

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

AON RISK SERVICES, INC.)
OF ILLINOIS,)
)
Plaintiff,)
)
v.)
)
ALAN M. SHETZER,)
)
Defendant.)

No. 01 C 7813
Judge Conlon
Magistrate Judge Nolan

DOCKETED
AUG 13 2002
MICHAEL V. DOBBINS
CLERK, U.S. DISTRICT COURT
AUG 12 2002
FILED
JR

**PLAINTIFF'S RESPONSE TO DEFENDANT'S
RULE 56(a)(3) STATEMENT OF MATERIAL FACTS**

Plaintiff, Aon Risk Services, Inc. of Illinois ("Aon"), by its attorneys, pursuant to Local Rule 56.1(b)(3), for its response to defendant Alan M. Shetzer ("Shetzer") Local Rule 56(a)(3) statement of material facts ("Rule 56 Statement"), states as follows:

The Parties

1. Aon Risk Services, Inc. of Illinois ("Aon") is an Illinois corporation. (Answer, attached hereto as Exhibit A, at ¶ 1.)

RESPONSE: Aon agrees with Proposed Finding of Fact No. 1.

2. Alan Shetzer is an individual who resides at 14203 Caminito Vistana, San Diego, California (Answer, attached hereto as Exhibit A, at ¶ 2.)

RESPONSE: Aon agrees with Proposed Finding of Fact No. 2.

Jurisdiction and Venue

3. This Court has jurisdiction pursuant to 28 U.S.C. § 1332, because Plaintiff and Defendant are residents of different states and the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs. (Answer, Exhibit A, at ¶ 3.)

RESPONSE: Aon agrees with Proposed Finding of Fact No. 3.

4. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(1), because a substantial part of the events giving rise to plaintiff's claims occurred in Illinois. (Answer, Exhibit A, at ¶ 4.)

RESPONSE: Aon agrees with Proposed Finding of Fact No. 4.

Relevant Persons and Entities

5. Aon is in the business of providing commercial property and casualty insurance brokerage services to commercial clients. (Answer, Exhibit A, at ¶ 5.)

RESPONSE: Aon agrees with Proposed Finding of Fact No. 5.

6. In or about May, 1993, Alan Shetzer became an employee of Aon. (Answer, Exhibit A, at ¶ 10.) Shetzer served as Vice President of the company's Trucking Team. (*Id.*) In that capacity, Shetzer served as a broker, salesman and service representative of customer accounts. (*Id.*)

RESPONSE: Aon disagrees with the first sentence of Proposed Finding of Fact No. 6. Aon states that in or about May 1993, Shetzer became an employee of Rollins Hudig Hall of Illinois, Inc. ("RHH-Illinois"), Aon's commercial insurance brokerage and risk management consulting business in Chicago, Illinois. (Answer, attached as Exhibit A to Rule 56 Statement, at ¶ 10.) In December 1995, RHH-Illinois became Aon Risk Services, Inc. of Illinois, and following the name change, Shetzer remained employed as a Vice President of Aon. (Answer, attached as Exhibit A to Rule 56 Statement, at ¶ 11.) Aon agrees that as an employee of RHH-Illinois, Shetzer served as Vice President of the company's Trucking Team, and that in that capacity, Shetzer served as a broker, salesman and service representative of customer accounts.

7. Ronna Larson is a former employee of Aon. (Larson Deposition, attached hereto as Exhibit B, at p. 26.) In 1994, she started as an Account Executive, and performed general support services, including the marketing and servicing of clients. (*Id.*, at pp. 26-27) During her tenure with Aon, her job duties never changed. (*Id.*, at 38.)

RESPONSE: Aon agrees with Proposed Finding of Fact No. 7, and further states that the reference to the Larson Deposition in the last sentence should be to pages 37 and 38.

8. Ronna Larson was not the subject of any non-compete agreement with Aon. (Larson Dep., at 91.) She had no employment contract with Aon. (Larson Dep., at 46.)

RESPONSE: Aon agrees with the first sentence of Proposed Finding of Fact No. 8. Aon agrees that as a Vice President of Aon Larson had no employment contract.

9. Daniel Morton is a former employee of Aon. (Morton Deposition, attached hereto as Exhibit C, at 8.) He was the director of loss control and claims, and began his employment with Aon in 1998. (Id.)

RESPONSE: Aon agrees with Proposed Finding of Fact No. 9.

10. Amanda Rice (now Jenkins) is a former employee of Aon. (Jenkins Dep., attached hereto as Exhibit D, at 47.) She did not have any non-compete agreement with Aon. (Jenkins Dep., at 94.)

RESPONSE: Aon agrees with Proposed Finding of Fact No. 10.

Alan Shetzer's Employment with Aon

11. In 1993, Aon and Mr. Shetzer entered into a contract relating to his compensation. (A copy of this contract is attached hereto as Exhibit E; Shetzer Dep., at 10, 33.) Mr. Shetzer did not enter into any type of non-compete agreement or restrictive covenant with Aon. (Exhibit E; Deposition of Alan Shetzer, at 10, 17 a copy of which is attached hereto as Exhibit F.) Pursuant to this contract and Aon policy, Mr. Shetzer was to receive in total compensation 30% of that revenue attributable to him during a particular calendar year. (Exhibit E; Prester Dep., at 36.) The contract further dictated that Mr. Shetzer was to receive a salary equal to his prior year's compensation. (Exhibit E.) At the end of the year, Aon would then determine the total revenue attributable to Mr. Shetzer, and pay him a reconciliation to bring that year's total compensation up to 30% of the revenue attributable to Mr. Shetzer. (Exhibit E; Prester Dep., at 42-43.)

RESPONSE: Aon disagrees with the first and second sentences of Proposed Finding of Fact No. 11. (Exhibit E to Rule 56 Statement; Shetzer Dep., at 10, 33.) Aon agrees with the third sentence of Proposed Finding of Fact No. 11 but disagrees that Exhibit E, and page 10 of the Shetzer Deposition, support the proposed facts in that sentence. Aon disagrees with the fifth sentence of Proposed Finding of Fact No. 11. (Exhibit E to Rule 56 Statement; Prester Dep., at 36.) Aon disagrees with the sixth sentences of Proposed Finding of Fact No. 11. (Exhibit E to Rule 56 Statement.) Aon disagrees with the seventh sentence of Proposed Finding of Fact No. 11. (Exhibit E to Rule 56 Statement; Prester Dep., at 42-43.)

12. In 1997, Aon changed its policy, paying employees in Mr. Shetzer's position 75% of the prior year's compensation in periodic salary payments, and then a reconciliation at the conclusion of the year to bring the total compensation up to 30% of the total revenue attributable to Mr. Shetzer. (Prester Dep., at 41.)

