

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, ss.

SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT
C.A. No. MICV2008-04641

* * * * *
JOHNSON GOLF MANAGEMENT, INC., *
Plaintiff, *
*
vs. *
*
TOWN OF DUXBURY, et al., *
Defendants. *
* * * * *

DEPOSITION OF BRYAN J. MORRISSEY, taken
on behalf of the Defendant, pursuant to the
Massachusetts Rules of Civil Procedure before
Nancy A. Ruvido, a Registered Professional Reporter
and Notary Public in and for the Commonwealth of
Massachusetts, CSR No. 126193, at the offices of
Follansbee and McLeod, LLP, 536 Granite Street,
3rd Floor East, Braintree, MA, on **Friday, August 31,**
2012, commencing at 10:35 a.m.

APPEARANCES:

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MA 02141 (For the Defendant)

ALSO PRESENT:

MR. DOUGLAS JOHNSON
MR. JASON LARAMEE

INDEXEXAMINATION OF:DIRECT CROSS REDIRECT RECROSS**BRYAN J. MORRISSEY**

By Mr. Ouellette

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P R O C E E D I N G S

Stipulations

It is stipulated by counsel for the parties that all objections, except as to the form of the question, and motions to strike, will be reserved to the time of trial.

The witness will read and sign a copy of the transcript within 30 days of his counsel's receipt thereof. If the transcript is not returned within 30 days, it will be deemed accurate as transcribed.

(WITNESS SWORN.)

DIRECT EXAMINATION

BY MR. OUELLETTE:

Q. Good morning, Mr. Morrissey. My name's Evan Ouellette, and I represent the defendants in this matter. I'm sure you've been deposed before.

A. I have.

Q. Just generally, as I'm sure you're aware, I'll be asking questions. Your attorney's obviously here with you.

I just ask that you allow me to complete my question before you start answering so that we can

1 have an accurate record.

2 If you need to take a break at any time for
3 any reason, if you want to speak with your
4 attorney, just tell me. Of course that's no
5 problem. I just ask that you answer the question
6 that's posed unless your attorney's instructed you
7 not to.

8 MS. PICKERING-COOK: Can I just
9 jump in and clarify. Are you representing Bryan
10 today as his attorney?

11 MR. FOLLANSBEE: No. I'm
12 representing Johnson Golf.

13 MS. PICKERING-COOK: Okay.

14 **BY MR. OUELLETTE:**

15 Q. Mr. Morrissey, when did you receive
16 your CPA?

17 A. 1987, I believe.

18 Q. You work for LMHS. What does that
19 stand for?

20 A. It is the shortened version of the
21 original name which was Leone, Morrissey, Henriksen
22 and Synan.

23 Q. How long have you worked there?

1 A. Twenty-three years. I'm a founder -- I
2 founded the firm.

3 Q. How long has LMHS worked with Johnson
4 Golf Management?

5 A. At least a decade.

6 Q. And what services have they performed
7 for Johnson Golf?

8 A. Audit and tax.

9 Q. Have you or anyone else from LMHS
10 served as an expert for any other cases that
11 Johnson Golf Management has had either in -- well,
12 in any capacity?

13 A. No.

14 Q. Do you know if anyone's compiled an
15 expert report like what's been done in this case?

16 A. I don't think so.

17 Q. So you have not?

18 A. Can I ask Doug?

19 Q. Sure. I can backtrack a little bit.
20 Have you been involved in any way in any other
21 litigation that Johnson Golf Management has been
22 involved in, you personally?

23 A. I don't -- no.

1 MR. FOLLANSBEE: Just for clarity
2 of it, he's never testified on behalf of Johnson
3 Golf in any case, although the raw data that his
4 firm has created may have been entered as exhibits,
5 but it wasn't through his testimony.

6 MR. OUELLETTE: Okay.

7 Q. So you've never been deposed in any
8 case involving Johnson Golf before?

9 A. No.

10 Q. And you've never testified --

11 A. No.

12 Q. -- in court?

13 A. No.

14 Q. And to the best of your knowledge no
15 one from LMHS has been deposed or has testified in
16 any case involving Johnson Golf?

17 A. No one has.

18 Q. And you put together two expert reports
19 in this case, as I'm sure you're aware. Do you
20 know of any other expert reports that have been put
21 together by anyone from LMHS for cases in which
22 Johnson Golf has been involved?

23 A. I don't think so, but I could verify

1 that. But I don't think so.

2 Q. And have you personally done that?

3 A. No.

4 Q. Have you served as an expert in any
5 other case, not including Johnson Golf?

6 A. No.

7 Q. You've --

8 A. Does this constitute expert witness
9 sitting here?

10 Q. It does.

11 (Pause.)

12 A. Then yes.

13 Q. What cases have you served as an expert
14 in?

15 A. One case involved the purchase and sale
16 of an office supply dealership.

17 Q. Do you remember the names of any
18 parties in that case?

19 A. I do.

20 Q. What were they?

21 A. New England Office Supply and Union
22 Office Interiors -- or versus Union Office
23 Interiors.

1 Q. What did you do in that case?

2 A. That case went to court, and I gave
3 testimony in court.

4 Q. Did you prepare an expert report
5 similar to what you've done in this case?

6 A. I do not believe so.

7 Q. Were you deposed?

8 A. I do not believe so.

9 Q. But you did testify at the trial?

10 A. Yes.

11 Q. And who was your client?

12 A. Union Office Interiors. Well, both.
13 They were both clients. They're both still clients,
14 as odd as that sounds.

15 Q. Who did you testify in behalf of?

16 A. Union Office Interiors.

17 Q. Okay. When was that?

18 A. It was a long time ago.

19 Q. Approximately?

20 A. 1994.

21 Q. Do you remember what court that was in?

22 A. Suffolk, I believe.

23 Q. Suffolk Superior?

1 A. Yes.

2 Q. What other cases have you served as an
3 expert in?

4 (Pause.)

5 Q. Let me backtrack. What was your role
6 as an expert in that particular case? What did you
7 do for Union Office Interiors?

8 A. Provided information on the operating
9 results of the company. Very boring testimony.

10 Q. Was the testimony regarding lost
11 profits?

12 A. No, it was not a lost profits case. It
13 was a litigation. It was a business that they -- it
14 was a business transaction gone bad.

15 Q. In what other cases have you served as
16 an expert, either in putting together an actual
17 report or being deposed or testified?

18 A. Most of the business transactions that
19 we are involved in have not, through the years,
20 gotten to the litigation point. They have been
21 negotiations that have settled through mediation.

22 Q. In any of those cases that didn't reach
23 trial, did you put together a report for use in the

1 litigation?

2 A. Yes. The -- do you want me to answer
3 that with a yes or --

4 Q. Yes is fine if yes is the answer. What
5 cases did you do that in?

6 A. Shaughnessy versus Shaughnessy, the
7 crane and rigging company in Boston.

8 Q. What was your role in that case? What
9 were you asked to do?

10 A. That was a majority shareholder case
11 dispute. And that was a lot of forensic accounting,
12 ultimately resulting in a proposal to buy the entire
13 company.

14 Q. Was your role in that case limited to
15 putting together an expert report?

16 A. It involved review of historical
17 information, understanding the existing marketplace,
18 and putting together a business plan to acquire the
19 company.

20 Q. Who did you represent in that case?

21 A. The company was owned a hundred percent
22 by the Shaughnessy family. There was a 59 percent
23 owner and a 41 percent owner. I represented the

1 41 percent owner, the Shaughnessy family.

2 Q. Was that also in Suffolk Superior
3 Court?

4 A. Yes.

5 Q. And when was that litigation?

6 A. '98.

7 Q. What other cases have you served as an
8 expert in?

9 A. I think that's it.

10 Q. So since 1998, approximately 1998, you
11 haven't compiled an expert report or served as an
12 expert in any other capacity in any other
13 litigation, is that accurate, to the best of your
14 knowledge?

15 A. I think so, yes.

16 Q. Have you ever been disqualified as an
17 expert?

18 A. No.

19 Q. Meaning, has anyone ever designated you
20 as their expert and a judge has determined you were
21 not qualified to serve as an expert in the
22 litigation?

23 A. No.

1 Q. Have you ever served as an expert
2 witness on the topic of calculating lost profits
3 prior to this case?

4 A. No.

5 Q. What do you know about this litigation?

6 A. I know that Doug had a -- Johnson Golf
7 Management had a contract to operate North Hill Golf
8 Course. I know that contract ended in 2008. And
9 they operated it on a temporary basis for 2009 and
10 '10.

11 I know that Johnson Golf Management is
12 seeking to be compensated for lost profits from
13 losing that contract.

14 Q. What did you do to prepare for your
15 deposition today?

16 A. Nothing, unfortunately.

17 Q. What is your role in this litigation?
18 What were you asked to do as an expert?

19 A. I was asked to assemble a worksheet
20 consisting of revenue and cost of revenue utilizing
21 rates the -- rates included in the request for
22 proposals as provided to us.

23 Q. How much have you been paid for your

1 services?

2 A. At this point nothing.

3 Q. Have you submitted any bills or
4 invoices as to what you expect to be paid for your
5 services in this case?

6 A. No.

7 Q. What documents did you review in
8 creating -- well, strike that.

9 You created two reports, is that accurate?

10 A. Yes.

11 Q. One back in October of 2011 and one
12 that was submitted earlier this week, I believe,
13 called the August 2012 report?

14 A. Yes.

15 Q. Does the August 2012 report supersede,
16 meaning, does it take the place of, the
17 October 2011 report?

18 A. Yes, it does.

19 Q. What documents did you review in
20 creating the report? And if you want to start with
21 what documents you reviewed in creating the
22 October 2011 report, that might be the best way to
23 go through it.

1 A. The October 2011 report utilized our
2 historical information -- the historical information
3 from the golf course and changed the lease expense
4 to be consistent with what was provided to us as to
5 what the cost would be to Johnson Golf going
6 forward.

7 MR. OUELLETTE: Let's mark this
8 as Exhibit 1, please.

9 (Exhibit No. 1 was marked
10 for identification.)

11 Q. I've just handed you what's been marked
12 as Exhibit 1, which is the October 19th, 2011
13 report we've been referencing.

14 (Pause.)

15 MR. OUELLETTE: Why don't we just
16 mark the second one, too.

17 (Exhibit No. 2 was marked
18 for identification.)

19 Q. I think I asked you what documents you
20 reviewed in putting together your October 2011
21 report. I'm trying to remember if you answered
22 that question.

23 A. You did and I did.

1 Q. What were you specifically asked to do
2 in creating this October 19, 2011 report which
3 we've marked as Exhibit 1?

4 A. Summarize the historical information for
5 the operating activities of North Hill Golf Club --
6 Country Club, I think it's actually called -- and
7 project that information through 2013, I believe.

8 Q. What were you asked to do when creating
9 the August 23, 2012 report?

10 A. Assemble the same report, but having
11 received more current information or more
12 information, including that information in the
13 document.

14 Q. What documents did you look at when you
15 were creating the August 2012 report?

16 A. In addition to the historical
17 information, we looked at the RFP, request for
18 proposal, which included in it new and revised
19 rates, greens fee rates, membership rates, cart
20 rates, going forward.

21 Q. I just want to take you through the
22 October report first.

23 It says in the first paragraph here that

1 you made some pro forma gross profit calculations.
2 What does that mean?

3 It says specifically: "On behalf of Johnson
4 Golf Management and as requested by you, we have
5 assembled pro forma gross profit calculations for
6 North Hill Country Club."

7 A. It is a projection formatted based on
8 certain assumptions. It's not historical. It's a
9 going forward.

10 Q. And what does gross profit mean?

11 A. Gross profit is after your variable
12 costs, directly attributable to that operating
13 activity.

14 Q. Does that take into account fixed
15 costs?

16 A. It takes into account costs specific to
17 generating that revenue, directly related to
18 generating that revenue. Some of those costs can be
19 fixed. Most of those costs would be variable.

20 By example, the lease cost of the golf
21 course is a fixed cost. Fertilizers for the golf
22 course is a variable cost.

23 Q. Why would you not take into account say

1 fertilizer for the golf course when doing your
2 gross -- well, rather, when you're doing your lost
3 profit calculation?

4 A. We did.

5 Q. You did. So you'd include variable
6 costs as well in the gross profit calculation?

7 A. Yes.

8 Q. Are there any costs that you would not
9 include within the gross profit calculation?

10 A. Yes.

11 Q. What would those be?

12 A. Corporate overhead, costs not directly
13 assignable to the operating activities of that
14 location.

15 Administrative salaries, vehicle expenses
16 for management, salaries of management, items of
17 that nature.

18 Q. What's the difference between gross
19 profit and net profit?

20 A. Overhead or administrative costs.

21 Q. You did not put together a net profit
22 calculation in this instance; is that correct?

23 A. That is correct.

1 Q. Were you asked specifically to put
2 together a gross profit calculation, or were you
3 given a more general set of instructions as to
4 simply determine the lost profit?

