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**ENVIROCARE OF UTAH, INC.
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DATE: July 29, 1998TO: Harold LeFevreCOMPANY: NRCFACSIMILE PHONE NO.: 301-415-5398NO. OF PAGES: 9 INCLUDING COVER PAGE.

COMMENTS: Harold, attached is a copy of a portion of the deposition of Kelly Atkinson that contains some information on the "death threat" issue. Please let me know if you have any questions. Thank you.

FROM: Jon Carter

PLEASE CALL NUMBER BELOW IF YOU DO NOT RECEIVE ALL PAGES.

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In The Matter Of:

*Nuclear Fuel Services v.
Khosrow Semnant, et al*

*Kelly C. Atkinson
June 29, 1998*

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**Nuclear Fuel Services v.
Khosrow Semnani, et al**

**Kelly C. Atkinson
June 29, 1998**

Page 1

(1) IN THE THIRD JUDICIAL DISTRICT COURT
(2) SALT LAKE COUNTY, STATE OF UTAH

(3) NUCLEAR FUEL SERVICES, INC., a)
(4) Maryland corporation,)
(5) Plaintiff,) Deposition of:
(6) -) KELLY C. ATKINSON
(7) KHOSROW B. SEMNANI, an)
(8) individual residing in the)
(9) State of Utah; LARRY F.) No. 970901677CV
(10) ANDERSON, an individual)
(11) residing in the State of Nevada;)
(12) ENVIROCARE OF UTAH, INC., a Utah)
(13) corporation; and LAVICKA, INC.,)
(14) a Utah corporation,)
(15) Defendants.) Judge Fuchs

(16) Do I remember that on the 20th day of June,
(17) 1998, the deposition of KELLY C. ATKINSON was taken
(18) pursuant to notice, commencing at 9:35 a.m. of said
(19) day at the office of Anderson & Karrenberg, Attorneys
(20) at Law, 50 West Broadway, Suite 700, Salt Lake City,
(21) Utah, before Lisa M. D'Elia, a Certified Shorthand
(22) Reporter and Notary Public in and for the State of
(23) Utah.
(24)
(25)

Page 2

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(32) INDEX
(33) Examination by Page
(34) Mr. Kohler 4
(35) Mr. Wheeler 52
(36) Mr. Weston 67
(37) Mr. Kohler 63
(38)
(39)
(40)

Jelly C. Atkinson
June 29, 1998

Nuclear Fuel Services v.
Khosrow Semnani, et al

Page 19

1 A: I don't. They made a report. You have a
2 record. There should be a copy of the report.
3 They're filed, housed at the Capitol. So I don't
4 remember whether it was completed.
5 Q: Do you recall what the conclusions of the
6 audit committee were?
7 A: I met with Wayne Welsh and his audit
8 department on the conclusions. This is a courtesy
9 they give all legislators prior to the time they
10 publish the final document. They don't alter the
11 final document, they just tell us one day in advance
12 of issuing the document what the document says, and
13 essentially the document said, to the best of my
14 recollection, that Envirocare was a safe facility and
15 that there might have been some small, little
16 violations, but overall they were a safe facility.
17 They had hired an outside consultant, as I
18 remember, to look at the number of wells around the
19 facility to determine whether or not groundwater was
20 leaching out and they had determined that there were
21 adequate wells and that the monitoring of the leakage
22 of the material was not a threat to public safety.
23 And also that they had adequate air monitors and that
24 there wasn't a problem with material leaving the site,
25 and so they basically gave Envirocare, in my

Page 20

26 estimation, a clean bill of health.
27 Q: You mentioned Wayne Welsh. Who exactly
28 was he?
29 A: The legislative auditor of the State of
30 Utah.
31 Q: Is he still in that position?
32 A: Yes.
33 Q: And he was in that position at the time
34 you requested the audit?
35 A: Yes.
36 Q: Do you have a recollection of who the
37 outside consultant was you mentioned?
38 A: I don't. It will be in the report.
39 Q: After you requested the audit and while
40 the auditor was conducting his investigation, did
41 anyone from Envirocare contact you?
42 A: No.
43 Q: Mr. Semnani didn't contact you?
44 A: No.
45 Q: Are you aware of an individual named
46 Charles Judd?
47 A: Yes.
48 Q: Did he contact you?
49 A: No.
50 Q: After the legislative auditor general

