

PROFESSIONAL COURT REPORTERS INC.

Court File No. 04-CV-277412CP

ONTARIO

SUPERIOR COURT OF JUSTICE

B E T W E E N:

SOLLY LEWIS and HERSL KALIF

Plaintiffs

- and -

CANTERTROT INVESTMENTS LIMITED, SANDOR HOFSTEDTER,  
MARK SAMUEL MANDELBAUM, GEORGE HOFSTEDTER, LARRY FROOM,  
ALEX LEWIN, HELEN GORENDER and NORMAN HILL REALTY INC.  
H&R PROPERTY MANAGEMENT LTD., and STANLEY CAPPE

Defendants

\* \* \* \* \*

This is the Examination for Discovery of MARK SAMUEL  
MANDELBAUM, a Defendant herein, taken in shorthand before  
PROFESSIONAL COURT REPORTERS INC., 4950 Yonge Street,  
Suite 802, North York, Ontario, M2N 6K1, on the 19th day  
of March, 2007.

\* \* \* \* \*

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

SAMUEL MARR, ESQ. - for the Plaintiffs  
A.I. SCHEIN, ESQ. - for the Defendants  
LESA ONG, Student-at-Law - also present

INDEX OF UNDERTAKINGS

<u>U/T NO.</u>	<u>DESCRIPTION</u>	<u>PAGE NO.</u>
1	To get the minutes and advise if there's anything in the minutes relating to the issue in the action, and if so, produce that	7
2	To ask Martin Maierovits if he saw the letter from Mr. Weinberg at tab 76 of the plaintiff's production before the commencement of this action	11
3	To advise which sections of <i>The Condominium Act</i> the defendant is relying on in paragraph 5 of the second page of the March 23, 2006 amended statement of defence	22
4	To see what calendar exists, if any, and if there is something look for anything referable to the issues in this case	27

\* \* \* \* \*

INDEX OF REFUSALS

<u>REFUSAL NO.</u>	<u>DESCRIPTION</u>	<u>PAGE NO.</u>
1	To advise when deponent's involvement with the land development project ended	15

\* \* \* \* \*

INDEX OF UNDER ADVISEMENTS

<u>U/A NO.</u>	<u>DESCRIPTION</u>	<u>PAGE NO.</u>
1	To ask the Morrassuti expert if he looked at any other budget statements other than the Emerald Lane one and the one in this action in producing his report	19
2	To ask the Morrassuti expert to produce copies of whatever he is relying on in the subparagraph Z on page 3 of his report	20
3	To produce information quoted in the Morrassuti report regarding the economic and real estate market conditions in Toronto from 1998 until December 2005	20
4	To advise of the average numbers Newman was referring to in his report when stating the consumption habits of the residents of Beauclaire were higher than average	21
5	To produce copies of empirical data relied upon by Morrassuti	28
6	To produce documents Mr. Newman received and reviewed in preparing his report	29

\* \* \* \* \*

**NOTE:** The above recorded indices are provided for ease of reference only and are not to be relied upon in any manner whatsoever by the parties hereto or any third party.

MARK SAMUEL MANDELBAUM, Affirmed

EXAMINATION BY MR. MARR:

1 Q. State your name for the record, sir?

A. Mark Samuel Mandelbaum.

2 Q. And I understand that since 1986 you've been a  
secretary of Cantertrot Investments Limited; is that  
correct?

A. Yes.

3 Q. And you still hold that position?

A. Yes.

4 Q. Have you ever been a director of that  
corporation?

A. I don't recall offhand.

MR. MARR: I think we have an undertaking in  
that regard, Counsel, so I'll move along -- from  
the other witnesses we have that undertaking.

BY MR. MARR:

5 Q. I take it you're familiar with the project,  
the Beauclaire project at 745 New Westminster?

A. Yes.

6 Q. And that's a site at New Westminster and  
Centre in Thornhill?

A. Yes.

7 Q. And you were familiar that that was -- you

were aware that H&R was marketing that product to the public?

A. Yes.

8 Q. And you're aware that that's an area that has a lot of Jewish people living in it? It's a part of the GTA where there's a high Jewish population; is that correct? That's your understanding?

MR. SCHEIN: Do you know?

BY MR. MARR:

9 Q. If you know, you know. If you don't know, you don't know.

A. I've never undertaken a census but I would not be surprised to know it.

10 Q. Well, there's -- okay. I'd say that's common knowledge, wouldn't you agree without needing a census?

MR. SCHEIN: It may be common knowledge among certain types of people.

