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**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION**

**DIRECTOR OF THE MANUFACTURED HOUSING AND  
MODULAR UNITS PROGRAM OF THE PUBLIC SERVICE  
COMMISSION**

**vs.  
AMERICA'S HOME BROKERS, INC.**

**Case No. MC-2005-0028**

**Hearing – Volume 3**

***FILED***

**March 2, 2005**

**MAR 2 8 2005**

**ORIGINAL**

***Missouri  
Public Service Commission***

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1 STATE OF MISSOURI  
2 PUBLIC SERVICE COMMISSION  
3  
4 TRANSCRIPT OF PROCEEDINGS  
5 Hearing  
6 March 2, 2005  
7 Jefferson City, Missouri  
8 Volume 3  
9

10 Director of the Manufactured )  
11 Housing and Modular Units Program )  
12 of the Public Service Commission, )  
13 Complainant, )  
14 v. ) Case No. MC-2005-0028  
15 America's Home Brokers, Inc., )  
16 Respondent. )

17 LEWIS MILLS, Presiding,  
18 DEPUTY CHIEF REGULATORY LAW JUDGE.  
19 CONNIE MURRAY,  
20 STEVE GAW,  
21 ROBERT M. CLAYTON,  
22 LINWARD "LIN" APPLING,  
23 COMMISSIONERS.

24 REPORTED BY:  
25 KELLENE K. FEDDERSEN, CSR, RPR, CCR  
MIDWEST LITIGATION SERVICES

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APPEARANCES:

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FOR: America's Home Brokers, Inc.

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FOR: Staff of the Missouri Public  
Service Commission.

1 P R O C E E D I N G S

2 JUDGE MILLS: Okay. Let's go on the  
3 record. We're on the record this morning for an  
4 evidentiary hearing in MC-2005-0028, the case involving  
5 America's Home Brokers. We'll begin by taking entries of  
6 appearance, Staff, and then the Respondent, and then I  
7 will do opening statements in that order.

8 MS. WESTON: My name is Mary Weston. My  
9 address is 200 Madison, Jefferson City, Missouri 65102,  
10 and I'm here on behalf of the Director of the Manufactured  
11 Housing and Modular Units Program of the Missouri Public  
12 Service Commission.

13 JUDGE MILLS: Thank you.

14 MR. MASS: My name's Laurence Mass. I go  
15 by Larry Mass, and if you refer to me as Larry, that will  
16 be fine, or Mr. Mass, however. My office is in Clayton,  
17 230 South Bemiston, Suite 1200, and I'm here on behalf of  
18 America's Home Brokers.

19 JUDGE MILLS: Thank you very much. Let's  
20 go to opening statements, beginning with Complainant. And  
21 just before we get started, let me know -- you-all may not  
22 realize this, but we -- we're actually capturing a video  
23 of this hearing to disc so that we'll have an electronic  
24 record of it. The camera's going to be aimed at the  
25 podium when the attorneys are there. It will be aimed at

1 the witness stand when the witness is there, aimed at the  
2 white board when there's something projected, and if  
3 you're at any of those locations, the microphones will  
4 pick you up.

5 If you're seated at one of the tables and  
6 you need to speak, please be sure to speak into the  
7 microphone. Otherwise what you say, we'll be able to hear  
8 it and it will be in the transcript, but it won't be in  
9 the video capture.

10 Thank you. Please go ahead.

11 MS. WESTON: May it please the Commission?

12 In 2003 and 2004, at least four complaints were filed  
13 against America's Home Brokers, the Respondent in this  
14 case. This spurred an investigation by the Manufactured  
15 Housing Program. That investigation by Staff revealed  
16 that there were setup deficiencies, alterations without  
17 permission from the Commission or from the program,  
18 anchoring problems, as well as various code violations.

19 Program Staff tried to work with the  
20 manufacturer, the dealer and the consumers to try to  
21 resolve these noted deficiencies in an expedient manner.  
22 When it was determined that America's Home was not willing  
23 or unable -- or was unable to comply with what we had  
24 asked, the Director filed a complaint with the Commission.  
25 The evidence today will show that, yes indeed there are

1 violations as I previously mentioned, and that the  
2 evidence will also show that many of these deficiencies  
3 still existed as of January 2005, almost a year since  
4 initially being identified by program staff.

5 Now, I suspect that America's Home will  
6 offer evidence today to indicate that they now have  
7 corrected those deficiencies. If so, then progress has  
8 been made in that respect. But there are still issues as  
9 to whether certain laws were violated by the acts of  
10 America's Home Brokers, and I believe that those acts  
11 should not be now negated by last-minute acts. Thank you  
12 very much.

13 JUDGE MILLS: Thank you. Mr. Mass?

14 MR. MASS: I first want to say to the  
15 Commissioners that, in all due respect, I've entered this  
16 case in the last three weeks, and I've tried to put  
17 together this as best I can. I don't want to apologize  
18 ahead of time, but I don't think it -- I think had I been  
19 involved earlier, this would have been handled  
20 differently.

21 I don't deny that there were some  
22 deficiencies. There are deficiencies in many homes when  
23 they're set up. America's Home Brokers over the years and  
24 before the end of 2003 sold and set up and had no problems  
25 with well over 300, maybe over 400 homes, and in one year

1 it was 120 homes. They had a good working relationship  
2 with a certain inspector, a Kathy, I think it's  
3 Haberstroh, and when she would cite things, they would  
4 talk with her, they would work things out and they would  
5 get things fixed and corrected.

6 There was a new inspector and then there  
7 was a clash between personalities, but this also happened  
8 at a time when the whole industry in manufactured homes  
9 was tanking. And it was tanking and America's Home  
10 Brokers found that it was facing bankruptcy, that it could  
11 not sell enough homes, they couldn't get financing and  
12 they started to extinguish -- and got into financial  
13 trouble and started to extinguish their business. And  
14 they knew they would lose their registration because they  
15 couldn't even pay sales tax.

16 And, in fact, Todd Fruend, who was the  
17 president, officer of America's Home Brokers, faced not  
18 simply that the company was going under, he faced the fact  
19 that he and his wife had been guarantors on loans and  
20 there was over \$330,000 that they themselves would have to  
21 take. So they were trying to wind down their business  
22 when all of this was happening.

23 There are four homes cited, and in some of  
24 the cases they made all the repairs and then the inspector  
25 comes back and says, there's further deficiencies. And

1 some of those further deficiencies would have existed when  
2 the first inspection was done, and some of the  
3 deficiencies then mentioned that also were corrected that  
4 are not part of this hearing were deficiencies that had  
5 never been mentioned before and deficiencies that didn't  
6 make sense to them and there was some conflict.

7 And I'll tell you what one of those  
8 deficiencies were that's not part of the evidence of such  
9 of what was outstanding when this complaint was brought,  
10 but one of those deficiencies was that the roof caps  
11 weren't put on in the right direction for prevailing  
12 winds. That had never once been mentioned before, nor  
13 were they shown a code that said that that was a  
14 violation.

15 Now, they've since out of a need to just  
16 get this behind them, they've taken care of it. But the  
17 real problem with that is all of these homes pretty much  
18 all are in Lincoln County. The prevailing winds are the  
19 same throughout the county. The orientation of the homes  
20 are different. One may be set up so that the front door  
21 faces east or west or southwest or whatever. The roof cap  
22 which had to be -- they were told to be put in conjunction  
23 with the prevailing winds was always 90 degrees at an  
24 angle. So some of the roof caps that they corrected are  
25 not in the same direction for the same prevailing winds on



1 different homes. So there was a conflict there.

2 But the other thing that happened is  
3 because of the financial difficulties of America's Home  
4 Brokers, that -- and because of trying to avert bankruptcy  
5 and personal bankruptcy, Todd Fruend has had to, the  
6 business that's not been in business anymore, personally  
7 try to take care of all of these deficiencies. And he's  
8 personally had to take this out of other companies and  
9 he's personally had to pay and is still paying over  
10 \$70,000 plus of debt so that he and his wife wouldn't have  
11 to file bankruptcy.

12 The other thing that happened is that  
13 America's Home Brokers was on a lot. They've sold the  
14 lot, and that was used to pay some of the outstanding  
15 deficits.

16 What I have prepared to show you, and I  
17 know -- again, I've been involved in this case only in the  
18 last three weeks. What I organized is that there was a  
19 Brief filed by Mary Weston on behalf of the Public Service  
20 Commission which basically said for each count here are  
21 the in some cases eight outstanding issues per home, three  
22 on one home, five on another. Okay. And then there was a  
23 responsive Brief filed by my predecessor counsel saying,  
24 this is what we've taken care of.

25 But I also next to each of the deficiencies

1 noted with the response put an item number from the  
2 inspection report so that that is a guideline to go  
3 through the evidence, because Ms. Weston had said to me  
4 and we had agreed beforehand that the evidence was really  
5 going to be on not all of the deficiencies maybe initially  
6 noted or anything else of that nature, but on what was  
7 kind of they decided outstanding was the basis of bringing  
8 the complaint.

9 And that by putting an item number next to  
10 it, we have pictures that go next to the item and are  
11 identified by the item numbers. So that's a way of a  
12 guideline through what you'll see as the pictures. And  
13 what they'll show is that part of what was cited as  
14 deficiencies, which Todd Fruend finally just gave up on,  
15 we don't think were deficiencies at all in many cases.

16 For example, in one case it said certain  
17 electrical wires were not in conduit. The code says it  
18 has to be in conduit if it's exposed to the outside and  
19 exposed to moisture. Yet these same wires that are now in  
20 conduit are in crawlspaces for which there's vapor  
21 barriers and are not exposed to the outside. There was a  
22 question of interpretation of a code.

23 There's another thing that they were cited  
24 for that, although trivial, they got into some kind of  
25 battle over, was putting in a grounding wire. Yet these

1 homes, their electric boxes are grounded, the frames are  
2 grounded because the steel beams under the frames are  
3 welded. These homes were grounded five different ways in  
4 more secure than any stick-built home you would think  
5 would be grounded. And in previous inspections, this was  
6 not an issue because the home was so well grounded.

7               There was another issue on Convert-A-Tubs.  
8 These are like the homes have big tubs, and they were  
9 converted to have a pump so that water could circulate in  
10 the tubs. Well, Mr. Fruend had contracted that work to be  
11 done by a company. The company did the work, they did it  
12 to the standard that had always been acceptable to this  
13 Commission.

14              There was an issue of a couple of things in  
15 boxes, whether a certain electrical subpanel was secured  
16 or breaker was right. They came in, they took care of it.  
17 Convert-A-Tub came back and had some electrician took care  
18 of it.

19              There was another issue of whether a frame  
20 part had been damaged, and the inspector said, no, you've  
21 got to cut out this frame and put in a new piece. And  
22 Todd Fruend said, no, I can't do that. I can't do that  
23 because if I cut it out like you say I have to and apply  
24 for an alteration, then I'll jeopardize that I could blow  
25 this whole house up because to do it you have to put high

1 heat right next to the house.

2 Well, and Todd was right, it didn't  
3 structurally affect the house. It didn't do anything to  
4 the house. I brought in today a sealed report from a  
5 structural engineer says that the house is stable. He  
6 suggests some welding be done, and -- but that's all. But  
7 if you follow what the directions and the advice of  
8 inspector was, then you would have put that house at risk  
9 for being on fire, that you would have jeopardized that  
10 much greater.

11 And the inspector said, well, you have to  
12 file for an alteration just to correct it, to make one  
13 other adjustment. In essence, what he was saying was you  
14 have to file for an alteration if when you set a house and  
15 a door frame's out of whack a little bit, instead of going  
16 back and just adjusting it, you now have to file for an  
17 alteration on anything that the crew set up that would be  
18 out of whack.

19 And it's these kinds of problems and  
20 conflicts and trying to work it out with the inspector  
21 that led to some delays. All of the things have been  
22 fixed. Todd Freund and America's Home Brokers, any other  
23 business he's been in has tried to satisfy his customers.  
24 He's had no problems until the company started to kind of  
25 go under.

1                   He's tried to take care of those problems.  
2   He's tried to avert personal bankruptcy and ruination of  
3   his entire businesses. He wants to make people satisfied.  
4   This is not a case where you have a negligent dealer who  
5   simply doesn't care about his customers. He does, and on  
6   his own personal -- from a separate company, he's done  
7   whatever he could possibly do to make everything whole and  
8   along the way to make things whole and to serve the  
9   customers.

10                   And the essence of this whole thing is at  
11   this point America's Home Brokers doesn't exist, but Todd  
12   is willing to make do and even trying to do whatever is  
13   necessary to make this whole thing be ended so that he can  
14   go about other businesses. Thank you.

15                   JUDGE MILLS: Thank you. I understand that  
16   we have a revised witness list that was e-mailed to  
17   counsel and I provided -- Staff counsel provided me a  
18   copy. I provided copies to all the Commissioners. So  
19   it's my understanding we're moving first to Carol Gray; is  
20   that correct?

