

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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FREDERICK M. CARGIAN,

Plaintiff,

against

BREITLING, USA, INC.,

Defendant.

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**15 CV 01084 (GBD)(HP)**  
**Affirmation of Counsel for Plaintiff**

JANICE GOODMAN, an attorney in good standing in the State of New York, affirms the following under penalty of perjury:

1. I am counsel to plaintiff, Frederick M. Cargian, in the above referenced matter and submit this affirmation in opposition to defendant's motion for summary judgment based on my personal knowledge relating to discovery and to place in the record certain documents and deposition transcripts material to this matter.
2. Plaintiff claims that when Thierry Prissert ("Prissert") became President of Breitling in 2011 he assigned to plaintiff unobtainable sales goals in a not too subtle attempt to set him up for failure. Relying totally on his uncorroborated declaration, Prissert alleges that it was his predecessor, Marie Bodman ("Bodman") who made the "ultimate decision" regarding the 2011 goals. Defendant's Rule 56.1 Statement ¶197, Prissert Decl. ¶ 22. Since the jury is not required to give credence to an uncorroborated statement of an interested party, *Reeves v Sanderson*, 530 U.S. 133, 151 (2000) the court should disregard this purported

evidence. It is particularly not trustworthy in the instant case, since defendant blocked plaintiff's attempt to depose Bodman. Magistrate Pitman ruled in defendant's favor and would not compel production of Bodman, Exh. 1. However, we were all there when he did warn defendant against trying to use Bodman's testimony affirmatively. Moreover, Plaintiff fully contradicts the claim, Exh. Cargian Dep. Tr. 208:7-8; 225:15-236:14; 222:25-223-16. Under the rules of summary judgment all inferences must be for the non-movant.

3. Plaintiff submits further that the data that defendant relies upon to "prove" plaintiff's failure to meet his sales goals is not admissible and highly questionable.
4. I conducted plaintiff's discovery and can attest to the fact that defendant never produced or otherwise identified the underlying data upon which its summary charts regarding goals are based. When asked, the witnesses who claimed to have knowledge either did not know or could not identify the underlying data or the data was no longer retrievable. An example, at the deposition of Charles Anderson, Sales Manager, he claimed that he uses something called "year end reports" to develop his power point presentations, some of which were entered by defendant as Exh. K. When requested at the deposition, counsel to defendant said that they will not produce the computer printouts. Exh. 13 Anderson Tr. 175:21-177:24. I made a formal letter request post deposition for all year end reports for 2009 through 2013. Defendant raised the usual boiler plate objections, plus a claim that the data no longer exists. Exh.2, ¶ 10 & 11.
5. In terms of goals, none of the sales reps, including plaintiff, had access to the goals of the other reps from 2011 on. See Cargian Aff. ¶ 8. In putting forth its evidence on this summary judgment defendant makes no attempt to authenticate the summary charts that it produces as relates to the sales goals.

- A. Almost all of the statistical information relating to goals, is based upon statements of Thierry Prissert (“Prissert”) or Chuck Anderson (“Anderson”) mainly relying upon the power point presentations that Anderson gave at sales meetings. Singer Decl. Exh. K. See for example: Def. 56, 1 Statement ¶¶ 98-99; 101-103; 108-109; 111-113.
- B. Defendant’s Exh. K is a much flawed set of documents. For some reason defendant renumbered the charts introduced in Exh K from those earlier produced which had been introduced at depositions. Breitling 9044 and 9065 were originally produced as Breitling 631 and 632, both attached herewith as Exh. 3. As testified by Amstutz, these were manually produced, not computer generated, as presumably were the other power point presentations. Ex. 26. Amstutz Tr. 37:9-14; 38:2-20; 192:1-19. The underlying documents used to create these charts were not produced, and to the best one could understand from his testimony, Anderson claimed they could not be reproduced because the information is no longer available. See: Exh 2 ¶ 10.
- C. Defendant did everything to obfuscate. It claims that Cargian’s 2011 goals were raised because he had an increase in territory. Plaintiff requests the number of doors for which each sales rep was responsible. Defendant objected as irrelevant. Exh. 2. Moreover, , plaintiff attempted to obtain the information regarding doors, through a request for admissions. Defendant denied the numbers proffered by plaintiff regarding Cargian and Haley, the two reps who had an increase in territory. Although defendant denies plaintiff’s proffers, it does not clarify as was its obligation under the rules and as it did regarding other information. Defendant just stonewalled ever producing the numbers. Exh 4 ,para 1 .

- D. .Breitling produced yet two different summary documents that purportedly reflect the sales goals and achievements toward those goals for each sales rep from 2010 through 2014. Breitling 635 and Breitling 636 attached as Exh. 5. Anderson did not create these exhibits; and could not attest to their accuracy. Anderson concedes that the data in Breitling 636 could differ from the the data reflected in Breitling 635. Exh. Anderson Tr. 172:7-173:13.
- E. Raising even greater credibility questions regarding the documents that purport to compare goals and attainment, Prissert, in answer to interrogatories, swore to the fact that Amstutz created Breitling 635. Not true. At his deposition Amstutz testified that he did not create the document, but that Diane Figueroa, Human Resource Manager, who reported to him, created it and he never checked the accuracy at the time. Exh. 26 , Amstutz Tr. Tr. 55:8-58:3. Amstutz testified that he later learned that there were errors in Breitling 635, but he could not identify them. Amstutz Tr. Defendant's counsel also conceded that there were errors in the chart, but would never identify the errors.
- F. There were clear disparities in some of the number on the various charts. When the witnesses who were identified as persons with knowledge regarding the charts and data were asked about the contradictions in the numbers, they were incapable of doing so.Exh 26. Amstutz Tr: 34:13-21; 75:5-23.

6. Plaintiff submits that based on the lack of substantiation of any of the figures produced by defendant, particularly relating to goals, the only reliable documentation is the Chart with underlying documents produced by plaintiff,

Cargian Aff. Exh. A and Defendant's Responses to Plaintiff's Request for Admission,  
attached her as **Exh. 4.**

The following Exhibits to be introduced by Plaintiff are affixed to this Affirmation.

6. Ex. 1. Order of Magistrate Judge Pitman
7. Ex. 2. Letter Singer to Goodman responding to discovery requests.
8. Ex. 3 Power Point pages. Breitling 631 & 632
9. Ex. 4. Defendants Responses to Plaintiff's Request for Admissions
10. Ex. 5. Defendants summary charts Breitling 635 & 636.
- Exh. 6. Intentionally omitted
- Ex. 7. Lisa Roman, former Dir. Of Marketing cited excerpts from deposition
- Ex. 8. Monica Vessely, Dir. Of Training, cited excerpts from deposition
- Ex. 9. Frederick Cargian, Plaintiff, cited excerpts from deposition
- Ex. 10. 2012 Power Point Presentation. Breitling 9062 & 9075
- Ex. 11. Intentionally omitted
- Ex. 12. Annie Sommer, Breitling, sales rep, cited excerpts from deposition
- Ex. 13. Charles Anderson, Sales Manager, cited excerpts from deposition
- Ex. 14. Isaac Schafrath, plaintiff's replacement, cited excerpts from deposition
- Ex. 15. Year over year sales comparison 2012/2011 PI. 0000280
- Ex. 16. Year over year sales comparison 2013/2012 Breitling 633
- Ex. 17. Breitling collateral material—pin-ups used for marketing
- Ex. 18. Drawing in office of President of Breitling SA
- Ex. 19. Sophie Morice, Director of Retail, cited excerpts from deposition
- Ex. 20. Complaint of sex discrimination by sales rep Beth Haddad
- Ex. 21. Warning letter Prissert to Cargian Sept. 18, 2012

- Ex. 22. Summary of business related to Bentley 2012/2011 Breitling 9041
- Ex. 23. Prissert e-mail to Amstutz re: Reno incident Breitling 1444-45
- Ex. 24 Cargian's unused vacation time, 2012 PI. 0000180
- Exh. 25. Disciplinary material re: Sales Rep. X Breitling 7583-7588; 7591.
- Exh. 26. Sebastian Amstutz, V. P., cited excerpts from deposition.
- Exh. 27. Thierry Prissert, President, cited excerpts from the deposition
- Exh. 28. Diane Figueroa, Manager of HR, cited excerpts from deposition
- Exh. 29. Bonus Sheet 2013 for Cargian Breitling 8984
- Exh. 30. Order, 2/17/16 denying plaintiff's request for continuation of Amstutz deposition
- Exh. 31. Resume of Isaac Schafrath
- Exh. 32. Job Description Vault Manager
- Exh. 33. Breitling Points of Sale 2012. Breitling 9063
- Exh. 34. E-mails reducing reps goals for 2012 & 2013 Breitling 9087-9098
- Exh. 35 Bonus Statements 2012 for all sales reps Breitling 011; 8939-8944
- Exh. 36. Bonus Statements 2013 for all sales reps. Breitling 8984; 8951-57
- Exh. 37. Prissert to Roman re: her complaint 1/20/14
  
- Exh. 38. Intentionally left blank

Exh. 39. Singer to Goodman 2/3/16 resp. to discovery request

Exh. 40. Memos of criticism of Lambert work

AFFIRMED MARCH 28, 2016



A handwritten signature in black ink, appearing to read 'Janice Goodman', is written over a horizontal line. The signature is fluid and cursive, with a large initial 'J' and 'G'.

JANICE GOODMAN

# **EXHIBIT 1**

Case 1:15-cv-01084-GBD-HBP Document 47-1 Filed 03/29/16 Page 2 of 10  
From: NYSB\_ECF\_Pool@nysd.uscourts.gov  
Sent: Wednesday, July 29, 2015 9:38 AM  
To: CourtMail@nysd.uscourts.gov  
Subject: Activity in Case 1:15-cv-01084-GBD-HBP Carigan v. Breitling USA, Inc. Order

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U.S. District Court  
Southern District of New York

Notice of Electronic Filing

The following transaction was entered on 7/29/2015 at 9:37 AM EDT and filed on 7/28/2015

Case Name: Carigan v. Breitling USA, Inc.

Case Number: 1:15-cv-01084-GBD-HBP

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Document Number: 22

Docket Text:

**ORDER:** A conference having been held in this matter on July 27, 2015, during which several discovery issues were discussed, for the reasons stated on the record in open court, it is hereby ORDERED that: 1. Plaintiff's First Document Request 9 is denied without prejudice. Plaintiff or his counsel are directed to contact Ms. Bodman regarding her appearance for a deposition. I also direct defendant to ascertain Ms. Bodman's employment status, if any, with Breitling. A conference call will be held on Monday, August 3, 2015 at 2:00 p.m. to determine whether a further application will be necessary with respect to scheduling Ms. Bodman's deposition. 2. Defendant is to produce the portions of the personnel files of the comparators identified by plaintiff that include performance reviews, sales performance, disciplinary/misconduct reports, resumes to the extent that they reflect educational background and experience, compensation, self evaluations, and participation in marketing events. (As further set forth in this Order.) (Telephone Conference set for 8/3/2015 at 02:00 PM before Magistrate Judge Henry B. Pitman.) (Signed by Magistrate Judge Henry B. Pitman on 7/28/2015) Copies Sent By Chambers. (kko)

1:15-cv-01084-GBD-HBP Notice has been electronically mailed to:

Glenn Sklaire Grindlinger [ggrindlinger@foxrothschild.com](mailto:ggrindlinger@foxrothschild.com)

Janice Goodman [jg@janicegoodmanlaw.com](mailto:jg@janicegoodmanlaw.com)

**EXHIBIT 2**



**Fox Rothschild** LLP  
ATTORNEYS AT LAW

100 Park Avenue, Suite 1500  
New York, NY 10017  
Tel 212.878.7900 Fax 212.692.0940  
www.foxrothschild.com

**Zev Singer**  
Direct Dial: (212) 878-7928  
Email Address: zsinger@foxrothschild.com

December 18, 2015

**VIA EMAIL**

Janice Goodman, Esq.  
jg@janicegoodmanlaw.com

**Re: Cargian v. Breitling USA, Inc.  
Civil Action No.: 15-cv-01084**

Ms. Goodman:

With regard to your supplemental document requests related to the deposition of Mr. Chuck Anderson, below please find defendant's responses.

REQUEST 1: Documents identifying the territories covered by Mr. Anderson in his duties as a sales representative in 2010.

RESPONSE 1: See document Bates stamped BREITLING\_8797, enclosed herein

REQUEST 2: As to each territory covered by Mr. Anderson in 2010, produce all documents that identify the sales representative to whom the territory was assigned in 2011.

RESPONSE 2: See documents Bates stamped BREITLING\_8800-8806, enclosed herein.

A Pennsylvania Limited Liability Partnership

California Connecticut Delaware Florida Nevada New Jersey New York Pennsylvania

REQUEST 3: For the year 2010, documents reflecting sales in dollar amounts in Maryland which were credited to Mr. Anderson's production.

RESPONSE 3: See response to Request 1.

REQUEST 4: For the year 2010, documents reflecting sales in dollar amounts in Virginia which were credited to Mr. Anderson's production.

RESPONSE 4: See response to Request 1.

REQUEST 5: For the year 2010, documents reflecting sales in dollar amounts in No. Carolina which were credited to Mr. Anderson's production.

RESPONSE 5: See Response to Request 1.

REQUEST 6: For the year 2010, documents reflecting sales in dollar amounts in Western Fla. which were credited to Mr. Anderson's production in 2010.

RESPONSE 6: See response to Request 1.

REQUEST 7: For the year 2010, documents reflecting sales in dollar amounts in Delaware. which were credited to Mr. Anderson's production in 2010.

RESPONSE 7: See response to Request 1.

REQUEST 8: For the year 2010, documents reflecting sales in dollar amounts for any other business, not above requested, that was credited to Mr. Anderson's production.

RESPONSE 8: See response to Request 1.

REQUEST 9: Documents reflecting the number of doors for which each sales representative was responsible in each of the following years: 2009, 2010, 2011, 2012, 2013, 2014.

RESPONSE 9: With regard to Plaintiff's requests for the years 2009 and 2014, Defendant objects to this Request on the grounds that the Request seeks production of documents that are not relevant to plaintiff's claims and are not reasonably calculated to lead to the discovery of admissible evidence. For the remainder of the request, see documents Bates stamped BREITLING\_8797-8813, enclosed herein, as well as documents previously provided Bates stamped BREITLING\_1569-1602, BREITLING\_1768-1770, and BREITLING\_1801-1828.

REQUEST 10: Copies of the year end reports, as defined by Mr. Anderson, for each of the following years: 2009, 2010, 2011, 2012, 2013, 2014. If Defendant claims that all or any of these documents has already been produced please identify by Bates stamp number.

RESPONSE 10: Defendant objects to this Request on the grounds that the Request is incapable

of reasonable response. See Anderson deposition explaining that end of year reports cannot be re-created. Notwithstanding the aforementioned objection, and construing Plaintiff's request as a request for end of year sales data, Plaintiff is referred to documents produced herein Bates stamped BREITLING\_8797-8813.

REQUEST 11: Copies of the year end reports for each year individually from 2009 through 2014 in the form reflected in Anderson Exh. 11 introduced at his deposition.

RESPONSE 11: Defendant objects to this Request on the grounds that the Request is incapable of reasonable response, misidentifies documents, and the Request seeks production of documents that are not relevant to plaintiff's claims and are not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST 12: All underlying documents relied upon to create Anderson Exh.2 introduced at his deposition.

RESPONSE 12: A search is being performed for said documents.

REQUEST 13: All underlying documents relied upon to create Anderson Exh. 13 introduced at his deposition.

RESPONSE 13: See documents Bates stamped BREITLING\_8800-8806, enclosed herein

REQUEST 14: All underlying documents relied upon to create Anderson Exh. 14 introduced at his deposition.

RESPONSE 14: See documents Bates stamped BREITLING\_8807-8813, enclosed herein

REQUEST 15: Documents reflecting the number of trainings performed by each sales rep for the years 2009 through 2014 separately.

RESPONSE 15: A search is performed for said documents, if any exist.

REQUEST 16 (marked in Plaintiff's requests as "14" again): Any documents that reflect requests for room assignments at the Basel sales meeting and jewelers show for any time since Mr. Cargian's employment.

RESPONSE 16: Defendant objects to this Request on the grounds that the Request is overbroad in both time and scope and on the grounds that the Request seeks production of documents that are not relevant to plaintiff's claims and are not reasonably calculated to lead to the discovery of admissible evidence

REQUEST 17: (marked in Plaintiff's requests as "15" again): Any texts messages sent or received by Mr. Anderson regarding or relating to Fred Cargian.

RESPONSE 17: None found.

Yours,

FOX ROTHSCHILD LLP

A handwritten signature in cursive script, appearing to read "Zev Singer".

Zev Singer

Attachments

**EXHIBIT 3**

*Car Sales 19*

**BREITLING**

**Sell In 2012**

	Total Sold in in Dollars	% 2012 vs 2011	Units sold in 2012	% 2012 vs 2011	Ave. Price Sold In
Rick	\$11,321,437	+8.28%	2,467	-8.80%	\$4,589
Beth	\$11,846,238	+7.51%	2,588	-13.70%	\$4,577
Josh	\$16,627,343	+5.99%	3,649	-9.41%	\$4,557
Brian	\$14,637,893	+4.71%	2,936	-12.30%	\$4,986
Patrick	\$10,004,033	+0.55%	2,076	-23.01%	\$4,819
Annie	\$11,937,231	-0.40%	2,678	-17.62%	\$4,458
Fred	\$12,899,581	-6.79%	2,987	-16.49%	\$4,319
House	\$19,163,438	+1.64%	4,306	-18.04%	\$4,449
Totals	\$108,437,194	+2.53%	23,686	-14.97%	\$4,578

Average Price 2011 \$3,879

INSTRUMENTS FOR PROFESSIONALS™

\*\*CONFIDENTIAL\*\*

BREITLING\_631

**BREITLING**

**SELL IN 2011**

	Total Visits	Ave Visit Per Wk.	Wks. Rep	Total Sold in Dollars*	% 2011 vs. 2010*	Units sold in 2011*	% 2011 vs. 2010*	Ave. Price Sold In*
Fred	182	5.87	31	\$14,727,693	+10%	3,557	-9%	\$3,875
Annie	231	5.63	41	\$11,853,829	+44%	3,233	+25%	\$3,667
Josh	291	6.47	46	\$15,834,206	+42%	4,044	+19%	\$3,915
Rick	132	6.29	21	\$10,455,913	+12%	2,685	0%	\$3,894
Patrick	226	5.38	42	\$9,949,222	+35%	2,651	+17%	\$3,753
Brian	293	7.33	40	\$14,230,513	+34%	3,205	+9%	\$4,440
Beth	224	4.87	46	\$10,798,534	+44%	3,028	+28%	\$3,566
Totals	1,579	5.97		\$87,849,910	+23.5%	22,403	+10%	\$3,879

\* Excludes Tourneau

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BREITLING\_632

**EXHIBIT 4**

FOX ROTHSCHILD LLP  
Glenn S. Grindlinger, Esq.  
Zev Singer, Esq.  
100 Park Avenue, Suite 1500  
New York, NY 10017  
Tel: (212) 878-7900  
Fax: (212) 692-0940  
*Attorneys for Breitling USA, Inc.*

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

FREDERICK M. CARGIAN,  
  
Plaintiff,  
  
-against-  
  
BREITLING USA, INC.,  
  
Defendant.

Civil Action No. 15-cv-01084  
(GBD)(HP)

ECF Case

**BREITLING USA'S RESPONSES  
AND OBJECTIONS TO  
PLAINTIFF'S FIRST REQUEST  
FOR ADMISSIONS**

Pursuant to Rule 36 Federal Rules of Civil Procedure ("Federal Rules") and the Local Rules of United States District Courts for the Southern and Eastern Districts of New York ("Local Rules"), Defendant Breitling USA, Inc. ("Defendant"), by and through its attorneys, Fox Rothschild LLP, hereby objects to and answers Plaintiff's First Request for Admissions ("Requests") as follows:

**I.**

**RESERVATION OF RIGHTS**

Any response to Plaintiff's Requests will be subject to Defendant's rights to object to the admission of any and all such responses on the grounds that they, or any of them, are irrelevant to the issues in this action or are otherwise inadmissible. Defendant responds to these Requests subject to the accompanying objections, without waiving and expressly preserving all such

objections. Defendant also submits these responses subject to, without intending to waive, and expressly preserving: (a) any objections as to privilege or work product and (b) the right to object to other discovery procedures involving and related to the subject matter of the Requests.

Defendant reserves the right to amend any of the information, documents, answers, and/or responses provided herein, in the event that information is discovered at a later date which renders any particular information, documents, answers, and/or responses to any Request inaccurate in any way.

Defendant's answers and responses to these Requests are governed by all applicable discovery rulings issued in this Action.

## II.

### GENERAL OBJECTIONS

1. Defendant objects to the instructions set forth in Plaintiff's Requests to the extent that they purport to impose upon Defendant obligations beyond those imposed by the Federal Rules, the Local Rules, or any Order entered in this Action. Defendant's objections to Plaintiff's Requests are prescribed by, and Defendant hereby responds in accordance with, the Federal Rules, the Local Rules, and any applicable Court Order.

2. Defendant objects to Plaintiff's Requests to the extent that they seek attorney-work product or trial preparation materials.

3. Defendant objects to Plaintiff's Requests to the extent they seek information, answers, and/or responses that are not reasonably calculated to lead to the discovery of admissible evidence and/or are otherwise irrelevant.

4. Defendant objects to Plaintiff's Requests to the extent they either fail to identify a specific time period for which information is requested. As such, the Requests are vague.

5. Defendant objects to Plaintiff's Requests to the extent that they are vague and employ imprecise specifications of the information sought. Defendant will only provide such information that reasonably can be identified as responsive to the particular Request.

6. Defendant objects to Plaintiff's Requests to the extent that they improperly assume facts not established in the case record.

7. Defendant reserves the right to provide additional relevant and unprivileged information that may come to its attention and/or become available in the future and to use such information at any hearing, trial, or proceeding related to this action.

8. Each and every response to a particular Request is made subject to the foregoing General Objections, regardless of whether a General Objection or Specific Objection is stated in the response. The explicit reference to a General Objection or the making of a Specific Objection in response to a particular Request is not intended to constitute a waiver of the General Objections that are not specifically referred to in that response.

9. In responding to these Requests, Defendant does not concede that any of the responses are relevant or admissible. To the contrary, Defendant retains the right to object on the grounds of competency, privilege, relevance, materiality, or otherwise, and to the use of these responses for any purpose, in whole or in part, in this action or in any other action.

### III.

#### **RESPONSES AND SPECIFIC OBJECTIONS**

Specifically incorporating each of the foregoing General Objections into each and every response below, regardless of whether specifically referenced therein, and without waiving said objections and responses, Defendant responds to each specifically numbered Request follows:

**Request 1.** Please admit that the chart attached herewith as Exh. A accurately states the number of doors each Sales Representative serviced in 2010. If Defendant denies the accuracy of the data or does not qualify its denial pursuant to Rule 36(4) then please answer Requests to Admit Nos. 4-11.

**RESPONSE 1:**

Defendant objects to the Request on the grounds that it is vague with regard to time and it is beyond the scope of Federal Rule 36.

Notwithstanding said objection, the Request is admitted in part, denied in part. The chart in Exhibit A attached to the Requests accurately states the number of doors each Sales Representative serviced at year end 2010 except for Fred Cargian and Josh Haley.

**Request 2.** Please admit that the chart attached herewith as Exh.A accurately states the number of doors each Sales Representative serviced in 2011. If Defendant denies the accuracy of the data or does not qualify its denial pursuant to Rule 36(4) then please answer Requests to Admit Nos.4-11.

**RESPONSE 2:**

Defendant objects to the Request on the grounds that it is vague with regard to time and it is beyond the scope of Federal Rule 36.

Notwithstanding said objection, the Request is admitted in part. The chart in Exhibit A attached to the Requests accurately states the number of doors each Sales Representative serviced at year end 2011.

**Request 3.** Please admit that the chart attached herewith as Exh. A accurately states the number of doors each Sales Representative serviced in 2012. If Defendant denies the accuracy of the data

or does not qualify its denial pursuant to Rule 36(4) then please answer Requests to Admit Nos. 4-11.

**RESPONSE 3:**

Defendant objects to the Request on the grounds that it is vague with regard to time and it is beyond the scope of Federal Rule 36.

Notwithstanding said objection, the Request is denied. The chart in Exhibit A attached to the Requests does not accurately state the number of doors each Sales Representative serviced at year end 2012.

**Request 4.** Please admit that in 2010 Chuck Anderson serviced 17 doors.

**RESPONSE 4:**

See response to Request 1.

**Request 5.** Please admit that:

- A. In 2010 Fred Cargian serviced 36 doors
- B. In 2011 Fred Cargian serviced 40 doors
- C. In 2012 Fred Cargian serviced 42 doors

**RESPONSE 5:**

- A. See responses to Request 1.
- B. See responses to Request 2.
- C. See responses to Request 3.

**Request 6.** Please admit that:

- A. In 2010 Patrick Cawthorne serviced 37 doors
- B. In 2011 Patrick Cawthorne serviced 40 doors
- C. In 2012 Patrick Cawthorne serviced 40 doors

**RESPONSE 6:**

- A. See responses to Request 1.

- B. See responses to Request 2.
- C. See responses to Request 3.

**Request 7.** Please admit that:

- A. In 2010 Brian Criddle serviced 44 doors
- B. In 2011 Brian Criddle serviced 44 doors
- C. In 2012 Brian Criddle serviced 43 doors

**RESPONSE 7:**

- A. See responses to Request 1.
- B. See responses to Request 2.
- C. See responses to Request 3.

**Request 8.** Please admit that:

- A. In 2010 Beth Haddad serviced 44 doors
- B. In 2011 Beth Haddad serviced 40 doors
- C. In 2012 Brian Criddle serviced 42 doors

**RESPONSE 8:**

- A. See responses to Request 1.
- B. See responses to Request 2.
- C. See responses to Request 3.

**Request 9.** Please admit that:

- A. In 2010 Josh Haley serviced 48 doors
- B. In 2011 Josh Haley serviced 47 doors
- C. In 2012 Josh Haley serviced 49 doors

**RESPONSE 9:**

- A. See responses to Request 1.
- B. See responses to Request 2.
- C. See responses to Request 3.

**Request 10:** Please admit that:

- A. In 2010 Rick Lambert serviced 35 doors
- B. In 2011 Rick Lambert serviced 41 doors
- C. In 2012 Rick Lambert serviced 40 doors

**RESPONSE 10:**

- A. See responses to Request 1.
- B. See responses to Request 2.
- C. See responses to Request 3.

**Request 11.** Please admit that:

- A. In 2010 Annie Sommer serviced 42 doors
- B. In 2011 Annie Sommer serviced 47 doors
- C. In 2012 Annie Sommer serviced 44 doors

**RESPONSE 11:**

- A. See responses to Request 1.
- B. See responses to Request 2.
- C. See responses to Request 3.

**Request 12.** Please admit that in 2010 Chuck Anderson's sales territory included Western Florida, Maryland, and Virginia.

**RESPONSE 12:**

Admitted in part and denied in part. In 2010 Chuck Anderson's sales territory included Western Florida, Maryland, and Northern Virginia.

**Request 13.** Please admit that in 2009 Delaware was assigned to Fred Cargian.

**RESPONSE 13:**

Admitted.

**Request 14.** Please admit that in 2009 Kentucky was assigned to Rick Lambert.

**RESPONSE 14:**

Admitted.

**Request 15.** Please admit that in 2009 North Carolina, South Carolina, and Tennessee, previously serviced by Chuck Anderson, was assigned to Josh Haley

**RESPONSE 15:**

Admitted.

**Request 16.** Please admit that in about mid-2011 Southern Virginia was assigned to Patrick Cawthorne.

**RESPONSE 16:**

Denied.

**Request 17.** Please admit that in 2011 Maryland and Virginia were assigned to Frederick Cargian

**RESPONSE 17:**

Admitted.

**Request 18.** Please admit that in 2011 Southern New Jersey, previously serviced by Fred Cargian, was assigned to Annie Sommer.

**RESPONSE 18:**

Admitted.

**Request 19.** Please admit that in 2011 Tennessee was assigned to Rick Lambert.

**RESPONSE 19:**

Admitted.

**Request 20.** Please admit that in 2012 So. Virginia was assigned to Rick Lambert.

**RESPONSE 20:**

Admitted.

**Request 21.** Please admit that Defendant has not produced to Plaintiff copies of the 2013 employment contracts for:

- A. Patrick Cawthorne
- B. Brian Criddle
- C. Beth Haddad
- D. Josh Haley
- E. Rick Lambert
- F. F. Annie Sommer

**RESPONSE 21:**

Defendant objects to this Request on the ground that it is beyond the scope of Federal Rule 36.

**Request 22.** Please admit that Defendant has not produced to Plaintiff copies of the completed Performance Review forms for 2013 for the following Sales Representatives:

- A. Patrick Cawthorne
- B. Brian Criddle
- C. Beth Haddad
- D. Josh Haley
- E. Rick Lambert
- F. Annie Sommer

**RESPONSE 22:**

Defendant objects to this Request on the ground that it is beyond the scope of Federal Rule 36.

**Request 23.** Please admit that Defendant has not produced to Plaintiff copies of the completed Performance Review forms for 2012 for the following Sales Representatives:

- A. Patrick Cawthorne
- B. Brian Criddle
- C. Beth Haddad
- D. Josh Haley
- E. Rick Lambert
- F. Annie Sommer

**RESPONSE 23:**

Defendant objects to this Request on the ground that it is beyond the scope of Federal Rule 36.

**Request 24.** Please admit that Defendant has not produced to Plaintiff copies of the completed Performance Review forms for 2011 for the following Sales Representatives:

- A. Patrick Cawthorne
- B. Brian Criddle
- C. Beth Haddad
- D. Josh Haley
- E. Rick Lambert
- F. Annie Sommer

**RESPONSE 24:**

Defendant objects to this Request on the ground that it is beyond the scope of Federal Rule 36.

**Request 25.** Please admit that Defendant has not produced to Plaintiff copies of the completed Performance Review forms for 2010 for the following Sales Representatives:

- A. Patrick Cawthorne
- B. Brian Criddle
- C. Beth Haddad
- D. Josh Haley
- E. Rick Lambert
- F. Annie Sommer

**RESPONSE 25:**

Defendant objects to this Request on the ground that it is beyond the scope of Federal Rule 36.

**Request 26:** Please admit that Defendant does not have documents reflecting the number of trainings performed by each Sales Representative for the years 2009 through 2013.

**RESPONSE 26:**

Denied.

**Request 27:** Please admit that Defendant has not produced to Plaintiff all of the documents reflecting the number of trainings performed by each Sales Representative for the years 2009 through 2013.

**RESPONSE 27:**

Defendant objects to this Request on the ground that it is beyond the scope of Federal Rule 36.

**Request 28:** Please admit that Defendant does not have any document(s) supporting its claim that Plaintiff requested to share a room with Sales Representative Annie Sommer at any sales meeting held in Basel.

**RESPONSE 28:**

Defendants object to the Request on the grounds that it assumes facts not established in the record and calls for legal conclusions. Notwithstanding the objections, the Request is denied.

**Request 29:** Please admit that in 2011 the following Florida accounts were transferred from Chuck Anderson to Josh Haley:

- A. Congress Sanibel
- B. Little Switzerland Key West
- C. Provident Ft. Myers

- D. Little Switzerland Westin
- E. Provident Naples
- F. Yamron Jewelers

**RESPONSE 28:**

Admitted.

**Request 30:** Please admit that Defendant does not have the underlying documents relied upon to create the chart affixed herewith as Exhibit B.

**RESPONSE 30:**

Denied.

**Request 31:** Please admit that Defendant has not produced to Plaintiff the underlying documents relied upon to create the chart affixed herewith as Exhibit B.

**RESPONSE 31:**

Defendant objects to this Request on the ground that it is beyond the scope of Federal Rule 36.

**Request 32.** Defendant has not produced to Plaintiff records reflecting the actual bonuses received by any Sales Representative, except Fred Cargian, for the years:

- A. 2010
- B. 2011
- C. 2012
- D. 2013

**RESPONSE 32:**

Defendant objects to this Request on the ground that it is beyond the scope of Federal Rule 36.

**Request 33.** Please admit that the chart affixed herewith as Exh. C accurately reflects the base salary for the Sales Representatives in:

- A. 2011
- B. 2012
- C. 2013

**RESPONSE 33:**

Defendant objects to this Request on the ground that it is beyond the scope of Federal Rule 36. Notwithstanding the objection, the Request is admitted with regard to the base salary numbers contained in the chart created by Plaintiff attached to the Requests as Exhibit C.

**Request 34.** Please admit that in 2010 Fred Cargian's Sales Goal was \$13,000,000.

**RESPONSE 34:**

Admitted.

**Request 35.** Please admit that in 2010 Fred Cargian's sales were \$14, 643,582,000.

**RESPONSE 35:**

Admitted.

**Request 36.** Please admit that in 2011 Fred Cargian's Sales Goal was raised to \$24,995,000.

**RESPONSE 36:**

Admitted in part and denied in part. Cargian's 2011 goal at the beginning of the year was \$24,995,000 and was later reduced to \$23,760,000.

**Request 37.** Please admit that in 2010 Patrick Cawthorne Sales Goal was \$7,540,000.

**RESPONSE 37:**

Admitted.

**Request 38.** Please admit that in 2010 Patrick Cawthorne's sales were \$7,683,735.

**RESPONSE 38:**

Admitted.

**Request 39.** Please admit that in 2011 Patrick Cawthorne's Sales Goal was raised to 10,545,000.

**RESPONSE 39:**

Admitted.

**Request 40.** Please admit that in 2010 Brian Criddle's Sales Goal was \$13,250,000.

**RESPONSE 40:**

Admitted.

**Request 41.** Please admit that in 2010 Brian Criddle's sales were \$12,928,861.

**RESPONSE 41:**

Admitted.

**Request 42.** Please admit that in 2011 Brian Criddle's Sales Goal was raised to \$17,625,000.

**RESPONSE 42:**

Admitted.

**Request 43.** Please admit that in 2010 Beth Haddad's Sales Goal was \$9,290,000.

**RESPONSE 43:**

Admitted.

**Request 44.** Please admit that in 2010 Beth Haddad's sales were \$9,792,314.

**RESPONSE 44:**

Admitted.

**Request 45.** Please admit that in 2011 Beth Haddad's Sales Goal was raised to \$13,175,000.

**RESPONSE 45:**

Admitted.

**Request 46.** Please admit that in 2010 Josh Haley's Sales Goal was \$10,660,000.

**RESPONSE 46:**

Admitted.

**Request 47.** Please admit that in 2010 Josh Haley's sales were \$12,550,437.

**RESPONSE 47:**

Admitted.

**Request 48.** Please admit that in 2011 Josh Haley's Sales Goal was raised to \$17,470,000.

**RESPONSE 48:**

Admitted.

**Request 49.** Please admit that in 2010 Rick Lambert's sales goal was \$7,355,000.

**RESPONSE 49:**

Admitted.

**Request 50.** Please admit that in 2010 Rick Lambert's Sales were \$9,323,723.

**RESPONSE 50:**

Admitted.

**Request 51.** Please admit that in 2011 Rick Lambert's Sales Goal was raised to \$12,800,000.

**RESPONSE 51:**

Admitted in part and denied in part. Lambert's 2011 goal at the beginning of the year was \$12,800,000 and was later raised mid-year to 14,445,000.

**Request 52.** Please admit that in 2010 Annie Sommer's sales goal was \$7,680,000.

**RESPONSE 52:**

Admitted.

**Request 53.** Please admit that in 2010 Annie Sommer's Sales were \$7,682,010.

**RESPONSE 53:**

Denied.

**Request 54.** Please admit that in 2011 Annie Sommer's Sales Goal was raised to \$13,590,000.

**RESPONSE 54:**

Admitted.

Dated: New York, New York  
January 27, 2016

FOX ROTHSCHILD LLP



By: \_\_\_\_\_

Glenn S. Grindlinger  
Zev Singer

100 Park Avenue, Suite 1500  
New York, New York 10017  
(212) 878-7900

*Attorneys for Breitling, USA, Inc.*

DOORS SERVICED

	2010	2011	2012
C. Anderson	17		
F. Cargian	36	40	42
P. Cawthorne	37	40	40
B. Criddle	44	44	43
B. Haddad	44	40	42
J. Haley	48	47	49
R. Lambert	35	41	40
A. Sommer	42	47	44

2009

	YTD Sales 2009	Goals 2009	% achieved
Chuck	ATL \$ 4,472,250	\$ 3,420,000	130%
Josh	SE \$ 9,335,881	\$ 13,145,000	71%
Rick	SCEN \$ 6,117,948	\$ 8,815,000	69%
Annie	NE2 \$ 6,506,729	\$ 9,425,000	69%
Beth	W2 \$ 7,746,893	\$ 11,385,000	68%
Brian	W1 \$ 11,295,602	\$ 16,815,000	68%
Patrick	NCEN \$ 6,147,330	\$ 9,295,000	66%
Fred	NE1 \$ 10,460,106	\$ 16,220,000	64%
Reps totals	\$ 62,085,829	\$ 89,330,000	70%

2010

	YTD Sales 2010	Goals 2010	% achieved
Chuck	ATL \$ 8,517,337	\$ 4,450,000	191%
Patrick	NCEN \$ 9,323,723	\$ 7,540,000	124%
Annie	NE2 \$ 9,196,359	\$ 7,680,000	120%
Josh	SE \$ 12,550,437	\$ 10,660,000	118%
Fred	NE1 \$ 14,643,682	\$ 13,020,000	113%
Beth	W2 \$ 9,792,314	\$ 9,290,000	105%
Rick	SCEN \$ 7,683,735	\$ 7,355,000	104%
Brian	W1 \$ 12,928,861	\$ 13,250,000	98%
Reps totals	\$ 84,636,348	\$ 73,225,000	116%

2011

	YTD Sales 2011	Goals 2011	% achieved
Patrick	NCEN \$ 10,856,124	\$ 10,545,000	103%
Josh	SE \$ 17,953,918	\$ 17,470,000	103%
Beth	W2 \$ 13,475,981	\$ 13,175,000	102%
Annie	NE2 \$ 13,735,613	\$ 13,590,000	101%
Brian	W1 \$ 16,888,573	\$ 17,595,000	95%
Rick	SCEN \$ 11,234,582	\$ 13,445,000	84%
Fred	NE1 \$ 18,767,871	\$ 23,760,000	79%
Reps totals	\$ 102,712,600	\$ 109,610,000	94%

2012

	YTD Sales 2012	Goals 2012	% achieved
Rick	SCEN \$ 11,321,437	\$ 11,300,000	100%
Josh	SE \$ 16,627,343	\$ 16,800,000	99%
Brian	W1 \$ 14,637,893	\$ 15,200,000	96%
Beth	W2 \$ 11,846,238	\$ 12,400,000	96%
Patrick	NCEN \$ 10,004,033	\$ 10,700,000	93%
Annie	NE2 \$ 11,937,231	\$ 11,700,000	102%
Fred	NE1 \$ 13,890,381	\$ 14,400,000	96%
Reps totals	\$ 80,273,756	\$ 95,000,000	84%

2013

	YTD Sales 2013	Goals 2013	% achieved
Rick	SCEN \$ 11,202,688	\$ 11,210,000	100%
Patrick	NCEN \$ 9,930,484	\$ 10,450,000	95%
Annie	NE2 \$ 7,672,937	\$ 8,760,000	88%
Isaac	ATL \$ 6,775,464	\$ 8,090,000	84%
Beth	W2 \$ 9,806,681	\$ 11,515,000	82%
Fred	NE1 \$ 8,452,072	\$ 10,640,000	79%
Josh	SE \$ 13,801,563	\$ 17,415,000	79%
Brian	W1 \$ 11,176,011	\$ 14,810,000	75%
Reps totals	\$ 78,817,901	\$ 93,290,000	84%

2014

	YTD Sales 2014	Goals 2014	% achieved
Brian	W1 \$ 12,017,274	\$ 12,500,000	96%
Patrick	NCEN \$ 9,897,401	\$ 10,700,000	92%
Josh	SE \$ 13,652,574	\$ 15,100,000	90%
Annie	NE2 \$ 9,760,784	\$ 11,300,000	86%
Rick	SCEN \$ 9,989,473	\$ 11,800,000	85%
Isaac	ATL \$ 10,743,396	\$ 12,700,000	85%
Beth	W2 \$ 8,150,265	\$ 11,000,000	74%
Reps totals	\$ 74,211,147	\$ 85,100,000	87%

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## BASE SALARY

	2011	2012	2013
Fred Cargian	\$230,000	\$230,000	\$196,000
Patrick Cawthorne	\$195,000	\$205,000	\$211,000
Brian Criddle	\$210,000	\$215,000	\$222,000
Beth Haddad	\$185,000	\$190,000	\$196,000
Josh Haley	\$175,000	\$190,000	\$196,000
Rick Lambert	\$152,000	\$170,000	\$170,000
Annie Sommer	\$185,000	\$190,000	\$165,000

# **EXHIBIT 5**

2009

	YTD Sales 2009	Goals 2009	% achieved	
Chuck	ATL	\$ 4,472,250	\$ 3,430,000	130%
Josh	SE	\$ 9,336,981	\$ 13,145,000	71%
Rick	SCEN	\$ 6,117,948	\$ 8,815,000	69%
Annie	NE2	\$ 6,506,729	\$ 9,425,000	69%
beth	W2	\$ 7,748,883	\$ 11,385,000	68%
brian	W1	\$ 11,295,602	\$ 16,815,000	68%
Patrick	NCEN	\$ 6,147,330	\$ 9,295,000	66%
Fred	NE1	\$ 10,460,106	\$ 16,220,000	64%
Reps totals		\$ 62,085,829	\$ 88,330,000	70%

2010

	YTD Sales 2010	Goals 2010	% achieved	
Chuck	ATL	\$ 8,517,537	\$ 4,450,000	191%
Patrick	NCEN	\$ 9,323,723	\$ 7,540,000	124%
Annie	NE2	\$ 9,196,559	\$ 7,680,000	120%
Josh	SE	\$ 12,550,437	\$ 10,680,000	118%
Fred	NE1	\$ 14,643,582	\$ 13,000,000	113%
beth	W2	\$ 9,792,314	\$ 9,290,000	105%
Rick	SCEN	\$ 7,683,735	\$ 7,355,000	104%
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Reps totals		\$ 84,656,348	\$ 73,225,000	116%

2011

	YTD Sales 2011	Goals 2011	% achieved	
Patrick	NCEN	\$ 10,856,124	\$ 10,545,000	103%
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2012

	YTD Sales 2012	Goals 2012	% achieved	
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Josh	SE	\$ 16,627,343	\$ 16,800,000	99%
brian	W1	\$ 14,637,893	\$ 15,200,000	96%
beth	W2	\$ 11,846,238	\$ 12,400,000	96%
Patrick	NCEN	\$ 10,004,033	\$ 10,700,000	93%
Annie	NE2	\$ 11,037,231	\$ 11,200,000	100%
Fred	NE1	\$ 12,099,801	\$ 12,400,000	97%
Reps totals		\$ 89,273,756	\$ 95,000,000	94%

2013

	YTD Sales 2013	Goals 2013	% achieved	
Rick	SCEN	\$ 11,202,696	\$ 11,210,000	100%
Patrick	NCEN	\$ 9,930,484	\$ 10,450,000	95%
Annie	NE2	\$ 7,872,597	\$ 8,780,000	89%
Isaac	ATL	\$ 6,775,464	\$ 8,080,000	84%
beth	W2	\$ 9,806,681	\$ 11,515,000	82%
Fred	NE1	\$ 8,452,072	\$ 10,640,000	79%
Josh	SE	\$ 13,801,583	\$ 17,415,000	79%
brian	W1	\$ 11,176,011	\$ 14,810,000	75%
Reps totals		\$ 78,817,901	\$ 93,290,000	84%

2014

	YTD Sales 2014	Goals 2014	% achieved	
brian	W1	\$ 12,017,274	\$ 12,500,000	96%
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Annie	NE2	\$ 9,750,764	\$ 11,300,000	86%
Rick	SCEN	\$ 9,989,473	\$ 11,800,000	85%
Isaac	ATL	\$ 10,743,396	\$ 12,700,000	85%
beth	W2	\$ 8,150,265	\$ 11,000,000	74%
Reps totals		\$ 74,211,147	\$ 85,100,000	87%

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**EXHIBIT 6**

**EXHIBIT 7**

FREDERICK M. CARGIAN v. BREITLING USA

6/17/2015 - Confidential

Lisa Roman

Page 1

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

-----X  
FREDERICK M. CARGIAN,

Plaintiff,

CASE NO: 15-CV-0184

v.

