COMMONWEALTH OF PENNSYLVANIA

DEPARTMENT OF STATE

07/07/2020

TO ALL WHOM THESE PRESENTS SHALL COME, GREETING:

Full Spectrum Processing, LLC

I, Kathy Boockvar, Secretary of the Commonwealth of Pennsylvania, do hereby certify that the foregoing and annexed is a true and correct copy of

Creation Filing filed on Nov 18, 2016 Effective Nov 21, 2016 - Pages (2)
Amendment filed on May 19, 2020 - Pages (3)
Amendment filed on May 19, 2020 - Pages (3)

which appear of record in this department.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Seal of the Secretary's Office to be affixed, the day and year above written

Kathy Boockvar

Secretary of the Commonwealth

Certification Number: TSC200707121158-1

Verify this certificate online at http://www.corporations.pa.gov/orders/verify

EXHIBIT

1

Entity# : 6477616
Date Filed : 11/18/2016
Effective Date : 11/21/2016
Pedro A. Cortés
Secretary of the Commonwealth

PENNSYLVANIA DEPARTMENT OF STATE
BUREAU OF CORPORATIONS AND CHARITABLE ORGANIZATIONS

Articles of Incorporation-For Profit
(15 Pa.C.S.)

__X__ **Business-stock (§ 1306)**
_____ **Business-nonstock (§ 2102)**
_____ **Business-statutory close (§ 2303)**
_____ **Cooperative (§ 7102)**
_____ **Management (§ 2703)**
_____ **Professional (§ 2903)**
_____ **Insurance (§ 3101)**
_____ **Benefit (§ 3303)**

Name
Norman M Valz

Address
434 N. 38th Street,

City	State	Zip Code
Philadelphia	**PA**	**19104**

Document will be returned to the name and address you enter to the left.

Fee: $125.00

In compliance with the requirements of the applicable provisions (relating to corporations and unincorporated associations), the undersigned, desiring to incorporate a corporation for profit, hereby states that:

1. The name of the corporation:

Full Spectrum Processing Incorporated

2. The (a) address of this corporation's current registered office in this Commonwealth (post office box, alone, is not acceptable) or (b) name of its commercial registered office provider and the county of venue is:

(a) Number and Street	City	State	Zip	County
141 N. 2nd Street,	**Philadelphia**	**PA**	**19106**	**Philadelphia**

(b) Name of Commercial Registered Office Provider **County**

c/o:

3. The corporation is incorporated under the provisions of the Business Corporation Law of 1988.

4. Check and complete one:

_____ **The corporation is organized on a nonstock basis.**

__X__ **The corporation is organized on a stock share basis and the aggregate number of shares authorized is: 1000**

PENN File: November 18, 2016

DSCB: 15-1306/2102/2303/2702/2903/3101/3303/7102-2

5. The name and address, including number and street, if any, of each incorporator (all incorporators must sign below):

Name	Address
Lisa McElhone	141 N. 2nd Street , Philadelphia , Philadelphia , PA , United States , 19106

6. The specified effective date, if any is: 11/21/2016 12:00 AM .

month/day/year hour, if any

7. Additional provisions of the articles, if any, attach an 8½ by 11 sheet.

8. ***Statutory close corporation only:*** **Neither the corporation nor any shareholder shall make an offering of any of its shares of any class that would constitute a "public offering" within the meaning of the Securities Act of 1933 (15 U.S.C. § 77a et seq.)**

9. ***Cooperative corporations only: Complete and strike out inapplicable term:***

The common bond of membership among its members is: _____

10. ***Benefit corporations only:*** **This corporation shall have the purpose of creating general public benefit.**

Strike out if inapplicable: ~~This corporation shall have the purpose of creating the enumerated specific public benefit(s):~~

IN TESTIMONY WHEREOF, the incorporator(s) has/have signed these Articles of Incorporation this 18 day of November , 2016 .

Lisa McElhone

Signature

Entity# : 6477616
Date Filed: 05/19/2020
Pennsylvania Department of State

PENNSYLVANIA DEPARTMENT OF STATE
BUREAU OF CORPORATIONS AND CHARITABLE ORGANIZATIONS

☐ **Return document by mail to:**

Name

Address

City State Zip Code

☑ **Return document by email to:** ksimmons@oshins.com

Statement of Conversion

DSCB:15-355
(7/1/2015)

TML200520MC0873

Read all instructions prior

Fee: $70

In compliance with the requirements of the applicable provisions of 15 Pa.C.S. § 355 (relating to Statement of conversion), the undersigned association, desiring to effect a conversion, hereby states that:

A. For the converting association:

1. The name of the converting association is: FULL SPECTRUM PROCESSING INCORPORATED

2. The jurisdiction of formation of the converting association is: PENNSYLVANIA

3. The type of association is (check only one):

☑ Business Corporation	☐ Limited Partnership	☐ Business Trust
☐ Nonprofit Corporation	☐ Limited Liability (General) Partnership	☐ Professional Association
☐ Limited Liability Company	☐ Limited Liability Limited Partnership	☐ Other _____

4. Date on which the association was created, incorporated, formed or otherwise came into existence:

11/18/2016
(MM/DD/YYYY)

5. If the converting association is a domestic filing association (a Pennsylvania business corporation, nonprofit corporation, limited partnership, limited liability company, professional association or business trust), the statute under which it was first created, incorporated, formed or otherwise came into existence:

Business Corporation Law of 1988
(ex. Business Corporation Law of 1988, Limited Liability Company Law of 1994, etc.)

PA DEPT OF STATE

MAY 19 2020

DSCB:15-355-2

6. Check and complete one of the following addresses for the converting association.

☑	**If the converting association is a domestic filing association, domestic limited liability partnership or registered foreign association**, the current registered office address as on file with the Department of State. *Complete part (a) **OR** (b) – not both:* (a) 141 NORTH 2ND STREET (Number and street) PHILADELPHIA (City) PA (State) 19106 (Zip) PHILADELPHIA (County) (b) c/o: _____ (Name of Commercial Registered Office Provider) (County)
☐	**If the converting association is a domestic association that is *not* a domestic filing association or limited liability partnership**, the address, including street and number, if any, of its principal office: _____ (Number and street) (City) (State) (Zip) (County)
☐	**If the converting association is a nonregistered foreign association**, the address, including street and number, if any, of its registered or similar office, if any, required to be maintained by the law of its jurisdiction of formation; or if it is not required to maintain a registered or similar office, its principal office: _____ (Number and street) (City) (State) (Zip)

B. For the converted association:

1. The name of the converted association is: FULL SPECTRUM PROCESSING, LLC

2. The jurisdiction of formation of the converted association is: NEVADA

3. The type of association is (check only one):

☐ Business Corporation	☐ Limited Partnership	☐ Business Trust
☐ Nonprofit Corporation	☐ Limited Liability (General) Partnership	☐ Professional Association
☑ Limited Liability Company	☐ Limited Liability Limited Partnership	☐ Other _____

DSCB:15-355-3

4. Check and complete one of the following addresses for the converted association.

☑ **If the converted association is a domestic filing association, domestic limited liability partnership or registered foreign association**, its registered office address. *Complete part (a) **OR** (b) – not both:*

(a) 141 N 2nd Street (Number and street) Philadelphia (City) PA (State) 19106 (Zip) Philadelphia (County)

(b) c/o: _____ (Name of Commercial Registered Office Provider) (County)

☐ **If the converted association is a domestic association that is *not* a domestic filing association or limited liability partnership**, the address, including street and number, if any, of its principal office:

_____ (Number and street) (City) (State) (Zip) (County)

☐ **If the converted association is a nonregistered foreign association**, *complete both (1) and (2).*

(1) The address, including street and number, if any, of its registered or similar office, if any, required to be maintained by the law of its jurisdiction of formation; or if it is not required to maintain a registered or similar office, its principal office address:

_____ (Number and street) (City) (State) (Zip)

(2) The name and address, including street and number, of its registered agent:

_____ (Name of Registered Agent)

_____ (Number and street) (City) (State) (Zip)

C. Effective date of statement of conversion (check, and if appropriate complete, one of the following):

☑ This Statement of Conversion shall be effective upon filing in the Department of State.

☐ This Statement of Conversion shall be effective on: _____ (Date (MM/DD/YYYY)) at _____ (Hour (if any)).

D. Approval of conversion by converting association (check only one):

☑ For converting association that is a domestic entity – The plan of conversion was approved in accordance with 15 Pa.C.S. Chapter 3, Subchapter E (relating to conversion).

☐ For converting association that is a foreign association – The conversion was approved in accordance with the law of the jurisdiction of formation of the converting association.

E. Attachments (see Instructions for required and optional attachments).

IN TESTIMONY WHEREOF, the undersigned converting association has caused this Statement of Conversion to be signed by a duly authorized officer thereof this 10th day of April, 2020.

Full Spectrum Processing incorporated
Name of Converting Association

Signature

President
Title

Entity# : 6477616
Date Filed: 05/19/2020
Pennsylvania Department of State

PENNSYLVANIA DEPARTMENT OF STATE
BUREAU OF CORPORATIONS AND CHARITABLE ORGANIZATIONS

☐ **Return document by mail to:**

Name

Address

City State Zip Code

☑ **Return document by email to:** ksimmons@oshins.com

Foreign Registration Statement
DSCB:15-412
(rev. 2/2017)

TML200520MC0883

Read all instructions prior to completing. This form may be sut

Fee: $250 ☐ I qualify for a veteran/reservist-owned small business fee exemption (see instructions)

In compliance with the requirements of the applicable provisions of 15 Pa.C.S. § 412 (relating to foreign registration statement), the undersigned foreign association hereby states that:

1. The type of association is (check only one):

☐ Business Corporation
☐ Nonprofit Corporation
☑ Limited Liability Company
☐ Limited Partnership
☐ Limited Liability (General) Partnership
☐ Limited Liability Limited Partnership
☐ Business Trust
☐ Professional Association

2. The full and proper name of the foreign association as registered in its jurisdiction of formation is:

Full Spectrum Processing, LLC

2A. *If the name in 2 does not contain a required designator* ***or*** *if the name in 2 is not available for use in the Commonwealth,* the alternate name under which the association is registering in this Commonwealth is:

3. The jurisdiction of formation is: Nevada

4. The street and mailing address of the association's principal office.

141 N 2nd Street	Philadelphia	PA	19106
Number and street	City	State	Zip

4A. The street and mailing address of the office, if any, required to be maintained by the law of the association's jurisdiction of formation in that jurisdiction:

1645 Village Center Circle, Suite 170	Las Vegas	NV	89134
Number and street	City	State	Zip

PA DEPT. OF STATE

MAY 19 2020

DSCB:15-412 - 2

5. The (a) address of the association's proposed registered office in this Commonwealth or (b) name of its Commercial Registered Office Provider and the county of venue is:

*Complete part (a) **OR** (b) – not both:*

(a) 141 N 2nd Street (Number and street) | Philadelphia (City) | PA (State) | 19106 (Zip) | Philadelphia (County)

OR

(b) c/o: _____ (Name of Commercial Registered Office Provider) _____ (County)

6. *Check one of the following:*

☑ The association may not have series.

☐ The association may have one or more series.

7. Effective date of registration of foreign association (check, and if appropriate complete, one of the following):

☑ The Foreign Registration Statement shall be effective upon filing in the Department of State.

☐ The Foreign Registration Statement shall be effective on: _____ (Date (MM/DD/YYYY)) at _____ (Hour (if any)).

8. *To be completed by **Limited Liability Companies only**. Check, and if appropriate complete, one of the following:*

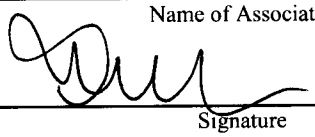
☑ The association is a limited liability company which is not organized to render any of the below professional service(s).

☐ The association is a restricted professional limited liability company organized to render one or more of the following professional service(s): (If this box is checked, one or more of the fields below must be checked.)

___Chiropractic	___Dentistry	___Law	___Medicine and surgery
___Optometry	___Osteopathic medicine and surgery	___Podiatric medicine	___Public accounting
___Psychology	___Veterinary medicine		

IN TESTIMONY WHEREOF, the undersigned association has caused this Foreign Registration Statement to be signed by a duly authorized representative thereof this 15th day of May, 2020.

Full Spectrum Processing, LLC
Name of Association


Signature

Manager
Title

SECRETARY OF STATE

STATE OF NEVADA

CERTIFICATE OF EXISTENCE WITH STATUS IN GOOD STANDING

I, Barbara K. Cegavske, the duly qualified and elected Nevada Secretary of State, do hereby certify that I am, by the laws of said State, the custodian of the records relating to filings by corporations, non-profit corporations, corporations sole, limited-liability companies, limited partnerships, limited-liability partnerships and business trusts pursuant to Title 7 of the Nevada Revised Statutes which are either presently in a status of good standing or were in good standing for a time period subsequent of 1976 and am the proper officer to execute this certificate.

I further certify that the records of the Nevada Secretary of State, at the date of this certificate, evidence, **FULL SPECTRUM PROCESSING, LLC** , as a DOMESTIC LIMITED-LIABILITY COMPANY (86) duly organized under the laws of Nevada and existing under and by virtue of the laws of the State of Nevada since 04/15/2020, and is in good standing in this state.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Great Seal of State, at my office on 05/15/2020.

Barbara K. Cegavske

BARBARA K. CEGAVSKE
Secretary of State

Certificate Number: B20200515794547
You may verify this certificate online at http://www.nvsos.gov

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA

HMC INCORPORATED, et al.,	:CIVIL ACTION
	:NO. 19-3285
Plaintiffs,	:
vs.	:
	:
COMPLETE BUSINESS SOLUTIONS GROUP, INC., et al.,	:
	:
Defendants.	:

\- - -

THURSDAY, MARCH 5, 2020

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Oral deposition of JOSEPH LaFORTE, taken pursuant to notice, held at WHITE AND WILLIAMS, 1800 One Liberty Place, 1650 Market Street, Philadelphia, Pennsylvania, 19103 commencing at 11:17 a.m. before Shauna L. Detty, Court Reporter - Notary Public there being present.

A P P E A R A N C E S:

ON BEHALF OF THE PLAINTIFFS:
JUSTIN PROPER, ESQUIRE
WILLIAM FEDULLO, ESQUIRE
SHANE HESKIN, ESQUIRE
WHITE AND WILLIAMS
1800 ONE LIBERTY PLACE
1650 MARKET STREET
PHILADELPHIA, PENNSYLVANIA 19103
Telephone: 215.864.7000
Email: Properj@whiteandwilliams.com

ON BEHALF OF THE DEFENDANTS
BRETT A. BERMAN, ESQUIRE
FOX ROTHSCHILD, LLP
101 PARK AVENUE, 17TH FLOOR
NEW YORK, NEW YORK 10178
Telephone: 212-878-7945
Email: Bberman@foxrothschild.com

I N D E X

WITNESS
JOSEPH LaFORTE
(Witness sworn.)

DIRECT EXAMINATION BY	PAGE
Mr. Proper	4

E X H I B I T S

NUMBER	DESCRIPTION	PAGE
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(It is agreed by and between counsel that reading, signing, sealing, filing, and certification are hereby waived and all objections, except as to the form of the questions, are reserved until the time of trial.)

- - -

...JOSEPH LaFORTE, after having been first duly sworn, was examined and testified as follows...

- - -

DIRECT EXAMINATION

- - -

BY MR. PROPER:

Q. Good morning, Mr. LaForte.

A. How you doing?

Q. We're here for your deposition in a lawsuit between my client, HMC Incorporated, et al., versus Complete Business Solutions Group Incorporated, et al. I'm going to be asking you some questions today about some of the issues that pertain to this lawsuit. If there's a point in time you need to take a break for some reason, just let me know and I'll accommodate that. I just ask that you answer any questions that are pending at the time of the request.

Otherwise, if you don't have any questions, are you ready to proceed?

A. Yup.

Q. Complete Business Solutions Group, is that a d/b/a for Par Funding?

A. Yes.

Q. And is Par Funding a corporation? Do you know if they're incorporated?

A. You just said it's a d/b/a, right?

Q. Yeah. Is --

A. How could a d/b/a be a corporation?

Q. Is Complete Business Solutions Group a d/b/a for Par Funding or is Par Funding a d/b/a for --

A. I just answered you. It's CBSG d/b/a Par Funding.

Q. I was confused by --

A. You got to read this before you come, though. You got to be on point. You got to know what you're doing. So come on.

Q. When was CBSG incorporated?

A. I don't know.

Q. What state was CBSG incorporated in?

A. I'm not positive.

Q. What's your understanding as to where CBSG was

incorporated?

A. I don't know. I'm not the lawyer for the firm.

Q. Do you have any ownership interest in CBSG?

A. No.

Q. Are you an officer of CBSG?

A. No.

Q. Have you ever been an officer of CBSG?

A. Nope.

Q. Did you -- were -- strike that.

Were you involved in the formation of the company?

MR. BERMAN: Objection to form.

But you can answer.

THE WITNESS: I don't know how to answer that question.

BY MR. PROPER:

Q. Are you one of the founders of the company?

A. No.

Q. Who is the founder of the company?

A. I don't know what the word "founder" means. It can mean a lot of different things. I don't want to answer the question incorrectly.

Q. Did you provide any capital of your own when

the company was formed?
A. No.
Q. Do you know what capital was used to form CBSG?
A. No.
Q. So just to be clear, you did not make any form of capital contribution to start CBSG?
A. No. You just asked that.
Q. Did your wife make any capital contribution --
A. I can't speak for my wife.
Q. I understand you can't speak for your wife, but, to your knowledge, do you know whether or not your wife, Lisa McElhone, provided any monies to start CBSG back in 2012?
A. I don't know. I can't remember what I -- what I did last week. I wouldn't know if she put money in or didn't put money in. And I don't see how it's relevant to this case right now.
Q. Okay. Whether it's relevant or not is a separate issue. I'm just asking you whether or not you have a recollection one way or another whether or not your wife provided any monies to form the company.
A. We can talk about the Yankees, too. I used to play professional baseball. You want to talk about the

Yankees? I don't know. We went over the same questions last time I was here, so I guess you can just read that deposition.

Q. Whose idea was it to start a company that was specializing or would specialize in merchant cash advances?

MR. BERMAN: Objection.

THE WITNESS: I can't talk about ideas. I don't know anybody's ideas or anybody's thoughts. If you want me to testify about somebody's thoughts or ideas, that would be ridiculous.

BY MR. PROPER:

Q. Did you have any role in the concept that CBSG would provide merchant cash advances to businesses?

MR. BERMAN: Objection.

THE WITNESS: I don't know how to answer the question.

BY MR. PROPER:

Q. Do you know what a merchant cash advance is?

A. Sure.

Q. Did you know what a merchant cash advance was in 2012?

A. No.

Q. When is the first time that you heard the

phrase "merchant cash advance"?
A. I don't recall. It's too long ago.
Q. Did you have any involvement in CBSG when the company was initially formed in 2012?
A. What kind of -- I don't know. I don't know the -- I don't know what you mean.
Q. Involvement of any kind --
A. I'm an independent operator. Remember, we went over that in the last deposition. I'm an independent sales operator for another entity. So you keep talking to me about Par Funding and CBSG when I don't work there, so I don't know. I worked for Recruiting and Marketing Resources, same as my last testimony, and the scope of how these guys started the company is, you know -- I don't know what their thoughts were or what their ideas were.
Q. The initial forms that CBSG used when they advanced funds to businesses back in 2012, did you have any involvement in creating those funds?
MR. BERMAN: Objection.
MR. PROPER: Strike that because I used -- I botched the word.
BY MR. PROPER:
Q. When CBSG started funding businesses in 2012,

did you have any role in creating the forms that were used for those funding transactions?

MR. BERMAN: Objection.

You can answer, if you understand.

THE WITNESS: I don't understand.

BY MR. PROPER:

Q. Back in 2012, was the business of CBSG similar to what it does now?

MR. BERMAN: Objection.

You can answer, if you understand.

THE WITNESS: I don't think so. Every day, it changes. The products change, everything changes on a day-to-day basis. Similar? I mean, you've been a lawyer for how many years? It's similar. I'm sure that the scope of the work that you guys do is different. Things change. So I don't know how to answer the question appropriately.

BY MR. PROPER:

Q. Are you familiar with the forms that CBSG used in 2012 to fund advances to businesses?

A. I would not remember what they used in 2012 or any other lender, what they used in 2012.

Q. Were you involved in advances made by CBSG to businesses in 2012?

A. You asked me that already. No.
Q. And when I say "were you involved," I don't mean in an employee/employer capacity. I mean were you involved as an ISO or in any way, shape or form with transactions that CBSG had with businesses?
A. I can't remember what I closed in 2012 with any company. CBSG, Par Funding, Yellowstone, On Deck Capital, I couldn't remember what --
Q. When is the first time that you started acting in a sales capacity for CBSG, year?
A. I don't act in a sales capacity for CBSG. I act in a sales capacity for Recruiting and Marketing Resources.
Q. When is the first time that in your capacity as an employee of Recruiting and Marketing Resources you started doing some business on behalf of Par Funding?
MR. BERMAN: Objection.
If you understand. I mean, there's a lot of problems with the question.
THE WITNESS: Repeat the question.
BY MR. PROPER:
Q. When is the first time that Recruiting and Marketing Resources did some work for Par Funding?

A. How do you mean -- what kind of work?
Q. Any kind of work.
A. I don't know -- I don't know how to answer the question, work.
Q. Well, what do you currently do in your capacity with Recruiting and Marketing Resources on behalf of Par Funding?
MR. BERMAN: Objection.
You can answer, if you understand.
THE WITNESS: The same as I explained last -- in the last deposition. If a -- I source deals for many different companies. I send deals to whomever I think would fit the client's needs. In that capacity, I have a relationship with many different lenders.
BY MR. PROPER:
Q. Including Par?
A. Many different lenders, including Par.
Q. When did you start sourcing deals for Par?
A. I don't recall.
Q. Were you sourcing deals for Par in 2012?
A. I don't recall.
Q. Was Par providing merchant cash advances in 2012, to your knowledge?

