
11 necessarily the original copy. He would have to look at a
12 highlighted copy.

13 Q. From looking at this Exhibit B in front of you, can
14 you tell which ones are highlighted and which ones are not? I
15 mean, I can tell -- but it's just vague to me.

16 A. It would be difficult to tell. I can tell because
17 I've seen the original as well. But most of them -- if you
18 take a look at Page 77, even though this is a black-and-white
19 copy and it's not a color copy, you can see which ones were
20 highlighted. The same thing on Page 78, the same thing on Page
21 79.

22 Q. Those highlighted transactions are the ones Mr.
23 McCann at that time had a receipt for?

24 A. At that time, he had a receipt for the highlighted
25 transactions. There's a -- it's somewhat counter-intuitive to

1 how probably you and I would think about it. But the
2 highlighted transactions were done for the transactions for
3 which he had a receipt. And that's because the person sitting
4 down with the highlighter every time they found a receipt
5 highlighted that transaction.

6 Q. Look at this Exhibit 8, the first page, the one
7 Bates stamped 61. You say in the last sentence of the last
8 paragraph on Page 1 that the missing receipts are not
9 centralized to one or two vendors. What does that mean?

10 A. That means that he was not just missing receipts for
11 Wal-Mart and Target or he was not just missing receipts for
12 Chili's and a teacher supply company but rather that they were
13 spread out over many different vendors.

14 Q. Is that significant one way or the other to you?

15 A. It would have been significant to us if there were
16 receipts specifically missing for vendors that are what we call
17 dual-use vendors, vendors from which you may or may not have
18 bought educational supplies depending on what the receipt shows
19 that you bought. In this case, they were sporadically missing
20 across several vendors and across several time periods. It
21 would have been more significant to us if they would have been
22 centralized in dual-use vendors, but it was still significant
23 to us that there were a number of receipts missing.

24 Q. The primary concern all along with respect to Mr.
25 McCann has been the high number of receipts missing; is that

1 correct?

2 A. I don't think that was the concern.

3 Q. What was?

4 A. Well, that wasn't necessarily our concern. Some of
5 the concern that Mr. Nielsen and I had that didn't become
6 evident until after the first interview was the potential that
7 there was some deception in connection with the interview.

8 Q. So your primary concern about Mr. McCann has been
9 from the November 15th, 2006 interview that you and Mr. Nielsen
10 believe that there was, I take it, a strong potential of
11 deception?

12 A. There were two primary concerns. One concern
13 obviously was that there was a large number of receipts missing
14 that during the interview, we were not comfortable that Mr.
15 McCann had a full explanation for that we could go to the
16 school district and say, everything's just fine. The second
17 concern was something that became evident after the interview,
18 and that was what could have been some deception regarding why
19 and how the receipts went missing.

20 Q. Talk to me specifically about what you mean when you
21 say could have been deception regarding how and why missing
22 receipts.

23 A. When we interviewed Mr. McCann, at that time, all we
24 knew is that he was missing receipts. And we brought him in,
25 and we wanted to ask him why so many receipts were missing.

1 When we asked that question to Mr. McCann, he expressed some
2 surprise to us that he was missing the receipts and said, well,
3 you know, I turned in all my receipts. I just -- I don't know
4 what you guys are talking about. I've turned them in.

5 Q. And that response from Mr. McCann elicited a strong
6 concern that he was being deceptive?

7 A. No, it did not. We took him at his word.

8 Q. Did you later find out that you had reason to
9 believe that he should not have been so surprised?

10 A. Yes.

11 Q. Tell me about that.

12 A. Once we determined that there were these receipts
13 missing and that Mr. McCann indicated to us that he had turned
14 in all of his receipts and that it may have been some error on
15 our part, we did two things. We went back and double-checked
16 to make sure that we had done the investigation correctly.

17 Q. And what did you do?

18 A. We had the investigators go back and specifically
19 again go through and make sure that the receipts that we had
20 and the receipts we claimed were missing were, in fact,
21 missing.

22 Q. You said that you did two things.

23 A. Yes. And the second thing we did was start
24 corroborating things that Mr. McCann told us during the
25 interview.

1 Q. Like?

2 A. And specifically -- and this is getting into
3 hearsay. You'll want to talk with Mr. Nielsen specifically
4 about these conversations. But I had Mr. Nielsen contact Mr.
5 McCann's former office manager at Marsh and see if she could
6 give us any insight as to how all these receipts went missing.

7 Q. Who was that?

8 A. It was a woman named Maggie Condren, also known as
9 Maggie Phillips.

10 Q. And?

11 A. Mr. Nielsen spoke with Ms. Condren, Ms. Phillips;
12 and she told Mr. Nielsen that Mr. McCann had been calling her
13 multiple times -- I think she estimated ten times -- since the
14 superintendent wrote his letter somewhat in a panic that he
15 couldn't find his receipts.