Page 21

51 began its audit, did you have any contact with Larry
52 Anderson?
53 A: No. Let me preface that remark by saying
54 this: As a legislator, I get a lot of - I was - as
55 the legislative auditor, there are people - I mean at
56 the committee meetings calling for the legislative
57 audit, those individuals might have come up and
58 contacted me, but if Larry Anderson walked through
59 that door right now, I don't think I'd know who he
60 was, I mean. So there - people might have come up
61 and talked to me about that, but I don't remember any
62 individual, any specific individual coming to me
63 from the department and talking to me. I know that
64 Mr. Alkema - I know Mr. Alkema. He never talked to
65 me in all the time during the audit. He would have
66 known that that would have been an ethical violation.
67 And I feel the same way about Mr. Semnani. I don't -
68 once the audit was underway, I received no contact
69 from any - either Mr. Semnani, Mr. Judd, or the
70 department.
71 Q: So after the legislative audit begins,
72 then does your role as a representative cease or are
73 you still involved in the audit?
74 A: It ceased. Their job is to do the
75 investigation and bring it back and then I'll do what

Page 22

76 I need to do after that.
77 Q: After they returned with their
78 conclusions, did you take any further action?
79 A: There was one recommendation that they
80 made and I just haven't had time to look at it. I
81 know I sponsored a piece of legislation based on their
82 recommendations. I can't even tell you what it was
83 now, but they made a recommendation that something
84 occur and I sponsored a piece of legislation. As I
85 recall, I sponsored that late in the session and it
86 didn't go anywhere, and when I was asked to be deposed
87 for this, I went back and looked at the legislation
88 that I sponsored and now I know that I had sponsored some
89 kind of legislation dealing with environmental
90 quality, so I know that that is how that came about.
91 That, again, is on record at the Statehouse and you
92 could probably find out what that piece of legislation
93 was.
94 Q: Do you recall what session it was?
95 A: I don't. It would have been after the
96 audit, though. It would have been after the audit.
97 And they file at the Utah Statehouse all the
98 legislation, so you will have a record of all the
99 legislation that was filed there.
100 Q: During the audit were you contacted by any

**Nuclear Fuel Services v.
Khosrow Semnani, et al**

**Kelly C. Atkinson
June 29, 1998**

Page 23

other individuals regarding the audit?

A: I was the lead legislator on it. Frank and Dave - I mean they probably - we probably talked about that during the process, where it will be in the process and those kinds of things, but, no, no one else.

Q: Did you receive any anonymous contacts?

A: I did. I received - and this was publicized in the newspaper.

MR. GARDINER: This is during the audit?

MR. KOHLER: Correct.

THE WITNESS: Death threats. I received two calls, as I recall, and -

Q: (BY MR. KOHLER) Do you recall when they occurred?

A: They called - that happened just before I called for the audit, because I had mentioned it in the audit committee and so that's - that's when it occurred.

Q: I hand you now what has been marked as Deposition Exhibit Number 155. It's the transcript.

MR. WHEELER: This thing (indicating)?

MR. KOHLER: Yes.

MR. GARDINER: What is the transcript of?

MR. KOHLER: That's what we are going to

Page 25

MR. KOHLER: Pardon me. Page 17 on the bottom.

MR. SNOW: First page.

THE WITNESS: It would have been around that time. This letter was written on October 5th, so, yes, that is most likely when it was up.

Q: (BY MR. KOHLER) I turn your attention now, if you will, to what has been marked as page 22, handwritten on the bottom, Bates stamp 104436. If you will look at the end of the first paragraph, does this paragraph reflect what you were speaking about with regards to the death threats?

MR. GARDINER: Which paragraph do you want him to read?

Q: (BY MR. KOHLER) End of the first paragraph. I'll read it for you.

It says, "I have been - I have had calls come to my house threatening my life, basically saying that I am dealing with powerful people and that I may find myself face down in the gutter; that political careers will be destroyed."

That's what you were speaking of about the death threats?

A: Yes.

Q: How many did you receive?

Page 24

try to find out.

MR. GARDINER: Okay.

THE WITNESS: (Pause)

This is a transcript of the committee meeting where I asked for the audit and introduced the information I had to request such an audit.

Q: (BY MR. KOHLER) So did they tape record the committee meetings -

A: Yes, they did.

Q: - typically?

And does this document reflect your conversation or testimony before the committee, to your knowledge?

A: To my knowledge, it happened a long time ago, but, yeah.

Q: Yes, I understand.

