

1 Q Yes.

2 A I don't remember you asking me. I --

3 Q You said you could get us these names.

4 A Okay.

5 Q And you haven't done that, have you?

6 A Just give me a time, and I'll make sure you get
7 the names.

8 Q Well, how about in your deposition, which has
9 been going on for two weeks now? I mean, didn't
10 you understand --

11 A One -- one -- one day.

12 Q No. But you've had --

13 A Let's be -- let's be clear.

14 Q You've had two weeks.

15 A Did you ask me to bring those names back here
16 today?

17 Q I -- I believe that you said you were going to
18 supplement this information.

19 A You didn't say bring them back today, Dave.

20 Q I don't think I did say that. I --

21 A You did not.

22 Q I agree with that.

23 A Yeah.

24 Q But I thought you agreed you were gonna tell us
25 who these people were.

1 A Did you tell me when I needed to get that
2 information back to you? Don't I have a certain
3 amount of time?

4 Q Have you done that yet? Let's just -- let me ask
5 you this question.

6 With respect to the person at the Country
7 Inn & Suites, you can't tell me who that was that
8 was allegedly told these things, correct?

9 A I think we can, yes.

10 Q Well, do it now. Go ahead.

11 A I can't -- I can't -- what do you want me to do,
12 go back to the office right now?

13 Q Can you tell me who that person was at the
14 Country Inn & Suites that was told -- allegedly
15 told these things?

16 A I can give you the -- I can give you probably a
17 few people at the Country Inn that were -- that
18 are on that list that we can choose from. I can
19 probably narrow it down for you.

20 Q Can you tell me the name?

21 A I can't tell you the name.

22 Q Okay. Same question for Paragraph 7. Can you
23 tell me who was told those things?

24 A Same answer.

25 Q Okay. Where is it -- what's the source for the

1 characterizations of the communications in 5, 6,
2 and 7? Is that Lisel?

3 A Yes.

4 Q Okay. And does she have written records of these
5 things?

6 A Well --

7 Q Did I understand you to say you now have written
8 records and now you know about written records
9 when you said before you didn't?

10 A No. That's not necessarily true. Lisel has
11 information. Scott Richgruber has information.
12 He was also at the hotel. He's the one who gave
13 me Scott Esch's name, Eric Esch's name.

14 Q Where is this written information?

15 A We have it back at the office.

16 Q And you haven't given it to us?

17 A No.

18 Q Why not?

19 A Have you -- do we have to? I mean, what are
20 we -- you didn't tell me to bring it.

21 Q Okay. So, but you have written information?

22 A Yes.

23 Q Even though you said last time you didn't, you do
24 have some?

25 A I think what you asked is do I have it personally

1 myself. No, I don't personally have it. Lisel
2 personally has it.

3 Q Okay. And what does she have?

4 A She has -- she has names and investigations that
5 she's -- that she's had in this -- in this
6 investigation on the hotel.

7 Q Have you seen this stuff before?

8 A Have I had it in my hand?

9 Q Yes.

10 A Yes. I have had it in my hand.

11 Q Okay. What's it look like?

12 A It looks like a piece of paper with information
13 written on it.

14 Q Is it handwriting or typed?

15 A It's handwriting.

16 Q Whose handwriting is it?

17 A Hers.

18 Q How many pages?

19 A I don't know. Probably three pages.

20 Q Does it say the name of the hotel person she was
21 talking to?

22 A I'm sure it does identify them. How else would
23 we get the names?

24 Q And, yet, you don't think you need to tell us
25 that in your Interrogatory Answers?

1 A I think if you give us enough time here, I think
2 we can get that information back to you.

3 Q Well, why are you hiding the names of these
4 people?

5 A Not trying to hide the names.

6 Q So, you do have written records. Forest River
7 has written records of what was said by these --
8 by these hotel employees, correct?

