

Exhibit B

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

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HOWARD RUBINSKY,

Plaintiff,

Civil Action No.

-against- 14-1540 (WJM)

AHMED ZAYAT a/k/a EPHRAIM ZAYAT,

Defendant.

-----X

420 Lexington Avenue

New York, New York

November 11, 2014

11:00 a.m.

DEPOSITION of AHMED ZAYAT a/k/a
EPHRAIM ZAYAT, a Defendant herein, taken by
the Plaintiff, pursuant to Notice, held at
the above-noted time and place, before a
Notary Public of the State of New York.

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

BAINTON LYNCH, LLP

Attorneys for Plaintiff

767 Third Avenue, 7th floor

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BY: J. JOSEPH BAINTON, ESQ.

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Attorneys for Defendant

420 Lexington Avenue, Suite 2400

New York, New York 10170

BY: STEPHEN WAGNER, ESQ.

ALSO PRESENT:

HOWARD RUBINSKY

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S T I P U L A T I O N S

IT IS HEREBY STIPULATED BY AND BETWEEN the parties hereto through their respective counsel that all objections except as to the form of the question shall be reserved to the time of trial;

IT IS FURTHER STIPULATED by and between the parties hereto through their respective counsel that sealing, certification and filing shall be and the same are hereby waived;

IT IS FURTHER STIPULATED that the within examination may be signed and sworn to before any Notary Public with the same force and effect as if signed and sworn to before this Court.

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A H M E D Z A Y A T, the Defendant

3

herein, having been first duly sworn by

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Kevin B. Jones, a Notary Public in and

5

for the State of New York, was examined

6

and testified as follows:

7

EXAMINATION BY

8

MR. BAINTON:

9

Q Good morning, sir.

10

A Good morning.

11

Q Have you ever been deposed

12

before?

13

A Yes, sir.

14

Q So you are familiar with the

15

process?

16

A As much as you can be familiar

17

with that process.

18

Q Let me tell you that I do not

19

always ask the best questions. So if you do

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not understand my question, please tell me

21

that, and I will fix it. Odds are the

22

problem is with the question, not with you.

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So if you don't understand my question

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please tell me, okay?

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A Sure.

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Zayat

Q The first question is an easy one. What is your cell phone number?

A (201) 803-0957.

Q How long has that been your cell phone number, sir?

A I can't recall.

Q Was that your cell phone number in the year 2002?

A I can't recall, but I had this for a very long time.

Q In what country were you born, sir?

A In Egypt.

Q Are you presently a citizen of Egypt?

A Yes.

Q Do you presently have a validly issued passport from the country of Egypt?

A Yes.

Q How long have you had such a passport, sir?

A I'm born in Egypt. I don't know if this is responsive to the question. I can't remember when is the first time I ever

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Zayat

got it. Like I assume I got it as a kid. Like my parents got it for me to travel. I don't remember. When I was two or three years old. I don't recall is the correct answer.

Q Would it be accurate to say that you have continuously had an Egyptian passport for a very long time?

A Yes.

Q Since at least the year 2002?

A Yes.

Q Sir, are you a citizen of any country other than Egypt?

A Yes.

Q Of what countries other than Egypt are you a citizen?

A I'm an American citizen.

Q When did you become an American citizen, sir?

A Oh, my God. I was married in '88. I think it's fair to say I can't remember exactly the date.

Q Can we say early '90's, since at least the early '90's?

1 Zayat

2 A Yes.

3 Q Since at least the early '90's,
4 have you had an American passport, sir?

5 A Yes.

6 Q Have you had that American
7 passport continuously since at least the
8 early '90's?

9 A Yes.

10 Q Other than Egypt and the United
11 States, are you a citizen of any other
12 country?

13 A No.

14 Q Are you a citizen of Israel?

15 A No.

16 Q Did you attend a college or
17 university of higher education, in other
18 words, something beyond high school?

19 A Yes.

20 Q Where did you attend?

21 A Yeshiva University, Harvard
22 University and Boston University.

23 Q Which was the last one you
24 attended?

25 A Probably Boston University.

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Zayat

Q What is the highest degree you have attained, sir?

A Master's Degrees in public health and PH.

Q I don't want to waste a lot of your time, but could you give me a brief summary of your work history from the time you completed your formal education in a succinct fashion. I just want to get a sense of what you have done. We don't need to do this year by year by year, but I would like a sense of what you have done from the time you have completed your formal education.

A After graduating school my first job was with a firm on Wall Street owned by a guy called Zev Wolfson. He is a philanthropist, a real estate mogul, a self-made billionaire. Our firm was doing commercial real estate. We were one of the largest tenants in America. I was responsible for asset allocation. I actually started my job out of school as what is called property manager for all his

1 Zayat

2 holdings. Whatever money we made in
3 commercial real estate we took and allocated
4 in the stock market, and hence, we were one
5 of the earliest players in what's called
6 LBO's, NPO's, hedge funds. We were pioneers
7 in all things. For example, we participated
8 with Carl Icahn in acquiring TWA, we had
9 done the Nabisco deal, we had done a lot of
10 lofty deals, Carl Icahn and things like
11 that. So we were dealing in a very high
12 end, and that was in the late '80's. I
13 started around '86. I became the second
14 tenant so to speak in that company. I left
15 that job after being there for almost six,
16 seven years at the height of the real estate
17 recession.

18 Q Roughly what year? I apologize
19 for interrupting.

20 A '91, 1991, than time. I quit
21 because if you recall that was the recession
22 in real estate, and we were not leveraged at
23 all as a firm. In fact, we were doing
24 really well, and he asked me to come and cut
25 personnel to take advantage of the situation

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Zayat

in the market. We were doing well.

He said, "We need to cut fat."

I said, "Well, if we need to cut fat, I'm the highest paid, so start by me. And if you have to do that cut me first, because my salary is equal to 20, 30 people who was working there." I was doing extremely well.

And so he wouldn't do it. So I came at night, packed, my wife was pregnant, and I left on principle not to do that. He called me to get back. I didn't. To make the story short, the government in Egypt was thinking of reforming its economy and going from a communist-controlled economy to go to free-market capital. Some of my professors at Harvard were consulting with the Egyptian government as part of the IMF and the World Bank, and they said, "You are very successful Egyptian. American business people, we can't speak to these egos. Why don't you help us. Be part of our team communicating with the Egyptian team." I actually worked talking with part of the

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people who were negotiating in that team. I was introduced to some of the ministers, one of them was the minister of privatization. When the government was looking, that's in the period between 1991 and 1993.

Q Yes, sir.

A Is that too detailed for you?

Q No. You are doing exactly what I'm asking you to do, not detailed but not too much. I don't want to waste your time. I don't want to write your autobiography, but I do want to get a sense of what you've done, sir.

A We can probably spend hours and hours.

Q You're doing great. You're answering my question perfectly, so I'm not concerned.

A Bottom line is that I became a believer in the program, and when the government was offering to privatize some of the opportunities I looked at one of them, that is being a company called Alahram Beverages, A-L-A-H-R-A-M. For simplicity

Zayat

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2 it's called ABC. So ABC was being offered,
3 it's a monopoly beverage company to be
4 privatized. I looked at it, I looked at the
5 company and said, you know, maybe I was 27
6 or something like that, I have a dream. Why
7 don't I look to acquire that company. So
8 that company was in the hundreds of
9 millions. Basically I put the business plan
10 in my mind, I put divisions, and I said I
11 will pitch that concept. I spend maybe two
12 and a half years negotiating with the
13 government, was around period from '94 to
14 '96, to try to pitch them a concept. The
15 government decided to make a public tender.
16 I submitted a tender. I was a long shot, no
17 puns intended here. Probably on the board,
18 because I was young, a guy who was pitching
19 to buy beer in a Muslim country because I
20 was going to fund that project in a country
21 like Egypt. I was overseas, haven't been in
22 Egypt since I left, when I was 16 years old,
23 living in the States. Bottom line is I put
24 a good business plan, I pitched it. I was
25 supposed to like raise something in the

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amount of maybe close to \$100 million. Within seven days offshore the issue was eight times, nine times oversubscribed. I probably raised over a billion dollars. This is not Internet. It was like very unheard of, and the issue was totally oversubscribed. And the company was offered as the first ever called -- I forgot the term. Kind of an IPO, but it's not an IPO. It's an emerging market on the London stock exchange. And the issue was floated, extremely successful, opened at 25 percent on the first day. Again, this was unheard of then. That was on March 24, 1997. Of course, I always remember that day.

Q Of course.

A And I sat as the executive chairman of that company full time from that day until the end of 2005 I believe. I decided I had enough, and that in the interim the company was acquired by Heineken. Heineken insisted that I need to stay over, and I already gave a commitment for one year. I wasn't sure if I wanted it.

