

ORIGINAL

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

ROGER CLEVELAND GOLF)	No. 2:09-cv-02119 MBS
COMPANY, INC.,)	
)	
Plaintiff,)	
)	
vs.)	
)	Deposition of
CHRISTOPHER PRINCE,)	
SHELDON SHELLEY, PRINCE)	MICHAEL A. JOHNSON
DISTRIBUTION, LLC, and)	
BRIGHT BUILDERS, INC.,)	
)	
Defendants.)	

* * *

October 11, 2010

9:17 a.m.

Avanti Videoconference Center
299 South Main, Suite 1300
Salt Lake City, Utah 84111

* * *

Letitia L. Meredith
-Registered Professional Reporter-
Certified Shorthand Reporter



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A P P E A R A N C E S

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* * *

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P R O C E E D I N G S

MR. MCELWAIN: This deposition is being taken pursuant to the Federal Rules of Civil Procedure and the local rules for the United States District Court for the District of South Carolina, provisions of Rule 30.04 shall apply as to those objections which are waived and those which are preserved.

MICHAEL A. JOHNSON,
called as a witness on behalf of the plaintiff, being duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. MCELWAIN:

Q. Mr. Johnson, as I said earlier, my name is John McElwaine and I represent Cleveland Golf. Joining me here in Charleston is Paul Doolittle, who is council for Bright Builders. So, again, thank you for your attendance. As I waved before, this is me. Paul is sitting across the table from me.

I'm going to begin by asking whether you've had your deposition taken?

A. No, I haven't.

Q. One of the important things to keep in mind is that the court reporter is going to be taking down everything that you say and that she cannot

1 distinguish between unh-unhs and uh-huhs and shaking
2 your head. So every time you answer, if you could
3 try to keep in mind to answer with a yes or no, and
4 feel free to explain your answers from then on out,
5 but it will be very important to keep a clean record
6 by being formal in your responses in that regard.

7 Also, feel free to request a break at any
8 time. If we're going on too long, feel free to
9 request a break. Even though Paul is shaking his
10 head at you, feel free to do so and we can go off the
11 record and you can take care of what you need to take
12 care of.

13 Pursuant to our rules there's one thing I
14 must do, at the beginning of deposition I must
15 instruct you as a witness to ask me for
16 clarifications, definitions, et cetera, rather than
17 to ask your own counsel. Do you understand that?

18 A. Yes.

19 Q. And so if I ask you a question, is it fair
20 to assume that you understand the question if you
21 answer it affirmatively?

22 A. Yes.

23 Q. Also, during this deposition I may ask a
24 question and your attorney may object to the
25 question. If that happens, it's a just a discussion

1 that we're having on the record. You're going to
2 have to answer the question anyway at that point.
3 Does that make sense?

4 A. Yes.

5 Q. Okay. To begin, are you on any medications
6 that might affect your ability to testify today?

7 A. No.

8 Q. Are you currently under a doctor's care for
9 any illness?

10 A. No.

11 Q. Is there any reason why today you cannot
12 devote your full attention to the deposition?

13 A. No.

14 Q. Can you provide to me your full name for
15 the record?

16 A. Michael Anthony Johnson.

17 Q. And, Mr. Johnson, what's your date of
18 birth?

19 A. March 19th, 1976.

20 Q. Where were you born?

21 A. Albuquerque, New Mexico.

22 Q. Are you married?

23 A. Yes.

24 Q. And the name of your spouse?

25 A. Holly Johnson.

1 Q. Do you have any children?

2 A. Yes.

3 Q. How many?

4 A. Two.

5 Q. Their names and ages?

6 A. Nikki Johnson, N-i-k-k-i, and Nathan
7 Johnson, N-a-t-h-a-n.

8 Q. And how old is Nikki?

9 A. Nikki is six.

10 Q. And how old is Nathan?

11 A. He is four.

12 Q. Do you have any relatives over the age of
13 18 living in the state of South Carolina?

14 A. No.

15 Q. I notice you look puzzled. We have to ask
16 that question just in case any relatives might show
17 up on the jury roster if this thing were to go to
18 trial. That's why we ask.

19 A. I was more curious why you were asking
20 about my children.

21 Q. Same sort of reason, if there are adult
22 children living in the state.

23 Mr. Johnson, where do you live?

24 A. Lehi, Utah.

25 Q. And how long have you lived in Lehi?

1 A. About three years.

2 Q. Prior to that where did you live?

3 A. New Jersey.

4 Q. Where about in New Jersey?

5 A. I lived in a town called Haskell,
6 H-a-s-k-e-l-l.

7 Q. How long were you living in Haskell, New
8 Jersey?

9 A. Approximately nine years.

10 Q. And prior to that?

11 A. I lived here in Utah in Provo.

12 Q. What was the date range that you lived in
13 Provo?

14 A. Four years. I believe it was '94 to '98.

15 Q. Tell me about your educational background.

16 A. I have a bachelor's degree from BYU.

17 Q. When did you graduate from BYU?

18 A. '98.

19 Q. Was there a particular concentration you
20 had at BYU?

21 A. Are you asking what my degree was in?

22 Q. Correct.

23 A. It was in geography and travel and tourism.

24 Q. What was your first job out of college?

25 A. I was a professional dance instructor,

1 ballroom dance.

2 Q. Where was that job located?

3 A. In New Jersey.

4 Q. Was that with a company or were you on your
5 own?

6 A. I was an independent working with a studio,
7 and they essentially were their own studio, but I
8 effectively rented space from them.

9 Q. What was the dates that you were a
10 professional ballroom instructor approximately?

11 A. Probably '98 for nine years, so whatever
12 that adds up to be.

13 Q. So to about 2007?

14 A. Sounds about right.

15 Q. What was your next job?

16 A. I have continued to stay ballroom dance
17 instructor due to my training, and I've done that on
18 the side. I've also taken on while I was teaching
19 ballroom dance self -- personal development, and I
20 did that while I was in New Jersey as well at the
21 same time as teaching ballroom dance. So I've done a
22 fair amount of personal development training, life
23 coaching. I'm a certified life coach and had my own
24 business for life coaching essentially. So that kind
25 of lapped over the ballroom dancing.

1 Q. So I guess you moved from New Jersey in
2 about 2007 to Lehi; is that right? Lehi, Utah?

3 A. That's correct.

4 Q. And why did you make that move?

5 A. We had family living here in Utah and my
6 wife decided she wanted to live in Utah instead of
7 New Jersey. She was done with the East Coast.

8 Q. So upon arriving back in Utah and Lehi,
9 what was your employment status?

10 A. Well, amongst teaching ballroom dance and
11 trying to keep up my life coaching business that I
12 had established in New Jersey, I got asked to take
13 over and start to run the coaching department at
14 Bright Builders. And so I went in to Bright Builders
15 as a normal coach so I could see how their process
16 worked and see if I could figure out a way to improve
17 their programs.

18 Q. When did that occur? Was it almost
19 immediately coming back to Lehi?

20 A. Yes. Almost immediately. I believe I met
21 with Bright Builders a couple times before we moved
22 and discussed some of the challenges they were having
23 and what they were looking for in terms of having
24 their coaching program improved upon and what they
25 felt I could help them with.

1 Q. Explain that to me what challenges were
2 they facing and what improvements were you
3 suggesting.

4 A. Well, they were constantly looking for ways
5 to continue to improve their coaching program, and so
6 they basically were looking to take advantage of some
7 of my coaching skills and the skills that I had from
8 life coaching being that I was a certified life coach
9 and an NLP practitioner.

10 Q. I think one thing that might help me
11 understand this is for you to explain to me what life
12 coaching or life planning is.

13 A. Life coaching is -- basically there's
14 different forms and realms of it. Most of what I was
15 doing was dealing with people that were trying to
16 reach a higher level of peak performance. Oftentimes
17 I worked with dancers, of course, being in the dance
18 field as well as other professional athletes. I've
19 also worked with other couples in marriage counseling
20 and some people in just trying to overcome some of
21 the hurdles in their life in order to achieve higher
22 status at work and a few other ideas in terms of them
23 having trouble with depression or things of that
24 nature.

25 Q. So with your background in, I guess,

1 geography and the travel industry, how do you get
2 that specialty then in being a life coach?

3 A. Actually, once I left BYU with that degree,
4 the travel industries basically collapsed. When I
5 was getting that degree we were learning how to right
6 tickets manually by hand, which obviously now is a
7 lost art and certainly not useful anymore. So
8 basically the internet took over with booking travel
9 and travel agencies all over the U.S. sort of
10 collapsed. So I left that degree behind.

11 But during the time that I was traveling on
12 the ballroom circuit, I decided I wanted an education
13 in some other thing besides ballroom so that I would
14 have some other options in my life. So I took on
15 training in neurolinguistic programming and got quite
16 involved with understanding how the brain works and
17 understanding how coaching works as a whole.

18 As I pursued that knowledge and education
19 through NLP, the neurolinguistic programming, I found
20 other programs that were more appropriate and
21 recognized, such as the program through the ICF which
22 is the International Coach's Federation, and decided
23 to get certified and take the education for those
24 programs to be become a life coach.

25 Q. So did you do all this other study while

1 you were in New Jersey?

2 A. Yes.

3 Q. Okay. You moved again. You moved to Lehi,
4 began working for Bright Builders around the 2007
5 time period; correct?

6 A. That's correct. It was sort of -- sorry.
7 Continue.

8 Q. Go ahead. You go ahead.

9 A. It was a bit of a transition period. We
10 were building a house here. So it took a little bit
11 of time kind of making that transition.

12 Q. I was just going to ask what your first job
13 position was or job title was.

14 A. As I discussed it with Bright Builders, I
15 came in as a regular coach in order to see the
16 processes that they were running, sort of coming in
17 from the bottom end and being able to help the upper
18 management be able to know what was going on within
19 their own system so I could better serve them in
20 improving it.

21 Q. How long were you a regular coach?

22 A. I did that -- I don't know the specific
23 dates, but my guess is that I did that probably for
24 about eight months or nine months while I understood
25 and learned their system.

1 Q. What was your pay at this time? Can you
2 tell me what your income was, whether it was hourly
3 or salary?

4 A. It was a salaried income.

5 Q. And how much were you being paid?

6 A. You know, I didn't bring that with me. I'm
7 not sure I could answer that very well. I don't
8 quite remember.

9 Q. Approximately was it 40,000 or 400,000?

10 A. I believe it was closer to about 50,000.
11 Again, that's -- that's a guess. I don't quite
12 recall.

13 Q. And were you a full-time --

14 A. Yes.

15 Q. -- employee at this point? Okay.

16 And you said you were a regular coach for
17 about eight months and then you moved on to another
18 role. What was that role?

19 A. The next role I took on was taking over
20 that coaching department as I created and worked
21 through building what I called a new coaching model
22 for them.

23 Q. What was that new coaching model?

24 A. Are you looking for specifics or are you
25 looking -- I'm not sure I understand exactly what you

1 mean.

2 Q. You said you built a new coaching model for
3 them. If you could describe to us what that new
4 model was.

5 A. Okay. The initial model that they were on
6 was a one-on-one basis which limited the coaching
7 staff that they had to one-on-one interaction. So
8 each interaction with a client was sort of stifled in
9 a way because they couldn't help more customers. So
10 their model wasn't scalable, and being that it was
11 only one person helping one client, that client was
12 always limited to the coach's knowledge at that
13 point.

14 And so what I wanted to do was create a
15 system where a client could come in and have multiple
16 resources in order to figure out the best thing for
17 themselves. So the model we created was one in which
18 it was more based off a school-type system. So what
19 we did is I created small groups, two coaches in a
20 group and what I called a scheduler at the time. And
21 the scheduler's job was to basically get that client
22 scheduled for the appropriate thing at any given
23 time, basically made it so that the coaches didn't
24 have to deal with the scheduling anymore.

25 I also implemented an idea or concept of

1 having an instructor or teacher. So we would have
2 instructors and teachers that were specialized in
3 certain areas so that the client would have a better
4 opportunity to get the person that was most
5 knowledgeable on a specific subject.

6 At that particular point we also
7 implemented an idea that we had group classes that
8 were community classes, so to speak, on the different
9 subjects. And so they had a series of classes that
10 they were assigned by what used to be called the
11 coach. We began calling them advisors, and they were
12 more like counselors. And so the advisor would help
13 guide them through which was the best path or
14 information for that client based upon what that
15 client wanted.

16 So we had a nice little team that was
17 created there in order to help a single client, and
18 in the same -- or at the same time we were able to
19 have that advisor team which was usually consisted,
20 like I said, of two advisors and a scheduler for
21 those two advisors, and that team together was able
22 to handle a larger number of clients because that
23 advisor wasn't necessarily expected to be the
24 absolute expert on any specific subject but on the
25 general of the whole.

1 This way we could send the client to the
2 instructor that knew the most about that subject
3 and/or to a class that was already created and very
4 well put together by those instructors, and this way
5 the client had the best opportunity for gaining
6 knowledge in each of the areas that we taught.

7 Q. And was this new process ultimately
8 implemented by Bright Builders?

9 A. Yes. In fact, I went on to implement this
10 whole process and we actually began to grow it and we
11 ended up with -- I believe we had three teams total
12 when -- at our biggest point, I believe. Oh, I
13 forgot also -- I forgot we had a customer service or
14 technical support essentially is what we called them.
15 They were not assigned to a specific client but they
16 were also there for technical support as well.

17 Q. So you had three teams of these experts to
18 help out Bright Builders' clients; is that correct?

19 A. I had three teams of coaches -- or
20 advisors -- sorry -- and it was two advisors and a
21 scheduler on a team. And so that would have been a
22 team. And then the instructors were outside of that
23 team, and then the advisors could assign a client to
24 that instructor.

25 Q. Do you know how many clients each one of

1 these teams would be handling at one time?

2 A. My goal when I started to create this
3 coaching process was to get an individual coach at
4 the time to be able to handle a larger quantity of
5 clients. At the time they were able to do maybe 40
6 sessions a week, which would calculate into about 80
7 for every two weeks. With the advisor system a
8 client had an assigned advisor, but in case the
9 advisor was unavailable, sick for a day, went on
10 vacation, the other advisor could take over and fill
11 in the blank.

