

VOLUME I

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

IN AND FOR NEW CASTLE COUNTY

WILLIAM B. WEINBERGER, )

Plaintiff, )

v. ) Civil Action No. 5642

UOP, INC., THE SIGNAL )

COMPANIES, INC., )

Defendants. )

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Chancery Courtroom No. 2  
Public Building  
Wilmington, Delaware  
Monday, June 18, 1984  
10:15 a.m.

- - -

BEFORE: HONORABLE GROVER C. BROWN, Chancellor

- - -

APPEARANCES:

WILLIAM PRICKETT, ESQ.,  
MICHAEL J. HANRAHAN, ESQ. and  
MICHAEL F. BONKOWSKI, ESQ.  
Prickett, Jones, Elliott, Kristol & Schnee  
for Plaintiff

ROBERT K. PAYSON, ESQ.  
Potter, Anderson & Corroon  
-and-

ALAN N. HALKETT, ESQ., of the California Bar  
Latham & Watkins  
for Defendant The Signal Companies

1 APPEARANCES (Continued):

2 A. GILCHRIST SPARKS, ESQ.  
3 Morris, Nichols, Arsht & Tunnell  
4 for Defendant UOP, Inc.

5 ALSO PRESENT:

6 BREWSTER L. ARMS

7 JOHN G. WOODS  
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P R O C E E D I N G S

MR. PRICKETT: Good morning, Your Honor.

THE COURT: Good morning, gentlemen.

MR. PRICKETT: Your Honor, some housekeeping matters before we start:

I hand to the Court a document entitled "Final Pretrial Stipulation." It has been worked out by the parties. I don't think it has anything that is particularly earthshaking, or that requires the Court's attention. It simply is our agreement on the handling of documents and other matters.

So that I would hand that up to the Court. Perhaps the Court would approve that.

THE COURT: All right. I'll go ahead and sign it, Mr. Prickett, and catch up to its contents as we progress. I'm sure it has something to do with exhibits and how they are offered, but I'll try and catch up to you on that.

MR. PRICKETT: Your Honor, I think we can agree that each side has marked various exhibits, and we have presented, and there is one stack in front of you, and one stack in front of the clerk that represents our exhibits.

1                   Secondly, Your Honor, I would hand up  
2 to the Court a document entitled "Court's Copy,  
3 Duff & Phelps Review of Dillon Read Report." Let  
4 me explain:

5                   Prior to the weekend, at the Court's  
6 request each party handed to the Court a copy of  
7 its expert's report. At the time we had a  
8 critique, or review by Mr. Bodenstein of the  
9 Dillon Read report. We had only handed that to the  
10 defendants when we got it on Thursday or Friday,  
11 and therefore, it was agreed, and it's part of that  
12 pretrial, that we would not hand that to the Court  
13 until this time.

14                   We would ask that this at an appropriate  
15 time be given a DX number as our report, as the  
16 original report already handed to the Court should  
17 be given a DX number. We will take care of that  
18 shortly, unless Mike can give it to me now.

19                   MR. PAYSON: I think you meant PX.

20                   MR. PRICKETT: Did I say DX?

21                   THE COURT: Yes.

22                   MR. PRICKETT: DX. I'll say it again.

23                   The Court's copy of Duff & Phelps'  
24 Review of the Dillon Read Report should receive the



1 next number.

2 MR. BONKOWSKI: Number 119.

3 MR. PRICKETT: PX No. 119, and the  
4 original report should receive PX No. 118.

5 MR. PAYSON: Your Honor, I think it  
6 would be more appropriate at this time if this  
7 report, which relates to Mr. Purcell's opinion and  
8 report were marked for identification, and the  
9 foundation for it can be laid by Mr. Bodenstein.  
10 Mr. Prickett and I have agreed that Mr. Bodenstein's  
11 valuation report and Mr. Purcell's valuation report  
12 can be admitted not without objection in that  
13 the admission of both of those reports are simply to  
14 give the Court the statistics upon which each  
15 expert relies in formulating their respective  
16 opinions.

17 THE COURT: All right. Well, as to the  
18 document that Mr. Prickett has just been talking  
19 about, you prefer to have a foundation laid for  
20 that before it's admitted?

21 MR. PAYSON: Yes. If the Court is not  
22 already aware, you will become aware that we have  
23 agreed to go forward without waiving any rights with  
24 respect to our position. It's really Mr. Prickett's

1     burden to go forward. In light of the way the  
2     proof is going in, we think it would be more  
3     appropriate for this report, which is a critique of  
4     Mr. Purcell's opinion, to go in through Mr. Bodenstein's  
5     testimony.

6             THE COURT: All right. Do you have any  
7     problem with that?

8             MR. PRICKETT: No. In our agreed  
9     pretrial order we had agreed that the plaintiffs  
10    will file and present to the Court a copy of the  
11    plaintiff's expert's preliminary report, but let's  
12    mark it for identification. It is available to the  
13    Court, but we will then take it up with Mr. Bodenstein  
14    at the time of his testimony here.

15            (A document entitled "Court's Copy,  
16    Duff & Phelps' Review of Dillon Read Report" was  
17    marked for identification Plaintiff's Exhibit 119.)

18            MR. PRICKETT: Let me say, Your  
19    Honor, we do not agree in any way that the defendants  
20    are correct in asserting that there is any doubt  
21    that they have the burden of proof in this case. I  
22    don't want to argue it, but I don't want to slide  
23    over that we admit that there is any doubt that they  
24    have the burden of proof in this case, and that as

1 part of that they have the right and the obligation  
2 of opening.  
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1 THE COURT: All right. Mr. Prickett,  
2 I think I will ask both of you before we start, just  
3 for the record, would you briefly state, to make sure  
4 we are on the same wave-length, what you perceive the  
5 purpose of this hearing to be.

6 MR. PRICKETT: Money.

7 THE COURT: Well, that is the end result,  
8 but the means to get to there, if we do.

9 MR. PRICKETT: Your Honor, we had both  
10 agreed that there would be an opening made by either  
11 side, and I believe Mr. Halkett is going to make it on  
12 behalf of the defendants, and then I would try to  
13 delineate in a little more detail than what I have  
14 said as to what we think this is about.

15 THE COURT: All right. Fair enough.

16 MR. PAYSON: Your Honor, there are  
17 certain evidentiary matters. Mr. Prickett has  
18 designated 118 exhibits. We have objected and notified  
19 Mr. Prickett of our objection in writing with respect  
20 to Plaintiff's Exhibits 112 through 118. We have also  
21 provided Mr. Prickett with a list, I believe, of  
22 Defendants' 13 exhibits. Mr. Prickett has told me  
23 generally that he has some objections, but he has not  
24 delineated those. I don't know whether the Court wants

1 to take those up now before the opening or at some  
2 later time.

3 THE COURT: What is your thought,  
4 Mr. Prickett? Apparently the first 111 exhibits of  
5 the plaintiff, there is no objection to their admissi-  
6 bility.

7 MR. PAYSON: That's correct.

8 THE COURT: The last seven, apparently  
9 there are. And you may have some objection to  
10 Mr. Payson's exhibits. The thing that occurs to me,  
11 if the documents are going to be used for the witnesses,  
12 at some point we ought to get into whether they are  
13 admissible or not.

14 MR. PAYSON: I think it could be easily  
15 handled now.

16 MR. PRICKETT: Well, Your Honor, perhaps  
17 after the opening, when Your Honor has some more feel  
18 as to what we are doing, maybe a little bit better,  
19 and even as they come up with the witnesses, because  
20 I think you are going to have some items that are going  
21 to be out of context just arguing in a vacuum.

22 MR. PAYSON: I have no objection to that.

23 THE COURT: Fine. We will proceed on that  
24 basis. We will take your opening statements, and then

1 if you wish to be heard concerning the documents in  
2 question, we will take that up next before we get to  
3 the witnesses.

4 MR. PAYSON: Thank you, Chancellor. As  
5 Mr. Prickett indicated, Mr. Halkett will make the  
6 opening on behalf of the defendants.

7 THE COURT: Good morning, Mr. Halkett.

8 MR. HALKETT: Good morning, Your Honor.

9 THE COURT: Off the record.

10 (Discussion off the record.)

11 MR. HALKETT: Good morning, Your Honor.

12 The procedure as was alluded to a moment or two ago  
13 is that we have agreed with Mr. Prickett's suggestion  
14 that the defendants will as an order of proof start  
15 and close in the presentation of evidence during the  
16 course of this phase of the trial. By so doing we, the  
17 defendants, do not want to have it taken that we are  
18 agreeing that we, indeed, have the burden of proof in  
19 this phase of the case. It is our position that  
20 whichever side has the burden of proof is a matter of  
21 law which will be determined by the Court based upon  
22 the evidence as it is presented, and as Mr. Prickett  
23 has said, he does not agree with our contention that he  
24 has the burden of proof. We want to make sure that the

1 record is clear that by our agreeing to this order of  
2 proof we are not agreeing that we have the burden of  
3 proof.

4 This is the so-called damage phase of the  
5 trial of the case that was filed in this court in 1978  
6 and on which the first phase was tried in May, 1980.  
7 And what it deals with is the subject of money damages,  
8 if any, to which the plaintiffs in this case are  
9 entitled.

10 There is, as we have discussed previously  
11 with the Court, a threshold question of whether  
12 rescissory damages should be considered as a part of  
13 this case. Normally, the question about value and  
14 about the amount was determined as of the date of the  
15 transaction in question; namely, the acquisition or  
16 the merger, and in this case that would be May 26, 1978.  
17 And the question then would be, was the price of  
18 \$21 per share, which was paid to the minority share-  
19 holders of UOP at that time, a fair price.

20 The standard articulated by the Supreme  
21 Court of Delaware in this case is to use any justified  
22 financial standard that may be applicable in the  
23 financial and/or legal community to the ascertainment  
24 of fair value, including, if susceptible of proof and

1 if a remedy appropriate to all of the issues of fairness  
2 in the case, the question of rescission or rescissory  
3 damages as a part of that overall valuation.

4           Turning then to the question of rescissory  
5 damages, that requires the determination of a price or  
6 a value as of some other later date than the normal;  
7 that is, on the assumption at some later date the  
8 plaintiff would have had his shares returned to him,  
9 but because the actual return of the shares is impos-  
10 sible, their then-value in dollars is to be paid. The  
11 concept of rescission and rescissory damages in that  
12 context it seems to us is somewhat punitive in nature  
13 and requires some assessment or ascertainment in that  
14 regard as to the question of whether rescission would  
15 be appropriate.

16           What, then, are the circumstances which  
17 would support the use of rescissory damages? Our study  
18 of the few cases that there are on this subject, prior  
19 law, are not very helpful, frankly. Generally, after  
20 articulating a number of supposed standards, they all  
21 come down to basically, it depends upon the particular  
22 facts in the particular case. Therefore, at the outset  
23 we would like to concentrate on one or two particular  
24 facts in the particular case that go to that question.



1                   Number one is the opinion of the Delaware  
2 Supreme Court in this case; namely, that although that  
3 court found that the procedure here -- and I am using  
4 that in the shorthand method. I am sure the Court is  
5 aware of what I am talking about -- was unfair, the  
6 Court did not remand with the direction to this court  
7 that it must use the concept of rescissory damages as  
8 a part of the evaluation process. The question of  
9 whether or not rescissory damages even given the  
10 Court's findings on the unfairness of the procedure  
11 were left to the discretion of this Court.

12                   So that what we are looking at, in a  
13 sense, a shorthand way, is, if the non-disclosure of  
14 the Arledge-Chitilea report or of its contents as  
15 characterized in the opinion was not in and of itself  
16 sufficient to require the Court to impose the standard  
17 of rescissory damages, it is our contention that there  
18 is no other evidence of any kind of any of the behavior  
19 or actions in this case which would warrant the  
20 imposition of rescissory damages.

21                   A second important point, I think, is  
22 perhaps in the way of a concession by the plaintiffs  
23 themselves in this case. And on that I turn to the  
24 transcript of the argument before the Supreme Court of

1 Delaware held on September 14, 1981. This was before  
2 Justices Duffy, Quillen and McNeilly. During the course  
3 of that argument, while Mr. Prickett as counsel for the  
4 plaintiffs was presenting his argument, Justice  
5 Quillen -- and this is on Page 15 of the transcript of  
6 that hearing -- interrupted Mr. Prickett and asked the  
7 following question: "Mr. Prickett, assume -- and I  
8 understand your position is to the contrary. But assume  
9 that the Court found that the \$21 was intrinsically fair  
10 to the minority.

11 "Mr. Prickett: Yes.

12 "Justice Quillen: What does that do  
13 to the first argument?

14 "Mr. Prickett: Well, I would suppose  
15 that you would find then that there has been a  
16 violation. You are assuming that they haven't carried  
17 out their responsibilities, but \$21 happens to be fair.  
18 No damage."

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1           The third fact that we think specifically  
2 this Court ought to consider in approaching this  
3 hearing on damages is the evidence that was presented  
4 earlier this year in the hearing in April. I do  
5 not intend at this point to repeat any of that evidence.  
6 It is part of the record, and as the stipulation  
7 which you now have before you indicates, the parties  
8 have stipulated that all of the prior hearings,  
9 the trial transcript in this case is part of the  
10 record for purposes of this hearing.

11           Now, we have also attempted at least to  
12 learn from what few cases there are on this subject  
13 perhaps what other standards, or what other criteria  
14 a court may or should look at in determining whether  
15 rescission, or in turn rescissory damages, might be  
16 appropriate in a particular case. Generally what we  
17 seem to find are in one fashion or the other the  
18 concepts that I will now mention. And by the way,  
19 these are in no particular order of importance.

20           1. The inability to use the date of  
21 the transaction because of the unreliability of  
22 value on that date. I do not believe that that is  
23 applicable to this case.

24           2. The question of the fairness of the

1 price as of the date of the transaction.

2 3. The timing of the plaintiff's action;  
3 that is, in relation to the transaction itself, and  
4 whether any pre-transaction injunction was in fact  
5 sought.

6 4. The length of time between the date  
7 of the transaction and the date that would have to be  
8 used for the evaluation of rescissory damages, and  
9 obviously the longer the period that intervenes, the  
10 less susceptible of reasonable proof.

11 5. The reliability of the valuation  
12 data as of some later date.

13 6. Whether something of value later  
14 turns up. In other words, is it a transaction in  
15 which with hindsight perhaps it could be ascertained  
16 not as a matter of business judgment or of operation,  
17 but some tangible thing, or things, which were not  
18 known as of the date of the transaction turn out  
19 later to be the case. This is, to use a shorthand  
20 reference, where you find out that the farm is  
21 actually being operated over an oil well, or an oil  
22 reserve of some kind, as contrasted to just how well,  
23 or how poorly somebody runs the farm after the date of  
24 the transaction.

1                   Finally, there are two concepts that we  
2 believe we should add into this list, and they are  
3 the ones which probably get more attention in one  
4 form or the other in the literature and in court  
5 opinions, and that is the degree of defendant's  
6 culpability seems to enter into this question of  
7 rescission in some fashion or other, although it is  
8 not clearly, or very well articulated.

9                   For example, in this case the Supreme  
10 Court in talking about the possibility of rescissory  
11 damage, and suggesting that this Court consider at  
12 least whether or not to include that element in its  
13 evaluation at this stage chooses words such as gross  
14 and palpable, overreaching, and whether or not there  
15 was deliberate waste, and other such words that seem  
16 to suggest that rescissory damages are applicable  
17 and appropriate where there was some type of  
18 intentional wrongdoing, intentional desire on the  
19 part of the defendants to take advantage of and to  
20 cheat the plaintiff.

21                   We suggest, Your Honor, that there is no  
22 such evidence of any kind in this case, and not even  
23 as to that portion of the record to which the Supreme  
24 Court refers and utilizes in coming to its conclusion

1 that there was an unfairness of the procedure suggests  
2 any such finding in this case.

3 Also, I think in that connection, as one  
4 looks at what the alleged improper action was, it  
5 should be considered in this context in relation to  
6 what we are considering; namely, its relation to  
7 value or to price. And as this Court I'm sure  
8 recalls, because it is a fairly recent time, even  
9 the plaintiff's own valuation expert testified that  
10 the so-called Arledge-Chittea report had no bearing  
11 and no relationship upon his ability, or frankly on  
12 anyone's ability, to ascertain the fairness of the  
13 price as of the date of the merger which he had then  
14 done, and to paraphrase that, whether or not the  
15 transaction would have been of value to The Signal  
16 Companies was another world from the evaluation of  
17 the shares of the company themselves.

18 And finally on this list I think what  
19 should be considered, as it should in any case of  
20 equity, is who is to pay the price if the Court is  
21 to award damages, and particularly rescissory  
22 damages which, as I said, seem to include at least  
23 an element of punitive.

24 What we have in this case is a publicly

1 held company. The burden of any judgment here is  
2 therefore to be borne by the public shareholders of  
3 The Signal Companies. It is easy enough in a case  
4 of this kind to concern one's self about the public  
5 shareholders of the plaintiff's side, and totally  
6 ignore the fact that one may have public shareholders  
7 on the defendants' side. This is not the case of  
8 which there have been one or two previous, certainly  
9 maybe more in the history of Delaware cases, in  
10 which the defendants are a small group who themselves  
11 through their action have ended up as the  
12 beneficiaries of the particular transaction.

13 We suggest that here the Court should  
14 consider carefully who it is and what it is that  
15 will suffer the burden of any damage adjudication in  
16 favor of the plaintiffs.

17 Having gone through that, I want to  
18 turn then to the question of the damages as of  
19 May 1978, because clearly that is a part of this case  
20 under anyone's analysis, because the Court has set  
21 aside -- the Supreme Court has set aside the  
22 original decision of this Court, and has remanded  
23 for a determination of damages and a fair value  
24 certainly as of 1978 if rescissory damages are not

1 included as a part of this Court's determination.

2 If the Court recalls, as I'm sure you do, following  
3 the 1980 trial, on the evidence there presented you  
4 found that the price of \$21 per share was in fact a  
5 fair price. Clearly you are not now bound by that as  
6 a matter of law because of the change in the law  
7 articulated by the Supreme Court in the opinion on  
8 this case.

9 As we understand it, at least in part,  
10 the Supreme Court has said that no particular  
11 valuation methodology is mandated for use in this  
12 proceeding as a matter of law. It has also stated  
13 that no valuation method is prohibited as a matter  
14 of law.

15 In this particular case, for example,  
16 plaintiff's expert, Mr. Bodenstein, both in 1980 and  
17 his now 1984 report has used a discounted cash flow  
18 methodology in arriving at his values as of May 1978.  
19 Clearly this Court can if it wishes, and if it  
20 determines it to be appropriate, accept the  
21 discounted cash flow method as an appropriate method  
22 to be used in this case, and then to weigh the  
23 credibility of the opinion based on that method.  
24 Or this Court may, as we understand it, if it



1 determines that such a methodology is not appropriate  
2 for inclusion in this case, not as a matter of law,  
3 but based upon the facts of this case, could decline  
4 to consider the discounted cash flow method.

5 Now, we suggest, having reviewed  
6 both the transcript and the prior opinion of this  
7 Court, that that is in fact what this Court did do  
8 in 1980. There was no indication that this Court  
9 refused to consider the discounted cash flow method  
10 as a matter of law. Only that the opinion of  
11 plaintiff's expert based predominantly on that method  
12 was not convincing to the Court.

13 In any event, that is now behind us,  
14 and this Court will now set about to evaluate on the  
15 methods as presented. But we suggest that this Court  
16 will not, and should not be convinced that  
17 plaintiff's opinion of the value of the minority  
18 shares of UOP as of May 26, 1978, should now be  
19 accepted any more than was acceptable back in 1980.

20 There will, of course, be evidence  
21 presented by both sides as to the value as of that  
22 date, May of 1978, by Mr. Purcell. The Court heard  
23 Mr. Purcell, and read his opinion as in 1980, and  
24 has been given a copy of his 1984 report, and the same

1 is true with Mr. Bodenstein. We submit that the  
2 appropriate and proper date to be used in this hearing  
3 to ascertain that fair value is May 26, 1978, and  
4 we again submit that the \$21-per-share price paid  
5 as of that date was in fact fair.

6 Again, I just want to come back to  
7 Mr. Prickett's response to Justice Quillen's question,  
8 and I paraphrase that if the \$21-a-share price was  
9 fair then, no damages in this case.

10 We cannot, and do not at this point,  
11 however, ignore the question of the possibility of  
12 rescissory damages. Because of our agreed order of  
13 proof in this case where we agreed to go first, we  
14 will be examining our expert, Mr. Purcell, at the  
15 opening phase of the case on his opinion of value as  
16 of some date later than May 1978. But again, in so  
17 doing, I want the record to reflect clearly that we  
18 do not concede that we have the burden of either  
19 going forward on that subject, nor that we agree that  
20 some date other than May 1978 is appropriate for  
21 purposes of ascertainment of value.

22 Mr. Purcell will testify then as to his  
23 opinion of the value of the shares of UOP as of the  
24 end of 1983. The question then may be raised well,

1 why not as of today's date since certainly there is a  
2 suggestion in some of the cases that the appropriate  
3 date is the date of judgment.

4 First, we are not going forward with  
5 testimony as to the value as of today's date since  
6 as of January 1, 1984, UOP's operations both  
7 physically and financially have so changed as to make  
8 it impossible even hypothetically to evaluate some  
9 hypothetical minority ownership in UOP as of today's  
10 date.

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1 In fact, this inability as of today's date may alone be  
2 a reason why rescissory damages cannot and should not  
3 be considered as a part of the case, and I just recall  
4 again briefly the Supreme Court's opinion, in which the  
5 Court there referred to as one criterion, "and if  
6 susceptible of proof."

7 If not then today's date, what date is  
8 appropriate and should be used in a rescissory damage  
9 evaluation? Here clearly there is no real guidance  
10 in the law of Delaware or, in our view, much of anywhere  
11 else for that matter. Mr. Bodenstein, the plaintiff's  
12 expert, has come up with values as of the spring of '83  
13 and the spring of '84. Although they differ slightly  
14 in the periods from, for example, spring of '84 for  
15 Mr. Purcell's evaluation as of the end of '83, they are  
16 basically utilizing the same criteria and the same  
17 numbers. We are using the end of 1983 for purposes of  
18 putting on our evidence, because it is at least the  
19 closest point in time to today's date that can reasonably  
20 be presented on a financial basis and, therefore, are  
21 the closest to what might otherwise be a standard, but  
22 frankly, we are not sure what that exact date should  
23 be.

24 We will have presented to you, Your Honor,

1 during the course of the next several days evidence of  
2 values over a span of time in a variety of different  
3 ways, but we suggest that if something other than May,  
4 1978 is to be considered, it should be the end of 1983.

5 In this proceeding there is also the  
6 question of if one is to use rescissory damages -- that  
7 is, of a date and time after the transaction -- what  
8 is the method, what is the concept of value that  
9 should be utilized in coming to that determination.  
10 Do we, for example, accept the company as it now exists  
11 in June, 1984 or as it did exist at the end of 1983  
12 or do we ignore reality and assume things either did  
13 or did not happen from 1978 on for purposes of coming  
14 up with some sort of conclusions, both physical and  
15 financial, in terms of does one build hypotheticals on  
16 hypotheticals to try to come up with some future value  
17 date? Again, in listening to the evidence, this Court  
18 will have before it a variety of different data  
19 presented, and I believe that the arguments will be  
20 made by both sides on that subject at the conclusion  
21 of the case.

22 In conclusion, just a point of procedure  
23 here. We have spoken about Mr. Purcell, our evaluation  
24 expert who will be testifying. We are going to be

1 presenting at the outset two other witnesses: One,  
2 Mr. Jerry Corirossi, who is a vice president of finance  
3 and the chief financial officer of UOP; and  
4 Mr. Edward Kavanaugh, who is a Signal employee and who  
5 is the deputy controller of The Signal Companies. In  
6 brief, Mr. Corirossi will testify about what has  
7 happened at UOP primarily from a financial standpoint  
8 since 1978. Mr. Kavanaugh's testimony will be briefer  
9 and will deal primarily with the 1983 accounting  
10 treatment for several major business decisions made  
11 at that time in terms of reserves and write-offs.  
12 Their testimony will provide some background, we hope,  
13 for the Court's listening to Mr. Purcell and his  
14 opinion, and also we submit that the testimony of  
15 Mr. Corirossi and Mr. Kavanaugh will clearly show that  
16 in arriving at his opinion Mr. Bodenstein has improperly  
17 failed to recognize and to ignore certain financial and  
18 practical realities.

