

Four Seasons Lakesites

Exhibit No.: POA-1
Issue(s): Availability Fees
Witness: Nancy Cason
Type of Exhibit: Surrebuttal
Sponsoring Party: Four Seasons Lakesites
Property Owners Association
Case Numbers: SR-2010-0110
WR-2010-0111
Date Testimony Submitted: March 12, 2010

SURREBUTTAL TESTIMONY
OF
NANCY CASON

Submitted on Behalf of
Four Seasons Lakesites
Property Owners Association

LAKE REGION WATER & SEWER COMPANY

Case Nos. SR-2010-0110 & WR-2010-0111

March 12, 2010

FSLPOA Exhibit No. 2
Date 3/30/10 Reporter MM
File No SR-2010-0110 + WR-2010-0111

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of Lake Region Water & Sewer)
Company's Application to Implement a General) File No. SR-2010-0110
Rate Increase in Water & Sewer Service.)

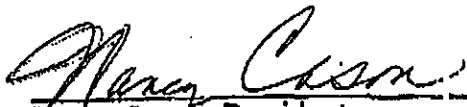
In the Matter of Lake Region Water & Sewer)
Company's Application to Implement a General) File No. WR-2010-0111
Rate Increase in Water & Sewer Service.)

AFFIDAVIT OF NANCY CASON


STATE OF MISSOURI)
) ss
COUNTY OF CAMDEN)

Nancy Cason, of lawful age and begin first duly sworn, deposes and states:

1. My name is Nancy Cason. I am the President of the Four Seasons Lakesites Property Owners Association.
2. Attached hereto and made a part hereof for all purposes is my surrebuttal testimony.
3. I hereby swear and affirm that my statements contained in the attached testimony are true and correct to the best of my knowledge and belief.


Nancy Cason, President
Four Seasons Lakesites Property
Owners Association

Subscribed and sworn to me this 12th day of March, 2010.


Notary Public
Filed No. _____
Date _____
Expiry No. _____

My Commission expires _____

THERESE M. OWENSBY
Notary Public - Notary Seal
State of Missouri
Commissioned for St. Louis County
My Commission Expires: July 20, 2011
Commission Number: 07475068

1 SURREBUTTAL TESTIMONY
2 OF NANCY CASON

3
4 LAKE REGION WATER AND SEWER COMPANY
5 CASE NO. SR-2010-0110
6 CASE NO. WR-2010-0111
7

8
9 Q. PLEASE STATE YOUR NAME AND ADDRESS.

10 A. Nancy Cason, 422 Grand Cove Road, Sunrise Beach, Missouri 65079

11 Q. HOW LONG HAVE YOU LIVED AT THIS ADDRESS?

12 A. Since 1999 when my husband and I built our home.

13 Q. ON WHOSE BEHALF ARE YOU SUBMITTING THIS TESTIMONY?

14 A I am submitting this testimony as President of the Four Seasons Lakesites
15 Property Owners Association ("POA"), an intervenor in this case, with members
16 who live on both the Shawnee Bend and Horseshoe Bend peninsulas. I am also a
17 resident of Porto Cima on Shawnee Bend that would be personally affected by the
18 rate increase proposed by Lake Region Water and Sewer ("Lake Region" or the
19 "Company.")

20 Q. WHEN DID YOU JOIN THE BOARD OF FOUR SEASONS LAKESITES
21 PROPERTY OWNERS ASSOCIATION?

22 A. I joined the Board in 2005.

23 Q. WHAT IS THE PURPOSE OF YOUR SURREBUTTAL TESTIMONY?

24 A. The purpose of this surrebuttal testimony is to respond to the rebuttal testimony of
25 Staff witness James Merciel filed on February 19, 2010. More specifically, the
26 purpose of this surrebuttal testimony is to present the Four Seasons Lakesites
27 Property Owners' Association (Four Seasons Lakesites POA) position regarding

Surrebuttal Testimony of Nancy Cason
Lake Region Water and Sewer Company
Case Nos. SR-2010-0110 and SR-2010-0111

1 water and sewer utility availability charges as discussed in Mr. Merciel's
2 testimony and to provide factual information relating to availability charges being
3 charged to members of the Four Seasons Lakesites POA.

4 Q. HOW MANY PROPERTY OWNERS ARE IN YOUR POA?

5 A. There are approximately 7200.

6 Q. HAS THE FOUR SEASONS LAKESITES POA PREVIOUSLY INTERVENED
7 IN A UTILITY CASE AT THE PUBLIC SERVICE COMMISSION?

8 A. No.

9 Q. WHY DID THE FOUR SEASONS LAKESITES POA INTERVENE IN THIS
10 PARTICULAR CASE?

11 A. The Board of the POA is concerned about the large percentage increase for water
12 and sewer service and the effect it will have on the members of the POA. We
13 believe that the availability fees being paid to Lake Utilities should be used to
14 offset the expenses of Lake Region Water and Sewer Company. Such an offset
15 would negate the need for this rate increase.

16 Q. HAVE YOU READ THE TESTIMONY OF OTHER PARTIES TO THIS
17 CASE?

18 A. Yes I have and I agree with the testimony relating to availability fees in the direct
19 testimony of Office of Public Counsel Witness Robertson and the rebuttal
20 testimony of Staff Witness Merciel.

21 Q. HOW MANY UNDEVELOPED PROPERTIES ON SHAWNEE BEND PAY
22 AVAILABILITY FEES?

1 A. There are currently 1,285 undeveloped lots on Shawnee Bend. All but a few of
2 those lots are charged an availability fees

3 Q. HOW MUCH DOES THE OWNER OF EACH LOT PAY FOR
4 AVAILABILITY FEES AND HOW MUCH IS PAID ANNUALLY?

5 A. Currently, the Availability fees for Shawnee Bend are \$180 per undeveloped lot
6 per year for sewer and \$120 per undeveloped lot per year for water. Even if only
7 1,250 lots are paying the \$300 per year (and we believe more than that are), that is
8 \$375,500 per year that should be considered as revenue to offset expenses.

9 Q. WHEN DID YOU FIRST LEARN ABOUT AVAILABILITY FEES THAT
10 WERE BEING CHARGED FOR UNDEVELOPED LOTS ON SHAWNEE
11 BEND?

12 A. I was not aware of the availability fee charge until after I closed on my property. I
13 learned of the availability fee charge when I received my first bill to pay the fees.
14 Later, I received the *Third Amended Declaration of Restrictive Covenants* (the
15 governing document at the time) which addressed availability fees starting at page
16 18 (see Merciel Rebuttal Attachment 3).

17 Q. ARE THE AVAILABILITY FEES PAID TO LAKE REGION WATER AND
18 SEWER?

19 A. No, they are paid to a company called Lake Utilities Availability

20 Q. IS THAT A SEPARATE COMPANY?

21 A. The name is different but the bills look the same and are paid to the same address
22 and phone number and use the same exact lot number as Lake Region Water &
23 Sewer Company bills (see Merciel Rebuttal Attachment 6).

Surrebuttal Testimony of Nancy Cason
Lake Region Water and Sewer Company
Case Nos. SR-2010-0110 and SR-2010-0111

1 Q. DID YOU ALWAYS KNOW THAT THE AVAILABILITY FEES WERE
2 BEING PAID TO A DIFFERENT COMPANY?

3 A. I never really noticed—I guess because of the similarity of the bills described
4 above. It wasn't until a suit between Camden County Public Water Supply
5 District No. 4 and various concerned property owners at Four Seasons Lakesites
6 that I realized the payments were going to another company.

7 Q. DO YOU REMEMBER WHEN IT FIRST CAUGHT YOUR ATTENTION IN
8 THAT SUIT?

9 A. My most significant memory was when I was reading the transcript of a
10 Deposition of Robert Schwermann, the Water District's financial advisor, that
11 was taken on September 12, 2007 and referred to the availability fees going to
12 Lake Utility. (see Deposition of Robert P. Schwermann in Cause No. 07CM-
13 CC00013, marked as Attachment 1, pages 35-47).

14 Q. ARE THERE UNDEVELOPED LOTS ON HORSESHOE BEND?

15 A. Yes, there are 3,348.

16 Q. DO THOSE LOTS PAY AVAILABILITY FEES?

17 A. Yes, they pay approximately \$87 per year to Ozark Shores for water availability
18 fees, totaling approximately \$291,276, but those availability fees are considered
19 in the revenue of Ozark Shores by the Public Service Commission as I understand
20 it. The undeveloped lots on Horseshoe Bend do not pay availability fees to Lake
21 Region for sewer service.

22 Q. PLEASE EXPLAIN THE CONCERNS OF THE FOUR SEASONS LAKESITES
23 POA WITH THE AVAILABILITY FEES PAID TO LAKE UTILITIES?

1 A. Concerns include:

- 2 1. There are no apparent limits on the amount of the fees;
- 3 2. There is no limitation on the length of time fees can be charged to property
- 4 owners. We have confirmed fees have been charged as far back as 1994;
- 5 3. The property owners' perception was that the fees/revenue were going
- 6 back into the Lake Region Water and Sewer to compensate for the costs of
- 7 the initial development of the water and sewer system, the purchase of the
- 8 company and infrastructure from the previous owners, as well as upgrades
- 9 and improvements to the water and sewer system over the years.
- 10 4. In addition, the property owners believed that the fees might defer any rate
- 11 increases or at least reduce the amount of a rate increase that might be
- 12 needed in the future.

13 Q. WHY DO YOU BELIEVE THE MISSOURI PUBLIC SERVICE

14 COMMISSION SHOULD HAVE REGULATORY AUTHORITY OVER THE

15 AVAILABILITY FEES?

16 A. Every document given to property owners, from the *Sewer and Water Agreement*

17 circa 1995 (see Attachment 7 to Merciel Surrebuttal) to the *Third Amended and*

18 *Restated Declaration of Restrictive Covenants* (see Attachment 3 to Merciel

19 Surrebuttal at pp18 & 19), indicates that the availability charges and any changes

20 thereto will be under the authority of the Missouri PSC or its successors.

21 Q. DO YOU BELIEVE AVAILABILITY FEE REVENUES SHOULD BE

22 INCLUDED IN DETERMINING A RATE INCREASE?

Surrebuttal Testimony of Nancy Cason
Lake Region Water and Sewer Company
Case Nos. SR-2010-0110 and SR-2010-0111

1 A. Yes. I feel that the Missouri PSC should take those fees into consideration and
2 offset the expenses of the Company to lessen the proposed rate increases. I think
3 it is unconscionable that nearly \$400,000 per year in availability fees being paid
4 by customers of the Company are not being used by Lake Region Water and
5 Sewer for support of company revenue, but instead are going to another company,
6 Lake Utilities, and to the owners of that company as well as some to the
7 Developer.

8 Q. DOES EVERYONE ON SHAWNEE BEND SERVED BY LAKE REGION
9 WATER AND SEWER PAY AVAILABILITY FEES FOR UNDEVELOPED
10 LOTS?

11 A. No. To the best of my knowledge, the neighboring areas of Shawnee Bend 6 and
12 the Villages of Shawnee Bend, which are also served by Lake Region Water and
13 Sewer, pay no availability fees even though they have undeveloped lots.

