

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF KINGS

- - - - - X

CERTIFIED COPY

MERKAZ THE CENTER, INC.,

Plaintiff,

-against-

Index No.  
3432/2014

AISH HATORAH NEW YORK, INC., RABBI DAVID  
COHEN, KENNETH YITZCHAK GREENMAN, PETER  
HOCHFELDER, MITCH KUFLIK, VICTOR LIPNITSKY,  
STUART SCHABES, INVOTEX, OBER KALER GRIMES  
AND SHRIVER, P.C., DAVID MARKOWITZ, JACOB  
FETMAN,

Defendants.

- - - - - X

1222 Avenue M, Suite 204  
Brooklyn, New York 11230

March 31, 2015  
10:15 AM

EXAMINATION BEFORE TRIAL OF VICTOR LIPNITSKY, on behalf of  
the Defendant herein, taken by Plaintiff, pursuant to Order and Notice,  
held at the above place and time, before CHERYL GELLIS, a Stenotype  
Reporter and Notary Public within and for the State of New York.



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

2  
3 JON A. LEFKOWITZ  
Attorney for the Plaintiff  
4 1222 Avenue M, Suite 204  
Brooklyn, New York 11230

5 BY: JON A. LEFKOWITZ, ESQ.  
6

7 LAW OFFICES OF STAHL & ZELMANOVITZ  
Attorneys for the Defendant JACOB FETMAN  
8 747 Third Avenue, Suite 33B  
New York, New York 10017

9 BY: JOSEPH ZELMANOVITZ, ESQ.  
10

11 GOLDBERG & RIMBERG PLLC  
Attorneys for the Defendant VICTOR LIPNITSKY  
12 115 Broadway, 3rd Floor  
New York, New York 10006

13 BY: ISRAEL GOLDBERG, ESQ.  
14

15  
16 ALSO PRESENT:

17 HODGSON RUSS LLP  
1540 Broadway, 24th Floor  
18 New York, New York 10036

19 BY: JILLIAN MARIE SEARLES, ESQ.  
20

21 ABRAHAM NEUHAUS, ESQ.  
of counsel to Stahl & Zelmanovitz  
22

23 JACOB FETMAN  
24  
25

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

IT IS HEREBY STIPULATED, by and between the attorneys for the respective parties hereto, that:

All rights provided by the C.P.L.R., and Part 221 of the Uniform Rules for the Conduct of Depositions, including the right to object to any question, except as to form, or to move to strike any testimony at this examination is reserved; and in addition, the failure to object to any question or to move to strike any testimony at this examination shall not be a bar or waiver to make such motion at, and is reserved to, the trial of this action.

This deposition may be sworn to by the witness being examined before a Notary Public other than the Notary Public before whom this examination was begun, but the failure to do so or to return the original of this deposition to counsel, shall not be deemed a waiver of the rights provided by Rule 3116, or the C.P.L.R., and shall be controlled thereby.

The filing of the original of this deposition is waived.

IT IS FURTHER STIPULATED, that a copy of this examination shall be furnished to the attorney for the witness examined without charge.

1 MR. VICTOR LIPNITSKY

2 V I C T O R L I P N I T S K Y,

3 after having been duly affirmed under the penalties of perjury by a  
4 Notary Public of the State of New York, was examined and testified  
5 as follows:

6 BY THE REPORTER:

7 Q. Please state your name and address for the record.

8 A. Victor Lipnitsky. My business address is 100 International  
9 Drive, 23rd Floor, Baltimore, Maryland 21202.

10 EXAMINATION BY MR. ZELMANOVITZ:

11 MR. ZELMANOVITZ: Please mark this.

12 (Whereupon, a Notice was marked Defendant's Exhibit A for  
13 identification, as of this date.)

14 Q. Good morning Mr. Lipnitsky.

15 A. Good morning.

16 MR. GOLDBERG: Before we start the order of business, there  
17 is an attorney here who is representing a non-party to this  
18 proceeding, and I had asked that they be excluded from this  
19 deposition.

20 MR. ZELMANOVITZ: On what basis?

21 MR. GOLDBERG: She's not a party. Only parties are entitled  
22 to appear and be present. She's not representing anybody who is a  
23 party. She's in another litigation, I understand, that's not  
24 related to this litigation, and absent a court order, I'm going to  
25 ask that she be excluded.

1 MR. VICTOR LIPNITSKY

2 MR. ZELMANOVITZ: Do you have any authority that you could  
3 show us that she should be excluded?

4 MR. GOLDBERG: I will. Just like at trial, I don't have it  
5 with me, but if you want, we can adjourn so I can get you the  
6 authority.

7 MR. LEFKOWITZ: This is my office. I can invite whoever I  
8 want. I invited Ms. Searles, and she's welcome to stay, unless the  
9 Judge says otherwise.

10 MR. GOLDBERG: She's welcome to stay, but not in this  
11 deposition. So if she's going to be here, we won't continue until  
12 we get a ruling of the Judge.

13 MR. ZELMANOVITZ: Okay. Let's call the Judge.

14 MR. LEFKOWITZ: Call the Judge.

15 MR. GOLDBERG: I can't.

16 MR. ZELMANOVITZ: You're the one making the objection.

17 MR. GOLDBERG: It's your office. Your phone.

18 MR. ZELMANOVITZ: It's not my office.

19 MR. GOLDBERG: Mr. Lefkowitz's office.

20 MR. LEFKOWITZ: Here's the phone.

21 MR. GOLDBERG: Go ahead. Call the Judge.

22 MR. LEFKOWITZ: I'm not calling anybody.

23 MR. ZELMANOVITZ: You want to continue with the deposition?

24 MR. GOLDBERG: You want to continue with the deposition?

25 MR. LEFKOWITZ: Yes.

1 MR. VICTOR LIPNITSKY

2 MR. GOLDBERG: Good. Then there will be no questions  
3 answered until counsel --

4 MR. ZELMANOVITZ: Make a record.

5 MR. GOLDBERG: Make a record.

6 MR. LEFKOWITZ: And there will be a motion for contempt.

7 MR. GOLDBERG: Do whatever you want.

8 Would you mind sitting somewhere where we can see you, sir,  
9 Mr. Lefkowitz?

10 MR. LEFKOWITZ: I will sit where I want. This is my office.

11 MR. GOLDBERG: Oh, this is your office. I'm asking you to  
12 sit down so you don't pace. It makes me nervous when you pace back  
13 and forth.

14 MR. ZELMANOVITZ: First of all, I suggest, Mr. Lefkowitz,  
15 let's get Judge Demarest on the phone now, or else we're not going  
16 to have a deposition that's taking place.

17 MR. LEFKOWITZ: Give me the phone. We could try to call  
18 her.

19 MR. ZELMANOVITZ: We'll get it down, either one way or  
20 another.

21 (Whereupon, Mr. Lefkowitz called the Judge.)

22 MR. LEFKOWITZ: Calling chambers.

23 SPEAKER PHONE: (Inaudible.)

24 MR. ZELMANOVITZ: My name is Joseph Zelmanovitz, and I have  
25 counsel here on the case of Merkaz the Center, Inc., at a

1 MR. VICTOR LIPNITSKY  
2 deposition of Victor Lipnitsky that was ordered by the Court, which  
3 is supposed to start right now. Counsel for Mr. Lipnitsky has  
4 raised an objection that there is one person attending, who is an  
5 attorney in a case that's related.

6 You want to identify yourself?

7 MS. SEARLES: My name is Jillian Searles, and I'm in a  
8 related case with one of the parties here.

9 MR. ZELMANOVITZ: And counsel for Mr. Lipnitsky has  
10 objected to continue the deposition in that counsel is present. I  
11 don't see why it would hurt anybody that she is present.

12 SPEAKER PHONE: What, and who does she represent?

13 MR. GOLDBERG: A non-party.

14 MS. SEARLES: A non-party to this proceeding. A related  
15 party to the overall litigation.

16 SPEAKER PHONE: Who is it?

17 MS. SEARLES: I represent Rothstein Kass.

18 SPEAKER PHONE: What's the related matter?

19 MS. SEARLES: There is a related matter in the Supreme  
20 Court, in New York County, with one of the parties here, Aish  
21 Hatorah against Rothstein Kass, and a couple of others.

22 MR. GOLDBERG: This is Israel Goldberg speaking for Victor  
23 Lipnitsky. We were not apprised that she would be present today,  
24 and it is not a related matter. While there are certain  
25 allegations that cross over, there is no consolidation order. The



1 MR. VICTOR LIPNITSKY  
2 litigation in Manhattan has not crossed over into this litigation,  
3 at all, or any other litigation in the Brooklyn actions that are  
4 pending, in way, shape, or form, and I've objected to her being  
5 here as a representative of the non-party proceeding, and I  
6 suggested that before she appears, or sits through this deposition,  
7 she obtain a court order.

8 SPEAKER PHONE: I'm sorry. Can I have the attorney's name  
9 one more time?

10 MR. GOLDBERG: Israel Goldberg, and the attorney appearing  
11 for the non-party is --

12 SPEAKER PHONE: I mean for the Rothberg.

13 MS. SEARLES: Rothstein Kass. It's Jillian Searles.

14 SPEAKER PHONE: Hold on a moment, please.

15 MR. GOLDBERG: Thank you.

16 SPEAKER PHONE: Who's on the line?

17 MR. ZELMANOVITZ: It's Joseph Zelmanovitz, and I represent  
18 Jacob Fetman, and this is in the case of Merkaz The Center, Inc.  
19 versus Aish Hatorah New York, Inc., et al.

20 SPEAKER PHONE: You represent Jacob Fetman?

21 MR. ZELMANOVITZ: Yes.

22 SPEAKER PHONE: Who are the defendants?

23 MR. ZELMANOVITZ: Right.

24 SPEAKER PHONE: Who else?

25 MR. GOLDBERG: My name is Israel Goldberg, and I represent

1 MR. VICTOR LIPNITSKY  
2 Aish, and the defendant who's testifying today, Victor Lipnitsky.

3 MR. Lefkowitz: And I'm Jon Lefkowitz, representing the  
4 plaintiff, Merkaz.

5 MS. SEARLES: And I'm Jillian Searles, and I represent  
6 Rothstein Kass in a related matter.

7 SPEAKER PHONE: And your name, again?

8 MS. SEARLES: Jillian Searles.

9 SPEAKER PHONE: And you represent who?

10 MS. SEARLES: Rothstein Kass.

11 SPEAKER PHONE: From what I understand, and let's just go  
12 over it. I just want to make sure. You represent Aish, as well as  
13 the accountant being deposed, right?

14 MR. GOLDBERG: That's correct.

15 SPEAKER PHONE: And that person's name is Lipnitsky?

16 MR. GOLDBERG: Correct.

17 SPEAKER PHONE: Now, I understand that you're doing this  
18 deposition, and Mr. Goldberg, I believe, you objected to the  
19 presence of Ms. Searles, because Ms. Searles is not an attorney of  
20 record for a party in this case; is that right?

21 MR. GOLDBERG: That's correct.

22 SPEAKER PHONE: Ms. Searles, what are you doing here? It's  
23 a little unusual to have an attorney on another case appearing at a  
24 deposition. What's the purpose?

25 MS. SEARLES: Well, the other case is a related case. We

1 MR. VICTOR LIPNITSKY  
2 have not had the opportunity to put answering papers in the other  
3 case. So it's fairly early on in the other case, but Aish Hatorah  
4 is suing us in the related case for failing to see the alleged  
5 embezzlement that Mr. Fetman participated in, and they are using  
6 the arbitration award in this particular case as --

7 SPEAKER PHONE: Ms. Searles, I have no doubt that you'll be  
8 able to get a copy of this deposition, or ask for it, but again,  
9 why are you at the actual deposition itself?

10 MS. SEARLES: I was invited, and I wanted to take the  
11 opportunity. I found out about it yesterday, and I came down.

12 SPEAKER PHONE: Are you planning on asking questions, or are  
13 just sitting there to observe?

14 MS. SEARLES: No, I am planning on observing. I'm not  
15 asking questions.

16 MR. LEFKOWITZ: Sir, I'm Jon Lefkowitz. I invited her, not  
17 only for the reasons she stated, which will help her in her case,  
18 perhaps, but I felt that since this is a deposition of the,  
19 so-called, forensic accountant, and they're representing an  
20 accounting firm, I felt that her input could be helpful to me and  
21 Mr. Zelmanovitz. I didn't invite her to ask questions. I just  
22 figured if she's sitting here, and observing, she could give us  
23 some useful insights into he questions and answers.

24 MR. GOLDBERG: This is Mr. Goldberg. We gave them, advised  
25 them, early yesterday morning that we -- Mr. Lipnitsky would be

1 MR. VICTOR LIPNITSKY

2 coming up from Maryland for the deposition today. Nobody reached  
3 out to us, even inquired, or asked us if we would consent to such a  
4 circumstance. We could have had this dealt with yesterday. I  
5 walked in this morning to the deposition room, and lo and behold.  
6 This is Merkaz The Center, Inc. It's tangentially related. There  
7 is no consolidation of the actions. At this point, there's no  
8 cross-over of the actions. As a matter of fact, this deposition,  
9 as you're well aware of is pre-answer with this case, with a  
10 pending motion to dismiss the case. We don't think it's  
11 appropriate to have other parties, and other matters present. She  
12 could certainly get a copy of the deposition transcript, from  
13 counsel for Merkaz or Mr. Fetman, after it's taken. There's no  
14 reason for her to be sitting here at this point, and I certainly  
15 don't want her interjecting in, or making any comments, or sitting  
16 here during the course of the deposition, preparing my opposing  
17 counsel during the course of the deposition.

18 SPEAKER PHONE: Backing up a second. What is  
19 Mr. Rothstein's relationship to any of these parties, purportedly,  
20 Ms. Searles?

21 MS. SEARLES: Rothstein Kass is an accounting firm, and we  
22 have been sued, separately, claiming that we're responsible for not  
23 uncovering Mr. Fetman's alleged embezzlement.

24 MR. ZELMANOVITZ: This is Joel Zelmanovitz again.  
25 Ms. Searles is not going to be interjecting, or asking any

1 MR. VICTOR LIPNITSKY

2 questions. She was invited here so we could have some help,  
3 because we are taking the deposition of an accountant in a  
4 financial case, and it would be very helpful to us. She will not  
5 ask a single question.

6 MR. LEFKOWITZ: I just asked her to write notes for me, if  
7 she feels like it.

8 MR. GOLDBERG: I just make one more point.

9 SPEAKER PHONE: Actually, no. The Judge has directed that  
10 Ms. Searles is absolutely not allowed to be present. She's not an  
11 attorney in this action, and she's going to be. If you want it on  
12 the record, if there's going to be a disagreement about it, I'll  
13 put the Judge on. You could get it on the transcript, but she's  
14 absolutely not permitted to be present.

15 MS. SEARLES: Thank you very much.

16 MR. GOLDBERG: Thank you.

17 (Whereupon, Ms. Searles left the deposition.)

18 BY MR. ZELMANOVITZ:

19 Q. Let's start again. Good morning, Mr. Lipnitsky.

20 A. Good morning.

21 Q. My name is Joseph Zelmanovitz, of Stahl & Zelmanovitz. I  
22 represent Jacob Fetman, who's to my left. I'll be asking you questions  
23 today, and Mr. Lefkowitz will be asking you questions, I presume. Your  
24 answers will be taken under oath, under the penalty of perjury.

25 If there's any question you don't understand, let me know,

1 MR. VICTOR LIPNITSKY

2 and I'll try to rephrase it. Is that alright?

3 A. Yes.

4 Q. Also, the court reporter can only take down verbal  
5 utterances. She won't be able to take down nods of the head, of a yes or  
6 no in that fashion. So we just ask you to speak clearly so she can get a  
7 complete record. Is that alright?

8 A. Yes.

9 Q. Any time you want to take a break, just let us know, and  
10 we'll try to accommodate you, and I'm sure we will accommodate you. The  
11 only thing I ask is that if it's in the middle of a pending question,  
12 that you answer the question first, and then we'll take the break. Is  
13 that okay?

14 A. Yes.

15 Q. Are you represented by counsel today?

16 A. Yes.

17 Q. Who is that?

18 A. Mr. Rimberg.

19 Q. Mr. Rimberg?

20 A. Mr. Rimberg and Goldberg.

21 Q. Goldberg & Rimberg?

22 A. Goldberg & Rimberg.

23 Q. And Mr. Goldberg is sitting to your right, correct?

24 A. Yes.

25 Q. When did you retain Mr. Goldberg?

1 MR. VICTOR LIPNITSKY

2 A. I don't recall.

3 Q. Was it yesterday, or before yesterday?

4 A. Before yesterday.

5 Q. Was it more than a month ago?

6 A. Yes.

7 Q. You received a notice of deposition in this case. Do you  
8 recall that?

9 A. I did not.

10 Q. Let me show you what has been marked as Defendant's Exhibit

11 A. Have you ever seen that before (handing)?

12 A. No.

13 Q. Do you understand that you're here pursuant to an order of  
14 the court?

15 A. Yes.

16 Q. What do you understand that order of the court to be?

17 A. Not sure.

18 Q. Were you told what the order of the court was? I'm not  
19 asking you what the conversation between you and your attorney was. I'm  
20 just asking you, were you ever told what the court's order was?

21 A. I understand the order was to have me being deposed.

22 Q. Do you know what you are being deposed about?

23 A. No.

24 Q. You have no idea what you're being deposed about?

25 A. No.

1 MR. VICTOR LIPNITSKY

2 Q. No one told you that?

3 A. No.

4 Q. In preparation for your deposition, did you review any  
5 documents?

6 A. No.

7 Q. Did you have a discussion with your attorney in preparation  
8 for your deposition?

9 A. I had some discussion, yes.

10 Q. When did you have those discussions?

11 A. This morning.

12 Q. Did you have any discussions with your attorney prior to  
13 this morning?

14 A. No.

15 Q. Have you paid your attorney to represent you?

16 A. I don't, personally, pay him, but I am sure there's an  
17 arrangement for him to be representing me, yes.

18 Q. Who's paying for this representation?

19 A. Could be my firm is paying, but I don't know.

20 Q. You don't know?

21 A. No.

22 Q. When you say your firm, what is your firm called? Name of  
23 your firm?

24 A. The firm that is in this litigation is Invotex.

25 Q. Invotex?



MR. VICTOR LIPNITSKY

A. Yes.

Q. What does Invotex do?

A. They are a forensic accounting firm.

Q. Are they based in Maryland?

A. Yes.

Q. Are you a principal of that firm?

A. No.

Q. Are you an employee of that firm?

A. Not anymore.

Q. When you say you don't understand who is paying for your representation by your attorney here today, it could be Invotex, or who else could it be?

A. I don't know.

Q. You have no idea?

A. I have no idea.

Q. You just know that you came to the deposition, and it's being paid for?

A. Yes.

Q. Who told you it's being paid for?

A. I assume it's being paid for.

Q. You assume, but you don't know?

A. I don't know.

Q. Is Aish Hatorah paying for it?

A. I don't know.

MR. VICTOR LIPNITSKY

Q. Is Rabbi Cohen paying for it?

A. I don't know.

Q. Is it possible that Rabbi Cohen is paying for your representation here, today?

A. I don't know.

Q. Is it possible that Aish Hatorah is paying for your representation here, today?

A. I don't know.

Q. You said you used to be an employee of Invotex. Where are you employed today?

A. Company named Stout Risius Ross.

Q. Is that an accounting firm?

A. Yes.

Q. Where are they located?

A. In -- out of -- it's a national firm. So they have multiple locations.

Q. When you work for them, where do you work?

A. I work out of the Maryland office.

Q. Is that 100 International Drive?

A. Yes.

Q. That's the address you gave the court reporter this morning?

A. Yes.

Q. What do you do for them?

A. I work, I am employed, and I do forensic accounting work for

MR. VICTOR LIPNITSKY

them.

Q. How long have you been employed by them?

A. A little over a year.

Q. What is your position?

A. I am a director with the forensic group.

Q. Are there partners of that firm?

A. There are partners in that firm.

Q. But you're not a partner?

A. I'm not a partner.

Q. Why did you leave Invotex.

A. Invotex was sold to -- Invotex was dissolved, and we were, technically, acquired by other firm.

Q. Let me go back a little bit, historically, here.

You have a college education?

A. I do.

Q. Where did you go do college?

A. Stony Brook University.

Q. What degree did you receive?

A. Degree in economics.

Q. When did you receive that degree?

A. In 1995.

Q. Was that a B.S.?

A. Yes.

Q. Do you have --

1 MR. VICTOR LIPNITSKY

2 A. I'm sorry, B.A..

3 Q. The economics degree is a B.A. in Stony Brook?

4 A. Yes.

5 Q. After graduating from Stony Brook, in 1995, did you have any  
6 other education?

7 A. I, eventually, went and completed my CPA required course  
8 work at Baltimore Community College.

9 Q. Were you living in Baltimore at that time?

10 A. I did.

11 Q. Are you still living in Baltimore?

12 A. I am.

13 Q. Did you receive a CPA?

14 A. I did.

15 Q. When did you receive your CPA?

16 A. In 2008.

17 Q. You're licensed as a CPA in which state?

18 A. In Maryland, and Virginia.

19 Q. You're not licensed in New York?

20 A. I am not.

21 Q. Did you ever take the CPA exam to become licensed in New  
22 York?

23 A. It's a national exam. It's one exam for everybody.

24 Q. Did you ever apply to be licensed in New York?

25 A. No.

1 MR. VICTOR LIPNITSKY

2 Q. Other than the matter for which you are here today, have you  
3 ever done any work as a certified public accountant, or work of that  
4 nature in New York?

5 MR. GOLDBERG: Objection as to form.

6 Q. You understand my question?

7 A. Say it one more time.

8 Q. Sure.

9 Other than the matter for which you are here today, meaning  
10 the underlying matter with the arbitration with Rabbi Cohen, have you  
11 done work for others in the accounting field, in New York?

12 A. Yes, I did.

13 Q. On whose behalf did you do that work? I don't mean the  
14 client. I mean, were you working on behalf of the accounting firm in  
15 Baltimore when you were doing that work?