A. You'd have to ask Par.
Q. So you don't know?
A. You'd have to ask Par.
Q. Is Par providing merchant cash advances today to merchants?
MR. BERMAN: Objection; irrelevant.
Don't answer.
Today is absolutely irrelevant to this case. You know the relevant time period, which I let you go a lot further than I wanted to, is February 2018 to October 2018.
Don't answer about today.
BY MR. PROPER:
Q. Mr. Berman is referring to a court order that only pertains to a 30(b)(6) deposition, so --
MR. BERMAN: We don't agree. Call the judge.
MR. PROPER: Okay. I'm not going to call the judge. You continue, just advise your client not to answer, but I will reserve the right to seek sanctions from The Court.
MR. BERMAN: Do what you have to do, whatever you want.
MR. PROPER: Thanks, bro.

MR. BERMAN: Call the judge. He knows we're at this deposition. It's court ordered.

MR. PROPER: I understand. And you have the order and instructions. I'm not bothering the judge again. He's laid out the parameters and his discovery order that he issued yesterday was limited to a 30(b)(6) deposition. It has nothing --

MR. BERMAN: Take whatever position you want.

MR. PROPER: Please don't interrupt me. It has nothing to do with today's deposition.

MR. BERMAN: We don't agree, but that's fine. Take whatever position you want. You're free to call the judge. He's here today for the hours that were designated per a court order. We're pretty clear on what the case is about. Today is absolutely irrelevant to this case.

BY MR. PROPER:

Q. Was CBSG providing merchant cash advances to businesses in 2019?

MR. BERMAN: Up until October of 2019, you can answer.

MR. PROPER: That's not my question.

BY MR. PROPER:

Q. Was CBSG providing merchant cash advances to businesses in 2019?

MR. BERMAN: Same objection.

THE WITNESS: I don't know.

BY MR. PROPER:

Q. Has CBSG, to your knowledge, ever provided a merchant cash advance to a business?

A. Of course.

Q. Do you know when CBSG first began providing merchant cash advances to small businesses or any business?

MR. BERMAN: Objection.

You can answer.

THE WITNESS: Say the question again.

BY MR. PROPER:

Q. Do you know when CBSG first began to provide merchant cash advances to businesses?

A. No. You'd have to ask CBSG.

Q. Do you know whether CBSG has changed the structure of its transactions with businesses since you started sourcing deals for them?

A. What transaction?

Q. Any transaction with a business that you sourced in your capacity as an employee of Recruiting

and Marketing Resources.

MR. BERMAN: Objection. Not a proper question.

But you can answer.

THE WITNESS: There's many different products and services that CBSG offers and I'm sure they change their products and services on a day-to-day basis. Similar to White & Williams, how you guys change your products and services and employees, too. So I'm sure, as a corporation, they change their products and services.

BY MR. PROPER:

Q. Okay. So what products and services were offered to businesses by CBSG in 2019?

A. I don't have -- I don't speak for the company. I don't know all the products and services.

Q. Can you give me an example of some of the products and services that CBSG offered to businesses in 2019?

A. The one with -- the one your client took from HMC, we can talk about that.

Q. Okay. Can you give me some examples of products and services other than the type of product that was issued to my client?

A. No, I'm not going to speak on behalf of CBSG/Par Funding.

Q. Okay. So with respect to deals you sourced with CBSG, were there instances where you were involved in transactions that did not involve a merchant cash advance?

MR. BERMAN: Objection.

You can answer.

THE WITNESS: Yes.

BY MR. PROPER:

Q. What other products and services that you were involved with did CBSG offer to businesses?

A. Invoice factoring, collateral. Many different products and services that they could offer. It depends.

Q. What do you mean by "collateral"?

A. Collateralized product obligations, invoice factoring. All different types of products that people could expand their businesses with.

Q. Can you just explain to me how a collateral-based transaction would work with CBSG?

A. I'm not good at them. I can't explain it to you.

Q. Can you explain to me how an invoice factoring

arrangement from CBSG differs from a merchant cash advance from CBSG?

A. Well, I'll try. Specific receivables are different than future receivables. In the case of your client, there were specific receivables. So we help clients grow their businesses. We take a specific receivable. We finance the customer in order for him to obtain the business. They go and procure the receivable and they're supposed to give us back the proportionate amount of that receivable in order for them to enhance their business.

Q. Were all of the transactions with my client invoice factoring arrangements?

A. I wouldn't know.

Q. Did you do anything to prepare for today's deposition?

A. No.

Q. Did you have any involvement with the different transactions that my client entered into with CBSG?

A. I wouldn't bother reading it.

Q. I'm sorry?

A. I didn't even bother reading it.

Q. Yeah, I'm just -- now we're talking about your

memory. Do you have any recollection of having a personal involvement with any of the different transactions that my client entered into with CBSG?

MR. BERMAN: Objection.

But you can answer, if you understand.

THE WITNESS: Your client -- the initial -- the initial transactions, I did have an involvement in. Kara was -- who your client -- client by name -- Kara DiPietro was a friend. I was -- helped her immensely grow the business. We identified specific receivables. We purchased those specific receivables. We went on websites and transferred those receivables into our name.

And over time and years, the relationship blossomed. She -- we let our guard down a little bit and we didn't actually take those receivables. We only put them on the contract. And here we are today without our share of that specific receivable, somewhere to the tune of $3 million. So your client came to our office unsolicited. We invoice factored her receivables. When the invoice came in, she kept all the money. So that's -- that's how we're in the situation we're in now.

BY MR. PROPER:

Q. So when there's an invoice factoring arrangement like the one you described and the agreement states, for example, that you're taking 10 percent of a specific invoice, how do you go about ensuring that you're only taking 10 percent of a specific invoice as opposed to receivables from other invoices?

MR. BERMAN: Objection.

If you can understand the multi-compound.

THE WITNESS: I don't understand, but I'll try to answer it.

BY MR. PROPER:

Q. Oh, if you don't understand, I wouldn't want you to answer --

A. I'll try to answer it anyway.

On the contract, it has the specific receivable. The nature of the contract in dispute of the transaction was not to steal the money that was supposed to come to us. Our share of the money, which was that specific receivable for all her jobs, her construction jobs, we gave her early payback options on every single deal so in case that receivable came back late, she would have a benefit.

Q. So there's a specific invoice identified on different agreements that you --

A. Well, she did.

Q. -- that CBSG purchased, correct?

A. She did, yes.

MR. BERMAN: Let him finish for her.

BY MR. PROPER:

Q. Were there specific invoices that CBSG purported to purchase in different transactions?

A. Yes.

Q. And those invoices are identified on the different agreements, correct?

A. Correct.

Q. And under the agreement, you were entitled to take a certain percentage of the revenues that were generated by those invoices, right?

MR. BERMAN: Objection to the "you."

But you can answer, if you can answer.

THE WITNESS: Yes, it's similar to how you guys operate. So you guys work on contingency. You guys put your time, effort in and cost into a specific deal. I'm sure there's a contingency on this transaction. You spend time/money for this gentleman and you to sit here, and this court reporter to sit

here, you spend money. At the end, if there's a profit or when there's a profit, you can share in the profits. And that's exactly what this was. The only difference between me and you is I put up -- we put up actual cash.

BY MR. PROPER:

Q. How does CBSG go about determining when monies are coming in on a specific invoice that's identified --

A. Says it on the invoice.

Q. So there's an invoice identified on an agreement; I got it.

So how does CBSG determine when money comes in on that invoice?

A. We don't.

Q. So how do you know when to take money?

A. It's a daily ACH. So the balance comes off the amount of the invoice. So if you read the agreements, you can know. It comes off the amount. So it's a fixed payback, just our share.

So think of it like this: It's a nonowner equity partnership with a company in order for them to expand their businesses. It's very American, unlike you guys would think. But if you help these --

if these clients want to expand their business, we take a proportionate amount of the receivable, which is our principal, and a profit back on each receivable. It's pretty simple.

BY MR. PROPER:

Q. I understand the construct.

A. Got it. So why did you ask me, then?

Q. I don't understand your answer. I understand the concept.

A. I'm saying why did you ask me about the construct if you -- if you understand it?

MR. BERMAN: Just answer his questions.

THE WITNESS: I'm trying.

MR. BERMAN: I know. No, no, and you are. So just let him ask the questions for you.

BY MR. PROPER:

Q. So when CBSG purchases an invoice, is the invoice -- strike that.

So when you purchase an invoice, are there receivables already generated or are there receivables that have to be collected or both?

MR. BERMAN: Objection.

THE WITNESS: I don't know.

BY MR. PROPER:

Q. Because here's my confusion, and I'm hoping you can alleviate it: If you're purchasing receivables, are those receivables that have already been received by the business or are they receivables that the business has not yet collected?

MR. BERMAN: Objection.

You can answer, if you understand.

THE WITNESS: I don't know.

BY MR. PROPER:

Q. What's the definition of a receivable?

A. I don't even know what you're talking about right now.

Q. Do you know what a receivable is?

A. If a job happens, which there's documents and pictures and a whole bunch of things which we'll get to, I'm sure, later down the road with your client's deposition, there's documents that show the actual job that needs to be done. The client doesn't have the money to do the job.

Q. Because she hasn't been paid yet for it, right?

A. Of course.

Q. Right. That's what I'm getting at.

A. Of course.

Q. Right.
A. So we pick -- give her the money to go do the job. And when the money comes back --
Q. Exactly.
A. -- we all make a profit.
Q. So this is my question: You, CBSG, enters into an agreement with my client, right?
MR. BERMAN: Well, objection. Who's the "you, CBSG"?
But you can answer, if that's a fair question.
THE WITNESS: Uh-huh.
BY MR. PROPER:
Q. CBSG enters into a relationship with my client, purchases a specific invoice, for which monies have not yet come in, right?
MR. BERMAN: Objection.
BY MR. PROPER:
Q. That's what we just established, yes?
MR. BERMAN: Objection.
BY MR. PROPER:
Q. She needs money --
A. I'm assuming that.
Q. -- because she hasn't --

A. I'm assuming that.
Q. -- gotten paid on the job.
A. I'm assuming that. What your client did with their money, I don't know.
Q. Got it. So now you have an agreement, CBSG has an agreement with my client to purchase receivables that CBSG is hoping the business actually pays to my client, right? The business that owes the receivables pays?
MR. BERMAN: Objection. Ask a question.
MR. PROPER: That's the construct.
MR. BERMAN: Is there a question?
BY MR. PROPER:
Q. Here's my question: You're only entitled to take 10 percent of the receivables you purchase on a specific invoice. Why are you taking a fixed payment before the receivables come in?
MR. BERMAN: Objection.
THE WITNESS: That's incorrect. Those are specific receivables that we owned and purchased. Your client came unsolicited to our office and sold us those receivables.
BY MR. PROPER:

Q. Let's use a specific example.

- - -

(Whereupon, a 5/31/18 Agreement has been marked as Exhibit LaForte-1 for identification.)

- - -

MR. PROPER: You both have 5/31? Just want to make sure I gave you the right one.

MR. BERMAN: By "5/31," what do you mean?

MR. PROPER: The date of the agreement, 5/31/18.

MR. BERMAN: Oh, yeah. Why are these not Bates stamped?

MR. PROPER: The ones that we printed.

MR. BERMAN: Right, but how do I know this was produced in this case? Are you making a representation on the record this has all been produced?

MR. PROPER: Yes --

MR. BERMAN: Okay.

MR. PROPER: -- to the best of my knowledge and belief.

BY MR. PROPER:

Q. Have you seen this document before today?

A. Nope.
Q. Were you involved in the particular transaction that's identified in LaForte-1?
A. I don't recall.
Q. On Page 2 of the agreement, it sets forth the terms of what's titled a "Factoring Agreement"; do you see that?
A. Uh-huh.
Q. And it looks like that the invoice in question is 2946-04; do you see that on Page 2?
A. I see it.
Q. Do you know how much was owed on 2946-04?
A. I'm sure it's in her e-mails.
Q. Okay. What did CBSG do to determine what monies were owed on invoice 2946-04?
A. Probably not enough.
Q. What did CBSG do to determine how much monies have been paid in that invoice at the time this agreement was executed?
A. I wouldn't know what CBSG did on any specific invoice. I'm not an underwriter for the company.
Q. What does CBSG do, to your knowledge, to determine when monies are paid on this particular invoice, 2946-04?

A. What? I don't understand.
Q. How does CBSG determine when monies are paid to HMC on invoice 2946-04?
A. I don't know the answer to the question.
Q. Because under this agreement, CBSG's entitled to take 10 percent of the receipts for this particular invoice, correct?
A. Does it say that?
MR. BERMAN: Are you making that representation?
BY MR. PROPER:
Q. I thought that's what you testified previously, that it's your understanding that my client --
A. Does that say that, though? You just mixed that up, though. You said this specific receivable. Then you said receipts purchased.
Q. I'm asking you, your understanding of this agreement was CBSG buying an interest in this particular invoice, 2946-04, or all of my client's receivables?
A. I can't speak for CBSG, but I would -- I don't know.
Q. So when you testified previously that CBSG was

acquiring a 10 percent interest in particular invoices, does that apply to this transaction?

MR. BERMAN: Objection; mischaracterization.

THE WITNESS: I didn't testify to that.

BY MR. PROPER:

Q. You didn't testify to that?

A. That CBSG bought 10 percent of the invoice?

Q. Right.

A. I don't know what that means.

Q. You don't know what buying 10 percent of a particular receivable due to an invoice --

A. That's a holdback. It's not 10 percent of the receivable. So, Jason --

Q. Justin.

A. Justin, whatever your name is.

If you're going to talk to me about factoring agreements, you really have to be a little bit more educated on what -- not 10 percent of the receivable. The holdback is the 10 percent of the client's income. That's what the holdback means. It's not 10 percent of the invoice. So you really got to educate yourself on the product. 10 percent means that the client will, at minimum, pay 10 percent of their

monthly income in order to pay off the invoice.
Q. Where does it say that?
A. In the whole document. Read it.
Q. Where?
A. I don't know. I'm not a lawyer, but that's what it is. 10 percent is right here. Daily specified amount is 1907 on this invoice. So that means that 10 percent, the specific percentage is of the client's income, which was analyzed by underwriting. So you're asking me questions about underwriting that I can't specifically answer on that specific day, but that's what that manes.
Q. What are you -- what are you looking at to determine that it's not 10 percent of the specific invoice that's being calculated but 10 of my client's income?
A. Because it's not. It's in the document. 10 percent of the income. Specified percentage, 10 percent. Future receivables. So future receipts of seller's recourse. Seller's recourse, right? So buying future receivables. In this specific case, she pledges this invoice, 2946-04.
Q. Pledges it for what?
A. To pay back the amount that she borrowed. She

borrowed 173,000, I guess, right? Owes 27; is that the purchase price?

Q. She pledges this invoice. So does that mean that CBSG only gets paid when my client gets paid on this invoice?

MR. BERMAN: Objection.

THE WITNESS: I don't know how they collect it. I don't know that.

BY MR. PROPER:

Q. That's my question to you.

A. I don't know the answer to that. I'm the originator. I don't know how to answer that, but I do know how to read a contract.

So if your client was -- in this case, on that specific day, told CBSG/Par Funding that she makes approximately $2,000 a day, 20 days in a month, I guess that's how much, guys. 40 grand a month, 10 percent of that would mean your client's income was probably around $400,000 a month, 10 percent. So that's how factoring works. Keep writing, guys, so you can learn. So that's how -- that's how the contracts work.

So on that -- any given day -- and, by the way, your client does do $400,000 a month. As a

matter of fact, I received their bank statements a few days ago looking for more cash advances and they're doing $600,000 a month now. So I'm sure at that time, when her business was at her height, they were doing more than $400,000 a month. So that is a correct and appropriate holdback.

Q. How does CBSG determine what a business's income is?

A. I don't -- I don't underwrite for CBSG. I just know how to read a contract.

Q. What is the -- what is the definition of income in this agreement? I don't even see the word "income."

A. I don't know.

MR. BERMAN: Objection.

BY MR. PROPER:

Q. What's the definition of income in this agreement? Educate me.

A. I don't know. I don't know definitions of income.

Q. Is there a definition of income in this agreement, LaForte-1?

A. So if you're eluding to the fact that how much of it is profit, it's irrelevant. It's future

receivables. It's right here. 10 percent, that is a specified percentage. 10 percent of their income. She must have proved out somewhere that she works more than 10 percent or I think her doors would probably be closed at this point.

Q. 10 percent of what future receivable?

A. Well, her future receivables, plus this -- plus this invoice was pledged. This is a pledge. The invoice is pledged.

Q. If you're purchasing 10 percent of future receivables, you, being CBSG --

A. We're not purchasing 10 percent of future receivables. You keep saying that. That's incorrect.

Q. What did you purchase --

A. We're buying future receivables. We're taking back 10 percent of the client's income on a monthly basis in order to pay back the money the client procured.

Q. So what receivables were purchased on LaForte-1?

A. I don't know.

Q. Just the receivables --

A. I told you I didn't even read this.

Q. I'm asking you to look at it now, please.

Did CBSG just purchase receivables for invoice 2946-04 or did it purchase all of my client's receivables?

A. Maybe both.

MR. BERMAN: Objection.

BY MR. PROPER:

Q. I'm asking --

A. Maybe both.

Q. -- what did it do?

A. I don't know. I'm not CBSG. Maybe both.

Q. Well, looking at the agreement, you said you can read the agreement and I'm basically saying I don't understand it --

A. Maybe both.

Q. -- and I'm asking you to educate me.

A. I don't know. Maybe both. Ask them.

Q. I'm not asking maybes, could have, would have, should have's.

A. I'm just saying --

MR. BERMAN: He's a fact witness. You keep on asking him to testifying on behalf of --

COURT REPORTER: Hold on a second. I can't get all of you talking over each other. So if you can try to just slow down a little bit.

BY MR. PROPER:

Q. Do you know what receivables CBSG purchased on this particular transaction, LaForte-1?

A. I don't know. Why don't you look in the book of gratitude that your client gave us, the big book of gratitude when she came to our office, and look and see which job it was because I don't know. There was 48 transactions. I don't know which specific receivables this is, Number 1; and Number 2, I'm not an underwriter for the company, so how would I know?

Q. And I still want to know your understanding as to whether CBSG purchased invoice number 2946-04 or they purchased something more than invoice 2946-04.

MR. BERMAN: Objection.

THE WITNESS: You keep asking me that. I don't know.

BY MR. PROPER:

Q. You don't know.

And it's your understanding that the 10 percent daily specified amount of 190739 is 10 percent of my client's daily income?

A. Monthly income, not daily income.

Q. Got it.

A. Jason -- what's your name? Justin?

Q. It doesn't matter.
A. Justin, you got to learn the business before you represent these clients, especially if you're taking money from them. It's 10 -- let me teach you. It's 10 percent of the monthly income. So the judge has -- I'm sure his time is very precious, as is ours. So before we come to the depositions, you really got to learn the business. 10 percent is a specified daily amount according to how much the client is showing us of how much they make on a monthly basis.
Q. Okay. So the 10 percent is the monthly gross revenue?
A. 10 percent --
Q. Is it monthly gross revenue?
A. I'm not an underwriter, but it says 10 percent gross -- I don't know.
Q. You don't know the --
A. I'm not an underwriter. I don't know. You're asking me to formulate an opinion on how a company underwrites. There's companies all over the United States that underwrite differently. I don't know how they come up with their decisions.
Q. So you don't know how CBSG underwrote this particular transaction?

A. I have no idea.
Q. Do you know what underwriter was involved in this transaction?
A. No.
Q. Do you know who Dean Vagnozzi is?
A. No. Of course I know Dean Vagnozzi. You asked me that last time. It was the same question.
Q. What does Dean Vagnozzi do on -- what does Dean Vagnozzi do on behalf of CBSG?
A. Nothing.
Q. He doesn't promote for CBSG?
MR. BERMAN: Objection.
You can answer.
THE WITNESS: Dean Vagnozzi does nothing -- when you say does Dean do anything -- Dean Vagnozzi is not an employee of CBSG.
BY MR. PROPER:
Q. Does Dean Vagnozzi raise money for CBSG?
A. Yes.
Q. Okay. Do you know how much money Dean Vagnozzi raised for CBSG in 2019?
A. No.
Q. Did Dean Vagnozzi raise any money for CBSG, to your knowledge, in 2019?

A. I wouldn't know. I don't know.
Q. Does Dean Vagnozzi have a contract with CBSG, to your knowledge?
A. I wouldn't know that. I'm not in -- I'm not in the legal department. I'm a sales rep for Recruiting and Marking Resources. I wouldn't know if Dean Vagnozzi has a specific contract. I know Dean and that's --
Q. Did you introduce Mr. Vagnozzi to CBSG?
A. No.
Q. Do you know how CBSG and Mr. Vagnozzi first met?
A. No.
Q. Do you know when Mr. Vagnozzi first started raising monies on behalf of CBSG?
A. No.
Q. When did you first meet Dean Vagnozzi?
A. I don't remember.
Q. Did you meet him on -- at a golf course?
A. I don't remember.
Q. Did you ever tell Mr. Vagnozzi that you were in a business of lending money?
A. I don't remember.
Q. Did you ever tell Mr. Vagnozzi that you were

the owner of CBSG?

A. I don't remember.

Q. Did you ever tell Mr. Vagnozzi that CBSG loans money to businesses at 35 percent interest rates?

A. I don't remember.

Q. Does CBSG loan money to businesses at 35 percent interest rates?

A. There is no interest rates. It's not a loan. So when you go back to this, Justin/Jason, this document right here says specifically -- and this is another thing you guys need to really take a look at -- it's a purchase of future receivables. It's not a loan.

As a matter of fact, this has already been brought up in about 230 different cases throughout the United States, and all have been upheld. So for you to say that this is a loan is just not true.

