

>> ALL RISE.

HEAR YE, HEAR YE, HEAR YE, THE SUPREME COURT OF FLORIDA IS NOW IN SESSION, ALL WHO HAVE CAUSE TO PLEAD, DRAW NEAR, GIVE ATTENTION AND YOU SHALL BE HEARD.

GOD SAVE THE UNITED STATES, THE GREAT STATE OF FLORIDA AND THIS HONORABLE COURT.

LADIES AND GENTLEMEN, SUPREME COURT OF FLORIDA, PLEASE BE SEATED.

>> WELCOME TO THE FLORIDA SUPREME COURT.

THE FIRST CASE IN THE DOCKET TODAY IS JACKSON VERSUS HOUSEHOLD FINANCE CORPORATION.

>> MY NAME IS NICOLE ZIEGLER ON BEHALF OF THE PETITIONERS, CYNTHIA AND THOMAS JACKSON. THEY TRAVELED HERE FROM TAMPA TO JOIN US TODAY.

APPRECIATE YOUR TIME THIS MORNING.

WE GIVE YOU A BRIEF BACKGROUND IF YOU WOULD LIKE THE FACTS. IT IS A SIMPLE MATTER STEMMING FROM A FORECLOSURE CASE, THE HEART OF THE ISSUE IS HOW THE TRIAL COURT APPLIED THE BUSINESS RECORDS EXCEPTION, BUSINESS RECORDS INTO THIS CASE.

THE MOST PERTINENT FACT HAVE TO DEAL WITH THE TESTIMONY OF THE RESPONDENT HOUSEHOLD FINANCE CORPORATION, AND HOW THE WITNESS TESTIFIED, THEY ESTABLISH THE CASE.

AS REFERRED IN THE BRIEFS AND IN THE RECORD, ON DIRECT, THE WITNESS FOR HOUSEHOLD TESTIFIED HE WAS AN ASSISTANT VICE PRESIDENT OF HSBC, NOT HOUSEHOLD, HSBC.

HE ALSO TESTIFIED --

>> YOU DID NOT RAISE AT TRIAL ANY OBJECTION TO THE FACT THAT HOUSEHOLD WAS A WHOLLY-OWNED

SUBSIDIARY OF HSBC, DID YOU?
>> THE FACT OF THE CASE DON'T
REFLECT EXACTLY WHAT
HOUSEHOLD'S RELATIONSHIP IS TO
HSBC.
THE ONLY EVIDENCE THAT CAME IN

--

>> WAS THERE AN OBJECTION THAT
BECAUSE THESE HOUSEHOLDS
DOCUMENTS, THIS WITNESS IS NOT
QUALIFIED TO TESTIFY AS TO
RECORD-KEEPING OF THOSE
DOCUMENTS.

WHY IS THAT IN THE RECORD?

>> YES.

IMMEDIATELY AFTER THE WITNESS'S
DIRECT TESTIMONY, THE
JACKSONS'S ATTORNEY OBJECTED
THAT THE WITNESS WAS NOT
QUALIFIED AND DID NOT LAY
PROPER FOUNDATION BASED ON LACK
OF KNOWLEDGE.

I HAVE THAT SITE FOR YOU.

>> IT IS YOUR BELIEF THAT IS A
SPECIFIC ENOUGH OBJECTION TO
RAISE THE ISSUE YOU ARE RAISING
NOW, WHICH IS IT IS A DIFFERENT
COMPANY'S DOCUMENT?

>> YES AND THAT IS ONE OF THE
ARGUMENTS.

THERE ARE TWO ARGUMENTS.
SPECIFICALLY BECAUSE THE
WITNESSES AND QUALIFIED, THERE
IS NOT A FOUNDATION AND THAT IS
BECAUSE BOTH, YOU HAVE RECORDS
COMING IN FROM BOTH HOUSEHOLD
AND HSBC BUT IT GOES
SPECIFICALLY TO THE FACT THAT
THIS WITNESS DID NOT
DEMONSTRATE HE WAS QUALIFIED TO
LAY THE FOUNDATION FOR THE HSBC
RECORDS.

HE TESTIFIED HE'S AN ASSISTANT
VICE PRESIDENT.

WE DON'T KNOW WHAT HE'S
ASSISTANT VICE PRESIDENT OF, HE
DIDN'T HAVE ANY DESCRIPTION
WHAT HIS JOB DUTIES OR
RESPONSIBILITIES ARE.

HE DIDN'T HAVE ANY EXPLANATION

THAT HE HAS EVER DONE ANYTHING.
>> IS YOUR RESPONSIBILITY TO
IMPEACH HIM IF HE IS NOT
QUALIFIED?

>> NOT IN THIS CASE AT NOT THE
WAY IT DEVELOPED.

90.8036 IS WRITTEN THAT THE
RECORD PROPONENT HAS TO
ESTABLISH THE FOUR FOUNDATIONAL
ELEMENTS FOR A QUALIFIED
WITNESS.

THEN AND ONLY THEN DOES IT
SHIFT TO BE OPPONENT TO IMPEACH
THE WITNESS AND OTHERWISE
DEMONSTRATE THAT THE RECORDS
WERE UNTRUSTWORTHY.

IN THIS CASE YOU DON'T GET TO
THE BURDEN SHIFTS BECAUSE THE
WITNESS DEMONSTRATED --

>> IS THAT MISTER BURCH?
AND YOU SAY HE IS FAMILIAR WITH
HSBC'S BUSINESS PRACTICE THAT
HAS ACCESS TO THE JACKSON'S
ACCOUNT?

IS THAT SUFFICIENT?

>> HE DID AND I SUBMIT THAT IS
NOT SUFFICIENT.

IT DOESN'T TELL US HE ACTUALLY
KNOWS ANYTHING ABOUT THE THINGS
HE IS TESTIFYING TO.

HOW IS HE QUALIFIED?

HOW CAN THE COURT JUDGE HE'S
QUALIFIED TO SAY YES TO THOSE
THINGS?

>> IT SEEMS TO ME YOU ARE
SUGGESTING SOME KIND OF
AMORPHOUS REQUIREMENT OF MORE
AND YOU FAIL TO POINT THE TRIAL
JUDGE TO A SPECIFIC DEFICIENCY.

I UNDERSTAND YOU RAISED A
GENERAL OBJECTION BUT TRYING TO
LOOK FROM THE PERSPECTIVE OF
THE TRIAL JUDGE, WHAT IS THE
TRIAL JUDGE TO THINK?

