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**BEFORE THE PUBLIC SERVICE COMMISSION
STATE OF MISSOURI**

DIRECTOR OF MANUFACTURED HOUSING

VS.

BROOKSIDE HOMES, INC.

Case No. MC-2009-0020

DEPOSITION OF STEVEN WARREN

JANUARY 22, 2009

ORIGINAL

NATIONWIDE SCHEDULING

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Exhibit C

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BEFORE THE PUBLIC SERVICE COMMISSION
STATE OF MISSOURI

DIRECTOR OF MANUFACTURED HOUSING,)
)
Petitioner,)
)
vs.)
)
BROOKSIDE HOMES, INC.,)
)
Respondent.)

MC-2009-0020

DEPOSITION OF STEVEN WARREN

TAKEN ON BEHALF OF THE Petitioner

JANUARY 22, 2009

Exhibit C

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I N D E X O F E X A M I N A T I O N

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Questions by Mr. Reed. 5

(Exhibits were marked prior to the
deposition, and retained by Mr. Reed.)

A P P E A R A N C E S

For the Petitioner:

Steven C. Reed, Sam Ritchie
& Eric Dearmont
Public Service Commission
200 Madison Street
Jefferson City, MO 65102

For the Respondent:

Robert Bilbrey
Thurman, Howald, Weber, Senkel & Norrick
One Thurman Court
Hillsboro, MO 63050

Also present: David Freeman

Court Reporter:

Jeanne M. Pedrotty, CCR/CSR
Missouri CCR #618
Illinois CSR #084-003893
Midwest Litigation Services
711 North Eleventh Street
St. Louis, Missouri 63101
(314) 644-2191
1-800-280-3376

1 IT IS HEREBY STIPULATED AND AGREED by and
2 between counsel for the Plaintiff and counsel for the
3 Respondent that this deposition may be taken in
4 shorthand by Jeanne M. Pedrotty, CCR/CSR, a Certified
5 Court Reporter and Certified Shorthand Reporter, and
6 afterwards transcribed into typewriting; and the
7 signature of the witness is expressly waived.

8 * * * * *

9 STEVEN WARREN,
10 of lawful age, produced, sworn and examined on behalf
11 of the Petitioner, deposes and says:

12 (Starting time of the deposition: 10:00)

13 EXAMINATION

14 QUESTIONS BY MR. REED:

15 Q. Mr. Warren, state your full name for us?

16 A. Steven D. Warren.

17 Q. Mr. Warren, have you been deposed before?

18 A. On this case or others?

19 Q. Any other case.

20 A. Yes.

21 Q. You have?

22 A. Yes.

23 Q. How many times?

24 A. One.

25 Q. One time, okay. Civil case?

1 A. Yes.

2 Q. Just a reminder about generally how things
3 go. You're under oath. I'll ask you questions and
4 ask you to answer them. Let's be careful not to talk
5 over each other. In other words, when I ask the
6 question, I'll wait until you finish your response
7 before I ask another question. If I ask a question
8 you don't understand, please tell me. This is a lot
9 less formal than a courtroom where your attorney might
10 have to do that. But if you don't understand my
11 question, just say Mr. Reed, I don't understand what
12 you're asking me. If you do answer a question, I'll
13 assume that you understood the question; okay?

14 A. Okay.

15 Q. The court reporter, of course, is going to
16 provide a transcript and you will get an opportunity
17 later to review that and sign that, and you can talk
18 to your attorney about the specifics about how that
19 works, but none the less you will get a written copy.

20 A. Okay.

21 Q. Mr. Warren, where do you live now?

22 A. St. Louis County.

23 Q. Can you give me your home address?

24 A. 3436 Falconview Lane.

25 Q. Are you married?

1 A. Yes.

2 Q. Do you have kids?

3 A. Yes.

4 Q. How many?

5 A. Two.

6 Q. Tell me what you do for a living.

7 A. I own several businesses one of which is
8 Brookside Homes. I own an auto parts business, and
9 I'm involved in a couple of financial businesses.

10 Q. Do you finance the purchase of manufactured
11 homes?

12 A. Not at retail, no.

13 Q. At wholesale?

14 A. At wholesale.

15 Q. Who are the wholesale sales to for
16 instance?

17 A. That particular company which is owned by
18 my daughter actually finances Brookside Homes'
19 inventory.

20 Q. I see. Floor plan financing they call it?

21 A. Correct.

22 Q. What's the name of that?

23 A. Dragon Funding.

24 Q. Do you have any other floor planners?

25 A. No.

1 Q. Is the auto parts -- you said auto parts;
2 right?

3 A. Uh-huh.

4 Q. Is that located at same site where
5 Brookside Homes?

6 A. Legal address is. It actually operates out
7 of my house. It's an Internet-based company.

8 Q. Is there any inventory kept there --

9 A. No.

10 Q. -- where the Brookside Homes is?

11 A. No. There is no inventory.

12 Q. The Brookside Homes Inc. address, where the
13 lot is; what's the address there?

14 A. 2455 US Highway 67 south, Festus, Missouri.

15 Q. Are there any other businesses at the same
16 address?

17 A. There is a -- my dad runs his business from
18 there to, R. F -- I believe Ray F. Warren and
19 Associates.

20 Q. What is that business?

21 A. He is a mobile home broker.

22 Q. I see. What does a broker do?

23 A. A broker sells used homes for individuals.

24 Q. Okay. Does he have inventory on the same
25 lot?

1 A. No. He does not have inventory either.

2 Q. So as the broker, he would put buyers and
3 sellers together?

4 A. Yes. He is effectively the same as a real
5 estate agent for the manufactured housing industry.

6 Q. Are there any other businesses in the same
7 general area there where Brookside Homes, Inc. is?

8 A. Yeah.

9 Q. What is it?

10 A. You mean along the same street?

11 Q. Yeah.

12 A. There is -- to one side there is a
13 motorcycle, Surdyke Harley Davidson and to other side
14 is Clayton Homes. And across the street it used to be
15 Bropf's Homes, they are going under Freedom Homes now.

16 Q. So there are three manufactured housing
17 dealers in the same area?

18 A. In the same block.

19 Q. Do you share any space with them? Does any
20 of your inventory share any space with those other
21 dealers?

22 A. No.

23 Q. I have some information on Exhibit 1 from
24 the Secretary of State's office. This is just a print
25 out from the website basically.

1 A. I forgot that one.

2 Q. I wanted to ask you about that. There is
3 one listed here when you do a search of your name, for
4 instance, you come up with BSH Contracting. What is
5 that?

6 A. That is my construction company that -- we
7 use that for our -- when a customer wants us to do
8 improvements to their lot. BSH is the one that will
9 do that construction.

10 Q. What kind of construction?

11 A. Well, occasionally we'll subcontract out
12 foundations, septic systems, water, driveways,
13 sidewalks, whatever is needed.

14 Q. Is it a contractor?

15 A. Yeah. It's a general contractor.

16 Q. So, BSH might be hired, but then would
17 subcontract out most of the work to others?

18 A. Correct. It would subcontract all of it.

19 Q. And is BSH Contracting located at the same
20 address --

21 A. Yes, it is.

22 Q. -- as Brookside Homes?

23 A. Yes, it is.

24 Q. I think on the third page of that Exhibit 1
25 you will see officers. Do you see that officers,

1 secretary and then board of directors; is that you,
2 Steven D. Warren?

3 A. Yes.

4 Q. For BSH Contracting?

5 A. Correct.

6 Q. Who else is involved in that business
7 besides you?

8 A. Actually, the sales manager at Brookside,
9 Bill Connell does most of the work with the company --
10 does most of the subcontracting.

11 Q. Bill Connell?

12 A. Yes.

13 Q. Is he an employee of Brookside Homes, Inc.?

14 A. Yes.

15 Q. Do you consider him also an employee of BSH
16 Contracting?

17 A. No.

18 Q. He is not?

19 A. No. BSH Contracting had no employees.

20 Q. I have Exhibit 2 here. If you want to, you
21 can stack those like that.

22 A. Okay.

23 Q. This is No. 2. Some more information from
24 the Secretary of State's office, but this has to do
25 with Brookside Homes, Inc. as you can see. You see on

1 the second page there are articles of incorporation?

2 A. Correct.

3 Q. Have these been amended at any time since
4 1999?

5 A. Yes.

6 Q. Do you see a copy of the amendment in
7 there?

8 A. Yes.

9 Q. This amendment, can you explain what this
10 amendment does and its purpose?

11 A. The original incorporation was done with
12 only the company allowing for 1000 aggregate shares of
13 common stock to be issued. It was changed on the
14 advice of the attorney to the maximum number that the
15 state allows of 30,000.

16 Q. Who are the shareholders for Brookside
17 Homes, Inc.?

18 A. Steven Warren; me.

19 Q. And if you look back a page before that you
20 see annual registration report. In the top right it
21 has February 28, 2008 date. Do you see the officers
22 listed there, president and secretary?