MR. MARR: Well, including the witness is my question. I don't care about other types of people. I'm just asking the witness.

MR. SCHEIN: Well, I think he -- what his answer is is that he wouldn't be surprised if that turned out to be the case.

BY MR. MARR:

11 Q. The building was being marketed. Was it your understanding that the people that would be buying the units would be -- a significant number of them would be elderly Jewish single people? Was that who the -- one of the targets groups would be for this project?

A. I don't know.

12 Q. You weren't aware of that at all?

A. No.

13 Q. Were you involved in -- did you have any information about the marketing of the project?

A. I wasn't involved with the marketing of the project.

14 Q. Were you aware it was being sold?

A. Yes.

15 Q. Did you attend any meetings where there were discussions about who were going to be the potential buyers of the project?

A. No.

16 Q. Let's take a look at the defendant's production 34. This is a letter from H&R's files and it's a letter from June of 2003. Okay. Turning back to the letter now, the first page of the tab. You see where it says in the third paragraph that the maintenance fees -- and they're talking about the year commencing August the

1st, 2003 -- you can see that from the second paragraph. And in the third paragraph it says these fees are going to be increasing by 62.24 per cent. Were you aware of this in June of 2003 that that information had come to H&R?

A. No.

17 Q. No one told you that there was an issue about the -- about a large increase in the maintenance fees in this project?

A. No.

18 Q. Who was reporting to you on this project? You're the secretary. Were people reporting to you telling you what was going on with the project?

A. No.

19 Q. Well, what was your job as secretary? What were you doing as a secretary of the company?

A. When the company was incorporated I was designated as the secretary of the company. The company had previously been engaged in the land development of the area that the condominium was sitting on. And I was involved in that land development.

20 Q. And by land development you mean the zoning and land use planning issues; is that what you mean by land development?

A. Yes.

21 Q. Okay. And once the decision had been made to

put a condominium on this site I take it you were aware of that decision?

A. Yes.

22 Q. Okay. And then a decision was made to bring the site to market, correct?

A. Yes.

23 Q. And you were aware of that decision?

A. Yes.

24 Q. Okay. Who was in charge of that aspect of the project? Was there somebody who was the boss about that part from H&R? I take it it wasn't you from what you're telling me so I assume it means it's somebody else?

A. It was, for the most part, George Hofstedter and Alex Lewin.

25 Q. Does this corporation have minutes? Does someone keep the minute book of the corporation?

A. I don't know.

MR. MARR: Counsel, have you looked at those minutes?

MR. SCHEIN: No.

MR. MARR: Is there anything in these minutes which relates to the issues in this action?

MR. SCHEIN: I don't know.

MR. MARR: Okay. Well, can you undertake to get the minutes and at least advise me if there's

anything in the minutes relating to the issue in the action and if there is can you produce that?

MR. SCHEIN: Yes.

UNDERTAKING NO. 1: To get the minutes and advise if there's anything in the minutes relating to the issue in the action, and if so, produce that.

BY MR. MARR:

26 Q. Who does the minute books of the corporation? Do you know? Is it Ms. Lewin or is it outside counsel? Or you don't know?

A. I don't know.

27 Q. Is that something Minden Gross does or you're just not sure?

A. Typically minutes of corporations are done by the corporate counsel of the corporation.

28 Q. And who -- is there an individual who's the corporate counsel of this corporation at Minden Gross? Is there one person who you understand to have that job? Or, I mean, Minden Gross is a big firm. I assume that there's one or more people who do that corporate work. Can you just tell me who those people are?

A. Well, typically when we need a company the solicitor who is involved with the transaction that the

corporation is incorporated tends to get the corporation organized. Who at Minden Gross is responsible for that corporation as a position of corporate counsel, I don't know.

MR. MARR: Can we find out who that is, Counsel? Who the corporate counsel is that the witness is referring?

MR. SCHEIN: I'm not sure I understand the relevance of who -- which particular solicitor it is. Whether it's Mr. A or Mr. B how does that impact on anything?

MR. MARR: Well, I guess it has to do with possible avenues of documentary disclosure. It's not clear to me that we're getting all the files and so it would assist us if we knew -- if there was a particular lawyer at Minden Gross that we could make those enquiries of then we could do that. But I don't know ---

MR. SCHEIN: You can make enquiries of me if you think that there's something that Minden Gross has that you feel ought to be produced and hasn't.

