

1 CIVIL DISTRICT COURT

2 FOR THE PARISH OF ORLEANS

3 STATE OF LOUISIANA

4 NO. 2000-9440 DIVISION "I"

5 ANTONIO D. ASSUNTO, AS ADMINISTRATOR OF THE
6 ESTATE OF FRANK J. ASSUNTO

7 VERSUS

8 JOHN SHOUP, TELERECORD TELEVISION
9 PRODUCTIONS LTD., T.L.P. OF NEW ORLEANS,
INC., ET AL.

10

11 DEPOSITION OF JOHN SHOUP, VOLUME II,
12 TAKEN AT STANLEY, REUTER, ROSS, THORNTON &
ALFORD, ON THURSDAY, JULY THE 16TH, 2009

13

14 APPEARANCES:

15 STANLEY, REUTER, ROSS, THORNTON &
16 ALFORD

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23

24 COUNSEL FOR THE DEFENDANTS

25

□

2

1 ALSO PRESENT:

2 ANTONIO D. ASSUNTO

3

4 * * * * *

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1

2 STIPULATION

3 It is stipulated and agreed by and
4 between counsel for the parties hereto that
5 the deposition of the aforementioned witness
6 is hereby being taken for all purposes
7 allowed under Article 1421, et seq, of the
8 Louisiana Code of Civil Procedure, in
9 accordance with law, pursuant to notice;

10 That the formalities of reading
11 and signing are specifically not waived;

12 That the formalities of filing,
13 sealing, and certification are specifically

14 waived;

15 That all objections, save those as

16 to the form of the question and the

17 responsiveness of the answer, are hereby

18 reserved until such time as this deposition,

19 or any part thereof, may be used or sought

20 to be used in evidence.

21 * * *

22 KRISTINA DIGIOVANNI REA, Certified

23 Court Reporter, in and for the State of

24 Louisiana, officiated in administering the

25 oath to the witness.

□

7

1 JOHN SHOUP,

2 after having been first duly sworn by the

3 above-mentioned court reporter, did testify

4 as follows:

5 MS. SCALISE:

6 Just for the record, we are

7 switching court reporters, and so this is

7 Q Does anyone else get money besides
8 Image and you?

9 A No.

10 Q In the time that you had the Dukes
11 from 1975 on, who has financed the
12 production of their music or the music of
13 the band?

14 A I am.

15 MR. DORVEE:

16 Can you define production?

17 MS. SCALISE:

18 Any creation of any music, whether
19 it's in the form of a DVD or CD or cassette.

20 MR. DORVEE:

21 Okay. You already answered it,
22 but can you answer it again?

23 THE WITNESS:

24 I am.

25 BY MS. SCALISE:

1 Q You personally financed it?

2 A Yes.

3 Q What about their live

4 performances, who has financed the live

5 performances?

6 A I fund it, to go out and do it,

7 and hopefully recover the investment.

8 Q Do you have any idea how much

9 money in the time that you started it until

10 now? Any idea how many money you put into

11 it, into the Dukes?

12 A Hundreds of thousands of dollars.

13 Q Do you have any idea -- and this

14 is a very general question, just like the

15 one I just asked. Any idea how much money

16 has come back to you in return in royalties

17 and whatnot through the years regarding the

18 Dukes?

19 A In the overall picture?

20 Q Ballpark.

21 A Probably lost hundreds of

22 thousands of dollars.

23 Q So you don't think you made any

24 money through the years?

25 A I didn't make any.

□

28

1 Q What is the connection between

2 Bose Corporation and the Dukes of Dixieland?

3 A Bose Corporation came down to

4 record the Dukes. They paid us for their

5 services.

6 Q Who is "us"?

7 A Pardon?

8 Q You said "they paid us"?

9 A They paid the Dukes for their

10 services just like a concert promotor would

11 pay us for services.

12 Q What did Bose do with the

13 recordings; do you know?

14 A They took the recordings and put

15 them on a CD and sold them to the automotive

16 industry for their cars.

1 Q -- and say '74?

2 A '74.

3 Q You didn't think then that you

4 would draw in a crowd --

5 A No.

6 Q -- of people who --

7 A That wasn't even in my thought,

8 no.

