

Excerpts from the Deposition  
of Christopher Scott Bell

August 20, 2009

IN THE UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION  
Civil Action No. 8:08-cv-01227-JSM-MSS

- - - - -x  
KLEIN & HEUCHAN, INC., :  
Plaintiff, :  
vs. :  
COSTAR REALTY INFORMATION, :  
INC., and COSTAR GROUP, :  
INC., :  
Defendants/ :  
Counterclaim-Plaintiffs, :  
vs. :  
SCOTT BELL and :  
KLEIN & HEUCHAN, INC., :  
Counterclaim-Defendants. :  
- - - - -x

ORIGINAL

VIDEOTAPED  
DEPOSITION OF: CHRISTOPHER SCOTT BELL  
DATE: August 20, 2009  
TIME: 9:07 a.m. to 2:14 p.m.  
PLACE: Hill, Ward & Henderson, P.A.  
Bank of America Plaza, Suite 3600  
101 East Kennedy Boulevard  
Tampa, Florida 33602  
REPORTED BY: Jean M. Wilkes, RPR-CP  
Notary Public  
State of Florida at Large

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WILKES PROFESSIONAL REPORTING, INC.  
100 North Tampa Street, Suite 2140  
Tampa, Florida 33602  
(813) 222-8155

1           A.     Approximately somewhere between, like, the  
2     latter part of December, early part of January, of  
3     '06/'07 through -- until now. I'm still -- I still  
4     have my license under their -- with their firm,  
5     still. But I'm, for the most part, just -- you have  
6     to park your license there to maintain an active  
7     status should I ever do come back.

8           Q.     Could you go back?

9           A.     It doesn't look -- probably not as  
10    probable because I am a -- I like my job that I have  
11    now and it's --

12          Q.     Right.

13          A.     -- it's fantastic, so -- the market is not  
14    very well and --

15          Q.     Sure. I guess I meant market issues aside  
16    and employment preference aside, if you decided  
17    tomorrow you wanted to go back, could you?

18          A.     I'm not -- I'm not sure. I'm not sure.

19          Q.     But your license is still parked, you  
20    said, with them?

21          A.     Yeah. It's still parked with Klein, yeah.

22          Q.     So what does that mean, that it's parked  
23    there?

24          A.     It remains active within the Florida Real  
25    Estate Department.

1 Q. Okay.

2 A. So if you go inactive, then you have to  
3 come back and find a new place or whatever and --  
4 you have to kind of start all over again.

5 Q. Okay.

6 A. So most people try and stay active even  
7 though they might not be actively practicing.

8 Q. Is there a cost -- are you aware of a cost  
9 to Klein and -- are you aware of a cost associated  
10 with parking your license?

11 A. No.

12 Q. Where were you employed -- did you say  
13 December, January -- December '06, January '07 --  
14 where were you employed prior to that?

15 A. It was for Coldwell Banker Commercial NRT.

16 Q. And when did you start with them?

17 A. It seems like it was probably September of  
18 '05 through, let's say, November of 2006.

19 Q. So there was a break between when you were  
20 employed by Coldwell Banker and when you moved over?

21 A. For a short period of time -- I guess  
22 it was sort of a break. I was at -- I went up to  
23 F.I. Grey & Son, which is in New Port Richey. And  
24 I hadn't completely made a transition yet, and he --  
25 he asked me if I might be interested.

1 I went up there and checked out the  
2 office a few times and I kind of made my decision  
3 to go with Klein & Heuchan.

4 Q. And prior to Coldwell Banker where were  
5 you employed?

6 A. I worked for a company called Ecolab,  
7 E-c-o-l-a-b.

8 Q. Okay. When did you start with them?

9 A. February 1998 through -- it seems like it  
10 was probably about June of -- what is that? '95.  
11 June, July-ish of '95.

12 Q. June '05?

13 A. '05, yeah. Did I say '95? Yeah.

14 Q. And what sort of job did you have with  
15 Ecolab?

16 A. I was a territory manager for them.

17 Q. What does that mean? What were your job  
18 responsibilities?

19 A. I sold new business to restaurants,  
20 hotels, the hospitality time industry. Ecolab is  
21 an institutional supplier of chemicals, sanitizers.

