

1 because people like to do business with people they  
2 know and they like.  
3 And, in the Spanish culture, it's all about  
4 family, and so we do business already down there in the  
5 sense that people -- especially, funny enough, Coral  
6 Gables. We have a lot of friends of the family or I  
7 know this guy from tennis, he's my attorney's friends,  
8 he's a guy I do banking with, that we sell a lot of  
9 cars down there right now. And, as a result, I go down  
10 there quite a bit.

11 Q Okay.

12 A My wife's from Indiana. So she does -- with  
13 e-mails and phone calls once a year, she's good. My  
14 family needs to touch and see. So we go down to  
15 Florida quite a bit.

16 Q So will that make it possible for you to  
17 visit the dealership?

18 A Oh, yeah. My mom has a countdown clock for  
19 the dealership to open. I think she'll be the first  
20 one in the door. You know, she's not getting any  
21 older -- I mean, younger. She's 82 years old. So  
22 there is a part of me -- and my dad just passed away  
23 last summer, so you realize that your parents have  
24 mortality.

25 So a big portion of this for me is also the

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1 Mr. Moreno, do you want to come back up? You  
2 don't get off --

3 THE WITNESS: I thought maybe he wasn't going  
4 to call me.

5 THE COURT: Yeah. I was going to say, I  
6 don't think you get off that easy. Okay. You're  
7 still under oath.

8 Mr. DeVito?

9 MR. DEVITO: Thank you, Your Honor.

10 CROSS EXAMINATION

11 BY MR. DEVITO:

12 Q Mr. Moreno, the weather is much better down  
13 here. Isn't it?

14 A It is. It is.

15 Q I'm not going to rush through this, but it  
16 won't be very long either.

17 A Thank you.

18 Q I just want to go over some of your history  
19 with the Court regarding your automobile experience and  
20 some of the dealerships that -- when you became a  
21 retailer/owner. Okay?

22 A Sure.

23 Q Your first dealership that you acquired was  
24 in 2005, Mercedes Benz in North Olmsted, Ohio.

25 Correct?

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1 ability to know that I can go down there and visit my  
2 mom. The other piece of it is that, you know, my son  
3 will probably be going to the University of Miami. So,  
4 having him down there -- I can't even think about my  
5 son leaving home, so excuse me. But anyway, so that  
6 will be a big deal for me as well.

7 MR. BADER: Okay. That's all for now, Your  
8 Honor.

9 THE COURT: All right. So you're finished?

10 MR. BADER: Yes.

11 THE COURT: All right, thank you.

12 Let's take a break. He's the only witness  
13 today. Correct?

14 MR. BADER: Yes.

15 THE COURT: All right. So let's take an  
16 hour-and-a-half, all right, because, again, I have  
17 to -- I have a sick pet that I have to go take  
18 care of so that's why we need a little time. I  
19 can get home, take care of him.

20 Thank you. See you guys in -- let's say,  
21 I've got -- let's just say 12:30 right now. So  
22 let's just be back at 2:00.

23 (Whereupon, a recess was had in the  
24 proceeding.)

25 THE COURT: Let's go back on the record.

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1 A Yes.

2 Q And that you purchased from an existing  
3 dealer or not?

4 A Yes, existing dealer.

5 Q And that's where you told the Judge you sold  
6 your 401(k), leveraged your Key Largo home, whatever  
7 other -- anything else not buttoned down, you sold to  
8 get that dealership. Correct?

9 A That's correct.

10 Q And did the manufacturer of Mercedes Benz  
11 assist you in purchasing and relocating that  
12 dealership?

13 A A little bit in the sense that what happened  
14 was they wanted a minority operator there. So what  
15 they did is they went to Roger Penske and asked him to  
16 sell that dealership for a dramatically reduced price  
17 in exchange for Mercedes giving Penske an open point in  
18 Chandler, Arizona.

19 Q Oh, this is news to me from your deposition  
20 because, when I asked you the question, "Were you given  
21 any financial support from the manufacturer, Mercedes  
22 Benz?" you said no. Do you remember that answer?

