

EXHIBIT 5

In The Matter Of:

*RALPH VARGAS and BLAND-RICKY ROBERTS v.
PFIZER, INC.,*

BLAND-RICKY ROBERTS

August 2, 2006

CONTAINS CONFIDENTIAL PORTIONS

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ROBERTS, BLAND-RICKY - Vol. I



UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

-----x

RALPH VARGAS and BLAND-RICKY ROBERTS,

Plaintiffs,
Civil Action

-against- No. 04CV 9772 (JCF)

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

Defendants

-----x

CONTAINS CONFIDENTIAL
ATTORNEYS' EYES ONLY PORTIONS
August 2, 2006
9:40 a.m.

Videotaped Deposition of
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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1
 2 APPEARANCES:
 3 LAW OFFICES OF PAUL A. CHIN
 Attorneys for Plaintiffs
 4 The Woolworth Building
 233 Broadway
 5 New York, New York 10007
 6 BY: PAUL A. CHIN, ESQ.
 7
 8 KIRKLAND & ELLIS
 Attorneys for Defendant Brian Transeau
 153 East 53rd Street
 9 New York, New York 10022
 10 BY: JULIE AHRENS, ESQ.
 11
 -and-
 12
 13 DAVID S. OLSON, ESQ.
 STANFORD LAW SCHOOL
 Crown Quadrangle
 14 559 Nathan Abbott Way
 Stanford, California 94305-8610
 15
 (Via Telephone)
 16
 17 ALSO PRESENT:
 18 MATTHEW CHAVEZ, LegaLink Action Video
 19
 20
 21
 22
 23
 24
 25

09:41:31 1 BLAND-RICKY ROBERTS
 09:41:33 2 the attorney for Ralph Vargas and Bland-Ricky
 09:41:37 3 Roberts, plaintiffs in this case.
 09:41:39 4 VIDEOGRAPHER: The court
 09:41:39 5 reporter today is Tammey Pastor of LegaLink.
 09:41:39 6 BLAND-RICKY ROBERTS
 09:47:24 7 residing at 509 Lake Of the Pines, East
 09:47:28 8 Stroudsburg, Pennsylvania 18302, having been
 09:47:28 9 first duly sworn by the Notary Public (Tammey
 09:47:28 10 M. Pastor), was examined and testified as
 09:41:51 11 follows:
 09:41:51 12 EXAMINATION CONDUCTED BY MS. AHRENS
 09:41:54 13 Q. Good morning, Mr. Roberts.
 09:41:55 14 A. Good morning.
 09:41:56 15 Q. As you heard, my name is Julie
 09:41:58 16 Ahrens. We are here today to take your
 09:42:00 17 deposition in the case of Vargas versus
 09:42:03 18 Pfizer. Are you aware of that?
 09:42:04 19 A. Yes, ma'am.
 09:42:05 20 Q. Could you just state your name
 09:42:06 21 for the record, please.
 09:42:13 22 A. Bland-Ricky.
 09:42:13 23 Q. Could you spell that?
 09:42:14 24 A. Bland-Ricky Roberts.
 09:42:20 25 Q. Mr. Roberts, have you ever been

08:33:57

1 BLAND-RICKY ROBERTS
 09:36:58 2 VIDEOGRAPHER: Here begins
 09:40:31 3 videotape number 1 in the deposition of Ricky
 09:40:35 4 Roberts in the matter of Ralph Vargas, and
 09:40:35 5 Bland-Ricky Roberts versus Pfizer, Inc., et
 09:40:39 6 al. in the United States District Court
 09:40:42 7 Southern District of New York case number 04
 09:40:46 8 CV 9772 WHP.
 09:40:49 9 Today's date is August 2, 2006.
 09:40:52 10 The time on the video monitor is 9:40 a.m. The
 09:40:56 11 video operator today is Matthew Chavez, a
 09:40:58 12 notary public contracted by LegaLink Video
 09:41:02 13 Solutions, San Francisco, California.
 09:41:04 14 This video deposition is taking
 09:41:06 15 place at Kirkland & Ellis, 153 East 53rd
 09:41:10 16 Street.
 09:41:11 17 Counsel, please voice identify
 09:41:12 18 yourself and state whom you represent.
 09:41:17 19 MS. AHRENS: Good morning.
 09:41:18 20 Julie Ahrens with Kirkland & Ellis. I
 09:41:21 21 represent the defendant Brian Transeau.
 09:41:23 22 Joining us by telephone is David Olson of
 09:41:26 23 Stanford Law School. He is also an attorney
 09:41:28 24 for the defendant Brian Transeau.
 09:41:31 25 MR. CHIN: And Paul Chin, I am

09:42:20 1 BLAND-RICKY ROBERTS
 09:42:21 2 deposed before?
 09:42:22 3 A. Yes.
 09:42:24 4 Q. So you may know some of the
 09:42:25 5 general rules, but I will go over them again.
 09:42:29 6 It is important that you hear each question
 09:42:32 7 that I ask if you. If for some reason you
 09:42:35 8 don't hear a question I am happy to repeat it,
 09:42:38 9 just let me know, I will repeat the question
 09:42:40 10 or you can ask the court reporter to read it
 09:42:42 11 back.
 09:42:42 12 Will you tell me if you do not
 09:42:44 13 hear a question?
 09:42:45 14 A. Yes, I will.
 09:42:48 15 Q. It is also important you
 09:42:49 16 understand each question. If for any reason
 09:42:50 17 you don't understand what I am asking you,
 09:42:53 18 just please ask me to rephrase it or let me
 09:42:55 19 know that you don't understand and I'll do my
 09:42:58 20 best to make it more clear. Will you tell me
 09:43:00 21 if you don't understand a question?
 09:43:02 22 A. Yes, I will.
 09:43:06 23 Q. Will you let me know if you
 09:43:07 24 need to look at a document in order to answer
 09:43:09 25 any of my questions?

12:02:35 1 BLAND-RICKY ROBERTS
 12:02:39 2 A. Yes.
 12:02:56 3 Q. How many copies of Funky
 12:02:59 4 Drummer I were sold?
 12:03:01 5 A. About 3,000, 3,500, somewhere
 12:03:04 6 in there.
 12:03:17 7 Q. How long was Funky Drummer I
 12:03:18 8 offered for sale?
 12:03:22 9 A. Not very long. That's why
 12:03:23 10 there was a Funky Drummer II.
 12:03:25 11 Q. Okay.
 12:03:26 12 A. Because that particular record
 12:03:31 13 was a grass roots effort between Ralph and
 12:03:36 14 myself. More so myself than Ralph where, you
 12:03:38 15 know, I gave X amount of pieces to Indi. I
 12:03:43 16 gave X amount of pieces to various, what would
 12:03:47 17 be independent record stores where I was kind
 12:03:49 18 of selling it out of the trunk of the car, if
 12:03:52 19 you would.
 12:03:52 20 Q. Right.
 12:03:59 21 A. Within a week's time those
 12:04:00 22 units that I had, you know, given to those
 12:04:06 23 independent stores had sold. I mean this
 12:04:09 24 thing flew off the shelves. They were
 12:04:11 25 specialty record stores because you would have

12:04:11 1 BLAND-RICKY ROBERTS
 12:04:13 2 the production guys go there and the rappers
 12:04:16 3 would go there. People who were into like
 12:04:22 4 record production, artists, you know, we had
 12:04:27 5 people like D'Angelo bought it. Major guys at
 12:04:31 6 the time bought that record.
 12:04:48 7 Q. What format was Funky Drummer I
 12:04:49 8 sold in?
 12:04:56 9 A. Both albums, strictly vinyl.
 12:04:57 10 Q. At any point when I am asking
 12:04:58 11 questions about Funky Drummer I and II and
 12:05:01 12 your answer applies to both, if you can answer
 12:05:03 13 it that way, that's fine. I am going to ask
 12:05:05 14 it individually so it is not a compound
 12:05:07 15 question.
 12:05:07 16 A. Okay.
 12:05:08 17 Q. But if you answer, that's fine
 12:05:09 18 we can save time that way if it is the same.
 12:05:11 19 A. Okay.
 12:05:12 20 Q. So Funky Drummer I and II were
 12:05:14 21 both on vinyl?
 12:05:15 22 A. Uh-huh.
 12:05:18 23 Q. Was Funky Drummer I ever
 12:05:20 24 released on any other media?
 12:05:23 25 A. We didn't release on any other.