A: But as I look through it, it looks like, yeah, these are the comments I would make.

Q: On page one you will notice handwritten notes on the top that says, "Audit Subcommittee Meeting October 21, 1991?"

A: Yes.

Q: To your recollection, is that when the committee meeting occurred?

MR. WHEELER: You mean page 17?

Page 26

A: I received two. I received one that talked about exactly what I said here, powerful people, and the other one that I reported I think in the press was a phone call with a gentleman whispering. I received it late at night. It would have been around 11:00 at night, I think, that said I will rape her and I will kill her and then they hung up.

I think in this meeting, if you read further down, Cmig represented - Representative Moody tells me you need to get that taken care of. You need to call the highway patrol, which I did.

Q: Specifically the conversations, they occurred by telephone?

A: Uh-huh (affirmative).

Q: Both of them?

A: Both of them.

Q: Did these telephone threats occur while the audit was pending?

A: No. The two calls came before the audit, so they would have been sometime between this October 5th letter and the 21st meeting.

Q: Did the individual on the phone identify his or herself?

A: No.

Jelly C. Arkinson
June 29, 1998

Nuclear Fuel Services v.
Khosrow Semnani, et al

Page 27

1 Q: Was it a male voice or female voice?
2 A: Male voice both times. It appeared to me
3 to be the same voice both times.
4 Q: Do you have any idea who made the threats?
5 A: I don't. I've speculated. I now feel
6 that after - and I've said this publicly, again, I
7 think you could see it. This is a competitive field
8 and I think it's corporate warfare and I - I
9 originally felt at that time that the threats had come
10 from Envirocare, and said that publicly. But in
11 retrospect, as I've speculated on it, I think they
12 came from this - this firm that was up in Washington
13 or Oregon that I talked to you about that were trying
14 to get a license to store low level radioactivity -
15 radioactive material up there. I now believe that
16 they were doing that in order to scare me and in order
17 to - in the meeting that I had with them, I told them
18 I can't be bullied and I can't be pushed, and I think
19 he felt that if they pushed a little harder I'd be
20 even more vicious towards Envirocare, and it worked,
21 because those calls only - only resolved in my own
22 mind the importance of checking out Envirocare. But
23 that's a speculation on my part.
24 Q: When you say he in the meeting, you're
25 speaking of the representative of the firm in the

Page 28

1 A: I'm not sure whether they were. I'm not
2 sure whether they were storing - they had stored. I
3 know that they wanted to store in this mine site.
4 This vacant mine, they wanted to store lots of
5 low-level material, and so I'm not - they could have
6 been in business prior to that time, but the goal
7 was - the goal, objective that Mark wanted was to get
8 a license and in doing that, Envirocare - he felt
9 that Envirocare was blocking that because of the
10 safety issues. And so he was familiar with the
11 documents that had been published by the monitors and
12 he had - he had shared those with me, just like the
13 former employees had, and said look at the kind of
14 comments that are being made, they're saying we're
15 unsafe, look at the kind of comments that are being
16 made.
17 Q: Do you have any documents or records
18 memorializing those conversations with him?
19 A: I don't. My objective was solely to call
20 for the audit once I was convinced that there may be
21 some safety issues that needed to be reviewed.
22 Q: Do you have any records at all relating to
23 the audit in your possession?
24 A: I don't, not in my possession any longer.
25 Q: Returning to the telephone threats that

Page 28

1 Pacific Northwest that you were speaking of?
2 A: Mark.
3 Q: Mark someone?
4 A: Mark is the name that sticks in my mind.
5 But I think the calls came from his company. I think.
6 Q: In his initial meetings with you, was he
7 threatening in any way?
8 A: He just felt like Envirocare was not a
9 good company and he went to great - great lengths to
10 convince me that this was a dangerous company and that
11 they were storing all of this material improperly and
12 that the citizens of the State of Utah were not safe
13 and that I needed to do something about that.
14 Q: Was his company currently in the business
15 of disposing of hazardous waste or had they just
16 applied?
17 A: I know that they had a mine shaft up
18 there, a salt mine or something, and I'm not sure
19 whether they had stored at that point or whether they
20 were applying to store more, but they wanted a license
21 to store it and they felt that Envirocare was blocking
22 that license.
23 Q: So at the time, then, they weren't
24 necessarily a competitor of Envirocare, but were
25 trying to be?