RESPONSE: Aon disagrees with Proposed Finding of Fact No. 12. (Prester Dep., at 41.)

13. In 2001, Aon announced a reorganization of its business. (Shetzer Dep., attached hereto as Exhibit F, at 11.) The details of this reorganization were unclear, and led to confusion amongst Aon employees. (Shetzer Dep., 11, 14, 16; Morton Dep., at 12, 30.) Mr. Shetzer was informed that his compensation needed to be renegotiated as part of this restructuring. (Shetzer Dep., at 14.)

RESPONSE: Aon agrees that, as recorded at page 11 of the Shetzer Deposition, Shetzer testified at his deposition that he believed that Aon started a reorganization after the first of the year in 2001, but disagrees that that is a correct statement. (Answer, attached as Exhibit A to Rule 56 Statement; at ¶ 21 – Shetzer admits that Aon announced a reorganization of its business in the latter part of 2000.) Aon disagrees that the referenced pages 11, 14 and 16 of the Shetzer Deposition and

pages 12 and 30 of the Morton Deposition support the proposed facts in the second sentence of Proposed Finding of Fact No. 13. (Shetzer Dep., at 11, 14, 16; Morton Dep., at 12, 30.) Aon disagrees that the referenced page 14 of the Shetzer Deposition supports the proposed facts in the third sentence of Proposed Finding of Fact No. 13. (Shetzer Dep., at 14.)

14. For some years prior to the announced reorganization, Mr. Shetzer had raised with Aon officials the fact that he was not being paid his total compensation, as promised by his Contract. (Shetzer Dep., at 12, 35-37.) Despite promises that the shortfalls would be addressed, no action was taken before Mr. Shetzer's resignation. (Shetzer Dep., at 13, 35-38.) Mr. Shetzer, in fact, had written correspondence with several officials on this topic. (AS 14, AS 16-21, AS 23-29, AS 32-35, AS 38, attached hereto as Exhibit G.)

RESPONSE: Aon disagrees that the referenced pages 12 and 35-37 of the Shetzer Deposition support the proposed facts in the first sentence of Proposed Finding of Fact No. 14. (Shetzer Dep., at 12, 35-37.) Aon agrees that, as recorded at pages 13 and 35-38 of the transcript of the Shetzer Deposition, Shetzer testified at his deposition that despite promises that shortfalls for 1999 and 2000 would be addressed, no action was taken before his resignation. Aon agrees that the documents referenced in the third sentence of Proposed Finding of Fact No. 14 constitute written correspondence with several officials on the topic of Shetzer's compensation.

15. As part of the reorganization announced in January, 2001, Mr. Shetzer spoke with Aon officials about a number of issues. (Shetzer Dep., at 12) Specifically, Mr. Shetzer expressed his desire to stay at Aon, to address outstanding compensation issues and to establish a separate division within Aon to focus on larger trucking companies. (Shetzer Dep. at 14-17, 19.)

RESPONSE: Aon disagrees that the referenced page 12 of the Shetzer Deposition supports the first sentence of Proposed Finding of Fact No. 15. (Shetzer

Dep., at 12.) Aon agrees that, as recorded at pages 14-17 and 19 of the Shetzer Deposition, Shetzer testified at his deposition that he discussed with William Prester and/or John Peterson (both Aon officials) his desire to stay at Aon, his desire to address outstanding compensation issues and his idea to put together a large trucking group.

16. In February, 2001, The Hobbs Group initiated contact with Mr. Shetzer. (Shetzer Dep., at 20.) After two meetings, The Hobbs Group offered Mr. Shetzer a job in March, 2001. (Shetzer Dep., at 20.)

RESPONSE: Aon disagrees that the referenced page 20 of the Shetzer Deposition supports Proposed Finding of Fact No. 16. (Shetzer Dep., at 20.)

17. Mr. Shetzer continued to negotiate with Aon to stay and resolve the open issues. (Shetzer Dep., at 21.) Specifically, Mr. Shetzer was negotiating with Bill Prester, John Peterson and Joe Morahan. (Shetzer Dep., at 22.)

RESPONSE: Aon agrees that, as recorded at page 21 of the Shetzer Deposition, Shetzer testified at his deposition that he was negotiating with Aon to stay at Aon. Aon agrees with the second sentence of Proposed Finding of Fact No. 17.

18. On April 17, 2001, a final offer was made to Mr. Shetzer. (Shetzer Dep., at 22.) Mr. Shetzer was given two hours to decide. (Shetzer Dep., at 22.) Mr. Shetzer chose to resign his employment, and rejected the final offer from Aon. (Shetzer Dep. at 25.)

RESPONSE: Aon agrees that, as recorded at page 22 of the Shetzer Deposition, Shetzer testified at his deposition that an offer was made to him on April 17, 2001, but Aon disagrees that the referenced page 22 supports that Shetzer testified that the offer was a "final" one. (Shetzer Dep., at 22.) Aon agrees that, as recorded at page 25 of the transcript of the Shetzer Deposition, Shetzer testified at his deposition that he announced his resignation and that he was going to leave Aon.

Alleged Solicitation of Customers

19. Prior to his resignation, Mr. Shetzer informed customers of Aon's planned reorganization, and informed them that "[t]hat the restructuring would be beneficial to all parties involved." (Shetzer Dep., at 18.)

RESPONSE: Aon agrees that, as recorded at page 18 of the Shetzer Deposition, Shetzer testified at his deposition that he discussed Aon's planned reorganization with all of his customers and that he told them that the restructuring was going to be beneficial to all parties involved.

20. Prior to his resignation, Mr. Shetzer never stated to a customer that the reorganization would affect them negatively. (Shetzer Dep., at 18-19.)

RESPONSE: Aon agrees that, as recorded at pages 18-19 of the Shetzer Deposition, Shetzer testified at his deposition that he never discussed with a customer how the reorganization might impact the customer negatively.

21. Prior to his resignation, Mr. Shetzer never discussed any dissatisfaction with customers which could lead them to believe he was going to leave Aon. (Shetzer Dep., at 26.)

RESPONSE: Aon agrees that, as recorded at page 26 of the Shetzer Deposition, Shetzer testified at his deposition that he never discussed with any of his customers any dissatisfaction with Aon that might lead them to think he was going to leave Aon. Aon disagrees that Shetzer, in fact, never discussed any dissatisfaction with Aon customers. (Aon Statement at ¶ 9.)

22. After his resignation, Mr. Shetzer spent the next day telephoning customers, and informed them that he had left Aon. (Shetzer Dep., at 32.) Mr. Shetzer followed his telephone calls with an email to various insurers, customers and personal contacts. (Shetzer Dep. at 32-33.) (A copy of the e-mail is attached hereto as Exhibit H.)

