

# EXHIBIT Y4

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UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND  
Civil Action No. 8:07-CV-02612

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EQUAL EMPLOYMENT OPPORTUNITY COMMISSION \*  
Plaintiff, \*  
Vs. \*  
BLOCKBUSTER, INC., \*  
Defendant. \*  
\*\*\*\*\*

DEPOSITION OF CYNTHIA ANN WALES BROWN  
STURBRIDGE HOST HOTEL & CONFERENCE CENTER  
366 Main Street  
Sturbridge, Massachusetts  
September 23, 2008  
9:45 a.m.

Job No.: 24-138454  
Total pages: 1-242  
Reported by: Dawn L. Halcisak, Certified Shorthand Reporter

1 prior to your transferring there?

2 A. I believe it was two years, but I'm  
3 not sure about that.

4 Q. All right. By the time you  
5 transferred there in September of 2004, was the  
6 Blockbuster contract -- strike that.

7 Did Express already have a  
8 contractual relationship with Venturi to staff  
9 the Gaithersburg facility of Blockbuster?

10 A. No, not to my knowledge.

11 Q. What position were you hired into  
12 at Express in Timonim?

13 A. As manager.

14 Q. And what were your responsibilities  
15 as manager?

16 A. To hire and train inside staff, as  
17 well as to oversee the larger accounts, to do  
18 some sales and oversee the advertising and  
19 recruiting of personnel to fill the positions.

20 I also did some collections, later;  
21 not earlier, but later on. That's pretty much  
22 generally --

1 basically. So -- and I was not to hire the  
2 manager either. Blockbuster also did that.

3 Q. Once the distribution clerks or  
4 warehouse workers were hired, did they go  
5 through any type of orientation or training for  
6 the work at Blockbuster?

7 A. All of the orientation and training  
8 was done at the facility by Linc Barrett and the  
9 leads.

10 Q. And do you know what types of  
11 things were covered in the orientation and  
12 training that was done by Linc Barrett and the  
13 leads?

14 A. I know vaguely, because I was not  
15 present for those. I know that they were told  
16 what was expected of them, as far as the hours  
17 that they would be working, the need to be  
18 flexible for any overtime work when there was a  
19 high volume of the discs that had to be sent  
20 out, and that they would be trained on various  
21 parts of the process so that they would be able  
22 to do more than just one part of the process.

1 They could be interchanged as the need arose.

2 Q. Did Express provide the  
3 distribution clerks and warehouse workers with  
4 any type of employee handbook?

5 A. Yes.

6 Q. Was there any training or  
7 orientation given by Express to the warehouse  
8 workers and distribution clerks about the things  
9 in the employee handbook?

10 A. That was reviewed with them, by  
11 myself, during the time that they registered,  
12 which was the process being that they would fill  
13 out the application with myself being present,  
14 at that time, at the facility.

15 We would have a separate room that  
16 they would come into and fill out the  
17 application, and then I would meet with them, on  
18 a one-on-one basis, and go through the  
19 application and the handbook.

20 Q. And, in terms of going through the  
21 handbook with them, I mean, how much time would  
22 you spend in going through the handbook with

1       them?

2               A.       I would say the whole process with  
3       reviewing the application and going through the  
4       handbook and doing the I9s would be  
5       approximately 20 minutes to maybe a half an  
6       hour, but closer to 20 minutes.

7               Q.       And did the handbook contain any  
8       type of sexual harassment policy or equal  
9       employment policy?

10              A.       Yes.  It had a whole section on it.

11              Q.       And did you go over that section  
12       with new-hires?

13              A.       I did.

14              Q.       And generally, what would you tell  
15       them about that?

16              A.       I would tell them if there were any  
17       type of discriminatory actions or remarks that  
18       they observed that they were to report it to me  
19       immediately, and that I would deal with it with  
20       them.