12:05:23 1 BLAND-RICKY ROBERTS
 12:05:30 2 Q. Was Funky Drummer II ever
 12:05:31 3 released on any other media other than vinyl?
 12:05:34 4 A. No.
 12:05:37 5 Q. Never on compact disk?
 12:05:39 6 A. No.
 12:05:40 7 Q. Never on cassette tape?
 12:05:41 8 A. No.
 12:05:44 9 Q. Who pressed the vinyl for Funky
 12:05:46 10 Drummer I?
 12:05:51 11 A. That is a good question. I
 12:05:52 12 don't remember whether I used Metropolitan,
 12:05:59 13 whether I used a pressing plant in Brooklyn,
 12:06:02 14 the name slips me right now. That really
 12:06:08 15 escapes me. I don't remember that name or if
 12:06:10 16 I used the Florida Records. I don't remember
 12:06:19 17 who I used for that. I don't remember who I
 12:06:24 18 used for I or II to be honest with you.
 12:06:27 19 Q. So for Funky Drummer I it could
 12:06:33 20 have been Metropolitan you said?
 12:06:35 21 A. Uh-huh.
 12:06:36 22 Q. Another place in Brooklyn.
 12:06:37 23 A. Yes. I don't remember that
 12:06:38 24 name, though.
 12:06:39 25 Q. And another place in Florida?

12:06:39 1 BLAND-RICKY ROBERTS
 12:06:40 2 A. Florida Press. I think it was
 12:06:47 3 called Florida Press I think it was called.
 12:06:51 4 Q. Was Funky Drummer II pressed by
 12:06:53 5 the same company that pressed Funky Drummer I?
 12:06:58 6 A. Not necessarily. But I don't
 12:06:59 7 remember right now.
 12:07:02 8 Q. Okay. Were there any other
 12:07:06 9 companies who could have pressed Funky Drummer
 12:07:08 10 II?
 12:07:10 11 A. No.
 12:07:12 12 Q. Mr. Vargas had mentioned that
 12:07:13 13 he thought it was pressed in Brooklyn. Does
 12:07:15 14 that refresh your recollection?
 12:07:18 15 MR. CHIN: Objection.
 12:07:19 16 A. Well, I said Brooklyn but I
 12:07:20 17 don't remember the name of the company. I
 12:07:22 18 don't remember.
 12:07:28 19 Q. Do you know if that company is
 12:07:29 20 still in business?
 12:07:29 21 A. No, I don't.
 12:07:35 22 Q. How many copies of Funky
 12:07:36 23 Drummer I were pressed at first?
 12:07:43 24 A. At first?
 12:07:43 25 Q. Yes.

10:19:04 1 BLAND-RICKY ROBERTS
 10:19:09 2 A. Song, sound source, it is a
 10:19:11 3 source.
 10:19:11 4 Q. Right.
 10:19:12 5 A. Once you obtain the source you
 10:19:13 6 then go to copy the source. You can't sample
 10:19:16 7 without having the source.
 10:19:17 8 Q. Okay. Great. Have you ever
 10:19:27 9 used sampling to create music?
 10:19:31 10 A. No.
 10:19:42 11 Q. Do you currently record music?
 10:19:49 12 A. Okay, do I currently record
 10:19:50 13 music? Me personally or do I still have
 10:19:53 14 artists that I'm recording?
 10:19:56 15 Q. We'll take it one at a time.
 10:19:58 16 Do you personally record music?
 10:20:02 17 A. No.
 10:20:05 18 Q. Do you have artists that you
 10:20:07 19 record?
 10:20:09 20 A. I have artists that I've paid
 10:20:11 21 for their recordings, but I am not personally
 10:20:14 22 not the person doing the recordings.
 10:20:16 23 Q. So your involvement with
 10:20:17 24 artists recording is more of a financial
 10:20:23 25 backing of the recording?

10:20:23 1 BLAND-RICKY ROBERTS
 10:20:26 2 MR. CHIN: Objection. You can
 10:20:26 3 answer.
 10:20:28 4 A. It is more than financial
 10:20:29 5 backing. It is financial backing as well as
 10:20:33 6 there are artists that would be signed to me
 10:20:35 7 for either the purpose of production, to put
 10:20:38 8 the record out as a record company, or for
 10:20:42 9 management.
 10:20:42 10 Q. Okay. So what is your current
 10:20:52 11 involvement with artists who are making music?
 10:20:59 12 MR. CHIN: Objection. You can
 10:21:00 13 answer.
 10:21:02 14 A. From a, strictly from a record
 10:21:06 15 company end.
 10:21:21 16 Q. Are you finished?
 10:21:22 17 A. Yes.
 10:21:23 18 Q. Do you currently own a record
 10:21:25 19 company?
 10:21:34 20 A. I own an entertainment company
 10:21:35 21 that has a record component that is in the
 10:21:38 22 works being developed at this point.
 10:21:47 23 Q. Can you tell me about your
 10:21:49 24 entertainment company, what does it do?
 10:21:53 25 A. At this particular point in

10:21:53 1 BLAND-RICKY ROBERTS
 10:21:54 2 time we are just basically recording artists
 10:21:58 3 to put into the marketplace.
 10:22:04 4 Q. What type of artists?
 10:22:07 5 A. Type of music?
 10:22:08 6 Q. Sure. Yes.
 10:22:10 7 A. Right now it is predominantly
 10:22:13 8 urban.
 10:22:14 9 Q. What do you mean by urban?
 10:22:17 10 A. Hip-hop, R&B.
 10:22:25 11 Q. Are these recording artists
 10:22:28 12 making original music?
 10:22:30 13 A. Yes.
 10:22:43 14 Q. Do you have any other, any
 10:22:47 15 interest in any other companies currently?
 10:22:55 16 A. No.
 10:22:56 17 Q. No ownership interest in any
 10:22:57 18 other companies?
 10:23:01 19 A. No.
 10:23:02 20 Q. Any investment interests in
 10:23:03 21 other companies?
 10:23:06 22 A. No.
 10:23:13 23 Q. Have any of the artists that
 10:23:14 24 you currently work with sampled music?
 10:23:19 25 A. No.

10:23:19 1 BLAND-RICKY ROBERTS
 10:23:32 2 Q. What is your role in the
 10:23:34 3 entertainment company that you own?
 10:23:38 4 A. I run it.
 10:23:39 5 Q. What do you mean by running it?
 10:23:43 6 A. It is my responsibility to take
 10:23:45 7 care of the day-to-day chores.
 10:23:51 8 Q. What are the day-to-day chores
 10:23:59 9 that you are responsible for?
 10:23:59 10 A. Answering phones, paying the
 10:24:08 11 bills, talking with those artists that I've
 10:24:13 12 contracted in reference to their song
 10:24:18 13 creations and mentor them. Whatever other
 10:24:29 14 function is necessary to make this company run
 10:24:32 15 on a daily basis.
 10:24:35 16 Q. Okay. What is the name of your
 10:24:36 17 Company?
 10:24:37 18 A. New Image Group.
 10:24:44 19 Q. How long has it been operating?
 10:24:49 20 A. About two and a half years.
 10:24:57 21 Q. Is it in Stroudsburg,
 10:25:00 22 Pennsylvania?
 10:25:01 23 A. Currently.
 10:25:09 24 Q. So, other than recording
 10:25:15 25 artists, what other, if anything, is New Image

10:59:05 1 BLAND-RICKY ROBERTS
 10:59:10 2 distributed in the same manner as which one of
 10:59:14 3 those major distributors would be
 10:59:16 4 distributing.
 10:59:18 5 Q. Okay. So Indi Distribution
 10:59:20 6 worked to have under its umbrella independent
 10:59:26 7 record labels together as a collective --
 10:59:30 8 A. You can call it a collective.
 10:59:32 9 I wouldn't call it a collective. Although it
 10:59:34 10 is a collective. I would call it independent
 10:59:38 11 labels distributing through that one source.
 10:59:41 12 Q. Okay. Then Indi Distribution
 10:59:50 13 what was their role?
 10:59:54 14 A. Indi Distribution consisted of
 10:59:56 15 CRD which is California Record Distributors,
 10:59:59 16 Big State, and Malvern. Okay. All of those
 11:00:05 17 were independent distributors which joined
 11:00:08 18 forces because they were all distributing in a
 11:00:12 19 particular territory.
 11:00:13 20 Q. Okay?
 11:00:14 21 A. So, upon the joining of those
 11:00:17 22 companies it created a national distribution
 11:00:22 23 source. As well as international.
 11:00:37 24 Q. Okay. So Indi Distribution
 11:00:39 25 worked with those, with the California, Big

