

Corrected Transcript

IN THE CIRCUIT COURT  
OF THE FIFTEENTH JUDICIAL CIRCUIT  
IN AND FOR PALM BEACH COUNTY, FLORIDA  
AVP DESTINY, LLC, ANTHONY V.  
PUGLIESE, III, individually, LAND  
COMPANY OF OSCEOLA COUNTY, LLC,  
Plaintiffs, CASE NO.:  
50 2009 CA 040295 XXXXAG

-vs-

FREDERICK A. DELUCA, individually,  
FD DESTINY, LLC and DOCTOR'S  
ASSOCIATES, INC.,  
Defendants.

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FD DESTINY, LLC and FD DESTINY  
MANAGEMENT LLC and FREDERICK  
DELUCA,  
Plaintiffs,

-vs-

CASE NO.:  
50 2009 CA 029903 XXXXMB  
AVP DESTINY, LLC, ANTHONY V.  
PUGLIESE, III, ANTHONY V. PUGLIESE  
COMPANY, INC. d/b/a THE PUGLIESE  
COMPANY, and JOSEPH REAMER,  
Defendants.

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CONTINUED  
VIDEOTAPED DEPOSITION OF FREDERICK A. DELUCA  
Volume Seven  
Pages 542 through 678

Tuesday, September 25, 2012  
9:21 a.m. - 12:30 p.m.  
444 North Railroad Avenue, Suite 300  
West Palm Beach, Florida 33401

Stenographically Reported By:  
Barbara Bolton, RPR, FPR  
Florida Professional Reporter

## Corrected Transcript

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**Corrected Transcript**

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ALSO PRESENT:

ANTHONY V. PUGLIESE  
ROBERT RAY, CORPORATE REPRESENTATIVE  
FD DESTINY, LLC (By telephone)

MICHAEL HOLLANDER, VIDEOGRAPHER

## Corrected Transcript

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P R O C E E D I N G S

- - -

Deposition taken before Barbara Bolton,  
Registered Professional Reporter and Notary Public  
in and for the State of Florida at Large, in the  
above cause.

- - -

THE VIDEOGRAPHER: Good morning. We are  
now on video record. Today is Thursday -- I'm  
sorry, Tuesday, the 25th day of September,  
2012, and the time is 9:21 a.m. We are here  
at 444 West Railroad Avenue in West Palm  
Beach, Florida for the purpose of taking the  
continued videotaped deposition of Frederick  
Deluca, taken by the Plaintiff in Case Number  
Number 50 2009 CA 029903 XXXXMB, the case of  
AVP Destiny, et al versus Frederick DeLuca,  
et al, which is filed in the 15th Judicial  
Circuit, Palm Beach County, Florida.

The court reporter is Barbara Bolton of  
U.S. Legal Support. The videographer is  
Michael Hollander of U.S. Legal Support.  
Would all counsel state their appearance for  
the record.

MR. GARY: Willie Gary for the Plaintiff.

1 MS. HOFFLER: C.K. Hoffler for the  
2 Plaintiffs.

3 MR. MAREK: Doug Marek for the Plaintiff.

4 MR. FRONSTIN: Guy Fronstin for Joseph  
5 Reamer.

6 MR. HUTCHISON: Rick Hutchison, John  
7 Chapman, John Pfannenbecker and Robert Ray  
8 here for the Plaintiffs in the September, 2009  
9 case and the Defendants in the December, 2009  
10 case.

11 THEREUPON,

12 (FREDERICK A. DELUCA)

13 having been first duly sworn, was examined and  
14 testified as follows:

15 THE WITNESS: Yes.

16 DIRECT EXAMINATION

17 BY MR. GARY:

18 Q. Good morning, sir.

19 A. Good morning.

20 Q. Let me just lay a few ground rules here.

21 I have some questions for you. If you don't  
22 understand them just ask me to repeat the question  
23 and I'll do that. Otherwise if I ask you a  
24 question, if it calls for a yes or no, give me an  
25 answer, we'll move on, save a lot of time. Is that

1 fair enough? If you don't understand it, you can  
2 ask me to explain it, but otherwise if it's a  
3 question, you know, that you can answer, it would be  
4 helpful if you just answer the question if you can.  
5 If you can't, tell me you can't and you need me to  
6 rephrase it or whatever. Okay? Is that fair  
7 enough?

8 A. I'll answer the questions to the best of  
9 my ability.

10 Q. Thank you. Now, sir, you've given a lot  
11 of testimony here in the last day or so and over the  
12 past few weeks in this case, haven't you?

13 A. I think three days' worth of testimony.

14 Q. Okay. Good. And you swore to tell the  
15 truth and nothing but truth, so help you God.

16 A. Yes.

17 Q. Right? Okay. Now, my partner,  
18 Ms. Hoffler, talked to you extensively about a  
19 number of lawsuits that have been filed against you  
20 yesterday. Right?

21 MR. HUTCHISON: Objection as to form. Go  
22 ahead.

23 A. We didn't -- we -- she read into the  
24 record quite a few lawsuits.

25 Q. But those lawsuits were filed against you,

1 weren't they, sir?

2 A. No.

3 Q. You weren't --

4 A. I mean they were filed against a variety  
5 of people. There were in many cases a lot of  
6 claims, a lot of corporations and a lot of  
7 people --

8 Q. Okay.

9 A. -- mentioned. I don't think --

10 Q. Okay.

11 A. -- there were any lawsuits that were  
12 filed only against me.

13 Q. Well, in addition, I know a lot of your  
14 partners and your buddies were sued as well, but you  
15 were a defendant in those lawsuits as well, weren't  
16 you?

17 MR. HUTCHISON: Objection to form. Move  
18 to strike comment of counsel. Go ahead and  
19 answer.

20 BY MR. GARY:

21 Q. Were you a defendant in those lawsuits?

22 A. I just want to get clarification. My  
23 partners and buddies.

24 Q. You don't -- my point is, were you a  
25 defendant in those lawsuits?



1 A. I was one of many defendants.

2 Q. Okay. And, now, and in those lawsuits we  
3 discussed, sir, and some of them you were sued for  
4 stealing money, weren't you?

5 A. No.

6 Q. Along with other people.

7 A. Not that I know of.

8 MR. HUTCHISON: Objection to form.

9 BY MR. GARY:

10 Q. Okay. The lawsuit speaks for itself.  
11 Right?

12 A. No.

13 MR. HUTCHISON: Objection as to form.

14 BY MR. GARY:

15 Q. Well, you denying that you were sued --  
16 you were never sued among you yourself and other  
17 people for fraud and misusing money?

18 MR. HUTCHISON: Objection as to form.

19 A. Well, I think we read all of them  
20 yesterday. Some of them have claims of fraud.  
21 It doesn't specify who specifically they talked  
22 about in terms of the fraud. And it talks about  
23 money in some cases where people said that money  
24 was used.

25 Q. Used for what?

1           A.    I don't know.  I have no idea what it was  
2           all about.

3           **Q.    It said you stole the money, didn't it,**  
4           **sir?**

5           A.    No, they did not say that.

6           MR. HUTCHISON:  Objection to form.  Asked  
7           and answered and argumentative.

8           BY MR. GARY:

9           **Q.    The lawsuit speaks for itself.  Right?**

10          A.    Yes.

11          **Q.    You agree with that?  You got -- you got**  
12          **-- did you get a copy of the complaint?**

13          MR. HUTCHISON:  Objection to the form.

14          A.    Did I personally see the complaints?

15          **Q.    The lawsuits that were filed against you,**  
16          **tell the jury, did you ever see those lawsuits?**

17          A.    You'd have to -- I'm confident I did not  
18          see all of the lawsuits.  You'd have to --

19          **Q.    So you've been sued so many times that you**  
20          **don't even get a chance to see all your lawsuits.**  
21          **Is that what you're saying?**

22          MR. HUTCHISON:  Objection to the form.  
23          Argumentative.

24          A.    No, that's not what I said.

25          **Q.    Okay.  Well, have you been sued before**

1 **where you would claim -- where you were charged with**  
2 **stealing money that you didn't see the lawsuit?**

3 MR. HUTCHISON: Objection as to form.

4 A. I don't know of lawsuits -- I don't know  
5 what you're talking about. I don't know -- if  
6 you bring me to specific lawsuits, I might know,  
7 but I don't generally look at the lawsuits when  
8 they first come in.

9 **Q. So when you get sued, you're telling this**  
10 **jury you don't generally even look at the lawsuit.**

11 MR. HUTCHISON: Objection as to form.

12 BY MR. GARY:

13 **Q. Is that what you're saying?**

14 MR. HUTCHISON: Objection to the form.

15 A. When the lawsuit comes in, it typically  
16 goes to the Legal Department and the Legal  
17 Department handles all of the details regarding  
18 the lawsuit.

19 **Q. And sometimes you never even see the**  
20 **lawsuit.**

21 A. Yeah.

22 MR. HUTCHISON: Objection to form.

23 A. Many lawsuits -- many lawsuits are  
24 frivolous and without merit and they're just  
25 handled in the normal course of business.

1           **Q. Well, what about the lawsuits that were**  
2 **not frivolous, the ones that you paid money out on?**  
3 **You paid money out before on lawsuits to settle**  
4 **lawsuits, haven't you?**

5           MR. HUTCHISON: Objection as to form.

6           A. Sometimes we pay money to acquire  
7 something in return. Sometimes we pay money to  
8 make the lawsuit go away. Sometimes we pay money  
9 because we think it's a good idea.

10          **Q. So sometimes you do pay money to make the**  
11 **lawsuit go away.**

12          A. Well, because --

13          MR. HUTCHISON: Object to the form.

14 BY MR. GARY:

15          **Q. Sir, just answer yes or no, and then if**  
16 **you want to explain you can explain. But if you can**  
17 **answer the question yes or no, give me a yes-or-no**  
18 **answer, then if you need to explain you can. Is**  
19 **that fair enough?**

20          MR. HUTCHISON: You can finish your  
21 answer.

22 BY MR. GARY:

23          **Q. And my question was to you, do you pay**  
24 **money sometimes for lawsuits to go away?**

25          A. The answer is that sometimes we make a

1 business decision to make a payment because it  
2 makes sense because the cost of the payment helps  
3 us move on and it's much less than the legal fees  
4 that we would incur.

5 **Q. Okay. So, now -- well, you know it's a**  
6 **fact that you've been sued for fraud before. Right?**  
7 **You personally, Fred DeLuca.**

8 MR. HUTCHISON: Objection to form.

9 A. Me personally without a series of other  
10 defendants? Not that I know of.

11 **Q. Well, you, among other defendants, have**  
12 **been sued for fraud before, haven't you, sir?**

13 A. Yeah, generally I'm in the mix with a  
14 large number of defendants where I -- where a  
15 claim of fraud has been made.

16 **Q. What other defendants were in the large**  
17 **number that you're talking about? Who were those**  
18 **other defendants?**

19 A. If you'll give me the list that we went  
20 over yesterday --

21 **Q. You said others so you should know. Who**  
22 **were they?**

23 MR. HUTCHISON: Objection to form and  
24 argumentative.

25 A. There's a very big list. There was

1 probably --

2 **Q. Well, name some of them.**

3 A. Well, my mother was named, and she never  
4 had a single thing to do with anybody. She never  
5 made a single business deal. My wife was named.  
6 She never made a single business deal with  
7 anyone. Haydee Buck was named.

8 **Q. He was your business partner, wasn't he?**

9 MR. HUTCHISON: Objection. Let him  
10 finish his answer.

11 A. Haydee Buck was Peter Buck's first wife  
12 who was on the Board of Directors. She never  
13 made a single business deal.

14 **Q. Okay. Now, that's your assertion that she**  
15 **never made a single business deal, but jurors who**  
16 **heard these cases rendered verdicts against all of**  
17 **you all, didn't they?**

18 MR. HUTCHISON: Objection to form. Move  
19 to strike comment of counsel.

20 BY MR. GARY:

21 **Q. Were they dismissed from the lawsuit?**

22 A. This is way too broad. You have to go  
23 through individual ones.

24 **Q. Well, you're saying that they never should**  
25 **have been in the lawsuits. Did the lawsuits --**

1 A. No, I didn't say --

2 Q. You brought that up about your mom and  
3 your wife, I didn't. So what I'm saying is since  
4 you put them in the fire, were they a part of any  
5 lawsuits where you paid out money or where a jury  
6 said you all had committed fraud?

7 MR. HUTCHISON: Objection to form.

8 A. So what's the question again?

9 Q. Were your wife, were your mother, were  
10 your partner, were the brother of your partner and  
11 all the other defendants that you're talking about,  
12 were they involved in these lawsuits where a jury of  
13 your peers or all of our peers heard the case and  
14 rendered a verdict saying that you all, all of you  
15 committed gross fraud in cases?

16 MR. HUTCHISON: Objection as to form.

17 A. I don't understand the question.

18 Q. Well, have you been sued for fraud?

19 A. As I said before, there have been cases  
20 where there's been a number of defendants,  
21 including myself, and there has been an  
22 allegation of fraud.

23 Q. Not just an allegation, there's been a  
24 verdict or conviction of fraud, a civil verdict of  
25 fraud, gross fraud. Isn't that true, sir?

1 MR. HUTCHISON: Objection as to form.

2 Move to strike comment of counsel.

3 A. I don't understand the question.

4 Q. Well, you -- you remember the Janetta  
5 lawsuit?

6 A. The Janotta case.

7 Q. Yes. Okay. You remember that case.  
8 Right?

9 A. I do.

10 Q. And in that particular case the jury --  
11 let's go step by step -- the jury heard that case.  
12 Right?

13 A. Yes.

14 Q. How long did it last?

15 A. I think it -- I don't know actually.

16 Maybe two days, perhaps three days.

17 Q. Witnesses testified in the case?

18 A. Yes, witnesses testified.

19 Q. Did they take the oath to tell the truth,  
20 nothing but the truth, so help them God?

21 MR. HUTCHISON: Objection to form.

22 A. I assume so. I don't know.

23 Q. Okay. And a jury rendered a verdict in  
24 that case charging you all -- charging Peter Buck  
25 and Fred DeLuca and Doctor's Associates with



1 committing gross fraud in their dealings. Isn't  
2 that true, sir?

3 MR. HUTCHISON: Objection as to form.

4 A. I don't know if that's the case. I know  
5 there was -- I can't -- I don't know the  
6 difference between gross fraud and fraud.

7 Q. I didn't ask you what the difference was.  
8 I asked you did they say you committed gross fraud.

9 A. I don't know that to be the case.

10 Q. So if they did, you have no quarrel with  
11 it. If they did it, you just don't know --

12 MR. HUTCHISON: Object to the form.

13 BY MR. GARY:

14 Q. -- whether they did it or not. Is that  
15 correct?

16 A. Well --

17 Q. You're not saying they didn't do it.

18 A. I'll tell you what I know.

19 Q. No, I said you're not saying that they  
20 didn't find gross fraud against you. You just don't  
21 know.

22 MR. HUTCHISON: Objection as to form.

23 Asked and answered.

24 A. I know what they found.

25 Q. Wait a minute. Sir, my question is, did

1       **they find that you all had committed gross fraud,**  
2       **yes or no?**

3                   MR. HUTCHISON:  Objection.  Asked and  
4                   answered.

5           A.  I don't know what the definition of that  
6           term is, so I don't know how to answer your  
7           question.

8           **Q.  Did they find that you all had committed**  
9           **fraud?**

10          A.  There was a -- well, there was a finding  
11          in the case that because the radius restriction  
12          that was negotiated originally had been violated,  
13          there was -- the jury considered that to be  
14          fraud.

15          **Q.  Okay.  The juror did?**

16          A.  The jury did.

17          **Q.  A judge allowed that testimony in the**  
18          **case?**

19          A.  And as we talked about, that was over-  
20          turned.

21          **Q.  The judge allowed that testimony in the**  
22          **case.  I didn't ask you what was overturned.**

23          A.  Well --

24          **Q.  I'm saying did the judge allow that**  
25          **testimony in the case?**

1 MR. HUTCHISON: Objection as to form.

2 A. I don't know what testimony you're  
3 talking about.

4 Q. **The testimony that got you convicted of**  
5 **fraud.**

6 MR. HUTCHISON: Objection as to form.

7 A. I don't know what convicted -- what do  
8 you mean convicted?

9 Q. **Got a judgment against you, got a verdict**  
10 **against you for fraud, a verdict.**

11 A. Yeah, there was a verdict that was  
12 overturned.

13 Q. **I didn't ask you what was overturned, sir.**  
14 **I'm talking about the verdict from a jury. How many**  
15 **people were on the jury panel?**

16 A. I don't know.

17 Q. **Were there six or twelve people?**

18 A. I don't know.

19 Q. **Okay. As a matter of fact, that verdict**  
20 **was overturned, sir, not because you didn't commit**  
21 **fraud. Right? But it was based on the jury**  
22 **instructions that were not properly read to the**  
23 **jury. Isn't that true?**

24 MR. HUTCHISON: Objection to form.

25 Foundation.

1           A.    Look, when things are done improperly and  
2           something's overturned, obviously there were  
3           problems with what the way the trial was  
4           conducted.

