

EXHIBIT Z

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

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In re NCAA Student-Athlete
Name and Likeness Case No. 09-cv-1967-CW
Licensing Litigation

_____ /

Deposition of
JOHN PAUL VACCARO

Tuesday, December 4, 2012

HIGHLY CONFIDENTIAL

Designation Color Key
Blue = NCAA Affirm Desigs.
Orange = Pls' Counter Desigs.
Fuchsia = NCAA Rebuttal Desigs

REPORTED BY: JOHN WISSENBACH, RDR, CRR, CBC, CCP,
CLR, CSR 6862

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1 ABCD summer camp? 09:44:10
2 A. No, sir. 09:44:12
3 Q. What year did you start the ABCD summer 09:44:13
4 camp? 09:44:15
5 A. I believe in 1984. 09:44:16
6 Q. And the purpose of the ABCD summer camp was 09:44:18
7 to, again, gather the most talented high school 09:44:21
8 basketball players for a academic and basketball 09:44:25
9 camp where they could display their skills? 09:44:28
10 MR. HAUSFELD: No, hold on. I object to 09:44:30
11 the question. Compound. An academic and -- what 09:44:32
12 did you say? 09:44:34
13 MR. JUCKNIESS: Basketball. 09:44:37
14 MR. HAUSFELD: Compound. I instruct him 09:44:39
15 not to answer. Break it down. 09:44:39
16 BY MR. JUCKNIESS: 09:44:42
17 Q. And -- I'm just -- and the ABCD Camp was 09:44:42
18 intended to round up the -- the most talented high 09:44:48
19 school players in basketball? 09:44:52
20 A. The ABC was and is intended to get the best 09:44:54
21 athletes, basketball players. 09:44:59
22 Q. And it was intended to get them some 09:45:01
23 exposure to college coaches and to agents? 09:45:03
24 A. Intending to allow the -- America to see 09:45:10
25 who the best players were and to get exposure to get 09:45:14

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1 a college scholarship.

09:45:17

2 Q. Okay. And did those -- did the
3 participants in the ABCD Camp -- were they paid for
4 their participation?

09:45:19

09:45:22

09:45:25

5 A. No one was paid, other than the people who
6 worked. They weren't employees. They were guests.
7 No.

09:45:27

09:45:30

09:45:34

8 Q. Okay. Did ABCD Camp participants typically
9 pay to attend?

09:45:34

09:45:37

10 A. Pay what, sir? Pay a fee to attend the
11 camp?

09:45:39

09:45:42

12 Q. Yes.

09:45:43

13 A. No -- no child ever paid to attend ABCD
14 Camp.

09:45:43

09:45:46

15 Q. Okay. And how long did ABCD Camp last?

09:45:47

16 A. Until 2007.

09:45:52

17 Q. Okay. And it was typically a one-week
18 camp?

09:45:56

09:46:00

19 A. Five days. Five days in July.

09:46:00

20 Q. Okay. Did you ever become aware of any
21 players or coaches being paid to attend the ABCD
22 Camp, not by you, but by others?

09:46:06

09:46:11

09:46:16

23 A. Never in my life did I ever, you know, hear
24 of that happening. You're talking about a high
25 school player attending the camp?

09:46:19

09:46:24

09:46:26

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1 Q. Yes. 09:46:27

2 A. Is that what you're talking about? 09:46:28

3 No, I never did, sir. 09:46:29

4 Q. Or any payments to a camper's family for 09:46:31

5 them to attend the camp? 09:46:36

6 A. No, I was never aware of it. We -- until 09:46:37

7 the NCAA changed the rules -- and I don't know what 09:46:41

8 year it was -- they -- we were allowed to pay for 09:46:44

9 everything, the shoe company. 09:46:47

10 Q. And the ABCD Camp was sponsored by Adidas 09:46:52

11 principally; is that correct? 09:46:58

12 A. No, sir. The ABCD Camp was sponsored 09:46:59

13 principally by Nike, Converse, Adidas, and Reebok. 09:47:03

14 Q. Okay. And who paid to attend the camp? 09:47:11

15 MR. HAUSFELD: Objection. What's the 09:47:19

16 relevance? 09:47:21

17 MR. JUCKNIESS: That goes to the commercial 09:47:22

18 nature of the camps. 09:47:23

19 MR. HAUSFELD: Are you accomplishing 09:47:25

20 Mr. Vaccaro as a lay expert? 09:47:27

21 MR. JUCKNIESS: No. 09:47:28

22 MR. HAUSFELD: Then what's the purpose? 09:47:28

23 MR. JUCKNIESS: This is -- it's the 09:47:32

24 commercial relevance. 09:47:34

25 MR. HAUSFELD: Of -- what has the -- 09:47:35

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1 Q. Were there any ticket sales? 09:48:59