23 A. Uh-huh.

24 Q. Is that still true?

25 A. Uh-huh.

1 Q. You, Steven D. Warren, are president and
2 secretary of Brookside Homes, Inc.?

3 A. That's correct.

4 Q. And you are also the sole director?

5 A. Correct.

6 Q. And you're the sole shareholder?

7 A. Correct.

8 Q. Can you name for me the employees?

9 A. Currently employees are William Connell and
10 Frederick Ellis; Rick Ellis.

11 Q. In the past have you had more employees
12 than that?

13 A. Yes.

14 Q. Have you let them go for some reason?

15 A. Either I let them go or they left of their
16 own accord.

17 Q. How many did you have total? What's the
18 largest number you had at one time of employees?

19 A. I think five.

20 Q. Can you give me their names?

21 A. Let's see. When did I have five? One was
22 Larry Byron, he was service man. I would have had
23 Tracy Chambers at one point.

24 Q. I think I have seen that name. Is there
25 Amanda?

1 A. Amanda Sharp is her current name. In the
2 last two years, the most I have had has been three;
3 three employees in addition to myself.

4 Q. Okay. And Amanda was the third of them?

5 A. All right.

6 Q. Who handles the day-to-day affairs at
7 Brookside Homes?

8 A. Bill Connell.

9 Q. What is his title?

10 A. He is general manager.

11 Q. Who else is still there now today?

12 A. Rick Ellis; Frederick Ellis.

13 Q. What does he do?

14 A. Sales rep.

15 Q. Are you there day-to-day?

16 A. No.

17 Q. Just sometimes?

18 A. Just sometimes.

19 Q. Does your father -- is it Ray Warren, does
20 he work for Brookside Homes, Inc.?

21 A. No. He is an independent agent.

22 Q. How long has Brookside -- whenever I say
23 Brookside what I'm referring to is Brookside Homes,
24 Inc. Do you understand that?

25 A. Uh-huh.

1 Q. If I say Brookside, will you go with me on
2 that?

3 A. Uh-huh.

4 Q. How long has Brookside been in business?

5 A. May of 1999, so right at ten years.

6 Q. Any other locations besides the address you
7 mentioned earlier?

8 A. No.

9 Q. Does Brookside -- has Brookside at any time
10 had any relationship with a company called Piedmont
11 homes?

12 A. Yes. Well, no, not so much with Piedmont
13 Homes, but with the owner of Piedmont Homes, yes.

14 Q. Who is the owner?

15 A. Ron Clark.

16 Q. How did Brookside work with Mr. Clark?

17 A. Mr. Clark was an agent for us in the area,
18 in the Piedmont area.

19 Q. Can you describe for me how he worked as an
20 agent for Brookside?

21 A. He would -- customers -- when customers
22 contacted him, he would sell homes for us.

23 Q. Did he have -- was there other inventory
24 there where he was in Piedmont, Missouri?

25 A. No.

1 Q. Can you describe for me how it would work,
2 though, a customer would contact you and Mr. Clark was
3 in the area, how would he help out?

4 A. Typically, a customer would contact him or
5 he would contact a customer and he would show them
6 materials for the homes. If he wanted to show them a
7 home, he would bring them up to us. Most of the time
8 he sold off floor plans and recommendations. And he
9 would sell as an agent for us. He would sell the
10 manufacturers we're selling and we would deliver the
11 home or have the home delivered there and arrange for
12 the setup.

13 Q. So the sale would be -- as I take it, the
14 sale would be there would be brochures, maybe virtual
15 pictures?

16 A. Typically, virtual pictures is on line.

17 Q. So a person might go to Mr. Clark's lot at
18 Piedmont, look at homes, and if they wanted one, Mr.
19 Clark would help them order that through Brookside?

20 A. Correct.

21 Q. Okay. Is there currently a business at
22 Brookside's address called Brookside Homes Sales?

23 A. That is a DBA that R. F. Warren -- Ray F.
24 Warren and Associates is using.

25 Q. Did I ask you what Ray F. Warren does as a

1 business?

2 A. Yeah.

3 Q. What was it?

4 A. He is the broker.

5 Q. That's right. He is the broker. I'm
6 sorry. Do you know who his associates are?

7 A. No. I think it's actually just part of the
8 name?

9 Q. Would he be in the same office there with
10 the employees of Brookside Homes, Inc.?

11 A. Yeah. He does rent office space from us.
12 We share a common lobby.

13 Q. Now, you're acquainted with a person who
14 works for the Public Service Commission called Gene
15 Winn, aren't you?

16 A. Uh-huh.

17 Q. Can you give me "yes" or "no"?

18 A. Yes.

19 Q. Just for purposes of the record. And you
20 know Tim Hayden?

21 A. Yes.

22 Q. And you know Mr. Freeman, of course?

23 A. Right.

24 Q. I wanted to ask you about a event I filed a
25 complaint relating to that occurred on July 24th,

1 2008. It's my understanding that Gene Winn and Tim
2 Hayden went to Brookside's lot and asked for documents
3 or records?

4 A. Demanded; there was no asking.

5 Q. Well, can you explain to me -- were you
6 there that day?

7 A. No, I was not.

8 Q. Can you tell me who was there?

9 A. Ray Warren was there and Frederick Ellis.

10 Q. What's your understanding of what happened
11 that day?

12 A. They came in and demanded the documents.
13 As far as I know, they demanded them from both Ray
14 Warren and from Frederick Ellis. Ray Warren, of
15 course, is not an employee does not have access to
16 them Frederick Ellis called me. I contacted the
17 attorney and attorney told us that understand, that it
18 was his opinion that we should not give the documents
19 to them at the time. Gene Winn continued to persist
20 and pushed his way around the office demanding stuff
21 and demanding signatures on a letter?

22 Q. I have got Exhibit 3 here. Let me show you
23 that.

24 A. Okay.

25 Q. On July 24th, 2008, did you see this

1 letter?

2 A. I did not see it on the 24th. I did see it
3 later.

4 Q. Sometime after?

5 A. Yeah.

6 Q. Within a few days would you say?

7 A. Yes.

8 Q. Down here at the bottom where it says
9 Brookside Homes representatives, is it your
10 understanding that's where Mr. Winn wanted someone to
11 sign?

12 A. That's correct. And I dispute the fact he
13 says they refused to give any files. Neither of them
14 had the authority to release any information like that
15 anyway. They couldn't have refused. They had no
16 authority to do it.

17 Q. They called you?

18 A. Correct.

19 Q. And you talked to the attorney?

20 A. Correct.

21 Q. There is another letter that I have that's
22 marked as No. 4. This is actually a letter from me.
23 I probably sent it to Mr. Bilbrey. Yeah, I did.

24 A. You.

25 Q. Did you ever see this letter before today?

1 A. I did.

2 Q. I wanted -- I noted I think it's in the --
3 I had sent some discovery to your attorney which you
4 answered. I have got a copy of that marked as Exhibit
5 33. You can see question No. 13 and it says answer.

6 A. Correct.

7 Q. Would you say the answer on No. 13 is
8 accurate and consistent with what you believe happened
9 that day?

10 A. Yes.

11 Q. The last line it says, "Demand was made for
12 the entirety of the file which is beyond the scope of
13 what the agency is entitled to."

14 A. Correct.

15 Q. Can you describe for me what you mean by
16 that?

17 A. Under, I believe it's code 700, it's very
18 specific as to what documents the PSC can request.
19 And they were asking for all documents, not those
20 specific documents?

21 Q. None the less, is it your understanding
22 that if you sell homes, there are some documents that
23 are subject to PSC inspection?

24 A. Absolutely.

25 Q. You don't dispute that?

1 A. I don't dispute that at all.

2 Q. There may be some, in your opinion, or in
3 your attorney's opinion, that are not subject to the
4 disclosure to PSC?

5 A. Correct.

6 Q. Can you give me an example what kind of
7 documents those might be?

8 A. Well, the PSC is entitled to, if I remember
9 correctly, it's any affidavits, any service records.
10 They are not entitled to the -- any real estate
11 contracts, any contracts that deal with things outside
12 of the purchase of the home, anything that -- the
13 credit application, any, you know, work papers other
14 than those that relate directly to the home.

15 Q. Okay. Now, at this time as we sit here
16 today, have you produced all the records that were
17 requested in the July 24th letter?

18 A. All that we were able to.

19 Q. Is that correct?

20 A. Yeah.

21 Q. There were a couple that we identified by
22 numbers. If you look at that Exhibit again, the July
23 24th letter?

24 A. Right.

25 Q. I'm sorry. Look at the July 28th letter

1 instead. That's the letter that I sent. Those were
2 identified by numbers, the two at the bottom?

3 A. Correct.

4 Q. Is it the case in the line of business of
5 dealers and maybe with manufacturers also of
6 manufactured homes, that these homes are sometimes
7 referred to with the last four numbers of the serial
8 number?

9 A. In many cases, but all of the legal paper
10 work would have the entire serial number on it.

11 Q. Did you search for records on the last two
12 homes there?

13 A. We did.

14 Q. Did you find any?

15 A. No, we did not. I'll volunteer something.
16 Our 2562N is the model number from Fleetwood and
17 TNFL527 is the first six or seven numbers of the
18 serial number of any home built at the Tennessee plant
19 for Fleetwood; Tennessee Fleetwood plant and five
20 would be, I think -- 2004, I think.