BREITLING USA,

Defendant.  
-----X

NOTICE OF DEPOSITION:

LISA ROMAN

DATED: June 17, 2015

TIME: 10:00 a.m.

HELD AT:

Lucas Bagnell Varga  
2425 Post Road  
Suite 200  
Southport, Connecticut

Confidential Portions pgs. 46-74  
- - -

Reporter: Mercedes L. Marney, RPR. LSR #530

BRANDON HUSEBY REPORTING & VIDEO  
(800) 852-4589  
249 Pearl Street  
Hartford, Connecticut 06103

1 Q When were you first hired by  
2 Breitling?

3 A It was February 2002.

4 Q And did there come a time that you  
5 were terminated by Breitling USA?

6 A Yes.

7 Q And when was that?

8 A January 5th, 2015.

9 Q And when you were hired, what was  
10 your job title?

11 A Marketing director.

12 Q And as a marketing director, what  
13 were your job duties?

14 A When I first started or when I  
15 finished?

16 Q Okay. When you first started. I'm  
17 glad you clarified.

18 A My duties included overseeing all of  
19 the advertising for the US. It also included, at  
20 the time, any kind of events, public relations  
21 which was started then, all of the training  
22 initiatives, whether it was doing the training,  
23 putting the training together, all of the  
24 communications, whether it was to Switzerland or  
25 to all of our accounts.

1 Q When you say "being older," were you  
2 older than the other staff --

3 A No, older than he was. In other  
4 words, I felt that he was treating me a little  
5 condescending, whereas, I was older and I -- just  
6 by the nature of that, I thought maybe have a  
7 little bit more respect for -- or until you --  
8 you know.

9 Q Did you ever believe that any of  
10 your -- the treatment was discriminatory because  
11 of your gender?

12 A Well, yeah. He didn't call the guys  
13 "dear."

14 Q Anything else?

15 A There was a -- I would say that  
16 when -- sometimes we would be at different  
17 places, it was definitely more that the guys  
18 stuck together, and they would have these betting  
19 games and do things, and the females would feel  
20 kind of on the outskirts.

21 And the fact that, you know, I didn't  
22 follow the PGA or was not a golfer, I felt that  
23 that was something that was -- didn't help being  
24 included in things.

25 Q Besides -- when you say the betting

1 A The sales reps.

2 Q Did you see Mr. Cargian also there in  
3 these betting things?

4 A We were all in the same area. In  
5 other words, it was done in front of -- in other  
6 words, if we were traveling or if we were like in  
7 Reno and stuff and we're all in the -- you know,  
8 the conversation was going on, we were all there.  
9 But, you know, some of us were not directly  
10 involved.

11 Q Was Mr. Cargian directly involved?

12 A No.

13 Q Are you aware of any other women who  
14 may have -- withdraw that.

15 When you made -- expressed your  
16 concern, not just at this one meeting, but at any  
17 time you expressed concern to Ms. Figueroa about  
18 your treatment, did you indicate to her that you  
19 felt -- that the women were not treated as well  
20 as the men?

21 A I think my more take on it was that,  
22 you know, it's becoming a boys -- it's becoming a  
23 boys club a little bit.

24 Q And did you express that to her?

25 A Uh-huh.

1 Q You have to say yes or no.

2 A Oh, yes.

3 Q Thank you.

4 And did you observe any of the other  
5 women who were treated in a similarly  
6 non-respectful way as you felt you were being  
7 treated?

8 A Yeah. I mean, the same pattern of  
9 behavior like within the office was kind of the  
10 same thing. Whether I was called out or somebody  
11 else was called in, you know, in that same way.  
12 You know, the reference of "dear," you know, that  
13 same type of the way he addressed it and treated  
14 people, you know, while he was in the office was  
15 consistent with other females.

16 Q And this was just the way he treated  
17 females, you're not talking about the way he  
18 treated the men?

19 A He might sit in his room and yell for  
20 somebody else, but he didn't call them "dear."

21 Q Did you ever hear Mr. Prissert use  
22 street language, vulgar language?

23 A Yeah, I mean, it's prevalent. I  
24 mean, the F word got thrown around a little bit.

25 But --

1 Diana or Sebastian.

2 Q She talked to somebody about -- she  
3 complained about the discrimination because it  
4 was a boys club?

5 A I'm not specific about that, but on  
6 how she was communicated with.

7 Q And do you recall any specifics that  
8 she told you about --

9 A I don't know if it was an e-mail -- I  
10 don't know what it was. But she just said that  
11 she had made a comment to either -- I don't know  
12 if it was Diana or Sebastian that, you know, this  
13 is not how she wanted to be communicated with.

14 Q Was any action taken after these  
15 comments were made to Ms. Figueroa about the way  
16 Mr. Prissert was treating some of the women?

17 A I can't speak for Susan's situation.  
18 You know, when I spoke to her, she basically  
19 said, well, you know, you can write -- when I got  
20 my first letter, she goes, feel free to write and  
21 put it back in your file, which I did. And then  
22 I was kind of -- I don't know what the word was,  
23 but kind of like, "I can't believe that you wrote  
24 a letter" kind of a thing.

25 Q What was --



1 A Yes.

2 Q Is this a letter that you were  
3 talking about when you said, he basically --  
4 something to the effect of, he basically told me  
5 that I have no right to make -- to answer his  
6 initial complaint to me.

7 A Right. Basically he said he can do  
8 whatever he wants. You have no say as to how --  
9 I mean, it's clear.

10 Q What does he say?

11 A Paragraph 3: Please understand that  
12 you have no say as to how, when, or why warnings  
13 are delivered.

14 This is like reliving a nightmare.

15 Q I'm sorry. Would you like a break?

16 A No, I'm fine. I'm just saying.

17 Q Any time you want a break, just let  
18 me know.

19 A I'm fine.

20 MS. GOODMAN: Plaintiff's 10.

21 (Plaintiff's Exhibit Number 10 was  
22 marked for identification, as of this  
23 date.)

24 BY MS. GOODMAN:

25 Q I'm showing you what's been marked as

1 Haddad, Rick Lambert, Marian Bello [phonetic].  
2 And Robert Grazziano [phonetic]. I think he was  
3 doing the southeast.

4 Q Those are people that were already  
5 there?

6 A And Bob Dumar, when I first started.

7 Q And this is 2002?

8 A Yes.

9 Q Do you recall, you know, getting  
10 introduced to the staff or learning about the  
11 salespeople that you would have to work with in  
12 promoting the Breitling product, do you recall  
13 whether hearing anything about Mr. Cargian's  
14 reputation at that point?

15 A Define reputation.

16 Q Well, what people said about him.

17 A He was a good sales rep, I mean, you  
18 know. Where he covered, what he did, he'd been  
19 there the longest, things like what.

20 Q Tell me as much as you recall  
21 learning about Mr. Cargian when you came on.

22 A That he had been there the longest as  
23 far as all the reps, and actually was one of the  
24 first three or four people that started at  
25 Breitling under Marie.

1           That he covered most of -- the  
2 demographics of his territory. That he was fun,  
3 good personality. That was it. I mean, you  
4 know, when I first came in it was kind of hard.  
5 I met everybody at the same time.

6           Q       And over those next eight, nine  
7 years, while Ms. Bodman was the president, did  
8 you have many opportunities to work with  
9 Mr. Cargian as part of your job?

10          A       Yes.

11          Q       How did you find him as a sales rep  
12 to work with?

13          A       Easy going, very, you know, very  
14 responsible and responsive to my questions or,  
15 you know, for his accounts if I needed  
16 information or if we were doing anything, you  
17 know, helpful.

18          Q       In what way was he helpful?

19          A       Well, I mean, usually the reps would  
20 be the first line of defense with the accounts  
21 and so, you know, they would bring back the  
22 information. So the challenge is always the  
23 level of communication, of getting the  
24 information, getting it back, planning things.  
25 And Fred was very good as kind of relaying the

1 information back and forth.

2 Q Was he better than some of the  
3 others?

4 A I would say, yes.

5 Q Which ones was he better than, in  
6 working with you?

7 A That's kind of -- I mean, just from  
8 the -- the more objective information,  
9 dissemination of information, he was probably  
10 better than Rick Lambert because of getting back  
11 with information on a timely basis, he was easier  
12 to deal with than Marian Bello, who sometimes it  
13 was hard to get information out of.

14 You know, for me, it was all about  
15 getting the information for me to be able to do  
16 my job. So within that group there were varying  
17 levels. I would say Fred was at the better end  
18 and others were at the not so great end.

19 Q What happened to Marian Bello, did  
20 she leave the company or was she fired?

21 A She was, to my knowledge, terminated.

22 Q And do you know why?

23 A I don't know the specifics of what  
24 was --

25 Q Do you know the rumor of what was

1 days, we would have three dinners, then either  
2 someone in my department might go around and say,  
3 okay, do you want to come on this night or this  
4 night? It really depended.

5 Q Did Ms. Bodman or Mr. Prissert  
6 participate in that decision?

7 A Oh, in the decision? I don't  
8 remember, to be honest. We didn't do it in the  
9 last couple of years. I mean, it's been --  
10 because the training was then taken out as a  
11 separate department in -- I can't remember. It  
12 must have been 2012 or '13. I can't remember.  
13 So that was not under me.

14 Q Now, as I understand it, the sales  
15 reps would go to these -- many of these events  
16 that you had for your clients, and Mr. Cargian  
17 attended many of those?

18 A Yes.

19 Q And did you observe his performance  
20 while at those -- well, what were the purposes of  
21 those events?

22 A Okay. Again, there was under the  
23 umbrella of training events, and sometimes we  
24 would do larger -- there were levels of training  
25 and sometimes we would do them off site which we

1 would consider a level three training or we would  
2 go to a site or New York or somewhere and bring  
3 in people and set up and do a training.

4 So that was that type of event. And  
5 Fred always was very good about interacting with  
6 his accounts and making sure that they all felt  
7 good and comfortable and welcomed, you know,  
8 taken care of, had lunch, and was very attentive  
9 to their needs.

10 We did other larger events, like we  
11 did the Reno air races which was like our largest  
12 US event. And each of the reps invited, again,  
13 their customers to participate. And Fred was  
14 always very good again about making sure his  
15 people got there, there were certain activities  
16 that they could do, and he'd make sure they would  
17 all get as much activities and kind of exposure  
18 that they could.

19 And then we had the other big event  
20 that I mentioned that was in Switzerland. And  
21 that was -- those invites were cleared through  
22 the president, whoever it was at that time, you  
23 know, the reps would say who they would like to  
24 invite, they would put in names, and then  
25 ultimately Thierry or Marie would make the final

1 decision of who would be able to go or who would  
2 get the invite or who wouldn't be able to go.  
3 All that kind of fun stuff.

4 And then there would be -- there's a  
5 lot of different types of events and things that  
6 we would do.

7 Q You mentioned the Reno air race. How  
8 about the Las Vegas watch fair?

9 A Oh, the Las Vegas show, yes. I'm  
10 sorry.

11 That was more -- I think of that as  
12 more of a trade show, whereas, we're there and  
13 the accounts kind of come. But you know, it's  
14 not like our event. We're all part of a big  
15 show.

16 Q Was Fred at that event?

17 A Yes.

18 Q That's an annual event, correct?

19 A Yes.

20 Q Did you notice -- your observation of  
21 him at that event, was that the same as the  
22 others, where he was very interactive?

23 A Absolutely.

24 Q Now, the large events in Switzerland,  
25 you were talking about, where that's by

1 and left.

2 Q When you say, quote, we did the  
3 aeronautics, what does that mean?

4 A That's the day that we -- they set up  
5 and we could fly in the planes and drive the  
6 cars. Then they did the tour of the Bentley  
7 factory. Then the next -- after that night, we  
8 took a train to London, and had a dinner that  
9 night, and then we flew home the next day.

10 Q Were you involved in the reps that  
11 were selected?

12 A No.

13 Q Who made the decision about the reps  
14 who got invited?

15 A It would have been Thierry and I  
16 think Chuck may have had input.

17 Q Did you -- these events were for  
18 certain clients, not all clients were invited,  
19 correct?

20 A That's true.

21 And then also, I, as marketing, would  
22 also supplement with journalists if it was deemed  
23 that it would be acceptable and beneficial for  
24 Breitling.

25 Q What was the criteria with which

1 enthusiast?

2 A Yes.

3 Q And how did you know about that?

4 A Because we would attend a lot of  
5 the -- some of the Bentley events, the New York  
6 auto show, Pebble Beach, and Fred was always very  
7 interested in all the cars.

8 Q Was it general knowledge, he made it  
9 known?

10 A I think so. I mean, yeah.

11 Q Do you recall observing Mr. Cargian's  
12 working relationship with Ms. Bodman?

13 A Uh-huh.

14 Q And can you describe it? You said  
15 that you saw them interacting?

16 A Yeah. It was very cordal, very  
17 friendly. I mean, they had a history. You know,  
18 it was mutual respect, they definitely, you know,  
19 felt comfortable enough to say anything they  
20 wanted to each other. It was a very cordial but  
21 very open kind of relationship and I think they  
22 respected each other.

23 Q Was Mr. -- to your knowledge, was  
24 Mr. Cargian one of the top salespeople from 2002  
25 to about 2010?

1 A To the best of my knowledge.

2 Q And what's the basis of that  
3 knowledge?

4 A I mean, we would see the sales, you  
5 know, by the territories. I can't always  
6 categorize, but he had the biggest accounts in  
7 New York and always had good numbers.

8 Q How did his numbers compare with his  
9 colleagues, the other sales reps, to the extent  
10 that you observed it?

11 A I think he was always a little bit  
12 ahead. You know, depending upon how the market  
13 went from year to year, if the west was doing as  
14 well. You know, but he always had strong  
15 numbers.

16 Q When Mr. Prissert came on, did you  
17 note any change in management's attitude towards  
18 Mr. Cargian?

19 A Yes.

20 Q Tell me everything that you noticed.

21 A Well, I mean, it -- it was a new  
22 relationship. Nobody knew Thierry before he came  
23 to work for Breitling, so I think there was like,  
24 you know, getting a new teacher or a new boss in  
25 anything. There was time that needed to go so

1 they could get to know each other.

2 Q Did you observe Mr. Prissert treating  
3 Mr. Cargian different than his treatment of the  
4 other men?

5 A In the context of what I've said  
6 before, as far as the -- you know, the betting  
7 and the golf, you know, that kind of vernacular,  
8 I would say yes.

9 Again, a lot of --

10 Q Let me just ask you, when you say  
11 yes, do you mean that he did not include  
12 Mr. Cargian in all of that type of little betting  
13 things or things that went on in his office?

14 A In my observation, Fred was not a  
15 part of that.

16 Q Any other things that you noted that  
17 Mr. Prissert did that Mr. Cargian was not a part  
18 of?

19 A Again, you know, I'm in a pretty  
20 insulated view in my office so there's only so  
21 much that happened.

22 Q Just understand, I'm not asking you  
23 for anything that you did observe although I  
24 might ask you after that about what you've heard  
25 from other people. This is just what did you



1 Better than you?

2 A Probably.

3 Q Was it known by Mr. Prissert and  
4 others that he was a golfer?

5 A I don't know. I don't know if  
6 Thierry knew I was a golfer, I was never asked.

7 Q Do you know if any women who were  
8 invited on golfing outings with Mr. Prissert?

9 A Not to my knowledge. I know that --  
10 I don't know if Annie had ever -- she's the only  
11 other one I know that plays golf. And I'm not  
12 sure outside of the office like if she was  
13 included, I don't know.

14 Q Was it well known -- well, you were  
15 aware of the fact, were you not, that Mr. Cargian  
16 is gay?

17 A Yes.

18 Q Was it well known at Breitling that  
19 he was gay?

20 A I think eventually I said, you know,  
21 when I first started, you know I didn't  
22 necessarily find out right away, but it was  
23 something that became aware and I think everybody  
24 was aware of the same thing.

25 Q Did you ever hear anyone make

1 derogatory comments about gay people?

2 A No.

3 Q Did Mr. Prissert ever make any  
4 comments about Mr. Cargian's sexual orientation?

5 A Not to me.

6 Q Did you ever hear him make any  
7 comments?

8 A No, not in my direct -- no.

9 Q When you say "not in your direct" --

10 A In other words, he didn't say it to  
11 Fred in front of me.

12 Q Did you have -- did anybody ever tell  
13 you that he made derogatory comments?

14 A No.

15 MS. GOODMAN: If I could just get a  
16 couple minutes to talk with my client and  
17 look over my notes, I might be done.

18 (Off the record.)

19 BY MS. GOODMAN:

20 Q Do you recall whether Mr. Cargian  
21 ever shared with you his concern that he was not  
22 being invited to some of the networking golf  
23 outings that were being arranged by Mr. Prissert?

24 A I do recall. I don't know if it was  
25 firsthand or secondhand, that concern.

**EXHIBIT 8**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
FREDERICK M. CARGIAN,

Plaintiff,

-against-

BREITLING USA, INC.,

Defendant.

Civil Action No. 15-cv-01084  
-----X

100 Park Avenue  
New York, New York

January 19, 2016  
12:17 p.m.

DEPOSITION of MELISSA VESSELY, taken  
before Alexis Perez Jenio, a Shorthand Reporter  
and Notary Public of the State of New York.

ELLEN GRAUER COURT REPORTING CO. LLC  
126 East 56th Street, Fifth Floor  
New York, New York 10022  
212-750-6434  
REF: 111527B

1

VESSELY

13:47:08 2

Q So Mr. Cargian didn't really

13:47:10 3

participate in, quote, Mach-1, he participated

13:47:12 4

in Take-Off?

13:47:13 5

A Correct.

13:47:15 6

Q And --

13:47:15 7

A To my knowledge, depending on when

13:47:19 8

it -- it was the end of 2013 going into 2014.

13:47:23 9

Q Now, is this still -- are you still

13:47:26 10

talking about this online thing?

13:47:27 11

A This is something different.

13:47:28 12

Q This is something different. Okay.

13:47:29 13

Tell me what Take-Off?

13:47:30 14

A So Take-Off is the introductory

13:47:32 15

training.

13:47:32 16

Q Okay. But I mean, how does that

13:47:33 17

happen?

13:47:33 18

A So that, when I started Take-Off in

13:47:35 19

2013, we actually invited stores outside of

13:47:40 20

their locations to classrooms.

13:47:43 21

Q Okay.

13:47:44 22

A But essentially, it was to be for a

13:47:51 23

training at the point of sale.

13:47:54 24

Q Now, how many of these Take-Offs did

13:47:57 25

you do with Mr. Cargian?

1 VESSELY

13:47:59 2 A I don't recall.

13:47:59 3 Q More than one?

13:48:00 4 A More than one.

13:48:01 5 Q And were they in the New York City area

13:48:03 6 or in one of his other parts of his territory?

13:48:08 7 A I don't recall exactly where they were

13:48:11 8 at, but he participated with me.

13:48:14 9 Q Who leads them when it's the two of

13:48:17 10 you? Do you lead them or would the account

13:48:20 11 executive lead them or --

13:48:20 12 A I led them and they assisted.

13:48:23 13 Q And how was Mr. Cargian's assistance to

13:48:25 14 you? Was he cooperative with you?

13:48:28 15 A In the trainings, he was cooperative

13:48:31 16 with me.

13:48:31 17 Q And did he do a good job?

13:48:34 18 A I mean, he participated, he assisted

13:48:37 19 me. I was also new, so he was helpful in giving

13:48:42 20 information on previous Breitling information

13:48:44 21 that I would not have had the experience of

13:48:50 22 having, and so he was supportive of me doing the

13:48:53 23 trainings while we were in the classroom.

13:48:55 24 Q Were there any of the account

13:48:59 25 executives who were not what you considered to

1

VESSELY

13:52:43 2 Q And for the end purpose would be so you  
13:52:46 3 could develop training or just to give you  
13:52:50 4 general background?

13:52:50 5 A For me to get general background, for  
13:52:54 6 me to be able to do my job, to understand what  
13:52:59 7 content is great that we're using, what content  
13:53:03 8 maybe we need to change.

13:53:04 9 Q Did you go out on similar one-week  
13:53:09 10 sojourns with any of the other account  
13:53:13 11 executives?

13:53:14 12 A I went with Annie Sommer and Brian  
13:53:16 13 Criddle.

13:53:16 14 Q And was Ms. Sommer equally cooperative  
13:53:20 15 with you?

13:53:21 16 A Yes.

13:53:21 17 Q And how about Mr. Criddle, was he  
13:53:24 18 cooperative?

13:53:25 19 A Yes.

13:53:35 20 Q When you went to the stores with  
13:53:37 21 Mr. Cargian, to the accounts, what was his --  
13:53:41 22 the reception to him? I mean, did people  
13:53:44 23 receive him well? Did he seem to be liked?

13:53:47 24 A Yeah, he seemed to be liked.

13:54:06 25 MS. GOODMAN: Just give me some

1 VESSELY

14:10:35 2 feedback on them.

14:10:36 3 Q Was that true of Mr. Cargian as well as  
14:10:39 4 all the others?

14:10:39 5 A I had great feedback on all of the  
14:10:39 6 account executives.

14:10:39 7 Q And how about --

14:10:43 8 A From all the markets.

14:10:44 9 Q And how about Ms. Haddad, how would you  
14:10:48 10 evaluate her performance as a trainer?

14:10:51 11 A Training for her, as well, she was more  
14:10:52 12 with me in the training in the support rather  
14:10:55 13 than conducting it or leading it.

14:10:57 14 Q And how would you evaluate Mr. Cargian  
14:11:00 15 as a trainer?

14:11:01 16 A For him, in training he's very  
14:11:04 17 knowledge, and the team responded well to him.

14:11:13 18 Q Now, you've given me these evaluations  
14:11:17 19 because I've asked you specifically --

14:11:19 20 A Um-hmm.

14:11:19 21 Q -- did you regularly give Mr. --

14:11:24 22 MS. GOODMAN: I take back that  
14:11:25 23 question.

14:11:26 24 Q Did you ever give Mr. Prissert your  
14:11:28 25 evaluation of the training skills of the various

1

VESSELY

14:11:32 2 account executives?

14:11:32 3 A I always shared with Mr. Prissert that  
14:11:35 4 the account executives were well loved by their  
14:11:41 5 stores.

14:11:42 6 Q And that was all of them, and you  
14:11:43 7 shared all of them?

14:11:44 8 A All of them, it's without a doubt, in  
14:11:50 9 the stores they say Breitling is one of the best  
14:11:53 10 companies for the people.

14:12:13 11 Q What working relationship did you have  
14:12:16 12 with Ms. Haddad?

14:12:17 13 A I would say a friendly one.

14:12:19 14 Q Did she ever talk with you about her  
14:12:24 15 concern that there was this sports atmosphere?

14:12:28 16 MR. SINGER: Objection to the form  
14:12:30 17 and facts not established. You can  
14:12:33 18 answer.

14:12:33 19 A She had talked to me about her  
14:12:37 20 relationship with Thierry, that she did not feel  
14:12:39 21 that it was a good relationship.

14:12:40 22 Q And what did she say was the problem?

14:12:43 23 A She didn't feel that he liked her.

14:12:49 24 Q Did you -- why did she -- did she give  
14:12:55 25 you any reason of why she felt he didn't like

1

VESSELY

14:12:59 2 her?

14:13:00 3 A I let people speak if they wanted to  
14:13:02 4 speak. I did not go into whatever they don't  
14:13:06 5 share with me.

14:13:06 6 Q Did you tell Mr. Prissert about her  
14:13:08 7 comments?

14:13:09 8 A She came to me in confidence about her  
14:13:12 9 relationship and was asked on how she should  
14:13:20 10 proceed.

14:13:20 11 Q And what did you say?

14:13:21 12 A What I tell everybody: If you are  
14:13:25 13 unhappy and you do not like how you are being  
14:13:29 14 treated and you feel that there is something  
14:13:31 15 that is wrong, you need to speak to the source.

14:13:34 16 Q And the source would be Mr. Prissert?

14:13:37 17 A Yes.

14:13:37 18 Q And Mr. Prissert is the president of  
14:13:38 19 the company?

14:13:39 20 A Yes.

14:13:39 21 Q Did she express any concern that, I  
14:13:42 22 don't want to get fired?

14:13:43 23 A I think that there was a couple that  
14:13:46 24 had shared that they were worried that they  
14:13:49 25 would be fired.

1

VESSELY

14:43:54 2

MR. SINGER: Objection to the form.

14:43:55 3

Do people believe.

14:43:56 4

You can answer if you know what

14:43:58 5

people believe. Go ahead.

14:43:59 6

A Well, I was going to say I don't.

14:44:04 7

Q The company. The company.

14:44:04 8

A In the company, I've never --

14:44:05 9

MR. SINGER: Objection to the form.

14:44:06 10

You can answer.

14:44:07 11

A I've never talked about the artwork

14:44:10 12

with anyone.

14:44:10 13

Q Well, how do you see this half-naked,

14:44:15 14

you know, poses of seductive women as relating

14:44:19 15

to the Breitling product?

14:44:21 16

MR. SINGER: Objection to the form.

14:44:24 17

You can answer.

14:44:25 18

A As far as for me, are mostly our

14:44:28 19

clientele that we have buy our watches are men,

14:44:31 20

so definitely is more of a product that we cater

14:44:34 21

to men. For me, the images, I don't have an

14:44:37 22

opinion about them.

14:44:38 23

Q Okay.

14:44:39 24

A I joined the company with this.

14:44:41 25

Q And you would agree with me that these

1 VESSELY

14:44:48 2 female pilot images would not appeal to, would

14:44:53 3 not turn a gay man on?

14:44:55 4 MR. SINGER: Objection to the form.

14:44:56 5 You can answer.

14:44:57 6 A I can't answer that question. I don't

14:44:57 7 know.

14:45:01 8 Q For the main part, this image would be

14:45:04 9 more attractive to a heterosexual man, correct?

14:45:10 10 MR. SINGER: Objection to the form.

14:45:11 11 You can answer.

14:45:11 12 A I can't answer for that either.

14:45:13 13 Q So you really think that this might

14:45:16 14 be -- that gay men would be as attracted to, to

14:45:19 15 find these half-naked women as attractive

14:45:22 16 straight men?

14:45:23 17 MR. SINGER: Objection. Don't

14:45:24 18 answer that. It's argumentative.

14:45:26 19 Don't answer it.

14:45:27 20 A In --

14:45:28 21 MR. SINGER: Don't answer. Don't

14:45:30 22 answer.

14:45:30 23 THE WITNESS: Okay.

14:45:31 24 MS. GOODMAN: On what basis?

14:45:34 25 MR. SINGER: It's argumentative.

1

VESSELY

14:45:36 2

MS. GOODMAN: That's not an

14:45:37 3

objection. That's not even a -- that's

14:45:38 4

not a privilege --

14:45:38 5

MR. SINGER: It's argumentative --

14:45:39 6

MS. GOODMAN: It's not an objection

14:45:39 7

to instruct somebody not to answer.

14:45:39 8

MR. SINGER: No, it's an improper

14:45:41 9

question.

14:45:42 10

MS. GOODMAN: It's not.

14:45:43 11

Well, then, that's a whole

14:45:45 12

different subject. You know, you can

14:45:46 13

say --

14:45:46 14

MR. SINGER: All right. Go ahead.

14:45:47 15

Go ahead. You can answer. Over

14:45:49 16

objection, you can answer.

14:45:50 17

A What I was going to say is I can't

14:45:52 18

answer what someone perceives as attractive or

14:45:55 19

not attractive; that's for each person to

14:45:58 20

decide.

14:45:59 21

What I can say is that for these, these

14:46:02 22

conjure up -- I work in companies -- it conjures

14:46:05 23

up images to product, and, you know, it's an era

14:46:09 24

of the 50s pilot that had pinup girls that they

14:46:13 25

put on their planes. We're an aviation company.

1

VESSELY

14:46:13 2 Q I see.

14:46:17 3 A So in my opinion, individuals who are  
14:46:19 4 attracted to men, regardless of what their  
14:46:22 5 orientation is, they're not going to be  
14:46:24 6 attracted to that photo if they're attracted to  
14:46:28 7 men.

14:46:28 8 Q Have you ever been to the Swiss office  
14:46:32 9 of Breitling?

14:46:32 10 A I have.

14:46:33 11 Q Have you ever been to Mr. Schneider's  
14:46:36 12 office?

14:46:37 13 A I have not.

14:46:37 14 Q How come?

14:46:39 15 A I've never been --

14:46:41 16 MR. SINGER: Objection --

14:46:41 17 A -- invited.

14:46:43 18 MR. SINGER: Objection to the form.  
14:46:45 19 You can answer.

14:46:46 20 Q Did you ever ask to be -- were others  
14:46:47 21 invited?

14:46:47 22 A I don't know.

14:46:48 23 Q Were you aware of the artwork that he  
14:46:51 24 had in his office?

14:46:52 25 A No.

1 Q And did anybody follow up? I mean,  
2 since you were in the marketing, did you talk to  
3 anybody about it?

4 A Well, those were not always -- in  
5 other words, we had our regular things.

6 Some of these things were done like  
7 kind of outside the marketing or whatever. Like,  
8 he would take the golf tournaments and he would  
9 invite whoever he wanted, and we would just make  
10 sure that they got there.

11 Q "He" being Thierry Prissert?

12 A Right. In other words, when they  
13 were certain -- if you're specifically talking  
14 about the Ernie Els types of events --

15 Q Right.

16 A -- he furnished that guest list. And  
17 then someone in my department, who would handle  
18 the events, would handle the logistics.

19 Q And did you get a list, though, of  
20 the people who got invited to those?

21 A Eventually, yeah.

22 Q Do you recall whether Fred Cargian  
23 was invited to any of them?

24 A I don't recall seeing his name.

25 Q Do you recall at all Mr. Cargian

# **EXHIBIT 9**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
FREDERICK M. CARGIAN,

Plaintiff,

-against-

BREITLING USA,

Defendant.

Civil Action No. 15-cv-01084  
-----X

100 Park Avenue  
New York, New York

September 17, 2015  
10:10 a.m.

DEPOSITION of FREDERICK CARGIAN,  
taken before Alexis Perez Jenio, a Shorthand  
Reporter and Notary Public of the State of New  
York.

ELLEN GRAUER COURT REPORTING CO. LLC  
126 East 56th Street, Fifth Floor  
New York, New York 10022  
212-750-6434  
REF: 110752

1 CARGIAN

2 from 1995, '96, when you became a sales rep,  
3 until she left in 2011?

4 A With Thierry Prissert, starting in  
5 2011.

6 Q Well, let me --

7 A Okay.

8 Q -- let me -- from 1995, '96, when you  
9 became solely a sales rep, until December 31,  
10 2010, did you report directly to Ms. Bodman?

11 A Yes.

12 Q Starting on January 1, 2011 --

13 A Yes.

14 Q -- you were reporting to Ms. Bodman and  
15 Ms. Prissert at that time -- Mr. Prissert?

16 A Mr. Prissert, yes.

17 Q My apologies. Mr. Prissert.

18 A Yes.

19 Q And when did you stop reporting to  
20 Ms. Bodman?

21 A April -- well, I don't...

22 April 2011.

23 Q And starting in, sometime in  
24 April 2011, until your employment ended, who did  
25 you report directly to?

1 CARGIAN

2 Q Did that change at any point in time  
3 while you were a sales rep at Breitling?

4 A There was slight changes, procedures  
5 that would change year to year that were  
6 implemented that you would follow, but the bulk  
7 of it was the same.

8 Q And the bulk of it was the same until  
9 your employment with Breitling terminated in  
10 December of 2013?

11 A Yes.

12 Q When you started as -- solely as a  
13 sales rep, what was your territory?

14 A It was Maine down to Virginia.

15 Q Just because that can -- depending on  
16 how you divide things, that can be a little  
17 confusing, so we'll just go by what I believe is  
18 state by state in that region.

19 So you covered all of Maine?

20 A Yes.

21 Q All of New Hampshire?

22 A Yes.

23 Q All of Vermont?

24 A Yes.

25 Q All of Massachusetts?

1 CARGIAN

2 A Yes.

3 Q All of Rhode Island?

4 A Yes.

5 Q All of Connecticut?

6 A Yes.

7 Q All of New York?

8 A Yes.

9 Q Including up by Buffalo?

10 A All of New York.

11 Q Okay. All of New Jersey?

12 A Yes.

13 Q All of Pennsylvania?

14 A Yes.

15 Q Including out by Pittsburgh and Erie?

16 A Yes, all of Pennsylvania.

17 Q All of Maryland?

18 A Yes.

19 Q West Virginia?

20 A You forgot Delaware, but Delaware.

21 Then Maryland, yes. And then -- no, just

22 Virginia, not West Virginia.

23 Q Okay, I was going to get to Delaware.

24 A Okay.

25 Q Delaware. All of Delaware?

1 CARGIAN

2 A Yes.

3 Q The District of Columbia?

4 A Yes.

5 Q And all of Virginia?

6 A All of Virginia.

7 Q And that was your territory from 1995  
8 through '96ish?

9 A Um-hmm. Yes.

10 Q Until when?

11 A I don't know exactly. Until...  
12 until... '99, as far as I can recollect.

13 Q What happened in '99?

14 A Ms. Sommer was promoted to a sales rep.

15 Q And when Ms. Sommer was promoted to  
16 sales rep, was part of your territory given to  
17 Ms. Sommer?

18 A Yes.

19 Q And that was done by Ms. Bodman?

20 A Ah... yes... Yes, yes.

21 Q And what part of your territory was  
22 given to Ms. Sommer?

23 A New England.

24 Q And by "New England," you mean Maine,  
25 New Hampshire, Vermont, Massachusetts,

1 CARGIAN  
2 Connecticut, and Rhode Island?

3 A Correct.

4 MS. GOODMAN: Say that again.

5 Maine, New Hampshire...

6 (The last question was read back by  
7 the court reporter.)

8 A And depending on what year, we also  
9 split some of New Jersey.

10 Q How was New Jersey split? Was it done  
11 geographically or was it done store by store?

12 A Somewhat geographically. It changed  
13 often.

14 Q And was it geographically, like north  
15 Jersey, south Jersey?

16 A Correct, yes.

17 Q And you --

18 A And I took south.

19 Q So she was given north Jersey?

20 A Yes.

21 Q Any other territories taken from you to  
22 give to Ms. Sommer in 1999?

23 A No.

24 Q So from 1999 until -- starting sometime  
25 in 1999, you had New York, south Jersey,

1 CARGIAN

2 Pennsylvania, Maryland, Delaware, D.C., and  
3 Virginia?

4 A Yeah, I don't know if it was exactly  
5 '99 or if it was 2000, but yes.

6 Q Approximately 1999?

7 A Yes.

8 Q And approximately how long did you have  
9 that territory?

10 A I had that territory till -- from what  
11 I can recollect, 2007, maybe.

12 Q What happened in 2007?

13 A Or 2008. No, 2007.

14 Oh, Marie hired Chuck Anderson.

15 Q Okay. And what happened with respect  
16 to your territory as a result of Ms. Bodman  
17 hiring Mr. Anderson?

18 A Yes, he took Delaware south and picked  
19 up some of Josh Haley's accounts in the southern  
20 East Coast.

21 Q So Mr. Anderson was given Delaware?

22 A Um-hmm. Yes.

23 Q Maryland?

24 A Yes.

25 Q D.C.?

1 CARGIAN

2 A Yes.

3 Q And Virginia?

4 A And other states that were not mine,  
5 yes.

6 Q And so you were left, at that point, in  
7 approximately 2007, with Pennsylvania, south  
8 Jersey, and New York?

9 (Pause)

10 A I'm trying to...

11 As far as I can recollect, yes.

12 Q And, again, at that point you still had  
13 all of New York and all of Pennsylvania?

14 A Correct.

15 Q And the decision to give your --  
16 your -- southern territory, Delaware on south,  
17 was made by Ms. Bodman?

18 A Yes, because the company was growing.

19 Q And how long did you have New York,  
20 Pennsylvania, and south Jersey? From 2007ish  
21 till when?

22 A Until --

23 MS. GOODMAN: Objection to form. I  
24 believe he said 2007, 2008.

25 MR. GRINDLINGER: That's why I

1 CARGIAN

2 personalities into account.

3 Q Did you ever share a room with Annie  
4 Sommer?

5 A Yes.

6 Q How many times?

7 A Twice.

8 MS. GOODMAN: Objection. We're  
9 still focused on the sales meeting?  
10 Can you...

11 MR. GRINDLINGER: Yes.

12 Q Only twice?

13 A As far as I can recollect, yes.

14 Q Who else did you share rooms with?

15 A Rick Lambert...

16 And I think one year Robert Graziano.  
17 That was a long time ago.

18 And that's it.

19 Q You usually shared with Rick Lambert?

20 A Yes.

21 Q When did you share with Annie?

22 A 2013. And I don't recollect the other  
23 year that we did, but it was in the years 2000s  
24 somewhere.

25 Q Do you recall if it was before 2011?

1 CARGIAN

2 A From what I can recollect, yes.

3 (Pause)

4 No, I misspoke. It wasn't 2013 Annie  
5 and I were together; it was 2011 we were  
6 together. I'm sorry.

7 Q So in 2012 and 2013, you shared with  
8 Mr. Lambert?

9 A Yes.

10 Q And you shared with Annie another time,  
11 sometime before 2011?

12 A Yes.

13 Q Who is Robert Grazi...

14 A Graziano.

15 Q Graziano?

16 A Yes.

17 Q Is he a former sales rep?

18 A Yes, Florida area.

19 Q Is he currently a sales rep?

20 A Not with Breitling, no.

21 Q Do you recall when he left Breitling?

22 A More than five years ago. I don't  
23 know.

24 Q Now, other than the Breitling sales  
25 meeting in conjunction with the International

1 CARGIAN

2 Q What occurrence in Reno?

3 A It was at a Reno air races function.

4 Q What happened?

5 A Oh. Um, we, ah... we had -- it was a  
6 three-day trip with our clients. Our clients  
7 were in Reno, Nevada, downtown, and we were at a  
8 restaurant. There was probably 60 to 80 people  
9 there, and dinner was winding down, and Katie  
10 Adams, who's the head of promotions, said that  
11 we have to get everybody to the -- we were going  
12 bowling. It's the Bowling Hall of Fame there,  
13 so it's quite impressive, the bowling alley.

14 So Annie and I looked around. We  
15 seemed to be the only two people there from  
16 Breitling, other than our accounts. We had the  
17 people follow us. We didn't exactly know how to  
18 go, but we did finally make it there. It wasn't  
19 supper far, but we weren't exactly sure where it  
20 was from the restaurant.

21 And you go up two sets of escalators --  
22 it's a mammoth place -- and we got to the top of  
23 the stairs with all these people in tow. They  
24 all went to one end to get shoes, and I looked  
25 back in a corner -- you cannot see anyone from

1

CARGIAN

2 unless you actually go around the corner -- and  
3 there's Mr. Prissert, Mr. Lambert, Mr. Anderson,  
4 and Ms. Haddad, bowling. And I said, What the  
5 fuck is going on? Because Annie and I were  
6 running the company party, and it wasn't our  
7 responsibility, and they're over there playing,  
8 they're bowling, and I was like, I don't get it.  
9 And I was like, Why does that responsibility  
10 always -- well, not always, but it does a lot,  
11 but why did it fall on us? That's not our job.  
12 But we were good enough bring everybody.  
13 Everybody is here safely; everybody started  
14 playing and enjoying themselves; and they're  
15 over there fooling around and not helping work  
16 at all, you know?

17 Any event is work, whether it's social  
18 or not, so...

19 Q And so you were --

20 A He reprimanded me with a letter from  
21 that.

22 Q Any other incidents or negative  
23 feedback that Mr. Prissert provided to you?

24 A No.

25 Q And did anyone else provide negative

1 CARGIAN

2 said during that sales meeting?

3 A I talked a lot during the meeting. We  
4 all did.

5 Q Do you recall saying that you were only  
6 going to work till 5 o'clock?

7 A Yes. I actually changed it to  
8 6 o'clock, but, yes, I do remember saying that.

9 Q In front of all the other sales reps?

10 A Yes, because I had just been given my  
11 budget, and mine was 4 percent more than  
12 everybody else's sitting at the table --

13 Q That's not what I asked.

14 MS. GOODMAN: Well, that's not  
15 what --

16 Q I asked the question if you recall -- I  
17 asked the question if you recall --

18 MS. GOODMAN: Please don't cut him  
19 off. I want him to finish his answer.  
20 You asked a question -- you ask  
21 open-ended questions -- he's entitled  
22 to give you an open-ended answer.

23 MR. GRINDLINGER: That was not --

24 MS. GOODMAN: Please --

25 MR. GRINDLINGER: -- an open-ended

1 CARGIAN

2 question, he certainly -- he certainly  
3 can tell me if he doesn't understand  
4 the question.

5 MS. GOODMAN: I won't let him  
6 answer a question, though, that makes  
7 absolutely no sense. So I will direct  
8 him not to answer when a question winds  
9 up making absolutely no sense.

10 Please read the question.

11 (The last question was read back by  
12 the court reporter.)

13 MS. GOODMAN: Okay. Objection.  
14 And I won't let him answer until we  
15 zero in at least on some time on that  
16 day. Was it appropriate --

17 Q Do you think it was appropriate to use  
18 a curse word in front of your colleagues?

19 MS. GOODMAN: Objection to form.

20 THE COURT REPORTER: But I can  
21 answer the question, right?

22 MS. GOODMAN: Yes.

23 A Do I think -- just ask the question  
24 once more time. I'm sorry.

25 Q Do you think it was appropriate to use

1 CARGIAN

2 a curse word in front of your colleagues?

3 A Yes, as many -- we always did, amongst  
4 ourselves.

5 Q Do you think it was appropriate to use  
6 a curse word in front of guests?

7 A No, and I didn't.

8 Q Do you think it's appropriate to raise  
9 your voice to the president of the company?

10 A If I was blatantly being taken  
11 advantage of, yes.

12 Q Do you think it's appropriate to raise  
13 your voice to the president of the company in  
14 front of guests?

15 A No, and I never have.

16 Q Do you consider --

17 MS. GOODMAN: We're not -- there  
18 was no question pending.

19 MR. GRINDLINGER: Oh, and I'm not  
20 saying there was.

21 Just off the record.

22 (An off-the-record conversation was  
23 held.)

24 Q Would it be fair to characterize this  
25 e-mail as a written warning?

1 CARGIAN

2 A -- but she may have had others, but I  
3 don't remember.

4 Q And in 2010, to your knowledge, who set  
5 your sales goals?

6 A Ms. Bodman and Mr. Anderson.

7 Q 2011, who set your sales goals?

8 A Marie Bodman and Mr. Prissert.

9 Q 2012, who set your sales goals?

10 A Mr. Prissert and Mr. Anderson.

11 Q 2013, who set your sales goals?

12 A Mr. Prissert and Mr. Anderson.

13 Q How were your sales goals communicated  
14 to you?

15 MS. GOODMAN: Objection to form.

16 A They were -- it was a process. We  
17 would come up with goals of our own, and they  
18 would come up with goals of theirs. We would  
19 meet, and they would have the final say, say  
20 whatever numbers that were the numbers that they  
21 wanted, so...

