

IN THE CLARK CIRCUIT COURT NO. 2
STATE OF INDIANA

STATE OF INDIANA,

Plaintiff,

v.

CAUSE NO.: 10C02-1208-PL-88

KEVIN ZIPPERLE, MARY LOU
TRAUTWEIN-LAMKIN, SHARON
CHANDLER, AND FRANK PRELL,

Defendants.

Deposition of **FRANK PRELL**, held on Tuesday, July 1,
2014, at the Law Office of J. Clayton Culotta, 815 E. Market
Street, New Albany, Indiana 47150, commencing at 1:35 p.m.,
before Megan Krebs, Court Reporter and Notary Public in and
for the Commonwealth of Kentucky at Large.



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AND FRANK PRELL:

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ALSO PRESENT :

SALLY MILLER

DAVID MILLER

KEVIN ZIPPERLE

MARY LOU TRAUTWEIN-LAMKIN

SHARON CHANDLER

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INDEX TO EXHIBITS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

DESCRIPTION	PAGE
Exhibit-A	70
Declaration of the Harbours	
Exhibit-T	75
Email	



1
2
3
4
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6
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STIPULATION

The deposition of FRANK PRELL taken at 815 EAST MARKET STREET NEW ALBANY, IN 47150, on TUESDAY the 1ST DAY OF JULY, 2014 at approximately 1:35 p.m. Said deposition was taken pursuant to the INDIANA Rules of Civil Procedure. It is agreed that MEGAN KREBS, being a Notary Public and Court Reporter for the State of Kentucky, may swear the witness.



DEPOSITION OF FRANK PRELL

JULY 1, 2014

COURT REPORTER: Would you, please, raise your right hand? Do you solemnly swear or affirm that the testimony you're about to give will be the truth, the whole truth and nothing but the truth?

THE WITNESS: I do.

COURT REPORTER: Thank you.

Thereupon,

FRANK PRELL,

a witness herein, having been first duly sworn to tell the truth, and nothing but the truth, testified as follows:

EXAMINATION

BY-MS. BELLER:

Q. Mr. Prell, have you ever been deposed before?

A. Yeah. Yeah. I believe so.

Q. When was --

A. And I talked to you all, too.

Q. Okay. When were you deposed before?

A. You mean how long ago?

Q. Yeah. What was the matter? I



1
2 mean, the case?

3 A. Oh, I don't know. I have no idea.
4 It would've been a long, long time ago, but
5 I'm sure I've been deposed on something.

6 Q. Okay.

7 A. And then I talked to you all back
8 maybe a year or go or something. I don't
9 remember what it was.

10 Q. Was the case that you were deposed
11 in, were you being sued or was it some sort
12 of an investigation or -- ?

13 A. I think back when I got divorced.

14 Q. Okay. That can happen. Now this
15 deposition is informal and you are under oath
16 and your testimony has the same effect as
17 testifying in Court. The court reporter is
18 seated here. She's taking down all of my
19 questions and all of your answers and any
20 conversations that happen between your
21 attorney and I and then the reporter is
22 going to prepare a transcript of what's said
23 and then a copy of the transcript is made
24 available to you and your attorney to see if
25 you want to make any edits or supplement it.

1
2 You must answer all of your questions
3 verbally and this is something I always have
4 to pay attention to. You have to say yes
5 and no and not um-hmm or to shake your head.

6 A. Um-hmm.

7 Q. And then the reporter can only take
8 down what one person is saying at a time so
9 I'll try to respect and make sure you get to
10 finish your answer before I ask my next
11 question and then vice versa. If you do not
12 understand any particular question that I
13 ask, please ask me to repeat it or to
14 rephrase it and I'll do my best to make sure
15 that you understand what I'm trying to ask
16 and if your attorney objects to any questions
17 that I ask, please don't answer until your
18 attorney has fully stated his objection and
19 then he and I can finish discussing the
20 objection and then I will ask you to answer
21 the question as asked or attempt to rephrase
22 it depending on your attorney's objection.
23 I'm going to ask you not to guess at any
24 answer. If you do not recall specifically
25 the information I'm requesting, then just

1
2 state that you don't recall or provide a
3 reasonable estimate. If, during the
4 deposition, you recall information that you
5 did not provide in your response to a
6 previous question or that you recognize you
7 may have not given a full or accurate
8 answer, please, say so and that way we can
9 ensure we have a complete record. I don't
10 anticipate this being a long deposition. I
11 think we can get through it fairly quickly
12 and if you need to take a break, please, let
13 me know and we'll be happy to accommodate
14 that. Do you have any questions regarding
15 the instructions?

16 A. No, ma'am.

17 Q. Okay. Is there anything that would
18 prevent you from answering truthfully or
19 accurately this afternoon?

20 A. Not unless I don't know it.

21 Q. Okay. Did you review any documents
22 in preparation of testifying today?

23 A. I tried to, but don't have a lot to
24 look at. But I did look at some stuff.
25 Yes. I did.

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Q. What did you look at?

A. I tried to go through and find some stuff like what you all had asked for when I got the letter from you all to come here today. You know, about who I talked to at BOA and stuff like that, but it was so many years and it's been a couple years ago, but it went on for a couple years prior to that with the Bank of America and talked to many, many, many people. You know, it would go through. It would come back. Me. The short sale would go through --

Q. Um-hmm.

A. -- come back. You would talk to different -- I don't want to call them negotiators, but a lot of them referred their self as customer representatives and that --

Q. Um-hmm.

A. -- but wasn't necessarily the case so I tried to get some of those names and that.

Q. Okay. Other than your attorney, have you spoken to anyone regarding any aspects of this case?

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A. Oh. Anybody I can.

Q. Oh. Okay. Do you have any names?

A. No. Not in particular. Just -- no
--

Q. Okay.

A. I'm all -- you know, I'm curious
about all this. You know?

Q. Have you discussed this case with
any of the other Defendants?

A. No.

Q. Okay. What is your date of birth?

A. XX/XX/XXXX.

Q. Okay. And where you were born?

A. In Louisville, Kentucky.

Q. And where do you presently live?

[Personal information removed.]

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Q. Okay. Now you're familiar with the Defendants. How long have you known Kevin Zipperle?

A. I don't really know. I think I bought condos over there, I'm going to say about 2005 or something like that, is when I started buying them maybe. 2004. I don't know. Something about then and I didn't really know Kevin and then I would say later on maybe 2007 or '08 I might have become aware of Kevin and then -- then when I had to deal with him, then I got to know him so --

Q. Okay. How did you become aware of Kevin?

A. Just part of the condo people over there.

Q. Okay.

A. I didn't really socialize with nobody. I wasn't there much. I bought units and fixed them up and -- and then, you

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know, that was it. I didn't live -- I used to live there back when it was an apartment.

Q. Okay.

A. When I first started back about '93. I lived up on the 11th floor for a couple of years maybe.

Q. Did you ever attend any of the homeowner's association meetings?

A. No.

Q. So you -- no. Did you give anybody your proxy vote?

A. Yeah. I believe I did because I wasn't there. I was never there.

Q. Do you recall who you gave your vote to?

A. You mean who was to vote for me?

Q. Yeah.

A. I don't know. I would sign it and give it to the girl down in the office.

Q. Do you recall her name?

A. [Former property manager].

Q. [Former property manager] --

A. [Former property manager].

Q. [Former property manager].

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A. [Former property mgr]. It might've been.

Q. Yeah. Do you currently have any corporations?

A. Do I have any --

Q. Are you involved with any corporations is a better question?

A. No.

Q. What corporations were you involved with?

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Q. So you had said that you bought and
refinished some condominiums at the Harbors.

A. Yes, ma'am.

Q. What condominiums did you buy?

A. I bought two. Well the first one I
bought was on the 10th floor. I bought two
of them together and I made them into one
and then they approached me, the sales people
over there, approached me and I bought two
of them on the ninth floor which I was going
to do the same thing with make them into one
and I bought two of them on the 11th floor.
So I started working on the 11th floor and I
kind of got disgusted with all of it because
of all the bickering going on and all the --
just whatever. The economy fell to hell,

1
2 you know. You couldn't sell nothing, make
3 no money. I already lost a lot of money
4 for the amount of money I had in the thing
5 so I just sold the ninth floor separately.
6 One of them went to some lady and one of
7 them went to a doctor which I heard all
8 kinds of scandals down there all of which
9 wasn't true, but it was funny, but -- yeah.
10 And that was it and I - - I even lost
11 money on them.

12 Q. Okay. Were these properties in your
13 name or were they --

14 A. Yeah. I reckon they was in my
15 name.

16 Q. I didn't know if they were deeded in
17 as your corporation.

18 A. I'm thinking it was in my name.

19 Q. Okay. And when you bought the
20 properties, what was your intent with them?

21 A. To make a nicer, bigger unit.
22 They're pretty wimpy little units. You know,
23 one bedrooms and stuff. They're kind of
24 small. So I ain't being critical. I'm
25 just, you know, my evaluation here. So I

1
2 wanted, you know, to make them into a nicer
3 unit and, you know, thought maybe down the
4 road might keep one, might not. You know?

5 I don't know. You know, meanwhile when I
6 had that, I bought another one out on
7 Highway 42. You know, it went away too.

8 But then the ninth floor was the same
9 things. I was going to fix them up. I
10 didn't. I just sold them.

11 Q. Okay. When did you buy these
12 condominiums? Do you recall what year that
13 was?

14 A. I think -- like I told you early
15 on, I bought -- I bought the 10th floor I'm
16 going to guess about 2005 sometime around
17 there. You can check on the records. They
18 would tell you what it is and then -- then
19 a year or so or about that time, I don't
20 know, I bought the -- the 11th floor and the
21 ninth floor all together. I bought a
22 package.

23 Q. And you said the sales people. Was
24 that the developer's office or was that --
25 who were the sales people?

1
2 A. I don't have a clue. They just had
3 some girls over there selling real estate.

4 Q. Okay.

5 A. So, you know, I reckon they worked
6 for a developer. Who else would they work
7 for? He's the one that's selling them.

8 Q. Did -- now when you combined the
9 10th -- the 10th floor unit, did you get any
10 building permits for that?

11 A. I got whatever I needed.

12 Q. Okay --

13 A. Whatever they told me I needed to
14 get.

15 Q. Who would have told you that?

16 A. I don't know.

17 Q. Did you go to the City County
18 building or -- or whatever --

19 A. I talked to some City County people
20 at one time. I don't remember what all
21 transpired.

22 Q. Is that where you would have gotten
23 the permits?

24 A. At City County?

25 Q. Yeah.

F. PRELL

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2 A. I don't -- I don't know if they
3 give -- I was under the impression what I
4 was doing, they didn't want -- they didn't
5 give me no paperwork. You know --

6 Q. Um-hmm.

7 A. -- like down in Florida, I had to
8 get an actual -- I had to go to planning
9 zoning or whoever. Not -- not planning
10 zoning. The building department.

11 Q. Right.

12 A. Get a building permit and you got to
13 get it for -- for your air condition. You
14 got to get it for this, get all kinds of
15 inspections and stuff like that. They
16 weren't like that over there. Now I did
17 have to go to the -- to the condo people --
18 to the Harbor people --

19 Q. Okay.

20 A. -- and get permission if I wanted to
21 change something that was exterior.

22 Q. Okay.

23 A. They didn't care about the interior.
24 They wanted to be -- if I was going to do
25 something on the exterior, they wanted --

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wanted me to tell them about it.

Q. Okay. Did you have to tell them about taking the wall down? You obviously had to take a wall down.

A. No. No. But they -- it's not -- they knew what I was doing when I bought it.

Q. Okay. Did you do any rewiring?

A. Rewiring. You ask a question like that and my mind starts turning around in circles. When I say rewiring, I'm going to gut this room and we'll rewire the whole thing. If I'm going to add a plug, that ain't rewiring so no, I didn't rewire on that term.

Q. Okay. Did you have to make any plumbing or changes for taking that wall down?

A. Well the plumbing -- everything is pretty specific over there because they've got concrete floors and concrete ceilings and concrete everything and the only way you could put two units together is they got to be two units that don't have -- they got cross members in the steel so if you got

1
2 that cross member, it's going to be right in
3 the middle of the unit. You got to buy two
4 units together that don't have it. If I
5 bought one more unit over, I would have a
6 cross member there so you had to buy knowing
7 what you're buying.

8 Q. Okay.

9 A. And -- but anyway back to the
10 plumbing. The plumbing is pretty specific
11 where it's at. You can't really change it.
12 You had a design to use what was there. So
13 on one side was the master bathroom. On the
14 other side was the laundry and in the middle
15 where they had something else before is where
16 the kitchen was.

17 Q. Okay.

18 A. It's where you had to do it.

19 Q. Did you ever live in any of those
20 properties?

21 A. Actually, no. As far -- I furnished
22 the one.

23 Q. Okay.

24 A. I never lived in it.

25 Q. Did you ever have any parties there

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or use it for --

A. Oh. I had parties there. Yeah.

Q. Okay. Did you use it for Thunder?

A. Yeah. That's when I had a party there.

Q. Okay.

A. It would be kind of crazy if I didn't, wouldn't I? Have you ever been to Thunder?

Q. No. I haven't.

A. Well, see, you're missing out. It's pretty good. I mean it's way up --

Q. Now you're the --

A. -- right in front of the fireworks. You know, you can't beat it.

Q. Now you're the hot air balloonist, right?

A. Yes, ma'am.

Q. And do you still do that?

A. Well I try to, but I think it's come to an end. I think it won't be long at all.

Q. Okay.

A. But yes, ma'am. I would fly that

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balloon any day I got an opportunity.

Q. You had some pretty impressive ones. I think I saw online like a cake. Was that yours?

A. Yes, ma'am. That -- that's my balloons.

Q. Did you design those and -- ?

A. Yes, ma'am.

Q. Interesting.

A. I had a friend of mine that -- over in England built them.

Q. Oh. Really?

A. Yes, ma'am --

Q. Okay. Did you do the work on combining the units and I'm talking about -- I assume it was the same process for the 10th floor and for the 11th floor. Did you do the work or did you have that contracted out?

A. Well my brother was a contractor and he was here in Louisville and I was in Florida.

Q. And what was your brother's name?

A. [Brother's name].

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Q. At the time you combined those units, did you have any discussion with any of the individuals at the Harbors, either on the board or any of the employees, that you were combining it or about combining it?

A. Well when you ask -- I mean, everybody knew from the sales people that sold it to me to whoever that that's exactly what I was going to do. I wouldn't want them for no other reason.



1
2 Q. Would that include [former property mgr]?

3 A. I reckon. I mean, it's like I
4 said, it wasn't no secret what I was doing
5 that I have to -- you know, I would have to
6 -- you know, I don't know how to -- maybe
7 call them up and say could you let this
8 person or that person in or whatever so, you
9 know, they'd know about it. And then as far
10 as communication, the only -- I'm talking
11 about writing communication that I ever had
12 with them about anything was up on the 11th
13 floor, they had these sliding doors on every
14 unit. They're --

15 Q. Um-hmm.

16 A. -- you know, just big sliding doors
17 and I didn't like them at all because they
18 leak and stuff like that and -- see and
19 here, he's got high doors in here. The --
20 you know --

21 Q. Um-hmm.

22 A. -- where a lot of houses, it's six
23 eight -- three -- six eight, so it's six
24 foot eight inches tall. And on the homes we
25 build down in Florida, they're eight foot

1
2 tall. They're just a little more impressive
3 looking and I thought that wanted to make it
4 a little more impressive looking, so I put
5 eight foot doors in the whole unit up there.
6 Downstairs you couldn't because it wasn't
7 high enough.

8 Q. Um-hmm.

9 A. You're on the 10th floor. So then
10 I wanted to take the glass doors out and put
11 eight foot doors in there, but make them
12 look exactly like the glass door. Same
13 amount of glass just fixed glass panel stuff
14 like that and what we call a French door.
15 You know, it just opens and comes out.

16 Q. Right.

17 A. So I had to send them a letter to
18 get a request to do that which I did.

19 Q. Okay.

20 A. And which they did.

21 Q. Okay. Did you ever discuss anyone
22 -- with anyone at the Harbors regarding the
23 necessity to combine the units in the
24 declarations? I mean, you were taking two
25 units and combining them into one. Did you

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need to file a formal --

A. No. I wasn't made aware of nothing like that at all because I had to pay two condo fees no matter what. You know, you're not going to --

Q. Um-hmm.

A. -- reduce it down to one condo fee. You've got two units there. You got two doors going into it which was actually, I thought, pretty convenient, but --

Q. Okay. When you did this combination -- when you bought them, there were two notes on each -- on the --

A. No, ma'am. That's not true.

Q. Okay. What was it?

A. When I bought it, I had one note on the 10th floor.

Q. Okay.

A. And it was on one unit. Okay. So then when I bought the ninth floor, there was two separate units there and I'm under the impression that they might've been one note, but they might've been two. I don't know because that went down a little bit

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different.