19 And unless the Court has any questions  
20 at this point, that concludes our opening.

21 THE COURT: No, I have none at this point,  
22 Mr. Halkett. Thank you very much for outlining your  
23 position.

24 All right, Mr. Prickett.

1 MR. PRICKETT: Your Honor, at the outset  
2 of this opening let me reply to a few things that  
3 Mr. Halkett suggests.

4 First of all, he suggests that in going  
5 forward he does not concede that the defendants have  
6 the burden of proof. Let me say that so far as we are  
7 concerned, that was decided by the Supreme Court, and  
8 it was affirmed by this court when the Court said the  
9 defendants have flunked the test on fair dealing, and  
10 the court said they stand on both sides of this  
11 transaction. Therefore, it seems to us the law of the  
12 case is clear, they are a convicted wrongdoer in this  
13 fiduciary case and they have the burden here as they  
14 come back to prove that the price at which they cashed  
15 out the minority was fair.

16 And it is for that reason that we insisted  
17 that they go forward, so there could be no concession on  
18 our part or any waiver of what we think has been firmly  
19 established by the Supreme Court in its decision and by  
20 Your Honor in the rescissory damage decision, and that  
21 is that so far as liability is concerned, that is a  
22 closed issue, and they have the burden of justifying  
23 it.

24 Second, Mr. Halkett refers to the criteria

1 which are determinative on the question as to whether  
2 rescissory damages will be applied. We think he has  
3 gone over the whole play of Hamlet, but he has left  
4 Hamlet out. The reason for rescissory damages is that  
5 the wrongdoer has taken something away from the person  
6 who seeks rescissory damages. If we could have enjoined  
7 this merger, they never would have gotten our stock.  
8 We did not know about the misrepresentations that have  
9 led the Supreme Court to find that they were unfair.  
10 And therefore, we came into the court afterwards.

11 By the time we got here, it was too late  
12 to undo the transaction. And as the Supreme Court has  
13 said to us, it is clearly too late to undo the  
14 transaction now.

15 What we are entitled to is what Signal  
16 has wrongfully taken from us and what it has enjoyed  
17 since that time. And therefore, the root of rescissory  
18 damages is not punitive in nature. It is restitution.  
19 Give us back what we are owed and give us back not only  
20 what we are owed but the profits that you have enjoyed  
21 during the time that you have held on to our property.  
22 And therefore, the root of the thing -- and this is all  
23 set out in the brief that we filed with Your Honor in  
24 connection with the rescissory damage hearing. And the



1 law is perfectly clear, you start to make the plaintiff  
2 whole, and that is why you measure it by rescissory  
3 damages.

4 Now, Mr. Halkett has enumerated, as I  
5 started to number them, about eight criteria. But as  
6 I say, he left that out. He does touch on culpability,  
7 and he says we are not culpable. We just happen to be  
8 mistaken.

9 Your Honor, I think he imposes on the  
10 Court in suggesting that. He would have the Court  
11 believe that the only reason the Supreme Court reversed  
12 and remanded this case was because Arledge-Chitiea was  
13 not disclosed. Now, I am sure I don't have to harangue  
14 the Court about the Supreme Court's opinion in this  
15 case. I do suggest, however, that it is imposing on  
16 the Court to suggest that it was only Arledge-Chitiea.

17 The court itself says, "The Arledge-Chitiea  
18 report is but one aspect of the element of fair dealing."  
19 And then the Court goes through for a couple of pages  
20 on other particulars. It doesn't go into detail on  
21 them, but it recites a host of sins, and it culminates  
22 this review of what Signal did by saying, "Given these  
23 particulars and the Delaware law on the subject, the  
24 record does not establish that this transaction satisfies

1 any reasonable test of fair dealing."

2           So there were a whole host of things  
3 that Signal did that establishes culpability over and  
4 beyond Arledge-Chitiea. So that if the criteria that  
5 the defendant would stand on is culpability, they have  
6 it in spades. They have flunked, and they have flunked  
7 clearly as the majority stockholder in regard to their  
8 minority shareholders.

9           So that the Court doesn't need to pause  
10 on the punitive or the culpability aspect of it. But  
11 if they want to put their stake down on that, they have  
12 had their day in court, and they have been found  
13 adjudicated as willful wrongdoers vis-a-vis their  
14 minority stockholders.

15           Now, it is again suggested that  
16 Mr. Bodenstein did not refer in his testimony or his  
17 report to the Arledge-Chitiea report. Of course, he  
18 didn't. Mr. Bodenstein is a financial analyst. He was  
19 analyzing at the time the worth of the stock. And as  
20 he indicated at the time, the fact that Signal would  
21 pay 19, 21, 24 or 30 does not go to the value. That  
22 goes to what Signal could and would pay. And therefore,  
23 in analyzing this, his test was what the worth of it  
24 was.

1                   Sure, it is interesting to know that  
2     Signal says this is one hell of a deal at any price up  
3     to 24, but that is not his job. It is an interesting  
4     admission by Signal. And they should have disclosed it  
5     to the other people, because they were fiduciaries.  
6     But as an analyst, that is not his job. His job is to  
7     take the facts and analyze what the worth is.

8                   So that the suggestion that Bodenstein  
9     did not turn aside in his analysis to consider that  
10    Signal in the Arledge-Chithea report had determined that  
11    any price up to 24 was the best investment Signal could  
12    make is to mistake what a serious analyst really does,  
13    and that is to make a determination on the facts and  
14    not look at what the buyer would or could pay.

15                  The final argument is a curious one.  
16    Mr. Halkett appeals to the equity of this Court and  
17    appeals to the Signal shareholders as a reason why  
18    rescissory damages should not be given. Now, what he  
19    is saying to the Court is that if there is an award  
20    under rescissory damages that gives back to the UOP  
21    shareholders a sum of money that would equal what was  
22    taken away from them plus all the benefit that the  
23    Signal shareholders have had since then, that that is  
24    unfair to the Signal shareholders.

1 I suggest to you that he has got it  
2 mixed up. Rescission is a creature of equity, and it  
3 says we are going to make the shareholder who had been  
4 deprived of the stock whole. If we could give him back  
5 his shares plus the dividends, that is what we would  
6 do. But we can't do that. And therefore, we are going  
7 to say to the Signal shareholders, you got something  
8 that didn't belong to you, and you have been reaping  
9 profit over the years from the thing. And therefore,  
10 while we can't take the shares away from you, we are  
11 going to take back the amount of the value.

12 And that doesn't deprive Signal of  
13 anything. Signal is just put in the position they  
14 would have been in but for their illegal act. And that  
15 is what equity does in this situation. It doesn't  
16 simply say, oh, the poor Signal shareholders have got  
17 to give up something that didn't belong to them and  
18 that is unfair, because they have gotten used to it  
19 and they have made so much money.

20 Now, furthermore, Signal in making  
21 restitution doesn't give up anything it has or  
22 rightfully had. It will still have the value of  
23 50.5 percent of UOP, plus it will have the shares that  
24 it took away. All it is doing is paying for them.

1                   So that the appeal to the poor  
2 shareholders of Signal I think is misplaced in the  
3 sense that they are not being asked to give up anything  
4 that belonged to them. They are simply being asked to  
5 pay for what they took away, and they are being left  
6 with the shares.

7                   Now, having spoken in response to  
8 Mr. Halkett, let me come to what I think this hearing  
9 is about, since that is what the Court asked us to do.  
10 And the hearing today and throughout this week is to  
11 determine what is the amount of damages that Signal  
12 owes for having taken away the stock of the UOP  
13 stockholders at \$21 per share.

14                   We don't think that there is any question  
15 but that the 21 is unfair, it having been established  
16 simply that this price was fixed not by value but  
17 simply because it was the same price that Signal had  
18 paid in a tender offer and cash-out merger back in 1975.  
19 We think the question really is how much is Signal  
20 obligated to pay to make the UOP stockholders whole.

21                   Now, this hearing in a sense builds on  
22 the 1980 hearing. At the time Signal chose not to bring  
23 Lehman Brothers, the investment banker who participated  
24 in the acts that culminated in the cash-out merger at

1     \$21. They didn't bring Mr. Glanville or anybody from  
2     Lehman. Instead they brought in Mr. Purcell.

3                 What Mr. Purcell did was to make an  
4     appraisal using what has been now characterized as the  
5     Delaware block method. He used investment value,  
6     market value, the structure of the transaction and the  
7     structure of the transaction as the basis for determining  
8     whether the market price was fair. He did not rely on  
9     the asset value except to a very limited extent, and  
10    he skipped over entirely the fact that there were  
11    undervalued assets of UOP that were going entirely to  
12    Signal and no part of which was going into the cash-out  
13    price.

14                In addition, Mr. Purcell, like Signal  
15    and like Lehman Brothers, relied on the fact that three  
16    years prior to the cash-out merger Signal had tendered  
17    at 21 and had made a direct purchase at 21. We pointed  
18    out then and we point out now that the fact that  
19    Signal had made a successful tender three years earlier  
20    that had been taken by some people is of no relevance  
21    to the fairness of the price three years later,  
22    especially as UOP was a changed company.

23                Though obviously the value of UOP is  
24    dependent not on what has happened in the history but

1 what has happened in the future -- and particularly  
2 what is it going to be able to earn -- Mr. Purcell in  
3 his 1980 evaluation made no discounted cash flow  
4 analysis, and he made no real determination of what  
5 the future earnings would be of UOP. That was the  
6 really significant thing as to what the value was.

7 As we will point out again in this  
8 hearing, Mr. Purcell made three major errors in his  
9 1980 evaluation.

10 In the first place, his approach, Your  
11 Honor, was to value the minority interest. That is,  
12 he determined what the value of the individual shares  
13 was, not the value of the entire company, and what was  
14 happening was a transfer of the entire company.

15 Secondly, he valued UOP on a retrospective  
16 basis. As I indicated, he looked to the past rather  
17 than the future. And when you buy a company, you don't  
18 buy what has gone on past. You buy what is the future.

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1                   And thirdly, in his evaluation of  
2 premium -- in the first place, he simply stuck it on  
3 top of his price. He determined what the price was  
4 by essentially the investment and market and structure  
5 of the transaction, and then he plunked a premium on  
6 top of it.

7                   His measurement of premium was also  
8 flawed. And Your Honor's opinion indicates that Your  
9 Honor clearly had in mind the difference between  
10 measuring premium based on the unaffected market  
11 price when you determined the unaffected market price  
12 by screening out run-ups in price engendered either  
13 by leaks, rumors or the premonition as compared  
14 with just taking mechanically the day before the  
15 formal announcement, and it made a tremendous  
16 difference.

17                   Mr. Purcell said the merger is fair  
18 because the premium is 44 percent, and that's  
19 within the limits of what I find in the comparative  
20 analysis. Mr. Bodenstein took that same list, and  
21 showed that when you screened out the noise; that is  
22 the run-up in price engendered by leaks, rumors or  
23 the premonition, that list yielded a 70 percent  
24 premium, and that would have brought Purcell's price



1 precisely to where Bodenstein evaluated the fair  
2 price; that is, not less than \$26.

3 Now, in 1984 Mr. Purcell has been rehired,  
4 and he comes here with a report that he says is built  
5 solidly on his 1980 report. And if his 1980 report  
6 is flawed, then the basis for his 1984 report is no  
7 good.

8 You will note, however, that Mr. Purcell  
9 has eliminated one of the three elements of his  
10 evaluation. One of the three principal reasons that  
11 he relied on for saying that this 21-dollar cash-out  
12 was fair was because of the structure. And since  
13 the Supreme Court has found that the structure was  
14 unfair, one of the three supports for his reasoning  
15 has evaporated.

16 Mr. Purcell, though he has had four  
17 years to consider the matter, stands on his  
18 determination of premium and the method of  
19 determining percentage of premium. So that we are  
20 going to invite the Court to review that situation,  
21 and determine whether or not Mr. Purcell's method of  
22 determining premium; that is measuring the  
23 percentage on the difference between the merger price  
24 and the last day before the formal announcement, is

1 correct, or whether in fact pursuant to the Delaware  
2 cases you've got to screen that out to get an  
3 unaffected market price or the comparison is no good.

4 Now, in addition Mr. Purcell purports to  
5 evaluate the value of the UOP shares in 1982 and 1983.  
6 I sympathize with Mr. Purcell. He faced a river of  
7 cash that was coming out of UOP from 1978. They had  
8 so much money they didn't know what to do with it.  
9 Well, of course they did know what to do with it.  
10 They gave it to Signal. So he had the problem of how  
11 to cope with this thing, and still say that \$21 was  
12 fair.

13 How did he do it? Well, he again  
14 evaluates UOP not as a 100 percent company, but from  
15 the minority position. Then he comes up with a  
16 figure, but that's a market figure, Your Honor, and  
17 he puts no premium on it.

18 So what he has done is to determine  
19 what the value of the shares would be in 1982-1983,  
20 and he says, you see, it comes back to 21. But he  
21 doesn't put the premium on, though we have lost our  
22 shares.

23 So his methodology in connection with  
24 the 1982-83 evaluation leaves off any premium. If

1 you put the premium on, even at 40 percent you are  
2 right back at our figures. If you put on the 70  
3 percent correct premium, you've exceeded to some  
4 extent even what we suggest is appropriate. But he  
5 just totally missed the fact that if you are going to  
6 take that price, you've got to put the premium on.  
7 Otherwise you are comparing apples to oranges.

8 In addition, the defendants -- and  
9 Mr. Purcell shares in this -- are going to suggest to  
10 Your Honor that on January 1, 1984, UOP suddenly  
11 vanished. It's gone. It doesn't exist anymore.

12 Now, what are the facts? At year-end  
13 UOP everybody agrees was well, healthy and alive.  
14 It was cranking out \$20,000,000 in dividends. It  
15 had loaned about \$80,000,000 to Signal. It had put  
16 large sums into its R&D program. It had paid its  
17 debts down. It had paid losses on some of the  
18 divisions such as Procon, and it had engaged in a  
19 large capital expansion.

20 Then on February 1, 1983, Signal and  
21 Wheelabrator-Frye merged, and Signal used this  
22 opportunity, quite correctly we think, to reorganize  
23 and write everything off it could, and it shifted  
24 a lot of pieces around.

1                   You should note, though, that by that  
2 time Signal had gotten back its entire investment  
3 in UOP in the form of dividends and cash advances.  
4 It had gotten \$80,000,000 in dividends, and had  
5 gotten about \$183,000,000 in advances. So that it  
6 got back everything it ever put in including the  
7 amount put in from the tender offer and the direct  
8 purchase in 1975 plus the cash-out of the UOP stock-  
9 holders. So it had everything back again.

10                   Then they say UOP vanished on  
11 January 1st. It just went poof, gone. But with it  
12 went \$180,000,000 of UOP money. It had been loaned  
13 to Signal, and when the disappearing act went on,  
14 with it went our \$180,000,000.

15                   But it didn't disappear, Your Honor.  
16 UOP didn't disappear. Some of the divisions were  
17 shifted away, and some were closed down. And Signal  
18 ended up on January 1st not only with \$180,000,000  
19 of UOP cash plus the dividends over the year, but  
20 it ended up with UOP. And what did UOP on the other  
21 end consist of? It consisted of all the money makers;  
22 Process and six other divisions that were money makers.  
23 All the losers had been closed out. It ended up with-  
24 out debts, and it ended up with the prospect of making

1     \$41,000,000 net earnings that same year.

2                 So that this suggestion made by  
3     Mr. Halkett that's going to be advanced by the  
4     witnesses that UOP disappeared, and you can't talk  
5     about it, involves an accounting slight of hand in  
6     which you are going to be -- they are going to try  
7     and persuade you that \$180,000,000 of UOP money  
8     disappeared, and nothing came out the other side.  
9     And we are going to suggest to you that what came  
10    out the other side was a debt-free UOP consisting of  
11    Process and the six money makers, and everything else.

12                And incidentally, on the other side comes  
13    out the undervalued forest lands. They still end up  
14    with that.

15                Now, how does Signal do this? May 1984  
16    after this case was set for trial, and after the  
17    rescission, Brewster Arms sitting here in this  
18    courtroom directed that certain accounting changes be  
19    made, and the two gentlemen who are about to testify  
20    made some accounting changes on May 14th and May 21st.  
21    These accounting changes are adjustments, and the  
22    effect of that is to change a 41,000,000-dollar profit  
23    for UOP into a 55,000,000-dollar loss. So that as  
24    of December 31, 1983, in year-end UOP, the golden goose,

1 had laid about \$41,000,000 worth of eggs that year,  
2 but when they get done with this accounting change,  
3 it ends up with a 55,000,000-dollar loss. And we  
4 are told that this was done in preparation for this  
5 trial. And the documents prepared in May are  
6 back dated to December 31, 1983.

7 So they are going to suggest to you  
8 that UOP, which has made all this money, which has  
9 wildly exceeded anything that even Arledge and Chithea  
10 dreamed about, was in fact bankrupt in 1983, didn't  
11 make anything, and disappeared, and is no longer  
12 in existence, and with it went \$180,000,000 of bank  
13 loans.

14 One of the things they are going to  
15 talk about is the Come-By-Chance suit. You remember  
16 when we talked about Come-By-Chance before it was a  
17 contingent liability, and they always said oh,  
18 Come-By-Chance, terrible thing, though the general  
19 counsel had always opined that it was a nothing suit,  
20 and that even if it were something, it wouldn't  
21 materially affect the outcome so far as UOP is  
22 concerned.

23 Well, in 1984 they settled that suit  
24 for \$52,000,000. So they put a charge against UOP as

1 as a so-called reserve, and back dated it to '83.

2 So what they do is they settle in at '83. For the

3 first time they admit Come-By-Chance is something

4 they've got to deal with, and then they back date

5 it so that they make it appear that UOP's income

6 should be charged with \$52,000,000 of pretax income.

7 That's a \$52,000,000 charge, \$28,000,000 after the

8 fact, and then they take all the charges. There

9 are a -- I think there are \$121,000,000 in charges

10 that Signal and Wheelabrator decide to charge off in

11 this merger, and who ends up getting them? You'll

12 never guess. It's UOP. \$113,000,000 out of this is

13 charged to UOP.

14 So that when you get done, all of this

15 UOP that has made all this money, Signal is so

16 ungrateful to turn around and say it's a loser. It's

17 a 55,000,000-dollar loser. But furthermore, it's

18 going to disappear, and it's going to disappear

19 with \$180,000,000.

20 Now, Your Honor, fortunately at the

21 outset of this case we were able to retain Duff &

22 Phelps, a large appraisal firm from Chicago. They

23 have more financial analysts in that organization

24 than any organization except Merrill Lynch. And we

1 were fortunate also that we got Ken Bodenstein, a  
2 chartered financial analyst who has been doing  
3 appraisal work for both companies and stockholders  
4 all of his professional life.

5 As Your Honor well knows, Mr. Bodenstein  
6 made an analysis in 1980 on two bases. One, he did  
7 a series of comparative analyses, and secondly, he  
8 did a discounted cash flow series of analyses.  
9 The Court felt impelled to disregard the discounted  
10 cash flow analysis. The Court said that it was  
11 unnerved, I think, or something like that, by the  
12 discount factor, and we will be presenting another  
13 discount cash flow analysis, and we suggest that the  
14 Court consider carefully how a discount cash flow,  
15 or a discount factor, is arrived at. It's not  
16 fortuitously sought. Not by a professional. He  
17 will tell you exactly how he gets it, and it's the  
18 basis of analysis, and it changes as the circumstances  
19 change. So that it's not simply something done to  
20 make the equation come out right.

21 In addition, in 1980 Mr. Bodenstein made  
22 a series of comparative analyses, and we call the  
23 Court's attention to those because even if the  
24 discounted cash flow analysis at that time did not



1 catch the Court's attention with favor, the  
2 comparative analysis we think would impel a decision  
3 that 21 simply could not be, and was not the proper  
4 price.

5 Now, in addition, Mr. Bodenstein pointed  
6 out that in a cash-out situation when Signal was  
7 going to liquidate immediately thereafter, or  
8 liquidate some assets not necessary for the  
9 earnings stream in one year, two years or now, those  
10 assets should be properly valued not at their  
11 historical cost.

12 Now, in 1984 Mr. Bodenstein will be  
13 back in the courtroom. In a sense he will be  
14 here in a position to say that his views have been  
15 justified not in the sense of I told you so, but  
16 simply that the actuality has borne out precisely  
17 what he said, and that measuring UOP based on its  
18 earning potential was conservatively done when he  
19 came up with a figure of not less than \$26 per share.  
20 Because UOP's performance has dwarfed even -- well,  
21 certainly dwarfed Arledge and Chitica, and it has  
22 dwarfed Mr. Bodenstein's conservative evaluations.  
23 And therefore, Mr. Bodenstein not only will reconfirm  
24 what he said in 1980, but he will say with the benefit

1 of hindsight, knowing actually what happened, you can  
2 now say that the shares are worth in excess as of the  
3 time in a range of \$28 to \$30.

4 Now, in addition, Mr. Bodenstein has  
5 made an evaluation of the rescissory value of the  
6 shares that Signal took on May 26, 1978, and  
7 determined their value as of 1982 and 1983, and he  
8 has measured not on anything but Signal and UOP's  
9 own figures what has happened to UOP and what the  
10 value of those shares would be if the minority  
11 shareholders continue to hold them, and he does that  
12 by about, oh, I guess, 10 to 12 different measures  
13 to determine what is the present worth of what  
14 Signal is holding.

15 Now, finally, as I indicated at the  
16 outset, Mr. Bodenstein has made a review of the  
17 report that Mr. Purcell has submitted, and we have  
18 turned that over to counsel for the defendants. He  
19 points out about 10 major errors in the Purcell  
20 report in its efforts to convince the Court of the  
21 impossible. That is that UOP was only worth  
22 \$21 at the time of the merger, and is in fact worth  
23 less now, and that in 1984, January 1st, it disappeared.

24 So that we would ask Your Honor at the

1 conclusion of this hearing to find that the value of  
2 the minority shares was not less than \$30 based  
3 either on the value at the time of the merger or  
4 based on its rescissory value. The Court should  
5 then award this value with compound interest to date  
6 plus fees and expenses less the \$21 paid to those  
7 who surrendered their shares.

8 Thank you, Your Honor.

9 THE COURT: Do you represent at this  
10 juncture the class of all of the minority shareholders?  
11 Is that right?

12 MR. PRICKETT: Yes.

13 THE COURT: And how many would that be?  
14 Four-million-and-something?

15 MR. PRICKETT: What is it?

16 MR. BONKOWSKI: 5,600,000.

17 THE COURT: 5,600,000 shares is what  
18 you are now representing?

19 MR. PRICKETT: Yes, sir.

20 THE COURT: Then basically you are  
21 seeking, from what you just said, \$9 a share plus  
22 interest plus counsel fees, et cetera?

23 MR. PRICKETT: Minus 21 to those that have  
24 been paid.

1 THE COURT: Yes. I took out the 21.  
2 You said 30 --

3 MR. PRICKETT: I'm sorry. If Your  
4 Honor did -- I just didn't want to overreach.

5 THE COURT: All right. Fair enough.  
6 Thank you.

7 MR. PRICKETT: Thank you, Your Honor.

8 THE COURT: All right. Mr. Sparks.

9 MR. SPARKS: We are ready to proceed  
10 with the first witness, if Your Honor would like to  
11 proceed at this time.

12 THE COURT: I think perhaps we should  
13 take a break before we do that. I think it might be  
14 time for a 15-minute recess.

15 Before we go off the record, could I  
16 have a poll? What does everybody think of the  
17 conditions this morning? It's too noisy to start  
18 with, but the temperature -- How is the temperature?

19 MR. PAYSON: The temperature is good,  
20 Your Honor.

21 MR. SPARKS: Fine, Your Honor.

22 THE COURT: Is anybody cold, freezing?  
23 When I make my phone call, I want to know how much on  
24 the recess to cover.