12 So what we did was we improved the number
13 of clients that could be handled on a two-week
14 period, and of course this was a buildup over time.
15 We improved that to be anywhere between 300 and 400
16 clients for a two-week period of time, which was a
17 massive increase in comparison to what we were doing
18 in 40 to -- 80 clients in about a two-week period of
19 time.

20 Q. So is it fair to say that each one of these
21 teams would have had hundreds if not thousands of
22 clients in a year?

23 A. Had it continued for years, yes, I think it
24 would have gotten to a point where each of the teams
25 could have easily handled a fairly large amount of

1 clients, yes.

2 Q. What is your current job at Bright
3 Builders, current position at Bright Builders?

4 A. The chief operations office.

5 Q. How long have you held that position?

6 A. I'm not sure exactly when the date was that
7 switched over, but I would imagine it's been about a
8 year.

9 Q. Prior to being the chief operations officer
10 what was your job title?

11 A. At a certain point the coaching went
12 through a period where our former CEO sold our
13 coaching department to another company, and as he did
14 that -- I assume because we were doing quite well --
15 I moved into take over customer service and also just
16 operations in terms of the developers. It seemed to
17 be a natural fit since I understood the business. I
18 knew how everything worked, so I moved into
19 operations at that point.

20 Q. So who was the coaching department sold to?
21 What company?

22 A. It was a company named Thrive Learning
23 Institute.

24 Q. And where are they located?

25 A. In Orem, Utah.

1 Q. Are they a company that's somehow related
2 to Bright Builders?

3 A. Related in what way?

4 Q. Whatever way you want to interpret that.
5 Geographic location, people -- it seems
6 coincidentally there's two companies with the same
7 type of business going on in Orem, Utah.

8 A. Really? It seems strange that Silicone
9 Valley has tons of software companies. It's not
10 strange at all. They just happen to be another
11 company that's doing coaching in Orem, Utah. That's
12 it. In fact, for a period of time they were massive
13 competitors with us, and that's why we decided to
14 sell it off to them so that we wouldn't have to
15 compete with them anymore.

16 Q. Seems like the progression was that you
17 were a coach. Then you took over the coaching
18 department. When you took over the coaching
19 department, did you have a title there like Director
20 of Coaching Department? What would you refer to
21 yourself as?

22 A. I was the head of the coaching department
23 that was it.

24 Q. Head coach. And when that was sold, was
25 that when you moved into the customer service realm?

1 A. That's when I took over operations as a
2 whole for the most part.

3 Q. Okay.

4 A. During the coaching process I also took
5 over customer service because it was a integral part
6 of coaching system and they realized that at the
7 time, and so I quite obviously took that over and
8 started making that all one integrated system so that
9 we could work more effectively together.

10 Q. I'm going to kind of flip back to a comment
11 that I had before that surprised you a little bit. I
12 have never heard of Orem, Utah before. You may have
13 never heard of Charleston, South Carolina. Is it a
14 big tech heavy area? Tell me a little about the
15 technology industry there.

16 A. Utah is becoming a place where people are
17 bringing their businesses for technology as well as
18 software. Silicone Valley is losing a lot of their
19 business, and from the trends that I've seen, there
20 is quite a bit of movement here to Utah based upon
21 the tax laws and the current climate for people to
22 live and work. The economy seems to suit software
23 businesses quite nicely.

24 Q. How many businesses are located in the Orem
25 area or that general vicinity doing the same thing

1 that Bright Builders is doing?

2 A. I have no idea. I know that there are
3 software companies. I don't know the vicinity in
4 which they are located.

5 Q. And that's a fair answer to a poor
6 question.

7 A. Agreed.

8 Q. Are there a number of other companies doing
9 what Bright Builders does in the Orem area?

10 A. I'm not sure, to tell you the truth. I
11 don't really put a lot of focus into the other
12 companies that are creating website builders or that
13 deal with eBay market research analyzation software
14 like our software.

15 Q. And perhaps maybe another way of stating it
16 more broadly though, as chief operating officer who
17 do you consider the competitors of Bright Builders to
18 be?

19 A. Is that currently or when we had the
20 coaching department?

21 Q. Currently.

22 A. Currently it would be companies like
23 Terapeak. They are not located here. I believe they
24 are in Canada, and also maybe a company like -- I'm
25 trying to think. Maybe ChannelAdvisor or -- gosh,

1 you know, everybody has a website builder these days.
2 Many of them poor versions of website builders, but
3 it just seems to be a dime a dozen. Our industry is
4 getting hurt pretty bad right now thanks to Google.

5 Q. When you had the marketing department, so
6 the second part of that question as you identified,
7 when you had -- excuse me -- "the marketing
8 department" -- when you had the coaching department,
9 who would you have considered your competition to
10 have been?

11 A. At the time it was Thrive. They were our
12 biggest competition. There are other companies out
13 there although we weren't really feeling like we had
14 to compete with them as we had been around for quite
15 a while, but Thrive was our main competition. And so
16 in the time that I showed up at Bright Builders they
17 came on the scene pretty fast and pretty hard. And
18 during that time our CEO put a lot of focus into
19 them.

20 Q. Currently as a chief operations officer,
21 what is your salary?

22 A. It's at 72,000. Well, let me adjust that.
23 In recent months we've had to lower my salary, and
24 I've decided -- I, with the executive staff, which
25 isn't very many of us now, decided to take half pay

1 because we weren't in any position to continue to pay
2 me. I laid off quite a number of people, and at this
3 stage in the game I decided to go ahead and take half
4 pay just to be able to try to help the company stay
5 afloat and continue to move forward.

6 Q. Moving onto a different topic, have you
7 ever played golf?

8 A. Yes.

9 Q. How often do you play?

10 A. If I'm lucky, I get out maybe two or three
11 times a season, sometimes more.

12 Q. Do you own a set of golf clubs?

13 A. Of course.

14 Q. And do you know the make of those?

15 A. Yes. They are Riley clubs. My
16 father-in-law gave me his old set.

17 Q. How would you describe your knowledge of
18 golf products? Are you fairly knowledgeable about the
19 brands that are in the marketplace?

20 A. I like the game of golf. I know for the
21 most part what good golf clubs are or what they
22 aren't.

23 Q. And what are some good golf clubs that
24 you're familiar with?

25 A. PING is a great company for golf. The

1 other clubs that I'm familiar with -- obviously
2 TaylorMade has a pretty good industry in the golf
3 business. There's obviously golf balls, Titleist. I
4 know you're searching for me to say I know Cleveland.
5 Yes, I do. They have wedges that most of my buddies
6 have, and I can tell you personally I won't ever own
7 one again.

8 Q. Why is that?

9 A. Because I'm sitting here talking to you
10 right now. How is that for --

11 Q. Fair enough.

12 A. Yeah? In fact, I know enough golfers that
13 I'll make sure they don't ever buy a Cleveland Golf
14 club again either.

15 Q. What did you do today to prepare for
16 deposition? Clearly you were instructed to tell the
17 truth.

18 A. Of course. Actually, to be honest, when we
19 found out about the case I went back through I read
20 the notes. I happened to be that particular client,
21 Christopher Prince's advisor at the time. Obviously
22 I was in the coaching system. I wanted to know how
23 it worked and make sure that it was working properly,
24 so he was one of the clients that I was advising. So
25 I went back through, read his notes, made sure that I

1 did all the things that the system required and I was
2 on par for the coaching program that we had created.
3 And other than that, that's about it.

4 Q. Have you spoken with anybody about today's
5 deposition?

6 A. Well, the owner of Bright Builders,
7 Greg Cole. We talked about it quite extensively.

8 Q. And what did you two discuss?

9 A. What was involved in the case, why we felt
10 that Cleveland was going after us when we seemingly
11 have no involvement in this, you know, that type of
12 thing. Wondering what we need to do to try to make
13 sure that we kept our name clean and that everything
14 kept moving forward as best as we could.

15 Q. What is your understanding of this case,
16 this lawsuit?

17 A. That's a big question. Could you clarify
18 what you're asking for?

19 Q. Why is it that you believe Cleveland has
20 filed a lawsuit against Bright Builders?

21 A. You know, I'm not quite sure. I've come up
22 with a lot of speculative ideas. Most of them aren't
23 nice, but they are just speculative. So I can't
24 quite understand why Cleveland is after us actually.

25 Q. Maybe less speculating but more theory, you

1 do understand it's related to Christopher Prince's
2 website; correct?

3 A. I understand it's related to what
4 Christopher Prince did, but we didn't do that. So
5 I'm not quite sure what the connection is.

6 Q. So you really have no idea why you're
7 sitting in the deposition today?

8 A. Now, that's silly. I know why I'm here.

9 Q. That's what I'm looking to get, an idea of
10 your understanding of why Bright Builders is involved
11 in this lawsuit.

12 A. I see. My understanding is that based on
13 what I've read in the court case essentially is that
14 Cleveland believes that we somehow are responsible
15 for Christopher Prince's actions in selling
16 counterfeit golf clubs.

17 Q. Have you ever been a party to another
18 lawsuit?

19 A. No.

20 Q. Have you ever heard of the company Prince
21 Distribution, LLC?

22 A. Yeah. That would be Christopher Prince's
23 company that he set up, I believe.

24 Q. And you said that you were the advisor for
25 Christopher Prince; correct?

1 A. I was indeed.

2 Q. What is Bright Builders' business model?
3 Can you explain that to me?

4 A. Currently or when we were coaching?

5 Q. When you were coaching.

6 A. When we were coaching, we needed a way to
7 be able to sell our website building software to
8 customers and clients, and so what we did -- as well
9 as our eBay research software. And so what we did is
10 oftentimes we wholesaled out our products. We would
11 oftentimes white label our products for other
12 companies. We would also try to get involved with
13 other companies that would sell our products
14 essentially. And they could either sell them under
15 their own name or they could sell them under the old
16 Bright Builders name. At the time we would still use
17 that name as a viable product and let telemarketers
18 or telesalespeople sell those products and get those
19 to the clients.

20 We didn't really do any telesales. We
21 tried to let them go that route. That was their
22 specialty. We were really just focused on being able
23 to provide a good education product and good website
24 building software as well as eBay research software.

25 Q. You mentioned a coaching department or it

1 might be considered a business unit. What different
2 departments or units did Bright Builders have? We
3 know there's a coaching department. What other
4 departments did Bright Builders have during this time
5 period, 2007/2008 time period?

6 A. During that time period we obviously had
7 our customer support or technical support department,
8 and we also had a group that was working on
9 marketing. We also had our developers. That was our
10 programming department essentially. And then, of
11 course, just the executives and general staff like
12 secretarial and just administrative assistants.

13 Q. What is TOC Central?

14 A. TOC Central, that's what we called it, and
15 it stood for The Online Campus. We just needed an
16 acronym or some way to get a website that would in
17 some fashion make sense. That was the place where we
18 housed most of our educational materials in terms of
19 lessons, articles, links to be able to get to
20 webinars, just the general information for that
21 coaching.

22 Q. Do you know whether TOC Central was a
23 separate company?

24 A. No, it was not.

25 Q. Just a separate brand?

1 A. It was just the name of website. That's
2 it.

3 Q. What is Wholesale Match?

4 A. Wholesale Match is, I believe, a drop
5 shipper. We would oftentimes -- they would be on a
6 list of drop shippers that typically the general
7 internet would recommend as a place where people
8 could purchase products that would be drop shipped
9 and/or that they could purchase and sell on eBay or
10 on their own websites.

11 Q. And how was that company related to Bright
12 Builders?

13 A. No relation at all.

14 Q. Did Bright Builders own a piece of
15 WholesaleMatch?

16 A. No, not that I know of.

17 Q. Do you know who Mike McGuinn is?

18 A. I do not.

19 Q. Do you know why Bright Builders would have
20 registered a domain name for Wholesale Match?

21 A. I don't.

22 Q. Do you know who Doba, D-o-b-a, LLC is?

23 A. I do. They are a wholesale company -- or
24 sorry -- a drop shipping company.

25 Q. And how are they related to Bright

1 Builders?

2 A. They are not. They are just another
3 company out there that does drop shipping, and we've
4 done business with them in the past in regards to
5 trying to help each other drum up business for our
6 respective sides of the coin.

7 Q. Do you know who Jeremy Hanks is?

8 A. I do not.

9 Q. Does Bright Builders receive any income,
10 referral fees back from WholesaleMatch or Doba?

11 A. I don't believe I know of anything from
12 WholesaleMatch. I've never been involved with
13 anything there. From Doba we have an affiliate
14 relationship. So if they promote our research tool
15 and/or sell it, they get an affiliate kickback, but
16 that's no different from anything you can sign up for
17 on our websites. So oftentimes it's just an
18 affiliate relationship, and we try to do things that
19 help promote that.

20 Q. Who is Auction Success Group?

21 A. Auction Success Group -- I believe we
22 called them ASG. They are a telesales company
23 essentially that would sell our products, and so we
24 would basically provide them a service and they would
25 sell it to whatever leads they got and whoever they

1 saw fit to try to make a sale to.

2 Q. Is Auction Success Group related to Bright
3 Builders?

4 A. No.

5 Q. No joint ownership for -- but there is an
6 affiliate relationship; right?

7 A. With them it was just purely a wholesale
8 relationship. They would sell the product and we'd
9 give it to them for a discounted rate, and that's it.

10 Q. Have you ever heard of a company called
11 Sherpa Publishing, LLC.

12 A. Yes.

13 Q. What does this company do?

14 A. This was or is the sort of umbrella company
15 that was supposed to be set up by our former CEO to
16 sort of umbrella the other companies, and from what I
17 understand he set it up poorly anyway. So I'm not
18 sure what the end goal was there, but I do know that
19 it is the umbrella company for Bright Builders and
20 HammerTap, which is the actual market research
21 company that owns the market analysis for eBay.

22 Q. Okay. So that was my next question as to
23 what HammerTap, LLC, is. Can you explain that again?

24 A. Yes. HammerTap is a market research
25 software for eBay data, and basically we purchase the

1 data from eBay on all their sales and back end stuff
2 like what time a sale ends, what time it starts, what
3 day is best to sell it on, what prices that product
4 is selling for. And basically our tool analyzes that
5 data and then allows people to use the tool to do
6 their own analysis on whatever products they are
7 interested in selling on eBay. And that's basically
8 what HammerTap is.

9 Q. Does that software have a name?

10 A. We call it HammerTap. We also private
11 label it. I believe we're one the only -- I can't
12 confirm this, but I believe we're one of the only
13 companies that is allowed to private label our tool
14 for that market research.