21 Q. I noticed that. I think you're right about
22 that. I noticed that just recently?

23 A. And the last two, I didn't recognize.

24 Q. Can you tell me when you finally produced
25 those documents, if you know?

1 A. I don't know. I know -- I believe it was
2 produced through the process here.

3 Q. Through your attorney?

4 A. Yeah. And I will point out any document
5 production has been based on his recommendation.

6 Q. That's wise. I understand. Now, how many
7 manufactured homes are currently on Brookside's lot?

8 A. I'm going to guess eight. I might be off
9 one or two?

10 Q. Do you know what kinds are homes they are,
11 manufactured?

12 A. Fleetwood, Champion Homes and New River
13 Homes.

14 Q. Will you tell me how many homes
15 Brookside -- how many manufactured homes Brookside
16 sold in 2008?

17 MR. BILBREY: I'll object to that question.
18 It inquires into information that could potentially
19 incriminate my client and the corporation in so far as
20 the Fifth Amendmend applies. The second complaint,
21 the 0127 complaint does carry with it the potential
22 for criminal ramifications. And I'm going to instruct
23 my client not to answer that question.

24 MR. REED: Okay. I just wanted to be clear
25 about that. You're instructing the witness not to

1 answer.

2 MR. BILBREY: Yes.

3 Q. (By Mr. Reed) If Brookside had sold homes
4 in 2008, you would have records?

5 A. Correct.

6 Q. And the records would be at Brookside
7 Homes' location?

8 A. Yes.

9 Q. Can you tell me who you believe would have
10 records of manufactured homes being shipped to
11 Brookside for sale?

12 A. Likely the manufacturers.

13 Q. Can you give me the names of any
14 manufacturers who --

15 A. Fleetwood, Champion, and New River.

16 Q. Those three?

17 A. Those three.

18 Q. Did Brookside purchase from those three
19 manufacturers any homes in 2008?

20 MR. BILBREY: I'm going to renew my
21 objection. Same instruction and I'll instruct him not
22 to answer.

23 Q. (By Mr. Reed) I noticed on one of the
24 homes that was requested in the July 24th and July
25 28th letters was a home relating to a woman -- I think

1 woman -- named Patricia Naive?

2 A. That's correct. It is there.

3 Q. Did Brookside sell a manufactured home to
4 Patricia Naive in 2008?

5 MR. BILBREY: Same objection. I'm going to
6 instruct my client not to answer.

7 MR. REED: I think in the discovery
8 responses that you had provided previously, that you
9 and your attorney provided, you indicated that a
10 witness in the upcoming case may be Ray Warren.

11 MR. BILBREY: Which upcoming case?

12 Q. (By Mr. Reed) I thought it was the 0020
13 case, the one set in February. My question is to you,
14 Mr. Warren, if you know, what do you anticipate Mr.
15 Warren may have to add to the hearing?

16 A. I'm not absolutely sure.

17 Q. By Mr. Warren, I mean Ray Warren.

18 A. At this point, I'm not sure what he might
19 add.

20 Q. I can probably talk to Mr. Bilbrey about
21 that. We can talk about that. I'm just asking what
22 you know, that's all. And also endorsed was Frederick
23 Ellis who is the sale manager?

24 A. No sales person, sales rep.

25 Q. Sales rep, what could Mr. Ellis tell us

1 about the complaint case that's coming up relating
2 to -- that's related to the Cook home, Dement home,
3 and East Carter home?

4 A. He could probably not tell you anything
5 about those. I don't believe he was even a company
6 employee. He might have been in the employ of the
7 company at the time that one of them would be
8 delivered, but I don't think he was involved at all in
9 those.

10 Q. Okay. I'm not going to hold you to that.
11 I just want to know what you know. Your attorney is
12 in charge of those sorts of things. Do you think that
13 either Mr. Ellis or Ray Warren could tell me whether
14 Brookside Homes, Inc. sold any manufactured homes in
15 2008?

16 A. I don't know. Which case are we working on
17 here?

18 Q. I have kind of got the two mixed a little
19 bit. I don't want to confuse you.

20 A. Okay.

21 Q. I have kind of mixed the two up a little
22 bit. What I intended to do was take your deposition
23 one time for both cases and you had been done with it?

24 A. Okay.

25 Q. I thought that would be easier for all of

1 us. Can you tell me what licensed installers
2 Brookside Homes, Inc. has used in 2008 to install
3 manufactured homes?

4 MR. BILBREY: Same objection, and I'll
5 instruct him not to answer that.

6 MR. REED: You're instructing him not to
7 answer under the Fifth Amendment.

8 MR. BILBREY: Under the Fifth Amendment.

9 Q. (By Mr. Reed) Is there -- let's look back
10 in the past. Outside of the 2008 area I have asked
11 you a few questions about, are there ever situations
12 where a manufactured home dealer can use an installer
13 who is not licensed by the Public Service Commission?

14 A. Not to complete an installation.

15 Q. Are there jobs that can be done -- I guess
16 they are associated with the installation of a home or
17 maybe I should better say the set-up of a manufactured
18 home that can be done by those other than licensed
19 installers?

20 A. Yes.

21 Q. What kind of work can be done?

22 A. Among other things trim work, putting the
23 home on the site, air conditioning.

24 Q. Electrical work?

25 A. Uh-huh.

1 Q. Is that "yes"?

2 A. Yes.

3 Q. What about delivery of the home?

4 A. Delivery of the home itself is not a
5 licensed installer.

6 Q. In other words, delivery from the sales lot
7 to the customer site?

8 A. Correct. That does not require a licensed
9 installer.

10 Q. What's your understanding what is required
11 to be done by a licensed installer?

12 A. Licensed installer is to supervise the --
13 supervise the installation of the home on the site and
14 the final work for the electrical work, the connection
15 of the home to the electrical grid, the connection of
16 the home to any water and sewer unless those things
17 are not included in the sale. And I understand that
18 the licensed installer also has to do the skirting.

19 Q. What kind of work, as a dealer, would you
20 be in charge of hiring a licensed installer to have
21 that kind of work done?

22 A. Yes. You mean personally or as a dealer.

23 Q. As a dealer, I'm speaking to you as
24 Brookside.

25 A. As Brookside, yes.

1 Q. That's what I intend. Unless I say
2 otherwise, that's what I intend to ask you is in your
3 role with Brookside; okay?

4 A. That's a different question when you say
5 Brookside or my role with Brookside.

6 Q. Why is that?

7 A. Because I personally do not hire the
8 installer, but the company does hire the installer.

9 Q. That's what I'm getting at?

10 A. Yeah.

11 Q. You, as the president of Brookside, for
12 instance?

13 A. I typically do not hire the installers.

14 Q. Who does?

15 A. That would be the general manager.

16 Q. And that is --

17 A. William Connell. And we're talking current
18 term with that?

19 Q. Now, what kind of work would Brookside
20 contract out to be done to other than a licensed
21 installer?

22 A. Delivery of the home, air conditioner,
23 preparation of the lot, that is if Brookside is
24 responsible for that, in many cases Brookside is not.
25 Trim work, final finish.

1 Q. There may be others?

2 Q. Can you name me -- can you provide the
3 names for me some contractors that Brookside has used
4 over the years to do work other than that required by
5 licensed installers?

6 A. Let's see. I was drawing a blank on his
7 name the other day.

8 Q. Would BSH Contracting do some of that work?

9 A. Not really. Not specifically. Well, not
10 specifically for the set-up of the home. They would
11 do property -- they would do preparation of the lot,
12 but, not so much, they don't actually do the
13 installation of the home. We've hired others, Lou
14 Theiss. I'm drawing a blank on the name of the -- I
15 have hired a number of people to do trim work. I
16 hire -- I typically hire Royal Supply to do the air
17 conditioning and skirting. They subcontract it
18 through licensed installers?

19 Q. Through subcontractor to licensed
20 installer?

21 A. They subcontract the work to, I assume,
22 licensed installers.

23 Q. How about GCL?

24 A. I have used him. He is a licensed
25 installer.

1 Q. So you might hire a licensed installer to
2 do work other than work that's required to be done by
3 a licensed installer?

4 A. Yes.

5 Q. Apparently in the trade it's not unusual
6 for the dealer, such as Brookside, to hire a
7 contractor to install the home and to perform
8 everything else that's necessary?

9 A. No. It's not unusual at all. Many dealers
10 do not own equipment and do not have employees for
11 that job. In fact, of the three in our block, there
12 are no employees that do that work. They are all
13 contractors.

14 Q. Okay. I want to talk to you about the
15 general responsibilities of the dealer after the sale
16 of a manufactured home. Can you describe those for
17 me?

18 A. Our responsibility, now after the sale or
19 after the delivery?

20 Q. After the sale?

21 A. After the sale, our responsibility is to
22 arrange -- is to hire the licensed contractors to do
23 the set-up, hire contractors to do remaining work
24 depending on what the customers -- what the customer
25 has hired people to do. We may arrange for some prep

1 work. In most cases, the owner does all the prep work
2 or they hire BSH or some other company to do the prep
3 work on the lot. Once the home is installed, we
4 coordinate with the manufacturer for service.

5 Q. Okay. There is a statute and a rule that
6 we attorneys talk about that defines the word set-up,
7 have you ever read that part of the statutes?

