

Doc. 128

**Excerpts of Jury Trial Testimony of
Christopher Prince**

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

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2			
3	ROGER CLEVELAND GOLF)	C/A No. 2:09-2119-MBS
4	COMPANY, INC.,)	
5)	
6	Plaintiff,)	
7	VERSUS)	Columbia, SC
8)	March 8, 2011
9	CHRISTOPHER PRINCE, PRINCE)	
10	DISTRIBUTION, LLC, and)	
11	BRIGHT BUILDERS, INC.,)	
12	Defendants.)	
13	-----)	

EXCERPT OF JURY TRIAL
TESTIMONY OF CHRISTOPHER PRINCE

BEFORE THE HONORABLE MARGARET B. SEYMOUR
UNITED STATES DISTRICT JUDGE, and a jury.

Appearances:

19	For the Plaintiff:	JEFFREY S. PATTERSON, ESQ.
20		JOHN C. MCELWAIN, ESQ.
21		151 Meeting Street, Sixth Floor
22		Charleston, SC 29401
23	For Defendant Prince:	CHRISTOPHER D. LIZZI, ESQ.
24		36 Broad Street
25		Charleston, SC 29401
	For Defendant Bright	PAUL J. DOOLITTLE, ESQ.
	Builders:	DOUGLAS M. FRASER, ESQ.
		P.O. Box 2579
		Charleston, SC 29401

1 Court Reporter: Gary N. Smith, CM
2 901 Richland Street
3 Columbia, SC 29201
4 (803) 256-7743

5 Stenotype/Computer-Aided Transcription

6 * * * * *

7 THE COURT: All right. You may call your first
8 witness.

9 MR. PATTERSON: Plaintiff calls Christopher Prince,
10 defendant, Your Honor.

11 THE COURT: Mr. Prince, if you could come forward and
12 be sworn in at the microphone in front of the court reporter.

13 CHRISTOPHER PRINCE, SWORN

14 DIRECT EXAMINATION

15 BY MR. PATTERSON:

16 Q. Good morning, Mr. Prince.

17 A. Good morning.

18 Q. Could you please state your full name for the record?

19 A. Christopher Ryan Prince.

20 Q. And Mr. Prince where do you presently reside?

21 A. Charleston, South Carolina.

22 Q. And where are you presently employed?

23 A. Snyder's of Hanover.

24 Q. And Mr. Prince, we have heard discussion in opening about
25 the web site that you created, copycatclubs.com?

A. Right.

Q. When was the first time that you ever had any idea about

1 potentially getting into some sort of web-based business?

2 A. Probably '07, '08, when I actually started looking for
3 something to do.

4 Q. And why were you interested in looking into some kind of
5 web-based business?

6 A. Looking to make some extra money. I have, you know, many
7 bills and my wife is in school and, you know, I'm working 60,
8 70 hours a week, and I thought that would be a good opportunity
9 for me to make a little extra money, if I could try to get
10 something started while I was working at home.

11 Q. And how did you find the defendant Bright Builders?

12 A. Doing a little Google search, looking for people who build
13 web sites or help facilitate that, and I found their company.

14 Q. And what do you recall about what you found, after your
15 Google searches, about what Bright Builders, what services they
16 provided or what they offered?

17 A. To help, you know, build you -- you know, get your web site
18 built for you and, you know, help service -- you know, finding
19 products and that type of thing to get your web site set up and
20 get it to where you can actually go out there and try to make a
21 little money.

22 Q. At the time you found Bright Builders, did you have any
23 idea what kind of product you were actually going to sell
24 through your web business?

25 A. No, I didn't.

1 Q. Did you anticipate that Bright Builders would actually
2 provide you with assistance in figuring out what kind of
3 products to sell?

4 A. Well, they helped us out as far as sending us to different
5 types of wholesalers and that type thing, trying to find
6 products that would strike your interest.

7 Q. Mr. Prince, did you ultimately decide to use Bright
8 Builders, to purchase services offered by Bright Builders?

9 A. Yes.

10 Q. Do you recall how much you paid for the services that were
11 to be provided?

12 A. I think it was a little over \$10,000. \$10,400, \$10,200,
13 something like that.

14 Q. What was your understanding with regard to who was actually
15 providing the services? Was it Bright Builders or was it some
16 other company?

17 A. I always assumed it was Bright Builders. I heard of
18 Auction Success Group, but I thought they were the same entity
19 so --

20 Q. Do you recall any comments being made about how quickly you
21 could make your money back?

22 A. Within the first year. You know, they would help mentor us
23 and help us -- put us on the right path.

24 MR. PATTERSON: May I approach, Your Honor, hand him
25 an exhibit?

1 THE COURT: All right.

2 BY MR. PATTERSON:

3 Q. Mr. Prince, I have handed you Exhibit Number 12, which is a
4 joint exhibit that's been marked in this case, do you recognize
5 that?

6 A. Yes -- well, I don't think I ever actually received this
7 particular one but, yeah, I understand what it is.

8 Q. Does this document refresh your recollection as to how much
9 you paid for the services?

10 A. Yes, sir.

11 Q. And how much did you pay?

12 A. \$10,220.

13 Q. Did you have any idea how much Bright Builders received of
14 that, or how much anybody else was going to receive?

15 A. No, sir.

16 Q. And it was your understanding Bright Builders was actually
17 providing the services described in this exhibit?

18 A. Yes, sir.

19 Q. And just tell generally to the jury what services did you
20 expect Bright Builders to provide to you in exchange for the
21 money?

