

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

IN RE:)
) Case No. 01-0706 (MFW)
eTOYS, INC., et al.,)
)
Confirmed Debtors.)

COPY

Deposition of BARRY F. GOLD, taken pursuant to notice at Federal Court, 824 Market Street, Third Floor, Wilmington, Delaware, beginning at 9:48 a.m., on Wednesday, February 9, 2005, before Stacy L. Vickers, Registered Professional Reporter and Notary Public.

APPEARANCES:

ROBERT ALBER, Pro Se

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and

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For Traub, Bonacquist & Fox

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For the United States Trustee

DEREK C. ABBOTT, ESQ.
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For the Debtor

APPEARANCES (Continued):

MARK MINUTI, ESQ.
SAUL EWING, LLP
222 Delaware Avenue
Wilmington, Delaware 19899
For Barry Gold

Also Present:

Sheryl Ann Dec, eToys
Gary Ramsey

1 BARRY FREDERICK GOLD,
2 the deponent herein, having first
3 been duly sworn on oath, was
4 examined and testified as follows:

5 MR. MINUTI: Mr. Alber, at the
6 outset of the deposition I just want to note
7 for the record the same rules will apply as
8 they may to Mr. Busenkell's deposition. We're
9 going to be proceeding pursuant to the
10 scheduling order even though it hasn't been
11 signed by the judge. We anticipate it will be.
12 With that understanding, you're free to ask
13 Mr. Gold questions.

14 MR. GOLD: Before we start I would
15 like the other participants to identify
16 themselves to me.

17 MR. MINUTI: Do you know
18 Mr. Kenney?

19 THE WITNESS: Yes, I do.

20 MR. HUNT: I'm Tom Hunt from
21 Morris, Nichols, Arsht and Tunnell.

22 MS. DEC: I'm Sheryl Dec for eToys
23 Shareholders group.

24 MR. ALBER: Robert Alber.

1 MR. RAMSEY: Gary Ramsey.

2 BY MR. ALBER:

3 Q. For purposes of this deposition
4 TB&F shall stand for Traub, Bonacquist and Fox,
5 and for any other entity owned either part or
6 in its entirety by any of the principals or
7 partners of TB&F.

8 Would you like me to restate that?

9 MR. MINUTI: Yes. Why don't you
10 restate that.

11 Q. For purposes of this deposition
12 TB&F shall stand for Traub, Bonacquist and Fox,
13 and for any other entity owned either in part
14 or in its entirety by any of the principals or
15 partners of Traub, Bonacquist and Fox.

16 MR. MINUTI: In that definition do
17 you mean to include Asset Disposition Advisors,
18 ADA?

19 MR. ALBER: No. That we will
20 include as a separate issue and thanks for
21 clarifying that.

22 MR. GARRITY: I'm sorry, then I'm
23 not clear. TB&F will refer to Traub,
24 Bonacquist and Fox. And then you said and any

1 entity?

2 MR. ALBER: Yes. And for any other
3 entity owned either in part or in its entirety,
4 except for ADA, we'll include those as separate
5 issues, by any of the principals or partners of
6 TB&F.

7 MR. MINUTI: I'm going to object to
8 that definition because I'm not even -- I'm not
9 aware that there are any other entities that
10 are owned.

11 If you want to ask Mr. Gold if he
12 knows that or not I think that's fine, but I
13 would object to the definition only because (a)
14 I'm not sure I understand and (b) I'm not sure
15 that it's appropriate.

16 MR. ALBER: Okay. I'll ask
17 Mr. Gold then.

18 BY MR. ALBER:

19 Q. Are there any other entities owned
20 either in part or in its entirety by any of the
21 principals or partners of TB&F other than ADA
22 that you're aware of?

23 A. Not to my knowledge, I would have
24 no knowledge of that.

1 Q. Okay. You are familiar with TB&F?

2 A. I know who they are, yes.

3 Q. When did Paul Traub first call
4 eToys to promote your candidacy through
5 employment at eToys?

6 A. I don't know that.

7 Q. Do you recall the first time you
8 were made aware of that? You made the
9 statement in your reply that you knew that Paul
10 Traub had called debtor, somebody at eToys to
11 promote your candidacy?

12 A. I know that I was called by
13 Mr. Traub asking me if I would like to be
14 considered, and I said yes. I don't know who
15 he called on.

16 Q. Or when. Okay. Fine. So you
17 don't know who Paul Traub spoke with at eToys?

18 A. I'm not sure.

19 MR. MINUTI: Let Mr. Alber finish
20 the question before you answer, otherwise this
21 young lady is going to have a difficult time
22 today.

23 MR. ALBER: I'm having a difficult
24 time and I'm not even typing anything.

1 Q. Are you aware of anybody else at
2 TB&F who ever called eToys to promote your
3 candidacy for employment at eToys? Michael
4 Fox, Ballicheck, anybody?

5 A. I don't know specifically. I would
6 imagine if I would -

7 MR. MINUTI: I don't want you to
8 speculate. If you don't know, you don't know.

9 A. I don't know.

10 Q. Who else was considered for a
11 position that you occupied at eToys, CEO,
12 president, wind down manager? Do you know
13 that? Who else was considered? Do you know
14 any of the other candidates?

15 A. I know there were other candidates
16 considered and I know from the declarations
17 that they considered someone from Cross Roads
18 and someone from Richard Cartoon, I believe.

19 Q. Does the name Ian Hunter ring a
20 bell?

21 A. No.

22 Q. When was the eToys board of
23 directors disbanded?

24 A. When?

1 Q. Yes.

2 A. I don't know.

3 Q. Was it during your tenure at eToys?

4 Do you know that?

5 A. I believe when I joined eToys David

6 Gatto was still a director and beyond that I

7 don't know.

8 Q. So then the board of directors must
9 have existed but the only participant that
10 you're aware of is Dave Gatto?

11 A. That's correct.

12 Q. Are you aware of whether or not the
13 eToys board of directors was consulted
14 initially with regard to your candidacy for
15 employment?

16 A. I know David Gatto was.

17 Q. Was David Gatto ever considered for
18 extending his retention at eToys as far as any
19 positions that you ended up?

20 A. As far as was indicated to me David
21 Gatto and the other officer that was still
22 there was David Haddad, and both of them
23 expressed when I went there that they urgently
24 wanted to leave.

1 Q. Now, we are aware that Mr. Gatto
2 and Mr. Haddad stayed on at varying roles. Can
3 you name the roles that Mr. Gatto played,
4 Mr. Gatto assumed after you took position of
5 CEO and president of eToys?

