

Chapter 14: Deposition of Scott Newman, former eBay Vice President

Deposition of Scott A. Newman

<p>1 the VP of customer support? 2 A. Well, my title was VP of customer support 3 up until I left eBay in December of 2003, but duties 4 changed from time to time. So I probably had all of 14:43 5 customer support up until December of 2000 -- December 6 of -- December of 2001 or January of 2002, at which 7 time there was a person brought in between me and my 8 former boss. His title was also vice-president of 9 customer support. 14:43 10 Q. Who was that? 11 A. His name was Jim Weber, W-E-B-E-R. 12 Q. So you reported to him after December or 13 January? 14 A. Uh-huh. 14:44 15 MR. DURHAM: Is that yes? 16 THE WITNESS: That's yes. 17 BY MR. CROOK: 18 Q. And was that the reporting relationship 19 until December of 2003? 14:44 20 A. No, because in January or February of 2003, 21 another reporting relationship change was made and I 22 reported to a gentleman named Bob Sangudolce. 23 Q. So you were no longer reporting to Jim 24 Weber? 14:44 25 A. From February of 2003 until I left, no. I</p> <p style="text-align: right;">9</p>	<p>1 A. I believe at the time we brought her in as 2 a manager of the -- I can't recall whether it was 3 either manager or supervisor, but I think -- it must 4 have been manager because we had -- the person that we 14:46 5 had terminated was a manager. 6 Q. So how long was she reporting directly to 7 you while you were at eBay? 8 A. Let me think about this now. 9 Probably until around -- directly, until 14:47 10 around -- until I was promoted, until around June of -- 11 June of 2000, when I was promoted, at which time I 12 replaced my old position and then she would have ended 13 up reporting in to the person that took over being 14 director of trust and safety. 14:47 15 Q. And who was the director of trust and 16 safety that replaced you? 17 A. We first brought in a gentleman named Gary 18 Bowen and it wasn't a good match. He didn't like the 19 idea of having to be involved with perusing pornography 14:48 20 and things, which is part of the job of being a manager 21 of community watch, because you were trying to keep the 22 site free of pornography. So he left kind of as a 23 mutual agreement to leave. 24 And then I believe we brought in -- and 14:48 25 again, you know, this goes back four or five years --</p> <p style="text-align: right;">11</p>
<p>1 was -- the direct reporting relationship was to Bob 2 Sangudolce, who then reported to Jim Weber. 3 Q. Okay. 4 Now, at the time that you were working in 14:44 5 those positions, did you supervise Susan Dutton? 6 A. Yes. 7 Q. And when did you supervise her? 8 A. Susan Dutton I brought to eBay in November 9 of -- excuse me, November of 1999. 14:45 10 Q. When you say you brought her to eBay, what 11 do you mean? 12 A. Well, Susan had worked with me at Providian 13 Financial. She was not a direct report of mine there, 14 she was a supervisor, and I was a director. But at the 14:45 15 time, in about October of 1999, we let go one of my 16 direct reports, who was not performing. And so I was 17 looking for a person to come in and run the community 18 watch department. 19 And so I networked, and I cannot recall 14:46 20 whether I contacted Susan directly or whether we did it 21 through our recruiter, but Susan was still at Providian 22 Financial. And we inquired as to whether she was 23 interested in making a move and things worked out. 24 Q. And then did she become a manager in the 14:46 25 community watch department, then?</p> <p style="text-align: right;">10</p>	<p>1 longer. I would have to -- we brought in a gentleman 2 eventually named Tim Paine, who I had known for years. 3 I had been to MBA school with him and I worked with him 4 at American Express, and he became the director of 14:48 5 trust and safety and Susan reported in to him. 6 Q. So how long was she in your reporting 7 chain? 8 A. Directly? Oh, directly or indirectly? 9 Q. Directly or indirectly. 