22 A. Exactly what they did. You know, they are a web-based
23 business, they show you how to build a web site. They give you
24 all the tools to go and find product, how to -- you know, the
25 template and stuff like he was saying, and how to pull things

1 from different web sites and stuff like that. Find things that
2 interest you, find things -- pictures, whatever, put those on
3 your web site. That's how you -- that's how you -- show you
4 how to do it, that's pretty much it.

5 Q. Did they also assist you in registering a domain name?

6 A. Yes. Yes. You go through -- buy a -- you would register
7 your domain names.

8 Q. And how many domain names do you recall registering through
9 Bright Builders?

10 A. I think it ended up being four.

11 Q. And was one of those copycatclubs.com?

12 A. Yes.

13 Q. And did Bright Builders bill you for registering that
14 domain name?

15 A. Yes, they did.

16 Q. Mr. Prince, is this a printout of the invoice that you
17 received from Bright Builders for the domain name
18 copycatclubs.com?

19 A. Yes, sir.

20 MR. PATTERSON: Your Honor, I would move this
21 exhibited into evidence, Exhibit Number 13.

22 THE COURT: Any objection?

23 MR. LIZZI: No objection, Your Honor.

24 THE COURT: It's admitted.

25 BY MR. PATTERSON:

1 Q. In fact, did they, in the coaching sessions, the webinars,
2 anything else, did they ever ask you, "What are you copying?
3 What is being copycatted here?"

4 A. No. No, sir.

5 Q. Did they ever express any concern to you as to whether or
6 not you had the right to copy clubs from Cleveland golf or any
7 other manufacturer?

8 A. No, sir.

9 Q. Now, ultimately did you build a web site for
10 copycatclubs.com using the software from Bright Builders?

11 A. Yes, sir.

12 Q. And during the time that you were building the web site did
13 you receive coaching or mentoring from Bright Builders on how
14 to build your web site?

15 A. Yes, sir.

16 Q. Did Bright Builders make any suggestions about the content
17 that should be on your web site?

18 A. Yes, sir.

19 Q. Tell the jury what you recall about suggestions they made
20 with regard to text on your web site.

21 A. Like -- in the beginning, my home page, I had no text
22 whatsoever. They were like, "Well, you need to specify on your
23 front page and, you know, in detail kind of what you are
24 selling and what it's about."

25 And that's what I did. I put that -- I found

1 something and I pasted it and copied it and put it right
2 there -- I reworded it a little bit, but that's basically how I
3 did it.

4 Q. So it was your impression that they had looked at your web
5 site and they made suggestions on how you could improve your
6 web site?

7 MR. DOOLITTLE: Objection, leading, Your Honor.

8 THE COURT: Sustained.

9 MR. PATTERSON: Your Honor, he's a defendant in the
10 case, he's an adverse witness.

11 THE COURT: You need to qualify him.

12 MR. PATTERSON: I thought because he is a named
13 defendant that he would -- I didn't know that I needed to
14 qualify him as an adverse witness.

15 THE COURT: You will have to.

16 MR. PATTERSON: Okay.

17 BY MR. PATTERSON:

18 Q. Mr. Prince, going back to the issue that we were just
19 talking about, what did -- was it your impression that Bright
20 Builders had actually reviewed your web site and they made
21 suggestions on how to improve it?

22 A. Yes.

23 Q. And that included, I think, adding text, is what you said?

24 A. Right.

25 Q. And this was the copycatclubs.com web site?

1 A. Right.

2 Q. That's the web site that ultimately sold the counterfeit
3 clubs; is that correct?

4 A. Yes.

5 Q. Did they tell you anything with regard to pictures on your
6 web site?

7 A. Find a picture, and if you like it copy and paste it.

8 Q. And when they say find a picture, where did they tell you
9 you are supposed to find these pictures?

10 A. No specific area.

11 Q. Did they teach you how to cut and paste from someone else's
12 web site onto your web site?

13 A. Right.

14 Q. At any point in that did they tell you, "You obviously
15 can't cut and paste someone else's trademark onto your web
16 site"?

17 A. Not that I recall, no.

18 Q. Did they provide you any instruction or training with
19 regard to limitations of what pictures you could cut and paste
20 from someone else's web site?

21 A. Not that I recall, no.

22 Q. And using the training that they gave you, is that how you
23 ultimately wound up with pictures of Cleveland Golf Clubs and
24 pictures of the Cleveland Golf trademarks on your web site?

25 A. Yes, sir.

1 Q. Did you know at the time that you were doing that, that
2 that was illegal?

3 A. No.

4 Q. Did anybody at Bright Builders ever tell you that you need
5 to be careful about doing that?

6 A. No.

7 Q. After reviewing your web site, did they ever make any
8 suggestions that you need to be careful about posting other
9 companies' trademarks on your web site?

10 A. No, sir, not that I remember, no.

11 Q. In addition to the copycatclubs.com web site, I think you
12 registered some other domain names. Do you recall what the
13 other domain names were?

14 A. One was Legacy Golf Clubs, World Time Golf, and there may
15 have been -- My Scrubs For You was another one.

16 Q. The World Time Golf and -- what was the other --

17 A. Legacy, I think, Legacy Golf Clubs.

18 Q. Lexi --

19 THE COURT: Speak into the microphone, we are having
20 a hard time hearing you.

21 THE WITNESS: Oh, I'm sorry.

22 BY MR. PATTERSON:

23 Q. Legacy Golf Clubs?

24 A. Yes, sir.

25 Q. Did all those domain names go to the same web site?

1 A. Yes, sir. Yes, sir. It was all the same web site.

2 Q. So whether you typed in copycatclubs.com or Legacy Golf or
3 World Time Golf, you wound up on the same web site?

4 A. Right.

5 Q. Which was selling the counterfeit clubs?

6 A. Right.

7 Q. And which had the cut and paste of the Cleveland trademarks
8 on the web site?

9 A. Right.

10 Q. Do you recall whether or not Bright Builders provided
11 software or other assistance in helping you submit your domain
12 names to search engines?