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I was getting very tired. I was commuting between Cairo and Egypt every weekend. So I was coming home for Shabbat.

MR. WAGNER: Cairo and the United States.

A And the United States, yes. And I literally, literally was working 17, 18 hours a day. You're talking about a guy who was known to be called a communication chairman, meaning I was probably spending five hours on voice mails returning phone calls because there's articles written about me being totally hands on and in touch. I was a working machine, somebody who was driven nonstop, working nonstop, extremely busy. And I was really, really trying to help the country, probably single handedly. I get S & P for Egypt as one of the bonds of Egypt for the first time ever, as a rated stuff; I sat on what's called the U.S. presidential council, which is a group only of U.S. executives, like the likes of Jack Walsh and others, and the Egyptian presence, five of each, that's consulting both

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Zayat

presidents.

Q By both presidents you mean Egypt and the U.S.?

A Yes. To give them advice on what's happening to enhance relationship in the Middle East. So I was beyond busy, managing my company and doing some good work for the country, Egypt, for the whole region and maintaining stable Middle East. So you are talking about a man who was literally nonstop working machine. I probably won every single award under the sun, either something called Davis, I don't know if you heard of it, it's a world economic forum. 2001 I was named Global Leader of Tomorrow. That is here ironically. The person who was chosen was the guy who became Serge, Google, and the current prince of I think of Norway or Sweden, I'm not sure. So I was hired, I was featured in New York Times, CNN. I was chosen as CEO of the year by Euro Money magazine. I don't want to blow my horn, but I was extremely successful, highly respected. We were involved in a lot of

1 Zayat

2 things, and I have a lot of things to be
3 proud of. I just got very tired and
4 exhausted of commuting. I had grown away
5 from my kids, just coming home for Shabbat
6 and leaving. Commuting between Teaneck and
7 Cairo, it's around 14 hours, it was on a
8 weekly basis, and working your butt off all
9 week. Literally, the plane was my home. So
10 I was just totally, totally exhausted,
11 spent, and I just woke up one day and I said
12 I can't keep doing that. I need to
13 reconnect. I have four kids, and there is
14 seven years space between the first two,
15 Ashley and Justin, and Benjamin and Emma.
16 And I wanted to make up what I lost in time
17 with my two oldest to the two youngest. So
18 I just told Heineken I need to transition
19 this company. I need to get out of here. I
20 gave you a commitment of one year, and I
21 need to leave. And I decided to leave and
22 pursue a passion that I have. I grew up as
23 a kid riding horses, and I started investing
24 in horse business in the late summer of
25 2005. Since then I have been involved in

1 Zayat

2 the ex CEO of Unilever. Unbelievable, that
3 he came and started for the first time to do
4 something un-Dutch, which means he come and
5 say, "Hey, the company is overstaffed,
6 antiquated. I need to let people go." And
7 in the Dutch society that was something
8 almost unheard of. So people like me give
9 him the trends to start doing that because
10 he saw what I did in Egypt. I took a
11 company where the world privatization was a
12 dirty word in the country. I came and made
13 every single person a stockholder, owner,
14 the concept of ownership. I had to fight
15 the Egypt Supreme Court because there is no
16 law allow that to happen. There is no cases
17 about that. I sued Supreme Court to say, "I
18 want to give everybody feeling that this is
19 his, because if it's his I'm going to get
20 more out of the workers." That's why I grew
21 the company leaps and bounds. I inherited a
22 monopoly brewer, I turned it into a full
23 fledged beverage company, meaning I
24 controlled the whole beverage. We had beer,
25 soft drinks, water, liquor. We had 500

1 Zayat

2 Q You told me about your commute
3 and being tired of it. Could you tell me a
4 little bit more about your commute? You had
5 a home, let me ask you that question, you
6 had a home in Teaneck, correct?

7 A Aha.

8 Q Yes or no. It's easier for the
9 court reporter. I understood exactly what
10 you meant.

11 A He's good, because he is not
12 bothering me too much.

13 Q And I'm trying not to bother you
14 either, sir.

15 Where did your wife and children
16 reside during the years 2002 through 2005?

17 A 2002 through 2005, Teaneck, New
18 Jersey.

19 Q Did they ever visit Egypt?

20 A Yes.

21 Q All of my questions unless I
22 indicate otherwise relate to the period 2002
23 through 2005. Is that clear to you?

24 A 2002 through 2005, okay.

25 Q So I'm not going to say that

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Zayat

every time. So all these questions relate to that period.

How frequently did your family, and by your family I mean your wife and children, visit you in Egypt during that time period?

A I can't recall exactly. I'm trying to be accurate.

Q Was it as much as once a month?

A No.

Q Once every three months?

A I used to visit them. They had school, we were not taking them. So it's fair to say, just let me be broader, we probably have four to five times vacation annually. We have an intercession, which is typically between December and January, we have during Passover, which is around usually April, we have summer vacation, and otherwise I will travel. That's the only time we travel together as a family. Maybe during that period maybe they will come and visit my parents maybe once a year, but that's not every year.

1 Zayat

2 Q Speaking of Passover --

3 A This is kind of, okay.

4 Q Speaking of Passover, do you
5 have a family tradition as to where you
6 spend Passover?

7 A Yes.

8 Q Where is that?

9 A We used to go to Aruba, it's
10 part of a Passover group, then after that we
11 changed that to Cancun.

12 Q When did you change from Aruba
13 to Cancun?

14 A I can't recall. I can't recall.
15 I can't recall.

16 Q In the year 2003, were you still
17 going to Aruba?

18 A I can't recall. I can't recall.
19 I don't know when we changed exactly. I
20 can't recall. Check with my wife. I can't
21 recall.

22 Q Let's approach this from a
23 different perspective. In the years 2002
24 through 2005, how frequently did you travel
25 from Egypt to the United States?

1 Zayat

2 A Probably at least three times a
3 month.

4 Q How long --

5 A Maybe every weekend. Sometimes
6 I can't. If it doesn't work I can't, but in
7 general probably three times a month.

8 Q When you say every weekend,
9 technically a weekend is Friday night until
10 Monday morning.

11 A Remember I told you I had no
12 time zone? Meaning the weekend in Egypt is
13 Friday and Saturday. The weekend in America
14 is Saturday and Sunday.

15 Q You're answering my question. I
16 want to know, when you say the weekend I
17 want to know what do you mean by the
18 weekend?

19 A My life was a plane.

20 Q You have said that. Explain
21 what you mean by that. When you say you
22 went for the weekend, the days of the week,
23 can you explain it to me?

24 A I would leave from Cairo on
25 Thursday evening, arrive in the States

1 Zayat

2 around 6:00 a.m. in the morning Friday. I
3 would spend Friday until Saturday night
4 called Shabbat, I would leave Egypt around
5 11 o'clock.

6 Q Leave New York.

7 A Sorry, New York, 11 o'clock
8 Saturday night. I would arrive Egypt next
9 day Sunday.

10 Q That was a quote weekend unquote
11 the way you have been using it in your
12 testimony?

13 A Yes.

14 Q So you were in your office in
15 Egypt typically what days of the week in
16 Egypt?

17 A Late afternoon on Sunday through
18 Thursday. Hold on. That is meaning if I am
19 only in Egypt. I frequently traveled to
20 London, to whatever the business needs of my
21 company needs. I was constantly on the
22 move.

23 Q Did your Egyptian-based company
24 during the years 2002 through 2005 require
25 significant travel throughout the United

1 Zayat

2 States?

3 A Through the United States?

4 Q Yes, throughout the United
5 States. Did business travel in that time
6 period involve travel in any of the States
7 of the United States?

8 A No. Again, remember, you're
9 talking about period 2002 through 2005.

10 Q Yes, exactly, sir. I thought
11 the answer was no, but it's not my position
12 to guess. I have to ask you the question,
13 and you have to answer.

14 A Okay.

15 Q Are you acquainted with a person
16 by the name of Michael Jelinsky?

17 A Acquainted, I don't understand
18 the question.

19 Q Do you know a person by the name
20 of Michael Jelinsky?

21 A Yes.

22 Q Do you know a person by the name
23 of Jeffrey Jelinsky?

24 A Jeff, yes.

25 Q Do you call Michael Jelinsky

1 Zayat

2 Mike or Michael?

3 A Sometimes I call him Mike,
4 sometimes I call him Beaver. It's a
5 nickname he is called.

6 Q And do you call Jeff Jelinsky
7 Jeff?

8 A Correct.

9 Q When did you first meet Michael
10 Jelinsky?

11 A First time I ever was introduced
12 to them is through their dad who was
13 celebrating his father's birthday at a place
14 called the Meadowlands Pegasus. It's a
15 restaurant. And I was friendly with their
16 dad who used to be a financial planner for
17 Shearson Lehman. And these were their boys.
18 Incidentally, that was the first time ever
19 that I have been to a racetrack. I know
20 nothing about horses from the sense of
21 betting, except riding horses as a kid.

