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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
Civil Action No. 8:07-CV-02612

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION *
Plaintiff, *
Vs. *
BLOCKBUSTER, INC., *
Defendant. *

DEPOSITION OF CYNTHIA ANN WALES BROWN
STURBRIDGE HOST HOTEL & CONFERENCE CENTER
366 Main Street
Sturbridge, Massachusetts
September 23, 2008
9:45 a.m.

Job No.: 24-138454
Total pages: 1-242
Reported by: Dawn L. Halcisak, Certified Shorthand Reporter

1 Towson office, T-O-W-S-O-N, and T-I-M-O-N-I-M.

2 Q. Ms. Brown, you testified that you
3 joined the Towson office of Express in about
4 September of 2004?

5 A. Right.

6 Q. How is it that you became employed
7 there?

8 A. I was laid off of my job at Express
9 in Worcester. And I contacted the corporate
10 office, spoke with the regional director of the
11 east. She had the east coast at that time, so I
12 knew her from Worcester. And told her that I
13 would be interested in transferring to another
14 facility, another franchise. And she said, "We
15 definitely could use your skills here in
16 Maryland."

17 And, at the time -- my daughter
18 lives there and my grandchildren, so I thought
19 it would be a great opportunity to be close to
20 them and to continue with Express.

21 Q. And do you know how long the
22 Timonim office of Express had been operating

1 prior to your transferring there?

2 A. I believe it was two years, but I'm
3 not sure about that.

4 Q. All right. By the time you
5 transferred there in September of 2004, was the
6 Blockbuster contract -- strike that.

7 Did Express already have a
8 contractual relationship with Venturi to staff
9 the Gaithersburg facility of Blockbuster?

10 A. No, not to my knowledge.

11 Q. What position were you hired into
12 at Express in Timonim?

13 A. As manager.

14 Q. And what were your responsibilities
15 as manager?

16 A. To hire and train inside staff, as
17 well as to oversee the larger accounts, to do
18 some sales and oversee the advertising and
19 recruiting of personnel to fill the positions.

20 I also did some collections, later;
21 not earlier, but later on. That's pretty much
22 generally --

1 Q. Other than collections, which you
2 just testified came later, did you maintain all
3 of these other responsibilities until you left
4 in May of 2000 -- until you left in 2007, I
5 guess, June of 2007?

6 A. I did. In fact, I was also asked
7 to do the same with the Woodlawn branch after
8 their manager was let go.

9 Q. And when did you take on the
10 responsibilities at the Woodlawn branch?

11 A. That would have been in 2006.
12 Approximately a year before we closed, after the
13 Blockbuster account was no longer ours.

14 Q. Okay. Did you have any involvement
15 in negotiating the contract between Express and
16 Timonim and Venturi to staff the Gaithersburg
17 facility?

18 A. The contract -- because we were a
19 subcontractor to Venturi, they dictated the
20 terms by which we would take on that
21 subcontract. And that had been determined by
22 their association, I believe, with the corporate

1 office. They had worked with other Express
2 offices across the country, and that was one of
3 the reasons they had called us to see if we
4 would agree to their terms, and so there was not
5 much negotiation.

6 The only part that I had was to
7 meet with Scott Collen, who was their, I think,
8 regional director. I'm not sure what his title
9 was. Actually, I have his card here. But I met
10 with him to hear what his intention was in
11 opening the Gaithersburg office. It, therefore,
12 became -- then became my account, because
13 it's -- was supposedly going to be a fairly
14 large account.

15 It was out of our area, our normal
16 area of clients, but we were the closest Express
17 office that Venturi could find to work with,
18 that would take the account. There was one
19 other Express office in Columbia, but they would
20 not take the account because they dealt more
21 with the administrative side and did not want to
22 deal with the distribution center so, therefore,

1 the account became ours.
 2 Q. And did you have any dealings with
 3 June Davis prior to getting involved in the
 4 Blockbuster account?
 5 A. No. I meant June only after we had
 6 agreed to. Actually, she had sent me an e-mail.
 7
 8 (Brief interruption)
 9
 10 THE WITNESS: She had sent me an
 11 e-mail or sent an e-mail to Express asking
 12 if we would be interested. And there
 13 is -- I brought that e-mail with us -- in
 14 meeting with Scott Collen to discuss the
 15 opening of this particular facility in
 16 Gaithersburg.
 17 Q. (By Mr. Speights) All right. And
 18 did you report to Mr. Lenear? Is that how you
 19 pronounce his name?
 20 A. Lenear.
 21 Q. Lennier (phonetic)?
 22 A. Yes.

1 Q. Did you report to him in your
 2 capacity as the manager?
 3 A. I did.
 4 Q. All right. And what was
 5 Mr. Lenear's responsibilities as it related to
 6 the Blockbuster facility in Gaithersburg?
 7 A. He did not really have much direct
 8 contact with those people at the facility or
 9 with Venturi or with Blockbuster, those
 10 Blockbuster people, such as Scott, until the
 11 very end when we did the investigation. He was
 12 involved with that, the day that we went down to
 13 do the investigation. But, other than that, he
 14 was not particularly involved with any of the
 15 accounts directly.
 16 Q. Okay. How often did you interact
 17 with the Express corporate office when you were
 18 the manager for the Timonim office?
 19 A. On a daily basis. They have what
 20 we call an assistance center, which is set up
 21 and their only purpose is to answer questions or
 22 direct calls to those who can answer questions

1 concerning any number of issues. Payroll
 2 issues, any kind of staffing issues, so I
 3 probably called them once, twice, three times a
 4 day.
 5 Q. Was payroll handled out of the
 6 corporate office?
 7 A. We transmitted -- we had a way,
 8 through the computer, to transmit the payroll
 9 figures to the corporate office. They, then,
 10 would cut the checks and mail them to us.
 11 Q. All right.
 12 A. Actually, they didn't mail them to
 13 us. They do not mail them to us. They -- we,
 14 then, printed them out, through the computer,
 15 after they had processed, and then we would
 16 either mail them out or deliver them in person.
 17 Mr. Lenear delivered a lot of the checks to
 18 companies, personally.
 19 Q. What was your understanding of what
 20 you were going to be required to do in
 21 connection with the Blockbuster account in the
 22 Gaithersburg facility?

1 A. My understanding was that I
 2 would advertise for and recruit and process. By
 3 that I mean, register, do background checks and
 4 hire those people that were appropriate, meaning
 5 that they had the skills to fill the
 6 requirements of the job, and that I would be in
 7 touch with the manager, whoever that was going
 8 to be, which turned out to be Linc Barrett, on
 9 an ongoing basis, and that I would visit the
 10 facility to make sure that everything was
 11 proceeding as the client would have wanted it.
 12 And when I say "client" now, I'm
 13 talking about Blockbuster, even though our
 14 client actually was Venturi.
 15 Q. Did Blockbuster have any
 16 involvement in the recruitment or hiring of
 17 associates or the Gaithersburg facility?
 18 A. They were -- I did not have the
 19 option of hiring the leads. The manager and/or
 20 Blockbuster -- and I don't know how that
 21 worked -- hired the leads. I was to hire any of
 22 the distribution clerks or warehouse workers,

1 basically. So -- and I was not to hire the
 2 manager either. Blockbuster also did that.
 3 Q. Once the distribution clerks or
 4 warehouse workers were hired, did they go
 5 through any type of orientation or training for
 6 the work at Blockbuster?
 7 A. All of the orientation and training
 8 was done at the facility by Linc Barrett and the
 9 leads.
 10 Q. And do you know what types of
 11 things were covered in the orientation and
 12 training that was done by Linc Barrett and the
 13 leads?
 14 A. I know vaguely, because I was not
 15 present for those. I know that they were told
 16 what was expected of them, as far as the hours
 17 that they would be working, the need to be
 18 flexible for any overtime work when there was a
 19 high volume of the discs that had to be sent
 20 out, and that they would be trained on various
 21 parts of the process so that they would be able
 22 to do more than just one part of the process.

1 They could be interchanged as the need arose.
 2 Q. Did Express provide the
 3 distribution clerks and warehouse workers with
 4 any type of employee handbook?
 5 A. Yes.
 6 Q. Was there any training or
 7 orientation given by Express to the warehouse
 8 workers and distribution clerks about the things
 9 in the employee handbook?
 10 A. That was reviewed with them, by
 11 myself, during the time that they registered,
 12 which was the process being that they would fill
 13 out the application with myself being present,
 14 at that time, at the facility.
 15 We would have a separate room that
 16 they would come into and fill out the
 17 application, and then I would meet with them, on
 18 a one-on-one basis, and go through the
 19 application and the handbook.
 20 Q. And, in terms of going through the
 21 handbook with them, I mean, how much time would
 22 you spend in going through the handbook with

1 them?
 2 A. I would say the whole process with
 3 reviewing the application and going through the
 4 handbook and doing the I9s would be
 5 approximately 20 minutes to maybe a half an
 6 hour, but closer to 20 minutes.
 7 Q. And did the handbook contain any
 8 type of sexual harassment policy or equal
 9 employment policy?
 10 A. Yes. It had a whole section on it.
 11 Q. And did you go over that section
 12 with new-hires?
 13 A. I did.
 14 Q. And generally, what would you tell
 15 them about that?
 16 A. I would tell them if there were any
 17 type of discriminatory actions or remarks that
 18 they observed that they were to report it to me
 19 immediately, and that I would deal with it with
 20 them.
 21 MR. SPEIGHTS: Please mark this for
 22 me.

1
 2 (Exhibit 2, Express Personnel
 3 Handbook, marked)
 4
 5 Q. (By Mr. Speights) Ms. Brown, I'm
 6 just showing you what has been marked as
 7 deposition Exhibit 2. Is this a copy of the
 8 Express Handbook that you were just testifying
 9 about?
 10 A. Yes, it is.
 11 Q. Okay. If you'll turn to page 3, I
 12 think it's E.E.O.C. 00169 at the bottom?
 13 A. Okay. Yes.
 14 Q. The top of that page, is that the
 15 sexual harassment policy that you would go over
 16 with the new-hires?
 17 A. Yes.
 18 Q. Did you ever, during those new-hire
 19 meetings, did you ever direct any of them to
 20 contact Blockbuster management if they had any
 21 complaints of sexual harassment?
 22 A. No, I did not.

1 Q. Okay. Were there associates at the
2 Blockbuster facility in Gaithersburg who were
3 hired directly by Blockbuster?

4 A. They weren't hired by Blockbuster,
5 because we were the hiring employer. But they
6 were -- I would get a call from Linc Barrett
7 saying so-and-so has done a great job and she
8 says or he says that his cousin has done the
9 same type of work and I'd like to have you
10 interview that particular person when you come
11 down.

12 I would always do a phone interview
13 to begin with and then followed up by an
14 interview at the facility, and at the time that
15 they made application. It was not a "given"
16 that they would have the job, anybody that I was
17 recruiting would have the job until I spoke with
18 them, interviewed them, looking for a certain
19 background experience or just an attitude that I
20 knew they would work well with the team and be
21 able to do the job.

22 Q. All right. Now, you testified

1 that, at least with respect to the complaints by
2 associates for harassment or discrimination, you
3 would forward those statements directly to
4 Venturi?

5 A. Right.

6 Q. Because you were in a contract
7 relationship with then?

8 A. Right.

9 Q. But there were obviously some
10 things that you were able to deal directly with
11 Blockbuster; is that right?

12 A. Not really, until the very end of
13 the time, immediately prior to the
14 investigation, when Scott Collen and Barry
15 Francis were involved, I may have had a
16 conversation, at some point, along the way. But
17 my recollection is that almost always I had to
18 be through Venturi.

19 And Venturi would ask me to send
20 this or that, whatever report that I had. I
21 would speak directly to June Davis.

22 Q. All right.

1 A. She was my contact. So at the very
2 end, before Scott and Barry arrived to
3 facilitate this interview and this
4 investigation, there were some direct calls
5 between myself and Scott and Barry to
6 logistically get this arranged.

7 Q. But prior to that time -- and we
8 will talk a little bit about that investigation
9 shortly -- but prior to that investigation, you
10 were dealing primarily with June Davis?

11 A. With June, yes.

12 Q. And was it your understanding that
13 she was then dealing with Blockbuster directly?

14 A. Yes. And she would tell me that
15 she had spoken with Scott. "Scott would like
16 you to forward this to me and I will forward it
17 to him."

18 Q. Once you got started organizing the
19 investigation with Barry Francis and Scott
20 Collen, would it be safe to say that you had
21 more directed interaction with them for the
22 investigation than after that investigation?

1 A. Yes. Yes. Now, that's not to say
2 that I never spoke to Scott. There may have
3 been a conversation here or there but, generally
4 speaking, it was always through June Davis, and
5 that was part of our agreement in the contract.

6 Q. Over the course of the period that
7 you were responsible for managing, sort of, the
8 Gaithersburg -- I would call it the relationship
9 with Blockbuster and Gaithersburg, how often
10 would you visit facility?

11 A. I would try to go down once a week.
12 I didn't always make it once a week. Sometimes,
13 it was every two weeks, but during the times
14 when I was hiring, when they were ramping up as
15 they got busier, I would try to go down once
16 a week to interview new perspective employees.

17 Q. And would you talk with any of the
18 associates when you were there?

19 A. I did. That was part of what I did
20 when I was there. I would try to meet with
21 them, many times, in an office with the door
22 shut, so that I could find out how they were

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1 doing, how things were going, that they could
2 speak freely without management or co-workers
3 hearing them.
4 I also would speak with them when
5 they were on the job, and it was sometimes
6 challenging to get them off of the job, because
7 it was a process by which one person's duties
8 were affecting someone else's. So it was a
9 whole line, like a table, of people working. If
10 you took one out, it holds up some of the other
11 things that were going on.
12 Q. Sure.
13 A. So a lot of times, I would just go
14 around to them where they were working and speak
15 with them and ask them how things were going.
16 Q. Now, I understand that there were
17 quite a few of the associates who either spoke
18 Spanish as a first language or I believe there
19 were some who spoke French as a first language.
20 How were you able to communicate
21 with those employees?
22 MR. PHILLIPS: Object to the form.

