

hearing is defined on the second page of the amendment, if you want to know what that means, but oversimplifying greatly, it is a secret meeting between the judges and the attorneys so that the information is not revealed, but in the confines of that secret meeting, people can have access to information and can have a discussion about whether it is properly discoverable or not discoverable. Okay. So then on the first page of the amendment it says that, notwithstanding any other provision of this act, compliance review documents may, may be disclosed if a court of record, after an in-camera hearing, determines the following things: The compliance review documents show evidence that the person for which the compliance review documents were prepared is not or was not in compliance with applicable state or federal statutes or rules and regulations. So the first thing that they have to show in order to get the documents is that the documents reveal they were not in compliance with laws and regulations. Beyond that, the corporation can still save itself from discoverability because there is a second requirement. The second thing you have to show to get the document is that the person did not initiate, after the audit and review, appropriate efforts to achieve compliance with applicable state or federal statutes or rules and regulations and did not promptly supply the appropriate regulators with the information contained in the compliance review document if that action was required by state or federal statutes or rules and regulations. There is a little more to the amendment that you can read, but I think that that captures for you the essential question which I am trying to state as fairly as possible. My position is this, if you want to say that these documents are not discoverable, that is fine, but give depositors, give people who have been hurt by these institutions, the opportunity to come in and question that, and make them show, one, that there has been a violation of law, and, two,...

SPEAKER WITHEM: One minute.

SENATOR BEUTLER: ...that the company has not moved to correct that immediately. In other words, the company ought not be able to sit there and hide documents, when they fail to take action once they knew they were not in compliance. If, on the other hand, they did move to take action, they did move to come into compliance as soon as they knew about it, fine, those documents remain secret because they took the appropriate action, they took the right action. You don't want to discourage them from taking the right action. And I think in order to encourage them