8 A. I probably have, but I don't recall what it
9 says now.

10 Q. Are you -- as a dealer over the years, are
11 you familiar with what are called the manufactured
12 home construction and safety standards?

13 A. Familiar already with them, yes.

14 Q. What I'm referring to and I have got a
15 pamphlet here somewhere. Is this book here that's
16 found at 24 CFR Chapter 20 part 3280?

17 A. I have never seen the book.

18 Q. Do you have a copy of what would be in that
19 book of those regulations for instance?

20 A. Probably not.

21 Q. Have you ever -- go ahead and look at it.
22 Have you ever reviewed the Public Service Commission's
23 rules that apply to manufactured home dealers?

24 A. Yes.

25 Q. And are you familiar with the Public

1 Service Commission rules called the code; are you
2 familiar with that term, the code?

3 A. Not specifically. Not that term.

4 Q. If you look through the rules and the cite
5 is 4 CSR 240-120.100, and if you look at that there is
6 a definition of what's called the code. It says the
7 code is defined as -- do you have any familiarity with
8 what that definition may be?

9 A. No.

10 Q. Do you know if a dealer, after the sale of
11 a manufactured home, has a legal duty to comply with
12 what's called the code?

13 A. I believe it's stated in somewhere in the
14 regulations that the dealer has the responsibility,
15 yes.

16 Q. Okay. Because my next question is whether
17 you know who is responsible under the rules and the
18 statutes for making sure that the set-up which is
19 legally defined -- whether the set-up of a
20 manufactured home complies with the code which is also
21 a legal term?

22 A. That would be the licensed installer.

23 Q. And what about the dealer's responsibility
24 for compliance with the code?

25 A. Dealer responsibility is to hire licensed

1 installers.

2 Q. And if the installer performs work that
3 doesn't comply with the code, that's deficient for
4 instance, whose obligation is it to make sure that the
5 final product complies with the code?

6 A. The licensed installer.

7 Q. What if the dealer hired contractors to do
8 things other than the installation of the home and
9 those licensed, and those contractors or
10 subcontractors perform subpar work, whose obligation,
11 then, would it be to make sure that the final product
12 complies with the code?

13 A. Likely the dealer.

14 Q. So is it your position, then, that once the
15 dealer hires a licensed installer, the dealer's
16 responsibility with regard to the installer's
17 obligation ends?

18 A. I think so.

19 Q. And if the dealer hires -- other than,
20 let's say, other contractors or subcontractors to do
21 other than installation work, is it your position that
22 the dealer remains obligated to make sure the work
23 complies with the code?

24 A. Yes.

25 Q. I hope the question made sense. They were

1 getting a little long there.

2 A. A little long and technical.

3 Q. I'm glad you took a moment to think about
4 those. I have got a series of documents here that
5 should actually go pretty quickly. These should be
6 documents that I think we're all familiar with,
7 although it may be sometime since we've looked at
8 them. The first exhibit is No. 5. The first home I
9 want to talk about is that one sold to Jeremy and
10 Casey Dement. You will see Exhibit 5, it's an August
11 13th letter from Mr. Freeman, and then there is
12 attached to it an inspection report that has date of
13 inspection July 26th, 2007.

14 A. Okay.

15 Q. Does it look at all familiar to you?

16 A. Yeah.

17 Q. All right. I want to jump straight to the
18 -- what will be the third page of that exhibit. The
19 second page of the inspection report where it talks
20 about -- at the top this up here at top number 16
21 through 20, according to the inspection report these
22 are dealer set-up deficiencies. Do you see those?

23 A. Uh-huh.

24 Q. Take a moment to familiarize yourself with
25 16 through 20?

1 A. Okay. Do we have our answers to this one?

2 MR. BILBREY: Answer to our discovery?

3 THE WITNESS: My answer to this one, what I
4 sent back.

5 MR. BILBREY: I'm sure somewhere.

6 Q. (By Mr. Reed) It is and we'll get to that.
7 We actually will. I think I have copied all those
8 documents. The next one you will see is your letter
9 that relates to Dement.

10 A. Yeah.

11 Q. We'll get to that in a second. You know if
12 you need something to refresh your recollection, I can
13 certainly do that. This is an informal setting. I'm
14 just trying to get some information. My first
15 question to you is 16 through 20, are those, in fact,
16 dealer responsibilities?

17 A. Well, I think 16 is an opinion. That's
18 something that is not a code-based item. That's an
19 opinion. That's a cosmetic item. I dispute that
20 number 20 is correct. I disputed that all along. The
21 Square D breaker is -- meets national electric code
22 and fits in the box and is a proper breaker. It
23 should not have to be the same brand as the box, as
24 the Public Service Commission has said. But I do
25 agree with the other three.

1 Q. That those are dealer responsibilities?

2 A. Correct.

3 Q. And should be corrected. Okay. Now, when
4 the home was delivered and it's being set up, as they
5 say, who is responsible at that point in time to take
6 care of 16?

7 A. 16 would be the set-up crew. That would
8 have been the licensed installer.

9 Q. Do you remember who it was?

10 A. I think it was Lou Theiss on that home.

11 Q. And 17, 18, 19, and 20, who was hired or
12 who was responsible to take care of those?

13 A. I think that was Royal Supply. If it was
14 not Royal Supply it was one of their contractors.

15 Q. That would be for all four of those, 17
16 through 20?

17 A. That's correct. For the air conditioning,
18 again, I still dispute number 20 as not being proper.

19 Q. Let's look at Exhibit 6, I think that's
20 your response.

21 A. Actually, no, this is not my response.
22 This is a letter to Royal Supply and, obviously, Royal
23 Supply did the air conditioning on that.

24 Q. I see.

25 A. This is my response to Royal Supply trying

1 to get them to get out there and take care of the air
2 conditioner work.

3 Q. And we're talking about the Dement home.
4 So this is the letter to Royal Supply. So those
5 things under Jeremy Dement Item 1, 2, 3, and 4, those
6 would correspond to 17 and 20 on the inspection
7 report?

8 A. That's correct.

9 Q. Do you recall whether you sent this to the
10 Public Service Commission back in August?

11 A. I think I sent a copy of it along with a
12 letter.

13 Q. Here's an August 29th letter. That's your
14 signature down at the bottom?

15 A. Yeah. This is the letter that went along
16 with the one I sent to Royal Supply. This was the
17 cover letter for the other one?

18 Q. Item 16 should be the installer's job and
19 17 through 20 all pertain to the air conditioner.
20 That's where you hired Royal Supply?

21 A. Correct. And as that is their business,
22 strictly their business, air conditioning and
23 supplies, I feel they were better equipped to handle
24 those issues.

25 Q. Did you -- before this August 29, 2007 date

1 did you have any problems with any work done by Royal
2 Supply?

3 A. I don't know that I'd say I had problems.
4 Dave kept finding problems.

5 Q. Dave Freeman?

6 A. Yeah. For some reason, and I can't explain
7 it, it looks like for some reason one of their set-up
8 or one of their installers quit putting the wire in
9 conduit. He claimed it was outdoor wire, so it wasn't
10 required to put it in conduit, but we've gone back and
11 put it on there.

12 Q. Now, after your August -- what was it --
13 letter to Royal Supply, 28th?

14 A. Yeah.

15 Q. Did you hear anything back from them?

16 A. I don't remember.

17 Q. I have got Exhibit 8. Here you have
18 another letter addressed to you by Mr. Freeman and
19 then attached is a second inspection report for an
20 inspection done September 25th, 2007. If you look
21 back to the dealer issues, here they are 14 through
22 20?

23 A. Yeah. This is where they added the other
24 things.

25 Q. Okay. Now, according to the inspection

1 report, the carpet seam issue is still not resolved?

2 A. Correct.

3 Q. And the electrical work?

4 A. It looks like that wasn't resolved at that
5 point either.

6 Q. On this report, 15 through 18 and previous
7 report, they were 17 through 20, I think. Still not
8 resolved; right?

9 A. It looks like it. I would agree.

10 Q. Now, what about 19 and 20?

11 A. 19 and 20, my understanding is that those
12 were originally manufacturer issues. Gene Winn
13 evidently arbitrarily applied them to the dealer. I
14 believe you got a letter there with my argument to him
15 that those were installer responsibilities.

16 Q. I wondered whether you recall this damage
17 when this home got to Brookside's lot?

18 A. No. I don't believe it was on there. The
19 reason I believe it was the installer's issue is
20 because I believe he damaged it.

21 Q. And is this -- was this the one done by Lou
22 Theiss you said?

23 A. Yes.

24 Q. Is that T-h-e-i-s-s?

25 A. Correct.

1 Q. So Mr. Theiss would have been hired to
2 deliver the home to the site; correct?

3 A. And install it.

4 Q. And you believe that the home was damaged
5 during that process?

6 A. Right. It was not damaged when it left our
7 sales center.

8 Q. Okay. Here is your November 8th, 2007
9 letter marked as Exhibit 9. This refers -- this
10 letter here refers to the September 25th inspection.
11 That's the one we just talked about.

12 A. Correct.

13 Q. Here you talk about 19, the damaged room
14 joist, and 20 the damaged roof decking.

15 A. Uh-huh. Yes.

16 Q. So you're indicating that those are
17 installer's responsibility because the installer did
18 the damage?

19 A. Correct.

20 Q. And item 15 through 18 regarding the air
21 conditioner and electric work are supposed to be done
22 by Royal Supply?

