

Plaintiff's Exhibit 41

1 you were investing more money into GameStop,
2 correct?

3 A. I have invested since 2019 more
4 money into GameStop. And I've never sold any
5 GameStop shares to date.

6 Q. And you've never shorted any
7 GameStop shares?

8 A. No.

9 Q. Not even one?

10 A. Not that I believe.

11 Q. Okay. Mr. Cohen, you don't like
12 short sellers, right?

13 A. Correct.

14 Q. And I believe that you had sent
15 out a tweet on May 15th 2022 saying that
16 taxpayer money should be spent cracking down
17 on hedge funds and short sellers; isn't that
18 right?

19 A. Yes.

20 Q. Why did you -- did you delete
21 that tweet?

22 A. I don't think so.

1 Q. So you don't believe that you
2 deleted it?

3 A. I don't know. Can you show me
4 the tweet?

5 Q. Well, I -- I cannot, because I --
6 I couldn't find it. It's not there on your
7 page anymore.

8 A. So then it was deleted.

9 Q. Do you remember why you deleted
10 it?

11 MR. FARINA: Objection, form.

12 THE WITNESS: No, I don't
13 remember.

14 BY MR. JAFRI:

15 Q. Well, let me -- let me back up a
16 little bit.

17 Did you delete the tweet?

18 A. I have made multiple tweets and
19 comments about the fact that I do not like
20 both hedge funds and short sellers.

21 Q. What is the reason for that? Why
22 don't you like them?

1 A. I think it's unAmerican to bet
2 on -- and to profit on someone else's
3 failure. It's one thing not to invest in
4 someone's success. It's another thing to
5 profit on someone's failure. And I think
6 it's unAmerican. And it's legal and they're
7 entitled to it, but I don't like them.

8 Q. What do you mean by unAmerican?

9 A. I mean that's my opinion. I
10 don't feel as though people should profit
11 on -- and bet that someone is going to fail
12 and then employ tactics in order to increase
13 the odds that they're going to be -- that
14 they'll end up failing. And that's what a
15 lot of these hedge fund short sellers do.

16 Q. Why do you feel so strongly about
17 the fact that they're unAmerican when you're
18 not an American citizen?

19 MR. FARINA: Objection, form.

20 THE WITNESS: It's not about
21 being a citizen. Being unAmerican
22 doesn't mean about whether -- has

1 anything to do with citizenship or
2 not.

3 BY MR. JAFRI:

4 Q. So then --

5 A. It has to do with innovation and
6 entrepreneurism and the fact that this is the
7 greatest country in the world. Less than
8 5 percent of the population has 25 percent in
9 GDP. So much innovation has come out of
10 America, companies like Apple and Amazon and
11 Chewy. And so for someone to go and bet
12 against entrepreneurship, in my opinion, is
13 unAmerican.

14 Q. Okay. So let me just get this
15 straight. You don't like short sellers and
16 you want the government to crack down on
17 them. But you allowed your lawyers in this
18 case to make filings saying that retail
19 investors were crooked manipulators because
20 they were trying to bet against the shorts?

21 MR. FARINA: Objection, form.

22 THE WITNESS: I don't know what

1 my lawyers said. What I'd say with
2 respect to hedge fund short sellers is
3 I find it ironic that if you have a
4 large position, you disclose that long
5 position. But if you short that
6 position, there's not the same kind of
7 disclosure requirements.

8 So I believe there should be
9 more transparency with respect to
10 short sellers.

11 BY MR. JAFRI:

12 Q. But you said more than that. You
13 said short sellers are against
14 entrepreneurship and are unAmerican, right?

15 A. Yes.

16 Q. Okay. So it's just not about the
17 disclosures. It's more than that, right?

18 A. Yes.

19 Q. Okay. So I'm going to go back to
20 my question about your filings in this case.

21 Are you aware that there is a
22 motion for class certification that's pending

1 in this case?

2 A. Yes.

3 Q. Do you understand what that is?

4 MR. FARINA: Objection, form.

5 I don't think he can have an
6 understanding, other than what he
7 obtained from counsel.

8 MR. JAFRI: It's a public
9 document. He can have an
10 understanding of a public document.

11 BY MR. JAFRI:

12 Q. Mr. -- Mr. Cohen, unless
13 Mr. Farina tells you not to address my
14 question, you have to address my question.

15 Would you like me to repeat it?

16 MR. FARINA: Well, if you can
17 address the question without anything
18 that you learned from your lawyer.

19 Why don't you go ahead and
20 repeat the question.

21 MR. JAFRI: I'll rephrase.

22

1 BY MR. JAFRI:

2 Q. Have you read the motion for
3 class certification that was filed in this
4 case?

5 MR. FARINA: The motion?

6 MR. JAFRI: Yeah.

7 THE WITNESS: Not the full
8 thing. Parts of it.

9 BY MR. JAFRI:

10 Q. Parts of it, okay.

11 You know that your lawyers have
12 opposed that motion, right?

13 A. I believe so.

14 Q. Did you read that motion? Sorry.
15 Did you read that opposition they
16 filed?

17 A. Not the full thing.

18 Q. What do you mean by not the full
19 thing?

20 A. I didn't read the full thing.

21 Q. So how much of it did you read?

22 A. I don't remember. I relied on

1 them to have all the facts and put together a
2 good case.

3 Q. Okay. Do you know that one of
4 the principal arguments that they have in
5 terms of opposing certification in this case
6 is that the company shares couldn't be
7 shorted enough?

8 MR. FARINA: Objection, form.

9 THE WITNESS: I don't
10 understand what that means.

11 BY MR. JAFRI:

12 Q. I'll -- I'll rephrase.

13 One of the things that they have
14 said in the motion -- in the -- in the papers
15 is that there was a very high short
16 utilization rate.

17 Are you aware of that?

18 A. No, I'm not aware of that.

19 Q. Okay. Are you aware of the fact
20 that they have argued on your behalf that the
21 fact that people couldn't short GameStop
22 stock enough meant that the market for the

1 stock was inefficient?

2 A. We're talking about GameStop or
3 Bed Bath & Beyond?

4 Q. Bed Bath & Beyond. That's what I
5 meant. Sorry.

6 A. Can you repeat your question?

7 Q. Yeah. Sure. My question was,
8 are you aware of the fact that the -- your
9 attorneys, in your name, have argued that the
10 fact that people couldn't short BBBY stock
11 enough meant that the market for that stock
12 was inefficient?

13 A. I'm aware that they --

14 MR. FARINA: Sorry. I don't --
15 I don't know how he's going to be able
16 to answer this question without
17 disclosing information that we told
18 him.

19 MR. JAFRI: Well, he -- he said
20 he read the papers.

21 MR. FARINA: Well, no, he
22 didn't, actually. He said -- and --

1 and he's -- he's told you he did not
2 read all of it. He said he read some
3 of it.