WHAT SPECIFICALLY IS MISSING
HERE?

YOU DON'T IDENTIFY WHAT IS
MISSING OR WHAT MORE SHOULD BE
THERE, IT SEEMS TO ME.

THE QUESTIONS ASKED, DID HSBC

MAINTAIN THESE RECORDS WITH
RESPECT TO THE SUBJECT LOAN?
HE SAYS YES.

IT IS NECESSARILY INHERENT IN
THAT THAT HE HAS KNOWLEDGE OF
THAT AND THESE OTHER THINGS HE
TESTIFIES TO.

I AM TRYING TO UNDERSTAND, THIS
IS THE SAME QUESTION JUSTICE
LAWSON MADE.

I AM TRYING TO UNDERSTAND HOW
THE TRIAL JUDGE CAN BE IN A
POSITION TO ABUSE DISCRETION ON
THIS WHEN YOU HAVE NOT DIRECTED
THE TRIAL JUDGE TO SOMETHING
THAT WOULD HELP THE TRIAL JUDGE
UNDERSTAND WHY SPECIFICALLY
WHAT HAS BEEN PRESENTED IS NOT
SUFFICIENT.

WHAT AM I MISSING?

>> I UNDERSTAND AND I WILL GO
TO THE RECORD, PAGE 209, WHERE
THE OBJECTION IS RAISED AND THE
OBJECTION WAS PHRASED, MY ONLY
OBJECTION IS THIS IS HEARSAY,
THIS WITNESS HASN'T LAID A
FOUNDATION ON WHICH TO TESTIFY
TO THESE BUSINESS RECORDS OR
AUTHENTICATE ANY OF THESE
DOCUMENTS BASED ON PERSONAL
KNOWLEDGE.

THIS IS A HEARSAY OBJECTION
BECAUSE IT IS AN EXCEPTION TO
ADMIT THESE RECORDS.

THIS PUT THE COURT ON NOTICE
THAT THE DEFENDANTS FELT THIS
WITNESS WASN'T QUALIFIED.

THIS WITNESS DIDN'T SATISFY THE
HEARSAY OBJECTION BECAUSE THESE
ARE HEARSAY RECORDS.

THERE IS NO TESTIMONY BEFORE
THE COURT TO DEMONSTRATE THIS
WITNESS HAD THE KNOWLEDGE TO
ATTEST TO THE THINGS HE WAS
TESTIFYING.

HOW DO WE KNOW HE KNOWS THESE
RECORDS --

>> IS THE RATIONALE FOR THE
RULE THAT THE RECORDS ARE
INHERENTLY RELIABLE WHEN THOSE

ELEMENTS MEANT THEY ARE KEPT IN THE ORDINARY COURTS MADE AT THE TIME OF THE EVENT ETC. AND SOMEONE IN HIS POSITION WHO HAS BEEN WITH THE COMPANY FOR 25 YEARS WHICH ONLY CAME OUT ON THE CROSS AND HAD THESE JOBS IT SEEMS HE CLEARLY IS QUALIFIED TO TESTIFY TO THE ELEMENTS LAID OUT IN THE STATUTE.

IS THAT WHAT THIS IS ABOUT?

>> THAT IS WHAT THIS IS ABOUT BUT I CHARACTERIZE IT DIFFERENTLY.

BEING AN EMPLOYEE FOR 25 YEARS DOESN'T MEAN HE HAD ANYTHING TO DO WITH ACTIVITIES THAT UNDERLIE THESE DOCUMENTS OR HAD ANY KNOWLEDGE HOW THESE DOCUMENTS ARE CREATED OR ANY KNOWLEDGE OF THE FACT OF WHETHER TECHNOLOGIES AND MANNER OF CREATING THESE RECORDS WERE DONE IN A RELIABLE WAY.

THESE ARE HEARSAY, THEY ARE INHERENTLY UNRELIABLE AND UNLESS YOU HAVE A QUALIFIED WITNESS TO PUT ON THOSE FOUR TESTIMONIAL ELEMENTS, YOU DON'T EVER PLACE THAT RELIABILITY BACK TO THE DOCUMENTS, THEY ARE INHERENTLY UNRELIABLE.

OTHERWISE THEY WOULD BE AN EXCEPTION, THEY WOULDN'T BE HEARSAY AND THIS COURT HAS PREVIOUSLY HELD THAT AN EXCEPTION HAS TO BE STRICTLY COMPLIED WITH.

I DON'T KNOW HOW THERE CAN BE STRICT COMPLIANCE WHEN THERE IS NOTHING TO SHOW THE COURT THAT THIS WITNESS HAS THE KNOWLEDGE TO TESTIFY TO THE THINGS HE IS SAYING.

>> IT SEEMS YOU ARE MIXING ISSUES.

IS THE WAS QUALIFIED TO TESTIFY ABOUT THINGS WITNESS TESTIFY TO.

CORRECT?

AND THE SECOND ISSUE IS WHAT IS THE FOUNDATION REQUIRED?

WHAT THINGS HAVE TO BE TESTIFIED TO IN ORDER TO ESTABLISH THESE ARE BUSINESS RECORDS, THOSE ARE SEPARATE INQUIRIES.

AND THE STRICTNESS REQUIREMENT HAS TO DO WITH THINGS THAT HAVE TO BE TESTIFIED TO CORRECT?

>> IT GOES TO BOTH.

>> WHERE IN THE LAW WOULD YOU FIND AUTHORITY FOR THAT?

>> THIS COURT HAS PREVIOUSLY RULED IN CASES LIKE THE ISRAEL CASE THAT HEARSAY EXCEPTIONS HAVE TO BE STRICT COMPLIED WITH.

THAT APPLIES TO THE WHOLE EXCEPTION.

WE CAN'T PARSE OUT PARTS OF THE EXCEPTION.

>> TALKING ABOUT SECTION 901 OF THE CODE INAUTHENTICITY.

>> IT IS BOTH.

>> WHEN TALKING ABOUT A DOCUMENT SECTION 901 SAYS WE HAD TO PUT ON A CASE THE DOCUMENT IS WHAT IT PURPORTS TO BE CORRECT?

AND WE ARE TALKING ABOUT IT PURPORTS TO BE A BUSINESS RECORD, CORRECT?

WE HAVE TO HAVE A WITNESS WITH SUFFICIENT KNOWLEDGE TO TESTIFY THIS IS A BUSINESS RECORD AND NOTHING MORE.

