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

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ALM UNLIMITED, INC.,

Plaintiff,

INDEX NO.
603491/08

-against-

DONALD J. TRUMP,

Defendant.

JURY TRIAL

-----x
April 17, 2013

60 Centre Street
New York, New York

B E F O R E :

HON. EILEEN BRANSTEN,
Supreme Court Justice.

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

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Senior Court Reporter

1 Danzer - Plaintiff - Cross (Mr. Goldman)

2 (Whereupon, the witness resumes the stand.)

3 (Whereupon, the jury enters the courtroom and the
4 following transpired:)

5 THE COURT: Please be seated. Good morning,
6 jurors. I'm happy to say that we'll start a little earlier
7 than I expected. Go ahead, continue cross examination, Mr.
8 Goldman.

9 MR. GOLDMAN: Thank you.

10 CROSS-EXAMINATION (Continued)

11 BY MR. GOLDMAN:

12 Q If you can show the witness Exhibit 1.

13 (Document handed to the witness.)

14 Q Mr. Danzer?

15 A Yes.

16 Q If you recall when we ended yesterday, you pointed to
17 the jury schedule one of that document and that was the basis
18 for your understanding that in order for ALM to earn a fee ALM
19 had to do the branding; is that correct?

20 A Correct.

21 Q Okay. Let me read to you the signed memorandum of
22 understanding, paragraph 2. You can certainly read along with
23 me. It's on page one.

24 "If during the exclusive period ALM shall secure and
25 Trump shall enter into at least one acceptable license (it being
26 understood that ALM has no obligation to use commercially

1 Danzer - Plaintiff - Cross (Mr. Goldman)

2 reasonable efforts to obtain more than one acceptable license,
3 and that based upon the terms of the acceptable license it is
4 likely that there will only be" -- I'm sorry -- "that there will
5 be only one acceptable license) then Trump and ALM agree that
6 for a period of 30 days, what they call a negotiation period,
7 following the execution and delivery of the acceptable license
8 by all parties, Trump and ALM shall negotiate in good faith the
9 terms of an exclusive apparel license representation agreement."

10 Do you see that?

11 A I do.

12 Q Okay. From your reading of that along with me, in the
13 event an acceptable license is signed within the exclusive
14 period, the parties will then negotiate an exclusive agreement;
15 do you see that?

16 A I do.

17 Q Then it goes on to say, "As to that exclusive agreement
18 pursuant to which ALM, except for excluded power, will have the
19 exclusive worldwide rights to secure, license, design and
20 manufacture the Trump brand."

21 Do you see that?

22 A I do.

23 Q Okay. It then says, "The exclusive agreement shall
24 include the terms annexed hereto as schedule one and such other
25 terms as may be required by Trump and ALM."

26 Do you see that?

1 Danzer - Plaintiff - Cross (Mr. Goldman)

2 A I do.

3 Q And that schedule one was to be part of the exclusive
4 agreement that was to be negotiated, correct?

5 A I don't know.

6 THE COURT: Read it again then.

7 Q I'll read it again. First of all, the exclusive --

8 THE COURT: I want him to answer this question. So
9 please read the English language there, read what it says
10 and give us an answer.

11 A Yes.

12 Q So the only way schedule one comes into effect, that
13 being the branding and all of that, is if there's an exclusive
14 agreement, correct?

15 A Correct.

16 Q And there was no exclusive agreement because there was
17 no acceptable license within the exclusive period, correct?

18 A Correct.

19 Q So when you told us the other day about your
20 conversations with Mr. Trump, how he does his own branding and
21 he didn't need that, the issue of branding never came up because
22 it was never an exclusive license agreement, did it?

23 A The issue came up. This part of the exclusivity wasn't
24 mentioned. He never said to me you don't have an exclusive
25 agreement, we can't talk about that. His answer to me was I do
26 all my branding, I do everything on my own, that's what we do.

1 Danzer - Plaintiff - Cross (Mr. Goldman)

2 Q Now, by the way, when you met with Mr. Itkowitz four
3 months ago, you remember you talked about that yesterday, early
4 on Mr. Hager was present as well?

5 A No.

6 Q And you said you spoke with Mr. Hager about four months
7 ago regarding -- you're just shaking your head, okay. I'll ask
8 it again.

9 A I didn't speak to Mr. Hager.

10 Q When was the last time you spoke to Mr. Hager before
11 appearing in court?

12 A The last time?

13 Q Before --

14 A Aside from saying hello when I saw him outside, it's
15 been probably almost two years.

16 Q I'm sorry, say that again?

17 A It's been almost two years I haven't spoken to Mr.
18 Hager.

19 Q In almost two years?

20 A Yes.

21 Q Mr. Itkowitz called you to come to his office?

22 A Yes.

23 Q And you knew you were testifying on behalf of ALM,
24 correct?

25 A I knew that I might have to testify.

26 Q It calls for a yes or no.

1 Danzer - Plaintiff - Cross (Mr. Goldman)

2 MR. ITKOWITZ: Your Honor.

3 THE COURT: It's a yes or no question.

4 A The question -- I didn't know. So, no, I didn't know I
5 was going to be testifying. I might be testifying. That was
6 the conversation. He said, I need you to come to my office, you
7 might be testifying in this case.

8 Q That's what Mr. Itkowitz said?

9 A Yes.

10 Q And prior to that conversation with Mr. Itkowitz, you
11 had not spoken to Mr. Hager for a year?

12 A Probably at least a year. I haven't seen Mark in over
13 a year.

14 Q And since the four months ago when you met with Mr.
15 Itkowitz, you never spoke to Mr. Hager, other than when you saw
16 him out here?

17 A I saw him outside and that it was it.

18 Q And you knew about this litigation, correct?

19 A Correct.

20 Q And you knew the claim that ALM was making in this
21 litigation?

22 A I did.

23 Q How did you know about it?

24 A Mr. Itkowitz told me.

25 Q That's how you first became aware of this litigation
26 was Mr. Itkowitz telling you about this?

1 Danzer - Plaintiff - Cross (Mr. Goldman)

2 A The actual litigation, yes.

3 Q When for the first time did Mr. Itkowitz tell you about
4 the actual litigation?

5 A He called me on the phone and he said we're going to
6 need to see you because we're going to court.

7 Q Okay.

8 A But I don't know the exact -- it was within the past
9 four months. I don't exactly remember when that meeting was.

10 Q So the first time that you spoke to Mr. Itkowitz about
11 this litigation or became aware of this litigation was about
12 four months ago?

13 A Was in the past four months.

14 Q And before that you had no idea about this litigation?

15 A I did not know that they were going to be going to
16 litigation.

17 Q Sir, did you not submit an affidavit in this case more
18 than four months ago?

19 A I did, but that didn't mean you were going to
20 litigation.

21 Q It calls for a yes or no.

22 THE COURT: It's a yes or no.

23 A Yes, yes, yes.

24 Q So when you submitted the affidavit, it was prepared by
25 Mr. Itkowitz, wasn't it?

26 A Correct.

1 Danzer - Plaintiff - Cross (Mr. Goldman)

2 Q And when you submitted the affidavit, it had a caption
3 of the case?

4 A It did.

5 Q You read it?

6 A Of course I read it.

7 Q So you knew about the case more than four months ago?

8 A Yes, but not that it was going to litigation. If I can
9 explain.

10 THE COURT: No.

11 Q You knew about this case more than four months ago?

12 A Yes.

13 Q And you submitted an affidavit about this case more
14 than four months ago?

15 A Yes.

16 Q And when you submitted an affidavit about this case
17 more than four months ago, is it your testimony you never spoke
18 to your employer, Mr. Hager, about this case?

19 A I did not speak to my employer about this case.

20 Q Other than hello on Friday?

21 A Before, way before we did. I mean, when I was working
22 with Mr. Hager, he said make sure that, you know, you remember
23 what happened. I took some of the letters just to refresh my
24 memory, and in my own naivete I didn't take anything else. I
25 left everything else at ALM, but I took the letters just in
26 case; but I really was under the impression there was going to

1 Danzer - Plaintiff - Cross (Mr. Goldman)

2 be some discussion and a settlement and that was it.

3 So my affidavit, to me, I didn't know it was going to
4 litigation. As far as I knew, it was going to be a conversation
5 and settlement.

6 Q Now, you just said that when you left in 2005 from ALM
7 Mr. Hager said to you remember everything?

8 A Sure.

9 Q Were you in litigation with Mr. Trump in 2005?

10 A Not at all.

11 Q And, in fact, you got payment before you left; didn't
12 you, in 2005?

13 A Not -- I didn't get payment for this deal until the
14 payments started coming in. I had already left ALM.

15 Q ALM received payment by Mr. Trump in 2005?

16 A Okay.

17 Q Not okay. Is that true?

18 A Yes, yes.

19 Q Okay. And you were employed at the time that they
20 received the first check, which I believe is October 7th of
21 2005; were you still employed at that time?

22 A I was not employed by ALM, but I was helping Mark
23 out --

24 Q So --

25 A -- on certain things. I was no longer on his payroll,
26 if that's the answer to the question.

1 Danzer - Plaintiff - Cross (Mr. Goldman)

2 Q It's going to go a lot faster if you just answer my
3 questions yes or no.

4 Were you employed in October of 2005 when ALM received
5 the first check?

6 A No.

7 Q When did you cease your employment with ALM in 2005?

8 A I believe I ceased my employment in 2004.

9 Q Well, yesterday you said 2005. So if it was 2004,
10 that's fine. Is it 2004?

11 A I don't remember when I left ALM. I really don't
12 remember the exact year. I don't.

13 Q So --

14 A It was a long time ago.

15 Q Sorry. You don't remember the exact year?

16 A I don't remember when I left ALM. I really don't.

17 Q You just said you believed it was the end of 2004?

18 A Well, if this case was about 2004/2005, I was having my
19 meetings with PVH and with ALM in 2004. I left the end of that
20 year.

21 Q So as soon as the Trump PVH deal was signed, you left?

22 A Pretty much.

23 Q Because you were employed really just for the Trump
24 deal, weren't you?

25 A No, I was not.

26 Q You took the Alpha Q, which is what you said you were

1 Danzer - Plaintiff - Cross (Mr. Goldman)

2 also working on?

3 A Correct.

4 Q That's your concept, isn't it?

5 A Correct.

6 Q And you took it with you when you left?

7 A I left it with Mark, actually. I did not take it with
8 me.

9 Q Well, your e-mail address after 2004 continued to be
10 Alpha Q?

11 A I still kept the e-mail address. The e-mail is still
12 alive.

13 Q Now, after you left in 2004, it's your testimony that
14 Mr. Hager said to you remember everything?

15 A Yes.

16 Q Did you find that unusual?

17 A No.

18 Q There was no dispute when you left with Mr. Hager, was
19 there?

20 A No.

21 Q Was there any dispute when you left with -- we'll call
22 it the Trump people. At that time when you left, was there any
23 dispute with the Trump people?

24 A Define dispute.

25 Q Was there any disagreement with anybody, either Mr.
26 Trump or Mr. Ross or Ms. Glosser when you left, after you got a

1 Danzer - Plaintiff - Cross (Mr. Goldman)

2 copy of the signed PVH agreement at the end of November?

3 A There was no dispute.

4 Q So you didn't find it unusual, there being no dispute,
5 that your employer said to you remember all the details?

6 A No.

7 Q That was something you've heard before when you've left
8 employers?

9 A No.

10 Q So was it the first time you heard something like that
11 when you left an employer?

12 A Yes.

13 Q Do you know the reason why Mr. Hager said that?

14 A Yes.

15 Q What's the reason?

16 A Because just in case we didn't get paid from Trump,
17 then there could be possible litigation.

18 Q And that's because, in fact, when you left there was no
19 signed agreement with Mr. Trump, was there?

20 A There was no signed agreement with Mr. Trump, correct.

21 Q There was no signed agreement with Mr. Ross?

22 A No signed agreement with Mr. Ross, correct.

23 Q No signed agreement with Ms. Glosser, was there?

24 A Correct.

25 Q And you're also aware that the -- by the way, the
26 signed contract permitted Mr. Trump to say no to any proposed

1 Danzer - Plaintiff - Cross (Mr. Goldman)

2 agreement by any proposed licensee; isn't that correct?

3 A Absolutely.

4 Q Now, under the memorandum of understanding the 25
5 million threshold, that wasn't impossible, was it?

6 A It was -- yes, it was impossible. In my opinion it was
7 impossible.

8 Q Didn't you tell -- didn't you tell Ken Wyse that it
9 could be a 27 to \$30 million a year brand in year three?

10 A Yes.

11 Q Would that be greater than the 25 million?

12 A Yes.

13 Q I ask you just -- the answer is yes, sir?

14 A Yes.

15 Q Okay. Now, you read that requirement when you signed
16 your contract with Mr. Danzer -- I'm sorry, with Mr. Hager,
17 correct?

18 A Yes.

19 Q And you understood what the thresholds were?

20 A Yes.

21 Q And notwithstanding whatever the thresholds were, you
22 decided to be employed by ALM and to try to satisfy those
23 requirements, didn't you?

24 A Yes.

25 Q And you had to make efforts to do that, didn't you?

26 A Yes.

1 Danzer - Plaintiff - Cross (Mr. Goldman)

2 Q And it was your obligation, was it not, to do that?

3 A Yes.

4 Q Now, we talked from your employment in or about
5 February of 2004. The first time you presented a potential
6 licensee to Mr. Trump or Mr. Ross or Ms. Glosser was at the June
7 24th meeting, correct?

8 A No.

9 Q Okay.

10 A It's not.

11 Q The first meeting with any potential licensee occurred
12 on June 24th, did it not?

13 A With a potential licensee at the Trump office or with a
14 potential licensee about the Trump agreement?

15 Q It's a fair response. I'll rephrase my question.

16 The first time Mr. Trump or Mr. Ross -- Ms. Glosser
17 wasn't employed at that point in time -- the first time Mr.
18 Trump or Mr. Ross met with a potential licensee was the June 24,
19 2004 meeting?

20 A Correct.

21 Q And that was, as you know, six days before the end of
22 the exclusive period, correct?

23 A Correct.

24 Q Had that meeting not occurred, it was your
25 understanding that there would be no fee to ALM because there
26 had been no potential licensee shown to Mr. Trump, correct?

1 Danzer - Plaintiff - Cross (Mr. Goldman)

2 A Correct.

3 Q And had that meeting not occurred on June 24, 2004, ALM
4 would have been entitled to zero, correct?

5 A Correct.

6 Q And, effectively, had you not shown a potential
7 licensee by June 30, 2004, the contract would be over?

8 A Correct.

9 MR. GOLDMAN: If you can go or if the witness can
10 be shown Exhibit 88.

11 (Document handed to the witness.)

12 Q This is the June 8, 2004 letter we spoke about. I want
13 to read something that you wrote to Mr. Ross. Begins at the
14 bottom of page 2 -- I'm sorry, the bottom of page 1.

15 "At your initial meeting on March 24th you mention that
16 the Trump Organization had lost faith in ALM and because of this
17 had taken matters into their own hands to secure a deal for
18 Trump Apparel. Although you mentioned at that meeting that this
19 development occurred when you perceived that ALM had dropped the
20 ball, because you had not heard from us since Mr. Trump and Mark
21 Hager signed the extension amendment to our agreement, said
22 actions like this could only be counterproductive and are not in
23 the spirit of the exclusive agreement."

24 A I did.

25 Q Like we just talked about earlier this morning, there
26 was no exclusive agreement, was there?

1 Danzer - Plaintiff - Cross (Mr. Goldman)

2 A There was not.

3 Q Okay. You said, "The fact is, ALM was working very
4 hard to successfully live up to its end of the bargain while you
5 believed that we were stagnating." You see that?

6 A Yes.

7 Q In fact, you said yesterday, you told us that through
8 March or through your hire nothing had really been done by ALM;
9 isn't that correct?

10 A Yes, to when I started in February.

11 Q So it wasn't true that ALM was working very hard to
12 live up to its end of the bargain when you met with him in March
13 of 2004 because, in fact, nothing had been done from September
14 of 2003 until you wrote your letters in February of 2004,
15 correct?

16 A Well, yes, but what I was alluding to in this letter
17 was that I was working very hard from the day that I started
18 until this time. So he and Mr. Ross knew we were working very
19 hard on it.

20 Q It doesn't say you were working very hard. It says ALM
21 was working very hard.

22 A I was employed by ALM. So as an agent of ALM, ALM was
23 working very hard.

24 Q But ALM wasn't working very hard from September to
25 whenever you began, to February?

26 MR. ITKOWITZ: Objection, Your Honor.

1 Danzer - Plaintiff - Cross (Mr. Goldman)

2 THE COURT: Sustained -- no, overruled.

3 A I wouldn't know that except from what George told me,
4 that they were stagnating, nothing happened.

5 Q Well, no, you would know that was -- you told us
6 yesterday that you were advised that nothing had really gone on?

7 A Right. Nothing had happened until I started on
8 February 13th, whenever that date was in February.

9 Q So if nothing happened before that, was anybody working
10 hard?

11 A I wasn't there, so I wasn't there to really know. But
12 from my understanding, nothing had really been done until I came
13 on board.

14 Q And if nothing had been done, then nobody's really
15 working hard?

16 A Until I came in, correct.

17 Q Okay. Now I'd like to go to your testimony the other
18 day about the events now leading up to the June 24th meeting.
19 So there's no confusion as to what you testified to under oath
20 in response to your attorney's questions, I want to read to you
21 your testimony.

22 MR. ITKOWITZ: What page?

23 MR. GOLDMAN: Beginning on page 617.

24 THE COURT: What line? April 15th, what line?

25 MR. GOLDMAN: It begins with line 24.

26 Q And the witness was shown Exhibit 92 about the setting

1 Danzer - Plaintiff - Cross (Mr. Goldman)

2 up of a meeting. And the question was by Mr. Itkowitz:

3 "Tell the jury what the significance of -- was this a
4 significant meeting?

5 "ANSWER: It was a very significant meeting. I'm
6 talking about the June 24th meeting.

7 "QUESTION: Why was it a significant meeting?

8 "ANSWER: Well, when I was meeting with Mr. Trump, Mr.
9 Trump said get Phillips-Van Heusen here now. The next day we
10 got Phillips-Van Heusen to Mr. Trump's office for this meeting.

11 "QUESTION: So this meeting occurred on June 24th?

12 "ANSWER: Correct."

13 Those are all truthful statements?

14 A As far as I remember, yes.

15 Q It goes on. "So it is" -- sorry.

16 "So is it your testimony when you spoke to Mr. Trump on
17 the 23rd or 22nd --

18 "ANSWER: I spoke with Mr. Trump the day before the
19 23rd. I was in his office. He told me to get them on the
20 phone.

21 "QUESTION: When he said get them on the phone, who
22 did he say get on the phone?

23 "ANSWER: He said get Phillips-Van Heusen on the
24 phone; and I called Ken Wyse, the president of Phillips-Van
25 Heusen, I said I'm sitting with Mr. Trump right now, he
26 wants to meet with you in his offices tomorrow. He said,

1 Danzer - Plaintiff - Cross (Mr. Goldman)
2 hold on one second. He put me on hold. He called Mark
3 Weber, who's a CEO, and whoever else he had to call there.
4 He said, okay, 11 o'clock tomorrow. I asked Mr. Trump if 11
5 o'clock the next day was fine, he said yes. We had the
6 meeting in his office.

7 "QUESTION: Now, what occurred at that meeting?

8 "ANSWER: It was an introduction, more than
9 anything else, for Phillips-Van Heusen."

10 Are those all accurate statements that you made the
11 other day under oath?

12 A With the exception of the fact that you said there that
13 I said I met the day before the 23rd, I met on the --

14 THE COURT: You're reading the testimony. The
15 question is --

16 THE WITNESS: He asked is that accurate.

17 THE COURT: The question was after reading sworn
18 testimony, right, that was recorded by the court reporter,
19 the question was, was this accurate sworn testimony? That's
20 the question. Yes or no?

21 A It's accurate what I said the other day, yes.

22 Q And do you stand by all of the statements -- withdrawn.
23 Today, do you stand by all of those statements that you
24 made yesterday?

25 THE COURT: Well, this is on the 15th.

26 MR. GOLDMAN: I apologize.

1 Danzer - Plaintiff - Cross (Mr. Goldman)

2 Q Today, do you stand by the statements you made on
3 Friday?

4 A With the exception of where it says that I said that I
5 was with Mr. Trump on the 22nd, I was with Mr. Trump on 23rd if
6 the meeting happened on the 24th.

7 Q And is it accurate that at the June 24th meeting -- you
8 attended that, right?

9 A I did, yes.

10 Q I believe you also testified that Mr. Trump was at that
11 meeting, correct?

12 A Absolutely, yes.

13 Q Absolutely?

14 A Yes.

15 Q Now, and it was set up the day before or a couple of
16 days before June 24th?

17 MR. ITKOWITZ: Objection.

18 A It was set up on the 23rd.

19 Q The day before?

20 A The day before.

21 Q Okay. And is it accurate that it was just an
22 introduction, more than anything else?

23 A From the PVH side, but it turned into a lot of
24 discussion.

25 Q I didn't ask what it turned into. At that meeting was
26 it, like you said, was it an introduction, more than anything

1 Danzer - Plaintiff - Cross (Mr. Goldman)

2 else, for Phillips-Van Heusen; is that what it was?

3 A I don't understand more than anything else. It was
4 more than just an introduction. An introduction would be this
5 is Phillips-Van Heusen, hello, hello. That would have been it.
6 It turned into something a lot more than that and it was
7 something a lot more than that.

8 Q But when you told us on Friday in response to your
9 attorney's question what occurred at the meeting, you swore
10 under oath it was an introduction more than anything else?

11 MR. ITKOWITZ: Objection. I object to the
12 foundation of that question.

13 THE COURT: Well, we're reading from trial
14 testimony. That's an answer and a question that happened
15 when you questioned him.

16 MR. ITKOWITZ: That's not what I'm objecting to.
17 He characterized me as his attorney, and I object to that.

18 MR. GOLDMAN: Okay.

19 Q When Mr. Itkowitz asked you on Friday under oath what
20 occurred, you were free to say whatever you wanted, but this is
21 what you said: "It was an introduction more than anything else
22 for Phillips-Van Heusen," period.

23 Did you say anything else about that meeting?

24 A I did not.

25 Q Did you discuss at that meeting all of the essential
26 terms of the deal between PVH and Mr. Trump?

1 Danzer - Plaintiff - Cross (Mr. Goldman)

2 A We discussed at that meeting all the essential terms
3 that Mr. Trump wanted. Mr. Trump --

4 Q So the answer is yes?

5 A Yes.

6 Q All the ones that Mr. Trump wanted?

7 A Yes, yes.

8 Q And Mr. Trump wanted 25 million minimum?

9 A Yes, yes.

10 Q And that's what was conveyed at that meeting?

11 A Yes.

12 Q Okay. There was no agreement, was there?

13 A Nope.

14 Q In fact, PVH ultimately didn't want to do that,
15 correct?

16 A Correct.

17 Q In fact -- withdrawn. Excuse me a second.

18 By the way, I know there was an agenda for the August
19 26th meeting. There was an agenda for the June 24th meeting?

20 A Yes, there was.

21 Q Who prepared it?

22 A I did.

23 Q You prepared the agenda for the June 24th meeting?

24 A Yes, I did.

25 Q The day before?

26 A That day --

1 Danzer - Plaintiff - Cross (Mr. Goldman)

2 Q The June --

3 A On June 23rd, I prepared the agenda and brought it with
4 me on June 24th for everybody.

5 Q Okay.

6 MR. GOLDMAN: Can we show the witness Plaintiff's
7 69 and 92.

8 (Documents handed to witness.)

9 COURT OFFICER: 69 and 92 in evidence.

10 Q You see 69 is an e-mail you sent to Mr. Wyse with a
11 copy to Mr. Hager, right?

12 A Correct.

13 Q Okay. And it says, "Good morning, Ken. It was great
14 seeing you last night. We're confirmed to meet with George Ross
15 at the Trump Organization next Thursday, June 24th, at 10
16 o'clock."

17 You see that?

18 A I do.

19 Q Okay. The meeting that you just told us under oath
20 today and on Friday was set up on June 23rd was, in fact, set up
21 the week before, not the day before; isn't that true?

22 A It is true.

23 Q So when you swore under oath on Friday it happened
24 because you were sitting in Mr. Trump's office, and he said get
25 him on the phone and you made it happen at 11 o'clock the next
26 day; that was false, wasn't it?

1 Danzer - Plaintiff - Cross (Mr. Goldman)

2 A Yes.

3 Q And when I gave you the opportunity today to give more
4 thought to it, you again said you were certain it didn't happen
5 two days before, it happened the day before; that was false,
6 wasn't it?

7 A Yes.

8 Q And it was also false when you told us on Friday and on
9 today that Mr. Trump attended the meeting because Mr. Trump
10 didn't attend that June 24th meeting?

11 A Mr. Trump did attend that meeting.

12 Q He did?

13 A He did attend that meeting.

14 Q And you also -- okay, okay, then we'll get to that.

15 You also told us that you prepared the agenda, correct?

16 A Correct.

17 Q Okay.

18 MR. GOLDMAN: Can the witness be shown Exhibit 93.

19 (Document handed to the witness.)

20 THE COURT: I think we already gave it, no?

21 MR. GOLDMAN: No. We gave 92.

22 COURT OFFICER: 93 in evidence.

23 Q You see 93?

24 A I do.

25 Q You know who Debbie Bonilla is, of course, don't you?

26 A She was Ken Wyse's assistant.

1 Danzer - Plaintiff - Cross (Mr. Goldman)

2 Q You knew that, right?

3 A I did.

4 Q And you see that she sent something to you?

5 A Correct.

6 Q On June 23rd, correct?

7 A Correct.

8 Q And what did she -- tell the jury what she sent to you?

9 A "Attached, please find the agenda for the Donald Trump
10 meeting tomorrow, June 24, 2004."

11 Q Who prepared the agenda?

12 A I sent Debbie Bonilla the agenda, she sent the agenda
13 to Trump. I remember preparing this agenda.

14 Q But the agenda --

15 A Correct.

16 Q -- which is being sent to you, right, you are one of
17 the two; you're not cc' d, right?

18 A Correct.

19 Q And it's coming from Ken Wyse?

20 A Correct.

21 Q It's not coming from you?

22 A It's not coming from me.

23 Q So it's your testimony that you prepared the agenda;
24 isn't it, to Ken Wyse and then Ken Wyse sent it back to you?

25 A I sent Debbie --

26 Q Is that your testimony?

1 Danzer - Plaintiff - Cross (Mr. Goldman)

2 A My testimony is that --

3 Q It's a yes or no. Would you like me to rephrase it?

4 A Yes, please.

5 (Continued on next page.)

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1 Danzer - by Plaintiff - Cross

2 BY MR. GOLDMAN:

3 Q Is it your testimony that you prepared the agenda,
4 sent it to Ken Wyse and Ken Wyse then sent it back to you
5 the day before?

6 A Correct. He sent it --

7 Q I didn't ask you everything else he did.

8 A Okay.

9 Q And this agenda that you prepared that was sent to
10 them and they sent it back to you, does it recite who was
11 attending?

12 A It does.

13 Q Mr. Trump would have been a pretty important
14 person to recite, would it not?

15 A And he is recited.

16 Q He is recited?

17 A Absolutely. And I prepared the agenda the
18 business overview --

19 Q I didn't ask you what the agenda was. Where it
20 says attending at the bottom it lists names of people who
21 are attending?

