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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

ASIA ECONOMIC INSTITUTE, LLC, a )  
California LLC; RAYMOND MOBREZ, )  
an individual; and ILIANA )  
LLANERAS,an individual, )  
Plaintiffs, )

vs. )

Case No:  
2:10-cv-01360-SVW-PJW

XCENTRIC VENTURES, LLC, an )  
Arizona LLC, d/b/a as BADBUSINESS) )  
BUREAU and/or )  
BADBUSINESSBUREAU.COM and/or )  
RIP OFF REPORT and/or )  
RIPOFFREPORT.COM; BAD BUSINESS )  
BUREAU, LLC, organized and )  
existing under the laws of )  
St. Kitts/Nevis, West Indies; )  
EDWARD MAGEDSON, an individual, )  
and DOES 1 through 100, )  
Inclusive, )  
Defendants. )

THE 30(B)(6) VIDEOTAPED DEPOSITION OF  
EDWARD MAGEDSON was taken on June 2, 2010 at the  
offices of Jaburg & Wilk, P.C., 3200 North Central  
Avenue, Suite 2000, Phoenix, Arizona, commencing at the  
hour of 10:54 a.m. before Marcella Daughtry, a  
Registered Professional Reporter and Arizona Certified  
Reporter, in and for the State of Arizona.

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1 APPEARANCES:

2  
3 For the Plaintiffs:

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9

10 For the Defendants:

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15

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17 By: Maria Crimi Speth and  
18 Adam Kunz  
19 3200 North Central Avenue  
20 Suite 2000  
21 Phoenix, Arizona 85012  
22

23 ALSO PRESENT:

24 Robin Smart, legal video specialist  
25

1 THE VIDEOGRAPHER: Good morning. We are  
2 on the record at 10:54 a.m. My name is Robin Smart.  
3 I'm a certified legal video specialist here with the  
4 court reporter, Marcie Daughtry. We are both  
5 representing Veritext National Deposition & Litigation

10:54:26

6 Services at the request of counsel for the plaintiffs.

7 This deposition is being held at the law  
8 offices of Jaburg & Wilk located at 3200 North Central  
9 Avenue, Suite 2000, Phoenix, Arizona, 85012.

10 The case caption is Asia Economic

10:54:48

11 Institute, LLC, et al, versus Xcentric Ventures, LLC,  
12 et al, Case No. CV-01360-SVW-PJW. This is the 30(b)(6)  
13 videotaped deposition of Xcentric Ventures, LLC,  
14 represented by Edward Magedson.

15 At this time, counsel please identify

10:55:18

16 yourselves and whom you represent.

17 MR. BLACKERT: My name is Daniel  
18 Blackert. I am counsel for the plaintiffs in this  
19 case.

20 MS. BORODKIN: Lisa Borodkin for

10:55:29

21 plaintiffs.

22 MR. GINGRAS: David Gingras on behalf of  
23 defendants Xcentric Ventures, LLC and Edward Magedson.

24 THE VIDEOGRAPHER: Thank you, counsel.

25 The witness may be sworn in, please.

10:55:47

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EDWARD MAGEDSON,

called as a witness herein, having been first duly sworn by the shorthand reporter to speak the truth and nothing but the truth, was examined and testified as follows:

EXAMINATION

BY MR. BLACKERT:

Q Mr. Magedson, my name is Dan Blackert. I'm the attorney for the plaintiffs in this case. I just  
10:55:56

wanted to introduce myself before we started the depo.

Can you spell your name for the record.

A M-a-g-e-d-s-o-n.

Q And the first name is Edward?

A Yes.

10:56:05

Q Okay. Have you used any other names in the past?

A Never.

Q Never.

Okay. Do you currently have a valid  
10:56:09

driver's license?

A Wait, I correct that. I -- for a while, I used the name -- I spelled my name M-a-g-i-d-s-o-n, which was the original way before when families came over back in -- before they passed the Statue of

10:56:29

1 Liberty -- or when they entered, they passed the Statue  
2 of Liberty, names were changed.

3 Q Okay. So that was a very long time ago?

4 A Right.

5 Q Okay. And you have used no other names in the

10:56:40

6 past besides that, that you can recall?

7 A Editor.

8 Q Okay. All right. Do you currently have a  
9 valid driver's license?

10 A Yes, I do.

10:56:50

11 Q Okay. When is it valid until?

12 A To me, that's confidential information. I  
13 don't need to give that information out. It's not of  
14 any use, other than for somebody to do some identity  
15 theft or something, so I refuse to answer that

10:57:06

16 question.

17 Q Okay. But you do have a valid driver's  
18 license?

19 A Yes.

20 Q And that's in Arizona?

10:57:11

21 A Yes.

22 Q Okay. And you refuse to give out when it's  
23 valid until for the reasons you said before?

24 A Yes.

25 Q Okay. Have you ever had your depo taken

10:57:21

1 before? I know the answer, it is going to be yes, but  
2 I'm going to ask you anyway.

3 A Yes.

4 Q How many times about, can you approximate?

5 A More than a dozen, maybe. I could be wrong.

10:57:35

6 It could be 8; it could be 12.

7 THE VIDEOGRAPHER: I'm sorry to bother  
8 you. Your microphone is banging up against the table.  
9 If you can lift it up a couple of inches.

10 MR. BLACKERT: Absolutely. Sorry about

10:57:49

11 that.

12 THE VIDEOGRAPHER: That's okay. Thank  
13 you.

14 Q BY MR. BLACKERT: Do you recall the last time  
15 your depo was taken?

10:57:58

16 A No. If I think about it for a little bit,  
17 maybe, but...

18 Q Okay. Well, if you get back to it and you  
19 remember at any time, you can just recall and just let  
20 me know.

10:58:12

21 A Maybe about six months ago.

22 Q Okay.

23 A It could be more, less, but it wasn't more  
24 than a year ago.

25 Q And were you a plaintiff or a defendant in

10:58:20



1           that action?

2           A     I don't know.

3           Q     Can't recall.  Okay.

4                         Do you recall what the case was about?

5           A     I need a lot more time to think about it, but

10:58:29

6           not at this moment.

7           Q     Okay.  Did you review any documents in  
8           preparation for today's depo?

9           A     Yes, I did.

10          Q     What did you review?

10:58:42

11          A     The e-mail of the 24th, and I -- that was  
12          my -- you know, my declarations and stuff like that.  
13          But I really didn't read any of that; I just looked at  
14          the e-mail.

15          Q     You just read the e-mail?

10:59:06

16          A     Yes.

17          Q     Did you read anything else besides the e-mail  
18          of the 24th?

19          A     No.

20          Q     Okay.  And what did the e-mail of the 24th

10:59:14

21          concern?

22          A     It concerned the statements, which I realize  
23          why I felt threatened and said that I was in  
24          California, which I should have read more closely.  It  
25          was -- the statements that were -- that Mr. Mobrez had

10:59:33

1 made in his e-mail, that was why I wanted to lead  
2 somebody like him to believe that I was in California.

3 Q Okay. And why did you want to believe that he  
4 was -- why did you want Mr. Mobrez to believe that you  
5 were in California?

10:59:50

6 A I felt threatened in a way. There was like a  
7 vile little -- sarcastic little threat there, you know,  
8 reading between the lines. I have been threatened a  
9 lot, death threats, and things like that have happened  
10 for many years now, and so I'm pretty cautious about

11:00:07

11 it.

12 Q And what made you feel Mr. Mobrez actually  
13 made the threats to you?

14 A I don't understand that question.

15 Q What made you feel Mr. Mobrez maybe had made

11:00:20

16 those threats to you?

17 A In the e-mail -- well, I remember reading --  
18 when I re-read it, whatever he said in the beginning of  
19 the e-mail made -- made -- made no difference to me.  
20 It was like maybe -- I don't know. I'd have to look at

11:00:35

21 the e-mail. If you want, you can show me the e-mail.

22 Q Okay. I will show that to you later.

23 A But it was what he said. I remember it saying  
24 something about my dog. You know, like -- you know,  
25 like, he is going to see me with my dog or whatever,

11:00:53

1           because people have made threats, like, you know, they  
2           will kill your dog, my dog.

3           Q     Okay. All right. Now, what I'm going to do  
4           is just go over some formal admonitions. You seem to  
5           be well versed. You have had your depo taken many

11:01:07

6           times. I'm still just going to go over them just for,  
7           you know, housekeeping matters.

8                               Have you taken any medications before  
9           today's depo that may affect your ability to testify?

10          A     No.

11:01:21

11          Q     Is there any reason why you cannot proceed  
12          with today's testimony?

13          A     No.

14          Q     Now, I don't want you to guess. If I ask you  
15          a question, don't guess. I'm not entitled to your

11:01:29

16          guessing; I'm entitled to your -- I am entitled to your  
17          estimate, though, your best estimate of events that  
18          occurred in the past. So let me give you an example.

19          A     I don't see that there is that much of a  
20          difference between a guess and an estimate.

11:01:45

21          Q     Let me try to give you an example. If I ask  
22          you to estimate the length of this table, you would  
23          probably say maybe 12 to 15 feet, right? Because you  
24          have seen the table, you would be able to estimate the  
25          length. You don't have a measuring tape, but you would

11:02:02

1 be able to estimate, correct?

2 A Correct.

3 Q Now, if I ask you to estimate the length of  
4 the table in my office in California, you wouldn't be  
5 able to do that because you have never seen my -- the

11:02:11

6 desk in my office, right? So that would be a guess.

7 A Right.

8 Q So you understand the distinction between a  
9 guess and the estimate?

10 A Yes.

11:02:20

11 Q So just no guessing. And let's -- and you can  
12 estimate. You know, just give me your best estimate of  
13 the facts as you recall them. Okay?

14 A Okay.

15 Q Great.

11:02:29

16 Some of my questions may be a little  
17 unclear. I'm sure a bunch of them will. You may not  
18 be able to understand them. Feel free to ask me at any  
19 time to rephrase my questions, repeat my questions if  
20 you don't understand anything. I will be real patient

11:02:42

21 with you.

22 A Okay.

23 Q You know -- and if you don't understand it,  
24 just ask me to rephrase it. Simple as that.

25 Let's see, you can take a break at any

11:02:49

1 time unless a question is pending. So if I ask you a  
2 question, you will have to finish my question, and then  
3 you can take the break. But you are entitled to take a  
4 break at any time; if you want to use your cell phone  
5 for business, if you want to take a bathroom break, you

11:03:02

6 want to get something to drink, that's fine. Just, you  
7 know, give me a heads-up and then just let us know.

8 Okay?

9 A Correct. Okay.

10 Q If for any reason you become sick or ill in

11:03:10

11 the depo, you can --

12 A Dial 911.

13 Q You can dial 911. Yeah, we will call

14 emergency rescue for you as soon as possible. Just let

15 me know if you can't proceed if something happens.

11:03:25

16 Now, just wait for me to finish my  
17 question before you respond, and I will wait for you to  
18 finish your answer before I ask you my question,  
19 because it makes it difficult for the court reporter to  
20 type down everything if we are talking over each other.

11:03:36

21 Your counsel will probably be objecting  
22 to some questions, and you can answer those questions  
23 unless your counsel instructs you not to answer.

24 A Okay.

25 Q You follow?

11:03:47

1 A Uh-huh.

2 Q All right. Now, do you understand that you  
3 are a corporate designee for Xcentric and your  
4 testimony is being -- strike that.

5 Do you understand that you are a

11:04:00

6 corporate designee for Xcentric and we are taking your  
7 testimony for Xcentric today?

8 A I understand that.

9 Q Okay, great.

10 Oh, just one more thing, too. Let's try

11:04:16

11 to keep the responses verbal, and no nods of the head.

12 No, you know, waving or anything. All verbal

13 responses. Got it?

14 A Correct. Yes.

15 Q Okay. I'd like you to take a look at a

11:04:26

16 document. I'm going to give a copy to you and your

17 counsel, and I'm going to mark this as Exhibit A. Take

18 some time to look it over, read it over. Take your

19 time and let me know.

20 (Deposition Exhibit No. A was marked for

11:04:50

21 identification.)

22 THE WITNESS: Okay. I know what this

23 is. I have seen this.

24 Q BY MR. BLACKERT: Okay, you have read this

25 before?

11:05:07

1           A     Yes.

2           Q     And you feel that you can testify -- actually,  
3           let's turn to the second page, where it says, "The  
4           designee will be examined on these topics." Do you  
5           feel you are familiar enough with Xcentric's practices

11:05:18

6           to be examined on these topics?

7           A     Hopefully.

8           Q     Okay. All right. So that's going to be  
9           marked as Exhibit A.

10                         I'm going to hand you something. I'd

11:05:36

11           like you to take a look at that. And I'm also going to  
12           hand to your counsel that, as well. This is going to  
13           be marked as Exhibit B, and this is the Arizona  
14           Corporation Commission information on Xcentric  
15           Ventures, LLC, which was obtained from the Secretary of

11:06:07

16           State's website.

17                         (Deposition Exhibit No. B was marked for  
18           identification.)

19           Q     BY MR. BLACKERT: Are you familiar with this?

20           A     Yeah. I think so, yes.

11:06:13

21           Q     And your position at Xcentric is a manager,  
22           according to this; is that accurate?

23           A     Correct.

24           Q     Okay. And you were incorporated August 27th,  
25           2003 in Arizona? When I say you, I mean Xcentric.

11:06:31

1           A     You know, I don't remember that.  If that's  
2     what the Corporation Commission says --

3           Q     Okay.

4           A     -- then that's when it was.

5           Q     And I also notice on here that under

11:06:40

6     manager/member information, there is a group called  
7     Creative Business Investment Member Concepts, Inc., a  
8     Nevada corporation.  Can you explain to me what their  
9     role in Xcentric is?

10          A     It's like -- you know, I can't remember what

11:07:03

11     the answer is to that question.

12                   MR. GINGRAS:  I'll also object to the  
13     question as being beyond the scope of the 30(b)(6) depo  
14     notice.  If Ed doesn't know the answer, I guess that's  
15     the best answer you can give, but I don't believe

11:07:28

16     that's one of the topics designated in the notice.

17                   MR. BLACKERT:  Okay.  Objection noted.

18           Q     BY MR. BLACKERT:  Take a look at that.  I will  
19     give this to your counsel and mark it as Exhibit C.

20                   (Deposition Exhibit No. C was marked for

11:07:52

21     identification.)

22           Q     BY MR. BLACKERT:  This is a limited liability  
23     company statement of change for Xcentric Ventures.  Did  
24     you fill this out, Mr. Magedson?

25           A     I don't understand -- I don't even know what

11:08:12



1 this is. What is this again?

2 Q Take a look at it and read it.

3 A I can't. It's too blurred for me. So what's  
4 your question that you are asking?

5 Q It looks like the registered agent on file as

11:08:42

6 of that date was John F -- I will spell the last  
7 name -- G-o-a-d-s-o-n. Is that correct?

8 A I'm not sure.

9 Q And it was changed to G. Peter B-u-s-n-a-c-k.

10 Do you have any knowledge of that?

11:09:05

11 MR. GINGRAS: I'll object again. It's  
12 beyond the scope of the 30(b)(6) notice.

13 If you can answer the question, you can.

14 Q BY MR. BLACKERT: If you have any recollection  
15 of why the name was changed, why the -- strike that --

11:09:23

16 why the statutory agent was changed at that time?

17 A I believe it was years ago, and I don't  
18 think -- this is about Xcentric, so I don't know if  
19 that has anything to do with Xcentric.

20 Q Well, this is -- it deals with a statutory

11:09:42

21 agent for Xcentric being changed, so that's why I'm  
22 asking about it. Because the statutory agent was  
23 changed to Mr. Busnack, and I'm just asking you if you  
24 have any recollection of that event.

25 A Yes, I do.

11:10:04

1 Q And why was the name changed? Why was the --  
2 strike that.

3 Why was the statutory agent changed?

4 A I can't -- I don't know. That's a long time  
5 ago already. I have no idea.

11:10:16

6 Q Okay. And if you can turn to the second page.  
7 It lists a gentleman -- if you can follow me -- David  
8 J. Bedore as the president of Xcentric Ventures. Was  
9 he at any time the president of Xcentric Ventures?

10 MR. GINGRAS: Objection. Again, beyond

11:11:16

11 the scope of the 30(b)(6) depo notice.

12 You can answer the question, if you can.

13 THE WITNESS: I can't answer the  
14 question.

15 Q BY MR. BLACKERT: Do you recall ever being

11:11:16

16 associated -- do you recall Xcentric ever being  
17 associated with Mr. Bedore?

18 A Yes.

19 Q In what capacity was Mr. Bedore associated  
20 with Xcentric?

11:11:16

21 MR. GINGRAS: Same objection.

22 THE WITNESS: I don't -- I shouldn't  
23 answer that question.

24 MR. GINGRAS: You can answer it if you  
25 know the answer.

11:11:31

1 THE WITNESS: I don't really understand  
2 the question.

3 MR. BLACKERT: Can you --

4 THE WITNESS: Can you rephrase it or  
5 just ask me it again? What was the question?

11:11:38

6 (The requested portion of the record was  
7 read by the court reporter.)

8 THE WITNESS: I think it says here  
9 president.

10 Q BY MR. BLACKERT: So Mr. Bedore was the

11:12:30

11 president at the time he signed this?

12 A Correct.

13 Q Okay. Why don't you take a look at that, and  
14 I will give that to your counsel. Why don't you read  
15 that over and let me know when you are finished with

11:12:30

16 that.

17 THE WITNESS: This is so illegible. I  
18 see that my signature is at the bottom, but I can't  
19 read what this is. I can clearly read Arizona  
20 Corporation Commission, but anything that this really

11:12:40

21 says other than my signature, I really can't make out  
22 too much of what it's talking about.

23 Q BY MR. BLACKERT: Okay. I'm going to mark  
24 this as Exhibit D.

25 (Deposition Exhibit No. D was marked for

11:12:52

1 identification.)

2 Q BY MR. BLACKERT: But that is your signature  
3 at the bottom, correct?

4 A Yes.

5 Q That matches your signature? Okay. Great.

11:12:56

6 And it looks like at the bottom, if you  
7 can read it, it says, "Acceptance of appointment by  
8 statutory agent." Can you read that on the bottom?

9 A I see that. That lettering, I can see.

10 Q Okay. I'll read it to you. "The undersigned

11:13:18

11 hereby acknowledges and accepts the appointment as  
12 statutory agent of the above-named limited liability  
13 company effective this 30th day of January, 2008."

14 And then do you notice the signature at  
15 the bottom?

11:13:36

16 A It looks like -- I can read the word Maria.

17 Q Okay.

18 A So -- but I'm not familiar with her signature  
19 or whatever. I don't know if it is talking about  
20 Maria -- my attorney Maria.

11:13:55

21 Q Do you have any recollection of reading this  
22 document at all?

23 A Unless -- I mean, I can't remember everything,  
24 so a document like this, I can't imagine somebody is  
25 putting a fraudulent document in front of me, so I

11:14:05

1 would assume that this is true.

2 Q Okay. I'm going to pass you that. If you can  
3 read that over. Give that to your counsel and mark  
4 this as Exhibit E.

5 (Deposition Exhibit No. E was marked for  
11:14:43  
6 identification.)

7 Q BY MR. BLACKERT: Let me know when you are  
8 done reading it over.

9 A Again, I can see just what's in handwriting,  
10 but the other stuff makes no sense to me. I -- I can't  
11:14:50

11 understand what this is.

12 MR. GINGRAS: Ed, why don't you wait  
13 until you are asked a question. He hasn't asked you  
14 anything yet.

15 THE WITNESS: Okay.

11:15:02

16 Q BY MR. BLACKERT: Take a look at the whole  
17 document because it's a couple of pages.

18 Do you recall what this document is in  
19 reference to? Do you have any recollection?

20 A No, I don't understand what it is.

11:15:35

21 Q Okay. I just want to go back to Exhibit D  
22 really quickly, if you have it in front of you. And is  
23 that your signature at the bottom there?

24 A It looks like my signature.

25 Q Okay. Great. We will mark this as Exhibit F.

11:15:50

1 (Deposition Exhibit No. F was marked for  
2 identification.)

3 Q BY MR. BLACKERT: Take a look at that, Ed, and  
4 just read it over and take your time. I'm going to  
5 give one to your counsel, too. And just let me know

11:16:08

6 when you are finished. Take your time. It's a couple  
7 of pages.

8 A Okay.

9 Q You have had a chance to read it over?

10 A I'm not sure what it is, but I have read it

11:16:47

11 over.

12 Q Okay. It deals with Creative Business  
13 Investment Concepts. And the question I'm asking you  
14 is if this company has any involvement with Xcentric?

15 MR. GINGRAS: Objection. It's beyond

11:17:02

16 the scope of the 30(b)(6) depo notice.

17 THE WITNESS: I'm not going to answer  
18 that question.

19 Q BY MR. BLACKERT: Okay. Do you have any  
20 recollection of Creative Business Investment Concept

11:17:13

21 being associated with Xcentric?

22 MR. GINGRAS: Same objection.

23 THE WITNESS: I object, to answer your  
24 question.

25 Q BY MR. BLACKERT: So are you refusing to

11:17:26

1 answer the question?

2 A I really don't even understand the question or  
3 even know how to answer it. So -- and I object. It  
4 seems like you are going beyond the scope of what this  
5 deposition is about.

11:17:37

6 Q Okay. The deposition is about Xcentric  
7 Ventures and certain areas around it. And what I'm  
8 just trying to figure out is, if you look at Exhibit A,  
9 you have two managers or member information. You have  
10 you, Ed Magedson.

11:17:51

11 A Which document now are you on?

12 Q Let's look at Exhibit A. Let's go back to  
13 that.

14 MS. BORODKIN: Exhibit A is the notice  
15 of deposition.

11:17:59

16 Q BY MR. BLACKERT: I'm sorry, Exhibit B. Let's  
17 go to Exhibit B.

18 A This one?

19 Q Correct.

20 On the bottom of Exhibit B, we have

11:18:05

21 you -- I'm pointing at Ed Magedson right there -- and  
22 then we have directly on the side of that Creative  
23 Business Investment Member Concepts.

24 A No, it's -- I think that's typed incorrectly.

25 Q Can you explain to me how it's typed

11:18:19

1           incorrectly?

2           A     Because I think the name is Creative Business  
3           Investment Concepts, Inc. Why the word member is  
4           there, I have no idea.

5           Q     To be honest with you, I found the same typo  
11:18:39

6           on the bottom of the Department of Corporation's  
7           website.

8           A     It's a clerical error.

9           Q     So the correct name is what, then?

10          A     Creative Business Investment Concepts, Inc.

11:18:51

11          Q     Okay. Got it.

12                     And now my question to you is, what  
13           involvement do they have with Xcentric?

14                     MR. GINGRAS: Objection. Rather than  
15           objecting to every question, I think we need to

11:19:00

16           clarify. As we discussed before this deposition  
17           occurred, defendants believe that a protective order is  
18           necessary and appropriate for a wide variety of reasons  
19           that don't need to be explained right now.

20                     We agreed to let this depo go forward

11:19:13

21           with the understanding that questions that the answers  
22           to which would be subject to a protective order will  
23           not be answered because there is no protective order  
24           present.

25                     Having said that, if you ask a question

11:19:28



1 that the witness knows the answer to, would like to  
2 answer but the answer would reveal something  
3 confidential, privileged, private, otherwise  
4 appropriately covered by a protective order, I'm not  
5 going to let the witness answer, and I'm not going to

11:19:47

6 object to every question.

7 Ed, if you don't feel comfortable  
8 because of the lack of a protective order, I don't want  
9 you to answer the question. Counsel understands my  
10 objection to that, and I just want to make sort of a

11:20:02

11 standing objection to questions of that nature.

12 MR. BLACKERT: Okay. I appreciate your  
13 objection, and I just want to point to the federal  
14 rules, because I anticipated this, Federal Rule  
15 30(c)(2), which says, "A person may instruct a deponent

11:20:14

16 not to answer" -- regards depositions -- "when  
17 necessary to preserve a privilege to enforce a  
18 limitation ordered by the court or to present a motion  
19 under Rule 30(d)(3)."

20 And I don't think any of those are

11:20:33

21 present here.

22 MR. GINGRAS: I understand that you  
23 disagree, and I'm still saying that without a  
24 protective order, Ed is not going to answer questions  
25 that would have been subject to a protective order had

11:20:42

1 one been entered.

2 MR. BLACKERT: Okay. Your objection is  
3 preserved.

4 Q BY MR. BLACKERT: So again, my question to you  
5 is, how is Creative Business Investment Concept

11:20:51

6 involved with Xcentric?

7 MR. GINGRAS: Objection. Beyond the  
8 scope of the 30(b)(6) depo notice, and the same  
9 protective order issue I've just mentioned.

10 You can answer the question if you want

11:21:04

11 to, but you don't have to.

12 THE WITNESS: I think from this document  
13 it's obvious that Creative Business Investment  
14 Concepts, Inc. is the member for -- of the corporation.  
15 That's the way I understand it.

11:21:15

16 Q BY MR. BLACKERT: Okay.

17 A But I'm really not even sure.

18 Q Okay. And to the extent you are sure, what --  
19 what role do they play in Xcentric on a day-to-day  
20 basis?

11:21:27

21 MR. GINGRAS: Same objections.

22 THE WITNESS: I don't want to answer  
23 that question.

24 Q BY MR. BLACKERT: So you are refusing to  
25 answer that question?

11:21:34

1           A     Originally you had agreed to doing a  
2     protective order, but you have seemed to -- you don't  
3     want to do a protective order. You have changed.

4                   MR. GINGRAS: Ed, do not argue with  
5     counsel. Let me do that, please.

11:21:49

6           Q     BY MR. BLACKERT: You can continue if you'd  
7     like.

8                   MR. GINGRAS: No, I'm instructing the  
9     witness not to answer any further.

10          Q     BY MR. BLACKERT: Okay. All right. I'm going

11:21:59

11     to mark this as Exhibit G.

12                   (Deposition Exhibit No. G was marked for  
13     identification.)

14          Q     BY MR. BLACKERT: Ed, I just want you to take  
15     a look at that. Is it okay if I call you Ed?

11:22:15

16          A     Absolutely.

17          Q     Okay. Great. Just take a look at it, read it  
18     over, really take your time. There is no rush at all.

19          A     That's fine.

20          Q     You know it pretty well, right? Do you want

11:22:28

21     to take more time to read it over?

22          A     No. If I need to review it after a question  
23     that you may ask me, then I will look at it.

24          Q     But I'd like you to read it over now just so  
25     you are familiar with it, because I'm going to be

11:22:45

1 asking you some questions about it.

2 A Okay.

3 THE VIDEOGRAPHER: Mr. Blackert, I'm  
4 sorry. Your microphone is still hitting the table.

5 MR. BLACKERT: I'm sorry. It must have

11:25:07

6 went down a little bit.

7 Q BY MR. BLACKERT: Are you done?

8 A Yes.

9 Q Great.

10 Now, do you recognize this document?

11:26:38

11 A Yes.

12 Q Is it an accurate depiction of the homepage of  
13 RiffoffReport.com?

14 A It looks like to be, but I don't know if you  
15 left anything out. I didn't make the photocopies, so

11:26:50

16 anything is possible.

17 Q Is there anything that stands out to you that  
18 may have been left out?

19 A I certainly don't read this every day.

20 Q Okay. So it appears to be genuine, then?

11:26:59

21 A There could be something left out. I don't  
22 know.

23 Q Okay. Can you think of anything that has been  
24 left out? Can you identify anything?

25 A Not right now. My memory for that kind of

11:27:10

1 thing is not going to be...

2 Q Did you write the homepage for  
3 RipoffReport.com?

4 A Yes, I did.

5 Q You authored it. Okay.

11:27:23

6 Did anyone else assist you in authoring  
7 it?

8 A Being not the greatest speller, back then  
9 especially -- I have improved over the years, but I'm  
10 sure I had some people helping me.

