

September 28, 2006

VIA HAND DELIVERY

The Honorable Joe Barton
Chairman, Committee on Energy and Commerce
U.S. House of Representatives
2125 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Ed Whitfield
Chairman, Subcommittee on Oversight and Investigations
Committee on Energy and Commerce
U.S. House of Representatives
2125 Rayburn House Office Building
Washington, D.C. 20515

Dear Mr. Chairman:

We represent Ann Baskins, whom you invited to appear before the Subcommittee on Oversight and Investigations today. We write to inform the Subcommittee that Ms. Baskins has resigned her positions as Senior Vice President, General Counsel, and Secretary of Hewlett-Packard Company effective today. She has done so regretfully after 24 years of service, but hoping that her departure will help the Company move forward.

We also write to inform you that we have instructed Ms. Baskins to invoke her Constitutional protection under the Fifth Amendment and, thus, Ms. Baskins will not provide testimony before the Subcommittee today.

Please understand, however, that Ms. Baskins very much wants to testify and discuss these matters with the Subcommittee. Were she to do so, we are firmly convinced that the Subcommittee would recognize that she acted legally and ethically at all times. Given the current environment, however, Ms. Baskins simply has no choice.

Equally important, the Subcommittee should understand two important facts.

First, Ms. Baskins always believed that the investigative methods that she knew about were lawful, and she took affirmative steps to confirm their legality. Let us be clear: Ms. Baskins repeatedly sought and obtained assurances from a senior HP counsel that the techniques about which she knew were entirely lawful.

For example, in early 2006, she asked a senior HP counsel to confirm the legality of the investigative methods being used, including the accessing of non-HP phone records. He assured Ms. Baskins that the methods were legal. Ms. Baskins later asked the senior counsel to reconfirm the legality of the investigative methods with outside counsel. The senior counsel

advised Ms. Baskins that he had consulted with an outside law firm and had been assured that the methods were entirely legal.


Finally, in anticipation of the May Board meeting at which the results of the investigation were to be disclosed, Ms. Baskins asked the senior counsel to once again confirm the legality of the investigative methods used. The senior counsel provided her with a written memorandum that explained the steps he and others had taken to confirm the legality of their investigative methods, including seeking the opinion of an outside law firm. The record also shows that Ms. Baskins sought and obtained such assurances in 2005.

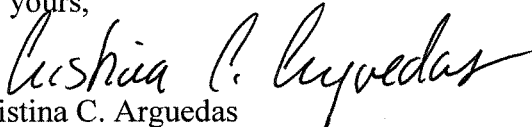
To assist you, we have enclosed part of this record. Even the enclosures, however, do not present all of the facts that irrefutably show that Ms. Baskins believed that pretexting was legal, and that she did so in good faith reliance on repeated confirmations of that fact.

Second, Ms. Baskins understands that the legality of the methods used in these investigations is not the only issue. With the benefit of hindsight, Ms. Baskins wishes that she had more actively inquired about the methods being used and taken steps to halt any that were inconsistent with HP's high ethical standards, such as pretexting. Ms. Baskins acted with the best of intentions, convinced that the investigations were in the Company's interests and entirely lawful.

On a more personal note, Ms. Baskins has worked for HP since 1982, contributing to its reputation as a standard bearer in its industry. Ms. Baskins is known and widely respected in the legal community for her honesty and outstanding integrity.

Ms. Baskins wishes that she could speak to the Subcommittee. Unfortunately, the current environment does not permit it.

Very truly yours,

K. Lee Blalack, II
of O'MELVENY & MYERS L.L.P.


Cristina C. Arguedas
of ARGUEDAS, CASSMAN & HEADLEY L.L.P.

Enclosure

cc: The Honorable John D. Dingell (via hand delivery)
Ranking Member, Committee on Energy and Commerce

The Honorable Barton Stupak (via hand delivery)
Ranking Member, Subcommittee on Oversight and Investigations

Mark Paoletta, Esq. (via hand delivery)
Chief Counsel, Subcommittee on Oversight and Investigations

Edith Holleman, Esq. (via hand delivery)
Minority Chief Counsel, Subcommittee on Oversight and Investigations

From: Hunsaker, Kevin
Sent: Monday, May 01, 2006 11:18 AM
To: Baskins, Ann
Subject: KONA II - privileged communication

Hi Ann,

Per your request, below please find a brief discussion of the method used to obtain phone record information in this investigation, as well as the steps taken by the Investigation Team to confirm the legality of doing so.

As part of the KONA II investigation, the Investigation Team obtained phone record information (cell phone, home phone and home fax) with respect to several subjects of the investigation. To obtain the information, Ron Delia, through his company (Security Outsourcing Solutions), engaged the services of a company that has been in the business of performing this particular service for the past 20 years. The company, which is based in Florida, is licensed to conduct business in Florida and several other states, and provides these services to licensed private investigators and law firms nationwide. They do not sell their services to the general public.

We provide Mr. Delia with the names and telephone numbers we are interested in, he passes the information to the third party company, and they then make pretext calls to the phone service providers. All information is obtained verbally from the phone service, and the phone service voluntarily provides the information. It should be noted that this is a common investigative tool that has been used by professional investigators and law firms for more than 20 years -- this fact was confirmed by discussing the issue with a number of experts in the field. It should also be noted that the only HP employee during the entire course of the KONA II investigation who had access to the phone records obtained was the attorney directing the investigation, Kevin Hunsaker. No other HP employee was given access to all of the phone records. The relevant records of specific phone calls were provided to the Investigation Team, but only Mr. Hunsaker had access to all the phone records.

