

EXHIBIT 45

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Goldberg v. Marson, et al.

**WITNESS STATEMENTS
&
TRANSCRIPTS**

Tab	Witness	Statement	Transcript
1	ARTZ, Ken	03/04/2004	07/26/2004
2	BENSON, Terry	08/24/2004 09/19/2005	--
3	BRATCHER, Donald R.	05/12/2004 06/22/2004 06/30/2004 07/30/2004	--
4	CUMISKEY, Gary	09/16/2005	--
5	DIAZ, Gerardo	07/23/2004	--
6	DOWDY, Leroy	11/22/2005	--
7	FELKNER, Patricia	09/19/2005	--
8	FERRIN, Peter	01/12/2005	--
9	GALLEGO, Virginia	06/21/2004 07/19/2004 09/19/2005	--
10	GALVEZ, Juan	06/30/2004 07/30/2004 09/19/2005	--
11	GARCIA, Luis and Hazel	11/24/2004	--
12	GASOWSKI, Jan	09/19/2005	--
13	GIBBONS, Bryan	09/19/2005	--
14	GREENHOOD, Rachel aka Rachel Greenhood Rosenthal	11/29/2004 09/19/2005	07/26/2005
15	HERNANDEZ, Mirosalva	02/27/2004	07/27/2004
16	HUBER, Judy	05/10/2005	--
17	HUTTER, Kate	11/29/2004	--
18	JONES, Heath	09/19/2005	--

Plaintiff's EXHIBIT 13
FOR IDENTIFICATION
LYN CORRIN AAKER, CSR
11/17/05
WITNESS: Manigold

Tab	Witness	Statement	Transcript
19	JONES, Laurie	07/26/2004 08/06/2004	--
20	JONES, Tori	09/19/2005	--
21	LAREZ, Grace Kelly	06/09/2005	--
22	MONTESINOS, Irma	07/19/2004	--
23	MULLEN, Marie	07/19/2004	--
24	NUNEZ, Anita	08/09/2004	--
25	PEREZ-SANDI, Salvador	03/04/2004	07/27/2004
26	RIETH, Richard	07/02/2003	--
27	ROBLES, Maria	02/27/2004	07/27/2004
28	RUZ, Griselda	02/27/2004	07/27/2004
29	SHEPARD, Derek	07/16/2004 07/19/2004 05/10/2005	07/26/2004
30	SMITH, Marlon	07/19/2004	07/26/2004
31	STERLOCK, Eileen	09/19/2005	--
32	VanEMST, Misti	02/27/2004 04/21/2004 05/11/2004 07/02/2004 09/19/2005	07/26/2004
33	WALLACE, Hjordis	09/19/2005	--
34	WALTON, Mark	03/04/2004 03/04/2005	07/27/2004

Signed Statement of Findings by Sounds Like Music

February 19, 2004

Re: Offensive Odor - 6483 E. El Maro Circle, Paradise Valley

On Thursday, February 19, 2004, Sounds Like Music, a company retained by Mark and Sherry Goldberg to move audio and video equipment from 6483 E. El Maro Circle, to their temporary residence at 8317 N. Ridgeview Dr., notified the Goldbergs that there was a significant malodor discovered in the course of their work.

The exact words the technicians themselves used to describe the odor were "smelled like old pee".

As Ken Artz, Mark Walton, and Salvador Perez-Sandi, Sounds Like Music technicians, began their efforts to remove the electronic components and cabling from the entertainment center, an offensive odor escaped from the cables that were attached to the electronic equipment being stored in the media cabinet.

This offensive odor was powerful enough that all new cabling was required to install the electronic components at Ridgeview Drive. The odorous cabling was left at the site.

Ken Artz, Mark Walton and Salvador Perez-Sandi all have signed below as testament to their discovery of the offensive odors found to have permeated the cabling of the electronic components in the Goldberg's home.


 Ken Artz


 Date


 Mark Walton


 Date


 Salvador Perez-Sandi


 Date

Goldberg 4460

RECORDED STATEMENT OF KEN ARZT

Policy No.: 1216-34-69/01

This is Randy McMahon representing Pacific Indemnity, and the date is 7/26/04. And the time is 7:30 p.m. I'm visiting with Ken Arzt. Artz?

A. That's fine.

Q. That's A-R-Z-T. Uh, at his home, 4419 West Sweetwater, all one word, Glendale. What's the zip Ken?

A. 85304.

Q. 85304. And we'll be talking about Policy Number 1216-34-69/01, date of loss 6/28/01, insured Mr. and Mrs. Goldberg. And Ken, have you taken any drugs or alcohol in the last 12 hours that would affect your ability to recall or relate facts?

A. No. (PHONE RINGS)

Q. Okay. Do you have to get that phone?

A. I can turn it off.

Q. Okay. I turned off the tape for about 20 seconds. So, to turn off the telephone. Okay.

A. Yeah.

Q. We're back on again here. Uh, do I have your permission to record our conversation?

A. Sure.

Q. Okay. And do you have a middle initial or is it Kenneth?

A. It's A. Yeah.

Q. And it's Kenneth A.?

A. Uh-huh (AFFIRMATIVE).

Q. Okay. Your birth date?

A. Uh, August 11th, '54.

Q. Happy birthday almost.

A. Yeah.

Q. Okay. And, uh, I've got your current address. And your telephone number?

A. Uh, (602) 570-4719.

Q. That's home number here?

A. No, that's my cell.

Q. Cell.

A. Yeah. I'm never home.

Q. Home numbers are kind of a dying breed.

A. Yeah, it is.

Q. Okay. Anyway, uh, I've got the statement, the signed statement of findings by Sounds....

A. Like Music.

Q. Okay. That's dated February 19th, 2004. At the top. And then, uh, there are 1, 2, 3, 4, 5 paragraphs. And at the bottom, uh, spaces where there are signatures above the names Ken Arzt, Mark Walton, and Salvador Perez-Sandi.

A. Uh-huh (AFFIRMATIVE).

Q. All dated 3/4/04. Uh, is that your signature on, on it?

A. Yes, it is.

Q. Okay. And have you seen this statement before?

A. Uh-huh (AFFIRMATIVE). Yeah.

Q. Okay.

A. Yes, I have.

Q. Okay. And is 3/4/04 the time that you signed that or dated and signed it?

A. That's the date I signed it, yeah.

Q. Okay. And who asked you to do this?

A. Uh, Mark Goldberg did.

Q. Okay. And what did he ask?

A. Uh, they, they put together this sheet and asked us to sign it, and I believe the words on there were actually from Mark. And, uh, but, uh, it's true.

Q. Okay. Mark Walton is who we're talking about?

A. Yes.

Q. Okay.

A. Uh-huh (AFFIRMATIVE). Yeah. Yeah, we were there. I, I suppose it was February 19th, and, uh, we were to move one of the particular systems that we had there over to his new home. We pulled it out and, uh, actually I, I said, geez, this is pretty bad. Where, where the wires came down from up in the ceiling, there was a big, it was the main feed for the whole antenna system and the satellite he had, probably 9 or 10 satellite receivers in the home. And, uh, there was a plasma TV there, and a system for that particular room. And proceeded to pull it out, and all the wires behind there, uh, they smelled pretty bad. So, you know, I, one of us. I don't know if it was me. We went and got Mark and said, hey, I don't think we're gonna pull these wires out and wash them down. I mean, you can't...it's a pretty high-end system. And, uh, very specialty item devices, you don't just take these wires and dip them in detergent and clean them off. And we didn't want to touch them, actually. So I, uh, we unplugged them and left them there. And that was that.

Q. Okay. A couple more questions about the declaration document.

A. Yeah. That's fine.

Q. Then we'll follow up with questions on what you did.

A. That's fine.

Q. Uh, who typed it? Do you know?

A. Uh, probably Mark or one of his secretaries. I don't know.

Q. Okay. And did anybody talk to you about it before you saw it?

A. Oh, yeah.

Q. About what was going to be in it, I mean?

A. Yeah.

Q. How did that work out? Who did it?

A. Uh, actually Mark had asked me at that time if I wanted to sign something, you know, saying that it, it really was that way. And I said sure. You know. Just do your lawyer thing and write it up and I'll, I'll sign it as long as it's real.

Q. Yeah. And who presented it to you physically?

A. Uh, I think, I believe Mark faxed this to me at Sounds Like Music.

Q. And so, uh, was it read to you over the phone or anything? Or is the first time you saw it is when it was faxed to you?

A. Geez, I don't remember. I, he probably talked to me about it and then faxed it to me. But I don't know if he read the whole thing in full.

Q. Okay.

A. I don't remember.

Q. Anyway, at some point it was faxed to you at Sounds Like Music?

A. Uh-huh (AFFIRMATIVE).

Q. You took a look at it. What did, did you read it?

A. I believe it was faxed to me on the 4th because we signed it that day and faxed it right back to him.

Q. Okay.

A. Yeah.

Q. And did you read it before you signed it?

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A. Uh-huh (AFFIRMATIVE). Oh, yeah. Sure.

Q. Okay. And, uh, you had said that most of these words on here appear to be Mark Walton's?

A. Well, the, I believe Mark said something like, I worked on a farm for a long time and I know what piss smells like. So....