23 A. Correct.

24 Q. Exhibit 10 is a December 18, 2007 letter
25 from Mr. Freeman again. Now, I don't see any

1 inspection report between September 17, 2007 and date
2 of this letter. And I think when Mr. Freeman testifies
3 he will probably tell us there wasn't one, but he none
4 the less sent this letter. Do you understand the
5 processes that Mr. Freeman uses and why even though
6 there wasn't another inspection done that another
7 letter may come out two months later?

8 A. Uh-huh. Another form letter.

9 Q. Another form letter?

10 A. Right. But absolutely tells you nothing.

11 Q. If you look at the second paragraph, it
12 says unless the set-up deficiencies noted are
13 corrected and it says with a work order signed by the
14 home indicating set-up deficiencies have been
15 corrected as received. Do you see that?

16 A. Uh-huh.

17 Q. Do you understand the process involving
18 work orders signed by the customer?

19 A. I do. And I also see nothing in here
20 between the last, my last correspondence and this
21 correspondence even answering my objection.

22 Q. I understand that.

23 A. Yeah.

24 Q. Do you recall whether you had any more
25 contact with Royal Supply?

1 A. I am sure I did. I can't say when, but I'm
2 sure I did. I know I was all over Wade to get these
3 fixed.

4 Q. Well, if Royal Supply had done the work
5 that they should have after the September 25th
6 inspection for instance, what process would you follow
7 to get information to Mr. Freeman so he would know
8 that things were fixed?

9 A. Wade would have forwarded the signed
10 paperwork to me and I would have forwarded it to me.

11 Q. Would that --

12 A. Wade of Royal Supply.

13 Q. When it says here a work order here signed
14 by the homeowner; is that a form of some kind?

15 A. I don't know if it's a state form or if the
16 installer's form can be used. I would assume that any
17 form -- any form should be applicable.

18 Q. What would the form look like? What would
19 it have to have?

20 A. It would have to have customer's name and
21 address and work done and a signature.

22 Q. And it might be from Royal Supply for
23 instance?

24 A. Correct.

25 Q. And it might be on their letterhead and

1 they would have signed it and maybe had the signature
2 of the customer as well?

3 A. Correct.

4 Q. Well, Mr. Freeman complains that no work
5 order was received. You don't dispute that, do you?

6 A. At this point, I guess not.

7 Q. Okay. Here's Exhibit 11. This is your
8 January 3rd letter to Mr. Freeman. He referred to the
9 December 18th letter that Mr. Freeman gave you. Can
10 you see in the second paragraph that the electrical
11 items are completed?

12 A. Yeah.

13 Q. Were they, in fact, completed?

14 A. As far as I know they were. I was told by
15 Royal Supply they were completed.

16 Q. Do you have any sort of paperwork or work
17 order?

18 A. I do not. I don't believe they provided
19 any in that case.

20 Q. The next sentence talks about the carpet
21 installer. Did you have to hire somebody else --

22 A. We did attempt to hire someone else --

23 Q. -- to fix the carpet. Do you remember who
24 you hired?

25 A. No, I don't because I don't believe he

1 showed up. That was handled by Mr. Connell, and I do
2 not believe that installer showed up?

3 Q. Okay. The next paragraph concerns items 19
4 and 20; was that room joists and roof decking?

5 A. Yes. The two that I argue are still not
6 our responsibility. And, again, I don't believe I got
7 a response on that again.

8 Q. Did I give you a copy? I'm sorry, Bob.

9 MR. BILBREY: That's all right.

10 Q. (By Mr. Reed) Okay. Let's go on to No. 12
11 March 28th, 2008. Mr. Freeman sends you -- and by you
12 I mean Brookside -- another letter and then an
13 inspection report apparently he did another inspection
14 March 25th, 2008. If we turn to the dealer issues, 14
15 through 20, you can see that carpet seam is not
16 corrected.

17 A. And, again, I go back to my original
18 contention that that's a cosmetic thing.

19 Q. Then 19 and 20 it looks like electrical
20 stuff is done?

21 A. It's done.

22 Q. It's corrected?

23 A. As I said, Royal did not supply me with the
24 work order, but they obviously did the work.

25 Q. And 19 and 20, the room joists and roof

1 decking issue is still not resolved?

2 A. Right.

3 Q. Do you remember you didn't get a response
4 from Mr. Freeman after that letter?

5 A. I did not get a written response from Mr.
6 Freeman, Mr. Winn, or Mr. Pleus on this letter.

7 Q. Like the January 3rd letter, no response to
8 that?

9 A. Right. I have never gotten a response.
10 One of my issues is I have never gotten a written
11 response when I have brought up an issue, which I
12 thought was someone else's responsibility.

13 Q. The last one for the Dement home is Exhibit
14 13, and that's the April 28th letter from Mr. Freeman
15 and it looks like another inspection April 9th. If
16 you turn to the second page of the inspection item 14,
17 19 and 20, according to this report, is still not
18 corrected?

19 A. Inspecting the heck out of it there, and
20 again, there is no answer to my objection.

21 Q. Do you know if the room joists and roof
22 decking ever got fixed?

23 A. I don't think so unless someone got the
24 manufacturer and installer out there to fix it.

25 Q. Do you know if the carpet seam ever got

1 fixed?

2 A. I don't believe so.

3 Q. Now, you had indicated earlier with regard
4 to the carpet seam, it's not a code violation in your
5 opinion?

6 A. Correct.

7 Q. If the manufacturer instructions provided
8 that the carpet should be joined in a certain way,
9 wouldn't that be the dealer's responsibility to take
10 care of that?

11 A. It would be, but it's not a science. It's
12 an art. Sometimes they are not perfect and it's an
13 opinion when they are not perfect.

14 Q. Did you or anyone that works for you at
15 Brookside Homes ever see the carpet problem?

16 A. No, but I never got a complaint from the
17 customer about it either. And that carpet issue is --
18 one, if there is a real issue with it, the customer
19 will complain every time.

20 Q. I can see -- if you look at the last
21 inspection report there are a number of installer
22 items that appear not to have been -- not to have been
23 done by the date of the inspection in April 2008. Was
24 this the installer Mr. Theiss?

25 A. Yeah.

1 Q. Did you have any other problems with Mr.
2 Theiss?

3 A. I have had some, yes.

4 Q. Would you still use him?

5 A. I use him in a limited way. There are some
6 things he can handle. There are many things that he
7 cannot. My problem is I found out the hard way which
8 ones they were.

9 Q. I bet we can finish this in another hour.
10 Do you want to take a brief break?

11 MR. BILBREY: Sure.

12 (Whereupon, a short break was taken.)

13 Q. (By Mr. Reed) We're back on the record and
14 I wanted to talk now about the Cook home. This is
15 Billie Cook?

16 A. Okay.

17 Q. Exhibit 14 is a July 6th letter, 2007 from
18 Mr. Freeman, and I have got attached to that the June
19 29, 2007 inspection report.

20 A. Okay.

21 Q. It indicated here the dealer set-up
22 deficiencies at the bottom of the first page of the
23 inspection report summary of problems, four through
24 eight?

25 A. Correct.

1 Q. Now, take a minute to look at those
2 carefully.

3 A. Okay.

4 Q. Now, do you agree that these are dealer
5 set-up deficiencies?

6 A. Four, five and eight, yes.

7 Q. Four, five, and eight. Why do you say
8 that?

9 A. Six, marriage line at ceiling drywall is
10 cracked and texture is wrong pattern. Seven, carpet
11 seam on marriage line is not installed correctly, has
12 large wrinkles in it and is loose. Again, those are
13 items that are cosmetic. They are an opinion. And
14 again, in neither case did I get a complaint from the
15 customer about it.

16 Q. Four, five, and eight; how was that work
17 supposed to be done?

18 A. Four and five were the air conditioner
19 contractor. Eight, we had to send someone else.

20 Q. That was a separate issue?

21 A. Right.

22 Q. Who was the contractor for four and five?

23 A. I believe from our letter earlier it was
24 Royal.

25 Q. Okay. I still have that exhibit. Pull

1 that back out. That's the August 28th exhibit.

2 A. Exhibit 6.

3 Q. Exhibit 6; okay?

4 A. Billie Cook was the first one on that.

5 Q. Okay. Let's move to that Exhibit 6 then,
6 August 28th, 2007 letter. That's where -- on the same
7 letter that we talked about earlier to Royal Supply
8 where you addressed the Dement issues; you also
9 included the Cook issues?

10 A. Correct.

11 Q. These issues under Cook, one and two would
12 correspond to the inspection report numbers four and
13 five it looks like?

14 A. Correct.

15 Q. Okay. Now, when did you retain somebody to
16 take care of number eight?

17 A. I don't know the date. I believe that was
18 submitted to you. It should be in your following
19 exhibits I suspect.

20 Q. We may come upon that. If we don't, we'll
21 look for the letter later. Let's not forget that.
22 So, the letter goes to Royal Supply complaining of the
23 Cook issues, and then let's look at Exhibit 15, which
24 is the August 29th letter from Brookside to Mr.
25 Freeman. I'm sorry.