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During the course of the investigation, the Investigation Team took several steps to confirm the legality of obtaining the phone records information in the manner described above. Specifically, Mr. Hunsaker conducted some preliminary legal research and determined that the practice of pretexting phone companies to obtain information is not unlawful. In addition, Mr. Delia contacted the third party company conducting the research, who confirmed that they are very well aware of all potentially relevant state and federal laws, and that the manner in which they obtain the phone records information is not unlawful. And finally, Tony Gentilucci (Global Security) contacted John Kiernan (from Bonner, Kiernan, Trebach and Crociata – the firm primarily responsible for the ABB investigation), who confirmed that his firm had conducted extensive research on this issue, and that the practice of pretexting phone companies to obtain information is not unlawful.

As a result, the Investigation Team is confident that all phone records information obtained during the course of the investigation was obtained in a lawful manner.

It should also be noted that a number of states have passed legislation in the past month or two that will prohibit obtaining phone records information in the matter described above. For example, effective July 1, 2006, the practice will no longer be allowed in Florida, and the company Mr. Delia uses informed him that, as of July 1, 2006, they will no longer be providing this service. As such, on a going forward basis, this investigative tool will no longer be available to companies like HP during the course of these kinds of investigations.

Please let me know if you have any additional questions.

Thanks.

Kevin

Kevin T. Hunsaker
Director of Ethics and SBC
Hewlett-Packard Company
Phone: 650 857-3079
Fax: 650 857-3710

From: Ron DeLia <rrd@security-outsourcing.com>
Sent: Tuesday, February 7, 2006 11:57 AM
To: Gentilucci, Anthony R. <am-209021@compaq.com>
Subject: Privileged Communication HP Confidential

Tony,

I sent an email to my source in FL and asked them if there were any state laws prohibiting pretexting telephone companies for call records. Following is their response. We are comfortable there are no Federal laws prohibiting the practice. Note: The Federal Trade Commission has jurisdiction. The firm has been in business for over 20 years and is properly licensed in FL and most other states. I have been utilizing their services for approximately 8 to 10 years.

Ron

"As of right now there are no laws against pretexting. We are on top of everything going on regarding this issue and if any law were to pass we will be the first to let you know."

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Tel: (617) 426-3900 or (781) 444-9616

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MEMORANDUM

To: *HP Securities Litigation Team*
From: Bahram Seyedin-Noor and Trevor Lain
Date: August 21, 2006
Re: Interviews of Kevin Hunsaker -- DRAFT --

On August 9, 2006, Steven M. Schatz and Bahram Seyedin-Noor interviewed Kevin Hunsaker of Hewlett-Packard Company ("HP" or the "Company") over the course of two teleconference calls. The first call occurred at 3:00 PM and also present during that call were John Kiernan, a partner with the law firm Bonner Kiernan Trebach & Crociata LLP, and Ann Baskins, HP's General Counsel. Bahram Seyedin-Noor conducted follow-up teleconference interviews with Hunsaker on August 9, 14, 15, 16 and 18, 2006. The purpose of the interviews was to ascertain the steps HP took in the Kona II leak investigation, for which an outside investigator used "pretexting" to obtain the telephone records of certain persons. This memorandum reflects the thoughts and impressions of Seyedin-Noor from the interviews.

I. Background

1. Kevin Hunsaker is a Senior Counsel in the HP Legal Department. Hunsaker assumed his relatively new role in or around mid April. (That was after the most active phase of the Kona II Investigation.) Hunsaker's contact information is as follows: kevin.hunsaker@hp.com; (w) 650 857 3579; (c) 650 868 7422.

2. Hunsaker said he has done "hundreds" of investigations, but the Kona II investigation was the first one he directed that involved the use of "pretexting."

3. Hunsaker said that he directed the investigation into the leak at the instruction of HP Chairperson Patricia Dunn. Ann Baskins was also aware of investigation.

4. Hunsaker provided the following list of individuals who participated in or are otherwise connected with the Kona II Investigation:

<u>Name</u>	<u>Title</u>	<u>Solid Line Report</u>
Fred Adler	Information Security Investigator, IT Security Investigations	
Jim Fairbaugh	Global Security Director—REWS: real estate and workplace services	Oversees Gentilucci and Huska
Tony Gentilucci	HP's manager of global security investigations, located in Boston	Reports to Fairbaugh
Kevin Huska	Manager, (GEPP) Global Employee Protection Program – <i>Not an attorney</i>	Reports to Fairbaugh; he is a peer with Gentilucci
Denis Lynch	HP Global Security	Reports to Huska in GEPP, has relocated to East Coast
Vince Nye	Senior Investigator, HP Global Security Investigations	Reports to Gentilucci
Tim O'Neill	Director of IT Security Incident Management, HP IT Security	
Bob Sherbin	HP's head of Public Relations ("PR")	

II. Kona II: First Steps

A. Investigation Team

5. Hunsaker found out on the Friday before Monday, January 23, 2006 that an article would be published with information about HP's latest Board meeting. According to Hunsaker, CNET reporter Tom Krazit contacted Sherbin and informed him that CNET was about to publish an article about five issues discussed at last HP Board meeting, including the issue of leaks relating to Carleton Fiorina's departure, the WFR announcement, and the hiring of Mark Hurd. After the call from Krazit, Sherbin emailed Bob Fairbaugh and Tony Gentilucci.