21                   MS. WESTON: Yes, Judge.

22                   JUDGE MILLS: Thank you. Ms. Gray, if you  
23   could step forward, please.

24                   Go ahead. Go ahead.

25   CAROL GRAY testified as follows:

1 DIRECT EXAMINATION BY MS. WESTON:

2 Q. Would you please state your name and  
3 address for the record.

4 A. Carol Gray at 411 Daisy Lane, Bellflower,  
5 Missouri.

6 Q. When did you purchase your home?

7 A. August of '02.

8 Q. And who did you purchase that home from?

9 A. America's Home Brokers.

10 THE REPORTER: Judge, she hasn't been sworn  
11 in.

12 JUDGE MILLS: Oh, I'm sorry. I need to  
13 swear in the witness. Would you raise your right hand,  
14 please?

15 (Witness sworn.)

16 JUDGE MILLS: Thank you.

17 BY MS. WESTON:

18 Q. We'll go back. Who did you purchase the  
19 home from?

20 A. America's Home Brokers.

21 Q. And who was involved in the transaction of  
22 that sale?

23 A. There was a lady by the name of Angie and  
24 Todd.

25 Q. Was the dealer responsible for the setup

1 and installation of your home?

2 A. Yes, he was.

3 Q. Did you sign any waivers regarding  
4 responsibility for the setup of your home?

5 A. No.

6 Q. Could you briefly explain to us how you  
7 came to contact the Manufactured Housing Program regarding  
8 your home?

9 A. Through trying to have things fixed and  
10 having things inspected and not getting done, that we  
11 just, you know, just to try to get things finished.

12 Q. Can you give me any examples of those  
13 things that you needed to have fixed?

14 A. We never did have a moisture barrier put  
15 underneath the house. We had been dealing with -- we had  
16 frozen pipes. There was also like water sitting  
17 underneath the house constantly almost, and through  
18 plumbing problems that we had, things like that that we  
19 just had ended up spending so much money to get different  
20 things fixed that shouldn't have been that way to begin  
21 with.

22 Q. How many times did you contact America's  
23 Home Brokers to have items fixed or just contact in  
24 general, and what type of contact?

25 A. I couldn't even say how many times I called

1 the office. I even sent a letter asking, you know, if  
2 they could just please, you know, get things finished,  
3 that if I had the money that I spent in the phone calls  
4 and everything else, and their time just for traveling out  
5 there and their gas, because I can't even say how many  
6 times they've come out and could only do one little part  
7 of this job or one little part of that job without leaving  
8 and having to come back again later, or something not  
9 being fixed right and have to come back or it would get  
10 inspected or whatever. Our house wasn't even welded down,  
11 we came to find out later, hadn't even been welded to the  
12 frame or to the -- however to explain that.

13 Q. Did you have to expend any funds on your  
14 own to make any corrections to your home?

15 A. Yes, we did. There was duct work  
16 underneath our home that had never been, like, strapped up  
17 like it should have been, so we were losing heat  
18 underneath the trailer, so we put money into having  
19 regular duct work put in.

20 And then plumbing, we've spent probably  
21 over \$1,000 in, like, the sewer line, the lines that ran  
22 out from the house that -- there was already lines there  
23 when we had our house put in, and they connected up to  
24 those, and they didn't basically, like, check the rest of  
25 the line to make sure things were okay or unblocked.



1                   Come to find out one line was blocked.  
2   They weren't connected properly when we had the plumber  
3   come out. One pipe was slid into another, not joined  
4   properly, and the other one I don't know if it -- what  
5   happened with it, but it had to be capped off and fixed  
6   and what have you there. We have one line that the --  
7   what they call that, where you can get into the line at  
8   from above ground in case you do have a blockage, one  
9   had -- one was buried, and I don't know if -- I guess that  
10   was previous, so maybe that was a part of the blockage  
11   problem.

12                   But then they didn't check going out to the  
13   street from where they had connected the pipe, and so we  
14   had blockage down this way. So it was an ongoing problem,  
15   you know, as we lived there.

16                   **Q.       Since May of 2004, have -- what kind of**  
17   **repairs have been made to your home generally speaking? I**  
18   **know this is sort of technical stuff, but generally**  
19   **speaking what kind of repairs have been made by America's**  
20   **Home on your home at this time?**

21                   A.       What did they just come out there to do?

22                   **Q.       Speak into the microphone.**

23                   A.       I know they were supposed to come back out  
24   because of the moisture barrier thing. They came out,  
25   drained water, and I'm not even sure exactly what all they

1 did at that time.

2 Q. Was that recently or can you give me a time  
3 frame on that?

4 A. That was recently, I guess. I don't know  
5 if that was a month ago or something like that.

6 Q. Okay. Tell me a little bit about the  
7 whirlpool tub. Was that whirlpool tub part of the deal  
8 that you made to buy a home from America's Home Brokers?

9 A. It was -- well, it was kind of like  
10 somebody saying, okay, well, we'll do this if you want to  
11 get that. Oh, okay, that's fine, then we'll do that type  
12 thing. So yeah, I guess it was considered part of the  
13 deal.

14 Q. Sort of like an incentive maybe?

15 A. Maybe that was -- maybe that was it.

16 MS. WESTON: I have no further questions at  
17 this time.

18 JUDGE MILLS: Thank you.

19 MR. MASS: One second.

20 JUDGE MILLS: Yes.

21 CROSS-EXAMINATION BY MR. MASS:

22 Q. Ms. Gray, was there -- or strike that.  
23 The home that you have was set up on a lot  
24 that you owned?

25 A. That we had purchased right before we had

1 the house put out there, yes.

2 Q. Okay. Did you contract with America's Home  
3 Brokers to take care of all the existing sewer lines?

4 A. To -- they had to hook up to the sewer  
5 lines.

6 Q. They hooked up to the sewer lines, but with  
7 regard to blockages in the existing sewer lines or that,  
8 that wasn't what they were contracted to do, was it?

9 A. Well, I don't know if that's a part of it  
10 or not, but I do know that the pipe was not installed  
11 properly when they did make a connection.

12 Q. Do you know that from your own personal  
13 knowledge?

14 A. Yes, I do, with the plumber that we had  
15 come out to do the work -- or we had two different people  
16 come out for two different lines.

17 Q. Okay. When you say you know from the  
18 plumber, you don't know that from your own personal  
19 knowledge, you know plumbing, do you?

20 A. I know enough that you don't just slide one  
21 pipe into another and hope that it holds. Things can back  
22 up and make a clog if you don't have -- that's why they  
23 make the sleeves where you can put one into another and  
24 actually cement them or glue them together.

25 Q. Well, can they back up because there's a

1 backup in the existing line that you didn't have taken  
2 care of?

3 A. The one, no. The one line, no. There was  
4 no blockage farther down. It was because the pipe was  
5 slid into another pipe, existing pipe.

6 Q. Did you -- is there a drain to the driveway  
7 that was blocked off that you didn't want them to hook  
8 into?

9 A. What?

10 Q. Was there a drain into the driveway that  
11 you did not want them to hook into?

12 A. A drain into the driveway?

13 Q. Yeah. Underneath the driveway?

14 A. No.

15 Q. Did you prevent them from or not want them  
16 to hook into certain drains?

17 A. I don't know what you're talking about.

18 Q. Okay. Did you have the sewer lines that  
19 were existing taken care of or made sure that they were  
20 clear prior to your having the home installed?

21 A. No.

22 Q. Now, do you know what is under the two feet  
23 of rock that's underneath your house?

24 A. We've gone by what has been told to us, and  
25 with the house being inspected and with it being looked

1 into through Kathy Haberstroh and the other inspector and  
2 somebody that had worked for him, that there was no  
3 plastic. Otherwise we would not have had the water come  
4 up like we did. Why would we have water setting under our  
5 house if we had the lining down there underneath the  
6 gravel that was not put in?

7 Q. Well, you don't know what -- did you go  
8 down underneath the gravel to see whether that barrier was  
9 put --

10 A. I went so far down, yeah.

11 Q. How far down did you go?

12 A. I would say probably a foot or so.

13 Q. Okay. Did you go --

14 A. There was no plastic under there. Nobody  
15 ever came up that worked for him and told me that, yes,  
16 there is plastic underneath that gravel.

17 Q. Now, that whirlpool tub does work, does it  
18 not?

19 A. Yes, it does.

20 Q. And it's been working for two years almost?

21 A. Yes.

22 Q. And it's been very satisfactory for you?

23 A. Uh-huh.

24 Q. I believe you have to answer yes or no --

25 A. Oh, yes.

1 Q. -- to get a correct transcript.

2 A. Okay.

3 Q. And, in fact, the Convert-A-Tub people put  
4 it in and then came back and made any adjustments that  
5 were required?

6 A. Yes.

7 MR. MASS: One minute if I might.

8 JUDGE MILLS: Okay.

9 BY MR. MASS:

10 Q. Ms. Gray?

11 A. Yes.

12 Q. Okay. Do you know whether the drainage  
13 around your house is proper to keep water away from coming  
14 around your house or coming --

15 A. It was supposed to be dug that way and  
16 under, like, inside the four-foot wall, it was supposed to  
17 be at a pitch where it would be going down towards the one  
18 end and then drained out.

19 Q. Okay. Do you know whether water is  
20 draining in towards the rock that's coming in and then  
21 being kept there because of the vapor barrier under the  
22 rock?

23 A. Do what?

24 Q. Water's coming in -- sorry. I apologize.  
25 Do you know whether water's coming in and

1     seeping in at the level of where the rock is and then not  
2     being able to go down underneath because of the vapor  
3     barrier?

4             A.       When we have a lot of rain and everything,  
5     how is it able to go in that way and -- because you -- I  
6     mean, where is it going to go in at?

7             Q.       How did you take care of your water  
8     problem?

9             A.       Well, we had them install a sump pump that  
10    they said that if we paid for that they would install it,  
11    which was not really installed properly either, but --

12            Q.       Is the sump pump installed and working?

13            A.       It's installed. It's not installed  
14    properly and we had to weight it -- weight it down. We're  
15    supposed to have somebody else come out when we have the  
16    money to have that fixed.

17            MR. MASS: I have no further questions.

18            JUDGE MILLS: Thank you. Let's go ahead  
19    with redirect, and then we'll do questions from the Bench.

20    REDIRECT EXAMINATION BY MS. WESTON:

21            Q.       Who was responsible for putting the  
22    foundation in for your home?

23            A.       That was like through American Home  
24    Brokers, I guess.

25            Q.       So they were responsible for prepping the

1 site to make sure what it was properly graded and sloped?

2 A. Right.

3 Q. And then they built a concrete foundation  
4 of some type on the property?

5 A. A four-foot wall.

6 MS. WESTON: I have no further questions.

7 JUDGE MILLS: Thank you. Questions from  
8 the Bench, Commissioner Murray?

9 QUESTIONS BY COMMISSIONER MURRAY:

10 Q. Good morning.

11 A. Hi.

12 Q. I have a few questions for you. You  
13 purchased the house in August of '02; is that correct? Do  
14 you remember the date of the installation and setup?

15 A. I guess the paperwork was probably signed  
16 in August.

17 JUDGE MILLS: Can you speak up a little  
18 bit?

19 THE WITNESS: Probably in August, but I  
20 don't remember the date. I don't know if it was, like,  
21 the middle or towards the end of August.

22 BY COMMISSIONER MURRAY:

23 Q. Shortly after you signed the contract for  
24 purchase, is that --

25 A. Yeah. I think it was several months from



1 the time that we talked to them 'til we had the house  
2 actually put in, because at that particular time I think  
3 we were having, like, a lot of rain and stuff like that.  
4 I can't remember the exact date, though.

5 Q. Do you remember -- do you recall when you  
6 moved in?

7 A. That's when we moved in was, like, August  
8 when we signed the paperwork and all that. That was  
9 August.

10 Q. I'm confused. I thought you signed the  
11 paperwork in August, and then you said it was several  
12 months before it was set up because of rain?

13 A. Oh, no. I mean the time that we moved in  
14 was in August when we signed the paperwork.

15 Q. So it didn't take several months before  
16 the --

17 A. I mean, it was like --

18 Q. -- installation and setup; is that correct?

19 A. How can I put it?

20 Q. You didn't move in before it was installed  
21 and set up, did you?

22 A. No. I mean, I'm trying to think of the  
23 time frame, like, when we -- we signed the paperwork but  
24 we actually, like, moved in in August. How do you --

25 Q. All right. That's all right. We'll move

1 on.

2 A. I don't know how to explain.

3 Q. Do you remember how long after you moved in  
4 that you first began experiencing problems?

5 A. I would say -- well, just the different  
6 things that we needed to have fixed and would call them,  
7 they would come out and do different things. It was kind  
8 of like the paper that they give you to fill out to list  
9 all the different things that you need to have still  
10 fixed, we just filled it out and sent it in to them. So  
11 it's been a couple years since -- I mean, they've been,  
12 like, ongoing, slowly being fixed or, you know, like come  
13 out, fix a little bit of something and then leave and come  
14 back again later.