5 I guess what I'm asking is: Who made the
6 determination to calculate a gross profit
7 calculation? Was it you or were you instructed to
8 do that?

9 A. I was provided the lost profit case on
10 Ricky Smith, and upon reading that concluded that
11 fixed overhead costs were not a component of that
12 lost profits case.

13 Attorney Follansbee and I had a
14 conversation and concluded that the appropriate
15 presentation here is through gross profit.

16 Q. What is the Ricky Smith case?

17 A. It is a lost profits case.

18 Q. It's not a case in which you or your
19 firm was involved?

20 A. No.

21 Q. Was that sort of a -- just a case to
22 use as an example as to how to calculate lost
23 profits as it had been done in another similar

1 litigation?

2 A. Yes.

3 Q. And you calculated lost profits in this
4 case based on how they were calculated in that one
5 particular case?

6 A. I calculated the gross profits lost
7 based on that case, but as well as my own logic as
8 to why overhead isn't an appropriate calculation in
9 determining lost profits.

10 Q. Your report goes on to say -- why was
11 it your logic to not include overhead within your
12 lost profit calculation?

13 A. Because the gross profit generated by
14 any site once removed is a 100 percent loss to the
15 bottom line for the simple reason that the overhead
16 remains constant. I know that's accounting speak,
17 but --

18 Q. Would the overhead remain constant --
19 we'll get into this a little bit more. But would
20 there be instances where the overhead wouldn't
21 necessarily remain constant if you no longer had
22 any of the demands required by that particular site
23 that was now closed down, that your overhead needs

1 would change or diminish?

2 A. Overhead is a relatively fixed number,
3 but if your operating activities changed
4 significantly, then you would be able to make
5 changes -- you would have to make changes to your
6 overhead.

7 Q. For instance, if you had a golf course
8 and you no longer operated the golf course, you
9 would then have an excess of golf course equipment
10 that you no longer needed to run that site which
11 could potentially be sold or used to replace older
12 equipment at another golf course. Something like
13 that.

14 Would something like that enter into your
15 calculations as to whether or not to use
16 overhead --

17 A. No.

18 Q. -- in your profit calculation?

19 A. The equipment -- the cost of the
20 equipment is included in your cost of goods sold --
21 in your gross profit calculation. It is an expense
22 in arriving at that number.

23 So the cost of maintaining your Easy-Go's

1 and your carts and your mowers, those costs are
2 included in arriving at -- that's an expense in
3 arriving at your gross profit number.

4 So that's not a component of overhead. That
5 is a cost that is assigned to the site.

6 Q. So you would take into account that you
7 no longer needed to maintain that equipment as part
8 of your lost profit calculation?

9 A. That's a confusing question. You would
10 include that -- in a lost profit calculation you
11 would include that as a component of your cost.

12 Q. And the fact that that cost would now
13 be removed, because you would no longer need to
14 maintain that equipment for that particular site,
15 would that enter into your lost profit calculation
16 in this case?

17 A. No. I must not be explaining the
18 calculation correctly.

19 The lost profit calculation runs out the
20 revenue in the projection period and the direct
21 costs associated with generating that revenue.

22 And included in those direct costs is all of
23 the costs of equipment ownership and operation of

1 maintenance.

2 So if the revenue is 700,000, to generate
3 that revenue you need superintendents, equipment,
4 fertilizers, fuel, which are subtractions from the
5 revenue to get to the gross profit line.

6 So if you lost the revenue, you then would
7 lose the cost. So from 700, there's 500 in costs.
8 So what the loss is to Johnson Golf is the 200
9 which is the gross profit.

10 Q. Okay. It's stated within the report
11 that you were provided with and this report is
12 based on -- your calculations were assembled based
13 on historical revenue costs and revenue information
14 provided by the company.

15 What was the historical revenue information
16 that you were provided with?

17 A. Bank statements, general ledgers, paid
18 invoices, payroll, tax returns, all of their
19 accounting records.

20 Q. Were you provided with those in
21 connection with creating this particular report or
22 back when you were creating their audit and
23 financials during the years involved? Do you know

1 what I mean?

2 A. Yes. We were provided that information
3 at the time of our original work.

4 Q. Okay. So if you're looking at the year
5 of 2006, and you're looking at the historical
6 revenue from that year in creating your report, you
7 didn't actually have the accounting records from
8 2006 in front of you while creating this report;
9 you just had your auditing financial information?

10 A. And our work papers. In our accounting
11 work papers we keep copies of certain documents
12 which we deem relevant to the work.

13 Q. Do you know what those were in this
14 case, what you looked at particularly in creating
15 this report?

16 A. Well, specifically, no. But we would
17 have each year's working papers available to us as
18 we prepared the summary report, the October 11th and
19 August 12th letters, from each of those years.

20 Q. You were provided, I assume, the years
21 of information of 2006, 2007, 2008?

22 (Pause.)

23 Q. Those are the years -- those are the

1 historical years and the historical data years that
2 you were looking at when you created your report?

3 A. I believe so.

4 Q. Do you want to take a look at your
5 report?

6 (Witness reviewing document.)

7 A. Yes.

8 Q. Did you look at any other years? The
9 report states that: "These pro forma gross profit
10 calculations were assembled based on historical
11 revenue and costs of revenue information provided
12 by the Company for the years ended December 31,
13 2006, through 2008."

14 (Witness reviewing document.)

15 A. I guess I would say not specifically.

16 Q. What does that mean?

17 A. It means --

18 Q. My question is: Did you look at any
19 other years, other than 2006, 2007, 2008 calendar
20 years, any data from any other years?

21 A. A lot of this information is assembled
22 together. We keep historical files on the company.
23 So we have the benefit of hindsight.

1 So years prior to '06 could have been in the
2 work sheets that we originally looked at in
3 developing this, but they were not -- three years
4 was deemed a good snapshot.

5 Q. You didn't base any of your conclusions
6 in the October 2011 report based on any other
7 years?

8 A. No.

9 Q. No years other than 2006, 2007, 2008,
10 correct?

11 A. Correct.

12 Q. Why did you choose those years?

13 A. We concluded that that gave us a good
14 view of the trends going on.

15 Q. Why did you choose three years?

16 (Pause.)

17 Q. Let me backtrack on that.

18 A. Yeah.

19 Q. Were you asked or were you told in
20 creating your report what years to use, or did you
21 personally make the determination as to how many
22 years you would use and what years to use?

23 A. That was my determination.

1 Q. Okay. Why did you choose a three-year
2 period as opposed to more or less?

3 A. In my opinion going back to '05 or '04
4 the data was too old.

5 Q. Why? What would make that data not
6 useful because of its age?

7 A. Just because of its age. Change in rate
8 structures, change in the economy. And I don't have
9 that data in front of me, so I'm not sure, but it
10 could have been that '04 and '05 looked like '06 and
11 that -- so we didn't need to use four, because three
12 years gave us the window that seemed most
13 appropriate.

14 Q. You did look at the data from other
15 years and then decided not to use those years in
16 your calculations?

17 A. I'm not sure about that.

18 Q. I mean, did you look at 2005 and then
19 determine not to use 2005 in the calculations?

20 A. I'm not sure about that.

21 Q. Do you remember if you looked at any
22 other years, other than 2006, 2007, 2008, during
23 the process of creating this report?

1 A. My apologies for being redundant, but
2 I'm not sure about that.

3 Q. Okay. Then I guess I have to ask you
4 again why you chose these three particular years.
5 Do you have a memory of how you came to choose
6 these three particular years, if you don't recall
7 if you looked at any others?

8 A. I do a lot of valuation work. And in
9 that your judgment as to what is most appropriate is
10 how you develop your reports.

11 This report was prepared ten months ago.
12 So I'm not sure what deciding factors were involved
13 in choosing three years, other than the reasons
14 were that it made sense.

15 Q. And I don't want to be redundant
16 either, but do you know why it made sense? Do you
17 know what your determination was based on that it
18 made sense to use these three years?

19 A. I feel like I've answered this question
20 a number of times.

21 I think it gave a sense of the trends that
22 were going on. It was -- it appeared unbiased in
23 that we ran the three years out and we took the

1 averages of those three years and it was an
2 improving trend.

3 So it accounted for some economic
4 fluctuations by averaging the positive trend. And
5 that's that.

6 Q. Why is it important to use I guess a
7 number of years in determining lost profits going
8 forward?

9 A. This first letter of October 19th
10 attempts to calculate the gross profits lost in an
11 appropriate, not flowery, light.

12 Three years of an improving run rate, not
13 just utilizing the third year which was the highest
14 year in the window, I believe, shows reasonableness,
15 in my opinion, as to the fact that things may not
16 continue to get better each year.

17 Q. So you would use multiple years in your
18 calculation in order to account for economic
19 fluctuations?

20 A. You may.

21 Q. Would one year not adequately account
22 for economic fluctuations, if you used one year as
23 opposed to an average of multiple years?

1 A. It depends what facts are known. It
2 depends. There is no absolute in valuation.

3 Q. You chose the three-year window in
4 order to more appropriately account for economic
5 trends, I believe, in economic fluctuations over a
6 period; is that accurate?

7 A. Yes. We attempted to present a
8 reasonable picture.

9 Q. Would it be less reasonable, then, to
10 choose simply one year's data and then calculate
11 future lost profits based on that short window?

12 A. Again, it depends on what is known.

13 Q. Well, based on what you knew in October
14 of 2011, was it reasonable to choose a three-year
15 window as opposed to a one-year window in order to
16 account for economic trends and economic
17 fluctuations?

18 A. Well, the letter actually provides
19 summary data on two years and three years.

20 Q. Yes. I believe it has two years. It
21 has a two-year window. It accounts for a
22 three-year window. And it accounts for -- and then
23 an average of the two- and three-year window.

1 A. Correct.

2 Q. So in each of those you chose to use a
3 multiple year window and an average of those years.
4 Was the reason for that to better account for
5 economic fluctuations and trends that might occur
6 over time, whereas it would be less reasonable to
7 choose just a single year because it wouldn't
8 account for those things?

9 A. The reason for it was to provide
10 Attorney Follansbee with some information from a
11 couple of different viewpoints.

12 Q. The report goes on to state:
13 Historical costs of revenue information was
14 provided by the Company.

15 What were you provided for historical cost
16 of revenue information?

17 A. All of the same information I described
18 earlier: general ledgers, the chart of accounts.

19 Q. For the years of 2006, 2007, 2008?

20 A. Yes.

21 Q. And do you know -- I know it says
22 December 31st through 2008. Is it actually more
23 accurate to say it would have been September 30th,

1 2006 through September 30th, 2008? Is that the
2 information you were looking at?

3 A. The company's fiscal year is September.
4 The projection period is on a calendar year, I
5 believe.

6 Q. But the actual data that you looked at,
7 what was that time period?

8 A. That was ending September 30th.

9 Q. The report says December 31st, 2006
10 through 2008.

11 What should that say as to the information
12 that you were provided by the company, the
13 historical costs and income data?

14 A. No. That's accurate. The information
15 they provided us was consistent with the timeline
16 under which they were under contract with Duxbury,
17 which -- their contract ended on a calendar year
18 basis.

19 So we had the information through the
20 calendar -- we covered all 12 months. It's just
21 when the company's fiscal year ends.

22 Q. Did you use that 36-month period here
23 that's described in making your calculations or was

1 it a different period?

2 Meaning, you may have been provided with
3 that data, but was that the data that you actually
4 used?

5 A. We would have used the fiscal year-ends.

6 Q. So would that have been September 30,
7 2006?

8 A. Yes.

9 Q. Through September 30th, 2008?

10 A. It would have been October 1st through
11 September 30th.

12 Q. The report goes on to state again that
13 you used three-year and two-year average gross
14 profits, in addition you calculated an average of
15 the three-year and two-year averages. I think
16 you've already explained why you did that.

17 But then it guess on to state that,
18 Calculations of cost of revenue were based upon
19 historical performance as well, with two
20 exceptions: depreciation expense was excluded from
21 the calculation, and lease expense.

22 Why did you exclude depreciation expense
23 from your calculation?

1 A. Depreciation is a non-cash item, and
2 it's not -- it's not a -- it's really an add-back
3 from a -- it's an add-back from a cash flow
4 analysis.

5 Q. Can you maybe just explain to me what
6 you mean by depreciation in the first page of your
7 letter, depreciation of what?

