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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

SECURITIES AND EXCHANGE COMMISSION )	)	
	)	
Plaintiff,	)	CIVIL ACTION FILE
	)	NO. 1:12-CV-2557-WSD
v.	)	
	)	ATLANTA, GEORGIA
LADISLAV (LARRY) SCHVACHO )	)	
	)	
Defendant.	)	
_____ )	)	

TRANSCRIPT OF PROCEEDINGS  
BEFORE THE HONORABLE WILLIAM S. DUFFEY, JR.,  
UNITED STATES DISTRICT JUDGE

VOLUME 2  
Tuesday, November 19, 2013

APPEARANCES OF COUNSEL:

For the Plaintiff:	SECURITIES AND EXCHANGE COMMISSION (By: Joshua A. Mayes Paul T. Kim Madison Graham Loomis)
For the Defendant:	MORRIS MANNING & MARTIN LLP (By: Ross A. Albert Brian Joel Levy David Alan Rabin)

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## I N D E X

1	<i>Witness</i>	<i>Page</i>
2		
3	LARRY LAMONT ENTERLINE	
4	Direct (By Mr. Kim)	246
5	Cross (By Mr. Rabin)	332
6	Redirect (By Mr. Kim)	358
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

1 Tuesday Morning Session

2 November 19, 2013

3 9:00 a.m.

4 -- -- --

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

6 -- -- --

7 (In open court:)

8 THE COURT: Good morning, everybody.

9 Anything we need to talk about before we continue  
10 with the evidence?

11 MR. MAYES: Not that I'm aware of, Your Honor.

12 MR. KIM: A couple of housekeeping issues,  
13 Your Honor.

14 The first is taking your advice, we have tried to  
15 consolidate the trial exhibits that were going to be used in  
16 Mr. Enterline's testimony. We have put them all in a single  
17 binder here for the witness and for yourself and for defense  
18 counsel as well, as well as copies of his transcripts as  
19 well.

20 I believe all of the trial exhibits --

21 THE COURT: Does Mr. Loomis get credit for that  
22 influence in the case?

23 MR. LOOMIS: Absolutely, Your Honor.

24 MR. KIM: I think he gets credit for everything  
25 that happens, both good and bad, Your Honor.

1 THE COURT: Well, no, he only takes credit for  
2 things that are good, but that's his prerogative.

3 MR. KIM: Right. The only exhibit -- the only  
4 trial exhibit that I believe that is not in those binders is  
5 Plaintiff's Exhibit 2, and that's just because it's a very  
6 voluminous document.

7 So if, with the Court's indiligence, the  
8 plaintiff's exhibits entirely is just one binder. If the  
9 Court, for Plaintiff's Exhibit 2, if we could just turn to  
10 the plaintiff's exhibit binder, so we can use that.

11 And in addition, we would like to introduce in  
12 evidence the other exhibits in that plaintiff's exhibits  
13 binder that were not introduced yesterday at trial. Those  
14 would be Plaintiff's Exhibits 3 through 9, 11 through 13, and  
15 15 through 17.

16 THE COURT: Are you going to use those or is this  
17 in the spirit of the doctrine of completeness?

18 MR. KIM: A little bit of both, Your Honor, but  
19 probably a bit more of the latter, but they are limited in  
20 nature.

21 THE COURT: So, Jessica, are you keeping track of  
22 all these?

23 THE CLERK: Then are they admitted?

24 THE COURT: Is there any objection to the admission  
25 of those documents?

1 MR. ALBERT: No, Your Honor.

2 THE COURT: Then they are admitted.

3 I never admitted the defense exhibits yesterday  
4 because we got off on the issue about redacting. Is there  
5 any objection from the government as to the defendant  
6 exhibits?

7 MR. MAYES: Not to the exhibits they specifically  
8 numbered off yesterday, Your Honor.

9 THE COURT: All right. And do you have a list of  
10 those, Jessica?

11 THE CLERK: Yes.

12 THE COURT: Can you just tell me what those are so  
13 that we are all clear about what's introduced and admitted?

14 MR. ALBERT: You want me to go again?

15 It is 32 through 36, 38 through 44, 48 through 51,  
16 56 through 59, 61 through 64, 66, and 68 through 73. And  
17 then -- those are the ones we mentioned yesterday.

18 There are a whole bunch of SEC filings that I know  
19 they didn't object to, and I will just say those are, in the  
20 doctrine of completeness, Your Honor, 74 through 147. And  
21 there was no objection to those.

22 MR. MAYES: No objection still, Your Honor.

23 THE COURT: They are admitted.

24 Let me just say this. This whole approach is  
25 discourteous to me personally. Because if what you are doing

1 is simply dumping documents as exhibits in the record and  
2 I go and look at your findings of fact and conclusions of law  
3 and find that they are not referenced, all you are doing is  
4 burdening this process and burdening me by having to look  
5 through information that both of you want to be complete but  
6 upon which you don't rely in a trial of this case.

7 MR. ALBERT: Your Honor --

8 THE COURT: So I'm going to be looking carefully to  
9 see whether or not they are, in fact, referenced specifically  
10 in the findings that you want me to make and the arguments  
11 that you advance.

12 MR. ALBERT: I --

13 THE COURT: I am thinking about charging you four  
14 hundred dollars for each document that you don't use.  
15 I thought that might be a good deterrent.

16 But what I'm saying is this is the only case where  
17 I have had this sort of document dump, and you think that  
18 I go back into my chambers with my clerks and that we don't  
19 do our job well.

20 The last time I had to do this, where there was not  
21 nearly as many documents as this, I looked at every single  
22 document, and I said this has nothing to do with this case,  
23 many of them.

24 MR. ALBERT: Your Honor, if I may just speak  
25 briefly on this?

1           We were responding to an SEC challenge to hundreds  
2 of trades over an eight-year period. In the Joint Exhibit  
3 177, I believe we referenced all of the SEC filings that we  
4 just moved to admit.

5           I'm not sure that they are all referenced in our  
6 proposed findings, but we could. Your Honor, again, we were  
7 responding to allegations that were made -- serious  
8 allegations that were made against our client.

9           THE COURT: So you take one specific entry in 177  
10 and cite a document that could be a hundred pages long, and  
11 so what am I supposed to do? Go through and -- because I  
12 don't think -- unless I'm wrong, have you cited those by page  
13 number?

14           MR. ALBERT: No.

15           THE COURT: Of course you haven't. You know why?  
16 Because that's hard, it takes a lot of time.

17           So instead what you have done is in order to cover  
18 yourselves, you have said somewhere in this 100-page document  
19 is something that supports that reference. Do you expect me  
20 to do that?

21           MR. ALBERT: We can add pen cites, Your Honor.

22           THE COURT: I think what I will do is for every  
23 document that you have introduced as an exhibit -- I will  
24 give you my copies -- I want you to highlight and tab the  
25 provision that you claim supports the position that you are

1 taking so that I don't have to wade through this morass.

2 MR. ALBERT: That's fair, Your Honor.

3 THE COURT: Well, I know it's fair because  
4 I imposed it and because you know that what you did is  
5 ridiculous.

6 MR. ALBERT: Your Honor, we were responding to  
7 serious allegations --

8 THE COURT: I totally expect for you to do that.  
9 But this looks like a case presented to me by a *pro se*  
10 witness -- *pro se* party, which is what they do is they just  
11 dump documents and they say somewhere in here is our case.

12 And the circuit has been absolutely adamant, not  
13 just for *pro ses*, but for everybody, that the Court is not  
14 obligated to figure out from a morass of documents what  
15 nuggets there might be in there that you are doing -- that  
16 you claim specifically, since you are making this argument,  
17 that you were there responding.

18 A responsible lawyer says, yes, I am going to  
19 respond to that, and in this 100-page document, I on my  
20 initiative of course recognize that there is matter in here  
21 that has nothing to do with this case, and I will tell you  
22 exactly what we are relying on.

23 Now I'm just imposing that as a requirement on both  
24 of you.

25 MR. KIM: Yes, Your Honor.



1 MR. MAYES: May I say something, Your Honor?

2 THE COURT: Yes.

3 MR. MAYES: We would be happy to withdraw the joint  
4 exhibits that we are not going to cite specifically, but we  
5 had agreed with them that we wouldn't challenge them, and  
6 just rely on the summary exhibit, and to the extent we need  
7 any of those specific joint exhibits, remove the rest of them  
8 from evidence rather than putting them in.

9 We put those in in case you wanted to refer to any  
10 document that's referred to on the summary exhibit, the  
11 ones --

12 THE COURT: You know, I get that the summary  
13 exhibit is what is the chronology of events, trades,  
14 communications and the like, and so I get that that's really  
15 what the basis of your case is, and I get that -- and if you  
16 want me to consider that, you are going to have to have a  
17 source document that supports the entry of that.

18 But, you know, at this point I think I like my  
19 proposed process, which is you have already made these  
20 binders. If I don't see a tab in the document, I know  
21 I really don't have to pay attention to it.

22 And I'm assuming by offering to withdraw them, you  
23 are saying there are some documents, maybe a large number,  
24 that really aren't relevant to the trial of case. And if you  
25 agree with me, if I don't see a tab on one of those, that's

1 one that I can skip over?

2 MR. MAYES: That would be fine, Your Honor.

3 THE COURT: Is that okay with the defendant?

4 MR. ALBERT: Yes.

5 THE COURT: So I will give you all of my binders  
6 back, my many binders up here with many documents, and the  
7 more binders which I'm about to get, but at least now will  
8 have in our approximately two and a half banker's boxes of  
9 binders, I can see what's tabbed and focus on those.

10 MR. KIM: On that note, Your Honor, may I give you  
11 the binder of the trial exhibits for this witness?

12 THE COURT: And let me have the defense binders too  
13 so that I have my collection up here.

14 MR. KIM: Here is a copy of the Enterline  
15 transcripts, if you would like that. I believe you may have  
16 one, but it's additional copies. It's an additional copy of  
17 the Enterline transcripts, his investigation testimony and  
18 his deposition testimony.

19 THE COURT: That's not relevant unless you use them  
20 in some way.

21 MR. KIM: Now let me hand those to Your Honor.

22 THE COURT SECURITY OFFICER: There you are,  
23 Your Honor.

24 Your Honor, there are more from the defense.

25 THE COURT: All right. I have my ten binders.

1           Let's call Mr. Enterline.

2           MR. KIM: Your Honor, we call Mr. Larry Enterline  
3 to the stand.

4           THE COURT: Mr. Enterline, the Court Security  
5 Officer will show you where to stand and then I will swear  
6 you in before you testify.

7                               -- -- --

8                               LARRY LAMONT ENTERLINE

9           being first duly sworn by the Courtroom Deputy Clerk,  
10                               testifies and says as follows:

11                               -- -- --

12                               DIRECT EXAMINATION

13 BY MR. KIM:

14 Q. Good morning, Mr. Enterline.

15 A. Good morning.

16 Q. Thank you for coming today.

17 My name is Paul Kim, I'm an attorney with the SEC. I  
18 will be asking you a few questions today; okay?

19 A. Okay.

20 Q. Can you please provide the Court with your full name and  
21 address?

22 A. Larry Lamont Enterline.

23 THE COURT: But don't give me your home  
24 address. Just tell me what county and state you live in.

25 THE WITNESS: Excuse me?

1           THE COURT: Just your county and state, not your  
2 street address.

3           THE WITNESS: Barrow County, Georgia.

4 BY MR. KIM:

5 Q. So let's begin by perhaps discussing your background.

6 Are you married, Mr. Enterline?

7 A. Am I married?

8 Q. Yes, sir.

9 A. No.

10 Q. Do you have any children?

11 A. No.

12 Q. Okay. Let's go through your employment history. Can  
13 you please describe for us your employment history from  
14 January 2000 through the present?

15 A. In January 2000 I was at Scientific Atlanta. I left  
16 there in September of 2000, joined Personnel Group of America  
17 the last week in December of that year. Was with that  
18 company, we restructured it and merged it with Comsys.

19 I left the CEO position in September of 2004, stayed on  
20 the board of the merged company. Came back in as CEO in  
21 February of 2006, remained there until Comsys was sold in  
22 like April of 2010.

23 And then I had my own private investment company that I  
24 was with in these intervening periods. Then I joined  
25 FOX Factory as CEO in March of 2011. That's where I am at

1 today.

2 Q. I'm just going to go back over that a little bit because  
3 I think it's helpful for perhaps all of us, especially as we  
4 go through your testimony.

5 A. Sure.

6 Q. So you joined PGA in December 2002, around that time?

7 A. December of --

8 Q. I'm sorry, 2000, I apologize.

9 A. 2000, yes.

10 Q. When did you merge with Comsys? When did PGA merge?

11 A. In 2004.

12 Q. And in between that time, did Personnel Group of  
13 America, PGA, come to change its name?

14 A. It did. It became Venturi Partners.

15 Q. And when was that, Mr. Enterline?

16 A. In '02 or '03. I can't remember exactly.

17 Q. And throughout this period of time, it was PGA, then it  
18 was Venturi, then it was Comsys, until you left the company.

19 You left Comsys in around September of 2004. That was  
20 basically the same company for you in some sense, right,  
21 because there was a company name change and then merged with  
22 Comsys?

23 A. Yes. When we merged with Comsys, we sold the commercial  
24 staffing business and created a pure play IT services  
25 company.

1 Q. And when the merger of your company at the time, Venturi  
2 Partners, happened with Comsys around September of 2004, what  
3 happened to your position, which had previously been CEO of  
4 Venturi Partners?

5 A. The CEO of Comsys became CEO of the company.

6 Q. So because your company, Venturi Partners, was merged  
7 with Comsys; is that correct?

8 A. That's correct.

9 Q. So for the -- and I calculated it -- it's a 16-month  
10 period. For the 16-month period between around September  
11 2004 -- my math may be wrong, I apologize -- from September  
12 2004 to February 2006, what did you do during that period?

13 A. I had an investment company that I tinkered around  
14 with. I have a private foundation I worked at.

15 Q. And then you came back to Comsys after the merger?  
16 Maybe about a year and a half later you came to Comsys as a  
17 CEO?

18 A. I was on the board of the company during that period.

19 Q. Right. And -- I'm sorry?

20 A. I came back in as CEO in February of 2006.

21 Q. During that 16-month period of time let's call it, you  
22 were not an officer of Comsys; is that correct?

23 A. Correct. I was a director.

24 Q. Okay. Are you currently a director of any public  
25 companies?

1 A. I am.

2 Q. Can you --

3 A. To FOX Factory, my company, and Concurrent.

4 Q. And are you a director of Concurrent, a publicly-traded  
5 company, in 2010?

6 A. Yes.

7 Q. And were you director of any other public company in  
8 2010?

9 A. Raptor Networks. I came off that board sometime in  
10 2010, 2011.

11 Q. Now, without providing your specific addresses, just the  
12 city names, can you please provide us with your cities of  
13 residence between January of 2000 through the present?

14 A. Charlotte, North Carolina, and Houston, Texas.

15 Q. So perhaps we could use the testimony you provided as to  
16 your employment history to go through it.

17 So when you were the CEO of PGA from December 2000 and  
18 then Venturi Partners because the name changed and 2004 when  
19 it merged with Comsys, where did you reside?

20 A. Charlotte, North Carolina.

21 Q. Did you also have a home in Atlanta, Georgia, at that  
22 time?

23 A. Yes.

24 Q. And then typically at that time you would spend your  
25 business weeks in Charlotte and weekends in Atlanta?

1 A. Typically, but I would spend weekends in Charlotte  
2 also.

3 Q. And then when you came to depart from Venturi Partners  
4 after the merger with Comsys, where did you live then?

5 A. I come back full-time in Georgia.

6 Q. And you stayed a full-time resident of Georgia until you  
7 moved again to be CEO of Comsys --

8 A. Comsys, yes.

9 Q. -- in around February of 2006?

10 A. Yes. And that was in Houston, Texas.

11 Q. And around that time, again, similar I guess to the way  
12 you were when you were with PGA and Venturi where you kind of  
13 lived both in Charlotte and Atlanta --

14 A. Uh-huh.

15 Q. -- at that time when you became CEO of Comsys again, you  
16 were again splitting your time between Houston and Atlanta?

17 A. I did travel back and forth, yes.

18 Q. You maintained a residence in Atlanta throughout that  
19 time; right?

20 A. Yes. I maintained a home in this area since 1990.

21 Q. When did you first come to meet Mr. Larry Schvacho?

22 A. Probably the 1970s, late 1970s.

23 Q. And did you become very close friends?

24 A. I think we became close friends probably in the 1990s.

25 Q. And for those years between the 1990s and 2010, you



1 remained close friends the entire time; correct?

2 A. Yes.

3 Q. You would see and talk with Mr. Schvacho frequently?

4 A. Often.

5 Q. And how would you kind of characterize or describe your  
6 friendship? Was it a friendship or would you call it a very  
7 close friendship during that 20-year span?

8 A. We were close friends.

9 Q. You would call it very close?

10 A. I would say very close. I'm not sure what that  
11 distinction is, though.

12 Q. Fair enough, Mr. Enterline.

13 Is there a type of relationship that you would analogize  
14 your relationship with Mr. Schvacho? Is there any type of  
15 general relationship you would try to analogize the  
16 relationship you had with Mr. Schvacho if you found he was  
17 trading in your company's stock?

18 A. I'm not sure I understand the question.

19 Q. If you found Mr. Schvacho was trading in your company's  
20 stock, would you feel that that was like a significant other  
21 trading in your stock?

22 A. Yes.

23 Q. Mr. Enterline, did you share personal information with  
24 Mr. Schvacho, like health information?

25 A. Some.

1 Q. And that was private information?

2 A. It would not be information I would want on the  
3 internet.

4 Q. And did you share private confidential business  
5 information with him?

6 A. We invested together, so we did share some of that  
7 information.

8 Q. Some of that information was private and confidential?

9 A. I would consider it that.

10 Q. And you expected Mr. Schvacho to keep that information  
11 confidential?

12 A. Yes.

13 Q. And when you shared the confidential information with  
14 him, did you have to tell him to keep it private, or was that  
15 just implicit?