15 Q. What about Magniphy, LLC? What does that
16 company do?

17 A. Magniphy was created to move toward a
18 retail market. We saw the wholesale -- the wholesale
19 world in which we were living in, we saw it start to
20 crumble, and we could see kind of the signs ahead way
21 back then that that wholesale market was not going to
22 live too well.

23 And so we started to create a company
24 called Magniphy. That was done -- the beginnings of
25 that was done just before I arrived, and then while I

1 was there they continued to try to make progress in
2 creating a retail product that could support our
3 tools like HammerTap and like the Bright Builders so
4 that we could it sell just direct to market.

5 Q. What about a company called Bright Business
6 Center, LLC?

7 A. That is our employee company. Essentially
8 that's -- because our people were working to support
9 Magniphy and HammerTap and Bright Builders, as I
10 understand it, they created Bright Business Center to
11 be able to manage the employees essentially, and that
12 way they could work for each of those companies, and
13 then they would essentially rent those employees.

14 Q. How about Bright Marketing, LLC? What is
15 that company?

16 A. I don't really know. I didn't really do
17 anything with Bright Marketing, LLC. As far as I
18 understand there were no products in it or anything
19 like that. So I'm not sure what that one is used for
20 at all actually.

21 Q. What was the name of the limited liability
22 company, if you know, that got sold to Thrive
23 Learning Institute?

24 A. You know, I don't know exactly how that
25 deal went. I wasn't really privy to any of the stuff

1 that that CEO did with the company. As you can well
2 imagine being that I created that thing from scratch,
3 I was kind of upset that they did that. So I wasn't
4 really involved with much of that deal.

5 Q. And you referred a couple times, you know,
6 to a former CEO. Who was that?

7 A. His name was Ty Hawkins.

8 Q. What happened with Mr. Hawkins?

9 A. In what regard?

10 Q. Did he leave? Did he get fired?

11 A. As I understand it, being on the employee
12 side, the partners and him basically got in a fairly
13 big tiff and they decided to go their own ways until
14 the point when Greg Cole essentially took over and
15 got the partners out and the CEO went his own way.
16 So for the most part it sounds like it basically
17 imploded on itself.

18 Q. When did Greg Cole join Bright Builders?

19 A. Greg Cole is the initial creator and
20 founder for Bright Builders because it started from
21 being a software company and a website builder. That
22 was where it started. He created a website builder,
23 started doing things for companies building their
24 websites, found out after he had built a certain
25 number of websites he was in a position to create a

1 builder that would be useful for the general public
2 to use to create their own websites. He then got
3 involved with the partners that came about after that
4 and continued to grow it in that direction.

5 Q. Are there any other -- I know the other
6 question I was going to ask you. Who does the
7 training now that you've sold -- or the coaching now
8 that you sold the coaching business?

9 A. Who does the coaching?

10 Q. Yes.

11 A. We sold that business to Thrive.

12 Q. So if you sign up for Bright Builders
13 services now, does Thrive do the coaching?

14 A. You cannot sign up for Bright Builders
15 services now. It was discontinued.

16 Q. So currently what is Bright Builders'
17 business model then?

18 A. Bright Builders' current business model is
19 to keep the clients that it gained in past years
20 happy, and as they fade away or decide to stop their
21 business, then they go away and that's it. We
22 haven't added clients to the Bright Builders company
23 in a long time.

24 Q. When did the sale of the coaching
25 department occur to Thrive Learning approximately?

1 What was the time?

2 A. This is a guess. Like I said, I don't have
3 any of the dates there in front of me, but I believe
4 it was somewhere around October and potentially in
5 2008, but I could be wrong on that date.

6 Q. Since that time October of 2008 or
7 thereabouts, Bright Builders has not offered coaching
8 services to its clients; correct?

9 A. That's correct, uh-huh.

10 Q. When did Bright Builders stop selling its
11 website building services to clients or potential
12 clients?

13 A. You're talking about Bright Builders;
14 correct?

15 Q. Bright Builders; correct?

16 A. At that point we stopped using Bright
17 Builders pretty much at all, and all we did was
18 support the clients that were in it.

19 Q. And now you're mainly a software company;
20 is that right?

21 A. That's correct. We basically just, as I
22 said, support the clients that we did have in Bright
23 Builders, which is diminishing clients, and we're
24 trying to find other ways to somehow make it in this
25 new economy and new world.

1 Q. I'll ask the court reporter to hand you a
2 set of documents we've marked as Exhibit 1.

3 (Exhibit 1 was marked.)

4 Q. I'd ask whether you recognize this
5 document.

6 A. Yes, of course.

7 Q. Okay. And what is it?

8 A. This one was the initial packet. When I
9 came in to the coaching program, this is what was
10 sent out for a while, and in fact it looks like some
11 of the changes had already started to be made on this
12 particular one for the change. I know we went
13 through a period of time where we were slower
14 catching up with some of our paperwork and changing
15 it over, but it looks like some of the changes had
16 been made already for the new coaching model.

17 Q. Can we refer to this as the Getting Started
18 leaflet? Is that what it was called?

19 A. Yeah. It was a Getting Started packet that
20 was sent to them in the mail. A lot of the telesales
21 companies liked to send a physical document out or
22 physical notebook or binder so that the client felt
23 like they had something tangible to hang onto. We
24 oftentimes didn't like that because obviously the
25 information was adjusted quite frequently just based

1 upon what was going on in the industry. So it was
2 hard for us to keep up with the physical side of it
3 even though on TOC Central we had all the current
4 information.

5 Q. If you look at the second bullet point, it
6 identifies the Bright Builders team.

7 A. Uh-huh.

8 Q. What is a project advisor?

9 A. I was an advisor, as I had mentioned
10 earlier, in the system. I was an advisor. There was
11 usually two of us. We had a scheduler assigned to
12 us, and that made up that small team that would take
13 care of that client.

14 Q. Okay. What was the role of the project
15 advisor? Was it that broad or can you define it more
16 specifically for me?

17 A. More specifically, we were a counselor to
18 that client. We understood how the system worked,
19 and we understood the basics of what we were trying
20 to get across to them. We were trying to teach them
21 the basics of how to get going and where they could
22 find information. And we basically taught them how
23 to generally start their business, and so this made
24 it so the advisor didn't have to be the expert in the
25 field. They could refer off to an instructor or

1 refer off to the technical team or whatever was
2 necessary at the time so that that client could get
3 the best information.

4 Q. What is a builder trainer?

5 A. A builder trainer, that would have been the
6 technical support team. They understood The Builders
7 inside and out. If we as an advisor knew an answer
8 because maybe it was common how to edit HTML on a
9 page, "Where do I find this button to do this
10 particular task in the builder?" If we knew that as
11 an advisor, we would direct them quickly and easily.
12 If it was a more complicated technical question about
13 the builder, we would set them up with one of the
14 lead technical support guys to give them a bit of a
15 training on how to use the builder more effectively.

16 Q. What is an internet business coach?

17 A. These were our instructors essentially.
18 The internet business coach was a term that during
19 this packet's time, we were trying to get changed,
20 but we kind of went through little arguments with our
21 CEO about whether we should change that wording or
22 not. But basically that would have been an
23 instructor such as Brigham, which I'm sure you're
24 familiar with that name, and he was our expert on
25 eBay. So we would refer off to Brigham if it was a

1 more in-depth question about eBay.

2 Q. So there could be several internet business
3 coaches that would help a client; correct?

4 A. Correct.

5 Q. What is the Bright Builders package sheet
6 that's on that next bullet point below it?

7 A. I would imagine that was just the sheet
8 that was probably put in by one of our secretarial
9 staff saying what that client ordered. We
10 probably -- again, this is speculation because I
11 didn't do that. I was more focused on what we needed
12 to give them on TOC Central. That was the live
13 products, and most of the time once we talked to them
14 on the phone, we would direct them away from this and
15 send them to TOC Central and give them a rundown of
16 how the system would work.

17 So I'm assuming the sheet they put in there
18 would be including the products that that client
19 specifically ordered. Sometimes they didn't get a
20 lister. Sometimes they didn't get a builder.
21 Sometimes they didn't get a research tool. So it
22 just depended on what that client ordered at the
23 time.

24 Q. What is the Get Committed to Your Business
25 statement?

1 A. I believe that was a leftover bullet point
2 again from the prior coaching process and the
3 director of the coaching department prior to me liked
4 to do a lot of froofy stuff, for lack of a better way
5 to put it. So that would be what that was, the Get
6 Committed to Your Business statement. I imagine he
7 would have asked them to write some statement that
8 was on paper that they were getting committed to
9 their business.

10 Q. The next thing is a description of each
11 product and service. Can you tell me what that sheet
12 or brochure would entail.

13 A. They would have entailed descriptions for
14 each of the products and services that they ordered.
15 What else would you like me to expand upon?

16 Q. Anything else you know about that sheet?

17 A. No. It would have been the descriptions of
18 the products that they purchased.

19 Q. So that's helpful. It's an actual list or
20 description of products purchased by that particular
21 client?

22 A. I would assume so. Again, I didn't put
23 much focus into this document because almost
24 immediately the first thing the scheduler would do
25 when they called the client is say, "Now, did you get

1 that packet?" They would say yes. They would go,
2 "Great. Now, let's look at somewhere else because
3 this is the updated information," and we would move
4 right on to the updated information on TOC Central
5 and then instruct from that point forward.

6 Q. Okay. If you'll flip to the second page,
7 it says your Bright Builders Package.

8 A. Okay.

9 Q. It does list in this page a Bright Builders
10 products and services. I don't know if that's the
11 same thing as the description of products and
12 services. Do you know whether it is?

13 A. It seems like a pretty good hypothesis.

14 Q. Okay. And then under the Bright Builders
15 products and services, there's four things listed --
16 the Bright Builder, the Bright Lister, Custom
17 Graphics Design, and Search Engine Optimization. Can
18 you tell me about the Bright Builder. Is that the
19 software you've been referring to?

20 A. That is indeed. Did you want me to go into
21 detail about what the Bright Builder does or --

22 Q. Please. That would be nice.

23 A. The Bright Builder is a piece of
24 software -- it's an online piece of software that
25 allows people that have no experience in building a

1 website an easier path to creating their own personal
2 website without having to know programming or HTML or
3 much detail about any of the computer stuff really.

4 Q. How does it do that if you know?

5 A. It has an interface that basically allows
6 you to see "Okay, I want to create a page, so click
7 on create a page." And so you go in and you start
8 putting in the stuff that you want to put in for that
9 page. You go in and say, "I want to add a product,"
10 so you click on it and add a product. Then it gives
11 you options each step of the way that you can click
12 on and basically start to develop your own site.

13 Q. Where does that site get created? On the
14 person's computers or on computers that are -- or
15 servers that are owned by Bright Builders?

16 A. The website is created on servers that
17 Bright Builders essentially manages, and every time
18 they add a page, it gets added to their files
19 essentially.

20 MR. DOOLITTLE: Do you want to clarify this at
21 that point in time? Or do you want me to ask a few
22 questions to clarify this? I don't think that's
23 right.

24 Q. I'll ask. Counsel was just mentioning that
25 he was wondering whether those servers were yours or

1 not. Do you know who owns those servers?

2 A. The servers are owned by a company called
3 Verio. We rent that space and -- basically rent
4 space from Verio to be able to house our websites.
5 The prospect of housing thousands of websites on a
6 server and then making sure they are always up and
7 accessible full time would be a pretty big
8 undertaking and quite challenging to do. So we
9 always used Verio as a company that basically does
10 this as a whole. They house people's websites. So
11 we have a relationship with them so that we can be
12 able to house those people's websites on their
13 servers.

14 Q. But those servers are rented by Bright
15 Builders, Inc.; correct?

16 A. I'm not sure if "rented" is the right word,
17 but that probably be a word I would use. I'm not
18 sure if that's the exact relationship.

19 Q. There's a contractual relationship that
20 allows you access to those servers?

21 A. That's correct.

22 Q. All right. In developing a website, do you
23 have template websites that enable a client that's
24 not familiar with an online business to begin to
25 develop one?

1 A. Not template websites as a whole as in it's
2 already created and "here you go. You just have a
3 site." What we have is we have theme templates, so
4 quite specifically, that is, there are color schemes
5 and a general theme like, say, around the outside of
6 the website that could be green or blue or maybe have
7 some design. So we have an area in the website
8 builder where you can go and choose the theme that
9 you would like, and then that theme would be
10 implemented into all of your pages.

11 So if you had blue borders and, you know,
12 some blue design, it would be implemented all the way
13 across the board in all of the pages that you would
14 then create. We didn't do any themes at all that had
15 words or anything like that. The client is
16 completely on their own to create their wording.

17 Q. Is there any sample text such as privacy
18 policies or return policies that are provided to your
19 clients?

20 A. Yes. In terms of example, we automatically
21 put in a privacy policy and another one -- I believe
22 there were two of them I think -- that were
23 automatically in there. And what we do is the
24 advisors, when we got the clients, was we would tell
25 them "This is a totally generic policy. You're going

1 to need to look at it. You're going to need to
2 review it because based off what you're selling, you
3 know, it needs to be appropriate to what you're doing
4 but at least here's a general concept."

5 Q. I've noticed some of your websites have
6 similar form text. When I say your websites, some of
7 your clients' websites have similar form text on
8 their websites. Are your trainers directing people
9 to some database of more form driven text that they
10 can use on the websites?

11 A. I'm not sure which form text you're
12 referring to. Do you have something specific that I
13 would refer to because we didn't give them anything
14 other than policies and general concept. Like there
15 would be a home page that would say "Put your
16 information like this here. Put your information
17 like this here." And oftentimes we would do that
18 also with our lister tool for eBay, and people would
19 oftentimes forget to take off the "put your
20 statement -- your call to action statement here."
21 They would forget to take that off, so they would
22 have a live listing on eBay or on their website that
23 said, "Put your call to action here." It was kind of
24 silly. We argued about that left and right whether
25 to leave it because it was teaching the client or

1 take it off because it was stupid.

2 Q. Now, I'm more referring to things -- this
3 is just in general -- an example might be a statement
4 about a return policy. I've just noticed a lot of
5 your websites that you're hosting have similar, if
6 not identically copied text in that regard. I didn't
7 know if you had a form or an area that you were
8 directing clients to where they could get some of
9 that more stock language to put in their websites.