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1 You can answer.
2 THE WITNESS: In order to be hired
3 by Express, you had to be able to fill out
4 the application in English, so you had to
5 be able to read English and speak some
6 English, as well as write some English.
7 And that was primarily due to the
8 fact that there was not a Spanish or a
9 French-speaking manager or lead that was
10 on -- at the facility, so they needed to
11 understand for safety purposes,
12 instructions in English, as well as to be
13 able to do the job.
14 So most everyone there could speak
15 or understand, but their first language
16 may have been French. It may have been
17 Spanish.
18 Q. (By Ms. Speights) Did you ever
19 have problems in communicating with workers
20 whose first language was Spanish or French at
21 the facility?
22 MR. PHILLIPS: Same objection.

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1 Go ahead answer.
2 THE WITNESS: I wouldn't say
3 "problems." It was challenging, because
4 sometimes they would not be able to say
5 the words I think that they wanted to
6 or -- for instance, as far as the sexual
7 harassment questions that I would have
8 concerning how they were being treated,
9 they would many times use the word
10 "disrespect. They all knew the word
11 "disrespect." So I would ask them: "How
12 is someone disrespecting you?" And many
13 times, they would have a hard time putting
14 into words exactly what they would like to
15 have said, and what they would have said
16 in their own language.
17 In the case of Dolores Gonzales,
18 she spoke very little English.
19 Lolita, many times, would ask her
20 questions in Spanish and she would respond
21 to Lolita in Spanish, and so I
22 communicated with her, sometimes, that

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1 way.
2 Q. (By Mr. Speights) Are you able to
3 speak any Spanish?
4 A. Very little, "si."
5 Q. Are you able to speak any French?
6 A. Very little, "oui."
7 Q. Once you started getting complaints
8 from workers, did you ever consider getting an
9 interpreter or translator to assist you in
10 doing the investigation?
11 A. No.
12 Q. Why not?
13 A. That was not an option that --
14 Q. Why wasn't it an option?
15 A. -- that I think Mr. Lenear would
16 have entertained. And I don't believe that
17 there was anyone there that was so unable to
18 speak English that I would not have been able to
19 speak to them, to some degree, as to what they
20 wanted to tell me.
21 Q. Did you have any contact with the
22 leads at the facility, the group leads?

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1 A. Page 10? Is that right?
2 Q. Yes.
3 A. "12/28/2004," yes.
4 Q. "Linc Barrett, Appointment call -
5 AL Sheppe." Do you see that?
6 A. Right.
7 Q. "Toured the facility." Do you see
8 that?
9 A. Yes.
10 Q. It says in that results column,
11 "Did not discuss Niema because I need to obtain
12 a signed document from her stating the
13 allegations."
14 A. Right. She --
15 Q. I didn't ask the question yet.
16 A. All right. Go ahead.
17 Q. What do you know about that entry?
18 A. That was during the time that I was
19 away, I was not in the office, and Amy took the
20 statement from Niema.
21 Q. Without looking at any of the
22 documents, sitting here today, do you remember

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1 what Niema's complaints were?
2 A. It was -- she has been actually let
3 go. And after she had been let go, my
4 understanding was that she called Amy and said
5 that she thought she had been sexually harassed,
6 and I do have that statement.
7 Q. All right. Were you involved in
8 taking the statement from Niema Fields?
9 A. No, I had no involvement with
10 Niema's statement at all.
11 Q. Was that Amy that handled that
12 situation?
13 A. Yes.
14 Q. Do you know if Amy passed the
15 information, concerning Niema Fields, on to June
16 Davis?
17 A. That was my understanding.
18 Q. Do you have any personal knowledge
19 of that?
20 A. I do not.
21 Q. Do you know if the Niema Fields'
22 complaint was ever discussed with Mr. Barrett?

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1 MR. PHILLIPS: Object to the form.
2 THE WITNESS: Ask me the question
3 again, please.
4 Q. (By Mr. Speights) Do you know if
5 the Niema Fields' complaint was ever discussed
6 with Mr. Barrett?
7 A. I do not know whether it was or
8 not.
9 Q. Do you know if it was ever
10 discussed with Mr. Collen?
11 A. I do not know that either.
12 Q. Were you aware of any complaints of
13 sexual harassment prior to Niema Field's
14 complaint?
15 A. No.
16 Q. Were you aware of any complaints of
17 discrimination prior to the sexual harassment
18 complaint made by Ms. Fields?
19 A. No.
20 Q. After Ms. Fields's complaint, when
21 was the first time that you became aware of a
22 sexual harassment complaint by an Express

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1 associate at the Gaithersburg facility?
2 A. Michelle Despertt, she also was
3 discharged. And the -- again, the reasons for
4 the discharge were that they either did not --
5 they weren't making the numbers or because of
6 tardies or absences, that type of thing,
7 excessive.
8 Q. Okay.
9 A. And following her discharge, she
10 had sent me an e-mail saying that she felt she
11 had been sexually harassed and that was one of
12 the reasons that she was let go.
13 Q. And do you recall, without looking
14 at any documents, the time period for that
15 complaint?
16 A. I have the document here, but I
17 can't recall, off the top, no.
18 Q. All right. When was the first time
19 you heard of a complaint of either race or
20 national origin, discrimination, from an
21 associate at the Gaithersburg facility?
22 A. You know, again, because it was

1 three years ago, and this is only one of my many
2 clients, it's difficult for me, unless I look
3 back at the notes and at the log here, to know
4 exactly when it was. But I would say we began
5 staffing in November of 2004, and I would say by
6 February of -- February, the middle of February,
7 perhaps, I started hearing some things,
8 but -- but --

9 Q. Go ahead.

10 A. But when I would go down to the
11 Gaithersburg facility, I found that people were
12 very afraid to speak out. And I had a very
13 difficult time even getting them to tell me
14 something verbally, never mind writing it down,
15 which I insisted that they do. So, you know, I
16 can't tell you. I just don't know the dates. I
17 would say February.

18 Q. All right. And when you first
19 started hearing something, which you're
20 describing as complaints, did you let Ms. Davis
21 know?

22 A. Yes. Every word.

1 Q. So if you heard the complaints in
2 mid-February, 2005, you would have let her know
3 at that time?

4 A. Absolutely.

5 Q. Take a look at page 9 of this log.
6 It's E.E.O.C. 00057.

7 A. Yes.

8 Q. And if you'll look at the entry for
9 March 7, 2005.

10 A. Okay.

11 Q. Do you see that?

12 A. Yes.

13 Q. And that's says "Spoke with Linc.
14 Spoke with June Davis and spoke with Scott
15 Collen re: Sex. harassment charges made by
16 Michelle Desperett."

17 A. Yes.

18 Q. Is that the first time
19 that -- strike that.

20 Would that have been when you told
21 Ms. Davis about the Michelle Desperett complaint?

22 A. Now, depending on when Michelle

1 made the complaint and, again, I have it here,
2 and it's in the e-mail. So that the exact date
3 is whenever that date was, is the date I would
4 have told June. And I would have sent her a
5 copy, by the way, of the complaint.

6 Q. All right. We can come back to
7 that.

8 A. I have that right here.

9 Q. What date was it?

10 A. March 7th. It was March 7th.

11 Q. So March 7th is what appears on
12 page 9, correct?

13 A. Yes.

14 Q. All right. Take a look at page 8.

15 A. Okay.

16 Q. It's April 15, 2005, the first
17 entry. Do you see that?

18 A. April --

19 Q. April 15, 2005, "Lincoln Barrett,
20 Appointment call - CA Brown, Met with new
21 associates; registered, interviewed them. Met
22 with Say Wing; she is reluctant to write Sexual

1 Harassment Info cus [sic] doesn't want to lose
2 her job." Do you see that?

3 A. Yes.

4 Q. What do you recall about meeting
5 with Say Wing on April 15, 2005?

6 A. Say Wing was one of the best
7 workers and very fast and very -- she loved her
8 job, loved her job very much, and was very
9 afraid she would lose it if she made any
10 complaints.

11 I had her into my office and I said
12 to her that I would make sure that she did not
13 lose her job, because of the complaint, if she
14 would please write something out. I even asked
15 her to write it in French. She spoke French,
16 and that I would have it transcribed to English.
17 She would not. She refused. She said that she
18 was afraid that she would lose her job, and I
19 told her that that was not the case. But she
20 never would. She never would write anything
21 down.

22 Q. Going back to the complaint that

1 came in from Michelle Desperтт?

2 A. Yes.

3 Q. After you notified Mr. Davis about

4 the complaint, did you conduct any investigation

5 of the Michelle Desperтт complaint?

6 A. With Blockbuster, you mean?

7 Q. No. Did you conduct any

8 investigation, putting aside Blockbuster?

9 A. I sent it to June, who was supposed

10 to send it to Blockbuster. I don't remember, at

11 this time, what occurred or the time period it

12 occurred in.

13 I believe, my recollection is that

14 there were some other things I had been hearing

15 when I went down to Gaithersburg that I had

16 called June about, and that it was in the

17 process, that this would be followed up by

18 Blockbuster. And, again, time-wise, right now,

19 I'm not remembering exactly with ensued.

20 Q. Sure. Putting aside Blockbuster,

21 do you recall if you conducted any investigation

22 of Ms. Desperтт's complaint at that time?

1 A. Not with Blockbuster. I was not --

2 that was not something that I was supposed to be

3 doing, according to Venturi. Venturi wanted to

4 handle any of the complaints directly with

5 Blockbuster themselves. So the other fear that

6 I had was that if I spoke with Scott -- not

7 Scott, Linc Barrett -- that some of these people

8 that had made the complaints would be fired.

9 And I did not want that to happen, especially

10 since I had told them that I would not -- I

11 would make sure that they weren't fired if they

12 told me what they knew.

13 So, you know, it was really -- I

14 knew I had to go through Venturi, and I knew I

15 wanted Blockbuster to proceed with investigating

16 anything, rather than my going to Linc or the

17 leads. The complaints had so much to do with

18 the leads, in particular, and these people were

19 very intimidated.

20 Q. So prior to the investigation that

21 you did with -- I think it was you testified

22 with Scott Collen and Barry Francis, which it

1 was later --

2 A. Yes.

3 Q. -- was it your understanding that

4 Ms. Davis was going to have Blockbuster

5 investigate those complaints?

6 A. Yes.

7 Q. Prior in that later investigation?

8 A. Yes.

9 Q. And did Ms. Davis advised you of

10 that?

11 A. Yes, I believe she did. And I

12 don't know exactly when that was, but that was

13 my understanding.

14 Q. If you'll take a look at page 7 of

15 Exhibit 3, E.E.O.C 00055. Do you have that?

16 A. I do.

17 Q. All right. And if you'll look at

18 the entries -- the first entry for "5/16/2005."

19 Do you see that?

20 A. Yes.

21 Q. In the results column it says

22 "LMVM," what does that mean?

1 A. Left message, voicemail.

2 Q. All right. "re follow up on

3 15/13's interview w Barry Francis and Scott

4 Collen in Gaithersburg."

5 A. Yes.

6 Q. Is that entry related to the

7 investigation that we just talked about that you

8 did with Mr. Collen and Mr. Francis?

9 A. Yes.

10 Q. All right. And if you look at the

11 entry before that, the May 17, 2005, "Scott

12 Collen"?

13 A. Yes.

14 Q. Look over at the results there.

15 A. Yes.

16 Q. The information that's in the

17 results, is this what Scott told you during the

18 call?

19 A. Yes.

20 Q. And that is that "Barry Francis,

21 HR, said not enough to remove TAJ immediately,"

22 correct?

1 A. That's correct.
 2 Q. "But both TAJ and Linc are under
 3 final warning status"?
 4 A. Right.
 5 Q. And you got this information
 6 directly from Mr. Collen?
 7 A. I did. And can I add something to
 8 that?
 9 Q. Sure.
 10 A. At the time I spoke with Scott on
 11 that call -- and I remember this very well -- I
 12 questioned Scott's decision not to proceed with
 13 any further action, which was really stepping
 14 outside of what I, as the -- they being my
 15 client, I was stepping outside of my boundry,
 16 but I was astounded because of what I had heard
 17 in the interviews that Barry Francis and I
 18 conducted.
 19 And I asked Scott why he would
 20 wait. And Scott said it was because Barry
 21 wanted to make sure that things were done in a
 22 way that he would not have any problems with

1 letting them go, if they needed to be, and that
 2 there was a process that Barry was going to be
 3 in charge of.
 4 Q. Okay. If you'll turn to page 5 of
 5 Exhibit 3, E.E.O.C. 00053. Do you see that?
 6 A. Yes.
 7 Q. And there's a -- the first June 29,
 8 2005, entry. It says "Scott Collen, Other call
 9 - telephone CA Brown, Spoke with Scott." Do you
 10 see that entry?
 11 A. I do.
 12 Q. And it says "He asked me to e-mail
 13 Barry directly and forward Michelle Despertt's
 14 e-mail to him, with a copy to Barry and June."
 15 What do you recall about that entry?
 16 A. You know, I don't recall much more
 17 about it than what it actually says there. It's
 18 one of the few times that I spoke to Scott and
 19 that was, you know -- that was concerning
 20 Michelle's e-mail, but I don't really remember a
 21 lot more than that, than what it says.
 22 Q. Ms. Brown, do you remember when --

1 did Ms. Lolita Gonzales make any complaints to
 2 you about her time at the Gaithersburg facility?
 3 A. She did.
 4 Q. When did she first complain to you?
 5 A. Again, I would have to look.
 6 Time-wise, I'm not remembering dates at this
 7 point. I do have that complaint and, I believe,
 8 it was in April, but I can't be sure.
 9 Q. And is that one of the documents
 10 that you brought with you?
 11 A. Yes.
 12 Q. Can you put your hand on that
 13 quickly?
 14 A. Just a second.
 15 That was for 18/05 that I wrote
 16 here.
 17 Q. And what are you looking at?
 18 A. I am looking at page 27.
 19 Q. Of what?
 20 A. Of the sexual -- the correspondence
 21 for sexual harassments claims, page 27.
 22 Q. Oh, you have them numbered. That's

1 great.
 2 A. Yes. I went through and did that,
 3 yes.
 4 MR. SPEIGHTS: Off the record.
 5
 6 (Off record discussion)
 7
 8 (Exhibit 4, Blockbuster documents,
 9 collectively marked)
 10
 11 Q. (By Ms. Speights) Ms. Brown, would
 12 you just identify, for the record, what Exhibit
 13 4 is that we've just marked?
 14 A. The whole collections are the
 15 documents that were in the Blockbuster file
 16 that -- concerning the sexual harassment claims
 17 and some of the contracts, investigations --
 18 contracts with Venturi and investigations of the
 19 claims.
 20 Q. All right. I believe I had asked
 21 you about the complaint made by Lotita Gonzales
 22 and when that was; is that correct?

