

1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 Q. Okay. Go back to your Exhibit 437,
19 which is, I believe, in that stack -- or, excuse
20 me, 837, which is in that stack.
21 A. Okay.
22 MR. LAVELLE: You said 837?
23 MR. KLOSS: Yes, sir.
24 MR. LAVELLE: Give me a second.
25 MR. KLOSS: Sure.

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1 MR. LAVELLE: Okay.
2 Q. This is the 2-21-2012 e-mail from
3 Victoria Cox, correct?
4 A. Yes.
5 Q. And then the subject is the --
6 that's a circular, correct?
7 A. Correct.
8 Q. For President's Day?
9 A. Right.
10 Q. And it says there on the subject
11 line, "Final 22012 President's Day 2 Day
12 Specials Sales [REDACTED]," correct?
13 MR. LAVELLE: Object to form.
14 A. Correct.
15 Q. Interpret that for me. What
16 happened?
17 A. Well, we had significantly more
18 sales year over year coming out of the ad in
19 2012 versus 2011, and the [REDACTED] was the
20 sales from 2012 and the [REDACTED] were the
21 sales from 2011. And we don't -- I mean, this
22 is great because this is exactly the way we look
23 at things from a relative point of view. These
24 are, again -- I've said this already, but these
25 are zero-based forecasts, meaning it would

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1 include sales that would be there anyway,
2 whether we ran the ad or not, and what we're
3 really looking at is what's the incremental.
4 And we had done so much testing up to this
5 point, we pretty much knew the relationship
6 between the incremental and the actual sales,
7 and it was pretty consistent. So when you have
8 a rise year over year from a relative point of
9 view, you will have a rise year over year from
10 an incremental point of view. Does that make
11 sense?
12 Q. It does.
13 So bottom line, what happened as a
14 result of this circular was a good thing or a
15 bad thing?
16 A. A good thing.
17 Q. Go to 838. Are you there?
18 A. Yes.
19 Q. This is Victoria Cox, a February 28,
20 2012 e-mail, correct?
21 A. Yes.
22 Q. And it's reporting on another
23 circular, correct?
24 A. Yes.
25 Q. And this says the subject is "Final

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1 21512 Circ [REDACTED]," correct?
2 A. Correct.
3 Q. Interpret that for me, please.
4 A. What it means is this year we did
5 [REDACTED] from the ad that began on 2-15-12.
6 That's the President's Day ad that lasted for
7 ten days. And last year, over the same period
8 for the same ad, we had [REDACTED]
9 [REDACTED].
10 Q. So that's a good thing?
11 A. That's a very good thing. That's an
12 excellent result.
13 Q. Go to Exhibit 839. Are you there?
14 A. Yes.
15 Q. This is a Victoria Cox e-mail of
16 March 5, 2012, correct?
17 A. Yes.
18 Q. And the re: line says -- or subject
19 line says, "Final sales for 22612 Circ [REDACTED]
20 [REDACTED]" correct?
21 A. Correct.
22 Q. First of all, what does this relate
23 to?
24 A. It basically says that for the ad
25 that began on 2-26, we had [REDACTED] in

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1 sales versus last year of [REDACTED].
2 Q. Again, an increase?
3 A. An increase.
4 Q. Is that a good thing or a bad thing?
5 A. It's a good thing.
6 Q. Go to Exhibit 840. Are you with me?
7 A. Yes.
8 Q. Another Victoria Cox e-mail dated
9 March 19, 2012, correct?
10 A. Yes.
11 Q. And it says the subject is "Final
12 sales for 31112 Circ," C-I-R-C, "[REDACTED]
13 [REDACTED]," correct?
14 A. Correct.
15 Q. What does this relate to?
16 A. This says that the preprint or
17 circular that started on 3-11-2012 did [REDACTED]
18 [REDACTED] in total sales and the year before it
19 was [REDACTED] in sales.
20 Q. Roughly a [REDACTED]
21 increase?
22 A. Yes.
23 Q. Is that a good thing or a bad thing?
24 A. It's a good thing.
25 Q. So suffice it to say, the final

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1 assessments that were provided by Ms. Cox for
2 these four circulars, each of them indicated --
3 each of the circulars performed better in 2012
4 than the comparable circular had performed in
5 2011; would that be fair?
6 A. Yes.
7 Q. Let's go to 855 and 854. Let's just
8 look at those two documents together.
9 A. Got it.
10 Q. Make sure we got the same document.
11 Those are it.
12 Let's just first ask an overarching
13 question. During your employment with Big Lots
14 you received stock grants?
15 A. Yes.
16 Q. Can you tell me what a stock grant
17 is in a generic and short way?
18 A. Haha. Stock given to me for
19 achieving goals or time.
20 Q. And is it -- in your mind, is
21 that -- do you consider that to be part of your
22 compensation?
23 A. I do.
24 Q. Now, what is -- talking about stock
25 grant, what is a stock option?