2 A. To the games? 09:49:02

3 Q. Yes. 09:49:03

4 A. Yes. 09:49:04

5 Q. And the ticket sales -- how much were the 09:49:05

6 ticket sales -- 09:49:13

7 MR. HAUSFELD: Objection. 09:49:14

8 BY MR. JUCKNIESS:

9 Q. -- to get into the -- 09:49:15

10 MR. HAUSFELD: Instruct him not to answer. 09:49:15

11 MR. JUCKNIESS: On what ground? 09:49:19

12 MR. HAUSFELD: Relevance. 09:49:20

13 MR. JUCKNIESS: It goes to the commercial 09:49:21

14 nature of the camp. 09:49:22

15 MR. HAUSFELD: I -- you haven't established 09:49:24

16 the commercial nature of the camp to the litigation. 09:49:25

17 MR. JUCKNIESS: Okay. 09:49:29

18 MR. HAUSFELD: Are -- are -- are you 09:49:30

19 analogizing the commercial nature of the camp to the 09:49:32

20 commercial nature of NCAA athletics? 09:49:34

21 BY MR. JUCKNIESS:

22 Q. Mr. Vaccaro -- 09:49:39

23 MR. HAUSFELD: Will you stipulate to that? 09:49:39

24 MR. JUCKNIESS: No. 09:49:40

25 Q. Mr. Vaccaro -- 09:49:41

1 Q. And why? 09:57:27

2 A. Because anybody should get paid for doing 09:57:28

3 something that they're very good at. 09:57:30

4 Q. And how would you have paid them? 09:57:33

5 MR. HAUSFELD: Objection. 09:57:36

6 THE WITNESS: I don't know. 09:57:44

7 BY MR. JUCKNIESS: 09:57:47

8 Q. Money from the shoe companies, perhaps? 09:57:48

9 MR. HAUSFELD: Objection; speculative. 09:57:50

10 THE WITNESS: I don't know. I just believe 09:57:57

11 they should have. Someone, for performance, should 09:58:01

12 always be compensated. I don't know how they figure 09:58:04

13 it out. 09:58:08

14 BY MR. JUCKNIESS: 09:58:10

15 Q. But you never did compensate the ABCD 09:58:10

16 campers? 09:58:13

17 A. Never. 09:58:13

18 Q. You also ran the Roundball Classic? 09:58:16

19 A. Yes, sir. 09:58:22

20 Q. And the Roundball Classic was another 09:58:23

21 all-star game that grew out of the Dapper Dan; is 09:58:25

22 that correct? 09:58:31

23 A. Well, it was the Dapper Dan Roundball 09:58:31

24 Classic. 09:58:35

25 Q. Got it. 09:58:35

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1 A. So the Roundball Classic stayed forever, 09:58:35
2 but then it became the Magic Johnson Roundball. 09:58:37
3 Whoever was the person, you know -- but Roundball 09:58:41
4 Classic is the name of the all-star game. 09:58:47

5 Q. Right. And that started in 1965 and ran 09:58:49
6 all the way through what year? 09:58:53

7 A. 2007. 09:58:54

8 Q. Okay. 09:58:56

9 (Deposition Exhibit 621 was marked for 09:59:15
10 identification.) 09:59:24

11 BY MR. JUCKNIESS: 09:59:24

12 Q. Mr. Vaccaro, I've handed -- 09:59:25

13 MR. HAUSFELD: Do you have a copy? 09:59:27

14 MR. JUCKNIESS: Yeah. 09:59:28

15 MR. HAUSFELD: Let the record reflect that 09:59:40
16 we're waiting for a copy. 09:59:42

17 MR. JUCKNIESS: If you want to just look on 09:59:46
18 with him, we can start. 09:59:47

19 MR. HAUSFELD: No, I'd like the witness to 09:59:48
20 have his own copy. 09:59:50

21 BY MR. JUCKNIESS: 09:59:54

22 Q. Mr. Vaccaro, go ahead and take a look at 09:59:54
23 that. And I'll just ask you a few questions about 09:59:56
24 it. 09:59:58

