

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF SAN DIEGO

RHONA GILKEY AND JOHN GILKEY,  
PLAINTIFFS,

VS.

NO. 698885

JACOB SWILLING, PAMELA SWILLING,  
TOM HAMILTON, DR. WENZEL, FRANK  
SALAMAN, MAUREEN SALAMAN, ROBERT  
BRADFORD, CAROLE BRADFORD,  
INSTITUTO GENESIS WEST-PROVIDA,  
AMERICAN BIOLOGICS, S.A., MICHAEL  
L. CULBERT, RODRIGO RODRIGUEZ,  
JORGE AGUILAR, VICTOR LOUSTANAU;  
AND DOES 1 THROUGH 200, INCLUSIVE,

DEFENDANTS.

DEPOSITION OF JACOB SWILLING  
SAN DIEGO, CALIFORNIA  
MAY 5, 1997

MAY 27 1997

*Fivecoat & With*

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KATRINA F. BURLASON, CSR NO. 5898

COPY

1 JACOB SWILLING,

2 Having been first duly sworn, testified as follows:

3  
4 EXAMINATION

5 BY MR. HILL:

6 Q. Would you please state your full name.

7 A. Jacob, J-a-c-o-b, Swilling, S-w-i-l-l-i-n-g.

8 Q. What is your address?

9 A. 444 Orange. That's Orange Street, Coronado.  
10 That's California, of course.

11 Q. Sir, how would you prefer that I address you  
12 during the course of these proceedings?

13 A. Well, I'm always referred to or addressed as  
14 Dr. Swilling, Jacob Swilling.

15 Q. Okay. Dr. Swilling, have you had your  
16 deposition taken before?

17 A. No.

18 Q. I'm sure your counsel has explained what  
19 we're doing here today in the deposition procedure, but  
20 just so that we're both on the same wavelength and  
21 understand what we're doing today, let me discuss those  
22 procedures with you.

23 First of all, as you note, you were  
24 administered the oath to tell the truth under penalty of  
25 perjury, which is the same oath that's given in a court of  
26 law. And even though we sit here informally around a  
27 conference table in a law office, the proceedings are  
28 formal in the sense that the oath that we use here is that

1 same oath that's used in a courtroom and the penalties of  
2 perjury that would apply in a courtroom apply here in the  
3 deposition setting also.

4 Do you understand that, sir?

5 A. Yes, sir.

6 Q. All right. Everything that we say, unless we  
7 go off the record at the request of one of the attorneys,  
8 will be taken down by a court reporter, Ms. Burlason.  
9 After the deposition she will arrange to have what we say  
10 typed up into a booklet form, showing the questions and  
11 the answers. You will have the opportunity to review that  
12 booklet and make any changes that you feel should be made  
13 in your testimony. If you make changes, however, those  
14 changes can be commented upon at the time of the trial of  
15 this matter. The moral of the story, then, so to speak,  
16 is that it's important not to make changes, and so to  
17 avoid making changes, you should not guess or speculate at  
18 an answer. If my question is not clear and you feel you  
19 have to guess or speculate to answer it, you shouldn't do  
20 that. You should tell me to rephrase the question or  
21 restate it for you in a manner so that it's understandable  
22 to you.

23 . If for some reason during the course of the  
24 deposition you need to take a break, for personal  
25 convenience or whatever, be sure to speak up, and we will  
26 make sure that you are accommodated.

27 I think that pretty much covers the basics of  
28 what we're here for. Do you have any questions about the

1 procedure before we delve into it?

2 A. Not at this time, no.

3 Q. All right. If at any time you have some  
4 question about something, be sure to bring that up, and  
5 we'll take care of it at that time.