11:00:39 1 BLAND-RICKY ROBERTS
 11:00:42 2 State --
 11:00:43 3 A. Indi consisted of.
 11:00:44 4 Q. Consisted of. Okay.
 11:00:47 5 A. Uh-huh.
 11:00:48 6 Q. That distribution --
 11:00:51 7 A. Call it a network, make it
 11:00:53 8 easy.
 11:00:53 9 Q. Network. Then they distribute
 11:00:55 10 the Records to individual stores, to
 11:00:58 11 retailers?
 11:00:58 12 A. To retail, yes.
 11:01:01 13 Q. What was the international
 11:01:03 14 components of Indi Distribution?
 11:01:08 15 A. I don't know which one of the
 11:01:09 16 companies was the actual, was the actual
 11:01:13 17 international source. I would tend to believe
 11:01:17 18 that all of them had international
 11:01:19 19 connections.
 11:01:21 20 Q. Okay. Okay. So for JBR, JBR
 11:01:37 21 had an agreement with Indi Distribution;
 11:01:39 22 correct?
 11:01:39 23 A. Yes.
 11:01:40 24 Q. What was that agreement?
 11:01:44 25 A. I had an exclusive at one point

11:01:44 1 BLAND-RICKY ROBERTS
 11:01:46 2 then I had a non-exclusive agreement for them
 11:01:48 3 to distribute our product.
 11:01:53 4 Q. When you say exclusive, that
 11:01:55 5 means they were the only distributor?
 11:01:57 6 A. The only distributor.
 11:01:58 7 Q. When was the agreement with
 11:01:59 8 them exclusive?
 11:02:01 9 A. In the beginning, early on.
 11:02:03 10 Q. For how long?
 11:02:04 11 A. I think it is a three-year
 11:02:05 12 deal.
 11:02:10 13 Q. So we are talking like late
 11:02:11 14 80s, early 90s you had an exclusive?
 11:02:16 15 A. Right.
 11:02:17 16 Q. Through Indi Distribution?
 11:02:19 17 A. Right.
 11:02:19 18 Q. Then you went to non-exclusive
 11:02:22 19 agreement; right?
 11:02:23 20 A. Correct.
 11:02:27 21 Q. Speaking generally about your
 11:02:29 22 agreements with Indi Distribution, how did
 11:02:31 23 those agreements work; did Indi Distribution
 11:02:40 24 buy the Records from the label?
 11:02:41 25 A. Yes, they did.

11:02:41 1 BLAND-RICKY ROBERTS
 11:02:47 2 Q. Was there an agreement for a
 11:02:52 3 return to the label of copies of albums that
 11:02:55 4 didn't sell, for example?
 11:02:56 5 A. Yes, there were --
 11:02:58 6 MR. CHIN: Objection. You can
 11:03:00 7 answer.
 11:03:00 8 A. Yes, there was.
 11:03:05 9 Q. Describe how that worked.
 11:03:10 10 A. The return policy?
 11:03:11 11 Q. Yes.
 11:03:11 12 A. The return policy basically
 11:03:13 13 worked, you gave X amount of Records to a
 11:03:20 14 particular retailer through your distribution
 11:03:23 15 source. If that retailer didn't sell those
 11:03:27 16 Records in a time frame, whatever that might
 11:03:32 17 be, they had the right to return the product
 11:03:37 18 to the distribution house, who in turn will
 11:03:41 19 return the product to me.
 11:03:57 20 Q. Okay. So, with the
 11:04:05 21 distribution through Indi, did you receive
 11:04:17 22 invoices that indicated how many albums they
 11:04:20 23 were buying from the record labels from you?
 11:04:24 24 A. Yes.
 11:04:25 25 Q. Then would you receive invoices

10:53:30 1 BLAND-RICKY ROBERTS
 10:53:33 2 MR. CHIN: No. They are going
 10:53:34 3 to quote you.
 10:53:35 4 A. Then don't quote me. Then I
 10:53:37 5 don't know would be the best answer.
 10:53:40 6 Q. Okay.
 10:53:41 7 A. But Ray, Goodman & Brown did a
 10:53:47 8 substantial number.
 10:53:48 9 Q. More than 20,000?
 10:53:50 10 A. Did a substantial number.
 10:54:01 11 Q. When were those, like the Ray,
 10:54:03 12 Goodman & Brown album, when was that released?
 10:54:07 13 A. As I told you earlier, I am bad
 10:54:09 14 with dates, I couldn't give you an exact date.
 10:54:12 15 Q. Was it toward the beginning of
 10:54:14 16 when the label went into operation?
 10:54:16 17 A. In the middle.
 10:54:17 18 Q. Okay. In the middle, so early
 10:54:19 19 90s?
 10:54:20 20 A. Yes.
 10:54:20 21 Q. What about Kevin Owens?
 10:54:23 22 A. Early 90s.
 10:54:26 23 Q. Early 90s, okay.
 10:54:36 24 Where were, we'll take Ray,
 10:54:39 25 Goodman & Brown, where were those albums sold?

10:56:23 1 BLAND-RICKY ROBERTS
 10:56:26 2 one place and pick up the major label records
 10:56:31 3 as well as the independent label records. So,
 10:56:33 4 thus, calling it a one stop.
 10:56:37 5 And those one stops usually
 10:56:40 6 worked within the chain of distributors that
 10:56:45 7 helped to get a record into a marketplace.
 10:57:02 8 Q. Okay. But you described Indi
 10:57:05 9 Distribution as something separate than a one
 10:57:08 10 stop, it was not a one stop distributor;
 10:57:11 11 correct?
 10:57:11 12 A. Indi distributed a series of
 10:57:16 13 independent companies and got their records
 10:57:20 14 into the marketplace as would that of any
 10:57:23 15 major record companies' distributor get their
 10:57:28 16 records into the marketplace.
 10:57:29 17 Q. Okay. Can we just talk
 10:57:31 18 generally about how records are distributed
 10:57:34 19 through say --
 10:57:36 20 A. I charge for giving an
 10:57:37 21 education.
 10:57:38 22 Q. -- for the major labels, they
 10:57:40 23 work with distributors, they may work with one
 10:57:43 24 distributor; is that what you're saying?
 10:57:45 25 A. A major label -- okay, I will

10:54:39 1 BLAND-RICKY ROBERTS
 10:54:45 2 A. Nationwide as well as
 10:54:46 3 internationally.
 10:54:51 4 Q. What about Kevin Owens?
 10:54:53 5 A. Same.
 10:54:56 6 Q. Did you have -- what about you
 10:55:01 7 said I think Al McDowell had an album.
 10:55:05 8 A. Uh-huh.
 10:55:06 9 Q. Where was that sold?
 10:55:07 10 A. Internationally.
 10:55:13 11 Q. So to sell the albums
 10:55:15 12 internationally who did JBR Records work with?
 10:55:22 13 A. We had a distribution agreement
 10:55:24 14 with Indi. I-N-D-I distribution. They were a
 10:55:33 15 nationally distributing distributor.
 10:55:42 16 We also use other various one
 10:55:45 17 stop distributors which also shipped
 10:55:49 18 internationally. So that is pretty much how
 10:55:57 19 we got our records out.
 10:55:58 20 Q. Okay. When you say a one stop
 10:56:00 21 distributor, what do you mean?
 10:56:02 22 A. A one stop is similar to a
 10:56:16 23 distributor, but the reason it is called a one
 10:56:18 24 stop is because as a, I would say an
 10:56:23 25 independent retail source, you can go to that