Q. Okay.

A. Uh, yeah.

Q. So that, that comment in there, smells like old pee, is probably a, uh, at least a paraphrase of what he said?

A. Yeah.

Q. Okay. So anyway, it was faxed to you. You signed it and then faxed it back?

A. Uh-huh (AFFIRMATIVE).

Q. Okay. Did you have to make any changes in it at all?

A. No. No. It's pretty straightforward.

Q. Okay. From 0 to 100 percent, how accurate is that declaration from what you saw and heard?

A. Other than the exact words of Mark, which you'll probably see him soon. I don't know. But, uh, you know. What, 99, 100. Sure. Yeah. Uh-huh (AFFIRMATIVE). Yeah. We wouldn't put this cable in anybody's house after that.

Q. It was bad?

A. Yeah. Yeah.

Q. How many times have you been at, to that house?

A. Oh, God. Uh, the whole remodel, probably took, and I don't know if it's true or not, but it probably took a year and a half. It was a very large project. Actually, I was the salesman on the project.

Q. This is the initial remodel before all the odor thing came about?

A. Um-hmm (AFFIRMATIVE).

Q. Okay.

A. Yeah. So I, I've been there, gosh, I don't know. In the beginning, several times a month for a year. Uh, and then after this happened, I've probably been there 10 times. I know Sal and Mark have probably been there 50 times. I, I don't know exactly. But....

Q. Sure.

A. Mark was a, a very good customer and, you know, it's a huge system. Lots of details. Uh, lots of rooms. All custom. And, uh, so the detail in the system is extreme. So you have to be there a lot. So....

Q. So that time period during the remodel was what? Does that go back to like 2002?

A. I don't know. 2000. This may not be right. I mean, I'd have to go look at my stuff.

Q. Sure.

A. Uh....

Q. Just a ball park?

A. Oh, 2001 to 2003 probably. Yeah. The time they were settled in. There were lots of changes and lots...many, many change orders and, and, uh, you know, highly detailed systems. So it was 100 percent programmed to his liking. And, uh....

Q. So on that job, uh, Mark and Salvador and, and you were all involved in the....

A. Yeah. Me as, Salvador and, and Mark Goldberg probably, uh, more contact than, than me and Mark. Mine was more, after I sold it to him, more over the phone.

Q. Yeah.

A. And directing Sal. Sal was the hands on guy. It's a pretty high-end system too, so it's not, you know, a CD player. You plug it in. And you go.

Q. Yeah.

A. It's....

Q. Okay. So when you were there at the house, uh, what, what different rooms....

A. This time?

Q. Well, let's go back to the remodel. During that time period, was there any odor issue, during the remodel period?

A. Uh, during the remodel, when we were putting it all in, the first time, no. I don't think...no. No. It was only after they had moved in, and, uh, we still weren't done, because there were many, many changes. So I'd say there were....and I don't know if this is, if this...I'm throwing out six months here.

Q. Yeah.

A. But, uh, I think, gosh...I'd have to go back to my computer and look it up. But, uh, dialing a system in like this is like automating Disneyland. Okay. It's basically the same thing. We have a huge Crestron automation system, and, uh, very detailed to their likings. The touch screens were all, and there were issues about programming and things that probably went on for months. Uh, to get it to their liking. And then little changes here and there. And, uh, I think it was probably six months after they moved in that they, uh, called me one day and said, hey, there's some speakers in one end of the house that, that need replacing. And I'm like, replacing? They're brand new. You know. They've been in there a year. What's wrong? And they said well, there's an odor coming, and we discovered that there was something in the attic. And, uh, at that point, uh, you know, I gave them a, a small bid for, uh, replacing, I don't know, two or three rooms worth of speakers, built-in antenna-like speakers. And, uh, and then I guess he investigated. Had somebody investigate up in the attic. And that's when they found all this stuff. So....

Q. Okay. So we're, we're somewhere around February?

A. No, we're before that. We're probably, uh, this happened after they decided to move out of the house.

Q. This being the statement that you were there?

A. The statement we were there.

Q. Okay.

A. Right. This, this statement happened, I believe, after...well, I know it's after they decided to get out of there because it was bothering them too much.

Q. Yeah.

A. I mean, they were just...kept on covering it, and as it, as time passed, it came down through the walls, and they could smell it more, and, uh, I witnessed that too. I mean, it was, it was there.

Q. So let me get the time frame right. So roughly 2001 to 2003 is the remodel, the initial installation. You and the other two guys were back and forth, especially the other guys?

A. Yeah. This is a good year and a half to two year project for us.

Q. Before they ever moved in?

A. Uh, it was probably a year before they moved in. And....

Q. Okay.

A. ...they had so many change orders and things. There were other people in their house doing things while they were there. Living there, for at least six months. I would, you know, and this is my memory. Just....

Q. Sure.

A. You know. I've been out of there for awhile, so....

Q. So the odor issue didn't come up until they had moved into the house, and you didn't hear about it for maybe six months after they moved in?

A. You know, I don't know if that's true, but I could go to my computer and check it out. But I think, it seems that...I don't know. Maybe late summer or fall. Middle fall. I really don't know. Of 2003. Is when they discovered it. Probably. I think they moved pretty quickly after, after that, to try to figure out what it was. And then they had several companies come in and check it out. And, and, uh,....

Q. Okay. So was there a time period after the job was pretty much done, uh, a time like where you weren't there, and then they called you back out to, to replace the speakers?

A. Well, we had been there probably, I mean, all we had left were programming issues. There's a computer system that runs their whole house that we sold them.

Q. Uh-huh (AFFIRMATIVE).

A. And, uh, and it's, again, highly detailed in every little, tiny little button push took hours of time to program and codes and things. So it took a long time.

Q. What parts of the house were you in?

A. Was I? I've been all over that house. I've been in the entire, every room in the house.

Q. Pretty much the same thing for, uh, Salvador and Mark?

A. Uh-huh (AFFIRMATIVE). Sal's been in every closet in that house.

Q. Okay.

A. Yeah.

Q. Were there other people, uh, involved in the...

A. Oh, yeah.

Q. ...in the remodel?

A. You mean from, from....

Q. While you were there?

A. From Sounds Like Music?

Q. No. I'm sorry. From other, uh, vendors, contractors?

A. Oh, yeah.

Q. During the same time period you were there?

A. Many. Yes.

Q. Was there a general contractor in there?

A. Yeah. What was his name? Uh, Lou Marsten was the general. We didn't work for him though.

Q. Marsten?

A. Yeah. I don't know how you spell it. M-A-R-S-T-E-N probably.

Q. Okay.

A. No we, we contracted directly with Mark because we had done business with him prior to him buying this home.

Q. Okay.

A. So....

Q. Okay. So you had known, uh, Mark Goldberg before he even bought the place?

A. Well, the company had, yeah.

Q. Okay.

A. Uh-huh (AFFIRMATIVE). Yeah.

Q. How long have you known him?

A. Uh, since initial contact for this job, I don't know. 2001.

Q. Okay.

A. Again, you know. I write it all. Put it in the computer and....

Q. I understand that.

A. I'd have to consult that for the time, but it sounds about right.

Q. So you contracted, or at least Sounds Like Music did directly with the Goldbergs?

A. Uh-huh (AFFIRMATIVE). Yeah. Yep. Yes.

Q. Okay. Uh, how did you first become aware and when of any odor issues in the house?

A. Well, I don't know the exact date, but it had to be late 2003, and I'm talking from August on. I, I don't really know. But it's when he called me and said, uh, we have some equipment that's damaged.

Q. Being, he being?

A. Mark Goldberg.

Q. Mark Goldberg?

- A. Right. Some equipment that's damaged. And it was, uh, in-ceiling speakers that needed replacing, and, in, uh, several of the rooms. And, uh, I said, what, what's going on? And that's what, that's what I told you before.
- Q. Yeah. Yeah.
- A. And he said that there was, uh, there's an odor coming from them, and somebody pissed in the attic. Evidently.
- Q. Did he tell you who he thought it was at that point?
- A. No. They don't know. There must have been, uh, who knows. I mean, there were electricians. There were, there were, uh, everything in that house is automated. We did the audio and the video. And that's it.
- Q. Yeah.
- A. We didn't do any lighting or anything else. I mean, they have extensive lighting systems, and I know that the contractor probably subbed out lots of those jobs. So who knows?
- Q. Was there any, was there anybody that had hard feelings towards Mark or Mrs. Goldberg during the, the remodel that your aware of?
- A. From our company?
- Q. From any, from anybody. Anything that you've heard?
- A. I have no, I have no clue.
- Q. Yeah.
- A. I mean, Goldberg is, uh, is wealthy, and, and he's a great customer of mine. He's been nothing but fine.
- Q. Yeah.
- A. And so, you know. Hard feelings from us? No way.
- Q. Okay.
- A. It's business and it's great.

Q. You didn't hear anything from any of the other workers there that would make you think, hey, these people are upset with him or anything?

A. No. I didn't really talk to any of the other workers.

Q. Yeah.

A. You might wanna talk to Sal. I don't, I don't know.

Q. Okay.

A. Yeah. No. I mean, you know, you, you give them a bid. He agrees to it. He pays for it. You get work. It's business.

Q. Yeah. So, I'm sorry, go ahead.

A. Yeah. Who could be mad at that?

Q. I know. Not me. Uh, so you had kind of a heads up, some...Mark told you that there were some odor issues in the house before you went back to deal with the wires?

