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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK : PART 3

-----X

ALM UNLIMITED, INC.,
Plaintiff,

Index No.
603491/08

- against -

DONALD J. TRUMP,
Defendant.

-----X

April 16, 2013
60 Centre Street
New York, New York

B E F O R E: HONORABLE EILEEN BRANSTEN, JSC

A P P E A R A N C E S:

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Donna Evans, Official Court Reporter

1

Danzer - by Plaintiff - Direct

2

THE COURT: Bring the jury down.

3

(Whereupon, the jurors entered the courtroom and resumed their respective seats in the jury box.)

5

THE COURT: Jurors, please be seated.

6

I just wanted to let you know that I told you yesterday that I was the ex-parte judge for the week, and one of the things that happens when you are ex-parte Judge is that you have events that have to be taken care of, and we started before lunch and we continued right at 2:00 and it's taken this length of time to resolve it. So it's not because I was ignoring you, it was just because it was something else that had to be dealt with before.

10

11

12

13

14

15

Mr. Danzer, please come up.

16

J E F F D A N Z E R, having first been previously sworn, resumed the witness stand and testified further as follows:

17

18

19

THE COURT: Mr. Danzer I remind you you're previously sworn, you remain under oath.

20

21

You may continue in your direct examination.

22

MR. ITKOWITZ: Thank you, your Honor.

23

DIRECT EXAMINATION (Continued)

24

BY MR. ITKOWITZ:

25

Q Mr. Danzer, there's been testimony in this case from Mr. Ross that you told Mr. Ross that if he didn't go

26

Donna Evans, Official Court Reporter

1

Danzer - by Plaintiff - Direct

2

along with you you would kill the deal. Is that true?

3

A Absolutely not.

4

Q I show you what's been marked as Exhibit 32.

5

Excuse me, 96, Trial 96.

6

THE COURT: Is it in evidence?

7

MR. ITKOWITZ: Actually I withdraw that.

8

Q Let me ask you this. You spoke about a meeting

9

that occurred with PVH on August 26?

10

A Yes.

11

Q After that meeting, what steps, if any, did you

12

take to help bring the matter forward?

13

A After the meeting with Phillips Van Heusen

14

August 26th I started with Cathy Glosser to try to have

15

conversations as to what the next step should be. This is a

16

meeting at PVH. So we had to set up a meeting, figure out

17

what they wanted to do, what we wanted to do to get a

18

proposal from them. I contacted Ken Wyse again, the

19

president of licensing for Phillips Van Heusen and we

20

started moving the ball forward. Comments from Ken bring

21

back to Cathy, et cetera.

22

Q Did you meet with Miss Glosser a couple days

23

later?

24

MR. GOLDMAN: Objection, leading.

25

THE COURT: Sustained.

26

Q Did you have occasion to meet with Miss Glosser

Donna Evans, Official Court Reporter

1

Danzer - by Plaintiff - Direct

2

following the August 26 meeting?

3

MR. GOLDMAN: Objection, leading.

4

THE COURT: Still leading.

5

What, if anything, did you do --

6

BY MR. ITKOWITZ:

7

Q What, if anything, did you do in terms of

8

Miss Glosser after the August 26 meeting?

9

A We set up a time to meet.

10

Q Did you meet?

11

A Yes.

12

Q What occurred at the meeting?

13

A We discussed what Trump wanted. We discussed what we wanted to do with regard to next steps.

15

Q What, if anything, did you do to encourage PVH to submit a proposal?

16

17

MR. GOLDMAN: Objection, leading.

18

THE COURT: I'll allow that.

19

A I spoke with Miss Glosser, then I spoke with Mr.-- with Ken Wyse. I said we need to get a proposal sent to Phillips Van Heusen, the proposal we discussed back and forth, what the Trump Organization wanted, what Phillips Van Heusen could do, and then Phillips Van Heusen submitted a proposal.

20

21

22

23

24

25

MR. GOLDMAN: Objection what Phillips Van

26

Heusen said.

Donna Evans, Official Court Reporter

1

Danzer - by Plaintiff - Direct

2

THE COURT: Sustained as to that last

3

section.

4

Q Now, did there come a time following the August 26

5

meeting -- following the August 26 meeting, after a proposal

6

was submitted, did you -- did there come a time when the

7

Trump Organization took over the negotiations?

8

A Yes.

9

Q And tell us how that occurred?

10

A In the midst of my conversations with

11

Miss Glosser, at a certain point in time in any relationship

12

between a licensing agent, a broker and the licensure

13

there's a relinquishment saying you can --

14

MR. GOLDMAN: Objection.

15

THE COURT: Sustained. That's not the

16

question. Please answer.

17

Do you want it read back?

18

THE WITNESS: Yes, please.

19

THE COURT: Please read it back.

20

(Record read.)

21

A I wrote a letter to Ken Wyse at Phillips Van

22

Heusen saying that he can deal directly with the Trump

23

Organization.

24

Q And why did you write that letter to him?

25

A Because at a certain point in time you relinquish

26

the negotiation to the -- between the two parties,

Donna Evans, Official Court Reporter

1

Danzer - by Plaintiff - Direct
especially since Miss Glosser had said that the Trump
Organization --

4

MR. GOLDMAN: Objection what Miss Glosser
said.

5

6

THE COURT: You can't tell me what
Miss Glosser said, okay?

7

8

THE WITNESS: Okay.

9

THE COURT: We had that conversation. What
did you do?

10

11

THE WITNESS: I sent a letter saying they
could deal directly with the Trump Organization.

12

13

Q Did there come a time when an agreement was
reached between PVH and the Trump Organization?

14

15

A Yes.

16

MR. ITKOWITZ: Do we have Plaintiff's Exhibit
78?

17

18

THE COURT: What number are you looking for?

19

MR. ITKOWITZ: Seventy-eight.

20

THE COURT OFFICER: Plaintiff's Exhibit
Number 78 in evidence.

21

22

BY MR. ITKOWITZ:

23

Q Exhibit 78 is a -- what is Exhibit 78?

24

A A letter from Cathy Glosser letting me know that
the deal with PVH was finalized, attaching a copy of that
agreement.

25

26

Donna Evans, Official Court Reporter

1

Danzer - by Plaintiff - Direct

2

Q And do you know why she sent that to you?

3

A Because I --

4

MR. GOLDMAN: Objection.

5

THE COURT: Again sustained.

6

You don't know what she's thinking. Okay?

7

Q Did you make a request with respect to --

8

MR. GOLDMAN: Objection. Leading.

9

THE COURT: Please don't lead, it's a direct

10

examination.

11

BY MR. ITKOWITZ:

12

Q How did it come about that you received this

13

letter and the contract it attached?

14

A I had a phone call with Cathy Glosser where I was

15

told --

16

MR. GOLDMAN: Objection.

17

THE COURT: Did you make that phone call?

18

THE WITNESS: Cathy Glosser made that phone

19

call.

20

THE COURT: After you had that

21

conversation -- did you say anything to Cathy Glosser?

22

A She --

23

THE COURT: No, what did you say?

24

THE WITNESS: I said hello. She said it's

25

Cathy.

26

THE COURT: I don't want to hear the

Donna Evans, Official Court Reporter

1

Danzer - by Plaintiff - Direct

2

conversation. After you had the conversation what

3

happened next?

4

THE WITNESS: After I had the conversation I

5

sent a letter congratulating the Trump Organization on

6

closing the deal with Phillips Van Heusen.

7

MR. ITKOWITZ: I would show the witness

8

Exhibit 37.

9

(Pause.)

10

THE COURT OFFICER: Thirty-seven in evidence.

11

Q Do you see Exhibit 37?

12

A Yes.

13

Q This is the letter you wrote after the

14

conversation?

15

A Correct.

16

Q E-mail?

17

A Correct.

18

Q Could you read the last sentence to the jury?

19

A I'm looking forward to receiving a copy of the

20

agreement sometime today. All the best Jeff.

21

Q Following that did you receive Exhibit 78?

22

A I did.

23

Q Now, I'm going to fast forward to July or

24

August -- July and August of 2005.