14:49 10 A. Probably until -- well, when I started 11 reporting to Jim Weber in January of 2002, Jim 12 eventually brought in an additional vice-president. He 13 split responsibilities, and that person's name was Brad 14 Krinhop, K-R-I-N-H-O-P. And that probably would have 14:49 15 been June or July of 2002, at which time duties were 16 divvied up between Brad and I. And at that time, Brad 17 took over the trust and safety piece. 18 So I guess all total, it would have been 19 from November of 1999 to around June of 2002 that Susan 14:50 20 would have been in -- either directly or indirectly 21 reporting to me. 22 Q. Let me ask you then, how long was she the 23 community watch manager? 24 A. Man, let's see. Well, I believe, if I can 14:50 25 remember, she was still the community watch manager</p> <p style="text-align: right;">12</p>

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<p>1 reporting in to Tim Paine, even after Brad took over. 2 But then I remember it seemed like it wasn't too long 3 after that that there were changes made with Susan and 4 she was moved from that position to other positions. 14:51 5 And I know she eventually ended up managing what we 6 called the -- gosh, I can't even remember. Managing 7 the workforce management area. 8 Q. Okay. 9 A. But I cannot recall whether that happened 14:51 10 right from being a manager of community watch to doing 11 that or whether she became an individual performer for 12 a time, where she was -- because I know eventually it 13 seemed like she was working as kind of an individual 14 performer to the trust and safety group, kind of in a 14:51 15 staff role where she was more of an analyst type 16 person. But I don't know whether that was before or 17 after she ran the workforce management area. 18 Q. Okay. 19 Let me ask you about the community watch. 14:52 20 The period she was at community watch, or the director 21 of community watch -- not director, manager? 22 A. Uh-huh. 23 Q. Do you know if she was involved in 24 formulating the policies on the mature audience site? 14:52 25 A. Oh, she would have been, yes, heavily</p> <p style="text-align: right;">13</p>	<p>1 Q. Do you know if Susan Dutton worked directly 2 with Meg Whitman on developing policies? 3 A. You know, I don't -- I wouldn't say that 4 she and Meg were, you know, always -- I'm sure Meg knew 14:54 5 Susan. I'm sure they were in meetings together from 6 time to time. That would have been not the normal 7 operating procedure. Susan would have spent most of 8 her time dealing with the trust and safety policy 9 people in San Jose, which were -- Rob Chestnut was the 14:54 10 head of that. He was our legal counsel and so she 11 spent most of her time, I think, dealing closely with 12 Rob and some of the legal people. 13 Q. Do you know if she was ever involved in a 14 presentation to Meg Whitman about defining the mature 14:54 15 audience policies? 16 A. You know, Scott, I would not be able to 17 pinpoint a date or a time. It would make sense that 18 there was probably a time when -- you know, we were 19 that small back in those early days. There were 500 14:55 20 employees total. There's no -- I have little doubt 21 that Meg, on one of her frequent visits to Salt Lake, 22 probably sat in on a presentation that we made as a 23 management team, where community watch was discussed. 24 Would Susan have been involved in that? Probably. Do 14:55 25 I remember a specific time and place and date? No.</p> <p style="text-align: right;">15</p>
<p>1 involved in that. 2 Q. Okay. 3 A. This was an evolving area. It was fairly 4 new to eBay. And a key part of that role was 14:52 5 constantly dealing with our legal people in San Jose to 6 try to come up with what was infringing, what wasn't 7 infringing, do we allow firearms? Do we not? Do we 8 allow tobacco and alcohol? 