9 Q Did you ever think that providing

10 history of the Assunto's Dukes, which would

11 be before let's just say, you know, before

12 '74, you didn't think giving a connection to

13 the Assunto Dukes would somehow make people

14 more interested in the post '74 or '75

15 Dukes?

16 A No. Actually, to the opposite.

17 Q Tell me what you mean by that.

18 A When I started calling the agents

19 and they said, you know, we don't want --

20 you know, Frank had this pickup band. Since

21 Freddy died, Frank was pretty much a pickup

22 band. He'd fly into town and hire local

23 musicians that were there. So they didn't

24 want that, the agents didn't want that.

25 And because of that is the reason

□

126

1 why I had to -- I couldn't get enough dates

2 to keep the thing together. I ended up

3 putting out all that money to buy the -- to

4 take the lease over and put in the

5 nightclub, Dukes' Place.

6 Q And the lease, which one are you

7 referring to?

8 A I had to -- that was Dukes' Place,

9 top of the Monteleone. I had to spend money

10 up there to give them a home base, because I

11 made the decision they had to have a home

12 base.

13 Q Well, then, during the time when

14 you said that the agents were telling you

15 that they --

16 A They weren't interested.

17 Q -- didn't want to deal with it and

18 they weren't interested --

19 A Right.

20 Q -- did you ever think, well, maybe

21 I ought to -- maybe I ought to change the

22 name? Maybe I ought to do something else

23 and get people interested?

24 A I like challenges, and this was a

25 challenge.

□

127

1 Q Okay. So even though -- and I'll

2 just sort of generalize what I think you

3 said -- even though you haven't made any

4 money with it, you still felt like all

5 through all these years, you didn't feel

6 like you should change the name if you

7 thought the name was hurting you?

4 post '75 Dukes music, who would have gotten

5 the licenses for that music?

6 A Nothing comes to mind currently.

7 Q So Happy Hour and --

8 A Happy Hour did the license, yes,

9 but I don't know who else.

10 Q For post '75?

11 A I don't know if they did or not.

12 I'm not sure.

13 Q You can't recall any others?

14 A I can't recall. I doubt it

15 because they didn't really stay in business

16 long enough.

17 Q Okay. Let's just go back to the

18 Natchez a second. We talked about some of

19 that. Do you know how many years the Dukes

20 have been playing on the Natchez?

21 A Roughly '91, '92. Probably '92.

22 Q To present day?

23 A To present day.

24 Q And have they always played the

25 same amount, generally?

□

275

1 A No. They play whenever they have
2 time available, if there's tourists in town
3 or not. It's very flexible.

4 Q And you fill in with other bands?

5 A Right. If they're out of town, I
6 fill in with other bands.

7 Q What does the Natchez pay you for
8 those performances?

9 A Less than what I pay the band.

10 Q Can you tell me what that is?

11 A Like \$700 a week.

12 Q And what do you pay the band?

13 A 775. It varies, you know.

14 Q And we've talked about Mahogany
15 Hall and Monteleone. Is there any other
16 place where the Dukes have performed
17 regularly besides the Natchez, Mahogany
18 Hall, Hotel Monteleone?

19 A After we closed Mahogany Hall, we

20 went to a place on Canal Street called Toots

21 Place.

22 Q T-O-O-T-S?

23 A Yes. Right.

24 Q You said -- I'm sorry, where was

25 that?

□

276

1 A On Canal, downtown.

2 Q When was this?

3 A Had to be '91, '92, right in

4 there.

5 Q Were you connected to Toots Place

6 at all?

7 A No.

8 Q How did you even find them?

9 A They were looking for a band, and

10 we didn't have a home.

11 Q Okay. So how often did the Dukes

12 perform there?

13 A Until they wouldn't pay us

14 anymore.

15 Q When was that?

16 A '92.

17 Q So they only did it for a year?

18 A Not even that.

19 Q When they were there, how long --

20 what was the schedule like? Every night,

21 or --

22 A It was like six nights, then it

23 went to five, then it went to four. And

24 then they owed us about three-weeks backpay;

25 and then finally we just pulled the plug,

□

277

1 and they folded shortly thereafter.

2 Q Did you have any kind of contract

3 with Toots Place?

4 A Might have. I don't recall.

5 Q What about Natchez, do you have a

6 contract with the Natchez?

