

# EXHIBIT C

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

-----x

RALPH VARGAS and BLAND-RICKY ROBERTS,  
Plaintiffs,

Civil Action

No.

-against- 04CV 9772 (JCF)

PFIZER, INC., PUBLICIS, INC.,  
FLUID MUSIC, EAST WEST  
COMMUNICATIONS, INC. and  
BRIAN TRANSEAU p/k/a "BT",  
Defendants

**CERTIFIED  
COPY**

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CONTAINS CONFIDENTIAL  
ATTORNEYS' EYES ONLY PORTIONS

**CONFIDENTIAL**

August 2, 2006

9:40 a.m.

Videotaped Deposition of

**Attorneys' Eyes Only**

BLAND-RICKY ROBERTS, taken by Defendants,  
pursuant to Notice, at the offices of Kirkland  
& Ellis, 153 East 53rd Street, New York, New  
York, before TAMMEY M. PASTOR, a Registered  
Professional Reporter, Certified LiveNote  
Reporter and Notary Public within and for the  
State of New York.



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2 Q. What is your understanding of  
3 how sampling works?

4 A. One who is in the production  
5 field would hear a particular sound or song or  
6 portion thereof, use what is known as a  
7 sampling machine, take that portion of that  
8 song or sound that they are interested in and  
9 record it and use it in the composition or use  
10 it in a manner which best suits them for, I  
11 guess, producing or preparing a song.

12 Q. Okay. Is it possible to sample  
13 from, a sound or a song from vinyl?

14 A. Yes.

15 MR. CHIN: Objection. Sorry.  
16 Objection, you can answer.

17 A. Yes.

18 Q. And is it possible to sample a  
19 song or a sound from a compact disk?

20 MR. CHIN: Objection. You can  
21 answer.

22 A. Yes.

23 Q. Just going over what you said,  
24 in order to sample you first obtain a copy of  
25 the song that you want to copy; right?

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BLAND-RICKY ROBERTS

A. Song, sound source, it is a source.

Q. Right.

A. Once you obtain the source you then go to copy the source. You can't sample without having the source.

Q. Okay. Great. Have you ever used sampling to create music?

A. No.

Q. Do you currently record music?

A. Okay, do I currently record music? Me personally or do I still have artists that I'm recording?

Q. We'll take it one at a time. Do you personally record music?

A. No.

Q. Do you have artists that you record?

A. I have artists that I've paid for their recordings, but I am not personally not the person doing the recordings.

Q. So your involvement with artists recording is more of a financial backing of the recording?

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BLAND-RICKY ROBERTS

of music that the label released?

A. To some degree pretty much covers everything.

Q. Right. So JBR did put out albums; right?

A. Yes.

Q. Can you say whether it was less than 10?

A. No.

MR. CHIN: Objection. You can answer.

A. No.

Q. And it was in operation from approximately 1989 to 1995; right?

A. '95, '96.

Q. So over six years you had ten or eleven artists; right?

A. That I can remember.

Q. Which of those artists do you specifically remember did release albums?

A. Kevin Owens had an album. Ray, Goodman & Brown had an album. Al McDowell had an album. We put a specialty record which is the Funky Drummer series.

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BLAND-RICKY ROBERTS

MR. CHIN: No. They are going to quote you.

A. Then don't quote me. Then I don't know would be the best answer.

Q. Okay.

A. But Ray, Goodman & Brown did a substantial number.

Q. More than 20,000?

A. Did a substantial number.

Q. When were those, like the Ray, Goodman & Brown album, when was that released?

A. As I told you earlier, I am bad with dates, I couldn't give you an exact date.

Q. Was it toward the beginning of when the label went into operation?

A. In the middle.

Q. Okay. In the middle, so early 90s?

A. Yes.

Q. What about Kevin Owens?

A. Early 90s.

Q. Early 90s, okay.

Where were, we'll take Ray, Goodman & Brown, where were those albums sold?

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BLAND-RICKY ROBERTS

Q. Was Funky Drummer II ever released on any other media other than vinyl?

A. No.

Q. Never on compact disk?

A. No.

Q. Never on cassette tape?

A. No.

Q. Who pressed the vinyl for Funky Drummer I?

A. That is a good question, I don't remember whether I used Metropolitan, whether I used a pressing plant in Brooklyn, the name slips me right now. That really escapes me. I don't remember that name or if I used the Florida Records. I don't remember who I used for that. I don't remember who I used for I or II to be honest with you.

Q. So for Funky Drummer I it could have been Metropolitan you said?

A. Uh-huh.

Q. Another place in Brooklyn.

A. Yes. I don't remember that name, though.

Q. And another place in Florida?

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BLAND-RICKY ROBERTS

Drummer II were made?

