

Plaintiff's Supplemental Response
In Opposition To Defendants'
Special Motion To Strike And
Request For Discovery Under
Rule 56(f)

Ex. C

Barry Minkow, November 2, 2007
USANA HEALTH SCIENCES, INC. v. BARRY MINKOW, et al.

Page 1

UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

USANA HEALTH SCIENCES, INC.,)
a Utah corporation,)
Plaintiff,)
vs.) No. 2:07CV159 TC
BARRY MINKOW, a citizen of California;)
FRAUD DISCOVERY INSTITUTE, INC.,)
a California corporation;)
JOHN DOES 1-100,)
Defendants.)

VIDEOTAPED DEPOSITION OF BARRY MINKOW

VOLUME I

(PAGES 1 TO 160, INCLUSIVE)

NOVEMBER 2, 2007

Reported by: Antonia Sueoka, RPR, CSR No. 9007

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 USANA HEALTH SCIENCES, INC. v. BARRY MINKOW, et al.

Page 2	Page 4
<p>1 INDEX</p> <p>2</p> <p>3 EXAMINATION PAGE</p> <p>4 BY MR. POYFAIR 6</p> <p>5</p> <p>6 DEPOSITION EXHIBITS:</p> <p>7 1 - E-mail correspondence, Bates Nos. FDI 01588 to</p> <p>8 FDI 01589 (2 pages) 147</p> <p>9 2 - E-mail correspondence, Bates No. FDI 01826</p> <p>10 (1 page) 148</p> <p>11 3 - E-mail correspondence, Bates No. FDI 01835</p> <p>12 (1 page) 152</p> <p>13 4 - E-mail correspondence, Bates No. EDI 01726</p> <p>14 to FDI 01727 (2 pages) 153</p> <p>15 ---</p> <p>16 QUESTIONS NOT ANSWERED</p> <p>17 PAGE LINE</p> <p>18 (NONE)</p> <p>19 INFORMATION REQUESTED</p> <p>20 PAGE LINE</p> <p>21 (NONE)</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 APPEARANCES (continued)</p> <p>2</p> <p>3 ALSO PRESENT: JOSHUA FOUKAS, ESQUIRE</p> <p>4 ALAN PEAK, VIDEOGRAPHER</p> <p>5</p> <p>6 THE WITNESS:</p> <p>7 BARRY MINKOW</p> <p>8 13983 Hickory Street</p> <p>9 Poway, California 92064</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21 DEPOSITION OF BARRY MINKOW</p> <p>22 taken at 600 West Broadway, Suite 1800, San Diego,</p> <p>23 California, 92101, commencing on Friday, November 2, 2007,</p> <p>24 at 8:12 a.m. before Antonia Sueoka, Certified Shorthand</p> <p>25 Reporter, CSR No. 9007, RPR.</p>
Page 3	Page 5
<p>1 APPEARANCES:</p> <p>2</p> <p>3 FOR THE PLAINTIFF:</p> <p>4 SHUGHART, THOMSON & KILROY, P.C.</p> <p>5 BY: D.J. POYFAIR, ESQUIRE</p> <p>6 REID A. PAGE, ESQUIRE</p> <p>7 NICOLE A. WESTBROOK, ESQUIRE</p> <p>8 Independence Plaza</p> <p>9 1050 17th Street, Suite 2300</p> <p>10 Denver, Colorado 80265</p> <p>11 303.572.9300; fax 720.228.2308</p> <p>12 Djpyofair@stklaw.com</p> <p>13 Rpage@stklaw.com</p> <p>14 Nwestbrook@stklaw.com</p> <p>15</p> <p>16 FOR THE DEFENDANTS:</p> <p>17 BUCHANAN, INGERSOLL & ROONEY, P.C.</p> <p>18 BY: DAVID J. PORTER, ESQUIRE</p> <p>19 One Oxford Centre</p> <p>20 301 Grant Street, 20th Floor</p> <p>21 Pittsburgh, Pennsylvania 15219</p> <p>22 412.562.1318; fax 412.562.1041</p> <p>23 David.porter@bipc.com</p> <p>24</p> <p>25</p>	<p>08:11:32 1 SAN DIEGO, CALIFORNIA, FRIDAY, NOVEMBER 2, 2007, 8:12 a.m.</p> <p>08:11:32 2</p> <p>08:11:32 3</p> <p>08:11:34 4 THE VIDEOGRAPHER: This is the deposition of</p> <p>08:11:38 5 Barry Minkow being taken on behalf of the plaintiffs in</p> <p>08:11:44 6 the matter of USANA Health Sciences, Inc. vs. Barry</p> <p>08:11:46 7 Minkow, et al., in the U.S. District Court for the</p> <p>08:11:51 8 District of Utah, Central Division, Case No. 2:07CV159.</p> <p>08:11:54 9 This deposition is being held in the offices of</p> <p>08:11:59 10 Latham & Watkins at 600 West Broadway, Suite 1800 in</p> <p>08:12:04 11 San Diego, California, on November 2nd, 2007, at 8:12 a.m.</p> <p>08:12:08 12 My name is Alan Peak with the firm Jordan Media,</p> <p>08:12:11 13 Inc., 1228 Madison Avenue in San Diego, California, and</p> <p>08:12:15 14 I'm the legal video specialist. The certified shorthand</p> <p>08:12:18 15 reporter is Antonia Sueoka with Kramm & Associates, Inc.,</p> <p>08:12:21 16 2224 3rd Avenue in San Diego.</p> <p>08:12:22 17 Will counsel please state their appearances for</p> <p>08:12:23 18 the record.</p> <p>08:12:24 19 MR. POYFAIR: Yes.</p> <p>08:12:28 20 D. J. Poyfair, Reid Page, and Nicole Westbrook</p> <p>08:12:30 21 with the Denver office of Shughart, Thomson & Kilroy on</p> <p>08:12:35 22 behalf of plaintiff USANA Health Sciences.</p> <p>08:12:36 23 MR. PORTER: David Porter with Buchanan,</p> <p>08:12:41 24 Ingersoll & Rooney on behalf of Barry Minkow and Fraud</p> <p>08:12:42 25 Discovery Institute.</p> <p>08:12:44 26 THE VIDEOGRAPHER: And the witness may now be</p>

2 (Pages 2 to 5)

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Barry Minkow, November 2, 2007
USANA HEALTH SCIENCES, INC. v. BARRY MINKOW, et al.

Page 6	Page 8
<p>08:12:45 1 sworn. 08:12:45 2 BARRY MINKOW, 08:12:45 3 having been administered an oath, testified as follows: 08:12:45 4 EXAMINATION 08:12:45 5 BY MR. POYFAIR: 08:12:54 7 Q. Good morning, Mr. Minkow. 08:12:55 8 A. Good morning. 08:12:57 9 Q. Can you please state your name for the record. 08:12:59 10 A. Barry Minkow, M-i-n-k-o-w. 08:13:02 11 Q. And what is your address? 08:13:03 12 A. 13983 Hickory Street in Poway. 08:13:06 13 Q. And you're affiliated with a company 08:13:08 14 called Fraud-- 08:13:09 15 A. Discovery Institute. 08:13:11 16 Q. -- Discovery Institute? 08:13:11 17 A. Cofounder, yeah. 08:13:15 18 Q. And what is the address there? 08:13:18 19 A. What is the address? 08:13:19 20 We've moved, so I'll get back to you. It's on 08:13:22 21 Business Park in Scripps Ranch, California, here. 08:13:26 22 Q. Okay. 08:13:26 23 A. Suite 218. 08:13:27 24 Q. And have you ever had your deposition taken 08:13:29 25 before?</p>	<p>08:14:38 1 about you before this today and now so far is that you're 08:14:42 2 going to have to slow down -- 08:14:45 3 A. All right. 08:14:45 4 Q. -- because the court reporter has to get 08:14:47 5 everything down. 08:14:48 6 A. All right. 08:14:48 7 Q. So if -- there may be times when either she or I 08:14:51 8 will ask you to slow down. We're not trying to be rude. 08:14:56 9 A. No, no. No problem. 08:14:58 10 Q. I'm just trying to make sure we have a clear 08:14:59 11 record that is usable for everyone. Do you understand 08:15:01 12 that? 08:15:02 13 A. Yes, I do. 08:15:03 14 Q. Okay. Couple things. Number one, if -- if you 08:15:05 15 don't understand a question that I ask, will you tell me 08:15:12 16 that? 08:15:12 17 A. I will. 08:15:14 18 Q. Now, I may or may not rephrase it, depending on 08:15:17 19 what the question -- what your problem with the question 08:15:19 20 is, but I want to know if you don't understand a question. 08:15:22 21 Okay? 08:15:23 22 A. Yes, sir. 08:15:23 23 Q. Because at the end of the deposition, I want to 08:15:26 24 make sure that you've had an opportunity to answer fully 08:15:30 25 all the questions that I asked, and I want to make sure</p>
Page 7	Page 9
<p>08:13:31 1 A. Yeah, but it was all bad. I mean, it was like 08:13:32 2 for criminal stuff like from the '80s. 08:13:36 3 Q. Okay. But have you ever been involved as a 08:13:38 4 defendant in a legal, you know, in a civil action? 08:13:42 5 A. No, but I was on the class action suit for the 08:13:44 6 Zzzz Best case '92 '93, '94, '95. I did depositions on behalf 08:13:48 7 of plaintiffs, but that's -- for Orrick, Herrington, & 08:13:50 8 Sutcliffe. 08:13:55 9 Q. All right. Let's talk about, sir, the 08:13:57 10 general -- some general guidelines that will help all of 08:14:00 11 us communicate better and to generate a transcript that is 08:14:02 12 viewable for everyone. All right? 08:14:04 13 One of the things that we're both going to have 08:14:07 14 problems with is that -- and probably the most important 08:14:10 15 thing we can do is to not talk at the same time. Do you 08:14:14 16 understand that? 08:14:15 17 A. Yes. 08:14:15 18 Q. Okay. The reason for that is because it's very 08:14:19 19 difficult for the court reporter, in fact, it's impossible 08:14:22 20 for the court reporter to get down what we're both saying 08:14:24 21 at the same time, and it makes things very difficult. 08:14:28 22 And if it's -- you make things difficult for the reporter, 08:14:31 23 she starts throwing things. We want to avoid that. 08:14:35 24 A. I get it. 08:14:36 25 Q. So the other thing that I've already noticed</p>	<p>08:15:33 1 you understand it. Okay? 08:15:34 2 A. Yes, sir. 08:15:36 3 Q. Second, there's going to be objections from time 08:15:39 4 to time, maybe not. Just a wild guess. Those objections 08:15:44 5 are for a judge to rule on later, and unless your counsel 08:15:49 6 instructs you not to answer, you're going to be required 08:15:51 7 to answer my question even if Mr. Porter makes an 08:15:56 8 objection. Do you understand that? 08:15:57 9 A. Yes, sir. 08:15:57 10 Q. Okay. Now, you've taken an oath. 08:16:01 11 A. Yeah. 08:16:01 12 Q. Okay. So the oath is the same oath in a 08:16:05 13 deposition as that which is given in a court of law. Do 08:16:09 14 you understand that? 08:16:10 15 A. I do. 08:16:10 16 Q. And that you are -- you're to give your full -- 08:16:16 17 a full and complete answer to the questions that I have. 08:16:20 18 Do you understand that? 08:16:20 19 A. Yes, sir. 08:16:21 20 Q. And that if you are -- strike that. 08:16:27 21 You are subject to the pains and penalties of 08:16:31 22 perjury here just like you are in a court of law. 08:16:34 23 A. Right. 08:16:34 24 Q. Do you understand that? 08:16:36 25 A. Yeah.</p>

3 (Pages 6 to 9)

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Barry Minkow, November 2, 2007
 USANA HEALTH SCIENCES, INC. v. BARRY MINKOW, et al.

Page 10	Page 12
<p>08:16:36 1 Q. Okay. Now, at the end of the deposition, the 08:16:41 2 court reporter is going to type up a transcript. Do you 08:16:44 3 understand? 08:16:45 4 A. (Witness nods head.) 08:16:45 5 Yes, sir. 08:16:47 6 Q. That's the other part. You have to answer 08:16:48 7 verbally. 08:16:49 8 A. Yeah. 08:16:50 9 Q. Even though we have a video, we still need it 08:16:52 10 for the written transcript; therefore, you have to answer 08:16:55 11 verbally. 08:16:56 12 At the end of the process, the deposition 08:16:57 13 process, you're going to get a copy of that transcript and 08:17:00 14 you're going to be able to make changes. 08:17:02 15 A. Right. 08:17:03 16 Q. The changes that you make are going to be 08:17:06 17 subject to our review, number one, and cross-examination. 08:17:09 18 Do you understand that? 08:17:10 19 A. Yes, I do. 08:17:10 20 Q. So generally speaking, those changes are changes 08:17:12 21 and typos and that type of thing and not substantive 08:17:13 22 changes. Do you understand that? 08:17:14 23 A. I do. 08:17:15 24 Q. So if you have substantive changes to your 08:17:16 25 testimony, you know, as the deposition goes through, I'm</p>	<p>08:18:29 1 that is if there's a question pending. I'm going to ask 08:18:32 2 you to just answer the question and then we'll go ahead 08:18:35 3 and take the break. Okay? 08:18:37 4 A. Yeah. 08:18:37 5 Q. All right. Now, I'm about ready to ask you a 08:18:40 6 question that is no fun to ask, but I've got to do it, so 08:18:44 7 bear with me. 08:18:45 8 Is there anything about your physical, mental, 08:18:47 9 or emotional condition today that won't allow you to 08:18:50 10 understand the questions that I ask? 08:18:53 11 A. Not that won't allow me to understand the 08:18:55 12 question, no. 08:18:56 13 Q. If that changes at any time, will you let me 08:18:58 14 know? 08:18:59 15 A. Yeah. 08:19:00 16 Q. Okay. Is there anything about your physical and 08:19:02 17 mental or emotional condition today that won't allow you 08:19:04 18 to give me full complete and truthful answers? 08:19:06 19 A. No. 08:19:07 20 Q. Okay. If that changes at any time during the 08:19:09 21 deposition, will you let me know? 08:19:11 22 A. Yeah. 08:19:12 23 Q. Okay. Now, I want to talk to you about some 08:19:14 24 general topics before we get into specifics. Okay? 08:19:16 25 A. Yes, sir.</p>
Page 11	Page 13
<p>08:17:27 1 going to ask you to go back on the record and say, "Do you 08:17:31 2 remember what I said earlier in the deposition? I need to 08:17:32 3 change that." Okay? 08:17:35 4 A. Yes, sir. 08:17:36 5 Q. All right. 08:17:38 6 THE VIDEOGRAPHER: Excuse me, Counsel, I'm 08:17:39 7 having a little bit of cell interference. 08:17:42 8 THE WITNESS: Oh, that would be his Blackberry. 08:17:51 9 MR. POYFAIR: Probably is mine. 08:17:52 10 THE VIDEOGRAPHER: If you don't mind turning 08:17:54 11 them off. 08:17:54 12 MR. POYFAIR: It's a very difficult thing to do 08:17:56 13 is to turn your Blackberry off. I'm willing to do it for 08:18:00 14 you. 08:18:00 15 THE VIDEOGRAPHER: Thank you. 08:18:01 16 MR. POYFAIR: All right. 08:18:01 17 BY MR. POYFAIR: 08:18:01 18 Q. All right. Another thing is, this is not an 08:18:12 19 endurance test. We're going to go for four hours as the 08:18:15 20 judge has allowed us to do exclusive of breaks. So if you 08:18:18 21 need to take a break at any time, let us know, you know, 08:18:21 22 for any purpose, to chat with your counsel, facilities, 08:18:24 23 whatever you need. Okay? Do you understand that? 08:18:27 24 A. Yes, sir. 08:18:27 25 Q. There's one exception to that rule, though, and</p>	<p>08:19:23 1 Q. I want to -- and for the following questions, 08:19:27 2 probably for the rest of the day or the morning, I'm going 08:19:30 3 to be asking questions that focus on the time that you 08:19:34 4 started to investigate USANA until now. All right? 08:19:39 5 A. Uh-huh. 08:19:39 6 Q. So that's the period of time. 08:19:41 7 So my question is: Describe for me your methods 08:19:45 8 of communicating to others during that period of time, 08:19:51 9 first verbally and then in writing? 08:19:55 10 Do you communicate face to face with people? 08:19:58 11 A. Yes, sir. 08:19:59 12 Q. And do you communicate by phone? 08:20:01 13 A. Yes, sir. 08:20:02 14 Q. How else do you communicate with people? 08:20:05 15 A. E-mail on occasion, phone primarily. 08:20:08 16 Q. Okay. How about Blackberries? 08:20:10 17 A. That would rank up there with e-mail, so, yeah, 08:20:13 18 on occasion Blackberry, too. 08:20:14 19 Q. How about texting? 08:20:17 20 A. No. I don't know how to text. And I'm telling 08:20:20 21 you. Everybody texts me, and I never return one. It's 08:20:22 22 pathetic. I have a Blackberry, I know. I'm not a texter. 08:20:24 23 I know it's pathetic. 08:20:25 24 Q. Have you had a computer and a Blackberry since 08:20:28 25 when you first started investigating USANA?</p>

4 (Pages 10 to 13)

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Barry Minkow, November 2, 2007
 USANA HEALTH SCIENCES, INC. v. BARRY MINKOW, et al.