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1 look at your exhibit -- the document you
2 produced in Exhibit 4, and go to the complaint
3 section, page 13.
4 A. Exhibit 4.
5 Q. That's your big stack. I'll come
6 over there. It will make in much easier.
7 A. This is Exhibit 4.
8 Q. This is Exhibit 4, Page 13, of the
9 complaint section; is that correct?
10 A. Yes.
11 Q. And is the original complaint that
12 came in from Michelle Despertt to you in March
13 of 2005?
14 A. Yes.
15 Q. Okay. And take a look at page 14.
16 A. Yes.
17 Q. Again, of Exhibit 4.
18 A. Yes.
19 Q. That's your response back to
20 Michelle?
21 A. Right.
22 Q. And what were you conveying to her

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1 at that point in time?
2 A. That the investigation was ongoing
3 concerning her complaint, and that I did not
4 have anything to get back to her on it, because
5 it was still ongoing.
6 I, also, was -- she was supposed to
7 come in with a picture ID that she had never
8 given me, so that was the other thing that I was
9 writing her about.
10 Q. And why was she supposed to come
11 in? To give you a picture ID?
12 A. Right. Because she had asked me
13 originally for assistance in finding her another
14 position in the Columbia area and I said I would
15 call my Columbia office, the Express Columbia
16 office, about her and that she was looking for
17 work and about her qualifications and give her a
18 reference or a good reference if she would,
19 please, bring in that ID, because I couldn't
20 continue with her unless I had that picture ID.
21 Q. Okay. You said that you told
22 her -- at least in this e-mail, page 14 of

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1 Exhibit 4 -- that you hadn't concluded anything
2 yet with the investigation?
3 A. Right.
4 Q. What was your understanding of who
5 was doing the investigation?
6 A. Blockbuster Venturi, through
7 Venturi to Blockbuster.
8 Q. So it was your understanding, from
9 Ms. Davis, that Blockbuster was investigating
10 the Michelle Despertt complaint?
11 A. Right.
12 Q. And did you ever hear anything
13 about the conclusion of that investigation?
14 A. I don't recall at this point. I
15 had many conversations with June Davis. I don't
16 recall what she would have said.
17 Q. And did you ever pass on to
18 Ms. Despertt the results of any investigation?
19 A. No, I did not.
20 Q. And why not?
21 A. Because I believed it was still
22 ongoing. We still -- I don't believe, had had

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1 the -- or did we? No, we had this in May. We
2 had had the investigation -- I don't recall. I
3 just do not recall that at this time.
4 Q. Did you, Mr. Francis, and
5 Mr. Collen look in the Michelle Despertt
6 allegations when you conducted the investigation
7 in May?
8 A. It was part of the agenda that I
9 had brought down to the meeting that we had
10 prior to the investigation, but I was told that
11 we were conducting the investigation with those
12 people that were then-employ, not those people
13 that had not been employed for a period of time.
14 They had been let go and then complained, that
15 we were not going to proceed with that
16 investigation. We were just going to
17 concentrate on those people that we were going
18 to see and who had been making allegations, who
19 were still with Blockbuster or who had been just
20 recently let go. I don't think recently let go,
21 just that were still with Blockbuster.
22 Q. And who told you that?

<p style="text-align: right;">Page 105</p> <p>1 A. I believe it was Barry Francis. 2 Q. And was that during the course of 3 the meeting that you had before going out on the 4 investigation? 5 A. Right. Right. 6 Q. All right. Did you hear from 7 Ms. Desperтт after the investigation in May that 8 you did with Mr. Francis and Mr. Collen? 9 A. Well, this is 6/29, so yes. This 10 would have been an e-mail that I received 6/29. 11 Again, I don't recall, at this 12 point, what happened that I would not have 13 gotten back to her or would have written to her 14 that the investigation was still ongoing. 15 Although, the -- there had been no 16 decisive actions taken by Barry or Scott, at 17 that time, with the leads or with Linc. 18 Q. At what time are you talking about? 19 A. The time that Michelle e-mailed me. 20 Q. But, by that time, Mr. Barrett and 21 Mr. Johnson has been placed on some type of 22 administrative action, hadn't they?</p>	<p style="text-align: right;">Page 107</p> <p>1 numbers, et cetera. But, again, he did 2 not go into details with me on that. 3 Q. (By Ms. Speights) Did he tell you 4 that they were giving them some type of warning, 5 at that point in time, after the investigation 6 in May? 7 A. I'm not sure if they used the word 8 "warning" or not. 9 Q. All right. 10 A. I just don't recall it, unless it's 11 in the notes, then yes. But I can't recall. 12 Q. But if it's in your notes that they 13 said they were getting warnings, they would have 14 told you that? 15 A. Yes. Anything that's in the notes 16 is what I would have heard from them, yes. 17 Q. Okay. Take a look at Exhibit 6. 18 Exhibit 6 is an e-mail, at least at the top, 19 from Scott Collen to you, dated June 21, 2005? 20 A. Right. 21 MR. PHILLIPS: It's out of order. 22 MS. SPEIGHTS: Are they out of</p>
<p style="text-align: right;">Page 106</p> <p>1 MR. PHILLIPS: Objection. Leading. 2 MS. SPEIGHTS: I think I can lead 3 in a deposition. 4 MR. PHILLIPS: I disagree. 5 But you can answer. 6 THE WITNESS: They had been 7 given -- the only thing that I knew of -- 8 okay -- that they had been asked to do was 9 to meet certain requirements of 10 production. I never saw or was told what 11 other stipulations they had or what other 12 steps they had to go through in order to 13 maintain their jobs. 14 The only thing I received -- and I 15 brought it with me -- is the action plan 16 that they were supposed to follow. It 17 mentions nothing about retraining or 18 anything like that, which again was part 19 of my surprise when Scott told me that 20 Barry was not going to follow up with 21 letting them go immediately, that there 22 was a plan that they had to met, as far as</p>	<p style="text-align: right;">Page 108</p> <p>1 order? 2 MR. PHILLIPS: What's the BATES 3 No. on that, 1611? 4 MS. SPEIGHTS: 1611. 5 MR. PHILLIPS: Okay. 6 Q. (By Ms. Speights) Do you recognize 7 this series of e-mails? 8 A. I do. 9 Q. Does this, in any way, refresh your 10 recollection as to what was going on in June of 11 2005, related to Michelle Desperтт? 12 MR. PHILLIPS: I'm sorry, can I 13 interrupt? Do you have an extra copy of 14 that one? I don't have that one. 15 MS. SPEIGHTS: Yes. 16 MR. PHILLIPS: Thank you. 17 Q. (By Ms. Speights) What do you 18 recall was going on with Michelle Desperтт at 19 this time? 20 A. I recall the e-mail that I wrote 21 back to her, stating that we had conducted an 22 investigation and that action had been taken. I</p>

1 called -- I remember calling my Express H.R.
2 department to ask how I should respond to her,
3 and this is what they told me to write to her,
4 that we had made an investigation and that I
5 wasn't at liberty to discuss any of the results.

6 Basically, I didn't know what the
7 results were, because, again, I was not told by
8 Scott or Barry exactly what the process was that
9 these leads and managers had to go through in
10 order to keep their jobs or whatever, so I
11 didn't know. There was nothing more for me to
12 tell Michelle.

13 Q. (By Ms. Speights) Did you ever
14 have any conversations with Michelle Despertt
15 after these e-mails in June?

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

17 Q. Were you ever contacted by any
18 attorney representing her?

19 A. No.

20 Q. Let's take a look at what's been
21 marked as Exhibit 7, VEN 002?

22 MR. PHILLIPS: Thank you.

1 THE WITNESS: Yes.

2 Q. (By Ms. Speights) What is the
3 document, Ms. Brown?

4 A. This is a document -- an e-mail
5 that I sent to June Davis, on March 15th, that
6 tells her about what had transpired with the
7 women who worked at the Gaithersburg facility,
8 as to the -- I believe this was concerning
9 primarily a complaint that was made by Say Wing,
10 who spoke very little English. She spoke French
11 mostly.

12 Q. And was that a complaint that you
13 got from Say Wing during one of your visits at
14 the facility?

15 A. It would have had to have been,
16 because I didn't speak with her on the phone. I
17 believe once I spoke with her on the phone and
18 it was very difficult, so I believe it was in
19 person that we spoke.

20 Q. All right.

21 A. She was the one that was very
22 hesitant to writing anything down. In fact, I

1 never got a statement from her.

2 Q. It says in the second paragraph, "I
3 have spoken to all of the women who speak
4 English, with the exception of Tawana Spears."

5 A. Yes.

6 Q. Do you recall approximately how
7 many women you spoke to, at that point, when you
8 were referring to those that speak English?

9 A. I would say perhaps five or six,
10 but I'm guessing at this point, though. I'm
11 really guessing.

12 Q. And why were you speaking with
13 these women, at this point in time, March 15,
14 2005?

15 A. I think because Say Wing had given
16 me some information when I was down there.
17 Again, I'm not recalling exactly. It was just
18 too long ago for me to recall the conversation,
19 but there had to have been a reason why I was
20 calling the women to get information from them
21 or ask them some questions. It had to be
22 something to do with what I had been told by

1 someone there. And my guess is that it was Say
2 Wing. Although, again, I never did get a
3 statement from her.

4 Q. Okay. It says "Those individuals I
5 did speak with said that everything was going
6 well. They were not having any problems."

7 A. Yes.

8 Q. Now, when you're referring to
9 "Those individuals that I did speak with," are
10 you talking about the women who speak English or
11 are you talking about more than those women?

12 A. No. It would have been probably
13 the women that spoke English. But remember,
14 most everyone spoke some English. It was a
15 matter of how expressive and detailed they could
16 be or not be, according to how much English they
17 spoke, but everyone spoke some English.

18 So other than speaking with Say
19 Wing on the phone, which was very difficult, or
20 Dolores Gonzales, most everyone I spoke with
21 spoke English well enough to be understood, and
22 to understand what I was saying.

1 Q. What did you mean by that?
 2 A. I had mentioned to June, many times
 3 in conversations, that Linc's very impetuous
 4 actions and his failure to really look into a
 5 situation before he made a decision on it was
 6 detrimental to the team, as a whole, and that
 7 was what I meant by that. That was an example
 8 of his inability to really look into something
 9 before he made a decision.

10 Q. Did you ever have any discussions
 11 with Scott Collen about Mr. Barrett's management
 12 style that was poorly affecting the employees,
 13 that you believed was poorly affecting the
 14 employees?

15 A. I don't recall speaking to Scott
 16 directly about it. I, again, part of the
 17 contract with Venturi was that I would -- was to
 18 go directly through -- I was to go through
 19 Venturi and not go directly to Scott about
 20 anything. Unless she would say to me "Scott is
 21 expecting an e-mail from you or a call from
 22 you," or "Scott's going to call you." And, at

1 that time I would speak to him, but pretty much
 2 I went through Venturi.

3 Q. Okay. Why don't you look at
 4 Exhibit 13? You're looking at 13, right?

5 A. This is 12, I have here.

6 MR. PHILLIPS: She's looking at 12.

7
 8 (Off record discussion)

9
 10 Q. (By Ms. Speights) What's
 11 Exhibit 13?

12 A. Exhibit 13 is an e-mail from myself
 13 to June Davis, sending her the message from
 14 Linc, regarding the Lolita Gonzales incident
 15 where he thought he might let her go, and then
 16 decided, after speaking with her, that he would
 17 not.

18 Q. Okay. Take a look at what's been
 19 marked as Exhibit 14, E.E.O.C. 00025.

20 A. Yes.

21 Q. Do you recognize that document?

22 A. I do.

1 Q. And what is Exhibit 14?

2 A. This is an agenda that I typed up
 3 for the meeting with Barry Francis, the H.R.
 4 director and Scott Collen, prior to our going
 5 into the investigation at Blockbuster.

6 Q. And why was it that there was
 7 decision -- that there would be an investigation
 8 with you, Scott, and Barry Francis in or around
 9 this May, '05 time period?

10 MR. PHILLIPS: Object to the form.
 11 Foundation. Go ahead.

12 THE WITNESS: It was just a
 13 culmination of all of the information that
 14 I had been sending, all along, to Venturi,
 15 which, supposedly, was being sent to
 16 Blockbuster. And we were going to meet, I
 17 believe, on the 12th, but I think we met
 18 the morning of the 13th, at a restaurant
 19 near to the Gaithersburg facility, to go
 20 over this.