6 Dr. Swilling, have you reviewed any materials  
7 in preparation for your deposition?

8 A. I haven't reviewed material recently in  
9 preparation for this deposition.

10 Q. All right. In connection with this case in  
11 general, are there materials that you have reviewed?

12 A. Yes.

13 Q. And what are those?

14 A. The patient's record file.

15 Q. Anything else?

16 A. The response to the [derogatories].

17 Q. Referring to your responses?

18 A. Yes. The material that was received in the  
19 part of the evidence that the attorney, Terry Gross,  
20 submitted to me on an ongoing basis since the commencement  
21 of the proceedings.

22 Q. I'm sorry, I didn't hear -- on the which --  
23 (Last answer read)

24 THE WITNESS: Yes, sir, that's really what  
25 covers all of the material.

26 BY MR. HILL:

27 Q. All right. Okay. Dr. Swilling, I understand  
28 you were born in South Africa on June 2nd, 1934.

1 A. Correct.

2 Q. And you attended high school in South Africa.

3 A. Correct.

4 Q. And then you went to -- is it Regis College  
5 in Johannesburg, South Africa?

6 A. Correct.

7 Q. And is that where you obtained a Bachelor of  
8 Science Degree?

9 A. No. I completed my college education at  
10 Regis College.

11 Q. How many years did you attend there?

12 A. Two years.

13 Q. After two years at Regis College, what formal  
14 education did you receive?

15 A. My degree education was through the  
16 institution that is the International University for  
17 Nutrition Education, which is located in California, in  
18 the United States, of course.

19 Q. I missed after California.

20 A. In the United States.

21 Q. All right. So after two years of Regis  
22 College, your next formal education was at the  
23 International University in Chula Vista?

24 A. Correct.

25 Q. Where did you obtain your B.S. degree?

26 A. From that institution, as well as the  
27 Master's and the Ph.D.

28 Q. Okay. And that's called the International

1 University for Nutrition Education?

2 A. Correct.

3 Q. And that's in Chula Vista?

4 A. Yes.

5 Q. And is that an accredited university or --

6 A. It's approved by the Department of Education  
7 in the State of California.

8 Q. And is it authorized to issue B.S., M.S., and  
9 Ph.D. degrees by the Department of Education in  
10 California?

11 A. Correct.

12 Q. In connection with receiving your master's  
13 degree, did you prepare a dissertation?

14 A. Yes.

15 Q. What was the subject of that?

16 A. It was Metabolic and Nutrition and Assessment  
17 Programs.

18 Q. Was that published?

19 A. It wasn't published, no. It was submitted to  
20 the institution.

21 Q. And for your Ph.D. did you prepare a  
22 dissertation?

23 A. The Ph.D. was on a similar -- it was a  
24 development of the master's. So it was the same subject  
25 but in the Ph.D. project as compared to master's.

26 Q. Was that published?

27 A. No.

28 Q. Did you have a faculty advisor for your

1 Ph.D.?

2 A. Yes.

3 Q. Who was that?

4 A. Linda -- Dr. Linda Bunting, B-u-n-t-i-n-g.

5 Q. Is she still at the International University?

6 A. No.

7 Q. Where is she located?

8 A. Actually, I'm not sure. She hasn't been with  
9 the institution for several years.

10 Q. How many students attend the International  
11 University in Chula Vista?

12 MR. McELROY: Objection, vague and ambiguous  
13 as to time.

14 BY MR. HILL:

15 Q. At the time you obtained your Ph.D., that was  
16 what, 1979 to '85; is that correct?

17 A. That sounds about the time.

18 Q. During that time period, what was the student  
19 population at the International University?

20 A. From my knowledge, there were about 4,000  
21 students.

22 Q. Is the International University at Chula  
23 Vista still in operation?

24 A. Yes.

25 Q. Do you have any connection with the  
26 university yourself at this time?

27 A. Yes.

28 Q. And what is that?

1 A. I'm actually the president of the university.

2 Q. How many students does the university  
3 currently have?

4 A. The current population is at a low level  
5 because of a teachout that is being completed in  
6 preparation for a new application to meet new legislation  
7 in the state of California. I'm not quite sure, it could  
8 be something like 60 or 80 students.