21                      MR. SPEIGHTS:  Please mark this for  
22       me.

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(Exhibit 2, Express Personnel Handbook, marked)

Q. (By Mr. Speights) Ms. Brown, I'm just showing you what has been marked as deposition Exhibit 2. Is this a copy of the Express Handbook that you were just testifying about?

A. Yes, it is.

Q. Okay. If you'll turn to page 3, I think it's E.E.O.C. 00169 at the bottom?

A. Okay. Yes.

Q. The top of that page, is that the sexual harassment policy that you would go over with the new-hires?

A. Yes.

Q. Did you ever, during those new-hire meetings, did you ever direct any of them to contact Blockbuster management if they had any complaints of sexual harassment?

A. No, I did not.

1 Q. And why is that?

2 A. Because they were the employees of  
3 Express Personnel. We were their employer.

4 Q. I'm going ask you a few questions  
5 about your practice once a complaint was made by  
6 an associate.

7 If you had a complaint -- and we'll  
8 get into some of those a little later in the  
9 deposition -- from an associates at the  
10 Blockbuster facility, what was your procedure  
11 for dealing with that complaint?

12 A. I would either take the complaint  
13 over the phone or I would meet with them, if  
14 possible. I would meet with the individual and  
15 write down whatever they told me. I would,  
16 also, ask them to make a statement, write down a  
17 statement, that I would have for the record. I,  
18 then, would forward that statement to Venturi,  
19 because, as a subcontractor, part of the  
20 agreement was that we would process anything  
21 through Venturi. We would not go directly to  
22 Blockbuster.



1 Q. Okay. Were there associates at the  
2 Blockbuster facility in Gaithersburg who were  
3 hired directly by Blockbuster?

4 A. They weren't hired by Blockbuster,  
5 because we were the hiring employer. But they  
6 were -- I would get a call from Linc Barrett  
7 saying so-and-so has done a great job and she  
8 says or he says that his cousin has done the  
9 same type of work and I'd like to have you  
10 interview that particular person when you come  
11 down.

12 I would always do a phone interview  
13 to begin with and then followed up by an  
14 interview at the facility, and at the time that  
15 they made application. It was not a "given"  
16 that they would have the job, anybody that I was  
17 recruiting would have the job until I spoke with  
18 them, interviewed them, looking for a certain  
19 background experience or just an attitude that I  
20 knew they would work well with the team and be  
21 able to do the job.

22 Q. All right. Now, you testified

1 associate at the Gaithersburg facility?

2 A. Michelle Desperтт, she also was  
3 discharged. And the -- again, the reasons for  
4 the discharge were that they either did not --  
5 they weren't making the numbers or because of  
6 tardies or absences, that type of thing,  
7 excessive.

8 Q. Okay.

9 A. And following her discharge, she  
10 had sent me an e-mail saying that she felt she  
11 had been sexually harassed and that was one of  
12 the reasons that she was let go.

13 Q. And do you recall, without looking  
14 at any documents, the time period for that  
15 complaint?

16 A. I have the document here, but I  
17 can't recall, off the top, no.

18 Q. All right. When was the first time  
19 you heard of a complaint of either race or  
20 national origin, discrimination, from an  
21 associate at the Gaithersburg facility?

22 A. You know, again, because it was

1 three years ago, and this is only one of my many  
2 clients, it's difficult for me, unless I look  
3 back at the notes and at the log here, to know  
4 exactly when it was. But I would say we began  
5 staffing in November of 2004, and I would say by  
6 February of -- February, the middle of February,  
7 perhaps, I started hearing some things,  
8 but -- but --

9 Q. Go ahead.

10 A. But when I would go down to the  
11 Gaithersburg facility, I found that people were  
12 very afraid to speak out. And I had a very  
13 difficult time even getting them to tell me  
14 something verbally, never mind writing it down,  
15 which I insisted that they do. So, you know, I  
16 can't tell you. I just don't know the dates. I  
17 would say February.

18 Q. All right. And when you first  
19 started hearing something, which you're  
20 describing as complaints, did you let Ms. Davis  
21 know?

