

**EXHIBIT B**

**to**

**DECLARATION OF MARC GUILFORD**

DEPOSITION OF MARNIE NIEVES

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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

F.B.T. PRODUCTIONS, LLC; )  
AND EM2M, LLC, )  
PLAINTIFFS, )

VS. )

CASE NO. CV 07-3314 PSG  
(MANX)

AFTERMATH RECORDS DOING )  
BUSINESS AS AFTERMATH )  
ENTERTAINMENT; INTERSCOPE )  
RECORDS; UMG RECORDINGS, )  
INC.; AND ARY, INC., )  
DEFENDANTS.)

DEPOSITION OF MARNIE NIEVES, TAKEN  
ON BEHALF OF THE PLAINTIFFS, AT 10250  
CONSTELLATION BOULEVARD, 19TH FLOOR,  
LOS ANGELES, CALIFORNIA, COMMENCING AT  
10:04 A.M., THURSDAY, JUNE 5, 2008,  
BEFORE ALEX BAKER, CSR NUMBER 11897.

## DEPOSITION OF MARNIE NIEVES

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10:11:47 1 AND THE NUMBER OF SONGS THAT WOULD BE PAID ON WERE THE  
10:11:51 2 MOST -- THAT'S THE ISSUE THAT WOULD BE DISCUSSED BETWEEN  
10:11:56 3 US AND THE ARTIST'S ATTORNEY.

10:11:57 4 Q. ANYTHING ELSE THAT YOU CAN RECALL AT  
10:11:58 5 THIS TIME?

10:11:59 6 A. NO, SIR.

10:12:06 7 Q. OKAY. YOU STARTED AT MR. PATERNO'S FIRM  
10:12:08 8 IN 1997, YOU SAID?

10:12:08 9 A. YES.

10:12:12 10 Q. OKAY. AND HOW LONG DID YOU WORK THERE?

10:12:14 11 A. UNTIL 1999.

10:12:18 12 Q. OKAY. AND WHAT DID YOU DO AT  
10:12:24 13 MR. PATERNO'S FIRM BETWEEN 1997 AND 1999?

10:12:28 14 A. MUCH THE SAME THING THAT I DID AT ZOO.  
10:12:34 15 NEGOTIATE AND DRAFT ARTIST AGREEMENTS, BOTH ON BEHALF OF  
10:12:37 16 THE ARTIST AND ALSO ON BEHALF OF VARIOUS RECORD COMPANY  
10:12:38 17 CLIENTS.

10:12:40 18 Q. OKAY. HOW MANY AGREEMENTS DID YOU DO  
10:12:44 19 DURING THAT TIME PERIOD?

10:12:47 20 A. I DON'T RECALL SPECIFICALLY.

10:12:51 21 Q. OKAY. DO YOU RECALL THE 1998 AGREEMENT  
10:12:58 22 BETWEEN F.B.T. PRODUCTIONS AND EMINEM, ON THE ONE HAND,  
10:13:01 23 AND AFTERMATH ENTERTAINMENT, ON THE OTHER HAND?

10:13:02 24 A. I DO.

25 Q. WHAT DO YOU REMEMBER ABOUT IT?

## DEPOSITION OF MARNIE NIEVES

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10:13:04 1 MR. POMERANTZ: OBJECTION. VAGUE.

10:13:06 2 CALLS FOR A NARRATIVE. OBJECTION TO THE FORM.

10:13:07 3 BY MR. BUSCH:

10:13:09 4 Q. WHAT DO YOU SPECIFICALLY REMEMBER ABOUT  
10:13:13 5 EITHER YOUR -- LET'S START WITH THIS.

10:13:14 6 WHAT DO YOU REMEMBER ABOUT YOUR  
10:13:17 7 INVOLVEMENT WITH THAT AGREEMENT, FIRST OF ALL?