THIS IS RELATED TO 900 ONE.

>> I AGREE WITH THAT BUT I THINK THE TWO RULES INTERSECT AND INTERPLAY WITH EACH OTHER.

>> ONCE YOU GET A WITNESS TO TESTIFY THIS DOES MEET 901, WHAT IT PURPORTS TO BE IS A BUSINESS RECORD, THAT WITNESS CAN TESTIFY TO 836

REQUIREMENTS.

>> CORRECT.

THE KNOWLEDGE TO TESTIFY --

>> I WAS EMPLOYED TWO WEEKS AGO

AS RECORD CUSTODIAN.
A WEEK OF TRAINING, THE
COMPLETE RECORDS KEEPING, I
HAVE BEEN TRAINED, TO THE
SYSTEM.

I WAS TRAINED WHEN THE RECORDS
WERE PUT IN I CAN TESTIFY TO
EVERY PIECE OF THE FOUNDATION
BASED ON TRAINING AND FULL WEEK
OF EXPERIENCE, I PULLED THESE
DOCUMENTS, PULLED THEM TO
ELECTRONIC RECORDS WHICH IS
TESTIFIED TO AND WOULD THAT
WITNESS BE QUALIFIED?

>> YES.

THE KEY DIFFERENCE IS UNDER
YOUR SCENARIO THE WITNESSES HAD
TRAINING ON HOW THESE RECORDS
ARE CREATED.

>> THIS SAYS I WAS A VICE
PRESIDENT, I WORKED WITH RECORD
KEEPING SYSTEM IN 25 YEARS IN
VARIOUS CAPACITIES MANAGING
DEPARTMENTS OF THE COMPANY.
IF A TWO WEEK CLERICAL EMPLOYEE
CAN MEET THE REQUIREMENT TO
HAVE SUFFICIENT KNOWLEDGE AS TO
HOW THEY KEEP RECORDS IT --
DIFFICULT TO UNDERSTAND THE
ARGUMENT THAT A 25 YEAR HIGH
LEVEL EMPLOYEE, THE VARIOUS
DEPARTMENTS CAN TESTIFY TO
THESE THINGS, IS NOT SUFFICIENT
TO MAKE A SIMPLE CASE THAT HE
CAN SAY THESE DOCUMENTS I
PURPORT TO BE, THE BUSINESS
RECORDS OF THE COMPANY A TOUR
FOR 25 YEARS.

>> HE TESTIFIED FOR 25 YEARS,
HE DIDN'T SAY IN WHAT CAPACITY
OTHER THAN TO GENERALLY SAY A
VICE PRESIDENT, VICE PRESIDENT
OF WHAT?

HE DOESN'T TESTIFY HE HAD
ANYTHING TO DO WITH THESE
RECORDS.

AND YOU CAN LOOK TO FEDERAL
CASES FOR SUPPORT ON THIS ISSUE
THAT SAY BEING ABLE TO LOOK AT
DOCUMENT A POOL DOCUMENT ISN'T

SUFFICIENT.

THAT DOESN'T GIVE THE WITNESS
THE QUALIFICATION NECESSARY.
AND I CITED THAT IN THE BRIEF.
>> WHAT YOU ARE SAYING, WE
WORKED FOR 25 YEARS, HE WAS NOT
OFFICIALLY IN THE WEED TO KNOW
HOW THESE RECORDS ARE KEPT.

>> IT IS IMPORTANT.

>> HOW IS THAT POSSIBLE?

>> WHAT IF HE WORKED THERE FOR
25 YEARS IN MARKETING?

DO THAT GIVEN MANY
QUALIFICATION TO TESTIFY THAT
THESE BUSINESS RECORDS RELATING
TO LOAN DOCUMENTATION AND
PAYMENTS AND THINGS OF THAT
NATURE ARE ACCURATE ARE KEPT IN
THIS?

HOW MANY VICE PRESIDENTS, NATE
HAVE NEVER DONE ANYTHING OTHER
THAN LOOK AT SOME RECORDS.

>> BACK TO THE POINT THAT
WOULDN'T YOU AGREE ALL THE
PROPONENT OF THE EVIDENCE HAS
TO DO IS ESTABLISH A PRIMA
FACIE CASE THE PERSON IS
QUALIFIED TO TESTIFY, AND WITH
THE BURDEN SHIFTS TO YOU TO
INQUIRE THESE THINGS?

>> THAT IS PART OF THE INITIAL
FOUNDATIONAL BURDEN UNDER THE
RULE FOR THE RECORD PROPONENT.
THE RECORD PROPONENT HAS TO
HAVE A QUALIFIED WITNESS.

>> WHERE DO YOU FIND THAT IN
THE RULE ITSELF?

>> THE RULE SAYS THE RECORD
PROPONENT HAS TO SHOW THESE
ELEMENTS THAT HAS TO DO THROW A
QUALIFIED WITNESS.

UNDER THE SCENARIO --

>> THE RULE SAYS THE PROPONENT
MUST SHOW THE RECORD WAS MADE
AT OR NEAR THE TIME OF THE
EVENT.

DO YOU HAVE KNOWLEDGE THIS WAS
MADE AT THE TIME OF THE EVENT?
WAS MADE BY OR FOR INFORMATION
TRANSMITTED BY A PERSON WITH

KNOWLEDGE?

YOU DON'T HAVE TO HAVE PERSONAL KNOWLEDGE, BUT WITH KNOWLEDGE. THE NEXT THING, KEPT IN THE ORDINARY COURSE OF REGULARLY CONDUCTED BUSINESS ACTIVITY. AND THAT IT WAS THE REGULAR PRACTICE OF THAT BUSINESS TO MAKE SUCH A RECORD.

>> THAT IS THE PRIMA FACIE ELEMENT YOU HAVE TO MEET. THEN IT SHIFTS TO THE OTHER SIDE AND YOU HAVE THE ABILITY TO IMPEACH OR DO A DEPOSITION BEFORE HAND AND DEPOSE THE PERSON TO TESTIFY AT TRIAL WITH THE MOST KNOWLEDGE.

>> YOU ARE ABSOLUTELY RIGHT BUT EVEN IN THE WAY YOU JUST READ THE ROOM THE WITNESS WAS SAYING HE HAD THE KNOWLEDGE TO SAY THOSE THINGS.