14 Q. ARE THOSE CUSTOMERS INCLUDED IN THE 1285 UNDEVELOPED
15 LOTS DESCRIBED ABOVE?

16 A. No. They are separate and apart from that.

17 Q. WHAT ARE YOU ASKING THE PSC TO DO?

18 A. I believe that fairness dictates that the amount of availability fees should be
19 included in the Lake Region Water and Sewer revenue calculation and as an
20 offset to the expenses of the Company.

21 Q. DOES THIS CONCLUDE YOUR SURREBUTTAL TESTIMONY?

22 A. Yes it does.

ATTACHMENT NO. 1

DEPOSITION OF ROBERT SCHWERMANN
TAKEN SEPTEMBER 12, 2007
IN
CIRCUIT COURT OF THE COUNTY OF CAMDEN, MO
CAUSE NO. 07CM-CC00013

SR-2010-0110 AND WR-2010-0111

SURREBUTTAL TESTIMONY OF NANCY CASON
FOUR SEASONS LAKESITES PROPERTY OWNERS ASSOCIATION

IN THE CIRCUIT COURT
FOR THE COUNTY OF CAMDEN
STATE OF MISSOURI

CAMDEN COUNTY PUBLIC WATER
SUPPLY DISTRICT NO. 4,
RONALD MASSIE, GAYLE
REPETTO, HARRELL DRYDEN,
ROGER SALLEE and RANDY
THOMPSON,

Board of Directors,

vs.

JUDITH NELSON, CURTIS MORGAN,
DONALD BROHM, ROBERT WHITTEN,
NANCY CASON, M.R. BECKER,
and JAMES D. CAVEN,

Voter/Landowner
Petitioners.

10/24/2007
MRB received & determined as S-DW
@ 3:00 PM

Cause No. 07CM-CC00013

September 12, 2007
Sunrise Beach, Missouri

DEPOSITION OF ROBERT P. SCHWERMANN,

a witness, sworn, and examined on the 12th day of
September 2007, between the hours of 8:00 a.m. and
6:00 p.m. of that day at the law offices of Gregory D.
Williams, 16533 North State Highway 5, in the City of
Sunrise Beach, County of Camden, State of Missouri,
before

JENNIFER JOHNSON

Certified Court Reporter No. 1041

CAPITAL CITY COURT REPORTING

JEFFERSON CITY ** THE LAKE ** COLUMBIA

573-761-4350 * 573-365-5226 * 573-445-4142

within and for the State of Missouri, in the
above-entitled cause, on the part of the City of Sunrise
Beach, taken pursuant to notice.

CAPITAL CITY COURT REPORTING

JEFF CITY 573-761-4350 * COLUMBIA 573-445-4142 * The LAKE 573-365-5226

A P P E A R A N C E S

FOR THE CITY OF LAKE OZARK:

GERARD "JAY" HARMS
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Lake Ozark, Missouri 65049
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FOR THE CITY OF SUNRISE BEACH:

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Telephone: 573-374-8761
E-mail: gregwms@charterinternet.com

FOR THE CAMDEN COUNTY PWSD NO. 4:

LARRY R. MARSHALL
Attorney at Law
3500 Hedgewood Court
Columbia, Missouri 65203
Telephone: 573-446-8726
E-mail: lrmarshall@centurytel.net

ALSO PRESENT: John Summers.

SIGNATURE INSTRUCTIONS:

Signature Waived.

EXHIBIT INSTRUCTIONS:

None Marked.

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I N D E X

Direct Examination by Mr. Williams
Cross-Examination by Mr. Harms

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53

CERTIFIED QUESTIONS

Page 42, Line 18

Page 43, Line 7

1 ROBERT P. SCHWERMANN, having first been duly sworn,
2 testified as follows:

3 DIRECT EXAMINATION BY MR. WILLIAMS:

4 Q. State your full legal name for the record,
5 please.

6 A. Robert P. Schwermann, S-c-h-w-e-r-m-a-n-n. My
7 office address is 10777 Barkley, B-a-r-k-l-e-y,
8 Suite 210, Overland Park, Kansas 66211.

9 Q. Mr. Schwermann, where do you reside?

10 A. In Olathe, Kansas.

11 Q. Okay. Do you have a residence at the Lake of the
12 Ozarks?

13 A. No.

14 Q. Okay. You're familiar with an entity known as
15 the Camden County Public Water Supply District No. 4; is
16 that correct?

17 A. Correct.

18 Q. What is your affiliation with that entity?

19 A. I'm the Water District's financial advisor.

20 Q. And how long have you held that position?

21 A. I think we signed the contract around 2003.
22 Somewhere in that area.

23 Q. Okay. Now, what are your duties as financial
24 advisor for the Water District?

25 A. Basically, when they have a need for bond issue

1 funds or lease funds, several different avenues to
2 arrange, you know, financing. We're responsible for
3 developing the official statement, for developing the
4 potential purchases and the securities, to working with
5 the bond counsels to try to develop the best set of
6 possible covenants that we can get, you know, for an
7 underwriting.

8 If a bond election were necessary, we handle the
9 materials for writing up the literature to pass a bond
10 election, to appear before various, you know, public
11 bodies and things like that. Generally, just taking an
12 entity from the time they feel they need funds to the
13 actual point of somebody writing them a check, you know,
14 to receive those funds.

15 MR. MARSHALL: Greg, could I interrupt here just
16 a minute, just to ask him a question?

17 MR. WILLIAMS: Uh-huh.

18 MR. MARSHALL: I don't want this on the record,
19 obviously. Mr. Schwermann, just so there is not any
20 misunderstanding --

21 MR. WILLIAMS: He does want it on the record.

22 MR. MARSHALL: I do want it on the record.

23 So that there's no misunderstanding with either
24 Mr. Williams or Mr. Harms, we met, I guess, one of the
25 two days we were in trial -- in court, that's where I

1 first met you; is that correct?

2 THE WITNESS: Yes.

3 MR. MARSHALL: And on Monday of this week I
4 called you; is that correct?

5 THE WITNESS: Correct.

6 MR. MARSHALL: And at that time, did I advise you
7 that I represent the Public Water Supply Direct No. 4?

8 THE WITNESS: Correct.

9 MR. MARSHALL: And that I did not represent you
10 personally?

11 THE WITNESS: Correct.

12 MR. MARSHALL: And did I advise you that if you
13 chose to have an attorney of your choice, you could have
14 one here today if you made that decision; is that right?

15 THE WITNESS: That's correct.

16 MR. MARSHALL: And you have voluntarily agreed to
17 come here today and appear without counsel; is that
18 correct?

19 THE WITNESS: That is correct.

20 MR. MARSHALL: Okay.

21 MR. WILLIAMS: Is that all, Larry?

22 MR. MARSHALL: Yup. That's it.

23 MR. WILLIAMS: All right. Thank you.

24 MR. MARSHALL: I just wanted to clarify that so
25 you two would understand. I didn't get a chance to tell

1 you beforehand.

2 BY MR. WILLIAMS:

3 Q. Mr. Schwermann, in light of some of the questions
4 Mr. Marshall asked you, let me back up a little bit and
5 cover some bases here. My name is Gregory Williams. I
6 represent the City of Sunrise Beach with respect to a
7 lawsuit pending, in which the Camden County Water Supply
8 District No. 4 has requested to annex some territory.

9 A. Correct.

10 Q. Also in the room with us here is Jay Harms. He
11 represents the City of Lake Ozark also in that
12 litigation. And, of course, Mr. Summers is an employee
13 of the Water District as well.

14 Have you had your deposition taken before?

15 A. Many, many, many years ago.

16 Q. Okay.

17 A. More than I'd like to say.

18 Q. All right. Generally, the purpose of a
19 deposition is to find out information which is relevant
20 to issues in a lawsuit.

21 A. Okay.

22 Q. I will be asking you a series of questions, as we
23 have started down that path.

24 A. Uh-huh.

25 Q. It's important that you wait for me to finish the

1 question and then begin your answer, and I, likewise,
2 will wait to allow you to answer before I start the next
3 question, in order that our court reporter here is able
4 to make a clear transcript of what's transpired, so we
5 don't talk over each other, so to speak. Is that
6 agreeable with you?

7 A. Correct. Sure.

8 Q. And the questions I'm going to ask are designed
9 to find out information that's relevant. If at any time
10 a question is not clear to you, what information I'm
11 asking for, or if you're confused or uncertain, would
12 you please just ask me to repeat or rephrase the
13 question, so you do understand what I'm asking you?

14 A. Yes.

15 Q. So that if you answer a question, we can agree
16 then that before you started your answer, you understood
17 what was being asked of you, okay?

18 A. Okay.

19 Q. All right. Now, it is important also that we
20 speak in a somewhat formal manner, in the sense that we
21 say yes and no, as opposed to uh-huh or huh-uh, because
22 the way that the court reporter types that down may or
23 may not mean what you intended later. Is that agreeable
24 with you?

25 A. Yes.

1 Q. All right. Very good, sir. Now, on the last
2 series of questions I asked you, you used the word "we"
3 repeatedly, as opposed to you as financial advisor to
4 the District.

5 A. Uh-huh.

6 Q. Who is we?

7 A. That's probably a misnomer. I mean, I --

8 Q. Okay.

9 A. I guess when I say we, I just think in terms of
10 Ranson & Company, but I am the only person that
11 officially advises the Water District.

12 Q. Okay. You have a company that you're affiliated
13 with called Ranson Financial Corp; is that correct?

14 A. That is true. Yes.

15 Q. And is that -- is there anyone involved in that
16 company other than you?

17 A. Yes. I am -- there's four principle partners.
18 I'm 25 percent. My son is 25 percent; that's William
19 Brian Schwermann. A gentleman named Jack Ranson,
20 where the name Ranson Financial Corp comes from, has
21 25 percent. And another gentleman by the name of
22 John Haus, who does a lot of analytical work for us on
23 refunding bond issues and things like that, has
24 25 percent.

25 Q. Okay. So the business of Ranson Financial

1 Corporation would be?

2 A. Financial advisory to cities, water districts,
3 entities at issue, you know, public purpose, municipal
4 debt.

5 Q. Okay. Does that company also underwrite those
6 offerings?

7 A. No.

8 Q. Okay.

9 A. No. We do no underwriting.

10 Q. Do you have existing relationships with
11 underwriting companies?

12 A. Only in the sense that when we have a bond issue,
13 we will contact -- and it depends upon the
14 municipality's direction to us on how they want to sell
15 the bonds. There's two ways. One is, you can do a
16 negotiated issue. The other way, you can do a public
17 sale.

18 If we do a public sale, then we're responsible,
19 like I sort of indicated before, to help write the
20 documents that are all distributed to any number of
21 underwriters. It might be 10. It might be 200, you
22 know. In -- in a negotiated sale, we generally are
23 responsible for contacting who we believe are the most
24 logical underwriters for that particular type of issue,
25 and this may be anywhere from three to four.

1 Typically not a real huge amount. But the ones
2 that we feel can do the best job of selling that
3 security, who can give us what we believe are the best
4 interest rates and the best terms. And a lot of times,
5 terms are very important and it's one of the things that
6 many cities sort of ignore. They look at, here's the
7 interest rate, oh, that's our best deal. It might be.
8 It might not be. Your ability to issue additional debt,
9 the covenants, things like that are very important in a
10 bond issue.