MR. MARR: Well, let me flip it around. Have you done any searches in your own office for relevant documents relating to this project or the issues in this action?

MR. SCHEIN: Yes.

MR. MARR: And everything that has been produced or is privileged?

MR. SCHEIN: Yes.

MR. MARR: And is there anything that you're claiming -- I think we went over this the other time but I just want to be clear. Is the privilege that you're claiming in Schedule B confined to communication between your office and H&R corporations?

MR. SCHEIN: Yes.

MR. MARR: And does any of that privilege extend to correspondence back and forth prior to when the claim was issued?

MR. SCHEIN: There may be some that had to do with the negotiation of the settlement of the first year deficiency. That would be it.

MR. MARR: What about documentation -- is there any privilege relating to documentation before the condominium was registered -- before the declaration was registered?

MR. SCHEIN: I don't believe so, no.

MR. MARR: Have you searched?

MR. SCHEIN: I've looked at Minden Gross' files relating to this project, yes.

PROFESSIONAL COURT REPORTERS INC.

M.S. Mandelbaum - 10

MR. MARR: And in the documentation relating to the deficiency, in those files are there any letters between either the client or Minden Gross and third parties or are we just talking about letters back and forth between H&R and Minden Gross?

MR. SCHEIN: The latter.

MR. MARR: And are there any -- in the deficiency file are there documents that were created by H&R, the budgets or anything like that that related to the -- that were previously created and came to be part of Minden Gross' file as a result of the -- your handling the deficiency issue?

MR. SCHEIN: Nothing that hasn't been produced.

MR. MARR: What about the letter that we've seen from Mr. Weinberg? Is that in the Minden Gross files?

MR. SCHEIN: No.

MR. MARR: It was never sent over to you at any time ---

MR. SCHEIN: No.

MR. MARR: --- contemporaneously to it being written?

MR. SCHEIN: No.

MR. MARR: Or at any subsequent time? It's nowhere in your files? The first time either you -- first time you saw that -- your firm saw that letter was in the -- from my office?

MR. SCHEIN: Yes.

MR. MARR: Who handled the deficiency?

MR. SCHEIN: Martin Maierovits.

MR. MARR: Can you ask him specifically if he's seen that letter from Mr. Weinberg, the one that's found at tab 76 of the plaintiff's affidavit of documents?

MR. SCHEIN: I'll ask him if he saw it before the commencement of this action.

MR. MARR: Sure.

UNDERTAKING NO. 2: To ask Martin Maierovits if he saw the letter from Mr. Weinberg at tab 76 of the plaintiff's production before the commencement of this action.

BY MR. MARR:

29 Q. So you heard your lawyer and I discussing the deficiency issue. Were you aware of that issue? That there had been a deficiency in the first year budget?

A. No, I wasn't.

30 Q. You mean you didn't hear -- the first time you heard about it was right now at today's discovery?

MR. SCHEIN: Well, I thought your question was prior to the commencement of this action was he aware?

MR. MARR: Well, I'm trying to figure out when he became aware.

MR. SCHEIN: Did you become aware before this action started that there had been a deficiency in the first year ---

THE DEPONENT: No.

MR. SCHEIN: --- between actual and budget? The answer's no.

BY MR. MARR:

31 Q. So when monies were being paid by H&R to the condominium corporation for the first year deficiency you were unaware of that?

A. No.

32 Q. You weren't aware that a cheque had been written by the company? You have to say yes or no for the woman, she can't ---

A. No.

33 Q. So there's a budget -- you understood that the -- that under *The Condominium Act* the purchasers would

receive a budget in the disclosure package? You understand that generally that that's the process in Ontario?

A. Yes.

34 Q. And at any time before the commencement of the action did you see the budget that was given to the purchasers in this Beauclaire project at 745 New Westminster?

A. No.

35 Q. Did you have any knowledge about the information that was given to the purchasers about the issues in the budget?

A. No.

36 Q. Did anybody talk to you about the -- did you speak to Mr. Hofstedter -- George Hofstedter or Ms. Lewin or Mr. Cappe or anybody else about the numbers or the calculations or any of the information in the budget?

A. No.

37 Q. So other than -- you knew a budget was being created but you had no involvement whatsoever in its creation, that's what you're telling me?

A. That is correct.

38 Q. Did you ever ask any questions about how the budget was being created or how it was being calculated?

A. No.

39 Q. Did you not see that as your role to oversee  
that work?

A. No.

40 Q. And though the letter that I was speaking to  
your lawyer about, the one at tab 76 of the plaintiff's  
affidavit of documents, did you see that letter in June of  
2003?