10:13:19 8 A. I REMEMBER THAT WE -- I REMEMBER THE  
10:13:22 9 AGREEMENT HAPPENING. I REMEMBER US ENTERING INTO THE  
10:13:27 10 AGREEMENT. AND I REMEMBER PARTICIPATING IN THE CREATION  
10:13:29 11 OF THE DOCUMENT.

10:13:31 12 Q. OKAY. DO YOU REMEMBER ANY CONVERSATIONS  
10:13:34 13 YOU HAD WITH F.B.T.'S REPRESENTATIVES OR EMINEM'S  
10:13:42 14 REPRESENTATIVES, IF ANY, AS PART OF THAT PROCESS?

10:13:43 15 A. I RECALL TALKING TO THEM, YES.

10:13:44 16 Q. DO YOU RECALL THE SPECIFICS OF ANY SUCH  
10:13:44 17 CONVERSATIONS?

10:13:45 18 A. I DO NOT.

10:13:59 19 Q. WHAT, IN GENERAL, DO YOU REMEMBER ABOUT  
10:14:01 20 ANY SUCH CONVERSATIONS IF YOU DON'T REMEMBER THE  
10:14:04 21 SPECIFICS OF ANY SUCH CONVERSATIONS?

10:14:04 22 MR. POMERANTZ: OBJECTION --

10:14:05 23 (SPEAKING SIMULTANEOUSLY.)

10:14:05 24 BY MR. BUSCH:

25 Q. IF ANYTHING.

## DEPOSITION OF MARNIE NIEVES

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10:14:07 1 MR. POMERANTZ: OBJECTION TO THE FORM.

10:14:08 2 MR. BUSCH: WELL, LET ME ASK THE

10:14:09 3 QUESTION A DIFFERENT WAY.

10:14:10 4 BY MR. BUSCH:

10:14:12 5 Q. DOES YOUR RECOLLECTION INVOLVE ANYTHING  
10:14:15 6 OTHER THAN THE FACT THAT YOU HAD SOME CONVERSATIONS AND  
10:14:19 7 YOU TRANSMITTED DOCUMENTS BACK AND FORTH; DO YOU RECALL  
10:14:21 8 ANYTHING MORE THAN THAT AS FAR AS YOUR CONVERSATIONS?

10:14:22 9 A. NO.

10:14:31 10 Q. OKAY. ALL RIGHT. WHAT WAS THE -- WHAT  
10:14:34 11 WAS YOUR ROLE IN THE PROCESS?

10:14:39 12 A. PETER REPRESENTED AFTERMATH. AND AS ONE  
10:14:43 13 OF THE ATTORNEYS THAT WORKED FOR PETER, I REMEMBER BEING  
10:14:50 14 INVOLVED IN DISCUSSIONS AND DRAFTING, BUT NOT  
10:14:52 15 SPECIFICALLY THE ISSUES.

10:14:56 16 Q. OKAY. DISCUSSIONS IN -- JUST GENERALLY  
10:14:59 17 HAVING DISCUSSIONS INTERNALLY WITH PETER?

10:15:00 18 A. YES.

10:15:05 19 Q. OKAY. WAS THERE ANY OTHER ASSOCIATE  
10:15:11 20 BESIDES YOURSELF INVOLVED IN THE PROCESS OF THE DRAFTING  
10:15:15 21 OF THE AGREEMENT OR BEING ASSIGNED TO THAT CASE?

10:15:15 22 (WHEREUPON, MARK A. LEVINSOHN ENTERED  
10:15:16 23 THE DEPOSITION PROCEEDINGS.)

24 THE DEONENT: AT PETER'S OFFICE?

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## DEPOSITION OF MARNIE NIEVES

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10:15:18 1 BY MR. BUSCH:

10:15:19 2 Q. AT PETER'S OFFICE.

10:15:20 3 A. NOT THAT I RECALL.

10:15:22 4 Q. WHAT WAS PETER'S ROLE IN THE PROCESS?

10:15:23 5 A. HE WAS THE ATTORNEY FOR THE CLIENT,  
10:15:25 6 AFTERMATH ENTERTAINMENT.