21 I had e-mailed Barry some of the
 22 questions that I drew up to ask in the

1 interview. And he had e-mailed me back
 2 and made some changes in those, and -- so
 3 this was the agenda that I wanted to be
 4 discussed prior to our going into the
 5 investigation.

6 No one at the Gaithersburg facility
 7 knew that Barry and Scott were coming
 8 down. They only knew that I was coming
 9 down, as I did often, so...

10 Q. (By Ms. Speights) What was your
 11 understanding of the role of Mr. Francis?

12 A. My understanding was that being the
 13 H.R. person, that he and I were going to be
 14 interviewing each of the employees, the
 15 associates. When we met prior to going into the
 16 facility, Barry had said to me that he wanted me
 17 to be the one to ask the questions since he felt
 18 that they would be more forthcoming, the
 19 associates would be more forthcoming with
 20 someone they knew, as opposed to his coming in
 21 and just asking questions. But that he would --
 22 he would assure them that the information that

1 they give us was not going affect their job and,
2 I believe, he gave a little spiel concerning the
3 fact that we wanted them to work safely and we
4 were getting some complaints that had been made.

5 When we were in the investigation,
6 however, Barry was the one who did most of the
7 asking of the questions, even though he had
8 asked me to do so prior. But as the
9 conversations would continue with each person,
10 there would be, I think, more questions raised,
11 in his mind, that he would then ask, so...

12 Q. (By Ms. Speights) Was there an
13 agreed upon set of questions that were supposed
14 to be asked during each interview?

15 A. Yes.

16 Q. Were those questions developed
17 prior to the meeting that you had with Scott
18 Collen, Barry, Mr. Lenear?

19 A. Yes.

20 Q. And who developed the questions?

21 A. Well, as I said, I had sent him --
22 I had faxed him at wherever he was staying in

1 the area. I had faxed him a set of questions
2 that I felt would be appropriate to ask. He
3 changed many of those to either same context,
4 but just asked differently or totally dismissed
5 the question and put another one in.

6 Q. Okay. But, ultimately, the two of
7 you reached agreement on the questions?

8 A. Right. Remember, I had faxed those
9 to him the day before, or two days before, or
10 whatever, and he had sent back a list of
11 questions he wanted to ask. So I had made up
12 the questions, and to be able to write down
13 notes for each of the people that were coming in
14 for the interview.

15 Q. And the meeting that you had with
16 Scott Collen, Drew Lenear, and Barry Francis,
17 that meeting was held on May 13th?

18 A. I think it was the 13th. That's my
19 recollection. Although, I have 5/12, but I
20 know -- I don't remember going down both
21 Thursday and Friday. I think this was a Friday,
22 the 13th. So I think it was right before.

1 Q. And during that meeting, was this
2 agenda, which is Exhibit 14 -- did you follow
3 that agenda during the meeting?

4 A. He did not want to -- I don't
5 believe we got into the Niema Fields' or
6 Michelle Desperett complaint, other than just
7 acknowledging that it was on the page here,
8 pretty much.

9 He wanted to concentrate on those
10 people that were presently there, which is --
11 was primarily Say Wing, Lolita, Elizabeth, and
12 Milagros, and I wanted to talk about, you know,
13 the management situation there.

14 Q. Right.

15 A. So that was why I had that.

16 Q. Now, you have dates behind, I
17 guess, the six names that appear on the
18 document?

19 A. Right.

20 Q. What do those dates represent?

21 A. Those dates are the dates of their
22 employment, at the Gaithersburg facility, when

1 they started. And if there was an "End Date,"
2 then they had been dismissed. If it was
3 "Present," then they were still working there.

4 Q. Under the alleged sexual
5 harassment, you've got Niema Fields, Michelle
6 Desperett and Say Wing. As of this point in
7 time, were there any other complaints of sexual
8 harassment that you were aware of?

9 A. Other than the remarks that I would
10 hear, that, again, I could not get people to
11 write down. There are no formal complaints.

12 Q. All right. When you say "remarks"
13 that you would hear, are you saying that you
14 heard comments or remarks that were of a sexual
15 nature or you were hearing from associates that
16 is was going on?

17 A. Both.

18 Q. Who did you hear inappropriate
19 comments from when you were there that were of a
20 sexual nature?

21 A. Oh, I'm sorry. No. I
22 misunderstood you.

1 Q. Yes. That's what I was wondering.
 2 A. No. No. I heard from the
 3 associates remarks that they had heard.
 4 Q. All right.
 5 A. So it was third-person, not
 6 directly to me.
 7 Q. And what you're saying is you
 8 didn't list those individuals here under alleged
 9 sexual harassment?
 10 A. No. Because I had heard from
 11 everyone something, here or there. Again,
 12 nothing confirmed, necessarily. Or they weren't
 13 willing to proceed with any complaints. They
 14 would make an offhand remark and then I would
 15 ask about it and they would say "No. No
 16 everything's fine. It's okay. Everything's
 17 fine. Nope."
 18 They were very afraid. They were
 19 very intimidated, very afraid to lose their
 20 jobs?
 21 Q. And when you heard those types of
 22 comments, did you pass those on to Ms. Davis?

1 A. I did.
 2 Q. Do you know if she passed those on
 3 to anyone at Blockbuster?
 4 A. My understanding was that she was
 5 passing everything on to Blockbuster.
 6 Q. But do you know, is my question?
 7 A. I would have no way of knowing.
 8 Q. Why did you list Niema Fields,
 9 Michelle Despertt, and Say Wing under this
 10 section of alleged sexual harassment?
 11 A. Because those were the ones that I
 12 knew had complaints of sexual harassment.
 13 You'll see that Lolita and Elizabeth and
 14 Milagros are under "Alleged Discrimination."
 15 They had not made any charges of sexual
 16 harassment at this time. But they had charged
 17 some discriminatory policies that they thought
 18 were taking place, so that was why I separated
 19 those out.
 20 Q. All right. Under the alleged
 21 discrimination charges, you have Lolita
 22 Gonzales. I mean at this point in time, do you

1 have any recollection of what she was claiming
 2 in terms of discrimination?
 3 A. Yes. And it was in her notes that
 4 you have a copy of here.
 5 Q. All right.
 6 A. That they were just treated -- the
 7 Hispanics were treated differently than the
 8 African Americans or the Africans. They weren't
 9 allowed to sit. At certain times, they were
 10 referred to as "you people." Other things that
 11 she felt singled them out as not belonging to
 12 the team. And, again, they're all in her
 13 complaints.
 14 Q. And Elizabeth Ledesma, what type of
 15 discrimination charges was she making as of this
 16 time?
 17 A. You know, what? I don't remember
 18 right now what charges she made. I think that
 19 she did corroborate some of the things that
 20 Lolita had said. They are cousins, I believe,
 21 and so I think they spoke frequently. I think
 22 they shared information, as far as knowing what

1 one had said to me and what the other had said.
 2 But I can't, at this point, remember what
 3 Elizabeth told me.
 4 Q. Okay. Milagros Ledesma, do you
 5 have any recollection as to what her
 6 discrimination charges were at this time?
 7 A. I do not. She, also, I believe,
 8 was a cousin to Lolita. And she had been let
 9 go, I believe, because her performance was not
 10 up to par, but I cannot remember exactly why.
 11 But she had been let go.
 12 Q. Under Section 2, it says
 13 "Interviews with Gaithersburg Associates, May 3,
 14 '05." Under A, it says "All associates
 15 interviewed." What did you mean by that?
 16 A. It was May 13, '05, and we were
 17 intending to have each associate come in
 18 separately, behind closed doors, to be
 19 interviewed. Scott Collen and Drew Leneer, it
 20 was decided would keep the two leads and the
 21 manager in their offices, in Linc's office, so
 22 that there would be no opportunity for either

1 the manager, or the leads specifically, to say
2 to anyone that they shouldn't speak openly and
3 candidly.

4 Q. And did Mr. Collen and Mr. Lenear
5 do that?

6 A. Yes.

7 Q. And did you actually interview all
8 of the associates who were, at least, there that
9 day?

10 A. The ones that were there that day,
11 yes.

12 Q. Do you recall approximately how
13 many people?

14 A. You know, I brought the notes that
15 I took.

16 Q. The notes are in Exhibit 4, that
17 we've marked as Exhibit 4?

18 A. Yes.

19 Q. But do you have any recollection in
20 terms of numbers?

21 A. I would say approximately ten, but
22 I'm guessing.

1 Q. Okay. "Make sure no intimidation
2 occurring outside while interviewing." And is
3 that in terms of what you just testified about,
4 in terms of Scott Collen and Drew Lenear keeping
5 the leads in Mr. Barrett's office?

6 A. Yes.

7 Q. And there's an introduction here.
8 What was the purpose of that introduction?

9 A. This is something that we agreed
10 upon. Barry and Scott and Drew and I agreed
11 would be something that we would say to all of
12 them, so that they all had the same message
13 starting out, that we wanted to assure them that
14 whatever they told us would not affect their job
15 standing.

16 Q. How long did the interviews take?
17 I mean, total? How long were you there that day
18 interviewing people?

19 A. We were there all day. I don't
20 remember exactly what time we started, but I
21 would say maybe nine, nine-thirty, ten. I don't
22 remember, and we were there all day.

1 Q. Let me show you what's been marked
2 as Exhibit 15, and it's E.E.O.C. 00134.

3 A. Yes.

4 Q. What is that document, Ms. Brown?

5 A. These are the notes that were taken
6 during the interviews conducted on 5/13, with
7 Elizabeth Ledesma and Say Wing and Emetem
8 Nkwetta.

9 Q. Are these your notes from the
10 interviews of those people that you just
11 identified?

12 A. Yes.

13 Q. And did you prepare notes of
14 everyone that you interviewed?

15 A. Yes.

16 Q. Looking at the questions that are
17 on this exhibit, look at E.E.O.C. 00134 and
18 00135?

19 A. Yes.

20 Q. Is that a complete list of the
21 questions that were -- the agreed-upon questions
22 that you were going to ask in the interviews?

1 A. Yes. These are the questions that
2 Barry had approved to be asked of the
3 associates.

4 Q. Okay. Take a look at 00135.

5 A. Yes.

6 Q. No. 12, Question 12, can you read,
7 for me, your writing under Question 12?

8 A. Question 12 is: "Have you heard
9 any behavior" -- "seen or heard any behavior
10 that is inappropriate or of a sexual nature?"

11 And: "They joke around, but no one
12 is touching anyone."

13 Q. And this is from Elizabeth Ledesma;
14 is that right?

15 A. Right.

16 Q. If you'll go to 00137, it looks
17 like it's the second page of Say Wing's -- the
18 notes from Say Wing's interview; is that
19 correct?

20 A. Yes, that's correct.

21 Q. And the handwriting under 14, what
22 does that say?

1 the facility any longer.
 2 And, at that time, it was suggested
 3 that Drew and I would go down to speak with
 4 those individuals that were still working there
 5 and to indicate to them we knew a new management
 6 company was coming in and that they would
 7 continue to have their jobs through that new
 8 company.

9 Q. And who was the new company that
 10 was coming? Were you told?

11 A. We were. And, you know, right at
 12 this moment, I can't tell you. It was a
 13 national -- a large national company. I don't
 14 remember it, offhand.

15 Q. So did you participate in any
 16 additional investigations at the facility on
 17 August 19, '05?

18 A. No. I don't recall that, at least.

19 Q. Did you refer any additional
 20 complaints after August 19, '05?

21 A. I do not recall that.

22 Q. Now, I believe you testified

1 earlier, Ms. Brown, at some point in time, you
 2 were, I guess, contacted by the E.E.O.C.?

3 A. Yes.

4 Q. When was that?

5 A. I believe that was a year later.
 6 You know, again, I have notes here that I could
 7 look at, but I don't know, off the top, the
 8 exact date. But it was sometime later.

9 Q. And the notes regarding your
 10 contact with the E.E.O.C. are in Exhibit 4?

11 A. No.

12 Q. Do you have notes of your contacts
 13 with the E.E.O.C.?

14 A. No.

15 Q. Concerning the Gaithersburg
 16 facility?

17 A. No.

18 Q. Did you ever have notes of that
 19 contact?

20 A. I'm trying to think. I don't
 21 believe so. I was just called and asked if I
 22 would do an interview. And if I would -- if I

1 had any documents that -- concerning the sexual
 2 harassment. I was told there was a sexual
 3 harassments complaint made by Lolita Gonzales
 4 and Dolores.

5 Q. And did you meet with the E.E.O.C.?

6 A. I did.

7 Q. And how many times?

8 A. Just once.

9 Q. And who did you meet with?

10 A. Judy Kirlan, K-I-R-L-A-N.

11 Q. And did you provide documents to
 12 Ms. Kirlan?

13 A. I did.

14 Q. Did you provide her with any
 15 documents, other than what's in Exhibit 4?

16 A. No.

17 Q. Did you give her all of the
 18 documents that are in Exhibit 4?

19 A. I don't believe I gave her all the
 20 e-mails.

21 Q. Okay. But there are no other
 22 documents that you can recall that were given to

1 the E.E.O.C. that are not in Exhibit 4?

2 MR. PHILLIPS: Objection.

3 THE WITNESS: That's correct. As
 4 far as I can remember, at this point, but
 5 I believe that's correct.

6 Q. (By Ms. Speights) Are there any
 7 other documents in your possession related to
 8 the Blockbuster Gaithersburg facility that you
 9 haven't provided to us today in Exhibit 4?

10 A. That's all of them.

11 Q. This is all of them?

12 A. Yes.

13 MS. SPEIGHTS: I would like to take
 14 about 10 or 15 minutes just to look
 15 through these to see if I have any
 16 questions about documents that I haven't
 17 already showed you.