11 Q. All right. How old are you, sir?

12 A. Sixty-six.

13 Q. All right. And how long have you been in the
14 financial advisory and bond business?

15 A. Since '64.

16 Q. Okay. Now, Mr. Schwermann, do you have any
17 existing business relationships with Roger Sallee, other
18 than in his position as president of Public Water Supply
19 District No. 4 of Camden County?

20 A. Yes.

21 Q. And what is that business relationship?

22 A. It's a former business relationship.

23 Q. Okay.

24 A. Other than him being president of the Water
25 District Board. I probably have to take you back to

1 when I became an original owner of Ozark Shores Water
2 Company, which was -- and I've got some dates. I want
3 to make sure that I don't misrepresent a date. I
4 purchased my particular shares in Ozark Shores in 1999. ✓

5 It is my understanding that when the Ozark Shores
6 Water Company was originally formed, which I think was
7 in 1992 -- and it was formed to purchase the water
8 company from the Four Seasons Group. In 1992 there
9 where the Greenstreets, which was the Green family,
10 owned, I think, 65 percent. That's when they purchased
11 from the Four Seasons Group.

12 The Green family owned 65 percent. Vern Stump
13 owned 25 percent, who is my, you know, associate in
14 other water companies. Then there were four other
15 gentlemen that owned very minor participations. A John
16 Dunn, a Jim Swearingen, a Jack Baker and a Roger Sallee.

17 MR. MARSHALL: I'm -- just so it's clear, I'm
18 going to object to the answer he's given, because it's
19 not a direct response to your question about his
20 relationship with Roger Sallee.

21 MR. WILLIAMS: Okay. Well, I think it is, but
22 we'll ask another question.

23 MR. MARSHALL: I understand.

24 BY MR. WILLIAMS:

25 Q. If I understand what you've laid out for us,

1 Mr. Sallee owned stock in Ozark Shores from 1992 at
2 least up until the time that you acquired stock in the
3 company; is that correct?

4 A. When -- when we purchased the company, we
5 purchased all the stock except for the four gentlemen
6 who owned very minor portions. It accumulated to about
7 ten percent.

8 Q. And those four, did that include Mr. Sallee?

9 A. Yes. Yes.

10 Q. Okay.

11 A. I don't know the exact split-up. It was about
12 ten percent. I assume each had two-and-a-half percent.

13 Q. Okay.

14 A. Very minor portions.

15 Q. So when you bought Ozark Shores, Mr. Sallee
16 continued to own stock in the company?

17 A. Yes. Yes. Until 2001.

18 Q. Okay.

19 A. We bought out Mr. Dunn and Mr. Swearingen in
20 2000. We bought out Mr. Baker and Mr. Sallee in 2001.

21 Q. All right. And is there any other business
22 relationship that you have with Mr. Sallee at this
23 point?

24 A. Mr. Sallee owned the building that Ozark Shores
25 officed out of when -- when we purchased the company,

1 and also when we purchased his stock. And shortly after
2 that we purchased the building from him.

3 Q. Okay.

4 A. And he has a note that he and his wife carry back
5 on the building. That is to expire in about eight
6 months, and we'll probably go get a bank loan and just
7 carry that from that point on.

8 He also rents -- in the building that we have, he
9 also rents a very small portion of space in the back
10 that he pays, like, \$200 to store parts and things for
11 his water cars, whatever they are.

12 Q. Okay. Any other business relationships with
13 Mr. Sallee?

14 A. No business relationships of any kind. No
15 understandings, no -- no entanglements, no stock
16 ownership somewhere else in some other state. We have
17 zero relationship. Other than he's president of the
18 board in the Water District.

19 Q. Now, with respect to Randy Thompson, you're
20 familiar with him as well; is that correct?

21 A. Yes.

22 Q. Do you have business relationships with him?

23 A. No.

24 Q. And with respect to Dr. Ronald Massie, do you
25 have any business relationships with him --

1 A. No.

2 Q. -- other than through the Water District?

3 A. Or any other board member.

4 Q. Okay. So that would include Harrell Dryden and
5 Gayle Repetto also?

6 A. Correct.

7 Q. All right. Now, Mr. Summers, who is listed as
8 the manager of the Water District, do you have any
9 business relationships with him?

10 A. No. No. We own no properties jointly or
11 anything like that.

12 Q. Okay. With respect to -- is he employed by any
13 corporations in which you are a shareholder?

14 A. We own a small water utility. I think it has
15 65 or 100 customers, which is a remnant of a utility --
16 large utility that we owned up in the Chicago area, and
17 John runs that for us.

18 Q. And what water company is that?

19 A. Can I ask John the official name of that company?
20 John?

21 MR. SUMMERS: Is that okay?

22 MR. WILLIAMS: Absolutely.

23 MR. SUMMERS: The official name is Northern
24 Illinois Investment Group. We call it the Fairhaven
25 Water Subdivision.

1 THE WITNESS: Yeah. That's what I was going to
2 say. It's a very small subdivision up by a town called
3 Barrington in Chicago.

4 MR. WILLIAMS: Okay.

5 MR. HARMS: Fairhaven Water District.

6 MR. SUMMERS: We call it Fairhaven Water Company.
7 We just use the name of the subdivision.

8 MR. HARMS: This is in northern Illinois.

9 BY MR. WILLIAMS:

10 Q. All right. Any other companies that you're
11 involved with that employ Mr. Summers?

12 A. No.

13 Q. All right. Have you ever employed Mr. Summers
14 through any of your corporations, other than the one
15 you've testified to?

16 A. No.

17 Q. All right. Also listed in the minutes of the
18 Water District is David Crable (phonetic spelling) as
19 the district engineer.

20 A. Correct.

21 Q. Are you familiar with Mr. Crable?

22 A. Yes.

23 Q. Do you have any business relationships with him,
24 other than through his water district?

25 A. No.

1 Q. Have you ever had any?

2 A. No. I don't believe Mr. Crable's ever been an
3 engineer over one of my projects.

4 Q. Okay. And then it lists as a representative of
5 Ozark Shores Water Company Vernon Stump?

6 A. Yes.

7 Q. Do you have any business relationships with
8 Mr. Stump?

9 A. Yes, I do.

10 Q. And what would those be?

11 A. We've been partners in a number of water
12 companies that we've owned over the years. Like I
13 mentioned, we had one up in Chicago that we sold to the
14 City of Glenview. We were partners in a company that
15 served the City of Great Bend, Kansas -- the water
16 system in Great Bend, Kansas. We own -- and by we, I
17 guess I should say his wife and I, rather than Vern,
18 because I think Vern -- and I don't know why his wife
19 owns the stock rather than Vern. Maybe estate purposes.
20 I don't know. I don't know. But -- so when I say
21 Vern -- when it comes to ownership, I think I'm
22 referring to his wife Sally more than it is Vern.

See
page
34

23 Q. Would it be accurate to say that your business
24 interactions are with Mr. Stump, although the ownership
25 may be in the name of Ms. Stump?

1 A. Yes.

2 Q. All right.

3 A. Yes.

4 Q. Okay. What other entities do -- you were making
5 us a list there?

6 THE WITNESS: I'm trying to think. John, can you
7 think of anything else we've owned together?

8 MR. SUMMERS: Go through those again.

9 THE WITNESS: We owned the Great Bend system, it
10 also, as a company, because we bought it from another
11 private utility -- Beacon Electric Company. It owned
12 four little tiny towns also, which since we owned Great
13 Bend, it just came in the package. Clearwater -- I just
14 don't remember. There were little tiny towns. Malvane
15 (phonetic spelling).

16 BY MR. WILLIAMS:

17 Q. Well, you speak of these as though they were in
18 the past. I take it --

19 A. They are in the past.

20 Q. -- you no longer own those?

21 A. Yes, we have sold those.

22 Q. Do you have any current investments with
23 Mr. Stump or his wife?

24 A. The three water companies we have right here.

25 Q. Okay.

1 A. Ozark Shores --

2 Q. And those would be what?

3 A. Sorry. I almost talked over you.

4 Q. She'll throw something at you if it gets too bad.

5 A. Ozark Shores, Lake Region and the Meadows.

6 Q. Okay. And how long have you and Mr. Stump owned
7 an interest in Ozark Shores Water Company?

8 A. Since 1999.

9 MR. MARSHALL: Let me object to the form of the
10 question, because I think he said the ownership was in
11 Sally Stump, rather than Vern Stump.

12 BY MR. WILLIAMS:

13 Q. How long have you and the Stumps owned an
14 interest in this company?

15 A. Since 1999.

16 Q. And then with respect to Lake Region Water and
17 Sewer Company, how long have you and Mr. and Ms. Stump
18 had an interest in that entity?

19 A. 2004.

20 Q. And then you mentioned another company called the
21 Meadows Water Company?

22 A. Right.

23 Q. And that is a utility company that operates in
24 the vicinity of Springfield, Missouri?

25 A. Yes. Yes.

1 Q. And how long have you and Mr. and Ms. Stump had
2 an interest in that company?

3 A. I think we bought -- I'm not specific on that
4 date, but it would have been '99 or 2000. Somewhere in
5 that range. We've owned it five or six years, wouldn't
6 you say, John?

7 MR. SUMMERS: Uh-huh. Yes.

8 MR. WILLIAMS: Okay.

9 MR. MARSHALL: Sorry. You're not under oath and
10 you're not on this transcript, so you don't have to
11 answer to her.

12 MR. WILLIAMS: We appreciate your effort to
13 assist Mr. Schwermann in getting his answers correct.

14 THE WITNESS: That's all I'm interested in, is
15 that the answers be correct.

16 BY MR. WILLIAMS:

17 Q. Now, tell me about the business dealings between
18 Lake Region Water and Sewer Company, Ozark Shores Water
19 Company, the Meadows Water Company and the Public Water
20 Supply District No. 4 that you -- as you understand
21 them, please.

22 A. When you say dealings, I assume you mean business
23 relationships --

24 Q. Yes.

25 A. -- which is all we would have.

1 Q. Uh-huh. *CCFWD#4*

2 A. The Water District, what I would call, operates
3 those facilities for us. They provide the people,
4 equipment, you know, just whatever's necessary to
5 operate those facilities for us.

6 Q. Okay. And you're talking about all three of the
7 water companies?

8 A. Correct.

9 Q. So your understanding is that Camden County
10 Public Water Supply District No. 4 is the operator of
11 the water and sewer systems owned by the three utility
12 companies that you and the Stumps own; is that a
13 correct --

14 A. Correct.

15 Q. -- statement?

16 A. That is correct.

17 Q. All right. And how long has the Water District
18 operated those companies?

19 A. I think since about 2002.

20 Q. Okay. Were you involved in setting up that
21 operating arrangement?

22 A. It was actually suggested by Mr. Summers that --
23 the Water District is small, and it would be beneficial
24 for everyone if the Water District could benefit from
25 the knowledge that our employees have, the capabilities

*OBAMA SUMMERS
LARRY RETAM
MORGANS*

1 of, you know, our personnel, the staff, the benefits
2 that would accrued to the employees are better than what
3 have, because they could come under the State's law
4 program and stuff like that. 2

5 MR. MARSHALL: Well, I'm going to object, because
6 again, it's not responsive to the question. And I know
7 you're going to follow it up, but the question was --
8 his answer is far beyond the question you asked him.