10:57:45 1 BLAND-RICKY ROBERTS
 10:57:47 2 show you. I will give you this. A major
 10:57:50 3 label has its own distribution group. Let's
 10:57:53 4 go with Warner Bros. Records.
 10:57:57 5 Q. Right.
 10:57:58 6 A. Warner Bros. Records is the WEA
 10:58:01 7 group. W-E-A. Warner Electra Atlantic. That
 10:58:05 8 is the group of labels that distributes
 10:58:07 9 through that WEA. I mean in addition to that
 10:58:10 10 you have Electra Asylum, you have Asylum. You
 10:58:22 11 have all the various labels that would be
 10:58:22 12 labels under that umbrella.
 10:58:22 13 Q. Right.
 10:58:22 14 A. They all distribute through
 10:58:24 15 that particular pipeline. Okay. Let's go to
 10:58:28 16 Universal. Who happens to be the biggest
 10:58:31 17 currently. Universal has Motown, Universal,
 10:58:36 18 they have A&M. They have Innerscope which is
 10:58:44 19 the biggest label at Universal which is the
 10:58:48 20 biggest label thus in the scope of things for
 10:58:52 21 urban music.
 10:58:54 22 So all of them distribute
 10:58:56 23 through the uni distribution group.
 10:59:02 24 Now let's go back to Indi.
 10:59:05 25 Indi had all the independent labels which they

11:04:25 1 **BLAND-RICKY ROBERTS**
 11:04:27 2 that reflected how many albums were sold to
 11:04:33 3 stores?
 11:04:37 4 A. It would be the equivalent of
 11:04:39 5 my royalty printout, as you spoke of earlier.
 11:04:44 6 Q. So Indi Distribution would send
 11:04:46 7 JBR royalty statements?
 11:04:48 8 A. Pretty much. Because they paid
 11:04:49 9 me, less their distribution fee.
 11:04:53 10 Q. Okay. When you said that it
 11:05:00 11 involved an agreement that if an album didn't
 11:05:02 12 sell in a particular time frame, then they
 11:05:06 13 would, they had the right to return it, the
 11:05:09 14 store had the right to return it to Indi
 11:05:12 15 Distribution; what were the typical time
 11:05:18 16 frames for those sales?
 11:05:20 17 A. Nothing was typical.
 11:05:22 18 Q. Okay. Were there any, I mean
 11:05:27 19 that you remember, any time frame; would it be
 11:05:30 20 like six months?
 11:05:31 21 A. No. I would say it is longer
 11:05:32 22 than that.
 11:05:33 23 Q. Would it be a year?
 11:05:36 24 A. Nine months to a year.
 11:05:38 25 Q. Nine months to a year. Okay.

11:07:09 1 **BLAND-RICKY ROBERTS**
 11:07:16 2 was that album for sale to account for the
 11:07:19 3 20,000 or more albums that sold?
 11:07:22 4 A. Over a year.
 11:07:24 5 Q. Was it less than two years?
 11:07:26 6 A. Yes. Let me say this, I
 11:07:31 7 stopped manufacturing at that point. But
 11:07:33 8 there is demand for that record today.
 11:07:35 9 Q. When did you stop
 11:07:36 10 manufacturing?
 11:07:42 11 A. I don't know the exact date.
 11:07:44 12 Q. Can you --
 11:07:46 13 A. No.
 11:07:47 14 Q. -- any best estimate, that
 11:07:48 15 doesn't mean a guess, that means was it
 11:07:50 16 before -- did you stop manufacturing before
 11:07:53 17 JBR went out of business?
 11:07:55 18 A. Yes.
 11:07:56 19 Q. A year before?
 11:07:58 20 A. No. About seven months before
 11:08:03 21 I stopped with the Ray, Goodman & Brown, seven
 11:08:07 22 or eight months before.
 11:08:08 23 Q. Why would you stop
 11:08:09 24 manufacturing an album?
 11:08:13 25 A. Well, in that case I ran out of

11:05:38 1 **BLAND-RICKY ROBERTS**
 11:05:49 2 In your experience of selling albums through
 11:05:53 3 JBR Records, how long after an album was
 11:05:57 4 released would you expect sales of the album
 11:06:07 5 to continue?
 11:06:09 6 A. Depends on how hot the music
 11:06:10 7 was and how it was received by the public.
 11:06:16 8 Q. Okay. In your experience if an
 11:06:22 9 album was released -- sorry, let's step back.
 11:06:29 10 So, for example, the Kevin
 11:06:31 11 Owens album you said sold you're not sure how
 11:06:36 12 many, but it sold more than 10,000 was that --
 11:06:40 13 MR. CHIN: Wait. Let her ask
 11:06:41 14 the question.
 11:06:41 15 Q. -- were those sales accounted
 11:06:45 16 for in a particular time frame?
 11:06:48 17 MR. CHIN: Objection. You can
 11:06:49 18 answer.
 11:06:49 19 A. Yes.
 11:06:50 20 Q. What was that time frame?
 11:06:52 21 A. Kevin Owens, I think was for
 11:06:54 22 about a year and, I would say about a year and
 11:07:01 23 a half.
 11:07:07 24 Q. So what about for the other one
 11:07:09 25 we talked about Ray, Goodman & Brown, how long

11:08:13 1 **BLAND-RICKY ROBERTS**
 11:08:16 2 promotion money.
 11:08:34 3 Q. Did Indi Distribution sell to
 11:08:39 4 independent record stores?
 11:08:42 5 A. Yes.
 11:08:43 6 Q. Did Indi Distribution sell to
 11:08:47 7 major retail outlets, for example, Tower
 11:08:51 8 Records?
 11:08:52 9 A. Yes.
 11:08:53 10 Q. So Indi Distribution, the word
 11:08:55 11 Indi there means, is referring to the
 11:08:58 12 independent record labels, not necessarily the
 11:09:04 13 independent stores; right?
 11:09:04 14 MR. CHIN: Objection.
 11:09:11 15 A. I don't know the answer. That,
 11:09:13 16 I don't know.
 11:09:17 17 Q. But Indi Distribution, do you
 11:09:20 18 know if it distributed major label albums?
 11:09:24 19 A. No, it did not.
 11:09:35 20 Q. What types of media were the
 11:09:38 21 albums that JBR Records released, what forms
 11:09:42 22 were they released on; vinyl?
 11:09:44 23 A. Vinyl.
 11:09:48 24 Q. Anything else?
 11:09:49 25 A. Cassette, CD.

13:44:14 1 BLAND-RICKY ROBERTS
 13:44:21 2 Q. So if we are going off of the
 13:44:24 3 approximate date of February 1994 when Funky
 13:44:32 4 Drummer Volume II was released, you stopped
 13:44:39 5 selling it shortly thereafter?
 13:44:43 6 A. March --
 13:44:45 7 MR. CHIN: Wait until she
 13:44:46 8 finishes.
 13:44:47 9 Q. Shortly thereafter?
 13:44:49 10 MR. CHIN: Objection.
 13:44:52 11 A. March, April, thereabout.
 13:45:06 12 Q. Have you ever seen copies of
 13:45:08 13 Funky Drummer Volume II offered for sale on
 13:45:10 14 the internet?
 13:45:12 15 A. No.
 13:45:21 16 Q. I just want to talk about the
 13:45:23 17 distribution process for Funky Drummers volume
 13:45:28 18 and we talked about your distributor generally
 13:45:31 19 for JBR Records. We will focus on Funky
 13:45:34 20 Drummer I first. Again I am going to ask you
 13:45:36 21 the questions specific to each album. If you
 13:45:38 22 say that it was the same for Funky Drummer II,
 13:45:40 23 you can tell us that and it will go faster.
 13:45:44 24 I'll ask separately otherwise.
 13:45:52 25 How was Funky Drummer I

13:47:11 1 BLAND-RICKY ROBERTS
 13:47:12 2 Volume I, you said there was also more formal
 13:47:16 3 distributor channels?
 13:47:18 4 A. Indi, we used Indi, we used
 13:47:21 5 Pearl which is a one stop out of Brooklyn. We
 13:47:33 6 used Tiger. Tiger. Tiger. The name slips me
 13:47:37 7 right now. Tiger something or something Tiger
 13:47:40 8 was an international distributor out of
 13:47:43 9 Jersey. Englewood, New Jersey. And we
 13:47:47 10 distributed product to all of those sources as
 13:47:57 11 well.
 13:47:58 12 Q. Other than Indi, Pearl or Tiger
 13:48:01 13 were there any other distribution sources what
 13:48:03 14 you were calling more the formal distribution
 13:48:06 15 for Funky Drummer Volume I?
 13:48:08 16 A. There was one other one that
 13:48:09 17 was located down the block from the Limelight.
 13:48:16 18 I just can't remember the name of that one. I
 13:48:18 19 know he distributed international as well.
 13:48:20 20 Q. You are talking about the
 13:48:21 21 Limelight here in New York City on Sixth
 13:48:24 22 Avenue.
 13:48:25 23 A. Yes.
 13:48:25 24 Q. Or what used to be there. It
 13:48:27 25 is something else already.