18 THE WITNESS: Sure.

19

20 (Brief break)

21

22 MS. SPEIGHTS: Back on the record.

1 Q. (By Ms. Speights) Looking at
 2 Exhibit 4, and it appears to be pages 10 to 12
 3 under the, I guess, sexual harassment claims.
 4 A. Yes.
 5 Q. Do you have that in front of you?
 6 A. I do.
 7 Q. Okay.
 8 MS. SPEIGHTS: Do you have that,
 9 Ron?
 10 MR. PHILLIPS: Let me just look
 11 over your shoulders.
 12 THE WITNESS: She made --
 13 MS. SPEIGHTS: I haven't asked the
 14 question yet.
 15 THE WITNESS: I was going to say
 16 she made several more copies than I had.
 17 MS. SPEIGHTS: Off the record for a
 18 second.
 19
 20 (Off record discussion)
 21
 22 Q. (By Ms. Speights) Ms. Brown, do

1 you see a date anywhere on this e-mail?
 2 A. I do not see a date.
 3 Q. All right. I'm trying to figure
 4 out how we would date this e-mail.
 5 A. Previously, I had not recollected
 6 that I had done anything in the Niema Fields'
 7 when you asked me -- with her claim -- because I
 8 wasn't present when it was made, initially. I
 9 was out of the office for three to four weeks.
 10 But this looks like I sent the
 11 claim to June, so it would have to have been in
 12 January, after the middle of the month, because
 13 I was -- I had not returned until after, I
 14 believe, the 12th or 15th of the month.
 15 Q. And we're talking about 2005?
 16 A. 2005. Right.
 17 Q. All right.
 18 A. And so this was after she was let
 19 go, and this was the written claim that she
 20 made.
 21 Q. Okay. I don't want to get to that
 22 just yet. I want to ask you a few questions

1 about that.
 2 A. Okay.
 3 Q. You mentioned in the second
 4 paragraph of the e-mail -- well, let me go back
 5 up to the first paragraph.
 6 It says: "I am sending the head
 7 count for yesterday and today," semi-colon, "I
 8 spoke with Linc, at length." Do you see that?
 9 A. Yes.
 10 Q. All right. Now, if you go down to
 11 the second paragraph, it says: "We also
 12 discussed the sexual harassment claim by Niema
 13 Fields, who is in the process of signing and
 14 returning her statement." Do you see that
 15 sentence?
 16 A. I do.
 17 Q. The sexual harassment claim by
 18 Niema Fields, did you discuss that with Linc
 19 Barrett?
 20 A. It appears that I did. I did not
 21 recall doing that, but it appears that I did,
 22 from this e-mail.

1 Q. All right. And do you have any
 2 recollection of what you and Mr. Barrett talked
 3 about?
 4 A. Absolutely not. The
 5 conversation -- because I didn't even remember
 6 speaking with him -- or dealing with Niema's
 7 claim at all -- until seeing this.
 8 The only thing I would say is that
 9 the note attached here indicates that Linc said
 10 she refused to write a statement and TAJ did
 11 write a statement, is what I have here. But,
 12 again, I do not recollect the conversation at
 13 all.
 14 Q. Okay. And the note that you are
 15 referring to is what page?
 16 A. It was attached to page 11.
 17 Q. All right. If you would mark here,
 18 because I just -- it does not have -- it's a
 19 Post-it, so it doesn't have a page number.
 20 MS. SPEIGHTS: What letter are we
 21 up to in Exhibit 4?
 22 THE REPORTER: It's going to be

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1 on?

2 THE REPORTER: Exhibit 17.

3 MR. PHILLIPS: Let me mark this as

4 seventeen.

5

6 (Exhibit 17, Blockbuster, Inc., Job

7 Description, marked)

8

9

10 EXAMINATION BY MR. PHILLIPS:

11

12 Q. Go ahead, Ms. Brown, and take a

13 look at Exhibit 17, and let me know when your

14 finished.

15 MR. PHILLIPS: For the record, it

16 appears the witness previously marked the

17 document as 4 and the first page of the

18 document as 4A.

19 MS. SPEIGHTS: Let's go off the

20 record for a minute.

21

22 (Off record discussion)

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1

2 MR. PHILLIPS: Let's go back on the

3 record.

4

5 Q. (By Mr. Phillips) Just to clarify,

6 Brown Exhibit 17 is a document that there's a

7 handwritten notation in the lower left-hand

8 corner of the first page that says "4A."

9 Ms. Brown, did you previously put

10 that notation on the document, 4A?

11 A. I did.

12 Q. Okay. Have you had a chance to

13 review Exhibit 17, now, Ms. Brown?

14 A. I have.

15 Q. Can you identify it, please?

16 A. It is the job description for a

17 Blockbuster distribution clerk.

18 Q. Do you know who you obtained that

19 document from?

20 A. I believe I obtained it from either

21 Scott Collen, when we had our initial meeting in

22 October of 2004, or from June Davis of Venturi

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1 Partners.

2 Q. Okay. Sitting here today, can you

3 tell me which of those individuals you obtain it

4 from?

5 A. I believe it was Scott. I believe

6 he brought them with him when we met at our

7 office in Towson in October.

8 Q. Did Mr. Collen tell you why he was

9 giving you Exhibit 17?

10 A. Because I was asked to staff the

11 Gaithersburg distribution center, and these were

12 some of the criteria that they were looking for

13 to be able to fulfill the job requirements.

14 Q. Okay. Just so I'm clear, then,

15 Mr. Collen gave you the document marked as

16 Exhibit 17 to assist you in recruiting temporary

17 workers to be placed at the Gaithersburg

18 warehouse?

19 A. That's right.

20 Q. And, specifically, to familiarize

21 you with the job duties of persons that you

22 would be selecting?

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1 A. That's right.

2 Q. Are you familiar with a category of

3 temporary workers called "evaluation hire"?

4 Have you heard that phrase before?

5 A. I have.

6 Q. What is an "evaluation hire"?

7 A. An evaluation hire is when a client

8 intends to actually bring an employee on to his

9 payroll, but he wants a time period to see if

10 that particular employee can perform the

11 requirements of the job before he actually hires

12 them on to his payroll, therefore, making it

13 easier for him not to have to take them off his

14 payroll if the person does not meet the

15 requirements.

16 Q. Were the temporary workers placed

17 by Express Personnel at the Gaithersburg

18 warehouse at Blockbuster in 2004 and 2005, were

19 they considered evaluation hires?

20 A. Yes, I would believe they were.

21 Q. And, specifically, did you have

22 communications with Blockbuster personnel about

1 the fact that these individuals were being
 2 considered to be hired on permanently by
 3 Blockbuster?
 4 A. Conversations? Do you mean with
 5 Linc Barrett, the manager or --
 6 Q. Any communications with anyone at
 7 Blockbuster?
 8 A. You know, I don't remember the
 9 conversations, but I know that with the amount
 10 of training that was involved for these
 11 positions that the intent was to keep on and to
 12 hire over to their payroll, to their Blockbuster
 13 company, those individuals that could fulfill
 14 the requirements of the job.
 15 Q. Who, at Blockbuster, communicated
 16 that intention to you?
 17 MS. SPEIGHTS: Objection.
 18 You can answer.
 19 THE WITNESS: I would say it was
 20 Scott, when I first met with him, in the
 21 initial meeting, but certainly June, from
 22 Venturi, would have communicated that with

1 me -- to me, also.
 2 Q. (By Mr. Phillips) At some point
 3 during the subcontract of Express Personnel at
 4 the Gaithersburg facility of Blockbuster, did
 5 Mr. Barrett communication to you that he
 6 intended to convert some of the temporary
 7 workers to permanent Blockbuster employee
 8 status?
 9 A. He did.
 10 Q. And was one of those workers Lolita
 11 Gonzales?
 12 A. It was.
 13 Q. Do you recall the time frame when
 14 he communicated that intention to you, to
 15 specifically hire Lolita Gonzales as a permanent
 16 Blockbuster employee?
 17 A. I have an e-mail that indicates
 18 that he's thinking of doing that, but I cannot
 19 tell you, right off the top, what that date was.
 20 Q. Would you take a look at one of the
 21 exhibits to your deposition here, Brown
 22 Exhibit 3, which is the Company Profile Report.

1 It look like this.
 2 A. Okay. Yes.
 3 MR. PHILLIPS: Let's make sure
 4 she's looking at the actual marked
 5 exhibit.
 6 THE WITNESS: Okay.
 7 Q. (By Mr. Phillips) If we could turn
 8 to page 8 of that Exhibit 3.
 9 A. Okay.
 10 Q. And, for the record, that's BATES
 11 No. E.E.O.C. 56. And if you could look at a
 12 notation dated March 21, 2005, it's the second
 13 to the bottom notation?
 14 A. Okay.
 15 Q. Do you see that notation?
 16 A. I do.
 17 Q. And if you could look in the
 18 results section to the far right and read that,
 19 just go ahead and read it aloud, please.
 20 A. It says: "He will take over four
 21 of our associates as soon as the paperwork is
 22 done; Lolita Gonzales, Kevin Mallow, Fernando

1 Holquin and Say Wing."
 2 Q. And if you look on that notation to
 3 the left, do you see where it reads: "Lincoln
 4 Barrett"?
 5 A. Yes.
 6 Q. Having read this notation, does
 7 this refresh your recollection as to when
 8 Mr. Barrett communicated to you that he intended
 9 to hire Lolita Gonzales as a permanent
 10 Blockbuster employee?
 11 A. Seeing the date right here, I can
 12 say it was March, but I would not have been able
 13 to recall that date without seeing.
 14 Q. Do you have any reason to question
 15 the accuracy of your notation here that it was
 16 March 21, 2005?
 17 A. No. And can I add that Lolita,
 18 again, was one of the better workers. And it
 19 was told to me, in conversations that I had with
 20 Linc, when I went down to review how they were
 21 doing, that Lolita was an excellent worker. So
 22 it was not surprising to me that she would have

1 been considered to be hired over.
 2 MS. SPEIGHTS: Objection. Move to
 3 strike as non-responsive.
 4 Go ahead.
 5 Q. (By Ms. Speights) And Mr. Barrett
 6 communicated to you his view that Ms. Gonzales
 7 was an excellent employee?
 8 A. He did.
 9 MR. PHILLIPS: Just a minute here.
 10 I'm trying to order these questions in a
 11 way that's logical, so if you'll give me a
 12 second here.
 13
 14 (Brief pause)
 15
 16 Q. (By Mr. Phillips) Are you aware
 17 whether or not Lolita and Dolores Gonzales had
 18 their assignments, at the Gaithersburg
 19 warehouse, end at some point?
 20 A. Yes.
 21 Q. All right. And did you ever have
 22 any communications with anyone at Blockbuster

1 concerning termination of their assignment at
 2 that location?
 3 A. I did. I spoke with Linc Barrett,
 4 as well as, I believe, some e-mails between us.
 5 Q. Can you tell me, was the
 6 determination that those two persons should have
 7 their assignment ended, was that decision made
 8 by Express Personnel or was it made by
 9 Blockbuster?
 10 A. Any time that we would terminate a
 11 position, it was -- the decision always came
 12 from Blockbuster.
 13 Q. And that was also true of Lolita
 14 and Dolores Gonzales' terminations?
 15 A. That's true.
 16 Q. During the course of your
 17 communications with Mr. Barrett about the
 18 termination of Lolita and Dolores Gonzales, did
 19 Mr. Barrett articulate to you what his reasoning
 20 was for those terminations?
 21 A. I believe, as far as Lolita goes, I
 22 believe it was initially he had a problem with

1 her tardiness, the number of tardies she had,
 2 and the fact that she was -- she was driving
 3 several people, also, and making them all late.
 4 I don't know that that was the
 5 reason or at the time that he let her go.
 6 Although, I think it may have been, because --
 7 and I think there's an e-mail to that that
 8 speaks about this -- no one trusted her. She
 9 wasn't getting along well with others in the
 10 facility. I believe that's what I read or was
 11 told.
 12 As far as Dolores goes, Linc had
 13 initiated a policy whereby after three absences
 14 you would be asked to leave. And Dolores had
 15 been out three days, because of an illness. And
 16 he had e-mailed me to say she should be let go,
 17 because she's been out three days. And I
 18 e-mailed him back saying, "Well, wait a second,
 19 this is one incident; is it not? Or are you
 20 saying that three days out for an illness
 21 constitutes three incidents or is this one
 22 incident?"