25

Did you -- did there come a time when you

26

learned that the Trump Organization had received payment?

Donna Evans, Official Court Reporter

1

Danzer - by Plaintiff - Direct

2

A Yes.

3

Q How did you come across that knowledge?

4

A I don't remember.

5

Q What, if anything, did you do when you received that knowledge?

6

A I requested a copy of the royalty report so that I could send the Trump Organization a bill for ALM's fee.

7

MR. GOLDMAN: For the record, your Honor, same objections that we've made in the past with respect to all of this.

10

11

12

THE COURT: The issue is a question of relevancy.

13

14

Go ahead.

15

BY MR. ITKOWITZ:

16

Q What followed thereafter, after you requested the royalty report?

17

18

A I received the royalty report and I sent Ms. Glosser an invoice with the royalty report attached. The invoice was for 10 percent of the amount of royalties that Mr. Trump received from the PVH deal for that quarter.

19

20

21

22

Q Now, did there come a time when you had any e-mail communications with Ms. Glosser about the agreement that you had transmitted in late August to Miss Glosser and Mr. Ross?

23

24

25

MR. GOLDMAN: Objection. Leading.

26

THE COURT: Sustained.

Donna Evans, Official Court Reporter

1

Danzer - by Plaintiff - Direct

2

Q I show you what's been marked as Exhibit 42.

3

Actually I'll show you 40 and 42.

4

THE COURT: This is not in evidence, it's for
ID only, so please don't read from it. It's not in
evidence.

5

6

7

BY MR. ITKOWITZ:

8

Q Directing your attention to Exhibit 40.

9

There's an e-mail chain here, correct?

10

A Yes.

11

Q Were these e-mails that you sent and/or received

12

at the time these e-mails were sent?

13

MR. GOLDMAN: Objection, leading.

14

THE COURT: Sustained.

15

Q What are these e-mails about?

16

MR. GOLDMAN: Objection, calls for him to
read documents not in evidence.

17

18

THE COURT: If you phrase it differently I'll
allow it but not if you look at the e-mails.

19

Q Did you write any of these documents?

20

21

A Yes.

22

Q Did you receive any of these documents?

23

A Yes.

24

Q Can you tell us why you wrote them and why you
received them?

25

26

A I wrote them to Cathy referencing our deal and
Donna Evans, Official Court Reporter

1

Danzer - by Plaintiff - Direct

2

saying the invoice is on its way. Miss Glosser had said

3

fine --

4

MR. GOLDMAN: Objection.

5

THE COURT: Sustained.

6

MR. ITKOWITZ: Your Honor, I would state in

7

response to the objection, that given --

8

THE COURT: Do you want to come and talk to

9

me about the objection?

10

MR. ITKOWITZ: Yes.

11

THE COURT: Come on up.

12

(Whereupon, there's a sidebar discussion off

13

the record, out of the hearing of the jury.)

14

MR. GOLDMAN: Your Honor, I have the standard

15

objection to Plaintiff's 40 going into evidence.

16

THE COURT: Plaintiff's 40 will be admitted

17

into evidence with the consent of the plaintiff and

18

without the objection of the defendant, and subject to

19

the same issue of relevancy.

20

MR. ITKOWITZ: Therefore I don't need to ask

21

questions about it. I'm not going to ask questions

22

about it.

23

(Plaintiff's 40 was received in evidence, as

24

of this date.)

25

MR. GOLDMAN: Your Honor, unfortunately,

26

plaintiff's counsel was unaware that this document is

Donna Evans, Official Court Reporter

1

Danzer - by Plaintiff - Direct

2

already in evidence as number 79. So rather than now

3

have the document with two different numbers, both in

4

evidence, I suggest we already use 79 already in

5

evidence rather than having another piece of paper that

6

says the same thing.

7

MR. ITKOWITZ: Rather than stopping and

8

looking right now I would suggest we can cull the

9

exhibits after.

10

THE COURT: No. One piece of evidence is all

11

I need.

12

MR. ITKOWITZ: Okay.

13

Your Honor, I would suggest that a --

14

(Pause.)

15

MR. ITKOWITZ: I will withdraw that exhibit

16

since the exhibit is already in evidence with another

17

designation.

18

THE COURT: Do you want to show the witness

19

Plaintiff's 79 in evidence? Do you want to show the

20

witness that?

21

MR. ITKOWITZ: No, because if it's in we

22

don't have to spend time.

23

THE COURT: Go ahead.

24

MR. ITKOWITZ: We could move this thing

25

along.

26

I'll move 42 and 44 into evidence.

Donna Evans, Official Court Reporter

1

Danzer - by Plaintiff - Direct

2

THE COURT OFFICER: I don't have a 44 up

3

here.

4

Here is 42.

5

THE COURT: Anybody --

6

MR. GOLDMAN: Same objection.

7

THE COURT: Forty-four I don't think is in

8

evidence, so why don't you give us 44.

9

MR. ITKOWITZ: Your Honor, 42 and 44 are not

10

in as far as I understand.

11

THE COURT: Mark 42 subject to relevancy in

12

evidence. Mark 44 subject to relevancy in evidence.

13

(Plaintiff's Exhibits 42 and 44 were received

14

in evidence, as of this date.)

15

MR. ITKOWITZ: Now, at this time I would

16

direct the witness to Exhibit 81.

17

THE COURT: That's in evidence.

18

MR. ITKOWITZ: Yes.

19

COURT OFFICER: 81 in evidence.

20

BY MR. ITKOWITZ:

21

Q Now, in this e-mail chain, you were requesting

22

that Ms. Glosser arrange to get you a check?

23

MR. GOLDMAN: Objection. Leading.

24

MR. ITKOWITZ: Okay, I'll withdraw that

25

question.

26

THE COURT: Sustained.

Donna Evans, Official Court Reporter

1

Danzer - by Plaintiff - Direct

2

Q Look at the first page of this e-mail and can you describe what was going on from the bottom to the top, in terms of why these e-mails were being exchanged?

3

MR. GOLDMAN: Objection.

4

THE COURT: Ask questions, please.

5

Q Did there come a time when you had an exchange with Miss Glosser about whether there was a signed written agreement?

6

A Yes.

7

Q What did you do in September of 2005 and late August of 2005 with respect to that?

8

A I sent Miss Glosser a copy of -- or basically I just cut and pasted what the agreement was that I sent to Mr. Ross.

9

Q And did she write back to you?

10

A She said -- yes, she wrote -- yes, she got back to me.

11

Q And did she say -- did she tell you anything was going to happen?

12

MR. GOLDMAN: Objection. Leading.

13

THE COURT: Sustained.

14

What, if anything, happened next?

15

Q What happened next?

16

A I received an e-mail saying that George would --

17

MR. GOLDMAN: Objection.

Donna Evans, Official Court Reporter

1

Danzer - by Plaintiff - Direct

2

MR. ITKOWITZ: What's the objection? It's

3

right in the exhibit.

4

THE COURT: It's already in evidence, it's

5

been talked about a lot.

6

Q You were starting to say something?

7

A I received an e-mail from Cathy saying, okay,

8

George will draft something. And I said, okay, please keep

9

me posted.

10

Q Did you ever receive anything from Cathy or

11

George?

12

A I did not.

13

Q Did you thereafter, after this e-mail exchange,

14

did you receive a check?

15

A Yes.

16

Q And thereafter did you receive -- can you tell us

17

if you continued to receive checks?

18

A Yes.

19

Q And can you tell us when you would receive checks?

20

A Every quarter, at the end of every quarter there

21

is a time period, I believe it was 30 days after the quarter

22

ended, we would send an invoice to the Trump Organization, I

23

would send it to Cathy Glosser, and then we would receive a

24

check for a percentage of the previous quarter's royalty

25

payments.

26

Q And how long did that go on for?

Donna Evans, Official Court Reporter

1

Danzer - by Plaintiff - Direct

2

A Almost three years.

3

MR. ITKOWITZ: At this time I would move 44.

4

MR. ITKOWITZ: Evidence.

5

THE COURT: We already put 44 in evidence.