As a matter of fact, a judge in New York, one of your partners just told him it could never be a loan. So I -- if you are somehow insinuating that these are loans, we can debate this all day, but what I would suggest that you do is I suggest that you stop pandering to the Courts and go to the legislative branch of government and make it a law. And if you do

make it a law, I'm sure myself and all the other companies would be happy to comply with the law.

I mean, you started to do that. You started to go to the legislative branch of government and they didn't do anything for you guys, but you should stay that way. You're trying to try -- make a law through the judicial branch of government and it's wrong. So you're wasting time. This is not a loan. It's a purchase and sale of future receivables. It says it right here.

Q. Has Par Funding ever loaned money to businesses, to your knowledge?

A. We don't loan money. We purchase future receivables. I say "we." I said, "we." RMR, who I work for, we go out and procure different receivables. People sell their receivables the same way you sold your receivables, your client sold their receivables to you. Because, technically, if you win this case for $3 million, that would be a receivable. You're putting time in right now and you're spending money, which is a good way of doing business. It's American. And you're going to go sit here and this is going to be thousands and thousands of dollars and when -- and if you ever won this case, you would get a contingency fee on top

of the 30,000 you guys took from your client, by the way, the 30,000 you charged the -- your client, Kara DiPietro.

Q. Do you know if Par Funding has ever loaned money?

A. We just went through all that.

Q. That's a no?

A. That's -- we just went through all that. So don't tell me how to answer. Don't tell me what to say. Don't ever tell me what to say. Watch your mouth. It's enough.

Now, I got a question for you. When is it okay for a client to take a cash advance?

MR. PROPER: Can you mark this, please.

THE WITNESS: When is it okay for a client to take a cash advance? Is it okay to get you paid? Because you dimwits, your client took a cash advance in order to pay you last month. Did you tell the judge that? Your client went out, borrowed $50,000 from a cash advance company and then wired the money to White & Williams. So it's okay when you guys -- the hypocrisy that you guys -- the fraud and the hypocrisy that you guys portray is ridiculous.

So you, Justin, Jason, whatever your

name is, in your Ivy League suit, just took $50,000 from a cash advance company, put it in your escrow account or wherever you put it here. I think you should recuse yourself from the case if that's true. Did you take a cash -- did you take money from Ms. DiPietro in the form of cash advance?

MR. PROPER: Can you mark that as Exhibit 2, please.

- - -

(Whereupon, a Par Funding About Us Page has been marked as Exhibit LaForte-2 for identification.)

- - -

BY MR. PROPER:

Q. Have you ever seen Exhibit 2 before from Par Funding's Facebook page?

A. Par Funding, I don't even know if it has a Facebook page.

Q. I'm representing to you that I printed this off of Par Funding's Facebook page.

MR. BERMAN: Did you produce this in this case?

MR. PROPER: I don't know if it's been requested and I don't know that it matters. I'm asking the witness a question about the Par Funding --

THE WITNESS: I've never seen it, but Facebook -- anybody can make a Facebook page for any different business. I've had -- I've had my own name, five people with my own name. You can put anything on Facebook. This is not even a -- I don't even want to look at this. This isn't an appropriate document. I can make a Facebook page today for White & Williams and put this on there right now. So this is -- I don't know. Why am I looking at this?

BY MR. PROPER:

Q. Has Par Funding ever represented to the public that Par Funding is not a merchant cash advance company, to your knowledge?

A. I wouldn't know what Par Funding represents because I don't work for Par Funding.

Q. Okay. Do you know if Par Funding ever represented on its Facebook page as shown on Exhibit --

A. I don't even know about Par Funding's Facebook page. I don't even have a Facebook page.

Q. Can you take a look --

A. I don't even know how to use Facebook. I don't even know what Facebook is.

Q. Can you take a look at Exhibit 2 where it states, "Loan size, 5,000 to $150,000"; do you see

that?
A. Yup.
Q. Do you see where it says, "About us: Par Funding's goal is to get you the working capital you need to run and grow your business and to do it while providing the highest degree of personal professional services"?
A. I'll answer the question if you tell me if one of the corporate members of our company and our compliance department approved this. Before that, I'm not going to answer any questions about this garbage right here that anybody, a competitor, anybody, you, any of your clandestine operations could have put this on my website. That is not a document that I'll even answer to because it's on Facebook.
Q. What was your role --
A. Is Facebook an official corporate website? Is that what you're saying?
Q. What was your role with Par Funding's Facebook page in 2012?
A. Facebook. We're talking about Facebook now.
MR. BERMAN: Do you have any role with Par Funding's Facebook page is the question.
THE WITNESS: I don't have Facebook. I

don't know how to use Facebook.
BY MR. PROPER:
Q. Who is the compliance person --
A. Do I look like a Facebook on here?
Q. Who is the compliance person that Par Funding, in 2012, that would have been responsible --
A. I don't know any employees of Par Funding. I'm not going to testify of things I don't know about because I won't insult the judge.
Q. If you could just let me finish my question because --
A. I have a question for you. Did you take $50,000 in cash advances?
Q. In 2012, do you know who was responsible for compliance at CBSG?
A. Didn't we just answer that?
MR. BERMAN: You don't know, so you can say it again.
THE WITNESS: I don't know.
BY MR. PROPER:
Q. How many employees did CBSG have in 2012?
A. Can we cut this short? I don't know how many employees CBSG has or didn't have. I don't know.
Q. In 2018, what role -- strike that.

In 2019, what role did Lisa McElhone have in CBSG?
A. I don't know.
Q. Was Ms. McElhone the president of CBSG in 2019?
A. I don't know.
Q. Did Ms. McElhone work for CBSG in any capacity in 2019?
A. I don't know anything about any of these questions about CBSG. I don't work for CBSG. I work for Recruiting and Market Resources.
Q. Yeah, I'm just wondering if you --
A. We went over that already.
Q. Okay. I'm wondering if you knew --
COURT REPORTER: Hold on, please. I cannot get you both at the same time. This transcript is going to be a mess right now if this doesn't stop. I'm trying my hardest, but this is getting really bad.
MR. PROPER: We'll give you a big tip after.
COURT REPORTER: I know, but it doesn't matter. It's making my work way worse.
BY MR. PROPER:
Q. If you could please try to let me finish my

question before you answer even if you anticipate it.

MR. BERMAN: And the same for you.

MR. PROPER: I have done that.

BY MR. PROPER:

Q. Can you please let me know whether you know whether your wife, Lisa McElhone, had any involvement with CBSG in 2019.

A. No.

Q. You don't know or she didn't?

A. I don't know any answers to these questions about Par Funding/CBSG.

Q. Did your wife own any businesses in 2019?

A. I don't know what she owns and doesn't own.

Q. Okay. You ever hear of a company called Lacquer Lounge?

A. No, I never heard of Lacquer Lounge.

Q. Is there a hair salon or nail salon that your wife does own? I may have the name wrong.

A. Yeah, the name is Lacquer Lounge. Don't ask me ridiculous questions. You're wasting time. She owns a nail salon in Old City.

Q. When did she purchase the nail salon --

A. I don't know.

Q. -- in Old City?

A. I don't know her business.
Q. If you could please try to let me --
A. We have a very --
Q. -- ask my questions.
A. We have a very private business relationship. She doesn't tell me about her business. I don't tell her my business. We have a very loving, beautiful relationship, two dogs and a house. We don't talk business.

Did you guys really take $30,000 from Kara DiPietro? Do you guys -- do you idiots really realize that she took a cash advance two days before that in order to pay you guys? Do you guys know that? Why don't they recuse themselves? Because you guys benefited and guess what? I don't -- I'm not even against it. I think it's American. God bless you guys. You guys took a cash advance from -- your client took a cash advance to pay you guys, big White & Williams. You guys should do your homework a little bit better before you take money from these clients.

Q. So just so we're clear, you are not a part of the founding of CBSG, along with your wife, in 2012?
A. We answered that question earlier.
Q. Got it. And do you know if your wife was the

person responsible for accounting for CBSG in 2012?
A. We answered that question in the last deposition.
Q. Did you run the factoring side of the business for CBSG in 2012?
A. I never ran any business for CBSG. I work for Recruiting and Marketing Resources.
Q. Go it. And do you know if your wife ceased having any involvement with CBSG when she purchased Lacquer Lounge in 2012?
A. I don't know.
MR. PROPER: Okay. Can you have this marked, please, LaForte-3.
- - -
(Whereupon, a Declaration of Lisa McElhone has been marked as Exhibit LaForte-3 for identification.)
- - -
BY MR. PROPER:
Q. Do you have any recollection of a lawsuit that your wife and yourself were involved with in the United States Bankruptcy Court for the Southern District of California, Santa Ana Division involving South Coast Behavioral Health?

A. No.
Q. Are you aware that there was an order for contempt issued against you in connection with violating a bankruptcy stay?
A. No.
Q. Okay.
A. I don't handle the league, I guess.
Q. Have you ever seen this declaration that was submitted on behalf of your wife in connection with this matter?
A. No. She doesn't show me her business.
Q. Okay. On Page 3, do you recognize that as your wife's signature?
A. I don't know. I'm not going to -- I don't know her signature.
Q. Okay. Are you aware that in this declaration, your wife represented that, "Joseph LaForte and I are married and live in Haverford, Pennsylvania"; is that true?
A. Yeah.
Q. Okay. Your wife then represents in Paragraph 5, "We founded Complete Business Solutions Group d/b/a Par Funding in or around 2012."
A. She just likes -- she probably just likes to

include me. And she's being very nice. For a nice business that she started herself, she just likes to include me. I am her husband.

Q. Okay. I just want to ask specifically about this representation.

A. I don't think you should ask about my marital life, though. I don't really see how that's relevant here. What my wife says that we do together is irrelevant. It's HMC, you should represent them. They gave you 30,000 bucks.

Q. Ms. McElhone represents in Paragraph 5 that, "We founded Complete Business Solutions Group, d/b/a Par Funding in or around 2012"; is that a true statement?

A. Whatever my wife says is a thousand percent true.

Q. Okay.

A. So why don't we -- I'm not answering any of these -- any more of these questions.

Q. Okay. So --

A. Whatever my wife says is true.

Q. Okay. So you did -- you were part of the --

A. Whatever my wife says is true.

Q. "Mr. LaForte ran the factoring side of the

business and I handled the accounting for less than a year"; is that true?

A. Whatever my wife says is true.

Q. Okay. So just to be clear, you previously testified under oath that you were not involved in any aspect of CBSG's business and you repeatedly testified to that. Your wife states in this declaration that you ran the factoring side of Complete Business Solutions Group's business. Which is true?

MR. BERMAN: Objection. That's not what it says, so read the words.

BY MR. PROPER:

Q. "Mr. LaForte ran the factoring side of the business." Did you run the factoring side of the business?

A. Whatever my wife says is true.

Q. So that's true?

A. She wants me to feel -- if she wants me to feel like she makes me feel good, it's similar to this, Jason --

What's his name? Jason?

It's similar to your wife telling you you look great today. It's just a nice compliment she probably just gave me. She's very nice to me, my wife.

I'm really not that good in business, but she really does try to help me along and try to put me onto equally -- coequal with her. It's very nice of her.

BY MR. PROPER:

Q. What were you doing, exactly, in 2012 when you were running the factoring side of the business?

MR. BERMAN: Objection.

THE WITNESS: What does the factoring -- does it even mean, "the factoring side of the business"? What is the factoring side of the business?

BY MR. PROPER:

Q. This is what your wife said. If you don't understand what the factoring side of the business is, then I guess you can't answer it.

A. I can't answer it.

Q. Okay. So when you said that it must be true that you were running the factoring side of the business, you can't really say if that's true or not, you don't even know what factoring side means?

A. Not really, no.

Q. Okay. And then your wife states in Paragraph 6 that, "I hired Joe Cole, the current CFO of CBSG, to replace me in 2012," do you know if that's true?

A. I wouldn't know anything about her business.
Q. Okay. "At that time, I started a nail salon called the Lacquer Lounge," and she puts the website for Lacquer Lounge. Is that true, to the best of your knowledge?
A. Whatever she says is a hundred percent true.
Q. Okay. And then she states in Paragraph --
A. Great place, too.
Q. And then she states in Paragraph 7, "I have worked full time at the Lacquer Lounge since its inception and have had no subsequent involvement in CBSG despite the fact that I was never formally removed as its president. Is that a true statement?
A. I don't know.
Q. Okay. Because Mr. Cole testified that he had daily communications with your wife about running the business and here your wife is saying that she has nothing to do with the business. Do you know why Mr. Cole would say that?
A. That's not what that says.
Q. What does it say?
A. That's not what it says.
Q. "I have had no subsequent involvement in CBSG" --

A. Subsequent involvement, what does that mean?
Q. It means after 2012, she hasn't been involved in the business. That's what it means.
A. She was never formally removed as the president. She could -- listen, I don't know -- I don't know where you -- I don't even know -- I don't even know where you're going with this line of questioning. You have to ask these other -- these other people. I don't even know what this is. Whatever my wife says is true.
Q. So it's true that your wife has had nothing to do with CBSG since she purchased Laquer Lounge?
A. I don't know.
Q. Got it.
A. Is that illegal? Is that illegal? You can't -- you have to work in the Laquer Lounge, girl. Is that illegal? Who the president is, who this and that. This poor client, I feel bad for the 30,000 they paid.
Q. Is your wife still the president of CBSG?
A. I don't know.
Q. What involvement, if any, did your wife have with respect to the transactions with my client?
A. I don't know.

Q. Did you attend an event hosted by Dean Vagnozzi at the Sheraton Valley Forge Hotel last year?
A. Possibly. I went to -- I go to a lot of events.
Q. Okay. How often do you go to fundraising events that Dean Vagnozzi hosts on behalf of CBSG?
MR. BERMAN: Objection.
THE WITNESS: I don't know.
BY MR. PROPER:
Q. How many have you been to in the past two years?
A. I couldn't -- I couldn't answer that question.
Q. More or less than one?
A. I don't want to lie, so I don't know.
Q. Okay. How many events can you think of, as you sit here today, that you've been to that Mr. Vagnozzi has hosted where he's tried to solicit monies on behalf of CBSG?
A. I don't know.
Q. Have you been to any?
A. Yes.
Q. More or less than one?
A. I don't remember.
Q. Okay. Are you aware that we have video of you

speaking at one of these events?
A. Great.
Q. Have you seen the video?
A. No. I don't watch videos of myself.
Q. Last November, did you speak to a room full of investors and potential investors trying to raise monies on behalf of CBSG? Yes, no or you don't know?
MR. BERMAN: Don't answer the question. It's October 2019.
MR. PROPER: You're directing him not to answer the question?
MR. BERMAN: I am.
MR. PROPER: Okay.
BY MR. PROPER:
Q. With respect to the event in November of 2019, did you represent to the room full of investors that you were the owner of CBSG?
MR. BERMAN: Don't answer the question.
Call the judge.
MR. PROPER: Okay. I'm just going to move for sanctions, but I'm going to establish --
MR. BERMAN: Do whatever you want.
MR. PROPER: -- how many questions you're going to direct him not to answer.

MR. BERMAN: Do whatever you want. I've told you to call the judge at any time you want. The judge made very clear --

MR. HESKIN: That's not how it works.

MR. BERMAN: -- the relevant time period is October of 2019. As the judge made very clear at the last hearing, he's available at any time for these phone calls. Plus the basis for the objection is a court order limiting the scope of discovery in this case, so --

MR. PROPER: I'm going to say it again. The order you're reading from is limited to a 30(b)(6) deposition. It has nothing to do with this issue.

MR. BERMAN: We're very comfortable if there's any confusion, call the judge. I welcome you to do it.

MR. PROPER: I don't have confusion because I'm able to read an order and what the limitations and scope of that order is.

MR. BERMAN: Limitations in scope are discovery in this case. You interpret it however you want to interpret it.

MR. PROPER: I am. I will.

MR. BERMAN: We'll interpret it -- if

there's confusion, call the judge.
BY MR. PROPER:
Q. Have you ever represented to an investor or potential investor of CBSG that you owned the company?
MR. BERMAN: Objection.
But answer, if you know.
THE WITNESS: No.
BY MR. PROPER:
Q. To your knowledge, have you ever --
A. I didn't represent that to anybody.
Q. Have you ever told anyone, to your knowledge, that you are an owner of CBSG?
A. Doubt it, no. Maybe I bragged a little. Is that what you're getting at, do I brag to people?
Q. I'm not asking whether you brag --
A. Do I brag around; is that what you're asking me? Am I a braggart? No.
Q. Okay. Have you ever represented to an investor or potential investor of CBSG at any time that you owned the company?
A. No.
Q. Because that would be a lie, correct?
A. Would it be a lie?
Q. To say you own CBSG, that would be a false

statement, correct?
A. I just said that, right?
Q. Got it.
A. Yeah.
Q. You're agreeing with me, that would be a false statement?
A. It would be -- it would also be a false statement for you to say you don't take fees from my clients. My clients, by the way. That would be a lie, too, right?
Remember you said in the deposition last time, Shane, you guys don't take the fees? You took 30 grand from this lady. Is that a lie?
Q. Have you ever represented to an investor or potential investor that you personally --
A. I don't remember every conversation I've ever had with anybody. I talk to thousands of people. I don't remember what I said and didn't say. Do I go around saying I own Par Funding/CBSG? No. Do I own Par Funding/CBSG? No. Those are the answers. So we're wasting time.
Q. Just let -- if you could please let me finish my question.
A. You want to eat up the retainer fees.

Q. Have you ever represented to an investor or potential investor that you personally contributed $500,000 of your own money to start CBSG?
A. I don't know.
Q. Have you ever said that?
A. I don't know.
Q. You wouldn't say that because it's not true, right?
A. When would I say it or why? Give me a case. Who?
Q. I'm just asking --
A. I can answer the question. What's the name? Who? I'm asking you who the guy is so I can answer it properly. Maybe I don't even know what you're talking about. Who's the guy? Who did I say it to so I can answer it properly?
Q. I asked a question.
A. It's a general question. I don't know what I said and didn't say.
MR. BERMAN: He doesn't know.
BY MR. PROPER:
Q. But there's no reason you would ever represent to anyone --
A. I don't know what I said. I don't know.

Q. Can I finish my question, please.
A. It's going to be "I don't know," so go.
Q. There would be no reason that you would ever represent to an investor or potential investor of CBSG that you contributed $500,000 --
A. I don't know.
Q. -- to start the company because --
A. I don't know.
Q. -- you've never contributed monies to start the company, right?
A. I don't know.
Q. I thought you testified before you've never contributed monies --
A. I don't know.
COURT REPORTER: Hold on a second.
BY MR. PROPER:
Q. Can I please finish my question.
COURT REPORTER: I can't keep going like this. It's been the whole time. You know, I'm only one person. I've been doing this 22 years. This is really out of control.
BY MR. PROPER:
Q. Did you previously testify at this deposition that you did not contribute any of your own money to

start CBSG?
A. That's correct.
Q. Okay. So, to your knowledge, have you ever tried to deceive an investor by representing that you did contribute your own money to start the business?
MR. BERMAN: Objection.
If you know.
THE WITNESS: Who?
BY MR. PROPER:
Q. Any investor.
A. Who?
Q. Any investor.
A. I don't know who. I don't know. I don't know who these people are. I don't know what you're talking about, so I can't answer the question.
Q. Do you know who an investor is?
A. Do I know what an investor is?
Q. Yes.
A. No. What's an investor? It can be a lot of different definitions, an investor. What, venture capital investor, equity investor, like your little finance company you guys have invested in this deal?
MR. HESKIN: Just limit it to a person.
THE WITNESS: Let me answer your

question. Tell me who -- tell me who it is and I'll answer the question.

BY MR. PROPER:

Q. I'm going to ask it differently. Have you ever represented to any person that invested his or her own money in a fund created by or on behalf of CBSG for merchant cash advances that you were an owner of the business?

MR. BERMAN: Objection.

THE WITNESS: He just objected, right?

MR. HESKIN: You can answer.

MR. BERMAN: You can answer, if you know.

THE WITNESS: I don't know.

BY MR. PROPER:

Q. Did you ever or have you ever represented to any individual that's contributed monies to a fund created on or on behalf of CBSG for merchant cash advances that you contributed your own money to start the business?

A. How can -- how could -- how come --

Q. Why won't you answer my question?

A. Why won't you recuse yourself? You guys took $30,000 from this client. The client got the money

from a cash advance and wired you the money. Why are we here?

Q. Why won't you answer my --

A. For cash advances?

Q. Why won't you answer my question?

A. I have 50 times. And in the last deposition, same question. So you're eating up the hours for the client. Me, I don't care. This is like a brother to me. I don't care, but you're wasting time. I don't remember what I said. I don't know, but why don't you ask -- why don't you answer the question? Why did you take 30,000 from the client? The client got a cash advance two days before that.

Q. Would there ever be a circumstance that you would try to deceive someone that was interested in investing money into CBSG by stating that you contributed monies to form the business?

MR. BERMAN: Objection.

THE WITNESS: The only deception here is your client coming to my office 50 times asking for more capital. That's the only deception.

And the other deception is you probably sent your client to go get another cash advance, by the way, that guys -- hey, this guy testified in front of

Congress, Mr. Heskin here, that these cash advances is the root of all evil. What you did was you probably hooked up your client with a cash advance from me to get you paid. So you're the hypocrisy. So stop asking me questions that are hypocritical.

BY MR. PROPER:

Q. I still don't have an answer to my question.

MR. BERMAN: He's answered it three times. He said "I don't know" --

MR. PROPER: He has not answered my question.

MR. BERMAN: -- "I don't know. He has not.

THE WITNESS: I don't know.

MR. BERMAN: He'll say "I don't know" a third time.

THE WITNESS: I don't know.