22 Q And when was that established? In what  
23 part of the year?

24 MS. GOODMAN: Objection to form.

25 A In January.

1 CARGIAN

2 A Um... I would have to go back to my  
3 records to research that. 2011 and 2012 for  
4 sure, but I would have to go back and look.

5 Q And the 2011 were set by Ms. Bodman and  
6 Mr. Prissert?

7 A Yes.

8 Q And Mr. Anderson?

9 A Yes.

10 Q And the 2012 --

11 MS. GOODMAN: To his knowledge. To  
12 his knowledge.

13 MR. GRINDLINGER: Please refrain  
14 from speaking objections. If this  
15 continues, we're going to have to get  
16 the Court involved. You know the  
17 rules.

18 Q In 2012, it was set by Mr. Anderson and  
19 Mr. Prissert?

20 A As far as I know, yes.

21 Q Any other years that you believe they  
22 were set unreasonably or unfairly high?

23 A I would have to look back at my  
24 records.

25 Q Why do you believe your goals in 2011

1 CARGIAN

2 were set unfairly high?

3 A I think that... I think that  
4 Mr. Prissert wanted to put me in a position  
5 where I was sure to fail.

6 Q And --

7 A And -- oh.

8 Q Is that it?

9 A That's it.

10 Q And why do you believe that?

11 A Because when I had heard what the  
12 increase was, immediately, of course, I went to  
13 him and I was like, This is absolutely  
14 unattainable. And he just disregarded it and  
15 said, Oh well, too bad. And had to -- he  
16 mentioned no way of helping or changing it or...

17 Q Do you recall --

18 A Modifying it.

19 Q Do you recall what your goals were  
20 in 2010?

21 A Ah, not off the top of my head, no.

22 Q Do you know if you achieved your goals  
23 for 2010?

24 A Not off the top of my head, no.

25 Q Do you know if other employees

1 CARGIAN

2 What about 2012, why do you believe  
3 your goals were set unreasonably, unfairly high  
4 in 2012?

5 A Again, there was no regard for my prior  
6 year, what my numbers were. I was just given a  
7 number, and it was not substantiated how I was  
8 to reach that number, other than, You have to do  
9 this.

10 Q Do you recall what the difference was  
11 between your 2011 and 2012 sales goals?

12 A The only thing I can recall is '11 was  
13 many millions of dollars, because of my  
14 territory. That's all I remember.

15 Q Did you discuss with anyone other than  
16 Mr. Prissert about your 2000 (sic) sales goals  
17 being unfairly high?

18 A You have to repeat that. You said,  
19 "2000."

20 Q 2011.

21 A Oh, 2011.

22 Q With respect to your 2011 sales goals,  
23 other than Mr. Prissert, did you discuss with  
24 anyone else your belief that they were  
25 unreasonable --

1 CARGIAN

2 A Mr. --

3 Q -- unfairly high?

4 A Mr. Anderson and Ms. Bodman.

5 Q What was Mr. Anderson's response?

6 A It's out of my hands; I have to, you  
7 know, go with what Mr. Prissert had put as my  
8 new goal.

9 Q What about Ms. Bodman?

10 A She had said, I'm reviewing; it's up to  
11 Mr. Prissert.

12 Q Did you speak to anyone else about your  
13 2011 goals being unfairly high?

14 A No.

15 Q What about your 2012 goals, did you  
16 speak to anyone about them being unfairly high?

17 A I did talk to Mr. Anderson about it.

18 Q And what was Mr. Anderson's response?

19 A I don't recollect what it was.

20 Q Anyone else with respect to your 2012  
21 goals that you spoke to other than Mr. Anderson?

22 A I don't recollect.

23 Q Did you speak to Annie Sommer about  
24 your 2011 sales goals?

25 A I don't remember talking to her

1 CARGIAN

2 Q And in this e-mail, he's lowering your  
3 2013 sales goals?

4 A Yes. Again, he did the whole  
5 company's.

6 Q But you didn't believe your 2013 sales  
7 goals were set unfairly high?

8 A No, I said I would have to look back at  
9 those numbers. I said I didn't know.

10 Q In this e-mail, Mr. Prissert says he's  
11 wishing you to succeed?

12 A Yes.

13 Q Did you believe him?

14 A Well, yes, because his salary is based  
15 on how well we do, so I would think he would  
16 want me to.

17 Q So he would want you to achieve your  
18 sales goals?

19 A Ah, well... I... I don't know. I  
20 don't think he really would, because he was,  
21 that year, constantly treating me different than  
22 all the straight guys that worked at the  
23 company, so I don't know. Maybe at that  
24 instance he did, but I don't think overall he  
25 did.

1 CARGIAN

2 Q Any comments about your gender by  
3 Mr. Anderson?

4 A He did say that I was one of the girls.

5 Q When did Mr. Anderson say that you were  
6 one of the girls?

7 A It was in Vegas, but I don't recall the  
8 year.

9 Q Was anyone present when he made that  
10 comment?

11 A From what I remember, there was  
12 somebody. I don't know who it was, though, or  
13 how many.

14 Q Any other comments by Mr. Anderson?

15 A No.

16 Q About your gender?

17 A No.

18 Q Did Mr. Prissert ever make a comment  
19 about your age?

20 A No.

21 Q Did Mr. Prissert ever make a comment  
22 about your sexual orientation?

23 A No.

24 Q Did Mr. Prissert ever make a comment  
25 about your gender?

1 CARGIAN

2 A He -- well, he called me "darling" one  
3 time at dinner, which I was a little shocked at,  
4 like I was one of the girls.

5 Q Other than that one comment about  
6 calling you "darling," any other comments about  
7 your gender?

8 A No.

9 Q When was that comment made?

10 A I don't know what year it was. I know  
11 who was there, but I don't know. It was a  
12 restaurant in New York City.

13 Q Who else was there?

14 A Ms. Haddad and Mr. Anderson.

15 Q Have you explained to me all the ways  
16 that Mr. Prissert allegedly discriminated  
17 against you?

18 A Yes.

19 MR. GRINDLINGER: I would like this  
20 marked as B-27.

21 (Complaint was marked Exhibit B-27  
22 for identification.)

23 Q Do you recognize this document?

24 A Yes.

25 Q What is it?

**EXHIBIT 10**

# Total Sales 2012 vs. 2011

# BREITLING

## Total Sell in BUSA

2012- 23,687 units (-14.97%)

2011 - 27,857 units

Units sold in per door

•2012. - 84 units

•2011 - 90 units

## Total Sell out BUSA

2012- 20,203 units (-7.6%)

2011 - 21,873 units

Units sold out per door(excludes retail)

•2012. - 64 units

•2011 - 67 units

## Total POS

2012: 282

2011: 295

Doors Opened 2012: 29

Doors Closed 2012: 42

Total Bentley Doors: 159  
(14 fewer than 2011)



INSTRUMENTS FOR PROFESSIONALS™

BREITLING\_9062

## Negative

We finished the year missing the goal.

Sell out declined in total units

Implementation of Top Range was not ideal (gold pieces)

Bentley sales continued to decline in sell in and sellout with reduced distribution.

Tourneau sellout declined

Poor use of tools- iPad, Challenge, GWP

Boring reporting – competition

Low Training figures

## Positive

In House sales increases – clear message about our future and the need to develop in house sales at each POS

Implemented a major change in philosophy regarding pricing, respect of the brand and luxury presentation.

Store visits increased which yielded a slight increase in dollars.

Average price sold in increased 18% and surpassed target goal of \$4,300

Reduced inventory on hand while improving the product mix at the POS

Cleaning of regions

**EXHIBIT 11**

# **EXHIBIT 12**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
FREDERICK M. CARGIAN,

Plaintiff,

-against-

BREITLING USA, INC.,

Defendant.

Civil Action No. 15-cv-01084

-----X

630 Third Avenue  
New York, New York

January 21, 2016  
10:06 a.m.

DEPOSITION of ANNIE SOMMER, taken  
pursuant to subpoena, before Alexis Perez Jenio,  
a Shorthand Reporter and Notary Public of the  
State of New York.

ELLEN GRAUER COURT REPORTING CO. LLC  
126 East 56th Street, Fifth Floor  
New York, New York 10022  
212-750-6434  
REF: 111528A

1

SOMMER

10:12:05 2 in the treatment of Fred?

10:12:07 3 A I believe so.

10:12:08 4 Q And what did you say?

10:12:09 5 A I... I don't recall what I said.

10:12:14 6 Q Did you tell him that Fred Cargian was

10:12:18 7 treated more or less the same way the girls

10:12:21 8 were?

10:12:21 9 A I don't recall.

10:12:31 10 Q Do you recall having a conversation

10:12:32 11 with me?

10:12:33 12 A Um, yes.

10:12:35 13 Q And do you recall telling me that Fred,

10:12:39 14 that from your observation, that Fred was

10:12:41 15 treated like the same way the girls were?

10:12:44 16 A Yes.

10:12:44 17 Q And is that what you observed, that he

10:12:48 18 was treated the way the girls were?

10:12:51 19 A I do feel that, yes.

10:12:59 20 Q Do you believe that you probably told

10:13:01 21 that to Mr. Singer?

10:13:09 22 A I may have --

10:13:12 23 MR. SINGER: Objection.

10:13:13 24 Q You may have?

10:13:14 25 A I may have. I don't remember the

1 SOMMER

10:18:27 2 A Yes.

10:18:29 3 Q Was attendance at this conference  
10:18:37 4 compulsory?

10:18:38 5 A Can you rephrase it?

10:18:40 6 Q Were you expected that -- it wasn't  
10:18:43 7 asked, you know, would you like to go or were  
10:18:46 8 selected to go. Was it expected that all sales  
10:18:49 9 reps would go to this conference?

10:18:52 10 A Yes.

10:18:52 11 Q And were rooms assigned to you and  
10:18:57 12 roommates assigned to you at this conference?

10:19:01 13 A Yes.

10:19:01 14 Q Did anybody ever ask you who you wanted  
10:19:04 15 to room with?

10:19:06 16 A No.

10:19:06 17 Q Was any notice ever sent out saying,  
10:19:10 18 you know, you have to share rooms, who would you  
10:19:14 19 like to room with?

10:19:16 20 A No.

10:19:16 21 Q Did you ever ask to share a room with  
10:19:19 22 Fred Cargian?

10:19:20 23 A No.

10:19:28 24 Q Did there come a time in 2013 when you  
10:19:32 25 were in fact assigned to share a room with Fred

1 SOMMER

10:19:35 2 Cargian?

10:19:35 3 A Yes.

10:19:35 4 Q And were you uncomfortable to share a  
10:19:38 5 room with Fred?

10:19:39 6 A Yes.

10:19:39 7 Q Did you tell anyone that this was  
10:19:42 8 really not to your liking?

10:19:43 9 A I don't recall.

10:19:50 10 Q Did you tell your family or anybody,  
10:19:53 11 even outside of Breitling --

10:19:55 12 A Yes.

10:19:56 13 Q -- your discomfort?

10:19:57 14 A Yes.

10:19:57 15 Q Who did you tell?

10:20:00 16 A Probably my best friend, Sarah.

10:20:04 17 Q Anybody else?

10:20:07 18 A Um... my mom. I don't know.

10:20:10 19 Q Okay. Did you ever tell Ms. Figueroa?

10:20:18 20 MS. GOODMAN: Well, withdrawn.

10:20:20 21 Q Who notifies you that this is the room,  
10:20:22 22 you know, that you're going to be --

10:20:25 23 A Mr. Prissert told me.

10:20:26 24 Q And when he told you, what did you say  
10:20:29 25 to him?

1

SOMMER

10:20:30 2 A Oh.

10:20:32 3 Q Why didn't you say, Gee, this is

10:20:34 4 uncomfortable for me?

10:20:35 5 A It was -- I mean, it was a long time

10:20:39 6 ago, so maybe I did. I don't recall the exact

10:20:42 7 conversation.

10:20:46 8 Q Were you concerned about complaining to

10:20:49 9 him because he was your boss?

10:20:54 10 A Possibly.

10:20:58 11 Q Was the sole purpose of this

10:21:04 12 conversation you had with Mr. Prissert for him

10:21:07 13 to tell you about the assignment? Was that the

10:21:11 14 sole purpose of that conversation or was it in

10:21:18 15 the context of something else?

10:21:19 16 MR. LIPSKY: Objection to form;

10:21:21 17 calls for speculation and compound.

10:21:24 18 MR. SINGER: Same objection.

10:21:25 19 Q Well, was anything else discussed at

10:21:27 20 this meeting where Mr. Prissert said you're

10:21:30 21 assigned to share a room with Mr. Cargian?

10:21:33 22 A I don't remember.

10:21:54 23 Q Directing your attention to the end of

10:21:57 24 2012, did there come a time that you were told

10:22:00 25 that your territory was being changed and your

1

SOMMER

10:23:33 2 Q When Mr. Prissert, this meeting that  
10:23:36 3 you had with Mr. Prissert, when he told you  
10:23:39 4 about the change in your status, how long did  
10:23:41 5 that meeting last?

10:23:43 6 A I don't recall.

10:23:45 7 Q Approximately. Was it a half hour --

10:23:51 8 A Yeah, approximately a half an hour.

10:23:54 9 Q And what did Mr. Prissert say was the  
10:23:56 10 reason for changing your territory?

10:24:00 11 A So that I could -- Fred and I could  
10:24:04 12 concentrate on corporate sales and I could spend  
10:24:12 13 more time with my family.

10:24:21 14 Q Did he also say that he wanted to give  
10:24:25 15 Isaac territory?

10:24:27 16 A I don't recall.

10:24:27 17 Q When you said he was making this change  
10:24:31 18 so you can have more time with your family, is  
10:24:35 19 that what he said to you?

10:24:39 20 A Yes. There was a restructuring of the  
10:24:46 21 territories.

10:24:46 22 Q Is that what he told you?

10:24:48 23 A Yes.

10:24:48 24 Q And that restructuring was to give  
10:24:53 25 Mr. Schafrath a territory?

1

SOMMER

10:35:49 2

MR. LIPSKY: Objection to form; it

10:35:52 3

calls for speculation. You can answer.

10:35:55 4

A In 2014?

10:35:56 5

Q Yes.

10:36:08 6

A I don't know.

10:36:09 7

Q Well, wasn't -- Mr. Cargian was

10:36:17 8

terminated at the end of 2013, correct?

10:36:20 9

A Yes.

10:36:20 10

Q And, as a consequence, you were given

10:36:22 11

all of his territories?

10:36:24 12

A Yes.

10:36:24 13

Q Was it your understanding that that's

10:36:27 14

why your salary was restored?

10:36:30 15

A Yes.

10:36:46 16

Q Now, we've already discussed a bit that

10:36:50 17

you thought that with Mr. Prissert's emergence

10:36:58 18

as company president, that there was an

10:37:01 19

atmosphere among sale reps as a boys' club

10:37:04 20

atmosphere, correct?

10:37:06 21

MR. SINGER: Objection to the form.

10:37:08 22

Q You can answer.

10:37:09 23

A Yes.

10:37:09 24

Q And did you believe the women were

10:37:13 25

treated less favorably than the male sales reps?

1 SOMMER

10:45:15 2 MS. GOODMAN: Okay. Let me talk  
10:45:17 3 with Mr. Cargian and see if we have any  
10:45:19 4 further questions.

10:45:26 5 (A recess was taken.)

10:45:26 6 EXAMINATION CONTINUED

10:53:24 7 BY MS. GOODMAN:

10:53:24 8 Q I just have a few more questions,  
10:53:27 9 Ms. Some her.

10:53:28 10 A Okay.

10:53:28 11 Q Did you ever hear either Mr. Criddle or  
10:53:32 12 others talk about an incident that he had in a  
10:53:36 13 New York hotel where a hooker or a prostitute  
10:53:39 14 had stolen his Breitling watch?

10:53:42 15 A No.

10:53:43 16 Q Now, you and Mr. Cargian are friends,  
10:53:52 17 right?

10:53:52 18 A Yes.

10:53:52 19 Q You're good friends?

10:53:57 20 A Yes.

10:53:57 21 Q Would you lie under oath on his behalf?

10:54:01 22 A No.

10:54:02 23 Q You've spoken many times to Mr. Cargian  
10:54:05 24 since his termination from Breitling, correct?

10:54:09 25 A Yes.

1

SOMMER

11:01:41 2 Q You can answer.

11:01:42 3 A I don't know.

11:01:48 4 Q Do you know if any of the other sales  
11:01:50 5 reps, let's say in 2012, had children?

11:01:54 6 A Yes.

11:01:54 7 Q Which other sales reps had children in  
11:01:59 8 2012?

11:02:00 9 A Josh, Patrick, Brian.

11:02:13 10 I think that's it, as far as I know.

11:02:44 11 Q When you testified earlier that you  
11:02:46 12 believed at group meetings or sales shows that  
11:02:52 13 the women were treated differently because they  
11:02:55 14 were sometimes not treated as part of the group  
11:02:58 15 or ignored, does that -- can you explain what  
11:03:02 16 you mean by that?

11:03:28 17 A Just, the boys would be together  
11:03:31 18 talking about their, you know, sports stuff, and  
11:03:35 19 you know, Beth and I would be over, you know,  
11:03:39 20 not -- just feeling excluded, and...

11:03:44 21 Q Would you be excluded when there were  
11:03:47 22 business conversations taking place?

11:03:52 23 A I don't know.

11:04:09 24 Q Before 2013, did you ever share a room  
11:04:15 25 with Fred Cargian on any Breitling events?

1 SOMMER

11:19:00 2 calls for speculation and vague.

11:19:03 3 You can answer.

11:19:04 4 THE WITNESS: Can you read back the  
11:19:05 5 question? Thank you.

11:19:05 6 (The last question was read back by  
11:19:20 7 the court reporter.)

11:19:20 8 A I don't know.

11:19:20 9 Q What's your understanding as to why  
11:19:24 10 Mr. Cargian made the statement he did about only  
11:19:27 11 working 9:00 to 5:00?

11:19:28 12 MS. GOODMAN: Objection. If she  
11:19:30 13 had any understanding.

11:19:34 14 A His goals were bigger than some of the  
11:19:37 15 other ones.

11:19:57 16 Q When you told Ms. Goodman earlier that  
11:20:02 17 Mr. Prissert told you that he was reducing your  
11:20:04 18 territory so that Fred and you could concentrate  
11:20:09 19 on corporate sales and spend more time with your  
11:20:13 20 family, do you recall that testimony?

11:20:14 21 A Yes.

11:20:15 22 Q Had you previously mentioned or  
11:20:18 23 discussed your desire to spend more time with  
11:20:22 24 your family with Mr. Prissert?

11:20:24 25 A No.

1

SOMMER

11:20:56 2 Q Were you present at the bowling alley  
11:20:59 3 in Reno when Mr. Cargian cursed at Mr. Prissert?

11:21:03 4 MS. GOODMAN: Objection to form.

11:21:04 5 MR. LIPSKY: Objection to form;  
11:21:05 6 lack of foundation. You can answer.

11:21:07 7 MS. GOODMAN: Assumes facts that  
11:21:09 8 are absolutely not in evidence.

11:21:12 9 Q You can answer.

11:21:12 10 A Yes.

11:21:13 11 Q And what do you recall about that  
11:21:15 12 incident?

11:21:22 13 A Fred and I walked all the accounts over  
11:21:24 14 from dinner to the bowling alley, and when we  
11:21:28 15 got to the top of the stairs, there was  
11:21:31 16 Mr. Prissert and a couple of other reps, with no  
11:21:34 17 accounts, already bowling.

11:21:35 18 Q And what did you observe Mr. Cargian do  
11:21:38 19 at that point?

11:21:39 20 A He said, I -- exact words, I don't  
11:21:44 21 recall, but it was -- he said, What the fuck, I  
11:21:48 22 think.

11:21:48 23 Q And did he say that in the presence of  
11:21:51 24 Mr. Prissert?

11:21:54 25 MR. LIPSKY: Objection to form;

1 SOMMER

11:21:55 2 calls for speculation. You can answer.

11:22:00 3 A They were far away from each other,

11:22:05 4 but, I mean...

11:22:08 5 Q How far would you estimate?

11:22:10 6 A Um... farther than me and that corner

11:22:14 7 (indicating).

11:22:15 8 Q More than 15 feet away from each other?

11:22:18 9 A I believe so.

11:22:19 10 Q And when you heard Mr. Cargian say, to

11:22:22 11 your recollection, What the fuck, where was he

11:22:25 12 looking?

11:22:27 13 MR. LIPSKY: Objection to form;

11:22:29 14 calls for speculation. You can answer.

11:22:33 15 A I -- I don't recall.

11:22:37 16 Q Do you believe he was directing his

11:22:39 17 comment toward Mr. Prissert?

11:22:40 18 MS. GOODMAN: Objection.

11:22:41 19 Objection; calls for speculation.

11:22:43 20 How does she have any idea?

11:22:46 21 A I don't know.

11:22:52 22 MR. SINGER: Counsel, I would again

11:22:54 23 ask that you please stop the speaking

11:22:56 24 objections and putting words in the

11:22:59 25 witness's mouth. It's now the tenth

1 SOMMER

11:31:16 2 A Yes.

11:31:16 3 MR. LIPSKY: Objection -- sorry.

11:31:19 4 Objection to form; lack of foundation,

11:31:21 5 vague. You can answer.

11:31:22 6 Q And did you have any reason to believe

11:31:25 7 that those sales numbers that you were sent by

11:31:29 8 e-mail on a regular basis were incorrect?

11:31:38 9 THE WITNESS: Can you read back the

11:31:39 10 question?

11:31:39 11 (The last question was read back by

11:31:48 12 the court reporter.)

11:31:48 13 MR. LIPSKY: Objection to form;

11:31:50 14 vague. You can answer it.

11:31:52 15 A No.

11:31:53 16 Q At the yearly sales meetings you were

11:31:58 17 presented with slides that showed all of the

11:32:01 18 sales representatives' sales numbers. Is that

11:32:04 19 correct?

11:32:04 20 A Yes.

11:32:04 21 Q Did you have any reason to believe that

11:32:07 22 those numbers were incorrect?

11:32:09 23 A No.

11:32:10 24 MS. GOODMAN: Objection.

11:32:13 25 Q While you were a sales representative

1 SOMMER

11:32:15 2 at Breitling USA, did you have access to the

11:32:20 3 computer system that tracked sales data?

11:32:24 4 MR. LIPSKY: Objection to form;

11:32:26 5 lack of foundation. You can answer.

11:32:33 6 Q Do you understand what I'm asking?

11:32:35 7 A No, I don't.

11:32:36 8 Q Okay.

11:32:43 9 Breitling USA has a computer that

11:32:46 10 tracks all of the sales data, correct?

11:32:48 11 MS. GOODMAN: Objection. Can you

11:32:50 12 give some dates and times of it?

11:32:53 13 MR. SINGER: No.

11:32:56 14 MS. GOODMAN: No? So you're asking

11:32:58 15 at any time?

11:32:58 16 Q There's a system that tracks sales data

11:33:00 17 in place at Breitling's USA, correct?

11:33:04 18 A Yes.

11:33:04 19 Q And, as a sales representative, while

11:33:07 20 you worked at Breitling USA, over the last five

11:33:10 21 years, let's say, you yourself could go access

11:33:14 22 that system and see your sales numbers, correct?

11:33:17 23 A Correct.

11:33:17 24 Q So if you had a reason to believe that

11:33:19 25 the sales numbers that were presented to you,

1 SOMMER

11:46:48 2 A Maybe I don't understand what you're  
11:46:52 3 asking.

11:46:52 4 Q Well, when you talked about going on  
11:46:55 5 vacation with Mr. Cargian, are there any  
11:46:58 6 vacations that you're talking about other than  
11:47:01 7 those that were hooked on either before or after  
11:47:05 8 a Breitling event?

11:47:07 9 MR. LIPSKY: Objection to form;  
11:47:09 10 compound. You can answer.

11:47:11 11 Q Do you understand my question?

11:47:14 12 A Um, not... not really, no.

11:47:17 13 Q You're not really understanding the  
11:47:21 14 question?

11:47:21 15 A I'm not really understanding the  
11:47:23 16 question. So --

11:47:24 17 Q Go ahead.

11:47:24 18 A So can I ask you a question?

11:47:26 19 Q Yes, please.

11:47:27 20 A So you're talking about the pre- or  
11:47:32 21 post-Basel trips?

11:47:33 22 Q Yes.

11:47:33 23 A And did we stay together?

11:47:35 24 Are you asking me if we stayed together  
11:47:38 25 in pre- or post-Basel trips?

1 SOMMER

11:47:41 2 Q No, that's not really -- I was asking  
11:47:44 3 you, were there vacation trips that you took  
11:47:47 4 other than those pre- or post-Basel trips?

11:47:51 5 Were there other vacation trips that  
11:47:53 6 you took, and other than your 50th birthday  
11:47:56 7 party? Were there other vacation trips that you  
11:47:59 8 took with Mr. Cargian other than those pre- or  
11:48:04 9 post-Basel trips?

11:48:06 10 MR. LIPSKY: Objection to form;  
11:48:09 11 compound. You can answer.

11:48:14 12 A Yes. I mean, we've taken vacations,  
11:48:19 13 but we didn't room together.

11:48:21 14 Q Okay. So when you talk about when you  
11:48:23 15 roomed together, it was one -- it was associated  
11:48:27 16 with the Basel trip. Is that correct?

11:48:29 17 A Yes.

11:48:32 18 MS. GOODMAN: We'd like to -- I  
11:48:34 19 mean, I have a number of other  
11:48:35 20 questions to ask. I'd like to prepare  
11:48:37 21 for the conference with the judge and  
11:48:40 22 take it later.

11:48:43 23 MR. SINGER: We have 10 minutes.  
11:48:46 24 I'm happy to keep going, but whatever.

11:48:49 25 MS. GOODMAN: Off the record.

1

SOMMER

12:42:41 2 of you shared a room at the Basel conference?

12:42:45 3 MR. SINGER: Objection.

12:42:51 4 A I -- no -- I don't recall.

12:42:53 5 Q Now, is it your understanding that --

12:43:08 6 directing your attention to the fourth

12:43:11 7 paragraph, is it your understanding, where he

12:43:12 8 says, "Annie and I have shared rooms all the

12:43:16 9 years we have attended." So your understanding

12:43:19 10 of what he was saying is that "we always,"

12:43:20 11 everybody always shared rooms at the Basel fair?

12:43:24 12 A Yeah.

12:43:24 13 MR. SINGER: Objection.

12:43:34 14 Q You were asked by Mr. Singer about

12:43:38 15 Gladney?

12:43:39 16 A Yes.

12:43:39 17 Q That's a foundation?

12:43:42 18 A Yes.

12:43:42 19 Q And that's a foundation through which

12:43:44 20 you adopted your children. Is that correct?

12:43:47 21 A Yes.

12:43:47 22 Q And did there come a time when there

12:43:51 23 was some sort of function that Gladney held, I

12:43:58 24 believe in Texas, where Mr. Prissert attended?

12:44:04 25 MR. LIPSKY: Objection to form;

1

SOMMER

12:46:10 2 give away Breitling catalogs and stuff like

12:46:13 3 that.

12:46:13 4 Q And what did he say?

12:46:15 5 A I don't recall.

12:46:15 6 Q Did he reject your request?

12:46:19 7 A No, but I didn't go.

12:46:21 8 Q How come you didn't go?

12:46:22 9 A It just didn't seem to work out.

12:46:26 10 Q You were asked about accessing the

12:46:37 11 computer information. I understand that up

12:46:45 12 until quite recently, that part of the computer

12:46:50 13 function had to be manually fed. In other

12:46:58 14 words, there --

12:47:00 15 MS. GOODMAN: Well, let me withdraw

12:47:02 16 that.

12:47:03 17 Q My understand is that the computer, the

12:47:03 18 figures that were generated, will show what your

12:47:07 19 sales, what each salesperson's sales were for a

12:47:11 20 given moth. Is that correct?

12:47:14 21 A Yes.

12:47:15 22 Q And that it's not that sometimes -- not

12:47:25 23 sometimes, often sales representatives are

12:47:28 24 sharing a client. Is that correct?

12:47:31 25 A Correct.

1 SOMMER

12:47:32 2 Q And that an adjustment has to be made  
12:47:36 3 so that what the sales are to that client are  
12:47:40 4 properly attributed to those made by Sales Rep 1  
12:47:45 5 and those made by Sales Rep 2, where there's a  
12:47:49 6 shared client. Is that correct?

12:47:50 7 A Correct.

12:47:51 8 Q Now, are those adjustments  
12:47:58 9 automatically made in the computer system?

12:48:00 10 A No.

12:48:00 11 Q And how do you find out how those  
12:48:06 12 adjustments are made?

12:48:08 13 A The person making the spreadsheet, I  
12:48:10 14 guess, is doing the breakdowns based on total --  
12:48:14 15 from my -- from my shared accounts, it was the  
12:48:21 16 lead rep would get the numbers from the store  
12:48:24 17 and then divide up the sell-in in the same way  
12:48:29 18 as the sell-out.

12:48:36 19 Q Now -- so if you weren't the lead, how  
12:48:41 20 would you know whether the adjustments were  
12:48:44 21 being accurately made?

12:48:45 22 A You would have to request the sell-out  
12:48:47 23 from the lead.

12:48:50 24 Q So it would not be automatic; it would  
12:48:54 25 be manual?

1 SOMMER

12:48:55 2 A It would be manual.

12:48:56 3 Q And do you know what underlying

12:48:58 4 documents are used in order for the computer to  
12:49:03 5 generate its various reports?

12:49:05 6 A No.

12:49:06 7 Q Okay.

12:49:07 8 A I mean, I would guess it's billing out.

12:49:11 9 I mean, anything you bill out goes into the  
12:49:15 10 numbers for that store.

12:49:15 11 Q Okay.

12:49:18 12 A If you bill out in that key.

12:49:19 13 Q Now, that would be of late you have had  
12:49:23 14 the system where you go into the store with some  
12:49:28 15 sort of electronic device that automatically  
12:49:33 16 does certain things, correct?

12:49:35 17 A Correct.

12:49:35 18 Q That hasn't always been true, has it?

12:49:39 19 A No.

12:49:39 20 Q Now, let's go back to 2010 or 2011.

12:49:45 21 What underlying documents would be used  
12:49:47 22 to make a determination -- to generate their  
12:49:52 23 final computer reports?

12:49:53 24 A It would be -- the sell-out report, the  
12:49:57 25 year-to-date numbers.

1

SOMMER

12:49:59 2 Q What -- but the year-to-date numbers  
12:50:02 3 are already in the computer reports?

12:50:04 4 A Right.

12:50:05 5 Q Okay.

12:50:06 6 A Are you talking about spreadsheets?

12:50:08 7 Q No, I'm asking, where does the --

12:50:11 8 A Oh, the --

12:50:13 9 Q -- the little man who fills in the  
12:50:15 10 computer --

12:50:15 11 A Oh.

12:50:15 12 Q Where does -- where do they get -- do  
12:50:18 13 you participate at all in producing the  
12:50:20 14 underlying documents, the underlying documents  
12:50:23 15 which --

12:50:23 16 A No.

12:50:23 17 Q -- the computer generates?

12:50:25 18 A No.

12:50:25 19 MR. SINGER: Objection to the form.

12:50:26 20 Q And do you know what underlying  
12:50:28 21 documents are used for the computer to generate  
12:50:31 22 whatever reports it makes?

12:50:33 23 A No.

12:50:34 24 Q So do you keep for yourself what you  
12:50:36 25 believe to be your figures, so that if the

1 SOMMER

12:50:39 2 computer generates something that's wrong, that  
12:50:42 3 you think is wrong, you can go to somebody and  
12:50:45 4 say, Hey, I think there's a mistake?

12:50:48 5 A No.

12:50:48 6 Q You didn't do that?

12:50:50 7 A No.

12:50:50 8 Q So how would you know whether the  
12:50:53 9 numbers were right or wrong? Was it just sort  
12:50:56 10 of, it looks right?

12:50:58 11 A Yes.

12:50:58 12 Q So basically it was, It looks right to  
12:51:04 13 me?

12:51:05 14 A Um-hmm. Yes.

12:51:18 15 Q Now, you talked about -- Mr. Singer  
12:51:22 16 asked about you talking about your children with  
12:51:25 17 Mr. Prissert. Would it be fair to say that you  
12:51:29 18 might have seen Mr. Prissert more often than  
12:51:32 19 other sales reps because you live in Connecticut  
12:51:35 20 and use the Connecticut office more often than  
12:51:38 21 others?

12:51:39 22 A No.

12:51:39 23 MR. SINGER: Objection.

12:51:45 24 Q No?

12:51:46 25 A No.

1 SOMMER

12:52:55 2 have been on?

12:52:56 3 A On the Emergency watch. It's the --

12:52:58 4 Q What?

12:52:59 5 A On the Emergency watch. It's the name

12:53:02 6 of a watch.

12:53:03 7 Q Oh, I see.

12:53:04 8 Now, you were asked before about a

12:53:06 9 meeting where Mr. Singer said that Mr. Cargian

12:53:09 10 said, I'm only working 9:00 to 5:00, correct?

12:53:12 11 A Correct.

12:53:12 12 Q And if I suggested that meeting was in

12:53:16 13 2013 not 2012, would that refresh your

12:53:19 14 recollection?

12:53:20 15 MR. SINGER: Objection.

12:53:21 16 A I don't -- I don't recall.

12:53:23 17 Q Isn't it true you weren't at the 2012

12:53:33 18 sales meeting?

12:53:36 19 A Um, I don't recall. I -- my son was

12:53:42 20 born in May, so I think I would be at the sales

12:53:46 21 meeting, because it's usually January or

12:53:48 22 February, but I don't -- I can't be certain.

12:54:03 23 Q If I suggest -- if I tell you that that

12:54:06 24 meeting was held in Florida, would that refresh

12:54:09 25 your recollection?

1

SOMMER

12:54:10 2 A In Orlando?

12:54:12 3 Q I don't know. Was it held in Orlando?

12:54:15 4 A I was in attendance in Orlando.

12:54:24 5 Q Okay. When Mr. Cargian made this

12:54:27 6 comment about the 9:00 to 5:00, isn't it true,

12:54:35 7 that that was at the same time that you were all

12:54:37 8 told about the reduction in your salaries and

12:54:43 9 the change in your territory?

12:54:46 10 A I don't recall.

12:54:48 11 Q Isn't it true it was also the same time

12:54:51 12 that you were informed about the fact that you

12:55:02 13 were losing your comp time?

12:55:10 14 A I don't recall.

12:55:11 15 Q Let's go back.

12:55:12 16 Isn't it true that there came a time

12:55:14 17 that Mr. Prissert told you that there would be a

12:55:16 18 change in the comp time?

12:55:23 19 A Yes.

12:55:24 20 Q And what did he say would be the

12:55:29 21 changes?

12:55:30 22 A I believe he said that, um, there was

12:55:33 23 no more comp time.

12:55:35 24 Q Were there any other benefits that he

12:55:38 25 pulled back?

1 SOMMER

12:55:39 2 A Um, we had to use, um, a week of our  
12:55:44 3 vacations for the mandatory vacations.

12:55:48 4 Q What's the mandatory vacation? I'm  
12:55:51 5 sorry.

12:55:51 6 A The week between Christmas and New  
12:55:54 7 Year's and the --

12:55:56 8 Q I see?

12:55:57 9 A -- and there's one week in the summer.

12:56:00 10 Q Did you really think that when  
12:56:03 11 Mr. Cargian made this comment, that he was  
12:56:06 12 serious about working -- only working  
12:56:10 13 9:00 to 5:00?

12:56:11 14 MR. SINGER: Objection.

12:56:12 15 A No.

12:56:25 16 Q Now let's go back to this -- I think  
12:56:31 17 was the Reno or Las Vegas bowling alley  
12:56:35 18 incident.

12:56:36 19 I think you described it as you and  
12:56:39 20 Mr. Cargian were leading some of the clients to  
12:56:43 21 the bowling alley --

12:56:44 22 A Yes.

12:56:44 23 Q -- correct?

12:56:45 24 And you were at the top of the stairs  
12:56:47 25 of the bowling alley, and you saw that

1

SOMMER

12:56:51 2 Mr. Prissert and two other -- well, some other  
12:56:56 3 Breitling staff people were already bowling,  
12:57:01 4 correct?

12:57:01 5 A Correct.

12:57:01 6 Q And they weren't attending to clients,  
12:57:05 7 were they?

12:57:06 8 A No.

12:57:08 9 Q Now, trying to get the dimensions of  
12:57:14 10 this facility, were there 50 lanes at this  
12:57:21 11 bowling alley, or approximately 50 lanes?

12:57:25 12 A It was huge. I mean, it's huge.

12:57:27 13 Q And you said that you were at the top  
12:57:33 14 of the stairs, but you were 15 -- maybe you were  
12:57:36 15 at least 15 feet away. Might it have been  
12:57:44 16 30 feet away?

12:57:44 17 A It could have been.

12:57:45 18 Q It could have been even more than that?

12:57:49 19 A I -- yes -- I don't. It could have  
12:57:50 20 been. I don't have... that spatial remembrance.

12:57:54 21 Q But it's pretty far away?

12:57:57 22 A I --

12:58:00 23 MR. SINGER: Objection.

12:58:02 24 A Yes.

12:58:02 25 Q Do you remember telling me that you did

1 SOMMER

12:58:04 2 not think that Fred was addressing that comment,  
12:58:09 3 the comment that he made, to Mr. Prissert?

12:58:11 4 A Yes.

12:58:11 5 Q So, in other words, when he said, What  
12:58:15 6 the fuck, he wasn't addressing that to  
12:58:18 7 Mr. Prissert?

12:58:18 8 A I don't --

12:58:19 9 MR. SINGER: Objection.

12:58:21 10 MR. LIPSKY: Objection. Sorry.

12:58:22 11 Objection to form; it calls for  
12:58:23 12 speculation. You can answer.

12:58:25 13 A I don't believe so.

12:58:51 14 Q Okay. This Super Bowl party that you  
12:58:53 15 had, did you have this party because that was a  
12:58:56 16 time when all the sales reps were in the area  
12:59:00 17 for a meeting?

12:59:02 18 A Yes.

12:59:02 19 Q Did everybody attend?

12:59:08 20 A Who's "everybody"?

12:59:10 21 Q Did all the sales reps attend?

12:59:13 22 A If they were in town already, yes.

12:59:15 23 Q Did Mr. Anderson attend?

12:59:17 24 A If he was in town, yes.

12:59:18 25 Q Do you recall whether he was in town?

# **EXHIBIT 13**

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

-----X

FREDERICK M. CARGIAN,

Plaintiff,

-against-

BREITLING USA,

Defendant.

Civil Action No. 15-cv-01084

-----X

233 Broadway  
New York, New York

November 24, 2015  
10:00 a.m.

DEPOSITION of CHARLES ANDERSON,  
taken before Alexis Perez Jenio, a Shorthand  
Reporter and Notary Public of the State of New  
York.

ELLEN GRAUER COURT REPORTING CO. LLC  
126 East 56th Street, Fifth Floor  
New York, New York 10022  
212-750-6434  
REF: 111261

1 ANDERSON

2 statement followed by two questions.

3 If you want to ask a question, that's

4 fine. I'm not going to tell him to

10:52:34 5 answer the question.

10:52:34 6 MS. GOODMAN: Read my question

10:52:36 7 back, please.

10:52:36 8 (The last question was read back by

10:52:55 9 the court reporter.)

10:52:55 10 Q Did you understand that Ms. Haddad was

10:52:58 11 complaining that she was being treated unfairly

10:53:01 12 because she was a woman?

10:53:01 13 MR. SINGER: Objection to the form.

10:53:02 14 You can answer.

10:53:07 15 A Yes.

10:53:10 16 Q That's a fairly serious allegation

10:53:14 17 against the CEO of the company, is it not -- or

10:53:19 18 the president of the company, is it not?

10:53:20 19 MR. SINGER: Objection.

10:53:22 20 You can answer.

10:53:36 21 (Pause)

10:53:48 22 Q Do you need more time to answer, Mr. --

10:53:51 23 A I'm thinking about the circumstances

10:53:53 24 around it and trying to recall the events.

10:54:04 25 Q Before you told me that you could not

1

ANDERSON

11:36:40 2 Q -- territories?

11:36:41 3 A -- simultaneous.

11:36:44 4 Q Did you agree with the adding of the  
11:36:46 5 sales rep?

11:36:46 6 A Yes.

11:36:46 7 Q Why did you agree a sales rep should be  
11:36:49 8 added?

11:36:49 9 A We had eight previously, so we went  
11:36:53 10 back to eight.

11:36:54 11 Q That included you?

11:36:56 12 A Correct.

11:36:56 13 Q Do you have eight now?

11:36:59 14 A No.

11:36:59 15 Q And when Mr. Schafrath was removed from  
11:37:03 16 his position, he was not replaced in terms  
11:37:09 17 of --

11:37:10 18 MS. GOODMAN: Well, withdraw that.

11:37:12 19 Q After Mr. Cargian was terminated, you  
11:37:19 20 went back to seven sales reps, correct?

11:37:22 21 A Yes.

11:37:23 22 Q And did you ask that there be an eighth  
11:37:30 23 because there used to be eight and you felt that  
11:37:33 24 that was the necessary complement?

11:37:36 25 A No, I did not.

1

ANDERSON

11:37:38 2 Q Why not?

11:37:39 3 A I don't think at the time I felt we  
11:37:41 4 needed it then.

11:37:44 5 Q Why did you need it in 2013 and did not  
11:37:48 6 need it in 2014?

11:37:55 7 A Just different times.

11:37:57 8 Q What was the difference in time?

11:37:58 9 A Just the environment.

11:37:59 10 Q What was the difference in the  
11:38:01 11 environment?

11:38:01 12 A Economically, changes in the  
11:38:03 13 environment.

11:38:03 14 Q What was the change in the environment  
11:38:06 15 that said you only needed seven instead of eight  
11:38:09 16 people?

11:38:09 17 A I felt that seven could cover the  
11:38:11 18 regions adequately at that time.

11:38:13 19 Q Why could they cover the regions in  
11:38:15 20 2014 but not in 2013?

11:38:17 21 A I just felt that they could.

11:38:19 22 Q Why?

11:38:20 23 A Because I did. Because I felt that it  
11:38:22 24 was adequate to cover the regions.

11:38:24 25 Q So do you usually work on your feelings

1

ANDERSON

11:42:07 2 Q Is that what he told you?

11:42:12 3 A Yes.

11:42:13 4 Q Did he think that by doing this, that

11:42:18 5 Mr. Cargian might well resign?

11:42:21 6 MR. SINGER: Objection to the form,

11:42:22 7 as to what somebody else thought. You

11:42:24 8 can answer.

11:42:25 9 A I have no idea.

11:42:26 10 Q What did he express to you about what

11:42:29 11 Mr. Cargian's response would be to having his

11:42:32 12 territory reduced and his salary reduced?

11:42:35 13 A He didn't speculate with me, that I

11:42:37 14 recall.

11:42:37 15 Q Did you have any concept -- well, you

11:42:41 16 disagreed with this decision, correct?

11:42:44 17 A I felt that the territories, if... I

11:42:54 18 felt the territories needed to be somewhat even,

11:42:57 19 and if they weren't going to be, then we needed

11:43:00 20 to change the pay structure. So that's how I

11:43:02 21 felt.

11:43:03 22 Q Is there any correspondence between you

11:43:05 23 and Mr. Prissert, be it e-mail, text, anything,

11:43:10 24 where you discuss this decision to add Schafrath

11:43:18 25 and demote Cargian?

1

ANDERSON

11:43:18 2

MR. SINGER: Objection to the

11:43:20 3

characterization. You can answer.

11:43:28 4

A No.

11:43:56 5

MS. GOODMAN: This is Anderson-4.