16 A. I trusted him.

17 Q. So --

18 A. So I wouldn't tell him every time I told him something  
19 that it was confidential.

20 Q. Sure. And you would expect Mr. Schvacho not to try to  
21 use confidential information in some improper way?

22 A. Oh, no, I wouldn't expect him to do that.

23 Q. Of course, you trusted Mr. Schvacho I think you said;  
24 right?

25 A. Yes.

1 Q. Generally speaking, as a general matter, did you share  
2 with him when big events were occurring in your life,  
3 happening in your life?

4 A. Yeah, I would share a big event.

5 Q. And would you just generally share with him when you  
6 were undergoing very stressful situations in your life?

7 A. It depends on what they are.

8 Q. Okay. During the course of your friendship, did you  
9 discuss investment ideas with Mr. Schvacho?

10 A. Yes.

11 Q. How frequently would you do that?

12 A. I would say often.

13 Q. And did you discuss with him sometimes potential stocks  
14 to buy?

15 A. Yes.

16 Q. And did you suggest that he look at Wegenner as a stock  
17 to buy?

18 A. I'm not sure I suggested it or he did.

19 Q. And you discussed that together, though, of course?

20 A. We did.

21 Q. Did you also send him Comsys reports, articles about  
22 Comsys?

23 A. Certainly not regularly. I may have sent him  
24 some. I think the only ones I remember, I sent him some  
25 because the analyst had a glowing review of management.

1 Q. Do you think you might have sent him others as well?

2 A. I can't remember any others. Those are the ones I do  
3 remember.

4 Q. Recognizing that, you know, analyst reports might be  
5 sent to other people, was Mr. Schvacho the only friend to  
6 whom you sent analyst reports?

7 A. I can't recall.

8 Q. Do you think looking at your investigative testimony  
9 might help refresh your recollection on that?

10 A. Yes.

11 MR. KIM: May I approach?

12 BY MR. KIM:

13 Q. Mr. Enterline, I have handed you a transcript of your  
14 investigative testimony of August 30, 2011. Can you turn to  
15 page 55, 8 -- excuse me, page 55, line 8, and then read to  
16 yourself to line -- to page 57, line 13.

17 A. Line 13, page 57? Oh, read that entire thing, okay.

18 Okay. I think I can --

19 Q. And can you read through page 57 and line 10 -- actually  
20 line 13.

21 A. I am through line 10.

22 Q. And does that help refresh your recollection as to  
23 whether or not Mr. Schvacho was the only friend to whom you  
24 sent Comsys reports?

25 A. Looks like I didn't recall any others then and I don't

1 recall them now.

2 Q. Thank you.

3 Can you describe your understanding of what  
4 Mr. Schvacho's investment strategy or philosophy was?

5 A. Yeah. I don't have a detailed understanding. I think  
6 he was maybe shorter term than I was.

7 Q. And how did you come to that understanding?

8 A. I just I think I was more patient staying in positions  
9 longer, much to my chagrin sometimes.

10 Q. In terms of Mr. Schvacho's trading strategy or  
11 philosophy, how did you come to learn about that? Did you  
12 discuss it with him?

13 A. Yeah, I would discuss investments. I never got into a  
14 detailed understanding of a particular strategy or  
15 philosophy.

16 Q. Sure. But your understanding was that he was more of a  
17 short-term trader, an in-and-out trader?

18 A. That was my feeling I got, not that he stated that to  
19 me.

20 Q. And your strategy was a different strategy, is that  
21 right, just generally speaking? It's more a buy-and-hold  
22 strategy?

23 A. Like I say, I hang on a long time.

24 Q. How would you describe Mr. Schvacho when it comes to how  
25 he handles his money?

1 A. I always thought very conservative.

2 Q. Would you describe it also as cautious and prudent?

3 A. I always viewed him as cautious and prudent.

4 Q. With respect to his views on handling his money as  
5 well?

6 A. Yeah, his money and in general.

7 Q. And how would you describe the level of attention that  
8 he paid to his investments?

9 A. I mean, again, my presumption was he was reasonably --  
10 paid a lot of attention to it.

11 Q. Paid a lot of attention?

12 A. Yes.

13 Q. And do you believe he had sophistication, knowledge,  
14 generally, when it came to the markets?

15 A. Yes, I think he was fairly sophisticated.

16 Q. Now, how long did Mr. Schvacho stay with Scientific  
17 Atlanta, recognizing I guess that the company changed names  
18 at some point in time?

19 A. You know, I'm not exactly sure of the year he left.

20 Q. A little bit different question, I think. How long did  
21 Mr. Schvacho stay with that company?

22 A. Again, I don't know -- I can't remember the exact year  
23 he left, but I think he joined in about '89 or '90, 1989 or  
24 1990.

25 Q. And so he stayed with the company until around 2009;

1 right?

2 A. That would seem about right.

3 Q. About twenty years then.

4 And when he retired, did he ask you about his retirement  
5 package?

6 A. He did.

7 Q. Did he ask you for advice on what to do with the new  
8 funds that he would be getting as a result of his retirement  
9 package?

10 A. No. He just asked me for an opinion on the retirement  
11 deal he was being offered.

12 Q. Now, did he tell you what he did with the funds that he  
13 would get from his retirement?

14 A. No.

15 Q. Did he tell you what he planned to do?

16 A. No.

17 Q. Did he tell you that he might use some of this money for  
18 a new strategy of going deep in a stock, meaning concentrate  
19 a lot of money in one particular stock?

20 A. No.

21 Q. Did you come to appoint at some point in time  
22 Mr. Schvacho as the executor of your estate?

23 A. I did.

24 Q. And did you discuss that with Mr. Schvacho?

25 A. Briefly.

1 Q. And can you tell me about that conversation, if you can  
2 recall it?

3 A. I actually had him talk to my estate attorney and told  
4 him, the two of them, if anything happens, to get a hold of  
5 each other, if anything happens to me.

6 Q. And I guess that indicates a pretty deep level of trust  
7 of Mr. Schvacho?

8 A. Yes.

9 Q. During the two-decade period where you were very close  
10 friends, how often did the two of you communicate with one  
11 another?

12 A. Often.

13 Q. And generally, was the amount of communication you had  
14 during the September 2009 period -- excuse me, the November  
15 2009 -- September 2009 period -- let me start over.

16 Generally was the amount of communication that you had  
17 during the September 2009 through February 2010 period pretty  
18 typical of the level of communication you had throughout your  
19 two-decade friendship?

20 A. I would think it would, but it would go, depending on  
21 what we were working on, what our investment company was  
22 doing, it would ebb and flow a little bit. I don't think it  
23 was continuous over twenty years, but often.

24 Q. Generally how many telephone calls a week?

25 A. I mean, I would be speculating. I mean, three, five,



1 seven.

2 Q. And did you have a tradition of going out and meeting in  
3 person?

4 A. Well, I think we had a practice. I'm not sure I would  
5 call it a tradition, but I guess you could. When I was in  
6 town, we would try to go out Friday nights.

7 Q. That would be a regular kind of meeting --

8 A. Yes.

9 Q. And when you would come to town, you would let him know  
10 beforehand so that you could, you know, have your kind of  
11 regular Friday?

12 A. Generally, yes.

13 Q. And that meeting was generally in the evening; is that  
14 right?

15 A. Yes.

16 Q. And generally was for beers or for dinner; correct?

17 A. Correct.

18 Q. And generally, for these meetings, you know, with you  
19 and your best friend, did you have your -- did you have a  
20 significant other at the time, Mr. Enterline?

21 A. Yes.

22 Q. Her name is Ms. Richards; is that right?

23 A. Yes.

24 Q. Okay. And generally speaking, did your significant  
25 others go with you on these dinners?

1 A. It would depend. Sometimes.

2 Q. Would you say that she only came very occasionally?

3 A. Yeah, I would say she was there a little -- certainly  
4 less often than more often.

5 Q. Would you generally say that Mr. Schvacho did not bring  
6 a friend with him to these dinners?

7 A. Well, sometimes we would have other people join us, but,  
8 yes, specifically Mr. Schvacho didn't bring someone.

9 Q. Mr. Enterline, we are going to go into this in more  
10 detail in a little bit, but since in or about June of 2010,  
11 you have cut off communications with Mr. Enterline; is that  
12 right?

13 A. Yes.

14 Q. And despite, despite all that has happened, do you want  
15 Mr. Schvacho to be hurt by what happens in this matter?

16 A. I don't wish ill-will on anyone.

17 Q. You still wish him well, Mr. Enterline?

18 A. I wish him the best in his endeavors.

19 Q. So switching gears here a little bit, prior to about  
20 June 2010, did you have any knowledge about Mr. Schvacho  
21 trading in Comsys?

22 A. No.

23 Q. Now, had he ever volunteered to you prior to that time  
24 I'm trading in Comsys?

25 A. No.

1 Q. And going again prior to June 2010, if Mr. Schvacho  
2 asked you a question about Comsys, what would you say?

3 A. I would say -- I don't recall him asking me many  
4 questions, but if he asked me how business was, I would give  
5 my typical reply: Fine.

6 Q. When was the first time that you learned -- first time  
7 that you learned that Mr. Schvacho had traded in the stock of  
8 your company? And by your company, I mean --

9 A. Comsys.

10 Q. -- Comsys, and prior to that, Venturi and PGA as well.

11 A. I got a list from FINRA, which was delayed actually in  
12 finding me because I left Houston, and I was paging through  
13 it, and his name was on it.

14 Q. Can you describe to me what that FINRA letter is?

15 A. What is that?

16 Q. What is that FINRA letter that you just referenced?

17 A. It was -- the attorneys from Manpower tracked me down.  
18 Apparently FINRA had sent it to my Houston address after I  
19 had moved.

20 It's just a list of names of like people who I guess  
21 traded the stock. You know, it didn't say -- it was a list  
22 of names, probably four or five pages.

23 Q. And why did the attorneys for Comsys send that to you?

24 A. The attorney for Manpower. It was part of a FINRA  
25 questionnaire, did I know anyone on that list.

1 Q. And what was your understanding as to why this  
2 information was being requested by FINRA?

3 A. Well, I assume it was part of a routine FINRA  
4 investigation.

5 Q. Routine FINRA investigation into insider trading?

6 A. On the transaction. Yeah, I presumed it was insider  
7 trading.

8 Q. Do you know why Mr. Schvacho bought Comsys stock?

9 A. Do I know why?

10 Q. Yes.

11 A. No.

12 Q. Can you describe for me generally how you -- let's put  
13 it this way.

14 After you received the FINRA letter, what did you next  
15 do with respect to that letter?

16 A. I called Mr. Schvacho.

17 Q. And can you tell me about that conversation you had with  
18 him?

19 A. I just asked him, you know, why was his name on the  
20 list, did he trade the stock. He said yes.

21 Q. And can you describe how you felt after you learned he  
22 had traded in Comsys shares?

23 A. Well, it was probably a combination of a little anger,  
24 and I was perplexed as to why he traded and didn't say  
25 anything to me.

1 Q. Did you feel betrayed? Did you feel betrayed?

2 A. Yeah, I felt definitely used.

3 Q. Betrayal?

4 A. I'm not sure betrayed, because I don't know what he was  
5 doing. I had no idea. To this day I don't know.

6 Q. Would it help refresh your recollection to see some of  
7 your deposition testimony on this issue?

8 A. Yeah. Again, I know how I feel. I can remember that  
9 part of the day. I was not happy.

10 Q. Were you angry?

11 A. I was a little angry, yes.

12 Q. Were you in disbelief?

13 A. I would say disbelief is probably a good word.

14 Q. Did you believe he had breached a trust of yours?

15 THE COURT: Okay, how many more characterizations  
16 do you want? I get the picture.

17 BY MR. KIM:

18 Q. Can you describe generally how else you felt or other  
19 emotions you had at the time that you had this conversation  
20 with Mr. Schvacho and he told you that he had bought Comsys  
21 shares?

22 A. Well, I mean, a little bit of confusion, you know.

23 Q. Did you believe he breached your relationship?

24 MR. RABIN: Object to the form of the question.  
25 I'm not sure what he means by breach of the relationship.

1 A. Yeah, I'm not sure what that means. I can safely say  
2 I certainly wished he wouldn't have traded in the stock. I  
3 don't think he should have traded in the stock.

4 THE COURT: Let me just say, I totally understand  
5 that. If my best friend was doing something that I didn't  
6 know about, I think I would have all those emotions. So  
7 I get that. So you can move on.

8 MR. KIM: Yes, Your Honor.

9 BY MR. KIM:

10 Q. Did Mr. Schvacho give you any explanation as to why he  
11 did not tell you before he had traded in Comsys stock?

12 A. Yeah. My memory is -- and I don't know that these are  
13 the exact words -- but I said, Did you trade the stock? And  
14 he said yes. And I said something like, you know, What were  
15 you doing?

16 And he said, What's the problem? You didn't tell me  
17 anything. I didn't tell you I was trading in it. And he  
18 said something to the effect, I didn't tell you because  
19 I wanted to protect you. Not the exact words, but that was  
20 the notion.

21 Q. And did you understand what he meant by that, trying to  
22 protect you?

23 A. Not really, no.

24 Q. Did you find that explanation bizarre? Did you find  
25 that explanation bizarre, odd?

1 A. I'm not sure bizarre, but, you know, I felt having a  
2 very close friend on that FINRA list was a problem. And  
3 I think the fact that I'm sitting here today tells me that I  
4 was right.

5 Q. Sitting here today, the explanation your best friend of  
6 twenty years gave you about why he traded in FINRA, do you  
7 have an understanding -- do you understand what that  
8 explanation is? Do you understand what he was saying to you  
9 as to why he traded in Comsys?

10 A. Why he traded the stock? No. He said it was some  
11 investment idea he had. And you know, I probably wasn't  
12 listening as close as maybe I should have been.

13 Q. What else did he say about an investment idea?

14 A. That's all I remember from the call. I don't think he  
15 went into any detail.

16 Q. I guess I will try to ask it one more time, if I may?  
17 Sitting here today, do you understand Mr. Schvacho's  
18 explanation as to why he traded in Comsys stock?

19 MR. RABIN: Your Honor, I think that question has  
20 already been asked and answered.

21 THE COURT: Sustained.

22 BY MR. KIM:

23 Q. Staying on the June 2010 conversation, Mr. Enterline,  
24 what else did he tell you about his purchases of Comsys  
25 shares from that conversation?

1 A. He also said that I had -- the two other things I can  
2 remember was I asked when did you trade, and he said January,  
3 and then he allowed that he had bought the stock before  
4 January also.

5 Q. So what did he tell you about the purchases of stock  
6 before?

7 A. I don't know detail from what I remember.

8 Q. He didn't mention that he had bought in the fall of  
9 2009?

10 A. I think he may have mentioned he bought in the fall.

11 Q. Did he mention anything else about any trade with Comsys  
12 stock?

13 A. No, not that I recall.

14 Q. And did Mr. Schvacho tell you about anything about his  
15 trading, or have you subsequently come to learn that  
16 Mr. Schvacho traded in Comsys stock more than just the fall  
17 of 2009 and January 2010?

18 A. I did.

19 Q. And did he tell you during that conversation that he had  
20 traded a long time before that?

21 A. No, he did not specifically tell me any other details.

22 Q. And how did Mr. Schvacho tell you how many shares he  
23 purchased in this fall 2009, January 2010 period?

24 A. No. The only -- and I may have this wrong, but my  
25 memory was I thought the January trade was like thirty to



1 forty thousand, somewhere in there.

2 Q. Do you have any understanding as to what his fall 2009  
3 trading amount was?

4 A. No.

5 Q. So let's assume it's forty thousand shares on the top  
6 end. Do you have an idea generally --

7 MR. RABIN: Object to the form of the question. It  
8 assumes something that --

9 THE COURT: Sustained.

10 MR. KIM: Your Honor, I would like to show the  
11 witness a document that shows the share price of Comsys, if I  
12 could?

13 THE COURT: Why don't you ask him what the share  
14 price was.

15 BY MR. KIM:

16 Q. Do you know what the share price was in June 2010 of  
17 Comsys?

18 A. June of 2010? Comsys wasn't trading.

19 Q. Do you know what the share price generally of Comsys was  
20 in January of 2010?

21 A. I mean, it changed in January. We preannounced earnings  
22 positively and it pushed the stock up.

23 I can again speculate. I mean, it's a matter of record,  
24 obviously, but I think it went from nine to ten to thirteen  
25 to fourteen.

1 Q. Did Mr. Schvacho tell you that he had actually purchased  
2 seventy-one thousand shares in fall of 2009?

3 A. No.

4 Q. 2010?

5 A. No.

6 Q. Did he tell you he had actually purchased \$750,000 in  
7 shares in that time period?

8 A. No.

9 THE COURT: May I have counsel come up here,  
10 please?

11 (At sidebar:)

12 THE COURT: You and your colleagues have this  
13 theory of asking questions to support your theory of the  
14 case.

15 It's clear to me that both of you want me to  
16 evaluate his credibility, and it's harder for me to do that  
17 when you are trying to embed information which you are pretty  
18 sure he doesn't know that you are asking solely for the  
19 purpose of trying to show what the acts are that supports  
20 your theory.

21 I'm going to suggest that you just ask this guy  
22 some questions. He's not hostile to you. You have called  
23 him as a witness. He's your cooperator. You haven't brought  
24 any action against him.

25 Why don't you let him tell me the story so I can

1 evaluate his truthfulness?

2 MR. KIM: That's a reminder I made to myself this  
3 morning, Your Honor, and I will try to do that.

4 MR. RABIN: Thank you.

5 (In open court:)

6 BY MR. KIM:

7 Q. And after this June 2010 conversation you had with him  
8 and your learning about his trading in Comsys, did  
9 Mr. Schvacho continue to serve as your executor?

10 A. No. I actually changed executors sometime after that.

11 Q. When was the last time you spoke with Mr. Schvacho?

12 A. That would have been shortly after -- shortly after the  
13 June time frame.

14 Q. And why has your relation -- why have you ended  
15 communications?

16 A. Well, I think obviously that issue, you know, kind of  
17 loomed. You know, I'm not sure where you would go with the  
18 friendship after that.

19 Q. When you first joined Personnel Group of America, PGA,  
20 as its CEO in December 2000, January 2001, is that the first  
21 time you had become a CEO of a public company?