Page 30

1 you received, was there anything distinct about the
2 conversation that you recall?
3 A: No. They were very quick. I did not get
4 a chance to respond at all before they hung up, and
5 there was only two of them.
6 Q: Anything distinct about the individual's
7 voice?
8 A: One time the individual whispered. The
9 other time he spoke normally like I'm speaking to
10 you.
11 Q: Did the individual -
12 A: Nothing distinct.
13 Q: Did the individual have an accent?
14 A: No.
15 Q: What did you do after you received the
16 threats?
17 A: Discussed them with my wife and just -
18 just told her that I didn't want her picking up the
19 phone. I didn't discuss the one that said I'll rape
20 you. I just said that was an obscene phone call and I
21 don't want you picking up the phone. And then I
22 hadn't thought too much about it, because as a
23 legislator you get a lot of threats, and so I'm not
24 sure that I took them all that serious, except that it
25 made me mad. I felt like somebody was trying to

**Nuclear Fuel Services v.
Khosrow Semnani, et al**

**Kelly C. Atkinson
June 29, 1998**

Page 31

1 manipulate me, to force me not to call for the audit,
2 to make me back down from it, and it angered me.
3 Q: And that is why you informed the audit
4 subcommittee?
5 A: Yes.
6 Q: Did you report it to the police?
7 A: After Representative Moody told me that I
8 needed to contact the highway patrol, I did contact
9 the highway patrol and they gave me protective custody
10 for a couple of days. They just - when I was on the
11 Hill.
12 Q: Did the highway patrol conduct an
13 investigation relating to the threats?
14 A: No, not that I recall. I didn't file a
15 report.
16 Q: Are you aware of any documentation
17 existing anywhere relating to the threats, whether
18 they be police or your personal records?
19 A: I have no personal records on it. I don't
20 think the police have any personal records on it. You
21 would have to contact the highway patrol for that.
22 There would be statements that I made in the press
23 about that and I - I recall some TV interviews
24 concerning the threats and so - but I don't have any
25 records revealing that.

Page 32

1 Q: You previously testified that at the time
2 you received the threats you believe that they came
3 from Envirocare?
4 A: I did.
5 Q: And what causes you to believe that?
6 A: Well, because I was calling for an
7 Envirocare - an audit on Envirocare, so I just
8 assumed that it - those were the individuals that
9 were calling me because they wanted me to back off the
10 audit. That was just speculation on my part.
11 Q: And then you also testified that your
12 impression of the source of those telephone threats
13 changed at some point?
14 A: After the audit was called for and
15 everything that had been shared with me by the former
16 employees and Mark had fallen by the wayside, I felt
17 that this was all an effort to - I felt it was a
18 character assassination on Envirocare, is what I felt,
19 and I said that publicly. I said I felt like I had
20 been used as a pawn, that they had manipulated me in
21 order to - in order to be - to take the publicity
22 that I generated, because they knew that I - that's
23 the way I operated. Being a minority member, you have
24 to use the press. I use the press. They knew that I
25 would use the press in order to make a public

Page 33

1 statement on this in order to force the Republican
2 members of the legislature to look into Envirocare,
3 and I felt that they had manipulated me, and said that
4 publicly, that I felt that I was manipulated in
5 corporate warfare.
6 Q: The conclusions of this subcommittee, the
7 audit subcommittee, do you feel that played a part at
8 all in your change of opinion?
9 A: It did. It was the primary reason why I
10 changed my opinion, because I have great confidence
11 and trust in Wayne Welsh and his staff. Wayne is very
12 thorough. They have uncovered a lot of problems in
13 the State of Utah as far as other companies and the
14 management of other companies, and I felt that I left
15 it completely in Wayne's hands and if Wayne would have
16 come back and said there was a problem, I would have
17 been acting upon that. But when Wayne came back and
18 said essentially Envirocare has a clean bill of
19 health, then I felt like they've done a thorough
20 investigation and I've been duped.
21 Q: You felt satisfied, then, by the results
22 of the audit subcommittee?
23 A: I do. I met with them after again. I
24 think one time we met after and I asked them if there
25 was any follow-up that should occur as a result of it

Page 34

1 and I think that's why I sponsored the legislation I
2 sponsored.
3 Q: Are you aware of any other individuals
4 that received death threats?
5 A: I'm not.
6 Q: Do you know if your family members
7 received any?
8 A: No, they did not.
9 Q: Did Frank Pignatelli receive any?
10 A: No.
11 Q: What about Representative Adams?
12 A: No.
13 Q: You're saying no, he didn't, or you don't
14 know?
15 A: No, he did not. Let me restate that. I
16 would assume that if they received death threats they
17 probably would have shared that with me since I had
18 said I - I had received death threats. In the
19 conversations that we would have had and the occasions
20 that we were together on the Hill, I think they would
21 have mentioned that to me. They did not mention
22 anything to me about death threats.
23 Q: Are you familiar with an individual by the
24 name of Khosrow Semnani?
25 A: Yes.