16 Q. Was there anything unusual about those ten phone
17 conversations and/or appearing to be in a panic?

18 A. It was unusual to us to the extent that it was
19 indicated to us through the interview by Mr. McCann that he was
20 genuinely shocked that he was missing his receipts in the first
21 place.

22 Q. Okay. And so you and Mr. Nielsen believed that
23 based on this alleged ten phone conferences between Ardis
24 McCann and Maggie Phillips, that he was lying about appearing
25 to be surprised?

1 A. That was a concern to us because it was the polar
2 opposite of the reaction he gave to us when we asked him about
3 the missing receipts.

4 Q. Anything else that you did that told you and/or
5 Nielsen that McCann's a liar?

6 A. Anything else at what point?

7 Q. At any point.

8 A. Well, let's take the next step of the investigation
9 next. What we did is we asked Mr. McCann again with a
10 highlighted copy, a color copy --

11 Q. I'm sorry. Let me stop you. And now we're talking
12 about a second interview?

13 A. This isn't going to be a second interview. This is
14 going to be him coming in to pick up a color copy of the
15 spreadsheet. And we said, here are the specific receipts that
16 we're missing. We really need you to go get them.

17 Q. And the first interview occurred November 15th,
18 correct, of '06?

19 A. That's right.

20 Q. And this conversation we're talking about now
21 occurred when?

22 A. This conversation with Mr. McCann, that's going to
23 occur several days after that.

24 Q. So about the 18th or so of November?

25 A. It's going to be -- it's going to be sometime three,

1 five, seven days after that.

2 Q. After November 15th, 2006?

3 A. After November 15th, that's right.

4 Q. And let me slow it down just to make sure I'm
5 following things.

6 A. That's right.

7 Q. Mr. McCann came in to see you and Mr. Nielsen again
8 about three to seven days after November 15th, 2006, correct?

9 A. That's right.

10 Q. And his purpose was to pick up what?

11 A. We wanted to hand him a copy of his transaction
12 report that was highlighted to show which receipts he was
13 missing and to ask him to get us -- get us some receipts, get
14 us some more receipts.

15 Q. And what happened or what was said at that time that
16 caused you and/or Nielsen concern?

17 A. Nothing at that conversation. Nothing at that
18 conversation. He came in. He was very cordial, and he was
19 always cordial with us. And we said, we've gone through the
20 trouble of highlighting a copy of your transaction report.
21 Here shows you what you have and what you don't, and we need
22 you to get us some more receipts. And that was the end of the
23 conversation. There was nothing about that conversation that
24 caused us concern about deception. It was subsequent to that
25 that caused us the next concern.

1 Q. Let's talk about that.

2 A. Okay. After presenting our findings to the legal
3 review committee --

4 Q. So sometime before Christmas of '06 or within two or
5 three weeks after Christmas of '06; is that correct?

6 A. That's right.

7 Q. Go on.

8 A. Sometime there there was a legal review committee
9 meeting, and what's going on -- we presented our findings on
10 Mr. McCann, they made a recommendation. At some point, the
11 district begins implementing its recommendation. The next step
12 in this process that we received was a phone call from Bruce
13 Weaver who said there was some -- there was a bunch of news
14 cameras and Mr. McCann had a box that he was representing
15 contained his receipts. And so I got that box and I gave it to
16 Mr. Nielsen for him to review.

17 Q. What about the camera, the box or any of that that
18 caused you and/or Nielsen a concern about deception regarding
19 McCann?

20 A. Nothing.

21 Q. So now we're talking late January or early February
22 of '07, are we not?

23 A. It's going to be close to -- it's going to be late
24 January, early February, that's right.

25 Q. And so Bruce Weaver called you up and said, Mr.

1 McCann's here with a box and news cameras and everything?

2 A. That's right.

3 Q. What's significant, if anything, about that
4 conversation?

5 A. With Mr. Weaver?

6 Q. Yes.

7 A. Nothing other than he told me Mr. McCann is here
8 saying he's had all the receipts, here they are. He doesn't
9 know why this is being done to him and saying, here are the
10 receipts all along. So obviously that caused concern to Mr.
11 Nielsen and I that how could this be, how could all these
12 receipts have been there the whole time. But we agreed to take
13 a look at them, and we started going through them.

14 Q. So then you understood Mr. McCann had not just found
15 those receipts but he had had them all along and was
16 purposefully keeping them from you or something like that? Is
17 that what --

18 A. We don't know where they came from, we don't know
19 how they got them. All we know is that it was represented to
20 me by Bruce Weaver that he was indicating that we had them all
21 along and that this was a -- that we had botched the
22 investigation into him.

23 Q. Mr. Weaver suggested that you had botched this
24 investigation or did Mr. McCann suggest that?

25 A. That's what Mr. Weaver suggested to me based upon

1 what Mr. McCann apparently was suggesting. I don't know
2 whether it was to him, to Mr. Tamez or to somebody over at the
3 human resources office.