1 MR. PRICKETT: The temperature is fine,  
2 but it may heat up, Your Honor.

3 THE COURT: I hate to turn it off.

4 All right. Fair enough. Let's take  
5 15 minutes.

6 (Recess.)  
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1 THE COURT: All right, Mr. Sparks.

2 MR. SPARKS: Your Honor, I would like to  
3 call to the stand Jerry James Corirossi, the chief  
4 financial officer of UOP.

5 THE COURT: Very well.

6 JERRY JAMES CORIROSSI, having been first  
7 duly sworn, was examined and testified as follows:

8 MR. SPARKS: Your Honor, before I begin  
9 Mr. Corirossi's examination I do want to note for the  
10 Court that, once again as a result of the order of  
11 proof, there will be certain areas of testimony that  
12 I will elicit that are raised, in effect, by the paper  
13 record which Mr. Prickett placed in the record.

14 MR. PRICKETT: Your Honor, I couldn't hear  
15 Mr. Sparks. Could you tell me again.

16 MR. SPARKS: I am sorry. I stated that  
17 due to the order of proof there are certain matters  
18 raised in the paper record that has been submitted by  
19 the plaintiff that I will be addressing with  
20 Mr. Corirossi's testimony that might be done differently  
21 if the order of proof were different.

22 MR. PRICKETT: Thank you, Your Honor.

23 MR. SPARKS: Your Honor, I would also  
24 like to hand up to the Court a notebook that has been

1 prepared by defendants' counsel, which contains all but  
2 one or two of the exhibits that will be referred to  
3 during the course of today's proceeding in terms of  
4 examination of Mr. Corirossi and later of Mr. Kavanaugh.  
5 And we supply that to the Court so that the Court can  
6 follow along as some of these documents are discussed.

7 There are one or two more bulky documents  
8 that we did not put into that, but we will be getting  
9 to those. I will alert the Court that they are not  
10 in the book.

11 THE COURT: All right.

12 MR. SPARKS: With the Court's permission,  
13 I will begin the examination.

14 THE COURT: Well, one question before  
15 you start. These exhibits that I have, these are  
16 defendants' exhibits for the purposes of this particular  
17 proceeding; is that correct?

18 MR. SPARKS: The exhibits that you have  
19 in the book that I have just handed up to Your Honor  
20 include certain plaintiff's exhibits and certain  
21 defendants' exhibits. That is a result of the order  
22 in which the parties designated the exhibits.

23 Mr. Prickett first told us the exhibits  
24 he was going to put in, and then we put in certain

1 additional ones. We have not tried to double-mark  
2 exhibits. And these are ones that either require an  
3 explanation or --

4 THE COURT: My point is this: To the  
5 extent there are no objections to any exhibits, I  
6 think maybe on the record I should admit them, should  
7 I not, so there wouldn't be any problem using them at  
8 the trial.

9 MR. SPARKS: I think there is no problem  
10 with those up through 111 on the plaintiff's side. As  
11 far as we are concerned, we did have certain other  
12 exhibits that plaintiff has put in which I don't believe  
13 will come up either in Mr. Corirossi's or in  
14 Mr. Kavanaugh's testimony.

15 THE COURT: Well, can I do this, then,  
16 for the record, gentlemen: Can I admit Plaintiff's  
17 Exhibits 1 through 111 without objection?

18 MR. PRICKETT: Yes, sir.

19 MR. PAYSON: Yes, sir.

20 THE COURT: All right. Consider that  
21 done.

22 (Plaintiff's Exhibits 1 through 111  
23 received in evidence.)

24 THE COURT: Are there any defendants'



1 exhibits that could be admitted in that fashion also?  
2 I realize that there might be objections to some.

3 MR. SPARKS: We would hope they will all  
4 be admitted, but Mr. Prickett has not told us which  
5 ones, if any, he will object to.

6 MR. PRICKETT: Could I speak off the  
7 record to Mr. Sparks?

8 THE COURT: Sure.

9 (Discussion off the record.)

10 MR. PRICKETT: Your Honor, I would agree  
11 to all the exhibits that are in the notebooks, which  
12 are Defendants' Exhibits -- Your Honor, to make this  
13 go forward, I would agree to --

14 THE COURT: I don't want to make it  
15 difficult, gentlemen. I just didn't want to get in  
16 the course of the witness' testimony some objection as  
17 to an exhibit. I was trying to get that out of the way.

18 MR. PRICKETT: Well, I think we can do it  
19 so far as this witness is concerned, because we have  
20 in the notebook the exhibits that are going to be  
21 referred to. The only ones that are defendants' exhibits  
22 are 10, 11 and 12, and I would agree to --

23 THE COURT: 2, 10, 11 and 12 can be  
24 admitted.

1 MR. PRICKETT: Except as to 10, which is  
2 slightly changed from what I saw before. But otherwise,  
3 I would agree to those four.

4 THE COURT: All right. Well, let's take  
5 care of that, then. Defendants' Exhibits 2, 10, 11 and  
6 12 can be admitted, subject to your right with regard  
7 to No. 10. If you find that it is materially changed  
8 from what you think it is, if you wish to make an  
9 application to have it stricken, we can do that.

10 MR. PRICKETT: Fine.

11 THE COURT: All right. Thank you.

12 (Defendants' Exhibits 2, 10, 11 and 12  
13 received in evidence.)

14 THE COURT: I think that will make sure  
15 at least in my mind we don't have any evidentiary  
16 problems in the course of the testimony. I am satisfied  
17 from my standpoint that this testimony is probably going  
18 to be hard enough for me to follow anyway, and I didn't  
19 want to get sidetracked with objections and the  
20 admissibility of documents in the middle of it.

21 MR. PAYSON: Chancellor.

22 THE COURT: Yes, Mr. Payson.

23 MR. PAYSON: In light of Mr. Prickett's  
24 stance of no objection with respect to 2, 10, 11 and 12,

1 I believe he has no objections to any of the other  
2 exhibits designated by the defendant, and if we could  
3 get that over with now, if I am correct, I think it  
4 would facilitate matters.

5 MR. PRICKETT: Your Honor, could I take  
6 that under advisement. I would like to take one more  
7 look at that. We have now cleared up the ones for this  
8 witness, and I will undertake to get back very promptly.

9 THE COURT: All right. Maybe on a  
10 luncheon recess we can clear that up.

11 All right. Fair enough. Let's proceed,  
12 Mr. Sparks.

13 MR. SPARKS: Thank you.

14 DIRECT EXAMINATION

15 BY MR. SPARKS:

16 Q Mr. Corirossi, by whom are you employed?

17 A UOP, Incorporated.

18 Q Would you please summarize for the Court  
19 your formal education.

20 A I received a bachelor of science degree  
21 in accountancy from Northern Illinois University.

22 Q And are you a certified public accountant?

23 A Yes, I am.

24 Q When were you licensed as a certified

1 public accountant?

2 A. 1966.

3 Q. After you graduated from college by  
4 whom were you first employed?

5 A. Peat Marwick Mitchell & Company,  
6 Certified Public Accountants. They are one of the  
7 Big 8 accounting firms.

8 Q. And how long did you stay with Peat  
9 Marwick?

10 A. Approximately 11 years.

11 Q. While you were at Peat Marwick what  
12 positions did you hold?

13 A. I started as a staff accountant,  
14 progressed to senior accountant, supervisor and manager.

15 Q. And in general terms could you tell the  
16 Court what you did while you were at Peat Marwick during  
17 those 11 years?

18 A. Basically audited private and publicly  
19 held companies.

20 Q. When did you leave Peat Marwick?

21 A. Approximately 1976.

22 Q. And upon leaving Peat Marwick by whom  
23 were you employed?

24 A. FMC Corporation.

1 Q What was FMC Corporation?

2 A FMC Corporation is a publicly held,  
3 multinational, multi-industrial company, with sales  
4 at that time of about \$3-1/2 billion.

5 Q And what positions did you hold with  
6 FMC?

7 A I started as accounting manager and  
8 progressed to financial accounting manager.

9 Q Now, in general terms can you also tell  
10 the Court what the general nature of your duties were  
11 while you were at FMC?

12 A The general nature of my duties was the  
13 administering of financial reporting, both external  
14 and internal, setting accounting policy and procedures  
15 and budgeting and forecasting.

16 Q And how long were you with FMC?

17 A Approximately four years.  
18  
19  
20  
21  
22  
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1 Q Now, after you left FMC, by whom were  
2 you employed?

3 A UOP, Incorporated.

4 Q What year did you join UOP?

5 A 1980.

6 Q What was your initial position at UOP?

7 A Corporate controller.

8 Q And had you held other positions at  
9 UOP during the four years or so that you have been  
10 there?

11 A Yes. I was promoted to vice president  
12 controller, and then to vice president finance.

13 Q When did you become vice president  
14 controller?

15 A April 1983.

16 Q And when did you receive the promotion  
17 to vice president finance?

18 A The fall of 1983.

19 Q What were your functions as corporate  
20 controller of UOP, Inc.?

21 A I was responsible for internal audit,  
22 financial reporting, budgeting, forecasting, data  
23 processing and accounting.

24 Q Did those responsibilities subsequently

1 change along with your promotions?

2 A. Yes. When I was promoted to vice  
3 president controller I also assumed the responsibility  
4 for the tax function and the capital budgeting  
5 function.

6 Q. When you joined UOP in 1980, how was  
7 it operated vis-a-vis its parent, The Signal Companies,  
8 Inc.?

9 A. I would say that it was a reasonably  
10 autonomous stand-alone company with financial  
11 controls and certain approvals required, obviously,  
12 by Signal in major transactions.

13 Q. And at that time in 1980 when you joined  
14 the company, what were UOP's principal lines of  
15 business?

16 A. The principal lines of business were  
17 petroleum and petrochemical, construction, fabricated  
18 metal products, transportation, chemicals and plastics,  
19 and then we had a category of several smaller divisions  
20 we called other.

21 Q. Now, within those operating segments,  
22 or business segments that you have just described,  
23 what were the names, and a brief description, if you  
24 will, of the principal operations?

1           A.       Well, the petroleum and petrochemical  
2 segment was made up entirely of Process Division.  
3 The Process Division licenses technology as well as  
4 produces catalysts. The construction segment was  
5 made up of two divisions: Procon, which is in the  
6 construction engineering business, and Air Correction,  
7 which is in the engineering business for precipitators,  
8 pollution control devices.

9                   The fabricated metal products segment  
10 was made up of three manufacturing divisions: The  
11 Wolverine Division that made copper tubing, the  
12 Flexonics Division that made industrial ducting and  
13 expansion joints, and the Johnson Division which  
14 made well water screens.

15                   The transportation segment was made up  
16 of the Aerospace Division which manufactures seats  
17 for airlines, airplanes, and galleys. The Bostrom  
18 Division which manufactures seats for heavy trucks,  
19 farm equipment and construction equipment, and  
20 Automotive Products which manufactures catalysts  
21 for automobiles.

22                   The chemicals and plastics segment is  
23 made up of the Norplex Division which manufactures  
24 copper clad laminants. And the Forest Products



1 Division which harvests timber, and converts it to  
2 lumber for sale on the wholesale level.

3 The other category includes the Solid  
4 Waste Systems Division which builds and operates  
5 waste disposal plants, the Retail Division which  
6 manages certain properties owned by UOP. Those I  
7 think are the major areas.

8 Q Now, when you came to UOP in 1980,  
9 where and how were UOP's books maintained?

10 A The books were maintained at the  
11 divisions and at Des Planes, and on a reasonably  
12 autonomous basis.

13 Q You say Des Planes. Where is Des Planes?

14 A Des Planes, Illinois, which is right  
15 outside Chicago, is the corporate headquarters of UOP.

16 Q Did UOP generate separate audited  
17 financial statements for any period of time while  
18 you were at UOP?

19 A Yes. Separate audited financial  
20 statements were generated through and including 1982.

21 Q When you joined the company, Signal  
22 owned a hundred percent of UOP; is that correct?

23 A Yes, they did.

24 Q Why did UOP have its financial statements

1 audited for those years through 1982 if it was  
2 wholly owned by Signal?

3 A. Because we had certain long-term debt  
4 that required audited financial statements each year.

5 Q. When you began to work at UOP, did you  
6 familiarize yourself with UOP's then recent operating  
7 and financial history?

8 A. Yes.

9 Q. Looking back to the May 26, 1978,  
10 merger which is the subject of this litigation,  
11 were there any changes between that date and the  
12 end of 1980 in either the nature of UOP's business,  
13 how it was operated, or how its books were kept?

14 A. Well, there were many changes as any  
15 large company would have the size of UOP, but I think  
16 the only one I would consider significant would be  
17 the shutdown of the chemical operation.

18 Q. And when, approximately, during that  
19 time period was the chemical division shut down?

20 A. I believe it was in 1979.

21 Q. Now, were there any changes in any of  
22 those areas that we have just discussed in 1981?

23 A. Again, a lot of changes, but the only  
24 what I would consider significant changes would be the

1 sale of the Forest Products Division and the sale of  
2 a major product line of the Wolverine Division,  
3 which was the manufacturing of tubing for nuclear  
4 plants.

5 Q You mentioned just a moment ago the sale  
6 of the Forest Products Division. Can you tell the Court  
7 what the Forest Products Division was?

8 A Basically the Forest Products Division  
9 operated saw mills in Canada, and would cut and  
10 buy lumber, or timber, for processing through those  
11 mills, and then distribution to the wholesale market.

12 Q Did that operation have anything to do  
13 with the Michigan and Wisconsin properties owned by  
14 UOP?

15 A No, they did not.

16 Q And what UOP business segment was the  
17 Forest Products Division in?

18 A That was included in the other category.

19 Q Now, turn to the year, if you would,  
20 1982. Apart from the general changes that occurred  
21 in a business of UOP's nature from year-to-year,  
22 were there any identifiable changes in any of the  
23 three areas that we have been talking about in 1982;  
24 namely, the nature of UOP's businesses, how it was

1 operated vis-a-vis Signal, or how its books were kept?

2 A. No. I don't believe there were any  
3 significant changes.

4 MR. SPARKS: I would ask the Register  
5 to hand to the witness Defendants' Exhibit 2.

6 (The document was produced.)

7 BY MR. SPARKS:

8 Q. I have asked the Register to hand to you  
9 Defendants' Exhibit 2. Can you identify that  
10 document?

11 A. Yes. This document is the audited  
12 consolidated financial statements for UOP, Incorporated,  
13 for the years ended December 31, 1981, and 1982.

14 Q. Now, in terms of the format, how does  
15 that document compare to the year-end financial  
16 statements prepared by UOP for the years 1978  
17 through 1981?

18 A. They are comparable.

19 MR. SPARKS: I would also ask the  
20 Register to hand to the witness Plaintiff's  
21 Exhibit 49.

22 (The document was produced.)

23 MR. SPARKS: Your Honor, Plaintiff's  
24 Exhibit 49 is a bulky document. This is one of two

1 exhibits that I will refer to in this morning's  
2 examination that is not included in the book which I  
3 have given to Your Honor.

4 THE COURT: All right. Thank you.

5 BY MR. SPARKS:

6 Q Mr. Corirossi, can you identify  
7 Plaintiff's Exhibit 49?

8 A Yes. This is an internal document  
9 that is the detail behind the consolidated  
10 financial statements of UOP, Incorporated, for the  
11 year ended December 31, 1982.

12 Q Now, did UOP also prepare internal  
13 financial statements for the years 1978 through 1981?

14 A Yes, we did.

15 Q And once again, in terms of format,  
16 how does this document compare to those financial  
17 statements?

18 A They are comparable.

19 Q Now, in 1983 were there any significant  
20 changes in the way UOP operated vis-a-vis its  
21 parent, The Signal Companies?

22 A Yes. There were very significant  
23 changes in 1983. After the February 1st merger of  
24 Signal and Wheelabrator-Frye, during the summer and

1 fall of 1983 there were what I consider three  
2 significant changes.

3 The treasury function of UOP was  
4 combined with that of Signal. The various operating  
5 management responsibilities were reassigned within  
6 The Signal Company, and the major employee benefit  
7 plans of UOP were combined with the benefit plans of  
8 Signal.

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1           Q       Now, you placed those in time a moment  
2 ago as being after the Signal-Wheelabrator merger.  
3 Approximately what date was the Signal-Wheelabrator  
4 merger?

5           A       Approximately February of 1983.

6           Q       Were any of these changes required as  
7 part of the Signal-Wheelabrator merger?

8           A       No, they were not required because of  
9 the merger.

10          Q       Now, let me turn first to the first  
11 thing you mentioned, which was the movement of the  
12 treasury function in the middle of 1983. When did this  
13 occur and what did it entail?

14          A       It occurred over a period of time,  
15 primarily during the summer and early fall of 1983.  
16 And what it entailed was, the cash management function  
17 was moved from UOP to Signal; that is, the managing of  
18 all cash receipts and disbursements for all of UOP and  
19 its divisions as well as Signal either assumed or  
20 guaranteed all of UOP's long-term debt.

21          Q       When you say the cash management function  
22 moved out to Signal, what does that mean in everyday  
23 terms? What is it that Signal was doing that UOP did  
24 before?

1           A.       What UOP had done before in Des Plaines  
2 was, all cash receipts would come into corporate office  
3 and all bills for the divisions would be paid out of  
4 corporate office. That function had been moved to  
5 Signal. So that Signal now pays all of UOP's bills.

6           Q.       Was there any change in who invested cash?

7           A.       Yes. There was also a change, in that  
8 because the cash management function had been moved to  
9 Signal, as part of that any investment of funds are now  
10 determined by Signal, and that took place gradually  
11 during the summer and fall of 1983.

12          Q.       Now, the next point that you mentioned  
13 was a reassignment of operating management. When did  
14 that occur and what did it entail?

15          A.       I think that started somewhere in the  
16 spring of 1983 and was essentially complete by the  
17 early fall of 1983. And what that entailed was a  
18 reassignment of management responsibility for various  
19 divisions to different people within The Signal  
20 Companies. It also led to the termination of several  
21 senior management people.

22          Q.       At Signal or at UOP?

23          A.       At UOP.

24          Q.       Now, can you give me an example of



1 what you are talking about here in terms of reassignment  
2 and reorganization?

3 A. Yes. The new president of the UOP Group,  
4 who was appointed in approximately August of 1983, not  
5 only has responsibilities for some formerly UOP divisions  
6 but also some other divisions of Signal. Likewise, there  
7 are other counterparts in The Signal Companies who now  
8 manage some parts of the formerly UOP as well as other  
9 Signal units.

10 Q. Now, the third thing you mentioned in  
11 terms of how UOP operated vis-a-vis Signal was a  
12 combination of benefit plans. When did that occur,  
13 and briefly what did it entail?

14 A. It occurred in the latter part of 1983.  
15 And what that involved was, the two major benefit plans  
16 are pension and profit-sharing. Those were separate  
17 plans with UOP, and they are now merged with the similar  
18 plans at Signal.

19 Q. Now, you have just told us about the  
20 various changes in 1983 throughout the course of that  
21 year vis-a-vis Signal. Were there any changes in 1983  
22 in UOP's businesses?

23 A. Yes, rather significant changes. I have  
24 already mentioned the reassignment of divisions to

1 senior management. But in addition to that, the  
2 Procon Division and the Air Correction Division, two  
3 units which had sustained substantial losses over the  
4 years, had been shut down during 1983. The Flexonics  
5 Division was sold in October of 1983. The Aerospace  
6 and Bostrom divisions had been put up for sale at that  
7 time. The Solid Waste Division had been combined with  
8 another unit of Signal that was in a similar business.

9 Q What line of business or segment of  
10 business was Flexonics in?

11 A Flexonics made industrial products,  
12 primarily ducting and expansion joints.

13 Q And what segment of UOP's business were  
14 Procon and Air Correction in?

15 A Procon and Air Correction made up the  
16 entire construction segment.

17 Q After they were closed was there anything  
18 left of UOP's construction segment?

19 A No, there was nothing left.

20 Q What UOP business segment was Solid  
21 Waste in?

22 A Solid Waste was in the other category.

23 Q Now, when approximately did these  
24 business changes that you have just discussed take

1 place?

2 A. Well, the Procon and Air Correction  
3 occurred over a period of time, which was basically the  
4 second and early part of the third quarter of 1983.  
5 And Flexonics, as I said, was sold in approximately  
6 October of 1983.

7 The combination of Solid Waste Systems  
8 Division took place over a period of time, but basically  
9 the second quarter of 1983.

10 Q. Now, you indicated there was an agreement  
11 to sell Aerospace. Do you know what the status of that  
12 is?

13 A. It was finally sold in February of 1984.

14 Q. Now, we have covered the 1983 changes  
15 in terms of the relationship of UOP to Signal and the  
16 changes in UOP's businesses. Were there any changes  
17 in 1983 in how and where UOP maintained its books?

18 A. Yes, there was. There was one change,  
19 and that was that certain reserves that were established  
20 in 1983 were recorded at Signal rather than at Des  
21 Plaines.

22 Q. With respect to those reserves, which I  
23 will get to in more detail in a few minutes, where were  
24 the final decisions made as to whether they should be

1 taken or not?

2 A. The final decisions were made at Signal.

3 Q. And why was the decision made to book  
4 these reserves out in La Jolla as distinguished from  
5 through your office in Des Plaines?

6 A. Two reasons: One, because the final  
7 decision was made out there; and, two, to provide good  
8 accounting control.

9 As I said, the senior management  
10 responsibilities of several of the divisions have been  
11 dispersed throughout Signal. So it was felt the best  
12 accounting control would be at Signal.

13 Q. Now, did UOP have its 1983 financial  
14 statements audited?

15 A. No, we did not.

16 Q. And why weren't your 1983 statements  
17 audited, as they had been in '82 and '81, et cetera?

18 A. Because during 1983 Signal had assumed  
19 or guaranteed UOP's long-term debt, which was the  
20 requirement, the reason we had earlier audited financial  
21 statements.

22 Q. What was the reason in light of the  
23 debt that you needed audited financial statements  
24 before this time? Who was interested in them?

1           A.       The lenders required -- certain of the  
2 lenders required audited financial statements.

3                   MR. SPARKS: I would ask the Register  
4 to give to the witness Plaintiff's Exhibit 90.  
5 BY MR. SPARKS:

6           Q       Mr. Corirossi, I have asked the Register  
7 to place before you a document which has been marked as  
8 Plaintiff's Exhibit 90. Can you identify this document?

9           A       Yes. This document was prepared at UOP  
10 and includes the 1983 results as recorded in Des Plaines.  
11 But, as I mentioned earlier, some reserves are recorded  
12 in Signal, and they were not included in this document.

13           Q       Was this document prepared on a basis  
14 comparable to the 1978 to 1982 financial statements  
15 which you have already identified?

16           A       They were, except for the fact that in  
17 prior years this document would have included all  
18 reserves applicable to UOP. In 1983 certain of those  
19 reserves were not included.

20           Q       Well, why weren't the reserves that were  
21 taken in 1983 included in the 1983 year-end report  
22 package?

23           A       Well, as I testified earlier, the  
24 accounting control and the final decision on the

1 reserves was made in Signal; and therefore, they  
2 recorded it. And it didn't make a lot of sense for  
3 them to send me information in Des Plaines just so I  
4 could combine it with information that I had and then  
5 return it to Signal so they could include it in their  
6 consolidation. So it made sense to just submit what  
7 we had in Des Plaines to them and let them add or  
8 deduct the reserves.

9 Q Now, we have started to talk here about  
10 something called reserves. Can you tell the Court what  
11 a reserve is?

12 A A reserve is a liability and an offset  
13 charge to the income statement that recognizes or  
14 records an expense that is anticipated at some future  
15 time. It is required under generally accepted  
16 accounting principles to record in the income statement  
17 any known or reasonably estimatable expenses at the  
18 earliest possible date.

19 Q Well, as a matter of accounting theory  
20 why is it that these reserves in the abstract get  
21 taken?

22 A The reason is that under generally  
23 accepted accounting principles the financial statements  
24 of the companies should always reflect the true

1 operations of the business and any assets and  
2 liabilities of the company to show a true picture of  
3 the financial condition of the company.