6 A. After late July?

7 Q. Well, after May 21st when you were
8 initially hired?

9 A. I was not hired as CEO. I was not
10 CEO at that time.

11 Q. Maybe we should clarify that for
12 the record because in Docket No. 1312, eToys
13 bankruptcy case, in your statement in support
14 of plan reorganization disclosure statement and
15 your application for employment, I believe I'm
16 stating it correctly, as plan administrator,
17 after plan reorganization was signed you stated
18 that May 21st was your first -- was when you
19 became CEO and president of eToys. I'd like to
20 clarify that if I could.

21 MR. MINUTI: I'm just going to
22 interpose an objection to the form of the
23 question. You can answer that question.

24 THE WITNESS: What specifically is

1 the question?

2 Q. Well, you made the statement in
3 Docket No. 1312 that you were CEO and president
4 of eToys starting May 2st.

5 A. The question is?

6 Q. I'm just trying to clarify because
7 you're talking about July. We're not aware of
8 a date in July when you became CEO and
9 president of eToys. We're aware of the May
10 21st date. There are some documents that were
11 filed in eToys case by, I believe, David Gatto,
12 which states a June date, I believe June 16th
13 or 18th, but the May 21st date is what's in
14 your application for employment as plan
15 administrator in Docket 1312.

16 A. My recollection is that I was hired
17 as of May 21st as wind down coordinator. And
18 some time in late July I became president and
19 CEO.

20 Q. Was that coincidental with when the
21 D&O insurance was obtained?

22 A. That was one of the requirements
23 for me to accept the position of president and
24 CEO.

1 Q. Okay. Thank you very much. Are
2 you aware if Mr. Gatto proposed your employment
3 of eToys to the eToys board of directors?

4 A. Again, that is my understanding. I
5 don't know who else aside from Mr. Gatto was on
6 the board of directors at the time.

7 Q. Can you state what Mr. Gatto's role
8 was after you assumed -- he stayed on
9 employment. Can you state what his role was
10 after you assumed the role of CEO and president
11 of EToys?

12 A. He stayed on a very much part-time
13 or as-needed basis to resolve some open issues
14 that he had been involved with.

15 Q. You don't recall the exact issues
16 though?

17 A. I do not.

18 Q. Maybe you can recall, did Mr. Gatto
19 have anything to do with any of the foreign
20 entities of eToys?

21 A. I don't recall.

22 Q. Had you had any prior connection to
23 David Gatto?

24 A. No.

1 Q. Was any other ex-executive of eToys
2 ever considered for retention of CEO/President
3 of eToys?

4 A. I don't know.

5 Q. Was it ever suggested by anyone
6 that ADA participate in the eToys bankruptcy?

7 A. No.

8 Q. Can you please state for the record
9 the names of companies, organizations you have
10 owned?

11 A. Companies I have owned?

12 Q. Excuse me?

13 A. Companies I have owned?

14 Q. Yes. Owner, been principal in.

15 A. Aside from --

16 Q. Aside from ADA?

17 A. -- ADA?

18 Q. Right,

19 A. Does that include stock options?

20 Q. No, I'm not talking about stock
21 options. I'm talking about similar to your
22 role in ADA as a partner, principal or direct
23 owner?

24 A. The only possibility that I can

1 recall is when -- it wasn't ownership -- my
2 father had a stroke and I liquidated his
3 business but I was not an owner, so the answer
4 is no.

5 Q. Okay. Well, I was trying to
6 determine in your statement that you recently
7 filed you mentioned in the Office Max case and
8 you mentioned a company that -- your former
9 company. I was wondering what the name of that
10 company was?

11 A. Barry Gold Consulting.

12 Q. Barry Gold Consulting. Okay. Was
13 that a registered corporation in New York?

14 A. No.

15 Q. What state would that have been
16 registered in?

17 A. It was just an entity, a sole
18 proprietorship.

19 Q. Sole proprietorship. And what
20 state would that have been located in?

21 A. Pennsylvania.

22 Q. And can you state your tenure at
23 Barry Gold, at the company you just named?

24 A. Barry Gold Consulting Services?

1 Q. Yes, I'm sorry.

2 A. I did that on and off for a number
3 of years beginning approximately 1994.

4 Q. Thank you. Is that company still
5 in existence?

6 A. Yes.

7 Q. Yes, it is. Are you currently
8 working on any cases?

9 A. Not at the current time.

10 Q. Excuse me?

11 A. Not at the current time.

12 Q. Not at the current time. Okay.

13 That's Barry Gold Consulting would be what was
14 involved with Office Max and with Drug
15 Emporium? You stated those in your statement.

16 A. I'm trying to recall. I believe
17 that Drug Emporium might have been where I was
18 billed as a consultant, but that became -- that
19 was done prior to ADA really being formed if I
20 recall correctly.

21 Q. Okay. That was just as individual
22 consultant, it wasn't with your company, Barry
23 Gold Consulting? That's all I'm trying to
24 determine.

1 A. I billed myself as Barry Gold
2 Consulting.

3 Q. You billed those. Okay. Thank
4 you. Who drafted the employment letter for
5 your initial employment with eToys?

6 A. I don't know.

7 Q. You didn't do it personally though?

8 A. No.

9 Q. Have you ever been employed by TB&F
10 or anyone at TB&F?

11 A. I did the consulting for Office
12 Max.

13 Q. And Drug Emporium, would that be
14 included?

15 A. It might have been.

16 Q. You were paid directly by TB&F in
17 those cases?

18 A. No.

19 Q. Who paid you in those cases then?

20 A. By the time those were billed Asset
21 Disposition Advisors was under discussion and
22 being formed.

23 Q. So by the time it came around --
24 I'm trying to clarify, so by the time it came

1 around for billing ADA had been formed and ADA
2 did the billing?

3 A. All my billing was sent into the
4 attention of Paul Traub.

5 MR. MINUTI: But I think his
6 question was who paid the bill.

7 A. Who paid the bill? I received no
8 money from Traub, Bonacquist and Fox. That
9 monies -- I was billed as a disbursement.

10 MR. MINUTI: Okay.

11 Q. So you were paid by Paul Traub
12 directly?

13 MR. MINUTI: No, that's not what he
14 said. I think he said he was paid by the
15 companies he worked for. You can answer.

16 A. I was paid as a disbursement that
17 was included on the bill to the companies.

18 Q. So billed through -- you said you
19 sent the bill into Paul Traub and he submitted
20 the bill to say Office Max --

21 A. Yes.

22 Q. -- Drug Emporium and they paid you
23 directly?

24 A. I was not paid directly.

1 Q. You were not paid directly?

2 A. No.

3 Q. I'm missing something here then.

4 Who actually paid you then? Paul Traub
5 submitted the bill for you and then Paul Traub
6 paid you, when he was reimbursed, for your
7 services?