9 It was about this time, even -- we had 14:53 10 something called the VIRO program, which was a program 11 that -- where we dealt with companies that wanted to 12 protect themselves from knockoff items or infringing 13 items, so she was heavily involved in that. 14 But there was also, around this time, a lot 14:53 15 of concern whether we should continue having a mature 16 site or not. Meg Whitman had often gone on record 17 saying, "I wish we hadn't started that thing," but it's 18 kind of like now it's out of the bag and to stop it 19 would have caused kind of a big deal, I guess, with the 14:53 20 sellers who made their living on the mature site. 21 So there was a lot of discussion about how 22 to couch it. We changed the name of it from the adult 23 site to the mature audiences site. And there was 24 constant trying to clean up what was -- what crossed 14:53 25 the line and what didn't cross the line.</p> <p style="text-align: right;">14</p>	<p>1 Q. Well, let me ask you, then, about your 2 experience with Susan Dutton before eBay. 3 Do you know, while she was at Providian, 4 whether anyone made any complaints against her for 14:55 5 sexual harassment? 6 A. No, I don't know that. 7 Q. Would you be in a position to know if 8 complaints had been made against her? 9 A. I would have been in a position up until 14:56 10 July of 1999, when I left Providian, because she was in 11 my organization. And I would have been privy, had 12 there been any kind of an action. If something 13 occurred -- between the time I left Providian in July 14 of 1999 and when I -- when we hired Susan at eBay, 14:56 15 which would have been November of '99, I'm not aware of 16 it. 17 Q. Okay. Let's then go, do you know if -- 18 again, at Providian, do you know if anyone had 19 complained about her retaliating against anybody for 14:56 20 actions that she perceived that they had taken against 21 her? 22 A. No, no. Susan had a good reputation, or I 23 wouldn't have considered her on my short list to try to 24 bring her on board when we were looking for people. So 14:57 25 I knew -- of our supervisory people at Providian, she</p> <p style="text-align: right;">16</p>



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<p>1 was considered a good, strong performer that, you know, 2 ran a tight ship. That was the reputation that she had 3 had. 4 Q. Now, after she came to Providian -- I mean 14:57 5 eBay, I'm sorry, did you hear of any complaints about 6 her where she made a sexual -- someone alleged that she 7 had sexually harassed another person? 8 A. Where she had made a complaint? 9 Q. No. Where someone had made a complaint 14:57 10 against her that she had sexually harassed. 11 A. No, not while I was at eBay. Now I am 12 aware of a situation where she said she had been 13 sexually harassed. 14 Q. Why don't you tell me about that one. 14:58 15 A. Well, really close to home, because she 16 made that complaint against me. 17 Q. And what did she say? What was that -- 18 what complaint did she make, if you recall? 19 A. I was called in one day by our HR person -- 14:58 20 Q. I'm going to stop you for a second. I'm 21 sorry. 22 Who was the HR person that called you in? 23 A. I believe his name -- okay. I believe this 24 was Mike Bringuel, who I believe is still there and was 14:58 25 involved in the human resources. He was not in</p> <p style="text-align: right;">17</p>	<p>1 been, I would say, probably fall of 2001, maybe early 2 2002, along in there. She had been on board a couple 3 of -- it seemed like a couple of years. 4 Q. Now, do you know if they conducted an 15:01 5 investigation? 6 A. They did. They talked not only to me but 7 they talked to my other direct reports who were -- who 8 had been in my staff meetings to validate whether there 9 had ever been any off-color stories told. So I know 15:01 10 they spoke to, you know, several of my direct reports. 11 I do know that at the end of the situation 12 I said, "Well, I would love to meet with Susan and 13 apologize to her if I've ever have done or said 14 anything." 15:01 15 I do recall, and I agree, I admitted that 16 there was a time when I probably touched her hair. It 17 was not done -- I probably walked by and I patted her 18 on the head. And I admitted to one time -- I remember 19 we were joking around or something and I had unbuttoned 15:02 20 my first two buttons of my shirt. Did not take my 21 shirt off, but I was -- you know, obviously it was a 22 pretty difficult time for me, because I had -- I was 23 just -- you know, never recall telling an off-color 24 joke, and I don't think that was ever substantiated. 15:02 25 And other than admitting to probably</p> <p style="text-align: right;">19</p>