4 Q Now, what is the effect on a company's  
5 income statement of taking a reserve in a particular  
6 year?

7 A The impact on the income statement would  
8 be to increase the expenses and, therefore, reduce  
9 profits.

10 Q What is the effect of taking a reserve  
11 in a particular year on a company's balance sheet?

12 A It would have the effect of increasing  
13 the liabilities and, therefore, decreasing the book  
14 value.

15 Q Can you give to the Court an example to  
16 bring all of this into focus of a common type of reserve  
17 that is taken by an industrial company?

18 A A very common type reserve for companies  
19 in the construction business, construction engineering  
20 business, would be a loss reserve for anticipated cost  
21 overrun on a project. And what I mean by that is,  
22 when the company is able to determine that the cost to  
23 complete a project under a contract is going to exceed  
24 the income from the customer, then at that point in

1 time they should record a loss reserve for that  
2 contract.

3 Q And are the taking of such reserves a  
4 part of generally accepted accounting practice?

5 A Yes, it is a very common practice.

6 MR. SPARKS: I would next like the  
7 Register to hand to the witness Plaintiff's Exhibit 102.  
8 BY MR. SPARKS:

9 Q Mr. Corirossi, I have asked the Register  
10 to hand to you a document which has been marked in this  
11 proceeding as Plaintiff's Exhibit 102. Can you identify  
12 that document?

13 A Yes. This is a document that I submitted  
14 to Signal in April of 1983, which summarizes my  
15 recommendations on various reserve requirements.

16 Q Why did you prepare this document?

17 A Because of the decisions made by senior  
18 management to shut down certain operations, to relocate  
19 and/or terminate some people because of the current  
20 status of some litigation and because of an in-depth  
21 review of some contracts, I was asked for my recommenda-  
22 tions on what loss reserves are required.

23

24



1 Q And when was it, again, that you  
2 prepared this document?

3 A This document was prepared in April of  
4 1983, but the work leading up to its preparation  
5 actually started near the end of February.

6 Q And that's February, 1983?

7 A February, 1983.

8 Q What does the first page of this document  
9 represent?

10 A The first page is a summary of my  
11 recommendations. the detail of which is on the  
12 following pages.

13 Q And were those recommendations accepted  
14 by Signal, if you know?

15 A They were essentially accepted, yes.

16 Q What do Pages 2 through 7 of this  
17 document represent?

18 A Okay. Pages 2 through 7 are the detail  
19 behind the summary schedule that explains the nature  
20 of the items.

21 Q Let's turn for a moment to Page 2 of  
22 this document.

23 What in general terms are the entries  
24 at the top half of Page of Plaintiff's Exhibit 102?

1           A.       The entries on the top half of that  
2 page relate to the shutdown cost for the Air  
3 Correction Division.

4           Q.       Now, there is a reference in there to  
5 96 people and to five to 10 people. What is  
6 that all about?

7           A.       The 96 people was our best estimate of  
8 the number of people that would be terminated as  
9 a result of the shutdown of the division. The  
10 five to 10 people, again, was our estimate of the  
11 number of people that would be relocated to other  
12 units of The Signal Companies.

13          Q.       Now, what do the entries at the bottom  
14 of Page 2 represent?

15          A.       The entries at the bottom of the page  
16 represent loss reserves on certain contracts where  
17 we anticipated the cost to exceed revenue.

18          Q.       And how were these determined in a  
19 general sense?

20          A.       In a general sense they were determined  
21 with consultation with the engineering, marketing,  
22 legal and other financial people within UOP.

23          Q.       Now, with respect to the top entry,  
24 Swepeco, Pirkey & Dolet Hills, there is a parenthetical

1 that says "Net of \$735 reserve per books." I gather  
2 that's \$735,000. Is that correct?

3 A. Yes, \$735,000.

4 Q. What does that entry in parentheses  
5 indicate?

6 A. Well, as I said, the establishment of  
7 the loss reserves is a very common practice, and  
8 in fact on this particular contract we had established  
9 some reserves in prior periods.

10 Q. There is also a parenthetical under  
11 Delhi Electric near the bottom of the page.  
12 What does that parenthetical represent?

13 A. The same thing. That indicates some  
14 reserves had been established in prior periods on  
15 that contract.

16 Q. Now, would you turn to Page 3 of  
17 Plaintiff's Exhibit 102?

18 What in general terms do the entries  
19 at the top of that page represent?

20 A. The entries at the top of the page  
21 represent the termination and relocation costs  
22 related to the reduction of overhead at our Fluid  
23 Systems Division as a result of the depressed  
24 business that they were in.

1 Q And what are the entries at the bottom  
2 of the page? What do they represent?

3 A The entries at the bottom of the page  
4 essentially represent some write-offs of uncollectable  
5 receivables, some write-offs of inventory that is  
6 no longer salable, and again, a loss reserve against  
7 a major project and a loss reserve against an invest-  
8 ment in the Middle East.

9 Q Would you turn to Page 4 of Plaintiff's  
10 Exhibit 102?

11 What do the entries on that page  
12 represent?

13 A That represents the termination of  
14 several people at the corporate office of UOP as  
15 well as the excess costs related to space and other  
16 overhead.

17 Q Now would you turn to Page 5, please?

18 In general terms what do the entries  
19 on this page represent?

20 A In general terms these were the reserves  
21 provided against certain legal matters where we  
22 anticipated losses to occur.

23 Q Now, would you briefly review for the  
24 Court each of the items on this page?

1           A.       Yes. The first item on the page is  
2 Hess Oil, which is a combination of two lawsuits  
3 that grew out of fires at two different refineries  
4 for which the Process Division of UOP had done the  
5 design work.

6                   The next two items, the George Neal  
7 and the West Penn reserves are related to the lack  
8 of product performance of certain products from  
9 the Air Correction Division. The Resources  
10 Conservation Company matter is related to, again,  
11 a lack of product performance by the Fluid Systems  
12 Division.

13                   The Come-By-Chance reserve is related  
14 to the anticipated out-of-pocket expenses that  
15 would be incurred to continue the Come-By-Chance  
16 litigation.

17                   The Benzene reserve is related to a  
18 series of lawsuits filed by individuals against the  
19 Process Division of UOP claiming exposure to a  
20 hazardous element in the refineries that they worked  
21 at. The Process Division had done the design  
22 development work of those refineries.

23                   The next item, EPA-E. Rutherford, is a  
24 pollution matter brought by the EPA against UOP for

1 property that we own in New Jersey that in fact the  
2 EPA has placed within the top 20 of polluted sites  
3 of the super fund list.

4 The Tidelands is an expected loss  
5 on the very same property wherein the state has claimed  
6 title to a portion of those properties.

7 Q Now, with respect to the matters  
8 listed on Page 5 of Plaintiff's Exhibit 102, have  
9 you taken any reserves on any of these items in  
10 prior years?

11 A Oh yes. On several of them. The Hess  
12 Oil, the George Neal and the West Penn all had  
13 reserves established in prior years.

14 Q When those reserves were taken in  
15 those prior years, did they have an effect upon UOP's  
16 reported earnings for those prior years?

17 A Yes. They reduced the reported earnings  
18 for those years.

19 Q Did they have any effect on UOP's book  
20 value as of the year-end for those years?

21 A Yes. Likewise, they would have  
22 reduced the book value of UOP at that time.

23 Q Now, focus, if you would, for a minute  
24 on the Come-By-Chance item there.

1                   Based on your review when you joined  
2 UOP of its financial situation, were there any  
3 earlier charges to earnings as a result of Come-By-Chance?

4           A.       Two very significant charges occurred.  
5 In 1975, at that time UOP wrote off approximately  
6 \$16,000,000 of receivables related to this project,  
7 and also reserved for approximately \$18,000,000  
8 of future losses because of debt that UOP had  
9 guaranteed.

10           Q.       Now, you testified a moment ago that you  
11 recommended a 18,000,000-dollar reserve on this sheet  
12 for Come-By-Chance litigation expenses. Was there  
13 any additional reserve, to your knowledge, taken in  
14 1983 for Come-By-Chance?

15           A.       Yes. My understanding is that an  
16 additional amount was provided at Signal.

17           Q.       And what did it relate to?

18           A.       It related primarily to the actual  
19 settlement of the case rather than the expenses to  
20 pursue the case.

21           Q.       Did you play a part in the decision to  
22 book that additional portion of the Come-By-Chance  
23 reserve?

24           A.       Not the additional portion, no.

1 Q Now, since the litigation expense portion  
2 of the Come-By-Chance reserve was set up, have there  
3 been charges made against it?

4 A Oh yes. Rather substantial.

5 Q What is the magnitude of the charges  
6 against the litigation expense portion of the  
7 Come-By-Chance reserve?

8 A Okay. The charges against this  
9 18,000,000-dollar reserve amount to about  
10 four-and-a-half-million dollars between April 1, 1983,  
11 and May of 1984.

12 Q Is the Come-By-Chance litigation, by  
13 the way, all over as a result of this settlement that  
14 you have alluded to?

15 A No. Only a portion of the lawsuits  
16 have been settled.

17 Q Now, to your knowledge, have there  
18 been any charges made against the settlement portion  
19 of the reserve since it was set up?

20 A I understand that a charge of  
21 approximately \$30,000,000 has been made against that  
22 as part of the settlement of some of the lawsuits.

23 Q Do you have an understanding as to  
24 whether any amount has actually been paid out in that



1 settlement?

2 A. My understanding is that \$30,000,000  
3 has been paid out. The actual settlement including  
4 future payments is approximately \$40,000,000.

5 Q. Now would you turn to Pages 6 and 7  
6 of Plaintiff's Exhibit 102?

7 What do those entries represent in  
8 general terms?

9 A. In general terms they represent reserves  
10 that are related to the Procon Division to cover  
11 the shutdown of the Procon Division as well as  
12 certain anticipated contract losses.

13 MR. SPARKS: I now ask the Register to  
14 hand to the witness Defendants' Exhibit 10, which  
15 may be for identification at this point depending  
16 on where we stand.

17 THE COURT: As far as I'm concerned,  
18 Mr. Sparks, it's in evidence subject to any  
19 application Mr. Prickett might have hereafter if it  
20 differs from the version he previously approved.

21 BY MR. SPARKS:

22 Q. I now hand to you, Mr. Corirossi,  
23 Defendants' Exhibit 10. Can you identify this?

24 A. Yes. This was a document prepared by

1 Signal.

2 Q Do you know who at Signal prepared the  
3 document?

4 A I don't know who specifically prepared  
5 it, but I understand it was under the direction of  
6 Mr. Kavanaugh.

7 Q Now, are the reserves we have just  
8 discussed reflected anywhere on Defendants' Exhibit 10?

9 A Yes. They are essentially included  
10 under the column headed "JE7."

11 Q Are you familiar enough with this  
12 document to identify whether there is any back-up  
13 material in the document referring to that journal  
14 entry?

15 A Yes. I believe on Page 6 it lists  
16 various reserves by division within UOP.

17 Q And do any of those reserves relate to  
18 the ones that you just testified about that were  
19 made in the early part of 1983?

20 A Yes. It includes most of the reserves  
21 that I had participated in.

22 Q Would you turn to the second page of  
23 Defendants' Exhibit 10, please? Would you read  
24 that aloud, please?

1           A.       "For separate consolidated financial  
2 statements of UOP, Incorporated, the reserve for the  
3 Come-By-Chance litigation amounting to \$28,080,000  
4 would not be amortized over seven years in the  
5 income statement, but would be a charge for the  
6 full amount in 1983. This would result in a net loss  
7 for the year of \$80,731,000."

8           Q.       From an accounting point of view, is  
9 that a correct statement?

10          A.       Yes.

11          Q.       Now, Mr. Prickett in his opening  
12 statement, which I believe you heard as well as I  
13 did as we sat here in the courtroom this morning,  
14 suggested that accounting changes in your reserves,  
15 or adjustments were made with respect to UOP in 1984.  
16 Did UOP make any changes in reserves or adjustments  
17 in that month?

18          A.       1984?

19          Q.       In May of 1984.

20          A.       I don't know that any were made. I'm  
21 not aware of any that were made in May of 1984.

22          Q.       Do you have any knowledge of either UOP  
23 or Signal back dating any reserves or adjustments  
24 from May 1984 to some prior period?

1 A. Absolutely not.

2 Q. Now let me shift forward in time to 1984,  
3 this year.

4 Were there any changes made in 1984  
5 with respect to how and where UOP maintains its  
6 books?

7 A. Yes. In 1984 we discontinued keeping  
8 the consolidated books and records of UOP not only  
9 in Des Plaines, but period. The reason that was  
10 done was because, as I testified earlier, we made  
11 several changes in the treasury operating management  
12 responsibility and employee benefit plans whereby  
13 it made good sense to change the financial reporting  
14 organization to conform to the new company.

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1 Q Well, when was the decision made that  
2 UOP would no longer maintain a separate set of financial  
3 statements?

4 A It was approximately the fourth quarter  
5 of 1983.

6 Q Why didn't you discontinue in 1983, for  
7 example, the preparation of the 1983 report package?

8 A Because the year was almost over, we felt  
9 that the best thing to do was to close the books for  
10 that year on the way they had been maintained for most  
11 of the year and then start the new financial reporting  
12 in 1984.

13 Q And just to go back, since we re-  
14 introduced the 1983 report package, what if anything  
15 differed in the 1983 report package from the prior  
16 year's financial statements?

17 A As I said, the major change was, the  
18 1983 report package did not include all of the reserves  
19 applicable to UOP.

20 Q Now, as the chief financial officer of  
21 what had been UOP before all these changes, were you  
22 asked to do so, could you prepare today financial  
23 statements for UOP as we knew it before the restructuring  
24 that were comparable to those for prior years?

1 A. No, I could not.

2 MR. SPARKS: Now, let me turn, if I may,  
3 to a different subject. I would ask the Register to  
4 hand to you Plaintiff's Exhibit 77.

5 BY MR. SPARKS:

6 Q. Mr. Corirossi, I have had the Register  
7 hand to you Plaintiff's Exhibit 77. Could you identify  
8 that document?

9 A. Yes. This is the five-year plan  
10 presentation made by UOP to Signal in May of 1982.

11 Q. Did you play any part in the preparation  
12 of that document?

13 A. Yes. I had it prepared under my direction.

14 Q. Now, did UOP prepare any five-year plans  
15 after May of 1982?

16 A. No.

17 Q. Why not?

18 A. Because of all the organizational changes  
19 and reporting changes that I have previously testified  
20 about, it did not make any sense to put together any  
21 five-year plans.

22 Q. Now, are you continuing to rely upon the  
23 1982 projections for financial planning purposes, the  
24 projections of Plaintiff's Exhibit 77?

1           A.       Absolutely not. It became apparent in  
2 the third quarter of 1982 that certain assumptions that  
3 this plan was based upon were not occurring, and, in  
4 fact, the businesses were falling far short of their  
5 anticipated results for the year 1982.

6           Q.       Can you tell us in a little more detail  
7 what indications you had that the assumptions upon  
8 which the 1982 plan was prepared in May were no longer  
9 valid?

10          A.       Procon and Air Correction were probably  
11 the two major shortfalls, in that they continued a lack  
12 of new business and, in fact, their losses due to  
13 unabsorbed overhead were running at a much higher level  
14 than the plan had anticipated. Also, the Bostrom  
15 Division was suffering much larger losses than  
16 anticipated due to the depth of the heavy truck  
17 market recession. And to a lesser extent but also  
18 significant, most of the other divisions were feeling  
19 the impact of the recession in capital spending and  
20 construction and housing, and so their sales and,  
21 therefore, their income levels, were much lower than  
22 anticipated.

23                   Also, it became apparent near the end of  
24 1982 that the Process Division, which is the major

1 profit contributor of UOP, could not attain the five-  
2 year plan because of the worldwide oil glut and the  
3 financial problems of Third World countries. Their  
4 business would drop off dramatically.

5 MR. SPARKS: I would next like to have  
6 the Register hand to the witness Plaintiff's Exhibits  
7 38, 39 and 40.

8 BY MR. SPARKS:

9 Q Mr. Corirossi, I once again asked the  
10 Register to place certain documents before you. Can  
11 you identify the documents that have been marked as  
12 Plaintiff's Exhibits 38, 39, and 40?

13 A Yes. These documents are the  
14 presentations that were made to the UOP board of  
15 directors, analyzing the results of operations of UOP  
16 for the years 1981 -- I am sorry. 1980, 1981 and 1982.

17 Q Now, would you please turn to Page 9  
18 of Exhibit 39, which is the 1980 financial review.  
19 Could you tell me what the term "no strings attached  
20 cash" as used on that page means?

21 A As used on that page, "no strings attached"  
22 means that is the amount of cash that UOP management has  
23 some discretion on how to use it.

24 Q Was this cash that could be taken out of



1 the business by a decision of UOP's management?

2 A. Yes, but I don't think good business  
3 judgment would dictate that.

4 Q. Why not?

5 A. Because of all the funds necessary to pay  
6 all the current liabilities and other monies needed to  
7 run the businesses in the following year.

8 Q. Now, I would ask you to turn to Page 17  
9 of Exhibit 38, which is also in front of you. And that  
10 is the 1981 financial report.

11 Does the term "no strings attached cash"  
12 have a different meaning as used in this document?

13 A. No. It has the same meaning.

14 Q. And I would also ask you to turn to  
15 Page 17 of Exhibit 40, which is the 1982 financial  
16 review. Is there any different meaning to the term  
17 "no strings attached cash" as used in that document?

18 A. No, there is no different meaning.

19 MR. SPARKS: I would ask the Register  
20 to take those exhibits back and give back to the witness  
21 Defendants' Exhibit 2.

22 BY MR. SPARKS:

23 Q. Mr. Corirossi, could you turn to Page 4,  
24 please, of Defendants' Exhibit 2.

1 I would ask you to look at the item  
2 "Advances to Affiliated Companies," on that page.  
3 What does that item represent?

4 A. That represents monies that have been  
5 advanced to Signal and its subsidiaries.

6 Q. And what is the figure for year-end  
7 1982?

8 A. \$79 million.

9 Q. Were all of the \$79 million referred to  
10 in that line item advanced to Signal in calendar year  
11 1982?

12 A. No. And, in fact, 61 million of that  
13 amount had been advanced in years prior to 1982.

14 Q. And I believe I may have misspoken.  
15 This says "Advances to Affiliated Companies." Does  
16 that mean just to Signal or is there somebody else?

17 A. No. That is Signal and its subsidiaries.

18 Q. But that doesn't change your answer?

19 A. That does not change my answer.

20 Q. Was interest paid to UOP on the  
21 \$79 million figure shown here?

22 A. Yes.

23 Q. And at what rate or rates was interest  
24 paid?

1 A. The rates were determined at the existing  
2 market price at the time the money was advanced.

3 THE COURT: Excuse me, Mr. Sparks.  
4 Interest was paid to whom?

5 MR. SPARKS: To UOP.

6 BY MR. SPARKS:

7 Q Who paid that interest?

8 A. Signal or the subsidiaries of Signal  
9 that actually received the funds.

10 Q Was interest paid on advances for earlier  
11 years also?

12 A. Yes.

13 Q And how were the interest rates  
14 determined for those earlier years?

15 A. On the same basis.

16 Q Is the 1982 interest paid on the advances  
17 shown somewhere on the UOP 1982 statement, which you  
18 have before you?

19 A. Yes. The interest would show on Page 3,  
20 which is the statement of income on the line "Interest  
21 and Advances to Affiliates."

22 Q And what is the amount of that number  
23 for the year 1982?

24 A. \$11,911,000.

1 Q Now, at the end of 1983 what was the  
2 cumulative amount of advances to Signal and its  
3 affiliates for 1983 and prior year?

4 A The cumulative amount at the end of 1983  
5 was approximately \$157 million.

6 MR. SPARKS: Now, I would ask the Register  
7 to hand back to the witness Plaintiff's Exhibit 90,  
8 which is the 1983 year-end report package.

9 BY MR. SPARKS:

10 Q Is that 157 million figure reflected  
11 somewhere in the 1983 year-end report package, Plain-  
12 tiff's Exhibit 90?

13 A Yes. It would show on Page B-2 on  
14 Line 12.

15 Q Now, was interest paid to UOP on advances  
16 made to Signal or its affiliates in 1983?

17 A Interest was paid for a portion of the  
18 year.

19 Q And is the amount of interest paid shown  
20 somewhere in Plaintiff's Exhibit 90?

21 A Yes. It would be included on Page B-3,  
22 Line 3, "Other Income."

23 Q Now, I gather from your answer when you  
24 said a part of the year, that at some point in time

1 Signal and its affiliated companies stopped paying  
2 interest to UOP in 1983 on advances; is that correct?

3 A. Yes, they did.

4 Q. And approximately when did they stop  
5 paying interest?

6 A. It was the fall of 1983.

7 Q. Why is it that those interest payments  
8 were stopped?

9 A. As I testified earlier, the cash management  
10 function of UOP had been combined with Signal, so  
11 although the interest stopped, Signal was now paying  
12 all of UOP's bills.

13 Q. Let me make sure I understand that. You  
14 have indicated that there was a transfer of the  
15 treasury function; is that correct?

16 A. Yes.

17 Q. Does that also mean that, in effect,  
18 Signal was writing the checks from that point on for  
19 UOP's obligations?

20 A. Yes. They would write all the checks.  
21 They would receive all the remittances from customers.

22 Q. Now, did the \$157 million number that  
23 we have just identified in the 1983 year-end report  
24 package include advances from customers?

1 A. Yes, it does.

2 Q. And approximately how much of that number  
3 was represented by advances from customers?

4 A. Approximately \$68 million.

5 Q. Take those back. We are to another area.

6 Now, Mr. Corirossi, do you have any  
7 responsibility with respect to UOP's Realty Division?

8 A. Yes. The Realty Division reports to me.

9 Q. And what are your duties with respect to  
10 that operation?

11 A. My duties are primarily to oversee the  
12 operation, set policy and direction and make sure that  
13 we maximize our return on the properties that we own.

14 Q. And in a brief sense, what are the  
15 operations geographically of the Realty Division?

16 A. We have a small amount of property in  
17 Alabama that is a housing development. We have property  
18 in Wisconsin, and we have property in Michigan.

19 Q. Well, what is the Alabama operation?

20 A. Okay. We own approximately 72 acres of  
21 undeveloped land and 131 developed lots that are being  
22 sold to builders or we are attempting to sell to  
23 builders.

24 Q. What has been the level of business since

1 you have been at UOP?

2 A. Over the last few years we have been  
3 selling somewhere in the neighborhood of an average of  
4 five lots a year.

5 Q. Now, what is the Wisconsin operation?

6 A. The Wisconsin operation consists of about  
7 68,000 acres of property, of which almost all that  
8 property is covered by a cutting license that we have  
9 with Goodman Industries, Limited.

10 Q. And is that operation subject to any  
11 particular tax laws?

12 A. Yes. Almost all the property is under  
13 what is called the Forest Property Act, which says that  
14 the property can only be used as timberlands, and for  
15 that we get a significant tax reduction each year and  
16 pay taxes when the trees are cut.

17 Q. What would happen if UOP were to choose  
18 to utilize that land for some other purpose, as you  
19 understand those regulations and tax --

20 A. If we wanted to use the land for anything  
21 other than what we are presently using it, we would  
22 have to pay all of the back taxes as if we never had  
23 a reduced tax rate plus interest from the date we would  
24 have paid the original taxes. And that is a very

1 substantial amount.

2 Q Can you tell me approximately how long  
3 most of this property has been under this tax law?

4 A It is various years, but anywhere from  
5 20 to 40 years.

6 Q And have you given consideration to  
7 operating this property in some different manner?

8 A We have given consideration to it, but  
9 because of the substantial cost to use it for anything  
10 other than its present and the cutting license I  
11 referred to with Goodman Industries, Limited, which  
12 gives them cutting rights through 1989, we do not  
13 believe there is any other practical use for that  
14 property.

15 Q What is the Michigan operation, which is  
16 the third geographic area you identified?

17 A The Michigan operation is approximately  
18 230,000 acres of property, of which approximately  
19 15 percent is considered good saw timberlands. Another  
20 10 percent are properties that are lowland, swamp, so  
21 forth. They are not covered with trees. And the  
22 remaining properties represent hardwood pulp-type trees  
23 that has no market value today.