6

MR. ITKOWITZ: Okay, sorry.

7

THE COURT: Subject to relevancy.

8

Q How did you create invoices for the Trump

9

Organization?

10

A I received a royalty report. I calculated the

11

amount of royalties that the Trump Organization was paid by

12

Phillips Van Heusen, I took 10 percent of that. That was

13

the invoice I sent to them, 10 percent of the amount.

14

Q Now, did there come a time when the Trump

15

Organization stopped sending you invoices?

16

A Yes. They stopped sending me payments.

17

Q No, stopped sending you royalty statements?

18

A I don't remember if I received the royalty

19

statements from Phillips Van Heusen or the Trump

20

Organization.

21

Q I would show you what's been marked as 44 for

22

identification -- 44 in evidence.

23

THE COURT OFFICER: The witness has 44.

24

THE COURT: Forty-four is in front of him.

25

Q Take a look at 44. I would ask you if that

26

refreshes your recollection as to what happened with --

Donna Evans, Official Court Reporter

1

Danzer - by Plaintiff - Direct

2

A Yes. Cathy Glosser was sending me the royalty payments. I was receiving the royalty statements from Cathy Glosser.

3

4

Q And did there come a time when she actually stopped sending you statements and started sending you just the numbers?

5

6

MR. GOLDMAN: Objection, leading.

7

THE COURT: You can't be leading.

8

MR. ITKOWITZ: You know what, it's in

9

evidence. I'll skip over it.

10

Q Now I would show you what's been marked as 45, 46,

11

48 and 108 for identification.

12

THE COURT OFFICER: Forty-five, 46, 48 and

13

108 for identification.

14

BY MR. ITKOWITZ:

15

Q Just looking at all of these documents, can you

16

identify each one of these documents, starting with 45?

17

A Forty-five is an e-mail to me from Cathy Glosser.

18

Q Did you receive that?

19

A Yes, I did.

20

MR. ITKOWITZ: I move it into evidence.

21

MR. GOLDMAN: I have no objection. Same

22

reasons before to any of these exhibits. Same

23

objection on relevance.

24

THE COURT: Mark it.

Donna Evans, Official Court Reporter

1

Danzer - by Plaintiff - Direct

2

(Plaintiff's Exhibit 45 received in evidence,

3

as of this date.)

4

(Discussion off the record.)

5

(Plaintiff's Exhibits 46, 48 and 108 were

6

received in evidence, as of this date.)

7

BY MR. ITKOWITZ:

8

Q Did there come a time when the checks stopped?

9

A Yes.

10

Q Now, did there come a time when you left the

11

employ of ALM?

12

A Yes.

13

Q When was that?

14

A I really don't remember the exact date.

15

Q Just approximately?

16

A I think it was towards the end of 2005. I really

17

don't remember the date.

18

Q And how did it come about that you left?

19

A Mr. Hager was going to close down the company in

20

New York City and move it to Queens or Brooklyn and I just

21

didn't want to do that, and I was already working on

22

something else -- another brand that I wanted to sell he

23

wasn't interested in, and I shopped it around, I ended up

24

taking the brand somewhere else and moving on.

25

Q So you left voluntarily?

26

A Yes.

Donna Evans, Official Court Reporter

1

Danzer - by Plaintiff - Direct

2

MR. GOLDMAN: Objection, leading.

3

THE COURT: It is leading but I'll allow it.

4

Q Are you receiving any compensation for your
testimony?

5

6

THE COURT: I can't -- I didn't hear a word
you said.

7

Q Are you testifying voluntarily today?

8

A Yes.

9

Q Are you receiving any compensation for your

10

testimony?

11

A No.

12

Q Will you receive any benefit at all or have any

13

promises been made to you with respect to the outcome of
this case?

14

15

A No.

16

MR. ITKOWITZ: I have no further questions --

17

oh wait. One second.

18

(Pause.)

19

20

21

22

23

24

25

26

Donna Evans, Official Court Reporter

1 Danzer - Plaintiff - Cross (Mr. Goldman)

2 MR. ITKOWITZ: Sorry. Sorry. I have one cleanup
3 exhibit, I'm sorry. At this time I would move Trial 41 and
4 101 into evidence.

5 THE COURT: Any objection or not?

6 MR. GOLDMAN: I don't know. You want to show me
7 101? No objections as to 101. Same objection as to 41.

8 MR. ITKOWITZ: Forty-one?

9 MR. GOLDMAN: I said same objection as to 41. No
10 objection as to 101.

11 THE COURT: Same objection as in terms of relevancy
12 Exhibit 41. 101 is in evidence without objection.

13 MR. ITKOWITZ: And 41?

14 THE COURT: Is in. Relevance, subject to the
15 objection.

16 (Whereupon, the above-mentioned documents were
17 marked as Plaintiff's Exhibit 41 and 101 in evidence.)

18 MR. INTROIT: Okay. I have no further questions.

19 THE COURT: Ready to cross examine?

20 MR. GOLDMAN: I'm ready.

21 CROSS-EXAMINATION

22 BY MR. GOLDMAN:

23 Q Mr. Danzer, yesterday you told the jury about your
24 experience; do you recall testifying about that?

25 A Yes.

26 Q And would it be fair to say that based upon your

1 Danzer - Plaintiff - Cross (Mr. Goldman)

2 experience, your experience prior to working at ALM was
3 representing licensees, not licensors?

4 A Yes.

5 Q And this was, this being the Trump brand, was your
6 first experience representing a licensor?

7 A No.

8 Q When did you represent a licensor prior to the Trump
9 brand?

10 A When I was at 2 Exist, I was doing licensing for that
11 brand as well as the licensor.

12 Q You're aware that ALM had no experience prior to your
13 arrival in representing licensors?

14 A No.

15 Q You didn't ask Mr. Hager if ALM had any experience in
16 representing licensors before you came on board?

17 MR. ITKOWITZ: Objection, outside the scope.

18 THE COURT: I'll allow that.

19 A I knew they had experience.

20 Q It's your understanding that ALM International had
21 experience representing licensors?

22 A They were a licensor.

23 Q I didn't ask you if they were a licensor. I asked you
24 if they had experience representing licensors.

25 A No.

26 Q So they didn't have any experience representing --

1 Danzer - Plaintiff - Cross (Mr. Goldman)

2 A Not representing licensors.

3 Q Okay. Now, you're not being paid anything to be here,
4 correct?

5 A Correct.

6 Q When was the first time you became aware that your
7 testimony would be required here at trial?

8 A At this specific trial?

9 Q This specific trial.

10 A Probably about four months ago.

11 Q Okay. And prior to four months ago, did you have any
12 conversations with Mr. Hager regarding this litigation?

13 A Yes.

14 Q And after you became aware that you were going to be
15 called to testify, did you have any conversations with Mr.
16 Hager?

17 A After being?

18 Q After you became aware, approximately four months ago,
19 that you would be required to testify, did you have any
20 conversations with Mr. Hager?

21 A No.

22 Q Did you have conversations with anybody in the last
23 four months regarding you testifying here at trial this week?

24 A Yes.

25 Q With whom did you tell or have conversations with?

26 A With Mr. Itkowitz.

1 Danzer - Plaintiff - Cross (Mr. Goldman)

2 Q And when was the first time you had a conversation with
3 Mr. Itkowitz?

4 MR. ITKOWITZ: Objection.

5 THE COURT: I'll allow it.

6 A It was probably about four months ago.

7 Q And he told you that you would be needed for trial?

8 A Yes.

9 Q Did he tell you anything else?

10 A He told me that you were going to be a witness in the
11 trial.

12 Q That's all he said?

13 A We sat down and we reviewed --

14 MR. ITKOWITZ: Objection.

15 THE COURT: I will allow it.

16 MR. ITKOWITZ: Okay.

17 A We sat down and reviewed what I could remember.

18 Q When you say you reviewed, he asked you questions about
19 what you could remember and he took notes?

20 A Correct.

21 Q Did he show you any documents?

22 A Yes.

23 Q What documents did you review four months ago in the
24 presence of Mr. Itkowitz?

25 A A lot of the documents here.

26 Q Do you recall which ones that you testified to about

1 Danzer - Plaintiff - Cross (Mr. Goldman)

2 today?