15 Q. Okay. My question was how long after you  
16 moved in did you first start experiencing problems?

17 A. Almost -- well, right away, I guess, with  
18 the sump pump, when we realized that it wasn't working  
19 right.

20 Q. And that was almost immediately?

21 A. (Witness nodded.)

22 Q. Okay. So that was your first problem you  
23 noticed --

24 A. Yeah.

25 Q. -- the sump pump?

1           A.       I would say that would be the first  
2     problem.

3           Q.       And how long did it take American Home  
4     Brokers to respond?

5           A.       I don't know. I couldn't really say for  
6     sure how long it took them.

7           Q.       What was the response?

8           A.       When we called and said that we've got  
9     water under there, and I guess it was like, well, you  
10    know, we'll make it out there, whatever. I guess it  
11    probably wasn't too long before they came out.

12          Q.       What did they do when they came out?

13          A.       It's like -- I think they put holes in the  
14    plastic surround thing that they insert into the ground.

15          Q.       Where was the plastic?

16          A.       But the pump we found out isn't like set  
17    actually, like, low enough into the ground.

18          Q.       I'm sorry. Where was the plastic? You  
19    said they put holes in the plastic?

20          A.       Oh, the plastic is like the thing that your  
21    pump sets inside of.

22          Q.       Okay. Did that correct the problem?

23          A.       And that -- no, because it's like it wants  
24    to raise up.

25          Q.       The sump pump itself?

1 A. The plastic and all that.

2 Q. Plastic.

3 A. So that's why we had concrete on top of it  
4 to hold it down.

5 Q. Now, was that done by someone else?

6 A. Yes. Well, the bricks, that was done by  
7 us, because we didn't have the money to have somebody come  
8 out yet to, you know, work on that so . . .

9 Q. Had you contacted American Home Brokers  
10 again after the plas-- what they did the first time did  
11 not succeed?

12 A. No. We figured we'd have somebody else  
13 come out and do it right.

14 Q. So you didn't tell them that their first  
15 attempt did not work?

16 A. Well, we had told -- I guess, like, later  
17 on when the house was -- like, we had an inspector come  
18 out, we had said something I think at that time about it  
19 not being right then, about all the water down there.

20 Q. I'm sorry. We're going to have to be more  
21 definite. It gets too confusing when we're not clear  
22 about dates and people we're talking to and what was said.

23 American Home Brokers came out, they made  
24 some supposed repairs when you contacted them the first  
25 time about the sump pump; is that correct?

1 A. Uh-huh.

2 Q. Had you contacted the PSC Staff at that  
3 time about any problem? Were they involved at that time?

4 A. No, not at that time.

5 Q. Okay. So American Home Brokers came out.  
6 They did something, said they had fixed the problem, I  
7 assume. They left. You found out it didn't fix the  
8 problem?

9 A. Right.

10 Q. You didn't tell American Home Brokers it  
11 didn't fix the problem; is that right?

12 A. I don't think I did right away on that  
13 because I don't know if it had been a while before it  
14 rained again or whatever, but you don't realize or --  
15 you're not looking underneath your house all the time to  
16 know what's going on.

17 Q. But at some point you realized the problem  
18 was not corrected?

19 A. Right.

20 Q. And at that time what did you do?

21 A. I don't think we contacted them again on  
22 that.

23 Q. Who did you contact, anybody?

24 A. No. It's like whenever the different list  
25 of things that they had to fix, they would come out and

1 fix that and then have to have an inspection done. And  
2 then at that time when the person came out to inspect, I  
3 think we had mentioned it to him or her.

4 Q. How many things were pending that needed to  
5 be done at that time?

6 A. We had -- I know we probably had maybe a  
7 dozen different little things that they needed to come out  
8 to fix.

9 Q. And that was on the original --

10 A. List.

11 Q. -- sheet that you had filled out and sent  
12 to them?

13 A. Yeah.

14 Q. And were they working on doing those things  
15 on that list?

16 A. Uh-huh.

17 Q. And they were working on that between the  
18 time that they supposedly corrected the sump pump problem  
19 and the time that you noticed that it was still not  
20 working properly?

21 A. Yeah. I mean, they were coming out and  
22 fixing other -- fixing other things in the house.

23 Q. And then when you did something yourself to  
24 correct the sump pump problem, you said, I believe, you  
25 put bricks around it; is that what you said?

1           A.       Yeah. And then I think we had talked to  
2   somebody and -- a plumber, and he had looked at it and  
3   said that -- that's how we found out --

4                   MR. DORITY: Objection.

5                   THE WITNESS: -- it wasn't actually sunk  
6   down deep enough.

7                   MR. MASS: Objection to what the plumber  
8   said.

9                   JUDGE MILLS: Ms. Gray, I think you need to  
10   testify to things that you have personal experience of. I  
11   think the objection is that you're telling us what the  
12   plumber told you, and that's what we call hearsay and  
13   that's not something you have direct personal experience  
14   of. And so you need to confine it to things you've seen  
15   and things you have knowledge of from your own experience.  
16   BY COMMISSIONER MURRAY:

17                  Q.       Could I ask you why you didn't say  
18   something to American Home Brokers when they were out  
19   there fixing other things that the sump pump still wasn't  
20   working correctly?

21                 A.       I guess because through the different times  
22   that they had come out to do different things, it was kind  
23   of like, okay, we're here for a little bit and we've got  
24   to go. They would -- they wouldn't have something that  
25   they would need for a particular job, you know, and then

1 it would be like, okay, we can't finish this all today so  
2 we have to go. So it was just one of those things, it's  
3 kind of like they would come and, you know, got to go  
4 right away or whatever. I mean, it wasn't like, oh, hey,  
5 we need this done or we need that done.

6 Q. Okay. You said that another plumber came  
7 out. Was the plumber called to come out specifically for  
8 the sump pump?

9 A. That was when we had -- when we recently  
10 had the sewer and the other line looked at out in the  
11 front of the yard.

12 Q. Had you told --

13 A. Then we had mentioned it to him about the  
14 sump pump.

15 Q. To the plumber?

16 A. Uh-huh.

17 Q. And had you told American Home Brokers  
18 about the sewer problem, the blockage problem that you  
19 were -- you thought you were experiencing?

20 A. Well, at that point, no, because I  
21 didn't -- you know, when you have a problem with your  
22 toilet, you don't call the person that built your home, I  
23 guess. You call a plumber. So we called a plumber.

24 Q. So the toilet was backing up, is that how  
25 you first noticed there was a sewage problem?



1           A.       It was like no water filling it up like it  
2 should.

3           Q.       And then you had the plumber do some work  
4 that you paid for; is that correct?

5           A.       Uh-huh.

6           COMMISSIONER MURRAY: And is that -- I'm  
7 going to ask Staff counsel, is that work in the record? I  
8 mean, are those things that were done in the record?

9           MS. WESTON: I don't think so. Those items  
10 that she had requested to have fixed on her own behalf,  
11 no, they're not in our record.

12           MR. MASS: I would like to object to the  
13 whole issue of the plumbing problems. My client has told  
14 me that this is the first time they've ever heard of it,  
15 and so they never were put on notice of those problems.  
16 The water under the basement -- and I'll explain that  
17 later -- they knew of.

18           JUDGE MILLS: If I could ask a clarifying  
19 question. Which count in your complaint does this relate  
20 to or the list of the issues?

21           MS. WESTON: Count 1.

22           JUDGE MILLS: Count 1?

23           MS. WESTON: Count 1. We do have an  
24 inspection report that does talk about the sump pump, but  
25 we don't have any -- anything in the record regarding her

1 personal repairs.

2 JUDGE MILLS: Because there's nothing in  
3 the complaint Count 1 that really has anything to do with  
4 any kind of plumbing.

5 MS. WESTON: When we did the initial --  
6 when the initial inspection was performed, the sump pump  
7 was indicated. It has been fixed since that time, I do  
8 believe. I'm not sure, but that's not in the list of  
9 issues.

10 JUDGE MILLS: The parties submitted a list  
11 of issues, and it has nothing to do with plumbing with  
12 virtually any of these homes, and certainly not with the  
13 one that has to do with Count 1. So I'm not sure why  
14 we're spending all this time on the sump pump.

15 MR. MASS: I would move to strike all of  
16 those issues with regard to the plumbing, because we've  
17 had no notice nor any opportunities to take care of them.  
18 I also -- and maybe in deference to Commissioner Murray,  
19 following up on this, because I don't -- I don't want to  
20 belittle anything you would do or that, but I thought in  
21 my notes that Ms. Gray said when she called the plumber  
22 recently. Well, if it was a very recent call to the  
23 plumber about some of these problems, again, that's not  
24 something my client would have known about.

25 COMMISSIONER MURRAY: Let me just respond

1 if I could, Judge.

2 JUDGE MILLS: Okay.

3 COMMISSIONER MURRAY: And I'll tell you why  
4 I'm doing this, because frankly I find the whole thing  
5 very confusing the way it's set out here. And I am trying  
6 to get from Ms. Gray the series of events that happened  
7 that caused her to have a complaint against American Home  
8 Brokers and how they responded to each of her problems as  
9 they occurred, because I don't -- and maybe it's because  
10 I've not read this record carefully enough, but I don't  
11 see that laid out very clearly here, and I'm just trying  
12 to get some sense of where her complaint was.

13 JUDGE MILLS: That's fine. I wanted to  
14 clarify. There is a list of issues, and that has to do  
15 with a -- there's actually eight separate issues with this  
16 particular home, none of which we have touched on yet.

17 BY COMMISSIONER MURRAY:

18 Q. All right. When did you first contact the  
19 Public Service Commission Staff?

20 A. I don't know if that was like maybe -- I  
21 don't know if it was a year ago.

22 Q. All right. And then did they come out, did  
23 someone come out shortly after that from the Public  
24 Service Commission?

25 A. Yeah. We had -- we dealt with Kathy

1 Haberstroh, I think her name was, and she, you know, found  
2 out a lot of different things on the home that were not  
3 done correctly and then issued paperwork to have them  
4 done.

5 Q. Okay. I'm going to cut my questions short  
6 here and ask you just how many deficiencies still exist  
7 that you think American Home Brokers was responsible for?

8 A. I would say probably the one thing, and  
9 that would be with the sump pump probably, because we  
10 basically probably either fixed or, you know, whatever the  
11 rest of the things or they have, or the plastic, the  
12 liner, that's not -- I don't think that's been -- they put  
13 a liner on top of the gravel now.

14 COMMISSIONER MURRAY: Okay. Thank you.

15 JUDGE MILLS: Thank you. Commissioner Gaw?

16 QUESTIONS BY COMMISSIONER GAW:

17 Q. Would you state your name again for me?

18 A. Carol Gray.

19 Q. And where is this mobile home, Ms. Gray?

20 A. In Bellflower.

21 Q. In Bellflower, Missouri, right?

22 A. Uh-huh.

23 Q. And you purchased it when again?

24 Q. Well, it was -- we signed --

25 Q. Approximately?

1 A. The contract, August.

2 Q. Of what year?

3 A. '02.

4 Q. Of '02. So it's now nearing three years  
5 old as far as the purchase time is concerned?

6 A. Yeah.

7 Q. And when was your complaint filed with the  
8 Commission, do you recall?

9 A. I don't know if it was about a year ago  
10 that -- I mean, between -- I guess it was, like, after  
11 talking with Kathy.

12 Q. Kathy who?

13 A. Haberstroh.

14 Q. That worked for the Commission manufactured  
15 housing staff?

16 A. Uh-huh.

17 Q. Okay. Go ahead.

18 A. And then it was where we decided to go  
19 ahead and file the different paperwork or whatever to get  
20 things going.

21 Q. Had you had discussions with her prior to  
22 filing that complaint?

23 A. Uh-huh.

24 Q. And that's a yes?

25 A. Yes.

1 Q. Sorry. It's hard to do this when you --  
2 for a transcript.

3 How soon after you purchased the home had  
4 you contacted the manufactured housing staff of the  
5 Commission, do you recall?

6 A. How long after that?

7 Q. After you first purchased it and got it put  
8 up. Maybe I should ask you this question first. How soon  
9 after you did your purchase in August was the home set up  
10 for you?

11 A. Okay. We actually moved in in August.

12 Q. That's when you actually moved in?

13 A. Moved in.

14 Q. All right.

15 A. I thought that's what you meant before.

16 Q. That's okay. I'm just trying to clarify  
17 what we're talking about. So how long before that did you  
18 sign the documents when you actually purchased it,  
19 approximately? I don't need an exact date.

20 A. I think it was a couple months.

21 Q. Okay. That's fine. And then after that,  
22 after the August date, how soon after that did you contact  
23 the Manufactured Housing Program at the Commission,  
24 approximately?

25 A. Maybe it was like a year -- or I don't even

1 know. I don't know if it was a year later or what.  
2 Because we had different things that they were trying to  
3 fix, and then the inspector coming out and inspecting  
4 things, and then us contacting them to let them know if it  
5 had been fixed or not or what have you, like that. We  
6 kind of went back and forth for quite a while.

7 Q. Was there an inspector that came out from  
8 the Manufactured Housing Program before you actually  
9 contacted the Commission or did that occur as a result of  
10 a contact from you, if you know?

11 A. That was, I think, if I understand you  
12 correctly, we had the inspector come out to check on work  
13 that was supposed to have been done, and so it was after  
14 that that we had contacted them.

