

IN THE UNITED STATES BANKRUPTCY COURT FOR THE
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

In re:

COURT REPORTING INSTITUTE,
INC.,

Debtor(s).

)
)
) Chapter 7
) Bankruptcy No. 06-14202
)
)
)
)
)
)

COPY

2004 EXAMINATION OF

STEVE FLEISCHMAN

Taken Wednesday, December 5, 2007

Reported by:
Mary Ann Pennington, CCR
(License #3016)

EXCEL COURT REPORTING
16022-17th Avenue Court East
Tacoma, WA 98445-3310
(253) 536-5824



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Wednesday, December 5, 2007
Seattle, Washington

A P P E A R A N C E S

For the Witness (Unrepresented)

For the Trustee THE RIGBY LAW FIRM
BY: James Rigby, Esq.
600 Stewart Street, Suite 1908
Seattle, Washington 98101
(206) 441-0826

Wednesday, December , 2007
Seattle, Washington

I N D E X

Witness: STEVE FLEISCHMAN Page

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E X H I B I T S

No.	Description	Marked	Identified/ Discussed
1	Bank of America, Statement of Commissions	8	8

1 BE IT REMEMBERED, that on Wednesday, the 5th day
2 of December, 2007, at 9:15 a.m., at the offices of
3 The Rigby Law Firm, 600 Stewart Street, Suite 1908,
4 Seattle, Washington, before Mary Ann Pennington, a
5 Certified Court Reporter and Notary Public in and for
6 the state of Washington, appeared STEVE FLEISCHMAN,
7 the witness herein;

8 WHEREUPON, the following proceedings were had
9 and done, to wit:

10 * * * * *

11

12 STEVE FLEISCHMAN, having been first duly sworn
13 by the Notary, testified as follows:

14

15 EX A M I N A T I O N

16 BY MR. RIGBY:

17 Q Good morning again. For the record my name is James
18 Rigby. I represent Michael McCarty who is the
19 bankruptcy trustee for Court Reporting Institute.

20 And thank you for coming in. I served you with
21 a subpoena for a 2004 examination which is a
22 fact-finding mechanism under the bankruptcy code.

23 The way it works, I will ask you a series of
24 questions and you need to answer the questions. If
25 any of my questions are unclear, you should tell me

1 that and I will try to rephrase it in a more clear
2 manner. Do you understand that?

3 A Okay.

4 Q Please state your name and residence address for the
5 record.

6 A Steve Fleischman. Do you want the home or business?

7 Q Whichever you prefer.

8 A 917 North 130th, Seattle.

9 Q What's your relationship to the Fleischman Family
10 LLP?

11 A I am a limited partner.

12 Q Are you also manager?

13 A Yes.

14 Q What do your management duties encompass?

15 A Attempting to lease space and take care of the
16 tenants with any just problems they might have.

17 Q So it's a real-estate holding entity?

18 A Yes.

19 Q And you manage the real-estate holdings?

20 A Correct.

21 Q And you know Alen Janisch, correct?

22 A Correct.

23 Q You leased some space to him; is that correct?

24 A That's correct.

25 Q You sent me, pursuant to the subpoena, a lease dated

1 December 10, 2002, for property at 929 North 130th
2 Street in Seattle; is that correct?

3 A Correct.

4 Q Is that the property where Court Reporting did its
5 business?

6 A Yes.

7 Q And am I correct that the lease is not with Court
8 Reporting but is with Alen Janisch personally?

9 A Good question. I'm -- I guess it's however it's
10 listed there. I guess if it's in his name I always,
11 you know, just kind of -- Alen Janisch and Court
12 Reporting were always kind of the same thing to me.
13 But if it says Alen Janisch then I guess it is,
14 personally, Alen Janisch.

15 Q And the lease was to terminate this month,
16 December 31, '07, right?

17 A Right. Uh-huh.

18 Q And Court Reporting vacated the premises in August or
19 September of '06?

20 A It might have been a little later than that. I don't
21 know for sure. October/November, I'd say. Probably
22 October.

23 Q When was the last time you or your LLC received rent
24 for the property?

25 A I think it was -- I think you have it there.

1 Q You did send me an account.

2 A Yeah. I just kind of wrote down -- it looks like it
3 was 8/11 of '06.

4 Q So was that for rent for August of '06?

5 A Correct.

6 Q So you're owed rent then for September '06 through
7 this month?

8 A Yeah.

9 Q Have you re-let the premises?

10 A A portion of it. Approximately -- he had
11 approximately -- in the lease there I think he had
12 approximately 11,000 feet. And we've re-let of
13 that -- let's see -- 42 and 14, so 5600 feet. But
14 that -- actually that doesn't kick in -- actually
15 just 4200 feet about six months ago because the 1400
16 feet doesn't kick in until January 1.