11:27:35

11 Q Okay. Do you recall the names of those people  
12 at this time?

13 A No.

14 Q Okay. And how long has this been the homepage  
15 for Ripoff Report?

11:27:43

16 A I don't know when it changed.

17 Q Okay.

18 A A long time.

19 Q Okay. I want you to read that over. I'm  
20 going to mark it as Exhibit -- what is this -- H.

11:28:23

21 (Deposition Exhibit No. H was marked for  
22 identification.)

23 Q BY MR. BLACKERT: There you go.

24 A There is something here that is wrong.

25 MS. BORODKIN: There is no question.

11:29:53

1 THE WITNESS: It doesn't seem right, but  
2 okay.

3 Q BY MR. BLACKERT: Do you recognize this?

4 A Yeah, I do. But when did you take a copy of  
5 this?

11:30:09

6 Q Last night.

7 A Well, something is wrong.

8 Q Okay.

9 A Something -- okay.

10 Q What's wrong with it?

11:30:17

11 A Something is like missing from here, and I'm  
12 not saying that you did it, but it could have been done  
13 when -- there is something here that says something  
14 that's incorrect or it doesn't -- I don't know if it  
15 was in the proofreading, but I believe this thing was

11:30:45

16 changed a long time ago and somehow came back to the  
17 old version.

18 Q Okay. Can you explain that to me?

19 A Yeah. Let me get to it. "Note on  
20 Qualification" at the last subtitle sort of at the end,

11:31:06

21 about a paragraph up, right -- the two bullet points  
22 that are at the bottom --

23 Q Right.

24 A -- right above the top bullet point, it says,  
25 "Note on Qualification." It says, "Fees for enrolling

11:31:20

1 in the program are based on the number of reports  
2 filed, the number of offices you have," which it can  
3 be, "and/or the size or average sale." That goes with  
4 if somebody has a hardship. So I don't know why that's  
5 there.

11:31:42

6 I think it has this -- yeah, "If  
7 participation in this program would honestly create a  
8 hardship but you desire to participate, we will work  
9 with you to find a way to make it work." That portion  
10 is like out of place. It can go by their financial

11:31:57

11 ability and/or the size of sales.

12 So if somebody really had an item that  
13 they sold for \$5 or something, and it's just really  
14 small and they racked up some complaints because of  
15 shipping problems, which there is always shipping

11:32:16

16 problems with US mail, especially. I won't say the  
17 private companies, but the US mail. So there is  
18 something there that -- I'm glad I read it.

19 It's just like something is incorrect  
20 there. It's not supposed to have and/or average sale,

11:32:30

21 because nothing has ever been on any kind of average  
22 sale. And I believe this was corrected once before  
23 when this was originally written, and it was found --  
24 and I'm talking like a long time ago. And how it got  
25 back to this version, I'm not sure.

11:32:48

1                   And if you say you printed it out last  
2                   night, I'm going to believe you, but there is something  
3                   that is incorrect, because there is nothing that goes  
4                   by an average sale. That would go along with it's  
5                   worded incorrectly. It would go, if somebody had a

11:33:02

6                   financial hardship and you desire to participate, we  
7                   will work with you to find a way to make it work. This  
8                   may require providing financial documentation proving  
9                   hardship. And then it should say, it could also  
10                  depend -- it might also at the same time depend on if

11:33:19

11                  you have a small item that's for sale. So who the heck  
12                  knows when something was being copied and pasted.

13                  Q     Okay.

14                  A     So there's something -- it's wrong, so...

15                  Q     All right. Now, do you charge fees for the

11:33:34

16                  Corporate Advocacy Program?

17                  A     Yes.

18                  Q     I'm going to call it the CAP. Is that okay?

19                  A     Yes, that's fine.

20                  Q     How do you base the fees -- how do you base

11:33:46

21                  the fees that you charge the companies? On what basis  
22                  do you use?

23                  A     It goes basically by the amount of reports you  
24                  have, amount of complaints. So that's my answer.

25                  Q     Is it based on anything else?

11:34:11



1           A     Well, before we even get to the fees,  
2           there's -- you have to qualify, so -- but...

3           Q     Okay. Let's assume the person is qualified.

4           A     Okay.

5           Q     Are there anything else besides the amount of  
11:34:24

6           reports that are considered when Xcentric determines  
7           fees for enrollment in the CAP?

8           A     No. And we really never used even the amount  
9           of offices that they have. I have never used that.  
10          I've never used that. It's just always went by the  
11:34:42

11          amount of reports that they have.

12          Q     And how do you set the enrollment cost?

13          A     It's standard. There's a \$7,500 fee, which is  
14          programming and setting up and taking care of putting  
15          together the main report that would end up going up  
11:35:09

16          about the company. So this \$7,500 fee, plus depending  
17          upon the amount of complaints somebody has, so if  
18          somebody had two complaints, it would be \$600 times 2.

19          Q     Is there also a monthly fee?

20          A     Yes.

11:35:34

21          Q     Can you explain to me how that works?

22          A     That also depends on the amount. There's a  
23          scale of how many complaints that you have.

24          Q     How long does the monthly fees last for?

25          A     It's a 36-month agreement. And after 36

11:35:46

1 months, you know, a company does not have to have us  
2 monitor and be an extension of the customer service and  
3 answering questions about their company. We just -- if  
4 they don't want us to do that anymore, we don't.

5 Q So it's a 30-month -- 36-month agreement that  
11:36:03

6 they sign?

7 A Correct.

8 Q Okay. Now, when you -- how do you quote the  
9 fee?

10 A How do you quote it? I'm not sure what you  
11:36:26

11 mean, how do I quote it?

12 Q How do you -- do you do it in writing? Do you  
13 do it in a letter? Do you do it over the telephone?

14 A Always an e-mail, never by telephone. Never.

15 Q So you have never quoted a fee by telephone?  
11:36:46

16 A Oh, if I was talking with -- an attorney had  
17 called me, I can't -- you know, I know in the last  
18 three years, four years, my strict, strict, strict,  
19 strict, strict policy is to never, ever discuss -- they  
20 get the e-mails first trying to convince them to file a

11:37:15

21 rebuttal, that you don't need the program. File a  
22 rebuttal; it's free; just like you would on any other  
23 blog or website, news story, or whatever, somebody says  
24 something about you, come back and explain, oh, that  
25 person is full of it.

11:37:33

1                   People do it every day, millions of  
2                   people every day. It's happening while we are talking  
3                   right now. I try to get them to go ahead and do that.  
4                   That's with the e-mail before I even send them any  
5                   rates, to get that.

11:37:45

6                   Q     So you always quote the prices in the e-mails?

7                   A     Always.

8                   MR. BLACKERT: Okay. I'm going to call  
9                   for production of those -- those documents -- those  
10                  e-mails where he quotes the prices.

11:37:53

11                  MR. GINGRAS: They are not relevant to  
12                  this case, and you have made no production requests.  
13                  If you would like to make one, you are free to do that.  
14                  We will respond when you do.

15                  MR. BLACKERT: Okay. Fair enough.

11:38:06

16                  Q     BY MR. BLACKERT: Now, do you negotiate  
17                  directly with individuals who are looking to enroll in  
18                  the CAP program, individuals or businesses?

19                  A     Yes.

20                  Q     And how does the negotiation process work?

11:38:16

21                  A     You mean how is it done?

22                  Q     Correct, yes. How does the process work?

23                  A     It's done strictly by e-mail.

24                  Q     Okay. And is there a questionnaire that the  
25                  entity or individual must fill out before they are

11:38:34

1 eligible for the CAP program?

2 A Yes.

3 Q Can you explain what that questionnaire  
4 entails?

5 A We ask -- I ask just a few key questions --

11:38:41

6 well, there's the initial -- there's the initial  
7 application, and I believe -- I can't even remember  
8 now. There's just some -- the exact questions that are  
9 asked. But what is your question? What is your  
10 specific question?

11:39:04

11 MR. BLACKERT: Can you read that back,  
12 Court Reporter.

13 (The requested portion of the record was  
14 read by the court reporter.)

15 Q BY MR. BLACKERT: The initial questionnaire

11:39:16

16 when someone is looking to enroll in the CAP program.

17 A I can't remember it all.

18 Q Okay. What do you remember?

19 A The name of the company, how many complaints  
20 that they have, what kind of complaints. Do you take

11:39:27

21 responsibility? You know, I want to see if they are  
22 going to explain why, or, no, they are all made by an  
23 ex-employee or they are made by my ex-wife or -- you  
24 know, what they are going to say there.

25 And I think it's -- what also is there

11:39:48

1 is -- oh, I think maybe there is something about why  
2 you may have these complaints. And then there is a --  
3 later on during the process, I ask more detailed  
4 questions like -- or it could be in there -- like have  
5 you done anything to make improvements so these

11:40:12

6 complaints won't happen again? I'm sure it's in one of  
7 my applications, in one of the forms, but I forget  
8 which one it is. I can't remember offhand.

9 Q Okay. And what happens next when the  
10 individual or business fills out that program and then

11:40:31

11 you accept them into the CAP program?

12 A You kind of skipped. You are at that  
13 original -- excuse me -- that original application.  
14 They are immediately sent an e-mail that tries to push  
15 them to just go ahead and file a rebuttal. It's free,

11:40:48

16 and, you know, to be calm, nice, compliment you. Don't  
17 be combative, you know.

18 And then also -- then I go into, you  
19 know, if you really want to -- or I always suggest,  
20 anyway, even if you are going on the CAP program, go in

11:41:11

21 there and file a good rebuttal and explain -- it  
22 depends on the situation what I would tell them, I  
23 think, as a consumer advocate what maybe -- I might  
24 suggest what they should try to come across. And it's  
25 basically always being humble, basically. And it's not

11:41:32

1 a bad idea to admit you made a mistake, because we all  
2 make them.

3 Q Right.

4 A Right. I shouldn't joke, sorry, but we all  
5 make mistakes, and to admit that you made a mistake is  
11:41:46

6 what I try to get across throughout that whole -- the  
7 stuff that I do end up saying to them, you know, it's  
8 really good to admit that you make a mistake, because  
9 people like to do business with somebody that says,  
10 hey, wow, gee whiz, maybe I ripped off a whole bunch of  
11:42:06

11 people. I realize I was doing wrong. I have changed  
12 my ways, and, you know, it's best -- you know, go ahead  
13 and do business with me.

14 Because more than likely, if it's on  
15 Ripoff Report; it's on Yelp. It's on other different  
11:42:21

16 kinds of places, as well, and because we are so  
17 prominent, this is really the best place, in a way, to  
18 go ahead and clear the air and set the record straight,  
19 so to speak, because it is so prominent. So it is a  
20 good way to try and set the record straight and debunk

11:42:40

21 everything else that's out there.

22 Q Okay. What else does the e-mail mention?  
23 Anything else you can recall at this time?

24 A There is a whole bunch of things. It's a long  
25 e-mail. I can't try to purport to you that I'm going

11:42:55

1 to tell you everything that's in there.

2 Q Do you mention fees at all in the e-mail for  
3 enrollment?

4 A Do I mention fees? Not initially, not at all.

5 Q You do not mention them at all?

11:43:10

6 A Absolutely not.

7 Q Do you --

8 A So there's an initial e-mail that they get.

9 So I explain to them there is things about -- it gives  
10 some examples how it could be -- you know, how the

11:43:19

11 program would be. Then they have to contact back and  
12 say, wow, look, I did file a rebuttal; I'm not  
13 interested in filing a rebuttal; I would just like to  
14 really join the program.

15 Q Okay.

11:43:30

16 A Okay, once they do that, there is an e-mail  
17 that they are sent, and I might even look to see what  
18 they had said. They may not just be eligible for it.

19 Q Okay. And do you send any links to your  
20 website in that initial e-mail you send out?

11:43:46

21 A Say that again. I'm sorry.

22 Q I'm sorry.

23 Do you send any -- in that initial --  
24 the e-mail you were just talking about, do you send any  
25 links to your website, RipoffReport.com?

11:43:54

1 A Any links to --

2 Q Does Xcentric send any links?

3 A Well, I think there's a link to different  
4 examples of different companies that are on the program  
5 so they can see how it -- you know, how it looks. And

11:44:08

6 it shows, you know, we don't get rid of -- there is  
7 nothing ever deleted. There is no reports. Their  
8 comments are just not deleted.

9 Q Okay. And there is no mention of fees, you  
10 said?

11:44:25

11 A No, there is no mention of fees until the last  
12 e-mail that we send. It's the third thing that they  
13 are sending us. First they send the application.

14 Q And who writes the e-mail?

15 A I do.

11:44:35

16 Q You write all the e-mails?

17 A I do, yeah.

18 Q Let me -- let me get this straight. You get  
19 an initial e-mail -- strike that.

20 Once an individual business is accepted

11:44:48

21 into the CAP --

22 A No, no, you jumped. Nobody has been accepted  
23 anywhere. I didn't talk about that.

24 Q Okay. All right. Let's back up, then. Okay.

25 Now, let's go back to Exhibit H, if you

11:45:02



1 can find that in your pile. It should have an H on the  
2 bottom. I can point it out for you if you want. Yeah,  
3 right here.

4 A Uh-huh.

5 Q I'm going to read something to you, and I

11:45:15

6 want -- and I'm going to ask you a question on it.

7 Okay?

8 A Uh-huh.

9 Q Do you see under "Notes on Qualification"?

10 A Uh-huh. Right.

11:45:24

11 Q Okay, I'm going to read to you --

12 A I brought you to the attention that something  
13 was reading incorrectly there.

14 Q It reads, "Fees for enrolling in the program  
15 are based upon the number of reports filed, the number

11:45:33

16 of offices you have, and the size of an average sale."

17 A And it should be --

18 Q Hold on. Let me finish.

19 A Okay. I'm sorry. Okay.

20 Q "Additionally, there is a flat set-up fee to

11:45:45

21 offset the costs associated with programming and  
22 contract legalities. Rate sheets will be sent upon  
23 completion and verification of the intake  
24 questionnaire."

25 Now, who initially wrote that? I

11:46:01

1 understand you -- who initially wrote that?

2 A Um, it probably was written by me, and, um,  
3 somehow -- and I could have had help with it back when,  
4 so we are talking -- but I know that this is wrong and  
5 it should be or. It's not both. Okay? It's never

11:46:16

6 both. And I have never used the amount of locations  
7 that they may have, the amount of offices they have.  
8 It would be or by the locations that they have.

9 So let's say somebody had 80 offices,  
10 you know, but I never -- I've never gone by that --

11:46:34

11 used that calculation.

12 Q Okay.

13 A And there is nothing to do with, you know, the  
14 amount of sale that you have. So it wouldn't make a  
15 difference if a company had one report and each sale

11:46:51

16 that they made was \$5 million. It would -- it would be  
17 the same fee whether or not, you know, they have their  
18 average sale is \$500 or \$250. It wouldn't make a  
19 difference.

20 So this is wrong, and that will be

11:47:06

21 corrected. But by you having me read this, I'm very  
22 glad that I had this deposition today, because I  
23 wouldn't have read it.

24 Q Okay. Earlier, you said that there was a  
25 \$7500-a-month --

11:47:20

1           A     No, I didn't say that. No. But that's okay.

2           You don't remember.

3           Q     Right. No, that's -- strike that.

4           A     I see that somebody else has a memory like I

5           do sometimes.

11:47:29

6           Q     So there is a \$7500 enrollment fee, correct?

7           You said that?

8           A     Yes.

9           Q     Okay. How do you determine the \$7500

10          enrollment fee?

11:47:43

11          A     There is no determining; it's -- that's --

12          it's a flat one-time fee.

13          Q     Are there any factors you base the fee on?

14          A     The amount of work that's involved with

15          setting somebody up, sure. The benefits -- you know,

11:47:54

16          just like you are going to advertise with something,

17          and, you know, we feel the advertising on a particular

18          website is worth X amount of dollars.

19          Q     So what are the benefits?

20          A     The benefits --

11:48:09

21          Q     You just said --

22          A     -- of the program or --

23          Q     You just said the 75 -- correct me if I'm

24          wrong.

25          A     She is saying yes.

11:48:17

1 Q Correct me if I'm wrong. The \$7500 is based  
2 on the benefits that the individual entity gets; is  
3 that correct?

4 A It's a whole number of things. It's what I  
5 felt was fair back when I started this maybe about  
11:48:28

6 eight years ago, that that was a fair amount of money.

7 Q How did you determine that that was a fair  
8 amount of money, is what I'm trying to get at?

9 A What was in my mind eight years ago, I'm not  
10 sure. But if my memory serves me correctly -- and you  
11:48:46

11 are asking me today -- we are an extension of  
12 somebody's customer service. We answer -- when people  
13 see -- and they are wanting to do business and they see  
14 complaints on different websites -- I'm explaining to  
15 you the benefits. Do you want to know that? Is that a

11:49:06

16 wrong --

17 Q No, that's what I'm asking you.

18 A Okay. So when -- when somebody joins the  
19 program, the reason why I feel it's worth the 7500,  
20 there is work that's involved, number one, to getting

11:49:23

21 somebody signed up. And there's a contract. There's  
22 going over that contract.

23 And, you know, I may have to have an  
24 attorney look at, you know, if there is anything that's  
25 changed, which normally there is not, but it still

11:49:35

1 takes time. And the agreement is done.

2 And there's work involved with putting  
3 somebody on, so we -- it's telling a staff of people to  
4 watch out for a name, that they are on a watch so we  
5 can immediately -- when a complaint comes in, we

11:49:55

6 immediately e-mail that consumer who is trying to file  
7 a complaint saying, hey, hold on a minute, XYZ company,  
8 they are going to want to know why you had this  
9 problem, and they are going to want to make things  
10 right with you.

11:50:11

11 It is to hold them off from using their  
12 keyboard and their mouse to go and make more  
13 complaints. Because we want to let them know, look,  
14 the company -- wow, you have a problem. Maybe one of  
15 our people missed something. We want to make this

11:50:21

16 right with you.

17 You know, and we explain that. And we  
18 explain that the company -- so it's all part of --  
19 there's a whole list of things here, so if you are  
20 ready for it, I mean, I'll -- she says yes.

11:50:34

21 Q I'd like to hear it, yeah.

22 A So I think we are off, because you asked why I  
23 charged the 7500. It's all part of the whole package  
24 of why it is that I get what I -- what we get. Our  
25 Ripoff Report -- Ripoff Report, Corporate Advocacy,

11:50:53

1 business remediation and customer satisfaction program  
2 does a lot more than any other organization would ever  
3 do. More than the BBB or anything else that might be  
4 out there. And anybody who is a member would probably  
5 say that.

11:51:11

6 But remember, none of us like to pay  
7 money for anything. We certainly don't like to pay for  
8 legal fees. Everyone complains about that, how high  
9 they are. You have heard that song before. So nobody  
10 likes really to pay for anything.

11:51:26

11 But the program really does give a  
12 company a way -- because of the Internet age, the CAP  
13 program is an excellent program for a company that  
14 doesn't want to change their name and hide from  
15 complaints, because that's what a lot of companies do

11:51:44

16 today. They just go ahead -- they change their name.  
17 They got to go spend money to get a new office or  
18 change corporation papers and do all kinds of things.

19 So the benefit of the program of  
20 spending the money, the 7500, plus the one-time fee

11:51:59

21 multiplying times the amount of reports you have, okay,  
22 we are an extension of their customer service. We take  
23 calls; we answer e-mails, and the report that we end up  
24 doing -- because consumers love to do business. It's a  
25 proven fact. Consumers love to do business.

11:52:23

1                   Consumers love to vote for a politician  
2                   who can admit they made a mistake, might have made a  
3                   mistake. Even if they think they didn't, oh, I don't  
4                   want to admit to that. We might have made a mistake,  
5                   and in the name of good customer service, they are

11:52:41

6                   vowing to -- pay attention -- they are vowing to make  
7                   things right with the business.

8                   And if you work for us, we are not the  
9                   dirty SOB's that somebody said we were. We do take  
10                  care of -- we do take care of our employees or we are

11:52:58

11                  good to our customers. And we -- and these are the  
12                  improvements we made, which is part of the program.  
13                  They have got to give us -- and from them -- I have to  
14                  get from them their writing from them. I get it in  
15                  writing from them what improvements they've made, how

11:53:15

16                  they are going to avoid these complaints from happening  
17                  in the future.

18                  And yes, if they want -- if they want to  
19                  go ahead and they insist, well, these were mostly made  
20                  by employees, well, we are going to know about that.

11:53:34

21                  Because part of that fee includes this, which is the  
22                  first thing Ripoff Report does before it writes  
23                  anything for a company; they agree that we can e-mail,  
24                  which is, I do the e-mailing.

25                  I get a list of all the people who filed

11:53:50

1 the complaints. I e-mail them. They all get an e-mail  
2 saying, look, XYZ company -- the e-mail is titled XYZ  
3 company contacts Ripoff Report to make things right  
4 with their customers, and in their e-mail -- it's a  
5 long e-mail -- it basically says, look, XYZ company has

11:54:08

6 joined this program, and part of this program is they  
7 want to make things right for their customers. They  
8 are going to actually err on the side of the customer,  
9 and everything within reason.

10 I'm not going to let some customer come

11:54:24

11 back and say -- and it's amazing, for some reason,  
12 because we are involved, we are all customers, and we  
13 all get pissed off when we left that Best Buy or some  
14 store; we think we paid too much or got screwed on a  
15 warranty that we didn't need.

11:54:45

16 Q Okay. Now --

17 A You are not letting me finish. I want to make  
18 sense of this.

19 Q Go ahead.

20 A What I'm trying to say is that -- because you

11:54:50

21 are going to ask about it, so just let me explain the  
22 program now.

23 Because the customer -- people even  
24 perceive a rip-off a lot of times that they are not  
25 really ripped off. Even the word rip-off is not a

11:55:05



1 statement of fact; it's an opinion. And everyone will  
2 always feel that they got ripped off some way for  
3 something, but maybe they really didn't get ripped off.

4 But we straightened that out through  
5 this program. I kind of got mixed up when you guys

11:55:21

6 started talking, and so I'm kind of off track here a  
7 little bit. But what the CAP does is the CAP contacts  
8 everybody who has ever filed a complaint about that  
9 company letting them know they want to make things  
10 right, and they have to make things right.

11:55:44

11 I know where I left off, because I said  
12 if the complaints are phony, the customer is not going  
13 to contact us back or they are going to say, look, I'm  
14 an inside employee, and I want to just tell you  
15 something, blah, blah, blah, blah, blah.

11:56:00

16 Well, we tell them, look, is there  
17 anything you feel that you are owed by the company?  
18 You know, if it is, this is the time and the place. Do  
19 they owe you money? Did you sell something and they  
20 didn't give you the commission?

11:56:08

21 Or it's a customer, and it's just, look,  
22 they made me pay this much. They didn't do what they  
23 said they were going to do, and da, da, da, da.

24 And the company has to go beyond the  
25 call of good customer service and make it right. It's

11:56:19

1 part of the program. That's that initial e-mail. When  
2 they first joined the program, we send out an e-mail to  
3 everybody that filed a complaint, because they don't  
4 get on the program unless they have agreed to it. It's  
5 in our contract, that they are allowing us to do that

11:56:35

6 and they are agreeing to it. Also, they agree not to  
7 sue a real customer or an employee who had a legitimate  
8 complaint.

9 So if they had -- they were really an  
10 employee and they had a legitimate complaint, you know,

11:56:49

11 we live in America, and our freedom of speech -- as far  
12 as I know we still have it. And consumers can  
13 certainly put their opinions. And even if it's less  
14 than flattering, it's okay to say what you want about a  
15 company, because not only has the First Amendment been

11:57:04

16 around for years, but the Internet is here and more  
17 people are using it, and they are able to exercise it.

18 I know I have gotten off -- sidetracked  
19 here but --

20 MR. BLACKERT: Why don't we take a

11:57:19

21 five-minute break and then we will reconvene. Is that  
22 okay with everybody?

23 MR. GINGRAS: Yeah.

24 THE VIDEOGRAPHER: We are going off the  
25 record. The time is 11:57 a.m.

11:57:30

1 (The deposition was at recess from 11:57  
2 a.m. to 12:16 p.m.)

3 THE VIDEOGRAPHER: We are back on the  
4 record. The time is 12:16 p.m.

5 Q BY MR. BLACKERT: Okay, before we broke, you  
12:16:40

6 were talking about a -- when an individual entity  
7 enters CAP, there is a 36-month term, correct?

8 A Correct.

9 Q How do you determine the 36 months? How do  
10 you -- is it universal for everyone or is it on a  
12:16:53

11 case-by-case basis?

12 A Universal.

13 Q Universal.

14 And why did you determine the time to be  
15 36 months?

12:17:04

16 A If you ask me the question again, do you still  
17 think it's a good idea? I still think 36 months is a  
18 good idea. I don't know what was in my mind when I  
19 started this about eight years ago, maybe nine years  
20 ago, but it is what it is. I just feel that it's a

12:17:25

21 good amount of time to -- I mean, if somebody asks for  
22 less and there was a good reason for it, you know, I  
23 don't think it's come up.

24 Q So you don't recollect anyone --

25 A I haven't. I can't remember anyone, you know,

12:17:42

1 disputing or, you know, having a problem with the 36  
2 months. If they believe -- somebody who believes in  
3 the program and is joining it, you know, they -- you  
4 know, they don't -- they believe it's something that's  
5 good that they are on. So I haven't -- it just hasn't

12:18:05

6 been an issue.

7 Q And they sign a contract for this 36 months?

8 A Yes.

9 Q Okay. And how much do they pay a month?

10 A That depends on -- actually, this is

12:18:15

11 answered -- asked and answered, but it depends on how  
12 many reports they have, which is basically the way it's  
13 always gone.

14 Q Okay. Has anyone ever stopped paying at any  
15 point in the 36 months? Have you ever had that happen?

12:18:38

16 MR. GINGRAS: Objection. Form.

17 THE WITNESS: I don't know what you  
18 mean, stopped paying.

19 Q BY MR. BLACKERT: What is the range of monthly  
20 fees?

12:19:03

21 A The range of monthly fees, a hundred dollars  
22 to 2500. I don't know. It could be over -- I forget.  
23 It's anywhere between a hundred and, I'd say, about  
24 \$3,500. Again, it's all on -- depends on the amount of  
25 reports that a company has. The more reports a company

12:19:39

1 has, the more complaints/e-mails that we will probably  
2 end up dealing with.

3 Q Has an individual entity involved in this --  
4 let's say an individual entity has signed this 36-month  
5 contract in the past, right? Has anyone ever broken

12:19:56

6 the contract?

7 A Yes.

8 Q And what happens when they break the contract?

9 A To date, I haven't done anything, basically.

10 Q So you -- so you do nothing?

12:20:08

11 A Do I sue them, no.

12 Q Do you contact them after that? Do you try to  
13 collect the money?

14 A Sure, of course. If it was an agreement,  
15 somebody -- you make a contract with somebody and you

12:20:21

16 agree, but yes.

17 Q And who drafts the 36-month agreement?

18 A It's already been drafted, basically, but  
19 there's a slight change, of course, depending upon the  
20 company and a few things that it may vary just a little

12:20:37

21 bit.

22 Q And then who drafts that agreement?

23 A That was, of course, drafted by my attorney.

24 Q That was drafted by your attorney. Okay.

25 I'm going to request the agreement --

12:20:47

1 make a document request for that agreement that you  
2 use.

3 Is there anyone else involved in setting  
4 the prices for the CAP program or is it just solely  
5 you?

12:21:03

6 A It's me.

7 Q Just you?

8 A Uh-huh.

9 Q Okay. Now, what's your reasoning for not  
10 discussing pricing over the phone when somebody asks

12:21:21

11 about the CAP program?

12 A To avoid exactly the kind of underhanded  
13 shenanigans your client pulled. He lied, and he would  
14 take things that didn't even happen, which we proved,  
15 and turn them around into something else, which never

12:21:46

16 happened. Because I don't talk about the fees on the  
17 phone. He tried to bait me to do that, and I didn't do  
18 it.