A. Oh, yeah. I knew that. Yeah. We knew ahead what was going on at that point.

Q. But you hadn't smelled it yet? You just....

A. I hadn't been over there. Maybe Sal or Mark had. But, but I hadn't.

Q. Okay.

A. You know.

Q. So at some point after he invited you to come over and warned you about the, the urine odor, uh, you smelled it for yourself. Is that correct?

A. Well, what, what had happened was, we had replaced those speakers. And, or I had, uh, yeah, we did, I believe we did replace the speakers. We did replace the speakers. And I don't think, and I don't know for sure, but I don't think at that point he had decided to move out of the house. And go to another place. You know. And purchase another home. So, uh, only after he purchased the other home, and we, you know, this is a custom system, and basically we had to take it out and put it in his new house. Well, that's difficult because it was tailored to this exact house. So we had to pull it. And there's a central system that runs the whole house. And then there were systems in individual rooms that they operated. Plasma TV's and the whole works. So it was, I believe it was the, uh, I

don't know what they call it. The family room or the living room. The family room off of the kitchen is what this paper, this statement is about.

Q. The family, family room off of the kitchen?

A. Off of the kitchen. Right. Adjacent to the billiard room. And, uh, that was a system that we, we'd gone over to remove, to move over to his new home. And when we pulled it out, uh, it happened to be the place in the home where the main termination was, where all the wires went up into the attic, and the main termination for all the satellite, all the video for the home was behind this plasma TV. So, you know, it was in, it was in a corner of a room, and behind that was an unfinished area that kind of went up to the ceiling where there was a, uh, I don't know what you call it. A chase, a soffit. And where, you know, a huge trunk of wires came down. Probably, you know, a foot in diameter. Lot of wires. And, uh, I got in there and, you know, I was, Mark, come here and check this out. This, this stuff is, this stuff stinks.

Q. Which Mark are you talking about?

A. Mark, uh, my Mark.

Q. Walton?

A. Mark Walton. Mark Walton was the, uh, uh, installation manager, and Salvador was the, uh, the lead installer for the company at that point.

Q. Okay.

A. So, uh, you know. We looked at each other and said...he says, what do you wanna do with this stuff? And I said, I'm not touching it. Let's just unplug it and go get Mark and see what he wants to do with it. You know.

Q. So there....

A. I mean, it's expensive cable. I mean it, I don't know exactly, but probably several thousand dollars worth of wire. He bought the best gear on the planet. You know. Hook it up with, you know, buy a Lamborghini and put K-Mart tires on it.

Q. Yeah. Yeah.

A. That's what we were working with.

Q. So you unplugged it. You didn't pull the wires out because they were too....

A. They smelled.

- A. And I said these wires need replacing. I, I'm not...I don't wanna put these in your house if they're contaminated.
- Q. So what did Mr. Goldberg say?
- A. He said, well, what do you think? You know. He smelled them personally and he says, oh, yeah. And I said, definitely, they smell. So he said leave them.
- Q. Did, uh, did you ever smell other odors in the house? Such as, and I'll list a few. Tell me if you smelled anything there.
- A. Uh-huh (AFFIRMATIVE).
- Q. Paint? Now I'm talking about, you know, later in the game. Not back in the very beginning remodel, but after he called you to, to put the speakers or to, uh, replace the speakers.
- A. Well, I wasn't there to replace the speakers. I, well, I've been to the house several times, and I don't think I smelled paint, so, no.
- Q. Okay. Or stain?
- A. No.
- Q. How about wood odors, either from new wood or anything like that?
- A. I don't think so.
- Q. Any carpet? New carpet odors?
- A. There's, uh, I doubt if there's any carpet in the whole house.
- Q. Okay. How about any sewage?
- A. No.
- Q. Or any sewer gas?
- A. No.
- Q. Natural gas?
- A. No.
- Q. Okay. Any other unusual odors other than what you called the urine odors?

A. I didn't smell anything, no.

Q. Okay. And so you personally, how many different places did you smell that odor that smells like urine?

A. Right here.

Q. Okay.

A. Right in that, that room off of the kitchen. Family. I think he calls it the family room.

Q. So that's the only day and the only place that you personally smelled it?

A. That I have.

Q. Okay.

A. Right. Right.

Q. Uh, in hallways, other rooms, bathrooms, any place that you were in, did you smell it, anything similar?

A. Uh, I, I, you know, they had a lot of the house cordoned off, and they were trying to get rid of the smell. And I, I know I'd been out there several times. Uh, my visits weren't technical, as technical in nature, other than, hey, other than, uh, you know, deciding where to put what and directing the install, install department.

Q. So your visits were fairly brief inside the house?

A. My visits were more brief, or they were, you know, in his home theater, sitting down, trying to figure out what he wanted to do next.

Q. So you didn't smell it any place else?

A. You know, I, I had smelled it, uh, I believe, down in his daughter's room. I didn't spend much time, but I walked through and, and, I can't tell you when it was. It was prior to that.

Q. Okay.

A. But it wasn't a, you know, come sniff over here and see if you can tell me anything. It was, you know, this is the room that's contaminated, and, and, uh, you know. A musty type of smell. So...

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- Q. Describe as, in as much detail as you can...it's not an easy task here, what, what the odor was that was so strong.
- A. Uh, let's just say that, uh, gosh. How about, uh, an old barn where lots of, uh, I don't know. Gosh. It smelled like piss. Okay? It's not like you go and you do that and, and compare.
- Q. And would you say, oh, on a scale of 0 to 100 percent, how sure you are that it was a urine smell that you smelled as opposed to anything else?
- A. It's not a smell you smell every day, so, uh, I'd have to be above 90 percent sure that it was that. That it was urine. Yeah.
- Q. And the other guys...who else were you aware of, when you were there also, smelled the odor?
- A. Oh, well, just Mark and Sal. Mark Walton and Sal.
- Q. And was there some conversation among the three of you about the odor?
- A. Oh, yeah.
- Q. Okay. And they felt it was?
- A. Well, it was, you know, basically they don't wanna touch this stuff, because who knows where it's from, you know.
- Q. So the first time you smell it, it wasn't pointed out to you. You discovered it independently as....
- A. I, I think I was the one that said, Jesus, something really stinks back here. It's here too. We were gonna take the wires with us.
- Q. Were the Goldbergs there that day when you smelled the....
- A. I don't know if Sherry was. I'm sure she was. But Mark was there, yes.
- Q. Okay.
- A. Yeah. Mark Goldberg was there. Yeah.
- Q. Did, once you discussed that with, with Mark that day, did, did he go over in any more detail what the cause of this problem was?

A. We all knew. We all knew what the problem was.

Q. Just from what he had told you earlier about the....

A. Well, the guys had been out there. It's, it's not an average thing.

Q. Yeah.

A. It's, it's extreme. So....

Q. Uh, any one of the three of you have any idea who was responsible for doing it?

A. No. We just assumed it was some sub. We don't know.

Q. Okay.

A. I mean, how many people were in that attic? I don't know.

Q. Were there any other unusual odors in the house, other than that?

A. I don't think so, no. No, there wasn't.

Q. Okay.

A. It's a pretty clean place.

Q. Just in your personal experience, uh...

A. Uh-huh (AFFIRMATIVE).

Q. ...have you ever smelled mold?

A. Uh-huh (AFFIRMATIVE).

Q. Mildew?

A. Sure.

Q. Sewer gas?

A. Yeah.

Q. Uh, and some people have described...in trying to describe the odor, some people say there are outhouse odors, where it's kind of a combination of urine and fecal odor.

CHUBB 00044

A. Uh-huh (AFFIRMATIVE).

Q. Other people say there's, you know, urine only, like a baby's diaper. Uh, and then there's like general sewage odors and stuff like this. Where does this odor, odor, I'm sorry, fit in, in the list of, of types?

A. It's definitely not the baby diaper odor. I knew that one a long time ago. Uh, it's not the musty tent odor. Okay? Uh, it seems like it was, uh, you know. Gosh. It's not an outhouse smell. It, it smelled like dried outhouse. Okay? That's the best I can put it. I....

Q. More specific towards urine than....

A. I, yes. More specific towards urine, definitely. Yeah. Yeah.

Q. Do you have any problems, or have you had any problems with your sense of smell or taste?

A. Not that I know of.

Q. Okay. Nobody's told you have no taste?

A. At least not, uh, not that way.

Q. Do you smoke?

A. I do.

Q. How many packs a day approximately?

A. Not even. You know. Five or six cigarettes. And back then, I didn't.

Q. Okay.

A. So...I think I had quit for probably several years, and picked it up again, so...recently.

Q. Uh-huh (AFFIRMATIVE). Do you, uh, are you familiar enough with some of these other odors I've talked about to know that this was different? In other words, was this odor that you smelled not mold?

A. No, it wasn't mold.

Q. It, was it sewer gas?

CHUBB 00045

A. It wasn't sewer gas. No. No.

Q. And how do you define sewer gas? And, how would it differ from that?

A. Sewer gas is, uh, is not on the urine side. It's more on the fecal side. How's that?

Q. Okay.

A. It, it, you know, it was more like a dried urine smell.

Q. Okay.

A. It was pretty dusty and, you know, back there. So....

Q. From 0 to 100 percent, how sure are you that the odor came from inside the house as opposed to outside?

A. Oh, it's definitely inside the house. Yeah.

Q. Okay.

A. I have worked for a few companies in my years. I've done this for 30 years. And I have actually known guys that didn't wanna come out of the attic when they're up there wiring, and would just urinate in the attic, 'cause they won't smell it. So I know this happens.