A. There was three because of the demand for the record.

Q. So, how many copies of Funky Drummer II were pressed?

A. 4,000.

Q. So there was the first one of 1,500.

A. Correct.

Q. Then the second pressing?

A. 2,000.

Q. Then the third pressing?

A. 500.

Q. 500. What is the time frame between the first pressing and the last pressing?

A. A month, maybe. A month.

Q. One month?

A. Yeah. A month.

Q. So, do you remember when Funky Drummer II was first pressed?

A. No.

Q. Do you recall the year?

A. No. But it was prior to going



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BLAND-RICKY ROBERTS

other.

Q. Do you have, did you keep copies of any of those documents reflecting the number of copies of Funky Drummer II that were manufactured?

A. If in fact I did receive them, I would have had a copy back then. I don't have one now.

Q. Okay. Does anyone else have a copy of those documents?

A. Not to my knowledge.

Q. Would you know about it if someone else did have a copy of those documents?

MR. CHIN: Objection. You can answer.

A. I would want to say yes, but the answer would actually have to be no. If someone from their organization that made the Records, pressed the Records, if they had a copy, I wouldn't know that.

Q. Okay. Would you have written notes or any other, you know, memorialization of the number of, an accounting of the number

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BLAND-RICKY ROBERTS

of copies that you pressed?

MR. CHIN: Objection.

A. I don't know. Written notes today?

Q. Yes.

A. No. No.

Q. Are the numbers you are saying for pressing of Funky Drummer II, are you relying only on your memory to testify to those numbers?

MR. CHIN: Objection.

A. Pretty much.

Q. Other than your memory what else are you relying on to say that 4,000 copies of Funky Drummer II were pressed?

A. It would strictly be memory.

Q. Anything else?

A. No.

Q. There is nothing else other than your memory that you're relying on to testify to the number of copies of Funky Drummer II that were pressed?

MR. CHIN: Objection.

Q. You can answer.

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A. Nothing but my memory.

Q. Did you review any documents at all that gave you that number?

A. No. It's all recollection.

Q. So if your memory was mistaken, there is no other way to know the total number of copies of Funky Drummer II that were pressed?

MR. CHIN: Objection.

A. Correct.

Q. I will go through the same thing for Funky Drummer I. Are you relying solely on your memory to testify to the number of copies that were pressed of Funky Drummer I?

A. Yes.

Q. Is there anything else?

MR. CHIN: Objection.

A. No.

Q. Did you review any documents that gave you, that got you to the number 3,000 for the copies of Funky Drummer I that were pressed?

MR. CHIN: Objection.

1 BLAND-RICKY ROBERTS

2 A. No.

3 Q. So if your memory is mistaken  
4 as to that number, there is no other way to  
5 know the total number of Funky Drummer I  
6 copies that were pressed?

7 MR. CHIN: Objection.

8 A. To date, no.

9 Q. Is it possible your memory for  
10 the number of Funky Drummer II -- sorry --  
11 strike that.

12 Is it possible your memory you  
13 pressed 4,000 copies of Funky Drummer II, is  
14 it possible you're mistaken?

15 MR. CHIN: Objection.

16 A. No. Not since the money came  
17 out of my pocket. No. I am pretty good with  
18 that, you know, in terms of that Funky Drummer  
19 series because Funky Drummer was one of the  
20 last Records I did.

21 Q. But you don't remember where it  
22 was pressed?

23 MR. CHIN: Objection.

24 A. No, not at this point in time.

25 Q. You don't remember when it was

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BLAND-RICKY ROBERTS

pressed?

MR. CHIN: Objection.

A. I am bad with dates.

Q. You said it was one of the last projects you worked on before JB&R went out of business?

A. JBR.

MR. CHIN: Objection.

Q. Sorry. Is it one of the last projects you worked on before JBR Records went out of business?

A. Yes, it was. It was among the last.

Q. Can you tell me the name of the salesperson who agreed to the terms of the manufacturing deal for the pressing of Funky Drummer II?

MR. CHIN: Objection.

A. No, I can't. I have family members I haven't seen in a while, I couldn't tell you their name. If it is not relevant to me now and I don't, you know, I wouldn't remember.

Q. So you don't know who you

1                                   BLAND-RICKY ROBERTS

2       talked to to get the albums pressed; right?

3                                   MR. CHIN:  Objection.

4                                   A.     Not today, I don't.  No.

5                                   Q.     And you don't know the name of

6       the company where the albums were pressed;

7       right?