15 Q. Okay. Well, the inspector that came out,  
16 about how soon after the August date in '02 did the  
17 inspector first come out, if you know?

18 A. I'm sure it was a few months, I mean,  
19 because they had quite a list of different things.

20 Q. More than one month?

21 A. Probably.

22 Q. Less than six months?

23 A. Yeah, I would say probably less than six.

24 Q. All right. I'll inquire of somebody else  
25 about that a little more. All right. And how many times

1     **that you know of did an inspector come out?**

2             A.       Gosh, I would have to -- I want to say  
3     about six times, because it just -- it just seemed like  
4     things would not be either fixed right or they would find  
5     something else or it would be like, we need to get this  
6     fixed yet, and then they would come back out again.

7             **Q.       Okay.**

8             A.       I mean, I'm guessing. I'm not even really  
9     sure anymore how many because I know Kathy had been there  
10    several times, and then the other gentleman had been there  
11    several times.

12            **Q.       There was another gentleman that was also**  
13    **an inspector?**

14            A.       Uh-huh.

15            **Q.       That's who you're referring to?**

16            A.       Right. I know Kathy --

17            **Q.       Just a second. I'm sorry.**

18                    MR. MASS: Mr. Commissioner?

19                    JUDGE MILLS: If you could speak into the  
20    microphone, please.

21                    MR. MASS: I'm sorry. I don't mean to  
22    interrupt you, except that Exhibit K is an inspection  
23    report from April of 2003, and it also shows that almost  
24    everything's been corrected from that initial except for,  
25    again, the issue of the sump pump and the barrier, which



1 obviously was some contention which we'll explain, and the  
2 strapping of a drain line.

3 The next inspection is not until over a  
4 year later, and that's when problems were supposedly found  
5 with regard to some of the same issues that existed that  
6 year before or that would have been there the year before.  
7 And that's where some of the problems started and also  
8 when America's Home Brokers was having financial problem.

9 COMMISSIONER GAW: What exhibit are you  
10 referring to besides K?

11 MR. MASS: Q. These are to the complaint.

12 COMMISSIONER GAW: Yes, I'm looking at  
13 that.

14 MR. MASS: Okay. And so I believe that  
15 kind of shows the responsiveness dealing with these  
16 issues, and that also we're clearly going well beyond what  
17 the issues were set out for the -- by the parties for the  
18 hearing.

19 COMMISSIONER GAW: I'm going to track down  
20 what the heck happened with this case, counsel, so I can  
21 understand this a little better.

22 MR. MASS: I understand.

23 COMMISSIONER GAW: Did the parties submit a  
24 stipulation, partial stipulation in this case, by the way,  
25 Judge?

1 JUDGE MILLS: No, they have not.

2 COMMISSIONER GAW: So we don't have any --  
3 any stipulation in regard to what's been fixed and what's  
4 not fixed?

5 JUDGE MILLS: No, although by inference we  
6 can look at the original counts in the complaint and look  
7 at the issues yet to be decided by the Commission that was  
8 submitted by the parties.

9 COMMISSIONER GAW: I understand that  
10 concept, but I'm not sure that this other background  
11 information isn't appropriate for the Commission to  
12 understand.

13 MR. MASS: Well --

14 COMMISSIONER GAW: And I'm not going to  
15 argue with counsel right now.

16 MR. MASS: I don't want to argue with you.  
17 I want to make a statement.

18 COMMISSIONER GAW: Just let me go ahead.  
19 You can make your statements a little bit later.

20 BY COMMISSIONER GAW:

21 Q. Ms. Gray, first of all, let me say, I want  
22 to thank you for being here. I didn't do that when I  
23 started out.

24 Let me ask you about the issues that are  
25 listed in Count 1 specifically, and ask you what the

1 status of those things are. No. 1, the dealer has  
2 submitted -- this says the dealer has submitted an  
3 application for permission to alter for purpose of  
4 installing a whirlpool pump and jets in the master  
5 bathtub. The whirlpool pump is not properly installed  
6 according to the manufacturer's installation instructions  
7 and their required codes.

8 Do you know any -- do you have any light to  
9 shed on that particular issue --

10 A. All I know is that --

11 Q. -- from your personal knowledge?

12 A. We did have a gentleman come back out and  
13 then it was --

14 Q. A gentleman from where?

15 A. The company.

16 Q. From the company. Okay.

17 A. And fix, you know, the problem, and then  
18 had it inspected after that.

19 Q. Okay. And do you know whether or not --  
20 whether or not that issue is resolved?

21 A. It was my understanding that it was.

22 Q. All right. How long did it take it to get  
23 resolved?

24 A. It took --

25 Q. If you know.

1 A. It was two different times to get resolved.

2 Q. All right. Did you have to -- were you  
3 aware of the problem before the inspector from the  
4 Manufactured Housing Department did the inspection or were  
5 you made aware of it by the inspector?

6 A. We were made aware of it by the inspector.

7 Q. All right. I'll go to the second one. The  
8 electric cable is not properly -- installed properly.  
9 Cable must either be run into the floor of the home and  
10 secured by four and a half feet and within 12 inches of  
11 the outlet box or installed in conduit under the house,  
12 properly supported at four and a half feet.

13 Do you know anything about that allegation?

14 A. That it was not in the conduit.

15 Q. Yes.

16 A. And they had to come out and do it  
17 correctly.

18 Q. Do you know if that's been fixed?

19 A. I think that one had been fixed.

20 Q. Do you know?

21 A. I think.

22 Q. Were you aware of that problem before the  
23 inspector looked at it?

24 A. No, I didn't know electrically that that  
25 had to be done.

1 Q. Okay. That's fine. I'm going to go to the  
2 third one. Electric cable installed under the home for  
3 the central air conditioner circuit is not protected in  
4 conduit from moisture and damage.

5 Are you familiar with that allegation?

6 A. No, I'm not too familiar with that one.

7 Q. Okay. That's all right. No. 4, the drain  
8 line installed under the home is not supported as  
9 required. It should be supported every four inches --  
10 excuse me.

11 MR. MASS: It should be every four feet.

12 COMMISSIONER GAW: I think it says inches,  
13 although my glasses are not here.

14 MR. MASS: It does say inches, but in  
15 another case it's feet, and I think that was just a typo.

16 COMMISSIONER GAW: That's fine. Staff  
17 agrees with that.

18 MS. WESTON: It's a typo.

19 BY COMMISSIONER GAW:

20 Q. Let me say every four feet minimum. Are  
21 you familiar with that particular allegation?

22 A. Uh-huh.

23 Q. You are?

24 A. (Witness nodded.)

25 Q. You need to say yes or no.

1 A. Yes. I'm sorry.

2 Q. I do the same thing, so don't worry about  
3 it. Okay. So if that -- how are you -- were you aware of  
4 that before -- of a problem there before the inspector  
5 looked at it or after the inspector informed you that was  
6 a problem?

7 A. After the inspector.

8 Q. No. 5, portions of the crossover heat duct  
9 are supported with -- let me back up.

10 Do you know if 4 is resolved or not with  
11 regard to the drain line installed?

12 A. I believe it's been resolved.

13 Q. Okay. No. 5, portions of the crossover  
14 heat duct are supported with metal wire and the wire is  
15 damaging the heat duct. Heat duct should be supported  
16 using corrosive-resistant straps.

17 Do you know about that allegation?

18 A. Uh-huh. Yes, I do.

19 Q. Good job. Okay. Do you know if that's  
20 been resolved?

21 A. I think it has. I'm not sure on that.

22 Q. Not sure. Did you know about that  
23 problem --

24 A. Yes, I did.

25 Q. -- yourself without there being --

1 A. Yes.

2 Q. -- being told by the inspector?

3 A. Yeah. Because we had seen it done the  
4 other way, and it just didn't -- it wasn't supported.

5 Q. Okay. Has that been taken care of, did you  
6 say?

7 A. As far as I know, yes, all that's been  
8 taken care of.

9 Q. No. 6, the bolt holes in the bottom board  
10 along the centerline of the home need to be resealed. Do  
11 you know about that allegation?

12 A. The bolt holes?

13 Q. Yes. I almost did the same thing.

14 A. No, I did not know about that one.

15 Q. Let me move on, then. No. 7, the jack post  
16 installed and secured to the traverse support beams must  
17 also be secured to the concrete footer.

18 Have you heard of that allegation before?

19 A. Yes, I have.

20 Q. And did you know about that problem before  
21 the inspector saw it?

22 A. No, I didn't realize.

23 Q. So the inspector informed you of the issue?

24 A. Uh-huh.

25 Q. Yes or no?

1 A. Yes.

2 Q. All right. So has that issue been  
3 resolved, to your knowledge?

4 A. That I don't know for sure.

5 Q. All right. And No. 8, the jack post  
6 installed under the main frame of the home between the  
7 traverse beams must also be secured in place. Are you  
8 familiar with that --

9 A. Yes.

10 Q. -- issue?

11 Were you aware of it before the inspector  
12 informed you of it?

13 A. No.

14 Q. And do you know whether or not it has been  
15 resolved?

16 A. No, not for sure.

17 Q. Okay. You don't know.

18 I believe you suggested that there were  
19 other issues other than these that have been listed; is  
20 that correct?

21 A. Yes.

22 Q. And it appears that those are not issues  
23 that are in front of us today from the list of allegations  
24 that are here?

25 A. Right.



1           Q.       But -- and so I'm not going to go further  
2 into them at this point.

3           A.       Okay.

4           COMMISSIONER GAW: That's all I have,  
5 Judge. Thank you.

6           JUDGE MILLS: Thank you. Commissioner  
7 Appling?

8           COMMISSIONER APPLING: I think Commissioner  
9 Gaw covered the ones that I had in mind, so I don't have  
10 any further questions at this point, at this time. Thank  
11 you.

12          JUDGE MILLS: What we'll do now, this is  
13 sort of an unusual procedure that you may not be familiar  
14 with in other venues. We're going to do a round of  
15 recross examination based solely on the topics touched on  
16 by the Bench, and then we will finish up with redirect  
17 based on all the questions. So you have the opportunity  
18 to do further cross-examination if you wish, based just on  
19 the subjects that were broached in the questions from the  
20 Bench.

21          MS. WESTON: May I proceed?

22          JUDGE MILLS: I think we're going to see if  
23 Mr. Mass has cross-examination before we go to redirect  
24 examination. Do you have any further questions?

25          MR. MASS: I may then have other questions

1 after she goes.

2 JUDGE MILLS: We're going to finish up with  
3 redirect. So this will be your last opportunity to  
4 cross-examine this witness.

5 RECROSS-EXAMINATION BY MR. MASS:

6 Q. Ms. Gray, do you have a gentleman that  
7 lives with you?

8 A. Yes, I do.

9 Q. And has he lived with you the entire time  
10 you've been in your home?

11 A. Yes, he has.

12 Q. And what is his name?

13 A. Michael Boulch.

14 Q. And has he also helped you with issues with  
15 regard to what needed to be repaired in the home? Has he  
16 been involved, he's helped you with regard to what needed  
17 to be repaired in the home?

18 A. As far --

19 MS. WESTON: May I object, please? I do  
20 believe that his questions are supposed to be directed  
21 towards the questions asked by the Commissioners.

22 JUDGE MILLS: That's correct.

23 MR. MASS: It will be, if I can just  
24 establish that he's had some contact, been of assistance  
25 to her. I have a signed a statement from him.

1 JUDGE MILLS: If you can tie this into  
2 questions from the Bench, I'll allow you a little  
3 latitude.

4 MR. MASS: Yes. I wanted to just -- this  
5 is just a foundation to establish that he's been in the  
6 home, he's lived there, he's been a part of helping her  
7 with whatever the problems were.

8 BY MR. MASS:

9 Q. Has he been of assistance to you in helping  
10 resolve problems?

11 A. Yes.

12 Q. Okay. Do you recognize his signature?

13 A. Yes.

14 Q. I want to show you one of the exhibits we  
15 have for Count 1.

16 A. I mean, I guess I can recognize.

17 Q. Did he sign that?

18 A. You might want to ask him --

19 Q. Do you recognize his signature?

20 A. -- to make sure.

21 Looks like it. Looks familiar, I mean.

22 Q. Okay.

23 A. Close.

24 Q. It does look like his signature?

25 A. It looks --

1 MR. MASS: And this will be presented to  
2 the Commission later, and it deals with some of the very  
3 issues you were asking about, Commissioner Gaw, where he  
4 signed off on those.

5 BY MR. MASS:

6 Q. Was there a drain that's right near the  
7 garage that would drain water near where Michael has his  
8 motorcycles?

9 A. Is there a drain over there?

10 Q. Near there? Are you familiar with whether  
11 or not there's a drain there?

12 A. There's no drain that I know of that's over  
13 by our garage.

14 MR. MAS: I have no further questions.

15 JUDGE MILLS: Okay. Thank you. Redirect?

16 FURTHER REDIRECT EXAMINATION BY MS. WESTON:

17 Q. Commissioner Gaw asked you a series of  
18 questions regarding some deficiencies. That was the very  
19 last testimony that you gave. And in that testimony you  
20 indicated that some items were fixed and some weren't  
21 fixed. But I guess my question to you is, can we walk  
22 through them and would you tell me the date that you know  
23 when they were fixed? For example --

24 A. I don't know when they were, answer by a  
25 date.

1 Q. How about within the last two months, could  
2 you tell me if the whirlpool pump and jets were fixed  
3 within the last two months or previous to that?