16 A. Yes.

17 Q. Other than working for the accounting firm in Baltimore, did  
18 you ever work on your own individual behalf doing any work in New York in  
19 the accounting area?

20 A. No.

21 Q. Are you a United States citizen?

22 A. I am.

23 Q. When did you receive your citizenship?

24 A. I don't remember.

25 Q. Was it after or before you received your CPA, in 2008?

1 MR. VICTOR LIPNITSKY

2 A. Before.

3 Q. Where were you born?

4 A. Kiev.

5 Q. When did you come here, to the United States?

6 A. In 1990.

7 Q. After doing your studies at Baltimore Community College, did  
8 you become full-time employed anywhere?

9 A. Yes.

10 Q. Where was that?

11 A. Invotex.

12 Q. Was Invotex the first public accounting job that you had?

13 A. I did tax accounting before.

14 Q. Where did you do that?

15 A. At Strauss and Associates.

16 Q. That's the name of the firm?

17 A. Yes.

18 Q. Where are they located?

19 A. Baltimore.

20 Q. How long were you working for them?

21 A. About two years.

22 Q. Do you know when you started there?

23 A. It's 2002, roughly.

24 Q. So 2002, until about 2004?

25 A. Yes.

MR. VICTOR LIPNITSKY

Q. And in 2004, that's when you began working for Invotex?

A. Yes.

Q. I apologize if I asked this before, but did you mention that Invotex is a forensic accounting firm?

A. Consulting firm, yes.

Q. And in the accounting area?

A. Yes.

Q. You know a Rabbi David Cohen, right? Rabbi Dovid Cohen, or David Cohen, yes?

A. Yes.

Q. How did you first get to know him?

A. I have heard of Rabbi David Cohen for many years. My parents live in Brooklyn. I grew up in Brooklyn, and he's a well-known Rav in Brooklyn.

Q. You grew up in Brooklyn, you said?

A. Yes.

Q. What were the time span, and years that you lived in Brooklyn?

A. Well --

Q. You came here in 1990?

A. Yes.

Q. Did you first come to Brooklyn?

A. Yes.

Q. Were you in Brooklyn from 1990, until when?

MR. VICTOR LIPNITSKY

A. 'Til about the year of 2000, on and off.

Q. So for about ten years?

A. On and off. I studied in Long Island, Stony Brook University. So I lived in -- I studied in Israel for two years.

Q. Did you attend any services of Rabbi Cohen, in his synagogue?

A. Couple of times.

Q. Where did you live in Brooklyn?

A. Avenue L, and East 5th.

Q. And Rabbi Cohen's Synagogue is about Avenue L, and Coney Island Avenue, right?

A. Yes.

Q. So it's about five blocks away?

A. Yes.

Q. So you went there a couple of times?

A. Yes.

Q. When was the first time you did any work for him?

MR. GOLDBERG: Objection, as to form.

A. I never did any work for Rabbi Cohen outside of Fetman's case.

Q. Did he ever ask you to render any services in connection with any arbitration or mediation that he was involved in?

A. Never.

Q. So this Fetman case is the first one?



1 MR. VICTOR LIPNITSKY

2 MR. GOLDBERG: Objection, as to form.

3 A. Can you repeat the question?

4 Q. Was the Fetman case the first time that you performed  
5 services in connection with any arbitration or mediation that was  
6 directed by Rabbi Cohen?

7 A. Yes.

8 Q. Who told you about the assignment for Rabbi Cohen? How did  
9 that come about?

10 A. I got a call from Rabbi Greenman, Yitzchok Greenman, and I  
11 heard it from him.

12 Q. What did Rabbi Greenman tell you in this phone call?

13 A. That he would like -- they interview CPA firms, accountants,  
14 in the matter that they're involved in, and he wanted to know if I could  
15 come down to New York, and have an interview with them.

16 Q. Did you know Rabbi Greenman before this?

17 A. No.

18 Q. So the first time you ever spoke to Rabbi Greenman was in  
19 this phone conversation?

20 A. Yes.

21 Q. Did Rabbi Greenman say how he knew of you?

22 A. I don't remember.

23 Q. Did he say anything about how he was referred to you?

24 A. I don't remember.

25 Q. Do you know how he was referred to you?

MR. VICTOR LIPNITSKY

A. No.

Q. So he said would you come down for an interview? That was his question?

A. Yes.

Q. What else did he say about the matter in his phone call? What did he tell you about it?

A. I don't remember. It was a long time ago.

Q. Do you have any notes about it?

A. I do not, no.

Q. Do you keep notes of phone conversations about matters that are being referred to you?

A. Typically, not.

Q. Do you sometimes do that?

A. Typically, not.

Q. Typically, not, but there are some times when you would?

A. Typically, not.

Q. I asked you if there are some times that you would.

A. I would not.

Q. So you don't keep notes about any kind of referral conversations?

A. I do not.

Q. And you don't remember about the substance of the phone call with Rabbi Greenman, other than what you testified to? Is that your testimony?

1 MR. VICTOR LIPNITSKY

2 A. Yes.

3 Q. And you came down to New York for an interview?

4 A. Yes.

5 Q. Do you know when that was?

6 A. I don't remember.

7 Q. Do you keep a calendar, or a diary?

8 A. I don't keep.

9 Q. How do you know about dates for your appointments and times?

10 How do you monitor that?

11 A. Oh, I have a calendar.

12 Q. Oh, you do. So do you have the calendar back from 2013?

13 A. I don't know.

14 Q. You don't know. Do you know if it's an obligation of a  
15 certified public accountant, in the State of Maryland, to keep records,  
16 such as calendars of appointments for jobs, and things like that?

17 A. I don't know if it would be a requirement.

18 Q. Do you, in fact, keep notes? Under oath, I'm asking you, do  
19 you keep your calendar for 2013?

20 A. My calendar is in Outlook. If it's there, it's there.

21 Q. Is it there?

22 A. I don't know.

23 Q. Well, did you delete it?

24 A. You asked me. I answered. I don't know.

25 Q. You don't know if you have a calendar for 2013 in Outlook?

1 MR. VICTOR LIPNITSKY

2 A. I don't know.

3 MR. GOLDBERG: He asked, and answered.

4 Q. Did you delete your information from your computer?

5 A. I don't know.

6 Q. You don't?

7 A. No.

8 Q. So if you put it into Outlook, is it still there?

9 A. I don't know.

10 MR. GOLDBERG: He answered the question.

11 Q. You don't know?

12 MR. GOLDBERG: That's the answer.

13 Q. Did you bill for your services in connection with the matter  
14 with Rabbi Greeman and Rabbi Cohen?

15 A. I do.

16 Q. Who do you bill?

17 A. Ober Kaler.

18 Q. So you came down for an interview in New York, and who did  
19 you meet?

20 A. I met Rabbi Greenman, and I think it was, maybe, Dave  
21 Markowitz was there as well.

22 Q. Who is Mr. Markowitz?

23 A. He's working with Rabbi Greenman.

24 Q. Did you know what Rabbi Greenman's position was at the time?

25 A. He was executive director.

MR. VICTOR LIPNITSKY

Q. Of Aish?

A. Yes.

Q. Besides Rabbi Greenman and David Markowitz, did you meet anyone else during this interview?

A. I don't remember.

Q. What did you discuss during the interview?

A. They asked me about my background.

Q. What did they tell you about the case?

A. I don't recall.

Q. Did they tell you that they are alleging that Mr. Fetman had embezzled funds from Aish during this interview?

A. I don't recall.

Q. Do you have notes of that interview?

A. I don't.

Q. How long did the interview take?

A. An hour.

Q. Did they call anybody during this interview for you to speak over the phone?

A. I don't recall.

Q. Did you speak to Rabbi Cohen during that day?

A. I did not.

Q. Had you spoken to Rabbi Cohen about this matter prior to meeting Rabbi Greenman and David Markowitz?

A. I did not.

MR. VICTOR LIPNITSKY

Q. During this interview, did Rabbi Greenman and David Markowitz say that Rabbi Cohen was conducting an arbitration?

A. They did.

Q. Did they tell you what the arbitration was about?

A. I don't recall.

Q. Now, I'm not asking you what it is that they told you about the arbitration. I'm just asking you if you recall whether they told you what the arbitration is about?

A. I don't recall.

Q. What happened after this hour interview? What did you do?

A. I went back to Baltimore.

Q. Did you speak to anyone about this matter? Did you speak to people at Invotex about it?

A. Yes.

Q. Who did you speak to?

A. To Raman Peroutka.

Q. Who is Mr. Peroutka?

A. He was a CFO. He was the head of the firm.

Q. What did you tell him?

A. That we have a potential matter, and we may be working in New York.

Q. Now, what happened after you came back to Baltimore? What next happened in connection with your working on this matter?

A. I got a call from Rabbi Greenman, who told me that after

1 MR. VICTOR LIPNITSKY

2 interviewing four, five firms, they wanted to retain Invotex. I advised  
3 him that we don't usually work for the client, directly, and I told him  
4 that he needs to retain a law firm, first, who will hire us to work on  
5 the case.

6 Q. Did you suggest any law firm that he should hire?

7 A. He asked me for my suggestions, and I gave him a couple  
8 names.

9 Q. Was Ober Kaler one of them?

10 A. Yes.

11 Q. Had you worked with Ober Kaler before that?

12 A. My firm did. I did not, directly, work for them.

13 Q. Had they worked for Mr. Schabes, at that firm, before that?

14 A. No.

15 Q. Do you know who Mr. Schabes is?

16 A. Do I know him now?

17 Q. Yes.

18 A. I know, now, who Mr. Schabes is, yes.

19 Q. You became familiar with him during the course of these  
20 proceedings, right?

21 A. Yes.

22 Q. What next happened after you told him that he has to hire a  
23 firm who would then hire Invotex?

24 A. Apparently, he talked to a number of law firms in New York,  
25 and Ober Kaler was the firm they retained.

MR. VICTOR LIPNITSKY

Q. Did you have any communication with Ober Kaler?

A. What do you mean?

Q. Did they contact you, Ober Kaler?

A. When?

Q. How did you know Ober Kaler was retained?

A. Rabbi Greenman told me that they would retain Ober Kaler.

Q. Then what happened next?

A. Ober Kaler retained Invotex.

Q. Did they retain Invotex through you, or they did it directly with the partners, or other people at the firm? Just the process, how did it work?

A. It's a standard engagement that I think is with the firm.

Q. Did they have you execute any papers for that purpose?

A. I don't remember.

Q. What happened next in connection with this matter? In other words, you now have Ober Kaler. Ober Kaler retains your firm, Invotex. You're going to be the one at Invotex who is going to be doing whatever work it is.

What was your understanding, at that time, that you were supposed to do?

A. So I had a meeting with -- scheduled meeting with Rabbi Greenman, and that time I met Fetman, and I began looking into the case.

Q. What was your assignment?

MR. GOLDBERG: Objection as to form.



1 MR. VICTOR LIPNITSKY

2 Q. Do you understand my question?

3 A. Say it again.

4 Q. You're in the case, and you're going to be doing work. How  
5 did you know what you were supposed to do?

6 A. Like with any work, you begin working on a list of things  
7 that you will want to accomplish.

8 Q. Who told you what to accomplish, though? What was your goal  
9 here?

10 A. The goal was to investigate what had happened at Aish  
11 Hatorah.

12 Q. Who told you that that was the goal?

13 A. Ober Kaler.

14 Q. Who at Ober Kaler told you that?

15 A. Mr. Schabes.

16 Q. When did he tell you that?

17 MR. GOLDBERG: If you recall the date.

18 A. I don't remember.

19 Q. Was it prior to meeting Mr. Fetman?

20 A. Yes.

21 Q. How long before you met Mr. Fetman were you given this  
22 assignment to investigate what happened at Aish?

23 A. I don't remember.

24 Q. When you were given this assignment by Mr. Schabes, did you  
25 speak to Rabbi Greenman about that assignment?

1 MR. VICTOR LIPNITSKY

2 A. I don't remember.

3 Q. Did you speak to Mr. Markowitz about that assignment?

4 A. I don't remember.

5 Q. Had you spoken to Rabbi Cohen in connection with the  
6 assignment?

7 A. I did not.

8 Q. You said there's a list of things that you draw up that you  
9 want to accomplish?

10 MR. GOLDBERG: Objection, as to form. He never said draw  
11 up.

12 MR. ZELMANOVITZ: Okay. What did he say?

13 MR. GOLDBERG: A list of things that he looks at.

14 Q. You mentioned that there's a list of things that you looked  
15 at, or you look at, when you want to accomplish what it is you want to  
16 accomplish. So does anyone prepare that list?

17 A. No, it's something that I do as a matter of my preparations  
18 for the assignment.

19 Q. And do you usually write down that list, or steps?

20 A. I usually do, yes.

21 Q. It's, sort of, like audit steps, forensic steps?

22 A. Plan.

23 Q. An audit plan?

24 A. I don't call it an audit plan. It's just an assignment  
25 plan.

1 MR. VICTOR LIPNITSKY

2 Q. Do you still have that?

3 A. I do not.

4 Q. Where did you, generally, keep the files from your  
5 assignments that you do on behalf of Invotex, which is now having been  
6 taken over by your new firm? Where would those files be? Is there a  
7 file room there, on the computer?

8 A. Both.

9 Q. And they would be maintained for a period of time?

10 A. Yes.

11 Q. If I would want to get those files, who would I ask?

12 A. Ober Kaler.

13 Q. Ober Kaler is the attorney. But I'm asking in connection  
14 with the files that are maintained by Invotex, and now is being  
15 maintained by your present firm -- call it the Stout firm. What's your  
16 present firm's name?

17 A. SRR.

18 Q. And now being maintained by SRR. Who would I contact? Is  
19 there a custodian of records?

20 A. I don't know if the records were transferred from Invotex to  
21 SRR.

22 Q. Is Invotex still in existence?

23 A. They're not doing any business.

24 Q. You said they were acquired by SRR, right?

25 A. Sir, I don't know the legality of it. It may not be

1 MR. VICTOR LIPNITSKY

2 acquired, but it's a shell company. May be still there for some  
3 purposes, but there's no business that they're conducting.

4 Q. Is there anyone who is responsible for the mop-up work, or  
5 whatever work is necessary in connection with Invotex?

6 A. Ramon Peroutka would probably be a contact person.

7 Q. And he's now with SRR?

8 A. No.

9 Q. Where is he now?

10 A. I don't know.

11 Q. And he was living in Baltimore?

12 A. Yes.

13 Q. So you have this plan. Do you remember what was on the plan  
14 in connection with this matter?

15 A. Various steps. I don't remember all the steps, but they  
16 were steps that we would have to go through to investigate.

17 Q. Did you show or discuss the plan with anyone at Aish?

18 A. I don't remember.

19 Q. Let me be more specific. Did you discuss the plan with  
20 Rabbi Greenman?

21 A. I don't remember.

22 Q. Did you discuss the plan with Mr. Markowitz?

23 A. I don't remember.

24 Q. After drawing up the plan --

25 MR. GOLDBERG: Objection, as to form.

1 MR. VICTOR LIPNITSKY

2 Q. What was the next step that you did?

3 A. Well, I met with Fetman.

4 Q. And Rabbi Greenman, you said, right?

5 A. No, that was with Fetman.

6 Q. Alone?

7 A. Yes.

8 Q. Did you show him your plan?

9 A. Yes. Not show. I told him what we're planning to do.

10 Q. Was it your understanding that there had already been one  
11 arbitration session when you met Mr. Fetman?

12 A. I don't remember.

13 Q. Was it your understanding, when you met Mr. Fetman, that the  
14 work you were doing was in connection with an arbitration proceeding that  
15 was being done under the auspices of Rabbi Cohen?

16 A. Yes.

17 Q. Did you have any understanding, when you met Mr. Fetman,  
18 that there had already been a meeting with Rabbi Cohen, Mr. Fetman and  
19 Aish representatives, concerning the matter?

20 MR. GOLDBERG: Objection, as to form.

21 You can answer.

22 A. At the time, I don't remember. Now, I know they had a  
23 meeting before at the time that I remember.

24 Q. When you met Mr. Fetman, alone, had you spoken to Rabbi  
25 Cohen yet?

1 MR. VICTOR LIPNITSKY

2 A. No.

3 Q. When you met with Mr. Fetman, you said you discussed what it  
4 is that you wanted. What did Mr. Fetman tell you?

5 A. He told me he will cooperate.

6 Q. What is it that you did next?

7 A. I served the initial request of documents.

8 Q. Was that in written form?

9 A. Probably, e-mail.

10 Q. E-mail?

11 A. Likely.

12 Q. Probably?

13 A. Likely. I don't remember.

14 Q. You don't remember. So you don't remember if it was orally  
15 or in writing?

16 A. Yes.

17 Q. Would that be fair?

18 A. Yes.

19 Q. That was communicated to Mr. Fetman?

20 A. Yes.

21 Q. Did you give copies of -- if it was an e-mail, and not  
22 orally, did you give copies to anyone else, or you don't remember?

23 A. I don't remember.

24 Q. What happened after you either orally communicated, or by  
25 e-mail communicated this to Mr. Fetman? What happened next?

1 MR. VICTOR LIPNITSKY

2 A. He provided me with certain documents. Bank statements for  
3 certain bank accounts.

4 Q. Were those Aish bank accounts?

5 A. Yes.

6 Q. Were they other bank accounts of institutions, or entities,  
7 that have some affiliation with Aish?

8 A. There was also, I believe, a Merkaz bank account that was  
9 given to us at the first meeting.

10 Q. Other than bank accounts, was there anything else?

11 A. I don't remember.

12 Q. What happened next?

13 A. After conducting initial review of the documents, and  
14 realizing that there's potential serious issues with Aish accounting, we  
15 met with Fetman.

16 Q. Who is, "we"?

17 A. Myself.

18 Q. Who else?

19 A. Just Fetman, and I, where I shared with him what I saw so  
20 far, and he told me at that meeting that he stole money from Aish.

21 Q. He used the words, "I stole money"?

22 A. Took, stole. I don't remember exactly what he said.

23 Q. Well, this is very important. Did he use the words, "I  
24 stole money"?

25 A. I don't remember.

1 MR. VICTOR LIPNITSKY

2 Q. You don't remember?

3 A. At that meeting, I don't remember.

4 Q. Did he tell you that there was money coming in, let's say,  
5 from contributors of Aish, through other affiliated entities, such as  
6 Aish United Kingdom, Project Inspire, Aish Toronto, Aish Center? Are  
7 these familiar to you?

8 A. Yes, sure.

9 Q. And you investigated all of those entities?

10 A. When?

11 Q. Any time.

12 A. Some point.

13 Q. What did you find with respect to those entities? Was the  
14 accounting good?

15 A. Restate your question.

16 Q. Sure.

17 MR. ZELMANOVITZ: Can you repeat it, please?

18 (Whereupon, the requested question was read back by the  
19 reporter.)

20 MR. GOLDBERG: Objection, as to form.

21 Q. Was the accounting proper?

22 MR. GOLDBERG: Objection, as to form.

23 Q. Was there any problem?

24 A. I don't understand your question.

25 Q. Was there any problem with those entities, and the way money



1 MR. VICTOR LIPNITSKY

2 was transferred between Aish and those entities? Did you find any  
3 problems with those, as a forensic accountant, and a CPA?

4 A. I don't understand your question.

5 Q. Oh, I'll make it very simple.

6 Did you ever hear of Project Inspire?

7 A. Project Inspire was the account that Mr. Fetman told me he  
8 hid from the CPA firm, and he used that account to steal money. Yes, I  
9 know that account.

10 Q. And he said he stole money using that account?

11 A. He did, yes.

12 Q. He said the words, "I stole," or that it was used for Aish's  
13 purposes, to put money --

14 A. He said, "I stole money from the account."

15 Q. From Project Inspire?

16 A. From Project Inspire, he stole money.

17 Q. Did he steal money -- did he tell you he stole money from  
18 Aish UK?

19 A. At that conversation, the first conversation, we did not  
20 know about other entities.

21 Q. Did you investigate Project Inspire?

22 MR. GOLDBERG: Objection, as to form.

23 Q. Did you do any investigation of Project Inspire's accounts?

24 A. Be more specific.

25 Q. I'm being as broad as I can.

1 MR. VICTOR LIPNITSKY

2 Did you do any investigation, whatsoever, with respect to  
3 any account of Project Inspire?

4 A. The account that Mr. Fetman confessed to me that he stole  
5 money from that account, yes.

6 Q. And he used the word, "stole"? That's what you're saying  
7 under oath?

8 A. Yes.

9 Q. He used the word, "stole"?

10 A. Yes.

11 Q. How much did he say he stole from Project Inspire?

12 A. He didn't remember.

13 Q. Did you find out how much he stole from Project Inspire?

14 A. Eventually, we found out that it was -- that it was a lot of  
15 money transferred to Project Inspire.

16 Q. From where?

17 A. Project Inspire received funds.

18 Q. From?

19 A. What do you mean, "from"?

20 Q. Project Inspire received funds. Where did those funds go?

21 A. To Project Inspire.

22 Q. Where did they come from?

23 A. Donors, I don't know.

24 Q. Once they're in Project Inspire, where did they go?

25 A. To Mr. Fetman's controlled entities.

1 MR. VICTOR LIPNITSKY

2 Q. Which was Merkaz, right?

3 A. Yes.

4 Q. That's what you're saying, right?

5 A. Yes.

6 Q. Is that what you mean --

7 MR. GOLDBERG: Objection, as to form.

8 Q. By controlled entities, Merkaz?

9 A. No.

10 Q. So which controlled entities are we talking about?

11 A. Project Inspire's bank account.

12 Q. Excuse me. Once it's in Project Inspire's bank account, you  
13 probably traced the money. Where did the money go to after that, that  
14 you say he stole? Where did it go to?