3 A All of them.

4 Q He showed you all of them?

5 A With the exception of these letters just now from Cathy
6 to me with regards to the royalty payments.

7 Q Did he show you the deposition transcript of George
8 Ross?

9 A No.

10 Q Did he show you the deposition transcript of Donald J.
11 Trump?

12 A No.

13 Q Did he show the deposition transcript of Mark Hager?

14 A No.

15 Q Did he show you the deposition transcript of George
16 Ross?

17 A No.

18 Q Have you ever seen any of those deposition transcripts?

19 A No.

20 Q Have you ever discussed any of those deposition
21 transcripts with Mr. Itkowitz?

22 A No.

23 Q Have you ever discussed any of these deposition
24 transcripts with anybody?

25 A No.

26 Q In the last four months, have you reviewed any

1 Danzer - Plaintiff - Cross (Mr. Goldman)

2 documents before testifying today?

3 A Just the ones in front of me.

4 Q So other than four months ago you had copies of those?

5 A I've seen these documents. I have copies of these
6 documents, yes.

7 Q That wasn't my question. You testified that four
8 months ago you met with Mr. Itkowitz and reviewed the documents
9 you were shown today, correct?

10 A Yes.

11 Q Did you bring those documents with you or did Mr.
12 Itkowitz present them to you?

13 A Mr. Itkowitz had the documents.

14 Q Did he give you copies to look at over the next four
15 months?

16 A No. When I was in his office do you remember this, do
17 you remember this, et cetera.

18 Q And after you left his office, at any point in time
19 between the time you left his office and you sat in that witness
20 chair, did you look at any of those documents?

21 A Yes.

22 Q How did you get those documents?

23 A I asked for copies --

24 Q Oh.

25 A -- to refresh my memory.

26 Q You asked Mr. Itkowitz for copies?

1 Danzer - Plaintiff - Cross (Mr. Goldman)

2 A Yes.

3 Q When did Mr. Itkowitz give you copies of all the
4 documents that you were going to be questioned about?

5 A He gave me a few copies.

6 Q I didn't ask you. When did he give you the copies of
7 the documents that you were going to be examined on?

8 A At various times. It's not just one time. So at the
9 beginning I asked him for a few documents to refresh my memory
10 that I didn't remember.

11 Q When was that, when you say at the beginning; was that
12 before or after you met with Mr. Itkowitz?

13 A When I first met with Mr. Itkowitz.

14 Q Okay. I don't want to know about that right now.

15 I want to know when you left his office, did you review
16 any documents after that?

17 A When I got back to my home with the documents, I looked
18 at them to refresh my memory, yeah, this was it, I remember it.

19 Q So you had these documents in your home?

20 A I had some of these documents. I owned some of these
21 documents. Not own them, but I have them in my files.

22 Q What documents did you have in your files?

23 A Letters back and forth between me and Ms. Glosser.
24 Letters back and forth between me and Mr. Ross. Letters that I
25 sent to Donald Trump. I had those in my files; and anything I
26 didn't have, I said can you please give me that so I can refresh

1 Danzer - Plaintiff - Cross (Mr. Goldman)

2 my recollection of the timeframe.

3 Q How did you know what you didn't have?

4 A I saw that I didn't have it. I said I don't have it in
5 my file. I remembered writing it, I remembered sending it, but
6 I didn't have it in my file.

7 Q So when you met with Mr. Itkowitz you brought the
8 documents that you had with you to his office?

9 A No. When I went to Mr. Itkowitz's office he spoke to
10 me about the documents that he had. Do you remember seeing this
11 document; did you write this document; did you see this
12 document, et cetera. I said, yes, I remember these documents.
13 I have -- certain documents I had already. So the documents I
14 didn't have already I said can you please send me or give me a
15 copy of those documents.

16 Q How many times did you look at those documents from the
17 time you left Mr. Itkowitz's office to the time you sat in the
18 chair yesterday?

19 A A few times. I looked at them before I came here
20 yesterday, just to refresh my memory, and then again this
21 morning.

22 Q So is it, since you had to look at the documents to
23 refresh your memory, is it fair to say you had no recollection
24 of the events until you looked at the documents?

25 A No.

26 Q Well, you just told us in 2013 you had to look at the

1 Danzer - Plaintiff - Cross (Mr. Goldman)
2 documents to refresh your recollection about what happened nine
3 years ago. So you had no recollection of those events before
4 looking at the documents, didn't you?

5 MR. ITKOWITZ: Objection, objection.

6 THE COURT: Sustained. Sustained.

7 Q And when was the last time --

8 THE COURT: You're going to have to come up.

9 (Whereupon, an off-the-record discussion was held
10 at the bench among the Court and counsel.)

11 THE COURT: Jurors, you can stand at ease, but Mr.
12 Danzer, please go and sit over there somewhere. And I'm
13 going to do a little ex parte work. Now, you can stand up,
14 look around, say hello, just don't go anywhere. I don't
15 want to lose any time.

16 (Pause in proceedings.)

17 THE COURT: Mr. Danzer, come on back.

18 (Whereupon, the witness resumes the stand.)

19 THE COURT: I'm sorry for the interruption. That's
20 the last time today. If you're not happy, I am.

21 Q Mr. Danzer, are you able to tell the jury what portion
22 of your testimony was based upon your independent recollection
23 and what portion was based upon your review of the exhibits?

24 MR. ITKOWITZ: Objection.

25 THE COURT: No, I'll allow that.

26 A Yes. The reason why --

1 Danzer - Plaintiff - Cross (Mr. Goldman)

2 Q I didn't ask you reasons. I asked you can you. It's a
3 yes or no.

4 A Yes.

5 Q Okay. Tell the jury what portion of your testimony was
6 based upon your review of the documents in the last four months?

7 A The dates. I asked for the documents so I could get
8 the dates straight, but the actual facts of the case are all in
9 my mind, they're all in my recollection.

10 Q And the dates that you testified to yesterday under
11 oath, those are the dates that you refreshed your memory on,
12 correct?

13 A I refreshed my memory as best as I could.

14 Q Now, before we get to the dates from yesterday, tell
15 me, do you recall testifying yesterday in response to a question
16 that you don't recall ever really seeing the original memorandum
17 of understanding?

18 A Yes.

19 Q Was that a truthful answer, you don't recall ever
20 seeing it?

21 A Correct.

22 Q Do you recall -- so as you sit here yesterday, other
23 than looking at it when Mr. Itkowitz showed it to you about four
24 months ago, you don't recall ever seeing it?

25 A No.

26 MR. ITKOWITZ: Objection.

1 Danzer - Plaintiff - Cross (Mr. Goldman)

2 THE COURT: Sustained. It's not established what
3 he saw.

4 Q You don't recall ever seeing the memorandum of
5 understanding?

6 A I recalled reviewing the memorandum of understanding
7 with Mr. Hager when I first started. He was flipping through
8 it, he said these are the elements of the deal, we have to make
9 sure that the deal is going to be \$25 million, seven years, it's
10 for high quality apparel, et cetera.

11 He reviewed the whole thing with me. I had seen it. I
12 didn't read it.

13 Q You didn't read it?

14 A I didn't read the agreement. It was his agreement. He
15 just told me what the facts were.

16 Q But you were going to be the one undertaking the
17 responsibility of satisfying all of the conditions in that
18 signed contract, weren't you?

19 MR. ITKOWITZ: Objection.

20 A Yes.

21 THE COURT: Overruled.

22 Q Weren't you?

23 A Yes.

24 Q You read it on your own, didn't you?

25 A I did not.

26 Q Well, can you look at Defendant's A, please.

1 Danzer - Plaintiff - Cross (Mr. Goldman)

2 (Document handed to witness.)

3 COURT OFFICER: Defendant's A in evidence.

4 Q That's a letter that you prepared, is it not?

5 A Correct, it is.

6 Q And, in fact, you prepared that letter and it was
7 important enough that you put at the bottom "agreed to and
8 accepted by," didn't you?