22 A Correct.

23 Q Is Mr. Trump's name recited as being one who is
24 attending? Yes or no?

25 A No.

26 Q Okay. And in fact, when you prepared the

Donna Evans, Official Court Reporter

1 Danzer - by Plaintiff - Cross

2 August 26 agenda, you did put Mr. Trump's name on that
3 agenda as one attending, didn't you?

4 A Correct.

5 Q Okay.

6 And the client was Mr. Trump, wasn't it?

7 A Our client was Mr. Trump.

8 Q Okay. That was my question.

9 A Yes.

10 Q The client that you were the licensor, the client
11 was Mr. Trump?

12 A Correct.

13 Q And you were at this meeting going to be
14 discussing the relationship that hopefully would be between
15 Mr. Trump and PVH, correct?

16 A Correct.

17 Q Other than what you are telling us today, that
18 Mr. Trump allegedly said at the June 24 meeting, did PVH
19 come back with their terms of what they'd be willing to do?

20 A They did. Afterwards, yes.

21 Q I didn't ask you about afterwards.

22 At the June 24 meeting, that meeting when you
23 told us that Mr. Trump set forth the requirements --

24 A They did not, no. At that meeting they did not.

25 Q So the essential terms of the deal weren't
26 discussed. Mr. Trump simply said I want what's the

Donna Evans, Official Court Reporter

1 Danzer - by Plaintiff - Cross

2 acceptable license under the contract, correct?

3 A Correct.

4 Q And PVH didn't come back with any other terms at
5 that meeting?

6 A At that meeting they did not throw any terms on
7 the table, no.

8 Q So then the essential terms were not discussed at
9 the June 24 meeting?

10 A They were discussed, they just weren't concluded.

11 Q And the essential terms were the acceptable
12 license requirements?

13 A Correct.

14 Q Okay.

15 After the meeting --

16 MR. GOLDMAN: Withdrawn.

17 Q At that point in time, now that you know that you
18 didn't speak with Mr. Trump the day before and all of that
19 was --

20 A It was the week before but in my mind it was the
21 day before, but go ahead. It was ten years ago.

22 Q By the way, is there anything else you testified
23 to what in your mind was one thing but in reality was
24 something else?

25 A I can't say for sure, it's ten years ago. In my
26 mind things went quickly. A day before I remember sitting

Donna Evans, Official Court Reporter

1 Danzer - by Plaintiff - Cross

2 in Mr. Trump's office, he said get them on the phone. I
3 remember a lot about it, I don't remember the exact dates.

4 Q But that didn't happen?

5 A Oh, it did happen.

6 Q But it didn't happen the day before, like you told
7 us?

8 A Right. It happened the week before.

9 Q Now, how many times -- let's use the week before.
10 Let's use June 16.

11 How many times had you spoken with Mr. Trump
12 from the time you began your relationship with ALM through
13 approximately June 16 of 2004?

14 A I would think it was either that one time or maybe
15 once before including that one time.

16 Q So about two times. It was on or about June 16
17 and possibly one time before?

18 A Possibly yes, to introduce myself and to tell him
19 what we were working one. I wasn't sure if it was at that
20 meeting or a meeting before.

21 Q Didn't you tell us the other day that when you met
22 with Mr. Ross in March of 2004 Mr. Trump was present?

23 A So that was the meeting, correct. That was the
24 first meeting. I never met with Mr. Ross by himself -- I
25 shouldn't say that. Up until that point I had never met
26 with Mr. Ross by himself.

Donna Evans, Official Court Reporter

1 Danzer - by Plaintiff - Cross

2 Q Because you knew Mr. Trump was the one making the
3 decisions at that point?

4 A Yes. Mr. Trump was it.

5 Q He was it. Okay.

6 So March 2004, and in or about June of 2004
7 are about the two conversations that you were having with
8 Mr. Trump, correct?

9 A Correct.

10 Q And I believe you told us yesterday or Friday that
11 you recall speaking to him in total about four times?

12 A Yes.

13 Q So we have two so far.

14 Now, after June 24, let's say through July 26
15 of 2004, after the exclusive periods expired, you write a
16 letter to Mr. Trump, do you not?

17 A I do.

18 Q Do you recall why you wrote the letter as you sit
19 here today?

20 A If you can show me the letter I can --

21 Q I know if I show you the letter you'd be able to
22 just tell us what the letter says. I'm asking if you have
23 an independent recollection --

24 A Was this in July?

25 Q Please. I'm asking if your testimony, if you have
26 an independent recollection as to why you wrote the letter

Donna Evans, Official Court Reporter

1 Danzer - by Plaintiff - Cross

2 on July 26, 2004, as you sit here today under oath?

3 A I don't remember.

4 Q Okay. But you do know you wrote a letter,
5 correct?

6 A I do.

7 Q In fact, between June 24, 2004 and when you wrote
8 the letter on July 26, 2004, there was no counter proposal
9 being made by PVH, correct, at that point in time?

10 A I don't remember.

11 MR. GOLDMAN: Can the witness be shown number
12 23, Plaintiff's 23.

13 THE COURT OFFICER: Twenty-three in evidence.

14 Q It says, the first sentence, it was good speaking
15 with you last Thursday.

16 Do you see that?

17 A Yes, I do.

18 Q So that was the first conversation that we have;
19 is that correct?

20 A Yes. But it was not a meeting.

21 Q I didn't say it was a meeting, I said it was the
22 third conversation?

23 A Yes.

24 Q You testified the other day you had about four
25 conversations with Mr. Trump?

26 MR. ITKOWITZ: Objection.

Donna Evans, Official Court Reporter

1 Danzer - by Plaintiff - Cross

2 THE COURT: Overruled.

3 A I had four meetings, I had more than four
4 conversations with him.

5 Q So if you previously testified that you had -- you
6 spoke to him about four times --

7 A I believe my testimony was that I met with him
8 four times, not that I spoke with him four times.

9 You can read that back but --

10 Q Oh, I'll get to it.

11 (Pause.)

12 Q In the July -- when you wrote the July 26, 2004
13 letter, you knew at that point in time, did you not, that
14 the exclusive period expired?

15 A Yes.

16 Q You also knew that the only potential licensee
17 that had been presented to Mr. Trump was PVH?

18 A Yes.

19 Q And you also knew that if you didn't get a signed
20 deal by the end of September, there would be no fee.

21 Correct?

22 A I don't recall that.

23 Q You don't recall that as being a requirement?

24 A What I recall was --

25 Q I didn't ask you what you recall, I asked you you
26 do not recall that being a requirement?

Donna Evans, Official Court Reporter

1 Danzer - by Plaintiff - Cross

2 A I do not.

3 Q Can you go back to the memorandum of understanding
4 which is number one?

5 A Yes.

6 Q And if you go to -- why don't you read it yet
7 again and tell the jury your understanding of the tail
8 period in here?

9 A Where are we?

10 Q In the contract that's signed that you have read
11 multiple times regarding the tail period. And if it helps
12 you look at Plaintiff's 2, which is where the tail period
13 was extended to September.

14 THE COURT OFFICER: Plaintiff's 2, Counsel?

15 MR. ITKOWITZ: Yes.

16 (Pause.)

17 THE COURT OFFICER: Plaintiff's 2.

18 THE WITNESS: Thank you.

19 (Pause.)

20 Q Maybe to help you out a little bit, if you go to
21 the memorandum of understanding, the third page, where it
22 talks about how ALM will earn a fee. Second sentence:
23 Notwithstanding the foregoing.

24 A Do you want me to read that out loud?

25 Q Yes.

26 A Notwithstanding the foregoing --

Donna Evans, Official Court Reporter

1 Danzer - by Plaintiff - Cross

2 MR. GOLDMAN: Withdrawn.

3 Q Don't read it out loud, the jury's probably heard
4 it more times than they want. You read it, tell us how ALM
5 will earn a fee. Beginning there.

6 (Pause.)

7 A During the term of each acceptable license and any
8 renewal or extension thereof and the term of any new license
9 with the license under with respect to high quality apparel
10 and B: During the term and any extension or renewal thereof
11 and the term of any new license with respect to high quality
12 apparel with subject licensee, with respect to each license
13 entered into during the three month period immediately
14 following the expiration of the exclusive period.

15 Q When did the exclusive period expire? June 30,
16 did it not? You told us that several times today.

17 A Yes.

18 Q So then the acceptable license agreement had to be
19 signed within the three month period immediately following
20 the expiration of the exclusive period.

21 Do you see that?

22 THE COURT: It's a yes or no.

23 THE WITNESS: I'm looking for it. I don't
24 see it. I don't see where it says signed.

25 Q I'm sorry?

26 A I don't see where it says "signed".

Donna Evans, Official Court Reporter

1 Danzer - by Plaintiff - Cross

2 Q Notwithstanding the foregoing, will have the right
3 to receive the fee -- talks about A and B -- it says, with
4 respect to each license entered into. Do you know what that
5 means, entered into?

6 A Okay, yes.

7 Q Did PVH and Mr. Trump enter into a license
8 agreement?

9 A No.

10 Q PVH and Mr. Trump did not enter into a license
11 agreement?

12 A They did ultimately, yes, but at this time --

13 Q I know at this time they didn't. That's my point.

14 PVH and Mr. Trump entered into a license
15 agreement, did they not?

16 A They did.

17 Q And they entered into it on November 29, 2004, did
18 they not?

19 A That's when the final signature was, yes.

20 Q Okay. Was it entered into during the three month
21 period following June 30; yes or no?

22 A No.

23 Q So you knew in July that you had until the end of
24 September for the -- for PVH and Mr. Trump to enter into a
25 license agreement or there will be no fee?

26 A No.

Donna Evans, Official Court Reporter

1 Danzer - by Plaintiff - Cross

2 Q Okay.

3 Now, let me -- getting back to your testimony
4 the other day.

5 THE COURT: The answer was no?

6 THE WITNESS: Any answer is no --

7 THE COURT: Never mind. Okay.

8 BY MR. GOLDMAN:

9 Q I want to get back to what we were talking about,
10 what you testified to under oath the other day, on April 15.
11 Page 617. Lines 15 to 17.

12 "Q Just from February, let's say, to November of
13 '04, could you estimate how many times you spoke to
14 Mr. Trump personally?

15 "A At least four."

16 Did you hear the word meeting in that
17 question? Did you hear me read the word meeting in that
18 question?

19 A I did not.

20 Q So on July 26 you write a letter to Mr. Trump,
21 after you had spoken to him for the third time, and it says
22 you want to meet as soon as possible to confirm and extend
23 the terms of our business arrangement?

24 A Correct.

25 Q The business arrangement at that point in time was
26 the signed contracts, wasn't it?

Donna Evans, Official Court Reporter

1 Danzer - by Plaintiff - Cross

2 A It was.

3 Q You had no other arrangement with Mr. Trump as of
4 July 26 for anything -- anything other than the signed
5 contracts?

6 A As of July 26?

7 Q As of when you wrote the letter. You have it in
8 front of you, right?

9 A Yes.

10 Q As of July 26 there was no other business
11 relationship between ALM and Mr. Trump other than the signed
12 contracts?

13 A Can you rephrase that question?

14 Q I'll repeat it, I'm not going to rephrase it.

15 A Okay.

16 THE COURT: Do you want it reread?

17 Q There was no other signed contracts between you
18 and Mr. Trump as of July 26, 2004?

19 A Correct. Not signed.

20 Q Was there some other business arrangement or
21 agreement that you had with Mr. Trump prior to July 26,
22 2004?

23 A Yes.

24 Q What was that, sir?

25 A In the conversation that I had in his office --

26 Q Which one, sir?

Donna Evans, Official Court Reporter

1 Danzer - by Plaintiff - Cross

2 A The conversation in June before the initial PVH
3 meeting, when I went up to his office to have a conversation
4 with him, I told him that in conversations with PVH that I
5 did not feel that they would be able to meet that
6 25 million-dollar threshold, et cetera. And he said, well,
7 you're definitely not going to get your 22.5 percent, if
8 that is the case, if that is the case it's a finders fee of
9 maybe 10 percent. And I said, well, what do you want me to
10 do. He said get PVH on the phone. I said I can't get PVH
11 on the phone until I know what we're doing. We went back
12 and forth and he said you'll get a finders fee of 10 percent
13 if something happens with PVH. Get him on the phone. I
14 called them on the phone, I said here's the issue.

15 He's not -- Mr. Trump is not going to give us
16 22.5 percent. He sees that there's just a finders fee if
17 they can't hit the threshold, what should I do. Mark said
18 in good faith make the call to PVH, make the meeting happen.

19 Q Didn't you tell us the other day that happened
20 later on than June 16, sir?

21 A It happened multiple times that 10 percent went
22 back and forth since that date.

23 Q I know you want to tell us your story. Isn't it
24 true you told us that that first conversation happened later
25 on than the June 26, 2004 meeting?

26 A I don't remember.

Donna Evans, Official Court Reporter

1 Danzer - by Plaintiff - Cross

2 Q Isn't it true you never told us in questions that
3 Mr. Itkowitz directed to you, you never told us that this
4 conversation occurred on or about June 16 of 2004, correct?

5 A I did not.

6 Q In fact, you didn't even know about the June 16
7 2004 conversation because you were telling us about a
8 conversation that took place on June 23rd, correct?

9 A I knew about the conversation, I didn't know the
10 date.

11 Q But you never told -- in response to
12 Mr. Itkowitz's questions you never told the jury about that
13 conversation?

14 A It wasn't asked. I mean --

15 Q Mr. Itkowitz didn't ask you about your
16 conversations with Mr. Trump?

17 A He asked me about the conversations, for me it was
18 broad strokes. I didn't go further: I'm going further now.

19 Q Let's talk about -- you knew that obviously any
20 discussions would have to be put in writing. You were aware
21 of that, right?

22 A I was.

23 Q You knew the importance of having it put in
24 writing, did you not?

25 A Absolutely.

26 Q Not only just in writing, you knew the importance

Donna Evans, Official Court Reporter

1 Danzer - by Plaintiff - Cross

2 of getting it signed by Mr. Trump?

3 A Correct.

4 Q Now, when you wrote to Mr. Trump on July 26, you
5 wanted to bring -- I think you write I'm looking forward to
6 bringing Phillips Van Heusen back to the table to finalize
7 the deal, correct?

8 A Correct.

9 Q Sir, having nothing to do with ALM's fee, right;
10 you were under an obligation pursuant to the signed contract
11 to bring PVH back to the table, if PVH wanted to go to the
12 table and if Mr. Trump wanted to go to the table, correct?

13 A Correct.

14 Q So whatever modification or change or new
15 arrangement you wanted to make with Mr. Trump, you were
16 obligated to bring PVH back, if PVH wanted it and Mr. Trump
17 wanted it?

18 A Absolutely.

19 Q So there was no need to confirm or extend the
20 business relationship before bringing PVH back, was there?
21 Because if PVH wanted to come back you had to bring him
22 back, right?

23 A Absolutely.

24 Q So there was no need to confirm, modify or extend
25 before the meeting unless you were worried about your fee?

26 A Not true.

Donna Evans, Official Court Reporter

1 Danzer - by Plaintiff - Cross

2 Q Did you have to bring PVH back regardless of
3 whatever the fee arrangement was between Mr. Trump and ALM?

4 A Yes.

5 Q And if Mr. Trump wanted them back, like you said
6 he said he did, you had to bring him back regardless of the
7 fee arrangement issues, correct?

8 A Correct.

9 Q Because you had a signed contract in July of 2004,
10 did you not?

11 A What was the date?

12 Q You had a signed contract in effect in July of
13 2004?

14 A Yes.

15 Q Because it's still part of that tail period,
16 correct?

17 A Yes.

18 Q Now, I believe you testified that following this
19 July 26, 2004 communication to Mr. Trump, you ultimately --
20 you told us the other day -- went to Mr. Trump's offices, I
21 believe you said on July 29, correct?

22 A If that's what I said that's when I went, I
23 believe. On or about that date.

24 Q And you told us there was an e-mail you wrote to
25 Mr. Hager while George Ross was surprised to see me in the
26 office. Is that right?

Donna Evans, Official Court Reporter

1 Danzer - by Plaintiff - Cross

2 A Yes.

3 Q You met with Mr. Trump on July 29?

4 A Yes.

5 Q And that now is the fourth time. So we're up to
6 your fourth at this point in time?

7 A By the way, there was one in between that I didn't
8 bring up.

9 Q There was another one?

10 A There was one in March.

11 Q We talked about the one in March?

12 A No, there was another one that had to do with
13 Marcraft.

14 Q So now we're --

15 A This is --

16 Q We're now at five and it's only July 26, according
17 to you, right?

18 A Right.

19 Q Now, you leave the meeting and you decide that
20 you're going to put something in writing because you know in
21 your mind you need something in writing and you decide that,
22 let me draft something in writing because Mr. Trump and you
23 spoke about some new agreement?

24 A Yes.

25 Q It was going to be a new agreement?

26 A Yes.

Donna Evans, Official Court Reporter

1 Danzer - by Plaintiff - Cross

2 Q So it wasn't a modification of the old contract,
3 you wanted a new agreement because this is a new issue?

4 A No.

5 MR. ITKOWITZ: Objection.

6 May I approach?

7 THE COURT: Come up.

8 (Whereupon, there's a sidebar discussion off
9 the record, out of the hearing of the jury.)

10 MR. GOLDMAN: Can we have it out of the ear
11 shot of the witness.

12 (The following was heard in the robing room.)

13 MR. ITKOWITZ: Your Honor, I didn't want to
14 do a speaking objection in front of the jury.

15 THE COURT: That's good of you.

16 MR. ITKOWITZ: That last question was calling
17 for a legal conclusion.

18 THE COURT: Read back the last question,
19 please.

20 (Record read.)

21 MR. GOLDMAN: That's not a legal question.

22 THE COURT: That's not a legal question,
23 modification, he doesn't say he doesn't understand.

24 MR. ITKOWITZ: Okay.

25 MR. GOLDMAN: He knows what either he thinks
26 it was.

Donna Evans, Official Court Reporter

1 Danzer - by Plaintiff - Cross

2 THE COURT: The objection is overruled.

3 (The following was heard in open Court.)

4 (Pause.)

5 THE COURT: Come back up, Mr. Danzer.

6 (Whereupon, the witness resumes the witness
7 stand.)

8 THE COURT: The objection was overruled.

9 MR. GOLDMAN: Can you read back the question?

10 (Record read.)

11 Q What's the answer?

12 A The answer is it was a more of a modification to
13 the existing agreement than to -- I mean it was basically
14 coming up with 22-point --

15 Q I didn't ask you. The answer was it was more of a
16 modification?

17 A It was more of a modification than it was a new
18 agreement.

19 Q Okay.

20 Now, so you decided after that meeting you
21 needed something in writing?

22 MR. GOLDMAN: If the witness can be shown
23 Exhibits L and -- Defendant's M or Plaintiff's 100.

24 It's the same.

25 (Pause.)

26 THE COURT OFFICER: Defendant's L,
Donna Evans, Official Court Reporter

1 Danzer - by Plaintiff - Cross

2 Plaintiff's 100 in evidence.

3 THE COURT: It's the same document.

4 MR. GOLDMAN: L is different. L is dated
5 August 2nd and 100 is dated August 3rd.

6 THE COURT: Okay.

7 BY MR. GOLDMAN:

8 Q Do you see those?

9 A I do.

10 Q By the way, are these documents that you took with
11 you or --

12 A These are documents I took with me.

13 Q You prepared these?

14 A I did.

15 Q If you can, tell the Court and jury, from the time
16 you left Mr. Trump's offices on July 29 and how you went
17 about within three days drafting and getting these letters
18 to Mr. Trump. What was the process? What happened?

19 A When I was in Mr. Trump's office Mr. Trump said
20 10 percent, not a penny more, but if you can come up with a
21 proposal for how you can make more than 10 percent I'd be
22 more than happy to hear it. I said fine. I had brought to
23 him another deal, Coty, which I mentioned the first day
24 which is a fragrance company, since that was different than
25 the deal that was in effect which had to do with high end
26 apparel. I sent two letters, both referencing the

Donna Evans, Official Court Reporter

1 Danzer - by Plaintiff - Cross

2 10 percent deal and saying, in addition this is our proposal
3 for how we can make more money with a sliding scale, if
4 we're able to get higher percentages for Mr. Trump ALM will
5 get a higher percentage of the take.

6 Q So what did you do --

7 MR. ITKOWITZ: Excuse me, I think the witness
8 hadn't finished his answer.

9 A Once I prepared these letters I sent them to
10 Mr. Trump two separate days. One was Coty and one was on
11 the 2nd about Coty and on the 3rd for any licensing deal.

12 Q Now, you prepared the letters, correct?

13 A I did.

14 Q Did you prepare them at ALM's offices?

15 A I did.

16 Q You signed them, correct?

17 A I did.

18 Q How many drafts did it take you to get these
19 letters together?

20 A It took me a few.

21 Q Were changes made to drafts?

22 A Yes.

23 Q And were you speaking with anybody about the
24 letters?

25 A I went back and forth with Mr. Hager.

26 Q Now, you're the one who prepared and spoke?

Donna Evans, Official Court Reporter

1 Danzer - by Plaintiff - Cross

2 MR. GOLDMAN: Withdrawn.

3 Q Mr. Hager wasn't present when you spoke with
4 Mr. Trump a few days earlier, correct?

5 A He was not present but I called him, like I
6 mentioned.

7 Q Sir, I didn't ask you if you called him.

8 MR. GOLDMAN: Can the witness be directed to
9 answer yes or no.

10 THE COURT: This is cross-examination. All
11 right? So please yes or no.

12 A No.

13 Q So only you have personal knowledge as to what you
14 discussed with Mr. Trump just a few days earlier, correct?

15 A Correct.

16 Q And it's your testimony that -- and let's just
17 talk about Exhibit 100, because that's not the Coty letter.
18 That is a different letter, correct?

19 A Correct.

20 Q And it's your testimony under oath that what you
21 put in your August 3, 2004 letter accurately reflects your
22 discussions with Mr. Trump and ALM's position as to those,
23 correct?

24 A Correct.

25 Q The August 3, 2004 letter that you drafted, looked
26 at, reviewed, and encompasses all of the issues that you

Donna Evans, Official Court Reporter

Danzer - by Plaintiff - Cross

1 spoke to Mr. Trump about, does it mention anywhere in that
2 document the memo of understanding?
3

4 A It does not.

5 Q Does it mention anywhere in this document the
6 extension of the memorandum of understanding?

7 A It does not.

8 Q This document that you prepared is not limited to
9 just apparel, it is, for any licensing deal, correct?

10 A Correct.

11 Q The original contract was limited to apparel,
12 correct?

13 A Correct.

14 (Continued on next page.)
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Donna Evans, Official Court Reporter

1 Danzer - Plaintiff - Cross (Mr. Goldman)

2 Q There's no termination date in your August 3, 2004
3 document, is there?

4 A There is not.

5 Q There was a termination date when you wrote this in the
6 existing contract, wasn't there?

7 A There was.

8 Q There was no mention in your August 3, 2004 letter of
9 the expiring tail period, was there?

10 A No.

11 Q There is no mention in your August 2004 writing that
12 the tail period was being extended or eliminated, is there?

13 A No.

14 Q There is nothing in your August 3, 2004 writing that
15 even mentions the words acceptable license, is there?

16 A No.

17 Q There's nothing in your August 3, 2004 writing that
18 discusses that the acceptable license requirement was eliminated
19 or modified, is there?

20 A No.

21 Q Okay. And, in fact, there's nothing in your August 3,
22 2004 writing that mentions the words significant negotiation of
23 material terms?

24 A No.

25 Q All of -- withdrawn.

26 In fact, in prior drafts of the letter, the draft that

1 Danzer - Plaintiff - Cross (Mr. Goldman)

2 you had prepared and sent to Mr. Hager, in fact, referred to the
3 signed contracts, didn't it?

4 A I don't remember.

5 THE COURT: Yes or no?

6 Q I'm sorry?

7 A I don't remember.

8 Q And, in fact, the draft that you prepared after you
9 spoke to Mr. Trump specifically identified only those provisions
10 of the signed contract that you discussed modifying; isn't that
11 true?

12 A I don't remember. I don't have those in front of me,
13 but I don't remember.

14 Q So you have no recollection of that, you would need to
15 look at something in order for you to recall that; is that
16 correct?

17 A Correct. If they were the drafts, I don't have them.
18 I don't know what the drafts said.

19 Q And that's notwithstanding your testimony that
20 Mr. Hager told you remember everything before you left because
21 there may be litigation?

22 A Yes, that was way after.

23 MR. GOLDMAN: Can you show the witness Defendant's
24 Exhibit J in evidence.

25 (Document handed to the witness.)

26 Q You see that document?

1 Danzer - Plaintiff - Cross (Mr. Goldman)

2 A Yes, I do.

3 Q You drafted that early Monday morning on August 2nd at
4 9:48 a.m.?

5 A Yes.

6 Q And the subject is letter to Donald?

7 A Yes.

8 Q And that would be one or two business days after you
9 met with Mr. Trump, because I'm assuming you didn't meet with
10 him on the weekend?

11 A No. Correct.

12 Q So you met with him, let's say, Thursday before?

13 A Correct.

14 Q Okay. And it says when you drafted it you wanted to
15 clarify in writing the deal we've agreed to; you see that?

16 A Correct.

17 Q With regard to the development of a Trump Lifestyle
18 consumer products business; is that correct?

19 A Correct.

20 Q By the way, there's nothing in the August 3, 2004
21 letter to Mr. Trump that limits any discussion to the consumer
22 products or the lifestyle consumer products business, is there?

23 A There is not.

24 Q Okay. And the draft that you wrote says that you
25 wanted to -- that there was an agreement on the development of a
26 Trump Lifestyle consumer products business in that first

1 Danzer - Plaintiff - Cross (Mr. Goldman)

2 sentence; it doesn't mention anything about the apparel
3 business, correct?

4 A It does not.

5 Q And in the second paragraph you wrote to your draft to
6 Mr. Trump it says, "It's understood that ALM International has
7 had a memorandum of understanding with you since September 2003
8 whereby ALM was to help you develop a lifestyle apparel
9 business."

10 You referenced in your draft letter the existing
11 contractual relationship, didn't you?

12 A I did.

13 Q But after speaking with Mr. Hager, you took it out when
14 you sent it to Mr. Trump, correct?

15 A Correct.

16 Q Then it says -- you talk about clear strategy and
17 shared vision and you write: "As this is our shared vision,
18 it's agreed that ALM and the Trump organization will extend
19 their agreement."

20 The agreement you're talking about is the signed
21 contract, right?

22 A Correct.

23 Q "With the following modifications," and you have two
24 modifications, don't you?

25 A I do.

26 Q And the symbol that you put down in your draft is a

1 Danzer - Plaintiff - Cross (Mr. Goldman)

2 symbol for a section, isn't it?

3 A Yeah, but to me that was just like a bullet point. I
4 didn't do it on purpose as a section. Nine years ago I didn't
5 know a what a lot of things in meant. I was coming up with a
6 letter to send Mark and these are the different sections.

7 Q I'm sorry. You didn't know what a lot of things meant?

8 A I didn't know.

9 Q You didn't know that that's a section symbol?

10 A I had no clue.

11 Q And it says next to the section symbol that you didn't
12 realize is a section symbol, "although ALM will not be the
13 exclusive agent for the Trump Lifestyle business, it will work
14 with the Trump Organization to develop a point of view and
15 secure licensing deals."

16 Do you have see that?

17 A Yes, I do.

18 Q It then goes on to say afterwards, with another little
19 section symbol, "The Trump Organization will pay ALM," and
20 there's an -- it's like an underscore --

21 A Yes.

22 Q -- blank, "percentage of all licensing revenues
23 generated by the Trump Lifestyle licensees which have been
24 secured by ALM." Okay.