4 MR. JAFRI: Well, maybe this
5 was some of it, as --

6 MR. FARINA: Okay.

7 MR. JAFRI: Are you telling him
8 not to answer?

9 MR. FARINA: I'm -- I'm -- I'm
10 telling him -- I'm not telling him not
11 to answer. I'm telling him if he
12 answers, he should not be disclosing
13 information that came from his
14 lawyers.

15 MR. JAFRI: Sure. And I'm not
16 interested in that.

17 BY MR. JAFRI:

18 Q. To the extent that you had any
19 conversations with them, I'm -- I don't care
20 about those. You don't have to disclose
21 those to me. I'm just talking more of your
22 general knowledge --

1 A. I'm not familiar with that part.

2 Q. Okay. So you're not familiar
3 with that part. Okay.

4 One thing I wanted to know,
5 Mr. Cohen, is you know that the -- the --
6 the -- so I wanted to go back to one thing
7 on -- about GameStop.

8 You believe that the people who
9 were shorting that stock were -- were wrong,
10 right?

11 MR. FARINA: Objection, form.

12 THE WITNESS: No, I don't know.
13 I said we'll see what happens at the
14 company.

15 BY MR. JAFRI:

16 Q. No. No. But that wasn't my
17 question.

18 My question is, you had long
19 position, right?

20 A. Yeah, I hope the company is
21 successful and I'm working hard to make sure
22 that the -- to make the company successful.

1 your plan to sell BBY securities?

2 A. I understand that that's part of
3 it, yeah.

4 Q. Okay.

5 A. That's one of the allegations.

6 Q. Have you -- I know we talked
7 about the motion for certification and -- and
8 you don't have to address that again.

9 Have you reviewed any of the
10 other papers that your attorneys have filed
11 in this case?

12 A. Do you have examples?

13 Q. Right. Like so you know that
14 when we filed a complaint, at that point I
15 believe you were represented by
16 Vinson & Elkins, right? And, again, I'm not
17 interested in any attorney-client
18 communications. But you know that they tried
19 to have the case dismissed, right?

20 A. Yes.

21 Q. And they filed something called a
22 Motion to Dismiss?

1 A. Yes.

2 Q. Did you read it?

3 A. Parts of it, yes.

4 Q. Okay. It was filed with your
5 authorization?

6 A. Yes.

7 Q. Okay. They sent you the final
8 version before it was filed?

9 A. Yes.

10 Q. And you said okay, go ahead
11 and -- and file it?

12 A. I approved it.

13 Q. Is that the case with -- again,
14 I'm not interested in any attorney-client
15 communications. I just want to know. With
16 respect to all the filings in this case, are
17 you made aware of the filings that would
18 be -- are you aware of what gets filed in
19 this case?

20 MR. FARINA: Objection, form.

21 I don't know -- I don't know how he
22 would be --

1 fact that they were monitoring Reddit for
2 you?

3 A. No.

4 Q. Okay. Other than these E-mails,
5 did you have any phone calls with Greg Marose
6 where he called and said hey, I found this
7 thing on Reddit. I wanted you to know about
8 it?

9 A. Not that I remember, no. You I
10 said he sent hundreds of news clippings from
11 a variety of different sources.

12 Q. Okay. Now, in the first sentence
13 it refers to you as the meme king, correct,
14 in the first box?

15 A. Yes.

16 Q. Okay. Mr. Cohen, you've never
17 done anything to disavow that label, right?

18 MR. FARINA: Objection, form.

19 THE WITNESS: What does that
20 mean?

21 BY MR. JAFRI:

22 Q. I mean you've never gone and said

1 publicly that I'm not the meme king?

2 A. I've never said I am the meme
3 king.

4 Q. But you've never said that you're
5 not, right?

6 A. I've been called a lot of
7 different things.

8 Q. Mr. Cohen, it's a yes or no
9 question. You've never gone and publicly
10 said I'm not the meme king?

11 A. I don't believe so.

12 Q. Okay. And you've never gone
13 publicly and said I'm not the meme lord?

14 A. No, I have not.

15 Q. You've never gone publicly and
16 said don't call me Papa Cohen?

17 A. No, I don't believe so.

18 Q. You've never discouraged
19 investors like these -- people who we just
20 talked about, like this post, you never
21 discouraged these investors from interpreting
22 your statements like your tweets?

1 MR. FARINA: Objection, form.

2 THE WITNESS: I've never what?

3 BY MR. JAFRI:

4 Q. You've never discouraged them
5 from trying to find meanings in your Twitter
6 posts, correct?

7 A. I don't even know what that
8 means.

9 Q. Well, what I mean by that is if
10 they have -- if they read certain things that
11 you post on Twitter, you've never gone and
12 said hey, you know, I'm being misinterpreted,
13 that's not what I meant?

14 A. No, actually, I don't think that
15 that's true.

16 Q. You -- do you -- is it -- is it
17 your testimony that you've done that on
18 Twitter?

19 A. Well, I had an interview with Joe
20 Fonicello on GMEdd, where he asked me about
21 my tweets and I said these are just how I
22 feel, they're random thoughts, and we went

1 through each of them one by one.

2 Q. Yes. I -- I remember that
3 vividly and I --

4 A. Okay.

5 Q. -- know what's in it.

6 But I think that my question is a
7 little different, which is, when it comes to
8 those people who interpret your tweets, like
9 the ones that you discussed with Joe
10 Fonicello, right, like the people on Twitter
11 who respond to your tweets, you've never
12 tried to correct them in any way and say you
13 are misunderstanding what I meant?

14 MR. FARINA: Objection, form.

15 THE WITNESS: My tweets are
16 just me being me. They're -- I don't
17 know what tweets you're referring to.
18 I don't know which comments you're
19 talking about. And you're -- again,
20 you're talking about people as in
21 they --

22

1 BY MR. JAFRI:

2 Q. Um-hmm.

3 A. And you're speaking in
4 generalities.

5 So if you have a specific
6 question, I'll answer, but I don't understand
7 these -- these generalities, it's impossible
8 to answer the question.

9 Q. Well, I mean, anybody, really.
10 Anybody. It doesn't matter who. And we'll
11 get more specific on the other tweets.

12 But my question is very simple,
13 which is, when you go and post things and
14 people respond to your posts and say Ryan,
15 yes, we get it, we know what you mean or --
16 at -- at -- or if they have some message,
17 you've never said hey, that's not what I
18 meant publicly?

19 A. I've provided more context, like
20 I said, in interviews, but I don't know in --
21 specifically what you're referring to.

22 Q. I'm specifically referring to

1 Twitter.

2 A. Yes. And which comment on
3 Twitter and which post did I make?

4 Q. Any comment. Do you recall even
5 one instance --

6 A. I rarely reply to my comments --

7 Q. Sure. That's not my question,
8 Mr. Cohen.

9 My question is, do you recall
10 even one instance where you posted something
11 and someone interpreted a meaning and you
12 said that's not what I meant?

