

EXHIBIT D

Alexander

Total Length of Defendant Clips: 00:07:10

Total Length of Plaintiff Clips: 00:07:52

Total Length of Combined Clips: 00:15:02

DEFENSE: Alexander_006.09-006.10 Length of Clip is: 00:00:03

6: 9 Q. Good morning, Mr. Alexander.
6: 10 A. Good morning.

DEFENSE: Alexander_008.19-009.02 Length of Clip is: 00:00:24

8: 19 Mr. Alexander, are you currently employed?
8: 20 A. Yes.
8: 21 Q. And who is your current employer?
8: 22 A. I am self-employed.
8: 23 Q. And what is your business?
8: 24 A. I am a consultant.
8: 25 Q. And what -- is there a specific area of
9: Page 9
9: 1 consulting that you are engaged in?
9: 2 A. Direct mail.

DEFENSE: B_Alexander_010.02-010.12 Length of Clip is: 00:00:31

10: 2 Q. Have you -- are you familiar with a company
10: 3 called Litle & Co.?
10: 4 A. Yes.
10: 5 Q. How did you become familiar with Litle &
10: 6 Co.?
10: 7 A. I know the owner of Litle & Co. or Tim
10: 8 Litle, who is the founder of Litle & Co.
10: 9 Q. And when did you become familiar with Litle
10: 10 & Co. or with Mr. Litle?
10: 11 A. I think I've known Tim Litle for probably
10: 12 close to 30 years, so --

DEFENSE: B_Alexander_012.15-012.20 Length of Clip is: 00:00:33

12: 15 Q. I'd like to focus for a little bit on Litle
12: 16 & Company. And what did you understand the business
12: 17 of Litle & Company to be?
12: 18 A. Litle & Company, as I understood, when they
12: 19 first launched, was primarily a credit card processor,
12: 20 primarily for the catalog industry.

DEFENSE: Alexander_013.01-013.04 Length of Clip is: 00:00:11

13: 1 Q. Are you aware of any other business or
13: 2 service provided by Litle & Company?
13: 3 A. The answer is yes, which we talked about in
13: 4 our deposition.

DEFENSE: Alexander_013.11-013.16 Length of Clip is: 00:00:19

13: 11 Q. Okay. And what do you understand that to

13: 12 be?
13: 13 A. That for some firms, they provided a --
13: 14 kind of a financing service that would be paid out of
13: 15 credit card receipts. Or, you know, credit card
13: 16 payments.

PLAINTFF: PL_Alexander_013.17-013.19 Length of Clip is: 00:00:08

13: 17 Q. And how did you become aware of the
13: 18 financing service paid out of credit card receipts?
13: 19 A. I don't recall.

DEFENSE: Alexander_013.20-014.06 Length of Clip is: 00:00:46

13: 20 Q. Do you recall approximately the time frame
13: 21 when Little provided those types of services, the
13: 22 financing?
13: 23 A. In my affidavit, I think I mentioned around
13: 24 1990.
13: 25 Q. And what makes you think that around 1990

14: Page 14

14: 1 was the time frame?
14: 2 A. Because at that time, Tucker and -- Tucker
14: 3 Capital and I were selling a company called
14: 4 HearthSong, which is mentioned in the affidavit, that
14: 5 was in financial difficulty, and as I recall, they had
14: 6 availed themselves of that product.

PLAINTFF: PL_Alexander_014.13-014.20 Length of Clip is: 00:00:37

14: 13 Q. Can you describe how the financing services
14: 14 that Little & Company provided to HearthSong, can you
14: 15 describe how that program worked?
14: 16 A. Probably not exactly.
14: 17 Q. Okay.
14: 18 A. Specific -- to answer that specifically, I
14: 19 don't know how it worked, so I think that's the best
14: 20 answer.

DEFENSE: Alexander_015.02-015.11 Length of Clip is: 00:00:44

15: 2 Q. What do you recall about the financing
15: 3 services that Little & Company provided?
15: 4 A. The only thing that I recall about the
15: 5 financing services was that companies could avail
15: 6 themselves or get financing, and they would
15: 7 subsequently pay for that financing out of the credit
15: 8 card receipts that Little & Co. normally processed. So
15: 9 Little & Co. was in the business of processing credit
15: 10 cards for many people in the industry, and I believe
15: 11 for some, they made additional financing available.