Q. Yeah. Yeah.

A. And that's a fact. Not that I would do that.

Q. Yeah.

A. Uh, I've heard about it. I've heard guys talk about it. So when they came up from Goldberg's, I couldn't believe it. But, uh, that somebody will actually do it.

Q. You didn't, in this job, you didn't hear of it happening or see it happen or know of it...

A. No.

Q. ...specifically?

A. No. The first time I heard about it was when Mark Goldberg called me and said, hey, we got a problem. We got some contaminated speakers. I need a, I need a

quote for, I don't know how many pairs. 2, 3, 4. I could look it up on my computer, but I can't tell you off the top of my head. It was almost a year ago now.

Q. So anyway, when you pointed out to Mark Goldberg, he said just to leave them there?

A. Yeah. He actually smelled it himself. Gave me the face and said, oh, phew, you know. We all smelled it.

Q. But he had already smelled odors similar to that in the house?

A. I'm assuming.

Q. Okay.

A. He wouldn't be doing this if he didn't.

Q. Did any of the, uh, the odor that day or any other day have any effect on you physically or psychologically?

A. No. I was just, you know, it's pretty sick. But psychologically, no. It happened.

Q. You were sick?

A. No.

Q. Okay.

A. It's a sick thing.

Q. It's, I gotcha.

A. Okay.

Q. Did, uh, did the odor interfere with any of your activities there at the house?

A. Well, we did not remove those wires. We decided to not touch them at that point.

Q. Okay. You know of anybody else in the house, your guys or anybody else that was physically affected?

A. Uh....

Q. By the odor?

A. I believe his family may have. But it's hearsay and I don't know for sure. I mean, why would they move if it didn't affect them?

Q. Sure. How many times after that day did you go back to the house?

A. That house? I think only once. Yeah. We were pretty much done. We had sent a crew of several guys over to remove gear. And they had a company, uh, you know, wiping down all the gear and vacuuming it and blowing it out. And, uh, I think that...and I can't, I can't tell you what month or day it was. It was prior to this because they were still living there and they wanted one system up that they could watch TV on. And that was the last one, I think, we removed. So, uh....

Q. Okay. Almost done here. Uh, so I'm sure you've answered this, but just ask one more time.

A. Uh-huh (AFFIRMATIVE).

Q. Your evaluation that what you were smelling as urine, was that based on input you received before you smelled it? Was it the power of suggestion, or, or was it your independent evaluation of it that it was....

A. Well, I'll tell you what. Having, having camped as a kid for several years, and you just know what that smells like.

Q. Okay.

A. You know. I didn't go over there to smell the stuff. Didn't expect to smell any.

Q. Yeah.

A. Removed it. You know. Went behind the system. Pulled it out and there it was, so....

Q. Have you ever seen anybody urinate in or near the house?

A. No, I haven't.

Q. Uh, were you inside any of the restrooms at the house to know whether or not there was either an odor or if its toilets worked properly?

A. I doubt I've ever used any of the restrooms. You know. I can't remember an incidence.

Q. Okay.

CHUBB 00048

A. I don't know. A couple of years ago maybe. I don't know. Before all that.

Q. You don't recall any odors in the, unusual odors in the bathroom?

A. There were, you know, there were no odors. I mean, the only odors that were in the house when we were pre-wiring it were, we were cutting wood and we're cutting up drywall. The place was a mess because of that, but you know.

Q. Okay.

A. What does construction smell like? Dust.

Q. Yeah.

A. I didn't smell that then, so....

Q. Did you ever see any pets or any other animals in or near the house?

A. See any? I think they have a cat. I know they had a cat in their old house before they moved here. I don't know that I'd ever seen the cat in that house. But I'm sure they have it, so....

Q. I notice you have a cat because he was in the middle of our table here just a minute ago.

A. Yeah.

Q. And does the odor smell like any, anything that a cat would produce?

A. Uh, mine don't, uh, mine don't smell. So no, it doesn't smell like that. It was, it was pretty stinky.

Q. Okay. Did you use or, or your crew use any odor producing products when you were in the house?

A. At that date?

Q. Yes.

A. Or, not on that date, no.

Q. On what....

A. When we went there to unhook things. I mean, uh, what would we have used? Uh, it wasn't a new construction, so we didn't have to foam any of the holes for fire. Uh, that stuff smells until it dries. But you know, that's...oh, Toluene, whatever they call it. It's....

Q. But you didn't use that?

A. No. We didn't need to. Uh, it was a retro-fit. So there was no new construction. I can't imagine what they would use.

Q. No solvents for cleaning or other chemicals or anything?

A. No. The stuff that we would clean would be finish work, and it's, you know, damp diapers. With just old water.

Q. Okay.

A. 'Cause it's real high-end gear. And plasma TV surfaces and things like that. So....

Q. Okay.

A. Uh, I can't...I don't even think the use any glue or anything. So no, it wasn't a chemical smell.

Q. Okay.

A. Yeah.

Q. Anything else you can think of that, uh, would be important to us in evaluating this?

A. Uh, I can't think of anything. I mean, it's pretty straightforward. You know. I didn't go out there expecting to get in the middle of this thing. So....

Q. Yeah.

A. Uh, you know, I went over there just to make them happy. Move his stuff over to his house and get it rolling again.

Q. Okay.

A. So, uh, that's our job.

Q. Okay. Okay. Let's finish this off then. Uh,....

CHUBB 00050

A. Uh-huh (AFFIRMATIVE).

Q. I did have your permission to record the conversation? Is that right?

A. Uh-huh (AFFIRMATIVE). Yes, it is.

Q. And do you, did you understand all the questions I asked?

A. Yes, I did.

Q. Have all your answers been truthful to the best of your knowledge?

A. Yes, they have.

Q. And is there anything else you'd like to add?

A. Uh, no. I think, you know, it's pretty straightforward.

Q. Okay. It's 8:09 p.m.

A. Okay.

Q. And I will turn off the tape.

RM:WCL:pg
ARZT0803_RM1

CHUBB 00051

Witness Statement of Terry Benson

1. My name is Terry Benson and I am the owner of Arizona Elite Security. I have been working a shift, as a security guard, at the Goldberg residence at 6483 E. El Maro Circle, Paradise Valley, AZ 85253 for the past three weeks, generally three days per week 3:00p.m. to 11:00p.m.
2. Every time I have ever walked into the front door of the Goldberg residence, I noticed an odor that I can best describe as acidic. Once I was inside the house, my eyes and nose would burn. This burning continued until I went outside and was able to get some fresh air. There are days that the odor is worse than others. It seems like it is worse on the days that there are clouds moving in. I also noticed that the odor gets worse as I walk down through the tunnel and into the south end of the house. I have also been in the guest suite one time, and the odor was about the same level in strength as the tunnel and the south end of the house.
3. I could not live in this house unless the smell was gone.


Terry Benson

8/29/04
Date

Home Address: 15428 N. Central Ave.
Phoenix, AZ 85022

Home Phone: 602-942-1429

Work Phone: 602-912-0722

Witness Statement of Terry Benson

1. My name is Terry Benson and I am the owner of Arizona Elite Security. I have been working as a back up security guard at the Goldberg residence at 6483 E. El Maro Circle, Paradise Valley, AZ 85253 for a little over a year.
2. While I was working on Friday, September 16, 2005, the Goldbergs came to their El Maro house at approximately 9:45a.m.. I walked through the front door with the Goldbergs, and immediately smelled the odor of urine. As I walked through the house, I continued to smell the odor of urine, and my nose started to burn, and I could also feel a burning feeling in my lungs. It was as if there was something acidic in the air, and it was irritating my nose and lungs.
3. The air in the house has always had an acidic quality to it, but this particular day, I could smell the very strong and distinct odor of urine throughout the house. I am confident that the odor I smelled was urine.


Terry Benson

9/19/2005
Date

Home Address: 15428 N. Central Ave.
Phoenix, AZ 85022

Home Phone: 602-942-1429

Work Phone: 602-912-0722

Witness Statement of Donald R. Bratcher

I am the President and one of the owners of VAC Environmental Services, Inc. On or about November 5 or 6, 2003. I was working at the Goldbergs' El Maro home at 6483 E. El Maro Circle, Paradise Valley, AZ as part of our company's work there in connection with remediation of the urine deposits and odor in the home. I was in the guest suite when David Rueckert conducted a black light inspection of approximately seventeen two by six vertical wood studs that made up the wall separating the guest suite kitchen from the garage. I observed that the wood studs just described did not provide any areas that glowed under black light to indicate the possibility or probability of urine or other liquid stains on these pieces of wood. All of these studs were later removed as part of our third scope of remediation in the guest suite area.

The foregoing statements are true and correct to the best of my knowledge.