22 Q When was this?

23 A Probably would be early '90's.

24 Q I take it you met Michael and
25 Jeff at the same time?

1 Zayat

2 A Yes.

3 Q Approximately how old were they
4 at the time you met them?

5 A High school.

6 Q What was their father's name?

7 A Lenny. They call him Len,
8 Lenny, Leonard. Officially it's Leonard,
9 but they call him Lenny, Leonard.

10 Q I'm going to use Lenny if that's
11 okay.

12 A Okay.

13 Q Did you at any time do any
14 business with Lenny?

15 A Define business.

16 Q Well, did you invest money with
17 him? Did you lend him money? Did you
18 borrow money from him? Did you have any
19 financial transaction of any nature with
20 Lenny?

21 A He was talking to me of being a
22 financial advisor to me and offering me --
23 he was trying to get me as a client. Never
24 happened.

25 Q So in summary, if I understand

1 Zayat

2 what you just told me, he was a financial
3 planner who solicited your business without
4 success?

5 A Correct.

6 Q Now, after you first saw Michael
7 and Jeff Jelinsky when they were in high
8 school at the Pegasus Restaurant, did you
9 continue to see them from time to time? You
10 first met them when they were in high school
11 at a restaurant celebrating an event in
12 their father's honor. Did you continue to
13 have a relationship with them after you
14 first met them?

15 MR. WAGNER: Objection. You can
16 answer.

17 A So I can't answer that question.
18 I will give you -- I will give you a longer
19 answer so you can understand. I met them in
20 the restaurant with their father. I kind of
21 took a liking particularly to Michael. He
22 was a high school star athlete. They were
23 from Wayne. The kid was a basketball
24 wizard. There would be article of him being
25 the captain. The kid had a photographic

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Zayat

2 memory he told me, and he loved horses, and
3 he was talking to me about horses. Their
4 dad thought I was a good role model, and was
5 asking me if I could mentor these kids and
6 help them out to give a good example. So
7 from time through time that's why I can't
8 exactly remember how, they got my number
9 from their dad, and they will call me
10 socially, invite me to go to their games or
11 to just keep in touch from some sort of
12 internship and help them out. In other
13 words, my relationship with their family
14 developed as a friendship where I became
15 like a kind of mentor for these kids.
16 That's all I can tell you to help you out to
17 understand.

18 Q And you continued to be a mentor
19 to them as they grew older; is that correct?

20 A I never personally seeked it.
21 It's when they called me through that time.
22 There were times where we will go years that
23 I would never talk to them. For example,
24 when they moved to Vegas, when Mike got
25 married and moved to Vegas, for two,

1 Zayat

2 three years when I was traveling, for
3 example, from the period of '96 through the
4 early maybe 2000, which I didn't have time
5 to talk to myself literally, I had not had
6 time to talk to them, even they were trying
7 to get in touch with me.

8 Q Did you have any contact with
9 either of the two Jelinsky brothers during
10 the period between 2002 and 2005?

11 A Yes.

12 Q With one or both of them?

13 A With both of them.

14 Q What was the nature of those
15 contacts?

16 A The first time I ever remember
17 reconnecting back with them from the period
18 I was very busy is when they -- everybody
19 had heard about my success. Everybody heard
20 the news. There were tons of news all over,
21 New York Times articles, pages and pages of
22 how I have been admired, and there was two
23 pages on Christmas saying how I am admired
24 by everybody, how the whole government,
25 whatever. It was a big article in the New

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Zayat

York Times. And they sent me messages congratulating me, and saying, "We really miss you. We'd like to see you. We moved to Vegas. We are traveling home to see our parents. We would love to meet back with you."

I said, "I have no time. I'm there for a couple of hours, but only time I would have perhaps come stop by for breakfast. And come, I will spend 15 minutes saying hi to you." And I can't remember the date, I can't pinpoint it. Remember, we are in 2015 almost. I'm not that good. I can't remember. It was a period between 2000 to 2003. I can't remember what year, but that's the first time since they have grown as little kids, high school, that I kind of so to speak reacquainted or connected back with them.

Q Did they come to your house in Teaneck for breakfast?

A Yet.

Q That was some time in what year? Do you recall?

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A I can't remember the year, as I told you. Somewhere between 2000 and 2003.

Q And can you recall what time of year it was?

A Excuse me.

Q Do you recall what time of year it was? Was it cold outside, summertime, wintertime? Was it close to one of the Jewish holidays?

A I can't remember at all the date. I remember it was a breakfast, and it was early in the morning.

Q Do you remember what was discussed at the breakfast?

A Sure. I remember opening the door, and there were these two kids that I hadn't seen in years and was the gentleman sitting next to you. And I was like, "Who is that?" And my wife led them in.

Q And in other words, there was a third person with them?

A Correct.

Q Do you recall the name of the third person?

1 Zayat

2 A Yes.

3 Q Who is that?

4 A Your client.

5 Q Aha, okay. And so you went in
6 and you had breakfast?

7 A Right. But he came unannounced.
8 I never met him, I never even know his name.

9 Q Was he introduced?

10 A Yes.

11 Q What was said? Tell me as best
12 you recall what was said during the course
13 of this meeting after they knocked on the
14 door. You were surprised to see Mr.
15 Rubinsky standing with them. They obviously
16 came through the door, fair enough, right?
17 You invited them into the house?

18 A Correct.

19 Q Who said what to whom?

20 A I can't remember everything, but
21 what I remember is the following: They told
22 me that he is a friend of them, that he is a
23 person who is highly regarded, well
24 connected with some business people that are
25 in the casino business, and know a guy who

1 Zayat

2 either -- I can't remember exactly. But the
3 gist of it is that they invented some sort
4 of machine and have some royalty, and this
5 person right now is looking for a new
6 concept that perhaps they want to tap me as
7 an investor in one of their projects. So he
8 was introduced to me as somebody who can
9 introduce me to somebody who is successful,
10 who have done some things. I don't remember
11 exactly the project, but that they might
12 need some money for his new project.

13 Q Are you familiar with the term
14 angel investor?

15 A Yes.

16 Q Were they asking you to be an
17 angel investor?

18 A The kids did not know what that
19 means, and certainly I did not discuss it.
20 I discussed it exactly as I told you.
21 Howard didn't say much. It was a social
22 breakfast. It was totally a nonevent. It
23 was seeing somebody for a couple of minutes,
24 my wife giving a very nice breakfast for
25 them. We were hospitable as we always are,

1 Zayat

2 nice and social and stopping and saying hi.

3 And he came, and in fact, this man forgot

4 his coat, if you even recall, in my house.

5 Q Do you mean he left his coat

6 behind?

7 A Correct.

8 Q Now, how long did this meeting

9 take?

10 A I can't remember. I can't
11 remember. Short, but I can't remember.

12 Q Less than two hours?

13 A For sure. I didn't have that

14 kind of time.

15 Q Were you provided any papers?

16 A Papers, no.

17 Q Were you provided a description

18 of this invention?

19 A This description didn't take
20 much. It's exactly like I told you. It was
21 a couple of minutes. It wasn't the intent
22 of the meeting. These people were coming to
23 me socially to connect back to me to say hi
24 to see a role model for them that they
25 haven't seen in years. I was kind enough, I

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Zayat

don't want to sound arrogant, to give them the audience, and they came with somebody unannounced, unknown to me, and they let him give me that kind of pitch.

Q Before they left your house, did anybody among the three of them ask you to invest any sum of money?

A No.

Q And this was in 2003?

A Remember, I told you I can't remember that date.

Q When was the next time --

A Do you know what date exactly just for curiosity? I don't know. Maybe he remembers (indicating). I don't remember even that date. I don't even remember a date.

Q Let me tell you this, and I know Mr. Wagner will agree with me on this, if you don't remember, if you truthfully don't remember, the correct answer to the question is I don't remember.

A I resent the word truthfully. Everything I am telling you is truthfully.

1 Zayat

2 Q I apologize if I offended you.
3 If the answer to the question is I don't
4 remember, then the answer is I don't
5 remember. And if I said something to offend
6 you I apologize.

7 A I am under oath. I am middle
8 eastern.

9 Q Mr. Zayat, if I said anything
10 that offends you I apologize. If the answer
11 is or if your recollection is I don't
12 remember, then the answer to the question is
13 I don't remember. And I did not mean to
14 impugn your integrity in any way. If I've
15 offended you I truly apologize.

16 A Thank you for being patient.

17 Q But you don't remember?

18 A No.

19 Q Now, when is the next time you
20 had any communication with either of the two
21 Jelinsky brothers after this breakfast?

22 A I can't recall. Years, years.

23 Q Years?

24 A Yes.

25 Q What was the nature of that

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Zayat

communication? First of all, let me ask you, was it face to face or by some other means?