BY MR. PROPER:

Q. That wasn't my question. You can't answer "I don't know" to this because it's not a proper response. What --

A. I can say anything I want. Don't you ever tell me what to say. Watch your mouth. Don't ever tell me what to say. Don't ever tell me to put words

in my mouth, you or you.
Q. Would there ever be a reason -- would there ever be a reason why you --
THE WITNESS: Careful with me.
BY MR. PROPER:
Q. Are you threatening Mr. Heskin?
MR. BERMAN: Let's just stop and ask the question.
THE WITNESS: No, because of your mouth. Watch your mouth. Be a gentleman.
MR. BERMAN: Answer the question.
THE WITNESS: Be a gentleman. Your tone -- the judge can't hear your tone, so don't set me up, okay? Because I'm not a lawyer, but I'm smart enough to know what's on the record and how it reads. Your tone is out of line. Treat me with respect. I came here on my own merit. I came here this morning to waste more time and I don't need to be talked to like this. So be careful with your mouth means be careful with your mouth. That's what it means.
BY MR. PROPER:
Q. I've treated you with respect.
MR. BERMAN: No, you're raising your voice.

THE WITNESS: You're raising your voice.

MR. BERMAN: You're treating him disrespectfully. You're asking the same question over and over. But ask a clear question, you'll get an answer.

MR. PROPER: Your client called me or my colleague or both a punk --

MR. BERMAN: Just ask a question.

MR. PROPER: -- but I'm disrespectful?

COURT REPORTER: I got to go off the record. I'm taking a break.

MR. PROPER: You got it.

- - -

(Whereupon, the court reporter requested a break and a break was taken.)

- - -

MR. PROPER: Just want to let the record reflect that after the court reporter broke, Mr. LaForte called me a fucking punk and he's leaning across the table when he's answering questions and pointing his finger at me in a way that I find to be inappropriate and very aggressive.

MR. BERMAN: Okay. And let's make a

clear record with you screaming and hollering at him across the table with your eyes bolting out of your head. So records are made to be broken when you're making stuff up. So let's continue.

THE WITNESS: And I double down, you are a punk, so that's correct.

MR. BERMAN: When you keep on yelling at the witness --

THE WITNESS: When you're yelling at me and you're coming across the table at me.

MR. BERMAN: Let's just continue.

THE WITNESS: Because you wouldn't do it if you weren't in the Ivy League room because you would never do -- you would never behave that way. That makes you a punk. Because if you weren't in this room, you would never do that. That's why you're a punk.

MR. PROPER: What would you do to me?

THE WITNESS: I'm not going to do -- that's why you're a punk. That's why you're a punk.

MR. PROPER: Why wouldn't I do it outside of this room?

MR. BERMAN: We're not going further than this.

MR. PROPER: What's that?

MR. BERMAN: We're not doing it -- we're not doing any more on this. Let's just continue with the questions or we'll stop the deposition and tell the judge why we stopped.

MR. PROPER: I'm going to let the record reflect because counsel has made statements saying that I'm screaming and yelling, which is a complete distortion of reality, I've been respectful to Mr. LaForte this entire deposition. I raised my voice for the first time in response to Mr. Berman in a statement that he made, which I apologize for letting Mr. Berman and Mr. LaForte get the better of me in that moment. But Mr. LaForte, from the get go of this deposition, has acted in a way that has been sarcastic at the least, aggressive and threatening at the most, and his repeated references to me as a punk --

THE WITNESS: No, you're a bully.

MR. BERMAN: Let's just -- let's just -- let's just ask questions.

MR. PROPER: No --

MR. BERMAN: We're done with the record.

MR. PROPER: -- I'm not. On and off

the record, I feel threatened; I do. I feel threatened and maybe that's because I'm a punk, but I don't think it's -- I've never had a deposition this way in 20-plus years.

THE WITNESS: Because you're a bully. Because you bully people all day and you're not used to having somebody who stands up to you because you're a bully. So what you do is you take money from my clients, you take contingency fees from my clients, you take money -- their clients take money for more cash advances and you bully people around. That's why you're depositioning weak people, so you have somebody to say the truth about you, that you're a bully. And your hypocrisy, by the way, is ridiculous. Your client -- this client took another cash advance, you realize that, and you wired it into your account. I don't even know why I'm here. Shouldn't you guys recuse yourself for that?

MR. BERMAN: Let's just ask questions. We heard your record. We disagree with everything you said. You've been yelling since the beginning, but it doesn't matter.

THE WITNESS: I put up with more from you in this deposition than I've ever had in my life.

MR. PROPER: And the fact that Mr. Berman is condoning his client's behavior rather than correcting it only gives me --

THE WITNESS: I said no one corrects me. He can't correct me. No one could correct me. What do you mean? No one is going to correct me. He can't correct me.

MR. BERMAN: Let's -- what I'm doing is I'm asking you to ask questions at a deposition. It's not about correcting. I believe you've been yelling. Let's just move on and ask questions. That's what we're here for.

MR. PROPER: I've got witnesses from the start of the deposition.

MR. BERMAN: Do whatever you got to do. Just ask questions.

MR. FEDULLO: I will represent on the record that Justin's statement is true and Mr. Berman's statement is inaccurate.

THE WITNESS: You work for the company. I'm sure you -- I'm sure you say that on the record, yes.

MR. BERMAN: We're wasting time. Ask questions.

BY MR. PROPER:

Q. What is CBSG's default rate in 2019?

A. I don't know.

Q. Have you ever represented to any investor or potential investor that CBSG's default rate is 1 to 2 percent?

A. I don't remember.

Q. Do you know if anyone in your presence acting on behalf of CBSG has represented that CBSG's default rate is 1 to 2 percent?

A. I don't remember.

Q. What is CBSG default rate?

A. I don't know.

Q. Do you know if it's higher or lower than 1 to 2 percent?

A. I don't know. I don't work there. Are you looking to invest in the company, asking me what the default rate is?

Q. That's a good question.

A. Yeah.

Q. Do you have any monies invested in --

A. I don't.

Q. -- CBSG currently?

A. I don't.

Q. Did you invest any monies in CBSG in 2019?
A. No.
Q. Have you ever represented to any investor or potential investor that you have monies invested in CBSG?
A. I don't recall.
Q. If you have never -- strike that.
Have you ever invested monies in CBSG?
A. No.
Q. If you've never invested in CB-- monies in CBSG, then we can agree that there would be no circumstance that you would be representing to investors that you had invested money in the company?
A. So you're referring to -- let me teach you about finance a little bit more, guys, okay? If you're referring to retained earnings or any kind of retention of earnings, the company can retain earnings without actually putting up money.
COURT REPORTER: The company can what?
THE WITNESS: Can actually have earned -- have retained earnings, which is money in the company, without actually putting in money. So I don't -- that's probably what you're referring to. So if you're asking about investments, that's how it

works. There's a lot of different ways that companies can make money. We could talk about that another time. If you're not busy, come down to my office, I'll give you a little lesson in finance. But retained earnings are much different than an investment, right?

BY MR. PROPER:

Q. Well, what type of retained earnings do you receive --

A. I don't know. I'm just letting you know.

Q. Do you receive retained earnings from CBSG?

A. I don't receive anything from CBSG except for the money that I procure deals on as an independent operator.

Q. You mentioned that Kara DiPietro was a friend of yours, correct?

A. Uh-huh.

Q. When did you --

A. Yes, she was.

Q. -- first meet?

A. She was my friend.

Q. When did you first meet Ms. DiPietro?

A. I don't remember the day.

Q. Did you know Ms. DiPietro before she entered into a relationship with CBSG?

A. No.
Q. Were you the one that sourced an initial deal between my client and CBSG?
A. I don't recall that.
Q. Do you know when my client first entered into a business relationship with CBSG?
A. I don't remember.
Q. Do you know what the nature of my client's business is?
A. Yes.
Q. What's your understanding?
A. Construction buildout.
Q. What does that mean, "construction buildout"?
A. What is a law firm? It's a SIC code, right? You know what an SIC code is, Jason? Do you know what an SIC code is?
Q. What's an SIC code?
A. Do you know? You should know. You're defending a client. So if you're asking me what the construction engineering or any of these things are, you should know what your SIC code -- that's an SIC code. You asked me what the business does. I gave it to you -- I told you that's the SIC code. Go and look it up. You have to do your homework before you come to

these things and know about the business, especially if you're talking money from clients.

Q. What's an SIC code?

A. That's an SIC code.

Q. What is it?

A. You go look it up. I'm not doing your job for you. You go look it up.

Q. You're not going to answer my question?

A. You look it up.

Q. You're not going to answer my question?

A. You look it up. I'm not going to do your job for you. You got 30 grand. I didn't get 30 grand for this.

Q. You're not going to answer that question?

A. You look it up. I answered the question, which she does.

Q. What's an SIC code?

A. You look it up. Learn. Study. You guys pass the bar exam and never study again.

Q. Think that's funny?

MR. BERMAN: I just want you to ask questions.

MR. PROPER: I asked him what an SIC code was.

MR. BERMAN: You're raising your voice to me again?

MR. PROPER: Because you're smirking, you're smiling and you're --

THE WITNESS: You're obnoxious and --

COURT REPORTER: I can't get you all at the same time.

MR. PROPER: Okay. It's not meant as a threat.

MR. BERMAN: This is a deposition.

MR. PROPER: I understand that.

MR. BERMAN: Ask questions. Stop raising your voice at me and staring at me across the table. It doesn't intimidate me. Doesn't intimidate me.

MR. PROPER: I'm not -- I'm looking at you because we're having a dialogue.

MR. BERMAN: I have no reason to have a dialogue with you. You're here to ask questions.

BY MR. PROPER:

Q. What's an SIC code?

A. Look it up. Do your homework.

Q. Is that a question?

A. If you're representing your client, you should

know what an SIC code is, Jason. Look it up.

Q. That's not my name.

A. We're not telling you. What's your name? Justin? Justin, you should look it up. Look up what an SIC code is and then you could figure out what your client does for a living. It's your client. You don't know what they do?

MR. PROPER: I'm postponing the deposition. I've practiced law for 20 years. I don't need to be treated in the way that I've been treated.

THE WITNESS: And I agree. And I've never been spoken to like this in my life by you. Never. No one's ever spoken to me like this.

MR. PROPER: Spoken to you like what? I've asked you questions.

THE WITNESS: Loud and obnoxious. Raising your eyes, reaching across the table like --

MR. PROPER: I never reached across the table.

THE WITNESS: Yes, you did.

MR. PROPER: I did not.

MR. BERMAN: Let's just answer -- ask questions.

MR. PROPER: This deposition is over.

He gave me a pass. It's the third time he's made a threat at me in this deposition.

MR. BERMAN: There's been no threats.

MR. PROPER: There has been.

THE WITNESS: Do you lunge at -- do you lunge at people?

MR. PROPER: I've never lunged at you.

THE WITNESS: Do you lunge at people?

MR. BERMAN: You did.

MR. PROPER: Mr. LaForte, I would never lunge at you.

THE WITNESS: Did you lunge across the table?

MR. PROPER: I did not.

MR. BERMAN: You sure you want to -- you sure you want to stop this deposition?

MR. PROPER: Yes, because I'm going to the judge and we will get another deposition and it may have to be Court supervised.

THE WITNESS: I'm right here for this deposition. Why are you leaving? Why are you leaving the deposition?

MR. PROPER: Because you are continuing to threaten me --

THE WITNESS: That's not true.
MR. PROPER: -- in a way that's not appropriate.
THE WITNESS: That is not true.
MR. PROPER: We can agree to disagree.
THE WITNESS: You just feel threatened because you're wrong.
MR. BERMAN: Why don't you take a break, Justin? Let's finish this deposition while we're here. He's here today.
MR. PROPER: I'll take five minutes.

- - -

(Whereupon, a break was held.)

- - -

(Whereupon, a 5/31/19 E-mail Exchange has been marked as Exhibit LaForte-4 for identification.)

- - -

BY MR. PROPER:

Q. Mr. LaForte, did you ever threaten to blow up my client's house if she didn't repay the money?

A. That's a ridiculous question, but I'm going to elaborate on it. Not only are you guys at White & Williams lawyers, you guys are experts in -- you guys are experts on law enforcement, too. Your client

already contacted every law enforcement agency up and down the East Coast. So don't you think that law enforcement is good at doing its job, Mr. Justin? Because I'm still sitting here in front of you. It's a ridiculous allegation and I'm not going to even justify it with an answer.

Q. So you did not threaten to blow up my client's house?

A. Of course not. Again, I think the law enforcement does a pretty good job. I'm sure they looked at it. I'm sure she called everyone up and -- everyone up and down the East Coast. And, again, I'm still sitting here, so, obviously, it's a stupid and dumb allegation to make and I resent it.

Q. Can I show you what's marked as LaForte-4? There's an e-mail on the bottom of Page 1 from my client to Joe Cole and it looks like you are cc'd on this e-mail, joe@parfunding.com; is that correct?

A. Yes.

Q. Okay. This is an e-mail dated Friday, May 3rd, 2019, at 9:52 a.m.

Did you receive this e-mail?

A. I can't even see it to know. I open up about -- a couple e-mails. I don't really -- I don't

know if I received it.

Q. Do you recall -- and I know that the print is small, so I'll read the first paragraph or so if that will help.

MR. BERMAN: Very small. Let him read it to you.

BY MR. PROPER:

Q. "Joe C., it's essential I understand how you are determining our daily payment amount. For the 12/19 contract and the 2/24 contract, daily payment went from 3500 to 16,500 and $4583.00 to $19,995. The terms say 10 percent daily amount to be determined on percent of income. What income figure are you using?" And there's more, but I'll stop there.

Do you recall receiving an e-mail from Ms. DiPietro where she questioned how CBSG was calculating the 10 percent of income?

A. No.

Q. Do you recall having any conversations with Ms. DiPietro where she questioned how CBSG was calculating the 10 percent of income?

A. I probably had a conversation. I don't remember the exact scope of the conversation.

Q. Did the daily payment for the 2,000 -- strike

that.

Did the daily payment for the December 2019 contract over time go from $3500 a day, a business day, to $16,500 each business day?

A. There was 48 contracts. I don't know -- I couldn't begin to remember about one specific contract.

Q. Okay. So with respect to this specific contract, December of 2019, I believe it was the second to the last one --

A. Uh-huh.

Q. -- do you know whether or not the daily payment increased?

A. I'm not in accounting. I wouldn't know that.

Q. Did you have any discussions with Mr. Cole about whether or not the daily payment for the December 2019 contract increased?

A. I don't recall what happened in December of 2019.

Q. Do you recall having discussions with anyone about the increase of the daily payment in the 2019 contract between CBSG and my client? And that's December of 2019.

MR. BERMAN: Objection.

You can answer.

THE WITNESS: I don't remember.

BY MR. PROPER:

Q. So you don't know, sitting here today, whether or not the daily payment for the December 2019 contract increased over time or not?

A. I have no idea.

Q. Do you know what CBSG did to determine or how CBSG did determine what the daily payment was for the December 2019 contract?

A. I don't remember the deal, no.

Q. Do you know what CBSG did to ascertain what the income was of my client's business in December of 2019?

A. Nope.

Q. Do you know what CBSG did to determine my client's income in January of 2019?

A. I don't know.

Q. Do you know what income means for purposes of either the December 2019 or the February 2020 contract?

A. You asked me that question earlier. Income can mean a lot of different things. I don't know how CBSG did its underwriting on this file.

Q. Are you aware that the 2000-- strike that.

Are you aware that the December 2019

contract and the February 2020 contract both used 10 percent of my client's income to calculate the daily payment?

MR. BERMAN: Objection.

You can answer, if you understand.

THE WITNESS: He's about to hand it to me, so I guess that's the answer.

- - -

(Whereupon, a 12/19/18 Agreement has been marked as Exhibit LaForte-5, a 2/27/19 Agreement has been marked as Exhibit LaForte-6, and Bank Statements have been marked as Exhibit LaForte-7 for identification.)

- - -

MR. PROPER: And I made a mistake on the years. I just want to make sure Mr. LaForte and I are on the same page and none of his answers change. When I referred to the December agreement, it was December of 2018, not '19, and when I referred to the February agreement, it was 2019, not 2020.

BY MR. PROPER:

Q. With that correction, Mr. LaForte, do any of your previous answers change?

A. No.

Q. So if you look at Page 2 of Exhibit 5, Mr. LaForte, this is the December 2018 agreement. The middle of the page, in bold, states, "10 percent daily specified amount to be determined on percentage of income"; do you see that?

A. Yes.

Q. And then Exhibit 6 I believe has the same language. It's the first page of Exhibit 6. "10 percent daily specified amount begins at $4,583 per day" --

A. Right.

Q. -- "and increases based on percentage of income."

A. Right.

Q. Can we agree that after the adjustment is made, that the numbers -- that the daily payment for Exhibits 5 and 6 should be the same because they're both based upon 10 percent of income?

MR. BERMAN: Objection.

You can answer.

THE WITNESS: No.

BY MR. PROPER:

Q. Why not?

A. Because when your client proceeded to steal

the receivables that she -- that we sold, that we purchased together, when she stole those, it becomes her income. So all the factoring agreements, when she came up to my office and assigned to us, she stole from us, now that becomes her income. That belongs on her balance sheet because we haven't gotten paid, so she took it in as income. So your numbers are incorrect.

Q. So if I'm understanding what you're saying, the monies that you advanced to my client, CBSG treated as income?

MR. BERMAN: Objection.

You can answer.

THE WITNESS: Obviously, it would become income if she took it from us, right? And she took the receivables. These are specific receivables. This is not a typical cash advance. This is a specific receivable that she sold to us. It's on all of the agreements unsolicited.

BY MR. PROPER:

Q. So income, as you understand it and as CBSG treated it, included any money that CBSG gave to my client's business?

MR. BERMAN: Objection.

THE WITNESS: I wouldn't know how they

underwrote the file, again, but it would be obvious to me, looking at this, since you're showing me this stuff and I can make an opinion, an opinion would be that, yes, she took all the income, didn't pay off the income, so it becomes income. Our share, a proportionate part of the deal, was taken by her, so I would imagine that would be purported as income.

BY MR. PROPER:

Q. And so Exhibit 5 is December 19th, 2018, and if you look at the bank statements, which is Exhibit 7 --

MR. BERMAN: Were these produced? They haven't been produced before today?

MR. HESKIN: They're part of the petition exhibits. That's where we got them, so I'm sure they've been produced.

MR. BERMAN: Okay.

BY MR. PROPER:

Q. So if you turn -- and I can show you this for ease. You can ignore my notes or not. I don't care. But on December 20, 2019, there was a debit of $3500 associated with this particular agreement. Are you aware of that?

A. No. How would I know?

Q. Do you know how CBSG calculated the 3500-dollar daily payment for Exhibit 5, which began on December 20, 2019?

A. I have no idea.

Q. And then CBSG continues to debit $3500 for Exhibit 5 from December 19th through January 23rd. And we can go through. You can flip through yourself or accept my representation, but here's January 23rd and $3500 is still being taken out each day. You can see the 22nd, $3500. You can see the 18th, $3500 and so on and so forth.

A. Uh-huh.

Q. On January 24th, CBSG, for this particular agreement, begins debiting $12,337.

MR. BERMAN: Are you representing that?

MR. PROPER: That's my representation.

MR. BERMAN: Okay. So you can accept the representation for answering this question. Doesn't mean it's true, but you can accept it.

THE WITNESS: Yeah.

BY MR. PROPER:

Q. So do you know why CBSG increased the amount of the daily payment for this agreement from $3500 to $12,337?

A. I have no idea.
Q. Do you know what CBSG was doing to monitor my client's income in order to calculate the daily payment --
A. I'm not in the underwriting department. I don't know.
MR. BERMAN: Let him finish for her, just for her.
BY MR. PROPER:
Q. Do you know what my -- strike that.
Do you know what CBSG was doing to monitor my client's income to ascertain the daily payment from December 20, 2019, through January 24, 2019?
A. No.
Q. Now, CBSG debits $12,337 from my client's account in connection with this agreement from January 24, 2019, through February 14th, 2019. You could see the 12,000, Mr. LaForte -- the 12,337 is still debited on the 14th.
A. I know that your client took 25 million from our company and paid back 21 million; therefore, leaving us a deficit of $3 million. That's the only thing I know regarding these contracts. I don't know.

It was unsolicited. She solicited our company. She put together most of her own deals. And the reason how this sophisticated human being is able to do that is because she's also in the cash advance business. So she, in herself, owns a cash advance company. So not only was she aware of every contract, she designed all of them. So I'm sure that they -- she knew exactly what she was doing. I can't testify to what these charges are because I'm not an accountant and this is foreign to me. I don't know.

Q. And I just have to ask the questions notwithstanding.

On February 15th, 2019, I'm going to represent to you that the daily payment for this agreement increased to $14,525. Do you know why it increased?

A. I wouldn't know.

Q. Do you know what, if any, change in income there was for my client's business?

A. I'm not in underwriting. I represent Recruiting and Marketing Resources. I'm not in underwriting or an accountant, so I can't testify to the answers to the questions -- in a lot of questions you're giving me right now.

Q. Did you have any discussions with anyone at CBSG about these particular increases?
A. I don't remember.
Q. Do you have any e-mail communications, to your knowledge, between yourself and anyone at CBSG regarding these increases?
A. I don't know.
Q. Do you know if my client, as of February 15th, 2019, was meeting her obligations with respect to all of the agreements that were outstanding at this time?
A. I wouldn't know what dates your client stopped making their obligations. I don't --
Q. Are you aware that at one point in time, I believe it was December 18 -- December 17, 2018 -- actually, I take that back. Strike that.
Are you aware that on November 8th, 2018, my client was charged a finance fee of $472,356.60?
A. No.

- - -

(Whereupon, an HMC, Inc. Funding Payment History has been marked as Exhibit LaForte-8 for identification.)

- - -

MR. BERMAN: Was this document produced?

MR. PROPER: It's your document.

MR. BERMAN: No, we didn't produce any documents in this case. It's very confusing without Bates stamps.

MR. PROPER: I don't know --

MR. BERMAN: Just ask the question.

BY MR. PROPER:

Q. Do you recognize this as a CBSG document or is this a spreadsheet from -- actually, it may not be the transaction history. So do we know what this is?