22 Q. So it was not in the real estate industry?

23 A. No.

24 Q. Okay. So Coldwell Banker was your first  
25 job in the real estate industry?

1 assist the company with being helpful.

2 Q. Can you expand on that a little bit?

3 A. What do you mean?

4 Q. Well, I guess my question is: What do you  
5 mean by "being helpful"?

6 A. Answer telephones, take floor calls, maybe  
7 show another associate's listing if they're not  
8 there.

9 Q. Right. How many agents were in the office  
10 when you were there, approximately?

11 A. I would say 14, 15, possibly. Some came,  
12 some went.

13 Q. Were they all in the same area -- did they  
14 all handle commercial realty?

15 A. Yes.

16 Q. Okay. Who are the owners of  
17 Klein & Heuchan?

18 A. Mark Klein and Steve Klein.

19 Q. Were you aware -- you said you left  
20 Klein & Heuchan in -- effectively in August 2008.  
21 Is that correct?

22 A. Yes.

23 Q. Okay. Are you aware -- were you aware of  
24 the existence of this lawsuit at that time?

25 A. Yes.

1 your thing say?" -- dah, dah, dah.

2 Q. "Your thing" being CoStar?

3 A. Yes.

4 Q. So they would ask you to perform searches  
5 on CoStar's --

6 A. On a few occasions, yes.

7 Q. So they knew you had access to CoStar?

8 A. Yes.

9 Q. Do you know when they became aware that  
10 you had access to CoStar?

11 A. I want to say it was probably a couple of  
12 months after I joined, a few months after.

13 Q. How did they become aware?

14 A. I had shown them an office report, and  
15 that's -- that's how.

16 Q. And then they -- did they ask you if you  
17 had access?

18 A. Yeah, they -- they -- he did ask me. He  
19 said, you know, "Where -- how are you using that?"  
20 And I said, "Well, they -- we got a subscription  
21 from -- I had a subscription bought from -- while I  
22 was at Coldwell Banker."

23 Q. Do you know if Mark -- was that discussion  
24 with Mark Klein or with Scott Klein or with both?

25 A. It was with Mark and Steve.

1 a few times and just weren't -- they didn't -- they  
2 didn't see a value in it, I think is exactly what  
3 Mark's words were.

4 Q. But they did ask you to run reports on  
5 occasion and to conduct research?

6 A. They would ask me to -- yes. They would  
7 ask me to look at a property or something like that  
8 and see if there -- the information that was there.

9 Q. Did you use the CoStar services --  
10 did you access the CoStar services during your  
11 employment with Klein & Heuchan on the premises  
12 of Klein & Heuchan with their internet access?

13 A. Yes. I used their internet access there.  
14 Right.

15 Q. Did you pay for the internet access?

16 A. No.

17 Q. Who paid for the internet access?

18 A. I'm assuming it would be Klein & Heuchan,  
19 but I -- I'm not . . .

20 Q. Did you have a Klein & Heuchan e-mail  
21 account?

22 A. Yes.

23 Q. Who provided you with that e-mail account?

24 A. Klein & Heuchan.

25 Q. Tell me if you don't follow this. What



1 sort of e-mail account was it from a technical  
2 standpoint? Internet? Server-based? Do you know?

3 A. I don't know.

4 Q. Okay. When you wanted to find your  
5 e-mails, where were they? What sort of program did  
6 you log into?

7 A. It would be Outlook.

8 Q. It was Outlook. Okay.

9 A. Yeah.

10 Q. Is that your copy of Outlook?

11 A. Is what copy?

12 Q. The Outlook that -- the Outlook that you  
13 logged into. Would you log into the network at  
14 Klein & Heuchan and get your e-mails, or how did  
15 you get your e-mails?

16 A. We would have to go in the office and plug  
17 in or we could do it remotely.

18 Q. Okay. So there was a -- to your  
19 understanding, there would be a server or something  
20 like that that had all of your e-mails?