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1 A. A stock option is a stock that is
2 given to me at a fixed price based on the market
3 value when it was issued, and it -- the way we
4 got them was we got chunks of stock options that
5 vested over a five-year period, one year at a
6 time, so one-fifth of them would be vested in
7 the first year, two-fifths in the second, et
8 cetera.
9 Q. But an option has an exercise price?
10 A. That's right.
11 Q. So let's just use a hypothetical
12 question so we understand the distinction
13 between an option.
14 A. Okay.
15 Q. You have an option at an exercise
16 price of \$10. Do you understand what that
17 means?
18 A. Yes.
19 Q. What does that mean?
20 A. That means the cost basis is \$10.
21 Q. That how much it costs you?
22 A. Right, exactly.
23 Q. Does it make sense to exercise an
24 option when the market price is at \$9?
25 A. No.

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1 Q. Why not?
2 A. Because I'd lose money.
3 Q. Okay. And if the stock option --
4 or, excuse me, the market price is at \$11, you
5 may not choose to do so, but if you did, would
6 you make money or lose money?
7 A. Make money.
8 Q. How much?
9 A. A dollar per share.
10 Q. Now, Exhibit 854 -- a couple other
11 overarching questions. Was there ever an
12 instance in which you traded in Big Lots stock,
13 whether it be in your options or whether it be
14 in your grants, that you did not contact the
15 legal department before doing so?
16 A. Absolutely not.
17 Q. And why did you contact -- I believe
18 you typically contacted Mr. Reynolds?
19 A. Yes.
20 Q. Why?
21 A. Because it was part of the
22 procedure. You couldn't just willy nilly go out
23 there and sell stock. In fact, even Scott &
24 Stringfellow, which was, again, the company that
25 handled it, wouldn't do a transaction unless

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<p>1 they got an okay from Chad Reynolds. 2 Q. And in connection with your contact 3 with Mr. Reynolds, did he ever ask you to fill 4 out forms in association with a proposed 5 transaction? 6 A. Yes. 7 Q. Yes? 8 A. Yes. 9 Q. Did you fill out all the forms that 10 the legal department asked you to fill out with 11 regard to any trade you made during your career 12 at Big Lots? 13 A. Yes. 14 Q. Was there ever an instance where you 15 said, "Nah, not going to fill that one out"? 16 A. No. 17 Q. Exhibit 854 is the Form 4, correct? 18 A. Yes. 19 Q. And it says there was a trade on 20 March 27, 2012? 21 A. Yes. 22 Q. And Exhibit 855 is the restricted 23 stock award vesting election form, right? 24 A. Right. 25 Q. That was signed by you on March 12,</p> <p style="text-align: right;">Page 198</p>	<p>1 A. That's right. 2 Q. -- 2012? 3 Once you executed 855, the 4 instructions, to your knowledge, could you 5 change your mind? 6 A. No. 7 Q. Were you ever told your termination 8 had anything to do with your stock trade? 9 A. No. 10 Q. Have you ever been told that anyone 11 that has been terminated that you're aware of 12 around this 2012 time period with Mr. Campisi, 13 that the reason for their termination was due to 14 their stock trade? 15 MR. LAVELLE: Object to form. 16 A. No. 17 Q. Was there ever a time during your 18 career in which you were not permitted to trade 19 stock during the open window period? 20 A. Not that I can recall. 21 Q. Was there ever a time in your career 22 in which you were not -- the window never opened 23 for you and you were not permitted to trade 24 stock? 25 A. Yes.</p> <p style="text-align: right;">Page 200</p>
<p>1 2012? 2 A. Yes. 3 Q. Do you know if these documents are 4 related? In other words, do they relate to the 5 same shares of stock? 6 A. Yes, they do. 7 Q. And where did you get Exhibit 855? 8 A. From our legal department. 9 Q. Do you have an understanding as to 10 why you were asked to fill this out or did you 11 just simply fill it out because the legal 12 department told you to? 13 A. Yes. I think there were tax 14 implications involved in doing something 15 different and, you know, the bottom line is they 16 always asked if you wanted, you know, to sell 17 the stock, you know, or pay for the taxes right 18 there and then. It was really a tax issue. It 19 was do I need to sell the stock in order to pay 20 the taxes. 21 Q. So this was executed on 3-12. 22 That's Exhibit 855? 23 A. Right. 24 Q. And the stock looks like it was sold 25 on 3-27 --</p> <p style="text-align: right;">Page 199</p>	<p>1 Q. And when was that? 2 A. I don't recall. 3 Q. Do you know -- not to reveal any 4 details, but do you know the general reason you 5 were not allowed to trade for that period of 6 time? Do you recall that? 7 A. I don't, to be honest with you. 8 Q. Okay. So there were instances in 9 the past in which you sought to trade in which 10 you were told can't do? 11 MR. LAVELLE: Object to form. 12 Leading. 13 A. Yes. 14 Q. Mr. Wurl came on board and he wanted 15 to make changes, correct? 16 A. Yes. 17 Q. Not surprising, is it? 18 A. Right. No. 19 Q. Different merchandisers have 20 different views? 21 A. Correct. 22 Q. You're not suggesting the changes 23 Mr. Wurl was trying to implement caused the poor 24 performance in 2012, are you? 25 MR. LAVELLE: Object to form.</p> <p style="text-align: right;">Page 201</p>