MR. FEDULLO: It's a spreadsheet that was created by Kara.

MR. PROPER: I apologize. I thought this was the transaction history. It's not.

BY MR. PROPER:

Q. So do you know whether or not my client's accounting entry that a finance fee of 472,356.60 was imposed upon her company on November 8th, 2018?

A. I'm not an accountant, but I will elaborate.

Q. Yes.

A. I'm not an accountant. I'm just a -- I was a college baseball player. Played some minor league

baseball. I don't really have a formal education. But I can tell you this: She couldn't be assessed a fee if she owes the company 3 million. So, in my eyes, she wasn't assessed anything.

Q. Well, can't you be imposed a finance fee and have that finance fee be added to any outstanding monies that are owed?

MR. BERMAN: Objection.

THE WITNESS: It never happened. She paid -- she never paid it back, so what's the difference? I don't know about that, but she never paid it back, so I'm not going to answer about why she doesn't have a finance fee that was never paid.

BY MR. PROPER:

Q. Yeah. Do you know whether --

A. If she paid the finance fee, we'd pay it back.

Q. Do you know -- do you know whether, in November of 2018, whatever monies my client owed CBSG were increased by some $400,000 --

A. I don't know.

Q. -- to reflect finance fees?

A. I don't know.

Q. So you don't know anything about finance fees that were --

A. I don't know.
Q. Just need to be able to finish because the question right now reads, "Do you know anything about finance fees that were --"
MR. BERMAN: Just let him finish asking the question.
THE WITNESS: I answered the --
MR. BERMAN: I know, but he may have a different question.
THE WITNESS: I answered the question thoroughly on the finance fee.
MR. BERMAN: I know, but he may have a new question.
THE WITNESS: All right.
BY MR. PROPER:
Q. I know you answered what would have been my full question; I get that. There's just a tendency at a deposition sometimes, particularly when we've gotten to know each other a little, you anticipate where I'm going, you answer the question --
A. I don't know you, so don't make like we know each other. I don't know you.
MR. BERMAN: What's your question, so can get this --

THE WITNESS: Get to know you.

MR. BERMAN: Let's ask the question. Let's just ask the question.

BY MR. PROPER:

Q. Do you know anything from any source about whether my client's business was assessed a finance fee whether or not charged or monies added to the outstanding balance my client owed to CBSG?

MR. BERMAN: Objection.

You can answer.

THE WITNESS: I don't know. Your client designed most of the deals herself. She's in the cash advance business. These are factored agreements. I don't know. I don't -- I'm not an accountant. There's a lot of papers in front of me I can't even see. I can't testify to any of that. Without any glasses, I can't see.

BY MR. PROPER:

Q. Which document in particular can't you see?

A. I don't know anything about the accounting.

MR. BERMAN: Well, he told you on this one, the e-mail, he couldn't see, which is, I think, what he's talking about --

MR. PROPER: I understand that.

MR. BERMAN: -- which is LaForte-4. Just so we have a clear record what he's pointing to.

MR. PROPER:

Q. I understand and I think you understand that I need to establish, because the witness said something, that are there any other documents, other than Exhibit 4, that you're having difficulty reading?

A. Even if I could read them, I'm not an accountant. I wouldn't even know what it meant. I don't know what any of this is.

Q. Were you involved in negotiating any of the agreements between CBSG and my client?

A. I don't remember.

Q. Were you involved in trying to collect monies from my client on behalf of CBSG?

A. Yes.

Q. Was there a point in time where my client represented to you that she was having difficulty making the daily payments?

A. I don't recall.

Q. What role did you have in trying to enforce the agreements --

A. There never should have been any agreements.

COURT REPORTER: Hold on a second.

MR. BERMAN: What role did you have to try to enforce the agreements?

Right, that was the question?

And answer?

THE WITNESS: I don't know what that means, by "role."

MR. BERMAN: Okay. So he'll rephrase the question.

BY MR. PROPER:

Q. What discussions did you have with my client in an effort to collect monies that you allege she owed to CBSG or you believe she owed?

A. No, she definitely owed. Probably, if I could remember the right way, what did you do with the receivables that we purchased and that we owned and why did you steal them from us and not pay them? So if you and I make an agreement and we say that we're going to sell this pack of gum right here and we're going to split it and you take all the gum, you stole it. So she stole the money because it specifically talks about a receivable.

Q. Well, wouldn't CBSG have been taking -- strike that.

So on these agreements, so the February

agreement, if you look at Exhibit 6, states that the daily payment's going to start at 4583 and increase based upon percentage of income, right? We established that it's what it says?

A. Okay.

Q. So what would happen under this agreement, as you understand it, if my client's income decreased? Would the daily payment decrease?

A. I don't know anything about how that works.

Q. So under the -- under this agreement, I'm going to represent to you that my client was charged $19,995 a day beginning on April 16, 2019, under this agreement. So the daily payment increased from 4583 to over $19,000.

A. Did she pay back the receivable that we financed?

Q. Well, let's start with that premise.

A. No, let's just talk about the first thing. Did she pay back the receivable; in other words, when she got the money, did she pay it back to us?

Q. Do you know if the $19,995 that CBSG debited on April 16th reflected 10 percent of my client's income?

A. Do you know? I don't know. Do you know if

she paid back that receivable, though? In other words, receivables that she came to my office 16 times and pledged with my girls by buying them candies and lunches every time she came, do you know if those receivables were paid back? I don't think so because if they were paid back and we got our share, we wouldn't be sitting here right now. So she captured the receivables and took the receivables. So these payments are irrelevant. I don't know.

Q. Do you know if CBSG was taking more money than it was entitled to under these agreements?

MR. BERMAN: Objection.

You can answer.

THE WITNESS: No.

BY MR. PROPER:

Q. Well, how can you say that CBSG wasn't taking more money than it was entitled to when you don't know how CBSG was calculating the 19,995-dollar daily payment on --

A. Because you have to learn finance again.

Q. -- April 16, 2019?

A. I'll give you a one-on-one class again.

Q. Sure.

A. If you look at the original agreements,

they're 22, 44, 66, 88 days because the receivable came in. She kept the receivable instead of giving us the money. She never would have had these balances. So she actually benefitted by keeping the money that belonged to us, not only our profit share piece, but also our principal over years in time. So she benefitted from this agreement way more. If she chose to pay it back, I don't know how she chose to pay it back. But if the receivable never came back to us and it was a 45-day pay or a 90 pay and a year-and-a-half goes by, don't you think she did pretty well with our money, Jason.

Q. It's Justin.

A. Jason or Justin.

Q. So if I'm understanding what you're saying, when you provided or CBSG provided the advance, if the monies don't come in, what does that mean?

A. No, it doesn't mean anything. I'm not speaking on behalf of CBSG. I'm using common sense. Again, I'm not a lawyer, I'm not an accountant, but I'm using common sense.

Q. Does my client --

A. You want to use the gum theory again? We'll use the gum theory again. If you don't pay back what

you originally had pledged, that's called taking something that doesn't belong to you.

Q. Does my client still have to pay back the money if the receivables never come in?

MR. BERMAN: Objection.

THE WITNESS: I wouldn't know the answer to that.

BY MR. PROPER:

Q. Well, under the agreement, who bears the risk of loss if there's no receivable?

A. I'm sure we'll get to those receivables on the next deposition for your client.

Q. Yeah, I'm just asking you if there are no receivables, is it your testimony that my client still owes the money?

MR. BERMAN: Objection.

But you can answer.

THE WITNESS: Your client definitely still has receivables because last week, she was looking for more cash advances, which she also received a few more cash advances. Not only do I have the bank statements, but she's doing very, very well with the money that I gave her.

And on top of that, she took another

cash advance and took some of that money and paid you guys to litigate me via cash advance. So cash advances are her thing. She knows exactly what she's doing. She's very sophisticated. You guys are very sophisticated. Used that money to get you guys paid. It's America. Very good.

BY MR. PROPER:

Q. Why do you think that Ms. DiPietro obtained financing from a litigation funder to pay our firm?

MR. BERMAN: That's already said.

But you could answer.

THE WITNESS: I didn't say that. I just said a cash advance, didn't I?

BY MR. PROPER:

Q. I apologize.

Why do you believe that my client used monies from a cash advance to pay our firm?

A. They did.

Q. How do you -- why do you think that? Why do you believe that?

A. You'll find out.

Q. I'm asking you --

A. You'll find out.

Q. -- what you know.

A. You'll find out. I don't have to tell you anything. You'll find out. She took a cash advance to pay you. That's why I think these guys should be recused from this case. I don't know a lot about the law, but if you're fighting against cash advances and Mr. Heskin here is a mavin against the cash advance business and he's telling his clients to go out and take cash advances to get himself paid, that would seem hypocritical to me, Your Honor. I mean, I don't understand why I'm here. She's continuing to take cash advances.

She owns a cash advance company called Kenetic Capital and I don't know why I'm here. This is a sophisticated person. I'm the fool to get scammed and that's just what happens. In life, that happens. We're out $3 million, the company. I lost all my broker fees. It happens. The fact of the matter is if she took a cash advance in order to pay you guys, shame on you and you guys shouldn't be deceiving us. The fact of the matter is you guys are here for one reason. Not to help your clients. You're here to bilk them with my money and other people's money.

Q. What brokering fees did you lose?

A. My fees.

Q. How much did you lose?
A. I don't remember.
Q. Did you get paid --
A. If the company loses money, I wouldn't expect to get paid, right? So similar to when you lose a case, you still have to pay, right?
Q. Did you get paid and then have to return money to CBSG or were you owed money and then not paid --
A. I don't remember. Like when you -- like if you lose this case, you'd have to return some of the fees you guys are probably borrowing, right, to go pay back the contingencies. It's a similar thing. It's how it works.
Q. Why do you believe that my client used cash advance money to pay our firm?
A. You'll find out later on. I'm sure that Mr. Berman wouldn't let me answer that question even though he didn't object.
Q. Unless Mr. Berman instructs you not to answer, you have an obligation to answer my questions.
A. I don't have an obligation to answer anything you tell me.
MR. BERMAN: Especially since the time period you're talking about is well outside the scope

of this case, but he's giving you --

THE WITNESS: I'm volunteering the answer. I gave you the answer already.

BY MR. PROPER:

Q. You're seeking and have self-discovery in that time period. You're saying that those documents are not --

A. Justin --

MR. BERMAN: I didn't say anything. Your document requests are not yet due. You served them very untimely, so they're due the day before the close of discovery. We'll produce responsive documents.

MR. PROPER: Whether they're due or not, this is a fact-finding deposition. I'm entitled to discover information your client is withholding.

MR. BERMAN: He's told you many times -- probably six times now, I've heard it -- that -- and I'm not here to testify for him, so I'll just say what he said. He told you that she took a cash advance and, the next day, she wired the money to your firm.

Right?

THE WITNESS: Not the next day. Not

the next day. A few days.

MR. PROPER: Great. Who is the company just so --

MR. BERMAN: I don't know. I just told you what he said.

MR. PROPER: Yeah, I just want you to -- it will be easier if I can ask you the questions.

THE WITNESS: You should know. You probably set up the financing for it.

MR. BERMAN: Just answer. Who's the company; do you know?

THE WITNESS: I don't know.

MR. BERMAN: Okay.

BY MR. PROPER:

Q. How did you discover that my client took a cash advance?

A. Heard it.

Q. Heard it from who?

A. Heard about it.

Q. From who?

A. A bird.

If the client did take a cash advance and did send you the money, Jason, would you recuse yourself? I mean, because you're part of the

hypocrisy, right?

Q. It's Justin, Mr. LaForte.

A. Justin, would you recuse yourself? Shane, would you recuse yourself if they did that? You'd have to. It would be the laughing stock of the whole industry. Guys who are the biggest advocates against cash advances are telling their clients to get cash advances to pay them. Wouldn't that be an interesting document to produce?

MR. HESKIN: It would be.

THE WITNESS: Oh, it's coming.

BY MR. PROPER:

Q. How do you know it's coming? What do you know that you're not telling us?

A. I know a lot of things I would never tell you. So that's none of your business.

Q. So you're not going to answer any questions that I may have with respect to how you're discovering my client's activities?

A. Let Ms. DiPietro answer the questions. I'm sure she's getting a deposition soon; is that correct?

MR. BERMAN: She is.

BY MR. PROPER:

Q. So the answer to my question is you are

refusing to provide me with the information you know about my --

A. Who are you? I don't have to tell you anything.

MR. BERMAN: Let -- let -- we're not doing --

THE WITNESS: You're supposed to ask me the questions. I'm answering questions. I don't have to provide you with anything.

MR. BERMAN: Well, let me say this: Ask questions and he'll answer.

MR. PROPER: I've been asking questions.

MR. BERMAN: So ask the question and let him answer.

MR. PROPER: You don't like your client refusing to answer questions; that's fine. But don't tell me how to conduct my deposition, please.

MR. BERMAN: I'm not, but I'm just saying --

MR. PROPER: I'm asking questions.

MR. BERMAN: -- if you give me a blanket, like, if I ask all these questions, I'm not agreeing to that. So ask questions. He'll answer or

not, but I think he's answering -- I think he's answered you he doesn't know that --

MR. PROPER: These are speaking objections and aren't appropriate, so stop.

MR. BERMAN: Just ask questions.

BY MR. PROPER:

Q. Which bird told you about my client's MCA activity?

MR. BERMAN: And if you know, answer. Just if you know, answer it.

THE WITNESS: I'm not answering.

MR. BERMAN: Okay.

BY MR. PROPER:

Q. What are you doing to monitor my client's business activities currently?

A. Nothing.

Q. What is CBSG -- what is CBSG doing to monitor my client's business activities?

A. Nothing.

Q. What role did --

A. Who is your client, just so I get a clear picture?

Q. HMC and Kara DiPietro.

What role did you have with Bridge

Capital contacting my client?
A. Jason --
Q. Justin.
A. Justin, let's -- HMC -- what's the name of the company, HMC what?
Q. What role did you have personally --
A. What's the name of the company?
MR. BERMAN: HMC Incorporated.
BY MR. PROPER:
Q. What role did you have, Mr. LaForte, personally, if any, in having representatives of Bridge Capital contact my client?
A. I never heard of the company.
Q. How do you know that Ms. DiPietro wired any monies to our law firm?
A. Good guess.
Q. Are you guessing or do you know?
A. Not answering you.
Q. You understand your counsel did not instruct you not to answer?
A. You understand that if you took -- if your client took a cash -- another cash advance to pay you, what a problem you have? Why are you questioning me? I'm not the one that took the cash advance in order to

pay you. Why are you questioning me?
Q. Do you have any information at all about any of the increases in daily payments from my client?
A. No.
Q. Do you have any information at all about how CBSG calculated or monitored the income of my client?
A. No.
Q. Do you have any information at all about what reserves, if any, CBSG keeps with respect to MCA transactions?
MR. BERMAN: Objection. You mean this one?
MR. PROPER: You can answer this one.
MR. BERMAN: As to this.
MR. PROPER: But there is no limitation on this deposition.
MR. BERMAN: We don't agree.
THE WITNESS: I don't know what the word means.
MR. BERMAN: Just answer his question. So the answer is "I don't know"?
THE WITNESS: I don't know.
BY MR. PROPER:
Q. Do you know if CBSG is audited by any third

party?
A. I don't know.
Q. Do you know if Mr. Vagnozzi represents on his website that the agreements between CBSG and businesses are loans?
A. I wouldn't know.
Q. Have you ever seen any of the videos that Mr. Vagnozzi has on his website describing CBSG's products?
A. I don't go on websites.
Q. Okay. Have you ever been at an event where Mr. Vagnozzi played videos where he is describing CBSG's products?
A. Maybe once.
Q. Do you recall that in the videos that Mr. Vagnozzi plays at these events, that he describes CBSG's products as loans?
A. No.
Q. If you had been at an event and Mr. Vagnozzi continuously represented to investors and potential investors that CBSG charges 35 percent interest rates, would you correct that?
MR. BERMAN: Objection.
You can answer.

THE WITNESS: Yes.

BY MR. PROPER:

Q. Okay. So you've never been at an event and represented that CBSG charges 35 percent interest?

A. If you're asking me if I correct people in public forums, the answer to that is no, except for you, who doesn't really understand the business. But, no, I don't have a common practice of correcting people in public forums. If a man said a word, I'm not going to sit there and correct him, nor is it my obligation to correct any word he uses. Especially a slight differential in a word, I'm not going to correct a man. I don't do that.

Q. Ms. DiPietro in Exhibit 4 -- and I'm reading this because the print is small -- on May 3rd, 2019, she writes in response to one of your e-mails, "Thank you. Yes, the only problem has been the rate of increase in the two daily payments without warning, not the total amount due. I will send along an idea for review in the next hour or so." And then you respond the same day, "Okay, I will work on it, but let's be honest, it looks like you waited until you got all our money first before you made a complaint about the escalations, right? You see how this looks to us

optically, right? The payments have been increasing every week since the first deal the same way. Now your funding is ended and you are complaining about escalations. See our point?"

Do you remember sending that e-mail?

A. Yup.

Q. So you were aware at least in May of 2019 about the escalation of the daily payment?

A. What kind of deal was that? Did you study the deal? Did you study the deal? They're tranche deals, right?

MR. FEDULLO: I'm not being deposed.

THE WITNESS: If you study the deal, if you look, the money is not given in full to the client. It's tranched in a -- during a specific time period, which I don't have in front of me. So, obviously, if she gets more capital, the payments go up. She took all the money first and then complained about the payment.

BY MR. PROPER:

Q. So you're saying that when CBSG is advancing money in tranches --

A. Uh-huh.

Q. -- that after every advance --

A. Right.
Q. -- that's additional income and therefore the daily payment necessarily will increase?
A. Correct.
Q. Now we're on the same page.
A. It took three hours to get you there.
Q. Listen, we -- I don't have a finance degree, so I apologize.
A. I know, but you're representing these people. It gets confusing.
Q. Is there anything in any of the agreements that my client signed, to your knowledge, which advises her that CBSG is going to treat the advances as income?
A. I don't know.
Q. And you don't know anything, just to be clear -- and I'm asking these broadly so we can move things along. I'm trying to be as respectful as I can of your time, Mr. LaForte.

Do you know anything generally about how CBSG was monitoring the income of my client? Like were they reviewing bank statements? Were they doing some type of online monitoring? Do you know anything about that?
A. No, but I can -- I'll elaborate.

Q. Okay.
A. It was a great relationship between us and Ms. DiPietro. Ms. DiPietro was -- came to our office many times. She was in the cash advance business. There was a lot of trust placed on her that she would borrow responsibly and that her receivables were real. So I think that, in hindsight, that CBSG did a poor job in monitoring her obvious misappropriation, if you would, of funds. So how they -- how they did that, I don't know. If it were me, I probably wouldn't have done it that way, but that's what they chose to do.
Q. And one other question before we mark some text messages. Do you know anything about how CBSG was determining what payments were made on a particular invoice?
A. No.

- - -

(Whereupon, Text Messages have been marked as Exhibit LaForte-9 for identification.)

- - -

BY MR. PROPER:
Q. And just to be clear, you weren't involved in the underwriting for any of these agreements?
A. I'm not an underwriter.

Q. And you don't know how the underwriting was done?
A. No.
Q. Okay. Are you familiar with these text messages between yourself and my client?
A. I can't see them.
Q. Okay. So I'll help with reading these.

On May 10th, it looks like you text my client. It says, "Type, incoming sender, Joe LaForte." And the text says, "You need to call me."

Do you remember sending a text on or about May 10th?
A. I wouldn't know. I don't even know if this is my writing.
Q. Okay. Do you recall --
A. And I wouldn't believe anything that is on any of these pages, especially since she accused me of trying to blow up her house and that was untrue, obviously, because we discovered that already. So why would I believe any of this gibberish and nonsense? So I'm not going to answer to any of these questions.
Q. Do you have any of your text messages with my client?
A. I don't know.

Q. Did you text with my client?
A. I don't know.
Q. Did you tell my client on May 10, 2019, to get her fat ass up and call you?
A. I hope so.
Q. Okay. Did you tell my client in a text message on May 10, 2019, "Okay, so you think I screwed you. Are you seriously nuts? I am out millions. I trusted you with my family's money. I never screwed anyone, especially you. Now I'm going to have to come after you for the money." Did you send that text?
A. I don't know.
Q. Were you out millions of dollars because of my client?
A. I don't know.
Q. Did you trust my client with your family's money?
A. I don't have any family money.
Q. Okay. If you -- if we can verify that you sent this text on May 10th --
A. Call me back and I'll let you know.
Q. Okay. But would there be any reason why you would tell my client that you trusted her with your family's money --

A. What's the difference? What is it your business what my family has? Where are you going?
Q. I'm just asking whether or not the money that was advanced to my client included money from you or any of your family.
A. No.
Q. Okay. So if you had told my client --
A. Is my wife considered my family? How does that work? Is my wife considered family?
Q. Yes.
A. Oh, okay. I didn't know because you guys might run your lives differently than me, but my wife is considered family.
Q. So did your wife provide monies?
A. I'm just asking you a question back; that's all. And you answered it.
Q. Did your wife provide monies?
A. No.
Q. Is your wife currently the president of CBSG?
A. I don't know.
Q. Do you know who is --
A. You asked me that earlier and you asked me that at the last deposition. You keep asking me the same questions.

Q. I thought at the last deposition you said she was and she was actively involved in running the company.
A. Whatever. I don't remember.
Q. And today you said no.
A. I don't remember.
Q. Did you tell my client on May 10, 2019, at 1:27 p.m., "You keep clicking me and my A/R team is contacting your clients as we speak."
Who is your A/R team?
A. I don't know.
Q. Do you have an A/R team?
A. I don't know if this is mine, first of all. So you need to go back and verify this, that it's mine, and then I'll come back and answer questions about this. She's a liar, a known liar. She said I tried to blow up her house, which, obviously, isn't true because I'm still sitting here with you. So these all could not be me, so why would I answer something that I can't answer, that I can't know -- I don't even know if it's me? Anybody can put my name there.
Q. Do you have an A/R team at CBSG?
A. I don't know. I don't have anything at CBSG. I work at Recruiting and Marketing Resources.