25 Do you see that?

26 A Yes.

1 Danzer - Plaintiff - Cross (Mr. Goldman)

2 Q You used a blank line, an underscored line --

3 A I did. I did.

4 Q -- before percentage. You knew that meant to fill in,
5 right; that just wasn't a random thing you put down?

6 A Correct. Correct.

7 Q But it just was a random section sign that you put down
8 there?

9 A No.

10 Q Yes, it was random?

11 A Section sign, yes. Until you told me now, I had no
12 clue that meant section.

13 Q Now, this draft, you drafted it just a few days after
14 speaking to Mr. Trump?

15 A Correct.

16 Q This draft accurately reflected what you and he spoke
17 about, doesn't it?

18 A Not 100 percent.

19 Q Oh, so you drafted something that wasn't 100 percent
20 reflective of the conversation that you had with Mr. Trump?

21 A This draft --

22 Q It's a yes or no.

23 A Yes.

24 Q You drafted something to send that was going to have
25 Mr. Trump's signature that wasn't 100 percent reflective of what
26 you spoke about; is that correct?

1 Danzer - Plaintiff - Cross (Mr. Goldman)

2 A It's not 100 percent reflective.

3 Q And if Mr. Hager didn't ask you to make changes, this
4 would have gone out as not being reflective 100 percent of what
5 you spoke about?

6 A It never would have gone out, because there was -- that
7 line is a question to Mark, how do you want to handle the
8 percentages; 10 percent plus -- how do you want it as was for a
9 discussion point.

10 Q There was no question mark, there was an underscore so
11 you had to fill in the percentage?

12 A Yes, but it's not -- I understand what you're saying,
13 but it's not what you're saying. It's not what --

14 Q Okay. But you do understand you're telling the jury
15 that what you drafted to send to Mr. Trump was not 100 percent
16 reflective of what you and he discussed?

17 A Not 100 percent.

18 Q So the answer to my question is, yes, not 100 percent?

19 A Yes, not 100 percent.

20 Q Is it 50 percent of what you discussed?

21 A It's about -- it's 90 percent of what we discussed.

22 Q So there was 10 percent missing?

23 A Ten percent that had to be filled in, yes.

24 Q There was 10 percent missing?

25 A Ten percent missing.

26 Q And when you finally sent what you sent to Mr. Trump,

1 Danzer - Plaintiff - Cross (Mr. Goldman)

2 you took out all the references to the signed contract, didn't
3 you?

4 A I did.

5 Q And what you put in the draft says that the Trump
6 organization will pay a blank percentage of all licensee
7 revenues generated by Trump Lifestyle licensees; do you see
8 that?

9 A Yes.

10 Q Okay. That has nothing to do with the apparel line,
11 correct?

12 A Apparel is part of it.

13 Q Oh, so apparel is part of the Trump Lifestyle
14 licensees?

15 A Correct. Anyone that we -- Mr. Trump said anyone --

16 Q I didn't ask you for a discussion. It was a yes or no.
17 It's your testimony that when you put in the Trump
18 Lifestyle licensees, it's your testimony that that is inclusive
19 of the apparel business?

20 A Yes.

21 Q And then 18 minutes later you prepare yet another
22 draft. Let's look at Exhibit K.

23 (Document handed to the witness.)

24 COURT OFFICER: K in evidence.

25 Q Before we get to K -- by the way, I'm going back to J.
26 You have J back in front of you?

1 Danzer - Plaintiff - Cross (Mr. Goldman)

2 A I do.

3 Q In the very first sentence you had said you're
4 clarifying a deal regarding the development of a Trump Lifestyle
5 consumer products business.

6 Do you see that?

7 A Correct.

8 Q There's no mention of apparel there, right?

9 A No.

10 Q And is it fair to say that the Trump Lifestyle consumer
11 products business is not the apparel business; apparel is
12 different than consumer products, correct?

13 A Apparel is a consumer product. Apparel can be lumped
14 into the consumer products business.

15 Q Well, when you used the words, were you lumping it in
16 here?

17 A I was.

18 Q Not we, were you lumping it in?

19 A Yes, absolutely.

20 Q Now let's go to K. So now this is a change from J,
21 right?

22 A Correct.

23 Q And that is after you spoke with Mr. Hager; is that
24 correct?

25 A Correct.

26 Q Did Mr. Hager tell you to delete all references to the

1 Danzer - Plaintiff - Cross (Mr. Goldman)

2 signed contract?

3 A Yes.

4 Q He wasn't present again when you met with Mr. Trump a
5 few days before, was he?

6 A He was not.

7 Q Okay. Did he tell you to delete the part of your
8 letter where it says that it is agreed that ALM and Trump will
9 extend their agreement with the following modifications?

10 A Yes, he said it wasn't necessary. It was part of the
11 extension.

12 Q But you thought it was necessary?

13 A I did.

14 Q And you thought it was necessary because there was an
15 existing contract and there were really only two things in that
16 contract being changed, wasn't it?

17 A More than two, but yes.

18 Q You only put two things down in your letter following
19 your meeting with Mr. Trump as to the only things being changed
20 or modified; isn't that true?

21 A No.

22 Q There are more things being changed?

23 A Yes, there are three.

24 Q There are only three?

25 A There are only three.

26 Q Okay. And those only three things have nothing to do

1 Danzer - Plaintiff - Cross (Mr. Goldman)

2 with the tail period because you didn't use the word tail
3 period, correct?

4 A Correct.

5 Q Has nothing to do with the significant negotiation
6 requirement, correct, because you didn't use the words there?

7 A Correct.

8 Q It has nothing to do with the words acceptable license
9 because you didn't say the agreement, correct?

10 A Correct.

11 Q What was changing was the percentage?

12 A Correct.

13 Q And the scope of the agreement, would that be fair to
14 say?

15 A Define scope.

16 Q Well, the agreement was related only to apparel?

17 A Correct. Correct. Yes.

18 Q And now you want to bring on a whole new --

19 A Correct. Correct.

20 Q -- consumer products concept?

21 A Right. And that was based on the Coty addition.

22 Q You wrote a separate letter for Coty?

23 A After that, I included it.

24 Q So that has nothing to do with Coty, you were
25 completely separate from Coty?

26 A Right.

1 Danzer - Plaintiff - Cross (Mr. Goldman)

2 Q So those other provisions, based upon your
3 conversations with Mr. Trump and what you drafted, all were not
4 modified because there were only three modifications, correct?

5 A Correct.

6 Q And now we go back to what was ultimately sent, which
7 is yet a third reiteration of your first draft.

8 Now, your first draft was about 90 percent reflective,
9 correct?

10 A It wasn't 100 percent reflective, correct.

11 Q Tell us, your August 3rd letter you sent to Mr. Trump,
12 was that 100 percent reflective?

13 A Yes.

14 Q So the August 3rd letter is 100 percent reflective?

15 A Yes.

16 Q Okay. Let's go through the letter.

17 It changed pretty significantly from even the second
18 draft of your letter, didn't it?

19 A Oh, yes.

20 Q Okay. And you didn't have anymore conversations with
21 Mr. Trump between July 29th and August 3rd; these changes were
22 coming from Mr. Hager, who wasn't even at the meeting, correct?

23 A Correct.

24 Q And now the August 3rd letter that you ultimately sent,
25 nothing about any discussions regarding the tail period,
26 correct?

1 Danzer - Plaintiff - Cross (Mr. Goldman)

2 A Correct.

3 Q Nothing about changing the exclusive period that had
4 expired, correct?

5 A Correct.

6 Q Nothing about extending the tail period of September
7 30th at any point in time, correct?

8 A Correct.

9 Q Nothing about changing the significant negotiation of
10 material term requirement?

11 A Correct.

12 Q Nothing about changing the acceptable license
13 requirements?

14 A Correct.

15 Q And you asked Mr. Trump to sign that letter; did you
16 not?

17 A I did.

18 Q And he never signed it?

19 A He did not.

20 Q It was pretty clear to you by him not signing it that
21 he didn't agree with you, correct?

22 A No.

23 Q It wasn't clear to you?

24 A No.

25 Q You just thought he didn't sign it because he didn't
26 feel like signing it? It's a yes or no.

1 Danzer - Plaintiff - Cross (Mr. Goldman)

2 A No.

3 Q Did you believe you had a deal with Mr. Trump --

4 A Yes.

5 Q -- after you sent the August 3, 2004 letter?

6 A Yes.

7 Q So that is when you believed the modification of the
8 agreement that I had asked you about earlier --

9 A Yes.

10 Q It was in that conversation on August 3rd -- withdrawn.
11 The modification of the contract occurred when you
12 spoke to Mr. Trump on July 29th, you sent him the August 3rd
13 letter, that was a confirmation of your deal with Mr. Trump?

14 A It was not a confirmation.

15 Q What was it?

16 A It was letting him know what we had discussed, his
17 offer of 10 percent. And in addition, coming back to him, like
18 he requested, with a way for ALM to make additional dollars for
19 -- in addition to 10 percent. That's when I gave him the
20 sliding scale that would give us more money if he made more
21 money.

22 And it was also about bringing any license to the Trump
23 Organization, not just apparel licenses. So this is our
24 discussion. Our conversation he never got back to me on.

25 Q He never got back to you?

26 A Right.

1 Danzer - Plaintiff - Cross (Mr. Goldman)

2 Q So at this point in time, there's no change to your
3 existing contract, correct?

4 A No.

5 Q Okay. I'm sorry. Just so we're clear, yes, I am
6 correct that there has been no change to your existing contract
7 as of August 3rd of 2004?

8 A Yes, you are correct.

9 Q Okay. And rather than belabor the point with all the
10 same questions, I show you Exhibit L, which is the Coty -- all
11 the same questions would be the same and the same answers for
12 that exhibit as well?

13 A Correct.

14 Q Now, was Mr. Ross -- withdrawn.

15 I believe you told us that Mr. Ross was surprised to
16 see you at the Trump Organization on July 29th when you were
17 meeting with Mr. Trump?

18 A Yes.

19 Q Was Mr. Ross present at that meeting?

20 A He was not.

21 MR. GOLDMAN: Can you show the witness Exhibit N,
22 please.

23 (Document handed to the witness.)

24 COURT OFFICER: N in evidence.

25 Q You drafted that document, didn't you?

26 A I did.

1 Danzer - Plaintiff - Cross (Mr. Goldman)

2 Q And it's a letter to Mr. -- it's a draft letter to
3 Mr. Ross dated August 2, 2004, correct?

4 A Correct.

5 Q And it's, in fact, different than what you ultimately
6 sent to Mr. Trump on August 3rd, which is Exhibit 100, isn't it?

7 A It is.

8 Q Now, you drafted this letter to Mr. Ross on August 2nd?

9 A Correct.

10 Q He wasn't at the July 29th meeting; isn't that correct?

11 A I don't remember him being there.

12 Q So the answer is it's correct that Mr. Ross was not
13 present at the July 29th meeting with Mr. Trump; is that
14 correct?

15 A Yes, it's correct.

16 Q Yet you drafted a letter to Mr. Ross on August 2nd
17 before what was ultimately even drafted on August 3rd: "I'm
18 happy we had been able to come to terms regarding our deal as it
19 pertains to bringing licensing deals to the Trump Organization."

20 Do you see that in your draft?

21 A Yes.

22 Q Between July 29th and when you met with Mr. Trump and
23 August 2nd, which I believe was the weekend, did you speak with
24 Mr. Ross?

25 A I did not.

26 Q But yet you drafted a letter as if you had?

1 Danzer - Plaintiff - Cross (Mr. Goldman)

2 A It didn't say it was good seeing you. If you look at
3 all my letters, it always said it was good seeing you or
4 speaking to you.

5 MR. ITKOWITZ: Can I move to strike?

6 THE COURT: Stricken. Yes or no? This is
7 cross-examination.

8 A I did not.

9 Q In fact, you had not even spoken to him?

10 A I did not speak with him.

11 Q Yet you began your letter: "I'm happy we've been able
12 to come to terms regarding our deal." And between July 29th and
13 when you drafted this on August 2nd, you and he had not come to
14 terms on any deal, did you?

15 A Correct. But I never sent this to Mr. Ross.

16 Q But you drafted it?

17 A I drafted it, yes, but I didn't send it.

18 Q Why did you -- withdrawn.

19 In fact, even your August 23rd e-mail, which we'll get
20 to, and your August 25th e-mail and your August 30th e-mail, it
21 begins the same way, "I'm happy we've been able to come to
22 terms," doesn't it?

23 A Yes.

24 Q And the August 2nd draft that began that way is
25 inaccurate, correct?

26 A Because I'm sending it to Mr. Ross.

1 Danzer - Plaintiff - Cross (Mr. Goldman)

2 Q Yes, because you're addressing a letter to Mr. Ross
3 that says, "I'm happy we came to terms" when you didn't?

4 A Correct.

5 Q So that's an inaccurate statement in the draft letter
6 that you made and you took the time to prepare to Mr. Ross?

7 A Yes, but I didn't send it.

8 Q I'm not asking.

9 A Okay.

10 Q There came a time -- and the reason you were doing all
11 of this drafting was because you knew you were having a meeting
12 shortly thereafter with PVH, I think on our about August 5th, or
13 Coty as well, on or about August 5th, and you knew that if you
14 didn't have something signed changing the terms of the signed
15 contract or modifying the terms or extending the terms that ALM
16 was going to get no fee?

17 A I did not know that.

18 Q Then why, sir, was it so important to you that on July
19 26th you told Mr. Trump, "Before I bring PVH back, I need to
20 talk to you." On July 29th you tell him we need to get a deal
21 and then you send him letters asking him to sign off on it
22 before you met again with PVH?

23 A Correct, because I was doing all the good faith work.
24 He said we were -- we had an agreement. What was the big deal
25 of signing it?

26 Q Sir, the good faith work that you were performing at

1 Danzer - Plaintiff - Cross (Mr. Goldman)

2 that point in time -- you just told us the good faith work you
3 were performing was the work that you were contractually
4 obligated to perform under the signed contract, wasn't it?

5 A It was.

6 Q Okay. So the good faith work that you were performing
7 had nothing to do with this; it had everything do with the
8 signed agreement, wasn't it?

9 A It's more complicated than you're making it out to
10 seem.

11 Q I'm not trying to make it out any way. Please read my
12 question back and please answer it.

13 (Whereupon, the last question was read back by
14 the court reporter.)

15 A It had to do with the signed agreement, as well as the
16 new -- the new offer and the new agreement, as I understood it,
17 moving forward. So this is an ongoing process. It wasn't as if
18 it's going to stop if it doesn't happen.

19 PVH told me that they were not going to be able to hit
20 the number that Donald Trump was looking for. I made them aware
21 of that.

22 MR. GOLDMAN: Can you read back his answer, please.

23 (Whereupon, the last answer was read back by the
24 court reporter.)

25 MR. GOLDMAN: Thank you.

26 Q It had everything to do with the signed agreement and

1 Danzer - Plaintiff - Cross (Mr. Goldman)

2 the new agreement. What's the new agreement?

3 A The modification to the agreement.

4 Q So when you said a "new agreement," you meant a
5 modification; is that what you meant?

6 A Yes. To me it's semantics. I'm sorry.

7 Q And, in fact, putting semantics aside, you sent an
8 e-mail to Ms. Glosser and Mr. Ross late in the day on August
9 3rd, because you had not gotten anything back signed, and told
10 them that you're meeting with Coty and you need to come to an
11 agreement and sign our deal before that. "Please let me know
12 what time is best for me to come up and sign our deal."

13 You knew the importance of getting a signature from
14 somebody, either Mr. Trump or Mr. Ross, before you were going to
15 "in good faith," proceed with further meetings, correct?

16 A Coty was a whole separate entity. It wasn't part of
17 the original deal. That's why it was so important to get
18 something on Coty, because it wasn't part of the initial apparel
19 deal. So there was a lot of complications going on at the time.

20 In the meantime, we were doing all the work, we were
21 meeting with people, we were bringing people up to Trump, we
22 were working hard to make it happen. We were told we were going
23 to get 10 percent for any introduction.

24 Q Sir, all the people -- you said that on direct as well
25 to Mr. Itkowitz's questions. All the people you were bringing
26 up to Mr. Trump in July 2004 through August 3rd of 2004 -- from

1 Danzer - Plaintiff - Cross (Mr. Goldman)

2 July 1st to August 3rd, who did you bring up to see Mr. Trump
3 between that period of time?

4 A The only company that I remember at that period of time
5 was Coty, and PVH was already --

6 Q I didn't ask you what PVH was. I asked you, you said
7 we were doing all this work.

8 A Correct.

9 Q I just want to get a little granular what you meant by
10 that. So other than the June 24, 2004 meeting with PVH --

11 A Correct.

12 Q -- at this point in time, other than making some phone
13 calls, I presume to Mr. Wyse to try to pitch him to get back,
14 there was nothing else getting done from PVH, was there?

15 A For PVH?

16 Q I'm only talking about PVH.

17 A For PVH, it was back and forth with Ken Wyse.

18 Q You and Ken Wyse going back and forth, but June 24th
19 and July 26th when you tell Mr. Trump we need to come to terms
20 before I bring PVH back, PVH wasn't coming back?

21 A PVH wasn't coming back under the terms that he wanted.
22 That's why we had the discussion. We had to have the discussion
23 that PVH wasn't going to hit those terms. They weren't going to
24 hit those terms, then the deal with us was going to have to be
25 looked at, modified; and he specifically said you're not going
26 to get your 22.5 percent, I'll give you a 10 percent finder's

1 Danzer - Plaintiff - Cross (Mr. Goldman)

2 fee and then come up with whatever else, you know, another
3 proposal for me.

4 Q By the way, in the drafts and in the final document
5 that you sent to Mr. Trump on August 3rd because of this PVH
6 issue, do the simple three letters P-V-H, do they appear
7 anywhere; yes or no?

8 A No.

9 Q Please look at the document. You're under oath.

10 A In this letter here, August 3rd?

11 Q Yes.

12 A PVH does not appear in this letter, August 3rd.

13 Q And, in fact, what you wrote was having nothing to do
14 with the specific transaction of PVH; what you wrote was it was
15 on any licensing deal?

16 A Correct.

17 Q That's considerably broader than the signed contract,
18 correct?

19 A Correct.

20 THE COURT: I think we're due for a ten-minute
21 break. Jurors, please don't discuss the case. Keep an open
22 mind. See you back here not exactly ten minutes, nine and a
23 half. We'll make it 11:20, okay. Thank you.

24 (Whereupon, the jury exits the courtroom and the
25 following transpired:)

26 (Whereupon, a brief recess was taken.)

1 Danzer - by Plaintiff - Cross

2 THE COURT: Bring the jury down.

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

5 THE COURT: I have to apologize, I did
6 ex-parte things while you were out so it took me a
7 little longer.

8 Go ahead.

9 MR. GOLDMAN: Thank you. Can the witness be
10 shown Plaintiff's 102 in evidence?

11 (Pause.)

12 THE COURT OFFICER: 102 in evidence.

13 BY MR. ITKOWITZ:

14 Q Mr. Danzer?

15 A Yes.

16 Q 102 is an e-mail you sent to Miss Glosser and
17 Mr. Ross and Mr. Hager was copied, dated August 6, 2004 --
18 I'm sorry -- October 6, 2004. Correct?

19 A Yes.

20 Q And those are comments that you were making to
21 Ms. Glosser while she was discussing with PVH the terms in
22 the contract?

23 A Yes.

24 Q Can you read to the jury what you told
25 Miss Glosser in paragraph 6?

26 A Are you sure that you want to draft the agreement

Donna Evans, Official Court Reporter

1 Danzer - by Plaintiff - Cross

2 for PVH? I'd like to suggest that PVH send you their
3 agreement first and then work with your attorneys to draft
4 up the best agreement possible. I'm not a legal expert like
5 George or Bernie but as far as I know, you will never have a
6 perfect contract, and in most cases whenever there's a
7 dispute the Court will always weigh in against the party
8 that drafted the agreement.

9 Q And you drafted the August 2nd letters to
10 Mr. Trump, did you not?

11 A I did.

12 Q And before we get to them, you drafted the
13 August 23, August 25 and August 30 e-mails to Mr. Ross, did
14 you not?

15 A I did.

16 Q So Mr. Trump doesn't sign the letters that you had
17 sent to him, correct?

18 A Correct.

19 Q It's now, I think, August 5, you're having a
20 meeting with Coty, correct?

21 A Okay.

22 Q Ultimately a meeting is scheduled with PVH for
23 August 26, correct?

24 A Correct.

25 Q And I believe you told the jury you arranged that
26 meeting, correct?

Donna Evans, Official Court Reporter

1 Danzer - by Plaintiff - Cross

2 A The 26th at PVH, yes. I went back and forth to
3 arrange that meeting, but yes.

4 Q You seem to have hesitated.

5 Did you arrange it or did you not arrange it?

6 A You know, I don't remember if it was me or Cathy
7 Glosser or the two of us. Cathy and I were working very
8 closely to make this happen. I really don't remember.

9 Q So if you had testified on direct that you
10 arranged for the August 6 meeting, that might not be
11 completely accurate, because today you don't recall if it
12 was you or Miss Glosser; is that correct?

13 A Correct.

14 Q Okay. So as of August 5, I think we can all agree
15 that the signed contracts are still in place, right?

16 A The signed contracts were in place but we had an
17 agreement, an understanding that we were getting a
18 10 percent finders fee for this deal.

19 Q You said you had an agreement. When -- sir, you
20 just told us that you had a conversation on July 29, you
21 went back to Mr. Trump on August 3 with a document for him
22 to sign that added some new percentages and things,
23 Mr. Trump didn't sign it, so as of August 3 there was no
24 agreement, was there?

25 A It was a verbal agreement, it wasn't a signed
26 agreement like you're asking, but Mr. Trump said I'll give a

Donna Evans, Official Court Reporter

1 Danzer - by Plaintiff - Cross

2 10 percent finders fee and then come back to us with how
3 else you want to make more money.

4 Q At a minimum, as of August 3, 2004 you had a
5 verbal agreement?

6 A Correct, that's how I understood it.

7 Q So there is a verbal agreement with Mr. Trump that
8 Mr. Trump would pay ALM 10 percent?

9 A At least 10 percent.

10 Q At least 10 percent?

11 A There was 10 percent plus if we could agree on
12 some other way for us to make more money.

13 Q But you couldn't agree on some other way for you
14 to make more money, did you?

15 A We couldn't have a conversation with him. He
16 never got back to me.

17 Q Sir, if you wanted to have some sort of different
18 agreement with Mr. Trump on how to get more than 10 percent
19 and he refused to have the conversation with you, is it fair
20 to assume that he didn't want anything else?

21 A No.

22 Q So when you make a proposal to somebody and he
23 refuses to talk to you about it, you're takeaway from that
24 is, well, maybe he is interested still although he didn't
25 want to talk about it?

26 A No, my takeaway --

Donna Evans, Official Court Reporter

Danzer - by Plaintiff - Cross

1
2 Q The answer was no. I didn't ask you for your
3 takeaway. The answer is no, that's not my takeaway?

4 A No, that's not my takeaway.

5 Q But you believed as of August 5 that you had a
6 deal at 10 percent at a minimum?

7 A Correct.

8 Q And other than the August 3 writing that you sent
9 to Mr. Trump asking him to sign it, which he didn't, you
10 have no other writing through August 5 of 2004 putting in
11 writing what you believed was a verbal deal, correct?

12 A Correct.

13 Q And this verbal deal that you believe you had with
14 Mr. Trump modified the signed writing, correct?

15 A Correct.

16 Q So your position here today is that as of August 5
17 of 2004, there was a verbal deal modifying the signed
18 writings?

19 MR. ITKOWITZ: Objection.

20 THE COURT: Overruled.

21 A Correct.

22 Q Now, Mr. Trump didn't want -- I think you said
23 Mr. Trump didn't want to talk to you anymore about that,
24 correct?

25 A I don't know if he did or not, he just never got
26 back to me.

Donna Evans, Official Court Reporter

1 Danzer - by Plaintiff - Cross

2 Q Okay, he never got back to you. Well, let
3 everybody interpret that as they may?

4 MR. ITKOWITZ: Objection.

5 THE COURT: Sustained on that.

6 Q Between August -- between July 29, when you last
7 spoke to Mr. Trump, when is the next time you spoke to
8 Mr. Trump after July 29?

9 A I don't remember.

10 Q Was it before the August 26 meeting?

11 A I really -- I really don't remember. You'd have
12 to refresh my memory somehow.

13 Q I don't have anything to refresh your memory. Is
14 there anything that would refresh your memory as to whether
15 or not you spoke to Mr. Trump between July 29 and before you
16 attended the August 26 meeting?

17 A Whenever I would speak with Mr. Trump I would
18 either send a follow up letter to Mr. Trump or an e-mail to
19 Mr. Hager. I would never just have a meeting and not report
20 back and not say, thank you, it was good speaking to you, or
21 follow up because they were significant meetings.

22 Q So if ALM did not produce in discovery any
23 documents from you to Mr. Trump between July 29 and
24 August 26, it would be fair to assume that you did not speak
25 with him after July 29?

26 A I don't assume anything. I don't know.

Donna Evans, Official Court Reporter

1 Danzer - by Plaintiff - Cross

2 Q But if there were no documents --

3 MR. GOLDMAN: Withdrawn.

4 Q You said had you spoken to him you would have had
5 an e-mail, correct?

6 A There would have been some sort of documentation.

7 Q If there are no documents along the lines of what
8 you just told us would have been then you didn't have a
9 conversation with him?

10 THE COURT: Yes or no?

11 A No.

12 Q So if there are no documents you may have had a
13 conversation with him?

14 A If they did not supply the documents I have no
15 clue.

16 Q Okay.

17 But before the August 26 meeting, having no
18 recollection of speaking to Mr. Trump and having --

19 MR. GOLDMAN: Withdrawn.

20 Q Do you remember the piece of paper which was your
21 notes regarding your efforts that Mr. Itkowitz showed to you
22 was a document, was a one page document about the binder?

23 A Yes.

24 Q Would you have reported your conversations in that
25 business record to us?

26 A I would have, yes.

Donna Evans, Official Court Reporter

1 Danzer - by Plaintiff - Cross

2 Q And so all the conversations and the meetings with
3 Mr. Trump would have been in that binder, correct?

4 A Yes.

5 Q And that binder when you left was in the hands of
6 Mr. Hager?

7 A Correct.

8 Q So if you needed your memory refreshed or we
9 wanted to know what you said or when you met with Mr. Trump,
10 it would be in that binder, wouldn't it?

11 A It would be.

12 Q And if that binder is not here we don't know when
13 you met or what happened, correct?

14 A Correct.

15 Q And that binder, by the way, was your business
16 record, correct?

17 A Correct.

18 Q And although you told us when you left that
19 Mr. Hager told you to remember the facts because there might
20 be litigation, and you told us you took a file, you didn't
21 take your business records?

22 A I took letters. He had everything, I gave
23 everything to Mr. Hager. It was up to him to do whatever he
24 wanted to do with it. I wasn't taking a whole big box to my
25 place and hold on to it, I took a file of letters.

26 Q So now let's work with there's no letters here

Donna Evans, Official Court Reporter

1 Danzer - by Plaintiff - Cross

2 between you and Mr. Trump between, let's say, July 29 and
3 August 26. You haven't heard from Mr. Trump, so now having
4 not heard from Mr. Trump you turn your attention to
5 Mr. Ross, right?

6 A Correct.

7 Q Because you know you hadn't heard from Mr. Trump,
8 although it was you and he at the meeting, and because you
9 hadn't heard from Mr. Trump you're going to try another way
10 and try to get something in writing from Mr. Ross, correct?

11 A Correct.

12 Q Mr. Ross wasn't present at your meeting with
13 Mr. Trump on July 29?

14 A Correct.

15 Q How many times did you speak with Mr. Ross between
16 August 3, when you sent the letter to Mr. Trump, and
17 August 23, when you sent your first e-mail to Mr. Ross
18 regarding I'm happy we came to terms? How many times did
19 you speak with Mr. Ross? It calls for a number.