9 A Yes. That is correct.

10 Q And you've not -- you've refused to provide them
11 to us so far; is that right?

12 A We haven't been asked, "Bring them at this date,"
13 Dave.

14 Q Okay. So, that's your excuse? You just haven't
15 been asked?

16 A Not an excuse. It's just you didn't say bring
17 them.

18 Q And last time when I --

19 A If you would've --

20 Q When I asked you in your deposition before about
21 written records, you thought I was asking you
22 personally?

23 A Yeah. I didn't have them in my personal --

24 Q And, so, if you didn't have them in your hands,
25 you didn't have to respond?

1 A Exactly.

2 Q I see. You understood, though, that you were
3 speaking for Forest River, its representative in
4 this deposition. You recall testifying to that,
5 don't you?

6 A I do remember that I am the -- the person. That
7 is correct.

8 Q Okay. Well, what is -- tell me -- do you
9 remember what any of these records that Lisel's
10 got -- what do they say specifically?

11 A It basically just gives you the information that
12 we put in our Interrogatory Answers, is that
13 these people were misled by people from Heartland
14 on information that's not accurate.

15 Q Okay. Well, like Number 6, "Misled the
16 receptionist at Country Inn & Suites," that's
17 what you say.

18 A Uh-huh.

19 Q "Into thinking the packages were to go along with
20 the Forest River party in part by his mannerisms
21 and in part by having the specific dealer's name
22 on the cover."

23 What's -- what's misleading about that?

24 A Well, it's easy to have the dealer's name on the
25 cover, Dave. They stole our dealer list. They

1 got our dealer list from a -- from a third party.

2 Q Well, what's misleading about that?

3 A They made it sound like they were from Forest
4 River. Hey, here's -- this dealer's here. He's
5 got his name on the dealer pack. He's staying at
6 the hotel. Put one and one together. Oh, okay.
7 Yeah. Yep. Okay. What do you think they're
8 gonna do?

9 These people don't know. They don't know
10 if that's a division of Forest River. They don't
11 know if it's a different company. They don't
12 know. They played on their -- their innocence.

13 Q Okay. So, what -- can you tell any specific
14 statements that anybody from Heartland made to
15 any hotel person?

16 A I -- obviously, I wasn't was not there.

17 Q Right.

18 A We're going off of the investigation work, the
19 investigation work that we did after going to the
20 hotels --

21 Q Okay.

22 A -- to get information.

23 Q But tell me what -- tell me what you believe was
24 said.

25 A This is what we told you we believe was said,

1 right here, 5, 6, 7.

2 Q Is there anything else?

3 A You're only asking me 5, 6, 7. I'm only saying
4 5, 6, 7.

5 Q Well, let me ask you this. Do you have records
6 of what was said at every one of the hotels?

7 A She may have more records than -- than these that
8 are identified here. I don't know. We'd have to
9 go back through and look at them.

10 Q So, for example, if somebody was staying at the
11 Varsity Club, you can't sit here and tell us what
12 was said to them, right?

13 A Not right here, not right now, no.

14 Q Okay. But you understood this was one of the
15 topics for your deposition, didn't you, what
16 happened in the hotel incident, what was said,
17 all those things?

18 A We gave you -- we gave you plenty of information
19 there, what was said.

20 Q Well, no, you didn't. All you gave us was these
21 Interrogatory Answers and talk to Lisel.

22 A Yeah.

23 Q That's all you have?

24 A That's all I have here today.

25 Q All right. Who made -- can you tell me who from

1 Heartland was at the Hyatt Place?

2 A I don't know which guy was identified there.

3 Q Okay. But you --

4 A No. But I do know we can identify him.

5 Q Okay. How are you gonna do that?

6 A Well, we got a picture of him at the front desk.

7 Q So, you got that from the Hyatt?

8 A Yes, we did.

9 Q Okay. And who was at the Country Inn & Suites?

10 A Again, we're gonna have to go off the tape.

11 Q Okay. And who was at the Residence Inn?

12 A Off the tape.

13 Q Would it be the same answer if I asked you any of
14 the other hotels?

15 A I'm sure it would be.

16 Q Okay. In Number 6, you say he misled the
17 receptionist in part by his mannerisms and in
18 part by having the specific dealer's name on the
19 cover and asking for a call back to pick up the
20 undeliverable packages.