6. Within an hour of learning of the potential leak, Hunsaker informed Ann Baskins.

7. Gentilucci then contacted Hunsaker since he is the attorney on the global "SBC" team, which oversees investigations of violations of standards of business conduct. Gentilucci informed Hunsaker about the leak and they discussed undertaking a preliminary investigation.

8. Hunsaker forwarded Gentilucci's email to Baskins and asked whether she wanted him to direct the investigation, and stated that the investigation needed to be privileged. Baskins responded to Hunsaker and said she had talked with HP Board Chairperson Patricia Dunn and Mark Hurd and indicated that that is how they wanted it handled. Hunsaker talked with Baskin first thing Monday morning.

9. Hunsaker retained as a consultant an outside investigator named Ron DeLia, who is based in Massachusetts. DeLia is a licensed investigator who has access to certain databases of information.

10. Hunsaker assembled an investigation team ("Team") first thing Monday morning. In addition to himself, Gentilucci and DeLia, Hunsaker also selected for the Team: Vince Nye, of HP's Global Security Investigations, who reports to Gentilucci, and Fred Adler, of HP's IT Security, who assisted by imaging hard drives, pulling emails and pulling HP phone records.

B. The Preliminary Investigation

11. Hunsaker's team also pulled documents from the Board meeting immediately preceding the leak, and began interviewing relevant people.

12. The Team started by pulling the information and pulling PowerPoint presentations used at the prior Board meeting. Hunsaker received the PowerPoint presentations from Rosemary Thomas, who serves as HP's liaison to the Board, and one of whose tasks is posting materials to the Board Website before Board meetings. Charles Charnas provided one PowerPoint presentation Thomas did not have.

13. In conducting the preliminary investigation, the Team obtained details on the hotel information for Board meetings, including room charges. They also researched certain reporters on the Internet, in order to determine how frequently they wrote about HP, what they wrote, etc., and obtained their contact information from the HP Public Relations group and the Internet.

14. The Team discovered that one of the persons in HP's PR department, Brigida Bergkamp, had been looking at CNET and researching its articles. However, the Team ultimately determined that PR was not the source of the leak, but did find that the PR group had a lax policy on communicating with the press.

15. The Team also pulled every article that the CNET reporter Dawn Kawamoto had ever written and concluded that leaks to Dawn were all by the same director.

16. Hunsaker quickly concluded that the leak came from either the Executive Council or the Board of Directors. Thus, during the first few days of the preliminary investigation, Hunsaker interviewed Dunn, Baskins, Wayman, and Charnas. Based on information Hunsaker received from these interviews, he started pulling phone records on certain Board members that were identified

early on as potential "leakers," including Dr. George Keyworth, Richard Hackborn, Thomas Perkins, Dunn, and Lucille Salhany. Hunsaker said that Salhany quickly fell out as a potential suspect.

17. Hunsaker gave instructions to DeLia to find telephone numbers for the various reporters in whom the Team was interested. Hunsaker determined the phone numbers for some of the reporters from the HP Public Relations ("PR") group and from online sources. These numbers were checked against phone records for every member of the Executive Council. Then he pulled emails and phone records of the Executive Counsel and members of the Board of Directors and checked for emails or calls to or from those reporters. He also had the hard drives of every member of the Executive Council imaged. He added that individuals were not told that their computers were being monitored. (HP's standards of business conduct and business policies make clear that any information on HP computers and servers belongs to the Company and is viewable by the Company at its discretion.)

18. Hunsaker said that within the first 10 – 14 days of the investigation, he reviewed all of the PowerPoint slides and concluded that of the six items leaked, only two could be garnered from the slides, and therefore the leaker had to have been physically present at the Board meeting.

19. Hunsaker briefed Baskins and Dunn on the status of the investigation, the former every two days and the latter weekly.

20. The Team initiated several attempts to determine the identity of the leaker. One involved sending an attachment to the CNET reporter with an attachment purportedly containing internal HP information. The Team hoped the reporter would verify the contents of the attachment with her internal source. When she did this, software embedded in the attachment would transmit the web address of the source back to the Team. The Team sent the email but never received any response. Fred Adler (HP IT Security) suspects that the email did not make it past the CNET firewall.

III. Pretexting to Obtain Information on Phone Calls

A. Method

21. The Team decided to obtain the telephone records for select reporters and certain persons present at the Board meeting. Among the reporters whose records were checked were Tom Kravitz, Pui-Wing Tam, Dawn Kawamoto.

22. To get the records, DeLia retained a Florida company, Action Research Group ("ARG") that he has used for the last 18 years. DeLia contacted the company and gave them the telephone numbers and names of the persons whose records he sought, and indicated that he wanted the telephone records for the individuals. Hunsaker never spoke directly with ARG's investigators. Rather, he relied on DeLia's communications with them.