22 A. CEO of a public company, yes.

23 Q. And Mr. Schvacho would have been aware of that;  
24 correct?

25 A. There was a news announcement, yeah.

1 Q. And it would have been something you discussed with  
2 him?

3 A. I have no -- I probably would have. I'm sure I would  
4 have told him I was taking the job.

5 Q. And then around I think it's August 2003, when PGA came  
6 to change its name to Venturi Partners -- let me start over.

7 Does August 2003 sound like about the right time when  
8 PGA changed its name to Venturi Partners?

9 A. It sounds about right, because we went through an  
10 out-of-court restructuring at about that same time. I think  
11 the two were very close.

12 THE COURT: I'm going to go back to my comment that  
13 I made to you up here. It's more helpful to me in evaluating  
14 his testimony if you ask him questions like when did it  
15 become Venturi Partners, what did you tell, which for  
16 somebody who is not adverse to you would be a direct  
17 question, which is what you should be asking anyway.

18 But more importantly it allows him to tell the  
19 story and not you. I know your story. I want to hear from  
20 him.

21 BY MR. KIM:

22 Q. Did any other significant events occur with respect to  
23 PGA/Venturi Partners around that same time?

24 A. Like I said, we restructured the company out of court in  
25 that time frame. I believe it was fall of '03.

1 THE COURT: Can you explain to me what you mean by  
2 restructure out of court? Was it in Chapter 11?

3 THE WITNESS: No. We avoided Chapter 11.

4 THE COURT: I see.

5 THE WITNESS: We were a debt-laden company, and we  
6 went into the recession in '01, '02, got hit very hard. We  
7 had 150 million of senior debt and 150 million of  
8 convertible, and we couldn't service it.

9 So we restructured the convertible into equity of  
10 the company, the senior debt we restructured in a senior  
11 facility and avoided Chapter 11. We were a services  
12 business, and taking a services company through Chapter 11 is  
13 difficult.

14 THE COURT: Right. I learned more about him in  
15 that last response than I have learned all morning.

16 BY MR. KIM:

17 Q. Did there come a time, Mr. Enterline, when Venturi  
18 Partners engaged in merger discussions with Comsys?

19 A. Yes, obviously.

20 Q. And when was that?

21 A. It's hard for me to recall. I mean, the first time we  
22 sat down with Comsys, it was a dinner in Charlotte with  
23 myself and the CEO and business development folks, probably  
24 I think after that restructuring, you know, maybe around the  
25 first of the year, late in the year of '03, somewhere in

1 there.

2 And that's a date, if it's important, I'm sure it's a  
3 matter of record.

4 Q. And can you describe generally what your involvement was  
5 in the negotiations and the deal?

6 A. In the merger or the restructuring?

7 Q. The merger.

8 A. The merger? Yeah, I mean, I was obviously at the behest  
9 of the board, you know, leading the negotiating team for the  
10 company.

11 Q. And can you describe for me how involved you were in the  
12 deal? Can you describe how involved you were in the deal?

13 A. I was pretty involved. You know, I was CEO, so, I mean,  
14 I'm not sure what --

15 Q. And how abreast -- how timely were you kept abreast of  
16 the deal and the deal events?

17 A. Fairly timely.

18 Q. Do you recall specifically anything happening  
19 significant in the deal in around October of 2003?

20 A. Not specifically.

21 Q. Would it help to review a document to refresh your  
22 recollection?

23 A. Sure.

24 MR. KIM: May I confer with counsel, Your Honor?

25 THE COURT: Sure.

1           You know, one thing you could do is maybe give him  
2 a little hint, you know, like what is the event and see if he  
3 remembers it.

4           MR. KIM: We are going to move on, Your Honor.

5 BY MR. KIM:

6 Q. Who is David Kerr?

7 A. David was my senior vice president of business  
8 development at Comsys.

9 Q. And in connection with this merger?

10 A. Oh, he would have been heavily involved in it. He was  
11 my business -- the business development guy that I had.

12 Q. What do you mean by business development?

13 A. He's a deal guy. He's the guy that puts deals  
14 together. If we made an acquisition, he would work on that,  
15 or clearly a merger, he would have been involved in the  
16 restructuring.

17 Q. And did you have frequent communications -- when you had  
18 a deal, would you have frequent communications with Mr. Kerr  
19 about what was going on in the deal?

20 A. I generally would.

21 Q. And how often would he keep you abreast of significant  
22 developments?

23 A. It depends on where we were at in the deal cycle. You  
24 know, it could be daily, it could be once a week.

25 Q. If there were a significant development, would he let

1 you know on a timely basis?

2 A. I'm sure, yes.

3 Q. When was the merger of Comsys and Venturi Partners  
4 announced?

5 A. I believe it was -- I'm not sure of the announcement  
6 date. I think it closed in September of 2004. It would have  
7 probably been announced sometime before that.

8 Q. And did you have a home in Charlotte prior to the close  
9 of that merger?

10 A. I did, yeah.

11 Q. And did you come to sell that home?

12 A. I did.

13 Q. When did you sell that home in Charlotte?

14 A. After the deal closed.

15 Q. Was it roughly around the same time as the deal  
16 closing?

17 A. My recollection, it was within a few months.

18 Q. And you testified I believe that you stayed on the board  
19 of the new company?

20 A. Correct, it was -- we renamed it Comsys after that,  
21 Comsys IT Partners, and I remained on the board.

22 We were the surviving legal entity. It was a  
23 merger. They were a little bigger IT business. We put the  
24 two IT businesses together, the same legal entity that we  
25 had, and I remained on the board.



1 Q. And generally speaking, did you have day-to-day  
2 responsibilities after the merger with respect to Comsys?

3 A. No.

4 Q. And did -- with the new company, the new merged company,  
5 did it have a new headquarters?

6 A. Did --

7 Q. I'm sorry. Did this company, Comsys, that, you know,  
8 you stayed on the board of, did that -- where were its  
9 headquarters?

10 A. Houston, Texas.

11 Q. So no longer in Charlotte, the focus of the company?

12 A. Correct. Part of the whole move, the headquarters moved  
13 to Houston. And it was a blend of the management teams, but  
14 the CEO, business development, CFO were all part of Comsys.

15 Q. And after that merger, when you were on the board,  
16 before you became CEO of Comsys again, did you spend a lot of  
17 time in Houston?

18 A. Let me make sure I understand. This is after the merger  
19 when I was on the board but before I came back as CEO? No,  
20 I did not spend a lot of time in Houston.

21 Q. And after -- I believe you already testified to this, I  
22 apologize if I'm asking the question again. But after the  
23 merger, what was your primary residence?

24 A. I moved my primary residence to Houston.

25 Q. Where did you spend most of your time -- after the

1 Comsys merger with Venturi Partners?

2 A. Well, okay, no, this was after. I came back -- I was  
3 back in Georgia.

4 Q. And that was your primary residence until you --

5 A. Correct.

6 Q. Until when?

7 A. When I became CEO.

8 Q. And that was when?

9 A. February of 2006.

10 Q. And around the -- would you have discussed with  
11 Mr. Schvacho around July 2004, September 2004, that you were  
12 no longer going to be CEO?

13 A. Around September -- I mean, it was announced at some  
14 point that I would not be CEO.

15 Q. In September of 2004 you were not CEO?

16 A. Right.

17 Q. And would he have known about that?

18 A. He would have known about it after the announcement.

19 Q. And the announcement was around September 2004?

20 A. I think that's when it closed. I think the announcement  
21 was sometime before that.

22 Q. July of 2004?

23 A. Somewhere in there could be right.

24 Q. So did Mr. Schvacho know that you had moved back to  
25 Atlanta in the fall of 2004?

1 A. After -- yeah, after the closing he would have known  
2 that, sure.

3 Q. Did you come to return as the CEO of this entity,  
4 Comsys? Did you become at some point the CEO of Comsys?

5 A. Yes, in February of 2006.

6 Q. Did you have discussions with Mr. Schvacho regarding  
7 your possibility of return?

8 A. I don't recall any specifically, but I could have.

9 Q. After you become CEO of Comsys, I think you said your  
10 primary residence was in Houston; is that right?

11 A. I moved my primary residence to Houston.

12 Q. But perhaps similar to when you were in Charlotte, CEO  
13 of PGA/Venturi, did you split your time?

14 A. Yes, I did come back to Georgia.

15 Q. On the weekends?

16 A. Sometimes. I spent weekends in Houston. It all depends  
17 on what the business schedule was.

18 Q. Is it fair to say that you had kind of two homes during  
19 that time period?

20 A. Yes, that would be fair to say.

21 THE COURT: I think the evidence is that he had two  
22 homes. It's just not fair to say that. He owned a home in  
23 Atlanta and he owned a home in Houston.

24 THE WITNESS: Actually, Your Honor, I had a home in  
25 Hilton Head also.

1           THE COURT: So he had three homes. The record will  
2 reflect that.

3           MR. RABIN: We will stipulate he had three homes.

4 BY MR. KIM:

5 Q. Did Larry Schwacho know your primary residence had moved  
6 from Atlanta to Houston?

7 A. I believed he would have, sure.

8 Q. During your time as CEO of Comsys, you had board  
9 meetings?

10 A. Yes.

11 Q. And how often -- how much in advance would they  
12 typically be scheduled?

13 A. I believe regular board meetings would be set for the  
14 year.

15 Q. And what about kind of special board meetings, I guess?

16 A. They could come up any time.

17 Q. And when would you generally know -- how many days in  
18 advance would you generally know about a board meeting  
19 occurring?

20 A. Well, regularly scheduled ones, well in advance. The  
21 others would just depend on when they came up.

22 Q. Would you generally know what the agenda was prior to  
23 the board meeting?

24 A. Yes.

25           THE COURT: While he's looking for another

1 question, can you tell me who was on the board after the  
2 merged companies became Comsys and transferred its  
3 headquarters to Houston? Are there any prominent people that  
4 were on the board at the time?

5 THE WITNESS: I wouldn't say prominent. We had --  
6 we had owners -- because we restructured, we ended up with  
7 the bond holders owning a lot of the company, including such  
8 fine folks as MatlinPatterson. So when we did the merger,  
9 they had a representative on the board. Compass, another  
10 large bondholder and private equity firm, had a  
11 member. Comsys was owned 100 percent by what was then  
12 Wachovia Capital Partners, and I think they probably had  
13 three.

14 So it was a very tightly controlled board by the  
15 key holders. And then over time we actually got some more  
16 independent board members on.

17 THE COURT: Would we generally know who some of the  
18 independent board members were that came on to the board,  
19 say, before February of 2010?

20 THE WITNESS: I couldn't remember, you know,  
21 exactly when they came on.

22 THE COURT: So your board was substantially  
23 populated by people who had investments in the company?

24 THE WITNESS: Yes, yes. And the three major guys  
25 were Wachovia Capital Partners at the time, Compass, which is

1 a private equity, and MatlinPatterson.

2 BY MR. KIM:

3 Q. During the period from August 2009 to February 2010, did  
4 Comsys have board meetings relating to the deal?

5 A. Let me make sure I understand. The question again,  
6 please?

7 Q. Sorry, that was a little fast. During the time period  
8 between --

9 THE COURT: What time period?

10 BY MR. KIM:

11 Q. -- August 2009 to February 2010, did Comsys have board  
12 meetings relating to the possible merger with Manpower?

13 A. Yes.

14 Q. And generally were you aware in advance of these board  
15 meetings before they happened?

16 A. Yeah, I would have been aware. Again, we had  
17 regularly-scheduled board meetings in that time frame and we  
18 had some special board meetings.

19 Q. And would you generally -- as a general matter, be  
20 prepared in advance before those board meetings?

21 A. Yes, as a general matter, I tried to be prepared in  
22 advance for board meetings.

23 THE COURT: Were these meetings in person or by  
24 teleconference or --

25 THE WITNESS: It would be both, Your Honor. The

1 regularly-scheduled ones were always in person.

2 THE COURT: I see.

3 THE WITNESS: The special ones could be either  
4 way.

5 BY MR. KIM:

6 Q. And during your time as CEO of Comsys, is it possible  
7 that you might have mentioned to Mr. Schvacho that you had an  
8 upcoming board meeting?

9 A. That's possible.

10 Q. Did there come a time when Comsys engaged in merger  
11 discussions with another company in 2007?

12 A. Yes.

13 Q. So leaving out the specific names, the merger  
14 candidates, I do not want to go into that, can you describe  
15 what occurred in 2007 with respect to that?

16 A. Well, one in particular, we were very close to a deal  
17 that fell apart.

18 Q. So because we are not giving it a name, maybe we will  
19 call it as Party A; is that okay?

20 A. Okay.

21 THE COURT: Well, why do we have to do that? That  
22 was 2007. Is that confidential?

23 MR. KIM: Well, Mr. Enterline's counsel designated  
24 the name of that company as confidential with respect to his  
25 deposition transcript, and we discussed the issue with him

1 before the trial -- Mr. Enterline's counsel is not here --  
2 and he requested I guess that we not mention the specific  
3 name.

4 THE COURT: Well, this is -- the public is allowed  
5 to know what testimony I am relying upon in order to make my  
6 decision, and I know the lawyers are overly cautious, but  
7 I need for you to tell me what you know, and that would  
8 include the name of the company.

9 THE WITNESS: That particular -- we talked to a  
10 couple of companies that year, but the one we were  
11 particularly close with was Spherion.

12 THE COURT: By the way, we have already talked  
13 about Spherion, so it's not like that's a big secret  
14 anymore.

15 BY MR. KIM:

16 Q. What happened with that Spherion merger in 2007, can you  
17 describe it for me?

18 A. Well, we got very close, and then the deal fell apart  
19 I think principally because of the financial markets  
20 seizing.

21 Q. And can you put times on that? When did you get very  
22 close? When were you negotiating and getting very close?

23 A. Again, approximately late July.

24 Q. And approximately when did the deal fall apart?

25 Approximately when did the credit markets freeze? I think



1 that's what you said.

2 A. Well, I was actually sitting in the room with all the  
3 bankers that were going to finance the deal when the  
4 BlackBerries started going off. So it was right then.

5 Q. So right around the late July 2007 period?

6 A. Yes.

7 Q. And did that deal come to end, to terminate?

8 A. Yeah, it didn't end gracefully. You know, we still  
9 tried to put it together for a period of time, but with the  
10 credit markets going kafluey, there was just no way to do  
11 it.

12 Q. And when was that time that the deal kind of ended and  
13 you could no longer do it?

14 A. Well, I think we got the warning signs right at the end  
15 of July, and then we worked probably for, I don't know, two  
16 or three more weeks trying to keep it together.

17 Q. Let's turn to the 2009, 2010 merger with Comsys and  
18 Manpower.

19 A. All right.

20 Q. Can you describe your roles and responsibilities  
21 regarding the merger in the days and months leading up to  
22 it?

23 A. Well, I was obviously CEO of the compnay, so I was  
24 running the company and heading the management team that  
25 negotiated the merger.

1 Q. And so you had extensive -- would it be fair to say you  
2 had significant involvement in the deal?

3 A. Yes.

4 Q. Did you engage in negotiations with respect to the  
5 deal?

6 A. Yes.

7 Q. And would you, generally speaking, be kept abreast of  
8 things that were were going on in the deal?

9 A. Yes.

10 Q. Would you have conversations with board members about  
11 the deal?

12 A. Yes.

13 Q. Other than yourself, can you tell me who the key  
14 Comsys -- were there some other key Comsys people who on the  
15 Comsys side were the most involved in this Manpower/Comsys  
16 merger?

17 A. David Kerr, who was business development, as I said,  
18 Ken Bramlett, general counsel, and Amy Bobbitt was our chief  
19 accounting officer, and then in later stages as it got a  
20 little more operational, Mike Barker, who was my chief  
21 operating officer.

22 Q. And aside from yourself, of those three people -- let's  
23 put aside Mr. Barker for a second, but of those three  
24 people -- including Mr. Barker, of those four people, aside  
25 from yourself, who was the most involved in the deal?

1 A. I would say David Kerr and Ken Bramlett. It would be  
2 hard for me to separate.

3 Q. Would they have different responsibilities?

4 A. Yes.

5 Q. You said Mr. Bramlett is the general counsel?

6 A. Yes.

7 Q. And so what would Mr. Bramlett's responsibilities be?

8 A. Things dealing with the technical aspects of the merger,  
9 agreements, things like that.

10 Q. And what would Mr. Kerr's responsibilities be?

11 A. Valuation. Valuation, you know, the consideration and,  
12 you know, how that was going to work.

13 Q. Did Mr. Kerr get involved in negotiations?

14 A. Yes.

15 We used an investment bank also that did a lot on the  
16 negotiating side.

17 Q. Who was that investment bank?

18 A. R. W. Baird.

19 Q. Generally speaking, would Mr. Kerr have kept you abreast  
20 of significant developments?

21 A. Yes.

22 Q. Could you tell me who Michael Van Handel is?

23 A. Mike is a CFO of Manpower.

24 Q. Now, with respect to your discussions with Manpower, who  
25 was your primary person that you were speaking with at that

1 point?

2 A. When I was directly involved, it would have been Mike.

3 Q. And did you come to have a call with Mr. Van Handel on  
4 October 16th of 2009?

5 A. I very well could have. I can't obviously pick that  
6 date for a call.

7 Q. Would it help refresh your recollection to look at a  
8 document perhaps?

9 A. I mean, I'm fine if that's what the document says.

10 Q. Did you come to have a call -- or do you recall a  
11 conversation or call with Mr. Van Handel on November 6th?

12 A. I can't specifically recall a conversation on November  
13 6th, but it's -- I mean, I'm willing to accept that I had  
14 one.

15 Q. Would it help to look at a document to refresh your  
16 recollection on that?

17 THE COURT: To refresh his recollection on the  
18 content or the fact he had a call? He said if the record  
19 shows he had a call, he's acknowledging that. Or do you want  
20 to show him a document that shows that there was a call  
21 thinking that that would refresh his recollection of what  
22 they talked about?