<p>1 Salt Lake. He was in San Jose. 2 Q. And when you say you were brought in, did 3 he fly out to Salt Lake? 4 A. You know, that's a good question. I don't 14:58 5 remember whether he -- he may have been in Salt Lake 6 and called me in or I may have been in San Jose. I 7 remember having a face-to-face conversation with him. 8 Q. Okay. 9 And what did he -- what did he tell you in 14:59 10 that meeting? 11 A. He asked if I had recalled telling 12 off-color jokes. He asked if I had unbuttoned my 13 button on my shirt, ever. He asked if I had ever 14 touched Susan Dutton's hair or other supervisor's hair, 14:59 15 or another female's hair. And said that, you know, 16 Susan had said that she had been in meetings with me 17 where there had been off-colored jokes told. 18 Q. I'm going to stop you for a second. 19 Do you remember when this was? 14:59 20 A. Boy, you know, I'm sure there is a record 21 of it somewhere. It was well into -- it was probably 22 -- because it was quite obviously shocking and 23 surprising to me, because I felt Susan and I had had a 24 pretty good relationship. I was responsible for 15:00 25 helping her get involved with eBay. But it must have</p> <p style="text-align: right;">18</p>	<p>1 patting her on the head once and unbuttoning the first 2 two buttons of my shirt, but I was mortified. I never 3 had anything brought against me before. And so the way 4 we dealt with it was I met with Susan and apologized, 15:02 5 and that was the end of it. 6 Q. Do you know if eBay gave her any stock 7 options or any other compensation to settle any kind of 8 sexual harassment claim? 9 A. You mean in this situation with me? 15:03 10 Q. Yes. 11 A. I'm not aware. If they did, I'm not aware 12 of that. That was usually not the case. I think -- I 13 thought, you know, the fact that there was an apology 14 made that was witnessed, I believe. I'm not -- I 15:03 15 believe there was a person from HR in the room, I can't 16 remember for sure. But that was the end of it. 17 Q. Do you remember whether Jeff Anderson was 18 involved at all? 19 A. Jeff was involved, yes. 15:03 20 Q. What did he do? 21 A. You know, both he and Mike Bringuel, who 22 was his boss, were involved in that situation. And I 23 think Jeff probably counseled with her individually. 24 He counseled with me and he may have been the one that 15:03 25 was in the room when I issued the apology, the verbal</p> <p style="text-align: right;">20</p>

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<p>1 apology to her.</p> <p>2 Q. I'm just going to represent to you that</p> <p>3 we've deposed Susan Dutton. She denied that she ever</p> <p>4 made a sexual harassment complaint about anybody at</p> <p>15:04 5 eBay. And I'm going to just ask you, can you explain</p> <p>6 that? Do you have any explanation for why she would do</p> <p>7 that?</p> <p>8 MR. DURHAM: I'm going to object, the</p> <p>9 question calls for speculation.</p> <p>10 BY MR. CROOK:</p> <p>11 Q. If you know.</p> <p>12 MR. DURHAM: How would he know? But I</p> <p>13 mean...</p> <p>14 THE WITNESS: What do you want me to do?</p> <p>15 BY MR. CROOK:</p> <p>16 Q. Well, you have to answer if you understand</p> <p>17 the question.</p> <p>18 A. Well, do you want to repeat that for me</p> <p>19 then?</p> <p>15:04 20 Q. Well, I'm just going to tell you that Susan</p> <p>21 Dutton alleged in a deposition she never made any</p> <p>22 sexual harassment complaint against anybody at eBay,</p> <p>23 ever. And I'm just wondering if you have any reason to</p> <p>24 know why she would do that.</p> <p>15:04 25 A. My response to that is it surprises me,</p> <p style="text-align: right;">21</p>	<p>1 but that you may have said something like you would</p> <p>2 make a good polygamous wife or plural wife. Do you</p> <p>3 remember ever saying anything like that?