5           **Q.    It was a technicality that got you a new  
6           trial.  You only got a new trial.  Isn't that true?**

7                   MR. HUTCHISON:  Objection as to form and  
8           foundation.

9           BY MR. GARY:

10           **Q.    In that particular case.  You got a new  
11           trial.**

12           A.    Yes.

13           **Q.    And do you know why you got a new trial in  
14           that case?**

15           A.    Because punitive damage verdict was  
16           overturned.

17           **Q.    It was the jury instructions relating to  
18           the punitive damages verdict.  Wasn't that correct?**

19                   MR. HUTCHISON:  Objection.  Asked and  
20           answered.

21           A.    I don't know.

22           **Q.    They didn't overturn -- as a matter of  
23           fact, it says here Peter Buck, Frederick DeLuca and  
24           Doctor's Associates committed gross fraud in their  
25           dealings with the Plaintiff, and they do not dispute**

1 the findings of that effect. You don't even contest  
2 whether or not you had committed fraud or not, did  
3 you?

4 MR. HUTCHISON: Objection. Form,  
5 foundation and hearsay.

6 BY MR. GARY:

7 Q. You didn't even contest whether you had  
8 committed fraud or not in that particular case.

9 A. Can I look at what you're reading?

10 MS. HOFFLER: No.

11 BY MR. GARY:

12 Q. Here.

13 A. Thank you.

14 Q. And the only part I'm concerned about is  
15 down to this because I'm not going to sit here all  
16 day and let you read four or five pages. Okay. I'm  
17 questioning you on what the findings in this  
18 particular case was, the first sentence. You want  
19 to read that? You want to read that?

20 A. Well, I don't know what you're talking --

21 Q. I'm not asking you -- you're not going to  
22 sit here and go over this whole -- I'm asking you  
23 the questions. I don't want you asking me  
24 questions.

25 A. Well, look, a lot of times things are

1 taken out of context.

2 Q. Okay. Well, let me read this and see if  
3 this makes sense to you. Peter Buck -- this case  
4 Nicholas C. Janetta, individually, as Executor of  
5 the Estate of Victoria A. Janetta. You know that?  
6 That rings a bell to you?

7 A. It rings a bell, yes.

8 Q. Okay. And Fred DeLuca as a Defendant,  
9 Peter H. Buck as a Defendant, Doctor's Associates as  
10 a Defendant. Now, they didn't have your wife and  
11 your mother in this, but those names ring a bell to  
12 you?

13 MR. HUTCHISON: Objection. Form.

14 A. Of course.

15 Q. Were there any other defendants in the  
16 case?

17 A. I don't recall.

18 Q. So it was just -- now, who is Fred -- who  
19 is Peter H. Buck?

20 A. Peter Buck is an investor in Doctor's  
21 Associates, and he owns fifty percent of the  
22 shares.

23 Q. And how long has he been in the -- you  
24 don't want to call him a partner, and I understand  
25 that. How long has he been an investor, partner, in

1 **Doctor's Associates?**

2 MR. HUTCHISON: Objection as to form.

3 A. An investor in Doctor's Associates?  
4 Since the corporation was started in 1967.

5 **Q. And Doctor's Associates got sued as well.**  
6 **Right? In this case.**

7 A. Yes.

8 **Q. Okay. Now, you're talking about among --**  
9 **tell me what other defendants were in that case so**  
10 **we get all your people in that you want in.**

11 MR. HUTCHISON: Objection. Asked and  
12 answered.

13 A. I don't actually recall.

14 **Q. Okay. And it says -- you know Peter Buck**  
15 **was in it. Right?**

16 A. I know that he was named along with --

17 **Q. Fred DeLuca?**

18 A. -- Doctor's Associates and myself.

19 **Q. Okay. Good. And if the findings were**  
20 **Peter Buck, Frederick DeLuca and Doctor's**  
21 **Associates, Inc. committed gross fraud in their**  
22 **dealings with the Plaintiff and they do not dispute**  
23 **the jury finding to that effect, does that make**  
24 **sense to you?**

25 MR. HUTCHISON: Objection. Form.

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Hearsay.

A. No, not exactly.

MR. HUTCHISON: Let me finish my objection.

THE WITNESS: Oh.

MR. HUTCHISON: Objection. Foundation and form. And hearsay.

BY MR. GARY:

**Q. Now, sir, so as a matter of fact, you've been sued for engaging in unfair trade practices before, and if you want to throw in all the other people that got sued you can do that, but you, Fred DeLuca, you've been sued as well for engaging in unfair trade practices before, haven't you, sir?**

MR. HUTCHISON: Objection to form.

Strike comment of counsel.

A. Yeah. As I said, there's been cases where a large number of defendants have been named.

**Q. Sir, I asked you for a yes-or-no answer.**

MR. HUTCHISON: And he did.

MR. GARY: No, he didn't.

MR. HUTCHISON: Read the answer back. He started out with yes and an explanation.

BY MR. GARY:



1           **Q. Let me start again. So you admit you've**  
2 **been sued before for unfair trade practices. Right?**

3           A. As I said --

4           **Q. Sir, have you been sued for unfair trade**  
5 **practices?**

6           MR. HUTCHISON: Let him finish his  
7 answer, Willie.

8 BY MR. GARY:

9           **Q. Have you been sued for unfair trade**  
10 **practices?**

11          A. As I said --

12          **Q. Sir --**

13          MR. HUTCHISON: Let him finish his  
14 answer.

15          A. I think I need to finish answers, don't  
16 I?

17          **Q. You need to give me an answer. My**  
18 **question is, have you been sued for unfair trade**  
19 **practices before?**

20          A. As I said, along with a large number of  
21 other defendants, I have been named as one of the  
22 many defendants where there has been an  
23 allegation among many other allegations --

24          **Q. Allegation of what?**

25          A. I haven't finished my answer.

1           **Q. Was it an allegation of unfair trade**  
2 **practices?**

3           A. I was going to say that among many  
4 allegations, one of them was unfair trade  
5 practices.

6           **Q. Now, what other defendants were you**  
7 **talking about?**

8           A. I -- well --

9           **Q. You said among many other defendants.**  
10 **What other defendants are you talking about were**  
11 **sued along with you for dealing in unfair trade**  
12 **practices?**

13           MR. HUTCHISON: Objection to form.

14 BY MR. GARY:

15           **Q. Name me one.**

16           A. Well, I'd have to go through the precise  
17 list, but generally there would be people who  
18 were officers of the corporation.

19           **Q. Give me a name, sir.**

20           A. I will give you a name. I'm going to  
21 tell you the categories.

22           **Q. I don't want to know the categories. Just**  
23 **give me a name.**

24           A. Look, I'm trying to answer a question.

25           **Q. Sir -- sir, I asked you a simple question.**

1 **Was Mr. Buck a defendant in that case?**

2 A. I just need to ask my counsel --

3 **Q. No, you can't ask your counsel nothing.**

4 A. Well, you keep interrupting me.

5 **Q. You're taking a deposition now. You can't**  
6 **talk to your counsel.**

7 A. Listen, I just need to know if I'm  
8 allowed to answer questions that you ask.

9 **Q. Yes, you're allowed to answer them but not**  
10 **the way -- I don't want you raveling on. I don't**  
11 **need your long, unnecessary responses. Just answer**  
12 **the question.**

13 MR. HUTCHISON: Well, Mr. DeLuca, you  
14 answer the question to the best of your  
15 ability.

16 BY MR. GARY:

17 **Q. Sir, was Mr. Buck a party to that lawsuit**  
18 **when you were charged with unfair trade practices?**

19 A. I don't know which lawsuit you're talking  
20 about.

21 **Q. Well, have you ever been sued for unfair**  
22 **trade practices before? You said yes, didn't you?**

23 A. I answered this. I said -- as I said,  
24 along with many other defendants, I have been  
25 named as one of the defendants in suits that

1 include multiple allegations, of which one of  
2 them on occasion has been unfair trade practices.

3 **Q. Right. So -- and a number of other**  
4 **allegations like stealing. Right?**

5 MR. HUTCHISON: Objection to form.

6 BY MR. GARY:

7 **Q. And fraud. Right?**

8 MR. HUTCHISON: Objection to form.

9 A. I don't recall any allegations of  
10 stealing.

11 **Q. You recall allegations of fraud?**

12 A. I recall similarly in several suits where  
13 there were multiple defendants named, there was  
14 an allegation of fraud along with multiple other  
15 allegations.

16 **Q. So you weren't the only one that got**  
17 **charged with fraud. You had other people with you.**

18 MR. HUTCHISON: Objection to the form.

19 BY MR. GARY:

20 **Q. You weren't the only one that got charged**  
21 **with the fraud. Is that --**

22 A. What do you mean? I don't understand.

23 **Q. You said there were multiple people**  
24 **charged with the fraud.**

25 A. I didn't say charged. What do you mean

1 by charged?

2 Q. Well, there were allegations of fraud in a  
3 complaint --

4 A. Yes.

5 Q. -- filed in court --

6 A. Uh-huh.

7 Q. -- against you and other people for fraud.  
8 Right?

9 A. I think I've answered this before but  
10 I'll say it again. As I said earlier --

11 Q. Sir, you just answer me yes or no. Do you  
12 understand my question? If you don't understand it,  
13 tell me. But I don't need you raveling on and on  
14 and on. I'm not going to have it.

15 MR. HUTCHISON: Well, I'm not going to  
16 have you interrupt his answer. If you're  
17 going to interrupt his answer, then the depo  
18 will stop.

19 MS. HOFFLER: You don't have to raise  
20 your voice.

21 MR. HUTCHISON: I'm not raising my voice,  
22 CK.

23 BY MR. GARY:

24 Q. Okay. Sir, let me -- let me --

25 A. I'd like to take a break because we've

1           been at this for twenty minutes.

2           **Q.    You're not taking a break now.  We're not**  
3 **going to take a break.  We just got started.**

4           A.    We have been at this for twenty minutes  
5           and you've interrupted --

6           **Q.    And I don't want you talking to your**  
7 **lawyer on the break because you're under oath and**  
8 **it's not going to happen again.  You've been doing**  
9 **it for the last three or four days.**

10          A.    Look, you've interrupted --

11          **Q.    I don't want you discussing your**  
12 **testimony.**

13          A.    You've interrupted every single answer --

14          **Q.    No.**

15          A.    -- that I've tried to give.

16          **Q.    No, no, no, no.  Let's go.  Let's keep**  
17 **going.**

18                MR. HUTCHISON:  If you need a break, you  
19                need a break.

20                THE WITNESS:  I need a break.

21                MR. GARY:  No, no, no.

22                MR. HUTCHISON:  He is going to talk to me  
23                not about his testimony, but he can talk to me  
24                if he wants to talk to me.

25                THE WITNESS:  I want to -- I want to --

1 MR. GARY: It's a violation of the  
2 rules --

3 MR. HUTCHISON: Not about his testimony  
4 but he can talk to me.

5 MR. GARY: -- if he talks to you about  
6 his testimony because you can't go out there  
7 and prep him now so --

8 THE WITNESS: I want to understand my  
9 rights because you keep interrupting me.

10 MR. HUTCHISON: We'll take a break.

11 MR. GARY: Your rights are you answer the  
12 questions and you're trying to be evasive,  
13 you're trying to be slick, you're trying to be  
14 smart, and it's not going to work. So let's  
15 get to it.

16 MR. HUTCHISON: Okay. Let's take a  
17 five-minute break.

18 MR. GARY: You have two minutes.

19 MR. HUTCHISON: We'll take a break and  
20 we'll be back.

21 MR. GARY: That doesn't count against our  
22 time.

23 THE VIDEOGRAPHER: The time is 9:43.  
24 We're going off video record.

25 (A recess is taken.)

1 THE VIDEOGRAPHER: The time on the  
2 monitor is 9:50. We're back on video record.

3 BY MR. GARY:

4 Q. Sir, you just took a break and you went  
5 outside. Did you discuss your testimony with the  
6 lawyers?

7 MR. HUTCHISON: I told you we didn't  
8 discuss the testimony.

9 MR. GARY: Wait a minute.

10 MR. HUTCHISON: He's not telling you what  
11 he discussed with me.

12 MS. HOFFLER: First of all, are you the  
13 witness?

14 MR. HUTCHISON: There's no question --

15 MS. HOFFLER: You're not the witness.

16 MR. GARY: Wait a minute. I said did you  
17 discuss your testimony with the lawyers. I  
18 don't want you -- if he did -- if he did  
19 that's a different story. If he didn't I  
20 don't need -- I'm not trying to violate the  
21 attorney-client privilege.

22 MR. HUTCHISON: Well, you're asking what  
23 we discussed.

24 MR. GARY: I didn't say what you  
25 discussed. I said did you discuss your



1 testimony that you're giving in this case with  
2 the lawyer.

3 MS. HOFFLER: Rick, maybe you need to  
4 take a break.

5 A. No.

6 **Q. You didn't discuss --**

7 MR. HUTCHISON: There are no more  
8 questions about it. You said one question.  
9 Now, one question. You're not violating the  
10 attorney-client privilege, Willie.

11 MR. GARY: Okay. Okay. All right.

12 MS. HOFFLER: Did he say he discussed  
13 with him --

14 BY MR. GARY:

15 **Q. Now, let me ask you this question. When**  
16 **we were discussing previous lawsuits, you referred**  
17 **to you being sued among many other people. Do you**  
18 **remember saying that?**

19 A. I do.

20 **Q. Okay. And, now, these other people that**  
21 **we were -- you were alluding to, were they people**  
22 **that you were investing with or partnering with**  
23 **and owned fifty percent of those businesses --**

24 MR. HUTCHISON: Objection to --

25 BY MR. GARY:

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**Q. -- if they were defendants?**

MR. HUTCHISON: Objection to the form.

You can answer.

A. There's multiple parts there, but the answer is not necessarily -- well, they -- in terms of investment, the answer is no.

**Q. Okay. Well, let me ask you this question. Name me one defendant that got sued with you in all of these cases of fraud, unfair trade practices, stealing money, gross fraud and all of this, name me one entity that got sued that you didn't own fifty percent of.**

MR. HUTCHISON: Objection as to form.

A. If you give me the list, I'll cite many for you.

MS. HOFFLER: Well, look at Exhibit --

BY MR. GARY:

**Q. Sir, I don't have your list. Don't you know who you were in business and in partnership with that got sued with you?**

A. I think that was your list because you had it introduced yesterday in evidence, and if you let me look at it, I'll be able to answer your question.

**Q. I don't have a list. I'm asking you to**

1 call on your memory. You know you've been sued a  
2 zillion times. Right?

3 MR. HUTCHISON: Objection to the form.

4 A. No, that's not true.

5 Q. You've been sued a lot, haven't you?

6 MR. HUTCHISON: Objection to the form.

7 A. There have been quite a few lawsuits over  
8 the course of the last twenty or thirty years.

9 Q. Okay. Good. And in those lawsuits you  
10 made reference to other defendants, multiple  
11 defendants. You remember saying that?

12 A. I did.

13 Q. Okay. Name me one of those defendants  
14 that were involved in this case, not your mama and  
15 not your wife, okay, not those people, you know,  
16 that's part of the family, I understand that. But  
17 name me one of those entities that got sued that you  
18 didn't own fifty percent of.

19 MR. HUTCHISON: Objection to form. Move  
20 to strike comment of counsel.

21 A. I could name many of them, but I need  
22 my -- the list that you introduced in evidence to  
23 refresh my memory.

24 Q. So for this jury now, you can't name a  
25 single one without your list.

1           A.    I think I could probably name some, but I  
2           don't want to guess.  I would like to be  
3           accurate.

4           **Q.    Well, you mean you wouldn't be sure about**  
5           **one single entity that got sued along with you that**  
6           **you didn't own fifty percent of?**

7                   MR. HUTCHISON:  Objection.  Asked and  
8           answered.  And form.

9           A.    I do know that the -- well, see, it  
10          depends on the case.  You asked for a specific  
11          allegation and so some cases have certain  
12          allegations, others have others.  So I'm not sure  
13          which cases have what but --

14          **Q.    I'm talking about the allegations where**  
15          **you got sued for fraud, gross fraud, you got sued**  
16          **for stealing, you got sued for unfair trade**  
17          **practices and you got sued for malicious**  
18          **prosecution, you got sued for breach of fiduciary**  
19          **relationship.  Do you remember those cases?**

20                   MR. HUTCHISON:  Objection to the form.

21          BY MR. GARY:

22          **Q.    Do you remember some of those cases?**

23                   MR. HUTCHISON:  And asked and answered.

24          A.    I remember that yesterday we went through  
25          the entire list of cases and -- but I don't know

1           which claims were in which cases and which  
2           defendants were in which cases, so it would be  
3           impossible for me to answer your question  
4           accurately without looking at the list.