23 MR. KIM: The latter, Your Honor.

24 THE COURT: All right. I would say that doesn't  
25 work very often, but we can try it.

1           THE WITNESS: There is a fairly detailed chronology  
2 of the deal. I mean, I think it's spelled out, these phone  
3 calls.

4 BY MR. KIM:

5 Q. What would that document be?

6 A. I don't know. I think it was filed in a filing.

7 Q. Would that be the Schedule 14D-9?

8 A. You know, it could have been. Yeah, it exists.

9           MR. KIM: I'm trying to -- hopefully maybe this  
10 will speed things up. I'm going to hand you a binder of  
11 trial exhibits. It's much bigger than it looks.

12           THE WITNESS: Sure.

13           MR. KIM: And I will have you look at one of the  
14 documents.

15           May I approach the witness, Your Honor?

16           THE COURT: You may.

17 BY MR. KIM:

18 Q. Would you turn with me to the Exhibit No. 176?

19 A. Uh-huh.

20 Q. Joint Trial Exhibit 176.

21 A. It's at the bottom of page nine.

22 Q. The November call is at the bottom of page nine?

23 A. The paragraph describes the November 6th call.

24 Q. And this was the document you were referencing; right?

25 A. Yes.

1 Q. And did you have input on this document?

2 A. I would have reviewed it, sure.

3 Q. You believe it to be accurate; right?

4 A. Yes.

5 Q. Now, did you view this -- can you tell me about that  
6 call on November 6th? Do you have any recollection of it  
7 other than what's in there?

8 A. No. I mean, I think that pretty well describes it.

9 Q. Did you view that call as a significant call?

10 A. Yeah. I mean, any call is significant in these kind of  
11 discussions.

12 Q. All right. What did you say to Mr. Van Handel with  
13 respect to what you might discuss with others following your  
14 phone call with him?

15 A. Well, I think I told him I would get to my board, see  
16 what they thought, and get back to him.

17 Q. And who is Frederick Eubank?

18 A. He's chairman of our board.

19 Q. He was chairman of your board at what time?

20 A. At this time, he was a member of Wachovia Capital  
21 Partners.

22 Q. Now, the parties have stipulated that at 1:26 p.m. --  
23 the parties have stipulated that at 12:30 p.m. you had a call  
24 with Mr. Van Handel on November 6th.

25 A. Uh-huh.

1 Q. And the parties have further stipulated that at  
2 1:26 p.m. you had a three-minute call with Mr. Eubank. Can  
3 you tell me about that call?

4 A. I really can't. Probably just describing what had  
5 happened.

6 Q. How often --

7 A. That's my guess.

8 Q. Sorry. How often would you speak with Mr. Eubank?

9 A. When I needed to. He was the chairman, so if there was  
10 something or something -- I was probably putting this, making  
11 sure it was teed up for the board agenda, again, if I had to  
12 look at the timing.

13 Q. Would it generally be significant events when you called  
14 Mr. Eubank?

15 A. Yeah, depending on what it was.

16 I mean, my guess is this was teeing up the board agenda  
17 item.

18 Q. The parties have stipulated four phone calls in the  
19 early evening -- the parties have stipulated four phone calls  
20 in the early evening of November 6th, 2009, with  
21 Mr. Schvacho.

22 A. Uh-huh.

23 Q. Okay. One at 5:48, one at 5:49, one at 6:23, and one at  
24 6:30 p.m. Can you tell me about those phone calls?

25 A. Not specifically. Sounds like either we were getting

1 cut off a lot or we were trying to arrange a place to meet.

2 Q. And was this one of your -- do you remember what night  
3 that was, Friday, November 6th?

4 A. I don't.

5 Q. If I were to tell you it was Friday, does that help  
6 refresh your recollection at all? Does that help jog your  
7 memory?

8 A. I'm then presuming it was a Friday.

9 Q. Just assume for me it's a Friday. Would you consider  
10 this one of your traditional get-togethers?

11 A. It could have been. Again, I can't recall specifically  
12 that Friday. By the phone call pattern, that would sound  
13 like it could have been.

14 Q. Where did you have dinner that evening?

15 A. Oh, I have no idea.

16 Q. The parties have stipulated that there is a receipt that  
17 is signed by you that evening, it's dated and time stamped at  
18 8:53, a receipt from SABistro.

19 A. Uh-huh.

20 Q. Does that help your refresh your recollection?

21 A. No. But if I signed it, I was there.

22 Q. Right. Did Ms. Richards have dinner with you that  
23 evening?

24 A. You know, I can't recall for sure. I would say it's  
25 likely, though, given the fact that it was SABistro.



1 THE COURT: Why do you say that?

2 THE WITNESS: It's not a place that he and I would  
3 have generally gone by ourselves. Generally we would have  
4 had -- that was my better half would have made that  
5 suggestion. That's why I think that's the case.

6 BY MR. KIM:

7 Q. And did Mr. Schvacho -- you believe Mr. Schvacho had  
8 dinner with you that evening?

9 A. I think there is a fair chance of that. Again, I don't  
10 remember the evening specifically, but I would guess there is  
11 a fair chance of that, yes.

12 Q. Do you recall what time you showed up at that dinner?

13 A. No. No, I don't.

14 THE COURT: Can you tell me a little bit about the  
15 restaurant? Just from my perspective, there are a lot of  
16 restaurants I don't go to because they are too noisy, but  
17 occasionally there is a restaurant when we want to have a  
18 conversation with somebody. So I'm trying to get a picture  
19 of SABistro, where it would fit in?

20 THE WITNESS: It's up in Buford, it's a bistro. It  
21 would have been a little louder place on a Friday night.

22 THE COURT: Booths or single tables or what was --

23 THE WITNESS: They had booths and tables. A line  
24 of booths, I think, and then tables kind of on the outside,  
25 if my memory serves me correctly.

1 THE COURT: Could you guess what the seating  
2 capacity was?

3 THE WITNESS: It would just be a guess.

4 THE COURT: Then don't do that.

5 Is it the sort of place where the tables are close  
6 to each other or kind of place where things are separated  
7 quite a bit?

8 THE WITNESS: It was a reasonably dense place.

9 THE COURT: Okay. Thank you.

10 BY MR. KIM:

11 Q. Does SAB have a wine cellar?

12 A. I'm sure they have wine on the menu. They have a wine  
13 store I think nextdoor actually.

14 Q. Do you know whether or not SAB was kind of known for  
15 having a nice wine cellar?

16 A. I don't think they are particularly known for having a  
17 fine wine cellar, no.

18 THE COURT: I mean, it is in Buford, Georgia.

19 THE WITNESS: I was going to say that, Your Honor.

20 THE COURT: I will take credit for that  
21 observation.

22 BY MR. KIM:

23 Q. Now, staying on November 6th -- staying on November 6th,  
24 just reminding us where we are, the parties have stipulated  
25 that beginning at 7:31 p.m., you had an eight-minute phone

1 call with Mr. Kerr.

2 A. Uh-huh.

3 Q. Can you tell me about that conversation?

4 A. You know, again, I remember having a conversation with  
5 David at some point in there driving to a restaurant. That  
6 could have been the conversation, but I can't be 100 percent  
7 sure.

8 Q. You don't know for sure whether it was or wasn't?

9 A. No, but I do remember driving to a restaurant. It could  
10 have very well been that evening.

11 Q. It could have been another evening as well?

12 A. It could have been. I'm sorry.

13 Q. That's okay.

14 Do you know what you would have been discussing with  
15 Mr. Kerr on that evening call, November 6th?

16 A. My guess is --

17 THE COURT: Wait a second. He just said he didn't  
18 remember the date of the call. He said he remembered a call  
19 driving to a restaurant on some date. Do you mean does he  
20 recall what he talked about on his recollection of the some  
21 day call that he had?

22 MR. KIM: Actually I meant to ask if he had a  
23 recollection of the November 6th call.

24 THE COURT: And he told -- you did ask that, and he  
25 said that it could have been on that date, but he doesn't

1 remember. He just remembers the call.

2 MR. KIM: Okay.

3 THE COURT: So that's the problem with your  
4 questions, it is embedding the result that you want. So  
5 let's just let him tell what he remembers.

6 BY MR. KIM:

7 Q. Do you have a recollection of that call?

8 A. No, not specifically.

9 I mean, I could conjecture based on the timing and the  
10 fact it was on November 6th, I could guess that the subject  
11 would have been reviewing potentially my -- the conversations  
12 or the board set-up, or both.

13 Q. At this time in your friendship with Mr. Schvacho, what  
14 was your level of trust with him?

15 A. I trusted him.

16 Q. And would you have been relaxed around Mr. Schvacho?

17 A. I would have been relaxed.

18 THE COURT: Let me ask the elephant-in-the-room  
19 question.

20 In this telephone call that you remember having on  
21 some date, although you don't know when, who was in the car  
22 with you when you were driving talking to Mr. Kerr?

23 THE WITNESS: It was David Kerr.

24 THE COURT: He was in the car with you?

25 THE WITNESS: No, I was on the phone with him.

1 THE COURT: Okay, so he is somewhere else, you are  
2 in the car. Who was in the car with you?

3 THE WITNESS: I was by myself.

4 BY MR. KIM:

5 Q. Is it possible that you spoke with Mr. Kerr during your  
6 dinner with Mr. Schvacho on November 6th?

7 A. It's possible. The call could have come in during  
8 dinner, that's possible, because I can't remember whether it  
9 was the driving call, which I think it may have been, but I  
10 can't be sure.

11 But I can tell you that at 7:31 in the SABistro,  
12 I wouldn't have taken the call at the table. I would have  
13 got up and gone outside. My hearing is not that good as is.

14 Q. Is it possible generally that you might have had calls  
15 with Mr. Schvacho relating to the merger of Manpower --  
16 excuse me. Let me start over.

17 Is it possible that you would have had calls relating to  
18 the Manpower/Comsys merger in the presence of Mr. Schvacho?

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

20 It would have been cryptic on my end. I mean, I take  
21 calls a lot of places. You know, if I got one and I couldn't  
22 say anything, I would say I will call you back or I would  
23 listen.

24 Q. You don't think it is possible at all?

25 A. I may have gotten a call in his presence, but I am

1 pretty sure that it would have been cryptic on my end.  
2 I wouldn't have been openly discussing a merger in front of  
3 him or anyone else when I get a cell phone call.

4 THE COURT: Can you tell me why that is, that you  
5 wouldn't openly discuss a merger?

6 THE WITNESS: Well, because I wouldn't want whoever  
7 is floating around to maybe overhear it, Your Honor.

8 THE COURT: Why would that be a problem? Why were  
9 you sensitive to people not knowing about an event like  
10 that?

11 THE WITNESS: It's a public company.

12 THE COURT: Meaning what?

13 THE WITNESS: Meaning a material event. I mean,  
14 you wouldn't want that getting out, even that there was a  
15 discussion going on, whether it resulted in anything or not.

16 THE COURT: And what's your understanding about the  
17 concern about not allowing material information to become  
18 known to the public with respect to a public company's  
19 activities?

20 THE WITNESS: Well, Reg FD. I mean, you can't --  
21 you know, material information about the company, you can't  
22 let one group of the public know and not another.

23 THE COURT: And do you know what the purpose and  
24 policy is behind Reg FD?

25 THE WITNESS: Yeah. It's to level the playing

1 field, certainly to prevent -- obviously to prevent illegal  
2 trading, you know, if that would go on. A couple of  
3 different good purposes there.

4 THE COURT: All right.

5 THE WITNESS: And it wouldn't just be that.

6 I mean, there are other things material in the business other  
7 than a potential transaction also that would be the same kind  
8 of sensitivity.

9 MR. KIM: Just one moment, Your Honor.

10 BY MR. KIM:

11 Q. Did you come to have a November 11, 2009, board meeting  
12 with Comsys?

13 A. Yes.

14 Q. And what did you discuss at the board meeting?

15 A. Consideration of a possible transaction with Manpower.

16 Q. And at the board meeting, was there a discussion about  
17 the possible range where a deal could be done with Manpower?

18 A. Yes.

19 Q. And was there a conclusion reached as to what a range of  
20 acceptable prices for the deal to have?

21 A. Yes. Again reading from -- which is accurate, seventeen  
22 to twenty dollars.

23 Q. If I may ask you, Mr. Enterline, maybe perhaps not read  
24 for a moment -- if that's okay, Your Honor -- and maybe I  
25 will just ask the questions, and if you can't recall, then we

1 can go back to the document; okay? Thank you.

2 In this deal, was that the first time that the board had  
3 come up with an actual acceptable stock price range in  
4 connection with the Manpower deal?

5 A. I mean, I think the board had talked before kind of in  
6 general of what would be an acceptable valuation in this kind  
7 of transaction.

8 I think in regards to this transaction, that was the  
9 first time it was expressed as a hard range.

10 Q. And did the board make any request of you with respect  
11 to that information?

12 A. I believe it was to go back and -- go back to Manpower  
13 with what would be acceptable.

14 Q. And did you do that?

15 A. I'm certain I did.

16 Q. Did you have --

17 A. I may not have done it. We may have gone back through  
18 the investment bankers to actually go deliver the message.

19 Q. The parties have stipulated that you had a phone call  
20 with Mr. Van Handel where you were advising him of the  
21 seventeen to twenty dollar valuation range on November  
22 12th. So I'm using that as a basis to ask some questions.

23 A. All right.

24 Q. The parties have also stipulated that in connection with  
25 that call, Manpower expressed a willingness to proceed on



1 that basis.

2 A. Uh-huh.

3 Q. Did that willingness to proceed, did that give you some  
4 indication whether Manpower was serious about doing the  
5 deal?

6 THE COURT: I would like to first know if he can  
7 recall being told that they had a willingness to proceed.

8 BY MR. KIM:

9 Q. Mr. Enterline, I'm sorry, do you recall being told that  
10 Manpower was willing to proceed -- I think proceed with due  
11 diligence based on that valuation range?

12 A. I mean, I remember that happening. You know, I have a  
13 memory. I can't remember the exact words that were used on  
14 that call or if it came back through the investment bankers  
15 from a detail standpoint.

16 Q. And after that time, did the parties subsequently engage  
17 in due diligence?

18 A. I don't think at that stage, no. I mean, I would have  
19 to refresh myself to see the exact timing, but I think --  
20 I think there was back-and-forth still going after that, that  
21 time.

22 Q. Did you come to take a boat trip in December 12 through  
23 14, 15, 2009?

24 A. I took a boat trip. I can't remember if those are the  
25 exact dates, but it was in that December --

1 Q. It was in that time frame?

2 A. Yes.

3 Q. And who went on that boat trip -- excuse me, let me ask  
4 this first.

5 Was there any other boat trip you took in that time  
6 frame, December 2009?

7 A. Not trip, no.

8 Q. And who was on that trip?

9 A. Mr. Schvacho.

10 Q. Anybody else on the trip?

11 A. No.

12 Q. Can you kind of lay out chronologically kind of in  
13 summary fashion the events that occurred during the trip,  
14 like where you were, what day?

15 A. Again, I can't recall the dates or the day, but I think  
16 we drove down one day, probably left the next day or the day  
17 after, we overnighted to Fort Myers Beach.

18 Q. To Fort Myers--

19 A. From St. Petersburg, Florida.

20 Q. The parties have stipulated that you paid a dinner tab  
21 at Chateau Elan on the evening of December 11th of 2009.

22 A. It's probably safe to say I wasn't in St. Petersburg.

23 Q. The parties have also stipulated that you had a phone  
24 call with Mr. Schvacho at 5:30 a.m. on December 12th.

25 Does that help refresh your recollection as to when your

1 drive down --

2 A. Sounds like we may have left that morning.

3 Q. And how long is the ride from Atlanta to Tampa -- excuse  
4 me, St. Petersburg?

5 A. Probably seven and a half, eight hours.

6 Q. And do you have an understanding again as to when you  
7 likely arrived in St. Petersburg?

8 A. When we --

9 Q. When you likely arrived in St. Petersburg?

10 A. If we left very early in the morning, we would have been  
11 down there probably late afternoon.

12 Q. So did you carry anything on the boat with you on that  
13 boat trip?

14 A. Yes.

15 Q. What did you carry with you?

16 A. With regards to personal effects or --

17 Q. With regard to business?

18 A. -- boat gear or --

19 Q. With regard to business?

20 A. I would probably have taken my briefcase and phone and a  
21 duffel bag with my clothes.

22 Q. And would Mr. Schvacho have seen you carry the briefcase  
23 on the boat?

24 A. I don't know what he would have seen.

25 Q. Would it help you refresh your recollection to see some

1 investigative testimony on that?

2 A. It could, yeah.

3 Q. I believe you have the investigative transcript. That's  
4 the transcript right there.

5 It's the other document, Mr. Enterline. It's the other  
6 document. Does that say August 30th, 2011, on it?

7 A. Yes.

8 Q. Can you turn with me to page 118 and lines ten through  
9 twelve?

10 A. Yeah.

11 Q. Can you read that?

12 A. Uh-huh.

13 Q. You can read it to yourself, Mr. Enterline.

14 A. Yeah.

15 Q. Can you read that to yourself?

16 A. Again, I'm sure I had it on there and he was likely  
17 aware of it. He would have been likely aware if we were  
18 carrying stuff on the boat, but again I don't know what he  
19 saw. I wouldn't have hidden it, that's for sure.

20 Q. Would you say that you were sure that he saw you  
21 carrying it on the boat?

22 A. I said, well, I'm sure, you know.

23 Q. Sitting here today?

24 A. Yeah, I'm not sure how I would -- sure, because he was  
25 there, right. I'm making a presumption.

1           THE COURT: His testimony back then is exactly the  
2 same as his testimony now. Let's move on. He's saying he's  
3 sure he was because he was carrying it but he doesn't know.

4 BY MR. KIM:

5 Q. Did you carry documents in that briefcase?

6 A. That I'm not -- I don't know what was in the briefcase  
7 for sure. I can't say.

8 Q. Do you have an understanding as to what might have been  
9 in the briefcase?

10 A. It could have been a variety of things.

11 Q. Could it have been deal documents?

12 A. Potentially, yes.

13 Q. Was there some type of locking system or mechanism on  
14 the briefcase?

15 A. Not the one I carried then.

16 Q. And during the boat trip, where was the briefcase  
17 stored?

18 A. Stowed in the forward stateroom.

19 Q. And where was it put in the forward stateroom?

20 A. Probably one of the lockers.

21 Q. And would -- was the locker locked?

22 A. No, they don't lock.

23 Q. And would Mr. Schvacho have had access to the  
24 briefcase?

25 A. He had access to the boat, but -- yes, I mean, he could

1 have had access to it.