8 A. Equipment.

9 Q. Depreciation of the assets?

10 A. Yes.

11 Q. Why would that -- if you maintain the
12 assets and they continue to depreciate, why would
13 that not be included in the cost of revenue?

14 A. It's not included in the cash flow
15 because the company had funded that. So it's truly
16 additional cash lost.

17 So to include depreciation expense in your
18 lost profits calculation is punishing the cash flow
19 to the extent of the depreciation, because you truly
20 have lost that cash.

21 Q. Could you, I suppose, if you no longer
22 are running a golf course, you could sell those
23 items that are no longer necessary and then you

1 wouldn't have the depreciation or you could replace
2 similar items in other courses that are getting
3 older and need to be replaced with the existing
4 items that you had used at North Hill.

5 And would that affect depreciation, or was
6 that taken into account at all in determining
7 whether or not to include depreciation and cost of
8 revenue?

9 A. No.

10 Q. And why was the lease expense not
11 included within the cost of revenue calculation?

12 A. It was. It just wasn't included based
13 on historical. It was included based on the
14 anticipated lease expense going forward.

15 Q. Under what was included in the RFP
16 documents? Meaning, what Johnson had bid?

17 A. When we prepared this letter, we were
18 not in possession of the RFP. So we were provided
19 this information that indicated what the revs, the
20 new revs would be. And that's what I believe was
21 included in the schedule.

22 Q. Can you take me through the report and
23 just sort of explain to me what the line items are,

1 what they stand for, especially under Revenues and
2 Cost of Revenues, and explain to me how you reach
3 your calculations.

4 A. Sure. In the report itself or in the
5 accompanying data?

6 Q. Well, why don't we start with: Based
7 upon the information above, we have calculated pro
8 forma gross profit for years ending in 2009 through
9 2013 as follows, and go from there.

10 (Pause.)

11 A. Okay. This schedule indicates what the
12 dollars lost would be in each of the five years
13 based on a three-year average, two-year average and
14 an average of the two and three years.

15 Those numbers are the end result of the
16 second page of the accompanying information.

17 Q. Why did you include an average of the
18 three- and two-year period?

19 A. To get another data point.

20 Q. Why would that data point be used?

21 A. It's more information.

22 Q. Why go through the trouble?

23 A. It's more information. It's more

1 information. It helps you draw -- more information
2 enables you to draw better conclusions.

3 Q. Can you take me through what is the
4 third page of the report that includes the Revenues
5 and Cost of Revenues?

6 A. The historical information?

7 Q. Yes. And initially -- I think we're
8 both looking at the same page. It says Historical
9 Information. The date on that, it says
10 September 30th, 2006 through 2008.

11 Is that actually the time period that you
12 would have looked at the data?

13 A. Yes. This is three historical P & L's
14 or income statements for gross profit calculations
15 for Johnson Golf for 2006, 2007, 2008 for the North
16 Hill Country Club.

17 Q. So the 2006 year, what was the time
18 period that you were looking at to determine the
19 revenue and cost of revenue for the 2006 year?

20 A. October 1st, 2005 through
21 September 30th, 2006.

22 Q. Okay. Is it fair to say, then, that
23 the heading should say October 1st, 2005 through

1 September 30th, 2008?

2 A. Fair to say.

3 Q. Rather than September 30th, 2006?

4 A. Yes.

5 Q. Can you take me through the revenues,
6 please.

7 A. Fees and dues consists of greens fees,
8 cart fees, annual memberships or prepaid fees for
9 those fiscal years.

10 Pro shop sales consists of golf balls, golf
11 gloves, hats, bags of tees, probably shag balls,
12 other sundry items, candy bars maybe. And food and
13 beverage is the bar.

14 Q. Were there any other revenues that were
15 taken in by Johnson Golf that weren't accounted for
16 within these three categories?

17 A. Not to my knowledge.

18 Q. Could you take me through the cost of
19 revenue line items?

20 A. Direct payroll consists of employees who
21 work on the golf course, in the pro shop, in the
22 restaurant.

23 Q. What employees would not be included in

1 direct payroll?

2 A. There are no Duxbury -- there are no
3 employees located at North Hill Country Club whose
4 payroll is not included in that direct payroll.

5 Q. What about officials of the company,
6 are they included under direct payroll?

7 A. I do not believe so.

8 Q. Is Doug Johnson's salary included in
9 direct payroll?

10 A. I do not believe so.

11 Q. How about payroll taxes?

12 A. Payroll taxes are directly tied to the
13 direct payroll. It's Social Security, Medicaid,
14 state unemployment.

15 Q. Contract services?

16 A. I don't really know what that is.
17 Minimal amount.

18 Q. Do you know what that line item stands
19 for?

20 A. Yeah. That would be typically if, let's
21 say you brought somebody in from the outside on a
22 consulting basis to look at why you have a fungus
23 growing on the fourth green and you couldn't figure

1 it out, so you might hire somebody from the USGA to
2 come in and take a look at that.

3 Or, if you try to make modifications to the
4 golf course and you want to get some other advice,
5 bring somebody in on a contract basis.

6 Q. Do you know what documents you looked
7 at in coming up with those particular numbers for
8 contract services?

9 A. I do not. Well, general ledger.

10 Q. And was it also your -- is it fair to
11 say you relied on your own audited reports from
12 each of these years as well as your general ledger
13 for all of these line items in creating your
14 report?

15 A. Yes.

16 Q. Equipment purchases?

17 A. Specifically I don't know what that is,
18 but at that price it could have been a mower. It
19 could have been a gang mower for cutting fairways.
20 It could have been a utility vehicle.

21 Q. Actually, I meant to ask you. Are
22 there any portion of payroll taxes which would not
23 have been included within the cost of revenue?

1 Meaning, were there any additional payroll
2 taxes that were paid out in any of these years that
3 you didn't account for in creating your lost profit
4 calculation?

5 A. No.

6 Q. Gas, oil and grease?

7 A. That's fueling the carts, the mowers.

8 Q. Just a question. Any idea why gas, oil
9 and grease was so minimal in 2006 as opposed to
10 every other year?

11 A. Not really. Only that it could have
12 been misposted. I don't know.

13 Q. Well, do you know what you looked at to
14 make sure that that was an accurate number for
15 2006?

16 I mean, what did you do to ensure that that
17 was an accurate number, what's reflected on the
18 report, as to the actual cost expended for gas, oil
19 or grease by Johnson Golf in 2006?

20 A. I don't really think we would have
21 delved in too deeply into that because we didn't use
22 any one year in our end result.

23 Q. Well, you averaged three years?

1 A. We did.

2 Q. And you did two-year calculations?

3 A. Right.

4 Q. So 2006 would be between -- account for
5 half or a third of the data that you based this
6 report on?

7 A. That's true, but it's tempered by the
8 other two years. If you look at the three year and
9 two year, the two-year average is 24,000. The
10 three-year average is 16. So the average of the two
11 and three is somewhere around 20.

12 Q. Do you know if that's an accurate
13 number, the \$1035 that was spent on gas, oil and
14 grease by Johnson Golf at the North Hills Golf
15 Course in 2006?

16 A. No, I don't.

17 Q. What does insurance mean, this line
18 item insurance? What does that account for?

19 A. That accounts for insuring the vehicles
20 on the golf course.

21 Q. Any other types of insurance?

22 A. Probably liability, property.

23 Q. Were there any insurance expenses that

1 Johnson Golf paid as part of running the North Hill
2 Golf Club that aren't included within this
3 insurance line item?

4 A. Not to my knowledge.

5 Q. Do you know why again in 2006 the
6 amount that's indicated on your report for
7 insurance expenses seems to be so low compared to
8 the other two years?

9 A. I do not.

10 Q. Do you know what you looked at or what
11 you based that 2006 calculation on, that only
12 \$2,203 was spent on insurance by Johnson Golf in
13 2006 for the North Hill Golf Club?

14 A. Do I know what we looked at? Is that
15 the question?

16 Q. Yes. What did you base that number on?

17 A. Same reports as we based everything on,
18 as I've indicated before. The general ledger, our
19 audited financial statements.

20 Q. Did you make any inquiry as to why that
21 number didn't seem to jibe with the other years?

22 A. No, I don't believe so.

23 Q. What does operating supplies cover?

1 A. Fertilizers, tee markers, anything that
2 gets consumed on the golf course. Sand for the
3 bunkers.

4 Can I say something for one second?

5 Q. Sure.

6 A. When we issued the letter of October, we
7 indicate in the last sentence of the first
8 paragraph: "This letter supersedes our letter of
9 October 19th, 2011."

10 Q. Yes.

11 A. So --

12 Q. I'll go through that report, too.

13 A. But I'm sure -- if, in fact, this
14 supersedes this (indicating), is this relevant?

15 Q. I think it is.

16 A. Okay.

17 Q. And I will go through both reports, I
18 promise.

19 MR. FOLLANSBEE: You don't have
20 to.

21 Q. Are there any operating supplies or any
22 items that would come under the heading of
23 operating supplies that you didn't account for in

1 creating this cost of revenue line item for office
2 supplies in your 2011 report?

3 A. No.

4 Q. Do you know of any other money spent by
5 Johnson Golf at North Hill Golf Course on, again,
6 operating supplies that you don't account for?

7 A. No.

8 Q. And, again, in 2006 do you have any
9 knowledge as to why the operating supplies at North
10 Hill were only \$5,502, when they were at least ten
11 times that in every other year that you looked at?

12 A. I would suspect that there's probably a
13 grouping error within these accounts.

14 Q. Okay. What do you mean by that?

15 A. You could have operating supplies
16 accidentally posted into pro shop purchases by
17 example.

18 It results in the same, you know, net
19 expense, but it's just in the wrong -- it's a
20 geographic problem, not a cost problem.

21 Q. Do you know where the rest of the
22 insurance expense and gas, oil and grease expenses
23 might be geographically speaking?

1 A. No, I don't, as I look at 2006, sitting
2 here in 2012.

3 Q. Who would know how those expenses were
4 segregated so that we could have a better
5 understanding of what the accurate groupings and
6 expenses were for the 2006 year, do you know?

7 A. I don't think, without additional work,
8 anybody.

9 Q. Your company did audited financial
10 statements for the year of 2006 for Johnson Golf;
11 is that correct?

12 A. Correct.

13 Q. Would your company have information as
14 to how these expenses were grouped or what the
15 actual expenses were for each of these line items
16 in 2006?

17 Would you be able to determine that based on
18 the data that your company has?

19 A. I believe so.

20 Q. Did you do that prior to today?

21 A. Did we do -- well, this report was
22 issued in 2007. The '06 report would have been
23 issued in 2007.

1 Q. Okay.

2 A. So if you are asking if we could go back
3 and look at the groupings within these accounts, we
4 could certainly do that.

5 And if there are mispostings within
6 categories, we could re-classify them. If that is
7 what you're asking, we could certainly do that.

8 Q. You didn't do that for purposes of your
9 2011 expert report?

10 A. We did not.

11 Q. Who made the determination as to what
12 expenses would be categorized in a particular
13 category?

14 A. The books are maintained by the client,
15 by the bookkeeper for the company. So the original
16 books and records are created by the client.

17 We take that information and we selectively
18 test transactions. An audit is not a 100 percent
19 examination of transactions. It would be
20 prohibitively expensive to do that. So you test a
21 sample of transactions.

22 If there is a geography problem in that
23 something gets posted to supplies that should

1 possibly be posted to insurance, we are more
2 interested in the overall percentages as opposed to
3 the detail.

4 So if we look at a margin of 20 percent or
5 22 percent and it's reasonable when we look at the
6 company as a whole, we move forward from that.

7 Q. What is the category, Other Direct
8 Costs?

9 A. I don't really know. That could be -- I
10 don't know. It's an immaterial number.

11 Q. Can you give me an example of any
12 expense that fell under that particular line item
13 from any of those three years?

14 A. I would be guessing.

15 Q. I don't want you to guess.

16 A. Okay.

17 MR. FOLLANSBEE: Can we take a
18 five-minute break?

19 MR. OUELLETTE: Sure.

20 (Brief recess taken.)

21 **BY MR. OUELLETTE:**

22 Q. We just took a short break. Did you
23 review any documents during the break that are

1 relevant to this case or your testimony?

2 A. Not really.

3 Q. Did you review any documents during the
4 break?

5 A. No. We just looked at this letter for a
6 minute and then used the men's room. And here we
7 are.

8 Q. The October 2011 report?

9 A. Correct, yes.

10 Q. Who came up with these category names
11 for cost of revenue?

12 A. They are fairly common use.

13 Q. Did you come up with them -- meaning
14 your company -- or did the client come up with
15 them?

16 A. Both. I don't know.

17 Q. You know what I mean? Did --

18 A. Direct payroll is direct payroll.

19 Q. Right. But there are things that are a
20 little bit more amorphous that we've spoken about,
21 like operating supplies and equipment purchases,
22 insurance, other direct costs.