9 MR. WILLIAMS: I think his answer is directly on
10 point to the question asked, but I'll be happy to ask
11 another one.

12 BY MR. WILLIAMS:

13 Q. Now, Mr. Schwermann, you've indicated that the
14 suggestion came from Mr. Summers; is that correct?

15 A. Yes.

16 Q. Who was Mr. Summers employed by at the time that
17 this business arrangement was created? ←

18 A. The Water District.

19 Q. Okay. Had he ever been employed by any of your
20 water and sewer utility companies?

21 A. No.

22 Q. All right. And at the time that this arrangement
23 with the District was created, who was in charge of
24 operating your water utility companies?

25 A. Vern and I.

1 Q. Okay. You mean Vern Stump?

2 A. Vern Stump and I, yes.

3 Q. All right. Did you have any employees of those
4 companies at that time?

5 A. Yes. The companies had people who were operating
6 the companies.

7 Q. Okay. And who was active in the management of
8 those employees?

9 A. I'm trying to think when I purchased it. Roger
10 might have been the manager.

11 Q. You're referring to Roger Sallee?

12 A. Yes. Yes.

13 Q. Okay. So he would have been the person who
14 generally supervised the employees of the utility
15 companies?

16 A. Yes.

17 Q. All right. So the employees of your utility
18 companies at some point then became employees of the
19 District; is that how that worked?

20 A. Yes. But my times must be off, because when
21 we -- I'll think about this. When I purchased my shares
22 of the stock, I think Roger no longer was operating very
23 long after that.

24 Q. Okay.

25 A. I mean, he quit, you know, because we purchased

1 his stock. So -- so there must have been someone --
2 would that have been Carl Ake? Okay. That -- missed a
3 spot in there. When Roger -- when we bought Roger's
4 stock, I think he quit being the manager. Then we had a
5 gentleman named Carl Ake who was managing up until the
6 Water District started operating the system.

7 MR. MARSHALL: How do you spell Mr. Ake's last
8 name?

9 THE WITNESS: I think it's A-c-k-e.

10 MR. SUMMERS: I believe it's just A-k-e.

11 THE WITNESS: A-k-e.

12 BY MR. WILLIAMS:

13 Q. All right. And how long did that gentleman
14 operate the entity before you turned over the operation
15 to the District?

16 A. I'm not positive. I guess a couple of years.

17 Q. Okay. Now, Mr. Schwermann, as financial advisor
18 of the District, are you familiar, generally, with the
19 geographic boundaries that it's authorized to operate
20 in? *

21 A. Yes.

22 Q. And you would agree with me that that -- at the
23 present time it's limited to an area on Horseshoe
24 Bend --

25 A. Sure.

1 Q. -- at the Lake of the Ozarks?

2 A. Correct.

3 Q. You would also agree with me that your water and
4 sewer systems with the Meadows Water Company are not
5 located within the geographic boundaries of the
6 District; isn't that right?

7 A. Correct.

8 Q. And that a substantial portion of the facilities
9 of Lake Region Water and Sewer Company are not located
10 within the boundaries of the District either; is that
11 correct?

12 A. Correct.

13 Q. Are all of the facilities of Ozark Shores Water
14 Company located within the boundaries of the District?

15 A. I believe so.

16 Q. Okay. Do you have any business relationship with
17 Bob Pole or the firm of Pole & Pole or their predecessor
18 Holman, Hansen & Colville, other than as legal counsel
19 to the District?

20 A. No.

21 Q. Okay. Now, this management arrangement, I
22 presume before that time, your utility companies either
23 jointly or severally each had employees that were
24 employed by them; is that correct?

25 A. Yes.

1 Q. And which way was it? Did you have a group of
2 employees that served all of the companies or did you
3 have separate employees in each company?

4 A. When we purchased Ozark Shores, it had its set of
5 employees.

6 Q. Okay.

7 A. When we purchased Lake -- Meadows, it had some
8 employees.

9 Q. Okay.

10 A. We then, since the Meadows was such a small
11 company, disbanded those employees and operated the
12 Meadows system from our Ozark Shores system.

13 Q. Okay.

14 A. And in 2004 when we purchased the Lake Region
15 system, the Water District was operating our systems at
16 that time, so they became the operator just for default
17 of that system, and there were, I don't know, two or
18 three employees that came along with it.

19 Q. Okay. So the employees that -- you testified you
20 entered into this agreement with the District.

21 A. Uh-huh.

22 Q. Did the employees that Ozark Shores had at that
23 time then become employees of the District?

24 A. Yes.

25 Q. All right. Now, the District has provided some

1 contracts indicating that your various utility companies
2 make payments to it on an annual basis for the
3 employees --

4 A. Correct.

5 Q. -- reimbursement; is that correct?

6 A. Correct.

7 Q. Or maybe it's a monthly basis.

8 How was -- were those amounts determined?

9 A. I think they just essentially came from what our
10 labor costs were when the Water District assumed
11 ownership of the companies -- not ownership, but
12 operation of the companies.

13 Q. Okay. So you continued to pay the same amount,
14 you just paid it to the District --

15 A. Yes.

16 Q. -- instead of paying it to the employees?

17 A. Correct.

18 Q. All right. What else changed when this contract
19 arrangement was entered into between the utility
20 companies and the District, anything?

21 A. I'm not sure I understand what you mean by
22 change.

23 Q. Well, obviously there was a change where your
24 employees became the District's employees.

25 A. Right.

1 Q. Were there any other arrangements entered into at
2 that time between the District and your utility
3 companies?

4 A. I'm trying to think what we would have done.
5 They purchased some of our equipment, and that's all
6 that I know. I know of nothing else.

7 Q. Okay. So there was some equipment that was also
8 transferred?

9 A. Yes.

10 Q. What, by equipment generally, are you referring
11 to?

12 A. Backhoe, trailer, truck, maybe some hand tools.

13 Q. Okay. Who does the utility billing for your
14 public utilities?

15 A. The District.

16 Q. All right. So did you also transfer, I suppose,
17 the employees who actually worked in the office?

18 A. Yes. Everyone was transferred.

19 Q. Okay. And then any billings, software or record
20 keeping systems, stuff like -- things of that nature,
21 were those also transferred?

22 A. Yes.

23 Q. Okay. So at the present time do your public
24 utility companies have any employees?

25 A. No.

2

1 Q. Is there anyone on payroll for any of those
2 companies?

3 A. No.

4 Q. Okay. So the District does all your billing --

5 A. Yes.

6 Q. -- for all of these water companies?

7 A. Well, wait a minute. I take that back. We do
8 pay John some for helping -- or managing separate from
9 the water companies a little 65 or 100 subdivision, you
10 know, up in Chicago.

11 MR. MARSHALL: Okay. Mr. Schwermann, be sure and
12 speak up so the reporter can hear you and don't -- and
13 you just shook your head a minute ago. She's not going
14 to get a head shake on the transcript very well.

15 BY MR. WILLIAMS:

16 Q. All right. So when these contracts that the
17 District has provided state that the utility company
18 will reimburse the District each month or a portion of
19 the employees' wages, in fact the District receives all
20 of the money; is that correct?

21 A. Yes. Yes.

22 Q. So it deducts out those expenses and gives you
23 the rest; is that correct?

24 MR. MARSHALL: By you, who do you mean?

25 MR. WILLIAMS: The utility companies. I'm sorry.

1 THE WITNESS: Say that again.

2 BY MR. WILLIAMS:

3 Q. Now, the District receives the money.

4 A. Right.

5 Q. It would deduct out the wages and so forth,
6 expenses that it's supposed to collect from the utility
7 companies, and then it gives the rest of the money to
8 the utility companies?

9 A. To the various utilities, yes.

10 Q. Okay. Now, the lawsuit that's at issue in this
11 matter involves an area of Camdenton County known
12 generally as Shawnee Bend. You're familiar with that?

13 A. Yes.

14 Q. Would you speak up just a little louder?

15 A. Yes.

16 Q. She's also tape recording in case she can't tell
17 what it was she typed later, so . . .

18 A. Okay. Just holler at me.

19 Q. Did you participate in preparing the boundaries
20 of that annexation area?

21 A. No.

22 Q. Okay. Do you know how it was determined what
23 area would be included in the proposed annexation area?

24 A. John Summers and Mr. Crable pretty much put
25 together the boundaries with the Water District.

Q. Now, can you tell me whether or not the annexation area matches the certificated service area of Lake Region Water and Sewer Company on the Shawnee Bend peninsula?

A. I do not believe it does. ~~It's not an overlay.~~

Q. All right. What is left out?

A. Can I ask John?

Q. "I don't know" is an answer, and maybe we will ask John, but --

MR. MARSHALL: No. I'd rather you -- I will object if you answer, John. I would just ask you -- whatever you know, Mr. Schwermann.

THE WITNESS: I don't know. A fair amount is left out, but I don't know how much.

BY MR. WILLIAMS:

Q. Okay. My understanding is that Lake Region operates a water line to a condominium project called Majestic Point; is that your understanding?

A. Correct.

Q. And that that area is included in Lake Region's certificated service area; is that correct?

A. If you say it is, I'll believe you. I don't know where the boundaries are.

Q. Okay. You don't have a personal knowledge of that?

1 A. I don't have a personal knowledge of the
2 boundaries.

3 Q. Okay. All right. Do you know why portions of
4 Lake Region's service area were left out of the District
5 annexation proposal?

6 A. I think they were not needed to serve the purpose
7 of providing hydrants to the area that wanted it.

8 Q. Okay. Is there a reason why hydrants cannot be
9 provided by Lake Region Water and Sewer Company?

10 A. We will not pay for them.

11 Q. Okay. Why?

12 A. Well, previous owners -- there were four of them.
13 None of them would provide the hydrants. They're
14 expensive and we're just not going to go through that
15 cost.

16 Q. At the time you acquired Lake Region Water and
17 Sewer Company, were there any plans in place for
18 providing hydrants in the Porta Cima and Villages
19 developments?

20 A. I had heard, and this is all hearsay, that the
21 previous owner Fritz had talked to them about some
22 hydrants, but I know nothing about it.

23 Q. Okay. Now, the gentleman you referred to, would
24 that be Fritz Ritter?

25 A. Yes.

1 Q. And he was, in fact, the manager of Lake Region
2 Water and Sewer at the time you acquired the company?

3 A. Yes.

4 Q. And how long was he employed by the company after
5 you acquired it?

6 A. Very shortly.

7 Q. Okay. He was terminated very shortly afterwards?

8 A. Yes. Yes. Yes.

9 Q. Did you ever meet with him to discuss what was in
10 progress at the time you acquired the company?

11 A. No.

12 Q. Did you have any meetings with him at all?

13 A. I am not involved in that portion of it. It
14 would have been Vern that met with him, and I don't know
15 what they may have met with and talked -- we were buying
16 the company. Vern might have asked him things about
17 future construction, but I was not involved in those and
18 I don't know any particulars about them.