11:43:58 6

(Two-page e-mail chain of 7/26/12,

11:43:58 7

Bates stamped Breitling\_1452 and 1453,

11:43:58 8

was marked Exhibit Anderson-4 for

11:43:59 9

identification.)

11:43:59 10

MR. SINGER: Janice, two pages,

11:44:01 11

correct?

11:44:01 12

MS. GOODMAN: Yes.

11:44:02 13

MR. SINGER: Thank you.

11:44:02 14

Q I'm showing you now what's been marked

11:44:05 15

as Anderson Exhibit 4, Breitling 1452, 1453.

11:44:11 16

And it's a series of e-mails -- a string of

11:44:15 17

e-mails between you and Mr. Prissert on

11:44:24 18

July 26, 2012.

11:44:36 19

Did you and Mr. Prissert exchange the

11:44:37 20

e-mails that have now been marked as Anderson-4?

11:44:41 21

A Yes.

11:44:57 22

Q It says, "Thanks for the talk today and

11:45:00 23

keeping me moving in the right direction."

11:45:02 24

Was this a meeting -- was this a

11:45:05 25

regular meeting you had with Mr. Prissert, or

1

ANDERSON

12:00:01 2 you have a long way to go." Do you see that?

12:00:03 3 A Yes.

12:00:04 4 Q And was any action taken against him as  
12:00:06 5 a consequence of this?

12:00:08 6 A Not that I recall.

12:00:37 7 Q Now, did there come a time in 2013 when  
12:00:40 8 it was discovered that Mr. Criddle was  
12:00:44 9 misrepresenting his expense account?

12:00:48 10 A Yes.

12:00:48 11 Q And was the problem one that he was  
12:00:53 12 charging personal expenses to the business as  
12:00:56 13 business expenses, correct?

12:00:58 14 A Yes.

12:00:58 15 Q And was another part of the problem  
12:01:01 16 that he was claiming to be at certain locations  
12:01:05 17 when the expense report showed that in fact he  
12:01:10 18 was at different locations?

12:01:11 19 A Yes.

12:01:12 20 Q So would you say that he was  
12:01:17 21 scheduled -- that the report he submitted to you  
12:01:20 22 would say he was in California but his expense  
12:01:23 23 report showed he rented a car in Las Vegas on  
12:01:25 24 that day. Is that correct?

12:01:27 25 A I don't recall the specifics.

1

ANDERSON

12:01:28 2 Q But was that the type of comment -- the  
12:01:31 3 type of problem you found?

12:01:32 4 A Yes.

12:01:33 5 Q How did this major deception get  
12:01:37 6 uncovered?

12:01:37 7 MR. SINGER: Objection to the form.

12:01:39 8 You can answer.

12:01:41 9 A Through an analysis of an expense  
12:01:44 10 report.

12:01:44 11 Q Who did the analysis?

12:01:46 12 A Myself.

12:01:47 13 Q What led you to do that analysis?

12:01:52 14 A I don't recall what made me do the  
12:01:55 15 analysis.

12:01:56 16 Q Do you always do an analysis of the  
12:02:00 17 expense reports of your sales reps?

12:02:06 18 A I do a general review.

12:02:09 19 Q Okay.

12:02:12 20 What triggered your delving more deeply  
12:02:18 21 into Mr. Criddle's 2013 expense report?

12:02:24 22 A I don't recall what triggered it.

12:02:29 23 Um... I don't recall why.

12:02:33 24 Q So you just haphazardly said, Oh,  
12:02:40 25 gee --

1

ANDERSON

12:09:14 2 Q Yes.

12:09:15 3 A No.

12:09:17 4 Q So you were not concerned as to why he  
12:09:19 5 was lying on his expense accounts?

12:09:22 6 MR. SINGER: Objection to the form.

12:09:23 7 You can answer.

12:09:25 8 A Yes, I was concerned.

12:09:25 9 Q Why would you not ask him, Why did you  
12:09:29 10 do this?

12:09:33 11 A We had conversations with Brian during  
12:09:35 12 our search.

12:09:36 13 Q Okay. So tell me about the first  
12:09:40 14 conversation you had with Brian.

12:09:44 15 A It was short. We asked him where he  
12:09:48 16 was. He told us where he was. I felt that it  
12:09:52 17 wasn't accurate. I dug more, and then found all  
12:09:57 18 of the other things that followed.

12:09:59 19 Q Was there a certain day that you called  
12:10:07 20 him about and said, Where were you on that day?

12:10:09 21 A Yes.

12:10:10 22 Q What day was that?

12:10:11 23 A I have no recollection of what day that  
12:10:13 24 was.

12:10:13 25 Q Where was he supposed to be?

1

ANDERSON

12:10:18 2 A I believe he was supposed to be in  
12:10:22 3 Artesia, California, and he was in San Diego.

12:10:28 4 Q And when you called him, he continued  
12:10:31 5 to lie?

12:10:32 6 A Yes.

12:10:33 7 Q So the first time you called him to  
12:10:35 8 question him, he continued to lie about his  
12:10:37 9 whereabouts. Is that correct?

12:10:39 10 A Yes.

12:10:39 11 Q And did you speak to him further about  
12:10:44 12 your investigation and what you were uncovering?

12:10:49 13 A I don't recall speaking to him again  
12:10:52 14 until I was done doing all of my research.

12:10:56 15 Q Okay. And that was before the warning  
12:11:03 16 letters were issued, correct?

12:11:05 17 A What was before?

12:11:06 18 Q When you spoke to him again.

12:11:08 19 A I believe so.

12:11:09 20 Q And was this a telephone call or an  
12:11:12 21 in-person meeting?

12:11:13 22 A That was in person.

12:11:15 23 Q Where do you work out of? I mean, in  
12:11:18 24 terms of home base.

12:11:20 25 A I live in Florida.

1 ANDERSON

14:18:10 2 MS. GOODMAN: No.

14:18:11 3 MR. SINGER: So go ahead. I won't  
14:18:13 4 even try to clarify it.

14:18:18 5 Q Well, I don't think you know what  
14:18:19 6 documents went into this report, do you?

14:18:24 7 Anderson-2, do you know what was used  
14:18:26 8 to generate Anderson-2?

14:18:27 9 A Yes, you asked -- that was the first  
14:18:29 10 question you asked me.

14:18:30 11 Q What document was used to generate --

14:18:33 12 A The year-to-year comparison is used to  
14:18:35 13 generate this year-to-date sales numbers.

14:18:38 14 Q So that's the year -- now, what the --  
14:18:42 15 is there a possibility that the year-to-date  
14:18:46 16 sales report, which is a permanent document, can  
14:18:51 17 differ from Anderson-2?

14:18:54 18 A Yes.

14:18:54 19 Q Okay. How does that happen?

14:18:58 20 A That's what I explained.

14:19:01 21 Q Okay.

14:19:02 22 A With a ter -- if in 2011 -- oh, here is  
14:19:08 23 a perfect example. In 2010 you can see I had a  
14:19:12 24 region. We talked about that, right?

14:19:14 25 Q Yes.

1

ANDERSON

14:51:29 2 Q Ah, okay. How did you make -- I mean,  
14:51:33 3 what tools did you use to develop this document?

14:51:37 4 A Um, the call report, ah, reporting  
14:51:43 5 data, the year-to-year comparison, and the  
14:51:46 6 others are our formula.

14:51:49 7 Q Okay. What do you mean "formula"?

14:51:54 8 A Formula, you calculate a percentage,  
14:51:57 9 you divide to get average price.

14:52:00 10 Q I see.

14:52:01 11 So you did the analysis of the average  
14:52:05 12 price, the 2001 versus 2010 performance,  
14:52:11 13 correct?

14:52:13 14 A I don't know if I did that particular  
14:52:14 15 analysis. I certainly plugged it into the  
14:52:17 16 chart.

14:52:17 17 Q What is this used for, this chart,  
14:52:21 18 Anderson-13?

14:52:23 19 A This was used in the sales meeting.

14:52:25 20 Q And when was that held?

14:52:27 21 A January or February of 2011.

14:52:31 22 Q So at the beginning -- so this is  
14:52:34 23 for 2010. Does this reflect 2010 or 2011?

14:52:36 24 A Sorry, sorry. Yes, it would be --  
14:52:39 25 would have been a sale meeting in 2012, January

1

ANDERSON

15:25:10 2 Q Okay.

15:25:10 3 A That's a cumulative number.

15:25:12 4 Q Okay.

15:25:12 5 A I believe he received four weeks

15:25:15 6 vacation, so he had taken three days. So he

15:25:18 7 hasn't taken much, according to this, if all was

15:25:23 8 reported.

15:25:23 9 Q Does that show a lack of drive, the

15:25:25 10 fact that he was wasn't taking -- he was working

15:25:29 11 and did not take anywhere near his vacation?

15:25:32 12 Does it show a lack of drive?

15:25:34 13 A It doesn't show any bearing on drive to

15:25:38 14 me at all.

15:25:38 15 Q So you don't think the fact that

15:25:43 16 somebody foregoes taking their vacation in order

15:25:47 17 to work has anything to do with having a proper

15:25:51 18 commitment to their job?

15:25:52 19 A I do not.

15:25:59 20 Q What is the Sully award?

15:26:10 21 A Gosh, I hadn't thought about that in

15:26:15 22 years. I don't remember what it was for.

15:26:17 23 Q Did you ever win a Sully award?

15:26:20 24 A No.

15:26:20 25 Q It was for sales performance?

1

ANDERSON

15:26:22 2 A It was a goofy award that we had at a  
15:26:26 3 sales meeting, I think one year only.

15:26:29 4 Q Okay.

15:26:29 5 A And I think it referred to, and I don't  
15:26:33 6 remember exactly, but it was who had their head  
15:26:37 7 highest above water, meaning who beat last year  
15:26:40 8 by the biggest percentage, is what I think that  
15:26:43 9 it meant. And it was based on the Captain Sully  
15:26:47 10 that landed the plane and who kept it above  
15:26:50 11 water.

15:26:50 12 Q So the person who won the Sully award,  
15:26:56 13 to your recollection, is person who had the  
15:26:57 14 biggest increase of sales year-to-year?

15:27:00 15 A I believe so.

15:27:00 16 Q And isn't it true that Mr. Cargian won  
15:27:06 17 the Sully award in 2011?

15:27:12 18 A I don't recall.

15:27:18 19 MS. GOODMAN: This is 17.

15:27:21 20 (Black and white photograph  
15:27:21 21 photocopy was marked Exhibit  
15:27:40 22 Anderson-17 for identification.)

15:27:40 23 Q Okay.

15:27:40 24 A So no, to answer your question.

15:27:42 25 Q What?

1

ANDERSON

15:27:44 2 A You said 2011. It says 2009.

15:27:46 3 Q 2009. I meant 2009. Thank you.

15:27:49 4 Now, that's Mr. Cargian in the middle,

15:27:56 5 receiving the Sully award, correct?

15:27:59 6 A Yes.

15:27:59 7 Q And who is that standing to his right?

15:28:02 8 A Marie.

15:28:03 9 Q Who?

15:28:03 10 A Marie.

15:28:05 11 Q Marie who?

15:28:06 12 A Bodman.

15:28:07 13 Q And she is?

15:28:09 14 A The former president.

15:28:10 15 Q Was she president in 2009?

15:28:15 16 A Yes.

15:28:15 17 Q And who is that standing to

15:28:17 18 Mr. Cargian's left?

15:28:18 19 A Me.

15:28:18 20 Q So you were there when he was awarded

15:28:21 21 the Sully award, correct?

15:28:23 22 A I was.

15:28:32 23 Q I know you seem to not think much of

15:28:35 24 the award that the company was giving out, but

15:28:38 25 does the fact --

1

ANDERSON

17:01:34 2

MS. GOODMAN: Of the budget, okay.

17:01:36 3

MR. SINGER: And their base

17:01:38 4

salaries, I believe, is accurate as

17:01:40 5

well.

17:01:41 6

Q Okay. You're familiar with the

17:01:42 7

marketing trip to Crewe, England, are you not?

17:01:46 8

A I am.

17:01:47 9

Q When was it held?

17:01:49 10

A Summer of 2013.

17:01:51 11

Q And it was a fairly prestigious event,

17:01:57 12

was it not?

17:01:58 13

A Ah, no.

17:02:02 14

Q Well, describe what it was.

17:02:04 15

A It was an event that we took jewelers

17:02:08 16

on. We went to the Bentley factory to tour it.

17:02:11 17

Q And were they wined and dined?

17:02:13 18

A They were -- we fed them.

17:02:15 19

Q Okay. Where did you feed them?

17:02:17 20

A At local restaurants.

17:02:19 21

Q Well, I assume you made this big trip

17:02:25 22

to Crewe, England, to take them to the Bentley

17:02:29 23

factory to impress your better clients,

17:02:31 24

customers --

17:02:32 25

MR. SINGER: Objection.

1

ANDERSON

17:02:33 2 Q -- is that correct?

17:02:34 3 MR. SINGER: Objection to the form.

17:02:35 4 You can answer.

17:02:35 5 A Yes.

17:02:35 6 Q And you wanted to do everything  
17:02:37 7 possible to make this a luxurious event, no?

17:02:44 8 A Yes.

17:02:45 9 Q And you took your best -- and your  
17:02:52 10 reason was that you were hoping this would help  
17:02:55 11 future business?

17:02:56 12 A Yes.

17:02:57 13 Q I assume you didn't take people to  
17:02:59 14 diners to eat?

17:03:01 15 A Correct.

17:03:01 16 Q I'm mystified as to why you don't want  
17:03:05 17 to say that this was a luxurious event so you  
17:03:07 18 can impress your clients. You may answer.

17:03:11 19 MR. SINGER: There wasn't a  
17:03:12 20 question. You don't have to answer.

17:03:14 21 Q Why don't you want to say that?

17:03:16 22 MR. SINGER: I'm going to object to  
17:03:17 23 it. Don't answer that. It's  
17:03:17 24 argumentative and not a proper  
17:03:19 25 question. Why doesn't he say he

1

ANDERSON

17:04:21 2 you recommended?

17:04:25 3 A They, of course, had to carry the  
17:04:28 4 product, Bentley product. And I looked at it  
17:04:32 5 from where we had the most potential possibly to  
17:04:36 6 grow the business.

17:04:37 7 Q And who, besides you and Mr. Prissert,  
17:04:39 8 participated in deciding which sales reps would  
17:04:44 9 be invited?

17:04:45 10 MR. SINGER: Objection; foundation.

17:04:48 11 You can answer.

17:04:49 12 A I don't think anyone.

17:04:56 13 Q Did you propose the people -- the sales  
17:04:59 14 reps that should be invited?

17:05:00 15 A Not that I recall.

17:05:01 16 Q Did anybody besides Mr. Prissert make a  
17:05:05 17 proposal as to which sales reps should be  
17:05:07 18 invited?

17:05:08 19 A I'm sorry?

17:05:09 20 Q Did anybody besides Mr. Prissert make  
17:05:12 21 recommendations as to which sales reps should be  
17:05:15 22 included?

17:05:16 23 A No.

17:05:16 24 Q Ms. Sommer was not invited, was she?

17:05:26 25 A No.

1

ANDERSON

17:05:26 2 Q Ms. Haddad was not invited, was she?

17:05:31 3 A No.

17:05:31 4 Q Why was Ms. Sommer not invited?

17:05:35 5 A Because we took the members of the

17:05:37 6 sales team where we thought we -- that had

17:05:40 7 greatest impact of improving the Bentley

17:05:43 8 business.

17:05:43 9 Q Why was Ms. Sommers's area not included

17:05:51 10 in that, where Bentley product could be

17:05:54 11 enhanced?

17:05:56 12 A I don't understand what you're asking.

17:05:57 13 Q Well, what about Ms. Sommer's territory

17:06:03 14 said that we don't have much room to sell

17:06:07 15 Bentley in this territory?

17:06:09 16 A What about her territory said that?

17:06:12 17 Q Yes.

17:06:15 18 A Um. In sales you make an assessment of

17:06:18 19 the potential and you go where you have the

17:06:20 20 most.

17:06:20 21 Q Well, what about her territory said

17:06:23 22 that there wasn't a potential for selling more

17:06:26 23 Bentley?

17:06:26 24 A There wasn't. It just wasn't as high

17:06:30 25 as the others, so we chose the others.

1

ANDERSON

17:15:30 2

MR. SINGER: You can answer.

17:15:35 3

A It appears expressing his desire that

17:15:41 4

he would have wanted to attend.

17:15:43 5

Q Okay. Okay. If you look at the third

17:15:54 6

page down, that's --

17:15:56 7

A This one (indicating), third one back?

17:16:00 8

Q No, down from the top, 000 --

17:16:04 9

A You said third page.

17:16:06 10

Q Third page down.

17:16:07 11

A 399?

17:16:09 12

Q Yes.

17:16:09 13

A Okay, I have 399.

17:16:11 14

Q Okay. Now, you sent an e-mail --

17:16:15 15

A Um-hmm.

17:16:16 16

Q -- to the Z-Sales Reps. That's all of

17:16:19 17

the sales reps, correct?

17:16:20 18

A Yes.

17:16:21 19

Q With carbons to Katie Adams, Lisa

17:16:26 20

Roman, Prissert, and Melissa Vessely, correct?

17:16:30 21

A Correct.

17:16:30 22

Q And it's about the Crewe invite list,

17:16:33 23

right?

17:16:33 24

A Correct.

17:16:33 25

Q Dated April 16, 2013, right?

1

ANDERSON

17:16:37 2 A Yes.

17:16:37 3 Q You said you, "...focused on the stores  
17:16:43 4 with corners (present and future) and champion  
17:16:48 5 doors." What are champion doors?

17:16:51 6 A Stores where we have an employee that  
17:16:54 7 is dedicated to our brand, and we have a bonus  
17:16:57 8 structure for goals of theirs.

17:17:00 9 Q You mean you put -- Breitling puts a  
17:17:04 10 sales rep -- a sales associate in?

17:17:07 11 A No.

17:17:08 12 Q What do you mean?

17:17:11 13 A They're a store employee.

17:17:12 14 Q They're a store employee.

17:17:14 15 But you pay them? Breitling pays them?

17:17:16 16 A We set goals and give them a bonus  
17:17:20 17 structure.

17:17:20 18 Q Um-hmm. Okay. You set goals for that  
17:17:25 19 sales associate in -- an employee of the retail  
17:17:30 20 establishment, correct?

17:17:31 21 A We -- you said we set goals for  
17:17:36 22 employees at the retailer, right?

17:17:38 23 Q Yes.

17:17:39 24 A Yes, we do.

17:17:39 25 Q And do you pay them a bonus if they

1

ANDERSON

17:17:42 2 meet their goals?

17:17:43 3 A Yes.

17:17:44 4 Q Are any of the stores that -- if you  
17:17:52 5 look at 6, 7, and 8, Mr. Cargian's clients, were  
17:18:04 6 any of those stores a champion store?

17:18:08 7 A Just one.

17:18:08 8 Q Which one?

17:18:09 9 A Number 7.

17:18:11 10 Q So these are stores, I assume, because  
17:18:14 11 you're setting goals you must have, you know, a  
17:18:18 12 lot of faith in them, correct?

17:18:20 13 A If we have a champion you're saying?

17:18:23 14 Q Yes.

17:18:23 15 A Um, yes, if we put a champion in the  
17:18:27 16 store, we believe we can improve.

17:18:31 17 Q So you believe those are stores with  
17:18:35 18 pretty good potential, correct?

17:18:36 19 A These?

17:18:38 20 Q Yes, the ones that have champions. The  
17:18:42 21 champion stores.

17:18:43 22 A Yes, champion stores do.

17:18:45 23 Q What other stores that are on this list  
17:18:47 24 of invitees are champion stores?

17:18:51 25 A The first one, the third one, the

1

ANDERSON

17:42:57 2 questioned about one of them at his own  
17:43:00 3 deposition. But we'll take any  
17:43:02 4 requests under advisement.

17:43:04 5 Q Who first proposed promoting Isaac  
17:43:08 6 Schafrath to be a sales rep?

17:43:09 7 A Mr. Prissert.

17:43:11 8 Q And when did he first -- did you raise  
17:43:13 9 it with him at all, the issue -- or the proposal  
17:43:17 10 with him, at all?

17:43:18 11 A Did I raise the proposal?

17:43:20 12 Q At all with him.

17:43:22 13 A No.

17:43:28 14 Q And when was the first time you recall  
17:43:30 15 him raising with you that he decided to promote  
17:43:34 16 Mr. Schafrath?

17:43:35 17 A Probably late 2012.

17:43:38 18 Q Okay. And was this an in-person  
17:43:42 19 meeting or by phone by e-mail?

17:43:46 20 A I don't recall.

17:43:46 21 Q How often would you and Mr. Prissert  
17:43:48 22 meet together to go over business matters?

17:43:53 23 A It varies. I come to New York quite a  
17:43:58 24 bit, but it varies.

17:44:00 25 Q How often?

1

ANDERSON

17:45:10 2

MS. GOODMAN: We ask for any text

17:45:12 3

messages relating to Fred Cargian

17:45:15 4

between Mr. Prissert and Mr. Anderson.

17:45:23 5

Q Do you have any text messages relating

17:45:27 6

to any other of the sales reps?

17:45:30 7

MR. SINGER: Can you be more

17:45:31 8

specific, Counsel, when you say

17:45:34 9

"relating to"?

17:45:34 10

Q Yes. In any way relating to their

17:45:38 11

work.

17:45:38 12

A No, we don't discuss business over text

17:45:41 13

to that degree.

17:45:42 14

Q So what do you text?

17:45:43 15

A Give me a call, you know...

17:45:50 16

Q When Mr. Prissert first suggested to

17:45:53 17

you the promotion of Isaac Schafrath, what was

17:46:01 18

your response?

17:46:13 19

A That I thought he would take quite a

17:46:15 20

bit of work to get up to speed.

17:46:18 21

Q Isn't it true that you did not think it

17:46:20 22

was a particularly good idea to put an

17:46:23 23

inexperienced young man in charge of the

17:46:27 24

northeast territories?

17:46:28 25

A I don't recall making that statement.

1

ANDERSON

17:46:30 2 Q I'm not asking if you made that exact  
17:46:33 3 statement. I'm saying, did you think it was a  
17:46:36 4 good idea to put an inexperienced young man in  
17:46:39 5 charge of the northeast territories?

17:46:42 6 MR. SINGER: Objection to the form.

17:46:42 7 You can answer.

17:46:43 8 A I don't believe I had that line of  
17:46:46 9 thinking.

17:46:47 10 Q Today, what do you think? Do you think  
17:46:48 11 it was a good idea to put an inexperienced young  
17:46:51 12 man in charge of the northeast territories?

17:46:54 13 A No, I do not.

17:46:56 14 Q And at that time, what would you have  
17:46:58 15 thought, that here you are, the sales manager,  
17:47:00 16 and you have to worry about production, and you  
17:47:03 17 are being told by your boss that they want to  
17:47:05 18 put an inexperienced young man in charge of the  
17:47:08 19 sales in northeast territory? Did you think  
17:47:11 20 that was a good idea?

17:47:12 21 MR. SINGER: Objection to form and  
17:47:13 22 the characterization. You can answer.

17:47:14 23 A I didn't think of it in that sense.

17:47:17 24 Q What sense did you think of it in?

17:47:20 25 A That it's going to take some time to

1

ANDERSON

17:47:24 2 get the kid up to speed, but we'll give him a  
17:47:28 3 chance.

17:47:28 4 Q Would you have preferred to do  
17:47:29 5 that -- would you have preferred not to have  
17:47:30 6 been given an employee that you had to, quote,  
17:47:34 7 bring up to speed?

17:47:36 8 A Knowing what I know today, yes.

17:47:39 9 Q Even then, would you have preferred not  
17:47:42 10 to have to bring an inexperienced person up to  
17:47:45 11 speed in a fairly important territory?

17:47:48 12 A No.

17:47:48 13 Q You didn't think it was a good idea?

17:47:54 14 A You asked me --

17:47:56 15 THE WITNESS: What was her  
17:47:56 16 question?

17:47:57 17 (The last question was read back by  
17:48:19 18 the court reporter.)

17:48:19 19 A No, I didn't think it was a good idea.

17:48:22 20 Q Did you express that to Mr. Prissert?

17:48:32 21 A I think the double negative is  
17:48:36 22 confusing people here.

17:48:37 23 I was willing to take the challenge of  
17:48:40 24 Isaac being a sales rep.

17:48:41 25 Q I understand you were willing. Your

# **EXHIBIT 14**

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

-----X  
FREDERICK M. CARGIAN,

Plaintiff,

-against-

BREITLING USA,

Defendant.

-----X

350 West 31st Street  
New York, New York

July 23, 2015  
10:13 a.m.

DEPOSITION of ISAAC SCHAFRATH,  
pursuant to Notice, taken by and before  
Elizabeth Santamaria, a Notary Public and  
Shorthand Reporter within and for the State  
of New York.

ELLEN GRAUER COURT REPORTING CO. LLC  
126 East 56th Street, Fifth Floor  
New York, New York 10022  
212-750-6434  
REF: 110425

1 SCHAFRATH

2 A. No.

3 Q. Have you ever sued or been sued?

4 A. No.

5 Q. Easy questions.

6 Your date of birth is 6/26/79?

7 A. Yes.

8 Q. And you are married?

9 A. Yes.

10 Q. And you have children?

11 A. Yes.

12 Q. How many?

13 A. I have one with a previous  
14 relationship.

15 Q. And as I understand, you were born  
16 and raised in Wilton, Connecticut?

17 A. No.

18 Q. I'm sorry. Where were you born and  
19 raised?

20 A. I was born in Cleveland, Ohio and  
21 lived there for a number of years until my  
22 parents got divorced and then I moved to  
23 Connecticut.

24 Q. And you moved to Wilton,  
25 Connecticut?

1 SCHAFRATH

2 lot of schools. I don't remember.

3 Q. I ask that question because I know  
4 your father attended OSU so I thought it would  
5 be natural you would apply there.

6 A. It was an inexpensive choice.

7 Q. Butler was the inexpensive?

8 A. No.

9 Q. Oh, OSU.

10 A. Yes.

11 Q. How did it come about that you  
12 started at Butler, you went to Butler?

13 A. Lacrosse.

14 Q. Did they offer you a lacrosse  
15 scholarship?

16 A. Yes.

17 Q. It was a fully paid scholarship?

18 A. No.

19 Q. And you left Butler in 2002; is  
20 that correct?

21 A. Somewhere in that area, yes.

22 Q. And was that at the end of the  
23 semester, in the mid-semester?

24 A. I believe it was mid-semester.

25 Q. So you went from September until

1 SCHAFRATH

2 Q. Were you matriculating at OSU?

3 A. I'm not sure.

4 Q. Do you know what "matriculating"  
5 means?

6 A. I don't.

7 Q. Were you taking courses for credits  
8 so that you could ultimately graduate?

9 A. Yes, correct.

10 Q. Were you attending course classes  
11 while you were a football video manager?

12 A. Yes.

13 Q. What courses were you taking?

14 A. I don't remember. The only one I  
15 remember is German.

16 Q. How many courses -- how many  
17 credits did you accumulate while at OSU?

18 A. Maybe 15.

19 Q. Were you a full-time student?

20 A. Yes.

21 Q. When did -- you started in the fall  
22 of 2003, is it?

23 A. Maybe. I really don't remember. I  
24 have no idea. I would have to relook at it.

25 Q. Did you leave after one semester or

1 SCHAFRATH

2 after two semesters?

3 A. I left after two semesters.

4 Q. So you left the following spring,  
5 at the conclusion?

6 A. Yes.

7 Q. Why did you leave?

8 A. I was -- I started working and my  
9 girlfriend at the time got pregnant so I  
10 wanted to work full-time.

11 Q. Were you asked to leave?

12 A. No.

13 Q. During your attendance at Butler  
14 and OSU, any courses that you ever failed?

15 A. Maybe. I don't remember.

16 Q. What courses might you have failed?

17 A. I have no idea. I honestly don't  
18 know.

19 Q. Now, you were hired by Breitling in  
20 April of 2006; is that correct?

21 A. That's correct.

22 Q. Between your leaving OSU in about  
23 the spring of 2004 and April 2006 you had held  
24 several positions; is that correct?

25 A. Several jobs outside of --



1 SCHAFRATH

2 Q. What role did you play on that  
3 trip?

4 A. Just met people and talked with  
5 them and watched the process.

6 Q. Watched what process, the selling  
7 process?

8 A. Just the whole visit experience,  
9 visiting the store.

10 Q. Were you surprised-- withdrawn.  
11 Who came to you in 2012 and  
12 suggested that you make this trip to North  
13 Carolina?

14 A. I don't remember.

15 Q. Was it Chuck Anderson?

16 A. Probably, but I don't remember.

17 Q. Do you have any notes or any  
18 correspondence about making this trip?

19 A. No.

20 Q. How long was this trip?

21 A. Around four days.

22 Q. And when was it?

23 A. I think I said summer 2012.

24 RQ MS. GOODMAN: I would like any  
25 documents relating to the trip that has

1 SCHAFRATH

2 Those are the only things I have  
3 ever really talked to him about at the table.

4 Q. Were you aware of the fact that he  
5 was interested in gambling?

6 MR. SINGER: Objection. Assumes  
7 facts.

8 You can answer.

9 A. To what extent? I mean I've heard  
10 him bet on things, yes.

11 Q. And where did you hear him bet on  
12 things?

13 A. Mainly on the road when we were all  
14 like in Basel or when we are all together.

15 Q. Was this while you were vault  
16 manager?

17 A. No.

18 Q. So this is later?

19 A. Yes.

20 Q. Did he bet on sporting events?

21 A. Yes, I believe. Yes.

22 Q. He was a big sports fan, wasn't he?

23 A. He seems to be.

24 Q. When you say "seems to be," what  
25 indications did you have if he seems to be?

1 SCHAFRATH

2 A. He does talk about golf a lot and  
3 football a lot.

4 Q. And what?

5 A. Football.

6 Q. Anything else?

7 A. Soccer.

8 Q. Anything else?

9 A. I believe I have heard him talk  
10 about tennis. I don't think we talked about  
11 baseball.

12 Q. Where would you hear these  
13 conversations where he talked about sports,  
14 football, soccer, whatever it might be?

15 A. Mainly at the lunch table or when  
16 we were all together in Basel those couple of  
17 times.

18 Q. You said Wilton has small quarters,  
19 intimate quarters, correct?

20 A. Correct.

21 Q. So would you from time to time  
22 observe some of the sales reps while you were  
23 vault manager congregating in Mr. Prissert's  
24 office discussing sports and gambling and  
25 other such things?

1 SCHAFRATH

2 A. No.

3 Q. You never saw that?

4 A. The sales reps were rarely ever  
5 there. I believe in my six years I saw all  
6 the sales reps there maybe five times.

7 Q. And did you ever observe that they  
8 congregated in his office?

9 A. Oh, I'm sorry. That was during  
10 Marie. I don't remember even seeing them all  
11 there when...

12 Q. Let's talk about when you were  
13 vault manager. Did you ever go to his office  
14 and talk with him about sports and gambling  
15 and other such things?

16 MR. SINGER: Objection to the form.

17 A. No.

18 Q. Your father was a or still is a  
19 famous football player?

20 A. Correct.

21 Q. Did you ever discuss or did  
22 Mr. Prissert ever discuss with you your  
23 father?

24 A. Yes.

25 Q. Let's just identify him for the

1 SCHAFRATH

2 record. He was an All Star at OSU, correct?

3 A. I don't know what All Star means.

4 Q. Was he on the college football  
5 All Star team?

6 A. I don't believe so.

7 Q. And then he played professionally?

8 A. Correct.

9 Q. For whom did he play?

10 A. The Cleveland Browns.

11 Q. And did -- there's an All Star pro  
12 football?

13 A. Yes.

14 Q. He was an All Star pro football?

15 A. Yes.

16 Q. So he's a very prominent sports  
17 figure?

18 A. Yes.

19 Q. And you did discuss him with  
20 Mr. Prissert?

21 A. Yes.

22 Q. How did that conversation come up?

23 A. I believe someone else brought it  
24 up to him.

25 Q. Who was that?

1 SCHAFRATH

2 A. I don't remember, but I know I  
3 didn't bring it up to him.

4 Q. You might not have brought it up to  
5 him but did every talk with you about it?

6 A. Yes. He asked me about it.

7 Q. What did he ask you?

8 A. Just how long my dad played, who he  
9 played for, the same questions you just asked  
10 me.

11 Q. Was that on more than one occasion?

12 A. Yes.

13 Q. How often would you say?

14 A. Probably about five times total  
15 I've talked to him about it. He brings up  
16 other things.

17 Q. Did he ever meet your father?

18 A. No.

19 Q. Did he ever ask to meet you?

20 A. No.

21 Q. Did you ever get any sports  
22 paraphernalia for him from your father?

23 A. No.

24 Q. While you were vault manager did  
25 you ever meet with Mr. Prissert alone or with

1 SCHAFRATH

2 another reason. So I don't know. Every four  
3 months, five months.

4 Q. It seems to be fair to say that you  
5 badgered people about wanting this promotion,  
6 correct?

7 MR. SINGER: Objection.

8 You can answer.

9 A. I was very persistent about it,  
10 yes.

11 Q. But for seven years, from 2006  
12 until middle of 2012, you basically had  
13 rejections of one. So you were not  
14 considered. No opening was given to you,  
15 correct?

16 MR. SINGER: Objection.

17 You can answer.

18 A. Correct.

19 Q. At any time did you ever hear --  
20 withdrawn.

21 Did you ever have any writings or  
22 communication with -- written communication  
23 with Mr. Prissert about your desire for  
24 promotion to sales?

25 Let me just define it. Lawyers

1 SCHAFRATH

2 for years.

3 Q. But you were called up to a meeting  
4 with Amstutz -- withdrawn.

5 Who called you?

6 A. Sebastian did.

7 Q. He is your direct boss?

8 A. Yes.

9 Q. It could have been about some  
10 business purpose.

11 A. Yes.

12 Q. Did you have anything that happened  
13 in the week or two weeks before that led you  
14 to believe this might be a more important  
15 meeting?

16 A. I had had an informal conversation  
17 or two with Chuck and/or Thierry just saying  
18 that they were hoping they might be able to  
19 find a place for me.

20 Q. When was this informal meeting?

21 A. It was either -- I think they had  
22 mentioned it once over the phone and once  
23 about probably in late October.

24 Q. So would you say you had some  
25 conversation over the phone where you were

1 SCHAFRATH

2 A. I think it was between two and  
3 three.

4 Q. And were any conversations held in  
5 this three-week period or two- to three-week  
6 period with Thierry about this potential  
7 promotion or the potential opening?

8 A. Not that I remember.

9 Q. Were there any phone conversations  
10 between you and Chuck about your phone  
11 conversation?

12 A. Not that I remember.

13 Q. Were there any conversations in  
14 this two- to three-week period between you and  
15 Sebastian about the conversation you had with  
16 Chuck and Thierry?

17 A. No.

18 Q. Let's get to the meeting that was  
19 held sometime early November. Tell me  
20 everything you recall being said by Thierry.

21 A. About?

22 Q. Anything you recall.

23 A. "Hello"?

24 Q. After "hello," anything you recall  
25 being said.



1 SCHAFRATH

2 A. I'm paraphrasing.

3 Q. So he is the one who spoke?

4 A. Yes.

5 Q. And you said they had, quote,  
6 considered several people for a new sales rep  
7 position, correct?

8 A. Correct.

9 Q. But you said they wanted to know  
10 what your position was?

11 A. Correct. They said I was the one  
12 person in the company that they were looking  
13 at.

14 Q. So they were not looking at anybody  
15 else?

16 A. Inside the company, no.

17 Q. Was there any sort of posted notice  
18 or advertisement for the position?

19 A. No.

20 Q. Do you know who else they were  
21 considering?

22 A. No.

23 Q. What did -- you said that they went  
24 over, quote, the job that they were proposing.

25 A. Yes.

1 SCHAFRATH

2 Q. Well, what else do you recall them  
3 asking?

4 A. That's all I recall him asking.

5 Q. What did you answer to that?

6 A. Again, I said I know the product  
7 very well. I believe I have good personal  
8 people skills. I think I am intelligent. I  
9 think I am hard worker.

10 Q. Did you ask him whether you had any  
11 sales experience before?

12 A. No, I actually told him I don't  
13 have sales experience.

14 Q. You offered that but he never  
15 asked?

16 A. Correct. That was my trepidation  
17 of the job itself.

18 Q. What questions did Mr. Anderson ask  
19 you?

20 A. Some of the same. I don't think he  
21 spoke as much as Thierry did but these  
22 questions, I don't remember exactly who asked  
23 all of them. I just remember it was a more  
24 flowing experience.

25 Q. When you told Mr. Prissert that you

1 SCHAFRATH

2 did not have any sales experience, what did he  
3 say?

4 A. He said he knows me well enough now  
5 and he has faith that I could do it well.

6 Q. How did he know you well enough at  
7 that point?

8 MR. SINGER: Objection.

9 You can answer.

10 A. Just from being around the office  
11 and doing business with him.

12 Q. So what he knew was your ability to  
13 do your vault manager job; is that correct?

14 A. I would say, yes.

15 Q. And the conversations you had at  
16 the lunchroom, which was about sports and  
17 television and social things, correct?

18 A. Yes.

19 Q. And he knew your father was a  
20 football hero, correct?

21 MR. SINGER: Objection.

22 Q. A well known football --

23 MR. SINGER: Counselor, these are  
24 all asked and answered.

25 Q. Is that correct?



1 SCHAFRATH

2 Q. What was the next communication you  
3 had from anybody at Breitling, that you had  
4 from them after the November meeting?

5 A. About what?

6 Q. About your possible promotion.

7 A. I believe it was another meeting.

8 Q. When was that?

9 A. The end of November-ish.

10 Q. Did you have any communication with  
11 Mr. Prissert regarding this potential  
12 promotion between the early meeting in late  
13 November and the later meeting at the end of  
14 November?

15 A. Nothing that I remember.

16 Q. Did you have any communication with  
17 Mr. Anderson about the possible promotion  
18 between the early meeting in the beginning and  
19 the ending meeting in November?

20 A. I believe I might have had a phone  
21 call with him.

22 Q. What was that? Tell me everything  
23 you recall about that phone call.

24 A. It wasn't a long one. It was just  
25 talking about the position offered and he was

1 SCHAFRATH

2 telling me how hard it was and just kind of  
3 asking me if he thinks I could handle it.  
4 That type of stuff.

5 Q. Asking you if you could handle it?

6 A. Correct, yes.

7 Q. You just said that the position you  
8 were offered.

9 A. I hadn't been offered it yet.

10 Q. So you are talking about the  
11 position that was described?

12 A. Correct.

13 Q. How long was this telephone  
14 conversation?

15 A. It wasn't very long.

16 Q. How about with Mr. Amstutz? Was  
17 there any conversation with him between the  
18 early November meeting and the later November  
19 meeting about this position?

20 A. No.

21 Q. Where -- the meeting that was held,  
22 the next meeting that was held, which was the  
23 end of November, where was that held?

24 A. Again, at the office. I believe,  
25 again, in Mr. Amstutz's office.

1 SCHAFRATH

2 Q. How long did that meeting last?

3 A. A little bit shorter, probably

4 around a half hour.

5 Q. And what did Mr. Prissert say at  
6 that meeting?

7 A. It's when they were offering the  
8 position.

9 Q. And what did he say?

10 A. He said he, you know, they've  
11 considered a lot of things and they think that  
12 I can do the job well. They said it will take  
13 a little bit of time and maybe some training  
14 and stuff, but they said -- he said that he  
15 believes that I can do it and he would like to  
16 offer the position to me.

17 Q. Did Mr. Anderson say anything?

18 A. I believe Sebastian is the one that  
19 went over all the goals and the structure. I  
20 don't remember Mr. Anderson saying too much.

21 Q. Were you told at this meeting what  
22 the territory would be?

23 A. No.

24 Q. What did they offer you? What did  
25 he say, "We are offering you"?

1 SCHAFRATH

2 A. A sales rep position, but they said  
3 the territory has not been defined yet.

4 Q. It made no difference to you  
5 whether that territory was in California or  
6 New York; is that correct?

7 A. At that time it did not, no.

8 Q. Did they ask you that?

9 A. No. I think I said is it going to  
10 be far away and they said they don't believe  
11 so, but it might. They may have said, "Is  
12 that a problem to move away?" and I said,  
13 "No."

14 Q. When you said Mr. Amstutz went over  
15 the goals and structure --

16 Is that what you said?

17 A. Yes.

18 Q. Let's go first to the goals. What  
19 did he say about goals?

20 A. There are a whole list of goals  
21 that we had to reach.

22 Q. What did he say specifically?

23 A. I would have to have a list of  
24 goals in front of me.

25 Q. Did they give you some piece of

1 SCHAFRATH

2 Q. So it wasn't specific to a  
3 territory or what you were expected to  
4 perform?

5 A. Correct.

6 Q. You also said that they talked  
7 about the structure. What did you mean when  
8 you talk about the structure?

9 A. The payment structure.

10 Q. Your salary?

11 A. Correct.

12 Q. Did they tell you what your salary  
13 would be?

14 A. Yes, I believe so.

15 Q. And what did they say your salary  
16 would be?

17 A. I believe it was 100 and -- I don't  
18 remember, actually. I remember my second  
19 salary offer. I don't remember the first one.  
20 It might have been 90. I don't remember.

21 Q. What do you mean the second?

22 A. Well, because I got a raise after  
23 the first year. The first year --

24 Q. Wasn't the salary that you were  
25 offered \$85,000?

1 SCHAFRATH

2 A. Okay. Maybe that's what it is.

3 MR. SINGER: Don't guess.

4 A. I don't remember.

5 Q. And what were you making as vault  
6 manager?

7 A. I believe 70.

8 Q. Isn't it true you were making  
9 59,000, close to 60,000?

10 A. Okay. I think I was adding my  
11 bonus in there.

12 Q. And your bonus was close to 5,000?

13 A. Okay, sure.

14 MS. GOODMAN: Mark this as  
15 Schafrath Exhibit 4.

16 (Schafrath Exhibit 4, one-page  
17 document bearing Bates No. Breitling\_635,  
18 marked for identification.)

19 Q. I'm showing you what has now been  
20 marked as Schafrath Exhibit 4 which is a  
21 one-page document marked "confidential" that  
22 was turned over to us by Breitling. It is  
23 Breitling 635. I know it's very hard to see.  
24 I know. Speak to the Breitling people about  
25 it.

1 SCHAFRATH

2 family your concern that, you know, "Here it  
3 is the 23rd hour, I still don't know where I'm  
4 going to be"?

5 A. Yes, but I was also excited about  
6 it.

7 Q. Did you express --

8 Now, you tell me you expressed to  
9 Sebastian, to Chuck and to Thierry your  
10 concern about you would like to know, right?

11 A. Yes.

12 Q. You need to know because you had a  
13 family, correct?

14 A. Yes.

15 Q. You had a lease. Did you tell  
16 them, "I have a lease I to do something  
17 about"?

18 A. They said they would take care of  
19 it, whatever needed to be done.

20 Q. So, in other words, they would  
21 pay that you --

22 A. I have no idea what they mean by  
23 their words.

24 Q. And when did they finally tell you  
25 what your territory would be?



1 SCHAFRATH

2 there was a problem and I don't believe I had  
3 a problem in 2013.

4 Q. So you don't believe that not  
5 getting -- if you don't get your call report  
6 in on time, that's not a problem?