RESPONSE: Aon agrees that, as recorded at page 32 of the Shetzer Deposition, Shetzer testified at his deposition that after he joined Hobbs Group he telephoned customers, and informed them that he had left Aon. Aon agrees that, as recorded at pages 32-33 of the Shetzer Deposition, Shetzer testified at his deposition that he sent an e-mail to customers, and agrees that Exhibit H to the Rule 56 Statement purports to be an e-mail dated April 18, 2001 from Shetzer to various people, including people working for customers and insurance companies. Aon disagrees that the referenced pages 32-33 of the Shetzer Deposition support all of the proposed facts in the second sentence of Proposed Finding of Fact No. 22. (Shetzer Dep., at 32-33.)

23. Mr. Shetzer did not solicit any business on behalf of The Hobbs Group prior to his resignation from Aon. (Shetzer Affidavit, Exhibit G, at ¶2.)

RESPONSE: Aon agrees that paragraph 2 of the Shetzer Affidavit states that Shetzer did not solicit any business on behalf of The Hobbs Group prior to his resignation from Aon. Aon disagrees that the Shetzer Affidavit is attached as Exhibit G to the Rule 56 Statement, and further states that the reference to the Shetzer Affidavit should be to Exhibit I. (Rule 56 Statement, Exh. I.)

24. Mr. Shetzer did not take any documents or any other medium which contained any alleged confidential information of Aon. (Shetzer Affidavit, Exhibit G, at ¶3.)

RESPONSE: Aon agrees that paragraph 3 of the Shetzer Affidavit states that Shetzer did not take any documents or any other medium which contained any alleged confidential information of Aon. Aon disagrees that the Shetzer Affidavit is attached as Exhibit G to the Rule 56 Statement, and further states that the reference to the Shetzer Affidavit should be to Exhibit I. (Rule 56 Statement, Exh. I.)

Alleged Solicitation of Ronna Larson

25. Ronna Larson resigned her employment from Aon because she wished to continue working with Alan Shetzer. (Larson Dep., at 47.) Specifically, she “had worked with Alan for quite some time, and [she] was confident where if and when Alan ever left Aon that [she] would go with him.” (Larson Dep., at 47.) In other words, “[she] was going to stay with Alan wherever he was going to be.” (Larson Dep., at 57.)

RESPONSE: Aon agrees that, as recorded at page 47 of the Larson Deposition, Larson testified at her deposition that she resigned her employment from Aon because she wished to continue working with Shetzer, and that she “had worked with Alan for quite some time, and [she] was confident where if and when Alan ever left Aon that [she] would go with him.” Aon agrees that, as recorded at page 57 of the Larson Deposition, Larson testified at her deposition that she “was going to stay with Alan wherever he was going to be.”

26. Ms. Larson was aware that Mr. Shetzer was negotiating to stay at Aon. (Larson Dep., at 48.) Mr. Shetzer never approached her about leaving Aon. (Larson Dep., at 53.)

RESPONSE: Aon agrees that, as recorded at page 48 of the Larson Deposition, Larson testified at her deposition that she was aware that Shetzer had made every effort to stay at Aon. Aon agrees that, as recorded at page 53 of the Larson Deposition, Larson testified at her deposition that Shetzer never talked to her about the fact that he was thinking about leaving Aon, but disagrees that Larson testified that Shetzer never approached her about her leaving Aon. (Larson Dep., at 53.)

27. In fact, Ms. Larson “went to him [Shetzer] to say that if he did leave that [she] had worked him long enough that [she] would leave with him.” (Larson Dep., at 54.) She approached Mr. Shetzer approximately 30 days before resigning Aon. (Larson Dep., at 54.) (Shetzer Dep., at 24 (stating “Ronna came to me and said, ‘I know you’re planning something because of this reorganization, just include me in.’”).)

RESPONSE: Aon agrees that, as recorded at pages 53-54 of the Larson Deposition, Larson testified at her deposition that she “went to him [Shetzer] to say that if he did leave that [she] had worked him long enough that [she] would leave with him,” and further states that the reference to the Larson Deposition in the first sentence should be to pages 53 and 54. Aon agrees that, as recorded at page 54 of the Larson Deposition, Larson testified at her deposition that she approached Shetzer approximately 30 days before resigning Aon. Aon agrees that, as recorded at page 24 of the Shetzer Deposition, Shetzer testified at his deposition that “Ronna came to me and said, ‘I know you’re planning something because of this reorganization, just include me in,” but disagrees that page 24 of the Shetzer Deposition supports the proposed fact that Ms. Larson approached Shetzer approximately 30 days before resigning.

28. Ms. Larson approached Mr. Shetzer based on her personal suspicion. (Larson Dep., at 53.) Ms. Larson had overheard Mr. Shetzer’s conversations with Aon officials about his negotiations to stay at Aon. (Larson Dep., at 52-53.)

RESPONSE: Aon disagrees that the referenced pages 52-53 of the Larson Deposition support Proposed Finding of Fact No. 28. (Larson Dep., at 52-53.)

29. Mr. Shetzer never asked Ms. Larson to leave Aon to go with him. (Larson Dep., at 65.) She, in fact, approached him. (Larson Dep., 54.)

RESPONSE: Aon agrees that, as recorded at pages 54 and 65 of the Larson Deposition, Larson testified at her deposition that Shetzer never asked her to leave Aon to go with him, and that she approached Shetzer.

Alleged Solicitation of Daniel Morton

30. Daniel Morton resigned from AON because it “was reorganizing and [he] had gone through...different bosses. And the company was changing what is [sic] was doing. I went looking for a different job.” (Morton Dep. at 12.)

RESPONSE: Aon agrees that, as recorded at page 12 of the Morton Deposition, Morton testified at his deposition that he resigned from AON because “Aon was reorganizing and had gone through...different bosses. And the company was changing what it was doing. I went looking for a different job,” but Aon disagrees that the referenced page 12 supports that Morton testified that he had gone through different bosses. (Morton Dep., at 12.)

31. Mr. Morton had discussed his desire to leave the Aon Transportation Group with Mr. Shetzer and Ms. Larson on several occasions. (Morton Dep., at 17-19.)

RESPONSE: Aon agrees that, as recorded at page 19 of the Morton Deposition, Morton testified at his deposition that he and Larson had conversations about him leaving Aon Transportation. Aon disagrees that pages 17-19 of the Morton Deposition support the proposed fact that Morton had discussed with Shetzer Morton’s desire to leave the Aon Transportation Group, and disagrees that pages 17-18 support the proposed fact that Morton had discussed that same topic with Larson. (Morton Dep., at 17-19.)