20 A Are you asking me about the draft? You're saying
21 the letter to Mr. Ross. Are you asking about the letter I
22 sent to Mr. Ross or the draft letter? I remember having a
23 conversation in Mr. Ross's office and also on the telephone.

24 MR. GOLDMAN: Your Honor, I move to strike
25 everything he said.

26 THE COURT: Sustained.

Donna Evans, Official Court Reporter

1 Danzer - by Plaintiff - Cross

2 The question was how many times did you speak
3 to Mr. Ross, between what date?

4 MR. GOLDMAN: Between the August 3 letter to
5 Mr. Trump and the August 23 e-mail to Mr. Ross.

6 THE WITNESS: Once.

7 BY MR. GOLDMAN:

8 Q Approximately when was that one time between
9 August 3 of 2004 and the August 23 e-mail?

10 A Can I see the August 23 e-mail, please?

11 Q No.

12 MR. ITKOWITZ: I didn't hear what the witness
13 said.

14 THE WITNESS: I want to see the August 23
15 e-mail.

16 THE COURT: That's stricken.

17 It's not up to you to say that. Okay?

18 The answer is how many times.

19 MR. GOLDMAN: He said once.

20 Q The question was when was that one time between
21 August 3, when you wrote the letter to Mr. Trump, and the
22 August 23 e-mail that you sent to Mr. Ross?

23 A If my recollection -- just based on the way that I
24 do business --

25 Q I didn't ask you how you come up with it, I
26 want --

Donna Evans, Official Court Reporter

1 Danzer - by Plaintiff - Cross

2 MR. GOLDMAN: Move to strike.

3 THE COURT: What's the date.

4 Q I want a date or time frame.

5 A I cannot give you that.

6 Q Is there anything that would refresh your
7 recollection as to the one time that you spoke to Mr. Ross,
8 after you met with Mr. Trump alone on July 29 and before you
9 sent the August 23 e-mail?

10 A I'm going to go back and say that it was two
11 times, one was a phone call, one was a meeting. I don't
12 remember the exact dates.

13 Q Now that you've just changed, which occurred
14 first?

15 A The phone call.

16 Q And how long after the meeting with Mr. Trump was
17 the phone call?

18 A I believe it was about two weeks after.

19 Q So about the 10th, 11th of August?

20 A I don't know but it was about two weeks after, two
21 or three weeks after.

22 Q Who called who?

23 A I called George Ross.

24 Q What did you say -- I only want to know what you
25 said to Mr. Ross?

26 A I said we need to discuss this letter I sent

Donna Evans, Official Court Reporter

1 Danzer - by Plaintiff - Cross

2 Mr. Trump, a letter with a deal on it, we need to discuss
3 this letter.

4 Q Based upon your conversation with Mr. Ross, did
5 you have an impression as to whether Mr. Ross had seen the
6 letter?

7 THE COURT: Yes or no.

8 A Yes.

9 Q Was your impression that he had seen the -- I'm
10 assuming it was the August 3, 2004 letter. Is it your
11 impression that he had seen that letter?

12 A Yes.

13 Q And what happened after that conversation?

14 A We made a meeting for me to meet with him in his
15 office to discuss it.

16 Q Just him?

17 A Just him.

18 Q And that occurred sometime on or -- how --

19 MR. GOLDMAN: Withdrawn.

20 Q Approximately when did that meeting occur?

21 A It was the next day.

22 Q Okay. And you went to his office?

23 A I did.

24 Q You met with him?

25 A I did.

26 Q And you discussed PVH?

Donna Evans, Official Court Reporter

1 Danzer - by Plaintiff - Cross

2 A We --

3 Q Did you discuss PVH?

4 A Yes, we discussed PVH.

5 Q At that point in time when you had the meeting,
6 was there already a date set by which PVH was coming to --
7 that the meeting was set for August 26?

8 A I don't remember. I don't remember if the meeting
9 was set or not.

10 Q And you discussed the August 3 letter with
11 Mr. Ross?

12 A Correct.

13 Q Now, just so that I'm clear, your recollection is
14 then there was a -- between July 29 when you met with
15 Mr. Trump and the August 23 e-mail, there was first a
16 telephone conversation, right?

17 A Correct.

18 Q And then the next day there was a meeting?

19 A Correct.

20 Q And all of that then, the next communication you
21 had with Mr. Ross was the August 23 e-mail; is that correct?

22 A Correct.

23 Q And at the meeting, before the August --

24 MR. GOLDMAN: Withdrawn.

25 Q Does your August 23 e-mail accurately reflect your
26 discussions with Mr. Ross that you had in his office?

Donna Evans, Official Court Reporter

1 Danzer - by Plaintiff - Cross

2 A Yes.

3 Q It is 100 percent reflective unlike the other
4 letter. Was your August 23 letter --

5 MR. ITKOWITZ: Objection.

6 MR. GOLDMAN: He said it wasn't.

7 THE COURT: In the first place there is no
8 question. Okay? You can't object until the question
9 is posed.

10 BY MR. GOLDMAN:

11 Q Unlike your August 23 letter, which you said
12 wasn't 100 percent reflective of your conversations with
13 Mr. Trump, was your August 23 letter reflective 100 percent
14 with your conversation with Mr. Ross?

15 A You just changed my words. I never said that, I
16 said the draft was not reflective, I didn't say that the
17 letter was not reflective. The letter that I sent to
18 Mr. Trump was --

19 THE COURT: It will be up to the jury to
20 decide what statements were said. All right?

21 Go ahead.

22 BY MR. GOLDMAN:

23 Q Was your August 23 e-mail to Mr. Ross 100 percent
24 reflective of what you and he agreed to just a few days
25 earlier?

26 A Yes, it was.

Donna Evans, Official Court Reporter

1 Danzer - by Plaintiff - Cross

2 Q You are 100 percent certain?

3 A I'm a hundred percent certain. I would not have
4 sent it if it is not a hundred percent reflective. I never
5 sent anything out that wasn't a hundred percent reflective.

6 Q And the August 23 e-mail accurately reflects your
7 understanding of what arrangements you came with, with
8 Mr. Ross as the representative of Mr. Trump, right?

9 A Correct.

10 Q So let's go now to the August 23 e-mail.

11 MR. GOLDMAN: I believe it's number 25.

12 MR. ITKOWITZ: I think it's 24.

13 THE COURT: August 23 is number 24.

14 MR. GOLDMAN: The e-mail without any other
15 letters is Exhibit 25, dated at 4:22 p.m.

16 THE COURT: Twenty-five, you're right.

17 MR. GOLDMAN: It says the same thing.

18 (Pause.)

19 THE COURT OFFICER: Twenty-five in evidence.

20 Q Since it may be awhile since you last saw it, why
21 don't you take a look at it?

22 A I remember it very well. I remember that whole
23 conversation that whole day very well.

24 Q And that accurately reflects your whole
25 conversation, correct?

26 A It does.

Donna Evans, Official Court Reporter

1 Danzer - by Plaintiff - Cross

2 Q So let's go through that letter. I'm going to ask
3 you a series of questions --

4 MR. GOLDMAN: Withdrawn.

5 Q The beginning where it says: I'm happy we've been
6 able to come to terms regarding our deals as it pertains to
7 bringing licensing deals to the Trump Organization. That is
8 the identical language that you used on your August 2nd
9 draft to Mr. Ross in which you did not come to an agreement;
10 isn't that correct?

11 A Correct.

12 Q Okay.

13 In response to these questions please look at
14 your August 23 e-mail which confirms 100 percent of what you
15 spoke to with Mr. Ross.

16 A Okay.

17 Q Is there any mention in your August 23 e-mail
18 about the signed contracts, either the memorandum of
19 understanding or the extension? Is there any reference
20 whatsoever?

21 A No.

22 Q Is there any discussion?

23 MR. GOLDMAN: Withdrawn.

24 Q Is there any mention of the words PVH, that this
25 understanding was specific to the PVH transaction?

26 A No.

Donna Evans, Official Court Reporter

1 Danzer - by Plaintiff - Cross

2 Q In fact, your August 23 e-mail is not specific to
3 PVH; isn't that correct?

4 A Correct.

5 Q Is there any reference that your August 23, 2004
6 e-mail was specific to apparel?

7 A No.

8 Q And in fact, the signed contracts in effect were
9 specific to apparel, correct?

10 A Correct.

11 Q And is there any mention in your August 23 e-mail
12 of a termination date?

13 A No.

14 Q Is there any mention in your August 23 e-mail of
15 the tail period being extended?

16 A No.

17 Q Is there any mention in your August 23 e-mail
18 which 100 percent accurately reflects what you and Mr. Ross
19 spoke about, of an extension or elimination of the tail
20 period?

21 A We didn't discuss that so the answer is no.

22 THE COURT: The answer is no.

23 Q If you didn't discuss that that is fine. It's not
24 there.

25 Then it's fair to say as well there's no
26 mention of the modifying or changing the acceptable license

Donna Evans, Official Court Reporter

Danzer - by Plaintiff - Cross

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2 requirement that was in existence under the signed contract,
3 correct?

4 A Correct.

5 Q Because you didn't discuss that either, did you?

6 A No.

7 Q And you didn't discuss either changing the
8 significant negotiations of the material terms as well,
9 correct?

10 A Correct.

11 Q Because that was already in the existing contract,
12 correct?

13 A Correct.

14 Q Now, you used a word, and I call it a defined word
15 because it's initial capped. It says on the second
16 paragraph, second sentence it says, evolves into an initial
17 cap licensing deal?

18 A Correct.

19 Q That term licensing deal, that doesn't appear
20 anywhere in the signed contract, does it?

21 A Not that I remember. No.

22 Q I believe you testified --

23 MR. GOLDMAN: Withdrawn.

24 Q So that the introduction to this letter is the
25 same confirmatory language that you've used in the
26 August 2nd draft?

Donna Evans, Official Court Reporter

1 Danzer - by Plaintiff - Cross

2 A Correct.

3 Q When you drafted it on August 2nd it wasn't
4 accurate, correct, because you had not had any confirmation
5 with Mr. Ross, correct?

6 A Correct, yes.

7 Q But this time you want us to believe that it is
8 accurate, correct?

9 A This is the --

10 Q I said this time you want us to believe that the
11 confirmatory language is accurate; is that correct?

12 A Yes.

13 MR. ITKOWITZ: Objection.

14 THE COURT: Answered.

15 Q And I believe you testified that you did not hear
16 from Mr. Ross after you sent this. Correct?

17 A This letter here?

18 Q Yes.

19 A I did not hear from Mr. Ross after I sent this.
20 This was after our meeting.

21 Q Did -- and I believe you testified that in
22 response to Mr. Itkowitz's questions, that Mr. Ross did not
23 call you after either the August 23, August 25 or August 30
24 e-mails; is that correct?

25 A He did not call me.

26 Q Did you call him, or you just never spoke after
Donna Evans, Official Court Reporter

Danzer - by Plaintiff - Cross

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these e-mails?

A I don't remember if I then sent something for him to sign but I don't think so.

Q You don't recall speaking to him?

A I don't recall.

Q So you as you sit -- again, when Mr. Itkowitz asked you those questions, and as you sit here today with a little further reflection, you don't recall Mr. Danzer calling you or you calling Mr. Danzer after the August 23, 2004 e-mail?

A You mean Mr. Ross?

Q I'm sorry, Mr. Ross. Thank you.

A I really don't recall. I don't.

Q But you know that when you answered Mr. Itkowitz's question you were certain that Mr. Ross never called you, right; there was no hesitation?

A There was no -- once this letter went out that was the last I heard from Mr. Ross.

Q Okay.

A As far as I remember.

Q The last you heard from him until when?

A I don't really remember. I'm sorry. I don't remember when I heard from him after this letter.

Q Well, you met with him on August 26 right at the meeting?

Donna Evans, Official Court Reporter

1 Danzer - by Plaintiff - Cross

2 A Yes, of course.

3 Q So between when you sent him the August 23 letter
4 and the meeting on August 26, did you speak with Mr. Ross?

5 A Brief conversation I had with him at the meeting.

6 Q Before the meeting. So let me make it easier.
7 Between August 23, when you sent this, and before August 26,
8 which was the meeting, did you speak with Mr. Ross?

9 A I believe if I -- I'm trying to remember in my
10 mind on the way up to the meeting is Mr. Ross, Mr. Trump
11 Miss Glosser and myself, I met them and I -- I don't
12 remember exactly what I said.

13 Q Let me try to rephrase it, maybe my question
14 wasn't clear. I didn't ask on the way up to the meeting.

15 The meeting occurred August 26, correct?

16 A Correct.

17 Q Let's exclude August 26 from our discussion right
18 now.

19 Between August 23, when you sent this, until
20 midnight on August 25, did you speak with Mr. Ross or not?

21 A I don't remember.

22 Q So when Mr. Itkowitz asked you if Mr. Ross called
23 you after the August 23 e-mail, you said no. Is it now I
24 don't remember or is it no?

25 A The answer is no. I mean I don't remember meeting
26 with him at all.

Donna Evans, Official Court Reporter

1 Danzer - by Plaintiff - Cross

2 Q I didn't ask if you met with him. The question
3 that Mr. Itkowitz --

4 A The answer is no.

5 Q So when Mr. Itkowitz asked you did you speak to
6 Mr. Ross after the August 23 e-mail and you said no, it's
7 still no?

8 A It's still no.

9 Q Can you look at Exhibit 26.

10 THE COURT OFFICER: Twenty-six in evidence.

11 THE WITNESS: Thank you.

12 BY MR. GOLDMAN:

13 Q When you testified under oath on Friday and today
14 that you did not speak with Mr. Ross after the August 23,
15 2004 e-mail, and before midnight on August 25, that was an
16 inaccurate or untruthful statement; isn't that correct?

17 A Yes, I just don't remember --

18 Q Sir, I didn't ask you to explain, you just didn't
19 remember, did you?

20 A I didn't. I totally didn't remember. As far as I
21 knew there was a letter --

22 Q I know, but when you answered Mr. Itkowitz's
23 question did you speak with Mr. Ross you didn't say I don't
24 remember, I don't recall, you said no.

25 A To the best of my recollection it's nine years
26 later. The answer was no.

Donna Evans, Official Court Reporter

1 Danzer - by Plaintiff - Cross

2 Q But in fact it's yes?

3 A In fact it's yes.

4 Q Are there any other questions that you answered to
5 Mr. Itkowitz that were either yes or no, that upon further
6 reflection it could be the opposite?

7 A I don't know.

8 Q Well, what was the accuracy of your statements to
9 Mr. Itkowitz's questions, was it nothing more than just
10 looking at documents that were handed to you?

11 A No. The accuracy was based on my best
12 recollection.

13 Q And your best recollection doesn't seem to be so
14 good, does it?

15 A When it comes to dates the answer is no.

16 Q It's yes or no?

17 A Okay, no.

18 Q So in fact, Mr. Ross did speak to you after the
19 August 23 e-mail?

20 A Okay, he did.

21 Q He did. And you wanted something signed by him
22 because you knew, for all the reasons we've gone through
23 today, that you needed something signed to be enforceable,
24 right?

25 A The answer is no.

26 Q So you -- when you asked Mr. Hager to sign your
Donna Evans, Official Court Reporter

1 Danzer - by Plaintiff - Cross

2 employment contract agreed and accepted to, you didn't need
3 him to sign off on it because it didn't make a difference?

4 A I was under the assumption that eventually, just
5 like Mr. Hager, if you go back to the records before I
6 signed my agreement with Mr. Hager I did work, I did work in
7 good faith because we had a deal, the deal was in principle,
8 et cetera, it was verbal, I agreed to it. The same thing
9 with Mr. Ross and Mr. Trump.

10 Q Let's go to that.

11 But you agreed to it yet you needed to make
12 sure that he signed it because you prepared something for
13 him to sign, correct?

14 A Ultimately, yes.

15 Q Ultimately it was February 17, you had only been
16 working a couple of weeks, it's not like ultimately a year
17 later, is it?

18 A You know what, Mr. Hager's one person --

19 Q Answer my question, Mr. Danzer.

20 THE COURT: Yes. The answer is stricken.

21 Please answer yes or no.

22 THE WITNESS: What was the question?

23 Q You knew that you needed something signed by
24 Mr. Hager agreed and accepted to, right?

25 A Correct.

26 (Continued on next page.)

Donna Evans, Official Court Reporter

1 Danzer - Plaintiff - Cross (Mr. Goldman)

2 Q And when you prepared something for Mr. Trump based
3 upon your conversation with him, you knew you needed something
4 signed, didn't you?

5 A Yes.

6 Q And, in fact, in many letters that you wrote to Mr.
7 Trump or Mr. Ross, you said we need to get something in writing
8 signed, didn't you?

9 A I did.

10 Q And, in fact, after August 23rd you knew you needed to
11 get something signed, didn't you?

12 A I did.

13 Q And on August 25th, after the conversation with Mr.
14 Ross, you sent another e-mail because you knew you needed it
15 signed, didn't you?

16 A I did.

17 Q And you told Mr. Ross you needed it before the meeting
18 with PVH the next day, correct?

19 A I would appreciate it if you could sign. I didn't say
20 I needed it. I would appreciate if you could send it back. It
21 was all good faith. I was under the assumption --

22 Q Let's read what you said in its entirety to the jury.

23 A Okay.

24 Q I'll take -- I'll do that. "I would appreciate it if
25 you would please sign it and fax it back to me before our
26 meeting tomorrow."

1 Danzer - Plaintiff - Cross (Mr. Goldman)

2 That's what you said to him, correct?

3 A Correct.

4 Q Did he sign it and fax it back to you before the
5 meeting?

6 A He did not.

7 Q Did he sign it and give it to you at the meeting?

8 A He did not.

9 Q And the meeting that you had with PVH on August 26th
10 was a follow-up to the June 24th meeting, was it not?

11 A It was.

12 Q And the June 24th meeting was pursuant to the signed
13 contract?

14 A It was.

15 Q And the August 26th meeting was pursuant to the signed
16 contract, wasn't it?

17 A No.

18 Q The August 26th meeting was pursuant to some other
19 arrangement; yes or no, was it pursuant to?

20 A It, was, yes, the same contract. It was the same
21 contract.

22 Q So clarity of record --

23 A For clarity, yes.

24 Q The August 26th meeting was pursuant to the signed
25 contract, correct?

26 A Correct.

1 Danzer - Plaintiff - Cross (Mr. Goldman)

2 Q And you had to set that meeting up pursuant to the
3 signed contract because PVH wanted it and Mr. Trump wanted it,
4 correct?

5 A Correct.

6 Q And you knew that a meeting in which -- withdrawn.
7 You knew on August 26th or August 25th that there had
8 been no formal proposal from PVH to Mr. Trump, correct?

9 A Correct.

10 Q And you knew that there was -- it was virtually
11 impossible, since there had yet to even be a signed term sheet,
12 that it would get signed by the end of September, correct?

13 A Yes. I don't know the answer to that question, because
14 the term sheet was going back and forth from the beginning of
15 September to the middle of September. It could have all been
16 signed by the end of September, at least the term sheet.

17 Q A term sheet?

18 A At least the terms could have been agreed to by the end
19 of September.

20 Q But that's not what would have triggered a fee under
21 the signed contract, a term sheet, correct?

22 A That's --

23 Q Correct?

24 A Correct.

25 Q Okay. So again, there had to be a licensing deal
26 entered into in order to trigger a fee by September 30th,

1 Danzer - Plaintiff - Cross (Mr. Goldman)

2 correct?

3 A Based on the original contract, yes.

4 Q And the meeting on August 26th was based upon the
5 original contract, correct?

6 A Correct.

7 Q Okay. And going back, it would be pretty difficult
8 that as of August 26th, without there yet being a term sheet,
9 that there would be a signed licensing deal in the 34 days that
10 would have followed that meeting with Labor Day being in
11 between?

12 A It's conceivable, but -- it's possible.

13 Q It's conceivable and it's possible?

14 A It could have happened. They could have said here is
15 the terms, here is the contract. The lawyers could have worked
16 quickly. It could have happened.

17 Q And if it had happened quickly and everybody proceeded
18 quickly in order for ALM to get its fee under the signed
19 contract, it would have had to be an acceptable license too; ALM
20 would have had to participate in significant negotiations and
21 material terms, correct?

22 A Correct.

23 Q And we could certainly agree, can we not, that the PVH
24 license doesn't satisfy the acceptable license requirement; can
25 you and I agree to that?

26 A Under the signed agreement, yes.

1 Danzer - Plaintiff - Cross (Mr. Goldman)

2 Q Under the signed agreement?

3 A Yes.

4 Q And, in fact -- withdrawn.

5 Now, let's talk about the August 26th meeting. You
6 didn't partake in any significant development at that meeting,
7 did you?

8 A I did not.

9 Q And that's where the terms were really discussed,
10 wasn't it?

11 A Correct.

12 Q And it wasn't until after that meeting where the --
13 withdrawn.

14 Would it be fair to say that essential terms were
15 really discussed at the August 26th meeting?

16 A Yes.

17 Q Not the June 24th meeting?

18 A Not at the August meeting.

19 Q At the August meeting, yes, that's what the essential
20 terms are.

21 So if Mr. Ross testified or Ms. Glosser testified that
22 the essential terms were, in fact, at the August meeting, that
23 would have been a truthful statement?

24 A Correct.

25 Q And you pretty much kind of watched Mr. Trump and Mr.
26 Wyse do their thing?

1 Danzer - Plaintiff - Cross (Mr. Goldman)

2 A Mr. Trump and Mr. Weber.

3 Q Mr. Weber, Mr. Wyse, right?

4 A Yes.

5 Q There's nothing in the record to indicate that anybody
6 told you not to get involved at that meeting, is there?

7 A No.

8 Q So you could have participated, had you wanted to, but
9 you chose to sit there and let the principals do what they do,
10 right?

11 A Correct.

12 Q So as of this point in time, although you certainly had
13 the opportunity, you had not partaken in significant
14 negotiations of the material terms, correct?

15 A Incorrect.

16 Q So through August 26th, you did participate?

17 A Throughout the entire process.

18 Q See -- no, no.

19 A Yes, yes. You're asking me a question.

20 Q I'm asking you a yes or no.

21 So the answer to my question is did you participate in
22 the negotiation of the significant material terms prior to
23 August 26th?

24 A Yes.

25 Q Okay. And you participated in the negotiation of
26 significant -- did you participate in significant negotiations

1 Danzer - Plaintiff - Cross (Mr. Goldman)
2 of the material terms prior to August 26th, although it wasn't
3 until August 26th that the essential terms were discussed?

4 A Yes.

5 Q Yes or no?

6 A Yes.

7 Q Okay. And your participation in these negotiations, it
8 doesn't include setting up a meeting, does it?

9 A No.

10 Q It doesn't include putting together an agenda, does it?

11 A No, it does not.

12 Q It doesn't include making phone calls to Ken Wyse
13 seeing if he's still interested, does it?

14 A It includes the phone calls to Ken Wyse and it includes
15 phone calls to Cathy Glosser, includes back and forth just
16 having conversations, letting Ken Wyse know what they're looking
17 for, trying to push for what they're looking for; at the same
18 time, reporting back to Cathy Glosser, giving her information.

19 That's what brought up the information where we knew
20 that Phillips-Van Heusen did not feel comfortable coming to the
21 table with a \$25 million a year deal.

22 Q So your participation through August 26th, effectively,
23 was that although Mr. Trump, like you testified to the other
24 day, insisted and wanted the 25 million seven-year guarantee, et
25 cetera, that he wasn't going to get it?

26 A They told me he wasn't going to get it and that's why I

1 Danzer - Plaintiff - Cross (Mr. Goldman)

2 reported that back to Mr. Trump, yeah.

3 Q And that was your -- that was the significant
4 negotiations that you were involved in before they ever met?

5 A Significant for me means, for me, I mean, negotiations
6 and, in my opinion, is the exchange of ideas and information;
7 and significant means that there's an outcome that comes out of
8 it. Phillips-Van Heusen was going to walk away because they
9 couldn't hit Mr. Trump's numbers. That's when I went to Mr.
10 Trump and said they're not going to be able to hit your numbers.

11 That's why I said I'll bring them back to the table.
12 They were about to walk away. So it's not as if -- you're
13 painting a picture as if things happened differently than this.
14 They did -- I was working with Phillips-Van Heusen and speaking
15 with Ken Wyse on a very consistent basis, getting as much
16 information as I could, trying to allay his fears that it
17 wouldn't be like the Regis Philbin line, et cetera, and doing
18 the best I could. So getting this back to the table was a
19 significant accomplishment.

20 Q It's your obligation to bring them back to the table?

21 A Absolutely not. I'm not saying it wasn't, but in the
22 midst of it all, when I mentioned that to Mr. Trump, that's
23 where the 10 percent came out.

24 Q And there's nothing -- the 10 percent came out,
25 correct?

26 A Mr. Trump said, yeah, you're not -- they're not going

1 Danzer - Plaintiff - Cross (Mr. Goldman)

2 to hit the numbers.

3 Q Didn't he say you're not going to get more than 10
4 percent?

5 A You wouldn't get more than 10 percent as a finder's
6 fee; however, if you can think of another deal proposal, I'll be
7 happy to entertain it. It was for any licensing deal, because
8 we already talked about Coty. We had gone from Coty to PVH.
9 Bring this to Coty instead of making separate deals.

10 The letter to him was for any licensing deal 10
11 percent, and then here is our proposal for additional dollars to
12 be paid if we get a higher percentage, et cetera. That's when
13 George Ross called, yelled at me, said you're not getting a
14 penny over 10 percent; forget about the sliding scale, it's off
15 the table, 10 percent, that's it.

16 Q And then after Mr. Ross wouldn't sign what it is that
17 you asked him to sign, you then sent yet another, this will
18 confirm our conversations again, correct?

19 A Correct.

20 Q Now, again, just so we're all clear, your August 23rd
21 e-mail is you're confirming one hundred percent of what was
22 discussed?

23 A Yes.

24 Q And the August 25th e-mail asking Mr. Ross to sign off
25 is one hundred percent of what was discussed?

26 A Okay. It's what we discussed.

1 Danzer - Plaintiff - Cross (Mr. Goldman)

2 Q It's one hundred percent of what you discussed?

3 A If I sent it, it's one hundred percent of what we
4 discussed.

5 Q And it's fair then that nothing was discussed that
6 wasn't put in your letter, correct?

7 A These were the early terms that we agreed on.

8 MR. GOLDMAN: Let me ask you to read back the
9 question.

10 Q I didn't ask you that question, I asked you something
11 else.

12 THE COURT: Read it back.

13 (Whereupon, the last question was read back by
14 the court reporter.)

15 A Correct.

16 Q Let me just show the witness, and we'll conclude
17 shortly, 79.

18 (Document handed to witness.)

19 COURT OFFICER: Seventy-nine in evidence.

20 Q Withdrawn. You know, you can put that down for a
21 second.

22 By the way, the first conversation you had with Mr.
23 Trump regarding the 10 percent was approximately when?

24 A It was approximately August -- right before the August
25 2nd letter. It would be that Friday before or that Thursday
26 before August 2nd.

1 Danzer - Plaintiff - Cross (Mr. Goldman)

2 Q So it was the July 29th conversation that you had with
3 Mr. Trump which, according to you, for the first time Mr. Trump
4 raised the 10 percent issues, correct?

5 A He put it on the table. He said 10 percent, yes.

6 Q So the answer would be correct?

7 A Correct.

8 Q And before July 29th, Mr. Trump had not raised the 10
9 percent issue?

10 A Before that meeting, I do not believe so.

11 Q Okay. I'm going to read to you what you wrote to Cathy
12 Glosser on August 9, 2005 when the issue of payment occurred.

13 "Dear Cathy, as you know, Trump and ALM entered into a
14 memorandum of understanding dated September 25, 2003 that was
15 extended through June 30, 2004."