9 Q. You referred to a teachout?

10 A. Yes.

11 Q. What is that?

12 A. It means that we assist the students to  
13 complete the programs without them continuing with the  
14 existing development of their education in whatever other  
15 degrees they intended to take.

16 Q. Is the International University authorized at  
17 this time to award degrees?

18 A. No.

19 Q. For how long has it not been authorized to  
20 award degrees?

21 A. Since December of 1996.

22 Q. What is the reason that the university is no  
23 longer authorized to award degrees?

24 A. A decision that was taken to meet the  
25 requirements of new legislation that has recently been  
26 introduced by the Department of Education.

27 Q. Was this legislation passed by the California  
28 legislature?

1 A. Correct.

2 Q. And without going into the matter in great  
3 detail, what was the type of legislation or legislation  
4 that resulted in the university no longer awarding  
5 degrees?

6 A. It's affected all of the private and  
7 secondary schools throughout the state in that they are  
8 required to meet new requirements in the legislation for  
9 degree programs.

10 Q. Have you been employed full time at the  
11 International University?

12 A. No.

13 Q. When did you first become employed by the  
14 International University?

15 A. 1986. July, 1986, is my recollection.

16 Q. What position did you first have at the  
17 International University?

18 A. I was an associate professor in South Africa,  
19 and in 1986 I was appointed vice-president, and then,  
20 subsequently, president.

21 Q. You testify you were appointed associate  
22 professor in South Africa?

23 A. Um-hmm. Correct.

24 Q. The International University had a branch in  
25 South Africa at that time?

26 A. I was responsible for a campus, a small  
27 campus, in Johannesburg in South Africa.

28 Q. And that was 1986?

1           A.     No. That was previously. It probably was  
2 since -- 1983 to 1986 is my recollection.

3           Q.     What were your responsibilities in South  
4 Africa for that campus?

5           A.     Introducing the university's programs to  
6 those students who were interested in their programs.

7           Q.     What did the university branch, or whatever  
8 it might have been called, consist of in South Africa at  
9 that time?

10          A.     Similar programs that began with the  
11 bachelor's and the master's and the Ph.D.

12          Q.     Was there a faculty in South Africa?

13          A.     There was a faculty that was actually  
14 appointed in conjunction with the university here in the  
15 United States.

16          Q.     What was the size of the faculty in South  
17 Africa at that time?

18          A.     There were three.

19          Q.     You and two others?

20          A.     Yes.

21          Q.     How many students did the branch in South  
22 Africa have at that time?

23          A.     Approximately 20.

24          Q.     Did the branch own facilities, buildings,  
25 that kind of thing?

26          A.     No. It operated out of our own facility.

27          Q.     During that time period, did you award  
28 degrees in South Africa?

1           A.     It wasn't my responsibility to. It was to  
2 help the students to achieve --

3           MR. McELROY: "Yes" or "no"?

4           THE WITNESS: No.

5 BY MR. HILL:

6           Q.     One thing I forgot to ask you, Dr.  
7 Swilling -- I should have asked you initially. I take it  
8 you feel that you are able to proceed with the deposition  
9 today; in other words -- let me ask you another question.  
10 Do you have any reasons, because of health concerns,  
11 medical concerns, that would affect your ability to give  
12 testimony today?

13          A.     No.

14          Q.     Are you on any medication that would affect  
15 your ability to give testimony today?

16          A.     No.

17          Q.     Are you on any medication at all?

18          A.     No.

19          Q.     All right. So you lived in South Africa,  
20 then, from 1983 to 1986?

21          A.     No. I was born in South Africa.

22          Q.     During the time that you were an associate  
23 professor for the South Africa branch of the International  
24 University in 1983 to 1986, where did you live?

25          A.     In South Africa.

26          Q.     When did you first come to the United States  
27 from South Africa?

28          A.     1985.

1 Q. Were you in South Africa when you received  
2 your B.S. degree from the International University?

3 A. Yes. We need to qualify that, though. I had  
4 to attend a challenge exam and get my degrees presented at  
5 a graduation ceremony here at the university.