19 Q. Was your involvement largely in providing the
20 finance --

21 A. Yes.

22 Q. -- for the transaction?

23 A. Yes.

24 Q. All right. Is there anyone other than
25 Mr. and Ms. Stump and yourself who owned Lake Region

must
be
250K
check

1 Water and Sewer Company stock?

2 A. Yes. It's complicated. Lake Region is owned --

3 50 percent is the simple part by Sallee. *see page 17 - is this*
meant to say Sally (Stump) *

4 Q. Okay.

5 A. The other 50 percent is owned by RPS Properties
 6 LP, which is my family limited partnership. *Bob Schumann?*

7 Q. Is there anyone not a family member of yours who
 8 owns part of RPS Properties?

9 A. No. No. It's just between me and my children.

10 Q. Okay.

11 A. And my wife.

12 Q. Good thing to add into the transcript. She might
 13 want to read it later.

14 A. She might read this. Yes.

15 Q. All right. So is that somewhat of an estate
 16 planning vehicle for you?

17 A. It is an estate planning vehicle. *

18 Q. Okay. And are you the general partner --

19 A. Yes.

20 Q. -- of RPS Properties?

21 A. My wife and I.

22 Q. If you will -- I know these are easy questions,
 23 but please wait for me to finish asking.

24 A. I got you. Okay.

25 Well, wait a minute. My son said that the

1 general partner, which is called Schwermann Properties,
2 its members are I, Brian my son, Susan my daughter, and
3 my wife Ann.

4 Q. Okay.

5 A. Those are the general partners.

6 Q. Okay. Now, you're familiar with something that's
7 called an availability fee --

8 A. Yes.

9 Q. -- that's set out in the declaration of
10 restrictions for the various Four Season developments?

11 A. Yes.

12 Q. Tell us what that is.

13 A. I'm not sure I totally know what their purpose
14 is. I know they're there. I know we purchased them.
15 But legally what their purposes are, I'm not totally
16 sure.

17 Q. Okay. Well, give us your best understanding of
18 what those availability fees purpose is.

19 A. In Ozark Shores they go into the gross revenue of
20 the company. There is just -- the Public Service
21 Commission has used them in calculation of rates, so
22 it's just -- so there it sort of doesn't matter. It
23 goes right into the company.

24 Q. And how much is the monthly availability fee for
25 Ozark Shores?

Y
X
X
X

1 A. I don't know.

2 Q. Okay.

3 A. I don't know.

4 Q. And so Ozark Shores receives those funds?

5 A. Yes.

6 Q. And it uses them as part of its business
7 operation?

8 A. Yes.

9 Q. Okay. And I presume from your answer that
10 there's something different going on with respect to
11 Lake Region? *

12 A. Correct. When we purchased Lake Region, the
13 utility itself was purchased totally separate from the
14 availability fees. There's no legal tie or connection
15 between the entities.

16 Q. And how -- why do you believe that to be true?

17 A. 'Cause that's the way it was set up. It's the
18 way it was when we purchased it. That's the way the
19 former owners had it legally structured, to the best of
20 my knowledge.

21 Q. Okay. Well, let me ask you this question: Who
22 owns the water and sewer systems in the service area
23 that Lake Region provides service in?

24 A. That's the -- Lake Region, that's the one that's
25 50 percent RPS Properties and 50 percent Sallee. ?

Q. Well, let me ask you the question this way: Does Lake Region Water and Sewer Company own the water and sewer systems, the corporate entity Lake Region?

A. Yes.

Q. Okay. So the physical water well, the wastewater treatment plant, the collection sewers, the water distribution line are all owned by Lake Region Water and Sewer Company?

A. That is correct.

Q. Okay. And then RPS and Sally Stump own the stock of Lake Region; is that how that works?

A. That is correct.

Q. Okay. Now, what's your understanding of where the obligation to pay the availability fee arises on property owners in the Four Seasons development?

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

Q. Okay. Have you ever seen any documents as to how those are created or why people have to pay them?

A. No.


Q. You would generally assume they're not just voluntarily sending you money, would you?

A. It's my understanding that they were legally created by Four Seasons and that flowed through whoever they next sold through, and we assumed whatever legal basis there were for them.

I think listed as Sollee & son

1 Q. Okay.

2 A. I'm sure our attorneys, when we purchased it,
3 reviewed those documents to say that you can assume
4 these funds will be coming. But have I reviewed the
5 documents? No, I have not reviewed the documents.

6 Q. Okay. Let me hand you what's previously been
7 admitted in evidence in this case as Exhibit H, which is
8 the third amended and restrained declaration of 
9 restricted covenants --

10 A. Okay.

11 Q. -- imposed by Four Seasons. And I won't get
12 specific as to which entity of Four Seasons, but the
13 development company, on their various subdivisions.

14 A. Okay.

15 Q. Have you ever examined that sort of document?

16 A. No.

17 Q. All right. In this document I have marked a
18 paragraph that pertains to water system and sewage
19 treatment system. Do you see that marked at the
20 document (indicating)?

21 A. Yes. With the yellow?

22 Q. Yes.

23 A. Yes.

24 Q. To me it seems to say that it imposes an
25 obligation on lot owners to pay the owner of the water

1 works system within the Four Seasons development an
2 availability fee. You want to take a moment to read
3 that and see if you agree with me that that's what it
4 says?

5 MR. MARSHALL: I'll object to the form of the
6 question. It's asking for a legal conclusion, No. 1.
7 And No. 2, the document speaks for itself.

8 THE WITNESS: Yeah, I'm not an attorney. I will
9 assume you are correct.

10 BY MR. WILLIAMS:

11 Q. Okay. Well, what it says specifically is that
12 each lot owner is to pay to the owner of the water works
13 system an availability fee. Okay. And then it goes on
14 in the next page and says that the owner of the water
15 works system will be a privately owned public utility
16 authorized by a certificate of public convenience and
17 necessity issued by the State of Missouri Public Service
18 Commission to operate the water works system. Do you
19 see where it says that?

20 A. Yes. Yes.

21 Q. Now, you would agree with me that the owner of
22 the water works system which has a certificate of
23 convenience and necessity issued by the Public Service
24 Commission is Lake Region Water and Sewer Company, would
25 you not?

1 A. Correct.

2 Q. So the availability fees provided for in this
3 document would be paid to Lake Region Water and Sewer
4 Company, would they not?

5 A. No.

6 Q. Why not?

7 A. We've been told by our attorneys they do not have
8 to be.

9 Q. Okay. And who are they paid to then?

10 A. They go to Sally and I, and a portion still goes
11 to the Four Seasons Group.

12 Q. Okay. Tell me how that works then, as far as the
13 portions to the Four Seasons Group.

14 A. When we were purchasing the Lake Region Water and
15 Sewer Company, it was in a lawsuit I guess with the
16 owner -- the Waldo Morris.

17 Q. Okay.

18 A. He lives out of Iowa. And they had a big legal
19 dispute as to who owned portions of those availability
20 fees.

21 Q. All right.

22 A. And what it was all about -- you know, I'm not a
23 lawyer. It was their dispute. But when we purchased
24 the system, the dispute -- well, we just purchased the
25 stock, so the suit came to us then. And we read the

1 case and it looked like Four Seasons had a strong case.
2 So we just negotiated a settlement with them and they
3 retained a large portion of the availability fees,
4 because it looked like they would win the case, to us.

5 Q. All right. And what was it that they were
6 requesting in that case that you believe they had a
7 strong suit --

8 A. That's --

9 Q. -- to your understanding.

10 A. Yeah. That's legal judgment and I don't want to
11 put words in their mouth.

12 Q. Well, can you give me your understanding of it
13 then?

14 A. It was the way the original contract was worded
15 between the sale of Four Seasons to, I believe, the
16 gentleman named Slate, who purchased it then. And it
17 was my understanding there were certain amounts of
18 properties that were built out and there were certain
19 amounts that weren't, and maybe not alignments, but I
20 don't know. And that the availability fee Four Seasons
21 thought was sold to that area that was built out, but
22 they didn't go with this other area and -- and I read
23 it. If you went to court, I don't know where you would
24 wind up. It was just one of those things that language
25 wasn't to me specific enough to say which guy would win.

1 Q. Okay. So what percentage of the availability
2 fees is retained by the Four Seasons Group?

3 A. That is under a very strict confidentiality
4 agreement that I cannot reveal.

5 Q. Okay. Is that subject to a court order?

6 A. I'm not an attorney. I don't know.

7 Q. Okay. Well, you've testified that there's a
8 confidentiality agreement. I'm trying to determine
9 where that comes from.

10 A. It's just an agreement between us.

11 Q. Now, that would be a written agreement --

12 A. Yes.

13 Q. -- between you and Four Seasons?

14 A. Yes.

15 Q. Now, you do understand you were ordered by the
16 Court to appear and give your deposition here today?

17 A. Yes.

18 Q. And so I'm going to ask you again to tell me what
19 the percentage received -- retained by the Four Seasons
20 Group is. And if you do not answer that question, then
21 I'll have to go back to the Court and ask them to
22 specifically order you to answer that question. That is
23 a process that we call certifying a question. And the
24 Judge then will make a ruling as to whether or not you
25 are required to answer that.

1 A. I will decline, because I'll probably be sued. *

2 Q. Okay.

3 A. Unless a court orders me to say so.

4 MR. WILLIAMS: Let's certify that question then,
5 if you would, please.

6 BY MR. WILLIAMS:

7 Q. Now, can you tell me what portion of those
8 availability fees are retained by your company,
9 RPS Properties? *

10 A. Well, if I say the portion, I'm saying -- again,
11 I'm violating the confidentiality agreement. So they're
12 one and the same.

13 Q. Are you refusing then to answer that question?

14 A. Yes. Yes.

15 MR. WILLIAMS: All right. Let's certify that
16 question as well.

17 BY MR. WILLIAMS:

18 Q. Now, Mr. Schwermann, can you tell us the total
19 amount of money that you receive from these availability
20 fees? *

21 A. I don't know. It goes into these companies, and
22 I don't know the amounts.

23 Q. Okay. I believe Mr. Summers testified it was in
24 the vicinity of \$400,000 a year. Is that consistent
25 with your understanding?

1 A. If John said that, I will go along with that
2 number.

3 Q. All right. All right. You wouldn't disagree
4 with him?

5 A. No. Nor agree.

6 Q. Okay.

7 A. I'll just take it as what it is.

8 Q. Would he be the person with the best knowledge of
9 that?

10 A. Yes. Yes, he would.

11 Q. All right. Now, is there an entity called Lake
12 Availability Water and Sewer something, to your
13 knowledge?

14 A. What?

15 Q. Is there a separate legal entity that these
16 availability fees are paid to? *

17 A. Yes. And that may be it. I'm not familiar with
18 the name, but that may be the entity it goes to.

19 Q. So they're not paid to Lake Region Water and
20 Sewer Company?

21 A. No.

22 Q. And they're not paid to RPS partnership; is that
23 correct?

24 A. Let me ask John.

25 THE WITNESS: John, where do the payments go to?

MR. SUMMERS: Lake Utility.

THE WITNESS: Lake Utility. Okay.

BY MR. WILLIAMS:

Q. Okay. Now, let's go back again then to the fire hydrant issue. What is there about these fire hydrants that makes it impractical or impossible for the utility company -- and by that I mean Lake Region Water and Sewer Company, to pay for them?