10:15:29 7 Q. SO HE REVIEWED, SUPERVISED, WAS INVOLVED  
10:15:30 8 IN THE PROCESS AS WELL?

10:15:31 9 A. CORRECT.

10:15:39 10 Q. OKAY. ALL RIGHT. YOU WERE WITH  
10:15:44 11 PETER PATERNO FROM '97 TO '99; IS THAT WHAT YOU SAID?

10:15:44 12 A. YES.

10:15:46 13 Q. AND WHY DID YOU LEAVE MR. PATERNO'S  
10:15:48 14 OFFICE IN 1999?

10:15:49 15 A. I LEFT TO GO TAKE A RECORD COMPANY  
10:15:54 16 BUSINESS AFFAIRS JOB AT M.C.A. RECORDS.

10:15:56 17 Q. WHICH IS PART OF UNIVERSAL?

10:15:56 18 A. CORRECT.

10:16:00 19 Q. OKAY. AND WHAT YEAR WAS THAT -- THAT  
10:16:01 20 WAS '99?

10:16:01 21 A. YES.

10:16:03 22 Q. AND HAVE YOU WORKED AT M.C.A. OR  
10:16:05 23 UNIVERSAL SINCE THAT TIME?

10:16:06 24 A. YES, I HAVE.

25 Q. ALL RIGHT. FROM 1999 ONWARD, JUST TELL

## DEPOSITION OF MARNIE NIEVES

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10:16:12 1 ME WHAT YOUR DUTIES AND RESPONSIBILITIES AT M.C.A. OR  
10:16:15 2 UNIVERSAL HAVE BEEN, OR IF THEY'RE DIFFERENT OVER TIME,  
10:16:18 3 TELL ME THE DIFFERENT POSITIONS YOU'VE HELD OR DIFFERENT  
10:16:22 4 DUTIES AND RESPONSIBILITIES AND THE YEAR THAT ANY OF  
10:16:24 5 THESE RESPONSIBILITIES CHANGED.

10:16:27 6 A. I STARTED AT M.C.A. IN 1999 AS AN  
10:16:32 7 ATTORNEY IN BUSINESS AND LEGAL AFFAIRS. MY DUTIES WERE  
10:16:35 8 SIMILAR: NEGOTIATING AND DRAFTING AGREEMENTS,  
10:16:40 9 NEGOTIATING CONTRACTS WITH ATTORNEYS THAT REPRESENTED  
10:16:44 10 THE ARTIST, TALKING TO MANAGERS.

10:16:48 11 AND THEN M.C.A. WAS MERGED INTO ANOTHER  
10:16:53 12 DIVISION OF UNIVERSAL, INTERSCOPE GEFLEN A&M. I WAS  
10:16:55 13 MOVED INTO THAT BUSINESS, IN THE LEGAL AFFAIRS  
10:16:58 14 DEPARTMENT. I BELIEVE THAT WAS 2002. BUT MY  
10:17:01 15 RESPONSIBILITIES STAYED THE SAME, ALTHOUGH THEY'VE  
10:17:05 16 INCREASED. I'M RESPONSIBLE FOR MORE ARTISTS, MORE  
10:17:10 17 VENTURES. I DO MORE COMPLICATED DEALS. BUT GENERALLY  
10:17:12 18 THE RESPONSIBILITIES ARE THE SAME.

10:17:19 19 Q. OKAY. SINCE YOUR INVOLVEMENT WITH THE  
10:17:25 20 ORIGINAL F.B.T.-EMINEM-AFTERMATH AGREEMENT IN 1998, HAVE  
10:17:28 21 YOU HAD ANY INVOLVEMENT WHATSOEVER WITH ANY SUBSEQUENT  
10:17:30 22 AGREEMENTS BETWEEN THOSE PARTIES?

10:17:38 23 A. NO, SIR.