Donald R. Bratcher

5/12/04

Date

Home Address: 4420 W. El Caminito Dr.
Glendale, AZ 85302

Work Phone: 602-265-0321

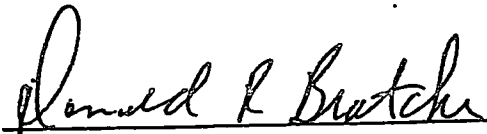
Home Phone: 623-939-2800

Cell Phone: 602-820-5703

Witness Statement of Donald R. Bratcher

1. I am the President and one of the owners of VAC Environmental Services, Inc. In the course of my work at the Goldbergs' residence at 6483 E. El Maro Circle, Paradise Valley, AZ. 85253, in the period of October and November 2003, I was personally involved in the investigation of the underground air returns in the Goldberg residence at the above address in an effort to determine whether or not these underground air returns contained any odor.
2. There are seven air handlers with underground air returns in the main residence building. Four of those air handlers had been removed during the time of my participation in the investigation. I personally crawled into those four underground returns and observed that there was no odor in any of them. Several of my company employees likewise told me that they did not smell any odor at the entrance to these systems. Likewise, a man named Chris (a subcontractor for ARCS) who was working in the underground returns in conjunction with efforts to clean and/or seal them also reported to me that there was no odor in any of these four underground return systems for these four air handlers that had been removed. While Chris was working in three of the underground return systems, our company had a negative air machine hooked up to the system that he was working in. I and several of our company employees frequently smelled the air that was being pulled out of each of these underground return systems and observed no odor. I have reviewed the video recordings taken October 23, 2003 of the four underground return systems associated with the four air handlers that had been removed. My review of these recordings does not reveal any water in these systems, except for the system that serves the exercise room and terminates at Mark's office. That system was fully cleaned and sealed by ARCS in November 2003, so that it should no longer permit any water to enter that underground return system.
3. With respect to the other three underground return systems for the other three air handlers, I removed the air filters from those units and personally put my head as far down into the underground return system as I could physically manage and once again observed no odor in any of those three systems.
4. I have previously in May, 2004, while at the Goldberg residence, reported the general nature of these findings verbally to a group that included Don Woods and Ginger English, one of the attorneys for Pacific Indemnity Company, the homeowners insurance carrier for the Goldbergs.
5. Based on all of the investigation conducted regarding the underground return systems at the Goldbergs' residence, I have no reason to believe or suspect that there is any condition present in any of these underground return systems that is contributing to any odor issues in the Goldberg residence.

The foregoing statements are true and correct to the best of my knowledge.



Donald R. Bratcher

6/22/04
Date

Home Address: 4420 W. El Caminito Dr.
Glendale, AZ 85302

Work Phone: 602-265-0321

Home Phone: 623-939-2800

Cell Phone: 602-820-5703

6/29/04

Dear Mark and Sherry Goldberg.

At your request these readings were taken at your house at
6483 E. El Maro Circle, Tuesday morning June 29th, 2004.

The weather was clear and there was no indication of recent moisture on surfaces.

The device used to test the tile and concrete surfaces was a Delmhorst Accuscan
in conjunction with a BD-2100 penetrating meter.

The readings on the wood scale 6-40%, concrete 0-100 ref. scale for non-wood materials.

A copy of the Accuscan manual pages 1-12 and BD 2100's manual pages 1-15 is enclosed.

The reading was conducted in accordance with the instruction manual.

The following were used as baselines for tile and concrete.	Concrete (C) or Tile (T)		Surface (%)	Penetrating (%)
	Surface	Penetrating		
House next door east side entrance to home concrete floor.	25C			
Sidewalk across the street	30C			
Logo's/VAC's warehouse concrete floor at 2027 E. Glendale Ave.	25C	68C		
Logo's/VAC's tile floor at 2027 E. Glendale Ave.	30T			
Driveway 6483 E. El Maro Cir. (tested 3 places)	25C			
Sidewalk in front of Goldberg house	25C			
			9	5.9
Family Room Wood Floor			9	5.8
Kitchen Wood Floor			8	5.8
Kitchen Cabinets			10	5.8
Pool Room Center of Wood Floor			9	5.9
Hallway between Family Room and Pool Room Wood Floor	40T			
Laundry Room Tile Floor	30C	78C	9	5.8
Guest Suite Concrete Floor	40C	84C		
Living Room Cut Out Center of Floor/ Concrete			9	5.9
Living Room Wood Floor			9	5.9
Hallway in Front of Living Room and Main Entrance Wood Floor	35			
Garage Terrazzo Floor			9	6.1
Exercise Room Wood Floor			8	5.9
Dining Room Dark Wood	28T			
Master Bathroom Tile Floor			9	6
Art Room Wood Floor			9	5.9
Hallway by Art Room Wood Floor	25T			
Elizabeth Taylor Bathroom Tile Floor			9	5.9
Elizabeth Taylor Bedroom Wood Floor	30			
Patio Behind Kitchen Terrazzo Floor			9	5.8
Master Bedroom Wood Floor	35T			
His Bathroom Tile Floor			8	5.8
His Closet Wood Floor			10	5.8
Office Wood Floor	21T			
Bus Barn Tile Floor			9	5.8
Wine Room			9	5.9
Library				

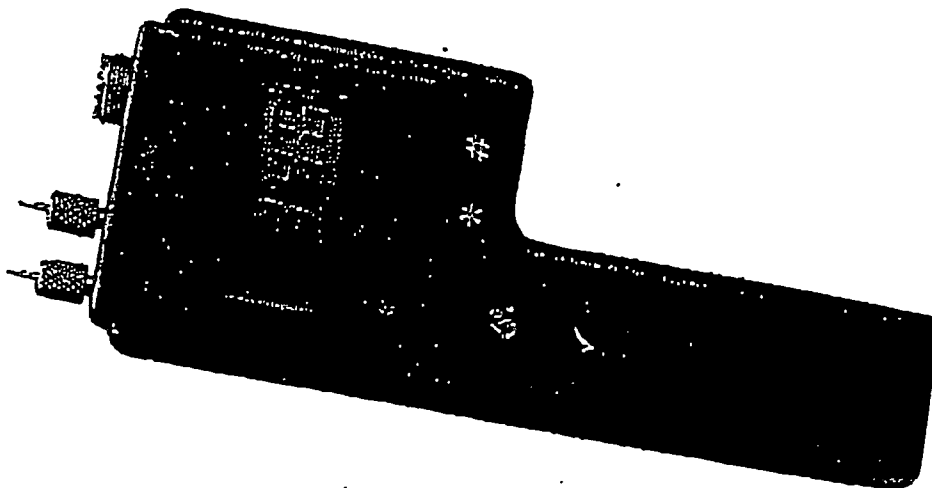
Donald Bratcher

Date

6/30/04

BD-2100

owners manual



DELMHORST®
INSTRUMENT CO.

(800)-222-0638
www.delmhorst.com
— 11 — S u f e r d e l m h o r s t c o .

SET THE SCALE ⊗

Set the scale for #1 Wood, #2 Plaster/Concrete reference scale, or #3 Gypsum.

- ▶ To change the scale, press the scale button ③. The meter will display the current scale for one second.
- ▶ To scroll forward through the scales hold the scale button ③ while the current scale is displayed and scroll to the scale desired.
- ▶ To scroll backward through the scales, press and hold the set-point button ④ within one second of pressing and releasing the scale button ③. Continue to hold the set-point button ④ and the scale number will decrease.
- ▶ When scrolling in either direction, release the button to stop at your desired scale.

Changing the scale will automatically reset the set-point value to the default setting for that particular scale. Default settings are as follows:

- #1 Wood Scale - 15%
- #2 Plaster/Concrete Reference Scale - 85
- #3 Gypsum Scale - 1%.

CHANGE THE SET-POINT

- ▶ To change the set-point value press the set-point button ④. The meter will display the current set-point value for the scale you have chosen for one second.
- ▶ To scroll forward to a higher value for that scale hold the set-point button ④ while the current set-point is displayed and scroll to the set-point value desired.
- ▶ To scroll backward through the set-point values, press and hold the scale button ③ within one second of pressing and releasing the set-point button ④.
- ▶ Continue to hold the scale button ③ and the set-point value will decrease.
- ▶ When scrolling in either direction, release the button to stop at your desired set-point.

INFORMATION ABOUT YOUR READINGS

The meter will accumulate up to 100 readings. After all 100 readings are "stored" it will not add new readings until the memory has been cleared. It will also continue to display the average of all 100 readings as a reminder that the memory is full.

- ▶ To add a reading to the sum of all the previously stored readings, release the read button ① within 2 seconds.

When taking and storing readings of a specific material, be sure to "clear" the meter before moving on to the next scale if you do not want to group all of the readings together.

TO CHECK ACCUMULATED READINGS

This feature allows you to view the total number of all accumulated readings for the given material you have chosen, the average of those readings, and the highest stored reading.

- ▶ To view the readings press and release the calibration check button ②. First the meter displays the number of accumulated readings for one second, then the average of those readings for two seconds. Then it displays the highest stored reading for two seconds. The total "cycle" time is five seconds.

- ▶ To erase readings hold the calibration check button ② for 5 seconds. All accumulated readings will be erased and the meter will display "0".

- ▶ To keep the accumulated readings in memory, release the calibration check button ② before the meter finishes the above cycle.