22 A. Yes. Every word.

1 Q. So if you heard the complaints in  
2 mid-February, 2005, you would have let her know  
3 at that time?

4 A. Absolutely.

5 Q. Take a look at page 9 of this log.  
6 It's E.E.O.C. 00057.

7 A. Yes.

8 Q. And if you'll look at the entry for  
9 March 7, 2005.

10 A. Okay.

11 Q. Do you see that?

12 A. Yes.

13 Q. And that's says "Spoke with Linc.  
14 Spoke with June Davis and spoke with Scott  
15 Collen re: Sex. harassment charges made by  
16 Michelle Desperrtt."

17 A. Yes.

18 Q. Is that the first time  
19 that -- strike that.

20 Would that have been when you told  
21 Ms. Davis about the Michelle Desperrtt complaint?

22 A. Now, depending on when Michelle

1 made the complaint and, again, I have it here,  
2 and it's in the e-mail. So that the exact date  
3 is whenever that date was, is the date I would  
4 have told June. And I would have sent her a  
5 copy, by the way, of the complaint.

6 Q. All right. We can come back to  
7 that.

8 A. I have that right here.

9 Q. What date was it?

10 A. March 7th. It was March 7th.

11 Q. So March 7th is what appears on  
12 page 9, correct?

13 A. Yes.

14 Q. All right. Take a look at page 8.

15 A. Okay.

16 Q. It's April 15, 2005, the first  
17 entry. Do you see that?

18 A. April --

19 Q. April 15, 2005, "Lincoln Barrett,  
20 Appointment call - CA Brown, Met with new  
21 associates; registered, interviewed them. Met  
22 with Say Wing; she is reluctant to write Sexual

1 Harassment Info cus [sic] doesn't want to lose  
2 her job." Do you see that?

3 A. Yes.

4 Q. What do you recall about meeting  
5 with Say Wing on April 15, 2005?

6 A. Say Wing was one of the best  
7 workers and very fast and very -- she loved her  
8 job, loved her job very much, and was very  
9 afraid she would lose it if she made any  
10 complaints.

11 I had her into my office and I said  
12 to her that I would make sure that she did not  
13 lose her job, because of the complaint, if she  
14 would please write something out. I even asked  
15 her to write it in French. She spoke French,  
16 and that I would have it transcribed to English.  
17 She would not. She refused. She said that she  
18 was afraid that she would lose her job, and I  
19 told her that that was not the case. But she  
20 never would. She never would write anything  
21 down.

22 Q. Going back to the complaint that

1           A.       The e-mail under it is from myself  
2       to June Davis telling her that I had spent the  
3       afternoon on Friday 4/15, sat with Lincoln, with  
4       Linc rather, and spoke with Say Wing and spoke  
5       with Lolita Gonzales, regarding issues that she  
6       and Elizabeth Ledesma alleged, and I included  
7       the notes that she had given me in her  
8       complaint.

9           Q.       Okay. So what appears after "The  
10      following was allegedly spoken by either Todd or  
11      Koffi Tu-Tu" [sic], things that are listed,  
12      those are the things that listed in handwritten  
13      complaint from Lolita Gonzales that we looked at  
14      earlier?

15          A.       That's right.

16          Q.       When you spoke to Say Wing and  
17      Elizabeth Ledesma -- well, let's start with Say  
18      Wing, did she give you any complaints at that  
19      time when you spoke with her?

20          A.       She did.

21          Q.       And what were those complaints?

22          A.       At this time, I would not be able

1 Q. And what is Exhibit 14?

2 A. This is an agenda that I typed up  
3 for the meeting with Barry Francis, the H.R.  
4 director and Scott Collen, prior to our going  
5 into the investigation at Blockbuster.

6 Q. And why was it that there was  
7 decision -- that there would be an investigation  
8 with you, Scott, and Barry Francis in or around  
9 this May, '05 time period?