WE DON'T KNOW THIS WITNESS HAS THE KNOWLEDGE TO SAY THE THINGS HE IS SAYING.

I THINK THE MORE IMPORTANT ISSUE --

>> HE PURPORTS TO HAVE THE KNOWLEDGE.

IT IS ROLLED TOGETHER AND I AM STILL STRUGGLING, YOU DON'T HAVE AN OBLIGATION TO POINT OUT SPECIFICALLY WHAT MORE NEEDED TO BE SAID?

>> WHAT MORE NEEDED TO BE SAID WAS FACTS THAT DEMONSTRATE THAT HE POSSESSES KNOWLEDGE TO SAY THESE THINGS.

IF YOU LOOK AT THE CASES OF AN EXAMPLE OF WHAT A QUALIFIED WITNESS WOULD BE, THE CASE GENERALLY EVOLVES, WELL ACQUAINTED ENOUGH WITH THE RECORDS, DON'T KNOW THIS WITNESS AS ANY ACQUAINTANCESHIP WITH THESE RECORDS AND THOSE TWO CASES GIVE A BETTER EXAMPLE, MORE SPECIFIC EXAMPLE AND SAY IT IS SOMEBODY WHO IN CHARGE OF THE ACTIVITY OF THESE

RECORDS OR AS SOMEBODY WHO BY THE VERY NATURE OF THEIR JOB RESPONSIBILITIES IN TRAINING HAS KNOWLEDGE AND FAMILIARITY WITH THESE RECORDS.

>> PART OF THE FOUNDATION, WOULDN'T THE WITNESS ASK WHAT HE DID WHAT INDICATE THESE RECORDS.

HE PULLED FROM HERE, HE USED THE SYSTEM, THE RECORD-KEEPING SYSTEM TO LOOK AT THEM AND COMPARE THEM ELECTRONICALLY SO HE COULD TESTIFY THAT THESE WERE ACCURATE COPIES OF THE DOCUMENTS THAT WERE REFLECTED IN THE RECORD-KEEPING SYSTEM OF THE COMPANY HE WORKED FOR FOR 25 YEARS.

>> HE DID SAY HE LOOKED AT THEM.

UNDER FEDERAL AUTHORITY IS NOT SUFFICIENT.

JUST BEING ABLE TO LOOK AT SOMETHING DOESN'T TELL YOU ABOUT HOW THE RECORDS WERE CREATED.

>> HE DID TESTIFY HE WAS FAMILIAR WITH RECORD-KEEPING AND BUSINESS PRACTICES AT THE COMPANY.

CHIEF JUSTICE KENNEDY WAS POINTING OUT WHEN YOU'RE SIDE HAD THE OPPORTUNITY TO PROBE WHAT HE KNEW NOTHING SPECIFIC CAME OUT.

IF ANYTHING HE SEEMED MORE CREDIBLE AFTER THAT.

IF YOU ARE THE TRIAL JUDGE, WHAT ARE YOU SUPPOSED TO DO WITH THAT?

>> BEAR IN MIND THE RECORDS HAVE BEEN ADMITTED AT THIS POINT.

THEY DIDN'T HAVE A CHANCE TO TEST THE SUFFICIENCY.

THEY WERE ALREADY IN.

EVEN ON CROSS, WHEN THEY ASKED HOW HE HAD THIS KNOWLEDGE AND FAMILIARITY IT WAS ALL

GENERALITIES.

I HAD CROSSTRAINING, I WORKED IN VARIOUS DEPARTMENTS, THAT WAS THE MOMENT FOR HIM TO SAY THAT HE POSSESSED TO TESTIFY, HE DIDN'T GIVE ANY SPECIFIC AND MORE FUNDAMENTALLY IN THIS CASE, IT IS IMPORTANT TO REMEMBER, THE WITNESS TRYING TO ADMIT RECORDS FROM HOUSEHOLD. YOU CAN ADMIT HOUSEHOLDS, THEY ACTUALLY HAVE TO TAKE A STEP FURTHER, FOUR ELEMENTS AND TESTIFY HOW THEY VERIFY THE ACCURACY OF THE PRIOR BUSINESS.

>> HSBC PREPARED AND MAINTAINED RECORDS WITH RESPECT TO THE SUBJECT LOAN.

>> IF YOU LOOK AT THE RECORDS, THEY HAVE HOUSEHOLDS STAMP ON TOP OF THEM.

>> IT IS A MATTER OF COMMON KNOWLEDGE THAT SOMEONE SERVICING LOANS MIGHT HAVE PAPERWORK THAT HAS THE NAME OF THE ENTITY FOR WHICH THE LOAN IS SERVICED.

NONE OF THIS, LET ME ASK ABOUT THE STATE OF REVIEW.

THE STANDARD REVIEW, IS THAT CORRECT?

>> THAT IS CORRECT.

>> THEN YOU ARGUE THE CORE ISSUE IS WHETHER THE PERSON TESTIFYING WAS WELL ENOUGH ACQUAINTED, CORRECT?

>> CORRECT.

>> IS WELL ENOUGH ACQUAINTED A FACTUAL QUESTION OR A QUESTION OF LAW?

>> IT WAS A QUESTION OF THE LAW BECAUSE IT HAS TO DO --

>> I WANTED TO ASK, YOU ARE WELL INTO YOUR REBUTTAL TIME, AN ADDITIONAL 2 MINUTES.

>> MAY IT PLEASE THE COURT, MY NAME IS MATTHEW CICCIO.

THE STATUTES, 98.36 IS WRITTEN EXEMPTS HEARSAY IF THE DOCUMENT THAT IS GOING TO BE INTRODUCED

IS AT OR NEAR THE TIME OF THE
EVENT BY SOMEONE WITH KNOWLEDGE
KEPT IN THE ORDINARY COURSE OF
BUSINESS AND REGULAR PRACTICE
OF THAT BUSINESS TO MAKE SUCH A
RECORD.

THAT IS ALL THE STATUTE
REQUIRES.

THOSE ARE THE FOUR ELEMENTS MET
IN THE JACKSON CASE.

AFTER THOSE ELEMENTS ARE
RECITED IN THE CODE IT GOES ON
TO SAY THE BUSINESS RECORDS ARE
ADMISSIBLE UNLESS -- UNLESS IS
THE KEYWORD BECAUSE THAT IS
WHERE THIS COURT SWITCHES THE
BURDEN.