25 MR. HAUSFELD: Thank you. 09:59:58

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1 BY MR. JUCKNISS:

10:00:03

2 Q. Mr. Vaccaro, is this a 2000 program from

10:00:03

3 the -- from Sonny Vaccaro's Roundball Classic?

10:00:07

4 A. Yes. And I believe all the pages are in

10:00:14

5 here.

10:00:16

6 Q. Okay. And you'll see that there are

10:00:16

7 numbers at the bottom. Let me ask you to turn to

10:00:22

8 page 616 in this bound format.

10:00:26

9 And page 616, this is a message from you

10:00:46

10 with respect to Hoops --

10:00:49

11 A. Oh.

10:00:50

12 Q. -- Hoops That --

10:00:51

13 A. Yeah.

14 Q. -- Help, correct?

10:00:52

15 A. Yes.

10:00:53

16 Q. And Hoops That Help is one of the corporate

10:00:53

17 entities that you own, correct?

10:00:56

18 A. Yes.

10:00:57

19 Q. And what was Hoops That Help's involvement

10:00:58

20 in the Roundball Classic?

10:01:03

21 A. They were the charity that the monies

10:01:05

22 received went to; you know, the charity.

10:01:07

23 Q. So Hoops That Help was the corporate entity

10:01:15

24 that -- that ran the Roundball Classic?

10:01:19

25 A. Yes. Well --

10:01:23

1 Q. And donations with respect to -- 10:01:24

2 A. Well -- 10:01:25

3 Q. -- the Roundball -- 10:01:26

4 A. They weren't -- they're not the title 10:01:27

5 sponsor. 10:01:29

6 Q. No. But -- 10:01:30

7 A. Okay. 10:01:30

8 Q. But they were the -- the organizer, and 10:01:31

9 they received donations with respect to running the 10:01:33

10 Roundball Classic? 10:01:35

11 A. Hoops That Help didn't sponsor it 10:01:37

12 financially. They -- if there was monies left over 10:01:39

13 from the ticket sales, or whatever, it went into the 10:01:43

14 charity. 10:01:44

15 Q. So in the third paragraph here, this says 10:01:45

16 that the Roundball has been able "to donate more 10:01:51

17 than 1.5 million dollars to worthy causes." 10:01:55

18 A. Uh-huh. 10:01:59

19 Q. Is -- was that extra money from ticket 10:01:59

20 sales? 10:02:02

21 A. Well, it had to be from, you know -- that's 10:02:02

22 the only way you'd have revenue. 10:02:05

23 Q. Okay. And in the first paragraph, you -- 10:02:07

24 you list off that Shaquille O'Neal, Kobe Bryant, and 10:02:11

25 Kevin Garnett all played at the Roundball Classic? 10:02:17

1 A. Yes. 10:02:21

2 Q. Did you obtain permission from any of them 10:02:21

3 in order to use that in connection with this 10:02:24

4 brochure? 10:02:28

5 A. No. I was emphasizing a fact. 10:02:29

6 Q. So you wouldn't have needed permission for 10:02:36

7 that? 10:02:38

8 A. I have no idea. 10:02:39

9 Q. Did you have anyone review these -- the 10:02:44

10 Roundball Classic programs before they were issued, 10:02:49

11 to make sure that any name, image, or likeness used 10:02:52

12 in them had been paid for? 10:02:55

13 MR. HAUSFELD: Objection; relevance. 10:02:57

14 You can answer. 10:03:03

15 BY MR. JUCKNISS: 10:03:04

16 Q. You can answer if you understand the 10:03:05

17 question. 10:03:06

18 A. Okay. Ask me the question. 10:03:06

19 Q. Did you have anyone review the Roundball 10:03:07

20 Classic brochures before they were issued to ensure 10:03:12

21 that you had clearance to use any of the name, 10:03:14

22 images, or likenesses contained therein? 10:03:16

23 A. You're talking about a picture? 10:03:20

24 Q. Yes. 10:03:22

25 A. In order to use a photo that was taken by 10:03:28

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1 someone else, you would have had to ask them if you
2 had permission; I would say that would be -- if
3 somebody else owned the photo of a game, prior to
4 that.