Q. Did you tell my client --
A. Do you remember that from last time?
Q. Did you tell my client that you have an A/R team?
A. I don't know.
Q. Did you tell my client that you were out millions of dollars?
A. I don't know.
Q. Did you tell my client in a text on May 10, 2019, at 1:29 p.m. to pick up coward?
A. I don't know. I can't -- I don't even know if this is mine.
Q. Did you text my client at 1:33 p.m. on May 10th, 2019 --
A. Can we get this over with and just say I don't know what any of this is?
MR. BERMAN: Let him just ask the questions. He's almost done.
THE WITNESS: I don't know.
BY MR. PROPER:
Q. "This is fraud on your part, straight up robbery. You're disgusting." Did you tell that to my client?
A. I hope so.

Q. Okay. You think my client is disgusting?
A. I think you're disgusting. I think you guys are disgusting for even taking this case.
MR. BERMAN: Let's keep the questions going.
MR. PROPER: Why can't you tell your client not to insult me?
MR. BERMAN: Well --
THE WITNESS: Because you took a cash advance, buck. You took a cash advance in order to help this client. And you made the client go take a cash advance. That's why you're asking about disgusting, you're asking me dumb questions. Do I think somebody is disgusting?
MR. BERMAN: Let's just let him keep on asking so we can finish this up.
Keep on going, Justin, please.
MR. PROPER: Mark that, please. I think we're at 10.

- - -

(Whereupon, 5/2/19 E-mail Exchange (2 pages) have been marked as Exhibit LaForte-10 for identification.)

- - -

BY MR. PROPER:

Q. Mr. LaForte, this copy is a little better with the font.

Do you recall receiving an e-mail from my client on May 2nd, 2019 --

A. No.

Q. -- which reads, in part, "I doubt you have had time to review the e-mail I sent earlier, but, in short, the way we structured the open six contracts depleted our cash flow. Do you have a second to briefly" -- it says "glace," G-L-A-C-E. I think she means glance -- "at the info I sent earlier? You will see that the same amount of" -- dollar sign, dollar sign -- "money coming in and virtually the same amount of funding at a cost three times as much as before has put us in a paycheck-to-paycheck situation." And then my client requests, and I quote, for the short term, open paren, like until Monday, closed paren, comma, I have a couple of ideas, colon, 1, open paren, freeze dailies, semi colon, 2, period, closed paren, provide funding, period.

Do you recall my client advising both Mr. Cole and yourself that my client was having money problems and requested a freeze of the dailies?

A. How could your client have any money problems when she took all of our receivables?
Q. Do you know what my client did with the receivables that you advanced?
A. I don't know. I hope we find out.
Q. Do you know if my client used it to make payroll payments and pay monies that were owed?
A. I don't know. But if she did, that wasn't her money to use.
Q. My client wasn't entitled to use the money?
A. Do you guys steal money? Do you guys know where your money comes from? Do you guys take money from cash advance companies? She took money from a cash advance and didn't pay it back. And you guys -- basically, the same hypocrisy goes on for you guys. So I don't know what she did with her money.
Q. Do you recall responding to my client on May 2nd, 2019, at 3:40 p.m., "I cannot freeze my ACH dailies. We just completed millions of dollars at 350,000 a month. I will work with you Monday, but until then, I expect" -- it says or, but I think you mean our -- contract to be adhered to." Did I read that correctly?
A. Did you? I guess you did. I don't know.

Q. Did you send this e-mail?
A. I don't know. Looks like it.
Q. When you say, "We just completed millions of dollars at 350,000 a month," who did you mean "we"?
A. I don't know.
Q. When you say, "I cannot freeze my ACH dailies," who's "I" and "my"?
A. So I represent Recruiting and Marketing Resources. I'm the broker on the transaction and this is my client.
Q. So --
A. Unfortunately, it was a very bad transaction.
Q. Why were you being consulted about these issues?
A. So let's go into this, Jason.
Q. Justin.
A. Justin. So when you have -- when you're a broker, you're responsible to maintain your client the same way -- same as anybody else, okay? So you're trying to pin the fact that I am Par Funding. I am not. I work for Recruiting and Marketing Resources. When you refer a file over to a company, you do a best-efforts job in trying to help maintain the client for the lender for funding. And that's my effort

there.

MR. PROPER: Can you mark this as 11, please.

- - -

(Whereupon, a 5/2/19 E-mail Exchange (4 pages) have been marked as Exhibit LaForte-11 for identification.)

- - -

BY MR. PROPER:

Q. There's an e-mail, Mr. LaForte, on the bottom of the first page from Aida Lau. Who is Ms. Lau?

A. She's an employee of Par Funding.

Q. And what does Ms. Lau do for Par Funding?

A. I'm not sure.

Q. Do you know how long she's worked for Par Funding?

A. I don't.

Q. How many employees does Par Funding have?

A. I don't know.

Q. Do they have employees other than Ms. Lau?

A. I'm sure they do.

Q. What employee do you personally know at the company?

A. I don't know.

Q. Can you think of anyone other than Ms. Lau?
A. No.
Q. Does Mr. Cole work for CBSG?
A. I don't know.
Q. Ms. Lau writes on May 2nd, 2019, at 10:18 p.m., "Hi, Kara. Please let me know where I can find the 10 percent increase on daily per draw. I couldn't find it. I saw it's based on income." And my client responds at 10:21 p.m., "Income is revenue minus expenses. So should I pull a revenue minus expenses to get the income amount? Since it was in the contract next to 10 percent, it looks like the income is the net funding."

Do you agree or disagree with my client's reading of the agreement that it's net funding?

A. I disagree.
Q. Okay. And at the top of the page, you respond -- actually, I take that back. Ms. Lau responds --
A. Anyone can make up any -- first of all, anybody can make up any expenses. It doesn't -- you can't -- you can't do a revenue model based on expenses. Anybody can expense a company out as much as

they want. Companies would never get paid. That goes with any factor. This is a straight factor deal.

The fact of the matter is these are leveraged by actual jobs. We have proof. We have the jobs. And for you to even say that -- for her to even insinuate that it's net, how could you do that? You just take it all as expenses, no one would get paid.

Q. If they were factored on specific jobs, then isn't CBSG limited to taking monies that was received on those particular jobs?

A. Yes.

Q. We agree on that?

A. Yeah, they should take it on those jobs. And if the job is misperformed or something happens, that's why you get keyman policies. Then they should pay the debt.

Q. Okay. Well, let's explore that.

A. Let's say if you -- unless your client came in and put a bunch of receivables on the books and committed a fraud; is that what you're getting at?

MR. PROPER: Can you read Mr. LaForte's answer back, please.

- - -

(Whereupon, the court reporter read the

record back as requested.)

- - -

BY MR. PROPER:

Q. So when you say if the job is misperformed or something happens such that monies aren't paid on an invoice, then what happens in terms of my client paying a debt? Where does --

MR. BERMAN: Objection.

THE WITNESS: I don't know.

BY MR. PROPER:

Q. Is my client still obligated to pay the debt at that point?

MR. BERMAN: Objection.

THE WITNESS: I don't know. It's not for me to say. I'm not a lawyer.

BY MR. PROPER:

Q. No, I'm just asking you.

A. I'm not a lawyer. I can't give an opinion.

Q. Based upon your years working at Recruiting and Marketing Resources and as an ISO --

A. I cold call. I'm not that smart.

Q. Do you have an understanding as to what happens if monies are not received on a particular invoice --

A. I have no idea how that would work.
Q. -- in these agreements?
A. I have no idea. I'm not a lawyer. This is way out of my scope.
Q. Do you know if CBSG was only taking receivables for a particular invoice or if they were taking a percentage of all my client's receivables?
A. I have no idea.
Q. And Ms. Lau responds to my client on May 2nd, 2019, at 11:32 p.m., "Joe said the agreements are fixed. You will need to come in and discuss about this matter."

Do you know which Joe Ms. Lau was speaking of?
A. How could I testify to what Ms. Lau meant?
Q. I'm asking you did -- well, let me ask it this way: Did Ms. Lau have a discussion with you where you told Ms. Lau to explain to my client that the daily payment is fixed?
A. Could be anybody. There's a lot of Joes in the world. I don't know who she meant.
Q. Yeah, I'm just asking --
A. I don't know.
Q. -- do you recall?

A. Yeah, I don't recall what happened on May 2nd of 2019 with an e-mail that didn't even come through my e-mail. How would I know? How do I know what she meant?

Q. Do you have any e-mail communications with Ms. Lau about my client?

A. No.

Q. Did you look to see if you had any or you remember that you didn't?

A. I would doubt I have any.

Q. Do you recall any conversations that you may have had with Ms. Lau about my client?

A. It's not a big topic of conversation, no.

Q. Well, she owed CBSG a lot of money, didn't she?

A. Uh-huh, she did owe a lot of money. She does owe a lot of money, still.

Q. And what efforts are you currently undertaking to try to collect that money outside of this lawsuit?

A. I wouldn't know anything about that.

Q. How did you get a hold of my client's bank statements recently?

A. Next question.

Q. Why won't you answer that question?

A. I don't want to.
Q. Are you refusing to answer my question --
A. Yes.
Q. -- how you ascertained --
A. Yes. Who said I asked for bank statements? Did you say that?
Q. I thought you testified --
A. You're putting words in my mouth. I never testified about any bank statements, so don't put words in my mouth. Don't. Enough.
Q. Mr. LaForte --
A. Don't put words in my mouth.
Q. -- I could be mistaken.
A. You are mistaken. Read it back.
Q. I would have to go back and look at the transcript.
A. You're mistaken. You've been mistaken about this the whole day. So stop mistaking it and get it right. I never testified that I saw anybody's bank statements. You asked me about Bridge Capital. I didn't answer you. I don't know anything about Bridge Capital and I don't know anything about bank statements. I said a birdie told me. And that's exactly how I testified. And then you asked me what

was the bird's name.
Q. At that point, yes, I'm talking previously.
A. You good?
MR. BERMAN: Let's just finish up. Next question.
BY MR. PROPER:
Q. Is it your testimony under oath that you have never obtained bank statements from my client --
A. I'm not testifying to anything.
Q. I'm asking you, under oath, did you obtain a copy of my client's bank statements in the last two months?
A. I'm not answering you.
MR. HESKIN: We want to reserve the right and we're going to be bringing a motion to recall him based on his refusal to answer.
MR. BERMAN: Which questions?
MR. PROPER: The ones he refused to answer.

- - -

(Whereupon, the deposition of JOSEPH LaFORTE was concluded at 1:54 p.m.)

- - -

CERTIFICATION

I hereby certify that the proceedings and evidence noted are contained fully and accurately in the stenographic notes taken by me upon the foregoing matter on March 5, 2020, and that this is a correct transcript of the same.

Shauna Detty
Court Reporter-Notary Public

(The foregoing certification of this transcript does not apply to any reproduction of the same by any means, unless under the direct control and/or supervision of the certifying reporter.)

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IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA

- - -

HMC INCORPORATED and KARA DiPIETRO, individually,	:	Civil Action
	:	No. 19-3285
Plaintiffs,	:	
v.	:	
COMPLETE BUSINESS SOLUTIONS GROUP, INC., d/b/a PAR FUNDING and FAST ADVANCE FUNDING, INC.,	:	
Defendants.	:	

- - -

Tuesday, June 30, 2020

- - -

Remote deposition of JOSEPH LOUIS COLE BARLETA, taken stenographically, pursuant to notice, was held at 205 Arch Street, Philadelphia, Pennsylvania, beginning at 10:01 AM, on the above date, before Constance S. Kent, a Certified Court Reporter, Registered Professional Reporter and Notary Public.

* * *

MAGNA LEGAL SERVICES
(866) 624-6221
www.MagnaLS.com

APPEARANCES:

WHITE & WILLIAMS
BY: SHANE R. HESKIN, ESQUIRE
One Liberty Place
1650 Market Street, Suite 1800
Philadelphia, Pennsylvania 19103
215.864.7000
heskins@whiteandwilliams.com
Counsel for Plaintiffs

FOX ROTHSCHILD
BY: BRETT ADAM BERMAN, ESQUIRE
2000 Market Street, 20th Floor
Philadelphia, Pennsylvania 19103
215.299.2000
bberman@foxrothschild.com
Counsel for Defendants

ALSO PRESENT:

Chelsea Lynch, Trial Technician

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JOSEPH LOUIS COLE BARLETA,
having been first duly sworn, was
examined and testified as follows:

- - -

EXAMINATION

- - -

BY MR. HESKIN:

Q. Good morning, how are you?
A. Doing well, thank you.
Q. It's certainly interesting times.

Where -- are you working from home or are you working at the office?

A. I'm at the office.
Q. Okay. So CBSG hasn't closed its offices yet?
A. We're working at Full Spectrum, no.
Q. You're working at Full Spectrum?
A. Yeah.
Q. And what address is that?
A. I'm at 205 Arch Street.

Q. Okay. And how many offices does Full Spectrum have?
A. Two.
Q. Where is the other office?
A. 20 North 3rd Street.
Q. Okay. And who's -- who's the -- is that a lease or does Full Spectrum own that building?
A. They lease it.
Q. Okay. And how long have they leased it?
A. Since the beginning of 2017.
Q. 2017. And Full Spectrum is the one that leases it, right?
A. Yes.
Q. Okay. And does Full Spectrum lease it out to -- sublease it out to anyone else?
A. No.
Q. What's the date of the lease?
A. I'm not sure, but it's around the time -- beginning of 2017.
Q. Okay. What -- why did

the -- why did the -- in 2017, that's when the switch from CBSG to Full Spectrum took place; is that correct?

MR. BERMAN: I'm going to object and instruct him not to answer. It has nothing to do with the relevant time period in this case.

MR. HESKIN: You're instructing him not to answer?

MR. BERMAN: I am. This has nothing to do with this case and it has nothing to do with the court order. Look at the court order.

MR. HESKIN: Well, I can ask him on my -- on his personal knowledge, so --

MR. BERMAN: You have my instruction.

MR. HESKIN: Okay. You're instructing him not to answer? I'm asking him about --

MR. BERMAN: Regarding

Full -- yes. Regarding Full Spectrum's lease in 2017, look at the court order. Relevant time period in this case is February 2018 to October 2019.

Moreover, Full Spectrum is not a party, so I'm not really sure why you're asking about their lease either way.

So yeah, if you want to call the judge, call the judge.

MR. HESKIN: All right, Brett. You understand that's there's a RICO allegation, right?

MR. BERMAN: You have the court order like I do. Call the judge.

MR. HESKIN: Okay. And you understand that the court order --

MR. BERMAN: I'm not -- let me be clear, I'm not answering your questions.

MR. HESKIN: Okay. All right.

MR. BERMAN: Just so you understand.
MR. HESKIN: All right, Brett.
MR. BERMAN: You're free to call the judge. You have a court order.
MR. HESKIN: No, no, no Brett. I'm going to file a motion for sanctions. I just want to be clear right now.
MR. BERMAN: You can do -- you can do whatever you want.
MR. HESKIN: You instruct him not to answer at your own risk. I will be filing a motion for sanction for your obstructionist conduct, period.
MR. BERMAN: And I will then cross move for sanctions against you for violation of a court order.
Feel free to call the judge.
MR. HESKIN: Got it. I got

it. Okay. Thank you, Brett.
BY MR. HESKIN:
Q. So -- so Mr. Cole, are you -- are you following your lawyer's instruction not to answer?
A. Yes, I'm following his advice.
Q. Okay. When was -- so let me get this straight. Full Spectrum was in operation during the time period of HMC, right?
A. Yes.
Q. Did -- did HMC ever have any direct communications with CBSG?
A. Of course.
Q. Who -- who did they have direct communications with?
A. They were in direct communications with CBSG management.
Q. Who is CBSG management?
A. That is myself as CFO, Lisa as president and Jamie as the treasurer.
Q. Who is Jamie?
A. Jamie McElhone is Lisa

McElhone's sister.
Q. Okay. And where does she live?
A. She lives in Philadelphia.
Q. Where does she work?
A. She works for Full Spectrum Processing.
Q. Well, I just asked you did she ever have any direct conversations or communications with CBSG, and now you're telling me that Jamie McElhone is a Full Spectrum employee?
A. Correct. She has a position as a director of CBSG and is an employee of Full Spectrum.
Q. So they're both?
A. Correct.
Q. And who does -- who does Jamie receive her paycheck from?
A. I'm sorry? You broke up there.
Q. Sorry. Who does she receive her paycheck from?
A. Full Spectrum Processing.

Q. And does she get paid at all from CBSG?
A. No.
Q. And the same thing with Lisa, is -- is she -- who does she get paid by?
A. She's paid by CBSG.
Q. Does she work for Full Spectrum?
A. No, she's not an employee of Full Spectrum.
Q. And you're not an employee of CBSG, correct?
A. That's correct.
Q. And you've never held yourself out to be an employee of CBSG, correct?
MR. BERMAN: Objection to form.
You can answer, Joe.
THE WITNESS: No.
BY MR. HESKIN:
Q. Never?
A. I used to be an employee

until their restructure.
Q. Okay. So after 2017, you became CFO for Full Spectrum, correct?
A. That's right.
Q. And after 2017, would it be correct to say that you were not the CFO for CBSG?
A. No.
Q. That's not correct?
A. That's not correct. I had the same director function as I had before.
Q. Okay. Let me ask you this: In 2017, were you the CFO for CBSG?
A. Yes.
Q. In 2018, were you the CFO for CBSG?
A. Yes.
Q. 2019, CFO for CBSG?
A. Yes.
Q. And today, are you the CFO for CBSG?
A. That's right.
Q. Okay. And -- but you're not

paid by CBSG?
A. No.
Q. Okay. So you just do it for free?
A. No.
Q. Well, how you compensated?
A. We have an operating agreement at Full Spectrum with CBSG.
Q. Okay. And so during the full time that you were -- how many -- strike that.
Did you have any direct communications with Kara DiPietro?
A. Yes.
Q. And were you doing that as Full Spectrum or were you doing that as the CFO of CBSG?
A. I was doing that as Full Spectrum.
Q. As Full Spectrum.
A. Yes.
Q. So when you were communicating and having discussions with Ms. DiPietro, you were having those

conversations in the capacity of Full Spectrum, correct?
A. Right, under our operating agreement.
Q. So -- so none of your communications, your direct communications with Ms. DiPietro were in your capacity as the CFO of CBSG, correct?
MR. BERMAN: Objection.
You can answer.
THE WITNESS: No, that's incorrect. The operating agreement we have is serving both as an operator of Full Spectrum and as my position as director and CFO.
BY MR. HESKIN:
Q. Okay. Does -- does -- did -- in 2018 when my client's agreements first began, was CBSG paying Philadelphia taxes?
MR. BERMAN: Objection.
THE WITNESS: No. There's

no longer any nexus in Philadelphia as of that time.
BY MR. HESKIN:
Q. What do you mean by no nexus?
A. Financial nexus means physical operations within the jurisdiction.
Q. Yeah. And so if there were physical operations by CBSG in 2018, 2019 and 2020, CBSG would be required to pay Philadelphia taxes, correct?
MR. BERMAN: Objection.
THE WITNESS: Yes.
BY MR. HESKIN:
Q. That's your understanding, right?
A. Yes.
Q. Okay. And -- and so is it correct to say that during the entire time period that my client's agreements were in place, that there were no physical operations occurring in the state -- the Commonwealth of

Pennsylvania?
MR. BERMAN: Objection.
THE WITNESS: You mean under CBSG?
BY MR. HESKIN:
Q. Under CBSG, yeah.
A. Correct.
Q. And Ms. DiPietro never had any direct communications with Ms. -- Ms. Lisa McElhone; is that right?
A. I'm not sure you about that.
Q. Okay. Are you aware of any?
A. I am not aware of any.
Q. Okay. What did you do to prepare for that topic?
A. We didn't go over that.
Q. Who didn't go over that?
A. I did not go over in my preparation, in discussion, go over that topic.
Q. Well, you're put up on the topic of communications with my client, right?
A. Yes.

Q. Okay. What did you do to -- to investigate the communications between my client and your client?
MR. BERMAN: Objection to the extent it calls for attorney/client privileged communications.
If it doesn't, you can answer.
THE WITNESS: I'm sorry, I don't understand that.
BY MR. HESKIN:
Q. Sure. What did you do to educate yourself as to what communications transpired between CBSG on the one hand and HMS and Kara DiPietro on the other hand?
MR. BERMAN: Objection. Same objection to the extent it calls for attorney/client, attorney work product.
But otherwise you can answer.
THE WITNESS: I went over

personal emails I had with Kara, I went over the agreements and financial history of the payments made by her entity.
BY MR. HESKIN:
Q. Okay.
A. I went over staff communications with Full Spectrum employees and the normal underwriting and due diligence process for each one of her transactions.
Q. Did you speak to Mr. LaForte?
A. Yes.
Q. When did you speak to -- and so the record is clear, it's Joe LaForte, right?
A. That's right.
Q. Joe LaForte, Jr.?
A. I'm not sure about the junior, but yes.
Q. Okay. I think we're thinking of the same person.
When did you speak to Joe?

A. I spoke to him a few times regarding this transaction.
Q. How many?
A. Regularly in the course of the transaction, over the period of time we had her as a --
Q. About how many times?
A. Regularly. I mean, you're talking about routine business regarding our client communications.
Q. Where did those conversations take place?
A. Usually over the phone.
Q. Okay. Where -- where does Joe physically sit?
A. He sits at the 20 North 3rd Street office with our sales entity.
Q. He sits where? I'm sorry I missed that.
A. 20 North 3rd Street office.
Q. 20 North 3rd Street. And -- and that's a Full Spectrum office, correct?
A. There's multiple units.