32. Mr. Morton, in fact, had submitted a resignation letter on April 12, 2001. (Letter attached hereto as Exhibit J.) His superior, William Prester, refused to accept his letter of resignation. (Morton, Dep, at 21.) Mr. Prester stated that he was on his way out of the office, and would speak to Mr. Morton later. (Morton Dep, at 21.)

RESPONSE: Aon agrees with the first sentence of Proposed Finding of Fact No. 32 and that a copy of the resignation letter is attached as Exhibit J to the Rule

56 Statement. Aon agrees that Prester was Morton's superior. Aon agrees that, as recorded at page 21 of the Morton Deposition, Morton testified at his deposition that Prester refused to accept his letter of resignation, but disagrees that that is a correct statement. (Prester Dep., at 120 – Prester told Morton to rethink, shape a job, and that he (Prester) would put the letter of resignation in his drawer for a while; Morton did not say anything when Prester put the letter in the drawer.) Aon agrees that Morton testified at his deposition that Prester stated that he was on his way out of the office and would speak to him later, and further states that the reference to that testimony should be to page 22, but disagrees that that is a correct statement. (Prester Dep., at 120.)

33. In a conversation the next day after he tendered his resignation, Mr. Morton informed Mr. Prester of his reasons for seeking to leave Aon: "Aon was laying people off. They were changing the whole way they wanted to do everything, and I just didn't want to be a part of that." (Morton Dep., at 21.)

RESPONSE: Aon agrees that Morton testified at his deposition that in a conversation the next day after he tendered his resignation, he informed Prester of his reasons for seeking to leave Aon: "Aon was laying people off. They were changing the whole way they wanted to do everything, and I just didn't want to be a part of that," and further states that the reference to that testimony should be to page 22.

34. Prior to March, 2001, Mr. Morton interviewed with other companies seeking a new position, including the St. Paul Insurance Company and trucking companies. (Morton Dep., at 13, 17.)

RESPONSE: Aon disagrees that the referenced pages 13 and 17 of the Morton Deposition support Proposed Finding of Fact No. 34. (Morton Dep., at 13, 17.)

35. Mr. Morton approached Mr. Shetzer in March, 2001. (Morton Dep., at 17.) At that time, Mr. Morton had a written job offer from St. Paul and two oral offers of employment from trucking companies. (Morton Dep., at 17.) He sought Mr. Shetzer's advice as to these opportunities. (Morton Dep., at 17.)

RESPONSE: Aon agrees that, as recorded at page 17 of the Morton Deposition, Morton testified at his deposition that he approached Shetzer probably in March, 2001. Aon disagrees that page 17 of the Morton Deposition supports the second sentence of Proposed Finding of Fact No. 35. (Morton Dep., at 17.) Aon agrees that, as recorded at page 17 of the Morton Deposition, Morton testified at his deposition that he sought Shetzer's advice about his opportunities.

36. In this discussion, Mr. Shetzer provided his advice on the opportunities about which Mr. Morton inquired. (Morton Dep., at 17.) Specifically, Mr. Shetzer informed Mr. Morton [sic] that the trucking companies were not good choices and that he did not believe that Mr. Morton would enjoy the job at St. Paul. (Morton Dep. at 17.) Mr. Shetzer told Mr. Morton not to quit. (Shetzer Dep., at 23.) Mr. Shetzer and Mr. Morton discussed the rumors regarding Aon's reorganization, and Mr. Shetzer told Mr. Morton to "hang in there." (Shetzer Dep., at 23.)

RESPONSE: Aon agrees that, as recorded at page 17 of the Morton Deposition, Morton testified at his deposition that in that discussion, Mr. Shetzer provided his advice on the opportunities about which Morton inquired, and that Shetzer informed Morton that the trucking companies were not good choices and that he did not believe that Morton would like the job at St. Paul. Aon disagrees that page 23 of the Shetzer Deposition supports the third sentence of Proposed Finding of Fact No. 36. (Shetzer Dep., at 23.) Aon agrees that, as recorded at page 23 of the Shetzer Deposition, Shetzer testified at his deposition that he and Morton discussed the reorganization and rumors that Prester was going to leave, and that Shetzer told Morton to "hang in there."

37. In addition, to seeking Mr. Shetzer's advice on specific job opportunities, Mr. Morton had approached Mr. Shetzer on other occasions during the four to five months prior to his resignation, discussing the possibility of leaving the Aon Transportation Group. (Morton Dep., at 18.)

RESPONSE: Aon agrees that, as recorded at page 18 of the Morton Deposition, Morton testified at his deposition that he had approached Shetzer during a four to five month period, discussing the possibility of leaving the Aon Transportation Group.

38. Mr. Morton and Mr. Shetzer had lunch frequently. (Shetzer Deposition, at 23.) Approximately a week before April 17, 2001, Mr. Shetzer informed Mr. Morton that he was attempting to negotiate with Aon to set up a separate truck division. (Shetzer Dep., at 23; Morton Dep. at 15, 29.)

RESPONSE: Aon agrees that, as recorded at page 23 of the Shetzer Deposition, Shetzer testified at his deposition that he and Morton had lunch frequently. Aon disagrees that page 23 of the Shetzer Deposition and pages 15 and 29 of the Morton Deposition support the second sentence of Proposed Finding of Fact No. 38. (Shetzer Dep., at 23; Morton Dep., at 15, 29.)

39. In addition to negotiating with Aon for a separate truck division, Mr. Shetzer informed Mr. Morton generally that he was working on "contingency plans that I couldn't tell him about." (Shetzer Dep., at 24; Morton Dep., at 31.) Mr. Morton responded: "Well, include me in." (Shetzer Dep., at 24.)

RESPONSE: Aon agrees that, as recorded at page 24 (and page 23) of the Shetzer Deposition, Shetzer testified at his deposition that he told Morton that he was in negotiations with Aon to set up a separate truck division and that he was working on "contingency plans that I couldn't tell him about." Aon disagrees that page 31 of the Morton Deposition supports the first sentence of Proposed Finding of Fact No. 39.

(Morton Dep., at 31.) Aon agrees that, as recorded at page 24 of the Shetzer Deposition, Shetzer testified at his deposition that in response to his statement about the contingency plans, Morton's comment was "Well, include me in."

40. Upon Mr. Shetzer's resignation on April 17, 2001, Mr. Morton was called into Mr. Prester's office. (Morton Dep., at 23.) Mr. Prester indicated that Mr. Shetzer was leaving. (Morton Dep., at 23) Mr. Prester asked that Mr. Morton re-write his earlier letter of resignation with the current date. (Morton Dep., at 24, a copy of the letter is attached hereto as Exhibit K.)