23 Who came up with those category names?

1 A. We did.

2 Q. But it wasn't your determination as to
3 what costs would fall under each category; that was
4 left up to the client?

5 A. Yes. The client records the
6 transactions as they occur.

7 Q. In putting together your 2011 report,
8 you didn't look at any invoices or receipts or any
9 raw data for the 2006 year; is that correct?

10 A. In putting together the October 2011
11 letter?

12 Q. Yes.

13 A. That's correct.

14 Q. Do you know if anyone at your company
15 at any time took any steps to determine whether or
16 not the amounts listed next to each of these
17 categories in 2006 were accurate?

18 A. Yes.

19 Q. Do you know what was done particularly
20 with respect to the line item of insurance to
21 determine that the amount spent on that category
22 was accurate?

23 A. No, I do not. What I know for certain

1 is that payroll is by site. Payroll taxes are by
2 site. Lease expense is by site. So in those three
3 accounts you have almost 300,000 of the 373 listed.

4 Q. So is it possible that some of these
5 costs of revenue which are not necessarily site
6 specific, that the numbers here in 2006 are low
7 because those cost of revenues -- those costs of
8 revenue were put under another site rather than
9 North Hill?

10 A. It is always possible that accounts
11 could get misposted between sites.

12 Q. Do you know if accounts got misposted
13 between sites for the cost of revenue of insurance
14 in 2006?

15 A. No, I do not know that.

16 Q. What about for gas, oil and grease?

17 A. I do not know that either.

18 Q. Do you know if expenses for office
19 supplies were misposted for a separate site?
20 Meaning, that the actual costs that were spent at
21 North Hill were not accounted for and instead
22 accounted under the cost of revenue at another site
23 for the year 2006?

1 A. I understand the question, and I do not
2 know if that happened.

3 Q. What falls under the heading of pro
4 shop purchases?

5 MR. FOLLANSBEE: Object to the
6 form.

7 Q. What type of --

8 MR. FOLLANSBEE: You can answer
9 it.

10 Q. What type of expenses -- there's a cost
11 of revenue line item, pro shop purchases. What
12 would fall under that line item, what type of
13 expenses?

14 A. Items that are resold from the pro shop,
15 golf balls, tees, hats, shirts. I don't think
16 there's a lot of retail going on in that pro shop,
17 but that's what it would primarily be.

18 Q. How about repairs and maintenance?

19 A. Repair and maintenance is repairing and
20 maintaining what needs to be repaired and
21 maintained.

22 Q. Is that equipment as well as the
23 grounds?

1 A. It would really be equipment. The
2 grounds -- maintenance of the grounds would be done
3 by their own labor forces.

4 Q. Do you know if there was any misposting
5 to another site of expenses for repairs and
6 maintenance at the North Hill Golf Club in 2006?

7 A. I do not.

8 Q. And I asked that because again the cost
9 of revenue under that line item is only a little
10 over a thousand dollars, \$1,353. It's quite a bit
11 more for each and every other year that you looked
12 at.

13 (Pause.)

14 Q. Do you know why that is?

15 A. I do not.

16 Q. Is it possible that that cost was
17 actually put under the cost of revenue of another
18 site for that year?

19 A. It's possible.

20 Q. And that would effect the overall cost
21 of revenue data for North Hill in 2006; is that
22 accurate?

23 A. That is accurate.

1 Q. What would be included under the line
2 item of restaurant purchases?

3 A. Food and beverage purchases from
4 purveyors.

5 Q. What about telephone?

6 A. On-site phone.

7 Q. Do you know if there are any other
8 telephone expenses paid by Johnson Golf Management
9 for the North Hill site that are not included in
10 these cost of revenue numbers on your October
11 report?

12 A. No, I do not.

13 Q. Do you know if there are -- if any
14 mispostings for the years of 2007 or 2008 where
15 costs attributable to running North Hill were
16 actually put under costs of revenue for another
17 site so that they wouldn't be accounted for in your
18 report?

19 A. No, I do not.

20 Q. Do you know if anything was done to
21 check that? I believe you said there are some
22 expenses that are site specific, some that are
23 spread out.

1 What was done to make sure that the costs
2 that are site specific weren't put under another
3 site?

4 A. It wouldn't -- the intent is to generate
5 accurate financial information --

6 Q. Sure.

7 A. -- from which you manage your company.
8 So you're doing yourself a disservice if you're not
9 at least attempting to keep your books in an
10 accurate fashion.

11 So if you were to look at the North Hill --
12 let me pause for a second. I know you said wait
13 until you ask the question fully and then I answer
14 it. Can I also color things or no?

15 MR. FOLLANSBEE: Absolutely. Use
16 every crayon in the box to color them, Bryan.

17 MS. PICKERING-COOK: Answer
18 however you feel most appropriately answers the
19 question.

20 A. Okay. These expenses for the non --
21 certain expenses are absolutely by site. Obvious.
22 You know, Kelly, where does this individual work?
23 This individual works at North Hill. Where does

1 this individual work? This individual works at this
2 site. Okay?

3 Payroll is an easily identified expense by
4 site. Lease expense is an easily identified by
5 site expense.

6 Any item that is identified to that site is
7 directly charged to that site. The other direct
8 expenses are on a companywide basis. Okay?

9 You might buy a pallet of fertilizers that
10 you're going to use at five locations. Okay? So
11 those costs, which are direct, directly related to
12 the production of your revenue, are allocated by
13 site based on revenue.

14 So if North Hill represents -- or North
15 Hill represents a percentage of the total revenue
16 of Johnson Management. Okay? These direct
17 expenses that are for all sites are allocated based
18 on that.

19 So -- does that make sense, what I'm saying
20 to you?

21 Q. It does. I'm surprised by it. I want
22 to make sure I understand. So --

23 A. Let me just finish.

1 Q. Yeah.

2 A. So what I'm trying to tell you is that
3 these expenses that you're questioning, they tie to
4 the company as a whole.

5 So on a companywide basis in 2006 for
6 whatever reason insurance was low. Could have been
7 that they were overcharged for workers' comp and
8 general liability and got a big rebate. Okay?

9 So this is -- this is in relation to the
10 expenses companywide.

11 Q. Just so I understand. I may be a
12 little bit confused by what you just said. There's
13 non-site specific --

14 A. Direct expenses.

15 Q. -- direct expenses. And there are a
16 lot of those under your cost of revenue heading.

17 A. But they add to an immaterial dollar.
18 They really do. They don't add to -- you could lump
19 every -- other than --

20 Q. Well, why don't we start by saying:
21 What are the site-specific expenses under the Cost
22 of Revenue heading?

23 A. Direct payroll, payroll taxes, lease

1 expense. Those are the ones I know of off the top
2 of my head. I could go back and look.

3 But the other remaining direct costs
4 wouldn't be lumped into this site to the benefit of
5 this site. That's not how it works. It's spread.

6 Q. Just so I understand, then, these
7 numbers for each of the remaining categories under
8 Cost of Revenue, they don't necessarily reflect
9 what was actually spent at North Hill; that number
10 is based on a percentage of North Hill's --

11 A. Use fertilizer as an example.

12 Q. Yeah.

13 A. Use seed and fertilizer. Okay? If they
14 spend \$20,000 on fertilizer, and you're buying it
15 from a supplier, that supplier isn't necessarily
16 going to give you a bill for each golf course.

17 You're going to buy what you know you need
18 for the season.

19 Q. Right.

20 A. And then you're going to allocate that
21 across all of your sites.

22 Q. So then how do you determine what
23 percentage of that overall purchase will be

1 attributed to the cost of revenue of North Hill?

2 A. Based on revenue.

3 Q. So am I correct, then, there's a lot of
4 these expenses that are companywide; and in order
5 to determine what the cost is at each course, what
6 cost of that overall purchase you're going to
7 attribute to each course, you look at the amount of
8 revenue that that course brings in and you
9 determine what percentage of the overall revenue
10 that course brings in and --

11 A. To the whole.

12 Q. As a part of the entire Johnson Golf
13 Management Company?

14 A. Correct.

15 Q. And then you assign that percentage to
16 the purchase, and that's how you determine what the
17 cost for each site is going to be?

18 A. Exactly.

19 Q. So that -- do you see any flaws in that
20 calculation?

21 A. No.

22 Q. I mean -- so it doesn't --

23 A. I don't.

1 Q. That number doesn't necessarily reflect
2 what -- you know, for instance, if you spend
3 \$20,000 on fertilizer, that number that comes under
4 the fertilizer heading of cost of revenue for North
5 Hill, that doesn't actually mean how much money was
6 spent on fertilizer at North Hill?

7 A. It's a systematic rational allocation of
8 those common direct expenses.

9 Q. What if --

10 A. The reason I was saying this to you is,
11 you know, using, you know, any of these
12 miscellaneous categories that you're talking about,
13 it's not like you would see a low number in one site
14 and a high number in another site. They're going to
15 be proportionate across all sites.

16 Q. Well, what if one company has a -- what
17 if one site has a much higher revenue than another
18 site?

19 A. Then they would absorbing a higher
20 percentage.

21 Q. Why would the amount of revenue that
22 you're taking in, the percentage of the overall,
23 indicate to you the amount of the percentage of

1 fertilizer that you're going to need to run a
2 particular site? Why would those percentages
3 necessarily match up?

4 Wouldn't golf courses need an equal amount
5 of fertilizer? Do you understand what I'm saying?
6 Why is it based on revenue?

7 One site could be doing much better than
8 another site. That doesn't mean it needs a lot
9 more fertilizer or that more fertilizer is actually
10 being used.

11 A. Well, if one site is a nine-hole golf
12 course and one site is an 18-hole golf course,
13 stands to reason that the 18-hole golf course would
14 generate more revenue. It's more grass. It would
15 use more fertilizer.

16 Q. Sure. Well, say you have two nine-hole
17 golf courses, and they have about the same amount
18 of grass. But one of them is taking in about twice
19 as much revenue for whatever reason.

20 The numbers that you use would reflect that
21 that nine-hole golf course, that has the same
22 amount of grass as the other, is using twice as
23 much fertilizer, or that twice as much money is

1 being spent on fertilizer for that identical golf
2 course that's bringing in twice the revenue.

3 A. If you have a site that is struggling --

4 Q. Well, is that accurate?

5 A. I'm getting -- I'm giving a little color
6 on that statement.

7 If you have a site that is struggling, you
8 will probably take steps to conserve dollars in
9 other areas.

10 Like, your labor costs will probably be
11 less, because maybe you'll be mowing the fairways
12 once a week as opposed to twice.

13 You might let the rough grow in certain
14 areas, that on the high-revenue-producing golf
15 course you're cutting the rough in those areas.

16 So your comment is considered -- was
17 considered in preparing these numbers. But you
18 have to devise a methodology for allocating out the
19 remainder of these costs.

20 Q. How about something like contract
21 services, is that --

22 A. That would be site specific.

23 Q. That's site specific?

1 A. Yes.

2 Q. Does that mean that the numbers
3 indicated in your report spent on contract service
4 at North Hill actually reflect the amount spent on
5 contract services, or is that based on a percentage
6 of North Hill's overall revenue under the Johnson
7 Golf Management Company?

8 A. No. That should be an identified cost,
9 just like payroll. It should be. Although I don't
10 know why you're focusing on that because it's such
11 an immaterial amount of money.

12 Q. I'm trying to figure out which costs
13 are actual and which costs are based on a
14 percentage of revenue.

15 A. Well, the three that I told you that I
16 know off the top of my head are payroll, taxes and
17 lease expense.

18 Q. There are many others, including
19 contract services --

20 A. I think pro shop purchases is direct to
21 the site, too, but I don't want to go on the record
22 saying that without checking it.

23 Q. So could pro shop purchases be based on

1 the percentage of overall revenue in the company
2 that Johnson Golf brought in for those particular
3 years as opposed to what they actually spent on pro
4 shop purchases for those years?

5 A. I think pro shop purchases is by site.

6 Q. Do you know of any other line items
7 under cost of revenue that is by site in that it
8 actually reflects the amount spent at that
9 particular site?

10 A. I will -- I would have to go back and
11 look in our work papers, but I believe restaurant
12 purchases and pro shop purchases are both by site.

13 Q. Do you know if repairs and maintenance
14 is by site?

15 A. I don't think so.

16 Q. Do you know if insurance is by site?

17 A. I believe insurance is allocated.

18 Q. Meaning that it's determined on a
19 percentage basis rather than an actual cost of the
20 site basis?

21 A. Yes.

22 Q. Do you know how operating supplies is
23 calculated? Is that by site or is that based on a

1 percentage of overall revenue?