5           **Q.    So who got sued, sir, in any case anywhere**  
6           **that we could go check and talk to?  Who got sued --**  
7           **what entity got sued that you didn't own fifty**  
8           **percent of?**

9                   MR. HUTCHISON:  Objection.  Asked and  
10                  answered.  Form.  And move to strike comment  
11                  of counsel.

12                  A.    There were a lot of them.  A lot of  
13                  people, a lot of entities that were sued.

14                  **Q.    Name me one entity.**

15                  A.    I answered that already for you which was  
16                  if I can, if you just provide me with the list  
17                  that you put into evidence yesterday, I would be  
18                  happy to point to them.

19                  **Q.    I want you to go -- I want you to go off**  
20                  **of your memory.  I'm not going to sit here and give**  
21                  **you a list to take two hours to read.  You're not**  
22                  **going to waste time that way.  We're not going to do**  
23                  **that.  Name me one entity that got sued along with**  
24                  **you, since you said it was a lot of us that got**  
25                  **sued, name me one entity that got sued along with**

1 you, Doctor's Associates and your partner Mr. Buck,  
2 name me one other that you all -- you didn't own  
3 fifty percent of.

4 MR. HUTCHISON: Objection as to form.

5 Asked and answered.

6 A. For any case on that list?

7 Q. Yeah.

8 A. Okay. So without specifying on the  
9 allegations that were there, there were cases  
10 that the Subway Franchisee Advertising Trust was  
11 listed, also all of the directors of the  
12 Franchisee Advertising Fund Trust were listed.

13 Q. The Subway Advertising Trust. Now, let's  
14 take Subway. You have ownership in Subway?

15 A. Doctor's Associates. And Doctor's  
16 Associates controls the Subway --

17 Q. Okay.

18 A. -- trademark.

19 Q. Doctors and Associates controls Subway --  
20 the Subway trademark. You own fifty percent of  
21 Doctors and Associates, don't you?

22 A. I own fifty percent of Doctor's  
23 Associates.

24 Q. Well, at the end of the day if Doctors and  
25 Associates own Subway or control the Subway

1       **business, you are fifty percent owner of Subway,**  
2       **too, aren't you, sir, really? I mean unless we just**  
3       **get fancy with words. But in real talk, so this**  
4       **jury can understand, you own fifty percent of**  
5       **Subway, don't you?**

6               MR. HUTCHISON: Objection as to form.

7               A. Are you referring to the advertising  
8       trust or are you referring to the trademark  
9       Subway?

10              **Q. Let's go with trademark first.**

11              A. Doctor's Associates owns the Subway  
12       trademark, so I guess the right -- fifty  
13       percent -- I have fifty percent interest in the  
14       assets of Doctor's Associates.

15              **Q. Okay. Now, you all got charged with**  
16       **stealing from the advertising trust, didn't you,**  
17       **sir?**

18              MR. HUTCHISON: Objection as to form.

19       BY MR. GARY:

20              **Q. You got charged with stealing from the**  
21       **advertising trust, didn't you?**

22              A. Well, what do you mean by charged?

23              **Q. It was alleged that you were stealing from**  
24       **the advertising trust.**

25              A. I'm not sure that that's the case.

1           Q.    It was alleged in the lawsuit -- didn't  
2 you all have a lawsuit against -- by the franchise  
3 owners against the advertising trust?

4           MR. HUTCHISON:  Objection.

5 BY MR. GARY:

6           Q.    And you got named as a defendant in that?

7           MR. HUTCHISON:  Objection.  Asked and  
8 answered.

9           A.    I'm not sure what you're talking about.

10          Q.    Well, the advertising trust got charged  
11 with stealing.  The advertising trust for Subway,  
12 which you own fifty percent of, got charged with  
13 stealing money.

14          A.    No.  Wait.  Hold on.  The advertising  
15 fund trust was not affiliated or owned by us or  
16 controlled by us.

17          Q.    That's not the point.  I'm saying the  
18 advertising trust for Subway.

19          A.    Yes.

20          Q.    And that's the way -- okay.  I'll buy into  
21 it.  You say you ain't got -- you got nothing to do  
22 with it.  You don't even know them.  Okay.  That's  
23 good.  What I'm saying is, though, but that  
24 advertising trust for Subway, which you own fifty  
25 percent of, got sued.  Right?



1 MR. HUTCHISON: Objection to form.  
2 Misstates his testimony and move to strike  
3 comments of counsel.

4 BY MR. GARY:

5 Q. Did the advertising trust in this  
6 particular deal involving Subway and some of the  
7 franchise owners, did that lawsuit -- did they  
8 include you in that lawsuit as well?

9 MR. HUTCHISON: Objection as to form.

10 A. I don't know what lawsuit you're  
11 referring to.

12 Q. Was there a lawsuit against the  
13 advertising trust?

14 A. There were times that the Advertising  
15 Fund Trust was named.

16 Q. As a what?

17 A. As a defendant.

18 Q. For doing what, stealing money, wasn't it?

19 A. I don't recall. No, I don't think so.

20 Q. You don't think so.

21 A. But if you show me --

22 Q. Okay.

23 A. If you show me one, we could talk about  
24 it.

25 Q. Let me ask you this. You've surely been

1 **sued for malicious prosecution, haven't you?**

2 MR. HUTCHISON: Objection as to form.

3 BY MR. GARY:

4 **Q. You remember that from yesterday. Right?**  
5 **And I'm not going to go back and read all of it, but**  
6 **do you remember being sued for malicious**  
7 **prosecution?**

8 A. I'd have to look at the cases.

9 **Q. Okay. And if the cases indicate that**  
10 **you've been sued for malicious prosecution, you'd**  
11 **have no argument with that, would you, that at least**  
12 **you got sued? And I'm just saying sued. Whether**  
13 **allegations were brought against you when you got**  
14 **charged with in a civil lawsuit being guilty of**  
15 **malicious prosecution because you were, weren't you?**

16 MR. HUTCHISON: Objection to form.

17 A. No. First of all, I didn't understand  
18 the question. So repeat the question but --

19 **Q. Sir, have you ever been sued in a lawsuit**  
20 **for malicious prosecution, you, Fred DeLuca?**

21 A. No, I don't know that I individually have  
22 ever been sued for malicious prosecutions. There  
23 may have been suits where there were multiple  
24 defendants.

25 **Q. You were one of them.**

1           A.    There may have.  If you show me one, I'll  
2           be happy to discuss it.

3           Q.    I'm saying I'm just going on your memory  
4           now.  We're not doing documents and all that stuff.  
5           If you don't know, tell me.  If you don't know, look  
6           the jury in the face and tell them you don't know.  
7           If you owned this -- how many stores do you all own  
8           worldwide?

9           A.    Well, we have 37,000 stores in a hundred  
10          countries.

11          Q.    Okay.  And you own fifty percent of that  
12          business, don't you?

13          MR. HUTCHISON:  Objection as to form.

14          A.    Correct.

15          Q.    And if you're -- you're telling the jury  
16          there may have been some lawsuits where you got  
17          charged with malicious prosecution -- not charged  
18          with but you got sued for malicious prosecution, and  
19          it could be that you just -- you got sued but you're  
20          so busy doing other things, you don't know about  
21          that.  Is that what you're saying?

22          MR. HUTCHISON:  Objection.  Form.  Move  
23          to strike comment of counsel.  And asked and  
24          answered.

25          A.    Well, in terms of being busy, the answer

1 is yes. I've got a lot of stores operating in a  
2 lot of countries, so I do have a lot to think  
3 about. In terms of the specific allegations made  
4 in specific cases over a decade ago, it's hard  
5 for me to recall all of them.

6 **Q. Sir, don't you consider it serious if you**  
7 **got levied with charges of malicious prosecution?**

8 A. What do you mean by leavened with  
9 charges?

10 **Q. Well, a complaint filed, a civil complaint**  
11 **filed alleging that you, Fred DeLuca, was guilty --**  
12 **was committed malicious -- you maliciously**  
13 **prosecuted people and you got charged with it.**

14 MR. HUTCHISON: Objection as to form.

15 A. I don't understand the charged.

16 **Q. Well, the allegation. Let's call it an**  
17 **allegation. You're aware of allegations of**  
18 **malicious prosecution against you. Right?**

19 MR. HUTCHISON: Asked and answered.

20 A. I believe that there was a lawyer who  
21 thought we were being aggressively -- aggressive  
22 towards him, and he may have filed one of those  
23 types of claims.

24 **Q. Okay. You were aggressive toward the**  
25 **lawyer. Well, let me --**

1           A.    I'm not finished.  I haven't finished the  
2 answer.

3           **Q.    Well, you've given me enough answer.**

4           A.    No, no, no.  I didn't give a whole  
5 answer.

6                   MR. HUTCHISON:  Let him finish his  
7 answer.

8 BY MR. GARY:

9           **Q.    I don't -- let me just -- I'm going to let**  
10 **you finish your answer, but let me tell you I'm not**  
11 **interested in you raveling on and on and on and on.**  
12 **You give me an answer, that's fine.  We got a lot to**  
13 **cover and I want to move on.  Okay?**

14           A.    Yes, but I want to answer my questions.  
15 So if you asked a question, I intend to answer  
16 that.

17           **Q.    The question is on your -- you're being --**

18                   MR. HUTCHISON:  Go ahead and finish your  
19 answer.

20 BY MR. GARY:

21           **Q.    -- charged with malicious prosecution.  Go**  
22 **ahead.**

23           A.    Yeah.  There was a lawyer that was doing  
24 a lot of things that were quite unethical, and we  
25 took action against him, and he tried to sue us.

1 And I think all his charges against us were  
2 dismissed.

3 Q. Well, what about the charges you made  
4 against him? They were dismissed, too, weren't  
5 they?

6 A. No. No. Lots of times he was  
7 sanctioned. There were a lot of problems with  
8 him. He was a bad -- a very bad person.

9 Q. You paid in a lot of lawsuits. You  
10 settled a lot of lawsuits where you got charged with  
11 fraud, you got charged with unfair trade practices,  
12 you got charged with malicious prosecution, breach  
13 of fiduciary duty, and you paid those, you settled  
14 those lawsuits, didn't you? You've told this jury  
15 that already, haven't you?

16 MR. HUTCHISON: Asked and answered.

17 A. I don't know what you mean by charged.

18 MR. HUTCHISON: Object to form.

19 BY MR. GARY:

20 Q. You got allegations made against you for  
21 committing fraudulent acts, for stealing.

22 MR. HUTCHISON: Objection as to form.

23 A. So ask the question again.

24 Q. Yeah. You settled some of those lawsuits,  
25 didn't you?

1 A. Which lawsuits?

2 Q. The lawsuits involving fraudulent conduct  
3 on your part.

4 A. On my part personally or --

5 Q. On your part and on your entities, your  
6 friends, your mom, your daddy, whoever it is.

7 A. Well, first of all, the people that were  
8 named in the lawsuits were not necessarily  
9 friends. They were not necessarily --

10 Q. Well, your business people. Whatever you  
11 want to call it, they were in the lawsuit with you.  
12 Right?

13 A. You mean the other defendants --

14 Q. Yeah.

15 A. -- who I may or may not have known?  
16 They -- yes, if there were other defendants that  
17 were in the lawsuit, then they were included in  
18 the people in the lawsuit.

19 Q. And -- okay. Thank you. Now, let me go a  
20 little bit further because I want the jury to have a  
21 full picture of this. You've also been in lawsuits,  
22 all your people, your other entities and other  
23 people and all of the ones you want to have in it,  
24 but you've been -- but Fred DeLuca, you've been sued  
25 in lawsuits, too, sir, where you -- there were

1       **allegations of conspiracy to steal, conspiracy to**  
2       **commit a fraud on your behalf, haven't you?**

3               MR. HUTCHISON:  Objection as to form.

4               Asked and answered.

5               A.  No, not on my behalf that I recall or --  
6               I don't actually know what you're talking about.

7               **Q.  Have you been involved, have you been sued**  
8       **before, among others, right, where there were**  
9       **allegations that you were part of a conspiracy to**  
10       **commit fraudulent acts upon some of the franchise**  
11       **owners?**

12              MR. HUTCHISON:  Objection.  Asked and  
13              answered.

14              A.  I don't know about that kind of  
15              allegation.

16              **Q.  You just don't know.  You're not saying**  
17       **you haven't.  You're saying you just don't know.  Is**  
18       **that correct?**

19              A.  I don't have any recollection of that.

20              **Q.  Okay.  You remember the lawsuits --**  
21       **umpteen lawsuits that my partner C.K. Hoffler went**  
22       **through with you yesterday?**

23              MR. HUTCHISON:  Objection to the form.

24              A.  Do I remember that --

25              **Q.  The large number of lawsuits that you --**



1           A.    Do I remember that we talked about a  
2           number of lawsuits yesterday?  Yes.

3           **Q.    Okay.  Now, and in some of those lawsuits**  
4           **you were charged with conspiracy to commit fraud,**  
5           **weren't you?  Among other people you were charged**  
6           **with the allegation of conspiracy to commit fraud.**

7           MR. HUTCHISON:  Objection.  Asked and  
8           answered.

9           A.    I don't even know what conspiracy to  
10          commit fraud is, but I don't know that there was  
11          allegations like that.  There was many people  
12          that were -- usually it's -- usually Doctor's  
13          Associates was named, and then there were a whole  
14          host of other people that were named.  And then  
15          there were allegations that were made.

16          **Q.    What allegations were made?**

17          A.    Well, I think all of the allegations that  
18          you talked about.

19          **Q.    One being conspiracy to commit fraud?**

20          A.    Oh, I don't know about -- see, I don't  
21          understand this conspiracy.

22          **Q.    Breach of fiduciary duty?**

23          A.    I think that was in some cases.

24          **Q.    Malicious prosecution?**

25          A.    I think that may have been in one case.

1           **Q.    Okay.    Unfair trade practices?**

2           A.    I remember seeing that in some of the  
3 cases, but I don't know which of these  
4 allegations applied to which cases or which of  
5 the multiple defendants were there or the issues  
6 involved in the cases.

7           **Q.    How many cases were there?**

8           A.    That we talked about yesterday?  Maybe  
9 your associate read twenty cases into the record.

10          **Q.    And you were a defendant in every last one**  
11 **of those cases, weren't you, Fred DeLuca?**

12          A.    I'm not so sure that I was a defendant in  
13 each of those cases that we talked about  
14 yesterday.

15          **Q.    Okay.**

16                MS. HOFFLER:  I guess we'll have to go  
17 through them again because your memory is so  
18 vague.

19                MR. HUTCHISON:  Move to strike comment of  
20 counsel.

21 BY MR. GARY:

22          **Q.    Now, you've been sued in just about every**  
23 **state in the union, haven't you, sir?**

24                MR. HUTCHISON:  Objection to the form.

25          A.    Not that I know of.

1 Q. Well, you've been sued in South Carolina?

2 A. I don't know what states.

3 Q. Well, you were sued in South Carolina and  
4 my partner C.K. Hoffler addressed it with you  
5 yesterday. I think you were sued for unfair trade  
6 practices in South Carolina. You, Fred DeLuca,  
7 weren't you?

8 A. Not -- well, no, along with multiple  
9 defendants I may have been named in a suit in  
10 South Carolina. I just don't know the location  
11 of the suits.

12 Q. Why do you say you may have been?

13 A. Because I may have been or may not have  
14 been. I don't know the answer to the question.

15 Q. Well, didn't you admit to her yesterday  
16 that you were involved in a lawsuit in South  
17 Carolina where you -- there were allegations that  
18 you were dealing in unfair trade practices among  
19 your other partners or entities?

20 MR. HUTCHISON: Objection. Asked and  
21 answered.

22 A. Yesterday we went over a document that my  
23 office produces that's public document that has  
24 all of these details. I just don't recall which  
25 cases were in which place.

1           **Q. Speaking of that document being a public**  
2 **document, now, you have to do that, don't you?**

3           A. Yeah, that's why it's a public document.

4           **Q. Why do you have to do it?**

5           A. Well, all franchisors have to file a  
6 franchise disclosure document, and it's part of  
7 the government regulations for being in the  
8 business of franchising.

9           **Q. Okay. So the government requires it.**  
10 **Now, you've also been sued by the government for**  
11 **violating policies and procedures that you were to**  
12 **follow, government policies and procedures. You've**  
13 **had your fights with the government, haven't you?**

14           MR. HUTCHISON: Objection to the form.

15           A. There have been occasions where there's  
16 been a regulation that there was a concern about  
17 that the government brought to our attention.

18           **Q. It was more than just a concern, more than**  
19 **bringing it to your attention. They levied charges**  
20 **against you for violating various regulations,**  
21 **haven't they, sir?**

22           MR. HUTCHISON: Objection as to form.

23           A. What do you mean by levied charges?

24           **Q. Well, what concerns have you had with the**  
25 **government? Tell me first.**

1 A. Okay.

2 Q. What, if any, dealings you've had with the  
3 federal government that dealt with allegations of  
4 any kind from the government against Fred DeLuca and  
5 others.