4 A. Previous.

5 Q. Okay. That second count where the electric  
6 cable was not installed properly, was that fixed within  
7 the last two months or before?

8 A. I think before.

9 Q. Okay.

10 A. That was before.

11 Q. Okay. There was another electric cable  
12 issue as well. Was that fixed within the last two months  
13 or was that fixed before?

14 A. Before as far as I can remember.

15 Q. The drain line, when was that fixed, or do  
16 you know if it was fixed?

17 A. Drain line being?

18 Q. The drain line being supported every four  
19 feet.

20 A. I think that was fixed before that.

21 Q. Before as in six months or can you ballpark  
22 a time frame on that?

23 A. Not really and be -- I mean --

24 Q. Do you know?

25 A. I'm not sure.

1 Q. Do you know if it was fixed after we filed  
2 the complaint or before we filed the complaint, July of  
3 2004?

4 A. I think after on that one.

5 Q. The crossover heat duct, do you know when  
6 that was fixed, the support for the heat duct, was that  
7 after we filed the complaint and was it within the last  
8 two months?

9 A. Not the last two months. That was probably  
10 after the complaint.

11 Q. The bolt holes in the bottom along the  
12 centerline, do you know if those were fixed?

13 A. Not for sure.

14 Q. And then I do believe that you indicated  
15 that the jack post, you do not know if they were fixed or  
16 not?

17 A. Right.

18 MS. WESTON: I have no further questions.

19 JUDGE MILLS: Okay. Thank you. Ms. Gray,  
20 you may step down.

21 Ms. Weston, if you want to call your next  
22 witness, please.

23 MS. WESTON: I'd like to call Jean  
24 Williams.

25 (Witness sworn.)

1 JUDGE MILLS: Thank you. Ms. Weston, you  
2 may proceed.

3 JEAN WILLIAMS testified as follows:

4 DIRECT EXAMINATION BY MS. WESTON:

5 Q. Please state your name and address for the  
6 record.

7 A. Jean Williams, 120 Bluegill Circle, Moscow  
8 Mills, Missouri.

9 Q. When did you purchase your home?

10 A. February the 27th of '02.

11 Q. And who did you purchase it from?

12 A. Todd Fruend, America's Home Brokers.

13 Q. Who was involved in the transaction of the  
14 sale of your home?

15 A. Well, Todd and I worked out a price, and  
16 then Angie did the paperwork.

17 Q. Who was -- excuse me. Was the dealer  
18 responsible for the setup and installation of your home?

19 A. Yes.

20 Q. Did you sign any waivers regarding the  
21 responsibility for setup of your home?

22 A. No.

23 Q. If you could, if you could describe or  
24 explain briefly the incidents or details that resulted  
25 from the date that you bought your home until you came to

1 the Commission, some of the instances that caused you to  
2 come here and file a complaint.

3 A. Okay. But it probably won't be briefly.  
4 When we first bought the home in February, Todd was going  
5 to order the home in. He had one on display, and I think  
6 it was sold, and he was going to order one in and he said  
7 it would be like three weeks. Well, about five weeks  
8 passed by, the home didn't come in. We were in another  
9 home on our lot and kind of anxious to get this going  
10 because he'd already sold our other home, and --

11 JUDGE MILLS: I'm sorry to interrupt, but  
12 just so I know where we're going, which count of the  
13 complaint does this witness' testimony relate to?

14 MS. WESTON: I'm sorry. It's listed as  
15 Count 3.

16 JUDGE MILLS: Okay. Thank you very much.

17 THE WITNESS: Okay. Make a long story  
18 short, it was changeover time. The person that had first  
19 bought the home then reneged on the deal, so he delivered  
20 the display home to us, I'm going to say around the 15th  
21 of April, and it took ten days, a whole lot of phone calls  
22 to get it put together. We finally got it put together.  
23 We got to move in on the 25th of April.

24 That night evidently it got kind of cold,  
25 and we went to turn the furnace on, and it wouldn't come



1 on. And so we tried to get somebody on the phone and we  
2 couldn't get them. So I have a neighbor that knows a  
3 little bit about that stuff, and he did make it where we  
4 could turn our furnace by hand on and off. Then we found  
5 out that the crossover wasn't connected so we only got  
6 heat in half of the home. So the first weekend was a  
7 little tough, but we worked through it.

8                   As we were putting things away and moving  
9 in, I started writing a list of things in the home that  
10 needed to be repaired that Todd had requested I do. So on  
11 the 30th of April, I faxed him probably -- I can't swear  
12 if I faxed it or took it over -- a list of 45 items that  
13 needed repaired or needed attention. And I have to say  
14 that he sent Paul out, which was his repairman, and Paul  
15 would do a few of the things on there, and he'd either get  
16 sent or called and have  
17 to -- I mean, this was the whole procedure from day one.  
18 The men putting it together, they'd come out, they'd start  
19 putting it together, they'd get called, they'd get sent  
20 somewhere else on an emergency. That's why it took ten  
21 days to get our home together.

22                   The same thing had happened with Paul, or  
23 maybe he was scheduled to do a few things and then go on  
24 to somebody else. But he wasn't able to just come, work  
25 on the list and get it taken care of.

1                   What brought me to the Commission was we  
2    had a big problem with our -- and I didn't know what it  
3    was. I just knew it was shingles blowing off my house,  
4    and from April of 2002 'til March of 2004, they had blown  
5    off three different times, and to me that's unacceptable.  
6    There's a 20-year guarantee on the roof. And so I started  
7    calling people, because when I called Todd he told me that  
8    that was the last -- the third time was the last time he  
9    was going to fix it.

10                  And I thought, this is a new home. I  
11    should not be having to put a roof on a new home. So I  
12    called the Public Service Commission, and they came out,  
13    they inspected. There were a few things that they saw  
14    that I did not know about because I can't get underneath  
15    the home. My husband and I are both disabled. I can't  
16    get under; I can't get on top of it.

17                  I had a neighbor climb up and take this  
18    picture, which I didn't know if you guys want to see it or  
19    not, but there's shingles two or three different places  
20    missing, and this has already been fixed twice.

21                  COMMISSIONER MURRAY: Is this going to be  
22    in evidence?

23                  MS. WESTON: No, I won't offer it into  
24    evidence.

25                  JUDGE MILLS: Ms. Weston, is there an issue

1 for the Commission to decide having to do with shingles?

2 MS. WESTON: No, there's not.

3 JUDGE MILLS: Thank you.

4 THE WITNESS: But that's what got me to the  
5 Commission. And then when the Commission did come out and  
6 inspect, which I contacted them, I faxed them my filled-  
7 out complaint on March the 11th of '04. So that was two  
8 years of quite a few phone calls to Todd and to his  
9 office, and quite a few that didn't get answered. And  
10 then when I got the answer that I'm not going to take care  
11 of that roof again, I mean, that really upset me, because  
12 what am I supposed to do with it?

13 Well, it is fixed now. It was on  
14 backwards, and they did put a whole new roof cap and all  
15 new shingles and I've not had a problem. But Todd, his  
16 people are three, four miles from me. Their mobile home  
17 on the lot is sitting exact same way my mobile home is  
18 sitting on my lot. I think it would be pretty poor to say  
19 they didn't know where the northwest was, but that's been  
20 resolved.

21 So, okay. We have been in the home on this  
22 first wind, when the first bunch of shingles came off, the  
23 fireplace flue up on the roof blew off, and his man  
24 happened to see it when he saw the shingles, and so he put  
25 it back up. Well, one piece of it was damaged, so they

1 just eliminated it. So instead of it being a three-piece,  
2 it ended up a two-piece, and then -- I know from nothing.  
3 We tried to use the fireplace and the house would get full  
4 of smoke. And we even converted it to gas thinking we  
5 didn't want to have to move logs and it would be cleaner.  
6 Well, it wasn't any cleaner.

7 So then we find out when the inspector came  
8 out the pipe isn't tall enough. As soon as the pipe got  
9 tall enough, we have no problem with the flue. We have no  
10 smoke in our house.

11 The centerline of my floors are still not  
12 level. They're about a half-inch, maybe three-quarters of  
13 an inch off. First they said they could take the house  
14 apart and put it back together, and I kind of was  
15 reluctant because, I mean, we've been in this house -- it  
16 will be three years right away. I don't want it took  
17 apart. That's a big inconvenience.

18 But I don't understand why they couldn't  
19 get underneath there and jack one side of it up a little  
20 bit, put some wedges and level it up. I'm not an  
21 installer so I don't know how, but that's common sense to  
22 me.

23 MR. MASS: I would like to object. That's  
24 not an issue that's outstanding.

25 THE WITNESS: Oh, yes, it is. It's right

1 here, the centerline floors are uneven at the rear end  
2 hallway of the home.

3 MR. MASS: It's not an issue before the  
4 Commission at this time.

5 JUDGE MILLS: Ms. Weston?

6 MS. WESTON: I would submit that some of  
7 the pier problems and the -- yeah, essentially the piers  
8 underneath the homes which are an issue today are the  
9 cause of the centerline not being level.

10 JUDGE MILLS: I'm sorry. I thought we were  
11 on Count 3.

12 MS. WESTON: Count 3.

13 MR. MASS: That's right. And  
14 Exhibit AA says the centerline being level is completed.

15 JUDGE MILLS: And the list of issues that  
16 the parties submitted for the Commission has three items  
17 under Count 3, and none of them have to do with the  
18 centerline or the piers, as I understand it.

19 MR. MASS: Okay.

20 JUDGE MILLS: I'm asking Ms. Weston right  
21 now.

22 MS. WESTON: Let me come back, and you're  
23 looking at the pretrial brief that I submitted?

24 JUDGE MILLS: I'm looking at the list of  
25 issues that the parties submitted.

1 MS. WESTON: The list of issues. Just a  
2 second.

3 MR. MASS: I can explain what happened.  
4 There's five issues on the Williams home. What you're  
5 looking at, the pretrial issues submitted, Counts 3 and 4  
6 were flipped, and what I did for corrected to give you the  
7 issues, I changed them back.

8 MS. WESTON: Yeah.

9 JUDGE MILLS: The list of issues is  
10 incorrect, is that what you're telling me, that the  
11 parties filed?

12 MR. MASS: They're correct but they're  
13 listed for the wrong ones. See, under Count 3 it lists  
14 three issues. That's really Count 4. Under Count 4 it  
15 was five issues. That's really Count 3.

16 JUDGE MILLS: Okay.

17 MR. MASS: And what I've now gave you or  
18 prepared, I flipped them so that we could follow them, the  
19 complaint in this correctly.

20 JUDGE MILLS: Okay. Thank you. Okay. I'm  
21 certainly willing to allow some latitude for the  
22 complainant to establish the theory that the problem with  
23 the piers has led to a problem, an uneven centerline. So  
24 I'm not going to say the testimony about an uneven  
25 centerline is absolutely irrelevant, so you may go ahead.

1 But I would caution all the parties that we  
2 have a number of specific factual allegations, we have a  
3 number of witnesses, and we seem to be making little  
4 headway on tying the witnesses to the factual allegations,  
5 and I think we need to try very hard to try and confine  
6 ourselves to what is actually at issue for the Commission  
7 to decide, otherwise we won't be able to get through  
8 today. So please go ahead.

9 THE WITNESS: Okay. I just have one more  
10 thing. It does have to do with piers, and I'm hoping that  
11 it's on this, but we have no piers at our doors. We had  
12 outriggers installed. We questioned outriggers when we  
13 were told what they were. We even asked for a second one  
14 because it looked like it wasn't going to hold anything.  
15 Well, they don't hold anything. They broke. So I have no  
16 piers under my front door or my back door and neither door  
17 want to work properly.

18 The winter and the summer are causing up  
19 and down, so the door's very tight to close right now. As  
20 soon as it warms up, it will get a little easier to close,  
21 and this is front and back. And there's no piers there.  
22 There's nothing holding the home above those doors.

23 BY MS. WESTON:

24 Q. And that is on this list of issues?

25 A. Yes. And that's all I've got.

1 Q. Since -- has any repairs been made to your  
2 home since July of 2004?

3 A. Since July of 2004, within the last two to  
4 three months, some repairs have been made. I have not  
5 gotten underneath the home to see. I can only go by them  
6 saying I did this, and, you know, I have to trust it. The  
7 same as the roof, I couldn't get up there. They are not  
8 blowing down, so I trust they're on there right. That's  
9 the only way I have to tell.