1 And I think he wrote back and said
 2 that he needed to treat everybody equally and
 3 this was her third day and she was going to be
 4 let go.
 5 Q. Did he say that in reference to her
 6 termination or was that during an earlier time
 7 period when he said that?
 8 A. No. I believe that was in
 9 reference to her termination. That's what I
 10 recall, anyway.
 11 Q. Do you know whether or not Thomas
 12 Johnson -- we've also been referring to him here
 13 as "TAJ" -- do you know whether he was
 14 interviewed in connection with the Michelle
 15 Desperett sexual harassment complaint?
 16 A. I do not know that, because, again,
 17 everything went to Venturi. Venturi was dealing
 18 directly with Blockbuster, and I don't have
 19 knowledge that that happened. It could have,
 20 but I don't have knowledge of it.
 21 Q. Okay. So you were never provided
 22 with the results of any interview with TAJ,

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1 regarding the Michelle Desperett complaint?
2 A. No.
3 Q. Were you ever provided with any
4 information about the results of an interview
5 with Lincoln Barrett, concerning the Michelle
6 Desperett complaint?
7 A. No, I was not.
8 Q. Okay. I want to show you a
9 document that will be marked Exhibit 18 --
10 MR. PHILLIPS: Actually, strike
11 that. We don't have to mark this. This
12 has previously been marked. This was a
13 document that was marked Francis 9. So,
14 for the record, I'm showing the witness a
15 document previously marked as Francis
16 Exhibit 9.
17 Q. (By Mr. Phillips) Ms. Brown, if
18 you could go ahead and look through the document
19 just to determine if you can identify it, and I
20 will draw your attention to the specific
21 portions.
22 A. Yes, I am familiar with this

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1 document.
2 Q. All right. Ms. Brown, can you
3 identify what Francis Exhibit 9 is?
4 A. This is a fax of documents that
5 were requested by Judy Nervero-Kirlan (phonetic)
6 of E.E.O.C., in August of '06, regarding
7 Dolores' and, I think, Lolita's timecards, and
8 the interviews -- copies of the interview notes
9 that were taken at the May 13th investigation.
10 Q. Okay. Thank you.
11 So Francis 9, you did, in fact,
12 provide this to Ms. Kirlan?
13 A. I did.
14 Q. And if you could turn to the second
15 page of this document, which is labeled
16 "E.E.O.C. 127"?
17 A. Yes.
18 Q. And, also, look at 128 and 129.
19 A. Yes.
20 Q. And what is this document, the
21 three pages labeled 127 to 129?
22 A. This is a computer report, a

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1 computerized report, with the names of all those
2 people who had been hired, the dates of their
3 hire, the dates that they actually ended, and
4 the reasons that they were ended, from a choice
5 of a dropdown menu, basically, from the dates of
6 November, 2004, to September, 2005.
7 Q. And did you obtain this document
8 from Express Personnel records?
9 A. Yes.
10 Q. Okay. And was this obtained from a
11 paper record or was obtained from computerized
12 data?
13 A. Computerized data.
14 Q. Do you know who made the entries on
15 this document, pages 127 to 129?
16 A. I made the entries to this
17 document.
18 Q. Okay. And if you could look at the
19 column that says "Assignment Status." And can
20 you tell me, first of all, what does that column
21 "Assignment Status" -- what does that
22 information denote?

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1 A. It denotes whether the employee was
2 let go because they either walked out of the job
3 or they ended their assignment themselves, or
4 the client ended the assignment, because they
5 were dissatisfied with the associate or it could
6 have been any number of reasons.
7 It never gave -- there was no
8 choice as to reasons. It was just that the
9 client would be dissatisfied with the associate
10 or that the client had hired the person on to
11 their payroll.
12 Q. Okay. So you, just now, one of the
13 dropdowns you were referencing was the dropdown,
14 fourth line down, "Client dissatisfied with
15 associate," correct?
16 A. Yes.
17 Q. And if you go to the first line
18 under "Assignment Status" it says, "Client ended
19 early," and then in parens, "Workload." Do you
20 see that?
21 A. Yes.
22 Q. What does that communicate to you?

1 A. It means that in a temporary hiring
2 or in a situation where there are a certain
3 number of associates needed to perform a job
4 that is at peak level, when the workload of the
5 company is decreased then the client indicates
6 to the agency that that person is no longer
7 needed to do the job. And that's why clients
8 hire on a temporary basis, many times.

9 Q. Now, in situations where it said,
10 "Client dissatisfied with associate," and,
11 again, going to the forth line down, under
12 "Assignment status," was there any indication in
13 this document as to why the client was
14 dissatisfied?

15 A. No, there was not.

16 Q. When the client was dissatisfied
17 with an associate and that was the reason for
18 determination, did anyone from Blockbuster
19 provide you with that information?

20 MS. SPEIGHTS: Objection.

21 THE WITNESS: Linc Barrett would
22 have.

1 Q. (By The Witness) Let me ask the
2 question in a different way.

3 When you put an entry here "Client
4 dissatisfied with the associate," how did you
5 know that that was the dropdown that you should
6 enter for that person?

7 A. From elimination of the others,
8 which would have been the client ended early,
9 because of workload, or there was a
10 no-show/no-call by the associate.

11 In other words, if the client
12 called and said, "I want you to end the
13 employment of this associate," for any reason,
14 other than the "Workload was decreased," we
15 would put "Client dissatisfied with the
16 associate." It had to be some reason that he
17 did not want that associate to continue working,
18 either because of absences or tardies or not
19 being able to meet the job requirements. It
20 could have been that the person didn't get along
21 well with the others that they were working
22 with. I mean, it could have been a number of

1 reasons.

2 Q. Did Mr. Barrett always give you a
3 reason why the company was dissatisfied when he
4 would call you to terminate an assignment?

5 A. Yes. Yes, he did.

6 Q. Okay. If you could turn to page
7 130, E.E.O.C. 130, which at the top it say
8 "Express Personnel Services Group Time Sheet."
9 Do you see that?

10 A. Yes.

11 Q. Okay. Looking down at the bottom
12 of 130, do you see where it says "Client's
13 Signature"?

14 A. Yes.

15 Q. Do you recognize the signature in
16 that line?

17 A. Yes, I do.

18 Q. Whose signature is that?

19 A. That's Linc Barrett's signature.

20 Q. Okay. And go to the next page,
21 131, do you see at the bottom it says "Client's
22 Signature"?

1 A. Yes.
2 Q. Do you recognize that signature?

3 A. Yes, I do.

4 Q. Whose signature is that?

5 A. That's Linc Barrett's.

6 Q. All right. I want to ask you about
7 some of the entries in this document, but first
8 just to be clear, was this a document that was
9 filled out at the warehouse regarding time of
10 the temp workers?

11 A. Yes. Yes.

12 Q. And do you know if the temp workers
13 would enter this information themselves or was
14 it entered by someone else?

15 A. No. It was entered by someone
16 else, either it would have been either Linc or
17 one of the leads.

18 Q. Okay. And I want to ask you, now,
19 about a couple of items in here. Could you look
20 in the row that starts with the name "Takara
21 Martin"? Do you see that?

22 A. Yes.

1 Q. Okay. And if you could look to the
2 right of that, you see a number of columns
3 which, I guess, pertain to the various days of
4 the week?
5 A. Yes.
6 Q. Okay. I see on the second column,
7 all the way to the last column, dated the 26th,
8 there is a notation that says "Out." Do you see
9 that?
10 A. Yes, I do.
11 Q. Do you know what that means?
12 A. I believe that Takara -- she was
13 married to a military person, I believe, a
14 military man and, I believe, that he was
15 transferred to a base in Florida, or someplace
16 south, and that she was out for that week to
17 join him. That was my understanding of what
18 "Out" meant there.
19 Q. Do you see where, near the top, it
20 says "Week Ending 6/26/05." Do you see that?
21 A. Yes.
22 Q. Do you know if, at any point after

1 this week, Ms. Martin returned to work at the
2 warehouse at Gaithersburg?
3 A. I was told that she was going to
4 return.
5 Q. Who told you that?
6 A. Linc Barrett, but I don't believe
7 that she did. I don't recall that she did.
8 Q. And Mr. Barrett told you that it
9 was his intention to allow her to return?
10 A. Yes.
11 Q. Let's look at the first name. It's
12 Atem, A-T-E-M, Mbecha, M-B-E-C-H-A. Do you see
13 that?
14 A. Yes.
15 Q. Looking at the first column next to
16 her name, there's an entry that says "Off,"
17 O-F-F. Do you see that?
18 A. Yes.
19 Q. What does the entry "Off" mean in
20 this type of document?
21 A. It means that they did not work
22 that day. Their schedule was for the other --

1 another five days of the week. They tried to
2 cover their weekend schedule by having some
3 people work through some of the weekends days,
4 as opposed to just the five days a week.
5 Q. Okay. And if you could look down
6 to an entry that says "Thaddeus Pope." Do you
7 see that?
8 A. Yes.
9 Q. And if you could look over to the
10 third column next to Mr. Pope, do you see where
11 it says "Out," O-U-T?
12 A. Yes.
13 Q. I know we're really straining your
14 recollection. Do you recall Mr. Pope being out,
15 for any reason, the week of 6/26/2005?
16 A. I absolutely do not.
17 Q. Okay.
18 A. But, I believe, that Linc would
19 have put that down if someone had called in sick
20 or had asked for the day off for some particular
21 reason, he would have put "Out" that day, as
22 opposed to "Off," indicating they weren't

1 scheduled.
2 Q. Was there a notation regarding the
3 group time sheet for someone who was a no-show
4 on a given day, someone who's scheduled to work
5 but did not show up for work?
6 A. I don't recall one.
7 Q. Do you know if "Out" was ever used
8 as a notation for someone who was a no-show?
9 A. I cannot say that I recall that. I
10 know that if someone was a no-call/no-show, I
11 would have been called by Linc. And it would
12 have been noted in the associate's profile that
13 he was a no-call/no-show and I would have called
14 him to find out where he was and why he wasn't
15 there.
16 Q. And when you say "the associate's
17 profile," you're referring to the computerized
18 records reference in your prior testimony?
19 A. That's right.
20 Q. That was specific to individual
21 associates?
22 A. That's right.

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1 A. It was a young man.
2 Q. Do you remember his name?
3 A. Let me just review the names and
4 see if I can...
5 Q. Certainly.
6 A. I think it may have been -- I'm not
7 sure that I'm going to be able to recall. I
8 remember that he had an accident or he was shot.
9 Actually, he was shot in Washington, DC, and he
10 was in the hospital for -- and doing rehab for a
11 very long time, but I can't remember his name.
12 Q. All right. Let's go on to the next
13 page, 134. And actually, I believe, we've gone
14 over this with Ms. Speights before. Can I ask
15 you to flip through the remaining pages of the
16 document up to page 157, so starting at 134 to
17 157.
18 And I'm not going to ask you to
19 read every word, but rather focus on the names
20 that are written at the top of the document for
21 each of these interviews, and then let me know
22 when you've done that, please.

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1 A. Okay.
2 Q. And going through the document, you
3 should have seen the names "Elizabeth Ledesma,
4 Say Wing, Emetem Nkwetta, Bamba Affisiatu,
5 Lolita Gonzales"?
6 A. Yes.
7 Q. "Takara Hughes-Martin"?
8 A. Yes.
9 Q. "Monique Spears"?
10 A. Yes.
11 Q. "Julian Carter"?
12 A. Yes.
13 Q. "Sergio Santizo"?
14 A. Yes.
15 Q. Kevin Malloy?
16 A. Yes.
17 Q. "Fernando Holquin"?
18 A. Yes.
19 Q. And "Basheen Byrd"?
20 A. Yes.
21 Q. Okay. Are those the individuals
22 that you and Mr. Francis interviewed, during the

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1 May, 2005, investigation, conducted at the
2 Gaithersburg warehouse?
3 A. They are.
4 Q. Okay. Do you recall any other
5 individuals who were interviewed for that
6 investigation that are not listed among the
7 names that we just read off together?
8 A. I do not recall anyone else.
9 Q. Okay. And regarding those
10 interviews, was Mr. Francis with you, and in
11 attendance, at all of those interviews?
12 A. Yes, he was.
13 Q. And was Mr. Francis taking notes of
14 those interviews?
15 A. Yes, he was.
16 Q. If you could turn to page 137, and
17 you see in the upper right-hand corner, there's
18 a written notation, "Say Wing." Do you see
19 that?
20 A. Yes.
21 Q. Under Item 13, the question reads:
22 "Have you seen or heard any sexual jokes or

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1 inappropriate language? Tell me what occurred,"
2 which is in parens. Can you read the
3 handwritten notations under that Item 13?
4 A. Yes. "Respect, Mr. Linc," meaning
5 Linc Barrett, "Disrespect, TAJ and Koffi."
6 Q. Do you recollect what was meant by
7 "Disrespect, TAJ and Koffi" in the notation you
8 just read?
9 A. Yes, I do.
10 Q. Okay. Can you tell me?
11 A. That term was used by most of the
12 women that I interviewed, either in this
13 particular instance or at other times, when I
14 would ask how things were going.
15 The term "disrespect" was a term
16 used to denote some sexual harassment. And it
17 was a term that -- that's all I'll say. That
18 that was what it denoted. And I was told that
19 by Emetem, that the term "disrespect" was a term
20 used for some type of sexual-something said or
21 gesture, or whatever.
22 Q. Did you communicate that

1 information about the meaning of disrespect to
2 Barry Francis?

3 A. Yes.

4 Q. Okay. And this reference to
5 "disrespect," was this the term you referenced
6 earlier in your testimony when you were talking
7 about limited English proficient workers, who
8 are unable to articulate, because of language
9 barriers exactly what was happening?

10 MS. SPEIGHTS: Objection.

11 MR. PHILLIPS: You can answer.

12 THE WITNESS: That is true.

13 Q. (By Mr. Phillips) Okay. If you
14 could turn to page 138, do you see the reference
15 at the top, "Emetem Nkwetta"?

16 A. Yes.

17 Q. Looking down at No. 6, it reads:
18 "Who is your boss," question mark. And then in
19 parens, "If you are late for work or make a
20 mistake, who would speak with you?" closed
21 parens. Can you read the handwritten notation
22 under Item 6?

1 A. "TAJ would send Lolita home for the
2 day to punish her. Linc, then, would want him
3 to apologize."

4 Q. Okay. Do you recall what
5 Ms. Nkwetta said about TAJ sending Lolita home
6 for the day to punish her?

7 A. I don't remember any more than what
8 is written here that would have been said by
9 Emetem, but I do know of an incident where
10 Lolita was sent home.

11 Q. Did you receive any information as
12 to why that may have been the case, that she was
13 sent home?

14 MS. SPEIGHTS: Objection.

15 You can answer.

16 MR. PHILLIPS: Sure. I'll withdraw
17 the question and rephrase it.

18 Q. (By Mr. Phillips) Did you have any
19 communications with anyone about Lolita Gonzales
20 being sent home by TAJ, other than this
21 conversation reflected with Ms. Nkwetta in May
22 of 2005?

1 A. Yes. And, I believe, that I noted
2 it -- either in an e-mail or in the client
3 profile or in Lolita's profile -- that she had
4 been sent home, but I did know that she was sent
5 home and I don't recall why she was sent home.