17 Q Have you requested that Mr. Janisch should pay you a
18 rent?

19 A No.

20 Q Is there a reason why not?

21 A I didn't think he could afford it. I know he's in
22 financial trouble.

23 Q He did file bankruptcy last month. I don't know if
24 you knew that or not.

25 A I just got notice of that the other day, yes.

1 Q Can you tell me what that document is?

2 A A letter of credit.

3 Q Who does the letter of credit run to?

4 A Who does it run to?

5 Q Who is the beneficiary of the letter of credit?

6 A U.S. Department of Education.

7 Q How is it that you have a copy of this?

8 A It's in my name, I guess.

9 Q So you provided -- strike that. The U.S. Department
10 of Education can draw down the letter of credit, and
11 if they do then you're responsible to pay the bank
12 whatever is drawn down?

13 A Right. The \$62,000. I put it up because Alen could
14 not. His credit was not -- apparently, his credit --
15 from what he told me, his credit wasn't good enough
16 to get this letter of credit.

17 Q When was it posted?

18 A This particular -- you mean the money?

19 Q Right.

20 A Originally, I think this went back to '03; and then
21 it's been renewed. And this was the last -- this was
22 the last period here (indicating).

23 Q When was this one renewed?

24 A Looks like it's 11/1 of '05 to 10/31 of '06.

25 Q So did the Department of Education draw down this

1 letter of credit?

2 A No, they did not.

3 Q Did you get your money back?

4 A I have the money, yes.

5 Q Did you ever have to post a cash amount to secure
6 this letter of credit?

7 A Yes. That's what it -- that's what it was. That's
8 what secured it.

9 Q You posted cash. The bank put up the letter of
10 credit to the Department of Education. The
11 Department never drew it down, so you got your cash
12 back.

13 A Correct.

14 Q Why would you put up cash for Alen's letter of
15 credit?

16 A Alen put up the cash. Alen put up the cash. The
17 deal was he didn't have the credit. I was willing to
18 let him -- he needed this to continue with business
19 is my understanding. So he put up the cash with the
20 understanding he made all the commission -- all the
21 payments for any charge the bank charged. And then I
22 received any interest on -- from the posted money.

23 Q And then you received the money back. When was that?

24 A Well, just -- 10/31, I guess, when it expired.

25 Q Of this year?

1 A Of '06.

2 Q In your mind was that your money?

3 A No.

4 Q Who did it belong to?

5 A I would guess Alen.

6 Q Is there a reason why you didn't give it back to him?

7 A He's never requested it. It's just been sitting
8 there the whole time, so . . .

9 Q Am I missing something here? I mean, if most people
10 had \$62,000 that they didn't think belonged to them
11 and they thought belong to somebody else, they would
12 typically do something with it. Is there a reason
13 you haven't done anything?

14 A I've just -- he -- he wanted me to have this letter
15 of credit and -- or for him to get this letter of
16 credit. Like I say, he put up the money. It's just
17 been sitting waiting for him to request it back. I
18 haven't done anything with it.

19 Q So if Alen requested the money you would give it to
20 him?

21 A Sure.

22 Q You said earlier that in your mind Alen and Court
23 Reporting were the same?

24 A Well, we got to know Alen. Alen was a tenant for 18
25 years -- apparently, 18 years. And, you know, in 18

1 years you get to know somebody. He was -- he seemed
2 to be a real good guy. If we had a problem with
3 anything, he helped deal with it. And he was a very
4 good tenant.

5 Actually, you know, my father was the one that
6 actually initially, you know, did the lease with Alen
7 18 years ago.

8 Q Do you remember the original transaction? Did Alen
9 put the money up by cash or check?

10 A Check.

11 Q Do you remember, originally, was that check from
12 Alen's personal account or was it from CRI?

13 A I honestly don't remember.

14 Q Did the check go to you or to the bank?

15 A Again, I don't remember. I'm guessing it probably
16 went to me, but I don't really remember. I'm
17 guessing I probably -- well, it doesn't really
18 matter.

19 Q But you're the one that set up the letter of credit
20 and you're the one that had the interactions with
21 Bank of America, right?