15 MR. GOLDBERG: Objection.

16 Q. You did the analysis. Where did it go?

17 MR. GOLDBERG: Objection, as to form.

18 A. I don't know.

19 Q. You don't know?

20 A. I don't remember it now.

21 Q. Now you don't remember. Would it refresh your recollection  
22 if I told you it went to Merkaz, and then it went to Aish, and you  
23 followed that trail, and you saw that the whole thing was an IRS scheme  
24 that was done by Aish? Does that refresh your recollection?

25 MR. GOLDBERG: Objection, as to form. If you want to

1 MR. VICTOR LIPNITSKY

2 testify, Mr. Zelmanovitz, please testify.

3 MR. ZELMANOVITZ: I'm asking him if it refreshes his  
4 recollection as to what he saw.

5 A. No.

6 Q. You didn't even see that?

7 MR. GOLDBERG: He answered your question.

8 Q. You didn't see that?

9 A. No.

10 Q. What about Aish UK? Did you investigate anything about Aish  
11 UK?

12 MR. ZELMANOVITZ: Can you repeat the question, please?

13 (Whereupon, the requested question was read back by the  
14 reporter.)

15 A. I don't recall.

16 Q. What about Aish Center?

17 A. I don't recall.

18 Q. Was Project Inspire a 501(C)(3) charity?

19 MR. GOLDBERG: Objection, as to form.

20 A. I don't recall.

21 Q. Do you know what a 501(c)(3) charity is?

22 A. I do know it.

23 Q. When you were investigating, and doing your investigation,  
24 did you also do an investigation to determine whether these accounts or  
25 entities, such as Project Inspire, were registered 501(c)(3) charities?

1 MR. VICTOR LIPNITSKY

2 MR. GOLDBERG: Objection, as to form.

3 Answer if you can.

4 A. I don't recall.

5 Q. Was Project Inspire a project of Aish New York, or a project  
6 of Aish International?

7 A. I don't recall.

8 Q. Let me show you what an ad is, and look at the bottom.  
9 Would that refresh your recollection?

10 MR. GOLDBERG: Can we have it marked first?

11 MR. ZELMANOVITZ: I don't have to mark a document.

12 MR. GOLDBERG: I want it marked for the record, so we have  
13 a record of what it is.

14 MR. ZELMANOVITZ: Okay. Fine. We'll mark it. It doesn't  
15 matter.

16 MR. GOLDBERG: Sure, it does.

17 (Whereupon, a colored flier was marked Defendant's Exhibit B  
18 for identification, as of this date.)

19 A. I want to clear the record.

20 Q. You'll have a chance.

21 A. It doesn't have to be appending.

22 Q. Does this refresh your recollection about Project Inspire  
23 being a project of Aish International, or a project of Aish New York?

24 A. No, it doesn't.

25 Q. Did you see the bottom of the page? Do you see where it

1 MR. VICTOR LIPNITSKY

2 refers to, and I'm pointing to the bottom, where it says, "Inspire."

3 What does it say? Can you read it for the record, please?

4 A. Project Inspire.

5 Q. What else does it say?

6 A. Aish International.

7 Q. Do you know what Aish International is?

8 A. I don't remember.

9 Q. You don't remember what Aish International is?

10 A. No, I don't remember.

11 Q. Do you know if there was a difference between Aish New York,  
12 Aish International?

13 A. I don't recall.

14 MR. ZELMANOVITZ: Let's mark this as C.

15 (Whereupon, a certificate of incorporation for Aish  
16 International was marked Defendant's Exhibit C for identification,  
17 as of this date.)

18 MR. ZELMANOVITZ: Mark this next one.

19 (Whereupon, a certificate of incorporation was marked  
20 Defendant's Exhibit D for identification, as of this date.)

21 And the next one.

22 (Whereupon, Aish International website printout was marked  
23 Defendant's Exhibit E for identification, as of this date.)

24 Q. I'm showing you what has been marked as Exhibit C for  
25 identification. It's a Division of Corporations printout, New York State

1 MR. VICTOR LIPNITSKY

2 Department of State, Division of Corporations printout for the entity,  
3 Aish International, Inc. Have you ever seen that before?

4 A. I don't remember.

5 Q. As part of your investigation into this matter, did you  
6 investigate the incorporation status of the various entities of Aish, or  
7 with the name of Aish, that says Aish International?

8 A. I don't remember.

9 Q. Does this refresh your recollection that Aish International  
10 was a separate corporation from Aish New York?

11 A. It doesn't.

12 Q. Do you know, as you sit here today, whether Aish  
13 International is a separate corporation from Aish New York?

14 A. I don't know.

15 MR. GOLDBERG: Objection, as to form.

16 Q. Were you ever told, by anyone, that Aish International was  
17 not a separate corporation from Aish New York?

18 A. I don't know.

19 Q. You don't know whether you were told?

20 A. I do not remember.

21 Q. Showing what has been marked as Exhibit D for  
22 identification, which is a New York State Department of State, Division  
23 of Corporations printout for Project Inspire, Inc.

24 Have you ever seen that before?

25 A. I don't think so.

1 MR. VICTOR LIPNITSKY

2 MR. GOLDBERG: Just going to note for the record that this  
3 is a document that has a filing date of July 2014, which is  
4 certainly after the date of the facts that we're discussing in this  
5 litigation.

6 MR. ZELMANOVITZ: That's true.

7 Q. Do you know who a Richard Baruch Rabinowitz is?

8 A. I don't remember.

9 Q. Did you interview anyone in connection with the assignment  
10 that you had for Ober Kaler?

11 A. I spoke with a number of individuals.

12 Q. Can you tell me who they are, as best as you can recall?

13 A. Don't remember now.

14 Q. Did you speak to anyone from Aish International?

15 A. I don't remember.

16 Q. Let me show you Defendant's Exhibit E for identification.

17 It's just from the Aish International website, with a picture of the  
18 executive director of Aish International, Richard Baruch Rabinowitz.

19 Have you ever spoken to that person before?

20 A. I don't think so.

21 Q. No, you don't think so?

22 A. I don't remember.

23 Q. Did Rabbi Greenman and Mr. Markovitz give you a list of  
24 people to contact and discuss?

25 A. They told me about a number of people who were connected



1 MR. VICTOR LIPNITSKY

2 with various entities, yes.

3 Q. Who did they tell you?

4 A. I don't remember.

5 Q. But they didn't tell you about Mr. Rabinowitz, I guess, or  
6 you don't remember?

7 A. I heard his name before, I think from Fetman, but don't  
8 remember.

9 Q. Would you have notes about meetings and interviews with  
10 various people that you did, in connection with your assignment here?

11 A. I don't know.

12 Q. Would it be a regular course of practice for you, in  
13 connection with your forensic accounting work, to document the type of  
14 work that you're doing, including interviews of persons?

15 A. Sometimes, we do. Sometimes, we don't.

16 Q. And sometimes you just keep the interview notes in your head  
17 and don't write them down?

18 A. Yes.

19 Q. And you remember them? Do you remember them now?

20 A. I don't remember.

21 Q. Wouldn't it be a good idea to write them down?

22 MR. GOLDBERG: Objection, as to form.

23 You don't have to answer the question.

24 I'm directing him to not answer the question.

25 Q. You mentioned before that you had met with Mr. Fetman, and

1 MR. VICTOR LIPNITSKY

2 you received bank statements for certain bank accounts. Then you did an  
3 initial review. You realized there were serious issues, you said, with  
4 Aish accounting.

5 When you say Aish accounting, which Aish are you talking  
6 about? Was it the Aish New York, Aish International, including Project  
7 Inspire, including Aish UK?

8 What are we talking about here?

9 A. Accounts that Mr. Fetman was controlling.

10 Q. But I'm asking you, not the accounts that he's controlling.  
11 I'm asking you for the names of the entities of those accounts. In other  
12 words, when you said that there was serious accounting issues with Aish,  
13 are you including Aish UK, for example?

14 A. I don't remember.

15 Q. Are you including Aish International?

16 A. I don't remember.

17 Q. Are you including Project Inspire?

18 A. Yes.

19 Q. That one, you are including?

20 A. Yes.

21 Q. Did you do an analysis of the money going in and out of the  
22 Project Inspire account?

23 A. Don't remember.

24 Q. Would that analysis, if you did it, be on any work papers  
25 that you had prepared as an accountant?

1 MR. VICTOR LIPNITSKY

2 A. Possibly.

3 Q. Isn't there a requirement that an accountant, or certified  
4 public accountant, performing work such as this, should document the work  
5 that they do?

6 Isn't that a recommended objective, or a recommended thing  
7 that accountants should do?

8 A. It would depend on the case.

9 MR. GOLDBERG: Objection.

10 Q. In this case, you did not want to document it?

11 MR. GOLDBERG: Objection, as to form.

12 Q. Did you want to document --

13 A. I did not testify I did not want to document it.

14 Q. Did you document it?

15 A. I said I don't remember.

16 Q. If you did document it, where would those files be?

17 A. By Invotex custodian.

18 Q. Did you ever render a written report to Rabbi Cohen  
19 concerning this matter?

20 A. No.

21 Q. You never did?

22 Did you ever render an oral report to Rabbi Cohen?

23 A. At the arbitration.

24 Q. At which arbitration, what date?

25 A. It was number -- again, three different arbitrations that I

1 MR. VICTOR LIPNITSKY

2 was a part of.

3 Q. Let me go to those.

4 First of all, why did you not prepare a report?

5 A. It's not a requirement for me to prepare a report.

6 Q. No one asked you to prepare a report, is that why?

7 MR. GOLDBERG: Objection, as to form. That's privileged.

8 MR. ZELMANOVITZ: Withdrawn.

9 MR. GOLDBERG: He said he's working for Ober Kaler.

10 MR. ZELMANOVITZ: He wasn't working for Ober Kaler then?

11 MR. GOLDBERG: We came in at some point during the course of  
12 the investigation, and we appeared with your client, if you're  
13 aware, at a meeting with Patterson, Bill Nath and Mr. Stein.

14 MR. ZELMANOVITZ: That was post arbitration.

15 MR. GOLDBERG: I'm just telling you that we did some.

16 Q. Did you have any conversations, privately, with Rabbi Cohen?

17 A. No.

18 Q. Anytime you had a conversation with Rabbi Cohen, who else  
19 was there?

20 A. It was not a conversation with Rabbi Cohen. It was only at  
21 the arbitration. So Fetman, represented by his attorney, I think, twice,  
22 and Rabbi Greenman, and others who were there. I don't remember now,  
23 everybody.

24 Q. Is it your testimony that you never spoke to Rabbi Cohen,  
25 other than in the presence of Mr. Fetman?

1 MR. VICTOR LIPNITSKY

2 MR. GOLDBERG: Objection, as to form.

3 A. I spoke with Rabbi Cohen.

4 Q. When did you speak to Rabbi Cohen when Mr. Fetman was not  
5 there?

6 A. Right before the issuance of the psak. I got a call from  
7 Rabbi Cohen, and to clarify the testimony that I gave during the  
8 arbitration.

9 Q. You gave testimony during the arbitration?

10 A. I presented my preliminary findings to Fetman, and his  
11 attorney.

12 Q. Did you also present your preliminary findings to Rabbi  
13 Greenman?

14 A. Who was there in the room.

15 Q. Was this at an arbitration session?

16 A. Yes.

17 Q. Was Rabbi Cohen at that arbitration session when you  
18 presented these preliminary findings?

19 A. Yes.

20 Q. When you say they're preliminary, why were they only  
21 preliminary?

22 A. Because there were number of outstanding documents that were  
23 not produced by Fetman that were supposed to be produced, and I was doing  
24 the schedules based on information that was currently available to me.  
25 And there were a lot of holes that still needed to be filled.

1 MR. VICTOR LIPNITSKY

2 Q. Did you tell everyone at that arbitration session what your  
3 preliminary findings were?

4 A. Yes.

5 Q. What did you say?

6 A. I don't remember. Whatever were the findings.

7 Q. Was your preliminary finding that 20 million dollars was  
8 embezzled Mr. Fetman?

9 A. No.

10 Q. Was your preliminary findings that 15 million dollars was  
11 embezzled by Mr. Fetman?

12 A. No.

13 MR. GOLDBERG: Objection, as to form.

14 Q. What was your preliminary findings? Do you remember?

15 A. I don't remember, exactly, the number.

16 Q. You don't remember the number?

17 A. Exactly, I don't know.

18 MR. ZELMANOVITZ: Let's mark the next document as F, which  
19 is a copy of the award of December 16th. It's dated December 17,  
20 2013, but there is a fax legend on top of December 16, 2013.

21 (Whereupon, a copy of an award was marked Defendant's  
22 Exhibit F for identification, as of this date.)

23 Q. Have you seen this before (handing)?

24 A. Yes, I did.

25 Q. The phone conversation with Rabbi Cohen, that you testified

1 MR. VICTOR LIPNITSKY

2 that Rabbi Cohen called you, that was prior to the issuance of this  
3 document?

4 A. I believe so.

5 Q. When he called you, was anybody else on the phone, besides  
6 you and Rabbi Cohen, as far as you know?

7 A. I don't know.

8 Q. What did he say to you?

9 A. He clarified if what I presented to them at the arbitration  
10 was roughly \$2.4 million.

11 Q. Do you recall having presented your preliminary finding that  
12 there was \$2.4 million that was embezzled?

13 MR. GOLDBERG: Objection, as to form.

14 A. Can you repeat your question, please?

15 Q. Sure.

16 Was your preliminary finding, that you had communicated to  
17 everyone at that arbitration session, that \$2.4 million was taken by  
18 Mr. Fetman?

19 MR. GOLDBERG: Objection, as to form.

20 A. Yes.

21 Q. What do you base the \$2.4 million on?

22 A. There are various categories that we discussed with Dan  
23 Stein, Fetman, and the rest of the people in the arbitration. And I  
24 pointed out that a lot of the documents are still missing, and we  
25 wouldn't have a final number until everything is produced.

1 MR. VICTOR LIPNITSKY

2 Q. What time period does the total \$2.4 million cover?

3 A. I believe it's, roughly, five or six years.

4 Q. Do you have any basis that there was more than \$2.4 million?

5 A. Possibly.

6 Q. Do you have any basis? Not possibly, but do you have, in  
7 fact, any basis that there was more than \$2.4 million?

8 MR. GOLDBERG: Objection, as to form.

9 A. It's possible it was more than \$2.4 million.

10 Q. Is it possible that it was less?

11 A. It's not possible it was less.

12 Q. You think it's absolutely sure or certain that there was  
13 \$2.4 million?

14 A. At that point, at least \$2.4 million was categorized as  
15 being stolen, yes.

16 Q. When you say it was categorized as being stolen, was that  
17 because -- well, tell me, how did you come to that conclusion? Let me  
18 understand. How did you come to the conclusion that there was \$2.4  
19 million dollars that was categorized as being stolen?

20 A. Well, starting point is that Fetman told us he stole money  
21 from Aish. That's a starting point.

22 Q. Didn't you testify that you don't remember him using the  
23 words, "I stole money from Aish"?

24 A. That's why I want to clear the record.

25 MR. GOLDBERG: Objection, as to form.



1 MR. VICTOR LIPNITSKY

2 Actually, he did testify maybe he had one meeting he didn't,  
3 but there was a time he did say it.

4 A. I want to clarify the record. You were asking me about if  
5 the word stolen was used at the initial meeting at Merkaz's building with  
6 Fetman. I don't recall if he said the word, "stole." He definitely said  
7 he took money, and he wanted to help me to uncover the extent of how much  
8 he took. In our subsequent conversations, he used the word, "stolen."  
9 He was insisting that he stole from Project Inspire, and not from Aish.  
10 The word, "stolen" was used numerous times by Mr. Fetman. I want to make  
11 sure the record is clear.

12 Q. Did you know that there was a difference between Project  
13 Inspire and Aish?

14 MR. GOLDBERG: Objection, as to form.

15 A. I don't understand your question.

16 Q. Was there a difference between Project Inspire and Aish?

17 MR. GOLDBERG: You got to give me a timeline.

18 MR. ZELMANOVITZ: At any time.

19 MR. GOLDBERG: You've got to give me a timeline.

20 MR. ZELMANOVITZ: Your objection is noted. He can't answer  
21 that, then he has no finding.

22 MR. GOLDBERG: No, he does have a finding. He can't answer,  
23 because the record is clear. There is a difference between Inspire  
24 at certain times, and not.

25 Q. Was there a difference between Project Inspire and Aish, at

1 MR. VICTOR LIPNITSKY

2 any time?

3 A. As far as I know, Fetman was using both organizations. I  
4 don't know if they were one, or not.

5 Q. Well, then how could you come to a determination that there  
6 was something taken from Aish if Project Inspire was a different  
7 organization?

8 A. I didn't say I came to that conclusion that there was  
9 another organization. That was your testimony, not mine.

10 Q. So then, your testimony is that it was not taken from Aish,  
11 but it was taken from Project Inspire?

12 MR. GOLDBERG: Objection.

13 A. I said Fetman told me that it was from Project Inspire. I  
14 never told you that I said it was Project Inspire's money. I said,  
15 again, Fetman was insisting that he stole money from Project Inspire, and  
16 not from Aish, and I said he took money, he stole money from Aish, not  
17 from Project Inspire.

18 Q. How did you come to that conclusion that he took money from  
19 Aish, and not Project Inspire?

20 A. I did an analysis.

21 Q. Tell me about the analysis?

22 A. I don't recall right now.

23 Q. Tell me what your methodology is, how you went about it.  
24 You're accusing this man of taking \$2.4 million. I'd like to know how  
25 you came to that conclusion. Usually, accountants have reports. You

1 MR. VICTOR LIPNITSKY

2 don't have a report. So tell me how you came to that conclusion.

3 MR. GOLDBERG: Objection to editorializing.

4 MR. ZELMANOVITZ: Your objection is noted. I just want this  
5 witness to know that what he's doing is totally out of the realm of  
6 the accounting world. I was a CPA.

7 MR. GOLDBERG: You could testify.

8 MR. ZELMANOVITZ: I never heard of such nonsense in my  
9 life.

10 Q. So tell me, how did you come to \$2.4 million?

11 MR. GOLDBERG: If you want a grandstand, raise your voice,  
12 yell, dance on the table. Just tell me when you're done.

13 MR. ZELMANOVITZ: I'm done.

14 A. So in this circumstance, when Fetman admitted that he stole  
15 money --

16 Q. From Project Inspire, you said?

17 A. He said that he stole money.

18 Q. From Project Inspire?

19 A. He was insisting that he stole money from Project Inspire.

20 Q. Go ahead.

21 A. So he said that he wanted to come clean, and help me to  
22 uncover the extent of how much he stole.

23 Q. Go ahead.

24 A. So in that circumstances, we were not working towards a  
25 report. The goal was to use the shortest cut possible to get to the

1 MR. VICTOR LIPNITSKY

2 bottom line of how much of misappropriation took place. So we all were  
3 working. All, meaning myself, my team and Fetman. We began working as a  
4 team, putting schedules together, getting all the documents together,  
5 trying to get to the bottom line of how much he stole.

6 Now, at that point, there were anticipation of any report.  
7 We were not working for the court or for the -- we're working for the law  
8 firm that wanted to get to the bottom line of the number. So in that  
9 circumstances, it's common not to have a report.

10 Q. So you weren't working for Rabbi Cohen, and doing the  
11 services for Rabbi Cohen, at all. You were doing it for Ober Kaler,  
12 right?

13 A. I was hired by Ober Kaler, but Rabbi Cohen was an arbitrator  
14 in the matter. So he was the one that would be benefiting from getting  
15 our findings.

16 Q. Did he allow Mr. Fetman to use his own accountant and  
17 forensic accountant?

18 MR. GOLDBERG: Objection, as to form.

19 A. As a matter of fact, I asked Mr. Fetman to get his own  
20 accountant, and Mr. Fetman repeatedly told me he doesn't want to do that.  
21 He wants me to...

22 Q. Go ahead. You didn't finish your answer, or are you  
23 finished?

24 A. Well, I can't be answering --

25 Q. I'm listening to you. You didn't finish your answer?

1 MR. VICTOR LIPNITSKY

2 A. I was interrupted.

3 Q. At the time that you had this conversation with Mr. Fetman,  
4 his funds were frozen already; isn't that true?

5 A. No, the conversation was talking place before that.

6 Q. How long before that?

7 A. Well, I don't remember the dates. I know that Mr. Fetman  
8 was complaining that he can't look at this anymore, because he's getting  
9 sick of it. He's getting to recognize how much money he stole. He just  
10 couldn't look at this data. So I told him, and his wife, repeatedly,  
11 it's going to be good for you to hire somebody, internally, to help you  
12 to get all the records together, and to produce the documents. So that  
13 conversation took place right at the beginning of our investigation.

14 Q. So now, let me get back to the question I'd asked  
15 originally.

16 How did you come up with \$2.4 million?

17 A. There were various categories of...

18 Q. Can you list them for me, please?

19 A. I don't remember it right now.

20 Q. Do you have them written down anywhere?

21 A. I provided it to my attorneys.

22 Q. Did your attorneys tell you that you were supposed to bring  
23 documents with you today in connection with your report that was rendered  
24 by Rabbi Cohen?

25 MR. GOLDBERG: Objection to any questions. Do not respond

1 MR. VICTOR LIPNITSKY

2 to anything that your attorneys might or might have not said to  
3 you. Privileged communication.

4 Q. Were you told that you were supposed to bring documents  
5 here, today?

6 MR. GOLDBERG: Objection.

7 Don't say anything. You could answer about anybody, other  
8 than your attorneys. Did anyone, other than your attorneys, tell  
9 you to bring documents today?

10 Q. Is there any written report that you have ever done in  
11 connection with this matter, yes or no?

12 MR. GOLDBERG: Objection, as to form.

13 A. No.

14 Q. No, never.

15 So all of this is, basically, your memory?

16 A. Define the report, please.

17 Q. I put down on a piece of paper, here's what I did, and  
18 here's what I conclude, and here are my findings. Signed, Victor  
19 Lipnitsky.