6 Q. Okay. When you say you need to qualify it,  
7 I'm not sure I understand what you mean.

8 A. Well, the question was did I receive it in  
9 South Africa. I received it when I was in South Africa.

10 Q. What year?

11 A. My recollection was in 1983, 1984 --

12 Q. So you received your B.S. degree in 1983 or  
13 1984 while in South Africa; is that correct?

14 A. Yes.

15 Q. And that was before you came to the United  
16 States; is that correct?

17 A. Yes.

18 Q. And you received that degree from the  
19 International University for Nutrition Education located  
20 in Chula Vista; is that correct?

21 A. At that time the university was located in  
22 Huntington Beach, in northern California. It subsequently  
23 relocated.

24 Q. To Chula Vista.

25 A. Um-hmm.

26 Q. Is that a "yes"?

27 A. Yes.

28 Q. But the International University for

1 Nutrition Education had a branch at that time in South  
2 Africa; is that correct?

3 A. Yes.

4 Q. Where was that located in South Africa?

5 A. A suburb that is known as Auckland Park.

6 Q. And where were you awarded your Master's in  
7 Science Degree from the International University for  
8 Nutrition Education?

9 A. In South Africa, while I was in South Africa.

10 Q. And then in 1986 you traveled to the United  
11 States or 19- --

12 A. 1985.

13 Q. 1985.

14 And did you receive your Ph.D. degree from  
15 the International University for Nutrition Education while  
16 you were still in South Africa?

17 A. Yes.

18 Q. And that degree was awarded by the  
19 International University for Nutrition Education which was  
20 located in Huntington Beach but which is now located in  
21 Chula Vista.

22 A. Correct.

23 Q. Is your Ph.D. in a particular area?

24 A. Clinical nutrition.

25 Q. What was your first full-time employment?

26 A. I was a trainee in an advertising agency,  
27 having left college.

28 Q. What years was that?

1 A. Well, my recollection is 1955 to 1960.

2 Q. After that, what was your full-time  
3 employment?

4 A. I became an executive of the same advertising  
5 agency.

6 Q. What time period were you an executive?

7 A. It was really during the same period. I  
8 can't recollect the exact years, but it was between '65  
9 and '60.

10 Q. After 1960, what was your next full-time  
11 employment?

12 A. I actually became self-employed.

13 Q. In what kind of work?

14 A. In the health field.

15 Q. And how long did you remain self-employed in  
16 the health field?

17 A. Well, I continued. That's been my life's  
18 work since that time.

19 Q. What did you do in 1960 in the health field  
20 as part of your self-employment?

21 A. I was a consultant to the health food  
22 industry.

23 Q. And as a consultant, what kinds of consulting  
24 did you do?

25 A. It had to do with formulation or formulating  
26 health supplements and foods as well as my own private  
27 practice as a counselor in nutrition.

28 Q. In private practice as a counselor, you mean

1 your patients or clients would come to you for advice  
2 on --

3 A. -- nutrition.

4 Q. -- nutrition.

5 A. Correct.

6 Q. During what period of time did you serve as a  
7 consultant and advise people with respect to nutrition?

8 A. Right up until the time I emigrated to the  
9 states.

10 Q. That would have been 1985?

11 A. Yeah.

12 Q. Did you, yourself, sell any health foods or  
13 supplements during that time period?

14 A. Yes.

15 Q. All right. You emigrated to the United  
16 States in 1985?

17 A. Yes.

18 Q. What was the reason you chose to emigrate to  
19 the United States, then?

20 A. I was invited to participate on the board of  
21 the university. They sponsored my application.

22 Q. Was there anyone in particular whom you had  
23 conversations with on that subject at the International  
24 University?