10 MS. WESTON: I don't have any further  
11 questions.

12 JUDGE MILLS: Cross-examination, Mr. Mass?

13 MR. MASS: Can I have one second?

14 JUDGE MILLS: Yes.

15 CROSS-EXAMINATION BY MR. MASS:

16 Q. Ms. Williams, do you have a neighbor that  
17 also had a home installed by a company Todd Fruend was --

18 A. Yes.

19 Q. -- affiliated with?

20 Did you refer that neighbor to Todd?

21 A. Yes, I did.

22 Q. And is everything okay with your neighbors?

23 A. No.

24 Q. There's no inspection report, no anything  
25 here relating to your neighbor?



1 A. Yes, there is.

2 Q. Who's your neighbor?

3 A. Vince and Joyce Cane.

4 Q. There is none here in front of the  
5 Commission.

6 A. Not at this time.

7 Q. Okay. In any event, you referred her to --  
8 even after all the problems started you referred her to  
9 Todd, correct?

10 A. Well, they are in their home a year now,  
11 so, yes. I have no problem with Todd. It wasn't Todd  
12 that was out there doing the work. It was his crews that  
13 didn't do it properly. He can't watch every move they  
14 make.

15 MR. MAS: Okay. I have no further  
16 questions.

17 JUDGE MILLS: Thank you. Redirect?

18 MS. WESTON: No, Judge.

19 JUDGE MILLS: You may step down. We'll go  
20 ahead and take a recess. We'll be off the record about  
21 ten minutes, and we'll be back here at about 10:15.

22 (A BREAK WAS TAKEN.)

23 JUDGE MILLS: Ms. Weston, are you ready to  
24 call your next witness?

25 MS. WESTON: Yes. I call Linda Cameron,

1 Count 2.

2 JUDGE MILLS: Thank you.

3 MS. WESTON: I'm learning.

4 JUDGE MILLS: Can't follow along without a  
5 program.

6 (Witness sworn.)

7 JUDGE MILLS: You may be seated.

8 LINDA CAMERON testified as follows:

9 DIRECT EXAMINATION BY MS. WESTON:

10 Q. Could you please state your name and  
11 address for the record?

12 A. Linda Cameron. I live at No. 30 Oak Leaf  
13 Circle in Foley, Missouri.

14 Q. When did you purchase your home?

15 A. We filled out the contract in October of  
16 2002.

17 JUDGE MILLS: Ma'am, could you pull the  
18 microphone a little closer to you? Thank you.

19 BY MS. WESTON:

20 Q. Who did you purchase your home from?

21 A. America's Home Brokers.

22 Q. And who was involved with that transaction?

23 A. Angie Ruckel and Todd Fruend.

24 Q. Was the dealer responsible for the setup  
25 and installation of your home?

1 A. Yes.

2 Q. Did you sign any waivers regarding the  
3 responsibility for setup of your home?

4 A. No.

5 Q. Could you briefly explain what happened  
6 after you purchased your home that resulted in you filing  
7 a complaint with the Commission?

8 A. I had a few issues. Gutters leaked all the  
9 way around. There was trash under the floor, under the  
10 linoleum. The drain did not go down in the floor in the  
11 basement. It was kind of raised up. And I had my brother  
12 who works for Excalibur brought his boss over and looked  
13 at the home and told me that I should call the Public  
14 Service Commission and gave me the number.

15 Q. What is Excalibur, just for the record?

16 A. They set -- work with setting up mobile  
17 homes.

18 Q. Okay. So what kind of repairs have been  
19 made -- if you know, what kind of repairs have been made  
20 to your home since July of 2004? And if you can give me a  
21 better timeline as to when they were performed, I would  
22 appreciate it.

23 A. There was something with -- we had jets put  
24 on our tub from Convert-A-Tub. They had come out and I  
25 believe the end of July, August of 2003 and made their

1 repairs. The manufacturer came out, I believe it was the  
2 end of July or August of 2003 and did their repairs, and  
3 I --

4 Q. Was that 2003 or 2004?

5 A. 2000 -- 2004. I'm sorry.

6 Q. No problem.

7 A. It was 2004.

8 Q. Has any repairs been made to your home  
9 recently, within the last two or three months?

10 A. They have put the columns in the wrong  
11 spots in the basement. Those were just -- I had four more  
12 columns added to the basement. It was the first or second  
13 week of February 2005.

14 Q. Okay.

15 A. They had come out, I think, in November,  
16 October or November of 2003, I had poles -- or pipes that  
17 was tied up with, like, wire under the home. They did  
18 come out and put some type of metal around the pipes to  
19 the bottom of the home.

20 Q. Was that 2003 or 2004?

21 A. It was last year, 2004.

22 Q. Okay. Thank you. Anything else that you  
23 can think of as far as repairs recently or since July of  
24 2004?

25 A. For what's on the docket or just in

1 general? I had issues that the Public Service Commission  
2 said they could not address. They just dealt with the  
3 structure of the home.

4 Q. We'll just deal with the issues that are  
5 from today from the Missouri Public Service Commission.

6 A. Okay. Yeah, they were out in January and  
7 February of this year fixing items that was on the list.

8 MS. WESTON: Okay. I have no further  
9 questions.

10 JUDGE MILLS: Thank you.

11 Cross-examination, Mr. Mass?

12 CROSS-EXAMINATION BY MR. MASS:

13 Q. Ms. Cameron --

14 A. Yes.

15 Q. -- did Mr. Fruend leave you a letter saying  
16 he was willing to come in and load certain beams?

17 A. Yes. I got that Monday of this week.

18 Q. And are you willing to allow him to do  
19 that?

20 A. I don't see how welding the bottom of a  
21 bent frame is going to fix the problem, but they have not  
22 come back to do that anyway. He left me a note. I called  
23 the number that he had left on the paper and said I work  
24 split days and evenings and I said I would be there 'til  
25 noon yesterday. Nobody ever called. Nobody ever came

1 out.

2 Q. Did he try and get ahold of you over the  
3 weekend?

4 A. No.

5 MR. MASS: I have no further questions.

6 JUDGE MILLS: Thank you. Any redirect?

7 MS. WESTON: No.

8 JUDGE MILLS: Thank you. Ms. Cameron, you  
9 may step down.

10 Ms. Weston, your next witness.

11 MS. WESTON: Judge, at this time what I'd  
12 like to do is use the white board to assist me in the  
13 preparation or to show timelines and to show photographs.  
14 I've put together the presentation as an exhibit, but I  
15 think that maybe Mr. Mass would like to see it first and  
16 see if he objects to -- I don't know the best way for us  
17 to go through and make sure that we're going to enter the  
18 whole item page by page or how you would like to approach  
19 that?

20 JUDGE MILLS: Well, are you planning to use  
21 this PowerPoint presentation in your cross-examination of  
22 a witness?

23 MS. WESTON: Direct examination.

24 JUDGE MILLS: I'm sorry. Direct  
25 examination of a witness, yes.

1 MS. WESTON: Yes.

2 JUDGE MILLS: Okay. I would assume that  
3 while you're doing that you're going to lay a foundation  
4 for it.

5 MS. WESTON: Yes.

6 JUDGE MILLS: So why don't we wait until  
7 that's done and we'll see if there's an objection to the  
8 admission, if you want to offer it after you're done. And  
9 if you have objections as we go along, of course, you can  
10 raise them.

11 MR. MASS: Right. I tried, although maybe  
12 not successfully, to give Ms. Weston some of the exhibits  
13 I'm using ahead of time. I faxed them to her or e-mailed  
14 them to her. I've not seen what she's now planning to  
15 enter, so I don't know how to comment.

16 MS. WESTON: Many of these -- all the  
17 photographs in this exhibit have already been provided,  
18 yes.

19 MR. MASS: Okay.

20 JUDGE MILLS: That's fine. Let's proceed  
21 that way. This will be challenging from a camera work  
22 perspective, but we'll work it out.

23 Ms. Weston, go ahead whenever you're ready.

24 MS. WESTON: I'd like to call Ron Pleus.

25 JUDGE MILLS: The contrast on our screen is

1 not good. I'm not sure what the capture will look like  
2 when we actually get around to viewing the archives.

3 (Witness sworn.)

4 RON PLEUS testified as follows:

5 DIRECT EXAMINATION BY MS. WESTON:

6 Q. Could you please state your name and  
7 address for the record.

8 A. My name is Ron Pleus, and my work address  
9 is 2000 -- 200 Madison Street, Jefferson City, Missouri  
10 65102.

11 Q. What is your title, and could you give us a  
12 brief description of your job duties?

13 A. I'm the manager of the Manufactured Housing  
14 and Modular Units Program of the Missouri Public Service  
15 Commission, and I'm responsible for the overall day-to-day  
16 operations of the department.

17 Q. I've put a slide up on the board that  
18 essentially shows a timeline, and I hope that it would  
19 assist you in being able to explain to us what prompted  
20 you to initiate this complaint on behalf of the director  
21 of the program.

22 A. Yes. Do you want me to --

23 Q. Please.

24 A. What we have are the four consumer  
25 complaints that are listed in the complaint itself.



1 Basically, the diagram reflects when the consumer  
2 complaints were filed and activity that occurred after  
3 those complaints were filed and giving the dates of  
4 inspections, reinspections, if you want to call those  
5 follow-up inspections reinspections. And then this shows  
6 that those repairs were not made in a timely manner, and  
7 subsequent action by the department was to file a  
8 complaint against America's Home Brokers.

9 Q. Okay. Could you walk us through each one  
10 of the consumers just briefly, and I think that might help  
11 clarify some issues that were raised earlier.

12 A. Okay. The Gray complaint was filed with  
13 the Commission March 2003. We received an application to  
14 alter, that was in reference to the tub, December 2003.  
15 The application was incomplete. A letter to America's  
16 Home Brokers on January 2004 regarding the rejection of  
17 the application, reinspection conducted in May of 2004  
18 verifying the alterations were not complete and the items  
19 identified in the inspection report which was sent to the  
20 dealer/manufacturer, which were also incomplete.

21 Q. I notice that there's quite a time period;  
22 it's March of 2003 to May of 2004. Can you shed some  
23 light on why it took so long to go from initial complaint  
24 to final reinspection?

25 A. We were trying to work with the dealer,

1 America's Home Brokers, and the manufacturer to make  
2 certain repairs. The manufacturer finally did make all of  
3 their repairs in May 2004, and we were trying to see if  
4 the repairs would be made by the dealer.

5 And we had to conduct another inspection  
6 because we had a change in territories and a change of  
7 staff later on, and after we sent notices and inspection  
8 reports to the dealer to make his final corrections, he  
9 never responded. So that's why we took the action in July  
10 of 2004 and filed the complaint.

11 Q. Okay. Go ahead and proceed with Cameron,  
12 Williams and Kennon, please.

13 A. Cameron field inspection request received  
14 in February 2004. March an inspection was done  
15 identifying the items for the manufacturer and the dealer  
16 to make repairs on. Letter sent to America's Home Brokers  
17 which identified those items and requesting repairs be  
18 made within the required timeline. Reinspection in May of  
19 2004 which resulted in the finding that the manufacturer  
20 had made their corrections; however, the dealer had not  
21 made any of the corrections we had required.

22 Williams, the inspection request was  
23 received March 10th, 2004. Inspection was done March the  
24 30th, 2003 -- I think that should be '04 -- and letter  
25 sent to America's Home Brokers regarding those

1 inspections, and at that same time letters were sent to  
2 the manufacturer to make repairs. Reinspection of the  
3 property in May of 2004 reflected that the manufacturer  
4 had made the repairs and the dealer had not.

5 Kennon inspection request received in  
6 February 2004. Inspection was done in March. Letters  
7 were sent to America's Home Brokers in March, the end of  
8 March 2004. Reinspection was done in May of 2004, and it  
9 also resulted in that the manufacturer had made the  
10 corrections they were required to make; however, the  
11 dealer had not.

12 Q. And so based on the four reinspections  
13 which generally happened in the month of May, then a  
14 couple of months later a complaint was filed --

15 A. Yes.

16 Q. -- 7/22/2004?

17 A. Yes, after we gave the statutory 90-day  
18 timeline to make the repairs.

19 Q. Is this the typical procedure that you use  
20 in the consumer complaint process for dealers/  
21 manufacturers? Is this your standard procedure  
22 essentially?

23 A. Yes. Basically that's the procedure we  
24 follow after receiving a consumer complaint. When we do  
25 inspections, the inspections are always sent to the

1 dealer, to the manufacturer and to the consumer, and any  
2 reinspections are handled the same process, and we also  
3 give timelines to make the repairs.

4 Q. And any deviation from that schedule would  
5 be for what purpose?

6 A. If work waivers or extensions need to be  
7 granted due to weather, parts, any of those kind of  
8 things, we can evaluate that process and grant those  
9 waivers if they're requested by the dealer or the  
10 manufacturer, and many times that does occur and we will  
11 grant those.

12 Q. Would you please sort of just tell us about  
13 the regulations and standards that you use in the  
14 inspection program or just the program in general?

15 A. Yes. The program is covered under  
16 Chapter 700 of the Missouri Revised Statutes of Missouri.  
17 The statutes cover the licensing, registration and  
18 regulation of manufactured home dealers and manufactured  
19 home manufacturers, and the Modular Unit Program is  
20 basically the same. However, in this case we -- I think  
21 it would be appropriate to stick with the manufactured  
22 homes that are in this complaint.