20 A. There were preliminary findings that I shared with the  
21 attorneys.

22 Q. And they were in writing?

23 A. Yes.

24 Q. Did anyone tell you that Judge Demarest had ordered that  
25 they be produced?

1 MR. VICTOR LIPNITSKY

2 MR. GOLDBERG: We disagree as to what the order says.

3 MR. ZELMANOVITZ: I'm going to put it in the record, because

4 --

5 MR. GOLDBERG: It's already on the record.

6 MR. ZELMANOVITZ: Well, I'm going to put it in now, because  
7 I want this witness to see that we're not just dealing with  
8 attorneys, but with a judge.

9 MR. GOLDBERG: He understands we're dealing with a judge.  
10 That's why we're here today.

11 MR. ZELMANOVITZ: This is going to be G.

12 (Whereupon, a transcript of March 4, 2015 was marked  
13 Defendant's Exhibit G for identification, as of this date.)

14 Q. I'm showing you what has been marked as Exhibit G for  
15 identification.

16 Have you ever seen the transcript of the proceeding before  
17 the Honorable Carolyn Demarest, Justice of the Supreme Court,  
18 March 4, 2015?

19 A. I did not.

20 Q. I'd like to turn your attention, please, to page 50, as your  
21 counsel recollected correctly. I'll read you what the Court says. This  
22 is from the Court.

23 "I don't know. I have to hear from the other side. I am  
24 reiterating Victor Lipnitsky is to be produced for his deposition, and  
25 his report is to be provided, if there is written report, to the

1 MR. VICTOR LIPNITSKY

2 attorneys in this matter, whoever is representing Mr. Fetman, and is not  
3 here today, and Mr. Lefkowitz. Let us have that opportunity. I think it  
4 is relevant to the arbitration proceedings, which are stalled in any  
5 event. If there is any need for court interventions, we will do it, but  
6 the statute does provide for court assistance."

7 You're welcome to read the entire transcript.

8 Did you bring any reports with you today?

9 A. No.

10 Q. Were you instructed by your attorneys not to bring reports?

11 MR. GOLDBERG: Objection.

12 Do not answer. It's attorney/client privilege.

13 Q. Do you have reports, anything in written form?

14 MR. GOLDBERG: Other than what he's testified to?

15 MR. ZELMANOVITZ: Let me get it clear, because it will have  
16 to be a record.

17 Q. Do you have anything in written form concerning your  
18 findings in connection with this matter with Jacob Fetman and Aish?

19 A. Yes, I do.

20 Q. Describe them for me. Don't tell me what they say. Just  
21 describe them for me.

22 A. It's preliminary notes in the form of a letter, and  
23 schedules.

24 Q. When did you prepare that?

25 A. I don't remember the date.



MR. VICTOR LIPNITSKY

Q. Was it prior to the award, which is Exhibit G?

A. Yes.

Q. And prior to the time Rabbi Cohen called you, that you mentioned before he issued this, he had a conversation with you, right?

A. Yes.

Q. Did you ever give that to Rabbi Cohen?

A. No.

Q. Did you give that to Ober Kaler?

A. Yes.

Q. Mr. Schabes?

A. Yes.

Q. Who else did you give that to? Did you give it to Rabbi Greenman?

A. No.

Q. Did you give it to Mr. Markowitz?

A. No.

Q. Did you give it to anyone else?

A. No.

Q. You gave it to Mr. Goldberg?

A. Yes, Mr. Goldberg's firm.

Q. Mr. Goldberg's firm, right?

A. Yes.

Q. But Mr. Goldberg's firm was not your attorneys at the time you prepared it?

1 MR. VICTOR LIPNITSKY

2 A. I don't remember when they became an attorney.

3 Q. I think it's a matter of record that they became attorneys  
4 after the award; would that be correct?

5 A. I don't remember.

6 Q. Okay. It's fine.

7 If ordered by the Court to produce it, would you produce it?

8 MR. GOLDBERG: Whatever the Court says, he'll do, as  
9 required by a court directive. He doesn't have any knowledge of  
10 what he's supposed to do, or not do, when the Court gives a  
11 direction.

12 Q. Did that document, which you called the preliminary report,  
13 have a total --

14 A. I did not call it a preliminary report.

15 Q. What did you call it, a letter?

16 A. Yes.

17 Q. Did that letter have a conclusion as to your preliminary  
18 findings?

19 A. I believe so.

20 Q. And was there a dollar amount of your preliminary findings?

21 A. I believe so.

22 Q. What was that dollar amount?

23 A. I don't remember, exactly. I think it was, roughly, \$2.5  
24 million.

25 Q. Did you communicate that figure to Rabbi Cohen?

1 MR. VICTOR LIPNITSKY

2 A. I did not.

3 Q. When Rabbi Cohen called you, prior to issuing his award, he  
4 wanted clarification. What did he say to you?

5 A. He told me that he wanted to know the approximate dollar  
6 amount. At that point, that was my preliminary finding.

7 Q. Did you tell him?

8 A. Yes.

9 Q. And you told him about 2.4 or 2.5 million?

10 A. Something like that.

11 Q. Did he say to you anything in response?

12 A. I don't remember.

13 Q. Did he say that he was going to render an award,  
14 immediately, for \$20 million?

15 A. I don't remember.

16 Q. Did he discuss with you whether \$20 million was a reasonable  
17 amount?

18 A. No.

19 Q. Did he ever mention the figure \$20 million to you?

20 A. No.

21 Q. Did he know what documents you had reviewed in connection  
22 with your preliminary findings?

23 A. I shared with everybody at the arbitration what documents we  
24 were relying, and the documents that Fetman had produced, and released  
25 all of the documents that I relied on, yes.

1 MR. VICTOR LIPNITSKY

2 Q. Were those documents, documents that are attached to your  
3 letter that you referred to?

4 A. Yes.

5 Q. Have you ever given hard copies of those documents to anyone  
6 else, of those attachments to the letter?

7 MR. GOLDBERG: Other than your attorneys.

8 Q. Other than to your attorneys?

9 A. I don't recall. We got a subpoena from DAs office. I don't  
10 know if it was produced directly to them, or it was produced to the  
11 attorneys, but...

12 Q. Did you ever provide copies of those attachments to your  
13 letter to Mr. Fetman?

14 A. I did not.

15 Q. Were you requested to do so, by anyone?

16 A. No.

17 MR. ZELMANOVITZ: We'll take a break now.

18 (Whereupon, a short recess was taken.)

19 Q. At the time Rabbi Cohen called you, before he issued this  
20 award, did he tell you why he was calling you?

21 A. He told me that he's going be issuing an award.

22 Q. Had you attended the arbitration session prior to that phone  
23 call?

24 A. Yes.

25 Q. Did he say he would be issuing an award at that arbitration

1 MR. VICTOR LIPNITSKY

2 session?

3 MR. GOLDBERG: Object, as to form.

4 A. At that arbitration session, Fetman, and his attorney, then  
5 Stein, told the arbitrator that they would produce documents that were  
6 still pending, and that they were refusing to produce up to that point.  
7 We were supposed to finish our findings before Reb Dovid would issue  
8 award, but my understanding was that on the day, a promised date that  
9 they were supposed to deliver documents to us, instead of documents, the  
10 attorneys received a letter from Dan Stein saying that they are no longer  
11 planning to cooperate. That, I think triggered issuing an award prior to  
12 finishing the full investigation.

13 Q. Who told you that? Who told you that that triggered issuing  
14 the award prior to finishing the investigation? Rabbi Cohen?

15 A. No, that was my understanding.

16 Q. Where did you get that understanding from?

17 A. It's my understanding.

18 Q. Is that because the attorney was refusing to cooperate, this  
19 is Dan Stein --

20 A. Not the attorney. Fetman refused to cooperate.

21 Q. But his attorney had sent a revocation of the powers of  
22 attorney. Do you recall that?

23 A. Something like that.

24 Q. He sent something like that that really upset Rabbi Cohen,  
25 right?

1 MR. VICTOR LIPNITSKY

2 A. I don't know.

3 MR. GOLDBERG: Objection, as to form.

4 Q. You don't know?

5 A. No.

6 Q. When was the first time that you head that Rabbi Cohen would  
7 be issuing an award, and wouldn't have another arbitration session? Was  
8 that in the phone call that you were testifying to about?

9 A. I don't remember.

10 Q. Because at the session before, when you had made up that  
11 Fetman was supposed to produce documents at a certain time, you were  
12 going to have another session, as far as you knew, right?

13 A. Well, I don't know if it's one session, or multiple  
14 sessions, based on documents that Fetman was supposed to produce.

15 Q. And then, when the production wasn't made, all of a sudden,  
16 that award was issued; is that correct?

17 MR. GOLDBERG: Objection, as to form.

18 Q. Is that your understanding?

19 A. I don't know if it's all of a sudden. I understand they  
20 told us, that Dan Stein told us that they're not going to be producing  
21 any documents.

22 Q. When Rabbi Cohen called you, and asked for a clarification,  
23 was that the first time you heard that he would be issuing an award,  
24 immediately?

25 MR. GOLDBERG: Objection, as to form.

1 MR. VICTOR LIPNITSKY

2 A. I don't remember.

3 Q. You don't remember?

4 A. No.

5 Q. Had you heard that from anyone before?

6 MR. GOLDBERG: Objection.

7 Q. That he would be issuing an award?

8 A. I don't recall. Everything was happening so quickly. I  
9 think it was Friday, or Thursday, Friday, that phone call with Dan Stein.  
10 He told us that they're going to be sending out documents on Friday. And  
11 Friday -- I understood that Friday -- Dan Stein called, said they're not  
12 planning to participate any further in arbitration.

13 Q. You understand that from whom?

14 A. I had conversations with the attorneys.

15 Q. Ober Kaler attorneys?

16 A. Goldberg and Rimberg.

17 Q. Goldberg and Rimberg was not involved at that time.

18 MR. GOLDBERG: Objection, as to form.

19 MR. ZELMANOVITZ: Let's not beat around the bush. You were  
20 not involved at that time, Mr. Goldberg. Let's not have the record  
21 to have just false impressions.

22 MR. GOLDBERG: I just want the record to be clear.

23 Everybody needs to preserve what they need to preserve.

24 A. I think they were being hired around the same time.

25 Q. Who? Mr. Goldberg and you? The Goldberg and Rimberg firm

1 MR. VICTOR LIPNITSKY

2 were hired at the same time?

3 A. That's my recollection. I don't remember.

4 Q. The record will be what it will be when they were hired.

5 Putting that aside, do you know whether Rabbi Cohen ever  
6 told Mr. Fetman or Mr. Stein that if they don't produce the documents,  
7 he's issuing an award, immediately?

8 MR. GOLDBERG: Objection, as to form.

9 A. I don't know.

10 Q. You were there at the arbitration session. Did you hear it?

11 A. I did not hear that.

12 Q. Did you hear, in fact, at the arbitration session that there  
13 would be another session that was being planned, or maybe more than one?

14 A. I don't remember if anything was planned in terms of this  
15 and this date, we're going to have another session. What was planned,  
16 that Fetman will produce documents that were requested of him.

17 Q. Was an award planned?

18 A. I don't know that.

19 MR. GOLDBERG: Objection, as to form. You've already asked  
20 it five times.

21 Q. Was there any kind of notification, to anyone that you know  
22 of, that Rabbi Cohen would be issuing an award, and there would not be a  
23 further arbitration session?

24 MR. GOLDBERG: Objection, as to form.

25 A. I don't know.



1 MR. VICTOR LIPNITSKY

2 Q. After that phone call from Rabbi Cohen, what's the next  
3 thing you knew about this arbitration? The award itself?

4 A. What else? What are you asking?

5 Q. I'm asking, after you had this phone conversation with Rabbi  
6 Cohen, when was the next event that you recall with respect to this  
7 matter?

8 A. I truly don't remember if it was the award that came in, or  
9 what other things that transpired. It was some time ago.

10 Q. Were you shown the award?

11 A. I saw the award, yes.

12 Q. Who showed it to you?

13 A. Stewart Schabes.

14 Q. When you saw the \$20 million in the award, were you  
15 surprised?

16 MR. GOLDBERG: Objection, as to form.

17 Q. You could answer.

18 A. I didn't have any feelings about it. It was an award based  
19 on a trial effect. He issued the award. As far as I was concerned, it  
20 was what his opinion was.

21 Q. Is it your opinion that there's an economic justification  
22 for \$20 million of an award?

23 MR. GOLDBERG: Objection, as to form.

24 A. It would be speculating on my part.

25 Q. Would it be speculating to even put in \$20 million?

1 MR. VICTOR LIPNITSKY

2 MR. GOLDBERG: Objection, as to form. Don't answer the  
3 question.

4 Q. You could answer.

5 MR. GOLDBERG: I'm directing him not to answer.

6 MR. ZELMANOVITZ: You're directing him not to?

7 MR. GOLDBERG: You're asking him to tell you whether the  
8 arbitrator's decision was speculation.

9 MR. ZELMANOVITZ: He's a forensic accountant. He says what  
10 he says --

11 MR. GOLDBERG: He's not here as an expert.

12 MR. ZELMANOVITZ: I'm not asking him for his expert opinion.  
13 I'm asking whether, at the time he got it, was there any basis in  
14 his mind for \$20 million.

15 Q. And you're saying you don't know?

16 A. I said I would be speculating on my part.

17 Q. Speculating as to what?

18 A. To whether it's justifiable, or not.

19 Q. After that phone conversation with Rabbi Cohen, and after  
20 getting the award, did you have any other conversations with Rabbi Cohen?

21 A. I don't think so.

22 Q. Did you have any conversations with him since?

23 A. Since when?

24 Q. Since that phone call?

25 MR. GOLDBERG: I think you just asked that before. He said

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2 no.

3 A. No.

4 Q. You did not?

5 MR. ZELMANOVITZ: I didn't ask him.

6 Q. Since that time, did you ever have any conversation with  
7 Rabbi Cohen?

8 A. About what?

9 Q. Anything.

10 MR. GOLDBERG: Other than saying good shabbos if he saw him  
11 on the street?

12 MR. ZELMANOVITZ: Well, he's in Baltimore.

13 A. I call for shailos, from time to time.

14 Q. When you say, "shailos," those are halachic questions that  
15 you would ask?

16 A. Yes, halachic questions that I would ask, yes.

17 Q. Did you ever ask him any halachic question concerning this  
18 matter?

19 A. No.

20 Q. Prior to working for Ober Kaler, on this matter, had you  
21 asked Rabbi Cohen halachic questions before?

22 A. Yes, a couple of times.

23 Q. How soon before you undertook this representation for Ober  
24 Kaler had you asked Rabbi Cohen a question of that sort?

25 MR. GOLDBERG: Objection, as to form.

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2 A. It could be years before. I don't remember. I don't  
3 remember the day, but there were couple of occasions that I called Rabbi  
4 Dovid Cohen on questions that I was getting his psak.

5 Q. Psak, meaning his decision?

6 A. Yes.

7 Q. About what the halacha was?

8 A. Yes.

9 Q. Was it a matter of weeks before undertaking this assignment  
10 for Ober Kaler that you were doing that?

11 A. Years.

12 Q. Rabbi Cohen, however, knew who you were when you were  
13 assigned this task here by Ober Kaler? Is that a fair statement?

14 MR. GOLDBERG: How could he know what Rabbi Cohen's state of  
15 mind is?

16 MR. ZELMANOVITZ: I'm asking him if he knows that he knew  
17 who he was.

18 A. He knows my family.

19 Q. He does know your family. So he knew you, also, when you  
20 were in Brooklyn, right?

21 MR. GOLDBERG: Objection to form.

22 A. Yes.

23 Q. So it's not as if you were a stranger to him?

24 A. Just like you are not a stranger to him, I was not a  
25 stranger to him.

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2 Q. I don't think he knows who I am.

3 MR. GOLDBERG: I think he does know who you are.

4 MR. ZELMANOVITZ: Now he does.

5 A. I mean...

6 Q. Have you ever given his synagogue money?

7 A. Never.

8 Q. Has your family ever given his synagogue money?

9 A. I don't think so.

10 Q. Never?

11 MR. GOLDBERG: Objection. He already answered. He doesn't  
12 think so.

13 MR. ZELMANOVITZ: I'm going to pry into that.

14 A. They're not a member of that synagogue.

15 Q. That's not what I asked.

16 Did they ever give Rabbi Cohen's synagogue, or Rabbi Cohen,  
17 personally, any money?

18 A. I don't think so.

19 Q. But you don't know?

20 A. I don't think so.

21 Q. That's the best you can do?

22 A. Yes.

23 MR. GOLDBERG: Obviously. You tried five times. I tried  
24 three times. It's asked and answered.

25 Q. After this phone call, and the award, what next happened?

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2 What next event happened in connection with this matter? Any meeting,  
3 any documents, any communications? What do you recall?

4 A. I think there was attempt to settle the matter between  
5 Fetman, and Stein and Ramzumna. There was another law firm that was  
6 hired, and Mr. Fetman was questioned at that event.

7 Q. Was that in Patterson Belknap's office? That's a law firm.

8 A. Yes.

9 Q. And Mr. Ramzumna was from Patterson Belknap?

10 A. I believe so, yes.

11 Q. Who called that meeting?

12 A. I don't know.

13 Q. You were asked to attend, right?

14 A. I was asked to attend.

15 Q. Who asked you to attend?

16 A. The law firm of Goldberg and Rimberg. I think I got a call  
17 from Evan Schusterman, from the office of Rimberg.

18 Q. What happened at this meeting?

19 A. Mr. Ramzumna was conducting questions, and asked questions  
20 to Mr. Fetman, and I was just observing it.

21 Q. Were there issues raised concerning the board of directors  
22 of Aish, and any accounting improprieties in connection with them at this  
23 meeting?

24 A. I don't remember.

25 Q. Tell me what kind of questions were discussed.

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2 A. I don't remember the questions, the specific questions, but  
3 categories of Fetman's involvement with Aish, and how he stole all this  
4 money from Aish. Different categories of ways he was stealing from Aish,  
5 including credit cards, charges on personal credit cards, charges that he  
6 had on corporate credit card, moneys that he diverted out of Aish to  
7 controlled entities, including Merkaz.

8 Q. Did that money that was in Merkaz, eventually, go from  
9 Merkaz into, let's say, Project Inspire, or to Aish, or to Aish UK, or to  
10 Aish The Center? Do you know?

11 A. Some money went back.

12 Q. Did you make an analysis of how much money went back?

13 A. I don't remember. I do have that number, I believe, in a  
14 document that I prepared.

15 Q. That's also a document that was attached to that letter that  
16 you testified to earlier?

17 A. Yes.

18 Q. And you don't have that with you today?

19 A. I do not.

20 Q. Did you also, at this meeting, at Patterson Belknap, say  
21 that the board of directors had issues concerning credit cards,  
22 themselves? Using credit cards, paying for mortgage expenses for various  
23 executives, and things of that nature?

24 MR. GOLDBERG: Objection, as to form.

25 A. I don't remember anything discussed in regards to the board

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2 of directors. Quite frankly, it wasn't something that I had been  
3 involved in. So I did not pay any attention to that, even if it was  
4 discussed then.

5 Q. In the course of your analysis, and investigation, you must  
6 have come across transactions pertaining to Aish. Would that be correct?

7 A. No.

8 MR. GOLDBERG: Objection, as to form.

9 Q. You did not focus on any other transactions with respect to  
10 Aish's accounting, or other executives, such as Rabbi Greenman?

11 A. As I pointed to you before, the sole purpose of my  
12 engagement was Fetman. After he --

13 Q. But that's not my question.

14 MR. GOLDBERG: Let him finish.

15 MR. ZELMANOVITZ: Move to strike.

16 He wants to say his mantra about this thing about he stole  
17 money, et cetera. He's not answering the question.

18 Q. The question is, didn't you find others were stealing money,  
19 and using credit cards? Didn't you find that other people were using  
20 Aish, were using Aish as their own piggy bank, and not Mr. Fetman? Isn't  
21 that a fact, and you told that to everybody at that board meeting?

22 MR. GOLDBERG: It's a multiple question. It's compound. I  
23 don't understand what the questions is. So if you'll break it  
24 down, we can do it question by question, piece by piece. And I  
25 don't want you to get a stroke, so just calm down.



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2 MR. ZELMANOVITZ: Oh, I'm not getting a stroke. I'm  
3 enjoying this.

4 MR. GOLDBERG: You're raising your voice.

5 MR. ZELMANOVITZ: I'd like an answer to the question. I'd  
6 like an honest answer to the question. That's what I'd like. I  
7 don't like witnesses who are perjuring themselves.

8 MR. GOLDBERG: Stop with the rhetoric. Stop with the  
9 grandstanding. Just ask your questions. You've been doing it for  
10 so many years.

11 Q. Have you discovered anything with respect to any other  
12 executives? I'm not asking what you were assigned to do, what I wanted  
13 to do, what I was hired to do, closed my eyes, I didn't see. That's not  
14 what I'm asking. I'm asking, did you find any improprieties in  
15 connection with any other executives of Aish?

16 MR. GOLDBERG: Objection, as to form.

17 A. No.

18 Q. Oh, none. Okay.

19 MR. ZELMANOVITZ: Let's mark this next document as Exhibit  
20 H.

21 (Whereupon, a copy of a check, was marked Defendant's  
22 Exhibit H for identification, as of this date.)

23 Q. Defendant's Exhibit H, which I am showing you, I'll show you  
24 in a minute, just for identification, is check number 24516. The date is  
25 February 17, 2011. The vendor here is Ateres Charna, and it's

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2 Mr. Goldstein, and it's for event rental expense, and the amount here is  
3 \$6,000 (handing).

4 Have you ever seen that before?

5 A. I don't remember.

6 Q. Did you examine the check register of Aish?

7 A. I did.

8 Q. Did you ask any questions about why there was a \$6,000  
9 payment being made out of Aish to Ateres Charna in connection with Rabbi  
10 Greenman's daughter's wedding?

11 MR. GOLDBERG: Objection, as to form.

12 A. I don't understand what this is here, Rabbi Greenman's  
13 daughter's wedding on this check?

14 Q. I know that, because I asked questions. Did you ask  
15 questions?

16 A. Do you know how many --

17 MR. GOLDBERG: Objection, as to form.

18 Q. Did you ask questions?

19 A. Do you know how many checks were written of that account?

20 Q. Did you ask questions about this?

21 A. I don't remember.

22 Q. Did you see any improprieties that were done by any of the  
23 other Aish executives in the course of your investigation?