Page 14	Page 16
<p>08:20:33 1 A. Computer, yes. Blackberry probably sometime in, 08:20:36 2 you know, during, but probably for the most part. 08:20:38 3 Q. Okay. And what is -- who is your carrier for 08:20:42 4 your Blackberry? 08:20:44 5 A. It is Verizon. 08:20:48 6 Q. Okay. And what computers do you use? 08:20:52 7 A. I have one that I use my laptop primarily. 08:20:55 8 Q. Okay. What other computers do you use? 08:20:58 9 A. Primarily, we have one at the house, but that is 08:21:00 10 rare. 08:21:01 11 Q. All right. I -- 08:21:02 12 A. My wife uses it more than I. 08:21:04 13 Q. So there's a computer at the house, your 08:21:07 14 Blackberry, and your laptop? 08:21:10 15 A. Yeah. 08:21:10 16 Q. Okay. Now, I want to make sure we've got a 08:21:13 17 couple terms straight. 08:21:15 18 When I say "you," I'm referring to you, Barry 08:21:18 19 Minkow -- 08:21:18 20 A. Uh-huh. 08:21:18 21 Q. -- but I'm also referring to FDI, the Fraud 08:21:22 22 Discovery Institute. 08:21:25 23 A. Right. 08:21:25 24 Q. Okay. And I'm -- and so that question will also 08:21:29 25 apply to the Fraud Discovery Institute.</p>	<p>08:22:33 1 Q. Was it sometime in the last three years? 08:22:35 2 A. Oh, yeah. I mean, I've had probably couple back 08:22:38 3 and forth that, you know, as demands grow in terms of 08:22:42 4 memory, I'll upgrade or something, but that's -- that's 08:22:44 5 pretty much standard. 08:22:45 6 Q. Okay. 08:22:48 7 A. It wasn't -- you know, we didn't say, Hey, we're 08:22:50 8 doing this case, let's get a new computer, you know. 08:22:53 9 Q. Okay. I'm just trying to get as precise a 08:22:56 10 memory as possible, but the general timeline when you got 08:23:03 11 your new one, and you're telling me -- and you're telling 08:23:05 12 you don't recall at all? 08:23:06 13 A. I don't recall. 08:23:07 14 Q. You don't recall what -- so could it be in 2004? 08:23:09 15 A. No. It's probably in the last 24 months or so, 08:23:13 16 but I just don't know when. 08:23:15 17 Q. So maybe 2006 or 2007? 08:23:17 18 A. Yeah. I just -- I don't know. I'm sorry. I'm 08:23:20 19 not trying to be evasive. I don't know when I got it. 08:23:24 20 Q. Okay. And did you make any efforts to transfer 08:23:28 21 any data or information from your old laptop to your 08:23:34 22 current laptop? 08:23:36 23 A. I don't recall. 08:23:37 24 Q. Did you make any -- did you make any efforts to 08:23:40 25 preserve any data that once existed in your -- in your</p>
Page 15	Page 17
<p>08:21:32 1 A. Same answer. 08:21:33 2 Q. Same answer, okay. 08:21:34 3 A. That's why, if I have to take the laptop out of 08:21:36 4 the church where the offices are of FDI, it's easy. 08:21:39 5 Q. Is there -- do you have a computer at the 08:21:41 6 church? 08:21:41 7 A. It's just the laptop. It's all I use, yeah. 08:21:44 8 Q. Okay. And how long have you owned the laptop 08:21:48 9 that you currently use? 08:21:49 10 A. I don't recall. 08:21:52 11 Q. Have you owned it for the period of time that 08:21:56 12 we're interested in since you began the investigation of 08:21:59 13 USANA? 08:21:59 14 A. I don't recall. I may have. I don't know when 08:22:02 15 I bought my latest laptop. Sorry. 08:22:05 16 Q. What year was it? 08:22:06 17 A. I don't know that either. 08:22:08 18 Q. Was -- 08:22:09 19 A. I can show it to you if you would like to stop 08:22:10 20 by the office. I don't really know. 08:22:11 21 Q. No. I'm just trying to get a feel for whether 08:22:14 22 there's been any -- anything contained within an earlier 08:22:22 23 laptop that has been destroyed. 08:22:25 24 A. I don't know. I'm sorry. I don't. I just 08:22:28 25 don't know when I got my new laptop. I --</p>	<p>08:23:48 1 old -- your old laptop? 08:23:50 2 A. Again, I don't know the laptop time frame, so I 08:23:54 3 mean, if I upgraded a laptop, it was to get more memory or 08:23:58 4 something. That's all. 08:23:59 5 Q. Okay. Where did you buy your current laptop? 08:24:02 6 A. I don't know where I bought it. We have a -- 08:24:04 7 you know, online somewhere. I can check for you if you 08:24:07 8 would like. Be happy to. 08:24:10 9 Q. Okay. 08:24:11 10 A. And that would -- that would, you know, tell me 08:24:13 11 when, too, by the way. 08:24:15 12 Q. All we're trying to do is make sure that we're 08:24:16 13 able to access all the documents that are potentially 08:24:20 14 relevant to this case. 08:24:21 15 A. Okay. 08:24:21 16 Q. And one way to do that is to see what is on 08:24:24 17 whatever laptop you were using. That's why I'm looking -- 08:24:26 18 I'm asking these questions pretty carefully. 08:24:29 19 A. Okay. 08:24:29 20 Q. So that's something we're going to be pretty 08:24:31 21 interested in, but I'll move on. 08:24:35 22 A. Okay. 08:24:35 23 Q. So is it your best recollection that you have 08:24:39 24 used at least one, perhaps two laptops during this 08:24:43 25 relevant period of time?</p>

5 (Pages 14 to 17)

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Barry Minkow, November 2, 2007
USANA HEALTH SCIENCES, INC. v. BARRY MINKOW, et al.

Page 18	Page 20
<p>08:24:47 1 A. Yeah. I mean, again, I'll be happy to check 08:24:50 2 when I bought the laptop. 08:24:52 3 Q. Fair enough. Good enough. 08:24:56 4 What e-mail addresses do you have? 08:24:58 5 A. I've had one for Minkow@Integrity. That's it. 08:25:02 6 Never -- 08:25:03 7 Q. That's it? 08:25:03 8 A. -- changed it in I don't remember how many 08:25:05 9 years. 08:25:05 10 Q. Okay. So that's the only one you send e-mails 08:25:08 11 and that's the only one you receive e-mails? 08:25:10 12 A. Yes, sir. 08:25:12 13 Q. Now -- 08:25:13 14 A. And by the way, since Integrity is like been my 08:25:14 15 only mail preserve -- server forever, you know, you can, 08:25:19 16 if that will help you, I have no problem with, you know, 08:25:22 17 giving you access to Integrity.com, and you can get what 08:25:26 18 you need. 08:25:27 19 MR. POYFAIR: Okay. 08:25:28 20 Did you hear that? 08:25:31 21 MR. PORTER: I did hear that. Quit that 08:25:32 22 volunteering stuff. 08:25:33 23 THE WITNESS: I mean, it's -- I don't have 08:25:34 24 nothing to hide. 08:25:34 25 MR. POYFAIR: Okay. That's fine. I</p>	<p>08:26:33 1 Q. And when did you first have the thought that you 08:26:36 2 might want to investigate USANA? 08:26:42 3 A. In 2006. 08:26:43 4 Q. When in 2006? 08:26:45 5 A. Mid. 08:26:46 6 Q. Mid, like? 08:26:49 7 A. Mid. Somewhere around the -- 08:26:52 8 Q. Early summer of 2006? 08:26:53 9 A. Or around that time period. I don't recall 08:26:55 10 exactly. 08:26:56 11 Q. Okay. 08:26:56 12 A. I had been getting pressure to look into these 08:26:59 13 as the -- you know, after the "60 Minutes" thing aired on 08:27:02 14 May of '05. More and more people wanted me to look into 08:27:06 15 various network marketing. 08:27:08 16 Q. Okay. 08:27:08 17 A. So lots of e-mails, lots of consumers, lots of 08:27:12 18 companies in the industry. 08:27:13 19 Q. So between -- I want to focus your attention now 08:27:16 20 between 2003 and mid 2006 and just ask you some very brief 08:27:23 21 questions about that. 08:27:23 22 A. Uh-huh. 08:27:25 23 Q. What "60 Minutes" program are you talking about? 08:27:27 24 A. That aired in May of '05 that I was profiled 08:27:29 25 with Steve Kroft.</p>
Page 19	Page 21
<p>08:25:35 1 understand. 08:25:35 2 THE WITNESS: It's no problem for me. 08:25:36 3 BY MR. POYFAIR: 08:25:36 4 Q. Okay. So you sent a letter to Canaccord Adams 08:25:43 5 that asked them to preserve documents. Do you remember 08:25:45 6 that? 08:25:45 7 A. Yes. My lawyer sent that. 08:25:48 8 Q. All right. So do you have a name for that type 08:25:50 9 of letter? 08:25:51 10 A. No. Send the Canaccord Adams get the document's 08:25:55 11 name. No, there is no particular name. 08:25:57 12 Q. So when you first started your investigation 08:25:59 13 with USANA, did you understand that it would be important 08:26:02 14 to preserve all of the documents that you were collecting 08:26:06 15 and that you sent and received? 08:26:10 16 A. When I -- I'm sorry? 08:26:11 17 Q. Let me rephrase the question. 08:26:13 18 A. Sure. 08:26:14 19 Q. It's probably a bad one. 08:26:15 20 When -- let's just start with asking, when did 08:26:19 21 you first have the thought that you might want to 08:26:22 22 investigate network marketing companies in general? 08:26:27 23 A. December -- or excuse me, late '03, early '04 -- 08:26:30 24 Q. Okay, 08:26:32 25 A. -- with Federal Chamber of Commerce.</p>	<p>08:27:31 1 Q. Okay. And what companies were you -- have you 08:27:34 2 been asked to investigate? 08:27:37 3 A. Asked or have we followed through with in 08:27:39 4 investigating? 08:27:40 5 Q. First asked. 08:27:41 6 A. Multiple. I couldn't count. 08:27:42 7 Q. Name those that you can recall? 08:27:43 8 A. I couldn't. Under oath, you know, I wouldn't 08:27:47 9 know all of them. 08:27:48 10 Q. All I'm asking you is to -- certainly USANA. 08:27:51 11 yes? 08:27:51 12 A. Yes. 08:27:51 13 Q. And Mannatech? 08:27:53 14 A. Yes. 08:27:54 15 Q. And any others; just tell me who? 08:27:56 16 A. Federal Chamber of Commerce, Arbonne, you know, 08:28:01 17 the gamut. 08:28:02 18 Q. Okay. 08:28:03 19 A. I just don't -- 08:28:04 20 Q. Any others that you can recall at this time? 08:28:06 21 A. Not at this time. They weren't memorable. I 08:28:07 22 mean, but, you know, a lot, from various -- yeah. 08:28:11 23 Q. And which of those network marketing companies 08:28:13 24 did you actually do any investigation? 08:28:21 25 A. Federal Chamber of Commerce in '03 and '04. We</p>

6 (Pages 18 to 21)

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Barry Minkow, November 2, 2007
USANA HEALTH SCIENCES, INC. v. BARRY MINKOW, et al.

Page 22	Page 24
<p>08:28:25 1 looked at Mannatech a little bit, but never released a</p> <p>08:28:29 2 report. Looked at a couple others without releasing a</p> <p>08:28:32 3 report, quick consumer questions about compensation plans,</p> <p>08:28:36 4 something like that either by phone or e-mail.</p> <p>08:28:40 5 And how far is the period? You're just -- your</p> <p>08:28:44 6 cutoff is '06?</p> <p>08:28:45 7 Q. Yeah.</p> <p>08:28:46 8 A. And then USANA. That's all I can recall --</p> <p>08:28:49 9 Q. Okay.</p> <p>08:28:49 10 A. -- at this time.</p> <p>08:28:50 11 Q. All right. Okay. I want to focus your</p> <p>08:28:56 12 attention on USANA and your investigation of USANA.</p> <p>08:29:06 13 What was it about USANA in the summer or the</p> <p>08:29:10 14 middle of 2006 that caused you to start the investigation?</p> <p>08:29:16 15 A. Various, you know, phone calls, e-mails from</p> <p>08:29:18 16 people regarding -- typical, you know.</p> <p>08:29:22 17 Q. Who contacted you?</p> <p>08:29:24 18 A. There's -- I don't recall who, but typical</p> <p>08:29:27 19 standard process of business for us is they read about you</p> <p>08:29:31 20 or see you on a TV show or read an article. They e-mail</p> <p>08:29:34 21 you or call you and say, I'm in this deal. I'm in this</p> <p>08:29:38 22 company. Would you check it out?</p> <p>08:29:40 23 Q. Okay. And did you receive -- so you received</p> <p>08:29:44 24 e-mails about USANA during 2006?</p> <p>08:29:47 25 A. I have, and other companies, yeah.</p>	<p>08:31:20 1 A. Yes, sir.</p> <p>08:31:21 2 Q. When was that retention?</p> <p>08:31:22 3 A. Some time in '06, I believe.</p> <p>08:31:24 4 Q. Do you know when? Can you be any more specific?</p> <p>08:31:26 5 A. Around the same time frame; October,</p> <p>08:31:28 6 November-ish, probably.</p> <p>08:31:29 7 Q. Okay.</p> <p>08:31:30 8 A. I think I had him look at Mannatech and USANA</p> <p>08:31:33 9 and then continue with USANA.</p> <p>08:31:38 10 Q. Okay. And when did you first contact or have</p> <p>08:31:41 11 any contact with Doug Brooks?</p> <p>08:31:44 12 A. '03 or '04 on the Federal Chamber of Commerce</p> <p>08:31:47 13 case. He wrote an opinion for that.</p> <p>08:31:49 14 Q. And have you ever had an attorney-client priv --</p> <p>08:31:52 15 or attorney-client relationship with Doug Brooks?</p> <p>08:31:55 16 A. More as an outside expert for us.</p> <p>08:31:57 17 Q. Okay.</p> <p>08:31:58 18 A. But great guy and -- you know.</p> <p>08:31:59 19 Q. Okay. So about by November of 2006 you had</p> <p>08:32:04 20 decided to conduct an investigation with USANA, at least</p> <p>08:32:06 21 by that time?</p> <p>08:32:07 22 A. Yes, sir.</p> <p>08:32:07 23 Q. Okay. And what did you intend to do to complete</p> <p>08:32:11 24 your investigation at that time?</p> <p>08:32:14 25 A. I don't understand the question.</p>
Page 23	Page 25
<p>08:29:49 1 Q. And other companies.</p> <p>08:29:50 2 And did you keep those e-mails?</p> <p>08:29:52 3 A. I don't -- I don't recall. Probably if we did</p> <p>08:29:54 4 not do anything actionable, there would be no reason to,</p> <p>08:29:57 5 but I don't recall.</p> <p>08:30:01 6 Q. Yeah.</p> <p>08:30:10 7 Was there a time that you made a decision that</p> <p>08:30:14 8 you were going to actively investigate USANA?</p> <p>08:30:20 9 A. Evidently.</p> <p>08:30:21 10 Q. When was it?</p> <p>08:30:22 11 A. I don't recall when exactly. Sometime in '06.</p> <p>08:30:24 12 Q. Okay. Was it earlier than November of '06?</p> <p>08:30:28 13 A. Probably, yeah.</p> <p>08:30:29 14 Q. Okay.</p> <p>08:30:31 15 A. It was -- yeah. Probably leading up to that,</p> <p>08:30:34 16 yeah.</p> <p>08:30:34 17 Q. All right. Okay. When did you first talk to</p> <p>08:30:39 18 Mr. Fitzpatrick?</p> <p>08:30:42 19 A. 2003, 2004.</p> <p>08:30:43 20 Q. Okay. When did you first talk to</p> <p>08:30:44 21 Mr. Fitzpatrick about USANA?</p> <p>08:30:49 22 A. September or October of '06, I think.</p> <p>08:30:56 23 Q. When did you first retain -- strike that.</p> <p>08:31:13 24 Did you at one point retain Mr. Fitzpatrick to</p> <p>08:31:17 25 do an analysis or study about USANA?</p>	<p>08:32:16 1 Q. Okay. Was -- was there a -- did you make a plan</p> <p>08:32:22 2 on how you were going to investigate USANA before you</p> <p>08:32:27 3 started in November contacting people to complete the</p> <p>08:32:31 4 investigation?</p> <p>08:32:31 5 A. Typically what will happen is we'll get a call</p> <p>08:32:33 6 from somebody about a company, and it has to meet what we</p> <p>08:32:36 7 call probable cause. It's our burden for probable cause,</p> <p>08:32:40 8 and we -- once it's an internal thing that constitutes</p> <p>08:32:48 9 probable cause that it's highly likely that there's a</p> <p>08:32:51 10 company committing a financial crime in progress.</p> <p>08:32:54 11 Typically -- before USANA more it was investment fraud,</p> <p>08:32:58 12 pyramid schemes, whatever, notwithstanding Federal Chamber</p> <p>08:33:02 13 of Commerce.</p> <p>08:33:02 14 We checked out USANA. Looked at our internal</p> <p>08:33:05 15 methodology of resolving that, yeah, it's highly likely</p> <p>08:33:08 16 that this is a financial crime in progress, and we</p> <p>08:33:13 17 conducted our investigation.</p> <p>08:33:14 18 Q. Okay. When you say "internal methodology," what</p> <p>08:33:16 19 are you talking about?</p> <p>08:33:17 20 A. How we arrive proprietary knowledge regarding</p> <p>08:33:21 21 whether we believe somebody is perpetrating a fraud.</p> <p>08:33:25 22 Q. And how do you do that?</p> <p>08:33:27 23 THE WITNESS: Do I have to tell my proprietary</p> <p>08:33:29 24 methodology?</p> <p>08:33:30 25 MR. PORTER: Well --</p>

7 (Pages 22 to 25)

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Barry Minkow, November 2, 2007
 USANA HEALTH SCIENCES, INC. v. BARRY MINKOW, et al.