13:45:52 1 BLAND-RICKY ROBERTS
 13:45:53 2 distributed?
 13:45:56 3 A. It was distributed, as I stated
 13:45:58 4 earlier, through the trunk of the car, as well
 13:46:03 5 as through formal distributor channels.
 13:46:05 6 Q. When you say trunk of the car,
 13:46:07 7 you're talking about the trunk of your car?
 13:46:10 8 A. That's a term used loosely. As
 13:46:17 9 you mentioned a few minutes ago. You asked me
 13:46:19 10 about Mr. Vargas delivering Records to Rock
 13:46:23 11 and Soul.
 13:46:25 12 Q. Right.
 13:46:25 13 A. That would be considered out of
 13:46:27 14 the trunk of the car as opposed to that
 13:46:30 15 distribution entity that their salesperson
 13:46:33 16 selling that record we would be selling it.
 13:46:40 17 We call that out of the trunk of the car.
 13:46:40 18 Q. That is direct --
 13:46:40 19 A. Direct sales.
 13:46:40 20 Q. -- direct sales from the label
 13:46:42 21 and the artist in this case, you said
 13:46:44 22 Mr. Vargas is not an artist. So direct sales
 13:46:48 23 from the label and the musician; right?
 13:46:53 24 A. Okay.
 13:47:11 25 Q. For the sales of Funky Drummer

13:48:27 1 BLAND-RICKY ROBERTS
 13:48:28 2 A. Right.
 13:48:28 3 Q. There was another distributor
 13:48:31 4 there, you just don't remember their name?
 13:48:33 5 A. I don't remember their name,
 13:48:34 6 the proper name.
 13:48:45 7 Q. You said you also made direct
 13:48:46 8 sales to record stores, were those record
 13:48:49 9 stores local here in New York?
 13:48:50 10 A. Yes.
 13:48:51 11 Q. What were the names of those
 13:48:52 12 stores?
 13:48:55 13 A. You had Rock and Soul. You had
 13:48:58 14 Downstairs. You had Downtown. You had
 13:49:05 15 Carmine Records. You had Vinyl-mania. Fight
 13:49:11 16 Ball Records. Eight Ball, by the way, was an
 13:49:20 17 international distributor because they had
 13:49:21 18 their own record company. So I know that they
 13:49:23 19 shipped product everywhere.
 13:49:31 20 One in the Bronx. There is a
 13:49:33 21 couple in the Bronx on Concourse, Grand
 13:49:39 22 Concourse, I can't remember. There was one on
 13:49:42 23 Fordham Road I know we went to. That's all I
 13:49:51 24 can remember.
 13:50:06 25 Q. Other than Rock and Soul,

14:47:19 1 BLAND-RICKY ROBERTS
 14:47:23 2 II to; correct?
 14:47:24 3 A. Yes.
 14:47:24 4 Q. Was it less than 300 copies?
 14:47:29 5 A. If it less than 100 it would be
 14:47:31 6 less than 300.
 14:47:32 7 Q. Sorry. I'm starting to confuse
 14:47:34 8 myself. Let's me go to Indi Distribution. In
 14:47:53 9 parentheses -- we are looking at Bates page
 14:47:56 10 17, Defendants' Exhibit 8, in parenthesis next
 14:47:59 11 to Indi Distribution it says "national." Is
 14:48:02 12 that right?
 14:48:02 13 A. Yes.
 14:48:04 14 Q. This is the distributor you
 14:48:07 15 said distributed --
 14:48:12 16 A. Pretty much all of our product.
 14:48:14 17 Q. Right. Did they distribute --
 14:48:18 18 where did Indi Distribution distribute their
 14:48:22 19 Records to?
 14:48:22 20 A. Okay, if you remember earlier I
 14:48:24 21 said to you Indi consisted of Malvern.
 14:48:27 22 Malvern covered from Boston down to the
 14:48:33 23 Carolinas into Florida, if I am not mistaken.
 14:48:40 24 Okay. Then you had Big State, Big State was
 14:48:43 25 housed out of Texas.

14:49:43 1 BLAND-RICKY ROBERTS
 14:49:45 2 but I know initial numbers, just on a normal
 14:49:49 3 record we would normally do a couple thousand.
 14:49:54 4 But being this was a specialty record, if I am
 14:49:57 5 not mistaken, we did like 500 initial. I
 14:50:01 6 don't know what the reorders were. But I do
 14:50:02 7 remember that 500 number initially.
 14:50:05 8 Q. You remember the 500 initial,
 14:50:08 9 we are speaking of Funky Drummer Volume II?
 14:50:11 10 A. Both of them was 500.
 14:50:15 11 Q. Okay. How many reorders did
 14:50:19 12 you --
 14:50:19 13 A. That is a good question.
 14:50:21 14 Q. -- did you send to Indi
 14:50:25 15 Distribution?
 14:50:25 16 A. Definitely one.
 14:50:26 17 Q. Okay.
 14:50:27 18 A. I can't tell you past that
 14:50:29 19 because I don't remember, but I do remember
 14:50:31 20 there was one and the volume they asked for,
 14:50:33 21 the numbers, the units they needed, I don't
 14:50:40 22 remember.
 14:50:40 23 Q. Do you have an estimate of the
 14:50:40 24 volume of the reorder?
 14:50:40 25 A. No. No, I don't.

14:48:43 1 BLAND-RICKY ROBERTS
 14:48:46 2 Q. Okay.
 14:48:47 3 A. They did the whole southwest,
 14:48:49 4 Texas, Louisiana, Arkansas, Mississippi,
 14:48:53 5 Kentucky, wherever else. And they had two
 14:48:58 6 places. I think their other place was in the
 14:49:06 7 Chicago area. So they would handle Chicago,
 14:49:09 8 Detroit, that whole --
 14:49:11 9 Q. Okay.
 14:49:11 10 A. Then you had CRD which was
 14:49:13 11 California Record Distributors which handled
 14:49:16 12 all of the West Coast.
 14:49:18 13 Q. So all --
 14:49:20 14 A. I'm sorry.
 14:49:21 15 Q. I'll let you finish.
 14:49:22 16 A. When they distributed a record
 14:49:24 17 it was blanketed nationally.
 14:49:26 18 Q. Did Indi Distribution we talked
 14:49:29 19 about earlier, they distributed to retail
 14:49:32 20 outlets; correct?
 14:49:33 21 A. Yes.
 14:49:36 22 Q. How many copies of Funky
 14:49:37 23 Drummer Volume II did you sell to Indi
 14:49:41 24 Distribution?
 14:49:43 25 A. I don't know the final number,

14:50:40 1 BLAND-RICKY ROBERTS
 14:50:42 2 Q. Was it as many as the initial
 14:50:44 3 500?
 14:50:45 4 A. I would tend to think so.
 14:50:46 5 Q. What makes you think that?
 14:50:49 6 A. Just basically the way they
 14:50:50 7 were telling me, you know, it's moving in
 14:50:55 8 certain types of stores, ones that cater to
 14:50:59 9 producers and rap artists, they were letting
 14:51:02 10 me know that.
 14:51:03 11 Q. Did they tell you any
 14:51:04 12 particular stores where Funky Drummer Volume
 14:51:08 13 II was moving as you said?
 14:51:09 14 A. No.
 14:51:10 15 Q. By moving you mean sales?
 14:51:11 16 A. Yes.
 14:51:14 17 Q. So they didn't give you any
 14:51:16 18 specific information about what stores sold
 14:51:21 19 Funky Drummer Volume II; is that right?
 14:51:23 20 A. Correct. Nor did I ask.
 14:51:25 21 Q. Did you have other than the
 14:51:32 22 initial order of 500 and the one reorder, did
 14:51:37 23 you have any other sales of Funky Drummer
 14:51:41 24 Volume II to Indi Distribution?
 14:51:45 25 A. I don't remember. There very