22 A Yes.

23 Q Would you have the records from the original
24 transaction which would show where the money came
25 from?

1 A I don't know to be honest. What would that be?

2 Probably a deposit slip? Maybe a deposit slip?

3 Q Depending on what kind of records you have I would
4 expect you to have some sort of a receipt from the
5 bank showing you deposited funds.

6 A Right. I should have some kind of deposit slip I
7 would think.

8 Q Is that the kind of record you would keep?

9 A Should be, if I deposit -- yeah -- if I deposit it
10 directly. Depends, if he stuck it somehow in the
11 bank. I'm guessing that he cut me a check and I
12 deposited it. And then the bank probably, you know,
13 pulled it out and used that as security for the
14 letter of credit.

15 Q Okay. I would like to get the rest of the records
16 that you have surrounding this transaction.

17 A Okay. What I -- what this whole thing to me is that
18 I figured that this would, you know -- that's why I'm
19 supplying this information. I'm not trying to hide
20 anything.

21 Q Right. I had no knowledge of this before you gave me
22 this.

23 A Sure.

24 Q So obviously it was voluntary on your part.

25 A So I'm assuming that, you know, this would come to a

1 head whenever he -- in his bankruptcy -- I don't
2 know. I've never dealt with bankruptcy before, but
3 whatever -- he has to, I assume, list assets. And I
4 would assume this would be an asset of either him or
5 the CRI. I don't -- again, I don't know which that
6 would be.

7 Q In this transaction with the letter of credit, it
8 looks to me like you didn't really have any risk here
9 because Alen put up the cash that would be drawn down
10 if the letter was drawn down.

11 A Correct.

12 Q It was set up in your name because according to Alen
13 the bank wouldn't set up a letter of credit with his
14 name on it. And you got the nominal interest off of
15 this amount of money.

16 A Correct. Yes. And he paid any -- for instance, on
17 this particular one it looks like the commission was
18 \$1257. So he made any of those. He took care of any
19 expenses related to it.

20 Q Now, you loaned Alen, didn't you, \$100,000 in late
21 December of '05?

22 A Yes. The partnership did, yes.

23 Q That's your LLC?

24 A Correct. LLP.

25 Q Oh, excuse me.

1 Why did the LLP loan \$100,000 to Alen at the end
2 of '05?

3 A I -- actually that had been going on for a few years.
4 Alen -- I don't know exactly what -- he always needed
5 money at the end of the year. And then we would --
6 it was a short-term loan type thing for like a week.
7 And he'd give me a check the following January to pay
8 for -- to pay it back. I don't know exactly what he
9 did with the funds.

10 Q Was there a promissory note or any documentation for
11 the loan?

12 A No.

13 Q Did you receive interest on the repayment?

14 A No.

15 Q What did Alen tell you was the reason for the loan?

16 A He -- it seems to me he said that to get his ratios
17 in order, is what I can remember.

18 Q For what purpose?

19 A I don't know what that was. Like I said, my father
20 originally did it so I was just kind of continuing
21 with what he had done.

22 Q Is your father still active in the management of the
23 LLP?

24 A Not really. I mean, I talk to him but he's had a
25 couple of strokes.

1 Q The LLP had a lease with Alen, you had the letter of
2 credit transaction; and you loaned him a very
3 short-term \$100,000 loan -- you being the LLP -- at
4 the end of December '05. And you said you'd made the
5 same short-term loan from December to January of
6 prior years.

7 A Actually, the amount varied, so \$100,000 was the
8 most. I think it went -- it was from \$50- -- it
9 seems to me it was from \$50- to \$100-.

10 Q Did you or the LLP have any other financial dealings
11 with Alen or Court Reporting Systems in the last four
12 or five years?

13 A No. Just the lease.

14 Q Who is Fleischman Center?

15 A We had another little strip mall in North Seattle and
16 that's a partnership that -- that was another
17 partnership, I guess, is what it was.

18 Q In Alen's checks I found one for December -- rather
19 January 3, '06, to Fleischman Center for \$50,000. Do
20 you remember that transaction?

21 A Of '06? No, I don't. I assume it was paying back
22 the \$100,000 that was from '05. Yeah. I don't know
23 why he made it out to that. I imagine it's endorsed
24 to the FFLP though. I don't know why he would have
25 made it to Fleischman Center.

1 Q Then on the same day -- yeah. On the same day
2 there's a different check to Fleischman Family LLP
3 for \$100,000.

4 A The only thing I can possibly think is that the
5 \$100,000 I gave him, we might not have had the funds
6 in the FFLP so maybe it came out of two different
7 places. And so maybe he cut me two checks back. I
8 honestly don't remember.