8 A. Yes. That's my recollection.

9 Q. And it was Paul Traub, not firm of
10 TB&F?

11 A. It was billed as -- my recollection
12 is it was billed as a disbursement from TB&F
13 and charged to the client.

14 Q. Okay. Thank you. What duties did
15 you perform at Office Max and Drug Emporium if
16 they were different? What duties would you
17 perform? You said consultancy?

18 A. Related to physical inventories
19 being done by liquidators and reconciliation of
20 those inventories.

21 Q. What was the role of TB&F in that
22 bankruptcy, excuse me, one bankruptcy at one
23 point. What was the role of TB&F in the Office
24 Max issue and the Drug Emporium issue?

1 A. In Drug Emporium I believe they
2 were working for the lender. And in Office Max
3 I don't know.

4 Q. In your statement you recently
5 filed you say that Paul Traub and yourself are
6 members of ADA. I'd like to try and clarify
7 that. Are you a 50/50 principal in that,
8 direct equal principal in ADA?

9 A. Yes.

10 Q. Then you're not an employee of Paul
11 Traub?

12 A. No.

13 Q. Okay. And when was the last time
14 you were an employee of Paul Traub or doing
15 subcontracting work for Paul Traub?

16 MR. SUSSMAN: Object to the form.

17 MR. MINUTI: Object to the form of
18 the question.

19 MR. ALBER: Excuse me?

20 MR. MINUTI: I'm objecting for the
21 record to the form of the question but he can
22 answer.

23 THE WITNESS: Will you restate the
24 question, please?

1 Q. Sure. As I understand the
2 relationship in Office Max -- I'll stick with
3 Office Max just for clarification -- you were
4 working as a subcontractor for TB&F in the
5 Office Max business deal with TB&F and Office
6 Max. So I'm simply saying when was the last
7 time you worked as a subcontractor for TB&F
8 and/or Paul Traub?

9 MR. MINUTI: Object to the form of
10 the question.

11 MR. SUSSMAN: Object to the form.

12 MR. MINUTI: You can answer.

13 A. I don't recall.

14 Q. So you recall those two instances.
15 Okay. When did you first meet Paul Traub?

16 A. First met him at Jumbo Sports in
17 approximately 1999.

18 Q. Okay. At Jumbo Sports. And had
19 you had a prior relationship with TB&F or any
20 of its principals prior to that?

21 A. I was a consultant on a case in
22 approximately 1995.

23 Q. Do you remember the case?

24 A. Witmark.

1 Q. Witmark. Okay. I believe you
2 stated that was Michael Fox was on that case
3 with you?

4 A. Not with me. He was --

5 Q. He was participating in the case,
6 that's when you met Michael Fox?

7 A. Yes.

8 Q. That was 1994 you stated?

9 A. I think 1995.

10 Q. '95. Pardon me. And what has been
11 your relationship with Michael Fox since you
12 first met him in '95?

13 A. Let me think about that. It was, I
14 believe, early 1996.

15 Q. So early 1996 as opposed to '95?

16 A. Yes.

17 Q. Okay. And what has been your
18 relationship with Mr. Fox?

19 A. What was --

20 Q. What has been your relationship
21 with Mr. Fox over the years?

22 A. In Witmark it was decidedly
23 adversarial. And in -- I don't think I had any
24 conversations with him, that I can remember,

1 related to Jumbo or Stage. I've had several
2 conversations with him related to eToys and I
3 see him occasionally when I'm up at ADA
4 offices.

5 Q. And ADA offices are within the TB&F
6 offices?

7 A. Yes.

8 Q. What other members of the TB&F
9 firm have you worked with?

10 A. I've worked with Susan Balaschak.
11 I worked with Mora Russell.

12 Q. If I may interrupt, I'd like to
13 rephrase that. I'm talking about other than
14 the eToys case?

15 A. Okay.

16 Q. Sorry about that.

17 A. Mora Russell.

18 MR. MINUTI: Let me ask you to
19 clarify. Are you asking what cases he's been
20 involved in that they were involved in or cases
21 where they're working together on the same
22 side?

23 MR. ALBER: I'm asking which other
24 TB&F employees or partners of the TB&F firm Mr.

1 Gold has been in contact with.

2 MR. MINUTI: Any contact?

3 MR. ALBER: Excuse me?

4 MR. MINUTI: Any contact

5 whatsoever?

6 MR. ALBER: Right. Other than the
7 eToys case. We're familiar with the eToys
8 case.

9 THE WITNESS: I am in contact when
10 I'm at ADA offices. I see the people, I say
11 hello.

12 BY MR. ALBER:

13 Q. What other members of TB&F are
14 involved in ADA, other than Paul Traub?

15 A. As principals?

16 Q. Excuse me?

17 A. As principal?

18 Q. You've stated that you and Paul
19 Traub are the only two principals?

20 A. That's correct.

21 Q. I'm talking about what other
22 members of TB&F firm do work for ADA or
23 participate in ADA operations?

24 MR. MINUTI: At anytime?

1 MR. ALBER: Yes.

2 THE WITNESS: Mora Russell. Steven
3 Fox and Cindy Williams.

4 Q. Cindy Williams. Okay. We've seen
5 Cindy Williams name come up. What is her
6 position at TB&F?

7 A. She's like a bookkeeper.

8 Q. Steven Fox I believe is just an
9 attorney, he's not a partner? Or is he a
10 partner?

11 A. A partner in?

12 Q. In TB&F?

13 A. I believe so but you'll have to
14 ask.

15 Q. Right. I'll ask the appropriate
16 parties. Are you related by blood or marriage
17 to anyone at the TB&F firm?

18 A. No.

19 Q. Can you please describe in detail
20 the loan to ADA by TB&F when they paid you the
21 \$30,000 a month when ADA was first being
22 formed? Can you please give us details of that
23 agreement?

24 A. When I met with Paul and he

1 described his idea regarding his potential
2 business, which became ADA, and he asked me if
3 I was interested in pursuing it.

4 I said that I would consider
5 pursuing it, but I had an obligation to support
6 my family and that I would not pursue another
7 job employment, long-term employment
8 opportunity if I was paid a draw of \$30,000 a
9 month during the period that Paul estimated we
10 would need to see whether or not the company
11 would be viable.