13 A. I don't remember.

14 Q. Okay.

15 MS. REPORTER: Can we take a
16 break?

17 MR. JAFRI: Sure.

18 VIDEO OPERATOR: Off the record
19 at 2:01.

20 (Thereupon, a brief recess was
21 taken.)

22 VIDEO OPERATOR: Back on the

1 specifically, unless you put one in front of
2 me like this one.

3 Q. Can we focus on this final
4 sentence here in the third paragraph, you
5 know the one that started with, As a role
6 model among apes? We talked about that
7 already. You know in the final sentence
8 here --

9 A. Yeah.

10 Q. -- when it says, Any news about
11 the investor is often enough to generate
12 positive sentiment among apes active on
13 Reddit.

14 Do you see that?

15 A. Yes.

16 Q. Okay. Now, have you seen other
17 articles that have said that specific thing
18 that we -- that I just read to you?

19 A. I don't remember.

20 Q. Okay. But you may have?

21 A. No. I mean I don't -- what I
22 said is I don't remember.

1 Q. Okay. Now, you've never gone
2 ever publicly and said I am not a role model
3 for the apes?

4 A. I don't believe so.

5 Q. Okay. And you've never gone
6 publicly and said --

7 A. I've never said I am a role model
8 for the apes either.

9 Q. Please let me finish my question.

10 A. Okay.

11 Q. You've never gone and said that
12 you are not influential among this community
13 of retail investors?

14 A. I've never said that I was.

15 Q. That wasn't my question.

16 You've never said that you
17 weren't, correct?

18 A. I don't believe so.

19 Q. Okay. You have publicly said
20 nothing, in fact, to assert ever that you do
21 not influence stock prices?

22 A. I don't give out investment

1 advice.

2 Q. That's not my question. Please,
3 it's a yes or no question. You have never
4 gone publicly and said I, Ryan Cohen, do not
5 influence stock prices, correct?

6 A. I don't believe so.

7 Q. And you've never gone and said I,
8 Ryan Cohen, don't generate positive sentiment
9 among meme stock investors on Reddit?

10 A. I never said I do.

11 Q. But you've never said that you
12 didn't, right?

13 A. I don't believe so.

14 Q. Okay. You've never contested any
15 of --

16 A. Just to be clear, I don't give
17 out investment advice. I don't tell people
18 what to do with their money. My father
19 always told me don't tell people what to do
20 with their money.

21 So I think in one video
22 appearance when I was asked what should

1 investors do with their money, I said the
2 best thing to do is to invest in a low cost
3 index fund that follows the S&P 500. And I
4 was asked, well, you don't do that. You
5 don't diversify. You invest in specific
6 companies. I said well I'm entrepreneurial
7 and that's what I'm comfortable with, but I
8 don't recommend it to other people. That's
9 just my strategy, like what I told you
10 earlier in the deposition.

11 So I don't give people investment
12 advice, so why would I go and say any of the
13 things that you're suggesting if I'm not
14 going and telling people what they should do
15 with their money?

16 Q. Mr. Cohen, I -- my question
17 wasn't whether you should provide investment
18 advice --

19 A. Your question is putting words in
20 my mouth.

21 Q. Please let me finish the
22 question. Please. Please.

1 MR. FARINA: Yeah, let him ask
2 the question before you start to
3 answer.

4 BY MR. JAFRI:

5 Q. You are giving me a justification
6 for why you didn't do this. I understand.
7 I'm not interested. And I don't care.

8 My question is very, very simple.

9 You have never gone and said
10 something like, you know, please stop saying
11 that I generate positive sentiment among
12 these so-called apes on Reddit?

13 You've never done that, right?

14 A. I answered your question.

15 Q. Which is a yes, that you've never
16 done it?

17 A. I answered your question.

18 Q. What was the answer? Is it a yes
19 or a no? It's a simple yes or a no --

20 A. You can go through the transcript
21 and you'll see my answer.

22 Q. Well, I think you said yes to

1 some of the things and I don't know why
2 you're struggling so much with this one.

3 So when I -- when I -- when I
4 told you have you ever said, for instance,
5 that you do not have influence on stock
6 prices, you said that you haven't. So this
7 is a very similar question. It's just about
8 a different topic, which is, have you ever
9 said that you don't generate positive
10 sentiment among the apes on Reddit publicly?

11 A. I don't know.

12 Q. You haven't, right?

13 A. No, I mean I don't know.

14 Q. You don't recall any instance?

15 You can't tell me one example where you have
16 publicly said it?

17 A. I don't know.

18 Q. Okay.

19 A. I don't remember every single
20 thing that I've said.

21 Q. All right. Let's move on to
22 another exhibit. You can keep that away.

1 very, very risky transformation that the
2 company, especially going into a macro time
3 of a lot of uncertainty, especially given the
4 balance sheet.

5 You -- you see all that?

6 A. Yes.

7 Q. So when you said that, I --
8 you -- is it true that you said that the
9 company did not have the balance sheet to
10 transform the business?

11 A. I don't remember exactly. These
12 are not my notes.

13 Q. Okay. But do you believe that
14 the company did not have the balance sheet
15 to -- to do a transformation?

16 A. I believe that the company was
17 doing a lot worse than I expected and losing
18 a lot of money. I didn't have visibility,
19 obviously, into the future trajectory, but
20 based on what I saw in the previous quarter,
21 the company was losing a lot of money.

22 Q. Okay. Now, if we focus on the --

1 the final section on this page here that
2 again is attributed to you -- it says RC, do
3 you see that, but operationalizing a plan?

4 A. Yes.

5 Q. You see that?

6 So it says, but operational --
7 operationalizing a plan, SG&A at 33 percent
8 isn't sustainable and GM contracting by
9 400bps, so getting back to SG&A mid
10 20 percent will involve pretty significant
11 changes at the company. Given the macro
12 backdrop we're heading into, there are
13 probably some big changes that have to be
14 made to address business and to conserve
15 cash. Is that happening? Have we scrapped
16 the 2020 plan?

17 Is it true that you wanted the
18 company to cut back on SG&A expenses and get
19 it down to the mid 20 percent?

20 A. I wanted them to reduce expenses,
21 yes.

22 Q. To mid 20 percent?

1 A. I mean, that sounds like a good
2 target.

3 Q. Okay. And that number happened
4 while you were invested, correct?

5 A. I don't believe so.

6 Q. Okay. And then over here, does
7 this jog your memory, where it says, Have we
8 scrapped the 2020 plan?

9 Do you remember that?

10 A. I don't remember specifically the
11 2020 plan. I think this was a 150-page God
12 knows what that they paid McKinsey to do,
13 talking about how they were going to have
14 private label and all kinds of things. And I
15 thought it was crazy, and I said that in the
16 letter, that I thought it was crazy, to go to
17 a bunch of consultants and spend God knows
18 how much money to come up with a -- a
19 beautiful PowerPoint deck that I did not
20 believe was achievable.

21 Q. Okay. But they never changed
22 their behavior, right? Like it's not like

1 they scrapped this plan or didn't stop -- or
2 stopped consulting with McKinsey or all of
3 those things while you were investing?

4 A. I have no idea --

5 Q. You're not aware?

6 A. I don't know. I -- no, I'm not
7 aware. I don't know what they did.

8 Q. Okay. So when you were saying
9 scrap this plan and your criticism right now
10 of McKinsey, you never felt that there was a
11 change in behavior --

12 A. It could have been BCG.

13 Q. Or BCG, right, sure, Consultants.

14 I know that you -- you're critical of those.

15 But what I'm saying is, you never
16 felt, ever while you were invested, that they
17 did any of these things, correct?

18 A. The company was losing hundreds
19 of millions of dollars. I don't know what
20 they did or they didn't do. They did a
21 remarkable job driving the company off of a
22 cliff. They get an A plus for that.

1 Q. I understand, Mr. Cohen. But my
2 question is different. My question if you
3 had have certain ideas about what they
4 would -- they should be doing, like, for
5 instance, cutting costs down to --

6 MS. REPORTER: Slow down,
7 please.

8 BY MR. JAFRI:

9 Q. Like, for instance, cutting costs
10 down to the 20 percent range, right? And
11 they never did that to your knowledge?

12 MR. FARINA: Objection, form,
13 foundation.

14 THE WITNESS: I don't know what
15 they did or they didn't do. They did
16 not get their expenses in line.

17 You had their gross margin
18 going down. You had their expenses
19 going up. You had revenues going
20 down. That was very, very clear from
21 the April results.

22 So these were -- again, I don't

1 remember exactly what I said in this
2 note. These are not my notes. These
3 are notes from the company. But it's
4 not healthy to go and lose hundreds of
5 millions of dollars. And they needed
6 to improve the performance and they
7 didn't. They drove the company off of
8 a cliff.

9 BY MR. JAFRI:

10 Q. So in other words, there was no
11 improvement and you didn't feel like they had
12 implemented any of your proposed solutions,
13 correct?

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

15 Q. You're not aware that they did?

16 A. I don't know.

17 Q. You're not aware that they did,
18 is that --

19 A. I don't -- no, I don't know.

20 Q. Okay. All right. So you have no
21 knowledge of them taking any steps to
22 implement any of these ideas that you had,

1 MR. FARINA: -- so not the
2 second E-mail in the chain.

3 THE WITNESS: From me to my
4 lawyer?

5 BY MR. JAFRI:

6 Q. Yeah. Yeah. I'm talking about
7 the --

8 A. Yeah.

9 Q. -- first one, the first page at
10 2:42 p.m.

11 A. Um-hmm.

12 Q. You see that?

13 So you wrote, Given I'm going to
14 be in the market buying, I'd like to cancel
15 the call and ask her to speak next week.
16 What is the best way to slow this down so
17 that I'm not restricted from buying tomorrow
18 and Friday. He says to you that you should
19 just say something has come up and you need
20 to reschedule.

21 Did you consider buying BBY
22 shares on June 30th and July 1st of 2022?

1 A. I was thinking about it.

2 Q. And why was that?

3 A. Because I liked the price.

4 Q. But what was the reason why you
5 wanted to buy shares at that point?

6 A. Because I liked the price.

7 Q. I understand. But did you have
8 some sort of goal in mind about how much you
9 would buy?

10 A. No.

11 Q. And --

12 A. I believe, according to the
13 cooperation agreement, I was -- I could only
14 go up to 20 percent.

15 Q. And you considered going up to
16 20 percent?

17 A. No. I told you I didn't have
18 a -- a goal, but that was the maximum that I
19 could go up to, as per the cooperation
20 agreement.

21 Q. Okay. But why on this day did
22 you decide that you may want to buy some

1 shares following this conversation that you
2 had about how terrible the results were?

3 A. Because I liked the price.

4 Q. Okay. Was that the only reason?

5 A. Yes.

6 Q. Did you consider buying shares to
7 try and get more influence at the company?

8 A. I had to like the price. The
9 most important thing was I liked the price.

10 Q. No. No. My -- my question is,
11 was one of those the motivation? Somehow if
12 you increased your stake, you would have,
13 like, more influence?

14 A. The motivation was liking the
15 price.

16 Q. Was that the only -- that was the
17 only reason?

18 A. I -- I believe so. I thought it
19 was attractive.

20 Q. So why didn't you end up buying
21 any shares?

22 A. I changed my mind.

1 Q. When?

2 A. I don't remember exactly when.

3 Q. And what was the reason for that?

4 A. I didn't -- I decided I wasn't
5 going to go further into the investment.

6 Q. Okay. Because of the fact that
7 the results were terrible?

8 A. I don't remember exactly why I
9 changed my mind. But I changed my mind. I
10 thought about it. I was considering it and I
11 didn't do it.

12 Q. Because buying more shares was a
13 bad idea?

14 A. Well, I -- I mean, I don't know.
15 I changed my mind.

16 Q. Because it was not a good
17 decision to buy more shares?

18 A. I changed my mind because I
19 decided I did not -- not want to. And I
20 don't remember why I changed my mind --

21 Q. Do you think it --

22 A. -- why I -- what -- how I came to

1 that conclusion, I don't remember what I was
2 thinking at the time that I decided. I was
3 thinking about it and then I decided I wasn't
4 going to do it.

5 Q. Do you remember when you decided
6 that you weren't going to do it?

7 A. No.

8 Q. Was it in July 2022?

9 MR. FARINA: Objection, form.

10 THE WITNESS: You just asked me
11 if I remember when, I told you no and
12 then you asked me the dates.

13 BY MR. JAFRI:

14 Q. Yeah. I'm trying to be more
15 specific because you were trying to buy some
16 shares at the end of June and early July,
17 right, in the --

18 A. If I would -- if I -- I knew the
19 date, I would have said it to you, so --

20 Q. Okay.

21 A. -- I answered your question.

22 Q. I'm just trying to understand the

1 timeline. I'm just wondering when, you know,
2 you had this -- you had this desire at this
3 point to buy shares, whether you recall that
4 you changed your mind about it, you know,
5 within a few days of sending Ryan Nebel these
6 E-mails.

7 A. I don't remember when I changed
8 my mind.

9 Q. Okay. All right. You can put
10 that away.

11 Did you have any communications
12 with Sue Gove in July of 2022?

13 A. We spoke at a certain point, but
14 I don't remember when.

15 Q. Was that conversation on Zoom?

16 A. I believe so.

17 Q. Did you -- did you question her
18 about whether there was a bankruptcy risk?

19 A. I don't believe so.

20 Q. Okay. All right. So we will
21 show you one document. So this is -- this
22 was previously marked as Exhibit 188.

1 MR. FARINA: Objection, form,
2 foundation.

3 THE WITNESS: I don't remember
4 the article specifically going and
5 saying a -- a target price of the
6 company.

7 BY MR. JAFRI:

8 Q. But it was a negative --

9 A. I remember it was a negative
10 article.

11 Q. Okay. And you retweeted it with
12 this message, At least her cart is full,
13 right?

14 A. The article had a picture of --
15 it was a negative article and it had a
16 picture of a woman whose shopping cart was
17 filled. So I made a sarcastic remark, saying
18 At least her cart is filled to a negative
19 article because I thought it was funny that
20 they picked a picture showing someone that
21 looked like they had a pretty nice, fun
22 shopping spree. So I made a sarcastic

1 comment saying at least her cart is filled.

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1 EVENING SESSION 5:00 p.m. EDT

2 BY MR. JAFRI:

3 Q. Right. I -- I have a couple of
4 questions about this.

5 Now, earlier on you and I had
6 talked about the motion to dismiss that you
7 filed earlier on, you know, in -- with
8 respect to this case to try and get it
9 dismissed.

10 A. That my lawyers filed?

11 Q. Yeah.

12 A. Yes.

13 Q. And you told me that you read it,
14 right?

15 A. Parts of it I told you.

16 Q. Yeah. And you told me that it
17 was authorized by you before it was filed?

18 A. Yes.

19 Q. Okay. Now, you are aware that in
20 that motion they said that you had soured on
21 your investment long before you sent this
22 tweet, correct?

1 MR. FARINA: Objection, form,
2 foundation.

3 THE WITNESS: No, I don't
4 remember that.

5 BY MR. JAFRI:

6 Q. Okay.

7 A. I don't remember what my lawyer
8 said.

9 Q. All right. So -- but -- but you
10 authorized -- you authorized that filing,
11 right?

12 A. I don't remember what my lawyer
13 said.

14 Q. That -- my question is different.
15 It was signed on your behalf by
16 your attorneys and filed --

17 A. Okay.

18 Q. -- with your permission, right?

19 A. Okay.

20 Q. It was?

21 A. I don't remember exactly. I'm
22 assuming I signed off on that.

1 Q. Okay. Well, I mean, it's a fact
2 about you, so they couldn't have made it up,
3 right?

4 MR. FARINA: Objection, form.

5 THE WITNESS: I answered your
6 question.

7 BY MR. JAFRI:

8 Q. I have a different question.

9 A. Okay.

10 Q. You have no reason to doubt that
11 there's anything false in that filing?

12 A. I -- I don't have the filing in
13 front of me and you're not asking me
14 something specifically. So I have no way to
15 answer this question.

16 Q. So it's a possibility that things
17 that are filed in court on your behalf
18 contain false information?

19 A. I rely on my lawyers to file
20 forms correctly.

21 Q. But you -- you're not 100 percent
22 sure whether there's anything false in these

1 filings?

2 A. I rely on my lawyers to file
3 accurate forms. I can't say whether
4 something is 100 percent. Nothing is
5 100 percent --

6 Q. Okay.

7 A. -- besides death and taxes.

8 Q. So do you -- do you agree that
9 you had already lost interest in BBBY before
10 you sent this tweet?

11 A. No.

12 Q. So what they said is false in
13 that filing?

14 A. I don't know in what context they
15 said it and --

16 Q. Well --

17 A. -- I don't have it in front of
18 me.

19 Q. Let me rephrase.

20 A. And I did not -- when you say
21 lose interest, what does that mean exactly,
22 to lose interest?

1 Q. Okay. I'll be more specific.

2 Did you sour on your investment
3 in BBBY securities before you sent this
4 tweet?

5 A. The company had done a lot worse
6 than I expected. I -- I already shared that
7 on multiple occasions.

8 Q. Sure. So does that mean yes?
9 Does that mean you did sour on --

10 A. I don't know what it means to
11 sour on something.

12 Q. You had lost interest in your
13 investment by the time you tweeted this?

14 A. It depends on the price. Like I
15 told you, I'm a value investor. If something
16 is a certain price, I'm interested. If
17 something is at a certain price and it's 2X
18 that, then I'm not interested. It depends on
19 the price.

20 Q. Now, are you familiar --

21 A. Did I sour on the investment? I
22 thought that the company was doing worse than

1 I expected. I was surprised that they were
2 losing as much money as they did.

3 Q. Mr. Cohen, sitting over here, you
4 have no reason to believe that your attorneys
5 filed anything in this case that is false,
6 correct?

7 MR. FARINA: Objection, form.

8 THE WITNESS: You asked me this
9 already.

10 BY MR. JAFRI:

11 Q. No --

12 MR. FARINA: Why don't you just
13 ask him directly whether he soured on
14 his investment.

15 MR. JAFRI: I did.

16 MR. FARINA: Okay.

17 MR. JAFRI: I did. And he
18 responded.

19 MR. FARINA: Okay. Then --
20 then you should move on.

21 MR. JAFRI: No, I -- it's -- I
22 have a different question.

1 BY MR. JAFRI:

2 Q. My question is, Mr. Cohen, you
3 don't have any reason sitting over here to
4 believe that any of your attorneys --

5 A. You asked --

6 Q. -- have filed anything that is
7 factually inaccurate, right?

8 MR. FARINA: Why don't you show
9 him -- show him what you --

10 THE WITNESS: You asked me --

11 MR. FARINA: Hang on. Hang on.
12 Hang on.

13 Why don't you show him what
14 you're referring to and ask him
15 whether he agrees with it.

16 MR. JAFRI: No. I think we've
17 already moved on from that point.

18 MR. FARINA: Well, then, we'll
19 move on.

20 BY MR. JAFRI:

21 Q. Mr. Cohen, do you want me to
22 repeat the question?

1 MR. FARINA: No, no, no. If
2 you want to ask his opinion, you now
3 have him under oath giving his
4 testimony. If you want to show him
5 something and ask him whether he
6 agrees with it, he will tell you
7 whether or not he agrees with it and
8 then you'll have his testimony.

9 MR. JAFRI: Okay. Thank you
10 for the advice.

11 BY MR. JAFRI:

12 Q. Going back to my question,
13 sitting over here, you do not believe that
14 there was any filing in this case that
15 contained any factual errors, right?

16 MR. FARINA: Objection, form.

17 THE WITNESS: I rely on my
18 lawyers to prepare my filings.

19 BY MR. JAFRI:

20 Q. Yes. And you trust them to say
21 things that are correct, correct?

22 A. Do I trust them to say things

1 that are -- that's a big statement. I trust
2 that they do the best job that they can to
3 prepare my filings, period.

4 Q. Mr. Cohen --

5 A. You keep on going back to did I
6 sour on my investment. I don't know what
7 that means, to sour on something.

8 What -- the company was doing
9 worse than I thought. They had two quarters
10 already losing lots of money. They were
11 doing worse than I thought. So if that
12 would -- if that's what they meant when they
13 said I soured on the investment, yeah. I
14 wasn't happy that the company was losing so
15 much money.

16 Q. Okay. Now we're getting
17 somewhere.

18 A. Okay.

19 Q. All right. Now, the next thing
20 that I want to discuss with you is are you
21 aware of the fact that factual
22 representations on your behalf were made in

1 the motion to dismiss about this tweet
2 stating that you were expressing pessimism
3 about this -- the company in this tweet?

4 MR. FARINA: Objection, form,
5 foundation.

6 If you're -- look, if you're
7 going to ask him about the motion,
8 then show him the motion and ask him
9 whether he agrees with it.

10 VIDEO OPERATOR: You can't move
11 around your mic, sir.

12 MR. FARINA: We're going to
13 take a break. I would suggest you get
14 the document if you want to ask him
15 about it.

16 MR. JAFRI: All right. Let's
17 take a ten-minute break.

18 VIDEO OPERATOR: Okay. Off the
19 record at 5:06.

20 (Thereupon, a brief recess was
21 taken.)

22 VIDEO OPERATOR: Back on the

1 record at 5:17.

2 BY MR. JAFRI:

3 Q. Ready?

4 A. Yes.

5 Q. Okay. So before we left, we were
6 talking about your August 12th tweet. I'm
7 just going to directly, you know, pose this
8 question to you.

9 Were you expressing pessimism in
10 this tweet about the company and its
11 prospects?

12 A. No.

13 Q. But when you suggested to me that
14 you were being sarcastic about the -- the
15 woman with the shopping cart, what did you
16 mean?

17 A. I mean that the article was
18 negative and the picture of the shopping cart
19 was filled. So I made a sarcastic comment
20 that said at least her cart is full. And
21 then I chose a face that, in my mind,
22 indicated -- it was complementary to the

1 sentence that I said, which was being
2 sarcastic.

3 Q. Okay. But other than the fact
4 that you were being sarcastic, were you
5 expressing agreement with what was in the
6 CNBC article?

7 A. No. I said at least her cart is
8 full. It was a sarcastic comment in response
9 to a negative article, making fun of the fact
10 that the article was negative and the picture
11 was a woman who had her cart filled to the
12 top.

13 Q. So you didn't agree with the
14 article?

15 A. I did not say that.

16 Q. Well, I mean --

17 A. I didn't give an opinion on the
18 article. I gave an opinion on the actual
19 picture.

20 Q. So your testimony is that you had
21 no opinion whatsoever on the CNBC article?

22 A. Correct.

1 Q. Okay. You have never publicly
2 stated ever that you were being sarcastic in
3 this tweet, correct?

4 A. I've not been -- I have not
5 commented publicly on the litigation.

6 Q. That's not my question. I'm
7 talking about this specific tweet.

8 You have never publicly said that
9 you were being sarcastic in this tweet,
10 correct?

11 A. The tweet was sarcastic.

12 Q. Mr. Cohen, you have never
13 publicly said that you were being sarcastic
14 when you sent this tweet, correct?

15 A. I don't know what I said. I -- I
16 don't know what I -- you asked me if I've
17 never said something. I don't know.

18 Q. You never tweeted in response to
19 this tweet or at any other time that you were
20 being sarcastic when you sent out this
21 tweet --

22 A. I don't -- I don't know.

1 Q. You have no idea whether you
2 tweeted something in response explaining this
3 tweet?

4 A. No, you asked me if I've ever
5 publicly said before that I was being
6 sarcastic. And I said I don't know.

7 Q. Yeah. And then I had a different
8 question.

9 A. Okay.

10 Q. My different question is, you
11 have never tweeted any other explanation
12 about this tweet saying that you were being
13 sarcastic, correct?

14 A. I don't believe so.

15 Q. Okay. You never went on Reddit
16 and said I was being sarcastic when I sent
17 this tweet, correct?

18 A. I've never posted on Reddit
19 before.

20 Q. I understand. So you obviously
21 didn't go on there and say hey, guys, I was
22 being sarcastic, right?

1 A. Correct.

2 Q. Okay. You've never told anybody
3 in any of the interviews you've given with
4 respect to any articles that have been
5 published about you anywhere, really --
6 there's never been a comment from you saying
7 that you were being sarcastic when you sent
8 this tweet, correct?

9 A. I don't believe so.

10 Q. Okay. All right. I wanted to
11 move on to a couple of other things and then
12 we can get out of here.

13 So I wanted to show you another
14 exhibit which you produced. So this is a --
15 an exhibit you produced, Mr. Cohen. We're
16 going to mark it as 295.

17 (Thereupon, Exhibit 295 was
18 marked for identification.)

19 THE WITNESS: Thank you.

20 BY MR. JAFRI:

21 Q. This is a long chain. Again, I
22 just have a couple of questions. You know,

1 A. I don't remember.

2 Q. What about Diandra Weaver?

3 A. It would have been around the
4 same time as this E-mail.

5 Q. Okay. Who else knew at Olshan or
6 JPMorganChase that you were planning to sell
7 your shares?

8 A. I don't know.

9 Q. John Moon?

10 A. I don't know.

11 MR. JAFRI: Moon, M-O-O-N.

12 BY MR. JAFRI:

13 Q. On August 15th you did not tell
14 Mr. Nebel that you were going to sell all
15 your shares, correct?

16 A. I don't believe so.

17 Q. Is that I don't believe so?

18 MR. FARINA: That's what he
19 said.

20 THE WITNESS: I don't know -- I
21 didn't know whether I was going to
22 sell all my shares.

1 BY MR. JAFRI:

2 Q. My question was different. My
3 question is, on August 15th you did not tell
4 Mr. Nebel that you were going to sell all
5 your shares, correct?

6 A. On August 15th -- what -- what's
7 in here is what I said.

8 Q. Okay. I'll rephrase it in
9 another way.

10 On August 15th you did not tell
11 Mr. Nebel that you were selling at all,
12 correct?

13 A. I was not selling.

14 Q. Well, when -- when it says over
15 here at the bottom of the chain -- well,
16 actually over here, if you go to the page
17 where it begins -- or ends with 70?

18 A. Which page?

19 Q. This is 8070. So it's like the
20 third page from the back.

21 A. Yeah.

22 Q. This is an E-mail from you to

1 Nebel, cc'ing another person --

2 A. Yeah.

3 Q. And you wanted to know how long
4 will this take. Am I prevented from trading
5 in the meantime. Can this be done today.

6 So you told him that you were
7 trading, but you didn't tell him that you
8 were selling, right?

9 A. I was not trading.

10 Q. So then why were you telling him
11 that you -- why were you -- why were you
12 questioning him about whether you could --
13 whether you were prevented from trading?