19 So it's to avoid people putting words in  
20 my mouth or saying I said. And why put something on

12:22:04

21 the phone when it's better off putting it in an e-mail  
22 so it can't be a he said, she said? And that's exactly  
23 what I tell people almost a hundred percent of the  
24 time, look, I can't discuss this with you.

25 Q Have you ever discussed pricing over the phone

12:22:21

1 with anyone involving the CAP program?

2 A Oh, I'm sure there is somebody that I had, but  
3 it wouldn't have been somebody that I don't know. I  
4 think I've discussed it, which I said earlier, with  
5 like an attorney who might have called, and I felt

12:22:37

6 talking with an attorney who is honest and is not going  
7 to twist something around -- I might have discussed it  
8 with an attorney when they asked. You know, they said,  
9 look, my client is interested, or something like that.

10 Q Okay. Now, why wouldn't you give any kind of

12:22:55

11 pricing until after the contract is filled out? Will  
12 you discuss --

13 A There is no contract. You are putting words  
14 there.

15 Q Let me rephrase that. Strike that.

12:23:17

16 Until after the application is filled  
17 out, is pricing then discussed?

18 A No.

19 Q So at what point is pricing first discussed?

20 A After they have received the e-mail that

12:23:28

21 explains, you are better off filing a rebuttal; it's  
22 for free; you don't have to do this. Yes, we have a  
23 service, but just like -- you know, this was asked and  
24 answered earlier, but I'm doing it again for you. I'm  
25 being polite. I want to get across the point, and

12:23:46

1 always have, you don't have to do this. It's good for  
2 advertising. It's good for company morale. It's good  
3 for consumers. They see how you take care of it.

4 But in answer to your question, no  
5 pricing is discussed until they really -- are you

12:24:08

6 sure -- what it says in there, it says, are you sure  
7 you really want to join the Corporate Advocacy Program?  
8 Because for free, you can file a rebuttal. Be nice,  
9 show how you are remorseful or how you took care of the  
10 customer, and it works all the time for companies to do

12:24:26

11 that.

12 There are thousands of rebuttals, proper  
13 rebuttals made by companies on Ripoff Report. They are  
14 filed all day long and all night long 24 hours a day.

15 So I want to get that point across. There is no

12:24:40

16 mention of fees until they fully understand that they  
17 can do that for free, and it's always been the policy.

18 Q Okay. And is there anything else other than  
19 the e-mail that you send them?

20 A Nothing.

12:24:55

21 Q So you said in the e-mail, and then once you  
22 are fully satisfied that they can enter the program,  
23 then you discuss it with them?

24 A No. Nothing. Enter the program, you are  
25 saying something wrong. They e-mail us back and say,

12:25:07



1 look, I read everything. You know, I understand that,  
2 you know, I can do this for free. Because I want them  
3 to know that they can and they understand they can do  
4 it for free. But in spite of that, we'd like to look  
5 at your service that you have. And then we send them

12:25:21

6 the service.

7 Q Okay.

8 A And this has been a longtime policy.

9 Q Have you ever had a customer approach you  
10 about the CAP program who does not have customers?

12:25:30

11 A Yes.

12 Q And what --

13 A Oh, no, doesn't have customers. I'm sorry, I  
14 thought you meant complaints.

15 Q No, that does not have customers.

12:25:40

16 A I don't know what you mean.

17 Q For example, if a -- like an online blog or an  
18 online -- someone who doesn't solicit anything, sell  
19 anything, but yet they have complaints on  
20 RipoffReport.com, have you ever dealt with a company

12:26:00

21 like that?

22 A So your question is, do I ever let a company  
23 join the program --

24 Q When they have no customers.

25 A -- when they have no customers?

12:26:13

1 Q Correct.

2 A I have to think about that, what situations  
3 there are, but --

4 MR. GINGRAS: I'm sorry. I'm not sure  
5 I'm clear on what the question was. I thought the

12:26:28

6 question began with, have you ever discussed the  
7 program with somebody who didn't have customers, and  
8 then it sounded like it transformed into a hypothetical  
9 of, would you let someone in the program. I'm not sure  
10 which question you asked.

12:26:42

11 MR. BLACKERT: Sure. Fair enough.

12 Q BY MR. BLACKERT: Have you ever discussed the  
13 CAP program with someone -- with a business or entity  
14 that has no customers, like they want to enroll in the  
15 program, but they have no customers?

12:26:54

16 MR. GINGRAS: Again, you are asking if  
17 that conversation actually happened, not would he --

18 MR. BLACKERT: And this point, yes, had  
19 it ever actually happened, yes.

20 THE WITNESS: That, I can't remember.

12:27:07

21 And if it did, there is many times I've told people  
22 they don't -- and I would have been receiving money.  
23 I've told them that, you know, they are best off --  
24 they don't need the program. I can't remember for what  
25 reasons, but I tell people that all the time.

12:27:22

1 Q BY MR. BLACKERT: Now, hypothetically if a  
2 customer approached you and wanted to join the CAP  
3 program and had no customers, how would you treat that  
4 situation?

5 A I don't like -- I don't know if answering a  
12:27:33

6 hypothetical question is -- because no matter what, you  
7 are opposing counsel, and whatever I say, you are going  
8 to look -- sorry. With all due respect, you are going  
9 to look for something so I give some hypothetical. I'm  
10 not prepared to do hypotheticals today.

12:27:49

11 Q Let me ask you this. If the price is always  
12 7500, why do you wait to give them the pricing? If the  
13 price is always 7500 for an enrollment fee for someone  
14 who wants to join the CAP program, why do you wait so  
15 long to give them that price?

12:28:10

16 A Oh, if I maybe did and I didn't do it in the  
17 steps I have, I would have people -- which it never  
18 happened with your client because there was no ever  
19 discussion of money, let alone something for \$5,000,  
20 because I don't have anything for \$5,000, which is

12:28:29

21 totally, utterly ridiculous.

22 Q I'm not talking about my client.

23 A Well, your client, that's this whole thing  
24 that I asked for 5,000, but it's just -- that's the way  
25 I do it. I don't want people -- I'm not so in a rush

12:28:38

1 to get somebody's money. I'd much rather them use the  
2 site like most people do and file a rebuttal.

3 Q And -- strike that.

4 A Strike what?

5 Q Now, at what point do you quote the monthly

12:29:07

6 fees?

7 A At what point --

8 Q Do you quote the monthly fees to CAP members?

9 A -- do I quote the monthly fees? Again, asked  
10 and answered before. It's after they get -- when they

12:29:24

11 get the -- it's the third thing. First, they fill out  
12 the application. I then send them the e-mail that  
13 explains that -- the whole thing, you are better off  
14 filing a rebuttal. And yes, okay, these are the  
15 benefits of the program, if you really want it, but you

12:29:43

16 are still better off filing a rebuttal.

17 And then I send them in that next --

18 once they e-mail us back and I'm satisfied with the way  
19 they've responded and think -- you know, I don't know  
20 what kind of comment they can make, but who the heck

12:29:54

21 knows, but assuming everything is okay at that point, I  
22 would send them more information along with the fees.

23 Q Okay. Have you ever solicited anyone to join  
24 the CAP program?

25 A Solicited, I have a policy not to. At one

12:30:11

1 time, I did a test for probably about three or four  
2 weeks and knew it was a bad idea. I just didn't feel  
3 comfortable ever soliciting it.

4 Q Can you place a time frame on when you had  
5 solicited the members for the CAP program?

12:30:27

6 A It could be, I don't know, a couple of years  
7 ago. I don't -- I can't remember.

8 Q And why do you think it was a bad policy?

9 A Because it's better off if they -- anyone  
10 coming to the site that has complaints, it's clear as a

12:30:40

11 bell, because you can see about the Corporate Advocacy  
12 Program. If after reading that they are not convinced  
13 and don't have the mind-set to want to take care of  
14 customers in a different way -- because you have to  
15 admit, maybe there's some wrongdoing, giving back

12:30:58

16 refunds, stating, you know, how great your company is  
17 and putting themselves on the line, that -- well,  
18 because when you go on the program, you are saying,  
19 well, listen, you have a problem with a company. You  
20 can always contact Ripoff Report, which is what happens

12:31:18

21 if somebody feels like they are wronged. You know,  
22 again, like my ad for somebody who joins the program.

23 What was the question?

24 (The requested portion of the record was  
25 read by the court reporter.)

12:32:35

1 THE WITNESS: So I just feel that -- I  
2 just felt somebody had to -- it's better off if they  
3 contacted me. Asking somebody, hey, you want to  
4 file -- you know, would you like to join the Corporate  
5 Advocacy Program, it just wasn't palatable for me,

12:32:35

6 unlike -- you know, like the Better Business Bureau,  
7 you get a complaint and you are not a member, they are  
8 right on the phone with you to pay them their fees, you  
9 know, because you are not a member. And they try to  
10 get you to pay their fees to become a member. And

12:32:35

11 whatever they do to soften the blow of whatever  
12 complaint, and you are -- you know, you are a  
13 satisfactory member, or whatever that is.

14 But I just -- people, if they want to  
15 join the Better Business Bureau or the CAP program or

12:32:37

16 belong to some other organization, I don't believe that  
17 it should be solicited and sold to somebody. They have  
18 to really want it.

19 Q BY MR. BLACKERT: So when an individual  
20 enrolls in the CAP program and signs this contract for

12:32:43

21 that 36 months, why do you put a provision in there  
22 that they cannot sue the -- sue the party that they are  
23 complaining about?

24 A They can. There is an exception to the rule.

25 Q Okay.

12:32:57

1           A     If some -- we find through our  
2           investigation -- which is against our terms of  
3           service -- if somebody files multiple reports and makes  
4           like I'm Joe Smoe in Miami, you know, and I'm  
5           complaining about this company and I'm Joe Smoe in New

12:33:11

6           York, and then somebody from LA and somebody from  
7           Dallas and it's really the same person, same e-mail  
8           address or same IP address that we find, we'll help  
9           them sue that individual.

10          Q     How do you help them sue that individual?

12:33:27

11          A     Well, we send them the e-mail because we don't  
12          know and we want to know, so we just do a blanket  
13          e-mail. Like I told you the first step, when somebody  
14          joins the program, we need to contact -- we send an  
15          e-mail out to all those consumers.

12:33:44

16          Q     I understand that.

17                         And then did you then send those e-mails  
18          out to the enrollee in the CAP program?

19          A     I send them -- the e-mail out to anyone who  
20          filed the complaint about the business.

12:33:56

21          Q     Okay.

22          A     Because you are talking about -- if I remember  
23          correctly, you are talking about -- or how would I know  
24          that they were wrong, or, you know, they were false or  
25          something maybe. You didn't use that word, but --

12:34:11

1 MR. GINGRAS: He was asking how do you  
2 help sue. I think that was his question.

3 THE WITNESS: Oh, okay. Right. How do  
4 I help sue?

5 If somebody is -- if you are abusing the  
12:34:20

6 site like that, I would give the information to the  
7 company if somebody was filing multiple reports posing  
8 as different people. If they were the same person, you  
9 know, I'm Joe Smoe from Miami, and they were all read  
10 that way, that's okay. So -- but if they go ahead and

12:34:38

11 they are abusing it.

12 Q BY MR. BLACKERT: Do you have to be in the CAP  
13 program in order to get the names of the individuals  
14 who post reports on RipoffReport.com?

15 A They don't get the names. There is only an  
12:34:56

16 exception to the rule with B. They don't get the  
17 names. The consumer -- when I e-mail them, it's up to  
18 the consumer. They know from that e-mail the company  
19 wants to make things right with them. It's up to them  
20 to either e-mail me directly and say, yeah, I want to

12:35:12

21 da, da, da, or there's an e-mail in that e-mail for  
22 special help at XYZ company, you know, to contact them,  
23 and they are going to be back in contact with them,  
24 which is in that first e-mail -- no, excuse me, not  
25 that first e-mail, that e-mail we send out, which is

12:35:28



1 the first step when they join the program. When we  
2 e-mail everyone, there is an e-mail there to contact  
3 the company directly or they can contact us.

4 Q So you only contact the complainants, the  
5 people who post on Ripoff Report if an individual or  
12:35:44

6 entity is enrolled in the CAP program, right? You  
7 don't contact --

8 A That's right. That's part of the program.  
9 That's part of the work that we do.

10 Q Got it. Got it.  
12:35:54

11 Okay. I want to point you to Exhibit G.  
12 If you can just take a look at it. It should be over  
13 there in your pile there.

14 A Okay.

15 Q It's going to be on page 3, and it's going to  
12:36:39

16 be under "Organizing Class Action Lawsuits." The first  
17 paragraph, if you can just read that.

18 A "Victims and lawyers who want to sue companies  
19 or individuals reported. Victims and attorneys who are  
20 interested in pursuing litigation against a particular

12:37:49  
21 company reported on this list -- website must contact  
22 us directly. It is inappropriate to solicit business  
23 using this website other than through prior  
24 arrangement. This is largely because we need to  
25 ensure, the best we can, that our readers are not being

12:37:49

1 taken advantage of again."

2 Q Who wrote this entry?

3 A I probably -- I mean, I did this, and I'm sure  
4 that I had somebody helping me in correcting it. It's  
5 12 years ago I wrote this.

12:37:50

6 Q Did you have a team of people helping you  
7 write this 12 years ago?

8 A I can't remember.

9 Q Now, why does it say it's inappropriate to  
10 solicit business using the website other than through

12:37:50

11 prior arrangement?

12 A For a class action lawsuit.

13 Q Do you organize class action lawsuits? Do you  
14 help organize them, you, yourself?

15 A Yes.

12:37:54

16 Q You do?

17 A I have in the past, yes.

18 Q Does Xcentric still continue to organize class  
19 action lawsuits?

20 A It's not -- I don't push it. There's no

12:38:00

21 salesmen. I don't have any salespeople. So it is what  
22 it is. An attorney can contact us and make that -- and  
23 make that -- make a request that we do a mailing for  
24 them or they want to advertise or something else like  
25 that.

12:38:17

1 Q Have you done this in the past?

2 A Yes.

3 Q When is the most recent time you have done  
4 this?

5 A I can't -- I don't know. It could have been  
12:38:23

6 six months ago. It could have been a year ago. I  
7 forget.

8 Q You have no recollection?

9 A No, it's not something that I do every day.

10 Q And again, why is it inappropriate to solicit  
12:38:35

11 business using the website other than through prior  
12 arrangement?

13 A Most websites, or even a blog, any blog,  
14 doesn't allow you just to put an advertisement there.  
15 A lot of them take out links. They don't allow links.

12:38:51  
16 Why should I let anybody advertise on the website for  
17 free? Lawyers make plenty of money, and they should  
18 pay for the service.

19 Q So what kind of prior arrangements do you set  
20 up with these -- strike that.

12:39:22  
21 The sentence I just read you, it is  
22 inappropriate to solicit business using this website  
23 other than through prior arrangement, what would  
24 Xcentric do if someone had violated this?

25 MR. GINGRAS: I'm objecting to the

12:40:02

1 question on the ground it exceeds the scope of the  
2 30(b)(6) notice.

3 You can answer the question if you want  
4 to.

5 THE WITNESS: Do you want a napkin?

12:40:10

6 Q BY MR. BLACKERT: No.

7 A Just give me the question once more.

8 Q Okay. I will read you -- can you read it  
9 back.

10 (The requested portion of the record was

12:40:21

11 read by the court reporter.)

12 THE WITNESS: It would -- are you ready  
13 for the answer?

14 Q BY MR. BLACKERT: Yes.

15 A The answer would be -- we wouldn't let it

12:41:02

16 post. So if somebody, an attorney, which I'm assuming  
17 that's what you mean, if somebody got on and said, I'm  
18 XYZ law firm in Los Angeles, we are class action  
19 attorneys and da, da, da, da. If you are a victim of  
20 this same company, da, da, da, da, da.

12:41:22

21 Q So they must -- so they must contact you  
22 directly, not post something on the website?

23 A Correct, without prior arrangement.

24 Q And how would they contact you?

25 A By phone.

12:41:43

1 Q By phone. Okay.

2 A Or e-mail. And -- I'm sorry.

3 Q Now, why must a -- okay. Here it says that if  
4 an individual or entity is interested in pursuing  
5 litigation against a particular company reported on

12:42:02

6 this website, they must contact us directly. Contact  
7 us directly -- contact us is underlined. Why must they  
8 contact you? Why can't they contact somebody else?

9 A Would you like to handle it? That's fine. I  
10 will put you in charge.

12:42:21

11 Q No, seriously. Why must they contact you?

12 A Well, who should they contact? I don't have  
13 anybody that does that. I handle it.

14 Q So would it be appropriate for them to contact  
15 somebody else?

12:42:33

16 A No, it wouldn't. They couldn't contact  
17 anybody. There is nobody else to contact.

18 Q There would be no other class action lawyer  
19 they can contact?

20 A I don't understand what you are talking about.

12:42:44

21 Q If they were to pursue litigation, why  
22 wouldn't they be able to contact somebody else? Why do  
23 you say here they must contact you directly?

24 A I don't have anybody else to contact.

25 Q No, why does the consumer who posts have to

12:42:58

1 contact you directly in terms of someone else?

2 A I thought you were talking about an attorney.

3 Q Okay. I'm going to read you the sentence

4 again. "Victims who want to sue companies or

5 individuals" --

12:43:12

6 A Where are you reading from? Can I -- let me

7 just again -- oh, organizing. Okay. You are there.

8 Okay. Oh, I see what you are saying. It's victims and

9 lawyers who want to sue.

10 Okay. Now, what's your question again?

12:43:28

11 Q Why must they contact you directly?

12 A You have -- it's too broad of a question. You

13 have to be more specific with me. I don't know what

14 you mean.

15 Q Could they contact somebody else?

12:43:42

16 A "They" meaning who?

17 Q Someone who has posted on RipoffReport.com.

18 A Okay. And can you be more specific?

19 Q The victims. Victims.

20 A Okay. And now what's the -- what's the

12:43:52

21 question?

22 Q It says here that they must contact you -- or

23 us directly, meaning Xcentric. They must contact you

24 directly, the victims. Why do you say that?

25 A Well, we don't -- we don't give out -- we

12:44:09

1 don't give victims other victims' information, and  
2 if -- so if somebody is interested in doing -- in being  
3 involved in a class action lawsuit, either I'll direct  
4 them to -- by e-mail, by phone.

5 By e-mail would direct them to a legal

12:44:31

6 directory. If I happen to know a lawyer in that  
7 particular field, I would recommend them to that  
8 particular lawyer or in that state that they are and/or  
9 forward their e-mail to somebody to see if it's, you  
10 know, something that would be some kind of a lawsuit.

12:44:57

11 I don't like class actions, but if it's some kind of a  
12 lawsuit.

13 Q You said that you don't share victim info; is  
14 that correct?

15 A Correct.

12:45:09

16 Q Why don't you do that?

17 A Because it's privacy.

18 Q How is it privacy?

19 A How is it privacy? It's because they -- when  
20 a consumer signs on, logs on, there is certain things

12:45:19

21 that they check to like if they want to let somebody be  
22 contacted by an attorney. That's when you fill in your  
23 log-in information when you create an account, your  
24 profile. I can't remember exactly, but there's  
25 different things that people can check, whether or not

12:45:39

1           they want to be contacted directly. But even though,  
2           we will do the mailing to them, and they can contact  
3           the attorney.

4           Q     Okay.

5           A     You know, I still don't give the attorney the  
12:45:49

6           information.

7           Q     Do you recall any of the conversations that  
8           you had had with our clients, the plaintiffs?

9           A     Just from when I listened to -- when I was  
10          looking for the recordings.

12:46:16

11          Q     Okay. And when did you start looking for  
12          those recordings?

13          A     I think it was after we had received -- which  
14          I think came late or something. I could be wrong about  
15          that, but I don't know, after we received something --

12:46:33

16                   MR. GINGRAS: Ed, don't guess. I mean,  
17          tell them what you know.

18                   THE WITNESS: I don't remember. It was  
19          when I was told that -- asked, Ed, you know, do you  
20          have any recordings?

12:46:46

21          Q     BY MR. BLACKERT: When were you asked about  
22          that?

23          A     I don't remember the exact date.

24          Q     You have no recollection of that?

25          A     How would I -- I'd be guessing, and I don't

12:46:53



1 want to guess.

2 Q Okay. So if you had a recollection and you  
3 provided a specific date, you would be guessing?

4 MR. GINGRAS: Objection. Misstates his  
5 testimony.

12:47:04

6 THE WITNESS: Right. You are putting  
7 words in my mouth.

8 Q BY MR. BLACKERT: So you don't remember the  
9 date you were asked for that?

10 A No.

12:47:14

11 Q Does Xcentric record phone conversations?

12 A Yes.

13 Q Does Xcentric record incoming and outgoing  
14 phone conversations?

15 A No.

12:47:30

16 Q Do they record incoming phone conversations?

17 A Incoming only.

18 Q They do not record outcoming phone  
19 conversations?

20 A No.

12:47:39

21 Q Why is that?

22 A Because I'm not set up for that, unless I use  
23 my recorder.

24 Q Have you ever used your recorder to record  
25 incoming calls?

12:47:47

1 A Yes.

2 Q You have. And in what situations do you feel  
3 it -- deem it necessary to use your recorder to record  
4 those calls?

5 MR. GINGRAS: Objection. Form.

12:47:57

6 THE WITNESS: Yeah, what was -- state  
7 the question again.

8 Q BY MR. BLACKERT: Have you ever recorded  
9 incoming phone calls?

10 A Yes.

12:48:03

11 Q Okay. Why did you record those phone calls?

12 A Which -- "those" meaning?

13 Q Why do you deem it necessary to record  
14 incoming phone calls in certain circumstances?

15 A Because of exactly what your client pulled

12:48:17

16 on -- perpetrated -- because of the fraudulent claim

17 exactly. I couldn't pay enough for that service.

18 That's because of things like what your client pulled.

19 Q So do you record all the calls?

20 A Yes.

12:48:38

21 Q You record all calls?

22 A Yes.

23 Q Okay. Now, I understand you recorded some

24 calls with my clients. Do you have any other

25 recordings in your possession of calls with my clients?

12:48:54

1 A No.

2 Q Have you looked for those?

3 A Yes.

4 Q What was the extent of your search for those?

5 A I went through every -- hundreds and hundreds

12:49:04

6 of e-mails and looked for the attachment that comes

7 from my service and listened to them.

8 Q What service do you use to record the phone

9 calls?

10 MR. GINGRAS: Object --

12:49:21

11 THE WITNESS: You know, I'm not going to

12 answer that question.

13 MR. GINGRAS: Objection. This is one of

14 those protective order issues. We will be happy to

15 provide that information subject to a protective order

12:49:29

16 but not without one.

17 MR. BLACKERT: Okay. Objection is

18 noted.

19 THE WITNESS: And I would -- sorry.

20 Q BY MR. BLACKERT: Since when did you start

12:49:39

21 recording phone calls?

22 A I want to say it's more than two years ago.

23 Q More than two years ago?

24 A It could be more than three years ago.

25 Q Why did you start recording phone calls?

12:49:52

1           A     Why did I start recording phone calls?  
2           Because of threats, death threats, because -- so  
3           somebody couldn't say I said something like your  
4           client's saying in detail handwritten notes and date  
5           and time and da, da, da, da, saying that I said certain

12:50:30

6           things, which we all know never happened, nothing even  
7           close.

8           Q     Do you notify callers that you record  
9           telephone conversations?

10          A     I'm a one-party -- Arizona is a one-party

12:50:40

11          state.

12          Q     So why don't you notify callers?

13          A     Well, there is -- there is notification on the  
14          recording. If you listen, before it comes to me, there  
15          is a part that says calls may be recorded.

12:50:55

16          Q     At what part does it say that? What's the  
17          specific language? I'm asking for --

18          A     I can't remember and I don't call myself, so I  
19          can't remember.

20          Q     Yeah, I'm going to call for that voice

12:51:08

21          recording for production, the actual system that you  
22          use, the prompts and everything, so I will make a  
23          request for that.

24          A     Anyone can do that. You can just call the  
25          number and get them all yourself.

12:51:24

1 Q How long is that particular prompt -- okay,  
2 let's back up. The prompt that my clients went  
3 through --

4 A Uh-huh.

5 Q -- how long had that been in existence for --  
12:51:32

6 MR. GINGRAS: Form. Objection.

7 Q BY MR. BLACKERT: -- since the first phone  
8 call my clients called you?

9 A It's never changed.

10 Q It's never changed.  
12:51:44

11 A Until recently, there was a minor change.

12 Q When did it change?

13 A I forget the exact date.

14 Q What was the minor change?

15 A About the recorded phone calls.

12:51:55

16 Q Okay. I'm going to call for production of the  
17 prompts that were in existence on the date that my --  
18 you had these conversations with my clients.

19 Do you think you are prepared to speak  
20 about Xcentric's practices of recording phone

12:52:22

21 conversations? It seems like you don't remember a lot.

22 A Where did I say that I don't remember a lot?  
23 You are putting words in my mouth, and I don't like it.  
24 If you continue to do that, I'll take a break and find  
25 out what we need to do about that, but --

12:52:36

1 Q Okay, well --

2 A There is nothing here that I -- I mean, there  
3 is a few things that I might have said that I can't  
4 remember that you want me to make a guess at.

5 Q I don't want you to guess, and I apologize.

12:52:47

6 A Stop putting words in my mouth. I don't like  
7 it.

8 Q Okay. I apologize if you believe that I'm  
9 putting words in your mouth, and I will do my best to  
10 conduct myself in a professional manner. How does that

12:53:01

11 sound? Can you do the same?

12 A I don't see that I am doing anything wrong  
13 here.

14 Q Okay. Good. Let's continue, then.

15 So do you think you are prepared to

12:53:11

16 speak about Xcentric's practices of recording telephone  
17 conversations? Are you knowledgeable about it?

18 A I'm not prepared to predict what I can or  
19 can't do until I hear the question so I don't --

20 Q Okay. All right. Did you do any research to

12:53:24

21 prepare for today's deposition regarding Xcentric's  
22 practice of recording telephone conversations? Did you  
23 look at any documents? Did you do any kind of research  
24 at all?

25 A I -- there would be no need to.

12:53:38

1 Q Why not?

2 A What's the question that you are asking?

3 Q The question I'm asking is, before today's  
4 deposition, did you do any research into Xcentric's  
5 practice of recording phone conversations?

12:53:51

6 A It is what it is. There is no -- nothing to  
7 research. There is no document.

8 Q So you did not conduct any kind of research or  
9 look into anything or --

10 MR. GINGRAS: Objection, asked and

12:54:02

11 answered.

12 Q BY MR. BLACKERT: When did you start advising  
13 callers that calls were being recorded?

14 A It could be about two weeks ago. I'm not sure  
15 when.

12:54:27

16 Q About two weeks ago?

17 A Yeah, it was after.

18 Q Right. Okay.

19 A But Arizona is a one-party state. I didn't  
20 feel I really needed to put it there, but I did.

12:54:40

21 Q Now, do you use any kind of vendors for  
22 recording the conversations or do you do everything  
23 yourself?

24 MR. GINGRAS: It's a yes-or-no question.

25 You can answer yes or no.

12:55:02

1 THE WITNESS: Yes.

2 MR. GINGRAS: If he's asking for a name  
3 of a vendor, that's subject to a protective order  
4 objection.

5 Q BY MR. BLACKERT: So the answer is yes?

12:55:12

6 A Yes.

7 Q What vendors do you use?

8 Okay. I'm going to hand you a series of  
9 e-mails which I'm going to mark --

10 MR. BLACKERT: Where are we at? What

12:55:56

11 exhibit is this, Lisa?

12 MS. BORODKIN: I.

13 MR. BLACKERT: This is the e-mails?

14 MS. BORODKIN: Uh-huh.

15 (Deposition Exhibit No. I was marked for

12:56:04

16 identification.)

17 Q BY MR. BLACKERT: There you go. Do you  
18 recognize these e-mails?

19 A Give me a second.

20 Q I will give you a second.

12:56:14

21 A Have you seen these e-mails before?

22 MR. GINGRAS: They look familiar to me,  
23 but I'm not the witness.

24 THE WITNESS: I have a question for you.

25 I don't know if you will answer that question. Like

12:57:24



1           this e-mail here, this one on top, this wasn't produced  
2           by us, was it?

3                       MR. BLACKERT: I can't answer that. I'm  
4           sorry.

5                       THE WITNESS: Advice of counsel, you  
12:57:37

6           want to ask your counsel? I have -- I don't know.

7           Q       BY MR. BLACKERT: Just read it over and see if  
8           you have a recollection.

9           A       I'm just going to tell you, there is no such  
10          e-mail address as media@RipoffReport.com. And this was  
12:57:50

11          sent -- well, I don't know if this is in papers that we  
12          received. Either I missed all of it or I didn't see  
13          it, but there is no such e-mail address.

14          Q       Do you guys want to break for lunch and then  
15          you can take a look at those -- I know it's a long set

12:58:14

16          of documents -- over lunch?

17          A       Wait. Let her finish the tape now.

18                       THE VIDEOGRAPHER: There is 15 minutes  
19          left. You guys tell me.

20                       THE WITNESS: So let's just go ahead.

12:58:27

21          Let's not waste time.

22                       Okay. I've looked at the e-mails. I  
23          don't understand who these other people are, and it  
24          looks like it's not even to me. And then it  
25          infiltrates out to --

12:58:56

1 Q BY MR. BLACKERT: Just take your time and look  
2 them over.

3 A Is this an exhibit we already have in our  
4 possession? Are every one of these e-mails in our  
5 possession somewhere?

12:59:13

6 Q I can't answer that.

7 MS. BORODKIN: They are now.

8 THE WITNESS: No, did you -- okay, did  
9 you provide these to my counsel?

10 MR. GINGRAS: Ed, you don't need to ask

12:59:22

11 questions to the other side. Just wait for them to ask  
12 you something. Okay?

13 THE WITNESS: Okay. There's -- what's  
14 your question?

15 Q BY MR. BLACKERT: Okay. I want you to take a

12:59:41

16 look at the first e-mail here. I will come over there  
17 real quick to make it easier for you.

18 Do you -- is your e-mail address  
19 media@RipoffReport.com?

20 A No, it is not.

12:59:56

21 Q Whose e-mail address is that?

22 A I have no idea.

23 Q Does that e-mail address appear anywhere on  
24 your website?

25 A It could be, but if it did, it would be an

13:00:06

1 incorrect one, so it could be -- the site's got more  
2 than 600,000 pages to it, so who knows. Like I found  
3 something that was incorrect that, you know, doesn't  
4 make sense actually. So anyone dealing with technical  
5 geeks will know that these guys make mistakes all the

13:00:31

6 time and you got to excuse it.

7 But there could be many reasons for  
8 that, but I don't know that I ever received this  
9 e-mail. I would have to go searching for it. So this  
10 particular one, it's not to my e-mail address and it's

13:00:47

11 back from 2009. If I even did get it in February of  
12 2009, there is no way I could remember.

13 Q Have you ever used the e-mail address,  
14 media@RipoffReport.com?

15 A Not that I know of.

13:01:03

16 Q Not that you know of?

17 A Not that I know of. But, I mean, we do have a  
18 media thing. But could there be an address that's  
19 still somewhere that somebody found that's buried  
20 somewhere? And who's sending -- anyone finding this,

13:01:14

21 finding me, who knows? And they look up Xcentric  
22 information, it's everywhere, EDitor@RipoffReport.com,  
23 and it's been that way since day one. I mean, that  
24 would be the place.

25 So unless somebody is interested in

13:01:27

1 media, okay, that would have been what it would have  
2 been used for, and it could be a dead end today.

3 Q Okay.

4 A So why somebody decided to pick that, to maybe  
5 give me notice to kind of super serve me with -- not

13:01:41

6 that it's really service of anything, but this might  
7 play -- go along with just what you are --

8 Q I'm just asking if it may have ever been on  
9 your website.

10 A Okay.

13:01:53

11 (Adam Kunz is now present for the  
12 deposition proceedings.)

13 MS. BORODKIN: Someone just walked into  
14 the deposition.

15 MR. GINGRAS: That's Adam Kunz. He's

13:01:58

16 another lawyer for Xcentric.

17 MR. KUNZ: Hello.

18 Q BY MR. BLACKERT: So that may have appeared on  
19 your website at some point?

20 A Right. I don't think I've ever received this

13:02:05

21 e-mail.

22 Q Okay. That's just yes or no.

23 All right. Let's see. Turn to the  
24 second e-mail. I will direct you here. It looks like  
25 a second --

13:02:14

1           A     Is that the second page, third page? What  
2     page are we on?

3           Q     It's the third page, I'm sorry.

4           A     Okay.

5           Q     It's a series of e-mails. The second e-mail,  
13:02:20

6     it looks like it goes back and forth.

7           A     Well, it looks like all the information is  
8     taken out from in between, so there should be  
9     something.

10          Q     They were all -- speaking about this specific  
13:02:35

11     e-mail down here -- to EDitor@RipoffReport.com. Reads,  
12     "Dear Editor, I spoke with someone at your office," and  
13     then the e-mail goes on. Is that your e-mail address?

14          A     That's my e-mail address.

15          Q     Okay. Do you recall receiving this e-mail?  
13:02:52

16          A     It's from April of 2009. I would be  
17     speculating.

18          Q     I don't want you to guess. I don't want you  
19     to guess.

20          A     I am going to tell you that I'm going to need  
13:03:15

21     time to go through this, because in light of the proven  
22     lies that your client has already done, I wouldn't put  
23     it past your client to possibly take these -- and  
24     because you are continuing with the case or the  
25     attorneys might take something, take it out, slip

13:03:33

1 something in, undue something, make it so -- I don't  
2 know where you are going to go with the questioning of  
3 this, but the first e-mail does not look like something  
4 that would have come to me. I will have to check it.  
5 I could have received it, but I don't know.

13:03:50

6 And any of these e-mails to me, I'd have  
7 to really go over it with a fine-tooth comb, because I  
8 have a standard e-mail that goes out. This isn't one  
9 of my signatures, and I don't know if this is a  
10 complete and accurate piece of evidence that you are

13:04:04

11 using.

12 Q So did you review -- before today's depo, did  
13 you review your conversations with plaintiffs, the full  
14 conversations, the tapes, the e-mails, everything?

15 A I didn't really go over the tapes, but I don't

13:04:16

16 remember seeing this, and that -- you are asking me  
17 that each one -- I don't know what --

18 Q I haven't asked you on each one yet; I'm just  
19 asking you a few questions.

20 A If you are going to ask me questions about

13:04:29

21 this, go ahead and ask me and let me see if I can  
22 answer your question.

23 Q Yes or no --

24 A Yes or no what?

25 Q -- did you review e-mails from plaintiff

13:04:39

1 before today's deposition?

2 A Yes, I did.

3 Q Okay. Can you tell me the substance of those  
4 e-mails that you reviewed?

5 A There was a lot of stuff that I went over.

13:04:51

6 There is no way I could sit here and spit it back out  
7 to you explaining what I read today or yesterday or the  
8 day before.

9 Q Do you have copies of those e-mails that you  
10 read?

13:05:03

11 A Yes. Somewhere, yes.

12 Q Okay. I'm going to request copies of those  
13 e-mail communications between Mr. Magedson and  
14 plaintiffs.

15 A These are e-mails that my attorneys gave me.

13:05:12

16 Q Okay.

17 A The evidence or whatever, but I don't remember  
18 seeing this. And as I look closely at it, like I said,  
19 I don't have a media@Ripoff Report, and if somebody did  
20 find it, it was specifically about media.

13:05:28

21 Q Okay. So is your e-mail address  
22 Editor@RipoffReport.com?

23 A You don't have to use the capital. It's  
24 editor, e-d-i-t-o-r, at RipoffReport.com.

25 Q Do you also maintain another e-mail address,

13:05:49

1 info@RipoffReport.com?

2 A That also comes to us. That's a general  
3 e-mail.

4 Q What's that used for?

5 A It's the same thing. Goes to the same place.

13:05:58

6 Q Okay. Do you want to take time to review  
7 these?

8 A There's no way. I would have to -- I'd have  
9 to compare it -- I'd have to print one out and see that  
10 nothing is missing. But let's see where you go with

13:06:12

11 what question you want to ask me.

12 Q Okay. On page 3 on the bottom, it reads,  
13 "Dear Editor" -- I've already asked this -- but I  
14 wanted to make this clear. "Dear Editor, I spoke with  
15 someone at your office yesterday," and then it goes on.

13:06:36

16 And it looks like the e-mail was to  
17 Editor@RipoffReport.com. That is your e-mail, correct?

18 A Correct.

19 Q Okay. Does this e-mail appear to be genuine?

20 MR. GINGRAS: Objection. Form.

13:06:58

21 THE WITNESS: I can't speculate to  
22 what's genuine or not genuine.

23 Q BY MR. BLACKERT: So you cannot answer that  
24 question?

25 A No.

13:07:06



1 Q Okay. Let's go to -- let's go to the fourth  
2 page. Go to the next page.

3 A That's fifth page.

4 Q Okay. The e-mail starts, "I am in  
5 California... I live here now." It appears to be from  
13:07:26

6 EDitor --

7 A Where are you? I don't see that. Where are  
8 you?

9 Q I will find it for you. The e-mail begins, "I  
10 am in California... I live here now," and then the  
13:07:44

11 e-mail goes on. The e-mail is addressed from  
12 EDitor@RipoffReport.com. Is that your e-mail address?

13 A Correct.

14 Q Okay. That's correct.  
15 Does this appear to be a genuine e-mail?

13:07:57

16 MR. GINGRAS: Objection. Form.

17 THE WITNESS: Something's been changed,  
18 and I don't know why that would happen. It looks like  
19 somebody stuck this into a Word document and kind of  
20 things got misdome. I don't know that -- I have never

13:08:15

21 seen where I've sent an e-mail where it turns into  
22 this.

23 Q BY MR. BLACKERT: Okay.

24 A But anyway --

25 Q The reason I'm asking you is --

13:08:23

1           A     Basically I'm familiar with this e-mail.  
2           Whether or not it's word for word, I can't -- can't  
3           say.

4           Q     Because according to our 30(b)(6) notice,  
5           you're supposed to be prepared in your conversations

13:08:34

6           with plaintiffs, so you are supposed to have knowledge  
7           of these e-mail conversations.

8                     MR. GINGRAS:  Objection, argumentative.

9                     And Ed, he is not even asking you a  
10           question; he's just talking to you.

13:08:45

11                    THE WITNESS:  Okay.

12                    MR. GINGRAS:  We have about three  
13           minutes left of tape, anyway, so...

14                    MR. BLACKERT:  Want to call it?

15                    THE WITNESS:  I don't care.  You can

13:08:51

16           continue.  It's just three minutes.  See how far you  
17           go.

18           Q     BY MR. BLACKERT:  Let's go with the next  
19           e-mail.  Reads, "Dear Ed, as I mentioned to you on the  
20           phone, our institute is a free Online publication," and

13:09:03

21           it goes on and on and on.  It's addressed to  
22           Editor@RipoffReport.com.

23           A     Okay.

24           Q     That's your e-mail address, correct?

25           A     Correct.

13:09:16

1 Q Does this e-mail look familiar to you?

2 A Yes, it does.

3 Q Is this e-mail genuine?

4 MR. GINGRAS: Objection. Form.

5 THE WITNESS: It looks like it is,

13:09:24

6 pending checking every word from what I have online

7 versus what you have here, but it looks genuine.

8 Q BY MR. BLACKERT: Okay, but you have copies of

9 these e-mails?

10 A Correct.

13:09:34

11 Q So I'm going to request copies of those

12 e-mails.

13 Okay. Let's move on. Go to the next

14 page. See right there (indicating)?

15 A Uh-huh.

13:09:44

16 Q Okay. The e-mail starts,

17 "EDitor@RipoffReport.com wrote: Most things on the

18 Internet are anonymous," and then it goes on and on and

19 on. It is to EDitor@RipoffReport.com.

20 Is that your e-mail address?

13:10:02

21 A Yes.

22 Q I want you to look at the e-mail and tell me

23 if it appears to be genuine.

24 MR. GINGRAS: Objection. Form.

25 THE WITNESS: It's a long e-mail that

13:10:16

1 I'm being asked questions about this. I will reserve  
2 the right to tell you I don't know if anything is  
3 really missing out of here, and that's in light of the  
4 kind of things your client has already pulled. So I  
5 don't -- you know, because of who I am dealing with

13:10:30

6 now. So --

7 Q BY MR. BLACKERT: Okay. Stop right there.

8 Let's look at this e-mail. Let's see. It begins,

9 "Dear Editor, I spoke with someone at your office  
10 yesterday," and then it goes on. It's to

13:10:43

11 Editor@RipoffReport.com and info@RipoffReport.com. Are  
12 those, in fact, Xcentric's e-mail addresses?

13 A Uh-huh. Yes. This was already asked and  
14 answered. Why do you keep doing it?

15 Q Does this e-mail appear to be accurate?

13:11:00

16 A Yes.

17 Q Okay.

18 MR. GINGRAS: Two minutes left, guys.

19 Q BY MR. BLACKERT: Let's go to the next one.

20 See what I'm talking about right here, this long

13:11:09

21 e-mail? It begins, "Right or wrong.. true or false...

22 Best to respond to the report." It goes on and on and

23 on. That is to Editor@RipoffReport.com. Is that your

24 e-mail?

25 A Correct.

13:11:26

1 Q Does this e-mail appear to be accurate?

2 A Without going over it word for word, line from  
3 line, I'll say for right now, yes, pending a lot of  
4 work to see if anything was taken out. So if this is  
5 used in a court proceeding, maybe a juror or somebody

13:11:54

6 or the judge might not see something. I have to be  
7 conscious of that with who I'm dealing with today.

8 Q Fair enough. Let's go to the last page.

9 MR. GINGRAS: I think we are out of  
10 time.

13:12:11

11 THE VIDEOGRAPHER: 45 seconds.

12 Q BY MR. BLACKERT: Real quick, last page.

13 Okay, it's to EDitor --

14 What?

15 MS. BORODKIN: Why don't you break.

13:12:19

16 MR. BLACKERT: Okay. We will break now.

17 THE WITNESS: Why don't we just leave it  
18 right there.

19 MR. BLACKERT: Yeah, leave it right  
20 there.

13:12:24

21 THE VIDEOGRAPHER: This marks the end of  
22 videocassette number one. The time is 1:12 p.m.

23 (The deposition was at lunch recess from  
24 1:12 p.m. to 2:28 p.m.)

25 THE VIDEOGRAPHER: We are back on the

14:28:48

1 record to continue the 30(b)(6) videotaped deposition  
2 of Xcentric Ventures, LLC represented by Edward  
3 Magedson. This is the beginning of videocassette  
4 number two. The time is 2:29 p.m.

5 Q BY MR. BLACKERT: Okay. Mr. Magedson before  
14:29:06

6 we --

7 A I'd like to clarify something on the record.

8 Q Sure.

9 A When I was -- you told me to go back and look  
10 at my -- you know, look things over, and I did, and you

14:29:15

11 asked me a question earlier, do I know when I looked at  
12 the tapes, you know, looked for the recordings. And  
13 because I didn't know when I was making out my  
14 affidavit -- I wanted to make an affidavit to set the  
15 record straight when I did, and there was no need until

14:29:32

16 after our motion for -- the anti-SLAPP motion was  
17 not -- was -- was denied. And then my attorney had  
18 asked me, well, we should -- if you have any tapes, why  
19 don't you go ahead and look for them.

20 So I immediately started right then and

14:29:51

21 there looking for them, and I started e-mailing them  
22 right to him right as I was finding them.

23 Q Okay. And that's the complete list of tapes  
24 you have with the --

25 A Yeah.

14:30:01

1 Q -- conversations with my client?

2 A Yeah.

3 Q All right. So before we left off, we were  
4 reviewing Exhibit I. Did you have some time to check  
5 those e-mails over during lunch or --

14:30:14

6 A Well, I don't have -- I don't have my e-mails  
7 with me, so there would be no way that I could -- I  
8 want to look to see if I actually got this.

9 Q Right.

10 A That's one of the first things, aside from

14:30:24

11 correcting, which is one reason why I'm glad I'm here  
12 today, correcting the thing about the CAP program. And  
13 I'm going to go ahead and check this out, so there's  
14 two things I know I need to do.

15 Q Great. I just want to represent to you that

14:30:37

16 we did provide these e-mails to your attorneys in  
17 initial disclosures.

18 A Okay.

19 Q So just to let you know.

20 A It's something that I -- you know, I missed.

14:30:48

21 There's a lot of things, as you could imagine, that I'm  
22 looking at.

23 Q Okay. So let's go to the final page of  
24 Exhibit I --

25 A Okay. I'm there.

14:30:56

1 Q -- where it starts off, "Dear Editor, I spoke  
2 with someone at your office" -- this is the last  
3 paragraph on the page, and it goes on. It is to the  
4 Editor and to info@RipoffReport.com. Does this e-mail  
5 look genuine to you?

14:31:11

6 MR. GINGRAS: Objection. Form.

7 THE WITNESS: I'm not sure what genuine  
8 is. I mean, it looks okay. Right now, do I know it's  
9 100 percent correct? I have no way of knowing.

10 Q BY MR. BLACKERT: Does it look accurate to

14:31:23

11 you?

12 A It is what it is. I mean, it's -- do you have  
13 a specific question you want to ask me with it?

14 Q Does it look accurate based upon your going  
15 back and looking at your e-mails that you looked at

14:31:32

16 whenever you looked at them?

17 A For the moment, it looks correct.

18 Q Okay. Great. Thanks. You know, I'm sorry,  
19 let's go back to Exhibit I. Let's go to the one,  
20 two -- the fourth page, the e-mail that begins, "I am

14:32:31

21 in California... I live here now." Why don't you read  
22 that over.

23 A You want me to repeat what you just said?

24 Q No, you can just read it over yourself.

25 A Okay.

14:32:55



1 Q In your e-mail, what do you mean -- in  
2 Xcentric's e-mail, what do you mean by there is nothing  
3 that you can do to help my client, you meaning  
4 Xcentric?

5 A Probably he was asking me to remove  
14:33:08

6 complaints -- or I have to look at what the previous  
7 e-mail was. You know, he could file a rebuttal. I  
8 mean, that's what I'm essentially telling him. And,  
9 you know, he's asking about a meeting where he talks  
10 about -- just what's your question, exactly?

14:33:35

11 Q My question is, what do you mean by -- what  
12 does Xcentric mean by there is nothing they can do to  
13 help my client?

14 A There is nothing I can do other than him  
15 filing a rebuttal.

14:33:50

16 Q Is it true that you -- Xcentric has never lost  
17 a case?

18 A Correct.

19 Q A legal case?

20 A Correct.

14:34:00

21 Q So Xcentric has never lost a legal case?

22 A We have never -- we can lose a motion, but we  
23 have never lost a case.

24 Q Okay. Have you settled any cases?

25 A Sure.

14:34:08

1 MR. GINGRAS: Objection, form, and  
2 beyond the scope of the 30(b)(6).

3 Q BY MR. BLACKERT: Okay. And it's your  
4 practice not to remove posts?

5 A Correct.

14:34:23

6 Q Have you ever removed posts in the past?

7 A We don't have a practice of removing posts.

8 Q Okay. Now, when an aggrieved party, meaning  
9 someone who has filed a -- someone -- strike that.

10 When someone has Ripoff Report filed

14:34:47

11 against them and they want to ascertain the identity of  
12 the posters, how do they go through Xcentric to do  
13 that?

14 MR. GINGRAS: Objection. Beyond the  
15 scope of the 30(b)(6).

14:35:00

16 You can answer if you want to and if you  
17 know the answer.

18 THE WITNESS: I think it's called  
19 Mobrez.

20 MR. GINGRAS: Mobilisa.

14:35:12

21 THE WITNESS: Mobilisa. Okay. They  
22 have to comply with Mobilisa. I forget. I can't  
23 pronounce it.

24 Q BY MR. BLACKERT: Are you referring to like a  
25 subpoena?

14:35:26

1           A     No.  What they need to do is they can put a  
2           notice -- file a rebuttal.  They have to put a notice.  
3           It's a law.  It's an actual law, if they want, and  
4           there is certain steps that they would have to go  
5           through.  Whether or not they would end up getting it

14:35:38

6           or not, it depends.

7           Q     Can you explain to me what those steps are  
8           that they have to go through?

9                         MR. GINGRAS:  Objection.  Calls for a  
10           legal conclusion.

14:35:51

11                        THE WITNESS:  Yeah, I'm not -- I'm not a  
12           lawyer.  You can look it up.  You know, I'll mix it up,  
13           and I'll probably get some things wrong, so I'm best  
14           off not explaining it.

15           Q     BY MR. BLACKERT:  If Xcentric gets a subpoena

14:36:03

16           to reveal these names, do you usually -- does Xcentric  
17           comply with these subpoenas?

18                        MR. GINGRAS:  Objection.  Calls for a  
19           legal conclusion and beyond the scope of the 30(b)(6).

20                        THE WITNESS:  It's something that I

14:36:17

21           would have my attorneys deal with, so I don't deal with  
22           that.

23           Q     BY MR. BLACKERT:  You don't deal with any  
24           subpoenas?

25           A     No.

14:36:24

1 Q Okay.

2 A I get a subpoena, it goes to my attorney.

3 Q So why don't these aggrieved parties of these  
4 Ripoff Reports filed against them get the names of the  
5 posters?

14:36:39

6 MR. GINGRAS: Objection. Calls for a  
7 legal conclusion. Beyond the scope of the 30(b)(6).

8 Q BY MR. BLACKERT: Why won't you give them to  
9 them?

10 A It's the law that consumers have the right to

14:36:47

11 speak out in America today and remain anonymous. Until  
12 that law is changed to something -- I'm not aware of --  
13 but it's a consumer's First Amendment right. Not only  
14 that, but this is what the Internet is all about,  
15 educating one another, people giving their opinion.

14:37:04

16 Q Does Xcentric do any investigation into these  
17 postings that appear on Ripoff Report if someone is not  
18 involved in the CAP program?

19 A Sometimes there can be for certain situations,  
20 yes.

14:37:21

21 Q Can you explain those situations to me?

22 A Sure. If somebody is accused of some kind of  
23 sexual assault, murder, and the person contacts us,  
24 we'll ask them to give us proof that they have no  
25 criminal record or they were not even charged.

14:37:36

1 Q What about other types of crimes? If someone  
2 contacts Xcentric with saying the Ripoff Report was  
3 posted regarding criminal conduct on the behalf of the  
4 person and they want that post removed, would you  
5 investigate that or is it just like sexual --

14:37:55

6 A You are being too vague.

7 Q Okay. In what types of cases do you -- does  
8 Xcentric investigate postings?

9 A Ripoff Report really doesn't investigate them.  
10 We would ask them to send us proof. And even when we

14:38:12

11 get proof, we don't know. No one ever knows.

12 Q So let's say you do get proof. Then what is  
13 the next step?

14 A After verifying whatever proof that we can --  
15 so somebody sent us a record and they went down to the

14:38:31

16 county police department and they did a random check or  
17 whatever, after that, it's verified. And let's say the  
18 title read: Joe Shmoe, he's a sex offender, sexual  
19 abuse or -- and is a wanted criminal, we would redact  
20 those specific words out, sexual abuse and wanted

14:39:01

21 criminal.

22 If there was -- actually there is no  
23 warrants or there weren't prior warrants or something,  
24 it all depends on the case, but that's the way that  
25 would work.

14:39:18

1 Q Okay. Is there any other ways you would take  
2 these postings off Ripoff Report?

3 A The posting isn't removed.

4 Q Okay.

5 A I didn't say that.

14:39:30

6 Q Okay.

7 A The words -- those certain words, certain  
8 offending words, would be redacted so the consumer  
9 wouldn't -- it would just say redacted.

10 Q Okay. I understand now.

14:39:44

11 Are there any other cases where certain  
12 words would be redacted?

13 A There could be. I'm just -- at this minute, I  
14 can't think. So you are asking me questions, and when  
15 you are sitting in the hot seat, you know, sometimes

14:39:56

16 you don't think clearly and you can't remember  
17 everything. But -- but I can't think of anything. If  
18 I do think of something, I will tell you.

19 Q Okay.

20 A Give me a second. I do want to think about

14:40:11

21 it. You are asking me, is there any other times  
22 that -- that we would remove something?

23 Q That Ripoff Report would remove some, yes,  
24 content part of the posting, not the posting itself?

25 A Yeah. I'm not thinking. We remove Social

14:40:28

1 Security numbers, threats of violence. And if  
2 somebody -- a monitor misses it, which it could happen,  
3 you know, the person contacts us, you know, Social  
4 Security numbers, driver's license number, bank account  
5 numbers, those kinds of things are redacted. The

14:40:48

6 report is not removed.

7 Q Got it.

8 A It's redacted.

9 Q Are there any other types of crimes that are  
10 removed from the posting other than you've mentioned?

14:40:59

11 A There could be; I just -- just not coming to  
12 mind right at this moment. So there could be. I don't  
13 think there is anything, but there could be.

14 Q What about tax fraud?

15 A That would be up to the consumer. Even like

14:41:15

16 with criminal stuff, we try to get them to post and  
17 redact certain things, but I would pretty much -- it's  
18 possible, depending upon the nature of the -- of the --  
19 possible. So I can't say for sure.

20 MR. GINGRAS: Just to be clear, I think

14:41:40

21 Dan might have been referring to something, and you  
22 might have misunderstood, and I want to be sure I  
23 understand. Is your question relating to allegations  
24 of criminal wrongdoing or convictions? Because I think  
25 Ed was talking about convictions. If a report says

14:41:56

1 that a person has been convicted of a crime, that's  
2 different than saying a person -- I'm claiming they did  
3 something but hadn't been convicted.

4 THE WITNESS: Right. If they explain it  
5 that way -- you know, again, like I stated in earlier  
14:42:10

6 testimony, you know, people -- when people give their  
7 opinion and they are not making a statement of fact,  
8 and if they are making a real statement of fact saying  
9 they were convicted and there is proof that we can be  
10 sent that they weren't convicted of tax fraud, I

14:42:26

11 would -- I would see -- I can't see why that would not  
12 be removed.

13 Q BY MR. BLACKERT: What about allegations? No  
14 conviction, no nothing, allegations of child  
15 molestation, allegations of --

14:42:41

16 A That's sexual. I said already sexual stuff.

17 Q I know. I understand that.

18 A Okay.

19 Q You know, allegations of violence, allegations  
20 of tax fraud.

14:42:52

21 A Turn around. Look what she just --

22 Q So allegations of sexual misconduct, tax  
23 fraud, those types of allegations, would you remove  
24 them?

25 A Yeah, pretty much so. I mean, is there a

14:43:02



1 possibility it wouldn't be? It depends. There could  
2 be something. But no one is not trying to not help  
3 them. I am not looking for ways to not try and help  
4 the individual. But there are certain things, and  
5 there could be things you are not even asking me that

14:43:18

6 would qualify for that.

7 Q Does an individual or entity have to be  
8 involved in the CAP program for Ripoff Report to do  
9 this?

10 A No.

14:43:29

11 Q No, they do not?

12 A Absolutely not.

13 Q Okay. You talked a little bit before about  
14 rebuttals, when posters write rebuttals. How does a  
15 rebuttal help a poster? How does a rebuttal -- strike

14:43:40

16 that.

17 How does a rebuttal help an aggrieved  
18 party who has been posted upon on RipoffReport.com?

19 MR. GINGRAS: Objection, form. Sort of  
20 an incomplete hypothetical.

14:43:54

21 THE WITNESS: I have no problem giving  
22 my opinion, but --

23 MR. GINGRAS: Answer the question if you  
24 understand it.

25 THE WITNESS: Okay. Just ask the

14:44:02

1 question once more. Just be more specific, if you can.

2 Q BY MR. BLACKERT: Okay. How does a rebuttal  
3 help an aggrieved party on RipoffReport.com?

4 MR. GINGRAS: Same objection, and also  
5 beyond the scope of the 30(b)(6).

14:44:17

6 THE WITNESS: Write a little bit slower.  
7 Take your time and he can understand what you are  
8 writing.

9 Q BY MR. BLACKERT: Okay. How does a rebuttal  
10 help a business that has been reported on

14:44:38

11 RipoffReport.com?

12 MR. GINGRAS: Same objections.

13 THE WITNESS: If they do the rebuttal  
14 the right way, and if they -- I think I answered  
15 this -- or explained this earlier. If they write the

14:44:55

16 rebuttal the right way by not being combative, by being  
17 understanding -- even I tell people, you know, explain,  
18 wow, I understand the First Amendment, and just be nice  
19 and explain why this is wrong. Offer a customer to  
20 be -- come to your business. You know, you will do

14:45:26

21 this for them.

22 I mean, if you were handling -- convince  
23 the consumer the right way, it turns that negative into  
24 a positive, absolutely.

25 Q BY MR. BLACKERT: Why does Xcentric advise a

14:45:38

1 consumer not to be combative?

2 A Well, it's just like if I was sitting here  
3 being combative with you, it wouldn't look good, as  
4 much as I may not like some of your questions. Okay?  
5 So it's bad when -- when somebody acts combative,

14:45:55

6 because for some reason, they look guilty.

7 So it's always best -- I mean, I'm  
8 explaining to you the -- my experience of being in  
9 business for years, being a consumer all my life and  
10 being very attune to these types of things. I feel I

14:46:17

11 know for sure that if you respond properly to  
12 something, especially on the Internet, it's only going  
13 to make somebody understand, wow, that was sensible;  
14 that's true. Oh, that really is kind of hard to  
15 believe. And, boy, look what they said they offer

14:46:42

16 about their business, or, God, this is really  
17 interesting.

18 Q If this rebuttal is such a powerful tool, you  
19 say, why -- what's the purpose of the CAP program?

20 A That's why I offer and tell people and urge

14:46:57

21 them, file a rebuttal; it's for free. And I, you know,  
22 explain to them how to do a rebuttal. So um -- so um,  
23 some people -- what is your -- what is your exact  
24 question?

25 Q If the rebuttal is so powerful, as you say,

14:47:20

1           why have the CAP program? Why do you have the CAP  
2           program in place? And when I say you, I mean Xcentric.

3           A     I can go out and buy a car for \$20,000, but  
4           why would I want to go out and buy one for \$50,000 that  
5           gives me all the bells and whistles and other things

14:47:39

6           like that? Maybe it's a bad example, but it's -- it's  
7           a service.

8                                Because it's like, why do people join  
9           the Better Business Bureau or any -- you know, JD Power  
10          & Associates and, you know, belong to them or anything

14:47:52

11          else that's out there? For the consumer to feel safe  
12          about and why they should do business.

13                                People are under the assumption because  
14          you are dealing business with the Better Business  
15          Bureau somebody that it's great. I won't give any

14:48:08

16          comment to that, but that's -- that's why people join  
17          the Better Business Bureau.

18          Q     So why does Xcentric feel a rebuttal is so  
19          effective?

20          A     And for free, because it does work.

14:48:18

21          Q     It works?

22          A     Sure. A rebuttal works.

23          Q     A hundred percent of the time?

24                                MR. GINGRAS: Objection.

25                                THE WITNESS: Nothing works a hundred

14:48:25

1 percent of the time.

2 MR. GINGRAS: Form.

3 Q BY MR. BLACKERT: Then why do people join the  
4 CAP program?

5 MR. GINGRAS: Objection. Form.

14:48:32

6 THE WITNESS: I can't speculate what's  
7 in somebody else's mind, but I can only assume that  
8 they realize the value of the program and use the  
9 program.

10 Q BY MR. BLACKERT: What's the value of the

14:48:44

11 program?

12 MR. GINGRAS: Objection. Form.

13 Q BY MR. BLACKERT: What's the value of the CAP  
14 program? Strike that.

15 A Lisa, I'm trying. He won't look.

14:48:53

16 What's the value of the program?

17 Q What's the value of the CAP program?

18 A It's kind of ambiguous. What do you mean,  
19 what's the value of the program? What do you mean by  
20 that?

14:49:05

21 Q What does the aggrieved party get from the CAP  
22 program that they don't get from a rebuttal?

23 A I think I sort of answered that on a  
24 long-winded answer that I gave you when you asked me  
25 what's the \$7,500 for. I started to. So it's what I

14:49:15

1           stated earlier, and there's really a lot more, because  
2           I didn't want to give you or her a novel to write.

3           Q     Is there anything else you have to add to  
4           that?

5           A     Add to what?

14:49:34

6           Q     Add to your previous answer --

7           A     I don't know.

8           Q     -- about the benefits of the CAP program?

9           A     What would you like to know?

10          Q     The benefits of the CAP program. Other than

14:49:44

11          what you've testified to today, any other benefits that  
12          you can think of?

13          A     I forgot where I left off before, but there's  
14          a perceived value, just like a perceived value to the  
15          consumer with the BBB, which is a great way to give it

14:49:57

16          as an example.

17                         So Ripoff Report is prominent.

18          Consumers see that there are all these other complaints  
19          usually about a business, and the same thing with AA's,  
20          your economic. There is other complaint sites that

14:50:14

21          have -- and when it's there and it's on here, Ripoff  
22          Report investigation, negative stuff is still there,  
23          but, hey, XYZ company decided -- realized that they  
24          could have made changes; they made changes.

25                         And they always urge a business once

14:50:30

1       they join the program, you are best off admitting, hey,  
2       we might have made some mistakes. It always looks good  
3       to the customer to admit, hey, we might have made some  
4       mistakes. These are the changes we made to avoid them  
5       in the future. It's all part of the work that goes

14:50:47

6       into working with the business to kind of give them  
7       extra customer service.

8                       We are an extension. The program is an  
9       extension of a business's customer service. Consumers  
10      normally get ticked off about a business today. They

14:51:05

11      don't even bother calling back the company, or they try  
12      calling, got a busy signal, got a long menu; they got  
13      put on hold; somebody at the company where they have  
14      hundreds of employees didn't answer them correctly, and  
15      they start getting -- they do a search for the company,

14:51:24

16      and they say, wait a minute. They say, look at this  
17      about what's here on Ripoff Report investigation. Oh,  
18      what did they say? Well, Ripoff Report is saying that  
19      they do this and do that and, wow, I'm going to e-mail  
20      them right now and tell them what a bunch of SOB's they

14:51:38

21      are.

22                       So they get on the Internet and they  
23      start doing it, because that's what everyone does  
24      today.

25                       Q     Earlier you said in your previous answer that

14:51:43

1 Ripoff Report was prominent, correct? Am I putting  
2 words in your mouth or is that --

3 A Right.

4 Q Is that an accurate depiction?

5 A Correct.

14:51:53

6 Q What do you mean by prominent?

7 A It's usually found on the Internet like other  
8 things that are found on the Internet when you do a  
9 search for a particular company.

10 Q Where is it specifically found on the Internet

14:52:02

11 when you do a search for a company?

12 A Where is it found? On the Internet.

13 Q Where on the Internet?

14 A I'm not sure I understand what you mean.

15 Q I'll give you an example: Yahoo, Google or

14:52:11

16 something like that. Is it found on a search engine?

17 A Correct, it's found on a search engine.

18 Q Okay. And when a report is written on  
19 RipoffReport.com, where does it generally appear in the  
20 search engines?

14:52:27

21 MR. GINGRAS: Objection.

22 THE WITNESS: I can't speculate on where  
23 it --

24 Q BY MR. BLACKERT: I don't want you to  
25 speculate.

14:52:33



1 A Okay.

2 Q So again, going back to the prominent issue,  
3 what do you mean that Ripoff Report is prominent?

4 A It gets good ranking. The search engines --  
5 all the search engines look at Ripoff Report in a very  
14:52:53

6 favorable way.

7 Q What does that mean, that they look at Ripoff  
8 Report in a favorable way?

9 A Well, maybe that's -- that's probably my  
10 own -- I will even take back that statement. That's  
14:53:03

11 probably my own description. But whether or not I can  
12 say it that way, the search engines obviously like  
13 Ripoff Report.

14 Q Why do search engines like Ripoff Report?

15 A I don't know. I haven't spoken with the  
14:53:20

16 owners of Google or Yahoo or MSN or Bing or Dogpile or  
17 any of them. I don't know.

18 Q So you have never spoken with anybody at  
19 Google or Yahoo?

20 A Oh, over the years, I've probably spoken with  
14:53:31

21 people from some different organizations.

22 Q Have you ever spoken with anyone from Google  
23 or Yahoo over the years?

24 A I can't even remember. It's a long time  
25 already. It's not in recent years.

14:53:42

1 Q When a party who has posted on  
2 RipoffReport.com files a rebuttal, where does that  
3 rebuttal appear?

4 MR. GINGRAS: Objection. Form.

5 THE WITNESS: It appears underneath the  
14:54:05

6 negative report.

7 Q BY MR. BLACKERT: In every negative report?

8 A What do you mean by "in every negative  
9 report"?

10 Q Hypothetically, if there is five negative

14:54:15

11 reports on a company, does the rebuttal appear under  
12 every negative report or just the --

13 A The report that the consumer filed under --

14 Q Okay.

15 A -- along with their title. It goes at the

14:54:34

16 top.

17 Q It goes where, I'm sorry?

18 A Along with their title of their rebuttal.

19 Q Okay. Now, when a business or individual  
20 enters the CAP program, is there -- take me through

14:54:45

21 that. Is there an investigation?

22 A We get a commitment from the business, a  
23 written commitment from the business as to their change  
24 that they are doing. We check on certain things that  
25 they are telling us. There will be an investigation as

14:55:02

1 to -- we've won five years in a row JD Power &  
2 Associates award. And we'll say, could you please send  
3 us, you know, a copy of that. Well, actually, that's  
4 wrong. They will be e-mailed and ask us, you know, to  
5 send evidence of certain things.

14:55:20

6 Q So take me through Xcentric's investigation  
7 when a company enrolls in the CAP.

8 A When a company enrolls in the CAP, just the  
9 investigation part?

10 Q Just the investigation.

14:55:33

11 A Not all the things we had them do?

12 Q Just the investigation part.

13 A The investigation part --

14 Q What's the first step?

15 A We ask them -- we ask them and we want to put

14:55:40

16 what changes they've made that's in there, what the  
17 company states. We like quotes from individuals from  
18 the company. Like one executive said the following and  
19 so on like that. We ask them to tell us the changes  
20 that they've made. I'm not sure if I just said that,

14:55:58

21 but the changes that they've made to talk about why  
22 they're companies to do business with, maybe why  
23 they've had complaints, why complaints did happen.

24 And we put that into a report, into a  
25 main report, and then we also inject stuff before other

14:56:18

1 reports.

2 Q Okay. So you said you -- these companies tell  
3 you that they've changed -- they do changes, correct?

4 A Right.

5 Q How do you follow up? How does Xcentric

14:56:33

6 follow up that they actually implement these changes?

7 A Very simple. If somebody e-mails us and says,  
8 hey, look, I read Ripoff Report, and look, I don't feel  
9 I'm getting the attention, I didn't get what I paid for  
10 and I'm dissatisfied -- I'm holding off, because I see

14:56:49

11 you are reading. I don't know if you are going to  
12 listen to me.

13 Q Thank you. No, no, I'm listening. Go ahead.  
14 Do you have any more to add?

15 A Well, I didn't finish.

14:57:03

16 Q Okay, go ahead. Finish.

17 A I forget what I just said.

18 MR. BLACKERT: Do you want to read back  
19 his response.

20 THE WITNESS: Yeah, what was his  
21 question and what was my response, if you don't mind.

22 (The requested portion of the record was  
23 read by the court reporter.)

24 THE WITNESS: Okay. A consumer e-mails  
25 us and says that they are not satisfied; they have to

14:57:35

1 make them satisfied. And so they will e-mail us -- and  
2 I think I explained before, we send an e-mail out.  
3 Well, there's that first e-mail before they even join.

4 But then when a new client, a new  
5 customer is dissatisfied, we immediately e-mail them

14:57:52

6 back and -- just trying to -- stop interrupting. No.  
7 We immediately e-mail them back to diffuse that  
8 customer from going elsewhere and filing a complaint  
9 and letting them know executives -- I think I explained  
10 this before. We let them know executives at the

14:58:17

11 company want to -- will want to see what their  
12 complaint is and get this resolved.

13 And they do. Because if the company  
14 doesn't resolve it and they don't get a green flag from  
15 us, which is what -- the green flag means they took

14:58:33

16 care of it and everything was good.

17 Q BY MR. BLACKERT: How else do you follow up?

18 A Well, the only way we can follow up is if the  
19 customer tells us they didn't. Because in that e-mail  
20 they are told, listen, you need to let us know how this

14:58:46

21 goes.

22 Q Do you ever visit the sites --

23 A What's that?

24 Q -- these business sites to see if they've  
25 implemented these changes?

14:58:55

1           A     No, no. You are misunderstanding something.  
2           Now you are going to somewhere else. That's something  
3           separate. I was talking about when somebody files --  
4           makes a complaint and says, hey, I used this business.  
5           I see what you wrote about them, and, you know, this

14:59:09

6           is -- what happened with me was a real disaster, and I  
7           think I should get a refund.

8           Q     Okay. Let me clarify my question. When a  
9           business or entity enrolls in the CAP program, you told  
10          me how you do certain investigations and certain

14:59:22

11          follow-ups?

12          A     Right.

13          Q     And you explained some portions of how you do  
14          follow-ups to me. And my next question was, do you  
15          ever actually -- does Xcentric ever physically go to

14:59:31

16          these companies and check and make sure these changes  
17          are implemented?

18          A     There's no way we go to physically anyplace.

19          Q     So how do you verify that?

20          A     We will know that by the complaints that we

14:59:44

21          would get or not get. They are committed to taking  
22          care of any new customer that comes in, and there are  
23          verifications. Like somebody says, our contracts are  
24          very easy to read and simple, you know, to understand.  
25          Well, I would request them. Could you do me a favor

15:00:04

1 and send me a copy of the -- that contract that you say  
2 is so easy to read. Okay, we changed our policy. I'd  
3 ask them to give us -- they changed their policy. It's  
4 stated right in there what they are doing. If they are  
5 not doing what's stated in there, we will know about it

15:00:26

6 real quick.

7 Q How do you know about it real quick if they  
8 are not --

9 A Because a customer would tell us --

10 Q -- doing what they are doing?

15:00:32

11 A A customer will tell us -- you know, I could  
12 go someplace and check on something. I'm not going to  
13 know about it unless I sit there and watch every  
14 dealing with every customer.

15 Q You are misunderstanding me.

15:00:45

16 A Okay. Probably then.

17 Q What -- what investigation, other than what  
18 you've testified to, does Xcentric do to follow up and  
19 make sure these companies are verified safe; they are  
20 good for the CAP program and they are safe for the

15:00:56

21 consumer?

22 A Because they've made a commitment to the  
23 program, and they made a commitment to satisfy  
24 customers that -- that -- you know, that aren't  
25 satisfied.

15:01:06

1 Q How do they prove that to you?

2 A By, one, when I told you about that initial  
3 mailing that goes out, okay, anyone that contacts us  
4 back or them back, if we get a thing that says, hey,  
5 listen, we contact them back and they are full of --

15:01:18

6 they are full of it; they ain't taking care of me, da,  
7 da, da, da, da.

8 Has it happened? Sure. And we would  
9 say, listen, what's the deal here? You got to take  
10 care of this. We make sure of that. And there are

15:01:31

11 things -- there are times when a customer is BS'ing and  
12 not telling the truth.

13 Q So you are telling me you are just relying on  
14 e-mails, then, to verify?

15 A Yeah. I don't physically go anywhere to go --

15:01:42

16 and go to a business to make sure they -- they made a  
17 change. That wouldn't even do any good if I did.

18 Q So you're only -- Xcentric is only relying on  
19 e-mail communications, then?

20 A Yes.

15:01:56

21 Q That's it?

22 A Pretty much.

23 Q Okay. Thanks.

24 A But it's not as simple as what you are putting  
25 it out to.

15:02:02



1 Q There's no question pending.

2 A I know there is no question pending. You are  
3 gonna just try and make it look bad. That's your goal,  
4 is to try --

5 Q No question pending.

15:02:14

6 Now, when you ask -- when Xcentric asks  
7 for a 36-month commitment through these contracts, who  
8 exactly asks for the commitment from -- who at  
9 Xcentric -- strike that.

10 When Xcentric asks for a 36-month

15:02:47

11 commitment through a contract, who at Xcentric asks for  
12 that commitment?

13 A Me.

14 Q You. Anyone else?

15 A No.

15:02:57

16 Q No. Just you?

17 A Just me.

18 Q Okay. How many of these contracts have you  
19 sent out and reviewed? How many -- strike that.

20 How many of these contracts have you

15:03:13

21 been involved with? By you, I mean Xcentric.

22 A Without a protective order, I don't want to  
23 answer that question.

24 Q So you are refusing to answer it?

25 A Without a protective order, I don't want to

15:03:25

1 answer that question.

2 Q I'm not asking you about specific people. I'm  
3 not asking you about specific businesses, no addresses,  
4 no nothing, just a number. That's it.

5 A No, because -- I'm not going to explain why.

15:03:35

6 But it's -- it's already caused a problem in the past,  
7 and I'm not going to explain -- I'm not going to give  
8 that unless there is a protective order in place.

9 Q Are you afraid to give that information?

10 MR. GINGRAS: Objection.

15:03:49

11 Don't answer that question.

12 THE WITNESS: I won't.

13 Q BY MR. BLACKERT: Okay. Walk me through how  
14 it -- the steps -- how it gets from the rebuttal  
15 e-mails to the business actually becoming enrolled in

15:04:18

16 the CAP.

17 A You would have to ask that again.

18 Q Okay. Walk me through the steps after the  
19 rebuttal e-mail that the business gets enrolled into  
20 the CAP program.

15:04:37

21 MR. GINGRAS: Objection. I don't think  
22 this accurately reflects his testimony.

23 THE WITNESS: I'm not even understanding  
24 your question.

25 Q BY MR. BLACKERT: Okay. Fine. I will

15:04:45

1 rephrase it.

2 MR. GINGRAS: I think we first need  
3 to clarify what you are referring to as the rebuttal  
4 e-mail. We have talked about filing rebuttals and then  
5 sending e-mails. Those are two different things.

15:04:56

6 Q BY MR. BLACKERT: You testified earlier that  
7 you -- strike that.

8 You testified earlier that you send an  
9 e-mail after -- you send an e-mail suggesting that an  
10 individual file a rebuttal, correct, an individual at a

15:05:06

11 business?

12 A Correct.

13 Q What happens next?

14 A I can't speculate on what happens next. I  
15 don't know what you mean. What do you mean what

15:05:21

16 happens next?

17 Q If the individual or business wants to go  
18 forward with the CAP program --

19 A Okay.

20 Q -- what's your next contact with them?

15:05:29

21 A They want to go next?

22 Q Yes.

23 A If they say they want to join the program, I  
24 send them a more detailed questionnaire about the  
25 company.

15:05:39

1 Q Is that questionnaire different from the  
2 questionnaire on your website, on Ripoff Report's  
3 website?

4 A Yes.

5 Q It is different. Okay.

15:05:49

6 And you said it's more detailed?

7 A Yes.

8 Q How is it more detailed?

9 A It gets into -- and this is still -- they  
10 haven't been approved yet.

15:06:02

11 Q Right.

12 A So it depends on how they answer the questions  
13 to these -- to this e-mail, but there is questions  
14 like, why did you get complaints? What was the cause  
15 of the complaints? What improvements? I want -- I

15:06:23

16 want information right now, you know. How are you  
17 going to make -- what improvements have you made? What  
18 was -- what were the problems and what are you doing to  
19 avoid those problems in the future? The name of the  
20 person who will be signing the agreement. What's the

15:06:44

21 name of the company that the agreement's gonna be in?  
22 Why do you feel -- I think it's, why do you feel -- I  
23 forget. I can't.

24 Q That's fine.

25 A I can't remember. I can't remember.

15:07:18

1 Q Okay. When does -- when does Ripoff Report  
2 set the monthly fee if someone agrees to enroll in the  
3 CAP?

4 A When does it set it? It's already -- it is  
5 what it is. It's the same rate sheet everybody gets.

15:07:34

6 Q It's the same for everybody?

7 A The same. Like I said, that thing is  
8 incorrect. It's there. That thing is incorrect.

9 It's --

10 Q All right.

15:07:45

11 A It's the same.

12 Q I'm going to call for --

13 A It depends on how many reports they have, like  
14 I've explained before.

15 MR. BLACKERT: I'm going to call for

15:07:53

16 production of the rate sheet and also the updated  
17 questionnaire that's not on Ripoff Report's website,  
18 call for production of those.

19 Can we do a five-minute break?

20 MS. BORODKIN: Okay.

15:08:09

21 THE VIDEOGRAPHER: We are going off the  
22 record. The time is 3:08 p.m.

23 (The deposition was at recess from 3:08  
24 p.m. to 3:29 p.m.)

25 THE VIDEOGRAPHER: We are back on the

15:29:03

1 record. The time is 3:29 p.m.

2 Q BY MR. BLACKERT: Mr. Magedson, does Ben Smith  
3 work at Xcentric?

4 MR. GINGRAS: Objection. Beyond the  
5 scope of the 30(b)(6).

15:29:14

6 You can answer the question.

7 THE WITNESS: He's worked at Xcentric,  
8 no. He's -- he's an independent contractor.

9 Q BY MR. BLACKERT: Okay. Does he currently act  
10 as an independent contractor for Xcentric?

15:29:30

11 A Yes.

12 Q He does. Okay.

13 How long has he been an independent  
14 contractor?

15 A 12 years, probably.

15:29:35

16 Q 12 years, okay.

17 And what is his primary position at  
18 Xcentric?

19 A He deals with technical issues. You know,  
20 technical issues.

15:29:45

21 Q Okay. Anything else?

22 A No.

23 Q Can you --

24 A No.

25 Q No. Can you elaborate a little bit more?

15:29:52

1           What do you mean by technical issues?

2           A     Technical/technicality with the website.

3           Q     Okay.  So if there is a problem with the  
4           website running or it gets shut down, he will help you  
5           fix that?

15:30:07

6           A     Well, he's -- yes, uh-huh.

7           Q     All right.  Now, is he responsible for going  
8           and looking at the posts?

9           A     No.

10          Q     Okay.  All right.  I want to turn you back to

15:30:26

11          Exhibit I real quick.  On page 1, 2, 3 -- 4, it begins,  
12          "You can file a rebuttal.  No amount of money can  
13          change this."  Actually, strike that.  I'm reading off  
14          of the wrong -- I don't know if we are on the same  
15          page.  1, 2, 3, 4 -- I'm sorry, page 5.  The next page.

15:31:02

16                         So to correct that, it's on page 5.  And  
17          it is about halfway down.  Could you read that into the  
18          record?

19          A     "Dear Raymond, you drove me crazy today...  
20          why?  Because you never filled out the form as you said

15:31:24

21          you did.  You filled out -- you never filled out  
22          anything.  I ran my tech staff looking for something  
23          you never did.  You need to click on this link and fill  
24          out the form."

25          Q     So why was Raymond driving you crazy?

15:31:38

1           A     I can't remember that.

2                         MR. GINGRAS:  Objection.  Form,  
3     foundation.

4                         THE WITNESS:  This happened back in --  
5     yeah, I don't know why the date is gone from here.  The  
15:31:56

6     date is gone.  Anyway, it's probably a year ago.

7           Q     BY MR. BLACKERT:  Okay.

8           A     So there is no way I could adequately say why.

9           Q     And is that your e-mail at the top of the  
10    e-mail, EDitor@RipoffReport?

15:32:27

11           A     You know what, I don't want to answer that  
12    question until I know what the date is of that e-mail.  
13    I don't know why that's missing.

14           Q     Okay.  And looking at that e-mail, you refer  
15    to a link.  What is that -- what is that link referring

15:32:41

16    to?

17           A     Well, it's referring to -- when you drove me  
18    crazy because you never filled out the form, because he  
19    must have told me, which I think the recordings reflect  
20    that same thing, that, you know, he's saying he filled

15:33:07

21    it out, and, you know, he wants to know.  He's trying  
22    to beat me into asking him for money, which I wasn't  
23    going to do.  And so in the e-mail, I've given him a  
24    link to, this is the form you need to fill out, because  
25    he was playing dumb.

15:33:30



1 Q That's the first form you need to fill out --

2 A Correct.

3 Q -- in order to enroll in the CAP program?

4 Okay. Does this e-mail look authentic  
5 to you?

15:33:41

6 A Can I say a hundred percent for sure? I don't  
7 know. I can't say that for sure.

8 Q Okay.

9 A It could be. That sounds like something that  
10 I would write back, but I don't know if something is

15:33:49

11 added or something is taken away. But, you know, I  
12 don't know for sure.

13 Q I'm going to hand you Exhibit J.

14 (Deposition Exhibit No. J was marked for  
15 identification.)

15:33:57

16 (Off the record discussion.)

17 Q BY MR. BLACKERT: All right. So I'm going to  
18 mark this as Exhibit J. It is a check; it looks like  
19 from Sundown Capital Group, Inc. The date on it is  
20 May 11, 2004. The amount is \$5,500.

15:34:59

21 Can you explain to me what this document  
22 is, Ed?

23 MR. GINGRAS: Objection. Form.

24 THE WITNESS: Well, it's from 2004, so,  
25 you know, there is no way I can tell you exactly. But

15:35:14

1           this looks like something that's probably a part  
2           payment on something. I have -- there is no way I can  
3           remember back, you know, to 2004. If I could have a  
4           memory like that, I would be doing something else  
5           today.

15:35:34

6           Q     BY MR. BLACKERT: Okay. And who is the check  
7           paid to the order of?

8           A     I have -- well, somebody removed that. Oh,  
9           no, there it is. There it is. Ripoff Report.

10          Q     Okay.

15:35:46

11                         MS. BORODKIN: You should have a whole  
12           stack.

13                         MR. BLACKERT: Yeah, it's just one  
14           document here.

15                         MS. BORODKIN: This is what goes with

15:36:22

16           the rest of that.

17                         MR. BLACKERT: And that's going to be  
18           Exhibit J. Sorry about that.

19                         MS. BORODKIN: The group.

20                         MR. BLACKERT: The grouping.

15:36:29

21           Q     BY MR. BLACKERT: Okay. And if you can turn  
22           to the second document, it's a check from Sundown  
23           Capital Group dated May 25, 2004 for the amount of  
24           \$2,500 to Ripoff Report.

25                                 Do you have any recollection of this

15:36:42

1 check?

2 A This is 2004. You know, you are asking me to  
3 try and remember something that I don't know.

4 Q And I just want to represent that we got  
5 these -- these are public record. They are from

15:36:55

6 another case, public record.

7 Okay. Let's turn to the third one,  
8 another check from Sundown Capital Group, Inc. to  
9 Ripoff Report in the amount of \$3,300. Do you have any  
10 recollection what this check relates to?

15:37:14

11 A Absolutely, no, I wouldn't.

12 Q Correction, \$330.

13 Again, do you have any recollection?

14 A No, I have no idea.

15 Q Let's turn to the next page, another check

15:37:32

16 from Sundown Capital Group to RipoffReport.com dated  
17 September 20, 2004, and this one is for \$330.

18 A The same answer would be for this one, as  
19 well.

20 Q Do you recognize who signed this check?

15:38:01

21 A How would I know who signed it?

22 Q If you look at the endorsement on the lower  
23 half of the page, right here --

24 A Uh-huh.

25 Q -- it says Ripoff Report. And that looks like

15:38:22

1 the back of the check?

2 A Uh-huh.

3 Q Can you identify that?

4 A What are you asking me to identify?

5 Q I'm asking you if you can identify that as a

15:38:33

6 signature of RipoffReport.com endorsing the check?

7 A It doesn't look like a signature. It looks  
8 like Ripoff Report for deposit only.

9 Q Who wrote that?

10 MR. GINGRAS: Objection. Form,

15:38:50

11 foundation.

12 THE WITNESS: It's 2004. I cannot  
13 remember.

14 Q BY MR. BLACKERT: Okay. Let's go to the next  
15 one. This is another check from Sundown Capital Group

15:39:01

16 to RipoffReport.com -- or Ripoff Report, rather, dated  
17 October 13th, 2004 in the amount of \$660. And on the  
18 bottom, it is endorsed by Ripoff Report. Did you sign  
19 this check?

20 MR. GINGRAS: Objection. Misrepresents

15:39:22

21 the document, and unless you are going to put yourself  
22 forward as a witness, Dan, I don't think you need to  
23 tell us what the document is. I think we need a  
24 question about --

25 Q BY MR. BLACKERT: Do you know what this

15:39:32

1 document is?

2 A It looks like a check that was deposited.

3 Q Okay. Do you have any recollection of this  
4 check?

5 A I do not have a recollection of something that  
15:39:39

6 happened in 2004 specifically with a check.

7 Q Do you have a recollection of endorsing it?

8 A No.

9 Q Okay. Do you have a recollection of whether  
10 it's for the CAP program?

15:39:51

11 A That would be the only thing it would be for.

12 Q Okay. Let's turn to the next page. It's  
13 another check from Sundown Capital Group --

14 A Actually, it could have been for advertising.

15 Q -- to Ripoff Report in the amount of \$660

15:40:08

16 dated December 16, 2004. Do you recognize this?

17 A It's another check from 2004. There's no way  
18 that I can remember either what this was for or --

19 Q Do you recollect whether it's for CAP or  
20 advertising? Is there any way to tell?

15:40:36

21 A No, there is nothing written on it.

22 Q What would help you recollect whether it's for  
23 CAP or advertising?

24 MR. GINGRAS: Objection. Form.

25 THE WITNESS: What would help me

15:40:49

1           recollect it? I don't know what would help me  
2           recollect it. It's from 2004.

3           Q     BY MR. BLACKERT: Okay. Let's turn to the  
4           next one. It's a check from Sundown Capital Group in  
5           the amount of -- it looks like \$330 to Ripoff Report.

15:41:05

6           Do you recognize this?

7           A     No, I don't.

8           Q     Do you see the endorsement on the bottom of  
9           the check, Ripoff Report?

10          A     Yeah, it looks like all the others.

15:41:18

11          Q     Did you sign that?

12          A     I don't know.

13          Q     Okay. Do you recollect whether it was for the  
14          CAP program?

15          A     No, I don't.

15:41:26

16          Q     Do you recollect whether it was for  
17          advertisements?

18          A     No, I don't.

19          Q     What was your position in 2004?

20          A     The same as it is today.

15:41:34

21          Q     And that is?

22          A     Manager.

23          Q     Who at Xcentric can tell us whether these  
24          checks are for advertising or for the CAP program?

25          A     It would be me.

15:41:54

1 Q It would be you?

2 A Right. But I can't remember every check.

3 Q And are there any documents that you can look  
4 at that would refresh your recollection as to whether  
5 this is for the CAP program or for advertising, if you

15:42:07

6 look back in your files or something?

7 A I might be able to do that.

8 Q Okay. I'm going to request those documents  
9 for production.

10 Okay. Turn to the next page. There's

15:42:19

11 another check. It's a little illegible, but it is from  
12 Sundown Capital Group to Ripoff Report in the amount  
13 of -- it looks like \$330.

14 A Is this the last one?

15 Q This is the second to last one.

15:42:39

16 Do you recognize this document?

17 A Well, I can't even see the date on it.

18 Q Yeah, it's kind of illegible.

19 A So --

20 Q Okay. Do you recognize the endorsement on the

15:42:59

21 bottom?

22 A Again, it looks like all the others, so I'm  
23 not sure.

24 Q Okay. And you are not sure whether it would  
25 be for the CAP or advertising?

15:43:08

1 A Correct.

2 Q Turn to the last one. This one is from  
3 Sundown Capital Group to Ripoff for the amount \$330,  
4 and it's endorsed by Ripoff Report. Do you recognize  
5 this?

15:43:24

6 A Is that the last page?

7 Q Yeah.

8 A Also can't read it. But Sundown Capital  
9 Group, I don't think they ever did advertising. It was  
10 all Corporate Advocacy. I'm almost -- almost positive.

15:43:45

11 Q Okay. Do you -- are you familiar with a  
12 gentleman named Steve Miller, you being Xcentric?

13 A A gentleman?

14 Q A person, an individual named Steve Miller.

15 MR. GINGRAS: Objection. Beyond the

15:44:04

16 scope of the 30(b)(6).

17 MS. BORODKIN: You can answer it.

18 THE WITNESS: Yes.

19 Q BY MR. BLACKERT: Who is he?

20 A That's an open wide question. I wouldn't even

15:44:16

21 know where to start on that one.

22 MR. GINGRAS: Same objection.

23 Q BY MR. BLACKERT: Does he have any  
24 relationship to the CAP program?

25 A No.

15:44:28



1 Q No. He was never in the CAP program,  
2 Mr. Miller?

3 A Never.

4 Q Okay. What about a gentleman named Robert  
5 Cooper?

15:44:41

6 MR. GINGRAS: Same objection.

7 THE WITNESS: It doesn't ring -- it sort  
8 of rings a bell.

9 Q BY MR. BLACKERT: Right. Okay. Do you have  
10 any recollection of him?

15:44:50

11 A No. It sounds familiar, and I can't place  
12 what it is, but it sounds like it would be from that  
13 same era of Steve Miller.

14 Q Okay.

15 MS. BORODKIN: That was J. The next one

15:46:34

16 will be K.

17 Q BY MR. BLACKERT: Okay. I will mark that as  
18 Exhibit K. Just take your time and look at it.

19 (Deposition Exhibit No. K was marked for  
20 identification.)

15:46:46

21 THE WITNESS: Well, I hope there is  
22 nothing going around in this room.

23 THE VIDEOGRAPHER: Allergies.

24 THE WITNESS: I hope that's all it is.

25 Ready.

15:47:43

1 Q BY MR. BLACKERT: Okay. Do you recognize  
2 this?

3 A To some degree, yes.

4 Q Can you explain to me what it is?

5 A It's a -- it's a link -- well, it's something  
15:47:52

6 you would link onto at the bottom of Ripoff Report. I  
7 forget what the link says exactly, but I think it says,  
8 want to sue Ripoff Report. I believe that's at the  
9 bottom of each page.

10 Q And this appears on RipoffReport.com?

15:48:12

11 A Correct.

12 Q And who authored this?

13 A David Gingras.

14 Q And when was it authored?

15 A I couldn't give you an exact date. Some time

15:48:32

16 ago.

17 Q And what was its purpose?

18 A What was its purpose? Because there is so  
19 many upset businesses out there that are saying sue  
20 Ripoff Report, sue Ripoff Report. Of course, people

15:48:52

21 are like, oh, maybe I should sue them. So this is  
22 there to explain to them, you know, why they shouldn't  
23 sue. I haven't read it in a long time, so I can't  
24 really remember, so -- but it basically, hopefully,  
25 convinces people to not make up stories and/or try to

15:49:11

1 sue us.

2 Q Okay. Did you ask Mr. Gingras to write this?

3 MR. GINGRAS: Objection.

4 Attorney-client privilege.

5 THE WITNESS: Attorney-client privilege.

15:49:25

6 MR. GINGRAS: You don't have to answer

7 that question.

8 Q BY MR. BLACKERT: To your knowledge, has this

9 deterred anyone from suing Ripoff, to your knowledge?

10 A My crystal ball is broken.

15:49:36

11 I don't know. There is no way of me

12 ever knowing.

13 Q So when the subject of a Ripoff Report enters

14 the CAP program and enrolls in the CAP program, you

15 provide -- you meaning Xcentric -- provide an update or

15:50:45

16 investigation?

17 A I'm not sure.

18 Q Let me rephrase that to make it easier for

19 you. After -- okay. How does a subject of a Ripoff

20 Report get into the CAP program?

15:51:21

21 MR. GINGRAS: Objection. Asked and

22 answered.

23 THE WITNESS: You are asking -- it's

24 like an ambiguous how. I mean, I don't know what you

25 mean.

15:51:32

1 Q BY MR. BLACKERT: Do you contact them? Do  
2 they contact you?

3 A They contact us.

4 Q Okay. And then what happens next?

5 MR. GINGRAS: Objection. Asked and  
15:51:39

6 answered.

7 THE WITNESS: Yeah, I already answered  
8 this question a number of times today.

9 Q BY MR. BLACKERT: Okay. Okay. After the  
10 second -- after the subject party with the Ripoff

11 15:52:01  
12 Report answers the second questionnaire, what happens?

13 MR. GINGRAS: Objection. Asked and  
14 answered.

15 THE WITNESS: I already answered this  
16 question. You know, I'm getting tired, so --

17 15:52:14  
18 Q BY MR. BLACKERT: Me too.

19 A So I don't know why you want to wear me out  
20 with the same question. The answer is not going to  
21 change.

22 Q Okay. How do you get approved for the CAP  
23 15:52:26

24 program?

25 A How do they get approved?

26 Q How does a subject of a Ripoff Report get  
27 approved for the CAP program? How do you approve them  
28 or Xcentric? How does Xcentric approve them?

15:52:45

1           A     It depends on how they respond to the very few  
2     questions.  It's pretty simple.

3           Q     On what basis do you reject individuals or  
4     entities who look to enroll into the CAP program?

5           A     If they are going to give a problem by giving  
15:53:01

6     refunds.  They don't -- the way they answer the  
7     questions about why there is a problem, I'll enforce  
8     upon them, you are better off just filing a rebuttal,  
9     because it's just a waste of our time and your money.  
10    You know, it's just...

15:53:28

11          Q     What else?

12          A     What else what?  Give me another question.

13          Q     What else is there to it?

14          A     I'm sorry?

15          Q     What else is there to it?  What else -- what

15:53:35

16          else happens?

17          A     I forget, what am I answering again?

18          Q     When else would a business be rejected from  
19     the CAP program?

20          A     Why else would they be rejected --

15:53:47

21          Q     Uh-huh.

22          A     -- from the program?  If they were under  
23     criminal investigation.  I don't know.  Right now -- I  
24     can't think of anything else right now.

25          Q     So there is nothing else you can remember --

15:54:29

1           A     No, there is a number of reasons. I don't --  
2           there could be a reason I would normally not allow  
3           somebody on, but maybe if they gave a good explanation  
4           for something. There's no -- nothing etched in stone.

5           Q     Is there anything that would refresh your  
15:54:49

6           recollection as to when?

7           A     It's a case-by-case basis.

8           Q     Okay. But, again, is there anything that  
9           would refresh your recollection as to when an  
10          individual entity was rejected for the CAP program?

15:55:00

11          A     Refresh my memory. If it was 9 o'clock in the  
12          morning.

13          Q     Are there any documents you can look at or  
14          e-mails or anything?

15          A     No, no, not really. I think I mentioned, you  
15:55:12

16          know, if -- they have to answer the questions properly,  
17          show that they are really sincere. Like if somebody  
18          gives smart-aleck answers and -- do you want to ask for  
19          something else?

20          Q     What do you mean by if they are sincere?

15:55:39

21          A     Sincere, you know -- oh, well, the customers  
22          are wrong. You know, the things are simple. And they  
23          should know or understand, which means, you know, they  
24          don't want to change or make things more explicit so  
25          consumers would more understand. You know how like a

15:55:58

1 business or a website might hide information, they run  
2 a commercial, they flash something up that you can't  
3 even read, and they don't want to change that, you  
4 know, because that's what consumers are complaining  
5 about. They say, oh, it's on their commercial, but,

15:56:12

6 you know, that's up there for a split second and nobody  
7 can really read that. So they said they were warned,  
8 they knew.

9 You know, if a business doesn't show  
10 that they really want to take care of their customers,

15:56:25

11 there is no sense in them wasting our time and their  
12 money.

13 Q And who determines if the business is sincere?

14 A (Indicating.)

15 Q Does anyone else determine if a business is

15:56:36

16 sincere?

17 A Just me.

18 Q Just you. Okay.

19 MS. BORODKIN: Witness raised his hand.

20 THE WITNESS: Sorry about that. Sorry

15:56:49

21 about that.

22 Q BY MR. BLACKERT: Okay. Now, what about Asia

23 Economic Institute? I'm gonna just call them AEI.

24 What is your best recollection of their attempt to

25 enroll in the CAP program?

15:57:06

1 MR. GINGRAS: Objection. Real vague.

2 THE WITNESS: It is real vague.

3 Q BY MR. BLACKERT: Okay. Do you have a  
4 recollection of AEI?

5 A No. I mean, no -- just other than when  
15:57:17

6 listening to the calls and looking at the e-mails and  
7 stuff like that. But it's obvious from the phone calls  
8 that he was playing games. He wasn't -- he didn't fill  
9 anything out. He said he did fill something out. If  
10 he did fill something out, he would get a message back

15:57:31

11 or something like that. It was no -- nothing. He  
12 couldn't offer anything. So there was -- there was  
13 nothing. He was just trying to bait me into a phone  
14 call so he could eventually -- this must have been a  
15 long planned thing from -- of Asia, of Mr. Mobrez and

15:57:45

16 his wife.

17 Q So why couldn't Xcentric help AEI, then?

18 A I didn't say that they couldn't. It was --  
19 there was -- there was never anything that they ever  
20 filled out, an application. It was simply, if you

15:58:04

21 listen to the recordings, they are just playing games.

22 Q What specifically in the recordings -- strike  
23 that.

24 What in the recordings tells you that  
25 they are playing games? What?

15:58:19



1           A     Oh, I filled it out, you know, when he didn't  
2           fill it out. Oh, like how much to take care of this?  
3           Just the wording that he was using. I forget what the  
4           wording was. It was obvious. I knew just right off  
5           from doing this for a long time when somebody is

15:58:42

6           playing games, and he was, obviously.

7           Q     Had you had this experience before with other  
8           customers?

9           A     It's one of the reasons why I record.

10          Q     That's one of the reasons why you record?

15:58:53

11          A     No, I've never actually had somebody  
12          specifically pull what he is pulling, absolutely not.

13          Q     And how do you feel he was trying to bait you?

14          A     By saying, oh, well, I just -- I don't know.

15          I'd have to listen to the recordings. I don't want to

15:59:06

16          speculate without listening to the recordings.

17          Q     Okay.

18          A     I'd have to listen to it. I'm just -- that

19          was just a general -- I can just give you a general

20          understanding of -- after listening to the recordings.

15:59:18

21          Q     Did you listen to the recordings before  
22          today's depo?

23          A     Oh, sure.

24          Q     You did?

25          A     When I found them on the 20th, whenever I did

15:59:26

1 it.

2 Q Okay. And when was the last time you listened  
3 to those recordings?

4 A On that time.

5 Q What time?

15:59:35

6 A When I found them.

7 Q And that date again was?

8 A It's the day after the decision came from the  
9 court saying that we -- the --

10 MR. GINGRAS: Anti-SLAPP.

15:59:47

11 THE WITNESS: The anti-SLAPP thing.

12 Q BY MR. BLACKERT: Okay. So you haven't  
13 listened to them lately then?

14 A No.

15 Q Now, you understand that you are the

15:59:55

16 designated witness for Xcentric to speak on these -- on  
17 the behalf of the content of the tapes and the contents  
18 of the communications with plaintiffs. Do you feel you  
19 have adequately reviewed these documents in order to  
20 testify today honestly?

16:00:25

21 A Sure.

22 Q Okay.

23 A Because I can't remember everything that was  
24 in a tape. Even if I listened to it 20 minutes ago,  
25 I'm not going to remember the whole thing exactly for

16:00:33

1 what was said.

2 Q But do you think it would help you testify  
3 better today if you would listen to those tapes?

4 A I feel I'm testifying fine. I'll give you a  
5 general. It was the attitude of the phone call that

16:00:48

6 let me know that something was up. And obviously  
7 something was up, because we are here, and he made  
8 statements of what he did, at which we have proven is a  
9 complete farce.

10 Q Now, how do you tell -- how does Xcentric tell

16:01:07

11 someone whether they are approved or rejected from the  
12 CAP program?

13 A By e-mail.

14 Q By e-mail.

15 And what happens when they are rejected?

16:01:39

16 MR. GINGRAS: Objection. Vague.

17 Q BY MR. BLACKERT: What happens when the  
18 applicant is rejected from the Corporate Advocacy  
19 Program?

20 MR. GINGRAS: I don't understand what

16:01:52

21 you mean by what happens when they are rejected.

22 Q BY MR. BLACKERT: If an individual business  
23 applies for the CAP program and you decide to reject  
24 them, what is your next step? How do you inform them?  
25 What do you say?

16:02:04

1 A I send them an e-mail back.

2 Q And what does the e-mail say?

3 A It's never really that they were rejected. I  
4 tell them that they are better off filing a rebuttal.  
5 There's never been a fight about, oh, I want to join or

16:02:16

6 anything else like that. I try to convince people,  
7 file a rebuttal first and see if that works. If you  
8 then need it, you know, then go ahead and join the  
9 program.

10 Q Is there anything else you do?

16:02:27

11 A No.

12 Q When an applicant is approved for the CAP  
13 program, what happens next once you approve them?

14 A I think I've already answered that.

15 Q How do you notify them that they are then

16:02:50

16 approved?

17 A They are e-mailed back.

18 Q They are e-mailed back?

19 A Uh-huh. And with an application.

20 Q And that's the second application you spoke of

16:03:04

21 before?

22 A Correct.

23 Q So I -- I don't want to put words in your  
24 mouth, but what happens next? They fill out the second  
25 application, right?

16:03:12

1 A Correct.

2 Q And then what happens next?

3 A They are sent -- they fill out that  
4 application, and they are sent an agreement.

5 Q Got it. Okay. And what does that agreement

16:03:22

6 say?

7 A It tells them where -- in short, where -- what  
8 they can expect from Ripoff Report and what -- and what  
9 we should be expecting from them.

10 Q Okay. I'm going to request production of that

16:03:39

11 document.

12 Now, what can they expect from Ripoff  
13 Report?

14 A I sort of explained that earlier. It's the  
15 same -- really not going to change. I mean, there's a

16:03:53

16 lot. And we'd be here for a long time, but we do a lot  
17 for them. So I'm not sure -- I'm not sure where to  
18 begin.

19 Q When do you notify them about the cost of the  
20 program, the monthly cost -- strike that.

16:04:11

21 When do you notify them about the  
22 monthly cost of the program?

23 A I already answered that question.

24 MS. BORODKIN: Huh-uh.

25 THE WITNESS: I have answered it at

16:04:26

1 least three times in this deposition.

2 Q BY MR. BLACKERT: Can you answer it again,  
3 please? I'm not trying to harass you.

4 A They are sent after -- after they fill out the  
5 application, they are sent an e-mail that tries to push

16:04:39

6 them to go ahead and do a rebuttal. It does explain a  
7 little bit about the CAP, but you are best off trying  
8 to first file a rebuttal. And then if they respond  
9 back properly, they are sent more information along  
10 with the rates.

16:05:02

11 Q Along with the rates. Okay.

12 And is it like a rate sheet or how is it  
13 done?

14 A Yeah, it's like a rate sheet.

15 Q I'd like to request that, the production of

16:05:10

16 that document, too.

17 MR. GINGRAS: Just to be clear, if you  
18 are making verbal requests for production of documents,  
19 I don't recognize that as being a legitimate request  
20 into the rules. If you want to make a written request,

16:05:23

21 we'll happily look at those when and if you do that.

22 MR. BLACKERT: Okay. Noted on the  
23 record.

24 Q BY MR. BLACKERT: When are they notified of  
25 the specific monthly term costs?

16:05:39

1 A It's in that same e-mail with the rates.

2 Q Okay.

3 A It's right there.

4 Q And then what happens? Do they -- what  
5 happens next? When are they asked to pay -- make the

16:05:53

6 first payment?

7 A When do they have to make the first payment?  
8 When they -- when they send the signed contract.

9 Q So after they send the signed contract, what  
10 does the first payment consist of?

16:06:12

11 A The down payment.

12 Q Which is?

13 A Which is what I've explained before.

14 Q Is it contingent upon the size of the company,  
15 number of reports?

16:06:27

16 A So what's now the question? I don't know what  
17 your question is.

18 Q What is -- what determines the down payment?

19 A I've answered that at least four times, if not  
20 five, but I will humor you and I'll give it to you

16:06:41

21 again.

22 Q Thank you.

23 A What determines that is the amount? It's  
24 based on the amount of reports.

25 Q Okay. So then --

16:06:49

1           A     It's never been based on anything else, even  
2           though my information does give two other options. It  
3           could be by the amount of locations they have, and it  
4           could be by the -- you know, if they have a hardship.  
5           It explains about the hardship and what they have to

16:07:06

6           send us to prove hardship.

7           Q     Okay. And then when do they start paying the  
8           monthly monitoring fee?

9           A     It would probably be either the first month,  
10          or I might give them the first month for free and the

16:07:19

11          monitoring, and it starts the following month.

12          Q     Okay. Now, what if no complaints are filed  
13          and -- an applicant is paying the monthly fee, no  
14          additional complaints are filed, nothing, it's just --  
15          what if no additional -- strike that.

16:07:39

16                         What if no additional complaints are  
17          filed when the applicant is paying the monthly fee?

18          A     And the question is?

19          Q     Does anything happen? Nothing happens?

20          A     Oh, they -- you know, they -- they must be

16:07:48

21          doing well. Things must be going great.

22          Q     So the applicant is paying the monthly fee,  
23          and what if a report pops up then when they are paying  
24          the monthly fee? What happens then?

25          A     I explained that earlier, but I will explain

16:08:11



1       it again. So if they are on the program and somebody  
2       tries to file a complaint, they are immediately sent an  
3       e-mail that's tailored for their business with things  
4       like, wow, the company wants to make things right with  
5       you. Company executives -- you know, this is going to

16:08:31

6       be sent to company executives to make things right with  
7       you. Nobody is going to sue you, because they have  
8       agreed to that in writing. I mean, it's a whole bunch  
9       of things that are in there.

10                So, you know, the whole idea of -- of

16:08:44

11       the report -- of the e-mail is to assure the consumer  
12       that they are going to be taken care of to hopefully  
13       their satisfaction, of course, pending, but, you know,  
14       most of the time the company just takes care of them.

15                Q     Okay. And at what point do you conduct this

16:09:12

16       investigation?

17                A     The investigation is the consumer getting back  
18       to us and saying, no, we -- you know -- you know, we've  
19       been -- you know, they are supposed to contact us  
20       between five and seven days. It's been ten days. You

16:09:34

21       know, how come they haven't? And sometimes e-mails  
22       don't get to where they are supposed to.

23                Q     Okay.

24                A     You know, spam and other things like that.

25       And -- you know, but it's -- generally it's just --

16:09:45

1           it's really resolved, so -- and it's -- like I said --  
2           I said earlier, I think -- if I didn't -- it's a  
3           win-win for both the consumer and the business.

4           Q     So what changes on your website after a member  
5           enrolls in the CAP program?

16:10:02

6           A     We inject their commitment to customer  
7           service, things that they've stated to us in writing.

8           Q     Anything else?

9           A     Just basic. Things about the company, changes  
10          that they've made, like I said before.

16:10:21

11          Q     And where do those appear?

12          A     On those reports.

13          Q     On every report?

14          A     Yes. We used to only do the reports that  
15          showed up on search engines.

16:10:33

16          Q     Okay.

17          A     But we do it on every report.

18          Q     When did you start doing it on every report?

19          A     Probably -- I want to say maybe two years ago.

20          I'm not even sure.

16:10:41

21          Q     Okay.

22          A     But it's -- it's at least two years ago. It  
23          used to only be the reports, like I said, that are  
24          found on search engines.

25          Q     Right. Okay. All right. And how are the

16:10:50

1 search engines affected when a member enrolls in the  
2 CAP program?

3 MR. GINGRAS: Objection. Form.

4 THE WITNESS: Usually the search engine  
5 will change and take new form of the new title and

16:11:01

6 stuff like that.

7 Q BY MR. BLACKERT: So correct me if I'm wrong,  
8 instead of the negative being the search engine  
9 results, you will have a positive in the search engine  
10 results?

16:11:13

11 A It still says Ripoff Report investigation.

12 Q And then what else does it say?

13 A It has -- you know, with the company's  
14 commitment, they are the ones that have to live up to  
15 it. If they don't, we will know about it.

16:11:22

16 Q Okay. Now, how is that different for people  
17 who file a rebuttal?

18 A People who file a rebuttal get to post  
19 whatever they want. They can post a picture. They can  
20 post a ruling that they went to court. They can make

16:11:43

21 their own title. You know, they make their own title.  
22 They create, you know, what -- what they want to say.

23 Q And where does the rebuttal appear?

24 A Just under the complaint, but their title is  
25 at the top.

16:12:03

1 Q Okay. And how does the rebuttal affect the  
2 search engine results?

3 MR. GINGRAS: Objection. Form. Vague.

4 THE WITNESS: That should also change,  
5 but nothing is ever guaranteed. Even with what we do,  
16:12:14

6 nothing is ever guaranteed, because we don't know what  
7 the search engines will do or not do.

8 Q BY MR. BLACKERT: Okay. Got it.

9 I think before you said -- and correct  
10 me if I'm wrong -- you can find your own title?

16:12:55

11 A File.

12 Q File your own title?

13 A Create.

14 Q Create your own title?

15 A Your own title because you get a title box.

16:13:04

16 Q Okay.

17 A You can put a good-sized message in there.

18 Q Let's just back up. When does -- when does  
19 this happen? Because I'm a little confused, if you can  
20 explain it to me.

16:13:13

21 A When does this happen?

22 Q Yeah. When -- when can someone make their own  
23 title?

24 A You click on rebuttal.

25 Q Okay.

16:13:19

1           A     It will tell you probably to create an  
2     account, ask if you have an account.

3           Q     Okay.

4           A     You know, just like any other website --

5           Q     Right.

16:13:27

6           A     -- when you go in, you want to make a comment  
7     on a -- on a newspaper article, anything, so, you  
8     know -- but once you sign in, create your profile, you  
9     can go in and file your -- your own title. You know,  
10    this employee never worked here and is only retaliating

16:13:41

11           A     against us because we fired them.

12                         And then you type -- there is no limit.  
13     You can type and you can add evidence, pleadings,  
14     pictures, anything you want just as long as it's no  
15     threats, Social Security numbers, bank account numbers,

16:14:04

16           A     tax -- probably ID numbers, anything that can cause  
17     identity theft.

18           Q     Do you check the authenticity -- does Xcentric  
19     check the authenticity of these rebuttals?

20           A     No.

16:14:22

21           Q     Does -- strike that.

22                         THE WITNESS: When you -- when you  
23     strike something, does that -- does it even appear  
24     there? It still does? Big deal.

25           Q     BY MR. BLACKERT: The title that the user

16:14:49

1 creates in the rebuttal section, is that permanent?

2 A Permanent.

3 Q Do you have -- does Xcentric have discretion  
4 to go in and alter that rebuttal?

5 MR. GINGRAS: Objection. I think that  
16:15:05

6 calls for a legal conclusion.

7 THE WITNESS: I can't answer that. Just  
8 ask the question again.

9 Q BY MR. BLACKERT: Okay. I'll just strike it.  
10 I won't even bother -- I won't even bother you with it.

16:15:12

11 A I would have given you something juicy.

12 Q Do you feel -- strike that.

13 Does Xcentric feel that the rebuttals  
14 are as prominent as the -- the investigations in the  
15 CAP program?

16:15:27

16 A Well, the investigation is a whole separate  
17 report that's posted that we do, so it's -- it's its  
18 own -- has its own life.

19 Q Is it as prominent on the search engine  
20 results?

16:15:41

21 A No. Actually, very seldom do they come on the  
22 search engine. I have seen them, but the main report  
23 we do may not be on the search engine. Actually, it  
24 is, but maybe it's just not as prominent. Everything  
25 that's on Ripoff Report gets on the search engine.

16:15:56

1 MR. GINGRAS: Ed, I think -- I think  
2 he's asking you about rebuttals versus report  
3 investigations. Listen to his question.

4 Q BY MR. BLACKERT: You can continue.

5 A There was nothing to continue on. But go

16:16:09

6 ahead. What's your question?

7 MR. BLACKERT: Can you read back the  
8 question, please, and the answer.

9 (The requested portion of the record was  
10 read by the court reporter.)

16:16:31

11 THE WITNESS: And what is he referring  
12 to?

13 You are referring to the investigative  
14 report that we do?

15 Q BY MR. BLACKERT: Versus the rebuttal, yes.

16:16:36

16 A They are two completely different animals.

17 Q The rebuttal. Now I'm referring to the  
18 rebuttal.

19 A Right. Right. The rebuttal versus the  
20 investigative report we do on a company, they are two

16:16:48

21 completely different animals. They are -- one is a  
22 separate report that we do by getting information from  
23 the company and just verifying certain things to  
24 investigate what -- you know -- you know, the  
25 information they provided to us. That's its own

16:17:05

1           entity. A rebuttal is something that is placed on a  
2           specific report.

3           Q     Which is more prominent, the rebuttal or the  
4           investigation?

5           A     Probably the rebuttal, because it is right

16:17:21

6           there on the report. The investigation is just a  
7           separate entity.

8           Q     Okay. Can we take five minutes?

9           A     Do we need a cigarette break?

10          Q     Probably.

16:17:33

11          A     She is tweaking over there.

12          Q     How are you holding up? All right?

13          A     I'm fine. But you are doing a little bit

14          better with her.

15                   MS. BORODKIN: Are we off the record?

16:17:44

16                   THE VIDEOGRAPHER: We are not off yet.

17                   MR. BLACKERT: All right, let's get off  
18          the record.

19                   THE WITNESS: Sorry.

20                   THE VIDEOGRAPHER: This marks the end of

16:17:49

21          videocassette number two in the 30(b)(6) deposition of  
22          Xcentric Ventures represented by Edward Magedson --  
23          excuse me, Magedson. The time is 4:18 p.m.

24                   (The deposition was at recess from 4:18  
25          p.m. to 4:36 p.m.)

16:36:37



1 THE VIDEOGRAPHER: We are back on the  
2 record to continue the videotaped deposition --  
3 30(b)(6) deposition of Xcentric Ventures, LLC  
4 represented by Edward Magedson. This is the beginning  
5 of videocassette number three. The time is 4:36 p.m.

16:36:54

6 Q BY MR. BLACKERT: Okay. So start fresh.  
7 After the subject of a Ripoff Report receives the  
8 second rate sheet, is that a standard rate for every  
9 person who receives it?

10 A Yes.

16:37:15

11 Q And what is the standard rate?

12 A I think I've already answered -- explained how  
13 that works, the rates work. I don't...

14 Q I'd like you to explain it again, if you don't  
15 mind, the second rate sheet.

16:37:34

16 A There is no second rate sheet.

17 Q Okay.

18 A There is one rate sheet.

19 Q Okay. The 36-month contract that the subject  
20 party signs, that's what I'm referring to. Is there a

16:37:48

21 rate --

22 A That's not a rate sheet. No, there's no rate  
23 sheet on that.

24 Q There are certain rates per month for that  
25 contract, correct?

16:37:59

1 A Correct.

2 Q Okay. Do those rates vary?

3 A Yes.

4 Q On what basis do they vary?

5 A As I've told you at least five or six times in

16:38:07

6 this deposition, it depends on how many reports that a  
7 company has.

8 Q So if a company receives less reports in the  
9 36-month time frame, it goes down or it stays varied?

10 It stays the same?

16:38:34

11 A What you are saying makes no sense.

12 Q Okay, explain it to me then.

13 A Explain what to you?

14 Q Explain to me how the price is based on a  
15 36-month contract, how that pricing is based on --

16:38:46

16 A No comprende. That is not making sense.

17 Q Okay. There is a 36-month contract --

18 A All right.

19 Q -- that a -- that the subject of a Ripoff

20 Report signs, correct?

16:39:01

21 A Yes.

22 Q Is there a fee attached to that contract?

23 A Yes.

24 Q Okay. How is the fee determined?

25 A For maybe the eighth time today, if not maybe

16:39:09

1 more, it's determined by the amount of reports that a  
2 company has.

3 Q Does that fee ever change?

4 A It's different for each company, because --  
5 unless some company has the same amount of reports as

16:39:23

6 another company does.

7 Q For one company, does it change over time?

8 A No.

9 Q It's a fixed rate for the 36 months?

10 A Right.

16:39:35

11 Q Okay.

12 A Yes.

13 Q Now, the initial rate sheet, is that a fixed  
14 rate, also, or does that change over time?

15 A Say that again, sir.

16:39:45

16 MR. GINGRAS: I think you guys are  
17 talking past each other. I think he is talking -- when  
18 he is saying rate sheet, I think you mean pricing.

19 THE WITNESS: Just ask your question  
20 again.

16:39:55

21 Q BY MR. BLACKERT: The initial rate sheet that  
22 you send the subject of a Ripoff Report --

23 A Okay.

24 Q -- is that -- does that price change for that  
25 person over time?

16:40:03

1           A    No.  I have -- I just answered that question.

2           Q    Okay.

3           A    You said -- all right.  Yeah, it doesn't  
4           change.

5           Q    Okay.  And I want to point you to Exhibit I

16:40:13

6           again, which is a series of e-mails between my clients  
7           and you.  We will turn to page -- let me see -- 5.

8           A    This one?

9           Q    Yes.  There is a link at the bottom of that --  
10          strike that.

16:41:09

11                       The e-mail reads on the bottom, "You  
12           need to click on this link and fill out the form."  Is  
13           that the same form that exists on your website today  
14           or --

15          A    Yes.

16:41:20

16          Q    -- has the form changed?

17                       It's the same form?

18          A    Yes.

19          Q    Okay.  Okay.  Let's go to page -- let's see.

20                       Do you see the page numbers here on the bottom?  Let's

16:41:41

21                       go to 7 of 8.  One of the bullet points, it reads --  
22           the first bullet point on the bottom, can you read that  
23           to me?

24          A    "This program changes the negative listing on  
25           a search engine into a positive along with reports --

16:42:04

1 along with the reports on Ripoff Report. (Reports are  
2 never deleted.)"

3 Q What does Xcentric mean by that statement?

4 A It will change from the listing, the way that  
5 read before, to the way it is now. But I also say in  
16:42:21

6 the agreement, it says, there is -- there is no  
7 guarantee. And I think it's somewhere else in here it  
8 says there is no guarantee, but I know it does say in  
9 our agreement that there is no guarantee that, you  
10 know, a listing will change. They do, but there is  
16:42:37

11 no -- I have no idea why they change or whatever. But  
12 anyway.

13 Q But what do you mean when you say that,  
14 though? I mean, I understand --

15 A What do I mean in what way?

16:42:47

16 Q What does Xcentric mean when they say they  
17 change the negative listings on search engines into a  
18 positive along with all the reports on Ripoff Report?

19 A Because we are taking their commitment and  
20 throwing it into the title of the report, the negative

16:43:00

21 report, and the search engine usually picks up on that.

22 Q The search engine picks up on what?

23 A On the new title.

24 Q And the new title would be what?

25 A Ripoff Report investigation with some

16:43:22

1           commitment from the company that they are agreeing to,  
2           that they've told us or whatever.

3           Q     Okay. Now, let's look at the bottom of that  
4           page. You provide a link. Do you see the link on the  
5           bottom of the page --

16:43:40

6           A     Yes.

7           Q     -- on page 7 of 8 --

8           A     Uh-huh.

9           Q     -- of Exhibit I?

10                         I'd like to show you what we have marked

16:43:47

11           as Exhibit H. That is where -- well, first, let me ask  
12           you. If one clicks on that link, page 7 of 8 of  
13           Exhibit I on the bottom, do they appear -- are they  
14           directed to Exhibit H, this exhibit?

15           A     Yes.

16:44:12

16           Q     Okay. And does this appear as an accurate  
17           depiction of the web page?

18           A     It appears to be, but anything is possible.

19           Q     So you -- so you in this e-mail directed my  
20           client to the page I'll refer to as Exhibit H?

16:44:32

21           A     Yes, somewhere in this long e-mail that  
22           explains a lot of different things. We give that as an  
23           option.

24           Q     So again, my question is, did you direct my  
25           client to that specific web page?

16:44:47

1 A The e-mail does.

2 Q The e-mail does?

3 A Yeah, buried in this long e-mail.

4 Q And who wrote the long e-mail?

5 A I did.

16:44:58

6 Q You did.

7 Is this a form e-mail you send out to  
8 everyone?

9 A Yes. Wait a minute. Yeah, actually, this  
10 e-mail has been updated. It is basically or probably

16:45:29

11 the same. It's mostly the same, but there are some  
12 slight changes. Just like anything else, you read it  
13 over and you see.

14 Also, I want to note for the record that  
15 everything that you are basically giving me, there are

16:45:44

16 different types of changes that have nothing to do with  
17 the cause of anything from Ripoff Report. Somebody has  
18 taken this -- to my best guess is, somebody has taken  
19 your documents, threw them into a Word document and  
20 then changed and made these weird characters, and/or,

16:46:05

21 it could have redacted certain things.

22 Because there is a problem with the old  
23 Word on Microsoft Word. It's a known flaw in -- with  
24 Microsoft. And so things could be missing from this,  
25 and/or words changed completely because of characters.

16:46:29

1 Q Do you recognize anything that's missing from  
2 this?

3 A I don't. I'm just saying this thing is so  
4 long, and there is no way I could -- I would even have  
5 the patience to even look at it at this late hour

16:46:41

6 already that we are doing this.

7 Q Does anything jump out at you? Does  
8 anything --

9 A I'm not looking at it for that. I'm noticing  
10 the constant characters that might have changed or

16:46:51

11 something that's there.

12 Q Okay.

13 THE VIDEOGRAPHER: Counselor, I'm sorry  
14 to bother you, but can you raise your microphone up a  
15 little bit?

16:47:19

16 THE WITNESS: Sure.

17 Q BY MR. BLACKERT: What I can show you now is  
18 the actual Internet website of -- from your web page  
19 and ask you if that's an accurate depiction of what --  
20 the link that you sent my client. We can pull it up on

16:47:36

21 the computer here. Just one second.

22 I'm going to introduce now as -- Exhibit  
23 K are documents from another litigation, specifically  
24 the Hy Cite case. All right. Strike that.

25 Take a look at --

16:50:01



1           A     That water is getting me nervous.

2           Q     Yeah, I'm going to move it.

3                     Take a look at this web page and let me  
4     know if it's an accurate depiction of exhibit -- what I  
5     have marked as Exhibit H here. Or why don't you take

16:50:12

6     your Exhibit H or David's, because mine has markings on  
7     it.

8                     THE WITNESS: David, do me a favor. On  
9     your computer --

10                    MR. GINGRAS: Yeah.

16:50:30

11                    THE WITNESS: -- where is that link that  
12     you said? What page is that on, 7 of 8 or --

13           Q     BY MR. BLACKERT: 7 of 8, yeah.

14           A     No, I want you to go -- I'm going to give you  
15     a specific web address to go to because --

16:50:40

16           Q     I just want you to look at Exhibit H and tell  
17     me if --

18           A     What was the link that you pointed to, please?

19           Q     On page 7 of 8.

20           A     This is --

16:50:52

21           Q     And then it's going to be that link right  
22     there.

23           A     David, please go to [www.RipoffReport.com](http://www.RipoffReport.com)  
24     forward slash corporate -- I don't know if there is a  
25     slash there. It seems to be.

16:51:21

1 MR. GINGRAS: Just tell me what the end  
2 of it is.

3 THE WITNESS: Corporate advocacy dot  
4 ASP.

5 MR. GINGRAS: CAP join?

16:51:27

6 THE WITNESS: This is probably, I think,  
7 an old link, but it probably forwards to the new links.  
8 I'm sure it takes you to -- to what's on the --

9 Q BY MR. BLACKERT: I just want you to look at  
10 Exhibit H, your Exhibit H, and tell me if it's

16:51:43

11 identical to what is on this web page.

12 A What's Exhibit H?

13 Q I will show that to you.

14 A That's K.

15 MR. GINGRAS: I see what you are saying.

16:51:57

16 THE WITNESS: H, I found it. I see it.

17 Q BY MR. BLACKERT: Okay. Take a look at that,  
18 compare it to this website, and tell me if it's  
19 identical.

20 A I don't -- no, I have to see, because the link

16:52:13

21 probably changed, and hopefully it's still a good link.

22 MR. GINGRAS: It does forward to a  
23 different -- and I entered in that address, which was  
24 an underscore. It was corporate\_advocacy dot --

25 THE WITNESS: Oh, that's why I couldn't

16:52:28

1 see it. Okay.

2 MR. GINGRAS: But it does forward to a  
3 different page.

4 THE WITNESS: But does it forward to  
5 this page? Let me see the page it's forwarding to.

16:52:37

6 Yeah, okay, it's going -- but it's going to the page --  
7 which page are you asking me if it goes to? H.

8 Q BY MR. BLACKERT: H. I want you to look at H  
9 and what's on the computer screen and tell me if they  
10 are the same.

16:52:58

11 A It's going to -- you have how it works, and  
12 it's doesn't go to that page.

13 Q Okay.

14 A It's going to -- David, you have it up?  
15 Corporate Advocacy Program. Oh, it probably goes to

16:53:11

16 our program, is really where it goes to. If you took a  
17 picture or you decided to print --

18 THE VIDEOGRAPHER: I'm sorry, sir. Your  
19 microphone fell off.

20 THE WITNESS: Oops. Well, that's okay.

16:53:21

21 I have to find it. Oh, I got it.

22 Q BY MR. BLACKERT: Yeah, if you click on the  
23 link --

24 A So the answer to your question is no.

25 Q Click on the link --

16:53:35

1           A     It does not go, when you click on that link  
2           on -- on Exhibit -- in Exhibit I, page 7 and 8, are --  
3           where --

4           Q     Okay. I just want you to look at this page.  
5           Okay? Strike whatever I asked you before, and tell me  
16:53:51

6           if it is identical to Exhibit H. Take your time.

7           A     For something to take my time, this looks like  
8           to be the same. Is everything here? If you want, I'll  
9           spend an hour and I'll make sure there is nothing  
10          missing. I don't know what you are doing with this

16:54:09

11          document. Do I know everything that you have here is a  
12          hundred percent correct?

13          Q     You have it in front of you. Take your time.

14          A     Well, you want me -- you want me to go ahead  
15          and vouch that I know that it's the same document and

16:54:22

16          you are answering (sic) this, then I will sit here --  
17          if you like, I can spend -- it would probably take me  
18          about 40 minutes.

19          Q     Okay. I will narrow it for you, then, make it  
20          easier for you.

16:54:36

21          A     It looks like it, pending any verification  
22          that I would have to do to see word for word if  
23          something was done.

24          Q     Okay. So what I want you to do is read --  
25          while we are looking at the computer screen, read "Note

16:54:48

1 On Qualification" to the bottom. Read the two bullet  
2 points on the computer screen.

3 A "Fees for enrolling in this program are based  
4 upon the number of reports filed."

5 Q No, I want you to read it from the computer  
16:54:59

6 screen.

7 A "Fees for enrolling in the program is  
8 based" --

9 THE VIDEOGRAPHER: I'm sorry, sir, your  
10 microphone is muffled.

16:55:10

11 MR. GINGRAS: Move it up higher, Ed.

12 THE WITNESS: "Note on qualification:  
13 Fees for enrolling in the program are based upon the  
14 number of reports filed, the number of offices you  
15 have" -- like I told you before, it should be all the

16:55:24

16 number of offices you have. And as I testified before,  
17 and/or the size or average sale is a mistake. It  
18 belongs in with the paragraph of the bullet down below.

19 So why are you asking me this all over  
20 again?

16:55:40

21 Q BY MR. BLACKER: Okay. What I'm going to ask  
22 you to do is just read it in the record with no  
23 explanation.

24 A "Additionally, there is a flat set-up fee to  
25 offset the costs associated with programming and

16:55:51

1 contract legalities. Rate sheets will be sent upon  
2 completion and verification of the intake  
3 questionnaire," which I testified to.

4 "In participation in the program would  
5 honestly create a -- oh, if participation in the

16:56:08

6 program would honestly create a financial hardship, but  
7 you desire to participate, we would work with you to  
8 find a way to make it work. This way, we require  
9 providing financial documents providing hardship."

10 And again for the record, that first

16:56:25

11 bullet point makes no sense. There was something that  
12 was left in there. It was at one time corrected, and  
13 somehow -- I'm going to state again, I'm glad that I  
14 had this deposition just for the -- just on this thing  
15 alone.

16:56:42

16 Q Okay. Now, can you read the first -- just  
17 read the first bullet point into evidence. That's it.  
18 I don't want any corrections or anything. Just read  
19 what it says.

20 MR. GINGRAS: Asked and answered.

16:56:52

21 THE WITNESS: I already -- I already  
22 read it and I already --

23 Q BY MR. BLACKERT: I believe you did not. I  
24 believe you read it with your corrections. I did not  
25 want any corrections in there.

16:56:59

1           A     Well, that's the way I was reading it, and  
2           that's the way I'm reading it. I'm not --

3           Q     I'm asking you to read it --

4           A     I'm not going to read it again. I've read  
5           it -- I've read it three or four times already, and

16:57:05

6           that's the way --

7           Q     You read it with your corrections. I'm asking  
8           you to read it without your corrections.

9           A     I'm going to refuse it.

10          Q     Okay. Then I will read it into the record.

16:57:12

11                         Bullet point one, "Fees for enrolling in  
12           the program are based upon the number of reports filed,  
13           the number of offices you have, and/or the size of an  
14           average sale. Additionally, there is a flat set-up fee  
15           to offset the costs associated with programming and

16:57:33

16           contract legalities. Rate sheets will be sent upon  
17           completion and verification of the intake  
18           questionnaire."

19                         And that is from the computer screen off  
20           the Ripoff Report website.

16:57:48

21                         Moving on. Now, what I'm going to  
22           introduce as Exhibit K is from another litigation, the  
23           Hy Cite case, and I want you to take a look at that. I  
24           will provide that to your counsel.

25                         MR. GINGRAS: I have Exhibit K as the --

16:58:12

1 MS. BORODKIN: It should be L.

2 Q BY MR. BLACKERT: I'm sorry. Ed, it's gonna  
3 be Exhibit L.

4 (Deposition Exhibit No. L was marked for  
5 identification.)

16:58:18

6 THE WITNESS: Well, this is too small  
7 for me to read, so...

8 Q BY MR. BLACKERT: I can read it to you.

9 Correction, this will be Exhibit L. You  
10 can't read it? Would you like me to read it?

16:58:37

11 A Just read what you would like to read from it.

12 Q Okay. "July 11, 2003, Badbusinessbureau.com,  
13 Corporate Customer Advocacy Program. Assisting  
14 companies working toward a better image." Next line,  
15 "Hy Cite - Royal Prestige." Next line down,

16:58:59

16 "Ingrid C." -- last name is spelled A-r-v-a-l-o. It  
17 looks like another last name, V-i-l-l-a-n-u-e-v-a;  
18 phone number 608-273-3373, extension 6126. The e-mail  
19 starts, "Ingrid, as you have seen, the website  
20 (RipoffReport.com) has the goal to help customers.

16:59:35

21 "What Bad Business Bureau will do.

22 "After written approval, we will e-mail  
23 all the consumers who feel they were victimized,  
24 stating that they will get a full refund, plus a  
25 minimum of 5 percent more for their inconvenience

16:59:55



1 explaining (something to the effect of) management did  
2 not realize this was going on, and they are glad (as we  
3 discussed by phone) that these Ripoff Reports were  
4 there to let them know the problems. With over 900  
5 offices, there will always be some complaints and

17:00:21

6 things happening out of their control. And the fact  
7 that your company seems to be happy this was brought to  
8 your attention, wanting to rectify a problem you were  
9 not aware of and are now fixing it and offering a full  
10 refund. We can also explain the fact that these are

17:00:40

11 independent offices, and you do not have control, as  
12 you explained on the phone.

13 "We will include in a mailing to the  
14 unsatisfied customers a contact number and e-mail  
15 address of a specific person handling the complaints at

17:00:58

16 Hy Cite?

17 "Once a complaint is resolved, the  
18 report will be updated in the Ripoff Report title to  
19 show the company's willingness to work with their  
20 customer.

17:01:15

21 "Ripoff Report will contact Hy Cite  
22 within 48 hours of a new posted Ripoff Report. As we  
23 notify your designated person, we will e-mail the  
24 unsatisfied customer on who to contact because your  
25 company wants to take care of all these situations.

17:01:35

1 "We will include a link onto the  
2 specific Ripoff Reports by your company. A statement  
3 from Hy Cite (which you will write), that will be your  
4 letter to existing and future consumers on why you are  
5 helping them, something about your business and your

17:01:54

6 commitments to getting to the bottom of these problems.  
7 This will be very convincing to any consumer to do  
8 business with you after looking at the specific Ripoff  
9 Report on your company.

10 "If for some reason the consumer will

17:02:08

11 not respond to our mailing, we will try calling them.  
12 If we get no response at all, we will then update the  
13 report as to our investigation, and the title and the  
14 report will reflect Hy Cite's willingness to satisfy  
15 this customer. But apparently they either filed a

17:02:28

16 bogus report or they are a disgruntled employee, a  
17 competitor, et cetera, whatever our findings, with some  
18 assistance from you, as to the possibilities of why  
19 they did not respond, the report will reflect that and  
20 will definitely put you in a good light if any customer

17:02:48

21 reads any Ripoff Report on you, because you will be  
22 trying to make all the unsatisfied customers happy.

23 "What Hy Cite needs to do.

24 "Live up to their agreement to satisfy  
25 all complaints that come to Ripoff Report.

17:03:03

1                   "Hy Cite will only give a refund if they  
2           have the web address of the customer specific Ripoff  
3           Report. So when the customer has been satisfied, the  
4           info will be sent to  
5           CorporateAdvocacy@RipoffReport.com, so Ripoff Report

17:03:22

6           can assist your customer, making sure they update the  
7           report to let everyone know what good businesspeople  
8           you are.

9                    "What Bad Business Bureau will receive  
10          for this service.

17:03:37

11                   "We see that you have about a total of  
12          25 to 30 complaints. After you have submitted to us  
13          your explanations as to the reason for these  
14          complaints, Bad Business Bureau will evaluate your  
15          statement to see if we can work with it to make the

17:03:54

16          program work.

17                    "If accepted before the mailing goes out  
18          to start this corporate customer advocacy program to  
19          your unsatisfied customers, we will require a check for  
20          \$30,000 made payable to badbusinessbureau.com. Once

17:04:12

21          this mailing goes out and all the reports are updated  
22          in a positive light by either Hy Cite refunding their  
23          money or by stating Hy Cite tried to refund and the  
24          author of the report was either a disgruntled employee,  
25          et cetera, et cetera?

17:04:33

1 "Once all the reports are updated, we  
2 will receive an additional \$20,000 within five days of  
3 the last report being updated. We would notify you by  
4 e-mail. We would notify Ingrid (or whoever you  
5 designate) of this and would expect the payment to be

17:04:53

6 sent overnight to a designated address at this time?

7 "Also, (additional costs).

8 "Bad Business Bureau is willing to  
9 assist in any investigation or complaints about your  
10 company and willing to explain your willingness to

17:05:11

11 comply as we truthfully see it. You may have  
12 prospective customers and possible franchise call --  
13 franchises call us.

14 "If we get an e-mail on your company or  
15 a Ripoff Report comes in, that indo" -- I think it's a

17:05:30

16 typo -- "will be immediately forwarded to your  
17 designated employee. We will give you a chance to take  
18 care of the situation avoiding a possible new Ripoff  
19 Report being posted.

20 "Starting 30 days after the second

17:05:48

21 payment of \$20,000, we would require a monthly retainer  
22 of \$1,500, assuming the e-mail complaints and/or Ripoff  
23 Reports do not exceed more than four a month?

24 "Enclosing.

25 "You should know, we have looked hard at

17:06:09

1 your situation and called several of the report authors  
2 on your company. This is a difficult case. Where it  
3 is hard for us to understand why your company and your  
4 independent offices treated these people the way they  
5 have as these customers truly feel violated.

17:06:26

6 "We feel this will make authorities take  
7 another look at why you are doing before furthering any  
8 investigation, as they will see you are taking care of  
9 business, even though it may not be all Hy Cite's  
10 fault, because you cannot watch every move across the

17:06:49

11 country?"

12 Did Xcentric write this letter?

13 MR. GINGRAS: Objection. Form.

14 THE WITNESS: This is 2003. I can't

15 verify even what you are reading. And I guess it's not

17:07:10

16 for me to question why you are reading it, but this is  
17 2003. It's now 2010. 2003 is like the second year. I  
18 was still in infancy stage of this program. So things  
19 have changed over the last -- since 2003, so I can't --  
20 I don't know what -- is this accurate? I have no idea

17:07:43

21 if it's accurate because -- I mean, I can see the date  
22 and I can't -- to try and read something like that, I  
23 get dizzy. Okay? And I don't have the -- it just  
24 would have to be larger for me.

25 And even if it was enlarged, it's from

17:07:58

1 2003 and it's from some other case. I have no idea how  
2 they got it, where they got it or if, in fact, it  
3 wasn't -- wasn't altered in some way. But is there a  
4 question? If your question is, is this something that  
5 I wrote? What's your question? What do you want to

17:08:15

6 know?

7 Q BY MR. BLACKERT: First off, do you recognize  
8 the document?

9 A No, I don't recognize it.

10 Q Did Xcentric author that document?

17:08:22

11 A Maybe all or in part. I don't know.

12 Q Could you look at any documents to refresh  
13 your recollection --

14 A I don't know what documents I would be looking  
15 for.

17:08:35

16 Q -- as to whether Xcentric may have written  
17 this?

18 A It's from 2003. I have no clue.

19 Q How about documents from the lawsuit with Hy  
20 Cite?

17:08:49

21 A You are obviously the one that has the  
22 lawsuit. I have no -- I don't have the lawsuit. I  
23 wouldn't even know where to begin to find it.

24 Q If you were provided with documents from that  
25 lawsuit, would this refresh your recollection as to

17:08:58

1           whether Xcentric wrote this document?

2           A     I don't know. I still would not know from --  
3           I don't think so. I don't know. I don't know. I'm  
4           not sure.

5                         MR. GINGRAS: Can we take a pause? Can  
17:09:15

6           you tell me how much time we've spent on the record so  
7           far? Do you have a little timer in there?

8                         THE VIDEOGRAPHER: I can tell you about  
9           four and a half hours.

10                        MR. GINGRAS: Four and a half, that's  
17:09:36

11           good enough.

12                        MR. BLACKERT: Okay, are we back on?

13                        MR. GINGRAS: Never went off.

14                        THE VIDEOGRAPHER: I'm sorry, closer to  
15           four.

17:09:40

16                        MR. BLACKERT: Are we back on the  
17           record?

18                        Q     BY MR. BLACKERT: Okay. Do you recall a  
19           lawsuit with Hy Cite?

20                        A     Yes.

17:09:46

21                        Q     When was that lawsuit?

22                        MR. GINGRAS: I will object on the  
23           grounds -- Ed, hang on, I'm objecting. I don't know  
24           what this has to do with any of the 30(b)(6) topics.  
25           It seems to be beyond the scope.

17:10:03

1 MR. BLACKERT: Okay. Objection noted.

2 MR. GINGRAS: You can answer.

3 Q BY MR. BLACKERT: You can answer.

4 A It's years ago, and there is no way for me to  
5 give you a correct answer.

17:10:11

6 Q Did certain aspects of that case involve the  
7 CAP program?

8 A I don't remember.

9 Q Can I -- would you be able to have your  
10 recollection refreshed if you looked at some of the

17:10:23

11 documents from the case?

12 A If you have a document that says that, and you  
13 have that -- why ask the question if you have the  
14 document?

15 Q No, I mean, if -- would you -- would your

17:10:43

16 recollection be refreshed if you were to look at  
17 certain documents from the case?

18 A I would have to rely on your honesty of what  
19 the document is and where you got it from.

20 Q If it was from a court record?

17:10:55

21 A But it still came through you, correct?

22 Q If it was from a court record?

23 A Via your hands, correct?

24 Q I'm asking the questions. You cannot ask the  
25 questions here. It's my depo.

17:11:09



1           A     Well, if it's through your hands from the  
2           court -- court document, I wouldn't be able to, unless  
3           I got it from my attorneys, got it from the court  
4           myself. That's the only way I can verify.

5           Q     Okay. I will just put on the record that you  
17:11:24

6           can go on PACER or many other court websites to get the  
7           documents. You wouldn't have to get --

8           A     I don't go on PACER.

9           Q     Okay. I'm just letting you know.

10          A     I don't have access. I'm not an attorney.

17:11:34

11          Q     Okay. How long has the CAP program existed?

12          A     I want to say -- I believe it started in 2002  
13          or '3. I forget.

14          Q     Why did you start the CAP program? Why did  
15          Xcentric start the CAP program?

17:13:02

16          A     Because businesses had asked to do something,  
17          to do -- to -- to try and provide a service. It wasn't  
18          my idea. It's -- other businesses had asked me to try  
19          and provide a service.

20          Q     What other businesses asked you to provide a

17:13:23

21          service?

22          A     I can't remember back that far.

23          Q     Do you have a recollection of any businesses  
24          asking you to provide you with a service?

25          A     I want to say -- I don't know. I'd be

17:13:33

1           speculating. I can't remember back that far, but I'd  
2           like to say Mini Vacations was one of the main people.  
3           I had some form of something I would do and I forget  
4           even what that was, and it was Mini Vacations.

5           Q     That's your best recollection?

17:14:25

6           A     Yeah.

7           Q     Any other recollections?

8           A     Yeah, I can't remember at this time. I mean,  
9           it's a long time ago, so I --

10          Q     Yeah, it is.

17:14:35

11          A     A lot's happened, so I can't -- I can't  
12          remember.

13          Q     Do you recall any of the sum and substance of  
14          the conversations you had with Mini Vacations about  
15          starting the CAP program?

17:14:47

16          A     No.

17          Q     So what specifically do you remember about  
18          Mini Vacations and starting the CAP program?

19          A     Well, I remember they understood and respected  
20          at that early stage the Internet, and I'd be

17:15:03

21          speculating. I don't want to speculate.

22          Q     Okay.

23          A     And I could be mistaken on who I'm referring  
24          to. I can be mistaking them for somebody else, so...

25          Q     Is that your answer? No question pending.

17:15:26

1           A     I can't answer. I really can't answer the  
2           question, because I really don't know. So I'm telling  
3           you, I don't even know the guy who owned Mini  
4           Vacations, if he's even alive, so I don't -- I don't  
5           even know.

17:15:44

6           Q     Okay. Earlier on, you said if a business  
7           doesn't make the monthly payments for the CAP program,  
8           you try to find ways -- Xcentric tries to find ways to  
9           get them to pay. Is that an accurate statement? Did  
10          you say that?

17:16:02

11                   MR. GINGRAS: Objection. Misstates his  
12          testimony.

13                   THE WITNESS: I didn't say that, and I'm  
14          going to want this whole area -- because if people get  
15          the idea that, oh, they don't pay, Ed doesn't do

17:16:08

16          anything --

17                   MR. KUNZ: Would you like to consult  
18          with your attorneys? Is that what you are saying?

19                   THE WITNESS: Yeah, this whole testimony  
20          thing here with what happens.

17:16:19

21                   MR. BLACKERT: You can't say anything.  
22          You are not attorney on the record. You can't say  
23          anything. You can object, that's fine, and you can --

24                   THE WITNESS: Lisa was not the attorney  
25          on record.

17:16:26

1 MR. BLACKERT: You cannot do that. It's  
2 totally improper.

3 MR. GINGRAS: Hang on.

4 THE WITNESS: Can we take a break?

5 MR. GINGRAS: Okay. We will take a

17:16:33

6 break.

7 THE VIDEOGRAPHER: We are going off the  
8 record.

9 THE WITNESS: Good time to have a

10 cigarette.

17:16:37

11 THE VIDEOGRAPHER: The time is 5:16 p.m.

12 (The deposition was at recess from 5:16  
13 p.m. to 5:29 p.m.)

14 THE VIDEOGRAPHER: We are back on the

15 record. The time is 5:29 p.m.

17:29:13

16 MR. BLACKERT: Okay. I just wanted to

17 get an objection on the record that this is a 30(b)(6)

18 deposition and that I wanted to reserve the right to

19 reexamine the witness on any topics that he is

20 unfamiliar with that were specified in our 30(b)(6)

17:29:30

21 notice of deposition, and then I can move on after

22 that.

23 Q BY MR. BLACKERT: Mr. Magedson, was Hy Cite in

24 the CAP program?

25 A Yes, they are.

17:29:46

1 Q Okay. What about Mini Vacations?

2 A Yes, they are.

3 Q Steve Miller?

4 A Never.

5 Q What about George S. May?

17:29:54

6 A Yes.

7 Q What about John Beck?

8 A Yes.

9 Q What kind of investigation did you -- did  
10 Xcentric do in terms of Mr. Beck?

17:30:02

11 A Basically I was concerned in their case if  
12 somebody is dissatisfied with their service, that what  
13 they were sold on they are gonna get a refund. To --  
14 we looked at their program and determined that -- which  
15 I think I say in my statement about them -- that

17:30:32

16 different markets, things are going to work. Their  
17 programs didn't work in different markets, different  
18 ways to different people, and it depends on who's doing  
19 the program.

20 So like anything else, nothing is ever

17:30:50

21 guaranteed a hundred percent success. And so we know  
22 the program works. Does it work for everyone? No. If  
23 anyone is dissatisfied and they've read what we wrote,  
24 they give them back a refund and they have been very  
25 good about it.

17:31:11

1 Q To your knowledge, how many refunds did  
2 Mr. Beck give?

3 A I'm not sure. I could take a wild guess, but  
4 I won't even do that.

5 Q And I don't want you to guess.

17:31:22

6 Are you aware of the FTC's statements on  
7 Mr. Beck?

8 MR. GINGRAS: Objection.

9 Q BY MR. BLACKERT: FTC's statements on  
10 Mr. Beck?

17:31:33

11 MR. GINGRAS: Form.

12 THE WITNESS: Recently I have been made  
13 aware of the statements.

14 Q BY MR. BLACKERT: What do you think about  
15 them?

17:31:39

16 A I can't play judge and jury. And they give  
17 back refunds to anyone that comes to the site, so I'm  
18 doing consumers a favor. Whether, you know, they are  
19 appreciating it or not. You know, I'm assuming that  
20 they do appreciate it. So -- because they are able to

17:32:05

21 show they are giving back refunds. So you asked me  
22 what I think about it, and hopefully I answered your  
23 question.

24 Q Does Xcentric Ventures think that Mr. Beck  
25 runs a good and honest company?

17:32:23

1 MR. GINGRAS: Form and beyond the scope  
2 of the 30(b)(6) notice.

3 THE WITNESS: I think they've made  
4 improvements like all businesses and individuals do,  
5 whether they be a lawyer or a carpenter. They have

17:32:37

6 made improvements, and I know they changed their  
7 advertising, the way they do their advertising, which  
8 satisfied, I believe, the FTC. But I could be kind of  
9 wrong about that. But I know they did change and made  
10 improvements to that -- to their advertising.

17:32:55

11 Q BY MR. BLACKERT: I'm going to point you to  
12 Exhibit I again. And it's going to be page 4 of 8. So  
13 look down at the bottom left-hand corner, starting from  
14 the beginning. There is a statement on there. It is  
15 in the -- it looks to be in the fourth paragraph. It

17:33:20

16 says, "This is the 21st century. Good or bad, right or  
17 wrong..."

18 A Hold on a minute. I don't -- I'm not. You  
19 said 4 of 8, which is what I am on.

20 Q (Indicating.)

17:33:38

21 A Oh, okay.

22 Q The statement says, "This is the 21st century.  
23 Good or bad, right or wrong... we will all be  
24 blogged." What does Xcentric mean by that statement?

25 A I'm not sure. I don't know what there is to

17:33:50

1 understand in that statement.

2 Q Why was that statement placed in the -- in the  
3 e-mail to my client?

4 A Well, you are picking out one statement in a  
5 very long e-mail, so I'm not sure what -- what you are

17:34:03

6 looking here to represent, misrepresent, what you are  
7 reaching for. I'm not sure.

8 Q Did you write that statement?

9 A Yes, I did.

10 Q Okay. And what did you mean by it?

17:34:14

11 A Exactly what it says. I don't understand what  
12 part of it I can -- more I can explain, other than what  
13 it says.

14 Q Anything else you want to say?

15 A It's a true fact.

17:34:26

16 Q Does Xcentric think it is harmful for  
17 companies to have negative reports about them on the  
18 Internet?

19 A That's an opinion.

20 MR. GINGRAS: Form.

17:35:35

21 THE WITNESS: The question is, does  
22 Xcentric think --

23 Q BY MR. BLACKERT: It's harmful for companies  
24 to have negative reports about them on the Internet?

25 A Not necessarily.

17:35:51



1 Q Why not?

2 A You know the old saying -- well, maybe you  
3 don't. There's an old saying, no matter what they are  
4 saying about you, it doesn't make a difference, just as  
5 long as they are talking about you. It's like I have

17:36:05

6 known for years, you know, when a restaurant gets a bad  
7 review, people don't remember that. All they remember  
8 is the name of the restaurant. When they are ready to  
9 go out to eat, they don't remember, oh, the soup was  
10 cold, the service was bad or something else like that.

17:36:20

11 Q Are you the sole individual who operates and  
12 manages the Corporate Advocacy Program --

13 A Yes.

14 Q -- for Xcentric Ventures?

15 Is there anyone else?

17:36:31

16 A No.

17 Q Okay. Are you self-staffed or do you have  
18 people who also help you out with the CAP program?

19 A I think I already answered that question you  
20 are asking.

17:36:51

21 Q In terms of Xcentric Ventures, is Xcentric  
22 Ventures self-staffed or do they have other staff  
23 workers?

24 MR. GINGRAS: I don't know what  
25 self-staffed means.

17:37:01

1 Q BY MR. BLACKERT: How many workers does  
2 Xcentric Ventures have?

3 A So what's the pending question?

4 Q How many workers does Xcentric Ventures have?

5 A I think six or eight. I'm not sure.

17:37:19

6 Q And what do they do primarily?

7 A They monitor the website.

8 Q For?

9 A The reports and activate them. As I responded  
10 before, they look for foul language -- oh, I didn't say

17:37:31

11 that before. I didn't say that before. That was  
12 another thing, foul language, Social Security numbers,  
13 threats, you know, and they activate -- they will put  
14 the word redacted. They will redact out. Depending  
15 upon the monitor, they might say F instead of the F

17:37:52

16 word, if somebody wrote that.

17 Q What are their names, the workers?

18 MR. GINGRAS: Objection. This is part  
19 of the protective order.

20 THE WITNESS: Yeah, I'm not giving out

17:38:04

21 the names.

22 MR. BLACKERT: So you are objecting on  
23 privacy grounds?

24 MR. GINGRAS: Yeah. I mean, at least  
25 three of them have put declarations in already. If you

17:38:12

1 want to talk about those three, that's okay, but anyone  
2 else I think would be subject to a protective order.  
3 We will release that information to you, just not  
4 without a protective order.

5 MS. BORODKIN: You said you will tell

17:38:23

6 us. It's in the notice of deposition topics. It's not  
7 topic number nine.

8 MR. GINGRAS: I'm sorry?

9 THE WITNESS: Topic number nine.

10 MR. GINGRAS: Topic number nine is

17:38:34

11 Xcentric's vendor for recording telephone  
12 conversations.

13 MS. BORODKIN: This is topic number  
14 five, you said he would answer.

15 MR. GINGRAS: Content monitors are not

17:38:45

16 within the scope of number five.

17 THE WITNESS: What does number five say?

18 MR. GINGRAS: It says persons working  
19 for or on behalf of Xcentric or in partnership with  
20 Xcentric to solicit participants in CAP. Content

17:38:58

21 monitors don't do that.

22 Q BY MR. BLACKERT: Who are Xcentric's vendors  
23 for recording telephone conversations?

24 MS. BORODKIN: No.

25 MR. GINGRAS: Objection. This is

17:39:10

1 something we talked about before, the privacy issue.

2 MS. BORODKIN: You are never going to  
3 get that.

4 MR. BLACKERT: Okay.

5 Q BY MR. BLACKERT: Do you have any persons

17:39:44

6 working for or on behalf of Xcentric or in partnership  
7 with Xcentric to solicit participants in the CAP?

8 A No.

9 Q Have you ever hired any third parties to  
10 solicit membership in the CAP program?

17:40:08

11 A No, not -- no, not successfully for anyone to  
12 do anything. There was somebody who did try to  
13 advertise in the CAP program, like they were selling  
14 it. They wanted to kind of align themselves with  
15 Ripoff Report. And after about eight or ten e-mails to

17:40:28

16 them to get them to stop, you know, they finally  
17 stopped. But they never sold it. No one else has ever  
18 sold -- no one ever sold anybody the program.

19 Q How were they looking to -- first of all, what  
20 was this entity you are speaking of that tried to align

17:40:46

21 itself with Xcentric?

22 A Oh, what's his name? Give me a second.  
23 Paisola, Robert Paisola. He has a blog or something he  
24 runs.

25 Q And why didn't it work out between Xcentric

17:41:10

1 and Mr. Paisola?

2 A There was nothing to work out. No one ever  
3 asked him to do anything. He just took it upon  
4 himself, liked to kind of recommend. And the way he  
5 worded it it was like he was acting as a salesman. And

17:41:22

6 I have e-mails to him, which in other cases is the same  
7 thing, because people asked me about it. You know,  
8 there is -- I have e-mails to him threatening him. I  
9 don't know if I was going to sue him, but, you know,  
10 threatening him that he -- I was going to do something

17:41:37

11 if he didn't remove the stuff off his website, because  
12 I never gave him permission to do anything.

13 Q Okay. I'm going to request production of  
14 those documents.

15 About what time frame did Xcentric begin

17:41:54

16 speaking with Mr. Paisola?

17 A Many years ago. I don't know what year that  
18 was.

19 Q And he eventually never became involved in the  
20 CAP program?

17:42:05

21 A No, no, no.

22 Q Why not?

23 A He was just a blogger, runs some kind of --  
24 he's like a -- I don't even know what he does. I don't  
25 even want to say. I'm not sure what he does, but if

17:42:16

1           you Googled Robert Paisola, you'll -- you can figure it  
2           out. And I don't even understand what the heck he  
3           does.

4                       MR. BLACKERT: Take a break. Five  
5           minutes.

17:42:38

6                       THE VIDEOGRAPHER: We are going off the  
7           record. The time is 5:42 p.m.

8                       (The deposition was at recess from 5:42  
9           p.m. to 6:03 p.m.)

10                      THE VIDEOGRAPHER: We are back on the

18:02:53

11           record. The time is 6:03 p.m.

12                      Q    BY MR. BLACKERT: Okay. Mr. Magedson, just a  
13           couple more questions. You told me Mr. Paisola tried  
14           to align himself with CAP and Xcentric. Have you ever  
15           had anybody else do anything similar to that, try to

18:03:07

16           align themselves with CAP and Xcentric?

17                      A    No, I never asked Mr. Paisola to do anything  
18           like that. He just kind of like took it upon himself.  
19           He was -- he's got his own issues, sex offender. He's  
20           got a lot of problems, and he even wrote like a

18:03:27

21           positive article about me --

22                      Q    Okay.

23                      A    -- you know, and then tried to come like to  
24           try to get me to remove reports about him.

25                      Q    Okay. All right.

18:03:39

1           A     So -- but before that, he tried to -- like I  
2           was gonna be impressed with him advertising the CAP.  
3           And he was acting like he was a representative. I told  
4           him, I don't want to sell CAP.

5           Q     Okay. Has John Brewington ever acted as a  
18:03:55

6           representative for CAP or anything like that?

7           A     John Brewington?

8           Q     Yeah.

9                         MR. GINGRAS: Form.

10          Q     BY MR. BLACKERT: A representative for the CAP  
18:04:05

11          program?

12          A     No.

13          Q     And you, Mr. Magedson, are part of Xcentric,  
14          correct?

15          A     Correct.

18:04:11

16          Q     You are the -- what is your -- manager, owner?  
17          Manager? What's your position with Xcentric?

18          A     Manager.

19                         MR. BLACKERT: Okay. All right. I'm  
20          going to reserve the right to, you know, set this for a

18:04:24

21          prior (sic) date because the witness didn't know some  
22          of the questions and possibly call another designee,  
23          but other than that, I do not have any other questions  
24          for this moment.

25                                 Would you like to review the transcript?

18:04:38

1 MR. GINGRAS: Say yes.

2 THE WITNESS: Yes.

3 MR. GINGRAS: Why don't we go off.

4 Let's go off the record.

5 THE VIDEOGRAPHER: Conclude for the day?

18:04:46

6 MR. GINGRAS: No, just go off for one  
7 second.

8 THE VIDEOGRAPHER: We are going off the  
9 record. The time is 6:04 p.m.

10 (A discussion was held off the record.)

18:10:46

11 THE VIDEOGRAPHER: This concludes  
12 today's 30(b)(6) videotaped deposition of Xcentric  
13 Ventures, LLC represented by Edward Magedson. The time  
14 is 5 -- excuse me. The time is 6:11 p.m.

15 (The deposition concluded at 6:11 p.m.)

16

17

18

19

---

EDWARD MAGEDSON

20

21

22

23

24

25



1 STATE OF ARIZONA )  
 ) SS:  
2 COUNTY OF MARICOPA )  
3

4 I HEREBY CERTIFY that the foregoing  
5 deposition was taken before me; that I was then and  
6 there a Registered Professional Reporter, and an  
7 Arizona Certified Reporter, Certificate No. 50623, in  
8 and for the State of Arizona; that the witness before  
9 testifying was duly sworn by me to testify to the whole  
10 truth; that the questions propounded by counsel and the  
11 answers of the witness thereto were taken down by me in  
12 shorthand and thereafter transcribed under my  
13 direction; and that the foregoing 201 pages contain a  
14 full, true, and accurate transcript of all deposition  
15 testimony and proceedings had, all done to the best of  
16 my skill and ability.

17 I FURTHER CERTIFY that I am in no way  
18 related to nor employed by any of the parties hereto,  
19 nor am I in any way interested in the outcome.

20 DATED at Phoenix, Arizona, this 15th  
21 day of June, 2010.

22

23

24

\_\_\_\_\_  
MARCELLA L. DAUGHTRY, RPR, CSR No. 50623

25

|  |                                   |                       |                       |
|--|-----------------------------------|-----------------------|-----------------------|
| <b>&amp;</b>                                 | <b>11:01:07</b> 11:5              | <b>11:13:18</b> 20:10 | <b>11:27:23</b> 29:5  |
| <b>&amp;</b> 1:19 4:16 5:5,8<br>108:10 115:1 | <b>11:01:21</b> 11:10             | <b>11:13:36</b> 20:15 | <b>11:27:35</b> 29:10 |
| <b>0</b>                                     | <b>11:01:29</b> 11:15             | <b>11:13:55</b> 20:20 | <b>11:27:43</b> 29:15 |
| <b>01360</b> 1:8 5:12                        | <b>11:01:45</b> 11:20             | <b>11:14:05</b> 20:25 | <b>11:28:23</b> 29:20 |
| <b>1</b>                                     | <b>11:02:02</b> 11:25             | <b>11:14:43</b> 21:5  | <b>11:29:53</b> 29:25 |
| <b>1</b> 1:13,25 2:20 3:22<br>127:11,15      | <b>11:02:11</b> 12:5              | <b>11:14:50</b> 21:10 | <b>11:30:09</b> 30:5  |
| <b>1,500</b> 180:22                          | <b>11:02:20</b> 12:10             | <b>11:15:02</b> 21:15 | <b>11:30:17</b> 30:10 |
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| <b>10:54</b> 1:21 5:2                        | <b>11:02:42</b> 12:20             | <b>11:15:50</b> 21:25 | <b>11:31:06</b> 30:20 |
| <b>10:54:26</b> 5:5                          | <b>11:02:49</b> 12:25             | <b>11:16:08</b> 22:5  | <b>11:31:20</b> 30:25 |
| <b>10:54:48</b> 5:10                         | <b>11:03:02</b> 13:5              | <b>11:16:47</b> 22:10 | <b>11:31:42</b> 31:5  |
| <b>10:55:18</b> 5:15                         | <b>11:03:10</b> 13:10             | <b>11:17:02</b> 22:15 | <b>11:31:57</b> 31:10 |
| <b>10:55:29</b> 5:20                         | <b>11:03:25</b> 13:15             | <b>11:17:13</b> 22:20 | <b>11:32:16</b> 31:15 |
| <b>10:55:47</b> 5:25                         | <b>11:03:36</b> 13:20             | <b>11:17:26</b> 22:25 | <b>11:32:30</b> 31:20 |
| <b>10:55:56</b> 6:10                         | <b>11:03:47</b> 13:25             | <b>11:17:37</b> 23:5  | <b>11:32:48</b> 31:25 |
| <b>10:56:05</b> 6:15                         | <b>11:04:00</b> 14:5              | <b>11:17:51</b> 23:10 | <b>11:33:02</b> 32:5  |
| <b>10:56:09</b> 6:20                         | <b>11:04:16</b> 14:10             | <b>11:17:59</b> 23:15 | <b>11:33:19</b> 32:10 |
| <b>10:56:29</b> 6:25                         | <b>11:04:26</b> 14:15             | <b>11:18:05</b> 23:20 | <b>11:33:34</b> 32:15 |
| <b>10:56:40</b> 7:5                          | <b>11:04:50</b> 14:20             | <b>11:18:19</b> 23:25 | <b>11:33:46</b> 32:20 |
| <b>10:56:50</b> 7:10                         | <b>11:05:07</b> 14:25             | <b>11:18:39</b> 24:5  | <b>11:34:11</b> 32:25 |
| <b>10:57:06</b> 7:15                         | <b>11:05:18</b> 15:5              | <b>11:18:51</b> 24:10 | <b>11:34:24</b> 33:5  |
| <b>10:57:11</b> 7:20                         | <b>11:05:36</b> 15:10             | <b>11:19:00</b> 24:15 | <b>11:34:42</b> 33:10 |
| <b>10:57:21</b> 7:25                         | <b>11:06:07</b> 15:15             | <b>11:19:13</b> 24:20 | <b>11:35:09</b> 33:15 |
| <b>10:57:35</b> 8:5                          | <b>11:06:13</b> 15:20             | <b>11:19:28</b> 24:25 | <b>11:35:34</b> 33:20 |
| <b>10:57:49</b> 8:10                         | <b>11:06:31</b> 15:25             | <b>11:19:47</b> 25:5  | <b>11:35:46</b> 33:25 |
| <b>10:57:58</b> 8:15                         | <b>11:06:40</b> 16:5              | <b>11:20:02</b> 25:10 | <b>11:36:03</b> 34:5  |
| <b>10:58:12</b> 8:20                         | <b>11:07:03</b> 16:10             | <b>11:20:14</b> 25:15 | <b>11:36:26</b> 34:10 |
| <b>10:58:20</b> 8:25                         | <b>11:07:28</b> 16:15             | <b>11:20:33</b> 25:20 | <b>11:36:46</b> 34:15 |
| <b>10:58:29</b> 9:5                          | <b>11:07:52</b> 16:20             | <b>11:20:42</b> 25:25 | <b>11:37:15</b> 34:20 |
| <b>10:58:42</b> 9:10                         | <b>11:08:12</b> 16:25             | <b>11:20:51</b> 26:5  | <b>11:37:33</b> 34:25 |
| <b>10:59:06</b> 9:15                         | <b>11:08:42</b> 17:5              | <b>11:21:04</b> 26:10 | <b>11:37:45</b> 35:5  |
| <b>10:59:14</b> 9:20                         | <b>11:09:05</b> 17:10             | <b>11:21:15</b> 26:15 | <b>11:37:53</b> 35:10 |
| <b>10:59:33</b> 9:25                         | <b>11:09:23</b> 17:15             | <b>11:21:27</b> 26:20 | <b>11:38:06</b> 35:15 |
| <b>10:59:50</b> 10:5                         | <b>11:09:42</b> 17:20             | <b>11:21:34</b> 26:25 | <b>11:38:16</b> 35:20 |
| <b>11</b> 129:20 176:12                      | <b>11:10:04</b> 17:25             | <b>11:21:49</b> 27:5  | <b>11:38:34</b> 35:25 |
| <b>11766</b> 4:6                             | <b>11:10:16</b> 18:5              | <b>11:21:59</b> 27:10 | <b>11:38:41</b> 36:5  |
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| <b>11:00:20</b> 10:15                        | <b>11:11:31</b> 18:25             | <b>11:22:28</b> 27:20 | <b>11:39:16</b> 36:15 |
| <b>11:00:35</b> 10:20                        | <b>11:11:38</b> 19:5              | <b>11:22:45</b> 27:25 | <b>11:39:27</b> 36:20 |
| <b>11:00:53</b> 10:25                        | <b>11:12:30</b> 19:10,15          | <b>11:25:07</b> 28:5  | <b>11:39:48</b> 36:25 |
|  | <b>11:12:40</b> 19:20             | <b>11:26:38</b> 28:10 | <b>11:40:12</b> 37:5  |
|  | <b>11:12:52</b> 19:25             | <b>11:26:50</b> 28:15 | <b>11:40:31</b> 37:10 |
|  | <b>11:12:56</b> 20:5              | <b>11:26:59</b> 28:20 | <b>11:40:48</b> 37:15 |
|  |                                   | <b>11:27:10</b> 28:25 | <b>11:41:11</b> 37:20 |

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| <b>11:41:32</b> 37:25 | <b>11:51:59</b> 46:20    | <b>12:21:46</b> 54:15      | <b>12:33:44</b> 63:15    |
| <b>11:41:46</b> 38:5  | <b>11:52:23</b> 46:25    | <b>12:22:04</b> 54:20      | <b>12:33:56</b> 63:20    |
| <b>11:42:06</b> 38:10 | <b>11:52:41</b> 47:5     | <b>12:22:21</b> 54:25      | <b>12:34:11</b> 63:25    |
| <b>11:42:21</b> 38:15 | <b>11:52:58</b> 47:10    | <b>12:22:37</b> 55:5       | <b>12:34:20</b> 64:5     |
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