1 MR. BILBREY: That's all right.

2 Q. (By Mr. Reed) This is your letter to Mr.
3 Freeman; correct?

4 A. Correct.

5 Q. Four and five have been referred to Royal
6 Supply it says. Six and seven the drywall and carpet
7 seaming are the responsibility of the installer.
8 According to the letter, item eight will be addressed
9 in the near future; right?

10 A. Right.

11 Q. Now, my next Exhibit is No. 16, which is a
12 December 18, 2007 letter to Brookside from David
13 Freeman. And this indicates in the second paragraph
14 that Mr. Freeman hasn't received any work orders
15 signed by the homeowner indicating that the set-up
16 deficiencies are corrected. Do you see that?

17 A. Uh-huh.

18 Q. Is that "yes"?

19 A. Yes.

20 Q. Okay. Now, what action did you take
21 between the time of August 29, 2007 and December 18,
22 2007, to take care of No. 8, we were talking about --

23 A. I sent -- I actually sent my son out to
24 repair that.

25 Q. That was the water tank or pump electric

1 wire under the home?

2 A. Put conduit on that.

3 Q. You sent your son out?

4 A. Yeah.

5 Q. What is your son's name?

6 A. My son is Scott Warren.

7 Q. What does he do for a living?

8 A. He is a student.

9 Q. College?

10 A. Yeah. And he occasionally worked for me
11 and done service, done repair work, and things like
12 that, and is quite capable.

13 Q. Okay. Did he do the work?

14 A. He did only the -- he put the conduit on
15 the electric line to the water pump.

16 Q. Do you have any records somewhere of work
17 order?

18 A. I'm thinking it's your next one.

19 Q. All right. The next one I have is Exhibit
20 17; December 27, 2007?

21 A. Yeah, that is it.

22 Q. I wondered if you looked at that. I wasn't
23 sure if I had all the attachments that you might have
24 sent because the file was kind of a mess when I went
25 through it.

1 A. That's it.

2 Q. That's what was sent with the letter?

3 A. Correct.

4 Q. All right. Now, this indicates --

5 A. Obviously, it happened. He went out on the
6 27th.

7 Q. Okay. There is an inspection request work
8 order attached to the letter dated December 27, 2007.
9 I can see at the bottom it has a signature there by
10 Billie Cook?

11 A. Correct.

12 Q. Okay. And it indicates here carpet seam on
13 marriage line has wrinkled and is loose and it says
14 repaired by the factory?

15 A. Yeah. According to the customer, I had
16 Scott inspect that and ask the customer about it. The
17 customer said the carpet seam and crack were repaired
18 by the factory.

19 Q. All right. Make sure four and five are
20 done, if not do them and this says "see attached"?

21 A. Yeah. I sent a copy of the inspection
22 report along with that. That was what the "see
23 attached" refers to.

24 Q. Check number eight, if not done do it. If
25 we look at those notes over there it says completed by

1 AC contractor, that relates --

2 A. That relates to four and five.

3 Q. Then it says ran 16 foot conduit and
4 attachments?

5 A. Right.

6 Q. That's what Scott done?

7 A. That's what Scott did.

8 Q. All right. Do you have, I guess, copies --
9 a stack of these inspection request work orders at
10 your business?

11 A. No. I usually -- they usually come with
12 the inspection form.

13 Q. I see. All right. Let's look at Exhibit
14 18. February 22nd, 2008 letter from Mr. Freeman to
15 Brookside. Now, he indicates -- well, he says he
16 needs work orders, but he doesn't say anything about
17 whether he received any.

18 A. That's the form letter again.

19 Q. All right.

20 A. Again, that letter is absolutely useless.
21 I have not received the signed work orders as
22 requested, or the homeowner has indicated the
23 deficiency is not corrected, or I reinspected the home.
24 That tells us nothing.

25 Q. If you look at this reinspection, it's

1 February 20th, 2008. The second page and you go down
2 to dealer set-up deficiencies. You see the number
3 five. It says AC wire under the home is not in
4 conduit or strapped as required. And it says marriage
5 line drywall is cracked, is not corrected. And
6 lastly, number eight regarding the water tank or pump
7 electric wire under the home is not in conduit is not
8 corrected; you dispute that?

9 A. I dispute that.

10 Q. You believe those things were done?

11 A. Yes.

12 Q. Based upon the work order signed by Mr.
13 Cook?

14 A. Right.

15 Q. All right. Let's look at the last one,
16 March 28th, 2008. This is another form letter?

17 A. Uh-huh. Yeah. Another form letter where
18 no inspection has been done. I disputed the February
19 22nd letter through my attorney and this is what we
20 got back. At that point everything I was doing, I was
21 doing through the attorney.

22 Q. February 22nd, 2008?

23 A. By that time everything I was doing was
24 through the attorney at that point.

25 Q. Okay. This would have been after you

1 received a letter from Mr. Pleus saying your license
2 is not going to be processed?

3 A. Correct.

4 Q. So you had -- I don't want to get into
5 attorney client stuff, but you had an attorney by
6 then?

7 A. Correct.

8 Q. Did you receive anything from Royal Supply
9 on the Cook home indicating that they had gone back
10 out to fix these problems?

11 A. Just the same thing as on the previous one.
12 He had told me he had done it -- that they had done
13 it.

14 Q. The Royal Supply?

15 A. Wade Pinsky at Royal Supply told me they
16 completed it.

17 Q. All right. The next is Exhibit 20. We had
18 explored this a little bit a few minutes ago regarding
19 Piedmont Homes. It appears that Piedmont Homes was
20 involved or Mr. Clark --

21 A. Mr. Clark was.

22 Q. He was involved in the sale of the East
23 Carter modular unit?

24 A. Right.

25 Q. How was he involved in that?

1 A. As far as I know, I don't know whether he
2 contacted or the school district contacted him, but
3 Mr. Clark had put the sale together and had arranged
4 for the sale. He also hired a licensed at my request
5 he hired a licensed contractor located in the area to
6 do the set-up?

7 Q. Okay. If you look at the fourth page
8 there, there is a purchase agreement, and although
9 it's cut off up on the upper left hand side, that
10 appears to be the Brookside logo?

11 A. That's correct. That's our purchase
12 agreement.

13 Q. So this was a Brookside sale?

14 A. Correct.

15 Q. Using Mr. Clark?

16 A. Mr. Clark was the salesman for it.

17 Q. Now, let's look at Exhibit 21 I have
18 marked. July 23rd, 2000 letter from Mr. Freeman to
19 Brookside, and then attached is the inspection report
20 dated July 11, 2007?

21 A. Uh-huh.

22 Q. If you go down to the dealer issues, let's
23 review those.

24 Q. The dealer issues are indicated to be
25 number eight through 16. And what I noted about this

1 inspection report when I looked at it, there is no
2 installer items.

3 A. It's a modular home. On modular homes
4 there is no requirement for licensed installers.

5 Q. So the dealer is going to arrange for all
6 of the installation of the home?

7 A. Correct. Although we used an installer who
8 is licensed to install manufactured homes, too?

9 Q. Who was the installer used?

10 A. He didn't put the name on here. I have
11 forgotten his name. He is one I use very, very
12 rarely.

13 Q. If you don't recall today before we finish,
14 can you find some document on that or try to get that
15 information to me?

16 A. Yes. I can do that.

17 Q. There should be some documents, would you
18 think, unless Mr. Clark had all those in Piedmont?

19 A. I'm sure I have got something on it.

20 Q. Now, even though you say a licensed
21 installer was used to set up and install the home?

22 A. Uh-huh. Yes. I'm looking to see if I can
23 run across his name in here real quick.

24 Q. Let me give you a second.

25 A. There it is. DeClue Mobile Homes. DeClue

1 Mobile Homes Service.

2 Q. Where are they?

3 A. It's located down here somewhere, Dave, I
4 believe. I don't believe he is in Piedmont, a little
5 bit north of there.

6 Q. Okay.

7 A. By Dave, I mean Mr. Freeman.

8 Q. I think there may be some documents in here
9 with his name?

10 A. I think so.

11 Q. We'll get to that. I wanted to ask you
12 about the items numbered eight through 16 on the
13 inspection report of July 11, 2007?

14 A. Uh-huh.

15 Q. You agree those are dealer items?

16 A. I do up to a point. Number 14, AC
17 electrical wire under home is not in conduit nor is it
18 strapped up as required. That home came with an
19 integral air conditioners on it. There was no AC
20 electrical wire under the home as far as I know. The
21 air conditioners are built in the end of that
22 classroom unit and shouldn't have any wires running to
23 it that would need to be in conduit.

24 Q. Okay. Anything else?

25 A. No.

1 Q. So you agree that the other items are the
2 dealer's responsibility?

3 A. Yes.

4 Q. Here's Exhibit 22. It's a letter dated
5 December 19th, 2007, from Mr. Warren, and although
6 it's a form letter Mr. Warren. It indicates he hasn't
7 received any work orders. Are there work orders?