14 A. Because my bank told me that I
15 was prevented from trading. I told them what
16 the bank said.

17 Q. Okay. And why did you contact
18 the bank?

19 A. Because I was interested in
20 the -- being able to trade.

21 Q. Okay. Being able to trade and do
22 what?

1 A. That, being able to trade.

2 Q. Sell?

3 A. Depends on the price.

4 Q. So you were thinking of buying
5 shares on this day?

6 A. Depended on what the price would
7 have been.

8 Q. Did you think of buying shares on
9 this day at all?

10 A. It depends on what the price
11 would have been.

12 Q. That's not my question.

13 On this day, did you think of
14 buying shares?

15 A. It depends on what the price
16 would have been. I'm always thinking about
17 investing.

18 Q. Mr. Cohen, my question is very
19 specific.

20 Did you have a thought in your
21 head on this day that you may buy shares of
22 BBY?

1 A. It -- yes. It depended on the
2 price. I may have bought depending on the
3 price. I may have sold. The stock on that
4 day, I believe, was going up, so it -- it --
5 I didn't buy.

6 Q. Okay. But my question has
7 nothing to do with your response. My
8 question is whether you at any point thought
9 of buying shares on August 15th with respect
10 to BBY securities.

11 A. I don't remember what I was
12 thinking on that day.

13 Q. Okay. So since -- so based on
14 your testimony, then, you obviously didn't
15 tell Nebel on this day that you were selling
16 any shares, correct?

17 A. I was not selling shares on that
18 day.

19 Q. So you only told him that you
20 were trading?

21 A. I told him what's in the E-mail.

22 Q. That you were contemplating

1 trading?

2 A. He was in communication with the
3 bank that I was contemplating trading and I
4 wanted the option to be able to trade.

5 Q. Was that also true on
6 August 16th?

7 A. Was what also true?

8 Q. That you were just -- you just
9 told Nebel that you were trading.

10 MR. FARINA: Objection, form.

11 BY MR. JAFRI:

12 Q. Go ahead, Mr. Cohen.

13 A. I don't understand your question.

14 Q. On August 16th did you tell
15 Mr. Nebel that you were only trading shares
16 as opposed to specifically buying or selling?

17 A. I don't remember exactly what I
18 told him.

19 Q. Did you tell Mr. Nebel on
20 August 16th that you were selling shares?

21 A. I don't remember exactly what I
22 told them.

1 Q. So you have no recollection
2 whatsoever of what you told Mr. Nebel on
3 August 16th?

4 A. That I wanted the ability to
5 trade.

6 Q. So it was only about ability to
7 trade, not I'm trading, correct?

8 A. I was -- I was prevented from
9 trading.

10 Q. I'm talking about August 16th
11 now.

12 A. I believe on August 16th at a
13 certain point I was also -- and he was
14 counseling me and he was giving -- he was
15 working with the bank so that I was -- had
16 the ability to be able to trade.

17 Q. Okay. Can we look at another
18 E-mail over here. So if you go to the page
19 that ends with 68, this is the E-mail at the
20 bottom of the chain, Mr. Cohen, from you on
21 August 15th, 6:09 p.m.

22 A. Yeah.

1 Q. So you wrote, Thank you. Ryan,
2 has JPM reached out to you. Can you talk to
3 them today. I need to get this resolved
4 tonight so I can trade tomorrow.

5 You see that?

6 A. Yeah.

7 Q. Why were you in such a rush?

8 A. Because I wanted the option to be
9 able to trade.

10 Q. I know, but, I mean, why on this
11 day did you really want this to be wrapped
12 up? I mean, you're sending this E-mail to
13 somebody at 6:09 p.m. That's -- that's --
14 that was beyond business hours, right?

15 A. I don't -- my business hours are
16 24 hours a day.

17 Q. That's fine, Mr. Cohen. But
18 everybody does not work like that.

19 You sent this E-mail to your
20 attorneys at 6:09 p.m., right?

21 A. Yes.

22 Q. And you told them that you wanted

1 to have this done before the night ended,
2 correct?

3 A. Yes.

4 Q. Okay. So what was the reason for
5 that? Explain to me why you wanted it to be
6 done that night.

7 A. Because I wanted the ability to
8 be able to trade.

9 Q. Why? Why at that time?

10 A. I don't understand your question
11 why.

12 Q. Well, I mean, if I wanted to
13 trade, for instance, and I told somebody I
14 want you to wrap this up tonight because I
15 really want to trade --

16 A. Yeah.

17 Q. -- the next day, I probably have
18 some motive or some reason why I want to do
19 it so quickly.

20 Are you telling me that you're
21 not like that?

22 A. I'm telling you I wanted the

1 ability to trade.

2 Q. I understand that. I can read
3 the E-mail. My question is, why did you want
4 to trade in this hurried fashion?

5 A. Wasn't -- it -- I was being
6 prevented from trading. I wanted it to be
7 resolved so that I could trade.

8 Q. Okay. So when you sent this
9 E-mail at 6:09 p.m. on August 15th, what did
10 you want to do? Did you want to buy or did
11 you want to sell?

12 A. When I sent which E-mail?

13 Q. The one that I just talked about,
14 6:09 p.m. August 15th.

15 A. I wanted to be able to trade.

16 Q. Buy or sell?

17 A. I wanted to be able to be in the
18 market to trade. I was prevented from
19 trading.

20 Q. Mr. -- Mr. Cohen, my question is,
21 did you want to buy or did you want to sell?

22 Please address the question.

1 A. It depended on the price.

2 Q. So you -- you -- you -- you --

3 A. It always depends on the price.

4 Q. Okay. And -- and you are telling
5 me that when the price skyrocketed on this
6 day, you were thinking of buying shares?

7 A. It depends on the price. It was
8 very volatile, so the stock was going up.
9 The stock was going down.

10 Q. What price --

11 A. It depends on the price.

12 Q. Okay. What the price point would
13 you have sold your shares at?

14 A. I sold my shares.

15 Q. Right. I -- what I want to know
16 is what was the ideal price point for you to
17 sell your shares?

18 A. I don't know that I had an ideal
19 price point to sell my shares.

20 Q. Okay. What about -- what about
21 buying shares? What -- was there a price
22 where you would have been, like, this is too

1 expensive?

2 A. Yeah, but I didn't have a -- a
3 set number in my mind.

4 Q. Okay. I just want to be clear
5 about one thing.

6 Your testimony is that even
7 though the price of the BBY securities was
8 skyrocketing on these days --

9 A. Yeah.

10 Q. -- you were still contemplating
11 at 6:09 p.m. on August 15th purchasing
12 shares?

13 A. The price can change. The price
14 could have gone down -- the same way the
15 price went up, the price could have gone down
16 also. So I -- I wanted the option to trade.

17 Q. Okay. So you thought that the
18 price could go down --

19 A. Anything can happen.

20 Q. -- the next trading day on
21 August 16th?

22 MR. FARINA: Can you guys --

1 one at a time, please.

2 THE WITNESS: Anything can
3 happen.

4 BY MR. JAFRI:

5 Q. Okay. So your testimony --

6 A. If the price skyrocketed, it
7 could have also go down. It could go up. It
8 could go down. I don't know.

9 Q. Right. So your testimony is that
10 as of the end of the trading day on
11 August 15th, you were contemplating that the
12 price could collapse on the 16th?