TO RESET METER

- ▶ Press and release the calibration check button ②.
- ▶ Within one second press the scale button ③.
- ▶ The meter will reset itself the default setting of Scale #1 (wood) and 15% set-point, and clear all the readings stored in memory.
- ▶ Resetting the meter will erase any previously stored readings.

SECTION B PRACTICAL APPLICATIONS

TESTING WOOD

- ▶ Set the scale to #1 Wood (measures wood %MC over the range of 6% - 40%)
- ▶ Align the contact pins ① parallel to the grain and push them into the wood to their full penetration, if possible.
- ▶ Press the read button ②. The meter displays the %MC for .3 seconds.

If the displayed reading is above the set-point value the set-point buzzer will sound. Also, one of the LEDs on the front panel will light up as follows:

Wood Scale #1		
Green - 6% to 15%	Yellow - 15% to 17%	Red - > 17%

The LEDs are a visual aid to help quickly determine the moisture level that each reading indicates. Readings that activate the green light indicate a sufficiently dry moisture level, those that activate the yellow light indicate a borderline situation, and those that activate the red light indicate material that is too wet for most applications.

Delmhorst uses the USDA standard—Douglas Fir—as the basis for all calibrations. Because the electrical characteristics of different species vary, some species may read differently than the same moisture content. However, in most cases, the Douglas Fir reading can be taken at face value on construction-grade lumber. If you choose to apply species corrections please contact us at 800-222-0638 or e-mail us at info@delmhorst.com.

Paint Failure and Moisture

Moisture is by far the most frequent cause of paint failure. The key to preventing paint failure is to make certain that moisture is not absorbed through the wood to the back of the paint film. So, in order to insure quality paint jobs, wood must remain dry after the application of paint.

Outdoor wood can be safely painted without danger of peeling if the %MC is 15% or less. In drier climates, the maximum reading should be 10% to 11%. Indoor wood should be between 7% to 8% prior to painting.

The following conditions may cause high moisture content in wood:

- ▶ Leaky gutters and down spouts
- ▶ Leaky pipes or condensation on cold water lines in attic or hollow walls
- ▶ Faulty flashing around windows, doors and where porch and dormer roofs meet sidings
- ▶ End-grain wood that is not sealed with paint at all joints around windows, corners, and butt joints
- ▶ Porch columns that do not have good drainage and ventilation where they rest on porch floors
- ▶ Siding or any other wood that is in contact with the ground
- ▶ Siding and shingles without sufficient lap so that water is forced up through cracks by wind pressure
- ▶ Ice dams
- ▶ Condensation of vapor within hollow walls

EIFS (Exterior Insulation & Finish Systems)[®]

Moisture intrusion problems in EIFS (also known as synthetic stucco) stem from leaking window frames, improper use of or lack of sealant, and faulty installation of flashing.

If you suspect a problem take a visual inspection. Look for gaps around windows, doors, air conditioning units, light fixtures, hose bibs, dryer vents and other areas of potential penetration. Also look for visible signs of water damage. If you feel a problem exists, use the BD-2100 with a #21-E electrode. This electrode includes the #608 - (4") insulated pins.

Procedure:

- ▶ Drill two 1/4" holes about 3/4" apart at an upward 45° angle.
- ▶ Push the #21-E Electrode into the holes through the polystyrene and into the substrate.
- ▶ Press read button ① and read the moisture content on the display.

*Refer to the wood scale #2 if the sheathing is plywood. If gypsum sheathing is used, refer to the gypsum scale #3.

TESTING GYPSUM

- ▶ Set the scale for #3 Gypsum (measures gypsum %MC over the range of 0.2% - 50%)
 - ▶ To take a reading, push the contact pins **①** into the gypsum to their full penetration, if possible.
 - ▶ Press the read button **②**, and read the moisture content on the display. The meter displays the reading for 2 seconds.
- The set-point buzzer will sound if the displayed reading is above the set-point value. Also one of the LEDs on the front panel will light up as follows:

Gypsum Scale #3		
Green - 0% to 0.5%	Yellow - 0.5 to 1%	Red - > 1%

The LEDs are a visual aid to help quickly determine the moisture level that each reading indicates. Readings that activate the green light indicate a sufficiently dry moisture level, those that activate the yellow light indicate a borderline situation, and those that activate the red light indicate material that is too wet for painting or wallpaper.

USING THE 0-100 REFERENCE SCALE

When taking a reading on hard materials such as concrete or masonry, use Scale #2 to determine a qualitative reading. Tests should be made on samples of material that are known to be dry. Such readings can be used as standard or reference points, against which subsequent readings are compared. All readings should be evaluated in the light of factors such as type of paint, type of construction, and climatic conditions.

The set-point buzzer will sound if the displayed reading is above the set-point value. Also one of the LEDs on the front panel will light up as follows:

0-100 Reference Scale #2		
Green - 0-85	Yellow - 85-95	Red - > 95

The LEDs are a visual aid to help quickly determine the moisture level that each reading indicates. Readings that activate the green light indicate a sufficiently dry moisture level, those that activate the yellow light indicate a borderline situation, and those that activate the red light indicate material that is too wet for most applications.

Testing Plaster Walls

Under normal drying conditions and proper application of plaster (sufficient drying time between coats), surface readings give accurate results. However, if rapid drying occurs, the surface of the plaster may be dry, but moisture is still present below the surface and will eventually affect the paint or wallpaper. This condition occurs when there is high temperature or exceptionally good air circulation, or where brown scratch and white coats are applied within a few days. Take several readings on each wall. Pay special attention near the base, around doorjamb, electrical and plumbing fixtures, and other places where the plaster is thicker than normal.

Taking a Surface Reading:

- ▶ Drive the contact pins **①** into the plaster to their full penetration, if possible.
- ▶ Press read button **②** and read the reference scale.

Taking a Reading Below the Surface:

- ▶ Drive a pair of nails into the plaster at least 1/3 of the total thickness of the plaster. If you are applying plaster to a material of doubtful dryness, such as brick or concrete, drive the nails through the plaster and into the brick or concrete.
- ▶ Touch the heads of the nails with the contact pins **①** and read the meter.

Testing Concrete Slabs for Flooring Applications

Moisture meters are an effective tool to check moisture in concrete. They can tell you where there may be excess moisture and help determine if you need to conduct further testing.

It is important to test both the surface and mid-section of the slab, especially if the slab is on or below grade. This will help determine if there is continuous moisture migration toward the surface. If this condition exists, the moisture movement may be so slow that once it reaches the surface, moisture evaporates and causes a "dry" reading when a surface test is made.

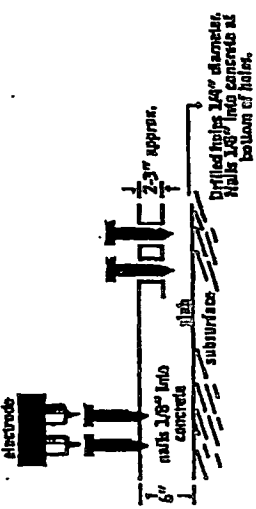
However, if a sub-surface test is made, the meter may read "wet" indicating the presence of moisture. When the slab is covered and the upward movement of moisture continues, moisture will move into a hygroscopic (wood) floor, or build-up pressure under a non-breathing synthetic floor, causing delamination.

Taking a Surface Reading:

- ▶ Drive two hardened-steel masonry nails about 3/4" apart into the finish coat of concrete floor. Drive them about 1/8" deep so they make firm contact with the concrete and do not move when touched.
- ▶ Touch the nails with the contact pins ①.
- ▶ Press read button ② and read the reference scale. If the meter reads in the red or "wet" area, it shows the floor is not satisfactory for covering. If meter reads in the green or "dry" area, the surface is dry. However, subsurface tests should be made to verify if the slab is dry throughout.

Subsurface Test:

- ▶ Drill two 1/4" holes, 3/4" apart and 1/2" to 2" deep.
- ▶ Drive the masonry nails into the bottom of the holes and make the tests as described above. Nails must not touch sides of drilled holes.



If the meter still indicates green or "dry" the floor is ready overing. Tests should be made at several points, especially when the slab is thick and air circulation is poor. Tests should only be made in newly drilled holes, since the inside surface of the holes can dry out while the rest of the slab is still wet.

Even readings in the red or "wet" area can indicate relatively low moisture content in concrete. For example, readings in the 85-95 range on the reference scale indicate approximately 2% to 4% moisture content.

If more testing is required, the calcium chloride test is recommended, which measures the moisture vapor emission rate of concrete. The National Wood Flooring Association offers the following guidelines when evaluating the results of the calcium chloride test***.

Results	→	Indicate
0-3 lbs.	→	Dry
over 3 lbs.	→	Moisture barrier required
over 7 lbs.	→	Too wet

Key Factors to Consider:

- ▶ The age of the slab. National Wood Flooring Association guidelines specify to wait at least 90 days after the slab is laid before checking moisture content. ***
- ▶ Color of the concrete. Good healthy concrete should be almost sugar-white. Concrete that is gray, brown, tan, or off-white may have contaminants, admixtures, or problems that may affect the flooring installation.
- ▶ Is the slab on grade or suspended? If the slab is on grade, is there an effective vapor barrier under the slab?
- ▶ How thick is the slab?
- ▶ What is the drainage condition of the ground?
- ▶ History of other structures in the area

***Taken from Section V Appendix AA "Moisture Testing Procedures for Concrete Slabs" --- NWFA

Testing Brick or Concrete for Paint Application

Brick, stucco, or concrete surfaces must be dry at the time of application and must remain dry after paint is applied or failure of the paint film may occur. These materials are frequently exposed to unusual moisture conditions that allow them to absorb moisture through some exposed surface or some structural defect. This is why it is important to check the moisture content of the brick or concrete when it has been exposed to conditions that permit it to absorb moisture.