24 Q How did UOP end up getting these Michigan,



1 Alabama and Wisconsin properties?

2 A. In the late 1960's UOP acquired a  
3 company by the name of Calumet & Hecla, Incorporated,  
4 and all of these properties were part of Calumet &  
5 Hecla at the time.

6 Q. What was the principal business of  
7 Calumet & Hecla back at that time?

8 A. Well, they were a conglomerate, but their  
9 principal reason for owning the Michigan properties  
10 were at the time they operated copper mines up there.

11 Q. What happened to the copper mines?

12 A. They were eventually shut down for  
13 economic reasons.

14 Q. Now, you mentioned some properties,  
15 at least properties in Michigan. Are they subject to  
16 any special tax laws?

17 A. Yes. Approximately 135,000 acres of  
18 that property is under the Commercial Forest Act of  
19 Michigan, which again allows us a reduced tax level.  
20 However, if we were to remove them, just as in  
21 Wisconsin, we would have to pay a severe penalty.

22 Q. Are those properties encumbered in any  
23 way by a license or anything of that nature?

24 A. Yes. Those 135,000 acres plus

1 approximately another 22,000 acres are encumbered by  
2 cutting licenses, the major one of which runs through  
3 1982 and the other one runs to somewhere in the 1990's.

4 MR. SPARKS: I would ask the Register  
5 to hand up to the witness Plaintiff's Exhibit 53.

6 Your Honor, this is the other one of the  
7 bulkier exhibits that we did not put in the book. I  
8 hand up a copy.

9 THE COURT: All right. Thank you.

10 BY MR. SPARKS:

11 Q. Before I ask you about that particular  
12 document, is there also a real estate operation that  
13 you conduct in the Upper Peninsula in Michigan?

14 A. Yes. There is a minor real estate  
15 operation that we conduct in Michigan, whereby we are  
16 attempting to sell off individual lots.

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1 Q Now, can you identify what I have handed  
2 up to you as Plaintiff's Exhibit 53?

3 A Yes. These are reports that were  
4 submitted to the board of directors setting forth  
5 the lot sales in Michigan and in Alabama.

6 Q Now take a look generally at the lot  
7 sales indicated. Can the sale prices for those  
8 parcels be extrapolated to cover all of the 235,000  
9 acres in Michigan?

10 A No. I don't think you can do that.

11 Q Why not?

12 A The reason I say that is we sell  
13 approximately each year somewhere in the neighborhood  
14 of 120 acres to 150 acres of property, so I don't  
15 think you can use that as a test of 230,000 acres.

16 In addition to that, these are the prime  
17 locations, oceanfront -- I'm sorry -- Lake Superior,  
18 not ocean, on inland lakes, the better locations,  
19 and we have a present inventory on hand of unsold  
20 lots of approximately 1100 acres -- I'm sorry --  
21 1100 lots. So I think you could see that with an  
22 inventory of 1100 lots, and we are only selling 120,  
23 there is not a demand that we have not been able to  
24 meet, so I don't think you can say you could apply

1 this to the entire 230,000 acres.

2 Coupled with that, we have built lots  
3 where the infrastructure is there, which is roads,  
4 sewer, water, et cetera, and we do not believe we  
5 could sell these lots at these prices if we had to  
6 put the infrastructure in in some other areas of our  
7 property.

8 And then of course finally the thing  
9 would be the encumbrances by the Commercial Forest  
10 Act. We would have substantial penalties to pay if  
11 we wanted to sell those lots.

12 Q Approximately how many acres would you  
13 estimate have been planted of these 230,000 acres?  
14 You mentioned something about 1100 lots, or something.

15 A That's approximately 1,500 acres.

16 Q Now, these sales as you have described  
17 them appear to be a relatively minor part of UOP's  
18 operations. Why were reports such as those in  
19 Plaintiff's Exhibit 53 made to UOP's board of  
20 directors with respect to these sales?

21 A At that time UOP had a policy that any  
22 sales of real property had to be submitted to the board  
23 of directors.

24 Q Now, looking broadly at the Michigan

1 properties, what is your present management philosophy  
2 with respect to those properties?

3 A. Well, our present philosophy is to  
4 maximize the return on our holdings, and right now  
5 what that means is to allow timber to be harvested on  
6 our property still maintaining, however, good,  
7 sustained yield for the future, and following good  
8 forest and environmental practices.

9 MR. SPARKS: Now I would like to ask  
10 the Register to hand to the witness Plaintiff's  
11 Exhibits 103 and 104.

12 THE COURT: Does this get us into  
13 something other than real estate?

14 MR. SPARKS: Your Honor, no. We are  
15 going to finish up here in about two minutes. I have  
16 three questions, I think.

17 THE COURT: Fair enough.

18 BY MR. SPARKS:

19 Q. Mr. Corirossi, I placed before you, or  
20 had the Register place before you Plaintiff's  
21 Exhibits 103 and 104. Can you identify those documents?

22 A. Yes. These are financail statements  
23 related to the Realty Division for 1982 and 1983.

24 Q. And what do they show with respect to

1 the Realty Division's operations?

2 A. Okay. They show the income statement,  
3 among other things, for the Realty Division for those  
4 years.

5 Q. What is the bottom line, if you will,  
6 with respect to the net income for those two years  
7 for the Realty Division?

8 A. For 1983 it shows an income of  
9 approximately \$397,000, and in 1982 it shows a net  
10 income of approximately \$342,000.

11 Q. And did that represent your efforts  
12 at the time to generate income from those properties?

13 A. Yes.

14 Q. Are the net income figures shown on  
15 Exhibits 103 and 104 included in UOP's net income  
16 for the years 1982 and 1983?

17 A. Yes, they are.

18 MR. SPARKS: Your Honor, I have no  
19 further questions of this witness.

20 THE COURT: All right. I understand this  
21 is an appropriate time to break for lunch.

22 We can recess until 2:15, and resume  
23 with the cross-examination of Mr. Corirossi?

24 MR. PRICKETT: Yes.

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THE COURT: All right. Thank you.  
We'll recess until 2:15.  
(Luncheon recess.)

AFTERNOON SESSION

(Reconvened at 2:21 p.m.)

THE COURT: Mr. Prickett. All right,  
may I ask you to return to the stand, Mr. Corirossi.

CROSS-EXAMINATION

BY MR. PRICKETT:

Q. By whom are you employed?

A. UOP, Incorporated.

Q. And you have been employed by UOP, Inc.  
since 1980; is that not right?

A. I have been employed by UOP, Incorporated  
since 1980, yes.

Q. And that is the same company you were  
first employed with when you joined the company in  
1980; is that right?

A. Yes.

Q. And it has not gone out of existence,  
has it?

A. The legal entity still exists.

Q. That is what I am talking about. It  
still exists, and it is the same one that employed you  
when you joined it in 1980; is that right?

A. Yes.

Q. And as a matter of fact, it has a new



1 president, Dean Freese, who came aboard in August,  
2 1983?

3 A. Yes.

4 Q. And you report to him?

5 A. Yes, I report to him. But UOP,  
6 Incorporated is not an operating company any longer.

7 Q. I hadn't asked you that, but I will get  
8 to it in just a second, if you will bear with me.

9 UOP, Incorporated consists now of the  
10 Process Division, does it not?

11 A. Yes.

12 Q. That is one division. Why don't you tell  
13 me what divisions UOP consists of today. I have given  
14 you a lead, Process.

15 A. Okay. The UOP, Incorporated divisions  
16 that are still in existence --

17 Q. That is what we are talking about.

18 A. (Continuing) -- are Process Division --

19 Q. One.

20 A. Norplex Division.

21 Q. Two.

22 A. The Automotive Products Division.

23 Q. Three.

24 A. The Fluid Systems Division.

1 Q Four.

2 A The Wolverine Division.

3 Q Five.

4 A And the Johnson Division.

5 Q Six. And where does Realty come into  
6 that?

7 A And the Realty Division.

8 Q And Realty, seven. So you have seven  
9 divisions; is that correct?

10 A That are left from the old UOP.

11 Q And have you made up a budget or a  
12 one-year forecast for the operations of the seven  
13 divisions that now constitute UOP, Incorporated?

14 A For what period of time?

15 Q Calendar year 1984.

16 A No, I have not.

17 Q You have made no forecast of that at all?

18 A No.

19 Q Has anybody?

20 A Do you mean in aggregate or individually?

21 Q All right. Let's take it first in  
22 aggregate.

23 A No.

24 Q Individually?

1           A.       I would assume that each of those units  
2 has prepared a budget for 1984.

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1 Q And they report to you?

2 A No, not all of them.

3 Q Who do they report to?

4 A Some report to the president that I  
5 report to, and some report to other management people.

6 Q Now, I'm not talking about operationally.  
7 I'm talking about financially.

8 A The same. The financial organization  
9 follows the operating.

10 Q You have no idea of the company of  
11 which you are the controller, of what their projected  
12 financial results for the year 1984? Is that right?

13 A I'm not controller. I'm the vice  
14 president finance of UOP, Inc.

15 Q I'm sorry. I have forgotten you made  
16 that promotion.

17 As vice president finance, you are  
18 telling us that you have no idea what the financial  
19 results for 1984 are going to be of this company;  
20 is that right?

21 A That's right, except I also said UOP, Inc.  
22 is not an operating company any longer.

23 Q All right. Let me pause on that since  
24 you keep coming back to it.

1 UOP has seven divisions that we have  
2 just been over?

3 A. Yes.

4 Q. Okay. Now, when you say it's not an  
5 operating company, it has seven operating divisions,  
6 does it not?

7 A. Yes.

8 Q. And what you mean is that it holds them  
9 as a holding company?

10 A. No. It owns legally the real and  
11 personal property, and that's it.

12 Q. Okay.

13 A. It does not operate as an entity.

14 Q. Yes. But if you wanted to know, you  
15 could add up the operations of all seven of its  
16 divisions, could you not?

17 A. You could add it up, but it would not  
18 tell you anything other than a total of seven numbers.

19 Q. Well, it would tell you the seven --  
20 the sum of the seven operating -- net operating  
21 profits. It would tell you that, wouldn't it, if  
22 you added up all the net operating --

23 A. The seven divisions, yes.

24 Q. It would tell you the long-term debt?

1 A. No.

2 Q. They don't have long-term debt?

3 A. That's right.

4 Q. Well, it would tell you the operating  
5 expenses?

6 A. Only of the division.

7 Q. That's what we're talking about.

8 I say if you took each division, you could add them  
9 up separately. Then you could add them together,  
10 and you would know what the total is; isn't that  
11 right?

12 A. That's correct.

13 Q. And you haven't done that?

14 A. I have not done that.

15 Q. Now, UOP as it stands now has no debt,  
16 does it?

17 A. They have some debt that has been  
18 guaranteed by Signal. So legally they have some  
19 debt, but --

20 Q. How much is that?

21 A. I don't know what the exact number is,  
22 but I think it is probably somewhere in the  
23 neighborhood of 40 to 45,000,000. But since that was  
24 transferred to La Jolla, I'm not directly involved in that.

1 Q Now I'm going to take you back to  
2 December 31, 1983. Okay?

3 At that time, what amount had UOP,  
4 Incorporated, advanced to Signal in total?

5 A I believe it was approximately \$157,000,000.

6 Q And that was the cumulative advances  
7 since 1978 when Signal had become a 100 percent  
8 owner of UOP; isn't that right?

9 A I'm sorry. Would you restate the  
10 question?

11 Q Yes. The 157,000,000, approximately,  
12 was the cumulative total of the advances made by  
13 UOP to Signal since the time that Signal had become  
14 the 100 percent owner?

15 A Yes.

16 Q And I think you've already told us  
17 that up until the middle point, or the fall of 1983,  
18 Signal had paid interest to UOP on the advances  
19 that UOP had made to Signal; is that right?

20 A Up until the fall of 1983.

21 Q That's what I just finished saying.

22 A You said summer.

23 Q Summer or fall. Do you want it read back?

24 A Okay. Well, it's fall of 1983.

1 Q Okay. Now, then in the fall of 1983  
2 Signal stopped paying the interest; is that right?

3 A That's correct.

4 Q And then on January 1, 1984, what  
5 happened to the \$157,000,000 that had been an  
6 advance, and on which Signal had been paying interest  
7 until the fall of 1983?

8 A It had been comingled with the cash of  
9 Signal because they now will pay all the bills of  
10 UOP.

11 Q Well, I understand it was comingled,  
12 but it was comingled before that. I'm asking you  
13 as between December 31st and January 1st of 1984 --  
14 and let me cut through this -- isn't it a fact  
15 that that cash -- that that advance then became  
16 the property of Signal?

17 A I don't know that it became the  
18 property of Signal.

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1 Q All right. You tell me. On December 31,  
2 1983, UOP had an advance to Signal of \$183 million.

3 A Yes.

4 Q On January 1, 1984 did UOP continue to  
5 have that advance?

6 MR. SPARKS: Your Honor, I think  
7 Mr. Prickett misstated the amount of that advance.

8 THE COURT: 157, wasn't it?

9 MR. PRICKETT: I am sorry. I did, Your  
10 Honor.

11 BY MR. PRICKETT:

12 Q Do you understand my question?

13 A Why don't you ask it again, please.

14 Q On December 31, 1983 UOP had advanced  
15 a total of \$157 million to Signal. I am asking you  
16 as of January 1, 1984 what had happened to that total  
17 amount of \$157 million.

18 A I don't know.

19 Q Well, isn't it a fact, sir, that that  
20 then was no longer treated as an advance but became  
21 written off, so to speak, and Signal took that over?

22 A My understanding is that each of the  
23 individual units that make up the 157 million still  
24 have an advance account with Signal, but --

1 Q Wait a minute. You are the vice president  
2 of finance of UOP. Do you mean you can't tell me what  
3 happened to that 157 million?

4 A I already said that UOP, Inc. is not an  
5 operating company any longer.

6 Q I understand that. It is a company, of  
7 which you are the vice president of finance. And what  
8 I am asking you is, what happened on January 1, 1984 to  
9 the sum of \$157 million that the night before had been  
10 an advance from UOP over the years to Signal. Do you  
11 know?

12 A I cannot tell you.

13 Q You don't know?

14 A I don't know.

15 Q But one thing is clear. It is not in  
16 UOP; isn't that right?

17 A When you say "not in UOP" --

18 Q The night before, on December 31, 1983,  
19 UOP had had a balance of \$157 million as a loan to  
20 Signal. Now, you don't know what happened to that, but  
21 it is clear that it is no longer on the books of UOP?

22 A I can't say that it is no longer on the  
23 books of UOP.

24 Q You just don't know?

1 A. I don't know.

2 Q. You don't know what happened to that  
3 \$157 million?

4 A. That's right.

5 Q. Have you ever asked anybody what happened  
6 to that money?

7 A. No, I have not.

8 Q. Has anybody ever told you what happened?

9 A. No.

10 Q. Does it appear in the books anyplace as  
11 to what happened to this \$157 million amount?

12 A. Not that I am aware of.

13 Q. Let's go into the dividends. As of  
14 December 31, 1983 do you know the amount of dividends  
15 that UOP had paid to Signal since the time of the  
16 merger of 1978?

17 A. I do not recall that number.

18 Q. Does \$80 million sound right?

19 A. I don't recall the number.

20 Q. You don't remember. Okay. Let's take  
21 from the time you came aboard. What was the rate at  
22 which it was paid in the year 1981?

23 A. I believe in 1981 the rate was \$20 million.

24 Q. And 1982?

1 A. Was \$20 million.

2 Q. And in 1983 was the dividend cut to  
3 \$10 million?

4 A. Yes, the dividend rate was \$10 million  
5 in 1983.

6 Q. And do you know why the dividend was cut  
7 from twenty to ten?

8 A. Yes. My understanding is that it was  
9 cut because, again, the treasury function being moved  
10 to Signal, all cash was going to be commingled anyway,  
11 so it didn't matter whether it was an advance or a  
12 dividend.

13 Q. Now, on December 31, 1984 Signal was the  
14 owner of 100 percent of UOP, Inc., was it not?

15 A. You said 1984. That hasn't come yet,  
16 December 31, 1984.

17 Q. I am sorry. You are completely right.  
18 On January 1, 1984 Signal was the hundred-percent owner  
19 of UOP, Incorporated; right?

20 A. That's my understanding, yes.

21 Q. And at that time had you calculated at any  
22 time the amount that Signal had paid from '75 through  
23 '78 to become the hundred-percent owner?

24 A. No, I had not.

1 Q So that you wouldn't be in a position to  
2 give the Court any insight as to whether on January 1,  
3 1984 Signal had, in fact, recouped every last cent it  
4 had put into UOP by way of its original tender, its  
5 purchase of 50.5 and its purchase or its cash-out of  
6 the 49.5, shares of the minority stockholders?

7 A I would not be in a position to give you  
8 that information.

9 Q You never calculated that?

10 A I never calculated it.

11 Q Now, going back to the year 1982, that  
12 was the last calendar year before the Signal-Wheelabrator  
13 merger; is that right?

14 A That's correct.

15 Q And up until December 31, 1982 UOP,  
16 Incorporated had been a stand-alone division of Signal,  
17 wholly-owned by it but stand-alone; is that right?

18 A Yes.

19 Q And it had its own financial system?  
20 It had an audit, forecast, the whole thing; is that  
21 right?

22 A Yes.

23 Q And the changes that resulted from the  
24 Signal-Wheelabrator merger started after February 1, 1983,

1 the date of the merger; isn't that right?

2 A. You said resulted from the merger.

3 I don't believe any of the changes were a result of  
4 the merger.

5 Q. That occurred after the merger?

6 A. Would you ask your question again.

7 Q. The changes that occurred after the  
8 merger by definition occurred after February 1, 1983,  
9 the date of the merger; isn't that right?

10 A. Yes. It occurred after February 1.

11 Q. So that if the Court wanted to see UOP  
12 before any changes occurred, it could look at December 31,  
13 1982, and essentially, except for the changes that you  
14 noted this morning, UOP continued as it had from '78  
15 through '82; is that right?

16 A. Do you mean during 1983? You lost me on  
17 the question. I am sorry.

18 Q. What I am saying is, if the Court wanted  
19 to look at the last time that UOP remained unchanged  
20 as between '78 and '82, it would be about December 31,  
21 1982.

22 A. I would have to ask you to clarify  
23 "unchanged," because --

24 Q. I have previously said, but you have

1 forgotten, except for the changes that you mentioned  
2 this morning.

3 A. Okay. But from a financial reporting  
4 standpoint it remained unchanged through the end of  
5 1983.

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1 Q Well, forgetting about that, let's see  
2 if 1982 -- if at the end of 1982 there were no  
3 changes of any kind, operational, financial or  
4 any other, it remained essentially the same old UOP  
5 from '78 to '82; is that right?

6 A That's correct.

7 Q Now, on December 31, 1982, what were  
8 the net earnings of UOP? Do you recall?

9 A Only an approximate number of  
10 \$46,000,000, something in that range.

11 Q Well, maybe I can help you a little bit:

12 MR. PRICKETT: I would ask that the  
13 witness be furnished with the Bodenstein report,  
14 which is PX120, the last exhibit.

15 Your Honor, with the Court's permission,  
16 I would hand the witness a copy of the Duff & Phelps  
17 report on fair value dated June 1984. The clerk is  
18 marking it PX120.

19 BY MR. PRICKETT:

20 Q I'm handing you a copy of that, and  
21 ask you to refer to Table A. It may help you on  
22 the questions. You have to turn to the appendix,  
23 Table A.

24 Okay. Now, with this to help you, let's



1 see if in fact the net income before extraordinary  
2 expenses is found in 1978 to be 27.2 million, in  
3 1979 38.5 million, in 1980 45.4 million, in 1981  
4 53,000,000, in 1982 46.7 million. Does that sound  
5 right to you?

6 A. Those numbers sound reasonable, yes.

7 Q. And do we find that the revenues go  
8 from 829,000,000 in 1978 to a billion-forty-two-million  
9 in '79 to a billion-eight in 1980 to a  
10 billion-two-hundred-eighty-nine-million in 1981 and  
11 a billion-one-hundred-eighty-four million in 1982.  
12 Does that sound right to you?

13 A. They sound reasonable.

14 Q. I'm not interested in whether they are  
15 reasonable. Do they sound right?

16 A. I don't know. You know, I don't  
17 recall the exact --

18 Q. They are taken from The Signal Company  
19 1982 annual report. Are you familiar with that?

20 A. I'm familiar with that, but I don't  
21 recall all the numbers to say these are the right  
22 numbers.

23 Q. If these come from the Signal report,  
24 and they are actually transcribed, would you say they

1 are correct?

2 A. If that's the case, yes.

3 Q. Okay. And likewise, so far as the  
4 R&D expenditures are concerned, they start in 1978  
5 with \$30,000,000, in 1979 they were 36.9-million dollars,  
6 in 1980 they were 41.1-million dollars, in 1981 they  
7 were \$50,000,000 and in 1982 they were \$55,000,000.  
8 And capital expenditures went in 1978 from 19.3-million  
9 dollars to 32.5-million dollars in '79, to  
10 25.5-million dollars in '80, to 33.4-million dollars  
11 in '81, and 33.4-million dollars in 1982.

12 And finally, the long-term debt -- and  
13 I'm not going to go through this -- decreased from  
14 77.7-million dollars in 1978 to 62.8-million dollars  
15 in 1982.

16 Now, let me ask you, assuming those  
17 figures are correct, is it fair to say that this  
18 reflects the general course of UOP at least in  
19 these measures over the years and during part of the  
20 time you were controller and moving up?

21 A. I would say it reflects the financial -  
22 results for those years.

23 Q. All right. And would you turn to  
24 Exhibit EF, this chart.

1 MR. SPARKS: Your Honor, I'm confused.

2 Do you want him to turn to E, or to F?

3 MR. PRICKETT: Well, let me show you.

4 It's Table F.

5 MR. SPARKS: Thank you.

6 BY MR. PRICKETT:

7 Q Do you have it?

8 A Yes.

9 Q Now I show you Table F, and ask you if,  
10 assuming again that the numbers are correct, this  
11 graphic representation indicates the course, the  
12 financial course of UOP, Incorporated, from the years  
13 1974 through 1983?

14 A You are just talking about that one,  
15 or are you talking about all of them?

16 Q Let's take them one at a time.

17 The first one reflects capital spending  
18 in millions of dollars starting in '74 and running  
19 through the close of 1983?

20 A Assuming the numbers are graphed correctly  
21 on here, I would have to say that would reflect the  
22 capital spending.

23 Q Right. And likewise, in the total  
24 assets, does this, assuming it's graphed correctly,

1 reflect the course of the total assets for UOP,  
2 Incorporated from '74 through '83?

3 A. I would have to answer yes.

4 Q. And likewise, as to the long-term debt,  
5 assuming it's graphed correctly, does that show the  
6 downward course of the long-term debt from 1974  
7 through 1983?

8 A. Yes.

9 Q. And do you agree also, assuming it's  
10 correctly graphed, that the final of the four  
11 charts on Exhibit Fof PX120 reflects the upward  
12 course of the book value of UOP over the years?

13 A. I would have to say no to that. The  
14 385,000,000 book value at the end of 1983 sounds  
15 high to me. I don't recall the exact number,  
16 but it sounds higher than what it should be.

17 Q. Thank you. And what order of  
18 magnitude would you ascribe to the book value?

19 A. Well, I thought the book value had  
20 dropped from 1982 to 1983, and this chart goes up.  
21 I don't recall the correct number, but --

22 Q. What exhibit would you like to look at  
23 in order to determine whether your recollection is  
24 correct, or whether in fact the book value did continue

1 to go up in '83?

2 A. I would like to look at the document  
3 prepared by Signal that shows the final balance sheet  
4 of UOP for 1983.

5 Q. You'll have to give me a little more  
6 help than that. I'll try to get it for you.

7 MR. SPARKS: DX11, Your Honor.

8 (The document was produced.)

9 BY MR. PRICKETT:

10 Q. And you have asked for, and what has  
11 been delivered to you is Defendants' Exhibit 11  
12 entitled "UOP Consolidated Balance Sheet  
13 December 31, 1983," is that right?