13 A. Yes.

14 Q. And tell me what they did.

15 A. I don't recall what part of the actual web site it was on
16 but you could go to the section on their site and punch in a --
17 punch in your domain name, and they would -- I guess it would
18 send it off to different search engines I would assume. Yeah.

19 Q. Did you actually do that with your domain names?

20 A. Yes.

21 Q. Would you have had any idea how to do that but for the
22 assistance provided by Bright Builders?

23 A. No.

24 Q. Would you have had any idea how to build your web site but
25 for the assistance of Bright Builders?

1 A. Okay.

2 Q. And, again, just at the top it references World Time Golf.
3 This is actually a print off from your copycatchclubs.com web
4 page, right?

5 A. Right.

6 Q. And you will see, if you look with me, Mr. Prince, at the
7 language on that web page which says, "We are your one stop
8 shop -- we are your one stop shop for the best copied golf
9 equipment on the internet." Do you see that?

10 A. Yes, sir.

11 Q. Did anyone at Bright Builders ever, after reviewing your
12 web site, tell you that copying someone else's golf equipment,
13 copying somebody else's trademark of golf equipment could
14 create a potential liability for you?

15 A. No, sir.

16 Q. Did they ever tell you that was illegal?

17 A. No, sir.

18 Q. Did they ever suggest any concern to you that copying
19 someone else's golf equipment could wind up with you getting
20 sued or otherwise in trouble with the law?

21 A. No.

22 Q. Did they ever recommend you go get an attorney to determine
23 whether or not that was legal?

24 A. No, sir.

25 Q. Did they ever do any investigation to determine whether or

- 1 not this copied golf equipment that you were selling was legal?
- 2 A. No, sir, not that I'm aware of.
- 3 Q. And this copied golf equipment that is referred to here,
- 4 that's the counterfeit golf clubs; is that correct?
- 5 A. Right.
- 6 Q. That was sold through your web site?
- 7 A. Yes, sir.
- 8 Q. And where did you obtain this counterfeit golf equipment?
- 9 A. From overseas. China.
- 10 Q. You said from China?
- 11 A. Yes, sir, from China?
- 12 Q. Companies in China?
- 13 A. Yes, sir.
- 14 Q. Did you utilize a methodology known as drop shipping --
- 15 A. Yes, sir.
- 16 Q. -- in order to deliver that product?
- 17 A. Yes, sir.
- 18 Q. And is drop shipping a situation where you take an order,
- 19 pass it on to a manufacturer in China, and then the
- 20 manufacturer in China sends a counterfeit club or counterfeit
- 21 product to the purchaser here in the United States?
- 22 A. Right.
- 23 Q. Was Bright Builders aware that you were using drop
- 24 shippers?
- 25 A. They suggest you use drop shippers.

1 Q. They actually suggested that you use drop shippers?

2 A. Yes.

3 Q. Did they have some that they recommended that you use?

4 A. Yes.

5 Q. In the context of -- in the context of recommending that
6 you use drop shippers, did they ever express any concern or
7 tell you any caution about using drop shippers, especially from
8 China?

9 A. Not that I recall.

10 Q. Did they ever express any concern or tell you that you need
11 to be careful, that drop shippers from China can be a source of
12 counterfeit products?

13 A. Not that I recall, no.

14 Q. Mr. Prince, looking at the next page, the next printout,
15 the page from copycatchclubs.com, again, is this some of the art
16 work that you cut and pasted from other web sites?

17 A. Yes, sir.

18 Q. And that was done at the suggestion of Bright Builders?

19 A. Right.

20 Q. And I see on here, if you look down, you have got the CG
21 mark and Cleveland Golf mark?

22 A. Yes.

23 Q. Did you have any authorization from Cleveland to use those
24 marks?

25 A. No, sir.

1 with a coach to help you in developing your web site?

2 A. Yes, sir.

3 Q. And in regards to this, you will see a discussion here
4 under number 2 of what your coach is -- Bright Builder's coach
5 is going to do for you. The first one says, "Create a
6 successful on-line business. Discover --" the second one says,
7 "Discover and establish the direction for your internet
8 business."

9 In the context of providing those services, did you
10 discuss with Bright Builders what your plan was, what products
11 you intended to sell on the internet?

12 A. Probably not right from the start because I wasn't real
13 sure what I was going to be selling. I know it was -- it was
14 never intended to be golf clubs, but it was just kind of how it
15 fell into, so --

16 Q. When you started out you didn't know what you were going to
17 sell, you just knew you wanted a web business?

18 A. Right.

19 Q. Did you actually try something else before you tried golf
20 clubs?

21 A. Yeah, we tried scrubs. Because, you know, my wife is a
22 nurse. And tried buying gaming equipment, and never received
23 that. So we spent like \$3,000 on gaming equipment and never
24 got it, and we just got taken for that. So it kind of -- golf
25 clubs was kind of like a last resort after looking through the

1 A. No. No, sir.

2 Q. And can you tell the jury kind of how you got into -- what
3 was going on and why you are looking for additional income?