12 Q. So ADA got going, got off the
13 ground, got some contracts?

14 A. Right. If it were to get
15 contracts.

16 Q. Right. If it were to. We know
17 that now but we didn't know then.

18 A. Right.

19 Q. And when was that meeting, when did
20 that first discussion of potential partnership
21 come up?

22 A. Approximately the middle of January
23 of 2001.

24 Q. And what was your tenure at Office

1 Max?

2 A. How long I worked there?

3 Q. Yeah. Do you remember approximate
4 starting date, approximate ending dates?

5 A. It was a few weeks. I don't
6 remember the exact dates.

7 Q. Do you remember if it was in 2000
8 or 2001? Can you narrow it down somewhat for
9 us?

10 A. It would have been early 2001.

11 Q. January, February, somewhere in
12 there. Maybe December even of 2000?

13 A. It would not have been in 2000.
14 And the earliest it would have been is some
15 time after meeting with Paul in mid January.

16 Q. Okay. And what about on Drug
17 Emporium?

18 A. It would be some time spring of
19 2001.

20 Q. April? March, April?

21 A. That sounds like the approximate
22 time period.

23 Q. Do you know about how long that
24 employment lasted, that subcontracting work

1 lasted?

2 A. Again, a few weeks.

3 MR. MINUTI: Objection to form.

4 Q. A few weeks. Okay.

5 MR. SUSSMAN: Join in the
6 objection.

7 Q. Have you ever had any connection to
8 Luria & Sons?

9 A. To whom?

10 Q. Luria & sons?

11 A. Yes.

12 Q. What was the connection?

13 A. I was hired by the company as
14 executive vice president of operations, I
15 believe.

16 Q. Do you remember the approximate
17 dates of your tenure?

18 A. Approximately mid 1996, I think it
19 was, through like the end of January of '97.

20 Q. What were your duties during Luria
21 & Sons while you were employed at Luria & Sons?

22 A. I had the responsibility for store
23 operations and loss prevention.

24 Q. And your employment would have

1 extended then into the bankruptcy case, into
2 the filing of the bankruptcy?

3 A. I believe so.

4 MR. MINUTI: Mr. Alber, let me
5 interrupt for a moment. I've just been
6 delivered a copy of the signed scheduling order
7 from the court. It looks like the judge did
8 make two modifications to the scheduling order,
9 so let me give you that so you can review it to
10 make sure that that doesn't change any of your
11 questioning.

12 (Reviewing the document.)

13 MR. ALBER: The only two changes I
14 see is the crossing out of those two lines.

15 Thank you.

16 BY MR. ALBER:

17 Q. I believe the last question I asked
18 was if they had filed bankruptcy prior to your
19 leaving Luria & Sons and you answered in the
20 affirmative?

21 A. I believe so, yes.

22 Q. Do you recall how long they were in
23 bankruptcy before you left?

24 A. No. I left there approximately

1 early February of '97. So my Witmark
2 employment would have been in 1997.

3 Q. 1997. Okay. Not early 1996?

4 A. No. '97.

5 Q. So then that would have been that
6 same time frame that you met Michael Fox?

7 A. I met Michael Fox in 1997 at
8 Witmark.

9 Q. Did you meet any other members of
10 the TB&F firm at that time?

11 A. Steven Fox I believe came, too.

12 Q. What were the conditions under
13 which you met Michael Fox? Was it business
14 relationship? Personal relationship?

15 A. Business.

16 Q. Business. Okay. And do you recall
17 TB&F's role in the Luria & Sons bankruptcy
18 case?

19 A. Luria & Sons.

20 Q. Yes, Luria & Sons. Pardon me.
21 Witmark. Do you recall TB&F's role in the
22 Witmark?

23 A. They represented the creditors
24 committee.

1 Q. Creditors committee. Okay.
2 There's period of professional role,
3 professional situation where you knew Steven
4 Fox and Michael Fox?

5 A. I didn't know them. I met them.

6 Q. How did you meet them? Was it a
7 conference or did you just hear their names
8 or --

9 A. They came out to the company in an
10 adversarial role. I was working for the
11 company with our own counsel.

12 Q. Then you also -- then that time
13 period overlaps with the Luria & Sons when you
14 were involved with that case, too, so --

15 A. That's not correct. I left
16 Luria --

17 Q. In '97?

18 A. In early '97 and started as a
19 consultant for Witmark the following week.

20 Q. I apologize for that. I was mixed
21 up on the timetable. Have you ever had any
22 connection to Toytime?

23 A. Only in the sense it was mentioned
24 by Steve Haas as something he had worked on.

1 Q. Okay. I believe it was something
2 TB&F was involved with.

3 Did you have any connection to the
4 Adelphia bankruptcy case?

5 A. No.

6 Q. Playco Toys bankruptcy case?

7 A. No.

8 MR. MINUTI: What was that?
9 Playco?

10 MR. ALBER: Playco. It's
11 P-l-a-y-c-o company.

12 MR. MINUTI: Thank you.

13 BY MR. ALBER:

14 Q. Did you have any connections to
15 Neostar, the Neostar bankruptcy in Texas?

16 A. No.

17 Q. Did you have any connections with
18 Brainplay, the Brainplay bankruptcy?

19 A. No.

20 Q. You mentioned Pharmor. Could you
21 explain your connection in the Pharmor
22 bankruptcy case?

23 A. Again, it was related to inventory,
24 physical inventories and how to protect the

1 estates during that process.

2 Q. You were working for the estate?

3 A. I don't recall if we were employed
4 by the estate or by the lender. I don't
5 recall.

6 Q. You say "we," who would that be?

7 A. ADA.

8 Q. ADA. Okay. Do you recall the
9 terms of the tenure of employment?

10 A. No, I do not.

11 Q. So who at TB&F was working -- did
12 any work for ADA or in connection with ADA in
13 the Pharmor case? You meaning --

14 MR. MINUTI: I'm going to object to
15 the form.

16 Q. I'm talking about which members of
17 TB&F were involved with ADA during the Pharmor
18 bankruptcy case?

19 MR. SUSSMAN: Join the objection.

20 A. I don't recall.

21 Q. And it was only you from ADA that
22 was working on behalf of ADA in the Pharmor
23 bankruptcy?

24 A. I don't recall.

1 Q. Do you recall if ADA did any
2 subcontracting to anybody or hired any
3 employees during the Pharmor case?

4 A. I don't recall.

5 Q. I think I stated this, but I'm not
6 sure. You don't recall what approximate dates
7 of employment of ADA in the Pharmor case?

8 A. No, I don't recall.

9 Q. Do you remember anything that you
10 actively did during the Pharmor case?

11 A. I went to stores in participation
12 of physical inventories. I looked at possible
13 store exposure and reported that back to the
14 company and I believe to Paul Traub.