RESPONSE: Aon agrees that, as recorded at page 23 of the Morton Deposition, Morton testified at his deposition that he was called into Prester's office after Aon and Shetzer had failed to reach common ground, and that Prester indicated that Shetzer was leaving. Aon disagrees that page 23 of the Morton Deposition supports the proposed fact that Morton was called into Prester's office on April 17, 2001. (Morton Dep., at 23.) Aon agrees that, as recorded at page 24 of the Morton Deposition, Morton testified at his deposition that Prester asked Morton to re-write his earlier letter of resignation with the current date, and agrees that a copy of the re-written resignation letter is attached as Exhibit K to the Rule 56 Statement.

Alleged Solicitation of Amanda Rice (Jenkins)

41. Mr. Shetzer never spoke with Amanda Rice (Jenkins) about leaving Aon. (Jenkins Dep., at 58; Shetzer Dep., at 24.)

RESPONSE: Aon agrees that, as recorded at page 58 of the Jenkins Deposition, Jenkins testified at her deposition that Shetzer never spoke with her about leaving Aon. Aon agrees that, as recorded at page 24 of the Shetzer Deposition, Shetzer testified at his deposition that he never had any conversation with Rice (Jenkins) about her joining Hobbs Group. Aon disagrees that page 24 of the Shetzer

Deposition supports the proposed fact that Shetzer never spoke with Jenkins about leaving Aon. (Shetzer Dep., at 24.)

42. Ms. Larson approached Ms. Rice, stating that if Ms. Larson were to leave Aon, she would like Ms. Rice to join her as her assistant. (Larson Dep., at 70-71.)

RESPONSE: Aon disagrees that the referenced pages 70-71 of the Larson Deposition support Proposed Finding of Fact No. 42. (Larson Dep., at 70-71.)

43. Mr. Shetzer never asked Ms. Larson to make her inquire with Ms. Rice (Jenkins). (Larson Dep., at 65.)

RESPONSE: Aon disagrees that the referenced page 65 of the Larson Deposition support Proposed Finding of Fact No. 43. (Larson Dep., at 65.)

The Prime Commission Dispute

44. In late, 2000, Mr. Shetzer attempted to obtain excess insurance coverage for Prime, Inc. (Shetzer Dep, at 28.) Mr. Shetzer worked with an employee of Aon, UK, Mark Watson, to obtain this coverage. (Shetzer Dep., at 28.)

RESPONSE: Aon agrees that, as recorded at page 28 of the Shetzer Deposition, Shetzer testified at his deposition that he was working on more than one policy for Prime, Inc. ("Prime") and that he worked with Mark Watson on an excess auto policy. Aon agrees that Watson was an employee of Aon, UK, but disagrees that page 28 of the Shetzer Deposition supports that proposed fact. (Shetzer Dep., at 28.)

45. Mr. Watson represented that he could obtain the necessary coverage at a cost of \$4,500,000.[sic] (Shetzer Dep., at 29, 12/20/00 email from Mark Watson, attached hereto as Exhibit L (AS 0005).)

RESPONSE: Aon disagrees with Proposed Finding of Fact No. 45. (Shetzer Dep., at 29, 12/20/00 email from Mark Watson, attached as Exhibit L to the Rule 56 Statement.)

46. Mr. Shetzer secured agreement between the customer and Aon UK that the customer would pay \$4,850,000 with \$350,000 going to Aon in commission. (Shetzer Dep., at 29.)

RESPONSE: Aon disagrees with Proposed Finding of Fact No. 46. (Shetzer Dep., at 29.)

47. In Early January, 2001, Mr. Watson raised the issue of taxes and other fees which were separate and apart from the earlier agreement. (01/05/01 email from Shetzer to Mark Watson, attached hereto as Exhibit M (AS 0008).)

RESPONSE: Aon agrees that the issue of taxes and other fees was raised in the 01/05/01 e-mail that is attached as Exhibit M to the Rule 56 Statement. Aon agrees that in early January, 2001, Mr. Watson raised the issue of taxes and other fees that were separate and apart from the earlier agreement in principle but disagrees that Exhibit M supports Proposed Finding of Fact No. 47. (Exhibit M to the Rule 56 Statement.)

48. On February 22, 2001, Mr. Watson sent an email, apologizing and stating that the full premium was \$4,800,000, not \$4,500,000 (09/22/01 email from Watson to Shetzer, attached hereto as Exhibit N (AS 0011).)

RESPONSE: Aon agrees with Proposed Finding of Fact No. 48, and further states that the 09/22/01 email attached as Exhibit N to the Rule 56 Statement discusses other matters in addition to an apology and the amount of the full premium.

49. On February 22, 2001, Mr. Shetzer responded, stating that the agreement was a premium of \$4,500,000, with \$350,000 in commission to Aon. (02/22/01 email from Shetzer to Watson, attached hereto as Exhibit O (AS 0010).)

RESPONSE: Aon agrees that on February 22, 2001, Mr. Shetzer sent an e-mail to David McEwan, with a carbon copy to Mr. Watson and Ms. Larson, that

indicated that he had sold the excess insurance coverage for Prime, Inc. at \$4,500,000 with \$350,000 to him. Aon disagrees that Exhibit O to the Rule 56 Statement supports the proposed fact that Shetzer stated that "the agreement" was a premium of \$4,500,000, with \$350,000 in commission to Aon. (Exhibit O to the Rule 56 Statement.)

50. On March 1, 2001, Mr. Watson again corresponded with Mr. Shetzer, indicating that Aon UK had received a commission, and cannot guarantee the \$350,000 commission to Illinois. (03/01/01 email from Watson to Shetzer, attached hereto as Exhibit P (AS 0013).) Because of the \$480,000 premium, Aon Illinois received only \$50,000 in commission (Larson Dep., at 42).

RESPONSE: Aon agrees with Proposed Finding of Fact No. 50, and further states that the 03/01/01 email attached as Exhibit P to the Rule 56 Statement discusses other matters in addition to indicating that Aon UK had booked a commission and could not guarantee to give Illinois \$350,000. Aon agrees that because of the \$480,000 premium, Aon Illinois received only \$50,000 in commission, but disagrees that page 42 of the Larson Deposition supports that proposed fact. (Larson Dep., at 42.)

51. When the dispute with Mr. Watson arose, Mr. Shetzer informed Mr. Prester of the issue (Shetzer Dep., at 29.) In fact, he had more than one conversation with Mr. Prester regarding the Prime issue. (Shetzer, Dep., at 30.)

RESPONSE: Aon agrees that, as recorded at pages 29-30 of the Shetzer Deposition, Shetzer testified at his deposition that when the dispute with Watson arose, Shetzer informed Prester of the issue, and that Shetzer had more than one conversation with Prester regarding the Prime issue.