9 A Yes.

10 Q And it was important enough that you wanted to make
11 sure that whatever your relationship with ALM wasn't just in a
12 letter that you sent but was signed off on by Mr. Hager,
13 correct?

14 A Correct.

15 Q And Mr. Hager signed it?

16 A Yes.

17 Q Based upon him signing it, you knew you had an
18 agreement with Mr. Hager to perform your services?

19 A Correct.

20 Q Now, tell me, you typed this, correct?

21 A Correct.

22 Q And it says in the second to last paragraph: "I have
23 read, understand and agree to the terms and conditions detailed
24 in the two attached documents which form the basis of the deal
25 between ALM and Donald Trump, namely the memorandum of
26 understanding and the extension of the memorandum of

1 Danzer - Plaintiff - Cross (Mr. Goldman)

2 understanding."

3 So you read it, didn't you?

4 A Yes.

5 Q And you understood it, didn't you?

6 A Yes.

7 Q So when you just told us you didn't read it and you had
8 it read to you, that was an inaccurate statement, wasn't it?

9 A Yes.

10 Q Okay. And, in fact, you wrote this letter because you
11 wanted clarity in your deal with Mr. Hager, right?

12 A Correct.

13 Q And you understood the importance of clarity, didn't
14 you --

15 A Yes.

16 Q -- when dealing with Mr. Hager or anybody?

17 A Yes.

18 Q Now, you put in there for purposes of clarity that it
19 was your understanding that ALM had an exclusive deal with
20 Donald Trump; is that correct?

21 A Yes.

22 Q And you believed that an exclusive deal meant that Mr.
23 Trump could not do a deal on his own; isn't that so?

24 A Yes.

25 Q You were wrong about that, weren't you?

26 MR. ITKOWITZ: Objection.

1 Danzer - Plaintiff - Cross (Mr. Goldman)

2 THE COURT: I'll allow it.

3 A I did not believe I was wrong.

4 Q But, in fact, are you aware that the Court ruled that,
5 in fact, Defendant can do its own deal?

6 MR. ITKOWITZ: Objection. I don't think there's
7 been any such ruling.

8 MR. GOLDMAN: You don't think there's been that
9 ruling?

10 MR. ITKOWITZ: No.

11 MR. GOLDMAN: Your Honor, I can read the decision.
12 I don't want to, but I know Your Honor knows.

13 THE COURT: I'm going to allow it.

14 Q Are you aware that the Court ruled that Mr. Trump was
15 free, under the memorandum of understanding and the extension,
16 to do its own deal as long as it didn't use another broker?

17 A No.

18 Q When you stated the memorandum of understanding had
19 been in place since September of 2003, correct?

20 A Correct.

21 Q You read it. And because you read it and understood
22 it --

23 A Correct.

24 Q -- did you say to Mr. Hager, hey, what's going on the
25 last five, six months on this?

26 A He told me nothing had really gone on in that.

1 Danzer - Plaintiff - Cross (Mr. Goldman)

2 Q Nothing had gone on. And you knew in February 17th of
3 2004, when you entered into your signed writing with Mr. Hager,
4 you knew that there had been an extension, didn't you?

5 A Yes.

6 Q And you knew the terms of the extension, didn't you?

7 A Yes.

8 Q Who's Avery Hager?

9 A Mark's son.

10 Q Did you work with him?

11 A Occasionally he came in and worked with us.

12 Q When you say, "worked with us," who is us?

13 A He came into the office and we had discussions, but we
14 didn't really work together. We really didn't do much working
15 interaction.

16 Q Were you aware of how he felt about your job
17 performance?

18 A No.

19 Q Why don't you look at Defendant's B in evidence.

20 (Document handed to the witness.)

21 Q I'm going to read the second paragraph. This is Avery
22 Hager to Mark Hager on February 23rd, one week after your
23 February 17th agreement.

24 "The odds are in our favor. I think we should put more
25 pressure on Jeff. I have the feeling as hard as he's working
26 he's not getting paid now and is too busy looking for another

1 Danzer - Plaintiff - Cross (Mr. Goldman)

2 job."

3 Were you looking for another job at that point in time?

4 A Absolutely not.

5 Q And your payment compensation, your deal was only if
6 you were able to reach a deal under the memorandum of
7 understanding and the extension, correct?

8 A Yes.

9 Q And if you couldn't get a licensee to see Mr. Trump by
10 June 30th you would get no compensation?

11 A No.

12 Q No, you would get, or no --

13 A No, this was part of my compensation with ALM. I was
14 on ALM's payroll to build another brand called Alpha Q that we
15 were working on together, so this was in addition to.

16 Q So all of your efforts were not just for Mr. Trump, you
17 were on the payroll for another brand?

18 A Well, I was on the payroll at ALM's payroll and my
19 responsibilities were Trump and Alpha Q.

20 Q And for Alpha Q were you getting paid on a weekly or
21 monthly basis?

22 A Yes. Yes.

23 Q And for Trump the only compensation would be if a deal
24 is cut?

25 A Correct.

26 Q So again, if there was no deal done by September 30,

1 Danzer - Plaintiff - Cross (Mr. Goldman)

2 2004 under the extension agreement, you would get zero?

3 A Correct. As a bonus. This was supposed to be like my
4 bonus.

5 Q I didn't ask you what it was. Can you move to strike.
6 I just asked you if it would be zero. The answer is
7 yes?

8 MR. ITKOWITZ: I'm going to object to that, Your
9 Honor.

10 THE COURT: Strike it.

11 Q Now, if you can, before I get to that, tell me, you
12 told us the great business relationship you had with Ken Wyse,
13 right?

14 A Yes.

15 Q And you introduced into evidence, I believe,
16 Plaintiff's 98, which was that letter that you sent to Mr. Wyse,
17 correct?

18 A Is that here?

19 MR. GOLDMAN: Can he be shown Plaintiff's 98.

20 (Document handed to witness.)

21 COURT OFFICER: Plaintiff's 98.

22 A Yes.

23 Q You see that letter?

24 A Yes.

25 Q And I believe you told us in response to Mr. Itkowitz's
26 questions that the reason you attached the New York Post article

1 Danzer - Plaintiff - Cross (Mr. Goldman)

2 was because of the impression that you had that Mr. Wyse had
3 given you, is that -- would that be a fair statement?

4 A Correct. Yes, yes.

5 Q And the letter that you sent to Mr. Wyse, which is in
6 evidence as 98, was that a tailored letter for Ken Wyse so
7 that -- you know what I mean?

8 A Yes.

9 Q It was tailored for Ken Wyse?

10 A Yes, it was tailored for Ken Wyse.

11 Q I'm going to give you an opportunity to think about
12 your answer one more time.

13 Was this tailored for Ken Wyse? Is that your sworn
14 testimony? And if I'm wrong, tell me. You can stand by your
15 statement. I don't want to plant any doubt in you?

16 A I'm just reading, whatever.

17 Q Sure.

18 A This was -- this is a copy of -- this is the letter
19 that I sent pretty much to everybody.

20 Q It wasn't --

21 A Well, tailored to Ken Wyse is "Dear Ken" and
22 explaining, but I want to just preface one thing.

23 Q I didn't ask you to preface anything.

24 MR. ITKOWITZ: Your Honor, I would object to the
25 witness being interrupted in answering the question.

26 THE COURT: I am going to allow the answer.

1 Danzer - Plaintiff - Cross (Mr. Goldman)

2 Q So, feel free to speak.

3 A Ken was basically my first or one of my very first
4 contacts.

5 MR. GOLDMAN: I'm going to object. That's not my
6 question.

7 THE COURT: Sustained.

8 Q I'll rephrase my question.

9 Was this letter, other than where it says, "Dear Ken,"
10 was this letter tailored to Ken Wyse, like you said originally,
11 or was it not?

12 MR. ITKOWITZ: I object to the question.

13 THE COURT: Sustained.

14 Q Is this letter tailored to Ken Wyse, other than Dear
15 Ken?

16 A No.

17 Q In fact, the letter that you sent to your good friend
18 is the same letter that you sent in a mass mailing, isn't it?

19 A Yes.

20 THE COURT: By the way, I overruled his objection,
21 not sustained.

22 Q So other than, just so it's clear, the connection, that
23 close connection that you had to Mr. Wyse, he got the same
24 letter that everybody got on what I'll call a cold call letter?

25 A Just to be clear, I got the first letter. It was such
26 a good letter, I sent it to everybody else as well.

1 Danzer - Plaintiff - Cross (Mr. Goldman)

2 Q When you said you sent it to everybody else, you sent
3 it on a different day, you said -- withdrawn.

4 MR. GOLDMAN: Can you read back his answer,
5 please?

6 (Whereupon, the last answer was read back by the
7 court reporter.)

8 Q Did you send it to everybody else on a day after you
9 sent it to Ken Wyse or you sent it to everybody on the same day
10 that you sent it to Ken Wyse, that it was so good?

11 A I wasn't waiting around. It was a good letter. I sent
12 it to Ken, as well as everybody else that was on that list.

13 Q So it's the same letter on the same day that you sent
14 to Ken Wyse and everybody else who cold called it?

15 A Well, within a few days. The same day or within a few
16 days.

17 (Continued on next page.)

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1 Danzer - by Plaintiff - Cross

2 MR. GOLDMAN: Your Honor, can we have marked
3 as Defendant's R, I believe, six pages.

4 (Six page document marked Defendant's Exhibit
5 R for identification, as of this date.)

6 THE COURT OFFICER: Defendant's R for
7 identification.

8 BY MR. GOLDMAN:

9 Q You recognize those six pages, don't you?

10 A I do.

11 Q That's your signature on those six pages, is it
12 not?

13 A It is.

14 Q It's the letter that you prepared, is it not?

15 A It is.

16 Q And the originals of these letters went to the
17 people to whom they are addressed?

18 A They did, yes.

19 MR. GOLDMAN: I'm going to offer Defendant's
20 R into evidence.

21 MR. ITKOWITZ: No objection.

22 THE COURT: Defendant's R in evidence without
23 objection.

24 (Whereupon Defendant's Exhibit R was received
25 in evidence, as of this date.)

26 THE COURT OFFICER: R in evidence.

Donna Evans, Official Court Reporter

1 Danzer - by Plaintiff - Cross

2 BY MR. GOLDMAN:

3 Q Now, sir, you just told us that the letter that
4 you sent to Ken Wyse was so good that you sent it to
5 everybody else the same day or shortly thereafter. Isn't
6 that what you said?

7 A I did say that.

8 Q And you were under oath when you said that, were
9 you not?

10 A I was.

11 Q Please tell the jury, of the six letters that you
12 have presented in front of you as Defendant's R in evidence,
13 when are they dated?

14 A Two day before, February 12.

15 Q So when you just testified under oath that the
16 letter was so good that you sent it to everybody else either
17 the same day or after, that wasn't the truth?

18 A If I can explain.

19 Q No, you can't explain?

20 A The truth is --

21 Q I didn't ask you what the truth is.

22 MR. ITKOWITZ: Excuse me?

23 THE COURT: Listen to the question.

24 Read it back.

25 Please answer it.

26 And your objection is overruled.

Donna Evans, Official Court Reporter

1 Danzer - by Plaintiff - Cross

2 MR. GOLDMAN: I'll rephrase it. Let's not
3 waste time.

4 BY MR. GOLDMAN:

5 Q When you testified under oath that the letter was
6 so good, the February 13 letter was so good you sent it to
7 other people either that day or the day after, this -- these
8 six letters, they are all dated before Ken Wyse's letter;
9 isn't that correct?

10 A Yes.

11 MR. GOLDMAN: If the witness can be shown the
12 memorandum of understanding and the extension.

13 THE COURT OFFICER: Is that number one?

14 MR. GOLDMAN: One and two, yes.

15 (Pause.)

16 THE COURT OFFICER: Plaintiff's one and two
17 in evidence.

18 BY MR. GOLDMAN:

19 Q Those are the documents that you said you read,
20 understood and agreed, correct?

21 A Yes.

22 Q Now, if you can -- let's go to the memorandum of
23 understanding.

24 Do you see that?

25 A I do.

26 Q You were aware when you began your employment that
Donna Evans, Official Court Reporter

1 Danzer - by Plaintiff - Cross

2 you had to get an acceptable license, which is a defined
3 term in this agreement, correct?

4 A Correct.

5 Q And either have a signed deal by March 30th or if
6 you presented somebody before March 30th you can have the
7 deal signed up in what was called the tail period, correct?

8 A Correct.

9 Q And you also understood, since you had started
10 your employment after the extension, that the, what we'll
11 call the exclusive period, the time within which to bring a
12 licensee to Mr. Trump was June 30th, correct?

13 A Correct.

14 Q And you are aware under the terms of the agreement
15 that if you did not bring or have an acceptable license,
16 which is defined, and it was signed up by September 30th,
17 and partake in significant negotiations by
18 September 30th you would not be entitled to a fee, correct?

19 A Correct.

20 Q And since you wouldn't be entitled to a fee under
21 that scenario, you would then not get \$200,000. Isn't that
22 true?

23 A No.

24 Q You were going to get \$200,000 regardless of
25 whether or not a deal was signed?

26 A Correct. My --

Donna Evans, Official Court Reporter

1 Danzer - by Plaintiff - Cross

2 Q You said correct, you answered my question.

3 A Yes.

4 Q And it says that in Defendant's A, which is your
5 agreement with ALM, that you were going to get \$200,000
6 whether or not you procure an acceptable license under the
7 terms of the signed contract?

8 A It doesn't say that specifically.

9 Q Doesn't say it specifically?

10 A No, it says it is agreed to that if any business
11 deal is reached --

12 Q Read it slowly.

13 A It is agreed to that if any business deal is
14 reached between these companies and Donald Trump, through my
15 introduction and our joint efforts, that ALM will pay me a
16 fee of \$200,000 from the first \$200,000 that ALM will
17 receive from the deal.

18 Q So it's your testimony that you were getting
19 \$200,000 whether it was pursuant to the signed contracts or
20 some other deal?

21 A If we signed a deal with Donald Trump I was
22 getting the first \$200,000.

23 Q No matter what?

24 A No matter what.

25 Q So the fact that you had to read, understand and
26 agree to the terms and conditions of the signed contract,

Donna Evans, Official Court Reporter

1 Danzer - by Plaintiff - Cross

2 are you telling us it made no difference what the extension
3 or memo of understanding provided because you were getting
4 \$200,000 regardless? Is that what you want the jury to
5 believe from looking at that document?

6 A I want the jury to believe from looking at this
7 document that we had a deal with Donald Trump.

8 Q I didn't ask you about a deal with Donald Trump.

9 MR. ITKOWITZ: Excuse me, I would object to
10 cutting off the witness. He asked the question, I
11 believe he's giving the answer. Counsel doesn't like
12 the answer.

13 MR. GOLDMAN: Let's not be pejorative,
14 Counselor.

15 Can you please read back the question?

16 (Record read.)

17 Q Yes or no?

18 A Yes.

19 Q Okay.

20 Do you know why then, sir, since you drafted
21 the letter, if you were going to get \$200,000 on any deal
22 that you procure for Mr. Trump while working at ALM, why was
23 it important enough for you to have added that I have read,
24 understood and agreed to the terms of the two signed
25 documents which form the basis of the deal between ALM and
26 Donald Trump?

Donna Evans, Official Court Reporter

1 Danzer - by Plaintiff - Cross

2 A That was the basis of the deal. So I was letting
3 Mark know I've read the deal, I understand the deal, I know
4 exactly what you want to get from the deal. But it was also
5 understood, and we even had a conversation, that if we don't
6 hit those numbers we will be able to talk to Donald Trump
7 and find out what the next step would be.