8                                   MR. CHIN:  Objection.

9                                   A.     No.  I can tell you it was in

10      Brooklyn.  I just can't remember the name of

11      the company.  I mean that was ten years ago,

12      that's why I wouldn't remember that person's

13      name.  It is somebody who I haven't dealt with

14      in ten years.  It is a company I haven't dealt

15      with in over ten years.

16                                  Q.     Right.  Being that long ago you

17      can't remember?

18                                  MR. CHIN:  Objection.  Remember

19      what?

20                                  Q.     Who pressed Funky Drummer II.

21                                  A.     Not 100 percent.  I mean I

22      could possibly find that company if they still

23      exist by driving around in Brooklyn.

24                                  Q.     So, do you remember -- if you

25      drove around in Brooklyn to find that company,

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2 A. Yes.

3 Q. Who was that?

4 A. It was originally registered by  
5 Jane Peterer who was my, she was our agent  
6 for -- she was my publisher. And then it was  
7 later amended and that was registered by my  
8 attorney.

9 Q. I am going to show you what has  
10 been marked Defendants' Exhibit 3. Do you  
11 recognize this document?

12 A. Yes.

13 Q. What is it?

14 A. It is the Certificate of  
15 Registration of an SR Form, which stands for  
16 sound recording with the United States  
17 government, Copyright Office.

18 Q. Do you see there in block  
19 number 1 where it says "title of this work?"

20 A. Yes.

21 Q. What does it say there?

22 A. "Funky Drummer Volume II."

23 Q. Is this the Certificate of  
24 Registration for the sound recording of Funky  
25 Drummer Volume II?

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A. Sorry, I didn't hear you.

Q. Is this the Certificate of  
Registration for the sound recording in Funky  
Drummer Volume II?

A. Yes, it is.

Q. Do you see there in block  
number 3 toward the bottom 3A it says "year in  
which creation of this work was completed?"

A. Uh-huh.

Q. What does it say there?

A. "1994."

Q. Does that refresh your  
recollection as to when the Funky Drummer  
Volume II was completed?

A. Well, it says here 1994.

Q. Do you remember, can you tell  
me when Funky Drummer Volume II was offered  
for sale?

A. It would have been shortly  
thereafter the registration of this document.

Q. You see there in 3B where it  
says the date and nation of the first  
publication of this particular work was  
February 11, 1994; do you see that?



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2 A. Yes, uh-huh.

3 Q. So, does that date on this form  
4 reflect when Funky Drummer II was released for  
5 sale?

6 MR. CHIN: Objection. You can  
7 answer.

8 A. It says February 11, 1994.

9 Q. What does that mean to you when  
10 it says "date of first publication, date and  
11 nation of this first publication of this  
12 work?"

13 MR. CHIN: Objection. The  
14 issue of whether publication is a legal term.  
15 But he can still answer.

16 Q. To the extent you know.

17 A. Publication would be the time  
18 in which it is distributed or produced.

19 Q. Okay.

20 A. It states here it was done on  
21 that date, so I would imagine that's the date.

22 Q. Is Funky Drummer Volume I,  
23 sorry -- strike that.

24 Do you have any reason to doubt  
25 the date that is on this form, that that's

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accurate?

A. I have no reason to doubt it.

Q. Is Funky Drummer Volume I still for sale today?

A. When you ask me still for sale, do you mean am I selling it?

Q. Sure. Are you selling it?

A. No. Not presently.

Q. Do you know if anyone is selling it?

A. I have seen it on the internet for sale once or twice.

Q. Is it still being sold first end user sales?

A. No. Not first end.

Q. So if you have seen it for sale it is a used copy being sold?

A. Correct. To my knowledge. Because I didn't buy it, so to my knowledge it is.

Q. When did you stop selling Funky Drummer Volume I?

A. I don't know the exact date.

Q. Where did you see Funky Drummer

1 BLAND-RICKY ROBERTS

2 internet?

3 A. No.

4 Q. How many times did you see it  
5 for sale on the internet?

6 A. In the beginning? I saw it  
7 once. I think it was once. Because one of my  
8 kids was on the internet. That is how I  
9 happened to see it.

10 Q. When did you stop selling --  
11 sorry, is Funky Drummer Volume II still for  
12 sale?

13 A. During what time frame?

14 Q. Presently.

15 A. Is it for sale now?

16 Q. Yes.

17 A. No, it is not.

18 Q. And when did you stop selling  
19 Funky Drummer Volume II?

20 A. Shortly after the last  
21 pressing.

22 Q. When was that?

23 A. Within that month time frame  
24 that we spoke of earlier. Date, I couldn't  
25 give you a date.

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BLAND-RICKY ROBERTS

Q. So if we are going off of the approximate date of February 1994 when Funky Drummer Volume II was released, you stopped selling it shortly thereafter?