6 MR. HUTCHISON: Objection. Asked and  
7 answered. Went over it in detail yesterday.

8 A. I don't know if I personally have had any  
9 allegations from the government.

10 Q. Never.

11 A. I can't recall -- I can't recall one.

12 Q. You've had a number of charges against you  
13 and your group and your entities and your Subway  
14 partners from the government that you all were  
15 violating franchise policies, haven't you, sir?

16 MR. HUTCHISON: Objection to form. And  
17 asked and answered.

18 A. Are you talking about me personally?

19 Q. No. Have you been involved among other  
20 people?

21 MR. HUTCHISON: Objection.

22 BY MR. GARY:

23 Q. What about Subway --

24 MR. HUTCHISON: Objection to the form.

25 BY MR. GARY:

1 Q. -- which you own fifty percent of?

2 A. You mean Doctor's Associates?

3 Q. Doctor's Associates.

4 A. I think Doctor's Associates has had  
5 interactions with government agencies.

6 Q. What are interactions? That's a fancy  
7 word for what? You've been chastised by the  
8 government?

9 A. Interactions means conversations.

10 Q. What kind of conversations?

11 A. About things that we call them about or  
12 they call us about.

13 Q. What are some of the things they call you  
14 about?

15 A. Well, one thing that the government has  
16 talked to us about are some of the practices of  
17 franchisees in regards to hiring, paying the  
18 wages correctly, proper overtime, and we work  
19 with them to make sure that our franchisees are  
20 educated so that they are able to run their  
21 businesses correctly.

22 Q. Now, as a matter of fact, you got charged  
23 with violations of not properly paying wages. As a  
24 matter of fact, you got charged with really stealing  
25 from these people because they were uneducated and

1       you hadn't trained them and you took advantage of  
2       them. Isn't that -- didn't the government charge  
3       you or make those allegations?

4                   MR. HUTCHISON: Objection as to form.

5       A.    No.

6                   MR. HUTCHISON: And I move to strike  
7       comment of counsel.

8       BY MR. GARY:

9                   **Q.    Okay. Wait a minute. Wait a minute now.**  
10       **You want to answer the question?**

11       A.    I'm going to answer it. Yeah. The  
12       answer is no, the government hasn't charged us  
13       with not training the people or having  
14       unsuccessful people. We have 37,000 stores now.  
15       We're the largest franchise system in the world  
16       and our stores do generally well. We have a good  
17       organization, we work hard. Now, not every  
18       franchisee is successful, not every franchisee  
19       runs their business properly, but by and large we  
20       run a good organization. And I don't have any  
21       recollection of the government charging us or  
22       complaining to us or filing anything that we're  
23       not properly training our people.

24                   **Q.    Could it be and you just don't know about**  
25       **it?**

1           A.    I don't think it exists.

2           **Q.    Okay. Thank you. But you had your**  
3 **conversations with the government. Now, let me ask**  
4 **you this -- this question here. You've been charged**  
5 **with breach of fiduciary duty -- not charged with,**  
6 **let me rephrase it. You've been sued, there have**  
7 **been allegations made that you, Fred DeLuca, among**  
8 **others, were guilty of breaching fiduciary duties in**  
9 **a number of cases, haven't you?**

10           MR. HUTCHISON: Objection as to form.  
11           Foundation.

12           A.    What does guilty of mean?

13           **Q.    Well, you've been charged -- it was**  
14 **alleged that you were at fault, that you committed,**  
15 **you breached a fiduciary duty where there was a**  
16 **relationship similar to what we have here.**

17           MR. HUTCHISON: Objection as to form.  
18           Move to strike comment of counsel.

19           A.    I believe that some of the cases had  
20           alleged a breach of fiduciary duty along with  
21           other -- a number of other allegations.

22           **Q.    Allegations. Like stealing, fraud and all**  
23 **of that?**

24           MR. HUTCHISON: Objection as to form.

25           A.    Let me finish, please.



1 MR. HUTCHISON: Move to strike comment of  
2 counsel.

3 A. Just like a number of other cases where  
4 they included Doctor's Associates plus a number  
5 of other people related to Doctor's Associates.  
6 So not me personally.

7 **Q. Well, you were a party, weren't you?**

8 A. I've been named as a party in suits.

9 **Q. And you own fifty percent of Doctors and**  
10 **Associates. Right?**

11 A. I own fifty percent of Doctor's  
12 Associates.

13 **Q. Do you know what fiduciary -- do you**  
14 **know -- can you define fiduciary duty?**

15 A. Not exactly.

16 **Q. So you don't even know what it is.**

17 A. In terms of definition I would say -- I  
18 couldn't define it precisely. In terms of  
19 general concept I think I have a concept.

20 **Q. What's the general concept of fiduciary**  
21 **duty to you?**

22 A. I think that it means that if you have a  
23 responsibility to someone in terms of handling  
24 their money, you need to handle it correctly and  
25 provide the proper reporting and to handle it

1           honestly as if it's your own money.

2           **Q.    What about making disclosures that --**  
3 **informing, disclosing information that's related to**  
4 **the deal?**

5           A.    I don't understand the question.

6           **Q.    Well, you were explaining what fiduciary**  
7 **duty meant to you, handling money properly, making**  
8 **sure that you talk to people, they know what's going**  
9 **on, and clearly if you're in business with someone,**  
10 **you surely shouldn't hide anything from them if it's**  
11 **business related. Right? You agree with that?**

12           MR. HUTCHISON:  Objection as to form.

13           Calls for a legal conclusion.

14           A.    I don't know what the question means.

15           **Q.    You don't know what it means when I say**  
16 **you shouldn't hide -- if you're in business with**  
17 **someone and you all are working together, and when I**  
18 **say you shouldn't hide any information, you should**  
19 **make full disclosures, you don't know what that**  
20 **means?**

21           MR. HUTCHISON:  Objection as to form.

22           Calls for a legal conclusion.

23           A.    Well, if -- yeah.  Yeah, I don't know  
24 exactly what you mean.  There's a lot of things  
25 that -- for instance, Dr. Buck and I have been

1 partners for 47 years and we have business  
2 information that we share, but there are lots of  
3 things that we each do that we don't tell each  
4 other about.

5 **Q. But you share business information.**

6 A. Correct.

7 MR. HUTCHISON: Objection.

8 BY MR. GARY:

9 **Q. Why do you do that?**

10 A. Why do we --

11 **Q. Share business information.**

12 A. Well, because we both are owners of  
13 Doctor's Associates and so we talk about what's  
14 going on in the business.

15 **Q. You don't keep anything from each other --**

16 MR. HUTCHISON: Objection.

17 BY MR. GARY:

18 **Q. -- as it relates to what's going on in the**  
19 **business.**

20 MR. HUTCHISON: Objection as to form.

21 BY MR. GARY:

22 **Q. Right?**

23 MR. HUTCHISON: Misstates his testimony.

24 A. Well, I wouldn't say that's correct.

25 There are so many things going on in the

1 business, I don't tell Pete about everything. He  
2 really gets summary information. So there are  
3 many things that he does not know, but if he ever  
4 wanted the answer to something, if he would ask  
5 the question, he would get the answer.

6 **Q. So as partners you all exchange**  
7 **information that's related to the business**  
8 **relationship as needed. That's the way you look at**  
9 **it?**

10 MR. HUTCHISON: Objection.

11 BY MR. GARY:

12 **Q. That's the way you --**

13 MR. HUTCHISON: Objection as to form.

14 A. I don't understand the question.

15 **Q. You all are business partners in Doctors**  
16 **and Associates. You own fifty percent each. Right?**

17 A. We're not partners. We're shareholders.

18 **Q. Yeah, I know your definition of partners**  
19 **is DeLuca's definition of partnership and I**  
20 **understand it, but you all own fifty percent each in**  
21 **the business. You got fifty percent of the stock --**  
22 **fifty percent of the stock, he owns fifty percent of**  
23 **the stock. Is that correct?**

24 MR. HUTCHISON: Objection. Move to  
25 strike comment of counsel.

1 BY MR. GARY:

2 Q. It's just the two of you. Right?

3 A. I don't under --

4 Q. That it's just the two of you that own the  
5 stock. You own fifty percent and he owns fifty  
6 percent.

7 A. That's correct.

8 Q. And how long have you owned fifty percent  
9 and he's owned fifty percent?

10 A. For -- since we started.

11 Q. When was that?

12 A. That was 1967.

13 Q. Okay. Forty plus years?

14 A. Forty-five years.

15 Q. Forty-five years. How often do you meet?

16 A. We meet twice a year.

17 Q. Okay. How often do you talk?

18 A. We probably talk in addition to the  
19 meetings?

20 Q. Yes.

21 A. Another four times a year.

22 Q. And you don't consider yourself as  
23 partners in owning fifty percent each in Subway,  
24 Doctors and Associates?

25 MR. HUTCHISON: Objection to the form and

1 to the extent it calls for a legal conclusion.

2 A. No, we are shareholders in Doctor's  
3 Associates, but at one time we were partners. In  
4 1965 when we started the business, we were -- we  
5 started as a partnership and we ran the business  
6 for about two years and decided that that form of  
7 business would not be suitable and that we  
8 decided to form a corporation, and we decided  
9 that we would be shareholders.

10 **Q. So you were once partners?**

11 A. In 1965.

12 **Q. Yeah. Now -- and let me just be clear**  
13 **here. You own one-half of Doctors and Associates**  
14 **and Subway Restaurants, Inc. Right?**

15 MR. HUTCHISON: Objection. Asked and  
16 answered and form.

17 A. I don't understand the question actually.

18 **Q. You own one-half of the stock -- at a**  
19 **hundred percent you own fifty percent of the stock**  
20 **in Doctors and Associates.**

21 A. It's Doctor's Associates.

22 **Q. Doctor's Associates.**

23 A. And Pete and I each own fifty percent of  
24 the stock.

25 **Q. Okay. And who owns the Subway**

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**Restaurants, Inc.?**

A. The corporation Subway Restaurants, Inc.?

**Q. Yeah.**

A. Well, if there is --

**Q. Who owns it, sir, if you know?**

A. I'm just trying to recall.

**Q. Well, give me an answer first. Then you can explain it. Who owns it? If you don't know, tell the jury you don't know who owns it.**

A. Yeah, I'm not sure that there is a company named Subway Restaurants, Inc. It seems to ring a bell that there is a leasing company that's named Subway Restaurants, Inc., and I believe that Pete Buck and I own fifty percent of that.

**Q. Who owns the restaurants?**

A. The franchisees own the restaurants.

**Q. Okay. And who sells to the franchisees?**

A. Various suppliers sell to the franchisees. There are people that make bread and cheese and meat and restaurant equipment, and they sell to the franchisees.

**Q. You get a piece of that?**

A. No.

**Q. You don't get a piece of that. Okay.**

1       **Let's move along so we stay on track here. Now,**  
2       **you've also been sued for setting up shell**  
3       **corporations, haven't you? And that is defrauding**  
4       **landlords throughout the country.**

5               MR. HUTCHISON: Objection as to form.

6               A. I don't understand the question.

7               **Q. Have you been sued for setting up shell**  
8       **corporations?**

9               A. Has there been an allegation that we set  
10       up a shell corporation?

11              **Q. Yeah, in a lawsuit, in a complaint filed**  
12       **in court before a judge that it was either going**  
13       **before or went before a jury, have you been involved**  
14       **in those kind of lawsuits where you were charged**  
15       **with setting up shell corporations?**

16              MR. HUTCHISON: Objection to form.

17              A. What do you mean by charged?

18              **Q. Where there were allegations that you were**  
19       **setting up shell corporations.**

20              MR. HUTCHISON: Objection to the form.

21              A. Well --

22              **Q. Yes or no?**

23              A. Not precisely. I don't think that the  
24       allegations were that we were setting up shell  
25       corporations, but I think there were allegations



1 saying that the -- some corporations were shell  
2 corporations.

3 **Q. Some of whose corporations, yours?**

4 A. Some of the -- some of the corporations  
5 that we owned.

6 **Q. When you say we, who are you talking**  
7 **about?**

8 A. Pete Buck and myself.

9 **Q. Okay. Now, have you had anyone file a**  
10 **complaint against you or your other entities, as you**  
11 **call them, that went to the State Attorney's Office**  
12 **that were fraud?**

13 MR. HUTCHISON: Objection to the form.

14 A. Which state are you referring to?

15 **Q. Any state -- I'm going to go through all**  
16 **of them. Let's start with -- pick your number.**

17 A. You want me to pick a state?

18 **Q. Yeah.**

19 A. Let's start early. Alaska.

20 **Q. Okay. What's the next state?**

21 MR. HUTCHISON: What's the question?

22 MR. GARY: Look here, I'm not -- you're  
23 not being deposed. If he needs to know the  
24 question, he can ask me.

25 THE WITNESS: He asked me for another

1 state, I think.

2 MR. HUTCHISON: Of what? Regarding what?

3 MR. GARY: Read back the question, ma'am,  
4 please, before we start. Because you need to  
5 wake up.

6 MR. HUTCHISON: I guess I do because I  
7 didn't -- there's like three questions  
8 pending, Willie. I just don't know which one  
9 he's answering.

10 MR. GARY: I asked had anybody filed a  
11 complaint against him from the State Attorney.  
12 Ma'am, read that question for me, please. It  
13 goes back a little bit.

14 (The reporter reads the pending  
15 question.)

16 BY MR. GARY:

17 **Q. What's the next state?**

18 A. Is that a question, what's the next  
19 state?

20 **Q. Sir, I assume you indicated there were a**  
21 **number of states as it relates to this question.**  
22 **You gave -- why did you give me Alaska?**

23 A. Well, that's -- well, there are fifty  
24 states in the United States, and you asked me to  
25 name a state, and I thought I'd start with a

1 state that was towards the beginning of the  
2 alphabet, and Alaska came to mind, so I said  
3 Alaska.

4 Q. Is that one where you've been -- a  
5 complaint has been filed against you with the State  
6 Attorney's Office?

7 A. Not that I know of.

8 Q. Well, that was the question. Didn't you  
9 understand the question?

10 A. I don't recall you asking that question.

11 Q. Have you ever had a complaint filed  
12 against you in the State Attorney's Office in any  
13 state for fraud?

14 A. I don't know.

15 Q. You don't know?

16 A. I don't know.

17 Q. Could have been?

18 A. I don't know.

19 Q. Could have been?

20 A. Anything could have been. I don't know  
21 the answer to the question.

22 Q. So what you're telling this jury in terms  
23 of whether any criminal complaints have ever been  
24 filed against you or not by any state -- anyone in  
25 any state with the State Attorney's Office, you're

1 **saying you don't know.**

2 MR. HUTCHISON: Objection. Asked and  
3 answered.

4 A. No, that's a different question. You  
5 asked me about criminal complaint. There's been  
6 no criminal complaint filed against me.

7 **Q. Actually any civil complaints for fraud.**

8 MR. HUTCHISON: Objection to form.

9 A. What is the question?

10 **Q. The original question. You thought I**  
11 **was -- I'm saying any complaint in the State**  
12 **Attorney's Office relating to fraud. Forget about**  
13 **criminal.**

14 MR. HUTCHISON: Asked and answered.

15 A. I said I don't know the answer.

16 **Q. You don't know? You mean that you're**  
17 **telling this jury that there could have been a**  
18 **complaint filed against you for fraud in the State**  
19 **Attorney's Office or the DA's office in some states**  
20 **that you don't even know about?**

21 MR. HUTCHISON: Objection. Asked and  
22 answered.

23 A. What I'm saying is that over the course  
24 of 47 years in business, I don't know if anybody  
25 has made a complaint to the state offices, any

1 state's offices about fraud. I just don't have a  
2 recollection.

3 Q. Okay. Well -- so if you don't have a  
4 recollection, you're not saying that it didn't  
5 happen, are you, sir?

6 MR. HUTCHISON: Objection. Asked and  
7 answered.

8 BY MR. GARY:

9 Q. Or it hasn't happened.

10 A. What I'm saying is I have no recollection  
11 of it.

12 Q. Now, you had a Mr. Thomas W. Hislop. Does  
13 that ring a bell to you?

14 A. Yes.

15 Q. And he was your -- used to be your  
16 comptroller. Is that correct?

17 MR. HUTCHISON: Objection as to form.

18 A. Yes.

19 Q. And he sued you, didn't he?

20 A. He did.

21 Q. And he sued you, among some other things,  
22 like you said with the allegations, for committing  
23 fraud, didn't he?

24 A. I don't recall that.

25 Q. Did he -- strike that.

1 MR. HUTCHISON: Willie, I need a break in  
2 about ten or fifteen minutes, whenever you get  
3 to a good spot.

4 BY MR. GARY:

5 Q. Now, Doctors and Associates or at least  
6 all the employees of Doctors and Associates were  
7 really intimately involved in this partnership or  
8 this business relationship or this entity that was  
9 created whereby you and Anthony Pugliese came  
10 together to do the Destiny project. Right?