THOSE FOUR ELEMENTS ARE MET AND
THE BUSINESS RECORDS ARE
ADMISSIBLE UNLESS THERE IS
OTHER UNTRUSTWORTHINESS AND
THEN IT BECOMES INCUMBENT ON
THE OPPONENT TO ESTABLISH THAT
THERE IS SOMETHING UNRELIABLE,
UNTRUSTWORTHY, SOMETHING ABOUT
THESE DOCUMENTS THAT SHOULDN'T
BE ADMITTED INTO EVIDENCE AND
THAT IS THERE BURDEN NOW, TO
IMPEACH, TO CROSS-EXAMINATION.

>> ALL THESE RECORDS COMING
FROM HSBC?

>> THESE ARE HSBC, HAD ACQUIRED
HOUSEHOLD IN 2003.

>> HOUSEHOLD FINANCE
CORPORATION 3?

>> YES.

>> IN THE TRANSCRIPT, IT REFERS
TO SECURITIES AND EXCHANGE
COMMISSION MERGER ANNOUNCEMENT.
NOWHERE IN THAT COULD I FIND
MENTION OF HOUSEHOLD FINANCE
CORPORATION 3.

DID I MISS IT SOMEWHERE?

>> KNOW YOU DIDN'T.

THAT EVIDENCE WAS INTRODUCED.
THAT IS MORE OF A STANDING
ISSUE AS PETITIONER'S COUNSEL
BROUGHT UP AT THE BEGINNING OF
HER ARGUMENT WHICH WAS
COMPLETELY WAIVED, NEVER

BROUGHT UP AT THE TRIAL.
>> WHAT IS THE RELATIONSHIP
BETWEEN HSBC AND HOUSEHOLD
FINANCE CORPORATION 3?
>> HOUSE FINANCE CORPORATION 3
WAS ACQUIRED IN 2003 BY
HOUSEHOLD, DOCUMENT --
>> AND PART?
IN WHOLE?
>> IN WHOLE.
>> WEARS THAT IN THE RECORD?
>> THE TESTIMONY.
>> WHERE IN THE TESTIMONY IS
THAT?
>> THE MIND IF I GET THIS FOR A
SECOND?
>> PLEASE.
>> IT IS LINES 1 THROUGH 3,
PAGE 8 OF THE TRIAL
TRANSCRIPT,.
THIS IS AN ANSWER FROM THE
WITNESS DAVID BURCH.
THIS IS THE MERGER ANNOUNCEMENT
THAT INDICATES HSBC PURCHASED
HOUSEHOLD FINANCE CORPORATION
3.
>> BUT IN FACT THE ANNOUNCEMENT
HAS NO MENTION OF HOUSEHOLD
FINANCE CORPORATION 3.
>> NOT WITH THE BUT THIS ISN'T
HUNDRED A TESTAMENT, NOTHING TO
SHOW ANYTHING TO THE
CONTRADICTORY THROUGHOUT THE
WHOLE TRIAL.
>> ALL OF THE RECORDS TESTIFY
TO OR FROM HSBC.
>> THEY ARE HSBC RECORDS THAT
BOTH ON THE EVIDENCE HAVE
HSBC'S LOGO AND HOUSEHOLD'S
LOGO TOGETHER AS ONE BECAUSE
HSBC IS THE PARENT CORPORATION
AND I BELIEVE THAT IS IN THE
MERGER DOCUMENT.
>> ORIGINATED THE LAW?
>> HOUSEHOLD IN 2006.
>> HOUSEHOLD CORPORATION 3?
>> THAT IS A SUBSIDIARY.
>> ORIGINATED THE MORTGAGE,
ORIGINATED BY FINANCE
CORPORATION 3, THOSE DOCUMENTS

ARE PART OF THIS COMPOSITE EXHIBIT.

>> THAT IS CORRECT.

>> THOSE WERE ORIGINATED BY FINANCE CORPORATION 3.

>> THE ORIGINAL LOAN DOCUMENT IN THE MORTGAGE BUT THOSE TO BE AREN'T AN ISSUE OF BUSINESS RECORDS BECAUSE THEY WOULD COME IN A SELF AUTHENTICATING UNDER 90.902 FLORIDA STATUTE.

ONE IS A PUBLICLY RECORDED DOCUMENT AND THE OTHER IS YOU CC NEGOTIABLE INSTRUMENT.

>> HOW DO THEY GET INTO THE RECORDS OF HSBC AND WHEN?

>> I AM SORRY.

>> THE TESTIMONY, THOSE DOCUMENTS, PART OF THE ORDINARY COURSE OF BUSINESS RECORDS OF HSBC IN THIS COMPOSITE EXHIBIT. HOW DID THEY GET THERE?

>> THE BUSINESS RECORD? HSBC AND HOUSEHOLD FINANCE QUOTES ARE THE SAME.

IT IS APPARENT IN THE SUBSIDIARY, THEY USE THE SAME SYSTEMS, KEEP THE SAME RECORDS, THEY ARE ONE AND THE SAME.

THERE IS NO DIFFERENCE. THIS IS LIKE A SERVICE RELEASE

--

>> NO SERVICE AGREEMENT?

>> NOT IN THE RECORD THERE IS NO SERVICING AGREEMENT.

THAT WAS NEVER AN ISSUE AND IT WAS REQUIRED FOR THE PLAINTIFF'S PRIMA FASCIA CASE HERE TO ESTABLISH FORECLOSURE.

>> YOU ARE ASKING US TO LEGALLY TREAT THEM THE SAME WITH NO DISTINCTION?

>> THAT WAS ESTABLISHED AT THE TRIAL, UNCONTROVERTED TESTIMONY, NEVER RAISED AS A STANDING ISSUE, NOT EVEN IN THE ANSWERING IN THE AFFIRMATIVE.

>> IT DOES SEEM INCUMBENT UPON YOU TO PUT ON SOME LEVEL OF MINIMAL FOUNDATIONAL EVIDENCE

AS YOUR OPPONENT SUGGESTS.
HERE IS DOCUMENTS PRESENTED AS
LOAN HISTORY, RIGHT?
WHO GENERATED THE LOAN HISTORY?
WAS IT FINANCE CORPORATION 3,
OR HSBC?

>> HOUSEHOLD FINANCE
CORPORATION 3 IS THE ENTITY
THAT GENERATED THE PAYMENT
HISTORY, BUT THEY DID SO AS
SUBSIDIARY OF THE PARENT
CORPORATION HSBC BECAUSE THEY
ARE THE SAME FOR ALL PURPOSES
OF RECORDS, RECORD KEEPING,
THEY ARE NOT DIFFERENT
ENTITIES.