14:51:45 1 BLAND-RICKY ROBERTS
 14:51:52 2 well may have been, but I just don't remember.
 14:52:06 3 Q. If you had to get that, sorry
 14:52:06 4 -- strike that.
 14:52:14 5 Do you know where that
 14:52:17 6 information would be other than your memory?
 14:52:23 7 MR. CHIN: Objection.
 14:52:25 8 A. No.
 14:52:25 9 Q. So the 500 initial order and
 14:52:33 10 the one additional reorder that you recall,
 14:52:38 11 those numbers are based solely on your memory;
 14:52:42 12 is that right?
 14:52:42 13 MR. CHIN: Objection. You can
 14:52:44 14 answer.
 14:52:52 15 A. Yes.
 14:52:53 16 Q. Did you sell less than 1,500
 14:52:59 17 copies of Funky Drummer Volume II to Indi
 14:53:04 18 Distribution?
 14:53:04 19 MR. CHIN: Objection. You can
 14:53:05 20 answer.
 14:53:05 21 A. I don't know. I don't
 14:53:06 22 remember.
 14:53:07 23 Q. Okay. On Pearl One Stop that
 14:53:21 24 is a distributor; right?
 14:53:23 25 A. Uh-huh.

14:54:24 1 BLAND-RICKY ROBERTS
 14:54:28 2 three or four times and in a box that
 14:54:30 3 consisted of 50 Records. So I'm not sure of
 14:54:34 4 the exact number. But I know I went there
 14:54:37 5 three or four times.
 14:54:40 6 Q. When you say three or four
 14:54:41 7 times, do you mean you went there with, we're
 14:54:45 8 speaking of Funky Drummer Volume II?
 14:54:47 9 A. Correct.
 14:54:50 10 Q. So your best estimate would be
 14:54:52 11 around 200 copies to Pearl One; is that right?
 14:54:56 12 A. 150, 200.
 14:54:58 13 Q. Between 150 to 200.
 14:55:00 14 A. Uh-huh.
 14:55:01 15 Q. Okay. So less than 300?
 14:55:02 16 A. Yes.
 14:55:08 17 Q. Let's see, for Tiger
 14:55:09 18 Distribution in parentheses there, we are
 14:55:12 19 looking again at page Bates number 17, it's DX
 14:55:17 20 8, it says there that in parentheses (Int'l)
 14:55:26 21 that is international; is that right?
 14:55:28 22 A. Yes.
 14:55:30 23 Q. Tiger Distribution is a
 14:55:32 24 distributor; right?
 14:55:33 25 A. Yes, it is.

14:53:23 1 BLAND-RICKY ROBERTS
 14:53:24 2 Q. They are in Brooklyn?
 14:53:25 3 A. Yeah. They were in Brooklyn.
 14:53:27 4 Q. Are they out of business now?
 14:53:29 5 A. I believe so.
 14:53:37 6 Q. Does Pearl One Stop distribute
 14:53:40 7 to retail stores?
 14:53:41 8 A. Yes.
 14:53:41 9 Q. Where are retail stores that
 14:53:43 10 Pearl One Stop distributes to or distributed
 14:53:46 11 to?
 14:53:46 12 A. All over the country.
 14:53:48 13 Q. In every state in the U.S.?
 14:53:55 14 A. I can't answer that, I don't
 14:53:57 15 know.
 14:53:57 16 Q. Do you know what states Pearl
 14:53:59 17 One Stop distributed to?
 14:54:01 18 A. No, I don't.
 14:54:05 19 Q. Did you sell copies of Funky
 14:54:07 20 Drummer Volume II to Pearl One Stop?
 14:54:09 21 A. Yes, I did.
 14:54:11 22 Q. How many copies did you sell to
 14:54:13 23 them?
 14:54:22 24 A. I don't know the exact number,
 14:54:24 25 but I do know that I delivered Records to them

14:55:33 1 BLAND-RICKY ROBERTS
 14:55:34 2 Q. Where does Tiger Distribution
 14:55:42 3 distribute albums to?
 14:55:51 4 A. I would have to say to the
 14:55:52 5 whole country. I know for sure they did
 14:55:54 6 England, they did France, they did Germany
 14:55:57 7 because I discussed that with them. And they
 14:55:59 8 did Italy. Past that, I don't know.
 14:56:12 9 Q. Did Tiger Distribution
 14:56:15 10 distribute to retail stores; is that right?
 14:56:17 11 A. As far as I know that is where
 14:56:19 12 they sent Records.
 14:56:20 13 Q. Did they distribute Records in
 14:56:23 14 the United States?
 14:56:27 15 A. I'm not 100 percent sure, I
 14:56:29 16 don't know.
 14:56:32 17 Q. Did you sell copies of Funky
 14:56:33 18 Drummer Volume II to Tiger Distribution?
 14:56:35 19 A. Yes.
 14:56:38 20 Q. How many copies did you sell to
 14:56:39 21 them?
 14:56:44 22 A. About -- let's see, they took a
 14:56:47 23 hundred each time. I went there a few times.
 14:56:49 24 I don't know the exact number, but I know each
 14:56:52 25 time they took a hundred. So they took two

12:12:23 1 BLAND-RICKY ROBERTS
 12:12:26 2 untested I would go with 1,000. But Ralph was
 12:12:30 3 so emphatic, he believed, I said, okay, we
 12:12:34 4 will go 1,500.
 12:12:38 5 Q. Just general information, when
 12:12:39 6 you press a record, is there a minimum that
 12:12:42 7 you have to have pressed, for example, you
 12:12:45 8 couldn't go -- sorry, could you go and say I
 12:12:48 9 want five copies of this, press the vinyl?
 12:12:53 10 A. I doubt if you would do that,
 12:12:54 11 it is too expensive.
 12:12:55 12 Q. Was there like a minimum
 12:12:58 13 threshold number for manufacturers?
 12:13:02 14 MR. CHIN: Objection. You can
 12:13:02 15 answer.
 12:13:02 16 A. For the manufacturer the
 12:13:06 17 numbers that they quote when they give you
 12:13:08 18 their pricing sheet start with like 100 or
 12:13:11 19 500. So I would say that would be your
 12:13:13 20 minimum, I would say.
 12:13:15 21 Q. Then the first pressing of
 12:13:16 22 Funky Drummer II, you said it was 1,500
 12:13:20 23 copies; right?
 12:13:20 24 A. Yes. Yes.
 12:13:28 25 Q. How many pressings of Funky

12:14:38 1 BLAND-RICKY ROBERTS
 12:14:39 2 out of business.
 12:14:43 3 Q. How soon before going out of
 12:14:44 4 business was Funky Drummer II pressed?
 12:14:50 5 A. I don't know.
 12:14:54 6 Q. Was it a year before?
 12:14:56 7 MR. CHIN: Objection.
 12:14:56 8 A. I don't know.
 12:15:17 9 Q. Who decided how many copies of
 12:15:18 10 Funky Drummer II would be pressed?
 12:15:22 11 A. I did.
 12:15:23 12 Q. Was anyone else involved in
 12:15:24 13 that decision?
 12:15:26 14 A. No. It was mostly me. I mean
 12:15:29 15 Ralph, you know, being excited about it, but I
 12:15:33 16 made the determination.
 12:15:34 17 Q. For Funky Drummer II did you
 12:15:36 18 receive an invoice from the manufacturer for
 12:15:39 19 any of the three pressings?
 12:15:44 20 MR. CHIN: Objection. You can
 12:15:44 21 answer.
 12:15:48 22 A. I would assume so.
 12:15:49 23 Q. Okay.
 12:15:50 24 A. I just don't remember whether,
 12:15:52 25 you know, it was the cash and carry as I