11 MR. HUTCHISON: Objection as to form.

12 A. No.

13 Q. Well, who is Mr. David Friedman?

14 A. David Friedman --

15 Q. Friedman.

16 A. -- works for me.

17 Q. And was he involved in putting together  
18 the loans and the financing for the Destiny project?

19 MR. HUTCHISON: Objection to form.

20 A. No.

21 Q. Okay.

22 MR. GARY: Well, I don't know whether  
23 this has been marked or not, March 30th  
24 e-mail, 2010, but I'm going to -- I'm going to  
25 mark it anyway.

1 MR. HUTCHISON: I think it's Exhibit  
2 Number 10.

3 MR. GARY: Is it Exhibit --

4 MR. HUTCHISON: No, no. Now. Now.  
5 We're on 10.

6 MR. GARY: Now. Okay.

7 (Exhibit No. 10 was marked for  
8 identification.)

9 BY MR. GARY:

10 Q. Did David Friedman work for Doctor's  
11 Associates?

12 A. At one point.

13 Q. Was he working for Doctor's Associates in  
14 2007, 2006, 2005?

15 A. No.

16 Q. Okay. 2010?

17 A. No.

18 Q. Well, when did he work for Doctors and  
19 Associates?

20 A. He worked for Doctor's Associates -- I  
21 think he started towards the end of 2007. He was  
22 actually hired to run my family office, and so  
23 for a few months he was paid through Doctor's  
24 Associates before we formed Rockridge Capital.

25 Q. When did you start paying him with a

1 **Rockridge Capital check?**

2 A. Well, he's been working for Rockridge  
3 Capital since 2008. I don't know what kind of  
4 check he gets, but it's -- he's been an employee  
5 of Rockridge since 2000 -- early 2008.

6 **Q. Okay. And who is David Worroll?**

7 A. David Worroll is -- he works for me.

8 **Q. Fred DeLuca?**

9 A. He works for Doctor's Associates.

10 **Q. Okay. And was he working for Doctors and**  
11 **Associates back in 2008, 2009, 2010?**

12 A. I think he worked for Doctor's Associates  
13 in '08 and '09, and in 2010 he worked for  
14 Franchise World Headquarters.

15 **Q. And is that associated with Subway?**

16 A. That's -- that's another company that  
17 Pete and I own.

18 **Q. Okay. So he was -- okay. I want to show**  
19 **you what's been marked as Plaintiff's 10. Take a**  
20 **look at that. Let me do this so we speed this up.**  
21 **I don't need to ask you about the contents of it.**  
22 **Was he working for Doctors and Associates during**  
23 **that time that e-mail was sent out?**

24 A. 2010?

25 **Q. Was he getting paid? Was he on Doctor's**



1 **Associates' payroll --**

2 A. No.

3 **Q. -- at that time? He wasn't being paid**  
4 **with a Doctors and Associates check.**

5 A. Not to my knowledge.

6 **Q. Now, who was paying him?**

7 A. As I said earlier, he worked for  
8 Rockridge Capital.

9 **Q. Okay. Was Rockridge Capital a part of**  
10 **this deal --**

11 MR. HUTCHISON: Objection as to form.

12 BY MR. GARY:

13 **Q. -- with Destiny?**

14 A. I don't know what you --

15 **Q. Well, the project, the Destiny project, it**  
16 **does say the subject here it's a Destiny Summary.**  
17 **Do you agree with that?**

18 A. Let me see it.

19 **Q. Right here.**

20 A. It says Destiny Summary.

21 **Q. And who is it from?**

22 A. Anthony Pugliese.

23 **Q. To whom?**

24 A. Edgar Belaval.

25 MR. HUTCHISON: Is that Exhibit 10,

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Willie?

MR. GARY: Yeah.

BY MR. GARY:

**Q. And whose name is listed here?**

A. With the arrows pointing to them?

**Q. Yes.**

A. The arrows are pointing to the name of David Friedman.

**Q. Okay. And David was working for you at that time?**

A. He was working for Rockridge Capital.

**Q. And was Rockridge Capital a part of this deal?**

MR. HUTCHISON: Objection to form.

A. I don't know what you mean by a part of this deal.

**Q. What percentage did you own of Rockridge Capital?**

A. A hundred percent.

**Q. Okay. You owned a hundred percent sent of it?**

A. I do.

**Q. Now, let me go --**

MR. GARY: You want a break here?

MR. HUTCHISON: Whenever you're

1 comfortable.

2 MR. GARY: Okay. You --

3 MR. HUTCHISON: Within the next five  
4 minutes or so. How about that?

5 MR. GARY: Yes, sir.

6 BY MR. GARY:

7 **Q. This document does refer to you and**  
8 **Anthony Pugliese as partners, doesn't it?**

9 A. I don't know what it refers to.

10 **Q. Yeah, well, look here. What it says here,**  
11 **read that. Just read it, the highlighted part.**

12 A. Okay. It says: Exit Strategy. Proposed  
13 to partners that FD be bought out at an initial  
14 investment plus note and interest, approximately  
15 185 million dollars.

16 **Q. You got to speak up. Read that again just**  
17 **a little bit louder. Read it again.**

18 THE WITNESS: Did you hear me?

19 BY MR. GARY:

20 **Q. Yeah, but you're not -- she's not the only**  
21 **one in the room. Read it.**

22 A. Okay. Exit Strategy: Proposed to  
23 partners that FD be bought ought out at initial  
24 investment plus note and interest, approximately  
25 185 million dollars.

1 MR. HUTCHISON: Objection to form and  
2 foundation. That's the second page of Exhibit  
3 2 -- Exhibit 10 for the record.

4 MR. GARY: Yeah.

5 BY MR. GARY:

6 Q. What partners were they talking about?

7 A. I don't know.

8 Q. Well, who -- who were involved in this  
9 deal other than yourself?

10 A. I didn't understand the question.

11 Q. It's talking about an exit strategy.

12 Right?

13 A. Yes.

14 Q. Did you want an exit strategy?

15 A. Yeah, let me -- well --

16 Q. Read it.

17 A. Yes. Let me just clarify.

18 Q. Did you want an exit strategy and did you  
19 and your partner Anthony Pugliese discuss it?

20 MR. HUTCHISON: Objection as to form.

21 A. Well, yes. I wanted an exit strategy  
22 once I found out that he was stealing.

23 Q. Now, sir --

24 A. I'm answering that question.

25 Q. Let me ask you this. What's the date on

1 **that document?**

2 A. I need to answer my question.

3 **Q. What's the date on that document?**

4 A. Sir, I have not finished --

5 **Q. I do not want to hear your --**

6 MR. HUTCHISON: Let him finish his  
7 answer.

8 BY MR. GARY:

9 **Q. -- extra-curricular garbage.**

10 MR. HUTCHISON: Let him finish his  
11 answer.

12 BY MR. GARY:

13 **Q. Sir, what's the date on that document?**

14 A. I am answering your question.

15 **Q. What's the date on that document?**

16 A. Why aren't you allowing me to answer the  
17 question?

18 **Q. Strike the question. Let me go another  
19 route. Because you're going to go on and on on  
20 something that does not have anything to do with  
21 this.**

22 A. I didn't finish my answer.

23 **Q. What's the date on that document? Had you  
24 all closed on the deal at this time?**

25 MR. HUTCHISON: Objection to the form.

1 BY MR. GARY:

2 Q. Had you even signed an operating agreement  
3 at that time?

4 A. The date on the document is March 30th,  
5 2010.

6 Q. Had you even signed an operating agreement  
7 at that time?

8 A. I'm not sure. Me personally? I don't  
9 think -- I don't know. I don't know what I  
10 signed.

11 Q. Well, look --

12 MR. GARY: Mark this, here's an Operating  
13 Agreement, as Plaintiff's 11.

14 MR. HUTCHISON: You want to start another  
15 exhibit before the break? Because we need to  
16 get a break.

17 MR. GARY: Yes.

18 (Exhibit No. 11 was marked for  
19 identification.)

20 BY MR. GARY:

21 Q. I want to do it because I want you to look  
22 at that. Look at that and see when did you sign the  
23 Operating Agreement?

24 MR. HUTCHISON: You have a copy for me,  
25 Willie?

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MR. GARY: Huh?

MR. HUTCHISON: You got a copy for me?

Thank you.

BY MR. GARY:

**Q. Sir, just look towards the back and tell me what date -- page 34, look at it.**

A. You want me to turn to page 34?

**Q. Yeah, turn to page 34.**

A. Okay. I'll do that.

**Q. Tell the jury when did you sign this Operating Agreement?**

A. Well, I signed -- let me just check the dates over here. On the 10th day of August, 2005 on behalf of FD Destiny, LLC I signed the Operating Agreement.

**Q. Okay. Did you sign another operating agreement?**

A. I don't recall one.

**Q. So --**

MR. GARY: Did we mark this Operating Agreement?

THE REPORTER: Yes.

MR. GARY: Because I want --

MR. HUTCHISON: Exhibit 11.

MR. GARY: Let me have it, please.

1 THE WITNESS: You want to staple this so  
2 it's all together?

3 MR. GARY: No.

4 THE WITNESS: Is it all there?

5 BY MR. GARY:

6 Q. Now, who did this spreadsheet here?

7 MR. HUTCHISON: The second page --

8 BY MR. GARY:

9 Q. That's attached to Exhibit 10. Wasn't  
10 that one of your people?

11 A. I don't know who did the spreadsheet.

12 Q. Well, look at it and see. Read it. Isn't  
13 that coming from David Friedman in your office?

14 A. I'm not finished reading it.

15 Q. I want you to -- I'm not asking you to  
16 digest it. I said who did this. And you can look  
17 on the front page and see who did it.

18 A. No, I can't.

19 Q. Well, it's not on this page. Where did it  
20 come from?

21 A. I don't know what this is.

22 Q. Where did it come from? What's the title  
23 of it there?

24 A. Well, first of all, the title on the  
25 second page says FD Destiny LLC, and it says



1 Investment Summary.

2 **Q. Who is FD Destiny LLD?**

3 A. FD Destiny LLC is the company that I  
4 formed to be a member of LLOC -- LLCOC.

5 **Q. You formed it, Fred DeLuca?**

6 A. Well, lawyers formed it.

7 **Q. Right. And here it makes reference to --**  
8 **let me be sure -- proposed to partners. Who were**  
9 **the partners they were telling about?**

10 A. I don't know which partners he was  
11 referencing to.

12 **Q. Well, how many partners were involved in**  
13 **this?**

14 A. Well, look, I don't know what the -- I  
15 didn't make this. I don't know what it is.

16 **Q. Your office made it, though.**

17 MR. HUTCHISON: Let him finish his  
18 answer.

19 A. No, I didn't make this. I don't know  
20 what this is. What this says to me is that there  
21 are some partners.

22 **Q. Well, who were they?**

23 A. I don't know who they are. The idea is  
24 that --

25 **Q. How much money did you borrow in this**

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**case?**

A. Listen --

**Q. How much money did you borrow for this business?**

A. How much money did I borrow?

**Q. Yeah.**

A. Something over a hundred million dollars.

**Q. And you don't know who the partners are?**

A. That this refers to?

**Q. Yes.**

A. No, I don't know who the partners are that this refers to.

**Q. And you put over a hundred million dollars in the business.**

A. This is some partners that might buy me out after the --

**Q. Well, who were the partners?**

A. I don't know what partners are being referred to. This says --

**Q. It doesn't refer to somebody who's going to buy you out down the road. It said proposed to partners that FD be bought out. Who were partners -- who were the partners that they were talking about?**

MR. HUTCHISON: Objection. Asked and

1 answered.

2 BY MR. GARY:

3 Q. That was you and Anthony Pugliese, wasn't  
4 it?

5 MR. HUTCHISON: Asked and answered.

6 A. No. There's -- this e-mail was sent to  
7 Fred Florio and Anthony Pugliese and --

8 Q. And who sent it?

9 A. David Friedman sent it.

10 Q. And who he works for?

11 A. David Friedman works for me.

12 Q. Okay. Go right ahead. And he talks about  
13 what?

14 A. He said that there's some discussion that  
15 he is going to have.

16 Q. With whom, proposed partners. And you  
17 don't know who they are.

18 A. Would you let me finish the question.

19 Q. Who is he going to have the discussion  
20 with?

21 A. He sent this to Fred Florio and Anthony  
22 Pugliese, and it says basically attached is the  
23 one-page summary I put together for Fred.

24 Q. That's for you. Right?

25 A. For me. It says --

1           **Q.    So he -- and that's the summary on the**  
2 **back of this?**

3           A.    I don't -- I've never seen this before.  
4 I don't know what this is.

5           **Q.    Sir, what is the title on that?**

6           A.    Are you asking me to identify this?

7           **Q.    Yes.  What does it say?  What's the title?**

8           A.    I can't identify this document.

9           **Q.    Isn't this a summary prepared by your**  
10 **people, prepared by FD Destiny LLC and it's a**  
11 **summary relating to the business venture that you**  
12 **had with Anthony Pugliese.  Isn't that correct, sir?**  
13 **It doesn't take a genius to figure that out, does**  
14 **it?**

15                   MR. HUTCHISON:  Objection.  Asked and  
16 answered.

17                   MR. GARY:  Listen, I could --

18                   MR. HUTCHISON:  And move to strike  
19 comment of counsel and the form.  Go ahead.

20 BY MR. GARY:

21           **Q.    Did your --**

22                   THE VIDEOGRAPHER:  I'm sorry.  Could we  
23 take a quick minute to change tapes?

24                   MR. HUTCHISON:  We could take a break  
25 now.

1 MR. GARY: Okay. We'll take a break now.

2 THE VIDEOGRAPHER: It's 11:15. We're  
3 going off video record.

4 (A recess is taken.)

5 THE VIDEOGRAPHER: The time on the  
6 monitor is 11:26 a.m. This begins tape two.  
7 We're back on video record.

8 BY MR. GARY:

9 Q. Sir, I want to remind you that you're  
10 still under oath. You understand that?

11 A. Yes.

12 Q. And we're going to continue with your  
13 deposition. Before we took the break we were  
14 talking about some issues that relate to Exhibit 10  
15 which is an e-mail from David Friedman to Anthony  
16 and Fred, and it says: Attached is a one-page  
17 summary I put together for Fred which would give a  
18 basis for discussion tomorrow. Would that Fred be  
19 Fred DeLuca?

20 A. I don't know.

21 Q. Okay. David Friedman worked for you.

22 A. Yes.

23 Q. And David Friedman sent this e-mail. It's  
24 from David, isn't it? Look at it. Down below.

25 A. Yes. Yes.

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**Q. It's from David?**

A. Well, I've never seen this but it says --

**Q. I didn't ask you whether you've seen it.**

**Is it from David?**

A. Well, it says it's from David.

**Q. Is that the David that works for you?**

A. David Friedman who works for me.

**Q. And who is it sent to?**

A. Fred Florio and Anthony Pugliese.

**Q. It says Fred Florio?**

A. No, it says -- it says  
michelle@floriof@bellsouth.net which is Fred  
Florio's --

**Q. And who did Fred Florio work for?**

A. Fred Florio worked for me. He worked for  
Prestige Business Consultants.

**Q. Whose payroll was he on?**

A. Prestige Business Consultants.

**Q. And what relationship does Prestige  
Business Consultants have with Doctor's Associates?**

A. It has a relationship with Peter Buck and  
myself. We are fifty percent owners of that  
company.

**Q. What's Fred Friedman's e-mail address?**

A. David Friedman?

1 Q. I mean David Friedman's e-mail address.

2 A. This -- this one is  
3 friedman\_d@subway.com.

4 Q. And where is subway.com -- where is Subway  
5 located?

6 A. We have 37,000 stores around the world.

7 Q. No, let me strike that. Where is the home  
8 office for Subway?

9 A. The home office for Subway, corporate  
10 headquarters are in Miami.

11 Q. Okay. Now, in reference to the same  
12 document, Plaintiff's 10, there's -- there again, so  
13 we'll be clear here, this is -- FD Destiny is listed  
14 up top. FD Destiny LLC. What is FD Destiny LLC?