A. March --

MR. CHIN: Wait until she finishes.

Q. Shortly thereafter?

MR. CHIN: Objection.

A. March, April, thereabout.

Q. Have you ever seen copies of Funky Drummer Volume II offered for sale on the internet?

A. No.

Q. I just want to talk about the distribution process for Funky Drummers volume and we talked about your distributor generally for JBR Records. We will focus on Funky Drummer I first. Again I am going to ask you the questions specific to each album. If you say that it was the same for Funky Drummer II, you can tell us that and it will go faster. I'll ask separately otherwise.

How was Funky Drummer I

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distributed?

A. It was distributed, as I stated earlier, through the trunk of the car, as well as through formal distributor channels.

Q. When you say trunk of the car, you're talking about the trunk of your car?

A. That's a term used loosely. As you mentioned a few minutes ago. You asked me about Mr. Vargas delivering Records to Rock and Soul.

Q. Right.

A. That would be considered out of the trunk of the car as opposed to that distribution entity that their salesperson selling that record we would be selling it. We call that out of the trunk of the car.

Q. That is direct --

A. Direct sales.

Q. -- direct sales from the label and the artist in this case, you said Mr. Vargas is not an artist. So direct sales from the label and the musician; right?

A. Okay.

Q. For the sales of Funky Drummer

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BLAND-RICKY ROBERTS

Volume I, you said there was also more formal distributor channels?

A. Indi, we used Indi, we used Pearl which is a one stop out of Brooklyn. We used Tiger. Tiger. Tiger. The name slips me right now. Tiger something or something Tiger was an international distributor out of Jersey. Englewood, New Jersey. And we distributed product to all of those sources as well.

Q. Other than Indi, Pearl or Tiger were there any other distribution sources what you were calling more the formal distribution for Funky Drummer Volume I?

A. There was one other one that was located down the block from the Limelight. I just can't remember the name of that one. I know he distributed international as well.

Q. You are talking about the Limelight here in New York City on Sixth Avenue.

A. Yes.

Q. Or what used to be there. It is something else already.

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2 A. Right.

3 Q. There was another distributor  
4 there, you just don't remember their name?

5 A. I don't remember their name,  
6 the proper name.

7 Q. You said you also made direct  
8 sales to record stores, were those record  
9 stores local here in New York?

10 A. Yes.

11 Q. What were the names of those  
12 stores?

13 A. You had Rock and Soul. You had  
14 Downstairs. You had Downtown. You had  
15 Carmine Records. You had Vinyl-mania. Eight  
16 Ball Records. Eight Ball, by the way, was an  
17 international distributor because they had  
18 their own record company. So I know that they  
19 shipped product everywhere.

20 One in the Bronx. There is a  
21 couple in the Bronx on Concourse, Grand  
22 Concourse, I can't remember. There was one on  
23 Fordham Road I know we went to. That's all I  
24 can remember.

25 Q. Other than Rock and Soul,

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BLAND-RICKY ROBERTS

Downstairs, Downtown, I think you said Carmine, Vinyl-mania, Eight Ball Records there were a couple, two, are you saying two in the Bronx?

A. Let's say several.

Q. Several in the Bronx?

A. More than two. Maybe four.

Q. Were there other record stores to which you distributed Funky Drummer Volume I?

A. There very well may have been, I just can't remember names right now.

Q. Where would you get that information if you had to, the names of any of those other stores?

A. When you say had to, do you mean my life depends on it?

Q. Sure.

A. I'm in trouble.

Q. Is there any document that reflects what record stores Funky Drummer Volume I was distributed to?

A. That exists now?

Q. No. That existed at the time



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BLAND-RICKY ROBERTS

it was being sold.

A. Oh, sure.

Q. Who has those documents?

A. Not being smart, probably a landfill somewhere.

Q. So are there any documents that exist now?

A. No.

Q. Is any information about what stores Funky Drummer Volume I was distributed to through direct sales that any information you have, are you relying solely on your memory for that?

A. Yes.

Q. Any information about what distributors sold Funky Drummer Volume I, is that information from your memory?

A. Yes. You can add another distributor. City Hall on the West Coast. City Hall also.

Q. Did you just remember that?

A. Yeah, based on you saying based on your memory.

Q. Were there any other -- who was

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BLAND-RICKY ROBERTS

responsible for distributing Funky Drummer  
Volume I?