10:17:41 24 Q. SO IS YOUR TOTAL INVOLVEMENT WITH -- YOU  
25 UNDERSTAND THAT -- YOU UNDERSTAND THERE'S A LAWSUIT THAT

## DEPOSITION OF MARNIE NIEVES

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10:41:25 1 A. I DON'T KNOW.

10:41:35 2 Q. OKAY. WAS THERE A REPOSITORY OF FORMS  
10:41:38 3 SEPARATE AND APART FROM WHAT WAS ON THE COMPUTER? WAS  
10:41:43 4 THERE ANY HARD COPIES KEPT OF DIFFERENT FORMS THAT HAD  
10:41:44 5 BEEN USED IN THE PAST?

10:41:46 6 A. I'M SURE IN THE FILE ROOM.

10:41:48 7 Q. OKAY. WERE YOU GIVEN ANY DIRECTION BY  
10:41:51 8 MR. PATERNO ABOUT WHICH FORM TO USE TO BEGIN DRAFTING  
10:41:53 9 THE F.B.T.-AFTERMATH AGREEMENT?

10:41:54 10 A. NOT THAT I CAN RECALL.

10:42:00 11 Q. OKAY. TELL ME HOW, AS YOU REMEMBER  
10:42:03 12 IT -- AND IF YOU -- I KNOW THIS IS TEN YEARS AGO NOW,  
10:42:07 13 AND YOU'VE HAD A LOT OF ASSIGNMENTS SINCE THEN, BUT TELL  
10:42:11 14 ME AS BEST AS YOU CAN RECALL HOW YOU WERE -- AS OPPOSED  
10:42:14 15 TO ANOTHER ASSOCIATE ASSIGNED TO THIS CASE, WHAT  
10:42:17 16 MR. PATERNO FIRST SAID TO YOU, THOSE TYPES OF THINGS.

10:42:20 17 A. I DID ALL THE AFTERMATH WORK FOR PETER,  
10:42:25 18 WITH HIS DIRECTION. SO THAT'S HOW I ENDED UP WITH THIS  
10:42:25 19 DEAL.

10:42:27 20 Q. OKAY. WHO WERE THE OTHER ASSOCIATES  
10:42:29 21 THAT WERE THERE AT THE TIME YOU WERE AT PATERNO'S  
10:42:32 22 OFFICE -- MR. PATERNO'S OFFICE?

10:42:36 23 A. THERE WERE A FEW: LESLIE FRANK,  
10:42:43 24 TRACY LOOMIS, LISA SOCRANSKY. I CAN'T REALLY REMEMBER  
25 THE REST OF WHO WAS THERE BECAUSE PEOPLE CAME AND WENT



## DEPOSITION OF MARNIE NIEVES

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10:59:57 1 SAID YOU DID NOT.

10:59:58 2 IS THAT FAIR TO SAY?

10:59:59 3 A. YES.

11:00:02 4 Q. OKAY. AND BASED UPON YOUR TESTIMONY  
11:00:04 5 EARLIER IN THIS DEPOSITION, I TAKE IT THAT YOU NEVER  
11:00:07 6 HAD -- THAT YOU CAN RECALL, AS YOU SIT HERE TODAY, ANY  
11:00:14 7 CONVERSATIONS WITH ANYONE REPRESENTING F.B.T. OR EMINEM  
11:00:16 8 IN CONNECTION WITH THE CONTROLLED COMPOSITION CLAUSE; IS  
11:00:17 9 THAT CORRECT?

11:00:18 10 A. THAT'S CORRECT.

11:00:28 11 Q. OKAY. SO YOU NEVER EXPLAINED TO THEM  
11:00:29 12 WHAT IT MEANT, WHETHER ANY SPECIFIC SEPARATE LICENSE  
11:00:31 13 WOULD HAVE TO BE OBTAINED, WHETHER IT APPLIED TO ALL  
11:00:33 14 FORMS OF EXPLOITATION, INCLUDING DIGITAL DOWNLOADS, YOU  
11:00:36 15 NEVER HAD ANY OF THOSE CONVERSATIONS WITH ANYONE ON THE  
11:00:40 16 SIDE OF F.B.T. AND EMINEM; IS THAT CORRECT?