2 Q. Did you have any electronic devices with you? You said  
3 you had a BlackBerry; is that right?

4 A. Yes, I did, my cell phone.

5 THE COURT: How many rooms are on this boat?

6 THE WITNESS: It's a 49-foot boat, a forward  
7 stateroom, two afts, two aft staterooms, and a salon in the  
8 middle.

9 THE COURT: And who was staying in what room?

10 THE WITNESS: I stayed in the forward  
11 stateroom. He stayed in one --

12 THE COURT: Because it was your boat and that was  
13 the biggest stateroom, I assume. It was the bigger stateroom  
14 and it was your boat?

15 THE WITNESS: It is my boat and it is considered  
16 the master.

17 THE COURT: That's where I would stay.

18 THE WITNESS: But it's a 49-foot sailboat, so they  
19 are not opulent rooms.

20 THE COURT: And you say the other staterooms --  
21 well, where was Mr. Schvacho?

22 THE WITNESS: In one of the two aft staterooms at  
23 the very stern of the boat.

24 THE COURT: When you say they are separated by a  
25 salon, what do you mean by that?

1                   THE WITNESS: A living room kind of arrangement,  
2 galley.

3                   THE COURT: Okay.

4 BY MR. KIM:

5 Q.    Would you describe that area as open?

6 A.    Yeah, it's open.

7 Q.    We were talking about a BlackBerry you carried on the  
8 boat with you?

9 A.    Yes, that was my cell phone.

10 Q.   Where were you at that time in the progression of the  
11 deal, December 12, 13, 14?

12 A.    I think it was muddling along. I mean, when I say that,  
13 you know, it was kind of in -- the bankers, I think there was  
14 still a little angst going on there back and forth.

15 Q.    Had Manpower gotten back to you as to a price as to what  
16 they might do the deal for?

17 A.    You know, I can't recall. Again, I can refresh by  
18 looking at this.

19 Q.    Would you mind looking at 176 and see if you can recall  
20 that, if that helps refresh your recollection?

21 A.    It looks like we got back on the 14th.

22 Q.    Okay. And going back to the BlackBerry, did the  
23 BlackBerry have any deal-related e-mails on it during the  
24 time of the boat trip?

25 A.    I mean, I can't say exactly, but it would have had

1 e-mails on it, and they could have pertained to the extent  
2 things came over e-mail.

3 THE COURT: Was your BlackBerry protected by a  
4 log-in that you had to enter in order to access your  
5 BlackBerry?

6 THE WITNESS: Not then, it was not.

7 BY MR. KIM:

8 Q. There was no automatic password locking type of  
9 mechanism on that BlackBerry?

10 A. Not in that vintage.

11 Q. Let's go back to the chronology, kind of the time frames  
12 here. I think you said you probably arrived sometime in the  
13 afternoon of December 12th; is that right?

14 A. Uh-huh.

15 Q. And where did you sleep that night?

16 A. We would have slept on the boat.

17 Q. Okay. And where were you? Where was the boat at the  
18 time?

19 A. In St. Petersburg.

20 Q. And did you come to travel from St. Petersburg?

21 A. Yes. We overnighted to Fort Myers Beach.

22 Q. And what time do you think that you left from  
23 St. Petersburg to Fort Myers?

24 A. You know, I don't know exactly. Because we arrived  
25 early morning, I would guess we left probably in the



1 morning.

2 Q. And I think you said you overnighted?

3 A. Yes.

4 Q. So how long would it take you to get from there to  
5 there?

6 A. I would guess that's probably 28 hours or so.

7 Q. And so that would mean that you arrived sometime perhaps  
8 in the morning of December 14th?

9 A. The next day we would have arrived in the morning.

10 Q. The next day.

11 And I think you just testified to this, but did  
12 something significant happen on the Manpower deal? What  
13 happened on the Manpower deal on December 14, 2009?

14 A. Manpower's CFO contacted representatives of Baird and  
15 advised that Manpower was prepared to move forward with the  
16 possible acquisition of the company at a valuation of 17.50  
17 per share.

18 Q. And 17.50 was in that range to seventeen to twenty  
19 dollars that the board had conveyed to you and you conveyed  
20 to Manpower?

21 A. That's correct.

22 Q. You testified earlier that Mr. Kerr was extensively  
23 involved in the Manpower -- you testified earlier that  
24 Mr. Kerr was extensively involved in the Manpower/Comsys --

25 A. He would have been, yes.

1 Q. Would he have likely known of the 17.50 offer price on  
2 December 14th?

3 A. I can't say when we would have been aware of it.  
4 I would presume it's shortly after Baird got the word.

5 Q. Do you recall -- do you recall a phone call on December  
6 14th, 2009, at 1:39 p.m.?

7 A. I don't.

8 Q. Okay. Would a document help refresh your recollection?

9 A. It could.

10 Q. Okay. Can you turn in that exhibit notebook to  
11 Exhibit 158?

12 A. Uh-huh.

13 Q. And if you could turn specifically to page -- I think  
14 there's two Bates numbers on it, the numbers at the bottom  
15 right-hand side of the page, but to the top one I believe,  
16 which is MP 000293?

17 A. Uh-huh.

18 Q. Can you look at the entry -- I think basically these  
19 calls seem to be numbered with items numbers on the left-hand  
20 side. Do you see that?

21 A. Yes.

22 Q. Can you look with me to Item No. 371?

23 A. 371?

24 Q. And can you read that to yourself?

25 A. 371, yes.

1 Q. Does that help refresh your recollection as to whether  
2 or not you recall a voice mail at that time, 1:39 p.m.?

3 A. That's what it says. I assume I'm recalling a voice  
4 mail.

5 Q. The parties have stipulated that after that call, at  
6 1:47 p.m. and then also at 1:57 p.m., you had two calls with  
7 Mr. Kerr; okay? Can you tell us about those calls?

8 A. I can't specifically. I mean, I don't know, but I'm  
9 presuming, given the chain of events we have been talking  
10 about, talking about what that meant, Baird getting back --  
11 Manpower getting back to Baird.

12 Q. So you think the call was about that 17.50 offer that  
13 Manpower had conveyed?

14 A. It very well could have been.

15 Q. That was the day you were on the boat trip with  
16 Mr. Schvacho; right?

17 A. I --

18 Q. The December 14th date, that was the day you were on the  
19 boat trip with Mr. Schvacho?

20 A. I think we landed -- I'm trying to get the dates right  
21 here, but I think based on your chronology that's the day we  
22 landed.

23 Q. Right. You landed that morning; right?

24 A. We would have been on shore.

25 Q. Now, did you come to meet some people during that day?

1 A. Down --

2 Q. Some friends of yours later?

3 A. Yeah, I believe we met David Stamford, who is a friend  
4 and partner, and his girlfriend.

5 Q. Do you remember when you met them?

6 A. What time period? I think we met them for dinner or  
7 late maybe for cocktails or dinner.

8 Q. Dinner on December 14th?

9 A. I'm presuming, if that's --

10 Q. Would it help your recollection to see a document in  
11 that regard?

12 A. Sure.

13 MR. KIM: I apologize, Your Honor, these are not  
14 trial exhibits. I'm just going to hand these to the witness  
15 to refresh his recollection.

16 Would Your Honor like a copy of these?

17 THE COURT: These are just receipts I assume from a  
18 restaurant or something?

19 MR. KIM: Yes.

20 THE COURT: So we are going to see if that  
21 refreshes his recollection about being at a restaurant?

22 MR. KIM: And specifically the day of it,  
23 Your Honor.

24 THE COURT: Well, make sure when you ask him these  
25 questions, because you are being a little loose in using

1 this, say do you independently recall that that was the date  
2 on which you met at that restaurant or are you just reading  
3 it off of it assuming that the document is right. So just do  
4 that.

5 MR. KIM: May I show it to him?

6 THE COURT: Yes.

7 MR. KIM: May I approach, Your Honor?

8 THE COURT: Sure.

9 Is it marked as an exhibit?

10 MR. KIM: It's not.

11 THE COURT: Well, mark it as an exhibit just so we  
12 know what was shown to him to refresh his recollection even  
13 if you are not introducing it.

14 If you use Exhibit 200 we would know that that's  
15 not within the exhibit range.

16 MR. KIM: May I approach?

17 THE COURT: You may.

18 BY MR. KIM:

19 Q. Mr. Enterline, I have handed you two documents which we  
20 have marked as Plaintiff's Exhibit 200 and 201.

21 If you could take a look at Plaintiff's Exhibit 201?

22 A. Uh-huh. Doc Ford's at Fort Myers Beach.

23 Q. Does that help you recall --

24 A. Yes, I do remember that evening.

25 Q. And does it help you recall the date that you had --

1 A. Well, yeah. It's December 14th. I can't tell you what  
2 day of the week that was, though.

3 Q. December 14th dinner in Fort Myers with Mr. Schvacho?

4 A. Yes, Fort Myers Beach, absolutely, so we made it.

5 Q. That was a dinner -- sorry.

6 Do you know what the approximate share price of Comsys  
7 was on December 14th, 2009?

8 A. The --

9 Q. The approximate share price of Comsys on December 14th,  
10 2009?

11 A. I would be guessing a little bit, but the seven dollar,  
12 eight dollar range, somewhere in there.

13 Q. What was the final -- the final deal price that Manpower  
14 and Comsys agreed to in terms of how much Manpower would pay  
15 to buy Comsys?

16 A. I believe it was 17.65.

17 Q. Pretty close to the 17.50 amount that you were notified  
18 about?

19 A. Yes.

20 Q. On December 14th, did you have a lot of Comsys shares?

21 A. Did I have?

22 Q. Yes, sir.

23 A. Yes.

24 Q. And from what you recall, the price had more than  
25 doubled?

1           Let me step back.  Would it help refresh your  
2           recollection as to the share price of Comsys -- would a  
3           document help refresh your recollection of a share price of  
4           Comsys?

5           THE COURT:  Why are we doing this?  To make your  
6           case?

7           He's told you his recollection was in the seven to  
8           eight dollar range, and he told you what the final deal price  
9           was.  Aren't the share prices in the record already?

10          MR. KIM:  Actually they are, Your Honor.

11          THE COURT:  All right.  Move on.

12          BY MR. KIM:

13          Q.  Recognizing -- and I don't want you to disclose the  
14          exact amount, this is something we discussed with your  
15          attorney as well.  Recognizing that, would you stand to make  
16          a lot of money if the deal closes at 17.50?

17          A.  Yes.

18          THE COURT:  And how much would that be about, order  
19          of magnitude?

20          THE WITNESS:  Somewhere in the -- again, I'm  
21          approximating.

22          THE COURT:  Sure.

23          THE WITNESS:  But nine, nine and a half million.

24          THE COURT:  Okay.

25          BY MR. KIM:

1 Q. And as a percentage of your net worth, what would that  
2 be at the time?

3 A. At that time, probably 35 percent, somewhere in there.

4 I would point out, though -- I think you are looking at  
5 liquidity in the stock. In other words, a deal closes, I got  
6 half Manpower stock, half cash.

7 I would point out that I had Comsys stock at twenty-five  
8 dollars a share at one point in time. I would have made a  
9 lot more then or it was worth a lot more then than what  
10 I eventually sold it for.

11 Does that help characterize it?

12 Q. I think so.

13 A. And I also took it from 25 to \$1.56.

14 Q. This was the -- this deal was kind of the culmination of  
15 decades of hard work for you?

16 A. Not really.

17 Q. No?

18 THE COURT: Yeah.

19 A. Some people didn't think I was very bright for going  
20 from 25 to a buck fifty-six, I could assure you.

21 Q. You wouldn't think it a big deal increasing your net  
22 worth by 35 to 40 percent?

23 A. My net worth -- again, I think you are confusing  
24 liquidity with my net worth. I always had -- my net worth  
25 when the stock was at 25 was higher than it was when I sold



1 the company at 17.65.

2 Q. Right. But on December 14 --

3 A. It was up from a buck fifty-six I can tell you, yeah.

4 Q. On December 14, it would have been a substantial  
5 increase in your net worth?

6 A. Sure.

7 Q. And it would have been a big deal for you?

8 A. That's real money.

9 Q. Were you excited?

10 A. I wouldn't say excited, no. I mean, I have been  
11 through this before with companies. I don't think  
12 excitement -- it's a little bittersweet when you are a CEO  
13 selling your company.

14 Q. But it was a big deal?

15 A. I mean, I think the shareholders were happy, so I guess  
16 I would characterize that as a big deal.

17 Q. You were on the boat trip with Mr. Schvacho on December  
18 14th?

19 A. Uh-huh. We actually were -- the 14th I think we were in  
20 port in Fort Myers Beach.

21 Q. And so did you share with your best friend of two  
22 decades this news, this big deal?

23 A. No.

24 Q. Did you share with him in any way that you might make  
25 millions of dollars pretty soon?

1 A. No.

2 MR. RABIN: Your Honor, I'm going to object to the  
3 this. I don't understand the relevance of this.

4 THE COURT: I mean, I think it is relevant. He  
5 said that he hasn't shared any of that.

6 But you might ask him what did he tell him about  
7 this transaction rather than trying to do it through this  
8 obtuse way that you are doing it.

9 BY MR. KIM:

10 Q. Did you tell him anything about your making possibly  
11 millions of dollars on the deal?

12 A. No.

13 Q. More generally, did you ever mention to Mr. Schvacho  
14 that you might be coming into a lot of money soon?

15 A. No.

16 Q. Never a hint of that to Mr. Schvacho? Never a hint or  
17 suggestion of that to Mr. Schvacho?

18 A. No, not regards certainly to this transaction.

19 Q. When was that 17.50 offer price by Manpower disclosed  
20 for the first time publicly?

21 A. The 17.50 or the 17.65 in the deal?

22 Q. The 17.50. The 17.50.

23 A. Probably in these documents when they were filed.

24 Q. And you are referring to the document, Joint Exhibit  
25 176?

1 A. Yeah. I don't think the 17.50. 17.65 was announced  
2 with the transaction.

3 Q. Right, when the deal was announced in February?

4 A. Correct.

5 Q. But the 17.50 wouldn't have come until later?

6 A. I believe that's correct. I don't know of any reason it  
7 would be out there.

8 Q. Are you aware of any rumors or speculation about a  
9 potential purchase price of Comsys around December 14, 2009?

10 A. Not directly, but there were rumors in the industry that  
11 the industry was consolidating, rumors about transactions  
12 generally after --

13 Q. I'm sorry, I interrupted you. Please continue, I'm  
14 sorry.

15 A. Particularly after Lotus was acquired by Adecco, that  
16 stoked a lot of industry rumors.

17 Q. But nothing specifically about Comsys or potential  
18 purchase of Comsys?

19 A. Well, we would be named in them since we were -- you  
20 know, there weren't many standalone IT services platforms.  
21 We were one of them.

22 Q. Does Mr. Schvacho have any close friends at Comsys or  
23 Manpower or Baird other than yourself?

24 A. I'm not aware of any.

25 Q. Assume for me that in December 2009, Mr. Schvacho became

1 aware of the 17.50 offer price. How could he have come to  
2 know that?

3 MR. RABIN: I'm going to object to the question,  
4 Your Honor, on the grounds it calls for speculation.

5 THE COURT: There is no foundation for that.  
6 I sustain the objection. But you could establish a  
7 foundation, if you can.

8 BY MR. KIM:

9 Q. Are you aware of whether or not Mr. Schwacho had an  
10 investment notebook?

11 A. I'm not aware of an investment notebook.

12 Q. Did you ever have any discussions with Mr. Schwacho  
13 about a 17.50 offer price?

14 A. No.

15 Q. On December 19th, 2009, did you come to travel that  
16 day?

17 A. Can I refer to the -- I can't tell you specifically  
18 about December 19th.

19 Q. Would it help refresh your recollection to --

20 A. I think so.

21 Q. Let's look at Exhibit 151.

22 A. 151?

23 Q. Yes, sir.

24 A. Uh-huh.

25 Q. Does that help refresh your recollection as to whether

1 or not you traveled on the 19th?

2 A. Yeah, it looks like I traveled back to Atlanta.

3 Q. And the parties stipulated a call between the two of you  
4 at 8:51 a.m. Do you know maybe what that call was about?

5 A. Between the two of --

6 Q. I'm sorry, between you and Mr. Schvacho.

7 A. No.

8 Q. Just more broadly, do you have a recollection of whether  
9 Mr. Schvacho picked you up at the airport on the 19th?

10 A. I remember him picking me up from Houston. That could  
11 be the day.

12 Q. From the airport?

13 A. I can't remember that day.

14 Q. All right. And with respect to that pick-up, was there  
15 anybody else in the car with you?

16 A. I don't believe so, no.

17 Q. And do you recall where you drove to?

18 A. Probably to either get my car or back to my house, I'm  
19 presuming.

20 Q. Do you recall this being in connection with the boat  
21 trip or the near the end of the boat trip?

22 A. I think, yeah, because we took -- he drove -- I think  
23 I flew out from St. Petersburg and he took my car back.

24 Q. And there was no one else in the car with you, just the  
25 two of you?

1 A. Then, I believe that's correct, yes.

2 Q. When was the deal executed, the Comsys/Manpower deal?

3 A. I think it was announced like the very beginning of  
4 February, maybe February 2nd or 3rd, in there, of 2010. It  
5 would have been right before that.

6 Q. And do you recall a board meeting on January 28, 2009, a  
7 few days before that?

8 A. That would have probably been the final board meeting  
9 potentially approving it.

10 Q. Now, the parties have stipulated about what was  
11 discussed at that board meeting, and one of the items that  
12 was discussed at that board meeting was the completion -- the  
13 reporting of the completion of due diligence; okay?