A Phone calls.

Q What were the topics of these phone calls?

A Okay, remember, I am horse lover. I enjoyed the sport of horse racing. It's like you love sports team. And my main communication was with Michael, who had a photographic memory, who was then known as one of the biggest players in horse racing. Everybody is talking about how this whiz, who is only one winning on the horse races, known to have ample success, and I don't know if it's fact or not, but this is kind of what you hear from mutual friends, from others of him, about him. I am traveling. And when I came back around 2005, now I am transitioning and leaving ABC and retiring, I start looking at horse races. And we used to call sometimes on a daily basis talk about the races, meaning about Aqueduct. How do you like the field? How do you like

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Zayat

the card? It's two people who love horse racing comparing and talking about so to speak teams, about horses. He knew I know about breeding, he knows I know about horses by then because I'm starting to invest in this. And he is one of the players who knows about different trainers, different horses, different jurisdictions. It's two people who love horses are just talking about their passion. That's the relationship that I had with him. His brother was mainly a nonevent. My relationship was with the younger brother who is smarter, and the older brother was just -- I didn't have that long a relationship with him.

Q I want to change the subject for a moment and go to a topic about which you might have a more precise recollection.

You told me that you left ABC in 2007, correct?

A No. I never said that.

Q When did you leave ABC?

A Around 2005, 2006.

1 Zayat

2 Q And you started investing in
3 horses in 2005, correct?

4 A I formed what's called Zayat
5 Stables, LLC, I think the late summer of
6 2005.

7 Q Now, I would like you to tell me
8 about the development of Zayat Stables. And
9 let me be honest with you, I have to be
10 deaf, blind and dumb not to know that today
11 and for quite some time that Zayat Stables
12 is a very, very substantial enterprise, but
13 I suspect on the day you formed it it
14 wasn't. So could you tell me a little bit
15 about how Zayat Stables grew from the day
16 you formed it until today. And I'm also
17 aware of the problems with the bankruptcy,
18 but I just need if you could the same way
19 you told me about your development through
20 ABC, could you tell me about the history of
21 Zayat Stables from the day of its formation
22 until today?

23 A I don't want to give you a hard
24 time. That is such, to be honest, the
25 longest question I have ever heard. I can

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Zayat

go over these topics 100 different ways. It's too long, too imprecise. It could take hours. I want to be honest, direct and precise to answer your question. It's too broad.

Q I asked you to tell me if my question was bad, and I appreciate you honoring the request.

When did Zayat Stables become a substantial business?

A Define substantial. I don't understand substantial. Substantial to you is different to anybody else. I'm not giving you a hard time. I am trying to be accurate.

Q We'll work together with this.

A I want you to understand, this is not personal. I don't understand what substantial means.

Q I understand, sir, and we're going to work together and see if we can get an answer to a question that you can understand. Let me see if I can ask a questions that you can answer.

1 Zayat

2 A Sure.

3 Q Tell me about your first
4 investment in horses in 2005.

5 A My first ever was going to a
6 sale. I think it was called the Fassek
7 Tipton Holder sale. And I went and I
8 purchased four horses. That was my first
9 ever purchasing of any horses for Zayat
10 Stables.

11 Q And what was the approximate
12 investment for those horses?

13 A I bought four horses. I can't
14 recall exactly, but I will give you an
15 approximation. One was for 180,000, one was
16 for 250. All I remember, I started buying
17 four horses, and at the end of that year --
18 my son always laughed when I was always
19 telling him that, "Hey, I'm going to dabble
20 here," but I'm kind of personality who kind
21 of believes his conviction. Forgive me, I'm
22 under the weather.

23 Q Take your time.

24 A I think I ended buying at the
25 end of that year or maybe a year and a half

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Zayat

something like 17, 18 horses.

Q And by the end of the following year how many horses did you have?

A Are you talking about in the history of Zayat Stables?

Q Yes.

A I'll make it simple for you. We started to buy four. At the height of our portfolio was probably close to 250 to 300, in that range.

Q When was it the 250 to 300 range?

A Probably the height was the height of the market, the stock market, any market, probably somewhere between 2007, 2008.

Q Where was it around 2003?

A Say again.

Q 2003, where was it?

A Doesn't exist.

Q I apologize. I meant to say 2008, where was it in 2008?

A Probably through the height, I can't give you a number, towards the higher

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Zayat

Q I will withdraw the question.

How long have you been devoting
80 percent of your time to Zayat Stables?

A It's very hard for me to say.
That number 80 percent is very hard for me
to be accurate about.

Q I'll ask you a different
question.

How long have you been devoting
more than 50 percent of your time to Zayat
Stables?

A That's a better question.
Sorry, probably, probably 2006, 2007.

Q Let's go back to your
conversation with Michael Jelinsky. Can you
recall how much time elapsed roughly between
the breakfast meeting and your telephone
calls with Michael about horses?

A I can't recall exact dates.

Q I'm not asking for exact dates.
Can you recall whether it was a matter of
months, years?

A Years.

Q Years?

1 Zayat

2 A Yes.

3 Q About how many years?

4 A I can't remember that.

5 Q And what was the nature of the
6 calls?

7 A Discussing horses.

8 Q Did the topic or the discussions
9 relate to wagering on horses?

10 A In a sense, yes.

11 Q Could you explain to me in what
12 sense it related to wagering on horses?

13 A We would be discussing what is
14 called cards. For example, let's say there
15 is racing at Belmont or whatever. I think
16 you like this horse. Do you like that
17 horse? Do you like that team? Do you like
18 that trainer? Talking about -- as I told
19 you, our relationship was two passionate
20 people, one is known to be a player, other
21 has a passion having horses, discussing
22 these kind of horses and trainers.

23 Q Did these discussions ever
24 relate to horses that were owned by Zayat
25 Stables?

1 Zayat

2 A Sure.

3 Q Did you ever place any wagers
4 with Mr. Jelinsky?

5 A The question was Mr. Jelinsky?

6 Q With or through Mr. Jelinsky.

7 MR. WAGNER: Objection to the
8 form.

9 A The answer is yes.

10 Q When?

11 A Through my relationship ever
12 with them, as I told you has always been
13 social. Only one time during the summer for
14 a period of maybe two weeks or so where I
15 was in California on vacation with my family
16 that I bet with Michael for a period maybe,
17 as I told you, maybe couple of weeks on
18 horse racing.

19 Q How did you do that?

20 A He had an online account, and we
21 were discussing the races. And I will tell
22 him what I liked, and he was betting it in
23 his account in what was called legal pools
24 during that time.

25 Q So he was making bets through

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Zayat

his account on your behalf?

A Correct, in that particular period.

Q Were any of those bets winners?

A Here's the thing, this period became known to me as I had been scammed by Michael and his brother, and I never knew that. This information was given to me by agents of the U.S. government, the FBI who visited me, called me. And I can give you the whole story if you wish what had happened. So bottom line, I don't know if they are winners or losers because the whole thing was a scam. I was kind of duped into believing certain things that didn't exist. It was a scheme that I knew about it only from the U.S. government. I see you are nodding your head so far. You probably know more than I do.

Q Were the officials of the U.S. government Laura A. Hodson of the Department of Homeland Security?

A I can't recall names. I can only recall there were two or three people.

1 Zayat

2 Q When were you informed by
3 representatives of the government that you
4 had been to use your word scammed?

5 A I can't remember the day.

6 Q How about the year?

7 A Or even that I can't remember,
8 but you want me to guess, maybe 2007, 2008.
9 I can't remember.

10 Q Where were you when you were
11 informed by representatives of the
12 government that you had been scammed?

13 A I can't remember everything, but
14 what I can remember is the following, that
15 my secretary got a phone call from these
16 people, that I returned the phone call. I
17 can't even remember which one of them called
18 saying they would like to speak to me about
19 a private matter.

20 Q What did you do in response to
21 this message from your secretary?

22 A Called them back.

23 Q Did you arrange to meet face to
24 face?

25 A Yes.

1 Zayat

2 Q Where did that meeting take
3 place?

4 A I remember I was traveling. I
5 remember that. I remember telling them,
6 "What is this in reference to?" They said
7 that they wanted my help. I said, "In
8 reference to what?" They said they can't
9 discuss it on the phone. I said, "FBI?
10 What the hell? I'm kind of nervous. I need
11 to know more. Do I need to get my
12 attorney?" They said I can and I cannot,
13 it's depending on me, but I'm not what they
14 called a target or personally under
15 investigation. This is a friendly visit,
16 but they wouldn't give me the subject.

17 Q And then what happened?

18 A Then I arranged for them to come
19 to visit me in my office in Hackensack, New
20 Jersey.

21 Q Do you recall when this meeting
22 took place?

23 A No.

24 Q Do you recall the year?

25 A No. I told you it could be 2006

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Zayat

or something. I honestly don't remember.