4 Q. So let me get this straight. Mr. Weaver was
5 suggesting that you and Mr. Nielsen may have botched this
6 McCann investigation because McCann had just brought in a bunch
7 more receipts; is that correct?

8 A. No.

9 Q. Let's correct it.

10 A. Mr. Weaver suggested to us that Mr. McCann was
11 indicating, either to the cameras or to Mr. Tamez or to him --
12 and I don't remember which, but Mr. McCann -- what Mr. Weaver
13 told me was, hey, Mr. McCann's here with a bunch of documents
14 and he's saying there's something wrong with the investigation.
15 Here are my receipts and they've had them all along.

16 Q. And then you got ahold of these documents?

17 A. We did.

18 Q. And that caused you to write this February 5 memo,
19 the one marked Exhibit 9?

20 A. Not getting ahold of the documents but analyzing the
21 documents caused us to write this February 5th report.

22 Q. Right. Right. Okay. And you reviewed the
23 documents?

24 A. I did not.

25 Q. Who did?

1 A. Mr. Nielsen did.

2 Q. Do you know how and/or when Mr. McCann got ahold of
3 these receipts?

4 A. I have no idea.

5 Q. You indicate in your memo -- let's look at Exhibit
6 9.

7 A. That's correct.

8 Q. -- that the box was labeled, located on Saturday,
9 1/27/07, 2:00 p.m., Spruce High School; is that correct?

10 A. I need a copy of Exhibit 9. I don't have one in
11 front of me.

12 Q. Oh, I'm sorry.

13 A. I've got it. Go ahead.

14 Q. Look at the second paragraph.

15 A. Okay.

16 Q. You indicate that the box that you received -- that
17 you and Mr. Nielsen received was labeled, located on Saturday,
18 1/27/07, 2:00 p.m., Spruce High School; is that correct?

19 A. That's what the box said.

20 Q. Did you ever ask Mr. McCann what the label meant?

21 A. We did not ask Mr. McCann what the label meant.

22 Q. Why not?

23 A. We didn't have access to Mr. McCann. We believed
24 that he was on -- he was -- termination was pending and we did
25 not have access to Mr. McCann.

1 Q. Why do you say you did not have access to him?

2 A. We didn't believe that we could have interviewed Mr.
3 McCann again because our understanding of the process was that
4 he had been served with termination papers and was no longer an
5 employee.

6 Q. How did you learn that understanding?

7 A. Just from a laymen's understanding of what had
8 happened. I didn't have any detailed discussions with anybody
9 about what paperwork was served when or how or what the legal
10 effect was. We just assumed we did not have access to him.

11 Q. Did you ask anyone at Dallas Independent School
12 District, now that Mr. McCann's supplemented these receipts,
13 can I revisit him?

14 A. No.

15 Q. Do you believe it would have assisted you and/or Mr.
16 Nielsen in evaluating these documents that are referenced in
17 Exhibit 9 had you been able to visit, ask questions of Mr.
18 McCann?

19 A. No.

20 Q. Why not?

21 A. We didn't need Mr. McCann's help in reviewing the
22 documents. That's what we do and that's what Mr. Nielsen did.
23 And frankly, there would have been nothing that we could think
24 of that Mr. McCann would have added to help our review of these
25 documents.

1 Q. You say on the second page that as a result of this
2 submission of additional receipts, that Mr. McCann now has
3 produced approximately 70 percent of the p-card receipts; is
4 that correct?

5 A. That's correct.

6 Q. Anything about the production of these documents at
7 the time Mr. McCann produced these documents you believe shows
8 deception on the part of my client?

9 A. Well, I have to tell you, we were concerned about
10 the production. The production came in a big box. I think
11 there was a total of 1,745 pages of which only a small fraction
12 were actually receipts. And Mr. Nielsen will be able to tell
13 you this in detail. But I can tell you what was reported to me
14 was that there was a bunch of extraneous documents that were
15 present in this production.

16 The receipts were leafed in amongst pages of blank
17 logs, receipts of at least six or seven other individuals,
18 workers' compensation forms, receipts from well outside the
19 scope of the investigation. And the receipts appeared or may
20 have been strategically placed throughout these nonextraneous
21 documents potentially with hopes that we wouldn't review these
22 additional receipts.

23 Q. So then you believe Mr. McCann produced these
24 receipts but purposefully kept them somehow conspicuous so you
25 wouldn't find them? Is that what you're saying?

1 A. I don't know if that was his intent or not. I know
2 that that caused us some concerns based upon the very specific
3 instructions that we gave p-cardholders as to what to turn in
4 for what time frame and what records.

5 Q. So at best, this production was sloppily made, at
6 worst, that it shows he's a liar?

7 A. I would say at best, it was sloppily made but at
8 worst, it caused us some concerns that there was some deception
9 in that production.

10 Q. Deception because he was producing documents but
11 trying to somehow hide them from you; is that correct?

12 A. Submitting enough documents with hopes that we may
13 not spend the additional investigative resources to go through
14 them.