10 MR. PHILLIPS: Object to the form.  
11 Foundation. Go ahead.

12 THE WITNESS: It was just a  
13 culmination of all of the information that  
14 I had been sending, all along, to Venturi,  
15 which, supposedly, was being sent to  
16 Blockbuster. And we were going to meet, I  
17 believe, on the 12th, but I think we met  
18 the morning of the 13th, at a restaurant  
19 near to the Gaithersburg facility, to go  
20 over this.

21 I had e-mailed Barry some of the  
22 questions that I drew up to ask in the



1 interview. And he had e-mailed me back  
2 and made some changes in those, and -- so  
3 this was the agenda that I wanted to be  
4 discussed prior to our going into the  
5 investigation.

6 No one at the Gaithersburg facility  
7 knew that Barry and Scott were coming  
8 down. They only knew that I was coming  
9 down, as I did often, so...

10 Q. (By Ms. Speights) What was your  
11 understanding of the role of Mr. Francis?

12 A. My understanding was that being the  
13 H.R. person, that he and I were going to be  
14 interviewing each of the employees, the  
15 associates. When we met prior to going into the  
16 facility, Barry had said to me that he wanted me  
17 to be the one to ask the questions since he felt  
18 that they would be more forthcoming, the  
19 associates would be more forthcoming with  
20 someone they knew, as opposed to his coming in  
21 and just asking questions. But that he would --  
22 he would assure them that the information that

1 they give us was not going affect their job and,  
2 I believe, he gave a little spiel concerning the  
3 fact that we wanted them to work safely and we  
4 were getting some complaints that had been made.

5 When we were in the investigation,  
6 however, Barry was the one who did most of the  
7 asking of the questions, even though he had  
8 asked me to do so prior. But as the  
9 conversations would continue with each person,  
10 there would be, I think, more questions raised,  
11 in his mind, that he would then ask, so...

12 Q. (By Ms. Speights) Was there an  
13 agreed upon set of questions that were supposed  
14 to be asked during each interview?

15 A. Yes.

16 Q. Were those questions developed  
17 prior to the meeting that you had with Scott  
18 Collen, Barry, Mr. Lenear?

19 A. Yes.

20 Q. And who developed the questions?

21 A. Well, as I said, I had sent him --  
22 I had faxed him at wherever he was staying in

1 workers working at the Gaithersburg warehouse of  
2 Blockbuster?

3 A. Yes. We were the employer of  
4 record.

5 Q. And when you say "employer of  
6 record," what do you mean by that?

7 A. Meaning that we were the one that  
8 cut their checks, paid them through our payroll  
9 system, even though they were employed,  
10 physically, one of our clients.

11 Q. And are you familiar with the legal  
12 standards for determining whether a worker  
13 is -- strike that.

14 Are you familiar with the legal  
15 standards for determining whether a corporation  
16 is a temporary worker's employer within the  
17 meaning of Title 7 of Civil Rights Act of 1964?

18 A. I'm not sure exactly what you're  
19 referring to.

20 Q. Okay. Title 7 of the Civil Rights  
21 Act of 1964 defines what an employee and an  
22 employer are.

1 UNITED STATES DISTRICT COURT  
2 FOR THE DISTRICT OF MARYLAND  
3 Civil Action No. 8:07-CV-02612  
4

5 \*\*\*\*\*  
6 EQUAL EMPLOYMENT OPPORTUNITY COMMISSION \*  
7 Plaintiff, \*  
8 Vs. \*  
9 BLOCKBUSTER, INC., \*  
10 Defendant. \*

11 \*\*\*\*\*

12  
13 I, CYNTHIA ANN WALES BROWN, do hereby  
14 certify, under the pains and penalties of  
15 perjury, that the foregoing testimony is true  
16 and accurate, to the best of my knowledge and  
17 belief.

18 WITNESS MY HAND, this \_\_\_\_\_ day of \_\_\_\_\_,  
19 2008.

20 \_\_\_\_\_  
21 CYNTHIA ANN WALES BROWN

22 DLH