10:03:32

10:03:34

10:03:37

10:03:39

5 Q. Uh-huh. How about the person appearing in
6 the photo?

10:03:40

10:03:42

7 A. No.

10:03:42

8 Q. You wouldn't have to pay them?

10:03:43

9 A. I never thought to.

10:03:44

10 Q. Why not?

10:03:46

11 A. Because each and every one of the kids who
12 played in a Roundball Classic prided that on their
13 own resume. And I never did. So I didn't.

10:03:49

10:03:52

10:03:55

14 Q. I'm sorry. Did you say -- they were proud
15 of that on their own resume. Is that what you said?

10:04:00

10:04:08

16 A. Now -- yes. Well, they were, obviously.
17 It's part of their life.

10:04:11

10:04:13

18 Q. And -- and so you thought that -- that they
19 would be fine with you using their photos to promote
20 the Roundball Classic?

10:04:14

10:04:17

10:04:20

21 MR. HAUSFELD: Objection; relevance.

10:04:21

22 THE WITNESS: Do I think that the kids
23 whose photos would be used would have an objection
24 to it?

10:04:28

10:04:32

10:04:35

25 BY MR. JUCKNISS:

10:04:36

1 Q. No. Do you think -- 10:04:36
2 A. Oh. 10:04:37
3 Q. -- that -- do you think that they should -- 10:04:39
4 should be paid for the use of their name, image, or 10:04:40
5 likeness in connection with the Roundball Classic 10:04:43
6 program? 10:04:45
7 A. Yes. 10:04:51
8 Q. And did you pay them with respect to that 10:04:52
9 use? 10:04:55
10 A. No. 10:04:55
11 Q. And why not? 10:04:57
12 MR. HAUSFELD: Objection; relevance. 10:04:59
13 THE WITNESS: Never thought of it. 10:05:03
14 BY MR. JUCKNIESS: 10:05:05
15 Q. Will you do so now? 10:05:07
16 MR. HAUSFELD: Objection. Instruct him not 10:05:09
17 to answer. Next question. 10:05:10
18 MR. JUCKNIESS: And you're instructing him 10:05:16
19 not to answer on what basis? 10:05:18
20 MR. HAUSFELD: What he may do in the 10:05:20
21 future, for whatever reasons, don't apply now. I 10:05:22
22 don't think you have the even least tangential 10:05:26
23 connection to the issues in litigation. And so far 10:05:31
24 you've spent over half an hour going into background 10:05:34
25 for which you have refused to establish what the 10:05:38

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1 relationship, if any, between Tim Stevens and Hoops? 10:09:27