15 Q. What I don't understand about that is don't you
16 think it was clear to Mr. McCann as of January 15th, 2007 that
17 he needed to find every receipt he could find with respect to
18 those 835 transactions? Isn't that correct?

19 A. I don't know if it was clear to him or not. I know
20 that those were the instructions.

21 Q. So with those instructions made, why would he
22 produce documents, receipts and in your mind purposefully hide
23 them?

24 A. I don't know.

25 Q. It's a mystery, isn't it?

1 A. To me it is.

2 Q. Would the mystery have been perhaps avoided had you
3 been able to simply ask him some questions about this?

4 A. About this?

5 Q. About this sloppily-produced set of documents in
6 this box.

7 MR. WOOD: Objection; form.

8 A. I don't think there would be any light that he could
9 shed on helping our analysis of these receipts, no.

10 Q. (BY MR. ORTIZ) Any assistance in your analysis
11 regarding deception by Mr. McCann, any talk by him, could it
12 have helped one way or the other to have swayed your thought
13 that he's deceptive?

14 A. Could we have asked him if he was deceptive; is that
15 what you're --

16 Q. Ask him any questions you wanted to about this
17 production of documents and the, as you suggest,
18 conspicuously-hidden receipts, anything that an interview could
19 have helped you figure out if he's being deceptive or not.

20 A. And I'm not sure that my suggestion has been that he
21 did conspicuously hide these things, but certainly that is a
22 possibility that -- and a concern that we had as part of this
23 production.

24 Q. Right.

25 A. But I'm just not sure what we would have asked him

1 to help clear up the way that this was done.

2 Q. Okay. So then you're telling Fred Ahrens that had
3 you been able to interview Mr. McCann after he produced this
4 box that's labeled, located on Saturday, 1/27/07, that no
5 question you and/or Nielsen could have asked him that could
6 have assisted you with respect to the receipts and/or deception
7 concerns?

8 MR. WOOD: Objection; form.

9 A. The only thing that we could have asked him is why
10 was it done this way. That's the only question that would
11 have -- that would have given any insight to it. But frankly,
12 at that point, we did not do that.

13 Q. (BY MR. ORTIZ) Right. You didn't ask to do that?

14 A. We did not ask, that's correct.

15 Q. Because you didn't think it was necessary, did you?

16 A. We did not think we had access to Mr. McCann. But
17 frankly, even if we did, we may -- we may or may not. I'd just
18 be guessing.

19 Q. You would be guessing whether or not you thought it
20 was necessary to even interview him? Is that what you're
21 saying?

22 A. That's right. I'm not sure if we had access to him
23 or if we believed we had access to him we would have
24 interviewed him at that point based upon the interviews that we
25 had had to date.

1 Q. Because you believe nothing he could have said about
2 this box could have changed your findings?

3 A. Oh, we would have reported whatever he said and
4 that's what our findings would have been.

5 Q. Then why didn't you interview him?

6 A. We didn't believe we had access to him.

7 Q. Why didn't you ask if you could interview him?

8 A. We didn't.

9 Q. Why not?

10 A. We didn't think we had access to him.

11 Q. And that's why you didn't bother to even ask if you
12 had access to him; is that correct?

13 A. That's correct.

14 Q. So this whole matter could have been avoided had you
15 simply asked, can I visit with Mr. McCann?

16 A. Oh, I doubt that.

17 Q. Why?

18 A. The findings were given to the legal review
19 committee, and whatever this matter that could have been
20 avoided that you're referring to we have nothing to say about.
21 All we do is report the facts.

22 Q. And those findings have been reported to legal
23 review committee sometime early January of '07, already been
24 done?

25 A. That's correct.

1 Q. Take a look at Exhibit 10.

2 A. I don't have Exhibit 10.

3 Q. Sorry. Is that a letter from Michael Hopkins to
4 Bruce Weaver dated February 15, 2007?

5 A. That's what it appears to be.

6 Q. Have you ever seen this document before today?

7 A. I may have seen this in connection with one of his
8 subsequent productions.

9 Q. Do you note in this letter that Mr. Hopkins is
10 saying that Mr. McCann was contacted by Marsh personnel and
11 advised additional p-card receipts had been found?

12 A. I don't know what Mr. Hopkins is saying. I can tell
13 you what it says in the letter.

14 Q. Right.

15 A. But it says --

16 MR. WOOD: Objection; form.

17 A. It says, Please be advised that Ardis McCann was
18 contacted by Marsh personnel and advised that some additional
19 p-card receipts were located in that school's storage facility;
20 but that's all I can tell you.

21 Q. (BY MR. ORTIZ) Okay. Do you have any reason as you
22 sit here to suggest that anything about that sentence is at all
23 deceptive?

24 A. Oh, I have no idea. I didn't write the letter and I
25 didn't receive it.

1 Q. So you don't believe it is deceptive?

2 A. Oh, I don't know if it is or not.

3 Q. So then it may be?

4 A. You'd have to ask Mr. Hopkins, I suppose.

5 MR. WOOD: Objection; form.

6 Q. (BY MR. ORTIZ) The second sentence suggests that
7 he's enclosing Bates stamp 01746 through 02096; is that
8 correct?