23. Hunsaker described pretexting as follows: someone at the company DeLia contracted with would call the telephone carrier and say he would like the numbers dialed from a particular phone on certain dates. The caller would not obtain the actual written phone records, but would instead ask the operator to provide the information orally over the telephone. Hunsaker does not know why the pretexters insist on oral transmission of the information.

24. Within the first ten days of the Investigation ARG obtained HP telephone information reports for Salhany, Bergkamp, and Michael Mohler. Also in the first ten days ARG pretexted to obtain records for Shankland, Krazit, Kawamoto, and Tam and repeated the process in February for their February call records. Also in February, the Florida company conducted pretexting for Dunn's, Keyworth's and Hackborn's records.

25. Hunsaker never saw any of the telephone records until something relevant appeared; however, he did see all of the records for Kawamoto and Keyworth. DeLia sent him telephone record reports by email. Other than DeLia, no one at HP saw the entire telephone record reports.

26. Hunsaker has known about pretexting as an investigative technique for some time. He thinks he learned about pretexting one or two years ago in connection with another HP investigation—though he does not remember which investigation. This was the first investigation under his direction where he specifically instructed that pretexting be used.

27. At some point early in the investigation, Hunsaker and Baskins consulted with Bryan Jenkins, an outside security consultant. Jenkins advised them to use pretexting to obtain the relevant information.

28. Pretexting commenced early in the investigation, within the first ten days. He said it would have started prior to February 2nd, and certainly as to the reporters. At or around that date, DeLia's contacts began pretexting for the records of other relevant individuals.

29. Hunsaker said that he made it clear to DeLia that telephone records obtained by DeLia were to be sent directly to Hunsaker and to no other HP employee. Hunsaker said that DeLia forwarded him a spreadsheet that expressed in writing the information verbally obtained from the carrier. Hunsaker added that the telephone records checked included cell phones, home phones and fax lines. As an aside, with respect to Richard Hackborn, there was only one phone number he could get information on. Hunsaker ordered all of the HP telephone records to be pulled for all of the HP employees, including Baskins, Wayman and others. At one point in time HP used to own cell phones, and so he tried to obtain those records as well. But it turned out the accounts were held in the officers' personal names, and so he could not pull their cell numbers. Hunsaker received a list of cellular telephone numbers from Thomas and passed the list on to DeLia. Thomas has this list.

B. Social Security Numbers

30. If simply asking the operator does not work, and the operator asked for the last four digits of the customer's social security number ("SSN"), then the pretexter would provide the operator with the SSN. Hunsaker said that he did not give DeLia any person's SSN, but added that DeLia as a licensed investigator has access to such information. (On August 14, 2006, Hunsaker said that neither he nor any other HP employee provide social security numbers to Ron or his investigators. During that call he added that, in fact, he was not aware if anyone used SSNs in obtaining phone records.

31. Hunsaker said he believes that the investigators may provide the last four digits of the customer's SSN when asked by the phone carrier. DeLia told him that there is a "hierarchy" of information the investigators would pass on to the phone operator.

32. No one specifically asked Kiernan to look at the issue of using SSNs to obtain phone records. In addition, no one researched that issue. Hunsaker asked DeLia how the investigators would know the customer's SSN. DeLia said they obtained the SSN from a proprietary database to which private investigators have access. Hunsaker never discussed with DeLia specific instances where SSNs were used.

C. May 24, 2006 Investigation Report

33. Hunsaker explained that "covert intelligence" (5/24/06 Investigative Report at 4): refers to the operation of sending Kawamoto the email with attachment and related emails.

34. "Surveillance activity" (5/24/06 Investigative Report at 4) refers to the following actions:

- In the first ten days of the investigation HP surveilled Keyworth at the University of Colorado, where he was present for a speaking engagement. Specifically, an agent attended the presentation and later asked a camera person recording the talk for a copy of the tape. The idea was to see who Keyworth interacted with, etc. The Team thought it was possible Kawamoto might attend the talk.
- HP also surveilled Keyworth at his home on the day that the email attachment was sent to Kawamoto. Two former FBI agents that DeLia and Gentilucci knew surveilled his home by sitting in a car outside the house and watching. They did not use listening devices, and they made no audio or video recording. They simply watched him and followed his actions.
- The Investigation Team may also have surveilled Perkins at a presentation; Hunsaker would have to check their records to be certain.
- Finally, the Investigation Team also reviewed video from HP cameras. HP phone records showed the placing of a number of calls from executive conference rooms to Kawamoto or Tam during the relevant time frame. Therefore the Team pulled tapes monitoring those conference rooms (during the period of the calls) to see who had placed the calls. One call

was made by Hurd and Sherbin; another by Livermore and another PR person; and a third by Shane Robison. The Team later concluded these were prescheduled calls on specific topics with the reporters—and not leaks.

IV. Inquiries into the Legality of Pretexting

35. Hunsaker clearly understood that undertaking a lawful investigation was a priority.

36. Hunsaker remembers an initial interview of and discussion with Dunn on Thursday, February 2 at which he made a slide presentation. One of the thrusts of his slide presentation was that the Team would do everything to determine the identity of the leaker so long as it was lawful. At some point in the investigation, and possibly during the same slide presentation, he also discussed with Dunn the actual tactic of pretexting. (Hunsaker later said he did not remember whether he discussed the pretense aspect of pretexting with Dunn.)