Procedure:

- ▶ Drive two hardened steel masonry nails about 3/4" apart into the brick or concrete. Drive them about 1/4" deep so they make firm contact and do not move when touched.
- ▶ Touch the nails with the contact pins ①.
- ▶ Press read button ② and read the reference scale.
- ▶ Normally, dry concrete or brick will read in the green or "dry" portion of scale, indicating a safe condition to apply paint. Meter readings should be evaluated in relation to other factors -- knowledge of the structure, type of paint used, expected weather conditions in the near future, etc. Paint should not be applied if readings are in the red or "wet" portion of the scale.
- ▶ Do not be misled by surface appearance of masonry materials. Short exposure to rain may thoroughly wet the surface while the interior is still dry. In this instance, we recommend repeating the test on the masonry below the surface as mentioned above.

Key Areas to Check:

- ▶ The rear side of brick parapet walls — generally are not waterproof above the flashing line and frequently absorb moisture during rains.
- ▶ Painted concrete floors on ground — subject to peeling as they absorb moisture from the earth, unless an effective vapor barrier has been installed.

Tests on these materials should be made a day or so after they have been exposed to rain or other high moisture conditions to verify to what extent they absorb moisture.

Tracing Leaks

The BD-2100 can help trace leaks in masonry material. Normally, dry plaster, brick, or concrete will contain so little moisture it cannot be detected by the meter. If the meter indicates the presence of moisture you can trace the moisture to its origin.

To trace the origin of a leak:

- ▶ Drive a nail into an area that is known to be wet and attach an insulated wire between the nail and one of the contact pins ①.
- ▶ Apply the other pin to various parts of the wall where you suspect the leak originates. If the meter indicates red or "wet", the material is wet between the points of contact. If the meter reads green or "dry", the material along this line is not in the path of a leak.

To confirm if a brick wall is waterproof:

Perform the following procedure after storms to verify if a brick wall is waterproof, or if waterproofing repairs have been properly performed:

- ▶ Drive pairs of nails into the brick wherever it is necessary to make the tests and leave them in place until after all the tests are completed.
- ▶ Take readings after each storm, and record the readings. The pattern of these readings will indicate if the brick is gradually drying out or is moistened again by each storm.

Detecting Moisture in Insulation

Use the BD series meter with the #21-E Electrode and #608 insulated pins to detect moisture in insulation. These pins are insulated, except at the tips. Only the uninsulated tips make contact with the material, providing information as to the depth at which moisture is present.

Procedure:

- ▶ Drill two 3/16" diameter holes, one inch apart through the siding.

Using the #21-E, insert the #608 contact pins into the holes so that you make contact with the insulation.

- ▶ Press the read button ① and take a reading. Take readings at various depths of penetration to determine the location of moisture.

- ▶ Fill holes with putty at the conclusion of the test.

Meters are not calibrated to read the percentage of moisture content in the insulation. Instead, meter readings provide a qualitative indication of the presence of moisture. The meter may also help identify the pattern of distribution to help you determine if moisture is due to condensation or leakage.

The presence of moisture in insulating material greatly reduces its insulating properties. If the insulating material absorbs moisture, water will displace the air in the material. Water also transmits heat at a faster rate than air, thus reducing the efficiency of the insulation.

Side walls and roof insulation pick up moisture because of leaks in the roof or structural defects in the side walls which allow storm water to be forced in during high wind. During periods of cold weather, vapor will condense as it approaches the colder area near the outside walls, and resulting moisture will remain trapped in the insulation. Cork, wood fiber boards, and other cellulose material read lower than glass wool and other inorganic types of insulation.

CARE OF YOUR METER

To keep your meter in good working order:

- ▶ Store your meter in a clean, dry place. The protective carrying case provided is an ideal storage place when the meter is not in use.
- ▶ Change the 9-Volt battery as needed. Continued use with a low battery may cause the meter to go out of calibration.
- ▶ Change contact pins as needed. Keep pin retainers hand tightened.
- ▶ Clean the meter and contact pins with any biodegradable cleaner. Use the cleaner sparingly and on external parts only. Keep cleaner out of the external connector ②.
- ▶ Remove the battery if the meter will not be used for one month or longer.

SERVICE FOR YOUR METER

- ▶ Pack your meter securely. Enclose a purchase order or letter with a brief description of the problem.
- ▶ There is no need to call us for a return authorization number if you are within the U.S. Customers outside the U.S. must contact us for more specific instructions prior to returning a meter.
- ▶ Include your name, address, daytime phone and fax numbers or e-mail address. If you believe the meter is under warranty, please provide the original sales slip or invoice.
- ▶ Ship via UPS, Express Mail, Priority Mail, or any overnight courier who provides prompt service. Do not use standard parcel post.
- ▶ Insure your instrument for its full value and ship prepaid. We are not responsible for damage in transit.
- ▶ We do not accept COD shipments or cover any incoming freight or duty charges on returned merchandise.
- ▶ Turnaround time on repairs is approximately two weeks.
- ▶ We will call you with an estimate if you specifically request one, or if we determine that the meter may be too costly to repair.
- ▶ Non-warranty repairs will be returned via UPS/COD unless you have already established other payment terms. There is no COD service outside the U.S. To pay by credit card, include the card number and expiration date with your mail. We accept Visa/MasterCard, American Express, and Discover.
- ▶ Warranty repairs will be returned at no charge if shipped within the U.S. via UPS Ground Service. Freight charges for expedited services (i.e., Federal Express, UPS/2 Day, UPS/1 Day, etc.) are the customer's responsibility and will be charged as per the above terms.

WARRANTY

Delmhorst Instrument Co., referred to hereafter as Delmhorst, guarantees its BD-2100 meter for one year from date of purchase and any optional electrodes against defects in material or workmanship for 90 days. If, within the warranty period, you find any defect in material or workmanship return the meter following the instructions in the Service for Your Meter section. This limited warranty does not cover abuse, alteration, misuse, damage during shipment, improper service, unauthorized or unreasonable use of the meter or electrodes. This warranty does not cover batteries or contact pins. If the meter or any optional electrodes have been tampered with, the warranty shall be void. At our option we may replace or repair the meter.

Delmhorst shall not be liable for incidental or consequential damages for the breach of any express or implied warranty with respect to this product or its calibration. With proper care and maintenance the meter should stay in calibration; follow the instructions in the Care of Your Meter section.

Under no circumstances shall Delmhorst be liable for any incidental, indirect, special, or consequential damages of any type whatsoever, including, but not limited to, lost profits or downtime arising out of or related in any respect to its meters or electrodes and no other warranty, written, oral or implied applies. Delmhorst shall in no event be liable for any breach of warranty or defect in this product that exceeds the amount of purchase of this product.

The express warranty set forth above constitutes the entire warranty with respect to Delmhorst meters and electrodes and no other warranty, written, oral, or implied applies. This warranty is personal to the customer purchasing the product and is not transferable.

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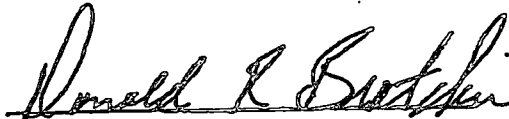
REV. 6/02

Witness Statement of Donald R. Bratcher

1. I am the President and one of the owners of VAC Environmental Services, Inc. I have been personally involved in the various investigations and remediation efforts at the Goldberg residence at 6483 E. El Maro Circle, Paradise Valley, AZ, 85253 over the approximately last 10 months or so.
2. In about October 2003, while four of the air handlers had been removed, I removed the air filters from the other three air handlers that have underground return air systems and had, in addition to myself, one of my employees from our company put his head as far into the underground return air system as could physically be managed in order to smell the air in each of these three systems. My employee reported to me that, like myself, he observed no odor in any of these three systems.
3. On approximately October 1, 2003, I was present along with Deanna Corbett when the lower kitchen cabinets were removed from the guest suite kitchen. One section of these cabinets, when it was removed, reeked of urine and had evidence of urine staining on the back of the cabinet. When the first rush of urine odor reached Deanna, she exclaimed: "Whoa!" and she quickly backed up to get away from the strong odor of urine. I could clearly smell the urine odor myself as well. After physically backing up from the odor, Deanna stated that it smelled like urine.
4. Sometime after the removal of the kitchen cabinets, on another occasion when I was at the Goldberg residence with Deanna Corbett, Deanna made the following statement to me, which I can describe as being as close to a quote of what she said as memory will permit: "I wish to God I had never smelled urine here."
5. During the period in late April and early May 2004, when Hayden Baldwin was conducting his Tuned Light inspection of the Goldberg residence, either I or my employee, Juan Galvez, were up in the attic or in the house with Mr. Baldwin and Don Woods and Deanna Corbett and at various times Mona Mangold and Colin O'Rielly, who I understand are part of the claims department for Chubb, and Ginger English, an attorney for Chubb. Either I or Juan managed to stay with Mr. Baldwin and the other members of the group that were in the area where Mr. Baldwin was working at all times during his inspection. At no time did I or Juan, based on what Juan has reported to me, ever witness any of the experts or representatives of Chubb attempt to smell any of the areas that were marked to be tested for urine in the attic or in the house.
6. During the course of the various investigative and remediation efforts at the Goldberg home, I have had many opportunities to discuss the situation with Don Woods. He has said to me that he cannot guarantee that there is no urine in the walls of the Goldberg home.
7. During the very early period of time that Mr. Baldwin was at the Goldberg residence, there was a meeting that I participated in, in the garage of the house. I had picked up an opened plastic bag that contained some stained papers that were being retained as evidence of possible urine stains from the remediation efforts. I wasn't sure whether the inside of the bag had a urine odor or not, and wanted Don Woods, one of Chubb's experts to smell it. As I was attempting to hand the bag to Don Woods to smell, Ginger English, Chubb's attorney, made the following statement, which I can describe as being as close to a quote of what she said as memory will permit: "We're not here to smell things. We're here to fluoresce the spots. That's what we're here for. And that's what we're going to do." Having heard that statement, Don Woods did not proceed to smell the bag and its contents, and I proceeded to put the bag back on the floor.