9 A. Is he enclosing those documents? Is that what
10 you're asking me?

11 Q. Yes.

12 A. That's what the letter says. Again, I didn't write
13 this letter.

14 Q. Uh-huh. Did you ever review any of these documents
15 referencing this letter?

16 A. I did not. Well, that's not true. Mr. Nielsen
17 reviewed -- did the initial review, but I've seen some of the
18 documents that were included with this production.

19 Q. Did you and/or Nielsen have similar concerns about
20 the production of these documents?

21 A. Yes, we did.

22 Q. Tell me about that.

23 A. One of the things that we asked Mr. McCann at the
24 first interview is something that we ask almost all the people
25 that we interview; and that is, did anybody else use your

1 p-card to make purchases. That was a concern to us because one
2 of the points in the p-card manual is that each p-cardholder is
3 responsible for ensuring the security of his or her p-card and
4 making sure that nobody else uses it. Only the cardholder
5 whose name appears on the face of the card is permitted to use
6 the card.

7 During that interview, Mr. McCann told us that he
8 was the only person that used the card with the exception that
9 his office manager at Marsh and his office manager at Spruce
10 helped him make orders by phone using the p-card number. Based
11 upon the receipts in our possession during the interview, we
12 had no reason to believe that that was not true. In this
13 latest production --

14 Q. Excuse me. The latest production, the production
15 referenced in this Exhibit 10 letter?

16 A. That's correct.

17 Q. Okay. Go ahead.

18 A. In this latest production, the one exemplified by
19 Exhibit 10, there were several signatures that appeared on
20 receipts that were made using Mr. McCann's p-card but that did
21 not contain Mr. McCann's signature on the signature line.

22 Q. Did anything else about this production referenced
23 in Exhibit 10 draw you any concern?

24 A. Yes, to the extent that it was done in a very neat
25 and orderly fashion which caused us concern only because it was

1 so polar opposite to the previous production.

2 Q. The box that's referenced in Exhibit 9 was very
3 sloppy and this production referenced in Exhibit 10 was very
4 neat and also orderly?

5 A. It was very different from the prior production.

6 Q. And what specifically about that drew you concern?

7 A. It showed -- it gave us concern because we saw that
8 if he wanted to, he could do a production in a very neat and
9 orderly fashion.

10 Q. So that told you that the production referenced in
11 No. 9 was intentionally done sloppily by my client?

12 A. It supported our concerns that it was done in a way
13 that potentially was deceptive.

14 Q. Any other thing about Exhibit 10 and the production
15 of documents that drew you any kind of concern?

16 A. Not that I can think of.

17 MR. ORTIZ: Let's take a short break off the
18 record, please.

19 MR. WOOD: Okay.

20 (Recess; 11:09-11:24.)

21 Q. (BY MR. ORTIZ) Let's go to Exhibit 11. That's
22 Bates stamped 497, is it not?

23 A. Yes, it is.

24 Q. It's a memo from you and others to Bruce Weaver
25 dated March 8th, 2007?

1 A. That's correct.

2 Q. And this memorandum's a one-page memorandum?

3 A. That's correct.

4 Q. You're reporting your review and/or Mr. Nielsen's
5 review of the documents produced through this Michael Hopkins
6 letter marked Exhibit 10; is that correct?

7 A. I believe that to be true because I believe that
8 this was the cover letter for the production that we're talking
9 about here in the March 8th report. I believe that to be the
10 case. Mr. Nielsen would be able to tell you for sure.

11 Q. Before the break, we talked about various concerns
12 you had about the production of documents referenced in this
13 Exhibit 10. Have we talked about all of your concerns?

14 A. Again, assuming that Exhibit 10 is the cover letter
15 for the latest set of documents that are referred to here in
16 Exhibit 11 --

17 Q. Yes.

18 A. -- then I believe that we have talked about the
19 concerns.

20 Q. Did you tape-record any of your conversations with
21 Mr. McCann?

22 A. We did not.

23 Q. Are you aware of any conversation with Mr. Nielsen
24 or anyone else on behalf of this p-card investigation that may
25 have audiotape-recorded a conversation with Mr. McCann?

1 A. I'm not aware of anybody with any taped
2 conversations in this investigation.

3 Q. Do you believe an interview with Mr. McCann -- after
4 the production of documents referenced in your Exhibit 11 memo,
5 do you believe an interview with Mr. McCann would have been
6 helpful one way or the other?

7 A. In this case, I think that it would have been
8 helpful because we would have liked to have asked him about the
9 potentially foreign signatures that appear on some of the
10 invoices.

11 Q. Did you ask anyone if you could interview him?

12 A. We did not.

13 Q. Take a look at the next document, Exhibit 12. Does
14 that appear to be a true and correct memo from Paul Coggins to
15 Michael Hinojosa dated August 3, 2006?