7 A. I don't think I -- I think I got my  
8 reports in almost always on time.

9 Q. But not always?

10 A. I don't remember a time that I  
11 didn't but I'm sure there was at least once,  
12 okay.

13 Q. And that was in 2013?

14 A. I probably was -- yes, once.

15 Q. And in 2014 was that more of a  
16 problem?

17 A. Yes, it was a problem in 2014.

18 Q. How often did you not get your  
19 reports in on time?

20 A. I don't remember.

21 Q. Was it sort of regularly that you  
22 did not get them in on time?

23 A. I don't believe so.

24 MS. GOODMAN: Please mark

25 Exhibit 11.

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25

SCHAFRATH

(Schafrath Exhibit 11, one-page document bearing Bates No. Breitling\_1730, marked for identification.)

Q. I'm showing you what's now been marked as Schafrath 11, Breitling 1730, which is an e-mail from Thierry Prissert to you with a CC to Sebastian Amstutz and Chuck Anderson. Is that the e-mail that you're referring to where he talks about your not responding to e-mails?

A. I believe so, yes.

Q. And did you receive this e-mail?

A. Yes.

Q. And he said that not only it was internal but that clients were complaining that you were not responding to their inquiries and ignoring their calls?

MR. SINGER: Just --

Q. Was that discussed with you?

MR. SINGER: I'm just going to object to the word "complaining." The e-mail says "telling."

But other than that, you can answer.



1 SCHAFRATH

2 Q. So you go to this meeting in  
3 December and who was there?

4 A. Chuck and Thierry.

5 Q. And at that meeting you were told  
6 you were not going to be a sales rep anymore?

7 A. Yes.

8 Q. Were you told you were fired?

9 A. They told me that I had two  
10 options. They said I could -- I could walk  
11 away and they would give me a decent package.

12 Or they said they are trying to  
13 create -- they already have a position and  
14 they were -- I think they said they had posted  
15 it but I'm not 100 percent sure on that, the  
16 position they were creating and would like me  
17 to stay on and they'll give me a week to let  
18 them know if I wanted to stay on and do that  
19 position.

20 Q. What was the package that they  
21 offered you?

22 A. I believe with how long I had been  
23 a sales rep, I was allowed two weeks of pay  
24 every month -- sorry -- every year that I had  
25 been --

1 SCHAFRATH

2 Q. Now, you said that they offered you  
3 another position which you think might have  
4 been posted.

5 A. I know they said they were either  
6 about to post it or they had just posted it  
7 and they said they would give me a week.

8 Q. Did they give you a description, a  
9 job description?

10 A. They let me see a job description,  
11 but I did not get to keep it.

12 RQ MS. GOODMAN: Can I get a copy of  
13 that job description or whatever it is  
14 they gave him.

15 Q. What was the title of that job?

16 A. Sales analyst.

17 Q. Was this to be a newly created job?

18 A. Yes.

19 Q. What was this job, as presented to  
20 you at this point; what was this job supposed  
21 to entail?

22 A. Because of all of the new reporting  
23 systems and -- online and that thing that I  
24 told you that we were scanning all the  
25 inventory and getting the sellout immediately,

1 SCHAFRATH

2 they needed someone to start going through  
3 that data because it was increasingly  
4 difficult for the sales reps to go through it  
5 and for Chuck to go through it. So they  
6 needed someone to go through it and figure out  
7 trends and come up with, you know, new ways of  
8 figuring out sales.

9 Q. So you were the person who couldn't  
10 get reports in on time and they were giving  
11 you a job involving doing nothing but  
12 analyzing reports?

13 MR. SINGER: Objection to the form.

14 It is a mischaracterization.

15 But you can answer.

16 A. Very different.

17 Q. Why did they say that they thought  
18 this would be a job -- withdrawn.

19 Am I right in understanding that it  
20 was an open offer to you, it was only up to  
21 you? They were offering the job to you if you  
22 will accept it?

23 A. Correct.

24 Q. Why did they say that they thought  
25 you would be good for this job?

# **EXHIBIT 15**

	2012 Jan Total	2011 Jan Total	Jan %	Feb 2012 Total	Feb 2011 Total	Feb %	Mar 2012 Total	Mar 2011 Total	Mar %	YTD Sales 2012	YTD Sales 2011	YTD %	Ave Price	Jan-Dec Units 2012	YTD Units	Jan-Dec Units 2011	YTD Units
red	\$ 859,092.00	\$ 1,125,818.00	1%	\$ 481,259.00	\$ 1,358,338.00		\$ 1,329,345.00	\$ 762,097.00	74%	\$ 12,899,581.00	\$ 13,838,824.00		\$ 4,319	2987	3576	2987	3576
red	\$ 838,896.00	\$ 827,579.00	1%	\$ 883,887.00	\$ 1,120,630.00		\$ 1,187,789.00	\$ 806,791.00	47%	\$ 11,937,231.00	\$ 11,978,270.00		\$ 4,458	2678	3250	2678	3250
red	\$ 1,583,188.00	\$ 1,417,775.00	12%	\$ 1,081,859.00	\$ 1,247,951.00		\$ 1,256,800.00	\$ 1,246,694.00	1%	\$ 16,627,343.00	\$ 15,687,692.00	5.99%	\$ 4,557	3649	4028	3649	4028
red	\$ 601,236.00	\$ 567,527.00	6%	\$ 527,880.00	\$ 760,638.00		\$ 435,966.00	\$ 474,368.00		\$ 11,321,437.00	\$ 10,455,914.00	8.28%	\$ 4,589	2467	2705	2467	2705
red	\$ 660,834.00	\$ 661,863.00	0%	\$ 894,135.00	\$ 986,923.00		\$ 792,935.00	\$ 727,696.00	9%	\$ 10,004,033.00	\$ 9,949,220.00	0.55%	\$ 4,819	2076	2695	2076	2695
red	\$ 841,588.00	\$ 721,532.00	17%	\$ 1,085,702.00	\$ 1,202,453.00		\$ 929,952.00	\$ 624,723.00	49%	\$ 14,637,883.00	\$ 13,979,123.00	4.71%	\$ 4,986	2936	3349	2936	3349
red	\$ 990,678.00	\$ 841,805.00	18%	\$ 952,444.00	\$ 875,640.00		\$ 519,195.00	\$ 605,953.00		\$ 11,846,298.00	\$ 11,018,598.00	7.51%	\$ 4,577	2588	2999	2588	2999
red	\$ 6,375,492.00	\$ 6,163,899.00	3%	\$ 5,697,166.00	\$ 7,551,573.00		\$ 6,451,982.00	\$ 5,247,322.00	23%	\$ 89,273,756.00	\$ 88,907,641.00	2.72%	\$ 4,606	19,381	22,602	19,381	22,602
USE	\$ 665,528.00	\$ 1,438,959.00		\$ 2,641,681.00	\$ 2,177,536.00	21%	\$ 785,681.00	\$ 1,667,860.00		\$ 19,163,438.00	\$ 18,854,429.00	1.64%	\$ 4,449	4307	5,255	4307	5,255
plans	\$ 7,041,020.00	\$ 7,602,858.00		\$ 6,338,847.00	\$ 9,729,109.00		\$ 7,237,653.00	\$ 6,915,182.00	5%	\$ 108,437,194.00	\$ 105,762,070.00	2.53%	\$ 4,578	23,688	27,857	23,688	27,857
April 2012 Total	\$ 1,069,191.00	\$ 1,123,396.00		\$ 1,418,476.00	\$ 1,126,761.00	26%	\$ 1,040,266.00	\$ 1,971,329.00									
April 2011 Total	\$ 799,418.00	\$ 1,037,769.00		\$ 1,273,382.00	\$ 792,056.00	61%	\$ 922,761.00	\$ 1,246,197.00									
Apr %	\$ 1,182,648.00	\$ 1,327,697.00		\$ 1,356,057.00	\$ 948,666.00	43%	\$ 1,353,510.00	\$ 1,822,965.00									
May 2012 Total	\$ 799,247.00	\$ 872,564.00		\$ 1,199,625.00	\$ 831,916.00	44%	\$ 1,056,747.00	\$ 1,230,765.00									
May 2011 Total	\$ 779,083.00	\$ 817,861.00		\$ 745,820.00	\$ 839,370.00		\$ 804,650.00	\$ 1,010,556.00									
May %	\$ 1,578,459.00	\$ 1,376,008.00	15%	\$ 1,229,651.00	\$ 875,885.00	40%	\$ 858,272.00	\$ 1,261,927.00									
June 2012 Total	\$ 1,573,240.00	\$ 1,056,462.00	66%	\$ 1,012,281.00	\$ 1,162,601.00		\$ 1,105,806.00	\$ 1,061,351.00	4%								
June 2011 Total	\$ 793,128.00	\$ 7,610,657.00	4%	\$ 8,235,392.00	\$ 6,577,255.00	25%	\$ 7,141,812.00	\$ 9,425,090.00									
July 2012 Total	\$ 2,101,316.00	\$ 1,903,697.00	10%	\$ 405,907.00	\$ 2,857,623.00		\$ 2,406,838.00	\$ 1,470,879.00	64%								
July 2011 Total	\$ 10,032,602.00	\$ 9,514,354.00	5%	\$ 8,640,699.00	\$ 9,434,878.00		\$ 9,548,650.00	\$ 10,896,969.00									
Aug 2012 Total	\$ 990,752.00	\$ 1,582,075.00		\$ 895,353.00	\$ 936,404.00		\$ 588,270.00	\$ 841,577.00									
Aug 2011 Total	\$ 932,765.00	\$ 792,413.00	18%	\$ 804,419.00	\$ 692,944.00	16%	\$ 721,480.00	\$ 911,676.00									
Aug %	\$ 1,318,548.00	\$ 1,282,273.00	3%	\$ 1,052,081.00	\$ 1,405,894.00		\$ 1,494,561.00	\$ 1,294,111.00	15%								
Sept 2012 Total	\$ 1,136,707.00	\$ 539,707.00	111%	\$ 1,079,497.00	\$ 1,118,553.00		\$ 917,949.00	\$ 839,356.00	9%								
Sept 2011 Total	\$ 1,048,232.00	\$ 647,203.00	92%	\$ 706,873.00	\$ 566,518.00	25%	\$ 532,003.00	\$ 745,179.00									
Sept %	\$ 1,361,673.00	\$ 1,406,434.00		\$ 850,691.00	\$ 1,043,178.00		\$ 1,918,585.00	\$ 1,128,147.00	70%								
Oct 2012 Total	\$ 1,100,839.00	\$ 756,881.00	45%	\$ 964,648.00	\$ 967,752.00	0%	\$ 1,039,406.00	\$ 1,087,868.00									
Oct 2011 Total	\$ 7,890,516.00	\$ 6,906,886.00	14%	\$ 6,363,562.00	\$ 6,730,243.00		\$ 7,212,253.00	\$ 6,847,914.00	5%								
Oct %	\$ 1,244,562.00	\$ 1,108,392.00	12%	\$ 1,170,771.00	\$ 1,792,230.00		\$ 2,448,540.00	\$ 863,298.00	184%								
Nov 2012 Total	\$ 913,518.00	\$ 8,015,378.00	14%	\$ 7,524,333.00	\$ 8,522,473.00		\$ 9,660,793.00	\$ 7,711,212.00	25%								
Nov 2011 Total	\$ 1,621,211.00	\$ 1,060,748.00	56%	\$ 1,651,211.00	\$ 1,060,748.00	56%	\$ 1,413,858.00	\$ 1,173,110.00	21%								
Nov %	\$ 1,447,052.00	\$ 1,264,508.00	14%	\$ 1,447,052.00	\$ 1,264,508.00	14%	\$ 933,355.00	\$ 1,472,780.00									
Dec 2012 Total	\$ 2,105,805.00	\$ 1,487,854.00	42%	\$ 2,105,805.00	\$ 1,487,854.00	42%	\$ 1,279,071.00	\$ 973,332.00	31%								
Dec 2011 Total	\$ 1,610,288.00	\$ 1,095,345.00	47%	\$ 1,610,288.00	\$ 1,095,345.00	47%	\$ 1,340,736.00	\$ 1,216,216.00	10%								
Dec %	\$ 1,712,025.00	\$ 1,090,367.00	57%	\$ 1,712,025.00	\$ 1,090,367.00	57%	\$ 609,106.00	\$ 953,543.00									
YTD Sales 2012	\$ 10,004,033.00	\$ 13,979,123.00	0.55%	\$ 14,637,883.00	\$ 13,979,123.00	4.71%	\$ 11,846,298.00	\$ 11,018,598.00	7.51%								
YTD Sales 2011	\$ 915,994.00	\$ 829,334.00	10%	\$ 920,476.00	\$ 1,046,764.00	37%	\$ 571,432.00	\$ 726,187.00									
YTD %	\$ 7,434,853.00	\$ 7,489,073.00	0%	\$ 10,955,555.00	\$ 8,143,231.00	35%	\$ 7,593,887.00	\$ 8,244,998.00									
Ave Price	\$ 1,673,082.00	\$ 754,696.00	122%	\$ 2,497,212.00	\$ 972,040.00	157%	\$ 1,122,920.00	\$ 1,847,219.00									
Units	\$ 9,107,936.00	\$ 8,213,769.00	11%	\$ 13,452,767.00	\$ 9,115,271.00	48%	\$ 8,716,807.00	\$ 10,091,617.00									
Jan-Dec Units 2012	4307	5,255		19,163,438	18,854,429	1.64%	108,437	105,762	2.53%								
YTD Units	23,688	27,857		108,437	105,762	2.53%	108,437	105,762	2.53%								

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# **EXHIBIT 16**

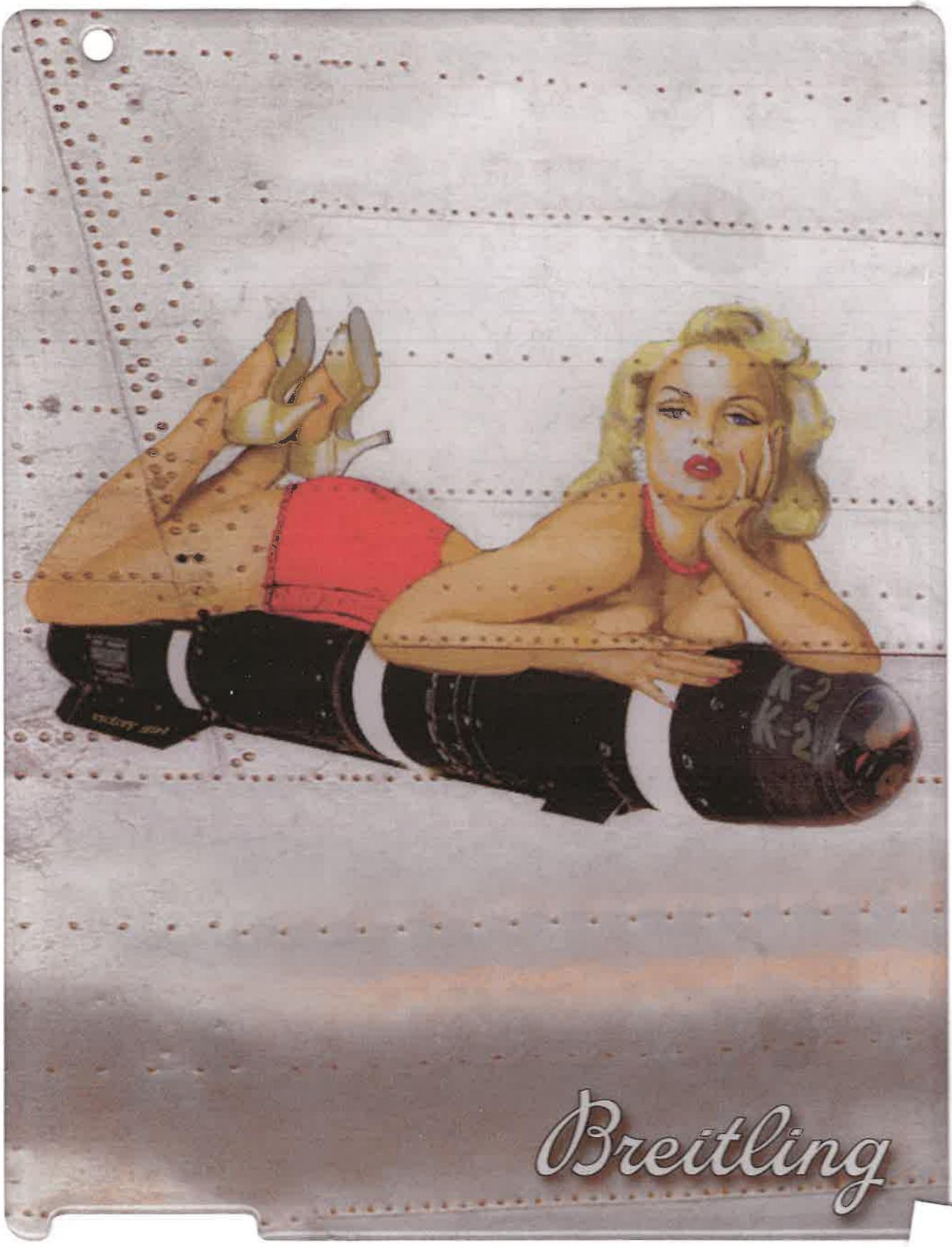
	2013 Jan Total	2012 Jan Total	Jan %	2013 Feb Total	2012 Feb Total	Feb %	2013 Mar Total	2012 Mar Total	Mar %	2013 Apr Total	2012 Apr Total	Apr %	2013 May Total	2012 May Total	May %	2013 June Total	2012 June Total	June %	2013 July Total	2012 July Total	July %	2013 Aug Total	2012 Aug Total	Aug %	2013 Sept Total	2012 Sept Total	Sept %	2013 Oct Total	2012 Oct Total	Oct %	2013 Nov Total	2012 Nov Total	Nov %	2013 Dec Total	2012 Dec Total	Dec %			
Fred	\$ 803,602.00	\$ 721,276.00	11%	\$ 600,936.00	\$ 424,748.00	89%	\$ 708,714.00	\$ 975,886.00	-27%	\$ 774,900.00	\$ 684,221.00	13%	\$ 643,425.00	\$ 1,186,268.00	-46%	\$ 659,228.00	\$ 706,971.00	-5%	\$ 1,191,516.00	\$ 1,360,632.00	-12%	\$ 1,217,755.00	\$ 990,576.00	23%	\$ 1,320,448.00	\$ 804,650.00	64%	\$ 1,039,666.00	\$ 1,107,592.00	-8%	\$ 9,019,931.00	\$ 7,141,812.00	12%	\$ 647,062.00	\$ 2,408,838.00	-73%	\$ 6,685,893.00	\$ 9,549,650.00	-30%
Annie	\$ 850,451.00	\$ 470,369.00	81%	\$ 589,451.00	\$ 641,520.00	9%	\$ 450,854.00	\$ 733,984.00	-24%	\$ 495,657.00	\$ 503,237.00	-2%	\$ 486,559.00	\$ 326,506.00	42%	\$ 1,022,226.00	\$ 1,495,789.00	-39%	\$ 592,533.00	\$ 892,290.00	-34%	\$ 1,082,682.00	\$ 532,003.00	104%	\$ 598,358.00	\$ 1,418,088.00	-58%	\$ 971,395.00	\$ 1,039,405.00	-7%	\$ 850,748.00	\$ 2,948,037.00	-71%	\$ 6,639,644.00	\$ 9,660,793.00	-31%			
Isaac	\$ 570,047.00	\$ 616,020.00	12%	\$ 510,171.00	\$ 420,770.00	21%	\$ 450,854.00	\$ 1,260,002.00	-30%	\$ 765,056.00	\$ 426,635.00	79%	\$ 918,158.00	\$ 792,935.00	16%	\$ 980,198.00	\$ 925,647.00	4%	\$ 505,074.00	\$ 523,500.00	-4%	\$ 5,629,353.00	\$ 6,451,982.00	-13%	\$ 818,314.00	\$ 785,681.00	4%	\$ 6,447,707.00	\$ 7,237,863.00	-11%									
Josh	\$ 1,469,545.00	\$ 1,584,425.00	-11%	\$ 1,308,189.00	\$ 1,097,386.00	19%	\$ 978,401.00	\$ 496,452.00	99%	\$ 755,697.00	\$ 684,135.00	10%	\$ 907,583.00	\$ 1,071,832.00	-15%	\$ 597,017.00	\$ 657,043.00	-9%	\$ 6,447,676.00	\$ 5,387,856.00	20%	\$ 1,407,614.00	\$ 2,950,950.00	-52%	\$ 7,845,286.00	\$ 6,338,847.00	-25%												
Rick	\$ 827,827.00	\$ 350,316.00	6%	\$ 724,425.00	\$ 1,024,425.00	-29%	\$ 684,135.00	\$ 1,071,832.00	-15%	\$ 907,583.00	\$ 1,071,832.00	0%	\$ 597,017.00	\$ 657,043.00	-9%	\$ 6,447,676.00	\$ 5,387,856.00	20%	\$ 1,407,614.00	\$ 2,950,950.00	-52%	\$ 7,845,286.00	\$ 6,338,847.00	-25%															
Patrick	\$ 906,099.00	\$ 836,154.00	12%	\$ 893,457.00	\$ 996,092.00	-11%	\$ 6,447,676.00	\$ 5,387,856.00	20%	\$ 1,407,614.00	\$ 2,950,950.00	-52%	\$ 7,845,286.00	\$ 6,338,847.00	-25%																								
Brian	\$ 652,045.00	\$ 6,375,482.00	9%	\$ 684,516.00	\$ 6,655,528.00	3%	\$ 7,605,170.00	\$ 7,041,020.00	8%																														
Reps totals	\$ 684,516.00	\$ 6,655,528.00	3%	\$ 7,605,170.00	\$ 7,041,020.00	8%																																	
HOUSE	\$ 684,516.00	\$ 6,655,528.00	3%	\$ 7,605,170.00	\$ 7,041,020.00	8%																																	
Totals	\$ 684,516.00	\$ 6,655,528.00	3%	\$ 7,605,170.00	\$ 7,041,020.00	8%																																	
Fred	\$ 696,360.00	\$ 757,650.00	-9%	\$ 641,221.00	\$ 537,846.00	19%	\$ 362,361.00	\$ 649,090.00	-44%	\$ 1,320,742.00	\$ 1,184,654.00	12%	\$ 424,916.00	\$ 691,211.00	-39%	\$ 1,003,232.00	\$ 779,083.00	29%	\$ 773,036.00	\$ 1,568,180.00	-51%	\$ 753,330.00	\$ 1,763,698.00	-57%	\$ 5,976,103.00	\$ 7,931,387.00	-25%												
Annie	\$ 641,221.00	\$ 537,846.00	19%	\$ 362,361.00	\$ 649,090.00	-44%	\$ 1,320,742.00	\$ 1,184,654.00	12%	\$ 424,916.00	\$ 691,211.00	-39%	\$ 1,003,232.00	\$ 779,083.00	29%	\$ 773,036.00	\$ 1,568,180.00	-51%	\$ 753,330.00	\$ 1,763,698.00	-57%	\$ 5,976,103.00	\$ 7,931,387.00	-25%															
Isaac	\$ 362,361.00	\$ 649,090.00	-44%	\$ 1,320,742.00	\$ 1,184,654.00	12%	\$ 424,916.00	\$ 691,211.00	-39%	\$ 1,003,232.00	\$ 779,083.00	29%	\$ 773,036.00	\$ 1,568,180.00	-51%	\$ 753,330.00	\$ 1,763,698.00	-57%	\$ 5,976,103.00	\$ 7,931,387.00	-25%																		
Josh	\$ 1,412,897.00	\$ 1,328,874.00	8%	\$ 822,107.00	\$ 1,093,405.00	-25%	\$ 984,829.00	\$ 1,049,232.00	-6%	\$ 887,708.00	\$ 1,100,839.00	-19%	\$ 8,649,122.00	\$ 7,839,516.00	-16%																								
Rick	\$ 822,107.00	\$ 1,093,405.00	-25%	\$ 984,829.00	\$ 1,049,232.00	-6%	\$ 887,708.00	\$ 1,100,839.00	-19%	\$ 8,649,122.00	\$ 7,839,516.00	-16%																											
Patrick	\$ 984,829.00	\$ 1,049,232.00	-6%	\$ 887,708.00	\$ 1,100,839.00	-19%	\$ 8,649,122.00	\$ 7,839,516.00	-16%																														
Brian	\$ 887,708.00	\$ 1,100,839.00	-19%	\$ 8,649,122.00	\$ 7,839,516.00	-16%																																	
Reps totals	\$ 8,649,122.00	\$ 7,839,516.00	-16%																																				
HOUSE	\$ 1,131,727.00	\$ 1,244,562.00	-9%	\$ 7,760,849.00	\$ 9,136,978.00	-15%																																	
Totals	\$ 1,131,727.00	\$ 1,244,562.00	-9%	\$ 7,760,849.00	\$ 9,136,978.00	-15%																																	
Fred	\$ 654,165.00	\$ 681,520.00	-4%	\$ 606,904.00	\$ 716,869.00	-15%	\$ 598,665.00	\$ 658,114.00	7%	\$ 1,412,897.00	\$ 1,328,874.00	8%	\$ 822,107.00	\$ 1,093,405.00	-25%	\$ 984,829.00	\$ 1,049,232.00	-6%	\$ 887,708.00	\$ 1,100,839.00	-19%	\$ 8,649,122.00	\$ 7,839,516.00	-16%															
Annie	\$ 606,904.00	\$ 716,869.00	-15%	\$ 598,665.00	\$ 658,114.00	7%	\$ 1,412,897.00	\$ 1,328,874.00	8%	\$ 822,107.00	\$ 1,093,405.00	-25%	\$ 984,829.00	\$ 1,049,232.00	-6%	\$ 887,708.00	\$ 1,100,839.00	-19%	\$ 8,649,122.00	\$ 7,839,516.00	-16%																		
Isaac	\$ 598,665.00	\$ 658,114.00	7%	\$ 1,412,897.00	\$ 1,328,874.00	8%	\$ 822,107.00	\$ 1,093,405.00	-25%	\$ 984,829.00	\$ 1,049,232.00	-6%	\$ 887,708.00	\$ 1,100,839.00	-19%	\$ 8,649,122.00	\$ 7,839,516.00	-16%																					
Josh	\$ 1,412,897.00	\$ 1,328,874.00	8%	\$ 822,107.00	\$ 1,093,405.00	-25%	\$ 984,829.00	\$ 1,049,232.00	-6%	\$ 887,708.00	\$ 1,100,839.00	-19%	\$ 8,649,122.00	\$ 7,839,516.00	-16%																								
Rick	\$ 822,107.00	\$ 1,093,405.00	-25%	\$ 984,829.00	\$ 1,049,232.00	-6%	\$ 887,708.00	\$ 1,100,839.00	-19%	\$ 8,649,122.00	\$ 7,839,516.00	-16%																											
Patrick	\$ 984,829.00	\$ 1,049,232.00	-6%	\$ 887,708.00	\$ 1,100,839.00	-19%	\$ 8,649,122.00	\$ 7,839,516.00	-16%																														
Brian	\$ 887,708.00	\$ 1,100,839.00	-19%	\$ 8,649,122.00	\$ 7,839,516.00	-16%																																	
Reps totals	\$ 8,649,122.00	\$ 7,839,516.00	-16%																																				
HOUSE	\$ 1,131,727.00	\$ 1,244,562.00	-9%	\$ 7,760,849.00	\$ 9,136,978.00	-15%																																	
Totals	\$ 1,131,727.00	\$ 1,244,562.00	-9%	\$ 7,760,849.00	\$ 9,136,978.00	-15%																																	

YTD Sales 2013	YTD Sales 2012	YTD %	Ave Price	YTD Units 2013	YTD Units 2012	YTD Unit %
\$ 8,452,072.00	\$ 9,809,468.00	-13.84%	\$ 4,357	1940	2288	-15.21%
\$ 7,672,937.00	\$ 8,066,780.00	-4.88%	\$ 4,355	1762	1944	-9.38%
\$ 6,775,464.00	\$ 7,479,392.00	-9.41%	\$ 4,302	1564	1660	-5.78%
\$ 13,801,563.00	\$ 16,683,050.00	-17.27%	\$ 4,370	3158	3549	-11.02%
\$ 11,202,689.00	\$ 10,745,949.00	4.25%	\$ 4,781	2343	2319	0.17%
\$ 9,930,484.00	\$ 10,018,340.00	-0.88%	\$ 4,683	2139	2080	2.84%
\$ 11,176,011.00	\$ 14,050,682.00	-20.68%	\$ 4,681	2369	2858	-19.84%
\$ 9,896,681.00	\$ 11,484,668.00	-14.65%	\$ 4,699	2087	2524	-17.31%
\$ 78,817,907.00	\$ 88,387,671.00	-10.93%	\$ 4,558	17,292	19,252	-10.18%
\$ 20,850,050.00	\$ 20,049,078.00	4.00%	\$ 3,740	4,435	25,70%	
\$ 9,467,854.00	\$ 10,843,748.00	-8.00%	\$ 4,359	22,897	23,46%	

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# **EXHIBIT 17**



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breitlingnews High Flyer 3/5 - Penthouse teams up with Breitling for a modern take on the aviation pin-up girl

Breitling Navitimer 01  
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@penthouse

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Exhibit 6

Exhibit 7

Exhibit 8

Exhibit 9

Exh





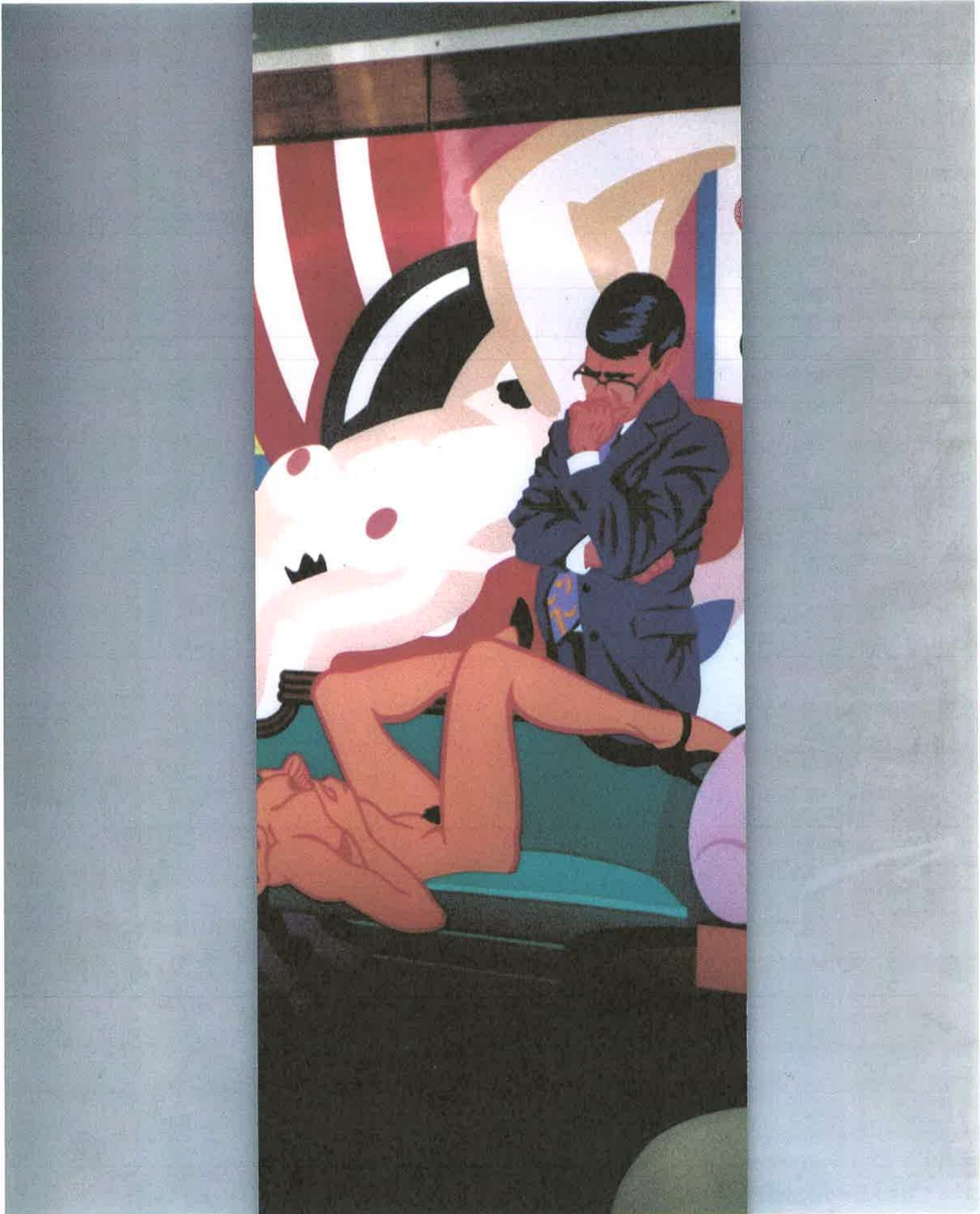
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# **EXHIBIT 18**



# **EXHIBIT 19**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
FREDERICK M. CARGIAN,

Plaintiff,

-against-

BREITLING USA, INC.,

Defendant.

Civil Action No. 15-cv-01084

-----X

100 Park Avenue  
New York, New York

January 19, 2016  
9:37 a.m.

DEPOSITION of SOPHIE MORICE, taken before  
Alexis Perez Jenio, a Shorthand Reporter and  
Notary Public of the State of New York.

ELLEN GRAUER COURT REPORTING CO. LLC  
126 East 56th Street, Fifth Floor  
New York, New York 10022  
212-750-6434  
REF: 111527A

1

MORICE

09:57:20 2 input about her observations of Mr. Cargian?

09:57:28 3 A Jackie?

09:57:30 4 Q Yes.

09:57:31 5 A No.

09:57:31 6 Q Were you aware that Mr. Cargian is gay?

09:57:34 7 A Yes.

09:57:35 8 Q Were you aware from sort of when you

09:57:40 9 first met him, from very early, et cetera?

09:57:43 10 A Um... when I first met him.

09:57:47 11 Q And how did you become aware?

09:57:52 12 A Because I worked with somebody that

09:57:54 13 knew Fred, and that, um, told me that they were

09:57:59 14 from the same, you know, community.

09:58:01 15 Q And who was that?

09:58:02 16 A Bill Alonzo.

09:58:04 17 Q And Mr. Alonzo is also gay?

09:58:08 18 A Yes.

09:58:08 19 Q So you had worked with him and he told

09:58:10 20 you that?

09:58:11 21 A Yes.

09:58:11 22 Q That Mr. Cargian was also gay?

09:58:14 23 A Yes.

09:58:14 24 Q Was that before or after you became

09:58:17 25 employed by Breitling?

1

MORICE

09:58:18 2 A It was actually on my way to Breitling.

09:58:24 3 Q Did you find that most everybody at

09:58:28 4 Breitling was aware of Mr. Cargian's sexual

09:58:32 5 orientation?

09:58:33 6 MR. SINGER: Objection to the form.

09:58:34 7 You can answer.

09:58:35 8 A I never felt it was a secret.

09:58:38 9 Q So the answer is yes, people --

09:58:41 10 A Yes.

09:58:41 11 Q -- were generally aware?

09:58:44 12 Did you ever speak with Mr. Prissert  
09:58:46 13 regarding the treatment of women at Breitling?

09:58:49 14 A No.

09:58:50 15 Q Did you ever speak with Mr. Amstutz  
09:58:54 16 about the treatment of women at Breitling?

09:58:57 17 A No.

09:58:57 18 Q Did you ever speak with Mr. Anderson  
09:59:00 19 about the treatment of women at Breitling?

09:59:02 20 A No.

09:59:03 21 Q Did you ever speak with Ms. Figueroa  
09:59:05 22 about the treatment of women at Breitling?

09:59:07 23 A No.

09:59:08 24 Q I forgot to ask, did you ever speak  
09:59:17 25 with Ms. Figueroa regarding Mr. Cargian's work

1 MORICE

11:33:29 2 boutique, printed on them. So we have some

11:33:32 3 pinups.

11:33:33 4 Q I don't understand. What do those

11:33:35 5 pinups look like?

11:33:38 6 A Those are paintings that we have in the

11:33:42 7 store, Kevin Kelly artwork, and that is used on

11:33:49 8 some collaterals. It's printed on them.

11:33:52 9 Q Okay. Can you describe the image? You

11:33:54 10 said it's what you call, quote, a pinup, but

11:33:58 11 it's not the exact image of what I call this

11:34:01 12 half-clad woman on a bomb.

11:34:04 13 A Yeah, that would be, again, part of the

11:34:06 14 same imagery. So you have, you know, a pilot

11:34:12 15 with a girl. I don't know how to describe them.

11:34:29 16 Q Have you ever seen any of Kevin Kelly's

11:34:33 17 other work?

11:34:34 18 A No -- I -- actually, I Googled him, so

11:34:39 19 I went onto his website and I saw some paintings

11:34:43 20 that he's doing, not for Breitling. Yes.

11:35:14 21 MS. GOODMAN: Morice-5.

11:35:15 22 (Black and white photocopy of

11:35:15 23 artwork was marked Exhibit Morice-5 for

11:35:15 24 identification.)

11:35:15 25 Q I'm showing you what's now been marked

1

MORICE

11:35:19 2 as Morice 5. Have you ever seen this painting  
11:35:22 3 before?

11:35:22 4 A No.

11:35:23 5 Q Were you aware that this is a painting  
11:35:25 6 in Mr. Schneider's office?

11:35:28 7 A No. I was aware there were paintings;  
11:35:31 8 now I know what it looks like.

11:35:33 9 Q When you say you were aware that there  
11:35:36 10 were paintings, and you have a little smile on  
11:35:39 11 your face when you say that, tell me what you  
11:35:43 12 were aware of.

11:35:44 13 A I had heard that there were paintings  
11:35:46 14 in Mr. Schneider's office.

11:35:48 15 Q What kind of paintings had you heard  
11:35:52 16 that there were?

11:35:53 17 A It was always presented to me with a  
11:35:57 18 smile and unqualified, not for everyone's eyes.

11:36:02 19 Q And would you feel that what I'm now  
11:36:04 20 showing you on Morice-5 is, quote, not for  
11:36:11 21 everybody's eyes?

11:36:12 22 MR. SINGER: Can you just repeat  
11:36:25 23 that?

11:36:25 24 (The last question was read back by  
11:36:27 25 the court reporter.)

1

MORICE

11:37:39 2 are any of them of naked or semi-naked women?

11:37:46 3 A No, not the collateral that we give out  
11:37:50 4 or the paintings in the store.

11:37:51 5 Q The -- can you describe any of the  
11:37:55 6 collaterals to us?

11:38:01 7 MR. SINGER: Objection; asked and  
11:38:02 8 answered. You can answer.

11:38:04 9 A The last -- I have one in mind where  
11:38:07 10 you see a guy, a military guy, you know, holding  
11:38:11 11 a girl. And even though she has a -- you know,  
11:38:14 12 showing a cleavage, but there is nothing, you  
11:38:18 13 know, offensive about it.

11:38:19 14 Q You don't find it offensive?

11:38:21 15 A No, I don't.

11:38:22 16 Q Have you ever asked any other women  
11:38:25 17 whether they think it's offensive?

11:38:29 18 A No. We had the conversation sometimes  
11:38:32 19 around the pinup girl, but...

11:38:34 20 Q When you say, We had the conversation  
11:38:36 21 around the pinup girl --

11:38:38 22 A In the --

11:38:39 23 Q -- who's the "we"?

11:38:40 24 A In the boutiques, we have a pinup  
11:38:43 25 statue. That's it.

1 MORICE

11:38:44 2 Q And what do you mean you have a pinup

11:38:47 3 statue? So it's a partial --

11:38:49 4 A We know some people sometimes make  
11:38:52 5 comments on the statue. Not on the paintings,  
11:38:55 6 never; on the statue.

11:38:56 7 Q Tell me what the statue looks like.

11:38:59 8 A It is a pinup on a bomb.

11:39:01 9 Q So it's this woman whose bosom is  
11:39:06 10 exposed and is on a bomb?

11:39:09 11 A Yes.

11:39:09 12 Q And would you agree with me that the  
11:39:12 13 bomb sort of looks like a phallic symbol?

11:39:16 14 A No.

11:39:16 15 Q And who would you say would have some  
11:39:19 16 comments about that pinup statue? Are those  
11:39:22 17 from customers? From employees? From both?

11:39:26 18 A Employees love it, and customers  
11:39:31 19 sometimes, yeah, make comments.

11:39:32 20 Q And their comments are negative? They  
11:39:36 21 don't --

11:39:36 22 A No, we don't get comments on the  
11:39:39 23 negative.

11:39:39 24 Q And when you say, quote, the "employees  
11:39:42 25 love it," what employees love it?

# **EXHIBIT 20**

*Anderson  
B*

Message

---

**From:** Beth Haddad [/O=BREITLINGUSA/OU=CT/CN=RECIPIENTS/CN=BETHH]  
**Sent:** 6/3/2013 6:47:19 PM  
**To:** Chuck Anderson [charles.anderson@breitlingusa.com]  
**Subject:** RE: RE:

That's fine. Enough people did.

**From:** Chuck Anderson  
**Sent:** Monday, June 03, 2013 11:36 AM  
**To:** Beth Haddad  
**Subject:** Re: RE:

I don't think I heard that or understand what it means exactly.

Chuck Anderson  
Sales Director  
Breitling USA  
Hangar 7  
206 Danbury Rd  
Wilton, CT 06897  
USA  
Office 203-762-1180 Ext 371  
Fax 888-875-2729  
charles.anderson@breitlingusa.com  
Please check our website at www.breitling.com

On Jun 3, 2013, at 11:35 AM, "Beth Haddad" <[beth.haddad@breitlingusa.com](mailto:beth.haddad@breitlingusa.com)> wrote:

I am perfectly happy doing my job but I will not be treated like a second class citizen by him and if I need to formally complain I will. His comments about going to work with the girls in ch is uncalled for, as is his treatment of the boys vs the girls.

**From:** Chuck Anderson  
**Sent:** Monday, June 03, 2013 11:32 AM  
**To:** Beth Haddad  
**Subject:** Re:

Thanks for the email. It bothered me the way the rest of the weekend went with you. I knew you were not happy - it was obvious in your mood and when I looked at you. That is what bothers me the most. I want everyone to be happy at work - maybe that is silly- but it really is what I want. It is harder, more difficult and different today than it was in the past. I think we have all adjusted to it - something's we like and others we do not. Nothing is perfect I guess. Thanks again

I am on my flight and have a ton of Jewelers on it. I feel like I can't sleep in case I slobber all over myself.

Chuck Anderson  
Sales Director  
Breitling USA  
Hangar 7

**\*\*CONFIDENTIAL\*\***

206 Danbury Rd

Wilton, CT 06897

USA

Office 203-762-1180 Ext 371

Fax 888-875-2729

charles.anderson@breitlingusa.com

Please check our website at www.breitling.com

On Jun 3, 2013, at 11:22 AM, "Beth Haddad" <beth.haddad@breitlingusa.com> wrote:

BTW, I am not at all upset with you. I appreciate your apology, but I am not putting up with his shit anymore. I am here to work and am not paid to be anyones friend or socialize. He doesn't have to like me and I don't have to like him. I will not socialize with him in any way. I will not be told not to laugh or smile and if it "bothers" him that's his problem (especially when all the boys are on the floor with laughter)  
Its actually the best thing that could happen. No one has to pretend anything.

Beth Haddad

West Coast Sales

Breitling USA

206 Danbury Rd

Wilton Ct 06897

USA

office: 203-762-1180 x337

beth.haddad@breitlingusa.com

Please check our website at www.breitling.com

# **EXHIBIT 21**



September 18, 2012

Fred Cargian  
422 West 22<sup>nd</sup> Street  
Apt. #6  
New York, NY 10011

Dear Fred,

The purpose of this warning is to address to you the seriousness of the situation that occurred on Sunday, September 16<sup>th</sup> during our Reno bowling outing. You are being addressed with a written warning so that you realize how unacceptable your behavior was.