52. Mr. Prester informed Mr. Shetzer that he would take care of the issue. (Shetzer, Dep., at 31.)

RESPONSE: Aon agrees that, as recorded at page 31 of the Shetzer Deposition, Shetzer testified at his deposition that Prester told him that he would "take care of it." Aon disagrees that page 31 of the Shetzer Deposition supports the proposed fact that Prester said he "would take care of the issue." (Shetzer Dep., at 31.) Aon disagrees with Proposed Finding of Fact No. 51. (Prester Dep., at 83-84, 91, 93-94 – on a weekend or a holiday, Prester told Larson to bill the commission as \$350,000 but to formalize the deal and confirm it with Watson. The first time that Prester heard of an adjustment to make the \$350,000 actually \$50,000, was after March 2001. Prester had no idea that there was any problem with the Prime commission until after Shetzer left Aon. Prester never said to Shetzer that the Prime commission matter was an intercompany dispute that would get resolved.)

53. In March, 2001, a credit adjustment was entered into Aon's accounting system. (Prester Dep., at 91.)

RESPONSE Aon agrees that, as recorded at page 91 of the Prester Deposition, Prester testified at his deposition that there was some type of adjustment made by Aon's credit department in March.

54. Aon's accounting system is self-correcting. (Prester Dep., attached hereto as Exhibit Q, at 48-49.)

RESPONSE : Aon disagrees that the referenced pages 48-49 of the Prester Deposition support Proposed Finding of Fact No. 54. (Prester Dep., at 48-49.)

55. Where an issue arises as to a particular commission booked in a prior year, the compensation to the particular employee is accounted for in the next year. (Prester Dep., at 48-49.)

RESPONSE: Aon disagrees that the referenced pages 48-49 of the Prester Deposition support Proposed Finding of Fact No. 55. (Prester Dep., at 48-49.)

Shetzer Compensation

56. Pursuant to Mr. Shetzer's letter agreement with Aon, he was to receive a salary equal to 30% of the previous year's commission. (Exhibit E.)

RESPONSE: Aon disagrees that the referenced Exhibit E supports Proposed Finding of Fact No. 56. (Exhibit E to the Rule 56 Statement.)

57. Regardless of the agreement, William Prester confirmed that an employee in Mr. Shetzer's position is to receive 30% of the commission revenue attributable to him. (Prester Dep., at 37.) The employee receives a salary through the year, which is to be 75% of the previous year's total compensation. (Prester Dep., at 40.) Then, at the conclusion of the calendar year, a reconciliation is performed and a payment is made in the amount of the difference between 30% of the salesman's total compensation and that salary already received throughout the year. (Prester Dep., at 43-44.)

RESPONSE: Aon disagrees that the referenced pages 37, 40 and 43-44 of the Prester Deposition support Proposed Finding of Fact No. 57. (Prester Dep., at 37, 40, 43-44.)

58. The total revenue attributable to Mr. Shetzer in the year of 1999 was \$2,300,478. (Exhibit G, AS 23, Shetzer Affidavit at ¶4.)

RESPONSE: Aon agrees that in the document marked AS 23 attached as part of Exhibit G to the Rule 56 Statement, and in paragraph 4 of the Shetzer Affidavit, Shetzer indicated that the total revenue attributable to him in the year of 1999 was \$2,300,478, but Aon disagrees with Proposed Finding of Fact No. 58. (Affidavit of John

B. Turcza ("Turcza Affidavit"), attached as Exhibit A to the Supporting Documents for Plaintiff's Response to Defendant's Local Rule 56(a)(3) Statement of Material Facts ("Aon Statement"), at ¶ 3.)

59. The total revenue attributable to Mr. Shetzer in the year of 2000 was \$2,826,021. (Exhibit G, AS 04; Shetzer Affidavit at ¶4.) This amount included the \$300,000 Prime commission at issue. (Id.)

RESPONSE: Aon agrees that in paragraph 4 of the Shetzer Affidavit, Shetzer stated that the total revenue attributable to him in the year of 2000 was \$2,826,021 and that that amount included the \$300,000 Prime commission at issue, but Aon disagrees that the total revenue attributable to Mr. Shetzer in the year of 2000 was \$2,826,021. (Turcza Affidavit, at ¶ 4.) Aon agrees that the total revenue attributable to Shetzer in the year of 2000 included the \$300,000 Prime commission at issue. Aon states that there is no document marked AS 04 attached as part of Exhibit G to the Rule 56 Statement, and therefore disagrees that a document marked AS 04 supports Proposed Finding of Fact No. 59.

60. Based on the 1999 commission revenue, Aon actually paid Mr. Shetzer \$630,000--\$60,143 less than 30% of the total year's commissions. (Shetzer Affidavit at ¶5.)

RESPONSE: Aon agrees that in paragraph 5 of the Shetzer Affidavit, Shetzer stated that "based on the 1999 commission revenue, Aon actually paid me \$630,000--\$60,143 less than 30% of the total year's commissions." Aon agrees that it actually paid Shetzer \$630,000 as compensation for his fiscal 1999 business production, but disagrees that the \$630,000 payment was based solely upon "the 1999

commission revenue,” and disagrees that the payment was \$60,143 less than what was required to be paid to Shetzer. (Turcza Affidavit, at ¶ 3.)

61. Based on the 2000 commission revenue, Aon actually paid Mr. Shetzer \$785,838--\$61,968 less than 30% of the total year’s commissions. (Shetzer Affidavit at ¶6.)

RESPONSE: Aon agrees that in paragraph 6 of the Shetzer Affidavit, Shetzer stated that “based on the 2000 commission revenue, Aon actually paid me \$785,838--\$61,968 less than 30% of the total year’s commissions.” Aon agrees that based upon the 2000 commission revenue it actually paid Shetzer \$785,838.00 as compensation for his fiscal 2000 business production, and that \$785,838 is \$61,968 less than 30% of \$2,826,021, but disagrees that the payment was \$61,968 less than what was required to be paid to Shetzer. (Turcza Affidavit, at ¶ 4.)

62. Based on his letter agreement and Aon policy, Shetzer was to receive \$847,806 in base salary. (Exhibit E; Prester Dep., at 37.) Thus, prior to the April termination, Aon should have paid Mr. Shetzer \$260,863.38 in base salary. (Id.) Aon, however, failed to pay at least \$125,863.38 of that amount. (Id.)

RESPONSE: Aon disagrees that the referenced Exhibit E and page 37 of the Prester Deposition support Proposed Finding of Fact No. 62. (Exhibit E to the Rule 56 Statement; Prester Dep., at 37.) Assuming that Proposed Finding of Fact No. 62 refers to the year of 2001, Aon disagrees with the first sentence of Proposed Finding of Fact No. 62. (Turcza Affidavit, at ¶ 5.) Aon agrees that it did not pay Shetzer the sum of \$125,863.38 for the year of 2001, but disagrees that it had any obligation to do so, and disagrees that Aon should have paid Shetzer \$260,863.38 in base salary prior to Shetzer’s April termination. (Id.)