2 MR. JUCKNIESS: Mr. Hausfeld -- 10:09:31

3 MR. HAUSFELD: You'd have to lay a proper 10:09:33

4 foundation, sir. 10:09:35

5 MR. JUCKNIESS: I -- we have already laid a 10:09:37

6 foundation. He -- 10:09:39

7 MR. HAUSFELD: No, you laid -- 10:09:39

8 MR. JUCKNIESS: -- already -- 10:09:40

9 MR. HAUSFELD: You laid -- 10:09:41

10 MR. JUCKNIESS: -- identified this as the 10:09:42

11 Roundball Classic brochure. 10:09:43

12 MR. HAUSFELD: And that does -- 10:09:45

13 MR. JUCKNIESS: This is -- 10:09:46

14 MR. HAUSFELD: That does not establish what 10:09:47

15 a -- what a particular page in the brochure relates 10:09:48

16 to if it says "By Tim Stevens, Sports Writer for The 10:09:52

17 News & Observer." 10:09:57

18 BY MR. JUCKNIESS: 10:09:58

19 Q. Mr. Vaccaro, did you compensate these 10:09:58

20 individuals for the use of these name -- these 10:10:01

21 names, images, or likenesses on this page 620? 10:10:04

22 A. No, I didn't. I would have. I don't 10:10:07

23 believe I did. I would have. 10:10:12

24 Q. Let me have you turn to page 627. 10:10:27

25 A. And I see it now. It's down here at the 10:10:37

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1 bottom. Okay. I thought there weren't any. There 10:10:41
2 were. 10:10:41
3 Andre Barrett? 10:10:41
4 Q. Yes. And if you just flip through, you'll 10:10:43
5 see that there's a similar profile with respect to 10:10:46
6 each -- 10:10:49
7 A. Each and every player. 10:10:50
8 Q. -- of the campers. 10:10:53
9 A. Yes. 10:10:53
10 Q. Yes. And did you obtain permission to use 10:10:55
11 these photos or these stats with respect to these 10:10:57
12 individuals? 10:11:03
13 A. I -- I don't know what -- what that means, 10:11:03
14 but -- did I retain -- no, I would not have asked 10:11:06
15 them specifically. They would have wanted their 10:11:10
16 picture in the book. But that's another story. 10:11:12
17 Q. Okay. And they -- they wouldn't have been 10:11:13
18 compensated for that -- 10:11:16
19 A. No, sir. 10:11:16
20 Q. -- use? 10:11:17
21 And page 639. 10:11:19
22 MR. HAUSFELD: Got it? 10:11:24
23 THE WITNESS: Got it. 10:11:26
24 BY MR. JUCKNISS: 10:11:27
25 Q. This is a -- this is a list of "Roundballer 10:11:27

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1 Alumni." So these are individuals that previously 10:11:32
2 played in the Roundball Classic; is that correct? 10:11:35
3 Yes. 10:11:42
4 A. Yes, they would have been. I'd 10:11:43
5 have been -- proofread. 10:11:45
6 Q. And why are they being listed on this page? 10:11:46
7 A. They played in and then they matriculated 10:11:48
8 to be a professional athlete. 10:11:51
9 Q. So this is intended to promote the history 10:11:52
10 of the Roundball Classic? 10:11:54
11 A. Yes. 10:11:56
12 Q. And do you -- did you obtain the permission 10:11:56
13 from any of the individuals listed on this page to 10:12:00
14 use their name in connection with this Roundball 10:12:02
15 alumni page? 10:12:05
16 A. They were an alumnus of the game. It makes 10:12:06
17 a difference. I mean, I didn't retain their 10:12:10
18 permission, but they were. So you could -- they 10:12:12
19 could have not have reneged. They actually played. 10:12:14
20 So how could you not put their name in? 10:12:17
21 Q. You had the right to -- to list them 10:12:19
22 here -- 10:12:21
23 A. I didn't have -- 10:12:21
24 Q. -- regardless? 10:12:21
25 A. -- the right. It's a -- it's -- it's a 10:12:22

1 fact. 10:12:24

2 Q. So they wouldn't have needed to be 10:12:24

3 compensated for this use? 10:12:26

4 A. They paid for the Atlanta Hawks, and they 10:12:27

5 played in a Roundball Classic. That's a fact. 10:12:29

6 Q. And so you did not compensate them for 10:12:31

7 this? 10:12:33

8 A. No, I did not compensate them for it. 10:12:33

9 MR. HAUSFELD: Is this the same relevance 10:12:39

10 that you think you've established with regard to 10:12:40

11 your prior questions? 10:12:42

12 BY MR. JUCKNIESS: 10:12:44

13 Q. And Mr. Vaccaro EA -- 10:12:45

14 MR. HAUSFELD: Is it? 10:12:46

15 BY MR. JUCKNIESS: 10:12:46

16 Q. -- Sports was one of the -- was one of the 10:12:47

17 sponsors -- 10:12:51

18 (Discussion off the record.)