7 A They've got a letter of agreement.

8 That's all. No contract.

9 Q And do you have that document

10 somewhere?

11 A Somewhere.

12 Q Okay.

13 A I have no idea where. It's not in

14 effect anymore anyway since Katrina.

15 Q The letter of agreement isn't?

16 A No.

17 Q But they are still playing?

18 A They're playing there, but it's

19 just a handshake and...

20 Q So nothing in writing after

21 Katrina?

22 A No.

23 Q But the checks -- I mean,

24 Steamboat Natchez sends a check to -- is it

25 to GSI?

□

1 A Usually a month late.

2 Q But is that the company who gets

3 it?

4 A GCI.

5 Q So the --

6 A No, sends it to the Dukes. They

7 don't send it to GSI or GCI; they send it to

8 the Dukes.

9 Q Which is you really, right?

10 A Yeah. Right.

11 Q So, I mean, there's some paper

12 trail showing that you-guys work together,

13 right?

14 A Right.

15 Q What did you-guys or the Dukes or

16 you get paid for the performances at Toots

17 Place?

18 A \$400 a night. It wasn't much.

19 Q \$400 a night at Toots Place?

20 A Yes.

21 Q And correct me if I'm wrong, but I

22 thought you told me at Natchez it's 700 a

23 week?

24 A \$700 a night, sorry. For a while,

25 it was \$650.

□

279

1 Q But it's now 700?

2 A After Katrina, it was less than

3 that. But I don't know what it was.

4 Q But at this moment it's 700?

5 A 700, right.

6 Q And when you were at Toots Place,

7 what did you pay the band members?

8 A Or it might -- I'm sorry, I stand

9 to be corrected. It's 675.

10 Q When was it 675?

11 A It's 675 now.

12 Q Oh, now. And what do you pay the

13 band members for Natchez?

14 A 775.

15 Q So you pay them 100 more than you

16 make?

17 A Yes.

18 Q Is there a reason why you're

19 paying out more?

20 A I'm trying to keep them together.

21 Q The musicians want to be paid that

22 amount?

23 A They usually do. They usually

24 like to get paid.

25 Q I would imagine.

□

280

1 What about at Toots Place, what

2 did you pay the musicians?

3 A More than -- much more than what I

4 got.

5 Q So you got 400 a night. Do you

6 remember what you --

7 A No, I don't remember.

8 MS. SCALISE:

9 Steve, I can stop. I'm at a

10 stopping place.

11 MR. DORVEE:

12 Okay. Good.

1 ERRATA SHEET

2 JOHN SHOUP (VOLUME II)

3 PAGE/LINE NOW READS SHOULD READ REASONS

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CIVIL DISTRICT COURT
STATE OF LOUISIANA
PARISH OF ORLEANS

ANTONIO D. ASSUNTO, AS * NO. 2000-9440
ADMINISTRATOR OF THE
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VERSUS * DIVISION "I"
JOHN SHOUP, TELERECORD *
TELEVISION PRODUCTIONS LTD.,
T.L.P. OF NEW ORLEANS, INC, * VOLUME I
ET AL

*

* * * * *

The deposition of JOHN S. SHOUP, taken in connection with the captioned cause, pursuant to the following stipulations before Tammy Hupin, Certified Court Reporter, at the offices of STANLEY, REUTER, ROSS, THORNTON & ALFORD, 909 Poydras Street, Suite 2500, New Orleans, Louisiana 70112, on the 16th day of July, 2009, beginning at 9:01 a.m.



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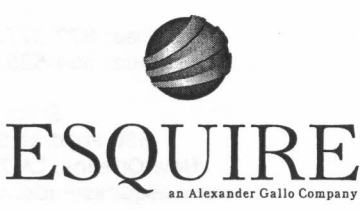
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APPEARANCES:
FOR THE PLAINTIFF, ANTONIO D. ASSUNTO:
SUZANNE K. SCALISE, ESQ.
STANLEY, REUTER, ROSS, THORNTON & ALFORD
909 Poydras Street - Suite 2500
New Orleans, Louisiana 70112

FOR THE DEFENDANTS, JOHN SHOUP, TELERECORD
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INC.:

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ATLANTA, GEORGIA 30363-1031

ALSO PRESENT:
ANTONIO D. ASSUNTO



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