63. Although a customer changes its broker of record, it continues to make premium payments to the prior broker unless other circumstances dictate. (Prester Dep., at 68.) Thus, although a number of customers switched their broker of record from Aon to Hobbs, Aon continued to receive commission revenue throughout 2001. (Id.)

RESPONSE : Aon disagrees that page 68 of the Prester Deposition supports Proposed Finding of Fact No. 63. (Prester Dep., at 68.)

**PLAINTIFF'S STATEMENT OF ADDITIONAL FACTS
THAT REQUIRE THE DENIAL OF SUMMARY JUDGMENT**

1. Alan Shetzer ("Shetzer"), a Senior Vice President of Aon, worked in its trucking group. (Affidavit of John B. Turcza ("Turcza Affidavit"), attached as Exhibit A to the Supporting Documents for Plaintiff's Response to Defendant's Local Rule 56(a)(3) Statement of Material Facts ("Aon Statement"), at ¶ 2.)

2. At the time of Shetzer's departure from Aon, he had received payment for commissions from the Prime, Inc. underwriting. (Affidavit of William Prester ("Prester Affidavit"), attached as Exhibit B to Aon Statement, at ¶ 3.) That commission, however, had been overstated by \$300,000. (Id.) Accordingly, for his 2000 compensation commission reconciliation, Shetzer was paid \$90,000 over and above the commissions and monies he should have earned from the Prime, Inc. underwriting. (Id., at ¶ 4.)

3. Aon did not receive the \$350,000 commission that Shetzer claimed that he booked for Prime, Inc. (Prester Affidavit, at ¶ 5.) Shetzer is not entitled to be paid on commissions that Aon did not receive. (Id.)

4. Aon paid Shetzer the full amount of compensation owed for 1999. (Turcza Affidavit, at ¶ 3.)

5. Aon paid Shetzer the full amount of compensation owed for 2000. (Turcza Affidavit, at ¶ 4.)

6. Shetzer was actually overpaid for the year 2000. (Prester Affidavit, at ¶¶ 4-5.)

7. For 2001, Shetzer was paid \$135,000 in bi-weekly draw payments. (Turcza Affidavit, at ¶ 5.) However, the net revenue on Shetzer's accounts for 2001 was a negative amount. (Id.) Therefore, based upon the 30% calculation for compensation, Shetzer was overpaid by \$303,720 in 2001. (Id.)

8. Aon announced a reorganization of its business in the latter part of 2000. (Answer, Exhibit A to Defendant's Local Rule 56 Statement ("Rule 56 Statement"), at ¶ 21.)

9. In an e-mail dated April 18, 2001 to various people, including people working for Aon customers and insurance companies, Shetzer wrote: "As most of you know we have been planning to leave Aon since the announcement of the companies [sic] reorganization. Effective tomorrow (4-18) we will be at the Hobbs Group, heading up Hobbs Transportation....joining me will be Dan Morton, Ronna Larson, Mandi Rice, and Denise Renolds. I look forward to working with everyone in the future." (Exhibit H to Rule 56 Statement, ARS000001.)

10. The following trucking companies, currently customers of Hobbs, were Aon customers when Larson was an Aon employee: Acme Truck Line, Bulkmatic Transport, G & P Trucking, Martin Transport, New Prime, Inc., Southeastern, Superior Bulk Logistics and Eagle Transport (Deposition of Ronna Larson, Exhibit B to Rule 56 Statement, at 17-18; Deposition of Amanda Jenkins, Exhibit D to Rule 56 Statement, at 72-73.)

11. Ronna Larson's ("Larson") last day of employment with Aon was April 18, 2001. (Larson Dep., at 55.)

12. Larson, along with other people, met with William Prester ("Prester") on the morning of April 18, 2001. (Larson Dep., at 55-56.) At the time, Prester indicated that he wanted it to be an amicable split between Aon Transportation and the departing employees. (Id., at 56.) Larson told Prester she was resigning. (Id., at 62.) At that point, Larson did not know she was going to be working at The Hobbs Group ("Hobbs"). (Id., at 56, 62.)

13. After the meeting with Prester, still on the morning of April 18, 2001, Larson met with Dan Donavan ("Donavan") of Hobbs, at Hobbs' offices. (Larson Dep., at 58-60.) Also present at that meeting were Shetzer, Denise Renolds, Dan Morton ("Morton") and Amanda Rice (now Amanda Jenkins) ("Jenkins"). (Id., at 60.) Larson had never met Donavan before. (Id.)

14. At the April 18, 2001 meeting with Donavan, Donavan did not tell Larson what her position would be at Hobbs when she started. (Larson Dep., at 61.) At that time, Larson did not know that she was going to be starting work momentarily at Hobbs. (Id.)

15. Larson never discussed with Donavan or any other Hobbs representative, the salary or benefits she would be receiving at Hobbs. (Larson Dep., at 64.)

16. Larson first became aware that she was going to be starting work at Hobbs, on the afternoon of April 18, 2001. (Larson Dep., at 61.)

17. Larson initiated two conversations with Jenkins about Jenkins leaving Aon. (Larson Dep., at 70, 77.)

18. In the first conversation, at a lunch in early to mid March 2001, Larson explained to Jenkins that she and Shetzer were thinking about leaving Aon to start a transportation practice group at another company, that they were not planning on taking their account executive with them, and asked Jenkins if she would be interested in going with them. (Jenkins Dep., at 51.) Larson did not identify the other company. (Id., at 52.)

19. In that first conversation, Jenkins' impression was that Shetzer had been planning to leave Aon for several weeks if not several months. (Jenkins Dep., at 68.) Larson told Jenkins that "we've been working on this for a while." (Id.)

20. In the second conversation, an evening telephone conversation a week or two later, Larson discussed salary and bonus, and eventually bringing other employees on board (including Jenkins' then fiancé Jim Jenkins, now her husband, who was, and still is a vice president in Aon's Transportation Division). (Jenkins Dep., at 53.) Larson told Jenkins that there was somebody else coming over with them, but Larson did not identify the person. (Id., at 54.)

21. In one of the conversations probably the second one, Larson told Jenkins that she had spoken to all of their clients and most were going to come with them. (Jenkins Dep., at 69-70.) Larson did not identify the other company. (Id., at 52.)

