

EXHIBIT 4

NORTH COUNTRY COURT REPORTERS
~~SMITH VS. WHARTON~~

EXHIBIT
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UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

* * * * *
T-PEG, INC., and *
TIMBERPEG EAST, INC., *
v. *03-C-462 *
STANLEY J. ISBITSKI, and *
VERMONT TIMBER WORKS, INC. *
* * * * *

DEPOSITION OF LYNN COLE,

Taken at the Law Offices of Whittington
Law Associates, PLLC, 35 South Main
Street, Hanover, New Hampshire 03755, on
Wednesday, March 31, 2004, commencing at
2:00 p.m.

Carolynne A. Beck, CSR, Deposition Reporter

WEST LEBANON, NEW HAMPSHIRE
603-298-6400

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1 you, but we normally, I know ask for the
 2 plans to be returned.
 3 Q. But you indicated that you are sorry to
 4 hear that he decided to build a stick
 5 frame, but that, quote, wish you well with
 6 your project, closed quote, right?
 7 A. Right.
 8 Q. Showing you TIM180, this is a fax that
 9 you sent to Jay Tucker on August 6th,
 10 2001.
 11 A. Yes.
 12 Q. And at that point you had not done, not
 13 yet done the construction plans of the
 14 bent frame, which is TIM085, right?
 15 MR. WILL: Object to the form,
 16 hes can answer.
 17 A. Yes, we had not yet drawn the construction
 18 plans, that's true.
 19 Q. Or the isometric which is TIM085.
 20 A. Or that isometric.
 21 Q. And at this point, you indicated to Jay
 22 Tucker that Stan was going to subcontract
 23 the site work, right, and do the

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1 foundation himself?
 2 A. Stan said he wanted to do it that way.
 3 Q. And that was fine with you, right?
 4 A. It is.
 5 Q. Well, you indicated that in the letter,
 6 right?
 7 A. Yes.
 8 Q. And once he had the site, and at that
 9 point, he was not obligated to go forward
 10 with the full Timberpeg package, right?
 11 A. No, at that point he was not.
 12 Q. So it was all right with you based on this
 13 fax that he could have the foundation and
 14 the footprint, right?
 15 A. At this point, Stan was telling me he was
 16 building a Timberpeg home, that was my
 17 assumption, he was building a Timberpeg
 18 home. We were going to supply the plans
 19 and supply a Timberpeg package and he was,
 20 wanted to put a foundation in for that
 21 home at that point, so we had not drawn up
 22 a bent frame. I know that we were
 23 changing it to a bent frame because of our

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1 discussions.
 2 Q. At this point in time, you hadn't even
 3 drawn up the bent frame plans, right?
 4 A. Right.
 5 Q. He had not signed any contract, right?
 6 A. Other than the design agreement.
 7 Q. Right. And you authorized him based on
 8 the plans, to go ahead and put in the
 9 foundation, right?
 10 MR. WILL: Object to the form,
 11 you can answer.
 12 A. I agreed to do the construction plans and
 13 to furnish him with a foundation plan for
 14 a timber frame.
 15 Q. And you agreed for him to put in a
 16 foundation?
 17 A. Right.
 18 Q. I'm showing you TIM197 to TIM199, and I'm
 19 going to look on with you. Now, this is a
 20 fax from you to Joe Downey, who had done
 21 one of the earlier preliminary drawings
 22 dated May 2nd, 2001; is that right?
 23 A. Yes.

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1 Q. And it also indicates that it's to Jesse
 2 Kendall?
 3 A. Yes.
 4 Q. I guess that's going to be the answer to
 5 my earlier question about who was JK.
 6 A. Yes.
 7 Q. So --
 8 A. Just think of him as Jesse.
 9 Q. Who's Jesse Kendall?
 10 A. He works at Timberpeg Design.
 11 Q. You're referencing the project number,
 12 correct?
 13 A. Yes.
 14 Q. And you're indicating that you met with
 15 Stan and Jay Tucker to review the
 16 preliminary plans and it went very well,
 17 right?
 18 A. Yes.
 19 Q. Then you indicate that Stan has asked for
 20 one significant change, right?
 21 A. Right, he wanted to do a bent frame.
 22 Q. So the change to a bent frame from the
 23 purlin and rafter system that you already