Q Do you recall the time of year?

A I think it was maybe in the early morning. I can't recall.

Q The time of the year. The time of the year.

A Do you mean the season?

Q Yes.

A No, I don't remember when it happened.

Q You don't remember whether it was snowing or warm outside?

A It wasn't snowing. It doesn't snow that often. I would have remembered that. No, there was nothing. There was no sign for me saying, you know, hey or whatever. No, it was just a day.

Q Do you recall how many people came to your office?

A Three people.

Q Did they give you any business cards?

A Yes.

Q Do you still have them?

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Zayat

A I believe, yes. It was weird.

I have never been involved. This is something weird. Like for me it's something kind of weird, all these people, things like that.

Q Did you have an attorney engaged by you present?

A No. I took their advice, because they said I'm not a target. I'm not in trouble. They are not after me. They kind of assured me all these things. They are coming on a friendly basis.

Q So the only people present in the room were you and three people from the law enforcement agencies whose cards you might still have?

A It's not might. I have.

Q You have?

A Yes.

Q All right. What did they say to you?

A I recall, and I can't remember exactly what, I remember they were all from Nevada, and it sounded like high-power guys

1 Zayat

2 and a gal. And they told me, "Hey, thank
3 you very much for agreeing to meet us. It's
4 very kind of you. We are here because we
5 are seeking your help." I was like, "What?
6 My help?" And he says -- they said that,
7 "Basically we want to ask you about your
8 relationship with Michael and Jeff
9 Jelinsky." When they said that name it was
10 kind of a bombshell for me. I started
11 looking, because then for me there was some
12 rumors and some insinuation in the press
13 that these guys are in trouble. Like for me
14 I always viewed these kids, remember, whiz
15 kid, making a lot of money, high school
16 athlete. He looked like an admirable kid.
17 And lo and behold, these people that you
18 know are in trouble and involved in being
19 bad and in trouble with the law. So when
20 they dropped their names, they are coming to
21 inquire about them, for me it was, "Oh, my
22 God. What is this all about now?"

23 Q Before you received the phone
24 call from the FBI and or other law
25 enforcement folks, had you read in the

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Zayat

newspaper or on the Internet stories that suggested that one or both of the Jelinskys were in trouble with law enforcement?

A There was kind of chatter that there is something wrong going with these boys. Remember, I'm not involved in their circle of friends or people around them. All you really hear is from rumors, people who are friendly with them. So, for example, I had a friend who is friendly with the kid since they were in high school. He tells me, "Hey, did you hear about these boys might be in trouble?" Something like that. Do you understand? Like there was no connection between me and these boys except what I told you.

Q From whom did you hear this chatter? What's the person's name?

A The boy by the name of John Cossack.

Q Who is John Cossack?

A John Cossack is one of the friends that went with Michael through high school as well as was the captain in the

1 Zayat

2 Columbia football team, who was introduced
3 with me to the boys as friendly with them,
4 and he also have passion for horse races.
5 And this person ended being a big partner on
6 a Texas company on the exchange who live in
7 Texas who still actually have relationship
8 with me.

9 Q What is your relationship with
10 Mr. Cossack?

11 A Social.

12 Q Do you have any business
13 relationship with Mr. Cossack?

14 A I sit on the advisory board of
15 his company.

16 Q What's the name of his company?

17 A OCI.

18 Q What's the trader business of
19 OCI?

20 A It is the largest clearing house
21 of options on the natural gas and oil.

22 Q Now, when you --

23 A Remember, these were very nice
24 athletes that all got scholarships at
25 Columbia. They were the cream of the cream.

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Zayat

This person, they always looked at me, look at this God. It was kind of a privilege for them to know me. So this person knew who I was, and I was always again like mentoring for him. That's why he put me on the board, to help them in their company. So he was the one who gave me this kind of information.

Q Now, from the time of the breakfast at your house when the two Jelinsky brothers brought Mr. Rubinsky along to your surprise and the time when the FBI and other law enforcement folks came to your office, during that period of time, did you have any contact whatsoever with Mr. Rubinsky?

A With Mr. Rubinsky?

Q Any contact at all during that period of time with Mr. Rubinsky.

A Let me make it very easy for you. The only time I ever spoken or heard about Howie is the day that he came to my house unannounced, and the time before meeting me in my office by calling me or

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Zayat

texting me or try to arrange to meet me, and I think that was in 2008 or something like that. That's the only time that I have ever had any contact either seeing him or talking to him or dealing with him period. It was a nonevent in my life until he called me to come and meet me and arrange a meeting with me in my office. I have met him twice in my life or three times. I can't even recall that.

Q What did the law enforcement people tell you when they came to your office other than thanking you to meet with them?

A They came and told me, "We thank you very much. We thank you for taking the meeting. We thank you for trusting us. We are here to learn something, some information about these two boys, that they were in trouble. We can't tell you the nature of it. We want to ask you some questions."

Q And what were the questions?

A They were asking about names and

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Zayat

entities that I have never heard from except when they mentioned it to me.

Q What were those names?

A I can't recall. People I never heard of. Like you are asking me, people that are meaningless to me. I didn't know who they were.

Q So they asked you questions to which you knew no answers?

A That I have never heard of.

Q Right. So you didn't know, you had no information to give them?

A There was answer which I didn't know.

Q Right. So they asked you questions and you had no information because you hadn't heard of them, correct?

A I stand on what I just said. I had no answers.

Q Now, you told me --

A You are putting things in my mouth, sir. I didn't say that.

Q You told me earlier that they told you about a scam that had been

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Zayat

perpetrated upon you by the Jelinsky brothers.

A Hold on. When they asked me these questions they felt I was not being helpful. So they said, "Hey, please help us. You're not in trouble. You're not under investigation. In fact, you are a victim." So I looked at them and I said, "What do you mean?"

Q And they said?

A They said, "We think maybe you're not telling us everything because we think that you don't want to hurt them. So why wouldn't you want to hurt people who are hurting you?" So honestly, I think these are tactics that people are using in order to kind of rat on people and get them more in trouble. And I'm not involved with these guys at all except socially, so I didn't want to be involved in something I know nothing about from A to Z. As I told you, my relationship was strictly socially and helping mentor kids. So for me this whole thing was foreign to me from A to Z. Come

1 Zayat

2 to my office, I had no idea what the hell
3 they were talking about. Who are these
4 people? It's coming out of nowhere.

5 Q But at some point, unless I
6 misunderstand your testimony, and if I did I
7 apologize, I had the impression that by the
8 time this meeting was over it was your
9 understanding that you had been scammed by
10 the Jelinskys; is that correct?

11 A No. I never knew I was scammed
12 except from the government.

13 Q What I am trying to ask you to
14 explain to me, sir, is what did the
15 government tell you that led you to that
16 conclusion? Withdrawn.

17 Today, you and I are not
18 communicating, but let me see if I can fix
19 it up.

20 A I am communicating. I don't
21 know about you.

22 Q I told you I don't always ask
23 the best questions.

24 As you sit here today, do you
25 believe that you were scammed by the

1 Zayat

2 Jelinsky brothers?

3 A Oh, yes.

4 Q Could you explain to me why you
5 believe that?

6 A The government came on and said,
7 "Okay, you sound suspicious of us. We want
8 you to believe us. There is no reason for
9 us to come here. We let you hear things."
10 I said, "Hear things?" They said, "Yes."

11 Q Can you tell me what they let
12 you hear? I just want to understand why you
13 believe you were scammed by the Jelinskys.
14 You haven't told me that part yet.

15 A Are we up to that yet? I am
16 trying to answer that question.

17 Q I hope we're up to that. My
18 question is what did the government tell you
19 that led you to believe that you had been
20 scammed by the Jelinskys?

21 A Your question was tell, not
22 hear. I'm trying to be talmudic, meaning I
23 am trying to be accurate. Ask the question,
24 answer as is.

25 Q I'll try to ask a better

1 Zayat

2 question. What did the government say to
3 you that has led you to the conclusion that
4 you have been scammed by the Jelinskys?

5 A Exactly what I just told you
6 before. They told me, "You have been the
7 victim of the Jelinskys." I looked at them,
8 "What are you talking about?"

9 Q Did they tell you how you were
10 scammed?

11 A They made me hear it myself how
12 I was scammed.

13 Q What did you hear?

14 A They put on a tape which was a
15 conversation between the two brothers
16 supposedly trying to scam me. Remember I
17 told you that there was a summer, I believe
18 either it was 2007 or something of that
19 nature, where that summer where I was not
20 able to bet on my own personal accounts
21 because I was in California, and in
22 California you can't bet online at a
23 California track. That was the law. And
24 therefore, I was betting my horses through
25 Michael, and Michael was apparently giving

1 Zayat

2 me horses that he personally liked, okay.
3 And these horses were being put in
4 supposedly in the pools, but they were
5 actually -- the two brothers was conspiring
6 and booking these bets. Meaning let's say
7 that they really like, legitimately they are
8 betting the race themselves, they like one,
9 two, three. They were on purpose giving me
10 five, six, seven. They are telling me to
11 bet it. These bets were never actually put
12 on in the pools. They are booking these
13 bets so these horses were being not correct.
14 So I would lose because they are giving me
15 the wrong horses. But even these were not
16 a -- they were not putting the money in the
17 pool that I thought it was. It never -- it
18 went into their own pocket. So they
19 developed a scam and they made me hear the
20 conversation between the brothers plotting
21 how they are actually going to do that by
22 one calling me and telling me that he liked
23 that, that, that, and then putting these
24 bets. So they showed me that I was a victim
25 of people who they believed I was good

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Zayat

friends for them, that I was socially helping them. And when I asked them, "How do you know I was good friends?" They said because that they have been taping these boys for a year or more.

Q And if I understand you, the basis for your belief that you were scammed by the Jelinsky brothers is what you heard on the tapes that law enforcement officials played for you; is that correct?

A What the government told me.

MR. WAGNER: Objection to form.

You can answer.

A What the government told me. The government tried to prove it to me by letting me hear because I was in a state of shock, upset, dismayed, that these people are so vicious when I have been nothing but good for them as a friend, helping Michael when he was going through divorce and helping him. He had hard times in his life, and I was there as a friend when he called me for counselling. These were kids that I helped, and lo and behold taking advantage

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Zayat

of our friendship. And I couldn't believe the government, so I thought the government was themselves playing games. So when they showed me that I was shocked, and they were telling me, "You're a good guy. You're a decent man. You're a family man." You know, this is a shock for me. It was like a bombshell.

Q How much money did you lose as a result of this scam?

A I can't remember the amount of money. I think it was like -- I can't remember exactly because I have to put a range. It was between 200 to 400,000 or something like that. It was a very short period of time. The only time ever I had any gambling involvement with them.

Q Did you ever place any wagers with any entity with which you understood either of the Jelinsky brothers had an affiliation?

A No.

Q Did you ever engage in any sports betting using the telephone or

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Internet while you were in Egypt?

A Zero.

Q Other than this period in California about which you have testified, did you ask one or both of the Jelinskys to assist you in placing a wager of any sort?

A Zero. No is the answer. Zero is no.

Q Did you ever loan the Jelinskys, either of the Jelinskys, any money?

A Yes.

Q Let's start with Michael. How much money did you loan Michael?

A I can't remember the amount.

Q Do you remember why?

A Yes.

Q Can you tell me, please?

A He was going through a divorce, and he had to purchase his house because his wife -- okay, he was getting divorced. His wife, he had to buy her out in order to keep the house with his kid, he was keeping his daughter, and he didn't have the money to pay her out. And honestly I just said, "I'm

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Zayat

not a sugar daddy." This was a lot of money. And he showed me his tax return. As I told you, he was one of the biggest, successful, and he literally had millions of dollars coming to him for refunds from the U.S. government. So it was for a period, a short period of time when he was going to pay me from the proceeds of his refund. He showed me his tax return, and we had a document, we documented that loan.

Q Do you mean you had a written agreement that documented the loan; is that what you are saying?

A Yes.

Q Do you still have copies of the loan documents?

A Yes.

Q Do you have copies of his tax return?

A No.

Q Was the loan repaid?

A I remember part of it. I can't remember the detail.

Q This is Michael now we are

1 Zayat

2 talking about, correct?

3 A Correct.

4 Q And do you recall the amount?

5 A Must be approximation, somewhere
6 between 250 and 400. I can't remember the
7 range.

8 Q And you don't recall whether it
9 was a paid in full?

10 A I can't recall. I recall he
11 paid, but I can't recall how much.

12 Q What about Jeff, did you ever
13 loan him any money?

14 A I didn't loan him, but I paid
15 for expenses for him.

16 Q For what expenses did you pay?

17 A I paid for him and for his
18 mother for some legal fees.

19 Q Why?

20 A His mother called me and saying,
21 crying to me, literally saying that she had
22 a joint account with these boys, and the
23 government froze all the accounts because
24 she is a joint -- I don't know the technical
25 name with them, and she is totally broke.

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Zayat

going for legal service, that I personally would not be involved. I even sent the money directly to the lawyers. The lawyers, in other words, I got clearance legally that this is fine to help somebody. And that's the time, when answering your question, that I helped Mrs. Jelinsky, her name is Barbara, and Jeff and Michael. And I got a call from Michael's wife to help Michael then before they were finalizing their divorce. So these are the different times that I have helped these kids, not knowing again, these are your friends that got in trouble, that you don't know the extent of it. I didn't know I was part of it, and because I have a good heart and I help people I helped them.

Q I want to come back to Michael. In addition to the loan so that Michael could buy out his wife's interest in the house, did you ever give Michael, give or loan Michael any other money?

A No. It was all based on his returning back the money. The pretense that he told me, his dad. I don't know if it's

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Zayat

true or not true. In other words, he's telling me that's what he's doing, and it was true that he was getting a divorce, it's true he kept his daughter, it's true that he had the money to repay, it's true I saw the tax return, it's true I had a contract with him.

Q So to the best of your recollection, the only time you loaned or gave Michael any money was this one transaction that was documented by loan agreements, correct?

A No, that's not true.

Q Okay, tell me about the other ones.

A I paid him for presumably bets that I had made with them through that period of time in horse racing.

Q Okay, so the only --

A And the loan, and there was a time that I bet with them through that summer that was supposedly being scammed by the government. That's the two times that there has been any exchange of money with

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Zayat

them.

Q Now, you are familiar with something called the Zayat Foundation, correct?

A Of course.

Q Did the Zayat Foundation ever give Michael any money?

A I think so.

Q Why?

A Because I had a charitable trust, and at this juncture I think the legal fee and other, I didn't think I was ever going to get it back. These guys were totally in trouble. So it was just a way of paying them.

Q Paying who?

A Their attorneys, and paying the boys for their fees as I told you.

Q So the Zayat Foundation paid Michael money for his legal fees?

A I believe so.

Q Were the legal fees for his criminal defense?

A I didn't know what kind of

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Zayat

defense. I know it was for his lawyers. I wasn't privy to what he is really in trouble. Not everything was public.

Q Do you know when he was indicted?

A I can't remember the date, no. This whole time as I told you is very fuzzy in my mind. I was a really busy person.

Q This is 2008.

A It was 2008?

Q Yes.

A I can't remember the years I'm telling you. I can't remember the year. I can't remember 2006, '7 or '8. These days as I told you when the Federal Government, the FBI came, I can't remember the years. This whole period, I don't remember these years.

Q Were you aware that the Jelinsky brothers had scammed you by the time they were formally charged with a crime in federal court in Nevada?

A The only time I know about anything about a scam is when the government

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Zayat

visited me. And I can't remember the year that they visited, as I told you today. If you are telling me it's 2008, then maybe it's 2008. Maybe you are telling me the truth, no idea. I don't remember.

Q I'm asking you a different question. Let me explain the difference.

A Please.

Q I'm asking you if you remember whether the government's law enforcement people visited you before or after the two brothers were formally charged with a crime in the Nevada federal district court?

A I have no idea when they were indicted. I am not privy to this information. I wasn't following the story. All I hear is rumors. The answer is I don't know. It wasn't something that I am looking for.

MR. WAGNER: You have given the answer.

Q So the rumors, I'm asking you a slightly different question again, you said you heard rumors or chatter. Do you

1 Zayat

2 remember that?

3 A Yes.

4 Q Did the rumors or chatter
5 include the fact that they had been formally
6 charged with a crime to your recollection?

7 A The rumors I heard was these
8 guys might be in trouble. I don't know the
9 nature. I don't know for what. I don't
10 know the period. It's just gossip. No
11 idea. They didn't ask. I have no idea. I
12 didn't know what they were involved in. All
13 I know is as I told you.

14 Q After the breakfast meeting we
15 talked about, did you ever meet face to face
16 with either of the Jelinsky brothers again?

17 A I can't recall.

18 Q Other than the breakfast
19 meeting, do you recall any occasion when
20 you, the two Jelinsky brothers and Mr.
21 Rubinsky were in the same room at the same
22 time?

23 A Never. Only time --

24 MR. WAGNER: No, no. You gave
25 your answer.

1 Zayat

2 Q After the breakfast meeting,
3 when was the next time you had any
4 communication with Mr. Rubinsky, either face
5 to face, by telephone or by text message?

6 A I can't recall exactly the date
7 or the year. It could be as I can recall,
8 all I can recall is it was a couple of
9 months before he is trying to see me. From
10 the time he contacted me to the time he
11 physically came to see me in my office in
12 New Jersey was couple of months.