25 A. Linda Bunting, and the president at that time  
26 was a Dr. Kurt -- that's K-u-r-t, Donsbach,  
27 D-o-n-s-b-a-c-h.

28 Q. Where is he located now?

1 A. I really have no idea.

2 Q. Were there ever any periods of time from 1983  
3 to the present -- or, withdraw that.

4 Were there any times from 1983 up till  
5 December, 1986, when the International University in Chula  
6 Vista was not authorized to award degrees?

7 A. No. I need you to just rephrase that  
8 question, please.

9 Q. Sure.  
10 Were there any -- Was there any time from  
11 1983 to December, 1996, when the International University  
12 in Chula Vista was not authorized to award degrees?

13 A. No.

14 Q. After you arrived in the United States in  
15 1985, where did you reside?

16 A. In Huntington Beach.

17 Q. How long did you reside there?

18 A. It was until the university relocated, which  
19 I believe was the end of 1989.

20 Q. While you were in Huntington Beach, what was  
21 your occupation?

22 A. Vice-president.

23 Q. Of the International --

24 A. Of the International University.

25 Q. Did you have any other income-earning  
26 occupation during that time?

27 A. No.

28 Q. What were your duties as vice-president of

1 the International University in Huntington Beach?

2 A. Assisting in development of curriculum and  
3 course material.

4 Q. How many students did the International  
5 University have at that time, full-time students?

6 A. That's my recollection: There were 4,000  
7 students.

8 Q. And these 4,000 students attended the  
9 university on a full-time basis?

10 A. No. It's directed study. There wasn't --  
11 that's really what it is, it's directed study.

12 Q. What is directed study?

13 A. The students are not required to do resident  
14 classroom training on a regular basis. They have periods  
15 that they come to the institution to challenge exams, but  
16 faculty members were the mentors of the student in helping  
17 them to complete their studies wherever they were located.

18 Q. Is this sort of like a correspondence school?

19 A. No. It was never categorized as a  
20 correspondence school.

21 Q. So the 4,000 students would reside throughout  
22 the world?

23 A. Correct.

24 Q. And the only time they had to be present at  
25 the university was to take exams?

26 A. Correct.

27 Q. In 1989, what did you do?

28 A. I continued to perform my duties as

1 vice-president and then was elected president of the  
2 company, of the institution.

3 Q. When did you become president?

4 A. It was in 1987, as far as my recollection is.  
5 1987.

6 Q. So you were president while in Huntington  
7 Beach from 1987 to 1989; is that correct?

8 A. Yes.

9 Q. And you say in 1989 the university moved from  
10 Huntington Beach to Chula Vista; is that correct?

11 A. Correct.

12 Q. What was the reason for the move?

13 A. It was a consolidation to be near additional  
14 facilities.

15 Q. Has the International University been in  
16 Chula Vista from '89 to the present?

17 A. Yes.

18 Q. How many buildings does the International  
19 University in Chula Vista consist of?

20 A. It's one, one building.

21 Q. What is the address there?

22 A. 1161-A Bay, B-a-y, Boulevard, in Chula Vista.

23 Q. That's 1161-A Bay Boulevard?

24 A. Correct.

25 Q. What is the size of this building?

26 A. 3,200 square feet.

27 Q. 8,200?

28 A. 3-. 3,200.

1 Q. Are there full-time faculty on the premises?  
2 A. Faculty and administrative staff.  
3 Q. With respect to faculty, how many full-time  
4 faculty are on the premises?  
5 A. Two.  
6 Q. And who are they?  
7 A. My wife and myself.  
8 Q. And with respect to administrators, how many  
9 full-time administrators are there?  
10 A. We have one administrator and two other staff  
11 members.  
12 Q. Who is the administrator?  
13 A. Odette, O-d-e-t-t-e, Swilling,  
14 S-w-i-l-l-i-n-g.  
15 Q. I take it she's related to you?  
16 A. Yes.  
17 Q. What is that relationship?  
18 A. My daughter.  
19 Q. You're married?  
20 A. Yes.  
21 Q. And your wife's name is what?  
22 A. Pamela Julia.  
23 Q. When were you and Pamela married?  
24 A. 1981.  
25 Q. Had you been married before?  
26 A. Yes.  
27 Q. How many times?  
28 A. Only once previously.