19 MR. JUCKNIESS: EA Sports was -- 10:12:51

20 MR. HAUSFELD: Object to the relevance. 10:12:51

21 BY MR. JUCKNIESS: 10:12:53

22 Q. EA Sports was one of the sponsors of the 10:12:53

23 Roundball Classic; is that correct? 10:12:56

24 MR. HAUSFELD: Object. 10:12:59

25 THE WITNESS: What? 10:12:59

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1 MR. HAUSFELD: Object to the relevance. 10:13:00
2 BY MR. JUCKNISS: 10:13:01
3 Q. You can -- you can go ahead and answer. 10:13:02
4 A. Oh. Just -- 10:13:03
5 Q. That's just for the record. 10:13:04
6 A. Yes. They were. 10:13:05
7 Q. Okay. I -- 10:13:08
8 MR. HAUSFELD: Are we -- are we -- 10:13:09
9 BY MR. JUCKNISS:
10 Q. I will try to go through --
11 MR. HAUSFELD: -- going to go through 10:13:10
12 similar -- 10:13:11
13 MR. JUCKNISS: -- these very quickly. 10:13:11
14 MR. HAUSFELD: All right. If we're going 10:13:14
15 to go through similar documents, why don't we just 10:13:15
16 have a standing objection to the use of the 10:13:17
17 documents and any questioning relating to them, 10:13:19
18 since they don't relate to the litigation. 10:13:21
19 MR. JUCKNISS: I -- obviously I don't 10:13:22
20 agree that they don't relate to the litigation. 10:13:24
21 MR. HAUSFELD: You don't have to agree. 10:13:25
22 MR. JUCKNISS: But, yes, you can have a 10:13:26
23 standing objection. 10:13:27
24 MR. HAUSFELD: Fine. 10:13:28
25 MR. JUCKNISS: And I will. I'll try to -- 10:13:28

1 to go through these quickly. 10:13:30

2 So let me see. 10:13:33

3 MR. HAUSFELD: You don't have to throw the 10:13:33

4 document, either. 10:13:35

5 MR. BATEMAN: Oh, I'm sorry. 10:13:36

6 (Deposition Exhibit 622 was marked for 10:13:45

7 identification.) 10:13:49

8 MR. BATEMAN: Sorry about that. 10:13:49

9 MR. HAUSFELD: That's okay. It's a matter 10:13:50

10 of courtesy. 10:13:52

11 BY MR. JUCKNISS: 10:13:54

12 Q. And Mr. Vaccaro, is this the 2006 brochure 10:13:54

13 for the Roundball Classic? 10:14:02

14 A. Yes, it is. 10:14:05

15 Q. Were these sold at the Roundball Classic? 10:14:09

16 A. Yes, they were. 10:14:11

17 Q. How much were they; do you know? 10:14:12

18 A. \$5, I think. 10:14:14

19 Q. And where did the money for these sales go 10:14:16

20 to? 10:14:19

21 A. To pay the expenses and back into the 10:14:20

22 charity. So -- 10:14:22

23 Q. It would have been handled by Hoops That 10:14:23

24 Help? 10:14:25

25 A. Yeah. 10:14:26

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1 Q. And do you remember who you had prepare 10:14:29
2 the -- the brochures? 10:14:33
3 A. No, but I'm sure it's somewhere. I mean, I 10:14:35
4 have no idea. But -- 10:14:40
5 Q. Okay. 10:14:40
6 A. -- they always put their name, who made it. 10:14:40
7 Q. H --
8 A. I -- I didn't do that. 10:14:43
9 Q. HMS Creative, Inc. Does that sound 10:14:44
10 familiar? 10:14:47
11 A. They would have laid it out, yes. 10:14:48
12 Q. Okay. 10:14:50
13 A. They -- yeah. 10:14:50
14 Q. So let me have you -- it is -- I'll have 10:14:52
15 you turn to page 855. And I think that this is the 10:15:02
16 same with respect to each of these that I'll have 10:15:11
17 marked and have you confirm that these were 10:15:14
18 brochures. But it is the case, is it not, that for 10:15:16
19 each of the Roundball Classics, you published stats 10:15:19
20 and a photo of each of the campers, correct? 10:15:23
21 A. Yes. 10:15:26
22 Q. And -- and you did so without compensating 10:15:28
23 them for the use of those photos, correct? 10:15:32
24 A. Yes. 10:15:34
25 Q. And let me have you turn to page 838, which 10:15:40

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1 is at the beginning, just a couple of pages in.