A. Just don't want to do it. * * *

Q. Okay. Is there anything other than your company's desire not to do it that makes it impossible for it to be done?

A. I don't know.

Q. Is that no, to your knowledge?

A. No, to my knowledge.

Q. All right. So it's simply a matter you don't want to?

A. Don't want to.

Q. Okay. Lake Region Water and Sewer Company does own a water system; is that correct?

A. That's correct.

Q. And the water lines in that system are of a size that would enable it to install fire hydrants on those lines; is that correct?

A. That, I don't know for sure.

1 Q. Okay. It has large elevated water tanks?

2 A. Yes.

3 Q. And those tanks are capable of supplying fire
4 flows?

5 A. I don't know that.

6 Q. Okay. So other than desire not to do this, is
7 there anything to your knowledge that would prohibit the
8 utility company from providing fire hydrants within the
9 Porta Cima or Villages developments?

10 A. No.

11 Q. All right. And is there a particular reason why
12 you do not want to provide that service to customers in
13 the area?

14 A. I don't want to spend the money. * * *

15 Q. Okay. And you do receive money from the
16 availability fees; is that correct?

17 A. Yes.

18 Q. All right.

19 A. Or -- or trust and things like that. When you
20 say me, I'm not the direct owner of the stock You
21 know, it's RPS Properties and things like that. So when
22 you say me, you have to be referring to who owns the
23 actual stock.

24 Q. And the lot owners in these developments, or at
25 least in the Porta Cima development, pay this

1 availability fee; is that correct?

2 A. I believe that's true.

3 Q. And you and others get that money?

4 A. Others. It may filter down to me in some fashion
5 through dividends or something. But, yes, in a
6 practical sense I'd say that's true.

7 Q. Okay. So what do the lot owners get out of the
8 availability fee? *

9 A. I don't know.

10 Q. Do they, to your knowledge, get anything at all?

11 A. I don't know.

12 Q. Well, do you know of anything they do get?

13 A. I don't know.

14 Q. Well, that's a yes or no question.

15 A. Okay. No. ***

16 Q. Does that mean no, you don't know of anything
17 they get?

18 A. No, I don't know.

19 Q. Okay. Let's take a little break. I might be
20 about done.

21 A. Okay.

22 (A BREAK WAS TAKEN.)

23 BY MR. WILLIAMS:

24 Q. All right. One more line of questions and I
25 think we'll be done.

1 A. I need to correct one little thing.

2 Q. All right.

3 A. I was just talking that Sally and I own half of
4 both of these companies, and actually North Suburban,
5 you know, that owns the Ozark Shores and the Meadows. I
6 own 51.76 percent and she owns 48.24. Why it's split up
7 like that, I have no idea. I have no idea.

8 Q. Okay.

9 A. Evidently somewhere along the line there was some
10 stock to buy and I had the money and Vern didn't or
11 something like that. I don't know. There's no reason
12 for it, though. I mean, there's no --

13 Q. All right.

14 A. That I know of, there's no practical reason for
15 it. It just happens to be.

16 Q. All right. Mr. Schwermann, let's go back again
17 to fire hydrants and the District.

18 A. Okay.

19 Q. Your testimony in this case has been that
20 homeowners approached Mr. Summers about obtaining fire
21 hydrants through Lake Region Water and Sewer for the
22 Porta Cima subdivision. You're aware of that request by
23 them?

24 A. I think that's true.

25 Q. Okay.

1 A. I'm not involved in the operations a lot, so
2 I'll -- I would assume that's true.

3 Q. Well, at some point it was brought to your
4 attention that folks out there wanted fire hydrants, I
5 take it?

6 A. Yes. Yes.

7 Q. And who brought that to your attention?

8 A. I would imagine it would have been probably John
9 or our conversation in the Water District meeting, you
10 know, that the fire hydrants were wanted out there.

11 Q. And at some point were you asked to give advice
12 as to how to obtain the necessary funding to install
13 those fire hydrants?

14 A. I don't believe they ever asked me that question.

15 Q. Okay. Have you been involved at all in the
16 development of the proposal to annex Shawnee Bend into
17 the Water District and raise financing to install fire
18 hydrants?

19 A. Only in a very generalized fashion. I mean, I've
20 not -- from what I understood, they tried a lot of
21 avenues. And I don't know what all of those avenues are
22 other than when I was at the court hearing when we
23 were -- when was it, last Tuesday?

24 Q. Okay.

25 A. Whenever it was. That the lady said that they

1 had talked to the developer before and he said he
2 wouldn't do it, and that they thought about an NID. And
3 I don't know why that didn't work. I don't know what
4 they did on that. Just things like that. But I've
5 never given them specific, you know, information on how
6 to fund a fire hydrant.

7 Q. Okay. Has there been any request from the
8 District that you participate or advise the District on
9 how to finance the construction of fire hydrants on
10 Shawnee Bend?

11 A. No Because they have funds on hand that they
12 could pay for their construction, if they elect to use
13 those funds to do that.

14 Q. Okay. And where did those funds come from?

15 A. It was a bond issue they did.

16 Q. Okay. And what was the purpose of that bond
17 issue?

18 A. It was to originally pay for the original
19 construction of wells, towers, things like that. And
20 whenever -- I can't say it was for every financial
21 advisor. But when I do a bond issue, I try to advise
22 them that it is cheaper if they think they're going to
23 have some needs in the future, to include a few extra
24 bond funds so that you don't come back in a year and say
25 I want to \$150,000 or something like that in funds. So

1 I think we -- we funded an additional \$500,000 for
2 potential future construction projects.

3 Q. All right. And what was the total amount of that
4 bond issue?

5 A. Three million.

6 Q. I'm sorry?

7 A. Three million.

8 Q. Three million dollars. And I presume that you
9 acted as financial advisor?

10 A. I acted as a financial advisor.

11 Q. And did you receive a fee in connection with
12 that?

13 A. Yes, a two percent fee.

\$ 60,000

3,000,000
x .02
60,000.00

14 Q. Okay. Your fee was based on a percentage of the
15 amount of the --

16 A. Yeah, two percent.

17 Q. If you will please --

18 A. I'm sorry.

19 Q. She is going to start throwing things here before
20 too long.

21 MR. MARSHALL: Just throw them where they go.

22 BY MR. WILLIAMS:

23 Q. So you received a percentage of two percent of
24 the total amount of the bond issue?

25 A. Correct.

1 Q. And what was the primary purpose or facility to
2 be constructed with those bond funds?

3 A. Well, towers, some additional lines. I mean,
4 that's basically what it was. We funded a bond reserve.
5 We funded a bond reserve, a \$200,000 bond reserve.
6 Obviously paid the insurance cost, and gave the
7 additional construction fees.

8 Q. Now, were these facilities constructed within the
9 area for which Ozark Shores Water Company holds a
10 certificate of convenience and necessity from the
11 Missouri Public Service Commission?

12 A. Were all of those -- excuse me.

13 Q. If you know the answer to the question, then
14 answer it.

15 A. I don't. Not for sure.

16 MR. MARSHALL: I object otherwise.

17 BY MR. WILLIAMS:

18 Q. Were they built on Horseshoe Bend?

19 A. Yes. Yes, they were built on Horseshoe Bend.

20 Q. And were they water facilities?

21 A. Yes, they were water facilities.

22 Q. And what is the value today for rate making
23 purposes, if you know, of the Ozark Shores Water System?

24 A. I don't know that number.

25 Q. Okay. Do you know how much its annual revenues

1 are?

2 A. No.

3 Q. Okay.

4 A. I mean, this company --

5 Q. If you know.

6 MR. MARSHALL: I object. It's not responsive.

7 THE WITNESS: Yeah.

8 BY MR. WILLIAMS:

9 Q. You may go ahead and answer the question.

10 MR. MARSHALL: He did.

11 THE WITNESS: I don't know.

12 MR. WILLIAMS: All right. I don't think I have
13 any further questions. Jay?

14 MR. HARMS: I have just a couple.

15 CROSS-EXAMINATION BY MR. HARMS:

16 Q. Mr. Schwermann, I -- again, my name is Jay Harms
17 and I represent the City of Lake Ozark in this matter.
18 City of Lake Ozark --

19 A. Yes.

20 Q. -- has filed an exception to the proposed
21 annexation?

22 A. Yes.

23 Q. I am digging through here trying to find -- we
24 were talking just a minute ago about the \$3 million bond
25 issue?

1 A. Correct.

2 Q. And that \$3 million bond issue was to pay for
3 particular -- particular improvements and structures?

4 A. Yes.

5 Q. There is an agreement, and that's what I'm
6 looking for real quick is, in the system operating
7 agreement -- are you familiar with the system operating
8 agreement between the Water District and Ozark Shores?

9 A. Is that the labor?

10 Q. No. There's a -- it's not the labor agreement.
11 It's actually an operating agreement that was provided
12 by counsel. Ms. Aldridge provided me a copy, and I
13 apologize, I didn't think I would need it, so I didn't
14 pull it out. It's the actual operating agreement
15 whereby the Water District agrees to operate -- operate
16 Ozark Shores. And there is particular requirements from
17 the Water District to build particular structures.

18 MR. MARSHALL: Off the record.

19 (A BREAK WAS TAKEN.)

20 MR. HARMS: All right. Back on the record.

21 Thanks.

22 BY MR. HARMS:

23 Q. Mr. Schwermann, I'm going to hand you this system
24 operating agreement. Have you seen this agreement
25 before (indicating)?

1 A. If I have, it would have been just like I'm doing
2 right now, just leafing through it.

3 Q. Okay. All right. On the back of it, it's signed
4 by Vern Stump --

Vern Stump

5 A. Yes.

6 Q. -- as president of Ozark Shores; is that correct?

7 A. Yeah, but he's not president of Ozark Shores. I
8 am president of Ozark Shores.

9 Q. Okay. Has he ever been president of Ozark
10 Shores?

11 A. I think a long time ago.

12 Q. Okay. What's the date on that document again?
13 It should be on the very first page of the top
14 paragraph.

15 A. December 2, 2002.

16 Q. 2002?

17 A. No. He might have been president back in 2002,
18 because we've changed everything to me being president
19 sometime within the last few years. Just for
20 practicality, 'cause he was president of some. I was
21 president of some. It got confusing when it came time
22 to sign documents, and so we've -- where now I'm
23 president of everything and my son is secretary/
24 treasurer, and I'm close here if the papers needed to be
25 signed. You know, I can sign them for John and things

1 like that. So Vern might have been president back then.

2 Q. Okay. So there's no reason to believe that this
3 document was not validly entered?

4 A. Oh, sure, I'd say it was.

5 Q. Okay. We were talking a minute ago about the
6 \$3 million bond issue. On the first page -- or starting
7 at the bottom of the first page, there's various things
8 that are required to be built by the Water District?

9 A. Right.

10 Q. Water towers, wells?

11 A. Wells.

12 Q. Things like that?

13 A. Right.

14 Q. Is that what that \$3 million bond issue went to
15 pay for?

16 A. Yes.

17 Q. Okay. So that's where the bond issue came from?

18 A. That's what its purpose was.

19 Q. That's the purpose of it. Okay.

20 Do you know if those things were built?

21 A. The Palisades was not. It was -- it was aligned
22 that that was going to be built and it kept breaking at
23 different times, and when we got through with, you know,
24 things and it just wasn't needed, for some reason the
25 line just was no longer working. So that's also

1 probably where some of the money has come from that we
2 have in reserve to do the other construction monies and
3 things like that that we haven't spent.