15 A. FD Destiny LLC is a company that I formed  
16 to invest in LCOC.

17 Q. And this same document referred to you and  
18 Anthony as partners. Isn't that correct?

19 A. I don't know what the document says.

20 Q. Well, look at it and see if it doesn't say  
21 partner impasse on operating agreement. You see  
22 that?

23 A. It does.

24 Q. Who signed the Operating Agreement?

25 A. FD Destiny and AVP Destiny.

1           **Q. Okay. So the jury will understand in real**  
2 **talk, what -- which individuals put their signatures**  
3 **on the Operating Agreement?**

4           A. I'll have to take a look at the Operating  
5 Agreement again.

6           **Q. Okay. Eleven.**

7           MR. HUTCHISON: Eleven.

8 BY MR. GARY:

9           **Q. Tell the jury if that's not your**  
10 **signature, Fred DeLuca, on the back. And I'm just**  
11 **talking about the signature.**

12          A. Which page should I go to, 34 here?

13          **Q. Yeah.**

14          A. Yes, on behalf of FD Destiny, LLC I  
15 signed.

16          **Q. Is that Fred DeLuca's signature?**

17          A. Yes.

18          **Q. It's your signature.**

19          A. That's my signature on behalf of FD  
20 Destiny.

21          **Q. And that's the Operating Agreement.**

22          A. This is the Operating Agreement? Yes.

23          **Q. And Plaintiff's Exhibit 10 it refers to**  
24 **partners' impasse on operating agreement. Who would**  
25 **that have been? Who were those partners?**



1           A.    The partners are -- well, the members  
2           are --

3           **Q.    I said partners.**

4           A.    Well, I don't know.

5           **Q.    Sir, this is from your employee,**  
6 **Mr. Friedman. Right? That document.**

7           A.    I don't know that.

8           **Q.    You don't know that this document that**  
9 **says FD Destiny LLC which comes as an attachment to**  
10 **an e-mail from your employee Fred -- I mean David**  
11 **Friedman, you don't know whether or not that**  
12 **document is associated with you and your group?**

13           MR. HUTCHISON:  Objection to the form.

14           Asked and answered.

15           A.    I don't know that because I don't know  
16           what David sent or what he attached.  And I  
17           haven't seen this.

18           **Q.    You've never seen this in your life.**

19           A.    I don't recall seeing that.

20           **Q.    Well, who proposed that you and your group**  
21 **or your -- your LLC, who proposed that your LLC, FD**  
22 **Destiny, be bought out of the initial investment and**  
23 **they give an amount that you would want, that's 185**  
24 **million dollars, and they give the terms? You were**  
25 **not familiar with those terms?**

1 A. Well, what's the question? There's two  
2 questions there.

3 Q. Yeah. Were you familiar with this buy-out  
4 proposal?

5 A. I am familiar that Anthony Pugliese was  
6 looking to buy me out.

7 Q. Sir, were you -- did you propose a buy-out  
8 proposal?

9 A. Did I send that?

10 Q. No, not did you. This is your employee --

11 A. Yes.

12 Q. -- who's authored this. Are you saying  
13 you don't know anything about your employee  
14 submitting a buy-out proposal on your behalf?

15 A. Well, I know there were discussions about  
16 Anthony buying me -- buying -- Anthony and others  
17 coming together to buy out FD Destiny.

18 Q. Sir, that doesn't say discussions there.  
19 Read that highlighted area up top. What does it  
20 say?

21 A. Which one?

22 Q. The second one.

23 A. Proposed to partners that FD be bought  
24 out at initial investment plus note and interest.

25 Q. Now, if that's coming from David Friedman,

1 that's from your side of the table, isn't it?

2 A. Well, first of all, I don't know that  
3 that was attached, but David Friedman certainly  
4 works for me.

5 Q. Are you doubting whether or not this  
6 attachment that has FD Destiny LLC came from your  
7 group? You doubting that?

8 A. I don't know what that is.

9 Q. Okay. And it goes further to say the  
10 terms. Do you know anything about these terms?  
11 Terms in an investment summary from your LLC put  
12 together by your employee, Mr. David Friedman. And  
13 I want to quote and see if you recognize these  
14 terms, that -- terms would be that you continue  
15 monthly funding on the project for six months,  
16 buy-out after six months would be 185 million  
17 dollars. And then you still wanted to retain five  
18 percent of the entire project if the buy-out takes  
19 place in six months. Or otherwise FD to retain ten  
20 percent of the entire project after the buy-out. Do  
21 you know anything about that?

22 A. Let me see what it says.

23 MR. HUTCHISON: Barbara, did you only  
24 make one copy?

25 THE REPORTER: No, I have another one.

1 MR. HUTCHISON: If you have another copy,  
2 maybe Mr. Gary can keep those and then the  
3 witness can have one.

4 MR. GARY: That's my set. I had it  
5 highlighted.

6 MR. HUTCHISON: She made me a copy.

7 BY MR. GARY:

8 Q. Do you see those terms?

9 A. I see those terms.

10 Q. And on the e-mail from David Friedman he  
11 says: Attached is a one page summary I put together  
12 for Fred. Isn't that true?

13 A. That's what it says.

14 Q. That Fred would have been you. Right?

15 A. I'm not sure.

16 Q. Well, who else was going to be able to --  
17 are you claiming that Fred Flores had enough money  
18 to invest a hundred -- over a hundred -- a hundred  
19 and forty million dollars into this deal?

20 A. Well, I'm not -- I'm saying I don't know  
21 what Fred is referenced in this. It was sent to  
22 Fred Florio, so I don't know.

23 Q. By the way, it says: Attached is a one  
24 page summary I put together for Fred. Is that  
25 correct?

1 A. That's what it says.

2 Q. This will give us a basis for discussion  
3 tomorrow. David, is that the David that works for  
4 you?

5 A. It appears to be the David that works for  
6 me.

7 Q. That the David that's claimed to be a  
8 business manager for DAI? Who is DAI?

9 A. Well, DAI is Doctor's Associates. He was  
10 not business manager for DAI.

11 Q. But he claims to be. Right? Here on this  
12 document?

13 A. I don't know what this document is.

14 Q. Well, let's go back to the document.  
15 You -- did you know anything about the terms of this  
16 deal? Did you discuss or are you claiming you had  
17 nothing to do with this proposed buy-out at all?

18 MR. HUTCHISON: Objection as to form.

19 Asked and answered.

20 A. No, I -- but I knew about the  
21 discussions. Anthony Pugliese came to me and  
22 said that he wanted to buy me out.

23 Q. Buy you out. Okay.

24 A. And I said I would be happy to be bought  
25 out for the money I had in it.

1 Q. Well, what does -- read the line, what  
2 does it say, Exit Strategy? Now, coming from you  
3 this is your strategy. Right? Exit strategy.  
4 That's not -- Anthony Pugliese wasn't talking about  
5 getting out, was he?

6 A. No, he wanted --

7 Q. Okay.

8 A. He wanted to stay --

9 Q. He wasn't talking about getting out, was  
10 he? That's all I asked you. I didn't ask you what  
11 he wanted. Was he talking about buying out or was  
12 it you talking about a buy-out strategy?

13 A. He was talking about buying me out.

14 Q. Okay. Good. And your exit strategy was  
15 what? What was it? Read it.

16 A. Well, that's a different question. You  
17 want to know what is on this piece of paper or  
18 what my strategy was?

19 Q. What David Friedman, your employee, put on  
20 this paper.

21 A. I don't know that he put anything on this  
22 paper.

23 Q. So you're saying you don't even know  
24 that -- you don't believe that he generated this  
25 document, Exhibit 10?

1 MR. HUTCHISON: Objection. Asked and  
2 answered.

3 BY MR. GARY:

4 Q. And the attachment?

5 MR. HUTCHISON: Objection. Asked and  
6 answered.

7 A. I don't know who generated this document.

8 Q. Well, let's assume that he did generate  
9 this document. Would it be consistent with what you  
10 wanted? Is that what you wanted? Was that your  
11 buy-out strategy?

12 A. I would have been comfortable --

13 Q. Sir, was that -- I'm talking about this.  
14 I didn't ask you what you would be comfortable with.  
15 Was this your proposed buy-out strategy, yes or no?

16 A. Was that mine?

17 Q. Was it your proposed buy-out strategy?

18 A. Not to my recollection.

19 Q. Okay. So, in other words, if David  
20 Friedman put this together as your buy-out strategy,  
21 you didn't know anything about it. He had no  
22 business doing it. Is that what you're telling this  
23 jury?

24 MR. HUTCHISON: Objection. Compound.

25 Misstates his testimony and asked and

1 answered.

2 A. I don't understand the question.

3 **Q. Well, was David Friedman authorized to put**  
4 **this document together on your behalf?**

5 A. Was -- well, David Friedman is authorized  
6 to put documents together.

7 **Q. Was he authorized to put this document**  
8 **together on your behalf as it relates to this**  
9 **project?**

10 A. Are you asking me did I -- did he ask me  
11 and I give him specific authorization?

12 **Q. Was he authorized to do it, sir, yes or**  
13 **no? If he wasn't tell the jury. If he was tell**  
14 **them.**

15 A. He was authorized to negotiate a deal. I  
16 don't know what he did.

17 **Q. Was he authorized to put this exit**  
18 **strategy together here?**

19 A. That would have been within the -- that  
20 would have been within the reasonable expectation  
21 of what I'd be looking for.

22 **Q. Did you know about this exit strategy that**  
23 **he put in the document and sent it to Anthony**  
24 **Pugliese?**

25 A. Did I know that he was going to be



1 talking about it?

2 Q. No, did you know that he had said that he  
3 wanted his -- as an exit strategy he'd want a total  
4 within six months of 185 million dollars back on  
5 your behalf?

6 A. Say the question again.

7 Q. Did you know that David Friedman said to  
8 Anthony this is our exit strategy for Fred DeLuca.  
9 It's 185 million dollars within six months. Did you  
10 know about that?

11 A. Did I know about that specific paper?

12 Q. No, did you know about the 185 million  
13 dollars that you wanted to be a return on your  
14 money?

15 A. Oh, there was -- that would not have  
16 given me a return on my money.

17 Q. Sir, that's not the question. Did you  
18 know about this exit strategy that's proposed here  
19 in this document?

20 A. Did I know that I was talking to Anthony  
21 about that and that -- I knew that I was talking  
22 to Anthony about that.

23 Q. Did you know about this proposed exit --  
24 it's in writing. It says Exit Strategy. It's a  
25 document prepared by David Friedman who you told the

1 jury works for you. Did you know that he had said  
2 that the proposed strategy that he was putting  
3 together on your behalf was 185 million dollars  
4 within six months? Did you know about that?

5 A. First -- first, I don't even know that it  
6 was put together by David Friedman, but I do know  
7 that we were talking about Anthony being able to  
8 buy me out in the entirety generating no profit  
9 to me. And that is consistent -- that would be  
10 consistent with negotiations to get to that goal.

11 Q. Well, how could you justify taking 185  
12 million dollars within six months based on what you  
13 put into it? In six months how could you justify  
14 taking 185 million dollars if you claimed you didn't  
15 want any profit?

16 A. That would simply pay off the loan.

17 Q. 185 million? How much was the loan?

18 A. Well, look -- I don't --

19 Q. How much was the loan, sir?

20 A. Look, the loan -- the loan was 111  
21 million dollars.

22 Q. And in six months you're telling this jury  
23 you could justify taking 185 million dollars and  
24 still claimed that you didn't want any profit?

25 A. Well, that's not what I said. It's not

1           within six months. And you didn't let me finish  
2           my previous answer.

3           **Q. Well, let me just -- let me just read**  
4           **this -- these terms. Continue -- terms -- well,**  
5           **first of all, exit strategy, you wanted to be bought**  
6           **out, you're getting 185 million dollars and it would**  
7           **happen within the first six months. You get 185**  
8           **plus you would retain five percent of the entire**  
9           **project. Did you know about that? Did you discuss**  
10          **that with David Friedman?**

11          A. I don't recall discussing his  
12          negotiations.

13          **Q. So you're saying David Friedman would have**  
14          **put this deal together, would have put those numbers**  
15          **out there on your behalf and you knew nothing about**  
16          **it. Is that what you're telling the jury?**

17          A. The specifics of what he proposed, I  
18          would say that I wouldn't necessarily know the  
19          specifics of what he was talking about.

20          **Q. Had you ever heard of the 185 million as**  
21          **the exit strategy before?**

22          A. What I heard about --

23          **Q. Sir, had you heard of the 185 million? I**  
24          **didn't ask you -- I'm just asking you have you heard**  
25          **about the 185 million as a return to you based on**

1 **the concept of an exit strategy.**

2 MR. HUTCHISON: Let him finish his  
3 answer, Willie.

4 BY MR. GARY:

5 **Q. Had you heard of it?**

6 A. That would not have given a return to me.

7 **Q. 185 million would not have given a return**  
8 **to you in six months?**

9 A. The idea was that FD Destiny would come  
10 out with zero profit.

11 **Q. Sir, I'm not talking about the idea. I'm**  
12 **talking about what's on paper here. You know, ideas**  
13 **are for the birds. Let's talk about what's on**  
14 **paper. You see that 185 million dollars?**

15 A. I do see the hundred --

16 **Q. Where did that come from?**

17 MR. HUTCHISON: Objection as to form.  
18 Asked and answered.

19 BY MR. GARY:

20 **Q. Where did that come from?**

21 A. That came from Anthony Pugliese.

22 **Q. Well, in this document where did it come**  
23 **from?**

24 A. I don't know.

25 **Q. So -- well, why didn't you say to Anthony,**

1       gee, Anthony I don't want to make any money on this,  
2       185 is too much? Did you ever say that?

3           A.    No, what I said was -- what I said to --  
4           what I said was I'd be happy to be bought out and  
5           have the loan paid off and make no money on the  
6           deal.

7           Q.    Well, why did you stand by then and let  
8       David Friedman put together this investment summary  
9       and this exit strategy and the terms of the exit  
10      strategy which calls for you to get 185 million  
11      dollars in six months?

12          A.    Well, I didn't see the document so I  
13          don't know about that.

14          Q.    I didn't ask you whether you saw it or  
15      not. I asked you why would -- you didn't see it,  
16      but you're saying you never heard of the 185 million  
17      before? You didn't know anything about it?

18          A.    I don't recall what the number was. All  
19      I recall was the concept of what we were talking  
20      about.

21          Q.    Well, where did the hundred and -- this is  
22      an exit strategy put together by your people.  
23      Mr. David Friedman worked for you. Right?

24          A.    And how do you know that David produced  
25      that?

1           **Q.**    Because he said it's an attachment to an  
2 e-mail here. This is Plaintiff's Exhibit Number 10  
3 so the jurors can see it. And it's from David  
4 **Friedman. Does David Friedman work for you?**

5           A.    David Friedman works for me. Has that  
6 ever been identified?

7           **Q.**    That ain't for you to --

8           A.    Listen, I don't know about this document.  
9 You've been asking me about it for twenty  
10 minutes. I don't recall it. You're going to  
11 dispose David Friedman. I'm sure he could  
12 identify it. I could talk about the general  
13 discussions.

14          **Q.**    My job is -- my job is to question you  
15 about your knowledge of it. And if you say you  
16 don't have any knowledge of it, you know nothing  
17 about it, just say it rather than being evasive.  
18 I'm saying do you have any knowledge about this 185  
19 million dollars being requested as a buy-out number  
20 in six months after this deal?

21          A.    What are you talking about?

22                MR. HUTCHISON: Objection as to form.

23 BY MR. GARY:

24          **Q.**    Sir --

25                MR. HUTCHISON: Misstates the testimony.

1           Asked and answered.

2           BY MR. GARY:

3           **Q.    -- do you see -- look at your exhibit**  
4 **there, please, 10.**

5           A.    Yes.

6           **Q.    You see Exit Strategy?**

7           A.    I see it says Exit Strategy.

8           **Q.    And read what it says under there for the**  
9 **last time.**

10          A.    Proposed to partners that FD be bought  
11 out at initial investment plus note and interest  
12 (approximately 185 million).  Terms, continue  
13 monthly funding on the project for continuity.  
14 Buy out in six months of 185 million.  FD to  
15 retain five percent of entire project.

16          **Q.    Who is FD?**

17          A.    I think that's FD Destiny.

18          **Q.    Who is that?**

19          A.    FD Destiny is the company that was formed  
20 to be a member in LCOC.

21          **Q.    Okay.  And what percentage of that company**  
22 **do you own?**

23          A.    What percentage of FD Destiny do I own?

24          **Q.    Yes, sir.**

25          A.    I believe I own a hundred percent of

1 FD Destiny.

2 Q. Okay. Now you're talking. Keep reading.

3 What are the steps?

4 A. Steps. Letter of intent, revise  
5 operating agreement to reflect liquidity  
6 retention.

7 Q. And did you know anything about that?

8 A. No.

9 Q. So David Friedman had no authority to  
10 draft this document if he did. Is that what you're  
11 saying?

12 MR. HUTCHISON: Asked and answered.

13 Misstates his testimony.

14 A. I wouldn't say that. I wouldn't say  
15 that.

16 Q. But he worked for you. Right?

17 A. Well, to be clear on my answer --

18 Q. He worked for you. Right?

19 A. Yeah, he worked for me.

20 Q. Okay. Thank you. Now, so let's talk  
21 about the 185 million dollars that you were going to  
22 pocket that you were going to take in six months if  
23 this buy-out strategy was followed. You follow me?

24 A. I don't follow you.

25 Q. Okay. Well, sir, the 185 million dollars,



1 regardless of where it came from, had you ever heard  
2 of it before?