37. With respect to Baskins, Hunsaker did not recall discussing the use of pretexting with her until later – that is, after he had confirmed with DeLia the legality of using pretexting and some pretexting had already been done.

38. During the Team's first discussion of pretexting, two members, Nye and Adler, had not done an investigation of this nature and questioned the method's legality. At the time, Hunsaker himself did not know whether the method was legal because he had not done any research on the issue. DeLia then said that his company used the method quite a lot and had spoken to attorneys and determined that it was lawful.

39. Hunsaker researched the legality of pretexting in the first few weeks of the investigation after Nye and Adler expressed concern about the legality of pretexting. Hunsaker also asked DeLia at that time to confirm the method's legality with the Florida investigators.

40. As to why Hunsaker himself looked into the question of whether pretexting was legal, Hunsaker said that it was not because of any prompting by Dunn but because he himself wanted to make sure that the investigation was lawful. He said that the Team had also considered (and rejected) methods that were not lawful (such as monitoring public discussions by the relevant individuals). HP has its own code of ethical conduct concerning surreptitious surveillance, which is available online at www.HP.com (type: "standards business conduct").

41. Asked about the scope of his research, Hunsaker indicated that he did about an hour's worth of online research on the legality of pretexting. In the course of that research, he came across the Verizon lawsuit and checked if they had cited any statutes. According to Hunsaker, Verizon had filed a civil violation of privacy lawsuit against an online company that offered private individuals' cell phone information for sale. He also reviewed commentary on the issue—including from a New York Senator who had commented that it was unlawful for financial information but not for telephone information.

42. One month into the investigation, the issue of pretexting came up again when Dunn and Baskins asked him to confirm the legality of the investigative method during a Friday phone call before the March Board meeting in Los Angeles. Dunn and Baskins wanted him to confirm the method's legality in case Hurd had any concerns during the presentation in Los Angeles. Hunsaker said yes, based on his previous discussions with DeLia and on his own preliminary research. But, he said, he would look further into it.

43. Pursuant to the conversation with Dunn and Baskins, Hunsaker made a March 15 call to Kiernan. Hunsaker does not believe HP paid Kiernan for legal advice. Both Gentilucci and DeLia have longstanding relationships with Kiernan on personal and professional bases. Hunsaker did not know who paid Kiernan's bill.

44. Hunsaker instructed Gentilucci to contact attorney John Kiernan concerning the legality of pretexting as an investigative method. Kiernan was known as one of the main attorneys who oversaw the investigation into whether a company named ABB violated the Foreign Corrupt Practices Act. Gentilucci duly talked with Kiernan but Hunsaker was not on the call. According to Hunsaker, Kiernan told Gentilucci that pretexting was lawful and that his firm had researched the issue just in the last year (2005), and added he would have someone in his office confirm the method's legality. Then, after someone in his office did the research, Kiernan called Gentilucci back and confirmed the legality.

45. Hunsaker reported back to Dunn and Baskins that he had reconfirmed the legality of the method. Hunsaker said that he thinks he had emailed Dunn and Baskins about this as well. [Later, Hunsaker forwarded Bahram Seyedin-Noor an email, dated May 1, 2006 (attached as Exh. A), that he had sent to Baskins on this issue, but not Dunn.]

46. Hunsaker said that he also received an email from DeLia that included DeLia's analysis on the legality of pretexting.

V. Perkin's Allegations re AT&T Account

47. Hunsaker was aware of an email from Perkins complaining that someone had broken into his AT&T online cell phone account. Hunsaker insisted that it was not DeLia's group, because, he said, all they do is pick up a phone and call the carrier. Hunsaker added that DeLia's group did not set up an account or anything similar.

48. According to Hunsaker, DeLia talked directly to the people who did the actual calls to confirm that all the pretexter did was call the operator by phone and gather information that way, and NOT by breaking into any online account as Perkins stated.

VI. End of Kona II Investigation and the HP Team's Conclusion

49. The Kona II Investigation technically ended with the interview of Keyworth at the May 2006 Board meeting, because that was the last investigative act. But from early April through

May, that interview was basically all that remained. After the March 11 report, Hunsaker's team checked into a couple of minor issues, but the Kona II Investigation was already fundamentally complete.

50. Based on Kawamoto's articles and the interviews done as part of the investigation, the Team concluded that the leaker was Keyworth. The records the Team obtained showed phone calls made from Kawamoto's cell phone to Keyworth's home phone just before the article was published in January and another call a few weeks later from Keyworth's cell to Kawamoto's direct office number. DeLia then had his source at the pretexting company find out the length of these calls. The first call was one minute, the second was ten minutes.

51. Hunsaker did not personally interview Keyworth. Hunsaker and Gentilucci flew down to the annual shareholder and Board meeting in Los Angeles in March 2006, and briefed Dunn and the others on the results of the investigation. At that meeting, they discussed interviewing Keyworth. Ultimately, Bob Ryan interviewed Keyworth right before the May 2006 Board meeting.

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MEMORANDUM

To: *HP Securities Litigation Team*
From: Bahram Seyedin-Noor
Date: August 22, 2006
Re: Interview of Kevin Hunsaker -- DRAFT --

On August 22, 2006, David Berger and I interviewed Kevin Hunsaker of Hewlett-Packard Company ("HP" or the "Company") regarding a recent phone call from the California Attorney General's (the "AG") office to Ann Baskins, General Counsel of HP, regarding Mr. Perkins' allegations that someone tried to hack his AT&T phone records.¹ This memorandum reflects my thoughts and impressions from the interview.