12:13:28 1 BLAND-RICKY ROBERTS
 12:13:29 2 Drummer II were made?
 12:13:31 3 A. There was three because of the
 12:13:34 4 demand for the record.
 12:13:39 5 Q. So, how many copies of Funky
 12:13:41 6 Drummer II were pressed?
 12:13:43 7 A. 4,000.
 12:13:45 8 Q. So there was the first one of
 12:13:46 9 1,500.
 12:13:47 10 A. Correct.
 12:13:48 11 Q. Then the second pressing?
 12:13:49 12 A. 2,000.
 12:13:52 13 Q. Then the third pressing?
 12:13:53 14 A. 500.
 12:13:54 15 Q. 500. What is the time frame
 12:14:05 16 between the first pressing and the last
 12:14:07 17 pressing?
 12:14:13 18 A. A month, maybe. A month.
 12:14:15 19 Q. One month?
 12:14:15 20 A. Yeah. A month.
 12:14:21 21 Q. So, do you remember when Funky
 12:14:23 22 Drummer II was first pressed?
 12:14:25 23 A. No.
 12:14:34 24 Q. Do you recall the year?
 12:14:38 25 A. No. But it was prior to going

12:15:52 1 BLAND-RICKY ROBERTS
 12:15:55 2 stated earlier or if it was a situation -- I
 12:15:57 3 would tend to believe there was a receipt
 12:15:59 4 because I had to get with Ralph on costs.
 12:16:06 5 Q. Okay. What were the costs of
 12:16:11 6 pressing the Funky Drummer II album?
 12:16:14 7 A. I don't know back then. I
 12:16:16 8 couldn't tell you.
 12:16:18 9 Q. Do you have a sense, was it
 12:16:24 10 charged per unit?
 12:16:27 11 A. Yes. It was a per unit price.
 12:16:31 12 Q. For 1,500 copies of the album
 12:16:34 13 would it cost \$8 per album?
 12:16:37 14 A. No.
 12:16:38 15 MR. CHIN: Objection.
 12:16:41 16 Objection. You can answer.
 12:16:43 17 A. No, it wouldn't have cost \$8
 12:16:45 18 per. I just don't remember what the pressing
 12:16:46 19 price was then. It was like you always fought
 12:16:49 20 to get the best price. So somewhere around
 12:16:51 21 \$1, \$1.10, \$1.15. In there.
 12:16:59 22 Q. You said you had to get with
 12:17:01 23 Mr. Vargas regarding the costs; what do you
 12:17:04 24 mean by that?
 12:17:05 25 A. Well, I would account to him

11:52:36 1 BLAND-RICKY ROBERTS
 11:52:38 2 Q. So, in that you would consider
 11:52:40 3 yourself an innocent bystander?
 11:52:42 4 A. Yes. Innocent bystander.
 11:52:46 5 Q. Do you know who played the
 11:52:48 6 tracks on Funky Drummer II?
 11:52:54 7 A. Who played the tracks.
 11:52:56 8 Q. Sorry, -- strike that.
 11:52:57 9 We will go back. What
 11:52:58 10 instruments were recorded on the Funky Drummer
 11:53:03 11 II album?
 11:53:05 12 A. Ralph's drums again. Ralph's
 11:53:07 13 drum set.
 11:53:10 14 Q. Who played the drums on those
 11:53:12 15 tracks?
 11:53:12 16 A. Ralph. To my knowledge just
 11:53:15 17 Ralph.
 11:53:21 18 Q. Who else was present at the
 11:53:25 19 recording session of Funky Drummer II?
 11:53:32 20 A. To my recollection just Ralph,
 11:53:34 21 myself and Carlos.
 11:53:45 22 Q. What was Carlos' role on the
 11:53:46 23 Funky Drummer II album?
 11:53:48 24 A. To me, engineer.
 11:53:54 25 Q. Was his role different to

11:55:10 1 BLAND-RICKY ROBERTS
 11:55:28 2 Q. If Mr. Vargas testified that
 11:55:30 3 six hours in the studio were booked for Funky
 11:55:33 4 Drummer I, would you have any reason to doubt
 11:55:35 5 that?
 11:55:36 6 MR. CHIN: Objection?
 11:55:39 7 A. If he testified to that?
 11:55:40 8 Q. Yes.
 11:55:40 9 A. Is that what he said?
 11:55:42 10 Q. Yes.
 11:55:43 11 MR. CHIN: Objection.
 11:55:44 12 Q. That is what the question is.
 11:55:46 13 MR. CHIN: Sorry, I thought
 11:55:46 14 you were answering.
 11:55:48 15 Q. If Mr. Vargas were to say we
 11:55:51 16 had six hours in the studio to record Funky
 11:55:54 17 Drummer I, would you have any reason to doubt
 11:55:57 18 him?
 11:56:09 19 MR. CHIN: Objection.
 11:56:10 20 A. With me not knowing and not
 11:56:11 21 remembering, I would tend to go with it. But
 11:56:14 22 I don't know. I don't know that that's the
 11:56:16 23 case.
 11:56:17 24 Q. If Mr. Vargas testified that
 11:56:19 25 four hours in the studio were booked for Funky

11:53:54 1 BLAND-RICKY ROBERTS
 11:53:55 2 anyone else?
 11:53:56 3 A. To anyone else? Maybe to Ralph.
 11:53:58 4 Q. What did Ralph -- what was Mr.
 11:54:06 5 Bess' role according to Ralph?
 11:54:14 6 A. That particular time I made
 11:54:15 7 Ralph say strictly engineer.
 11:54:18 8 Q. Why is that?
 11:54:20 9 A. I don't believe in giving you
 11:54:21 10 credit for something you didn't do. Because
 11:54:29 11 to me if you can do something, you can do it.
 11:54:35 12 Thus, you don't need me to boost on something
 11:54:41 13 you didn't do say you did do.
 11:54:43 14 Q. Okay.
 11:54:44 15 A. That is just how I am. I don't
 11:54:45 16 ask anybody put me down as executive producer
 11:54:48 17 on your record if I didn't pay the bills or
 11:54:50 18 coordinate the material or do the things
 11:54:53 19 necessary to be deemed an executive producer.
 11:55:00 20 So I didn't feel he should be anything other
 11:55:02 21 than an engineer.
 11:55:04 22 Q. Was Mr. Bess credited for being
 11:55:06 23 anything other than an engineer on Funky
 11:55:08 24 Drummer II?
 11:55:10 25 A. I don't know.

11:56:19 1 BLAND-RICKY ROBERTS
 11:56:21 2 Drummer II, would you have any reason to doubt
 11:56:25 3 him on that?
 11:56:31 4 MR. CHIN: Objection.
 11:56:32 5 A. Once again, not knowing.
 11:56:44 6 Q. If Mr. Vargas testified under
 11:56:48 7 oath the total paid to the studio for Funky
 11:56:50 8 Drummer II was around \$500 to \$600, would you
 11:56:54 9 have any reason to doubt him?
 11:56:56 10 MR. CHIN: Objection. You can
 11:56:59 11 answer.
 11:56:59 12 A. No. I have no reason to doubt
 11:57:06 13 him. He was there, if he remembers, he
 11:57:06 14 remembers. I don't remember.
 11:57:08 15 Q. When Mr. Vargas pitched the
 11:57:10 16 idea of the Funky Drummer series to you, did
 11:57:12 17 he tell you a target audience for those, for
 11:57:19 18 the Funky Drummer?
 11:57:22 19 MR. CHIN: Objection. You can
 11:57:22 20 answer.
 11:57:23 21 A. Yes.
 11:57:24 22 Q. Okay. What was that target
 11:57:25 23 audience?
 11:57:28 24 A. The rappers, producers, people
 11:57:32 25 who would utilize his beats to make songs.

