

EXHIBIT 2

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CONFIDENTIAL - KREILMANN

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
CASE NO. 3:11-CV-00205-H-CAB

IN RE:)
)
NUTELLA DECEPTIVE SALES)
PRACTICES & MARKETING)
LITIGATION)
-----)

DEPOSITION OF BERNARD F. KREILMANN, C.F.O.
BRIDGEWATER, NEW JERSEY
APRIL 14, 2011

CONTAINS HIGHLY CONFIDENTIAL PORTIONS

REPORTED BY:
SILVIA P. WAGE, CCR, CRR, RPR
JOB NO. 37839

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<p>1 2 3 9:19 a.m. 4 April 14, 2011 5 Deposition of BERNARD F. KREILMANN, CHIEF 6 FINANCIAL OFFICER, held at the offices of NORRIS, 7 McLAUGHLIN, 721 Route 202-206, First Floor Board 8 Room, Bridgewater, New Jersey, pursuant to 9 agreement before SILVIA P. WAGE, a Certified 10 Shorthand Reporter, Certified Realtime Reporter, 11 Registered Professional Reporter, and Notary 12 Public for the State of New Jersey. 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p>1 A P P E A R A N C E S: 2 3 THE WESTON FIRM 4 Attorneys for Plaintiffs 5 2811 Sykes Court 6 Santa Clara, California 95051 7 BY: JACK FITZGERALD, ESQ. 8 9 BY: GREGORY WESTON, ESQ. 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p> <p>ALSO PRESENT:</p> <p>BETH M. KOTRAN, ESQ. FERRERO</p>
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<p>1 CONFIDENTIAL - KREILMANN 2 BERNARD F. KREILMANN, C. F. O., 3 (Ferrero Business Address) 600 Cottontail 4 Lane, Somerset, New Jersey 08873, called as 5 a witness, having been duly sworn by a 6 Notary Public, was examined and testified as 7 follows: 8 EXAMINATION BY 9 BY MR. FITZGERALD: 10 Q. Good morning, Mr. Kreilmann. 11 A. Good morning. 12 Q. Am I saying that right -- 13 A. Yes. 14 Q. -- Kreilmann? 15 A. Perfect. 16 MR. BISH: Should we introduce 17 ourselves for the record. 18 MR. FITZGERALD: Sure, let's make 19 appearances. 20 Jack Fitzgerald and Gregory Weston of The 21 Weston Firm on behalf of Plaintiffs. 22 MR. BISH: Dale Bish, Wilson Sonsini, 23 for Ferrero U.S.A. 24 MS. KOTRAN: Beth Kotran, legal 25 counsel for Ferrero U.S.A. in-house.</p>	<p>1 CONFIDENTIAL - KREILMANN 2 THE WITNESS: And Bernard Kreilmann, 3 Chief Executive Officer, for Ferrero U.S.A. 4 Q. Mr. Kreilmann, have you ever been 5 deposited before? 6 A. Once. 7 Q. When was that? 8 A. In 2001. 9 Q. So it's been a while? 10 A. It's been a while. 11 Q. Okay. Well, I'm sure you had some 12 discussions with your attorney about how today is 13 going to go and you had some experience from 14 doing it ten years ago. So you know that I'm 15 going to ask you questions today and you have to 16 answer under oath? 17 A. Yes. 18 Q. Okay. Is there any physical or 19 medical reason you can't give your best testimony 20 today? 21 A. No. 22 Q. Was that a no? 23 A. It was a no. 24 Q. Okay. So, actually, as another 25 reminder --</p>

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 2 that?
 3 A. Yes, I see that.
 4 Q. What facilities are in Toronto?
 5 A. To my knowledge, the entity of
 6 Toronto is administration, marketing and sales
 7 entity.
 8 Q. Is the Brantford facilities, is that,
 9 also, Ferrero Canada LTD?
 10 A. I am not sure. I don't know the
 11 corporate structure of Ferrero Canada LTD.
 12 Q. If you wanted to find out, what would
 13 you do?
 14 A. I would ask the COO of Ferrero
 15 Canada.
 16 Q. And who is that?
 17 A. Allen Cosman.
 18 Q. Can you spell the last name for the
 19 court reporter.
 20 A. C-O-S-M-A-N.
 21 Q. Thank you.
 22 In Paragraph 5 you say That, "Nutella is
 23 distributed in the United States using
 24 third-party distributors at various facilities
 25 including one that's located in Ontario,

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 2 Q. Okay.
 3 A. -- for us.
 4 Q. What's the distinction you draw
 5 between that and being a distributorship?
 6 A. That they have -- for me a
 7 distributor is also responsible for selling in
 8 all terms. This is not the responsibility of
 9 this warehouse. This warehouse is only managing
 10 the floor of goods.
 11 Q. I see.
 12 So Ferrero makes the sale and then
 13 forwards the purchase orders to Aspen who then
 14 does the shipping?
 15 A. Deploy, exactly.
 16 Q. And what region does Aspen cover in
 17 terms of shipping?
 18 A. Precisely, I can't tell. But I would
 19 say most of the West Coast and all the way down
 20 to the Rockies.
 21 Q. Before Ferrero was using Aspen for
 22 that function, who was it using to supply to ship
 23 products to that region?
 24 A. We were -- we had the global logistic
 25 contract with the company OHL.

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 2 California." Do you see that?
 3 A. Yes.
 4 Q. Okay. What is the name of the
 5 distributorship located in Ontario, California?
 6 A. It's Aspen Warehouse.
 7 Q. Aspen Warehouse?
 8 A. Aspen, A-S-P-E-N, like the ski
 9 resort.
 10 Q. Like in Colorado?
 11 A. Yes. But that has been a recent
 12 choice.
 13 Q. How long have you been using them?
 14 A. The contract, to my knowledge, is
 15 within the last six months.
 16 Q. Before Aspen Warehouse -- well, let
 17 me back up. Let me strike that and let me back
 18 up.
 19 Aspen Warehouse is a distributorship,
 20 correct?
 21 A. No, it's what we call a 3PL.
 22 Q. Excuse me?
 23 A. A 3PL, which is a public warehouse.
 24 So it perform activities of warehousing and
 25 shipping --

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 2 Q. Does that stand for something that
 3 you know?
 4 A. Osborn and then something.
 5 Q. Okay.
 6 A. And so they were -- we were in
 7 contract with OHL and they were performing this
 8 activity for us in California.
 9 Q. Okay. Why did that contract end?
 10 A. Because the service that was
 11 performed wasn't satisfactory.
 12 Q. In what respect?
 13 A. The service level, the
 14 responsiveness, the accuracy of the inventory.
 15 We had a list of issues that didn't improve.
 16 Q. When Nutella is being distributed --
 17 well, let me back up.
 18 Nutella is manufactured in Brantford,
 19 Ontario, correct?
 20 A. Correct.
 21 Q. When it's then distributed, does it
 22 go directly from Brantford to your shippers like
 23 Aspen?
 24 A. If it is an order that transit to
 25 this warehouse, it is, from the factory directly

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13 Finally, back to the interrogatory
14 responses, Plaintiff's Exhibit 4, directing your
15 attention to Response No. 4.

16 At the very end of the response, it says,
17 "Ferrero understands that its third-party vendors
18 may contract with other entities for services
19 including Believe Media in Los Angeles with
20 respect to the filming of two television
21 advertisements relating to Nutella." Do you see
22 that?

23 A. Yes.

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