11:00:42 17 A. I DON'T RECALL DISCUSSING THE CONTROLLED  
11:00:46 18 COMPOSITION PROVISION SPECIFICALLY WITH THEM AT ALL.

11:00:48 19 Q. OKAY. NOW, LET'S TALK ABOUT THIS  
11:00:49 20 AGREEMENT.

11:00:52 21 WAS THERE PRESSURE INTERNALLY WITHIN  
11:00:57 22 AFTERMATH AND WITH MR. PATERNO TO GET THIS AGREEMENT  
11:00:58 23 DONE QUICKLY?

11:00:59 24 A. I REMEMBER THAT, YES.

25 Q. AND WHAT DO YOU REMEMBER ABOUT THAT?

DEPOSITION OF MARNIE NIEVES

12:28:34 1 COMMENTS.

12:28:36 2 Q. I SEE A PHRASE ON THE LEFT, "DELETE.  
12:28:40 3 TOO BROAD."

12:28:42 4 DO YOU KNOW -- DO YOU RECALL ANY  
12:28:43 5 CONVERSATIONS ABOUT THAT?

12:28:45 6 A. I DON'T RECALL ANY SPECIFIC  
12:28:46 7 CONVERSATIONS ABOUT IT.

12:29:14 8 Q. OKAY. LET'S LOOK AT THE FINAL  
12:29:16 9 PARAGRAPH, FIVE.

12:29:18 10 YOU RECOGNIZE THAT THERE IS -- THAT --  
12:29:25 11 WOULD YOU AGREE THAT "IS HEREBY" IS DIFFERENT, IN  
12:29:28 12 EFFECT, THAN "WILL BE LICENSED"?

12:29:29 13 MR. POMERANTZ: OBJECTION. LACK OF  
12:29:32 14 FOUNDATION. INCOMPLETE HYPOTHETICAL. ALSO TO THE  
12:29:34 15 EXTENT IT CALLS FOR A LEGAL CONCLUSION.

12:29:36 16 YOU CAN ANSWER IF YOU UNDERSTAND.

12:29:37 17 THE DEPONENT: IN A CONTROLLED  
12:29:39 18 COMPOSITION PROVISION, I'VE SEEN BOTH PHRASES USED, AND  
12:29:41 19 THE OPERATION IS THE SAME.

12:29:42 20 BY MR. BUSCH:

12:29:43 21 Q. ACCORDING TO THE RECORD COMPANIES?

12:29:50 22 A. ACCORDING TO THE RECORD COMPANY AND ALSO  
12:29:54 23 IN MY NEGOTIATION OF THESE PROVISIONS WITH ATTORNEYS  
12:29:58 24 THAT REPRESENT ARTISTS, THAT IS THE COMMON  
25 UNDERSTANDING.

## DEPOSITION OF MARNIE NIEVES

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12:30:02 1 Q. THEY'VE TOLD YOU THAT? WHO'S TOLD YOU  
12:30:06 2 THAT?

12:30:09 3 A. NOT SPECIFICALLY THAT SOMEBODY TOLD ME  
12:30:13 4 THAT, BUT MORE THAT IN THE PROCESS OF NEGOTIATING THE  
12:30:17 5 AGREEMENTS WITH THE ATTORNEY REPRESENTATIVES, IT HAS  
12:30:22 6 BEEN -- IT HAS BEEN CLEAR THAT THAT IS OUR MUTUAL  
12:30:27 7 UNDERSTANDING OF WHAT THE OPERATION OF THOSE WORDS MEAN.

12:30:32 8 Q. TELL ME HOW IT WAS CLEAR IF -- LET'S  
12:30:34 9 FOCUS ON DIGITAL DOWNLOADS AS OPPOSED TO PHYSICAL  
12:30:36 10 PRODUCT RIGHT NOW FOR A SECOND.