24 A. It was not what I was hired for. I was hired to investigate  
25 Fetman.

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2 Q. It's not what I asked. I heard that.

3 MR. GOLDBERG: So let him answer.

4 Q. Answer the question of whether you found any, whether you  
5 were hired for it, or not.

6 MR. GOLDBERG: I'm directing him not to answer.

7 Why don't we do this orderly. You'll ask the question.  
8 He'll give the answer. If you object to his answer, you'll move to  
9 strike, and we'll do it that way, but let him get his complete  
10 answer.

11 Q. Let me rephrase the question. I want to make sure that you  
12 understand my question. My question is not what you were hired for. My  
13 question is, in the course of your work, did you find that, in fact,  
14 there were improprieties that were done by other Aish executives in  
15 connection with moneys taken from Aish for personal reasons?

16 A. I did not look at other executives, and that's why I did not  
17 find any improprieties with other executives.

18 Q. Would you say this is an impropriety if I represented to you  
19 that it was for Rabbi Greenman's daughter's wedding?

20 MR. GOLDBERG: I'm directing you not to answer.

21 It's a hypothetical question.

22 Q. Would you, as a forensic accountant?

23 A. I don't have a basis to answer your question.

24 Q. You don't have any basis?

25 A. No.

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2 Q. Right, because this, to you, is not improper. It's only if  
3 it's Mr. Fetman that it's improper, right?

4 MR. GOLDBERG: Objection. He's editorializing. I'm going  
5 to ask the Judge to strike the editorializing from the record.

6 MR. ZELMANOWITZ: I could do what I want.

7 MR. GOLDBERG: I know you can.

8 Q. Let's do another one.

9 MR. ZELMANOVITZ: Let's mark this as I. This one is check  
10 number 27045. The date is November 15, 2012. The amount is  
11 \$5,000. The memo is Intrator Fund.

12 (Whereupon, a check was marked Defendant's Exhibit I for  
13 identification, as of this date.)

14 Q. Let me show you what has been marked as Exhibit I (handing).  
15 Have you ever seen Exhibit I before?

16 A. No.

17 Q. And you examined the check register of Aish, you said,  
18 right, in connection with your assignment here?

19 A. I did.

20 Q. And in connection with that assignment, would you have come  
21 across that check?

22 A. Possibly.

23 Q. Do you recall asking any questions about that check?

24 A. No.

25 Q. Let's talk about another meeting that you had at Patterson

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2 Belknap. You remember that one, a second meeting with the same people?

3 A. I remember there were two meetings. Just in my head, it's  
4 all, kind of, one big meeting right now.

5 Q. Do you recall being asked at this meeting, was there a  
6 report, and you said, of course there was no report? Do you recall  
7 saying that?

8 A. No.

9 Q. Is it your recollection that you never said that, or you  
10 just don't remember?

11 A. I never said that.

12 Q. Do you recall, in connection with your investigation, that  
13 there were mortgages that were placed on two buildings that were owned by  
14 the Fetmans, or an entity that they control for \$1.2 million, each?

15 A. There were mortgages placed.

16 Q. On two buildings?

17 A. There were some refinancing that the Fetmans took from the  
18 buildings, and deposited into the Merkaz.

19 Q. Did you have any knowledge as to who owned those buildings?

20 MR. GOLDBERG: Objection, as to form.

21 A. It was represented by Fetman that it was his buildings.

22 Q. Did you ever obtain any evidence that that was not the case?

23 A. No.

24 I'm not testifying about the amount. I think you mentioned  
25 \$1.2 million each. I don't remember the amount. I know there were funds

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2 from the financing of the building that came to Merkaz.

3 MR. ZELMANOVITZ: For the record, the yellow highlighting  
4 is mine. Let's mark that as J.

5 (Whereupon, a document from Rabbi Cohen, dated 2/19/13 was  
6 marked Defendant's J for identification, as of this date.)

7 Q. Let me show you what has been marked as Defendant's Exhibit  
8 J, which is copy of Rabbi Cohen's December 19, 2013, directive,  
9 statement, award, or whatever you'd like to refer to it as. Here you go  
10 (handing).

11 Have you ever seen that before?

12 A. What is it?

13 Q. You could read it. It's Rabbi Cohen's clarification,  
14 supplemental statement, directive, award, order, whatever, but it's dated  
15 December 19, 2013.

16 Have you ever seen that before?

17 A. Likely, I did.

18 Q. If you saw it, your attorney showed it to you?

19 A. Yes.

20 Q. I'm not going to ask you what you discussed with your  
21 attorney, but I just want to ask if you did discuss it with your  
22 attorneys over at Ober Kaler?

23 A. I don't think so.

24 Q. Did you, as part of your work, make any finding that  
25 Mr. Fetman had taken from Aish, the property at 4305 Tenth Avenue, in

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2 Brooklyn? Did you do that?

3 A. I don't understand your question.

4 MR. ZELMANOVITZ: Can you repeat the question, please?

5 (Whereupon, the requested question was read back by the  
6 reporter.)

7 A. No.

8 Q. As part of your work, did you make any determination, or  
9 conclusion, or finding, that Mr. Fetman had taken the property from Aish,  
10 located at 4301 Tenth Avenue, in Brooklyn?

11 MR. GOLDBERG: Objection, as to form.

12 A. You mean, physically, took it from Aish, and changed the  
13 title to his name?

14 Q. In any way that you understand taking, whether it's changing  
15 title to his name, whether it's taking the property itself, somehow, and  
16 removing from Aish, so that it's not Aish's anymore, and it's somebody  
17 else's. Did you make any determination?

18 A. No.

19 Q. Looking at the seven properties that are listed in this  
20 document, did you, at any time, make any determination that any of those  
21 properties belonged to Aish, at any time?

22 MR. GOLDBERG: Objection, as to form.

23 A. I did not make that determination.

24 Q. Do you know if anyone made that determination?

25 A. I don't know.

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2 MR. GOLDBERG: Objection, as to form.

3 MR. ZELMANOVITZ: We could break for lunch here.

4 (Time noted: 12:40 AM)

5 A F T E R N O O N S E S S I O N

6 (Time noted: 1:56 PM)

7 V I C T O R L I P N I T S K Y, resumed and testified as follows:

8 EXAMINATION BY MR. ZELMANOVITZ(Cont'd.):

9 (Whereupon, Defendant's Exhibits K-O were marked for  
10 identification, as of this date.)

11 Q. Let me show you what has been marked as Defendant's Exhibit  
12 K for identification (handing). This is an e-mail string. The first  
13 page says from yitzzyitz@aol.com to a bunch of people, a number of  
14 people, and it shows that you are copied at vlipnitsky@invotex.com, and  
15 then there are several other e-mails that are a string here.

16 Have you seen this before?

17 A. Likely, it was addressed to me. I saw it.

18 Q. Is that your e-mail account, vlipnitsky@invotex.com?

19 A. Yes.

20 Q. And it's your testimony that you did receive this, correct?

21 A. Likely, I did.

22 Q. If you take a look, please, at the second page, there is an  
23 e-mail from yyitz@aol.com. Who is that? It's on Friday, 11/22/13.

24 A. Rabbi Greenman's e-mail.

25 Q. If you take a look at the next page, under A, it says A. You



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2 see, where it says the letter A? It reads, "I have not been calling the  
3 rav. He has been calling me." The rav you've referred to here, to your  
4 understanding is Rabbi Cohen?

5 MR. GOLDBERG: Objection, as to form. You want to know what  
6 somebody else wrote?

7 MR. ZELMANOVITZ: Yes, I want to know that his  
8 understanding is.

9 A. I don't know.

10 Q. You don't know who's the rav he's talking about?

11 A. No.

12 Q. When you got this e-mail, did you discuss this with anybody?

13 A. I don't remember.

14 Q. Under B, it says, "as in this past minute, the rav called me  
15 to tell me to e-mail the document to you, and tell you that I'm going to  
16 hit the ceiling if Jacob Fetman does not sign page 4, and get it  
17 notarized, and back to me now." And it goes on. Do you see that?

18 A. Yes.

19 Q. Do you remember this e-mail?

20 A. I likely received it.

21 Q. Did you talk to Rabbi Greenman when you received this  
22 e-mail?

23 A. I don't remember.

24 Q. Do you have an understanding who the rav is being referred  
25 to here?

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2 A. I don't know.

3 Q. You have no idea?

4 A. No.

5 Q. If you take a look at the second to the last page, it's on  
6 Friday, November 22, 2013, at 10:34 a.m. It's from yyitz@aol.com wrote:  
7 "I just rec'd a strong phone call from Rav David Cohen telling me to  
8 e-mail a copy of the power of attorney to the Fetmans, because the  
9 document that they brought him was done completely incorrectly. He says  
10 that he does not accept their apology. They are playing games, and they  
11 are not compliant with his requests, et cetera."

12 Do you recall receiving this?

13 A. Am I part of this e-mail string?

14 Q. Yes, take a look.

15 A. I don't know if all these pages are connected together as a  
16 string of the same e-mail. If that's your representation to me, that it  
17 all came as one string --

18 Q. Yes.

19 A. Then just like I received the first page, I received the  
20 last one.

21 Q. Did you have an understanding that Rav Dovid Cohen was  
22 communicating with Rabbi Greenman, privately?

23 A. I don't know.

24 Q. Did Rabbi Greenman ever tell you, or talk to you, about  
25 discussions he had, privately, with Reb Dovid Cohen about this matter?

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2 A. I don't recall.

3 Q. Let me show you what has been marked as Exhibit L for  
4 identification, which is a six-page document. The first three pages  
5 refer to a multi-family commercial mortgage statement. The mortgagor is  
6 Y&T Mortgage Corp, for the premises of 750 Washington Avenue, and then  
7 the last three pages are a similar document for the premises of 1677  
8 President Street, with the mortgagor, S&A Realty and Management Corp.

9 MR. GOLDBERG: Before he answers any question, I'd like to  
10 take a look at it.

11 MR. ZELMANOVITZ: Sure (handing).

12 Q. My first question is, did you ever have any recollection of  
13 Mr. Fetman complaining to you about Rabbi Cohen having private  
14 communications with Rabbi Greenman?

15 A. I don't remember.

16 Q. You don't remember one way or another?

17 A. I don't remember one way or another.

18 Q. Looking at this Exhibit L., have you seen this before?

19 A. I don't think so.

20 Q. Would it refresh your recollection if I told you this was  
21 provided to you by Mr. Fetman in the course of your investigation?

22 A. It still doesn't -- I don't remember if I saw it or not.

23 Q. Do you remember that there was a mortgage of \$1.2 million on  
24 the 750 Washington Avenue property?

25 A. I remember hearing about the mortgage for \$1.2 million.

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2 Q. Do you also remember hearing about the mortgage on 1677  
3 President Street for \$1.2 million?

4 A. I do remember that.

5 Q. Do you have any information as to whether these properties  
6 were owned by Aish, or not?

7 MR. GOLDBERG: Objection to form.

8 Q. Do you know whether they were owned by Aish, these  
9 properties?

10 MR. GOLDBERG: I'm not sure what the owner means.

11 MR. ZELMANOVITZ: Owner.

12 MR. GOLDBERG: A record owner, through a constructive trust,  
13 or utilizing Aish's money to buy?

14 MR. ZELMANOVITZ: Your objection is noted.

15 A. That was not my understanding.

16 Q. What was your understanding?

17 A. That Fetman owns this property.

18 Q. And that he was talking \$1.2 million on each of these  
19 properties, right, as a mortgage?

20 A. Yes.

21 Q. And that added up to \$2.4 million, correct?

22 A. You asked me to say if your math is correct?

23 Q. Is my math correct?

24 A. Your math is correct.

25 Q. It's the same number as your preliminary finding is; is that

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2 correct, \$2.4 million?

3 A. That's -- again, that's correct, based on what you are  
4 saying.

5 Q. Let me show you another document, what has been marked as  
6 Defendant's Exhibit L for identification. Before you answer any  
7 questions about that, I want your counsel to see this document first  
8 (handing).

9 MR. GOLDBERG: Can you tell me what this document is? I  
10 have not seen this before.

11 THE WITNESS: Neither did I.

12 Q. You have never seen this document before?

13 A. I don't remember.

14 MR. ZELMANOVITZ: This document, for the record, is a Wells  
15 Fargo home mortgage, and it's a mortgage statement to Kenneth J.  
16 Greenman and Lauren E. Greenman. Is it your understanding that  
17 that's Rabbi Greenman?

18 A. Yes.

19 Q. Did you have an understanding that Rabbi Greenman's mortgage  
20 payments were being paid out of Aish's bank accounts?

21 A. I never looked at Rabbi Greenman's payments of his  
22 mortgages.

23 Q. And whether or not you focused on that, in the course of  
24 your investigation and analysis, did you come across bank statements or  
25 financial information of Aish that indicated that mortgage payments were

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2 being paid for Rabbi Greenman's property?

3 A. My focus was not on Mr. Greenman, and his properties. The  
4 scope of my engagement was Fetman, and Fetman, only. You keep asking me  
5 the same question, over and over again, and I want to put it on the  
6 record one more time. The scope of the engagement was to figure out how  
7 much money Fetman stole. It wasn't even a question of whether he stole  
8 it, or not. He told me and others that he stole money.

9 MR. ZELMANOVITZ: Move to strike.

10 Q. The question is, yes or no. In the course of your  
11 investigation, did you come across the fact --

12 MR. GOLDBERG: He answered.

13 Q. I want to know yes or no.

14 MR. ZELMANOVITZ: Oh, really?

15 MR. GOLDBERG: Yes.

16 MR. ZELMANOVITZ: There was a yes or no? Which one was it,  
17 counsel?

18 MR. GOLDBERG: It's on the record.

19 Q. Just tell me, yes or no. In the course of your  
20 investigation, did you discover that mortgage payments were being paid  
21 out of Aish's bank accounts for Rabbi Greenman's home?

22 MR. GOLDBERG: He answered that he can't tell you. He  
23 didn't look at the documents. It's like a trick question. Did you  
24 see it. If he said he didn't see it before, he can't tell you.

25 Q. Are you saying you didn't see it? Your counsel says you

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2 didn't see it. Is that true?

3 A. I don't recall seeing this document.

4 Q. Do you recall seeing any information when you reviewed  
5 Aish's bank accounts that indicated that mortgage payments were being  
6 paid for Rabbi Greenman's house; yes or no?

7 MR. GOLDBERG: Objection, as to form.

8 A. I don't recall seeing that.

9 Q. What else didn't you see?

10 MR. GOLDBERG: Little difficult to say what you didn't see.

11 MR. ZELMANOVITZ: Are you objecting?

12 MR. GOLDBERG: Yes, I'm objecting.

13 Q. Can you answer that question? What else didn't you see?  
14 What bank accounts did you examine?

15 A. There were over 25 different bank accounts, at least, that  
16 we examined.

17 Q. And those bank accounts that you looked at was bank accounts  
18 that were in the name of Aish?

19 A. There were -- most of them that we examined, again, had to  
20 do with entities that Fetman controls. So it would be -- some of them  
21 would be Project Inspire accounts, which was in the name of Aish, but  
22 was -- as Fetman represented to me, that account was hidden from the  
23 auditors, and anybody at Aish. So I did look at that account, and there  
24 were other multiple accounts that were looked at.

25 Q. Did you look at any account, bank account, that was just in

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2 the name of Aish, not in Project Inspire?

3 A. Possibly.

4 Q. Would it have been important for your analysis to have  
5 reviewed those accounts?

6 A. There are two approaches that, normally, a financial exam  
7 like this involves. One approach is to look at the recipient of the  
8 funds, and look at how much he has received, and another approach is to  
9 look at the company from where the money is stolen to understand where it  
10 went.

11 Most of my analysis had to do with the first approach,  
12 simply because we knew, per Fetman's admission, that he stole money. The  
13 question was how much money he had retained. So to do that approach, you  
14 need to look at all of the statements, at all of the bank statements that  
15 were in the name of Fetman, and Fetman-controlled entities, right, and to  
16 analyze all the deposits that came into those entities, to determine  
17 whether or not those deposits had to do with a company, Aish, in this  
18 matter. So that was the prime approach that we had. Incidentally, we  
19 did look at some other payments, and we actually discovered a number of  
20 payments that did not go directly to Fetman's bank accounts, but were  
21 paid on behalf of Fetman. Like life insurance, for example, that he was  
22 hiding as a payment for the food vendor, and there were a number of  
23 others. Credit card payments, including Home Depot cards, including  
24 payments for gas and electric for his properties, for the entities that  
25 you just put in front of me, Y&T, and others. Those would be the second



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2 approach. So we did not complete our analysis. Fetman stopped it, and  
3 what I had at that time was produced and summarized.

4 Q. Did you ask anyone, such as Rabbi Greenman, or Mr.  
5 Markowitz, if it was the policy and practice at Aish, that executives of  
6 Aish received as compensation, their mortgage payments, credit card  
7 payments, tuition payments? Other than Mr. Fetman, did you ask that  
8 question?

9 A. Absolutely.

10 Q. Who did you ask?

11 A. I interviewed both Rabbi Greenman and Mr. Markowitz.

12 Q. What did they say?

13 A. Each one had their agreed upon sum total of benefit that  
14 they would receive.

15 Q. What kind of benefits?

16 A. Benefits you just mentioned.

17 Q. Credit cards?

18 A. Not credit cards.

19 Q. Not credit cards?

20 A. Not credit cards.

21 Q. Mortgage payments, tuition payments?

22 A. Tuition payments were there. There were, perhaps, other  
23 benefits that they would receive. But in total, they would be equal to  
24 agreed upon compensation that each employee would negotiate with Aish.  
25 In the case, and you know, it was evident in my findings -- it's evident

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2 in the opinions, the preliminary opinions that I have issued.

3 Q. That you haven't shown us?

4 MR. GOLDBERG: That's correct. That you're not entitled to,  
5 because it's attorney work product.

6 MR. ZELMANOVITZ: Which we object to, because that is a wild  
7 one. We'll make that application.

8 MR. GOLDBERG: As I said to you many times on the phone,  
9 make your application to the judge.

10 MR. ZELMANOVITZ: We'll make the applications, yes.

11 A. So in the case of Mr. Fetman, he was entitled to X amount of  
12 dollars a year. I don't remember, exactly. It changed from year to  
13 year, but somewhere in the neighborhood between 95 to 120. Something  
14 like that was agreed upon, total compensation. So he received tuition  
15 payments to his children's schools, and received hundreds of thousands of  
16 dollars that he took in credit card payments, right. All of the payments  
17 that I was able to find that had to do with Mr. Fetman were compared to  
18 the agreed upon sum total of the payments that Mr. Fetman had negotiated  
19 with the company.

20 Q. How did you know what that agreed upon number was?

21 A. There's a document that testifies to that.

22 Q. What is that document? What does it look like?

23 A. I've seen it. It could be an agreement, a written  
24 agreement. I don't remember if it was e-mail between Mr. Fetman, and the  
25 company, but there's a specific document that talks about his total

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2 compensation.

3 Q. And you did determine though, that others also received, in  
4 addition to salary, compensation of that sort, which you say you found  
5 based on your conversations with these people, was part of their  
6 agreement?

7 MR. GOLDBERG: He didn't say he determined anything with  
8 regard to other people.

9 Q. You could answer.

10 A. I did not do the same calculation that I did for Mr. Fetman  
11 for others.

12 Q. I understand.

13 With respect to those others, irrespective of doing the  
14 calculation, but there was an additional amount above salary they  
15 received as compensation, correct?

16 MR. GOLDBERG: Objection, as to form.

17 A. I don't recall who at the company received it, but there  
18 were others at the company that got their tuition paid out of the  
19 company's bank account. That's true.

20 Q. And would they also get their mortgage payments paid, if  
21 that was agreed upon?

22 A. I don't remember specifics. The documents are there. You  
23 can take a look at it. It was not my focus. I did not, specifically,  
24 recall which extra compensation parts other employees had received.

25 Q. Were these extra compensation parts reported to the IRS in

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2 the form of a W2, or other kind of document?

3 MR. GOLDBERG: Objection.

4 A. I was not working for the IRS.

5 Q. I didn't ask you if you were working for the IRS.

6 MR. GOLDBERG: Let him answer the question.

7 A. I did not look at the IRS record. I don't know what was  
8 filed with the IRS, and I am not able to answer the question.

9 Q. Did you compare, for Mr. Fetman, let's say, did you compare  
10 this W2 that he received from Aish, and compare that to the other  
11 compensation that he received?

12 A. I don't recall, specifically, comparing, looking at his W2.  
13 I possibly did that.

14 Q. Did you look at anybody else's W2?

15 A. I don't recall.

16 Q. We have marked, as Defendant's Exhibit N, several W2  
17 statements relating to Rabbi Greenman (handing).

18 Have you seen documents like that, irrespective of Rabbi  
19 Greenman, but have you seen documents like that with respect to anyone  
20 when you were doing the investigation?

21 A. We looked at thousands of documents. I don't recall if this  
22 particular document was looked at, or not.

23 Q. I didn't ask about this particular. I meant this type of  
24 document, W2 forms for anyone?

25 A. It's possible. Again, I can't recall, exactly.

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2 Q. Let me show you what has been marked as Defendant's Exhibit  
3 O for identification (handing).

4 MR. GOLDBERG: It says vendor ledgers, is what it's called.

5 Q. Have you examined vendors ledgers in connection with your  
6 investigation?

7 A. I don't recall which ledgers, specific ledgers, that we  
8 looked at.

9 Q. Did you look at vendors ledgers with respect to payments to  
10 Mr. Fetman?

11 A. I don't remember that either.

12 Q. Are you familiar with vendor ledgers?

13 A. I am familiar with vendor ledgers.

14 Q. Looking at this document, which is Exhibit O, it looks like  
15 it's a vendor ledger for Aish Hatorah that has a statement here, Greenman  
16 mortgage, and a total amount, a debit amount of \$228,923.85. Do you see  
17 that?