21 A. Yeah.

22 MR. GIBSON: Object to form.

23 Q. Were there any other sorts of computer  
24 programs or databases that were provided to you by  
25 Klein & Heuchan?

1           A.     There was -- there's one. It was the  
2     IMAP, which was another real estate -- it's kind of  
3     a -- more of a residential/a little bit commercial.  
4     That's -- I just remember it being IMAP.

5           Q.     Was the Microsoft Outlook part of an  
6     office suite? Did you have Word and PowerPoint?

7           A.     Did I?

8           Q.     Um-hum.

9           A.     Yeah. I believe so.

10          Q.     And when you -- did you have the ability  
11     to save documents and images and things like that to  
12     somewhere other than your hard drive?

13          A.     There was a -- at Klein & Heuchan there  
14     was a place -- it was called, I think, the EDrive or  
15     the IDrive or something -- where people could store,  
16     like, proposals and things like that, or whatever,  
17     on the server. Yeah.

18          Q.     Did you ever use that drive?

19          A.     Very rarely.

20          Q.     You could log into that drive remotely or  
21     on --

22          A.     No. You had --

23          Q.     Only on site?

24          A.     -- you had to be on the property.

25          Q.     When you wanted to -- could you make photo

1 copies on -- did Klein & Heuchan have a photocopier?

2 A. Yes.

3 Q. They provided it for your use?

4 A. For everyone's use.

5 Q. For everyone's use.

6 A. Yeah.

7 Q. Did it have any notices on it or anything  
8 like that?

9 A. Not that I recall seeing.

10 Q. Did you ever use it to make copies of  
11 CoStar information?

12 A. I think I printed -- because the reports  
13 are so long, I put it -- I think I had made some  
14 copies and used it on the copier, yeah.

15 Q. So you would -- you could e-mail it  
16 directly to that copier? Was it a copier printer?

17 A. No. You'd have to print them out and then  
18 put it through the copier.

19 Q. Okay. Was there a Klein & Heuchan copier  
20 as well?

21 A. Copier, yeah.

22 Q. And a printer?

23 A. They had print -- they had their printers.  
24 We had -- everybody had their own -- everybody had  
25 their own printers, and they had their own printers

1           A.    I assume so.

2           Q.    Did you ever discuss any of these reports  
3 with anyone at Klein & Heuchan?

4           A.    I don't understand.

5           Q.    Did you go over -- ever sit down and go  
6 over one of them with anybody?

7           A.    No.  I mean, they're pretty  
8 self-explanatory.  I don't . . .

9           Q.    Okay.  And how did you come to give these  
10 reports to the various people in the office?  Did  
11 anyone ask for them?

12          A.    I had given them one and then -- I would  
13 say primarily I would offer them to them, yes.

14          Q.    Okay.  So you gave them the first one.  
15 And then after that you would say, "I've got the new  
16 one" or --

17          A.    I don't remember if they asked me for  
18 office report or not.  I, more or less -- it was --  
19 it was a learning experience for everybody, so . . .

20          Q.    Okay.

21                   MR. SAUERS:  I'll mark the next exhibit  
22 as Exhibit 6.

23                           (The document was marked as Bell Exhibit  
24 Number 6 for identification.)

25 BY MR. SAUERS:

1 Q. Have you had a chance to take a look at  
2 that?

3 A. Yes.

4 Q. Is this a document that you obtained from  
5 your computer --

6 A. Yes.

7 Q. -- and produced in this litigation?

8 A. Yes.

9 Q. Can you tell me what it is?

10 A. It is a mini storage site in Pasco County.

11 Q. Okay. And is it a -- is this a printout  
12 from CoStar Comps database?

13 A. Yes.

14 Q. And would you have needed to use your  
15 password to obtain this information?

16 A. Yes.

17 Q. And I see on the bottom right it says what  
18 appears to be a date of January 17th, 2007. Is that  
19 correct?

20 A. Um-hum.

21 Q. Is that the date you would have printed  
22 this out from the database?

23 A. Yep.

24 Q. And that's just shortly after you started  
25 with Klein & Heuchan. Correct?

1 A. Correct.

2 Q. Did you ever provide this to anyone at  
3 Klein & Heuchan?

4 A. No.

5 Q. Anyone else?

6 A. Unh-unh.

7 Q. Okay. Why did you save this particular  
8 document?

9 A. This was a -- I had done a -- when I first  
10 got to Klein & Heuchan, I did a large mail-out for  
11 the Pasco County industrial market.