1 Q. What was the name of your first wife?  
2 A. Patricia.  
3 Q. What were the dates of that marriage?  
4 A. I am not sure exactly, but it was 1960 or  
5 1961.  
6 Q. To when?  
7 A. Until 1979.  
8 Q. How many children do you have?  
9 A. Two.  
10 Q. When was Odette born?  
11 A. Odette is from the second marriage. We have  
12 two children from --  
13 MR. McELROY: When was Odette born was the  
14 question.  
15 THE WITNESS: Again, 1966.  
16 BY MR. HILL:  
17 Q. Is Odette your natural daughter?  
18 A. No.  
19 Q. She was adopted by you?  
20 A. Yes.  
21 Q. Is she the daughter of Pamela?  
22 A. Yes.  
23 Q. All right. Then you say you had another --  
24 you have another child. What is that child's name?  
25 A. I have two natural sons.  
26 Q. Do they reside in this country?  
27 A. One -- No. Both of them reside in South  
28 Africa.

1 Q. Is either of them involved with you in the  
2 health or health food business?

3 A. No.

4 Q. For how long has the International University  
5 in Chula Vista had as faculty members only you and your  
6 wife?

7 A. I would say it's about three years.

8 Q. When the International University relocated  
9 to Chula Vista, did it relocate to the 1161-A Bay  
10 Boulevard address?

11 A. Yes.

12 Q. How many faculty did the International  
13 University have at that time?

14 A. At that time there were probably about seven.

15 Q. So that would have been around 1989?

16 A. Yes.

17 Q. Is there a reason that the number of faculty  
18 went from seven in 1989 to just you and your wife about  
19 three years ago?

20 A. Yeah. We were the resident faculty. We  
21 retain a faculty that is not in the same area.

22 Q. When you say they're not in the same area,  
23 you mean the same geographical area?

24 A. Yes.

25 Q. So in 1989 the only two resident faculty were  
26 you and your wife; is that correct?

27 A. Yes.

28 Q. And the other five faculty members resided

1 somewhere other than Chula Vista; is that correct?

2 A. Correct.

3 Q. And would you explain how the students'  
4 studies are, as you say, directed by the faculty.

5 A. The delivery program of nutrition has  
6 textbooks, course material, study aids, special projects,  
7 research assignments, and they are required to complete  
8 these different projects under the direction of the  
9 faculty people.

10 Q. Now, you've testified there were about 4,000  
11 students that the 19- -- well withdraw that.

12 During what time period were there about  
13 4,000 students?

14 A. Students were involved several years before  
15 1986, when I participated in the institution. That at  
16 that time over the years the student population was 4,000.

17 Q. Before 1986; is that correct?

18 A. Correct.

19 Q. After 1986, up to the present, when you said  
20 it's at present -- withdraw.

21 At present you said it's about 60 students;  
22 is that correct?

23 A. Yes.

24 Q. And how long has it been about 60 students?

25 A. That number has reduced over the years. The  
26 last maybe --

27

28

MR. McELROY: How long has it been 60 was the

1 question.

2 THE WITNESS: Three years.

3 BY MR. HILL:

4 Q. All right. From, say, 1986 up until 1993,  
5 what was the average student population?

6 A. It was a reducing number.

7 Q. Reducing, you mean, from 4,000 to 60?

8 A. Correct.

9 Q. How many students does a faculty member  
10 direct?

11 MR. McELROY: Objection, vague and ambiguous  
12 as to time.

13 BY MR. HILL:

14 Q. Do you have a guide for numbers of students  
15 that a faculty member would direct?

16 A. The faculty member had their own assistants  
17 that were counselors. And it depended on the faculty  
18 member to determine how they would handle this through  
19 their counselors.