</p> <p>4 A. No. I don't, no.</p> <p>15:06 5 Q. Okay.</p> <p>6 Now, let's talk about Susan Dutton for a</p> <p>7 second.</p> <p>8 Did she speak about sex at all around you?</p> <p>9 Did you hear her speaking about sex?</p> <p>15:07 10 A. You know, I honestly cannot recall.</p> <p>11 Q. Do you recall if she ever said the F word</p> <p>12 around you?</p> <p>13 A. I can't remember whether she did or not.</p> <p>14 Q. Did she -- how would you describe her dress</p> <p>15:07 15 for work, how she dressed?</p> <p>16 A. Boy, it doesn't stick out to me that it was</p> <p>17 out of line. We were a fairly casual -- we eventually</p> <p>18 got to be a fairly casual workplace environment, so</p> <p>19 Levis. So I can't -- you know, it wouldn't stick out</p> <p>15:08 20 in my mind that she was wearing anything that was</p> <p>21 provocative or inappropriate, based on what the dress</p> <p>22 standard was.</p> <p>23 Q. Did you attend the eBay Christmas parties?</p> <p>24 A. Yes, I did, until I left.</p> <p>15:08 25 Q. Do you recall a Christmas party in Park</p> <p style="text-align: right;">23</p>
<p>1 because I'm the recipient of a complaint she made that</p> <p>2 was -- and she based it on being sexually harassed,</p> <p>3 that she felt I was too familiar with -- by touching</p> <p>4 her hair and unbuttoning my shirt when we were in a</p> <p>15:05 5 staff meeting or something.</p> <p>6 I was a pretty jovial guy and I was pretty</p> <p>7 outgoing, and that was kind of my -- but I do know that</p> <p>8 it was a very -- to me, it was -- I never had anything</p> <p>9 like that in my previous 20 years in, you know,</p> <p>15:05 10 executive management. So it was a -- I'll never forget</p> <p>11 that. It was one of the worst things that I had been</p> <p>12 through as a leader of people.</p> <p>13 Q. Off-color jokes, do you recall any of them,</p> <p>14 what they alleged that you had said?</p> <p>15:05 15 A. No. I don't recall there were any</p> <p>16 specific. It was just that, you know, were there</p> <p>17 sexually related jokes? And you know, I can recall</p> <p>18 that when they talked to my other direct reports,</p> <p>19 somebody, and I can't remember whether it was Mike</p> <p>15:06 20 Bringuel or Jeff said, "Well, you know, we have good</p> <p>21 natured fun from time to time," but, you know, there</p> <p>22 was never any evidence that anybody, you know,</p> <p>23 confirmed that I was telling off-color jokes.</p> <p>24 Q. One of the allegations that we've heard</p> <p>15:06 25 from others or that she said, not in her deposition,</p> <p style="text-align: right;">22</p>	<p>1 City?</p> <p>2 A. Yes.</p> <p>3 Q. Do you recall if Susan Dutton did anything</p> <p>4 during that Christmas party that seemed inappropriate?</p> <p>15:09 5 A. It's hard for me to pinpoint. All I know</p> <p>6 is that Susan would get herself three sheets to the</p> <p>7 wind whenever there was usually a company function</p> <p>8 where alcohol was served. And it was a bit of an</p> <p>9 enigma to me, you know, because her concern about when</p> <p>15:09 10 she, you know, said she had been sexually harassed by</p> <p>11 me and yet, you know, her behavior at company parties,</p> <p>12 it was a bit ironic to me.</p> <p>13 Q. Why do you say that? What did she do at</p> <p>14 Christmas parties?</p> <p>15:09 15 A. She didn't control her intake of alcohol</p> <p>16 and it was like, you know, she would be slurring her</p> <p>17 words and, you know, just -- you know, there's some</p> <p>18 people at a party, you know, at a company party, drink</p> <p>19 a little bit here and there, but keep their wits about</p> <p>15:10 20 them. But you know, she was known to be one that</p> <p>21 would -- however much she drank, I was not -- I heard</p> <p>22 things.</p> <p>23 I never saw her being carried out by</p> <p>24 somebody, but I do know that there was -- I had heard</p> <p>15:10 25 that, you know, she would hang on people and, you know.</p> <p style="text-align: right;">24</p>