8 Q You and Mark had that conversation?

9 A We had many conversations.

10 Q When you signed this you had that conversation?

11 A When we signed this letter we did not have that
12 conversation.

13 Q I'm only talking about when you signed your
14 contractual relationship with ALM.

15 So you didn't have a conversation about there
16 being some other arrangement?

17 A No. It wasn't --

18 Q I --

19 MR. ITKOWITZ: Excuse me, I object to him
20 interrupting the witness in mid answer.

21 THE COURT: Have you finished your answer?

22 A I was answering in a conversation.

23 THE COURT: Read back the question and please
24 answer the question, all right? Enough.

25 (Record read.)

26 THE COURT: Either yes or no.

Donna Evans, Official Court Reporter

1 Danzer - by Plaintiff - Cross

2 A No.

3 THE COURT: No is the answer.

4 Q Thank you.

5 If you could look to the memorandum of
6 understanding that you read and reviewed, which is
7 Plaintiff's 1, I direct your attention to the fourth line
8 from the bottom of page 3. Actually it's the end of the
9 fifth line, where it says, and with whom ALM had significant
10 negotiations regarding the terms.

11 A Yes.

12 Q Do you see that provision?

13 A Yes.

14 Q You were aware when you signed your arrangement
15 with ALM that in order for a fee for ALM, ALM had to be
16 involved in significant negotiations regarding the terms,
17 correct?

18 A Yes.

19 Q It doesn't say just negotiations, it says
20 significant negotiations, correct?

21 A Correct.

22 Q Does it say anywhere in the signed memorandum of
23 understanding that if you prepared an agenda for a meeting
24 that you would get an ALM fee?

25 A No.

26 Q Does it say anywhere that if you made a phone call

Donna Evans, Official Court Reporter

1 Danzer - by Plaintiff - Cross

2 and had someone come to a meeting that you would get an ALM
3 fee?

4 A No.

5 Q Does it say if you made a lot of phone calls to
6 put together a meeting that you would get a fee?

7 A No.

8 Q There had to be significant negotiations regarding
9 the terms, correct?

10 A Correct.

11 Q Now, yesterday you talked about you were asked a
12 wide time frame, what did you do to procure PVH that
13 ultimately led to the November 29, 2004? Do you recall
14 that?

15 A I do.

16 Q I believe you testified that you spoke to
17 Mr. Trump approximately or at least four times?

18 A Yes.

19 Q Do you recall that?

20 A Yes.

21 Q In February of 2004, did you speak to Mr. Trump?

22 A I did not.

23 Q Did you speak to Mr. Ross in February of 2004?

24 A I don't remember.

25 Q In March 2004 you had a conversation with
26 Mr. Ross, did you not?

Donna Evans, Official Court Reporter

Danzer - by Plaintiff - Cross

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A I did.

Q And in March 2004, did you have a conversation with Mr. Trump?

A Mr. Trump was there during that conversation.

Q That was the first conversation of the at least four that you had?

A Yes.

Q And where did that conversation take place?

A In Mr. Trump's office.

Q And was that the March 24, 2004 meeting?

A I'd have to be reminded.

Q Well, you just looked at all these documents before testifying and you testified yesterday. Did you have a meeting with Mr. Ross and Mr. Trump on March 24, 2004?

A I had a meeting with Mr. Ross and Mr. Trump in Donald's office in March 2004. I believe it was -- could have been around March 24, I don't know the exact date.

Q And that is the meeting when Mr. Ross told you that he was not happy with what ALM had done to date, isn't it?

A Correct.

Q And I think he may have said to you something along the lines that he thinks you guys dropped the ball and didn't perform?

A Correct.

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1 Danzer - by Plaintiff - Cross

2 Q And from September of '03 through March of 2004,
3 since you told us that really there wasn't anybody working
4 on it before you came aboard --

5 MR. ITKOWITZ: Objection, I don't believe
6 that's in evidence.

7 THE COURT: Don't testify. Objection is the
8 word.

9 MR. ITKOWITZ: He's testifying, I'm
10 objecting.

11 THE COURT: Objection is the word. If you
12 want to testify you can get on the stand. Okay?

13 Rephrase.

14 BY MR. GOLDMAN:

15 Q Sir, did you not testify earlier on in response to
16 my questions about conversations you would have had with
17 Mr. Hager regarding who was working on the brand before you
18 got there?

19 A No.

20 Q So when you started in February, you never asked
21 Mr. Hager who was handling this brand before you started?

22 A Mr. Hager told me that they needed to handle the
23 brand, the Trump brand.

24 Q Did you inquire if any efforts had been made prior
25 to your arrival to reach out to anybody?

26 A I might have. I don't remember.

Donna Evans, Official Court Reporter

1 Danzer - by Plaintiff - Cross

2 Q I didn't want to duplicate effort, did you?

3 A Whatever had been done in the past didn't concern
4 me, I knew what I was going forward with. When he said
5 here's our deal, I said okay, let's move forward, but
6 everything I did I put by Mark, so I sent a list --

7 Q I didn't ask you all these other things he did?

8 MR. ITKOWITZ: Excuse me, he asked him what
9 he was doing and the witness is answering.

10 THE COURT: Don't you remember when you were
11 doing your very lengthy cross-examination you kept on
12 asking yes or no and I kept on directing that answer.
13 So let's not interrupt counsel when he's asking the
14 same kind of a question asking for a yes or no.

15 MR. ITKOWITZ: Okay.

16 THE COURT: All right.

17 And answer it yes or no.

18 MR. GOLDMAN: I'll say it a different way.

19 Q Did you or did you not inquire of anybody at ALM,
20 whether its Mark or Avery, as to what anybody had done on
21 the brand for the prior six months, before you were about to
22 begin?

23 A Yes.

24 Q Was anything done to procure a licensee for the
25 Trump brand prior to your arrival?

26 MR. ITKOWITZ: Objection, calling for
Donna Evans, Official Court Reporter

1 Danzer - by Plaintiff - Cross

2 hearsay.

3 MR. GOLDMAN: If he knows.

4 THE COURT: You only can testify to what you
5 know.

6 Q Do you know if anything was done before your
7 arrival?

8 A I do not know.

9 Q Mr. Itkowitz said yesterday in examination of a
10 witness, of Mr. Ross, that nobody worked directly on the
11 brand until you arrived?

12 MR. ITKOWITZ: Objection.

13 THE COURT: Well, do you want us to go over
14 the thing? April 15.

15 MR. GOLDMAN: It was Mr. Ross's -- I have my
16 notes.

17 It was actually Mr. Trump on Friday,
18 April 12, very early on.

19 Pause.)

20 MR. ITKOWITZ: You know what, I withdraw my
21 objection. Let's move on.

22 THE COURT: Then answer the question.

23 Read it back, please.

24 (Record read.)

25 MR. ITKOWITZ: Objection. The witness has
26 already testified --

Donna Evans, Official Court Reporter

1 Danzer - by Plaintiff - Cross

2 Withdrawn.

3 THE COURT: Really, Mr. Itkowitz.

4 MR. ITKOWITZ: I apologize. I'll withdraw
5 it.

6 THE COURT: Answer the question, please.

7 A Yes.

8 THE COURT: And the answer is yes.

9 MR. GOLDMAN: Honestly, I have to tell you I
10 forgot my question with all of this.

11 Can you read back my question? The objection
12 worked. I lost my question.

13 THE COURT: Read it back, please.

14 (Record read.)

15 Q Is that a correct statement?

16 A Yes.

17 THE COURT: I want to point out that
18 unfortunately we only have another 11 minutes, that's
19 it.

20 MR. GOLDMAN: I'm not going to finish in 11
21 but I'll use every bit of it.

22 Q Do you believe that based upon --

23 MR. GOLDMAN: Withdrawn.

24 Q When Mr. Ross said to you that he thought ALM had
25 dropped the ball at the March 24 meeting, did you think that
26 was an accurate statement, based upon what you knew had been

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1 Danzer - by Plaintiff - Cross

2 done or not done?

3 A Yes.

4 Q And you were going to make it better?

5 A Yes.

6 Q So -- and we know that as of March of -- March 24,
7 2004, you had, under the exclusive period, to June 30 to get
8 somebody in to meet with Mr. Trump or Mr. Ross, correct?