Three of them are for Full Spectrum, one of them is for the sales entity.
Q. What's the sales entity?
A. Recruiting Marketing Resources.
Q. None of those offices is for CBSG, correct?
A. None, correct.
Q. Okay. And if -- and if one of those offices were within the City of Philadelphia, CBSG would have to pay taxes, right?
MR. BERMAN: Objection.
THE WITNESS: Yes.
BY MR. HESKIN:
Q. Okay. And CBSG didn't pay any Philadelphia taxes in -- hasn't paid any Philadelphia taxes since 2017, correct?
MR. BERMAN: Objection.
THE WITNESS: Well, recorded for that period. I'm not sure if physical payments went out subsequently.

BY MR. HESKIN:
Q. Yeah, sure. The only reason I'm -- I'm asking about that is because our firm has to make their big Philadelphia payment this -- this month and so it's -- it's a big one and so that's why I'm interested so much in that -- in tax payment.
So in any event -- all right. So CBSG doesn't have any office in Pennsylvania at all, right?
A. That's correct.
Q. It's never had an office or physical presence in -- in Pennsylvania since 2017, correct?
MR. BERMAN: Objection.
THE WITNESS: Through the end of 2016.
BY MR. HESKIN:
Q. Okay. That's correct. So -- so as of January 1, 2017 to the present, CBSG has had no physical location in the Commonwealth of Pennsylvania, correct?

A. That is correct.
Q. Okay. What -- what does Jamie McElhone do for CBSG?
A. She's the treasurer.
Q. And where does she sit?
A. 20 North 3rd Street.
Q. What are her -- and she sits there as -- in her capacity at Full Spectrum, right?
A. That's right.
Q. And what are her hours? Does she come in every day?
A. Yes.
Q. She does?
A. Yes.
Q. Is she in the office today?
A. Yes.
Q. And can you just briefly describe her duties and what her day-to-day activities are?
A. She handles cash management, funding, wires, payments, just part of the controls with the cash flow and bank accounts that we have.

Q. Okay. And she signed the verification in support of the confession of judgment that was -- was filed by CBSG against my client, correct?
A. I'm not sure.
Q. You're not sure?
A. No, but she is an authorized signatory for CBSG.
Q. Okay. And did she review HMC's financials and payments before she signed the verification?
MR. BERMAN: Objection.
THE WITNESS: It was reviewed by underwriting as normal.
BY MR. HESKIN:
Q. I didn't ask that. I asked whether or not Ms. McElhone did.
A. I'm not sure.
Q. Well, she's the one that verified it, right?
A. As part of our process there's a file submitted and it's reviewed and approved by underwriting

first.
Q. So if I -- if I put Jamie McElhone on the stand to testify under oath under penalties of perjury and I asked her point-blank, Did you verify the information contained in this confession of judgment, what would her answer be?
MR. BERMAN: Objection.
THE WITNESS: I'm not sure what her answer would be, but it is part of routine procedures for her to review the file.
BY MR. HESKIN:
Q. Do you know one way or the other whether or not she reviewed the file before she verified under penalties of perjury and affixed her signature to the verification against my client, whether she reviewed any of the information? Did she do that?
A. I'm not sure.
Q. You're not sure. As the corporate representative of CBSG, you're not sure whether or not Ms. McElhone

filed a false verification or a true and correct verification, correct?
MR. BERMAN: Objection, given that's not within the scope.
But you can answer.
THE WITNESS: I'm not sure.
BY MR. HESKIN:
Q. Does -- does Jamie McElhone -- when she affixes her signature, is that a cut-and-paste job or does she actually hand sign the -- the -- her signature on the verification?
MR. BERMAN: Objection.
BY MR. HESKIN:
Q. Or does someone do that for her?
MR. BERMAN: Objection.
THE WITNESS: Usually they're hand signed. We also have a DocuSign E signature there.
BY MR. HESKIN:
Q. So if I were to hire a handwriting expert and compare the signatures on Ms. McElhone's

verifications on the hundreds of confessions of judgments that have been filed by CBSG over the past year, and including during the time period of my client when Ms. McElhone also signed a verification, they would all be different, right, because those were each uniquely signed? Is that -- is that your understanding?
MR. BERMAN: Objection.
THE WITNESS: You're going to see differences unless they were done with the DocuSign, which is probably pretty common, too.
BY MR. HESKIN:
Q. Well, which was it? Does she physically sign it and verify or does someone DocuSign on her behalf where she doesn't even know that these are being filed on her behalf?
MR. BERMAN: Objection.
THE WITNESS: We do both.
BY MR. HESKIN:
Q. You do both?

A. Yes.
Q. Okay. So I want -- when I look at the hundreds of verifications that were signed or purportedly signed by Ms. McElhone, they're going to be variations in them, correct?
MR. BERMAN: Objection.
THE WITNESS: Correct. Yes. I believe that's likely.
BY MR. HESKIN:
Q. Okay. And the one that was signed against my client, was that physically signed or was that a DocuSign?
A. I'm not sure.
Q. You're not sure? Well, it was done twice. Was Ms. McElhone informed that she was signing a verification on two occasions?
A. I'm not sure.
Q. Okay. And did Ms. McElhone review the facts contained in the complaint on both occasions?
A. I'm not sure.
Q. You're not sure? Okay.

The verification claims that my client was -- was in breach of the agreement. How was my client in breach of the agreement?
A. Your client was in breach of our MCA agreement by not making good on the payments.
Q. By not making good on the payments?
A. That's right.
Q. What -- what payment was due that she didn't pay?
A. We had a regular ACH debits processed that came back as returned as per the agreement.
Q. Okay. When -- when's the date. When's the first regularly processed payment that didn't go through?
A. You have that on the discovery. There were a number of small returns, but the majority of these occurred around May of last year. That's when there was significant issues from her account with our MCA transactions.

Q. Were you aware of that?
A. Of course.
Q. Okay. And who authorized the filing of the COJ?
A. Kara authorized it. It's part of the agreement.
Q. No, no, no. Who authorized it on behalf of CBSG to file the confession of judgment and representing under penalties of perjury that she had breached the agreement?
MR. BERMAN: Objection.
BY MR. HESKIN:
Q. Who made that decision?
MR. BERMAN: Objection.
THE WITNESS: I'm not sure.
BY MR. HESKIN:
Q. You're not sure. As the CFO you're not sure?
A. I'm not sure. That's typically handled by the underwriter.
Q. Well, who is the underwriter? Because we just took the deposition of the underwriter yesterday

and she -- she claims she didn't make that decision.
MR. BERMAN: Objection. Mischaracterization.
You can believe that he's characterizing people or not what they said since there's no transcript, but you can answer.
THE WITNESS: It's within her department and her manager and superiors that made the decision to do so.
BY MR. HESKIN:
Q. Who is her superior?
A. At the time it's Tori and Alex.
Q. Tori who?
A. Victoria Billarose.
Q. Can you spell that?
A. V-I-C-T-O-R-I-A, last name --
Q. I knew that, I meant the last name.
A. B-I-L-L-A-R-O-S-E.

Q. Okay. And who is the second person you identified?
A. Alex.
Q. Alex who?
A. Shlepin.
Q. Can you spell that?
A. S-H-L-E-P-I-N.
Q. And both of those persons I presume are employed by Full Spectrum, correct?
A. That's correct.
Q. And the underwriter was employed by Full Spectrum, correct?
A. That's correct.
Q. So if I asked Alex or Victoria and I put them under -- under oath, they're going to testify that they're the ones that made the decision to default -- to declare default on HMC?
A. I believe they would be able to detail that out specifically who made the decision.
Q. You don't know who made the decision?

A. I don't know. It's within their department.
Q. Okay. So as the corporate designee for CBSG, you -- as you sit here today, you cannot identify the person who is responsible for declaring a default under the HMC agreements; is that right?
MR. BERMAN: Are you pointing to a specific thing we agreed to for corporate designee here? And if so, identify it. You're asking a question like you actually -- that be would something you identified as a corporate designee topic. You didn't.
But to the extent he knows, he can answer, but stop making misrepresentations of what the scope of the 30(b)(6) is.
BY MR. HESKIN:
Q. Go ahead. You can answer.
A. Specifically I understand as the corporate designee that that

department made the decision to make that. I do not know specifically which person within the department made the decision to do so.
Q. Did you ever have any discussions with Mr. LaForte about whether to declare default?
A. No.
Q. Are you aware of whether or not Mr. LaForte is the one who personally made that decision to declare a default?
A. No.
Q. Do you know if the person who declared the default actually reviewed the documents to determine whether or not there's been a default?
A. It's part of their normal procedures to do so.
Q. Okay. And when -- when is the date of default and what was the reason? So let's start with the first one.
Please give me the date of default.

A. I don't have the precise date. It's approximately May last year.
Q. You don't know -- you can't give me a date?
A. I didn't memorize the dates for the default.
Q. Okay. Well, how did -- how did she default? What was the default?
A. The mechanism for default is not making good on payments as arranged under the agreement.
Q. Is missing just one payment a default?
A. No.
Q. Okay. Is not making two payments a default?
A. No.
Q. Is not making three payments a default?
A. No.
Q. Is not making four payments a default?
A. Yes.
Q. Yes. So as of May, it's

your testimony under oath that Ms. DiPietro missed four consecutive payments, is that -- is that your testimony?
MR. BERMAN: Objection.
THE WITNESS: There was more than four missed payments and there was a cease of payments altogether.
So when this client went into default, we can normally stave off the default status if there's a negotiation or agreement. We're very flexible with our clients in negotiating terms.
BY MR. HESKIN:
Q. Okay.
A. So when you're saying that this is a default after four payments, it wasn't just after four, it was that there was no communication to negotiate alternative payments, reduced payments or any sort of intent to continue making

good on the obligations under the factoring agreement.
Q. Wow. Wow. Really? So you weren't at that meeting where -- in -- on May 6th when my client actually traveled to Philadelphia to have an in-person meeting with -- with CBSG?
A. I had a meeting with Kara and her CFO.
Q. Okay. And that was on May 6th, 2019, correct?
A. Yeah, '19.
Q. Yeah, '19, right? And you had an in-person meeting, right?
A. That's right.
Q. Okay. And you're still sitting here today testifying under oath that she didn't have any communications with you regarding a payment plan?
A. There was nothing held after the meeting that she made good on.
Q. Got it. And were you there when Mr. LaForte handed her a -- an agreement to sign?

A. I'm not sure what you're referring to.
Q. The restructuring agreement that you forwarded to Ms. DiPietro, did he physically hand that to her?
A. I'm not sure.
Q. You're not sure?
A. No.
Q. Were you there when Mr. LaForte threatened to blow up Ms. DiPietro's house if she didn't sign those papers?
MR. BERMAN: Objection.
THE WITNESS: No, I never heard of that.
BY MR. HESKIN:
Q. Were you there?
A. No.
Q. Were you there when Mr. LaForte followed her out to her car?
A. No.
Q. Did you see Mr. LaForte follow Ms. DiPietro out to her car?
A. No.

Q. All right. Did Mr. LaForte stay in the meeting with you after Ms. DiPietro left or did he leave the meeting?
A. If you're referring to the meeting with her CFO and Kara, they left while we were still in the room.
Q. Okay. So you're saying that Ms. DiPietro and Mr. Persing left the room, and at all times Mr. LaForte was there in your presence and you never saw him leave the room, is that your testimony?
A. That's right.
Q. That's right. Okay. All right.
So you testified earlier that missing the four payments was the default, and you understand that there were numerous agreements that were in place in early May, right?
MR. BERMAN: Objection.
THE WITNESS: Yes.
BY MR. HESKIN:

Q. Is it your testimony that Ms. -- that HMC that missed four payments under each and every one of those agreements in which you filed a confession of judgment under?
MR. BERMAN: Objection.
THE WITNESS: Yes.
BY MR. HESKIN:
Q. Yes?
A. Yes.
Q. I'm going to look and I'm going to find four missed payments under each and every one of the agreements --
A. Yes.
Q. -- prior to the -- prior to the date that you first filed the COJ, correct?
A. Yes.
Q. Okay. And that would be reflected apparently on the accounting sheet that was attached to the COJ, right.
A. Not necessarily. We had a subsequent payments missed after the COJ

was filed, which is obviously an issue, and no resolution was made after the meeting.

Q. Well, I'm just talking about as of the date of the first filing, the one that was verified by Jamie McElhone under penalties of perjury, she apparently verified under oath, according to your testimony, that Ms. DiPietro missed four payments under each and every one of the agreements that were in place prior to the date of filing, correct?

MR. BERMAN: Objection. Is that a representation?

MR. HESKIN: I'm asking. It's a question.

MR. BERMAN: You can answer the question, but you don't have to accept his representations.

THE WITNESS: Yes.

BY MR. HESKIN:

Q. She did. She verified that there were four missed payments under each of those agreements, correct?

A. Yes.

Q. Got it. And does she do that with respect to every verification that she makes?

MR. BERMAN: Objection.

THE WITNESS: She -- as part of our process with underwriting reviews the default status before making the filing.

BY MR. HESKIN:

Q. So I just want to make sure I got this straight: Out of the many hundreds, if not thousands, of COJs that Ms. McElhone has signed and verified under penalties of perjury, she's looked at the accounting records and confirmed that there had been four missed payments or some other breach; is that correct?

MR. BERMAN: Objection. Is that within the scope of your questions about all the other merchants or are you talking about Ms. DiPietro now?

MR. HESKIN: Practices and

policies is the exact topic at the court allowed me to answer.

MR. BERMAN: Okay. Joe, you can answer.

THE WITNESS: As part of her process, she is supposed to review those.

BY MR. HESKIN:

Q. Well, I -- that's not quite the answer. I understand she's supposed to. My question is does she? If I put her under oath under penalties of perjury and I show her the hundreds of thousands of COJs that she apparently or purportedly verified under oath, she's going to say, Yeah, I -- yeah, I verified each and every one of those defaults, is that what she's going to tell me?

MR. BERMAN: Objection.

THE WITNESS: I believe she would.

BY MR. HESKIN:

Q. Okay. And she wouldn't be committing further perjury by doing that,

correct?

MR. BERMAN: Objection.

THE WITNESS: Right.

BY MR. HESKIN:

Q. Okay. And just to be crystal clear, the breach here in HMC was the failure to make four ACH payments on each of the agreements that were subject to the COJ, correct?

MR. BERMAN: Objection.

THE WITNESS: Yes, and failure to make any sort of any modified payments and restructuring the transactions.

BY MR. HESKIN:

Q. And you understand that Ms. DiPietro was trying to make other arrangements, right?

MR. BERMAN: Objection.

THE WITNESS: She made a deal to make those payments and they never came through.

BY MR. HESKIN:

Q. What was the deal? Tell me

specifically the deal that you're referring to. What deal was reached and how did she not follow through with it?

MR. BERMAN: Objection.

You can answer.

THE WITNESS: In our meeting with her and her CFO Josh, we confirmed balances owed for all the transactions she has with our company and a reasonable payment plan.

BY MR. HESKIN:

Q. What was it? What was the amount she agreed was owed and -- let's start there.

A. The discussed amount was about 20 percent of the current daily payments.

Q. No, no, no. I'm saying what was the amount that was owed?

A. We had approximately $13 million in our reconciliation, she was saying it was closer to 11. We agreed to reconcile the difference with

our accounting departments and had our accounting department communicate with her accounting department to get on the same page.

Q. Okay. And when did that happen?

A. That happened after our meeting.

Q. Okay. And what was the final reconciliation?

A. It was somewheres in the middle.

Q. Okay. What was the number?

A. In my head it was about 11-and-a-half million dollars.

Q. And was that communicated in writing?

A. Yes, there's emails from accounting to her CFO and the balances were reconciled. She understood very specifically which items were being accounted for and returned balances with given the complexity of her transactions with us. She vouched for every single

one of those balances and had her CFO confirm with us. We trued it up, we got on the same page, we understand the liability currently held by her entity, and the payment plan as arranged, we wanted to help her so that it would be physically feasible for her company to sustain those payments going forward.

Q. Was it in writing?

A. It was in an email.

Q. An email where Ms. DiPietro confirms and agrees that that's the amount that she owes?

A. That's right. Between her and her accounting department, we had confirmation on the current balances. And this was the usual course of action for all the precedent payments and payoffs that she's had with all the other contracts.

Q. Okay. What's the date of the email?

A. I'm not sure of the specific date, but it was done after that meeting

in May.

Q. Did you review that email in preparation for today?

A. No, I did not.

Q. Okay. So as -- as you sit here today, you can't point me to the specific email that you're referring to?

A. I'm saying there's a litany of emails with her communicating with her accounting department -- accounting departments as a general practice and her understanding of how the transactions work.

Q. Okay. So your -- your testimony is based solely on memory, is that your testimony?

A. Yes, to the best of my recollection.

Q. Okay. And you can't point me to the email that supposedly your memory is based, correct?

A. Not one specific email. Again, this is several communications normally done with Kara and her

accounting team.
Q. Yeah. And the agreement was how much per day?
A. I don't have the specific dollar amounts.
Q. Well, you said it was about 20 percent of what her dailies were previously, right?
A. Correct.
Q. Okay. And there was a schedule that you provided to her that required her to pay $350,000 per week over the course of 35 weeks.
Do you recall that agreement?
A. Yes, that sounds about right.
Q. Okay. And is that the -- is that the schedule you're talking about?
A. Yes. I believe that's what we were discussing, and we were considering an even lower payment because Kara made an assumption (sic) that she still wanted to make a larger payment and

we said, It's absolutely not feasible for her current cash flow. We were trying to give them a very comfortable payment schedule given their receivables that we had done factoring on.
Q. So it's your testimony as you're sitting here today that $350,000 is a 20 percent discount on what she was previously paying?
MR. BERMAN: Objection.
THE WITNESS: I'm not sure of the precise calculation on it, but that's approximately correct, yes.
BY MR. HESKIN:
Q. I guess the math is the math.
A. That's right.
Q. So 350,000, 20 percent, so she was paying -- I'm not a math wizard, but it sounds like she was paying $1.5 million a week before that?
A. No, I don't think it was that high. But it's on the payment

history. You have that as part of the discovery.
Q. Yeah, $350,000 a week, is a lot, isn't it?
MR. BERMAN: Objection.
THE WITNESS: For a 11-and-a-half million dollar liability, it's in line.
BY MR. HESKIN:
Q. Got it. Is -- was $350,000 a week equivalent to 10 percent of her receivables?
MR. BERMAN: Objection.
THE WITNESS: You're referring to the funding ratio from her contracts?
BY MR. HESKIN:
Q. Yeah. I'm saying, do you know -- how much were her -- her revenues per month?
A. I don't know.
Q. You don't know?
A. I don't know.
Q. You don't know?

A. I don't know.
Q. Okay. So if you're taking $350,000 a week, if you times that by four weeks, that's -- four weeks in a month, that's about $1.4 million a month, right?
A. Yes.
Q. Okay. And if CBSG is supposed to be taking 10 percent of her -- of her receivables, that must mean that she's generating $14 million a month in revenues; is that right?
MR. BERMAN: Objection, mischaracterization.
But you can answer, Joe.
THE WITNESS: In her underwriting matrix what -- we're factoring based on the receivables and cash flows of the business. Those transactions are in proportion to what is being displayed on her statement.
BY MR. HESKIN:
Q. Okay.

A. Our assumptions are that with that revenue and the additional factoring that she was doing, that she was sustaining that with the receivables she had coming into her business.
Q. I'm not talking about cash flow. I'm talking about receivables because you'll agree with me that the contracts that she entered into, at least on the face -- on their face, state that they're a sale of receivables, right?
A. That's correct.
Q. And CBSG is buying 10 percent of her receivables, right?
MR. BERMAN: Objection.
THE WITNESS: Yes, there's a factoring rate on the receivables being presented.
BY MR. HESKIN:
Q. I'm not talking about the factoring rate. I'm talking about the paying buying 10 percent of her future receivables, right?
MR. BERMAN: Objection.

BY MR. HESKIN:
Q. Right?
A. Correct.
Q. Okay. And so in order for CBSG to be asking Kara to pay $350,000 a week which you signed off on, you prepared and you sent to her, you must have personally looked and looked at her receivables and said, Hey, listen, she is making 4 -- $14 million a month in receivables, and therefore, she -- 10 percent of that is $350,000.
Did I get that right? Is that what happened here?
MR. BERMAN: Objection.
THE WITNESS: I did not personally review that. That is a process of the underwriting department to confirm receivables as part of their approval process.
BY MR. HESKIN:
Q. As you sit here today, are you -- are you aware that Ms. DiPietro or HMC generates $14 million in revenue per

month?
A. I am not aware.
Q. Do you know how much that would be per year?
A. I don't know.
Q. It would be, again I'm not a math wizard, but it sounds like it would be about $158 million a year in revenue. Does that sound right to you?
A. Sure.
Q. Okay. Does -- at any point in time did HMC generate $158 million in revenue?
A. I'm not sure.
Q. Well, as corporate representative who is being put up -- put up for the transactions at issue and the underwriting, what -- what was her annual revenue in 2018?
MR. BERMAN: You want to direct him to a topic that you're talking about about HMC's revenue?
MR. HESKIN: I don't need your coaching.

MR. BERMAN: Joe -- there's no coaching.
Joe, you can answer the question. It's not within the designee notice, but answer.
THE WITNESS: Sure. So in the underwriting procedures and in the matrix that Kara understood and that she qualified for, she signed off on those transactions after completing prior transactions, which again she also knows and understands because she paid off several dozen -- more than a dozen deals before this point, that the receivables that we were funding are proportionate to her payments.
So there's collateral there in the form of her receivables to support the payments that she signed off on these agreements.
BY MR. HESKIN:
Q. So Joe, I understand what

may have actually happened and what the agreements said, but I'm just talking about what the agreements actually said. I understand that these agreements are a complete and utter sham, but as per the agreement, they say they're purchasing 10 percent of her receivables and she has to pay back 10 percent of her receivables, and my question is: Under -- under your -- under the strict terms of the agreement, she would have to generate $158 million of revenue in order for her to be making payments of $350,000 a week, right?

