




EXHIBIT QQ

to the Declaration of Ryan Hilbert
in Support of Plaintiffs' Opposition to
Defendants' Motion for Summary Judgment



* * * HIGHLY CONFIDENTIAL * * *

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

-----x
BERNARD PAUL PARRISH, et al,

Plaintiffs,

-against-

NATIONAL FOOTBALL LEAGUE PLAYERS
ASSOCIATION, et al,

Defendants,

Case No.: C07 0943 WHA
-----x

399 Park Avenue
New York, New York

April 4, 2008
12:41 p.m.

Deposition of WARREN FRISS, pursuant to
30(b) (6) Notice, before Sophie Nolan, a Notary
Public of the State of New York.

ELLEN GRAUER COURT REPORTING CO. LLC
126 East 56th Street, Fifth Floor
New York, New York 10022
212-750-6434
Ref: 87185B

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2 rights of any retired players."

3 Was that sentence one that was
4 drafted by the Dewey LeBoeuf law firm and that
5 you agreed with or is this a sentence that you
6 think was changed?

7 A. This is a sentence that I think was
8 changed.

9 Q. How was it changed?

10 A. I don't --

11 MR. GREENSPAN: Objection to the
12 form of the last question.

13 A. I don't recall.

14 Q. The next sentence says, "As to
15 retired players, the player would have to
16 individually designate his participation in a
17 specific Topps program involving retired
18 players for Topps to have his licensing
19 rights."

20 What did you mean by the phrase
21 "individually designate his participation"?

22 A. That there would have to be an
23 agreement with the retired player that
24 specifically authorized us to use his image.

25 Q. Were you aware, in connection with

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2 the negotiations negotiation of this 2004
3 license agreement, that the NFLPA had already
4 obtained authorization from thousands of
5 retired players?

6 MR. GREENSPAN: Objection to form.

7 A. No.

8 Q. Did you ever discuss with anyone
9 from the NFLPA or Players, Inc. that the NFLPA
10 had obtained a significant number of license
11 agreements for the use of retired players'
12 group licensing rights and that it already
13 possessed those in its files?

14 MR. GREENSPAN: Objection to form.

15 MR. EBERT: Objection.

16 You can answer.

17 A. No.

18 Q. Let's go back now -- turn back to
19 page two of the license agreement in Exhibit
20 407, Bates stamp page 6232, the grant of
21 license provision, and there's a lot of
22 language in this provision, but -- but,
23 basically, if you go to the second half of 2-A,
24 it grants a license to "The NFL players
25 referenced in paragraph 1-A above."

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2 Do you see that?

3 A. Yes.

4 Q. Did you ever get a copy of executed
5 group licensing assignments or group licensing
6 authorizations from Players, Inc. or the NFLPA
7 relating to retired players?

8 A. I did -- I never saw them.

9 Q. Were you even aware that there was
10 a one-page form with some similar language in
11 it that was given to retired players and which
12 some retired players signed and sent back to
13 the NFLPA?

14 A. No.

15 MR. GREENSPAN: Objection to form.

16 A. No.

17 Q. Do you recall -- Exhibit D, as
18 Mr. Greenspan correctly pointed out, is
19 attached and is the 2007 license agreement
20 which is attached to your declaration.

21 Were you the person responsible at
22 Topps for negotiating the terms of this license
23 agreement, which is Bates stamped PI 007368
24 through 7382?

25 A. No.

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2 Q. And the fact is you had no idea
3 that Players, Inc. had already gotten rights
4 from a large number of retired players because
5 they didn't tell you that, did they?

6 A. I still don't know whether they
7 have rights, so --

8 Q. So, in fact, if in 2004 and in 2007
9 Players, Inc. had said, we've already got all
10 of these rights, you would have been happy to
11 get them granted in the license agreement;
12 wouldn't you?

13 MR. GREENSPAN: Objection to form.

14 A. Yes.

15 Q. No further questions.

16 FURTHER EXAMINATION

17 BY MR. GREENSPAN:

18 Q. Was it Topps' intention to acquire
19 the group licensing rights of retired players
20 under the 2004 license agreement?

21 A. No.

22 Q. Was it Topps' intention to acquire
23 the group licensing rights of retired players
24 under the 2007 license agreement?

25 A. No.

C E R T I F I C A T E

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2
3 STATE OF NEW YORK)
4)ss.:
5 COUNTY OF NEW YORK)
6

7 I, SOPHIE NOLAN, a Notary Public
8 within and for the State of New York, do
9 hereby certify:

10 That WARREN FRISS, the witness
11 whose deposition is herein before set
12 forth, was duly sworn by me and that such
13 deposition is a true record of the
14 testimony given by such witness.

15 I further certify that I am not
16 related to any of the parties to this
17 action by blood or marriage; and that I
18 am in no way interested in the outcome of
19 this matter.

20 IN WITNESS WHEREOF, I have hereunto
21 set my hand this 14th day of April, 2008.
22

23 _____
24 SOPHIE NOLAN
25