I. Document Preservation

1. David instructed Hunsaker to make certain he preserves all documents that could potentially relate to the Kona investigations or pretexting done in those investigations. Hunsaker confirmed he would put these aside and assure their safe-keeping.

II. Perkins' Allegations

A. HP not involved

2. Hunsaker said he has "done everything in [his] power" to research HP's potential involvement in the hacking described in the AT&T letter to Perkins and found no evidence of involvement whatsoever. Hunsaker's efforts included talking directly to Ron DeLia, the outside consultant that coordinated the pretexting in the Kona investigations.

B. Documents

¹ AT&T has sent Perkins a letter describing attempts by third parties to access his phone records online. It appears that Perkins may have contacted the California Attorney General and informed them that this hacking was the work of HP or its investigators as part of the Kona II investigation.

3. To the extent the AG's office may seek documents from the Kona investigation, Hunsaker said the documents in his possession are likely privileged because they were either created by him or at his discretion.

4. Hunsaker said he has some documents relating to the legality of pretexting, including emails or a memo he may have sent to Baskins.

5. Hunsaker also has two spreadsheets prepared by DeLia regarding phone calls from Perkins' home phone number (not his cell).



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MEMORANDUM

To: *HP Securities Litigation Team*
From: Bahram Seyedin-Noor and Bryan Ketrosor
Date: August 25, 2006
Re: Interview of Kevin Hunsaker -- DRAFT --

On August 25, 2006, Steven Schatz, David Berger and Bahram Seyedin-Noor interviewed Kevin Hunsaker, Senior Counsel for Hewlett-Packard Company ("HP" or the "Company"), via teleconference. This memorandum reflects the thoughts and impressions of Bahram Seyedin-Noor from the interview.

I. Kona I

1. Hunsaker did not even know about the Kona I investigation until Kona II.

II. Pretexting

2. Hunsaker first learned that HP had used pretexting to obtain phone records in July 2005 in connection with an unrelated HP investigation. One of the subjects of that investigation was going through a messy divorce, and his attorney contacted Hunsaker, claiming that HP had attempted to change his PIN in order to access his voicemail. Hunsaker's team told him they had not altered the subject's PIN or voicemail, but had used pretexting to obtain phone information about the subject.

3. Hunsaker did not do any research regarding pretexting until the first week or two of the Kona II investigation.

4. Hunsaker had been supporting the Global Standards of Business Conduct team since 2003, and therefore, if there had been a question about pretexting during a past investigation, they should have contacted Hunsaker. Hunsaker said that his old boss was Lyle Keating.

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MEMORANDUM

To: *HP Securities Litigation Team*
From: Bahram Seyedin-Noor and Bryan Ketroser
Date: August 25, 2006
Re: **Interview of Ron DeLia** -- DRAFT --

On August 25, 2006, Steven Schatz, David Berger and Bahram Seyedin-Noor interviewed Ron DeLia, an outside consultant retained by Hewlett-Packard Company ("HP" or the "Company") and founder of Outsourcing Solutions, Inc. ("OSI"), via teleconference. This memorandum reflects the thoughts and impressions of Bahram Seyedin-Noor from the interview.

I. Background

1. DeLia stated that the best way to reach him is on his cell phone, 781-223-4946, or via email.
2. Before his current job, DeLia, aged 56, was in the military.
3. DeLia said he has a contract with HP, and historically, about half of his work has been for HP. DeLia does not have a written contract with Action Research Group ("ARG"), which is owned by "Joe," whose last name DeLia does not know. DeLia has worked with ARG for 8 years.

II. Kona I

A. Introduction to Investigation and General Information

4. DeLia first learned about Kona I in mid-April 2005. Patricia Dunn contacted him directly. DeLia said that he had done HP-related due diligence and background work for her before on several occasions, but did not feel comfortable telling us that without her permission.
5. Though he did not recall exactly what was said during this initial conversation, DeLia remembered that Dunn asked for his assistance, explaining that information from Board meetings had made their way into the press, and that the only individuals privy to such information were those in the room at the time of the discussions.

6. DeLia stated that during initial conversations with Dunn, she gave DeLia any information she thought was pertinent, including, in April, a document with directors' telephone numbers (but not Social Security Numbers). DeLia did not know where Dunn got the document.

7. Initially, DeLia reported directly to Dunn about once every week to 10 days. DeLia also spoke with Ann Baskins, who was brought in on the investigation some time in June. After June 15, 2005, Tony Gentilucci became involved in the investigation, at which point DeLia's contact was with Gentilucci, not Dunn or Baskins.

8. Jim Fairbaugh was added to the team some time between June 15 and July 22. DeLia did not recall any direct conversations with Fairbaugh regarding Kona II.

9. Dunn never told DeLia whether she had discussed the investigation with Mark Hurd or the Board.

B. Methods of Investigation

10. Dunn asked DeLia how he would go about investigating the leaks, and whether he had undertaken similar cases in the past. DeLia replied that he had undertaken a similar investigation involving leaks from a Big 5 accounting firm to a Wall Street Journal reporter. DeLia was successful in finding the source of the leaks in that case.