16 A. I believe this to be correct.

17 Q. Does that accurately reflect your law firm's hourly
18 rate -- blended hourly rate of \$350 an hour?

19 (Interruption.)

20 MS. CARPENTER: She's bringing some fresh
21 water.

22 MR. ORTIZ: Great. Thank you.

23 Q. (BY MR. ORTIZ) Do you remember the last question?
24 Let me ask it again. Does this Exhibit 12 accurately reflect
25 your law firm's blended hourly rate charge of \$350 an hour

1 charged in the p-card investigation?

2 A. I believe this to be true. I was not involved with
3 that, but I understand that to be correct as of this time.

4 Q. Exhibit 13, whose notes are these, if you know?

5 A. Well, there appear to be several things attached
6 here as Exhibit 13. I recognize this top sheet as Mr.
7 Nielsen's.

8 Q. This top sheet being Bates stamp 955?

9 A. That's correct.

10 Q. And the Bates stamp 956, do you recognize that?

11 A. Mr. Nielsen.

12 Q. And 957?

13 A. Mr. Nielsen.

14 Q. 958?

15 A. This is me.

16 Q. Through 960?

17 A. All me.

18 Q. And how about 961?

19 A. This is going to be blended. This is going to be
20 primarily me; although, there's just a couple of notations that
21 were done by Amalia Macias in the lower right-hand corner.

22 Q. Going back to the Bates stamped 958 through 960 --

23 A. Yes.

24 Q. -- these are your notes?

25 A. These are my notes.

1 Q. Of your interview with Mr. McCann?

2 A. Yes.

3 Q. Which was conducted when?

4 A. This is going to be related to the November '06
5 interview.

6 Q. You actually only interviewed him once, did you not?

7 A. That's correct.

8 Q. You had a conference with him several days
9 thereafter, and we've already talked about that?

10 A. That's right.

11 Q. Any other conversations with Mr. McCann other than
12 the interview November of '06 and the however brief conference
13 you had with him several days thereafter?

14 A. None.

15 Q. Bates stamped 961, that is the blended set of notes,
16 I think?

17 A. 961 has primarily my notations although some from
18 Amalia Macias on them.

19 Q. Also of the November '06 interview?

20 A. Yes.

21 Q. All of these notes are of the November '06
22 interview; is that correct?

23 A. Now, when you say the November '06 interview, this
24 is actually a sheet that was generated long before the November
25 '06 interview and doesn't have anything to do with that

1 interview. This is just a cover sheet that I created to help
2 me keep track of what sorts of issues we wanted to look at for
3 each individual cardholder's receipts.

4 Q. You're making reference to the actual form, are you
5 not?

6 A. That's correct.

7 Q. Yeah, I'm making reference to the handwritten notes.

8 A. Yeah, these handwritten notes have nothing to do
9 with the November '06 interview.

10 Q. The handwritten notes on Page 961 --

11 A. Yes.

12 Q. -- have nothing to do with the November '06
13 interview?

14 A. Correct.

15 Q. What do they have to do with?

16 A. This is a form that I generated during my initial
17 review of the Navigant transaction report that you and I have
18 talked about earlier.

19 Q. Uh-huh.

20 A. For example, Bates Page 94. When I review and do a
21 preliminary review of the Navigant transaction report before we
22 look at the receipts, I use a cover sheet to help me remember
23 who I'm talking about, what sort of things I'm seeing as I go
24 through the report and what sort of transactions I'd like to
25 take a look at the receipts for.

1 Q. So you made these notes sometime probably prior to
2 the interview with Mr. McCann in November of '06?

3 A. That's correct.

4 Q. Take a look at Exhibit 14. What is that, if you
5 know?

6 A. I don't know that I've ever seen this before.

7 Q. Do you know what it represents?

8 A. I'd just be guessing.

9 Q. Okay. Has the district given you and/or Mr. Nielsen
10 any additional receipts other than the receipts that we've
11 spent a good time talking about today?

12 A. For Mr. McCann or for anybody?

13 Q. For Mr. McCann.

14 A. No, not other than the ones -- and just to be clear
15 about what we've talked about today, what Mr. McCann turned in
16 pursuant to the two letters.

17 Q. To the two letters from Michael Hinojosa?

18 A. That's correct. Pursuant to the box that we've
19 talked about.

20 Q. The box that was sloppily presented; is that
21 correct?

22 A. Your words not mine but...

23 Q. No, I thought you said, you know, that it was
24 sloppily put together.

25 A. No. We said that it was -- contained a lot of

1 extraneous documents.

2 Q. Okay. Okay. And go on.

3 A. And then the final production that we've talked
4 about that was about 300 pages and that may or may not be
5 accompanied by the letter.