15 Q. Did TB&F or Paul Traub play any
16 part in ADA's retention in Pharmor case?

17 A. I don't know.

18 Q. Then as a principal of ADA you
19 would have approached Pharmor and attempt to
20 gain employment?

21 A. Basically Paul Traub did the
22 marketing and I did the field work.

23 Q. Okay. Were you paid directly by
24 the Pharmor estate or were you paid through

1 Traub, Bonacquist and Fox?

2 MR. MINUTI: I'm going to object to
3 the form of the question only because I believe
4 his testimony was he doesn't recall whether he
5 was hired by the company or some other party in
6 the case.

7 MR. ALBER: I believe your answer
8 is that you're restating that Mr. Gold doesn't
9 recall how he was hired or who hired ADA? Am I
10 clear on that?

11 MR. MINUTI: Why don't you ask him
12 the question.

13 Q. Okay. Do you recall who ADA was
14 contracting to or was working for in the
15 Pharmor case?

16 A. As I stated earlier, I don't recall
17 whether it was for the company or the lender.
18 I don't recall.

19 Q. Okay. Did ADA bill to the estate?
20 I mean, would it be part of the docket system?
21 Did ADA submit their fee, their fees on
22 billings to the estate?

23 A. Again, I don't recall that. My
24 responsibilities are basically the field work,

1 so...

2 Q. Well, whose responsibility would it
3 be at ADA to see that ADA is paid?

4 A. It would be Paul Traub and the
5 bookkeeper, and I would make sure we got paid.

6 Q. Okay. Who's the bookkeeper of ADA?

7 A. We employ Cindy Williams.

8 Q. Okay. Do you recall what TB&F's
9 role was during the Pharmor bankruptcy?

10 A. No, I don't.

11 Q. Have you ever had any connection to
12 Brainplay? I asked you that. Pardon me.

13 Have you ever had any connection
14 with Fisher Big Wheel?

15 A. Yes.

16 Q. Can you state what was the
17 connection?

18 A. I was employed by the company as
19 vice chairman, chief administrative officer.

20 Q. Do you recall your dates of tenure?

21 A. Approximately October of 1990
22 through the end or early -- end of 1993 or
23 early 1994.

24 Q. Okay. Have you ever had any

1 connection with -- have you ever had any
2 connection to SFMB corporation?

3 A. To SFMB?

4 Q. Yes. San Francisco Music Box?

5 A. No.

6 Q. Have you ever had any connection to
7 Sun 'n Ski?

8 A. No.

9 Q. No?

10 A. No.

11 Q. Have you ever had any connection to
12 Moltach Power Systems?

13 A. No.

14 Q. Have you ever had any connection to
15 Jumbo Sports?

16 A. Yes.

17 Q. Would you please state what the
18 connection was?

19 A. I was employed by the company as
20 executive vice president I believe of store
21 operations or administration, but executive
22 vice president.

23 Q. Can you please state the tenure
24 that you were in?

1 A. It was approximately early 1998
2 until, I believe, fourth quarter 1999.

3 Q. And you were there during at least
4 the starting of the bankruptcy proceedings
5 though?

6 A. Yes.

7 Q. Did you have any connection with
8 TB&F during that time?

9 A. TB&F had been hired by the company
10 and that's the first time I physically remember
11 meeting or in any way speaking with Paul Traub.
12 And I had dealings with Paul Traub during a
13 store closing operation where I believe TB&F
14 was special counsel to the company.

15 Q. That would have been special
16 counsel during the bankruptcy we presume?

17 A. I believe so, yeah.

18 Q. So your employment at Jumbo Sports
19 was gained due to your own initiative, it had
20 nothing to do with TB&F?

21 A. Nothing to do with TB&F.

22 Q. Have you ever had any connection
23 with Enron, the Enron bankruptcy?

24 A. No.

1 Q. Have you ever had any connection to
2 K-Mart?

3 A. K-Mart?

4 Q. Yes?

5 A. Only in the sense I interviewed for
6 a job out there some time during the mid
7 nineties.

8 Q. So nothing during the K-Mart
9 bankruptcy?

10 A. No.

11 Q. Have you ever had any connection to
12 the Cerplex Group?

13 A. Cerplex?

14 Q. Yes.

15 A. No.

16 Q. Have you ever had any connection to
17 FAO Schwartz? They had two bankruptcies.

18 A. Yes.

19 Q. Can you please describe your
20 connections with FAO Schwartz?

21 A. I was brought in to assist in the
22 closing of stores and liquidation of the
23 inventory and to help with the inventory
24 process.

1 Q. Do you recall the approximate dates
2 of your tenure at FAO Schwartz?

3 A. No, I don't.

4 Q. I'm trying to narrow it down
5 whether it was the first bankruptcy they filed
6 in late 2000, early 2003, or the later one that
7 they filed in, I believe, 2004?

8 A. I don't recall the dates. Just
9 starts to blur together after a while.

10 Q. Right. Okay. Was TB&F involved in
11 the FAO Schwartz case while you were there?
12 Are you aware of that?

13 A. Yes, they were.

14 Q. And who were you employed by at FAO
15 Schwartz?

16 A. I don't recall.

17 Q. So you don't recall if you were
18 working for the company or a lender?

19 A. I don't recall.

20 Q. Who did you submit your fee
21 applications to during that case?

22 MR. MINUTI: Objection to the form.

23 MR. ALBER: Excuse me?

24 MR. MINUTI: I'm going to object to

1 the form of the questions but he can answer.

2 A. Who did we submit it to?

3 Q. Yeah, your fee applications, who
4 paid you?

5 A. I'm not sure. I believe it was the
6 company.

7 Q. Did you have any -- let me think
8 how to phrase this. I think I asked this. Did
9 you have any connection with TB&F or anybody at
10 TB&F while you worked on the FAO Schwartz case
11 in regards to the FAO Schwartz case?

12 A. Not that I recall.

13 Q. Have you ever had any connection
14 with Wisconsin Toy?

15 A. No.

16 Q. Have you ever had any connection to
17 the Nahdree Group?

18 A. Nahdree?

19 Q. Yes.

20 A. No.

21 Q. We discussed Witmark. Have you
22 ever had any connection to Apparel Retailers,
23 who later became known as Stage Stores?