3 A. The exact number? I don't recall the  
4 exact number.

5 Q. So -- well, what would you -- now, strike  
6 that. So if this number is correct and since you  
7 don't recall, and just assume that your memory may  
8 be not as good, for all of us for that matter, like  
9 it used to be, suppose -- since you don't recall  
10 whether you know anything about it or not or whether  
11 you came up with it or not, suppose you did. 185  
12 million dollars, right, after a six-month period  
13 would allow you to walk out of this project with how  
14 much more money than you put in it?

15 MR. HUTCHISON: Objection as to form.

16 A. I don't understand the question.

17 Q. Well, you -- we know -- the loan was a  
18 hundred and what?

19 A. 111.

20 Q. 11. And if you subtract 111 from 85, that  
21 would be -- 185, that leaves how much?

22 A. 111 from 185, that would be 74 million.

23 Q. 74 million. Right? And then if you --  
24 you're not claiming that your interest paid in for  
25 six months would have equalled to 74 million

1 dollars, are you? That would have been -- are you,  
2 sir?

3 A. No.

4 Q. So that 74 million, except for the  
5 interest, would have been flat-out profit to you,  
6 wouldn't it, sir?

7 A. No, not at all.

8 Q. If you put it in your pocket it would have  
9 been, wouldn't it?

10 A. No.

11 Q. Well, if you'd only put 111 in and you  
12 were taking 185 out, the difference there would be  
13 74, and even if we give you credit for the interest  
14 that you had paid in six months, it wouldn't amount  
15 to 74 million dollars in interest, would it, over a  
16 six-month period, would it?

17 A. No.

18 Q. And then you -- had you ever heard about  
19 you retaining five percent of the entire project?

20 A. I don't recall.

21 Q. Yeah. But this buy-out was because you  
22 wanted to get out. Right?

23 A. It was because Anthony wanted to buy me  
24 out.

25 Q. You wanted to stay in.

1           A.    No, I was very happy to -- I would have  
2           loved actually to be able to --

3           **Q.    To stay --**

4           A.    -- break even on the situation and turn  
5           over the project to Anthony and whatever other  
6           partners he brought in.

7           **Q.    So you want this jury to believe that you**  
8           **were putting in 140 million -- I mean 111 million**  
9           **dollars. As a matter of fact, you borrowed 140**  
10          **million. Right?**

11          A.    No.

12          **Q.    Didn't you -- didn't you get a loan for**  
13          **140 million dollars, you kept 35 million for**  
14          **yourself and you allowed 105 million for this**  
15          **project?**

16          A.    No.

17          **Q.    You never borrowed 140 million?**

18          A.    No.

19          **Q.    How much -- what's the most money what you**  
20          **borrowed as a result of this deal?**

21          A.    I believe I borrowed from Wachovia Bank  
22          105 million dollars.

23          **Q.    You got 105 plus you got 35 as a line of**  
24          **credit. Right?**

25          A.    I believe that's correct.

1 Q. And that 35 as a line of credit was for  
2 Fred DeLuca, wasn't it?

3 A. If I wanted to borrow more --

4 Q. Yeah.

5 A. -- it was available.

6 Q. Yeah. But the line of credit was for Fred  
7 DeLuca. The Destiny venture didn't have a line of  
8 credit for 35, did it?

9 A. That's correct. That had nothing to do  
10 with --

11 Q. Correct.

12 A. -- the Destiny project.

13 Q. But still the Destiny collateral, the  
14 Destiny asset, that mortgage that was used, you  
15 used -- that collateralized your 35 million, too,  
16 didn't it?

17 A. No.

18 Q. Yes, it did.

19 A. I said no.

20 Q. Did you know that?

21 A. You asked me a question. I answered it.

22 Q. You're saying that on the 35 million that  
23 you took out of the 140 that Destiny -- what  
24 collateral was used for the 105 million for Destiny?

25 MR. HUTCHISON: Objection. Asked and

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answered.

A. For the loan?

**Q. Yeah. What collateral was used?**

A. There were several stock portfolios.  
There was my personal guarantee --

**Q. Okay.**

A. -- and the mortgage that I was going to  
receive on the property.

**Q. That's the mortgage on the Destiny  
property?**

A. The mortgage on the -- yes, the mortgage  
would be an asset of mine that was part of the  
collateral.

**Q. Now, that mortgage was a part of yours.  
Right? You had fifty percent ownership in that?**

A. The mortgage?

**Q. The property.**

A. No.

**Q. The mortgage.**

A. The mortgage itself?

**Q. Yeah.**

A. I owned a hundred percent of the  
mortgage, yeah.

**Q. I guess -- well, let's go back to -- so  
we'll be clear on this. The \$35,000 that you**

1 borrowed, sir, you used that mortgage as a part of  
2 the collateral that you put up for that, didn't you?

3 A. I didn't borrow that money.

4 Q. Well, you had it as a line of credit. You  
5 could have. Right? You could have used it.

6 A. I think I could have used it.

7 Q. Yeah. Anthony couldn't use it, though,  
8 could he?

9 A. No.

10 Q. But Anthony owned a part of the mortgage  
11 that was used as collateral for it, didn't he?

12 A. He didn't own the mortgage at all. That  
13 was my mortgage.

14 Q. So you're saying the Destiny property had  
15 nothing to do with you borrowing that money.

16 MR. HUTCHISON: Objection. Misstates his  
17 testimony. Asked and answered.

18 BY MR. GARY:

19 Q. Are you claiming that the Destiny property  
20 had nothing to do with you borrowing that money at  
21 all, the 140, the 135 plus the 105?

22 MR. HUTCHISON: Objection to form and  
23 misstates the testimony.

24 BY MR. GARY:

25 Q. Is that where you're saying, sir?

1           A.    Correct.  The Destiny property itself had  
2           nothing to do with my loan from Wachovia.

3           Q.    Well, if your -- if your loan documents --  
4           and I'm not going to go into all of those now, but  
5           if your loan documents show that through the  
6           mortgage that Destiny property was used for you to  
7           have your line of credit for 35 million dollars, if  
8           it demonstrates that, it is what it is.  Right?

9           A.    I don't understand the question.

10          Q.    No.  No.  What I'm saying is you're  
11          sitting here unequivocally saying that that line of  
12          credit that you received, the loan that you received  
13          for the 105, both, that the bank didn't use the  
14          Destiny mortgage property, however you want to call  
15          it, as collateral in this case.

16                MR. HUTCHISON:  Asked and answered.

17          A.    I don't understand the question because  
18          you're saying the mortgage --

19          Q.    Was the land -- was the land by way of a  
20          mortgage, by way of an instrument, a deed or  
21          whatever, was the Destiny land ever a part of the  
22          deal that Wachovia made to make this loan?

23          A.    I don't understand the question.

24          Q.    Was the Destiny land, by way of a mortgage  
25          or however you want to put it, used as collateral

1       **for you to get your loan?**

2           A.    Look, if you ask me a question about the  
3           land, I could answer it, but if you say however I  
4           want to put it and mortgage, I can't answer that  
5           question.

6           **Q.    No.  No.  Do you know what collateral was**  
7           **used to get the loans?  You know that.  Right?  I**  
8           **didn't ask you to list them, but you know what**  
9           **collateral was used.  Right?**

10          A.    Yes.

11          **Q.    Okay.  Was the Destiny project property,**  
12          **was it used as collateral -- was there an assignment**  
13          **of the mortgage as collateral for you to get this**  
14          **loan?**

15          A.    I believe there was.

16          **Q.    And what mortgage are we talking about?**

17          A.    The mortgage that I received in return  
18          for loaning the money to LCOC.

19          **Q.    So did you tell Anthony Pugliese that that**  
20          **35 million dollars of line of credit was being**  
21          **supported by that assignment of the mortgage as**  
22          **well?**

23                MR. HUTCHISON:  Objection.  Asked and  
24                answered.

25          A.    I don't know about the 35 million.



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**Q. Was it?**

A. I don't know.

**Q. You could have used his -- that assignment of the mortgage to secure your personal line of credit. You could have. You just don't know. Is that correct?**

A. Say -- ask the question again. I didn't understand it.

**Q. The bank took an assignment of the mortgage. That was the mortgage that you had on the land.**

A. That's -- the mortgage was an asset of mine.

**Q. Yeah, right. Well, Anthony Pugliese had a stake in that land as well, didn't he?**

A. Not in the mortgage.

**Q. He had a stake in the -- well, the mortgage was on the land, though, wasn't it?**

A. The mortgage was on the land.

**Q. Yeah. He had a stake in the value of the land, didn't he?**

A. He had a stake in the land. No. No. Well, let's say this. Through his company, AVP Destiny, they had a stake in LCOC.

**Q. And as a partner a fiduciary requirement**

1 did you tell him that you had used that mortgage as  
2 a guarantee for a 35-million-dollar personal line of  
3 credit for you?

4 MR. HUTCHISON: Objection as to form and  
5 also move to strike comment of counsel. Calls  
6 for a legal conclusion.

7 BY MR. GARY:

8 Q. Did you tell him that?

9 A. I didn't have a fiduciary responsibility  
10 to him.

11 Q. Okay. Now, so we can close out on this  
12 185 million here, so we'll be clear, are you saying  
13 that within six months had you been paid 185 million  
14 that based on what you had gone and put in and the  
15 interest, you would have made no profit.

16 A. FD Destiny would not have made a profit.

17 Q. You own FD Destiny. Right?

18 A. Correct.

19 Q. And FD Destiny through you would not have  
20 made a dime.

21 A. No, because my understanding was that the  
22 money that we were talking about included all of  
23 the money that Anthony had spent to date which  
24 probably was 20 or 30 million dollars plus the  
25 interest, and the idea was that I would just be

1           bought out.

2           Q.    I know the idea was that you would be  
3 bought out, sir, but you also have a price tag  
4 between you and somebody that works for you, there's  
5 a price tag that the jury is going to see of 185  
6 million dollars.

7           A.    Uh-huh.

8           Q.    And I know you don't know where it came  
9 from, you never heard of it before. Right?

10          A.    I don't know the -- I don't know what  
11 calculation it would take to get to a break-even  
12 point.

13          Q.    Well, if the break-even point was your 105  
14 back plus interest for six months, if the break-even  
15 point would still give you about a 50-million-dollar  
16 profit there, that wouldn't be walking out of it  
17 without any money, would it, Mr. DeLuca?

18          A.    Where do you -- where do you get the six  
19 months from?

20          Q.    Because it says it. Terms, continue  
21 monthly funding on the project. And this is a  
22 document that says, number one, the partners have  
23 reached an impasse on the operating agreement. So  
24 you all were in discussion here. And here's an exit  
25 strategy for you. This is proposed to the partners

1 which I assume were you and Anthony Pugliese, and if  
2 you want to name the LLC's that's fine, too, but at  
3 the end of the day to you guys. And it says the  
4 terms. Look at the document, copy of Plaintiff's  
5 10.

6 A. I see it.

7 Q. Just look at it.

8 A. I'm looking at it.

9 Q. Do you see terms?

10 A. I see terms.

11 Q. Okay. Well, we know you agree you had  
12 only put 111 million dollars in it. Right?

13 MR. HUTCHISON: Objection. Asked and  
14 answered. Move to strike comment of counsel.

15 A. The loan was for 111 million dollars, but  
16 that's not all the money that I put into it.

17 Q. Oh, well, had you put another 30, 40, 50  
18 million dollars in it?

19 A. I don't know exactly what I put in.

20 Q. Now, so at the end of the day, so we'll be  
21 clear with the jury and they won't think you're  
22 lying to them, you're saying that this 185 million  
23 dollars plus five percent of the entire project  
24 would only allowed you to break even getting out of  
25 it. Is that what you're saying?

1 MR. HUTCHISON: Objection as to form.

2 Move to strike comment of counsel.

3 A. Well, I don't know about the 185.

4 **Q. Now --**

5 A. I didn't finish the answer because you  
6 were talking to -- I said I don't know about the  
7 185 million dollars of the calculation, but the  
8 concept was that Anthony could buy me out and I  
9 would make nothing on the project.

10 **Q. Well, I'm not talking about the concept.**  
11 **I'm talking about what your employee, Mr. David**  
12 **Friedman, put in writing in black and white. And**  
13 **you have a copy of that in front of you, sir?**

14 A. I have a copy of Exhibit 10 in front of  
15 me.

16 **Q. Okay. And under these terms it doesn't**  
17 **say -- do you see terms all I want to do is break**  
18 **even? Do you see that anywhere in there?**

19 A. No, I don't see those words there.

20 **Q. Do you see all I want to do is break even?**  
21 **Do you see that anywhere on this document that is**  
22 **listed as a topic so we can discuss this matter?**

23 A. Do I see -- the question was, again, do I  
24 see the words all I want to do is break even?

25 **Q. Yeah.**

1 A. No, I don't see those words here.

2 Q. So do you have an e-mail anywhere that  
3 would say -- that would prove to the jury that all  
4 you wanted was to break even in this deal and get  
5 out?

6 MR. HUTCHISON: Objection as to form.

7 A. Well --

8 Q. Do you know of an e-mail?

9 A. If this document was produced by David,  
10 that's what it says.

11 Q. Okay. No. No. I said do you know of  
12 another e-mail from you that said to David or to  
13 anybody that all I want to do is break even in this  
14 deal?

15 MR. HUTCHISON: Objection to form.

16 A. I don't recall if there is another one  
17 besides this one.

18 Q. Is there -- is there a letter, is there a  
19 memo?

20 A. I think that's what this is.

21 Q. No, no. Other than this one, is there a  
22 letter from you or memo from you or any document  
23 from you, a telegraph from you or whatever saying  
24 all I want to do in this deal is break even?

25 A. Yes, I've sent e-mails to Mr. Pugliese

1 saying that I'm willing to sell to you for the  
2 money I have in it.

3 Q. Sir, I'm talking about back during when  
4 this document here was generated and you gave an  
5 exit -- that was an exit strategy listed. I'm not  
6 talking about any settlement negotiations since the  
7 lawsuit had been filed against you in this case.  
8 I'm saying during this time when you all were trying  
9 to get the -- get rid of the impasse on the  
10 operating agreement, when you were trying to revise  
11 the operating agreement, did you ever say when you  
12 were trying to revise the operating agreement all I  
13 want to do is break even?

14 A. What's your definition of during this  
15 time?

16 Q. Well, let's look at it. This was from  
17 David Friedman who works for you, it's dated August  
18 7th, 2008. Destiny Summary from David Friedman,  
19 Business Manager for Doctor's Associates, Inc.  
20 during that time.

21 A. Around August 7th, 2008?

22 Q. Yeah, where he attached this summary.

23 A. So your question is, do I know of another  
24 e-mail that I sent?

25 Q. Yeah, that you sent saying that that's all

1       you wanted to do was to make -- whatever profit --  
2       whatever -- all you wanted to do was get out  
3       whatever you had put in.

4             A.    I don't recall another e-mail during that  
5       time where I said those words.

6             Q.    Do you recall a letter or memo, anything  
7       in writing to prove to this jury that you're telling  
8       them the truth?

9             MR. HUTCHISON:  Objection to form.  Move  
10       to strike.

11            A.    Telling them the truth about what?

12            Q.    That all you wanted out of this was to  
13       break even.

14            MR. HUTCHISON:  Objection to the form.

15            A.    Yeah.

16            Q.    I said a memo, letter, telegraph.  You've  
17       already admitted you got no e-mails.

18            A.    I didn't say that.

19            MR. HUTCHISON:  Objection as to form.

20            A.    I said -- I said I don't recall any.  
21       Listen, I don't recall any other written  
22       communication.

23            Q.    Well, since you don't recall them, they  
24       may exist and would you look to see if you can find  
25       any and let your lawyer know so he can let me know?



1 MR. HUTCHISON: You can get them through  
2 the normal discovery process.

3 BY MR. GARY:

4 **Q. I'm saying would you look for them, sir?**

5 A. I'll let him handle it.

6 **Q. I'm asking you the question.**

7 MR. HUTCHISON: They will be handled --

8 BY MR. GARY:

9 **Q. If they exist, would you turn them over to**  
10 **your lawyer?**

11 MR. HUTCHISON: They will be handled  
12 through the discovery process if they exist.

13 MR. GARY: Sir, let me ask my question.

14 MR. HUTCHISON: I'm telling you, Willie,  
15 you know the answer to this question. You  
16 know it. You've been around the block.

17 MS. HOFFLER: Then why are you saying  
18 anything?

19 MR. GARY: Why don't you just -- just  
20 chill for a second, man.

21 BY MR. GARY:

22 **Q. Sir, if they exist will you turn them**  
23 **over?**

24 A. Well, if any documents that are relevant  
25 to this exist, I will turn them over to my

1 lawyer.