21 What else did he do that was misleading?

22 A I think the only thing I can speak for is what we
23 put down here in the Interrogatories.

24 Q Okay. And there's nothing misleading about any
25 of that, is there?

1 A Well, he made it sound like, hey, you know, he
2 had the dealer's name on there. He said, "Hey,
3 you know, I gotta get these things to the party,
4 the Forest River party, and I gotta get this
5 material out."

6 What is she to assume? She made -- she did
7 it on an assumption. She assumed that he was
8 from Forest River, thought he had to have this
9 information.

10 Q Why do you -- why do you believe she assumed he
11 was from Forest River?

12 A Well, he was there. He had packets. He made
13 it -- he made it -- made it sound as if he worked
14 for Forest River.

15 Q What did he do that made it sound as if he worked
16 for Forest River?

17 A I mean, the Heartland -- they were from Forest
18 River, needed to be delivered right away.

19 Q I want you to tell me specifically, as
20 specifically as you can, what anybody from
21 Heartland did to indicate they were from Forest
22 River.

23 A The receptionists at the hotel --

24 Q Yeah.

25 A -- in our investigation said they said they were

1 from Forest River and they need to get these
2 packets. That's what it says here. That's what
3 they told them.

4 Q And which hotel did that happen at?

5 A The Hyatt.

6 Q Okay. And you don't know if it happened at any
7 of the others, correct?

8 A I think the County Inn & Suites. Says here
9 Heartland misled the receptionist at the Country
10 Inn into thinking the packages were to go along
11 with the Forest River party in part by his
12 mannerisms and by having the specific dealer's
13 name on the cover and asking for them to call --
14 call back and pick up the undeliverable packages.

15 Q Okay. So, at the Country Inn & Suites, no one
16 said, "I'm from Forest River," correct?

17 A I guess she was playing off of his mannerisms,
18 what he did to make her --

19 Q You need to answer my question. At the Country
20 Inn & Suites, did somebody say, "I'm from Forest
21 River."?

22 A I think she was -- she made -- she made us feel
23 that -- that he made her feel that he was with
24 Forest River.

25 Q No. He had material -- he said he had materials

1 and he wanted them to be delivered to the guests,
2 right?

3 A Uh-huh.

4 Q Is that your basis for your statement that he
5 said he was from Forest River or he indicated he
6 was from Forest River?

7 A It said the mannerisms. Now, exactly what --
8 what he did is, "I gotta get these to the RV -- I
9 gotta get these to the -- I gotta get these to
10 the dealers here for the show."

11 He had -- they had their name -- he had
12 their names on there. They knew they were RV
13 dealers.

14 Q But what's --

15 A That's an assumption.

16 Q That's true, isn't it? Those were RV dealers.
17 They did have their names on the envelope.
18 Correct?

19 A That is correct.

20 Q That was all true, wasn't it?

21 A That they are dealers and they had names on it,
22 yes, that's correct.

23 Q And the Heart -- and Heartland's all over -- all
24 over the envelopes, too, isn't it?

25 A Heartland could be a division of Forest River.

1 Q That's not what I asked you. You need to answer
2 my questions.

3 A Well, you're --

4 Q Is Heartland on the envelopes that were
5 delivered?

6 A I believe that Heartland's name is on the
7 envelope.

8 Q Okay. On all of them that you saw, right?

9 A I only saw the one that we turned over. Yes.

10 Q Can you tell me, at any of the hotels, other than
11 the Hyatt, did anybody say they were from Forest
12 River or is this all just implied?

13 A Obviously, the Hyatt said -- receptionist said
14 that they were from Forest River. The
15 Heartland -- the receptionist at the Country Inn
16 & Suites said the mannerisms. She thought they
17 were from -- from -- from --

18 Q Mr. Babcock, we're gonna be here forever. You
19 need to listen to my questions and answer them,
20 okay? I'm asking you a very specific question.