12:30:38 11 DO YOU KNOW WHETHER -- IN CONNECTION  
12:30:45 12 WITH DIGITAL DOWNLOADS, DO YOU KNOW WHETHER THE  
12:30:47 13 LANGUAGE -- I'M SORRY.

12:30:50 14 DO YOU KNOW WHETHER ANY ARTIST, EVEN IF  
12:30:53 15 THEY HAD A CONTROLLED COMPOSITION CLAUSE, HAS OBJECTED  
12:30:56 16 TO THE EXPLOITATION OF THE COMPOSITIONS FOR DIGITAL  
12:30:59 17 DOWNLOAD?

12:31:00 18 MR. POMERANTZ: OBJECTION. IT'S AN  
12:31:05 19 INCOMPLETE HYPOTHETICAL. IT LACKS FOUNDATION. I ALSO  
12:31:06 20 OBJECT TO THE FORM.

12:31:06 21 BY MR. BUSCH:

12:31:07 22 Q. SEPARATE AND APART FROM EIGHT MILE  
12:31:11 23 STYLE, DO YOU KNOW WHETHER THERE HAVE BEEN OCCASIONS  
12:31:13 24 WHERE, EVEN IF COVERED BY A CONTROLLED COMPOSITION  
25 CLAUSE, WHETHER A PUBLISHER HAS SAID, "YOU NEED TO SIGN

## DEPOSITION OF MARNIE NIEVES

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12:31:21 1 A SEPARATE LICENSE WITH ME FOR DIGITAL DOWNLOAD THE  
12:31:24 2 CONTROL COMPOSITION CLAUSE DOESN'T COVER"?

12:31:32 3 MR. POMERANTZ: OBJECTION TO THE FORM.

12:31:32 4 THE DEPONENT: I DON'T KNOW.

12:31:32 5 BY MR. BUSCH:

12:31:33 6 Q. OKAY. WOULD YOU AGREE THAT AS  
12:31:36 7 CONTEMPLATED HERE, PARAGRAPH 6, THAT THIS CONTEMPLATED  
12:31:38 8 THE EXPLOITATION FOR PHYSICAL PRODUCT?

12:31:40 9 MR. POMERANTZ: OBJECTION TO THE EXTENT  
12:31:44 10 IT CALLS FOR A LEGAL CONCLUSION. ALSO INCOMPLETE  
12:31:48 11 HYPOTHETICAL.

12:31:49 12 THE DEPONENT: I BELIEVE THE PROVISION  
12:31:54 13 APPLIES TO THE DISTRIBUTION OF RECORDS.

12:31:54 14 BY MR. BUSCH:

12:31:56 15 Q. REMEMBER YOU SAID BEFORE THAT -- IN THE  
12:31:57 16 LICENSE PROVISION --

12:31:58 17 A. UH-HUH.

12:32:03 18 Q. -- IN THE LICENSE PROVISION, EVEN THOUGH  
12:32:07 19 IT SAYS, "ALL OTHER USES," YOUR VIEW IS THAT IT'S FOR  
12:32:10 20 COMPILATIONS AND SYNC LICENSES? DO YOU RECALL SAYING  
12:32:11 21 THAT EARLIER?

12:32:12 22 A. YES, I DO.

12:32:16 23 Q. OKAY. HERE, WOULD YOU AGREE THAT IN  
12:32:20 24 1998, AT LEAST, THERE WAS NO SUCH THING AS PERMANENT  
25 DOWNLOAD?

DEPOSITION OF MARNIE NIEVES

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STATE OF CALIFORNIA        )  
                                  )  SS.  
COUNTY OF LOS ANGELES    )

DEPONENT'S DECLARATION

I CERTIFY UNDER PENALTY OF PERJURY THAT THE  
FOREGOING IS TRUE AND CORRECT.

EXECUTED AT \_\_\_\_\_ ON \_\_\_\_\_.

\_\_\_\_\_  
(SIGNATURE OF DEPONENT)