20 Q. Now, you testified in 1989 there were -- when  
21 you relocated to Chula Vista there were you and your wife  
22 and five other faculty members; is that correct?

23 A. Um-hmm.

24 Q. Was that a "yes"?

25 A. Yes.

26 Q. And at that time how many students were  
27 there?

28 A. That's the figure. In 1999 it had reduced

1 prior --

2 MRS. SWILLING: No --

3 BY MR. HILL:

4 Q. You said '99. I'm sure you meant '89.

5 A. In '89 there were probably about 2,000  
6 students.

7 Q. And the 2,000 students were directed by the  
8 seven faculty members?

9 A. Yes.

10 Q. And the faculty -- Except for you and your  
11 wife, who were in Chula Vista, the other five faculty  
12 members were outside Chula Vista; is that correct?

13 A. Correct.

14 Q. And the 2,000 students were located  
15 throughout the world; correct?

16 A. Correct.

17 Q. How did the faculty -- well, withdraw.

18 How was it determined which faculty would  
19 deal with which students throughout the world? Did you  
20 have any methodology for making that determination?

21 A. It depended on the degrees that they were  
22 taking and the subject matter.

23 Q. And how was it that the faculty members would  
24 communicate with the students? Was that in writing, by  
25 telephone, or --

26 A. Both.

27 Q. And did the faculty member have face-to-face  
28 meetings with the students?

1 A. Not in all cases.

2 Q. What percentage?

3 A. I'd like to correct that. All students had  
4 to challenge the final exams and be present at a  
5 graduation ceremony to receive their degrees.

6 Q. Where did they take their final exam?

7 A. At Huntington Beach mostly. And then in  
8 Chula Vista, the way this was directed was through  
9 proctored examinations through appointed professionals in  
10 universities or in libraries.

11 Q. So, in other words, the students could take  
12 their final exams at a university in Maine or New York or  
13 what have you?

14 A. Correct.

15 Q. What percentage actually traveled to Chula  
16 Vista to take their final exams?

17 A. Very minimal.

18 Q. So that a student could attend Chula Vista  
19 university without ever being present at the university  
20 there on Bay Boulevard; is that correct?

21 A. Correct.

22 Q. And what percentage of the students never  
23 made an appearance at Bay Boulevard during the time period  
24 of '89 till the present?

25 A. The major percentage.

26 Q. Would it be over 90 percent?

27 A. Yes.

28 Q. Have you ever made any calculations of the

1 pass/fail rate of the final exams of your students?

2 A. I really would not like to hazard a guess.  
3 But it wasn't substantial. It was minimal.

4 Q. Referring to the ones who passed?

5 A. No. Those that failed.

6 Q. Okay. So, what, would it be close to 99  
7 percent who passed the exams and received their degrees?

8 A. Yes. There were others that would just  
9 withdraw that didn't complete.

10 Q. Has the International University in Chula  
11 Vista ever been subject to any litigation brought by the  
12 State of California?

13 A. No.

14 Q. Was the university ever directed not to award  
15 degrees by any official of the State of California?

16 A. No.

17 Q. Is there any official of the State of  
18 California, say in the Department of Education, whom you  
19 have received correspondence from in the last two or three  
20 years on the subject of awarding degrees?

21 A. Not specifically on awarding degrees. It was  
22 constant communication.

23 MRS. SWILLING: I'm sorry I spoke out. I'm  
24 very sorry.

25 MR. McELROY: Just answer the questions.

26 BY MR. HILL:

27 Q. Who in the Department of Education have you  
28 had correspondence with concerning the university?

1 A. There were several.

2 Q. Is there one who has been the primary  
3 contact?

4 A. Primary contact was over a few years. I  
5 can't remember his name at this time.

6 MR. McELROY: Just answer the question. If  
7 you can recall a name, give it to him. If you can't, tell  
8 him you can't recall.