Kelly C. Atkinson
June 29, 1998

Nuclear Fuel Services v.
Khosrow Semnani, et al

Page 35

(1) Q: How are you familiar with him?
(2) A: Through the audit I heard his name. And
(3) then after the audit, I think Mr. Semnani called me -
(4) after my statements in the press about that I had been
(5) duped, he basically called me up and said that it took
(6) a - words to this effect, that it took a big person
(7) to be able to stand up and say that and he hoped that
(8) that rested my concerns about their facility out there
(9) and I told him that it did. I think we also laughed
(10) that - I laughed. Maybe he didn't laugh too - too
(11) much. I think we also laughed that I cost him over a
(12) million dollars in business, he said. I told him - I
(13) think my response was I'm sorry that I cost you a
(14) million dollars in business, but my job isn't to keep
(15) Envirocare in business, my job is to make sure you've
(16) got a safe facility. The audit says you have a safe
(17) facility. I feel comfortable with that.

(18) Q: He didn't send you a bill for the million
(19) dollars?

(20) A: No, I never got a bill for the million
(21) dollars.

(22) Q: What is your -

(23) A: Couldn't have paid it if I would have got
(24) it.

(25) Q: What is your understanding of

Page 36

(1) Mr. Semnani's relationship with Envirocare?

(2) A: I - my understanding of it, other than
(3) what I've read in the press, is that he was the
(4) president of Envirocare. He owned this facility and
(5) the State regulated it.

(6) Q: Aside from the telephone conversation that
(7) you just mentioned, have you had any other contacts
(8) with Mr. Semnani?

(9) A: We have met on a couple different
(10) occasions after that and we have become kind of
(11) friends. I know him through Steve Rees. I think
(12) Steve told me at some point during that whole process
(13) that Mr. - he knew Mr. Semnani and Mr. Semnani was a
(14) good guy and so.

(15) Q: Did those communications occur while you
(16) were in office?

(17) A: They occurred after the audit.

(18) Q: You were still a representative?

(19) A: I was still a representative. And so -
(20) and he was still a senator. And so I think I've met
(21) with Mr. Semnani on a couple of different - on a
(22) couple different occasions just to chitchat. One time
(23) I met with him and Mr. - Speaker Brown.

(24) Q: Is that Mel Brown?

(25) A: Yeah, Mel Brown, on some kind of luncheon

Page 37

(1) meeting or dinner meeting where he was talking about
(2) upgrading his permits or license. And so - and then
(3) one time I met with him after I had been out of
(4) office. My wife had worked with him a little bit on
(5) some problems she had out in West Jordan and also some
(6) fund raising she had done and she said she was meeting
(7) with him. I had lunch with them. Those are the only
(8) times.

(9) I think one time he came out to my house.
(10) He knew that I was a big Kennedy buff, and this was
(11) after - again, I was - I think I was out of office
(12) at this point. It was way after the audit. He
(13) brought me a picture of Kennedy, because his boy's a
(14) big Kennedy fan, too. And then one time I went to his
(15) house and talked to him. I was with Steve Rees and we
(16) went to his house and Steve wanted to just go see him
(17) and see how he was doing and I was with him and so we
(18) just dropped in and chatted with him for about 15, 20
(19) minutes just about how's everything going, what's
(20) happening, and not anything specific.

(21) Q: You mentioned that your wife met with
(22) Mr. Semnani regarding some problems in West Jordan.
(23) What type of problems?

(24) A: She's dealt with him in two different
(25) areas. One was they found a bunch of batteries buried

Page 38

(1) under 90th South and she felt like maybe Mr. Semnani
(2) could take this stuff and store it, because she - she
(3) knew based on everything that transpired that he dealt
(4) in that business. And he said he can't take batteries
(5) and gave the name of a company that does take
(6) batteries. And then she approached him to make
(7) donations for the South Valley Sanctuary out there.
(8) That was, again, I think after I was out of office.