Page 26	Page 28
<p>08:33:31 1 MR. POYFAIR: Well, I'll -- let me see if I can 08:33:32 2 ask the question that doesn't get to that because that's 08:33:34 3 not really what I am interested in. 08:33:36 4 THE WITNESS: Okay. 08:33:36 5 BY MR. POYFAIR: 08:33:36 6 Q. Do you consult any outside experts? 08:33:38 7 A. Absolutely, yeah. 08:33:39 8 Q. Okay. And did you in the USANA case? 08:33:42 9 A. Probably, yeah. 08:33:43 10 Q. Who are they? 08:33:44 11 A. It would be Robert Fitzpatrick, for one. 08:33:46 12 Q. Yeah. 08:33:48 13 A. Maybe Jon Taylor at the time, I don't recall. 08:33:50 14 Q. Okay. 08:33:50 15 A. And certainly Doug Brooks probably by phone -- 08:33:53 16 Q. All right. 08:33:53 17 A. -- or e-mail. 08:33:54 18 Q. Who else? 08:33:56 19 A. You know what? I don't, you know, recall, but 08:33:59 20 we may do some preliminary investigative background checks 08:34:03 21 like, you know, for past lawsuits or things like that, and 08:34:05 22 we would use our public records people to do that. 08:34:08 23 Q. Okay. 08:34:09 24 A. So we probably did that as well. 08:34:10 25 Q. What else?</p>	<p>08:35:18 1 technically employees, experts as subcontractors, not 08:35:21 2 technically employees. 08:35:22 3 Q. How about staff, secretaries, paralegals that 08:35:25 4 type of thing? 08:35:26 5 A. Yeah. We, you know, pretty much on our own we 08:35:29 6 use, you know, I'll use somebody within the church who 08:35:34 7 works at the church as well. 08:35:35 8 Q. And what are the names of those people? 08:35:37 9 A. I'll use Shannon Boelter, B-o-e-l-e-r, and 08:35:41 10 then we had a lady up until April of '07 named -- who just 08:35:49 11 got married. She got married and moved to Seattle. So 08:35:50 12 she was with us during that time as well. 08:35:53 13 Q. Okay. 08:35:53 14 A. And I forget her name. 08:35:55 15 Q. Who after that worked with you from the church? 08:35:58 16 A. Just pretty much just her. 08:36:00 17 Q. Okay. 08:36:02 18 A. Sean's wife. Sean's our media guy. So his wife 08:36:05 19 is pregnant. They need a little extra income. So she can 08:36:09 20 help Shannon, and some of that help is doing FDI stuff. 08:36:11 21 Q. And the media guy you're talking about is Sean? 08:36:14 22 A. Sean that works at our church. 08:36:15 23 Q. What is his name? 08:36:16 24 A. Sean. And you're going to ask me his last name, 08:36:19 25 aren't you?</p>
Page 27	Page 29
<p>08:34:14 1 A. In terms of outside people? 08:34:17 2 Q. Yes. 08:34:20 3 A. That's pretty much records, experts, you know, 08:34:25 4 reading of the materials. 08:34:27 5 Q. Okay. Now, at this time, say, November of 2006, 08:34:31 6 did Fraud Discovery Institute have any employees? 08:34:37 7 A. Yes. 08:34:38 8 Q. Who? 08:34:40 9 A. I don't recall who exactly was working, but 08:34:44 10 primarily it's me that writes the reports and does the 08:34:47 11 investigation. 08:34:48 12 Q. Was there anybody else who was employed by Fraud 08:34:51 13 Discovery Institute from November of 2006 until the 08:34:53 14 present? 08:34:53 15 A. I'd have to check. I'll be happy to. 08:34:56 16 Q. Can you recall any name as you sit here today? 08:34:58 17 A. Well, Juan Lopez is our president and CEO, so he 08:35:01 18 is definitely an employee. 08:35:03 19 Q. All right. Who else? 08:35:06 20 A. I'll check a payroll record for you. I can't 08:35:08 21 recall who. 08:35:09 22 Q. You can't -- 08:35:09 23 A. Nothing that was -- nobody that was materially 08:35:11 24 involved with the USANA investigation. Because we use 08:35:15 25 like investigators as subcontractors, they're not</p>	<p>08:36:19 1 Q. Yeah. 08:36:19 2 A. I don't know. 08:36:19 3 Q. That's what lawyers do. 08:36:23 4 A. Maybe it's on our web site. 08:36:24 5 Can you check that for me? 08:36:26 6 His wife helps out. Has the last couple months. 08:36:30 7 Q. Is he affiliated with a company? 08:36:31 8 A. No. No. He's just primarily the church media 08:36:34 9 guy. It's his wife that we're using. 08:36:39 10 Q. Okay. Have you ever spoken with any hedge 08:36:45 11 funds, broker/dealers or institutional investors -- 08:36:52 12 MR. PORTER: You -- maybe you can break those 08:36:54 13 down. 08:36:54 14 BY MR. POYFAIR: 08:36:54 15 Q. Yeah. I just want to first want to get -- we 08:36:57 16 will break them down one at a time. But have you ever 08:36:58 17 spoken to hedge funds, institutional investors, 08:37:02 18 broker/dealers, analysts? 08:37:05 19 A. Yes, sir. 08:37:06 20 Q. About USANA? 08:37:07 21 A. Yes, sir. 08:37:08 22 Q. When was the first time you spoke to any of 08:37:10 23 those types of people about USANA? 08:37:13 24 A. November of '06. 08:37:14 25 Q. Okay.</p>

8 (Pages 26 to 29)

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Barry Minkow, November 2, 2007
USANA HEALTH SCIENCES, INC. v. BARRY MINKOW, et al.

Page 30	Page 32
<p>08:37:18 1 A. As I recall. 08:37:20 2 Q. And who did you speak with first? 08:37:24 3 A. I was asked to participate in the Value 08:37:26 4 Investors Congress in -- was it October or November of 08:37:30 5 '06? Whatever it was. And -- 08:37:32 6 Q. It was November 6th through 9th? 08:37:35 7 A. In New York, yes. 08:37:36 8 Q. Does that ring any bells? 08:37:37 9 A. Yeah. There's probably a video transcript 08:37:43 10 because they videotaped it. 08:37:44 11 Q. Okay. 08:37:44 12 A. So you'll be able to see exactly what I said. 08:37:47 13 Q. And they is who? 08:37:49 14 A. The people who put on the Value Investors 08:37:52 15 Congress. 08:37:52 16 Q. And -- 08:37:52 17 A. Whitney Tilson and -- yeah. 08:37:54 18 Q. And who was -- with whom was Whitney Tilson 08:37:57 19 involved? 08:37:58 20 A. It was his, him and some other guy. But if you 08:38:00 21 go to ValueInvestorsCongress.com, you'll be able to see 08:38:04 22 his name. 08:38:04 23 Q. So you spoke there? 08:38:05 24 A. Two sessions. One in a breakout accounting 08:38:07 25 session with Professor Gortec who has an accounting Ph.D.,</p>	<p>08:39:05 1 know, I'm not trying to be evasive. I just don't recall. 08:39:07 2 Q. You just don't -- okay. 08:39:09 3 And did you prepare any notes for your -- 08:39:10 4 A. Yes, I did, sir. 08:39:11 5 Q. And did you keep any of them? 08:39:13 6 A. I did. 08:39:16 7 Q. And where are they? 08:39:16 8 A. It was just like a PowerPoint presentation, as I 08:39:18 9 recall. 08:39:19 10 Q. What was the topic of the presentation? 08:39:21 11 A. It was on Mannatech primarily and then USANA as 08:39:25 12 well. 08:39:26 13 Q. And what was the purpose of the speech? 08:39:32 14 A. They had asked me what -- to speak on a company 08:39:37 15 that -- an industry or a company for their session that I 08:39:42 16 thought could be in danger of perpetrating fraud. And 08:39:46 17 they wanted to know -- they, being Whitney said, you know, 08:39:50 18 read about you uncovering fraud privately. Does it 08:39:53 19 translate into public companies? Can you uncover -- 08:39:58 20 (Instruction from the reporter.) 08:39:58 21 THE WITNESS: -- a fraud proactively in a public 08:40:01 22 company. I'm sorry. 08:40:03 23 BY MR. POYFAIR: 08:40:03 24 Q. This is what happens when either one of us speak 08:40:05 25 too fast.</p>
Page 31	Page 33
<p>08:38:11 1 and the other was to the general session, where I got a 08:38:14 2 very unfavorable ratings. 08:38:16 3 It was a first -- I got a very unfavorable 08:38:19 4 rating for the big one. They said I was too funny, and 08:38:21 5 they wanted much more meat like I gave in the accounting 08:38:25 6 class where there was like 50 or a hundred people. I said 08:38:27 7 I had more time then. So they didn't -- I got poor 08:38:29 8 reviews. That was like stunning. So I was -- you know, 08:38:33 9 humbling, actually. 08:38:33 10 Q. Yeah. 08:38:34 11 A. I deserved it, I mean, but I was trying to be 08:38:36 12 more funny than I was factual, but -- 08:38:39 13 Q. Okay. So in the general session, how many 08:38:41 14 people were there? 08:38:41 15 A. 3, 400. 08:38:43 16 Q. Okay. And in the accounting session you said 08:38:44 17 about a hundred? 08:38:45 18 A. 50 to a hundred, in that range, yeah. 08:38:47 19 Q. Who else spoke there besides yourself? 08:38:51 20 A. Spanos, you know, guys who are much smarter than 08:38:54 21 I am and much more experienced. I probably didn't belong 08:38:57 22 there. 08:38:58 23 Q. Okay. Who else spoke besides Mr. Spanos? 08:39:01 24 A. You know what, sir, I'm really -- I'm sorry, but 08:39:03 25 that is a public record who spoke. You can -- I -- you</p>	<p>08:40:06 1 A. But nothing got thrown. 08:40:09 2 Q. Yes. Not yet. 08:40:10 3 A. It wasn't that bad. 08:40:10 4 Q. The morning is young. 08:40:15 5 All right. By that time had you shorted any 08:40:23 6 USANA -- 08:40:24 7 A. Yeah. 08:40:24 8 Q. -- or Mannatech stock? 08:40:26 9 A. I believe I did and disclosed it to -- on tape 08:40:28 10 to the people there in the audience. When I made some 08:40:30 11 joke and said, "When I was a crook, I didn't even short my 08:40:34 12 own stock," which I didn't. And then I said, "But I'm 08:40:38 13 shorting these two companies," and that was my disclosure. 08:40:40 14 Q. And did you tell them why you were going to 08:40:42 15 short them? 08:40:43 16 A. Yeah. I thought that they were financial crimes 08:40:44 17 in progress because of what I believed to be a fraudulent 08:40:48 18 business model. 08:40:48 19 Q. And by that time had you conducted the due 08:40:51 20 diligence that you described earlier? 08:40:52 21 A. Yes. That and the cumulative effect of the 08:40:55 22 Federal Chamber of Commerce from '03 and '04 all the way 08:40:59 23 up. 08:40:59 24 Q. What is the Federal Chamber of Commerce? 08:41:01 25 A. They're in San Diego, and they were a private</p>

9 (Pages 30 to 33)

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Barry Minkow, November 2, 2007
USANA HEALTH SCIENCES, INC. v. BARRY MINKOW, et al.

Page 34	Page 36
<p>08:41:03 1 MLM that a college student came to us, couldn't get her 08:41:09 2 money back after a convention. 08:41:11 3 So in '03, '04, we sent Don Ray to the 08:41:14 4 convention in Long Beach to do his homework. And instead 08:41:18 5 of investigating he signed up. No, I'm just kidding. He 08:41:21 6 ended up joining. He's a big wig now. 08:41:23 7 He came back and gave us the documentation. We 08:41:25 8 issued a report to the Better Business Bureau, the FTC. 08:41:29 9 Doug Brooks, Robert, myself, and she got her money back. 08:41:33 10 Q. Okay. 08:41:34 11 A. And they changed their compensation model, as I 08:41:37 12 understand it. 08:41:38 13 Q. All right. Okay. So on the 6th through the 08:41:42 14 9th, Whitney Tilson invites you out. You speak during a 08:41:46 15 three-day program. How many times did you speak? 08:41:48 16 A. Twice. 08:41:48 17 Q. And you've identified those? 08:41:51 18 A. Yes. 08:41:51 19 Q. How long did the speech last to the general 08:41:56 20 group? 08:41:57 21 A. 35, 40 minutes, approximately. 08:41:58 22 Q. And there was a -- 08:42:00 23 A. A poor rating, yes. 08:42:01 24 Q. But there also you did a PowerPoint? 08:42:05 25 A. I did. I'll give that to you. I think I can</p>	<p>08:43:29 1 investigating them, but I didn't have no knowledge of 08:43:31 2 that. 08:43:31 3 And I said it was sheerly, you know, just luck. 08:43:33 4 And then there was another article in November of '06 in 08:43:36 5 the "Times" talking about the effect of the new FTC rule, 08:43:39 6 not to be confused with the Federal Chamber of Commerce 08:43:42 7 rule. 08:43:43 8 Q. No. Actually, I'm very familiar with that. 08:43:45 9 A. Yeah. 08:43:46 10 Q. Okay. Let me just ask you a broad question. 08:43:53 11 I'm going to focus your attention now between 08:43:56 12 November and the beginning of November 2006 and the end of 08:43:58 13 2006. During that period of time, identify for me any 08:44:02 14 hedge funds with which you had any contact with? 08:44:08 15 A. As far as I recall, it was just Whitney at that 08:44:11 16 time. 08:44:12 17 Q. All right. And what hedge fund was he? 08:44:14 18 A. I don't know the name of his fund. Something 08:44:16 19 Partners. 08:44:17 20 Q. But you don't know the name of the fund? 08:44:19 21 A. Not offhand, sir. 08:44:21 22 Q. During that same period of time, identify any 08:44:23 23 institutional investors that you were in contact with? 08:44:24 24 A. I believe it was just limited in scope to 08:44:25 25 Mr. Tilson. I could be wrong, but I believe there was</p>
Page 35	Page 37
<p>08:42:08 1 dig that up perhaps through -- through Whitney. 08:42:11 2 Q. All right. 08:42:20 3 A. Because I forwarded him the slides ahead of time 08:42:23 4 for his technical guy. 08:42:26 5 Q. Who is David Palagrini -- Pelligrinelli? 08:42:29 6 A. Does public record searches on properties. One 08:42:34 7 of our tests for fraud is undisclosed debt, so -- 08:42:38 8 Q. Undisclosed debt? 08:42:39 9 A. Right. 08:42:45 10 Q. And describe the work that Mr. Pelligrinelli did 08:42:48 11 for you? 08:42:49 12 A. Title searches as I recall. 08:42:51 13 Q. In Utah? 08:42:52 14 A. Yes, sir. 08:42:57 15 Q. In -- later in November of 2006 you had contact 08:43:01 16 with Mr. Tilson about disseminating the letter or 08:43:08 17 disseminating the "New York Times" article. Do you recall 08:43:10 18 that? 08:43:10 19 A. You mean, you're talking about in November -- 08:43:12 20 yeah. I think the "New York Times" did a story about -- 08:43:17 21 well, wait a minute, because there's two instances. One 08:43:19 22 was the Attorney General saying they were investigating 08:43:22 23 Mannatech like a few weeks after I spoke, which that was 08:43:26 24 sheer luck, you know. So you get up there and speak, and 08:43:27 25 then three weeks later the Attorney General is</p>	<p>08:44:37 1 just Mr. Tilson at that time? 08:44:40 2 Q. And how -- 08:44:41 3 MR. PORTER: What is the time frame again? 08:44:42 4 THE WITNESS: Up until January -- December 31, 08:44:43 5 '06. 08:44:44 6 MR. PORTER: From when? November? 08:44:47 7 MR. POYFAIR: Yeah. 08:44:47 8 THE WITNESS: Yeah. 08:44:47 9 MR. PORTER: So a couple months? 08:44:49 10 MR. POYFAIR: Right. Just during that period. 08:44:51 11 BY MR. POYFAIR: 08:44:51 12 Q. During that same period of time, same question 08:44:54 13 about broker/dealers? 08:44:56 14 A. Yeah. I'd say it would be the same answer, you 08:44:58 15 know. I don't believe there was a lot of communication 08:45:02 16 before the end of '06. 08:45:04 17 Q. Okay. 08:45:05 18 A. Partly because -- I'm saying that because I had 08:45:07 19 E. coli like the last couple weeks of '06. That was just 08:45:10 20 like killing me. It almost killed me. And so I was out 08:45:13 21 like for like a week or two real bad. 08:45:16 22 Q. Okay. So it's your testimony that you don't 08:45:18 23 recall any contacts with any institutional investors -- 08:45:24 24 A. I -- 08:45:25 25 Q. -- hold on -- broker/dealers, hedge funds other</p>