A. What do you mean by who was  
responsible?

Q. Whose responsibility was it to  
see that Funky Drummer Volume I was  
distributed anywhere?

A. Mine.

Q. Was there anyone else who was  
responsible for that?

A. No.

Q. Was there anyone else who  
helped you distribute Funky Drummer I?

A. Sure.

Q. Who was that?

A. Ralph and all of the above  
mentioned.

Q. And all of the above mentioned,  
you mean --

A. All those that you wrote down.

Q. Each store?

A. Yes.

Q. Helped you distribute. As well  
as obviously each of the distributors?

1 BLAND-RICKY ROBERTS

2 A. Yes.

3 Q. Did anyone at Globe Art help  
4 distribute the copies of Funky Drummer  
5 Volume I?

6 A. No.

7 Q. Did Jane Peterer, did she help  
8 distribute copies of Funky Drummer Volume I?

9 A. No.

10 Q. Then for Funky Drummer Volume  
11 II, how was that distributed?

12 A. Same way. Volume I was  
13 distributed.

14 Q. By that you mean there was  
15 direct sales to record stores; right?

16 A. Direct sales to record stores  
17 as well as formal distribution channels.

18 Q. For Funky Drummer Volume II,  
19 did any of those formal channels differ than  
20 what you testified to about Volume I?

21 MR. CHIN: Objection.

22 A. No.

23 Q. Were any of the stores where  
24 you made direct sales of Funky Drummer II,  
25 were those different than the ones you listed

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2 was thrown in the dumpster.

3 Q. So, of all the JBR documents  
4 pertaining to Funky Drummer I or -- pertaining  
5 to Funky Drummer I, is this the only document  
6 that you have found?

7 A. It is the only one I found that  
8 I can remember. I didn't give anything else  
9 to Mr. Chin that I can remember. This is it.

10 Q. Did you give to Mr. Chin all of  
11 the documents in your possession regarding  
12 Funky Drummer, either album, the series?

13 A. I and II.

14 Q. Yes.

15 A. Yes, I gave him everything that  
16 I had. I think this and then he obtained the  
17 SR forms.

18 Q. Okay. Did you ask your wife if  
19 she had any other JBR documents that would be  
20 relevant to this case?

21 A. Yes. Once she found this I  
22 did.

23 Q. Yes?

24 A. Once she had found this I did  
25 ask her and she said I don't even know --

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BLAND-RICKY ROBERTS

well, we won't go there. She said she didn't know why it was in there, you know. So, this kind of appeared kind of through the grace of God I would say. Because I had forgotten all about that this existed until she showed it to me.

Q. Okay. Did Sabrina search for other documents after she found this one?

A. No. Because there was only one box that had papers and stuff in it.

Q. This was a box that was kept at your house; is that right?

A. Yes.

Q. Your house in Pennsylvania?

A. Pennsylvania now, yes. She was actually looking for something else and came across this.

MS. AHRENS: We can break now for a minute. We have to break to change the videotape.

A. I understand.

VIDEOGRAPHER: Going off the record. It the time is 2 o'clock. This is the end of tape number 2.

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BLAND-RICKY ROBERTS

copies of Funky Drummer Volume II did you sell  
to Carmine Records?

MR. CHIN: Objection.

A. I'm not sure.

Q. Do you have a best, your best  
estimate of how many copies of Volume II were  
sold to Carmine Records?

A. No.

Q. Do you know that more than one  
copy of Funky Drummer Volume II was sold to  
Carmine Records?

A. Yes.

Q. Was it less than 100?

MR. CHIN: Objection.

A. Yes.

Q. So for Carmine Records  
somewhere between 1 and 100 copies of Funky  
Drummer Volume II were sold; right?

MR. CHIN: Objection.

A. Yes.

Q. For City Hall, what is that?

A. City Hall is a distributor on  
the West Coast.

Q. Where is City Hall?

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BLAND-RICKY ROBERTS

A. California.

Q. Do you know where in California?

A. San Rafael, if I am not mistaken.

Q. San Rafael. Okay. Where did -- you said City Hall was a distributor. Where did City Hall distribute its Records?

A. Nationally.

Q. Did City Hall distribute Records to retail outlets?

A. Yes.

Q. And were those retail outlets in every state?

A. Very well could have been.

Q. Okay. Do you know any of the specific retail stores that City Hall distributed to?

A. No.

Q. How many copies of Funky Drummer Volume I did you sell to City Hall?

A. I don't have an exact number.

Q. Do you have an estimate?

A. No.

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BLAND-RICKY ROBERTS

Q. Was it more than one?

A. Yes.

Q. Was it less than 100?

MR. CHIN: Objection.

A. Less than?

Q. Yes.

A. No. It would have been maybe  
more than.

Q. Was it less than 150?

MR. CHIN: Objection.