23 A Yes. They did not give me financial support,  
24 meaning they didn't give me money. What they did is  
25 they asked Penske to sell it for a lower amount, but

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1 Mercedes did not contribute a dollar.  
 2 Q Okay. So I guess this is a clarification to  
 3 your answer to me before when I deposed you on  
 4 October 21st that they didn't -- the answer is the  
 5 same, they didn't give you any money. Correct?  
 6 A Correct.  
 7 Q And did they make you sign a confidentiality  
 8 agreement?  
 9 A I don't remember.  
 10 Q And how much did you pay for that dealership?  
 11 A In terms of blue sky?  
 12 Q Sure. We'll start with blue sky and then a  
 13 total.  
 14 A Sure. Blue sky was 750,000.  
 15 Q Okay. And what was the rest of the purchase  
 16 price?  
 17 A The rest of the -- so, when you buy a  
 18 dealership, you have to buy what's called blue sky,  
 19 which is the value of the actual operating business.  
 20 So that's one component. Another term would be  
 21 goodwill. So it's just the right to sell Mercedes in  
 22 that market.  
 23 In addition to that, you have to buy the  
 24 parts and accessories, so the parts that are used on  
 25 clients' cars. You have to buy any fixed assets, so

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1 A No.  
 2 Q And step back to Mercedes Benz, did Mercedes  
 3 Benz get, like, a little gold star for having a  
 4 minority dealer in Northeast Ohio? Is that why they  
 5 wanted to put a minority in there?  
 6 A You'd have to ask them. I don't know.  
 7 Q You brought it up you were a minority dealer.  
 8 I'm asking why would they strongarm Mr. Penske and say,  
 9 give him a lower price and I'll give you a point  
 10 somewhere else?  
 11 A Some of the bigger companies, like Daimler,  
 12 General Motors, Ford, are under a lot of pressure to  
 13 have the dealer body be diverse, be representative of  
 14 the community. And so I'm certain, at that time,  
 15 when -- they may have been getting pressure to have  
 16 more diversity among their dealership ranks.  
 17 And that's typical of a bigger company like  
 18 that. A company like Porsche flies under the radar and  
 19 so that isn't something that's important to them;  
 20 although, as they would characterize it, it's probably  
 21 a bonus for them because they get to report minority  
 22 dealers. But it isn't as big a priority as it was for  
 23 Mercedes.  
 24 Q So next, I think, in the chronology with  
 25 Mr. Bader was --

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1 furniture, fixtures, tools, equipment, things like  
 2 that. And then you have to buy the new cars that are  
 3 in inventory. And then sometimes you buy -- like in  
 4 that case, you buy some used vehicles as well.  
 5 Q Okay. So the blue sky or the value of the  
 6 franchise was 750,000. What was the rest of the  
 7 purchase price?  
 8 A The entire amount all in, without inventory,  
 9 without counting cars, because that throws off the  
 10 number, was just over 2 million, two-million-one,  
 11 two-million-two.  
 12 Q And out of that purchase price for the blue  
 13 sky and the hard assets, not including the inventory,  
 14 Mercedes Benz did not contribute any money to you.  
 15 A That's correct.  
 16 Q And then next you said you purchased Porsche  
 17 in Cleveland for 150,000 cash upfront and financing how  
 18 much more over the next two years, you said?  
 19 A 600,000.  
 20 Q And that was financed by the owner?  
 21 A Yes.  
 22 Q And did -- Porsche did not give you any  
 23 financial assistance for that transaction. Correct?  
 24 A That's correct.  
 25 Q Was that a minority issue or not?

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1 A Lotus.  
 2 Q -- Lotus for 125,000.  
 3 A Yes.  
 4 Q And, a similar question, the manufacturer,  
 5 Lotus, didn't assist you with any financial support or  
 6 relocation money or anything. Correct?  
 7 A No. That's correct.  
 8 Q Then, April of 2007, you purchased Shaker  
 9 Saab from an existing dealer. Is that correct?  
 10 A Correct.  
 11 Q And the manufacturer, Saab, didn't help that  
 12 transaction. Did they?  
 13 A No. Again, similar as Mercedes, no financial  
 14 assistance, but they did provide us some extra  
 15 allocation.  
 16 Q And you're right. I was just trying to  
 17 clarify. No financial assistance was given to you to  
 18 assist in the purchase of that.  
 19 A Correct.  
 20 Q Spyker franchise you mentioned, in 2008, that  
 21 was awarded to you. So there's no price paid to the  
 22 manufacturer. Correct?  
 23 A Correct.  
 24 Q In addition to not paying any money, though,  
 25 did the manufacturer give you any start-up money,

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