(9) Q: You have mentioned a number of
(10) conversations or meetings you have had with
(11) Mr. Semnani. Are they mainly social?
(12) A: The only one that wouldn't have been
(13) social would have been the one with Mel Brown where he
(14) was talking about some licensing permits, but I don't
(15) remember all of that. Mel had invited me down to that
(16) meeting because I was - I was a member of Legislative
(17) Leadership and a minor - member and he knew that I
(18) knew Khos from the Envirocare audit, and so he just
(19) invited me down to listen to that, and he was going
(20) through the normal - that was an informational
(21) meeting. He wasn't asking us to do anything, to the
(22) best of my knowledge, there. What he was basically
(23) saying is we're applying for an upgrade in our permit
(24) through the department process and I just wanted to
(25) alert you that we are applying for an upgrade in that

**Nuclear Fuel Services v.
Khosrow Semnani, et al**

**Kelly C. Atkinson
June 29, 1998**

Page 39

and so if anybody contacts you, you'll know. And we just received the information and said thanks for the information, appreciate it, moved forward.

Q: During your social contacts with Mr. Semnani, did the two of you ever discuss his business?

A: Only the one time where he - he told me that the audit had cost him financially. We've never discussed his business since then.

Q: Are you aware of a lawsuit pending between Mr. Larry Anderson and Mr. Semnani?

A: I am.

Q: Has Mr. Semnani ever discussed that with you?

A: No, he has not.

Q: Has he ever discussed his relationship with Larry Anderson with you?

A: No.

Q: Have you ever met with other employees of Envirocare other than Mr. Semnani?

A: Yes. During the - between - between calling for the audit and the conclusion of the audit, I wanted to go out and see the facility for myself, because I had never seen the facility. And so I did take a day trip out to the facility.

Page 40

Q: Out in Clive, Utah?

A: Uh-huh (affirmative). And they suited me up, and so I don't - I don't remember all the employees that were there at that time. They just suited us up and took us on a tour of the facility. What I was primarily concerned about is I wanted to see for myself where the walk - the groundwatering - the groundwater monitors and the air monitors were on the facility, and also the cells and how they compacted the cells, because there was some talk about that cells - if you put stuff - material into the cells when it is frozen, that they can't be compacted properly. So I just wanted to see that and I asked - I was free to ask any questions I wanted and I asked them.

Q: Have you met with any Envirocare employees at their office here in Salt Lake?

A: Yes. I would have. I would have met with Khos when we came up, my wife and I came up to take him out to lunch, so we just dropped by the office and picked him up and took him out somewhere right around here.

Q: Have you ever met with Charlie Judd?

A: I know Charlie. And I think Charlie - I think I first met Charlie when I went out to view the

Page 41

facility. I think Charlie was with us at that time to view the facility. I didn't know what his role was then, but I've - I know Charlie from that.

Q: Have you ever discussed Mr. Semnani's relationship with Larry Anderson with Charles Judd?

A: I've never discussed Mr. Anderson's relationship with anyone. It's just not something that I would discuss. I mean I have no interest in that.

Q: Have you ever received any political contributions from Mr. Semnani?

A: In Congress, when I ran for Congress I contacted Charlie because Charlie lives out in my area, and so I do think I received a contribution during the congressional campaign. Deedee Seed, you would have to contact Deedee, but I made a phone call to Charlie Judd and asked if they would be willing to make a contribution and he said he would check that out. So I do believe I got a contribution.

Q: Was it in the name of Envirocare or was it Charlie individually?

A: I don't know. I couldn't tell you that. Again, I have to keep good records for that. I mean, that is on record with the election committee - commission, so I don't know whether it came from

Page 42

Envirocare or it came from Charlie or if it came from one of the lobbyists. It could have come from there.

And then after the audit and after we talked on the telephone, I think I might have received contributions from Envirocare. I can't - my records, again, would have to reflect that, and so I don't know.

Q: So you wouldn't have a recollection of the amount?

A: I wouldn't have - those would have been small amounts. I mean, you're talking about \$100, \$200. Now, the congressional race could have gone up to maybe a thousand dollars, but it wouldn't have been any more than a thousand dollars.

Q: So there are documents and records reflecting these payments?

A: Yes.

Q: And those would be with the Election Commission?

A: The congressional race, all the records would be with the Election Commission. The legislative race would be on file with the Legislative Lieutenant Governor's office.

Q: Has Mr. Semnani ever given you anything else of value?