2 A. I -- I'm not sure. I think that is
3 allocated.

4 Q. What about gas, oil and grease?

5 A. Same.

6 Q. Allocated?

7 A. Yes.

8 Q. Telephone?

9 A. I think that's allocated.

10 Q. Equipment purchases?

11 A. By site.

12 Q. That would be by site?

13 A. That's by site.

14 Q. Other direct costs?

15 A. Allocated.

16 Q. Utilities?

17 A. I'm not sure about utilities. I would
18 have to look.

19 Q. You're not sure if that's by site or
20 whether it's allocated based on a percentage of
21 overall revenue?

22 A. Correct.

23 Q. Do you know of any other accounting

1 methods that could be used in determining the cost
2 of revenue for a particular site other than
3 allocation based on a percentage of overall
4 revenue?

5 A. Yes. You can do it based on labor.

6 Q. What does that mean? Could you explain
7 what that method would be?

8 A. You could allocate -- it's the same
9 approach but using your labor as a percentage of
10 total labor times that expense.

11 Q. Maybe I don't understand. What do you
12 mean by labor?

13 A. Direct labor. Direct payroll. I'm
14 sorry.

15 Q. Okay. So instead of using revenue, you
16 use direct payroll?

17 A. You could.

18 Q. Meaning, I guess you look at what the
19 direct payroll at this site is, and you determine
20 what all these allocations are based on the
21 percentage that that site is of the total direct
22 payroll of the company?

23 A. Yes.

1 Q. Any other methods that could be used?

2 A. I'm sure there are other methods but
3 none that would seem appropriate to me. You can do
4 it based on acreage.

5 Q. Would there be a standard operating
6 method for this type of situation where you're
7 trying to allocate costs for expenses that are
8 non-site specific?

9 A. Any method that provides a reasonable
10 and consistent allocation by site.

11 Q. Would it be possible for some of these
12 cost of revenue line items that were calculated
13 through the allocation method we've discussed,
14 would it be possible to actually determine the
15 amount that was spent at the site for that
16 particular year on these line items, such as
17 repairs and maintenance or gas, oil and grease?

18 A. I suppose you could refine the
19 allocations through discussions with on-site
20 management, course superintendents. You could
21 probably refine it.

22 Q. That wasn't done in coming up with the
23 numbers that was -- on which your report is based,

1 however; is that correct?

2 A. That is correct.

3 Q. Could you take me through the
4 calculations that are included on page four of the
5 report, the Pro Forma Gross Profit Calculations.

6 A. This is the three year, two year and
7 average of the two and three years for the five-year
8 period 2009 to 2013.

9 The revenue is constant, allowing for no
10 increases or decreases, just assumed rateable in
11 the calculation period.

12 And the cost of sales is also rateable
13 throughout the calculation period with the
14 exception of lease expense changes which were
15 provided to us.

16 Q. Why did you keep revenue constant? Why
17 did you assume that in coming up with your
18 calculations in this report?

19 A. At the time we prepared this report we
20 did not have the information that is in the RFP, so
21 we did not have any knowledge of rate increases at
22 that time.

23 And given the state of the -- of where the

1 economy was at that time, we prepared this on a flat
2 line basis.

3 Q. And why did you assume that the cost of
4 revenue would remain constant throughout the
5 five-year period?

6 A. It was a reasonable assumption.

7 Q. Were there any trends or market factors
8 that you discovered that would have affected
9 revenues going forward, starting in October of
10 2008, going forward during that five-year period?

11 A. Again, I think this is a conservative
12 presentation even from the information that we had
13 at that time.

14 We do a number of golf courses. We do the
15 accounting and taxes for a number of golf courses.
16 And what we were seeing in the industry was that the
17 high-end golf courses were losing market share and
18 the lower priced golf courses were gaining share.
19 People were trading in the hundred dollar round for
20 the \$50 round.

21 So we left this flat, again to present in
22 a -- present this in a conservative light in our
23 opinion.

1 Q. Did you account for inflation in any of
2 these costs?

3 A. Inflation was really running pretty
4 flat, but no, we did not. We could have. We
5 probably should have. But we left the revenue flat
6 so we left the costs flat.

7 Q. Is North Hill a high-end or low-end
8 golf course?

9 A. It's a nice golf course, but it is not a
10 high-end golf course.

11 MR. JOHNSON: It's called low
12 end. I'd like to get \$50 for 18 holes. It's like
13 33 or something like that.

14 Q. Is it low end amongst public golf
15 courses or low end amongst the whole category of
16 golf courses including public and private?

17 A. Fee-wise it is at the low end. The
18 greens fees are very reasonable there.

19 Q. Amongst public golf courses even?

20 A. Yes.

21 MR. FOLLANSBEE: Off the record.

22 (Discussion off the record.)

23 MR. OUELLETTE: Would you mark

1 this as three and this as four, please.

2 (Exhibit Nos. 3 & 4 were marked

3 for identification.)

4 Q. I've just handed you a document that's
5 been marked Exhibit 3 which is titled, Johnson Golf
6 Management, Inc. Audited Financial Statements and
7 Supplementary Information, Years Ended
8 September 30th, 2007 and 2006.

9 Also, a document that's been marked as
10 Exhibit 4, which is headed, Independent Auditors'
11 Report on Supplemental Information. And that's
12 dated December 10th, 2007.

13 Did you rely on either of these documents
14 in putting together your October 2011 report?

15 (Witness reviewing documents.)

16 A. Yes.

17 Q. Did you rely on -- which one, or both,
18 did you rely on?

19 A. We would have relied on both.

20 Q. Did you rely on both in creating your
21 August 2012 report as well?

22 A. No, we did not.

23 Q. Did you rely on either of these

1 documents in creating your August 2012 report?

2 A. No, we did not.

3 Q. Am I correct that your company, LMHS,
4 created both of these documents?

5 A. Yes, that is correct.

6 Q. Did you personally have a role in
7 creating either of these documents?

8 A. Yes.

9 Q. What was your role in creating the
10 document that's been marked as Exhibit 3, the
11 Audited Financial Statement and Supplementary
12 Information?

13 A. I have overall responsibility for this
14 report.

15 Q. What about Exhibit 4, the Report on
16 Supplementary Information?

17 A. I have overall responsibility for that
18 report as well.

19 Q. What does "overall responsibility"
20 mean?

21 A. It means I'm not generating the work,
22 but I'm doing final review and signing off on its
23 release.

1 Q. Can you just tell me generally what the
2 purpose of creating this document, number three,
3 was and what was done to create it?

4 A. The only reason Johnson Golf is audited
5 is to comply with contractual obligations for
6 certain of their leases.

7 Outside of that a company of this size and
8 structure would have no need to be audited. So
9 that's why we created it.

10 Q. And what did you do to create this
11 document?

12 A. We conducted our audit of the books and
13 records of Johnson Golf.

14 Q. What was the purpose in creating
15 Exhibit No. 4, the Report on Supplementary
16 Information?

17 A. Certain of the leases have site-specific
18 financial statement requirements. So in order to
19 get to the individual by site financials, you have
20 to tie it all in together anyway.

21 Q. Is it accurate to say that Exhibit 4,
22 the Report on Supplemental Information, breaks down
23 the audit by sites, whereas the initial audit does

1 not?

2 Meaning, Exhibit No. 4 has information
3 that's specific to North Hill, whereas Exhibit
4 No. 3 deals only with the company as a whole?

5 A. That is correct.

6 Q. How did you use Exhibit No. 4 in coming
7 up with your October 2011 report?

8 A. It is the starting point for the
9 October 2011 report.

10 Q. I know we've talked about this a bit,
11 but beyond this report and the numbers included
12 within it, what else did you look at in creating
13 your October 2011 report?

14 A. Can I ask you to repeat that? I'm
15 sorry.

16 Q. Sure. I believe you just said this was
17 the starting point. Beyond this document, Exhibit
18 No. 4, what did you look at? Where did you go
19 after you started?

20 A. We would have reviewed the work papers
21 in conjunction with writing that letter. But this
22 would be the -- the work was done. The letter, I
23 think indicates --

1 (Witness reviewing document.)

2 A. Right. As the letter states: "These
3 pro forma gross profit calculations were assembled
4 based on historical revenue and cost of revenue
5 information."

6 Q. What was the historical revenue, cost
7 of revenue information that you looked at in
8 creating this report, Exhibit No. 4, for North
9 Hill?

10 A. Client's books and records.

11 Q. What would those include?

12 A. General ledgers, expense analysis,
13 payroll, tax returns, bank statements.

14 Q. On page 13 of this document, which is
15 the third page in --

16 A. Yes.

17 Q. Actually, why don't we look at 2006
18 first, which would be I guess page 16.

19 MR. FOLLANSBEE: Which exhibit
20 are we on?

21 MR. OUELLETTE: Exhibit 4.

22 A. Exhibit 4, page 16.

23 Q. And the heading is Johnson Golf

1 Management, Inc., Statements of Operation and
2 Accumulated Deficit By Location, Year Ended
3 September 30th, 2006.

4 And then it breaks down Revenue, Cost of
5 revenue, et cetera, for each of the golf courses
6 owned by Johnson Golf Management. That's the page
7 I'm referencing.

8 A. Yes.

9 Q. Can you take me through the -- on the
10 left-hand side there are categories. Can you take
11 me through what some of those mean?

12 The first being Revenue, obviously. And I
13 think we've discussed that quite a bit. The next
14 is Cost of Revenue, which we've discussed.

15 And then Gross Profit. Is that the same
16 gross profit right there that you're looking at
17 when you come up with your lost profit numbers in
18 your reports?

19 A. Yes, with the exceptions as noted.

20 Q. The next line is General and
21 Administrative Expenses. What does that mean?

22 A. That's the fixed overhead.

23 Q. Those expenses would not be accounted

1 for in your profit calculations?

2 A. That is correct.

3 Q. Why is that?

4 A. Because those are the expenses that are
5 not site-specific. Those are expenses that are not
6 directly related to the production of revenue, is a
7 more accurate term or statement.

8 Q. Could you say that statement again?

9 I'm sorry.

10 A. Those are the expenses that are not
11 directly related to the production of revenue.

12 Q. The next line down says, Earnings From
13 Operations. What does that reflect?

14 A. That is profit after you've absorbed
15 everything but interest expense into your --

16 Q. Then there's another line that says,
17 Other Expenses.

18 A. Yes.

19 Q. Which includes interest expense and
20 settlement expense?

21 A. That is correct.

22 Q. And then the next line down says,
23 Earnings Before Income Taxes. What does that

1 reflect?

2 A. That is the net earnings on a by site
3 basis before the payment of any income taxes.

4 Q. Then the next line is Income Taxes. So
5 the final line is Net Earnings. What does that
6 reflect?

7 A. That is the net earnings after all
8 costs, including income taxes, by site.

9 Q. Why in creating this audit do you look
10 at net earnings?

11 A. We are rendering an opinion on the
12 financial position of the company as a whole. So we
13 have to look at the company on a companywide basis
14 from top line to bottom line and balance sheet
15 strength.

16 Q. Then why do you not just stop at gross
17 profit? Why do you continue to add additional
18 calculations to reach net earnings?

19 A. Because the net earnings are after you
20 absorb the overhead of corporate office,
21 administrative, marketing, all of the costs that are
22 not directly related to the production of income.

23 Q. The next page in this report is page

1 17, and it states, Schedules of Cost of Revenues By
2 Location, for the year ended September 30th, 2006.

3 A. Yes.

4 Q. And then there are some numbers next to
5 or under the heading of North Hill?

6 A. Yes.

7 Q. Are those the exact numbers you used
8 when determining what North Hill's costs of revenue
9 were for the year 2006 in your October report?

10 A. I believe without the line item for
11 depreciation, yes, they are.

12 Q. So you made some accommodation for the
13 number that's under Lease, correct?

14 A. On a going-forward basis, that is
15 correct.

16 Q. Other than the lease number and the
17 depreciation number, they're the same numbers,
18 though, that you used?

19 A. In the 2006 column for the October 2011
20 letter?

21 Q. Correct.

22 A. Yes. And there would not have been an
23 adjustment to the lease amount on a historical

1 basis. It would only have been on a going-forward
2 basis.

3 Q. Why do you include depreciation in this
4 calculation of schedule of revenues when you
5 completed your audit?

6 A. Because for a GAP, Generally Accepted
7 Accounting Principles, complete financial statement,
8 depreciation is a component of that, of that
9 complete financial.