13 Q When you say from the time he
14 tried to contact you, what do you mean by
15 that?

16 A Tried to get in touch with me.

17 Q How did he do that?

18 A Phone, from memory I have.

19 Q So did you speak to him by
20 telephone?

21 A Yes.

22 Q And do you remember what he said
23 to you and what you said to him?

24 A "Hey, it's Howard. Do you
25 remember me?" He refreshed my memory. He

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Zayat

said, "I would like to come and visit with you." I said, "Okay, what's the nature? I'm a busy man." He said, "I can't talk over the phone. I just want to come." I said, "What?" And he had been trying phone calls until the fact he convinced me we should meet.

Q What did he say that convinced you that you should meet?

A "I need to come. Please, you are a good friend. You are a good soul," things like that.

Q You met him on one occasion at your house for breakfast that lasted less than two hours, correct?

A Correct.

Q And so when he accused you of being a good friend, what did you say?

A Accused me?

Q You said that he said you were a good friend.

A Correct.

Q Did you feel that you were a good friend after having spent less than two

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Zayat

hours with him one time in your life?

A Ask him that question. I don't know. He viewed me as a friend.

Q Did you view him as a friend?

A I viewed him as a no entity. Like this, he looks like a very nice gentleman, nice person, harmful, polite.

MR. WAGNER: Harmful or

harmless?

THE WITNESS: Harmless, sorry.

Freudian. He is a nice person. He is a nice person.

Q How many phone calls took place before you actually met with him?

A I can't remember. I remember somebody trying to pursue me to convince me to meet and make a plea to meet. I'm a very busy person. So it took months if I have to remember. If I have to guess is the right word, because if I remember I remember. I'm guessing.

Q A face to face meeting finally occurred?

A Yes, sir.

1 Zayat

2 Q Where did it occur, sir?

3 A My office.

4 Q And do you recall what he said
5 to you and what you said to him?

6 A Yes.

7 Q Can you tell me what occurred at
8 that meeting?

9 A I can't recall how long. Gist
10 of it is I saw a man in front of me totally
11 shaken, broken, like sick, almost
12 hyperventilating, a person that I felt bad
13 and related with him. He was telling me, "I
14 want to tell you what is going on." He told
15 me, "I'm sorry, I'm running away. I
16 literally cannot sleep. I'm living from one
17 hotel to another. I can't even be in one
18 place. I am being followed." I honestly
19 thought that he was paranoid and sad and
20 disturbed. I related. And he said,
21 "Listen, let me tell you what's going on,"
22 and he started --

23 Q He what?

24 A He started to come and talk to
25 me about his relationship with the two

1 Zayat

2 brothers.

3 Q What did he tell you?

4 A He told me what we call a nebich
5 story.

6 MR. WAGNER: N-E-B-I-C-H.

7 A A sad story where he was totally
8 and financially ruined and conned himself by
9 those two boys. And we kind of looked at
10 each other and we connected and related,
11 "Holy shit. How can that happen to two nice
12 people, presumably friendly with these
13 people?" Okay, I know that they were
14 friends, because that's how I was
15 introduced, and me just learning that I am
16 being duped and scammed, and he went through
17 the same experience.

18 Q Okay, and then what?

19 A Then he start telling me --
20 honestly, I believe the guy was broken,
21 almost crying, hyperventilating, sweating,
22 telling me, "I'm sick. I don't know, I have
23 no money to eat. I have no money. They
24 totally took me so much money. I had older
25 clients." I said, "I didn't even know they

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Zayat

were booking bad. I never knew they were involved in this shit." Oh, excuse me. All I knew was Michael was a horse player doing well, what the hell, what do you mean booking? Am I such an idiot? Am I such a dope? I considered myself sophisticated. What the hell? And we had talked about all these things, and he started telling me what he was going through. And he start telling me, "Listen, they used me. They used a lot of their clients. I had to cover a lot of their relationships, which I never knew that they had this kind relationship, and I'm broke. I took all my money." Presumably they were using my name with him and that I need to pay him money, that they were betting supposedly that is unlike any other client. And I said, "What the hell are you talking about?"

Q Did he explain to you how they cheated him?

A No. He just told me what I just told you, this is the extent. I think he was then being very cryptic, cagey.

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Zayat

Honestly, forgive the term, I'm sorry, very unstable, broken man. I have a heart. Broken man, totally shaken, scared, on the hunt, losing everything and coming, trying to speak to somebody who is wealthy, who is honorable, who had been good and trying to see to explain to me how everybody was being duped. He proceeded to tell me, "Holy shit, I didn't know of you also being duped like that. These guys are mother fuckers, crooks, drug addicts," all the adjectives you want to say about them.

Q What was your response?

A My response, I felt bad. I felt the same way I felt, somebody was being used, somebody was being ruined. I believed every word he told me. I believed he was a decent guy, I believed they were involved, things went sour, they took him to the cleaners. I believed every word he told me.

Q How did the meeting end?

A He wanted to see if there was anything I can do. I explained to him that I have never in my life bet with these boys

1 Zayat

2 except one time. I told him I paid the boys
3 for what I owed them, and that there was
4 never a triangle, that there was never --
5 his name was never ever brought to me. I
6 never had a dealing with him. He never
7 called me. We never had any communication.
8 I don't know where the hell this is coming
9 from. I got angry, and I said, "Listen, I
10 am happy to help you. If you want money to
11 help you with your health, I'm happy to help
12 you with your health. I am happy to help
13 you as a friend, as a Jewish person broken
14 to stand in your feet. I am happy if you
15 want I can help you put some new business in
16 life, put some new deals as a business, and
17 I can give you some counselling, maybe
18 something I can help you. All you have to
19 take care of now is your health. Get your
20 health back in order. You are a broken man.
21 Don't collapse." I was kind to him. It was
22 a case that I related that these mother
23 fuckers, I'm sorry, conned all of us, and I
24 was trying to help him stay on his feet.
25 And he is telling me, "Honestly, I have no

1 Zayat

2 Q At the end of this meeting did
3 you give him a check or any money?

4 A I can't recall. I remember
5 either I give him a check or he came back or
6 I had to give him through his -- I can't
7 remember the mechanism. I remember that I
8 helped him.

9 Q Did you thereafter communicate
10 with --

11 A Correct.

12 Q Did you thereafter communicate
13 by text message?

14 A I remember, I remember that his
15 whole time trying to get in touch with me
16 was either through phone calls or texts.

17 Holy shit, I didn't know we
18 would be talking this long.

19 Q We're not close to done.

20 So you do remember communicating
21 with him by text messages; is that correct?

22 A Yes.

23 Q Do you remember giving him a
24 check drawn on your own personal account?

25 A My own personal account?

1 Zayat

2 Q Yes.

3 A I don't remember what account.

4 Q Do you remember giving him a
5 check drawn on the Zayat Foundation account?

6 A That I remember.

7 Q I premarked some exhibits to
8 save time. Let me show you what's been
9 marked as Plaintiff's Exhibit 1. Tell me if
10 you recognize the signature on that check.

11 A I do recognize that.

12 Q Whose is it?

13 A Mine.

14 Q Why is this check payable to
15 Donna Rubinsky?

16 A Because he requested that. I
17 don't know who Donna Rubinsky is. I
18 wouldn't have come up with names I don't
19 know. Apparently, I was told she was his
20 sister.

21 Q Do you remember sending a text
22 message undertaking to pay \$50,000 a month?

23 A No.

24 Q Do you remember ever undertaking
25 to make any periodic payments?

1 Zayat

2 A I remember what I just told you,
3 so it didn't change.

4 Q You told me that you undertook
5 to make periodic payments. You didn't tell
6 me the amount.

7 A I didn't say that.

8 Q Then I misunderstood your
9 answer. Could you please help me
10 understand?

11 A Sure. I said I was going to
12 help him to make payment toward his medical
13 care, and if he needs money to eat I am
14 happy to help him every week with money to
15 eat. He didn't know how much money that
16 would be, because he didn't have a figure of
17 how much his operation is going to be.
18 According to him he was not in one place or
19 was able to see, and he have no medical
20 care. I undertake to help somebody for his
21 medical care and what we called chesed, to
22 help somebody, charity.

23 MR. WAGNER: C-H-E-S-E-D meaning
24 charity.

25 A I also told you, I also

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undertook to help the man stand on his feet, meaning if he had a legitimate business deal, knowing that he was involved after he told me this crazy stuff, that if he had a legitimate opportunity I am happy to help look at it to help him stand on his feet to start a new life. That is my whole conversation with Howie.

Q Let me show you what's been premarked as Plaintiff's Exhibit 2, and that's a letter dated January 8th of 2009. I am asking if you remember receiving this letter on or about the date it bears?

A Yes.

Q Did you respond to it?

A No.

Q Why not?