On Sunday, September 16th during our bowling outing (with our guests) you approached me in a manner that was completely unacceptable. You were obviously upset and used extremely poor judgment by thinking that using the word "fuck" or yelling at me in front of guests and colleagues was a good idea. Your behavior and language was totally inappropriate and showed a lack of respect to me, to yourself, and to Breitling.

You will be closely monitored and if you are warned again about your behavior, we will have no choice but to address the issue with you again which will lead us to taking action up to and including termination from Breitling.

We expect all employees to maintain superior performance and professional behavior at all times. Please do not hesitate to talk to me or HR if you have any questions or concerns regarding this issue.

Regards,

A handwritten signature in black ink, appearing to read "Thierry Prissert".

Thierry Prissert  
President

BREITLING USA

# **EXHIBIT 22**

**BREITLING****OUR POS**

	Total Doors 2012	Bentley Doors 2012	2011 Opened Doors	2011 Closed Doors	*Ave Stock Breitling	*Ave Stock Bentley	% of Doors w/Bentley
Fred	40	31	2	3	57	9.6	78%
Annie	46	19	4	3	50	9.3	41%
Josh	46	24	2	2	58	9.9	52%
Rick	40	26	5	2			65%
Patrick	39	15	4	1	55	16.3	38%
Brian	43	29	3	5	61	10.7	68%
Beth	38	29	2	3	58	10	76%
<b>TOTALS</b>	<b>292</b>	<b>173</b>	<b>22</b>	<b>19</b>	<b>56.5</b>	<b>11</b>	<b>59%</b>

**Breitling stock increase: 3%**  
**Bentley stock increase: 16%**



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# **EXHIBIT 23**

*Prissert*  
*20*

Thanks,

Diana Figueroa  
Human Resources Manager

Breitling USA  
Hangar 7  
206 Danbury Road  
Wilton, CT 06897

Phone: 203.762.1180 ext. 310  
Fax: 203.762.3665  
Check our website at [www.breitling.com](http://www.breitling.com)

**From:** Sebastien Amstutz  
**Sent:** Monday, September 17, 2012 4:16 PM  
**To:** Diana Figueroa  
**Subject:** Fw: fred last night

Hello.  
Hope you had a good week-end.  
Can you please see attached email from Thierry and draft a warning letter for fred.  
Thanks

-----Original message-----  
**From:** Thierry Prissert <[Thierry.Prissert@breitlingusa.com](mailto:Thierry.Prissert@breitlingusa.com)>  
**To:** Sebastien Amstutz <[sebastien.amstutz@breitlingusa.com](mailto:sebastien.amstutz@breitlingusa.com)>  
**Sent:** Mon, Sep 17, 2012 16:52:23 GMT+00:00  
**Subject:** fred last night  
Hello Sir, hope you had a fun time last night at bowling

Fred came to me at the bowling and had an unacceptable behavior while addressing me (almost in front of clients and staff) all heard him he used the word F...and was mad (for actually no valid reason)  
I want to send him an email (letter) as a warning (not acceptable to have this behavior in front of guest and colleagues.  
You prefer email and or and letter  
Do you have a sample letter that phrase a Warning or not ?  
Thank you  
In the air between slc and new york  
We can talk when I land if you are available  
Landing at 4,30 eastern time  
cheers

Thierry Prissert  
President

Breitling USA  
206 Danbury Road  
Wilton, CT 06897  
USA

Phone: 203.762.1180

Fax: 203.762.1178

Email: [Thierry.Prissert@breitlingusa.com](mailto:Thierry.Prissert@breitlingusa.com)

Check our website at: [www.breitling.com](http://www.breitling.com)

# **EXHIBIT 24**

*Diana*  
10

---

**From:** Fred Cargian  
**Sent:** Monday, October 22, 2012 11:21 AM  
**To:** Diana  
**Subject:** RE: Vacation Days

Ok, taking off the rest of the year....ha.

Fred Cargian  
NE Sales Representative

Breitling USA  
Hangar 7  
206 Danbury Road  
Wilton, CT 06897  
USA

Phone: 203.762.1180 ext. 315  
Fax : 203.762.1178  
Check our website at [www.breitling.com](http://www.breitling.com)

---

**From:** Diana Figueroa  
**Sent:** Monday, October 22, 2012 12:08 PM  
**To:** Fred Cargian  
**Subject:** RE: Vacation Days

Hey Fred!

According to my records, here's what you have remaining for 2012.

17- Vacation Days  
11- Sick Days  
2- Personal Days

Thanks,

Diana Figueroa  
Human Resources Manager

Breitling USA  
Hangar 7  
206 Danbury Road  
Wilton, CT 06897

Phone: 203.762.1180 ext. 310  
Fax: 203.762.3665  
Check our website at [www.breitling.com](http://www.breitling.com)

**From:** Fred Cargian  
**Sent:** Monday, October 22, 2012 11:53 AM  
**To:** Diana Figueroa  
**Subject:** Vacation Days

Hi Diana;

How many days have I used? I am confused as usual!

Fred Cargian  
NE Sales Representative

Breitling USA  
Hangar 7  
206 Danbury Road  
Wilton, CT 06897  
USA

Phone: 203.762.1180 ext. 315  
Fax : 203.762.1178  
Check our website at [www.breitling.com](http://www.breitling.com)

# **EXHIBIT 25**

**\*\*CONFIDENTIAL\*\***

*Anderson*  
7



**Written Warning**

To: Brian Criddle  
From: Diana Figueroa, HR Manager  
Date: August 23, 2013  
Re: Misuse of Company Credit Card, Misrepresentation about Whereabouts

---

As per your conversation with Sebastien Amstutz and Chuck Anderson on Wednesday, August 14<sup>th</sup> and with Thierry Prissert on Thursday, August 15, 2013, you are being given this Written Warning regarding the misuse of your Corporate AMEX card and the fact that you misrepresented your whereabouts in July 2013. On your call report you mentioned that you were visiting stores in Nevada for a couple of days when your receipts showed that you were in fact in California.

Please note that this behavior will not be tolerated. As per your Employment Contract, you are given an allowance for **business related travel and entertainment expenses**. You are to always follow the Breitling USA Travel and Entertainment Expense General Policies and Guidelines.

---

We want to make it very clear that you must never use the Corporate Amex card for personal expenses. This is your first and only warning regarding this matter. Failure to comply with this rule will result in your termination from Breitling USA.

A copy of this warning will be placed in your personnel file.

Please feel free to contact me with any questions or concerns.

Sincerely,

Diana Figueroa  
Human Resources Manager

BREITLING USA

BREITLING USA, INC. • 10000 WILSON AVENUE, SUITE 1000 • BOSTON, MA 02120 • TEL: 617.850.1100 • FAX: 617.850.1101

*Pr. Prissert*

Message

---

**From:** Sebastien Amstutz [/O=BREITLINGUSA/OU=CT/CN=RECIPIENTS/CN=SAMSTUTZ]  
**Sent:** 9/18/2013 9:13:57 PM  
**To:** Brian Criddle [brian.criddle@breitlingusa.com]  
**CC:** Thierry Prissert [thierry.prissert@breitlingusa.com]; Chuck Anderson [charles.anderson@breitlingusa.com]  
**Subject:** Amount due to Breitling  
**Attachments:** Expenses.docx

Good morning Brian,

I hope you made it safe home.

I am getting back to you following our talk on Sunday in Reno with Thierry and Chuck.

As mentioned to you, we have looked carefully at all of your expenses since the beginning of the year.

Attached you will find a spreadsheet recap of what you owe to Breitling USA. Total amount : \$5,981.11 Please write us a check in such amount as soon as possible so we can close this case.

We look forward to the future.

Thank you.

Kind regards,

Sebastien

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## January expenses

Parking over the holiday break in LV Dec 20 2012– Jan 6 2013 \$180.00

Mail box rental fee in SLC \$136 — should not have box in SLC. Box should be in LV

Wednesday 1/2 – Schedule says Goldsmith — receipts look like café, lunch and picking up office supplies all day

Thursday 1/3 Office Max — floor for office????? \$202.98

Friday 1/4 Gas in SLC ( car parked in LV) \$42.35

Monday 1/21 Delta SLC to LV \$221.90

Tuesday 1/28 schedule says he was in LA but was in SLC

**Total personal charges for Jan \$783.23**

## February expenses

Monday 1/28 Gas in SLC \$75.86 (car parked in LV)

Monday 1/28 Meal in Utah with guest \$17.18

Flew Tuesday 1/29 to LA for 24 hrs and back to LV on 1/30

Monday 2/4 Delta purchased ticket to SLC for weekend travel Of Feb 9 - \$394.80

2/14 – 2 dinner checks in LV one for \$69.24 and \$72.94

Monday 2/11 Starbucks in SLC – Office Day \$4.37

Monday 2/11 Taco Bell in SLC – Office Day \$6.24

Monday 2/11 7-11 in SLC – Office day \$4.26

Monday 2/11 Yardhouse – Office day \$30.23

Friday 2/15 Meal at airport going away for weekend to SLC \$10.42

Friday 2/15 Meal at airport going away for weekend to SLC \$12.84

Flight 2/15 LV to SLC bill for 1/2 ticket \$262.50

Sunday 2/17 Gas in SLC (car parked in LV) \$51.82

Monday 2/18 Café in SLC (Holiday BUSA) \$5.73

Monday 2/18 Parking ticket in LV for weekend parking \$39 – travel to SLC for weekend.

Friday 2/22 – Schedule says he was in 2 Hing Wa Lee doors — returned rental car at 8:04 at LAX

**Total personal charges for February \$1057.43**

## March expenses

Car parked in LV

Saturday 3/2 Gas in SLC \$23.10

Sunday 3/3 Gas in SLC \$46.04

Tuesday 3/5 Gas in SLC \$46.57

Tuesday 3/5 Gas in WY \$49.39

Wednesday 3/6 Gas in WY \$39.91

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Friday 3/15 schedule says he visited Polachecks — rental turned in at LAX at 9 am

Friday 3/15 car wash in Utah (car parked in LV from 3/12 to 3/20) \$24

Friday 3/15 meal in SLC \$17.72

Friday 3/16 Gas in SLC \$45.26

Friday 3/16 car wash with Odor Bomb in SLC \$43.80

Week of March 18 –22

Car rented 3/18 Turned in 3/20 at 5:30 pm at LAX

Thursday 3/21 Schedule says Tourneau Century City – he was in LV

Friday 3/22 schedule says LV store visits – he was in Utah

Friday 3/22 Breakfast charge travel to SLC \$4.75

Friday 3/22 Lunch expense on SLC \$31.61

Sunday 3/24 gas in SLC (car parked in LV) \$30.57

Monday 3/26 Gas in SLC \$56.31

Monday 3/26 Gas in SLC \$47.39

Delta Friday Mar 22 LV – SLC \$233.90

**Total personal charges for March \$740.32**

April expenses

Week of April 1-5

Schedule says CA stores for everyday

Thursday 4/4 Charges in Utah schedule says Feldmar and Century City; rental car turned in at 10:04 am at LAX

Chilis #18 lunch charge in UT \$27.93

Kobe Japanese #21 dinner charge in UT \$56.65

Hotel receipt for a hotel weekend stay in Huntington Beach for Brian Criddle and guest. Receipt # 13 Charge is \$643.70

Check in Friday night

Check out Monday morning.

Back in LA on Friday 4/5

New rental car picked up on Friday 4/5 and returned Tuesday 4/9 (weekend rental) \$118.15

Car parked in LV from 4/1-4/9 \$84.00

Saturday 4/13 Gas in SLC (car parked in LV) \$43.59

Saturday 4/13 Coffee Starbucks UT \$4.37

Tuesday 4/16 Gas in SLC (car parked in LV) \$35.18

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**Total personal charges for April \$ 1013.57**

May expenses

5/7 Delta receipt #22 Flight on Monday May 13: SLC to LV returning to SLC on 5/17 \$345.80

Office day was 5/10 three charges made

Café breakfast #33 \$9.96 SLC

Gas Charge in SLC #35 \$44.26 (Car parked in LV)

Lunch in SLC #36 \$22.38

Office day was 5/17 two charges made

Breakfast #51 \$9.71

Lunch at airport #49 \$33.44

5/22 Delta receipt #57 Flight on Monday May 27: SLC to LV One way \$225.90

5/23 Taxi in SLC \$61.16

5/24 Gas Charge in SLC #66 \$59.86 (car parked in LV)

Office day 5/24 three charges made

Breakfast #76 \$22.11

Dinner #75 \$39.73

Starbucks # 77 \$12.73

Saturday 5/25

Starbucks #78 \$4.37

Sunday 5/26 Gas Charge in SLC \$55.27 (car parked in LV)

**Total Personal charges for May: \$946.68**

June expenses

Office day 6/3

Breakfast #15 \$5.72

Lunch #16 \$11.32

Dinner #17 \$41.81

June 5 Vacation day

Café #21 \$11.09

Lunch #23 \$17.14

Dinner #24 \$20.00

June 6 Vacation day

Lunch #27 \$15.76

Dinner #26 \$75.09

**\*\*CONFIDENTIAL\*\***

June 8 Saturday  
Starbucks #31 in SLC \$16.88

June 16 Delta receipt # 50 Flight from LV to SLC to LV for the weekend (June 21-June 23) \$408.80  
June 16 Sunday Misc. charge #52 \$7.69

June 21 – reported in LV seeing Jewelers of LV; flew to SLC early am  
June 21 Gasoline #64 \$35.01 Car parked in LV  
Breakfast #66 \$8.90  
Lunch \$8.00  
6/23 #68 Parking for weekend in LV #68 \$30.00

June 27 charged Delta receipt #80 Flight from SLC to LV \$240.90 on June 30

June 27 and 28  
Vacation days  
Breakfast both days \$9.60 and \$10.47

**Total charges for June 2013 \$974.18**

July expenses  
Saturday June 29  
Gas in SLC \$75.31 car parked in LV

On July 10 and 11, it was reported that three POS were visited each day in Las Vegas. There are expenses on these days that show the time was spent in CA – car rental in Long Beach and parking expense in San Diego.

Wednesday 7/10 Expenses  
Lunch at LV Airport \$28.34 @2:39 pm  
Car rental in Long Beach \$73.18 @4:45 pm returned on 7/11 @10:35 am  
Parking garage on 7/10 \$32 in San Diego

Thursday 7/11 Expenses  
Lunch at Long Beach Airport \$17.60  
Gasoline in Long Beach \$30.26  
Parking LV Airport \$18.00

Friday 7/12 expenses listed as office day in SLC  
Café for breakfast \$6.35  
Lunch \$40.11

Saturday 7/13 expenses  
Gas in SLC \$69.51 car parked in LV  
Starbucks \$5.77

**\*\*CONFIDENTIAL\*\***

Sunday July 14 expenses  
Starbucks \$4.48

Monday 7/15 expenses  
Gas in SLC \$64.79

Friday July 19  
Scheduled says Bentley dealership in LA. Was in LV as of Thursday evening.  
Day was spent driving to Utah for vacation break.

**Total personal expenses for July 465.70**

**Total Due BUSA for 2013 \$5981.11**

# **EXHIBIT 26**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
FREDERICK M. CARGIAN,

Plaintiff,

-against-

BREITLING USA, INC.,

Defendant.

Civil Action No. 15-cv-01084  
-----X

233 Broadway  
New York, New York

December 9, 2015  
10:05 a.m.

DEPOSITION of SÉBASTIEN AMSTUTZ, taken  
before Alexis Perez Jenio, a Shorthand Reporter  
and Notary Public of the State of New York.

ELLEN GRAUER COURT REPORTING CO. LLC  
126 East 56th Street, Fifth Floor  
New York, New York 10022  
212-750-6434  
REF: 111263

1

AMSTUTZ

10:09:31 2 A No.

10:09:31 3 Q What is your visa status?

10:09:36 4 A I'm a green card holder.

10:09:39 5 Q When were you first hired by Breitling  
10:09:41 6 USA?

10:09:42 7 A First of January 2005.

10:09:46 8 Q And before you were hired by Breitling  
10:09:49 9 USA, did you have any association with  
10:09:53 10 Breitling SA or any one of its subsidiaries?

10:09:58 11 A I worked for a couple of months with  
10:10:01 12 Breitling SA.

10:10:02 13 Q What do you mean, you worked for a  
10:10:05 14 couple of months with Breitling SA?

10:10:05 15 A The preparation of -- of -- you know,  
10:10:06 16 to prepare the transition to come here to the  
10:10:11 17 US.

10:10:12 18 Q So you were originally hired by  
10:10:14 19 Breitling SA?

10:10:15 20 A No.

10:10:15 21 Q Who hired you?

10:10:17 22 A Breitling USA.

10:10:19 23 Q But who, what person, what human being  
10:10:22 24 said, "You're hired"?

10:10:23 25 A It was, at the time, Marie Bodman.

1

AMSTUTZ

10:41:40 2 of the sales representative and presented it to  
10:41:46 3 them at that time.

10:41:47 4 Q Did you ever -- looking at Amstutz-3,  
10:41:53 5 had you ever checked to see whether the figures  
10:42:00 6 that were incorporated in Amstutz-3 were  
10:42:04 7 correct?

10:42:05 8 A No.

10:42:05 9 Q Was this -- was Amstutz-3, which is the  
10:42:13 10 sell-in for 2012, Breitling 631, was that  
10:42:20 11 manually compiled?

10:42:22 12 A Yes.

10:42:22 13 Q What documents were used to create it?

10:42:26 14 A I don't know.

10:42:27 15 Q Okay.

10:43:03 16 MS. GOODMAN: Four.

10:43:05 17 (One-page document titled "Sell In  
10:43:05 18 2011 Breitling," Bates stamped  
10:43:05 19 Confidential Breitling\_632, was marked  
10:43:41 20 Exhibit Amstutz-4 for identification.)

10:43:41 21 MS. GOODMAN: Do you have a copy?

10:43:42 22 MR. SINGER: No, but he's making  
10:43:44 23 it.

10:43:44 24 You can, if you want. That's okay.  
10:43:48 25 Go ahead.

1

AMSTUTZ

10:43:48 2 Q Can you recognize Amstutz Exhibit 4?

10:43:53 3 A Yes.

10:43:53 4 Q Can you tell me what that is?

10:43:59 5 A The sales figures, part of the  
10:44:04 6 presentation, the presentation in the sales  
10:44:08 7 meeting sometime beginning of 2012.

10:44:13 8 Q And it's for the presentation which  
10:44:15 9 reflects sales results for 2011. Is that  
10:44:20 10 correct?

10:44:20 11 A Yes.

10:44:21 12 Q And did you again participate in that  
10:44:23 13 sales meeting where the presentation was made?

10:44:26 14 A Yes.

10:44:27 15 Q Was this document manually compiled?

10:44:32 16 A Yes.

10:44:32 17 Q Did you compile it?

10:44:35 18 A No.

10:44:35 19 Q Do you know who did?

10:44:37 20 A No.

10:44:38 21 Q Did you ever check to see for accuracy  
10:44:41 22 of the document?

10:44:42 23 A No.

10:44:42 24 Q Now, it says at the bottom there, it  
10:44:54 25 says, "Excludes Tourneau." Can you explain what

1

AMSTUTZ

10:53:43 2 spreadsheet.

10:53:43 3 Q Okay.

10:53:46 4 Now, as I understand it, the

10:54:04 5 computer -- by 2011, the computer was able to

10:54:07 6 rectify the sales figures so the adjustments for

10:54:12 7 the stores that had multiple locations were

10:54:15 8 right within the computer system. Is that

10:54:17 9 correct?

10:54:20 10 A I do not recall when exactly the

10:54:24 11 computer system was able to do that... that...

10:54:34 12 Q Conversion?

10:54:36 13 A Conversion.

10:54:41 14 Q Was that about 2011, you think?

10:54:45 15 A Yes.

10:54:45 16 Q So looking at Amstutz-5, the sales

10:54:48 17 figures represented there, as I understand it,

10:54:51 18 do represent the adjusted the numbers. Is that

10:54:58 19 correct?

10:54:58 20 A Yes.

10:55:07 21 Q You need to take your hand...

10:55:11 22 A Yes.

10:55:11 23 Q Thank you.

10:55:13 24 Looking again at Amstutz-5, what were

10:55:17 25 the underlying documents that were used to

1 AMSTUTZ

11:11:56 2 A I don't recall exactly which ones.

11:12:00 3 Q Do you recall at all which ones you  
11:12:02 4 supplied information about?

11:12:05 5 A I am sure that I saw a few of the  
11:12:08 6 information that were provided, but I don't  
11:12:12 7 recall which ones exactly.

11:12:13 8 Q Okay. Look at page 9 to 10.

11:12:16 9 Interrogatory 22 asks to identify the  
11:12:21 10 name and job title of the individual who created  
11:12:23 11 the document identified as Breitling 635. And  
11:12:29 12 in answer, after objections are made, it says,  
11:12:32 13 "Sébastien Amstutz." Now, is Sébastien Amstutz  
11:12:35 14 you?

11:12:36 15 A Yes.

11:12:36 16 Q Is this untrue, that you did not create  
11:12:39 17 this document, 635, which is what's now been  
11:12:44 18 marked as Amstutz Exhibit 8 for this deposition?

11:12:47 19 A I oversaw, yes, the administrative  
11:12:51 20 part, but not the -- all the sales numbers.

11:12:57 21 Q So who created it then? Who did you  
11:13:02 22 oversee?

11:13:04 23 A Sales, and -- it is our sales  
11:13:07 24 department that put together the numbers in --  
11:13:11 25 hold on. I'm sorry, it's so small. Sorry.

1 AMSTUTZ

11:13:15 2 So it's Diana.

11:13:18 3 Q So you oversaw Ms. Figueroa?

11:13:21 4 A I'm sorry, it was so small that I  
11:13:24 5 thought it was sales numbers.

11:13:26 6 Q I can't do anything better. This is  
11:13:28 7 how it was given to us.

11:13:30 8 A Yeah, I'm sorry.

11:13:32 9 Sales -- I mean, I thought it was sales  
11:13:35 10 numbers, and in fact it is salary numbers. And  
11:13:39 11 yes, I mean, I retract myself. I mean, I  
11:13:45 12 oversaw Diana Figueroa.

11:13:49 13 Q So it's not true, when I asked who  
11:13:51 14 created it, you did not create it?

11:13:54 15 A I did not create it, but I transferred  
11:13:57 16 it.

11:13:57 17 Q You transferred what?

11:13:59 18 A Yes.

11:14:00 19 Q What do you mean when you say you  
11:14:02 20 "transferred it"?

11:14:03 21 A I take responsibility that this  
11:14:05 22 information is correct.

11:14:06 23 Q Did you check to see that the  
11:14:09 24 information was correct?

11:14:10 25 A I did not check.

1

AMSTUTZ

11:14:11 2 Q We have been told that information, in  
11:14:14 3 fact, on Document 635 is inaccurate. Do you  
11:14:18 4 agree with that?

11:14:20 5 A Yes.

11:14:20 6 Q In what way? How do you know that it's  
11:14:25 7 inaccurate if you've never --

11:14:27 8 A We reviewed all documents and  
11:14:31 9 determined the inaccuracy of the documents.

11:14:32 10 Q When did you review this document?

11:14:34 11 A Ah, a few months ago.

11:14:38 12 Q And when was it originally created?

11:14:41 13 A I would not...

11:14:44 14 Q Approximately.

11:14:51 15 A I mean, more than a year ago, a year  
11:14:54 16 ago.

11:14:54 17 Q So it's a document that was created  
11:14:56 18 specifically in reference to this litigation?

11:14:58 19 A Yes.

11:14:58 20 Q And can you tell me what about this  
11:15:01 21 document is inaccurate?

11:15:03 22 A You know what, I'm sorry, but I cannot  
11:15:08 23 see it.

11:15:09 24 Q You can't see it.

11:15:11 25 A No.

1

AMSTUTZ

11:15:11 2 Q I understand that problem.

11:15:13 3 A I would not be able to tell you.

11:15:20 4 MS. GOODMAN: Off the record.

11:15:21 5 (An off-the-record conversation was  
11:16:51 6 held.)

11:16:51 7 MS. GOODMAN: This is 10.

11:16:52 8 (One-page spreadsheet of sales rep  
11:16:52 9 totals for 2009 through 2014, Bates  
11:16:52 10 stamped Confidential Breitling\_636, was  
11:16:52 11 marked Exhibit Amstutz-10 for  
11:17:25 12 identification.)

11:17:25 13 Q I'm showing you what's now been marked  
11:17:28 14 as Amstutz Exhibit 10, which is Breitling 636.

11:17:39 15 Can you identify this document?

11:17:41 16 A Yes.

11:17:41 17 Q What is it?

11:17:43 18 A Sales comparison per region or per  
11:17:48 19 sales rep from 2009 to 2014.

11:17:55 20 Q Do you know who created this document?

11:18:00 21 A No.

11:18:01 22 Q This document was created, was it  
11:18:08 23 not -- well, after the beginning of this  
11:18:11 24 litigation. Is that correct?

11:18:14 25 A Can you rephrase it or repeat?

1

AMSTUTZ

11:47:33 2

(An off-the-record conversation was

11:47:38 3

held.)

11:47:38 4

A Okay.

11:47:38 5

Q If you'll see that in Amstutz-3, it

11:47:42 6

shows that Fred Cargian's total sales in 2012

11:47:46 7

was \$12,899,581. Do you see that?

11:47:56 8

A Yes.

11:47:56 9

Q And then, if you look at Amstutz-8, it

11:48:00 10

will show that Fred's total in 2012 was

11:48:03 11

\$9,809,464. Can you --

11:48:08 12

MR. SINGER: 465.

11:48:09 13

MS. GOODMAN: 465, okay. I

11:48:16 14

couldn't read it I, guess.

11:48:17 15

Q Can you explain the disparity between

11:48:20 16

those two charts that supposedly reflect sales

11:48:25 17

for 2012?

11:48:27 18

A No, I can't.

11:49:10 19

(Pause)

11:50:13 20

Q Again, if you look at -- no.

11:50:27 21

(Pause)

11:50:31 22

MS. GOODMAN: I might come back to

11:50:32 23

this one.

11:50:51 24

Q I would like to better understand how

11:50:53 25

the bonus system works for the sales

1 AMSTUTZ

12:49:40 2 Q Okay. You don't remember that in 2013  
12:49:43 3 it was uncovered that Mr. Criddle falsified his  
12:49:48 4 reports?

12:49:50 5 A I remember.

12:49:51 6 Q Okay. And you remember that he claimed  
12:49:56 7 to be in Las Vegas when in fact he was really on  
12:50:00 8 personal business in Los Angeles?

12:50:03 9 A Correct.

12:50:04 10 Q Or vice versa. Do you remember that?

12:50:06 11 A Yes.

12:50:06 12 Q Was anything said about that in his  
12:50:09 13 review of 2013?

12:50:12 14 A It was previously said to him. I don't  
12:50:16 15 know if his review, if we still talked about it.  
12:50:20 16 I don't recall that we talked about it in his  
12:50:24 17 review.

12:50:24 18 Q And in discussing his bonus for the  
12:50:31 19 qualitative portion, was he told, you know, you  
12:50:36 20 aren't getting your bonus for the qualitative  
12:50:40 21 session given what you did?

12:50:41 22 A I don't recall what we -- I mean, I  
12:50:45 23 would need to check.

12:50:45 24 Q To the best of your recollection,  
12:50:49 25 was -- did he receive at least some money for

1

AMSTUTZ

14:10:00 2 Exhibit 1, that's Breitling 627. Do you see

14:10:04 3 that?

14:10:04 4 A Yes.

14:10:04 5 Q And if at the same time, you can take

14:10:07 6 out Exhibit 10, which is Breitling 636.

14:10:22 7 Now, if you will look at Exhibit 1, it

14:10:26 8 says that for the year 2009 in Northeast 1,

14:10:34 9 which is Fred Cargian's district, correct -- no,

14:10:39 10 look at Exhibit 1.

14:10:41 11 A Yup.

14:10:42 12 Q I'm asking you to look at.

14:10:43 13 A Sorry.

14:10:44 14 Q That's Mr. Cargian's district,

14:10:47 15 Northeast 1, right?

14:10:49 16 A Yeah.

14:10:49 17 Q It says that he had sales of 11

14:10:56 18 million, 300 hundred and -- oh, I'm sorry. I'm

14:11:00 19 looking at the wrong year.

14:11:02 20 He had sales of \$11,162,298. Do you

14:11:10 21 see that?

14:11:11 22 A Yes.

14:11:11 23 Q Now, if you look at Exhibit 10, and if

14:11:16 24 you look at 2009, it says, Fred -- meaning Fred

14:11:21 25 Cargian -- Northeast 1, had sales in 2009 of

1 AMSTUTZ

14:11:25 2 \$10,460,106. Do you see that?

14:11:33 3 A Yes.

14:11:33 4 Q Can you explain the contradiction  
14:11:35 5 between those numbers for the sales in the same  
14:11:38 6 year?

14:11:38 7 A No.

14:11:38 8 Q What documents -- now, do you believe  
14:11:43 9 that Amstutz-1 is the correct; or, as between  
14:11:48 10 those two, would be the document you would rely  
14:11:51 11 upon?

14:12:02 12 (Pause)

14:12:11 13 A I don't -- I mean, I don't know.

14:12:14 14 Q Well, Amstutz-1 was refreshed. That's  
14:12:19 15 an Excel sheet. Is that correct?

14:12:22 16 A Yeah.

14:12:22 17 Q And that Excel sheet was based upon  
14:12:25 18 those client lists, customer lists, correct?

14:12:30 19 A Correct.

14:12:31 20 Q That would be, as represented in --  
14:12:34 21 what's that, Amstutz...

14:13:02 22 (Pause)

14:13:10 23 I'll come back to that.

14:13:13 24 If you can look at Exhibit 1 again --

14:13:18 25 A Yeah.

1

AMSTUTZ

14:13:19 2 Q -- and you look at the north -- that's  
14:13:24 3 Breitling 626. And look at North Central. They  
14:13:28 4 had sales --

14:13:30 5 MR. SINGER: You mean 627, Counsel?

14:13:35 6 Q 627.

14:13:37 7 MR. SINGER: Okay.

14:13:38 8 Q They had sales, the North Central rep  
14:13:41 9 had sales of \$5,704,523. Do you see that?

14:13:47 10 A Yes.

14:13:47 11 Q Now, if we look at North Central,  
14:13:51 12 that's Rick Lambert. On Exhibit 10, it reflects  
14:13:55 13 sales of \$6,117,948. Do you see that?

14:14:09 14 A Yes.

14:14:09 15 Q Can you explain that contradiction?

14:14:12 16 A No, I can't. But the change of  
14:14:14 17 territory that -- um. I don't recall, or I  
14:14:20 18 don't -- I don't remember.

14:14:23 19 Q Why would there be a change -- what do  
14:14:27 20 you mean that there's a change of territory?  
14:14:28 21 We've established that Amstutz-10 was created  
14:14:31 22 after this litigation began, right? Amstutz-10.

14:14:37 23 A Yes.

14:14:53 24 Q We're finished with those documents.

14:15:00 25 I think we discussed at sort of the end

1

AMSTUTZ

14:15:07 2 of this morning's session about Mr. Criddle and  
14:15:11 3 your acknowledgment about his misrepresenting  
14:15:15 4 his expense reports and claiming he was in  
14:15:18 5 certain areas that he really wasn't, correct?

14:15:21 6 A Correct.

14:15:21 7 Q And were you at a session with  
14:15:24 8 Mr. Criddle and Mr. Prissert when this matter  
14:15:29 9 was discussed with him?

14:15:30 10 A Right.

14:15:30 11 Q Was Mr. Anderson at that session also?

14:15:35 12 A Yes.

14:15:36 13 Q Where was that session?

14:15:37 14 A In Reno.

14:15:39 15 Q And when was that?

14:15:41 16 A In September of that year, so it's two  
14:15:45 17 thousand and...

14:15:47 18 Q '13?

14:15:48 19 A Yes.

14:15:50 20 Q Wasn't the incident in 2013?

14:15:54 21 A Yes.

14:15:55 22 Q How did the facts, the  
14:15:59 23 misrepresentation, and also, you know, claiming  
14:16:02 24 personal expenses as business expenses, how did  
14:16:05 25 that come to your attention and Mr. Prissert's

1 AMSTUTZ

14:17:38 2 A -- to the company.

14:17:39 3 Q Well, was the more -- I mean, did

14:17:46 4 Mr. --

14:17:46 5 MS. GOODMAN: Withdraw that.

14:17:50 6 Q Did Mr. Anderson indicate -- it's not

14:17:53 7 only because he was claiming personal expenses

14:17:56 8 as if they were business expenses, but his

14:17:59 9 reports were dishonest. In fact he wasn't

14:18:02 10 making the calls that he was supposed to be

14:18:05 11 making, correct?

14:18:06 12 A Correct.

14:18:06 13 MR. SINGER: Objection to the form.

14:18:07 14 You can answer.

14:18:08 15 A Correct.

14:18:08 16 Q And did Mr. Anderson say anything to

14:18:11 17 you about that falsehood?

14:18:16 18 A Yes.

14:18:16 19 Q What was his response to the fact that

14:18:21 20 he -- that Mr. Criddle was claiming to be

14:18:24 21 calling on customers in Las Vegas when in fact

14:18:27 22 he was on personal business in Los Angeles, or

14:18:31 23 the reverse, whichever it was?

14:18:35 24 A A lack of trust in Mr. Criddle.

14:18:39 25 Q Did he say anything more about lack of

1

AMSTUTZ

14:18:41 2 trust in him?

14:18:44 3 A Essentially, a lack of trust in --

14:18:49 4 essentially a lack of trust.

14:18:51 5 Q And what did you say in response to

14:18:54 6 that?

14:18:54 7 A I would fire him.

14:18:56 8 Q Was he fired?

14:18:58 9 A No.

14:18:58 10 Q Who decided that he should not be

14:19:02 11 fired?

14:19:02 12 A It was a common decision between

14:19:08 13 Mr. Anderson and Thierry Prissert.

14:19:09 14 Q Were you in that conversation when it

14:19:13 15 was decided that he would not be fired?

14:19:15 16 A Yes.

14:19:15 17 Q Your position was that he should be

14:19:17 18 fired?

14:19:18 19 A Yes.

14:19:18 20 Q Mr. Anderson's position was that he

14:19:21 21 should be fired, correct?

14:19:23 22 A No.

14:19:23 23 Q What was his position?

14:19:25 24 A It was, we want to talk to him and then

14:19:30 25 decide.

1

AMSTUTZ

14:19:31 2 Q And what was Mr. Prissert's decision?

14:19:36 3 A We want to talk to him and then decide.

14:19:38 4 Q Who expressed that position first,

14:19:42 5 Mr. Anderson or Mr. Prissert?

14:19:43 6 A I don't recall who.

14:19:45 7 Q What was the reason you said that you

14:19:48 8 should fire him?

14:19:51 9 A Because my point of view is that once

14:19:56 10 I -- we lose trust in somebody, that somebody

14:20:01 11 should not be a part of the company anymore.

14:20:03 12 Q And what was the reason that

14:20:05 13 Mr. Anderson said, We want to talk to him first

14:20:08 14 before we make that decision?

14:20:12 15 MR. SINGER: Objection to the form.

14:20:15 16 MS. GOODMAN: Well, I'll step

14:20:17 17 back --

14:20:17 18 MR. SINGER: Hold on. What was his

14:20:19 19 reason or did he say what his reason

14:20:22 20 was?

14:20:22 21 MS. GOODMAN: Read my question,

14:20:22 22 please.

14:20:22 23 (The last question was read back by

14:20:33 24 the court reporter.)

14:20:33 25 Q You may answer the question.

1

AMSTUTZ

14:22:20 2 Mr. Anderson and Thierry Prissert acknowledged  
14:22:25 3 that we would keep him. And I said to him I  
14:22:29 4 would -- if it was up to me, I would have fired  
14:22:33 5 him.

14:22:33 6 Q So did you and Mr. Anderson and  
14:22:36 7 Mr. Prissert discuss your positions about  
14:22:39 8 termination prior to the conversation --

14:22:43 9 A Yes.

14:22:44 10 Q -- in Reno?

14:22:44 11 A Yes.

14:22:45 12 Q When did that conversation take place?

14:22:49 13 A I would say a few days before.

14:22:55 14 Q A few days before --

14:22:58 15 A A few days or weeks before. Because I  
14:23:00 16 don't recall exactly when was -- when was  
14:23:03 17 exactly the incident, if it was late July, or --  
14:23:11 18 so we said, okay, we're going to talk to him in  
14:23:14 19 Reno, since that's where we all meet.

14:23:18 20 Q Besides your expressing your view that  
14:23:23 21 you would have fired him, was anything more said  
14:23:30 22 about what kind of disciplinary action should be  
14:23:34 23 taken against Mr. Criddle?

14:23:36 24 A Yes.

14:23:37 25 Q What?

1

AMSTUTZ

14:23:38 2 A To reimburse the company for all the  
14:23:42 3 expenses that he incurred.

14:23:43 4 Q Well, that's not -- do you consider  
14:23:47 5 that disciplinary --

14:23:47 6 A I'm sorry.

14:23:48 7 Q -- that he has to pay back all the  
14:23:52 8 money?

14:23:53 9 A So there was no disciplinary action.

14:23:55 10 Q Was Ms. Figueroa involved in any way?  
14:23:59 11 As a human resources manager, was she involved  
14:24:03 12 in any way in any of the discussions or any of  
14:24:05 13 the decisions?

14:24:06 14 A No.

14:24:06 15 Q Did you as the finance person suggest  
14:24:17 16 that maybe you should look back at Mr. Criddle's  
14:24:21 17 earlier records, since he's now misrepresented  
14:24:25 18 in such a large amount -- it was over \$5,000,  
14:24:29 19 right?

14:24:29 20 A Correct.

14:24:30 21 Q Did you suggest and say, Let's go and  
14:24:32 22 look further back and see if we have any other  
14:24:36 23 inconsistencies?

14:24:37 24 A Yes.

14:24:37 25 Q Did you do that?

1

AMSTUTZ

16:10:46 2 Mr. Cargian.

16:10:46 3 But I guess, I mean, if I -- if I  
16:10:50 4 recall -- I mean, even if you take the incident  
16:10:53 5 of Reno in two thousand and -- if I'm correct,  
16:11:01 6 it's 2012. I mean, for me, I said this is an  
16:11:05 7 incident where, I mean, basically I would, and  
16:11:09 8 as I said it before, for -- for -- for...

16:11:18 9 Um, for Brian Criddle, I said the fact  
16:11:22 10 to say "fuck" to your president, I mean, it's --  
16:11:27 11 for me, it's something that I would have fired  
16:11:30 12 him.

16:11:30 13 Q How do you know he said "fuck" to the  
16:11:34 14 president?

16:11:34 15 A I was there.

16:11:35 16 Q Did you hear it?

16:11:36 17 A No, I did not hear it.

16:11:38 18 Q Okay. So you didn't hear it and the  
16:11:40 19 president was standing right next to you?

16:11:43 20 A Oh, no, he was not standing. He was in  
16:11:46 21 the bowling area and I was not next to him.

16:11:49 22 Q So you had no personal knowledge that  
16:11:50 23 any of this really happened?

16:11:51 24 A I heard it a few hours later, because  
16:11:56 25 everyone was decent to try to keep it -- to keep

1 AMSTUTZ

16:11:59 2 it like this.

16:12:00 3 Q From Mr. Prissert you heard what  
16:12:02 4 happened?

16:12:02 5 A Yes.

16:12:02 6 Q As human resource manager, head of  
16:12:05 7 human resources, did you try to find out from  
16:12:08 8 Mr. Cargian what happened?

16:12:13 9 A No.

16:12:13 10 Q Were you aware of the fact that  
16:12:18 11 Mr. Prissert, and Mr. Lambert --

16:12:25 12 MR. CARGIAN: Anderson.

16:12:27 13 Q -- and Mr. Anderson went ahead and  
16:12:30 14 started bowling while Ms. Sommer and Mr. Cargian  
16:12:34 15 were left with the responsibility of taking care  
16:12:37 16 of the customers? Were you aware of that fact?

16:12:40 17 MR. SINGER: Objection.

16:12:40 18 You can answer.

16:12:41 19 Assumes facts not testified to.

16:12:43 20 You can answer.

16:12:44 21 A No.

16:12:46 22 Q Where were you? You said, quote, I was  
16:12:50 23 there. Where were you?

16:12:53 24 A I mean, the group was big. I was with  
16:12:56 25 some of the participants and maybe even some of

1 AMSTUTZ

16:12:59 2 the clients or co-workers there.

16:13:01 3 Q Okay.

16:13:01 4 A And I guess, I mean, you have mini  
16:13:07 5 groups, and -- and that's the way it went.

16:13:09 6 Q So you could not hear anything that was  
16:13:14 7 said?

16:13:14 8 A No.

16:13:14 9 Q Where was Mr. Cargian -- excuse me,  
16:13:19 10 where was Mr. Prissert and Mr. Anderson and  
16:13:25 11 Mr. Lambert?

16:13:27 12 A Where?

16:13:28 13 Q Yeah, where were they when this -- this  
16:13:33 14 comment was made?

16:13:34 15 A He was in the bowling area in Reno.

16:13:39 16 Q And were they bowling at the time?

16:13:42 17 A I would not be able -- if they were  
16:13:46 18 throwing the ball or -- we were all in the  
16:13:49 19 bowling area, yes. How were they sitting? Were  
16:13:53 20 they bowling? I mean, I guess everyone was kind  
16:13:56 21 of bowling.

16:13:56 22 Q So did you get there after everybody  
16:13:59 23 else got there?

16:14:00 24 Who did you come over with?

16:14:02 25 MS. GOODMAN: Withdraw that.

1

AMSTUTZ

16:14:04 2 Q As I understand it, you were all eating

16:14:07 3 or having dinner or something like that before?

16:14:10 4 A Before going to the bowling area.

16:14:13 5 Q Okay.

16:14:13 6 As I understand it, Mr. Anderson,

16:14:17 7 Mr. Prissert and Mr. --

16:14:20 8 MR. CARGIAN: Lambert.

16:14:22 9 Q -- Lambert --

16:14:22 10 MS. GOODMAN: Thank you.

16:14:24 11 MR. CARGIAN: And actually

16:14:25 12 Ms. Haddad.

16:14:26 13 Q -- and Ms. Haddad, as I understand it,

16:14:29 14 the three of them left and started bowling.

16:14:32 15 Were you aware of that?

16:14:34 16 MR. SINGER: Objection to the form.

16:14:35 17 That wasn't his testimony. That's an

16:14:35 18 assertion.

16:14:35 19 MS. GOODMAN: That's right.

16:14:39 20 MR. SINGER: You can answer.

16:14:39 21 A No.

16:14:43 22 Q Do you know who -- was anybody -- at

16:14:43 23 what point did you leave the restaurant to go

16:14:46 24 other to the bowling alley?

16:14:48 25 A I'm sure I left pretty much when

1

AMSTUTZ

16:14:52 2 everyone left.

16:14:53 3 Q Okay.

16:14:54 4 A Except, and you are -- and you

16:14:58 5 learned -- I mean, I'm learning it now, that the

16:15:00 6 group had left before. We kind of always --

16:15:04 7 MR. SINGER: Well, I just want to

16:15:06 8 clarify something: Her questions are

16:15:08 9 not testimony. So it's what she's

16:15:10 10 saying --

16:15:11 11 Q But you wouldn't -- if Mr. Cargian

16:15:15 12 testified to that, you would have no evidence or

16:15:19 13 personal knowledge that it was not true, would

16:15:21 14 you?

16:15:21 15 A No.

16:15:29 16 Q And you made no effort to get both

16:15:32 17 sides of the story there, did you?

16:15:34 18 MR. SINGER: Objection to the form.

16:15:35 19 You can answer.

16:15:35 20 A No.

16:15:36 21 Q And you don't know whether anybody

16:15:38 22 besides Mr. Prissert, or even whether

16:15:44 23 Mr. Prissert heard what Mr. -- anything that

16:15:47 24 Mr. Cargian said, do you?