10 A. The policies that you click on just come
11 with the website. We automatically put that in so
12 that people have that there. That was one of the
13 things I was mentioning is we argued about whether to
14 put it in and let them have the opportunity to adjust
15 it because some of them would just leave it on even
16 if it wasn't appropriate for what they were doing.
17 And then we had the other side of the argument which
18 was take it completely off and make them come up with
19 it on their own. But that was really quite
20 difficult. So, anyway, it was all philosophy really,
21 "leave it on, take it off."

22 Q. So there is some form text that is
23 available from the Bright Builders program?

24 A. It comes with the policies. It's in there
25 automatically. Correct.

1 Q. Tell me about the Bright Lister.

2 A. Bright Lister is a listing tool. I'm not
3 sure if you're familiar with Vendio or Octiva or
4 inkFrog. They are all eBay listing tools. Our is
5 one like those or maybe not like theirs. We think
6 ours is better. But we just have never really put
7 ourselves in the retail market like those companies
8 that I just mentioned. And basically it's a listing
9 tool. You have an item to sell. It's fast, quick,
10 easy way to create a listing about that item and then
11 be able to connect it directly to eBay so that it can
12 be up for sale.

13 Q. What is the Bright Lister software's
14 relationship to HammerTap software?

15 A. HammerTap, as I mentioned earlier, is, as I
16 said, I believe, one of the only companies that gets
17 eBay's market research data that is allowed to
18 private label their -- our tool. So we're allowed to
19 private label that. One of the private labels is the
20 Bright Lister. At the time that was so that it would
21 work with Bright Builder's packaging. But we can
22 private label that into whatever. So we could
23 have -- as you mentioned earlier, we have Magniphy.
24 So we would have the Magniphy Lister or we have the
25 Bright Lister or we have four multiple other private

1 labels. They created their own lister with its own
2 name on it.

3 Q. So the Bright Lister is just a private
4 labeled version of the HammerTap software?

5 A. Not HammerTap. It's own listing tool.
6 It's not HammerTap the tool.

7 Q. So it is a stand alone piece of software
8 that Bright Builders has developed?

9 A. Yes.

10 Q. Okay. What are the custom graphic design
11 services that are offered?

12 A. What we do is -- as I mentioned earlier, we
13 do have standard theme templates for the website
14 builder. If somebody didn't want one of those
15 standard theme templates or if the telesales company
16 that was selling these customers sold a custom
17 graphic design package, then we would provide that.
18 Now, what that would entail is creating a theme for
19 that client and maybe some extra buttons or a logo
20 even to go with that theme. And that would be done
21 through our graphics design department, which I may
22 not have mentioned earlier, I apologize.

23 Q. So that's another department --

24 A. Yes.

25 Q. -- under Bright Builders?

1 A. Yes.

2 Q. Thank you. What search engine optimization
3 services are offered?

4 A. As you noticed, it's called the Marketing
5 Foundation Package. Essentially the same thing
6 happens, the telesales groups can sell that
7 foundation package for search engine optimization.
8 And basically the client can, after they have built
9 their site and feel like they are ready to do this,
10 they can sign up -- or they can start their marketing
11 foundation package. And once they start that
12 package, then what we do is we go through and we give
13 them a questionnaire essentially.

14 They fill out the questionnaire letting us
15 know what types of things their site is about, what
16 they believe are key words for their site, and then
17 we have -- that team essentially would go through and
18 do research on what key words would best help that
19 site out at the time.

20 Once they do that research, that team would
21 create a single page that would essentially be
22 optimized for the site. So it wasn't about a product
23 or it wasn't about a single item, but it was a page
24 that would potentially draw Google or one of the
25 search engines to the site based upon long-tail and

1 short-tail key words.

2 The thing about the marketing foundation
3 package was it was meant -- this is always how the
4 advisor would let the client know -- it was meant to
5 be sort of a starting place. We wanted to teach them
6 how to write their own pages, what we called content
7 pages, that were optimized so they could see how they
8 would have to go through it in the future. We never
9 intended to do the whole thing for them, which is why
10 we called it a foundation package. We wanted to
11 teach them how to fish and not just hand them over
12 the fish.

13 Q. Do you know who assisted or trained Prince
14 with the Bright Builder software?

15 A. Well, if it was easy questions, as I
16 mentioned before, and he brought them up to me, I
17 would probably have just taken care of it in a quick
18 fashion. "How do I edit a page?" "Click on this
19 button." It's pretty straightforward. If it was in
20 depth or he had a technical question that was more
21 complicated, then I would have sent them to one of
22 our tech team.

23 Q. Okay. Is it right to say -- I think you
24 mention this earlier -- that Brigham Bud trained
25 Prince with respect to the Bright Lister program?

1 A. I think that's not quite as accurate. I've
2 actually read the transcription of their interaction,
3 their little education section that they had. And I
4 think what he was talking to him more about was the
5 eBay process and just how to sell on eBay. I don't
6 think he did a lesson on how to use the Lister.

7 For most people the Lister was fairly
8 remedial. It's pretty easy to use. We didn't
9 oftentimes have to do much education on how to use
10 the Lister specifically because it walked you through
11 a lot of it. But as I recall, he was teaching him
12 more about eBay in general, not the Lister
13 specifically.

14 Q. Okay. Take the Exhibit 1 and flip through
15 until you come to the probably about three more
16 pages. You come a sheet that says The Bright
17 Builder.

18 A. Yep, I'm there.

19 Q. Okay. You've given me some detail on the
20 Bright Builder software. Is this an accurate
21 description of this software?

22 A. You cut out.

23 Q. I am wondering whether the Bright Builder
24 sheet I am looking at here is an accurate description
25 of the software. It's about two pages.

1 A. I'd say it's pretty close, yeah, pretty
2 accurate.

3 Q. Flip two more pages forward. There is a
4 sheet on the Bright Lister program. Take a moment to
5 look at that, and I want to see if you believe this
6 to be an accurate description of the Bright Lister
7 program.

8 A. Yeah. At first glance it looks like it's
9 pretty accurate.

10 Q. Okay. If you'll flip another page, you'll
11 hit the Custom Graphic Design.

12 A. Uh-huh.

13 Q. And if you'll take a moment to look at this
14 and tell me whether this accurately describes the
15 Custom Graphic Design services that were offered.

16 A. Yeah, that looks pretty accurate as well.

17 Q. So you'd agree that the design experts help
18 with a layout of potential client's website?

19 A. The custom graphic design experts would
20 work on that home page and do -- and put on that page
21 what the client was suggesting in regards to the
22 theme and overall look of that home page and then the
23 theme that would go through the entire website.

24 Q. One thing that's mentioned in here that I
25 didn't know what it meant is it says they will help

1 work on a website's personality. What does that
2 mean?

3 A. It's about the theme. A website gains
4 personality by the colors it has and the overall
5 general look of it. If somebody puts flaming text
6 letters at the top of their website, it's going to
7 like look like a flaming text letters website. It
8 looks a little less professional. So depending on
9 the colors, the fonts they use, the text size that
10 they use, it's going to look, you know, and have a
11 feel for it. And that kind of defines the
12 personality of that website.

13 Q. On the next page it says Custom Graphic
14 Design Checklist. What was the purpose of this
15 checklist?

16 A. I would imagine -- again, I oftentimes
17 moved away from this. I can't say that we use this
18 specifically once we got them into the program
19 because we most often would then direct them into the
20 most current new information, and most of that was
21 delivered via a conversation when they were ready for
22 custom graphic design. So I would imagine that had
23 they looked at this, this was just so they understood
24 when it was time for them to get in and start doing
25 custom graphic design.

1 Q. Okay.

2 A. That, of course, would have had to have
3 been superseded by the coaching telling them "Hey,
4 you should start your custom graphic design."

5 Q. Are you familiar with the questionnaire
6 that they were supposed to fill out?

7 A. Not intimately. I don't know the questions
8 off the top of my head, but I do know that the
9 designers created that questionnaire and made sure
10 that they got the information they needed from the
11 client.

12 Q. Do you know what types of questions, not
13 specific questions, but types of questions there
14 might be?

15 A. Again, my guess would be that they asked
16 them what colors they were wanting, what types of
17 fonts if they knew that -- most clients don't know
18 that -- what type of look they wanted for their home
19 page in general, if they had seen any other websites
20 that they thought "Hey, this was neat. Can we do
21 something like that?" So I'm guessing that's what
22 they were asking for based upon the products they
23 were usually creating for these customers.

24 Q. Would they have asked what the domain name
25 was?

1 A. I would imagine that would have been
2 semi-important. It probably would have been part of
3 the request, "So and so with this domain is looking
4 to do or start custom graphic design."

5 Q. And they would have to know the types of
6 products they were intending to sell on that website?

7 A. Sure, yeah.

8 Q. Anything else that would have been a
9 foundation to have to do the custom graphic design?

10 A. A lot of it was interaction with that
11 client. Once they started the design, oftentimes the
12 interaction with the client would determine what was
13 going to be created. We wanted it to be personal.
14 You know, if it's your website, you want to be able
15 to have some input on what it is it's going to look
16 like and what it's going to do. So even though there
17 was that questionnaire, oftentimes they would talk
18 with that client about what it is they wanted.

19 Q. Do you know who assisted Prince with the
20 custom web design services?

21 A. You know, I can't recall if he actually
22 even did it. I don't remember if he even started it
23 because I don't believe -- in my memory, I don't
24 remember him actually doing the custom or starting
25 custom graphic design, but I can't recall.

1 Q. They would have to know the name of the
2 website and the types of products being sold and a
3 general theme from the client; correct?

4 A. That sounds accurate, yes.

5 Q. Do you know whether your hosting agreements
6 with clients allow illegal activities to go on on the
7 website?

8 A. I would assume they don't allow illegal
9 activities.

10 Q. So as a manager, if one of your employees
11 came to you and said, "Somebody wants me to design a
12 website named kiddie porn.com," what would be the
13 steps that you would undertake?

14 MR. DOOLITTLE: Spell kiddie, k-i-t-t-y or
15 k-i --

16 Q. K-i-d-d-i-e.

17 A. Oh, boy. All right. I forgot your
18 question. Do you mind asking that again?

19 Q. The question is if one of your custom
20 graphic design employees came to you -- and I'll put
21 it more generically -- and said, "I've got a person
22 that wants me to design a website that is
23 questionably legal," what steps would you undertake?

24 A. Most of the time our graphic designers
25 didn't get a request for custom graphic design unless

1 we had already led them down that path, the client
2 that is. So most of the time before they would go to
3 custom graphic design, they would ask their advisor,
4 "Hey, should I start my custom graphic design?" The
5 advisor would say "Sure" or "No, you're not ready for
6 it. You haven't built anything on your site. You
7 don't have a clue what you want. You don't know
8 which way you're going." Oftentimes that wouldn't
9 have gotten there.

10 So had something gotten through or a client
11 decided to, which every now and then they do, they
12 decide, "Oh, I'm going to start my custom graphic
13 design" and they get ahold of that department and
14 start that. Our designers would have come to us and
15 said, "Hey, this doesn't look like it matches what's
16 legal with our hosting agreement." They didn't
17 memorize it, but, hey, if they are selling something
18 that is potentially bad, they would have done that.
19 I can't say that's ever occurred though.

20 Q. Flip ahead to the next page, which is the
21 SEO Marketing Foundation Package. The first bullet
22 point says that they will offer an expert review of
23 your website for search engine visibility and
24 acceptability. Do you know what is meant by that
25 review?

1 A. I actually never did that review. As I
2 understand it, Christopher Prince never actually
3 requested or started the SEO Marketing Foundation
4 Package. Being his advisor, I'm pretty sure I don't
5 remember him ever doing that package. So I'm not
6 sure that a review would have ever taken place.

7 Q. Out of whether Mr. Prince did or did not,
8 do you know what is meant by the expert review of the
9 website for search engine authorization?

10 A. Earlier when we talked about the search
11 engine marketing foundation package, I mentioned that
12 the foundation was to get them started for search
13 engine optimization. So I would imagine that during
14 that portion they would have asked him questions
15 maybe in a questionnaire that said, "Okay. What are
16 you selling? What are -- you know, what do you think
17 your key words are? What do you think your market
18 is? What do you think your demographic is?" Maybe
19 something along those lines. Again, I don't have
20 those questions in front of me, so I can't be
21 specific.

22 But that would have been the case in order
23 for the person that was going to do the search engine
24 optimization on that and create a home page -- they
25 would have needed to know some of those things.

1 Q. Would you keep a list of the key words that
2 you submitted for Mr. Prince?

3 A. Who is "you"?

4 Q. Bright Builders.

5 A. I doubt that we would have kept that even
6 if we had done it for Christopher Prince, which I
7 don't believe we did.

8 Q. So the key words were developed sort of on
9 the fly and then put into a search engine? There's
10 no list maintained?

11 MR. DOOLITTLE: Object to the form.

12 Q. Go ahead and answer.

13 A. Are you waiting for me? Sorry.

14 Q. Yeah. Answer that. Every now and then
15 Paul will object to a question but you still need to
16 answer. It's just to preserve the record.

17 A. I see. Would you mind repeating that one
18 more time.

19 (The record was read.)

20 A. The key words are researched based off of
21 that -- I would imagine that questionnaire that the
22 search engine marketers would have looked up and
23 worked on that research. They would have then put
24 together that list of key words that seem to be
25 getting the best results at the time. I don't know

1 if you know about search engine optimization, but
2 it's continually changing and adapting and adjusting.
3 So they would have looked at it on the fly -- not on
4 the fly, but they would have looked at it at that
5 time and figured out what were the best key words for
6 what they were trying to go towards at that time and
7 then they would have presented those key words to the
8 client with their home or -- not home page but a
9 page, a content page, that they would have created
10 based off of those key words.

11 Q. Well, maybe skipping down to the section
12 where it says that "We," meaning Bright Builders,
13 "will submit your website to over 2500 search engines
14 and directories." I presume there's some list of key
15 words that you keep when you're making those
16 submissions?

17 MR. DOOLITTLE: Object to the form.

18 A. No, no. That's not what the submission is.
19 The submission to the search engines is submitting
20 your website name to the search engines. It's not
21 submitting your key words. That's something you do
22 on your own site, and then you're on your own for
23 when the search engines show up to look at your site,
24 and if they think the content on your site is
25 relevant, then they start to rank you.