4 A. Well, my wife had just started school working a part-time
5 job, we really didn't -- weren't making a lot of money. I
6 mean, I'm working 60, 70 hours a week, you know, at the present
7 time and, you know, just barely getting by. And you want more
8 for your family than to just get by.

9 Q. And what kind of business ideas did you have at that point?

10 A. Well, you know, you can always think of expanding your
11 territory, but our company doesn't allow that, to infringe on
12 somebody else's territory. You can't just go in there and
13 start selling stuff at somebody else's stores, so you are kind
14 of limited to how far you can kind of go out.

15 So that's why I thought the internet business would
16 be good. It was something I could do with my wife when I got
17 home at night, hopefully to make a little money, you know, a
18 couple of hours downtime that we had when we got home.

19 Q. And did you have very much experience on computers?

20 A. No, sir.

21 Q. What kind of experience at that point did you have on
22 computers?

23 A. I could turn it on.

24 Q. And how did you go about trying to find an internet
25 business?

1 A. Just Google. You know, you go in there and you try to
2 research or try to find something that looks like they had --
3 you know, they could actually do what you are wanting to do,
4 and that was to build an internet business. And that's how I
5 found them, and so we went with them.

6 Q. And did you query or send -- and investigate any other
7 businesses at the -- internet site builders at that time?

8 A. Right, we looked around, but this is kind of who we went
9 with.

10 Q. When you say "we," who are you --

11 A. Me and my wife.

12 Q. And when you found Bright Builders, tell me what actually
13 attracted you to Bright Builders?

14 A. A great sales person. Whoever I spoke with on the phone
15 were very good at what they do.

16 Q. So, after you found them on the web site, the next step was
17 telephone sales?

18 A. Yeah, I believe you have to punch in your information and I
19 think they actually contact you.

20 Q. So, they call you back?

21 A. Right.

22 Q. And when you talk to them, what did they tell you they were
23 able to offer you?

24 A. Pretty much a guarantee that within a year that you would
25 have made your money back.

1 Q. And what were they going to be able to offer you as to the
2 ability to set up an internet business and find your niche?

3 A. They offered a couple of different wholesaling companies
4 that I assumed that they used personally or that they have a
5 relationship with. And they sent us that way and, you know,
6 you look through certain products try to find something that
7 would interest you that you would like to sell.

8 Q. And did you have the money to do this at that time?

9 A. No, sir.

10 Q. Now, in front of you there is an Exhibit Number 12, on the
11 ledge, I think?

12 A. Oh, sorry. Yes, sir.

13 Q. And on Exhibit Number 12 --

14 THE COURT: Exhibit Number 12 is not in evidence.

15 MR. PATTERSON: No, I didn't move that one in, I
16 moved the other one in.

17 BY MR. LIZZI:

18 Q. Referring to Exhibit Number 12 for identification purposes,
19 Exhibit Number 12 --

20 THE COURT: You cannot show it on the screen yet,
21 it's not in evidence. You have to ask him about it and then
22 move it into evidence.

23 BY MR. LIZZI:

24 Q. This is a document that you actually -- that sets forth the
25 breakdown of the --

1 That was their direct quote. They would, you know, help you
2 get started. And, you know, you would at least be able to pay
3 your payment after the first month, you know, with their help,
4 and then continually grow it after that.

5 Q. Now, if you could look -- and there should be an exhibit,
6 Plaintiff's Exhibit Number 10?

7 A. Okay.

8 Q. Have you found that document?

9 A. Yes, sir.

10 Q. I want you to go to the third page of that document and go
11 to tip number 3.

12 A. Okay.

13 Q. And this tip, what is your understanding of the tip to
14 mean?

15 A. This is how you -- this is what you put on your web page,
16 it gives people -- you know, let's people know what you are
17 selling.

18 Q. And specifically what were you instructed as to the title
19 or name of your web site?

20 A. I don't think I was ever -- there was never like a
21 discussion of what we should name anything.

22 Q. Did you have seminars or webinars with them?

23 A. Yes.

24 Q. And in those webinars and seminars, did you discuss the
25 name that you wanted to name your company, your web site?

1 A. I don't recall if I ever did or not, to be honest with you.

2 Q. Did they ever instruct you as to any caution of what to
3 name your web site?

4 A. No, sir.

5 Q. What was your understanding as to, once you build a web
6 site, with regards to them reviewing it?

7 A. I don't know, to be honest with you. I just assumed that,
8 you know, once you got your web site built that somebody would
9 look over it for you. They are the experts, I don't -- I was
10 doing what I thought I was supposed to be doing.

11 Q. You purchased a graphic design package in your -- we just
12 discussed -- in your invoice; what did you think that was?

13 A. I didn't know what to think when I first saw it, I mean,
14 it's just basically just an outline, template. It's just
15 different colors, different whatever. That's about all it is.

16 Q. And when you asked them how to -- did you ever have
17 discussions about how to get pictures or items onto your web
18 site?

19 A. Sure.

20 Q. What did they tell you?

21 A. Copy and paste.

22 Q. And when you say "copy and paste," where would they tell
23 you to copy and paste from?

24 A. From wherever. Wherever you found something that was
25 appropriate or that identified with what you were trying to

1 are admitting to this jury that you committed counterfeit?