6 Q. Do you recall who told you she was
7 sent home?

8 A. I believe it was Lolita, herself,
9 but I'm not positive.

10 Q. Do you recall when she told you she
11 have sent home, by TAJ?

12 A. I don't. I do not. The thing that
13 I recollect is that there was a time that she
14 did not show up for work. And my
15 recollection -- but I could be wrong here -- my
16 recollection is that that was following her
17 being sent home, that she did not come back to
18 work.

19 And Linc had e-mailed me or called
20 me to say Lolita is a no-call/no-show, and that
21 he wanted her dismissed. And I had said,
22 "Well," you know, "let me call her and find out

1 why she wasn't there." And when I spoke with
2 Lolita, she said, I believe at that time, that
3 she had been let go early and made to go home,
4 because she -- and I don't know the words
5 exactly that she used -- but that she had been
6 made to go home early and that she had not come
7 back, because she had gone to a concert in New
8 York.

9 And I remember her saying "I do
10 stupid things sometimes." And I said, "You
11 don't do things, but you make some bad choices.
12 If you decide to go to a concert and not come
13 back to work."

14 But I talked to Linc or I e-mailed
15 him. I believe I talked to him. And, again, I
16 don't remember -- I don't remember the sequence,
17 but I know that I said to him, you know, "She's
18 one of your better workers," you know, "Why?
19 What happened?" I was trying to find out why
20 she had been let go or made to go home early.

21 I think my understanding was that
22 she had loss face and, I believe, that was one

<p style="text-align: right;">Page 197</p> <p>1 of the reasons that she hadn't shown up again. 2 But that was only reading into it, on my part. 3 Q. Okay. 4 MS. SPEIGHTS: Objection. Move to 5 strike. 6 Q. (By Mr. Phillips) If you could 7 turn to page 139, please. And I know you've 8 already read this handwritten notation under 9 Item 12. I just wanted to verify that this is 10 your handwriting. 11 A. Yes. 12 Q. And do you recall, sitting here 13 today, that Ms. Nkwetta stated that TAJ talked 14 about people's butts walking by about all the 15 girls? Do you recall that? 16 MS. SPEIGHTS: Objection. 17 THE WITNESS: Yes. 18 Q. (By Mr. Phillips) And was 19 Mr. Francis present, in the interview, when 20 Ms. Nkwetta indicated that? 21 A. Yes, he was. 22 Q. And, similarly, going back from</p>	<p style="text-align: right;">Page 199</p> <p>1 these reflect notes that you took regarding an 2 interview with Monique Spears? 3 A. Yes. 4 Q. And taking a look at page 147, 5 Item 12, again, I'll read the question: "Have 6 you seen or heard any behavior that has been 7 inappropriate or of a sexual nature?" And in 8 parens, "Tell me what occurred." 9 Could you read the handwritten 10 notation under Item 12, please? 11 A. "Looks, TAJ and Koffi, on African 12 ladies, where long T-shirts." 13 Q. Do you recall what Ms. Spears said 14 about that, in regard to this handwritten entry? 15 A. I do. 16 Q. What did she say? 17 A. That she said that TAJ and Koffi 18 Tu-Tu looked at the butts, the rear-ends, that 19 most of the women there were aware of that, and 20 they would wear long T-shirts in order to cover 21 up their rear-ends. 22 Q. And was Mr. Francis present when</p>
<p style="text-align: right;">Page 198</p> <p>1 page 137, Item 13, where we had some testimony, 2 just now, about Ms. Wing saying TAJ and Koffi 3 disrespect her? 4 A. Yes. 5 Q. Was Mr. Barrett [sic] present, 6 during the interview, when Ms. Wing expressed 7 that? 8 MS. SPEIGHTS: Objection. 9 Mr. Barrett? 10 MR. PHILLIPS: I'm sorry. Strike 11 that. 12 Q. (By Mr. Phillips) Was Mr. Francis 13 present when Ms. Wing stated that? 14 A. Yes, he was. 15 Q. And, again, just so I'm clear as to 16 page 139, in case I said "Barrett," I apologize. 17 Was Mr. Francis present when 18 Ms. Nkwetta made that statement reflected under 19 Item 12, page 139? 20 A. Yes, Mr. Francis was present. 21 Q. Okay. If you could turn to page 22 147, please. Looking at pages 146 and 147, do</p>	<p style="text-align: right;">Page 200</p> <p>1 Ms. Spears communicated that information? 2 A. Yes, he was. 3 Q. And if you could look under 4 Item 13, again: "Have you seen or heard any 5 sexual jokes or inappropriate language," 6 question mark, and then in parens, "Tell me what 7 occurred." 8 Can you read the handwriting 9 notation under Item 13, please? 10 A. "Jokes go along with this looking" 11 or "with the looking." 12 Q. Do you recall what jokes Ms. Spears 13 was referencing in response to this question, 14 Item 13? 15 A. I do. 16 Q. What jokes was she referencing? 17 A. She was referencing the jokes with 18 the sexual commentation. 19 Q. Okay. And did she identify who was 20 making the jokes? 21 A. She was referencing back to her 22 previous answer, which was TAJ and Koffi Tu-Tu.</p>

<p style="text-align: right;">Page 201</p> <p>1 Q. And do you recall, sitting here 2 today, do you recall any of the specific jokes. 3 The wording that she used to describe them? 4 A. No, I would not. 5 Q. Okay. Nevertheless, when 6 Ms. Speers communicated this information during 7 her interview, was Mr. Francis present? 8 A. Yes, he was. 9 Q. If you could turn to page 149, 10 please, and also just so you know the context, 11 148, which is the previous page, do these pages 12 reflect notes of a "Julian Carter"? 13 A. Yes, they do. 14 Q. And you authored these notes? 15 A. I did. 16 Q. If you could turn to page 149, 17 Item 12, again the question: "Have you seen or 18 heard any behavior that has been inappropriate 19 or of a sexual nature," question mark. And then 20 in parens, "Tell me what occurred." 21 Can you read the handwritten 22 notation there, please?</p>	<p style="text-align: right;">Page 203</p> <p>1 Q. (By Mr. Phillips) Sure. Meaning 2 allegations of sexual harassment. 3 A. Allegations. Yes, it was. 4 Q. And did you and Mr. Francis have 5 occasion to question any of the witnesses 6 concerning sexual remarks or comments among 7 co-workers or was the focus specifically on 8 Mr. Johnson? 9 A. Well, the way the questions were 10 asked of the associates, it was not geared to 11 asking about Mr. Johnson, in particular. It was 12 in general so that they could have responded if 13 there had been remarks or jokes made among the 14 co-workers, also. 15 Q. Okay. But, nevertheless, it was 16 your intention to delve into allegations 17 regarding Mr. Johnson and sexual harassment, 18 correct? 19 A. Mr. Johnson, Koffi Tu-Tu. 20 Q. And did Mr. Francis communicate to 21 you that that was his focus during these 22 interviews?</p>
<p style="text-align: right;">Page 202</p> <p>1 A. It says "Every day in there," with 2 an exclamation point. 3 Q. Sitting here today, do you have a 4 recollection of what Mr. Carter said in response 5 to Item 12? 6 A. I do. 7 Q. What did Mr. Carter say? 8 A. That the occurrence of sexual 9 remarks -- and I don't know if he used the word 10 "behavior," but people saying sexual things was 11 an everyday occurrence in the facility. 12 Q. Okay. Did he identify who was 13 making the sexual remarks? 14 A. I don't recall if he gave any 15 names. 16 Q. Was the focus of the investigation 17 in May of 2005 specifically on potential sexual 18 harassment by Thomas Johnson? 19 MS. SPEIGHTS: Objection. 20 MR. PHILLIPS: You can answer. 21 THE WITNESS: Can you clarify what 22 you mean my "potential"?</p>	<p style="text-align: right;">Page 204</p> <p>1 A. During the premeeting, I don't 2 remember the exact words, but my understanding 3 was that we were investigating the sexual 4 allegations that has been made -- claims that 5 had been mentioned. 6 Q. Against Mr. Johnson? 7 A. And against Mr. Johnson and 8 Mr. Tu-Tu. 9 Q. Mr. Tu-Tu. If you could turn to 10 page 155, please. And the same thing, look at 11 154 and 155, just for context. Then I'll draw 12 your specific attention to Item 12. 13 A. Yes. 14 Q. Does 155 reflect notes taken that 15 you took of an interview with Fernando Holquin? 16 A. Yes. 17 Q. And, again, looking at Item 12 18 where it says: "Have you seen or heard any 19 behavior that has been inappropriate or of a 20 sexual nature," question mark. And then in 21 parens, "Tell me what occurred." 22 Could you read the handwritten</p>

1 notation under Item 12?
 2 A. "Michelle, who worked on by TAJ,"
 3 and I have an equal sign, meaning that it went
 4 to -- he told Fernando or she told Fernando, and
 5 then I have under that "management," slash,
 6 "TAJ," I don't know what that word is.
 7 Q. Read what you can.
 8 A. "Aaron Grant good work, good
 9 worker, but" something "threatens him" --
 10 "threatened him."
 11 Q. Okay. Looking at the first line
 12 where it said -- where you read "Michelle worked
 13 on by TAJ, equals, told Fernando." Do you
 14 recall what Mr. Holquin stated about that topic?
 15 A. I do not.
 16 Q. Okay. Do you know if Mr. Holquin
 17 was referencing Michelle Desperett in this first
 18 line, under Item 12?
 19 A. I believe so, because I don't think
 20 there was any other Michelle there but, at this
 21 moment, I can't say for sure, other than the
 22 fact that there were no other Michelles.

1 Q. Where it says "worked on by TAJ,"
 2 do you know if based on your reading of this and
 3 your recollection, do you recall whether
 4 Mr. Holquin was stating that TAJ was trying to
 5 induce Michelle Desperett into a sexual
 6 relationship?
 7 MS. SPEIGHTS: Objection.
 8 THE WITNESS: Because the notes are
 9 written under the question: "Have you
 10 heard any behavior that has been
 11 inappropriate or of a sexual nature," that
 12 would be my conclusion.
 13 MS. SPEIGHTS: Objection.
 14 THE WITNESS: Since we know that
 15 Michelle filed a sexual complaint.
 16 MS. SPEIGHTS: Objection. Move to
 17 strike. Non-responsive.
 18 MR. PHILLIPS: I may be done with
 19 this exhibit. Just give me a moment,
 20 please.
 21
 22 (Brief pause)

1
 2 Q. (By Mr. Phillips) Was Mr. Francis
 3 present continuously throughout the interview of
 4 Fernando Holquin?
 5 A. Yes, he was.
 6 Q. And was Mr. Francis present
 7 continuously during the interview of Julian
 8 Carter?
 9 A. Yes.
 10 Q. Okay. Earlier in your testimony,
 11 you referenced a conversation that you had with
 12 Scott Collen concerning Blockbuster's decision
 13 to not terminate Lincoln Barrett and Thomas
 14 Johnson. Do you recall giving that testimony
 15 earlier today?
 16 A. I do.
 17 Q. And you stated, I believe, during
 18 that testimony that you were astounded that
 19 Blockbuster was not terminating Mr. Johnson and
 20 Mr. Barrett. Do you recall giving that
 21 testimony?
 22 A. I do.

1 Q. Do you recall expressing that
 2 astonishment, being "astounded," as you stated,
 3 to Mr. Collen?
 4 A. I did not express it as
 5 "astonishment" because, again, he was not a
 6 client, but I -- but I --
 7 Q. Do you recall -- I'm sorry. I
 8 didn't mean to interrupt you. Go ahead.
 9 A. But I did comment to him that I was
 10 very surprised having heard what Barry and I,
 11 together, heard during the interviews, that
 12 there would not have been something done fairly
 13 immediately. And I remember Scott said, and
 14 wrote it actually into the company profile, that
 15 Barry did not believe that he had enough
 16 information to let them go immediately and that
 17 he wanted to proceed with some type of a series
 18 of goals that they would have to meet or a plan
 19 that they would have to meet, which yes, I have,
 20 by the way, here, the plan that was sent to me,
 21 so I have a copy if you -- in that packet.
 22 Q. Oh, you have a copy of the action

1 plan?

2 A. Yes.

3 Q. Okay. Can we see that, please?

4 MS. SPEIGHTS: This is not on the
5 record.

6
7 (Off record discussion)

8
9 Q. (By Mr. Phillips) And I'm going to
10 ask you this, okay: Do you recall saying
11 anything else to Scott, other than what you've
12 already described -- I'm sorry -- do you recall
13 saying -- strike that.

14 Do you recall saying anything
15 else to Scott Collen during this discussion
16 about this decision to not terminate TAJ and
17 Lincoln Barrett, beyond what you've already
18 testified to?

19 A. No. The only thing I remember was
20 that he said there was a plan in place of
21 certain goals that they would have to meet and
22 he would send me a copy of that plan, which he

1 did.

2 Q. What was your basis for believing
3 that Mr. Johnson and Mr. Barrett should have
4 been terminated at that point?

5 A. I believed that we had heard enough
6 testimony that had been actually corroborated by
7 each person that came in, to indicate that they
8 had been guilty of sexual harassment, in both
9 forms, both words and gestures.

10 Q. Okay. And, in fact, did you tell
11 Mr. Collen -- did you say to him "Don't you
12 think you have enough to go on from the
13 interviews to terminate?" Did you say that to
14 him?

15 A. I believe so.

16 Q. Okay.

17 A. Or words though that affect,
18 certainly.

19 Q. So you communicated to Mr. Collen
20 that you believed the sexual harassment
21 complaints were substantiated?

22 A. I did.

1 Q. Do you recall at the end of the
2 May, 2005, investigation at the Gaithersburg
3 warehouse, how the workers were selected for
4 interview, if there was a method for determining
5 who would have interviewed that day?