8 MR. BILBREY: If I can interject, I think
9 you stated it was from Mr. Warren.

10 THE WITNESS: It was to Mr. Warren.

11 Q. (By Mr. Reed) To Mr. Warren, I'm sorry.
12 It's a letter from Mr. Freeman to Brookside; right?

13 A. Right.

14 Q. And Mr. Freeman indicates that he hadn't
15 received any work orders by December 19th?

16 A. Okay.

17 Q. But had you made arrangements by that time
18 to have --

19 A. Absolutely. As far as I knew they were
20 completed. I believe it's -- when I got this letter I
21 contacted Mr. DeClue to find out what had happened?

22 Q. I have got a couple other things we'll get
23 to here. Maybe --

24 A. Look for the DeClue one first.

25 Q. Well, let's look at Exhibit 23. This is

1 the July --

2 A. This is Jim DeClue.

3 Q. The July 11th, 2007 inspection report and
4 you can see by the way the type on it has been
5 squished up and stuff?

6 A. It's been faxed several times.

7 Q. The fax numbers at the top?

8 A. Right.

9 Q. Let's look at the second page. So Jim
10 DeClue was the installer?

11 A. Correct.

12 Q. What are those notes -- that writing
13 indicate to you?

14 A. Those notes are what Mr. DeClue's response
15 to the finished items. It's -- I believe number one,
16 site prep, matches up with number eight. Number two,
17 door matches up with number nine. Number three, drain
18 line, matches up with 11. Four crossover is 12.
19 Five, electrical crossovers, matches up with 13. Six,
20 crossover grounds, matches up with number 15.

21 Q. Now, what does that leave us?

22 A. I believe that leaves, from what I can see,
23 that left number ten, number 14, and number 16. There
24 it is. He is pointing that out, major line is not
25 numbered, but between items one and two he indicates

1 that the marriage line anchors were installed?

2 Q. That's ten?

3 A. So number ten was taken care of.

4 Q. So that would be 14, which you indicated
5 earlier there really wasn't a wire there anyway?

6 A. Correct.

7 Q. That would leave 16?

8 A. Correct.

9 Q. Now, when was the work done? Can you tell
10 from the fax and Mr. DeClue's writing?

11 A. No, I cannot.

12 Q. If you look on the first page?

13 A. I know he faxed this to David on the 19th.

14 Q. Who's David?

15 A. Mr. Freeman.

16 Q. Okay. And he faxed it to me on the 27th?

17 Q. Who is Sandy?

18 A. Sandy is Jim DeClue's wife; Sandy DeClue.

19 Q. So she worked with him, I guess?

20 A. Right.

21 Q. And then down there it says to Steve
22 Warrent, faxed 12-27-07?

23 A. Right. I called and asked for a copy of
24 it. Now, I know Jim DeClue and David Freeman were in
25 contact on this one and they spoke several times. And

1 eventually Jim DeClue called me up and said, "I have
2 done everything I'm going to do"?

3 Q. I may be backing up here, but Exhibit 25 is
4 an inspection request work order. If you look down
5 there at the bottom, it does it indicate this was
6 stuff done by Wilkins Builders?

7 A. Yes, it does. Two water leaks, replace
8 vent, and trim located drain for hot water heater.
9 There item number five, took care of number 16, hot
10 water. That's why Jim DeClue didn't do it because it
11 had already been done?

12 Q. I hate to do this again. Would you take me
13 back through this with Jim DeClue? Number one
14 corresponds to number eight you said?

15 A. Correct.

16 Q. Marriage line was --

17 A. Marriage line corresponds with number ten.

18 Q. And then two door piers?

19 A. Number nine.

20 Q. All right. The drain line?

21 A. That would be number 11.

22 Q. And then the water crossovers?

23 A. That would be number 12.

24 Q. Electrical connections at crossovers?

25 A. That would be number five; number five and

1 13.

2 Q. Does it say he did anything on number 14?

3 A. No. It does not.

4 Q. Okay. Again, that's the one that says the
5 air conditioner was integral to the home. There
6 wasn't anything to be done.

7 Q. And then 15?

8 A. 15 matches up with number six crossover
9 ground. And it is signed off by the customer.

10 Q. That's the signature here?

11 A. Of the representative of East Carter
12 County.

13 Q. On the bottom of whatever exhibit that was
14 number 23?

15 A. Right.

16 Q. What was that name; is it David something?

17 A. I can't -- to tell you the truth, I can't
18 read it myself and I would not remember that one. It
19 does look like David. Mr. Freeman knows, I'm sure.

20 Q. And then we talked about number 16, the hot
21 water heater drip pan?

22 A. Correct.

23 Q. We have an inspection with work order
24 marked as Exhibit 25 dated August 6, 2007?

25 A. Correct.

1 Q. And you're indicating that where it says
2 there --

3 A. Number five, located drain for hot water
4 heater.

5 Q. All right.

6 A. That takes care of number 16. Number 16 is
7 a duplicate of the manufacturer's number five.

8 Q. I see.

9 A. I think you will find occasionally that the
10 inspectors will apply dual responsibility.

11 Q. Now, let's look at number 24. This is a
12 letter from Brookside to Mr. Freeman dated December
13 27, 2007, the documentation that was enclosed with
14 this?

15 A. That would have been this one, number 23.

16 Q. Do you generally mail this or do you fax
17 letters like this?

18 A. I mail them. I have been known to fax
19 them, but that was obviously mailed.

20 Q. Okay. So by this time you say you enclosed
21 documents showing with the exception of number 16, the
22 water heater pan drain, that the deficiencies are
23 corrected?

24 A. Right. At that time, I did not have the
25 copy of the inspection request work order from

1 Wilkins. I contacted Wilkins after the fact for that.

2 Q. Okay. Let's move to Exhibit 26. Here we
3 have Mr. Freeman's letter dated February 4th, 2008,
4 another inspection report from January 16th, 2008. If
5 we look down at what are deficiencies assigned to the
6 dealer we see number nine, the door piers, and we see
7 number 12 water crossover, not corrected. And if you
8 look at next page the numbers 13, 14, and 16 say that
9 they are not corrected?

10 A. I find it interesting that number 16, hot
11 water drip pain does not drip to the outside of the
12 home is showing not corrected, yet in number five
13 manufacturer's area number five shows corrected. I
14 dispute the whole thing.

15 Q. I see.

16 A. I dispute the result of this whole
17 reinspection.

18 Q. So you are claiming that all of those
19 problems were done that were assigned to the dealer?

20 A. Correct.

21 Q. They were all fixed?

22 A. Correct. Although to satisfy Mr. Freeman,
23 we sent GTL out. I had to spend another \$600 getting
24 stuff that wasn't wrong fixed.

25 Q. All right. That's Exhibit 28. Let's talk

1 about the GTL document. Do I have a complete -- do I
2 have a complete copy of the invoice?

3 A. This is the invoice from GTL to us. This
4 is a bill for repairs that they did.

5 Q. Is the next page --

6 A. That's a copy of my payment to them.

7 Q. Brookside's payment?

8 A. Right.

9 Q. What did GTL?

10 A. I must have gotten pissed off. I must have
11 thrown that all in there.

12 Q. What did GTL do?

13 A. As it says repair uncorrected items on the
14 state's case. Install four door piers for four doors,
15 remove anchor strapping and install edge protectors,
16 which I don't even think was listed. Make access
17 panels for electrical crossovers, two; one at each
18 end. Install drain line for water heater pan and
19 running through block wall to outside of home, install
20 insulation in belly board and mend tape around
21 crossovers.

22 Q. This was dated February 20th, 2008?

23 A. Right. That was after we received this
24 January 16th inspection; February 4th letter.

25 Q. Well, have you ever been out to see the mod

1 unit at East Carter?

2 A. No, but I rely on the professional
3 installers that do this work.

4 Q. What about Mr. DeClue, how often have you
5 used him?

6 A. In the ten years I have been in business, I
7 have only used him about five times, and I had good
8 results most times. Although, he has a temper?

9 Q. He --

10 A. He has a temper.

11 Q. Do you know whether the kind of repairs
12 that GTL contracting did were the kind of things that
13 a customer would be able to tell whether were fixed
14 properly?

15 A. Installing door piers, yes, installing a
16 water heater pan drain line, yes. I think part of the
17 issue here is this water heater drain pan. The drain
18 on that one, I believe, the customer cut it off when
19 they put concrete blocks around the house, too. So we
20 ended up going back and reinstalling it through the
21 concrete block wall. That is my belief.

22 Q. What is the door pier?

23 A. A door pier is a set of blocks under each
24 side of a door on a home to support that from the
25 ground level.

1 Q. Why does that have to be done?

2 A. If you don't support the doors, what
3 happens they will get tweaked and they won't open and
4 close properly. This home -- at this point, this home
5 had those -- again, like water heater thing, the door
6 piers were probably removed by the owner once they did
7 those concrete block walls and GTL went back and had
8 to correct that.

9 Q. This was used for a classroom as I
10 understand?

11 A. Correct.

12 Q. So, they put concrete blocks around the
13 base?

14 A. Uh-huh. Rather than using skirting, what
15 they did is they used concrete blocks to hide the
16 underneath of the home.

17 Q. Right. So maybe the kids wouldn't crawl
18 under there?

19 A. Exactly. Something that will stop a ball.

20 Q. Right.

21 A. In that case, I believe it was repaired
22 properly first, and that when Mr. Freeman went back
23 and reinspected it it was after the owner had made
24 changes.