2 A. Yes, sir.

3 Q. So you are a counterfeiter?

4 A. Obviously.

5 Q. And you did it on more than one occasion?

6 A. Yes.

7 Q. Other than golf clubs, have you done any other
8 counterfeiting?

9 A. That's it, that I recall, correct.

10 Q. Just -- I'm sorry?

11 A. Yeah, that I recall, yes, sir.

12 Q. That you recall?

13 A. That's what the web site was for so, I mean, that's all
14 that was on there, was golf clubs, so --

15 Q. You started off with scrubs?

16 A. Tried to, yes.

17 Q. What was the name of that web site?

18 A. My Scrubs for You.

19 Q. And who was the provider of the scrubs?

20 A. We never -- never found anybody who could actually provide
21 scrubs.

22 Q. So you built a web site before --

23 A. No, we never built the web site for scrubs. We made the
24 domain name that -- we thought, well, we better find a name in
25 case, you know, something gets taken. So, that's before we

1 knew anything about how this all worked.

2 Q. Okay. So you went and purchased the name?

3 A. Without anything, right.

4 Q. Without having any product or anything else?

5 A. Exactly. Because we assumed that's what you are supposed
6 to do, once you got set up, you find a domain name.

7 Q. Then what happened after that?

8 A. Well, we just couldn't find anybody who could actually get
9 us any scrubs that we could actually sell -- at a price where
10 you can actually make money on on the internet, you know what
11 I'm saying?

12 Q. So you found people that would sell you scrubs?

13 A. You can always find somebody who will sell you something,
14 but you can't always find somebody who is going to sell it to
15 you at a price where you can actually make money off of it.

16 Q. What price were you looking to buy it --

17 A. I don't remember, that's been so long ago.

18 Q. Is that the same thing with golf clubs?

19 A. Probably, yes. If you want to make money, of course,
20 that's the objective.

21 Q. When you first got in the golf club business were you
22 trying to do it legitimately?

23 A. Yes.

24 Q. And you found out that didn't work?

25 A. Couldn't find anybody that would sell me anything. I mean,

1 because, you know, you go everywhere. You look for
2 everything. It's not like we haven't spent time and money on
3 trying to find something.

4 Because golf clubs, that was the last thing I felt
5 like selling. I don't know anything about golf. I just took
6 it up as a hobby and it kind of just fell into my lap.

7 Q. You couldn't find anybody to sell you golf clubs at the
8 right price for you; is that right?

9 A. You go and you look on the internet and, you know -- starts
10 off with y'all, y'all going on eBay. That's how y'all expect
11 us to merchandise or sell our product. So you go on there and
12 you look and see what the other people are selling -- or buying
13 their products from. That's what kind of led me to where I was
14 at.

15 Q. So you actually sold golf products on eBay; is that
16 correct?

17 A. Yes.

18 Q. That didn't have anything to do with Bright Builders, we
19 didn't do that, right?

20 A. No, not at all.

21 Q. So, we didn't do that, right?

22 A. Nope, not at all.

23 Q. Did you sell counterfeit clubs on eBay?

24 A. I did sell a few, yes, that came from overseas, yes.

25 Q. Did you sell Cleveland counterfeit clubs on eBay?

- 1 A. I don't think so, no.
- 2 Q. Which clubs did you sell on eBay?
- 3 A. I think I sold a few Callaways on there.
- 4 Q. Callaway?
- 5 A. Callaway, right.
- 6 Q. Were those counterfeit clubs?
- 7 A. Not all of them, no.
- 8 Q. Were some of those counterfeit clubs?
- 9 A. Yes. Yes, they were.
- 10 Q. So you in fact sold counterfeit Callaway golf clubs through
- 11 eBay?
- 12 A. Yes.
- 13 Q. Have you been sued by Callaway?
- 14 A. No.
- 15 Q. Have you been contacted by Callaway?
- 16 A. No.
- 17 Q. Okay. So when you first started trying to learn to sell
- 18 the golf clubs, you couldn't find a price that was agreeable to
- 19 you to make a profit margin on your web site; is that fair?
- 20 A. True.
- 21 Q. So you started looking for a cheaper price?
- 22 A. Good price, cheap price, yes.
- 23 Q. And you found a substantially cheaper price through the
- 24 drop shippers in China; is that correct?
- 25 A. That would be fair, yeah.

1 Q. Did you tell them, "I'm selling counterfeit illegal golf
2 clubs"?

3 A. No.

4 Q. Did you ask their advice on how to sell counterfeit illegal
5 golf clubs?

6 A. No.

7 Q. Did anybody ever give you any advice from Bright Builders
8 about how to sell illegal golf clubs?

9 A. No, just golf clubs in general, nothing about that.

10 Q. Make sure I'm clear, you are saying you didn't realize the
11 clubs you were getting from China were counterfeit clubs until
12 two or three months after you were selling them?

13 A. I never said two or three months, but about a month or so.

14 Q. A month or so?

15 A. Yeah, I would assume.

16 Q. And is that the result of the feedback you got from your
17 customers?

18 A. Probably, yes.

19 Q. What was that feedback?

20 A. They couldn't register the clubs.

21 Q. They couldn't register the club?

22 A. Right.

23 Q. They couldn't register them with Cleveland?

24 A. I have no idea who it was, but they just couldn't register
25 them in general.

1 Q. At that point in time you knew if they couldn't register
2 them they were counterfeit?

3 A. No, not really, because I actually was told that I was a
4 fool if I thought that -- even clubs that came from over there
5 weren't -- some weren't real. So I think it was through that
6 period of searching and trying to find something that, you
7 know -- somebody who actually was legitimate, but that never
8 came to pass so --

9 Q. So it was after customer complaints and after you thought
10 for a while about, "Wow, that's a really stark deep discounted
11 price coming from China," that's when, it took all those things
12 before you realized it was counterfeit?