A I looked at it and I didn't know if I was going to cry or laugh or think somebody is absolutely delirious. It was sad for me, trying to help somebody and somebody is -- it was an insane demand knowing that we talked in the office. It was never a triangle. There was never a

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Zayat

business relationship. He never spoke to me or called me or dealt with me from the time I ever seen him to the time he arranged to see me in whatever year it was. And for me I didn't even respond, and I threw it in the garbage.

Q Let me show you what's been marked as Plaintiff's Exhibit 3. Do you recall receiving this letter?

A Yes.

Q Did you respond to it?

A No.

Q Why not?

A Same effect as the other one. Nobody ever contacted me, didn't go anywhere. There was no followup from anybody. I threw it in the garbage. It was the same thing.

Q Let me show you Plaintiff's Exhibit 4. Do you remember receiving this letter?

A No.

Q So you are saying you didn't receive this one?

1 Zayat

2 A I personally don't remember
3 receiving it.

4 Q Let me show you what's been
5 marked as Plaintiff's Exhibit 5. Do you
6 recognize this?

7 A No.

8 Q Do you recall if the Zayat
9 Foundation filed a tax return for the year
10 2008?

11 A We must have.

12 Q This tax return I can tell you
13 reflects payments to Donna Rubinsky in the
14 amount of \$10,000 and Michael Jelinsky in
15 the amount of \$10,000 in the year 2008.
16 Does that square with your recollection?

17 A No.

18 Q You don't remember paying, the
19 Zayat Foundation giving Donna Rubinsky,
20 which is Plaintiff's Exhibit 1, 25,000?

21 A No.

22 Q You don't remember that check?

23 A No.

24 Q But you do remember giving
25 Michael Jelinsky \$10,000, correct?

1 Zayat

2 A No. My tax return is close to
3 100 or 180 pages. I don't read at all
4 anything except I have professionals that I
5 pay an arm and a leg, and what I do is I
6 sign the bottom thing. I never -- it's
7 minimum 100, 150 pages. So I don't look at
8 every page. I rely on professional people,
9 accountants and others who do that for me.
10 I don't even look at them.

11 Q Did you ever wager with a place
12 called Pinnacle in Curacao?

13 A I never heard the name.

14 Q Did you ever wager with a place
15 called Trade Winds in Costa Rica?

16 A Never heard the name.

17 Q Did you ever place any Internet
18 bets while you were in Egypt?

19 A Zero.

20 Q In May of 2008, do you recall
21 sending Mr. Rubinsky a text message saying
22 that it was urgent that you meet?

23 A I can't remember.

24 Q Do you remember anything going
25 on in May of 2008 that was urgent?

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MR. WAGNER: Objection to the form.

A I can't remember.

Q Do you recall meeting with Mr. Rubinsky in May of 2008?

A I can't remember. I don't remember. I told you I don't remember 2000, 2000, I remember meeting with him in my office. I can't pinpoint the dates.

Q Do you remember if the meeting with the law enforcement officers was in or about May of 2008?

MR. WAGNER: Objection. Asked and answered.

A I can't remember. I can't remember the dates. Oh, my God. I'm not lying.

MR. WAGNER: You have answered it.

MR. BAINTON: Can we take a break for a second?

MR. WAGNER: Sure.

(Whereupon, a recess was taken.)

MR. BAINTON: Back on the

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Zayat

record. Couple more questions.

Q Are you acquainted with a woman by the name of Linda Becker?

A Sure.

Q Is she still with you?

A No.

Q Do you know her present contact information?

A No.

Q When did she stop being your secretary?

A You answered the question. You asked me who she was. She was my secretary. I think maybe in -- I can't remember the exact date. I can't remember.

Q When she worked for you, where did she work? What location?

A In my Hackensack office. She was my secretary in America.

Q At ABC?

A Yes, and at Zayat Stables. It's the same place. After ABC we leased the space for Zayat Stables.

Q Do you recall when she left?

1 Zayat

2 A I can't remember.

3 Q Would you have business records
4 at Zayat Stables which would indicate her
5 last known address?

6 A Sorry.

7 Q Would you have a business record
8 at Zayat Stables which would indicate her
9 last known address, personnel records?

10 A No idea. The only person who I
11 presume would have that would be bookkeeper.
12 I don't do records.

13 Q I wouldn't think that --

14 A She had worked with me as my
15 secretary.

16 Q Did you ever meet with Mr.
17 Rubinsky in the Venetian Hotel in Las Vegas?

18 A Never.

19 Q Does the name Uvari Group mean
20 anything to you?

21 A Who?

22 Q U-V-A-R-I Group, does that name
23 mean anything to you?

24 A No. Never heard the name. Who
25 are they?

1 Zayat

2 Q If I were to answer that
3 question Mr. Wagner would be very mad at me,
4 and he would be right.

5 A Who are they?

6 Q Does the name Racing Services
7 mean anything to you?

8 A No.

9 Q I take it therefore you did not
10 have an account with Racing Services in
11 2003?

12 A I don't remember that name.

13 Q Other than the breakfast meeting
14 and the time he came to your office looking
15 physically not well that you have told me
16 about, was there any other occasion when you
17 and Mr. Rubinsky met face to face?

18 A No.

19 Q You have told me about two.

20 A Not that I recall, no.

21 Q When is the last time you had a
22 communication with Michael Rubinsky?

23 A Michael Rubinsky?

24 Q Michael Jelinsky, I keep
25 screwing that up, I'm sorry, Michael

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Zayat

Jelinsky.

A I can't exactly recall the day.

Q How about the year?

A Maybe year ago.

Q What was the topic of that conversation?

A That he sent me I believe a text message that he might be in California and wants to meet to apologize and to kind of extend to me that he realize he wronged me.

Q Did that meeting take place?

A No.

Q Was that a text message?

A I believe so.

Q Before that text message, what was the prior communication with Michael?

A Weirdly enough I got a letter from a federal prison from him that was kind of -- I would describe it as somebody going through confession and remorse.

Q Do you have a copy of that letter?

A I think I threw it out.

Q What did it say?

1 Zayat

2 A I can't remember detail. I
3 remember the gist. It was a confession. I
4 know I wronged you. I don't know how could
5 I have done something like that. You have
6 been very good to me. I went bad. I'm
7 straightening my life. I lost a lot of
8 weight. I'm trying to put my life together.
9 I'm so sorry. You have been so kind to me.
10 I betrayed you. It's like something going
11 through -- I don't know what they go through
12 in prison. This was the gist of it.

13 Q Did the letter mention Mr.
14 Rubinsky?

15 A No. It was so personal. It was
16 no triangle. As I explained to you, my
17 relationship with Mike was on a personal
18 basis. Howie didn't exist in my life.

19 Q Do you discount the possibility
20 that one of the Jelinsky brothers might have
21 used your name falsely?

22 MR. WAGNER: Objection to the
23 form. I don't understand the question.

24 Q Well, do you have any reason to
25 believe that one or both of the Jelinsky

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Zayat

brothers did not tell Mr. Rubinsky that they were acting on your behalf?

A You are asking me to speculate. I can't guess that. I have no idea. You are asking me to guess something between them. I have no idea.

Q Have you ever had a conversation with either of the Jelinsky brothers relating to the topic of whether one or both of them used your name without your permission in dealing with Mr. Rubinsky?

A No, because the only time --

MR. WAGNER: You answered the question.

A No.

MR. BAINTON: I think we're done.

MR. WAGNER: Okay, off the record.

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

(Time noted 1:02 p.m.)

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A C K N O W L E D G M E N T

UNITED STATES DISTRICT COURT)

ss:

DISTRICT OF NEW JERSEY)

I, AHMED ZAYAT, hereby certify
that I have read the transcript of my
testimony taken under oath in my deposition
of NOVEMBER 11, 2014; that the transcript is
a true, complete and correct record of what
was asked, answered and said during this
deposition, and that the answers on the
record as given by me are true and correct.

AHMED ZAYAT

Subscribed and sworn to
before me this day
of , 2014.

NOTARY PUBLIC

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C E R T I F I C A T E

STATE OF NEW YORK)

ss:

COUNTY OF NASSAU)

I, KEVIN JONES, a Shorthand Reporter and Notary Public in and for the State of New York, do hereby certify:

That the testimony of AHMED ZAYAT was held before me at the aforesaid time and place.

That said witness was duly sworn before the commencement of the testimony and that the testimony was taken stenographically by me and is a true and accurate transcription of my stenographic notes.

I further certify that I am not related to any of the parties to the action by blood or marriage and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 17th day of November, 2014.



KEVIN JONES

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E R R A T A S H E E T

DEPOSITION OF: AHMED ZAYAT

RE: RUBINSKY v. ZAYAT

DATE TAKEN: NOVEMBER 11, 2014

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AHMED ZAYAT

Subscribed and sworn to
before me this ____ day
of _____, 2014.

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