9 THE WITNESS: Can't recall.

10 BY MR. HILL:

11 Q. Is the primary contact someone in the  
12 Department of Education?

13 A. Yes.

14 Q. And have you had any regular contacts with  
15 anyone in any other agency of the State of California?

16 A. No.

17 Q. Do you recall the name of any person whom  
18 you've had contact with from the Department of Education?

19 A. No.

20 Q. Were the people that you've communicated with  
21 in the Department of Education -- where are they located  
22 in California?

23 A. Sacramento.

24 Q. From 1989 to the present -- withdraw.

25 After coming to the United States in 1985,  
26 have you earned income from any source other than the  
27 International University?

28 A. Yes.

1 Q. And what are those sources?

2 A. My private consulting practice.

3 Q. Where is -- withdraw.

4 What is that private consulting practice? In  
5 other words, what do you consult in or about or  
6 concerning?

7 A. That's the counseling in nutrition.

8 Q. Where do you conduct that consulting  
9 business?

10 A. Are you referring to here in the United  
11 States?

12 Q. Anywhere -- since you've come here in 1985,  
13 you've testified about your relationship with the  
14 International University and you've testified that you've  
15 also been conducting a private consulting business. And  
16 my question is in what fields do you consult in?

17 A. In clinical nutrition.

18 Q. And where do you -- where have you carried  
19 out that consultation business since coming to the United  
20 States in 1985?

21 A. My consulting work began at the time that we  
22 arrived at Chula Vista, at the GenesisWest Medical Center,  
23 which is located across the border in Playas, in Tijuana.

24 Q. What is the GenesisWest Medical Center?

25 A. It's a licensed medical facility working in  
26 natural medicine.

27 Q. What is natural medicine?

28 A. The center specializes in the treatment of

1 illnesses and disease using what is known as natural  
2 medicine.

3 Q. What is natural medicine?

4 A. Treatment with homeopathics, botanicals,  
5 herbals, and food supplements.

6 Q. And how long have you been associated with --  
7 withdraw.

8 Have you been associated with GenesisWest  
9 Medical Center from 1989 to the present?

10 A. Yes.

11 Q. What is your position at GenesisWest?

12 A. I'm a consultant in the field of clinical  
13 nutrition.

14 Q. Has that been your position there from '89 to  
15 the present?

16 A. Correct.

17 Q. Who owns GenesisWest?

18 A. It's a Mexican corporation.

19 Q. Who are the shareholders?

20 A. The shareholders are four -- the original  
21 owners were four Mexican nationals.

22 Q. What are their names?

23 A. It's trying to recall them in their order.  
24 It's Salvador Vargas; Alicia Cubbilis, C-u-b-b-i-l-i-s,  
25 Pedro Trego -- it's T-r-e-g-o. I cannot recollect the  
26 fourth name, because he's resident in Mexico City.

27 MR. McELROY. If you can't recall, just tell  
28 him you can't recall.

1 THE WITNESS: Can't recall.

2 MR. HILL: I notice a couple people need  
3 water, and I saw you look at your watch. Do you want to  
4 take a short break?

5 (Recess)

6 BY MR. HILL:

7 Q. All right. Back on the record.

8 Dr. Swilling, do you have any written  
9 agreements with GenesisWest concerning your activities  
10 there?

11 A. I do. I have.

12 Q. How many do you have?

13 A. One.

14 Q. What does that agreement generally provide  
15 for?

16 MR. McELROY: Objection to the extent it  
17 calls for a legal opinion from a lay witness. Other than  
18 that, he can answer the question.

19 Go ahead.

20 A. An official appointment as a consultant.

21 BY MR. HILL:

22 Q. How are you compensated by GenesisWest?

23 MR. McELROY: His question, by the way,  
24 before you answer it, is how. Not how much, but in what  
25 matter?

26 A. It allows me to conduct consultancy work and  
27 research. I'm not actually compensated by them directly.

28 BY MR. HILL: