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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91177036
Party	Plaintiff Nationstar Mortgage LLC
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Attachments	Opposer's Reply Brief.pdf (64 pages)(609366 bytes)

counsel conferred with Applicant's counsel regarding Opposer's expert approximately two weeks prior to the filing of Opposer's motion. What Applicant's counsel means to say is that Opposer gave no previous *written* notice to Applicant. However, Opposer notified Applicant - verbally *and* in writing - promptly after Opposer's proposed expert was engaged. The question is not whether the *notice* was timely, but whether the *engagement* was timely.

Applicant argues that Opposer should have been on notice that Applicant would rely on actual use, instead of intent to use, notwithstanding that Applicant amended its application from Section 1(a) to 1(b) in early 2008. In making this argument, Applicant cites the following excerpt from the discovery deposition of Mujahid Ahmad on May 29, 2009:

Q. Where do you advertise NationStar?

A. Through my website; nationstarmortgage.com, through fliers, through business cards, through postcards, through mailings, through friends, and also through word of mouth referrals.

Q. When did you begin advertising NationStar?

A. In the beginning of 2005.

Applicant's brief at 2.

The statement of Applicant quoted above is irrelevant because it provided no notice of Applicant's claim to the *actual sale of services* in 2005. However, the statement is consistent with the amended basis of the opposed application because, even if creditable - which it is not - it was reasonably interpreted by Opposer as a claim that Applicant merely "intended" to use the opposed mark in 2005 and that such "intent" was allegedly reflected in the advertising which Applicant claims to have conducted. The quoted excerpt did not provide a basis for imputing knowledge to Opposer that Applicant would reverse his position on actual use by claiming, in his testimony period which concluded on September 22, 2010, that he engaged in actual commercial services using the NATIONSTAR mark as early as 2005.

Applicant next quotes the following excerpt from the May 2009 discovery deposition of Mr. Ahmad:

Q. You see the first use dates on the same page of this document?

A. That's right. Yeah.

Q. It says at least as early as 4-04-2005?

A. That's right.

Q. Did you submit those dates?

A. I submitted the date because it says as early as, so they were not specific what date I start my business.

Applicant's brief at 3. It is unclear how this statement should be parlayed into notice that Applicant would implicitly reverse his position by claiming in his testimony period that he engaged in actual real estate transactions as early as 2005 under the name NATIONSTAR. The statements offered by Mr. Ahmad in his June 2010 deposition are in dramatic conflict with the 2008 amendment of the opposed application. *See* Transcript of Deposition of Mujahid Ahmad, June 9, 2010, appended hereto as Exhibit A, at 19, 20, 37, 38, 66, 139, 156 and 152.

Applicant states in his opposition brief, "If Opposer had timely disclosed the expert witness testimony that it now seeks to offer, Applicant could have provided testimony and exhibits that would have provided a defense to the accused crimes and Applicant could have offered his own expert witness explaining why no laws were violated." Applicant's brief at 3. This statement is specious for four reasons. First, the issue is not whether Opposer timely disclosed its expert testimony, but whether Opposer timely engaged its expert. Applicant amended the basis for his application from Section 1(a) to Section 1(b) in 2008 and then, during his testimony period which ended on September 22, 2010, relied on testimony of actual in support of a Section 1(a) claim. Opposer lacked a legally material reason to engage Mr.

Socknat for the purpose of rebutting Applicant's testimony depositions until the close of Applicant's testimony period. Opposer's counsel promptly thereupon met with Mr. Socknat on October 6, 2010, and notified Applicant's counsel of the engagement within a matter of days. Opposer filed its motion for leave to submit Mr. Socknat's testimony on October 19, 2010. There was nothing untimely in Opposer's engagement of Mr. Socknat.

Secondly, Opposer does not believe that Applicant made an unlawful use of the NATIONSTAR mark. Opposer believes that Applicant made *no* use of the NATIONSTAR mark, nor did Applicant have any intention to use the NATIONSTAR mark prior to Applicant's receipt of letters from Opposer's counsel dated April 11 and 18, 2006, offering to purchase Applicant's Internet domain names NATIONSTARMORTGAGE.COM and NATIONSTARMORTGAGE.NET, which were not in use by Applicant at that time.

Applicant's unlawful conduct inheres not in his use of the NATIONSTAR mark, but in his false testimony that he actually used that mark as early as 2005. However, the Board does not need to resolve this issue if it admits the testimony of Mr. Socknat. That is because, for the reasons discussed by Mr. Socknat, if Applicant had used the NATIONSTAR mark as early as 2005, then such use would have been unlawful.

Third, Opposer did not appear out of nowhere at the eleventh hour, as suggested by Applicant, with unexpected claims of unlawful activity. In a letter dated May 17, 2010, submitted as Exhibit E to Opposer's Motion to Quash the Deposition of Zulfikhar Sharieff, filed on May 20, 2010, Opposer stated:

For the record, Opposer demands that your Applicant abandon his pending application on the grounds that he is engaged in fraud on the PTO and fraud targeted at our client, further to which we intend to prove that:

- Your client never had any intention to use the name "NationStar" until he learned that our client was interested in acquiring the Internet domain names NATIONSTARMORTGAGE.COM and NATIONSTARMORTGAGE.NET;

- Your client thereupon rushed to file a service mark application at the U.S. Patent and Trademark Office (PTO), based on a fraudulent claim of first use;
- Your client "dummied up" the advertisements, fliers, postcards and business cards that he submitted to the PTO and produced in discovery to document his supposed use of the name NATIONSTAR prior to April 2006;
- Your client committed a fraud on the PTO when he filed a service mark application attesting that he had used the name NATIONSTAR in commerce prior to April 2006, punishable by fine and imprisonment of up to five years pursuant to 18 U.S.C. § 1001;
- Your client understands the gravity of the fraud that he committed on the PTO, hence the amendment of his application on January 31, 2008, to retract his claim of first use and to allege a "good faith intent to use" instead of actual use;
- Your client nevertheless committed perjury on May 27, 2009, when he testified in deposition that he had used the name NATIONSTAR in commerce prior to April 2006, punishable by fine and imprisonment for up to five years pursuant to 18 U.S.C. § 1621;¹
- Independent of the fraud that your client has committed on the PTO, your client is engaged in a fraudulent course of conduct targeted at our client, and has attempted to extort money from our client in violation of the federal mail and wire fraud statutes, punishable by fine and imprisonment of up to twenty years pursuant to 18 U.S.C. § 1341 and 1342;
- If it is your client's intention to offer the testimony of Messrs. Sharieff and Hussain to corroborate his false claim that he used the name NATIONSTAR in commerce prior to April 2006, then your client will be engaged in subornation of perjury punishable by fine and imprisonment of up to five years pursuant to 18 U.S.C. § 1622.

See Opposer's Motion to Quash, May 20, 2010, Docket Entry # 50, Exhibit E.

Finally, Applicant incorrectly claims that he is foreclosed from "provid[ing][testimony and exhibits that would . . . provid[e] a defense to the accused crimes and Applicant could have offered his own expert witness explaining why no laws were violated." This claim is incorrect

because (1) Applicant's "accused crimes" inhere not in Applicant's use of the NATIONSTAR mark but in his false testimony about actual use of that mark, and (2) Applicant is well within his rights to offer his own expert witness explaining why such use, had it occurred, *would* be have been lawful, assuming, which we do not, that Applicant could find an expert to so testify.

The PTO has stated:

Any party disclosing plans to use an expert must notify the Board that it has made the required disclosure. *The Board may then suspend proceedings to allow for discovery limited to experts. The suspension order may anticipate and also provide for discovery regarding any expert that may subsequently be retained for rebuttal purposes.*

72 Fed.Reg. 42246 (Aug. 1, 2007)(emphasis added).

In arguing that Applicant would be prejudiced by the absence of an opportunity to present his own expert testimony, Applicant further ignores the plain text of Opposer's motion, which stated:

Opposer accordingly moves for leave to present the testimony of John Socknat, subject to any additional time that may be necessary and appropriate to provide Applicant with an opportunity to take the discovery deposition of this witness.

Opposer's motion at 6. Thus, the correct disposition of the present motion is not to deny it, but to grant it and to allow Applicant an opportunity to introduce expert testimony challenging the conclusions of Opposer's expert, assuming there is an expert who would so testify.

¹ Opposer does not dispute that Applicant testified to actual use of the NATIONSTAR mark in his discovery deposition on May 27, 2009. However, Opposer disputes that Opposer should be charged with notice, prior to the expiration of Applicant's testimony period on September 22, 2010, that Applicant would *rely* on his false claim of actual use. On the contrary, Opposer's letter dated May 27, 2010, placed *Applicant* on notice that any such claim would be deemed by Opposer as perjury. As Applicant had amended the opposed application in 2008 to rescind his claim of actual use, and where Applicant was on notice that any claim of actual use would be regarded as perjury, Opposer believed, and was entitled to believe, that Applicant would try his case on the basis of the 2008 amendment and refrain from committing perjury.

II. Applicant Cannot Base Priority on a Claim of Actual Use That Would Have Been Unlawful.

Under Section 45 of the Federal Trademark Act of 1946, as amended (the "Lanham Act"), "use in commerce means a bona fide use of a mark in the ordinary course of trade." 15 U.S.C. § 1127. It has been the consistent position of the Board and the USPTO that a *bona fide* use of a mark in commerce means a "lawful use in commerce." See *In re Midwest Tennis & Track Co.*, 29 USPQ2d 1386, 1386 n. 2 (TTAB 1993); *The Clorox Company v. Armour-Dial, Inc.*, 214 USPQ 850, 851 (TTAB 1982); *The John W. Carson Foundation v. Toilets.com, Inc.*, 94 USPQ2d 1942, 2010 WL 1233881, *9 (TTAB 2010).

Thus, use in commerce that is unlawful - or, as in this case, use which would have been unlawful had it occurred, cannot give rise to trademark priority. *Creagri, Inc. v. Usana Health Sciences, Inc.*, 474 F.3d 626, 630, 81 USPQ2d 1592 (9th Cir. 2007) (citing *In re Midwest Tennis & Track Co.*, 29 USPQ2d 1386, 1386 n. 2 (1993); *Clorox Co. v. Armour-Dial, Inc.*, *supra*; *In re Pepcom Indus., Inc.*, 192 USPQ 400, 401 (1976); *In re Stellar Int'l, Inc.*, 159 USPQ 48, 51 (1968); *United Phosphorus, Ltd. v. Midland Fumigant, Inc.*, 205 F.3d 1219, 1225 (10th Cir.2000)). The rationale for this rule is twofold. First, as a logical matter, to hold otherwise would be to put the government in the "anomalous position" of extending the benefits of trademark protection to a seller based upon actions the seller took in violation of that government's own laws. See *In re Stellar*, 159 USPQ at 51. It is doubtful that the trademark statute - passed pursuant to Congress's power under the Commerce Clause - "was ... intended to recognize ... shipments in commerce in contravention of other regulatory acts promulgated [by Congress] under [that same constitutional provision]." *Id.* Second, as a policy matter, "to give trademark priority to a seller who rushes to market without taking care to carefully comply with

the relevant regulations would be to reward the hasty at the expense of the diligent." *Creagri, id.*

III. Applicant Concedes That it is Relying on a Claim of Actual Use.

Applicant contends that Opposer has "not been surprised by Applicant's claims of actual use of the NATIONSTAR mark." Applicant's brief at 5. This statement amounts to a contention that Applicant's amendment of the opposed application from Section 1(a) to 1(b) in 2008 should be accorded no legal effect. Secondly, it constitutes an admission that Applicant is, in fact, relying on a claim of actual use. Applicant's contention is devoid of merit. Applicant's 2008 amendment was either legally operative or it was not. If it was, then Applicant is barred from relying on a claim of actual use. If it was not, then it can only be because, pursuant to Fed.R.Civ.P.15(b), the parties consented to trial on the issue of actual use.² Applicant's argument in opposition to Opposer's motion for leave to present the expert testimony of Mr. Socknat makes it clear - if such clarification is required, considering that Opposer and not Applicant is the party from whom such consent should have been obtained - that Applicant consented to such a trial.

² Implied consent to the trial of an unpleaded issue occurs where the nonoffering party (1) raised no objection to the introduction of the evidence on the issue, and (2) was fairly apprised that the evidence was being offered in support of the issue. *Morgan Creek Productions Inc. v. Foria International Inc.*, 91 USPQ2d 1134, 1138 (TTAB 2009); *H.D. Lee Co. v. Maidenform Inc.*, 87 USPQ2d 1715, 1720-1721 (TTAB 2008). The question of whether an issue was tried by consent is basically one of fairness. The non-moving party must be aware that the issue is being tried, and, therefore, there should be no doubt on this matter. *Morgan Creek Productions Inc. v. Foria International Inc.*, 91 USPQ2d at 1139. In this case, Applicant elected to try the issue of first use. *A fortiori*, Applicant consented to the trial of that issue.

IV. Conclusion

For the reasons discussed above, Opposer respectfully moves the Board for leave to present the testimony of John Socknat.

Respectfully submitted,

NATIONSTAR MORTGAGE, LLC



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Exhibits

<u>Ex.</u>	<u>Description</u>
A	Transcript of Deposition of Mujahid Ahmad, June 9, 2010 (minus exhibits)

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on November 8, 2010, a copy of the foregoing
OPPOSER'S REPLY BRIEF IN SUPPORT OF MOTION FOR LEAVE TO PRESENT
EXPERT TESTIMONY IN REBUTTAL PERIOD was sent by e-mail, and the following day by
U.S. mail, first class postage prepaid, to the following counsel of record for Applicant:

Patrick I. Rea, Esq.
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Bruce A. McDonald
Attorney
BUCHANAN INGERSOLL & ROONEY PC

Exhibit A

1 IN THE UNITED STATES DISTRICT PATENT AND TRADEMARK
 2 OFFICE BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD
 3 -----
 4 NATIONSTAR MORTGAGE, LLC |
 5 |
 6 Opposer | Opposition No.
 7 |
 8 v. | 091177036
 9 |
 10 MUJAHID AHMAD |
 11 |
 12 Applicant |
 13 -----
 14 Deposition of Mujahid Ahmad
 15 Fairfax, Virginia
 16 Wednesday, June 9, 2010
 17 10:02 a.m.
 18
 19 Job No.:1-179521
 20 Pages 1 - 211
 21 Reported by: Jennifer A. Bosley
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A P P E A R A N C E S

ON BEHALF OF THE OPPOSER:
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ON BEHALF OF THE APPLICANT:
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1 Deposition of Mujahid Ahmad, held in the:
 2
 3 Law Offices of
 4 Taylor & Rea
 5 3925 Old Lee Highway
 6 Suite 200
 7 Fairfax, Virginia 22030
 8 (703)385-3322
 9
 10 Pursuant to notice, before Jennifer A.
 11 Bosley, Court Reporter and Notary Public in and for the
 12 Commonwealth of Virginia, when were present:
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C O N T E N T S

2	EXAMINATION OF MUJAHID AHMAD	PAGE
3	By Mr. Rea	6
4	By Mr. McDonald	62
5	By Mr. Rea	207
6	E X H I B I T S	
7	(Attached to the Transcript)	
8	APPLICANT	PAGE
9	Exhibit 1 TESS	7
10		
11	OPPOSER	PAGE
12	Exhibit 1 Applicant's Responses to Opposer's	129
13	First Set of Interrogatories	
14	Exhibit 2 List of Websites	135
15	Exhibit 3 Virginia Code § 59.1-69	163
16	Exhibit 4 Applicant's Responses to Opposer's	165
17	First Set of Document Requests to	
18	Applicant	
19	Exhibit 5 Service Mark Principal Register	169
20	Exhibit 6 5/12/10 Letter From Rick Ritter	175
21	Exhibit 7 Penalty for Violation	178
22	Exhibit 8 Reciprocity Applicant Instructions	179

<p>5</p> <p>1 EXHIBITS CONTINUED</p> <p>2 OPPOSER PAGE</p> <p>3 Exhibit 9 Salesperson and Associate Broker 182</p> <p>4 License by Reciprocity & Upgrade</p> <p>5 Application</p> <p>6 Exhibit 10 Experience Verification Form 183</p> <p>7 Exhibit 11 Firm License Application 183</p> <p>8 Exhibit 12 2007 Annual Report of the Bureau of 184</p> <p>9 Financial Institutions</p> <p>10 Exhibit 13 NationStar Mortgage, Inc. Website 188</p> <p>11 Exhibit 14 MRIS Report 190</p> <p>12 Exhibit 15 Commonwealth of VA Certification 192</p> <p>13 Exhibit 16 State of MD License, Registration 194</p> <p>14 or certification</p> <p>15 Exhibit 17 Mortgage Broker License 195</p> <p>16 Exhibit 18 4/11/06 Letter Re: 196</p> <p>17 Nationsartmortgage.com and</p> <p>18 Nationstarmortgage.net Domain Names</p> <p>19 Exhibit 19 4/18/06 Letter Re:</p> <p>20 Nationstarmortgage.com and .net Domain</p> <p>21 Names 198</p> <p>22 Exhibit 20 Government of the D.C. Certificate 200</p>	<p>7</p> <p>1 Q And are you a citizen of the United States?</p> <p>2 A Yes, I'm a citizen the United States.</p> <p>3 Q And is English your native language?</p> <p>4 A No, sir.</p> <p>5 Q What is your native?</p> <p>6 A My native language is Pashdo [sic] and Urdu.</p> <p>7 Q And could you briefly describe your</p> <p>8 educational background.</p> <p>9 A I have a bachelor's in civil engineering,</p> <p>10 and I also have a masters's computer information</p> <p>11 systems and technology.</p> <p>12 Q And would you also describe your employment</p> <p>13 background.</p> <p>14 A After I finished my studies, I started</p> <p>15 working with Lockheed Martin. And then after that, I</p> <p>16 doing real estate.</p> <p>17 MR. REA: I'd like the court reporter to</p> <p>18 mark as Exhibit 1 the pages Bates sampled APP0001</p> <p>19 through APP 00063?</p> <p>20 (Applicant Exhibit 1 was marked for</p> <p>21 identification and was attached to the</p> <p>22 transcript.)</p>
<p>6</p> <p>1 MUJAHID AHMAD</p> <p>2 having been duly sworn, testified as follows:</p> <p>3 EXAMINATION BY COUNSEL FOR THE APPLICANT</p> <p>4 BY MR. REA:</p> <p>5 Q Please state your full name.</p> <p>6 A My name is Mujahid Ahmad. And address 2001</p> <p>7 North Daniel Street, Arlington, Virginia. And zip</p> <p>8 code is 22201.</p> <p>9 Q My name is Patrick Rea. I'm with the law</p> <p>10 firm of Taylor & Rea, 3925 Old Lee Highway, Suite 200,</p> <p>11 Fairfax, Virginia 22030. And I'm the attorney for the</p> <p>12 applicant, Mr. Ahmad.</p> <p>13 MR. MCDONALD: I am Bruce McDonald with the</p> <p>14 law firm of Buchanan, Ingersoll & Roone representing</p> <p>15 the opposer. Of office is at 1737 King Street,</p> <p>16 Alexandria, Virginia 22314.</p> <p>17 BY MR. REA:</p> <p>18 Q Mr. Ahmad, where and when were you born?</p> <p>19 A I was born in Pakistan. And I was born on</p> <p>20 February 13, 1972.</p> <p>21 Q And when did you move to the United States?</p> <p>22 A Came to the United States in 1991.</p>	<p>8</p> <p>1 BY MR. REA:</p> <p>2 Q Mr. Ahmad, please refer to the documents</p> <p>3 marked APP0001 and 0002.</p> <p>4 What are these documents.</p> <p>5 MR. MCDONALD: I object on the lack of</p> <p>6 foundation to show that he knows what they are.</p> <p>7 MR. REA: Sure.</p> <p>8 MR. MCDONALD: Is --</p> <p>9 BY MR. REA:</p> <p>10 Q Mr. Ahmad, have you ever made an application</p> <p>11 for a trademark?</p> <p>12 A Yes, sir, I did.</p> <p>13 Q And would you, please, refer to documents</p> <p>14 APP0001 and APP0002.</p> <p>15 A This is actual application that I filed with</p> <p>16 the United States Patent and Trademark Office. It's</p> <p>17 an electronic printout of that.</p> <p>18 Q So you the applicant for both the trademarks</p> <p>19 described on these pages?</p> <p>20 A Yes, sir, I am.</p> <p>21 Q And who now owns these application?</p> <p>22 A I owe them, sir.</p>

<p>9</p> <p>1 Q Does the anyone else have an ownership 2 interest in the applications? 3 A No, sir. 4 Q Would you read what the trademark, the words 5 that constitute the trademark? 6 A Which one, sir? Okay it says, Nationstar. 7 Q Can you describe how the Nationstar mark was 8 conceived? 9 A Yeah. When I was starting my real estate 10 business, I always wanted to have my own business. 11 And I was trying to choose a name for my 12 company. So I thought about many names. And I 13 checked them online. I checked them with the SCC 14 which is the State Corporation Commission. I talked 15 to some friends. And Nationstar was the name that I 16 chose for my company. And I checked it. It was 17 available. And no one had it, so I chose that name. 18 Q Did anyone assist you? 19 A No, sir. 20 Q When did you first conceive the Nationstar 21 name? 22 A I believe it is the end of 2004 beginning of</p>	<p>11</p> <p>1 Q Did you have assistance in preparing your 2 trademark applications? 3 A No, sir. I did everything by myself. 4 Q Have you ever applied for a trademark prior 5 to these two applications? 6 A No, sir. 7 Q Did you commission a trademark search prior 8 to filing your applications? 9 A Yes, sir. I went to the United States 10 Patent and Trademark office website. And I read some 11 materials. And I did a search to check if anyone had 12 the name, Nationstar Mortgage, which no one had it at 13 the time. 14 Q Did you ask any outside party to perform a 15 search? 16 A No, sir. I did it by myself. 17 Q Okay. During the course of this opposition 18 proceeding, you amended your application to change the 19 filing basis from actual use to intent use. 20 Why did you amend your application? 21 A The reason I amended only because of the 22 recommendation of my previous lawyer, named Stephanie</p>
<p>10</p> <p>1 2005, in that time range. 2 Q Referring again to the documents APP0001 and 3 0002, there is a description of services provided on 4 these marks. 5 Would you read the list of services. 6 A Sure, sir. The Goods and Services on the 7 document APP0001. It's a "Real estate agent services, 8 real estate consultancy, financial consultancy, real 9 estate management, and advisory services related 10 thereto." 11 And document APP0002, the goods and services 12 are, "Real estate brokerage, rental of real estate, 13 real estate management services, namely management of 14 commercial and residential properties, real estate 15 investment; residential and commercial property and 16 insurance brokerage, mortgage brokerage, and business 17 finance procurement services." 18 Q Where did this list or these two lists of 19 services come from? 20 A These are the services that I provide in 21 relation to my business under the name of Nationstar 22 to my clients.</p>	<p>12</p> <p>1 Carmody, and she was working with Steptoe & Johnson. 2 It's a law firm. 3 Q Do you know why she recommended this change? 4 A Yeah, she said -- she's an attorney. So I 5 guess she know it best. She said this is a only way 6 that maybe we can finish this opposition sooner than 7 later. And it will not change anything. 8 And I told her specifically that I was using 9 the mark and I will be using the mark, and I don't 10 want to change it. But she say, No, it will not make 11 any difference. It's better that I change it just to 12 finish with the case sooner than later. 13 Q Please refer to documents APP00033 through 14 11, 00011. 15 A These are my real estate licenses from 16 different jurisdictions such as Virginia, D.C., and 17 Maryland. 18 Q Okay. Specifically document APP0003, 0003, 19 what is that document? 20 A Document APP0003, it's a real estate license 21 from the Commonwealth of Virginia. 22 Q In the upper left corner, there is a box</p>

13

1 labeled, Expires on.
2 What's the date written in that box?
3 **A The expiration date is the 9/30/2006.**
4 Q September 30th, 2006?
5 **A That's right, sir.**
6 Q This is a license for what?
7 **A This a real estate license for real agent.**
8 **And they usually issue these licenses to real estate**
9 **agent on the basis of two-year time period.**
10 Q So the term of the license?
11 **A It's for two years.**
12 Q Please refer to documents 0004 and 0005.
13 What are those documents?
14 **A Document APP0004, it's also a real estate**
15 **license from the Commonwealth of Virginia. And it has**
16 **expiration date of September 9, 2008. And document**
17 **Number APP0005 it's also license from Commonwealth of**
18 **Virginia. It's a real estate license also. And**
19 **expiration date on that one is September 30th, 2010.**
20 Q Do you believe that these expiration dates
21 are consistent with the two-year term for real estate
22 salesperson license?

14

1 MR. MCDONALD: I object the grounds of
2 relevance. They are showing that Mr. Ahmad's
3 licensure under the name of First American Real Estate
4 is proactive of his use of the Nationstar trade name.
5 MR. REA: Objection noted. Go ahead.
6 **A Yeah, they are consistent with the two years**
7 **license that is issued by the Commonwealth of**
8 **Virginia. They usually issue these license for every**
9 **two years.**
10 **BY MR. REA:**
11 Q If the license is good for two years, then
12 referring beck to APP0003, approximately when would
13 that license have been issued?
14 MR. MCDONALD: I object on the grounds of
15 best evidence. If the testimony is to show when the
16 license was issued, the document showing the issuance
17 of the license ought to be introduced.
18 MR. REA: Objection noted.
19 **A APP0003, it's a license -- salesperson**
20 **license from Commonwealth of Virginia expiration date**
21 **September 9, 2006. And this license was issued on the**
22 **month September 2004 because the issue date is usually**

15

1 **two years prior than the expiration date.**
2 **BY MR. REA:**
3 Q Is that date consistent with your memory of
4 when this license was issued?
5 **A Yes, sir. It was issued in September 2004,**
6 **yeah.**
7 Q If we could refer to documents APP0012.
8 **A Okay.**
9 Q What is this document?
10 **A APP00012 is a document that is a certificate**
11 **of membership from NVAR which is Northern Virginia**
12 **Association of relators.**
13 Q And whose membership certificate is this?
14 **A This is my membership.**
15 Q And what's the date of that certificate?
16 **A The date is December 2nd, 2004.**
17 Q Did you, in fact, join NVAR?
18 **A Yes, sir. Everybody who is a real estate**
19 **agent in the Commonwealth of Virginia, they have to**
20 **join NVAR to be a member of Northern Virginia**
21 **Association of Realtors.**
22 Q And is this date of December 2nd, 2004

16

1 consistent with your memory of when you joined NVAR.
2 On the membership certificate, would you,
3 please, read the three lines beginning with your name.
4 **A Starting from my name?**
5 Q Yes.
6 **A Mujahid Ahmad was elected realtor member and**
7 **is entitled to all the rights, benefits, privileges of**
8 **such membership.**
9 Q Do you know the significance given to the
10 word, realtor, with a circle "R" next to it?
11 **A Yes, sir, when you join NVAR and you become**
12 **a member of NVAR, then you are authorized to use the**
13 **word of realtors, and you can present yourself to the**
14 **public as a realtor.**
15 Q Why would a real estate agent join NVAR?
16 **A Because it shows to the public that the real**
17 **estate agent is a member of NVAR.**
18 Q What is the MRIS?
19 **A MRIS is multiple listing system which is**
20 **also called MLS or sometimes is known as MRIS which**
21 **means Metropolitan Real Estate Information System.**
22 **It is a system that agents use to get access**

17

1 **to different listings on the line. The properties**
2 **that are wherever they are sold. And that's what we**
3 **use to buy, sell, and rent properties throughout that**
4 **system.**
5 Q Who may access MRIS?
6 A **Only real estate agents can do that.**
7 Q Must a real estate agent be a member of NVAR
8 to access MRIS?
9 A **Yes, sir. He or she has to be a member of**
10 **NVAR to access MRIS.**
11 Q And what is a central lock.
12 A **Central lock is a system that is provided to**
13 **real estate agents to get access to the properties.**
14 **It is either in the form of credit card. It can be a**
15 **key access to use with the lock boxes that are put on**
16 **the properties to get inside the property and show the**
17 **properties to the clients.**
18 Q And who has access to the central access?
19 A **Only the real estate agents and brokers.**
20 Q Must a real estate agent be a member NVAR?
21 A **Yes, sir. They have to be a member of NVAR.**
22 Q To access --

18

1 A **To get access to MRIS.**
2 Q If you would refer to document APP0013.
3 What is this document?
4 A **The document APP0013 is a document issued by**
5 **Northern Virginia Association of Realtors to me to be**
6 **a member of Multi-Million Dollar Sales Club Member.**
7 Q And to the best of your knowledge, does NVAR
8 present such awards to non-members?
9 A **No, sir, they do not. You have to be a**
10 **member of NVAR.**
11 Q Referring back to APP000311 which you
12 testified were real estate licenses, on each of these
13 licenses below your name is the name of a company.
14 What's the name of that company?
15 A **First American Real Estate.**
16 Q And what is First American Real Estate?
17 A **First American Real Estate is a broker --**
18 **real estate broker.**
19 Q And what's your relationship with First
20 American?
21 A **I'm an independent contractor with the First**
22 **American Real Estate as a salesperson.**

19

1 Q And why do you have that relationship?
2 A **When you become a real estate agent, you**
3 **have to join and be associated with real estate broker**
4 **as an independent contractor. It can be anyone as**
5 **long as he or she is a broker. You have to join a**
6 **brokerage firm.**
7 Q Why?
8 A **A real estate salesperson by himself cannot**
9 **open an and cannot do any transaction if he or she is**
10 **not associated with a broker. And everyone has to be**
11 **associated with a broker.**
12 Q Please refer to documents APP0014 and
13 APP0015.
14 What are these documents?
15 A **APP00014, it's 1099 from year 2005 issued by**
16 **First American Real Estate to me.**
17 Q And on document APP0014, please refer to box
18 seven. What's written in box seven?
19 A **Box 7 is nonemployee compensation.**
20 Q And there is a number?
21 A **Yes. There is a number 72,433.37. This is**
22 **the amount listed on box 7 which says nonemployee**

20

1 **compensation.**
2 Q And do the forms 1099 at APP00014 and
3 APP00015 list all the compensation you have received
4 from First American during 2005 and 2006?
5 A **Yes, sir.**
6 Q There was no employee compensation wages
7 such as a W-2, form W-2?
8 A **No, sir.**
9 Q Okay. If you could refer to pages APP00016
10 through APP00023.
11 Can you tell me what these documents are.
12 A **These documents are advertising done by the**
13 **real estate salesperson.**
14 Q And do you know the source of these
15 documents?
16 A **I think they are online printouts of real**
17 **estate agents' advertisements.**
18 Q And, please, refer to the first two
19 documents, APP00016 and 17. Specifically, what are
20 these pages?
21 A **APP00016 it's a flyer by real estate**
22 **salesperson or a group of real estate salespersons.**

21

1 **And document APP00017 has the name of the broker, Long**
2 **& Foster.**
3 Q So in this advertisement, who would be the
4 salesperson or persons?
5 A **Alexander & Associates would be the**
6 **salesperson, and Long & Foster would be the broker.**
7 Q And how do you know that?
8 A **Yeah because I know that Long & Foster is a**
9 **broker, and salesperson work for that brokers firm.**
10 **Alexander & Associates, it is a common practice in the**
11 **real estate business that every real estate person,**
12 **they advertise their services different from the**
13 **brokerage firm.**
14 Q If you refer to Pages 18 and 19.
15 What are these pages?
16 A **Pages APP00018 and APP00019, it's also a**
17 **real estate salesperson advertisement. And either an**
18 **online printout, and the salesperson is Creig Northop**
19 **Team. These are advertisement done by real estate**
20 **persons.**
21 Q Is there a broker listed in this
22 advertisement?

22

1 A **At the bottom it says, Long & Foster.**
2 Q You know them to be a broker?
3 A **That's right, I know them to be a broker.**
4 Q If you refer to Pages 20 through 23, can you
5 describe these pages.
6 A **These pages are also advertisement by**
7 **different real estate salespersons to advertise their**
8 **services to general public. And it seems like they're**
9 **also printouts of different flyers by real estate**
10 **salespersons.**
11 MR. MCDONALD: I object to this entire line
12 of questioning on the grounds that these documents
13 have not been previously disclosed.
14 And I state as part of that objection
15 that the documents that were supplied to us that
16 were marked by serial numbers APP00022 and other
17 numbers -- they are different numbers than the
18 ones that we are being presented with right now.
19 MR. REA: I don't quite understand.
20 MR. MCDONALD: In the documents that were
21 produced in the discovery responses AP number 22 was a
22 HUD-1 settlement statement. And in the documents that

23

1 you're appending today, your Bates numbers are
2 entirely different from the ones that were produced in
3 discovery.
4 And I don't believe that the documents
5 that you are referring to today marked APP 16, 17,
6 18, 19, 20, 21, 23, I don't believe that these
7 documents have been disclosed to the opposer
8 previously. I may be mistaken, but I don't
9 believe so. Can you address that, please.
10 MR. REA: Yes. I didn't do the Bates
11 numbers on the previous documents. And I am not
12 totally familiar with those discovery responses.
13 What we produced here are documents that
14 have Bates numbers for purposes of this deposition
15 only --
16 MR. MCDONALD: But they haven't been
17 disclosed to the opposer previously.
18 MR. REA: The specific documents that we're
19 dealing with right now, the Internet website pages are
20 not responsive to any of the discovery requests.
21 Those documents were provided in conjunction with the
22 summary judgment motion that known at one time with

24

1 the exception of the documents relating to Melinda
2 Estridge which were just printed yesterday. And the
3 reason they were printed yesterday was just to make
4 them a more legible copy.
5 MR. MCDONALD: So your contention then is
6 that the documents to which you're referring today
7 marked APP16, 17, 18, 19, 10 -- excuse me, let me
8 start that over.
9 You're telling me as I understand it
10 that the documents that you're referring to today
11 marked APP16, 17, 18, 19, 20, 21, 22, and 23 you
12 acknowledge that they are disclosed today for the
13 first time; but you contend that they were not
14 responsive to any of our document requests; is
15 that correct?
16 MR. REA: Correct.
17 MR. MCDONALD: Well, that's absurd. And we
18 asked for all the documents that support your position
19 that the Nationstar mark is commercially used.
20 I don't understand how you claim that
21 these is documents weren't responsive to our
22 previous request. That makes no sense.

25

1 MR. REA: Which requests do you think
2 they're responsive to?
3 MR. MCDONALD: All right. Let's go through
4 them.
5 MR. REA: Let's move beyond this. We can
6 argue this --
7 MR. MCDONALD: All right. Well, we do note
8 that objection.
9 MR. REA: Okay.
10 BY MR. REA:
11 Q Okay. Referring back to APP00020 and the
12 following pages the 21, 22, 23 -- and through 23, what
13 are these documents?
14 **A These are documents produced by different**
15 **real estate salesperson to advertise their services to**
16 **their clients. And these are printouts of the website**
17 **for different salespersons.**
18 MR. MCDONALD: Excuse me, I object. I
19 demand a proffer on these documents. Is it the
20 applicant's contention that these documents are being
21 introduced to show that the applicant has used the
22 name, Nationstar?

26

1 MR. REA: These documents -- well, we're not
2 going to do a proffer. We can deal with that if the
3 judge says we have to do deal with that.
4 BY MR. REA:
5 Q Please answer the question.
6 **A Yeah, these documents APP00020, 21, 22, and**
7 **23, these are the advertisement done by salesperson**
8 **working for different brokerage firm to provide their**
9 **services under their known names to get clients and**
10 **customers. And these are printouts of the Websites**
11 **done by these salespersons.**
12 Q And who would be the salesperson?
13 **A The salesperson in this case is Melinda**
14 **Estridge.**
15 Q And who would be the broker?
16 **A The broker is also Long & Foster in this**
17 **case.**
18 Q In your experience, is it unusual for a real
19 estate salesperson to advertise in a way that
20 establishes an identity separate from the broker?
21 **A No, sir. Is it a common practice. And most**
22 **of the real estate agents, they advertise themselves**

27

1 **as independent from the broker to provide services.**
2 Q Why would an agent do that?
3 **A Because agent is the one that gets the**
4 **clients and customers. And then the broker does not**
5 **provide any business. Real estate agents the one**
6 **provide business to the broker, and the broker get a**
7 **commission from the real estate agent.**
8 Q Do real estate agents -- are they allowed to
9 change brokers?
10 **A Yes, sir, they are.**
11 Q So real estate agents who moved from one
12 broker to another would take their separate identity
13 with them?
14 **A That's right, sir, yeah.**
15 Q In late 2004 when you became a real estate
16 agent, how did you promote your business?
17 **A I promoted my business independently from my**
18 **broker. I was advertising my services under the name**
19 **of the Nationstar. And I was advertising it through**
20 **business cards to postcards through flyers, through**
21 **referrals, and also through friends, and through word**
22 **of mouth.**

28

1 Q Would you, please, refer to the document
2 that APP00024.
3 What is this document?
4 **A This is my business card under the name of**
5 **Nationstar Real Estate.**
6 Q And what did you use this card for?
7 **A I used this to get clients and customer to**
8 **provide them services of real estate transactions.**
9 Q And who designed the card?
10 **A I designed the card.**
11 Q And where did you get the card?
12 **A I designed it by myself. And then I took to**
13 **it a local printing place where they print it.**
14 Q When, what time frame did you use this card?
15 **A The beginning of 2005.**
16 Q Okay. In the upper -- the uppermost word on
17 the card is, Nationstar.
18 Have you always used the word, Nationstar,
19 on your business cards?
20 **A Yes, sir, I did.**
21 Q Below your name is the word, Realtor, with
22 and "R" in the center indicating that it's a

29

1 registered trademark?

2 **A Yes, sir.**

3 Q What authority did you have to use the mark,

4 Realtor?

5 **A I'm a Realtor salesperson and I'm also a**

6 **member of NVAR which is Northern Virginia Association**

7 **of Realtors.**

8 **By becoming a real estate agent and joining**

9 **NVAR, I'm authorized to use the sign of realtor and**

10 **present myself to public and customers and clients**

11 **that I'm a realtor and I want to provide services to**

12 **them related to real estate transactions.**

13 Q Did any party ever dispute your authority to

14 use the mark, Realtor?

15 **A No, sir.**

16 Q Please refer to document APP00025.

17 What's this document?

18 **A This is also a business card under the name**

19 **of Nationstar.**

20 Q When did you begin using this business card?

21 **A In the beginning of 2005.**

22 Q And below your picture are the words,

30

1 Nationstar Mortgage, Inc.

2 What is Nationstar Mortgage, Inc.?

3 **A Nationstar Mortgage is a mortgage company,**

4 **and it's also a real estate company under the name of**

5 **Nationstar.**

6 Q And please refer to the document at

7 APP00026.

8 What is this document?

9 **A This is also a business card, my business**

10 **card under the name of Nationstar.**

11 Q When comparing 00025 to 00026, the words,

12 Nationstar, appear in a different font.

13 Are there any other differences between

14 these cards?

15 **A No, sir.**

16 Q And would you ascribe, then, a significance

17 to the difference in the fonts on these two cards?

18 **A No, sir, there is no difference. Both of**

19 **them says, Nationstar. They are just different fonts,**

20 **and they are produced at different time. That's it.**

21 Q I'm sorry, you said produced at different

22 times?

31

1 **A Yeah, that's right.**

2 Q Would you refer to the document APP00027.

3 What is this document?

4 **A This is a postcard under the name of**

5 **Nationstar Real Estate that I advertise my services to**

6 **general public as a real estate salesperson.**

7 Q And who designed these cards?

8 **A I went to a local place. They designed it**

9 **for me.**

10 Q And how did you use these cards?

11 **A I mailed these postcards to my clients and**

12 **prospects to get business.**

13 Q When did you first begin using these cards?

14 **A I also start using them beginning of 2005.**

15 Q In the top center of the cards the word,

16 Nationstar, did you have any other cards without the

17 word, Nationstar?

18 **A No, sir.**

19 Q In the lower right corner of the document is

20 the date January 2005.

21 What is the significance of that date?

22 **A January 2005 is the date when this card was**

32

1 **produced.**

2 Q Is it your practice to date materials like

3 this?

4 **A Yes, sir.**

5 Q And, please, refer to APP00028.

6 What is this document?

7 **A This is also another mailing postcard under**

8 **the name of, Nationstar Real Estate to be sent to my**

9 **clients and prospects for real estate business.**

10 Q And did you use APP0028 any differently than

11 APP000027?

12 **A They are just different styles that I used**

13 **it for the same purpose of promoting my business under**

14 **the name of Nationstar.**

15 Q And the lower left corner APP00028 is the

16 date April 2005.

17 What is the significance of that date?

18 **A April 2005 means that this card was produced**

19 **on that date which was April 2005.**

20 Q Please refer to the documents APP00029

21 through 00035.

22 What are these documents?

33

1 **A These are different flyers under the name of**
2 **Nationstar that were used for the promotion of my**
3 **business under the name of Nationstar.**
4 Q And how did you use these flyers?
5 **A I give it individually to some of my**
6 **clients, and also I put them in different business**
7 **places for people to see it and then call me if they**
8 **need any business transaction.**
9 Q And who designed these flyers?
10 **A I designed these, sir.**
11 Q And when did you begin using these flyers?
12 **A In the beginning of 2005, sir.**
13 Q Written in the lower, right corner of the
14 flyers are the words, Nationstar Mortgage, Inc.
15 Do you see that?
16 **A Yes, sir.**
17 Q Did you use any flyers without the words,
18 Nationstar Mortgage, Inc.?
19 **A No, sir. I always use put the name,**
20 **Nationstar Mortgage; and I never used without the**
21 **name, Nationstar.**
22 Q APP00030 through APP00035 have dates in the

34

1 lower, left-hand corner as early as December 2004 and
2 as late as 2006.
3 What's the significance of those dates?
4 **A These are the dates that these flyers were**
5 **produced. And they were sent -- and also advertised**
6 **by real estate business under the name of Nationstar**
7 **at different times.**
8 Q And please refer to documents APP00036
9 through 00043.
10 **A These are actual mailing letters under the**
11 **name of the Nationstar Mortgage that were sent to my**
12 **clients and different prospects to promote my business**
13 **under the name of Nationstar at different times, sir.**
14 Q Referring to APP00036, what's the date of
15 that letter?
16 **A The date is March 25, 2005.**
17 Q And do you believe that's the date that the
18 letter was produced?
19 **A Yes, sir.**
20 Q And how did you go about preparing these
21 letters?
22 **A I produced them in my -- I prepared them by**

35

1 **myself at my computer. And then after that, I send it**
2 **to different clients at different times.**
3 Q Were these a bulk mailing, or did you mail
4 individual letters?
5 **A Most of them I would do not mailing -- not**
6 **bulk mailing, but I would do a few of them at a time.**
7 Q On APP00036, did you, in fact, mail this
8 letter to the address shown?
9 **A Yes, sir, I did.**
10 Q And you believe the March 25, 2005 date is
11 correct?
12 **A That's right, sir.**
13 Q Please refer to APP00044.
14 What is this document?
15 **A APP00044, it's a printout of all my**
16 **transaction done from period of 1/1/2004 to**
17 **12/31/2010. And it's a printout from MLRS system.**
18 Q And who produced this document?
19 **A I used it, sir.**
20 Q When did you produce this document?
21 **A Yeah, this was done recently. It says the**
22 **date is new, the ending date which is 12/31/2010, MLS**

36

1 **system, a system that they keep changing.**
2 **And this new version is that you have put**
3 **date, from what date to what date you want your**
4 **listing to be printout. So I think this is a recent**
5 **document.**
6 MR. MCDONALD: I object to the introduction
7 of this document on the grounds that it wasn't
8 provided to the opposer in discovery.
9 MR. REA: Objection noted.
10 BY MR. REA:
11 Q Do you believe this document is accurate and
12 complete?
13 **A Yes, sir.**
14 Q How many transactions are listed on the
15 document?
16 **A Fourteen transactions, sir.**
17 Q And the period covered by these transactions
18 was?
19 **A The period is from January 1st, 2004 to**
20 **December 31, 2010.**
21 Q **And what's the date of the earliest**
22 **transaction?**

37

1 **A The earliest date is February 10, 2005.**

2 Q In 13 of the 14 transactions, you're shown

3 as the selling agent.

4 What does the selling agent do?

5 **A Selling agent is a person that buys property**

6 **to his or her client, that produce -- that present**

7 **buyers.**

8 Q So what does a selling agent do? What

9 actual activities do you do?

10 **A Selling agent can do multiple activities.**

11 **They contact their clients, or their clients contact**

12 **them. They go and talk to them based on their needs.**

13 **We ask them specific question, what kind of**

14 **property you need, what kind of financial status you**

15 **have. We run their credit score to find out if he or**

16 **she is actually qualified.**

17 **We take them to different mortgage**

18 **brokers to qualify them, to get insurance for them.**

19 **We get hazard insurance for them. If there is a**

20 **private mortgage insurance, we also get that for them.**

21 **And based on that, we show them different**

22 **properties and if they like it and their financial**

38

1 **situation is okay, we buy the property for them.**

2 Q The very first transaction listed, the

3 address shown is 6401 Pioneer Drive?

4 **A Yes, sir.**

5 Q How did you meet the party you represented

6 in that transaction?

7 **A The property in this transaction, they were**

8 **looking for a house to buy; and I helped them to buy**

9 **this house.**

10 Q Do you know how they learned of you?

11 **A Yeah this -- saw one of my sign under the**

12 **name of Nationstar, and they contacted me through my**

13 **cell phone.**

14 Q Where did they see one of your signs?

15 **A Business cards that I usually put in**

16 **different stores and grocery stores, my flyers and**

17 **business card, and also I give it to my clients. So**

18 **somehow they saw one of them, and then they call me.**

19 Q **For that transaction sold date is shown**

20 **February 10, 2005.**

21 **What's the significance of the sold date?**

22 **A The actual sold date that is February 10,**

39

1 **2005, this is the day that this transaction was**

2 **closed.**

3 Q And what would have occurred prior to the

4 transaction closing?

5 **A Prior to this date, I would have to go and**

6 **meet with the clients, talk to them, how they want to**

7 **buy the house, how they're going to afford it, what**

8 **transaction they want to do, what place they what have**

9 **the house, what kind of houses.**

10 **Then I have to show them different houses**

11 **based on their personal needs. And it will take a**

12 **while before we come up with this transaction.**

13 **Then after that, we write a contract. We**

14 **apply for loan. And usually it takes a long time to**

15 **close this deal. So it's a lot of real estate duty**

16 **going on before it goes to actual closers.**

17 Q And in your experience, about how long would

18 that be?

19 **A It depends. If they have cash money they**

20 **wanted to provide, then the transaction would be**

21 **closed.**

22 **But also some houses getting finances, it**

40

1 **depends on the banks, how quick they can qualify those**

2 **clients and give them those funds. And also in some**

3 **instances they will do inspections. And it also**

4 **depends on the property and the seller.**

5 **If the seller wants to move from the house**

6 **even if we close, then they would give us time that**

7 **says a transaction can happen in one month, two month,**

8 **three month because we would like to live in that**

9 **house. Some of them takes quick; some of them takes**

10 **time.**

11 Q Is it one month, two months?

12 **A Yeah, I would say two months.**

13 Q Were you an independent contractor of First

14 American during the entire period of these

15 transactions?

16 **A Yes, sir, I was.**

17 Q Did you disclose to buyers or to your

18 customers at any point that you were an independent

19 agent of First American Real Estate?

20 **A The only time that we have to introduce**

21 **ourselves and tell them that we are independent**

22 **contractor if the closing actually happens, we have to**

41

1 **write a contract from them. If they like a property,**
2 **we write a contract, then that's the time we tell them**
3 **that we are independent contractor with a different**
4 **company.**
5 Q So it appears in the contract, or you
6 disclose at the time of the contract?
7 A **I disclose it to them, and we have to write**
8 **it on the contract too.**
9 Q Please refer to the document at APP00045.
10 What is this document?
11 A **This is a document from Commonwealth of**
12 **Virginia State Corporation Commission. And it's the**
13 **certificate of incorporation of Nationstar Mortgage.**
14 Q What is the date of this document?
15 A **May 19, 2006.**
16 Q Who prepared the articles of incorporation
17 for this entity?
18 A **I did, sir.**
19 Q Did in anyone assist you in the
20 incorporation?
21 A **No, sir.**
22 Q Why did you organize Nationstar Mortgage,

42

1 Inc. in May of 2006?
2 A **Yeah, because to incorporate a business is**
3 **not to so easy. You have to do a lot of research.**
4 **And I'm one only one person. I was doing everything**
5 **by myself.**
6 **So I had to ask questions. I didn't even**
7 **know what SCC is, where I should go, where I could do**
8 **it; so I have to talk to different brokers, real**
9 **estate agents, and my colleagues.**
10 **And then I came up with the idea one**
11 **separate time to go ahead and do it. And then I filed**
12 **my answer for Certificate of Incorporation with the**
13 **State of Corporation Commission for the Commonwealth**
14 **of Virginia.**
15 Q I'd like you to refer back to APP00030.
16 What is the date listed on that document?
17 A **It's a December 2004.**
18 Q Okay. How do you reconcile the use of the
19 name Nationstar Mortgage, Inc. on this document dated
20 2004 when you actually organized the company on
21 May 19th of 2006?
22 A **When you are in a real estate industry, it's**

43

1 **a common practice when you become a salesperson, you**
2 **can advertise yourself under different companies,**
3 **either real estate companies, or mortgage companies.**
4 **And when you get the clients and customers**
5 **based on their needs, if you have a business**
6 **relationship with different mortgage companies, you**
7 **take them and qualify them where is different mortgage**
8 **companies.**
9 **So even though you advertise yourself as a**
10 **company, it's not a necessity that you produced it**
11 **under the same name.**
12 Q What significance do you ascribe to the term
13 Inc., I-N-C?
14 A **I-N-C mean incorporated. It's a**
15 **corporation.**
16 Q In your document dated December 2004, you
17 have the words Nationstar Mortgage, Inc.; but there
18 was nothing incorporated at that point; is that
19 correct?
20 A **Yeah, sir, that's right. And I'm also only**
21 **one person. I'm not a lawyer. I didn't know how**
22 **business transaction works. And when I chose the**

44

1 **name, Nationstar, I chose it on the purpose because I**
2 **was using it at that time. And incorporated because I**
3 **always wanted to incorporate my business. That's why**
4 **I put my name under the name of Nationstar as**
5 **Nationstar Mortgage, Inc.**
6 MR. MCDONALD: Off the record.
7 (A brief break was taken.)
8 BY MR. REA:
9 Q Mr. Ahmad, it's my understanding, then, from
10 your testimony that you purposely used the words,
11 Nationstar Mortgage, Inc. on a flyer dated
12 December 2004 even though Nationstar Mortgage, Inc.
13 was not organized until May 19th, 2006.
14 Did I understand correctly?
15 A **That's right, sir. I was using since**
16 **December 2004 the name of Nationstar.**
17 Q Please refer to the documents APP00046
18 through APP00053.
19 A **Yeah, all these documents are mortgage**
20 **broker licenses under the name of the Nationstar**
21 **Mortgage, Inc. by different jurisdictions such as**
22 **Commonwealth of Virginia, Washington, D.C., and State**

45

1 of Maryland.

2 Q And, please, refer to specifically to

3 APP00046.

4 What is that document?

5 A APP00046 is a mortgage broker license under

6 the name of Nationstar Mortgage, Inc. And it's given

7 to me by the Commonwealth of Virginia, State

8 Corporation Commission.

9 Q And what is date of that document?

10 A The date is October 2006 -- excuse me, 24

11 day of October 2006 to be specific.

12 Q And was Nationstar Mortgage -- I'm sorry,

13 this is issued to what company?

14 A This is issued to Nationstar Mortgage, Inc.

15 Q And was Nationstar Mortgage Inc. licensed

16 before as a mortgage broker before the date of this

17 document?

18 A Not before this date because it was in the

19 process. It's a long process, a lengthy process. You

20 have to apply to them. They investigate you. They

21 interview you. And they check all your financial

22 status and everything. And after that when they

46

1 satisfy the rules and regulation, then they give you

2 this license which is not an easy license to get.

3 It's very hard to get.

4 Q If you could once again refer to the

5 document, APP00030.

6 What are the two words written below your

7 name in the lower, right corner?

8 A Mortgage broker.

9 Q And what's the date listed in the lower,

10 left corner of this document?

11 A December 2004.

12 Q How do you reconcile the words, mortgage

13 broker, under your name and the date December 2004 if

14 Nationstar Mortgage, Inc. was not licensed a mortgage

15 broker before October 24, 2006?

16 A I was a real estate agent in the beginning

17 of -- since September 2004, and I was advertising

18 myself as an independent contractor, as an independent

19 real estate agent and a mortgage broker also under the

20 name of Nationstar Mortgage.

21 When the client would come to me, I would --

22 if they would need any loan, we have relationship with

47

1 different mortgage companies.

2 We would take them to them, and they would

3 produce the loan. So we don't have to produce it

4 under their own name. That's a common practice in

5 real estate. One agent can be associated with

6 different mortgage brokers, and no license was needed

7 at that time.

8 Q Do you believe that all services described

9 as being a mortgage broker require a mortgage broker

10 license?

11 A No, sir, not all the services. There are

12 certain services that you can do under real estate

13 salesperson which are not required under the mortgage

14 broker.

15 Q Please refer to documents -- I apologize for

16 this the Bates stamping appeared with the date. But

17 it's 0054 through 0058.

18 MR. REA: Bruce, would you object if we just

19 mark these Bates stamp numbers by hand on the exhibit?

20 MR. MCDONALD: No.

21 BY MR. REA:

22 Q If I could have the exhibit.

48

1 What are these documents?

2 A These documents are the actual printout from

3 Internet from the website of Network Solutions that

4 shows different domain names that are registered to my

5 name such as Nationstarmortgage.com,

6 Nationstarmortgage.net, Nationstar.org,

7 Nationstarrealestate.com, Nationstarrealestat.net.

8 Q Please refer to APP00054.

9 What domain name is this in reference to?

10 A APP00054 reference to a domain name of

11 Nationstarmortgage.com.

12 Q And who is shown as the owner of that domain

13 name?

14 A I am the owner of that domain name.

15 Q And on what date does it show the ownership

16 was established?

17 A The ownership was established on 4, April,

18 2005.

19 Q And do you still own that domain name?

20 A Yes, sir, I do.

21 Q Please refer to APP00055.

22 Which domain name does this refer to?

49

1 **A APP00055 refers to the domain name**
2 **Nationstarmortgage.net.**
3 Q And who is shown as the owner of that name?
4 **A I am the owner of that domain, sir.**
5 Q And on what date was the ownership
6 established?
7 **A 04, April 2005.**
8 Q And do you still own that domain name?
9 **A Yes, sir, I do.**
10 Q Please refer to APP00056.
11 Which domain name is this related to?
12 **A APP00056 refers to domain name of**
13 **Nationstar.org.**
14 Q And who is show as the owner of that domain
15 name?
16 **A I am the owner of that domain name, sir.**
17 Q On what date was the ownership established?
18 **A It was created and established on 25th,**
19 **April 2005.**
20 Q And do you still own that domain name?
21 **A Yes, sir, I do.**
22 Q Please refer to APP00057.

50

1 Which domain name does this relate to?
2 **A APP00057 a reference of a domain name of**
3 **Nationstarrealestate.com.**
4 Q And whose shown as the owner of that domain
5 name?
6 **A I am the owner of that domain, sir.**
7 Q And on what date was the ownership
8 established?
9 **A It was established on the 25th of April,**
10 **2005.**
11 Q And do you still own that domain name?
12 **A Yes, sir, I do.**
13 Q Please refer to APP00058.
14 Which domain name does this refer to?
15 **A APP00028 reference to a domain name of**
16 **Nationstarrealestate.net.**
17 Q And who is shown as the owner of that domain
18 name?
19 **A I am the owner of this domain, sir.**
20 Q And on what date was the ownership
21 established?
22 **A Is was established on 25th of April, 2005.**

51

1 Q And do you still own that domain name?
2 **A Yes, sir, I do.**
3 Q What caused you to acquire ownership of all
4 these names in April of 2005?
5 **A Yeah, because I was using the name as a real**
6 **estate and mortgage broker under the name of**
7 **Nationstar; so I create and acquired all these names**
8 **to use with my business.**
9 Q Please refer to the document APP00059.
10 Can you describe this document?
11 **A APP00059 is an Internet printout of Internet**
12 **archive Wayback, W-A-Y-B-A-C-K, machine printout.**
13 Q And do you see the domain name that this
14 particular document relates to?
15 **A Yes, sir. The domain name on this document**
16 **that refers to is Nationstarmortgage.com.**
17 Q And based on this document, what is the
18 earliest date that web contact was provided to this
19 website?
20 **A On this document, I think the earliest date**
21 **is February 12th, 2007.**
22 Q Is this consistent with your memory?

52

1 **A Im not sure exactly. But the date shows**
2 **that it's February 12, 2007.**
3 Q Is there a reason that you waited
4 approximately three years assuming this date is
5 correct from the time you acquired the domain name
6 until you posted content?
7 **A No, sir, there is no reason. I'm only one**
8 **person, and I do everything by myself. And I do**
9 **research, and I do all things by myself. And these**
10 **things are not easy. Takes time. It costs money.**
11 **And since I was doing my business, and I was**
12 **promoting through flyers, business cards, referrals,**
13 **through word of mouth, to postcards, mailings, and**
14 **letters, I thought at that time there was necessity**
15 **for me to have a website because I was in the process**
16 **of doing it. And that's how I produce it later on.**
17 Q Please refer to documents APP00060 and
18 00061.
19 What are these documents?
20 **A Document APP00060 is a letter from Buchanan**
21 **Ingersoll firm that was sent to me at my address.**
22 Q And what's the nature of these letters?

53

1 **A The letter says that it is there intention**
2 **to acquire and buy my name if I'm interested to sell**
3 **it to them.**
4 Q Which name is that?
5 **A Nationstarmortgage.com and**
6 **Nationstarmortgage.net domain names.**
7 Q These letters indicate that Buchanan
8 Ingersoll is writing on behalf of a client.
9 Do you know who the client was?
10 **A No, sir, I didn't know who the client was.**
11 Q Did you have any discussions with
12 representatives from Buchanan Ingersoll?
13 **A I never had any discussion. But the only**
14 **time I received a call working for Buchanan Ingersoll,**
15 **his name was Bassam Ibrahim. And he called me on my**
16 **cell phone and told me if I received any letters.**
17 **Then I checked my mail, and I found these**
18 **letters. And he said if I'm interested to sell my**
19 **business to them. And I told him I am doing my own**
20 **business under the name of Nationstar. And that's my**
21 **company, that's my name. And I'm not interested to**
22 **sell it to them.**

54

1 Q You filed the two trademark applications
2 indicated on Pages 0001 and 0002 several days after
3 the date of the letters from Buchanan Ingersoll.
4 Is there any relationship between being
5 contacted by Buchanan Ingersoll in filing these
6 applications?
7 **A No, sir.**
8 Q How do you explain the close proximity in
9 dates?
10 **A Yeah, but I was in the process of filing an**
11 **application in the United States Patent and Trademark**
12 **office. But I'm not an attorney. I'm only one**
13 **person. I was doing it one step at a time.**
14 **I'm going online because I'm not a**
15 **businessman either. Before this business of real**
16 **estate, I never own any business.**
17 **So I had to ask from my broker. I had to**
18 **ask different people are running their businesses how**
19 **to acquire and what is the best way to have a**
20 **trademark or which place you have to go in the**
21 **District.**
22 **And on one step at a time, I checked online.**

55

1 **I went to State Corporation Commission Websites. I**
2 **talked to the people at State Corporation Commission.**
3 **I checked United States Patent and Trademark office**
4 **what is a way to file an application and how do it.**
5 **And it took me a long time to do it. So**
6 **eventually when I find out how to do it, I went online**
7 **and I did it by myself.**
8 Q So it's your testimony that the timing is
9 strictly coincidental?
10 **A That's correct, sir.**
11 Q Are you acquainted with an individual called
12 Abid Hussain?
13 **A Mr. Abid Hussain, he's my client. I bought**
14 **him a house.**
15 Q When did you meet him?
16 **A I met him in the beginning of 2005, maybe**
17 **late 2004.**
18 Q And how did you meet him?
19 **A I met him through one of my friend that he**
20 **knew that I told him that I was a real estate and a**
21 **sales agent and also a mortgage broker. I asked him**
22 **for any business, any clients that would be interested**

56

1 **to buy or sell any property regarding real estate**
2 **transaction. He was the one who got my number. And I**
3 **talked to him, my business card to him, and he**
4 **contacted me.**
5 Q Please refer to document APP00063.
6 What is this document -- I'm sorry 62.
7 **A Yeah. Document APP00026, it's a settlement**
8 **statement which is also called HUD statement for**
9 **Mr. Abid Hussain.**
10 Q And were you Mr. Hussain's real estate agent
11 for this transaction?
12 **A Yes, sir, I was.**
13 Q And as Mr. Hussain's agent, what services
14 did you provide to him?
15 **A I provided to him multiple services.**
16 **He wanted to by a house. He came to me. I**
17 **talked to him and I told him what area he wanted to**
18 **buy a house, what are his specific needs. Based on**
19 **his financial status, his credit report, I told him**
20 **what is the best area to buy a house and what house**
21 **that he can afford.**
22 **And at the current time, he was living in**

57

1 **his condominium. I give him an option to manage that**
2 **property for him, to find tenant for that property.**
3 **And also I told him that the best way would**
4 **be to get money from the condo so he can put a down**
5 **payment on the house. And eventually I helped him to**
6 **buy the house.**
7 Q And you testified that Mr. Hussain owned a
8 condo?
9 A Yes, sir.
10 Q And, please, describe in more detail your
11 activities in relation to the condo.
12 A He has a condo in Falls Church. He wanted
13 to buy the house that I presented him as a sales
14 agent. And I told him -- he wanted to -- first he
15 wanted to sell it, then I told him that the best way
16 to do it get some money, I mean take out the condo
17 some equity so he can put a down payment on this house
18 that he was buying. So I did that for him.
19 So from time to time he also asked me to
20 find some tenants for him after he buys this house.
21 And I helped him to find tenants for that property.
22 They lived there for a short period time.

58

1 **And after that, he wanted to sell that**
2 **condo. So I helped him to manage that property,**
3 **provide him with the contractors to do some touchups,**
4 **change the kitchen and everything. And he eventually**
5 **he was able to sell the condo.**
6 **And also he is a businessman. He owns a gas**
7 **station in Dumfries, Woodbridge, Virginia. And from**
8 **time to time, I was also doing some searches for him,**
9 **finding some different gas stations for him.**
10 **And also before helping him with the condo,**
11 **he had a business as a car dealership. So he wanted**
12 **to find a place in Alexandria, in Route 1 area.**
13 **So I helped him find the place. We worked**
14 **on the place. But it never worked out. It was a**
15 **zoning problem. So he never end up buying the place.**
16 **But I did help him with multi transactions real estate**
17 **transaction to buy this house and also rent the**
18 **property and manage the property for him.**
19 Q And the entire time you were providing
20 services to Mr. Hussain, did you ever do so under
21 trademark or a designation other than Nationstar?
22 A No, sir.

59

1 Q And did Mr. Hussain compensate you for these
2 activities?
3 A No, sir.
4 Q Why did you perform the activities then?
5 A Yeah, because he is my client. And sometime
6 we provide services to our clients and customers so
7 they can refer us to more clients and customers.
8 Also we do businesses for them so they can
9 be happy, and the transactions can go smooth. So
10 eventually we can have more business from those
11 clients, and they will be a happy whatever we do for
12 them.
13 Q Are you acquainted with an individual named
14 Zultikhar Sharieff?
15 A Yes, sir he is one of my client too.
16 Q Please refer to document APP0043.
17 What is this document?
18 A APP00063 is also a settlement statement for
19 one of my client, Zultikhar Sharieff. It is also
20 called a HUD statement. That's my client that I sold
21 his house.
22 Q And so you served as Mr. Sharieff's real

60

1 estate agent for the transaction described on
2 APP00063?
3 A Yes, sir.
4 Q And can you describe the services you
5 provided to Mr. Sharieff.
6 A Yeah, Mr. Sharieff, he contacted me because
7 he wanted to sell his property and also to buy some
8 other properties.
9 And he also has a house in Woodbridge that
10 he wanted to either rent or sell the property too
11 after he would be able to sell this one in Falls
12 Church because this was a family house.
13 I talked to him, and I find out what his
14 situation was, financial situation. I went to his
15 house. I talked to different brokers for him. And
16 the house that he had, it needed some work to be sold
17 in the market.
18 So I provided them with some contractors to
19 change the whole ceiling, roofing, and also to change
20 all the windows, to redone the whole house, to paint
21 the house, to put new appliances in the basement, fix
22 the basement, and also to change the kitchen. And

61

1 **after that, I listed the property. I was able to sell**
2 **that property for him.**
3 **Also he has a business, a grocery store. On**
4 **one occasion, I also helped him to find buyers to sell**
5 **that business that he had. It was a family business**
6 **that he owns for a long time.**
7 **Also -- he is also an investor, so I give**
8 **him advice to take out money from his business so he**
9 **can buy other properties for investments in either**
10 **Woodbridge or Falls Church.**
11 **And the house that he has in Woodbridge, I**
12 **give him advice on how to take out money from that**
13 **house to invest it either in business or to invest it**
14 **in real estate transactions, real estate properties.**
15 Q How did you meet Mr. Sharieff?
16 A **Mr. Sharieff, he has a business. And I used**
17 **to go there to buy grocery from his store. That's how**
18 **I met him.**
19 Q Would you refer to document APP00029.
20 Is there any relationship -- or please
21 describe what this document is for the record.
22 A **Document APP00029 it's a flyer that I used**

62

1 **for my company under the name of Nationstar to promote**
2 **my business.**
3 Q Sir, any relationship between this document
4 and Mr. Sharieff's business?
5 A **This document -- I mean these flyers that I**
6 **would keep in his business to advertise my services so**
7 **people would come, and they would pick up one of the**
8 **flyer to get some more business from prospects and**
9 **customers.**
10 Q So that was one of the places you got
11 clients?
12 A **That's right.**
13 Q That's all I got.
14 EXAMINATION BY COUNSEL FOR THE OPPOSER
15 BY MR. MCDONALD:
16 Q Mr. Ahmad, I'd like to direct your attention
17 to the document marked applicant's Exhibit 1 which
18 consists of 63 pages marked at the lower right by the
19 numbers APP0001 through APP00063. And I'd like to
20 just go through these one at a time and ask you some
21 questions about them.
22 A **Sure.**

63

1 Q Referring to APP0001. I see that this is
2 the printout of the trademark application that you
3 filed on June 1, 2007; is that correct?
4 A **Document APP0001 is my trademark application**
5 **under the name of Nationstar. But I did not file**
6 **this. My lawyer did this for me.**
7 Q Your lawyer filed that. That was Steptoe &
8 Johnson?
9 A **Stephanie Carmody is the name of the lawyer.**
10 **And the law firm is Steptoe & Johnson.**
11 Q And document APP0002 is another application
12 for registration of Nationstar filed on April 20,
13 2006; is that correct?
14 A **Document APP0002 is also trademark**
15 **application on the name of Nationstar. And I'm the**
16 **one who filed that application on date April 2, 2006.**
17 Q Do you know why you have two applications
18 pending for the same mark?
19 A **I filed only one application which is**
20 **APP0002. And the date of the filing is April 20, 2006**
21 **is under the name of Nationstar. And that was the one**
22 **that I did by myself.**

64

1 **And later on when the opposer, your firm**
2 **opposed my trademark, then I hired lawyer, Steptoe &**
3 **Johnson firm. And they are the one who filed the**
4 **second application. I'm not an attorney, so I don't**
5 **know why they did it.**
6 Q Has one of these applications been converted
7 into an intent to use application?
8 MR. REA: Yes.
9 MR. MCDONALD: And I'll appreciate a
10 response from the applicant's counsel just for
11 clarification.
12 Which of these two applications is now
13 an intent to use application?
14 MR. REA: APP0002, the one that's subject to
15 the opposition.
16 BY MR. MCDONALD:
17 Q And do you know why the application was
18 converted into an intent to use application?
19 A **As I said earlier, I mean my lawyer Steptoe**
20 **& Johnson, her name is Stephanie Carmody, she's an**
21 **attorney. And she knew the best way to handle this**
22 **case, to finish with this case. And she told me that**

65

1 the best way would be to file that other application.
2 **Once again, I'm not an attorney, so I don't**
3 **know the legal terms, the difference between 1A or 1B**
4 **or why she would apply for another application.**
5 Q So you have no idea of what the reason was
6 for converting the basis of the application?
7 A **No, sir, I do have an idea because I was the**
8 **one who filed my application. I filed on the basis of**
9 **1A of actual use, using the mark of Nationstar.**
10 Q Why did you allow that application to be
11 converted into a 1B application?
12 A **I was using my trademark at the time I was**
13 **filing my application with United States Patent and**
14 **Trademark office. The letter where it was converted**
15 **from 1A status to 1B, I think you have to call my**
16 **attorney at Steptoe & Johnson, Stephanie Carmody. You**
17 **have to ask the question from her because I'm not an**
18 **attorney.**
19 Q You said a moment ago that you know why it
20 was converted?
21 A **I know that it was converted from to 1A to**
22 **1B, but I don't know why because I'm not an attorney.**

66

1 Q Is the reason why it was converted into an
2 intend to use application because you understood that
3 you had no use of this mark before April of 2006?
4 A **No, sir. With due respect to you, you are**
5 **putting words in my mouth, okay, which is not correct.**
6 **I was using the mark before. I was using**
7 **the mark Nationstar Mortgage since the beginning of**
8 **2005.**
9 **The only reason that my lawyer, Stephanie**
10 **Carmody, did it, I think she is the one who knows the**
11 **dealing of the United States Patent and Trademark**
12 **office. And she knows how to file an application, and**
13 **that's why she did. I was always using the mark. And**
14 **using at the time I filing the application Nationstar**
15 **with the United States Patent and Trademark, and I'm**
16 **still using it.**
17 Q Let's go through these documents then.
18 Let's look to Number 3. I'll stop using the prefix
19 APP000 and just refer to document Number 3, okay.
20 This is a license from the of Occupation
21 Regulation Commonwealth of Virginia Real Estate Board
22 to Mujahid Ahmad and First American Real Estate, Inc.

67

1 Do you contend that this document shows use
2 of the name Nationstar?
3 A **When you become a real estate agent in a**
4 **real estate professional in this area, you have to be**
5 **licensed as a real estate salesperson, and you have to**
6 **be associated with a broker.**
7 **Once you are associated with a broker, the**
8 **broker has nothing to do. You are an independent**
9 **contractor. He doesn't pay you. The broker makes**
10 **money from the agents, and you can use whatever name**
11 **you want to use.**
12 **In this case, when I became a real estate**
13 **agent, I wanted to have my own identity, my own**
14 **business; that's why I started the name Nationstar.**
15 Q Do you in association with your company
16 Nationstar Mortgage, Inc.?
17 A **No, sir, these licenses are issued only to**
18 **real estate brokers; and I'm not a real estate broker.**
19 Q I see. So is it your contention that you --
20 that it is legally permissible to use a trade name in
21 a real estate trade business without having that name
22 registered?

68

1 A **That's right, sir. You can use it, whatever**
2 **name you want as long you are a salesperson, and you**
3 **have an active license.**
4 Q You don't have register that name with the
5 real estate word?
6 A **No, sir.**
7 Q You don't need a fictitious trade name,
8 registration to use a trade name?
9 A **No, sir, not that I know of.**
10 Q Turning to Page 4.
11 Is it your contention that this document
12 shows your use of the name Nationstar?
13 A **Once again, I'm only a salesperson for this**
14 **firm. I have my license associated with them, and I**
15 **can use whatever name I want to use to promote my own**
16 **business.**
17 Q You can answer the question "yes" or "no" if
18 you want, if you understand the question.
19 Does this show use of the name Nationstar?
20 A **If you can ask me a specific question and**
21 **maybe a question that is easy for me to understand, a**
22 **question that is reasonable, then, of course, I would**

69

1 say "yes" or "no." But if it needs explanation, then
2 I have to explain it to you.
3 Q Do you see the name Nationstar written on
4 Page 4?
5 A No, sir, I don't see any name written as
6 Nationstar, but I do see my name, Mujahid Ahmad, to be
7 a real estate salesperson.
8 Q In connection with First American?
9 A As an independent contractor, yes.
10 Q On Page 5, same question.
11 Do you see the name Nationstar there?
12 A Once again, it's my name, Mujahid Ahmad, as
13 independent contractor with First American Real
14 Estate. And this is also a license that expires on
15 9/30/2010.
16 MR. MCDONALD: I'm going to instruct my
17 witness to answer my question with the cooperation
18 with his counsel. The question is a "yes" or "no"
19 question.
20 (Discussion off record.)
21 BY MR. MCDONALD:
22 Q Document APP0005, does the name, Nationstar,

70

1 appear anywhere on this document?
2 A No, sir.
3 Q Turning to the next page, APP0006.
4 Do you see the name, Nationstar, on that
5 document anywhere?
6 A No, sir.
7 Q Do you contend that this document shows your
8 use of the name, Nationstar?
9 A It doesn't have to show the name of,
10 Nationstar; but I'm using the name of, Nationstar.
11 Q Do you contend that this document shows your
12 use of the name, Nationstar?
13 A Once you become a real estate agent, you can
14 use whatever name you want to use. But this document,
15 no.
16 MR. MCDONALD: Again, I'll ask counsel to
17 answer the questions that are posed.
18 MR. REA: Please listen carefully to the
19 question, and just answer.
20 BY MR. MCDONALD:
21 Q Document APP0006. Do you contend that this
22 document shows your use of the name, Nationstar?

71

1 A No, sir.
2 Q Document APP0007. Do you see the name,
3 Nationstar, written here?
4 A No, sir.
5 Q Do you contend that this document shows your
6 use of the, Nationstar?
7 A What is the meaning of "content"? Can you
8 explain that to me, please.
9 Q Do you believe this document shows your use
10 of the name, Nationstar?
11 A No, sir.
12 Q Document APP0008. Do you see the name,
13 Nationstar, written there?
14 A No, sir.
15 Q Do you believe this document shows your use
16 of the name, Nationstar?
17 A No, sir.
18 Q Document Number APP0009. So do you see the
19 name, Nationstar, there?
20 A No, sir.
21 Q Do you believe that this document shows your
22 use of the name, Nationstar?

72

1 A No, sir.
2 Q Document Number APP00010. Do you see the
3 name, Nationstar, written here?
4 A No, sir.
5 Q Do you believe that this document shows your
6 use of the name, Nationstar?
7 A No, sir.
8 Q Document Number APP00011. Do you see the
9 name, Nationstar, here?
10 A No, sir.
11 Q Do you believe that this document shows your
12 use of the name, Nationstar?
13 A No, sir.
14 Q Document Number APP00012. Do you see the
15 name, Nationstar, here?
16 A It shows that I'm a member of NVAR. But,
17 no, it doesn't show the name of, Nationstar.
18 Q Do you believe that this document shows your
19 use of the name, Nationstar?
20 A It gives me an authority to use the name,
21 Nationstar; but it doesn't show here.
22 Q You believe that this document gives you the

73

1 authority to use the name, Nationstar?
2 **A NVAR give me the authority to be a real**
3 **estate salesperson and gives me the authority to use**
4 **the name, Realtor.**
5 Q Does that give you the authority to use the
6 name, Nationstar, in real estate business?
7 **A No, sir.**
8 Q What do you need by way of authority to use
9 the name, Nationstar, as a real estate agent?
10 **A From who do I need those authority?**
11 Q That's what I'm asking, do you know who you
12 need that authority from?
13 **A Not that I know of.**
14 Q You can just go ahead and start using a
15 trade name without authority?
16 **A No, sir, I didn't say that.**
17 Q What kind of authority do you need to use a
18 trade name?
19 **A If you are in a business, do you need any**
20 **authority for anybody to use name that you choose?**
21 MR. MCDONALD: I'm not answering questions
22 here. I'll ask counsel to instruct his client to

74

1 answer his questions. This is a very serious
2 allegation regarding the veracity of this evidence.
3 And opposer is entitled to candid responsive concise
4 replies.
5 MR. REA: Please, Ahmad, "yes," "no," "I
6 don't understand," "I don't remember," "I don't know."
7 Those are excellent answers. Just listen to his
8 questions, and respond accordingly.
9 THE WITNESS: Okay.
10 BY MR. MCDONALD:
11 Q Okay, my question is what authority, if any,
12 was required for you to use the trade name,
13 Nationstar, in business?
14 **A I don't know, sir.**
15 Q You don't know whether you needed a
16 fictitious trade name registraton?
17 **A No, sir.**
18 Q But we have -- you still have to answer my
19 question. Do you believe that APP00012 shows your use
20 of the name, Nationstar?
21 **A I don't know the answer to that question,**
22 **sir.**

75

1 Q Are you contending that this document does
2 show your use of the name, Nationstar?
3 **A I don't know the answer to that question.**
4 Q All right. Document Number APP00013. Does
5 this document show the use of the name, Nationstar?
6 **A I don't know the answer to your question**
7 **either, sir.**
8 Q Do you know if this document has the name,
9 Nationstar, written on it?
10 **A No, sir, not that I know of.**
11 Q Does it, or doesn't it?
12 (Discussion off record.)
13 BY MR. MCDONALD:
14 Q All right. Document Numbers APP00012 and
15 00013, I asked you if you believe that these documents
16 show your use of the name, Nationstar. And I believe
17 you answered, I don't know; is that correct?
18 **A Can you repeat the question, please.**
19 Q Do you believe that these documents show
20 your use of the name, Nationstar?
21 **A I don't know the answer to that question,**
22 **sir.**

76

1 Q Do you know why they're in the record?
2 **A No, sir.**
3 Q You don't have any idea what the
4 significance or the relevance of these documents is?
5 **A The relevance of these documents is that I'm**
6 **a real estate salesperson. And the authority is given**
7 **to me by these documents to use the name of the**
8 **Realtor in connection with these documents.**
9 Q Do you believe that that's an issue in this
10 case?
11 **A I don't know the answer to that question.**
12 Q Do you know if anybody in this case has
13 challenged your right to be a Realtor?
14 **A Yes, you are a lawyer challenge my authority**
15 **to use the name of Realtor.**
16 Q Do you know whether anybody has challenged
17 your right to be in business other than under name,
18 Nationstar?
19 **A The only person I know who challenged me is**
20 **your client and you, the law firm. That's it.**
21 Q I disagree with that. I don't know where
22 there has been a challenge of that. In any event --

77

1 **A You guys are challenging me. That's why**
2 **you're filing an opposition against me.**
3 Q We're challenging your right to use the
4 name, Nationstar. We're not challenging your right to
5 be engaged in real estate business.
6 MR. REA: Objection. Can we just engage in
7 direct cross-examination.
8 BY MR. MCDONALD:
9 Q Look at document APP00014. This is a form
10 1099 for the year 2005; is that right?
11 **A That's right.**
12 Q Now, do you see the name, Nationstar,
13 anywhere on this document?
14 **A No, sir.**
15 Q Now the \$72,433.37 that is indicated in box
16 Number 7, do you see that?
17 **A Yes, sir.**
18 Q Would that have included the commission that
19 you earned on the sale of Abid Hussain's property on
20 March 24th, 2005?
21 **A This is a non-employee compensation as an**
22 **independent contractor; and, yes, it would include**

78

1 **that.**
2 Q Now, it's your contention, then, that while
3 you were working with First American Real Estate, you
4 were using the trade name, Nationstar, while you were
5 doing that; is that correct?
6 **A Yes, sir.**
7 Q Is that true for all the time you were with
8 First American Real Estate?
9 **A That's right, sir.**
10 Q So they would know -- they would have
11 records of your using the name, Nationstar?
12 **A I'm not sure about that, sir.**
13 Q Did they ever write a check to Nationstar?
14 **A I don't know, sir.**
15 Q You don't know?
16 **A No.**
17 Q Has anybody ever written a check to
18 Nationstar?
19 **A No, I'm sure, sir.**
20 Q Has Nationstar ever earned any money?
21 **A To do a business, you don't have to earn**
22 **money to be in business.**

79

1 Q No, that's not the question I asked. I
2 asked has Nationstar earned any money ever?
3 **A I'm a real estate agent, and that's what I**
4 **do. I earn money through real estate.**
5 Q Well, there's a Virginia corporation called
6 Nationstar Real Estate, Inc.; is that correct?
7 **A That's right.**
8 Q Is that corporation in business?
9 **A Yes.**
10 Q What were it's revenues in the last 12-month
11 period?
12 **A Well, I don't know if you know that the real**
13 **estate market is very slow.**
14 MR. REA: Please respond.
15 BY MR. MCDONALD:
16 Q Please respond to the question.
17 Has Nationstar Mortgage, Inc. earned any
18 income?
19 **A I don't know the answer to that question,**
20 **sir.**
21 Q You don't know the answer to that question?
22 **A Yes, sir.**

80

1 Q You are, however, the sole representative of
2 that company; are you not?
3 **A That's right.**
4 Q Are you the treasurer?
5 **A Yes, sir. I'm the owner.**
6 Q Are you the president?
7 **A That's right.**
8 Q And the treasurer?
9 **A I am not sure about the treasurer, but I am**
10 **the owner.**
11 Q Has there been anybody else --
12 **A No, sir.**
13 Q But you don't know if the company has earned
14 any income?
15 **A No, sir.**
16 Q You didn't know that?
17 **A No, sir.**
18 Q Has the company filed a federal tax return?
19 **A Do I have to file a tax return?**
20 Q Has the company filed a federal tax return?
21 **A I need to talk to my lawyer, please.**
22 Q We can take break, but I would like the

81

1 answer to that question.

2 **A I would like to get permission to talk to my**

3 **lawyer.**

4 **(A brief break was taken.)**

5 **BY MR. MCDONALD:**

6 Q I was asking the witness whether his

7 company, Nationstar Mortgage, Inc., had ever earned

8 any income. And I believe the answer was, I don't

9 know; is that correct?

10 **A That's right, sir.**

11 Q Has the Virginia corporation, Nationstar

12 Mortgage, Inc., ever filed a federal tax return?

13 **A Not that I know of, sir.**

14 Q Is there a possibility that it might have

15 filed a tax return that you don't know about?

16 **A No, sir.**

17 Q So the answer is, No, it has not filed a

18 federal tax return?

19 **A That's right, yeah.**

20 Q I take it, it has never filed a state tax

21 return either; would that be correct?

22 **A That's right because we haven't done any**

82

1 **business, so there is no need for us to file it.**

2 Q So the corporation has done no business;

3 isn't that true?

4 **A Because the business is slow, and I don't**

5 **know if we filed any tax return.**

6 Q I still don't have a "yes" or "no" answer.

7 Has the Nationstar Mortgage, Inc. done any

8 business?

9 **A No, sir.**

10 Q And the income that you claim to have earned

11 using Nationstar, Mortgage, Inc. as a business trade

12 name, is that income all represented in these two 1099

13 statements that are introduced as applicants Exhibit

14 1, Pages APP00014 and APP00015?

15 **A That's right, sir.**

16 Q How would the business of First American

17 Real Estate differ from the services that you were

18 providing under the name, Nationstar Mortgage?

19 **A It is not different because when you are**

20 **associated with the real estate brokerage firm, you**

21 **are always a non-employee, independent contractor.**

22 Q Okay. So that during the period of time

83

1 when you were earning money from First American Real

2 Estate, you were also running a company named

3 Nationstar Inc. that was engaged in the same business

4 as First American Real Estate?

5 **A I was using Nationstar Real Estate and**

6 **Nationstar Mortgage, Inc., both of them.**

7 Q But you were using those both as trade name?

8 **A I was using them as a Nationstar trade name,**

9 **yeah.**

10 Q Right, okay. But you never filed any

11 fictitious trade name registration?

12 **A Yes, not at a time because I'm not a lawyer.**

13 **And I have to ask questions. And I have to find out**

14 **information. And that's what I did later on.**

15 Q Okay. And when did you first become

16 represented by a lawyer in this case?

17 **A Since I find out from your company that you**

18 **filed and opposition against my company. Then I hired**

19 **a lawyer.**

20 Q Turning to the documents in Applicant's

21 Exhibit 1 marked APP00016 through APP00023, do you

22 contend that the name, Nationstar, appears anywhere in

84

1 these documents?

2 **A No, sir, not that I know of.**

3 Q And does your name appear anywhere on these

4 documents?

5 **A I believe not, sir.**

6 Q And looking, for example, at APP00017, where

7 Alexander & Associates appears at the top, do you know

8 whether Alexander & Associates has a real estate

9 license?

10 **A I'm not sure, sir.**

11 Q Is it your understanding that Alexander &

12 Associates would have to have a real estate license to

13 use the name?

14 **A I don't know, sir.**

15 Q You don't know. But didn't you testify

16 earlier that it was ordinary and customary for real

17 estate brokers to use a trade name in association with

18 a realtor in the manner that is indicated in APP00017?

19 MR. REA: Objection to the form of that.

20 BY MR. MCDONALD:

21 Q Well, is it your contention that this is an

22 ordinary and customary practice?

85

1 **A Only thing I know is that Long & Foster is a**
2 **broker. I don't have no knowledge about Alexander &**
3 **Associates.**
4 Q And you don't know whether you need a real
5 estate license to use a trade name as a real estate
6 agent?
7 **A No, sir, I don't know that.**
8 Q You don't know that?
9 **A Yes, sir.**
10 Q Okay. Turning now to Page APP00024, it's a
11 picture of a business card.
12 When did you create this business card?
13 **A In the beginning of 2005.**
14 Q And you haven't changed or modified it ever
15 since them?
16 **A I changed and modified it several times. I**
17 **think you can see in the following documents,**
18 **different styles.**
19 Q And all of these cards were created by you
20 in 2005? Is that what you're saying?
21 **A That's right, sir. Some of them were**
22 **created by me. Some of them were created by the place**

86

1 **where they're printed from.**
2 Q And what place was that?
3 **A Printing place.**
4 Q What's the name of the printing place?
5 **A I don't know the name, sir.**
6 Q Where was it located?
7 **A It was in Alexandria and Arlington.**
8 Q Where there Alexandria and Arlington?
9 **A I don't know exactly but somewhere in Old**
10 **Town.**
11 Q Somewhere in Old Town is a printing store
12 prepared these cards for you?
13 **A I was not sure if it was a printing place.**
14 **But they had advertisement. And I went there, and I**
15 **checked with them. And they printed it.**
16 Q But you don't know where it is?
17 **A No, sir.**
18 Q So you don't have any evidence that that was
19 actually done at a printing store?
20 **A No, sir.**
21 Q Why did you go to a printing store if you
22 had the ability to do this at home?

87

1 **A Well, I have an ability to produce a few of**
2 **them, but not more. If you need more, then you have**
3 **to go to a printing store to print for you.**
4 Q How many of these cards have you printed
5 over time?
6 **A I don't know the exact number, but there**
7 **were many.**
8 Q You don't know how many you ordered?
9 **A No, sir. It happened back in 2005.**
10 Q Do you know whether it was closer to a
11 hundred or a thousand?
12 **A No, I'm sure, sir.**
13 Q You don't remember that at all?
14 **A No.**
15 Q Do you remember what they charged you?
16 **A I don't remember what they charged me.**
17 Q Since the first time that you ordered these
18 cards, have you been back to order more cards?
19 **A No, sir.**
20 Q So the cards that you originally ordered
21 were sufficient for that purpose?
22 **A I ordered them multiple times like I said**

88

1 **before. And I don't know how many I ordered. But if**
2 **I had them, then I don't need more.**
3 Q But you have ordered them multiple times?
4 **A I printed them a few times, and I ordered**
5 **them a few times.**
6 Q A few times, or how many times?
7 **A I don't know exactly how many times.**
8 Q And when were the orders of them?
9 **A In 2005, beginning of 2005, maybe right**
10 **after 2005, 2006.**
11 Q You made multiple orders back in 2005 and
12 2006 but no orders since then?
13 **A I'm not sure sir. Because --**
14 Q How many times do you think you called the
15 same printer to order new copies of your business
16 card?
17 **A I don't remember, sir.**
18 Q Would it be more than two?
19 **A I'm not sure.**
20 Q Was it more than one?
21 **A Could be more than one.**
22 Q Could be more than one but at least one.

89

1 **A Yeah.**
2 Q But you said it was multiple times?
3 **A Yes, more than one time.**
4 Q More than one time?
5 **A That's right.**
6 Q But you don't know how many?
7 **A It doesn't have to be the same location;**
8 **could be a different location.**
9 Q Was it a different location?
10 **A I'm not sure, sir.**
11 Q You don't know?
12 **A It was back in 2005, so I don't know the**
13 **answer to the question.**
14 Q So you just went to any printer you could
15 find, and you don't remember where they were?
16 **A No, usually when I see a sign and if the**
17 **deal is right, I will go there and print it.**
18 Q Were they both in Old Town, Alexandria; or
19 was just one of them in Old Town, Alexandria?
20 **A I'm not sure, sir.**
21 Q You don't remember where they were at all?
22 **A Like I said before, they were in Arlington**

90

1 **and Alexandria.**
2 Q Arlington and Alexandria?
3 **A That is right. It would be either place.**
4 Q But you don't know where they were exactly?
5 **A That's right.**
6 Q Where would you go now if you had to reprint
7 your business cards? Don't remember the name?
8 **A That's right.**
9 Q Where would you go now?
10 **A I would find the best location that I can**
11 **print them.**
12 Q How would you go about doing that, get in
13 your car, drive around, and see if you could find a
14 printing store?
15 **A No. I would ask my colleagues. If I see a**
16 **sign; then if I need it, I will do it.**
17 Q Now, the telephone numbers that is listed on
18 this card, 703-732-9899, I see that's a cell phone.
19 Is that your personal cell phone?
20 **A Yes, sir.**
21 Q That phone bill goes to you every month?
22 **A That's correct.**

91

1 Q You pay that. Is the name, Nationstar,
2 written anywhere on the phone bill?
3 **A There is no need for Nationstar --**
4 Q I didn't ask if there a need or not. Is it
5 written there or not?
6 **A No, sir.**
7 Q What about the office phone of
8 (703)525-8770? Where does that phone go to?
9 **A That goes to my home, my office.**
10 Q Is that phone listed in the telephone
11 directory?
12 **A Yes, it has to be.**
13 Q How is that listed?
14 **A It's listed under my name.**
15 Q Under your name, Mujahid Ahmad?
16 **A It's a very old number, so it has to be**
17 **listed under my name.**
18 Q It's an old number?
19 **A Yeah. It's been a long time since I have**
20 **this number.**
21 Q That's the business telephone of Nationstar
22 Real Estate? Do I understand correctly?

92

1 **A It's a home-based business. So that's my**
2 **number. And that's what I use for my business.**
3 Q Do you have any telephone directory for the
4 name, Nationstar?
5 **A What kind of telephone directory?**
6 Q Is the name, Nationstar, listed in any
7 telephone directory?
8 **A I'm not sure, sir. You have to ask the**
9 **telephone directory people if they're listed.**
10 Q Have you listed the name, Nationstar, in any
11 telephone directory?
12 **A Not that I know of, sir.**
13 Q So is it possible you might have done that
14 without knowing?
15 **A No, sir, I'm not sure.**
16 Q So it is listed in a phone directory or not;
17 isn't that correct?
18 **A I don't understand, sir.**
19 Q You don't know whether you have registered
20 the name, Nationstar, in the telephone directory?
21 **A Yes, because I don't control the telephone**
22 **directory. If they listed it, maybe they listed it.**

93

1 **If they don't, then I have no knowledge.**
2 Q Have you ever asked the telephone company to
3 list the name, Nationstar?
4 **A I don't know, sir.**
5 Q You don't know if you have ever asked the
6 telephone company to do that?
7 **A That's right, sir.**
8 Q So you don't know if Nationstar has a
9 telephone number published in any telephone directory?
10 **A Anybody can publish any number.**
11 Q That's not what I asked. You don't know
12 whether Nationstar has a listed telephone number; is
13 that what you're telling me?
14 **A Nationstar has a listed telephone. Like I**
15 **told you, it is a home-based business. So both**
16 **numbers, my cell phone and my office-based numbers,**
17 **both of them are used for the purpose of Nationstar.**
18 Q Right, I understand that. But the name,
19 Nationstar, does not appear in any telephone directory
20 to the best of your knowledge; is that correct?
21 **A I don't have any knowledge about that.**
22 Q You don't have any knowledge as to whether

94

1 there a listed number for Nationstar in a telephone
2 directory?
3 **A I don't have any knowledge, sir. I don't**
4 **know the answer to that question.**
5 Q If you wanted somebody to be able to find
6 Nationstar, wouldn't the first thing that they do is
7 to look in the telephone directory to see if they have
8 a telephone number for it?
9 **A No, sir, in the old days. I don't know in**
10 **what time and frame you live. People go to website,**
11 **and they check the website. They check flyers. And**
12 **they contact you by any way of means.**
13 **So telephone directory is one part of**
14 **connection to a business. People, they use Websites.**
15 **They use other means to get to you.**
16 Q So you don't think that it would be useful
17 to your business to have a telephone listing for
18 Nationstar?
19 **A As long as I have my website and I have my**
20 **business card and my flyers and my word of mouth, I**
21 **think that's enough for my business because I have a**
22 **small business. I don't own a big enterprise like**

95

1 **your client.**
2 Q In fact, the business is so small that it
3 has never earned one penny of income; isn't that true?
4 **A No, sir. Everything depends on the**
5 **situation of the market. If you are in the business,**
6 **you get a business if you get. But if you are in the**
7 **business and the business is not coming to you doesn't**
8 **mean you are not owning a business.**
9 Q Has Nationstar ever rendered an invoice for
10 any services?
11 **A Not that I know of, sir, because business is**
12 **very slow. I don't know when it's going to come back.**
13 **We are keeping our name for future references. And**
14 **when the business comes then we make transaction; we**
15 **make money.**
16 Q What do you mean you're keeping the name for
17 future reference?
18 **A Because we are using it before. We are**
19 **using it now. We are using it in the future just like**
20 **any other business.**
21 Q But the company is not currently engaged in
22 any business as I understand it; is that true?

96

1 **A No, it is engaged in a business.**
2 Q But it hasn't earned any income?
3 **A That's right, sir.**
4 MR. REA: I'm going to object on the issue
5 of ambiguity. As we go back and forth using
6 Nationstar and the company, we are not distinguishing
7 between the Nationstar trade name and operating as an
8 independent contractor versus the Nationstar
9 Corporation.
10 BY MR. MCDONALD:
11 Q Let's continue to talk about the Nationstar
12 Corporation just for a moment. And I'll be very
13 precise. When I'm talking about at the corporation,
14 I'll say Nationstar Mortgage, Inc.
15 Now, that company was incorporated in 2006?
16 **A That's right.**
17 Q Has the company filed an annual report with
18 the Virginia Corporation Commission?
19 **A There is no business. Business is very**
20 **slow. So we haven't filed that. I'm only one person.**
21 **I'm not a big corporation. So eventually when we have**
22 **more business, then I will do all those things.**

97

1 Q But the answer to the question, No; isn't
2 that correct?

3 A **Well, the answer is, No. But I also have to**
4 **explain it to you the situation what I am. I'm only**
5 **one person, and I'm running business. If the business**
6 **is slow, I don't have any control of that.**

7 Q Mr. Ahmad, I will ask you if possible if you
8 understand the question, please answer it "yes" or
9 "no." And if you don't understand the question, say,
10 I don't know because if you provide an explanation for
11 every single answer, we can be here for three days or
12 more.

13 And ultimately our client is going to look
14 to you for compensation for all the expenses and all
15 the attorney fees to begin with. So this is a very
16 serious matter. And I will ask you if you can, please
17 to answer the questions "yes" or "no" if you
18 understand it.

19 A **I do understand it. The answer "yes" or**
20 **"no" if the answer is "yes" or "no." And if you ask**
21 **me a question that needs explanation, then I will try**
22 **to explain it to you.**

98

1 Q Okay. Does Nationstar Mortgage, Inc. have
2 any business records?

3 A **We always keep business records, yeah.**

4 Q What kind of business records does
5 Nationstar Mortgage, Inc. have?

6 A **Whatever records people run a business.**

7 Q Well, let's say an annual report. Does the
8 company have an annual report?

9 A **I'm sure we have an annual report, yeah.**

10 Q The company has an annual report. Did you
11 believe that that was called for in any of our
12 discovery requests?

13 A **I don't think so.**

14 Q You don't think it was. We asked for any
15 document that shows any use of the name Nationstar,
16 and you have annual report for this company that you
17 have not provided?

18 A **I don't have any knowledge about that, so I**
19 **don't know the answer to that question.**

20 Q But you do know that you have an annual
21 report?

22 A **I'm not sure, sir. I'll have to look.**

99

1 Q You have to look to see if you have an
2 annual report?

3 A **That's right, sir.**

4 Q How about minutes of meetings? Do you have
5 minutes of meetings?

6 A **My company is a small company. I'm the only**
7 **one person to run the business. And I don't have any**
8 **meetings.**

9 Q So the answer is, No?

10 A **Yes.**

11 Q You don't have any minutes. Have there been
12 any board of directors of this corporation?

13 A **I'm the only person. I'm the only board of**
14 **directors.**

15 Q Does the corporation have a bank account?

16 A **I'm an independent contractor, and I do**
17 **everything by my personal accounts.**

18 MR. REA: Just answer the questions.

19 THE WITNESS: Okay.

20 BY MR. MCDONALD:

21 Q Does the Virginia Corporation, Nationstar
22 Mortgage, Inc., have a bank account?

100

1 A **No, sir.**

2 Q Has the corporation ever paid any money?

3 A **Paid any money to who? I don't understand**
4 **the question.**

5 Q Has the corporation ever rendered a payment
6 of any kind?

7 A **No, sir.**

8 Q I asked you before if the corporation ever
9 had any income. And you said, No.

10 Has the corporation ever had any revenue of
11 any kind?

12 A **I don't know the answer to that question,**
13 **sir.**

14 Q You don't know whether the corporation has
15 had any revenue?

16 A **No, sir.**

17 Q Is there somebody besides you that would
18 know that?

19 A **No, I'm the only person that runs my**
20 **corporation.**

21 Q You're the only person that would know
22 whether the company has had any revenue, but you don't

101

1 know?

2 **A I don't know the answer to that question,**

3 **sir.**

4 Q Do you know whether the corporation has had

5 any revenue now?

6 **A Not that I know of.**

7 Q Not that you know of?

8 **A Yeah.**

9 Q All right. Now, turning to the document

10 APP00027. Is this a copy of a postcard that you sent?

11 **A That's right, sir.**

12 Q All right. Did you send this postcard by

13 the U.S. mail?

14 **A That's right, sir.**

15 Q And you sent this to your clients and

16 perspective clients; is that right?

17 **A That's right, sir.**

18 Q Do you know about how many of these you

19 sent?

20 **A No, sir, it happened back in 2005; so I**

21 **don't have any knowledge.**

22 Q You have no idea how many of these -- was it

102

1 a lot of them?

2 **A I don't know, sir.**

3 Q Was it one? Was it more than one?

4 **A More than one, of course.**

5 Q Was it more than ten?

6 **A It was more than ten.**

7 Q Was it more than a hundred?

8 **A I don't know, sir.**

9 Q So maybe between 10 and 100?

10 **A I don't know, sir.**

11 Q Have you ever sent a postcard like this

12 since 2005?

13 **A Yes, of course, from time to time, yeah.**

14 Q But didn't we ask for everything that had

15 been sent with the name, Nationstar, on it?

16 **A If I send it, then how am I going to have**

17 **it?**

18 Q You don't have any records of who you had

19 sent these to?

20 **A No, sir.**

21 Q But you have -- have you continued to send

22 postcards like this continuously for the last five

103

1 years?

2 **A No, sir, I didn't say in the last five**

3 **years, from time to time.**

4 Q From time to time?

5 **A That's right.**

6 Q And you created these postcards on your own

7 computer I understand?

8 **A Some of them I created. Some of them I**

9 **printed.**

10 Q Some of them you created, and some of them

11 you did what?

12 **A I printed outside.**

13 Q You had them printed by outside vendor?

14 **A That's right.**

15 Q What outside vendor?

16 **A The same printer that helped me to print my**

17 **business cards.**

18 Q So the printer who helped you with your

19 business cards also helped you with the postcards?

20 **A That's right.**

21 Q Is that the same printer that you have used

22 over the years?

104

1 **A No, sir. Businesses come, and then go. So**

2 **it doesn't have to be the same one.**

3 Q But you can't remember the name of the

4 printer?

5 **A I said I used them in Arlington and**

6 **Alexandria. But I don't know exactly when I used**

7 **them.**

8 Q Do you remember when the last time it was

9 that you paid for any of these postcards?

10 **A I don't know, sir.**

11 Q And now looking at APP00029, this is a flyer

12 that you printed.

13 Do you know when you prepared this?

14 **A In the beginning of 2005 and late 2004,**

15 **December 2004.**

16 Q Okay. All right. And how did you

17 distribute these flyers?

18 **A I keep them in the businesses where people**

19 **come and they stop, and they get it from there.**

20 Q Do you know where these are right now? Are

21 there businesses in the area that have these posted

22 right now?

105

1 **A Not at the moment. This happened a long**
2 **time ago in 2005. So I'm sure they are not there**
3 **anymore.**
4 Q Since 2005, have you distributed any flyers
5 like this?
6 **A Yes from time to time.**
7 Q When would you do that?
8 **A I don't know the exact timeframe.**
9 Q When did you do it most recently?
10 **A I don't remember most recently.**
11 Q Do you remember the names of the any of the
12 places where you put these flyers?
13 **A I put them in businesses in Arlington.**
14 Q For example?
15 **A Mr. Sharieff place.**
16 Q Okay. Right. Let's go on here.
17 Now, comparing the document AP00031 with
18 AP00032, is there any difference between these
19 documents?
20 **A Yeah, they are the same document, just a**
21 **different date.**
22 Q Just a different date?

106

1 **A That's right.**
2 Q So is it your habit to put a date on the
3 document every time you print it?
4 **A On some of them, yes.**
5 Q On this particular ones, I'm talking about
6 APP00030, 00031 and 00032.
7 These all have dates at the bottom left,
8 don't they?
9 **A Okay.**
10 Q They all have dates on them, don't they?
11 **A Yes, I see the dates.**
12 Q And 00033 has a date at the bottom left,
13 doesn't it?
14 **A That's right.**
15 Q Created for fall 2005?
16 **A That's right.**
17 Q And 00034 has a date at the bottom of it,
18 October 2005, correct?
19 **A That's right.**
20 Q And 00035 has a date on it at the bottom,
21 January 2006; is that correct?
22 **A Yes, sir.**

107

1 Q And you have then other flyers like this
2 with more recent dates on them?
3 **A No, sir, I don't have knowledge to that**
4 **question, sir. I don't know.**
5 Q So the last time that you prepared one of
6 these was January of 2006; is that correct?
7 **A No, sir. I prepared even one after that**
8 **date.**
9 Q When is the last time that you put a flyer
10 like this in a store?
11 **A I don't remember, sir.**
12 Q No idea whatsoever?
13 **A That's right, sir.**
14 Q No idea when you did that?
15 **A That's right, sir.**
16 Q All right. Now, let's look at the letters
17 that are marked AP00036, 37, 38, 39, 40, 41, 42, and
18 43.
19 These are letters that you claim to have
20 sent to your customers and perspective customers; is
21 that correct?
22 **A Yes, sir.**

108

1 Q Are there other letters like this that you
2 sent to perspective customers that you have at home?
3 **A I always do multiple letters to different**
4 **clients. But I don't know if I still have it or not.**
5 Q You didn't know if you have it or not?
6 **A That's right, sir.**
7 Q But you have these on your computer at home?
8 **A That's right.**
9 Q Do you have others on your computer at home
10 that you have not disclosed to us?
11 **A I'm not sure, sir.**
12 Q Do you know whether you were under
13 instructions to provide all of your documentation that
14 had the word, Nationstar, on it?
15 **A These are all the documents that I could**
16 **find and I gave to my lawyer to be given to you guys.**
17 Q So you looked in your computer records for
18 all the documents baring the name, Nationstar, that
19 you could find?
20 **A Yeah, tried to search for all of them. And**
21 **these are the ones that I find. If there are other**
22 **ones, I don't have any knowledge about that.**

109

1 Q If there are other letters like this beside
2 these, you don't know about that; is that right?
3 A **These are the only ones I could find.**
4 Q Now, looking at 00036, do you know
5 Mr. Danish?
6 A **Mr. Danish.**
7 Q Do you know who that is?
8 A **Yes, sir.**
9 Q How do you know that person?
10 A **Because I did a transaction for him. I**
11 **refinanced his house. And he also called me. And I**
12 **helped him to do multiple things regarding to his**
13 **house because he wanted to lower -- his payment was**
14 **too high. And I took him to a mortgage broker to**
15 **refinance his house.**
16 Q So you know this individual?
17 A **Yeah, I did a transaction for him.**
18 Q And yet you write to him, Dear Sir/Madam?
19 A **Yes, sir, because any time in the business**
20 **when you write a letter to someone out of respect to**
21 **say, Sir/Madam.**
22 Q You don't think to say Dear Ikram or Dear

110

1 Mr. Danish?
2 A **No, sir, if I wrote where letter to you, I**
3 **would also say, Sir.**
4 Q If you wrote a letter to me, you would also
5 say, Sir/Madam, that's how you would address your
6 letter?
7 A **Yes because this is -- the letter that I**
8 **have in my computer. And when I write letters, I**
9 **don't know if it is he or she; so I just have to put**
10 **it down Sir/Madam.**
11 Q So you send out multiple letters like this
12 at once?
13 A **Not at once, from time to time.**
14 Q For example, this letter is dated March 25,
15 2005.
16 Do you know if there is any other letters
17 during that date baring, Nationstar, on them?
18 A **I don't know, sir.**
19 Q You don't know. Were you in habit of
20 sending multiple letters like this on the same day?
21 A **No, sir. I always send it from time to**
22 **time.**

111

1 Q From time to time. One at a time?
2 A **No. It could be one at a time, could be**
3 **five at a time, could be ten at a time.**
4 Q Could be five at a time or 10 at a time.
5 And yet you only have records of these particular
6 letters and not other letters similarly dated?
7 A **I don't know, sir because if I have it, I**
8 **will find it; and I will give it to you guys.**
9 Q But you didn't find it. So is it reasonable
10 for us to conclude that this is the only letter dated
11 March 25th that you sent on that date?
12 A **The date what it says, that was the day that**
13 **sent those letters.**
14 Q Did you send other letters on this date?
15 A **I'm sure I did, but I don't have them**
16 **anymore.**
17 Q You don't have them?
18 A **Yeah.**
19 Q Wouldn't they all be located in the same
20 place?
21 A **Why would they be located in the same place,**
22 **sir?**

112

1 Q How do you explain the fact that you were
2 able to find these particular letters and only these
3 letters?
4 A **Because, as you know, people change their**
5 **computer. They don't stay with the same computers.**
6 **From time to time, hard drive crashes, things happen.**
7 Q You have changed your computer since then;
8 is that right?
9 A **I don't have any knowledge to that, sir.**
10 Q You don't know when you last bought a
11 computer?
12 A **No, sir, I don't know.**
13 Q No idea at all. Do you know whether you
14 bought a new computer since 2005?
15 A **I'm not sure, sir.**
16 Q You're not sure. What kind of a computer do
17 you have?
18 A **Just a regular computer.**
19 Q What's the brand name of it?
20 A **It could be HP, it could be Dell.**
21 Q It could be, but what is it?
22 A **Well, I own more than one computer.**

113

1 Q Do you. Well, what computer were these
2 letters?

3 A **I'm not sure, sir, what computer.**

4 Q You don't know what computer they're on?

5 A **That's right.**

6 Q How many computers do you have?

7 A **I have two computers.**

8 Q A laptop and a desk top?

9 A **A laptop and a desk top; that's right.**

10 Q Did you search both of those computers for
11 records you're producing?

12 A **That's right, I work on both of them.**

13 Q When did you buy your laptop?

14 A **I don't know.**

15 Q Was it within the last five years?

16 A **I don't know.**

17 Q Do you know whether it was in the last ten
18 years?

19 A **Could be.**

20 Q How about the desk top, you have no idea how
21 old that is?

22 A **No, sir, I don't know.**

114

1 Q Wouldn't it have to be at least five years
2 old to have these documents on them?

3 A **I don't know, sir.**

4 Q You don't know?

5 A **No.**

6 Q Now, you did -- you say conduct a real
7 estate transaction for Mr. Danish? I asked you a
8 question.

9 Did you actually conduct a real estate
10 transaction for Mr. Danish? Did you represent him in
11 a real estate transaction?

12 A **I represented him to -- gave him advice to
13 take him to refinance his loan, yeah.**

14 Q But did you act as the real estate broker in
15 that transaction?

16 A **Not that I know of, sir. But I did
17 refinance the loan for him.**

18 Q Are you saying that you provided commercial
19 services to this individual using the name,
20 Nationstar; is that what you're saying?

21 A **Not commercial, sir, residential.**

22 Q But you're claiming that you used -- you

115

1 made a commercial use of the name, Nationstar, with
2 this person? Is that what you're saying?

3 A **That's right, he came under the name,
4 Nationstar, right.**

5 Q To you. And do you remember whether this
6 person ever paid any money to Nationstar?

7 A **No, sir.**

8 Q You never charged anybody anything for the
9 work that you did as Nationstar; isn't that correct?

10 A **Most of my clients that came to me, they
11 came do me under, Nationstar. Some of them we provide
12 them services. It's not a necessity that they're
13 going to give us money. We just do it for future
14 business purposes.**

15 Q So you're hoping that maybe some day
16 somebody will pay some money to Nationstar Mortgage,
17 Inc.?

18 A **No, I'm not hoping. If they come to us,
19 they have business, they want to buy property or
20 something, then, of course, we do a transaction for
21 them.**

22 Q Looking at APP00044, we see a list of real

116

1 estate transactions there; is that correct?

2 A **Yes, sir.**

3 Q Do you contend that you used the name,
4 Nationstar, in connection with each of these
5 transactions?

6 A **Yes, sir.**

7 Q Okay. Do you have any documentary evidence
8 whatsoever that the name, Nationstar, was used in any
9 of these transactions?

10 A **No, sir.**

11 Q It's just your testimony?

12 A **Yes, sir.**

13 Q And yet you don't remember how old your
14 computer is?

15 A **Why would I know how old my computer is?
16 Maybe I bought a used one. Nobody knows how old their
17 computer is.**

18 Q Do you know how long you have owned your
19 computer?

20 A **No. Like I say, I owned different computers
21 at different times. I don't know exactly how old the
22 computer is.**

117

1 Q Those computers are the sole and exclusive
2 repository of any evidence that would show your use of
3 the name, Nationstar; is that correct?

4 A **When you buy the computer, computer usually**
5 **last three to four years, sometimes two years.**
6 **Depending on the software you are using on the**
7 **computer. And sometimes it's slow, you just replace**
8 **it with a new one; that's it.**

9 Q Are you aware of any written use of the
10 name, Nationstar, that did not originate with your
11 computer?

12 A **No, sir.**

13 Q Do you know whether there is a single
14 document in the record in this case that bears the
15 name, Nationstar, other than the documents that were
16 created on you computer?

17 A **Some documents were created on the computer.**
18 **Some of them, like I said, I produced business card,**
19 **flyers, and all those things, from business locations**
20 **that they printed for me. So it's not a necessity**
21 **that they are produced all on my computer.**

22 Q I see. Well, did you ever produce documents

118

1 at a printing company?

2 A **Yes, my business card, my mailing cards, and**
3 **all those things that I told you before.**

4 Q But you created those at home?

5 A **No, sir. Some of them I created. Some of**
6 **them were created by the business places.**

7 Q Oh, the business places. You hired them to
8 create them for you, to do the design?

9 A **No, I didn't hire them to do a design. They**
10 **always have designs with them. We just tell them we**
11 **choose one of them. And that's how they do it for**
12 **you.**

13 Q Let's go back and look at the specific ones.
14 And let's go back here and look at the business cards
15 starting on APP00024. And looking through all of
16 these documents going up to APP00035, you're saying
17 that you created some of these on your computer; but
18 others ones were created at a printer shop; is that
19 what you're saying?

20 A **That's right, sir.**

21 Q By looking at them, can you tell which ones
22 were created on your computer?

119

1 A **I don't have any knowledge of that, sir.**

2 Q You don't know which of these documents were
3 created on your computer?

4 A **Yes, sir. It happened a long time ago,**
5 **2005. We're talking about, what, five years, six**
6 **years. So there is no knowledge to remember which I**
7 **created and which one was created by the business.**

8 Q But you did create some of those on your own
9 computer?

10 A **Yes, sir.**

11 Q Looking at them comparing them with one
12 another, is there any way you can distinguish which
13 ones were prepared on your computer and which ones
14 were prepared by the printers?

15 A **No, sir.**

16 Q In fact, all of the flyers are substantially
17 identical but for the placement of a date in the
18 bottom left; is that right?

19 A **I don't have an answer to that question,**
20 **sir.**

21 Q Well, you can look at the document and tell
22 me.

120

1 A **I look at the documents, and I know.**

2 Q You can't tell me whether they're
3 substantially identical?

4 A **Yeah, they look similar.**

5 Q Not just similar but substantially
6 identical; is that a fair statement? Is that a fair
7 statement?

8 A **What is the difference between similar and**
9 **substantially identical?**

10 Q Substantially identical means
11 indistinguishable. Let me ask you again. Look at
12 APP00029, 30, 31, 32, 33, 34, and 35 and tell me
13 whether you see any difference in these documents
14 except for the date at the bottom left?

15 A **To me they look the same. Like I said, some**
16 **of them were created by me; and some of them were**
17 **printed at the business shop.**

18 Q So let's distinguish between creation and
19 printing.

20 Were they created on your computer?

21 A **Not all of them.**

22 Q Not all of them. Which ones were not

121

1 created on your computers?
2 **A I don't know, sir.**
3 Q And yet they're all substantially identical?
4 **A Could be.**
5 Q All right. So some so them were
6 independently created; is that what you're saying?
7 **A The flyers, I remember I created by myself.**
8 Q All the flyers came from your computer then?
9 **A I'm not sure, sir.**
10 Q But you just said you created them all
11 yourself?
12 **A They come from a different computer. Maybe**
13 **I created them, but it could have come from different**
14 **computer.**
15 Q Did anybody ever create any of these for
16 you?
17 **A No, sir.**
18 Q So you created all of them?
19 **A Not all of them, I said some of them.**
20 Q But you can't say which ones were created by
21 anybody else?
22 **A No, sir. It happened back in 2004, 2005.**

122

1 Q Did you create all of your business cards on
2 your computer?
3 **A No, sir. Like I said before, some by me and**
4 **some by businesses.**
5 Q But you don't know what businesses those
6 were?
7 **A That's right, sir.**
8 Q So in the documents number AP00037 all the
9 way up to 43, these documents all have different
10 dates; do you agree?
11 **A Yes, sir.**
12 Q Okay. So you didn't send these documents
13 all at once, right?
14 **A That's right, sir.**
15 Q Just periodically, one at a time; is that
16 what you're saying?
17 **A No, sir, not one at a time, sometime two at**
18 **a time, more than one at a time. But I don't know**
19 **exactly how many at a time.**
20 Q When is the last time that you spoke with
21 Mr. Danish?
22 **A I don't know, sir.**

123

1 Q Have you spoken with him in the last year?
2 **A Maybe.**
3 Q Maybe?
4 **A Yes.**
5 Q Have you ever spoken with him about this
6 case?
7 **A No, sir.**
8 Q How about the other people listed on these
9 documents, have you spoken with them about this case?
10 **A I don't know, sir.**
11 Q Why don't you look and tell me whether --
12 let's look at them one at a time. 37 is Ahmed Sayed.
13 Do you remember ever speaking with him about
14 this case?
15 **A Yeah, I speak with him from time to time.**
16 Q When was the last time you spoke with him?
17 **A I don't remember, sir.**
18 Q And on Page -- let's go back to page --
19 let's go back to Page 36. Mr. Danish, is he a friend
20 of yours?
21 **A No, sir.**
22 Q He is not?

124

1 **A No.**
2 Q And on Page 37, Mr. Sayed, what's your
3 relationship with that individual?
4 **A He drives a taxicab. That's how I know him.**
5 Q Have you ever done a real estate transaction
6 with him?
7 **A I assisted him from time to time, but I**
8 **haven't done a transaction.**
9 Q Looking the forward to APP00045. Do you
10 know what the present status of this Virginia
11 Corporation is, Nationstar Mortgage, Inc.?
12 **A It is active?**
13 Q It is active?
14 **A Yes, sir.**
15 Q Now, you don't have to pay an annual fee to
16 the State Corporation Commission for that?
17 **A Yes, sir.**
18 Q You do?
19 **A Yes, sir.**
20 Q Who paid that fee?
21 **A I paid it.**
22 Q You did?

125

1 **A I am the owner, yeah.**
2 Q But the corporation didn't pay; is that
3 right?
4 **A I am the corporation.**
5 Q You are the corporation?
6 **A Yes.**
7 Q Would you say you are the alter ego of the
8 corporation?
9 **A What do you mean?**
10 Q Is there any difference between you and the
11 corporation?
12 **A I am the owner of the corporation.**
13 MR. REA: Objection. That calls for a legal
14 conclusion.
15 BY MR. MCDONALD:
16 Q Why did you create this corporation?
17 **A To run a business, you have to sometime to**
18 **have a corporation or LLC or some other means of**
19 **business.**
20 Q So you created this corporation to run a
21 business?
22 **A That's right.**

126

1 Q But the corporation has never run a
2 business?
3 **A If the business is slow, of course, there is**
4 **no business.**
5 Q So you haven't done any real business with
6 the name, Nationstar, at all, have you?
7 MR. REA: Objection. Can we clarify what
8 we're talking about here.
9 BY MR. MCDONALD:
10 Q Well, we already know that the Virginia
11 Corporation, Nationstar Mortgage, Inc. has never
12 earned any income. And it has never rendered any
13 payments, doesn't have any employees. And the sole --
14 it doesn't have any business records, right? Any
15 business records?
16 **A I don't have any knowledge, sir.**
17 Q You don't have any knowledge -- you don't
18 know whether the company has any business records or
19 not?
20 **A The business in existence since 2005. I**
21 **promote my business for people to come. If people**
22 **don't come to me, business is slow. I cannot pull**

127

1 **them to my business, Come on you have to do the**
2 **business with me because it's my business. I have to**
3 **make money from you.**
4 Q How valuable do you think the business is?
5 **A I don't know, sir.**
6 Q You don't have any idea of how valuable it
7 is?
8 **A No, sir.**
9 Q How valuable is the name?
10 **A I don't know, sir.**
11 Q You don't know how valuable the name is?
12 **A No, sir, I don't know.**
13 Q Now, this may have happened before I came on
14 the scene, so I don't know it.
15 But is it true that you have asked for a
16 payment of \$500,000 for -- to quick claim on the name,
17 Nationstar?
18 **A No, sir, that's not true. I never asked for**
19 **500,000. You might go back and check with your law**
20 **firm.**
21 Q I'm asking you.
22 **A Yeah, that's what I'm saying.**

128

1 Q I'm just asking.
2 **A That's what I'm saying.**
3 Q Have you asked for payment for this name?
4 **A No, sir, I never asked for any payment.**
5 Q Have you suggested any amounts for payment
6 for this name?
7 **A No, sir.**
8 Q Do you have any communications about
9 acquisition of the name?
10 **A No, sir.**
11 Q No communication?
12 **A The only lawyer that offered money was the**
13 **letters that were sent to me by Bassam Ibrahim, which**
14 **is in your law firm. And actually he call me on**
15 **telephone. He said that my client is very rich, and**
16 **he has deep pockets. And you should leave this name.**
17 **If you don't leave it, we will take it from you.**
18 **That's what he said on the phone. I said to**
19 **him, you have your own rights; and I have my own**
20 **rights.**
21 Q And you consider your course of conduct in
22 this proceeding as pursuant to your rights? Is that

129

1 what you're saying?

2 **A I don't know the answer to that question**

3 **exactly because it's a legal question. But all I know**

4 **that Nationstar is registered to run my business.**

5 Q All right. I want to ask the witness some

6 questions about Applicant's Responses to Opposer's

7 First Set of Interrogatories. And I'm marking as

8 Opposer's Exhibit 1.

9 (Opposer's Exhibit 1 was marked for

10 identification and was attached to the original

11 transcript.)

12 BY MR. MCDONALD:

13 Q Applicant's Responses to Opposer's First Set

14 of Interrogatories dated August 24th, 2007.

15 (A brief break was taken.)

16 BY MR. MCDONALD:

17 Q I'm now referring to Opposer's Exhibit 1

18 which is Applicant's Responses to Opposer's First Set

19 of Interrogatories dated August 24, 2007.

20 Mr. Ahmad, do you remember working on these

21 interrogatory responses?

22 **A Yes, sir.**

130

1 Q And did you make a diligent search of your

2 records in answering these interrogatories?

3 **A Yes, sir, to the best of my knowledge, yeah.**

4 Q Now, turning your attention to Interrogatory

5 Number 2 where it asks to, Set forth fully all facts,

6 circumstances, dates, and events concerning the

7 origination, development, selection, and adoption

8 including, but not limited to persons involved

9 therein, of applicant's mark.

10 Do you see your response there?

11 **A Yes, sir.**

12 Q So then it is your testimony that you

13 searched Network Solutions for available domain names;

14 is that correct?

15 **A That's right, sir.**

16 Q And Network Solutions provided --

17 recommended available domain names, two of which were

18 Nationstarmortgage.com and Nationstarmortgage.net; is

19 that correct?

20 **A That's right, sir.**

21 Q And based on that, you chose Nationstar

22 Mortgage and began to advertise and promote your

131

1 services under that mark and name; is that correct?

2 **A That's right, sir.**

3 Q Do you know when you registered those two

4 domain names?

5 **A Yeah. When I searched them, I registered**

6 **them at the same time.**

7 Q You registered them at the same time?

8 **A I believe so, yeah. And we gone through**

9 **those pages. I don't know the exact date. But I**

10 **think it was one of the documents that was produced.**

11 MR. REA: I believe 54.

12 BY MR. MCDONALD:

13 Q Looking back the Applicant's Exhibit 1, page

14 APP00054, do you see the notation, record created on

15 April 4th, 2005?

16 **A Yes, sir.**

17 Q But you actually registered that name in

18 December of 2004; is that right?

19 **A No, sir. I registered that name whatever**

20 **the date says created on April 2005 on the website of**

21 **Metro Solution, sir.**

22 Q So you registered the internet domain name,

132

1 Nationstarmortgage.com April 4th, 2005; is that

2 correct?

3 **A That's what the record says, sir, yeah.**

4 Q I'm not asking what the record says. I know

5 that.

6 What I'm asking is is it correct?

7 **A I believe it's correct.**

8 Q On APP00055, we see the Internet domain name

9 Nationstarmortgage.net. And it says there, record

10 created on April 4th, 2005.

11 Do you see that?

12 **A Yes, sir.**

13 Q So do you know if that record is correct?

14 **A Yes, sir.**

15 Q So you registered the Internet domain name,

16 Nationstarmortgage.net on April 4th, 2005?

17 **A That's right, sir.**

18 Q And yet in your response to Interrogatory

19 Number 2, turning back to Opposer's Exhibit 1 and your

20 response to Interrogatory Number 2, you indicate there

21 that you searched Network Solutions for available

22 domain names in December of 2004. Is that that a

133

1 correct statement?

2 **A Yes, is it a correct statement.**

3 Q Do you wish to correct your statement here?

4 **A No, sir, because searching a domain name,**

5 **first of all, I have to find all the information how**

6 **people search a domain name.**

7 **And then after that, it took me a while to**

8 **search it from December 24 because I was trying to see**

9 **if I can have other names besides Nationstar Mortgage.**

10 **But the Nationstar Mortgage, I registered.**

11 **But when I registered with Network Solutions**

12 **because I was checking what would be a good deal to**

13 **register with what company because Network solutions**

14 **there are other ones that I searched. And I found out**

15 **they were the cheapest one at the moment. So I just**

16 **went with them.**

17 Q So when did you decide that you were going

18 the use Nationstar as a name, as a trade name?

19 **A Back in December 2004.**

20 Q In December 2004?

21 **A Yes, sir.**

22 Q Because you saw that it was available?

134

1 **A No. I was searching for it way before then.**

2 **And then I realized that it was available. And I say,**

3 **it's okay. So that was the name that I chose, and**

4 **registered the letter.**

5 Q So you chose the name, Nationstar, in

6 December 2004; but you didn't register it

7 Nationstarmortgage.com, an Internet domain name, until

8 April of 2005?

9 **A That's right, sir.**

10 Q Is that right?

11 **A Yeah.**

12 Q You must have been confident that the name

13 would still be available, weren't you?

14 **A That's right.**

15 Q So you chose the name, Nationstar, in

16 December of 2004 based only on the hope that it would

17 still be available when you finally registered it; is

18 that right?

19 **A That is right because I didn't thought that**

20 **there was a need for me registered it. Like I said, I**

21 **was trying to find out information which company would**

22 **be best suited for me to register my name with.**

135

1 Q But you chose the name without any assurance

2 that the domain name would be available later when you

3 registered it?

4 **A That's right.**

5 Q So you took a risk there?

6 **A That's right, I took a risk there.**

7 Q And this was one of multiple domain names

8 that you owned?

9 **A That's right, sir.**

10 Q When did you register those other domain

11 names?

12 **A The other ones are almost the same**

13 **timeframe. I'm not sure exactly what day it is. But**

14 **it says on the documents what date I created them.**

15 **(Opposer's Exhibit 2 was marked for**

16 **identification and was attached to the**

17 **transcript.)**

18 **BY MR. MCDONALD:**

19 Q I'm going to mark as Opposer's Exhibit 2 a

20 list of internet domain names now or previously

21 registered to Mr. Ahmad and ask you, do recognize

22 those domain names?

136

1 **A Some of them I recognize.**

2 Q Can you, please, indicate which ones you

3 recognize.

4 **A Yeah. Most of them I recognize. But there**

5 **are some of them that I don't recognize.**

6 Q Can you indicate, please, which ones you

7 don't recognize.

8 **A K-synergy.com. that I don't recognize.**

9 **Kcnss.com which I don't recognize, which is not mine.**

10 Q Would you repeat that please. What is not

11 yours?

12 **A K-synergy.com.**

13 Q Are you saying that domain name has not ever

14 been registered to you?

15 **A I don't know that domain, sir. I don't have**

16 **any knowledge about that domain.**

17 Q Let me ask you to be specific. Do you own

18 that domain name?

19 **A No, sir.**

20 Q Did you ever own that domain name?

21 **A No, sir.**

22 Q Tell me what others that you don't

137

1 recognize.

2 **A The first one was K-synergy.com. That's the**

3 **one that I don't recognize. I never owned that one.**

4 **The other one is Kcnss.com which is there.**

5 **And I don't recognize that one either. Other one is**

6 **kestal-logistics.com, I don't recognize that. Another**

7 **one is kestral-spd.com. Another one is kestral.com**

8 **which I don't recognize. Another one is**

9 **kestral-logistic.com I don't recognize. Another one**

10 **kestral-spd.com I don't recognize. Another one is**

11 **kestralusa.com which I don't recognize. I think**

12 **that's about it.**

13 Q But the majority you do recognize; is that

14 what you're saying?

15 **A Yes, I do.**

16 Q Do you know any domain names now that are

17 not listed there?

18 **A Not that I know of, sir. I don't have any**

19 **knowledge.**

20 Q Do you own -- have you owned any domain

21 names in the past other than the ones that you own

22 now?

138

1 **A No, sir.**

2 Q So all the domain names that you have ever

3 registered you continued to own?

4 **A Most of them.**

5 Q All right. So even though you chose to use

6 Nationstar as the name of your business in

7 December 2004, you continued to own the other domain

8 names?

9 **A Some of them, yes; some of them, no.**

10 Q Why did you continue to own those domain

11 names?

12 **A Because they could be done for future**

13 **businesses just like any another business. It's a**

14 **competitive world. And names are not available. So**

15 **when you have a name, you would suggest that maybe you**

16 **will be able use it in the future.**

17 **You never know, maybe you will use it, you**

18 **will not. But just try to have it because if you make**

19 **your mind to use it, at least it will be available for**

20 **you.**

21 Q In fact, that's why you owned

22 Nationstarmortgage.com and Nationstarmortgage.net,

139

1 just like the rest of the domain names you owned, you

2 were speculating that it might come in handy some day;

3 isn't that true?

4 **A No, sir, that is not true.**

5 Q Okay. All right. Now, in Interrogatory

6 Number 3 you say that you have used the Nationstar

7 mark to assist clients in all aspects of the purchase

8 of real estate in obtaining loans and related

9 insurance.

10 **And then you site, for example, in**

11 **February of 2005 you assisted Abid Hussain in**

12 **purchasing a home located 7724 Camp Alger Avenue; is**

13 **that correct?**

14 **A Yes, sir.**

15 Q **It was actually in March 4th of the 2005; is**

16 **that right?**

17 **A I'm not sure, sir. But, yeah, he is my**

18 **client; and I did help him.**

19 Q That was the HUD settlement statement was

20 dated, March 24th, 2005. That doesn't mean that you

21 didn't work with him prior to that.

22 But when you say you're using the Nationstar

140

1 mark in your dealings with Mr. Hussain, how would you

2 have been using the mark?

3 **A Yeah, because he came to me as under the**

4 **name of Nationstar.**

5 Q What does that mean he came to you under the

6 name of Nationstar? You said you met him around late

7 2004, 2005.

8 **A I said that he came to me through one of the**

9 **friends that I had. And he saw one of my business**

10 **cards. That's how he came to me because the business**

11 **card said, Nationstar.**

12 Q So he was looking for Nationstar? He wasn't

13 looking for you. He said, I need to find Nationstar

14 Mortgage?

15 **A He was looking for Nationstar, and he wasn't**

16 **looking for me because my name was on that business**

17 **card.**

18 Q And you continue here, Applicant has

19 continued to advise and consult with Mr. Abid and has

20 performed comparative analyses for his current

21 residence and investment property.

22 Can you tell me what that comparative

141

1 analyzes looks like?

2 **A Comparative market analysis is called CMA.**

3 **That's what we do for our clients to check different**

4 **residences, different properties in the area, what**

5 **type of property it has to be, how many bedrooms, how**

6 **many bath, what is it the location of it, how many**

7 **square feet, what is the price and every thing. We**

8 **just check the old dates and everything. That's how**

9 **we come up with the analysis.**

10 Q Do you prepare any kind of a printed product

11 for them?

12 **A What kind of printed?**

13 Q Any kind of printed. Do you provide them

14 with any document or any --

15 **A Yeah, usually when you do the search, we**

16 **print it out or we give it to them or sometimes we**

17 **give it to tell them verbally and say these are the**

18 **property in this locations, how many beds, how many**

19 **baths. Sometimes we sit on the computer and call**

20 **them.**

21 Q Did you use the Nationstar mark on the

22 documents?

142

1 **A Not that I know of, sir.**

2 Q Not that you know of? You don't know?

3 **A We search those documents through MLS.**

4 Q When you prepare those documents, do you put

5 your name, Nationstar, on it?

6 **A When you do comparative market analysis,**

7 **nobody put their name on it. It just says MLS.**

8 Q Now, Interrogatory Number 5 asked you to

9 identify all current and former licenses of applicant

10 concerning the applicant's mark and for each specify

11 the products and, or services in connection which the

12 license was granted the right to use the applicant's

13 mark. I think that must have been licensees.

14 So you never licensed this mark to anybody;

15 is that correct?

16 **A Can you explain the question. I don't**

17 **understand.**

18 Q Have you ever given permission to any other

19 person to use this mark?

20 **A No, sir.**

21 Q Now, Number 6, I guess we have been there,

22 State the total volume and annual sales of all

143

1 services from the claim date of the first use to the

2 present.

3 And you indicate that between January and

4 December 20, 2005, you served as the real estate agent

5 and otherwise assisted, advised with the sale of

6 approximately \$4,164,900 worth of real estate; is that

7 correct?

8 **A Yes, sir, to the best of my knowledge, yeah.**

9 Q Was all of that done in association with

10 First American Real Estate?

11 **A Yes as an independent contractor with First**

12 **American Real Estate, yes, sir.**

13 Q Did First American Real Estate ever

14 advertise the Nationstar name?

15 **A Not that I know of, sir.**

16 Q All right. Now, Number 7 in terms of the

17 past, current, and intended advertising, you say, Word

18 of mouth, referrals, written communications to

19 potential clients, flyers, business cards, and

20 applicant's website; is that correct?

21 **A That's right, sir.**

22 Q However, it took you three years to put the

144

1 website up; is that right?

2 **A I'm not sure, sir, how long it took me.**

3 Q We looked at a document earlier that

4 indicated that the first website contact that appeared

5 was in 2007?

6 **A I'm not sure the exact date, sir. I don't**

7 **know the answer to that question, sir.**

8 Q Previously you testified that it took three

9 years to get any content up at the website.

10 Do you know when you first had content at

11 the website?

12 **A No, sir, I don't know.**

13 Q Applicant's Exhibit 1, Page 59 is a printout

14 from the Wayback machine showing the first appearance

15 of content on that website at Nationstarmortgage.com

16 to have been February 12th, 2007.

17 **A Okay.**

18 Q Do you see that document there, APP00059?

19 **A That's right, sir.**

20 Q Indicating the first content at

21 www.nationstarmortgage.com to have appeared on

22 February 12, 2007?

145

1 **A Yeah, I see that, sir.**
2 Q Previously you testified that this was
3 consistent with your recollection; is that right?
4 **A Could be, yes.**
5 Q Well, not it could, it was. You did testify
6 to this. Do you want to change your testimony?
7 **A I don't want to change my testimony. It**
8 **says February 12th -- I don't know from what website**
9 **this page came from. And also I don't have any**
10 **knowledge when it was created. So I don't have the**
11 **exact knowledge of it.**
12 Q Do you have approximate knowledge of when
13 you first put up you a website at
14 wwwnationstarmortgage.com?
15 **A No, sir.**
16 Q No idea whatsoever?
17 **A No, sir.**
18 Q When you answered interrogatory and document
19 production requests, did you understand you were being
20 asked to say when your first use of this mark was?
21 **A When I say the first use of mark was late**
22 **December 2004 and early January of 2005.**

146

1 Q Right. But there is no evidence that you
2 had a website until 2007?
3 **A I don't know the answer to that question,**
4 **sir, because I did have my domain names. If I had a**
5 **website, I don't have any knowledge about that one.**
6 Q Right. But also you didn't list a telephone
7 number in the phone book for Nationstar Mortgage;
8 isn't that true?
9 **A I don't have any knowledge to that question.**
10 Q Yeah, actually you do have knowledge to it
11 because you know if your business is listed in the
12 phone directory or not?
13 **A Sometime they list it without your**
14 **knowledge, so I don't know.**
15 Q Well, I think if it was listed in the phone
16 directory every month; and you would have to pay a
17 bill?
18 **A That's not true because maybe when I see**
19 **some businesses, they have their names there**
20 **automatically; and it's not necessity that they have**
21 **to pay money for those listings.**
22 Q So you might have a telephone listing for

147

1 Nationstar Mortgage that you don't know about?
2 **A I said I don't know any knowledge.**
3 Q You don't have any knowledge?
4 **A That's right, sir.**
5 Q Previously you testified that you did not
6 have a telephone listing for Nationstar Mortgage.
7 Do you want to change that testimony?
8 **A Previously I said I didn't have any**
9 **knowledge. I didn't say that I don't have it.**
10 Q You also testified that you didn't need a
11 telephone listing because the telephone numbers
12 printed at the website.
13 Do you remember testifying to that?
14 **A I don't remember that, sir, because my**
15 **business card any, my flyers, my website, people come**
16 **to me through different venues. And I don't know**
17 **which they're going to come to me to ask for my**
18 **services.**
19 Q Right. But when I asked you whether there
20 was a telephone listing in the telephone directory for
21 Nationstar, you said it wasn't necessary because
22 people use other methods to find out your telephone

148

1 number like the website?
2 **A I said the contact on my website. They can**
3 **come through my website. They can come through my**
4 **business flyer. They can come through my business**
5 **cards. They can come through word of mouth. Anyway**
6 **they come, I cannot stop them.**
7 Q If you have your telephone number published
8 on a website, you don't need it in the telephone
9 directory. Do you agree with that?
10 **A No, sir, I'm not agreeing with that because**
11 **I don't know how people do their own business. And my**
12 **way I do business is not necessarily the way other**
13 **people do business.**
14 Q Listen, I want to make this clear.
15 Are you claiming that Nationstar might be
16 listed in the telephone directory?
17 **A No, sir, I never claimed that.**
18 Q In fact, Mr. Ahmad, let's stop playing
19 games.
20 The fact, the corporation doesn't have a
21 telephone listing; isn't that true?
22 **A The corporation has a telephone listing**

149

1 **under my cell phone and also my home residence.**

2 Q I suggest we make a conference call to

3 directory assistance right now to find out if

4 Nationstar Mortgage is listed in the telephone

5 directory since I can't get a straight answer --

6 **A I don't have any knowledge of that, maybe**

7 **yes, maybe, no.**

8 Q Mr. Ahmad, if you didn't obtain a telephone

9 number from the phone company for Nationstar Mortgage,

10 then you don't have it.

11 **A My business is a home-based business. And I**

12 **use the telephone number associated with my home.**

13 Q That's perfectly reasonable. So why don't

14 you just for the record help me to establish whether

15 there is a telephone listing for Nationstar in the

16 telephone directory or not?

17 **A That's what I'm saying. The business is**

18 **listed under my home telephone number.**

19 Q But the business, itself, is there any

20 identification of your business, Nationstar Mortgage,

21 in the local telephone directory?

22 **A I never check the local directory, sir; so I**

150

1 **don't know. How can I answer to question, sir.**

2 MR. MCDONALD: Would you like to give your

3 witness instruction on answering these questions?

4 MR. REA: I think what he is asking is

5 whether you took any action to get a listing. I don't

6 think he's really asking whether or not a listing

7 actually exists. So did you actually take steps to

8 create such a listing?

9 **A No, I never took any steps.**

10 **BY MR. MCDONALD:**

11 Q I just want to know whether there is or

12 isn't there. This is ridiculous. Is there a

13 telephone listing for Nationstar Mortgage or not?

14 He's the owner. He's sole officer, the

15 creator. He's the only person associated with the

16 company. He knows whether the company has a telephone

17 number or not. Does he or not? Otherwise, I suggest

18 that we place a call on the record right now to

19 directory assistance and ask if there a listing --

20 MR. REA: I'm going to object to it on a

21 number of grounds. First of all, there are many

22 telephone listings. There are lots of business

151

1 listings where businesses just show up there and no

2 action is required. In fact, the problem is they stay

3 there long after the business is gone.

4 MR. MCDONALD: That's not relevant to our

5 discussion right now.

6 MR. REA: I mean, when you say a, directory

7 listing, there are many, many directories.

8 MR. MCDONALD: I am talking about the local

9 telephone monopoly that publishes a phone book. I

10 don't think there is anything ambiguous about this

11 question or not.

12 I want to know is Nationstar listed in

13 the local telephone directory the way that any

14 person would understand that question.

15 The answer is obviously, No. The

16 witness obviously doesn't want to answer the

17 question.

18 MR. REA: You have not asked that question.

19 Can you answer that question. Is it in the local

20 telephone book?

21 **A I don't have any knowledge because I have**

22 **never seen any local telephone book. I haven't**

152

1 **checked it there. So how can I say "yes" or "no"?**

2 **BY MR. MCDONALD:**

3 Q Did you ever register a telephone number for

4 Nationstar Mortgage using that name in any telephone

5 directory?

6 **A No, sir.**

7 Q And didn't you testify earlier that one of

8 the reasons that you did not do that was because the

9 telephone number was on the website?

10 **A I didn't say that, sir. I said if it is on**

11 **the directory, I don't have any knowledge about it,**

12 **sir. That's what I said.**

13 Q So during the period of time between

14 December 2004 when you claim to have chosen this name,

15 Nationstar, and the first appearance of any content on

16 the website at Nationstar.com in February of 2007,

17 there was never a telephone listing in the telephone

18 directory for Nationstar?

19 **A I don't have any knowledge about that, sir.**

20 Q You don't have any knowledge about that?

21 **A That's right.**

22 Q But you are sure that you have been making

153

1 commercial use of the name, Nationstar; is that right?
2 You're sure of that?
3 **A That's right, sir.**
4 Q Okay. All right. In Interrogatory Number
5 8, you were asked to identify all advertising
6 agencies, public relations firms and other businesses
7 or persons whom you at any time hired or retained in
8 connection with the advertising and, or promotion of
9 the applicant services. And your response was none;
10 is that correct?
11 **A I don't know, sir.**
12 Q You don't know if that answer is correct?
13 **A The answer is correct, sir. But at that**
14 **time, maybe I was having no knowledge of it.**
15 Q Maybe you had no knowledge then, but maybe
16 you know now?
17 (A lunch break was taken from 1:17 to
18 1:48.)
19 BY MR. MCDONALD:
20 Q I want to go back to the issue of revenues
21 and income now that we have established that the
22 Virginia corporation, Nationstar Mortgage, Inc. has

154

1 had no income ever.
2 Mr. Ahmad, I believe you have also testified
3 that all of the services that you provide now are
4 provided under the Nationstar name?
5 **A That's right, sir.**
6 Q Is that true?
7 **A That's true.**
8 Q So you're not driving a cab at the moment
9 part-time?
10 **A I was a cab driver from the beginning. I**
11 **have license for long, long time; and I keep the**
12 **license.**
13 Q So are you working part-time as a cab
14 driver?
15 **A Sometimes, not usually.**
16 Q Not usually?
17 **A Yes.**
18 Q How much of your personal income comes from
19 cab driving?
20 **A Well, I don't work that much; so I cannot**
21 **say exactly.**
22 Q Okay. Well, we know that the Virginia

155

1 corporation, Nationstar Mortgage, Inc. has had no
2 income ever.
3 The question is have you ever had any income
4 associated with your use of the Nationstar name?
5 **A I didn't have any income from Nationstar**
6 **like I told you before.**
7 Q All right. In your response to
8 Interrogatory 9, you indicated that between
9 December 2004 and the present, you have spent
10 approximately \$50 copying flyers baring the Nationstar
11 mark and \$280 printing the business cards in 2005; is
12 that correct?
13 **A Yes, sir, that's correct.**
14 Q And \$149.94 to register the domain names
15 www.nationstarmortgage.com and Nationstarmortgage.net
16 for a three-year term.
17 That three-year term would have expired in
18 2008; would it not?
19 **A Sure, maybe, yeah.**
20 Q So that was renewed.
21 **A That's right.**
22 Q Would that have cost another \$149?

156

1 **A I'm not sure of the exact amount; but, yeah,**
2 **it costs money to have the website.**
3 **Q Looking at your response to Interrogatory**
4 **Number 10, you indicate that you had settlements on it**
5 **has a number of dates, March 24, 2005, et cetera,**
6 **et cetera, et cetera up and through February 23, 2007.**
7 **It's your contention that these sales**
8 **constituted doing business under the Nationstar mark?**
9 **A That's right, sir.**
10 **Q So that all of your income associated with**
11 **those sales should be considered revenues under the**
12 **Nationstar mark?**
13 **A That's right, sir.**
14 Q Now Number 11, we asked to describe the
15 class of purchasers. And you respond, individuals
16 interested in real estate services in Virginia,
17 Maryland, and D.C.; is that correct?
18 **A That's right, sir.**
19 Q Does that include mortgage financing
20 services?
21 **A Yeah, it includes all services.**
22 Q Do you use the name, Nationstar, for

157

1 mortgage financing services?

2 **A Yes, sir, anything -- Nationstar anyone**

3 **comes to us and asks for any services, we provide**

4 **those services.**

5 Q And you charge them for that, right?

6 **A Well, it is not a necessity. I mean, if we**

7 **are just doing it -- I mean sometime if there is a**

8 **small favor, we don't charge them for it.**

9 Q And Interrogatory Number 14, we asked you

10 the identify all ligation that you been involved in

11 concerning a trade mark, and you indicate none.

12 That's Number 14.

13 **A A response to Interrogatory Number 14?**

14 Q Number 14.

15 **A Yeah, whatever it says in interrogatory 14,**

16 **yeah, it's correct, yeah.**

17 Q Has there been any other ligation that you

18 have been involved in?

19 **A No, sir.**

20 Q So you have never been accused of fraud in

21 any court proceeding or arbitration?

22 **A No, sir.**

158

1 Q Okay. Now, Number 16, it indicates that you

2 have never received an opinion concerning your right

3 to adopt, use, or register your trademark in the

4 United States.

5 The question is, If applicant has ever

6 received an opinion concerning its right to adopt,

7 use, or register applicant's mark in the United

8 States, identify all persons with knowledge of the

9 facts and all third parties or names referred to

10 involved.

11 And then the response is negative.

12 **A That's right, sir.**

13 Q So that when you were -- after you filed

14 your trademark application and hired Steptoe &

15 Johnson, they never gave you an opinion on your right

16 the use the mark?

17 **A The only time I hired Steptoe & Johnson, the**

18 **lawyer Stephanie Carmody when I received a notice from**

19 **you guys of the deposition.**

20 Q Right. And that was -- and our client's

21 opposition concerns your right to register your mark.

22 **A Well, I received a notice that says that**

159

1 **someone has opposed your mark. And you have to find a**

2 **lawyer, counselor or something like that. So I find**

3 **Steptoe & Johnson.**

4 Q But they never gave you an opinion about

5 whether you had a right to register the mark on?

6 **A Well, I mean client and attorney privilege**

7 **may be some of them. But prior to that, no.**

8 Q I'm not asking you what they said. I'm just

9 saying did they give you an opinion one way or another

10 about your right to register the mark?

11 **A No, they never gave an opinion.**

12 Q They never gave you an opinion about whether

13 your right to register the mark?

14 **A No, sir.**

15 Q But you do believe that you have the right

16 to register that mark?

17 **A Yes, sir.**

18 Q And the basis for that belief is that you

19 used the mark first; is that correct?

20 **A I was using it, yes, sir.**

21 Q Looking to your answer to Interrogatory

22 Number 21, you have listed a number of individuals

160

1 there.

2 Are these all people who are familiar with

3 your use of the name, Nationstar?

4 **A Yes, sir.**

5 Q And have you provided addresses and

6 telephone numbers for those persons?

7 **A Yes, sir.**

8 Q You have?

9 **A Yes, sir, to you guys, yeah.**

10 Q For each of the people that is indicated on

11 this list in Interrogatory Number 21?

12 **A Yeah. Most of them were in the documents I**

13 **provided to my lawyer and the lawyer gave to you.**

14 Q So if it should emerge that we do not have

15 the addresses and telephone numbers for these people,

16 you will provide that?

17 MR. REA: Objection. I'm not sure where the

18 obligation to provide addresses and telephone numbers

19 comes from.

20 MR. MCDONALD: It comes from the definitions

21 from our interrogatories and anybody else's

22 interrogatories. That's clearly an obligation

161

1 especially if the people are being identified with
2 having knowledges about the use of the trademark.
3 So I just want to make it clear that we
4 could get that. Yes?
5 MR. REA: Okay. It's just the interrogatory
6 does not request addresses and telephone numbers.
7 MR. MCDONALD: But the instructions of the
8 interrogatories ask for the address and telephone
9 number of people who are identified. So it should not
10 come as a surprise.
11 BY MR. MCDONALD:
12 Q Now referring to Abid Hussain --
13 A **That's right.**
14 Q -- you indicated that you worked with him
15 and that the sale was completed on March 24th, 2005.
16 And yet on October 10th of 2005, you sent him a
17 letter, Dear Sir/Madam -- and this was to a friend of
18 yours. I mean he is a friend of yours, yes?
19 A **He was not a friend of mine. He was just**
20 **trying to acquire properties from me. He was a**
21 **client.**
22 Q But yesterday you testified that you guys

162

1 were good friends. Is that a mistake?
2 A **Well, he became my friend after the**
3 **transaction.**
4 Q Okay. All right. Now Number 26 asks you to
5 identify all periods of non use for the mark.
6 So you're testimony is that you have been
7 using the name, Nationstar, continuously since 2005;
8 is that correct?
9 A **That's right, sir.**
10 Q Number 28 asks for all information regarding
11 your application and registration of the domain names
12 www.nationstarmortgage.com and Nationstarmortgage.net.
13 And you there confirmed that these names
14 were registered on April 4th, 2005, correct?
15 A **Yes, sir.**
16 Q Even though you had chosen the name,
17 Nationstar, as a service mark some four or five months
18 earlier in December of 2004; is that right?
19 A **Yes, sir.**
20 Q And your basis for choosing the service mark
21 was that you thought those two domain names were
22 available, right?

163

1 A **The choosing of my service name it went**
2 **before that because I was using it since December of**
3 **2004.**
4 Q December of 2004. But you have testified
5 that when you looked at Network Solutions and saw that
6 they were available, that's when you decided to start
7 using the trade name?
8 A **I search on other sites too. I was checking**
9 **them if it was available or not. But that was the**
10 **time I registered with Network Solutions.**
11 Q But when you decided to start using the
12 name, Nationstar, it didn't occur to you that you
13 should register to the domain names right then?
14 A **No because I was trying to see which place I**
15 **can register and it will be cheaper for me. So I just**
16 **check websites before I register.**
17 Q And you just assumed that the name would
18 continue to be available?
19 A **That's right.**
20 Q All right. I would like to now identify as
21 Opposers Exhibit 3.
22 (Opposer's Exhibit 3 was marked for

164

1 identification and was attached to the
2 transcript.)
3 BY MR. MCDONALD:
4 Q We'll now identify as Opposer's Exhibit 3 a
5 printout of the Virginia code section 59.1-69 which is
6 the Virginia fictitious trade name statute.
7 And I understand that you're not a lawyer
8 and not required to know the law. But I'm going to
9 read this because it's says, "No person, partnership,
10 limited liability company, or corporation shall
11 conduct or transact business in this Commonwealth
12 under any assumed or fictitious name unless such
13 person, partnership, limited liability, company or
14 corporation shall sign and acknowledge a certificate
15 setting forth the name under which such business is to
16 be conducted or transacted and the names of each
17 person, partnership, limited liability company, or
18 corporation owning the same."
19 Have you ever heard of the Virginia
20 fictitious trade name statute?
21 A **No, sir.**
22 Q So you're not aware, then, of the fact that

165

1 in order to conduct business under a trade name, the
2 trade name has to be registered with the state of
3 Virginia? You didn't know that?
4 **A No, sir, because I'm not a lawyer; and I**
5 **don't have any knowledge about that.**
6 **Q** And you never asked any lawyer for any
7 opinion about the right to use the name?
8 **A No, sir.**
9 **Q** All right. So if I told you, and I will and
10 am, that use of the trade name in the state of
11 Virginia requires a registration with the state of
12 Virginia and that conducting business under a trade
13 name that is not registered is a violation of the
14 statute.
15 If I told you that, and I am telling you
16 that, does that affect your opinion about whether
17 you're entitled to register the service mark,
18 Nationstar, in this case?
19 **A I'm not a lawyer, sir, so I don't know if**
20 **that would affect me or not.**
21 **(Oppose's Exhibit 4 was marked for**
22 **identification and was attached to the original**

166

1 **transcript.)**
2 **BY MR. MCDONALD:**
3 **Q** Okay. I'm going to mark Opposer's Exhibit
4 4, Applicant's Responses to Opposer's First Set of
5 Document Requests To applicant dated August 24th,
6 2007. All right.
7 Now, Request Number 2 was, All documents and
8 tangible things concerning or relating the applicant's
9 use of applicant's Nationstar mark prior to
10 April 28, 2006.
11 And then in response, you indicate that
12 you're producing copies of your business cards,
13 flyers, letters to potential clients showing use of
14 applicable's Nationstar mark prior to April 28th,
15 2006.
16 In addition you say you're producing
17 Metropolitan Regional Information Systems reports for
18 2005 and 2006 identifying applicant the selling or
19 listing agent for listing properties.
20 But I think we agree that nothing published
21 by the MRIS shows your use of the name, Nationstar?
22 **A That's right, sir.**

167

1 **Q** So the only documents and things that you're
2 aware of that show your use of the name, Nationstar,
3 are the business cards, the flyers, the letters to the
4 potential clients, in short, the documents that are
5 appearing as exhibits to today's deposition are the
6 only documents that you're aware of that show the
7 name, Nationstar, as used by you?
8 **A That's right, sir.**
9 **Q** Now, Request Number 7 asks for all documents
10 concerning applicant's adoption, selection, and
11 development of the Nationstar mark. And your response
12 is that there never were any such documents; is that
13 correct?
14 **A Yeah, whatever the response is under Number**
15 **7, yeah, that's correct.**
16 **Q** Did you review your interrogatory responses
17 before coming to this deposition today?
18 **A No, sir.**
19 **Q** You didn't. Okay. Have you reviewed your
20 responses to the interrogatories and document
21 production at any time since they were served in this
22 case?

168

1 **A The only time that I read them when they**
2 **were given to me by my lawyer before presenting them**
3 **to you guys.**
4 **Q** That's the last time you have looked at
5 them?
6 **A That's right, sir.**
7 **Q** Are you aware of any new facts or
8 circumstances that would change your answer to any of
9 those questions?
10 **A No, sir.**
11 **Q** I would like to ask you a question about
12 First American Real Estate, the company that you have
13 worked for historically. Is that the name of the
14 company that you worked for?
15 **A I never worked for them, sir.**
16 **Q** You never worked for them?
17 **A Independent contractor.**
18 **Q** But they paid you?
19 **A They never paid me, sir. I got commissions**
20 **from my clients. I'm the one who paid to the broker.**
21 **Q** Now, the check that you would have gotten in
22 those connections, would that have been written by

169

1 First American?
2 **A That's right, sir.**
3 Q So they have paid you?
4 **A On basis of 1099, yeah.**
5 **(Opposer's Exhibit 5 was marked for**
6 **identification and was attached to the**
7 **transcript.)**
8 **BY MR. MCDONALD:**
9 Q I'm identifying as Opposer's Exhibit 5 a
10 trademark registration -- actually a service mark
11 registration of First American Real Estate Tax
12 Service, Inc. from Santa Anna, California.
13 And do you know whether the company that you
14 worked for owns that trademark registration?
15 **A I'll not sure, sir.**
16 Q And I use the phrase, Work for the company.
17 When was the last time you received a check from First
18 American Real Estate?
19 **A I don't remember, sir.**
20 Q Okay. Do you know whether you received a
21 check from them subsequent to 2005?
22 **A Yeah. If there is any transaction that is**

170

1 **done that I presented a client, then, yes, of course,**
2 **yeah.**
3 Q So all of your real estate transactions have
4 involved First American Real Estate?
5 **A That's right, sir.**
6 Q So the list of real estate transactions that
7 you have been involved in for the last five years, may
8 I refer, please, to Applicant's Exhibit 1, APP00044.
9 There is a list of real estate transactions;
10 is that correct?
11 **A That's right, sir.**
12 Q And each of these real estate transactions
13 is one in connection with which you were either the
14 selling agent or in one case you were the lender's
15 agent; is that correct?
16 MR. REA: I believe that's listing.
17 **BY MR. MCDONALD:**
18 Q Listing agent.
19 You were commercially involved in each of
20 the real estate transactions listed here; is that
21 correct?
22 **A That's right, sir.**

171

1 Q And each of these transactions are ones that
2 involved First American Real Estate; is that correct?
3 **A As an independent contractor and as a**
4 **broker, yes, sir.**
5 Q Have you been involved in any real estate
6 transactions not indicated in this list in the last
7 five years?
8 **A I don't know, sir. I don't have any**
9 **knowledge about that, but I think this is pretty much**
10 **it.**
11 Q I need to get clarification on that because
12 if you were involved in a real estate transaction that
13 didn't involve First American Real Estate, you would
14 know it, wouldn't you?
15 **A Yeah, of course I would know it.**
16 Q So a shorter and simpler answer would just
17 be, No, you haven't been involved in any real estate
18 transactions other than the ones that are listed here?
19 **A Yeah, but these are the transactions that**
20 **were closed. Sometimes we have transaction that are**
21 **not closed, so they would not be listed here.**
22 Q Well, of course, if it is not closed, it

172

1 isn't a transaction.
2 **A No. It is a transaction because you work**
3 **for the client, you go through the whole process and**
4 **everything, and sometimes the deal doesn't work.**
5 Q The only time you were involved in a real
6 estate transaction that actually closed is indicated
7 in this list?
8 **A That's right, sir, yeah.**
9 Q So this list indicates that on May 21st,
10 2010, less than 30 days ago, you had a real estate
11 transaction that closed; isn't that right?
12 **A That's right, sir.**
13 Q So it's not really accurate to say that you
14 don't remember the last time that you had any
15 involvement with First American Real Estate, is it?
16 **A Yes because whenever we do a transaction, a**
17 **transaction happens on whatever date. It depends on**
18 **when the settlement company will send a check, and**
19 **then we will get it from the company.**
20 Q Okay.
21 (Discussion off record.)
22 **BY MR. MCDONALD:**

173

1 Q Referring to Opposer's Exhibit 5, do you
2 know if that is the same First American Real Estate
3 company as the one that you are and were working with?
4 Is that your company there?
5 A **Which one, the document that you gave to me,
6 this one?**
7 Q The trademark. Let me rephrase the
8 question.
9 Is the company that you worked with, we'll
10 say work with First American Real Estate, are they
11 based in Santa Anna, California?
12 A **No, sir, they are based out of Falls Church.**
13 Q Based out of Falls Church?
14 A **Virginia.**
15 Q They are engaged in what services again?
16 A **Real estate services.**
17 Q Real estate services.
18 A **That's right.**
19 Q Do you know how many employees they have?
20 A **No, sir.**
21 Q No idea?
22 A **No, sir.**

174

1 Q How often -- when was the last time you were
2 there at their business, at the premises?
3 A **We don't visit there. If we need something,
4 we give them a call. And they send some documents by
5 fax. If we have a question of a broker, we just give
6 them a call. So we don't have to be in the office.**
7 Q Is that company owned by an individual named
8 Zia Hassan?
9 A **Yes, sir.**
10 Q Do you know Mr. Hassan?
11 A **Yes, sir.**
12 Q How long has he been there?
13 A **As long as I have been there.**
14 Q When he is conducting business with you,
15 does he understand or do you know whether he
16 understands that he is dealing with Nationstar
17 Mortgage, Inc.?
18 A **I'm not sure, sir.**
19 Q Do you display the name, Nationstar, in any
20 of your communications or correspondence with this
21 company?
22 A **No, sir.**

175

1 Q Do you know an individual named Kimberly
2 Lawrence?
3 A **No, sir.**
4 Q Do you know an individual named Irshad
5 Akhtar?
6 A **Yes, sir, I know him.**
7 Q Is that the Chief Executive Officer of that
8 company?
9 A **I'm not sure what title he has, but he works
10 in the company, yeah.**
11 Q When is the last time you talked to
12 Mr. Akhtar?
13 A **I'm not sure, probably maybe two weeks ago
14 or three weeks ago, something like that.**
15 Q And when is the last time you talked with
16 Mr. Hassan?
17 A **I'm not sure, maybe the same time.**
18 Q Do they know about this trademark
19 opposition?
20 A **No, sir.**
21 **(Opposer's Exhibit 6 was marked for
22 identification and was attached to the**

176

1 **transcript.)**
2 **BY MR. MCDONALD:**
3 Q I am going to identify as Opposer's Exhibit
4 6 a letter from Arlington County, Virginia, Office of
5 Commissioner of Revenue Business Tax Division stating
6 that Mujahid Ahmad has not registered the trade name,
7 Nationstar or Nation Star, two words. I can confirm
8 further that there is no business tax registration for
9 this individual. If you have any additional
10 questions, please e-mail me.
11 Now, here is the last list. Now, my
12 question is if all of the money that you earned from
13 First American Real Estate was money that was
14 attributable to Nationstar Mortgage, Inc., do you know
15 whether you had any tax filing obligations in respect
16 to that income?
17 A **I'm not a lawyer, sir; so I can't answer
18 that question. I don't know.**
19 Q You may not be a lawyer. But as a
20 businessman, would it not be in your purview to know
21 what taxes are required of you?
22 A **I don't know that. I have to ask someone**

177

1 **that knows the real estate law and the tax law.**
2 Q Have you ever paid any taxes in connection
3 with your use of the name, Nationstar?
4 **A I didn't do any transaction, so I didn't pay**
5 **any taxes.**
6 Q But you said that all of the money you
7 earned from First American Real Estate was money that
8 was earned through your use of the trade name,
9 Nationstar?
10 **A That's right, sir.**
11 Q So but as far as you know, that does not
12 result in a tax liability in Arlington?
13 **A I'm not sure about that because I have to**
14 **ask someone that knows tax laws because I'm not an**
15 **expert. So I can't answer that question.**
16 Q Well, you should be aware that it's our
17 position that any use of the name, Nationstar, used by
18 yourself that proceeded April of 2006 was in violation
19 of numerous local and state statutes including but not
20 necessarily limited to the Virginia fictitious trade
21 name statute and the local business tax registration
22 requirements.

178

1 And I would ask you, then, if I'm right, if
2 I'm correct, and that such use was in violation of the
3 law, does that affect your belief about your
4 entitlement to your registration?
5 MR. REA: Objection. That calls for a legal
6 opinion.
7 BY MR. MCDONALD:
8 Q All right. Well, let me then mark as
9 Opposer's Exhibit 7.
10 (Opposer's Exhibit 7 was marked for
11 identification and was attached to the
12 transcript.)
13 BY MR. MCDONALD:
14 Q Opposer's Exhibit 7, a printout of Virginia
15 code section 59.1-75 penalty for violation. And this
16 is a reference to the Virginia fictitious trade name
17 statute. And the section 59.1-75 reads, "Any person
18 violating any of the provisions of this chapter shall
19 be guilty of a misdemeanor and upon conviction shall
20 be punishable by a fine not exceeding \$2,500 or
21 confinement in jail for not more than one year or
22 both."

179

1 And so that there is no ambiguity on the
2 question, let me ask you whether you ever registered
3 the name, Nationstar, prior to the incorporation of
4 the business in the state of Virginia? Did you ever
5 register the name with the state of Virginia or any
6 local state government?
7 **A I registered with the State Corporation**
8 **Commission and the domain name I have, no, I never**
9 **registered.**
10 **(Opposer's Exhibit 8 was marked for**
11 **identification and was attached to the**
12 **transcript.)**
13 **BY MR. MCDONALD:**
14 Q I am marking as Opposer's Exhibit 8 a
15 document entitled Real Estate Board Reciprocity
16 Applicant Instructions.
17 Are you familiar with requirements relating
18 to the real estate board?
19 MR. REA: Excuse me, can you clarify what
20 this -- this is Virginia -- who's document is this?
21 BY MR. MCDONALD:
22 Q This is Virginia Real Estate License

180

1 requirements. And it is published by the Virginia
2 Real Estate Board.
3 And I'm simply asking the witness if he's
4 ever seen an application -- if he's familiar with the
5 application requirements for licensing in the state of
6 Virginia.
7 **A For what, to be a real estate agent?**
8 Q To be a real estate agent.
9 **A No, sir, I don't know these things.**
10 Q Are there any requirements that you know of?
11 **A I'm not sure of any requirements. But**
12 **whatever the requirements are, I'm sure we followed**
13 **those requirements.**
14 Q How are you sure of that?
15 **A Because I have a license in the state of**
16 **Virginia.**
17 Q So you have a license in the state of
18 Virginia to conduct real estate operations.
19 Is that license associated with the name
20 First American?
21 **A I'm an independent contractor, yes, First**
22 **American Real Estate under -- as a real estate**

181

1 **salesperson, yes, sir.**
2 Q But the license that you have from the state
3 of Virginia indicates the name, First American; isn't
4 that correct?
5 **A Yeah because if you are a real estate**
6 **salesperson, you have to be associated with a broker.**
7 Q Okay. Why do you chose to be associated
8 with First American instead of Nationstar?
9 **A Yeah, because to be -- according to real**
10 **estate, if you become a salesperson, I'm not --**
11 **Nationstar Mortgage is not a real estate firm. It's a**
12 **mortgage firm. So for you to be associated as a**
13 **salesperson, you have to be associated with a real**
14 **estate broker.**
15 Q So you're saying that Nationstar performs
16 services as a mortgage broker but not as a real estate
17 broker?
18 **A No, sir. The Nationstar provide both**
19 **services as a real estate and as a mortgage broker.**
20 Q I'm having trouble understanding the
21 contradiction. I thought you said Nationstar doesn't
22 need a license because it's not providing real estate

182

1 brokerage services?
2 **A Once you become a real estate agent, you can**
3 **choose whatever company you want to choose. And you**
4 **can associate with only one company. You cannot**
5 **register with both of them.**
6 Q So you don't have to register the name of a
7 company with the Virginia Real Estate Board if that's
8 the name that you're using for your business?
9 **A That's a legal question, sir; and I don't**
10 **know the answer to that.**
11 **(Opposer's Exhibit 9 was marked for**
12 **identification and was attached to the**
13 **transcript.)**
14 **BY MR. MCDONALD:**
15 Q I'm marking as Opposer's Exhibit 9,
16 Department of Professional and Occupational Regulation
17 Real Estate Board. The title of the document is,
18 Salesperson and Associate Broker License by
19 Reciprocity and Upgrade Application.
20 Have you ever filled out a license
21 application like this?
22 **A I don't remember, sir.**

183

1 Q You don't remember?
2 **A Yeah.**
3 Q Fair enough.
4 **(Opposer's Exhibit 10 was marked for**
5 **identification and was attached to the**
6 **transcript.)**
7 **BY MR. MCDONALD:**
8 Q And I'm marking as Opposer's Exhibit 10 a
9 printout from the Virginia Department of Professional
10 and Occupational Regulation Real Estate Board, a
11 document entitled, Experience Verification Form.
12 And just ask you if you have ever filled out
13 an application like this?
14 **A I don't know, sir.**
15 **(Opposer's Exhibit 11 was marked for**
16 **identification and was attached to the**
17 **transcript.)**
18 **BY MR. MCDONALD:**
19 Q I am now marking as Opposer's Exhibit 11 a
20 printout from the Virginia Department of Professional
21 and Occupational Regulation Real Estate Board, a
22 document entitled, Firm License Application.

184

1 Now, do you know whether you have ever
2 applied for a license such as this?
3 **A I'm not sure, sir, no.**
4 Q Okay. Do you feel that you know what the
5 licensing requirements are of the Virginia Department
6 of Professional and Occupational Regulation relating
7 to real estate?
8 **A I know that a salesperson has to be**
9 **associated with a real estate broker. And beside**
10 **that, if there is any things, no, sir, I don't know.**
11 **I not am not a lawyer, and I cannot give you a legal**
12 **opinion.**
13 Q Do I understand that -- let me ask you this,
14 when did Nationstar Mortgage, Inc., when did you using
15 the name, Nationstar Mortgage, Inc. first do business
16 in Virginia as a mortgage broker?
17 **A I started using my name at the end of**
18 **December 2004, beginning 2005. But I don't know**
19 **exactly what date I did the business with.**
20 **(Opposer's Exhibit 12 was marked for**
21 **identification and was attached to the**
22 **transcript.)**

185

1 **BY MR. MCDONALD:**
2 Q I'm going to mark as Opposer's Exhibit 12 an
3 excerpt from the 2007 annual report of the Bureau of
4 Financial Institutions. Page 2 of the document is a
5 table of contents. Page 3 of the document is headed
6 by the caption, New Mortgage Brokers.
7 And approximately halfway down the list on
8 the left-hand side, you can see that it goes from
9 September 1st to October 23rd. Do you see that
10 vertical column of dates?
11 **A That's right.**
12 Q If you go down to September 24th, and this
13 September 24th, 2007, it says that Nationstar
14 Mortgage, Inc. opened for business at 2001 North
15 Daniel Street, Suite 102, Arlington, Virginia 22201.
16 That's a reference to your company, correct?
17 **A It's a reference to my company, but the**
18 **dates are wrong.**
19 Q What should the date be?
20 **A I don't know what the date should be because**
21 **this document is printed December 31st, 2007. And**
22 **this is not updated. This is an old list.**

186

1 Q The list may not be updated. But the
2 statement is you opened for business on
3 September 24th? Is that an incorrect statement?
4 **A I'm not sure, but I had a license before**
5 **September 24th, 2007, sir.**
6 Q A license to conduct a mortgage brokerage
7 operation?
8 **A That's right, sir.**
9 Q Under the name, Nationstar?
10 **A That's right.**
11 Q So you have a license to conduct mortgage
12 brokerage operations that specifically entitles you to
13 use the name, Nationstar, in connection with those
14 operations?
15 **A Yeah, Nationstar is my name; and I**
16 **registered it with the State Corporation Commission.**
17 **And I also have a license under that name.**
18 Q So is it your testimony that this is an
19 incorrect statement?
20 **A I'm not sure, sir. It says September 20th,**
21 **2007.**
22 Q It says September 24th, 2007.

187

1 **A September 24th, 2007, so I'm not sure about**
2 **the exact date.**
3 Q Do you have any reason to doubt the accuracy
4 of this report?
5 **A No, sir, I don't have any reason. But I**
6 **don't recall the date, sir. I'm just saying that I**
7 **don't remember it exactly that the date has to be**
8 **September 24th, 2007.**
9 Q Do you have any licenses from any state that
10 have the name, Nationstar, on them?
11 **A Yes, sir, I have a licenses from Virginia,**
12 **from Washington D.C., and from state of Maryland.**
13 Q With the name, Nationstar, on them?
14 **A Yeah, with the name, Nationstar.**
15 Q And those are on the record; are they not?
16 **A Yes, sir.**
17 Q Are any of them dated before April of 2006?
18 **A I'm sure, sir. You have to check the dates.**
19 Q Well, I will represent to you that none of
20 them are dated before April of 2006 and ask you if you
21 were authorized to use the name, Nationstar, in
22 connection with real estate and mortgage brokerage

188

1 operations before you received the licenses that have
2 Nationstar on them?
3 **A Once again, that's a legal question; and I**
4 **don't have any answer to that question.**
5 Q All right. Hold on.
6 (Opposer's Exhibit 13 was marked for
7 identification and was attached to the
8 transcript.)
9 (A brief break was taken.)
10 **BY MR. MCDONALD:**
11 Q Exhibit marked 13, Opposer's Exhibit 13,
12 this was also identified at the bottom right with a
13 number that is proceeded by the letters APP. But in
14 order to avoid confusing the record, I'll just call it
15 Exhibit 13. But I will represent that it was provided
16 to us by applicant's counsel.
17 And this is a -- well, let me ask the
18 witness, do you know what this is?
19 **A Yes, sir, it's a printout of my website,**
20 **Nationstar Mortgage.**
21 Q And does this printout contain a fair and
22 accurate representation of the services offered by

189

1 Nationstar Mortgage, Inc.?
2 **A Yes, sir.**
3 Q So you represent individuals in
4 connection -- excuse me, let me rephrase that.
5 Nationstar Mortgage, Inc. represents
6 individuals in connection with the purchase of homes?
7 **A That's right.**
8 Q And the refinancing of homes?
9 **A That's right.**
10 Q Home equity loans?
11 **A That's right.**
12 Q Reverse mortgages?
13 **A Yes, sir.**
14 Q And multi-family and commercial loans?
15 **A Yes, sir.**
16 Q And you don't know whether a license was
17 required in order to offer these services under the
18 name, Nationstar Mortgage, Inc.?
19 **A I'm not a lawyer, sir; and I don't have any**
20 **answer to that question.**
21 Q I don't think that you have to be a lawyer
22 to know whether a license is required in the business

190

1 that you're specializing in.
2 I mean, this is your business. You should
3 know whether a license is required, shouldn't you?
4 **A Yeah. I started a business. And when I**
5 **started, there are a lot of things a businessman**
6 **doesn't know.**
7 Q Do you know them now?
8 **A Not all of them but some of them, yes.**
9 Q Is one of the things that you learned now
10 whether you need a license or not?
11 **A I do have a license, sir.**
12 Q But does Nationstar Mortgage, Inc. have a
13 license?
14 **A Yes, Nationstar Mortgage, Inc. has a**
15 **license, sir.**
16 Q And when was that license obtained?
17 **A I don't know the exact date, sir.**
18 Q But it would have been before the website
19 went up, otherwise the website would have not been
20 licensed?
21 **A That's right, sir.**
22 **(Opposer's Exhibit 14 was marked for**

191

1 **identification and was attached to the**
2 **transcript.)**
3 **BY MR. MCDONALD:**
4 Q I'm marking as Opposer's Exhibit 14 a
5 document that was provided to us in discovery.
6 I'll ask the witness if he has seen that
7 document before?
8 **A Yes, sir.**
9 Q And what is that?
10 **A It's a transaction of one of my commercial**
11 **property that I helped one of my client.**
12 Q Okay. And is that for the sale of property
13 at 2800 10th Street, Northeast in Washington, D.C.?
14 **A That's right, sir.**
15 Q And the listing agent was Helena
16 Johnson-McNeely?
17 **A That's right, sir.**
18 Q And you were the selling agent?
19 **A That's right, sir.**
20 Q And the sales price was \$1,050,000; is that
21 right?
22 **A That's correct.**

192

1 Q And what was the date of that sale?
2 **A It's 2/23/2007.**
3 Q Does the name Nationstar appear there
4 anywhere?
5 **A Not on this document, sir.**
6 **(Opposer's Exhibit 15 was marked for**
7 **identification and was attached to the**
8 **transcript.)**
9 **BY MR. MCDONALD:**
10 Q I'm marking as Opposer's Exhibit 15 a
11 document entitled, Certification that Nationstar
12 Mortgage, Inc. is authorized to engage in business as
13 a mortgage broker.
14 Have you seen that before?
15 **A This document, Exhibit 15?**
16 Q Yes.
17 **A Yes, sir.**
18 Q And what's the date of that document?
19 **A It's 24th of the day of October 2006.**
20 Q And do you know the affect of that document
21 is? What is that?
22 **A It's a broker license, a mortgage broker**

193

1 **license.**
2 Q So is it -- that document, does it not, give
3 the license to Nationstar Mortgage, Inc. to engage in
4 mortgage brokerage activities?
5 A **Yes, sir.**
6 Q Okay. Prior to the date of that document
7 then, doesn't it follow that Nationstar Mortgage, Inc.
8 lacked the authority to engage in mortgage brokerage
9 services?
10 MR. REA: Objection. Mortgage brokerage
11 services is ambiguous. There is regulated mortgage
12 broker services and other mortgage broker services.
13 BY MR. MCDONALD:
14 Q Can you describe the difference between
15 regulated mortgage brokerage services and unregulated
16 mortgage brokerage services?
17 A **I don't have any opinion about that. I'm**
18 **not an attorney. And we have to ask an attorney who**
19 **specialize in mortgage businesses.**
20 Q So you don't know whether what you're doing
21 requires a license or not?
22 A **No, sir, I don't have an answer to that**

194

1 **question.**
2 **(Opposer's Exhibit 16 was marked for**
3 **identification and was attached to the**
4 **transcript.)**
5 BY MR. MCDONALD:
6 Q I'm marking as Opposer's Exhibit 16 a
7 document entitled, Certification that Nationstar
8 Mortgage, Inc. is an Authorized Mortgage Lender issued
9 by the state of Maryland Department of Labor Licensing
10 and Regulation.
11 Do you see that date of that document?
12 A **Yes, sir.**
13 Q Now, do you understand what that license
14 gives you the right to do?
15 A **Yes. It's a license issued by the state of**
16 **Maryland, Department of Labor and Regulation. And**
17 **it's a mortgage broker license.**
18 Q What specifically does that license
19 authorize Nationstar Mortgage, Inc. to do?
20 A **To do business.**
21 Q To do business?
22 A **That's right, sir.**

195

1 Q So without the license, it was not entitled
2 to do business?
3 A **Once again, that's a legal question. And**
4 **I'll have to ask a lawyer that specializes in the**
5 **mortgage broker business.**
6 Q It seems to me that all of the business that
7 you claim to have done in 2005 well into 2006 and 2007
8 was unlicensed and unregistered and untaxed. And if
9 that's an incorrect statement, why is that incorrect?
10 A **I'm not a lawyer, sir. I don't have any**
11 **answer to that question, sir.**
12 Q Okay.
13 (Opposer's Exhibit 17 was marked for
14 identification and was attached to the
15 transcript.)
16 BY MR. MCDONALD:
17 Q I'm marking as Opposer's Exhibit 17 a
18 mortgage broker license from the District of Columbia.
19 Can you tell me if you have seen that
20 document before?
21 A **Yes, sir, I have seen it.**
22 Q What is that?

196

1 A **It's a mortgage broker license issued to**
2 **Nationstar Mortgage by the government of District of**
3 **Columbia in Washington, D.C.**
4 Q What is the date of that license?
5 A **The date is from 3/16/2007 through**
6 **6/30/2008.**
7 Q Do you agree that Nationstar Mortgage, Inc.
8 lacked a license to engage as a mortgage broker prior
9 to March 16th, 2007?
10 A **Once again, that's a legal question. And I**
11 **don't have an answer to your question, sir.**
12 Q I'm giving you an opportunity to say whether
13 you disagree with that statement because it's our
14 position that there was no such license and that there
15 was no such authority prior to the issuance of these
16 documents. And if we're wrong about that, now is the
17 time to say something.
18 Let the record reflect that nothing was
19 said.
20 (Opposer's Exhibit 18 was marked for
21 identification and was attached to the
22 transcript.)

197

1 BY MR. MCDONALD:
2 Q I marking as Opposer's Exhibit 18 a letter
3 dated, April 11th, 2006 from Bassam Ibrahim and Bryce
4 Maynard to yourself, Mujahid Ahmad.
5 Can you read the text of that letter,
6 please.
7 A **This is letter sent from Buchanan Ingersoll
8 law firm. And attorney that is listed there is Bassam
9 Ibrahim, and it was sent to my address.
10 And it says, We are writing to you and
11 behalf of a client interested in the domain name
12 Nationstarmortgage.com and Nationstarmortgage.net for
13 which you are listed as administrative contact in the
14 WHOIS records. Please let us know if you are willing
15 to sell these domain names, and if so, an amount for
16 which you would be willing to transfer all rights in
17 the domain names to our client. We look forward the
18 hearing from you.**
19 Q Did you receive that letter around about the
20 time it was written?
21 A **Yes, sir.**
22 Q What happened next?

198

1 A **Nothing happened.**
2 Q Did you answer the letter?
3 A **No.**
4 **(Opposer's Exhibit 19 was marked for
5 identification and was attached to the
6 transcript.)**
7 **BY MR. MCDONALD:**
8 Q And the next thing I will mark as Opposer's
9 Exhibited 19, a letter dated April 18, 2006 from the
10 same two attorneys at Buchanan Ingesoll to yourself.
11 Can you, please, read the text of the
12 letter.
13 A **Yeah. That's that letter from the law firm
14 Buchanan Ingersoll sent to my address. And the name
15 of the attorney on the letter is Bassam Ibrahim.
16 And the letter says, "We refer to our letter
17 of April 12, 2006 regarding the Nationstarmortgage.com
18 and Nationstarmortgage.net domain names. Our client
19 has authorized us \$1,000 for each of these domain
20 names. This offer is valid until 5:00 p.m. eastern
21 standard time on Tuesday April, 25. If we have not
22 heard from you by that time, this offer will expire."**

199

1 Q And what did you do, if anything, upon
2 receipt of that letter?
3 A **I was not interested to sell my name.
4 That's why I ignore it.**
5 Q Did you thereupon rush to the U.S. Patent
6 and Trademark Office to file a trademark application
7 for this name?
8 A **No, sir.**
9 Q So I believe you testified there is no
10 relationship between your receipt of those two letters
11 from Buchanan Ingersoll and your virtually
12 simultaneous application filed at the Patent and
13 Trademark office?
14 A **That's right, sir. There is no relationship
15 between these letters and my choosing the name of
16 Nationstar, no, sir.**
17 Q Complete coincidence?
18 A **Could be. I'm not aware of it.**
19 Q Not, could be. That's your testimony that
20 it was a complete coincidence?
21 A **My testimony is because I have the name of
22 Nationstar way before I received these letters, back**

200

1 **in the January 2005.**
2 Q Okay.
3 **(Opposer's Exhibit 20 was marked for
4 identification and was attached to the
5 transcript.)**
6 **BY MR. MCDONALD:**
7 Q I'm marking as Opposer's Exhibit 20 a
8 Certificate of Good Standing issued to Nationstar
9 Mortgage, Inc. by the District of Columbia; is that
10 correct?
11 A **Yeah, this is a certificate to certify that
12 Nationstar Mortgage is in good standing. It is from
13 the District of Columbia, that's right.**
14 Q Does that document state that Nationstar
15 Mortgage, Inc. is authorized to do business as a
16 foreign corporation?
17 A **That's right, sir.**
18 Q Do you know when Nationstar Mortgage, Inc.
19 was first authorized to do businesses as a foreign
20 corporation in to the District of Columbia?
21 A **I don't know the exact date; but whatever
22 the date is here, that might be the date.**

201

1 Q That was March 7 of 2007.

2 A **That's what it says on the letter, but I'm**

3 **not exactly aware of what date it was exactly. The**

4 **letter date says 7th day of March 2007, yes.**

5 Q Well, I would like to ask you whether you

6 believe that Nationstar Mortgage, Inc. was entitled to

7 do -- was authorized to do business as a foreign

8 corporation in the District of Columbia prior to the

9 issuance of that document?

10 A **I'm not sure; and I cannot answer that**

11 **question, sir.**

12 Q This is actually the second page of

13 Opposer's Exhibit 20.

14 Can we paper clip that together, please.

15 And can you tell me what the second page of

16 that exhibit is.

17 A **This says Certificate of Authority issued to**

18 **Nationstar Mortgage, Inc. by the government of**

19 **District of Columbia.**

20 Q And, again, to clarify you don't know

21 whether Nationstar Mortgage, Inc. was authorized to do

22 business in the District of Columbia prior to that?

202

1 A **That's right, sir.**

2 Q You don't know?

3 A **That's right, sir. The date here on the**

4 **letter says March 7th, 2007; but I don't, sir, exactly**

5 **what date.**

6 Q But Nationstar Mortgage, Inc. was doing

7 business in the District of Columbia prior to the

8 issuance of that document; is that correct?

9 A **I'm not sure, sir. I can't answer that**

10 **question because I don't know the exact date. But the**

11 **date it says is stated in the letter.**

12 Q If the date on that document is correct,

13 then it follows that Nationstar Mortgage, Inc. was

14 engaged in business in the District of Columbia prior

15 to the issuance of that document?

16 A **The date says 7th day of March 2007.**

17 MR. REA: I'm going to object. That's kind

18 of hypothetical.

19 MR. MCDONALD: Well, it's not hypothetical

20 to ask whether the corporation was doing business in

21 the District of Columbia prior to receipt of

22 authorization.

203

1 MR. REA: Mr. Ahmad has already testified to

2 the fact that he doesn't remember these dates exactly.

3 (Discussion off record.)

4 BY MR. MCDONALD:

5 Q After your receipt of the two letters from

6 Buchanan Ingersoll, were there communications between

7 you and those lawyers?

8 A **When I received those letters, I ignored**

9 **them because I was not interested to sell my name.**

10 **And then after that, a lawyer from Buchanan**

11 **Ingersoll, his name is Bassam Ibrahim, he is the one**

12 **who called me on my cell phone. He asked me if I was**

13 **interested to sell my name. And I told him that I'm**

14 **not interested to the sell my name. I'm doing my**

15 **business, and I would like to keep it the way it is.**

16 Q You never cited a number that you wanted in

17 return for the domain name?

18 A **No, sir. I told him I'm not interested in**

19 **any money. This is my name, and I want to use it.**

20 Q So there was never any discussion of money

21 between you and Mr. Ibrahim?

22 A **No, sir. He offered me whatever was written**

204

1 **on that letter, \$1,000 for the domain names, and**

2 **that's what he told me. And I told him that I'm not**

3 **interested.**

4 Q Were you ever offered \$30,000 for the two

5 domain names?

6 A **It was offered through my lawyer, Stephanie**

7 **Carmody, from Steptoe & Johnson.**

8 Q So there were communications between

9 Buchanan Ingersoll and Steptoe & Johnson that you're

10 aware of?

11 A **I'm aware of information that my lawyer told**

12 **me.**

13 Q Do you know whether your lawyer cited any

14 figure and communications?

15 MR. REA: I'm going to object. These were

16 settlement negotiations. And normally settlement

17 negotiations are not admissible in evidence.

18 MR. MCDONALD: Well, I don't agree that

19 they're not admissible. Is there is any evidence

20 that, any written evidence, that a particular document

21 was inadmissible as a settlement overture? I think

22 that we're entitled to ask this. I think we ask can

205

1 it, and you can try to have it excluded later.
2 BY MR. MCDONALD:
3 Q I would like to know whether the figure of
4 \$500,000 was ever mentioned between you or your lawyer
5 and Buchanan Ingersoll?
6 A **No, sir, not that I have knowledge of. The**
7 **only time that the money was offered to me, the letter**
8 **that was sent to me by my address from Buchanan**
9 **Ingersoll by the lawyer, Bassam Ibrahim, that was the**
10 **time it says \$1,000. And after that, I talked to him;**
11 **and I tell him I'm not interested to sell my name.**
12 Q Well, let me just say this, as far as I
13 know, and I may be mistaken, you demanded \$500,000 for
14 the rights and this name.
15 Are you saying that that's not true?
16 A **No, sir, that is not true. I never asked**
17 **for \$500,000, no.**
18 Q And you never indicated a willingness to
19 sell these domain names?
20 A **No, sir, never.**
21 Q So if I understand correctly that there is
22 no amount of money that you would be interested in

206

1 selling those names?
2 MR. REA: Objection.
3 MR. MCDONALD: Well, I mean this all has to
4 do with the good faith.
5 MR. REA: You we engaged in settlement
6 discussions?
7 MR. MCDONALD: No, we're not engaged in
8 settlement discussions. I would like to know what was
9 said because there's going to be some significant
10 fallout.
11 MR. REA: That wasn't the question you
12 asked. You asked is there no amount of money which
13 you would accept for you domain names as though you're
14 sitting there prepared to offer any amount of money.
15 MR. MCDONALD: I'd like to know what he
16 thinks his domain names are worth.
17 MR. REA: I'm going to object to that. He
18 has not placed a value on them, and he is not prepared
19 to at this time either.
20 MR. MCDONALD: All right. I have no further
21 questions.
22

207

1 FURTHER EXAMINATION BY COUNSEL FOR THE APPLICANT
2 BY MR. REA:
3 Q I have a couple of redirects.
4 Would you refer to Page 44 in our Exhibit 1
5 which is the MRIS report in the statement, Real Estate
6 Transactions.
7 In the normal course of business, would you
8 present your clients in those transactions with one of
9 your business cards that were identified in these
10 other exhibits?
11 A **Yes, sir, I always do that.**
12 Q Why?
13 A **Because they come to me through my**
14 **Nationstar Mortgage Company and Nationstar Real**
15 **Estate. So I would like to give them my card so they**
16 **can refer me other clients and customers for future**
17 **business reference.**
18 Q Okay. Second question. Your Virginia Real
19 Estate Salesperson License, was that the first
20 salesperson license that you acquired?
21 A **Yes, sir, that was the first license that I**
22 **acquired, yeah.**

208

1 Q So you did not apply for reciprocity in
2 Virginia; is that correct?
3 A **I got the license from Virginia as a first**
4 **license, yes, sir.**
5 Q That's all I have. Thanks.
6 (Signature having not been waived, the
7 deposition of Mujahid Ahmad was concluded at 3:28
8 p.m.)
9 ACKNOWLEDGMENT OF DEPONENT
10 I, Mujahid Ahmad, do hereby acknowledge
11 that I have read and examined the foregoing
12 testimony, and the same is a true, correct and
13 complete transcription of the testimony given by
14 me and any corrections appear on the attached
15 Errata sheet signed by me.
16
17 _____
18 (DATE) (SIGNATURE)
19
20
21
22

209

1 **CERTIFICATE OF NOTARY PUBLIC**
2 I, Jennifer A. Bosley, do hereby certify
3 that the witness, Mujahid Ahmad, personally
4 appeared before me; that said witness was duly
5 sworn by me; and that I am neither counsel for or
6 related to, nor employed by any of the parties to
7 this case and have no interest, financial or
8 otherwise, in its outcome.
9 **IN WITNESS WHEREOF**, I have hereunto set
10 my hand and affixed my notarial seal this 25th day
11 of June 2010.
12 My commission expires:
13 March 31, 2011
14 Registration No. 134287
15
16
17 _____
18 **NOTARY PUBLIC IN AND FOR THE**
19 **COMMONWEALTH OF VIRGINIA**
20
21
22

211

1 **ERRATA SHEET**
2 IN RE: Nationstar v. Ahmad
3 **RETURN BY:**
4 **PAGE LINE CORRECTION AND REASON**
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21 **(DATE)** **(SIGNATURE)**
22

210

1 **ERRATA SHEET**
2 IN RE: Nationstar v. Ahmad
3 **RETURN BY:**
4 **PAGE LINE CORRECTION AND REASON**
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22 **(DATE)** **(SIGNATURE)**