>> THE HISTORY ITSELF IS
FINANCE CORPORATION 3 DOCUMENT.

>> BOTH LOGOS FOR HOUSEHOLD IT
HSBC APPEAR ON THE DOCUMENT,
THERE IS NO TESTIMONY FROM
EITHER SIDE AS TO SPECIFICALLY
WHETHER THE HOUSEHOLD
ORIGINATED THESE OR HSBC DID.

>> I'M A LITTLE CONFUSED.
WITH THE LOAN HISTORY.
IS THAT A FINANCE CORPORATION 3
DOCUMENTS?

OR IS IT HSBC OR YOU ARE SAYING
IS BOTH?

>> BOTH.

>> THERE IS SOME TESTIMONY ON
PAGE 7 RIGHT BEFORE THAT.
DID HSBC PREPARE AND MAINTAIN
THESE RECORDS WITH RESPECT TO
THE SUBJECT LOAN WHICH IS THE
ENTITY THAT PREPARED AND
MAINTAINED THE RECORDS?

IS IT HSBC?
THE ANSWER IS?

>> HSBC.
THAT IS CORRECT, THROUGHOUT
BUSINESS RECORDS TESTIMONY.
THEY IN FOR THE HSBC RECORDS
BUT THEY ARE ALSO HOUSEHOLD
RECORDS.
THEY ARE THE SAME FOR THE
PURPOSES OF WHOSE RECORDS THEY
ARE.

>> ONCE A LOAN WAS ORIGINATED

IT WENT INTO THE LONG SERVICING HISTORY AND ACCOUNTS OF HSBC WHICH IS THE SAME AS FINANCE CORPORATION 3.

THERE ARE NO SEPARATE RECORDS KEPT, NO SEPARATE DISTINCTION BETWEEN WHO KEEPS WHAT RECORDS. FOR ALL PURPOSES, HOUSEHOLD FINANCE CORPORATION 3 SHOULD BE CONSIDERED THE SAME AS HSBC.

>> THAT'S WHAT THE RECORD SHOWS AND THAT IS WHY THE COURT MADE THE DECISION, LOVE VERSUS GARCIA WHICH WAS FOLLOWED BY MOST DCAs.

THE DEFENSE COUNSEL SHOULD HAVE ASKED THE SAME QUESTIONS.

>> ALL IT WOULD HAVE TAKEN IS ONE QUESTION, ONE QUESTION AND ANSWER FROM YOUR CLIENT HERE TO PUT THAT INTO A FOUNDATIONAL PRESENTATION AND MAYBE WE WOULDN'T BE HERE.

>> HOW FAR DO YOU GO?

IT IS AN AMORPHOUS STANDARD.

>> DOESN'T SEEM AMORPHOUS TO ME TO SAY HERE IS AN ENTITY THAT IS TOTALLY DIFFERENT ENTITY FROM THE PLAINTIFF SEEKING TO FORECLOSE THE MORTGAGE AND WAVING A COMPUTER PRINTOUT SAYING THIS RELATES TO A PARTICULAR BORROWER BUT THERE IS NO ESTABLISHMENT IN THE RECORD OF WHAT THE RELATIONSHIP BETWEEN THE ENTITY THAT GENERATED THE COMPUTER PRINTOUT AND THE PLAINTIFF, NOR THE EMPLOYEE, AND IT SEEMS NOT MUCH TO ASK.

TO ESTABLISH WHAT THE RELATIONSHIP AND CORPORATE IS, TO SHOW THERE IS SOME KIND OF SERVICING AGREEMENT WHICH I GUESS THERE IS NOT.

>> THEY DID PRESENT THE ACQUISITION AGREEMENT FROM THE SEC.

>> THERE IS NO MENTION OF THE COMPANY ANYWHERE.

THE PLAINTIFF IS NOT IN THERE.

>> WHAT III IS IT IS NOT.
THAT IS STANDING QUESTION.
I DON'T THINK IT GOES TO THE
RECORDS HERE.

>> IT GOES TO THE RECORD IT
SEEMS TO ME BETWEEN WHO IS
TESTIFYING, PUTTING THESE
BUSINESS RECORDS ON AND THE
PLAINTIFF.

>> HSBC REPRESENTATIVE WHO
WORKS FOR THE PARENT COMPANY
AND THESE RECORDS ARE BOTH
RECORDS OF THE SUBSIDIARY AND
HSBC.

>> WHERE DOES IT SAY THAT?

>> THAT THESE ARE HOUSEHOLD
RECORDS?

ON THE FACE OF THE EVIDENCE.

>> IT WAS TESTIFIED THEY ARE
HSBC RECORDS.

>> AND THEY ARE.

THEY ARE HSBC AND HOUSEHOLD.
ON THE FACE OF THE EVIDENCE IT
HAS EACH LOGO, HOUSEHOLD
FINANCE CORPORATION 3, III AND
--

>> WE ARE SUPPOSED TO READ THAT
INTO THE RECORD FROM THE LOGO?

THAT IS HOW THIS WORKS?

WE HAVE CONFIDENCE OF HEARSAY
EXCEPTION ON THE BUSINESS
RECORD BY THE LOGO.

>> IN ITSELF THAT'S NOT ENOUGH
BUT YOU HAVE TO TAKE AND THE
JUDGE DID SO IN HIS DISCRETION
EVERYTHING IN THE TOTALITY OF
THE EVIDENCE AND THE TESTIMONY
AND THERE IS NOTHING ACCEPT THE
FACT YOU'RE POINTING OUT THAT
III WAS NOT --

>> NO ONE POINTED THAT OUT.
THE JUDGE MAY NOT HAVE BEEN
AWARE OF THAT BECAUSE DEFENSE
COUNSEL SAT ON THEIR HANDS AND
THAT WAS SEVERAL COUNCILS
REMOVED AT THE TRIAL LEVEL.

>> THE JUDGE SAID OVERRULED.

>> THEY OBJECTED THE FOUNDATION
AND THAT IS CASE LAW THROUGHOUT

DCA AND THE SUPREME COURT THAT JUST AN OBJECTION ON FOUNDATION IS INSUFFICIENT.

YOU HAVE TO SPECIFY YOUR OBJECTION.