MR. SCHEIN: June '03? The date of the letter  
is '02. So what's your question?

BY MR. MARR:

41 Q. Sorry. I apologize. Did you see that letter  
in June '02?

A. No.

42 Q. Were you aware of the -- without seeing it  
were you aware of the contents of the letter? Did someone  
discuss it with you or the fact that the letter had been  
received or the fact that the property manager was saying  
things about the numbers and the running of the  
corporation that -- the cost of all that? Did anybody  
tell you any of this information in June of '02?

A. No.

43 Q. Were you involved in the -- as I understand it  
there were -- the land that was at this location previous  
witnesses have told me that it was three separate sort of

projects came out of that land. There was some single-family homes, there was a townhouse and then there was this condominium corporation. Were you involved in the -- what was your role with respect to the other two aspects of the land? The townhouse development, for example, did you have any role in that?

A. I did land development for the project.

44 Q. And that's it. When did this role with respect to the land development end?

A. When the land is serviced and zoned.

45 Q. Do you have a date on that? Or an approximate date on that?

A. Not offhand.

46 Q. Is that something we could find out? It seems to me that's -- well, it's up to you.

MR. SCHEIN: I don't think it's relevant.

MR. MARR: Okay. That's fine.

**REFUSAL NO. 1:** To advise when deponent's involvement with the land development project ended.

BY MR. MARR:

47 Q. Okay. Tell me a little bit more about yourself? What's your date of birth?

A. May 29th, 1954.

48 Q. Where were you born?

A. New York.

49 Q. What's your educational background? How far  
did you go in school?

A. I have an LLB.

50 Q. From which school?

A. University of Toronto.

51 Q. Were you called to the bar in Ontario?

A. Yes.

52 Q. When were you called to the bar?

A. Oh, gee. I believe 1983.

53 Q. Okay. Did you practice in Ontario?

A. Yes.

54 Q. Where did you practice?

A. At Minden Gross.

55 Q. For how long?

A. Approximately two years.

56 Q. And then you -- what did you do after that?

A. I worked at H&R Developments.

57 Q. Where you've been since?

A. Yes.

58 Q. In the two years you practiced what areas did  
you practice in?

A. Corporate.

59 Q. You articulated at Minden Gross also?

A. Yes.

60 Q. Are you still a member of the Ontario bar?

A. Yes.

61 Q. So since 1985, since you've been with H&R, what have you been doing there? What sorts of jobs for them?

A. I manage their land development activities.

62 Q. What does that involve?

A. That involves the acquisition of development lands, obtaining the municipal approvals and servicing.

63 Q. And?

A. And servicing of the lands.

64 Q. Okay. And is that lands for all sorts of projects? Single-family homes ---

A. Yes.

65 Q. --- condominium?

A. Yes.

66 Q. H&R's involved in all sorts of real estate development in the Greater Toronto Area?

A. Yes.

67 Q. Do you have any knowledge about how Cantertrot did financially on this particular project? Did it do well? Did it not do well? Did it make money?

MR. SCHEIN: Do you have general knowledge on

this?

THE DEPONENT: I don't recall.

BY MR. MARR:

68 Q. Were you involved in -- you told me you were involved in the development. What about -- were you involved in the financial side of Cantertrot when the monies would be spent or distributed as profits? Was that something that was part of your job?

A. No.

69 Q. Whose job was that?

A. At the time I would imagine it was mostly the controller's job ---

70 Q. Who was that?

A. --- to assess that.

71 Q. Mr. Froom?

A. He was the controller at a time I believe, yes.

MR. MARR: Counsel, do you have any of the export reports you've ---

MR. SCHEIN: No, I didn't bring them.

MR. MARR: Okay. Well, then I'll -- we'll just try to look together, I guess. Right now I'm looking at the Morrassuti report of December 13th, 2005 that you produced in the certification

motion. And on page 3 at Roman numeral five he's talking about the budget statement for the Emerald Lane. It's un -- I just want to be sure, did he look at any other budget statements other than that one and obviously the one in this action in producing his report? Can we ask him that?

MR. SCHEIN: I'll take it under advisement. I'm not sure.

MR. MARR: Okay. Well, I'm going to ---

MR. SCHEIN: I'm going to take it under advisement.

MR. MARR: All right.

UNDER ADVISEMENT NO. 1: To ask the Morrassuti expert if he looked at any other budget statements other than the Emerald Lane one and the one in this action in producing his report.