13 A. No, I did not say that. You said
14 that.

15 Q. Okay. You were contemplating --

16 A. I said anything can happen.

17 Q. Okay.

18 A. Stocks can go up. Stocks can go
19 down.

20 Q. But you thought --

21 A. I wanted the option to trade.

22 Q. Okay. Mr. Cohen, you were

1 considering at least the possibility that the
2 stock would decrease on the 16th?

3 A. No, I'm saying I don't know what
4 a stock is going to do tomorrow.

5 Do you? Does anyone?

6 Q. Okay. I think I have what I
7 need.

8 Is it true, Mr. Cohen, that you
9 called JPMorganChase many times on the 15th
10 and 16th to try and get this issue resolved?

11 A. I tried to get the issue
12 resolved, yeah.

13 Q. Okay.

14 A. They called me. I called them.
15 And they were -- and they were working with
16 Olshan to get it resolved also.

17 Q. How many times did you call
18 JPMorganChase on the 15th and the 16th?

19 A. I don't remember.

20 Q. Were you calling them -- do you
21 remember if it was more than ten times?

22 A. I don't remember.

1 A. Yes.

2 Q. Okay. How did you come across
3 this article?

4 A. You asked me that already.

5 Q. You don't remember?

6 A. I don't remember.

7 Q. You did nothing publicly on that
8 day to say that you, in fact, had not bought
9 any additional BBY securities, correct?

10 A. I didn't say that I did.

11 Q. My question is, you did -- you
12 said nothing publicly to correct the record
13 that day and say that you did not buy any
14 additional BBY securities, correct?

15 A. I never said that I did buy more.

16 Q. But you never said that you
17 didn't, correct?

18 A. I believe that I discussed the
19 issue with my advisors and I asked them to
20 clear it up.

21 Q. But publicly there was no comment
22 from you on -- at any point in August of 2022

1 saying that you didn't buy any additional
2 shares?

3 A. I followed the advice of my
4 lawyers.

5 Q. You didn't tweet out --

6 A. I never said that I did.

7 Q. I understand. You didn't tweet
8 and say I'm being misinterpreted, I did not
9 buy any shares?

10 A. I wasn't being misinterpreted. I
11 never said that I bought more shares. This
12 was incorrectly reported.

13 Q. Okay. But you never said on
14 Twitter it has been incorrectly reported,
15 correct?

16 A. I followed the advice of my
17 lawyers.

18 Q. Okay. I'm going to show you
19 another exhibit.

20 MR. JAFRI: So we're going to
21 mark this as 296.

22

1 thought it was going to do.

2 Q. Mr. Cohen --

3 A. That's my statement.

4 Q. Did you underestimate --

5 A. These are not my words.

6 Q. Did you --

7 A. These are his.

8 Q. Okay. Well, I -- my -- now I
9 want to know your views.

10 Did you underestimate the amount
11 of damage that was done?

12 A. The company lost more money than
13 I thought it was going to lose.

14 Q. Did you underestimate the
15 amount --

16 A. The company did worse than I
17 thought it would.

18 Q. Okay. I understand.

19 A. Okay.

20 Q. My question is --

21 A. So that's my statement.

22 Q. My question is, did you

1 underestimate the amount of damage that was
2 done, yes or no?

3 A. I'm -- I think he did a
4 remarkable job screwing up the company,
5 exceptional, A plus.

6 Q. Who are you talking about?

7 A. The company.

8 Q. Okay.

9 A. Mark Tritton.

10 Q. Okay. But once -- that had
11 already happened before you sold your shares,
12 right?

13 A. No.

14 MR. FARINA: Objection, form.

15 THE WITNESS: I -- I don't

16 know. I --

17 What?

18 MR. FARINA: I said objection,
19 form.

20 THE WITNESS: Yeah. I -- I
21 have no idea what had happened. We
22 know now.

1 BY MR. JAFRI:

2 Q. Okay. But he left --

3 A. He drove the company off of a
4 cliff. He gets an A plus for driving the
5 company off of a cliff.

6 Q. And he left at the end of June --

7 A. Yeah.

8 Q. -- of 2022?

9 So by that point he had already
10 driven the company off the cliff?

11 A. No, I didn't say that.

12 Q. Well --

13 A. Wasn't -- it -- it was not just
14 him, by the way. I mean, they -- he left and
15 the company did not get better.

16 Q. Mr. Cohen, I'm going to read back
17 your testimony to you.

18 You said he drove the company off
19 a cliff. He gets an A plus for driving the
20 company off a cliff.

21 A. Well, him -- him and everyone
22 else that was involved.

1 Q. Okay.

2 A. Him and the management team, the
3 board. Everyone is responsible.

4 Q. I understand. Mr. Cohen --

5 A. He was the leader, but everyone
6 else is responsible for it.

7 Q. Mr. Cohen, that was something
8 that you said later. I'm talking about the
9 specific --

10 A. Well, I'm just clarifying the
11 statement now.

12 Q. Okay. Well --

13 A. Him and everyone else at the
14 company.

15 Q. Okay. And he left on June 29th
16 2022, right?

17 A. I believe so.

18 Q. Okay. So if he was the one also
19 driving the company off the cliff, he could
20 have only done it before June 29, 2022,
21 right?

22 A. I did not say that. You're

1 saying that. And then you're trying to get
2 me to agree with you and I'm not.

3 Q. How could -- how could he
4 logically drive the company off the cliff at
5 a time when he's not even there?

6 A. Exactly. That's why I said it
7 was him and everyone else.

8 Q. Okay. But if he's -- if he also
9 has driven the company off the cliff, he can
10 only do that while he's at the company,
11 right?

12 A. It was a group effort.

13 Q. I'm just talking about his --
14 his -- his -- his --

15 A. I -- I don't -- I -- I don't
16 understand.

17 Q. I'm just talking about his
18 contribution, Mr. Cohen.

19 A. I already gave you my statements.

20 Q. I -- I think -- so when you said
21 that everyone drove the company off the
22 cliff, who are you talking about? Who is

1 everyone?

2 A. I don't know.

3 Q. Well, you must have some idea. I
4 mean, you said everyone.

5 A. I wasn't -- I was not on the
6 inside. The company -- the people who are in
7 charge of the company, the management team,
8 the board of directors, it was ...

9 Q. Yeah, go ahead. You -- you said
10 it was --

11 A. That's it. I don't know.

12 Q. Okay. But you think there's --
13 there's a lot of people to blame?

14 A. Yes.

15 Q. Okay. Mr. Cohen, between
16 June 29th of 2022 and August 18th of 2022,
17 did the company release any public
18 information about its financial results?

19 A. Between when and when?

20 Q. I just told you the date range.
21 Between June 28th 2022 and August 18th of
22 2022.