MR. BERMAN: Joe, disregard the first part about shams but you can answer his actual question.

THE WITNESS: Based on your calculations, that would be the assumption.

BY MR. HESKIN:

Q. That would be the assumption, that she's making $158 million a year, right?

A. Yes.

Q. And so if I look in the underwriting file, I'm going to see that underwriting confirmed that she was making $158 million a year in revenue, right?

A. I'm not sure on the underwriting file. You gave me a calculation that you came up with, and I'm saying underwriting follows a procedure in finding her receivables and doing a calculation that is feasible with her business.

Q. Sure. Joe, I just want to make clear, I didn't just come up with that number, that's a number that you came up with. That's a number that you sent to my client, I have the email, I have the agreement, and I had the payout schedule where you sent her an agreement --

MR. BERMAN: Okay, let's ask questions, Shane. Questions, not commentary. Questions.

BY MR. HESKIN:

Q. -- $350,000 a week?

MR. BERMAN: Questions. Is there a question there or is that just a statement?

BY MR. HESKIN:

Q. Do you recall sending her that document?

A. Yes, we had an agreement in place that we sent her.

Q. And -- and you prepared that document, didn't you?

A. Yes, our department prepared the document.

Q. Not the question. You personally prepared that document, didn't you?

A. I personally do not prepare documents for our clients. We have a department that prepares it and I sign off on it.

Q. You don't prepare documents?

A. I personally do not do the paperwork in preparing a document for our

company.

Q. So -- so when -- I shouldn't have an email where Joe LaForte tells my client that you prepare documents for that company. I shouldn't have that email if that's not true, right?

MR. BERMAN: Objection. Joe, you can answer if there's anything in there to answer.

BY MR. HESKIN:

Q. I shouldn't have that email, right?

A. I mean, you're assuming that I personally do all the document preparations of the company?

Q. No, not my assumption. I asked you whether or not you prepared documents for the company, because I have an email where Joe specifically tells my client that you prepare documents for the company. Is that true or false or is Joe lying to my client?

A. I prepare documents for the

company.
MR. BERMAN: Objection, but okay.
THE WITNESS: Yes, I prepare documents for the company.
BY MR. HESKIN:
Q. So you want to retract your prior testimony where you say you don't prepare any documents?
A. No, I don't prepare routinely all the documents for our clients.
Q. Well, now you're using routinely. Before you said you don't do it at all. So which is it? Is it you don't do it at all or you don't do it routinely?
MR. BERMAN: Objection.
THE WITNESS: To clarify, you asked if I prepared her documents, which I understand are her agreements.
BY MR. HESKIN:
Q. Well, the transcript is

going to say what it says, but I'm pretty sure you said you don't prepare any documents, that someone else does that, right?
A. I do prepare documents.
Q. So now you want to correct your prior testimony and say that you do prepare some documents, right?
MR. BERMAN: It's argumentative. So the transcript says what it says. Ask a question.
MR. HESKIN: I'm asking a clarifying question.
MR. BERMAN: Okay. Then ask a question. But you lied, this, you're giving a lot of commentary. Question, answer, question, answer, right? That's a deposition under the federal rules, not commentary.
BY MR. HESKIN:
Q. Mr. Cole, you do prepare legal documents on behalf of CBSG, don't

you?
MR. BERMAN: Objection.
THE WITNESS: That's right, yes.
BY MR. HESKIN:
Q. You do. Okay. Got it. You're not a lawyer, right?
A. No.
Q. But you prepare legal documents?
A. Yes.
Q. Okay. And you reviewed and -- did you prepare the document that you sent to my client in May?
A. I don't recall.
Q. So now you don't recall, right? Before you said you didn't do it, categorically didn't do it, and now you're telling me you don't recall, right?
A. I don't know which document you're specifically referring to.
Q. I'm talking about the restructured factoring agreement where

the weekly payments were $350,000 a week. Who prepared that document?
A. I did not prepare that document. That was prepared by underwriting.
Q. It wasn't prepared by Mr. Hartley?
A. By whom?
Q. Hartley. John Hartley?
A. That sounds feasible, yeah. The legal team often prepares modification agreements for our clients.
Q. Well, you're all over the place. First you said it was underwriting and now you're saying it's legal. Which one is it?
A. Both, underwriting and legal prepare documents for our clients.
Q. Okay. Which one did it in this case?
A. In this case, it was probably John Hartley.
Q. Okay. And who instructed Mr. Hartley to do that?

A. Generally the credit committee conveys the modification in discussion with the clients.
Q. And who is the credit committee?
A. Credit committee is Tori and Alex.
Q. Okay. They were -- Tori and Alex, they were the ones that made the decision on -- on this agreement, is that -- is that your testimony?
A. That's correct.
Q. Did they review the agreement?
A. Yes.
Q. And they signed off on it?
A. I believe so.
Q. So if I call them at trial and have them testify under oath, they're going to -- they're going to confirm that they looked at the revenue and saw that Ms. DiPietro was generating $158 million in revenue through HMC?
MR. BERMAN: Objection.

BY MR. HESKIN:
Q. Is that correct?
A. I don't know if they're reviewing that specific number.
Q. Well, how did they come up with $350,000?
A. Because they negotiated a deal.
Q. Well, so that -- so they negotiated a deal that was totally untethered to her actual receivables, is that your testimony?
A. Often when we negotiate with clients, we will come up with a number that is feasible for the -- not necessarily in line with their funding and receivables.
Q. Okay. So in this case, was it negotiated that Ms. -- that HMC would pay more than 10 percent of her monthly receivables?
A. I don't know what you said. That she would pay more than 10 percent?
Q. Yes.

A. No, again this was a modification. At this point in time we were already 3-and-a-half million dollars behind the client, monies provided to her versus what she paid to us.
Q. Hold on. You were 3-and-a-half million dollars in principal, correct?
MR. BERMAN: Objection.
THE WITNESS: In capital provided to her company as part of these factoring transactions.
BY MR. HESKIN:
Q. Cash, right?
A. Yes.
Q. Okay. You weren't 3-and-a-half million dollars behind on payments, right?
A. No, we were worried that this client was going to default given the exposure we had on her transaction.
Q. Okay. And so you decided that you wanted more than the 10 percent payments due to the rest of the default?

MR. BERMAN: Objection.
THE WITNESS: No, that's not the objective here. Our objective is to cover the exposure.
BY MR. HESKIN:
Q. Okay. Even though under the agreement she's only required to pay 10 percent of her -- of her revenue, right?
MR. BERMAN: Objection.
THE WITNESS: Again, under modified negotiations, the terms provided with the client are not necessarily in line with the factoring percentage on her contract.
BY MR. HESKIN:
Q. Okay. So in other words, you wanted her to pay more than 10 percent because you were worried about her defaulting, right?
MR. BERMAN: Objection.
THE WITNESS: I'm not sure if it's more than 10 percent of her receivables.

BY MR. HESKIN:
Q. You're not aware of what her monthly or annual revenues are, correct?
A. That's right.
Q. Okay. So if I asked you as the corporate representative what her monthly revenues were in February of 2019, you're not going to know, correct?
A. Not specifically, no.
Q. Okay. What were her -- what were her -- what were HMC's revenues in January 2019?
A. I don't know.
Q. What were HMC's revenue in February 2019?
A. I do not know.
Q. What were HMC's revenues in March of 2019?
A. I do not know.
Q. What were HMC's revenues in April 2019?
A. I do not know.
Q. What were HMC's revenues in

May 2019?
A. I do not know.
Q. What was HMC's income in January 2019?
A. I do not know.
Q. What was HMC's income in February 2019?
A. I do not know.
Q. What was HMC's income in March 2019?
A. I do not know.
Q. What was HMC's income in April 2019?
A. I do not know.
Q. What was HMC's income in May 2019?
A. I do not know.
Q. Do you know whether or not HMC paid more or less than 10 percent of its monthly revenue in any of those months?
MR. BERMAN: Objection.
THE WITNESS: I do not know.
BY MR. HESKIN:

Q. Okay. Got it. Who would know?
A. The underwriting department. The credit committee who negotiated the modified payments with her.
Q. How would they do that?
A. Because negotiating the client, they have an understanding of the cash flow and come up with a deal that would be feasible for them to run the regular course of business while at the same time satisfying liabilities as part of our MCA agreement.
Q. Did you speak with underwriting in preparation for your deposition today?
A. I did briefly, yes.
Q. Did you ask them what the revenues were in any particular month?
A. We did not cover them.
Q. Did you ask them what the income was in any particular month?
A. No.
Q. No?

A. No.
Q. What is income?
A. Income is monies received that are generated by your business from whatever services or product it renders.
Q. Okay. Let me -- okay. What's revenue?
A. Same thing.
Q. So you've got -- you've got a financial background, right?
A. Yes.
Q. Yes?
A. Yes.
Q. Can you just tell me what -- what your financial background is?
A. I worked in accounting since I was 22.
Q. Since you were 22?
A. Yes.
Q. And how old are you now?
A. 37.
Q. Give me -- what's your educational background?
A. I went to University of

California Irvine, computer engineering. At the same time I went to -- I worked at a publicly-traded construction company in their accounting department.

Q. Got it. And what did you do after that?

A. Continued working at that company until 2009.

Q. And after that?

A. Moved to Philadelphia.

Q. And who did you work for in Philadelphia?

A. The Business Solutions Group.

Q. Okay. And you've worked for them ever since?

A. Since 2016, and 2017 subsequently into the processing entity that services CBSG.

Q. Okay. And how did you -- all right. I want to come back to that so let me just make a note here.

Okay. And you have proficiency with accounting, right?

A. Yes.

Q. Do you have an accounting background?

A. Yes.

Q. You've worked in accounting for -- since you were 22, right?

A. Yes.

Q. Okay. And you're the CFO of how many different companies?

A. I'm not sure. Within the scope of our processing agreement, we also provide financial services not including -- or including the capacity of the CFO.

Q. About how many companies are you the CFO for?

A. For Full Spectrum Processing?

Q. Yeah. You personally. I'm talking about you personally. I want to get -- get your experience in accounting, I want to get that on the record.

How many companies are you the CFO for?

A. Approximately 45.

Q. 45. 45 companies. Wow. I'm not -- can you -- I don't want you to list all 45, but my guess is are all 45 of those companies owned by Lisa McElhone?

A. No.

Q. How many of those 45 companies are owned by Ms. McElhone?

A. Not very many.

Q. Not very many? How many?

A. About maybe ten.

Q. Ten? Can you give me those ten companies?

MR. BERMAN: No, you don't have to list that.

I'll instruct him not to answer.

MR. HESKIN: You're instructing him not to answer?

MR. BERMAN: I am.

MR. HESKIN: Okay.

BY MR. HESKIN:

Q. Are you following that

advice?

A. Yes. I don't feel --

Q. I'm asking you to identify the ten companies in which you are a CFO on behalf of Ms. McElhone and you're refusing to identify that?

MR. BERMAN: Yes.

THE WITNESS: Yes.

BY MR. HESKIN:

Q. Okay. So -- you're refusing to identify any of the 45 companies you're a CFO for?

A. Complete Business Solutions Group.

Q. That's the only -- you'll give me one -- one company name, that's it?

A. Full Spectrum Processing.

Q. Two?

A. Fast Advance Funding.

Q. Which ones?

A. Fast Advance Funding.

Q. Any more?

A. Is that good?

MR. BERMAN: Yeah.
MR. HESKIN: So Mr. Berman, are you instructing him not to provide any further companies of the 45 that he's admitted that he's a CFO for?
MR. BERMAN: I'm instructing you, Mr. Heskin, that you should comply with the court order or you'll be met with a sanctions order. But call the judge now. I welcome it because we're not coming back. So you're welcome at any time -- we're not going to Lisa McElhone's background beyond the companies at issue of Kara DiPietro.
You have a very clear scope of order here dated March 4th, 2020. Be guided by the court order.
MR. HESKIN: I got you. Thank you, Mr. Berman, for that.
MR. BERMAN: You got it. So

move on or call the judge or whatever you want to do. You have our instruction.
MR. HESKIN: Don't worry, Mr. Berman, the time will come.
MR. BERMAN: That's fine. Make threats to me. That's good, too.
MR. HESKIN: I'm not. I'm not making any threats.
MR. BERMAN: You're welcome to call the judge. There's a court order.
BY MR. HESKIN:
Q. So during the time period in which my clients were -- my client's agreements were that place, which was February 2018, and May -- actually, to the present, how many -- how many companies were you the CFO for?
MR. BERMAN: Asked and answered. And there's a very specific time period set forth in the March 4th, 2020 order. You

should look at the order as to what the scope of this deposition is and the agreed upon topics.
MR. HESKIN: I don't need any more speaking objections. I'm asking --
MR. BERMAN: It's not a speaking objection. I'm instructing him not to answer the question.
MR. HESKIN: You're instructing him not to answer? Okay. Good.
BY MR. HESKIN:
Q. Are you following that advice?
A. Yes.
Q. Okay. You're not going to tell me how many -- I'm not asking you to identify the names, I'm asking how many companies were you the CFO for the time period February 2018 through May -- February 2018 through May 2019?
MR. BERMAN: That's not the

time period, but he answered it.
You can answer again, Joe, how many.
THE WITNESS: Approximately 45.
BY MR. HESKIN:
Q. Okay. How do you have -- how do you have time to be the CFO of 45 different companies?
A. Full Spectrum Processing provides services to many different entities. We have a big accounting department with several CPAs and accountants that facilitate information for me to make decisions on.
Q. Okay. And how many hours of the day do you spend as the CFO for CBSG?
A. I'm there whenever it's needed.
Q. How many hours per day?
A. I'm on the clock 24 hours a day.
Q. Okay. And how many of those are actually working?

A. About half.
Q. About half? So 12 hours a day for CBSG?
A. That's right.
Q. Okay. Doesn't leave a lot of time for the other 44 companies, does it?
A. No, I'm on the clock for CBSG and any of the other companies that we have service agreements for.
Q. Okay. All right. So you're the CFO -- and just for the record, a CFO is a chief financial officer, correct?
A. That's right.
Q. So you're the CFO for 45 companies during this time period, and it's your testimony under oath that from an accounting perspective, income is the exact same thing as revenue?
A. Yes. That is from a GAAP perspective. You have to be very specific on how you're using those words. They're contextual.
Q. Okay. How do you use those

words? How does income differ from revenue under GAAP?
A. It depends on what sort of income you're referring to. So revenue generally is associated with gross profits of the business. To get an idea of the revenues produced by that business, the delta between that and costs of goods sold and operating expenses is your net income, your net ordinary income, and any sort of taxes and interest payable after that would be then your true net income for that business.
Q. So just so I'm clear, under GAAP, the income would be revenues minus expenses?
MR. BERMAN: Objection.
THE WITNESS: Yeah. What I'm explaining to you is net ordinary income. It's generally treated as revenue minus expenses.
BY MR. HESKIN:
Q. And I -- I watch CNBC almost

every day. When a company reports earnings, there's a difference between income and revenues, right? They can -- they can, you know, be -- beat on income but miss on revenue and their stock goes down, right? You know that distinction, right?
A. Yes.
Q. Okay. And the revenue is basically the equivalent of receivables, right?
A. It's your gross profit, how much money did you guys bring in as part of your practice and products and services.
Q. Gross profit is their income, right?
A. It's their revenues.
Q. No, no. Revenue is how much money they bring in as a result of sales. For example, if I sell --
MR. BERMAN: Is this a question or is statement? Question, answer, question,

answer.
MR. HESKIN: I'm trying to clarify it.
BY MR. HESKIN:
Q. If I sell a widget for a million dollars and it costs me $300,000 to make, the revenue is a million dollars, right?
A. Right.
Q. And my income on that would be $700,000, right?
A. Right. Assuming that 300 was your only expenses.
Q. Sure. I'm trying to basic break it down so a jury can understand it.
A. And I'm clarifying for the sake of, you know, semantics. When it comes to finance, a lot of people use income and revenue interchangeably. It depends on the actual context and application of those terms.
Q. Okay. Well, under GAAP, right?

A. Yeah.
Q. The definition would be used as I'm using it, right?
A. Right. Under GAAP usually we refer to revenue and gross profit as top line in how much revenue a company generated.
I usually refer to net ordinary income as that revenue minus cost of goods, minus SGNA, which is operating expenses for a business.
We then refer to net income, as opposed to ordinary net income, as that number minus interest, taxes and amortization.
Q. Got it. And that's common -- commonly used in accounting, right?
A. Yes, that's the basics of it.
Q. That's the basics. Got it.
And did -- did you ever see an agreement where the word income was -- was used on any of the CBSG agreements

with Ms. -- with HMC?
A. No, income is not generally used as a factor in considering what the arrangement would be with our clients.
Q. What is used?
A. We use receivables. We use the factoring amount against those receivables.
Q. So as the 30(b)(6) witness for CBSG, you're not aware of any agreements between CBSG on the one hand and HMC on the other, where the agreement specifically referred to the term income, correct?
A. I'm not aware.
Q. Not aware. Got it.
And as the -- since you're not aware of the word being used, I assume you're not -- you're not able to testify one way or the other how the word income was used, correct?
A. That's right, I'm not able to.
Q. Okay. And what did you do,

if anything, to investigate what the term income meant on any of the agreements between CBSG and HMC?
A. I reviewed the factoring agreements between us.
Q. Okay. Did any of the agreements that you reviewed use the word interest?
A. No, not to my understanding. We do not use the word interest.
Q. Why not?
A. Because it's not an interest-bearing product.
Q. So none of the agreements that I have in my little pile here or my little queue here should use the word interest, right?
A. Right.
Q. And if it did use the word interest, that would be a problem, right?
MR. BERMAN: Objection.
THE WITNESS: If it did, it would be a misstatement on the intended structure of the product.

This is a factoring agreement and it would conflict with the structure of the agreement.
BY MR. HESKIN:
Q. Okay. And so -- let me ask you this: These are the -- the agreements that my client entered into with CBSG, they're the sale of future receivables, right?
A. Correct.
Q. What happens if future receivables aren't generated?
MR. BERMAN: Objection.
THE WITNESS: Then we'd go into some sort of modification, negotiation with the client.
BY MR. HESKIN:
Q. Does the -- does the client still have to pay if they don't generate future receivables?
MR. BERMAN: Objection.
THE WITNESS: They're still obligated to pay.
BY MR. HESKIN:

Q. Why?
A. Because they're not out of business yet, they're expected to eventually have receivables again. If they file bankruptcy, that's a whole different story, right?
Q. Oh, good. So if they file for bankruptcy and they go out of business, do they have to pay?
MR. BERMAN: Objection.
THE WITNESS: No. I mean, we get into whole -- the whole bankruptcy proceedings and getting were what we can from part of the receivables that were collected by the company.
BY MR. HESKIN:
Q. But is filing for bankruptcy a default under the agreement?
A. Yes.
Q. It is?
A. Yes.
Q. Why is it a default if they just go out of business?

MR. BERMAN: Objection.
THE WITNESS: They're not necessarily out of business if you're talking about Chapter 13.
BY MR. HESKIN:
Q. Chapter 7. Let's talk about Chapter 7. My client files for Chapter 7, they're operating at a net loss, they can no longer pay rent, pay their employees, buy -- buy products, so they file for Chapter 7, throw up their hands and say, Sorry, I'm out of business, is that a default under the agreement?
MR. BERMAN: Is this a hypothetical?
MR. HESKIN: I'm asking how --
MR. BERMAN: You can answer the hypothetical with that specific question.
MR. HESKIN: Sure.
BY MR. HESKIN:
Q. Is that a default?
A. Yes.

Q. That is a default?
A. Yes.
Q. Why is it a default?
A. Filing bankruptcy constitutes a default under our agreement.
Q. And why would my -- under that circumstance, my client would owe the remaining balance under the agreement, is that your position?
MR. BERMAN: Objection.
THE WITNESS: We still hold the position that the outstanding balance would still be a receivable and we would get in line along with everyone else as part of any sort of reconciliation in determining what recovered assets we could have the bankruptcy.
BY MR. HESKIN:
Q. But you bought future receivables, and if there are no future receivables, you're entitled to nothing,

right?
MR. BERMAN: Objection.
THE WITNESS: We are entitled to whatever was recovered by the client as part of our receivables. Until we reconcile that as part of the bankruptcy proceedings, we do not know what receivables were received.
BY MR. HESKIN:
Q. Okay. But my client would be -- so if my client got a million dollars from you and they had to pay back 1.5 on Day 1, and then the very next week it's hit with a pandemic and the state or president issues a shutdown order and says, No more businesses, you've got to stop, cease doing business, please shut down, my client's forced to go out of business, is that a breach under the agreement?
MR. BERMAN: Objection.
Don't answer the question.
Do you want to know why,

Shane? Because you're violating a court order by asking questions about things that are outside of the time period about presidential orders and government orders and things to try to -- to obtain improper discovery in a case that's not before you.

So bring the motion. It will be met with a cross motion for sanctions.

Don't answer the question.

And I'll cite it.

TourMappers, how about that, to talk about another case that you're attempting to use this case for an improper purpose.

Bring it to the judge. I'll see you there.

MR. HESKIN: Are you going to -- are you saying he can't answer my question?

MR. BERMAN: I'm told him not to answer the question.

MR. HESKIN: Okay.

BY MR. HESKIN:

Q. Let me ask you this one: My -- my client gets hit with a hurricane, state orders an evacuation, owns a restaurant, can no longer operate. Is that a breach?

MR. BERMAN: Joe, if you can answer these hypotheticals with the vacuum he's giving, go ahead.

THE WITNESS: In the context you're providing, if he's not in operations and is no longer working, it depends. I mean, do they have reserves, do they collect receivables ahead of time? Just because you're not open doesn't mean you can't collect payments from your clients. It really depends on the business and the context of it.

So it's kind of an open-ended example you're providing.

BY MR. HESKIN:

Q. