

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

PARK WEST GALLERIES, INC.,

Plaintiff,

v.

GLOBAL FINE ART REGISTRY, LLC,
THERESA FRANKS, and BRUCE HOCHMAN,

Defendants.

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Case No. 2:08-cv-12247

Hon. Lawrence P. Zatkoff

PARK WEST GALLERIES, INC.,

Plaintiff,

v.

DAVID CHARLES PHILLIPS,

Defendant.

_____ /

Case No. 2:08-cv-12274

Hon. Lawrence P. Zatkoff

OPINION AND ORDER

The parties have designated certain portions of the examination their counsel conducted with respect to the two-part deposition of Daniel David (“David”) and intend to read certain portions of David’s deposition into the record in this matter.

Before the Court addresses the substance of any objection, it notes that Fed.R.Civ.P. 32(d)(3)(B) provides:

Objection to an Error or Irregularity. An objection to an error or irregularity at an oral examination is waived if:

- (i) it relates to the manner of taking the deposition, the form of a question or answer, the oath or affirmation, a party's conduct, or other matters that might have been corrected at the time; and
- (ii) it is not timely made during the deposition.

All parties had legal representation being present (physically or telephonically) during David's deposition. With respect to some of the objections raised by the parties in recent filings with the Court, the Court notes that there was no objection raised by the parties at the David deposition itself. Accordingly, to the extent that a party did not raise an objection at the deposition itself, the Court overrules all such objections recently filed with the Court. The Court addresses each of the objections, in turn.

Defendant Hochman:

1. Page 22, lines 6-11, Incompetent, FRE 602. This objection is overruled.
2. Page 27, lines 10-25, Hearsay, FRE 801, FRE 802. This objection is overruled.
3. Page 28, lines 17-22, Hearsay, FRE 801, FRE 802 . This objection is overruled.
4. Page 37, lines 9-12, Incompetent, FRE 602. This objection is overruled.
5. Page 37, line 25, Hearsay, FRE 801, FRE 802. This objection is overruled.
6. Page 37, line 25, Hearsay, FRE 801, FRE 802. This objection is overruled.
7. Page 38, lines 1-14, Hearsay, FRE 801, FRE 802. This objection is overruled.
8. Page 38, lines 25, Hearsay, FRE 801, FRE 802. This objection is overruled.
9. Page 39, lines 1-15, Hearsay, FRE 801, FRE 802. This objection is overruled.
10. Page 39, lines 23-25, Hearsay, FRE 801, FRE 802. This objection is overruled.
11. Page 40, lines 1-6, Hearsay, FRE 801, FRE 802. This objection is overruled.
12. Page 49, line 21-24, Incompetent, FRE 602. This objection is overruled.

13. Page 58, lines 12-16, Hearsay, FRE 801, FRE 802. This objection is overruled.
14. Page 59, lines 22-25, Hearsay, FRE 801, FRE 802. This objection is overruled.
15. Page 60, lines 1-11, Hearsay, FRE 801, FRE 802. This objection is overruled.
16. Page 63, lines 2-3, Incompetent, FRE 602. This objection is overruled.
17. Page 63, lines 14-22, Incompetent, FRE 602. This objection is overruled.
18. Page 64, lines 2-3, 24-25 Hearsay, FRE 801, FRE 802. This objection is overruled.
19. Page 65, lines 2-7, Hearsay, FRE 801, FRE 802. This objection is overruled.
20. Page 73, lines 17-25, Hearsay, FRE 801, FRE 802. This objection is overruled.
21. Page 74, lines 2-25, Hearsay, FRE 801, FRE 802. This objection is overruled.
22. Page 75, lines 2-25, Hearsay, FRE 801, FRE 802. This objection is overruled.

Defendants Theresa Franks, David Phillips and Global Fine Art Registry, LLC:

1. Page 49, line 17 through line 24. Objected to as lacking foundation. This objection is overruled.
2. Page 52, line 20, through page 53, line 7. Objected to as lacking foundation. This objection is overruled.
3. Page 53, line 9 through line 23. Objected to as lacking foundation. This objection is overruled.
4. Page 60, line 24, through page 61, line 3. Objected to as lacking foundation. This objection is overruled.
5. Page 63, line 10 through line 13. Objected to as lacking foundation. This objection is overruled.

Plaintiff:

1. Page 74, line 7, through page 75, line 6. Hearsay FRE 801. This objection is overruled.
2. Page 113, line 18 through line 21. Argumentative FRE 611(a); Assumes facts not in evidence FRE 611(c). This objection is overruled.
3. Page 114, line 4, through page 115, line 1. Hearsay FRE 801; Argumentative FRE 611(a); Assumes facts not in evidence FRE 611(c); Lack of authentication FRE 901. This objection is overruled.
4. Page 115, line 14 through line 23. Hearsay FRE 801; Argumentative FRE 611(a); Assumes facts not in evidence FRE 611(c); Lack of authentication FRE 901. This objection is overruled.
5. Page 116, line 2 through line 7. Hearsay FRE 801; Argumentative FRE 611(a); Assumes facts not in evidence FRE 611(c); Lack of authentication FRE 901. This objection is overruled.
6. Page 140, line 13 through line 19. Argumentative FRE 611(a); Assumes facts not in evidence FRE 611(c). This objection is overruled.
7. Page 161, line 11, through page 162, line 12. Relevance; MIL #8 Cost of items. This objection is overruled.
8. Page 241, line 1 through line 25. Hearsay FRE 801; Argumentative FRE 611(a); Assumes facts not in evidence FRE 611(c); Lack of authentication FRE 901. This objection is overruled.
9. Page 261, line 3 through line 25. Hearsay FRE 801; Argumentative FRE 611(a); Assumes facts not in evidence FRE 611(c); Lack of authentication FRE 901. This objection is overruled.
10. Page 265, line 18 through line 25. Hearsay FRE 801; Argumentative FRE 611(a); Assumes facts not in evidence FRE 611(c); Lack of authentication FRE 901. This objection is overruled.
11. Page 266, line 1 through line 5. Hearsay FRE 801; Argumentative FRE 611(a); Assumes facts not in evidence FRE 611(c); Lack of authentication FRE 901. This objection is overruled.
12. Page 267, line 18 through line 21. Hearsay FRE 801; Argumentative FRE 611(a); Assumes facts not in evidence FRE 611(c). This objection is overruled.
13. Page 267, line 24, through page 268, line 3. Hearsay FRE 801; Argumentative FRE 611(a); Assumes facts not in evidence FRE 611(c); Lack of authentication

FRE 901. This objection is overruled.

14. Page 269, line 22, through page 270, line 5. Argumentative FRE 611(a). This objection is overruled.

IT IS SO ORDERED.

S/Lawrence P. Zatkoff
LAWRENCE P. ZATKOFF
UNITED STATES DISTRICT JUDGE

Dated: April 1, 2010

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of this Order was served upon the attorneys of record by electronic or U.S. mail on April 1, 2010.

S/Marie E. Verlinde
Case Manager
(810) 984-3290