10 (Pages 34 to 37)

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Barry Minkow, November 2, 2007
USANA HEALTH SCIENCES, INC. v. BARRY MINKOW, et al.

Page 38	Page 40
<p>08:45:27 1 than Mr. Tilson during 2006?</p> <p>08:45:31 2 A. Yeah, but I -- and I could be wrong, but that's</p> <p>08:45:34 3 my recollection.</p> <p>08:45:48 4 Q. Same question during the same period with</p> <p>08:45:51 5 respect to asset managers?</p> <p>08:45:53 6 A. Yeah. I don't think I did, and -- at that time</p> <p>08:45:58 7 period, but I -- you know, I may have, but I don't recall.</p> <p>08:46:01 8 Q. Same question, same period of time about</p> <p>08:46:04 9 investment analysts?</p> <p>08:46:05 10 A. Same answer. Can I say that? I mean I don't --</p> <p>08:46:08 11 Q. Yeah.</p> <p>08:46:09 12 A. Okay.</p> <p>08:46:09 13 Q. So long as it's accurate.</p> <p>08:46:11 14 A. Yeah. As best as I recall.</p> <p>08:46:12 15 Q. Again, just --</p> <p>08:46:13 16 A. I know. I'm just trying to think. You know, I</p> <p>08:46:15 17 don't think I did.</p> <p>08:46:16 18 Q. All right. Same question, same period of time</p> <p>08:46:19 19 regarding investigators for investment -- investigators</p> <p>08:46:21 20 for investment analysts. Do you understand?</p> <p>08:46:22 21 A. No. Like what is that?</p> <p>08:46:31 22 Q. Well, you know what investment analysts are,</p> <p>08:46:33 23 right?</p> <p>08:46:33 24 A. Uh-huh.</p> <p>08:46:34 25 Q. People -- I'm talking about people who</p>	<p>08:47:31 1 A. Investigating, researching.</p> <p>08:47:34 2 Q. Describe what you mean by that?</p> <p>08:47:36 3 A. Assimilating information and researching as we</p> <p>08:47:39 4 do.</p> <p>08:47:40 5 Q. When did you first decide that you were going to</p> <p>08:47:43 6 generate a written report?</p> <p>08:47:46 7 A. You know, it was -- I don't, you know -- it kind</p> <p>08:47:49 8 of was -- it kind of just the more you looked, as we saw</p> <p>08:47:56 9 it, the worst it got.</p> <p>08:47:58 10 So an inductive investigation we believe is the</p> <p>08:48:03 11 only kind we like to conduct; and that is, you know, given</p> <p>08:48:07 12 the benefit of the doubt, let the evidence lead you where</p> <p>08:48:10 13 it does. We don't go and say, We hate these guys.</p> <p>08:48:12 14 They're awful. We're going to, you know, write an evil</p> <p>08:48:16 15 report about them. We try to be inductive and not</p> <p>08:48:18 16 deductive. So I believe that we adhered to those</p> <p>08:48:21 17 principles of inductive investigation.</p> <p>08:48:23 18 Q. Okay.</p> <p>08:48:23 19 A. And as it -- as we continued to gather</p> <p>08:48:25 20 information, we just felt that it was layers upon layers.</p> <p>08:48:29 21 In December, for example, finding out about Liechtenstein,</p> <p>08:48:33 22 finding out about renouncing of citizenships, and</p> <p>08:48:36 23 everywhere we turned probable cause and what we perceived</p> <p>08:48:41 24 to be misreps is the key, misreps. Lies aren't</p> <p>08:48:45 25 compartmentalized in our theory. You're going to lie</p>
Page 39	Page 41
<p>08:46:36 1 actually -- who they contract with or who are employed by</p> <p>08:46:39 2 them to conduct investigations. Were you in contact with</p> <p>08:46:42 3 any of those types of folks?</p> <p>08:46:43 4 A. Yeah. Not that I recall at that time.</p> <p>08:46:47 5 Q. And portfolio managers, same period of time,</p> <p>08:46:50 6 same question?</p> <p>08:46:51 7 A. And the same answer, as best as I can recall.</p> <p>08:46:53 8 Q. Mutual funds, anybody related to mutual funds,</p> <p>08:46:56 9 same period --</p> <p>08:46:57 10 A. Yeah.</p> <p>08:46:58 11 Q. -- same question?</p> <p>08:46:59 12 A. And the same answer.</p> <p>08:47:01 13 Q. And any research analysts at all during that</p> <p>08:47:07 14 period of time?</p> <p>08:47:07 15 A. Not to my knowledge, sir.</p> <p>08:47:10 16 Q. From the time between November and the end of</p> <p>08:47:12 17 year --</p> <p>08:47:13 18 A. We're talking about aside from when I spoke in</p> <p>08:47:15 19 front of all those people?</p> <p>08:47:16 20 Q. Yeah.</p> <p>08:47:16 21 A. So obviously there's a lot there.</p> <p>08:47:18 22 Q. Yeah.</p> <p>08:47:19 23 So generally speaking, what were you do -- what</p> <p>08:47:22 24 were you doing during that period of time as it relates to</p> <p>08:47:30 25 the USANA investigation?</p>	<p>08:48:49 1 about Liechtenstein in order to be consistent when it</p> <p>08:48:51 2 serves your best interest, you lie anywhere.</p> <p>08:48:53 3 That was -- I'll not saying that you have to</p> <p>08:48:54 4 believe that. I'm just saying that's how -- the</p> <p>08:48:56 5 methodology that we use. You don't lie and</p> <p>08:48:57 6 compartmentalize.</p> <p>08:48:59 7 Q. Allow me to persist with my question. When did</p> <p>08:49:02 8 you decide you were going to issue a written report?</p> <p>08:49:05 9 A. I don't recall.</p> <p>08:49:06 10 Q. What --</p> <p>08:49:06 11 A. As the evidence mounted.</p> <p>08:49:08 12 Q. What year was it?</p> <p>08:49:09 13 A. It was either '06 or '07, but late '06, '07. I</p> <p>08:49:13 14 don't remember. But it was done inductively. That's all</p> <p>08:49:17 15 I was trying to say.</p> <p>08:49:18 16 Q. Now, the report, what date was the report</p> <p>08:49:20 17 issued?</p> <p>08:49:20 18 A. In February or March -- February. February.</p> <p>08:49:24 19 Q. Okay. The date of the "Wall Street Journal"</p> <p>08:49:27 20 article was?</p> <p>08:49:28 21 A. March.</p> <p>08:49:28 22 Q. 16?</p> <p>08:49:28 23 A. Uh-huh.</p> <p>08:49:29 24 Q. I want to focus your attention on that period of</p> <p>08:49:32 25 time.</p>

11 (Pages 38 to 41)

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Barry Minkow, November 2, 2007
USANA HEALTH SCIENCES, INC. v. BARRY MINKOW, et al.

Page 42	Page 44
<p>08:49:31 1 A. Okay.</p> <p>08:49:32 2 Q. Okay. During that period of time, identify for</p> <p>08:49:35 3 me, if you would, any hedge funds with which you were in</p> <p>08:49:40 4 contact?</p> <p>08:49:41 5 MR. PORTER: So the time frame was February and</p> <p>08:49:43 6 March 2007?</p> <p>08:49:45 7 MR. POYFAIR: It's January, February and up to</p> <p>08:49:49 8 March 15th of 2007.</p> <p>08:49:51 9 THE WITNESS: Uh-huh.</p> <p>08:49:51 10 BY MR. POYFAIR:</p> <p>08:49:51 11 Q. Okay. Do you understand the question?</p> <p>08:49:54 12 A. Yeah.</p> <p>08:49:55 13 Q. Okay. Please answer it.</p> <p>08:49:59 14 A. The -- aside from Mr. Tilson who I talked to?</p> <p>08:50:03 15 Q. Right.</p> <p>08:50:04 16 A. Tony Braun who manages his own money in</p> <p>08:50:08 17 New York. I think it's a company called Cactus Capital.</p> <p>08:50:12 18 Q. Okay. Tony?</p> <p>08:50:15 19 A. Braun, yeah.</p> <p>08:50:21 20 Q. Okay. Who else?</p> <p>08:50:23 21 A. And well, Sam Antar, but that was not a</p> <p>08:50:29 22 broker/dealer, but just so you know.</p> <p>08:50:32 23 Q. We'll be getting into that a little bit later.</p> <p>08:50:33 24 A. Yeah.</p> <p>08:50:37 25 Q. Who else?</p>	<p>08:51:41 1 MR. POYFAIR: You're going to have to write more</p> <p>08:51:43 2 legibly.</p> <p>08:51:47 3 BY MR. POYFAIR:</p> <p>08:51:48 4 Q. Who else?</p> <p>08:51:48 5 A. As far as I can recall, that's it, unless you</p> <p>08:51:50 6 have a document that would refresh my memory.</p> <p>08:51:53 7 Q. Okay. I'm just looking for your best</p> <p>08:51:55 8 recollection.</p> <p>08:51:55 9 A. Yeah.</p> <p>08:51:56 10 Q. So I've got Cactus, Antar, D. E. Shaw, and</p> <p>08:51:58 11 Tilson's company?</p> <p>08:52:00 12 A. Yeah. Howard Sirota.</p> <p>08:52:05 13 Q. Who is that?</p> <p>08:52:06 14 A. He worked -- he represented Mr. Braun.</p> <p>08:52:13 15 Q. How about Laminar?</p> <p>08:52:15 16 A. That's D. E. Shaw. They're all one company.</p> <p>08:52:17 17 Q. Yeah, that's right.</p> <p>08:52:21 18 Any others?</p> <p>08:52:23 19 A. Not to my knowledge.</p> <p>08:52:24 20 Which one is not going to get me sick?</p> <p>08:52:26 21 MR. PORTER: I think I have drank out of both of</p> <p>08:52:29 22 them.</p> <p>08:52:29 23 THE WITNESS: Give me your water, would you?</p> <p>08:52:30 24 MR. PORTER: Let's take a break.</p> <p>08:52:32 25 THE WITNESS: No. No. I'm all right. I want</p>
Page 43	Page 45
<p>08:50:38 1 A. That knew about probably -- that's a</p> <p>08:50:41 2 broker/dealer?</p> <p>08:50:42 3 Q. No.</p> <p>08:50:42 4 First I'm going to ask you to generate for me a</p> <p>08:50:46 5 list of hedge funds with whom you had contact from</p> <p>08:50:50 6 January 1st, 2007, to March 15th, 2007.</p> <p>08:50:53 7 A. Lanier, the one that I spoke to in January in</p> <p>08:50:56 8 Houston which is another fund called Shaw, D. E. Shaw.</p> <p>08:51:00 9 Q. All right.</p> <p>08:51:02 10 A. And I -- because I taught for them in January of</p> <p>08:51:05 11 '07.</p> <p>08:51:06 12 Q. Right.</p> <p>08:51:06 13 A. I presented that I was going to issue a report</p> <p>08:51:10 14 and -- and I gave them some generalities about why I</p> <p>08:51:14 15 thought it was a --</p> <p>08:51:15 16 Q. All right. We're going to get to that stuff.</p> <p>08:51:17 17 A. That was a hedge fund.</p> <p>08:51:19 18 Q. Yeah.</p> <p>08:51:19 19 I'm just trying to get the names of the hedge</p> <p>08:51:21 20 funds with whom you had contact during --</p> <p>08:51:22 21 A. So it would be that one.</p> <p>08:51:25 22 Q. Okay. Who else?</p> <p>08:51:25 23 A. Cactus Capital which is Tony Braun. Whitney</p> <p>08:51:29 24 Tilson and his partner with the Tilson Funds, I believe,</p> <p>08:51:34 25 or T2 Partners or whatever they're called.</p>	<p>08:52:32 1 to keep going. Go ahead. Go ahead.</p> <p>08:52:47 2 MR. PORTER: I'll just keep --</p> <p>08:52:47 3 THE WITNESS: Let's keep going. I'll live.</p> <p>08:52:47 4 MR. PORTER: This one I have, but it's cold.</p> <p>08:52:47 5 MR. POYFAIR: Let's take a break.</p> <p>08:52:47 6 THE VIDEOGRAPHER: Off the record at 8:52.</p> <p>08:54:14 7 (Recess taken.)</p> <p>08:56:45 8 THE VIDEOGRAPHER: Back on the record at 8:56.</p> <p>08:56:45 9 BY MR. POYFAIR:</p> <p>08:56:45 10 Q. Okay. I think we had just finished a list of</p> <p>08:56:50 11 the hedge funds with whom you had contact during that</p> <p>08:56:53 12 period of time, January, February, and earlier March,</p> <p>08:56:54 13 okay?</p> <p>08:56:55 14 Next question is any broker/dealers that you</p> <p>08:56:59 15 were in contact during the same period of time?</p> <p>08:57:02 16 A. Not that I recall. And, you know, I did talk to</p> <p>08:57:05 17 broker/dealers, but it wasn't about USANA.</p> <p>08:57:07 18 Q. Yeah.</p> <p>08:57:08 19 A. I spoke at Lanier, but it wasn't about USANA.</p> <p>08:57:11 20 It was about --</p> <p>08:57:11 21 Q. You're saying "Lanier." Is that any different</p> <p>08:57:15 22 than Laminar?</p> <p>08:57:16 23 A. Oh, yeah. You're right. I'm sorry. I</p> <p>08:57:18 24 misspoke. That's the same company in Houston.</p> <p>08:57:20 25 Q. Yeah.</p>

12 (Pages 42 to 45)

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Barry Minkow, November 2, 2007
USANA HEALTH SCIENCES, INC. v. BARRY MINKOW, et al.

Page 46	Page 48
<p>08:57:20 1 A. My speech in Houston in January was not about 08:57:23 2 USANA. They didn't want any name. They just speak about 08:57:27 3 accounting fraud kind of thing, so -- but -- 08:57:30 4 Q. All right. 08:57:31 5 A. -- but they could be a broker/dealer, too. 08:57:32 6 Q. So I'm going to ask you the same types of 08:57:34 7 questions I asked you about the period of time in 08:57:36 8 December. Essentially it's going to be during -- from 08:57:40 9 January, February, and up to March 15th. That's the 08:57:44 10 period of time? 08:57:45 11 A. Right. 08:57:46 12 Q. And it has to do with discussions relating to 08:57:48 13 USANA. 08:57:48 14 A. Okay. Not just discussions with any 08:57:50 15 broker/dealer about like Lanier speaking about fraud in 08:57:54 16 January? 08:57:54 17 Q. US -- anything that had to do directly or 08:57:57 18 indirectly with USANA. So even if USANA wasn't mentioned, 08:58:01 19 but it was -- but MLM's in general were mentioned, that's 08:58:04 20 what I'm trying to get at, okay? I'm trying to get a list 08:58:09 21 of companies that I'd rather you include than exclude. 08:58:11 22 A. I probably said MLM's at Lanier, Lanier, 08:58:14 23 whatever, but I -- 08:58:15 24 Q. Laminar. 08:58:16 25 A. Laminar, but didn't -- in Houston, but didn't</p>	<p>08:59:08 1 Q. Portfolio managers? 08:59:09 2 A. That would be the same answer. 08:59:10 3 Q. Mutual funds? 08:59:13 4 A. Same answer. I may have, I may not have. I 08:59:16 5 don't recall specifically. 08:59:18 6 Q. How would I find that out? 08:59:20 7 Where would I look to determine whether you had 08:59:24 8 contact with these folk, those types of folks during this 08:59:27 9 period of time? 08:59:27 10 A. By changing the theory of the case that I naked 08:59:30 11 shorted two million shares of stock. Because if you start 08:59:32 12 with the wrong premise, you're going to end up with no -- 08:59:36 13 no corroborate. 08:59:36 14 I mean, I just didn't naked short the stock, and 08:59:38 15 I didn't corroborate or collaborate with anyone to do so. 08:59:41 16 That's why you're not finding that. 08:59:42 17 I did have who I mentioned, Tony Braun, Cactus 08:59:45 18 Capital, Laminar, but didn't talk about USANA. You can 08:59:48 19 call them and ask them. They did not get involved in the 08:59:50 20 stock even when it hit. 08:59:52 21 Q. You used the firm -- word, I'm sorry, 08:59:56 22 naked shorting? 08:59:57 23 A. Yes. 08:59:58 24 Q. Are you familiar with what that is? 08:59:59 25 A. Not until I got sued for it. Even when I was a</p>
Page 47	Page 49
<p>08:58:19 1 give any specific names. 08:58:20 2 Q. Okay. Other broker/dealers besides the ones you 08:58:22 3 have already identified? 08:58:25 4 A. Not that I recall, but I could be wrong. 08:58:27 5 Q. Asset managers, same question, same period of 08:58:29 6 time? 08:58:29 7 A. Yeah. Other than the ones I stated, I don't 08:58:33 8 recall. I may have, I may not have. I don't recall at 08:58:37 9 that time. 08:58:39 10 Q. Investment analysts? 08:58:41 11 A. That would be the same response. You know, may 08:58:44 12 have, may not have. I just don't recall. 08:58:45 13 Q. You can't remember any investment analysts that 08:58:48 14 you talked to during the early part of 2007? 08:58:49 15 A. I can't tell you what I had for dinner last 08:58:52 16 night. I mean -- 08:58:53 17 Q. I know. 08:58:54 18 A. -- no, I don't. 08:58:54 19 Q. I'm asking for your best recollection here. 08:58:55 20 A. Yeah. My best recollection is I do not. If 08:58:58 21 there's some document that you have that could help 08:59:00 22 refresh my recollection, I'd be happy to. 08:59:01 23 Q. Same question, same period of time for 08:59:04 24 institutional investors? 08:59:05 25 A. Same answer.</p>	<p>09:00:02 1 crook, I didn't naked short nothing. I didn't even know 09:00:04 2 what it was till you sued me for it. 09:00:07 3 Q. All right. You've never heard the term? 09:00:08 4 A. Oh, I've heard the term. Yes, sir, I've heard 09:00:10 5 the term. 09:00:11 6 Q. Okay. 09:00:12 7 A. But I didn't really have any working knowledge 09:00:13 8 of it. There's nothing in my background that I did it or 09:00:17 9 would know how to do it. 09:00:18 10 Q. All right. Up to right now this second I just 09:00:21 11 asked the question, are you familiar about -- strike that. 09:00:25 12 Up to this second, today, do you have any reason 09:00:28 13 to believe that anybody on the planet naked shorted -- 09:00:31 14 naked shorted USANA stock? 09:00:31 15 THE WITNESS: Now is what I think would be a 09:00:32 16 good time to tell them. 09:00:42 17 MR. PORTER: Tell them? 09:00:45 18 THE WITNESS: Yeah. 09:00:49 19 I -- I not only would not know that, but if that 09:00:52 20 were occurring, I would have reported that to the Federal 09:01:00 21 Bureau of Investigation or the Securities & Exchange 09:01:03 22 Commission because of the Fraud Discovery Institute's 09:01:06 23 parallel interest case that were going on at the very same 09:01:08 24 time. 09:01:09 25 MR. POYFAIR: Okay. I want to get to that, but</p>

13 (Pages 46 to 49)

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Barry Minkow, November 2, 2007
 USANA HEALTH SCIENCES, INC. v. BARRY MINKOW, et al.

Page 50	Page 52
<p>09:01:12 1 let me ask you to listen to the question that I asked and 09:01:15 2 answer that one. I think I know what the answer is, but I 09:01:18 3 need a clear answer. 09:01:27 4 THE WITNESS: Okay. 09:01:27 5 (Record read as follow: 09:01:27 6 "Question: Up to this second, today, do 09:01:27 7 you have any reason to believe that anybody on 09:01:27 8 the planet naked shorted -- naked shorted USANA 09:01:27 9 stock?") 09:01:27 10 THE WITNESS: No, sir, I do not. 09:01:30 11 BY MR. POYFAIR: 09:01:30 12 Q. Okay. Now, let's go back to what you just said, 09:01:32 13 and that was -- or one of reasons is, you would have 09:01:36 14 reported it? 09:01:37 15 A. Yes, sir. 09:01:37 16 Q. To the federal authorities? 09:01:39 17 A. Yes. 09:01:40 18 Q. Because you knew that that was illegal? 09:01:44 19 A. No. Because it was -- had a point of similarity 09:01:48 20 with something that at that period we were interested in 09:01:51 21 working with the government in generating information 09:01:53 22 about. 09:01:54 23 Q. And what is that? 09:01:56 24 A. It's an investigation that we were looking into. 09:02:00 25 Q. Involving?</p>	<p>09:02:51 1 A. I guess I -- when I got sued for it, probably. 09:02:54 2 Q. Before that? 09:02:55 3 A. I really -- yeah, I really just wasn't -- I had 09:02:58 4 heard the term. I didn't really understand what it 09:03:00 5 actually meant. I know you're going to think that is 09:03:03 6 terribly naive, to be sued for something you don't even 09:03:06 7 understand what it is, but that's the case. 09:03:08 8 I kind of had an understanding that I guess it's 09:03:11 9 a bad thing, to naked right of options, naked anything. 09:03:16 10 I've never done anything of that. 09:03:18 11 Q. Are you -- do you understand that naked shorting 09:03:21 12 of stock is a subject of the Securities & Exchange 09:03:24 13 rules -- Securities & Exchange Commission rules and 09:03:27 14 regulations? 09:03:29 15 A. I'm -- I'm -- I believe you, but -- 09:03:32 16 Q. Are you familiar with that fact before I just 09:03:35 17 informed you of that? 09:03:38 18 A. Yeah, I mean, I gathered that fact as the 09:03:41 19 progression of this incident has occurred, yes. 09:03:44 20 Q. Okay. When did you first understand that? 09:03:47 21 A. I had heard the name naked shorting. 09:03:50 22 Q. Okay. 09:03:53 23 A. But I never did it, and I never really truly 09:03:56 24 understood it until I felt I needed to. 09:03:59 25 Q. Okay. So --</p>
Page 51	Page 53
<p>09:02:02 1 A. Involving apparent improprieties that may have 09:02:05 2 occurred with -- 09:02:08 3 Q. What company? 09:02:11 4 A. -- with -- there was never any one company. 09:02:14 5 Q. Well, tell me what -- 09:02:17 6 A. I'd be happy to tell you off the record, but I 09:02:20 7 don't think it's, you know -- 09:02:23 8 MR. PORTER: It really is beyond the scope of -- 09:02:26 9 THE WITNESS: I'm not being evasive. I'd be 09:02:29 10 happy to tell you. 09:02:32 11 MR. PORTER: It was an investigation that he was 09:02:35 12 working with the FBI on. 09:02:38 13 THE WITNESS: Right. 09:02:41 14 MR. POYFAIR: Okay. 09:02:44 15 MR. PORTER: It has nothing to do with USANA. 09:02:47 16 MR. POYFAIR: Okay. I'll tell you what. Why 09:02:50 17 don't you guys talk about it off the record when we take a 09:02:53 18 break and then you and I can talk about what it is. 09:02:56 19 MR. PORTER: Yeah. 09:02:59 20 MR. POYFAIR: Because I don't want to waste time 09:03:02 21 on the record on that topic. 09:03:05 22 THE WITNESS: Thank you. 09:03:08 23 BY MR. POYFAIR: 09:03:11 24 Q. So was there a time when you understood that 09:03:14 25 naked shorting of stock was -- was illegal?</p>	<p>09:03:58 1 A. But I was interested in criminal -- of any 09:04:01 2 wrongdoing of anybody who would do something like that 09:04:04 3 illegally that would be involved directly or indirectly 09:04:07 4 with me. 09:04:10 5 Q. So it's your testimony that you are unfamiliar 09:04:13 6 with any person or entity that naked shorted a single 09:04:16 7 share of USANA stock? 09:04:19 8 A. That is absolutely accurate. And I would only 09:04:22 9 add, nor did I receive any compensation from anybody who 09:04:25 10 naked shorted or may have or may not have naked shorted 09:04:28 11 any stock. 09:04:31 12 Q. Okay. All right. Now, I want to focus your 09:04:34 13 attention on the time period from March 15th until now. 09:04:37 14 A. Okay. 09:04:40 15 Q. And I am going to go through the same types of 09:04:43 16 questions regarding the same times of entities. Okay? 09:04:46 17 A. Yeah. 09:04:49 18 Q. What I'm trying to do here is generate a list of 09:04:52 19 the types of entities we talked about that you have had 09:04:55 20 contact with during that period of time relating to MLM's 09:04:58 21 in general and USANA. Okay? 09:05:01 22 A. MLM's in general? 09:05:04 23 MR. PORTER: That's a little broad. 09:05:07 24 BY MR. POYFAIR: 09:05:10 25 Q. I've been known to ask broad questions.</p>

14 (Pages 50 to 53)

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Barry Minkow, November 2, 2007
USANA HEALTH SCIENCES, INC. v. BARRY MINKOW, et al.

Page 54	Page 56
<p>09:05:08 1 sometimes even overbroad questions. But if you have 09:05:10 2 difficulty -- 09:05:11 3 A. Yeah. 09:05:12 4 Q. -- with that -- with that -- what is that 09:05:14 5 difficulty? 09:05:14 6 A. We have an ongoing case, so it's unrelated. 09:05:18 7 MR. PORTER: And I'd say it's beyond the scope 09:05:19 8 of the order. 09:05:21 9 BY MR. POYFAIR: 09:05:21 10 Q. Okay. Let's just confine it then to USANA, 09:05:23 11 that's fine. 09:05:25 12 A. Are you asking me to like memorize these 09:05:26 13 interrogatories? Because I promise you that there's 09:05:28 14 nobody on the list -- 09:05:29 15 Q. No. 09:05:29 16 A. -- that I didn't not include that I could 09:05:30 17 recall. 09:05:31 18 Q. No. 09:05:31 19 A. But if I don't remember somebody on the 09:05:33 20 interrogatories, do you have them so I can -- will you 09:05:35 21 tell me the name? 09:05:35 22 Q. No. I'm going to ask you to get your 09:05:37 23 independent recollection, and we'll go over it later on. 09:05:39 24 I'm not trying to trick you here -- 09:05:41 25 A. Okay.</p>	<p>09:07:12 1 Anybody else that I can add to the list? 09:07:13 2 I've got Tony Forsman, Gary Kaplowitz, Tony 09:07:16 3 Braun, Tim Rice, Franz Tudor from Shulton Feltz. 09:07:18 4 A. And then from Gary's office there's people 09:07:21 5 there, so people at his office. 09:07:24 6 Q. The name of Tony Forsman's -- 09:07:26 7 A. No. I'm talking about Gary Kaplowitz. 09:07:28 8 Q. Oh -- yeah. 09:07:29 9 A. Tony works alone, but Gary has a partner and 09:07:31 10 people that work within his office. 09:07:33 11 Q. The name of the fund? 09:07:35 12 A. I don't recall the name of the fund. We had no 09:07:37 13 financial connection. Hedge Fund Partners or something. 09:07:41 14 But I'll get it for you, if you want. No problem. 09:07:47 15 Q. And who's Tim Rice with? 09:07:52 16 A. You know, I -- I think he was in Louisiana. I 09:07:56 17 forget the name of the firm, but I'll get it for you. I'm 09:07:59 18 not being evasive, I just don't remember. 09:08:03 19 Q. Okay. Have you now identified for me all the 09:08:06 20 hedge funds with whom you've had contact from March 15th 09:08:10 21 until now? 09:08:11 22 A. Gosh, I hope so. 09:08:12 23 Q. All right. That's all you can recall now? 09:08:14 24 A. Yeah. By heart, yeah. 09:08:16 25 Q. All right. Same question, same period of time,</p>
Page 55	Page 57
<p>09:05:41 1 Q. -- or get you hooked. Okay? 09:05:42 2 A. All right. 09:05:43 3 Q. I'm just trying to get your best recollection. 09:05:45 4 A. Fair enough. 09:05:45 5 Q. All right. So same period -- or that period of 09:05:48 6 time, March 15 until now, identify for me any hedge funds, 09:05:53 7 employees, officers, directors of hedge funds that you've 09:05:56 8 had contact with? 09:05:58 9 MR. PORTER: About USANA? 09:05:59 10 MR. POYFAIR: About USANA. 09:06:02 11 THE WITNESS: Although probably more current in 09:06:04 12 the interrogatories, Tony Forsman. 09:06:11 13 BY MR. POYFAIR: 09:06:11 14 Q. Okay. 09:06:18 15 A. And again this is already known. So Tony 09:06:22 16 Forsman, Gary Kuplowitz, you know, Tony Braun, obviously, 09:06:33 17 at Cactus Capital. Oh, Rice, Tim Rice. Guy from Shulton 09:06:46 18 Feltz Group in New York by the name of Franz Tudor. 09:06:51 19 Other than the list I just gave you, other than 09:06:58 20 Mr. Braun giving us \$10,000 in September of '07 or late 09:07:04 21 August, none of those gentlemen ever paid us a dime other 09:07:07 22 than Mr. Tilson and Mr. Braun. 09:07:08 23 Q. Okay. I'm trying to complete the list -- 09:07:10 24 A. Right. 09:07:10 25 Q. -- that I asked for earlier.</p>	<p>09:08:20 1 for broker/dealers? 09:08:28 2 A. Oh, wait. There's a guy at Bear Stearns, 09:08:31 3 Jacobson. Eric Jacobson. I guess he could go on the 09:08:34 4 first list. 09:08:36 5 Q. And during this period of time -- 09:08:38 6 A. Yeah. 09:08:39 7 Q. -- March 15th to right now? 09:08:41 8 A. Yes, sir. Yes, sir. Eric Jacobson from Bear 09:08:45 9 Stearns. 09:08:46 10 Josh Herron. Josh Herron, is that a name? 09:08:49 11 MR. PORTER: This is a hedge fund or 09:08:51 12 broker/dealer? 09:08:51 13 THE WITNESS: Broker -- I don't know what he is. 09:08:54 14 BY MR. POYFAIR: 09:08:54 15 Q. Bear Stearns? 09:08:55 16 A. No, no. Josh isn't Bear Stearns. 09:08:57 17 And then there's Steve Nasoff who works for 09:09:02 18 Josh. Steve is a Citibank guy. I think he's a money 09:09:06 19 manager in Orange County. He was in the interrogatory, I 09:09:10 20 think, and then Josh Herron who's a private guy. And, of 09:09:18 21 course, neither one of them ever gave me any money. 09:09:19 22 Q. What was Eric's name? 09:09:21 23 A. Jacobson. 09:09:23 24 Q. And he's with Bear Stearns? 09:09:24 25 A. Yeah. And he never gave me any money.</p>

15 (Pages 54 to 57)

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Barry Minkow, November 2, 2007
USANA HEALTH SCIENCES, INC. v. BARRY MINKOW, et al.