SPECIFICALLY OF THIS COURT COMPARE THE ADMISSIBILITY OF BUSINESS RECORDS TO A MINI TRIAL.

THE FOUR ELEMENTS NEEDED TO SHIFT THE BURDEN TO THE OPPONENTS OF RECORD, PROPONENTS OF THE PRIMA FASCIA CASE.

IN ESSENCE THIS GOES TO THE STANDARD OF REVIEW, ABUSIVE DISCRETION.

IF YOU CONSIDER THE ADMISSIBILITY OF BUSINESS RECORDS IN THE SENSE OF A MINI TRIAL UPON LAYING THE FOUNDATION, THE PRIMA FASCIA CASE LIKE ANYTHING, NEGLIGENCE, DUTY, BREACH, CAUSATION, DAMAGE, 1234, 90.8036, ONCE THE FOUNDATION IS LAID THERE'S NOTHING ELSE THAT NEEDS TO BE DONE.

IT IS A DEFENDANT'S JOB OR THE OPPONENT OF THE DOCUMENTS TO IMPEACH THE WITNESS.

THAT HAPPENED IN MASLOW, THE CASE BEFORE THE COURT ON CONFLICT FROM THE FOURTH DCA. THE DIFFERENCE WITH JACKSON AND I ARGUE THIS IN MY JURISDICTIONAL BRIEFS IS IT DID HAVE TESTIMONY THAT WAS NEGATIVE OR COULD HAVE BEEN DEEMED UNRELIABLE AND WITHIN THE JUDGE'S DISCRETION IT WOULD BE REASONABLE TO SAY THERE ARE QUESTIONS HERE.

THE WITNESS STATED SHE HAS NEVER WORKED IN THE LOAN PAYMENT HISTORY DEPARTMENT. COMPARE THAT TO OUR CASE WHERE ALL WE HAVE IS I WORKED THERE 25 YEARS, I WORKED IN VARIOUS DEPARTMENTS AND I ACTUALLY WENT INTO THE SYSTEM MYSELF AND

PULLED THESE DOCUMENTS PRIOR TO TRIAL.

IF THAT WAS NOT FAMILIAR, THE JACKSON WITNESS, HOW WOULD HE HAVE THE ABILITY TO GO INTO THE SYSTEM HIMSELF?

>> SOMEBODY COULD BE TELLING HIM HOW HE COULD BE READING INSTRUCTIONS.

WHY WASN'T THERE TESTIMONY TO INDICATE I WORKED WITH THE SYSTEM.

THIS IS OUR SYSTEM TO SERVICE LOANS, I HAD SOME CONNECTION WITH SUPERVISORY RESPONSIBILITIES OVER THE LOAN DEPARTMENT, THIS IS OUR PAYMENTS COME IN.

THIS IS OUT IS REFLECTED. THIS IS SUBJECTED TO REVIEW BY INTERNAL AUDIT, AND RELIABILITY HERE.

I'M NOT LOOKING FOR A DETAILED FLOWCHART BASED ON PERSONAL KNOWLEDGE OF HOW SOFTWARE AND THE WHOLE PROCESS WORKS BUT IT DOES SEEM THERE SHOULD BE MINIMAL CONNECTION BETWEEN THIS PARTICULAR EMPLOYEE AND THESE RECORDS.

>> WE MAY NOT BE HERE TODAY BUT

--

>> THE QUESTION IS ISN'T IT REQUIRED?

>> IT IS NOT REQUIRED. IT IS RIGHT FROM THE STATUTE AND HOW THIS COURT SET PRECEDENT IN LOVE VERSUS GARCIA, THIS COURT'S DECISION IN FAVOR OF HER STATE FROM 2000, TO SEE, IF THIS IS FROM CIVIL CASES AND CRIMINAL CASES AND THIS COURT ANSWERED YES IT SHOULD.

ACROSS THE BOARD, THE BUSINESS RECORDS EXCEPTION, WHEN SOMETHING IS DONE IN THE CODE AND LEGISLATURE.

>> YOU BRING IN RECEPTIONS. AND ANY POSITION WHATSOEVER.

WE HAVE NO RESPONSIBILITY, NO SUPERVISORY RESPONSIBILITY FROM LOAN APPLICATION NOTHING TO DO WITH LOANS WHATSOEVER.

THEY TESTIFY, I WORK AT THE COMPANY FOR 25 YEARS AND THESE THINGS DON'T COMPARE.

THAT SEEMS LIKE WHAT HAPPENED.

>> WAS MORE THAN A RECEPTIONIST.

AND THAT PERSON IN THIS CAPACITY, IT IS AN EXAMPLE.

>> IF A RECEPTIONIST COMES IN AND TESTIFIES UNDER PENALTY OF PERJURY, THE DOCUMENTS ARE MADE, SOMEONE WITH KNOWLEDGE. AND IT IS THE REGULAR BUSINESS, THE REAL THE PRACTICE OF THE BUSINESS TO MAKE THESE RECORDS. NOTHING TO THE CONTRARY.

>> WHEN THE SECRETARY TESTIFY WITH THE BUSINESS PRACTICES AS THE WITNESS DID HERE.

THERE HAS TO BE SOME KIND OF TESTIMONY I AM FAMILIAR WITH.

>> THE TESTIMONY DOESN'T SAY THAT BUT MORE IS HELPFUL AND HE DID SAY HE IS FAMILIAR.

>> I'M FROM THE WITH RECORD SYSTEM.

>> NOT THESE RECORDS.

>> WHERE DOES HE --

>> THIS IS LINES 9 THROUGH 13 WITH THE TRIAL TRANSCRIPT. AND THE BUSINESS PRACTICES OF HSBC.

IT IS THE REGULAR BUSINESS PRACTICE OF HSBC TO REPORT TRANSACTION PAYMENTS.

AND IF YOU GO BEFORE THAT AND IF YOU ARE FAMILIAR WITH BUSINESS PRACTICES IN HSBC.

AND HIS LAWYER WITH BUSINESS PRACTICES OF HSBC AND BY ANSWERING THE FOUR QUESTIONS UNDER PENALTY OF PERJURY WITHOUT ANY IMPEACHMENT OR REASON TO NOT BELIEVE THIS GENTLEMAN HERE, THEY ARE ALL ANSWERED IN THE AFFIRMATIVE.