22. Jenkins' last day of employment with Aon was April 18, 2001. (Jenkins Dep., at 47; Larson Dep., at 59-61.)

23. Jenkins, along with other people, met with Prester on the morning of April 18, 2001. (Jenkins Dep., at 55-56.) At the time, Prester indicated that Shetzer had told him that Jenkins, and others, were leaving Aon. (Id., at 61.) At that point, Jenkins still did not know she was going to be working at Hobbs. (Id.)

24. Jenkins never had a job interview at Hobbs or any discussions with any Hobbs representative before she went to work there. (Jenkins Dep., at 61.) On April 18, 2001, she never discussed with any Hobbs representative her terms of employment, hours or benefits. (Id., at 64.)

25. Morton had been considering leaving Aon and he sought Shetzer's counsel about what to do. (Deposition of Daniel Morton, Exhibit C to Rule 56 Statement, at 12-13, 17.) Shetzer told Morton he should wait before making any move and that he (Shetzer) was working on a new deal for himself. (Id., at 17.)

26. In mid April, 2001, Shetzer told Morton that employment at Hobbs was a possibility. (Deposition of Daniel Morton, Exhibit C to Rule 56 Statement, at 14.) This discussion took place at the Ram Restaurant in Schaumburg. (Id.) Larson and Rice were also present at that meeting. (Id.)

27. In that meeting, Shetzer said that he was still talking to Aon and also that they could potentially go to work for Hobbs. (Morton Dep., at 15.)

28. About a week before the meeting at the Ram Restaurant, Shetzer met with Morton and told him that he was negotiating with Aon and also talking to other parties and that he might have a job. (Morton Dep., at 18.)

29. Shetzer told Morton that he was in negotiations with Aon and that he was also working on some contingency plans that he could not tell Morton about. (Deposition of Alan Shetzer, Exhibit F to Rule 56 Statement, at 23-24.) In response, Morton told Shetzer to include him in. (Id., at 24.)

30. Morton's last day of employment at Aon was April 18, 2001. (Morton Dep., at 12.)

31. Morton never interviewed with anyone at Hobbs before gaining employment there. (Morton Dep., at 19-20.) The first time Morton spoke with anyone at Hobbs about working there, was either the day before or the day after his last day at Aon. (Id., at 20.)

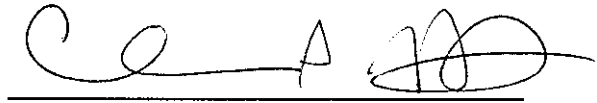
32. Morton found out what his salary at Hobbs was going to be, from Shetzer. (Morton Dep., at 20.) Shetzer and Morton had discussed what Morton's salary was going to be, if Morton went to work with Shetzer on his own, either within Aon or outside of Aon. (Id.)

33. Shetzer had contact with Hobbs representatives starting in February, 2001 about the possibility of Shetzer going to work at Hobbs. (Shetzer Dep., at 19-21.) Shetzer had two meetings with Hobbs. (Id., at 20.) , Hobbs offered Shetzer a job at the second meeting, which was in March 2001 in Atlanta. (Shetzer Dep., at 20.) Shetzer accepted the job offer, tentatively. (Id., at 21.)

34. Shetzer just happened to be in Atlanta at the time of the second meeting with Hobbs. (Shetzer Dep., at 21.)

35. In March 2001, Shetzer had job offers from other companies besides Hobbs. (Shetzer Dep., at 21.) At that time, Shetzer was negotiating with Arthur Gallagher. (Id.)

AON RISK SERVICES, INC. OF ILLINOIS

By: 
One of Its Attorneys

Charles G. Albert
Laurie D. Jaffe
Albert, Whitehead, P.C.
Ten North Dearborn Street
Suite 600
Chicago, Illinois 60602
(312) 357-6300

4. For 2000, Alan Shetzer's compensation was computed as follows:

2000 Net Revenue	\$2,619,461
Compensation level	30%

Total 2000 Comp	\$785,838
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less Salary/draw	-390,000
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Incentive due	\$395,838
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5. For 2001, Shetzer's compensation would be computed as follows:

2001 Net Revenue	(\$562,401)
Compensation level	30%

Total 2001 comp	(\$168,720)
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Salary/draw	\$135,000
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Overpayment to Shetzer	(\$303,720)
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6. For 1998, Alan Shetzer's compensation was computed as follows:

1998 Net Revenue	\$1,736,000
Compensation level	30%

Total 1998 Comp	\$526,800
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less Salary/draw	-300,000
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Adj. for Acme Truck	+6,000
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Incentive due	\$232,800
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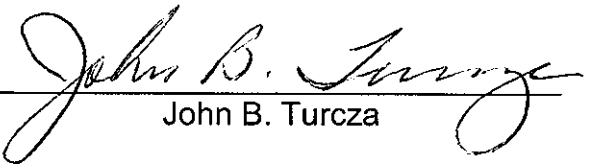
less Ronna Larson pd.	-12,500
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Total Incentive paid	\$220,300
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Due to a mathematical error in the calculation, Shetzer was overpaid by \$6,000.

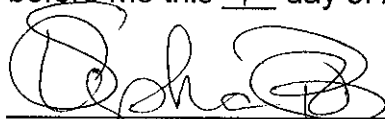
7. If sworn as a witness, I would be able to testify to the matters stated above based upon my personal knowledge.

Further affiant sayeth not.

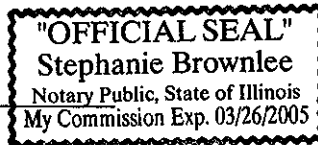


John B. Turcza

SUBSCRIBED AND SWORN to
before me this 1st day of August 2002.



Notary Public



6. On or about April 20, 2001, Panther II Transportation, Inc. appointed The Hobbs Group ("Hobbs") as its exclusive broker with respect to its entire insurance program.


7. If sworn as a witness, I would be able to testify to the matters stated above based upon my personal knowledge.

Further affiant sayeth not.



William Prester

SUBSCRIBED AND SWORN to
before me this 9 day of August 2002.

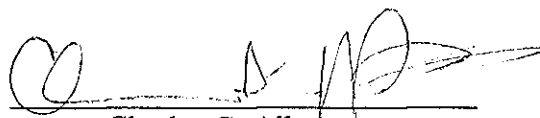


Notary Public



CERTIFICATE OF SERVICE

The undersigned certifies that he caused a true and correct copy of **PLAINTIFF'S RESPONSE TO DEFENDANT'S RULE 56(a)(3) STATEMENT OF MATERIAL FACTS** to be served upon: Daniel J. Collins of Williams, Collins & Bax, P.C., located at 20 North Wacker Drive, Suite 3230, Chicago, Illinois 60606 by placing same in the U. S. Mail at 10 North Dearborn Street, Chicago, Illinois in an envelope with proper postage duly affixed, before the hour of 5:00 p.m. on this 12th day of August, 2002.



Charles G. Albert