

EXHIBIT A

FAYLIN MILLER
August 21, 2006

1 IN THE DISTRICT COURT OF THE UNITED STATES
2 FOR THE DISTRICT OF MASSACHUSETTS
3
4 STEPHANIE HOFER and DOUGLAS HOFER,
5 Plaintiffs,
6 vs. Case No. 05-40170
7 THE GAP, INC., EXPEDIA, INC.,
8 and TURTLE BEACH TOWERS,
9 Defendants.

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The Videotaped Deposition of FAYLIN MILLER,
Taken at Turtle Beach Towers, Main Street,
Ocho Rios, St. Ann, Jamaica, W.I.,
Commencing at 10:02 a.m.,
Monday, August 21, 2006,
Before Rebecca J. Callow, CSR-5228, RPR.

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- 1 A. No, I haven't.
- 2 Q. Have you ever seen anyone from Expedia -- or who works
3 for Expedia at Turtle Beach Towers?
- 4 A. Yes. They will come and do checks now and again, room
5 checks.
- 6 Q. They would come and do checks?
- 7 A. Inspections.
- 8 Q. Inspections. Okay. And how often would they perform
9 their inspection? About.
- 10 A. It's maybe about two times a year they would.
- 11 Q. And they could come -- all right.
- 12 And they would come here, and is it not fair
13 to say that they would do that in 2004, 2005, 2006?
- 14 A. Yes.
- 15 Q. And would those be inspection -- what would those
16 inspections of the premises consist?
- 17 A. Grounds and rooms.
- 18 Q. Grounds and rooms?
- 19 A. Yes.
- 20 Q. And would they point out things to you at times that
21 need --
- 22 A. Yes.
- 23 Q. If I could just finish, Ms. Miller.
- 24 A. Okay.
- 25 Q. Would they point out things on occasion to you as the

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- 1 manager here which need to be fixed?
- 2 A. Yes. If there is...
- 3 Q. That would be true of items within a hotel room?
- 4 A. Right.
- 5 Q. As well as what needs to be fixed on the grounds?
- 6 A. Yes.
- 7 Q. Would they take photographs also upon their
- 8 inspections?
- 9 A. Yes. If they see anything wrong, they would do a
- 10 checklist.
- 11 Q. And if they saw anything wrong, would they give a list
- 12 of things which needed correcting or would they just
- 13 tell you?
- 14 A. They would e-mail it.
- 15 Q. They would e-mail it to you?
- 16 A. Yes.
- 17 Q. Do you keep a separate file of the correspondence with
- 18 Expedia?
- 19 A. I do have, but I don't have it in my possession here.
- 20 Q. Okay. You didn't bring that with you to the
- 21 deposition. Is that fair to say?
- 22 A. Right.
- 23 Q. All right. And in 2004, is it fair to say that you
- 24 had a separate file for Expedia's, let's say,
- 25 inspection reports of your facility?

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- 1 A. Yes.
- 2 Q. And that would be true also of 2005 and 2006?
- 3 A. Yes.
- 4 Q. How long -- as far as you know, how long have you --
- 5 and by "you" I mean Turtle Beach Towers been doing
- 6 business with Expedia? Approximately.
- 7 A. It about three years. Three or four years. Time goes
- 8 so quickly, about five years, I think.
- 9 Q. So let's say from 2001 through the present?
- 10 A. Um-hmm.
- 11 Q. "Yes"?
- 12 A. Right.
- 13 Q. Have you ever seen a contract between Expedia And
- 14 Turtle Beach Towers?
- 15 A. It is there, Mr. Dane Thomas. Yes.
- 16 Q. I'm sorry?
- 17 A. Yes. There is one with Mr. Dane Thomas, yes.
- 18 Q. Okay. And when was the last time you saw that?
- 19 A. It's in the office, I know, with Mr. Thomas. I have
- 20 not seen it this year, but I know there is.
- 21 Q. And Mr. Thomas is who?
- 22 A. He is like the apartment owner. He is apartment owner
- 23 for 10E.
- 24 Q. For 10E?
- 25 A. Right.

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- 1 Q. And he has a contract with Expedia to rent out his
2 apartment?
- 3 A. Yes.
- 4 Q. The inspection reports that Expedia does that you've
5 seen and maintained in a file folder, are they
6 handwritten or are they on a form?
- 7 A. I think they would be typed or by e-mail, but on a
8 form.
- 9 Q. So they would send you the e-mail after their visit.
10 Right?
- 11 A. Yes.
- 12 Q. And you would try and correct those things which
13 needed correcting?
- 14 A. Sure.
- 15 Q. Yes. Okay. After you received that correspondence
16 from Expedia, and you attempted to correct the
17 situation, how did you notify Expedia that the
18 situation that was listed on their inspection report
19 was corrected?
- 20 A. We would fill the checklist and send it back to them.
- 21 Q. Okay. Would anyone from Expedia then come to the
22 premises to make sure that it was, in fact, corrected?
- 23 A. No. No.
- 24 Q. Thank you. The turtle pond that we see in those
25 photographs that Mr. Feringa showed you, is it fair to

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1 say that at the present time, as we sit here today,
2 that it does have some rocks in it?

3 A. It has at least two for the turtles to sit on. About
4 three rocks, but they're inside the pond.

5 Q. If you could show me in those photographs where those
6 rocks are?

7 MR. FERINGA: We're looking at Exhibit
8 Number 5?

9 BY MR. KUZMA:

10 Q. We're looking at Exhibit Number 5, Mrs. Miller. And
11 you've pointed out to the jurors where those two rocks
12 are. Correct?

13 A. Yes. In the pond.

14 Q. Thank you. Is it fair to say that the one rock -- if
15 you could hold that up again. The one rock has a lot
16 of algae on it, the one that's partially underneath
17 the water.

18 A. This one here?

19 Q. Yes. The one that's underneath the water a little
20 bit, that has a lot of algae on it. Is that fair to
21 say?

22 A. Yes.

23 Q. And there's no railing that guards that turtle pond
24 from the staircase. Correct?

25 A. There's no what?

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1 Q. And when you've observed Expedia listing Turtle Beach
2 Towers, it doesn't specifically refer to Dane Thomas's
3 20 apartments. Correct?

4 A. No; but it's "Attention: Dane Thomas" is on the paper
5 there.

6 Q. Right. But specifically on the website it doesn't say
7 his name, does it?

8 A. No.

9 Q. And you've never seen his name on the website at
10 Expedia for Turtle Beach Towers. Correct?

11 A. No.

12 Q. You testified that -- in response to my questions,
13 that Expedia investigates the grounds as well as the
14 rooms. Is that fair to say?

15 A. Yes.

16 Q. And that Expedia has had a contract with Turtle Beach
17 Towers for approximately five years or six years,
18 since 2000?

19 A. Five years, yes.

20 Q. Is it fair to say during each one of those years
21 Expedia has conducted an investigation of the grounds
22 and the rooms at Turtle Beach Towers?

23 A. Yes.

24 MR. KUZMA: I have nothing further. Thank
25 you.