1 Q. So the key word suggested would appear in
2 the client's own files; is that correct?

3 A. "Files" maybe isn't the right word for it.
4 The key words was maybe a document that they maybe
5 sent over or that they would send over to the client
6 and then that client would have it for maybe writing
7 more content pages. Again, the coaching that we were
8 doing was based upon teaching them generally how to
9 create their website and how to continue moving
10 forward when they didn't have us anymore.

11 So they needed to have and learn how to do
12 key words. They needed to have and learn how to do a
13 content page, and so at that point they would have
14 probably needed to have that with them in order to
15 create more content pages. That was the point. We
16 were trying to educate them. We weren't trying to
17 give them the fish. We were trying to teach them how
18 to fish.

19 Q. So Bright Builders submits the website to
20 2500 search engines and directories. I didn't know
21 there were that many. How does that work?

22 A. Oh, it's just a little -- I don't know the
23 exact guts behind it. I never actually looked into
24 it, but basically you put your website in and it
25 submits it to Google. And Google goes "Yeah, great,

1 there's thousands of millions of people wanting us to
2 look at their website." So it puts them in a line
3 and a queue, and when it gets to them it gets to
4 them. That's what Yahoo would do or any of these
5 search engines that are out there.

6 Essentially there's millions of people
7 knocking on their door going, "Hey, look at our
8 website. Hey, look at our website." And basically
9 you get in line and when they get a chance, they'll
10 go check out your website. You actually have a
11 better chance of a search engine finding your website
12 by doing organic SEO than you do of getting in line
13 from a submission.

14 Q. But in this case it's correct that Bright
15 Builders submitted the domain name copycatclubs.com
16 to websites?

17 A. I have no idea.

18 Q. Scratch that. I mean search engines.

19 A. I don't know if they did.

20 Q. Let me restate the question just to get
21 this clear. Is it correct that Bright Builders
22 submitted the domain name copycatclubs.com to search
23 engines?

24 A. I have no idea if he did or didn't. He
25 certainly didn't do it through me as I recall. I

1 mean, maybe I suppose it's possible that I don't
2 remember something in the notes, but I don't recall
3 him doing it through me. He has the ability on the
4 site -- again, we wanted to make them to be able to
5 fish themselves, not have us be able to do everything
6 or do anything for them for that matter. So if he
7 submitted it by calling in or asking somebody to do
8 it, he could have potentially done that, but I don't
9 recall if he did or didn't.

10 MR. DOOLITTLE: I apologize. When you say "he"
11 throughout that answer, who you are referring to?
12 Bright Builders?

13 THE WITNESS: Christopher Prince.

14 MR. DOOLITTLE: Okay. Thank you.

15 Q. Flip to the next page. In order for there
16 to be the search engine optimization services, would
17 the client first have to complete the marketing
18 foundation checklist?

19 A. They would have had to have requested it
20 first and foremost. Again, I don't believe
21 Christopher Prince requested it, and then just even
22 to get started, they probably would have had to go
23 through a checklist, yeah.

24 Q. If Bright Builders notes that they
25 submitted Christopher Prince's websites to search

1 engines, would that mean he was taking advantage of
2 the search engine optimization services?

3 A. No, not at all. I don't think they are
4 connected at all. The foundation package really and
5 the submission wasn't really -- they weren't really
6 connected. One maybe was listed in the same thing
7 but that wasn't part of what the SEO foundation team
8 did.

9 Q. Do you know who was responsible for search
10 engine optimization for Christopher Prince?

11 A. I would believe nobody since he didn't
12 request it.

13 Q. Do you know whether he paid for it?

14 A. I don't know what the accounting of it is.
15 I assume if it was listed in his package of things to
16 purchase, then maybe he did. I don't know.

17 Q. You don't know whether he took advantage of
18 those services one way or the other?

19 A. I don't think he did is my recollection of
20 it, and looking through the notes, I don't remember
21 seeing anything in my notes as an advisor that said
22 that he had done anything with the search engine
23 optimization foundation package.

24 Q. I'll ask the court reporter to show the
25 next document which we've marked, I think, as

1 Exhibit 2.

2 (Exhibit 2 was marked.)

3 Q. Mr. Johnson, ask to you take a look at this
4 three-page document and ask if you recognize it.

5 A. The information looks familiar, but I did
6 not -- I don't remember seeing this particular --
7 these particular pages, but the information is
8 certainly familiar, project advisor, yeah.

9 Q. Do you believe that this is a true and
10 accurate copy of a Bright Builders' brochure?

11 A. It certainly uses some of our logos like
12 the little light bulb thing on the bottom. So that's
13 something that we often use for -- or we did often
14 use for our documents.

15 Q. If you could look through this and tell me
16 if you see anything with this brochure that would
17 lead you to believe it's not authentic.

18 MR. DOOLITTLE: We produced it.

19 MR. MCELWAIN: Let's go off the record for one
20 second if you don't mind.

21 (off the record)

22 Q. Mr. Johnson, just look at this, the
23 brochure that we've identified as Exhibit 2. It
24 mentions a project advisor, an internet business
25 consultant, and a builder trainer. Judging from

1 those terms, would this brochure have been something
2 developed after you implemented the new training
3 approach?

4 A. It would probably have been right at the
5 beginning before we had completely implemented the
6 whole new coaching program. There was a transition
7 period where we had to continue some of the old
8 coaching and then transition into the new coaching
9 model and during that time we needed something that
10 was pretty much generic that would cover us both.
11 That way when the new coaching team would take over,
12 depending on whether that new client was in the new
13 model or the old model, it would still be close
14 enough that we could then branch them the direction
15 they needed to go for the model that they were in.

16 Q. Judging from that statement and what you
17 see on this document, do you have a fair prediction
18 as to the time frame of this brochure?

19 A. It had to have been just after we had
20 started because they wouldn't have started talking
21 about project advisor yet if it was still the old
22 model. So it would have probably just been after
23 that, but there are indications in here like
24 "internet business consultant" that was still left
25 over from the old model in transition into the new.

1 Q. We're going to move onto Exhibit 3.

2 (Exhibit 3 was marked.)

3 Q. Mr. Johnson, ask to you take a look at this
4 four-page document and ask if you recognize it?

5 A. Yeah. Most of it looks like the old
6 information with a few little tweaks here and there
7 that were happening through the transition, but a lot
8 of it is older stuff that we would have likely
9 directed them away from fairly quickly, not because
10 it was bad or anything just because we had a new
11 process.

12 Q. Okay. Can you describe to me a typical
13 coaching session under the old way and under your new
14 way then.

15 A. Well, in the old model it was just a single
16 coach with a single client, and that coach would have
17 maybe five or ten sessions with that client and that
18 would be it, that coach would work with that client
19 one-on-one. And the client was -- from my
20 perspective now, the client was at the mercy of that
21 coach's knowledge. So it wasn't a very effective
22 method upon which to coach a client, I thought.

23 So there was a lot of stuff in there
24 that -- in the old model that was very -- like I
25 said, the last director of that coaching department

1 was a little froofy, so he liked to do things like "a
2 winning mindset" and "get your mind in order before
3 you start your business and that will take
4 two weeks." And I didn't really like that. I wanted
5 to get to work.

6 So in the new session, the scheduler would
7 probably be the first one to contact the client.
8 They would get an appointment set up with their
9 advisor, and in the meantime they would give them an
10 assignment or two to read an article and maybe look
11 at some of the stuff that they had purchased prior to
12 talking to their advisor for the first time.

13 Q. Do you know whether Mr. Prince was under
14 the new system or the old system?

15 A. He was under the new system.

16 Q. Are the coaching sessions under the new
17 session over the telephone?

18 A. The times when the Christopher Prince would
19 have met with me as an advisor, yes, over the
20 telephone. My telepathy skills aren't that great
21 these days.

22 Q. Are there some sessions that are done
23 online through webinars, et cetera?

24 A. There were classes that were given that
25 multiple clients could attend on a webinar, and they

1 would be on specific subjects that were appropriate
2 for where that client was at at that time.

3 Q. And are the telephone sessions recorded?

4 A. When I first came as a coach in the old
5 model they were. We had some issues with the
6 recording devices and whatnot, technology kind of got
7 in the way. They ended up turning them off for a
8 little bit and turned them on. They were having
9 issues with them, so we had the ability to record
10 them, and at some point they were completely turned
11 off. I'm not sure when that was just because we were
12 running out of space. I'm not sure exactly what it
13 was but that was my guess was we didn't have the
14 space to continue to record those. So I know we have
15 one or maybe two things that Christopher Prince
16 recorded. I know we recorded one with Brigham Bud,
17 but for whatever reason there aren't any others.

18 Q. Under the new system did you still work
19 with clients on defining their niche?

20 A. Of course. We oftentimes talk to the
21 clients and would work with them on what it is they
22 were interested in. It's a known fact that you don't
23 go into a business that you're not interested in
24 selling things because that would be crazy. It's
25 probably not going to be successful. So you probably

1 should know something about what it is you're selling
2 or at least be willing to do all of the research
3 required to be able to go into the subject that
4 you're selling. So it's quite possible that we would
5 do that with a client in general, and I would have to
6 look at my notes to see if I got to that point with
7 Christopher Prince.

8 Q. How about finding the right products? Do
9 you still work with, under the new system, client in
10 finding the right products to sell?

11 A. Well, I think that it's going to be based
12 upon whether we got into the talk about the niche.
13 So the last answer would apply. Oftentimes in the
14 beginning our first goal is just to get them some
15 success in terms of selling anything. So oftentimes
16 we get them going and that's why we use eBay as a
17 beginning because we are trying to get them some
18 success. We're trying to get them to understand how
19 use the Lister and just sell some things from around
20 their house so they can maybe get some experience
21 under their belt.

22 Q. As a coach under the new way of coaching,
23 you still work on an effective presentation for the
24 client's website?

25 A. We talk about the general concepts that

1 make up a good website, you know, putting flaming
2 text at the top of your home page is probably not an
3 effective way to get people to buy your product,
4 depending, of course, on what your product is. So we
5 talk about it generally in terms of "Hey, if you're
6 selling pots and pans, you probably shouldn't have a
7 golf theme on your website."

8 Q. Do you have a computer in front of you when
9 you're doing the coaching sessions?

10 A. Yes, we do.

11 Q. And do you do research or use a computer in
12 any manner while you're doing the coaching sessions?

13 A. Basically the majority of the use of the
14 computer was to look at their admin. We called it
15 our super admin screen. And what we did on that
16 screen was we could see what their client number was,
17 what their time zone was, what their phone number
18 was. Oftentimes if you got disconnected or you
19 needed to call back, you would need that plus that
20 screen housed our notes section where we would take
21 notes on that client.

22 So most of the time that was the main
23 screen that we would have up is the note screen so
24 that we could type notes based off of what they said
25 to us at the time. Often it was much like our court

1 reporter here is doing. We're just typing things
2 they say to us, and I would say that was probably a
3 majority of our usage of the computer.

4 Q. Would you ever do research for a client
5 while you were on a coaching session?

6 A. We as a team made it a bit of a policy not
7 to do their work for them. We were very cognizant of
8 making sure the clients learned how to do what it is
9 they needed to do. So we wanted them to go out and
10 do that research. So if they asked us, we would
11 teach them how to do it. So they would say, "How I
12 do look up a product on eBay?" We'd say, "Go to eBay
13 and, you know, look for this search box, type this in
14 the search box. Now, look at the results that come
15 back from this. Now let's compare these results.
16 Let's look at how that works." So most of the time
17 we are trying to walk them through so they can get
18 the experience to learn how to do these things
19 themselves.

20 Q. Mr. Johnson, would you ever review a
21 client's website while you were having a coaching
22 session?

23 A. They would have had to ask for that
24 specifically as most of time I was taking notes
25 during their session.

1 Q. Let's move onto Exhibit 4.

2 (Exhibit 4 was marked.)

3 Q. Mr. Johnson, we just handed you what we've
4 marked as Exhibit 4. I'd ask you if you could
5 identify these documents for me.

6 A. In what way are you looking for me to
7 identify it?

8 Q. Can you just tell me what it is.

9 A. It looks like some -- looks like notes from
10 Christopher Prince's account. Yes, indeed it's notes
11 from Christopher Prince's account.

12 Q. I believe you said that you've reviewed
13 notes from Christopher Prince's account; is that
14 correct?

15 A. I did about a month and a half ago or so,
16 yeah, maybe two months.

17 Q. Are these the notes that you reviewed?

18 A. Yep, these are.

19 Q. Is it fair to say that these notes are
20 reverse chronological order?

21 A. That is correct, uh-huh.

22 Q. Were these notes created contemporaneously
23 with the dates that are contained next to the notes?

24 A. What do you mean? I'm sorry.

25 Q. Were they created around the same time as

1 the dates and times indicated or were they created in
2 a much later time period?

3 A. No. These are created exactly when they
4 happened. So if it says "created account by Auction
5 Success Group, LLC on 2/21/2008 at 8:20 p.m.," that's
6 exactly when it happened.

7 Q. Thank you. Are these notes kept by any
8 particular computer program?

9 A. Well, they are kept on the server, which
10 server I don't know. I don't really deal with which
11 server keeps them but, yeah, I mean the super admin
12 would keep those notes as they came in.

13 Q. What I'm getting at is was this a Word
14 document or is it a particular work flow management
15 program you have?

16 A. We call it our super admin, and our super
17 admin basically keeps track of each of our clients
18 and the information we need to know about that
19 client.

20 Q. Does it keep track of them via the account
21 number?

22 A. Yes. And I don't have his account number
23 here, but it's -- well, it's at the top of the paper
24 but it's kind of smudged out.

25 Q. Okay. If you would flip three pages into

1 the document to the March 2009 time frame.

2 A. Okay.

3 Q. Do you see a March 16th, 2009 entry by
4 Dustin York?

5 A. I do.

6 Q. And it says "Completed three search engine
7 submission."

8 A. Uh-huh.

9 Q. What does that mean?

10 A. Earlier as we talked about that submission
11 can be asked for at any time, and then they would
12 submit a website, whichever one they requested --
13 Christopher Prince requested -- to the search
14 engines. So that it would basically get in line, as
15 we said before, for Google or Yahoo to show up and
16 maybe look at that it when they had the chance.

17 Q. Okay. And to do so they would have had to
18 submit what to a search engine?

19 A. Just a domain name.

20 Q. Any key words that would be submitted?

21 A. No.

22 Q. Just a domain name?

23 A. Yep.

24 Q. In this case it would have been
25 copycatclubs.com?

1 A. I have no idea. It doesn't say here, and I
2 don't know.

3 Q. Do you often submit domain names of
4 unrelated websites to search engines?

5 A. Me, personally, no. And as far as what
6 they do, if some client calls in and is angry and/or
7 insistent upon us doing that free search engine
8 submission because it's free and they should get it
9 because it's free, then we do what they tell us to
10 do.

11 Q. But it would be likely that Mr. York
12 submitted copycatclubs.com; correct?

13 MR. DOOLITTLE: Object to the form.

14 A. It would be no more likely that we
15 submitted that based off of this than it would be
16 that we submitted any of the other three domain names
17 that he registered as well.

18 Q. Or it could be all of them; correct?

19 A. It's one. You'll submit one at a time.

20 Q. How can you determine that?

21 A. I don't know. I don't know how we could
22 determine that actually.

23 Q. If you'll flip to the next page, you'll see
24 that Emily Davies also completed a free search engine
25 submission.

1 A. Uh-huh.

2 Q. And that's the same action that would have
3 been taken by Mr. York; is that correct?

4 A. Yeah. I would imagine that's the same
5 action. The likelihood of it being the same domain
6 aren't good. So he likely saw it and wanted it
7 submitted for what it looks like two different
8 domains although neither of the domains here are
9 listed, so I don't know.

10 Q. If you'll look down at the bottom of that
11 same page on September 30th, 2008, what was the
12 purpose of the e-mail that you sent to Chris?

13 A. Looks like -- let me read it just a second.
14 This looks like the closing e-mail that we send when
15 they are out of time in the coaching program. We
16 tried to make it so that it was soft. You don't
17 obviously want to upset your customers when their
18 time is up in terms of coaching. Oftentimes when
19 clients don't use all of the time period that they
20 have or use it to the best of their ability, they get
21 quite upset when their coaching time is over. So we
22 try to phrase this in a soft manner so they wouldn't
23 be upset.

24 We do that by letting them know that our
25 technical staff will be available for them if they

1 have more questions. We also let them know that TOC
2 Central that we talked about earlier is also
3 available. And we tell them that they can get back
4 in touch with us if they have any success stories so
5 that we can hear what kind of success they've had.

6 Q. Do you know whether Mr. Prince's website
7 was up and running at this point?

8 A. I do not. And if you'd like, I can look
9 back throughout notes here and see, but I feel
10 like -- and again it's been a little while since I've
11 read through these, but I feel like he has been kind
12 of out of touch. And, yes, actually I went back to
13 9/10/2008. I put in a note under Call No. 11 that
14 says, "I talked to him about being MIA for a while,"
15 or missing in action. "He said not to worry about it
16 he was doing fine. He has been working on his site."

17 That comment, you know, kind of shows that
18 he wasn't really involved very much. He was kind of
19 in and out. So when I send that last letter,
20 oftentimes it's because they are coming to an end and
21 they haven't been really involved in the program.

22 Q. If you'll look down back to the page I've
23 been on before, on the September 18th, 2008.

24 A. Yes.

25 Q. Does that indicate that he attended a

1 webinar entitled Product Sourcing 101?

2 A. That is correct. Class 4, and it implies
3 that did he attended that class with Sean Eyring.

4 Q. And then if you look at 9/18/2008, again
5 Emily Davies is submitting the website for search
6 engine submission?

7 A. Yes. That could be -- that's likely for
8 another one of the domain names he registered.

9 Q. That's the third time we've seen it so far;
10 is that correct?

11 A. That is correct. So it seems as though he
12 could have done it for multiple sites -- or sorry --
13 multiple domain names, not sites.

14 Q. If you would flip ahead several pages until
15 you come to the August 4th, 2008.

16 A. Yes.

17 Q. If you look right below the August 4th date
18 it says "Call # 11." What does that mean?

19 A. It just means that -- what we tried do
20 is -- I created this form. One of things I wanted to
21 improve on was our note-taking ability when I moved
22 everybody to this new model or as I was moving them
23 to the new model. So one of things that we did was
24 we just marked how many calls that they had done so
25 that we knew a general idea of what they were doing.

1 We wanted to have an idea of how many times they
2 called us. This way we could track and have records
3 of the overall whole. Are people calling us 20
4 times? Are they calling us five times? Are they
5 calling us two times? You know, what's the general
6 stats on their coaching program?

7 Q. And below that it says "Call length," paren
8 "min." I presume that's "minutes."

9 A. "Minutes."

10 Q. Colon, "10." Does that mean this call on
11 August 4, 2008 with you lasted for ten minutes?

12 A. That's correct, yes.

13 Q. And it says "Plan for next session."

14 A. Uh-huh.

15 Q. "Check on his site and how the website
16 course is going." What did you mean by that?

17 A. Basically I wanted to find out whether he
18 attended the course because he already had a bit of a
19 history of not attending and not being very
20 consistent, so I would have checked to see if he had
21 attended the course and if he had been working on his
22 site.

23 Q. And how would you check to see if he had
24 been working on his site?

25 A. I would say, "Christopher Prince, have you

1 been working on your site?" And he would say yes or
2 no and I would type it into the notes.

3 Q. If you would go flip ahead one more page,
4 down at the bottom I'm looking at the entry again
5 7/14/2008. You'll have to go into the next page.

6 A. Yes, I see, uh-huh.

7 Q. This was the tenth call; is that correct?

8 A. That's what it says, yes.

9 Q. And the call lasted for 14 minutes?

10 A. Yes.

11 Q. Who is Sean for an SEO basics?

12 A. Sean Eyring, we mentioned his name a second
13 ago, probably taught that class, the SEO basics class
14 and, I believe, we read something about that a second
15 ago, and -- see -- well, yeah, he ran the SEO basics
16 class.

17 Q. Okay. And then it says in the notes that
18 he had been having major computer issues. Do you
19 recall what those were?

20 A. I think his computer -- I don't know. Let
21 me read it a second. Maybe I can remember
22 specifically.

23 Q. Uh-huh.

24 A. I think again this is just -- this is ages
25 ago, but I think his computer crashed, and so that

1 was at least the thing he told me as to why he hadn't
2 been working on stuff prior to that. As you can see
3 in the notes prior to that, it looks like my
4 scheduler was trying to get ahold of him and get him
5 in. In fact, the date on that one was 7/14 and the
6 last session that I had had with him was 6/24. So
7 he'd kind of disappeared there for a little while and
8 didn't show up for much or call in or do anything.

9 Q. Your notes indicate he's made progress with
10 his content pages. What did you mean by that?

11 A. That's what he said. So usually the
12 question as an advisor that I'd ask is "Tell me what
13 you've been up to. Tell me what you've done." And
14 oftentimes what I'd write down -- most of time what
15 I'd write down is what they said. He said he made
16 progress with his content pages; however, he hasn't
17 worked them much lately. So I asked him to get going
18 on entering products into his store and do the
19 Builder Certification 2. And then I asked him to get
20 going on trying to figure out what he was going to do
21 with a merchant account.

22 Q. And so take a step back, what is the
23 Builder Certification 2?

24 A. That was also a class like SEO basics.
25 There was a Building Certification 1 and Builder

1 Certification 2, and it was just the name of the
2 class is all so they understood how to use the
3 Builder to start creating their website.

4 Q. When you say merchant account set up, what
5 are you talking about?

6 A. If you intend to run any type of store
7 retail or online you need a merchant account, so you
8 have to go out and start looking for how you're going
9 to get a merchant account.

10 Q. Is that processing credit card payments?

11 A. Yes, that's correct.

12 Q. And that's not something that Bright
13 Builders does?

14 A. No. We basically told them that they
15 needed to go out and start looking for how they were
16 going to take care of this portion of their business.

17 Q. If you would flip to the next page and look
18 at the June 24th entry, is this the ninth call
19 between you and Mr. Prince?

20 A. That is indeed what it says.

21 Q. And the length of the call was for
22 32 minutes?

23 A. Uh-huh, yes.

24 Q. What is Mikogo?

25 A. Mikogo is an online screen-sharing soft --

1 or website essentially, that allows you to share a
2 screen between your screen and their screen so that
3 they can see what's going on. Oftentimes you can
4 tell somebody when you're working on a piece of
5 software, "Click on this button in the top right
6 corner," and they will reply "There is no button in
7 the top right corner."

8 You can continue to tell them that all you
9 want, and they will continue to tell you there is no
10 button in the right corner. So Mikogo brings in web
11 application essentially that allows you to see each
12 others' computers. It can either be from my end to
13 their end or from their end to my end. Oftentimes
14 what we used it for is for them to be able to see our
15 screen so that we could do the training on our
16 Builder on our screen so that they could see what and
17 where we were talking about. It gave them a little
18 more practical experience.

19 Q. Do you recall what you did in this
20 particular instance?

21 A. It says here "We used Mikogo to do a
22 builder training session to help him feel more
23 comfortable at using his builder." So what that
24 means is we turned on Mikogo. I put it on my screen
25 so he could see what I was doing. I would then pull

1 up my builder and show him how to do some of the
2 things that I was going to be asking him to go do on
3 his own.

4 Q. If you wouldn't mind turn to the next page,
5 June 12th, 2008.

6 A. Yes.

7 Q. Do you know who Natalie Estep is?

8 A. I do not.

9 Q. How do e-mails get integrated into this
10 system that you have here?

11 A. If we get an e-mail in, we would oftentimes
12 copy it and paste it in to the note section.

13 Q. Okay. Do you recall receiving this e-mail
14 from Chris Prince?

15 A. Well, it says they did in this note right
16 here, so I would say I did, but I don't recall it.

17 Q. Based upon this e-mail, do you recall
18 reviewing his website?

19 A. No. I'm sure I didn't actually. In fact,
20 it looks like we were looking at content pages which
21 aren't or have anything to do with his website
22 because they can be done in a Word document.

23 Q. How would you have reviewed a Word
24 document?

25 A. It would have been in an attachment maybe

1 or in the e-mail. I doubt it was in the e-mail
2 specifically actually because that would have been
3 copied in at that point. So it was probably in an
4 attachment, and he was probably asking me to take a
5 look at what was written in the content pages, and I
6 said it was a good start. Create another content
7 page so we can see and then call Laurie, my
8 scheduler, to get into another session.

9 Q. So you did review content pages that you
10 encouraged him to place on the website; is that
11 correct?

12 A. Yeah. Actually, that's part of what we do.
13 We would look at -- we would ask them to create a
14 content page and then we would ask them to get it on
15 to the site so they knew how to do it.

16 Q. Do you recall anything about this content?

17 A. Not a clue. In fact, my guess would be
18 that because it's not in here and because there's no
19 topic on it, my guess is that it probably was
20 unrelated to something he was doing. It was probably
21 more of a "learn how to fish" assignment.

22 Q. Why would you have encouraged him to put
23 those pages on a navigation menu?

24 A. So he could learn how to use the navigation
25 menu. Oftentimes when a client uses our builder,

1 they create a page in the builder and they don't link
2 it anywhere or put it anywhere and then they get mad
3 because they can't find it because they can't get to
4 it from their home page. So on the home page there's
5 a navigation menu, and it's important they learn how
6 to use that navigation menu to either link
7 pages they've created or link to other places that
8 they want people to go from their navigation menu.

9 Q. If you would look at the entry below that,
10 the 6/10/2008.

11 A. Sure.

12 Q. I believe that's Call No. 8; is that
13 correct?

14 A. That's correct.

15 Q. And the call length was for 33 minutes?

16 A. Yes, sir.

17 Q. Okay. It says "Check to see he has his
18 info pages up." Doesn't that imply you were
19 reviewing his website?

20 A. It does not actually. I would ask him,
21 "Hey, did you put your information pages up?" Well,
22 actually first I would say "Did you do your
23 information pages," which quite obviously in the next
24 session on 6/12 shows that he did not because
25 obviously he didn't have anything to put up. And

1 then I said afterwards "If so, move them to home page
2 and visual layout as well as store manager." So it
3 looks like he didn't do any work on that one, and so
4 therefore I was checking it on the next one.

5 In fact, just as an addition there, it says
6 at the bottom of that note "We talked about
7 committing to a niche that he was familiar with. He
8 chose golf and I believe he really knows his stuff.
9 He said he had supplier for it and he's excited about
10 it. This should be a good approach for him."

11 Q. Do you know what suppliers he was talking
12 about?

13 A. I do not. I never got involved with that.
14 Again, teaching them how to fish wasn't my intent to
15 find out about who they were getting supplier for or
16 where they were getting suppliers. My intent was to
17 get them excited about what it was that they were
18 selling and get them into something that they
19 understood.

20 Q. If you could flip ahead, I think it's just
21 two more pages. There is a May 19, 2008 call. Do
22 you see that?

23 A. I do.

24 Q. And this call was the seventh call; is that
25 correct?

1 A. It was indeed.

2 Q. And it was a five-minute call.

3 A. Yes, it was.

4 Q. If you review the notes in there it
5 indicates that "life took hold and he got distracted
6 on building his website. He had a bad experience
7 with a supplier and he didn't get his product he
8 ordered." Do you recall what specifically happened
9 in that case?

10 A. Vaguely. What I do remember is -- and this
11 oftentimes happened with many clients -- is that they
12 would order something from some supplier they found.
13 They wouldn't get that product. Oftentimes it would
14 be that they wouldn't get the product in the time
15 frame that they were hoping for. So then they would
16 freak out a little bit about that.

17 And the product would usually end up
18 arriving a few days later or week later or get
19 delayed. And they would usually be pretty scared
20 about that and think they had gotten scammed. So
21 that's a pretty typical experience because there's so
22 many suppliers out there that just can have negative
23 actions, or sometimes it's just shipping. They just
24 didn't get the product to them in time.

25 Q. If you would flip ahead two more pages to

1 the April 18, 2008 --

2 A. Yes.

3 Q. It's correct this is the sixth call between
4 you and Mr. Prince?

5 A. Correct.

6 Q. The length of this call was six minutes?

7 A. Yes.

8 Q. These notes that you entered indicate that
9 "he had some setbacks and that he had sold 400.00 net
10 worth of products from a drop shipper and then the
11 products were not available." What do you recall
12 about that situation?