MR. MARR: I have several questions now of the experts so I'll take it -- I'll list them all and I'll take it your position will be to take them under advisement.

MR. SCHEIN: That's correct.

MR. MARR: Unless you tell me otherwise. So let me just run through them quickly. On page 3 of

the same report at Z it indicates that he conducted a review of the published market data and other public information as contained in his files. Can he produce to me copies of whatever he's relying on in that subparagraph?

MR. SCHEIN: Next question.

UNDER ADVISEMENT NO. 2: To ask the Morrassuti expert to produce copies of whatever he is relying on in the subparagraph Z on page 3 of his report.

MR. MARR: At the bottom of the page AA, it again indicates economic and real estate market conditions in Toronto from 1998 until December 2005. Can he please produce that?

UNDER ADVISEMENT NO. 3: To produce information quoted in the Morrassuti report regarding the economic and real estate market conditions in Toronto from 1998 until December 2005.

MR. MARR: And Mr. Newman in his report of December 2005 -- in the report he indicates that he's -- he says that the consumption habits of the residents at Beauclaire were unanticipated and

higher than average. Can you ask him what are the average numbers that he's speaking of and advise me what those are. I take it you'll take that under advisement as well.

MR. SCHEIN: All of these.

MR. MARR: All right.

UNDER ADVISEMENT NO. 4: To advise of the average numbers Newman was referring to in his report when stating the consumption habits of the residents of Beauclaire were higher than average.

MR. MARR: Can we look at your statement of defence for a moment, your amended statement of defence?

MR. SCHEIN: Yes.

MR. MARR: Paragraph 5 you say your clients have complied with their obligations under *The Condominium Act*.

MR. SCHEIN: We must be looking at a different document.

MR. MARR: Amended statement of defence.

MR. SCHEIN: The one amended March 23, '06?

MR. MARR: Yes. Paragraph 5, second page.

MR. SCHEIN: Yes, okay. We're looking at the

same page -- document. So what was your question?

MR. MARR: My question was what specific sections are you referring to there? In which act? Because the act was amended at some point. And I guess I'm trying to figure out which sections you're relying on in which of the acts.

MR. SCHEIN: I'll let you know.

MR. MARR: All right.

UNDERTAKING NO. 3: To advise which sections of *The Condominium Act* the defendant is relying on in paragraph 5 of the second page of the March 23, 2006 amended statement of defence.

MR. MARR: Turning to paragraph 19. You refer there to the standard practice in the industry. Do you see that portion of the paragraph?

MR. SCHEIN: Yes.

MR. MARR: What is it you say is the standard practice in the industry in this regard?

MR. SCHEIN: I'll let you know if I have anything to add to what you've heard from the witnesses.

MR. MARR: What's -- is there anything -- is there any evidence of that?

MR. SCHEIN: We have not generated any expert evidence on that point.

MR. MARR: Well, is there other evidence about the industry, though, that you have or that you -- that you have ---

MR. SCHEIN: No.

MR. MARR: --- even if it's not expert?

MR. SCHEIN: No. Nothing other than what you've heard.

MR. MARR: On discovery?

MR. SCHEIN: That's right.

MR. MARR: Okay. Are there any documents or anything else other than what you've produced?

MR. SCHEIN: No.

MR. MARR: So are you telling me then that the evidence I've heard from your clients what they've told me about the budget process we've had discovery on that, you're saying that all that evidence in accordance with the standard practice in the industry? That's how the budget was prepared and ---

MR. SCHEIN: Yes.

MR. MARR: And the evidence that they gave of the various witnesses that's the evidence of the standard practice in the industry?

MR. SCHEIN: Yes. If there's anything further that gets devolved we'll let you know.

MR. MARR: Okay. In paragraph 20A is there any evidence you have in support of those allegations?

MR. SCHEIN: Nothing over and above what's been generated in the course of the oral examinations to date.

MR. MARR: And is your answer the same for 20B?

MR. SCHEIN: That's correct. Although I think there's also some written evidence of increases in market values for these units. I believe that was addressed by Mr. Morrassuti in his report. And we rely on that as well.

MR. MARR: Increases you mean from the date when they bought to the date when the final closings took place or subsequent to the final closings?

MR. SCHEIN: You asked me what evidence we rely on in respect of this allegation.

MR. MARR: Right.

MR. SCHEIN: I'm saying to you that it's -- that there's nothing over and above what you've already seen either written or oral.