13 A. Right.

14 Q. Let me ask you, where did you get the image that you placed
15 on the web site that you copied and pasted?

16 A. Just different web sites.

17 Q. Now you were deposed and you were asked that question --
18 different web sites? Did you get it from Cleveland?

19 A. I don't know if I actually got it -- I don't think you can
20 actually get them from like golf web -- I mean, it was from a
21 web site, I don't know which web site it was from.

22 Q. Right. You actually went to the Cleveland web site and
23 tried to copy their images and couldn't do it?

24 A. Probably.

25 Q. It was encrypted?

1 A. Right, exactly.

2 Q. So you couldn't copy their --

3 A. Right.

4 Q. So where did you go to find the Cleveland --

5 A. There is a ton of golf sites, you can go to any of them.

6 Q. Did you get it from the Chinese wholesaler?

7 A. Do what now?

8 Q. Did you get it from the Chinese drop site --

9 A. You can get it from any web site, just about, anybody who
10 sells golf clubs.

11 Q. You can go to their web sites and copy Cleveland's images?

12 A. Yeah, sure can.

13 Q. So you couldn't -- you went to Cleveland's web site and you
14 couldn't copy from theirs because it was encrypted?

15 A. Right.

16 Q. But you went to somebody else's web site and copied it
17 there?

18 A. Right.

19 Q. And you are telling me -- did you know it was proper or
20 improper to copy that image?

21 A. I had no idea. I was told to copy and paste, so that's
22 what I did.

23 Q. You had no idea that since you couldn't copy from the
24 Cleveland web site that it was okay to go to somebody else --

25 A. People might not want that particular picture taken so you

1 A. Yes.

2 Q. Same answer?

3 A. Right.

4 Q. Let me ask you this, you know that the web hosting
5 agreement says that you won't sell or do illegal activities,
6 correct?

7 A. I have seen it now, yes.

8 Q. Do you think if you tried to register the name
9 counterfeitgolfclub.com that Bright Builders would have allowed
10 you to conduct that action?

11 A. I have no idea.

12 Q. So how many web sites did you build, total?

13 A. Just one.

14 Q. Just one?

15 A. Yes.

16 Q. So you never built any of the scrubs or any of the other
17 stuff?

18 A. No.

19 Q. Why the different names?

20 A. Just wanted different names. I saw a name and I thought it
21 applied to what I was trying to go at, and so I would register
22 it.

23 Q. All right. So the first -- what was the first name that
24 you registered?

25 A. My Scrubs for You is the first one registered, then

- 1 copycats, then, I think, World Time and then Legacy, I think.
- 2 Q. I'm sorry, World Time Golf?
- 3 A. Yes.
- 4 Q. .com?
- 5 A. Right.
- 6 Q. Then the legacy.com site?
- 7 A. I think so.
- 8 Q. Those were all before you ever did copycatclubs.com?
- 9 A. No, I think those were after.
- 10 Q. After. So where in the progression does copycatclubs come
- 11 in?
- 12 A. I think the second one.
- 13 Q. Right after scrubs?
- 14 A. Right.
- 15 Q. So you got copycatclubs existing out there but yet you paid
- 16 for, you had to pay to register legacygolf.com?
- 17 A. Right.
- 18 Q. You paid to register a different web site name --
- 19 A. Right.
- 20 Q. -- to be directed to the same page as copycatclubs?
- 21 A. Right.
- 22 Q. Why?
- 23 A. Because I had seen other companies out there with names
- 24 similar, and cool names I thought at that particular time, so I
- 25 registered it.

- 1 Q. One or the other was --
- 2 A. Yeah, one or the other, right.
- 3 Q. You also used -- is it Google Checkout?
- 4 A. Yes, Google Checkout.
- 5 Q. Does that have anything to do with Bright Builders?
- 6 A. No, sir.
- 7 Q. That goes straight through Google if somebody pays --
- 8 A. I think so, yeah.
- 9 Q. What other methods did you use to accept payment?
- 10 A. That was it.
- 11 Q. So the only two methods you used to accept payment were
- 12 through companies that didn't have anything to do with Bright
- 13 Builders, Incorporated?
- 14 A. Right.
- 15 Q. Did Bright Builders, Incorporated receive any compensation
- 16 for the sale of those golf clubs, the Cleveland Golf Clubs in
- 17 particular?
- 18 A. No.
- 19 Q. Sorry?
- 20 A. No, sir.
- 21 Q. No?
- 22 A. No.
- 23 Q. There is no partnership or sharing agreement, correct?
- 24 A. With them, no.
- 25 Q. And they had no direct knowledge, nobody from Bright

1 Builders, Incorporated, you never told anybody, "I'm selling
2 counterfeit golf clubs, Cleveland counterfeit golf clubs," you
3 never told them that, did you?

4 A. The only person that -- when we first started putting the
5 web site together, I told whoever was helping me at that time I
6 was -- was going to put copied clubs on the web site.

7 Q. So you told them you were putting copied clubs --

8 A. Yes.

9 Q. You didn't --

10 A. Because I actually -- I actually at that time thought they
11 could be registered, that's how naive or just -- I just didn't
12 know. I was under the assumption you could actually even
13 register those type clubs.

14 Q. Right, you were under that assumption?

15 A. Right.

16 Q. Right. And it's your position that Bright Builders should
17 be under a different assumption, is that true?

18 A. I have no idea. I would assume that if -- if I was to say
19 something to somebody like that they would be like, "Eh, you
20 can't do that."

21 Q. Is Bright Builders an expert in golf equipment?

22 A. Well, obviously the guy I was talking to was because he had
23 had his own golf web site and he was building one for his
24 father, and he actually said that he would link mine to his.

25 Q. Did he?

1 A. No, he didn't.

2 Q. No, he didn't?

3 A. No, he didn't.

4 Q. Did you complain about that?

5 A. Why would I complain? It's not his job to link his web
6 site to mine.

7 Q. So he offered you a service and didn't provide it, and you
8 didn't have any complaints?

9 A. It's okay. I mean, it was his own personal thing, so it's
10 cool.

11 Q. So, just to be clear, you never told anybody at Bright
12 Builders, Incorporated that you were selling counterfeit
13 Cleveland Golf Clubs?

14 A. Just copied clubs in general.

15 Q. And the only time you did that was the one time, and you
16 just -- that you copied clubs in general, but not counterfeit?

17 A. I would assume he -- I shouldn't assume anything. Yes.

18 Q. Do you think he knew when you said copycatclubs that you
19 were talking about counterfeit illegal clubs?

20 A. Maybe, maybe not. I don't know. Probably not.

21 Q. Probably not? Is that your testimony?

22 A. Probably not.

23 Q. Okay. Have you ever used anybody else's Pay Pal account to
24 process transactions?

25 A. Yes.

1 Q. Involving counterfeit Cleveland Golf Clubs?

2 A. Yes.

3 Q. You have?

4 A. Yes.

5 Q. And who is that?

6 A. My friend, Sheldon Shelley.

7 Q. You used Sheldon Shelley's Pay Pal account also?

8 A. I used it once, and then he -- I asked him if I could use
9 it and he said yes.

10 Q. And Mr. Shelley actually lived with you during the time
11 that the mystery shopper for Cleveland was purchasing the
12 illegal counterfeit clubs?

13 A. He didn't live with me, he stayed there while he was in
14 school for like three or four days.

15 Q. So he did stay with you during this time?

16 A. Right. But he wasn't living with me, he was just there to
17 keep from moving -- going back and forth from Florence to
18 Charleston while he was in school. I let him stay in my spare
19 room.

20 Q. What was he in school for?

21 A. Something to do with real estate of some sort.

22 Q. Okay. So, you used Mr. Shelly's account to process
23 payments for illegal counterfeit Cleveland Golf Clubs?

24 A. Yes.

25 Q. Did anybody from Bright Builders ever tell you that they

1 had reviewed your web site in particular?

2 A. I never spoke to anybody, everybody was --

3 Q. Nobody from Bright Builders, Inc.; is that correct?

4 A. No, I didn't.

5 Q. You talked about -- you talked about the hosting agreement,
6 talked about copying and pasting. You, yourself, is that
7 correct, would actually put the images on the web site, is that
8 true?

9 A. Yes.

10 Q. Bright Builders did not put those images on there?

11 A. No, sir.

12 Q. Did Bright Builders put any of the content on
13 copycatclubs.com's web site?

14 A. No, sir.

15 Q. None? They didn't put anything; is that correct?

16 A. Correct.

17 Q. And you choose what name you want for the web site; is that
18 correct?

19 A. Right.

20 Q. Just like you chose legacygolf.com, is that true?

21 A. Yes.

22 Q. And you choose to pay to have that name registered?

23 A. Yes.

24 Q. And then you choose to have that site active?

25 A. Right.

1 Q. Okay. Because at some point prior to Bright Builders being
2 sued, you shut down copycatclubs.com, right?

3 A. No, I think it was afterwards, yes.

4 Q. You shut it down afterwards?

5 A. I believe so.

6 Q. Do you remember whether or not copycatclubs.com was still
7 in operation when you were deposed?

8 A. I have no idea. I don't remember.

9 Q. Do you know how long after you were sued before you shut
10 down copycatclubs.com?

11 A. It was in July, I think, is when the payment was stopped on
12 that.

13 Q. July of --

14 A. 2010.

15 Q. 2010?

16 A. I think so.

17 Q. Right. You still had the web site, you were still paying
18 for the space, but was there any content in July of 2010?

19 A. I don't think there was.

20 Q. Right. You had taken that content off way before July 10,
21 2010, had you not?

22 A. Right, I think so.

23 Q. You took it off shortly after you were sued, did you not,
24 sir?

25 A. I believe so, yes.

1 Q. So if you went there to the web page, to the
2 copycatclubs.com, and you go there, there's nothing on there;
3 is that correct?

4 A. That's fair, yes.

5 Q. That's before my client was ever added to this case, is
6 that true?

7 A. I have no idea.

8 Q. Well, it was shortly after you were sued?

9 A. Okay.

10 Q. Correct? You removed the content from the page --

11 A. I don't know how long it was. I don't recall how long it
12 was.

13 Q. You don't recall how long it was. Do you recall if you had
14 removed it by the time of your deposition, sir?

15 A. I don't recall that either.

16 Q. Okay. Why did you remove it?

17 A. Because they said I was doing something illegal and I said
18 I don't want to be doing it any more.

19 Q. They told you that right at the beginning, right?

20 A. I don't recall. I mean, I don't know when -- what the time
21 frame was for all that.

22 Q. Okay. After you got sued you figured -- well, it was
23 before you got sued you admitted you knew you were doing
24 something illegal, correct?

25 A. Okay.

1 Q. Is that true?

2 A. True.

3 Q. So you don't -- you just don't recall when you removed the
4 content from copycatclubs?

5 A. I don't recall the exact time, no.

6 Q. All right. And just to be clear, you removed that content?

7 A. Yes, I did.

8 Q. So as Mr. Lizzi was talking about in opening, you turned
9 the switch off, is that true?

10 A. Yes.

11 Q. You flicked it?

12 A. Yes.

13 Q. And you could have done that at any point in time, right?

14 A. Yes.

15 Q. At any point in time you could have decided, "You know, I'm
16 not going to cheat and sell counterfeit clubs any more, I'm
17 going to earn my way in the legitimate business way and do real
18 business." You could have done that at any point in time,
19 couldn't you?

20 A. Sure.

21 Q. But you chose not to, didn't you?

22 A. Right.

23 Q. Oh, you asked -- you mentioned something about you tried to
24 sell gaming equipment?

25 A. Right.

1 Q. What type of gaming equipment?

2 A. Like Wii and PlayStation and stuff like that.

3 Q. And how far did you get along in that endeavor?

4 A. I paid for it.

5 Q. Paid for it but never received it?

6 A. Right.

7 Q. Where did you buy it from?

8 A. I think it was the UK.

9 Q. And you just never got it?

10 A. No, never got it.

11 Q. What did you do about it?

12 A. There's nothing to do about it.

13 Q. Did you try to contact and get your money back?

14 A. Yeah. By that time the web site was down and there was
15 nobody else to contact. There is no numbers, no anything.

16 Q. I need to clarify something, and if I wrote it down wrong I
17 apologize.

18 A. Okay.

19 Q. I thought I heard you say that Bright Builders said, as a
20 direct quote, "Use other people's money"?

21 A. Absolutely, yeah, OPM.

22 Q. You said they did that in some printed material?

23 A. Do what now?

24 Q. You said they did that in some printed materials?

25 A. I don't know if they did that in print materials, but that

1 was in one of the webinars, or whatever we were --

2 Q. Webinar?

3 A. I would assume, other people's money.

4 Q. What does that mean?

5 A. Use other people's money. Because obviously I didn't have
6 it and I think that was their kind of way to get people to get
7 into it. You know, use other people's money for leverage, you
8 know.

9 Q. I'm still not following you. What do you mean, "Other
10 people's money," steal it?

11 A. Huh?

12 Q. Steal it?

13 A. Of course not. Other people's money, like using your
14 credit cards. That's other people's money, that's how you get
15 into it, right.

16 Q. So investing capital in your business?

17 A. Exactly -- other people's money --

18 Q. Just like every business does?

19 A. Right, exactly.

20 Q. Did anybody from Bright Builders, Incorporated, ever tell
21 you to go and copy and paste trademark images onto your web
22 site?

23 A. No, but they never told me not to either.

24 Q. Right. They never told you not to. I heard a lot about
25 that.

REDIRECT EXAMINATION

1
2 BY MR. PATTERSON:

3 Q. Mr. Prince, I had just a couple of questions to clarify
4 some of your testimony.

5 A. Okay.

6 Q. You told the story a few minute ago about telling a person
7 at Bright Builders that you were going to sell copied clubs and
8 I think you said this person even had their own web site?

9 A. Right.

10 Q. I just want to be clear, was that either your mentor or
11 your coach or your project advisor from Bright Builders?

12 A. It was one or the other, yes.

13 Q. So it was somebody working for Bright Builders?

14 A. Right.

15 Q. In addition to that conversation, you did have hours of
16 conversations with the coaches or the mentors at Bright
17 Builders throughout the period you were receiving the
18 mentoring; is that correct?

19 A. Right.

20 Q. And those coaches and mentors, it was your understanding
21 had reviewed your web site and made suggestions on what needed
22 to be on your web site?

23 A. Right.

24 Q. And your web site was clearly named copycatclubs, and it
25 clearly said on there that you were selling copied clubs; is

1 happen so that's why we are here today.

2 Q. Right. And that's not the service you bought, is it?

3 A. What's that?

4 Q. For them to review your content on your web site?

5 A. I'm not sure. I know I spent a lot of money for somebody
6 to do something for me.

7 Q. Right, for coaching and mentoring, correct, sir?

8 A. Yeah.

9 Q. And you were told during the coaching and mentoring, "We
10 don't build your site for you," right?

11 A. No, we built it. They just showed me how to do it, yeah.
12 They showed me how to do it, right.

13 Q. And you built it?

14 A. Right.

15 Q. You picked the products you wanted to sell, isn't that
16 true, sir?

17 A. Exactly.

18 Q. You came up with the idea to sell golf products, did you
19 not?

20 A. Right.

21 Q. And you came up with the idea to sell counterfeit golf
22 products by yourself?

23 A. Right.

24 Q. Bright Builders, Inc., didn't have anything to do with
25 that, did they?

1 A. No.

2 THE COURT: All right. At this time we are going
3 to -- any other questions for this witness?

4 MR. PATTERSON: No, Your Honor.

5 THE COURT: All right. So you are excused and you
6 can step down.

7 THE WITNESS: Thank you.

8 * * * * *

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14 * * * * *

15 CERTIFICATE OF REPORTER

16
17 I certify that the foregoing is a correct transcript
18 from my stenographic notes in the above-entitled matter.
19

20 s/ Gary N. Smith

April 9, 2011

21 _____
22 Gary N. Smith, CM
23 Official Court Reporter
24 United States District Court
25 District of South Carolina