8. On June 24, 2004, I went to the Goldberg El Maro residence with my employee, Juan Galvez. Juan Galvez removed the air filter from each and every one of the seven air handlers that has an underground return air system. Juan and I used a flashlight to illuminate the underground return air duct beneath the air handler to see whether there was any visible water in any of these systems. There was no visible water in any of them. Then I had Juan put his nose as far into the duct as possible in order to smell the air in the underground return air system. Juan reported to me that there was no odor in any of the seven underground return air systems.

The foregoing statements are true and correct to the best of my knowledge.



Donald R. Bratcher

6/30/04
Date

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Witness Statement of Donald R. Bratcher

1. I am the President and one of the owners of VAC Environmental Services, Inc. I have been personally involved in the various investigations and remediation efforts at the Goldberg residence at 6483 E. El Maro Circle, Paradise Valley, AZ. 85253 over the approximately last 10 months or so.
2. On July 14, 2004, in the mid-morning and again at about 4:30p.m. I was at the Goldberg residence at 6483 E. El Maro Circle, Paradise Valley, AZ 85253. Although I am only able to smell strong odors, during both visits I did perceive a strong and offensive urine odor in the entry foyer to the home, in the dining room, in the billiard room, in the hallway from the dining room to the billiard room, in the entry area coming in from the garage to the hallway, and in the guest suite. This was the first day that I personally was able to smell a strong urine odor in various parts of the home all in one day, although I had previously smelled urine odor in a few specific locations. When I first entered the Goldberg residence in the morning and was literally hit with a powerful urine smell when I first entered the foyer inside the front door of the home, I actually said, "Whoa", because it was such a shock when I encountered this obnoxious urine odor. I am 100% sure that the strong odor I smelled at the Goldberg residence on July 14, 2004 was urine.
3. Earlier in the afternoon of July 14, 2004, between approximately 1:00p.m. and 3:00p.m., I sent one of my employees, Juan Galvez, to the Goldbergs' El Maro residence with instructions to remove the air filters in all seven air handlers that have underground return air ducts and inspect the bottom of the return air ducts, as far as he could see, to determine if there was any sign of water there. Juan reported to me that there was no visible water in any of the return air ducts of the seven systems. Juan was also asked to smell the air in those ducts to see whether there was any odor. He reported to me that he found no odor in any of the seven systems.
4. Since I personally found the level of urine odor to be so strong and offensive, I placed a telephone call to Don Woods, the Industrial Hygienist for Chubb, the Goldbergs' homeowners insurance carrier, and informed Don Woods of my observations and also of the fact that the security guard on duty in the morning and early afternoon on July 14, 2004 reported to me that he has been smelling the odor of urine on a regular basis at the Goldberg residence in recent weeks.
5. At about 4:30p.m. on July 14, 2004, Deanna Corbett, an Industrial Hygienist who works with Don Woods, also on behalf of Chubb, met me and Juan Galvez at the Goldbergs' El Maro home. Deanna was accompanied by Don Woods' daughter. While standing in the guest suite living room, Deanna commented that the odor in the guest suite smelled "like garbage" to her. Deanna said that it smelled different there than by the entry area inside the front door of the home. While Juan, Deanna, and I were in the guest suite, Juan sliced open the plastic containment separating the guest suite bathroom from the rest of the guest suite. We all smelled the air by putting our heads through the opening in the plastic. Deanna said that it smelled like sewer gas to her. I explained to Deanna that for a few months our company employees had been running water down all the drains in the house, including the ones in that bathroom, so that sewer gas could not come up through any of the drains. I also explained to Deanna that the room has been sealed up for about 9 months and that it naturally smells stale and musty and that any other odor in the bathroom may be a little urine odor mixed in with the musty stale odor. I told Deanna that the bathroom definitely did not smell like sewer gas. The three of us then went out to smell the sewer trap outside that part of the house. It had very little odor to Juan and me when we smelled it and reported our findings to Deanna. Deanna smelled the sewer trap herself and said that it had a little smell.

6. I was at the Goldberg residence again on Friday and Saturday, July 15 and 16, 2004, with Juan Galvez, Mona Mangold, a Chubb claims representative, and Deanna Corbett. I could still smell a slight odor of urine in various parts of the house on those two days, but the level of the urine smell was nothing close to the strong urine smell that was present in the house on Wednesday, July 14, 2004. On Friday, while walking around in the guest suite living room, Deanna said that it smelled like garbage and excrement. On the same day, we cut open the plastic containment separating the guest suite bathroom from the rest of the guest suite. We all went into the bathroom. I smelled the air from the guest suite bathroom and made the same general comments to Mona and Deanna about what I smelled that I had previously made to Deanna on Wednesday July 14, 2004. However, Deanna also smelled the air in the bathroom and said that it smelled like sewer gas to her. Neither Juan Galvez nor I agreed with her opinion, and we told her so. On the same day while Deanna Corbett smelled the inside of the master bedroom wetbar cabinet, Deanna said that she still smelled a slight urine odor in that cabinet. Also on that Friday or Saturday, we were out in the garage and we smelled the underground return air duct beneath the air handler that, at that time, Deanna Corbett believed serviced the guest suite. However, on Sunday, July 18, 2004, I went to the Goldberg home and determined that the air handler whose underground return air duct we were smelling a day or two before, that Deanna Corbett believed serviced the guest suite, actually services the dining room and billiard room. On Monday, July 19, 2004, Juan and I reviewed the blueprints for the Goldberg residence and confirmed on those blueprints that the air handler that Deanna Corbett believed serviced the guest suite, actually services the billiard room and dining room of the home.
7. On Thursday, July 14, 2004 around mid-day, Deanna Corbett stopped by our company's office and ran into me. During our conversation she said to me that she never smelled urine in the guest suite of the Goldberg residence. I reminded her that I and my employee, Gerardo Diaz, were standing right next to her when we examined the kitchen cabinets that we had detached from the guest suite kitchen and when she dramatically responded to the strong odor of urine while examining that section of cabinets. I also reminded Deanna about how clear she was at that moment when she told us that she definitely smelled urine from those cabinets. My recollection of Deanna's reaction to the urine odor from those cabinets on about October 1, 2003 and her exclamation that she definitely smelled urine odor is extremely clear and strong in my mind, because we were all so excited about this discovery and because it was such a dramatic reaction on her part when she smelled that section of the kitchen cabinets. Deanna said to me that her recollection of the incident was different from mine.


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7/30/04
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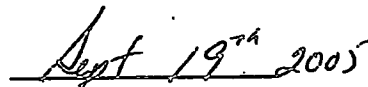
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Witness Statement of Donald R. Bratcher

1. I am the President and one of the owners of VAC Environmental Services, Inc. I have been personally involved in the various investigations and remediation efforts at the Goldberg residence at 6483 E. El Maro Circle, Paradise Valley, AZ. 85253 over approximately the last two years.
2. On September 16, 2005, at approximately 11:30a.m., I was at the Goldberg residence at 6483 E. El Maro Circle, Paradise Valley, AZ 85253. I walked through the front door and then through the whole house. When I walked through the front door, I was hit in the face with the very strong odor of urine. As I walked through the master bedroom area and the hallways leading to it, I continued to smell the strong odor of urine. I then walked toward the opposite end of the house, and the odor remained pretty strong as I walked past the kitchen, the dining room and into the guest suite, all the way down the tunnel up to the garage. The guest suite itself still had an unpleasant odor, but it wasn't exactly the same odor. It wasn't quite as strong as the rest of the house. However, the bathroom in the guest suite was very pungent. It was a very strong urine type of smell. As I walked through the south end of the house, past the garage door, I still picked up the same unpleasant urine odor, but it was not as strong as the rest of the house.
3. On July 14, 2004, I was able to smell the very strong odor of urine in various parts of the house. When I visited the Goldberg residence on September 16, 2005, the odor of urine was just as strong, and seemed to be in even more areas of the home than my visit on July 14, 2004. I am 100% sure that what I was smelling was the odor of urine.


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GOLDBERG 7291