11. DeLia told Dunn that he had found the source of the leaks in the accounting firm case through research. He had conducted visual—not electronic—surveillance of the reporter at issue while on vacation, then had Skip Tracers call the hotel the reporter had been staying at to obtain his hotel call records via pretexting, which revealed a call to a senior executive with the company. Pretexting was also used to determine where the reporter was vacationing—somebody called the reporter's office, saying the reporter had requested certain information, and asking someone in the office for the hotel number.

12. Dunn asked DeLia to submit an outline to her on April 19, 2005. The outline stated that there are many options in investigations of this sort, including, *inter alia*, surveillance and extensive research linking the reporters to an interested party. DeLia thought he included information in the outline about obtaining third-party phone records. Dunn responded orally to the email, essentially telling DeLia to move forward.

13. In his investigations, DeLia uses proprietary databases which are accessible by law firms, law enforcement agencies, insurance company investigators, and licensed private investigators. DeLia thought there were regulations restricting the distribution of information contained in such databases to those who had a need for it. Demonstrating such a need entails contacting the database company, filling out an application, and providing documentation such as proof of insurance, an investigator's license, and incorporation information. Generally, DeLia's analysts access the databases, not DeLia.

14. In July or August 2005, DeLia's team conducted visual surveillance in hotels, coffee shops and other locations. His team had pictures of the reporters and looked for them in or around Board meetings.

15. DeLia noted that a majority of the individuals relevant to the investigation were not on the HP infrastructure, meaning that he did not have access to their emails. DeLia stated that he never used eavesdropping, phone tapping or like methods, and did not think it was worthwhile to use lie detectors, since they are not admissible in court and may provide ambiguous results depending on the quality of the examiner. DeLia recalled a conversation with Dunn, Baskins or Gentilucci in which he explained that it was not legal to eavesdrop on conversations.

C. Pretexting

16. DeLia thought "in all probability" that he used the word "pretexting" with Dunn and explained the term to her, but he did not have a specific recollection of using the word. DeLia said he knows that he would have described the processes with Dunn, though he did not tell Dunn that he was using a subcontractor.

17. DeLia instructed ARG to pull call records from a specific time frame for: Robert Knowling, George Keyworth, Tom Perkins and Carleton Fiorina of HP; Roger Crocket, Peter Burrow and Ben Elgin of Business Week; Pui-Wing Tam and George Anders of the Wall Street Journal; and John Markoff of the New York Times. DeLia did not recall whether he called or emailed ARG with the request. ARG would have obtained information regarding both mobile and landlines, and either faxed or emailed the information to DeLia. Generally, ARG would send an Excel spreadsheet with date and phone number information.

18. DeLia has had numerous conversations with ARG in 2005 and 2006 about how they obtain phone records. ARG pretexts the operators, and if one operator does not provide the information, then they call another operator. Each phone carrier is different. ARG would get information on a certain number of days from one operator, then move to another operator. The information was "subject to error" because it was being recorded from an oral conversation.

19. DeLia supplied ARG with Social Security Numbers for all subjects of pretexting. DeLia thought that ARG used the last four digits of the numbers as required. Other than pretexting for phone records, DeLia is not aware of ARG doing any other work for Kona I or Kona II.

20. DeLia told us that pretexting is a common tool used in investigations involving, for instance, organized crime, and his analysts therefore periodically monitor the relevant law.

21. DeLia stated that he would not have decided by himself whose phone records to pull; rather, that decision was collaborative and people in HP would have had ultimate authority as to what activity was conducted.

22. When asked why he had not simply asked the relevant individuals (e.g. HP directors) for their phone records, DeLia responded that this was not his decision to make. Dunn had instructed DeLia not to discuss the investigation with anyone except her, so he felt it would not have been appropriate for him to speak with the Board.

D. Discussions with Baskins and Dunn

1. June Calls

23. DeLia's firm created a June 14 "Preliminary Draft Findings" document, sent to Dunn and Baskins, which refers to "intelligence gathered through telephone subscriber records." See Exh. A. DeLia noted that this comment refers to pretexting. The report mentions calls made by Keyworth, and footnote five references two "pretext calls" made to reporters. DeLia said that these calls were probably done by his firm, and that the "Dunn" mentioned in the document is not Patricia Dunn. DeLia said he also drafted an updated report on July 19, 2006 which he will email to us.

24. On June 15, DeLia, Dunn and Baskins conducted a conference call in which DeLia went over the results of the investigation to date, including third party phone records. During the call, DeLia explained pretexting, telling Dunn and Baskins that it involved investigators requesting information from operators orally, over the phone, "pretending" to be someone else if necessary. DeLia informed Dunn and Baskins that pretexting had been used in connection with reporters. DeLia thought most of the pretexting was done by June 15.

25. DeLia recalled that Baskins was curious about pretexting and concerned about its legality, and had asked DeLia whether it was lawful. DeLia replied that he was aware of no laws that made pretexting illegal, and was aware of no criminal prosecutions for such activities. DeLia thought he would have mentioned that he had done some research on the issue. DeLia also recalled talking to John Kiernan about the legality of pretexting some time before the June 15 call.

26. During the June 15 call, DeLia requested access to someone at HP Global Security in order to access the HP "infrastructure." This led to Gentilucci being added to the investigatory team.