16:15:49 25 A No.

1

AMSTUTZ

16:15:49 2 Q Your only knowledge about what happened

16:15:51 3 is what Mr. Prissert tells you happened?

16:15:54 4 A Yes.

16:15:54 5 Q And you never questioned him about what

16:16:01 6 led to this?

16:16:03 7 A No.

16:16:03 8 Q And you never questioned Mr. -- before

16:16:05 9 a decision was made what to do, you never

16:16:08 10 questioned Mr. Cargian?

16:16:10 11 A No.

16:16:11 12 Q Now, before a decision was made about

16:16:15 13 Mr. Criddle, everyone said, Well, let's talk to

16:16:19 14 him first, correct?

16:16:20 15 A Yes.

16:16:20 16 Q And people did talk to him first,

16:16:23 17 correct?

16:16:23 18 A Yes.

16:16:23 19 Q And in fact he was given a warning

16:16:25 20 letter before you had this meeting --

16:16:27 21 A Yes.

16:16:27 22 Q -- in December. So at the time you

16:16:30 23 uncovered the fabrications in his reports, a

16:16:35 24 warning letter was sent out and he knew at that

16:16:39 25 point he wasn't being fired, correct?

1

AMSTUTZ

16:16:44 2 A Correct.

16:16:45 3 Q And you had hard evidence. You didn't  
16:16:51 4 write this letter to Mr. Criddle until you  
16:16:54 5 reviewed all the documents to make sure your  
16:16:57 6 evidence was correct?

16:16:58 7 A Correct.

16:16:58 8 Q And had Mr. Anderson met with  
16:17:01 9 Mr. Criddle first to go over the documents that  
16:17:04 10 he thought raised the allegations?

16:17:07 11 A Yes.

16:17:07 12 Q Okay.

16:17:24 13 In 2011, did Mr. Prissert ever discuss  
16:17:27 14 with you concerns that he had about  
16:17:30 15 Mr. Cargian's future employment?

16:17:32 16 A No.

16:17:33 17 Q Did he ever discuss with you his  
16:17:36 18 concern that he did not think that Mr. Cargian  
16:17:41 19 would adapt to his, Mr. Prissert's, you know,  
16:17:46 20 new ways of doing business?

16:17:49 21 A No.

16:17:50 22 Q He never raised that issue with you at  
16:17:53 23 any time?

16:17:54 24 MR. SINGER: Wait, wait, wait. At  
16:17:55 25 any time or in 2011?

# **EXHIBIT 27**

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK  
-----X  
3 FREDERICK M. CARGIAN,  
4 Plaintiff,  
5 -against-  
6 BREITLING USA, INC.,  
7 Defendant.  
8 Civil Action No. 15-cv-01084  
-----X  
9

10 233 Broadway  
11 New York, New York  
12 January 6, 2016  
13 9:59 a.m.

14 DEPOSITION of THIERRY PRISSERT, taken  
15 before Alexis Perez Jenio, a Shorthand Reporter  
16 and Notary Public of the State of New York.

17

18

19

20

21

22

23 ELLEN GRAUER COURT REPORTING CO. LLC  
24 126 East 56th Street, Fifth Floor  
New York, New York 10022  
212-750-6434  
25 REF: 111262

10:51:57 1 PRISSERT

10:51:59 2 under oath.

10:52:00 3 You're saying that at no time do you

10:52:03 4 guys just talk about, you know, your --

10:52:04 5 A No.

10:52:05 6 Q -- social encounters of --

10:52:05 7 MR. SINGER: Hold on. Let her

10:52:07 8 finish.

10:52:08 9 Q -- of the night before?

10:52:12 10 MR. SINGER: Objection. Objection

10:52:13 11 to the form. You can answer.

10:52:15 12 A No.

10:52:15 13 Q You do know that Mr. Cargian is gay, do

10:52:19 14 you not?

10:52:20 15 A Yes, I know.

10:52:21 16 Q And do you recall the first time you

10:52:23 17 learned that?

10:52:23 18 A I have zero recollection of that.

10:52:54 19 Q Moving on to a different subject, in

10:52:59 20 2013, it was uncovered, was it not, that

10:53:02 21 Mr. Criddle, Brian Criddle, had substantially

10:53:06 22 misrepresented his customer visits and claimed

10:53:09 23 expenses for personal travel, claimed business

10:53:12 24 expenses for personal travel? You're aware of

10:53:15 25 that, are you not?

10:53:15 1 PRISSERT

10:53:17 2 MR. SINGER: Objection to the form.

10:53:19 3 You can answer.

10:53:20 4 A Yes.

10:53:20 5 Q Now, he did such things as on his

10:53:23 6 report he would say he was meeting with or

10:53:26 7 visiting stores in California but the expense

10:53:30 8 report would show that he was actually in Las

10:53:37 9 Vegas. Is that correct?

10:53:37 10 A I'm not sure that the two cities you're

10:53:40 11 mentioning are the correct ones.

10:53:41 12 Q But he would say he was in city A

10:53:45 13 visiting customers when in fact the expense

10:53:48 14 report showed city B?

10:53:50 15 A We realized that, yes.

10:53:51 16 Q And how did that first come to your

10:53:54 17 attention?

10:53:54 18 A It was reported to me by Chuck Anderson

10:53:57 19 having a doubt on those exact schedules.

10:54:00 20 Q And when was that?

10:54:01 21 A I don't remember the date.

10:54:02 22 You're right about the year. I don't

10:54:04 23 remember the date.

10:54:04 24 Q Was it in the spring or summer of 2013?

10:54:10 25 A I don't remember the date.

11:55:35 1 PRISSERT

11:55:40 2 December. It's always strong. I'm sure these

11:55:41 3 things and sales numbers were, you know...

11:55:41 4 Q You remember that specifically?

11:55:45 5 A No, I remember every December it's a

11:55:47 6 great time to sell watches and jewelry.

11:56:58 7 (Off the record)

11:57:02 8 Q Moving to a different subject,

11:57:04 9 Mr. Prissert, I'd like to now discuss with you

11:57:06 10 the marketing trip that was made to Crewe,

11:57:10 11 England.

11:57:10 12 A Sure.

11:57:10 13 Q When was that held?

11:57:13 14 A It was in July. It was in 2012 or

11:57:21 15 2011. I don't remember. It was in July. We go

11:57:23 16 to Crewe or Europe in July.

11:57:26 17 Q Wasn't it in 2013?

11:57:29 18 A I just told you, I don't remember.

11:57:30 19 Q And can you describe the event?

11:57:32 20 A Yes.

11:57:32 21 Q Okay. Tell me about it.

11:57:38 22 A It's an event where we take customers,

11:57:42 23 jewelers, and a few people from the Breitling

11:57:45 24 team -- that was actually the first trip to

11:57:47 25 visit there, so it was a trip to visit the

11:57:47 1 PRISSSERT

11:57:52 2 factory of the Bentley car and also to  
11:57:56 3 experience the day of aviation, which is the  
11:57:59 4 world of Breitling, so meaning flying with a  
11:58:02 5 passenger in small planes and being on the  
11:58:05 6 airfield for one day and discovering the  
11:58:07 7 Breitling world of aviation.

11:58:09 8 And the next day was to visit the Crewe  
11:58:12 9 factory, which is the factory where Bentley  
11:58:15 10 makes the car.

11:58:16 11 And then we have, if I recall, one  
11:58:18 12 evening in London to visit the store, because  
11:58:22 13 Breitling has a boutique in London. And then we  
11:58:25 14 went back.

11:58:26 15 Q It was a fairly prestigious event,  
11:58:26 16 correct?

11:58:30 17 A Every trip we go to Europe is  
11:58:34 18 interesting. And I don't know if it's  
11:58:35 19 prestigious, but it's a trip.

11:58:37 20 Q You brought your best clients,  
11:58:40 21 customers?

11:58:40 22 A No.

11:58:40 23 Q No?

11:58:41 24 A No. That's not how we decide who  
11:58:43 25 comes.

11:58:43 1 PRISSERT

11:58:43 2 Q How do you decide who comes?

11:58:45 3 A We look at the potential of -- we have  
11:58:46 4 a collection of watches named "Breitling for  
11:58:50 5 Bentley," so it's a portion of our collection.  
11:58:52 6 And it's in featured in some stores, not at all  
11:58:52 7 of our customers -- not all jewelers -- not all  
11:58:56 8 the stores carry the line.

11:58:57 9 And then we look at what other -- where  
11:58:59 10 is the business of Bentley watches, where is the  
11:59:02 11 most potential where there is a customer that  
11:59:04 12 sells a lot of Bentley, and then, based on this,  
11:59:08 13 we invite only a selected few. We cannot -- we  
11:59:12 14 don't have many spots available to go. We can  
11:59:14 15 only take a limited number of people. We have  
11:59:17 16 to make choices. And we base the choice of  
11:59:19 17 customers based on the potential and the sales  
11:59:21 18 of Bentley.

11:59:22 19 Q And did you have the ultimate  
11:59:23 20 responsibility for selecting the guest list?

11:59:27 21 A Ultimately, I wouldn't say ultimate,  
11:59:34 22 but I'm part of the decision. I decide at the  
11:59:35 23 end -- yeah, you can say that. I can decide who  
11:59:38 24 comes or -- I can decide who's invited based on  
11:59:39 25 the sales director recommendation on who's an

16:37:17 1

PRISSERT

16:37:21 2 is wrong; what's going on here?

16:37:22 3 MR. SINGER: Objection --

16:37:22 4 A I don' --

16:37:22 5 MR. SINGER: Objection to the form.

16:37:24 6 You can answer.

16:37:24 7 A I don't have to. Nobody addressed --

16:37:27 8 MR. SINGER: Just answer the

16:37:29 9 question.

16:37:29 10 A No nobody addresses their colleagues  
16:37:31 11 with using the word "F," and especially not the  
16:37:33 12 president in front of customers.

16:37:35 13 MR. SINGER: Just answer the

16:37:37 14 question that's asked.

16:37:38 15 A No, I did not.

16:37:39 16 Q Now, before you issued a warning letter  
16:37:42 17 to Mr. Criddle, you spoke with him, although  
16:37:45 18 nobody is supposed to cheat and lie on their  
16:37:47 19 papers. Why did you do him the courtesy of  
16:37:50 20 meeting with him before issuing him a warning  
16:37:53 21 letter and not the same for Mr. Cargian.

16:37:59 22 MR. SINGER: Objection to the form.

16:38:01 23 You can answer.

16:38:01 24 A That's not the event you described a  
16:38:04 25 couple of hours ago. We had a meeting with

# **EXHIBIT 28**

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

-----X  
FREDERICK M. CARGIAN,

Plaintiff,

-against-

BREITLING USA,

Defendant.

Civil Action No. 15-cv-01084  
-----X

233 Broadway  
New York, New York

November 19, 2015  
9:40 a.m.

DEPOSITION of DIANA FIGUEROA, taken  
before Alexis Perez Jenio, a Shorthand Reporter  
and Notary Public of the State of New York.

ELLEN GRAUER COURT REPORTING CO. LLC  
126 East 56th Street, Fifth Floor  
New York, New York 10022  
212-750-6434  
REF: 111250

1

FIGUEROA

10:29:04 2 participate?

10:29:04 3 A I just don't think he has time.

10:29:06 4 Q You are aware that Mr. Prissert does  
10:29:15 5 gamble on sports events, are you not?

10:29:24 6 A No.

10:29:24 7 Q When did you first become aware of the  
10:29:28 8 fact that Mr. Cargian, at Christmastime, would  
10:29:33 9 give people inside the office who helped him in  
10:29:38 10 his sales, he gave them cash gifts for  
10:29:41 11 Christmas?

10:29:42 12 A I heard about it the one time, and I  
10:29:46 13 think we addressed it with him, but I don't  
10:29:49 14 remember what year it was.

10:29:49 15 Q Okay. You didn't know about that  
10:29:52 16 before?

10:29:52 17 A Before that, I was not aware.

10:29:54 18 Q Has anybody ever given you a gift at  
10:29:57 19 Christmastime, anybody in the office?

10:29:59 20 A We've had Secret Santa, if that counts.

10:30:03 21 Q Do any of the managers give their  
10:30:05 22 subordinates gifts at Christmastime?

10:30:08 23 A Not that I'm aware of, no.

10:30:11 24 Q Is there anything against giving a  
10:30:14 25 subordinate or somebody who's helped you a

1

FIGUEROA

10:30:18 2 Christmas gift?

10:30:18 3 A I don't see how there would be a  
10:30:21 4 problem.

10:30:21 5 Q Is there anything in the handbook that  
10:30:24 6 prohibits someone from giving somebody a gift in  
10:30:29 7 the form of a gift certificate or money?

10:30:33 8 A No.

10:30:33 9 Q Are you aware that Mr. Cargian was  
10:30:38 10 reprimanded for doing this?

10:30:41 11 A Yes.

10:30:42 12 Q And you wrote to him, did you not?

10:30:46 13 A I believe so.

10:30:47 14 Q Who told you to do that?

10:30:49 15 A Depending on the year, it could have  
10:30:52 16 been Marie or Thierry. I don't remember the  
10:30:54 17 year.

10:30:54 18 Q And you did not do that on your own?

10:30:58 19 A No.

10:30:58 20 Q Why is this non-acceptable behavior,  
10:31:09 21 giving a cash gift rather than a \$100 scarf or a  
10:31:15 22 \$100 gift certificate to a restaurant? Why is  
10:31:19 23 giving cash not acceptable?

10:31:20 24 A I don't know the reasoning behind it.  
10:31:23 25 You would have to ask the person who wrote it.

1

FIGUEROA

10:56:15 2 Q It says, "We will closely monitor the  
10:56:18 3 situation, and if we do not see significant  
10:56:20 4 improvement, we will have no choice but to  
10:56:23 5 address the issue with you again." Did you  
10:56:26 6 closely monitor this situation?

10:56:28 7 A With her punching in and out, yes,  
10:56:30 8 because I have a report that I look at every  
10:56:32 9 week.

10:56:33 10 Q So anything else you closely monitored?

10:56:35 11 A No.

10:56:36 12 Q Now, you said you did the  
10:56:38 13 administrative work for, you know, the  
10:56:41 14 salespeople. You didn't -- you did not do their  
10:56:45 15 personnel work. Is that correct?

10:56:47 16 A The administrative work for sales?

10:56:50 17 Q Well, you did the salary reports.  
10:56:52 18 Did you do their expense accounts?

10:56:54 19 A I don't do any of that.

10:56:56 20 Q You don't do their expense accounts --

10:56:58 21 A No, I don't touch anything with the  
10:57:00 22 sales reps.

10:57:01 23 Q Who does the expense accounts?

10:57:02 24 A The sales reps process their reports  
10:57:05 25 and send it into accounting. That's an

1

FIGUEROA

12:07:10 2 couple of times?

12:07:11 3 A Maybe somebody like Rick, I would have  
12:07:14 4 to remind him. And then, as soon as he receives  
12:07:22 5 the e-mail, he would send it.

12:07:23 6 Q And who else did you have to remind?

12:07:23 7 How about Mr. Cawthorne?

12:07:24 8 A Oh, Patrick --

12:07:26 9 Q Yes, Patrick.

12:07:26 10 A -- Cawthorne. Maybe, once or twice.

12:07:27 11 Q You had to remind him?

12:07:27 12 A Yeah.

12:07:32 13 Q Is there anybody who never got them  
12:07:35 14 back to you?

12:07:35 15 A No, they all got them back to me, just  
12:07:40 16 sometimes late.

12:07:41 17 Q Anybody like, besides Fred, who always  
12:07:43 18 got them back to you the first time?

12:07:45 19 A Annie. Josh Haley is really good.

12:07:45 20 Q Okay.

12:07:50 21 A Brian is pretty good.

12:07:51 22 For the most part, they're pretty good  
12:07:53 23 at getting them back.

12:07:55 24 Q How about self-evaluations, do you send  
12:08:08 25 those out?

1

FIGUEROA

12:08:09 2 A Those are the same forms we're talking  
12:08:13 3 about. They're self-evaluations, so they do  
12:08:16 4 their own reviews, and then they would review  
12:08:21 5 their support person in the office as well.  
12:08:23 6 It's the same form, three different columns.

12:08:25 7 Q I see.

12:08:26 8 But isn't it true that there are some  
12:08:28 9 of the sales reps that never got the  
12:08:32 10 self-evaluation back?

12:08:33 11 A Some of them did not. And I don't  
12:08:35 12 recall who exactly.

12:08:35 13 Q Okay. Who never got it back?

12:08:36 14 A I would have to look into that. I'm  
12:08:39 15 not sure.

12:08:39 16 And it's not every year. One year they  
12:08:42 17 might be good about getting it back, and the  
12:08:44 18 next year they might forget.

12:08:47 19 Q Well, were you the person who gathered  
12:08:50 20 the documents from the personnel files which  
12:08:52 21 would includes the self-evaluations?

12:08:54 22 A Yes.

12:08:54 23 Q I got maybe five self-evaluations. Do  
12:09:00 24 you recall sending more than that?

12:09:01 25 A I don't recall. It's an e-mail that

1

FIGUEROA

12:10:24 2 not counting, so I don't know.

12:10:25 3 Q From your knowledge -- you've worked  
12:10:27 4 with these people for ten years now, and every  
12:10:30 5 year you send them out, you know, these  
12:10:32 6 self-evaluations. From your recollection, did  
12:10:34 7 most of them, the sales reps, not complete the  
12:10:37 8 self-evaluations?

12:10:38 9 A I believe most of them send it back  
12:10:41 10 with all 5s on it.

12:10:42 11 Q Okay.

12:10:44 12 A And it's sent in an e-mail.

12:10:46 13 Q What do you mean they send it back  
12:10:48 14 "with all 5s"?

12:10:49 15 A They mark themselves with all 5s. I  
12:10:52 16 think everybody has been doing the position so  
12:10:54 17 long, that they, you know...

12:10:55 18 It's not the most effective tool.  
12:10:57 19 Let's just put it that way. So the reviews,  
12:11:00 20 when they sit in the review, everything is  
12:11:02 21 discussed there, not so much the  
12:11:05 22 self-evaluation.

12:11:06 23 Q So the self-evaluation is most of the  
12:11:08 24 people mark themselves at the highest level,  
12:11:11 25 most of the sale reps --

1

FIGUEROA

12:18:27 2 A It is, but I didn't know who Schafrath  
12:18:30 3 was.

12:18:30 4 Q Really?

12:18:31 5 A Probably because I'm a New York fan, so  
12:18:31 6 I don't know anything about the teams from  
12:18:33 7 the --

12:18:33 8 Q But he was in the National Football  
12:18:36 9 League.

12:18:36 10 A But there's hundreds of people in the  
12:18:39 11 football league.

12:18:44 12 Q Were you aware that Mr. Cargian was  
12:18:48 13 gay, or is gay?

12:18:50 14 A I had my idea, but he never came out  
12:18:54 15 and told me.

12:18:56 16 Q To your knowledge, did most people  
12:18:59 17 know?

12:18:59 18 A To my knowledge, I think most people  
12:19:03 19 assumed.

12:19:03 20 Q Was anything ever said about it?

12:19:07 21 A No.

12:19:07 22 Q When you say that, to your knowledge  
12:19:10 23 most people assumed, then you must have heard  
12:19:13 24 somebody say something that would lead you to  
12:19:15 25 believe that most people assumed. What was

# **EXHIBIT 29**

APPENDIX C

BONUS STRUCTURE 2013

Fixed Element

Sell in & Sell Out Goals

Sell in	Target	Bonus	Actual	Weighted Avg
Total Region Sell in target: 10,500	\$ 11,200,000	\$ 818	22%	8273
Total 3 Regions Sell in target: 22,250	\$ 23,000,000	\$ 819	28%	
Sell Out				
2012 goal = 5% on region versus 2011 Sell out		\$ 208	11%	
2013 goal = 10% on region versus 2012 Sell out		\$ 208	15%	4208
% of in Absence Movement in 2013 Sell out 75% target		\$ 208	15%	

Total Sell in & sell out Goals 5 22,050 100% \$ 12,481

Qualitative objectives

Objective	Target	Bonus	Actual	Weighted Avg
Average sell in price	50%	\$ 740	54,800	
Number of new qualified client acquired	30%	\$ 740	2	
Overall Quality of Work Bonus	60%	\$ 1,720	Respectful, Trusting, well-organized, Company Policies	

Total Qualitative Objectives 3 100% \$ 18,700

Total Bonus Due Year 2013 8 \$ 790

Total Bonus Target	Actual
\$ 18,700	\$ 18,700
\$ 18,700	\$ 18,700

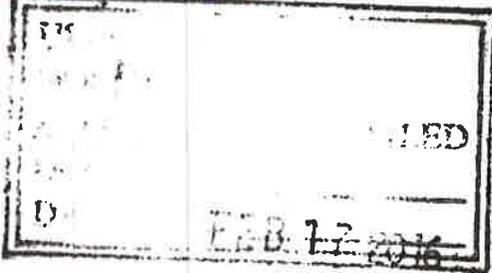
6873  
+ 4430  
= 11363  
- 3090  
= 8273  
= (MID) 701  
8273

CADILLAC  
DEAL  
+ \$1865

19961

# **EXHIBIT 30**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK



----- X  
FREDERICK M. CARGIAN,

Plaintiff,

-against-

BREITLING USA, INC.,

Defendant.  
----- X

ORDER

15 Civ. 01084 (GBD)

GEORGE B. DANIELS, United States District Judge:

Plaintiff objects, pursuant to Federal Rule of Civil Procedure 72(a), to Magistrate Judge Pitman's January 21, 2016 Order denying Plaintiff's application to reconvene the deposition of Sebastien Amstutz. As Plaintiff has not identified any part of Judge Pitman's order that is clearly erroneous or contrary to law, Plaintiff's objection is **OVERRULED**.

Under Federal Rule of Civil Procedure 72(a), a district judge "must consider timely objections [to a non-dispositive matter] and modify or set aside any part of the order that is clearly erroneous or contrary to law." Fed. R. Civ. P. 72(a). "A magistrate judge's decision is 'clearly erroneous' only if the district court is 'left with the definite and firm conviction that a mistake has been committed.'" *Golden Horn Shipping Co. v. Volans Shipping Co.*, No. 14 Civ. 02168, 2015 WL 6684518, at \*1 (S.D.N.Y. June 30, 2015) (quoting *Galland v. Johnston*, No. 14 Civ. 04411, 2015 WL 1290775, at \*4 (S.D.N.Y. Mar. 19, 2015), *appeal dismissed* (June 24, 2015)). "A decision is 'contrary to law' if it 'fails to apply . . . or misapplies relevant statutes, case law, or rules of procedure.'" *Id.* (quoting *Dilworth v. Goldberg*, No. 10 Civ. 02224, 2014 WL 3798631, at \*13 (S.D.N.Y. Aug. 1, 2014)). "Pursuant to this highly deferential standard of review, a magistrate judge is 'afforded broad discretion in

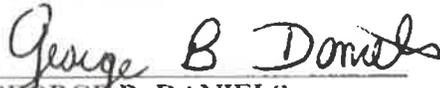
resolving discovery disputes and reversal is appropriate only if their discretion is abused.”

*Lyondell-Citgo Ref., LP v. Petroleos de Venezuela, S.A.*, No. 02 Civ. 00795, 2005 WL 551092, at \*1 (S.D.N.Y. Mar. 9, 2005) (quoting *Derthick v. Bassett-Walker Inc.*, No. 90 CIV. 03845, 1992 WL 249951, at \*8 (S.D.N.Y. Sept. 23, 1992)).

Plaintiff requests a continuation of the deposition of Sebastian Amstutz because Defendant produced certain documents about bonus compensation for other employees after the Amstutz deposition. Judge Pitman determined, however, that those documents are identical in form to documents previously produced regarding Plaintiff. The previously-produced documents alerted Plaintiff’s counsel to the “Special Extra Bonuses” that Defendant had paid, and Plaintiff’s counsel could have asked Amstutz about the “Special Extra Bonus” program at the Amstutz deposition. Nothing in Judge Pitman’s order is clearly erroneous or contrary to law. Accordingly, Judge Pitman’s ruling is affirmed over Plaintiff’s objection.

Dated: February 17, 2016  
New York, New York

SO ORDERED.

  
GEORGE B. DANIELS  
United States District Judge

# **EXHIBIT 31**

# ISAAC B. SCHAFRATH

66 Glen View - Wilton, CT 06897

203-858-9604

ischafmath@gmail.com

## OBJECTIVE

Dedicated and well rounded Graduate Candidate taking some time away from school looking to gain corporate experience, which I can build on and use, once I earn my college degree.

## QUALIFICATIONS

- Ability to coordinate multiple projects and meet deadlines under pressure.
- Equally effective working in self-managed projects or as a team member.
- Ability to adapt quickly to challenges and environments.
- Strong history of proven leadership skills.
- Motivated, dedicated and reliable coupled with a patient and professional personality.
- Technically proficient and experienced using Microsoft Word, Excel, and PowerPoint

## EDUCATION

Ohio State University, Columbus, OH <i>Telecommunications Major</i>	2003-2004
Butler University, Indianapolis, IN <i>Telecommunications Major</i>	1999-2002

## PROFESSIONAL EXPERIENCE

Great Performances, New York, NY <ul style="list-style-type: none"> <li>• Coordinate tasks and responsibilities of kitchen assistants.</li> <li>• Assist in food presentations and bartending.</li> </ul>	2005-Current
Linde Construction, Wilton, CT <ul style="list-style-type: none"> <li>• Frequent communication with homeowners and contractors clarifying objectives and goals.</li> <li>• Framing, flooring, roofing, drywall, siding and window installation, and trim work.</li> </ul>	2005-Current
Dixie Drywall Co. Inc., Spring Valley, OH <ul style="list-style-type: none"> <li>• Frequent communication as liaison between homeowners and architect.</li> <li>• General carpentry assistance</li> </ul>	2004-2005
Peerless Mill Inn, Miamisburg, OH <i>Assistant Manager</i> <ul style="list-style-type: none"> <li>• Manager and Head Bartender of Tavern restaurant</li> </ul>	2004-2005
Ohio State University, Columbus, OH <i>Football Manager/Video Production Assistant of Varsity Football Team</i> <ul style="list-style-type: none"> <li>• Filmed/edited practices and games as well as assisted coaches during playback</li> <li>• Recruited and trained new employees</li> </ul>	2003-2004

## ACTIVITIES

- Coach New Canaan Middle School Summer Lacrosse Program, 2006 - Current
- Varsity Lacrosse Team, Butler University, 1999-2002
- Fairfield County Lacrosse League, 2003-Current
- Wilton Parks & Recreation Basketball League, 2005-Current
- Assisted in coaching Lacrosse and Football teams at Wilton High School, 1999-2000
- Football, Basketball, and Lacrosse Captain and letter winner, Wilton High School, 1997-1998



# **EXHIBIT 32**

Department: Logistics  
Position: Logistics Manager,

**Logistics Duties:**

1. Oversee all activities in the Vault
2. Conduct spot inventory counts of straps/bracelets monthly and a full inventory of all watches, straps and bracelets quarterly
3. Send and receive consignment pieces
4. Crediting returned watches
5. Furnishing the Aftersales department with replacement watches and straps
6. Input two weekly shipments from Switzerland
7. Maintains inventory adjustments and transfers
8. Pulling and processing sales orders
9. Ordering watch boxes from Switzerland
10. Continually maintain stock repairs
11. Produce replacement warranties and registration cards for dealers
12. Sends defective merchandise back to Switzerland
13. Double checks all sales orders



BREITLING\_1796

# **EXHIBIT 33**

**Point of Sales 2012**

**BREITLING**

	Total Doors 2012	Total Doors 2011	Bentley Doors 2012	2012 Opened Doors	2012 Closed Doors	Total Visits	Ave Visit Per Wk.	Wks. Rep
Fred	41	40	25	4	3	332	7.72	43
Annie	41	46	15	1	6	235	6.91	34
Josh	48	47	26	9	8	292	6.34	46
Rick	37	40	22	4	7	133	4.92	27
Patrick	39	40	14	4	5	219	5.91	37
Brian	39	44	30	3	8	366	7.95	46
Beth	37	38	24	4	5	228	4.95	46
Totals	282	295	159	29	42	1,805	6.48	279

INSTRUMENTS FOR PROFESSIONALS

BREITLING\_9063

# **EXHIBIT 34**

**From:** Thierry Prissert  
**Sent:** Monday, July 23, 2012 4:20 PM  
**To:** Beth Haddad <[beth.haddad@breitlingusa.com](mailto:beth.haddad@breitlingusa.com)>  
**Cc:** Chuck Anderson <[charles.anderson@breitlingusa.com](mailto:charles.anderson@breitlingusa.com)>; Sebastien Amstutz <[sebastien.amstutz@breitlingusa.com](mailto:sebastien.amstutz@breitlingusa.com)>  
**Subject:** mid year Bonus on your region sell in and total regions sales bonus as of june 30th,2012.

Hello Beth,

You have reached 45.9% (\$5,972,554) of your \$13,000,000goal.

Your reduced region target is now \$12,400,000 (\$600,000 reduction)

Reduction of 5%.

We will take in consideration this reduction to calculate your mid year bonus.

Therefore you have achieved (based on new \$12,400,000) 48.2% and will receive \$3,510 as per appendix A of your contract component 1A)

As far as the global goal , we have reached \$41,471,745 at June 30th,2012 (based on \$101,000,000 without Toumeau) which represent 41.1% and you will receive a \$470 bonus (as per appendix B of your contract component 1B)

Total Mid Year Bonus: \$3,980.

Hope you can catch up to the \$12,400,000 target.

Thank You

Any question please don't hesitate to contact us.

Good luck to you.

Have a good week

Thierry Prissert

President

Breitling USA  
206 Danbury Road  
Wilton, CT 06897  
USA

Phone: 203.762.1180

Fax: 203.762.1178

Email: [Thierry.Prissert@breitlingusa.com](mailto:Thierry.Prissert@breitlingusa.com)

Check our website at: [www.breitling.com](http://www.breitling.com)

**From:** Thierry Prissert  
**Sent:** Wednesday, September 11, 2013 6:57 PM  
**To:** Beth Haddad <[beth.haddad@breitlingusa.com](mailto:beth.haddad@breitlingusa.com)>  
**Cc:** Chuck Anderson <[charles.anderson@breitlingusa.com](mailto:charles.anderson@breitlingusa.com)>; Sebastien Amstutz <[sebastien.amstutz@breitlingusa.com](mailto:sebastien.amstutz@breitlingusa.com)>  
**Subject:** your new goal 2013

Hello Beth,

See below a recap and your new goal:

	Sales goal 2013	New Goal 2013	Goal reduction 2013	Total Sales 2012	Increase 2013 vs. 2012
BETH	\$12,700,000	\$11,915,000	\$785,000	\$11,435,093	104%

Hope you can finish strong and catch up .

Good luck to you  
Thank you

Thierry Prissert  
President

Breitling USA  
206 Danbury Road  
Wilton, CT 06897  
USA

Phone: 203.762.1180  
Fax: 203.762.1178  
Email: [Thierry.Prissert@breitlingusa.com](mailto:Thierry.Prissert@breitlingusa.com)  
Check our website at: [www.breitling.com](http://www.breitling.com)

**From:** Thierry Prissert  
**Sent:** Monday, July 23, 2012 4:13 PM  
**To:** Brian Criddle <[brian.criddle@breitlingusa.com](mailto:brian.criddle@breitlingusa.com)>  
**Cc:** Chuck Anderson <[charles.anderson@breitlingusa.com](mailto:charles.anderson@breitlingusa.com)>; Sebastien Amstutz <[sebastien.amstutz@breitlingusa.com](mailto:sebastien.amstutz@breitlingusa.com)>  
**Subject:** mid year Bonus on your region sell in and total regions sales bonus as of june 30th,2012.

Hello Brian,

You have reached 40.8% (\$6,523,602) of your \$16,000 000 goal.

Your reduced region target is now \$15,200,000 (\$800,000 reduction)  
Reduction of 5%.

We will take in consideration this reduction to calculate your mid year bonus.

Therefore you have achieved (based on new \$15,200,000) 42.9% and will receive \$2,340 as per appendix A of your contract component 1A)

As far as the global goal , we have reached \$41,471,745 at June 30th,2012 (based on \$101,000,000 without Tourneau) which represent 41.1% and you will receive a \$780 bonus (as per appendix B of your contract component 1B)

Total Mid Year Bonus: \$3,120

Hope you can catch up to the \$15,200,000 target.

Thank You

Any question please don't hesitate to contact us.

Good luck to you.

Have a good week

Thierry Prissert

President

Breitling USA  
206 Danbury Road  
Wilton, CT 06897  
USA

Phone: 203.762.1180

Fax: 203.762.1178

Email: [Thierry.Prissert@breitlingusa.com](mailto:Thierry.Prissert@breitlingusa.com)

Check our website at: [www.breitling.com](http://www.breitling.com)

**From:** Thierry Prissert  
**Sent:** Wednesday, September 11, 2013 6:57 PM  
**To:** Brian Criddle <[brian.criddle@breitlingusa.com](mailto:brian.criddle@breitlingusa.com)>  
**Cc:** Chuck Anderson <[charles.anderson@breitlingusa.com](mailto:charles.anderson@breitlingusa.com)>; Sebastien Amstutz <[sebastien.amstutz@breitlingusa.com](mailto:sebastien.amstutz@breitlingusa.com)>  
**Subject:** your new 2013 goal

Hello Brian,

Please see below recap and new goal 2013

	Sales goal 2013	New Goal 2013	Goal reduction 2013	Total Sales 2012	Increase 2013 vs. 2012
BRIAN	\$15,400,000	\$14,810,000	\$590,000	\$14,194,544	104%

I strongly believe a lots of things have not aligned in your region in the first 8 months !  
If you correct these and work hard you still can make it

Good luck to you

Thierry Prissert  
President

Breitling USA  
206 Danbury Road  
Wilton, CT 06897  
USA

Phone: 203.762.1180  
Fax: 203.762.1178  
Email: [Thierry.Prissert@breitlingusa.com](mailto:Thierry.Prissert@breitlingusa.com)  
Check our website at: [www.breitling.com](http://www.breitling.com)

**From:** Thierry Prissert  
**Sent:** Monday, July 23, 2012 3:43 PM  
**To:** Fred Cargian <[fred.cargian@breitlingusa.com](mailto:fred.cargian@breitlingusa.com)>  
**Cc:** Chuck Anderson <[charles.anderson@breitlingusa.com](mailto:charles.anderson@breitlingusa.com)>; Sebastien Amstutz <[sebastien.amstutz@breitlingusa.com](mailto:sebastien.amstutz@breitlingusa.com)>  
**Subject:** mid year Bonus on your region sell in and total regions sales bonus as of june 30th,2012.

Hello Fred,

You have reached 37.6% (\$6,197,630) of your \$16,500,000.

In theory (per your contract) you would not receive any mid year bonus as you achieved less than 38.4% of your goal.

Your reduced region target is now \$15,400,000 (\$1,100,000 reduction)

Reduction of 7%.

We will take in consideration this reduction to calculate your mid year bonus.

Therefore you have achieved (based on new \$15,400,000) 40% and will receive \$2570 as per appendix A of your contract component 1A)

As far as the global goal, we have reached \$41,471,745 at June 30th, 2012 (based on \$101,000,000 without Tourneau) which represent 41.1% and you will receive a \$860 bonus (as per appendix B of your contract component 1B)

Total Mid Year Bonus: \$3,430

Hope you can catch up to the \$15,400,000 target.

Thank You

Any question please don't hesitate to contact us.

Good luck to you.

Have a good week

Thierry Prissert  
President

Breitling USA  
206 Danbury Road  
Wilton, CT 06897  
USA

Phone: 203.762.1180

Fax: 203.762.1178

Email: [Thierry.Prissert@breitlingusa.com](mailto:Thierry.Prissert@breitlingusa.com)

Check our website at: [www.breitling.com](http://www.breitling.com)

**From:** Thierry Prissert  
**Sent:** Monday, July 23, 2012 4:27 PM  
**To:** Josh Haley <[jhaley@breitlingusa.com](mailto:jhaley@breitlingusa.com)>  
**Cc:** Chuck Anderson <[charles.anderson@breitlingusa.com](mailto:charles.anderson@breitlingusa.com)>; Sebastien Amstutz <[sebastien.amstutz@breitlingusa.com](mailto:sebastien.amstutz@breitlingusa.com)>  
**Subject:** FW: mid year Bonus on your region sell in and total regions sales bonus as of june 30th,2012.

Hello hOSH,

Sorry, slight mistake in the previous email below  
The global sales bonus you will receive (s per the table in your contract ; component 1 b) is 550\$ (as we have reached 41,1% of the team goal.  
Therefore your total mid-year bonus will be : \$3,320 (and not \$3,690)

Thanks  
Call if you need further clarification  
Best  
Thierry Prissert  
President

Breitling USA  
206 Danbury Road  
Wilton, CT 06897  
USA

Phone: 203.762.1180  
Fax: 203.762.1178  
Email: [Thierry.Prissert@breitlingusa.com](mailto:Thierry.Prissert@breitlingusa.com)  
Check our website at: [www.breitling.com](http://www.breitling.com)

---

**From:** Thierry Prissert <[thierry.prissert@breitlingusa.com](mailto:thierry.prissert@breitlingusa.com)>  
**To:** Josh Haley <[jhaley@breitlingusa.com](mailto:jhaley@breitlingusa.com)>  
**Cc:** Chuck Anderson <[charles.anderson@breitlingusa.com](mailto:charles.anderson@breitlingusa.com)>, Sebastien Amstutz <[sebastien.amstutz@breitlingusa.com](mailto:sebastien.amstutz@breitlingusa.com)>  
**Subject:** mid year Bonus on your region sell in and total regions sales bonus as of june 30th,2012.

Hello Josh,

You have reached 43.4% (\$7,814,064) of your \$18,000,000 goal.

Your reduced region target is now \$16,800,000 (\$1,200,000 reduction)

Reduction of 7%.

We will take in consideration this reduction to calculate your mid year bonus.

Therefore you have achieved (based on new \$16,800,000) 46.5% and will receive \$2,770 as per appendix A of your contract component 1A)

As far as the global goal , we have reached \$41,471,745 at June 30th,2012 (based on \$101,000,000 without Toumeau) which represent 41.1% and you will receive a \$920 bonus (as per appendix B of your contract component 1B)

Total Mid Year Bonus: \$3,690

Hope you can catch up to the \$16,800,000 target.

Thank You

Any question please don't hesitate to contact us.

Good luck to you.

Have a good week

Thierry Prissert

President

Breitling USA  
206 Danbury Road  
Wilton, CT 06897  
USA

Phone: 203.762.1180

Fax: 203.762.1178

Email: [Thierry.Prissert@breitlingusa.com](mailto:Thierry.Prissert@breitlingusa.com)

Check our website at: [www.breitling.com](http://www.breitling.com)

**From:** Thierry Prissert  
**Sent:** Wednesday, September 11, 2013 6:57 PM  
**To:** Josh Haley <[josh.haley@breitlingusa.com](mailto:josh.haley@breitlingusa.com)>  
**Cc:** Chuck Anderson <[charles.anderson@breitlingusa.com](mailto:charles.anderson@breitlingusa.com)>; Sebastien Amstutz <[sebastien.amstutz@breitlingusa.com](mailto:sebastien.amstutz@breitlingusa.com)>  
**Subject:** your revised goal

Dear Josh,

See below recap for your new goal

I know you will aim for the fence !

	Sales goal 2013	New Goal 2013	Goal reduction 2013	Total Sales 2012	Increase 2013 vs. 2012
JOSH	\$17,700,000	\$17,415,000	\$285,000	\$16,683,607	104%

Bonne chance

Thierry Prissert  
President

Breitling USA  
206 Danbury Road  
Wilton, CT 06897  
USA

Phone: 203.762.1180  
Fax: 203.762.1178  
Email: [Thierry.Prissert@breitlingusa.com](mailto:Thierry.Prissert@breitlingusa.com)  
Check our website at: [www.breitling.com](http://www.breitling.com)

**From:** Thierry Prissert  
**Sent:** Monday, July 23, 2012 3:55 PM  
**To:** Patrick Cawthorne <[patrick.cawthorne@breitlingusa.com](mailto:patrick.cawthorne@breitlingusa.com)>  
**Cc:** Chuck Anderson <[charles.anderson@breitlingusa.com](mailto:charles.anderson@breitlingusa.com)>; Sebastien Amstutz <[sebastien.amstutz@breitlingusa.com](mailto:sebastien.amstutz@breitlingusa.com)>  
**Subject:** mid year Bonus on your region sell in and total regions sales bonus as of june 30th,2012.

Hello Patrick,

You have reached 38.8% (\$4,467,452) of your original \$11,500,000 goal.

Your reduced region target is now \$10,700,000 (\$800,000 reduction)  
Reduction of 7%.

Therefore you have achieved (based on new \$ 10,700,000) 41,8% and will receive \$2,150 as per appendix A of your contract component 1A)

As far as the global goal , we have reached \$41,471,745 at June 30th,2012 (based on \$101,000,000 without Tourneau) which represent 41.1% and you will receive a \$720 bonus (as per appendix B of your contract component 1B)

Total Mid Year Bonus: \$2,870

Hope you can catch up to the \$10,700,000 target.

Thank You  
Any question please don't hesitate to contact us.  
Good luck to you.

Have a good week  
Thierry Prissert  
President

Breitling USA  
206 Danbury Road  
Wilton, CT 06897  
USA

Phone: 203.762.1180  
Fax: 203.762.1178  
Email: [Thierry.Prissert@breitlingusa.com](mailto:Thierry.Prissert@breitlingusa.com)  
Check our website at: [www.breitling.com](http://www.breitling.com)

**From:** Thierry Prissert  
**Sent:** Wednesday, September 11, 2013 7:01 PM  
**To:** Patrick Cawthorne <[patrick.cawthorne@breitlingusa.com](mailto:patrick.cawthorne@breitlingusa.com)>  
**Cc:** Chuck Anderson <[charles.anderson@breitlingusa.com](mailto:charles.anderson@breitlingusa.com)>; Sebastien Amstutz <[sebastien.amstutz@breitlingusa.com](mailto:sebastien.amstutz@breitlingusa.com)>  
**Subject:** your new goal 2013

Dear Patrick,,

See below your goal and recap 2013:

	Sales goal 2013	New Goal 2013	Goal reduction 2013	Total Sales 2012	Increase 2013 vs. 2012
PATRICK	\$11,000,000	\$10,450,000	\$550,000	\$10,004,035	104%

Hope you keep that lead and bring it home !  
Good luck cheers

Thierry Prissert  
President

Breitling USA  
206 Danbury Road  
Wilton, CT 06897  
USA

Phone: 203.762.1180  
Fax: 203.762.1178  
Email: [Thierry.Prissert@breitlingusa.com](mailto:Thierry.Prissert@breitlingusa.com)  
Check our website at: [www.breitling.com](http://www.breitling.com)

**From:** Thierry Prissert  
**Sent:** Monday, July 23, 2012 4:07 PM  
**To:** Rick Lambert <[rick.lambert@breitlingusa.com](mailto:rick.lambert@breitlingusa.com)>  
**Cc:** Chuck Anderson <[charles.anderson@breitlingusa.com](mailto:charles.anderson@breitlingusa.com)>; Sebastien Amstutz <[sebastien.amstutz@breitlingusa.com](mailto:sebastien.amstutz@breitlingusa.com)>  
**Subject:** mid year Bonus on your region sell in and total regions sales bonus as of june 30th,2012.

Hello Rick,

You have reached 38.2% (\$4,620,578) of your \$12,100,000 goal .  
In theory (per your contract) you would not receive any mid year bonus as you achieved less then 38.4% of your goal.  
Your reduced region target is now \$11,300,000 (\$800,000 reduction)  
Reduction of 7%.  
We will take in consideration this reduction to calculate your mid year bonus.  
Therefore you have achieved (based on new \$11,300,000) 40.9% and will receive \$1,640 as per appendix A of your contract component 1A)

As far as the global goal , we have reached \$41,471,745 at June 30th,2012 (based on \$101,000,000 without Toumeau) which represent 41.1% and you will receive a \$550 bonus (as per appendix B of your contract component 1B)

Total Mid Year Bonus: \$2,190.

Hope you can catch up to the \$11,300,000 target.

Thank You  
Any question please don't hesitate to contact us.  
Good luck to you.

Have a good week  
Thierry Prissert  
President

Breitling USA  
206 Danbury Road  
Wilton, CT 06897  
USA

Phone: 203.762.1180  
Fax: 203.762.1178  
Email: [Thierry.Prissert@breitlingusa.com](mailto:Thierry.Prissert@breitlingusa.com)  
Check our website at: [www.breitling.com](http://www.breitling.com)

BREITLING\_9097

**From:** Thierry Prissert  
**Sent:** Wednesday, September 11, 2013 6:58 PM  
**To:** Rick Lambert <[rick.lambert@breitlingusa.com](mailto:rick.lambert@breitlingusa.com)>  
**Cc:** Chuck Anderson <[charles.anderson@breitlingusa.com](mailto:charles.anderson@breitlingusa.com)>; Sebastien Amstutz <[sebastien.amstutz@breitlingusa.com](mailto:sebastien.amstutz@breitlingusa.com)>  
**Subject:** your new goal 2013

Monsieur Rick,

Please find below recap and your new goal for 2013:

	Sales goal 2013	New Goal 2013	Goal reduction 2013	Total Sales 2012	Increase 2013 vs. 2012
RICK	\$11,800,000	\$11,210,000	\$590,000	\$10,745,351	104%

I am convinced it is in your hands and only a question of you making it happen in your region  
(not the case for all region)  
Basically , you know what you have to do !

Thanks  
Bonne chance

Thierry Prissert  
President

Breitling USA  
206 Danbury Road  
Wilton, CT 06897  
USA

Phone: 203.762.1180  
Fax: 203.762.1178  
Email: [Thierry.Prissert@breitlingusa.com](mailto:Thierry.Prissert@breitlingusa.com)  
Check our website at: [www.breitling.com](http://www.breitling.com)

# **EXHIBIT 35**

BREITLING 011

Fred Carlan, NE 1

Total Bonus Potential:	\$ 55,000	% of Total
Based On Sell In/Sell out Goal \$	35,750	65%
Qualitative Objectives bonus:	\$ 19,250	35%

Sell In & sell out Goals

	Targets	Bonus	Achieved	Bonus Due
Sell In				
Total Region Sell In :	\$ 15,400,000	\$ 18,080	45%	\$ 12,072
Total Regions Sell In:	\$ 109,000,000	\$ 5,360	15%	\$ 4,824
Sell Out				
2012 goal = + 5% on region versus 2011 Sell out		\$ 7,180	20%	\$ -
% of In House Movement In 2012 Sell out(73% target)		\$ 7,180	20%	\$ 7,150
<b>Total Sell In &amp; sell out Goals</b>		<b>\$ 35,750</b>	<b>100%</b>	<b>\$ 24,845.00</b>

Qualitative objectives

	Targets	Bonus	Achieved	Bonus Due
Total Number of visits:	20%	\$ 3,850	275	\$ 3,850
Number of new qualified door opened :	20%	\$ 3,850	3	\$ 3,850
Average sell in price:	20%	\$ 3,850	average price need to be above \$4,300	\$ 3,850
Total Call report (90%):	20%	\$ 3,850	44 weeks of call reports	\$ 1,925
Total I/P 1 & I/P2 in your region:	20%	\$ 3,850	100 I/P 1 and 100 I/P 2	\$ 1,925

Total Qualitative Objectives

\$ 15,400

Total Bonus Due Year 2012

3,130 = 36,816

Special 2012 Extra Bonus:

\$4,800

TOTAL 2012 BONUS:

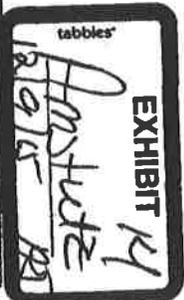
\$ 45,048

BONUS 2011:

\$39,875

????????

4 \$41,616



Patrick Cawthorne, SC

Total Bonus Potential:	\$ 46,000	% of Total
Based On Sell in & Sell out Goal \$:	\$ 29,900	65%
Qualitative Objectives bonus:	\$ 16,100	35%

Sell in & sell out Goals

	Targets	Bonus	Achieved	Bonus Due
<b>Sell In</b>				
Total Region Sell in :	\$ 10,700,000	\$ 13,455	45%	\$ 12,110
Total Regions Sell in:	\$ 109,000,000	\$ 4,485	15%	\$ 4,037
<b>Sell Out</b>				
2012 goal = + 5% on region versus 2011 Sell out		\$ 5,980	20%	\$ 2,990
% of In House Movement in 2012 Sell out(13% target)		\$ 5,980	20%	\$ 5,980
<b>Total Sell in &amp; sell out Goals</b>		\$ 29,900	100%	\$ 25,116.00

Qualitative objectives

	Targets	Bonus	Achieved	Bonus Due
<b>Total Number of visits:</b>	20%	\$ 3,220	0%	\$ -
Number of new qualified door opened :	20%	\$ 3,220	100%	\$ 3,220
Average sell in price:	20%	\$ 3,220	100%	\$ 3,220
Total Call report (90%):	20%	\$ 3,220	50%	\$ 1,610
Total IFP 1 & IFP2 in your region:	20%	\$ 3,220	90%	\$ 1,610

**Total Qualitative Objectives** 100% \$ 16,100

**Total Bonus Due Year 2012** \$ 34,776

Special 2012 Extra Bonus: \$8,500

TOTAL 2012 BONUS: \$ 43,276

BONUS 2011: \$52,900

OK ?

Handwritten notes: 94%, 40,406, 1, 2,870 = 31,906

Brian Criddle, WI

Total Bonus Potential:	\$ 50,000	% of Total
Based On Sell In/Sell out Goal \$:	\$ 32,500	65%
Qualitative Objectives bonus:	\$ 17,500	35%

Sell in & sell out Goals

Sell In	Targets	Bonus	Achieved	Bonus Due
Total Region Sell in :	\$ 15,200,000	\$ 14,630	45%	\$ 13,167
Total Regions Sell In:	\$ 109,000,000	\$ 4,870	15%	\$ 4,383
Sell Out				
2012 goal = + 5% on region versus 2011 Sell out		\$ 6,500	20%	\$ 6,500
% of In House Movement in 2012 Sell out(13% target)		\$ 6,500	20%	\$ 6,500

Total Sell in & sell out Goals **\$ 32,500** 100% **\$ 30,550.00**

Qualitative objectives

Qualitative objectives	Targets	Bonus	Achieved	Bonus Due
Total Number of visits:	20%	\$ 3,500	275	\$ 3,500
Number of new qualified door opened :	20%	\$ 3,500	2	\$ 3,500
Average sell in price:	20%	\$ 3,500	average price need to be above \$4,300	\$ 3,500
Total Call report (90%):	20%	\$ 3,500	44 weeks of call reports	\$ 2,625
Total IFP 1 & IFP2 in your region:	20%	\$ 3,500	100 IFP 1 and 100 IFP 2	\$ 1,750

Total Qualitative Objectives **\$ 17,500** 100% **\$ 14,875**

Total Bonus Due Year 2012 **\$ 45,425** / 3,120

Special 2012 Extra Bonus: **\$8,960**

TOTAL 2012 BONUS: **\$ 54,385** **\$ 51,265**

BONUS 2011: **\$50,000**

follow up on emails.  
use of office day.  
to friendly with clients?  
ok

Beth Haddad, W2

Total Bonus Potential:	\$	30,000	% of Total
Based On Sell in & Sell out Goal \$1	\$	19,500	65%
Qualitative Objectives bonus:	\$	10,500	35%

Sell in & sell out Goals

Sell In	Targets	Bonus	Achieved	Bonus Due
Total Region Sell in :	\$ 12,400,000	\$ 8,775	45%	\$ 7,698
Total Regions Sell in :	\$ 109,000,000	\$ 2,925	15%	\$ 2,533
Sell Out				
2012 goal = + 5% on region versus 2011 Sell out		\$ 3,900	20%	\$ 3,900
% of In House Movement in 2012 Sell out (13% target)		\$ 3,900	20%	\$ 3,900

Total Sell in & Sell out Goals

\$ 19,500 100%

\$ 18,330.00

Qualitative objectives

	Targets	Bonus	Achieved	Bonus Due
Total Number of visits	20%	\$ 2,100	260	\$ 0%
Number of new qualified door opened :	20%	\$ 2,100	3	\$ 100%
Average sell in price:	20%	\$ 2,100	average price need to be above \$4,300	\$ 100%
Total Call report (90%):	20%	\$ 2,100	44 weeks of call reports	\$ 100%
Total IFP 1 & IFP2 in your region	20%	\$ 2,100	100 IFP 1 and 100 IFP 2	\$ 50%

Total Qualitative Objectives

100% \$ 10,500

\$ 7,350

Total Bonus Due Year 2012

\$ 25,680

7,990

Special 2012 Extra Bonus:

\$ 7,920

TOTAL 2012 BONUS

\$ 33,600

112%

29,620

BONUS 2011:

\$34,500

ok

T&C: AMOR  
vs \$105K

Josh Haley, SE

Total Bonus Potential:	\$	35,000	% of Total
Based On Sell In/Sell Out Goal \$:	\$	22,750	65%
Qualitative Objectives bonus:	\$	12,250	35%

Sell in & sell out Goals

Sell In	Targets	Bonus	Achieved	Bonus Due
Total Region Sell in :	\$ 16,800,000	\$ 10,240	45%	\$ 9,216
Total Regions Sell In :	\$ 109,000,000	\$ 3,410	15%	\$ 3,069
Sell Out				
2012 goal = + 5% on region versus 2011 Sell out		4,550	100%	4,550
% of In House Movement in 2012 Sell out(13% target)		4,550	100%	4,550

Total Sell in & sell out Goals

\$ 22,750

100%

\$ 21,385.00

Qualitative objectives

		Bonus	Achieved	Bonus Due
Total Number of visits:	20%	\$ 2,450	100%	\$ 2,450
Number of new qualified door opened :	20%	\$ 2,450	100%	\$ 2,450
Average sell in price:	20%	\$ 2,450	100%	\$ 2,450
Total Call report (90%):	20%	\$ 2,450	100%	\$ 2,450
Total IFP 1 & IFP2 in your region:	20%	\$ 2,450	50%	\$ 1,225

Total Qualitative Objectives

100%

\$ 12,250

\$ 11,025

Total Bonus Due Year 2012

\$ 32,410

7,120

Special 2012 Extra Bonus:

\$7,920

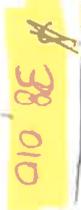
37,010

TOTAL 2012 BONUS:	\$	40,330
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BONUS 2011

\$34,500

38,010



**Rick Lambert, NC**  
 Sell in & sell out Goals

Total Bonus Potential:	\$ 35,000	% of Total
Based On Sell in/Sell out Goal \$:	\$ 22,750	65%
Qualitative Objectives bonus:	\$ 12,250	35%

Sell In	Targets	Bonus	Achieved	Bonus Due
Total Region Sell in:	\$ 11,300,000	\$ 10,240	45%	\$ 10,240
Total Regions Sell In:	\$ 109,000,000	\$ 3,410	15%	\$ 3,059
Sell Out			90%	
2012 goal = + 5% on region versus 2011 Sell out		\$ 4,550	20%	\$ 4,550
% of In House Movement in 2012 Sell out (13% target)		\$ 4,550	20%	\$ 4,550
Total Sell in & sell out Goals		\$ 22,750	100%	\$ 22,409.00

TOTAL 2012 BONUS:	Bonus	Achieved	Bonus Due
Total Number of visits:	20%	\$ 2,450	250
Number of new qualified door opened:	20%	\$ 2,450	2
Average sell in price:	20%	\$ 2,450	average price need to be above \$4,300
Total Call report (90%):	20%	\$ 2,450	44 weeks of call reports
Total IFP 1 & IFP2 in your region:	20%	\$ 2,450	100 IFP 1 and 100 IFP 2
<b>Total Qualitative Objectives</b>	100%	\$ 12,250	
<b>Total Bonus Due Year 2012</b>		\$ 28,534	

Special 2012 Extra Bonus: \$3,550 / 2,190.  
 TOTAL 2012 BONUS: \$ 32,084  
 BONUS 2011: \$21,000

ok \$29,894

Annie Sommer, NE 2

Total Bonus Potential	\$ 45,000	% of Total
Based On Sell in & Sell out Goal \$:	\$ 29,250	65%
Qualitative Objectives bonus:	\$ 15,750	35%

Sell in & sell out Goals

Sell In	Targets	Bonus	Achieved	Bonus Due	
Total Region Sell in :	\$ 13,200,000	\$	13,160	45%	\$ 11,644
Total Regions Sell In:	\$ 109,000,000	\$	4,390	15%	\$ 3,921
Sell Out		\$	5,850	20%	\$
2012 goal = + 5% on region versus 2011 Sell out		\$	5,850	20%	\$
% of In House Movement in 2012 Sell out (13% target)		\$	5,850	100%	\$ 5,850

Total Sell in & sell out Goals \$ 29,250 100% \$ 21,645.00

Qualitative objectives

	Targets	Bonus	Achieved	Bonus Due	
Total Number of visits:	20%	\$	3,150	100%	\$ 3,150
Number of new qualified door opened	20%	\$	3,150	7%	\$
Average sell in price	20%	\$	3,150	100%	\$ 3,150
Total Call report (90%)	20%	\$	3,150	100%	\$ 3,150
Total IFP 1 & IFP2 in your region	20%	\$	3,150	50%	\$ 1,575

Total Qualitative Objectives 100% \$ 15,750 \$ 11,025

1,425 = 28,120

Special 2012 Extra Bonus: \$3,960

TOTAL 2012 BONUS \$ 36,630 \$2,380

BONUS 2011 \$45,000

OK

# **EXHIBIT 36**

APPENDIX C

2013 Financial Objectives

Fixed Charges

Fixed Charges

Total Bonus (Target)	\$	18,700	% of Total
Fixed Charges (Actual)	\$	11,363	61%
Quantitative Objectives Target	\$	18,700	100%

6873  
+ 9430  
= 11363  
- 3090  
= 8273 (M.D.Y.)

Target	Actual	% of Target
11,363,000	8,818	78%
18,700,000	8,810	47%
8273	8273	100%
8273	8273	100%

Total Sales in & out Goals 100% 18,050

Qualitative Objectives

Average sell in price	30%	3,240
Number of new qualified labor opened	20%	3,240
Control Quality of Work Force	40%	11,370

40	YES
20	YES
40	YES

Total Qualitative Objectives 100% \$ 18,700

Total Bonus Due Year 2013 \$ 18,700

19961

CADILLAC  
DEAL  
+ \$1865

1780

EXAMPLE 2013

Patrick Cawthorne, SC

Total Bonus Potential:	\$ 46,000	% of Total
Based On Sell in & Sell out Goal:	\$ 27,600	60%
Qualitative Objectives bonus:	\$ 18,400	40%

Sell in & sell out Goals

	Targets	Bonus	Achieved	Bonus Due
Sell in				
Total Region Sell in target :	\$ 10,450,000	\$ 9,660	35%	\$ 8,694
Total 8 Regions Sell in target :	\$ 93,290,000	\$ 5,520	20%	\$ 4,416
Sell Out				
2013 goal = + 3% on region versus 2011 Sell out	-7%	\$ 4,140	50%	\$ 2,070
2013 Tourneau Goal: +10% in unit sell out vs LY		\$ 4,140	100%	\$ 4,140
% of In House Movement in 2013 Sell out (20% target)	23.00%	\$ 4,140	15%	\$ 4,140

\$9,930,484.00 95%  
\$78,817,901.00 84.50%

Total Sell in & sell out Goals \$ 27,600 100% \$ 23,460.00

Qualitative objectives	Targets	Bonus	Achieved	Bonus Due
Average sell in price:	20%	\$ 3,680	100%	\$ 3,680
Number of new qualified door opened	20%	\$ 3,680	100%	\$ 3,680
Overall Quality of Work Bonus	60%	\$ 11,040	2	\$ 5,520

Total Qualitative Objectives \$ 18,400 100% \$ 12,880

Total Bonus Due Year 2013 \$ 36,340

79.00%

reporting \$ 1,380  
training \$ 1,380  
visits \$ 1,380  
company policy \$ 2,760

+ 13804

EXAMPLE 2013

Total Bonus Potential:	\$ 50,000	% of Total
Based On Sell in&Sell out Goal:	\$ 30,000	60%
Qualitative Objectives bonus:	\$ 20,000	40%

Sell in & sell out Goals

	Targets	Bonus	Actual	Bonus Due
Sell In				
Total Region Sell in target :	\$ 14,810,000	\$ 10,500	71%	\$ 7,350
Total 8 Regions Sell in target :	\$ 93,290,000	\$ 6,000	60%	\$ 4,800
Sell Out				
2013 goal = + 5% on region versus 2011 Sell out	-22.00%	\$ 4,500	15%	\$ 4,500
2013 goal = +10% in unit sell out vs LY		\$ 4,500	15%	\$ 4,500
2013 goal = +10% in House Movement In 2013 Sell out(20 % target)	20.50%	\$ 4,500	15%	\$ 4,500

\$11,176,011.00 75.50%  
\$78,817,901.00 84.50%

Total Sell in & sell out Goals \$ 30,000 100% \$ 16,650.00

Qualitative objectives

	Targets	Bonus	Actual	Bonus Due
Average sell in once:	20%	\$ 4,000	100%	\$ 4,000
Number of new qualified door opened	20%	\$ 4,000		
Overall Quality of Work Bonus	60%	\$ 12,000	Reporting, Training, visits&Planning, Company Policies	\$ 6,300

\$4,861.00 1

Total Qualitative Objectives 100% \$ 20,000 \$ 10,300

Total Bonus Due Year 2013 \$ 26,950

report 3000 \$ 3,000  
training 1800  
visits 1500  
comp policy 0  
54%

EXAMPLE 2013

Total Bonus Potential:	\$ 30,000	% of Total
Based On Sell in & Sell out Goal:	\$ 18,000	60%
Qualitative Objectives bonus:	\$ 12,000	40%

Sell in & sell out Goals

	Targets	Bonus	Actual	Reported	Bonus Due
Sell In					
Total Region Sell in target :	\$ 11,915,000	\$ 6,300	35%	80%	\$ 5,040
Total 8 Regions Sell in target :	\$ 93,290,000	\$ 3,600	20%	80%	\$ 2,880
Sell Out					
2013 goal = + 5% on region versus 2011 Sell out		2,700	15%		\$
2013 turnover Goal: +10% in unit sell out vs LY		2,700	15%	100%	\$ 2,700
% of in House Movement in 2013 Sell out (20 % target)	22.60%	\$ 2,700	15%	100%	\$ 2,700

\$9,806,681.00 82.30%  
\$78,817,901.00 84.50%

Total Sell in & sell out Goals

\$ 18,000

100%

\$ 13,320.00

Qualitative Objectives

	Targets	Bonus	Actual	Reported	Bonus Due
Average sell in price:	20%	\$ 2,400		\$4,800	\$ 2,400
Number of new qualified door opened	20%	\$ 2,400		2	\$ 2,400
Overall Quality of Work Bonus:	60%	\$ 7,200		Reporting, Training, visits & Planning, Company Policies	\$ 6,570

\$4,699.00 3

Total Qualitative Objectives

\$ 12,000

\$ 11,370

Total Bonus Due Year 2013

\$ 24,690

82%

reporting \$ 1,800  
training \$ 1,620.0  
visits/ planning \$ 1,350.00  
policy 1800

EXAMPLE 2013

Joseph Haley III

Total Bonus Potential:	\$ 35,000	% of Total
Based On Sell in&Sell out Goal	\$ 21,000	60%
Qualitative Objectives bonus:	\$ 14,000	40%

Sell in & sell out Goals

Sell In	Targets	Bonus	Actual	Bonus Due
Total Region Sell in target :	\$ 17,415,000	\$ 7,350	35%	\$ 5,880
Total 8 Regions Sell in target :	\$ 93,290,000	\$ 4,200	20%	\$ 3,360
Sell Out				
2013 goal = + 5% an region versus 2011 Sell out	-18.00%	\$ 3,150	0%	\$ -
2013 turnover Goal: +10% in unit sell out vs L.Y		\$ 3,150	100%	\$ 3,150
% of in House Movement in 2013 Sell out(20 % target)	19.98%	\$ 3,150	15%	\$ 3,150

\$13,801,563.00 79.30%  
\$78,817,901.00 84.50%

Total Sell in & sell out Goals	\$ 21,000	100%	\$ 15,540.00
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Qualitative objectives

Qualitative objectives	Targets	Bonus	Actual	Bonus Due
Average sell in price:	20%	\$ 2,800	0%	\$ -
Number of new qualified door opened	20%	\$ 2,800	100%	\$ 2,800
Overall Quality of Work Bonus	60%	\$ 8,400	100%	\$ 8,400

Total Qualitative Objectives	100%	\$ 14,000	100%	\$ 14,000
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Total Bonus Due Year 2013	\$ 26,740
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76%

*\$ 28,140*

EXAMPLE 2013

Total Bonus Potential:	\$ 35,000	% of Total
Based On Sell in&Sell out Goal:	\$ 21,000	60%
Qualitative Objectives bonus:	\$ 14,000	40%

Sell in & sell out Goals

	Targets	Bonus	Achieved	Bonus Due
Sell In	\$ 11,210,000	\$ 7,350	100%	\$ 7,350
Total Region Sell in target :	\$ 93,290,000	\$ 4,200	80%	\$ 3,360
Sell Out	-2.00%	\$ 3,150	50%	\$ 1,575
2013 goal = + 5% on region versus 2011 Sell out		\$ 3,150	100%	\$ 3,150
2013Tournau Goal: +10% in unit sell out vs LY		\$ 3,150	15%	\$ 472.50
% of In House Movement in 2013 Sell out(20 % target)	23.30%	\$ 3,150	100%	\$ 3,150

\$11,202,689.00 99.99%  
\$78,817,901.00 84.50%

Total Sell in & sell out Goals \$ 21,000 100% \$ 18,585.00

Qualitative Objectives

	Targets	Bonus	Achieved	Bonus Due
Average sell in price:	20%	\$ 2,800	100%	\$ 2,800
Number of new qualified door opened :	20%	\$ 2,800	100%	\$ 2,800
Overall Quality of Work Bonus	60%	\$ 8,400	2	\$ 5,250

Total Qualitative Objectives 100% \$ 14,000 \$ 10,850

Total Bonus Due Year 2013 \$ 29,435 84%

- reporting 0 2100
- training 1050
- visits/plan 2100
- company policie 2100

EXAMPLE 2013

Isaac Scharfath

Sell in & sell out Goals

Total Bonus Potential:	\$ 20,000	% of Total
Based On Sell in/Sell out Goal	\$ 12,000	60%
Qualitative Objectives bonus:	\$ 8,000	40%

	Targets	Bonus	Achieved	Bonus Due
Sell In				
Total Region Sell in target :	\$ 8,090,000	\$ 4,200	35%	\$ 3,360
Total 8 Regions Sell in target :	\$ 93,290,000	\$ 2,400	20%	\$ 1,920
Sell Out				
2013 goal = + 5% on region versus 2011 Sell out	-8.00%	\$ 1,800	15%	\$ 900
2013 turnover Goal: +10% in unit sell out vs LY		\$ 1,800	15%	\$ 900
% of In House Movement in 2013 Sell out(20 % target)	19.29%	\$ 1,800	15%	\$ 900

\$6,775,464.00 83.80%  
\$78,817,901.00 84.50%

Total Sell in & sell out Goals	\$ 12,000	100%	\$ 7,980.00
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Qualitative Objectives	Targets	Bonus	Achieved	Bonus Due
Average sell in price:	20%	\$ 1,600	20%	\$ 4,800
Number of new qualified door opened :	20%	\$ 1,600	20%	\$ 4,800
Overall Quality of Work Bonus	60%	\$ 4,800	60%	\$ 4,440

Total Qualitative Objectives	100%	\$ 8,000	\$ 4,440
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Total Bonus Due Year 2013	\$ 12,420
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report \$ 1,200.0 \$ 1,200  
train \$ 840.0  
visits \$ 1,200.0  
policy \$ 1,200.0

4,440  
13,220

EXAMPLE 2013

Annie Sommer

Sell in & sell out Goals

Total Bonus Potential	\$ 38,000	% of Total
Based On Sell in & Sell out Goal	\$ 22,800	60%
Qualitative Objectives bonus:	\$ 15,200	40%

	Targets	Bonus	Attained	Bonus Due
Sell In	\$ 8,760,000	7,980	35%	\$ 6,264
Total Region Sell in target :	\$ 93,290,000	4,560	20%	\$ 3,648
Total 8 Regions Sell in target :				
Sell Out	1.00%	3,420	15%	\$ 3,420
2013 goal = + 5% on region versus 2011 Sell out		3,420	15%	\$ 3,420
2013 Tourneau Goal: +10% in unit sell out vs LY		3,420	15%	\$ 3,420
% of In House Movement in 2013 Sell out(20 % target)	21.80%	3,420	15%	\$ 3,420

\$7,672,937.00 87.60%  
\$78,817,901.00 84.50%

Total Sell in & sell out Goals	\$ 22,800	100%	\$ 20,292.00
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Qualitative Objectives	Bonus	Attained	Bonus Due
Average sell in price	3,040	84%	\$ 1,520
Number of new qualified door opened	3,040	100%	\$ 3,040
Overall Quality of Work Bonus	9,120	100%	\$ 8,245

Total Qualitative Objectives	\$ 15,200	100%	\$ 12,905
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Total Bonus Due Year 2013	\$ 33,197
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REPORTING +  
720  
33,972  
YE: 31,462

REPORTING +  
720  
33,972  
YE: 31,462

reporting	\$ 1,505.00
training	\$ 2,280.00
VISITS	\$ 2,280.00
policy	\$ 2,280.00

# **EXHIBIT 37**

11/0/13



January 20, 2014

Ms. Lisa Roman  
36 Henry Austin Drive  
Wilton, CT 06897

Dear Lisa,

I must say that I was surprised by the timing in which you decided to hand me the envelope (during your review) containing your letter dated December 16, 2013.

Everything that needed to be addressed regarding the performance warning letter you received on November 11, 2013, which you crumpled up and threw onto the desk in Human Resources and said that you were not acknowledging, was discussed during an Emergency meeting on November 11, 2013 with Sebastien Amstutz, Vice President and Diana Figueroa, Human Resources Manager.

Please understand that you have no say as to how, when or why warnings are delivered. Warnings are given out to employees in order to correct behavior which is not up to par with Breitling standards. I stand by all the points that were raised in the written warning you received.

All issues were addressed during the meeting on November 11, 2013. If you feel the need to discuss anything further, please feel free to do so with Diana Figueroa or with Sebastien Amstutz.

Regards,

Thierry Prissert  
President

BREITLING USA

# **EXHIBIT 38**



November 11, 2013

Warning letter for failure to follow company policies and attitude at work

Dear Lisa,

This letter is to inform you that you are being issued with a written warning for failing to follow several company policies as well as your attitude while at the work.

Below are areas where improvement by you is absolutely necessary:

- Notifying your direct manager (me) not Human Resources of any absences or deviations to your schedule (outside of requested time off). You cannot simply come and go as you please.
- You have been asked several times by both Diana and Sebastien to punch out for lunch and again when you return. You blatantly disregard this request. You are to punch out for lunch just like everyone else.
- Your attitude towards me is at times very informal. Please remember that you report to me not the other way around. As Marketing Director, I expect for you to update and communicate with me on a regular basis.
- Your attitude towards your team and coworkers is at time very rude.

I have noticed, not once but a multiple number of times that you conduct yourself with an air of entitlement because of your position as Marketing Director. I need you to fully understand that as our Marketing Director, you are expected to conduct yourself in a manner that sets an example for the rest of your team.

We will closely monitor the situation and if we do not see significant improvement, we will have no choice but to address the issue with you again, which may lead us to take further disciplinary action. All Breitling USA employees are selected on the basis of their superior qualifications and this kind of behavior at the workplace is totally unacceptable and will be dealt with strict consequences. We expect you to realize how serious of a matter this is and make the necessary changes.

A copy of this letter is being placed in your Personnel file.

Regards,

Thierry Prissert  
President

BREITLING USA

BREITLING USA, INC. - HANCOCK 7 208 DUNDON ROAD - SUTTON, MASSACHUSETTS 01985-0001 - TEL: (508) 261-1180 - FAX: (508) 261-1181



# **EXHIBIT 39**



**Fox Rothschild** LLP  
ATTORNEYS AT LAW

100 Park Avenue, Suite 1500  
New York, NY 10017  
Tel 212.878.7900 Fax 212.692.0940  
www.foxrothschild.com

Zev Singer  
Direct Dial: (212) 878-7928  
Email Address: zsinger@foxrothschild.com

February 3, 2016

**VIA EMAIL**

Janice Goodman, Esq.  
jg@janicegoodmanlaw.com

**Re: Cargian v. Breitling USA, Inc.**  
**Civil Action No.: 15-cv-01084**

Ms. Goodman:

With regard to your supplemental document requests related to the deposition of Mr. Thierry Prissert, dated January 8 and January 11, 2016, below please find defendant's responses.

REQUEST 1: Mr. Prissert's resume.

RESPONSE 1: Defendant objects to this Request on the grounds that the Request seeks production of documents that are not relevant to plaintiff's claims and are not reasonably calculated to lead to the discovery of admissible evidence

REQUEST 2: For the period between 2011 and 2013, all documents reflecting training sessions that were held for sales representatives.

RESPONSE 2: Defendant objects to this Request on the grounds that the Request is vague. Notwithstanding said objection, see documents Bates stamped BREITLING\_9019-9021, previously produced to Plaintiff.

REQUEST 3: For the period between 2011 and 2013 all documents reflecting which training sessions each sales representative attended.

RESPONSE 3: Defendant objects to this Request on the grounds that it is vague. Notwithstanding said objection, see documents Bates stamped BREITLING\_9019-9021, previously produced to Plaintiff.

REQUEST 4: Breitling's offer letter to Mr. Prissert.

RESPONSE 4: Defendant objects to this Request on the grounds that the Request is intended to harass and seeks production of documents that are not relevant to plaintiff's claims and are not reasonably calculated to lead to the discovery of admissible evidence

A Pennsylvania Limited Liability Partnership

California

Connecticut

Delaware

Florida

Nevada

New Jersey

New York

Pennsylvania

# **EXHIBIT 40**

**CONFIDENTIAL**

Message

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**From:** Chuck Anderson [/O=BREITLINGUSA/OU=CT/CN=RECIPIENTS/CN=CHARLES]  
**Sent:** 4/11/2011 1:25:40 PM  
**To:** Rick Lambert [rick.lambert@breitlingusa.com]  
**CC:** Thierry Prissert [thierry.prissert@breitlingusa.com]; Marie Bodman [marie.bodman@breitlingusa.com]  
**Subject:** Call reports

Rick,

Good morning. I trust you are back settled after your trip with your children and hope it was enjoyable.

I am writing about, as the subject line suggests --- call reports. We are in a similar and familiar territory with this subject. This year we have had 12 weeks of reporting and have received only 4 weeks of reports from you for a total of 29 store visits. Most recently we have not received reports for these weeks – March 14-18, March 28-April 1. We received reports for two weeks in March and only reports for two weeks in Jan and Feb combined.

Reports in 2011

Jan 2011 – 4 store visits

Feb 2011 – 8 store visits

March 2011 – 17 store visits

We cannot help if we do not have information and we cannot build a stronger network if we have no idea where to start. More importantly, we cannot continue to ask each week for the job to be done. The reporting is not meant to be a burden but the catalyst for even greater success. Isn't this a large part of the reason why everyone needs the office day each week?

Look forward to your comments.

Thank you

Chuck Anderson  
National Sales Director  
Breitling USA  
Hangar 7  
206 Danbury Rd  
Wilton, CT 06897  
USA  
Office 203-762-1180 Ext 371  
Fax 410-956-6606

[charles.anderson@breitlingusa.com](mailto:charles.anderson@breitlingusa.com)

Please check our website at [www.breitling.com](http://www.breitling.com)

**CONFIDENTIAL**

Message

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Thank you

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Please check our website at [www.breitling.com](http://www.breitling.com)

BREITLING\_5567

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## Message

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**From:** Jacob Gumer [jacobgumer@yahoo.com]  
**Sent:** 11/5/2010 7:36:13 PM  
**To:** Chuck Anderson [charles.anderson@breitlingusa.com]  
**Subject:** Breitling concerns

Chuck,

I am writing you to voice some concerns and problems I am having with our sales representative, Rick. When the B01 was being introduced last year, I spoke with Rick and told him that we were interested in stocking the B01. After an extended period of time and numerous consumers inquiring about them, I decided to contact you and we placed the order ourselves.

This past May or sometime around then, Rick stopped in to take inventory and give me a suggested order. After about a month of not receiving any suggested order or even hearing from Rick, I decided to place the order myself. I ended up ordering a Gents Cockpit at the time not knowing that the cockpit was being replaced with the Galactic 41. Again, something my rep probably would not have suggested had he made an order.

Rick stopped in about 3 weeks ago to take inventory and give me a suggested order. He was in the store for about 30 minutes and somehow he forgot to mention that he was opening a new Breitling account about 3 miles away. We have been the only Breitling dealer in Louisville for almost 20 years, and I had to hear a radio commercial informing me another Breitling dealer was opening up. This is unacceptable and unfair to me and my store who have been a loyal Breitling supporter. On top of that, I still have not heard back from Rick with my suggested order and return of older stock models. I'm sure yourself and Marie would like to see as many orders possible.

I don't know what to do, I like Rick personally and think he is a very nice guy, but he is not doing his job. I don't like calling and emailing you with these frustrations I'm having, but you have always treated me well and did what was in the best interest of Gumer and Co. Before you took over our account, Rick was our sales rep and things did not go well. He basically did not service our account our inventory was old and we were never informed of new pieces. As a result, our old pieces did not sell and we almost lost our Breitling account. Now, more than ever, as new competition moves into our market, I need to restock our inventory with some new pieces.

One suggestion that I know you asked of Rick was to call us once a month to see what sold and re-order. He has never called one time to see if anything sold. Once again, I apologize for rambling or perhaps being to harsh, but something has to change. I'm happy to work with Rick as long as we get the same attention and service he hopefully gives his other accounts.

Sincerely,  
Jacob Gumer

BREITLING\_5571

**\*\*CONFIDENTIAL\*\***

Message

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**From:** Marie Bodman [/O=BREITLINGUSA/OU=CT/CN=RECIPIENTS/CN=MARIEB]  
**Sent:** 12/17/2009 7:56:05 AM  
**To:** Chuck Anderson [charles.anderson@breitlingusa.com]; Rick Lambert [rick.lambert@breitlingusa.com]  
**CC:** Marie Bodman [marie.bodman@breitlingusa.com]  
**Subject:** Re: Gumer

Rick,

Your behaviour is unacceptable and I am seriously disappointed. For years now you have focused on the same few jewelers and ignored the majority of the others. Selling Breitling is not only about going to the football games with Orrs or having special connections with Tom or Mastercraft . Its about a balanced traveling schedule that you failed to realize because either your personal life schedule or your emotional affinities are stronger than your duties and responsibilities.

We have the same discussion every year but this time you better be prepared for a serious shake up when I depart - if not before -

Marie

Sent wirelessly via BlackBerry from T-Mobile.

---

**From:** "Chuck Anderson" <charles.anderson@breitlingusa.com>  
**Date:** Wed, 16 Dec 2009 21:39:49 -0500  
**To:** Rick Lambert<rick.lambert@breitlingusa.com>  
**Cc:** Marie Bodman<marie.bodman@breitlingusa.com>  
**Subject:** Gumer

Rick,

I heard from Jacob Gumer again today and he said he has not heard from you. I left a message for you a couple weeks ago letting you know he expressed interest in the B01 package and that you should, based on his request, contact him to put an order together. He came off DNS on Dec 3 and part of this product could have shipped.

We understand it is not the biggest account, but it is and can be a \$100,000 to \$125,000 door with very little effort. The Tag rep checks in monthly, they provide a sell out and place a reorder. Just as we spoke about when we visited together on April 14 this year with Jacob. They are frustrated and are concerned this relationship has gone back in the same direction it went previously. We have to take every sale we can from every door, leaving nothing on the table. His order is below.

The following four pieces have a PO of SHIP 1-15-10 Jacob  
B B01 C790 AOP  
A B01 C788 ACP  
A B01 B967 ACP  
A B01 C789 OR

The following pieces have a PO of ST 12-16-9 JG and can ship immediately  
A B01 G684 DP2DB  
A B01 B956 ACP

BREITLING\_5588

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Message

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**From:** Marie Bodman [/O=BREITLINGUSA/OU=CT/CN=RECIPIENTS/CN=MARIEB]  
**Sent:** 5/13/2011 4:28:37 PM  
**To:** Chuck Anderson [charles.anderson@breitlingusa.com]  
**Subject:** FW: 1 st Quarter 2011  
**Attachments:** Visit By Week 2011recap1.xlsx

This is what I just sent to Rick

Marie

**From:** Marie Bodman  
**Sent:** Friday, May 13, 2011 12:14 PM  
**To:** Rick Lambert  
**Subject:** FW: 1 st Quarter 2011

Dearest Rick,

I am not sure how to start this email or what to say really; the facts are brutal and plain and the ultimate results will be as brutal and plain; **YOU WILL LOSE YOUR JOB** at the end of the year or even before if you do not make an effort and work on your administrative duties the way it is expected from you; I know that last year you made a fantastic effort to open more doors, I also know that we gave you a substantial salary increase and ultimately I know that you like your job and your relationship with Breitling and your coworkers.

You know of my position and the affection that I have for you and I would feel guilty if I had not warned you of what I have heard in the corridors this past week..  
So here it is .. do whatever you want with this warning but " I told you so".

Kindest regards,

Marie

Breitling USA  
Hangar 7  
206 Danbury Road  
Wilton, CT 06897

Phone: 203.762.1180 ext. 317  
Fax: 203.762.1178  
Check our website at [www.breitling.com](http://www.breitling.com)

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2

## Message

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**From:** Chuck Anderson [/O=BREITLINGUSA/OU=CT/CN=RECIPIENTS/CN=CHARLES]  
**Sent:** 10/18/2011 12:00:31 PM  
**To:** Rick Lambert [rick@breitlingusa.com]  
**CC:** Thierry Prissert [tprissert@breitlingusa.com]  
**Subject:** Call reports

Rick,

I hope you had a good weekend. I was looking over the reporting and we, to say the least, are in desperate need of some reports. Since the break in early July. We have received reports for only 3 weeks out of the 14 that have passed. So far year to date, we have reports for only 14 weeks out of 36. Unfortunately, we have had this exchange in the past and it does not seem to change and I do not know what it is. The majority is able to keep current each week with an occasional week that week that goes but is made up the following – is it the work load? Is the way you approach your visits that perhaps we can fine tune to help you accomplish the reporting being done while you are at the point of sale? These reports should take no more than one to two hours on the office day everyone is provided. These are purely designed to help all us grow the business and find our shortfalls. Without them we are left in the dark and the shortfall reflects badly on you.

I sent you an email about 3 weeks on your territory and where we felt the needs were. I also mentioned that a level of dedication over and above the norm would be needed for you to achieve your goal. What that means is there may not be time for an office day here or there and some days may be much longer than what you may be used to. We don't expect you to be a slave but do expect to have the job requirements upheld.

This is our exchange on Sept 26<sup>th</sup>

"I also have to ask where we stood with your call reports. The last reports I show are from 8/29-9/2 – they were just comments with no new pictures or updated inventories. The ones received prior to that were the week of 7/12-7/15 besides the Osh Kosh update. We have had several weeks with no reports and need the constant flow of information each week to make a difference and help you. Working on that this week. I will update from most recent to least in the next day or so. Getting the new computer has been a huge benefit and helps."

Please let us know what you need from us.

Chuck Anderson  
Sales Director  
Breitling USA  
Hangar 7  
206 Danbury Rd  
Wilton, CT 06897  
USA  
Office 203-762-1180 Ext 371  
Fax 888-875-2729  
[charles.anderson@breitlingusa.com](mailto:charles.anderson@breitlingusa.com)  
Please check our website at [www.breitling.com](http://www.breitling.com)

BREITLING\_5527

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Message

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**From:** Thierry Prissert [/O=BREITLINGUSA/OU=CT/CN=RECIPIENTS/CN=TPRISSERT]  
**Sent:** 6/3/2013 7:12:24 PM  
**To:** Rick Lambert [rick.lambert@breitlingusa.com]  
**CC:** Chuck Anderson [charles.anderson@breitlingusa.com]  
**Subject:** Using tools

Sir Rick,

David Kings told us you have nt debriefed him on the mystery shopping  
Not right !!  
You have to do what we ask :  
Mystery shopping debrief  
Breitling challenge (name last in the contest ..)

Please focus on the sell out and nature of he visit  
You are better in writing order and follow up this year but need to also use all the tool at you  
disposition  
Thank you

Ps: hope you had a good time with your daughter

Thierry Prissert  
President

Breitling USA  
Hangar 7  
206 Danbury Road  
Wilton, CT 06897  
USA

Phone: 203.762.1180 ext. 343  
Fax: 203.762.1178  
Email:thierry.prissert@breitlingusa.com  
Check our website at: [www.breitling.com](http://www.breitling.com)

**\*\*CONFIDENTIAL\*\***

Message

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**From:** Thierry Prissert [/O=BREITLINGUSA/OU=CT/CN=RECIPIENTS/CN=TPRISSERT]  
**Sent:** 8/29/2014 7:21:58 PM  
**To:** Rick Lambert [rick.lambert@breitlingusa.com]  
**CC:** Chuck Anderson [charles.anderson@breitlingusa.com]  
**Subject:** Re: Travel with Rick Aug 25-28, 2014

Hi Rick

I would like you to really think and reflect on that email so we can talk about it in Reno  
Lots of very simple things are not being done and this hurts your , ours numbers and business  
You always honestly acknowledge your shortfall but don't correct them  
And this NEED to change  
I wish you a good labor day week end enjoy your family !  
Thank you

Ps: I truly and sincerely hope you can find a way to reinvent your passion and yourself (at work )  
Cheers

Thierry Prissert  
President

Breitling USA  
Hangar 7  
206 Danbury Road  
Wilton, CT 06897  
USA

Phone: 203.762.1180 ext. 317  
Fax: 203.762.1178  
Email: [thierry.prissert@breitlingusa.com](mailto:thierry.prissert@breitlingusa.com)  
Check our website at: [www.breitling.com](http://www.breitling.com)

On Aug 29, 2014, at 11:33 AM, "Rick Lambert" <[rick.lambert@breitlingusa.com](mailto:rick.lambert@breitlingusa.com)> wrote:  
Hi

Thanks. I received it yesterday. I'll compare with my notes to see if anything was overlooked. I doubt it ;)

Rick

Sent from my iPhone

On Aug 29, 2014, at 11:27 AM, "Chuck Anderson" <[charles.anderson@breitlingusa.com](mailto:charles.anderson@breitlingusa.com)> wrote:  
I sent this last night but I am not sure it went. If you already received I apologize.

Rick

**\*\*CONFIDENTIAL\*\***

## Message

---

**From:** Chuck Anderson [/O=BREITLINGUSA/OU=CT/CN=RECIPIENTS/CN=CHARLES]  
**Sent:** 10/18/2011 12:00:31 PM  
**To:** Rick Lambert [rick@breitlingusa.com]  
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