23 Rules are also published by the Commission.  
24 The codes that relate to manufactured homes are referred  
25 to as the HUD codes. They are 3280 and 3282 of the

1 Manufactured Home Construction and Safety Standards issued  
2 by HUD.

3 And what we adopt are those codes because  
4 they apply to manufactured homes from the time they're  
5 manufactured at the plant until they're set on the  
6 consumer's lot, and the homes must be set up pursuant to  
7 those requirements. Also what we adopt, because each home  
8 is different, is the installation manual that goes with  
9 each home must be followed for the installation and setup  
10 of the home.

11 Q. Thank you. Can you please describe the  
12 procedure for dealer registration? I don't have a slide  
13 for that, but if you would just talk generally to dealer  
14 registration.

15 A. After a dealer is registered, dealer  
16 registrations are due every year, January 15th. In late  
17 November, early December prior to January 15th, each  
18 dealer is sent a registration packet and instructed to  
19 fill out the packet and attach the required documents and  
20 submit them to the Commission with the fee prior to  
21 January 15th of each year.

22 Q. What happens if that dealer does not file  
23 the appropriate paperwork by January 15th of that  
24 particular year?

25 A. If the dealer does not file the required

1 paperwork and renew the required license, we will contact  
2 them and tell them by letter, giving them ten days to file  
3 a renewal application. If that renewal application is not  
4 received after that time, the lot inspections are done of  
5 those delinquent dealers to determine if they're in  
6 business.

7 If they are in business, the inventory they  
8 may have on their lot is -- may be tagged with what we  
9 call a red tag or prohibitive sale notice, and those homes  
10 are not to be sold until the registration has been  
11 completed.

12 Q. Was America's Home Brokers a registered  
13 manufactured home dealer at the time it sold the homes  
14 that we've referenced in this complaint?

15 A. Based on the contracts I've seen, yes.

16 Q. Do you know if they're still a registered  
17 manufactured dealer at this time?

18 A. They were. Their license as a manufactured  
19 home dealer under America's Home Brokers expired. They  
20 were not able to submit the documents to us to renew the  
21 license. One of the documents they're required to file  
22 with the registration is verification from the Department  
23 of Revenue that all sales and franchise taxes are due.  
24 They were never able to provide us with that registration.

25 MS. WESTON: I have no further questions.

1 JUDGE MILLS: Thank you.

2 Cross-examination?

3 MR. MASS: I have none.

4 JUDGE MILLS: Questions from the Bench?

5 COMMISSIONER GAW: Not at this time, Judge,  
6 but I may reserve something later since I've been  
7 upstairs.

8 JUDGE MILLS: Thank you, Mr. Pleus. You  
9 may step down.

10 Please call your next witness.

11 MS. WESTON: I'd like to call Tim Haden.

12 (Witness sworn.)

13 JUDGE MILLS: Thank you. You may be  
14 seated.

15 TIM HADEN testified as follows:

16 DIRECT EXAMINATION BY MS. WESTON:

17 Q. Please state your name and address for the  
18 record.

19 A. Tim Haden, P.O. Box 360, Jefferson City,  
20 Missouri 65102.

21 Q. What is your job title?

22 A. I'm an inspector for the Manufactured  
23 Housing and Modular Units Program.

24 Q. Could you please describe some of your job  
25 responsibilities or duties?

1           A.       Primarily what I do is respond when a  
2 consumer has problems and they request us to do  
3 inspection, I go out and take a look at the problems that  
4 they're having, note those problems, and then I send a  
5 copy of the inspection report to the dealer and  
6 manufacturer, directing what needs to be corrected. In  
7 addition to that, I do periodic routine dealer lot  
8 inspections to check compliance to the code on homes  
9 located on dealer lots.

10           **Q.       How long have you been performing these job**  
11 **responsibilities for the Commission?**

12           A.       Since August 1st, 1994.

13           **Q.       And prior to your coming to the Commission,**  
14 **what type of work did you do?**

15           A.       For five years prior to that I was involved  
16 in the retail industry, manufactured housing industry in  
17 sales, sales management, service management. Prior to  
18 that was primarily retail sales.

19           **Q.       Okay. And could you talk a little bit**  
20 **about the job-related training that you've had?**

21           A.       We attend periodic training that's  
22 sponsored by HUD, code training. We attend installation  
23 training seminars from time to time. This is -- it's kind  
24 of an ongoing process that generally annually we attend a  
25 certain amount of training.



1 Q. You were here during the testimony of Ron  
2 Pleus?

3 A. Yes, I was.

4 Q. And you obviously see this list of  
5 regulations and standards?

6 A. Yes.

7 Q. Are those the regulations and standards  
8 that you use to inspect manufactured homes?

9 A. Yes, it is.

10 Q. Okay. Now, before we get started with  
11 looking at some of the specific evidence, did you perform  
12 some inspections in January of 2005?

13 A. Yes, I did.

14 Q. Did you take photographs during those  
15 inspections?

16 A. Yes, I did.

17 Q. Do you believe that those photographs  
18 fairly and accurately depict the surroundings that you  
19 encountered at the time of your inspection?

20 A. Yes, they do.

21 Q. What I'd like to do now is walk you through  
22 the different counts and through some of the photographs  
23 that you've taken. So we're going to start with the Carol  
24 Gray home. When did you -- excuse me. A couple  
25 questions.

1 A. Go ahead.

2 Q. When did you first inspect the Carol Gray  
3 home?

4 A. In February of 2004.

5 Q. Okay. And just general -- very generally  
6 speaking, what types of defects did you note in your  
7 inspection report?

8 A. In the inspection report I noted some  
9 manufacturing defects, setup installation defects, also an  
10 alteration problem with the home.

11 Q. Did you -- I'm sorry. Were you finished?

12 A. I think so.

13 Q. I'm sorry.

14 A. I don't have a copy of my report, but I  
15 think that covers it.

16 Q. Okay. Did you notify America's Home of the  
17 inspection results in February of 2004?

18 A. Yes. Once I completed the inspection, I  
19 composed an inspection report as well as letters, sent  
20 those letters to America's Home Brokers, also the  
21 manufacturer of the home which was Cavalier, and then a  
22 letter to the homeowner.

23 Q. And you performed a reinspection in January  
24 of 2005?

25 A. That was my last inspection, yes.

1 MS. WESTON: I'd like to enter a copy of  
2 the inspection report from January of 2005.

3 JUDGE MILLS: We'll have it marked. This  
4 will be Exhibit 1.

5 (EXHIBIT NO. 1 WAS MARKED FOR  
6 IDENTIFICATION BY THE REPORTER.)

7 BY MS. WESTON:

8 Q. If you would, looking at this inspection  
9 report, it appears that there's a lot of data on this --  
10 on this particular inspection report. Oh, I'm sorry. I  
11 thought you knew it off the top of your head.

12 A. I probably do.

13 Q. This inspection report is sort of like  
14 archeology of inspections that happened in the Carol Gray  
15 home. We've got all different types of dates in here, but  
16 what I'd like to focus on are the items that were  
17 considered by you to still not be completed as of January  
18 1 -- or excuse me -- January 12 or 11th of '05. So why  
19 don't you go ahead and using the slides, let's run through  
20 what you found in January.

21 A. On January 11th I returned to the Gray home  
22 to conduct a reinspection. One of the things I originally  
23 noted was that there had been an alteration to the home.  
24 The dealer had contracted the company to install a  
25 whirlpool in the master bathtub, jets and a pump. That

1 becomes a permanent fixture of the home, so one of the  
2 problems would be the electrical circuit to that bathtub,  
3 the electrical circuit would have to become a part of the  
4 home.

5 In this case they installed that electrical  
6 circuit underneath the home, and it's a little hard to  
7 see, but there's electric cable right there that runs up  
8 through the floor of the home. It's just hanging down  
9 there exposed.

10 The code when you install it underneath the  
11 home would require that electrical cable to be protected  
12 in the conduit to protect it against moisture or damage.  
13 The other alternative would be to put it in the floor of  
14 the home and fasten it like the factory does their cables  
15 and then it would be fine that way.

16 But they chose to run it underneath the  
17 home, and that's fine, but we require that to be installed  
18 in compliance with the electrical code to protect it from  
19 moisture and damage. The code is -- the HUD code is  
20 3280.808(k) for reference.

21 JUDGE MILLS: Before you move on, can we go  
22 back to that last line? This is a clarifying question.

23 THE WITNESS: Yeah.

24 JUDGE MILLS: The cable you're talking  
25 about here is the white Romex that's roughly from the

1 upper right drooping across the middle of the picture or  
2 is it --

3 THE WITNESS: That's correct. There's --  
4 there's actually two cables there, and I'll get to the  
5 other cable here in a minute.

6 JUDGE MILLS: Okay.

7 THE WITNESS: But one of the cables is run  
8 to the master bathtub.

9 JUDGE MILLS: Okay. So that starts in the  
10 upper right and it sort of disappears behind whatever that  
11 hang is and goes up into the house sort of in the middle  
12 of that picture?

13 THE WITNESS: That is correct, yes.

14 JUDGE MILLS: Okay. Thank you.

15 THE WITNESS: This is a little better  
16 picture of the other cable. This electric cable was  
17 installed for these exterior central air conditioning  
18 unit, to power it. And again the same code applies to  
19 that. While it's not a permanent fixture of the home, it  
20 could be removed, and the cable that runs underneath the  
21 home would have to be protected from moisture and damage  
22 as well by placing it in conduit. They ran the cable  
23 underneath the home, and then that goes up to the panel  
24 box and it is exposed. The same HUD code would apply to  
25 that, 3280.808(k).

1                   This is a picture of the drain lines. We  
2    had asked that they be strapped up, supported every four  
3    foot. This is required both by the HUD code and the  
4    manufacturer's installation instructions. The HUD code is  
5    3280.608(b), and then in the instruction manual we have  
6    pages 34 and 40 that detail this procedure.

7                   This drain line from what I could get here  
8    underneath the home, from the first strap you see around  
9    to here, is somewhere in the neighborhood of 15 feet of  
10   drain line. You do have some down spouts here that are --  
11   drop out of the bottom of the house. Those are not  
12   considered supports, and they do require to be supported  
13   as well. So we've got about  
14   15 foot of drain line that's unsupported.

15                  This is a crossover heat duct that connects  
16   the two halves of the house. I cited this as a problem  
17   for obvious reasons. You can see this is actually baling  
18   wire. Baling wire when exposed to moisture will rust,  
19   eventually break if it's carrying any weight at all. The  
20   manufacturer requires this heat duct to be strapped every  
21   so many feet to keep it from coming in contact with the  
22   ground.

23                  That's also a HUD code as far as  
24   workmanship, what we call workmanship. It's kind of poor  
25   to use a thin rusty wire to hold up a heat duct. It's

1 going to damage the duct. Obviously it has here.  
2 Instructions -- the manufacturer's instructions on  
3 page 15 and 19 give a little detail about how this should  
4 be supported and not come in contact with the ground.

5 In the instruction manual with this home,  
6 when you bolt a home together you're supposed to patch the  
7 bottom board. These are holes that were put in the bottom  
8 board. The bottom board is the paper material underneath  
9 the home. That's where the home was bolted together at  
10 the centerline.

11 When you damage that paper, you need to  
12 reseal it. This is not only a moisture barrier but a  
13 rodent barrier. The instruction manual on page 45 tells  
14 you to reseal that. The HUD code 3280.307(d) is the code  
15 that requires the exterior surfaces to be sealed against  
16 the entrance of rodents.

17 This is a support pole that America's Home  
18 Brokers used to support this home, which is fine. The  
19 post is fine. It seems to meet the criteria of the  
20 manufacturer. However, it needs to be fastened in place.  
21 Because it has such a small base, any movement or shifting  
22 or settlement of the house, the post would likely fall  
23 over.

24 The manufacturers published an addendum to  
25 their manual which instructs the dealers how to fasten

1 these type of posts in place when they use them. They can  
2 either use a post like this or a stack of concrete blocks,  
3 as long as they're configured properly, to support the  
4 house. These posts were not fastened in place either at  
5 the bottom or the top.

6 The next slide here, this shows the top of  
7 the post, and what can happen is you can actually get some  
8 movement up here. Basically any kind of movement at all  
9 the post would likely just fall over, as it did in this  
10 picture. This is one of those support posts right here.  
11 When I was there on January 11th and got underneath the  
12 home, this post was laying down.

13 Q. Okay. I do believe those were all the  
14 inspection results that you had for the Gray home. Let's  
15 go ahead and move on to Count 2, which is the  
16 Cameron/Sassmann home. When did you first inspect the  
17 Cameron/Sassmann home?

18 A. In March of 2004.

19 Q. And generally speaking, what kind of  
20 defects did you note?

21 A. In this home we found setup deficiencies,  
22 some manufacturing problems, and another alteration of a  
23 whirlpool, installation of a whirlpool tub, and also we  
24 found a damaged frame in this home.

25 Q. And did you notify America's Home Brokers



1 **of inspection results in March of 2004?**

2 A. Yes. Once I completed the inspection, I  
3 composed an inspection report and sent copies of the  
4 report, as well as letters to the dealer, manufacturer and  
5 homeowner.