BY MR. MARR:

Q. Okay. Were you aware that in the townhouse

project there had been an amended disclosure budget? We heard evidence about that from other H&R people that sometime before the final closing there was an amendment to that budget on the townhouses now I'm talking about. Did you know ---

A. You're asking me?

73 Q. Yes. Did you know that that happened?

A. No.

74 Q. Ms. Lewin is the -- I understand from her evidence while she's not a member of the Ontario bar she's doing, at least on some level, the legal work in-house at H&R; you're aware of that? She's a lawyer in South Africa as I understand and she has a -- I think she called herself the manager of legal affairs or something like that? I can't quite remember. Some term like that.

MR. SCHEIN: I don't recall the title.

THE DEPONENT: She liaisons with lawyers.

BY MR. MARR:

75 Q. She liaisons with lawyers. But does she not -- in light of your training and experience doesn't she ask you about legal questions as they come up? I would have thought you would be an in-house resource for that sort of thing since you're, you know, you're a lawyer you're a member of the bar. Doesn't she ask you things

like that from time to time?

A. Ms. Lewin deals with whatever lawyer is the lawyer for the particular project she's involved with and asks her questions to that lawyer.

76 Q. Other than the development of these three pieces of land did Cantertrot ever do any other business?

A. Not to my knowledge.

77 Q. And are they doing any more business now? Now that these three projects have been developed?

A. Not to my knowledge.

MR. MARR: Let's take a break, Counsel.

--- BRIEF RECESS

BY MR. MARR:

78 Q. Do you have a calendar or electronic daytimer or something that would assist you in figuring out what meetings, if any, you were relating to this project from say 1999 to 2002? Do you keep a daytimer? How do you keep track of your appointments?

A. Outlook.

79 Q. And how far back does that go?

A. I don't recall.

80 Q. Okay.

MR. MARR: Can we make best efforts to see what

documentation he has either electronic or otherwise and see if there's any reference in there to meetings or appointments relating to this project, Counsel?

MR. SCHEIN: Well, from 1999 onwards did you attend any meetings having to do with this project?

BY MR. MARR:

81 Q. As best you can recall the answer's no, correct?

A. Correct.

MR. MARR: But I guess I'm entitled to see if there's documentary evidence on that point.

MR. SCHEIN: We'll see what calendar exists, if any. If there is something we'll look for anything referable to the issues in this case.

UNDERTAKING NO. 4: To see what calendar exists, if any, and if there is something look for anything referable to the issues in this case.

MR. MARR: Just a couple of other things on the expert reports. And I may have already asked this on an earlier day and if I have I apologize. In

the Morrassuti report there are -- there's references to documents that he's either summarized or relying on. Are we going to get copies of all that empirical data? I mean he summarized a lot of it but I'd like to actually see the originals of that material.

MR. SCHEIN: I'll take it under advisement. The problem is that that -- you appreciate these reports were generated in the context of a motion which is now over.

MR. MARR: Well, are you relying on these reports for the trial?

MR. SCHEIN: I may or may not. If I do -- if I -- if, as and when I make that decision then I will provide the copies of any empirical data relied upon by either expert.

MR. MARR: Well, I think -- I think since it exists now we're entitled to it. But I hear your position.

UNDER ADVISEMENT NO. 5: To produce copies of empirical data relied upon by Morrassuti.

MR. MARR: And similarly, I mean, the same thing would apply as to your position for whatever

documents Mr. Newman receives and reviewed in preparing his report?

MR. SCHEIN: Same position, correct.

MR. MARR: I mean, I want all of that and you're going to take that under advisement?

MR. SCHEIN: Yes.

UNDER ADVISEMENT NO. 6: To produce documents Mr. Newman received and reviewed in preparing his report.

BY MR. MARR:

82 Q. All right. Subject to the undertakings and refusals those are my questions. Thank you.

\* \* \* \* \*

PROFESSIONAL COURT REPORTERS INC.

M.S. Mandelbaum - 30

I hereby certify the foregoing to be the Examination for Discovery of MARK SAMUEL MANDELBAUM, taken before me at the offices of PROFESSIONAL COURT REPORTERS INC. on the 19th day of March, 2007.

CERTIFIED CORRECT:

*Susan Purchase*

Susan Purchase

Shorthand Reporter

Photostatic copies of this transcript are not certified and have not been paid for unless they bear the original signature of Susan Purchase, and accordingly are in direct violation of Ontario Regulation 587/91 Courts of Justice Act, January 1, 1990.