

parties have scheduled (with leave of the Court) a limited number of depositions after the September 13, 2004, discovery cut-off date. Respondents did not even consider Complaint Counsel's proposal to do the same with respect to Mr. Loveland's deposition,² even though they recognized that "... the tight deadlines imposed by the Court render compromise mutually advantageous."³

Respondents' motion to quash is unwarranted. Complaint Counsel's notice of Mr. Loveland's deposition was prompted, *inter alia*, by the testimony of Jeffrey H. Hillebrand who – at his deposition only six days earlier, on September 1 and 2, 2004 – testified that Mr. Loveland was responsible for keeping the minutes of the meeting of the Evanston Northwestern Healthcare

Board of Directors on February 2, 2000. *Ex. Hillebrand Dep. at 218, 219, 286, 404, 405, 428*

29, 430-31. In the minutes of these meetings, Mr. Hillebrand explicitly linked Respondents'

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

REDACTED

[REDACTED]

[REDACTED]

[REDACTED]

to keep good records:

- [REDACTED]
- [REDACTED]
- [REDACTED]

[REDACTED]

Hillebrand Dep. at 428 - 429 (italics added).

Finally, Mr. Hillebrand went so far as to label Mr. Loveland's work "nonsensical":

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

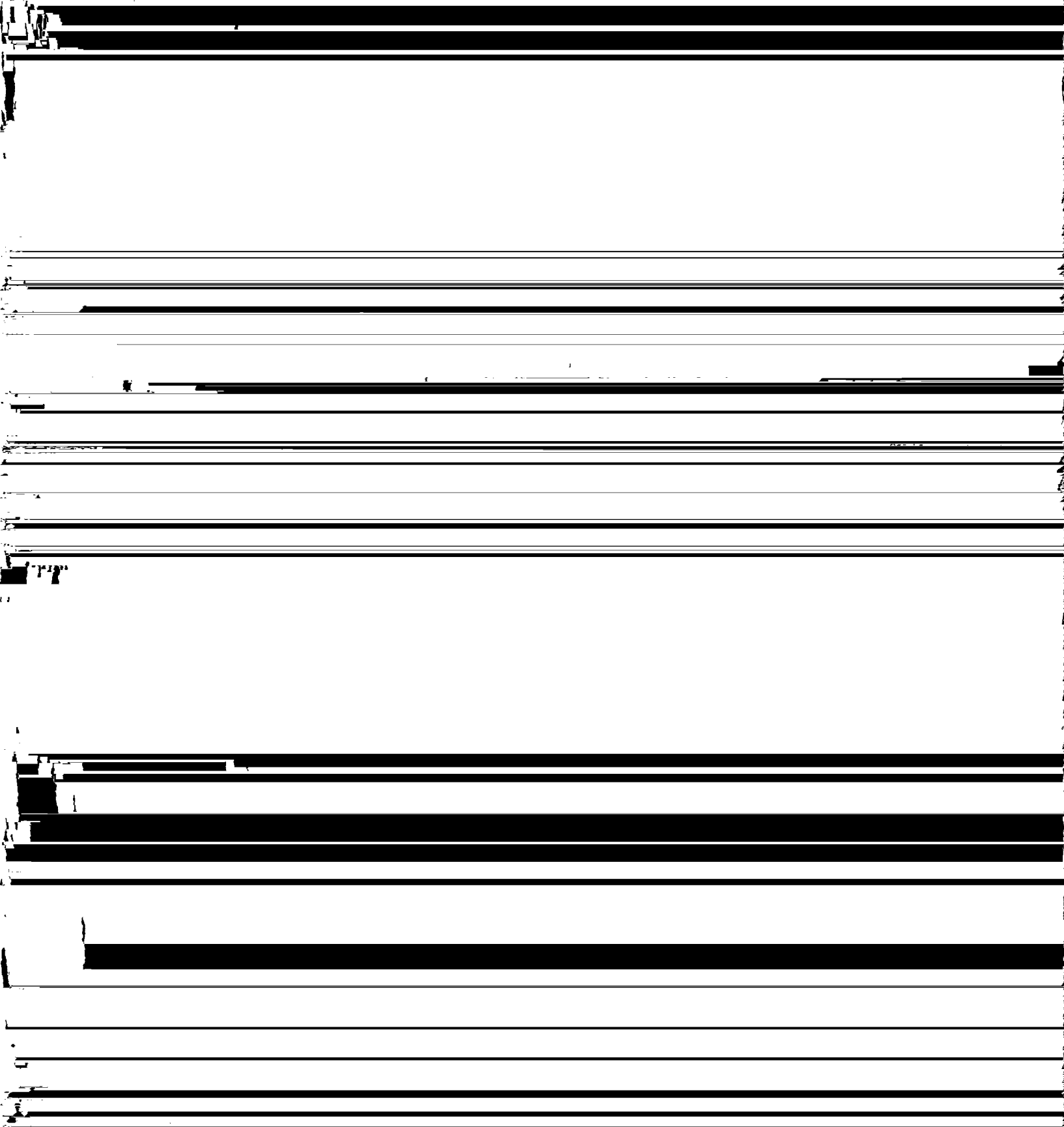
[REDACTED]

[REDACTED]

Hillebrand Dep. at 435 - 437 (italics added). Under these circumstances, Mr. Loveland's

deposition is clearly appropriate.

~~Second, under these circumstances, Complaint Counsel's notice was not untimely. The~~



Stratosphere Corp. Sec. Litigation, 183 F.R.D. 684 (D. Nev. 1999).

Here, Respondents knew that Mr. Loveland was a potential witness and that his deposition might be necessary. Further, Complaint Counsel promptly noticed Mr. Loveland's deposition upon receiving the testimony of Mr. Hillebrand. Thus, the six day notice was reasonable under the circumstances of this case.

CONCLUSION

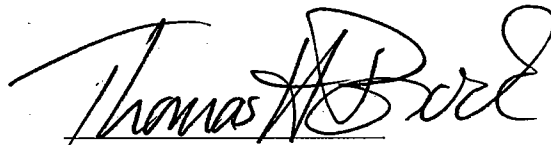
~~For the foregoing reasons, Respondents' motion to quash the notice of deposition of~~

David Loveland should be denied.

Respectfully submitted,

Dated:

9/14/04



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