6 Q. The Exhibit 10 from Michael Hopkins?

7 A. That's correct.

8 Q. But the documents you make reference to in your memo
9 that's marked Exhibit 11?

10 A. That's correct.

11 Q. And those are all the documents you've reviewed?

12 A. Now, when you're talking about I, are you talking
13 about we as the law firm investigators because you're talking
14 about Mr. Nielsen that's done the review?

15 Q. You. You.

16 A. Me? I have not reviewed any of the receipts --

17 Q. Okay.

18 A. -- for Mr. McCann.

19 Q. Right. But Mr. Nielsen has?

20 A. That's correct.

21 Q. And he's reviewed all those receipts you just
22 enumerated?

23 A. That's correct.

24 Q. Do you know whether or not Mr. Nielsen has been
25 asked to review any additional receipts?

1 A. Not that I'm aware of.

2 MR. WOOD: Mr. Ortiz, can I take a break for a
3 moment and allow Ms. Carpenter to get her seat?

4 MR. ORTIZ: Yes. Yes.

5 MS. CARPENTER: Thank you.

6 (Exhibit No. 19 marked.)

7 Q. (BY MR. ORTIZ) So then as of now, Mr. McCann has,
8 per your last memo, about 85 percent of the 100 percent -- he
9 has 85 percent of the receipts of the 100 percent of the
10 transactions made; is that correct?

11 A. That's correct.

12 Q. Is 15 percent missing receipts a significant number
13 in your opinion?

14 A. Significant to me or significant to the district?

15 Q. Either way.

16 A. I don't know -- I won't pretend to speak on behalf
17 of the district to whether or not that's significant to them.
18 To me based upon all the people that we've reviewed, 85 percent
19 is to the middle to the upper end of the volume of receipts
20 that people have turned in.

21 Q. Yeah, say that again and use more simple math.

22 A. 85 percent is pretty good.

23 Q. Okay. Let me show you what's marked Exhibit 19 and
24 let me represent to you that it's a set of documents that Mr.
25 McCann produced only a couple of days ago through responses to

1 request for production of documents. More specifically, it was
2 marked as Response to Request For Production of Documents
3 15-16. And you've not seen these receipts before today, have
4 you?

5 A. Again, I'd just be guessing because after a while,
6 all the receipts start to look alike. But I can't tell you
7 that I have seen these before today.

8 Q. Or in other words, you don't know?

9 A. I don't know.

10 Q. If these are different receipts than those receipts
11 which form part of the 85 percent Mr. McCann has produced,
12 would you believe that that would further reduce the
13 outstanding missing receipts by Mr. McCann?

14 A. If I understand what you're saying,
15 mathematically -- if these are receipts that are not reflected
16 in any of the receipts that we've received to date in the four
17 productions?

18 Q. That's correct.

19 A. Mathematically that would increase the 85 percent to
20 something higher than that if these are not -- if these are new
21 receipts to us.

22 Q. Exactly. And do you believe as part of this
23 investigation team, this independent investigation team, that
24 that would be something you and Mr. Nielsen ought to consider?

25 MR. WOOD: Objection; form.

1 A. Is this something that we ought to consider these
2 documents?

3 Q. (BY MR. ORTIZ) Yes, sir, these documents meaning
4 the ones marked Exhibit 19.

5 A. We're happy to look at them and generate a new
6 report. I mean, this is something that -- when you say when we
7 consider, what we do is we take them, we analyze them, we look
8 to see if they've been produced before. And if they haven't
9 and there's a substantial difference in what percent that he
10 has completed, we would generate a new report that says, now
11 he's produced 87 percent of his receipts.

12 Q. If the school district asks you to do that, you'll
13 do that forthwith, will you not?

14 A. That's correct.

15 Q. Do you and, to your knowledge, does Mr. Nielsen have
16 any personal knowledge whether or not any purchase reflected in
17 these 835 purchases Mr. McCann made were at all inappropriate?

18 A. Inappropriate in an administrative sense or because
19 they were made for his personal benefit or gain?

20 Q. Any sense, sir.

21 A. All we have is the suspicions based upon the foreign
22 signatures that we've seen on some of the recently-produced
23 documents.

24 Q. The foreign signatures that you and/or Mr. Nielsen
25 detected from the documents produced arguably by way of this

1 Exhibit 10 letter and which you make reference to in this
2 Exhibit 11?

3 A. That's correct.

4 Q. I'm trying now to understand a little bit better
5 your statement that Mr. McCann having 85 percent of the total
6 receipts is pretty good. Compare that in relationship to the
7 other 1,200 to 1,700 folks you've reviewed.

8 A. I think it would be fair to say that a lot have more
9 than that and a lot have less than that.

10 Q. Have you done any calculation regarding how many is
11 a lot that has more than 85 percent?

12 A. I haven't done any specific calculations to
13 determine this percent have more than that and this percent
14 have less than that. We just haven't done that. That's why
15 the best I can tell you is it's pretty good.