25 Q. Okay.

1 A. And I notice that there was no mention of
2 having to repair the air conditioner again because
3 that didn't exist.

4 Q. All right. Exhibit 29 is a letter from Mr.
5 Pleus to Brookside Homes where Mr. Pleus indicates
6 that your renewal application cannot be processed or
7 approved at this time until the requested repairs
8 listed below are completed. If we can think back to
9 the issues that are numbered on here, for the Dement
10 home items 19 and 20, do you recall?

11 A. Those were two that were moved from the
12 manufacturer to us. That would be the ledger board
13 and roof edge.

14 Q. What they referred to as rim joist and roof
15 decking?

16 A. Correct.

17 Q. And the East Carter home he refers to
18 number 14?

19 A. I believe that's the air conditioner.
20 Yeah. Non-existent air conditioner wire.

21 Q. That is the AC electrical wire under the
22 home is not in conduit nor is strapped up as required;
23 is that right?

24 A. Uh-huh.

25 Q. And you had indicated that there was no

1 need for that?

2 A. Correct. The air conditioners were
3 integral to the home, they were not wired separately.

4 Q. How do you mean? What does that?

5 A. They were mounted on the end of the home.
6 All the wires for those air conditioners is internal
7 to the home.

8 Q. Are they large units that sit next to the
9 home?

10 A. No. They are mounted on the home.

11 Q. Are they -- they are not window units?

12 A. No. They are -- I think what they are is
13 -- what's the proper word? It's been so long since I
14 used it. It's heating and air conditioning unit
15 together.

16 Q. I've seen some of these homes that have an
17 air conditioner on a house, for instance, that's off
18 the ground and mounted on metal?

19 A. Right.

20 Q. It's attached to the side of the house; is
21 that the same --

22 A. That is not the same thing.

23 Q. These are literally -- literally mounted on
24 the end of the home. As I said, they are integral to
25 the home. They are not a separate item.

1 Q. Are they units that have blower capacity
2 elsewhere or --

3 A. It's all in that unit.

4 Q. The air blows right out of that unit?

5 A. It's all self-contained.

6 Q. In other words, I'm asking if there is
7 ductwork.

8 A. That would be integral to the home.

9 Q. It would already be there?

10 A. Uh-huh.

11 Q. All right. And then finally the Cook home
12 in this letter that we talked about number 29?

13 A. Yeah. I find that interesting. That's not
14 even a dealer responsibility.

15 Q. What was he referring to?

16 A. He is referring to the -- he's claimed that
17 the ground didn't slope away from the home properly.
18 That was an FHA loan. I had an FHA inspector inspect
19 the home, and at the time of delivery he stated in his
20 inspection that it was sloped properly. And I send
21 that to the state.

22 Q. Okay.

23 A. But that's not even our responsibility.

24 Q. Can you tell me if leading up to this
25 point, where you got the January 10 letter, how was

1 the relationship between Brookside and the Public
2 Service Commission progressing at that point?

3 A. Icy at best. It was bad.

4 Q. Was there ever a period of time -- was
5 there some sort of degradation in the relationship?

6 A. I think so.

7 Q. What happened, do you know?

8 A. I pointed out in April, my attorney and I
9 agreed, I sent a letter to Mr. Pleus that he was
10 requesting more information on the monthly report than
11 he was entitled to under the law, and from that point
12 on it went downhill.

13 Q. This was in the April 2007 letter?

14 A. That's correct. Soon after that Mr.
15 Freeman and Mr. Hayden showed up at my lot and asked
16 for locations of just about every home I'd sold for
17 the last two or three years.

18 Q. All right.

19 A. And began inspecting everything they could.

20 Q. When they showed up after the April letter
21 that you sent, did you provide the information they
22 requested?

23 A. Yes, I did.

24 Q. What was requested that you didn't think
25 you should have to provide?

1 A. In April?

2 Q. Yes.

3 MR. BILBREY: Are you talking about when
4 they were out at the lot or -- let's just be clear
5 for the record -- or in the monthly sales reports.

6 Q. (By Mr. Reed) Let's be clear. Leading up
7 to your April 4 letter, you apparently had the
8 impression that Pleus was asking for more than you
9 should have to provide?

10 A. Correct.

11 Q. And so you sent the letter, you were
12 specific about what you thought --

13 A. Yes.

14 Q. -- about what you thought should not have
15 to be supplied?

16 A. Very specific.

17 Q. Tell me what those things were.

18 A. The name and installer number of the
19 installer on each home.

20 Q. Name and installer number?

21 A. The name and his -- I don't no if it's his
22 license number or the decal number. But I didn't
23 think we should have to install that or provide that.

24 Q. Okay. And that was based upon?

25 A. That was based on both code 700 and CSR.

1 They are both very specific as to what they can ask
2 for on the report.

3 Q. On the monthly report?

4 A. On the monthly report.

5 Q. Do you know whether installers have to file
6 monthly reports?

7 A. They do.

8 Q. And those reports --

9 A. Let me rephrase that. That would be a
10 hearsay thing. I understand they have to provide
11 them.

12 Q. That's fine. We're in a deposition now.
13 Well, prior to the time that you wrote the April
14 letter to Mr. Pleus, dealers had to use licensed
15 installers; correct?

16 A. Correct. I think that started July '06 --
17 June or July '06.

18 Q. Had you used any installers that were not
19 licensed?

20 A. Not to my knowledge.

21 Q. Okay. How do you know whether an installer
22 is licensed?

23 A. Basically, I take their word for it unless
24 I get notice from the state that their license has
25 been suspended or revoked.

1 Q. In your experience, have you seen any of
2 those installer licenses be revoked?

3 A. I don't know that I have seen them revoked.
4 I have seen them withheld.

5 Q. Withheld?

6 A. Withheld.

7 Q. Not suspended, but withheld?

8 A. I think withheld is the term where they
9 don't provide any additional details.

10 Q. They have to have decals to install?

11 A. Right.

12 Q. Can you provide me the name of any
13 installer that experienced that?

14 A. GTL, Baldwin, Kenny Luttrell, and Lou
15 Theiss.

16 Q. What about as of now, are those four
17 entities licensed?

18 A. Lou Theiss is not. The other three are.

19 Q. The other three are back in business.

20 A. Correct.

21 Q. What about Mr. DeClue?

22 A. I don't know what his situation is. In his
23 case, I did double check on the state site to see that
24 he was a licensed installer because he is not one of
25 the ones in our normal area?

1 Q. There's a site you can go to to find out?

2 A. Yeah. Public Service Commission site.

3 Q. Rather than go through these one by one,
4 I'm going to hand these to you guys. And if it's okay
5 I want to take a break for a couple minutes while you
6 review these, and then I'm going to ask you about
7 whether or not I'm going to find these manufactured
8 homes on the Brookside Homes, Inc. lot or not; all
9 right?

10 A. Okay.

11 Q. These will be Exhibits 30, 31, and 32. Can
12 we do that and just take a couple minutes so you can
13 review those. And while we do that, let me review and
14 see if I have any other questions and we'll wrap up.

15 MR. BILBREY: That's fine.

16 (Whereupon, a short break was taken.)

17 Q. (By Mr. Reed) I handed you before the
18 break Exhibits 30, 31, and 32, and asked you that
19 review those?

20 A. Uh-huh.

21 Q. These, I'll represent to you, are
22 affidavits and business records from manufacturers in
23 response to our inquiries about what homes have been
24 sold to Brookside Homes, Inc. during 2008. And I
25 think there are ten or 11 homes indicated here. And

1 my question is are these homes still on the Brookside
2 Home's lot?

3 MR. BILBREY: I'm going to object to that
4 question as I stated earlier. I think this would tend
5 to incriminate my client. I think it goes to the
6 allegations that could result in the criminal charges.
7 And I would instruct him not to answer based on that.

8 MR. REED: Is the lot at Brookside Homes
9 Inc. open today for business.

10 MR. BILBREY: Again, same objection. I'm
11 going to instruct him not to answer.

12 MR. REED: That's all I have.

13 MR. BILBREY: Okay. I don't have any
14 questions, Steve. Mr. Reed at the beginning of the
15 the deposition talked to you about signature. You
16 have had your deposition taken before. The signature
17 just -- you can waive signature or you can ask to be
18 able to review it and then sign to make sure it's
19 accurate. You can't change any answers. Just make
20 sure that they were taken down accurately. Generally,
21 I advise to waive signature.

22 THE WITNESS: Okay. I'll waive signature
23 then.

24 (WHEREIN, the deposition was concluded at
25 12:00.)

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CERTIFICATE OF REPORTER

STATE OF MISSOURI)

) ss.

CITY OF ST. LOUIS)

I, Jeanne M. Pedrotty, a Certified Court
Reporter (MO) and Certified Shorthand Reporter (IL),
do hereby certify that the witness whose testimony
appears in the foregoing deposition was duly sworn by
me; that the testimony of said witness was taken by me
to the best of my ability and thereafter reduced to
typewriting under my direction; that I am neither
counsel for, related to, nor employed by any of the
parties to the action in which this deposition was
taken, and further that I am not a relative or
employee of any attorney or counsel employed by the
parties thereto, nor financially or otherwise
interested in the outcome of the action.



Jeanne M. Pedrotty

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