18 A. Okay.

19 Q. What does that mean to you?

20 A. That all the numbers on this list adds up to \$228,923.

21 Q. And it would mean to you that Rabbi Greenman was getting  
22 that amount of money, as far as mortgage payments, right?

23 MR. GOLDBERG: Objection, as to form.

24 A. I have no idea.

25 Q. I'm asking you as an accountant, and forensic accountant.

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2 If you were presented with this document, what does it mean to you?

3 A. I don't know where this document came from.

4 Q. From the business records of Aish.

5 MR. GOLDBERG: He just said he doesn't know.

6 Q. I'm representing to you where it is.

7 MR. ZELMANOVITZ: He said he doesn't know, and I'm telling  
8 him. I'm helping him.

9 MR. GOLDBERG: Why don't you let him finish his answer  
10 before you interrupt.

11 A. I don't know how this document was created, who created this  
12 document.

13 Q. Let me represent it's true. If this is a true document,  
14 what does this represent to you?

15 MR. GOLDBERG: I'm going to direct him not to answer a  
16 hypothetical question.

17 MR. ZELMANOVITZ: It's not a hypothetical.

18 MR. GOLDBERG: I'm directing him not to answer.

19 MR. ZELMANOVITZ: You're directing him not to answer a  
20 question that Rabbi Greenman, according to a vendor ledger for Aish  
21 Hatorah, for the period of 1/28/2010 through 9/29/2013, according  
22 to the vendor ledger of Aish Hatorah, received \$228,923.85 in  
23 mortgage payments?

24 MR. GOLDBERG: Now that you finished testifying about what  
25 you think the document says, or might have said, and the witness

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2 has said that he has not seen this document, and he doesn't  
3 recognize this document. So you want to characterize, and ask him,  
4 based on your characterization of what it is, to give you the  
5 testimony that you would like. No, I'm going to direct him not to  
6 answer.

7 Q. Have you ever seen a document in this form before? A vendor  
8 ledger of this type?

9 A. I don't recall.

10 Q. In any company, have you ever seen a document of this type?

11 MR. GOLDBERG: I'm not sure what this type means.  
12 Objection, as to form.

13 Q. Are you familiar with Peachtree accounting system?

14 A. That's the accounting system that Aish had, internally.

15 Q. Have you done any work in connection with Peachtree  
16 accounting system, other than in connection with your investigation of  
17 this matter?

18 A. I believe I did, yes.

19 Q. Have you seen vendor ledgers that are prepared using the  
20 Peachtree system?

21 A. I did.

22 Q. Do they look similar? I'm not talking about the amount, but  
23 do they look similar in form to this?

24 A. Yes, it's possible that it's similar.

25 Q. Have you seen documents of this nature -- forget about the

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2 amounts -- of this nature in connection with your investigation of Aish,  
3 and Mr. Fetman, here?

4 A. Back to original methodology that I've used. Can you please  
5 hear me out?

6 Q. I heard you, but I want yes or no. Did you look at it?

7 MR. GOLDBERG: He can't answer yes or no.

8 Q. Did you review it?

9 A. I said I don't remember seeing this document.

10 Q. That's enough.

11 MR. ZELMANOVITZ: Let's mark the next one as Exhibit P.

12 (Whereupon, contact and salary info was marked Defendant's  
13 Exhibit P for identification, as of this date.)

14 Q. Let me show you what has been marked as Exhibit P for  
15 identification, Mr. Lipnitsky, and it's a document entitled, contact and  
16 salary info for new staff.

17 In the course of your investigation of this matter, have you  
18 seen documents similar to this? Not this particular document,  
19 necessarily, but documents similar to this?

20 A. I don't recall, exactly, but possibly.

21 Q. When you mentioned before, testified, as to the agreed upon  
22 compensation package that certain executives, and Mr. Fetman, and whoever  
23 would receive from Aish, are you referring to a document that looks like  
24 this?

25 MR. GOLDBERG: He testified already. Asked and answered.



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2 A. I don't remember the specific format, but in principle, I  
3 think that was my understanding, that the total package was broken down  
4 by different categories.

5 Q. So here, for example, you have payroll, and then you have  
6 parsonage, health, tuition, and then a one-time tuition payment relating  
7 to 2011, right?

8 A. That's what it says, yes.

9 Q. Do you recognize the signature on this page?

10 A. I do not.

11 Q. Did you ever speak to Mr. Markowitz about his own  
12 compensation package from Aish?

13 A. I did not.

14 Q. You did not?

15 A. I don't recall.

16 Q. Did you speak to Rabbi Greenman about his compensation  
17 package from Aish?

18 A. I don't recall.

19 MR. ZELMANOVITZ: Let's mark this as Q.

20 (Whereupon, contact and salary info was marked Defendant's  
21 Exhibit Q for identification, as of this date.)

22 MR. GOLDBERG: He wants to ask me a question.

23 MR. ZELMANOVITZ: Okay.

24 (Whereupon, a short recess was taken.)

25 Q. Let me show you what has been marked as Exhibit Q for

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2 identification (handing).

3 MR. GOLDBERG: Can we, somehow, characterize this document,  
4 because it's redacted with information. I just want to know, who  
5 redacted the information?

6 MR. ZELMANOVITZ: We did.

7 This is headed, contact and salary info for new staff. We  
8 redacted information, because we didn't feel it appropriate to put  
9 in an individual over here, and inject him into a public  
10 proceeding. However, you are welcome. We could tell you, off the  
11 record, who it is.

12 MR. GOLDBERG: I want to know, on the record, who it is.

13 MR. ZELMANOVITZ: You really want to know on the record?  
14 You really want to have that individual named here?

15 MR. GOLDBERG: Yes.

16 MR. ZELMANOVITZ: You do. You know what? You'll go to the  
17 Judge, and we'll tell the Judge, privately, and if she wants to put  
18 the name on, fine.

19 MR. GOLDBERG: I can't have any questions answered on the  
20 document. I don't know what it refers to. So I'm going direct  
21 that he not answer it. However, if you want to show it to the  
22 Judge, however you want to show her.

23 Q. Have you seen a document in this form before?

24 A. It's the same question you asked me before.

25 Q. It's a different document though, yes?

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2 A. It looks like the same format.

3 Q. Can you see the line items on the bottom there? Cell phone,  
4 day camp, MetroCard, shabbos food, tips for building. Do you see that?

5 A. Okay.

6 Q. Have you come across, in your investigation, anyone whose  
7 compensation package included cell phones, day camp, MetroCard, shabbos  
8 food and tips for building?

9 A. The Fetmans did.

10 Q. Did anyone else's?

11 A. There was -- I forgot his name there. There was a fellow,  
12 who was before Markowitz. Somebody was. I can't remember the name.  
13 David, Davis, something. It could be that Fetman kept a spreadsheet,  
14 Excel spreadsheet, with expenses that Davis -- I'm not sure if I  
15 pronounced his last name right.

16 MR. GOLDBERG: Davidson.

17 THE WITNESS: Thank you.

18 A. Davidson spent, and Fetman would subtract those expenses out  
19 of the total compensation.

20 Q. Was that a policy or practice at Aish, as far as your  
21 investigation was concerned, that certain people had, as part of their  
22 compensation packages, the right to get cell phones paid, day camp paid,  
23 MetroCards paid?

24 A. My only understanding was from Fetman that there was a deal  
25 between Fetman and Davidson that allowed Davidson to do that.

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2 Q. You're saying this is Davidson, as far as you know?

3 A. I don't know. You didn't represent who it is.

4 Q. I'm going to present to you, it's not Davidson. So now, did  
5 you come across in your investigation, others who had their cell phone  
6 paid, day camp paid, MetroCard paid, shabbos food paid, other things,  
7 depending what was agreed to?

8 A. I don't recall that it was, other than the document you  
9 showed me in front of you, who you don't want to identify.

10 Q. Do you recall a complaint by Mr. Fetman that they changed  
11 the passwords on his e-mail accounts, a complaint to you by Mr. Fetman?

12 A. I don't recall that.

13 Q. Do you recall, specifically, telling him, and I quote, "that  
14 should not have happened. I called Rabbi Cohen, and complained, and he  
15 got angry with me."

16 Do you recall telling Mr. Fetman that?

17 A. No.

18 Q. Are you saying here, under oath, that that never happened,  
19 or that you don't recall?

20 A. Under oath, that I did not remember that.

21 Q. Under oath, that you don't remember it, but you're not  
22 saying it didn't happen?

23 A. I don't remember saying that.

24 Q. Did you happen to call Rabbi Cohen during this  
25 investigation, privately, about any matter?

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2 A. I don't remember doing that, no.

3 Q. It's possible you did?

4 A. I don't remember doing that.

5 Q. I'm asking if it's possible you did.

6 A. I don't remember doing that.

7 Q. Do you recall Mr. Fetman complaining to you, on a telephone  
8 call, that you're only hearing one side, and not hearing his side of the  
9 story?

10 A. I heard his side very well.

11 Q. No, I'm asking you a different question. I'm asking you if  
12 you recall Mr. Fetman complaining to you that you're only hearing one  
13 side?

14 A. He possibly complained. I don't remember.

15 Q. Do you recall Mr. Fetman telling you that there was no  
16 justification, whatsoever, to come to a conclusion about anything in the  
17 neighborhood of \$2.3 million, as allegedly he having embezzled? Do you  
18 recall that conversation?

19 A. I don't remember that conversation.

20 Q. Do you recall telling Mr. Fetman, specifically, "when it  
21 comes to \$2.3 million, I would not have objected to it, at all"?

22 A. I don't understand your question. Please repeat it.

23 Q. Do you recall telling Mr. Fetman that, "when it comes to  
24 \$2.3 million, I would not have objected to it at all"?

25 A. I don't understand what you're saying.

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2 Q. I'm asking if you recall saying the following, "when it  
3 comes to \$2.3 million, I would not have objected to it at all"?

4 A. I don't remember saying that statement. I don't know what  
5 that statement means.

6 Q. Do you recall Mr. Fetman complaining to you that there was  
7 no basis for coming up with the \$2.3 million, allegedly, that he had  
8 embezzled? Do you recall him complaining to you about that?

9 A. I don't remember that, no.

10 Q. Do you recall telling Mr. Fetman, in a phone call, that  
11 Rabbi Greenman spent a lot of time speaking to Reb Dovid?

12 A. I didn't say that.

13 Q. Are you saying, under oath, that you did not say that, or  
14 that you don't remember saying that?

15 A. I did not say that.

16 Q. Under oath, you're saying you did not say that?

17 MR. GOLDBERG: You've asked it already. Repeating it won't  
18 get you a different answer, even though you hope it will.

19 Q. Do you recall telling Mr. Fetman, "You have to relax. No  
20 one is taking your properties from you"?

21 A. I don't remember.

22 Q. Do you recall Mrs. Fetman complaining to you that Reb Dovid  
23 does not listen to them, the Fetmans, that he's angry?

24 A. I believe she did say that, yes.

25 Q. Do you recall telling her that if you want to have a

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2 meeting, you should schedule a meeting with Rabbi Cohen?

3 A. I might have.

4 Q. Do you recall discussing any of the properties with  
5 Mrs. Fetman?

6 A. I did not discuss it.

7 Q. You did not discuss it?

8 A. No.

9 Q. Let's talk about the first time that Mr. Stein,  
10 Mrs. Fetman's attorney, showed up at the arbitration session. You were  
11 there, at the arbitration session?

12 A. Yes.

13 Q. Who else was there at that session, at the time when  
14 Mr. Stein was there?

15 MR. GOLDBERG: You've asked that whole series of questions.

16 MR. ZELMANOVITZ: I didn't ask this specific.

17 MR. GOLDBERG: You did.

18 MR. ZELMANOVITZ: This is the third arbitration session. I  
19 didn't ask him. The fourth. I didn't ask.

20 Q. Who else was there?

21 A. Reb Dovid Cohen, myself, Rabbi Greenman. I'm not sure. I  
22 don't remember if Steward Schabes was there or not. I don't remember.

23 Q. Was Rav Dovid Cohen -- did he express any anger with the  
24 fact that Mr. Fetman had brought in Mr. Stein into the proceedings?

25 A. Not at all.

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2 Q. Did he say, at this proceeding, that by virtue of bringing  
3 him in, and he directed this to Mr. Fetman, that you proved your guilt,  
4 by virtue of the fact that he brought in the attorney?

5 A. Never heard that statement.

6 Q. Do you know who a Mr. Mitch Kuflik is?

7 A. Someone on Aish's board. One of the people that is  
8 connected with Aish through -- but I don't know beyond that. I just  
9 remember the name.

10 Q. How do you know the name?

11 A. Fetman told me.

12 Q. Do you know about a fund called the Brahman Fund?

13 A. I've heard about it.

14 Q. What is it you hear about it?

15 A. Fetman told me that that's the fund where Mitch is working  
16 for.

17 Q. And was that fund used, in any fashion, by Aish?

18 A. I have no idea.

19 Q. Did you, in the course of your investigation, discover that  
20 at the end of 2004, Mr. Kuflik had placed \$400,000 into the Branman Fund  
21 for Aish New York?

22 A. I have no idea.

23 Q. Let me just clarify one thing, and I apologize if I've asked  
24 if before. I just want to have a clear record. You were not hired by  
25 Rabbi Cohen, you were hired by Ober Kaler; is that correct?



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2 MR. GOLDBERG: He said yes.

3 A. Yes.

4 MR. GOLDBERG: You don't need to repeat it. It's been said  
5 about 13 dozen times during the course of this deposition.

6 Q. And you reported to Ober Kaler?

7 A. Yes.

8 Q. And you reported to Rabbi Greenman?

9 MR. GOLDBERG: He already said he reported to Ober Kaler.

10 A. Ober Kaler. And I'm sure Rabbi Greenman, I'm sure, was  
11 informed.

12 MR. ZELMANOVITZ: Why don't you give us a minute outside,  
13 and maybe I'm through, and Jon will take over, okay?

14 (Whereupon, a short recess was taken.)

15 Q. You looked at the bank account of Project Inspire, right?

16 A. Yes.

17 Q. And that was a bank account that was an Aish Hatorah  
18 account, D/B/A Project Inspire. Would that be correct?

19 A. To the best of my memory, yes.

20 Q. And you looked at the funds that were raised, or were  
21 deposited into that bank account, correct?

22 A. Yes.

23 Q. And you looked at the funds that went out from that bank  
24 account, right?

25 A. For the most part, I was interested in money just coming

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2 into the bank account, not out, and I can explain to you why. Based on  
3 the knowledge that we've employed in that case, any amount of money that  
4 went into the Fetman-controlled account that was not known to anyone  
5 else, we were assessing how much of those funds were the Aish money. To  
6 the extent that money left those accounts, and went to pay for Fetman  
7 expenses, or someplace else, right, that would be, kind of, a next step,  
8 on a more of an offset amount that, sort of, came back, if any. So at  
9 the first layer, all we're looking at is an amount of money that came  
10 into all of this numerous bank accounts that they control. That was our  
11 primary focus. To the extent we could entertain other things, we would.

12 Q. So the money comes in. You looked at the money that came  
13 into that account. How do you know that was embezzled by Mr. Fetman?  
14 Did you see any documents or bank statements that showed that that money  
15 was embezzled?

16 A. It was an admission from Mr. Fetman.

17 Q. Other than the admission you claim he made, did you see any  
18 documents that showed that?

19 A. Mr. Fetman represented to me that this account was -- just  
20 let me finish. Mr. Fetman presented to me that account was hidden from  
21 everybody else. He controlled that account. He would deposit. He would  
22 take money from donations that would come in, and deposit into that  
23 account, and use it as he wished.

24 Q. When you say he used it as he wished, did you actually track  
25 the flow of the money, from when it's deposited into the bank account of

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2 the Aish Hatorah doing business as Project Inspire bank account, and then  
3 out from that account? Did you do that?

4 A. I did not do a full reconciliation of where the money went  
5 to, but I saw --

6 Q. The answer is no?

7 MR. GOLDBERG: That's not an answer. That's your answer.

8 Q. So you did it then?

9 MR. GOLDBERG: Let him answer the question.

10 MR. ZELMANOVITZ: It's a yes or no, and this witness  
11 doesn't know what a yes or no means?

12 Q. Did you analyze where the money went out?

13 A. Some we did. Some we didn't.

14 Q. Did you make a determination, or a finding, that money, or  
15 some money, or all of it, went into Merkaz's bank accounts?

16 A. We saw money come into the Merkaz account, yes.

17 Q. And then, did you see that that same money went from the  
18 Merkaz bank account, back into the Aish bank account?

19 A. That's what you testified.

20 Q. No, I'm asking you if you saw it.

21 A. I said before. You asked this question before. I said part  
22 of it went back.

23 Q. Did you make any kind of analysis to see, from the \$1  
24 million, let's say, that were deposited into Project Inspire, how much  
25 went into Merkaz, and ended up into Aish, and how much did not? Did you

1 MR. VICTOR LIPNITSKY

2 make that analysis?

3 A. We did, yes.

4 Q. Is that part of your report?

5 A. I did not call it a report. You called it a report.

6 Q. Your letter?

7 A. Yes.

8 Q. How much was that?

9 A. I don't recall now.

10 Q. Was it less than a million dollars?

11 A. Absolutely.

12 Q. Was it less than \$500,000?

13 A. I'm pretty sure it was less than that.

14 Q. Was it less than \$200,000?

15 A. I don't remember.

16 MR. ZELMANOVITZ: I am not closing the deposition, from my  
17 perspective, because of this open issue, which we'll have to make  
18 an application for with respect to the letter that was not produced  
19 with the schedules. For which counsel is saying that it's being  
20 held on what privilege?

21 MR. GOLDBERG: We'll discuss it in front of the Judge.  
22 There is ground.

23 MR. ZELMANOVITZ: No, but can you assert the ground now?

24 MR. GOLDBERG: No, just like you won't tell me on this  
25 Exhibit Q. You were going to reserve. So we're going to reserve

1 MR. VICTOR LIPNITSKY

2 everything for the court.

3 MR. ZELMANOVITZ: Okay. That's fine.

4 Q. Do you know, Mr. Lipnitsky, who the executive directors of  
5 Project Inspire were?

6 MR. GOLDBERG: Objection, as to form.

7 A. No.

8 Q. If I tell you Yossi Friedman, would that ring a bell?

9 A. Rings a bell that he was associated with Project Inspire,  
10 but I don't remember what his position was.

11 Q. Do you know a name, Chaim Samson? Have you heard that name  
12 before?

13 A. It rings a bell.

14 Q. Do you recall that he was the director of Project Inspire?

15 A. I don't recall.

16 Q. And that Yossi Friedman was the managing director of Project  
17 Inspire?

18 A. I don't recall.

19 Q. Did you ever speak to those two individuals?

20 A. I did.

21 Q. When did you speak to those two individuals?

22 A. In the process of my investigation.

23 Q. Was it on the phone, or in person?

24 A. I don't remember.

25 Q. What did you tell them, and what did they tell you?

1 MR. VICTOR LIPNITSKY

2 A. I really don't remember.

3 Q. Did you speak to the accountants for Project Inspire?

4 A. Names?

5 Q. Vicky Cohen, and Tova Cohen.

6 A. Rings a bell. I don't remember if I spoke with them, or  
7 not.

8 Q. Were you told not to speak to them?

9 A. No.

10 Q. But you don't remember if you did?

11 A. I don't remember if I did speak to them.

12 MR. GOLDBERG: Thank you.

13 EXAMINATION BY MR. LEFKOWITZ:

14 Q. Itemize, please, every document that you remember creating  
15 with respect to this matter.

16 A. You kidding?

17 Q. I'm not kidding.

18 MR. GOLDBERG: If you can.

19 A. I can't do that.

20 Q. Do you remember creating any documents with respect to this  
21 matter?

22 A. Can you be more specific, please?

23 Q. When you said before that you can't list all the documents  
24 that you created with respect to this matter, is that because there are  
25 many of them?

1 MR. VICTOR LIPNITSKY

2 A. I don't understand your question. What type of documents  
3 are you talking about?

4 Q. Any piece of paper.

5 A. Like sending Fetman a request for documents to produce?

6 Q. That's an example, yes.

7 A. Yes, I'm sure there were many of those, yes.

8 Q. Can you tell us about how many?

9 A. I can't tell you the number.

10 Q. Also, would you say that, what you previously called  
11 preliminary findings, would that be a document you created with respect  
12 to this matter?

13 A. Yes.

14 Q. Also, what you previously called a preliminary notes, is  
15 that something else you created?

16 A. Maybe referring to the same thing, same document?

17 Q. You tell me.

18 A. I don't remember.

19 THE WITNESS: Can you read the record, and tell me where I  
20 said that?

21 MR. LEFKOWITZ: I'll withdraw the question.

22 Q. Is it fair to say that what you called preliminary notes and  
23 preliminary findings, are the same thing?

24 A. Again, I don't remember the context that I was talking  
25 before. If it was in the same contest, then yes. If not, not. If you

1 MR. VICTOR LIPNITSKY

2 want to read the record, I could answer your question.

3 Q. Is it fair to say you created notes about this  
4 investigation?

5 MR. GOLDBERG: Objection, as to form.

6 A. When you say created notes, I'm not trying to be difficult.  
7 What do you mean, creating notes?

8 Q. Either you wrote something on your computer, or you took a  
9 pen in your hand, and you wrote something on a piece of paper. Did you  
10 delete either of those things?

11 A. There are a lot of e-mails between myself and Fetmans that I  
12 think you consider that to be notes, obviously. You can get all of those  
13 from your brother-in-law.

14 Q. Besides the notes between you and Fetman, were there notes  
15 between you and other parties?

16 A. Yes, I wrote e-mails, you know, as mentioned before.  
17 They're communication between me and my attorneys.

18 Q. Was there also communication between you and Greenman?

19 A. My recollection is that attorneys were always copied in  
20 communication, but they were e-mails that went, and CCd. Rabbi Greenman  
21 was CCd on any communication, yes.