PLAINTFF: PL_Alexander_015.12-016.04 Length of Clip is: 00:01:07

15: 12 Q. Were you -- do you recall whether you were
15: 13 aware in 1990 and 1991 time frame of how the
15: 14 processing aspect of the financial servicing product
15: 15 that Little & Company provided, were you aware of
15: 16 how -- were you aware of the processing aspect of that
15: 17 program?
15: 18 A. No.

15: 19 Q. No. Did you ever see any agreements that
15: 20 Litle & Company would have to provide financial --
15: 21 financing services to merchants?
15: 22 A. No.
15: 23 Q. Do you recall how the amount of financing
15: 24 would be determined?
15: 25 A. No.
16: Page 16
16: 1 Q. Do you recall how Litle & Company would
16: 2 provide the financing services? Would that be in the
16: 3 form of a cash advance?
16: 4 A. I don't.

DEFENSE: Alexander_OC_016.05-016.11 Length of Clip is: 00:00:26

16: 5 Q. And your understanding was that the
16: 6 financing services would be repaid through the
16: 7 merchant's credit card transactions; is that correct?
16: 8 A. My understanding was that it would be
16: 9 paid -- the monies would be paid as an additional
16: 10 charge beyond, you know -- be paid with the credit
16: 11 card receipt processing.

PLAINTFF: PL_Alexander_016.12-016.15 Length of Clip is: 00:00:11

16: 12 Q. And do you recall whether the advance was
16: 13 paid -- was repaid all at once, or was it paid in
16: 14 installments?
16: 15 A. I have no clue.

PLAINTFF: PL_Alexander_016.16-016.23 Length of Clip is: 00:00:26

16: 16 Q. Were you aware of any documentation at the
16: 17 time, 1991 -- 1990, 1991, were you aware of any
16: 18 documentation that described how Litle & Company would
16: 19 provide these financing services?
16: 20 A. No.
16: 21 Q. Are you aware of whether that program was
16: 22 advertised by Litle & Company?
16: 23 A. I don't recall.

DEFENSE: Alexander_028.19-029.13 Length of Clip is: 00:01:01

28: 19 Q. But it is correct that you recall that there
28: 20 was some financing by Litle & Company of HearthSong's
28: 21 postage cost?
28: 22 A. As I recall.
28: 23 Q. And do you -- I believe you said that you
28: 24 understood that in 1989 or '90, when this engagement
28: 25 began, that Litle & Company acted as the processor for
29: Page 29
29: 1 HearthSong; is that correct?
29: 2 A. As I recall, yes.
29: 3 Q. And did you understand that as the
29: 4 processor, Litle & Company would ordinarily make
29: 5 payments back to HearthSong for the transactions that
29: 6 had been -- the purchases that had been made with
29: 7 credit cards?
29: 8 A. Yes.
29: 9 Q. And did you understand that for the postage
29: 10 financing facility instead of sending money back to
29: 11 HearthSong, that some of that money would be paid to

29: 12 Little & Company as repayment of the postage financing?
29: 13 A. Yes, yes.

DEFENSE: Alexander_031.13-031.21 Length of Clip is: 00:00:30

31: 13 Q. But either through the process of
31: 14 interviewing principals, reviewing documents or
31: 15 speaking with someone else, you came to know of the
31: 16 postage financing facility?
31: 17 A. Yes.
31: 18 Q. And is it your recollection that you were
31: 19 instructed to keep that product confidential?
31: 20 A. Nobody said anything about keeping anything
31: 21 confidential. No. I was not aware of it.

PLAINTFF: PL_Alexander_033.08-033.23 Length of Clip is: 00:01:15

33: 8 Q. But you remember that Exposures had a
33: 9 postage financing facility by Little & Company; is that
33: 10 correct?
33: 11 A. I was made aware of that later.
33: 12 Q. And by "later," do you mean during the
33: 13 course of the engagement at some point?
33: 14 A. No. When I first was contacted by -- I had
33: 15 talked -- I had been contacted by Tim Little. Tim
33: 16 asked me about, did I recall Exposures/HearthSong? I
33: 17 said, yeah. And he indicated to me, did I recall the
33: 18 postage or, you know, the financing? I said, I
33: 19 remembered the postage. Yes, I remember that. And I
33: 20 remembered HearthSong. And he indicated to me, he
33: 21 said, well, we also did that for Exposures. I said,
33: 22 oh, okay.
33: 23 That's what I remember.