24 A. Yes.

1 Q. Would you please discuss that
2 connection, please?

3 A. I was hired by the company in early
4 2000 as executive vice president administration
5 and assistant to the GM.

6 Q. This would have been at the time
7 when they were referred to as Apparel
8 Retailers, I believe?

9 A. I don't know. I always refer to
10 them as Stage Stores.

11 Q. So you were connected in performing
12 some sort of services with the board, the board
13 of directors?

14 A. I was hired by a member of the
15 board of directors with specific assignments.

16 Q. Can you please state his name?

17 A. I was brought there by Jack Bush.

18 Q. Jack Bush. Okay. So let me get
19 this right. You were hired as Stage Stores,
20 and the source of the person who actively
21 promoted you for the position was Jack Bush who
22 was a member of the board of directors at that
23 time?

24 A. That's correct.

1 Q. Did you ever have any contact with
2 any of the other board of directors during your
3 tenure at Stage Stores?

4 A. Yes. I spoke with the board of
5 directors on several occasions.

6 Q. So you made reports to them as far
7 as the functioning of the company, performance
8 of the company?

9 A. Right.

10 Q. Do you recall any of their names,
11 the directors at that time?

12 A. Harold Compton. Jack Weisner. Jim
13 Scarborough. Jack Bush. Those are the ones
14 that come to mind.

15 Q. And you left there when, some time
16 in December of 2000?

17 A. That's correct.

18 Q. Did you have any connection with
19 Michael Glazer? He came on board as chairman
20 of the board shortly after you left.

21 A. Of Stage Stores?

22 Q. Yes.

23 A. That sounds familiar.

24 Q. He's CEO and president of KB Toys.

1 A. Had no Stage Store dealings with
2 him.

3 Q. You don't recall his name ever
4 coming up?

5 A. I heard his name before, but no
6 meeting, association with him at Stage at all.

7 Q. Probably during the KB Toys?

8 A. Yes.

9 MR. SUSSMAN: Off the record before
10 you ask the next question.

11 (Brief discussion off the record.)

12 BY MR. ALBER:

13 Q. Have you ever had any connection to
14 KB Toys?

15 A. Yes.

16 Q. Will you please state that
17 connection?

18 A. I did some work at KB. Again,
19 related to preparation for physical
20 inventories, inventory instructions, and
21 inventory reconciliation related to store
22 closings.

23 Q. And do you recall the dates of
24 tenure?

1 A. I believe that was early last year
2 some time.

3 Q. Do you recall how long it lasted?

4 A. It lasted, I believe, two to three
5 months. Was not full-time involvement.

6 Q. This was as a participant in ADA?

7 A. Yes.

8 Q. And who else worked with you on
9 behalf of ADA in the KB Toys case?

10 A. To some extent Mora Russell, I
11 believe.

12 Q. You mentioned prior that Cindy
13 Williams did the bookkeeping. Was she
14 involved? Did she prepare the fee statements
15 or was she involved with ADA?

16 A. She does the bookkeeping for ADA,
17 and any fee applications are done by TB&F
18 people for which we reimburse them.

19 Q. Okay. Was TB&F or anyone from the
20 TB&F firm connected with the ADA contract work
21 for KB Toys?

22 MR. SUSSMAN: Can you read back the
23 question, please.

24 (The record was read as requested.)

1 MR. SUSSMAN: To the extent I don't
2 understand the question, I object to the form.

3 Q. Did anybody at TB&F play an active
4 involvement in ADA being retained by KB Toys?

5 A. We were recommended to the
6 creditors committee and I know that I had to
7 make a telephonic presentation to the creditors
8 committee.

9 Q. Do you recall who that was that
10 promotes you to the creditors committee?

11 A. I believe it might have been
12 Michael Fox.

13 Q. Did Michael Fox play any other role
14 in the retention of ADA or in the services
15 rendered by ADA to KB Toys during that case?

16 A. No.

17 Q. Have you ever had any connection to
18 Consolidates Stores or later Big Lots as they
19 changed their name?

20 A. No.

21 Q. Have you ever had any connection to
22 Chipwich, Incorporated? Chipwich?

23 A. The ice cream sandwiches?

24 Q. Yeah. I think they're the ones

1 that make that.

2 A. I've eaten two or three.

3 Q. Have you ever had any connection to
4 Sears HomeLife stores?

5 A. Sears Homelife?

6 Q. Yeah. The Homelife division of
7 Sears?

8 A. I believe Homelife was a separate
9 entity at that time.

10 Q. So you don't believe Homelife -- so
11 Homelife may not have been a subsidiary of
12 Sears at that time?

13 A. That was are understanding.

14 Q. What was your connection with
15 Homelife then?

16 A. ADA was engaged, again, assist in
17 the liquidation of inventory and in the
18 reconciliation of the inventory and work with
19 liquidation.

20 Q. You were employed by ADA in that
21 case? It was a participation of ADA in that?

22 A. ADA was employed, yes.

23 Q. Who did we have from TB&F who was
24 involved with ADA during their tenure at

1 Homelife?

2 A. I believe Mora Russell.

3 Q. I presume Cindy Williams did the
4 bookkeeping the entire time?

5 A. Yeah, she did all the bookkeeping.

6 Q. Did Paul Traub perform any services
7 who behalf of ADA?

8 A. Yes.

9 Q. Can you please describe those
10 services?

11 A. He was instrumental in some of the
12 negotiations with the bidders and participated
13 in the auction process and in the eventual
14 reconciliation settlements with liquidators.

15 Q. Have you ever had any connection to
16 Pacific Linen?

17 A. Pacific Linen doesn't ring a bell.

18 Q. Have you ever had any connection to
19 Big Party, Inc., Big Party, Incorporated?

20 A. No.

21 Q. Have you ever had any connection to
22 Zany Brainy?

23 A. Zany Brainy is part of FAO.

24 Q. Yeah. They were separate entities.

1 But I'm talking about Zany Brainy as a separate
2 entity, not as part of FAO?

3 A. No.

4 Q. Now, you stated you worked on the
5 FAO bankruptcy. Did you do any contract work
6 for Zany Brainy at any time while they were
7 part of FAO?

8 A. It was all part of the same
9 function. They were liquidating.

10 Q. It was an all inclusive deal then.
11 Okay.

12 A. Yes.

13 Q. Have you ever had any connection to
14 RTI, Incorporated?

15 A. What does RTI stand for?

16 Q. I don't know. I can't recall off
17 hand.

18 A. Doesn't sound familiar.

19 Q. Okay. Fine. Have you ever had any
20 connection to Interlient, Incorporated?

21 A. No.

22 Q. Have you ever had any connection to
23 Finova?

24 A. No.

1 Q. Have you ever had any connection to
2 PillowTex?

3 A. No.

4 Q. Have you ever had any connection to
5 United Airlines?

6 A. Other than as a flier, no.

7 Q. During the United Airlines
8 bankruptcy, for instance?

9 A. No.

10 Q. Okay. Thank you. Now, Zany Brainy
11 is actually listed separately in different ways
12 during the years. At one point they were
13 referred to as ZB Company, Incorporated. Did
14 you ever have any connection with them when
15 they were referred to as ZB company?