9 A Correct.

10 Q Can you tell me, between March 24 and the June 24
11 meeting that you spoke to yesterday, what did you do to get
12 PVH in the door? And please tell us chronologically, from
13 the March 24 meeting to the June 24 meeting?

14 A Well, primarily I worked with Ken Wyse over at PVH
15 to work on a deal, try to get a deal with a company called
16 Peerless, which is the suit company that I mentioned
17 yesterday that's part of that triple three-headed dragon.

18 In my conversation with Mr. Trump and Mr.
19 Ross at the beginning, they had said that they wanted to
20 do -- it made sense strategically to do a tailor clothing
21 license first. After the tailor clothing license, we could
22 look at other companies like dress shirts, ties, et cetera.

23 I mentioned to Mr. Trump and also to Mr. Ross
24 that I had a connection with Phillips Van Heusen. Van
25 Heusen got pushed to the side for a few minutes so we could
26 come to them with a tailored suit or suit program.

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1 Danzer - by Plaintiff - Cross

2 I reached out to Peerless but I had met the
3 president of a company called Peerless --

4 Q My question was about PVH?

5 A I'm getting to that.

6 Q I want you to get to it now and not go around the
7 corner to get there. What did you do with respect to PVH?

8 A Okay. With respect to PVH I kept the conversation
9 going with Ken Wyse about the brand and about what was
10 happening with Donald Trump and with the apprentice, and
11 basically slowly up selling him on it and getting him ready
12 for a conversation when we signed or when a tailor clothing
13 license was signed.

14 Q And you also, did you not, tell him in May of 2004
15 that you believed that the shirt and Trump necktie business
16 could generate anywhere from 27 million to \$35 million in
17 year three?

18 A Yes.

19 Q And that would have been an acceptable license
20 because that was more than 25 million, isn't it?

21 A Yes.

22 Q Now, would it be fair to say that after you're
23 May 17, 2004 communication to Mr. Wyse, you spoke to him?

24 A Yes.

25 Q And were there any meetings in May of 2004
26 involving PVH and either Mr. Trump or anybody from

Donna Evans, Official Court Reporter

1 Danzer - by Plaintiff - Cross

2 Mr. Trump?

3 A With myself -- anybody from the Trump
4 Organization.

5 Q I want to know about Mr. Trump or anybody on
6 behalf of Mr. Trump. In May of 2004 were there any meetings
7 at all?

8 A I don't believe so.

9 Q If you can look at Defendant's Q in evidence, this
10 is a letter that Mr. Ross wrote to you two months after you
11 met with Mr. Trump and in which they told you they thought
12 he had dropped the ball. And it says at the bottom I have
13 not heard anything concrete from you and are somewhat
14 disappointed that you have not been able to obtain any
15 definitive proposal during your option, period. However,
16 you still have one month to go. You knew what he meant when
17 he said you have one month to go, correct?

18 A Correct.

19 Q And I hope you are able to bring us someone with a
20 sincere proposal which we will find acceptable to make a
21 deal with. Again, and sadly, you have not produced anything
22 of real value to date.

23 You got that letter, right?

24 A I did, yes.

25 Q Then you responded?

26 A Correct.

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1 Danzer - by Plaintiff - Cross

2 Q And you responded in writing. And that would be
3 your June 8, 2004 response, which is in evidence as either
4 Plaintiff's 21 or 88. There are two exhibits?

5 THE COURT: Let's do 88.

6 THE COURT OFFICER: Show the witness 88?

7 THE COURT: Yes, unless it's already up
8 there.

9 (Pause.)

10 THE COURT OFFICER: Eighty-eight in evidence.

11 Q Was that one of the exhibits that you already had
12 in your possession or that Mr. Itkowitz gave you?

13 A I already had it.

14 Q You had that?

15 A Yes.

16 Q By the way, you told us on direct examination that
17 your -- that book -- that business record of yours, that one
18 sheet of paper, you told us that when you left you left
19 things there?

20 A Correct.

21 Q You didn't take the book with you?

22 A I did not take the book with me.

23 Q Did you take anything with you?

24 A I had a file on the Trump -- on the Donald Trump
25 situation, because way back when --

26 Q I didn't ask you.

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1 Danzer - by Plaintiff - Cross

2 You had a book on the Donald Trump situation?

3 A I had a file.

4 Q You took the Donald Trump file with you, is that
5 what you're saying?

6 A It was basically a file of letters back and forth,
7 I took that with me.

8 Q That's the only thing that you took with you?

9 A That's what I took with me.

10 Q Going to this letter that you wrote on June 8,
11 correct?

12 A Yes.

13 Q At the very bottom of that letter you again
14 reiterate how Mr. Ross felt, I guess you characterized what
15 he felt in the March 24 meeting. Look at the last
16 paragraph.

17 A Page one or page two?

18 Q Page one.

19 A Yes.

20 Q And that's where you referenced the dropping the
21 ball, correct?

22 A Yes.

23 Q Now, I'm going to turn your attention to the
24 second to the last paragraph where you write to George. Do
25 you see that?

26 A I do.

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1 Danzer - by Plaintiff - Cross

2 Q Says, George, the way I understand it the reason
3 ALM was granted the deal was not only to secure the best
4 possible licensees but to manage the brand and the business,
5 to get the most out of it and to insure that the credibility
6 and integrity of the Trump name is kept at the highest
7 level.

8 Then you conclude, at least on this issue:
9 This is how ALM was to earn their fee, and I think that's an
10 exclamation point you added there for emphasis?

11 A Yes.

12 Q Can you tell me where in the memorandum of
13 understanding or in the extension agreement there is
14 anything about earning a fee managing the brand or any of
15 that?

16 THE COURT: After this answer we'll have to
17 close it.

18 MR. GOLDMAN: Okay.

19 (Pause.)

20 A On schedule one of the agreement, if you look at
21 ALM's duties, and you look at paragraph C and D and E --
22 actually C and D not E. It says: Service the license
23 agreements on Trump's behalf, including without limitation
24 periodically reviewing and reporting to Trump with respect
25 to each licensee's compliance with, among other things, the
26 design, production, inventory, payment, reporting, marketing

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1 Danzer - by Plaintiff - Cross

2 and advertising requirements thereof. In each case co
3 nsistent with the terms of the subject license agreement.

4 And in D: Utilize commercially reasonable efforts to
5 capitalize on its product placement experience to market the
6 high quality apparel utilizing the Trump brand, in a manner
7 directed by licensee and Trump that is consistent with the
8 target market for the apparel. In each case, consistent
9 with the terms of the subject license agreement.

10 MR. GOLDMAN: Can I have 60 seconds to
11 conclude this point, please?

12 THE COURT: Yes.

13 Q Sir, look at page two of the agreement.

14 Isn't schedule one only applicable if ALM and
15 Trump enter into what's called an exclusive agreement after
16 the bringing of an acceptable license?

17 A Where do you see that?

18 Q Sir, look at the bottom of page one, and then on
19 to page two, and tell me if this agreement does not require
20 an exclusive agreement before schedule one every applies?

21 THE COURT: It says service of the license
22 agreement, to give you a clue.

23 THE WITNESS: I'm not seeing what you're
24 saying.

25 Q We'll pick up on this, apparently, tomorrow.

26 THE COURT: Jurors, unfortunately, we have to
Donna Evans, Official Court Reporter

1 Danzer - by Plaintiff - Cross

2 call it quits for tonight, but please don't discuss the
3 case among yourselves. Keep an open mind. And if your
4 best friend that now lives in Australia calls you don't
5 tell them anything about the case. Okay? Have a
6 wonderful evening. See you back here tomorrow, we're
7 early -- wait a second, I have a 9:30 Order to Show
8 Cause.

9 Tomorrow be in the jury room by 9:30, give
10 you an extra 15 minutes. I have to deal with the Order
11 to Show Cause first then I can deal with this.

12 All right. Thank you.

13 (Whereupon, the jury retired from the
14 courtroom.)

15 (Whereupon, the proceedings were adjourned.)

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