10 MR. FOLLANSBEE: Is this a good
11 time?

12 MR. OUELLETTE: If you want to --
13 do you want to take a lunch now?

14 MR. FOLLANSBEE: We can go off
15 the record.

16 (Discussion off the record.)

17 (Brief recess taken.)

18 **BY MR. OUELLETTE:**

19 Q. Do you know what percentage of overall
20 revenue North Hill represented during the three
21 years that you looked at, 2006, 2007, 2008?

22 A. I can look here. 2007 looks like it's
23 about -- it's 12 -- 12 percent, 13 percent.

1 Q. Where are you getting that?

2 A. I'm just taking -- this is on page 13.

3 Q. Yes.

4 A. Just looking at North Hill's total
5 revenue -- actually, we would have used fees and
6 dues and -- as a percentage of total fees and dues.

7 MS. PICKERING-COOK: Let the
8 record reflect he's looking at Exhibit 4, I
9 believe.

10 A. Yes.

11 Q. So you're looking at page 13 of
12 Exhibit 4?

13 A. Yes.

14 Q. You would have only looked at fees and
15 dues, not overall revenue; is that accurate?

16 A. We did not -- I believe -- this is going
17 to get a little confusing. Okay.

18 Q. Maybe I'll be clear on what I'm looking
19 for.

20 A. Okay.

21 Q. We talked a lot about whether or not
22 costs of revenue was specifically a reflection of
23 what was spent at that site, calculated in that

1 manner, or if they were calculated on an allocation
2 basis, meaning that they were calculated based on
3 the percentage that that site represented of the
4 overall revenue for the company.

5 I think you may have just told me that the
6 overall revenue of the company is not the total
7 revenue, but indeed it is just the fees and dues
8 line. Is that accurate?

9 A. Okay. So it's a little more -- a little
10 bit more in the calculation than that.

11 Q. Sure. What was the percentage that you
12 used when you calculated it?

13 A. Okay. Here's the math. You have some
14 sites that pay a lease expense to the city or town.
15 You have other sites that are paid a management
16 contract. Okay? So they don't pay a site lease.

17 So the calculation is fees and dues, minus
18 lease expense. So in that way you can compare that
19 with the sites that don't have a lease expense that
20 just get paid a management contract.

21 I know that's confusing.

22 Q. No. I think I understand.

23 A. So it is really -- it's a percentage

1 revenue to total revenue. It's your site revenue to
2 total revenue.

3 Q. And that doesn't include pro shop sales
4 or food and beverage as part of the revenue costs?

5 A. Correct. But it does include contract
6 management.

7 Q. So, for instance, I see South Shore
8 here as one of the golf courses that's managed, and
9 there's a contract management number of \$180,000?

10 A. Correct.

11 Q. Meaning that you don't get -- he
12 doesn't get paid -- the company doesn't get paid
13 based on its profits; it gets paid a contracting
14 amount?

15 A. Correct.

16 Q. And so you would use that number for
17 South Shore as opposed to any actual fees and dues
18 or other revenue that's earned at that site?

19 A. That's correct.

20 Q. But for North Hill you would use the
21 fees and dues number, minus what was paid under the
22 lease agreement to the town?

23 A. Yes.

1 Q. Are there other ways to create the
2 revenue calculation that you're going to use in
3 order to calculate the cost of revenue?

4 A. In this particular case it's -- that's
5 not an easy task. I mean, like I said to you
6 earlier, you could do it based on payroll. That is
7 a method of allocation, based on payroll.

8 We chose to allocate the remaining cost
9 based off of a revenue basis.

10 Q. Were there other alternatives that you
11 could choose from in determining how to do that?
12 For instance, could you take into account pro shop
13 sales as part of revenue, especially when some of
14 the -- or food and beverage sales, for instance?

15 Would you use those as part of the overall
16 revenue calculation? Would that be an option?

17 A. No. Because you don't have pro shop
18 revenue and you don't have food and beverage revenue
19 at both of those managed contract sites.

20 Q. What about using the actual fees and
21 dues that were collected in order to determine the
22 revenue number at the sites that have a management
23 contract, so that you could actually look at the

1 amount of money that was earned?

2 A. That information is not available to us.
3 I don't have that information.

4 Q. Would that be helpful in order to
5 determine what the revenue number was that you were
6 going to use in order to determine what the cost of
7 revenue would be at those sites?

8 A. I don't know.

9 Q. If you look at page 18 of the report,
10 the last page. It's the Schedule of General and
11 Administrative Expenses By Location --

12 A. Yes.

13 Q. -- for 2006. That's Exhibit 4.

14 A. Yes.

15 Q. Could you take me through what each one
16 of these line items stands for? Meaning, what type
17 of expenses would have come under each one of these
18 line items?

19 A. Yes. Salaries and wages. That --
20 again, those are specifically assigned. Those are
21 administrative functions assigned to their sites.

22 Q. I'm not sure if I understand what that
23 means. What does that mean? Whose salary and

1 wages are calculated under the administrative
2 expenses?

3 A. I would have to look at the payroll
4 reports to tell you that. I could do that. But I'm
5 not really comfortable with telling you that right
6 now.

7 Q. Then what makes this line item of
8 salaries and wages different than the direct
9 payroll line item under cost of revenue?

10 A. Because these salaries would not be
11 directly related to the production of revenue.

12 Q. Can you give me an example of what
13 salaries that would be?

14 A. Yes. Let's say you had a general
15 manager for the overall operation at Whaling City,
16 that person is not out, you know, using a step meter
17 on the greens or, you know, managing or maintaining
18 the golf course.

19 That person is in an overall supervisory
20 capacity, but yet is an employee of Whaling City.
21 Just as an example.

22 Or Beverly. You know, I don't know off the
23 top of my head who that person is or what their

1 exact function is, but it would be more of a general
2 manager, not a direct line.

3 Think of it in terms of, if you have a
4 factory and somebody's out in the factory operating
5 a machine. When that company calculates their cost
6 of sales, that machine operator is part of the cost
7 of sales.

8 The person that's in-house scheduling
9 shifts is an indirect cost, or the person that's
10 in-house doing payroll is not a direct cost. They
11 are an indirect cost.

12 Q. Is that person specific to the site?
13 For instance, the money here that comes under North
14 Hill, would that reflect the salary and wage of
15 someone who worked specifically at North Hill or
16 that worked companywide?

17 A. I'm not certain. I believe these are
18 site specific. But you can't hang me out to dry,
19 though. I have a right to go look.

20 Q. No. I understand. I'm trying to
21 understand -- so this number, for instance, 2006,
22 the 2,554 number that comes under salaries and
23 wages at North Hill, you didn't subtract that

1 number from gross profits? You didn't account for
2 that number?

3 A. Correct. We didn't include any
4 overhead. Any indirect costs. We did not include
5 any overhead costs, we did not include in the
6 calculation, that's correct.

7 Q. Well, specifically for salaries and
8 wages -- and I understand you didn't include
9 overhead costs in your lost profits valuation.

10 If the North Hill Golf Course was no longer
11 run by Johnson Golf Management, then presumably
12 they would not continue to pay the salary of the
13 person who was working at the North Hill site that
14 was earning this salary and wages; isn't that
15 accurate?

16 A. That's true.

17 Q. So why would you not account for that
18 within your lost profits evaluation? Why would --
19 why would you not account for that?

20 A. Because these costs are assumed that --
21 they're basically in place. You know, I'd have to
22 take a look at the salaries and wages
23 administratively. I think they're all assigned by

1 person. I believe they are.

2 But before I render an opinion on that I'd
3 like to look at the work paper.

4 Q. Okay. Please do. What I'm trying to
5 figure out is why this cost wouldn't come out of,
6 you know, the cost calculation that's involved in
7 your lost profits calculation.

8 What about payroll taxes, what comes under
9 that line?

10 A. It's payroll taxes, Social Security,
11 Medicaid, unemployment.

12 Q. So what makes the payroll taxes that
13 come under your general and administrative expenses
14 spreadsheet different than the payroll taxes that
15 come under your cost of revenue spreadsheet?

16 A. I must be doing a terrible job of
17 explaining this. But it's costs associated with the
18 production of income, are included in your direct
19 costs. That's how -- that's cost accounting.

20 Q. So why are these payroll taxes that
21 come under the administrative expenses not related
22 to the production of revenue; whereas, the payroll
23 taxes that come under your cost of revenue sheet

1 are? I'm looking for --

2 A. Okay. So the payroll taxes that are in
3 the direct costs are a percentage of that direct
4 payroll.

5 The payroll taxes that are in general
6 administrative costs are a percentage of the general
7 and administrative payroll.

8 Q. Whose payroll taxes are these? Can you
9 give me an example of who those individuals would
10 be?

11 A. Let's say you have a general manager --
12 you mean specific to North Hill or in general?

13 Q. Specific to North Hill.

14 A. Let's say you -- I don't know -- I'll
15 give you a possible example. If you had a
16 bookkeeper on-site and you paid that person
17 whatever, \$300 a month, to come in and work a half a
18 day.

19 They would have somewhere around ten percent
20 burden for payroll taxes on top of what you pay
21 them. That's what that is.

22 Q. And would you agree that you're not
23 taking into account those payroll taxes into your

1 lost profit calculation?

2 A. I would agree.

3 Q. And what comes under advertising?

4 A. That I'm quite certain is an allocation
5 of what was -- could be hats, could be Johnson Golf
6 Management hats.

7 Maybe they spent -- maybe that number is
8 \$8400. I can't even read it with glasses. Maybe
9 they spent \$8400, and we spread that across all
10 sites.

11 Q. Would there be advertising specific to
12 the North Hill site, or would that be a expenditure
13 for Johnson Golf?

14 A. Maybe. I don't know if there was
15 specific to North Hill.

16 Q. Would you agree that advertising spent
17 on North Hill, that money should be included in
18 your lost profit costs, or your lost profit
19 calculation, because that would be a cost no longer
20 shouldered by Johnson Golf Management if they
21 didn't run the North Hill Golf Course anymore?

22 A. I would not -- I would tell you that
23 that is not a direct cost. That's a marketing cost

1 which falls under -- it's just -- the way a
2 financial statement flows is revenue, cost to
3 produce that revenue, and administrative costs to
4 run the business administratively.

5 Q. When you were calculating lost profits,
6 though, would you look at costs that aren't direct
7 costs, but they are costs that would no longer be
8 shouldered by Johnson Golf if they were to no
9 longer run the North Hill Golf Course?

10 Even if they're not what you've termed as
11 direct costs, they're still costs that are
12 associated with running the particular site.

13 It seems as though there are costs that come
14 under that category that are not being accounted
15 for. Is that accurate?

16 A. I suppose we could debate that. You
17 know, I mean, in discussing advertising, we're
18 talking about \$84. So I don't know how much time we
19 want to talk about it. But --

20 Q. That may also beg the question as to,
21 do you know if anyone looked at whether or not that
22 \$84 amount was accurate for the 2006 year, as it is
23 extremely small compared to the amount of

1 advertising that was spent for North Hill for the
2 other years you looked at, 2007, 2008?

3 A. What was the question there?

4 Q. Do you know what would have been done
5 to determine the accuracy of that \$84 amount for
6 advertising for 2006 at North Hill, as it seems --

7 A. No. I think, Evan, that was an
8 allocation. I think -- I believe that -- it looks
9 like it's about ten percent of it, or one percent of
10 it.

11 I can't tell if that's an eight -- the
12 number's hard to read.

13 Q. Maybe just to go back a little bit,
14 then.

15 So under that allocation, the math that we
16 were talking about before, for 2006, if you look at
17 North Hill's fees and dues, they are about 139 -- I
18 need glasses, too -- somewhere about 139,000?

19 A. Yup.

20 MS. PICKERING-COOK: What page
21 are you looking at?

22 MR. OUELLETTE: This is page 16.

23 (Pause.)

1 Q. Then you would subtract the lease
2 expense, which was -- you have it as \$107,000 --
3 \$107,500?

4 A. Right. You'd subtract the lease expense
5 from the total as well.

6 Q. So the revenue for North Hill in 2006
7 would have been somewhere around \$30,000 based on
8 that calculation, and that's the calculation you
9 were using in order to determine cost of revenue?

10 A. I believe it was -- maybe it was total
11 revenue minus lease expense. I'd have to go back
12 and look. But it's revenue minus lease expense.

13 Q. Okay. You don't know at this present
14 time how you determined the cost of revenue for
15 North Hill during any of those three years in your
16 report; is that accurate?

17 A. No, that's not accurate.

18 Q. Well --

19 A. I think that the -- there is a question
20 on how some of the expenses are allocated, whether
21 it's based on total revenue minus lease expense or
22 fees and dues minus lease expense.