A. I don't know.

Q. So you do know it was more than  
100, but you're not sure -- would an accurate  
range between 100 and 150?

MR. CHIN: Objection.

A. I don't know.

Q. Was it less than 300 --

MR. CHIN: Objection.

Q. -- that you sold to City Hall?

MR. CHIN: Objection.

Q. You can answer.

A. I don't know.

Q. For Funky Drummer Volume II how  
many copies did you sell to City Hall?



1 BLAND-RICKY ROBERTS

2 Q. Where does Tiger Distribution  
3 distribute albums to?

4 A. I would have to say to the  
5 whole country. I know for sure they did  
6 England, they did France, they did Germany  
7 because I discussed that with them. And they  
8 did Italy. Past that, I don't know.

9 Q. Did Tiger Distribution  
10 distribute to retail stores; is that right?

11 A. As far as I know that is where  
12 they sent Records.

13 Q. Did they distribute Records in  
14 the United States?

15 A. I'm not 100 percent sure, I  
16 don't know.

17 Q. Did you sell copies of Funky  
18 Drummer Volume II to Tiger Distribution?

19 A. Yes.

20 Q. How many copies did you sell to  
21 them?

22 A. About -- let's see, they took a  
23 hundred each time. I went there a few times.  
24 I don't know the exact number, but I know each  
25 time they took a hundred. So they took two

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BLAND-RICKY ROBERTS

boxes each time.

Q. Each time was two boxes?

A. Uh-huh.

Q. You're saying you took boxes there was Tiger Distribution in New York?

A. No. They were in Englewood, New Jersey.

Q. Okay. Are they still in business?

A. I don't know.

Q. So is your best estimate of the number of copies of Volume II you sold to Tiger Distribution, would that be 200?

MR. CHIN: Objection. You can answer.

A. I went there a couple of times and I don't know.

Q. Just to get an idea, a couple of times you mean two, possibly three?

A. Possibly.

Q. So maybe between 200 and 300 copies of Funky Drummer Volume II were sold to Tiger Distribution; is that right?

A. Possibly.

1 BLAND-RICKY ROBERTS

2 Q. Would it have been more than

3 300?

4 A. I don't think so.

5 Q. Definitely not more than 500?

6 A. Not more than 300, I don't

7 believe.

8 Q. Okay. Did you ever receive

9 reports that Funky Drummer Volume II was sold

10 in any foreign countries?

11 A. Reports meaning like

12 statements?

13 Q. Statements or any oral

14 communication.

15 A. Oral communications, I mean we

16 discussed it, as I told you. We talked about

17 England, we talked about France, we talked

18 about Italy, we talked about Germany.

19 Q. When you say we discussed it

20 you're talking about yourself and an

21 individual at Tiger Distribution?

22 A. Yes, sales staff that was

23 there.

24 Q. The sales staff told you Funky

25 Drummer Volume II sold in England; is that

1 BLAND-RICKY ROBERTS

2 right?

3 MR. CHIN: Objection. You can  
4 answer.

5 A. Yeah, well, yeah, the same  
6 territories that I told you.

7 Q. Okay. They told you that the  
8 Funky Drummer Volume II was distributed to  
9 stores in England; right?

10 MR. CHIN: Objection.

11 Q. And France; is that right?

12 MR. CHIN: You can answer.

13 A. Well, let me say this, they  
14 told me the Records were sent over there.  
15 Whether or not it was sold, I can't tell you  
16 because that's a COD type thing. Once it  
17 leaves, once I give them the Records I have to  
18 get paid for them.

19 Q. Okay.

20 A. There is no returns.

21 Q. There was no return policy?

22 A. No returns for the  
23 international stuff.

24 Q. Okay. Were there any other  
25 distributors you worked with other than Tiger

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BLAND-RICKY ROBERTS

Distribution that claimed international  
distribution of Funky Drummer Volume II?

A. City Hall, if I am not mistaken  
does something with Japan.

Q. Did City Hall distribute Funky  
Drummer Volume II in Japan?

A. I don't know.

Q. Did you have a return policy  
with City Hall?

A. Just, but there was no returns.  
Indi as well did some international  
distributing.

Q. Okay.

A. I can't tell you what  
territories, but I know they did do  
international distributing as well.

Q. Did Indi Distribution  
distribute Funky Drummer Volume II  
internationally?

A. I don't know.

Q. Did anyone ever tell you that  
they did?

A. No.

Q. So looking again at this list

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BLAND-RICKY ROBERTS

on Defendants' Exhibit 8, Bates labeled 17,  
can you tell me which of the distributors  
listed here you had a return policy with? If  
any.