Q. Okay.

A. You know, I sold them separately, but I recall, and I could be 100 percent wrong, that I had to get permission from the loan company because I was only paying off half of it. I might be wrong. Maybe I had two separate deals, but I don't think so. Then on the 11th floor, I didn't know I had two notes on it. I didn't pay no call to it until they come foreclosure.

Q. Okay.

A. Then I got the bullet fired at me about two lawsuits not one. I'm thinking what's this all about so that got to be a lot of confusion. That's after it was already divided so I had no idea of that.

Q. When did you quit making payments on these condominiums?

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Q. Okay. Did you --



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F. PRELL

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A. And I'm guessing.

Q. Yeah. Now did you put these condominiums up for sale?

A. Oh. They had been up for sale from the day I finished fixing them.

Q. Okay.

A. Couldn't never sell nothing.

Q. Who did you list those with?

A. A variety of people. They was --

Q. Ms. Chandler.

A. Oh. Right. She was one. There was another -- another lady. I don't remember who she was.

MS. CHANDLER: [Realtor name].

A. [Realtor name].

MR. SCHILLING: She's not supposed to be answering for you, Frank, but that's all right. That doesn't --

THE WITNESS: She wasn't answering for me. I was asking her to get the information to give her the answer.

MR. SCHILLING: I know --

A. But anyway, and then there was

1
2 another lady, other than her earlier on, that
3 -- that did it, too, and then nothing ever
4 sold. BY MS. BELLER:

5 Q. Okay.

6 A. And then we got another one in
7 there. I had a guy. First names is messed
8 up. There was a [Realtor's name].

9 Q. [Realtor's name]?

10 A. [Realtor's name], but she worked for a
11 guy and if you come up with a name, I'll
12 know what it is. I -- I know his name,
13 but he was the broker. She was the agent
14 and -- and he is the one that got [Realtor's name]
15 involved. He wanted -- he said he could get
16 rid of the stuff for me, blah, blah, blah --
17 and we reduced the prices and everything.
18 Nothing would sell. Wouldn't nothing sell.
19 And I think maybe this one back here
20 might've sold something on the ninth floor.

21 Q. Okay. Now when you did -- when you
22 sold the 10th. I'm a little curious about
23 the 10th -- the 10th floor units. Now did
24 you sell one to a -- half of it to a La
25 Dee Da (phonetic)? Is there a corporation

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named La Dee Da or La Lay (phonetic)
something?

A. Are we talking about the 10th floor
or 11th floor?

Q. 10th floor --

A. Well number one, I didn't come
prepared to talk about the 10th floor because
I thought this thing said talking about the
11th floor.

Q. Well I'm just asking about the 10th
floor a little bit.

A. Well -- but then on the 10th floor,
if you want to know about it, I don't know
about La Dee Da or nothing like that, but
the -- but the LL whatever whatever --

Q. La La Lay.

A. You're supposed to not have no
secrets.

MR. SCHILLING: She's going to be
asking you.

A. There -- you said La Dee Da and
something else?

Q. La La Lay.

A. Okay. Lay whatever was what -- the

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guy that bought it put it in like a company
name or a trust or - -

Q. Yeah.

A. -- some kind of stuff like that and
he bought one of them.

Q. Okay. But this was a combined unit,
right?

A. It was a combined unit.

Q. Okay.

A. And he bought one and he rented the
other one.

Q. Okay.

A. Then -- because I didn't know what
was going to happen. The bank speaks with
fork in tongue. You can't trust nothing
what they say. So then somebody bought the
other one through a short sale.

Q. Okay.

A. So then they bought from this other
one, then whole bit.

Q. Do you know a gentleman --

A. And they knowed about that. They --
they talked about buying the whole deal I
think before he closed on the one deal. I

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think.

Q. Okay. Do you know a gentleman named [former homeowner]?

A. Yeah. He's the one that bought the other unit.

Q. Okay. And how -- how do you know [former homeowner]? Is it from the sale or previously?

A. No. I -- I did some stuff with him maybe a year and a half before that just, you know, made some deal -- I helped him make some deals --

Q. Okay.

A. -- down in Florida. He's from Florida.

Q. Okay. Melbourne maybe?

A. It's on up about the middle part of Florida.

Q. Okay. So how did you meet [Realtor's name]?

A. Ask the question he wrote down.

Q. Oh. That was it. He was telling me it was La La Lay.

A. Oh.

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Q. So --

A. I -- she didn't know it.

Q. The --

A. I never heard the name La La before,
but the Lay part or whatever. Yeah.

Q. Let's talk about [Realtor's name] for a
minute. How did you become familiar with
[Realtor's name]?

A. This broker guy -- I wish you had
some more names to throw at me. I could
tell you if that's who it was or not. He
apparently was licensed in Indiana and she
might have at one time a license in Indiana
and so he said, "Let us sell. Let us
sell." Because they were actually trying to
get rid of some of my buildings, too.

Q. Okay.

A. Where everything was going to poop,
you know, I had to do something and they
were trying to sell them. I wound up doing
all the selling myself because I talked
whatever and I'm pretty good at that, so
they didn't sell none of it, but he wanted
to list them. I let him list them.

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Q. Now did [Realtor's name] help sell a Property you had in Kentucky?

A. Yeah. I think so.

Q. Okay.

A. I think so. I think she got involved because it had to be somebody involved. You can't do it as an individual -- as an -- agent to do a short sale. For foreclosure, they just take it. Don't make no call.

Q. Right.

A. But a short sale they won't let me do no paperwork so I had to do it through an agent.

Q. Okay.

A. So they were the agent.

Q. Okay.

A. Hill -- Hill or Hall is this guy's name.

MS. BELLER: Can you think of that name, Sally? I know if I had the paperwork in front of me. I don't have it.

MS. MILLER: I had it. I'm kind of trying -- trying to Google it right now.

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Q. The -- so when did you decide to do a short sale with 1103 and 1104?

A. When the bank was going to take them away from me.

Q. Okay. Did you approach Mr. Zipperle or did Mr. Zipperle approach you?

A. That's a pretty good question. I can't give you an honest answer because I don't recall.

Q. Okay.

A. But I would suspect that he might've said something to me.

Q. Okay.

A. Because I wasn't that aware of Kevin. I didn't know much about him.

Q. Okay. Did you -- at that time --

A. But now -- but now I don't know if it was before or after, but I sold him some parking spots, too.

Q. Okay.

A. So I don't know if it was before the -- mind you, this short sale stuff don't happen overnight.

Q. No.

1
2 A. It's not a quickie and these people
3 are stupid. They only know how to read the
4 manual somebody gave them to read. It would
5 take a couple years and they couldn't --
6 nobody make a decision. I'm talking about
7 everything I -- you know, foreclosures and
8 they would stop it and they would start it
9 and I'm like if you're going to do it, do
10 it. You know, quit jerking around. And
11 then oh, when I come and do it, then the
12 next week they would do it. You know? You
13 don't know. So anyway in that -- in that
14 period of time when I say -- let's say I
15 met him, if this selling went on for two
16 years, if I met him back at the starting of
17 the selling, somewhere I'm not talking about
18 after I sold it to him in the closing,
19 somewhere in between there he bought some
20 parking from me.

21 Q. Okay.

22 A. Okay.

23 Q. So let's go back to when you start
24 this, he approaches you and -- or however
25 the conversation comes up and he wants to

1
2 buy the property on short sale. What
3 happens next?

4 A. What do you mean?

5 Q. Did you call [Realtor's name]? Did you
6 say -- you know, did he say I have an
7 agent? Did anybody --

8 A. I don't know -- I probably --
9 because I wanted to get rid of it, I
10 probably called [Realtor's name]. I don't know
11 if he did.

12 Q. Okay.

13 A. I know they communicated.

14 Q. Okay --

15 A. But I wasn't part of that
16 communication.

17 Q. Okay. So Bank of America was the
18 loan servicer or the bank you were dealing
19 with.

20 A. Right.

21 Q. Was that correct?

22 A. Right.

23 Q. And --

24 A. I mean, I don't think that -- you
25 having said that, I don't think they was

1 necessarily the people that put up the money.

2 Q. Right. They were --

3 A. Because I heard a lot of other names
4 on different properties I had at different
5 times and a lot of stupidity. Like on this
6 11th floor you're talking about, I heard the
7 same name lender and I'm thinking somebody's
8 got to be stupid there to do what they did,
9 but go ahead.

10 Q. Okay. You submitted one purchase
11 agreement to Bank of America in July of
12 2010. Is that correct?

13 A. I doubt it.

14 Q. Well, the first one. I know --

15 A. I doubt it. I thought it started
16 long about -- because everything -- my
17 communication with Bank of America went back
18 at about 2009.

19 Q. Okay --

20 A. And so then they would take -- they
21 would take a paper. It would be kicked back
22 for some reason. Have to do it again and
23 they would kick it back for some reason.
24 Then they'll split them up and do it that
25

1
2 way. Okay. We did that. Then let's put
3 them back together. They didn't know what
4 they wanted to do. We -- the offers were
5 made combo -- you know --

6 Q. Um-hmm.

7 A. -- for like 11-3, 11-4, then they
8 would be -- make separate offers. 1103,
9 1104 separate. Then it would be made by
10 combo again. You know? They didn't know
11 what they wanted to do and then you know
12 what they wound up doing, which somebody had
13 their head plumb up their rectum, they --
14 they took and sold one of them at short sale
15 and one of them at foreclosure. Now does
16 that make any sense? If you're the lender,
17 you're the one that's got the money in it,
18 you know exactly what's going on? That was
19 just stupid and I told them it was stupid
20 and I got the guy's name and I told him it
21 was stupid.

22 Q. What was his name?

23 A. Should I have not told them that?

24 UNIDENTIFIED SPEAKER: Yeah. That's
25 all right. Go ahead. We -- we don't have

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anything bad.

A. Merrell (phonetic). Now he is the customer relation fellow. Yeah. Right. And then the negotiator, which I don't know what they do, but they was called -- quit moving my papers. The negotiator was a Ms. C-A-M-A-R-I-L-L-A or O. I don't read my writing too good. I write kind of sloppy. That was 1104, and the negotiator in 1103 was a Mr. Cook. It must have been Captain Cook because he wasn't too swift.

Q. Okay. When did they tell you -- do you recall when they told you that you needed to make it two units? What did they tell you about that? That you needed to divide them or -- ?

A. Well, the one -- you know, I don't know the chain of events, but I can tell you the event or, you know, how everything ever came to that or just tell you what I know about what went on. We -- I do know that the first offer or paper for -- for short sale was -- was for the units together.

Q. Okay.

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A. I don't know what went on with that.

No idea. Then -- then it come back and we might've done it again the same way. Then it came back where this guy said -- I told him, I said, you know, we got one unit there. It's only one unit there and, you know, they had to get somebody to come in and appraise it. They take pictures and everything, you know, to appraise it. Can't you see it's one unit? You know, what don't you understand? It's not two units. I know it's two loans, but one unit. So anyway, he said oh, well. Put a wall up. Divide them. Then we can do it. You know? Make it two -- two offers and then we can do it. What the hell is the difference? You know, if you're going to do it, do it. What makes a difference about a wall? Well, I put a wall up. My brother put the wall up.

Q. And this is your brother that passed away?

A. Yeah. [Brother's name]. And -- and the wall was a temporary wall. Did you all open up the wall?

1
2 Q. Um-hmm.

3 A. I hear so much about this wall.

4 That wall was so temporary, I'm glad you
5 didn't lean against it or it fell down. It
6 wasn't but two or three screws in the
7 ceiling holding the plate up there because I
8 didn't want to mess up the ceiling and the
9 only screws in the floor must've been down
10 through a route joint because I didn't want
11 to mess up no marble. And when -- it had
12 to go exactly in the middle and I heard all
13 kinds of talk about oh, it was a couple of
14 foot over this way or that -- make the unit
15 cheaper and that. It couldn't be. There's
16 a beam up there. There's literally a beam
17 up there. It's exposed through the ceiling.
18 You know, drop down in the ceiling. It's
19 the only place it could be so it couldn't be
20 an inch off. At best, an inch off.

21 Period. It went right down through the
22 center of the unit and right through the
23 center of the kitchen. Went right through
24 the center of the sink. Even cut a hole
25 out so the little nozzle thing could swing

1
2 -- swing around. Otherwise, it would have
3 been right in the middle of the wall. So
4 anyway, we put the wall up. Then for some
5 genius reason, I don't know why, they said
6 take the wall down. Take the wall down and
7 we'll go ahead and do the short sale. Okay.
8 Fine. Paid my brother to take the wall
9 down. And then a period of time after that,
10 put the wall back up and I'm getting a
11 little disgusted. Number one, I ain't got
12 the money. Don't want to be blowing the
13 money on something like that and number two,
14 I'm getting a little fed up with them. You
15 know, because they're acting pretty stupid.
16 Oh and in the first go around, I think the
17 guy said that well, now that it's two loans
18 and one unit, I'm going to have to turn this
19 in to the fraud department. Well turn it
20 in. Fraud for what? Who done what kind of
21 what? Fraud to me means you did something
22 intentionally wrong to somebody.

23 Q. Um-hmm --

24 A. You know, I didn't do nothing
25 intentionally wrong to nobody and everybody

1 knows, you know, what I was doing. So
2 anyway so he did that and apparently, they
3 had nothing to say about it. He's the one
4 that come back and said put up the wall
5 again. So anyway, the wall went back up and
6 I didn't take it down the last time. It
7 sold which that was the most stupid, stupid
8 thing for them to take and sell one at short
9 sale. Now, mind you, it was two contracts
10 into.
11

12 Q. Okay.

13 A. You know, to buy two units, and I
14 talked to DeVary in the last deal. Okay.
15 They accept one. Didn't accept the other.
16 Duh. You know? What's the matter with you
17 today? So the other one went to Sheriff's
18 sale. Well number one, I hate to say this
19 in front of him being here, but he wasn't
20 too sharp buying one unit not sure what's
21 going to happen to the other although he
22 could've made it work. But I wouldn't have
23 done it. I wouldn't have done what -- what
24 Kevin did buying that one unit. It ain't no
25 way in hell. Unless I wanted just that one

1
2 unit and I was going to spend the money to
3 -- to make it work and it could've worked.
4 It -- either one of them could've been
5 converted back. You know, because if you
6 knew the layout on the original, you walked
7 in, it's a little long kitchen going down
8 the wall and that's it. So that could've
9 happened in either one of them. Although
10 the one he got was the easiest one to
11 convert over to one.

12 Q. Um-hmm.

13 A. And then, you know, unless he had
14 something going on with the bank, he didn't
15 know he'd get 1104 and he did so he broke
16 out. Got a charm in his pocket or
17 something, but, you know, I don't know why
18 they did that and this Merrell guy, the
19 reason I got his name and everything, because
20 I had a lot of communication with him about
21 that. I thought that was the dumbest thing
22 I ever heard in my life. Oh, you're right.
23 You know, they didn't do nothing. They
24 don't care.

25 Q. Okay. I want to go back to the

1
2 wall. How many times did you have to put
3 it up?

4 UNIDENTIFIED SPEAKER: Two.

5 A. I put it up two times.

6 Q. You put it up two. Did anyone else
7 put a wall up?

8 A. Well when I say me, I didn't put it
9 up. My brother put it up.

10 Q. Your brother did.

11 A. Yeah. Not that I know of. No.

12 Q. Okay.

13 A. No --

14 Q. And did you pay for it? The --

15 A. I paid to put it up both times. I
16 paid to take it down one time. The last
17 time we sold at short sale --

18 Q. Sale --

19 A. -- and that was quite a bit before
20 the foreclosure. No. Wait a minute. Wait
21 a minute. We sold the short sale and then
22 had the foreclosure, but then the bank didn't
23 sell it to nobody for a while. So there
24 wasn't nobody going to take no wall down,
25 but there wasn't no electricity. There

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wasn't nothing in that wall.

Q. Okay.

A. Just a temporary wall.

Q. What kind of -- did you have any conversations with Mr. Zipperle regarding the wall?

A. What do you mean?

Q. Did you talk to him about it? Did you say hey I got to put a wall up?

A. It wasn't none of his business.

Q. Well he was negotiating for the short sale, wasn't he?

A. In that respect, he was probably advised that a wall had to go up.

Q. Okay --

A. Other than that, no. I mean, I don't know is if I talked to him about it. I'm sure that [Realtor's name] would have.

Q. Okay.

A. You know, because we all got pretty disgusted about the whole thing. [Realtor's name] got so disgusted with it at the very end of it, I don't think she had anything to do with the selling because she didn't even renew her

1
2 license in Indiana. It expired and she let
3 it go. She said, "I've had it. I'm fed
4 up with it."

5 Q. Have you had any communications with
6 [Realtor's name] since the condo sold?

7 A. No.

8 Q. Okay.

9 A. I liked her. She's a nice person.
10 Had a nice little baby when all this was
11 going on. I haven't had no occasion. You
12 know, I don't have nothing to sell, so --

13 Q. Yeah. Did you have any discussions
14 with Mr. Zipperle regarding the transaction
15 while it was ongoing at all? Do you recall
16 any conversations?

17 A. You mean from back in 2009 or '10

18 --

19 Q. To whenever it sold. Yeah.

20 A. Well I told you I had sold some
21 parking spaces to him --

22 Q. Why don't you tell me about that?

23 A. What do you mean?

24 Q. How many parking spaces did you sell
25 him?

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A. I think four.

Q. Okay. Now you purchased a number --
we'll go back and talk about parking spaces.

A. The parking space thing is a joke.

Q. So tell me. You ended up purchasing
some parking spaces in bulk. Is that
correct?

A. Well yes, ma'am.

Q. Okay. How did that happen?

A. Paid for them.

Q. I know you paid for them. What did
you pay for them?

A. You mean how much?

Q. How much.

A. 9,000 a unit.

Q. 9,000 a space.

A. Yes, ma'am.

Q. How were -- how did you find out
the spots were for sale?

A. They wanted to have, you know, like
a write-in option tell me how much you'll
pay for it. Nobody respond to it. Nobody
would buy them. Nobody would do nothing and
this [former property manager] said, "Frank, would you

1
2 buy them?" I didn't really want them, but I thought
3 they'd be worth more than that someday and
4 so I bought them.

5 Q. So you thought they --

6 A. And I gave the condo people, the
7 Harbors people, one check and I gave the
8 developer another check.

9 Q. Who told you what the check amount
10 should be?

11 A. The office there at the condo.

12 Q. Would that be [former property manager]?

13 A. It would be -- yeah.

14 Q. Now did [former property manager] tell you
15 that they were having a, you know, a bid, you said a
16 write-in process?

17 A. Yes.

18 Q. You heard that from [former property mgr].

19 A. Yes.

20 Q. Did she call you up and tell you
21 this or did you come in the office --

22 A. No. I was over there. I was over
23 working on the unit.

24 Q. Okay. Did you stop in and say
25 something about parking spaces or did she

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approach you?

A. I don't remember that.

Q. Okay. Did you have any discussion when you bought those -- those parking spaces with Kevin about them?

A. No. It had nothing to do with Kevin.

Q. Did you think parking spaces at that time were an investment? Go back to before --

A. Yeah. Yeah. When I bought them -- I mean, I would have been pretty stupid to buy them not thinking -- you know, I didn't buy them thinking I was going to lose money, but I lost money on every one of them.

Q. Okay.

A. Because I sold some that I bought. I sold later on to individual people and in this -- this -- these -- I don't like using negative, but you can't go no other way in talking about it. There's some people over there that I call instigators. You know? I guess there's other names for them, but unhappy or something and -- and they

1
2 circulated a paper I saw over on one time
3 about a Monopoly game and this Monopoly game
4 was about all the goings on of Kevin
5 Zipperle and this one and that one and I see
6 my name in there. I go whoa. What's all
7 this about? Then they go on to spell out
8 that I had the 9th floor unit, 17 or 18
9 or 19, one of them. I don't know which
10 one. But it was the one I sold to the
11 doctor, okay?

12 Q. Um-hmm.

13 A. And they said that I sold that unit
14 to the doctor, but being one of Kevin's
15 favorite friends that he gave me a parking
16 space and that parking space wasn't on that
17 floor and it went to the doctor. Well what
18 you're saying is partially true. It went to
19 the doctor but it's not like I'm Kevin's
20 best friend is why I got that parking space.
21 I bought that parking space and not from
22 Kevin. It had nothing to do with Kevin at
23 all and that parking space went with that
24 condo, the one I had, the one that sold and
25 then -- then Kevin later on, after the fact,

1
2 sold the doctor another parking space. So
3 the parking space I had is what I got from
4 that developer or through my transactions
5 buying units. That space did not go through
6 me. Now you go look at the courthouse
7 records, it might look like well, yeah. It
8 went to the 9th floor, blah, blah, blah and
9 you can piece it together any way you want
10 to piece it together. But the fact of the
11 matter is -- and he's sitting back here.
12 You can ask him. He sold the doctor -- and
13 it's all part of the paperwork. Look at
14 when I bought it. Look at when I sold it.
15 It's all a matter of paperwork at the
16 courthouse and then you look at when the
17 doctor bought the parking space from Kevin.
18 It'll be later. It didn't come through me.
19 It had nothing to do with me and that
20 annoyed the hell out of me which I guess I'm
21 expressing right now.

22 MR. HANCOCK: Pretty much --

23 THE WITNESS: I'm sorry.

24 MR. HANCOCK: That's all right.

25 **BY-MS. BELLER:**

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Q. I don't have any doubt that you're annoyed.

A. Well I mean that really annoyed me because it was a lie. It was a lie. Just a blatant out lie.

Q. Now you said you sold Kevin some parking spaces.

A. Yes, ma'am.

Q. Well, what spot -- do recall what parking spaces?

A. No. I don't know what the numbers they were. No.

Q. Do you know how many?

A. Four.

Q. Four? Do you know how --

A. I'm almost positive I'm right.

Q. Okay. Do you know how that transaction came about?

A. I was trying to sell the units. Trying to sell parking and get rid of it. Get money up.

Q. Um-hmm.

A. Because I couldn't sell no condos and I don't know if I sold some other ones

1
2 prior to that or after that. I just don't
3 remember, but -- and as far as him
4 contacting me or -- I don't -- I would guess
5 maybe he contacted me and said, you know, if
6 you want to sell me these for X, I'll buy
7 it. I would guess that's what

8 Q. Okay. Now do you have any interest
9 in any parking spaces at the Harbors now?

10 A. No, ma'am.

11 Q. Okay. A few months ago, and I
12 haven't checked it recently, your name was on
13 --

14 A. You told me that a year ago and I
15 gave you an answer to that a year ago. I
16 don't even use a computer. I got one of
17 these iPhones my daughter got for me and I
18 got -- today I want to go to McDonald's to
19 get me an ice cream cone and I couldn't get
20 it to shut up because I asked it how to get
21 to McDonald's. Couldn't find one around here
22 and the phone wouldn't shut up. She kept
23 telling me how to get there like go away
24 from me. So I asked her how to get to
25 Arby's. That shut her up and then I drove

1
2 to Arby's. But anyway, so I was told that
3 was put on their thingadiny over where you
4 can look it up. You know? I didn't put
5 it on there. I didn't do that. I don't
6 know how to use a computer. You know, plus
7 it's their computer not my computer.
8 Somebody put it on the computer. Might have
9 been [former property manager], might have been -- I
10 don't know. I don't know, but I wanted to sell them
11 and I've heard all kinds of stuff. They're
12 going to do this. They're going to do that.
13 They might try to sell them this way or that
14 way and, you know, nothing ever sold, but it
15 might still be there today.

16 Q. Do you have any notes or
17 documentation regarding Bank of America
18 telling you to put the wall back up?

19 A. No. I looked for that. That
20 would've been really funny, but no. Most of
21 it was all -- you know, I would call them
22 on the telephone. That's the way I like to
23 --

24 Q. Okay.

25 A. -- because I don't e-mail or nothing

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like that.

Q. Now when you decided to put the wall up, did you think you needed a building permit at all?

A. No.

Q. Okay.

A. There's nothing in it. It's a temporary wall.

Q. Did you --

A. It would be like him coming in here and hanging a curtain. You know?

Q. Did you -- were you familiar that a stop work order was issued on the wall?

A. No. I heard something about that, but no.

Q. Okay.

A. A stop work order on putting up the temporary wall?

Q. Yeah. On any construction --

A. No. I heard stop work order back when the work was going on up there. Not -- nothing about that temporary wall.

Q. Okay.

A. And that's -- and at that time, I

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talked to the building department over there.

Q. Did you?

A. But that was back when we were
dividing -- or combining units. Not --

Q. Not dividing it.

A. Yeah.

Q. Okay. Did you discuss the wall or
the condos with any employees at the Harbors?

A. Not that I know of.

Q. Okay. Did you meet in person with
Kevin regarding the condominium? Did you
have any discussions or was it all by phone?

A. You mean about him buying it?

Q. Yes.

A. Probably by phone because I was not
in town through a whole lot then.

Q. Did you discuss the fact that he had
bought 1103 and 1104 was going to short sale
or going to -

-

A. Say what now?

Q. -- foreclosure? Did you have any
conversations with Kevin regarding the fact
that he purchased 1103 on short sale,

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but 1104 was going to foreclosure?

A. I don't think so because my hands were clean of it then.

Q. Okay.

A. You know, to my knowledge, no. Because I wouldn't have had no, you know, nothing -- I was done. Once -- once the bank short-saled the one and I think they short-saled it before they took the other one -- foreclosure.

Q. Foreclosure.

A. When that was done, I was out. I was over.

Q. So I just want to confirm the parking spaces that you bought from the developer or from the Harbors.

A. Um-hmm.

Q. You had all communication with [former property manager]. Is that correct?

A. I don't ever recall talking to the developer --

Q. Okay.

A. -- because I wouldn't know what the guy looked like if I saw him.

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Q. So [former property manager] was the one that gave you the price?

A. I'm pretty sure that would be an accurate statement.

Q. Did you counter offer or anything? Do you recall or...?

A. No. I'm not good at that. I mean, I -- it's what they wanted. I thought it was fair.

Q. Okay. And so you -- you were told that there was a bid process and that it had not worked. Is that correct?

A. Correct.

Q. Okay.

A. No. I was told they wanted to do that. That they had put the word out for people to put an offer in and nobody was making no offers on that.

Q. So you were told that they did put that offer out?

A. No. It ain't what I said.

Q. Okay.

A. I said that I was told that they let people know that they could make, you

1
2 know, a bid on the -- on the parking and
3 nobody did it. Now I don't know how they
4 did that. I don't know if they sent out a
5 flier or if they put it on that computer or
6 what. That I don't know. I don't know if
7 it was all by conversation. I don't know.
8 Everything with me was conversation.

9 Q. Okay. And you said that you made
10 two checks out for the purchase of the
11 spaces.

12 A. Um-hmm. Because I was told that the
13 developer was supposed to paint some railing
14 or do something with some railing and that
15 didn't come about. That didn't work out.
16 Whatever. So they made a check out where
17 the Harbors got some money that was supposed
18 to pay for the railing and he got the rest
19 of the money.

20 Q. Okay.

21 A. And I -- I might be wrong about all
22 that conversation, but that's what -- that's
23 the way I understand it.

24 Q. Okay. I'm going to go back to a
25 few of the questions I missed here. Have

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you graduated -- did you graduate from high school?

[Personal information removed.]

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Q. Let's see. If we can take just a real short recess and I can confer with my colleague and then I'll come back.

(Whereupon, a brief recess was held.)



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BY-MS. BELLER:

Q. Okay. We can go back on the record continuing the deposition of Mr. Frank Prell. Now when you purchased condominiums at the Harbors, did you get copies of the declarations or the covenants or the by-laws?

A. I got a book. A three-ring binder book and that might be what you're talking about --

Q. Okay. Did you review that book?

A. I can't necessarily say I did.

Q. Okay.

MR. SCHILLING: For the record, it's what was in the State's complaint as Exhibit-A. The declaration of the Harbors horizontal property regime.

Q. Does this look familiar to you at all?

A. I wouldn't have a clue because you asked what I got and I got a three-ring binder --

Q. Okay.

A. -- at one time way back when.

Q. Okay. And --



F. PRELL

1 A. It had a whole lot of stuff in it.

2 Q. Okay. Let me ask you this. Now
3 you've developed a lot of properties. You
4 had to get a lot of building permits.
5

6 A. Yeah.

7 Q. And you had to -- to work with a
8 lot of restrictions in certain areas,
9 covenants and that sort of thing.

10 A. Yeah.

11 Q. So you didn't look at the Harbors at
12 all to see what you could or could not do?

13 A. I didn't read that book --

14 Q. You didn't read that book.

15 A. If you're asking me that. No. I
16 didn't. A whole lot of stuff in there that
17 --

18 Q. Would it surprise you that each
19 owner shall have -- this is from section B
20 on page 12 of the declarations of Harbors
21 horizontal property regime which is State's
22 Exhibit-A to the consumer complaint. It
23 says, "Each owner shall control and have the
24 right to determine the interior dand floor
25 plan of his unit, but this shall not include

1
2 the right to make structural changes to the
3 unit nor the right to use the interior d
4 which is, in the discretion of the Board of
5 Directors, adversely affects the external
6 appearance --

7 A. Not -- not the right to use what
8 now?

9 Q. The interior dwhich, in the
10 discretion of the Board of Directors,
11 adversely affects the external appearance of
12 the unit. I think that probably refers to
13 things like your curtain colors on the
14 outside or how it looks.

15 A. Okay.

16 Q. But would you consider combining the
17 two units into one a structural change?

18 A. No, not really, and I'll tell you
19 why. Earlier in our conversation, when it
20 was brought up, that issue, I told you you
21 had to buy the units that were together.

22 Q. Um-hmm.

23 A. If you didn't, they got that cross
24 member. You can't do that. So no I did
25 not make no structural changes.

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Q. Okay. There's --

A. You can't do that or the building would have a big problem. Secondly, there's several people that have done exactly what I've done. I've had correspondence with some about what I was doing and nobody said anything about -- being negative about what I was doing and everybody over there, meaning in the office and that and on the Board, was aware of what I was doing.

Q. So everyone was --

A. And nobody ever said anything to me about it and I got a letter from the grounds person or whatever saying go right ahead with what you're doing.

Q. Okay. Let me ask you about this.

This is section B of page 21 of the horizontal property regime. Did anyone mention to you that "Notwithstanding anything contained in this declaration to the contrary, this declaration may be amended in accordance with the special amendment procedure set forth in the event of the following. That an owner wants to combine



1
2 two or more units." nd then -- into one
3 unit. And then it goes on a little further
4 to say, "In the event an owner wants to
5 perform interior changes to the unit or
6 units, the owner and/or the association shall
7 cause an appropriate instrument of amendment
8 to the declaration of the regime to be
9 prepared and executed by such owner and/or
10 association." ow did anyone on the board of
11 directors say hey, you need to sign this
12 amendment because you're changing your
13 property?

14 A. No.

15 Q. Okay.

16 A. And like I say, when you talk about
17 changes, then, you know, you need to be more
18 specific because you really can't change much
19 in there. The plumbing is where the
20 plumbing is. Period.

21 Q. Okay.

22 A. You got to do your design around
23 that so, you know, it's -- I would think
24 that if somebody is going to do something,
25 I'm going to use the word structurally, that

1
2 they better get a whole lot to sign off on
3 it because there's going to be a lot of
4 negative response to it.

5 Q. Um-hmm.

6 A. You know, if you did something wrong
7 so I would want to bring a lot of people on
8 that page, but, you know, it's -- like I
9 say, I -- I know there's several units done
10 the way I did mine. As a matter of fact,
11 there's one unit done that did what I said I
12 wouldn't do. They got that cross member in
13 the middle of it.

14 Q. Um-hmm.

15 A. I might be wrong, but I'm almost
16 certain I'm 100 percent correct.

17 Q. Okay. Bear with me. I'm looking
18 for an Exhibit here. Ah. This is part --
19 I'm showing you what's marked as State's
20 Exhibit-T to the complaint which was filed.
21 It's two pages. It's an e-mail and then a
22 chart. Now you can --

23 A. Okay. What's your question?

24 Q. Can you see on it? It says owner.
25 It says FP and then it has space numbers.

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I believe those are parking space numbers and
I believe FP refers to you, Frank Prell.

A. Probably does.

Q. Now had you ever seen this chart
before?

A. I've never seen this.

Q. Okay.

A. 100 percent certain of that. I've
seen this chart or not, I don't know. I've
seen something that had prices on it --

Q. Okay.

A. Which was good for me because I
understood more about the pricing, but all
this is cockeyed because you couldn't get it.
It wasn't going to happen. Everything I
sold over there has been in the \$7 [to] 9,000
range. I might -- I might have had one
right next to the elevator that might have
sold for a little bit more and that would
have been one that I bought from the
developer.

Q. Okay. Did you confer with Kevin on
this at all? On the making of this chart?

A. Absolutely not. No.

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Q. Okay.

A. No. The only person I would talk to over there would've been [former property manager].

Q. Okay.

A. And then, like I say, when Kevin bought the spots from me, I'm going to rather assume he come to me. That's probably what I said earlier because I don't remember.

Q. Now you said you thought he bought -- here. I'll take that exhibit back. You said you thought he bought four spaces from you. Is that correct?

A. Um-hmm.

Q. How much did he pay for them?

A. I don't know. I don't know.

Q. You don't recall?

A. Between seven and nine I'll guess.

Q. Okay.

A. Maybe seven. Maybe eight. Maybe nine. I don't think --

Q. 7,000 --

A. -- I wouldn't have sold it for anything less than that. I would've -- I

1
2 just -- I don't know what I would have done
3 with it. I just wouldn't have bothered with
4 selling for less than that.

5 Q. Okay.

6 A. And then I got -- I got some -- you
7 know, when I bought units, you get -- you
8 get parking so I got some parking that way
9 and I bought parking from the developer.

10 Q. Okay. I just want to confirm a
11 couple of things to make sure that my
12 understanding is correct, okay? You said
13 when you bought those parking spaces from the
14 developer from the Harbors and you gave them
15 that money and you bought them in bulk, you
16 said that you were told they were offered to
17 people but that nobody made a bid. Is that
18 correct?

19 A. Correct. Um-hmm.

20 Q. But you were told they were offered?

21 A. Yes.

22 Q. Okay.

23 A. And they wanted to sell them and
24 couldn't sell them.

25 Q. That they couldn't. Now talking

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about wall up wall down again on 1103. You
had --

A. The wall bothers you.

Q. Your brother put the wall up. Is
that correct?

A. Yes.

Q. Yes. And then he took it down.

A. Yes.

Q. And then he put it back up again.

A. Yes.

Q. And then it was sold to Kevin. It

--

A. One side was sold to Kevin.

Q. Kevin. 1103.

A. One side.

Q. And then you walked away from it at
that point after it was foreclosed.

A. Right. Correct.

Q. So you don't know who took the wall
ultimately down?

A. No, ma'am.

Q. Okay. And -- and you had said that
the wall was just kind of like a curtain.
It was just -- tell me about the wall and

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its quality.

A. What are you trying to incriminate me or something here? The wall was put up as a temporary division wall.

Q. Okay.

A. Because I was under the impression that's what it needed to be. It wasn't going to be sold separately, but for the bank, for them to get through their ritual of paperwork, they wanted it to be separated. They wanted to see that on a picture. Okay. Fine. So the wall had very -- it's metal because metal is easier to carry up than a stack of wood.

Q. Okay.

A. Are you familiar with metal studding?

Q. Yeah.

A. Okay. Metal -- take a bundle of that up before we take a bundle of wood up. Metal stud. So you take that metal studding and just periodically have a screw up there to keep her from falling over. Down at the bottom, you got to have something to hold the wood, you know, to keep from -- or not

1 wood. The metal. So you go down to
2 through a route joint and put in a screw in.
3 Not many and they're exactly down the middle
4 of that unit. It had to be and you go up
5 there and look. There's a beam up there.
6 It ain't too hard to figure that one out.
7 So that's what really pissed me off when
8 they said oh it was two foot one way or the
9 other to make one a better price and the
10 other a better price. It's just all
11 hogwash. Plus I bring something to your
12 attention. When Kevin Zipperle bought 1103,
13 he paid more on the short sale price than
14 Bank of America had appraised the two units
15 for me to take half of it.

17 Q. Um-hmm.

18 A. Okay? So I don't know where
19 everybody come up -- it's jealous people over
20 there. As a matter of fact, I was over
21 right after that happened and there's a lady
22 over there running her mouth off in the
23 elevator to people that didn't even know her
24 or know anybody and I guess she didn't even
25 know I was standing in the elevator about

1
2 how disgraceful it was that Kevin Zipperle
3 bought that unit for the money he bought it
4 for and blah, blah, blah, blah, blah and the
5 fact of the matter was if she was offered
6 for that, she wouldn't want it because she
7 would have wanted it cheaper yet. But, you
8 know, I just -- the stuff going on over
9 there is ridiculous, but, you know, the wall
10 had no plumbing in it, no electrical in it
11 --

12 Q. It wasn't to fire code?

13 A. It wasn't -- it wasn't -- no. It
14 wasn't going to be, you know, it wasn't
15 going to be there.

16 Q. Okay.

17 A. So there was no tape on it. Even
18 if it was fire-rated drywall, there was no
19 tape on it or nothing. You know, did you
20 take a picture when you went to look at it?
21 Look at it.

22 Q. Um-hmm.

23 A. It was just dry wall screwed up
24 there. End of story. End of story.

25 Q. Okay.

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Q. -- where was it divided at? Where was the wall because eventually it got put --

A. There's -- there's a beam right down the middle --

Q. Okay.

A. -- where the -- where the light -- should be a light -- I didn't put a light up there, but there's a box for a light like that. Right in the middle of that.

Q. Was this --

A. And -- and if you run a tape measure from one wall to the other wall, find the middle, you're going to find it's right under that beam.

Q. Was this in the kitchen area?

A. You mean now?

Q. No. Initially. When --

A. Initially, the way that's set up -- yeah. Let me waste your paper. I don't have a whole lot. The way those things are set up over there is those on what you call ~~soft~~ [saw] tooth I think they refer to it. You know, the -- it goes like that and if this

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is a unit here, you walk in -- you walk in the door, that's all kitchen down through there.

Q. Okay.

A. Then you got a living room back through here and a bedroom and probably a bedroom.

Q. Okay. And --

A. It maybe one bedroom. I don't remember that. That part I don't remember.

Q. Okay.

A. But I know this is the living room down and the window is going out, the balcony, and then you come down here the same thing so the kitchen's over on that wall and that's where the kitchen had to be.

Q. And the next unit then had the kitchen --

A. Exact same thing.

Q. -- alongside. It was a mirror image just on the opposite side.

A. That's where -- that's where you take and get the master bathroom sinks over on that wall and then you would get the tub

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tied to where this kitchen stuff was over here.

Q. So when -- when you combined these two units and you removed a wall --

A. Yeah.

Q. -- to combine those --

A. Yeah.

Q. -- what was on either side? Once you took that center wall out --

A. Kitchen on one side and a bathroom on the other side.

Q. Kitchen and a bathroom on the other side.

A. Um-hmm.

Q. When the wall was put up the second time, where was this wall located?

A. Exact same place.

Q. The exact same place.

A. Exact same place.

Q. So initially when you purchased 1103 and 1104 --

A. To the extent when I say exact same place, the holes that we used to put the studding up there were never patched.

1
2 Q. So the wall was not in the exact
3 same place?

4 A. The wall was put back in the exact
5 same place because the holes were originally
6 never patched. Used those holes again.

7 Q. So then in 1103, could you use the
8 sink when you purchased it and had two
9 separate units? You testified before that
10 there was a hole cut in the temporary wall.

11 A. Oh. That's a temporary wall. That
12 had nothing to do with when they were
13 together. I don't know what you're asking
14 here.

15 Q. You said that the temporary wall was
16 put in exactly the same place, correct?

17 A. The second time it was put up it
18 was put up in the exactly the same place it
19 was the first time it was put up.

20 Q. So then the second time the
21 temporary wall was put up.

22 A. Yes, sir.

23 Q. Is this the one that had the hole
24 for the sink?

25 A. Both of them did.

F. PRELL

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Q. So the original wall in 1103
and 1104 had a hole for the sink?

A. I don't know what --

Q. So you couldn't use the wall -- you
couldn't use the sink in 1103?

A. I -- whoa, whoa, whoa. Slow down
here just a minute here. I don't know what
you're not understanding. The original wall
when it was two units --

Q. Um-hmm.

A. -- before I bought it, there was a
solid wall down through it and it had a
kitchen backed up on one side of the wall
and over in 1103, there was a bathroom
backed up against the wall, okay?

Q. Um-hmm.

A. All that come out. I gutted the
whole part of that and there was no wall.
I put back in the rooms, bigger rooms,
bigger bedrooms, bigger living room, bigger
everything. The master bathroom was huge.
That's why I thought it was silly buying
that because it was all bathroom over there.
Very little living room. You know, mainly a

1
2 bedroom and a whole lot of big master
3 bathroom. We put a temporary wall down
4 through the living room of that when I
5 combined them.

6 Q. Okay.

7 A. What I said was the second wall we
8 put up, you know, we put one up, it come
9 down. Remember?

10 MS. BELLER: Um-hmm.

11 A. We put another one up. The other
12 one up exactly where the first one went up.
13 Now what's your question?

14 Q. That's clarified for me and the
15 second wall was in exactly the same spot
16 stud-wise --

17 A. Yes.

18 Q. -- where the original wall was.
19 However --

20 A. Yes.

21 Q. -- you had changed the layout --

22 A. Yes. Where --

23 Q. -- when you combined the units.

24 A. In that respect, you're right. It
25 was where the original wall was. It

1
2 couldn't have been nowhere else because
3 there's a beam up there. The ceiling comes
4 over and drops down.

5 Q. And the support beams and studs --

6 A. Exactly where it was at.

7 Q. Okay.

8 MR. HANCOCK: Maybe this will help
9 him, Frank. But you changed --

10 MR. SCHILLING: You changed the --

11 MR. HANCOCK: -- changed direction
12 of the sink.

13 MR. SCHILLING: You changed the
14 layout.

15 MR. HANCOCK: So that the kitchen
16 sink --

17 THE WITNESS: Well --

18 MR. HANCOCK: -- you said -- because
19 you were saying you had to cut a hole in
20 the wall. There must have been a kitchen
21 sink that sat to the west of that wall so
22 that -- that moved. Is that right?

23 THE WITNESS: Thank you.

24 MR. HANCOCK: Is that right? I
25 mean, I don't know. I'm just asking.

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2 A. The original wall was a solid wall
3 so when I came back and took that original
4 wall out, I built a new kitchen area and all
5 that and it just so happened that my sink I
6 put in was right in the middle of where that
7 damn wall was at.

8 **BY-MR. SCHILLING:**

9 Q. After you improved?

10 MR. HANCOCK: Yeah. That's what I
11 was thinking he was saying.

12 A. Yeah. Yeah.

13 Q. Okay.

14 A. So But then that was the same
15 configuration where the wall was at.

16 Q. So then --

17 A. That's why I got annoyed when I
18 heard all this rhetoric about, oh, it was
19 two foot off to make this more valuable and
20 that -- that was ridiculous.

21 Q. Okay. So then when Mr. Zipperle
22 purchases 1103 --

23 A. Um-hmm.

24 Q. -- with the wall and was the wall
25 up when he purchased it?

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A. Yes.

Q. Okay. He -- and you stated before that he was getting almost all bathroom when he purchased this unit. Is that correct? After you had changed the layout.

A. A larger bathroom than would've been in the normal units is what I -- that's what I'm saying.

Q. Okay. And how about -- was this a functional sink then and a functional kitchen area in 1103?

A. Well, no. They only had -- for either one, 1103 or 1104, they had to reconfigure that. It wouldn't have been complicated, but they had had to refigure it back to pretty much where it was at to begin with.

Q. And was Bank of America aware that this would have to be reconfigured?

A. Yes.

Q. How do you know?

A. Because I talked to them.

Q. Did you provide them any pictures?

A. They had all kinds of pictures

1
2 because they had it appraised, had all kinds
3 of conversations. You know when we tried to
4 buy it as one unit original I had -- I just
5 didn't have a concept of being two loans and
6 even if it was two loans, it didn't make no
7 call to me. I knew it was one unit now
8 basically. You know, it wasn't -- two all
9 made into one.

10 Q. Were you making two separate
11 payments?

12 A. Yes. But now ask me who made the
13 payments. Did I make the payments? No.
14 So I wasn't -- I just didn't pay attention
15 to that. I bought it to do what I did and
16 that's what I did. The payments didn't make
17 no call to me. I mean, I've actually had
18 stuff like that before where I might have
19 two or three payments on something. Like
20 down in Florida, we would buy property and
21 you would put up big homes down there. It
22 used to be little cottages. They ain't no
23 more. They're big homes. You know
24 multi-million dollar homes. So I might have
25 three payments on a property and sell it.

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2 So what? You pay three payments. You
3 know, pay the loans off. It made no
4 difference so when they come back and said,
5 you know, you got to put a wall -- we got
6 to see a wall because it's two loans. It
7 didn't make no sense to me, but if that's
8 what you want, if that will make you happy,
9 fine. I'll do it. Not with happiness, but
10 I did it.

11 Q. And just one or two final questions.

12 A. Ask all you want. I got time.

13 Q. You testified before that Bank of
14 America turned you into the fraud department
15 --

16 A. Yeah.

17 Q. If they had told you to put up the
18 wall, why would they then have turned you
19 into the fraud department?

20 A. It had nothing to do with that wall.
21 It didn't have nothing to do with that wall.
22 It had something to do with the fact that it
23 was two loans. I see your eyes rolling
24 around.

25 Q. Bank of America would have been

1
2 aware it was two loans. They had lent the
3 money --

4 A. They understood the two loans --

5 Q. -- lender.

6 A. -- but then they wasn't aware it was
7 one unit. That it's combined into one unit.

8 Q. But if they instructed you to put up
9 this wall to separate the units, how would
10 they not have been aware that it was one
11 unit? That's where I'm having a hard time
12 understanding.

13 A. Okay.

14 MS. BELLER: It was when they
15 purchased it -- when he purchased it, he
16 purchased two separate units.

17 MR. SCHILLING: Two units. Yes.

18 MS. BELLER: Okay. They did not
19 know he combined it so when he was trying to
20 negotiate the short sale, and tell me if I'm
21 wrong, they viewed that as a fraudulent act
22 of getting two units and combining it and
23 they didn't know that it was combined.

24 THE WITNESS: Correct.

25 MS. BELLER: So that's why they

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started the fraud --

MR. HANCOCK: They felt like he should have told them before he --

THE WITNESS: You explained it where I couldn't. A lot of times I can't say what I'm thinking.

MR. HANCOCK: -- combined them into one unit and they knew they were screwed basically and that's why they put that wall back in. They figured they had to sell it as two separate units and they were --

THE WITNESS: And see what -- what didn't make no sense to me. It was the same bank. It was the same bank had both loans. If it was, you know, like one bank had this and another bank had that one, I could have understood that. I would have said oh, shit. You know, what's going on here? You know? This is a little bad, but it wasn't. It was all one bank. Then -- then why would they even turn around and sell one at a short sale and the other one not? Make any sense to you? It doesn't to me.



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2 MR. HANCOCK: And I think when they
3 finally investigated and checked it all out
4 internally, you know how these big banks are,
5 they realized that he didn't really do
6 anything intentionally to defraud them and
7 they backed off as far --

8 THE WITNESS: I mean, I -- I did
9 nothing wrong at all. As a matter of fact,
10 I increased the value of the units immensely
11 and I put a lot of money in that unit and
12 I lost a lot of money on that unit. I
13 lost money on every unit I bought over there
14 and every parking spot except maybe one that
15 I sold over there. Pretty stupid on my
16 part, wasn't it? But I didn't know the
17 economy was going back.

18 **BY-MR. SCHILLING:**

19 Q. Then how much did you purchase your
20 parking spots for? You testified that you
21 sold them between seven and \$9,000 each?

22 A. Yeah.

23 Q. What did you buy them for?

24 A. About nine. Even nine as a matter
25 of fact.

F. PRELL

Q. Okay. I've got no other questions.

A. And -- and like I say, I might've sold one for over nine. Oh, go on.

MS. BELLER: Here.

THE WITNESS: Fire the bullet. Come on. Come on --

MS. BELLER: I believe that's all we have.

THE WITNESS: You ain't have questions at all?

MR. CULOTTA: Okay. Well, if you all give me -- if you all give me a couple of minutes, let me talk to my folks real quick and --

MR. SCHILLING: Okay.

MR. CULOTTA: -- make sure that -- I've got a couple, but I may have less.

(Whereupon, a brief discussion was held off the record.)

EXAMINATION

BY-MR. CULOTTA:

Q. My name is Clay Culotta. I'm here. I represent the other Defendants in this matter and I just have a couple -- three

F. PRELL

1
2 quick questions. Frank, one dealt with you
3 had said pretty much everybody knew what was
4 going on with the combination or the
5 combining of 1103 and 1104. You said that
6 most of the office people knew and some of
7 the board people knew. Do you have any --

8 A. I don't think I said and board
9 people knew or --

10 Q. Okay. Who -- who -- who do you
11 recall having knowledge of the fact that the
12 unit was being combined?

13 A. I would go into the office because I
14 had to do whatever I had to do go in the
15 office. I might go in there and borrow a
16 key one day or what have you.

17 Q. Um-hmm.

18 A. So whoever's in the office, at that
19 time it was some young lad, some boy, and
20 [former property manager], whatever her
21 name was, so they would know it.

22 Q. Um-hmm.

23 A. And -- and any -- any homeowner
24 around there was very aware of what I was
25 doing. It wasn't no big secret. It's not

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2 like we're going there at midnight and doing
3 all the work in there so everybody knew what
4 we were doing. They thought it was great.

5 Q. So there's -- you have no
6 independent recollection or knowledge of the
7 board members knowing what was going on?

8 A. No. It's not like I, you know,
9 went to a board meeting or approached the
10 board or talked to the board or nothing like
11 that. Like I said, I got -- I had to
12 submit a request on the 11th floor to change
13 out the windows and a guy, a grounds manager
14 or whatever, signed it.

15 Q. Okay. Okay. And that's the only
16 time you ever went to the board?

17 A. I didn't go to the board. I sent
18 them a letter.

19 Q. Okay. Okay. With respect to the
20 wall, did Kevin in any way, shape or form
21 have any involvement in it going up or
22 paying for it or any --

23 A. No. He didn't --

24 Q. -- decision for it to go up?

25 A. Bank of America had me put it up

1
2 and I put it up. I even heard somewhere,
3 maybe through you or something, you asked
4 questions about that did he have anything to
5 do with it. Absolutely not. No. That's
6 all conversation, make up from other people,
7 because they want to believe it.

8 Q. And one last thing, you had said
9 that, and correct me if I'm wrong, but it
10 was [former property manager] that told you that they
11 put the -- the word out verbally or written
12 one way or the other that the -- that there
13 were spaces available and that they were --
14 they weren't receiving any bids and she's the
15 one that approached you about seeing if you
16 had an interest?

17 A. I was over there and I don't know
18 what I was doing at the time. You know,
19 why I would've been in the office whatever.
20 I don't have any -- whatever. And she said
21 that they got the parking available and, you
22 know, I didn't know if somebody else was
23 going to buy it or was going to buy it or
24 whatever. I didn't even know what they were
25 worth and some way or another we came to

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the 9,000 and I bought them.

Q. And your only communication with anyone over those spaces was [former property mgr]?

A. Yeah. I didn't even talk to the developer. Like I said, I don't know what the guy would even look like.

Q. Did you ever talk to anybody on the board regarding those spaces?

A. The parking spaces?

Q. Yeah.

A. No.

Q. I have no further questions.

A. Because I don't know -- you know, my understanding that they belonged to the developer. That's some last stuff he had to get rid of. Now I don't know if it was the last thing or not. He might have had another unit or something. I don't know. I was even under the impression when I bought my 11th floor and ninth floor units, they were some of the last units going out.

Q. Okay.

A. And they wanted to get rid of them.

MR. CULOTTA: I have no further

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questions.

MR. HANCOCK: I got nothing.

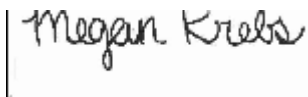
(Whereupon, the deposition of FRANK
PRELL concluded at 3:24 p.m.)



CERTIFICATE

COMMONWEALTH OF KENTUCKY AT LARGE

I do hereby certify that the witness in the foregoing transcript was taken on the date, and at the time and place set out on the Title page hereof, by me after first being duly sworn to testify the truth, the whole truth, and nothing but the truth; and that the said matter was recorded stenographically and mechanically by me and then reduced to typewritten form under my direction, and constitutes a true record of the transcript as taken, all to the best of my skill and ability. I further certify that the inspection, reading and signing of said transcript were waived by counsel for the respective parties and by the witness. I certify that I am not a relative or employee of either counsel and that I am in no way interested financially, directly or indirectly, in this action.



MEGAN KREBS,

CERTIFIED COURT REPORTER

DATED: 07/12/2014

CAPTION

1
2
3 The Deposition of **FRANK PRELL**, taken
4 in the matter, on the date, and at the time
5 and place set out on the title page hereof.

6 It was requested that the Deposition
7 be taken by the reporter and that same be
8 reduced to typewritten form.

9 It was agreed by and between counsel
10 and the parties that the Deponent will read
11 and sign the transcript of said Deposition.

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CERTIFICATE

STATE OF _____ :

COUNTY/CITY OF _____ :

Before me, this day, personally
appeared, **FRANK PRELL**, who, being duly sworn,
states that the foregoing transcript of
his/her Deposition, taken in the matter, on
the date, and at the time and place set out
on the title page hereof, constitutes a true
and accurate transcript of said Deposition.

FRANK PRELL

SUBSCRIBED and SWORN to before me this
_____ day of _____, 2014 in the
jurisdiction aforesaid.

My Commission Expires

Notary Public



<p style="text-align: center;">A</p> <p>ability 104:14</p> <p>Absolutely 76:25 101:5</p> <p>accept 51:15,15</p> <p>accommodate 9:13</p> <p>accurate 9:7 67:5 106:11 107:4</p> <p>accurately 9:19</p> <p>act 95:21</p> <p>acting 50:15</p> <p>action 104:20</p> <p>actual 24:8</p> <p>add 25:13</p> <p>adversely 72:5 72:11</p> <p>advised 54:15</p> <p>affirm 6:6</p> <p>aforesaid 106:17</p> <p>afternoon 9:19</p> <p>agent 36:13 41:9,15,17 44:7</p> <p>ages 15:25</p> <p>ago 6:24 7:4 10:8 62:11,14 62:15</p> <p>agreed 5:6 105:12</p> <p>agreement 45:12</p> <p>Ah 75:18</p> <p>ahead 13:7 45:10 46:25 50:7 73:15</p> <p>ain't 20:5 21:24 25:14 33:25 50:11 51:24 67:22 81:7 93:22 98:10</p> <p>air 24:13 27:17</p> <p>AL 107:6</p> <p>Albany 1:17</p>	<p>2:11 3:6 5:4</p> <p>alive 12:14</p> <p>alongside 85:21</p> <p>amended 73:22</p> <p>amendment 73:23 74:7,12</p> <p>America 10:10 44:17 45:12 45:18 63:17 81:15 92:19 94:14,25 100:25</p> <p>amount 21:4 31:13 57:9 [name removed]</p> <p>and/or 74:6,9</p> <p>annoyed 60:20 61:3,4 91:17</p> <p>answer 8:2,10 8:17,20,24 9:8 35:23 42:9 62:15</p> <p>answering 9:18 35:19,21</p> <p>answers 7:19</p> <p>anticipate 9:10</p> <p>anybody 11:2 14:14 17:11 44:7 81:24 102:8</p> <p>anyway 26:9 34:21 35:25 43:13 48:13 50:4 51:3,6 63:2</p> <p>apartment 17:3</p> <p>apparently 40:13 51:3</p> <p>appearance 72:6 72:11</p> <p>APPEARANCES 2:2 3:2</p> <p>appeared 106:6</p> <p>appraise 48:9 48:10</p> <p>appraised 81:15</p>	<p>93:2</p> <p>approach 42:6,7 58:2</p> <p>approached 20:17,18 100:9 101:15</p> <p>approaches 43:24</p> <p>appropriate 74:7 107:17</p> <p>approximately 5:5</p> <p>Arby's 62:25 63:2</p> <p>area 13:21 84:17 91:4 92:12</p> <p>areas 71:8</p> <p>Army 69:12,13 69:14</p> <p>asked 8:21 10:4 62:20,24 70:21 101:3</p> <p>asking 35:22 37:11,21 71:15 87:13 90:25</p> <p>aspects 10:25</p> <p>associate 19:16</p> <p>associates 19:15</p> <p>association 17:9 74:6,10</p> <p>assume 28:17 77:8</p> <p>attach 107:18</p> <p>attempt 8:21</p> <p>attend 17:8 69:17</p> <p>attention 8:4 81:13 93:14</p> <p>attorney 2:4 7:21,24 8:16 8:18 10:23 83:13</p> <p>attorney's 8:22</p>	<p>authorize 107:18</p> <p>available 7:24 101:13,21</p> <p>aware 16:15,18 32:3 42:15 73:11 92:19 95:2,6,10 99:24</p> <hr/> <p style="text-align: center;">B</p> <p>B 2:12 71:19 73:18</p> <p>baby 55:10</p> <p>back 7:7,13 10:12,15 13:4 17:3,5 19:19 19:19,20 26:9 33:23 36:19 43:16,23 45:18,22,24 46:3 48:3,5 50:10 51:5,6 52:5,25 55:17 56:4 58:10 60:11 63:18 64:21 65:4 68:24 69:24 70:3,24 77:12 79:10 83:23 85:6 87:4 88:20 91:3 92:17 94:4 96:11 97:17</p> <p>backed 88:14,16 97:7</p> <p>bad 14:23 47:2 96:20</p> <p>balcony 85:15</p> <p>balloon 28:2</p> <p>balloonist 27:17</p> <p>balloons 28:7</p> <p>bank 10:10 38:15 42:4 44:17,18</p>
--	--	--	---



DEPOSITION OF FRANK PRELL, JULY 1, 2014

Page 109

45:12,18 52:14 53:22 63:17 66:9 80:10 81:15 92:19 94:13 94:25 96:15 96:15,16,17 96:21 100:25 banks 14:25 97:4 basically 93:8 96:10 bathroom 26:13 85:24 86:11 86:13 88:15 88:22,24 89:3 92:4,7 beam 49:16,16 81:6 84:5,16 90:3 beams 90:5 Bear 75:17 beat 27:16 bedroom 85:7,8 85:10 89:2 bedrooms 21:23 88:21 BEHALF 2:3,9 3:3 believe 6:20 17:13 76:2,3 98:8 101:7 Beller 2:5 36:4 41:21 83:8,17 89:10 95:14 95:18,25 98:5 98:8 belonged 102:15 best 8:14 49:20 59:20 104:13 better 18:7 75:2 81:10,11 bickering 20:24 bid 57:15 67:12 68:2 78:17 bids 101:14	big 30:16 73:4 89:2 93:21,23 97:4 99:25 bigger 21:21 88:20,21,21 88:21 bills 34:14 binder 70:8,22 birth 11:12 bit 12:6 32:25 37:12 38:21 53:19 76:20 83:18 blah 36:16,16 36:16 60:8,8 60:8 82:4,4,4 82:4,4 blatant 61:6 blowing 50:12 BOA 10:7 board 29:19 72:4,10 73:10 74:10 99:7,8 100:7,9,10,10 100:16,17 102:9 book 70:8,9,11 71:13,14 bored 13:24 born 11:14 borrow 99:15 bothered 78:3 bothers 79:4 83:19 bottom 80:24 bought 14:17 16:9,24 20:10 20:14,15,15 20:18,21 21:19 22:6,15 22:15,20,21 25:7 26:5 32:13,17,21 38:2,6,11,17 38:20 39:5 43:19 57:4	58:5,12,18 59:21 60:14 60:17 65:19 66:16 76:21 77:7,11,13 78:7,9,13,15 81:13 82:3,3 88:12 93:15 97:13 102:2 102:20 box 84:10 boy 99:19 break 9:12 brief 69:25 98:19 bring 14:17 75:7 81:12 broke 52:15 broker 36:13 40:10 brother 11:22 12:4,9,12,16 12:19,20 28:21 48:20 48:21 50:8 53:9,10 79:5 brothers 12:10 brother's 28:24 brought 34:5 72:20 build 13:14,22 14:10,12 30:25 building 13:12 23:10,18 24:10,12 64:4 65:2 71:5 73:3 buildings 13:13 13:14 19:6,8 40:17 builds 14:15 built 13:8,14 13:20 14:9 28:12 91:4 bulk 56:7 78:15	bullet 33:14 98:6 bundle 80:19,20 bundled 29:9 business 19:15 54:11 buy 13:13 14:11 20:13 22:11 26:3,6 44:2 51:13 56:24 56:25 58:14 58:15 62:6 72:21 93:4,20 97:23 101:23 101:23 buying 13:21 16:11 26:7 38:24 51:20 51:24 60:5 65:14 88:23 by-laws 70:7 BY-MR. CULOTTA 98:22 BY-MR. SCHIL... 83:10 91:8 97:18 BY-MS. BELLER 6:17 60:25 70:2 <hr/> C <hr/> cake 28:4 call 10:16 18:18 19:3,16 20:4 30:7 31:14 33:12 41:11 44:5 57:20 58:23 63:21 84:23 93:7,17 called 18:25 19:8 44:10 47:6 Cape 11:17 Captain 47:11 Caption 105:2
--	--	--	--



DEPOSITION OF FRANK PRELL, JULY 1, 2014

Page 110

107:5 captioned 107:13 Captiva 12:23 19:10 care 20:4 24:23 52:24 carry 80:14 cars 13:10 case 7:2,10 10:20,25 11:9 83:14 107:5 cause 1:8 74:7 ceiling 49:7,8 49:17,18 90:3 ceilings 25:21 center 49:22,23 49:24 86:10 certain 71:8 75:16 76:9 Certificate 104:2 106:2 107:18 CERTIFIED 104:24 certify 104:5 104:14,17 chain 47:19 Chandler 1:10 2:9 3:4,12 35:11,15 change 24:21 26:11 72:17 74:18 100:12 changed 89:21 90:9,10,11,13 92:6 changes 25:17 72:2,25 74:5 74:17 107:15 changing 74:12 charm 52:16 chart 75:22 76:5,10,24 cheaper 49:15 82:7	check 22:17 57:7,8,9 68:16 checked 62:12 97:3 checks 68:10 children 15:19 18:23 [former property manager name removed] circles 25:11 CIRCUIT 1:2 circulated 59:2 City 23:17,19 23:24 Civil 5:6 clarified 89:14 CLARK 1:2 Clay 98:23 Clayton 1:16 3:6 clay@culott... 3:8 clean 34:16,17 66:4 closed 38:25 closing 43:18 clue 20:4 23:2 70:20 cockeyed 76:15 code 82:12 colleague 69:24 college 69:17 colors 72:13 com 18:12 combination 32:12 99:4 combine 31:23 73:25 86:7 combined 23:8 29:16 38:7,9	86:4 89:5,23 95:7,19,23 96:8 99:12 combining 28:16 29:20,20 31:25 65:5 72:16 95:22 99:5 combo 46:5,10 come 10:5,12,15 11:21 12:4 27:22 29:5,7 33:12 36:11 37:7 43:11 48:3,8 51:5 57:21 60:18 68:15 69:24 77:8 81:19 85:15 88:18 89:8 94:4 98:6,7 comes 31:15 43:25 90:3 coming 64:11 commencing 1:17 Commission 106:19 Commonwealth 1:18 104:4 communicated 44:13 communication 30:10,11 44:16 45:18 52:20 66:19 102:3 communications 55:5 company 18:14 19:5,24 33:7 38:2 complaint 70:15 71:22 75:20 complete 9:9 complicated 92:16	computer 62:16 63:6,7,7,8 68:5 concept 93:5 concluded 103:5 concrete 25:21 25:21,22 condition 24:13 condo 16:20 24:17 32:5,8 55:6 57:6,11 59:24 condominium 65:12 condominiums 20:11,13 22:12 33:20 35:4 70:5 condos 16:9 61:24 65:9 cone 62:19 confer 69:23 76:23 configuration 91:15 confirm 66:15 78:10 confusion 33:17 consider 72:16 constitutes 104:12 106:10 construction 64:20 consumer 71:22 contacted 62:5 contacting 62:4 contained 73:21 continuing 70:4 contracted 28:19 contractor 28:21 contracts 51:10 contrary 73:22 control 71:23 CONT'D 3:2
--	--	---	---



convenient 32:11	98:13,18,25	daughter 62:17	70:4 103:4
conversation 43:25 68:7,8 68:22 72:19 101:6	court 1:2,17 5:7 6:4,10 7:17,17 104:24 107:4	daughters 15:22	105:4,8,14 106:8,11 107:13
conversations 7:20 54:6 55:16 65:24 93:3	courthouse 60:6 60:16	DAVID 3:10	DESCRIPTION 4:3
convert 52:11	covenants 70:7 71:9	day 5:5 28:2 29:7 35:6 99:16 106:5 106:16	design 26:12 28:8 74:22
converted 52:5	Co-counsel 83:13	deal 16:16 19:12 34:12 38:24,25 39:12 51:14	determine 71:24
Cook 47:11,12	crazy 27:8	dealing 44:18	DeVary 51:14
copies 70:6	cream 62:19	deals 33:9 39:13	developed 71:4
copy 7:23	critical 21:24	dealt 99:2	developer 23:6 57:8 60:4 66:17,22 68:13 76:22 78:9,14 102:6 102:16
Coral 11:17	cross 25:25 26:2,6 72:23 75:12	[name removed]	developer's 22:24
corporate 19:18	Culotta 1:16 3:5,5,6 98:12 98:17,23 102:25	debt 34:8	died 12:5,11,20 29:6,11
corporation 18:12 21:17 36:25	curious 11:7 36:22	decide 42:2	difference 48:17,19 94:4
corporations 18:4,7,9	currently 15:3 18:3	decided 64:3	different 10:16 33:2 45:5,5
correct 29:3 44:21 45:13 56:8 66:20 67:13,14 75:16 77:14 78:12,18,19 79:6,19 87:16 92:5 95:24 101:9	curtain 64:12 72:13 79:24	decision 43:6 100:24	diploma 69:9
correspondence 73:6	customer 10:18 47:4	declaration 4:5 70:16 73:21 73:22 74:8	direction 90:11 104:12
cottages 93:22	cut 29:9 49:24 87:10 90:19	declarations 31:24 70:7 71:20	directly 104:19
could've 51:22 52:3,4,8	C-A-M-A-R-I... 47:8	Dee 36:25 37:2 37:15,22	directors 72:5 72:10 74:11
counsel 104:16 104:18 105:12	<hr/> D <hr/>	deeded 21:16	discretion 72:4 72:10
counter 67:6	d 72:3	Defendants 1:12 2:9 3:3 11:10 16:6 98:24	discuss 31:21 65:8,18
County 23:17,19 23:24	Da 36:25 37:2 37:15,22	defraud 97:6	discussed 11:9
COUNTY/CITY 106:4	damn 91:7	department 24:10 50:19 65:2 94:14,19	discussing 8:19
couple 10:8,9 17:6 43:5 49:13 78:11	dand 71:24	depending 8:22	discussion 29:17 58:4 98:19
	darn 14:16	Deponent 105:13 107:8	discussions 55:13 65:13
	date 11:12 104:6 105:5 106:9 107:9 108:23	deposed 6:19,23 7:5,10	disgraceful 82:2
	DATED 104:25	deposition 1:16 5:4,5 6:2 7:15 9:4,10	disgusted 20:23 50:11 54:22 54:23

<p>divide 47:17 48:14 divided 33:18 84:2 dividing 65:5,6 division 80:5 divorced 7:13 doctor 21:7 59:11,14,17 59:19 60:2,12 60:17 documentation 63:17 documents 9:21 doing 11:23 12:6 24:4 25:7 30:4 40:21 46:12 51:2 73:7,9 73:11,16 99:25 100:2,4 101:18 dollar 93:24 dollars 34:10 door 31:12,14 85:3 doors 30:13,16 30:19 31:5,10 31:11 32:10 doubt 45:14,16 61:2 Downstairs 31:6 drop 49:18 drops 90:4 drove 62:25 dry 82:23 drywall 82:18 83:2 Duh 51:16 duly 6:13 104:8 106:6 dumbest 52:21 dwhich 72:9</p> <hr/> <p style="text-align: center;">E</p> <hr/> <p>E 1:16</p>	<p>earlier 36:2 72:19 77:9 early 12:5 13:19 22:14 easier 80:14 easiest 52:10 EAST 3:5 5:4 economy 12:3 14:23 20:25 97:17 [name removed] edits 7:25 [name removed] effect 7:16 eight 30:23,23 30:24,25 31:5 31:11 77:21 either 29:18 52:4,9 86:9 92:14 104:18 electrical 13:11 82:10 electricity 53:25 elevator 76:19 81:23,25 Email 2:7 3:8 4:7 employee 104:18 employees 29:19 65:9 ended 56:6 England 28:12 ensure 9:9 entered 107:15 entire 107:12 Errata 107:2,17 ESQ 2:5,6,12 3:6 estate 12:7 23:3 estimate 9:3 ET 107:6 evaluation 21:25 event 47:20</p>	<p>73:24 74:4 events 47:19 eventually 84:3 everybody 29:22 50:25 73:9 81:19 99:3 100:3 ex 11:25 exact 85:20 86:18,19,20 86:23 87:2,4 exactly 29:23 31:12 46:18 49:12 73:5 81:4 87:16,18 89:12,15 90:6 EXAMINATION 6:16 83:9 98:21 executed 74:9 exhibit 75:18 77:12 EXHIBITS 4:2 Exhibit-A 4:5 70:16 71:22 Exhibit-T 4:7 75:20 expired 55:2 Expires 106:19 explained 96:5 exposed 49:17 expressing 60:21 extent 34:15 86:23 exterior 24:21 24:25 external 72:5 72:11 eyes 94:23 e-mail 63:25 75:21</p> <hr/> <p style="text-align: center;">F</p> <hr/> <p>fact 59:25 60:10 65:18</p>	<p>65:24 75:10 81:20 82:5 94:22 97:9,25 99:11 fair 11:24 67:10 fairly 9:11 falling 80:23 familiar 16:5 40:8 64:13 70:18 80:17 far 26:21 30:9 62:3 97:7 favorite 59:15 FAX 2:7,13 3:7 February 29:6 fed 50:14 55:3 fee 32:8 fees 32:5 fell 20:25 49:5 fellow 47:4 felt 96:3 FIFTH 2:4 figure 81:7 figured 96:11 file 32:2 filed 18:24 75:20 final 94:11 finally 97:3 financially 104:19 find 10:3 56:19 62:21 84:15 84:15 fine 50:8 80:13 94:9 finish 8:10,19 finished 35:6 69:5 fire 82:12 98:6 fired 33:14 fireworks 27:15 fire-rated 82:18 first 2:11 6:13</p>
--	--	---	---



17:5 20:14	66:2,11,12	102:13,25	25:13 26:2
36:7 45:15	foreclosures	104:14	29:24 32:6,10
47:23 50:16	43:7		34:21,23
87:19 89:12	foregoing 104:6	G	37:20 38:15
104:8	106:7	game 59:3,3	40:19 42:4
fix 22:9	forget 83:6	gas 19:19,23	43:9 46:18
fixed 16:25	fork 38:16	GENERAL 2:4	48:18 50:18
31:13	form 100:20	General's 83:13	51:21 52:2,7
fixing 35:6	104:12 105:10	genius 50:5	52:14 53:24
flier 68:5	formal 32:2	gentleman 38:22	55:11 58:15
floor 2:4 17:6	forth 73:24	39:3	63:12,12
20:15,19,21	four 15:17 56:2	getting 15:13	64:22 65:19
20:22 21:5	61:15,16	50:10,14 92:4	65:20 66:2
22:8,15,20,21	69:16 77:13	95:22	68:24 74:24
23:9 28:18,18	FP 75:25 76:3	girl 14:8 17:20	74:25 75:3
30:13 31:9	Frank 1:10,16	girls 23:3	76:16 77:7
32:18,21	2:10 3:4 5:4	give 6:7 13:23	80:9 82:8,14
33:10 36:20	6:2,12 34:19	17:11,20 24:3	82:15 84:15
36:23 37:4,5	35:19 56:25	24:5 35:23	85:14 96:19
37:6,8,10,12	70:4 76:3	42:9 98:13,13	97:17 99:4
37:13 45:7	90:9 99:2	given 9:7	100:2,7,21
49:9 59:8,17	103:4 105:4	glad 49:4	101:23,23
60:8 71:24	106:6,13	glass 31:10,12	102:22
100:12 102:21	107:8 108:24	31:13,13	goings 59:4
102:21	fraud 50:19,20	go 7:8 10:3,11	good 15:16
floors 25:21	50:21 94:14	10:13 13:4,6	27:13 40:23
Florida 11:17	94:19 96:2	15:2 23:17	42:8 47:9
11:17,25	fraudulent	24:8,17 43:23	67:8 76:13
12:25 24:7	95:21	45:10 46:25	Google 41:25
28:23 30:25	French 31:14	49:12 50:7,16	gotten 23:22
39:15,16,19	fresh 14:18	52:25 54:15	34:10
93:20	friend 13:19	55:3 56:4	graduate 69:2
fly 27:25	28:11 59:20	58:10,21 59:6	graduated 69:2
folks 98:14	friends 59:15	59:7 60:5,6	great 100:4
following 73:25	front 27:15	62:18,23	groceries 14:18
107:15	41:23 51:19	68:24 70:3	grounds 73:14
follows 6:15	full 9:7	73:15 81:2,5	100:13
foot 30:24,25	fully 8:18	98:4 99:13,14	guess 8:23
31:5,11 49:14	fun 29:15	99:15 100:17	11:19 16:3
81:9 91:19	functional	100:24	22:16 34:23
foreclosed	92:11,11	goes 74:3 84:25	58:24 60:20
79:18	funny 21:9	going 7:22 8:23	62:4,7 77:19
foreclosure	63:20	13:18 15:7,17	81:24
33:12 41:10	furnished 14:15	16:9 20:5,19	guesser 15:16
46:15 53:20	26:21	20:24 22:9,16	guessing 35:2
53:22 65:23	further 74:3	24:24 25:11	gut 25:12



gutted 88:18	hear 49:3 83:5	hot 27:17	informal 7:15
guy 36:7,11	heard 21:7 40:5	houses 30:22	information
38:2 40:10	45:4,7 49:12	huge 88:22	8:25 9:4
48:5 50:17	52:22 57:18		35:23
52:18 66:25	63:11 64:15	I	initially 83:23
100:13 102:7	64:21 91:18	ice 62:19	84:19,20
guy's 41:19	101:2	idea 7:3 33:18	86:21
46:20	held 1:16 69:25	48:3	inspection
	98:20	IGCS 2:4	104:15
H	hell 20:25	image 85:21	inspections
half 33:8 36:24	48:17 51:25	immensely 97:10	24:15
39:11 81:16	60:20	impression 24:3	instigators
Hall 41:19	help 11:25 29:8	32:23 80:7	58:23
HANCOCK 2:10,10	41:2 90:8	102:20	instructed 95:8
2:12 13:6	helped 14:2	impressive 28:3	instructions
60:22,24 90:8	39:12	31:2,4	9:15
90:11,15,18	hereof 104:7	improved 91:9	instrument 74:7
90:24 91:10	105:6 106:10	inch 49:20,20	intent 21:20
96:3,8 97:2	hey 54:10 74:11	inches 30:24	intentionally
103:3	he'll 12:14	include 30:2	50:22,25 97:6
hand 6:5	high 30:19 31:7	71:25	interest 34:13
hands 66:3	34:14 69:2,6	income 18:25	62:8 101:16
hang 69:8	Highway 22:7	incorporated	interested
hanging 64:12	Hill 41:19,19	18:11,15	104:19
happen 7:14,20	his/her 106:8	increased 97:10	Interesting
38:15 42:24	hogwash 81:12	incriminate	28:10
51:21 56:10	hold 80:24	80:3	interior 24:23
76:16	holding 49:7	independent	71:24 72:3,9
happened 52:9	hole 49:24	100:6	74:5
81:21 91:5	87:10,23 88:3	INDEX 4:2	internally 97:4
happens 44:3	90:19	Indiana 1:2,5	introduced
happiness 94:9	holes 86:24	1:17 2:3,5,11	13:20
happy 9:13 94:8	87:5,6	3:6 5:6 40:13	investigated
Harbor 24:18	home 13:23	40:14 55:2	97:3
Harbors 20:11	14:14,17	107:5	investigation
29:18 31:22	29:11,11	INDIANAPOLIS	7:12
57:7 62:9	homeowner 99:23	2:5	investment
65:9 66:17	homeowner's	indicated	58:10
68:17 70:6,16	17:9	107:16	Investments
71:11,20	homes 14:10,13	indirectly	18:20
78:14	30:24 93:21	104:19	involved 18:6,9
Harbours 4:5	93:23,24	individual 41:8	36:15 41:7,8
hard 81:7 95:11	honest 42:9	58:19	involvement
hat 69:10	horizontal	individuals	100:21
hate 51:18	70:17 71:21	29:18	iPhones 62:17
head 8:5 46:13	73:19	inferior 83:6	island 11:20

12:22,23 13:18,22 14:5 19:10 issue 72:20 issued 64:14 It'll 60:18	key 99:16 kick 45:24 kicked 45:22 kind 11:22 12:6 13:2 14:2,25 15:13 18:12 19:12 20:23 21:23 27:8 38:5 41:24 47:9 50:20 54:5 79:24 kinds 21:8 24:14 49:13 63:11 92:25 93:2 kitchen 26:16 49:23 52:7 84:17 85:3,17 85:19 86:2,11 86:13 88:14 90:15,20 91:4 92:11 kitchen's 85:16 knew 25:7 29:22 52:6 93:7 96:9 99:3,6,7 99:9 100:3 know 7:3 9:13 9:20 10:6,11 11:7,8 14:11 14:12,19 16:8 16:12,13,16 17:2,19 18:24 18:25 19:2,13 19:21 20:2 21:2,16,22,25 22:2,3,4,5,5 22:7,20 23:5 23:16 24:2,5 27:16 30:5,6 30:6,9,9,16 30:20 31:15 32:5,25 33:4 33:10,22 35:24 36:12 36:12 37:14	37:14 38:14 38:22 39:3,7 39:12 40:3,20 41:22 42:16 42:18,22 43:3 43:7,10,12,13 44:6,8,10,13 45:15 46:3,5 46:10,10,11 46:18 47:5,18 47:19,20,21 47:22 48:2,6 48:8,10,11,12 48:15,17 49:18 50:5,15 50:24 51:2,13 51:16 52:5,13 52:15,17,17 52:23 53:11 54:18,21 55:12 56:12 56:21 57:15 58:14,23 59:9 61:12,14,16 61:18,25 62:5 63:4,6,6,9,10 63:14,21 64:12 65:10 66:6,7,24 67:25 68:2,3 68:4,6,6,7 74:17,23 75:6 75:8,9 76:10 77:17,17 78:2 78:7 79:20 80:25 81:18 81:23,24,25 82:8,9,14,19 83:21 84:25 85:13 87:13 88:4,8,25 89:8 90:25 92:22 93:3,8 93:23 94:3,5 95:19,23 96:16,19,20	97:4,16 99:21 100:8 101:17 101:18,22,22 101:24 102:6 102:14,14,17 102:19 knowed 38:23 knowing 26:6 100:7 knowledge 66:6 99:11 100:6 known 16:6 knows 51:2 Krebs 1:17 5:7 104:23
<hr/> J <hr/> J 1:16 2:5 3:6 JAMES 2:12 jealous 81:19 jerking 43:10 joined 69:11,13 69:16 joint 49:10 81:3 joke 56:5 July 1:16 5:5 6:3 45:12 107:9 jurisdiction 106:17	<hr/> K <hr/> keep 22:4 80:23 80:25 [name removed] Kentucky 1:18 5:7 11:15 41:3 104:4 kept 34:3,19,22 62:22 Kevin 1:9 2:9 3:3,11 16:6 16:13,15,19 42:16 51:24 58:6,8 59:4 59:22,22,25 60:17 61:7 65:12,24 76:23 77:6 79:12,14,15 81:13 82:2 100:20 107:6 Kevin's 59:14 59:19	<hr/> L <hr/> La 36:24 37:2,2 37:15,17,17 37:22,24,24 39:24,24 40:5 40:5 lad 99:19 lady 21:6 35:13 36:2 81:21 land 13:13,22 14:11 Large 1:18 104:4 larger 92:7 laundry 14:18 26:14 Law 1:16 lawsuits 33:15 Lay 37:2,17,24 37:25 39:24 40:6 layout 52:6 89:21 90:14 92:6 leak 30:18 lean 49:5 left 34:18 lender 45:8 46:16 95:5 lent 95:2	



DEPOSITION OF FRANK PRELL, JULY 1, 2014

Page 116

<p>letter 10:5 31:17 73:14 100:18 let's 40:7 43:14,23 46:2 69:22 liability 18:13 license 40:14 55:2 licensed 40:13 lie 61:5,5,6 life 52:22 light 84:8,9,9 84:10 liked 55:9 limited 18:13 18:22 19:2,9 list 35:9 40:25 40:25 literally 49:16 little 12:3,3,6 12:14 13:24 13:25 14:8 21:22 31:2,4 32:25 36:22 37:12 49:25 50:11,14 52:7 55:10 74:3 76:20 88:25 93:22 96:20 live 11:16 17:2 17:3 26:19 lived 11:18 14:5,7,16 17:6 26:24 living 12:16 14:5 85:6,13 88:21,25 89:4 LLC 19:12 LLP 3:5 loan 33:7 44:18 loans 48:13 50:17 93:5,6 94:3,6,23 95:2,4 96:16 located 86:17</p>	<p>long 6:24 7:4,4 9:10 11:18 16:6 27:22 34:16 45:17 52:7 69:13 look 9:24,24 10:2 31:12 60:6,7,13,14 60:16 63:4 70:18 71:11 81:6 82:20,21 102:7 looked 63:19 66:25 looking 31:3,4 75:17 looks 72:14 Lori 16:3 18:23 lose 34:21 58:15 lost 14:23,24 21:3,10 58:16 97:12,13 lot 9:23 10:17 11:23 12:5 14:9 21:3 29:14 30:22 33:17 45:4,6 52:20 65:17 71:2,4,5,8,16 75:2,3,7 83:14,16 84:22 89:2 96:6 97:11,12 LOU 1:9 2:9 3:4 3:11 Louisville 11:15,21 28:22 Lower 18:22 19:2,9</p> <hr/> <p style="text-align: center;">M</p> <hr/> <p>making 33:19 34:12 67:19 76:24 93:10</p>	<p>manager 100:13 manual 43:4 marble 49:11 marked 75:19 Market 1:16 3:5 5:4 married 14:3 15:4,7,9,10 MARY 1:9 2:9 3:4,11 master 26:13 85:24 88:22 89:2 matter 6:25 32:5 51:16 60:11,15 75:10 81:20 82:5 97:9,24 98:25 104:10 105:5 106:8 107:13 ma'am 9:16 12:24 20:12 27:19,25 28:6 28:9,14 29:4 32:15 56:9,18 61:9 62:10 79:22 McDonald's 62:18,21 mean 6:24 7:2 12:15 13:3 17:17 19:17 27:13 29:21 30:3 31:24 44:4,24 54:8 54:17 55:17 55:23 56:14 58:13 61:4 65:14 67:8 84:18 90:25 93:17 97:8 meaning 73:9 means 50:21 measure 84:14 mechanic 13:11</p>	<p>mechanically 104:11 meet 39:20 65:11 meeting 100:9 meetings 17:9 Megan 1:17 5:6 104:23 Melbourne 39:17 member 26:2,6 72:24 75:12 members 25:25 100:7 mention 73:20 Merrell 47:3 52:18 mess 49:8,11 messed 36:7 met 43:15,16 metal 80:13,14 80:17,19,21 80:21 81:2 middle 26:3,14 39:18 49:12 50:3 75:13 81:4 84:6,11 84:15 91:6 midnight 100:2 might've 18:2 32:23,24 36:20 42:12 48:4 98:3 MILLER 3:10,10 41:24 million 34:10 34:11 mind 25:10 42:23 51:10 mine 13:19 28:11 75:10 minute 33:24 40:8 53:20,21 88:8 minutes 98:14 mirror 85:21 missed 68:25</p>
---	--	--	--



<p>missing 27:12 money 14:2 21:3 21:3,4,11 33:21 34:17 34:18 45:2 46:17 50:12 50:13 52:2 58:15,16 61:22 68:17 68:19 69:21 78:15 82:3 95:3 97:11,12 97:13 Monopoly 59:3,3 month 12:15 34:14,15 months 62:11 mouth 81:22 moved 11:19 90:22 moving 47:7 multi-million 93:24 must've 49:9</p> <hr/> <p style="text-align: center;">N</p> <hr/> <p>name 17:21 19:11 20:3 21:13,15,18 28:24 36:11 36:12 38:3 40:5 41:20,22 45:8 46:20,22 52:19 59:6 62:12 98:23 99:21 107:16 named 37:2 39:3 names 10:21 11:3 15:24 36:7 40:11 45:4 58:24 nd 74:2 necessarily 10:20 45:2 70:12 necessity 31:23</p>	<p>need 9:12 32:2 74:11,17 needed 23:11,13 47:15,16 64:4 80:8 negative 58:21 73:8 75:4 83:20 negotiate 95:20 negotiating 54:12 negotiator 47:5 47:7,10 negotiators 10:17 never 17:14 19:25 26:24 35:8 40:5 76:7 86:25 87:6 new 1:17 2:11 3:6 5:4 91:4 nice 55:9,10 nicer 21:21 22:2 night 29:4 nine 77:19,22 97:24,24 98:4 ninth 20:19 21:5 22:8,21 32:21 36:20 102:21 normal 92:8 Notary 1:17 5:7 106:19 note 32:17,24 notes 32:14 33:11 63:16 Notwithstan... 73:20 nozzle 49:25 number 37:7 50:11,13 51:18 56:3 numbers 61:12 75:25 76:2</p>	<p style="text-align: center;">O</p> <hr/> <p>O 47:8 oath 7:15 objection 8:18 8:20,22 objects 8:16 obviously 25:4 occasion 55:11 offer 47:23 67:6,18,21 offered 78:16 78:20 82:5 offers 46:4,8 48:16 67:19 office 1:16 2:4 13:13 17:20 22:24 57:11 57:21 73:10 83:13 99:6,13 99:15,18 101:19 officers 19:18 oh 7:3 11:2,3 15:10 16:2,3 27:3 28:13 33:23 35:5,12 39:23,25 43:11 48:14 49:13 50:16 52:22 81:9 87:11 91:18 96:19 98:4 okay 6:23 7:6 7:14 9:17,21 10:23 11:3,6 11:12,14 12:18 13:4,16 15:3,12,19,24 16:5,18,22 17:4 18:16,21 19:4,7,14 21:12,19 22:11 23:4,12 24:19,22 25:3 25:8,16 26:8 26:17,23 27:4</p>	<p>27:7,24 28:15 31:19,21 32:12,16,19 32:20 33:3,13 34:25 35:7 36:5,21 37:25 38:7,10,13,19 39:3,7,14,17 39:20 40:18 41:5,16,18 42:6,11,14,17 42:21 43:21 43:22 44:12 44:14,17 45:11,20 46:2 47:13,25 50:7 51:12,14 52:25 53:12 54:3,16,20 55:8 56:3,10 57:24 58:4,17 59:11 61:18 62:8,11 63:24 64:7,17,24 65:8,11 66:5 66:23 67:11 67:15,23 68:9 68:20,24 69:17,20 70:3 70:11,13,23 70:25 71:3 72:15 73:2,17 74:15,21 75:17,23 76:8 76:12,23 77:2 77:5,20 78:5 78:10,12,22 79:23 80:6,12 80:16,19 81:18 82:16 82:25 83:4 84:7 85:5,9 85:12 88:16 89:6 90:7 91:13,21 92:3 92:10 95:13</p>
---	---	--	---



DEPOSITION OF FRANK PRELL, JULY 1, 2014

Page 118

95:18 98:2,12 98:16 99:10 100:15,15,19 100:19 102:23 once 15:9 66:8 66:8 86:9 ones 28:3 61:25 ongoing 55:15 online 28:4 open 48:24 opens 31:15 opportunity 28:2 opposite 85:22 option 56:22 order 64:14,18 64:21 original 52:6 88:2,9 89:18 89:25 91:2,3 93:4 107:19 originally 13:8 87:5 outside 72:14 overnight 42:24 ow 74:10 owned 19:19 owner 71:19,23 73:25 74:4,6 74:9 75:24 Oxford 18:20	paint 68:13 panel 31:13 paper 45:22 47:23 59:2 84:21 papers 47:7 paperwork 24:5 41:14,22 60:13,15 80:11 parking 42:20 43:20 55:21 55:24 56:4,5 56:7 57:25 58:5,9 59:15 59:16,20,21 59:23 60:2,3 60:17 61:8,11 61:21 62:9 66:16 68:2 76:2 78:8,8,9 78:13 97:14 97:20 101:21 102:10 part 16:20 34:24 39:18 40:6 44:15 60:13 75:18 85:11 88:19 97:16 partially 59:18 particular 8:12 11:4 parties 26:25 27:3 104:16 105:13 partner 19:21 partners 19:17 19:18 party 27:5 passed 29:2 48:21 patched 86:25 87:6 Paul 2:6 83:12	PAULA 2:5 paul.schill... 2:7 pay 8:4 32:4 33:11 34:8 53:14 56:13 56:23 68:18 77:16 93:14 94:2,3 paying 33:7 34:2,13,13,13 34:14,20,20 34:20,22 100:22 payments 33:19 34:5,13 93:11 93:13,13,16 93:19,25 94:2 penny 34:12 people 10:11 14:20 16:20 20:17 22:23 22:25 23:19 24:17,18 29:22 35:10 43:2 45:2 57:6,7 58:19 58:22 67:18 67:25 73:5 75:7 78:17 81:19,23 99:6 99:7,9 101:6 percent 14:15 33:5 75:16 76:9 perform 74:5 period 43:14 49:21 50:9 74:20 periodically 80:22 permission 24:20 33:6 permit 24:12 64:5 permits 23:10	23:23 71:5 person 8:8 30:8 30:8 55:9 65:11 73:15 77:3 personal 15:13 18:24 19:11 69:4 personally 106:5 phone 2:6,12 3:7 62:22 65:13,16 phonetic 35:15 36:9,25 37:2 39:4 47:3 picture 80:12 82:20 pictures 48:9 92:24,25 piece 60:9,10 [Realtor's name removed] pissed 81:8 place 49:19 86:18,19,20 86:24 87:3,5 87:16,18 104:7 105:6 106:9 Plaintiff 1:6 2:3 plan 71:25 planning 24:8,9 plate 49:7 please 6:4 8:13 8:17 9:8,12 plug 25:13 plumb 46:13 plumbing 25:17 25:19 26:10 26:10 74:19 74:20 82:10 plus 63:6 81:12 pocket 52:16
<hr/> P <hr/> package 22:22 page 4:3 71:20 73:18 75:8 104:7 105:6 106:10 pages 75:21 paid 50:8 53:15 53:16 56:11 56:12 81:14 [Realtor's name removed]			



DEPOSITION OF FRANK PRELL, JULY 1, 2014

Page 119

<p>point 79:18 polio 12:11,13 pool 19:23 pools 13:8,20 poop 40:19 [name removed] positive 61:17 Prell 1:10,16 2:10 3:4 5:4 6:2,12,18 28:25,25 70:4 76:3 83:12 103:5 105:4 106:6,13 107:8 108:24 preparation 9:22 prepare 7:22 prepared 37:8 74:9 PRESENT 3:9 presently 11:16 pretty 15:16 21:22 25:20 26:10 27:13 28:3 32:11 40:23 42:8 50:15 54:21 58:13 60:22 67:4 92:17 97:15 99:3 prevent 9:18 previous 9:6 previously 39:9 price 67:3 81:10,11,14 prices 36:17 76:11 pricing 76:14 prior 10:9 62:2 probably 44:8 44:10 54:14 65:16 72:12 76:4 77:9 85:7 problem 73:4</p>	<p>procedure 5:6 73:24 process 28:17 57:16 67:12 properties 19:10 21:12 21:20 26:20 45:5 71:4 property 20:6,7 41:2 44:2 70:17 71:21 73:19 74:13 93:20,25 provide 9:2,5 92:24 proxy 17:12 Public 1:17 5:7 106:19 purchase 45:11 68:10 97:19 purchased 56:3 65:25 70:5 86:21 87:8 91:25 92:5 95:15,15,16 purchases 91:22 purchasing 56:6 pursuant 5:6 put 18:23 19:23 25:23 29:9 31:4,10 35:3 38:2 45:2 46:2 48:14,20 48:20 50:4,10 51:5 53:2,5,6 53:7,8,9,15 54:10 63:3,4 63:8,18 64:3 67:17,18,20 68:5 69:10 79:5,10 80:4 81:3 84:3,9 86:16,24 87:4 87:16,17,18 87:19,21 88:20 89:3,8</p>	<p>89:8,11 91:6 93:21 94:5,17 95:8 96:10 97:11 100:25 101:2,11 putting 64:18 p.m 1:17 5:5 103:5</p> <hr/> <p style="text-align: center;">Q</p> <p>quality 80:2 question 8:11 8:12,21 9:6 18:7 25:9 39:22 42:8 75:23 89:13 questions 7:19 8:2,16 9:14 68:25 83:12 94:11 98:2,11 99:2 101:4 102:13 103:2 quick 83:11 98:15 99:2 quickie 43:2 quickly 9:11 quit 33:19 34:2 34:20,20,20 43:10 47:6 69:11 quite 53:19 83:17</p> <hr/> <p style="text-align: center;">R</p> <p>railing 68:13 68:14,18 raise 6:5 range 76:18 read 43:3,4 47:8 71:13,14 105:13 107:12 107:14 reading 104:15 real 11:24 23:3 33:23 69:4,23 98:14</p>	<p>reality 83:21 realized 97:5 really 16:8,13 16:23 19:25 26:11 28:13 57:2 61:4 63:20 72:18 74:18 81:8 83:19 97:5 reason 29:25 45:23,24 50:5 52:19 reasonable 9:3 reasons 107:16 recall 8:24 9:2 9:4 17:15,21 22:12 33:5 42:10 47:14 55:15 61:10 66:21 67:7 77:18 99:11 receiving 101:14 recess 69:23,25 reckon 21:14 23:5 30:3 recognize 9:6 recollection 100:6 reconfigure 92:15 reconfigured 92:20 record 9:9 70:3 70:14 98:20 104:12 107:15 recorded 104:10 records 22:17 60:7 rectum 46:13 reduce 32:8 reduced 36:17 104:11 105:10 refer 84:24 referred 10:17 referring 12:23</p>
--	---	--	--



DEPOSITION OF FRANK PRELL, JULY 1, 2014

Page 120

<p>refers 72:12 76:3 refigure 92:16 refinished 20:11 regarding 9:14 10:24 31:22 54:6 55:14 63:17 65:12 65:24 102:9 regime 70:17 71:21 73:19 74:8 relation 47:4 relative 104:17 remember 7:9 23:20 35:14 58:3 62:3 77:10 85:11 85:11 89:9 removed 86:5 renew 54:25 rent 13:15 14:13,19 rented 38:11 repeat 8:13 rephrase 8:14 8:21 reporter 1:17 5:7 6:4,10 7:17,21 8:7 104:24 105:9 107:11 Reporting 107:4 represent 98:24 representat... 10:18 request 31:18 100:12 107:14 requested 105:8 requesting 8:25 respect 8:9 54:14 89:24 100:19 respective 104:16</p>	<p>respond 56:23 response 9:5 75:4 rest 68:18 restrictions 71:8 review 9:21 70:11 rewire 25:12,14 rewiring 25:8,9 25:11,14 rhetoric 91:18 [former property manager name removed] rid 36:16 40:17 44:9 61:21 102:17,24 ridiculous 82:9 91:20 right 6:5 13:6 15:8 24:11 26:2 27:15,18 29:7 31:16 35:12,20 38:8 41:12,25 44:20,22 45:3 46:25 47:4 49:21,22,23 50:3 52:22 60:21,24 61:17 71:24 72:2,3,7 73:15 76:19 79:19 81:21 84:5,11,16 89:24 90:22 90:24 91:6 ritual 80:10 road 22:4 rolling 94:23 room 25:12 85:6 85:13 88:21</p>	<p>88:25 89:4 rooms 88:20,20 rough 11:20 12:3,3 route 49:10 81:3 Rules 5:6 run 33:21 84:13 running 81:22 <hr/>S<hr/>sale 10:13 35:4 35:5 38:18 39:8 41:9,13 42:3,23 44:2 46:14 47:24 50:7 51:10,18 53:17,18,21 54:13 56:20 65:19,25 81:14 95:20 96:23 sales 20:17 22:23,25 29:22 Sally 3:10 41:22 sat 90:21 saw 28:4 59:2 66:25 saying 8:8 59:18 73:15 90:19 91:11 92:9 says 71:23 75:24,25 scandals 21:8 Schilling 2:6 35:18,24 37:20 70:14 83:12 90:10 90:13 95:17 98:16 school 14:8 69:3,6 screw 80:22</p>	<p>81:3 screwed 82:23 96:9 screws 49:6,9 seated 7:18 second 86:16 87:17,20 89:7 89:15 Secondly 73:4 secret 30:4 99:25 secretary 34:19 secrets 37:19 section 71:19 73:18 see 7:24 27:12 30:18 48:11 59:5 69:22 71:12 75:24 80:12 94:6,23 96:13 seeing 101:15 seen 76:5,7,10 76:11 self 10:18 sell 13:25 21:2 34:3,4 35:8 36:18,18,24 40:15,16,21 40:24 41:2 51:9 53:23 55:12,24 61:20,21,24 62:6 63:10,13 78:23,24 93:25 96:11 96:23 selling 23:3,7 40:22 43:15 43:17 54:25 78:4 send 31:17 sense 46:16 94:7 96:14,24 sent 68:4 100:17</p>
---	---	---	---



separate 32:22 33:9 46:8,9 87:9 93:10 95:9,16 96:12 separated 80:11 separately 21:5 33:4 80:9 servicer 44:18 set 73:24 84:20 84:23 104:7 105:6 106:9 settle 12:7 settled 14:22 seven 34:11 77:19,21 97:21 shake 8:5 shape 100:20 SHARON 1:10 2:9 3:4,12 sharp 51:20 Sheet 107:2,17 Sheriff's 51:17 shit 96:19 short 10:13 38:18 41:9,13 42:3,23 44:2 46:14 47:23 50:7 51:9 53:17,21 54:13 65:19 65:25 69:23 81:14 95:20 96:23 shortly 15:17 short-saled 66:9,10 showing 75:19 shut 62:20,22 62:25 side 26:13,14 79:14,16 85:22 86:9,11 86:12,14 88:14 sign 17:19	74:11 75:2 105:14 SIGNATURE 108:23 signed 100:14 107:16 signing 104:15 silly 88:23 sink 49:24 87:8 87:24 88:3,6 90:12,16,21 91:5 92:11 sinks 85:24 sir 87:22 sister 12:11,15 sitting 60:11 six 30:22,23,23 skill 104:14 sliding 30:13 30:16 sloppy 47:9 Slow 88:7 small 21:24 socialize 16:23 soft 84:24 sold 14:13 21:5 22:10 29:23 33:4 36:4,20 36:22 42:19 43:18 46:14 51:8 53:17,21 55:6,19,20 58:18,19 59:10,13,24 60:2,12,14 61:7,25 63:14 76:17,20 77:24 79:12 79:14 80:9 97:15,21 98:4 solemnly 6:5 solid 88:13 91:2 somebody 14:17 38:17 41:7 43:4 46:12	48:8 50:22 63:8 74:24 101:22 somebody's 45:8 someday 57:3 sorry 29:13 60:23 sort 7:11 71:9 space 56:5,17 59:16,16,20 59:21,23 60:2 60:3,5,17 75:25 76:2 spaces 55:21,24 56:4,7 57:25 58:5,9 61:8 61:11 62:9 66:16 68:11 77:13 78:13 101:13 102:4 102:9,10 SPEAKER 46:24 53:4 speaks 38:15 special 73:23 specific 25:20 26:10 74:18 specifically 8:24 spell 59:7 spend 52:2 split 14:11 45:25 spoken 10:24 83:14,16,17 spot 61:10 89:15 97:14 spots 42:20 56:20 77:7 97:20 stack 80:15 standing 81:25 start 43:8,23 started 11:24 13:21 16:11 17:5 19:24	20:22 45:16 96:2 starting 43:16 starts 25:10 state 1:2,5 2:3 2:4 5:7 9:2 106:3 107:5 stated 8:18 92:3 statement 67:5 states 106:7 State's 70:15 71:21 75:19 station 19:20 19:23 stay 14:2 staying 11:24 14:6 steel 25:25 stenographi... 104:10 step 83:23 step-daughter 15:23 STIPULATION 5:2 stop 43:8 57:24 64:14,18,21 story 82:24,24 Street 1:17 2:4 2:11 3:5 5:4 structural 72:2 72:17,25 structurally 74:25 stud 80:21 studding 80:17 80:21 86:25 studs 90:5 stud-wise 89:16 stuff 9:24 10:4 10:7 12:2 13:10 21:23 24:15 30:18 31:13 36:16 38:5 39:10 42:23 63:11
---	---	---	---

DEPOSITION OF FRANK PRELL, JULY 1, 2014

Page 122

69:11 71:2,16 82:8 83:5,20 86:2 93:18 102:16 stupid 43:3 45:9 46:19,19 46:21 50:15 51:8,8 58:13 97:15 stupidity 45:6 submit 100:12 submitted 45:11 SUBSCRIBED 106:15 sudden 29:4 sued 7:11 supplement 7:25 support 90:5 supposed 35:18 37:18 68:13 68:17 sure 7:5 8:9,14 51:20 54:19 67:4 78:11 98:17 surprise 71:18 Susan 35:16,17 suspect 42:12 swear 5:7 6:6 swift 47:12 swimming 13:8 swing 49:25 50:2 sworn 6:14 104:8 106:6 106:15	80:19,20,21 81:16 82:20 83:2,2 85:24 taken 5:4,6 104:6,13 105:4,9 106:8 107:13 Takes 69:21 talk 10:15 37:8 40:7 49:13 54:9 56:4 74:16 77:3 98:14 102:5,8 talked 6:22 7:7 10:6,10 23:19 38:24 40:22 51:14 54:18 65:2 92:23 100:10 talking 28:16 30:10 37:4,9 43:6,17 45:7 58:22 66:21 70:9 78:25 tall 30:24 31:2 tape 82:17,19 84:13 taxes 18:25 teaching 69:10 telephone 63:22 tell 6:14 13:5 22:18 25:2,3 40:12 47:13 47:16,19,21 55:22 56:6,22 57:14,20 72:18 79:25 95:20 telling 34:19 39:23 62:23 63:18 temporary 48:24 49:4 54:4 64:9,19,23 80:5 87:10,11 87:15,21 89:	term 25:15 69:15 testified 6:15 87:9 94:13 97:20 testify 104:8 testifying 7:17 9:22 testimony 6:6 7:16 Texas 12:17,19 Thank 6:10 90:23 they'd 30:9 57:3 thing 14:16 20:20 21:4 25:13 37:9 49:25 51:9 52:21 54:22 56:5 71:9 85:16,20 101:8 102:18 thingadiny 63:3 things 12:2 13:12 22:9 33:23 72:13 78:11 84:22 think 7:13 9:11 15:14,14 16:8 22:14 27:21 27:22 28:4 33:9 36:19 38:25 39:2 41:4,6,6,21 44:24,25 50:16 54:24 56:2 58:9 64:4 66:3,9 69:16 72:12 74:23 77:22 84:24 97:2 99:8 thinking 21:18 33:15 45:8	58:14,15 91:11 96:7 third 15:17 thought 22:3 31:3 32:11 37:9 45:16 52:21 57:2,5 67:9 77:11,13 88:23 100:4 three 15:15 30:23 49:6 93:19,25 94:2 98:25 three-ring 70:8 70:21 throw 40:11 Thunder 27:4,10 tied 86:2 tight 33:23 34:2 time 7:4 8:8 12:13 14:7,20 22:19 23:20 29:16 34:16 40:14 42:17 43:14 50:9 51:7 53:16,17 58:10 59:2 64:25 70:24 86:17 87:17 87:19,20 94:12 95:11 99:19 100:16 101:18 104:7 105:5 106:9 times 15:11,12 15:14 45:6 53:2,5,15 96:6 title 104:7 105:6 106:10 today 9:22 10:6 20:2 51:17 62:18 63:15 83:14 told 22:14
T			
take 8:7 9:12 25:5 31:10 34:16 41:10 42:4 43:5 45:21,22 48:9 50:6,6,8 51:7 51:9 53:16,24 69:22 77:12			



DEPOSITION OF FRANK PRELL, JULY 1, 2014

Page 123

23:13,15 46:19,20,23 47:14 48:5 55:20 57:9 62:14 63:2 67:11,16,20 67:24 68:12 72:20 78:16 78:20 94:17 96:4 101:10 tongue 38:16 tooth 84:24 totally 14:15 town 65:17 transaction 55:14 61:19 transactions 60:4 transcript 7:22 7:23 104:6,13 104:15 105:14 106:7,11 107:12,19 transpired 23:21 TRAUTWEIN-L... 1:10 2:9 3:4 3:11 tree 29:5,7 tried 9:23 10:3 10:21 93:3 truck 29:9 true 21:9 32:15 59:18 104:12 106:10 trust 38:3,16 truth 6:7,8,8 6:14,15 104:9 104:9,9 truthfully 9:18 try 8:9 27:21 63:13 trying 8:15 11:25 40:16 40:21 41:25 41:25 61:20	61:21 80:3 95:19 tub 85:25 Tuesday 1:16 5:5 turn 50:18,19 96:22 turned 94:14,18 turning 25:10 two 12:10 13:23 15:22 20:14 20:15,18,21 25:23,24 26:3 31:24 32:4,9 32:9,13,22,24 33:9,11,15 43:15 47:15 48:12,13,16 48:16 49:6 50:13,17 51:10,13 53:4 53:5,6 68:10 72:17 74:2 75:21 81:9,15 83:11,24 86:5 87:8 88:10 91:19 93:5,6 93:8,10,19 94:6,11,23 95:2,4,16,17 95:22 96:12 typewritten 104:11 105:10 <hr/> U <hr/> ultimately 79:21 um-hmm 8:5,6 10:14,19 13:9 14:21 24:6 30:15,21 31:8 32:7 34:7 46:6 49:2 50:23 52:12 59:12 61:23 66:18 68:12	69:7 72:22 75:5,14 77:15 78:19 81:17 82:22 83:25 86:15 88:11 88:17 89:10 91:23 99:17 99:22 understand 8:12 8:15 48:12 68:23 understanding 78:12 88:9 95:12 102:15 understood 76:14 95:4 96:18 unhappy 58:25 UNIDENTIFIED 46:24 53:4 unit 21:21 22:3 23:9 26:3,5 30:14 31:5 32:20 38:7,9 39:6 48:6,7 48:11,13 49:14,22 50:18 51:20 51:24 52:2 56:16 57:23 59:8,13 71:25 72:3,12 74:3 74:5 75:11 81:5 82:3 85:2,18 92:5 93:4,7 95:7,7 95:11 96:9 97:11,12,13 99:12 102:19 units 16:25 21:22 25:23 25:24 26:4 28:16 29:17 31:23,25 32:9 32:22 36:23 47:15,24	48:12 51:13 60:5 61:20 65:5 72:17,21 74:2,6 75:9 78:7 81:15 83:24 86:5 87:9 88:10 89:23 92:8 95:9,16,17,22 96:12 97:10 102:21,22 upset 29:8 upsets 83:20 use 26:12 27:2 27:4 62:16 63:6 72:3,7 74:25 87:7 88:5,6 <hr/> V <hr/> v 1:8 Vacation 19:10 Valentine's 29:7 valuable 91:19 value 97:10 variety 35:10 verbally 8:3 101:11 versa 8:11 vice 8:11 viewed 95:21 vote 17:12,15 17:17 VS 107:6 <hr/> W <hr/> W 2:4 wait 33:24 53:20,20 waived 104:16 walk 85:2,2 walked 52:6 69:9 79:17 wall 25:4,5,17 48:14,19,20
---	--	---	--



DEPOSITION OF FRANK PRELL, JULY 1, 2014

Page 124

48:20,23,24	78:23 80:11	51:6,17 59:17	worth 57:3
48:25 49:3,4	80:12 82:7	59:18,23 60:8	101:25
50:3,4,6,6,8	102:24	82:20 89:12	wouldn't 27:9
50:10 51:5,6	wants 43:25	100:9,16	29:24 36:18
52:8 53:2,7	73:25 74:4	weren't 24:16	51:22,23
53:24 54:2,4	warehouse 13:12	101:14	62:22 66:7,24
54:7,10,15	WASHINGTON 2:4	west 2:11 90:21	70:20 75:12
63:18 64:3,9	wasn't 10:20	we'll 9:13	77:24 78:3
64:14,19,23	11:23 16:24	25:12 50:7	82:6 92:15
65:8 79:2,2,4	17:14 19:24	56:4	would've 7:4
79:5,20,24,25	21:9 30:4	we're 100:2	63:20 77:4,25
80:4,5,13	31:6 32:3	We've 83:14	92:7 101:19
82:9,23 83:2	34:18 35:21	whoa 59:6 88:7	wound 40:21
83:7,15,18,21	42:15 44:15	88:7,7	46:12
83:22 84:3,14	47:12 49:6	whoever's 99:18	write 33:25
84:14 85:17	51:19 53:24	wife 11:25	47:9
85:25 86:5,10	53:25 54:2,11	wimpy 21:22	write-in 56:22
86:16,17 87:2	54:13 59:16	window 85:14	57:16
87:4,10,11,15	76:16 80:8	windows 100:13	writing 30:11
87:21 88:2,5	82:12,13,13	winter 29:6	47:9
88:9,13,14,16	82:14,14 93:8	wish 40:10	written 101:11
88:19 89:3,7	93:14 95:6	witness 5:8 6:9	wrong 33:6,8
89:15,18,25	96:21 97:16	6:13 35:21	50:22,25
90:20,21 91:2	99:25	60:23 90:17	68:21 75:6,15
91:2,4,7,15	waste 84:21	90:23 95:24	95:21 97:9
91:24,24 94:5	way 9:8 19:19	96:5,13 97:8	101:9
94:6,18,20,21	19:19 25:22	98:6,10 104:5	wrote 39:22
95:9 96:10	27:13 46:2	104:17	
100:20	48:4 49:14	wood 80:15,20	<hr/> X <hr/>
want 7:25 10:16	51:25 58:21	80:25 81:2	X 62:6
13:4 24:4	60:9 63:13,14	word 67:17	xx/xx/xxxx
29:24 37:14	63:22 68:23	74:25 101:11	11:13
49:8,10 50:12	70:24 75:10	words 83:6	<hr/> Y <hr/>
52:25 57:2	78:8 81:9	work 13:2,11	yeah 6:20,20,25
60:9 62:6,18	84:20,22	19:25 23:6	15:20 17:13
66:15 69:8	100:20 101:12	28:15,19	17:18 18:3,13
75:7 78:10	101:25 104:18	51:22 52:3	18:19 21:9,14
82:6 83:22	week 14:20	64:14,18,21	23:25 27:3,5
94:8,12 101:7	43:12	64:22 68:15	29:14 35:3
wanted 22:2	went 10:9 14:8	71:7 100:3	38:4 39:5
24:20,24,25	19:22 21:6,7	worked 13:10	40:6 41:4
25:2 31:3,10	22:7 29:8,11	14:25 19:15	46:24 47:4
36:15 40:24	29:11 32:25	23:5 36:10	48:23 53:11
44:9 46:4,11	34:12 43:15	52:3 67:13	55:13,19
51:25 56:21	45:18 47:22	working 20:22	57:13 58:12
63:10 67:9,16	48:2 49:21,23	57:23	



DEPOSITION OF FRANK PRELL, JULY 1, 2014

Page 125

58:12 60:7 64:20 65:7 71:6,10 80:18 83:19 84:21 86:6,8 91:10 91:12,12 94:16 97:22 102:5,11 year 7:8 12:5 13:23 22:12 22:19 33:22 39:11 62:14 62:15 years 10:8,8,9 12:20,21 17:7 43:5,16 69:16 young 99:19 younger 11:23 12:17,20,21	1:35 1:17 5:5 10 12:19 55:17 10C02-1208-... 1:8 10th 20:15 22:15 23:9,9 28:18 31:9 32:18 36:22 36:23,23 37:4 37:6,8,11,13 100 14:15 33:5 75:16 76:9 11th 17:6 20:21 20:22 22:20 28:18 30:12 33:10 37:5,10 45:7 100:12 102:21 11-3 46:7 11-4 46:7 1103 42:3 46:8 47:10 65:19 65:25 79:2,15 81:13 83:24 86:21 87:7 88:2,6,15 91:22 92:12 92:14 99:5 1104 42:3 46:9 47:10 52:15 65:19 66:2 83:24 86:22 88:3 92:14 99:5 12 71:20 15 12:21 17 59:8 18 59:8 19 59:9 1969 13:17	2005 16:10 22:16 2007 11:20 16:14 33:24 2009 34:24 45:19 55:17 2010 45:13 2014 1:16 5:5 6:3 106:16 107:9 21 73:18 <hr/> 3 <hr/> 3:24 103:5 302 2:4 317-232-7979 2:7 317-234-2248 2:6 <hr/> 4 <hr/> 413 2:11 42 22:7 46204 2:5 47150 1:17 2:11 3:6 5:5 <hr/> 5 <hr/> 51 16:3 52 16:3 53 16:4 <hr/> 6 <hr/> 60s 19:20 <hr/> 7 <hr/> 7,000 77:23 70 4:5 70s 13:19 75 4:7 12:14 <hr/> 8 <hr/> 8:30 29:10 812-941-8883 3:7 812-941-8886	3:7 812-944-1234 2:12 812-944-8121 2:13 815 1:16 3:5 5:4 <hr/> 9 <hr/> 9th 59:8 60:8 9,000 56:16,17 102:2 93 17:5 99 14:3
<hr/> Z <hr/> [name removed] Zipperle 1:9 2:9 3:3,11 16:7 42:6,7 54:6 55:14 59:5 81:13 82:2 91:21 107:6 zoning 24:9,10	<hr/> \$ <hr/> \$200,000 34:15 \$79,000 76:17 \$9,000 97:21		
<hr/> 0 <hr/> 07/12/2014 104:25 08 16:14 33:24	<hr/> 1 <hr/> 1 1:16 6:3 107:9 1ST 5:5		
	<hr/> 2 <hr/> 2 1:2 20 16:2 2000 14:4 2004 16:11		