16 Q. Having 85 percent is pretty good?

17 A. 85 percent is pretty good.

18 Q. On those few transactions that Mr. McCann had over
19 \$1,000, do you believe any of those transactions -- after
20 reviewing the receipts and visiting with him in that November
21 '06 interview, are any of those still suspicious in your mind?

22 MR. WOOD: Objection; form.

23 A. Suspicious in that he used them for personal gain or
24 suspicious in that they may or may not violate a district rule?

25 Q. (BY MR. ORTIZ) Either.

1 A. Suspicious as for personal gain, I have no reason to
2 believe based upon the review that Mr. Nielsen and I have done
3 to date that any of those transactions were made for personal
4 gain. As far as whether or not they do or do not violate the
5 district's rule against making purchases over \$1,000, that's
6 something that we haven't -- many of the receipts we didn't
7 have the benefit of at the time and we haven't addressed with
8 Mr. McCann.

9 Q. Comparing Mr. McCann's purchases over \$1,000 to all
10 of the other p-cardholders, does Mr. McCann have more or less?

11 A. I'd have to go back and look and count them, but it
12 does not stick out in my mind as being dramatically more than
13 several other people that we've looked at in the investigation.

14 MR. ORTIZ: I pass the witness.

15 MR. WOOD: We'll reserve our questions.

16 (Deposition concluded, 11:43 a.m.)

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1 CHANGES AND SIGNATURE

2 WITNESS NAME: DATE OF DEPOSITION:

3 PAGE LINE CORRECTION REASON

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1 I, KIP MENDRYGAL, have read the foregoing deposition and
 2 hereby affix my signature that same is true and correct, except
 3 as noted above.

4

5 KIP MENDRYGAL

6

7

8

9 THE STATE OF TEXAS)

10 COUNTY OF)

11 Before me, , on this day personally
 12 appeared KIP MENDRYGAL known to me (or proved to me under oath
 13 of through) (description of identity card or
 14 other document) to be the person whose name is subscribed to
 15 the foregoing instrument and acknowledged to me that they
 16 executed the same for the purposes and consideration therein
 17 expressed.

18 Given under my hand and seal of office this day of
 19 , 2007.

20

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22

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24

Notary Public in and for
 the State of Texas

25

NO. 052-LH-0207

1
2 DALLAS INDEPENDENT SCHOOL) BEFORE THE INDEPENDENT
3 DISTRICT,)
Petitioner) HEARING EXAMINER
4)
VS.) FOR THE STATE OF TEXAS,
5)
ARDIS McCANN)
6 Respondent) FREDERICK AHRENS

7
8 REPORTER'S CERTIFICATION
9 DEPOSITION OF KIP MENDRYGAL
10 MARCH 22, 2007

11 I, MELISSA SPIVEY, Certified Shorthand Reporter in and for
12 the State of Texas, hereby certify to the following:

13 That the witness, KIP MENDRYGAL, was duly sworn by the
14 officer and that the transcript of the oral deposition is a
15 true record of the testimony given by the witness;

16 That the deposition transcript was submitted on 3/27/07 to
17 the attorney representing the witness for examination and
18 signature and to be returned to me by 4/17/07;

19 That the amount of time used by each party at the
20 deposition is as follows:

21 MR. DANIEL A. ORTIZ - 1:58

22 That pursuant to information given to the deposition
23 officer at the time said testimony was taken, the following
24 includes all parties of record:

25 Mr. D. Craig Wood, Attorney for Petitioner
Ms. Sandra Carpenter, Attorney for Petitioner

1 Mr. Daniel A. Ortiz, Attorney for Repondent
Mr. Shane Goetz, Attorney for Repondent

2
3 I further certify that I am neither counsel for, related
4 to, nor employed by any of the parties in the action in which
5 this proceeding was taken, and further that I am not
6 financially or otherwise interested in the outcome of the
7 action.

8 Further certification requirements pursuant to Rule 203 of
9 TRCP will be certified to after they have occurred.

10 Certified to by me this 26th day of March, 2007.

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12
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14
15 MELISSA SPIVEY, Texas CSR 3715
Expiration Date: 12/31/2007
3109 Sunset Oaks
16 Arlington, Texas 76016
817.226.4399
17
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19
20

21 FURTHER CERTIFICATION UNDER RULE 203 TRCP

22 The original deposition was/was not returned to the
23 deposition officer ;

24 If returned, the attached Changes and Signature page
25 contains any changes and the reasons therefor;

1 If returned, the original deposition was delivered to MR.
2 DANIEL A. ORTIZ, Custodial Attorney;

3 That \$ is the deposition officer's charges to
4 the Respondent's attorney for preparing the original deposition
5 transcript and any copies of exhibits;

6 That the deposition was delivered in accordance with Rule
7 203.3, and that a copy of this certificate was served on all
8 parties shown herein on and filed with the clerk.

9 Certified to by me this day of , 2007.

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MELISSA SPIVEY, Texas CSR 3715
Expiration Date: 12/31/2007
3109 Sunset Oaks
Arlington, Texas 76016
817.226.4399