21 A I got all day, Dave. I can go through this thing
22 as slow as I want.

23 Q That's -- that's right. But you need to listen
24 to what I'm trying to ask you, a very specific
25 question.

1 Did somebody tell a hotel employee other
2 than at the Hyatt that they were from Forest
3 River?

4 A I'm just checking to make sure. I want to make
5 sure I give you the right answer.

6 Q Fair enough.

7 A I don't want to get played on words here.

8 Q I don't -- and I want you to give me the answer
9 that you have. Exactly.

10 A That is correct.

11 Q Okay. So, it's only the Hyatt where somebody
12 came in and said, "I'm from Forest River."?

13 A That is correct.

14 Q Okay. Now, these hotel employees, all the
15 communications you're talking about was with the
16 receptionists; is that -- is that right?

17 A Yes.

18 Q Okay. And then these packets of material were
19 just delivered to the dealers; is that right?

20 A Who delivered them?

21 Q The hotel employees.

22 A I'm assuming that they had their names on them.
23 They -- they delivered them. I don't think they
24 let them go back. I mean, maybe they did. I
25 don't -- I don't know specifically how they got

1 A The ones that received the packets.

2 Q Okay. And who was -- which ones are those?

3 A I can't tell you which ones. I don't know which
4 ones Keystone -- I mean, Heartland put under
5 which doors.

6 Q Okay. And did you talk to any of yours dealers?

7 Last time, you said you were gonna perhaps
8 do that and get the names of the dealers that you
9 believe may have bought product from Heartland as
10 a result of this hotel incident. Did you do
11 that?

12 A Over the last two weeks, no, we have not done
13 that.

14 Q Okay. And you didn't talk to any of your
15 dealers?

16 A We did. We --

17 Q About the hotel incident, I mean.

18 A We did not talk about this whole incident
19 whatsoever.

20 Q And why not?

21 A We were busy with our own Forest River trade show
22 at the time and not gonna waste time on talking
23 about that in the past.

24 Q And you said you talked to the Loveall's people
25 or not about the hotel incident?

1 Put that together with the fact that in the
2 deposition out at Catterton that they did say
3 that they did not make money on those trailers.
4 Specifically how much, I'm not privileged to
5 that. But they did say that those trailers were
6 losers as far as profit goes.

7 So, that's why if I was a dealer and I could
8 buy a trailer the same length, same options, same
9 size, apples for apples comparisons, for \$3,000
10 less, why wouldn't you?

11 Q So, you believe -- your information is that the
12 reason Loveall's bought Heartland's products is
13 because the prices were very -- very good; is
14 that right?

15 A Yes. I do believe that's a big part of it, yes.

16 Q Any other reasons why they bought them?

17 A Price.

18 Q Okay. And price is what we just talked about,
19 right?

20 A Price is what we just talked about, price value.

21 Q And you seem to think there's something
22 inherently wrong with discounting to gain market
23 share. Is that -- is that your opinion?

24 A I think that when they're trying to discount and
25 not make profit on it on an ongoing basis

1 underneath the door if they weren't trying to get
2 them to come over?

3 Q Do dealers buy inventory as a result of
4 promotional information?

5 A Yes. Dealers buy because of promotional
6 information.

7 Q Okay. So, it's your testimony that if a dealer
8 would receive a packet of information, that's all
9 you have to do to sell them additional inventory;
10 is that right?

11 A No. That's not all you have to do.

12 Q Okay. What else do you have to do?

13 A You gotta sell them on the product.

14 Q You have to talk to them, right?

15 A You have to talk to the dealer. You have to go
16 through the product. You have to feature benefit
17 the product. You gotta convince that dealer that
18 the product you have sitting in front of him is
19 gonna make him money on his lot.

20 Q And that's what you do when you have these
21 meetings; is that right?

22 A That's what you do every day in the sales world,
23 convince a dealer he can make money on our stuff.

24 Q And the brochure itself doesn't do any of that.
25 It just -- it's just a tool to help, right?

1 A The brochure can be a powerful thing. People
2 read it. And just like anything else; you hear
3 it on the news, you believe it's true. If you
4 read it, you believe it's true.

5 Q And these packets of information that was in the
6 envelopes, all of that was provided to dealers;
7 is that right?

8 And there was no consumers at this show?
9 There was all dealers; is that right?

10 A I think sometimes the -- the packets -- the
11 information they put in those packets is some of
12 the same information they post on the internet,
13 which is very misleading.