6 A. No. There was no specific method,
7 first of all. Before going into the facility,
8 we knew that we didn't know exactly who would be
9 there that day, and that we would just ask the
10 person that was nearest to the office to come in
11 and to grab them, as their work permitted them
12 to be grabbed.

13 In other words, if they were right
14 in the middle of a stack when sorting through,
15 we would say "When you're finished with that,
16 would you be prepared to come in and speak with
17 us?"

18 So actually, as one person left,
19 they would, sort of, tag the next person, that
20 type of thing.

21 Q. Okay. Did you go out on the floor
22 and bring the temporary workers in for

1 interview?

2 A. No, my recollection is that we both
3 were in the room, and the person that had just
4 finished with the interview would go out and
5 send the next person in.

6 Q. Okay.

7 A. That's my recollection. Now, if
8 there had been a lull in that, I would have been
9 the one to go out. I don't recall doing that.

10 Q. Okay. You referenced earlier that
11 there were, in the possession of Express
12 Personnel Services, computer files that recorded
13 information regarding complaints from the
14 associates. Do you recall that testimony?

15 A. Yes.

16 Q. And do you recall, also, testifying
17 that there was a paper file specific to sexual
18 harassment complaints?

19 A. Yes.

20 Q. Did anyone from Blockbuster ever
21 ask you for those documents?

22 A. No.

1 Q. Did anyone from Blockbuster ever
2 ask you if you kept files on employee complaints
3 of sexual harassment?

4 A. No. But let me just qualify my
5 previous answer. I believe they felt that any
6 complaints that were formally lodged, I would
7 have sent to them, by June, at Venturi.

8 Q. Okay. So by "formal complaints,"
9 you mean complaints that were documented by the
10 individual making the complaint?

11 A. Right.

12 Q. Okay. Did anyone from Blockbuster
13 ever ask you for any documents or data
14 concerning complaints that were informal,
15 meaning complaints that were verbal but were not
16 documented by the person making the complaint?

17 A. Other than Say Wing, who refused
18 to, I don't believe that that was asked. The
19 information that I was receiving and any remarks
20 that I heard, I would pass on to June. And,
21 again, my understanding was that she would pass
22 those on to Blockbuster.

1 Q. What was the basis for your
2 understanding that June Davis would pass that
3 information that you provided to her about
4 sexual remarks on to Blockbuster?

5 A. Because she would say, "I will call
6 Scott," or "I will speak to Scott," or I will
7 e-mail Scott."

8 Q. Did she confirm, for you, at any
9 point, that she had done that? Did she come
10 back to you and say words to the affect, that
11 she had spoken to Scott about those remarks?

12 A. Yes. There are some e-mails, I
13 believe, in the packet that I supplied that she
14 actually does confirms some of the times that
15 she spoke to Scott. Other times, on the phone,
16 and she would say that she had spoken to Scott
17 or that she was going to speak to Scott.

18 Q. Do you remember who was reporting
19 to you these remarks that were never formalized
20 in the form of a written complaint document? Do
21 you recall who was making those reports to you,
22 specifically sexual remarks?

1 A. Yes. I would say that I would not
2 be able to give you any names or what they said,
3 but that most of the women, at one time or
4 another, would make a remark that would indicate
5 that there was something not right.

6 Q. Did they say --

7 MS. SPEIGHTS: Objection. Move to
8 strike. Non-responsive.

9 Q. (By Mr. Phillips) Did the
10 individuals who made complaints to you, were
11 they referencing sexual remarks made by someone
12 else?

13 A. Yes.

14 Q. All right. Do you recall the names
15 of persons who were said to have made the sexual
16 marks?

17 A. Oh, it was always TAJ or Koffi
18 Tu-Tu. Always.

19 Q. Did Blockbuster ever ask you for
20 information about -- verbal information provided
21 to you by associates regarding sexual remarks
22 being made at the facility?

1 A. Do you mean Blockbuster directly
2 asking me? Someone from Blockbuster?

3 Q. Yes.

4 A. No. At least I don't recall that
5 anyhow. And, again, we're talking about three
6 and a half years ago, so -- but I do not recall
7 that, no.

8 Q. Okay. We talked earlier about
9 Michelle Despertt and, I believe, you referenced
10 that the reasons given for Ms. Despertt's
11 termination were that she was not making numbers
12 and tardy. Do you recall giving that testimony?

13 A. Yes.

14 Q. Okay. Do you recall who told you
15 that?

16 A. It would have been Linc. He was
17 the one who I was given the directive to dismiss
18 someone and usually he gave the reason why.

19 Q. Now, we talked about formal
20 complaints of sexual harassment, and you
21 referenced earlier in your testimony that you
22 insisted that the person making the complaint

1 A. I believe Yasmina was one and
2 Takara was the other.
3 Q. Takara Martin?
4 A. Takara Martin.
5 Q. If you could turn to Brown
6 Exhibit 10, the e-mail from June Davis, and I
7 want to draw your attention to the top of the
8 e-mail from June Davis to Scott Collen at
9 Blockbuster.com. And the second sentence down,
10 could you read that sentence, please, for the
11 record?
12 A. "The Person that made the
13 allegation that one of the leads touched her
14 inappropriately," Say Wing in parentheses, "is
15 still not willing to put anything in writing.
16 Q. Do you recall Say Wing telling you
17 that one of the leads had touched her
18 inappropriately?
19 A. I cannot recall her words, saying
20 that to me. But if that is what is written
21 here, then that was something that I would have
22 written.

1 Q. Okay. But you do recall that
2 Ms. Wing was raising a complaint about being
3 sexually harassed by one of the leads?
4 A. Yes.
5 Q. Do you recall which leads she was
6 implicating?
7 A. I do not. I do not.
8 Q. The third sentence says: "Cinnie's
9 office phone is 410-561-7810." It then goes on
10 to give your cell number, and it says "If you
11 want to contact her directly." Do you see that
12 sentence?
13 A. I do.
14 Q. Okay. Did Mr. Collen call you to
15 get specific details regarding Ms. Wing's
16 complaint?
17 A. He may have. I know that, at some
18 point, he called to clarify something. It may
19 be in the company profile, but I don't know if
20 it was specifically about Say Wing. This was in
21 April, so, you know, I'm just not recalling.
22 Q. Okay. Thank you. That's fine.

1
2 (Brief break)
3
4 MR. PHILLIPS:
5 Let's go back on the record.
6 Q. (By Mr. Phillips) Ms. Brown,
7 earlier in your testimony you stated that Emetem
8 was very vocal about things she felt that was
9 going on?
10 A. Yes.
11 Q. And sitting here now, do you recall
12 what she was referencing as far as things going
13 on?
14 A. She was referencing some of the
15 sexual harassment that was going on. She, as
16 far as -- I believe it was Emetem, who brought
17 to my attention that Say Wing had a sexual
18 complaint. And then I pursued it with Say Wing
19 and, of course, she would not write anything
20 down.
21 And I think I asked Emetem if she
22 would translate for Say Wing, because she spoke

1 French, also. And, I believe, she said she
2 would. But, again, Say Wing would not write
3 anything down or speak through an interpreter to
4 me, over the phone, or even in person --
5 certainly not in person.
6 Q. Do you recall when the first time
7 Ms. Nkwetta told you there was sexual harassment
8 going on?
9 MS. SPEIGHTS: Objection.
10 THE WITNESS: Again, date-wise, I
11 would not able to.
12 Q. (By Mr. Phillips) Do you recall if
13 Ms. Nkwetta said anything about sexual
14 harassment prior to Michelle Despertt's in March
15 of 2005?
16 A. No, I really don't recall.
17 Q. Okay. And, I believe, we
18 referenced this document already in your
19 testimony. It's the large exhibit.
20 Looking at Brown Exhibit 4, and
21 we're turning to a page marked in the lower
22 left-hand corner, page 10. Do you see that?

1 Q. Could you take a look at that
2 folder, please?
3 MR. PHILLIPS: For the record, the
4 folder has three business cards stapled to
5 it.
6 Q. (By Mr. Phillips) And could you
7 read the names on the business cards, please?
8 A. "Scott Collen, Barry Francis," and
9 "Brian Hand."
10 Q. Regarding the last name, Brian
11 Hand, can you tell me how you came to obtain a
12 Blockbuster business card from Mr. Hand?
13 A. I do not know, because I don't
14 recall ever speaking to Mr. Hand.
15 Q. All right. You don't recall
16 meeting him or being introduced to him at all?
17 A. I don't. But I must have been,
18 because I have his card here, but I don't recall
19 it.
20 Q. Okay. Earlier in your testimony,
21 do you recall giving testimony that Express
22 Personnel Services was the employer of the temp

1 workers working at the Gaithersburg warehouse of
2 Blockbuster?
3 A. Yes. We were the employer of
4 record.
5 Q. And when you say "employer of
6 record," what do you mean by that?
7 A. Meaning that we were the one that
8 cut their checks, paid them through our payroll
9 system, even though they were employed,
10 physically, one of our clients.
11 Q. And are you familiar with the legal
12 standards for determining whether a worker
13 is -- strike that.
14 Are you familiar with the legal
15 standards for determining whether a corporation
16 is a temporary worker's employer within the
17 meaning of Title 7 of Civil Rights Act of 1964?
18 A. I'm not sure exactly what you're
19 referring to.
20 Q. Okay. Title 7 of the Civil Rights
21 Act of 1964 defines what and employee and an
22 employer are.

1 A. Yes.
2 Q. And I'm asking you if you're
3 familiar with the legal standards for
4 determining who is the employer of a worker,
5 within the definition of Title 7 of the Civil
6 Rights Act of 1964 and the case law interpreting
7 that?
8 A. I am not familiar with it.
9 Q. And just a few more questions
10 Ms. Brown and I think I'll be finished.
11 To be clear, did Express Personnel
12 Services have the power to take disciplinary
13 action against Thomas Johnson?
14 A. No.
15 Q. Okay. Did Express Personnel
16 Services have the power to take disciplinary
17 action against Koffi Tu-Tu?
18 A. No.
19 Q. And did Express Personnel Services
20 have the power to take disciplinary action
21 against Lincoln Barrett?
22 A. No. They were not the employees of

1 Express Personnel.
2 Q. And did Express Personnel have the
3 authority to take any other corrective action
4 against any of those three individuals?
5 A. No.
6 MR. PHILLIPS: I pass the witness.
7 MS. SPEIGHTS: Just a few
8 questions.
9
10
11 FURTHER EXAMINATION BY MS. SPEIGHTS:
12
13 Q. Did Express have the power to take
14 workers out of the Gaithersburg facility?
15 A. Only at the direction of the
16 client, either at Venturi or Blockbuster.
17 Q. Were there any reasons, other than
18 getting some direction from the client or
19 Blockbuster, that Express Personnel could change
20 the assignment of a temporary worker, move them
21 from one employer to another employer?
22 A. Not unless -- once the employee was

1 in a position at a company, the only one that
2 could make a decision as to either end that
3 employment would be either the client or the
4 associate, himself.

5 Q. Did, at some point, you believed
6 that an associate or an employee of Express was
7 in danger in a client's facility, did you have
8 the authority or power to do anything about
9 that?

10 MR. PHILLIPS: Objection to form.
11 You can answer.

12 THE WITNESS: I really don't know
13 how to answer that, because I've never ran
14 into it in all the years I did staffing.

15 I think if we wanted to lose the
16 client, we certainly could take them out,
17 or if there was someone there that was
18 threatening them, we probably could take
19 them out. But it would not have been
20 something that I would ever have done
21 because I never ran into a situation --

22 Q. (By Ms. Speights) But you think

1 you could have done it?

2 A. -- that demanded it.

3 MR. PHILLIPS: Same objection.

4 Q. (By Ms. Speights) But you think
5 you could have done it if you ran into that
6 situation?

7 MR. PHILLIPS: Same objection.

8 THE WITNESS: Probably.

9 Q. (By Ms. Speights) Now,
10 Mr. Phillips asked you some questions about, I
11 think her name was, Fati Toure?

12 A. Yes.

13 Q. And there was an e-mail, which is
14 in Francis 9 concerning Fati Toure's
15 hospitalization?

16 A. Yes.

17 Q. And you had gotten a call from her
18 sister about her being in the hospital?

19 A. Right.

20 Q. Do you know how many days Ms. Toure
21 was out from work for her hospitalization?

22 A. I was have absolutely no

1 recollection of that, other than what would have
2 been on the payroll, the payroll documents.

3 Q. Do you know if Ms. Gonzales missed
4 any days during 2005, because she was
5 hospitalized, Dolores Gonzales?

6 A. I was not aware that she was
7 hospitalized. I knew she was out sick.

8 Q. But you're not aware of any
9 hospitalization of Md. Dolores Gonzolas, during
10 2005?

11 A. No. Not that I can recollect.

12 Q. I think you also mentioned that
13 during your testimony that you believe Linc
14 Barrett complained about Ms. Lolita Gonzales'
15 tardiness after the May investigation; is that
16 right?

17 A. I think I recall saying that. I
18 couldn't remember exactly when that was. I
19 think it was after the May.

20 Q. Right.

21 A. I think it was in June, but I think
22 that was prior -- just prior to when she was let

1 go, but I don't remember exactly.

2 Q. Okay. Could you take a look at the
3 Company Profile Report. Do you have that in
4 front of you?

5 A. Okay. I do.

6 Q. If you will turn to page 7 of the
7 Company Profile Report?

8 A. Okay.

9 Q. If you will go to 4/27, 2005?

10 A. Yes.

11 Q. "Lincoln Barrett," do you see that?

12 A. Yes.

13 Q. "Other call-telephone CA Brown."
14 Do you see that?

15 A. Yes, I do.

16 Q. And the result section it says, he
17 says: "Lolita not doing job well. Was out for
18 two days and did not call in"?

19 A. Yes.

20 Q. And that's something that he told
21 you during that telephone conversation?

22 A. Yes.