16 See that?

17 A I do.

18 Q That's correct, right?

19 A Yes.

20 Q Okay. You then say, "During the course of the
21 performance of its obligations and services, Mr. Trump requested
22 that ALM continue its efforts past June 30, 2004 at a reduced
23 rate of 10 percent."

24 Did Mr. Trump ever say to you prior to June 30, 2004 I
25 want you to continue your efforts past June 30, 2004 at a
26 reduced rate; yes or no?

1 Danzer - Plaintiff - Cross (Mr. Goldman)

2 A No.

3 Q Okay. So that was not an accurate statement, correct?

4 A It was a culmination, but it was not an accurate
5 statement.

6 Q I didn't ask you if it was a culmination. I asked you
7 if what you wrote to Cathy when you were discussing payment with
8 Cathy on August 9, 2005, was that accurate; and the answer is it
9 was not?

10 THE COURT: Yes or no?

11 A Okay. No, it was accurate.

12 Q So Mr. Trump said to you prior -- withdrawn.

13 Before you said no, it wasn't, and now you're saying
14 yes. So let me ask you, did Mr. Trump, prior to June 30, 2004,
15 ask you to extend your efforts past June 30th?

16 THE COURT: Yes or no?

17 A Yes.

18 Q When prior to June 30, 2004, since you just told us you
19 had not spoken with Mr. Trump about it until July 29th, when
20 prior to June 30, 2004 did Mr. Trump say to you please extend
21 and continue your efforts past June 30th?

22 A From the beginning, he said --

23 Q Sir --

24 A I will tell you the date. Hold on one second. Let me
25 just look here. I'm not sure when in June I met with him, but I
26 do remember him saying continue with your efforts. The 10

1 Danzer - Plaintiff - Cross (Mr. Goldman)

2 percent came up later. I culminated it into the sentence.

3 Q When you say you culminated, I'm not sure --

4 A In other words, we came to an agreement.

5 Q Sir, there's no question for you to talk. I don't know
6 what culmination is, but it sounds like to me you just put
7 things in letters.

8 So let me ask you -- I asked you before did you speak
9 to Mr. Trump at any time about the 10 percent, and you said the
10 first time you spoke to him was July 29th. You said that?

11 A Yes.

12 Q In response --

13 A About the 10 percent, correct.

14 Q So I'm going to ask you again, so we can get some
15 clarity, because you've been back and forth.

16 MR. ITKOWITZ: Objection to that comment.

17 THE COURT: The back and forth is stricken.

18 Q Did Mr. Trump request, prior to June 30, 2004, that ALM
19 continue its efforts past June 30th of 2004?

20 A Yes.

21 Q At a reduced rate of 10 percent?

22 A No.

23 Q Okay.

24 A May I clarify for you?

25 Q No.

26 A Okay.

1 Danzer - Plaintiff - Cross (Mr. Goldman)

2 Q In fact, you had an obligation under the signed
3 contract to continue your efforts past June 30, 2004; isn't that
4 correct?

5 A Correct.

6 Q So you didn't need Mr. Trump to tell you to continue
7 your efforts past June 30th, you had a contractual obligation to
8 continue past June 30th?

9 A Correct.

10 Q And Mr. Trump never told you to continue past June 30th
11 at a 10 percent rate, did he?

12 THE COURT: Yes or no?

13 A Not before June 30th.

14 Q Sir, I'm only asking you about before.

15 A It's phrased in such a way that's not accurate.

16 Q Well, let me read what you wrote to Ms. Glosser.

17 A Please.

18 Q I'll use your words and start at the beginning of the
19 sentence.

20 "During the course of the performance of its
21 obligations and services" --

22 A Correct.

23 Q -- "Mr. Trump requested that ALM continue its efforts
24 past June 30th at a reduced rate of 10 percent."

25 Did he ask you to continue your efforts past June 30th
26 of 2004 at a rate of 10 percent prior to June 30th?

1 Danzer - Plaintiff - Cross (Mr. Goldman)

2 A No.

3 Q And that's -- so he asked you, when you wrote this
4 letter, he asked you for the first time to continue your efforts
5 past June 30th at 10 percent on July 29th?

6 A You're combining two things.

7 Q Just answer my question.

8 A No.

9 Q Okay. You then write, "in this connection" -- do you
10 see that, "in this connection"?

11 A Yes.

12 Q And that follows the sentence regarding what Mr. Trump
13 requested, correct?

14 A Correct.

15 Q So when you wrote "in this connection," you meant in
16 connection with Mr. Trump making efforts or requesting that you
17 to continue your efforts?

18 A Correct.

19 Q Okay. So you wrote, "in this connection, ALM
20 introduced PVH to Trump on May 14th"?

21 A Correct.

22 Q You didn't introduce PVH to Mr. Trump based upon
23 anything Mr. Trump said, you introduced PVH to Mr. Trump because
24 you had a signed contract; isn't that correct?

25 A Can you read the sentence again, the whole sentence?

26 Q Sure. "In this connection, ALM introduced PVH to the

1 Danzer - Plaintiff - Cross (Mr. Goldman)
2 licensing opportunity on May 14, 2004 that resulted ultimately
3 in a signed agreement."

4 A Correct.

5 Q So when you introduced --

6 MR. ITKOWITZ: Excuse me, that's not what the
7 sentence says.

8 Q "That resulted in Trump entering into a license
9 agreement for dress shirts, tuxedo shirts and neckwear with
10 royalties of 8 percent, (3 percent for close-outs)."

11 When you introduced PVH to Trump in or about May 14,
12 2004, it had nothing to do with any conversations you had with
13 Mr. Trump, it had everything it do with the signed contracts?

14 A Correct.

15 Q And, in fact, so we're clear, when the June 26th
16 meeting with PVH arose, it had everything to do with -- I
17 apologize -- the June 24th meeting with PVH and Mr. Trump, it
18 had everything to do with the signed contracts, not Mr. Trump
19 telling you there would be some 10 percent reduction, correct?

20 A Correct.

21 MR. GOLDMAN: I have no further questions.

22 THE COURT: All right. Well, we do have a few
23 minutes. Let's do the redirect, because we're working until
24 twenty minutes to 1:00.

25 MR. ITKOWITZ: We're working twenty minutes until
26 1:00?

1 Danzer - Plaintiff - Redirect (Mr. Itkowitz)

2 THE COURT: Right.

3 MR. ITKOWITZ: May I have a few minutes to put my
4 exhibits together?

5 THE COURT: I'll give the jurors a little break.

6 Please, jurors, don't discuss the case. Keep an
7 open mind. Come back. We next start in five minutes, all
8 right? We'll start 12:28.

9 (Whereupon, the jury exits the courtroom and the
10 following transpired:)

11 (Whereupon, a brief recess was taken.)

12 (Whereupon, the jury enters the courtroom and the
13 following transpired:)

14 THE COURT: All right, please be seated.

15 So, Mr. Danzer, come on up.

16 (Whereupon, the witness resumes the stand.)

17 THE COURT: Mr. Danzer, you remain under oath.

18 Please do your redirect just on what was said
19 during the cross examination.

20 MR. ITKOWITZ: Okay.

21 REDIRECT EXAMINATION.

22 BY MR. ITKOWITZ:

23 Q Mr. Danzer, could you look at Exhibit R, which I hope
24 is up there.

25 THE COURT: Exhibit R.

26 (Document handed to witness.)

1 Danzer - Plaintiff - Redirect (Mr. Itkowitz)

2 Q Do you recall on cross examination Mr. Goldman was
3 asking you about the chronology of when you wrote to Mr. Wyse
4 versus other people, which are reflected in R?

5 A Correct.

6 Q And you said that he was asking you about how could it
7 be that he wrote Mr. Wyse on February 13th a special letter when
8 you sent other letters to -- the same letter to other people on
9 the 12th?

10 MR. GOLDMAN: Objection, that's not what I said.

11 MR. ITKOWITZ: I think that's what he was asked.

12 THE COURT: I don't think --

13 MR. ITKOWITZ: I'm going to ask him to explain,
14 that's all.

15 THE COURT: Well, did you say that?

16 MR. GOLDMAN: No.

17 THE COURT: Come up.

18 (An off-the-record discussion was held at the bench
19 among the Court and counsel.)

20 Q Just to move things along, do you recall testifying
21 about the chronology about when you wrote to Mr. Wyse and when
22 you wrote to other people?

23 A Yes.

24 Q Can you explain how that occurred?

25 A He was asking -- Mr. Goldman was asking me about the
26 letters, and he had asked whether or not I had sent Ken Wyse --

1 Danzer - Plaintiff - Redirect (Mr. Itkowitz)

2 MR. GOLDMAN: Objection what I said. The question
3 was to explain the chronology of the letters, not what I
4 said.

5 A Okay. Well, I'll explain the chronology of the
6 letters. I originally had spoken with Mr. Wyse, actually on
7 February 11th or 12th. He was the first person that I spoke
8 with. He was the closest relationship that I had. Based on our
9 conversations, I wrote a letter to him, we thought it was a
10 great letter. He was -- Mr. Wyse said, send me the letter.

11 MR. GOLDMAN: Objection, move to strike.

12 THE COURT: Sustained. Rules don't change. You
13 can't tell me what Mr. Wyse said to you, because that's
14 called hearsay. That's an out-of-court statement made for
15 the purpose of -- making an out-of-court statement for the
16 purpose of telling the jury what somebody else said and can
17 be subject to cross examination.

18 A Okay. So I came to understand that Mr. Wyse --

19 THE COURT: Again, as a result of the conversation
20 you did what? That's a different thing.

21 A As a result of the conversation, I sent a letter to Mr.
22 Wyse two days later at his hotel, because he was traveling.

23 Q When did you write that letter?

24 A I wrote that letter either the day that I sent it on
25 February 12th, when I sent those letters, or the day before.
26 Was right after the conversation I wrote the letter. May have

1 Danzer - Plaintiff - Redirect (Mr. Itkowitz)
2 taken me the full day on the 11th and then I got ready to send
3 it out, and I thought it was -- we all, Mark and I both, thought
4 it was a great letter, send it to everybody. Then I sent it to
5 Ken Wyse when he got to his hotel the next day.

6 Q Now, you were asked on cross examination whether ALM
7 had done anything prior to your arrival or prior to your being
8 employed.

9 Did you have any personal knowledge as to what ALM did
10 prior to that?

11 A I did not.

12 Q You were asked if the June 24th meeting with PVH was
13 the first time you brought somebody to meet with Mr. Trump?

14 A Correct.

15 Q And that was the first time, correct?

16 A Correct.

17 Q Had you attempted to set up other meetings with Mr.
18 Trump and any other licensees, potential licensees?

19 MR. GOLDMAN: Objection, beyond the scope of
20 direct.

21 THE COURT: No, I'm going to allow that.

22 A Yes.

23 Q And who had you tried to set up a meeting with, in
24 particular?

25 A Peerless.

26 Q And why did you try to set up a meeting with Peerless?

1 Danzer - Plaintiff - Redirect (Mr. Itkowitz)

2 MR. GOLDMAN: Objection.

3 THE COURT: Sustained. That's way beyond.

4 Q And Peerless was one of what you called --

5 THE COURT: That's testifying.

6 Q Withdrawn.

7 Now, when you set up this meeting on June 24th with
8 Peerless -- excuse me -- with PVH, did the Trump Organization
9 set any preconditions --

10 A No.

11 Q -- for a meeting?

12 A No.

13 Q And in connection with Peerless, did the Trump
14 Organization set any --

15 MR. GOLDMAN: Objection, it's not going on direct.

16 THE COURT: Sustained.

17 MR. ITKOWITZ: Excuse me?

18 THE COURT: Sustained.

19 Q What happens when you try to set up a meeting with
20 Peerless? Tell us.

21 MR. GOLDMAN: Objection.

22 THE COURT: Sustained. Goes way beyond.

23 MR. ITKOWITZ: May I speak to that? Either -- I'd
24 like to speak to that off on the sidebar.

25 THE COURT: Mr. Danzer, step down.

26 (Whereupon, the witness exits the stand.)

1 Danzer - Plaintiff - Redirect (Mr. Itkowitz)

2 THE COURT: Go in the back.

3 (Whereupon, the following takes place in the
4 Judge's robing room, on the record, among the Court and
5 counsel:)

6 MR. ITKOWITZ: During the cross examination of Mr.
7 Danzer, Mr. Goldman, to put it mildly, made a theatrical
8 show about how this was the first person that you brought to
9 the table for a meeting.

10 THE COURT: Actually, he asked him directly did you
11 bring anybody else to the meeting.

12 MR. GOLDMAN: That's it.

13 THE COURT: That's it. He asked that. And the
14 answer was no, he brought -- he brought PVH and he brought
15 Coty.

16 MR. ITKOWITZ: Right. But here's what the facts
17 are in the case.

18 THE COURT: I don't care what the facts are.
19 That's what he said.

20 MR. ITKOWITZ: Excuse me, Your Honor. PVH with
21 Peerless, which was the biggest client that he was trying to
22 bring in, okay. Mr. Ross set a precondition and it's clear
23 that he set a precondition.

24 THE COURT: Sir, you know what, you didn't bring it
25 out on direct and it certainly came out on cross; so
26 therefore, you can't do it on redirect. Voilà, merci, the

1 Danzer - Plaintiff - Redirect (Mr. Itkowitz)
2 objection is sustained.

3 (Whereupon, the following takes place in open
4 court:)

5 THE COURT: The objection is sustained. Next
6 question.

7 (Whereupon, the witness resumes the stand.)

8 MR. ITKOWITZ: Just one second.

9 THE COURT: One more question.

10 Q Directing your attention to Exhibit 88, page 2 at the
11 bottom of the top paragraph.

12 A Do I have that here?

13 THE COURT: Eighty-eight, it's in front of you.

14 MR. ITKOWITZ: Eighty-eight.

15 A Here it is. Yes.

16 Q Second page, top paragraph, at the bottom of the top
17 paragraph. You stated in this letter, "I was most disappointed
18 when you refused to meet with Ronnie Wurtzberger, the president
19 of Peerless."

20 MR. GOLDMAN: Objection and move to strike. It's
21 not part of the direct. He's back dooring.

22 THE COURT: It's sustained. I explained on the
23 record and please don't do that.

24 Q Did you have a reaction when the Trump Organization
25 refused to meet with Peerless?

26 MR. GOLDMAN: Objection.

1 Danzer - Plaintiff - Redirect (Mr. Itkowitz)

2 THE COURT: It is sustained. Got it?

3 MR. ITKOWITZ: Okay, yes, I got it.

4 THE COURT: Thank you. For the reasons stated on
5 the record. Make it clear.

6 MR. ITKOWITZ: Okay.

7 THE COURT: In fact, let's go off to lunch. All
8 right, jurors, please don't discuss the case among
9 yourselves. Keep an open mind. We'll see everybody back
10 here. One second, I have to talk to you.

11 You can step down, Mr. Danzer, from the stand.

12 (Whereupon, the witness exits the stand.)

13 THE COURT: Jurors, I know it's kind of confining
14 to have to stay in your room, but the problem is I've seen a
15 number of you sort of hanging out in the corridor. I think
16 two of you were talking at one point. Another point I think
17 there's someone out in the corridor.

18 The problem is that people move around and they
19 talk, they think that you are safe and sound in the jury
20 room and now they're talking to each other or they're
21 talking about the case and there's no way of really
22 segregating you, the jury, from the other people in this
23 courtroom. And so I have to ask you to really confine
24 yourself to the jury room where you're welcome to stay at
25 all times, okay. Or maybe if you really want to have a
26 private conversation or use your phone in the vestibule

Proceedings

1
2 that's right outside the jury room. But please don't sit
3 around in the hall that leads to the jury room. For one
4 thing, other jurors are there, potential jurors, and you
5 know, they're not -- they shouldn't be hearing this and you
6 shouldn't be talking about things there. That's not a good
7 place and anyplace else that's where the others are standing
8 and talking. So please go to your jury room.

9 I know it's confining. If you feel like -- you can
10 open up the window there. It's a beautiful day. So after
11 you go out, enjoy the day, you can open up the window. It
12 is open, right?

13 COURT OFFICER: It's open.

14 THE COURT: It's open, okay. So maybe that's -- do
15 we have an air conditioner there?

16 COURT OFFICER: When they turn it on.

17 THE COURT: We don't have an air conditioner, but
18 hopefully it's not too uncomfortable. Please don't discuss
19 the case among yourselves. Keep an open mind. See you back
20 here. We're going to start at 2:15. Thank you.

21 (Whereupon, the jury exits the courtroom and the
22 following transpired:)

23 THE COURT: All right. Back here at 2:15.

24 MR. GOLDMAN: Thank you, Your Honor.

25 (Luncheon recess taken.)
26

1 Danzer - by Plaintiff - Redirect

2 Afternoon session.

3 THE COURT: Come back up, Mr. Danzer.

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

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

9 THE COURT: Okay, please be seated.

10 The gentleman sitting behind me is one of my
11 new interns -- not an intern; actually, my Commercial
12 Division law assistant.

13 Please, go ahead.

14 MR. ITKOWITZ: Can I show the witness Trial
15 Exhibit 69?

16 THE COURT: What exhibit?

17 MR. ITKOWITZ: Trial Exhibit 69.

18 THE COURT: An e-mail sent from Mr. Danzer on
19 June 16th to Kenneth Wyse.

20 (Pause.)

21 THE COURT OFFICER: Exhibit 16.

22 THE WITNESS: Thank you.

23 REDIRECT EXAMINATION

24 BY MR. ITKOWITZ:

25 Q Mr. Danzer, you were asked on cross-examination
26 how this meeting on June 24th got set up. And I believe it

Donna Evans, Official Court Reporter

1 Danzer - by Plaintiff - Redirect

2 is an e-mail that you sent to Mr. Wyse?

3 THE COURT: I can't hear a word you're
4 saying.

5 MR. ITKOWITZ: I'm sorry.

6 Q You were asked how the June 24th meeting got set
7 up on cross-examination, correct?

8 A Correct.

9 Q Now, in this e-mail you write to Ken Wyse about
10 the June 24th meeting, correct?

11 A Correct.

12 Q Why did you write to him on that date?

13 A To let him know we had a confirmed firm meeting
14 with Mr. Trump, a week later, on the 24th.

15 Q And did you -- directing your attention to the
16 last sentence of this e-mail?

17 A Yes.

18 Q It references a meeting that you want to have with
19 him?

20 A Yes.

21 Q Did you meet with him?

22 A Yes.

23 Q Prior to the meeting on June 24th?

24 A Yes.

25 Q What was the purpose of meeting with him on that
26 date?

Donna Evans, Official Court Reporter

1 Danzer - by Plaintiff - Redirect

2 A To discuss the agenda goals and how we could
3 maximize the outcome of the meeting.

4 Q And did you consider that to be part of your
5 significant role that you were engaging in?

6 A Yes.

7 Q And the meeting occurred on June 24th?

8 A Yes.

9 Q I don't want to go into all of the things that
10 happened on June 24th. But I think you testified that after
11 that meeting you met with Mr. Trump in July, correct?

12 A After the meeting that we had --

13 Q On June 24th?

14 A With Phillips Van Heusen.

15 Q Yes. You met with Mr. Trump in July?

16 A I don't remember.

17 Q I direct your attention to Plaintiff's Exhibit 23?

18 THE COURT: Twenty-three?

19 MR. ITKOWITZ: Twenty-three.

20 Q Do you see that?

21 A Yes.

22 Q I direct your attention to the first paragraph?

23 THE COURT: Wait a second.

24 MR. ITKOWITZ: Of 23.

25 THE COURT: That's not -- he's looking at
26 something that's not 23.

Donna Evans, Official Court Reporter

1 Danzer - by Plaintiff - Redirect

2 THE WITNESS: It says 23 at the bottom.

3 I'm looking at something else that says 23.

4 I see.

5 (Pause.)

6 THE COURT: Let me see.

7 That's it.

8 Q Twenty-three is your letter dated July 26 to
9 Mr. Trump, correct?

10 A Correct.

11 Q I direct your attention to the first paragraph.

12 A Yes.

13 Q And it says --

14 MR. GOLDMAN: Objection.

15 THE COURT: You don't have to read it.

16 Q Does it reference a meeting you previously had --

17 MR. GOLDMAN: Objection, leading. If he
18 wants to refresh his recollection that's not --

19 Q Does that refresh your recollection as to when you
20 met with Mr. Trump in July?

21 A Yes.

22 Q So when did you meet with Mr. Trump prior to this
23 letter?

24 MR. GOLDMAN: Objection. He never said the
25 meeting was prior to the letter. He didn't know when
26 it was.

Donna Evans, Official Court Reporter

1 Danzer - by Plaintiff - Redirect

2 THE COURT: No, it does. It says it was good
3 speaking with you last Thursday. So go ahead.

4 Does that refresh your recollection?

5 THE WITNESS: It does.

6 Q So you met with him the Thursday prior to writing
7 this letter?

8 Look at the date on the letter.
9 Twenty-three?

10 A Yes.

11 Q That's dated July 26, correct?

12 A Yes.

13 Q When did you write this letter?

14 A July 26.

15 Q And you met with him a couple days prior?

16 MR. GOLDMAN: Objection.

17 THE COURT: Sustained.

18 You're leading. This is redirect.

19 MR. ITKOWITZ: Okay.

20 Q Does --

21 THE COURT: Can you tell us what date you met
22 with him looking at that letter?

23 THE WITNESS: From this letter I cannot tell
24 you what day I met with him.

25 Q Look at the first sentence.

26 MR. GOLDMAN: Objection. He's not --

Donna Evans, Official Court Reporter

1 Danzer - by Plaintiff - Redirect

2 Q Does that refresh your recollection as to when you
3 met with Mr. Trump?

4 MR. GOLDMAN: Objection.

5 THE COURT: I'll allow it.

6 When did you meet with Mr. Trump?

7 THE WITNESS: I do not remember if that
8 Thursday was a phone call or a meeting.

9 Q Okay.

10 Now, when -- as of July 26, you were asked
11 whether you were still working under the memorandum of
12 understanding, correct?

13 A Correct.

14 Q Were you?

15 A Yes.

16 MR. GOLDMAN: Objection.

17 THE COURT: I'll allow it.

18 Q And was it your understanding -- what was your
19 understanding of what Mr. Trump understood about that?

20 MR. GOLDMAN: Objection.

21 THE COURT: Sustained.

22 Q Did you have a discussion with Mr. Trump as to
23 whether you were still working under the --

24 THE COURT: That's leading. Sustained.

25 Q Did you -- when you spoke to Mr. Trump, did you
26 tell Mr. Trump anything about whether you were continuing to

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1 Danzer - by Plaintiff - Redirect

2 work under the memorandum of understanding?

3 MR. GOLDMAN: Objection. Leading.

4 THE COURT: Leading. Sustained. Strike it.

5 Q What, if anything, did you say to Mr. Trump and
6 what did Mr. Trump say to you with respect to when you met
7 with him -- when you spoke with him on the Thursday prior to
8 writing this letter?

9 THE COURT: I'll allow that.

10 Q In sum and substance?

11 A I mentioned to Mr. Trump that Phillips Van Heusen
12 was not -- was most probably not going to be able to meet
13 the terms of the original memorandum of understanding.

14 Q What terms were those?

15 A It was 25 million-dollars in sales per year, seven
16 years, et cetera.

17 Q What, if anything, did Mr. Trump say to you?

18 A He said, well, that's outside of the scope of our
19 memorandum of understanding. Then it was all about a
20 finders fee, the conversation. He said that you will not
21 get more than 10 percent finders fee, and if you want more,
22 because I questioned, I went back on it, it was way lower
23 than the 22.5 percent. He said come back to me with a
24 proposal as to how ALM could make more money.

25 Q Now, after that -- directing your attention to --
26 directing your attention to Exhibit L?

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1 Danzer - by Plaintiff - Redirect

2 A Yes.

3 Q Do you see that?

4 A Yes.

5 Q Did you write that letter?

6 A I did.

7 Q Prior to writing that letter, did you send drafts
8 to Mr. Hager which had been previously introduced into
9 evidence as Defendant's J and K?

10 A Yes.

11 Q Why did you send drafts to Mr. Hager?

12 A Mr. Hager was the owner of ALM and he had to
13 approve everything that went out.

14 Q Now, when you wrote Exhibit L, it references -- it
15 says Mark and I discussed your offer of 10 percent.

16 Do you see that?

17 A I do.

18 Q What was the background of that discussion you had
19 with Mr. Hager?

20 MR. GOLDMAN: Objection, we did not go into
21 the Coty letter at all.

22 THE COURT: Sustained.

23 Q Does that refresh your recollection --

24 MR. ITKOWITZ: Excuse me.

25 (Pause.)

26 Q In terms of the offer that's referenced there, was
Donna Evans, Official Court Reporter

1 Danzer - by Plaintiff - Redirect

2 that an offer in a telephone conversation or in a meeting?

3 A No, it was --

4 MR. GOLDMAN: Objection, move to strike any
5 response, it was not gotten into on direct the
6 August 2nd letter.

7 THE COURT: Objection is what you're supposed
8 to be saying.

9 MR. GOLDMAN: Sorry.

10 THE COURT: Sustained.

11 MR. ITKOWITZ: All right.

12 Q Directing your attention to Exhibit K, on
13 cross-examination Mr. Goldman asked you if there was any
14 mention of significant negotiations in this document?

15 THE COURT: Do you have K in front of you?

16 THE WITNESS: I do.

17 THE COURT: What was that question again?

18 Could you read it back, I'm sorry.

19 BY MR. ITKOWITZ:

20 Q Mr. Goldman asked you about Exhibit K. This is a
21 draft, correct?

22 A Correct.

23 Q He asked you did you mention anything in your
24 draft about significant negotiations. Do you recall that?

25 A I do not recall that question.

26 Q Do you recall him asking if you mentioned anything

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1 Danzer - by Plaintiff - Redirect

2 about PVH in this document?

3 A Yes.

4 Q Why didn't you mention PVH in this document?

5 MR. GOLDMAN: Objection. Parole evidence.

6 THE COURT: Sustained.

7 BY MR. ITKOWITZ:

8 Q Well, Mr. Goldman asked you -- he asked you did
9 you mention. He also asked you if this had a termination
10 date. He also asked you if this had a tail. Why didn't you
11 mention any of those items in this draft letter?

12 MR. GOLDMAN: Objection. Parole evidence.

13 THE COURT: Sustained.

14 MR. ITKOWITZ: Your Honor, may I approach?

15 THE COURT: You want to approach?

16 MR. ITKOWITZ: Yes.

17 THE COURT: Come on up.

18 (Whereupon, there's a sidebar discussion off
19 the record, out of the hearing of the jury.)

20 BY MR. ITKOWITZ:

21 Q I show you what's been marked as Trial Exhibit
22 115.

23 A Is it new or is it up here?

24 THE COURT: You don't have that?

25 (Pause.)

26 THE COURT OFFICER: 115.

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1 Danzer - by Plaintiff - Redirect

2 Q Take a look at that document.

3 (Pause.)

4 Q On cross-examination Mr. Goldman asked you if you
5 met with Mr. Trump after the late July meeting, between your
6 July meeting, okay, and the August 26 meeting. Do you
7 recall being asked those questions?

8 A Yes.

9 Q Take a look at this document. I ask if it
10 refreshes your recollection as to your having met him at
11 another time in August?

12 MR. GOLDMAN: He never said his memory wasn't
13 refreshed.

14 THE COURT: Of course you have to do that,
15 you have to find out whether he needs to be refreshed
16 first.

17 MR. ITKOWITZ: Okay.

18 Q Do you recall meeting with Donald -- you said that
19 you had not met with Donald Trump from late July until
20 August 26. Do you recall that testimony?

21 A My testimony was I do not recall.

22 Q You did not recall. Okay.

23 So I would ask you then if you don't recall,
24 take a look at this document and see if it refreshes your
25 recollection as to whether you met with Mr. Trump after your
26 late July meeting but prior to the August 26 meeting?