14 Do you have an understanding as to when the due  
15 diligence was actually completed?

16 A. I would guess shortly before that.

17 Q. And is it --

18 A. Very shortly before.

19 Q. Why would you say very shortly before?

20 A. Because typically you don't want these things, you know,  
21 hanging out. You try to get them announced.

22 So I think as soon as the definitive agreement was in  
23 place and diligence was complete, all that would have come  
24 together at a board meeting where the final go ahead I was  
25 given to announce the deal.

1 Q. All right. Did you come to have calls with Mr. David  
2 Kerr on January 18th, 2009?

3 A. Could I tell you about them?

4 Q. I guess we will start with whether or not you can  
5 recall?

6 A. I can't recall specifically.

7 Q. Would a document help refresh your recollection?

8 A. Sure.

9 Q. Can you turn to Joint Exhibit 161, which I believe are  
10 your phone records?

11 A. Uh-huh.

12 Q. Now, the parties have stipulated with respect to earlier  
13 calls with Mr. Kerr.

14 THE COURT: You know, I do want to explain to this  
15 witness because you use that in such a way that he's supposed  
16 to accept that as true.

17 The stipulation for whatever reason is between two  
18 parties, of which you are not one, that the government and  
19 Mr. Schvacho, who was not an employee of Comsys, have agreed  
20 to certain facts that for the purposes of this case that they  
21 say I can accept as true.

22 But because they believe it's true doesn't mean  
23 that you have to believe it's true.

24 The reason why you are here, although it seems to  
25 be lost sometimes on the government, is I want to hear your

1 story and what you remember, and not for you to believe that  
2 just because they have agreed to something, that it's  
3 necessarily true.

4 So just keep that in mind.

5 THE WITNESS: I understand.

6 MR. KIM: Thank you, Your Honor.

7 BY MR. KIM:

8 Q. Do you know what this document is? Do you have an  
9 understanding of what this document is, Joint Exhibit 161?

10 A. It looks like my phone bill.

11 MR. KIM: The print is so small on these,  
12 Your Honor, I'm going to try to use this ELMO machine to see  
13 if we can blow it up.

14 THE COURT: I can see it. Can you see it?

15 THE WITNESS: I can see it fine.

16 MR. KIM: Oh, you can see it?

17 THE COURT: How much longer do you have?

18 MR. KIM: I don't think that much longer.

19 THE COURT: Because at some point I need to give  
20 Nick a break. We have been going two hours.

21 MR. KIM: This would be a good time to take a  
22 break, probably. I don't have that much more, but it would  
23 be a good time for a break.

24 THE COURT: How do you define not that much more?  
25 Give me a range in minutes or hours or days?



1           MR. KIM: Days? No, not days? Thirty minutes to  
2 an hour, Your Honor.

3           THE COURT: Nick has been going a long time, so  
4 let's take a fifteen-minute break. It's five after, so we  
5 will reconvene at 11:20.

6           Mr. Enterline, you cannot discuss your testimony  
7 with anybody because you are in the middle of it and just  
8 because we are taking a break, that would be improper for you  
9 to do so.

10          All right. We will be in recess for fifteen  
11 minutes.

12                           (A recess is taken at 11:04 a.m.)

13                                   -- -- --

14                           (In open court at 11:23 a.m.:)

15          THE COURT: Mr. Kim, you can continue.

16          MR. KIM: Thank you, Your Honor. I think it will  
17 be much shorter than I anticipated.

18          THE COURT: I will test that representation against  
19 the reality of what happens.

20 BY MR. KIM:

21 Q. Mr. Enterline, other than the events that are on the  
22 14D-9, the Schedule 14D-9 which is Joint Exhibit 176, were  
23 there other events that happened of which you are familiar  
24 between January 18, 2009, and February 2nd, 2010 -- between  
25 January 18, 2010, and February 2nd, 2010, in which you were

1 involved in?

2 A. Nothing comes to mind.

3 Q. Would you have had communications during that time  
4 period?

5 A. Oh, sure, yeah.

6 Q. And meetings as well?

7 A. Yes. Yeah, I mean, outside normal course of business,  
8 I mean.

9 Q. Would you have had communications and meetings in that  
10 time frame relating to the deal?

11 A. I'm sure there was conversations about the deal at that  
12 time frame.

13 Q. Do you recall having a telephone conversation with  
14 Mr. Bramlett on January 18th?

15 A. I can't recall a specific conversation with Mr. Bramlett  
16 on January 18th.

17 Q. A 34-minute call, you don't recall that?

18 A. No.

19 Q. Would a document help refresh your recollection perhaps  
20 on that issue?

21 A. It could.

22 Q. Can you turn in the binder to Joint Exhibit 161?

23 It's the first page of the document. If you could go  
24 down next to the date of 1-18, do you see 4:57 there?

25 A. The date 1-18, 4:57, yes.

1 Q. Does that help refresh your recollection as to whether  
2 or not you had a 34-minute call with Mr. Bramlett at that  
3 time?

4 A. It looks like I did, yeah. I can't recall the contents  
5 of the call.

6 Q. Is that Mr. Bramlett's number? Is that Mr. Bramlett's  
7 number?

8 Did you come to have a call with Mr. Eubank, the  
9 chairman of the board, on January 19th, 2009?

10 A. I can't recall specifically, but if it was in here.

11 Q. Would a document help refresh your recollection on  
12 that?

13 A. It could.

14 Q. Looking at that same page that we were just looking at,  
15 if you could look at January 19th at 10:03 a.m.?

16 A. Uh-huh.

17 Q. Do you see that number there?

18 A. Yes.

19 Q. Do you recognize that number?

20 A. Not specifically. It looks like it could be Wachovia,  
21 though.

22 Q. And Mr. Eubank was with Wachovia?

23 A. Correct.

24 Q. Would a document help refresh your recollection as to  
25 whether or not that's Mr. Eubank's number?

1 A. Yeah, I can't tell you that. My recollection is not  
2 that good.

3 MR. KIM: May I approach, Your Honor?

4 THE COURT: So what is that and why are you going  
5 to use it?

6 MR. KIM: This is a document -- this is a document  
7 furnished by Mr. Enterline during the course of the  
8 investigation, his contacts list, and I'm using it just to  
9 refresh his recollection.

10 If you would like to mark it for clarity of the  
11 record, that would probably be a good idea.

12 THE COURT: Why don't you turn to the page that  
13 it's on rather than go through all that.

14 MR. KIM: I will do that.

15 THE COURT: And show it to him and see if that  
16 helps him. It probably will.

17 BY MR. KIM:

18 Q. And looking at that document, does that help refresh  
19 your recollection that this 7100 number here is  
20 Mr. Eubank's?

21 A. Yes, it looks like it's definitely his. It's Wachovia  
22 Capital Partners, yeah.

23 Q. You can put that document to -- actually, I'm sorry,  
24 don't put it away.

25 Did you come to have a call with Mr. Bramlett -- did you

1 come to have another call with Mr. Bramlett on January 19th  
2 at 1:15 p.m.?

3 A. Uh-huh.

4 Q. You are shaking your head. Is that yes?

5 A. Yes. That's what the record shows.

6 Q. All right. And then -- and that call would be on  
7 JEX 161 at -- to the number 980-322-4772?

8 A. Yes. That's his cell phone.

9 Q. That's his cell phone, right.

10 And on January 19th, 5:19 p.m., did you come to have a  
11 call with Ms. Bobbitt?

12 A. Yes, it looks -- or somebody in Tempe.

13 Q. Right. And was Ms. Bobbitt -- she was one of the key  
14 people that you mentioned before on the Comsys/Manpower  
15 deal?

16 A. She was one of the executives involved in it, sure.

17 Q. You mentioned four people that were key people.

18 A. Principally involved.

19 Q. Right. Would it help refresh your recollection to look  
20 at your contacts list to see --

21 A. I mean, I'm willing to accept.

22 Q. -- if it's Ms. Bobbitt's telephone number? I believe  
23 it's page LE 388.

24 A. Yes.

25 Q. Does that help refresh your recollection?

1 A. That is it.

2 Q. That is it, okay. You can put that aside now,  
3 Mr. Enterline.

4 Mr. Enterline, did you ever disclose information to  
5 Mr. Schvacho about the Manpower/Comsys merger prior to its  
6 public announcement?

7 A. No.

8 Q. Now, is it no or not knowingly?

9 MR. RABIN: Your Honor, I'm going to object.

10 THE COURT: Sustained.

11 BY MR. KIM:

12 Q. Are you certain about that, Mr. Enterline?

13 A. Yes, I am certain that I didn't tell him anything about  
14 the Manpower/Comsys merger.

15 Q. Is it possible that information could have been  
16 communicated directly or indirectly from you to Mr. Schvacho  
17 about the Manpower merger?

18 MR. RABIN: Your Honor, I object. He's asking the  
19 witness to speculate.

20 THE COURT: Sustained.

21 BY MR. KIM:

22 Q. Did you ever at any time discuss nonpublic information  
23 about Comsys to Mr. Schvacho?

24 A. I don't believe so.

25 Q. Is your reputation an important part of your success,

1 Mr. Enterline?

2 A. Yes.

3 Q. And it's still important for you today; is that right,  
4 Mr. Enterline?

5 A. My reputation?

6 Q. Yes.

7 A. Yes.

8 Q. And from a business perspective, were it learned that  
9 you told a spouse or best friend information, even in  
10 confidence, could that hurt your reputation?

11 A. I'm not sure, you know, if I told my spouse, which I  
12 don't have one of, but in confidence and they kept it  
13 confidential -- I mean, I'm trying to see the nature of the  
14 question.

15 Q. Right. What you told that person in confidence and it  
16 got out later somehow that, you know, that maybe the  
17 information was used in some way, would that hurt your  
18 reputation?

19 MR. RABIN: Your Honor, I'm going to object to  
20 this. Mr. Schvacho is not the witness's spouse. This is  
21 truly a hypothetical question.

22 MR. KIM: Actually I asked best friend as well,  
23 Your Honor.

24 THE COURT: The answer to that is not specific  
25 enough to provide any relevant reasonable information that

1 I would consider in this case. It is so untied to the facts  
2 of this case that it's not material and it's not important.

3 BY MR. KIM:

4 Q. Are you familiar with Comsys's insider trading policy?

5 A. I was.

6 Q. And how would you describe it?

7 A. Well, just, I mean, briefly? I don't have it in front  
8 of me.

9 Q. Just generally, how would you characterize it?

10 A. I think it was a very conservative policy on not sharing  
11 material nonpublic information outside of the company.

12 Q. And do you have an understanding as to whether or not it  
13 would prohibit sharing material outside information -- do you  
14 have an understanding as to whether that policy would  
15 prohibit the sharing of material nonpublic information  
16 outside the company irrespective of whether or not that other  
17 person to whom you shared it would use the information or  
18 not?

19 A. Well, actually you have to -- you are in situations  
20 where you have to share material nonpublic insider  
21 information sometimes outside of the company.

22 Q. Sure, okay.

23 A. But --

24 Q. But in terms of friends or say a spouse, do you have an  
25 understanding as to whether or not the policy would prohibit



1 your sharing material nonpublic information to such a person  
2 irrespective of whether they actually used the information or  
3 not?

4 A. I don't have the exact policy in front of me, so I can't  
5 exactly tell you what it says. But, you know, the gist would  
6 be, you know, sharing it where you didn't need to share it  
7 would be a very bad idea.

8 MR. KIM: May I confer with counsel, Your Honor?

9 THE COURT: You may.

10 MR. KIM: No further questions, Your Honor.

11 THE COURT: All right. Defense can examine.

12 -- -- --

13 CROSS-EXAMINATION

14 BY MR. RABIN:

15 Q. Good morning, Mr. Enterline.

16 A. Good morning.

17 Q. I'm David Rabin, I represent Mr. Schvacho. We met a few  
18 months ago at your deposition. How are you doing?

19 A. I remember.

20 Q. How are you doing?

21 A. I have been better.

22 Q. Well, okay, me too. We will be done shortly.

23 I want to ask you a couple of biographical questions and  
24 then we will talk about Comsys; okay?

25 A. Uh-huh.

1 Q. You went to college and you got a Bachelor's degree in  
2 Electrical Engineering; right?

3 A. Yeah, that's correct.

4 Q. Then you got a job, went to work; is that right?

5 A. That's correct.

6 Q. Okay. We can't get the nod of the head down; okay?

7 And then you also got a Master's in Business  
8 Administration; right?

9 A. That's correct.

10 Q. Okay. Now, a little while ago, Judge Duffey asked you  
11 some questions about your understanding of why you are not  
12 supposed to disclose confidential information about a  
13 merger. Do you recall that?

14 A. Yes.

15 Q. And then a minute ago, Mr. Kim asked you about Comsys's  
16 insider trading policy, and you were trying to recollect it,  
17 but you noted you didn't have it in front of you; is that  
18 correct?

19 A. That's correct.

20 Q. Let's see if we can get it in front of you.

21 Do you have a notebook there that has Joint Exhibit  
22 154?

23 A. I do.

24 Q. And that's the Comsys insider trading policy in 2009;  
25 right?

1 A. Yes.

2 Q. And you were aware of that policy in '09; correct?

3 A. Yes.

4 Q. And because of that policy, you tried never to get into  
5 anything that would be material inside information with other  
6 people; right?

7 A. Yeah, outside the company or people that it obviously  
8 had to be disclosed to.

9 Q. And sometimes you were asked about Comsys by analysts  
10 and other folks, and that is something that would happen to  
11 you quite a bit; right?

12 A. Correct.

13 Q. Because you were the CEO?

14 A. Yes.

15 Q. And you tended not to say anything beyond the company's  
16 public announcements; right?

17 A. Yes.

18 Q. All right. So now let's talk about Comsys's insider  
19 trading policy. I'm going to read a couple of sections  
20 outloud. Just follow along as I'm reading, then I am going  
21 to ask you a question about what I just read to you.

22 Up at the very top, you see in the center it says  
23 Policy?

24 A. Uh-huh, yes.

25 Q. I'm going to read the first section, if you will just

1 follow along with me:

2 Under United States securities laws, it is a  
3 crime to buy or sell securities of a company,  
4 including stocks or bonds, while in possession of  
5 material nonpublic information about the company.

6 Furthermore, it is a crime to pass on such  
7 information to others who use it for personal  
8 profit if the information was obtained in the  
9 course of one's employment and disclosure violates  
10 a duty of confidentiality or otherwise owed to the  
11 employer.

12 Corporations and controlling persons could  
13 also be criminally liable unless they take  
14 precautions to prevent violations of those laws.

15 Now, you understood that paragraph of the Comsys insider  
16 trading policy in 2009; right?

17 A. Yes.

18 Q. Okay. Let's go down to the next section. You see the  
19 heading Responsibilities?

20 A. Uh-huh, yes.

21 Q. All right. I'm going to read that one. Not all of it,  
22 just a little bit.

23 If a director, officer, or any employee has  
24 material nonpublic information relating to Comsys  
25 Partners -- excuse me, Comsys IT Partners, Inc.,

1           together with its subsidiaries, the company, it is  
2           the company's policy consistent with the law that  
3           neither that person nor any related person may buy  
4           or sell securities in the company or engage in any  
5           other action or take advantage of that information  
6           or to pass it on to others.

7           Do you see that, sir?

8           A.    Yes.

9           Q.    And you understood that that was the policy in 2009;  
10          right?

11          A.    Yes.

12          Q.    And you understood the importance of following that;  
13          right?

14          A.    Yes.

15          Q.    Okay. I'm only going to read a couple more and then we  
16          will move on to something else.

17                You see about the middle of the page where it says  
18          Definition of Material Information?

19          A.    Yes.

20          Q.    Okay. I'm going to read the first sentence of that.

21                    Common examples of information that is  
22                    frequently regarded as material are projections of  
23                    future earnings or losses that differ from market  
24                    expectations. And then it says news of a pending  
25                    or proposed merger.

1           And you understood that to be the case in 2009; right?

2           A.    Yes.

3           Q.    One more section I want to read and then I will move  
4           on.  Down at the bottom of the page, you see a section  
5           entitled Tipping Information to Others?

6           A.    Yes.

7           Q.    It says:

8                               Whether the information is proprietary  
9                               information about the company, information that  
10                              could have an impact on the company's stock price,  
11                              or nonpublic information about another company  
12                              learned in the course of employment, none of such  
13                              information should be passed on to others.

14           And you understood that to be the policy in 2009;  
15           right?

16           A.    Yes.

17           Q.    Okay.  And did you follow Comsys's insider trading  
18           policy?

19           A.    Yes.

20           Q.    There has been some testimony in this case about an  
21           investment company that you had with a few other folks called  
22           SMI?

23           A.    Yes.

24           Q.    Strategic Management, Inc.  I'm going to ask you a few  
25           questions about it and then I will go on to something else.

1           It was like a holding company that invested in other  
2 companies; right?

3       A.    Yes.

4       Q.    Okay.  And it would acquire various assets; is that  
5 correct?  It would acquire various assets?

6       A.    Yes, private and public.

7       Q.    Okay.  And SMI had everything from operating businesses  
8 to some real estate and some public company investments;  
9 correct?

10      A.    Yes.

11      Q.    And at its peak, depending on how you valued some of the  
12 private equity companies you had, the assets held by SMI were  
13 worth millions of dollars; right?

14      A.    Yes.

15      Q.    And Mr. Schvacho had a company called Millennium  
16 Software or Millennium Technology that you and he merged into  
17 SMI; is that right?

18      A.    Yes.

19      Q.    And over time, you had almost 50 percent of SMI, and  
20 Mr. Schvacho was the second highest at close to 20 percent;  
21 right?

22      A.    I believe those numbers are very close.

23      Q.    Okay.  And ultimately you closed out SMI; is that  
24 right?

25      A.    We did.

1 Q. And during this period -- we have been talking a lot  
2 about this period of August of '09 to January of 2010.  
3 During that same time period, that was the period when you  
4 were deeper into winding up SMI; is that right?

5 A. Yes. It was very actively winding up, which it  
6 continued also --

7 Q. Okay.

8 A. -- past that period.

9 Q. So during that time you were looking at the individual  
10 assets and how to dispose of them or get them to the point  
11 where you could basically cease the operations?