10:15:43

2 You'll see a series of photos. Those look like

10:15:48

3 photos of past camps and -- past Roundballs and ABCD

10:15:52

4 Camps, it looks like.

10:15:57

5 A. Yes.

10:15:58

6 No, I think they're all Roundball. I don't

10:15:59

7 think there's ABCD Camp in there.

10:16:02

8 Q. And did -- did you do anything to obtain

10:16:05

9 the rights to use these photos?

10:16:09

10 A. No.

10:16:11

11 Q. And you did not --

10:16:12

12 A. Compensate.

10:16:15

13 Q. -- pay the individuals appearing in the

10:16:16

14 photos for their name, image, or likeness, correct?

10:16:17

15 A. No, I didn't.

10:16:19

16 Q. And is that true with respect to all of the

10:16:21

17 photos that appear in all of the Roundball Classic

10:16:24

18 brochures?

10:16:26

19 A. It would be.

10:16:26

20 Q. On page 868, close to the end --

10:16:38

21 A. Uh-huh.

10:16:49

22 Q. -- this appears to be a statement by you.

10:16:49

23 It says, "For 42 years, the central focus of my

10:16:52

24 professional life has been dedicated to the

10:16:56

25 discovery of the most talented and high-potential

10:16:58

1 A. Never. And we never sold too many inside 10:27:12
2 the arena, either. 10:27:15

3 MR. HAUSFELD: Why don't we ask one more, 10:27:21
4 and then we'll take a break. 10:27:22

5 (Deposition Exhibit 627 was marked for
6 identification.)

7 MR. HAUSFELD: Thank you. 10:27:38

8 BY MR. JUCKNIESS: 10:27:38

9 Q. And about 627 is the 2005 Roundball Classic 10:27:38
10 program, correct? 10:27:41

11 A. Yes, sir. 10:27:42

12 Q. And this would have been sold by Hoops That 10:27:42
13 Help? 10:27:44

14 A. Yes, it was. 10:27:45

15 MR. HAUSFELD: Same series of objections. 10:27:45

16 BY MR. JUCKNIESS: 10:27:47

17 Q. Again, there are collectible players' cards 10:27:47
18 inside, correct? 10:27:50

19 A. Yes, sir. 10:27:51

20 I'm looking for them, and there they are, I 10:27:54
21 imagine. 10:27:59

22 (Discussion off the record.)

23 THE WITNESS: Yes. I'm looking for them, 10:27:59
24 and I imagine -- yes, they are. They're here. 10:27:59

25 BY MR. JUCKNIESS: 10:28:05

402

402

1 Q. And let me have you turn to page 812. 10:28:05
2 MR. LEVINE: Can you refer to the non-Bates 10:28:15
3 number, as the Bates number doesn't appear on a 10:28:17
4 bunch of the copies. 10:28:19
5 MR. HAUSFELD: 15. 10:28:20
6 MR. JUCKNIESS: Yes. 10:28:21
7 MR. LEVINE: Thank you. 10:28:22
8 MR. HAUSFELD: You're welcome. 10:28:23
9 MR. GILCHRIST: Or both. 10:28:24
10 BY MR. JUCKNIESS: 10:28:26
11 Q. That's a picture of LeBron James at the 10:28:26
12 top, correct? 10:28:30
13 A. Yes, sir. 10:28:30
14 Q. And that's from his appearance earlier in 10:28:31
15 one of the Roundball Classics? 10:28:33
16 A. Yes, sir. 10:28:34
17 Q. And do you know -- did you get permission 10:28:35
18 from LeBron James to use his photo in this brochure? 10:28:39
19 A. No, I didn't. 10:28:42
20 Q. And that -- that's the same sort of answer 10:28:44
21 as with respect to the rest of the photos as we -- 10:28:46
22 A. Yes. 10:28:48
23 Q. -- discussed? 10:28:49
24 And this is a photo from his appearance at 10:28:50
25 the game, based on the jersey that he's wearing, 10:28:54