6 Q. **And you performed a reinspection in January**  
7 **of 2005?**

8 A. Yes, I did.

9 MS. WESTON: I'd like to enter an exhibit  
10 showing his inspection report.

11 JUDGE MILLS: We'll mark the  
12 Cameron/Sassmann home inspection report as Exhibit 2.

13 (EXHIBIT NO. 2 WAS MARKED FOR  
14 IDENTIFICATION BY THE REPORTER.)

15 BY MS. WESTON:

16 Q. **Okay. Let's go ahead and review your**  
17 **inspection results. I'm going to move on to slide 14.**

18 A. What we've got here under 10A is the floors  
19 where the two homes come together are not flush or even.  
20 When you step across there, you can feel where one's a  
21 little higher than the other. Installation manuals on  
22 page 11 tell you to align these floors before you fasten  
23 them together. It's hard to take a picture. This was a  
24 carpeted area or I would have a picture of it. You can  
25 feel it, but it's hard to see.

1                   This picture shows the required column  
2 location. The white paint as instructed on page 11 of the  
3 manufacturer's installation manual tells you to install a  
4 column support directly below that. There is one that was  
5 installed a couple feet away here on top of a main support  
6 beam, but again that's in the wrong location. It's not  
7 doing the job. It's not catching the load that it's  
8 required to catch.

9                   **Q.       Does that load come from the ceiling or**  
10 **from the roof down through the foundation or can you tell**  
11 **from that?**

12                  A.       Yes. This is the underneath side of the  
13 home. What this is is there's opening on the marriage  
14 walls that have a support beam across them that transfer  
15 the weight to what we call a column. The column transfers  
16 the weight to this point right here where they mark it,  
17 and then you put a column support or steel post underneath  
18 that to carry that load.

19                  **Q.       And that white paint is put on there by**  
20 **who?**

21                  A.       That white paint's put on by the  
22 manufacturer. These are two other locations where the  
23 column supports were not installed.

24                  **Q.       Let me just check to make sure I didn't go**  
25 **too many.**

1 A. I think it skipped one.

2 Q. Yeah. Sorry. We're on page 17.

3 JUDGE MILLS: Before we move on, can we go  
4 back to page 16 or 15? These are other white marks. This  
5 is on page 16. They're similar to the ones on page 15?

6 THE WITNESS: Yes, there's actually four  
7 different column locations under this home.

8 JUDGE MILLS: Okay. And so these are marks  
9 when you're looking up from underneath the home at the  
10 floor, right?

11 THE WITNESS: Yes.

12 JUDGE MILLS: Okay. And they mark the  
13 locations where there are columns in the structure of the  
14 home that are carrying roof loads and wall loads to that  
15 particular point?

16 THE WITNESS: That's correct, yes.

17 JUDGE MILLS: Okay. I'm with you. Thank  
18 you.

19 THE WITNESS: These are the crossover  
20 electrical wires. When the two halves come together you  
21 have to connect -- you have a panel box on one side and  
22 circuits that run to the other side, and these are  
23 actually what you call amp connectors that plug together.  
24 They are supposed to be secured up and covered with an  
25 access panel so that they don't hang down like that to --

1 again, they're subject to damage. Plus it just doesn't  
2 look very good.

3 This is -- what we're showing here is the  
4 manufacturer installs a conductor on each side of the  
5 frame that is supposed to be connected with what we call a  
6 frame ground wire. There is some controversy over this,  
7 because these homes are installed on steel beam supports  
8 and supposedly the steel beams are connecting frames and  
9 they don't feel the need to install the ground wire. The  
10 manufacturer requires this ground wire to be installed.

11 The type of fasteners that they use are  
12 penetrating fasteners. They're called star washers that  
13 penetrate into the metal and ensure a good connection  
14 between the two frames. And the purpose of this is the  
15 manufactured home has an insulated ground that every metal  
16 carrying electrical current carrying part in this home is  
17 bonded back to the panel box.

18 The problem would happen if you have a  
19 short on one side of the home, if it wasn't bonded back to  
20 the panel box, it could cause an electrocution on that  
21 side of the home. It's just a possibility. So these are  
22 the manufacturer's instructions. It's mentioned on page  
23 36 and 41 of the installation manual.

24 Q. Is that wire attached to one side of the  
25 home when it's delivered or is that something that the

1 dealer has to put on or is part of it already attached to  
2 the home when it's delivered from the dealer, from the  
3 manufacturer to the dealer?

4 A. Yeah, it comes curled up on one side of the  
5 home.

6 Q. So it's available readily?

7 A. Yeah. And the -- you can barely see it,  
8 but right there is where the nut is on the other side that  
9 this wire's supposed to be connected to.

10 This again is a bottom board area that they  
11 didn't patch after they bolted the home together. You can  
12 see the holes along here where they lagged it together but  
13 didn't repatch the holes.

14 This is a combustion air inlet pipe that  
15 provides combustion air to the wood-burning fireplace.  
16 Originally it was not installed. We asked the dealer to  
17 install this vent pipe. He did. However, we had a few  
18 problems with it. This is a six-inch vent pipe that comes  
19 out of the bottom of the fireplace. It's been reduced to  
20 four-inch, which I couldn't find anywhere where that would  
21 be allowed. The manufacturer of the fireplace provides a  
22 six-inch vent, and nowhere could I see that it could be  
23 reduced to a four. I actually called the manufacturer of  
24 the fireplace company.

25 MR. MASS: I'll object, your Honor, to his

1 calling the manufacturers, to the manufacturer of the  
2 fireplace.

3 JUDGE MILLS: He hasn't said anything else.  
4 I assume you're objecting because he's about to get into  
5 hearsay; is that correct?

6 MR. MASS: Yes.

7 JUDGE MILLS: Ms. Weston?

8 MS. WESTON: Yes, I do believe that we  
9 probably would be getting into the realm of hearsay.

10 JUDGE MILLS: Okay.

11 THE WITNESS: Well, I attempted to find out  
12 a way that this would work, and I couldn't find out a way  
13 that this would work.

14 The other problem I have is 3280.710(b)(3)  
15 of the HUD code requires vent pipes to be in proper  
16 alignment and securely fastened at the joints. This  
17 flexible pipe, I don't have too much of a problem with it,  
18 but it's got a big hook in it there that would collect  
19 moisture and condensation buildup, which I don't like, and  
20 the joints are taped. I wouldn't call that very secure.  
21 I don't believe it meets the fireplace manufacturer's  
22 requirements.

23 MR. MASS: I would object to that statement  
24 again, your Honor. He said he didn't believe. He can't  
25 testify it does or does not.

1 THE WITNESS: I can testify it doesn't meet  
2 the HUD code.

3 JUDGE MILLS: I think subject to -- well, I  
4 think he's qualified as an expert witness in the setup and  
5 installation of various aspects of manufactured homes. I  
6 think he can testify as to his interpretation as an expert  
7 of what the manufacturer of the fireplace requires. So  
8 I'm going to overrule that objection.

9 BY MS. WESTON:

10 Q. Do you have anything else with slide 20?

11 A. No. This is the manufacturer's  
12 requirement. Again, it's something that would be hard to  
13 take a picture of. The end of the two homes where they  
14 come together and meet are required to be fastened  
15 together to help keep the home in proper alignment. This  
16 wasn't done.

17 This is the alteration I spoke of where the  
18 dealer contracted a company to install a whirlpool in this  
19 home. I think most of the problems that I cited -- I  
20 think actually all the problems I cited on the  
21 installation were correct. However, the actual paperwork  
22 was never produced properly. That paperwork is submitted  
23 to my supervisor, and then he forwards it to me.

24 During this inspection, we primarily  
25 respond to what the consumer asks us to and show us on

1 their request, but during this inspection we also check  
2 setup and other defects that we might see. This home when  
3 I got underneath there, the consumer hadn't seen this yet,  
4 but the I-beams were damaged on the front half of the home  
5 pretty severely. I've seen I-beams damaged before on  
6 other homes, and this -- this was probably one of the  
7 worst I've seen.

8 This is -- this is one picture. I think we  
9 have a couple slides here. This is a beam right here, you  
10 can see kind of a big dogleg in it here, and on the other  
11 beam you see another one. I checked the angle that these  
12 beams were laying over. One of them's laying over about  
13 10 degrees and one of them's laying over about 8 degrees.  
14 An I-beam gets its strength from being vertical. If you  
15 lay one over like this and then you apply a load to it,  
16 it's going to collapse. It's going to fall over  
17 eventually. That's the case here.

18 Is this the second picture? This you can  
19 see a little bit better how bad. This is probably about a  
20 six-inch offset right here where that beam is pulled  
21 sideways. I laid a straight edge on it, but it was kind  
22 of hard to measure, but it's somewhere pretty close to six  
23 inches. This is where you can see it's laying over --  
24 this beam was laid over about 10 degrees.

25 I contacted the manufacturer to see if any



1 damage was reported to this home when it was delivered to  
2 the dealer's lot. The dealer has a check-in sheet that  
3 they follow when they receive a home. There was none  
4 reported on this home. This appeared to me to be --

5 MR. MASS: I object, your Honor. He's  
6 getting into hearsay.

7 JUDGE MILLS: I think he's testifying to  
8 facts that he discovered in the course of his  
9 investigation. I don't consider that to be hearsay.

10 MR. MASS: Well, he's testifying as to what  
11 a manufacturer reported to him.

12 JUDGE MILLS: Well, I think he's testifying  
13 to the fact that he investigated to see whether there was  
14 a report submitted, and he's testifying that to his  
15 knowledge there was not a report submitted. I think -- I  
16 think he's allowed to testify to that as an expert in this  
17 area. Your objection is overruled.

18 THE WITNESS: What we asked the dealer to  
19 do here was repair these damaged I-beams. This is not  
20 unusual. It's not something that we just dreamed up.  
21 This happens. Occasionally a frame gets bent during the  
22 transit or during the installation of a manufactured home.

23 I've had many -- several other dealers that  
24 have done this very same thing. You hire a qualified  
25 person to come in. They first get an approved method of

1 doing it from the manufacturer, they come in, they cut out  
2 the damaged section of frame and they replace the frame  
3 with a new part that makes it right again.

4 It's just not that unusual to see. I've  
5 seen several of them. I've also seen frames like this  
6 with actually a lot less damage that have actually  
7 collapsed under the weight. So it's something that takes  
8 the home out of compliance to the code. The home will not  
9 transport in its present condition, and it's required to  
10 do so by the HUD code.

11 BY MS. WESTON:

12 Q. Now we're going to move on to the Williams  
13 home. When did you first inspect the Williams home?

14 A. I believe that was March of 2004.

15 Q. And generally speaking, what kind of  
16 defects did you find during that inspection?

17 A. Setup defects, some I-beam defects and a  
18 couple of manufacturing problems.

19 Q. Did you notify America's Home of the  
20 inspection results in March of 2004?

21 A. Yes, I did.

22 Q. And did you perform a reinspection in  
23 January of 2005?

24 A. Yes, I did.

25 MS. WESTON: I'd like to offer an exhibit

1 of his inspection report of January 2005.

2 JUDGE MILLS: Let's mark it first and then  
3 you can offer it later.

4 This will be Exhibit 3.

5 (EXHIBIT NO. 3 WAS MARKED FOR  
6 IDENTIFICATION BY THE REPORTER.)

7 BY MS. WESTON:

8 Q. Okay. We're going to start with page 27.  
9 Describe your inspection results.

10 A. This is a picture of one of the support  
11 piers underneath the home. In the manufacturer's  
12 installation instructions, page 6 and 8, it details the  
13 pier configurations and pier heights. The manufacturer  
14 says piers over 36 inches height have to be double  
15 stacked, interlocked blocks. This is the same stack, 8 by  
16 16 block here, it's obviously -- it's 1, 2, 3, 4, 5 --  
17 5/8ths and then 2/4ths, 48 inches high. So it's obviously  
18 over 36 inches, and it is not double stacked as the  
19 manufacturer requires.

20 This is a picture of the drain line  
21 underneath the home. We ask that they strap this every  
22 four foot as required by the manufacturer and the HUD  
23 code. This is a strap, the first strap you see in the  
24 picture. This is approximately 10 foot, then we've got  
25 another two or three foot here where there are no straps.

1           Q.       I'm sorry. Could you repeat the number of  
2 feet on the between the strapping?

3           A.       From this strap to the corner down here is  
4 approximately 10 feet.

5           Q.       Do you notice anything with that particular  
6 drain line that is a problem or issue?

7           A.       With this, the whole problem when you don't  
8 support a drain line as required, you can see where this  
9 drain line is starting to sag a little bit here, and over  
10 time it would become a real problem. The drain would clog  
11 up and wouldn't drain properly.

12                   This is the air conditioning circuit they  
13 installed underneath the home. And again, it's not  
14 protected from moisture or damage as required by  
15 3280.808(k) of the HUD code. It's exposed and hanging  
16 down.

17                   This picture, the manufacturer requires  
18 perimeter doors to be supported. What I did was I was  
19 underneath the home and I took a picture down the length  
20 of the home here. There's a back door to this home right  
21 in this area here, and there is no pier installed there  
22 where it's required to be.

23           Q.       Was that the only area of the home that  
24 does not have perimeter piers as required?

25           A.       All the doors would be required to be