THAT IS SUFFICIENT.
THAT IN ITSELF IS SUFFICIENT.
THE QUESTIONS YOU ASKED ME
TODAY WITHIN THE JUDGE'S
DISCRETION HE COULD HAVE FOUND
SOME RELIABILITY BUT BEFORE
THAT BUT, BEFORE THE JUDGE, IT
WOULD BE UNREASONABLE TO NOT
ALLOW THESE RECORDS.
WE DISCUSSED THE FEDERAL
EVIDENCE CODE EARLIER, IT IS
ONLY PERSUASIVE AUTHORITY BUT
THE CODE HAS BEEN REWRITTEN OR
REVISED IN 2014.
IT SPECIFICALLY SAYS, UNLIKE
CURRENT EVIDENCE RULES, UNLESS
THERE IS SOME
UNTRUSTWORTHINESS, UNLESS THE
OPPONENT SHOWS SOME INDICATION
OF TRUSTWORTHINESS.
EVEN THE FEDERAL COURTS HAVE
REVISED THEIR CODE TO SHOW IT
IS INCUMBENT ON THE OPPOSING
PARTY.
THEY CLARIFIED THAT FOR
CONSISTENCY.
I WOULD SUGGEST THAT OR BELIEVE
OUR COUNTERPART WAS MEANT TO BE
SIMILAR IN THAT RESPECT TO A
FEDERAL COUNTERPART.
ONE MORE THING, IF THIS COURT
WERE TO RULE THE BUSINESS
RECORDS SHOULD NOT HAVE BEEN
ADMITTED, A PROPERLY MANNED
WOULD BE FOR EVIDENTIARY AIR
REHEARING FOR THE PLAINTIFFS TO
PROVE ITS DAMAGES AND I BELIEVE
ALL FOUR, ALL FIVE DCAs ARE ON
BOARD WITH THAT AND THERE'S A
RECENT CASE THAT CAME OUT AFTER
THIS JACKSON OPINION, IT IS
SAKS, I DON'T HAVE A CITATION
ON ME, FROM THE FOURTH, THEY
DID NOT ALLOW THE INTRODUCTION
OF THE BUSINESS RECORDS AT THE
DCA LEVEL, IT WAS REMANDED FOR
THE PLAINTIFF TO GO BACK AND
ASSESS OR PROVE THOSE DAMAGES
AT EVIDENTIARY HEARING, THANK
YOU, YOUR HONORS.

>> THANK YOU.
JUSTICE PAULSON, YOU HIT THE
NAIL ON THE HEAD.
THE ISSUE AS TO DEAL WITH THE
FACT THE PAYMENT LOG, WHICH IS
A NECESSARY COMPONENT FOR
HOUSEHOLD CASE IS FROM
HOUSEHOLD.
IT IS NOT FROM HSBC.
THE PLAINTIFF --
>> POINT THAT OUT TO THE TRIAL
COURT.
DID YOU MAKE THAT SPECIFIC
OBJECTION TO THE TRIAL COURT?
>> IT IS A SPECIFIC OBJECTION
BECAUSE IT SAYS YOU DIDN'T LAY
A FOUNDATION.
YOU DON'T HAVE A WITNESS WITH
KNOWLEDGE.
>> I ASKED YOU A QUESTION.
DID YOU MAKE THAT SPECIFIC
OBJECTION, RAISE THAT SPECIFIC
POINT WITH THE TRIAL COURT?
THAT IS A CLEAR QUESTION.
CAN YOU ANSWER THAT?
>> THE DEFENSE ATTORNEY DID NOT
SAY TO THE COURT THERE IS NOT
-- THIS IS A HOUSEHOLD RECORD,
NOT HSBC RECORD, BUT HE DID SAY
THERE IS LACK OF FOUNDATION.
TO YOUR POINT HE DID NOT
SPECIFICALLY SAY THAT BUT A LOT
OF ASSUMPTIONS YOU ARE BEING
ASKED TO MAKE, THAT THIS IS A
SUBSIDIARY, WE DON'T HAVE
ANYTHING THAT SHOWS THAT.
WHAT JUSTICE PAULSON WAS
REFERENCING DOESN'T MENTION
HOUSEHOLD FINANCE BUT HOUSEHOLD
INTERNATIONAL.
>> DO YOU AGREE WITH THE
REMEDY?
>> I DON'T AGREE WITH THE
REMEDY.
THEIR SUPPORT FOR THAT, THE
FIRST DCA, BANK OF NEW YORK
MELLON AND SECOND DCA AND
AMERICAN HOME MORTGAGE TO THE
-- POINT OUT THAT THEY DON'T
GENERALLY PROVIDE A SECOND

CHANCE TO PUT ON PROOFS YOU SHOULD HAVE DONE THE FIRST TIME.

HOUSEHOLD HAD PLENTY OF OPPORTUNITY TO BRING A QUALIFIED WITNESS AND PUT ON A PRIMA FASCIA CASE.

THEY DIDN'T DO IT.

IT ONCE A SECOND BITE OF THE APPLE TO DO WHAT COULD HAVE DONE IN THE FIRST PLACE.

>> WHAT IS THE REMEDY?

>> THE REMEDY SHOULD BE REVERSAL FOR INVOLUNTARY DISMISSAL FOR FAILURE TO MEET THE PRIMA FASCIA CASE.

>> CAN'T THE FORECLOSURE AGAIN. IF APPROPRIATE.

>> IF APPROPRIATE THEY COULD. IF APPROPRIATE.

I ONLY HAVE A COUPLE SECONDS LEFT BUT WE APPRECIATE YOU TAKING THE TIME AND THIS IS A COMPLICATED ISSUE IN THE SENSE THAT THERE ARE QUESTIONS AS TO HOW THE STANDARD SHOULD BE APPLIED AND I THINK THAT IS PART OF WHY IT IS A REVIEW IN THIS CASE AND HAS TO DO WITH APPLICATION OF THE AND I THINK THERE IS CROSSOVER, DO YOU GET INTO ABUSE OF DISCRETION SO I ACKNOWLEDGE THAT BUT ON THE FACTS OF THIS CASE IT WOULD HAVE BEEN AN ABUSE OF DISCRETION BECAUSE THIS FUNDAMENTAL ELEMENTAL DOCUMENT WAS NEVER PROPERLY BROUGHT IN. THERE WAS NO PROOF OF DAMAGES AND IT COULD BE NO PRIMA FASCIA CASE.

THANK YOU, YOUR HONORS.

>> WE THANK YOU BOTH FOR YOUR ARGUMENTS.