13 A. Just what was written there is what I
14 remember. He sold some products, and before those
15 products were available to deliver, he found out that
16 they were not available, and so he got pretty
17 depressed about the whole thing. And it's a fairly
18 common concept whenever you're working with drop
19 shippers. Oftentimes people put stuff up and they
20 don't have a good system of checking on it regularly
21 to make sure those products are still in stock. So
22 basically what he did is he sold products that
23 ultimately were out of stock by the time he sold
24 them, and so as I said, he was depressed about it and
25 I tried to encourage him to get going.

1 Q. Do you recall what the products were?

2 A. I don't. As I said earlier, oftentimes I
3 just -- it didn't really matter and I tried not to
4 get too involved in that because I was trying to
5 teach them how to do the process not specifically
6 about that product. For me to be knowledgeable about
7 every product on the planet would be impossible, so
8 rather than get involved in the specificity of a
9 single product, I would teach them on a general
10 overall whole.

11 Q. If you could flip another two pages forward
12 to the very top, April 3rd, 2008, e-mail, do you see
13 that?

14 A. I do.

15 Q. And the e-mail says "Man, you need to help
16 me. I can't find nothing to sell. Everything I find
17 costs me more than it's selling on eBay." Do you
18 recall that e-mail?

19 A. Sure. I just read it just now.

20 Q. The question is whether you recall it from
21 back in April 2008 time frame?

22 A. Not really, no. It was a common practice
23 that client would call in frustrated and asking for
24 help. So him calling and asking for help wasn't a
25 new thing. Everybody that starts a new business goes

1 through their ups and downs. And it was fairly
2 common for people to hit pitfalls and challenges.
3 And so getting a call for help from an e-mail wasn't
4 anything new.

5 Q. When he says "I can't find anything to
6 sell -- nothing to sell," what is he referring to if
7 you know?

8 A. I don't know what he's specifically
9 referring to, but I can tell from a life coaching
10 perspective if would you like.

11 Q. Sure.

12 A. He can't find nothing to sell. Basically,
13 what he means is he's too lazy. He's been watching
14 too many TV shows, and he hasn't done any work.

15 Q. From a life coaching perspective, tell me
16 about the next sentence.

17 A. Which one? "Everything I find costs me
18 more than it's selling on eBay."

19 Q. Yeah, what's the significance on that?

20 A. From a life coaching perspective, the
21 translation is "I haven't used your tool to do the
22 research. I don't want to use the tool because it's
23 too complicated looking for me, and can you help me."
24 So typically what we would do after those two phrases
25 is go in and say "Why don't we use the research tool

1 more. Maybe you don't understand how to use it. Let
2 us help you. Let us help you figure out how to do
3 the research better. Let us help you figure out what
4 you need to do" and try to get him to start doing
5 some of the work.

6 Q. So the problem is right now at this time he
7 hasn't done the homework to find products that he can
8 sell cheaper than what they are selling for on eBay;
9 is that correct?

10 A. That's correct.

11 Q. If you'll just move down that page a little
12 bit, there's a March 24th, 2008 e-mail.

13 A. Indeed.

14 Q. And this is the fifth call between you two;
15 is that correct?

16 A. That's correct.

17 Q. And the call length was approximately
18 30 minutes?

19 A. Correct.

20 Q. Okay. This looks to be a congratulatory
21 e-mail and session. What was going on at this time
22 period with your training with Mr. Prince?

23 MR. DOOLITTLE: Object to the form.

24 A. I would have to read actually to see what
25 we were doing on Call 4. If you'd like me to do

1 that, I can go back and see just to get my bearings
2 as to where we were at in the coaching process.

3 Q. That's not necessary. Look at the e-mail
4 that is attached to your notes. Do you see that?

5 A. I do.

6 Q. Okay. Is this a form e-mail?

7 A. It is indeed.

8 Q. Okay. Were you aware that he had overcome
9 a hurdle to create his business, his internet
10 business?

11 A. What are you referring to in regards to him
12 overcoming a hurdle?

13 Q. Well, your very first sentence is
14 "Congratulations. You've overcome the first big
15 hurdle of your internet business career. Now it's
16 time to start making an income." What do you mean by
17 that?

18 A. It's probably in relationship to what we
19 did on Call No. 4. Again, I'd have to go back and
20 look through that and see where we were in the
21 process, but I'm sure was it a little pat on the back
22 saying "Hey, good job. You did whatever you were
23 supposed to do in 4." And there is a possibility,
24 because I often did this, maybe they didn't quite get
25 done with what was in Homework Lesson -- or in

1 Process No. 4, in that session, in that training
2 session, and maybe I would have given them the next
3 assignment anyway based upon their being nervous and
4 wanting to move forward anyway.

5 Q. Maybe we should skip ahead to 4 and come
6 back to Call No. 5.

7 A. Okay. I'm there.

8 Q. And this call was on March 7, 2008 with
9 Brigham Bud apparently.

10 A. Yes.

11 Q. Is that the call you're referring to or do
12 we need to go back to the third call?

13 A. Well, it looks as though he potentially
14 would have given him -- or he talked to him about the
15 assignments that he completed which he listed an item
16 and he started looking for products to sell and then
17 Brigham would have started talking to him about what
18 he mentioned down there in those notes. So if we go
19 back to No. 3, I gave notes to Brigham and set him up
20 with Brigham for that session and asked him to get
21 moving.

22 So from my experience I would imagine that
23 after Call No. 5 I would have been talking about the
24 fact that he had just seen Brigham and we were moving
25 forward with the next step in the process.

1 Q. And what's the next step in the process?

2 A. Let me read that for just a second and I'll
3 tell you.

4 Looked like he was looking for a profitable
5 product, and so we encourage them to go back and
6 purchase a product. We actually encourage them make
7 sure it's a small purchase at first so they can test
8 out their sales. As you can see and as we discussed
9 in the notes later on, he obviously made a connection
10 with a drop shipper that was a little large. He
11 ended up getting stuck for that \$400, from what I
12 remember just a second ago. So that's how that would
13 connect.

14 He also would have been instructed to list
15 it on eBay and see how his products would start
16 doing. Then we would have instructed him, as it says
17 in No. 3, to go and start doing research using the
18 research tool and learning how to do that research
19 with the webinar that we assigned him to.

20 Q. So you have a fourth call. That was with
21 Brigham Bud though. Third call, we have is between
22 you and he on March 5th, 2008; correct?

23 A. Yes, that is correct.

24 Q. And that length of that call is 12 minutes;
25 correct?

1 A. Correct.

2 Q. Why did you at this time set up help for
3 him concerning an eBay store?

4 A. That was specific to the process, the eBay
5 store specifically was something he requested, and,
6 again, we try to accommodate them based off of what
7 they start to learn and find out in the industry. He
8 asked for help specifically on an eBay store. So
9 that's what I asked Braidon -- or Brigham to help him
10 with because of what he requested.

11 Q. If you'll flip ahead two more pages to
12 a 02-22-2008 entry.

13 A. Yes.

14 Q. Does that indicate the date that you were
15 assigned to Mr. Prince as his coach?

16 A. There's three, but I'm assuming you're
17 talking about one that says "Coach changed from
18 assigned to Michael."

19 Q. Correct.

20 A. That was indeed when Laurie would have
21 assigned that client to me. She could have assigned
22 it to any of us or anybody on that team, so it would
23 have been me and another advisor.

24 Q. If you'll flip ahead to the next page, it's
25 also an 02-22-2008 entry.

1 A. Uh-huh.

2 Q. It looks like an e-mail.

3 A. Yes.

4 Q. From Summer Walls. Do you know who Summer
5 Walls is?

6 A. I am assuming, of course, that Summer is
7 the office manager as it says at the bottom of that
8 e-mail for whoever that reseller is.

9 Q. Could it be ASG?

10 A. Let me see. Yes. In fact, in the note or
11 in that e-mail towards the end that was note it says
12 ASG, so I believe that's who it's with.

13 Q. The very last sentence indicates that
14 Mr. Prince was a large sale.

15 MR. DOOLITTLE: Object to the form.

16 Q. What does that mean?

17 A. Oftentimes it was construed -- they didn't
18 realize it, the resellers, but it was construed as a
19 bit of a insult to us. We believed they were
20 insulting us when they said things like that.
21 Basically they were just talking about how much they
22 made the sale for. We, most of the time, didn't care
23 because we didn't touch any of that money. We only
24 got paid for what we got paid for, the tools and the
25 service. So to us it was kind of an insult because

1 we took care of our clients the way we took care of
2 our clients and we felt that that was a good process.

3 REPORTER: I need break for a couple minutes.

4 (off the record)

5 (Exhibit 5 was marked.)

6 Q. Mr. Johnson, we just handed you a pack of
7 documents which we marked as Exhibit 5. I'd ask you
8 to take a look at those documents, and I'm going to
9 ask whether you recognize them.

10 A. Indeed. They are the account information
11 pages in the super admin.

12 Q. Okay.

13 A. Well, not all of them, but one is the
14 account information page. One is the status page.
15 So there's some various super admin pages that are in
16 here and then there's some other pages I'm not
17 familiar with, and there's some statements. And that
18 looks like the whole of it.

19 Q. Okay. Let's pull these out so that we are
20 working off the same set. So the first four pages
21 are super admin printouts; is that correct?

22 A. Indeed.

23 Q. Okay. And you're familiar with these
24 documents?

25 A. Not these specifically, but with the super

1 admin, yes.

2 Q. Okay. And these appear to be printouts
3 from your super admin system?

4 A. They are indeed.

5 Q. And those are kept in the normal course of
6 business?

7 A. Yes.

8 Q. Okay. Let's set those four pages aside.
9 And then I'm going to ask to you pick up the next two
10 pages. It says Bright Builders Internet Program and
11 Payment Options.

12 A. Yes, got it.

13 Q. Are you familiar with these two documents?

14 A. I am not. I don't know that I've seen this
15 particular document, Payment Options -- yeah, neither
16 of these documents are something that I've seen
17 before.

18 Q. Okay. Let's set those two aside.

19 A. Okay.

20 Q. The next ten pages, can you identify those
21 for me.

22 A. It looks like a statement of some sort. It
23 looks like an order based off what it says here at
24 the top, Order 452625. So it looks like some orders.
25 I'm not sure whether they are test orders or regular

1 normal orders. Looks like they are regular orders.
2 What else would you like to know about them?

3 Q. If you look at the internet address down at
4 the bottom, what does that tell you?

5 A. Internet address at the bottom?

6 Q. Of each one of those.

7 A. The very bottom of the page or the bottom
8 of the statement? I don't see one at the bottom of
9 the statement.

10 Q. At the bottom of the page.

11 A. The internet address at the bottom of the
12 page was probably when they did a print screen to be
13 able to print this statement out for you, that was
14 probably the page that they were on in our super
15 admin in order to look up this order detail.

16 Q. So are these ten pages in a form that you
17 recognize from your super admin system?

18 A. The "bill to" and "ship to" looks like our
19 standard "bill to ship to" format. The indication of
20 back order letter and update down there on the bottom
21 underneath that statement kind of indicates that this
22 is a report of some sort. So they probably ran a
23 report to be able to pull these up, and that's what
24 that looks like to me.

25 Q. And would these records be kept by Bright

1 Builders in the ordinary course of their business?

2 A. It would probably be kept within the file
3 that belongs to this website, the order website,
4 whatever that site is.

5 Q. Is there anything about these documents
6 that would lead you to believe they are not
7 authentic?

8 A. No.

9 Q. If we could go ahead and mark these as
10 Exhibit 6.

11 (Exhibit 6 was marked.)

12 Q. Okay. Thank you for assisting with that.
13 Let's turn to Exhibit 5.

14 A. Okay.

15 Q. You said this is a printout from your super
16 admin system; is that correct?

17 A. That's correct.

18 Q. Okay. At the top there's a date that says
19 coaching completed 9/22/2008. What does that mean?

20 A. That's probably a date that I would have
21 clicked off on when I sent that letter that we
22 discussed earlier that said, you know, "Thank you,
23 your time is up yada, yada, yada."

24 Q. It appears below that it identifies
25 information such as reseller, user name, password,

1 all of that relating to Mr. Prince's account; is that
2 correct?

3 A. That's correct.

4 Q. What does the license keys indicate? What
5 is the purpose of that?

6 A. That's the license key that they would have
7 had to enter in order to use the research tool, and I
8 believe the lister also.

9 Q. If you flip to the second page, it's
10 entitled status. There appears to be a tab entitled
11 status; correct?

12 A. That's correct.

13 Q. Right below the word "status," there's a
14 number of different -- service rep and trainer. What
15 will you call -- generally what are those fields for?

16 A. Back in the old model and even before the
17 old system that I came into, I think somebody decided
18 they wanted to have all this information, but even
19 when I showed up into that old coaching model, they
20 weren't even using these things at that time. So
21 there is a bunch of data or form spaces like service
22 rep trainer, a lot of that just weren't even being
23 used by the time I showed up in the company.

24 Q. Okay. And these are all unassigned because
25 it just was never used; is that correct?

1 A. Yeah. I think somebody had good intention
2 when they put it in and then nobody used it. Seemed
3 like it was -- from when I got there, it seemed like
4 all this was overkill for what they were looking for.

5 Q. Okay. Then if you'll flip to the very last
6 page --

7 A. The payment options?

8 Q. No. I'm sorry. It should say -- it should
9 be domains tab.

10 A. Yes, indeed. Got it.

11 Q. Is that just a list of domains that Bright
12 Builder was managing for Christopher Prince?

13 MR. DOOLITTLE: Object to form.

14 A. It's a list of domains that Christopher
15 Prince signed up for. You can sign up and register
16 for any domains in our builder just like you can at
17 Go Daddy or pretty much anywhere else in the world
18 you want to buy a website from, Google, Yahoo,
19 anywhere like that. So these are the domain names
20 that he purchased.

21 Q. Is Bright Builders a registrar of domain
22 names?

23 A. No. Our registrar is -- I'm not sure the
24 exact definition of registrar as a side note, but we
25 get our domains through a company called eNom, and

1 basically we have a -- I believe it's a wholesale
2 relationship with eNom. I'm not positive on that.

3 Q. I'm going to ask the court reporter to show
4 you what I have marked as Exhibit 7, and what we're
5 now caught up to being Exhibit 7.

6 (Exhibit 7 was marked.)