12 Q. Um-hum.

13 A. And this gentleman called and was in a --  
14 in a mode to possibly list his property.

15 Q. So this gentleman -- the owner of this --  
16 the listed property here?

17 A. Right.

18 Q. Okay. And so after you discussed the  
19 property with him, you went and obtained this  
20 report?

21 A. After?

22 Q. Or before.

23 A. I -- most of what I obtained was from the  
24 -- either the Pinellas Realtor Organization or the  
25 West Pasco -- they have a co-op. And then I used

1           A.     Their database.

2           Q.     And that's based on his prior interaction  
3 with the CoStar database?

4           A.     I think when he -- when the salespeople  
5 had come out and would do a demonstration, and they  
6 showed him all the bells and whistles, it -- it  
7 didn't do anything -- he said -- it didn't do any --  
8 it didn't really serve our market. It didn't do  
9 anything.

10           MR. SAUERS:   Okay. Let's mark the next  
11 exhibit.

12                     (The document was marked as Bell Exhibit  
13 Number 9 for identification.)

14 BY MR. SAUERS:

15           Q.     And, again, take a minute, take a look  
16 through that and let me know when you're ready.  
17 All set?

18           A.     Yeah.

19           Q.     Did you obtain this e-mail and attachment  
20 from your computer?

21           A.     Yes.

22           Q.     And the "from" address is from you. Is  
23 that your e-mail address, "scottbell@kleinand" --

24           A.     Yeah. Uh-huh.

25           Q.     Okay. And, again, "msk" is Mark Klein?

1 A. Yes.

2 Q. And the subject matter is CoStar report.  
3 Is that correct?

4 A. Yes.

5 Q. Okay. And it has a Follow Up Flag of  
6 "Follow up." Is that correct?

7 A. Yes.

8 Q. Okay. And then the text of the e-mail  
9 says, "Here it is. C. Scott Bell."

10 A. Um-hum.

11 Q. What is "it"?

12 A. It looks like it's a number of office  
13 buildings that are in the -- down in this corridor  
14 where we're at here, downtown Tampa.

15 Q. Okay. Is this a report that you would  
16 have obtained from the CoStar database?

17 A. Yes.

18 Q. And the text of your e-mail is, "Here it  
19 is." Is that in response to something? Is your  
20 statement in response to a prior statement?

21 A. Well, this is about the time -- I was -- I  
22 was gathering a lot of data on my own. And at this  
23 time of the year is around August of '07. I was  
24 doing a lot of research in the office market in  
25 Tampa. And Mark had -- Mark, and I think Steve,



1 were working on some project where they were trying  
2 -- they were assisting a group. They were acting as  
3 a -- not a broker but as an information-type -- they  
4 were providing help to somebody else that was  
5 looking to maybe buy an office building in the  
6 metropolitan area.

7 Q. So consulting?

8 A. Consulting. That's the word.

9 Q. And so your e-mail stating "Here it is" --

10 A. Um-hum.

11 Q. -- is this in response to a request from  
12 Mark Klein to work as part of that consulting work?

13 A. Mark was -- had asked me what he -- what  
14 -- based on all the research I was doing, what kind  
15 of rents were we really seeing out there because  
16 that drives the property value. So these -- I just  
17 sent him this and he could take a look at it. I  
18 didn't know if it helped him or not.

19 Q. Okay. And then you have it marked as  
20 "Follow Up Flag: Follow up."

21 A. Uh-huh.

22 Q. Why would you have done that?

23 A. When I was going through all my archived  
24 e-mails, I flagged all the ones that I needed to  
25 prepare for the deposition.