12 A. Yes, to gracefully wind it up.

13 Q. And you discussed those events with your  
14 co-shareholders; correct?

15 A. Yes.

16 Q. Okay. Now, let's talk about your policy concerning  
17 speaking around other people, because that's been touched on  
18 during your testimony.

19 In a moment we will get to your communications with  
20 Mr. Schvacho, but first I want to ask you some questions  
21 about how you respond around other people when they wanted to  
22 talk to you about Comsys.

23 People in passing would ask you how the business is  
24 doing; right?

25 A. Yes.



1 Q. Okay. And you had a standard policy or a practice when  
2 dealing with people when they asked you those kinds of  
3 questions; right?

4 A. Yes.

5 Q. Because they ask you a lot; right?

6 A. You get that question a lot.

7 Q. Okay. And your pattern and practice was just to  
8 generally either echo public comments that you had already  
9 made or just say fine; is that right?

10 A. That's correct.

11 Q. You wouldn't get into more detail than that; correct?

12 A. No.

13 Q. And you do not --

14 A. Now, let me clarify. Again, if it was a shareholder and  
15 you were, you know, into something again that wasn't  
16 nonpublic but questions on the business, obviously you would  
17 go in deeper.

18 Q. Okay. Now, you don't ever recall placing a cell phone  
19 call in the presence of Mr. Schwacho during which you  
20 discussed material nonpublic information about Comsys;  
21 correct?

22 A. I do not recall that, no.

23 Q. Now, let's say that somebody else had called you,  
24 because you can't stop other people from calling  
25 you. Suppose somebody else had called you and Mr. Schwacho

1 was around or somebody else was around, you would be very  
2 guarded; correct?

3 A. Yes.

4 Q. Okay. And when you took calls, you tried to be careful,  
5 didn't you?

6 A. Yes.

7 Q. And if you thought the call was going to involve more  
8 detail, you tried to put off the call; right?

9 A. Yeah, either put it off, listen, or if I could cryptally  
10 handle it from my end, I might listen for a little bit.

11 Q. Okay. So let say you are in the car with Mr. Schvacho  
12 and a phone call comes in about business development and it's  
13 about the merger, potential manager with Manpower. If you  
14 could listen, you would basically say, okay, I can listen  
15 now, and you would listen; right?

16 A. That's potentially correct, yes.

17 Q. But if it was something that required interaction on  
18 your part, you would generally say you'd have to call them  
19 back; right?

20 A. That would be the way I would handle it.

21 Q. Now, before June of 2010 when FINRA contacted you, you  
22 didn't know Mr. Schvacho had traded the stock of Comsys or  
23 PGA or Venturi; correct?

24 A. Correct.

25 Q. And before June of 2010, you never discussed with

1 Mr. Schvacho the fact that he was trading in Comsys stock;  
2 correct?

3 A. That's correct.

4 Q. Now, let's talk about Mr. Schvacho for a couple of  
5 minutes.

6 You first met him in the late '70s when the two of you  
7 were at Reliance Electric; correct?

8 A. That's correct.

9 Q. And then you lost contact with him around '82, and then  
10 reconnected with him in 1990?

11 A. Roughly, '89 or '90.

12 Q. The two of you were in a division of Scientific Atlanta;  
13 right?

14 A. Well, actually I was at a division on the west coast,  
15 and his resume' came across my desk. One of my groups wanted  
16 to hire him.

17 Q. And you thought I know this guy; right?

18 A. Yes.

19 Q. And you said go ahead and hire him; right?

20 A. I did.

21 Q. And once you sort of made that reconnection, before  
22 long, the two of you became good friends. Is that a fair  
23 statement?

24 A. Yes.

25 Q. For the next twenty years or so, you were very good

1 friends; right?

2 A. Yes.

3 Q. Now, let's go up to August of 2009. Let's start around  
4 August of 2009 and then look at the next six or seven months  
5 after that.

6 As far as the frequency of your interaction with  
7 Mr. Schvacho from August of '09 until March of 2010, it  
8 wouldn't have been unusual for you to speak with Mr. Schvacho  
9 two, three, four or even more times a week depending on what  
10 was going on; right?

11 A. Correct.

12 Q. Okay. And in that three, four, five times a week, that  
13 generally would be phone calls; right?

14 A. Generally, yes.

15 Q. Now, for a long time, you and Mr. Schvacho had a  
16 tradition of going out, you would have a beer or a meal on  
17 Friday night when you were in Atlanta?

18 A. Correct.

19 Q. And at this point, late '09, early 2010, you are  
20 probably coming to Atlanta every couple of weeks?

21 A. Yes. I mean, it was not on a synchronous schedule. It  
22 was as business dictated.

23 Q. And if you knew you were going to be coming into  
24 Atlanta, you would get a hold of Mr. Schvacho and say, Hey, I  
25 can make it on Friday, can you make it, that kind of thing?

1 A. Yes.

2 Q. Okay. And so let's discuss what you and Mr. Schvacho  
3 would talk about when you and he would go out for a beer and  
4 you would call him on the phone.

5 Now, at this time, August of 2009 and forward, you are  
6 in the process of winding down SMI to the extent you could;  
7 right?

8 A. Yes.

9 Q. And that would have been one of the things you and he  
10 would talk about; right?

11 A. That would be one of the things.

12 Q. And you'd talk about the performance of SMI's assets; is  
13 that right?

14 A. Yes.

15 Q. You'd also talk about politics and sports and the  
16 economy?

17 A. Yes.

18 Q. You'd talked about stocks being down in late 2009;  
19 right?

20 A. Yes.

21 Q. Okay. They were down, weren't they? All right.

22 And you talked with him about the trajectory of the  
23 economy as a whole in 2009?

24 A. Yes.

25 Q. Okay. And you talked about that quite a bit because it

1 bore on SMI and its investments; right?

2 A. Yes.

3 Q. Okay. Now, you and Mr. Schvacho remained close friends  
4 up until the time of the merger with Manpower; right?

5 A. Well, yes, up until June of that year.

6 Q. Okay. Now, you and Mr. Schvacho also invested in some  
7 stocks, some public company stocks together; right?

8 A. Yes.

9 Q. One of them is called T Triple I?

10 A. Yes.

11 Q. Another was called Wegenner?

12 A. Yes.

13 Q. And you and Mr. Schvacho would discuss overall  
14 investment strategies from time to time?

15 A. Yeah, overall, even more on a particular public company  
16 stock or portfolio of businesses within SMI.

17 Q. Now, you and Mr. Schvacho also discussed whether the  
18 staffing industry was a leading indicator of overall market  
19 trends or directions; right?

20 A. Correct.

21 Q. And you discussed with him the fact that the staffing  
22 industry is a leader up and down of general economic  
23 activity; right?

24 A. Yes.

25 Q. And in your view, information technology staffing, which

1 is what Comsys was in, correlated relatively well with  
2 general economic activity; right?

3 A. Actually, commercial staffing is the leading -- leads up  
4 and leads down. IT services is a little bit later stage.

5 Q. So it will follow the general staffing; right?

6 A. Correct.

7 Q. Okay.

8 A. In normal economic cycles.

9 Q. Okay. And you and Mr. Schvacho talked about that;  
10 right?

11 A. Yes.

12 Q. Okay. And a lot of times you would call Mr. Schvacho on  
13 your cell phone while you were walking to work; right?

14 A. Yes.

15 Q. And you usually would get to your office around 8:30 or  
16 9:00 in the morning?

17 A. Yes.

18 Q. Now, focusing on the period of September of '09 to  
19 February of 2010, when the merger negotiations were going on,  
20 you don't recall in your conversations with Mr. Schvacho  
21 being any more frequent than they were at any other time;  
22 right?

23 A. No.

24 Q. Okay. And in fact, you don't remember any specific  
25 conversations with him during that period; right?

1 A. You mean a specific conversation? No.

2 Q. There has been a lot of talk in this case about a  
3 restaurant in Buford, Georgia, called SABistro; okay? I do  
4 not mean to beat this horse to death anymore, sir, but I do  
5 have to ask you a couple of questions about it, if you will  
6 indulge me, please.

7 You have been to SABistro; right?

8 A. Yes.

9 Q. All right. It's not there anymore; right?

10 A. It's actually closed now.

11 Q. It's closed. And it was up in Buford in  
12 Gwinnett County?

13 A. Yes.

14 Q. Now, do you have a notebook there that has joint  
15 exhibits?

16 A. Yes.

17 Q. Could you please turn to Joint Exhibit 153? I'm going  
18 to try to reconstruct some things.

19 A. One --

20 Q. 153.

21 A. 153.

22 Q. Now, when Mr. Kim was questioning you, he noted that you  
23 had signed a credit card slip at SABistro. I don't think he  
24 actually showed it to you, so that's what I'm doing now.

25 That's a credit card slip you signed at SABistro; is



1 that correct?

2 A. Yes.

3 Q. And I have to take off my glasses. It says November  
4 6th, 2009; right?

5 A. Yes.

6 Q. So it's a pretty good bet you were there that day;  
7 right?

8 A. Yes.

9 Q. Okay. And the amount of the bill was \$167 before the  
10 tip; right?

11 A. Yes.

12 Q. Okay. I'm going to try to reconstruct how many people  
13 were at the dinner, so just play along with me here.

14 There is a range of pricing at restaurants. Is that a  
15 fair statement?

16 A. There is a range of prices, yes.

17 Q. You have been to McDonald's?

18 A. Yes.

19 Q. You have been to Chili's? Been to Chili's or T.G.I.F.?

20 A. Yes.

21 Q. You have been to The Palm?

22 A. Yes.

23 Q. SABistro fell somewhere in between, somewhere in the  
24 middle of those; correct?

25 A. McDonald's and The Palm, definitely.

1 Q. All right. That's a pretty wide range, I understand.  
2 SABistro was a lot less expensive than The Palm; right?

3 A. Yes.

4 Q. Now, you see the amount of the bill before the tip was  
5 \$167. Back in 2009, it would have been difficult for a  
6 single person to go to SABistro and consume eighty-three  
7 dollars' worth of food and drink; right?

8 A. I would think so.

9 Q. Okay. So given that there was \$167 of food and drink,  
10 it seems to you that there would have been more than two  
11 people at that dinner at SABistro; correct?

12 A. That would be reasonable.

13 Q. All right. Now, there has also been a lot of discussion  
14 about this boat trip down to Florida, so I have to ask you  
15 some questions about that as well.

16 Now, you and Mr. Schvacho drive down to  
17 St. Petersburg. You think it was in your car; right?

18 A. I believe so.

19 Q. And you get to St. Petersburg, and then at some point  
20 you get on the boat. This is a new boat you just bought;  
21 right?

22 A. Yeah. Yes, earlier that year.

23 Q. Pardon me?

24 A. Earlier that year, midsummer.

25 Q. Okay. And the idea was you were going to sail down from

1 St. Petersburg to Fort Myers where you were going to dock it;  
2 right?

3 A. Yes.

4 Q. So you and he sail the boat down; right?

5 A. Yes.

6 Q. During the Florida trip with Mr. Schvacho, you don't  
7 recall having any conversations about Comsys and its upcoming  
8 merger with Manpower; correct?

9 A. I don't recall any specific conversations.

10 Q. And you and Mr. Schvacho during that Florida trip did  
11 not discuss the pending negotiations between Comsys and  
12 Manpower; right?

13 A. No.

14 Q. You have no specific recollection of having a call with  
15 a Comsys senior executive about Manpower increasing its  
16 valuation to 17.50 a share in the presence of Mr. Schvacho,  
17 do you?

18 A. No.

19 Q. And if you had conversations on your cell phone with  
20 Mr. Schvacho present, you don't believe you would have used  
21 the word Manpower in front of him; right?

22 A. No.

23 Q. You tried to be careful; right?

24 A. Yes.

25 Q. All right. So you all get on the boat, you start to

1 sail. While you are on the boat, there is no cell phone  
2 coverage, is there?

3 A. When you get offshore there is not.

4 Q. So for at least part of the trip, you can't even get a  
5 call; right?

6 A. Yeah. It was in the middle of the night also.

7 Q. Pardon me?

8 A. In addition to being offshore, it was actually in the  
9 middle of the night, so I don't think many calls would have  
10 been going on anyway.

11 Q. Now, you are in Fort Myers -- well, let me go back in  
12 time a little bit.

13 There were some questions about a briefcase that you  
14 think you had and what may have been in there. Do you  
15 remember that?

16 A. Yes.

17 Q. Okay. And you stowed it in the forward stateroom, you  
18 put it in a locker so it wouldn't get thrown around with the  
19 waves; right?

20 A. Correct.

21 Q. You were in the one part of the boat in the forward  
22 stateroom where your briefcase was, and Mr. Enterline is  
23 clear in the aft part of the boat; right?

24 A. Mr. Schvacho.

25 Q. Excuse me, I beg your pardon, Mr. Schvacho was clear at

1 the other side of the boat?

2 A. That's where we would sleep, yes.

3 Q. Did you ever catch Mr. Schvacho rifling through your  
4 briefcase during that trip?

5 A. No.

6 Q. Did you ever catch Mr. Schvacho looking at stuff on your  
7 BlackBerry during that trip?

8 A. No.

9 Q. At any time whatsoever -- well, strike that.  
10 Mr. Schvacho came over to your house occasionally?

11 A. Yes.

12 Q. Ever catch him looking through your drawers or your  
13 documents?

14 A. No.

15 Q. Ever catch him looking at your cell phone?

16 A. No.

17 Q. No suspicion he ever did that; right?

18 A. No.

19 Q. I think we've established or at least my worthy  
20 opposition established that some few days later, Mr. Schvacho  
21 picks you up at Hartsfield Atlanta Airport and he drives you  
22 back to his house and then you drove back to your house;  
23 right?

24 A. I think that sounds like what would have happened.

25 Q. Okay. While you were sitting there in the car with

1 Mr. Schvacho -- now, you knew that it wasn't going to take  
2 hours and hours to get back to his house; right?

3 A. Yes.

4 Q. Maybe a 30- or 40-minute drive; is that right?

5 A. Somewhere in there.

6 Q. Okay. So during that 30- or 40-minute drive, do you  
7 pull out your cell phone and call one of your business  
8 colleagues and talk about the Manpower acquisition?

9 A. I doubt that I would do that.

10 Q. Pardon me?

11 A. I doubt that I would do that.

12 Q. No reason why you would do that; right?

13 A. I don't think so.

14 Q. Let's talk about communications that you had with  
15 Mr. Schvacho about Comsys, or the lack thereof.

16 You don't recall any specific Comsys issues that you  
17 would have brought up with him; correct?

18 A. No. At most it would have been, you know, I may have  
19 told him if there was a humorous personnel incident or stuff  
20 like that.

21 Q. Okay.

22 A. But nothing of substance in the company.

23 Q. He might ask you how is business going, and you would  
24 say fine?

25 A. Yes.

1 Q. And you never said anything beyond, oh, it's going fine,  
2 no problems; right? You never said anything to him beyond  
3 fine, it's good, no problems?

4 A. No, unless I was telling him a story of something that  
5 happened.

6 Q. Okay.

7 A. We've got several humorous stories that I would relate  
8 to him.

9 Q. Yeah, we have some of those in my law firm, too.  
10 Just for the record, though, the humorous stories you  
11 told him, those weren't inside information, though?

12 A. No.

13 Q. And you don't recall any detailed conversation with  
14 Mr. Schvacho about Comsys's operations; right?

15 A. No.

16 Q. And you don't recall Mr. Schvacho ever trying to ask you  
17 detailed questions beyond generally how the company was  
18 doing; right?

19 A. Nothing in that time stood out to me as being  
20 unusual.

21 Q. Okay. In fact, if Mr. Schvacho had ever tried to drill  
22 down on something about Comsys, you would have found that to  
23 be unusual; correct?

24 A. I would have.

25 Q. Okay. Now, from time to time you sent out analyst

1 reports, which were publicly-available reports by analysts;  
2 is that right?

3 A. Yes.

4 Q. And you'd send them to various people, including  
5 Mr. Schvacho; right?

6 A. Yeah. The only time I remember sending them to  
7 Mr. Schvacho was specifically when they were praising  
8 management.

9 Q. That would include you?

10 A. Well, myself and my team.

11 Q. Okay. You don't recall Mr. Schvacho specifically asking  
12 you for information, though?

13 A. No.

14 Q. Now, you were very public about the fact that in late  
15 '09 you were in an accelerating economy for the staffing  
16 industry and IT staffing in particular; right?

17 A. Yes. We started making public comments to the effect  
18 that we thought we were in a cyclic up-turn probably in late  
19 spring.

20 Q. Late spring of '09?

21 A. '09.

22 Q. Okay. And these are public comments you made; right?

23 A. Yes, on conference calls.

24 Q. Okay. So basically you were on record as thinking that  
25 this was going to be a good time for your type of business;



1 right?

2 A. Yes. And I think through that year successively you saw  
3 the business improving. It would be very consistent with an  
4 up-swing.

5 Q. Are you aware of Mr. Schvacho ever having had access to  
6 any drafts or final versions of the press release regarding  
7 the Manpower merger?

8 A. No.

9 Q. And you don't recall Mr. Schvacho ever asking you when  
10 your next board meeting is going to be?

11 A. No.

12 Q. And he didn't have access to your calendar, did he?

13 A. No. I may have mentioned that I was going to a board  
14 meeting or -- you know, that could have happened.

15 Q. Now, when you saw Mr. Schvacho's name on the FINRA list  
16 I guess it was in the summer of 2010, and you realized  
17 that -- strike that.

18 At that time, you realized you were probably going to  
19 get questioned or something; right?

20 A. Yes.

21 Q. And that's when you told him you should get a lawyer  
22 because I'm getting one?

23 A. Well, actually I called and got some advice, and then  
24 called him back and said you probably need to think about  
25 this.

1 Q. And you hired a lawyer?

2 A. I did.

3 Q. Was that K&L Gates in Washington?

4 A. Correct.

5 Q. Okay. And when you saw his name on the FINRA list and  
6 he confirmed to you that he had bought Comsys stock, you  
7 realized this is -- there are going to be a lot of questions  
8 about this; right?