A. Distributors?

Q. Yes.

A. City Hall, Indi. Pearl would  
have been a return policy, but there was no  
returns.

Q. Which if any of these companies  
listed on Bates labeled 17 returned to you  
copies of Funky Drummer Volume II?

A. Nobody.

Q. You testified earlier you had  
pressed approximately 4,000 copies of Funky  
Drummer Volume II; is that right?

A. Correct.

Q. Did you sell all the copies of  
Funky Drummer Volume II?

A. To my knowledge, yes.

Q. Other than the stores and  
distributors listed on Defendants' Exhibit 8,  
page 17, were there other distributors you  
distributed Funky Drummer Volume II to?

1 BLAND-RICKY ROBERTS

2 A. Yes. That one that was on down  
3 the block from the Limelight I don't remember  
4 the name of that distributor.

5 Q. That distributor that would  
6 have been Sixth Avenue in New York?

7 A. Between Sixth and Fifth Avenue  
8 or was it Seventh at that point. It may be  
9 Sixth and Seventh because I think they cross.

10 Q. Where did that distributor  
11 distribute its Records to?

12 A. Nationally. I remember they  
13 talked about accounts in Chicago and a couple  
14 of West Coast accounts.

15 Q. They were distributed to retail  
16 stores?

17 A. Yes.

18 Q. Any other states you remember  
19 that this distributor distributed to?

20 A. No.

21 Q. Did you sell copies -- sorry,  
22 how many copies of Funky Drummer Volume II did  
23 you sell to this distributor?

24 A. I am not a hundred percent  
25 sure.

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BLAND-RICKY ROBERTS

Q. That was the retail sales price?

A. Yes -- no. Wholesale.

Q. So by that you mean the price at which you sold Funky Drummer Volume II?

A. Correct.

Q. To either the retailers or the distributor; right?

A. Uh-huh.

Q. Okay. And from your \$8 sales price you split the expenses with Mr. Vargas; is that right -- strike that.

That question I can reword it. You said you pressed approximately 4,000 copies of Funky Drummer Volume II; is that right?

A. Correct.

Q. And you sold all of those copies; is that right?

A. To my knowledge, yes.

Q. Each of those copies were sold for \$8; is that correct?

A. I sold them for \$8. I don't know what they were sold for. Different list



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BLAND-RICKY ROBERTS

prices at different stores.

Q. Okay. But each of those you sold for \$8?

A. Yes.

Q. So your approximate total sales on Funky Drummer Volume II is \$32,000; right?

A. In revenue, yes.

Q. In revenue right. So your expenses came out of that \$32,000; right?

A. Correct.

Q. You split the expenses and --

A. And the profit.

Q. -- and the profit 50/50 with Mr. Vargas; right?

A. Correct.

Q. Do you have an estimate of what the expenses were for Funky Drummer Volume II?

A. No.

Q. So your net profit for Funky Drummer Volume II was less than \$16,000; is that right?

MR. CHIN: Objection.

Q. You can answer.

MR. CHIN: Yes, you can

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BLAND-RICKY ROBERTS

answer.

A. Yes, it would have been based on the fact that you had to pay for the pressing and whatever other expenses I had.

Q. Right. Then the other expenses we talked about, the recording time, etc. Other than the sales price of \$8 per copy to the retail stores did you make any other -- strike that.

When you sold to retail stores for \$8 were you ever paid additional money from the stores based on the price they sold the album at?

A. No.

Q. So your price for selling the album was set at \$8?

A. Yes.

Q. \$8 was the same for the distributors you sold to as well; right?

A. Yes.

Q. Was the track Bust Dat Groove ever on any other recording than Funky Drummer Volume II?

MR. CHIN: Objection. Are we

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BLAND-RICKY ROBERTS

talking about Bust Dat Groove Without a Ride,  
the composition that is the subject matter of  
the Complaint?

MS. AHRENS: Yes. Sorry.

MR. CHIN: That's fine. I  
withdraw my objection. You can answer it.

A. Are you asking me was it only  
contained on that record or are you asking me  
was it used for other Records?

Q. Yes. Was Bust Dat Groove  
Without a Ride, was that ever on any other  
recording, other than Funky Drummer Volume II?

A. Prior to this Complaint, none  
that I know of. With this Complaint, yes.

Q. So, other than your allegation  
that Bust Dat Groove Without a Ride is on the  
Celebrex commercial, that track was never on  
any other recording?

MR. CHIN: Objection. You can  
answer.