7 Q. I have handed you a stack of documents that
8 we marked as Exhibit 7, and I'd ask whether you've
9 ever seen these documents before.

10 A. These documents?

11 Q. Yes.

12 A. No. What's in them, yes.

13 Q. Okay. So you recognize these documents as
14 being a printout of the copycatclub.com website?

15 A. No. I recognize the graphic for home,
16 shopping, cart, checkout, and search on this first
17 page look familiar because it's a pretty standard,
18 generic template that comes with our builder when you
19 first start.

20 Q. Have you ever reviewed the copycatclub.com
21 site?

22 A. No.

23 Q. Do you know who has at Bright Builders?

24 A. I would assume that nobody has since that's
25 not usually a common practice.

1 Q. So you-all do not review any of your
2 clients' websites?

3 A. No. We talk about what they are doing,
4 whether they feel they are on the right track, and we
5 give them general education as to how to continue to
6 create a site. If they ask us specifically, then I
7 maybe we would go in and look at it, but oftentimes
8 they don't.

9 Q. What do you know about drop shipping?

10 A. I know it's a risky business. I know that
11 if I were trying to create my own website online,
12 that if I were to do my homework, well, I could
13 probably find some good deals with drop shipping.
14 You have to do your homework, and that's what we
15 teach actually. Having a good research tool and
16 having a good way to outlet those products is hugely
17 valuable.

18 Q. How does drop shipping work?

19 A. Drop shipping works like this: You find a
20 drop shipping company that has a product that you
21 believe you can sell. You contract or sign up with
22 that drop shipping company, whether it be -- whatever
23 process it is that they have, and you have to go
24 through that process. And then you with that company
25 are told what you can sell -- what you can buy that

1 product from them for. Then you mark up the product.
2 You can sell it however it is you're going to sell
3 it. And then once it's sold for the price that
4 you've determined, then you go back to their site or
5 however it is that that drop shipping company does
6 that, and tell them what the address is, who the
7 recipient is. And it's likely you would have already
8 set up how the label was going to be so that it
9 looked like it came from you personally. So then
10 they would then ship that out to that client and
11 you're good. You're done.

12 Q. Does Bright Builders recommended drop
13 shippers?

14 A. We don't recommended any drop shippers. As
15 you could well imagine that would be an easy way to
16 get ourselves into a lot of angry customers if a
17 specific one didn't work out. So what we do is we
18 teach people about how to research drop shippers, and
19 then it's up to them to make their choices and
20 decisions as to who they are going to use.

21 Q. I seem to recall your testimony was that
22 you have on the Bright Builders website some
23 suggested or recommended drop shippers such as Doba
24 and the other one we mentioned earlier -- one moment,
25 Wholesale Match. Isn't it true that you do recommend

1 certain drop shippers?

2 A. Yes. We recommend them so that they can go
3 and do research and decide and make decisions whether
4 they want to use those companies or not. So in terms
5 of whether we tell them to use them or if we say that
6 they should or shouldn't, we tell them to do
7 research. That's why we have a research tool so they
8 can go and make their decisions for themselves.

9 Q. What is that research tool you're referring
10 to?

11 A. HammerTap. We would call it the Bright
12 Builder Research Tool, but HammerTap is the main tool
13 that is private labeled as the HammerTap -- or as the
14 Bright Builder Research Tool.

15 Q. Where are most of your drop shippers
16 located?

17 A. I have no idea.

18 Q. Who would know that information?

19 A. Those drop shippers -- I'm sure if you
20 contacted them, they would be able to tell you.

21 Q. Does anybody at Bright Builders know where
22 most drop shippers are located?

23 A. I'm sure we could all look on Google and
24 figure it out if you needed us to, but I'm sure you
25 could research that too.

1 Q. What I'm saying -- is there anybody at
2 Bright Builders -- who is the person at Bright
3 Builders most familiar with drop shippers as a method
4 of doing business for your clients?

5 A. I'm not sure what you're getting at. We
6 would tell these people about drop shippers they
7 could use to do research. So that's kind of the end
8 of it. We all knew who we were recommending for them
9 to go do research with, but that was the extent of
10 it. So we kind of all knew that.

11 Q. What kind of products are sold by drop
12 shippers?

13 A. There are drop shippers for everything.
14 You name it. And there are drop shippers for just
15 about everything. Doesn't mean you should do it.
16 That's for sure. That's why you need research.

17 Q. Are name brand products sold via drop
18 shippers?

19 A. There are a lot that claim that. I haven't
20 done drop shipping myself personally, so I would
21 assume that there are probably some that do it,
22 probably mark it up massively.

23 Q. Are you familiar with any name brand
24 products being sold via drop shipping?

25 A. Right now, no. I haven't been doing any of

1 that research at all myself, and I don't know.

2 Q. It's correct that you knew that the name of
3 the website or one of names of the websites being
4 used by Mr. Prince was copycatclubs.com; correct?

5 A. I'm sure I knew that at some point, yeah.

6 Q. What did you think he planned on selling
7 from that website?

8 A. Probably golf clubs. That's a pretty good
9 indication, don't you think?

10 Q. You knew that Mr. Prince was having
11 problems finding products with good profit margin,
12 did you not?

13 A. Everybody has problems finding products
14 with a good profit margin, so it was pretty standard
15 practice that he would probably have some troubles
16 along way as he did his research.

17 Q. And you knew that Prince was selling name
18 brand golf clubs; correct?

19 A. No, I did not know that for sure.

20 Q. What did you think he was selling then?

21 A. Golf clubs.

22 Q. Produced by people such as?

23 A. I don't know.

24 Q. Did you know that Mr. Prince was selling
25 golf clubs from TaylorMade, for instance?

1 A. No, I didn't.

2 Q. Are you familiar with any generic golf
3 clubs, not name-brand golf clubs?

4 A. No. But I see them all the time at places
5 like flea markets and whatnot.

6 Q. At what point did you suspect that
7 Mr. Prince was selling counterfeit golf clubs?

8 A. At about the point I received the Summons
9 the day it showed up at our office that you guys were
10 placing a suit against us.

11 MR. MCELWAIN: That's all the questions I have.
12 Paul Doolittle may or may not have questions for you.

13 MR. DOOLITTLE: I'm debating how many I'm going
14 to ask you.

15 EXAMINATION

16 BY MR. DOOLITTLE:

17 Q. Mr. Johnson, let me make clear and
18 understand, have you and I ever met personally?

19 A. No.

20 Q. Have you and I ever discussed anything over
21 of the phone whatsoever?

22 A. No, sir.

23 Q. Have you and I even exchange pleasantries
24 such as "How is the weather in Utah?"

25 A. No, sir.

1 Q. You've had no conversations with my law
2 firm?

3 A. No, sir.

4 Q. You've had no conversations with any
5 lawyers, associates, or staff whatsoever in my law
6 firm; is that correct?

7 A. No, sir.

8 Q. Have you ever been to South Carolina?

9 A. When I was on team -- in college I was on
10 the ballroom team, and we went on a tour over the
11 summer to do a ballroom tour essentially, and I would
12 imagine since I remember being in North Carolina, I
13 would imagine we did a show there in South Carolina,
14 but that's the extent of my memory of being there.

15 Q. Mr. Johnson, will you look at Exhibit No. 4
16 for me, please.

17 A. Okay. Where to?

18 Q. January 27, 2010. I think second page in,
19 conversation at 4:09 with Mr. Scott towards the
20 bottom.

21 A. Yes, uh-huh.

22 Q. Is that a phone conversations?

23 A. That's --

24 Q. Or instant message?

25 A. It looks like instant message.

1 Q. So these are the actual words that were
2 typed by -- how do you pronounce it, B-r-a-i-d-o-n?

3 A. Braidon.

4 Q. Braidon.

5 A. Yes. These are actually typed words that
6 came across in the instant messaging.

7 Q. Mr. Braidon works for Bright Builders; is
8 that correct?

9 A. Yes. He is our lead technical support
10 representative.

11 Q. And the Chris in this conversation, who is
12 that referring to?

13 A. That's Christopher Prince.

14 Q. That's Mr. Prince. So it says Chris,
15 colon, and whatever is typed after that, that's
16 something he actually typed on his computer?

17 A. Yes, it is.

18 Q. That's his statements?

19 A. Yes.

20 Q. You had an opportunity to review this
21 conversation?

22 A. Once about a month and a half ago.

23 Q. Let me ask you to take a minute and read
24 that conversation, and I have a few questions about
25 it.

1 A. Okay.

2 Okay.

3 Q. What's your take on this conversation?

4 MR. MCELWAIN: Object to the form.

5 A. He didn't do the work. And so now, like
6 many clients often do, he's calling in asking to
7 cancel, and he's trying to leave his mark of saying
8 that the program didn't work when really he just
9 didn't do any of the work. Also, midway through he
10 mentions that he did the marketing, and Braidon, as
11 he's supposed to, pointed out that he did not do the
12 marketing or the custom graphic design.

13 Apparently, Chris had went and did
14 marketing through some other company that he
15 purchased it from after this and/or after he had
16 purchased this program, and so we didn't really even
17 do any marketing for him. We didn't do any custom
18 graphic design for him, and Braidon was trying to get
19 him to understand that we didn't do any of that
20 stuff, not to mention that he didn't have any site up
21 and that he didn't have anything for us to do that on
22 anyway even if he wanted to start. So that's kind of
23 my take on that whole conversation.

24 Q. You mean he had another company helping him
25 to do marketing?

1 MR. MCELWAIN: Object to the form.

2 A. That's what he says. Chris says in here
3 that he had somebody else help him out with the
4 marketing, but he didn't use us and Braidon pointed
5 that out to him, and he didn't quite get that.

6 MR. MCELWAIN: I need to add foundation,
7 hearsay, just to cover this objection.

8 MR. DOOLITTLE: Hearsay?

9 MR. MCELWAIN: He's testifying what Braidon
10 says.

11 Q. What time frames are you looking at, time
12 entry?

13 A. Let me find it. Braidon specifies right --
14 there's first from Chris Prince at 15:57:37. Chris
15 says, "It was used. I've tried different items on
16 the site and marketed it every way to Sunday even
17 spent an extra grand with another company for
18 marketing that didn't really help either. I tried
19 two or three different products on the site, spent
20 tons of hours getting it up and running and nothing
21 happened. I just kept losing money, so I deleted all
22 of the content."

23 The next statement is from Braidon,
24 15:58:39. Braidon says "Okay. What I meant was that
25 you have not used the package you purchased from us.

1 You may have purchased something from someone else
2 that you used." And then Braidon says, "I will go
3 ahead and close the account for you to today. If you
4 decide you would like to utilize the program sometime
5 in the future, please let us know, and we'll be happy
6 get you started again."

7 Q. Did he actually close the account that day?

8 A. He did not because of what Christopher
9 Prince led him on afterwards to not close the counts.

10 Q. So Mr. Prince starts off asking to cancel
11 the membership; is that correct?

12 A. He starts off that way indeed.

13 Q. And at the end does he in fact cancel the
14 membership?

15 A. No. He decides not to. I can't remember
16 where that's at. I can find it.

17 Q. I think it's at the very end; is that
18 correct?

19 A. Oh, yeah, it is. It says -- Braidon says,
20 "We only have an in-house marketing team. They may
21 have told you they were with Bright Builders to
22 persuade you" -- he's talking about the other
23 company. "But our marketing package is different
24 from what you used. I cannot speak for their
25 marketing strategies. I do not know what they would

1 have used. I'm simply explaining that if you were to
2 continue in the future, our marketing team is
3 available to help you market the site."

4 Chris says, "I see," and then he says, "Let
5 me think on it. I just can't lose any more money."
6 So at the end it seems that Chris says "I'll think on
7 it" and Braidon confirms one more time and says
8 "Would you like me to close the account at this time
9 or would you like me to leave it active for the time
10 being?" Chris says, "Let me see what else I can do.
11 Leave it open."

12 Q. This is all during January 27, 2010; is
13 that correct?

14 MR. MCELWAIN: I have to interject. The
15 question isn't objectionable. The answers have been
16 hearsay, lack of foundation, et cetera, so same
17 objection going through all this testimony.

18 THE WITNESS: I'm not sure how its hearsay.
19 This is stuff that Christopher Prince has actually
20 typed in.

21 MR. MCELWAIN: That's for the court to decide.

22 THE WITNESS: Sorry.

23 Q. I don't think he's talking about Chris's
24 statement. I think he's talking about Mr. Scott's
25 statements, but regardless January 27, 2010

1 Christopher Prince would have canceled his membership
2 with Bright Builders; is that correct?

3 A. That's correct.

4 Q. At the end of the conversation he decided
5 to keep his membership with Bright Builders; is that
6 correct?

7 A. That is correct.

8 Q. Are you aware that in January of 2010 was
9 some five months after Christopher Prince had been
10 sued by Cleveland?

11 A. I didn't know that until we started looking
12 at his account once we got the Summons.

13 Q. And do you recall from that Summons if in
14 fact that case was filed by Cleveland against
15 Christopher Prince on August 12, 2009?

16 A. I believe so.

17 MR. DOOLITTLE: Thank you. No further
18 questions.

19 MR. MCELWAIN: I don't have anything further.
20 Thank you for your time.

21 MR. DOOLITTLE: Thank you for your time.

22 THE WITNESS: Thank you. Have a nice day.

23 (Whereupon the taking of this deposition was
24 concluded at 12:28 p.m.)

25 * * *

C E R T I F I C A T E

STATE OF UTAH)
)
COUNTY OF SALT LAKE)

THIS IS TO CERTIFY that the foregoing deposition was taken before me, Letitia L. Meredith, Registered Professional Reporter for the State of Utah and Certified Shorthand Reporter for the State of California.

That the said witness was by me, before examination, duly sworn to testify the truth, the whole truth, and nothing but the truth in said cause.

That the testimony was reported by me in Stenotype, and thereafter transcribed by computer under my supervision, and that a full, true, and correct transcription is set forth in the foregoing pages.

I further certify that I am not of kin or otherwise associated with any of the parties to said cause of action and that I am not interested in the event thereof.

WITNESS MY HAND and official seal at Spanish Fork, Utah, this ___ day of _____, 2010.

Letitia L. Meredith, RPR

C E R T I F I C A T E

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)
COUNTY OF SALT LAKE)

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WITNESS MY HAND and official seal at Spanish Fork, Utah, this ___ day of _____, 2010.



Letitia L. Meredith, RPR