

EXHIBIT C

COPY OF TRANSCRIPT

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

vs.

AMERICAN PENSION SERVICES,
INC., a Utah corporation,
AND CURTIS L. DeYOUNG, an
individual,

Defendants.

) Deposition of:

) LAMONT SMITH

) Civil No. 2:14cv00309

) Judge Shelby

May 2, 2014 * 1:23 p.m.

Location: United States
Securities and Exchange Commission
Salt Lake District Office
15 West South Temple, Suite 1800
Salt Lake City, Utah 84101

Reporter: Kathy Morgan, CSR, RPR
Utah License No. 259764-7801 Nevada License No. 357
Notary Public in and for the State of Utah



CITICOURT

THE REPORTING GROUP

236 South 300 East
Salt Lake City, Utah 84111

PH: 801.532.3441 FAX: 801.532.3414 TOLL FREE: 877.532.3441

P R O C E E D I N G S

LAMONT SMITH

called as a witness, being first duly sworn,
was examined and testified as follows:

MR. WADLEY: Mr. Smith, my name is Daniel Wadley and I am counsel for the Securities and Exchange Commission in its case that it has recently brought against American Pension Services and Curtis DeYoung. And with me, for appearance on the record, is Paul Feindt, who is an attorney here at the Commission. And I will allow others to make their appearances.

MS. VARTABEDIAN: Melanie Vartabedian, counsel to the receiver.

MR. HASHIMOTO: Mark Hashimoto, accountant for the receiver.

MS. SKORDAS: Rebecca Skordas, counsel for LaMont Smith.

THE WITNESS: LaMont Smith.

EXAMINATION

BY MR. WADLEY:

Q. Mr. Smith, just so that we have it on the

1 question. So at any point, Mr. Smith, did you become
2 aware that the amount that was being held in the
3 account was different than the amount that was
4 supposed to be in there?

5 A. Yes, and that was a preface to what I was
6 saying. After that meeting we talked about whether
7 or not that reconciliation took place. I went back
8 to the office and pulled that number. I was told
9 that it really was done. I pulled that, those
10 numbers off, and put them on a worksheet.

11 Q. So help me understand what exercise you
12 went through. So this is after you were here to
13 testify at the SEC?

14 A. Yes.

15 Q. So walk me through what you did when you
16 got back to the office.

17 A. When I got back to the office, Curtis came
18 into the office and said, "How did it go?" And I
19 says -- I told him what we had done. And he said to
20 me -- I had told him what I had told Paul, that I
21 didn't think we had -- I didn't think that was done.
22 He says, "Oh, that's been done."

23 And I said, "Curtis, I don't think so."
24 And at that point in time I went back to the person
25 who was responsible for the day-to-day

1 reconciliations and asked if that had been done.

2 Q. And what person is that?

3 A. Nanette Zastrow.

4 Q. So you asked Nanette Zastrow if it's been
5 done?

6 A. Yes.

7 Q. Okay, keep going with your narrative.

8 A. I asked Nanette, and she said no, it
9 hadn't. Curtis came back a little bit, maybe five or
10 ten minutes later, and I was back in my office. And
11 we went back, and he said, "Had that been done?"

12 And she said, "No, it hadn't been done. I
13 only do the bank account to the daily transactions.
14 That had not been done."

15 Q. Okay. So then what did you do?

16 A. He came -- I didn't do anything. He came
17 in a little bit later and said to me, "We need to
18 reconcile that on a daily basis. I want you to
19 reconcile it on a daily basis, do a reconciliation of
20 the cash requirements to what's in the bank."

21 And I says, "Fine. Let me work on getting
22 that all put together."

23 In the meantime he says it has been -- as
24 far as I know, it's been reconciled in November, he
25 said, 2009. So I thought, well, if I'm going to do

1 this reconciliation, it might make sense to find out
2 in 2009 if it all balanced and what the story is now.
3 So I took the cash requirements report for each of
4 those periods, compared it against the bank account,
5 less the amounts that were outstanding checks that we
6 had from the record that Marie was doing, and
7 compared that cash balance to the cash requirements
8 report.

9 Q. And what did you find?

10 A. I found out that there was -- if
11 everything was to be called, it would be -- there
12 would not be enough cash to cover the account.

13 Q. Do you remember the discrepancy?

14 A. The discrepancy? Well, I don't know the
15 discrepancy, except in 2009, October of 2009, there
16 was an adjustment that was made to the cash
17 requirements report for -- I'm not sure of the exact
18 amount, but it was around \$20 million, \$24 million.
19 After that it reconciled. There was an over amount
20 in the following month. Then all the other months
21 there was about \$300,000.

22 Q. Who made that adjustment of \$24 million?

23 A. I don't know. I didn't have any access to
24 any of those accounts, so I don't know.

25 Q. Did you discuss this with Mr. DeYoung?

1 A. I did, and I said, "There seems to be some
2 discrepancies here in this amount. Can you resolve
3 it?" It sounded like -- I said, "I think it's an
4 error. There's got to be an error in this whole
5 process, because nobody was complaining. I had not
6 heard any complaints about shortfalls in any
7 accounts.

8 Q. That's a lot of money, too.

9 A. Yeah, and that's a lot of money. And I
10 said, "It's got to be an error. There's got to be an
11 error somewhere in that process that happened." And
12 so I asked him, I said, "Can we have a meeting and
13 talk about whether or not -- you know, what you think
14 is the problem?" And a meeting was never
15 forthcoming.

16 Q. So you never met with him about it?

17 A. No.

18 Q. Did he ever provide an explanation about
19 the missing \$24 million?

20 A. No.

21 Q. Did you ever have a conversation with
22 Judson Pitts about the missing \$24 million?

23 A. Not with the \$24 million, but I did with
24 the \$300 million -- or excuse me -- the 320.

25 MS. SKORDAS: Wait. Wait.