Page 58	Page 60
<p>09:09:31 1 Q. Same questions, same period of time with respect 09:09:34 2 to USANA with respect to investment analysts, who have you 09:09:44 3 had contact with? 09:09:45 4 A. You know, there -- when the "Wall Street 09:09:48 5 Journal" article hit as far as investment analysts, I got 09:09:52 6 tons of calls, and I talked to a lot of people. I'm 09:09:57 7 positive I talked to broker/dealers and, you know, full 09:10:01 8 disclosure, gave them my feelings about USANA -- 09:10:04 9 Q. Okay. 09:10:04 10 A. -- about why I felt that way. 09:10:06 11 Q. So we've talked about-- 09:10:06 12 A. Numerous. 09:10:06 13 Q. Okay. So we both talked about the 09:10:09 14 broker/dealers that you can recall -- 09:10:10 15 A. Right. 09:10:10 16 Q. -- right? 09:10:10 17 And can you recall any others? 09:10:13 18 A. I don't recall, but I do want to tell you there 09:10:15 19 were a lot that called me based on the media exposure. 09:10:18 20 Q. How did you communicate with them other than by 09:10:21 21 phone, by e-mail also? 09:10:22 22 A. Not typically. They just called and want to 09:10:23 23 talk and say, you know, I want to know why you feel this 09:10:28 24 way or what, you know, do you feel about this or that? So 09:10:31 25 that was pretty much -- multiple calls, though.</p>	<p>09:11:37 1 A. I -- I know you won't like this. 09:11:39 2 I'm happy to give them to you. I have nothing 09:11:42 3 to hide. I'll give you the bills. You got it. You can 09:11:44 4 have all my (888) 300-8307 bills. No problem. 09:11:53 5 The only thing if you have access to law 09:11:56 6 enforcement and other investigations just, you know, 09:11:59 7 obviously if it's not related to USANA -- 09:12:01 8 Q. Yeah. We'll talk about it. We'll talk about 09:12:03 9 that, too, but we're only interested in USANA -- 09:12:05 10 A. Okay. 09:12:06 11 Q. -- all right, and things related to USANA. 09:12:10 12 Okay. So, I've got now -- we talked about hedge 09:12:13 13 funds, broker/dealers during that period of time. Now I 09:12:15 14 want to move on to investment analysts, and we were 09:12:18 15 getting into that a little bit. 09:12:18 16 Identify for me, name the names of investment 09:12:21 17 analysts that you -- that you can recall. 09:12:24 18 A. Right. Right. 09:12:25 19 Q. Only ones that you can recall during that period 09:12:26 20 of time? 09:12:27 21 A. I -- I just don't recall other than what I've 09:12:30 22 named. Forgive me. Of any other -- 09:12:34 23 Q. Not one? 09:12:34 24 A. I mean, there was -- it wasn't like -- I guess 09:12:37 25 that's the surprising part because to my knowledge, none</p>
Page 59	Page 61
<p>09:10:34 1 Q. Okay. And on what phone number would these 09:10:43 2 calls have in? 09:10:47 3 A. (888) 300-8307. 09:10:53 4 Q. 3807? 09:10:53 5 A. (888) 300-8307. 09:10:57 6 Q. 8307. 09:10:58 7 A. That's the primary number of the Fraud Discovery 09:11:00 8 Institute that if you Goggled me that would come up, and 09:11:02 9 that's the number one. 09:11:04 10 Q. Who answers that phone -- or at that time who 09:11:06 11 answered that phone? 09:11:06 12 A. The same one that is now. It's a voice mail 09:11:08 13 system. 09:11:08 14 Q. So no live person would answer that phone? 09:11:13 15 A. Ever. 09:11:14 16 Q. And you get periodic bills for that number? 09:11:18 17 A. Yes, sir. I presume I do. 09:11:19 18 Q. And -- 09:11:20 19 A. I presume it's not free. 09:11:21 20 Q. Look, we have to answer -- ask these questions. 09:11:25 21 A. Yeah, I understand. 09:11:27 22 Q. And do those bills reflect the numbers that you 09:11:31 23 call out? 09:11:32 24 A. I -- I have never seen a bill. 09:11:36 25 Q. Do you keep them?</p>	<p>09:12:41 1 of, for example, the pro USANA analysts called me and 09:12:44 2 said, Hey, why do you feel this way? You know. You know, 09:12:48 3 we could be wrong, give me some documents. You know that 09:12:51 4 wasn't the response. I thought I would get those calls. 09:12:53 5 I didn't get those calls -- 09:12:54 6 Q. Okay. 09:12:55 7 A. -- that I had got from that side of the coin. 09:12:57 8 Q. And all I'm asking for is your best recollection 09:12:59 9 of names of the investment analysts that you spoke to 09:13:03 10 during the period of time? 09:13:03 11 A. And I don't recall. I may have. I don't recall 09:13:07 12 them by name. 09:13:08 13 Q. Okay. Did you get any e-mails from any 09:13:11 14 investment analysts during this period of time? 09:13:13 15 A. To my knowledge, none that we didn't already. 09:13:16 16 you know, provide access to. 09:13:18 17 Q. Okay. 09:13:19 18 A. I'm not aware of any analyst that has written a 09:13:22 19 negative report about USANA based on my conversations -- 09:13:26 20 Q. Yeah. 09:13:26 21 A. -- which would help refresh my memory if that 09:13:28 22 had happened. 09:13:29 23 Q. Yeah. 09:13:29 24 At this point I'm only interest in the names 09:13:32 25 that you can recall.</p>

16 (Pages 58 to 61)

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Barry Minkow, November 2, 2007
USANA HEALTH SCIENCES, INC. v. BARRY MINKOW, et al.

Page 62	Page 64
<p>09:13:32 1 A. Okay.</p> <p>09:13:34 2 Q. Same question, same period of time for asset</p> <p>09:13:41 3 managers?</p> <p>09:13:42 4 A. Don't recall. Other than what I've already</p> <p>09:13:44 5 provided.</p> <p>09:13:45 6 Q. How would I find that out?</p> <p>09:13:47 7 A. I mean --</p> <p>09:13:49 8 Q. If I looked at your e-mail account and I looked</p> <p>09:13:51 9 at your phone records, would it be possible to figure out</p> <p>09:13:55 10 which asset managers you spoke to during this period of</p> <p>09:14:00 11 time, you think?</p> <p>09:14:01 12 A. They're -- I don't believe there were any or</p> <p>09:14:03 13 many beyond the scope of which I have already disclosed.</p> <p>09:14:06 14 If there were, they would either be memorable or I would,</p> <p>09:14:09 15 you know, have placed them in the interrogatories. So I,</p> <p>09:14:13 16 you know -- you just have -- you got to understand the</p> <p>09:14:17 17 context is, an article comes out and multiple people are</p> <p>09:14:20 18 calling you asking you questions about your report.</p> <p>09:14:22 19 Q. Okay.</p> <p>09:14:23 20 A. They range from distributors to analysts to</p> <p>09:14:24 21 broker/dealers to asset managers. I wouldn't know an</p> <p>09:14:27 22 asset manager from a fund manager kind of thing in terms</p> <p>09:14:31 23 of my mind. People called me who appeared to be</p> <p>09:14:33 24 interested in USANA.</p> <p>09:14:35 25 Q. Okay. I'm just trying to break them down</p>	<p>09:16:09 1 that you can recall in the categories we've talked about,</p> <p>09:16:13 2 right?</p> <p>09:16:13 3 A. Uh-huh.</p> <p>09:16:14 4 Q. Yes?</p> <p>09:16:15 5 A. Yes, sir.</p> <p>09:16:17 6 Q. My question is: Are you familiar with anybody</p> <p>09:16:20 7 who spoke to any of those people or groups of people on</p> <p>09:16:26 8 your behalf or on the behalf of the Fraud Discovery</p> <p>09:16:31 9 Institute other than yourself; for example, Mr. Lopez?</p> <p>09:16:35 10 A. No. No. To know him is to not ask that</p> <p>09:16:39 11 question. So absolutely not. Does not -- not Juan.</p> <p>09:16:43 12 Q. How about family members?</p> <p>09:16:45 13 A. No.</p> <p>09:16:46 14 Q. How about church members?</p> <p>09:16:47 15 A. Not to my knowledge. I mean, I can't know what</p> <p>09:16:50 16 they did or didn't do, what they read in the paper, but</p> <p>09:16:52 17 not to my knowledge.</p> <p>09:16:54 18 Q. Any other associates?</p> <p>09:16:56 19 A. No.</p> <p>09:16:57 20 Q. Okay.</p> <p>09:16:58 21 A. Not to my knowledge. I mean, I wouldn't know</p> <p>09:17:01 22 what they did or didn't do.</p> <p>09:17:02 23 Q. I understand. I'm just asking you for what you</p> <p>09:17:04 24 know.</p> <p>09:17:05 25 A. Yeah.</p>
Page 63	Page 65
<p>09:14:36 1 into --</p> <p>09:14:37 2 A. And I don't have the knowledge to be able to do</p> <p>09:14:38 3 that. I just gave you everybody I had.</p> <p>09:14:40 4 Q. Okay. So you and I need to do a little better</p> <p>09:14:43 5 job of not talking at the same time.</p> <p>09:14:45 6 A. Sorry.</p> <p>09:14:46 7 Q. It's okay. We're both doing it. Don't worry</p> <p>09:14:48 8 about it. We're just -- it's very difficult on the court</p> <p>09:14:51 9 reporter.</p> <p>09:14:52 10 So same question, same period of time with</p> <p>09:14:55 11 respect to institutional investors that you had contact</p> <p>09:15:01 12 with about USANA?</p> <p>09:15:03 13 A. I think Josh Herron would probably be a</p> <p>09:15:07 14 institutional -- no, he's not institute. He manages his</p> <p>09:15:07 15 own money like Tony Braun. I don't know.</p> <p>09:15:11 16 Q. Any others besides the ones you have already</p> <p>09:15:13 17 identified?</p> <p>09:15:13 18 A. Not that I can recall.</p> <p>09:15:15 19 Q. And how about mutual funds?</p> <p>09:15:22 20 A. Not that I recall. You know, not that I recall.</p> <p>09:15:48 21 Q. Okay. Now, the next few questions I'm going to</p> <p>09:15:52 22 ask focuses on the period of time since November of 2006</p> <p>09:15:58 23 until now. Okay?</p> <p>09:16:02 24 And the question is -- well, what you've just</p> <p>09:16:05 25 told me is that you've identified for me all of the folks</p>	<p>09:17:19 1 Q. There's a reference to a minister friend of</p> <p>09:17:21 2 yours in Texas. Who is that?</p> <p>09:17:24 3 A. Somebody who wrote me, and I never met -- well,</p> <p>09:17:26 4 I met his wife. Came to our church one time. He wrote me</p> <p>09:17:29 5 when the USANA thing started.</p> <p>09:17:30 6 Q. What is his name?</p> <p>09:17:31 7 A. I don't recall. There's an e-mail you asked me.</p> <p>09:17:34 8 There was an e-mail about it. And he's just somebody who</p> <p>09:17:37 9 called me out of the blue. I'm in USANA. I may want you</p> <p>09:17:40 10 to help me. I may not. I have people in the USANA that</p> <p>09:17:43 11 are whatever, and that was it.</p> <p>09:17:45 12 I mean, so it wasn't somebody I ever meant face</p> <p>09:17:48 13 to face other than his wife visiting our church. No, you</p> <p>09:17:51 14 know, preexisting relationship and certainly no financial</p> <p>09:17:54 15 one.</p> <p>09:18:06 16 Q. Can you identify for me the investigators that</p> <p>09:18:09 17 you employed for your research into USANA?</p> <p>09:18:18 18 A. Juan, obviously. Lopez, Polt Paladino, David</p> <p>09:18:25 19 Bell from the Isle of Man. Let's see. Terry Gilbeau from</p> <p>09:18:38 20 CheckMate Investigative Services.</p> <p>09:18:46 21 Q. Who else?</p> <p>09:18:51 22 A. This is to date?</p> <p>09:18:53 23 Q. Yes.</p> <p>09:18:56 24 A. Which includes like China?</p> <p>09:18:58 25 Q. Sure does.</p>

17 (Pages 62 to 65)

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Barry Minkow, November 2, 2007
USANA HEALTH SCIENCES, INC. v. BARRY MINKOW, et al.

Page 66	Page 68
<p>09:18:59 1 A. Yeah. What does that have to do with naked 09:19:03 2 shorting anyway? 09:19:07 3 MR. PORTER: What time? 09:19:10 4 THE WITNESS: China investigators have to do 09:19:11 5 with naked shorting? 09:19:12 6 They're investigators that we used in our 09:19:14 7 defense against the suit, you know. That's like -- 09:19:18 8 MR. POYFAIR: Oh, I see what you're saying. 09:19:19 9 THE WITNESS: -- what have the investigators 09:19:20 10 done to defense against the suit? You're asking about my 09:19:23 11 defense. 09:19:23 12 MR. PORTER: You mean to the initial report? 09:19:24 13 MR. POYFAIR: I'm talking -- 09:19:25 14 THE WITNESS: No. No. He's talking about -- 09:19:26 15 MR. POYFAIR: No. No. Any investigation at all 09:19:28 16 about USANA -- 09:19:30 17 THE WITNESS: To date? 09:19:30 18 MR. POYFAIR: -- excluded -- and what I want to 09:19:31 19 exclude from that is any investigators that are working 09:19:32 20 under the supervision of your lawyers. 09:19:32 21 THE WITNESS: Well, see -- yeah, but we're 09:19:33 22 investigators, so -- you know. We -- lawyers come to us 09:19:34 23 for advice on what to investigate. So I mean -- 09:19:35 24 MR. POYFAIR: So -- 09:19:36 25 THE WITNESS: -- this is work product from our</p>	<p>09:20:44 1 THE WITNESS: Big help you are. At any time, 09:20:49 2 you can just (indicating) "No." 09:20:53 3 Three investigators are, GPW in London and New 09:20:58 4 York, and Fred, and I'm trying to think of his last name. 09:21:14 5 Excuse me one second. I'll get his name for you. His 09:21:22 6 firm is in Hong Kong, so hold on. Let me get it for you. 09:21:42 7 I won't take another second if I can't get it. 09:21:44 8 All right. There's three different 09:21:46 9 investigators we're using in Hong Kong and China that are 09:21:49 10 in part using with USANA. And -- 09:21:56 11 BY MR. POYFAIR: 09:21:56 12 Q. Okay. I've got JPW and Fred? 09:22:00 13 A. Or GPW. 09:22:00 14 Q. GPW and Fred? 09:22:02 15 A. That's Filley & Associates. 09:22:04 16 There's GPW. 09:22:04 17 Q. Yeah. 09:22:06 18 A. One. 09:22:06 19 Q. Yes. 09:22:06 20 A. Filley & Associates, F-i-l-l-e-y, and 09:22:09 21 Associates. That's two. And the owner of that Filley & 09:22:16 22 Associates lives in China with his Chinese wife. They're 09:22:19 23 based in San Francisco. 09:22:22 24 Q. All right. 09:22:22 25 A. So I work with a guy in San Francisco, but I</p>
Page 67	Page 69
<p>09:19:48 1 affirmative defense to the claims in part of the suit. 09:19:52 2 What is going on in China, for example. 09:19:53 3 MR. POYFAIR: Okay. 09:19:55 4 THE WITNESS: So it's my work product from my -- 09:19:58 5 MR. POYFAIR: I think that's discoverable. What 09:20:00 6 is not discoverable is work product. 09:20:03 7 MR. PORTER: Uh-huh. 09:20:03 8 MR. POYFAIR: And what is discoverable is 09:20:04 9 everything else. 09:20:06 10 MR. PORTER: Attorney-client. 09:20:07 11 MR. POYFAIR: Attorney-client obviously. So I 09:20:08 12 think that's discoverable. And I -- obviously, you have 09:20:10 13 counsel to advise you on that, but you guys want to take a 09:20:13 14 break and talk about it, that will be fine, but I want 09:20:15 15 to -- I'd like to delve into that. 09:20:16 16 MR. PORTER: I think you can answer. 09:20:19 17 THE WITNESS: Okay. We -- 09:20:23 18 MR. POYFAIR: But other than that, I think you 09:20:24 19 must answer. 09:20:25 20 THE WITNESS: Yeah. There's a couple 09:20:30 21 investigative agencies that we're using for our China 09:20:34 22 which is -- you know, that are investigating USANA, and -- 09:20:39 23 but it spills into another company, too, so -- but still 09:20:42 24 answer? 09:20:44 25 MR. PORTER: (Nods head.)</p>	<p>09:22:24 1 also work in China with the guy who lives there, and his 09:22:28 2 wife speaks Mandarin. 09:22:29 3 And then we have a two Hong Kong based 09:22:32 4 investigators under Fred's firm, and I just forget the 09:22:36 5 name of his firm. I'll get that to you. And then, of 09:22:40 6 course, the GPW or GWP Investigations out of New York and 09:22:44 7 London. 09:22:45 8 Q. All right. 09:22:49 9 A. They're the team that we use to, you know, 09:22:53 10 assimilate evidence about the cheating in China and 09:22:59 11 allegations of USANA. 09:23:02 12 Q. Okay. Any other investigators that you've 09:23:06 13 been -- that you've contracted with or that you've used? 09:23:13 14 A. You know, I'd say check the record, but I think 09:23:15 15 that's pretty accurate. But I'm not aware of anybody that 09:23:18 16 I may have used that I haven't already mentioned unless 09:23:21 17 it's in some interrogatory that I have forgotten. 09:23:25 18 Q. Okay. Now, I need you to identify for me the -- 09:23:31 19 the MLM analysts that you consulted with? 09:23:39 20 A. Like Mr. Fitzpatrick? 09:23:44 21 Be Mr. Taylor, Mr. Fitzpatrick. 09:23:48 22 Q. Mr. Brooks? 09:23:49 23 A. Yes. Well, he's a lawyer. You call him an 09:23:52 24 analyst, but, yeah. Yeah, he counts, yeah. Mr. Brooks. 09:23:58 25 There -- Mr. Krogar who did the food analysis Penn State</p>

18 (Pages 66 to 69)

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Barry Minkow, November 2, 2007
USANA HEALTH SCIENCES, INC. v. BARRY MINKOW, et al.

Page 70	Page 72
<p>09:24:08 1 University. 09:24:09 2 Q. Who else? 09:24:13 3 A. This -- does this go into documentary? 09:24:16 4 MR. PORTER: The what? 09:24:20 5 (Instruction from the reporter.) 09:24:20 6 THE WITNESS: That's because I don't want you 09:24:20 7 to. 09:24:21 8 MR. PORTER: You want to take a break? 09:24:23 9 THE WITNESS: No. I guess it's the same answer. 09:24:26 10 MR. PORTER: Wait a minute. Let's -- let's take 09:24:30 11 a break because I don't know you -- I don't know what you 09:24:32 12 are thinking. 09:24:33 13 THE WITNESS: Just one second. 09:24:36 14 MR. POYFAIR: Let's take two because I need to 09:24:38 15 take a break. 09:24:39 16 THE VIDEOGRAPHER: Off the record at 9:24. 09:24:39 17 (Recess taken.) 09:24:39 18 THE VIDEOGRAPHER: Back on the record at 9:34. 09:34:29 19 BY MR. POYFAIR: 09:34:29 20 Q. Have you now identified for me all of the 09:34:34 21 investigators with whom you've worked? 09:34:36 22 A. I believe I have, sir. 09:34:37 23 Q. Okay. Now, I want to move on to attorneys. 09:34:41 24 A. Yes, sir. 09:34:41 25 Q. Okay. Again, from the middle of 2006 when you</p>	<p>09:35:45 1 Q. Right. 09:35:45 2 What was his name, Bob Frucht? 09:35:47 3 A. Yes. 09:35:47 4 Q. Can you spell that? 09:35:49 5 A. F-r-u-c-h-t. And he left for -- it's on my 09:35:53 6 disclosure letter, his name. 09:35:55 7 Q. Okay. What other law firms or lawyers? 09:36:01 8 Buchanan, Ingersoll, Doug Brooks. Who else? 09:36:07 9 A. I don't know. I -- I -- do you know someone 09:36:10 10 that I don't? 09:36:11 11 Q. No. No. 09:36:12 12 Can you think of any -- 09:36:13 13 A. Not that I can think of, but I could be wrong, 09:36:14 14 but not that I -- 09:36:16 15 Q. How about the law firm in Utah? 09:36:19 16 A. Greg? 09:36:19 17 Q. Yes. 09:36:20 18 A. No. That was Chuck -- that was -- he was 09:36:21 19 brought in -- 09:36:22 20 Q. Okay. 09:36:22 21 A. -- after the suit. 09:36:23 22 Q. I'm talking about the contact that you and Fraud 09:36:25 23 Discovery Institute had with lawyers. One is Brooks? 09:36:30 24 A. Yes, sir. 09:36:31 25 Q. The other one is Buchanan, Ingersoll?</p>
Page 71	Page 73
<p>09:34:47 1 first thought you might conduct an investigation of USANA 09:34:51 2 until now, what lawyers have you been in contact with? 09:34:55 3 We've got Doug Brooks, yes? 09:34:58 4 A. Yes. 09:34:58 5 Q. And we've got the Buchanan -- 09:35:00 6 A. He's not a short seller. 09:35:02 7 Q. He's not. Okay. 09:35:02 8 A. I promise you that. 09:35:04 9 Q. Okay. Do you know -- okay. 09:35:05 10 What other attorneys have you had contact with? 09:35:08 11 A. My counsel Buchanan, Ingersoll & Rooney, but I 09:35:13 12 mean, is that -- 09:35:14 13 Q. Okay. Who else? 09:35:16 14 A. And there was an East Coast, West Coast 09:35:19 15 connection. 09:35:19 16 Q. With Buchanan, Ingersoll? 09:35:22 17 A. Yeah. One of the -- yeah, because one of the 09:35:23 18 internal controllers was -- they had Bob Frucht who was at 09:35:27 19 Buchanan at the time. And he left at the time -- about 09:35:30 20 the time I released the report, a week or two before, but 09:35:33 21 I would constantly be in contact with him because he was 09:35:35 22 more of an SEC expert than my partner, and I'd ask him 09:35:41 23 questions within the firm of Buchanan, Ingersoll about -- 09:35:43 24 Q. Okay. 09:35:44 25 A. -- stuff.</p>	<p>09:36:32 1 A. Yes, sir. 09:36:33 2 Q. East Coast and West Coast? 09:36:35 3 A. Yes, sir. 09:36:35 4 Q. And the other one is the law firm in Utah, you 09:36:40 5 used local counsel? 09:36:41 6 A. Yes. After we were sued, yes. 09:36:43 7 Q. All right. And any others? 09:36:46 8 A. Not that I'm aware of. 09:36:47 9 Q. Alexander Schack? 09:36:49 10 A. Oh, yeah, but he wasn't my lawyer. He called me 09:36:51 11 to get information about -- yeah, he called me. 09:36:53 12 Q. Yeah. I'm not talking about somebody who has 09:36:55 13 represented you. 09:36:55 14 A. Right. 09:36:56 15 Q. I'm not just limiting it to that. 09:36:57 16 A. Yeah, but we don't have any financial connection 09:36:59 17 with Mr. Schack. He filed a distributors' class action 09:37:03 18 lawsuit on behalf of the class. 09:37:05 19 Q. Okay. And who else besides Mr. Schack? 09:37:08 20 A. That's all I'm aware of. 09:37:09 21 He -- and I do have his -- he called me. So we 09:37:14 22 saved his voice mail to preserve that we didn't find him, 09:37:17 23 that he called us and -- yeah. 09:37:18 24 Q. Okay. 09:37:20 25 A. So we have the voice mail saved.</p>

19 (Pages 70 to 73)

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Barry Minkow, November 2, 2007
USANA HEALTH SCIENCES, INC. v. BARRY MINKOW, et al.

Page 74	Page 76
<p>09:37:22 1 Q. Okay. Allow -- we need to go talk about that, I 09:37:25 2 guess. 09:37:27 3 Is it your practice from time to time to save 09:37:30 4 voice mails? 09:37:31 5 A. If I think it's -- it's an arbitrary kind of 09:37:35 6 decision. Ones that I think may be of value necessarily. 09:37:38 7 If I think they're of value. 09:37:41 8 Q. And how do you save them? 09:37:42 9 A. Press two on the thing. It's like, you know, 09:37:45 10 you go in your voice mail on (888) 300-8307, and then you 09:37:49 11 put in your password, and they have, you know, you have 11 09:37:53 12 saved messages. 09:37:53 13 Q. Okay. And do you -- how do you -- do you ever 09:37:57 14 transcribe them? 09:37:57 15 A. No. No. I haven't been -- it hasn't come to 09:38:00 16 that. It could be like somebody, I'm in this fraud, I, 09:38:04 17 you know, want to leave a confidential message. So we 09:38:08 18 preserve them and sometimes the bureau will listen to 09:38:10 19 them. I'll play a -- for the FBI if I think it's serious 09:38:15 20 or something. 09:38:22 21 Q. How many voice mails have you saved that you can 09:38:25 22 recall that relate in any way to the USANA matter? 09:38:34 23 A. I -- you know, 10 or so, I guess. I could -- 09:38:38 24 Q. Do they still exist? 09:38:45 25 A. I have no problem -- well, I think they --</p>	<p>09:39:36 1 A. To my knowledge. 09:39:37 2 Q. Okay. Have you been in contact with any of the 09:39:39 3 securities class action lawyers? Let me back up. 09:39:43 4 A. That's a subject of bitterness. No, I have not. 09:39:47 5 That's easy. I have not. 09:39:48 6 Q. All right. Have you or anybody that you're 09:39:52 7 affiliated with had any contact with any of the lawyers 09:39:55 8 that brought any of the class action suits? 09:39:59 9 A. Other than Mr. Schack, yeah, no, sir, I haven't. 09:40:01 10 Not that I know of. 09:40:02 11 Q. Okay. Have you or anybody you're affiliated 09:40:05 12 with, including any of your present lawyers, had contact 09:40:07 13 with any lawyers involved in the class action suit? 09:40:13 14 A. Other than Alex Schack, not that I'm aware of. 09:40:15 15 Q. That includes the securities class action, you 09:40:18 16 knew that was filed, right? 09:40:18 17 A. Yeah. 09:40:19 18 Q. And also the distributor class action, right? 09:40:22 19 A. That's Alex Schack. 09:40:24 20 Q. And there's a derivative action that is filed. 09:40:27 21 Do you understand that? 09:40:29 22 A. Okay, yeah. But I don't know these people. 09:40:32 23 They didn't call me. They didn't say, Hey, can I pay the 09:40:35 24 bills for your investigative fees for all that good work 09:40:38 25 that you do that will have a parallel interest with us?</p>
Page 75	Page 77
<p>09:38:47 1 MR. PORTER: Just answer yes or no. 09:38:48 2 THE WITNESS: Yeah, I think they exist, whatever 09:38:50 3 I have, yeah. 09:38:51 4 BY MR. POYFAIR: 09:38:51 5 Q. Okay. I'm going to ask you to preserve them. 09:38:53 6 A. Yeah. 09:38:54 7 Q. So then we'd like to have those. 09:38:57 8 A. Yeah. 09:38:57 9 Q. Okay. Good. 09:38:58 10 All right. What we were talking about -- 09:39:01 11 A. But those are part of Alex calling me is one of 09:39:04 12 them. 09:39:04 13 Q. Okay. Who -- what other lawyers have you had 09:39:06 14 contact with, not that represented you necessarily, but 09:39:09 15 that you have had contact with respect to USANA? 09:39:14 16 A. There's a lawyer in San Diego, I forget his 09:39:16 17 name, that we had talked about using to represent somebody 09:39:23 18 in the class before -- well, I don't know if was before 09:39:27 19 Alex Schack. I don't know how he came in the picture. 09:39:30 20 Q. Who was that? 09:39:31 21 A. I forget his name. We never -- we never did 09:39:33 22 anything. 09:39:33 23 Q. Who else? 09:39:34 24 A. That's all, sir. 09:39:35 25 Q. Okay.</p>	<p>09:40:40 1 No, didn't get any of those calls. Not one. 09:40:44 2 Point of bitterness, yeah. Nobody calls me. 09:40:47 3 You call me. You sue me. They don't call me. 09:40:50 4 Q. Well, then I don't have to ask that question. 09:40:54 5 All right. Now, I want you to identify for me 09:40:56 6 the regulatory agencies with which you have had contact? 09:41:02 7 A. Other than -- 09:41:03 8 MR. PORTER: Objection. Scope. 09:41:06 9 MR. POYFAIR: Beyond the scope? 09:41:06 10 MR. PORTER: Yeah. 09:41:07 11 BY MR. POYFAIR: 09:41:07 12 Q. You may answer. 09:41:10 13 A. SEC, you know, FBI, U.S. Postal Inspector, and 09:41:18 14 IRS, and then some in China that we're talking to. 09:41:28 15 Q. Any others? 09:41:29 16 A. Not that I'm aware of, sir. 09:41:31 17 Q. State Attorneys General? 09:41:33 18 A. You know what? I did a meeting for the State 09:41:37 19 Attorney General. 09:41:38 20 Q. Which one? 09:41:38 21 A. For the Securities Division of the California 09:41:40 22 Department of Corporations. And it was during the period 09:41:46 23 of, you know, '06, let's say. I think it was '06 or early 09:41:50 24 '07. Free speech, lunch speech, and the state regulators 09:41:55 25 were there. And I talked about my story, and then I also</p>

20 (Pages 74 to 77)

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Barry Minkow, November 2, 2007
USANA HEALTH SCIENCES, INC. v. BARRY MINKOW, et al.

Page 78	Page 80
<p>09:41:58 1 talked on about multi-level marketing in general, gender 09:42:02 2 being problematic -- in general being problematic. 09:42:05 3 Q. Okay. So this was a luncheon engagement? 09:42:05 4 A. Yes. I was asked to speak at the -- for the 09:42:07 5 California Department of Corporations. We did a fraud 09:42:11 6 video for the elder abuse division of the California 09:42:14 7 Attorney General that was released this year. They asked 09:42:19 8 me to help promote this, you know, do a lunch, in the 09:42:21 9 Securities Division, so -- 09:42:23 10 Q. Who specifically at the California AG were you 09:42:26 11 in contact with? 09:42:27 12 A. At the time, the acting director. I forget his 09:42:31 13 name. We sat next to each other. 09:42:33 14 Q. Did you do a PowerPoint? 09:42:35 15 A. No. 09:42:36 16 Q. Did you prepare notes? 09:42:39 17 A. Not that I recall. I mean, but they'll tell you 09:42:41 18 what I said. I mean, I didn't, you know. 09:42:43 19 Q. Did you mention USANA? 09:42:44 20 A. I mentioned the industry of multi-level 09:42:47 21 marketing as being problematic and in my opinion violating 09:42:50 22 state anti-pyramid laws, endless chain laws. That's all. 09:42:54 23 I don't recall mentioning one company over anyone. 09:42:56 24 Q. My question was: Did you mention USANA? 09:42:59 25 A. Yeah, I don't recall mentioning. I just said</p>	<p>09:43:57 1 Q. Have you spoken to Tanya Beard? 09:44:00 2 A. Yes. 09:44:01 3 Q. How many times? 09:44:03 4 A. I couldn't count. 09:44:06 5 Q. More than 5? 09:44:07 6 A. Yes. 09:44:08 7 Q. More than 10? 09:44:09 8 A. Five this week. We've talked pretty off and on 09:44:13 9 from March to November time frame. 09:44:20 10 Q. Okay. So more than 20 times? 09:44:23 11 A. Yes. 09:44:23 12 Q. More than 50 times? 09:44:25 13 A. I don't -- probably around that time. 09:44:27 14 Q. Yeah. 09:44:27 15 A. And then Karen Martinez at that office. 09:44:29 16 Q. How often with Karen? 09:44:31 17 A. Just a couple. One or two, maybe three. 09:44:35 18 Q. How about the chief, Israel? 09:44:37 19 A. We just e-mailed couple times. 09:44:40 20 Q. So you have e-mails with the SEC? 09:44:42 21 A. One e-mail or two regarding, you know, I don't 09:44:48 22 recall its topic. It was just with Ken Israel. I don't 09:44:52 23 recall what it was. 09:44:54 24 Q. Who else have you been in contact with in the 09:44:55 25 Salt Lake office of the SEC?</p>
Page 79	Page 81
<p>09:43:01 1 the industry. 09:43:01 2 Q. Okay. All right. 09:43:03 3 A. That's my -- as I recall. 09:43:06 4 Q. Okay. What other regulatory authorities have 09:43:08 5 you been in contact with? 09:43:09 6 A. In this -- 09:43:10 7 MR. PORTER: Same objection. 09:43:12 8 THE WITNESS: Other than in China, none. 09:43:14 9 MR. POYFAIR: So you -- I am going to be asking 09:43:15 10 some questions about this, David, and the reason that I 09:43:18 11 think it's within the scope is because we want to be able 09:43:22 12 to identify potential John Does through a FOIA request. I 09:43:27 13 just need to know who to ask for. 09:43:30 14 MR. PORTER: I don't understand. What would be 09:43:31 15 the nature of the FOIA request that would lead to a John 09:43:35 16 Doe? 09:43:35 17 MR. POYFAIR: What hedge funds have you talked 09:43:37 18 to? What institutional investors have you talked to? 09:43:41 19 What information have you gotten about naked short 09:43:43 20 selling, all that kind of stuff. 09:43:45 21 So that's what we're trying -- where we're going 09:43:47 22 with it. 09:43:48 23 BY MR. POYFAIR: 09:43:48 24 Q. All right. Who at the SEC? 09:43:54 25 A. Primarily, people out of the Salt Lake office.</p>	<p>09:44:57 1 A. I have not been to my knowledge with anybody 09:44:59 2 else. 09:44:59 3 Q. How about any other SEC office? 09:45:03 4 A. Well, it initially was submitted to the L.A. 09:45:05 5 office, but referred to Salt Lake. 09:45:08 6 Q. How about Atlanta? 09:45:11 7 A. Alex Rue? 09:45:11 8 Yeah, we talked about it, but it's not his 09:45:14 9 jurisdiction. Excuse me, meaning I deal with certain 09:45:20 10 members of the SEC in various offices, and I let them know 09:45:23 11 what I'm doing. But when it's not their case, it's not 09:45:25 12 their case. 09:45:26 13 Q. Okay. So with respect to USANA the only 09:45:27 14 substantive conversations -- 09:45:29 15 A. Right. 09:45:30 16 Q. -- you've had have been with the Salt Lake 09:45:32 17 office? 09:45:32 18 A. Well said. 09:45:33 19 Q. All right. I'm now going to focus your 09:45:34 20 attention on the FBI. Who have you been in contact with 09:45:38 21 the FBI regarding USANA? 09:45:44 22 A. Oh, okay. Matt Galieto, of course, who I 09:45:48 23 addressed it to, Pete Norell, but that was very 09:45:52 24 secondarily with Pete because it was out of his 09:45:54 25 jurisdiction. Actually, that was interesting that it was</p>

21 (Pages 78 to 81)

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Barry Minkow, November 2, 2007
USANA HEALTH SCIENCES, INC. v. BARRY MINKOW, et al.

Page 82	Page 84
<p>09:45:57 1 determined that -- I went to Matt. I didn't go to Pete.</p> <p>09:46:02 2 Q. Okay. How long have you known Galio?o?</p> <p>09:46:05 3 A. A few years now. We've done several cases.</p> <p>09:46:08 4 Q. How long have you known Norell?</p> <p>09:46:10 5 A. Same.</p> <p>09:46:10 6 Q. Norell is in L.A.?</p> <p>09:46:11 7 A. Yeah.</p> <p>09:46:12 8 Q. Galio?o is in New York?</p> <p>09:46:14 9 A. Norell is an Orange County supervisor.</p> <p>09:46:16 10 Q. Right.</p> <p>09:46:18 11 Have you met with them?</p> <p>09:46:20 12 A. Yeah.</p> <p>09:46:21 13 Q. Over -- both of them over USANA?</p> <p>09:46:25 14 A. Oh, Matt, yeah, we've met about USANA when I was</p> <p>09:46:28 15 in Newark a couple times, and then we've talked several</p> <p>09:46:31 16 times.</p> <p>09:46:31 17 Q. And have you provided them documents?</p> <p>09:46:34 18 A. Yeah, I sent the original report to them.</p> <p>09:46:35 19 Q. Anything else?</p> <p>09:46:36 20 A. Follow-up reports.</p> <p>09:46:37 21 Q. Any other -- anything else?</p> <p>09:46:39 22 A. China stuff.</p> <p>09:46:40 23 Q. Anything else?</p> <p>09:46:48 24 A. I'm -- I think, you know, pretty much if I</p> <p>09:46:50 25 thought it was worthy for them to see, and sometimes when</p>	<p>09:48:02 1 that stuff.</p> <p>09:48:02 2 Q. Okay. What specifically do you recall</p> <p>09:48:04 3 forwarding to the SEC and the FBI?</p> <p>09:48:08 4 A. My report, subsequent evidence that I would</p> <p>09:48:10 5 secure.</p> <p>09:48:11 6 Q. Like what?</p> <p>09:48:12 7 A. That can range anything from, you know, Terry</p> <p>09:48:16 8 Gilbeau's report on Dennis Waitley's degrees to cheating</p> <p>09:48:21 9 in China and everything in between that we deemed</p> <p>09:48:26 10 appropriate and consistent with their investigation.</p> <p>09:48:29 11 Q. Okay. Now, I want to move on to the Postal</p> <p>09:48:36 12 Inspector. What office?</p> <p>09:48:38 13 A. San Diego.</p> <p>09:48:39 14 Q. Who?</p> <p>09:48:40 15 A. Tim France, but he's -- he didn't take --</p> <p>09:48:42 16 he's -- I just -- I did it like six months after the fact.</p> <p>09:48:45 17 Q. Yeah.</p> <p>09:48:45 18 A. Because I just did a speaking gig for the U.S.</p> <p>09:48:47 19 Postal Inspector a month ago.</p> <p>09:48:50 20 Q. Anything in that speaking gig that had to do</p> <p>09:48:52 21 with USANA?</p> <p>09:48:53 22 A. No.</p> <p>09:48:53 23 Q. Okay. IRS?</p> <p>09:48:56 24 A. Just the Salt Lake office.</p> <p>09:48:57 25 Q. Just -- okay. And how much contact have you had</p>
Page 83	Page 85
<p>09:46:53 1 I didn't know if it was, you know, worthy for them to see,</p> <p>09:46:57 2 I would send it to Matt and/or Tanya.</p> <p>09:47:01 3 Q. Specifically, what did you send to Matt or</p> <p>09:47:04 4 Tanya?</p> <p>09:47:04 5 A. It would --</p> <p>09:47:06 6 MR. PORTER: Excuse me. I'm going to object</p> <p>09:47:06 7 again. I think you have the information that you need to</p> <p>09:47:08 8 do a FOIA request, if that's what you want to do with</p> <p>09:47:11 9 those guys. If you want to write a letter to Matt Galio?o</p> <p>09:47:14 10 you know, at the FBI or to Tanya at the SEC and ask them</p> <p>09:47:19 11 if they talked with analysts or hedge funds or, whatever,</p> <p>09:47:22 12 you know who you can direct that letter to now, but you</p> <p>09:47:26 13 don't need to know what Barry provided in order to do a</p> <p>09:47:29 14 FOIA request.</p> <p>09:47:32 15 MR. POYFAIR: We -- well, in order to be</p> <p>09:47:34 16 specific about what we need, I need that.</p> <p>09:47:40 17 MR. PORTER: I disagree.</p> <p>09:47:41 18 BY MR. POYFAIR:</p> <p>09:47:41 19 Q. You may answer the question.</p> <p>09:47:43 20 A. The -- if I thought it was pertinent, I sent it</p> <p>09:47:45 21 to them. And I get unsolicited stuff a lot. Like a lot</p> <p>09:47:48 22 of people send me unsolicited e-mails that are quote,</p> <p>09:47:51 23 evidence, and sometimes -- I don't like to send junk. So</p> <p>09:47:54 24 if it looks like it, I'll make a call. The call will not</p> <p>09:47:56 25 always be right that is authentic, and so I would forward</p>	<p>09:49:00 1 with the IRS about USANA?</p> <p>09:49:03 2 A. I had a meeting scheduled. I believe it was in</p> <p>09:49:06 3 early January or December of or '06 '07, in that time</p> <p>09:49:10 4 frame, when we had discovered the evidence from the Isle</p> <p>09:49:15 5 of Man.</p> <p>09:49:16 6 Q. Okay. And --</p> <p>09:49:17 7 A. And the lady I was supposed to meet with, we had</p> <p>09:49:20 8 had a couple of conversations.</p> <p>09:49:22 9 Q. Do you remember her name?</p> <p>09:49:23 10 A. I don't.</p> <p>09:49:24 11 Q. Okay.</p> <p>09:49:24 12 A. And she was very positive, and I want to see</p> <p>09:49:27 13 you, and then she wasn't there for the meeting that day.</p> <p>09:49:32 14 Q. She didn't show up to the meeting?</p> <p>09:49:33 15 A. She was sick.</p> <p>09:49:34 16 Q. Did anybody show up?</p> <p>09:49:35 17 A. I flew in. She was sick. Yeah, two people</p> <p>09:49:38 18 showed up who didn't know me from Adam. Hi, I'm Barry</p> <p>09:49:39 19 Minkow. I'm a convicted felon, and I got to tell you</p> <p>09:49:42 20 about a fraud that I think is going on in your state.</p> <p>09:49:43 21 That didn't go over well. It was not the most productive</p> <p>09:49:47 22 of meetings. I felt like, you could have given me a call</p> <p>09:49:50 23 and let me know you couldn't -- but to her credit, she was</p> <p>09:49:54 24 sick, I mean.</p> <p>09:49:55 25 Q. Yeah.</p>

22 (Pages 82 to 85)

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Barry Minkow, November 2, 2007
 USANA HEALTH SCIENCES, INC. v. BARRY MINKOW, et al.

Page 86	Page 88
<p>09:49:55 1 Did you speak with her at any time afterwards?</p> <p>09:49:59 2 A. Maybe once or twice. And then I sent the report</p> <p>09:50:02 3 to her. And her name is on the report, so --</p> <p>09:50:05 4 Q. All right. What else did you send to the IRS</p> <p>09:50:06 5 other than the report?</p> <p>09:50:08 6 A. Other -- and then Freedom of Information Act</p> <p>09:50:11 7 stuff?</p> <p>09:50:12 8 Q. Yeah.</p> <p>09:50:12 9 A. Nothing that I'm aware of. They weren't the</p> <p>09:50:14 10 loop in this case from a prosecution standpoint as far as</p> <p>09:50:18 11 I saw it.</p> <p>09:50:18 12 Q. Okay. Who have you spoken with or had people on</p> <p>09:50:24 13 your behalf speak with in China, regulatory authorities?</p> <p>09:50:29 14 A. I don't want to answer that. I'm not -- I don't</p> <p>09:50:34 15 want to the answer that.</p> <p>09:50:36 16 Q. Well, I think you need to answer the question.</p> <p>09:50:39 17 Why don't you talk to David.</p> <p>09:50:40 18 MR. PORTER: Sure.</p> <p>09:50:41 19 THE WITNESS: Why -- hold on. But why is that</p> <p>09:50:43 20 relevant?</p> <p>09:50:45 21 MR. POYFAIR: Go ahead.</p> <p>09:50:45 22 MR. PORTER: Why don't you -- go ahead</p> <p>09:50:47 23 because --</p> <p>09:50:47 24 MR. POYFAIR: The same issue. The same issue.</p> <p>09:50:50 25 MR. PORTER: Do you want to do some -- the</p>	<p>09:53:19 1 A. It's a public record. It's on our web site. I</p> <p>09:53:21 2 don't know to give it to you.</p> <p>09:53:23 3 Q. And who have are contacted specifically?</p> <p>09:53:27 4 A. I don't recall the name, but it's one of the,</p> <p>09:53:29 5 yeah, agencies there.</p> <p>09:53:32 6 Q. Have you been personally in contact with any of</p> <p>09:53:34 7 the people at any regulatory --</p> <p>09:53:36 8 A. Yes.</p> <p>09:53:37 9 Q. -- agencies?</p> <p>09:53:37 10 Who is that?</p> <p>09:53:39 11 A. I don't recall their name.</p> <p>09:53:41 12 Q. What city?</p> <p>09:53:43 13 A. Beijing, Shanghai, I think.</p> <p>09:53:47 14 Q. What is the name of the regulatory authority?</p> <p>09:53:49 15 A. It's on the cover letter.</p> <p>09:53:51 16 Q. Okay. How many conversations have you had and</p> <p>09:53:55 17 what topics came up?</p> <p>09:53:57 18 THE WITNESS: Gosh. He can't ask this.</p> <p>09:53:59 19 MR. PORTER: Objection. Scope.</p> <p>09:54:01 20 THE WITNESS: Come on man, dang. I don't know.</p> <p>09:54:04 21 We've -- we've, you know --</p> <p>09:54:08 22 MR. PORTER: I think I'll instruct him not to</p> <p>09:54:10 23 answer that. I think you're well beyond the scope of</p> <p>09:54:15 24 finding John Does, when you ask what the conversations</p> <p>09:54:18 25 he's had with Chinese regulatory authorities.</p>
Page 87	Page 89
<p>09:50:52 1 equivalent of a FOIA request to the Chinese government?</p> <p>09:50:56 2 MR. POYFAIR: Right.</p> <p>09:50:56 3 MR. PORTER: Let's go talk.</p> <p>09:51:03 4 THE VIDEOGRAPHER: Off the record at 9:51.</p> <p>09:52:28 5 (Recess taken.)</p> <p>09:52:28 6 THE VIDEOGRAPHER: Back on the record at 9:52.</p> <p>09:52:33 7 THE WITNESS: As I was saying, it all stated</p> <p>09:52:35 8 when I was five. I was abused -- oh, where --</p> <p>09:52:39 9 MR. PORTER: Why don't you repeat the</p> <p>09:52:40 10 question.</p> <p>09:52:42 11 BY MR. POYFAIR:</p> <p>09:52:42 12 Q. Who -- first, are you or somebody affiliated</p> <p>09:52:48 13 with you in contact with any regulators in let's just say</p> <p>09:52:55 14 any countries outside the U.S.?</p> <p>09:52:58 15 MR. PORTER: Objection. You can answer.</p> <p>09:53:01 16 THE WITNESS: Yes.</p> <p>09:53:02 17 BY MR. POYFAIR:</p> <p>09:53:02 18 Q. Which countries?</p> <p>09:53:03 19 A. China.</p> <p>09:53:04 20 Q. What else? Any other?</p> <p>09:53:05 21 A. Maybe Hong Kong, but we don't know.</p> <p>09:53:07 22 Q. And who are you in contact through?</p> <p>09:53:12 23 A. Well, we're in contact directly with the people</p> <p>09:53:15 24 we listed on the cover letter of the report.</p> <p>09:53:17 25 Q. Okay. Who are those people?</p>	<p>09:54:23 1 MR. POYFAIR: No, I didn't ask the content. I'm</p> <p>09:54:25 2 asking how many conversations.</p> <p>09:54:26 3 THE WITNESS: I don't recall how many.</p> <p>09:54:31 4 BY MR. POYFAIR:</p> <p>09:54:31 5 Q. Have you provided any documents?</p> <p>09:54:33 6 A. Yes.</p> <p>09:54:36 7 Q. What documents? Same question for these folks</p> <p>09:54:38 8 as we asked for the SEC and FBI, what documents have you</p> <p>09:54:42 9 provided?</p> <p>09:54:44 10 The report?</p> <p>09:54:47 11 A. Yeah, and accompanying information with the</p> <p>09:54:51 12 report.</p> <p>09:54:52 13 Q. And -- sorry?</p> <p>09:54:52 14 A. Just the accompanying information.</p> <p>09:54:55 15 Q. The exhibits?</p> <p>09:54:56 16 A. Yes, sir.</p> <p>09:54:56 17 Q. And what else?</p> <p>09:55:00 18 MR. PORTER: Objection.</p> <p>09:55:01 19 THE WITNESS: We -- we -- I mean, we have an</p> <p>09:55:03 20 ongoing investigation in China. We're actively securing</p> <p>09:55:07 21 evidence. And every time the company denies it, our goal</p> <p>09:55:11 22 is to come out with videotaped or audiotaped evidence to</p> <p>09:55:15 23 refute it. That's all. But you would expect me to do</p> <p>09:55:18 24 that.</p> <p>09:55:18 25 ////</p>

23 (Pages 86 to 89)

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