9 A. Yes. I mean, in a quiet period, you know, a guy  
10 I talked to multiple times a week, yeah.

11 Q. And you were not happy about that, were you?

12 A. I was not happy.

13 Q. Mr. Schvacho, when you were having this conversation  
14 with him, you know, you see his name on the FINRA list, you  
15 call him, you are having this conversation, he told you that  
16 he bought the stock because he knew you and had confidence in  
17 your ability. Didn't he tell you that?

18 A. I think he may have mentioned that.

19 MR. RABIN: Your Honor, may I confer with  
20 co-counsel for a moment?

21 Thank you, Mr. Enterline.

22 I have nothing further at this time, Your Honor.

23 THE COURT: Anything else from the government?

24 MR. KIM: Very few questions, Your Honor.

25 -- -- --

## REDIRECT EXAMINATION

1  
2 BY MR. KIM:

3 Q. Mr. Enterline, can you turn to that document that was  
4 Comsys's insider trading policy that was Joint Exhibit 154?

5 A. Yes.

6 Q. Now, Mr. Rabin read to you the first two paragraphs of  
7 that, but he didn't read the fourth paragraph; right?

8 A. Yes.

9 Q. Can I read that paragraph for you? It says:

10 Disclosure of Information to Others.

11 The company is required under Regulation FD of  
12 the Federal Securities Law to avoid the selective  
13 disclosure of material nonpublic information. The  
14 company has established procedures for releasing  
15 material information in a manner designed to  
16 achieve broad public dissemination of information  
17 immediately upon its release.

18 No director, officer or employee should,  
19 therefore, disclose information to anyone outside  
20 the company, including family members and friends,  
21 or discuss the company or its business on any  
22 internet message board, chat room or any similar or  
23 other forum other than in accordance with those  
24 procedures.

25 Do you have an understanding of what that provision

1 means?

2 A. I believe so.

3 Q. Can you tell me?

4 A. Yes, selective disclosure. In other words, if you got  
5 material information, you can't selectively give it to one  
6 group of people and not give it to everyone.

7 Q. Okay. And would it matter whether or not a, say, family  
8 member or friend used that information for their personal  
9 benefit or not?

10 A. Oh, it would matter.

11 Q. It would matter?

12 A. Yes. I mean, potentially, sure.

13 Q. Let me ask it another way. Would it potentially be a  
14 violation of the policy providing that information to someone  
15 even if they didn't use the inside information for  
16 themselves?

17 A. It could be a violation of this policy, yes.

18 MR. KIM: No further questions, Your Honor.

19 THE COURT: Have you directly or with your lawyers  
20 had any discussions with the SEC and has the SEC made any  
21 promises to you about whether or not you will or will not be  
22 sued or otherwise action taken against you?

23 THE WITNESS: No.

24 THE COURT: You are saying that hasn't happened?

25 THE WITNESS: No.

1 THE COURT: This is just having done this a long  
2 time, is your lawyer down here with you --

3 THE WITNESS: No.

4 THE COURT: -- or are you on your own?

5 All right. I have nothing else.

6 MR. MAYES: We rest, Your Honor.

7 THE COURT: Can we let Mr. Enterline go?

8 MR. ALBERT: Oh, yes.

9 MR. KIM: Yes, Your Honor.

10 THE COURT: So thank you for your testimony.

11 You probably shouldn't discuss -- this is a bench  
12 trial, obviously, there are no jurors, and so I will have to  
13 make a decision. I don't know when I will do that, but you  
14 shouldn't discuss your testimony with anybody until that  
15 happens.

16 THE WITNESS: Right.

17 THE COURT: Because there is always the chance that  
18 something could come up and you would have to be called  
19 back. I think that's highly unlikely.

20 THE WITNESS: I won't discuss it, Your Honor.

21 THE COURT: Thank you.

22 But thank you for being with us, and you are  
23 dismissed.

24 THE WITNESS: Thank you.

25 THE COURT: All right. Call your next witness.

1 MR. MAYES: We rest, Your Honor.

2 THE COURT: All right. Does the defense have any  
3 witnesses?

4 MR. ALBERT: No, we do not.

5 But I would like to make a motion for judgment on  
6 partial findings under Federal Rule of Civil Procedure 52  
7 (c).

8 The SEC has the burden of proving that Mr. Schvacho  
9 received inside information. They have admitted in one of  
10 their interrogatory responses that the only source of inside  
11 information was Mr. Enterline.

12 The SEC has failed to meet its burden on that key  
13 issue, and that failure requires judgment for defendant on  
14 both the SEC's claims under Rule 10 (b) (5) and Rule 14 (e)  
15 (3).

16 THE COURT: Well, there are two kinds of evidence,  
17 direct and circumstantial. The SEC's case is based on  
18 circumstantial evidence, which requires me to make findings  
19 as to credibility of witnesses. And so your motion is  
20 denied.

21 Next?

22 MR. RABIN: Your Honor, we have one witness, which  
23 is going to be Matthew McNamara of the SEC.

24 We have his videotaped deposition, and I am pleased  
25 to be able to report to the Court we did reach an agreement

1 on something here.

2 Originally he had planned to play 88 minutes of  
3 clips, and I think I can cut that down to about eight  
4 minutes, more or less. The SEC has agreed to stipulate to  
5 certain things which makes it unnecessary for us to read the  
6 whole -- to read all the excerpts that we had originally  
7 planned to read.

8 And if it's okay, I would like to go ahead and put  
9 those stipulations into the record.

10 THE COURT: You may.

11 MR. RABIN: Number one, the SEC has no direct  
12 evidence that Mr. Schvacho traded on inside information.

13 Number two, the SEC's case is completely  
14 circumstantial.

15 And three, the SEC does not know the content of any  
16 calls or text messages between Mr. Enterline and  
17 Mr. Schvacho.

18 THE COURT: I think I basically made those  
19 observations yesterday.

20 MR. MAYES: Your Honor, we are willing to stipulate  
21 to those, Your Honor.

22 THE COURT: All right.

23 MR. RABIN: Your Honor, so given that, there was  
24 originally a total of 29 clips we were going to play. We can  
25 now restrict it to Clips Nos. 1 and 2, which is just the

1 general questions so you know who he is, and then Clips 25  
2 and 26. And this really should just take a few minutes.

3 THE COURT: All right. And you have agreed to  
4 these?

5 MR. MAYES: Your Honor, these are -- in particular,  
6 Clip No. 25 was the one that was the subject of our motion  
7 *in limine*, and we would like to preserve that objection and  
8 let Your Honor rule on it in context.

9 My objections are also noted throughout the  
10 testimony, so you can consider them as they come up, if you  
11 like.

12 THE COURT: So remind me -- I remember there are a  
13 couple of things about McNamara. The one that I remember  
14 most was that the defense wanted me to use his testimony --  
15 and I'm assuming he's going to say something to the effect  
16 that they found him to be credible -- that is, Mr. Enterline  
17 to be credible, and that they wanted that to be used as a  
18 party admission.

19 Is that what this clip is about?

20 MR. RABIN: Yes, Your Honor, it is.

21 THE COURT: I'm excluding that.

22 MR. RABIN: Pardon me?

23 THE COURT: I'm excluding that.

24 Because, one, there is nothing here to suggest that  
25 the -- and especially in light of the stipulation -- that



1 they are taking a position that he's not credible. In fact,  
2 I think they put him up with the belief that he is credible.

3 MR. RABIN: Your Honor, may I respond to that  
4 briefly?

5 In essence, in their deposition -- and I don't know  
6 if they will say this today because their theory sort of  
7 evolved as time goes on. They took the position in the  
8 deposition that one of the inferences that they were going to  
9 ask the Court to draw will depend on the Court disbelieving  
10 Mr. Enterline's testimony.

11 THE COURT: Look, you all need to try this case on  
12 the facts. I have listened to the testimony of the  
13 witnesses. I am perfectly capable of evaluating the  
14 truthfulness or untruthfulness of somebody.

15 I don't know the interaction between Mr. McNamara,  
16 I don't know the nature of -- I suspect on this tape that he  
17 doesn't go through the six factors that we instruct jurors  
18 on, which is what I apply in evaluating the credibility of  
19 witnesses. So I don't even know the foundation for his  
20 belief that he was or he was not credible.

21 And I bet money I know more about Mr. Enterline and  
22 Mr. Schvacho's credibility, having listened to them for as  
23 long as I have in this setting as opposed to a deposition or  
24 investigative testimony, and I'm perfectly capable of doing  
25 that.

1           And I am not sure that there is any valid theory  
2 that somebody who makes that statement as a Rule 30(b)(6)  
3 witness, that that would bind them.

4           I don't need it. And even if he came in here and  
5 said he was the most credible person in the world, and even  
6 if they argue that on some respect he should not be  
7 considered credible, I am going to independently fulfill my  
8 obligations to make those determinations.

9           And I do not need and would not -- would not give  
10 any credibility or weight to the testimony of an SEC enforcer  
11 or employee of any kind in what he believes is or is not  
12 credible. I will do that myself as a result of me having  
13 listened to long testimony of both of these witnesses.

14           MR. RABIN: Thank you, Your Honor.

15           We rest, Your Honor.

16           THE COURT: Any rebuttal unpresented evidence other  
17 than stipulations?

18           MR. MAYES: No, Your Honor.

19           THE COURT: I'm trying to think about, you know,  
20 what else, if anything, I would like for you to submit.  
21 Yesterday I said I was still thinking about the form.

22           You all can sit down.

23           I mean, I have got your findings of fact and  
24 conclusions of law. There is not a lot of testimony that has  
25 been taken. There are a lot of documents, but the ones that

1 I think we have -- how many documents have actually been  
2 discussed? Probably less than fifteen out of 190 -- no,  
3 there is probably 250 now that the defendants have provided  
4 me with all of theirs.

5 So the first thing I guess I would like and what  
6 you are going to do is go through all of the documents and  
7 cull down only those, even though admitted, that are in your  
8 view relevant to my decision.

9 And could you do that by noon on Friday?

10 MR. ALBERT: Yes, we can, Your Honor.

11 MR. MAYES: Yes, we can, Your Honor.

12 THE COURT: And what I will do is give you all of  
13 my -- I will somehow mark those so that you will know that's  
14 my copy and that's what I will work from.

15 MR. MAYES: Can I ask you a question about that,  
16 Your Honor?

17 THE COURT: Sure.

18 MR. MAYES: One of the exhibits that we referred to  
19 quite a bit is the stipulated summary chronology. It's like  
20 a table.

21 THE COURT: Just leave that the way it is.

22 MR. MAYES: And my question was do you need the  
23 back-up, because there are cites to pages and various other  
24 documents. Do you need that back-up information in the  
25 documents you consider relevant, or do you want us to take

1 that out?

2 THE COURT: Well, I think what you are -- here is  
3 what I envisioned you doing is that you would select out  
4 those that you are relying on in advocating your various  
5 positions. The others will still be provided, will be  
6 returned to me, and in the event that I'm curious about  
7 something in the chronology, I will be able to go back to  
8 that source document.

9 MR. MAYES: Okay. Thank you, Your Honor.

10 MR. ALBERT: Just to follow up on the last  
11 colloquy, we are fine with the joint summary exhibit, and we  
12 could probably not resubmit fifty some or maybe seventy some  
13 SEC filings and we would just go with the entry on the joint  
14 timeline with the citation to an SEC filing that is publicly  
15 available.

16 Would that be acceptable to the Court, or do you  
17 want us to resubmit?

18 THE COURT: I want them resubmitted, because I'm  
19 not going to tie up my computer going to SEC filings. At  
20 some point I will gather all of that information together and  
21 that way I don't have to run from the computer to the  
22 documents.

23 So I assume they are already somewhere in this  
24 wealth of information you have provided, and so we are going  
25 to have some notebooks that have documents that foot to the

1 chronology, and then there is going to be a smaller subset of  
2 the ones that you think are really important that you are  
3 relying on in your case.

4 And so I will be able to distinguish between those  
5 two, but I will have everything convenient in notebooks, if  
6 I need it.

7 The only thing that might be helpful, although  
8 I haven't made a final decision on this, is the chronology is  
9 obviously helpful since you have agreed to it, but it might  
10 help to have a simpler chart of maybe up to five pages  
11 showing the key dates of -- so rather than saying there were  
12 by these five different conversations and having each of  
13 those listed, you might say five conversations, date of the  
14 merger, and then interspersed with that is when the shares  
15 were purchased, so I can use that as a thumbnail sketch of  
16 the facts.

17 I think all that is is using the chronology and  
18 giving me a workable reference that would allow me to go back  
19 to the chronology if I needed to do that.

20 Is that a hard task? And if so, could I get that  
21 by noon on Friday?

22 MR. MAYES: Your Honor, we have got put together  
23 that we were going to use in kind of closing argument a  
24 demonstrative that basically shows all of those events and  
25 that's basically it.

1           So we can convert that, it's a visual, with the  
2 deal events on the top and trading on the bottom and the  
3 contacts in the middle. We could present that to you as well  
4 as --

5           THE COURT: Well, why don't you try to do something  
6 together.

7           MR. MAYES: Okay, yes, I was going to suggest that  
8 we can provide that to them, and if they want to add things  
9 in or we want to add things in, we could come up with  
10 something.

11          THE COURT: That's a little of what I had in mind  
12 is something that gives me a snapshot of the relative  
13 positions of the parties.

14          And I was going to -- I don't think -- in fact, I  
15 know I don't really need a closing argument. I think  
16 I understand the case and -- in fact, I know I understand the  
17 case. It's a matter now of mulling over it to decide what  
18 the decision would be, and those two specific things will be  
19 helpful in my drafting of the order.

20          Let's see. Anything else?

21          MR. LOOMIS: Your Honor, I know you had mentioned  
22 something in the very beginning about the thought of  
23 supplemental proposed findings or cites to the record. I  
24 don't know if that would be beneficial to you or not?

25          THE COURT: You know, it depends if it makes them

1 longer or shorter.

2 MR. RABIN: It's going to be longer.

3 THE COURT: Pardon me?

4 MR. RABIN: I think he's suggesting something that  
5 would be long.

6 THE COURT: There is just not that much  
7 testimony. I guess if you wanted to do it by -- you know,  
8 I guess -- I don't want you to just produce something, you  
9 know, again, for the sake of producing it.

10 I doubt that that's going to be any more persuasive  
11 to me than what you first submitted or what I will have to  
12 decide based upon what happened here in the last couple of  
13 days.

14 But if you think it would be helpful, if you will  
15 submit those simultaneously by noon on Friday, then I will  
16 accept those. But if you are thinking about now if you say  
17 more, that it will be more convincing, that's --

18 MR. LOOMIS: That wasn't my thought. Just aiding  
19 the Court if having the record cites.

20 But I agree, the record is not that  
21 voluminous. It's more what will help you to reach your  
22 result.

23 THE COURT: Maybe what I could do if I get stuck  
24 somewhere, I can come back.

25 The last thing -- and I do -- I will supplement the

1 record with this, and I want you both to do this  
2 together. The examination about these phone records was not  
3 very precise yesterday.

4 And specifically focused on the one-minute phone  
5 calls, the only reference that Mr. Albert made was that a  
6 hang-up call would be reflected as a one-minute phone call.

7 I have done a lot of wiretap cases, and so I'm  
8 pretty familiar with what the records show, and I have gotten  
9 plenty of phone records myself. I think if you called  
10 somebody and the call was not completed -- that is, either an  
11 answering machine or a person did not connect -- you don't  
12 get charged for that.

13 You suggested that we do. I'm not sure that's  
14 true.

15 MR. ALBERT: For cell phones, I believe that's  
16 true.

17 And we have a stipulation -- reached a stipulation  
18 with the SEC about one-minute phone calls to that effect,  
19 that it was one of three possibilities.

20 THE COURT: I know there is one if it's an  
21 answering machine, yes. If it's a conversation less than a  
22 minute, you always get charged for a minute.

23 And you are saying that if -- so if I called you on  
24 a cell phone and nobody ever connected -- nobody ever  
25 answered it and it didn't go to voice mail, that was --



1           MR. ALBERT: My understanding is all calls on cell  
2 phones go to voice mail. There is always a connection, and  
3 if there wasn't a connection, then it wouldn't show up.

4           THE COURT: I'm not sure about that.

5           MR. ALBERT: But we have stipulated, Your Honor.

6           MR. MAYES: Your Honor, my understanding of that,  
7 of our stipulation, is either they talked for a less than a  
8 minute or a minute --

9           THE COURT: Right.

10          MR. MAYES: -- they left a short voice mail  
11 message, or essentially they hung up on the voice mail  
12 machine. So they might not have left the message is the  
13 other point.

14          THE COURT: Yeah. But there is a completed in the  
15 sense that the receiving instrument becomes active to receive  
16 the message from the sending instrument.

17          But I want you to clarify that, because -- and if  
18 you want to talk to the telephone providers or talk to  
19 somebody who knows the industry and if they say there does  
20 not exist today any cell phone that doesn't have a voice mail  
21 feature, that would probably resolve that, or at least during  
22 the time period in question.

23          MR. MAYES: Okay. Thank you, Your Honor. We will  
24 do that.

25          THE COURT: Anything else before we depart each

1 other's company?

2 MR. MAYES: We don't have anything else,  
3 Your Honor.

4 THE COURT: Anything else from the defense?

5 MR. ALBERT: No, Your Honor.

6 THE COURT: Okay. We will be in recess.

7 (Proceedings adjourn at 12:22 p.m.)

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## C E R T I F I C A T E

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2  
3 UNITED STATES OF AMERICA :  
4 NORTHERN DISTRICT OF GEORGIA :

5  
6 I, Nicholas A. Marrone, RMR, CRR, Official Court  
7 Reporter of the United States District Court for the Northern  
8 District of Georgia, do hereby certify that the foregoing 139  
9 pages constitute a true transcript of proceedings had before  
10 the said Court, held in the city of Atlanta, Georgia, in the  
11 matter therein stated.

12 In testimony whereof, I hereunto set my hand on  
13 this, the 19th day of November, 2013.

14  
15  
16 */s/ Nicholas A. Marrone*

17 \_\_\_\_\_  
18 NICHOLAS A. MARRONE, RMR, CRR  
19 Registered Merit Reporter  
20 Certified Realtime Reporter  
21 Official Court Reporter  
22 Northern District of Georgia  
23  
24  
25