4 Q. Okay. So this \$260,000 that's proposed for the
5 fire hydrants, it could be --

6 A. It would almost be this.

7 Q. Pardon me?

8 A. It would almost be this.

9 Q. So basically it's there, it's excess funds in the
10 Water District because the Palisades line was not built?

11 A. Yes. Right.

12 Q. Okay. Has there been any talk about any kind of
13 action for breach of contract for not building that
14 line?

15 A. No. We -- we told the District it was no longer
16 needed, that the line -- for some reason the -- either
17 the engineer Crable made adjustments in pressure valves
18 or something somewhere in the District -- 'cause we used
19 to just break a lot of lines. I mean, and I'm not
20 familiar with this piece of road, but they say it's very
21 difficult to work on. You know, straight down and stuff
22 like this and there's the water line. And it quit
23 breaking the lines, whether they made proper adjustments
24 and -- and there was no point to spend the money if we
25 didn't need it.

1 Q. Okay.

2 A. And so we told the District that we didn't think
3 we needed -- or the line needed to be built.

4 Q. Okay. And this is a water line, not a sewer
5 line?

6 A. It's a water line.

7 Q. Okay. Does Ozark Shores Water and Sewer provide
8 any sewer services?

9 THE WITNESS: Excuse me, John?

10 MR. SUMMERS: No.

11 THE WITNESS: No. No, we don't supply any sewer
12 services.

13 BY MR. HARMS:

14 Q. Okay.

15 A. I'm sorry. I just don't know some of these
16 things.

17 Q. Okay. I think John needs to leave. And that's
18 probably not a bad idea or at least -- we're trying to
19 get to what you know more than what John knows. All
20 right. We already know what John knows, or at least
21 parts of it.

22 A. Okay.

23 Q. The -- how does -- I mean, is there an agreement
24 between Palisades and Ozark Shores for the provision of
25 water?

1 A. Palisades is just sort of the terminology of a
2 line name. I mean --

3 Q. Okay.

4 A. -- it's not a separate system or anything. It's
5 just --

6 Q. Well, it feeds a particular area?

7 A. Yes.

8 Q. And what's the area that it feeds?

9 A. I don't know.

10 Q. Okay.

11 A. I don't know.

12 Q. All right.

13 A. I'm just familiar with the term Palisades. I
14 remember that name.

15 Q. Okay. All right. But you're not aware of any
16 agreements to provide water to anybody off that line?

17 A. No. No. No.

18 Q. Okay. And this is just for my own background
19 information. Did you have any input or any -- did you
20 take any actions to help establish the Water District as
21 a corporation?

22 A. Only as a financial advisor, if they would have
23 asked me, what did you do to form a water district or
24 what are the benefits of it and stuff like that.

25 Q. Okay. And who would have asked you to do that?

1 A. I don't remember.

2 Q. Okay.

3 A. Somebody back then.

4 Q. All right. Do you know who formed it? I mean,
5 is that a --

6 A. It would have been a group of people on Horseshoe
7 Bend.

8 Q. Okay. Let's jump over to Lake Region Water and
9 Sewer real quick. Currently there is an agreement with
10 the City of Lake Ozark. Are you familiar with the
11 agreement with City of Lake Ozark to take the effluent
12 from Lake Region Water and Sewer?

13 A. Yes, I am.

14 Q. Do you know approximately how much that effluent
15 is pumped on a daily basis, pumping basis?

16 A. I have no idea.

17 Q. You don't know anything about volumes?

18 A. No.

19 Q. Does Lake Region have any water treatment plants
20 of its own?

21 A. Yes, I think Lake Region has a treatment plant.

22 Q. Okay. And do you have any idea what the capacity
23 of that treatment plant is?

24 A. No. No.

25 Q. Okay. You said Ozark Shores doesn't handle any

1 sewage?

2 A. No.

3 Q. They don't?

4 A. No.

5 Q. Okay. And they don't have any sewage treatment
6 plants, or do you know if they own any sewage treatment
7 plants?

8 A. I'm going to say no, qualified I don't think they
9 do.

10 Q. Okay. Jumping back to the Water District. Have
11 you helped the Water District develop any plans for
12 future funding?

13 A. No. This \$3 million -- unless if they build the
14 fire hydrants.

15 MR. MARSHALL: I'll object that it's not
16 responsive to the question.

17 MR. HARMS: I think it is responsive. If you're
18 going to answer --

19 MR. MARSHALL: He said if. He said if. He
20 didn't say. You asked if he -- and look, let me make
21 something clear, Jay. I don't care what he says,
22 because I don't think what he says has anything to do
23 with anything.

24 MR. HARMS: Okay.

25 MR. MARSHALL: But I'm just saying your question

1 was whether he provided any advice for any future. He
2 didn't say yes. He said, Well, if they would come. And
3 so that's what I'm objecting to.

4 THE WITNESS: The answer would be no.

5 BY MR. HARMS:

6 Q. Okay. So they have not -- you have not
7 participated in any future plans?

8 A. No.

9 Q. Okay. And just to back up real quick, Greg -- I
10 think Greg asked you about the plan for putting together
11 the proposal for the fire plugs. And just for my own
12 recollection, did you say that they -- that the Water
13 District did not approach you to help develop a plan for
14 the funding of the fire plugs?

15 A. I do not remember them asking me how to fund
16 them.

17 Q. Okay.

18 A. I do not.

19 Q. Okay. Do you remember, was Lake Region Water and
20 Sewer specifically asked to fund the fire plugs?

21 A. Probably.

22 Q. Okay. Do you -- and probably -- you probably
23 don't know the answer to this next question. But do you
24 remember who would have asked you?

25 A. No. No.

1 Q. Okay. All right. We were provided some
2 documents just the other day on some of these things.
3 And we -- there is contracts for equipment rental that
4 were put together. And I think that Greg asked you
5 about some of the equipment that was in there. You
6 stated that there was a backhoe and trailer and some
7 hand tools and things like that.

8 Do you have any idea what you're renting from the
9 Water -- you, being Lake Region Water and Sewer, is
10 renting from the Water District?

11 A. No.

12 Q. Okay. Do you know how much Lake Region Water and
13 Sewer is paying to the Water District for those rentals?

14 A. No.

15 Q. Okay. And these were -- I think your testimony
16 earlier was that it was actually equipment that was
17 owned by Lake Region Water and Sewer that was sold to
18 the Water District. And then is it leased back, is that
19 your understanding of these equipment leases?

20 A. I think we are just billed for the amount of time
21 that they are used for our purposes. When -- when
22 something goes wrong in one of the areas of ours, John
23 keeps time sheets and hourly sheets, and those equipment
24 then are just allocated to, you know, us on an hourly
25 basis or daily basis whenever we're used.

1 Q. Okay. I'm going to hand you -- and it's marked
2 as Item No. 4, this was provided the other day. This is
3 an agreement between -- I believe that's Ozark Shores
4 (indicating).

5 MR. MARSHALL: That's the Lake Region.

6 MR. HARMS: Oh, that's Lake Region's?

7 MR. MARSHALL: Yeah.

8 BY MR. HARMS:

9 Q. Okay. Well, there's similar contracts between
10 Ozark Shores and Lake Region, and it just shows that
11 it's a \$1,500-a-month flat fee.

12 A. That could be. I don't -- I don't know.

13 Q. Okay.

14 A. I've got to admit, I am not that familiar with
15 how the particulars really work.

16 Q. But you're the president of the Lake Region, and
17 I believe that's your signature on it. Did you sign
18 that as president or is that Roger Sallee (indicating)?

19 A. That's Roger Sallee.

pres of Lake Region

20 Q. Okay. And John Summers is general manager?

21 A. That's right.

22 Q. Okay. I'm reading through the back. I can see
23 it big, so --

24 A. You can have it back. I was just reading it
25 'cause I wasn't sure what --

1 Q. Okay. All right. So you're not sure what the
2 contract says?

3 A. No. No, I have --

4 Q. Okay. Do you know if there was any kind of board
5 resolution to allow the general manager to execute this
6 document on behalf of the Lake Region Water and Sewer?

7 A. I don't know if there was a resolution, but Vern
8 and I have certainly given John authority to sign those
9 kinds of documents.

10 Q. Okay.

11 A. It might have only been verbal, but we've given
12 him that.

13 Q. Okay. And I'm going to hand you what was Item
14 No. -- that was the Request No. 4.

15 MR. MARSHALL: Right. Right.

16 BY MR. HARMS:

17 Q. And as we look at this, this is the operating
18 agreement for Lake Region Water and Sewer that was
19 produced. Before we get in there, you might actually
20 have your attorney or the attorney for Lake Region Water
21 and Sewer make this agreement valid, because it actually
22 expired the day before it was to become effective. If
23 you look at the bottom, it expired on January 31, 2007
24 and became effective on February 1st, 2007. So there
25 appears to be a typo that you might want to have

1 somebody fix.

(*obviously he did not leave the room*)

2 MR. SUMMERS: I know who that would be.

3 BY MR. HARMS:

4 Q. This is the contract that we talked about earlier

5 as far as the -- as far as the monthly fee. There's

6 \$17,900 paid from Lake Region Water to have the Water

7 District operate its systems for it, or actually for the

8 labor to operate Lake Region (indicating)?

9 A. Right.

10 Q. Do you have any idea how many hours are covered
11 under this?

12 A. I have no idea.

13 Q. Okay. And this contract just appears to be a
14 flat rate; is that correct?

15 A. There's a true-up provision at the end of the
16 year. I understand that John keeps these records, and
17 if this number is, I think, more than five percent one
18 direction or the other, either party can ask for the
19 reimbursement or the payments or whatever.

20 Q. Do you know if there's been any true-up on these?

21 A. I don't know.

22 Q. You don't know. Okay. Okay. And this is a
23 one-year contract; is that correct?

24 A. Yes. Yes.

25 Q. And this is actually the most -- well, sort of

1 the most current?

2 A. Yeah.

3 Q. The most currently expired contract?

4 MR. MARSHALL: Let the record show that this
5 counsel had nothing to do with drafting that contract.

6 MR. WILLIAMS: And will assess all blame,
7 notwithstanding your lack of responsibility.

8 BY MR. HARMS:

9 Q. Okay. And one of the things I've been trying to
10 gather at trial is who actually owns the system, and I
11 think you covered that earlier. Lake Region Water owns
12 the systems in its areas?

13 A. Yes.

14 Q. And then it's -- those systems are then operated
15 by --

16 A. The Water District.

17 Q. -- the Water District?

18 A. Correct.

19 Q. Does Lake Region Water and Sewer own easements to
20 have the water lines go in or are those in the name of
21 another corporation?

22 A. We hope we have enough easements, but you never
23 have them all.

24 Q. Okay. But -- but any easements you do have would
25 be in Lake Region Water and Sewer?

1 A. Yes.

2 Q. Okay. And the water treatment plant you have,
3 the real estate under it would also be --

4 A. It's all Lake Region.

5 Q. And the towers as well, the water towers?

6 A. Yes.

7 Q. Okay. We talked a little bit ago about the
8 contract with City of Lake Ozark for the effluent. Do
9 you take effluent in from any other areas or any other
10 companies?