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1 Danzer - by Plaintiff - Redirect

2 A Yes, I did. On Tuesday August 3rd.

3 Q And who did you meet with?

4 A It was with Mr. Ross, Mr. Trump and Cathy Glosser.

5 Q And that's reflected in Trial Exhibit 115?

6 A Yes.

7 Q And is this e-mail that you wrote an accurate

8 e-mail?

9 A Yes.

10 Q Now, I direct your attention to Exhibit 100.

11 THE COURT: Do you have 100 in front of you?

12 (Pause.)

13 MR. GOLDMAN: Your Honor, what is Exhibit

14 100?

15 THE COURT: It's the August 3rd letter.

16 Do you have it?

17 THE COURT OFFICER: He has it.

18 THE COURT: Go ahead.

19 Q Having refreshed --

20 THE COURT: No, no.

21 First, you can't refresh recollection before
22 asking if he hasn't gotten the recollection.

23 MR. ITKOWITZ: I understand that.

24 Q I'm not asking about the document in front of you
25 now. You met with Donald Trump August 2nd, you just
26 testified to?

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1 Danzer - by Plaintiff - Redirect

2 A August 3rd.

3 Q August 3rd?

4 A Third.

5 Q Now, but the -- okay, right. Excuse me,
6 August 3rd.

7 Then you wrote this letter which is Exhibit
8 100, correct?

9 A Correct.

10 Q Was this letter written before or after you met
11 with Mr. Trump?

12 A This letter --

13 THE COURT: Only if you can recall.

14 THE WITNESS: I don't recall.

15 Q Just take a look at it before you answer.

16 MR. GOLDMAN: He just answered it, he didn't
17 recall.

18 THE COURT: Take a look at the letter. Does
19 that refresh your recollection?

20 THE WITNESS: I'm looking at the letter.

21 (Pause.)

22 A This is after.

23 Q Now, can you tell us if this letter was a product
24 of your meeting in July or your meeting in August?

25 A It was a product of that meeting in August.

26 Q Now, as you sit here now, and after you wrote this

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1 Danzer - by Plaintiff - Redirect

2 letter, directing your attention back to August 3rd, 2004,
3 based upon the then discussions you had had with the Trump
4 Organization, did you have an opinion as to whether ALM
5 would be entitled to -- could earn a commission if it
6 brought a deal to the table?

7 MR. GOLDMAN: Objection.

8 THE COURT: Objection is sustained.

9 MR. ITKOWITZ: All right.

10 Q I'm going to direct your attention to Exhibit 131.

11 THE COURT OFFICER: Exhibit 131 in evidence.

12 (Pause.)

13 Q Have you looked at 131?

14 A I have it.

15 Q Can you tell us if you spoke to Mr. Ross on or
16 about August 5th?

17 MR. GOLDMAN: Objection. This is requiring
18 him to read the document --

19 THE COURT: Ask another question.

20 Q Does this refresh your recollection --

21 THE COURT: No, again, he hasn't said he
22 doesn't have a recollection.

23 Q Do you recall speaking to Mr. Ross on or about
24 August 5th?

25 A Speaking with him?

26 Q Yes.

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1 Danzer - by Plaintiff - Redirect

2 A I don't recall.

3 Q Take a look at this document and see if it
4 refreshes your recollection as to whether you spoke to him
5 on or about August 5th?

6 A I know it's asking for him to call me but I don't
7 know whether or not we spoke.

8 Q So you don't know whether or not he called you?

9 A I don't recall.

10 Q Did you speak to him at some point after this?

11 A Yes. After this, yes.

12 Q What was the nature of your discussions with
13 Mr. Ross after the August 3rd letter with Mr. Trump with
14 respect to the percentages?

15 MR. GOLDMAN: Objection, can we get a time
16 frame?

17 Q I said after August 3rd and before August 20th?

18 A Yes. That was when we had our meeting in
19 Mr. Ross's office when Mr. Ross said -- first of all, he was
20 very angry.

21 MR. GOLDMAN: Objection.

22 THE COURT: Never mind.

23 A That was when he said you will get a 10 percent
24 finders fee and no more, and all the other stuff forget
25 about it.

26 MR. GOLDMAN: I'm sorry, what?

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1 Danzer - by Plaintiff - Redirect

2 THE WITNESS: All the other stuff in the
3 letter, the sliding scale, you're not going to get it.

4 Q So the sliding scale --

5 A He said forget it, you're not going to get any
6 more than 10 percent.

7 Q So why were you asking for a sliding scale?

8 MR. GOLDMAN: Objection.

9 THE COURT: Sustained.

10 Q Now, when he said to you on that -- in that
11 meeting you're not going to get anything more than
12 10 percent, did you give a response from ALM as to whether
13 that was going to be acceptable to you?

14 A I went back with the information. I didn't accept
15 it right there. I went back, I told Mark about the meeting,
16 what had happened, that 10 percent was the final offer.
17 That was it, not a penny more. And there would be no
18 sliding scale because there would be no management of the
19 license, et cetera.

20 Q And did you have discussions at ALM as to whether
21 to accept that?

22 A We did.

23 Q I direct your attention to 116.

24 MR. WILTENBURG: I don't think 116 has been
25 marked.

26 MR. GOLDMAN: It hasn't been marked, and it
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1 Danzer - by Plaintiff - Redirect
2 was not gone into on direct, and therefore I will
3 object.

4 THE COURT: No, I'll allow it. In evidence.

5 BY MR. ITKOWITZ:

6 Q Take a look at that.

7 MR. GOLDMAN: Your Honor, I'm going to
8 object.

9 THE COURT: Wait a second. Come up.

10 (Whereupon, there's a sidebar discussion off
11 the record, out of the hearing of the jury.)

12 THE COURT: Go ahead.

13 MR. ITKOWITZ: I want to clarify 116 is in
14 evidence, is it not?

15 THE COURT: Yes, it is.

16 BY MR. ITKOWITZ:

17 Q Now, Mr. Danzer, do you recall when ALM agreed,
18 among the ALM people that they were going to accept the
19 10 percent?

20 A Yes.

21 Q When was that?

22 A On August 20th, on a Friday.

23 THE COURT: That's after reading from the
24 document, am I correct?

25 THE WITNESS: Yes.

26 THE COURT: You're reading from the document,
Donna Evans, Official Court Reporter

1 Danzer - by Plaintiff - Redirect

2 you're not answering it on your own recollection.

3 THE WITNESS: I saw the date and I answered
4 based on what I saw in the document.

5 THE COURT: Go ahead.

6 BY MR. ITKOWITZ:

7 Q Now, when you had that information, what did you
8 then do?

9 A Which information?

10 Q The information that the 10 percent was acceptable
11 to ALM.

12 A I called George Ross.

13 MR. GOLDMAN: Objection, I did not get into
14 this on direct.

15 THE COURT: This is redirect based on what
16 happened on cross-examination. Those are the rules.

17 MR. ITKOWITZ: I know that, your Honor.

18 THE COURT: This is beyond cross-examination.

19 (Pause.)

20 BY MR. ITKOWITZ:

21 Q Now, after you spoke to George --

22 MR. ITKOWITZ: Excuse me.

23 (Pause.)

24 Q Now I show you --

25 MR. ITKOWITZ: I would like to show the
26 witness 117 which, while I believe it's in evidence --

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1 Danzer - by Plaintiff - Redirect

2 THE COURT: No, it's not.

3 MR. ITKOWITZ: I'm going to show it to him
4 and ask him a few questions.

5 THE COURT: This is Plaintiff's 117 for
6 identification.

7 BY MR. ITKOWITZ:

8 Q Mr. Danzer.

9 (Document marked Plaintiff's Exhibit 117 for
10 identification, as of this date.)

11 BY MR. ITKOWITZ:

12 Q Look at the face page at the top of 117. Can you
13 identify what this document is?

14 A It's a cover sheet with a copy of the agreement,
15 the agreement details that we had with Mr. Trump, the new
16 agreement or modified agreement.

17 Q Is that an e-mail that you sent?

18 A Yes.

19 THE COURT: Who's Henry Weinreich?

20 MR. ITKOWITZ: That was my next question.

21 Q Who is Howard Weinreich?

22 A Mark's partner at ALM.

23 Q Now, did you send this document by e-mail?

24 A I did.

25 MR. ITKOWITZ: I move it into evidence.

26 MR. GOLDMAN: Objection. Number one, it's
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1 Danzer - by Plaintiff - Redirect

2 beyond the scope. This was not a document that was
3 either discussed with nor identified by the witness
4 during my direct examination.

5 MR. ITKOWITZ: May I address that point, your
6 Honor?

7 I would just say to your Honor if you look at
8 Defendant's Exhibit N.

9 THE COURT: I knew I've seen this before.

10 MR. GOLDMAN: Defendant's N is in evidence,
11 if he wants to question him about Defendant's N he can.

12 MR. ITKOWITZ: Excuse me, no. I would direct
13 your attention, your Honor, to the Bates numbers. And
14 if you look at the attachment to 117, you will see that
15 they are identical to the Defendant's Exhibit N. So,
16 therefore, this is directly in contravention because of
17 Mr. Goldman's examination.

18 THE COURT: I will permit this one. And the
19 reason why is when we talk about Bates stamp, the
20 appropriate way during the course of discovery is that
21 every single document comes in with a proper
22 identification number. Usually it's very long so it
23 doesn't matter. In this case there is an
24 identification number of P298. It is followed by what
25 has previously been marked as Defendant's N in evidence
26 and that is Bates stamped P299. So, therefore, it is

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1 Danzer - by Plaintiff - Redirect

2 part and parcel of that same document and I will permit
3 it.

4 BY MR. ITKOWITZ:

5 Q Now, Mr. Danzer, I would direct your attention to
6 compare Exhibit N to the attachment to your e-mail dated
7 August 23, which is 117 in evidence?

8 MR. ITKOWITZ: I don't think I moved it into
9 evidence. I move it into evidence.

10 THE COURT: Do you object to the first page
11 of 117 going into evidence?

12 MR. GOLDMAN: No.

13 THE COURT: The second page is already in
14 evidence.

15 MR. GOLDMAN: Correct.

16 THE COURT: So the first page will be marked
17 into evidence without objection.

18 (Whereupon Plaintiff's Exhibit 117 was
19 received in evidence, as of this date.)

20 BY MR. ITKOWITZ:

21 Q Do you see -- I want you to compare what
22 Mr. Goldman showed you as Exhibit N to the attachment to
23 117?

24 THE COURT: It's identical. Let's go on.

25 THE WITNESS: It's exactly the same.

26 MR. ITKOWITZ: Okay.

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1 Danzer - by Plaintiff - Redirect

2 Q Now, when Mr. Goldman was questioning you, he
3 asked you the date that this document was generated, Exhibit
4 N?

5 A Correct.

6 Q Looking at Exhibit 117 and Exhibit N, can you tell
7 us when the attachment to 117 was composed?

8 MR. GOLDMAN: Objection. He testified it was
9 on August 2nd, he's impeaching his own witness with a
10 document. He testified in response it was done on
11 August 2nd.

12 THE COURT: He said that.

13 MR. ITKOWITZ: Your Honor, Mr. Goldman showed
14 him an attachment to an August 23rd e-mail.

15 THE COURT: Sir, you don't want me to expound
16 on that, okay, but come up and I'll tell you my ideas.

17 (Whereupon, there's a sidebar discussion off
18 the record, out of the hearing a of the jury.)

19 THE COURT: Objection is sustained.

20 BY MR. ITKOWITZ:

21 Q Mr. Danzer, the document that's attached to 117,
22 that describes a meeting, does it not?

23 A It does.

24 Q What meeting does that describe?

25 A It describes a meeting between me and George --

26 Q I mean a conversation.

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1 Danzer - by Plaintiff - Redirect

2 A A conversation between me and George where we came
3 to terms regarding our deal.

4 Q What was the date of that a conversation?

5 A August 2nd.

6 Q I direct your attention to Exhibit 101.

7 THE COURT OFFICER: 101 in evidence.

8 Q Exhibit 101 discusses a conversation you had with
9 Mr. Ross?

10 MR. GOLDMAN: Objection, leading and beyond
11 the scope of direct.

12 THE COURT: I'll have to sustain that.

13 BY MR. ITKOWITZ:

14 Q When did you speak to Mr. Ross with respect to
15 Exhibit 101?

16 MR. GOLDMAN: Objection. It's still beyond
17 the scope of cross.

18 MR. ITKOWITZ: Your Honor, I would argue it's
19 not beyond the scope because Mr. Goldman made a big
20 deal about trying to establish a date when something
21 happened and I'm trying to clear up when things
22 happened.

23 THE COURT: But ask him questions. Okay?

24 BY MR. ITKOWITZ:

25 Q What's the date that you spoke with Mr. Ross that
26 led to your writing the August 23rd e-mail?

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1 Danzer - by Plaintiff - Redirect

2 A The Friday before August 22nd.

3 Q And the attachment to the August 23rd e-mail
4 describing the deal is dated when?

5 A August 2nd.

6 MR. GOLDMAN: I'm sorry, there is no
7 attachment to the August 23rd e-mail.

8 MR. ITKOWITZ: Yes, there is.

9 THE WITNESS: It's right here.

10 THE COURT: Where?

11 MR. ITKOWITZ: Case number --

12 MR. GOLDMAN: Object and move to strike.

13 Your Honor ruled on that.

14 MR. ITKOWITZ: No.

15 THE COURT: Yes. It is sustained.

16 Sustained.

17 I'm going to strike that whole thing. Go on
18 and ask him questions, sir.

19 MR. ITKOWITZ: Okay.

20 Q When you wrote to Mr. Ross and you described what
21 the deal was with the 10 percent for any deal, that was
22 based upon a conversation that occurred when?

23 I would direct your attention --

24 THE COURT: Wait, he hasn't said -- you can't
25 direct his attention until you get an answer.

26 MR. ITKOWITZ: Okay.

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1 Danzer - by Plaintiff - Redirect

2 THE WITNESS: Can you repeat the question?

3 MR. GOLDMAN: Your Honor, this question has
4 been asked and answered. Even the witness at this
5 point doesn't know whether it's August 2nd or
6 August 20th. He's not getting the answer he wants you
7 don't keep asking the question.

8 THE COURT: Enough already.

9 BY MR. ITKOWITZ:

10 Q You just testified that when you wrote Exhibit
11 101, the e-mail, you had spoken to Mr. Ross the Friday
12 before, correct?

13 A Correct.

14 Q And was that the basis of the August 25th letter
15 that you wrote to Mr. Ross, the August 23rd letter you wrote
16 to Mr. Ross?

17 A Yes.

18 Q And I would like you to compare the Exhibit N
19 to -- I'd direct your attention to Exhibit Trial 72.

20 A I don't have 72 here.

21 THE COURT: I don't know if he has 72. I
22 don't know if it's in front of the witness.

23 THE COURT OFFICER: Seventy-two in evidence.

24 BY MR. ITKOWITZ:

25 Q The text of this letter was based on a
26 conversation you had with George Ross when?

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1 Danzer - by Plaintiff - Redirect

2 MR. GOLDMAN: Objection to the form. He's
3 showing him two letters, which letter are you leading
4 him?

5 MR. ITKOWITZ: I'm talking about Trial 72.

6 MR. GOLDMAN: Then it's leading.

7 THE COURT: Ask him a direct question,
8 please.

9 BY MR. ITKOWITZ:

10 Q You said you testified that you wrote a letter to
11 Mr. Ross after you had a conversation with him on Friday
12 August 20th, correct?

13 A Yes.

14 Q Can you tell us what letter -- what you wrote --
15 what document did you write to Mr. Ross on the 23rd?

16 A After that Monday sent him an e-mail saying I'm
17 happy we've been able to come to terms --

18 MR. GOLDMAN: Objection, it calls for which
19 exhibit that you sent him, which e-mail?

20 THE COURT: Either Plaintiff's Exhibit 72 or
21 whatever other number.

22 Q Are you referring to Exhibit 72, sir?

23 A I am.

24 (Continued on next page.)

25

26

Donna Evans, Official Court Reporter

1 Danzer - Plaintiff- Redirect (Mr. Itkowitz)

2 BY MR. ITKOWITZ:

3 Q I'd like you to compare the text to Exhibit 72 and
4 Exhibit N and Exhibit 117. Do you have those three pieces of
5 paper in front of you?

6 A I do.

7 Q Now, did you have to get the approval of anybody before
8 you could send Exhibit 72 to Mr. Ross?

9 A Yes.

10 Q Who did you have to get the approval of?

11 A Mr. Hager.

12 Q When did you get that approval?

13 A Right after I wrote it. So on that Monday, Monday the
14 23rd.

15 Q Now, looking at 72, the text of that letter, and
16 looking at Exhibit 117, and looking at Exhibit N, can you tell
17 us when you wrote Exhibit N?

18 MR. GOLDMAN: Objection. He's impeaching his
19 witness.

20 THE COURT: I'll allow it.

21 A When I wrote N?

22 Q N.

23 A N was written August 2nd.

24 Q N was based upon a conversation you had with Mr. Ross?

25 THE COURT: Enough already.

26 MR. GOLDMAN: Objection. Leading.

1 Danzer - Plaintiff- Redirect (Mr. Itkowitz)

2 THE COURT: Let's go.

3 Q Directing your attention to Exhibit 24.

4 (Document handed to the witness.)

5 COURT OFFICER: Twenty-four in evidence.

6 Q When you wrote Exhibit 72, why did you write Exhibit
7 72?

8 A I was -- 72?

9 Q Yes, look at 72.

10 A I wrote it to confirm with George our agreement, very
11 happy that we have a deal. That's what we agreed to.

12 Q Had anybody asked you to write a letter?

13 A Yeah, Mark and I had a discussion that we were going to
14 write a letter to him, of course.

15 Q And I direct your attention to the bottom e-mail --

16 MR. GOLDMAN: What exhibit?

17 Q Excuse me. The top e-mail to Exhibit 24.

18 A Okay.

19 Q Look at that.

20 MR. GOLDMAN: First of all, object to the form,
21 asking a witness to look at something before being
22 questioned.

23 And number two, this exhibit was not addressed on
24 direct -- I'm sorry, cross examination.

25 THE COURT: It wasn't addressed on cross
26 examination. So ask him questions, please. Forget

1 Danzer - Plaintiff- Redirect (Mr. Itkowitz)

2 exhibits.

3 Q Did anybody from the Trump Organization ask you to
4 write this letter?

5 A Yes.

6 Q Who was that?

7 A Ms. Glosser.

8 Q And when did she ask for that?

9 A On August 23rd.

10 MR. GOLDMAN: I'm sorry, on what date?

11 THE COURT: August 23rd.

12 THE WITNESS: August 23rd.

13 Q Now, the deal that you wrote, as you articulated it, as
14 you articulated your agreement with Mr. Ross in Plaintiff's
15 Exhibit six, did that --

16 A Seventy-two.

17 Q Okay. Six and 72 is the same document. Yeah, 72.

18 I believe you were asked -- well, let me just ask you
19 this: At the time you wrote this letter, did you think, based
20 upon your conversation with Mr. Ross, that you had a deal with
21 the Trump Organization?

22 A Yes.

23 Q And did you think that -- did you have an understanding
24 in your mind as to whether this exhibit -- whether this letter
25 changed the original understanding in the memorandum of
26 understanding?

1 Danzer - Plaintiff- Redirect (Mr. Itkowitz)

2 MR. GOLDMAN: Objection.

3 THE COURT: Sustained. Don't ask it that exact way
4 because, again, it's leading.

5 Q What affect, if any, did this document have on the
6 memorandum of understanding --

7 MR. GOLDMAN: Objection.

8 Q -- and the extension?

9 MR. GOLDMAN: Objection. Leading and parole
10 evidence.

11 THE COURT: Overruled.

12 Q Mr. Danzer, did you believe that the requirements of
13 the memorandum of understanding were still in effect at the time
14 that you wrote this letter denominated Trial Exhibit 72?

15 MR. GOLDMAN: Objection.

16 THE COURT: No, I'm going to permit it.

17 A No.

18 Q Why?

19 A Because --

20 MR. GOLDMAN: The entire line of questioning -- the
21 letter says what it says, so do the signed documents. And I
22 object for the record.

23 THE COURT: Go ahead.

24 Q Why?

25 A Because we knew that we were not going to, number one,
26 get the 22.5 percent. We had brought it down to 10 percent. We

1 Danzer - Plaintiff- Redirect (Mr. Itkowitz)
2 knew we weren't going to get the number that Donald had
3 originally wanted, the original memorandum of understanding.

4 THE COURT: He's Mr. Trump.

5 A I'm sorry. Mr. Trump had wanted in the original
6 memorandum of understanding. So this was all based initially on
7 the first -- on the original memorandum of understanding, but
8 it's a dynamic process. As things came to the table, as we
9 brought things to Mr. Trump, we had our conversations and we
10 came to an agreement that 10 percent was a finder's fee. And
11 that's where all the conversations went. And everything we did
12 was based on that from thereon.

13 Q Let me ask you something. Did you have an expectation
14 of compensation for doing your work?

15 MR. GOLDMAN: Objection.

16 THE COURT: I don't know what he said. I can't
17 hear you. I didn't hear you.

18 Q Okay. Did you have an expectation that for the work
19 you were doing in bringing PVH together with Mr. Trump and his
20 organization that that would result in payment to ALM?

21 MR. GOLDMAN: Objection.

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

23 A Yes.

24 Q And that's based upon the letters that you wrote after
25 your meeting with him, after your discussions with him on August
26 20th?

1 Danzer - Plaintiff- Redirect (Mr. Itkowitz)

2 MR. GOLDMAN: Objection. Leading. Strike.

3 A Yes.

4 THE COURT: Sustained. Sustained.

5 Q What is that based upon?

6 MR. GOLDMAN: Objection.

7 THE COURT: You told him the answer, so let him
8 answer.

9 A Based upon my conversations with Mr. Trump and Mr. Ross
10 throughout our meetings, it was always discussed that there was
11 going to be compensation. Early on it was discussed that
12 compensation would not be 22.5 percent, but would rather be 10
13 percent. There was never any conversation that it would be zero
14 or any less than 10 percent, so I was going on that assumption.
15 And that was the deal that we had that it was going to then be
16 10 percent.

17 Q Now, you were asked why you continued to work, but you
18 were asked did you have an obligation to continue to work on
19 this project, notwithstanding the fact that Mr. Ross didn't sign
20 the document.

21 Do you recall those questions?

22 A Yes.

23 Q Why did you continue to work?

24 A Well, I did have an obligation, number one, to the
25 process, to the memorandum of understanding, to keep it going,
26 not to put any bad faith on anybody. The people over at PVH

1 Danzer - Plaintiff- Redirect (Mr. Itkowitz)
2 didn't have to know what was happening over at Trump. And it
3 was just negotiating between the two us. It was like -- it was
4 just that was it and we were good. So that's why.

5 Q And based upon that, you expected to get paid?

6 MR. GOLDMAN: Objection. Asked and answered.
7 Leading.

8 THE COURT: Sustained.

9 MR. ITKOWITZ: No further questions.

10 THE WITNESS: Thank you.

11 THE COURT: Any recross?

12 MR. GOLDMAN: No.

13 THE COURT: Mr. Danzer, you may step down.

14 THE WITNESS: Thank you.

15 (Whereupon, the witness exits the stand.)

16 THE COURT: All right. Call your next witness.

17 MR. ITKOWITZ: Mark Hager.

18 (Whereupon, the witness takes the stand.)

19 M A R K U S H A G E R, called as a witness, having been first
20 duly sworn, was examined and testified as follows:

21 THE COURT CLERK: Please state and spell your last
22 name for the Court.

23 THE WITNESS: Markus, M-A-R-K-U-S. Hager,
24 H-A-G-E-R.

25 THE COURT CLERK: Thank you. And your address,
26 please.

1 Hager - Plaintiff - Direct (Mr. Itkowitz)

2 THE COURT: Home address.

3 THE WITNESS: 451 West End Avenue, Apartment 3-D.

4 THE COURT CLERK: And that's New York City?

5 THE WITNESS: New York City 10025.

6 THE COURT CLERK: Your witness is sworn.

7 DIRECT EXAMINATION

8 BY MR. ITKOWITZ:

9 Q Good afternoon, Mr. Hager.

10 A Good afternoon.

11 Q Are you affiliated with ALM?

12 A Yes.

13 Q And how are you affiliated with ALM?

14 A I'm one of the owners.

15 Q Now, how long has ALM existed?

16 A For many years.

17 Q And --

18 MR. GOLDMAN: I'm sorry. What was the answer?

19 THE COURT: For many years. You have to speak up,

20 Mr. Hager.

21 THE WITNESS: I have a little cold.

22 THE COURT: I don't care. You have to be heard by
23 everybody in this courtroom. Scream.

24 THE WITNESS: Okay. Sorry.

25 A Quite many years.

26 Q What is your business prior to 2003?

1 Hager - Plaintiff - Direct (Mr. Itkowitz)

2 A We were in the apparel business.

3 THE COURT: What business?

4 THE WITNESS: Apparel, which is the clothing
5 business.

6 Q And what did you do in that business?

7 A We imported clothing and we sold it to retail stores.

8 Q And did you do any licensing?

9 A Yes.

10 Q What kind of licensing have you done?

11 A First of all, we licensed a brand called Vokal.

12 THE COURT: What?

13 THE WITNESS: Vokal, V-O-K-A-L.

14 A And it was a licensing deal with the famous -- at that
15 time at least, I think still now, a famous rapper, which is a
16 singer.

17 Q And what was the name of that singer?

18 A Nelly. N-E-L-L-Y, I believe.

19 Q And how long did you license his name?

20 THE COURT: License his name or --

21 A Licensed the brand Vokal that is affiliated with Nelly?

22 Q Okay. Now, did there come a time in September of 2003
23 that you had the occasion to meet with Donald Trump?

24 A Yes.

25 Q And I'd like you to tell the jury how that happened.

26 A David Scharf, who I understand at the time was a lawyer

1 Hager - Plaintiff - Direct (Mr. Itkowitz)

2 to Donald Trump, he's also a friend of mine, and we had -- I saw
3 him, I think it was in the summer, I don't remember exactly, but
4 we had a conversation, and I suggested to David Scharf that I
5 have an idea that I would like to present to Mr. Trump, what he
6 thought about it and if he likes it could he talk to Mr. Trump
7 and arrange the meeting.

8 Q What occurred as a result of that conversation?

9 A He arranged a meeting.

10 Q And when was that meeting, do you recall,
11 approximately?

12 A Before the memo of understanding. I think maybe a few
13 weeks before.

14 Q And what occurred at your meeting with Mr. Trump?

15 A Okay. Before the meeting, while I was going in the car
16 to the meeting with Mr. Trump, David Scharf, I believe, called
17 me from the office of Mr. Trump and he says --

18 MR. GOLDMAN: Objection to what Mr. Scharf said.

19 A Oh, sorry.

20 Q You can't testify as to what somebody else told you.
21 You can testify as to what occurred at the meeting. So tell
22 what occurred at the meeting.

23 THE COURT: After he had that conversation what, if
24 anything, did you do next?

25 Q What, if anything, did you do next?

26 A I continued to the meeting and with -- and my

1 Hager - Plaintiff - Direct (Mr. Itkowitz)
2 impression was that Mr. Trump was not interested in my idea, but
3 he presented to me his idea.