23 Q. Do you know which calculation you used

1 in order to determine the overall revenue and cost
2 of revenue for the North Hill Golf Course?

3 A. We're not talking about the revenue.
4 The revenue -- the revenue is the revenue. We're
5 talking about the non-site specific costs of
6 revenue.

7 Q. Yes.

8 A. So my answer to you is I am not sure if
9 it's total revenue minus leases or if it's fees and
10 dues minus leases.

11 Q. If you see page 14 of Exhibit 4, which
12 is the breakdown of revenues, I think it shows why
13 I'm interested in this, because the fees and dues
14 for North Hill in 2006 were about \$139,000, but the
15 total revenue --

16 A. Hold on. Let me catch up to you. What
17 page?

18 Q. Page 14.

19 A. 14 is Schedule of Cost of Revenues By
20 Location?

21 Q. Yes.

22 A. Okay.

23 Q. Whether you used fees and dues or total

1 revenue is important, because the fees and dues
2 reflected in your calculation, about 139,000,
3 whereas the total --

4 A. I can tell you by looking.

5 Q. -- the total revenue is about \$485,000.

6 A. We used the total revenue. I would say
7 looking at this now, Evan, we used total revenue;
8 otherwise, it wouldn't make sense.

9 Q. Do you see the line item that says that
10 \$287,000 were attributed to pro shop sales that
11 year?

12 A. That's a misposting. That belongs in --
13 200 of that, or 250 of that belongs in fees and
14 dues.

15 Q. How do you know that?

16 MS. PICKERING-COOK: Where is
17 that? I'm sorry.

18 A. Page 16.

19 MR. FOLLANSBEE: Which exhibit
20 are you on?

21 MR. OUELLETTE: It's page 16, not
22 14. The font is small.

23 MR. FOLLANSBEE: Okay.

1 A. Again, that's a geography issue. That
2 belongs in fees and dues, the majority of that.
3 There's no way the pro shop would do that kind of
4 revenue.

5 Q. How do you know how much of that was
6 misposted and how much of it belongs under fees and
7 dues?

8 A. I'd have to just go back and look at the
9 record.

10 Q. So you believe it was total revenue
11 including pro shop sales and food and beverages
12 that you used in your allocation math?

13 A. It would have had to have been,
14 otherwise this wouldn't make any sense, yes.

15 Q. Was that steady throughout 2007 and
16 2008 as well? I mean, was that the same
17 calculation you used in determining your 2007, 2008
18 numbers, the inclusion of the pro shop sales and
19 food and beverage numbers?

20 A. Yes. I would say yes. It's based on
21 total revenue minus lease expense.

22 Q. Why would you use pro shop sales and
23 food and beverage sales revenue as part of your

1 allocation math to determine what the non-site
2 specific cost of revenue would be?

3 (Pause.)

4 A. I would say because it gave us a more
5 accurate picture.

6 Q. Well, how would the amount of food and
7 beverages sold at North Hill as a proportion of the
8 amount of food and beverages sold throughout
9 Johnson Golf Management at all of its sites give
10 you a more accurate picture as to what amount of
11 insurance or operating supplies or telephone costs
12 were spent at North Hill?

13 A. I think two things. One, the amount of
14 expenditures that we are talking about allocating
15 would not have varied greatly by any reasonable
16 approach.

17 And, two --

18 Q. Why do you say that?

19 A. And, two, because the revenue groupings
20 within revenue categories we probably didn't rely on
21 a hundred percent.

22 The pro shop sales is a good example.
23 Knowing that the pro shop doesn't do a quarter of a

1 million dollars of revenue at North Hill, a lot of
2 that revenue is fees and dues.

3 Q. Beverly probably didn't sell a half a
4 million dollars worth of food and beverages either.

5 A. I don't know that. Beverly had a full
6 restaurant.

7 MR. LARAMEE: A hundred outings.

8 MR. JOHNSON: Weddings.

9 MR. FOLLANSBEE: Can we go off
10 the record.

11 (Discussion off the record.)

12 **BY MR. OUELLETTE:**

13 Q. Going back to the last page talking
14 about general administrative expenses, what would
15 come under dues and subscriptions?

16 This is the last page of Exhibit 4. We were
17 going down the left-hand column. I'm continuing in
18 that vein.

19 A. That could be a subscription to
20 Superintendents Magazine. I would have no idea.

21 Q. Why would you not account for that cost
22 in your lost profit calculation, the amount spent
23 at North Hill on dues and subscriptions?

1 A. Because you would still continue with
2 those magazines. You would still maintain that
3 expense whether North Hill was in place or not.

4 Can I go back to the revenue piece, because
5 I think you're getting concerned about something
6 that isn't a concern.

7 Q. Sure.

8 A. If a greens fee is rung up through fees
9 and dues, then it's coming through fees and dues.
10 If there's -- if there are 200 memberships available
11 and they're going to be available on December 1st,
12 and those are going to be -- and it's going to be on
13 a first come first served basis, it could be that in
14 2006 all of those revenues, all of those memberships
15 were rung in by the pro shop.

16 So they got posted to pro shop sales, as
17 opposed to fees and dues. So the -- again, it
18 doesn't affect the revenue.

19 It got posted to pro shop sales, but it is
20 really -- you probably need a tag line that said,
21 Pro shop sales dash memberships.

22 Q. Well, if at North Hill --

23 A. Do you understand what I'm saying?

1 Q. I do. But see if I'm correct. If at
2 North Hill in 2006, \$287,000 gets put under pro
3 shop sales rather than fees and dues, and the
4 revenue calculation on which you base your cost of
5 revenue is based on fees and dues and not total
6 revenue, you get a totally different number for
7 cost and revenues than you would have if that
8 number, the 287,000, was added to fees and dues,
9 because if you add it to fees and dues, then the
10 fees and dues number at North Hill would be a
11 substantially larger number and therefore larger
12 percentage of the total.

13 You understand what I'm saying?

14 A. I do.

15 Q. So the way in which you calculate your
16 cost of revenues is important for your lost profit
17 calculations.

18 And the way in which you calculate the
19 revenue determines how a lot of those cost of
20 revenues are calculated.

21 So what I've been trying to figure out is
22 how you -- how you determine what the percentage is
23 in the cost of revenue calculation.

1 And I think you've told me that -- I think
2 you initially told me that it was fees and dues
3 minus lease.

4 A. Right.

5 Q. And then after going over the numbers
6 for 2006, you now believe it's total revenue?

7 A. Minus lease.

8 Q. Minus lease. But I don't know if we've
9 established what it would be for 2007, 2008.

10 Do you know how you calculated that number
11 for 2007, 2008? And was that the calculation that
12 you used at all of the sites or just North Hill?

13 A. Okay. Two questions. Two answers. I'm
14 not sure if it was total revenue. I believe it was
15 total revenue. I can easily verify that for you.

16 Q. Do you see how if it's total revenue
17 minus lease versus fees and dues minus lease,
18 especially in North Hill, that you would result in
19 a totally different number?

20 A. I do.

21 Q. Okay. So --

22 A. And the approach was the same in all
23 years.

1 Q. Okay. But you don't know at this
2 moment which approach you used?

3 A. Not with a hundred percent certainty.
4 Having looked at '06, it certainly appears that it
5 would have had to have been done on total revenue.

6 Q. How would you verify that?

7 A. While I'm sitting here?

8 Q. No.

9 A. I would go back to our work papers.

10 Q. You would be able to verify that?

11 A. Yes.

12 Q. Is it possible that the fact that the
13 very low cost of revenue numbers in 2006 might mean
14 that, for North Hill, for instance, the \$84 on
15 advertising might mean --

16 A. That's not cost of sales. That's
17 general administrative expenses you're talking
18 about.

19 Q. All right. That's a good point. How
20 do you calculate the general administrative
21 expenses? Do you use an allocation method?

22 A. Certain items are by site, just like
23 direct costs. The remaining are allocated.

1 Q. We haven't gone through all of them
2 yet, but going back to the list on the last page of
3 Exhibit 4, which is page 16, which of those --

4 MR. FOLLANSBEE: The last page is
5 18.

6 MR. OUELLETTE: Yes, 18.

7 Q. -- which of those categories are fixed
8 by site?

9 A. I believe, and I'm happy to verify this
10 for you, that salaries and wages, payroll taxes,
11 professional fees.

12 I believe those four categories are by site
13 -- those three categories are by site, and
14 everything else is allocated.

15 Q. So what's the calculation that you used
16 to determine the allocated expenses on that list
17 that are administrative expenses like advertising,
18 insurance, travel and entertainment, et cetera?

19 A. The same as direct -- the same as the
20 allocated direct costs.

21 Q. And at this moment you're not sure what
22 that method was, whether or not you used total
23 revenue or fees and dues?

1 A. That's fair to say.

2 Q. What costs come under insurance in the
3 administrative expenses list?

4 A. That could be auto insurance on a
5 non-direct vehicle. It could be Doug's car.

6 Q. Do you know what -- insurance is also a
7 line item on the cost of revenue spreadsheet.

8 So what makes the insurance that you've
9 categorized as an administrative expense different
10 than the insurance that you've categorized as a
11 cost of revenue?

12 A. Insuring items such as your golf carts,
13 your general liability, workers' comp for your
14 employees, would all fall under direct.

15 Q. If you were to not manage the North
16 Hill Golf Course anymore, wouldn't you be less
17 those expenses?

18 I mean, wouldn't you have to purchase less
19 workers' comp if you have less employees?

20 A. But those are in your direct costs.
21 Those costs are in that gross profit calculation.
22 They're an expense. They're a deduction in arriving
23 at gross profit. Not the administrative.

1 Q. Okay. Then I'm asking you what comes
2 under the administrative expenses insurance?

3 A. And I said, like insuring Doug's car.

4 Q. What else would be under there other
5 than insuring Doug's car?

6 A. Not too much else, really. Management's
7 vehicles.

8 Q. Doug must drive a really nice car.

9 A. How much is the expense? Or it could be
10 Jason's car and Doug's car. I'm not sure exactly
11 what -- but it's non-direct equipment.

12 Q. What comes under office expense -- and
13 also insurance, I think you said, would be
14 allocated as opposed to site specific in how you
15 come to the amount of the expense?

16 A. Yes.

17 Q. What about office expense?

18 A. That could be anything from computer
19 supplies to buying coffees to postage. Could be
20 anything that -- miscellaneous item that ends up
21 covering your overhead.

22 Q. So why would those items not be
23 included in the cost of revenue? There's a line

1 item in cost of revenue that says, I believe it's
2 operating supplies.

3 A. Yes.

4 Q. Whereas -- and that's counted towards
5 the lost profit calculations. Yet, there's an
6 administrative expense called Office Expenses,
7 which is not calculated in the lost profit
8 calculation.

9 So what's the difference between the two?
10 The more specific you can be as to the types of
11 expenses.

12 A. Okay. In the overhead, in the general
13 administrative, cases of paper, toner cartridges,
14 small items that get expensed, like maybe you bought
15 a printer, maybe you bought a laptop, maybe you had
16 your laptop repaired.

17 Maybe you had a manager meeting and you
18 bought lunch. Maybe you bought a new phone. Maybe
19 you, you know, whatever would -- maybe you put your
20 postage meter charges through there.

21 Those are office supplies. Maybe you had a
22 Christmas party, you put that through there.

23 Q. Those are office supplies?

1 A. That are in the overhead, in the G&A.

2 Q. In the general and administrative
3 expenses?

4 A. Yes.

5 Q. So those are things that would not be
6 counted in the lost profit calculation?

7 A. Correct.

8 Q. If you no longer had to manage the
9 North Hill Golf Course, wouldn't you theoretically
10 buy less paper and less toner?

11 (Interruption.)

12 Q. If you no longer had to manage the
13 North Hill Golf Course, wouldn't you then
14 presumably buy less paper, buy less toner, use less
15 postage? Those costs would be associated with
16 running the golf course; wouldn't they be?

17 A. If you have eight golf courses or seven
18 golf courses and you then go do one less, all of
19 your infrastructure costs are still there.

20 Your manager meetings, your -- it's a --
21 it's just a cost of doing business. You have an
22 infrastructure that has a capacity to support a
23 certain level of activity. And whether it's seven

1 golf courses or six, those costs are relatively
2 fixed.

3 If you went from seven to two, yeah, you
4 would have experienced a significant drop. But if
5 you're nine going to eight or six going to five, the
6 amount of drop in your overhead would be very
7 minimal, I would suspect.

8 Q. But aren't there office expenses that
9 are specific to the North Hill Golf Club, like the
10 toner that gets used in the printer at the golf
11 club, the paper that is used at the pro shop, the
12 magazine subscription that gets delivered to that
13 particular golf club, the advertising for that golf
14 club? Why are those general and administrative
15 expenses?