16 A. That might have been, but the
17 corporate name, again, it was part of the FAO
18 general assignment.

19 Q. So just during that part. Okay.

20 Have you ever had any connection to
21 Bonus Stores?

22 A. Yes.

23 Q. Can you please describe that
24 connection?

1 A. Sent down to Mississippi by the
2 lender, again, to look at their collateral, and
3 the company was going to close doors and to get
4 involved in that process.

5 Q. You were employed by Bonus Stores
6 then?

7 A. I believe we were employed by the
8 lender.

9 Q. By the lender. Okay. What was
10 their name?

11 A. I think that was Fleet Retail.

12 Q. Fleet Retail Finance Group?

13 A. Yes.

14 Q. What were the dates of your tenure?
15 I don't believe you stated that, the dates of
16 your tenure there?

17 A. I think it was early to mid 2003.

18 Q. Was this as a participant with ADA?

19 A. Yes.

20 Q. Can you tell us what members of
21 TB&F were involved with ADA in that case?

22 A. Cindy Williams on the billing. I
23 really don't recall anyone else being involved.
24 There were other people involved but they were

1 independent contractors I hired.

2 Q. Okay. Could you name some of those
3 contractors?

4 A. Vince Carcello. Tom Russo. Those
5 are the names that come to mind.

6 Q. Were those local contractors in the
7 Mississippi area?

8 A. No. That on many of these
9 assignments I hired people with independence I
10 know from my retail background to do physical
11 inventories and monitor physical inventories.
12 I know it's seven, eight different people.

13 Q. Do you recall the objection that
14 was placed into the record of Bonus Stores by
15 the US Trustee's Office by Mark Kenney?

16 A. Yes.

17 Q. Could you please describe the
18 circumstances?

19 A. I'm not a lawyer, but I'll tell you
20 my understanding of it.

21 Q. Right.

22 A. We had been employed initially by
23 the lender, and the company liked the work we
24 did so much they asked us to stay on to be

1 employed by the company and the eventual
2 liquidation of the company. We had worked for
3 the bank in that that was not allowed even
4 though the company supported it, the bank
5 supported it, the creditors committee supported
6 it.

7 Q. Okay. Thank you. Have you ever
8 had any connection to Toys International?

9 A. Doesn't sound familiar.

10 Q. Have you ever had any connection to
11 eToys Direct?

12 A. eToys Direct?

13 Q. Yeah, they're the new corporation.

14 A. Who's new corporation.

15 Q. They're the new eToys. They're no
16 longer eToys.com. They got sold to KB Toys as
17 you're aware. And then they were sold to DE
18 Shaw of FAO Schwartz, to the company of the FAO
19 Schwartz stores.

20 A. I was aware of the sale to KB, not
21 beyond that.

22 Q. Okay. Were you involved with the
23 sale of the eToys.com and the KB Toys.com to DE
24 Shaw during your tenure at ADA -- I mean during

1 your tenure at the KB Toys bankruptcy?

2 A. I was not involved in that.

3 Q. Have you ever had any connection
4 Bombay Company?

5 A. Other than meeting one of the
6 directors once, no.

7 Q. Can you name the approximate tenure
8 of when you were director of Bombay?

9 MR. MINUTI: He said he met with
10 one of the directors.

11 Q. Oh, he met.

12 A. I met with a director of Bombay
13 once.

14 Q. And who would that be?

15 A. Jim Markum.

16 Q. You don't recall about when that
17 was?

18 A. Yeah. He was employed by Stage
19 Stores when -- for the first couple weeks that
20 I was at Stage Stores then he left.

21 Q. So he was gone by the time you left
22 Stage Stores?

23 A. Yes.

24 Q. He was there in the beginning when

1 you first got the Stage Stores?

2 A. For a few weeks.

3 Q. For a few weeks. And then he left
4 after that?

5 A. Right.

6 Q. What other connections do you have
7 to the Fleet Retail Finance Group?

8 A. Connections?

9 Q. Worked for them?

10 A. I've given seminars to their
11 presentations to their retail lenders on a
12 couple of occasions. Currently ADA is doing
13 some work for West Coast Retailer.

14 Q. So that's West Coast Retail Group,
15 I believe?

16 A. No, it's Wet Seal is the name of
17 the retailer.

18 Q. West Coast Retail?

19 A. Wet Seal. W-e-t S-e-a-l.

20 Q. Okay. Wet Seal. And what members
21 of TB&F are involved with ADA in that?

22 A. Mora Russell.

23 Q. I assume Cindy William still doing
24 the books and all that. And what are the

1 approximate dates of that? When did you start?
2 You say it's still going on, I believe?

3 A. Yes.

4 Q. Approximately when did that start?

5 A. Approximately a month-and-a-half
6 ago. Approximately December.

7 Q. You're participating in ADA in
8 doing some of the work for them and Mora
9 Russell. Okay.

10 How long do you anticipate? Any
11 kind of estimate? Is this like a long-term
12 project or is this just a subcontracting like
13 you generally do, might last a few months?

14 A. It probably will be over shortly.

15 Q. Have you ever had any connection to
16 Back Bay Capital?

17 A. Yes.

18 Q. Can you please describe those
19 connections?

20 A. That's a lender that I've come
21 across. They may or may not be related to
22 Fleet, I'm not sure.

23 Q. I couldn't --

24 A. They may or may not be related to

1 Fleet, I'm not sure.

2 Q. So then any connection -- any
3 dealings you've had with Back Bay would be as a
4 separate entity than Fleet?

5 A. I'm sorry?

6 Q. So any dealings or information
7 you've ever had on Back Bay Capital would be
8 the same, not necessarily being the same entity
9 but separate entities?