A. Not that I know of.

Q. To your knowledge did Bust Dat  
Groove ever receive any radio or TV airplay  
other than allegedly in the Celebrex

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BLAND-RICKY ROBERTS

commercial?

A. I can't answer that.

Q. Why?

A. I have no knowledge. I mean I don't know what goes on in other states, you know, a radio station may have it and may very well be using it for a commercial every day, but I have no knowledge of it because I am not in that state and I'm unable to witness.

Q. Okay. You were never told that Bust Dat Groove was being played on the radio; were you?

MR. CHIN: Objection you can answer.

A. Other than the Celebrex commercial?

Q. Right.

A. No.

Q. Other than allegedly in the Celebrex commercial, you were never told that Bust Dat Groove was getting television airplay; were you?

A. Other than the Celebrex commercial, no.

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BLAND-RICKY ROBERTS

Q. Was Bust Dat Groove ever licensed to anyone?

A. By us, not that I remember, not that I can recall.

Q. When you say by us, that seems to imply that maybe someone else did license it. Did anyone you know of license Bust Dat Groove?

MR. CHIN: Objection. You can answer.

A. Yes. On that Beatz of the Nu Skool. That's what is in question now.

Q. I just want to be clear when I speak of Bust Dat Groove, I am referring to Bust Dat Groove Without Ride, the track that is at issue here.

A. Yes.

Q. Okay. I will just get one document for you. Can we have this marked as Defendants' Exhibit 19.

(Defendants' Exhibit 19 for identification, 11/9/05 Plaintiffs' Responses and Objections to Interrogatories, no production numbers.)

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BLAND-RICKY ROBERTS

A. What do you mean by sample of Bust Dat Groove?

Q. Was it, like we talked about earlier, like definition of sample, like a digital copy of Bust Dat Groove?

A. Yes. Yes.

Q. And is it your position that the underlying track of the Celebrex commercial which you referred to, from Breakz from the Nu Skool, Aparthenonia; right?

A. Yes. That is what they call it.

Q. And is it your position that Aparthenonia is a digital copy of Bust Dat Groove?

A. Yes.

Q. Did anyone else other than Mr. Vargas raise the issue -- raise an issue about this ad or tell you about the ad?

MR. CHIN: Objection. You can answer.

A. Tell me about the ad?

Q. Yes.

A. No.

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BLAND-RICKY ROBERTS

MR. CHIN: Objection. You can answer.

A. What makes it similar or to me the same was A, my ears. B, the expert testimony and the comparisons that were made by those experts. So, without a doubt, you know, I know that they are the same.

Q. Anything other than your ear and the experts' testimony that makes you so sure that the two tracks are the same?

A. No.

Q. You did say Aparthenonia is identical to Bust Dat Groove Without Ride; is that correct?

A. Yes.

Q. Other than your alleged similarity between Aparthenonia and Bust Dat Groove track at issue, do you have any evidence that Brian Transeau had access to the Bust Dat Groove track before he made Aparthenonia?

MR. CHIN: Objection.

Q. You can answer.

A. Do I have knowledge that he had

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BLAND-RICKY ROBERTS

access to it?

Q. Yes. Do you have knowledge of that?

A. Nothing other than what I believe to be true.

Q. What is that?

A. That he had to have had access because they are so identical.

Q. Okay. Other than the similarity, the alleged similarity between the two tracks, you don't have any other evidence that Brian Transeau had access to a copy of Bust Dat Groove; do you?

A. No, I don't.

Q. Was Bust Dat Groove ever registered with any public performance collection societies?

A. It would automatically be registered based on Ralph belonging to one.

Q. What does that mean?

A. What does it mean?

MR. CHIN: Objection.

Q. Yes. What does it mean it automatically would have been registered?



1 BLAND-RICKY ROBERTS

2 C E R T I F I C A T E

3 STATE OF NEW YORK )

: ss.

4 COUNTY OF NEW YORK )

5 I, TAMMEY M. PASTOR, a Registered  
6 Professional Reporter, Certified LiveNote  
7 Reporter and Notary Public within and for the  
8 State of New York, do hereby certify:

9 That BLAND-RICKY ROBERTS, the  
10 witness whose deposition is hereinbefore set  
11 forth, was duly sworn by me and that such  
12 deposition is a true record of the testimony  
13 given by the witness.

14 I further certify that I am not  
15 related to any of the parties to this action  
16 by blood or marriage, and that I am in no way  
17 interested in the outcome of this matter.

18 IN WITNESS WHEREOF, I have  
19 hereunto set my hand this 4<sup>th</sup> day of

20 August, 2006.

21  
22 Tammey M. Pastor

23 TAMMEY M. PASTOR, RPR, CLR

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25