2. July 22 Meeting (see Exh. B)

27. DeLia recalled attending two meetings on July 22. In the first meeting, DeLia, Huska, Fairbaugh, and Gentilucci went over PowerPoint slides ("Slides," attached as Exh. B) that Gentilucci had created.

28. After they had reviewed the slides, Huska, Fairbaugh and Gentilucci attended another meeting which DeLia did not join until about a half hour later. Slide 2 refers to this half-hour period between 1:30 p.m. and 2:00 p.m. as "Session One." DeLia was brought in for "Session Two," which began on Slide 3, at which point DeLia saw Huska, Fairbaugh, Gentilucci, Dunn and Baskins in the room. Hurd joined the meeting shortly after DeLia, but had to leave early. Gentilucci led Session Two, which lasted about an hour.

29. DeLia did not recall whether pretexting came up, but noted that the meeting covered a lot of material, and that it might have. He did not takes notes during the meeting.

30. DeLia said that the term "E-mail" on Slide 2 refers to internal HP email. He thought "Other parties privileged to information" probably referred to parties that had access to information that was leaked. "Insight from Bob" refers to Bob Sherbin, who was not present at the meeting.

31. DeLia was not sure what "Other intelligence gathering efforts," mentioned on Slide 5, referred to.

32. DeLia said that "Board Member 1," referred to on Slide 8, is Robert Knowling. DeLia recalled that he was on the phone with Dunn one evening when, during their call, Dunn received a call from Knowling, who told Dunn that he had just been called by a reporter with a warning that Business Week was going to run a story.

33. Regarding the comment on Slide 10 that "Intelligence revealed that BoD Member 2 appears to have contacted the NY Times," DeLia did not recall whether anybody specifically asked how this information was obtained.

34. Regarding Slide 12, DeLia noted that he would have had input in selecting investigative options. DeLia stated that he did not agree with the suggestions for using a polygraph or a covert undercover operation. DeLia was not sure what "Misinformation initiative" referred to.

35. DeLia stated that "30 days out – Executive Update Briefing" on Slide 13 probably just refers to a meeting with Gentilucci. DeLia did not recall being a part of a meeting in August, nor does his calendar show any travel to California that month. "Conduct in depth background investigation of BS" was done by DeLia, and involved media searches, inquiries into litigation, and other actions, but did not involve obtaining phone records for Sherbin.

III. Kona II

36. DeLia stated that during Kona II, pretexting was used to obtain phone information for Dunn, Keyworth, Perkins, Richard Hackborn, and Lucille Salhany.

37. DeLia agreed that Lawrence Babbio's status as a senior Verizon officer may have played a role in the decision to not use pretexting to obtain his records.

38. Kevin Hunsaker requested that DeLia do the pretexting For Kona II.

Pattie

① Confidentiality

Kona

6/14/05

Hired the guy who ~~don~~ did background check report

Not very revealing.

Not sure we're back up right now

Cell phone billed to HP

5

→ Cheryl Watcick 6 799 5083

Call from P. Bryant to that #

Period analyzed 1 1/2 - 3/23 analyzed

4 to not yet completed

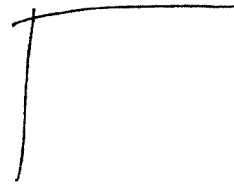
→ WSI leak?

→ Search (pretty well)

→ comments to registers

→ review of 2 celebrities

who had relationship w/ press



→ Best reason to disclose vote was of

PCD → Don't think that LB/BK would

Delta

Focus on BobK, Jay, LWS, BobW.

Next steps

→ ~~to~~ Report

Call W Ren -

What other ideas he can offer

Project Kure

6/15/05

o Obtaining phone #s is a time consuming process
call carriers (Nextel / Sprint) + use pretext to extract info
i.e. I didn't make the call

no match of A members' phone #s

→ ~~next~~

o numbers from Burruss, Elgin, Crockett provided for search

Connections: Knowlton + Crockett (deputy mgr in Chicago)
Motivation to leak? Who has relationship?

PCD →

o Crockett uses phone extensively

Crockett Elgin call by other

~~Tom~~ Ron → Concerned re timing of Bobble's disclosure

PCD

- OAKA plans?
- o Where to go from here? How to speed up? (Keep up? New tactics?)
- o Bring SEC inquiry leak into discussion.
- o bills

PCD: Wild idea

Ausan Holm

Maintains relationship of early ...

and y line
NOT seeing directors

① What did Ron recommend
Difficult

Possibility that it's going to CF & then to media
May be provided nonchallantly

Identify CF cell phones
calls to Burras / Cockett / Elgin
• Fitzgerald (AB)
used media

AB - how to get info from Sherbo ->
Ron would prefer

- ② SEC Inf
- Mark
- Bob Wagon
- Ann
- Chans
- Larry S.

- Send list to Bob
- Bob Stahli
 - Brian Hyph
 - Melanie (aware)
 - James Otero
 - Nancy Barr
 - Roxanne

③ Info on Pusa
→ Address
→ info ↑ ::::: ? cell phone ?

cell Ron
781

④ Jay's calls? Broader days to look
⑤ AB to mine time of call re SEC

⑥ INDOIC to Tony "special investigation" ^{to} directly to Tony
to