10 A. I really can't separate them. I've
11 heard the name Back Bay.

12 Q. But you're not intimately familiar
13 with Back Bay?

14 A. No.

15 MR. ALBER: Is there any way we can
16 bring refreshments in for everybody, say water
17 or anything? Would that be appropriate in
18 court or --

19 MR. MINUTI: We can probably get
20 some when we break for Mr. Traub.

21 MR. ALBER: Okay. I'm just saying
22 everybody else. We brought drinks with us.

23 BY MR. ALBER:

24 Q. Have you ever had any connection to

1 Foothill Capital, it was a subsidiary of Wells
2 Fargo, and that would include Wells Fargo?

3 A. We do work for Wells Fargo.

4 Q. Do you do work for Wells Fargo as
5 the main group or for Foothill Capital?

6 A. Our work has mainly been with Wells
7 Fargo.

8 Q. "Mainly," does that mean you've
9 done some work for Foothill Capital?

10 A. I don't recall any directly for
11 Foothill. I do recall several for Wells Fargo.

12 Q. Now, is that as in your ADA
13 involvement?

14 A. Yes.

15 Q. And can you describe the instances
16 in your tenure, the dates?

17 A. Rhodes Furniture.

18 Q. That would be R-h-o-d-e-s?

19 A. Yes. And that ended approximately
20 late November, early December last year.

21 Q. 2004?

22 A. Right.

23 Q. And do you recall about when it
24 started?

1 A. Probably about two, two-and-a-half
2 months prior to that. We're involved with a
3 Wells Fargo account now and I can't mention for
4 confidentiality reason.

5 Q. How long is that? Without asking
6 details of that, approximately when did this
7 last venture begin?

8 A. Approximately a month ago.

9 Q. Is this like a long-range deal or
10 another two or three month deal?

11 A. It's short range, two or three
12 months.

13 Q. Short range. Okay. What members
14 of the TB&F firm are participating with ADA or
15 doing any work with ADA in their Rhodes
16 Furniture deal, the first company you
17 mentioned?

18 A. Mora Russell.

19 Q. And of course Cindy Williams?

20 A. And, again, outside people I employ
21 for ADA.

22 Q. Would you know the name of those
23 contractors?

24 A. For Rhodes Vince Carcello. Joe

1 Aguece, A-g-u-e-c-e. I think they were the only
2 ones on Rhodes.

3 Q. Okay. I won't ask for any other
4 details from the current one you have going on.
5 These are the only two instances that you can
6 recall with Wells Fargo?

7 A. We've done other things. I believe
8 Kitchen Etc. There was other one that doesn't
9 come to mind.

10 Q. This is all ADA?

11 A. Yes.

12 Q. Was Paul Traub involved in any of
13 these directly with ADA or just his ancillary
14 role?

15 MR. SUSSMAN: I'm sorry, I missed
16 the end of that question. You mumbled the end
17 of question.

18 MR. ALBER: Pardon me.

19 Q. I asked if Paul Traub was directly
20 involved in any of these or purely in an
21 ancillary role?

22 A. He was very involved with Rhodes
23 Furniture and to a lesser degree with Kitchen
24 Etc.

1 Q. Okay. Thank you. Have you ever
2 had any connection to PT Partners?

3 A. No.

4 Q. During the Jumbo Sports bankruptcy,
5 did you have any connections with Willow Creek
6 Capital Partners?

7 A. With who?

8 Q. Willow Creek Capital Partners?

9 A. Will Creek?

10 Q. Yes.

11 A. Not that I recall.

12 Q. Have you ever had any connection to
13 Automata, Inc., incorporated?

14 A. No.

15 Q. Have you ever had any connection to
16 Angelo, Gordon?

17 A. Yes.

18 Q. Would you please describe those
19 connections?

20 A. We did a furniture liquidation
21 fairly recently where they were a member of the
22 lending group.

23 Q. Was this part of a bankruptcy?

24 A. Yes.

1 Q. Can you name that bankruptcy,
2 please?

3 A. Brueners Furniture.
4 B-r-u-e-n-e-r-s.

5 Q. Right. Brueners. And this was ADA
6 involvement?

7 A. Yes.

8 Q. Would you please state the names to
9 the TB&F people who were involved with ADA
10 during that time?

11 A. Steven Fox and, again, Cindy
12 Williams, and, again, used a number of outside
13 people for that as well.

14 Q. You say that is ongoing? I believe
15 you stated that's one you currently --

16 A. Brueners?

17 Q. Brueners is over, isn't it?

18 A. Brueners is over.

19 Q. So your involvement with that
20 bankruptcy case is over then?

21 A. Yes.

22 Q. Have you had any other dealings
23 with Angelo, Gordon?

24 A. No.

1 Q. Prior to ADA?

2 A. No.

3 Q. Who was it to gain employment for
4 ADA in that case? Did you promote ADA actively
5 yourself or was it --

6 A. Again, Paul Traub does the
7 marketing work.

8 Q. Okay. Basically Paul Traub I'm
9 gathering with all these cases is the one who
10 markets and actively promotes ADA?

11 A. Right.

12 Q. And you're actually the working
13 partner?

14 A. I'm the guy -- well, his working
15 partner, too, but I'm the guy with the packed
16 suitcase.

17 Q. Right. You're the guy that's out
18 doing the work. Okay.

19 I'd like to address something that
20 we know does not fall within the scope, and of
21 course we understand he can refuse to answer.

22 But you said in your statement that
23 somebody had informed you that I had made
24 various threats towards you. I'd like to know

1 who that person was.

2 A. I'm not prepared to disclose that.

3 MR. ALBER: Okay. We've had
4 instances like that happen with people
5 informing other people that I was a threat and
6 I'd like to find out who it is to track them
7 down. That's my only reason for asking.

8 I believe that's it. Thank you
9 very much.

10 THE WITNESS: Thank you.

11 (Deposition concluded at 11:18 a.m.)

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DEPONENT: BARRY F. GOLD PAGE

Examination by Mr. Alber 3

(There were no exhibits marked for identification.)

CERTIFICATE OF REPORTER PAGE 64

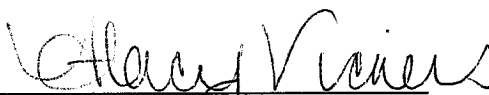
1 State of Delaware)
2 New Castle County)

3
4 CERTIFICATE OF REPORTER

5 I, Stacy L. Vickers, Registered
6 Professional Reporter and Notary Public, do hereby
7 certify that there came before me on the 9th day
8 of February, 2005, the deponent herein, BARRY F.
9 GOLD, who was duly sworn by me and thereafter
10 examined by counsel for the respective parties;
11 that the questions asked of said deponent and the
12 answers given were taken down by me in Stenotype
13 notes and thereafter transcribed by use of
14 computer-aided transcription and computer printer
15 under my direction.

16 I further certify that the foregoing is a
17 true and correct transcript of the testimony given
18 at said examination of said witness.

19 I further certify that I am not counsel,
20 attorney, or relative of either party, or
21 otherwise interested in the event of this suit.

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24 Stacy L. Vickers, RPR
Cert.#: 115-RPR
Exp.: 01/31/05

DATED: February 10, 2004