1 A. Yes.

2 Q. And is that Steven Klein, one of the  
3 principals?

4 A. Yes.

5 Q. And the text of the e-mail is "Office  
6 report document."

7 A. Um-hum.

8 Q. And is that referring to the attachment  
9 here?

10 A. Yes.

11 Q. Okay. Did you obtain this attachment from  
12 the CoStar database pursuant to your password?

13 A. Yes.

14 Q. Okay. And this office report is different  
15 than the other ones. Am I correct?

16 A. I don't know. We'll have to see.

17 Q. Let's see. I believe the others were all  
18 from 2007.

19 A. Yes. The other ones were from '07. This  
20 is from '06.

21 Q. Okay. So this is a fourth CoStar report.  
22 Okay.

23 And do you recall the circumstances  
24 surrounding why you gave this report to Mr. Klein?

25 A. I offered this to Steve as a tool to

1 research and provide information to them.

2 Q. And what did -- what did Mr. Klein say  
3 when you offered it to him?

4 A. "Thanks."

5 Q. Did he say, "Yes, I'd like you to send it  
6 to me" or --

7 A. I don't recall.

8 Q. Just "thanks"? So how did you know to  
9 send it to him?

10 A. Like I'd stated earlier, I offered it  
11 to him. Because I -- I would get these and review  
12 them myself. And I said, "I have an office report.  
13 Would you like to take a look?" He said "Thanks."

14 Q. And that's because you thought the reports  
15 might be informative to him?

16 A. Yes. They have a lot of data in them.

17 Q. Okay.

18 MR. SAUERS: Let's mark the next exhibit.

19 (The document was marked as Bell Exhibit  
20 Number 11 for identification.)

21 BY MR. SAUERS:

22 Q. All set?

23 A. Yes.

24 Q. Great. And is this an e-mail and an  
25 attachment that you obtained from your computer?

1           A.     It looks that way.

2                     MR. SAUERS:   Okay.   Let's move on to the  
3 next exhibit.

4                     (The document was marked as Bell Exhibit  
5 Number 12 for identification.)

6 BY MR. SAUERS:

7           Q.     Have you had a chance to take a look?

8           A.     Yes.

9           Q.     Is this an e-mail from your  
10 Klein & Heuchan e-mail account?

11          A.     Yes.

12          Q.     And it's to csduncan@tampabay.rr.com.  
13 Is that correct?

14          A.     Yes.

15          Q.     Do you know who that is?

16          A.     That is Carol Duncan, works for  
17 Klein & Heuchan.  She's an administrative assistant.

18          Q.     Not an agent?

19          A.     No.

20          Q.     And is her office at Klein & Heuchan's  
21 offices?

22          A.     Yes.

23          Q.     And the subject is "OneClick.aspx floor  
24 plan."  And then there's a link below.

25          A.     Um-hum.

1 Q. What is that link?

2 A. That is a link that CoStar -- I don't  
3 know if it originated from the database or if it was  
4 from CoStar. It was a floor plan for a property.

5 Q. Okay. Are the floor plans from properties  
6 generally available on -- as part of -- when you  
7 had to log in? Could you get pass -- could you get  
8 floor plans for properties from the CoStar database  
9 unless you logged in?

10 A. I don't know.

11 Q. Did you ever get property floor plans  
12 from the CoStar database without logging in?

13 A. I never tried.

14 Q. Okay. Did you get floor plans from the  
15 CoStar database by logging in?

16 A. One time, yeah.

17 Q. Is that this one?

18 A. Yeah. Well, this one actually -- I sent  
19 her the link and she wasn't able to -- it didn't  
20 recognize this link, so it didn't work.

21 Q. Do you have any idea why that might have  
22 been?

23 A. It's -- aspx is OneClick.aspx.

24 Q. Is it possible that Ms. Duncan couldn't  
25 access -- couldn't access the link because she

1           A.     This is a -- looks like an Excel  
2 spreadsheet of proposed and existing office  
3 buildings in Hillsborough County.