14 A. Yes.

15 Q. And what does that show for the --

16 A. It shows the book value of the company  
17 to be approximately 293,000,000 with a footnote that  
18 I believe would lower that number even further.

19 Q. And when was this document prepared?

20 A. This document was prepared, as I  
21 understand it, in May of 1984.

22 Q. Okay. So that this is not a document  
23 prepared in 1983? It is the document in May of 1984  
24 in preparation for this trial?

1           A.       The document was prepared in preparation  
2       for this trial, but as I understand it, entries  
3       reflected on it were recorded in 1983.

4           Q.       Well, let's talk about the document you  
5       have asked for. It was prepared in May of 1984 in  
6       preparation for this trial?

7           A.       This document was prepared in preparation  
8       for trial.

9           Q.       And that's the document that you need in  
10      order to say that the -- in order to establish what  
11      you think the book value is; is that right? That's  
12      the one you wanted?

13          A.       That's correct.

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1 Q And what you are saying is, if the  
2 adjustments and reserves that appear on this document  
3 prepared for trial are taken into account, the book  
4 value is not the same as appears on Exhibit F to  
5 DX-120; is that right?

6 A I am saying that that number is wrong  
7 and this number is right is what I am saying. That is  
8 not the book value of UOP, Inc.

9 Q And you are saying that on the basis of  
10 a document prepared in preparation for the trial of  
11 this case in May of this year?

12 A I am saying based on this piece of paper.  
13 It gives me the number I need to know.

14 Q Stick with me. It was prepared in May  
15 of 1984, in preparation for this trial; is that right?

16 A Yes.

17 Q Okay.

18 A But the numbers existed at December 31,  
19 1983.

20 Q Not on that paper, they didn't.

21 A Not on that, but they existed in the  
22 accounting records.

23 Q Okay. We will get to that in just a  
24 second.

1                   Now, aside from our differences in  
2 viewpoint on what the net asset value was, is it fair  
3 to say that over the period from the time you came  
4 aboard in 1980 until the close of business 1982  
5 UOP had made substantial financial progress, as  
6 reflected in the exhibits that we have just looked at?

7                   A.       No. The earnings turned down in 1982  
8 from prior years. That to me is not progress.

9                   Q.       Had it made progress over prior years?

10                  A.       1981 was progress over 1980.

11                  Q.       Let's take a look at that and see what  
12 it is you are suggesting to us. I refer you again to  
13 Table A, and let's take a look at net income. It had  
14 gone, as we had previously indicated, from \$27 million  
15 in 1978 to a high of \$53 million in 1981, with about  
16 10 million jumps all the way up; is that right?

17                  A.       What do you mean "10 million jumps"?

18                  Q.       Let's do it in detail, Mr. Corirossi.  
19 In 1978 the net income was \$27.2 million. In 1979 it  
20 was 38.5 million. That was progress, wasn't it?

21                  A.       That was progress in the financial  
22 statements, the earnings, yes.

23                  Q.       That is what we are talking about.

24                  A.       Well, you originally asked it, I think,



1 in a much broader context.

2 Q And you referred me to the net income,  
3 so we are going to focus on that. And then in the next  
4 year it went from 38.5 million to 45.4 million; is that  
5 right?

6 A Yes.

7 Q And then in the next year it went to  
8 \$53 million; is that right?

9 A That's correct.

10 Q So at least from 1978 to 1981 the net  
11 income had just about doubled; isn't that right?

12 A During that period of time; that's  
13 correct.

14 Q And then there was a downturn of about  
15 \$7 million in the next year, because in the height of  
16 the depression of 1982 the net income was \$46.7 million?

17 A I don't know I would say that was the  
18 height of the depression for our businesses, but  
19 certainly there was a recession at that time that  
20 affected our businesses.

21 Q Right. But the effect of the recession,  
22 at least as comparing year-end '82 with year-end '81,  
23 was only a difference of about six to seven million  
24 dollars; is that right?

1           A.       That's right. But I also had testified  
2 earlier there was a lot more that caused that than  
3 just the recession.

4           Q.       Okay. But let's go back and compare  
5 1982 with 1978. There was a difference of about  
6 \$20 million in net income; isn't that right?

7           A.       Approximately.

8           Q.       By that I mean the net income had  
9 improved that much?

10          A.       That's correct.

11          Q.       Even though there had been a downturn from  
12 the high point of 1981; isn't that right?

13          A.       That's correct.

14          Q.       Now, so that when we look at net income,  
15 it had improved in every year except going from 1981  
16 to 1982, and in 1982 it was still better than 1980;  
17 isn't that right?

18          A.       That's a correct statement.

19          Q.       Now, other than net income did you have  
20 any other thoughts as to whether or not UOP during the  
21 time that you were there from '80 through the end of  
22 1982 did not improve?

23          A.       I believe there are areas they did not  
24 improve, and that is in particular businesses that

1 continued substantial losses.

2 Q I really wasn't going to the particular  
3 businesses because I was going to get to that. Overall  
4 is there any other area where you think UOP did not  
5 improve in the period from the time you came aboard  
6 to the end of 1982? I am talking about overall.

7 A Well, I can't separate the operations  
8 from the overall. The overall is made up of the  
9 businesses, and I believe UOP had some very sick  
10 businesses.

11 Q Okay. Why don't we get to that.

12 In spite of these sick businesses,  
13 Exhibit A shows overall what it was able to do even  
14 carrying the sick businesses; isn't that right?

15 A That shows the net income was improving  
16 during those first four years.

17 Q Yes, but you are not answering my question.  
18 It shows that even with the sick businesses, as you  
19 call them, this is what it was doing overall; isn't  
20 that right?

21 A That's what it was doing overall, yes.

22 Q Including the sick businesses?

23 A Including the sick businesses in those  
24 years.

1 Q Now, let's turn to the sick businesses.  
2 One of them was Procon, was it not?

3 A That's correct.

4 Q And what were some of the other ones  
5 that were sick? And by "sick," you mean from an  
6 accountant's point of view they were losing money;  
7 right?

8 A Well, that is one measure. But I really  
9 look at the businesses as to whether they can return a  
10 profit at some point in the future. Procon continued  
11 with severe losses. Air Correction Division, the  
12 Bostrom Division and, in fact, the growth in several  
13 of the other divisions was barely keeping up with  
14 inflation, which means they were really not growing.  
15 They, in fact, were on a downward trend.

16 Q And one of the things that happened in  
17 connection with the changes made in 1983, these sick  
18 sisters were either sold off or they were closed down;  
19 isn't that right?

20 A Those ones that I just mentioned were --  
21 Bostrom was put up for sale. It has not been sold yet.  
22 But Procon and Air Correction have been shut down.

23 Q Right. And there were some that were  
24 sold?

1 A. There were some others that were sold;  
2 that's correct.

3 Q. So in 1983 the management of Signal got  
4 rid of the sick businesses either by shutting them down  
5 or selling them off; isn't that right?

6 A. That's correct.

7 Q. And in doing that at least as to those  
8 they shut down they took a charge against income; isn't  
9 that right?

10 A. Yes.

11 Q. And as to the charge against income, it  
12 is a one-time charge; isn't that right?

13 A. For the shutdown.

14 Q. That is what we are talking about.

15 A. Yes.

16 Q. So that once you take your medicine on  
17 that, you are finished with the business and you have  
18 taken your financial medicine. You have taken a charge  
19 against income, but it is a one-time charge; isn't that  
20 right?

21 A. Assuming your estimates were correct,  
22 yes.

23 Q. Assuming they are correct, though, you  
24 take a one-time charge against income, which is also

1 reflected against your balance sheet, but then you are  
2 finished with it; is that right?

3 A. Well, when you say "finished with it,"  
4 do you mean strictly from a financial statement  
5 standpoint?

6 Q. That's correct. That is what we are  
7 talking about. But that is your area; isn't that  
8 right?

9 A. Yes.

10 Q. And that is precisely what happened to  
11 UOP. It had what you call these sick businesses, and  
12 they either sold them off or they closed them down;  
13 isn't that right?

14 A. They sold them off or closed them down.  
15 But let me clarify. Maybe I am not following your  
16 question. When you say I am through with them once I  
17 do that, that's not correct. I mean, you have to  
18 administer the close-down, the spending, paying the  
19 bills.

20 Q. Sure. But you have reserved or charged  
21 against that, so presumably, if you have gotten it  
22 right, you don't have to worry about it anymore. You  
23 have the clean-up, but you have done it.

24 A. Well, I only don't have to worry about it

1 in that the P&L statement is properly recorded. You  
2 still have to administer it to make sure that it is  
3 accomplished.

4 Q Oh, yes. But you weren't out there  
5 closing plants down and turning off valves and stuff.  
6 I am talking about the accounting side of the thing,  
7 because that is what we are talking to you about.

8 A Except I have to pay the severance and  
9 the bills and the contracts that were in process. I  
10 mean, there is a lot that goes on beyond 1983.

11 Q Sure. You have the details of winding it  
12 up, paying the bills and paying off the people you fire  
13 and all that sort of thing. But at least accounting-  
14 wise, if you are willing to stand up and say I am going  
15 to close this one down, then you take a one-time charge  
16 against your income for that year, and then you are  
17 done with it financial-wise. So you may have to do  
18 some administrative stuff for quite a while; is that  
19 correct?

20 A It should be the last charge to the  
21 income statement.

22 Q Right. And therefore, when UOP on  
23 January 1, 1984, comes out, it has taken charges for  
24 all the sick sisters or sick businesses; isn't that

1 right?

2 A. Well, I would say the major ones.

3 Q. Well, it still has a couple more sickies?

4 A. Yes.

5 Q. And it has not yet made the charges  
6 against income for those, but the big ones?

7 A. Yes, the major ones.

8 Q. For instance, Procon has really been  
9 charged against the income; is that right?

10 A. That's correct.

11 Q. And that has an advantage in the sense  
12 that Procon over the last four years had been a major  
13 loser for UOP; isn't that right?

14 A. That's correct. It has been a major  
15 loser.

16 Q. That is, without going into each year,  
17 it averaged about twelve to fifteen million dollars  
18 a year that they lost for UOP; isn't that right?

19 A. I don't recall the numbers, but it was  
20 major losses.

21 Q. So that as UOP goes into 1984, it is rid  
22 of Procon and the probability of the \$12 million,  
23 whatever it was, loss that this division had been  
24 suffering annually; is that right?



1 A. It would be rid of those losses, yes.

2 Yes, it would be rid of those losses.

3 Q. And accordingly, any other division that  
4 was written off that had been a loser, you would not  
5 be facing the annual losses that would have to be  
6 charged against the income as you went into 1984?

7 A. That's correct.

8 Q. So that UOP in going into 1984 has gotten  
9 rid of all the sick ones, the ones that are causing  
10 losses to the income statement; isn't that right?

11 A. That's correct.

12 Q. And what it is left with is the ones that  
13 make money?

14 A. I am not sure I agree with that, because  
15 in my earlier testimony I indicated the Automotive  
16 Products Division had lost its two major customers,  
17 just recently the second one. That may be a loss  
18 operation, so I can't say --

19 Q. With that qualification, though, that's  
20 correct, isn't it?

21 A. I think I can only say we got rid of  
22 certain big-money losers.

23 Q. Now, under your aegis did UOP buy some  
24 tax shelters?

A. They acquired some tax leases.

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1 Q And when did you begin that program?

2 A That was approximately the early part  
3 of 1982.

4 Q And the reason you buy tax leases is  
5 to shelter income; isn't that correct, and keep down  
6 your tax bill?

7 A Well, I think the main reason for  
8 buying tax leases is to get a return on your invest-  
9 ment.

10 Q Okay.

11 A Okay. It has the effect of deferring  
12 some taxes into the future. You will eventually pay  
13 all your taxes, but --

14 Q It defers them?

15 A Yes.

16 Q And you were deferring at that point,  
17 as you indicated to the board of directors -- I'm  
18 sorry. You were anticipating taxable income that  
19 you wanted to shelter in the year 1984 and 1985,  
20 isn't that right?

21 A I don't understand your question.

22 Q In your report to the board of directors  
23 advising them to buy these tax leases you indicated  
24 that the value of this would be to shelter income that

1 you anticipated making in '84 and '85. Does that  
2 sound right?

3 A. No, no. First off, I never made a  
4 presentation to the board of directors on that subject.  
5 I made a presentation to Signal, but I don't think  
6 that was a board meeting.

7 Q. What did you tell Signal that the reason  
8 was for doing this?

9 A. Well, what I told them was something  
10 to the effect that the reason UOP had done that was  
11 to get -- it was a good investment, and would provide  
12 a good return on our investment.

13 Q. Well, this meant that you could take  
14 moneys that UOP had, and by tax leases because you  
15 didn't need that money to help run UOP; isn't that  
16 right?

17 A. I don't think I ever said we didn't  
18 need that money to run UOP.

19 Q. All right. Let me ask you now, you  
20 didn't need that money as working capital, or for  
21 capital expansion, or for R&D? You had it, and you  
22 could buy tax leases with it?

23 A. I don't think I agree with that statement  
24 because approximately 15,000,000 of the 26,000,000 you

1 are referring to came back to us in reduced tax  
2 payments in 1982. So I had quick access to a good  
3 chunk of that money to pay the bills and use for  
4 working capital.

5 Q Sure. But it's like any other tax  
6 shelter. You get some of it back in a hurry, but you  
7 had the money to make the investment; isn't that  
8 right?

9 A Yes. But you had said that that's money.  
10 I didn't need for operations, and I don't agree  
11 with that statement. I knew I was getting it back  
12 very quickly.

13 Q Sure.

14 A There is a difference between tying  
15 money up for a long time and knowing that in months  
16 you are going to get it back.

17 Q Let's go back. You had enough money to  
18 loan Signal a total of \$157,000,000; isn't that right?

19 A No.

20 Q By the end of 1983?

21 A I don't agree with that statement at all.

22 Q Well, you made advances to them at  
23 interest?

24 A But you must remember that's under the new

1 system where they pay all our bills. That is our  
2 cash to pay our day-to-day bills. That is not  
3 money that can be taken out of the business.

4 Q Well, okay. Let's go on.

5 Now, on February 1, 1983, there was a  
6 merger between Signal and Wheelabrator-Frye; isn't  
7 that right?

8 A That's correct.

9 Q And in connection with that there was  
10 a reorganization of Signal, and certain changes  
11 were made; isn't that right?

12 A I wouldn't say in connection with it.  
13 It just happened afterwards, but I don't know  
14 that they were connected.

15 Q Okay. In any case, whether it was  
16 connected or not, sales of certain former UOP  
17 divisions were made to third parties?

18 A There was a sale of Flexonics.

19 Q And there was reorganization of certain  
20 divisions, or parts of divisions that had been with  
21 UOP and that went to Wheelabrator; isn't that right?

22 A There was only one division that was  
23 combined with a business that formerly had been part  
24 of Wheelabrator. That was the Solid Waste Systems Division.

1 Q I'm going to go back again to  
2 December 31, 1982. At that time did you set the  
3 reserves -- that is, did UOP set its own reserves?

4 A We set our own reserves, or determined  
5 them.

6 Q And what was the amount of the  
7 reserves as of December 31, 1982, for UOP?

8 A I do not recall the number.

9 Q Do you recall any significant reserves?

10 A Oh yes. I think we talked about some  
11 of them in my testimony where reserves had been put  
12 up in prior years, but those were only a portion of  
13 the reserves.

14 Q In good accounting practice are you  
15 are you required to set a reserve on any known  
16 liability?

17 A Yes.

18 Q And you've got to do it as soon as you  
19 know it; is that correct?

20 A As soon as you know it and can  
21 reasonably estimate it.

22 Q You did that in connection with the  
23 situation of UOP as of December 31, 1982; is that right?  
24 You had done it?

1           A.       Well, we had done it. We didn't do it  
2 just at that date necessarily. They were done  
3 whenever the information was known.

4           Q.       Yes. But as of December 31, 1982,  
5 you as the chief financial officer had set what you  
6 deemed to be the appropriate reserves and charges on  
7 liabilities that were known, or reasonably knowable,  
8 as of that time?

9           A.       That's correct.

10          Q.       Now, shortly after February 11, 1983,  
11 were some adjustments and reserves requested by  
12 Signal from you?

13          A.       Recommended input had been requested of me,  
14 yes.

15          Q.       Now, of course you said you don't have  
16 any because you had already set them appropriately  
17 for December 31, 1982, so they were all there; right?

18          A.       No, I didn't say that.

19          Q.       Well, how did these reserves that you  
20 suggested to Signal come into existence if you had  
21 properly set them as of December 31, 1982? How did  
22 they suddenly come into existence?

23          A.       Well, we have to look at the nature of  
24 the major reserves, and the major reserves relate to



1 shutdowns of businesses. At December 31, 1982,  
2 senior management had not decided to shut those  
3 businesses down. They decided to do that in the  
4 spring of 1983.

5 Q After the merger?

6 A It was after the merger.

7 Q And this was Signal management that  
8 decided at that point to shut some things down, and  
9 that created the need for shutdown reserves; is  
10 that right?

11 A Well, I don't know who made the decision,  
12 whether it was UOP's senior management or Signal's.

13 Q Somebody above you made the decision  
14 to shut some things down, and that created the need  
15 for the reserves; is that correct?

16 A Correct.

17 Q And I show you PDX102. That's a  
18 typed-out line of some reserves and charges; is it not?

19 A Yes, it is.

20 Q It doesn't have a date on it, does it?

21 A That's correct.

22 Q Who prepared that?

23 A I did.

24 Q When?

1           A.       This document was prepared in early  
2 April 1983.

3           Q.       And is there any covering letter that  
4 indicates a date when it was prepared?

5           A.       No, I do not believe there is.

6           Q.       Is there any indication as to whom you  
7 sent it to?

8           A.       Yes. The document says I sent it to  
9 Gary Cypres.

10          Q.       Who is Mr. Cypres?

11          A.       He is the senior vice president of  
12 finance for Signal.

13          Q.       And were any of the suggested charges  
14 of reserves that are reflected on PDX102 -- were any  
15 of them reflected in any of the books of UOP by  
16 December 31, 1983?

17          A.       They were reflected on the books of  
18 UOP that were maintained in La Jolla.

19          Q.       No. I'm talking about the books of UOP  
20 at Des Plaines where you were.

21          A.       I just have a piece of the books. I do  
22 not have all the books in Des Plaines.

23          Q.       All right. Whatever you have, was  
24 there anything reflected on what you had?

1           A.       On what I had I did not record those  
2 reserves.

3           Q.       And nobody told you what they were  
4 going to be?

5           A.       I was eventually told what they were.

6           Q.       By December 31, 1983, there had been no  
7 response to what you had sent Gary Cypres that's  
8 reflected on PDX102; is that right?

9           A.       Oh no. I was advised of certain of  
10 those reserves.

11          Q.       And were any of those reserves reflected  
12 on the UOP, Inc., year-end report package that has  
13 been marked PDX90?

14          A.       The reserves are not shown in this  
15 document. However, payments made against those  
16 reserves are shown in this document.

17          Q.       And would you turn to PDX90, and tell  
18 us what the year-end 1983 financial statement of UOP  
19 shows for net income, or net operating profit, I  
20 think it --

21          A.       What year did you ask for?

22          Q.       The one that's in front of you, sir.

23          A.       There are two years in front of me.

24          Q.       Okay. Let's take 1982 first. I had

1 forgotten it was there.

2 A. The net income for the year ended  
3 December 31, 1982, is \$46,682,000.

4 Q. And for 1983?

5 A. The net income as shown in this  
6 document, which is not complete --

7 Q. Look. Just tell me what it is.

8 A. -- is \$41,680,000.

9 Q. Okay. Now, you submitted PDX90 to  
10 Signal, did you not?

11 A. That is correct.

12 Q. And in May of 1984 certain adjustments  
13 and reserves were drawn up which appear in DX10 and  
14 11. Do you have those?

15 (Brief pause.)

16 A. Would you ask your question again?

17 MR. PRICKETT: Please read the question.

18 (The pending question was read by the  
19 reporter.)

20 THE WITNESS: I do not agree with that.  
21 My understanding is these reserves were drawn up or  
22 recorded in 1983.

23 BY MR. PRICKETT:

24 Q. Okay. I'm asking you about the documents,

1 sir. When were those documents drawn up, and I'm  
2 talking about the documents?

3 A. Okay. As I understand it, the document  
4 was prepared in May 1984.

5 Q. And when did you see it? The day before  
6 your deposition?

7 A. It was that week. I don't recall  
8 whether it was the day before or --

9 Q. That had never been sent to you, and  
10 I'm talking about that document, and you had not  
11 seen it until the day before your deposition; is  
12 that right?

13 A. I had not seen it except for sometime  
14 during that week before my deposition. I don't  
15 recall exactly.

16 Q. And at the time that you first saw it,  
17 those figures had not been entered into the UOP books  
18 at Des Plaines that you maintained; had they?

19 A. They had not been entered on the UOP  
20 books at Des Plaines.

21 Q. And they had not been publicized as  
22 of May 1984, had they?

23 A. I don't know what you mean by "publicized."

24 Q. They hadn't been disseminated anyplace

1 other than in those documents; is that right?

2 A. I don't know that. I had not received  
3 all that information.

4 Q. And who prepared these documents?

5 A. I don't know who prepared them, but  
6 I understand that they were prepared under  
7 Mr. Kavanaugh's direction.

8 Q. And who is Mr. Kavanaugh?

9 A. The deputy controller of Signal.

10 Q. And where were they prepared? I mean  
11 where does he work? La Jolla, California?

12 A. He works in La Jolla.

13 Q. And La Jolla, just so the record is  
14 clear, is the corporate headquarters of Signal?

15 A. That's correct.

16 Q. And do you know at whose direction  
17 Mr. Kavanaugh prepared what has become DX10 and 11?

18 A. No, I do not.

19 Q. Well, didn't you tell me at your  
20 deposition that it was prepared at the direction of  
21 Mr. Brewster Arms?

22 A. I don't recall if I did. If I did,  
23 I just don't recall that.  
24

1 Q Let me see if I can help you on that.

2 I withdraw the question. It was asked  
3 of Mr. Kavanaugh. I will ask him about that.

4 Now, have you ever had a discussion with  
5 Mr. Purcell, Signal's expert witness in this case, and  
6 Mr. Kavanaugh about Exhibits 10 and 11?

7 A Yes, I have.

8 Q And did you meet in Chicago to discuss  
9 these exhibits?

10 A Yes.

11 Q And in that connection does the effect  
12 of the adjustments that were made and that appear on  
13 DX-10 and 11 change the net operating number for UOP  
14 from a \$41 million net operating profit to a \$55 million  
15 loss?

16 A That number, that change in numbers takes  
17 place on DDX-10, not -- I don't know that it is on 11.

18 Q All right. Fair enough. And what was  
19 the total amount of the adjustments that Signal made  
20 in 1983?

21 A Well, there is no subtotal here, but it  
22 would be the total of five columns here plus the  
23 footnote.

24 Q Well, I may have misled you. I was

1 switching gears on you a little bit. What was the  
2 total amount of the Signal reserves and adjustments?  
3 And I am going to ask you what proportion of them were  
4 assigned to UOP.

5 A. Oh, I don't know what the total Signal  
6 reserves are. I have no way of knowing that.

7 Q. Well, don't you think that someplace it  
8 appears what the total amount was that Signal set up  
9 by way of reserves and adjustments for 1983?

10 A. It may, but I have never seen such a  
11 thing.

12 Q. Now, turning to Exhibits 10 and 11 again,  
13 do they indicate that all the items that could be  
14 expensed in that year are expensed in that year as  
15 against the income of UOP?

16 A. I am sorry. I don't follow your question.

17 Q. Maybe the easy way is to refer you this  
18 time to a question that I asked you, because I probably  
19 asked it better on your deposition. I refer to Page 41.  
20 I asked you there, "Does the Exhibit E and F," which  
21 have now been marked DD-10 and 11, "indicate the  
22 expensing of all major items that could be expensed  
23 against UOP income in the year 1983?" And then  
24 Mr. Sparks asked, "Could the question be read back,"



1 and it was read. And your answer was, "I believe it  
2 does."