4 MR. GOLDMAN: Objection. Unless that impression
5 came from Mr. Trump, it's hearsay.

6 THE COURT: The impression that you got, was that
7 as a result of the conversation that you had with Mr. Trump?

8 THE WITNESS: Yes.

9 THE COURT: All right. Strike that then.

10 Q So tell us what occurred at the meeting. But -- first
11 of all, who was there?

12 A I could -- I just say to the judge?

13 Q Sure.

14 A That impression was also based on what Mr. Trump told
15 me.

16 THE COURT: That's later. You're not there yet.

17 Okay?

18 THE WITNESS: Sorry.

19 THE COURT: Strike that thing with Mr. Trump.

20 Q Who was at the meeting?

21 A Myself and a few other people. I think two people from
22 my office.

23 Q And who was there -- was anybody, aside from Mr. Trump,
24 there from the Trump Organization?

25 A Yes.

26 Q Who was there?

1 Hager - Plaintiff - Direct (Mr. Itkowitz)

2 A David Scharf.

3 Q Now, tell us to the best of your recollection what
4 occurred at this meeting?

5 A Mr. Scharf -- I mean, Mr. Trump told me that he wants
6 to discuss his licensing his name and if I would be interested
7 in representing him licensing his name.

8 Q What did you tell Mr. Trump?

9 A Yes.

10 Q And as a result of that meeting, was an agreement put
11 together?

12 A Yes. Not then and there, but later on.

13 Q How did that happen?

14 A We had a conversation and Mr. Trump asked me a few
15 questions, I answered it. I guess he liked the conversation and
16 he told David Scharf go ahead and make it happen.

17 I just want to add one thing. As I'm talking, I'm not
18 saying that only David Scharf was in the meeting besides my own
19 two other people. I think there were more than just David
20 Scharf and my employees. I don't remember who they were, but
21 there was more than just that.

22 MR. ITKOWITZ: At this time, I would ask that
23 Plaintiff's Exhibit 1 be shown to the witness.

24 (Document handed to the witness.)

25 COURT OFFICER: Plaintiff's 1.

26 Q As a result of your meeting with Mr. Trump, was a

1 Hager - Plaintiff - Direct (Mr. Itkowitz)

2 contract entered into?

3 A Yes, this memo of understanding.

4 Q Now, after you executed this memorandum of
5 understanding with Mr. Trump, what steps, if any, did you take
6 to try and obtain licenses for Mr. Trump?

7 A Okay. The first step I did, I had a consultant by the
8 name of Marvin Traub, who was chairman of Bloomingdale's. I was
9 paying him a retainer every month; and he was very valuable to
10 me because as the chairman and the previous president of
11 Bloomingdale's for many, many years, he was the personality in
12 anything to do with retail. And I would brainstorm, ask his
13 opinion.

14 We used to get together, I think once a week we had
15 breakfast, and he's an excellent -- also his value to me is that
16 he's a great door opener, meaning when he calls, people pick up
17 the phone and listen to him. And I thought it would be a great
18 idea to discuss with him the contract that I had or I had with
19 Mr. Trump and would he be interested in getting involved.

20 Q What happened after that?

21 A He laughed at me.

22 THE COURT: He what?

23 THE WITNESS: Laughed. And he said to me, Mark --

24 THE COURT: Never mind what he said.

25 THE WITNESS: I'm sorry.

26 Q What happened after he left?

1 Hager - Plaintiff - Direct (Mr. Itkowitz)

2 THE COURT: Not left, laughed.

3 Q Laughed?

4 A Laughed, right.

5 Q What happened after he laughed; did you work with
6 anybody else?

7 A Before that I was trying to convince him and see the
8 vision I had, but he did not agree with me.

9 Q What was the vision that you had?

10 A I had the vision that Donald Trump is a very well
11 personality and when it comes to licensing a brand or designer
12 you sell an image of a person, and successful and celebrity
13 status is very important. So when Donald Trump's name is
14 associated with a certain product, it gives it more credibility.

15 I also told him, because Mr. Trump told me, that he is
16 having a show, a reality show, called The Apprentice. And I
17 said to Mr. Traub that is advertising value worth hundreds of
18 millions of dollars, because a lot of people are going to see.
19 I told him that I believed that the show will be very successful
20 and Donald Trump is going to wear his clothes and, therefore,
21 whatever he wears, we put his name and people, other companies
22 will license the name, will be very interested and be
23 successful.

24 So I said to him while your image right now of Donald
25 Trump is X, I believe it will change after that show.

26 Q Now --

1 Hager - Plaintiff - Direct (Mr. Itkowitz)

2 A But he still was not convinced, because he had prior
3 experience with him. He was not interested.

4 Q Did you hire anybody to assist you on this project in
5 addition to the consultant you just referred to?

6 A Yes.

7 Q And who did you hire?

8 A Her name was Cheryl. I don't remember her last name,
9 but she was before that the vice president of Tommy Hillfiger
10 and she came with a big book, extremely knowledgeable. She made
11 a good impression. I spoke to her about the project and she
12 liked it.

13 Q And did there come -- what did you do after you hired
14 this woman?

15 A I arranged --

16 Q In terms of working on this licensing project?

17 A I first arranged the meeting. I called --

18 Q Meeting with who?

19 A With Donald Trump to meet her. Because before I start
20 on this project, I wanted to get Mr. Trump's feedback as to if
21 he likes her and so on and so forth, because you need to have
22 chemistry between the players. And we had the meeting, and he
23 really liked her very much.

24 Q Okay. And what happened after that, after your first
25 meeting with her and Mr. Trump?

26 A In that first meeting she told Mr. Trump --

1 Hager - Plaintiff - Direct (Mr. Itkowitz)

2 THE COURT: Never mind.

3 A Okay. So after that meeting, Cheryl prepared what I
4 think what's called a look board, meaning on a board putting
5 pictures together, maybe sketches together to show the concept
6 of the Donald Trump name or brand. And then I arranged another
7 meeting with Mr. Trump and her and me to show Trump the concept
8 of the Trump collection before we go ahead and we talk to
9 different licensing potential kind of companies, et cetera.

10 Q And what happened after that?

11 A He liked it. And also she mentioned -- well, I'm not
12 allowed to say that. After that, she arranged, as we figure out
13 a strategy, as to how to take the Trump name to the next level,
14 and she arranged an interview with the New York Times; Donald
15 Trump and the New York Times.

16 Q And what happened; what was the purpose of arranging
17 the interview with the New York Times?

18 A It's basically the more publicity you get and the more
19 information the public has about the line, and New York Times is
20 read by a lot of people, a lot of important people, our target
21 customers, meaning the different manufacturers, were potentially
22 the licensing companies that we might approach. They will read
23 it and they will see that Donald Trump is starting a clothing
24 line or licensing his clothing line.

25 So when we call the different potential or when she
26 calls the different potential customers it, will be much easier

1 Hager - Plaintiff - Direct (Mr. Itkowitz)

2 to sell the concept because he got, you know, there was an
3 interview in the New York Times, they read it. And also to give
4 it a certain image of Donald Trump, the clothing, and what the
5 objectives are.

6 Q Okay. Now, did there come a time when the meeting was
7 set up with the New York Times?

8 A Yes.

9 Q What happened thereafter?

10 A Okay. It was set for a certain day. I don't remember
11 exactly. And Mr. Trump called me either a day before that date
12 or maybe even the same date before the interview, and he
13 canceled it, which I was very shocked and upset. And I guess I
14 can't say hearsay, so I'm trying to -- but the bottom line was
15 that he said sell my name first, get the licensing, and then
16 we'll have the interview.

17 Q What effect, if any, did this have on the person who
18 you had hired?

19 A She basically -- I wouldn't say destroyed her, but it
20 destroyed her credibility of this line with Donald Trump. Here
21 I'm getting an interview with the New York Times and you cancel
22 with such a short notice. It's basically shutting her door next
23 time she wants to have an interview with the New York Times on
24 something else or whatever. Her credibility was gone. She was
25 very, very upset, not at me, and then she basically told me --
26 she left thereafter.

1 Hager - Plaintiff - Direct (Mr. Itkowitz)

2 Q Now, do you recall approximately when that was?

3 A It was after the memo of understanding. I would say --
4 you know what, I'm guessing, but a few months. Within a few
5 months range. I would say within two months or so, don't hold
6 me to the exact date, of the memo of understanding. I would say
7 maybe even four weeks, six weeks. I'm not sure exactly.

8 Q Did there come a time when you hired a Jeffrey Danzer?

9 A Yes.

10 Q Why did you hire Jeffrey Danzer?

11 A Okay. First of all, the person who I thought would do
12 the job left me, so I don't get discouraged.

13 Q Excuse me?

14 A I don't get discouraged so easily. And somehow I had a
15 meeting with Jeff Danzer. I don't remember how we got together.
16 I think it started that he wanted to pitch me his line to do
17 licensing for me, to license his name of underwear, which was
18 called 2 Exist. That line was an unbelievable and successful
19 line that came out of nowhere. And he was the head from a
20 marketing, licensing point of view.

21 And I said would you -- anybody who was behind this
22 deserves my respect. And then I said to him? I told him about
23 Donald Trump, that I have an exclusivity, would you be
24 interested in working with me on this project.

25 Q Now, do you recall when you hired him?

26 A I think between -- don't hold me to the date --

1 Hager - Plaintiff - Direct (Mr. Itkowitz)

2 January, maybe February. Beginning of that year of '04.

3 Q Now, I'd like the witness to be shown Exhibit 2.

4 A Yes.

5 Q That's an extension of the memorandum of understanding?

6 A Yes.

7 Q When was that signed?

8 A On January 13, '04.

9 Q How did it come about that that document got signed?

10 A I told David Scharf that because of Cheryl we lost some
11 momentum, and I need more time.

12 Q And what happened after that?

13 A We -- I want to add one more thing. And I believe I
14 said also since The Apprentice is about to start soon, it will
15 definitely help us and, therefore, I need more time. And I
16 asked David Scharf to see if we could get an extension.

17 Q And did you speak to Mr. Trump about that personally or
18 did you work through David Scharf?

19 A I wouldn't recollect.

20 Q Excuse me?

21 A I know I worked with David Scharf and I know I made
22 David Scharf aware of that. Whether I called Donald Trump and
23 said I need more extension or not, I don't recall one way or
24 another.

25 Q Okay. And shortly after that, you hired Jeff Danzer?

26 A Yes.

1 Hager - Plaintiff - Direct (Mr. Itkowitz)

2 Q And what was your assessment of when you hired Jeff
3 Danzer; were you monitoring how he was performing?

4 A We were in daily contact, yeah.

5 Q And how did you assess his performance?

6 A I was very impressed with him. He was a very likeable
7 person, very knowledgeable, and people in the industry liked
8 him.

9 MR. GOLDMAN: Objection.

10 THE COURT: Sustained as to that last statement,
11 people in the industry.

12 THE WITNESS: I'm sorry.

13 Q I'm going to skip ahead, because there's been a lot.
14 You've been sitting here through this entire trial, correct?

15 A I lost ten pounds. The only thing good thing about it,
16 I lost ten pounds. Didn't eat properly, whatever.

17 Q All right. So we're not going to go through all of the
18 exhibits that were already in. I'm just going to ask you a
19 couple of questions and all the evidence is in, basically.

20 So there came a time in June of '04 when Mr. Danzer
21 arranged a meeting with PVH?

22 A Correct.

23 Q Were you privy to how that got set up? Were you aware
24 of how that got set up?

25 A Not sure.

26 Q Did you know that the meeting was going to occur?

1 Hager - Plaintiff - Direct (Mr. Itkowitz)

2 A Yes.

3 Q Did you know also as to whether Mr. Danzer had had any
4 dealings with a company called PVH -- excuse me, not PVH --
5 Peerless?

6 A Yes. Whether it was before -- whether it was before
7 the PVH meeting or not, I don't recall the date. But not only
8 did I have knowledge, I was in the first meeting with Peerless
9 and Jeff Danzer with the president of Peerless.

10 Q Were you interested in obtaining Peerless as a
11 licensor?

12 MR. GOLDMAN: Objection. It's irrelevant.

13 THE COURT: It's leading.

14 Q Why did your company contact Peerless?

15 A They were the number one maker or seller of tailored
16 clothing in the United States and Canada, and maybe in the
17 world.

18 Q And what was your assessment of that potential license?

19 A What do you mean by assessment?

20 Q Did you have an opinion as to whether they would be a
21 good fit for Trump?

22 A Absolutely.

23 (Continued on next page.)

24

25

26

1 Hager - by Plaintiff - Direct

2 BY MR. ITKOWITZ:

3 Q And what was your opinion?

4 A My opinion --

5 MR. GOLDMAN: Objection. This is about PVH.

6 THE WITNESS: Not PVH -- I'm sorry.

7 THE COURT: Come up.

8 (Whereupon, there is a sidebar discussion off
9 the record, out of the hearing of the jury.)

10 BY MR. ITKOWITZ:

11 Q I want to fast forward to the meeting on June 24
12 with PVH. Were you there?

13 A No.

14 Q Were you keeping track of what was going on with
15 PVH?

16 MR. GOLDMAN: Objection. Leading.

17 THE COURT: As an entry I'll allow you it.
18 Quickly.

19 A What do you mean by keeping track?

20 THE COURT: Objection sustained.

21 Rephrase.

22 BY MR. ITKOWITZ:

23 Q Were you aware of what was going on with PVH in
24 June?

25 A Whatever Jeff told me about the meeting.

26 Q And did you have any conversations at all with
Donna Evans, Official Court Reporter

1 Hager - by Plaintiff - Direct

2 Mr. Trump in June or July or August of 2004?

3 A I do not recall one way or another.

4 Q Now, you were here when you heard the testimony
5 about certain letters that Mr. Danzer was writing to
6 Mr. Trump and Mr. Ross, correct?

7 A Yes.

8 Q Did you have a and -- what was your role, if any,
9 with respect to any of those letters?

10 A Mr. Jeff Danzer told me about various meetings
11 that he had and that he got an offer of 10 percent, not one
12 penny more, take it or leave it.

13 MR. GOLDMAN: Objection. It's hearsay.

14 THE COURT: I'll allow it.

15 THE WITNESS: Okay.

16 A Take it or leave it. I remember I was a little
17 upset and I asked David Scharf, who was my lawyer in this
18 transaction what he thought. He says --

19 THE COURT: Not what he said.

20 THE WITNESS: Okay.

21 A And then I got feedback from Howard, who was by
22 the way not my partner, he was my CEO, and I respected his
23 opinion very much. And Jeff also felt that we should accept
24 the 10 percent and I told Jeff we accepting the 10 percent.

25 Q Now, at the time you saw the August -- the letters
26 and the e-mails to Mr. Ross in late August, let's say from

Donna Evans, Official Court Reporter

1 Hager - by Plaintiff - Direct

2 August 23rd, 25th and August 30th?

3 A I remember seeing a few e-mails summarizing the
4 deal. I don't remember exactly the day independently. If
5 you ask me today what was sent or written on day X, I would
6 not know that. All what I remember that I saw a few e-mails
7 to the different parties summarizing the deal. I also
8 remember that before we sent those e-mails, a draft would be
9 sent to me, let's say in this case from Jeff, and we
10 might -- we discuss it and if it's fine with me he will go
11 out to the different parties that he was addressing it to.

12 Q Now, you were aware that Mr. Ross never signed any
13 of those drafts -- any of those letters that Mr. Danzer sent
14 to Mr. Ross?

15 A Correct.

16 Q Notwithstanding that, did you have an expectation
17 as to whether that agreement would be complied with?

18 MR. GOLDMAN: Objection.

19 THE COURT: Sustained.

20 Q After the --

21 (Pause.)

22 BY MR. ITKOWITZ:

23 Q The deal with PVH got signed; is that correct?

24 THE COURT: What was that?

25 Q The deal with PVH, that got signed?

26 A Got signed?

Donna Evans, Official Court Reporter

1 Hager - by Plaintiff - Direct

2 Q Yes.

3 A Yes.

4 Q Between Trump and PVH?

5 A Correct.

6 Q Following that, in August of -- late July or
7 August of 2005, your organization sent an invoice to the
8 Trump Organization?

9 A I don't remember the exact date but after we got
10 the royalty report, I think it was from the Trump
11 Organization, we generated an invoice meaning, if let's say
12 as an example if the report showed Donald Trump got a
13 hundred thousand dollars, we would take that, make an,
14 invoice assuming the fact Jeff was doing it for us, he will
15 make an invoice received a hundred thousand dollars, our
16 share is 10 percent, in this case \$10,000, we would send
17 this invoice to the Trump Organization and sometime after
18 that we will get paid. When is the first time we sent the
19 invoice? I really don't recall.

20 Q Now, you sent them numerous invoices, correct?

21 A Yes.

22 Q And you received numerous checks?

23 A Yes.

24 MR. GOLDMAN: Objection, is it him or
25 Mr. Danzer?

26 THE COURT: Or ALM.

Donna Evans, Official Court Reporter

1 Hager - by Plaintiff - Direct

2 THE WITNESS: ALM. I'm sorry, when I say --

3 ALM. It was made to ALM the checks. The checks were
4 made to ALM not to Jeff Danzer or to Mark Hager.

5 Q Did you ever receive checks for ALM? Did ALM
6 receive the checks?

7 A Yes.

8 Q There came a time when the checks stopped,
9 correct?

10 A Correct.

11 Q Did you --

12 THE COURT: What, if anything --

13 MR. ITKOWITZ: Excuse me?

14 THE COURT: What, if anything --

15 Q When the checks stopped what, if anything, did you
16 do?

17 A Basically I first contacted the Trump
18 Organization, I think via e-mail, asking when we're going to
19 get the check, the invoice paid. I think I said it's
20 overdue for some time. And after that I got an e-mail where
21 there was -- whether it was immediately after that, or maybe
22 there was an e-mail before, but what I do remember I got an
23 e-mail from George Ross saying that we never had a deal, if
24 you could show me a signed deal you're going to get paid.
25 And it says also -- again, I don't remember if it was that
26 e-mail or e-mail before it says that basically we duped --

Donna Evans, Official Court Reporter

1 Hager - by Plaintiff - Direct

2 it was not exactly those words duped, but we deceived Cathy
3 Glosser in making believe that the parties agreed to
4 10 percent when there was no such deal, and basically
5 saying, not even implying that we deceived Cathy Glosser and
6 that's why she okayed all these bills. And I replied to
7 that.

8 Q Did you agree with that?

9 A Did I agree with that e-mail? Of course not.

10 Q Did you agree with Mr. Ross's statement to you
11 that you had somehow duped Cathy Glosser?

12 A Absolutely not.

13 Q And after that --

14 A By the way, I was shocked, but anyway.

15 Q What, if anything, did you do to try to arrange
16 payment?

17 A I sent another e-mail. I spoke to David Scharf
18 how to handle it. He helped me with the language in that
19 e-mail to George Ross. I said it's unbecoming -- I don't
20 remember the words, but so unprofessional to say something
21 like that, unbecoming of you, and I expect payments ASAP, or
22 something to that effect. But that was the gist of it.

23 Q After writing that e-mail saying you expect
24 payment, did you receive payment?

25 A No.

26 Q And what did you do after that?

Donna Evans, Official Court Reporter

1 Hager - by Plaintiff - Direct

2 A I don't remember --

3 Q Did you file a lawsuit?

4 THE COURT: That's leading. What, if
5 anything, did you do is a proper question, not the way
6 you did it.

7 A Whether I sent another e-mail saying I'm not going
8 to let it rest, I don't remember, but sometime after that I
9 filed a lawsuit.

10 Q This lawsuit?

11 A Yes.

12 Now, what happened between this e-mail. That
13 there could have been maybe private discussions that he
14 wanted to settle it with me and I said no way. I don't
15 remember. But sometime after that I filed this lawsuit.
16 This I remember.

17 (Pause.)

18 MR. ITKOWITZ: At this time I'd like to have
19 marked as Plaintiff's Exhibit 132.

20 MR. GOLDMAN: How many pages is Exhibit 132?

21 (Pause.)

22 MR. GOLDMAN: Why don't you mark it
23 collectively?

24 (Pause.)

25 MR. ITKOWITZ: Eighteen pages.

26 THE COURT: 132.

Donna Evans, Official Court Reporter

1 Hager - by Plaintiff - Direct

2 THE COURT OFFICER: Eighteen pages.

3 THE COURT: I thought we left it at 118 --
4 all right. Okay 132. Eighteen pages in length for
5 identification only.

6 (18 page document marked Plaintiff's Exhibit
7 132 for identification, as of this date.)

8 THE COURT: I haven't seen anything.

9 MR. ITKOWITZ: He's making a copy right now.
10 Originally we were going to mark each one as a separate
11 exhibit.

12 (Pause.)

13 THE WITNESS: Yes.

14 THE COURT: Go ahead.

15 MR. ITKOWITZ: I move this document into
16 evidence.

17 THE COURT: Is there an objection?

18 MR. GOLDMAN: There is through this witness.
19 This witness has no personal knowledge of those
20 documents.

21 THE COURT: Sustained.

22 MR. ITKOWITZ: Your Honor, I'm not moving it
23 in with respect --

24 THE COURT: You haven't asked a question.
25 It's for identification only. He has to -- you have to
26 go through the entire procedure in order to be capable

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1 Hager - by Plaintiff - Direct

2 of asking it to go into evidence. So go ahead.

3 MR. ITKOWITZ: I show this document to the
4 witness.

5 THE COURT OFFICER: The witness has it.

6 Q Can you identify what this document is?

7 A Yes.

8 Q Tell us what it is?

9 A That is a report from Phillips Van Heusen for the
10 first quarter of the year of the total sales and taking off
11 different discounts and charge back. Basically a formula
12 showing actual numbers that they shift to the retailers,
13 which is an aggregate of the total net sales by Phillips Van
14 Heusen which basically --

15 MR. GOLDMAN: Objection.

16 THE COURT: Sustained.

17 THE WITNESS: I didn't finish --

18 THE COURT: Sustained.

19 BY MR. ITKOWITZ:

20 Q Sir, have you reviewed all of these invoices?

21 A Invoices from PVH?

22 Q Yes.

23 A Yes.

24 Q And those are invoices showing what?

25 MR. GOLDMAN: Objection. It's asking him to
26 read --

Donna Evans, Official Court Reporter

1 Hager - by Plaintiff - Direct

2 MR. ITKOWITZ: Judge --

3 Q At this point have you done --

4 MR. ITKOWITZ: At this point I would have
5 another document marked as a companion exhibit.

6 THE COURT: I don't understand, you want
7 something else marked?

8 MR. ITKOWITZ: Yes. I want to mark something
9 else.

10 THE COURT: Which will be Plaintiff's 133.

11 MR. ITKOWITZ: For identification.

12 (Document marked Plaintiff's Exhibit 133 for
13 identification, as of this date.)

14 THE COURT OFFICER: 133 for identification.

15 BY MR. ITKOWITZ:

16 Q Sir, I direct your attention to 133 for
17 identification.

18 A Yes.

19 Q Can you tell us what Exhibit 133 is?

20 A Well, the caption of the exhibit is --

21 THE COURT: Don't read it, please, it's not
22 in evidence.

23 Q What is it?

24 A It is a report of all the money we felt is due to
25 us after the check, the last check was not paid.

26 Q And is there a formula that you used for
Donna Evans, Official Court Reporter

1 Hager - by Plaintiff - Direct

2 determining what you calculated was owed?

3 A Yes.

4 Q What's that formula?

5 A Very simple. Whatever Donald Trump got we get
6 10 percent, so if he got, let's say on the first one --

7 THE COURT: Never mind, don't read from it,
8 sir. It's not in evidence.

9 THE WITNESS: Okay.

10 BY MR. ITKOWITZ:

11 Q Looking at Exhibits 132 and 133. Is 132 royalty
12 reports issued by --

13 THE COURT: Sustained.

14 What is 132, you can't tell him what it is?
15 It's not in evidence, sir.

16 MR. ITKOWITZ: Your Honor --

17 Q Do you know what 132 is?

18 A Yes.

19 Q What is 132?

20 A It's a -- the first page --

21 Q Not the first page, the entire document?

22 A It's a report from PVH.

23 Q What kind of reports?

24 A Of the money that PVH sent to the Trump
25 Organization and how they arrived to pay that amount.

26 Q The royalties?

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1 Hager - by Plaintiff - Direct

2 A Yes.

3 Q For what period of time? From when to when? Look
4 at the first page to the last page, what period of time do
5 those royalty reports cover?

6 A On Exhibit 133?

7 Q 132.

8 A Okay, it's from the first quarter of January '08,
9 and this is the last page, till December 35, 2012 (sic).

10 MR. ITKOWITZ: I move those documents into
11 evidence they were produced by defendant. There's no
12 question of authenticity.

13 MR. GOLDMAN: Can I voir dire this witness?

14 THE COURT: Absolutely you may voir dire.

15 VOIR DIRE EXAMINATION.

16 BY MR. GOLDMAN:

17 Q Mr. Hager, even after Mr. Danzer left the employ
18 of ALM in 2005, he was the person who was responsible for
19 receiving the invoices and the royalty statements. Is that
20 correct?

21 MR. ITKOWITZ: Objection.

22 THE COURT: Overruled.

23 Q He was the one responsible correct?

24 A Yes.

25 Q And he was responsible for it, although he was no
26 longer employed by ALM as of 2005, correct?

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1 Hager - by Plaintiff - Voir Dire

2 A Correct.

3 Q And he was the one who received those documents,
4 correct, the royalty reports, and he's the one who created
5 the invoices?

6 A I don't remember if ALM received it and then gave
7 it to him or he arranged with my approval to be sent
8 directly to him. But eventually he's the one who got it,
9 yes.

10 Q But you don't recall if the evidence here shows,
11 as you SIT here, that he was getting them directly from
12 Miss Glosser after he left?

13 A I wouldn't remember, no.

14 Q And after he left he was no longer working out of
15 your offices, correct?

16 A Correct.

17 Q So did you -- after he left and you were
18 getting -- or he was getting the royalty statements or
19 reports, he got --

20 A Or I got it. I don't remember.

21 Q Okay, so you don't know?

22 A Right.

23 Q And certainly after the checks stopped you were
24 not getting any more royalty statements, right?

25 A Correct.

26 Q So any royalty statements for the period 2006

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1 Hager - by Plaintiff - Voir Dire

2 through 2012 you never got?

3 A I got it from Mr. Itkowitz.

4 Q Correct. You didn't get them as an officer of ALM
5 or as ALM in relationship to any agreement of any SORT?

6 A Correct, because --

7 Q The answer was correct?

8 A Yes.

9 Q Now, with respect to 133 for ID, that's your
10 analysis of what you believe your damages are, correct?

11 A Yes.

12 Q You prepared this?

13 A No.

14 Q Your attorneys prepared this?

15 A Correct.

16 MR. GOLDMAN: Your Honor, I object.

17 Certainly there's no foundation for 132 coming into
18 evidence. The witness never even saw them in the
19 ordinary course. And 133 is an attorney's compilation
20 of damages, which is completely inappropriate to come
21 into evidence.

22 MR. ITKOWITZ: Your Honor, with respect to
23 132, all these royalty reports were produced by counsel
24 with respect --

25 THE COURT: Sir, this particular witness
26 can't authenticate them.

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1 Hager - by Plaintiff - Voir Dire

2 MR. ITKOWITZ: There's no question of
3 authentication, Judge.

4 THE COURT: No, I am going to -- I'll put it
5 this way, 133 is completely out, 100 percent out.

6 MR. ITKOWITZ: 133.

7 THE COURT: Absolutely. And the other thing
8 is 132 has not been properly authenticated by this
9 particular witness, so for the time being it remains
10 for identification.

11 MR. ITKOWITZ: May I address that at side
12 bar, your Honor?

13 THE COURT: You may, in the back.

14 (The following was heard in the robing room.)

15 MR. ITKOWITZ: Your Honor, with respect to
16 132, these are produced by counsel, there's no issue of
17 authentication. The only objection that he is capable
18 of asserting is the one that he's continuously asserted
19 with respect to --

20 THE COURT: Relevancy.

21 MR. ITKOWITZ: -- relevance. So really in my
22 view this should be here, it is in and that's it.

23 With respect to 133 this is like a nonpayment
24 case.

25 MR. GOLDMAN: Like a nonpayment case? Are
26 you kidding?

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1 Hager - by Plaintiff - Voir Dire

2 THE COURT: Wait a second. That is a piece
3 of paper prepared for litigation. It definitely
4 doesn't go in.

5 133 is a document prepared for litigation.