16 A. Again, at the risk of being redundant,
17 because they're not directly tied to generating
18 revenue.

19 Q. But wouldn't those be expenses that you
20 no longer had to shoulder if you didn't run the
21 golf club?

22 A. I can only say not necessarily. Maybe.
23 But I don't believe if you had a seven percent

1 contraction in your business that those costs would
2 go away. They wouldn't be on that site, but they
3 would be spread among the remaining sites.

4 By example, Doug's car insurance isn't going
5 to be any less.

6 Q. I'll give you that one. But isn't the
7 purpose of breaking these down by site, breaking
8 all these expenses down by site, to determine what
9 actual costs, or at least what percentage of the
10 total costs, would be attributable to what happens
11 at that site? Isn't that the point of page 18?

12 A. Again, it's a way -- it's a way to get
13 all of the costs incurred by the company absorbed by
14 all the sites. It is a way to account for
15 everything.

16 You have the whole and you have in this year
17 seven sites. It's a way to compare all these sites
18 through bottom line.

19 Q. What comes under professional fees?

20 A. My bills, lawyers' bills. If you
21 brought in a computer consultant to install a new
22 computer at your office. Those type of expenses.

23 Q. And that's a site-specific allocation?

1 I shouldn't say site-specific allocation.

2 That number that's reflected on this list is
3 site specific?

4 A. I believe so, yes.

5 Q. So that was the professional fees that
6 were actually expended at the North Hill Golf
7 Course or for the North Hill Golf Course in 2006?

8 A. Let me restate that. My fee would be
9 allocated.

10 Q. Okay.

11 A. If there was a litigation at a site and
12 they were paying lawyers' bills or something like
13 that, that would be specific to that site.

14 Q. So that's kind of a hybrid allocation
15 and site specific --

16 A. Right.

17 Q. -- number there?

18 A. Right.

19 Q. What about Taxes Other?

20 A. Allocated.

21 Q. What would come under that? And what I
22 mean is, what are the taxes that are administrative
23 expenses as opposed to the taxes that are cost of

1 revenue?

2 A. The taxes that are in cost of revenue
3 are payroll, I believe, right?

4 (Witness reviewing document.)

5 A. Yes. And the taxes here would be things
6 like personal property tax. You know, the town of
7 Waban sends a personal property tax for, you know,
8 the business equipment that they have in their
9 corporate office.

10 Q. Do you know --

11 A. Could be auto excise.

12 Q. Do you know what any of the specifics
13 would be for North Hill for those taxes that they
14 were paying?

15 A. I think that's an allocated number.

16 Q. Okay. What about telephone? What
17 separates the allocated administrative telephone
18 costs from the cost of revenue telephone cost?

19 A. It's the -- on-site phones are charged
20 to a site. Corporate main number is charged to the
21 overhead.

22 Q. Travel and entertainment?

23 A. He lives well, doesn't he? That's Doug

1 entertaining.

2 Q. Would any of that entertainment have
3 taken place at the North Hill Country Club?

4 A. Never took me golfing there.

5 (Pause.)

6 A. I don't know. I would think not. I
7 think that was probably more Doug out managing his
8 business and buying people lunches as a result.

9 Q. You also include depreciation in this
10 list as an administrative expense. What's
11 administrative depreciation versus cost of revenue
12 depreciation?

13 A. Cost of revenue depreciation would be
14 the equipment, mowers. Specific to North Hill,
15 Johnson Golf built the clubhouse. So a lot of that
16 is being depreciated over time.

17 On the administrative side, again it's
18 items, Doug's vehicle. It could be corporate
19 office. Those items.

20 Q. That's allocated as well?

21 A. That's allocated as well.

22 Q. As for the -- I know you said
23 professional fees, some of it was allocated, some

1 of it was site specific.

2 For instance, I think you gave the example
3 of you doing the audited financials, you creating
4 audited financials for the North Hill Golf Course
5 would come under that.

6 A. Yes.

7 Q. If Johnson Golf no longer ran the North
8 Hill Golf Course, they would no longer have to
9 shoulder the expense of you putting together their
10 audited financials; would they?

11 A. Yes, incrementally our fee would go down
12 if we didn't have to do this divisional statement.

13 Q. One hundred percent of your fee for the
14 work you would have done at North Hill would be
15 eliminated if Johnson no longer ran North Hill?

16 A. That's true.

17 Q. I think we're going to break soon.
18 Five more minutes.

19 Staying on Exhibit 4, if you look at page 14
20 -- nope -- 16 -- if you look at page 16, it's the
21 breakdown of profits for each of the golf courses,
22 including North Hill.

23 You see on that page there's a general

1 administrative expenses figure?

2 A. Yes.

3 Q. And in this case it's just over \$6,000?

4 A. Yes.

5 Q. You subtract that from the gross
6 profits in order to determine the earnings from
7 operation; is that correct?

8 A. That is correct.

9 Q. And then you also subtract the interest
10 expenses in order to come to the -- as well as
11 income taxes -- in order to come to the net
12 earnings; is that accurate?

13 A. That is accurate.

14 Q. And the net earnings in 2006, the
15 amount you come to is \$51,929?

16 A. That is accurate.

17 MR. OUELLETTE: I think we might
18 as well break at this point. Thank you.

19 MR. FOLLANSBEE: Okay.

20 (Whereupon the deposition was
21 suspended at 1:50 p.m.)
22
23

WITNESS CERTIFICATE

I, BRYAN J. MORRISSEY, do hereby certify
that I have read the foregoing transcript of my
testimony, and further certify that said transcript
is a true and accurate record of said testimony.

SIGNED UNDER THE PAINS AND PENALTIES OF
PERJURY THIS _____ DAY OF _____, 2012.

BRYAN J. MORRISSEY

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NORFOLK, SS.)

In witness whereof, I have hereunto set my hand and affixed my notarial seal this 4th day of September 2012.

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<p>\$</p> <p><u>\$1,353</u> ^[1] - 53:10</p> <p><u>\$1035</u> ^[1] - 42:13</p> <p><u>\$107,000</u> ^[1] - 94:2</p> <p><u>\$107,500</u> ^[1] - 94:3</p> <p><u>\$139,000</u> ^[1] - 95:14</p> <p><u>\$180,000</u> ^[1] - 83:9</p> <p><u>\$2,203</u> ^[1] - 43:12</p> <p><u>\$20,000</u> ^[2] - 58:14,</p> <p>60:3</p> <p><u>\$287,000</u> ^[2] - 96:10,</p> <p>101:2</p> <p><u>\$30,000</u> ^[1] - 94:7</p> <p><u>\$300</u> ^[1] - 90:17</p> <p><u>\$485,000</u> ^[1] - 96:5</p> <p><u>\$5,502</u> ^[1] - 45:10</p> <p><u>\$50</u> ^[2] - 69:20, 70:12</p> <p><u>\$51,929</u> ^[1] - 115:15</p> <p><u>\$6,000</u> ^[1] - 115:3</p> <p><u>\$84</u> ^[4] - 92:18,</p> <p>92:22, 93:5, 103:14</p> <p><u>\$8400</u> ^[2] - 91:8, 91:9</p>	<p><u>96:2</u></p> <p><u>14</u> ^[5] - 95:11, 95:18,</p> <p>95:19, 96:22, 114:19</p> <p><u>15</u> ^[2] - 3:7, 3:8</p> <p><u>16</u> ^[9] - 42:10, 75:18,</p> <p>75:22, 93:22, 96:18,</p> <p>96:21, 104:3, 114:20</p> <p><u>17</u> ^[1] - 79:1</p> <p><u>18</u> ^[5] - 70:12, 85:9,</p> <p>104:5, 104:6, 110:11</p> <p><u>18-hole</u> ^[2] - 61:12,</p> <p>61:13</p> <p><u>19</u> ^[1] - 16:2</p> <p><u>1987</u> ^[1] - 5:17</p> <p><u>1994</u> ^[1] - 9:20</p> <p><u>1998</u> ^[2] - 12:10</p> <p><u>19th</u> ^[3] - 15:12,</p> <p>29:9, 44:9</p> <p><u>1:50</u> ^[1] - 115:21</p> <p><u>1st</u> ^[4] - 33:10, 37:20,</p> <p>37:23, 100:11</p>	<p><u>2008</u> ^[22] - 13:8,</p> <p>24:21, 25:13, 25:19,</p> <p>26:9, 27:22, 31:19,</p> <p>31:22, 32:1, 32:10,</p> <p>33:9, 37:10, 37:15,</p> <p>38:1, 54:14, 69:10,</p> <p>80:21, 93:2, 97:16,</p> <p>97:17, 102:9, 102:11</p> <p><u>2009</u> ^[3] - 13:9, 36:8,</p> <p>68:8</p> <p><u>2011</u> ^[20] - 14:11,</p> <p>14:17, 14:22, 15:1,</p> <p>15:12, 15:20, 16:2,</p> <p>26:6, 30:14, 44:9,</p> <p>45:2, 47:9, 49:8, 50:7,</p> <p>50:10, 71:14, 74:7,</p> <p>74:9, 74:13, 79:19</p> <p><u>2012</u> ^[11] - 1:19,</p> <p>14:13, 14:15, 16:9,</p> <p>16:15, 46:2, 71:21,</p> <p>72:1, 116:11, 118:7,</p> <p>118:14</p> <p><u>2013</u> ^[3] - 16:7, 36:9,</p> <p>68:8</p> <p><u>2016</u> ^[1] - 118:17</p> <p><u>22</u> ^[1] - 48:5</p> <p><u>23</u> ^[1] - 16:9</p> <p><u>24,000</u> ^[1] - 42:9</p> <p><u>250</u> ^[1] - 96:13</p> <p><u>287,000</u> ^[1] - 101:8</p>	<p>99:16, 104:3, 114:19</p> <p><u>41</u> ^[2] - 11:23, 12:1</p> <p><u>4th</u> ^[1] - 118:13</p>	<p><u>Accounting</u> ^[1] -</p> <p>80:7</p> <p><u>accounting</u> ^[8] -</p> <p>11:11, 20:16, 23:19,</p> <p>24:7, 24:10, 65:23,</p> <p>69:15, 89:19</p> <p><u>accounts</u> ^[9] - 30:21,</p> <p>30:22, 31:18, 42:19,</p> <p>45:13, 47:3, 51:3,</p> <p>51:10, 51:12</p> <p><u>Accumulated</u> ^[1] -</p> <p>76:2</p> <p><u>accuracy</u> ^[1] - 93:5</p> <p><u>accurate</u> ^[33] - 4:10,</p> <p>5:1, 12:13, 14:9, 30:6,</p> <p>31:23, 32:14, 41:14,</p> <p>41:17, 42:12, 46:5,</p> <p>50:17, 50:22, 53:22,</p> <p>53:23, 55:5, 55:10,</p> <p>62:4, 73:21, 77:7,</p> <p>81:15, 82:8, 88:15,</p> <p>92:15, 92:22, 94:16,</p> <p>94:17, 98:5, 98:10,</p> <p>115:12, 115:13,</p> <p>115:16, 116:7</p> <p><u>acquire</u> ^[1] - 11:18</p> <p><u>acreage</u> ^[1] - 67:4</p> <p><u>action</u> ^[1] - 118:12</p> <p><u>activities</u> ^[3] - 16:5,</p> <p>18:13, 21:3</p> <p><u>activity</u> ^[2] - 17:13,</p> <p>108:23</p> <p><u>actual</u> ^[10] - 10:16,</p> <p>32:6, 41:18, 46:15,</p> <p>51:20, 63:13, 64:19,</p> <p>83:17, 84:20, 110:9</p> <p><u>add</u> ^[6] - 34:2, 34:3,</p> <p>57:17, 57:18, 78:17,</p> <p>101:9</p> <p><u>add-back</u> ^[2] - 34:2,</p> <p>34:3</p> <p><u>added</u> ^[1] - 101:8</p> <p><u>addition</u> ^[2] - 16:16,</p> <p>33:14</p> <p><u>additional</u> ^[4] -</p> <p>34:16, 41:1, 46:7,</p> <p>78:17</p> <p><u>adequately</u> ^[1] -</p> <p>29:21</p> <p><u>adjustment</u> ^[1] -</p> <p>79:23</p> <p><u>Administrative</u> ^[2] -</p> <p>76:21, 85:11</p> <p><u>administrative</u> ^[28] -</p> <p>18:15, 18:20, 78:21,</p> <p>85:21, 86:1, 89:13,</p> <p>89:21, 90:6, 90:7,</p> <p>92:3, 99:14, 103:17,</p> <p>103:20, 104:17,</p> <p>105:3, 105:9, 105:23,</p>
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