11:57:32 1 BLAND-RICKY ROBERTS
 11:57:43 2 People in a production capacity, I guess.
 11:57:57 3 Q. So the target audience for the
 11:58:00 4 Funky Drummer album is not the music listening
 11:58:05 5 consumer; is that fair?
 11:58:07 6 MR. CHIN: Objection. You can
 11:58:08 7 answer.
 11:58:08 8 A. Fair.
 11:58:24 9 Q. Did you ever hear Mr. Vargas
 11:58:27 10 play the tracks, the beats that were on Funky
 11:58:32 11 Drummer II, did you ever hear him play those
 11:58:34 12 before the recording session?
 11:58:38 13 MR. CHIN: Objection. You can
 11:58:41 14 answer.
 11:58:41 15 A. I don't remember. I don't
 11:58:43 16 remember.
 11:58:43 17 Q. Okay. Were you present at any
 11:58:48 18 rehearsals that Mr. Vargas may have had before
 11:58:54 19 he went into the studio?
 11:59:01 20 A. The term rehearsal? What do you
 11:59:06 21 mean.
 11:59:06 22 Q. How would you define rehearsal?
 11:59:10 23 A. I am not the one asking the
 11:59:11 24 question. I want to know how you define it.
 11:59:13 25 Q. All right. I will ask a

12:00:24 1 BLAND-RICKY ROBERTS
 12:00:26 2 Q. Right.
 12:00:27 3 A. I couldn't answer that. I
 12:00:28 4 don't know. I don't know. That is why I
 12:00:33 5 asked you about your definition of rehearsal.
 12:00:39 6 Q. You said there was the one time
 12:00:40 7 when he said this is what I'm talking about
 12:00:42 8 and he played beats, that was before the
 12:00:47 9 recording session for Funky Drummer I?
 12:00:49 10 A. Yes.
 12:00:54 11 Q. Did he do -- did you have a
 12:00:56 12 similar interaction with him where he played
 12:00:58 13 beats and described what he wanted to do for
 12:01:01 14 Funky Drummer II?
 12:01:01 15 MR. CHIN: Objection.
 12:01:03 16 A. That, I don't remember.
 12:01:09 17 Q. Do you remember when Funky
 12:01:10 18 Drummer I was recorded?
 12:01:14 19 A. Dates?
 12:01:15 20 Q. Yes.
 12:01:16 21 A. No.
 12:01:20 22 Q. Do you know an approximate year
 12:01:22 23 when Funky Drummer I was recorded?
 12:01:30 24 A. '90-something. I don't
 12:01:31 25 remember exactly.

11:59:13 1 BLAND-RICKY ROBERTS
 11:59:14 2 different question. How would you define a
 11:59:17 3 rehearsal, if an artist said, Mr. Roberts, I
 11:59:22 4 am going to rehearse before I go into the
 11:59:24 5 studio to record these tracks, what would you
 11:59:29 6 take that to mean?
 11:59:31 7 MR. CHIN: Objection. You can
 11:59:31 8 answer.
 11:59:32 9 A. What I would take it to mean is
 11:59:33 10 that one would practice, if you would, what it
 11:59:40 11 is they plan on doing. Working out the kinks.
 11:59:47 12 Q. Were you ever present when
 11:59:48 13 Mr. Vargas practiced the beats that he
 11:59:51 14 recorded for Funky Drummer II?
 11:59:56 15 MR. CHIN: Objection.
 11:59:56 16 A. I can't specifically say I was
 11:59:58 17 at a rehearsal. Other than the time he played
 12:00:01 18 the stuff for me that time and he said, you
 12:00:03 19 know, this is what I am talking about, man.
 12:00:05 20 Other than that time I've heard Ralph play a
 12:00:10 21 lot. And I can't tell you if that was a
 12:00:14 22 specific rehearsal for that next album series
 12:00:17 23 or if he was working on some stuff that he was
 12:00:20 24 going to use for a show, you know, because he
 12:00:24 25 still played with the band.

12:01:31 1 BLAND-RICKY ROBERTS
 12:01:38 2 Q. Was it recorded before JBR
 12:01:39 3 Records went out of business?
 12:01:40 4 A. Yes.
 12:01:41 5 Q. That you said was approximately
 12:01:43 6 1995?
 12:01:44 7 MR. CHIN: Objection. That
 12:01:45 8 wasn't the time.
 12:01:46 9 A. '95, '96.
 12:01:48 10 Q. Okay. So was Funky Drummer I
 12:01:49 11 recorded before 1995, '96?
 12:01:53 12 A. Yes.
 12:02:01 13 Q. When was Funky Drummer II
 12:02:02 14 recorded?
 12:02:04 15 A. Not long thereafter.
 12:02:08 16 Q. When you say not long, about
 12:02:11 17 how long after Funky Drummer I was Funky
 12:02:14 18 Drummer II?
 12:02:15 19 A. I don't know. Maybe eight
 12:02:16 20 months, nine months, something like that.
 12:02:20 21 Q. Can you describe what lead to
 12:02:24 22 the second album Funky Drummer?
 12:02:26 23 A. The success of the first one.
 12:02:34 24 Q. When you say success, do you
 12:02:35 25 mean album sales?

17:39:12 1 BLAND-RICKY ROBERTS
 17:39:15 2 retail sale in stores on the West Coast?
 17:39:20 3 A. No.
 17:39:29 4 Q. And Mr. Chin asked you about a
 17:39:31 5 distribution fee paid to distributors.
 17:39:33 6 A. Yes.
 17:39:35 7 Q. Did that come out of, you said
 17:39:40 8 earlier you received \$8 per unit?
 17:39:45 9 A. Yes.
 17:39:46 10 Q. For Funky Drummer II?
 17:39:50 11 A. Uh-huh.
 17:39:51 12 Q. Did the fee paid to
 17:39:52 13 distributors come out of that?
 17:39:56 14 A. No. It was added on, remember,
 17:40:07 15 as I stated earlier that was my wholesale
 17:40:10 16 price.
 17:40:11 17 Q. Right?
 17:40:11 18 A. Whatever they added on for what
 17:40:13 19 would be known as the list price.
 17:40:15 20 Q. Right. So you okay. Got it.
 17:40:20 21 MS. AHRENS: I think I have no
 17:40:21 22 further questions.
 17:40:22 23 MR. CHIN: No further
 17:40:22 24 questions.
 17:40:23 25 VIDEOGRAPHER: Going off the

1 BLAND-RICKY ROBERTS
 2 STATE OF NEW YORK) Pg__of__Pgs
 3 ss:
 4 COUNTY OF NEW YORK)
 5 I wish to make the following changes,
 6 for the following reasons:
 7 PAGE LINE
 8 _____ CHANGE: _____
 9 _____ REASON: _____
 10 _____ CHANGE: _____
 11 _____ REASON: _____
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 24 _____ CHANGE: _____
 25 _____ REASON: _____

17:40:23 1 BLAND-RICKY ROBERTS
 17:40:25 2 record.
 17:40:25 3 MR. CHIN: We are going to
 17:40:26 4 read and sign.
 17:40:28 5 VIDEOGRAPHER: End of tape
 17:40:29 6 number 4.
 7 (Time Noted: 5:40 p.m.)
 8
 9
 10 BLAND-RICKY ROBERTS
 11
 12 Subscribed and sworn to before me
 13 this _____ day of _____, 2006.
 14 _____
 15
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 25

1 BLAND-RICKY ROBERTS
 2 CERTIFICATE
 3 STATE OF NEW YORK)
 4 : ss.
 5 COUNTY OF NEW YORK)
 6 I, TAMMEY M. PASTOR, a Registered
 7 Professional Reporter, Certified LiveNote
 8 Reporter and Notary Public within and for the
 9 State of New York, do hereby certify:
 10 That BLAND-RICKY ROBERTS, the
 11 witness whose deposition is hereinbefore set
 12 forth, was duly sworn by me and that such
 13 deposition is a true record of the testimony
 14 given by the witness.
 15 I further certify that I am not
 16 related to any of the parties to this action
 17 by blood or marriage, and that I am in no way
 18 interested in the outcome of this matter.
 19 IN WITNESS WHEREOF, I have
 20 hereunto set my hand this _____ day of
 21 _____, 2006.
 22 _____
 23 TAMMEY M. PASTOR, RPR, CLR
 24
 25

	DESCRIPTION	PAGE LINE
1	BLAND-RICKY ROBERTS	
	EXHIBITS	
2	DESCRIPTION	PAGE LINE
3	(Defendants' Exhibit 18 for identification, Distribution List, production numbers 000003.)	
4	167:6
5	(Defendants' Exhibit 19 for identification, 11/9/05 Plaintiffs' Responses and Objections to Interrogatories, no production numbers.)	
6	232:22
7	(Defendants' Exhibit 20 for identification, Roberts Verification, no production numbers.)	
8	281:11
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