3 Now, is that still your testimony?

4 A. If you are asking me this is all that  
5 should be charged against UOP, I can't answer that question.

6 Q. That wasn't what I asked then, and it is  
7 not what I am asking now. I am asking you a very simple  
8 question. Was everything that could be charged against  
9 UOP's income charged, and your answer was, "I believe  
10 it does." Is that still your answer?

11 A. To the best of my knowledge.

12 Q. That is, there wasn't anything else they  
13 could charge against the income that year?

14 A. You are including, of course, the footnote  
15 here when you keep saying that.

16 Q. Including the footnote.

17 A. Okay. Yes, then I would answer yes.

18 Q. And isn't it a fact, Mr. Corirossi, that  
19 when you have a year in which you are going to have a  
20 loss, it is best to charge off everything you can  
21 possibly do to get rid of it all in one year, and then  
22 you start the next year clean? Is that a general  
23 principle of sound accounting?

24 A. Absolutely not.

1 Q You don't think that is a good idea?

2 A I do not think that is a good idea.

3 Q But in any case, whether you think it is  
4 a good idea or not, you are required to do it, no  
5 choice, because once you know of anything you can  
6 charge against the income, you have got to do it; is  
7 that right?

8 A Yes. But you do not do it because it is  
9 a loss year. you do it because you know there is  
10 a loss related to certain events.

11 Q But in any case, one of the effects is  
12 a sort of purge. You come out the other side with  
13 everything charged off against income in that year  
14 that you know about; isn't that right?

15 A I disagree with the way you started the  
16 question. You said the effect of, and you are, in ef-  
17 fect, saying I agreed with your first statement, and I  
18 do not.

19 Q Well, let me see what you do agree with.

20 A The two are totally unrelated. I do not  
21 record losses in the books because I am going to have a  
22 loss in the operations.

23 Q Have you ever heard the expression "get  
24 rid of all your dirt in one year"?

1 A. Oh, I have heard of the expression.

2 Q. Let's skip over that and see, if you have  
3 properly taken all of the losses that you are required  
4 to, if the effect in the next year is that you have  
5 gotten rid of the losses that would otherwise impact  
6 on your income statement.

7 A. I don't know that I agree with that.  
8 Under generally accepted accounting principles you  
9 record the losses when you should record the losses.  
10 You do not try and put them in one year or another.

11 Q. Well, I guess you have fallen behind me.  
12 I am saying, okay, assume you do it correctly. The  
13 effect in the next year is that you come out, having  
14 taken your medicine, so to speak, and you have got your  
15 losses behind you; isn't that right?

16 A. Yes, but on the same vein, I can say the  
17 same thing about revenues. I take my revenues now. I  
18 may have a good year, but I do not defer them until  
19 next year so that I might have a better year.

20 Q. Okay. And that is what has happened to  
21 UOP, is it not? It has taken its lumps in the sense  
22 of taking losses and reserves and charges against its  
23 1983 year, and in 1984 all that will be behind it;  
24 isn't that right?

1           A.       What we did in 1983 is no different  
2       than what we did in 1982, 1981 and every other year  
3       I have been with UOP.

4           Q.       Well, that is not the answer to my  
5       question. My question was looking to the future.  
6       Having done that and having taken all these whopping  
7       charges that change a \$41 million operating profit  
8       into a \$55 million loss, on the other side UOP will  
9       have an income statement unimpeded by losses and  
10      a balance sheet that will not be impacted by these.  
11      You have taken your medicine; isn't that right?

12          A.       For these specific items they will not.  
13      There may be other items.

14          Q.       Now, you reminded me, quite properly,  
15      of the footnote to Exhibit 11. And this footnote  
16      indicates that in the reserve for Come-By-Chance  
17      litigation if UOP were a stand-alone company, it would  
18      have to take the full amount of the Come-By-Chance  
19      reserve all in one year and against one year's income;  
20      is that right?

21          A.       I am looking at a different document  
22      than you are, because Exhibit 11 is talking about the  
23      balance sheet.

24          Q.       I have got it. For the income statement

1 it says, "For consolidated financial statements of  
2 UOP, Inc., the reserve for Come-By-Chance litigation  
3 amounting to \$28,080,000 would not be amortized over  
4 seven years in the income statement but would be a  
5 charge for the full amount in 1983. This would result  
6 in a net loss for the year of \$80,731,000." Is that  
7 right?

8 A. That is what the footnote says, yes.

9 Q. Now, first of all, UOP was in 1983 not  
10 a stand-alone company, was it?

11 A. We kept the books and records as if it  
12 was a stand-alone company.

13 Q. Well, for these purposes Signal was able  
14 to amortize this charge over a period of seven years,  
15 was it not? I am sorry. UOP was able to amortize this  
16 for a seven-year period.

17 A. I don't believe that is what it says.  
18 Signal is the one that is able to amortize it. UOP  
19 could not amortize it.

20 Q. I am lost in the sea of negatives.  
21 Signal is able to amortize the after-tax reserve of  
22 \$26 million over a period of 7 years, is it not?

23 A. That is what the note says.

24 Q. And that means that Signal in connection

1 with this reserve on the Come-By-Chance litigation  
2 spreads itself over seven years, so you divide seven  
3 into 28 to determine the yearly amount that Signal  
4 will be impacted by this reserve; isn't that right?

5 A. I am not sure how Signal arrives at the  
6 number. I was not a party to that.

7 Q. Well, does that sound about right?

8 A. I don't know. I don't have enough  
9 information on purchase accounting at Signal to answer  
10 that question.

11 Q. Well, do you have enough information to  
12 know whether the footnote is correct, that so far as  
13 UOP is concerned it would be charged the full amount  
14 in 1983?

15 A. Yes, I would agree.

16 Q. How do you know that?

17 A. Under generally accepted accounting  
18 principles, as I said, you should record the loss  
19 when you know of it.

20 Q. Your principles go far enough for you  
21 but not far enough for me. You don't know that Signal  
22 can spread it but you do know that UOP would be  
23 charged if it would stand alone?

24 A. Well, I am not involved with purchase

1 accounting, and I am just not knowledgeable in that  
2 area.

3 Q Let's take a look at the Come-By-Chance  
4 situation. Come-By-Chance was a refinery that was  
5 built or mis-built in 1975, was it not?

6 A Somewhere around that time.

7 Q And we see the effect of that in -- well,  
8 are you familiar with this chart, which is the UOP  
9 selected income statement? It appears in the Bodenstein  
10 report which I have previously shown you.

11 A I am not familiar with it.

12 Q Well, are you aware that UOP's income  
13 went to a minus figure in 1975 as a result of the  
14 Come-By-Chance disaster?

15 A There were those significant write-offs  
16 that I had testified to earlier that may have  
17 contributed to that.

18 Q Yes. And the effect was this tremendous  
19 dip in income that is then followed by a gradual curve  
20 upward; isn't that correct?

21 A Again, if those numbers are all taken out  
22 of the audited financial report, I would have to agree  
23 with you. But I don't know what those numbers were  
24 in those years.

1 Q But in any case, Come-By-Chance occurred  
2 in about 1975. And what is your understanding as to  
3 what happened in that year so far as the write-off was  
4 concerned?

5 A Well, in 1975 my understanding is that  
6 the company wrote off the receivables that they had.

7 Q In what amount?

8 A Approximately \$16 million. And they set  
9 up a reserve to provide for future loss that was  
10 anticipated under loan guarantees UOP had given, and  
11 that was about \$18 million.

12 Q And was this reserve for loan guarantees  
13 carried forward through the years?

14 A It was, until those issues were settled.

15 Q In the last quarter of '83?

16 A No. I think the loan guarantees were  
17 settled in -- and I don't recall the exact year, but  
18 somewhere between '78 and '82. I believe it was '80  
19 or '81, somewhere in there.

20 Q And at that point UOP was carrying no  
21 reserves for Come-By-Chance at all, was it?

22 A After the loan guarantees were settled.

23 Q And there was a notation in its annual  
24 reports that counsel had advised that the litigation



1 could be successfully defended and in any case  
2 wouldn't materially affect results; is that right?

3 A. No, that is not what it said.

4 Q. What did it say?

5 A. It said would not materially affect  
6 the financial position, not the financial results.

7 Q. Okay, good. And that statement was  
8 carried, so far as the litigation was concerned, through  
9 1983, was it not?

10 A. Well, the last time it appeared was in  
11 the 1982 statements, because that was the last year we  
12 had audited statements.

13 Q. And no reserve was set up because counsel  
14 had assured anyone who read the statement what you have  
15 indicated; is that right? That is, that it could be  
16 defended and it wouldn't affect the financial results,  
17 did you say?

18 A. The financial condition.

19 Q. Condition. Okay.

20 A. A reserve was not set up also because the  
21 amount was not easily determinable.

22 Q. And so then in 1983 was the litigation  
23 settled?

24 A. I don't believe all the litigation is

1 even settled today.

2 Q Well, was the principal amount of the  
3 litigation settled?

4 A I understand there was a settlement in  
5 early 1984.

6 Q And --

7 A But I am not sure of the timing.

8 Q And was the amount of that settlement  
9 in the order of thirty to forty million dollars?

10 A That is my understanding.

11 Q And I guess Signal is paying on that  
12 settlement; is that correct, if somebody is?

13 A They are paying all of our bills, and  
14 that is another one of them.

15 Q And as of then a reserve was set up of  
16 \$52 million for the litigation; is that correct?

17 A That is my understanding.

18 Q And that results in an after-tax amount  
19 of 21,080,000, as reflected in the note appearing on  
20 DDX-10; isn't that right?

21 A That's correct.

22 Q And the after-tax effect comes into play  
23 because it is a deductible item; is that right?

24 A It is a tax-deductible item, as I

1 understand it.

2 Q Tax-deductible item. The settlement  
3 occurred, as you said, in 1984; is that right?

4 A Well, that is when the actual funds for  
5 at least the first payment was disbursed.

6 Q Now, you told me just a little while  
7 ago that your understanding was based on the fact  
8 1984; is that right?

9 A My understanding was it was early '84.

10 Q Yes. We are back together again. And  
11 the charge, however, is being made back to the 1983  
12 income of UOP; is that right?

13 A That's correct.

14 Q That is, there had been no reserve set  
15 in '81, '82, '83. Then it was settled in '84, and then  
16 a charge is made back to the 1983 income of UOP; is  
17 that right?

18 A That is not correct. The reserve was  
19 set in 1983, as I understand it.

20 Q Who set it?

21 A It was done at Signal.

22 Q And how much was set?

23 A Well, my understanding was \$5 million.

24 Q And where did you get this understanding?

1 A. From conversation with Mr. Kavanaugh.

2 Q. Have you ever seen that reflected in any  
3 document?

4 A. Only this document that you have placed  
5 before me.

6 Q. Well, that is the May 14 or 21 document,  
7 which is DD Exhibit 10, prepared this year, in 1984.  
8 I mean, did you ever --

9 A. That is the only document I have seen.

10 Q. So the answer is, you have not seen it  
11 in a 1983 document of any kind?

12 A. That's right.

13 Q. And in 1983, when December 31 rolled  
14 around, there was no indication to you orally or in  
15 writing that there was going to be a reserve of  
16 \$52 million for the Come-By-Chance litigation charged  
17 against that income, was there?

18 A. I was not aware of that prior to  
19 December 31, 1983.

20 Q. And the reserve itself, so far  
21 as Signal is concerned, this note would indicate that  
22 it is not a 28 million charge. It is 28 divided by  
23 7; is that right?

24 A. Well, eventually, the whole thing would be

1 charged to P&L. It is just it would be spread over  
2 a period of time based on the footnote.

3 Q Sure. But it is not being socked into  
4 one year so far as Signal is concerned. It is being  
5 spread over seven years?

6 A That is my understanding from the  
7 footnote.

8 Q But for the purposes of this trial it is  
9 being socked against 1983 income of UOP?

10 A That's right.

11 Q And it was done in a document prepared  
12 in connection with the trial of this case at the  
13 direction of counsel; is that right?

14 A No. As I understand it, it was ordered  
15 in 1983, and it applies to UOP and, therefore, should  
16 be reflected in any UOP separate financial statements.

17 MR. PRICKETT: Your Honor, would this be  
18 the appropriate time to recess?

19 THE COURT: I think so.

20 MR. PRICKETT: I have kind of come to the  
21 end of the Come-By-Chance.

22 THE COURT: I was looking for the end of  
23 it before I took a break.

24 MR. PRICKETT: I had that feeling.

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THE COURT: All right. We will take a  
15-minute recess.

(Recess taken.)

1 THE COURT: Mr. Prickett, were you  
2 about to enter into an new area?

3 MR. PRICKETT: Yes; precisely, Your  
4 Honor.

5 THE COURT: Could I be so bold as to ask  
6 for a clarification before we pass from this last topic?

7 MR. PRICKETT: Of me, or the witness?

8 THE COURT: Whoever. I suppose probably  
9 Mr. Corirossi will have to tell me.

10 I'm not sure I understood -- Well, let  
11 me start it this way:

12 I believe I heard the figure of  
13 \$36,000,000 mentioned as a charge for the Come-By-Chance;  
14 36, or fifty-some. I believe 36, and somehow it got  
15 down to 28,000,000 in this Exhibit 10. I'm not  
16 sure I understood how that happened. Could you help  
17 me out on that?

18 MR. PRICKETT: Let me see if I can  
19 help you on that, Your Honor.

20 BY MR. PRICKETT:

21 Q The reserve charge that was entered  
22 was \$52,000,000; is that correct?

23 A Pre-tax, before tax.

24 Q That's pre-tax?

1 A. Yes.

2 Q. The footnote that we examined is a  
3 calculation of what the reserve would be after tax?

4 A. The 28,000,000 is after taxes.

5 Q. That's the 28,000,000?

6 A. Yes.

7 Q. So we have identified two of those.

8 Now, the \$36,000,000, as I understood it, was another  
9 reserve charge. What did that come from?

10 A. Sorry. You lost me on the 36,000,000.

11 THE COURT: Maybe I imagined that one.

12 THE WITNESS: There was a write-off in  
13 1975 of \$16,000,000 in receivables, and another  
14 18,000,000 in reserve for 34,000,000.

15 THE COURT: No. I was thinking about  
16 the -- this document. Maybe you could explain this  
17 to me. How do we get an after-tax -- What is the  
18 theory behind that? I mean a charge sounds like --  
19 To start with you had 52,000,000 you have set aside as  
20 a liability. Now somehow you get an after-tax figure  
21 that means your liability is not that much?

22 THE WITNESS: That means we will get a  
23 tax deduction for the 52,000,000, and therefore we  
24 get a tax savings, and that brings you down to the



1 28,000,000.

2 MR. PRICKETT: The government pays half  
3 of it.

4 THE COURT: But by saying that, do you  
5 reduce the charge then to 28,000,000?

6 THE WITNESS: The net charge to 28,000,000,  
7 yes.

8 THE COURT: Fair enough. Forget the  
9 36,000,000 then. I got that dragged in from another  
10 area.

11 Thank you.

12 MR. PRICKETT: I was indeed going to  
13 change, and turn to the subject of real estate.

14 BY MR. PRICKETT:

15 Q As I understand it, there are three  
16 categories of real estate apart from the land on  
17 which the plants and the office building stand. Is  
18 that correct. Three types generally? And I'm  
19 referring to the land in Alabama, to the land in  
20 Wisconsin and the land in Michigan.

21 A I don't understand your question.  
22 There are three types of land, or real estate?

23 Q Okay. Perhaps three areas where you own  
24 land.

1 A. Yes. Alabama, Wisconsin and Michigan.

2 Q. All right. All of those lands were  
3 acquired by UOP in connection with the Hecla Calumet  
4 transaction back in the late '60's; is that right?

5 A. It was sometime in the '60's, yes.

6 Q. Right. And the land was entered on the  
7 books of UOP at its cost at that time; is that right?

8 A. At the time of the acquisition of  
9 Calumet and Hecla, yes.

10 Q. Right. And so far as Alabama is  
11 concerned, there have been sales of that land over  
12 the years, have there not?

13 A. There have been some sales, yes.

14 Q. Have you ever calculated the profit  
15 that has been received from the sales in Alabama?

16 A. Do you mean all the years together?

17 Q. Yes.

18 A. No. I have never --

19 Q. Have you done it on a yearly basis?

20 A. On a yearly basis that information shows  
21 up in the financial statements. -

22 Q. And can you give the Court an idea what  
23 percentage over historical cost you have been able  
24 to sell the lands in Alabama at?

1           A.       I don't recall a percentage, but we  
2       were able to sell it slightly higher than the book  
3       value. You are talking Alabama; right?

4           Q.       Yes. And then as I understand it,  
5       you have also sold lands in Michigan on a retail basis.

6           A.       That is correct.

7           Q.       And have you sold that at better than  
8       book?

9           A.       Yes. The properties in Michigan were  
10      sold at higher than book.

11          Q.       Is that slightly better than book?

12          A.       No. The lots that we have sold I  
13      would say is more than slightly.

14          Q.       And when you say more than slightly,  
15      can you give the Court any ideas of what you have  
16      been able to achieve in terms of gains over the book  
17      sale value of the lands in Michigan?

18          A.       I don't recall exact numbers or  
19      percentages, but it is a good sized gross margin on  
20      the lots we have sold.

21          Q.       Yes. Good sized doesn't help us much.  
22      Fifty, a hundred percent?

23          A.       I just don't recall percentages. I  
24      think the documents would show what that is.

1 Q Yes. Let me help you:

2 Let's take PDX47. I happen to have a  
3 copy here for you. And that is an indication of  
4 in January 1979 a report from Mr. J. T. Schaefer  
5 on quarterly land sales; is that right?

6 A This is a report by Mr. Schaefer.

7 Q And it indicates that the selling  
8 price was \$349,586, that the book value was \$10,120,  
9 and the profit was \$339,466; is that right?

10 A That's what this shows, yes.

11 Q Can you calculate what the percentage  
12 of profit is when the selling price is \$349,586 and  
13 the book value is \$10,120?

14 A Well, I can't calculate, but it's sizable  
15 obviously.

16 Q Yes. Even I can do that.

17 Okay. You don't have a calculator, and  
18 you can't give us a percentage on that?

19 A No, I can't, but it's sizable.

20 Q And later it gives a summary of the  
21 1978 land sales for Michigan, and the selling price  
22 there was \$743,989, and the book value was \$45,441,  
23 and the gain on the sale was \$698,548; is that right?

24 A That's what the report shows, yes.

1 Q Now, is this the sort of mark-up that  
2 you were receiving on the Michigan real estate?  
3 Is that what you mean when you say there were  
4 sizable profits?

5 A This is the sizable profits I referred to.

6 Q Yes.

7 A Or part of them.

8 Q And was this typical for what you  
9 were able to do in connection with the real estate  
10 in Michigan that you were able to sell?

11 A I would say it was representative at  
12 that time.

13 Q And I hand you a document that has  
14 been marked PDX53, and ask you to refer to that,  
15 and see if there it doesn't total the sales for the  
16 quarter, in the quarterly report, with a selling  
17 price of \$247,800, with a book value of \$15,461, or a  
18 profit of \$232,339.

19 A I'm sorry. I don't find that on this  
20 piece of paper.

21 MR. SPARKS: This has a lot of reports  
22 in it.

23 MR. PRICKETT: Oh. Okay. Wait a minute.  
24 I may have given you the wrong one.

1

THE WITNESS: This one doesn't seem to

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have that information.

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1 Q Excuse me. Okay. Yes. The one that  
2 I was referring to is the quarterly report for  
3 January 12, 1981. It shows the total combined selling  
4 price of \$521,925 and a book value of \$21,114, a gain  
5 on the sales of \$492,811. Could you check and see if  
6 what I read is correct?

7 A Okay. The selling price is approximately  
8 \$521,000. The book value is approximately 29,000, and  
9 the gain on the sale is approximately 492,000.

10 Q For properties sold in Michigan?

11 A Right.

12 Q And see if we can do this together. For  
13 July 8, 1981 the total sales were \$247,800. The book  
14 value was \$15,461. The profit was \$232,339. Is that  
15 right?

16 A That's correct.

17 Q And for April 10, 1981 the selling  
18 price was \$241,925. The book value was \$12,963, and  
19 the gain on the sale was \$228,962; is that right?

20 A That's correct.

21 THE COURT: Where are these properties,  
22 Mr. Prickett; Alabama?

23 MR. PRICKETT: No.

24

1 BY MR. PRICKETT:

2 Q The properties that we have been  
3 referring to in PX-47 are all in Michigan, are they  
4 not?

5 A These that we have been reading are in  
6 Michigan; that's correct.

7 THE COURT: And are they supposed to  
8 be lots?

9 THE WITNESS: They are lots, yes.

10 BY MR. PRICKETT:

11 Q And on October 6, 1981 there were sales  
12 totaling \$306,675 that had a book value of \$19,789.  
13 The profit was \$286,886; is that right?

14 A That's correct.

15 Q And on January 8, 1982 there were sales  
16 with a total selling price of \$128,200, at a book value  
17 of \$19,778. There was a profit of \$108,422; is that  
18 right?

19 A That's correct.

20 Q And then in April -- incidentally, you  
21 came aboard in 1980, as I recall from this morning; is  
22 that right?

23 A That is correct.

24 Q And when did Realty begin to report to



1 you?

2 A. In the fall of 1983.

3 Q. So that these are all sales before the  
4 time that you took over; is that right?

5 A. That's correct.

6 Q. I show you April 8, 1982. It shows sales  
7 at \$76,750; book value, \$2,509; a profit of \$74,241.  
8 Is that right?

9 A. That's correct.

10 Q. And there are two others, but I am not  
11 going to go through them.

12 Let me ask you if when you took over the  
13 Realty Division or it reported to you, did the sales  
14 continue along these lines?

15 A. Sales continued but not at the level of  
16 some of these earlier years.

17 Q. Now, these were retail sales of lots in  
18 the Upper Peninsula of Michigan; is that correct?

19 A. That's correct.

20 Q. As to these sales, were they lots that  
21 had been part of the timberlands acquired at the time  
22 of the Calumet-Hecla acquisition?

23 A. They were part of the property that was  
24 acquired in Michigan.

1 Q Right. That is what I meant, perhaps  
2 inartistically.

3 And they were then prior to the time they  
4 were sold within the tax restriction of the special  
5 exemption for forestry lands; is that not correct?

6 A They are not part of the properties  
7 covered by the tax or the forest -- I am sorry.  
8 Commercial Forest Act.

9 Q They were outside that?

10 A They were outside that.

11 Q So as to those properties at least you  
12 could expect with marketing profits along the lines  
13 that you had seen there without regard to the tax  
14 restrictions that would apply if you sought in  
15 connection with the forest lands to do something  
16 inconsistent with their use as forest lands; is that  
17 right?

18 A You have totally lost me on that  
19 question. You started out talking about marketing,  
20 and then we moved to taxes, and I am not sure what is  
21 your question.

22 Q Fair enough. Let me break it up.

23 These lots were sold without regard to the  
24 tax problem that pertained to the forest lands as such?

1 A. They were not under the restricted areas.

2 Q. Now, as to the forest lands in Michigan  
3 and, incidentally, in Washington --

4 MR. SPARKS: Wisconsin.

5 THE WITNESS: Wisconsin, not Washington.

6 BY MR. PRICKETT:

7 Q. Wisconsin and Michigan. You had taken  
8 advantage, quite properly, of a law that permitted a  
9 beneficial tax right as long as you used them for  
10 forestry; is that right?

11 A. That's correct.

12 Q. And if you attempted to shift the use  
13 of those forest lands, you would then owe the back  
14 taxes plus interest; is that right?

15 A. That's correct.

16 Q. And therefore, that did not apply,  
17 however, if you sold them to someone who took them  
18 subject to the same tax restriction; isn't that right?

19 A. We are not sure from a legal standpoint  
20 whether we could sell the lands under those tax  
21 restrictions without approval of the state, but we have  
22 never sought an opinion on that because we have never  
23 had a chance to sell it.

24 Q. Well, let me ask you this: Haven't you

1 been advised that you can sell them subject to the tax  
2 restrictions, though you have to get state approval to  
3 the buyer.