402

1 MR. HAUSFELD: Are you --

2 MR. JUCKNISS: -- Mr. Hausfeld. 10:49:18

3 MR. HAUSFELD: Are you attempting to 10:49:18

4 establish him, as a ABCD principal, as a lay expert? 10:49:19

5 Why don't -- 10:49:22

6 MR. JUCKNISS: No. 10:49:22

7 MR. HAUSFELD: Why isn't it that -- that 10:49:23

8 you can't answer something that obviously you're 10:49:24

9 trying to get -- elicit from the witness? 10:49:26

10 MR. JUCKNISS: So -- let's go off the 10:49:31

11 record for a sec. 10:49:33

12 (Discussion off the record.) 10:49:38

13 MR. JUCKNISS: Are we ready? 10:50:03

14 THE VIDEOGRAPHER: Go ahead. 10:50:04

15 BY MR. JUCKNISS: 10:50:05

16 Q. Mr. Vaccaro, do you have a position with 10:50:05

17 ABCD Camp, Inc.? Are you president? 10:50:07

18 A. I -- I must be president. 10:50:10

19 Q. And as president, did you feel you had an 10:50:14

20 obligation to make sure that these individuals were 10:50:20

21 compensated for the use of their name, image, or 10:50:22

22 likeness on the ABCD Camp website? 10:50:24

23 MR. HAUSFELD: Objection; relevance. 10:50:26

24 THE WITNESS: Did I have an obligation? 10:50:33

25 Yeah, kids should always be informed, I imagine, of 10:50:38

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402
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1 their rights.

10:50:41

2 BY MR. JUCKNIESS:

10:50:45

3 Q. So -- but you have not paid any of these

10:50:45

4 individuals for the use of their name, image, or

10:50:48

5 likeness that appear on the website; is that

10:50:50

6 correct?

10:50:53

7 A. Not to the best of my recollection.

10:50:53

8 MR. BATEMAN: We just lost somebody, I

10:51:07

9 think.

10:51:08

10 MR. JUCKNIESS: Did we?

10:51:09

11 Did we just lose someone on the phone?

10:51:09

12 MS. FREEMAN: I'm still here, Rachel.

10:51:14

13 MR. REMY: Yeah. Donald Remy is still here

10:51:17

14 as well.

10:51:19

15 MR. JUCKNIESS: Okay. Good.

10:51:20

16 Q. Mr. Vaccaro, have you acted as -- as an

10:51:31

17 agent for athletes?

10:51:33

18 MR. HAUSFELD: What do you mean by "agent"?

10:51:36

19 BY MR. JUCKNIESS:

10:51:39

20 Q. Do you know what an agent is?

10:51:39

21 MR. HAUSFELD: You used the term.

10:51:42

22 MR. JUCKNIESS: Mr. Hausfeld.

10:51:44

23 MR. HAUSFELD: Can you not define it?

10:51:45

24 BY MR. JUCKNIESS:

10:51:47

25 Q. Mr. Vaccaro, do you understand the

10:51:48

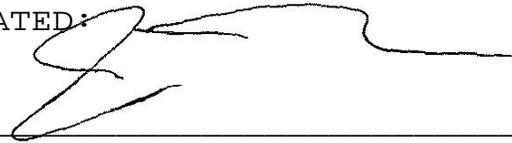
1 CERTIFICATE OF REPORTER

2 I, JOHN WISSENBACH, a Certified Shorthand
3 Reporter, hereby certify that the witness in the
4 foregoing deposition was by me duly sworn to tell
5 the truth, the whole truth, and nothing but the
6 truth in the within-entitled cause;

7 That said deposition was taken down in
8 shorthand by me, a disinterested person, at the time
9 and place therein stated, and that the testimony was
10 thereafter reduced to typewriting by computer under
11 my direction and supervision and is a true record of
12 the testimony given by the witness;

13 That before completion of the deposition,
14 review of the transcript [] was [X] was not
15 requested. If requested, any changes made by the
16 deponent (and provided to the reporter) during the
17 period allowed are appended hereto.

18 I further certify that I am not of counsel
19 or attorney for either or any of the parties to the
20 said deposition, nor in any way interested in the
21 event of this cause, and that I am not related to
22 any of the parties thereto.

23 DATED: 

24
25 JOHN WISSENBACH, CSR No. 6862