11 A. I don't -- I don't believe so. But again --
12 let's qualify that. I don't know, but I don't believe
13 so.

14 Q. Okay. All right. And we talked a minute ago
15 about the Lake Region Water equipment rental agreement
16 that was provided, and there's -- is it your
17 understanding there's also one for Ozark Shores?

18 A. Yes.

19 Q. Ozark Shores rents equipment?

20 A. Yes.

21 Q. Okay. And I'm going to hand that to you, just
22 to clear up the record on this. And it's also just
23 a \$1,500-a-month flat fee?

24 A. That's what this says.

25 Q. All right. Is there -- was that also equipment

1 that was owned by Ozark Shores that was conveyed to the
2 Water District?

3 A. I'm sure it would have been.

4 Q. Okay. You testified earlier that there -- you
5 didn't actually testify. We were talking earlier about
6 some of restrictions on water districts, who they can
7 buy and what they can't buy and things like that.

8 A. Yeah.

9 Q. Is there anything to prohibit the Water District
10 from purchasing Lake Region Water and Sewer or Ozark
11 Shores --

12 A. No.

13 Q. -- to your knowledge?

14 A. No.

15 Q. Do you know if that's the plan?

16 A. We've never formally discussed it with anybody,
17 the Water District, you know.

18 Q. Okay. Have you discussed it with your partners,
19 with the Stumps?

20 A. It would be something that if someone came along
21 and made us a good offer, sure, we would sell.

22 Q. Is that something that you've discussed with --

23 A. Long range.

24 Q. Long range?

25 A. Long range.

1 Q. Okay. That's another copy of the contract. And
2 just for your information, the Ozark Shores contract for
3 labor is also expired, so . . .

4 A. We have no laborers.

5 Q. Yeah, just to let you know that.

6 A. Let's see.

7 Q. It does the same thing. They -- somebody just
8 changed the name on the top of it and it had exactly the
9 same agreement in there. You testified a minute ago
10 about the bond issue that you helped the Water District
11 do for the \$3 million bond issue.

12 A. Correct.

13 Q. And you received two percent of that; is that
14 correct?

15 A. Correct.

16 Q. There is an agreement, and actually we got two
17 copies of it. I'm not sure why we got two copies of it,
18 but you can have a copy and you can have a copy, because
19 I've got two copies. It's a July 9th, 2004 -- or 2002,
20 I don't remember. I just handed it to you, so I don't
21 know.

22 MR. MARSHALL: 2002.

23 BY MR. HARMS:

24 Q. 2002. And that says that you're entitled to
25 three percent of bond issues. Was there a separate

1 agreement for the \$3 million bond issue?

2 A. No.

3 MR. MARSHALL: This says not to exceed three
4 (indicating).

5 BY MR. HARMS:

6 Q. That's what I'm saying, not to exceed
7 three percent.

8 A. We didn't feel it was enough time spent to exceed
9 the two percent.

10 Q. Okay. Did you have anything in writing between
11 you and the Water District?

12 You just agreed?

13 A. Yeah. That's the only document between the
14 District and us.

15 Q. Okay. And we're getting down to the end of the
16 file, so . . .

17 MR. MARSHALL: Darn.

18 MR. HARMS: Huh?

19 MR. MARSHALL: I said darn.

20 BY MR. HARMS:

21 Q. And now I'm also looking at the contract for
22 labor for the Meadows, which is also expired.

23 A. Is it also 1,500?

24 Q. No. It's actually only \$4,500 a month.

25 A. Okay.

1 Q. Or is it 45?

2 MR. SUMMERS: Yeah.

3 BY MR. HARMS:

4 Q. All right. Yeah. And is that the most recent
5 one (indicating)?

6 Yeah, because that became effective February 1st
7 and expired January 31st. Okay. So that's -- that
8 actually went down from the previous years. Do you have
9 any reason why?

10 A. No, I have no idea.

11 Q. You have no idea?

12 A. I have no idea.

13 Q. Have you seen any of these documents before
14 (indicating)?

15 A. Very vaguely.

16 Q. So you might have just got a pile of stuff and --

17 A. Flipped through them.

18 Q. Okay.

19 A. I sign what John tells me to sign.

20 Q. Okay. All right. And I'm going to put you on
21 the spot just a little bit, because you're here, just
22 because I can. During the proceedings in this matter,
23 Mr. Summers testified that he had actually considered
24 having the water -- having Lake Region Water and Sewer
25 install the fire plugs. There was some consideration of

*

1 Lake Region Water doing that and it was decided that you
2 didn't want to, and that's been your testimony here
3 today.

4 A. Yes.

5 Q. Was there any direction for John to make any
6 determination like that or --

7 A. No.

8 Q. -- did John tell you -- did he help you make your
9 determination or did you help him make his
10 determination?

11 A. We just said no.

12 Q. Okay. So you and Sally --

13 A. Quick.

Sally Stump?

14 Q. Okay. All right. Okay. Has the Water
15 District -- and I think we started down this and we kind
16 of got into the objection a little bit, and I'm not sure
17 if I just don't remember the answer or whether it was
18 answered. Has the Water District asked you to help with
19 any funding proposals or plans for funding with regard
20 to water or sewer services?

21 A. No.

22 Q. Okay. Okay. And that's -- yeah.

23 MR. MARSHALL: I just want him to wait until you
24 finish the question. That's why.

25 BY MR. HARMS:

1 Q. Okay. And like I said, I wanted to make sure
2 that I had some idea of that.

3 A. Yes.

4 Q. Are you -- what type of funding can a water
5 district get? I mean, if a water district wants to
6 build something, what are the mechanisms allowed to them
7 to -- *

8 A. It can vote a revenue bond. Our water district
9 does not have general obligation powers. It was formed (1)
10 without the ability to issue general obligation debt.

11 So with that is not an avenue to us. It can issue
12 leases or what they call certificates of participation. (2)

13 Where it's an annual lease that today is very -- is
14 recognized and accepted very equivalent to bonds.
15 There's hardly any interest rate differential.

16 There are grants to certain low income areas, you
17 know, if you have -- if you qualify for a loan, general,
18 you know, medium income. The old Farmer's Home
19 Administration, which is no longer Farmer's Home, but I
20 believe they still fund some water district
21 construction. Again, I think they limit pretty well to
22 areas that sort of can't afford it anymore. It's hard
23 to get regular money from them. And that's basically
24 it. But that's sort of the same thing available to
25 cities.

1 Q. Okay. Have you done any -- have you seen the
2 proposed annex area in this (indicating)?

3 I think there was some testimony earlier that you
4 didn't help set the boundaries. But are you --

5 A. I've seen it, yes.

6 Q. You've seen it. Okay. Are you familiar with
7 that area at all?

8 A. Vaguely, just very generalized.

9 Q. Okay. But you haven't done any kind of studies
10 to see which funding mechanism would be -- which funding
11 mechanism would be the most appropriate or --

12 A. No.

13 MR. HARMS: Okay. Okay. Okay. I don't think I
14 have any further questions.

15 MR. WILLIAMS: Mr. Schwermann, you have certain
16 rights with respect to the transcript of this matter,
17 although given the short time frame in which it must be
18 prepared, you probably don't have as many rights as you
19 otherwise would have. One of them is the right to have
20 the court reporter present you with her certified copy
21 of the transcript. That's called a right of
22 presentment. Typically that is waived in depositions
23 and the transcript is simply furnished.

24 In this instance, because we have court again on
25 Friday, the court reporter is going to prepare a

1 transcript. You have the right to read and sign that
2 transcript. I would ask that you waive it because of
3 the short time frame involved, unless you want to read
4 and sign it Friday morning at the courthouse.

5 MR. HARMS: The purpose is mainly in case you
6 think she's made some mistakes in what you've said.
7 That's the reason to read it and sign it.

8 THE WITNESS: I have no objection to waiving it.

9 (SIGNATURE WAIVED.)

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C E R T I F I C A T E

STATE OF MISSOURI)
) SS.
COUNTY OF COLE)

I, Jennifer Renee Johnson, Certified Court Reporter
No. 1041, Capital City Court Reporting, 210 East High
Street, Suite 110, Jefferson City, Missouri 65101, do
hereby certify that pursuant to notice, there appeared
before me,

ROBERT P. SCHWERMANN,

at the law offices of Gregory D. Williams, 16533 North
State Highway 5, in the City of Sunrise Beach, County of
Camden, State of Missouri, on the 12th day of
September 2007, who was first duly sworn to testify to
the whole truth of his knowledge concerning the matter
in controversy aforesaid; that he was examined and his
examination was then and there written in machine
shorthand by me and afterwards typed under my
supervision, and is fully and correctly set forth in the
foregoing pages; and that the witness and all counsel
waived the reading and signing of this deposition in my
presence.

I further certify that I am neither attorney or counsel
for, nor related to, nor employed by, any of the parties
to this action in which this deposition is taken; and
further, that I am not a relative or employee of any
attorney or counsel employed by the parties hereto, or
financially interested in this action.

Given at my office in the City of Jefferson, State of
Missouri, this 13th day of September 2007.

Jennifer R. Johnson
Certified Court Reporter No. 1041
Notary Public within and
for Cole County of Missouri

COURT MEMO
IN THE CIRCUIT COURT OF CAMDEN COUNTY
STATE OF MISSOURI

CAMDEN COUNTY PUBLIC WATER
SUPPLY DISTRICT NO. 4,
RONALD MASSIE, GAYLE
REPETTO, HARRELL DRYDEN,
ROGER SALLEE and RANDY
THOMPSON,

Board of Directors,

vs.

JUDITH NELSON, CURTIS MORGAN,
DONALD BROHM, ROBERT WHITTEN,
NANCY CASON, M.R. BECKER,
and JAMES D. CAVEN,

Voter/Landowner
Petitioners.

Cause No. 07CM-CC00013

interviewed as captioned

CERTIFICATE OF OFFICER & STATEMENT OF COSTS
Rule 57.03 (g)(2)(a) & Section 492.590 RSMo 1985
Transcript of Deposition of ROBERT P. SCHWERMANN
September 12, 2007

Name & address of person or firm having custody of the
original transcript: GREGORY D. WILLIAMS, 16533 North
State Highway 5, Sunrise Beach, Missouri 65079:

TAXED IN FAVOR OF: The City Of Lake Ozark, represented
by GERARD "JAY" HARMS: Copy of transcript,

Total.....\$

TAXED IN FAVOR OF: The City Of Sunrise Beach,
represented by GREGORY D. WILLIAMS: Attendance,
original & copy of transcript,

Total.....\$

TAXED IN FAVOR OF: The Camden County Public Water
Supply District No. 4, represented by LARRY R. MARSHALL
copy of transcript,

Total.....\$

1 Upon delivery of transcript, the above charges had not
2 yet been paid. It is anticipated that all charges will
3 be paid in the normal course of business.

4 JENNIFER JOHNSON
5 Certified Court Reporter No. 1041
6 CAPITAL CITY COURT REPORTING
7 210 East High Street
8 Jefferson City, Missouri 65102
9 (573) 761-4350 or at the Lake (573) 365-5226

10
11 IN AFFIRMATION THEREOF, I have hereunto set my hand and
12 seal on this 13th day of September 2007.

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JENNIFER JOHNSON
Certified Court Reporter No. 1041
CAPITAL CITY COURT REPORTING