22 Q. Beside CCs, did you communicate, directly, with Greenman, in  
23 writing?

24 A. I don't recall.

25 Q. Did you communicate directly with Cohen, in writing?



MR. VICTOR LIPNITSKY

A. Never.

Q. So you referred earlier to a preliminary letter. Do you remember that?

A. Yes.

Q. And that was a letter from you?

A. A letter from me, yes.

Q. To whom?

A. To Schabes.

Q. How many pages was that letter?

A. It was a substantial letter.

Q. Ten pages, or more?

A. It was more.

Q. More than 50 pages?

A. Somewhere in that neighborhood.

Q. Around 50 pages?

A. Maybe a little bit more.

Q. So now we have e-mails, a letter to Schabes. And what other documents did you create with respect to this investigation and arbitration, that you remember?

A. I mean, schedules, and drafts, documents that we requested from Fetman.

Q. Why did you not bring even one of those documents with you today?

A. I wasn't directed to.

1 MR. VICTOR LIPNITSKY

2 MR. LEFKOWITZ: One second, please.

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

4 Q. As far as you know, for whom were you working?

5 A. For the attorneys.

6 Q. Ober Kaler hired you?

7 A. Yes.

8 Q. Did they hire you on their own behalfs, or on behalf of  
9 Greenman, or Aish Hatorah, or Rabbi Cohen, or someone else?

10 A. It's an engagement letter between Invotex, and Ober Kaler.

11 Q. Where is that engagement letter?

12 A. We have the engagement letter.

13 Q. You didn't bring it?

14 A. No.

15 Q. Why not?

16 A. I was not directed to.

17 Q. Do you remember if the engagement letter says that Ober  
18 Kaler is hiring Invotex?

19 A. I'm pretty sure that's the standard.

20 Q. Does it say that you, individually, were hired, or Invotex,  
21 or both?

22 A. I don't recall. You have to look at the engagement letter.

23 Q. Is that the equivalent of a retainer agreement, or do you  
24 have, also, a retainer agreement?

25 MR. GOLDBERG: Objection, as to form.

1 MR. VICTOR LIPNITSKY

2 A. I don't remember.

3 MR. LEFKOWITZ: Off the record for a moment.

4 Q. In this engagement letter, what was the scope of your  
5 engagement?

6 A. You have to look at the engagement letter. I don't  
7 remember. It was written almost a year-and-a-half ago. Probably more.

8 Q. Well, I would, if you would have brought it, but since you  
9 didn't, I'm asking you what --

10 MR. GOLDBERG: Reserve the colloquy for another time.

11 Q. Do you remember what's written in it?

12 A. I don't remember.

13 Q. Can you tell us the date when you were hired?

14 A. I don't remember. In October, sometime.

15 Q. October of which year?

16 A. '13.

17 Q. When you were hired, had you already formed the opinion that  
18 Fetman stole money?

19 A. Say that --

20 MR. GOLDBERG: Objection, as to form.

21 Q. Were you hired, had you already the opinion -- were you  
22 already of the opinion that Fetman had stolen money?

23 A. No.

24 Q. That's something you formed later on?

25 A. Yes.

MR. VICTOR LIPNITSKY

Q. Did you delete or destroy any documents pertaining to this matter?

A. I don't think so.

Q. Maybe you did?

A. I mean, we have e-mails that could be deleted. I don't keep all the e-mails. As a matter of practice, I just, you know, clean up the inbox. So I did not purposely delete any documents referring to this matter.

Q. Did you delete the report, or preliminary letter that you sent to Schabes?

A. We have the letter. I don't know what you're asking.

Q. You have it?

A. Yes.

Q. You did not delete it?

A. I just answered your question.

Q. Who is, "we"? Who has the letter?

A. We, Invotex, or whatever the accountants were that were working for Schabes.

Q. Do you, individually, have this?

A. I'm sure I have it.

Q. Besides Schabes, who else did you send it to?

A. The preliminary report just went to Schabes.

Q. Never sent it to Cohen?

A. Never sent it to Cohen.

1 MR. VICTOR LIPNITSKY

2 Q. Did Mr. Fetman ever see this report?

3 A. Mr. Fetman saw exhibits, some of exhibits that I shared with  
4 him and his counsel at our last session in front of Reb Dovid Cohen.

5 Q. So there's, approximately, a 50-page report, plus some  
6 exhibits?

7 A. No, that's total.

8 Q. So about 50 pages including exhibits?

9 A. Again, I'm guessing it's about 50 pages. It could be 30, it  
10 could be 60. I don't remember.

11 Q. You showed some of it to Fetman, and some not?

12 A. No, the schedules that I was working on, was shard with  
13 Fetman, and his attorneys.

14 Q. What do you mean when you say, "schedules"?

15 A. There's a letter about the schedules. And the letter,  
16 basically, describes what is in the schedules. And schedules gives you  
17 all the backup for all the numbers that made it into the letter. So  
18 schedules would be your summary schedule, and then, all the supporting  
19 schedules that were attached to that.

20 Q. Did Mr. Fetman have a chance to refute any of these  
21 findings?

22 A. Sure.

23 Q. When?

24 A. He'd been given plenty of chances. We had communicated in  
25 e-mails, and gave him almost a daily update of where we are.

1 MR. VICTOR LIPNITSKY

2 Q. When you were talking to Mr. Zelmanovitz, you said that this  
3 report was, "produced and summarized," when Mr. Fetman stopped  
4 cooperating; is that right?

5 A. Is it on the record, "produced and summarized"? Those are  
6 my words, you're presenting?

7 Q. Yes.

8 A. Ask the question again.

9 Q. Is it the case that you only produced this 30-60 page  
10 report, and summarized it at the point in time when Mr. Fetman, through  
11 his lawyers, stopped cooperating with you, or with Cohen, or whoever he  
12 stopped cooperating with?

13 A. So what I meant was the letter, the write-up about the  
14 findings where I prepared in that window frame. But the schedules, most  
15 of it were shared with Fetman, and his attorney.

16 Q. So to clarify, letter, report and findings, you mean the  
17 same documents, or --

18 A. You keep saying report. I keep referring to it as the  
19 letter. Letter, findings and report would be in our language of  
20 knowledge. The same thing.

21 Q. So can you give me an approximate date of when you issued  
22 that letter?

23 A. Prior to the issuance of the psak. So somewhere in -- I  
24 don't remember the date. It was October, maybe.

25 Q. October, of 2013?

MR. VICTOR LIPNITSKY

A. I don't want to speculate. I don't remember. It's on the letter.

Q. But it was at the point when Mr. Fetman stopped cooperating?

A. The letter, itself, was written at the point when I was asked to prepare the letter.

Q. And that would at the conclusion of the Bais Din proceedings?

A. No, it was after Dan stein notified us that Fetman is stopping cooperation.

Q. Would that be after the third arbitration meeting, or after the fourth arbitration meeting?

A. Yes.

Q. So if that's the case, when, exactly, did Mr. Fetman have a chance to refute the letter?

A. The schedules that are in that letter, in that analysis, were presented to Mr. Stein and Fetman during arbitration.

Q. So you're saying that he had a chance to refute the schedules, but not actually the letter?

A. The letter is a write-up about the schedules, but the schedules were orally presented to the arbitrator, and Fetman, and Stein, where I showed all of the analysis and categories that I was working with.

Q. The letter, itself, was how many pages, about?

A. Four, five pages.

MR. VICTOR LIPNITSKY

Q. So about four to five pages letter, and the rest of it was schedules?

A. Yes.

Q. Besides the contents of the letter, and the schedule, did you report anything to Cohen, verbally?

A. Only clarification when Rabbi Cohen called me to clarify what was the amount, what was the total amount that I had in my schedule.

Q. What was your answer to him when he called you to clarify the amount?

A. I told him the amount that was on the schedule.

Q. How much was that?

A. I think it's, roughly -- I don't remember, exactly, to the penny, but it's roughly \$2.4 million.

Q. \$2.4 million for what period of time?

A. Again, it's in the schedule. I testified before, I think it's five or six years.

Q. You're saying it was your oral report to Cohen that over the period of five or six years, Mr. Fetman stole \$2.4 million? Is that what you're saying?

MR. GOLDBERG: Objection, as to the characterizing. Just ask him a question. It's already testified to.

MR. LEFKOWITZ: Can you read back the last question, please?

(Whereupon, the requested question was read back by the reporter.)



1 MR. VICTOR LIPNITSKY

2 MR. LEFKOWITZ: I'll rephrase the question.

3 Q. Did you tell Cohen, orally, that over the period of,  
4 approximately, five or six years, Mr. Fetman stole \$2.4 million?

5 A. I told Cohen, Rabbi Dovid Cohen, that the information I had  
6 to date, which was the date of issuance of that letter, I only based the  
7 documents that I had at that time. The amount was \$2.4 million, but it  
8 could be more. I couldn't complete my analysis. So what I had, I  
9 shared.

10 Q. And that was the same thing that was written in your letter?

11 A. Yes.

12 Q. So what kind of clarification is that, if you tell him the  
13 same information that's written in your letter?

14 MR. GOLDBERG: Objection, as to form.

15 Don't answer.

16 MR. LEFKOWITZ: You're not allowed to tell the witness not  
17 to answer, except on the grounds of privilege or Fifth Amendment.

18 MR. GOLDBERG: Get a ruling from the Judge.

19 Q. So what did your oral statement contain that your letter did  
20 not contain?

21 A. I did not issue the letter to Rav Dovid Cohen. The letter  
22 was issued to Schabes. So all I said to Rav Dovid Cohen was what I wrote  
23 in the letter, that it was 2.4 million.

24 Q. Did Schabes send the letter to Cohen?

25 A. I have no idea.

MR. VICTOR LIPNITSKY

Q. This conversation with Cohen, that you just mentioned, was a phone conversation?

A. Yes.

Q. So nobody else was party to the conversation, besides you and Cohen?

A. There were, I believe, people in my office that might have been there.

Q. Was that after the fourth arbitration meeting?

A. Yes.

Q. Was your letter shown to anybody at the fourth arbitration meeting?

A. Schedules were shared with Fetman, and his attorney.

Q. At the fourth meeting?

A. Yes.

Q. Do you know if the letter was every shared with anybody, beside Stewart Schabes?

A. I don't know.

Q. And at the fourth meeting, that's when Mr. Fetman and his attorney had a chance to refute the schedules?

A. They definitely could do it at that time, or after that, before that.

Q. Were you at the fourth meeting?

A. I was.

Q. How long did that meeting last?

1 MR. VICTOR LIPNITSKY

2 A. I don't remember.

3 Q. Would 30 minutes be an accurate estimate?

4 A. I don't remember.

5 Q. Do you remember Rabbi Cohen said he needed to leave to go to  
6 a wedding?

7 A. I don't remember.

8 Q. Would it be fair to say that Dan Stein was not involved in  
9 this case before the fourth meeting, as far as you know?

10 A. I don't know when he started to be involved.

11 Q. But you never saw him, or heard of him, before the fourth  
12 meeting, correct?

13 A. Was it the first time he appeared? I just don't remember.

14 Q. Right.

15 A. If that was the first time he appeared, it was the first  
16 time I saw him.

17 Q. That being the case, when else could he have refuted your  
18 schedules?

19 MR. GOLDBERG: Objection, as to form.

20 A. I don't know.

21 Q. How do you know that the checks that Mr. Zelmanovitz  
22 previously discussed with you, coming out of Aish, were written or issued  
23 by Fetman, and not by someone else?

24 A. Are you representing to me that check that was issued  
25 before?

1 MR. VICTOR LIPNITSKY

2 Q. Referring you to what's been previously marked H. Do you  
3 know who issued those checks?

4 A. This is not a check.

5 Q. The \$6,000 check referred to in H and I, do you know who  
6 issued them?

7 MR. GOLDBERG: Objection to form.

8 A. I don't know if that check was issued. You're showing me a  
9 document, not a check.

10 Q. So is it your testimony that you don't know if any checks  
11 were issued on Aish accounts, or just those two?

12 MR. GOLDBERG: Objection, as to form.

13 A. I don't understand your question.

14 Q. Are you aware of any checks that were issued from the Aish  
15 account?

16 MR. GOLDBERG: Objection, as to form.

17 A. Any checks?

18 Q. Yes.

19 A. Yes.

20 Q. Did you see the actual checks?

21 A. Yes.

22 Q. Did you see the actual checks that are reflected in the  
23 computer screen shots referred to in H and I?

24 A. I don't remember.

25 Q. When you were hired, who told you what to do?

1 MR. VICTOR LIPNITSKY

2 A. I've been doing it for 12 years. I know what to do when it  
3 comes to investigations. I don't need anybody to tell me what to do.

4 Q. Did you get instructions from anybody?

5 A. No.

6 Q. How did you know to speak to Mr. Fetman?

7 A. Mr. Fetman was the CFO of the company.

8 Q. How did you know this?

9 A. Because he told me that.

10 Q. Who told you to speak to him?

11 A. He came into the room.

12 Q. Which room?

13 A. At Aish Hatorah's office.

14 Q. So you were already there, and he came in to talk to you?

15 A. Yes, we were there with -- we were there. I don't remember  
16 who set it up, but I was there to start the investigation, and as part of  
17 the investigation procedure, I would go and interview people who are at  
18 the firm. One of them was, obviously, Mr. Fetman, who is the CFO of the  
19 company.

20 Q. Who told you to go to Aish Hatorah?

21 A. I don't understand your question.

22 Q. Somebody told you to go to a certain address, in New York,  
23 called Aish Hatorah? Is that true?

24 A. That's before I was hired, or after I was hired?

25 Q. You tell me.

1 MR. VICTOR LIPNITSKY

2 A. I don't understand your question.

3 Q. Did there come a time when somebody told you to go to the  
4 Aish Hatorah building at such and such address in New York?

5 MR. GOLDBERG: Objection, as to form.

6 Answer, if you can.

7 A. I really don't understand what you're asking.

8 Q. Where did you go to do your investigation?

9 A. I started at the Aish Hatorah building.

10 Q. Who told you where that building was?

11 A. It's on their website.

12 Q. So you went to Aish Hatorah building just by looking at the  
13 website? You got the information?

14 A. I really don't understand what you're trying to ask. There  
15 was an engagement letter that was signed, and we began our engagement,  
16 and the obvious place would be at the client's location. So who told me  
17 where the client is located? That's the question?

18 Q. Yes, who told you that?

19 A. I don't remember.

20 Q. Is your client Ober Kaler, Aish Hatorah?

21 A. Ober Kaler.

22 Q. So when you said before, where the client is located, who  
23 did you mean?

24 A. I think you said a client.

25 Q. You said it.

1 MR. VICTOR LIPNITSKY

2 MR. LEFKOWITZ: Can you read it back, please?

3 (Whereupon, the requested question was read back by the  
4 reporter.)

5 Q. So the obvious place to begin would be at Ober Kaler's  
6 location?

7 A. I misspoke. The client was Ober Kaler, and the place where  
8 we conducted our investigation was Aish Hatorah.

9 Q. How did you know to do your investigation at Aish Hatorah?

10 A. Ober Kaler attorney told me to go to Aish Hatorah, and begin  
11 my investigation.

12 Q. Was that Stewart Schabes?

13 A. Yes.

14 Q. Before you went to Aish Hatorah to do the investigation, did  
15 you make an appointment with them?

16 A. Possibly.

17 Q. Or you just showed up on their doorstep one day?

18 A. Possibly made an appointment.

19 Q. With whom did you make the appointment?

20 A. Don't remember.

21 Q. Before you started the investigation, did anybody provide  
22 you with documents pertaining to this matter?

23 A. No.

24 Q. After you started the investigation, did anybody, besides  
25 Fetman, give you documents pertaining to this matter?

1 MR. VICTOR LIPNITSKY

2 A. I don't remember. Most of the documents definitely came  
3 from Fetman. Could it be other people that gave me documents, possible.

4 Q. What documents did Fetman give you?

5 A. Well, we gave him an initial list of documents that we  
6 needed, and he provided those items that were on the list, or some of  
7 those items. I don't remember, exactly, which documents he provided, but  
8 most of it was done through e-mail, and we have e-mail records that you  
9 could definitely look at, and see what was provided to us.

10 Q. I would, if you would have brought them?

11 A. He has those records. Your brother-in-law has those  
12 records.

13 Q. When you say, "we provided," is there somebody, besides you?  
14 Several times today, you said to me, "we," did something. Who is the,  
15 "we"?

16 A. I refer to the company. I'm sorry. I wasn't the only one  
17 working on the case. There was a team of two or three people that were  
18 working with me. So when I say, "we," I am referring to a group of us  
19 that conducted the investigation.

20 Q. What are their names?

21 A. Aby Weinstock, and Serina Chen (phonetic).

22 Q. They were employees of Invotex at the time?

23 A. Yes.

24 Q. Mr. Fetman was cooperating with you?

25 A. To some degree.



1 MR. VICTOR LIPNITSKY

2 Q. You were told to investigate activity for which years?

3 A. Well, I wasn't limited to amount of years that I do the  
4 investigation. It's practical to look at things like last five years, or  
5 six years, where the bank statements are available to, because beyond  
6 that, you can't really get those bank statements if they're not retained  
7 by a client. So we typically look at five to six years investigation.

8 Q. Who did you interview, besides Fetman?

9 A. I interviewed Rabbi Greenman. I interviewed Zahava.  
10 Somebody else at Aish that is responsible for credit card charges. I  
11 think it's Zahava. I forgot her last name.

12 Q. Did you have meetings with anybody on the board of Aish?

13 A. No.

14 Q. So would it be fair to say that --

15 A. One second. When? Which point?

16 Q. Any time.

17 A. I testified, or I presented to the board, at some point, the  
18 findings. I don't remember when it was, but it was a meeting of the  
19 board that I attended. I don't remember who was at the meeting. There  
20 were board members. I don't remember their names. I know Peter  
21 Hochfelder was there. There were three or four other people at the  
22 meeting.

23 Q. And so you presented to them the same report that you just  
24 told me you never showed anybody else, besides Schabes? Is that the one?

25 A. I didn't say I presented the report. Why are you putting

1 MR. VICTOR LIPNITSKY

2 words in my mouth?

3 Q. I'm not putting words in your mouth. Why don't you tell me  
4 what it was?

5 A. You just said I said to you I presented a report. I did not  
6 say that.

7 Q. What is it that you presented to the board members?

8 A. I gave them the update of the schedules that I was working  
9 on.

10 Q. So now, besides the report, now there's a separate document  
11 called an update?

12 MR. GOLDBERG: Objection. He said there are schedules that  
13 were prepared, and your client got them with Dan Stein.

14 Q. Listen to the question carefully. Not to him, to me.

15 MR. GOLDBERG: Ask a question, and he'll answer it.

16 Q. I'm asking you about what you just called the update, right?  
17 This is a word that I did not hear from your mouth before one minute ago.  
18 Is there a separate document, now, that you're referring to as an update?

19 A. No.

20 Q. Is the update the same thing at the report you discussed  
21 earlier?

22 A. Well, when I said update, what I mean is the schedules that  
23 we were preparing. It was, like, work in progress, if you wish. Every  
24 time we would receive new documents from Fetman, we would update it with  
25 new information. So it was, sort of, an evolving process as we go. At

1 MR. VICTOR LIPNITSKY

2 the time, when I was asked to provide that statement with the letter to  
3 the attorneys, I provided to them the preliminary statement. Whatever  
4 was the most updated version, as you wish. So when I say updated, it  
5 means, at that point in time, when I was presenting it, that was the  
6 documents I had. I put it forward.

7 Q. I have to ask, because I haven't seen the documents, and I'm  
8 just confused by your terminology.

9 So are you saying that you only updated existing schedules,  
10 or that you issued a separate document, which you call an update?

11 A. No, I gave the same schedules that we were working on.

12 Q. These same schedules are the ones that you told us, earlier,  
13 you gave Fetman, and his attorney?

14 A. Shared with -- I didn't give them, physically. I shared  
15 with Fetman, his attorney, the updated schedule that I had at that point  
16 in time.

17 Q. How many times did you meet with board members?

18 A. One.

19 Q. When was that, about?

20 A. I really don't remember.

21 Q. Before the fourth arbitration, or after?

22 A. I, honestly, don't remember.

23 Q. Did you take notes of this board meeting?

24 A. I did not.

25 Q. Did you take any notes during the entire course of this

1 MR. VICTOR LIPNITSKY

2 investigation?

3 A. I might have taken notes at some point, yes.

4 Q. Where are those notes now?

5 A. I don't know.

6 Q. Is it customary for a forensic accountant to take notes  
7 during an investigation?

8 A. As I testified before, depending on the situation. When we  
9 take notes we -- when we need something, we take notes, and we, sort of,  
10 turn those notes into the schedules.

11 Q. Did you turn those notes over to anybody?

12 A. I did not.

13 Q. You said you're doing this for about 12 years?

14 A. About, yes.

15 Q. Over the course of those 12 years, do you usually take  
16 notes, do you usually not take notes, is it just this case that you don't  
17 take notes?

18 A. I never testified that I did not take notes. Again, you're  
19 mischaracterizing my testimony.

20 Q. How much time did you spend before you issued your report?

21 MR. GOLDBERG: Objection, as to form.

22 A. From the beginning of the time I began the investigation,  
23 until I don't know how many times. Months, two months.

24 Q. Did you keep track of the time you spent on this case, the  
25 hours?

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2 A. Yes.

3 Q. You had, like, a log?

4 A. We issue billable, like, it's a billable engagement. We  
5 issue for the time spent. We bill. So all of the hours that I spend on  
6 the engagement would be recorded in that format.

7 Q. Where is that?

8 A. I mean, it's kept by -- at Invotex we had an accounting  
9 group that was responsible for that. I'm sure you can dig out those  
10 records.