9 Q But this is a \$150,000 total, right? And I don't
10 have the backs of these checks, but it's Alen's
11 check.

12 A For \$50-?

13 Q And then one for a \$100-.

14 A I don't know, to be honest, what that is.

15 (Reviewing documents) There's one for \$50-.

16 Q This isn't -- these other checks are not, I don't
17 believe, to you.

18 A Unless I loaned him \$150,000 last year -- or I mean,
19 in --

20 Q December of '05?

21 A Yeah. It seemed to me it was always, you know, from
22 \$50- to \$100,000, but I don't, you know, honestly
23 know. That's the only thing I can think that would
24 be for.

25 Q Okay. Go ahead.

1 A I'm just going to look at the years. That's for sure
2 the one --

3 Q Yeah. But in January people misdate checks too so
4 you have to be careful. But it looks to me like it's
5 an '06 check.

6 A That's what the date looks like, yeah.

7 The only thing I can think is that I loaned him
8 \$150-, and that I didn't have all the funds in one
9 account.

10 Q Okay. That's all the questions I have today. I'd
11 like to get the records on the formation of the
12 letter of credit.

13 A All right.

14 Q So what I want to see, ultimately, is who made the
15 cash deposit, Alen or Court Reporting Institute.

16 A Okay. I'll look at my deposits, make a copy of that,
17 I guess, and fax it to you or something.

18 Q Sure. And if you don't have a copy of the actual
19 check, what I would do would be to send a subpoena to
20 the bank, use that reference for that deposit number,
21 and get a copy of the documents.

22 A Okay. I'll look and see. I don't believe that I
23 have a copy of the check in my deposits. I generally
24 write a name down on whatever the check came from.
25 So I can go from that and it should either say, you

1 know, Janisch or CRI.

2 Q If you could let me know that, then I also could go
3 back and see if I can trace it back to Alen's records
4 or to CRI. I might not need to do a subpoena to the
5 bank.

6 A In regards to the letter of credit, the first one in
7 '03 -- because I looked at this, I could be off a
8 little bit -- but the first one was for \$65,000 the
9 first year. And then -- and it changed from year to
10 year -- so the first one was \$65-. And then I
11 believe -- I don't know if it stayed the same, but
12 anyway it dropped to \$50- at some point; and then
13 this last one was for \$62-. And I guess that all
14 depended on what the Department of Ed needed as, I
15 guess, for security.

16 Q Okay. So actually the tracing on this is not going
17 to be simple to one check then. It sounds like it's
18 going to be back through several?

19 A Well -- and I honestly don't remember. I assumed
20 that when it changed I cut Alen out a check for the
21 difference. So when it went from \$65- to \$50- I cut
22 him a check for \$15-. And when it went back up to
23 \$62- I'm sure he cut me another check for \$12-.

24 Q Do you have like one file with all this information
25 in it?

1 A I have a file with this stuff in it. I don't know so
2 much that I, you know, kept records of, you know, me
3 cutting him a check for whatever and that kind of
4 thing. I kept a, you know, a bank statement thing
5 when they sent me bank statements on it and actually
6 any of the, you know, letter of credit process. I'm
7 not that familiar with it. It was pretty much all
8 done through the bank.

9 Q I'd like a copy of your file. But what I'm searching
10 for is checks that went to you or to the bank. I
11 want to see if it was Alen's check or if it was a CRI
12 check. I think that that's important to determine
13 who has a claim to the funds to see where the money
14 came from.

15 A All right.

16 Q And also if you have some sort of a ledger that says
17 the check came from Alen and the date and check
18 number, that would simplify things greatly because I
19 could just either go to Alen -- I have a bunch of his
20 records, maybe not back that far but I could look at
21 what I've got and I'll do that anyhow. And I can
22 look in --

23 A Like I say, I'll look at the deposit when this thing
24 first was set up and see if we can't come up with
25 where the original check came from.

1 Q And then it looks to me from these records that the
2 Fleischman Center also loaned \$50,000, if you want to
3 take a look at your records there. I mean, if you
4 can explain it away so that somehow it's not \$150-,
5 but it looks to me like there's two transactions
6 being repaid, one for \$100- and one for \$50-.

7 A Right.

8 Q If you've got information that's different than that,
9 I'd be happy to just take a look at that.

10 A Okay.

11 MR. RIGBY: Again, thank you for coming in. I
12 don't have any other questions this morning.

13 (Whereupon, at 9:42 a.m., the
14 proceedings concluded.)
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