2 Q. Good enough. Now, what is the address of  
3 FD Destiny?

4 A. I don't know.

5 Q. You have a bank account?

6 A. I don't know.

7 Q. Who are the members of FD Destiny?

8 A. The members of FD Destiny?

9 Q. Yeah.

10 A. I think I'm a member of FD Destiny.

11 Q. Do you have any -- how many employees do  
12 you have with FD Destiny?

13 A. I don't know that FD Destiny has  
14 employees.

15 Q. You don't know.

16 A. I'm not sure.

17 Q. You own a hundred percent of it and you  
18 don't know whether or not you have any employee or  
19 not.

20 MR. HUTCHISON: Objection. Asked and  
21 answered.

22 BY MR. GARY:

23 Q. Is that what you're telling the jury?

24 MR. HUTCHISON: Move to strike.

25 A. I don't know.

1           **Q. Now, let's go to the Operating Agreement**  
2 **for a second. Did I give you a copy of that?**

3           A. No.

4           MR. HUTCHISON: One was marked as Exhibit  
5 11.

6           A. Oh, here it is, yes.

7           **Q. Now, look at it -- I mean I don't want you**  
8 **to read it. I don't want you to spend three hours**  
9 **here reading this document. You recognize that as**  
10 **the Operating Agreement? Up top what does it say?**

11          A. I was going to take a scan through it.

12          **Q. We're just reading -- I don't want you to**  
13 **scan it. Read the title.**

14          A. The title says Operating Agreement.

15          **Q. Go to page 35 -- I mean 34.**

16          A. 34.

17          **Q. Are you on page 34?**

18          A. There's two 34's here on this document.

19          **Q. Okay. Is your signature on one of them?**

20          A. There's one signature on one page and  
21 there's three signatures on the other page.

22          **Q. And do you have one with three signatures**  
23 **on the same page?**

24          A. I do.

25          **Q. Huh?**

1 A. Yes.

2 Q. Let's look at -- you have one that's -- it  
3 says: In witness whereof the Members have executed  
4 this agreement on the 10th day of August, 2005. Is  
5 that correct?

6 A. That's correct.

7 Q. And the only members here is your LLC and  
8 Anthony's LLC. Is that correct?

9 A. That's correct.

10 Q. And you all owned -- each LLC owned what,  
11 fifty percent each?

12 A. I believe that's correct.

13 Q. And you put your John Doe on it. You  
14 signed it, didn't you?

15 A. And I signed it as -- on behalf of  
16 FD Destiny, LLC.

17 Q. Yeah. But I don't care who you signed it  
18 on behalf. Is that your signature on this  
19 agreement?

20 MR. HUTCHISON: Objection. Asked and  
21 answered.

22 A. Yeah. As I said, I signed it on behalf  
23 of FD Destiny.

24 Q. Okay. Now -- and, now, I assume -- did  
25 you read it before you signed it?

1 A. No.

2 Q. So you signed -- you want this jury to  
3 believe, and I know you're going to say you don't  
4 know nothing about anything that's in it, you're  
5 setting me up for that but that's okay. What you  
6 want this jury to believe that a man of your  
7 business caliber, here's a 34-page document  
8 involving you putting out over for sure a hundred  
9 million dollars that you didn't even read it.

10 MR. HUTCHISON: Objection. Asked and  
11 answered. Move to strike comment of counsel.

12 A. Yes.

13 Q. Did your lawyers read it?

14 A. I believe my lawyers read it.

15 Q. They read it on your behalf?

16 A. Yes.

17 Q. You trusted them?

18 A. Did I trust my lawyers?

19 Q. Yeah.

20 A. Yes.

21 Q. So -- but did they tell you what was in  
22 it?

23 A. All the details? No.

24 Q. Did they tell you the basic details of it?

25 A. I think they did.

1 Q. Okay. So, in other words, you felt  
2 comfortable enough to put your John Doe, your  
3 signature on it. Right?

4 A. I did.

5 Q. That's not your lawyer's signature, is it?  
6 That's Fred DeLuca's signature, isn't it?

7 A. It is.

8 Q. Okay. So, now, did you agree to the terms  
9 of it?

10 A. Did I --

11 Q. When you put your John Doe on it, you know  
12 both -- both -- when two parties sign an agreement,  
13 both of them are expected to agree to the terms  
14 within the agreement. Right?

15 A. Yes.

16 Q. That's basic stuff. Right?

17 A. I'm bound by the terms of this agreement.

18 Q. Okay. Good. Now --

19 A. Well, not me personally, but FD Destiny  
20 is bound by the terms of it.

21 Q. And you own -- you owned fifty percent of  
22 it. Right?

23 A. Of what?

24 Q. You owned a hundred percent of your LLC,  
25 FD Destiny.

1 A. Yes, I owned a hundred percent --

2 **Q. A hundred percent.**

3 A. -- of FD Destiny.

4 **Q. And you owned fifty percent of LCOC.**

5 A. No.

6 **Q. How much?**

7 A. FD Destiny owned fifty percent of LCOC.

8 **Q. When I say you, I'm talking about**  
9 **FD Destiny which is owned by you. Okay. If you**  
10 **want to get fancy with it, that's okay. But your**  
11 **-- your business entity, your corporation, your**  
12 **LLC, right, owned fifty percent of the whole deal.**

13 MR. HUTCHISON: Objection as to form and  
14 asked and answered. Move to strike comment of  
15 counsel.

16 A. It owns fifty percent of LCOC.

17 **Q. Okay. Good. Now -- so, now, your LLC and**  
18 **Anthony's LLC made up LCOC. Is that correct?**

19 A. I think that's correct.

20 **Q. Okay. Good. And in this agreement it**  
21 **called for Anthony Pugliese to be the President and**  
22 **the Secretary. Is that correct?**

23 A. I'm not sure.

24 **Q. Well, look on page 13.**

25 A. Page 13?

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Q. Yeah.

A. Where should I look?

Q. Well, look down towards the end right after 4.6A. You see -- read -- on 4.6 read A. Can you read it out loud? Just that paragraph. Read it so the jury can hear it.

A. Say that again, 6 -- 4.6A?

Q. Who was the President and the Secretary based on this agreement signed by you and signed by Anthony Pugliese, both of you all?

A. Anthony Pugliese was the President and Secretary.

Q. And you knew that. You agreed with that. You signed off on that, didn't you?

A. I did.

Q. Right. And as the President his duty was to run the company, wasn't it? He had that responsibility. You didn't have it.

A. No. Well, certainly I did not have the duty to run the company. Anthony Pugliese, both personally and in his capacity as President, were supposed to run the company.

Q. Right. And how much you all agreed to pay him as a salary to run the company?

A. He received -- he received --



1           **Q.    How much you agreed to pay him as a**  
2 **salary?**

3           A.    I'm going to tell you the answer to that.

4           **Q.    What's the number?**

5           A.    There isn't a number.  He received -- he  
6 received special investment rights that were very  
7 valuable, and that's what he received.

8           **Q.    Sir, what investment rights did he receive**  
9 **that were special?**

10          A.    Okay.  I'll answer that.  So to have  
11 fifty percent of the company, Anthony only --  
12 Anthony Pugliese only had to put up twenty-five  
13 percent of the money.

14          **Q.    Yeah, but --**

15          A.    I haven't finished.  I haven't finished  
16 my answer.

17          **Q.    I can't let you get away with that.  But,**  
18 **you know, he found the land, didn't he?**

19          A.    I'm answering your question.

20          **Q.    You didn't discover the land for this**  
21 **company, did you, sir?**

22                MR. HUTCHISON:  Let him finish his  
23 answer, Willie.  Then you can ask him the  
24 questions.

25          A.    I'm going to finish my answer.

1           **Q. Did you generate the land for this**  
2 **company? Did you locate it? Did you find it? Did**  
3 **you discover it? Did you get a contract on it?**

4           MR. HUTCHISON: Objection to form and let  
5 him finish his answer, Willie.

6           MR. GARY: He gave me enough answer.

7           MR. HUTCHISON: No, he didn't. Let him  
8 finish it. Let him complete his answer.

9 BY MR. GARY:

10           **Q. Did you discover this property? Did you**  
11 **put -- get a contract on this property?**

12           MR. HUTCHISON: You can finish your  
13 answers, Mr. DeLuca.

14           THE WITNESS: I can finish my answer?

15           MR. HUTCHISON: Yeah.

16 BY MR. GARY:

17           **Q. You're going on a tangent, and I'm going**  
18 **to sit here all day for that. You're not going to**  
19 **get that. I'm not going to have -- strike the**  
20 **question.**

21           MR. HUTCHISON: Strike the question.

22           MR. GARY: Let me -- let me ask it again.

23 BY MR. GARY:

24           **Q. Were you responsible for locating the**  
25 **property that Destiny was to be built on?**

1           A.    No.  Anthony Pugliese was solely  
2           responsible for that.

3           **Q.    You had nothing to do with it, did you?**

4           A.    I had absolutely nothing to do with it.

5           **Q.    Okay.  Now, so we'll be clear, for him to**  
6           **run the company as far as a salary is concerned, he**  
7           **got zero, didn't he?**

8           A.    No, that's not true.

9           **Q.    As far as a salary is concerned, he got**  
10          **zero.  Well, did you help him run the company?**

11          A.    No.

12          **Q.    You did nothing, did you?**

13          A.    That's -- I was an investor.  I mean my  
14          company was an investor in the company.

15          **Q.    You didn't locate the land.**

16          A.    I did not.

17          **Q.    You didn't get a contract on the land.**

18          A.    I did not.

19                MR. HUTCHISON:  Objection.  Asked and  
20                answered.

21          A.    I did not get a contract on the land.

22          **Q.    Now, as a matter of fact, LCOC was one**  
23          **hundred percent owned by Anthony at one time, wasn't**  
24          **it?**

25          A.    I don't know that.

1           Q.    Well, do you have any reason to disagree  
2 with me if I told you when LCOC was first formed you  
3 were nowhere in sight?

4           A.    I just don't know.

5           Q.    Well, surely you didn't have a name on the  
6 contract to purchase the land, did you?

7           A.    I did not.

8           Q.    You never talked to anybody about it, did  
9 you?

10          A.    I did not.

11          Q.    Yeah.  And before you met Anthony you had  
12 never set foot on the property, had you?

13          A.    I hadn't set foot on the property till  
14 only maybe two or three years ago.  I never set  
15 foot on the property.

16          Q.    Now, so LCOC was a hundred percent owned  
17 by Anthony until sometime in August, 2005 before you  
18 all closed.  Is that --

19                MR. HUTCHISON:  Objection.  Asked and  
20 answered.

21 BY MR. GARY:

22          Q.    -- pretty safe to say?

23          A.    I don't know the answer to that.

24          Q.    Okay.  Good.  Now -- now, in -- and so but  
25 you agree that Anthony was the President.  He was

1       **there to do the day-to-day handling and the running**  
2       **of the business.**

3                   MR. HUTCHISON:  Objection.  Asked and  
4                   answered.

5  BY MR. GARY:

6                   **Q.  Was that understood?**

7                   A.  Well, it's a two-part question.

8                   **Q.  I'm not -- well, okay.  Anthony was the**  
9       **President to run the day-to-day operations, wasn't**  
10       **he?**

11                   A.  Well, he was the President, but he didn't  
12                   run the day-to-day operations.

13                   **Q.  Well, as President -- as President he had**  
14       **the burden of making sure that the business was run**  
15       **from day to day bringing in whatever people they had**  
16       **to bring in, but as President -- what was his job?**  
17       **Let me let you explain.  What was his job as**  
18       **President?**

19                   A.  Well, as President he was responsible to  
20                   make sure the company was run correctly.

21                   **Q.  Okay.**

22                   A.  And he was President of many companies  
23                   and devoted only a fraction of his time to this.

24                   **Q.  Well, you know, if you were nowhere**  
25       **around, how do you know how much time he devoted?**

1           A.     Because he told me and Fred Florio told  
2           me.

3           **Q.     Yeah.  You said -- well, how many days a**  
4           **week was he around on this project when it was**  
5           **really up and running and going?**

6           A.     Anthony Pugliese was in and out of  
7           meetings periodically, and I think he was  
8           generally always working but always working on  
9           many, many projects.

10          **Q.     Okay.  Now -- well, how many days a week**  
11          **did you show up for this operation?**

12          A.     I didn't show up for the operation.

13          **Q.     Ever.**

14          A.     No, that's not correct.  Anthony had  
15          asked that I attend some meetings and I did, but  
16          I'd say that substantially I was -- I was just an  
17          investor through my LLC, and my expectation was  
18          that Anthony would run the company.

19          **Q.     Was your expectation that he -- was that**  
20          **Anthony was to run the company.**

21          A.     Yes.

22          **Q.     Okay.  Good.  Now, you said you showed up**  
23          **at a couple of meetings.  Would you disagree then**  
24          **with a hundred percent of the employees that said**  
25          **they never saw you around, not one single day or**

1 time ever during this project, that you were nowhere  
2 to be found?

3 MR. HUTCHISON: Objection as to form.

4 A. I don't understand the question.

5 Q. Okay. I said would you agree with every  
6 single employee that worked for this company when  
7 asked the question have you ever seen Fred DeLuca  
8 anywhere near the site, anywhere near the office  
9 working on this project and they all said you never  
10 showed up, not one single time?

11 MR. HUTCHISON: Objection to form.

12 BY MR. GARY:

13 Q. Would you agree with that or you'd  
14 disagree with that?

15 A. I would agree with a good part of that.  
16 I would agree that no one ever saw me on the  
17 land, on the site, not a single time.

18 Q. What about at the office?

19 A. I'm going to get to that. You asked  
20 about the site. I never went to the site.

21 Q. What about at the office?

22 A. And I did go to the office.

23 Q. How many times over a period of -- over  
24 the years.

25 A. I haven't finished. I haven't finished.

1 I did go to the office but not to work on the  
2 project so --

3 **Q. Okay.**

4 A. So if they said they didn't see me there  
5 working on the project, that's correct, but I did  
6 go there to have -- to attend meetings that  
7 Anthony invited me to.

8 **Q. Okay.**

9 MR. HUTCHISON: Can we take a lunch,  
10 Willie?

11 MR. GARY: No, just a couple of  
12 questions.

13 BY MR. GARY:

14 **Q. So if all the employees said that Anthony**  
15 **Pugliese was there through the thick and thin, he**  
16 **was there day in and day out 24/7, 24/7 he was**  
17 **there, you're in no position to dispute those**  
18 **people, are you, sir, because you never showed up?**

19 MR. HUTCHISON: Objection as to form.

20 A. No, that would be totally inaccurate  
21 because Anthony himself told me that he was  
22 working on many other projects that were  
23 consuming a considerable amount of his time.

24 **Q. Okay. Now, this project -- let's talk**  
25 **about Anthony's -- well, so we'll be clear, you**



1 would agree that he spent a lot more time, like a  
2 whole lot more time on this project that you all had  
3 fifty-fifty ownership in with your respective LLC's,  
4 he spent a whole lot more time than you did. Would  
5 you agree to that?

6 MR. HUTCHISON: Objection to the form.

7 A. I would agree to that. I spent close to  
8 zero amount of time working on the project.

9 **Q. That's all I need you to say, sir.**

10 A. And he spent much more than zero.

11 **Q. Okay.**

12 MR. GARY: We can break here, I think.

13 Hold on.

14 THE VIDEOGRAPHER: The time on the  
15 monitor is 12:30.

16 MS. HOFFLER: No, we're not going to  
17 break.

18 MR. HUTCHISON: A couple more questions.

19 THE WITNESS: Okay.

20 MR. GARY: Okay. We're breaking.

21 THE VIDEOGRAPHER: The time on the  
22 monitor is 12:30. We're going off video  
23 record.

24 (A luncheon recess was taken at 12:30  
25 p.m.)

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CERTIFICATE OF OATH

THE STATE OF FLORIDA  
COUNTY OF PALM BEACH

I, Barbara Bolton, Registered  
Professional Reporter, Notary Public, State of  
Florida, certify that FREDERICK A. DELUCA  
personally appeared before me on the 25th day of  
September, 2012, and was duly sworn.

Signed this 26th day of September, 2012.

*Barbara Bolton*

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Barbara Bolton  
Notary Public, State of Florida  
My Commission No.: EE9150  
My Commission Expires: 09/01/14

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CERTIFICATE OF REPORTER

THE STATE OF FLORIDA  
COUNTY OF PALM BEACH.

I, Barbara Bolton, Registered Professional Reporter, certify that I was authorized to and did stenographically report the deposition of FREDERICK A. DELUCA, pages 542 through 678; that a review of the transcript was requested; and that the transcript is a true record of my stenographic notes.

I further certify that I am not a relative, employee, attorney, or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorneys or counsel connected with the action, nor am I financially interested in the action.

Dated this 26th day of September, 2012.



Barbara Bolton  
Barbara Bolton, RPR  
Florida Professional Reporter

## Corrected Transcript

A			
<b>ability</b> 548:9 568:15	<b>ain't</b> 581:21 643:7	653:3,4 658:5	668:18 677:25
<b>able</b> 575:23 595:20 633:16 639:7 648:2	<b>al</b> 546:17,18	662:15 670:3,10	<b>anybody</b> 555:4 607:10 609:24 659:13 673:8
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