4           Q.     And is this a spreadsheet that you  
5 obtained from the CoStar database?

6           A.     Yes.

7           Q.     Okay. And then looking down -- and you  
8 obtained it from the CoStar database using your  
9 password. Is that correct?

10          A.     Yes.

11          Q.     And then looking down below that, there's  
12 an earlier e-mail from Steven Klein to you saying  
13 "Thanks."

14          A.     Um-hum.

15          Q.     And then another e-mail below that that is  
16 from you to Mr. Klein saying, "Steve, Office report  
17 document."

18                   Is that the same chain of e-mails that  
19 are in Exhibit 10, the cover e-mail of Exhibit 10?  
20 Or at least the bottom e-mail is.

21          A.     Yes, it appears so. The times and the  
22 date match.

23          Q.     And so Mr. Klein responded to Exhibit 10  
24 with a follow-up e-mail that said "Thanks." Is that  
25 correct then?

1 A. You're on Exhibit -- what number now?

2 Q. Now, I'm back to 13. I'm sort of  
3 jumping --

4 A. Okay. You're on 13?

5 Q. Yes.

6 A. Yeah. I didn't follow you there.

7 Q. Sorry.

8 A. Where are we?

9 Q. We're back on 13, and I'm looking at the  
10 middle e-mail on 13. And it says, "Thanks," and  
11 it's from Steven Klein to you. Is that him saying  
12 "thanks" in response to your sending him the office  
13 report document that is in Exhibit 10?

14 A. That appears to be, yes.

15 Q. Okay. And then the most recent, if you  
16 will, of the e-mails says, "Excel file attached,"  
17 and it's this Excel CoStar spreadsheet.

18 A. Spreadsheet. Um-hum.

19 Q. Why did you send this spreadsheet to  
20 Mr. Klein?

21 A. He was looking for information on office  
22 -- what appears -- it's pretty much in the report  
23 here. He was looking for new and proposed buildings  
24 that were available in Hillsborough County. I'm not  
25 sure what project he was working on. He just asked

1 me for this information.

2 Q. And that was after he sent an -- was that  
3 after he sent you the e-mail saying "Thanks" that he  
4 asked for that information?

5 A. Okay. Could you rephrase that again?

6 Q. Sure. Sure. The e-mail from Steven Klein  
7 to you on April 4, 2007, saying "Thanks" in response  
8 to your sending him the market report, do you see  
9 that?

10 A. Okay. Let's --

11 Q. It's the middle of the three e-mails,  
12 three-part chain on --

13 A. It may have been for both because it looks  
14 like I sent him the spread --

15 Q. That's the next day.

16 A. -- the spreadsheet -- it looks like that  
17 went first and then the report followed behind it.

18 Q. Well, I think actually it's a different  
19 day. Right? It's maybe the next day, April 5th as  
20 opposed to April 4th.

21 A. Oh, okay. Yeah. Okay.

22 Q. Okay.

23 A. That's how it is. I went the other way.  
24 Okay.

25 Q. So the chain was: You sent the office



1 report document on April 4 at 3:39. Mr. Klein said  
2 "Thank you" at 6:23.

3 A. Um-hum.

4 Q. And then the next day you sent him the  
5 Excel sheet. Correct?

6 A. Right.

7 Q. Okay. Did the request for the Excel  
8 spreadsheet come after Mr. Klein had said "Thanks"  
9 to you for the office report document?

10 A. I can't -- I don't remember. If I were  
11 looking at this e-mail, that looks -- that could be  
12 it, but I'm not sure.

13 Q. Okay. But he did specifically ask you for  
14 that report?

15 MR. GIBSON: Object to form.

16 Q. The -- I'm sorry -- the Excel file.

17 A. The Excel file?

18 Q. Yes.

19 A. Yes.

20 Q. Do you know if you had used the CoStar  
21 database in connection with any of the properties  
22 that you sold during your time with Klein & Heuchan?

23 A. The only properties that we -- I sold  
24 during the time at Klein & Heuchan was, we sold  
25 1250 Rogers Street, which is a listing we've