14 Q Well, let's back up a step. I'm trying to
15 understand what -- your understanding of the
16 facts.

17 A Uh-huh.

18 Q And the people that were at your show --

19 A Uh-huh.

20 Q -- and the ones that you say got these packets of
21 information --

22 A Uh-huh.

23 Q -- those folks were all dealers, correct?

24 A Yes. They were all dealers.

25 Q Okay. And dealers, of course, are aware that

1 Heartland is not a division of Forest River; is
2 that true?

3 A Dealers know that Heartland's not --

4 Q Right.

5 A -- part of Forest River. But the hotel people
6 may not know that.

7 Q Okay. So, when the dealers got these packages of
8 information, they all knew it was from Heartland
9 and not from Forest River, correct?

10 A That is correct.

11 Q Okay. And the dealers get lots of promotional
12 information like this, don't they?

13 A I don't know.

14 Q Well, you provide it to them, don't you?

15 A If a dealer -- if we send out a dealer pack to
16 that dealer, we usually -- before we would send
17 out a price sheet and a brochure, we would
18 certainly have a conversation with that dealer,
19 know who we're sending -- we just don't send out
20 packets of information without knowing who we're
21 sending it to and why we're sending it to them.

22 Q Okay. And I -- I don't think that's responsive
23 to my question.

24 It's a normal business practice at Forest
25 River to send brochures and packages of

1 A What else?

2 Q Non-competes, goodwill, those kind of things.

3 A Well, goodwill's one.

4 Q How about trade names? Do you depreciate those?

5 A That's more on the accounting side, Dave, than
6 the sales side.

7 Q Do you -- does that mean you don't know?

8 A I don't know.

9 Q Okay. Have you ever valued a trade name or seen
10 a valuation of a trade name?

11 A No.

12 Q Okay. Did you contact -- I think I may have
13 asked this. I apologize if I did.

14 When we last met, you had said you hadn't
15 talked to any of the dealers about whether or not
16 they went over to Heartland or bought Heartland
17 products.

18 Is that still the case? You've still not
19 talked to any of your dealers?

20 A Yeah. I think we talked about that this morning.
21 No, I haven't talked to -- I've talked to our
22 dealers, but I haven't talked to them
23 specifically about that.

24 Q Right. You haven't asked them, "Hey, did you go
25 over to Heartland and buy Heartland product," or

1 anything like that?

2 A Not this time.

3 Q Okay. But not ever, right?

4 A No. We haven't talked about this last year's
5 incident, not at this last event we just had.

6 Q I want to make sure I understand something. Are
7 there two people named Richgruber in this case?

8 A I think they have -- I think there's people who
9 have very similar names. Are they identical? I
10 don't know. They sound identical; but I think
11 there might be something left out in the last
12 name.

13 Q Well, was one of them Scott? Is that right?

14 A Scott Richgruber --

15 Q And who is he?

16 A -- works for us.

17 Q Okay.

18 A He's a sales guy --

19 Q And --

20 A -- who got a packet underneath his door.

21 Q And how did he happen to get a packet under his
22 door?

23 A Your client put it underneath there.

24 Q Because his name was on it?

25 A Was what?

1 A Yeah. It's somewhere around here in a deposition
2 somewhere.

3 Q And have you contacted the two new dealers?

4 A No.

5 Q Why not?

6 A Why should we?

7 Q Because you're supposed to prove that somehow our
8 conduct caused you to lose sales.

9 A I want to get all the information. I want to do
10 it all at once. I want to see all the dealers
11 you signed up and do it -- why do I want to do it
12 twice?

13 Let me have all the information. We've been
14 trying to get the information. You're not giving
15 it to us.

16 Q Who's telling you we're not giving it to you?

17 A Our attorney.

18 Q Okay. What dealers do you think we signed up we
19 didn't tell you about?

20 A What about the five that are scratched off? What
21 about the five -- the dealer numbers that they
22 had scratched off the five -- they only gave us
23 two. It was a huge success. Brian Brady said it
24 himself. He was surprised. He was amazed. Is
25 that two?