<p>1 Leading.</p> <p>2 A. No.</p> <p>3 Q. And there were some discussions</p> <p>4 about the return rates on the tablets, correct?</p> <p>5 A. Yes.</p> <p>6 Q. In this time period tablets were</p> <p>7 relatively new or at least relatively new to Big</p> <p>8 Lots; would that be fair?</p> <p>9 MR. LAVELLE: Object to form.</p> <p>10 Leading.</p> <p>11 A. Yes.</p> <p>12 Q. Have you ever had, in your career at</p> <p>13 Big Lots, other products that Big Lots purchased</p> <p>14 and anticipated would sell like wildfire but</p> <p>15 didn't?</p> <p>16 A. Yes.</p> <p>17 Q. Is that a part of retail?</p> <p>18 A. Yes, it is.</p> <p>19 Q. If you could predict every product</p> <p>20 and how it would sell, how would you do in</p> <p>21 retail?</p> <p>22 A. Pretty darn good.</p> <p>23 Q. Can you do that?</p> <p>24 A. No.</p> <p>25 MR. KLOSS: Thank you.</p> <p style="text-align: right;">Page 202</p>	<p>1 -----</p> <p>2 Whereupon, counsel was requested to give instruction</p> <p>3 regarding the witness' review of the transcript</p> <p>4 pursuant to the Civil Rules.</p> <p>5</p> <p>6 SIGNATURE:</p> <p>7 Transcript review was requested pursuant to the</p> <p>8 applicable Rules of Civil Procedure.</p> <p>9</p> <p>10 TRANSCRIPT DELIVERY:</p> <p>11 Counsel was requested to give instruction regarding</p> <p>12 delivery date of transcript.</p> <p>13</p> <p>14 Original: Mr. Lavelle</p> <p>15 Copy: Mr. Kloss</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: right;">Page 204</p>
<p>1 FURTHER EXAMINATION OF ROBERT C. CLAXTON</p> <p>2 BY MR. LAVELLE:</p> <p>3 Q. I just have one follow-up question.</p> <p>4 Going back to those reports on the</p> <p>5 circular sales --</p> <p>6 A. Yes.</p> <p>7 Q. -- we looked at the subject line,</p> <p>8 which reported some sales information in it?</p> <p>9 A. Right.</p> <p>10 Q. Were those total company sales?</p> <p>11 A. No. That's the -- that's the sales</p> <p>12 from the circular.</p> <p>13 Q. Over the course of the total</p> <p>14 company?</p> <p>15 A. Right.</p> <p>16 Q. So they're not comp numbers?</p> <p>17 A. No.</p> <p>18 MR. LAVELLE: Thank you.</p> <p>19 MR. KLOSS: Nothing further.</p> <p>20 He will read.</p> <p>21 THE VIDEOGRAPHER: This concludes</p> <p>22 the deposition of Robert C. Claxton. The time</p> <p>23 is 2:33 p.m. Going off the record.</p> <p>24</p> <p>25 (Deposition concluded at 2:33 p.m.)</p> <p style="text-align: right;">Page 203</p>	<p>1 I declare under penalty of perjury</p> <p>2 under the laws that the foregoing is</p> <p>3 true and correct.</p> <p>4</p> <p>5 Executed on _____, 20____,</p> <p>6 at _____.</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11 _____</p> <p>12 ROBERT C. CLAXTON</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: right;">Page 205</p>