DEFENSE: Alexander_034.11-034.22 Length of Clip is: 00:00:42

34: 11 Q. Did you ever discuss the availability of the
34: 12 postage financing facility with any clients other than
34: 13 Exposures or HearthSong -- excuse me, with HearthSong,
34: 14 Exposures not being a client?
34: 15 A. I may have, but I couldn't tell you who or
34: 16 when.
34: 17 Q. But it is possible that you may have?
34: 18 A. It's most likely.
34: 19 Q. And why would you have done that?
34: 20 A. Because it was a -- for certainly companies
34: 21 that were in distress, it certainly was something that
34: 22 might keep them afloat.

DEFENSE: Alexander_035.01-035.04 Length of Clip is: 00:00:15

35: 1 Q. And did Tim Little or someone else from Little
35: 2 & Company caution you against having those kinds of
35: 3 conversations with your clients?
35: 4 A. No. Not that I recall.

PLAINTFF: PL_Alexander_035.05-035.19 Length of Clip is: 00:01:53

35: 5 Q. Did they, in fact, encourage you to make
35: 6 this product available to potential -- to other
35: 7 catalog companies or direct mail companies?

35: 8 A. Probably not encourage.
35: 9 Q. Would you substitute a different word?
35: 10 A. Well, obviously we were aware of it. My --
35: 11 you would use discretion as to who you would mention
35: 12 it to.
35: 13 Q. And why would you use discretion as to who
35: 14 you would mention it to?
35: 15 A. There might be companies that are too far
35: 16 gone. There might be companies out there run by,
35: 17 let's say, not-so-ethical people. There might be
35: 18 people out there that were not friends of Litle & Co.,
35: 19 so for those reasons.

DEFENSE: Alexander_OC_035.20-036.01 Length of Clip is: 00:00:17

35: 20 Q. I understand. So setting aside companies or
35: 21 individuals to whom you might not want to do business
35: 22 or Litle & Company might not want to do business --
35: 23 A. Yes.
35: 24 Q. -- you were free to discuss that product
35: 25 with other potential clients or customers?
36:Page 36
36: 1 A. I believe so.

DEFENSE: Alexander_037.02-037.07 Length of Clip is: 00:00:19

37: 2 Q. Do you have any business relationship with
37: 3 any of the defendants? And I'll just go through them,
37: 4 the names for you. First Funds?
37: 5 A. I've never heard -- all of the companies
37: 6 that are listed on that, I know none of these
37: 7 companies.

PLAINTFF: PL_Alexander_038.25-040.06 Length of Clip is: 00:02:10

38: 25 Q. You said that you were contacted by Tim
39:Page 39
39: 1 Litle and that he asked you whether or not you
39: 2 remembered HearthSong and Exposures; is that correct?
39: 3 A. That is correct.
39: 4 Q. And before Mr. Litle contacted you --
39: 5 actually, can you tell me when was this that Mr. Litle
39: 6 contacted you?
39: 7 A. It was last year, but I don't remember, you
39: 8 know -- I don't recall if it was on the phone or if it
39: 9 was at one of our industry conventions, which he and I
39: 10 attend, you know, fairly regularly. So it may have
39: 11 been a conversation at one of those, or it could have
39: 12 been a phone call.
39: 13 Q. And prior to that conversation that you had
39: 14 with Mr. Litle, were you aware that Exposures had used
39: 15 Litle & Company for the financing service or postage
39: 16 advance services provided by Litle & Company?
39: 17 A. I was not -- I didn't remember until I
39: 18 was -- until Tim told me about -- told me about the
39: 19 situation. So, you know, I recalled it after being
39: 20 reminded of it.
39: 21 Q. So you were aware previously of that
39: 22 conversation, that Exposures had taken advantage of
39: 23 the postage financing services provided by Litle &
39: 24 Company?
39: 25 A. The answer -- let me be clear on it. I
40:Page 40