6 MR. ITKOWITZ: It's demonstrative evidence.

7 THE COURT: It's not demonstrative. There's
8 no correlation, no anything about it. He's incapable
9 of testifying to it. As to 132, these documents that
10 were produced they have to be authenticated in front of
11 the jury. You say to me he produced them?

12 MR. ITKOWITZ: What do you want me to do put
13 Mr. Goldman on the stand?

14 THE COURT: You should have subpoenaed
15 somebody from Phillips --

16 MR. ITKOWITZ: He produced them voluntarily
17 in discovery, it's an admitted document.

18 THE COURT: No, it's not an admitted
19 document. It was a document produced in discovery but
20 it does not mean it's authenticated and it is
21 appropriately given to the jury. The correlation is
22 that you have to bring somebody in. You do know who to
23 bring in, you have John Pawlick, P-A-W-L-I-C-K,
24 director of corporate accounting. There's his name.
25 You subpoena him. You bring in Mr. Pawlick, are these
26 documents you prepared?

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1 Hager - by Plaintiff - Voir Dire

2 MR. ITKOWITZ: You know what, Judge, really,
3 I mean seriously, when counsel produces documents he
4 started the cases --

5 THE COURT: He didn't start the case, you
6 started the case.

7 MR. ITKOWITZ: At the outset of the case he
8 said he was going to stipulate to these documents, now
9 I could say let's subpoena somebody from Trump and have
10 them come in and just go through are these royalty
11 invoices?

12 THE COURT: Sometimes you have to do that.

13 MR. GOLDMAN: Can I tell you something?

14 MR. ITKOWITZ: Yes.

15 MR. GOLDMAN: I was amazed when you had
16 Miss Glosser on the stand as your witness, you didn't
17 introduce any evidence as to your damages. You chose
18 your course of conduct. That is when you should have
19 asked her did you get these from PVH, what did you do?
20 You didn't --

21 MR. ITKOWITZ: I thought I had a stipulation
22 from counsel.

23 THE COURT: Then that stipulation should have
24 been in writing and before me.

25 MR. GOLDMAN: What we stipulated to were the
26 documents as to '05, '06 and '07 and all the payment

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1 Hager - by Plaintiff - Voir Dire

2 documents I was stipulating to except for what my
3 objection on relevance was. We didn't stipulate when
4 you called Miss Glosser.

5 MR. ITKOWITZ: Then I would ask for leave to
6 recall her for that purpose, just for the limited
7 purpose of authenticating this document. This is
8 crazy. They gave this to me, they said this is what
9 we've got.

10 THE COURT: Did you stipulate with him this
11 was a document that could go into evidence? Gee, may I
12 offer something, Mr. Goldman, and I, when we were
13 initially marking exhibits went over this, you said you
14 would stipulate to damages and the royalty reports.

15 MR. GOLDMAN: What I said was when we were
16 doing the motion in limine I would stipulate to damages
17 to avoid all of the payment documents and things coming
18 in.

19 MR. WILTENBURG: It was not related to motion
20 in limine. He said we he would stipulate to damages
21 that say the jury finds that ALM is entitled to payment
22 as of X date, it would be this number. If they were
23 entitled to another date it would --

24 MR. GOLDMAN: That's exactly what I said in
25 my in limine motion, that we would stipulate to those
26 amounts. That's exactly what I said to avoid what I

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1 Hager - by Plaintiff - Voir Dire

2 think is a prejudicial effect for the jury.

3 THE COURT: I mean, when you prepare for
4 trial, you have to say there's an opposition to what I
5 want to put in. And you have to say to yourself how am
6 I going to get this document in.

7 MR. ITKOWITZ: I know that, I've been doing
8 this a long time, your Honor.

9 THE COURT: Okay, fine. You don't wait till
10 this witness comes on.

11 MR. GOLDMAN: This wasn't the witness to do
12 this with.

13 MR. ITKOWITZ: I thought I had a stipulation.

14 THE COURT: It doesn't matter, sir, what you
15 had to have is you had to have the appropriate witness
16 that could, if you stipulated to --

17 MR. ITKOWITZ: I don't think you need a
18 witness if you have an authentication as to this
19 document.

20 MR. GOLDMAN: So why are you using him, he
21 knows nothing about that, zero.

22 MR. ITKOWITZ: Listen, all one has to do is
23 take the number and multiply times 10 percent, he's
24 gone over this, he can testify to that.

25 THE COURT: That's not coming in.

26 MR. ITKOWITZ: Okay.

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1 Hager - by Plaintiff - Voir Dire

2 THE COURT: That's what you call a document
3 prepared for litigation, by you.

4 MR. ITKOWITZ: As a demonstrative evidence.

5 THE COURT: It is not.

6 MR. ITKOWITZ: Look, I'll go to Richardson,
7 it's a chart to facilitate.

8 THE COURT: It's not based on anything.

9 MR. ITKOWITZ: I could have anybody, if these
10 documents are in, which is what they should be --

11 THE COURT: You should have put them in when
12 they should have come in.

13 MR. ITKOWITZ: Well, I mean I was misled --

14 MR. GOLDMAN: Oh --

15 THE COURT: You know, sir, you didn't bring
16 this up to me. This is the first I've ever heard.

17 MR. ITKOWITZ: Look, I didn't think --

18 THE COURT: You know what he was doing
19 earlier today, he was sorting them out. That's the
20 first time you ever even looked at them.

21 MR. ITKOWITZ: The reason he was sorting them
22 out, if you look at them, Judge, I was going to put
23 them in separately, and I started to put them in all at
24 once. So when they went through the printer there were
25 six copies of each one, so we had to collate.

26 MR. GOLDMAN: Let me ask you a question on
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1 Hager - by Plaintiff - Voir Dire

2 the record. When you put together the records for us
3 to stipulate to, when the Judge asked us numerous times
4 what we agreed to and don't agree to, you gave me
5 you're exhibit book, you amended it two times. Are any
6 of those in the exhibit book, ever?

7 THE COURT: Ever.

8 MR. GOLDMAN: No. Because you decided to
9 keep them out for whatever strategic reason. You
10 decided to keep it out for a strategic reason.

11 MR. ITKOWITZ: What's the strategic reason?

12 MR. GOLDMAN: I don't know why you didn't put
13 them in.

14 THE COURT: You know what --

15 MR. ITKOWITZ: Listen, if I have -- he
16 doesn't deny that he gave us these documents. He
17 doesn't deny that he gave us these royalty reports.
18 They should just go right there.

19 MR. GOLDMAN: Why didn't you put them in your
20 evidence book?

21 MR. ITKOWITZ: It's like an admission.

22 THE COURT: Why didn't you put them in the
23 evidence book?

24 MR. GOLDMAN: Pursuant to the judge's rules.

25 MR. ITKOWITZ: Oversight.

26 THE COURT: I'm sorry, on that answer I'm not

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1 Hager - by Plaintiff - Voir Dire
2 going to permit it in. You bring someone in to
3 authenticate it or not.

4 MR. ITKOWITZ: If we're going to do this I'd
5 ask for leave to call in Miss Glosser to come in and
6 testify, it was produced by them.

7 THE COURT: If you had put it in the evidence
8 book there would be no problem, but the fact is that in
9 contravention of every rule I have, every rule I have,
10 that you are supposed to bring in, in fact all the
11 other documents were not supposed to brought in
12 haphazardly the way you did.

13 MR. ITKOWITZ: I didn't bring in documents
14 haphazardly.

15 MR. GOLDMAN: There are something like 20 or
16 30 documents not in your evidence book.

17 MR. ITKOWITZ: Some were impeachment
18 documents.

19 This is a document. Mr. Goldman said these
20 are royalty reports. It's inconceivable to me this
21 could be an issue now.

22 THE COURT: Bringing it in through Hager is
23 definitely an issue.

24 MR. ITKOWITZ: I don't think I need any
25 witness to bring it in.

26 MR. GOLDMAN: So why did you wait?

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1 Hager - by Plaintiff - Voir Dire

2 MR. ITKOWITZ: Frankly from my point of view
3 I think I could put it in just like when I do read it
4 in. They gave it to us, they said these are our
5 royalty reports, it's just not an issue Judge.

6 MR. GOLDMAN: You believe it's a document not
7 in evidence can just be put in as a read in like a
8 deposition? Come on, Jay, you've been trying cases
9 you've told us for years. You can't believe that.

10 THE COURT: You played games you have to --
11 you stop on your own -- you planned out the entire
12 thing.

13 MR. ITKOWITZ: What's the game?

14 THE COURT: The game is you want Hager to
15 say, oh look, I'm owed this amount, I'm owed that
16 amount, let's see, this is on page 138, oh, that's not
17 so good. Total is 874, I'm only owed \$87,000 on this
18 one. But this one is good, 709, I'm owed 70,900 --
19 that's what you want to do and you can't do it that
20 way.

21 MR. GOLDMAN: Can we finish Hager?

22 MR. ITKOWITZ: I would ask for leave to
23 recall Miss Glosser. Let's just get it in otherwise
24 have them admit it.

25 THE COURT: Well, finish Hager first.

26 MR. GOLDMAN: Can we finish Hager? You don't

Donna Evans, Official Court Reporter

1 Hager - by Plaintiff - Voir Dire

2 need Hager for this.

3 MR. ITKOWITZ: I have no further questions on
4 him.

5 MR. GOLDMAN: Good, then I'll cross Hager and
6 we're done.

7 (The following was heard in open court.)

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Donna Evans, Official Court Reporter

1 Hager - Plaintiff - Cross (Mr. Goldman)

2 THE COURT: Mr. Hager, please come back to the
3 witness stand.

4 (Whereupon, the witness resumes the stand.)

5 THE COURT: The objection is sustained. Plaintiff
6 132 is for identification only. 133 remains for
7 identification only.

8 MR. ITKOWITZ: No further questions, Your Honor.

9 THE COURT: Okay. Mr. Goldman.

10 MR. GOLDMAN: Thank you.

11 CROSS-EXAMINATION

12 BY MR. GOLDMAN:

13 THE COURT: Watch the time if you can.

14 Q Mr. Hager, do you recall being in my office for a
15 deposition on March 3, 2011?

16 A I recall --

17 THE COURT: Hand it up, please.

18 (Document handed to the Court.)

19 THE COURT: Do you recall?

20 A I recall being in the office. Exactly the date, I
21 don't recall.

22 Q And do you recall being asked questions under oath?

23 A Yes.

24 Q And the answers you gave were to the best of your
25 ability on that day?

26 A Yes.

1 Hager - Plaintiff - Cross (Mr. Goldman)

2 Q And you also -- at the conclusion of the deposition
3 you --

4 THE COURT: The witness wasn't under oath. He was
5 affirmed.

6 MR. GOLDMAN: He affirmed?

7 THE COURT: He affirmed.

8 Q You affirmed the truth of the statements in that
9 deposition transcript, correct?

10 A Yes.

11 Q And after the deposition transcript, you were given the
12 transcript to read; were you not?

13 A Correct.

14 Q And you were given the opportunity to read the
15 transcript and make sure that your answers to the questions were
16 accurate, correct?

17 A Correct.

18 Q And having read the transcript, you were given the
19 opportunity to make changes to your answers; were you not?

20 A I just read the transcript a few weeks ago of the
21 deposition. I didn't read it after deposition immediately.

22 Q You did not read the deposition transcript after your
23 deposition?

24 A Not shortly after, no.

25 Q Didn't you sign it after your deposition?

26 A Yes.

1 Hager - Plaintiff - Cross (Mr. Goldman)

2 Q Did you read it before you signed it after your
3 deposition?

4 A Did I read what, the deposition, while I was in your
5 office? I'm not sure I understand the question.

6 Q Sure. Did you or did you not, after you left my
7 office, receive a copy of the transcript of my questions and
8 your answers?

9 A I would assume so. If it was sent to me, I received
10 it.

11 Q And you then signed that transcript; did you not?

12 A If I signed, I signed, yes.

13 Q And when you signed it, you declared under the
14 penalties of perjury that the answers that you had given in the
15 transcript were truthful, correct?

16 A If it says that, yes. The answer is yes.

17 Q And it also says that you -- before signing it, it
18 asked you to acknowledge that you read the transcript before
19 signing it?

20 A If that's what it said, yes.

21 Q And you, in fact, therefore read it for its accuracy
22 before signing it?

23 A I don't recall independent of that piece of paper that
24 you say I signed. If you ask me today did I read the
25 deposition, I don't remember. I would assume I did, but I don't
26 remember one way or another if I read it. If you won't show

1 Hager - Plaintiff - Cross (Mr. Goldman)

2 me -- if you ask me a question did you read the deposition, I
3 would say I don't recall one way or another.

4 Q Okay. Let me show you --

5 A But I'm not denying it.

6 Q I just want to make sure. I know you're not denying it
7 and you don't recall it.

8 A Right.

9 MR. GOLDMAN: But if the witness can be shown his
10 signature page on the transcript.

11 (Document handed to the witness.)

12 A Yes.

13 Q And it says that you read it under penalties of
14 perjury, correct?

15 A If that's what it says, yes.

16 Q Well, not if that's what it says. Read it.

17 THE COURT: Read it.

18 A Yes. Correct.

19 Q So the answers in there are truthful?

20 A Yes.

21 Q If I can have that back. Thank you.

22 And is it fair to say, sir, that in March of 2011 your
23 memory was better than it is today?

24 A If anything, my memory is a little bit better today
25 than in March, but -- so I think today my memory is better than
26 when you deposed me.

1 Hager - Plaintiff - Cross (Mr. Goldman)

2 Q That's because you prepared for your testimony today?

3 A I prepared for the events and for the litigation.

4 Q Other than reading the deposition transcript, what else
5 did you do to prepare for your testimony?

6 A I went over documents, I went over e-mails. Whatever
7 was presented to me by Mr. Itkowitz, I went over it.

8 Q And you didn't do that before your deposition
9 testimony, correct?

10 A I really don't recall one way or another. I know that
11 I went through things very quickly. But independent
12 recollection, I don't really remember one way or another.

13 Q Did you look at any documents before you were deposed
14 in my office on March 2011?

15 A Probably, yes, but I don't recall.

16 Q Were there any documents you reviewed before testifying
17 today that were different than the documents that you reviewed
18 before appearing in my office for a deposition?

19 A Well, if I don't recall if and what I saw before the
20 deposition, how could I compare what is the difference between
21 then and now?

22 All of what I tell you that I do not recall whether I
23 went over documents. I'm not saying it's not true, but if you
24 ask me to recollect, I just don't recall.

25 Q Sir, were you -- do you recall being asked questions by
26 your attorney today regarding the circumstances surrounding the

1 Hager - Plaintiff - Cross (Mr. Goldman)

2 execution of the extension agreement?

3 A Yes.

4 Q Okay. And you gave answers to those questions,
5 correct?

6 A Correct. Yes.

7 Q I direct everybody's attention to page 68, lines 4
8 through 24. And do you recall being asked the following
9 questions and giving the following answers on March 3, 2011?

10 "QUESTION: Now, if you can, in light of the fact
11 that the memo of understanding was going to be expiring in
12 March, in your own words, please tell me how it came that an
13 extension agreement was entered into?

14 "ANSWER: I don't recall exactly. I don't recall.

15 "QUESTION: To the best of your ability, how did it
16 come to be that ALM -- and that would be you -- would sign
17 an agreement on January 13, 2004 extending the earlier
18 agreement we were just discussing?

19 "ANSWER: If there is something I'm not certain, I
20 would rather not say.

21 "QUESTION: You have no recollection?

22 "ANSWER: No clear recollection.

23 "QUESTION: Okay. You have no clear recollection
24 how that came to be?

25 "ANSWER: That does not mean that there was not a
26 reason for it to happen, but I just don't recall clearly the

1 Hager - Plaintiff - Cross (Mr. Goldman)

2 reasons."

3 Do you recall those questions and answers?

4 A Yes.

5 Q So in March of 2003 -- March of 2011, you didn't recall
6 the reasons or circumstances surrounding the execution, but
7 April 19th or 18th --

8 THE COURT: 17th.

9 Q -- 17th, on April 17th you were able to recall those
10 reasons?

11 A My recollections are much greater today than on March
12 11th. I went through a lot of things, things came up to me and
13 certain things I remember better now than before and certain
14 things I don't remember. I just got better, because I've gotten
15 more involved.

16 Q And you weren't that involved when before you -- excuse
17 me --

18 A I'm sorry.

19 Q You weren't that involved before appearing in a
20 deposition at my office to give sworn testimony about the
21 litigation?

22 A No. What I was saying --

23 Q You weren't that involved; yes or no?

24 A In reviewing documents, no. I was not as much involved
25 today as then -- I'm sorry, I was not -- I was less involved
26 then in reviewing the documents than in the last few weeks.

1 Hager - Plaintiff - Cross (Mr. Goldman)

2 Q And as you sat here listening to the testimony of all
3 the witnesses, you kept a notebook and wrote down notes about
4 everybody's testimony, correct?

5 A Not everything, but I took notes.

6 Q You took notes on what you thought was important that
7 was said by all the various witnesses?

8 A Yes.

9 Q And you looked at those notes before appearing today,
10 everyday?

11 A Yeah.

12 Q Okay. Now, I believe you testified today that
13 Mr. Danzer kept you involved in what was going on?

14 A Yes. Abreast, yes.

15 Q Abreast. Is that everything on a day-to-day basis?

16 A We saw each other -- I mean, we were in the same office
17 complex. We saw each other, I think, on a daily basis. And if
18 there's any development or progress that he thought was
19 important to share with me or any progress, we will meet at
20 least once or twice a day.

21 Q And between January and June of 2004, you had no
22 involvement with PVH, correct?

23 A Direct involvement, no.

24 Q And, in fact, between January and June of 2004, you
25 didn't see any writings between PVH and ALM, whatsoever?

26 A Between when and when?

1 Hager - Plaintiff - Cross (Mr. Goldman)

2 Q January of 2004 and June of 2004.

3 A I can't tell you the -- I know that in January I didn't
4 see anything. I remember seeing certain things, but I cannot
5 tell you for certain that from January to June I didn't see
6 anything.

7 Q You have no recollection?

8 A No recollection.

9 Q And you also have no recollection of being involved in
10 the writing of or the drafting of the PVH agreement, do you?

11 A No. I always -- when -- with the PVH agreement with
12 the Trump Organization?

13 Q Yes.

14 A If I was involved?

15 Q Yes.

16 A No, I was not involved.

17 Q And you're not even sure the extent of Mr. Danzer's
18 involvement, were you? Or I should say -- withdrawn.

19 You're not even aware of Mr. Danzer's input or
20 involvement into the PVH agreement, are you?

21 A Only what he reported.

22 Q I'm sorry?

23 A Only what he reported to me. Whatever he told me.

24 Q Do you know or have any personal knowledge of what
25 Mr. Danzer did or did not do with respect to the PVH agreement?

26 A Other what I heard from Mr. Danzer, directly from any

1 Hager - Plaintiff - Cross (Mr. Goldman)

2 other parties, the answer is no.

3 Q Did Mr. Danzer tell you that he had given you some --
4 all he had done was give some input on some terms?

5 A First of all, when and what I'm not --

6 Q At any point in time leading up to the execution of the
7 PVH agreement, did Mr. Danzer tell you his involvement was
8 anything more than giving some input on some terms?

9 A He was -- from what he told me he was --

10 Q It calls for a yes or no, I believe.

11 A I'm not sure I understand your question.

12 Q We'll have it read back to you again and see if you
13 understand it.

14 THE COURT: Read it back.

15 (Whereupon, the last question was read back by
16 the court reporter.)

17 A Input in terms and meetings with PVH, phone calls to
18 PVH. Exactly inventory list, I can't tell you what input he
19 gave them.

20 Q So you -- go ahead. I'm sorry.

21 A I know he was very involved with PVH, they respected
22 him a lot, and he gave them whatever input he believed is
23 important for them to share.

24 Q That's not what you said to me at the deposition, is
25 it?

26 A I don't recall what I told you at the deposition. If

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2 you read it to me.

3 Q Okay. Let's go to page 94, lines 19 to 25.

4 MR. ITKOWITZ: You know what, Your Honor, I'm going
5 to object to this. I believe it's outside the scope of the
6 direct examination.

7 THE COURT: Cross examination, sir.

8 Q By the way, before I read the question and answer, you
9 heard everything Mr. Danzer testified to when you're testifying
10 now, correct?

11 A You mean while I was here?

12 Q Yes.

13 A Of course.

14 Q But when you answered the questions at my deposition,
15 you did not speak with Mr. Danzer about the issues, correct?

16 A Not to the best of my knowledge.

17 Q And that's because when Mr. Danzer left in 2005 you
18 told him he should save all these documents, correct, because
19 there may be litigation?

20 A I don't think I said there may be litigation. I told
21 him to take everything that he thinks is important. I smelled
22 that something might happen and just keep it.

23 Q So you smelled in October and November of 2005 that
24 something might happen when he left; is that your testimony?

25 A Yes.

26 Q You smelled it back then?

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2 A Something like that, yes.

3 Q So let's go to -- and, by the way, you didn't throw
4 away the business record of Mr. Danzer and ALM showing
5 everything he did with respect to the Trump project, did you?

6 A I gave everything I had on the Trump project to my
7 counsel.

8 Q Okay. I'll ask the question again, because you didn't
9 answer my question.

10 A I'm sorry.

11 Q My question was did you throw away the business record
12 that Mr. Danzer said he kept for the Trump project and he left
13 with you when he left? Did you throw it away or did you not?

14 A I did not throw anything away. Whatever I had, I gave
15 to my counsel. And, of course, anything that's e-mail is in my
16 computer and my counsel has copies of the e-mails, and I have
17 the e-mails.

18 Q So you then have in your possession, when I say your
19 possession that would be your counsel's possession as well, the
20 business records that Mr. Danzer said recited his conversations
21 with Mr. Trump or PVH and all the dates and times?

22 MR. ITKOWITZ: Objection. It's way outside the
23 scope.

24 THE COURT: It's cross examination, sir. It goes
25 to his credibility.

26 MR. ITKOWITZ: Okay.

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2 THE COURT: All right. That's what he's examining
3 on.

4 THE WITNESS: Could you repeat the question?

5 THE COURT: Please read it back.

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

8 A I have in my direct possession only e-mail. I don't
9 have any hard things, except things that may be reproduced from
10 my e-mail. If there was something that's not in e-mail form, I
11 gave it to my counsel and I don't have it.

12 Q So when you say you don't have it, your counsel has it,
13 so it does exist; does it not?

14 A If there's something more than e-mail, it does exist.

15 Q So it does exist?

16 A If there is something more than e-mail, I cannot tell
17 you.

18 Q You were here, sir, when Mr. Danzer testified that he
19 kept a business record of everything he did with respect to PVH.
20 That exists, does it not?

21 A If I had it, if it was not in an e-mail originally, I
22 gave it to my counsel.

23 Q So did you give the book that you heard Mr. Danzer say
24 is the business record of ALM, did you give that book to Mr.
25 Itkowitz?

26 A I don't remember what I gave him. I gave him

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2 everything I had on this project. Everything I had.

3 Q Sir, in your opinion, would that book, which recites
4 everything that Mr. Danzer did on PVH, who he met with and when
5 he met with them, is that something that you would consider
6 important as the principal in ALM; yes or no?

7 A If there was --

8 Q Yes or no?

9 A If there was a book --

10 THE COURT: Yes or no, sir?

11 A Yes. Anything --

12 Q Yes. You don't have to say anything else.

13 THE COURT: That's enough.

14 A Yes.

15 THE COURT: Close it out for tonight. We'll be
16 back tomorrow. All right, jurors, tomorrow I'll expect you
17 in your room 9:15, because we're going to start at 9:30 as
18 soon as we can, okay.

19 So please don't discuss the case amongst
20 yourselves. Don't call up the second cousin three times
21 removed and tell him about the case, all right? Promise me
22 you won't do that. Keep an open mind. See everybody back
23 here at 9:15 in the jury room and we'll start at 9:30.
24 Thank you.

25 (Whereupon, the jury exits the courtroom and the
26 following transpired:)

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2 (Whereupon, the witness exits the stand.)

3 MR. ITKOWITZ: Your Honor, in terms of planning for
4 tomorrow, I kind of need to know what we're going to do here
5 on the royalty reports, because I have to make an
6 application to call Ms. Glosser or somebody else from Trump
7 back.

8 THE COURT: Before I make a ruling, come up on it.

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

11 THE COURT: Yes, Mr. Goldman.

12 MR. GOLDMAN: Provided that the witness is not
13 going to be asked questions about it, which I think is
14 pretty clear, we'll stipulate to those documents coming into
15 evidence.

16 THE COURT: 133. All right, so what we we'll do --

17 MR. GOLDMAN: I think it's one --

18 MR. ITKOWITZ: I think it's 132.

19 THE COURT: I meant 132. 133 will not come into
20 evidence, it will not be admitted.

21 MR. GOLDMAN: Right.

22 (Whereupon, the above-mentioned document was marked
23 as Plaintiff's Exhibit 132 in evidence.)

24 MR. ITKOWITZ: I would ask then that probably
25 counsel could stipulate we can -- rather than trying to ask
26 the jury to calculate, I would just like to stipulate to

1 Hager - Plaintiff - Cross (Mr. Goldman)

2 what the number is.

3 MR. GOLDMAN: I am not stipulating to any of those
4 things. You gave the judge your jury charges based upon
5 what you thought was appropriate. I gave the judge my jury
6 charges, and we'll let everything stand. You did what you
7 thought was appropriate on the jury charges, I did what I
8 thought. I'm not stipulating to letting the jury figure
9 whatever it is out.

10 MR. ITKOWITZ: If I may be heard, Your Honor?

11 THE COURT: Go ahead.

12 MR. ITKOWITZ: We --

13 THE COURT: You have two more minutes.

14 MR. ITKOWITZ: We have a declaratory judgment
15 action in addition to a contract action, which says --

16 THE COURT: Declaratory judgment does not go before
17 the jury.

18 MR. ITKOWITZ: I understand that. But this a
19 simple calculation. It can be --

20 THE COURT: Sir, you disobeyed my rules, all right.
21 You did not include 132 and 133 in your proposed evidence
22 book. It wasn't in your evidence book. It wasn't in the
23 book that you set aside, because that was contested. It was
24 nowhere. Oh, you wanted the element of surprise, that's
25 okay, you do what you want, but you are only getting it in
26 because you're stipulating to it.

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2 I am not allowing attorney's work product to come
3 in before the jury. I am not. I don't consider it proper.
4 You don't have an expert here. Well, you know, you have no
5 one to testify as to damages. You're lucky you get in 132.
6 It's only because it was stipulated to.

7 MR. GOLDMAN: Well --

8 THE COURT: Without objection. You're not
9 objecting. You're lucky to get it in. All right. So
10 that's it.

11 MR. ITKOWITZ: Thank you.

12 MR. GOLDMAN: Just for tomorrow, I plan on having
13 five or ten minutes. I can't imagine he's going to be any
14 more. I'm assuming at this point that other than reading
15 the deposition testimony, you're resting?

16 MR. ITKOWITZ: I need to think about that based
17 upon today's events. I will tell you tomorrow morning.

18 MR. GOLDMAN: Okay.

19 THE COURT: All right. So how many witnesses do
20 you have?

21 MR. GOLDMAN: As of now, none.

22 THE COURT: All right. Okay. So we'll get to the
23 legal portions of the -- off the record.

24 (Whereupon, the matter was adjourned to April 18,
25 2013 at 9:30 p.m.)

26

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