11 Q. And this is a bill you sent to Ober Kaler?

12 A. Yes.

13 Q. Would it be fair to say that Mr. Fetman was expected to pay  
14 you?

15 A. I don't know about the arrangement between Fetman and the  
16 law firm.

17 Q. So your opinion that Mr. Fetman stole, approximately,  
18 \$2.4 million was based on what?

19 A. The documents that I had at the time.

20 Q. What were those documents?

21 A. Mostly, bank records. Credit cards, and bank records.

22 Q. Whose bank records?

23 A. Various entities that Fetman controls.

24 Q. What about bank records of Aish?

25 A. What about it?

1 MR. VICTOR LIPNITSKY

2 Q. Did you see them?

3 A. You saw them, yes.

4 Q. Bank records of Project Inspire?

5 A. That's the one that he controls, yes.

6 Q. Did you see bank records of other Aish affiliates, like the  
7 one for United Kingdom, or Aish New York?

8 A. There were a whole list of documents and bank statements  
9 that we reviewed and summarized, and they were all on schedules.

10 Q. Did you ever inquire into the legitimacy of organizations of  
11 Project Inspire, or Aish Jerusalem, or any other organization?

12 A. What do you mean by legitimacy?

13 Q. Did you ever inquire if any Aish affiliates were legitimate  
14 organizations or sham organizations, or did you just assume that they're  
15 all legitimate?

16 A. That's right. I was not working for the IRS at the time.

17 Q. The bank accounts that you examined, or that you looked at,  
18 did you form the opinion that some of them were opened without the  
19 authorization of Aish?

20 A. That was a statement from Fetman, to me.

21 Q. How many such accounts were unauthorized, as far as you  
22 know?

23 A. I don't remember.

24 Q. Do you remember the names of holders of those accounts, the  
25 names on those accounts that were unauthorized?

1 MR. VICTOR LIPNITSKY

2 A. Project Inspire was unauthorized, and there were two or  
3 three others that were not authorized. I don't remember their names.

4 Q. Do you know if Fetman had authorization from Hochfelder to  
5 open bank accounts on Aish's behalf?

6 A. Never heard about it before.

7 Q. Did you see money going into those accounts that you  
8 considered unauthorized?

9 A. Sure.

10 Q. That money that went into the unauthorized accounts, where  
11 did it come from?

12 A. Well, in the case of Project Inspire, it came from donors,  
13 donations.

14 Q. How do you know that those accounts were unauthorized?

15 A. Fetman told me that.

16 Q. Did you see any documents pertaining to opening those  
17 accounts?

18 A. Once I had an admission, I didn't have to look into what was  
19 the authorization.

20 Q. The donors that you mentioned earlier were people who wrote  
21 checks to Project Inspire?

22 A. I don't recall right now. I think that's right.

23 Q. Did you see checks payable to Project Inspire?

24 A. Again, I don't recall right now.

25 Q. If a check is payable to Project Inspire, where else could

1 MR. VICTOR LIPNITSKY

2 it be deposited, besides an account in the name of Project Inspire?

3 A. Well, what Fetman had done, he took unauthorized -- he hid  
4 the account from the auditors. He took the money from people. He  
5 deposited it into that account, Project Inspire, and paid the expenses to  
6 Project Inspire people out of Aish's account. This way, he created a pot  
7 of money that he could do as he pleased with, and that's how he conducted  
8 his fraud. He described it very clearly --

9 MR. LEFKOWITZ: I move to strike. That wasn't the question.

10 A. He described very clearly, and showed us during the  
11 arbitration, a graph, how he was doing his scheme, in front of everybody  
12 at the arbitration.

13 Q. That was not the question. I'll rephrase it anyway.

14 If somebody writes a check to Project Inspire, and the money  
15 is deposited into a Project Inspire account, what makes that  
16 unauthorized?

17 A. What makes it unauthorized is that nobody, besides the CFO  
18 of the company, knows about that account, which allows him to take money  
19 out of that account, and do what he pleases with that.

20 Q. I'm not asking you about taking money out yet. I'm just  
21 asking you why you call it an unauthorized account.

22 A. Fetman told me it was hidden from the auditors. That's why  
23 it's not authorized.

24 Q. Did you ask the executive directors or accountants if they  
25 knew about the Project Inspire account?



1 MR. VICTOR LIPNITSKY

2 A. I asked Rabbi Greenman, and Markowitz, and none of them knew  
3 about this account.

4 Q. Did you ask the Yossi Friedman, or Mr. Samson if they knew  
5 about the account?

6 A. I don't remember.

7 Q. Did you ask the accountants if they knew about the account?

8 A. I don't remember.

9 Q. Do you know if any other officers or directors of Project  
10 Inspire made deposits into the accounts?

11 A. I don't remember.

12 Q. Would that be something that's reflected in your notes?

13 A. I don't know.

14 Q. Turning to the funds going out of Project Inspire, did you  
15 examine those?

16 A. As I said before, my goal was to summarize how much money  
17 was diverted out of Aish, but incidentally, we looked at Merkaz accounts  
18 as well, and we did see Project Inspire funds were flowing from Project  
19 Inspire to Merkaz. So we have record of that.

20 Q. And did you also see funds flowing out of Merkaz?

21 A. Some of it, yes.

22 Q. What is it that gave you the information that Project  
23 Inspire is related to Aish, in any way?

24 MR. GOLDBERG: Can you repeat the question?

25 (Whereupon, the requested question was read back by the

1 MR. VICTOR LIPNITSKY

2 reporter.)

3 A. Project Inspire was part of Aish. They were doing programs,  
4 but they were compensated out of Aish accounts. So there were --  
5 supposedly there were -- they had to keep it separately, but in my mind,  
6 it was all part of the Aish family.

7 Q. Were you aware of who were the directors of Project Inspire?

8 A. The names that were mentioned before ringed a bell, but I  
9 don't know if those were the directors or officers.

10 Q. Do you know if Greenman had authority over the directors of  
11 Project Inspire?

12 A. I have no idea.

13 Q. Returning to the money going out of Merkaz account, did you  
14 analyze or examine every transaction going out of Merkaz's account?

15 A. I tried. A lot of documents. There was close to \$6 million  
16 that went in and out of Merkaz account. So the goal was to understand  
17 every transaction that came in and out, and that was one of the things on  
18 a list that were not produced to us, but for the most part, we are able  
19 to identify every dollar that came in and out of Merkaz.

20 Q. So you're saying that you saw some transactions, but not  
21 all. Is that fair to say?

22 A. We saw all the transactions. In respect to some  
23 transactions, we did not know who were the depositors, or who were the  
24 recipients of the funds. We saw all of the transactions.

25 Q. Were you able to account for the ultimate disposition of

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2 every dollar that went into the Merkaz account?

3 A. Can you repeat your question, please?

4 Q. Were you able to account for the ultimate disposition of  
5 every dollar that went into the Merkaz account?

6 A. Every dollar that came in, every dollar that came out, we  
7 were aware of, because we had bank statements. To the respect of who  
8 deposited money in, and who received money from the Merkaz, there were  
9 still holes that we could not identify. We requested that information  
10 from Fetman, but were not produced it.

11 Q. Would it be fair to say there was some money going into the  
12 Merkaz account, and also coming out, that you could not account for?

13 A. That we did not know who were either the recipient or the  
14 sender, yes, that would be correct.

15 Q. It could be that the funds went out of Merkaz, and were  
16 repaid to Aish, correct, for all you know?

17 A. I don't know, sitting here today. It could be.

18 Q. How did you determine that credit card charges were not  
19 authorized?

20 A. Fetman sent me an Excel spreadsheet, at least for some of  
21 the credit card charges, where he would -- I asked him to identify which  
22 ones were personal, and not authorized, and which ones were corporate.  
23 So he created a column, and for every -- what he determined to be  
24 personal in nature, he would put the letter P in it, and that particular  
25 schedule was going back and forth, because Fetman kept sending me e-mails

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2 with half answers. And when I was asking him for more, he would update  
3 the exhibit, and send it back to me. So the number kept growing. But  
4 again, that was one of those back and forths that we had with Fetman.

5 Q. Returning to the Merkaz account --

6 THE WITNESS: Can we go off the record for a second?

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

8 Q. Let's return to the Merkaz account. I know you were  
9 discussing with Mr. Zelmanovitz earlier two transactions of \$1.2 million  
10 each. Are you aware that the \$1.2 million came from the refinance of  
11 apartment buildings belonging to other parties?

12 MR. GOLDBERG: Objection, as to form.

13 A. Other parties, and what?

14 Q. Y&T and S&A?

15 A. Yes, I'm aware of that.

16 Q. And that \$2.4 million, you saw going into the Merkaz  
17 account?

18 A. I don't remember the exact number, if it was 2.4, if it's  
19 2.1. There were over \$2 million, let's put it this way, but I don't know  
20 if all of it came into Merkaz.

21 Q. So you saw that 2.4, or as you put it, over \$2 million going  
22 into the Merkaz account?

23 A. Yes, I did that.

24 Q. Will you agree with me that that money was not stolen, and  
25 not unauthorized?

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2 MR. GOLDBERG: Objection, as to form.

3 A. I have no way of knowing that.

4 Q. Well, is it your opinion that aside from that \$2.4 million,  
5 Fetman stole another \$2.4 million? Is that what you said to anyone, or  
6 is that the same \$2.4 million?

7 A. The fact that my letter says 2.4, I don't understand the  
8 connection between moneys that are coming into Merkaz, which you stated  
9 is 2.4. I never said it's 2.4, and the letter, or schedule that I  
10 prepared, it says 2.4. You lost me there. What's the connections  
11 between the two?

12 Q. Are you saying there is no connection?

13 A. Are you asking me?

14 Q. I'm asking you, yes.

15 A. I don't know. I don't know of the connection right now.

16 Q. Are you saying it's just a coincidence that there was  
17 \$2.4 million deposited as proceeds from a refinance, and that's the same  
18 number you reported as being stolen?

19 A. I never said 2.4 was deposited to Merkaz. Again, just let's  
20 make the record clear. Number two, I have no idea what you just said.  
21 My numbers that I put forward had nothing to do with \$2.4 million that  
22 came from the refinance that you're talking about. Totally different  
23 numbers.

24 Q. Remember you had a discussion with Mr. Zelmanovitz where you  
25 said to him, if you want me to tell you that your math is correct, yes,

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2 it's correct? You remember saying that to him?

3 A. Yes.

4 Q. And the math in question was 2 times 1.2 equals 2.4.

5 Remember saying that?

6 A. Okay.

7 Q. That's the \$2.4 million I'm asking you about.

8 A. Again, we're not communicating right now. Which \$2.4  
9 million are you talking about?

10 Q. Starting off with the proceeds of the refinance.

11 A. Okay.

12 Q. Are we in agreement that that's \$2.4 million?

13 A. You showed me documents as 1.2 and 1.2 is 2.4. If your  
14 question is if all this came to Merkaz, I don't know. If your question  
15 is if it's anything to do, this \$2.4 million has anything to do with the  
16 letters that we discussed before, and the finding of Reb Dovid Cohen,  
17 where he put 2.4, the answer is no, so...

18 Q. How, exactly, did you determine that the 2.4 million was  
19 diverted or stolen from Aish accounts between 2007 and 2013?

20 A. My methodology, and my findings on the schedules that, as I  
21 mentioned before, were 50 pages long. So I can't recall right now, but  
22 I'm sure you'll be able to look at it at some point.

23 Q. I would if you would give it to me.

24 How, exactly, would I be able to look at it?

25 MR. GOLDBERG: Objection, with your eyes.

1 MR. VICTOR LIPNITSKY

2 Q. Could you answer the question?

3 A. I can't.

4 MR. GOLDBERG: All you need to do is review the information  
5 your client, Mr. Fetman, gave to the accountant.

6 MR. LEFKOWITZ: All you need to do is obey the Judge's  
7 order, both of you.

8 MR. GOLDBERG: And so do you.

9 MR. LEFKOWITZ: I guess.

10 Q. Is there any difference to you between unauthorized credit  
11 card expenditures, and unverified credit card expenditures?

12 MR. GOLDBERG: Objection, as to form.

13 A. I don't know.

14 Q. Did you tell Rabbi Cohen that you need to see other  
15 documents to give a conclusive opinion?

16 MR. GOLDBERG: Objection, as to form.

17 A. As I said before, it was preliminary numbers that we were  
18 operating with, pending a long list of documents that Fetman was not  
19 providing.

20 Q. So you feel that there are other documents that would be  
21 helpful to you, or would have been helpful to you?

22 A. To form a different opinion, possibly.

23 Q. Such as what?

24 A. It was on a list of documents that we requested.

25 Q. Are you telling us that if you would see other documents you

1 MR. VICTOR LIPNITSKY

2 might change your mind about how much was stolen?

3 A. It's possible.

4 Q. Do you know what's the basis for the award being in the  
5 amount of \$20 million?

6 A. I did not come up with \$20 million. I don't know how it was  
7 formed.

8 Q. Do you think there's any legitimate basis for the idea that  
9 Mr. Fetman stole \$20 million?

10 MR. GOLDBERG: Objection, as to form.

11 A. Look, it's possible. We looked at small, you know, we  
12 looked at only five to six years. Mr. Fetman was at Aish for 17 years.  
13 And in fact, we have, I found evidence going years back that Fetman was  
14 stealing money back years ago.

15 Q. What kind of evidence was that?

16 A. Fetman was provided with some evidence of it. Payments that  
17 he made to his life insurance. It goes back 2002 that he wrote in the  
18 company's books that he's paying vendors for food, and there were other  
19 evidence like gas and electric bill that he was paying due to his  
20 properties, and to himself from bank accounts of Aish. And so, I mean,  
21 definitely possible.

22 Q. Were you aware that the life insurance premiums were part of  
23 his compensation package?

24 A. To be recorded as food expenditure?

25 Q. I asked you about life insurance.



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2 A. No. And he explicitly told me that he stole that money, on  
3 the record. He explicitly told me he stole the money, and categorized it  
4 as a food expenditure on the books of the company.

5 Q. You expect us to believe that anybody would be foolish  
6 enough to confess to a total stranger that he stole money? Is that what  
7 you're telling us?

8 A. That's what I'm telling you.

9 MR. GOLDBERG: His wife did it in an e-mail.

10 A. The reason for that was that he wanted to keep it quiet, and  
11 he wanted to cooperate, and at some point, he actually wanted to pay what  
12 he stole, until he changed his mind, and then it became what it became.  
13 So there's only one person to blame in this case, and it's your  
14 brother-in-law. I'm sorry to tell you that.

15 MR. LEFKOWITZ: Give us a few minutes, please.

16 (Whereupon, a short recess was taken.)

17 Q. Did any rabbi ever tell you that you're allowed to lie about  
18 this matter?

19 MR. GOLDBERG: Don't answer the question.

20 FURTHER DIRECT EXAMINATION BY MR. ZELMANOVITZ:

21 Q. How much were you paid by Ober Kaler for this matter?

22 A. You need to request all the bills. But you want me to  
23 guess?

24 Q. Your best guesstimate.

25 MR. GOLDBERG: I don't want you to guess.

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2 Leave a line. He'll fill it in.

3 Q. Do you have a basis for your estimate?

4 A. Just from around \$100,000, in total.

5 Q. Would you have a guesstimate, best guesstimate of how many  
6 total hours you spent, you and your staff, total?

7 A. Blended rate was about \$200,000. So I guess you could  
8 figure out how many hours.

9 Q. Did you speak to any accounts for Aish UK?

10 A. No, I did not.

11 Q. There is a Brett Simon. Do you know that person who's the  
12 accountant for Aish UK?

13 A. No.

14 Q. Did anybody ever give you that name?

15 A. No.

16 Q. Did you speak to the accountants for Aish Center?

17 A. I don't remember.

18 Q. Would the name Elena Azoran (phonetic) refresh our  
19 recollection?

20 A. Never spoke with her.

21 Q. You also mentioned that you discussed, with Mr. Simon, the  
22 schedules that were part of your letter. You didn't show them the letter  
23 to Mr. Simon, but showed him schedules, you said?

24 A. Simon?

25 Q. Stein.

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A. Mr. Stein was shown the schedules that I had at that time, yes.

Q. Did you give him copies of the schedules?

A. I don't remember giving him copies.

Q. So you showed him physical schedules, or did you just tell him what the schedules showed?

A. No, physical schedules that I had with me at the meeting.

Q. Was he allowed to copy it at the meeting?

A. I don't see why not.

Q. Did he copy them at the meeting?

A. I don't remember.

Q. And you don't remember having produced them to him?

A. I don't remember producing it to him.

Q. You also mentioned that schedules were shared with Dan Stein at this fourth arbitration meeting. Were all the schedules that you prepared, that are attached to your letter, shared with Mr. Stein at this meeting?

A. So the way that my schedules were prepared, they had three or four pages that are summary schedules, and then, on the summary schedules, you would have references to the backup schedules. So all the summary schedules were shared with Stein. I don't think the backup of all the schedules were shared at that meeting. Although, all of the backup statements were shared with Fetman prior to the meeting. That's where I kept my calculations. So there were statements with credit

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2 cards, for example, all of the credit card statements that we had at the  
3 time. It wasn't its final form, but it was, as I said before, a work in  
4 progress that was shared with Fetman, as well.

5 Q. Did there come a point in time when the schedules were put  
6 into final form?

7 A. Not final. Again, the schedules that were -- that I had,  
8 were the most updated schedules that I had at the time, when I was asked  
9 to submit the letter. So that formed the basis for the schedules, but...

10 Q. When you shared these schedules, was that by e-mail?

11 A. I believe so, yes.

12 Q. So if there were any schedules that were shared, they would  
13 be part of e-mails that you sent either to Mr. Fetman, and/or to  
14 Mr. Stein?

15 A. I'm sorry. I thought you meant the schedules that I shared  
16 with Ober Kaler. It's not what you mean?

17 Q. Well, the schedules that you shared with Ober Kaler are  
18 attached to your letter, right?

19 A. Yes.

20 Q. Did you share those schedules with Mr. Stein or Mr. Fetman?

21 A. I don't remember if the same format of the schedules were  
22 shared, but certainly, the content of a lot of the schedules were shared,  
23 since both Fetman and myself were working on it together. So he was  
24 given information about investigations and things that I was working on.  
25 So it was shared with him.

1 MR. VICTOR LIPNITSKY

2 Q. But you said a lot of the schedules. Were all of the  
3 schedules shared? That was my question.

4 A. I don't recall.

5 Q. So it's possible that there were some schedules that Ober  
6 Kaler saw, that are attached to your letter, that were never, in fact,  
7 shared with Mr. Stein or Mr. Fetman?

8 A. Supporting schedules, it's possible. I think the summary  
9 schedule was shared with -- the numbers could change a bit, because it  
10 was -- again, we were updating it always, but you know, the format, the  
11 procedure, the categories we used, the methodology, that was all  
12 presented to them. And in fact, Stein had told me that he agrees that  
13 that methodology is a good one.

14 Q. Is he agreeing to the numbers, Mr. Stein?

15 A. The numbers that we shared with them were not final numbers.  
16 We were waiting for the additional documents from them. So the numbers  
17 were as they were. I wasn't asking him to agree or disagree with the  
18 numbers.

19 Q. So my question is, you have in your files, or in your former  
20 accounting firm's files, this letter as schedules that were given to Ober  
21 Kaler, that are in the form that you've never amended them since,  
22 correct?

23 A. Yes.

24 Q. Was that -- those schedules that have never been amended  
25 since, were those schedules, summary schedules, or supporting schedules,

1 MR. VICTOR LIPNITSKY

2 given to Mr. Stein or Mr. Fetman?

3 MR. GOLDBERG: You mean the last schedule, the last update?

4 MR. ZELMANOVITZ: Yes.

5 MR. GOLDBERG: I hate to interrupt you, but you said there  
6 were updates. You're talking about the last updated schedule with  
7 numbers, and information shared?

8 MR. ZELMANOVITZ: Yes.

9 Q. Were they shared?

10 A. I only provided it to the counsel, to Ober Kaler.

11 Q. Do you recall the difference in the dollar amount, between  
12 the schedules, and the summary schedules that were shown to Mr. Stein,  
13 and the ones that were the last ones that you provided to your counsel?

14 A. They're in the ball park. I mean, it could be lower  
15 numbers. Because once I knew I had to issue the report, I usually -- or  
16 letter, I usually come more conservative, and things that I don't know, I  
17 would likely exclude from the schedules. So there were, for example,  
18 questions about certain credit card transactions. If it wasn't clear cut  
19 to me, I would exclude it from the schedules, but it could have been  
20 included in the previous schedules.

21 (Continued on the next page to accommodate jurat.)

22

23

24

25

1 MR. VICTOR LIPNITSKY

2 MR. ZELMANOVITZ: I have no further questions, but we  
3 reserve our right, pending the future application.

4 MR. LEFKOWITZ: I also am not deeming the deposition closed,  
5 in light of the fact that documents that were supposed to be  
6 produced were not produced. So we're holding it open until we get  
7 the appropriate remedies of the Court.

8 MR. GOLDBERG: We disagree. The record is closed.

9  
10 (Time noted: 4:05 PM)

11  
12  
13 \_\_\_\_\_  
14 VICTOR LIPNITSKY

15 Subscribed and sworn to before me  
16 this \_\_\_\_ day of \_\_\_\_\_, 2015.

17  
18  
19 \_\_\_\_\_  
20 Notary Public  
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23  
24  
25

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C E R T I F I C A T E

STATE OF NEW YORK )

: S.S.:

COUNTY OF NEW YORK)

I, CHERYL GELLIS, a Notary Public for and within the  
State of New York, do hereby certify:

That the witness whose examination is hereinbefore set  
forth was duly sworn and that such examination is a true record of the  
testimony given by that witness.

I further certify that I am not related to any of the  
parties to this action by blood or by 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  
Second day of April, 2015.



Cheryl Gellis

1 Errata Sheet

2

3 NAME OF CASE: Merkaz Center v. Aish HaTorah New York

4 DATE OF DEPOSITION: 03/31/2015

5 NAME OF WITNESS: Victor Lipnitsky

6 Reason Codes:

7 1. To clarify the record.

8 2. To conform to the facts.

9 3. To correct transcription errors.

10 Page \_\_\_\_\_ Line \_\_\_\_\_ Reason \_\_\_\_\_

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