4 A. Our internal legal counsel feels that  
5 we could, but we have not tested it.

6 Q. You never tested it?

7 A. That's right.

8 Q. Do you know whether others have done  
9 that many, many times?

10 A. No, I don't know that anybody else has  
11 done that.

12 Q. Of course, I think you said that one of  
13 the things that you were currently doing was making a  
14 determination of the value of the timberlands in the  
15 Upper Peninsula; isn't that correct?

16 A. We were making a determination of the  
17 value of the trees on the property that we own.  
18 Timberland is not a meaningful term to me.

19 Q. Okay. Let's talk about the timber and  
20 land underneath it. You have this land, as you have  
21 indicated in your deposition, at historical cost?

22 A. That's correct.

23 Q. The cost that it was acquired in 1967,  
24 I believe.

1 A. Somewhere in the '60s.

2 Q. Does that sound right?

3 A. I don't know the date.

4 Q. And you have told me that you understand  
5 that it is being carried at historical cost, not  
6 current cost but rather historical cost; is that right?

7 A. That's correct.

8 Q. And one of the things that you are doing  
9 in connection with your management of this division  
10 is attempting to get a determination of the value; is  
11 that right?

12 A. Now we are talking about Michigan?

13 Q. Michigan.

14 A. Okay. In Michigan we are talking about  
15 getting a value of the timber on the property, on  
16 certain of the properties.

17 Q. And I am not clear as to whether you are  
18 trying to get a value of the timber exclusive of the  
19 residual value of the land or both or neither.

20 A. We are trying to get a value of the  
21 timber that is on the property.

22 Q. And you are not interested in the  
23 residual value of the land?

24 A. We have no buyers. The property has been

1 available for sale, and there is no benefit to UOP to  
2 try and get an appraisal of property when I don't have  
3 a buyer.

4 Q Well, I didn't quite ask you that. What  
5 I asked you was, are you interested in the residual  
6 value of the property quite apart from the trees.

7 A No.

8 Q Not interested?

9 A Well, when you say "not interested," I  
10 mean, you manage the properties, so you can't say you  
11 ignore it, but I am not interested in getting an  
12 appraisal of the land.

13 Q Have you ever determined what the value  
14 of the land is with the trees, just the value of the  
15 land, what you ought reasonably to get for it?

16 A No.

17 Q And have you ever examined the comparable  
18 sales in that area?

19 A Oh, we look for comparable sales, but  
20 because we own almost all the property, there are no  
21 comparable sales.

22 Q And have there been any sales of forest  
23 lands in the area of the Upper Peninsula recently that  
24 are comparable?

1 A. What do you mean "recently"?

2 Q. Well, the last two or three years.

3 A. I understand there was a large sale made  
4 in properties to the south of ours in either late  
5 '70s, very early '80s. I don't know at what value,  
6 and it was also sold in conjunction with sawmills.  
7 It was not a strictly land sale.

8 Q. And what was the cost per acre of this  
9 property that was sold in the late '70s?

10 A. It wasn't our property.

11 Q. No. I understand.

12 A. I haven't the faintest idea.

13 Q. Not the faintest idea?

14 A. There was nothing ever published at  
15 least that I am aware of that either gave the book  
16 value or the selling price.

17 Q. In the first place, I think you have  
18 indicated the properties are vast. You have never  
19 walked them. You have overflowed them in the company  
20 airplane; right?

21 A. Well, I have been up there. I have not  
22 walked 230,000 acres, no, but I have --

23 Q. Flown over it?

24 A. I have flown over it, and I have been

1 there, spent time there.

2 Q And where are these properties?

3 A They are the Keweenaw Peninsula, which  
4 is on Lake Superior.

5 Q And is it near the Copper Range?

6 A You are talking about Duluth, Minnesota?

7 Q No, no, no. I am talking about on the  
8 Keweenaw Peninsula.

9 A I don't know what you mean by Copper  
10 Range.

11 Q Well, it is an area up there.

12 A Okay. I don't know. I am not familiar  
13 with the Copper Range as an area.

14 Q I hand you a document that has been  
15 marked PDX-112. It is a timber survey performed by  
16 Thomas P. Clephane and Jeanne Carroll for Morgan  
17 Stanley. It is entitled "Timber Ownership, Valuation  
18 and Consumption Analysis for 97 Forest Products, Paper  
19 and Diversified Companies." As the person in charge of  
20 the Real Estate Division of UOP, are you familiar with  
21 this document?

22 A No, I am not.

23 Q Have you heard that it exists?

24 A I don't recall hearing that it exists.



1 Q I call your attention to Page 11 of this  
2 document.

3 A Where are the page numbers?

4 Q Right at the top. Kind of hard with the  
5 clip.

6 A Okay.

7 Q Do you see Page 11?

8 A Yes.

9 Q I call your attention to the entry that  
10 is the fifth from the bottom, Mead. It is entitled,  
11 "Acquiring Company. Seller, U. S. Steel, Michigan,  
12 94,000 acres." Price in millions is 28 million, and  
13 the price per acre is \$300 per acre. It is described  
14 as well stocked hardwood acreage. Are you familiar  
15 with that sale?

16 A No, I am not. I think that may be the  
17 same sale that we are talking about, except the sale  
18 that I was referring to is 120,000 acres. Oh, it is  
19 farther down on the sheet, the sale I am familiar with.

20

21

22

23

24

1 Q Yes. And we come to that one. In  
2 fact the sale you were referring to occurred not in  
3 the '70's, but in 1981, and the acquiring company  
4 was Meade again. The seller was Copper Range, and  
5 the place is Michigan. It was, as you say, 120,000  
6 acres. The price was \$14,000,000, and the price per  
7 acre was \$120 per acre. Is that the sale you are  
8 referring to?

9 A That's the sale that I referred to, yes.

10 Q And does that indicate -- Let me ask  
11 you this:

12 Are you familiar enough with the UOP  
13 property to have any knowledge as to whether it's in  
14 the area on the Upper Peninsula of the Copper Range  
15 property that was bought by Meade?

16 A It's farther south, but it's in the  
17 Upper Peninsula.

18 Q And it adjoins your property, does it not?

19 A No, it doesn't adjoin it, but it's not  
20 too far from it.

21 Q Well, when you are talking about  
22 something as vast as 235,000 acres --

23 A Well, if you say one part touches our  
24 property, there may be an isolated lot, or something,

1 but it is farther south of us.

2 Q Well, isn't it in fact the next  
3 adjoining property of any size in terms of timber  
4 operations up there? It's just south of the UOP  
5 property; isn't it?

6 A Well, it's in that area. It doesn't  
7 adjoin. "Adjoin" to me means it abuts right to our  
8 property.

9 Q I don't mean it abuts, but it's the  
10 next big forest property on the Keweenaw Peninsula;  
11 isn't it?

12 A I don't know that because I don't what --  
13 THE COURT: You mean immediately south.  
14 Going south, it's the next biggest?

15 MR. PRICKETT: Yes. Thank you, Your  
16 Honor. That's what I mean.

17 BY MR. PRICKETT:

18 Q But you are not aware of that?

19 A Aware of what? I've lost the meaning --

20 MR. PRICKETT: Your Honor, I'll withdraw  
21 the question.

22 MR. SPARKS: Your Honor, let me note  
23 for the record that this is one of the documents  
24 that we have objected to, and I don't want by my

1 silence here to have it sneak into evidence, if you  
2 will. In that connection I would note two things.

3 One, it states at the bottom that "This  
4 memorandum is based on information available to the  
5 public. No representation is made that it is  
6 accurate or complete." Then it goes on.

7 And secondly, to the extent that it's  
8 an effort without some foundation to establish some  
9 sort of comparability between the timber stands on  
10 those properties, I don't think that's been  
11 established. Indeed I think it's been affirmatively  
12 contradicted in the direct examination. For the  
13 purposes for which it is supposedly sought to be used,  
14 we would continue to pose our objection.

15 THE COURT: Well, you have a good point  
16 there, Mr. Sparks. I was asleep at the switch.  
17 Something should have gone off when you say 112,  
18 but it didn't. I'm not sure where that leaves us.

19 This is one of the exhibits, as I  
20 understand it, the defense objected to the introduc-  
21 tion of, and although you haven't offered it, you  
22 were reading from it for the purpose of cross-examining  
23 the witness. Maybe I should ask was your purpose  
24 trying to establish values as set forth in the document,

1 or simply to test Mr. Corirossi's awareness of it?

2 MR. PRICKETT: Well, it was both,  
3 because it identifies the sale that he was referring  
4 to, and he said that was the sale.

5 THE COURT: I appreciate that.

6 MR. PRICKETT: And therefore, we have  
7 cleared up the date, time and place of the sale.  
8 So to that extent, that's what it's being used for,  
9 Your Honor.

10 THE COURT: Let me sum it up this way.  
11 I don't know whether we have a problem or not, but  
12 let's test it out:

13 Mr. Corirossi indicated in his prior  
14 testimony that he was aware of the sale of a sizable  
15 tract of timber somewhere south close to that owned  
16 by UOP. He didn't know who bought it, who sold it,  
17 what the price was, or anything about it. You  
18 have now used this document which is designated as  
19 Plaintiff's Damage Exhibit 112 for the purpose of  
20 checking whether or not the transaction you refer to  
21 in the document was the one that Mr. Corirossi was  
22 referring to in his testimony, and you have  
23 established that they are one and the same. In the  
24 process you have gone through some prices with regard

1 to total sales and the value of the sale, the price  
2 per acre.

3 Your objection then would go what,  
4 Mr. Sparks? The document is not in evidence.

5 MR. SPARKS: One, the document is not  
6 in evidence. And two, Your Honor, I don't think it  
7 could be probative evidence of value. It refers to  
8 this property, and in its comments it deals with  
9 average stock hardwood acreage, whatever that means  
10 in the language of the person for Morgan Stanley  
11 who wrote this some time ago. We don't know  
12 if it's correct, and in fact they have disclaimed  
13 that they rely in any way on its being correct.  
14 Without that disclaimer we wouldn't be relying on  
15 something in the courtroom. We can't cross-examine  
16 someone who's not here in the courtroom. We can't  
17 cross-examine as to what average stock hardwood  
18 means.

19 Mr. Corirossi testified in direct  
20 examination in terms of hardwood, and we were  
21 talking in our property of percentages around -- I  
22 don't want to mischaracterize it, but I think the  
23 evidence is 10 or 15 percent. Just on its face  
24 that doesn't sound like the same thing. We'll never

1 know what this person is talking about with respect  
2 to this property because he's not here, and I gather  
3 isn't going to be here.

4 THE COURT: All right. Well, let me sum  
5 it up this way:

6 I think what we have is Mr. Corirossi  
7 has agreed that the transaction he was referring to  
8 in his earlier testimony is the one that's described  
9 by Mr. Prickett in the publication from which he  
10 just read. He's referred to the transaction, and  
11 referred to the prices of the transaction. Mr. Corirossi  
12 I gather cannot verify that as being accurate one  
13 way or the other. He hasn't the faintest idea, from  
14 what he said.

15 THE WITNESS: No, I haven't.

16 THE COURT: Since the document is not in  
17 evidence, I guess I hopefully resolve the point by  
18 saying that I don't know that that is by him  
19 agreeing that those figures you read represent the  
20 transaction he was referring to. They obviously  
21 can't establish the value of the transaction, I  
22 don't believe. I think you still have to offer the  
23 document if you want to establish the value in that  
24 fashion.

1 How bad does that strike you?

2 MR. PRICKETT: It's reversible.

3 THE COURT: Then you are secure early on.  
4 We'll proceed at a much more liberal pace then.

5 MR. PRICKETT: No, Your Honor. Seriously,  
6 first of all, we will come back to the fact that the  
7 burden of proof is on them. Therefore, we think  
8 they have got to prove the fairness in this aspect.  
9 I don't have to do it.

10 So I come back to that originally, and  
11 we have always indicated to Your Honor that one of  
12 the problems with the fairness of the 21-dollar price  
13 is that they are these undervalued assets. He  
14 agrees they are undervalued. It's up to him to  
15 establish that.

16 Now I have helped him a little bit by  
17 giving him some information on the sale of the next  
18 most comparable piece of property, but I'm not going  
19 to go further forward than that. It's up to him to  
20 do it. I have established prima facie that that's  
21 undervalued, and I think it's up to them to put it in.

22 THE COURT: Well, that certainly may be  
23 arguable. I got the impression that maybe Mr. Sparks  
24 was objecting on the fear that you were attempting to



1 establish the per acre value of timberland in  
2 that area through what you just did. I don't know  
3 that you offered it for that purpose, but if you did,  
4 I don't think that would by any fair stretch of  
5 the imagination establish what the value of timberland  
6 is in that area.

7 So we may not have -- to the extent  
8 that -- Well, go ahead.

9 MR. PRICKETT: Well, I'm going to now  
10 offer the document --

11 THE COURT: All right.

12 MR. PRICKETT: -- to cut through this,  
13 et cetera, and I take it Mr. Sparks will articulate  
14 in terms of the rules of evidence why he objects.  
15 Not just that he doesn't like it, but what is the  
16 rule that he relies on to prevent this from coming in.

17 MR. SPARKS: Your Honor, hearsay,  
18 relevance and no foundation. I believe I recited  
19 the basis in plain language for that objection,  
20 and I stand on that objection, and would object to  
21 the extent this document is sought to be admitted  
22 into evidence for any proof of the value of UOP's  
23 lands in the Upper Peninsula of Michigan, or for any  
24 other purpose because that so far as I can tell is the

1 only purpose for which it has been sought to be  
2 introduced. I would ask the Court to sustain the  
3 objection based on the Court's prior comments.

4 MR. PRICKETT: Your Honor, we do not  
5 agree with Mr. Sparks' objection, and we don't think  
6 his grounds -- Clearly it's not a hearsay document.  
7 It is relevant.

8 Now, I take it that what he is objecting  
9 to is in some way that the document is not  
10 self-probative, and we think it is. We think it's a  
11 document prepared by Morgan Stanley as a research  
12 document, and therefore, we think it comes in on  
13 that basis. And therefore, we would stand on that,  
14 and we would ask that it be admitted.

15 We have raised this because we believe  
16 that it's up to the defendant to establish the  
17 fairness of the price of the land, and this witness  
18 has indicated that it's carried at historical cost,  
19 and therefore, we don't think they have introduced  
20 any evidence of what it's presently worth, and we  
21 have indicated that we believe that in order to  
22 establish a fair price they've got to show something  
23 on the assets of this kind as to which this issue  
24 has been raised.

1 MR. SPARKS: Just to respond briefly,  
2 I don't think whether this document is admissible or  
3 not has related at all to whether we have or have  
4 not introduced other proof as to the value of this  
5 property. The document has -- we cannot cross-examine  
6 on it. The bottom of it is we cannot cross-examine  
7 the author of the document compounded by the fact  
8 that the author told us that he doesn't represent it's  
9 accurate or complete, compounded by the fact that  
10 there is no basis, no indication establishing that  
11 this property is comparable to ours other than the  
12 fact that it's nearby.

13 One of the things on the face of the  
14 document is this was average stock hardwood, and we  
15 don't know what the author means by that. But beyond  
16 that, I must take issue with the comment that's  
17 come up in the context of the objection that we have  
18 not established a value for the property. We have  
19 put in evidence through Mr. Corirossi indicating  
20 what this property generates on a going-concern basis,  
21 which is the way it is operated by UOP. We have  
22 done that also for Wisconsin, and also for the other  
23 properties. So we do have our proof in on that point,  
24 and I don't think that's relevant to the objection in

1 and of itself.

2 THE COURT: Well, I would rule on the  
3 motion this way:

4 I'll sustain the objection to the  
5 admission of the document at this time on the simple  
6 grounds that I don't believe it can be  
7 introduced through this witness, Mr. Prickett.

8 Mr. Corirossi said he's not familiar  
9 with values. He's never asked for the report, never  
10 seen this one before, and he hasn't the faintest idea  
11 whether what's in it is accurate or not. And I  
12 think based on that there has been no foundation  
13 for admitting it through his testimony. So on that  
14 basis I'll sustain the objection.

15 MR. PRICKETT: Yes, sir.

16 Your Honor, I have no further questions  
17 of the witness.

18 THE COURT: All right. Is there any  
19 redirect, Mr. Sparks?

20 MR. SPARKS: Just one question, Your  
21 Honor.

22 REDIRECT EXAMINATION

23 BY MR. SPARKS:

24 Q Mr. Corirossi, on cross-examination

1 Mr. Prickett took you through a number of quarterly  
2 land sales reports, among them those included in  
3 Plaintiff's Exhibit 53, and established that there  
4 had been gains on certain of those sales, on the  
5 sale of those properties.

6 A. Yes.

7 Q. Were those gains reflected on the  
8 income statements of UOP for the periods in which  
9 they occur?

10 A. Yes, they would have been included in  
11 the financial statements during those periods.

12 MR. SPARKS: No further questions, Your  
13 Honor.

14 MR. PRICKETT: Your Honor, I have no  
15 further questions.

16 THE COURT: All right.

17 MR. PAYSON: Chancellor, I'm prepared  
18 to begin the direct examination of Mr. Kavanaugh.

19 MR. SPARKS: If the Court has any  
20 questions of Mr. Corirossi --

21 THE COURT: No, I have none. - I just  
22 wasn't sure -- I didn't really think you did,  
23 Mr. Payson, but I didn't know what brought you up  
24 there to the front for a moment.

1 All right. Thank you, Mr. Corirossi.

2 (Witness excused.)

3 THE COURT: All right. Mr. Kavanaugh is  
4 here?

5 MR. PAYSON: Yes, he is, Your Honor.

6 THE COURT: Maybe we can use a few  
7 minutes to lay whatever background information we  
8 need to establish for him. We do need to break for  
9 the day shortly, but I think maybe we can get that  
10 out of the way, and pick up with the rest of his  
11 testimony tomorrow.

12 EDWARD FRANCIS KAVANAUGH, having been  
13 first duly sworn, was examined, and testified as  
14 follows:

15 DIRECT EXAMINATION

16 BY MR. PAYSON:

17 Q Mr. Kavanaugh, would you please describe  
18 for the Court your educational background?

19 A Yes. I attended college at Boston  
20 College, Boston, Massachusetts, graduating in 1964  
21 with a bachelor of science in accounting.

22 Q And were you licensed as a certified  
23 public accountant after that?

24 A Yes, I am. I'm a C.P.A. licensed in the

1 State of Massachusetts.

2 Q. And what year were you licensed?

3 A. I was licensed in 1967.

4 Q. Would you describe your employment  
5 history since graduation from college?

6 A. Upon graduation from Boston College I  
7 went to work for Peat, Marwick & Mitchell, in Boston,  
8 one of the Big 8 accounting firms, and stayed with  
9 Peat, Marwick from 1964 through 1976.

10 Q. What were your initial responsibilities  
11 when you joined Peat, Marwick, and and then as you  
12 went on for years explain how your positions and  
13 responsibilities changed.

14 A. Sure. Well, I started as a staff  
15 accountant, moved on to a senior accountant, then  
16 to an audit supervisor, and finally to an audit  
17 manager. And my specific responsibilities were to  
18 manage the audits of a number of commercial  
19 auditing engagements ranging in size from approximately  
20 \$10,000,000 all the way up to in excess of \$500,000,000.

21 Q. I think you testified that you left  
22 Peat, Marwick in 1976. Where did you go from that firm?

23 A. After Peat, Marwick I went to work for  
24 Sobin Chemicals Company, which is a wholly-owned

1 subsidiary of International Minerals and Chemicals.

2 Q What is International Minerals and  
3 Chemicals Company?

4 A International Minerals and Chemicals  
5 is the largest fertilizer company in the United  
6 States, and it also has a very large chemical  
7 operation.

8 Q And what were your positions and  
9 responsibilities at Sobin Chemicals?

10 A Initially I went to work as group  
11 controller, and ultimately vice president finance  
12 of the entire chemical operation of International  
13 Minerals and Chemicals with a volume of approximately  
14 \$250,000,000 out of the consolidated total of about  
15 a billion-three.

16 Q And what were your direct responsibilities  
17 in that position?

18 A My responsibilities included the  
19 internal reporting, budgeting, forecasting, internal  
20 audit, some administrative and personnel responsibilities.

21 Q When did you leave International Minerals?

22 A I left International Minerals in 1979.

23 Q Who was your next employer?

24 A My next employer was Wheelabrator-Frye.



1 and I went to work for them in 1979 up through  
2 the date of the merger.

22-1

3 Q When you first joined Wheelabrator,  
4 what was your position and your responsibilities?

5 A My initial responsibility was director  
6 of financial reporting and taxes, and that entailed  
7 all of the internal and external financial reporting  
8 for the consolidated group, budgeting responsibilities,  
9 forecasting, and then later some administrative  
10 responsibilities with regards to executive compensa-  
11 tion.

12 Q Where was Wheelabrator headquartered  
13 when you joined it?

14 A Wheelabrator-Frye was headquartered in  
15 Hampton, New Hampshire.

16 Q And I think you mentioned the merger.  
17 I think you said up until the time of the merger.  
18 What merger were you speaking of?

19 A I was making reference to the merger  
20 of Wheelabrator-Frye and The Signal Companies.

21 Q When did that occur?

22 A That occurred February 1, 1983.

23 Q So that you are presently employed by  
24 The Signal Companies, Incorporated?

1 A. Yes, I am.

2 Q. And out of what office do you presently  
3 work?

4 A. Oh, I am presently located in the  
5 La Jolla, California corporate offices of The  
6 Signal Companies.

7 Q. What was your position, what were your  
8 responsibilities, immediately after the merger of  
9 Wheelabrator-Frye and Signal?

10 A. After the merger I relocated to La Jolla  
11 and took on the responsibilities for both internal  
12 and external financial reporting for the consolidated  
13 company, all its budgeting, forecasting.

14 Q. What is your present title with The  
15 Signal Companies?

16 A. My present title is deputy controller.

17 Q. And what are your specific responsibilities  
18 now or have you described them?

19 A. I have described them already.

20 MR. PAYSON: Your Honor, that completes  
21 my background. I am willing to start up on the main  
22 part of the examination, subject to your admonition  
23 that you wanted to break sometime soon.

24 THE COURT: Well, I think by the clock on

1 the wall it is approaching 10 minutes of 5:00, and I  
2 would like to try to terminate for the day a few  
3 minutes before 5:00, so that everyone can get back  
4 down to the clerk's office before it is locked up. So  
5 I think rather than going a few minutes into  
6 Mr. Kavanaugh's testimony, it would be a good time to  
7 recess until tomorrow morning.

8 Do you have any problem with that,  
9 Mr. Prickett?

10 MR. PRICKETT: Certainly not, Your Honor.  
11 May I speak to Mr. Payson?

12 THE COURT: Surely.

13 MR. PAYSON: Chancellor, may we go off  
14 the record?

15 MR. PRICKETT: And approach the bench.

16 THE COURT: Sure.

17 Mr. Kavanaugh, you may step down.

18 (There was a sidebar conference.)

19 THE COURT: All right, gentlemen. As a  
20 result of our off the record sidebar conference we  
21 discussed a monumental matter and reached a decision;  
22 that is, to start at 9:30 tomorrow morning. So we  
23 will recess until 9:30 tomorrow morning and resume  
24 with Mr. Kavanaugh.

(Court adjourned at 4:48 p.m.)

I N D E XDEFENDANTS' WITNESSES      DIRECT      CROSS      REDIRECT

Jerry James Corirossi	55	108	200
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Edward Francis Kavanaugh	202	--	--
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PLAINTIFF'S EXHIBITS

<u>NO.</u>		<u>MARKED</u>	<u>REC'D</u>
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1 - 111	As described-----	--	52
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119	A document entitled "Court's Copy, Duff & Phelps' Review of Dillon Read Report"---	6	--
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DEFENDANTS' EXHIBITS

<u>NO.</u>		<u>REC'D</u>
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2	Letter dated 2/18/83, from Mr. Corirossi to Mr. Arledge, et al., with attachments---	54
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3	UOP, Inc. Consolidated Income Statement, dated 12/31/83--	54
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11	UOP, Inc. Consolidated Balance Sheet, dated 12/31/83	54
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12	The Signal Companies, Inc. Form 10-Q for quarter ended 3/31/83-----	54
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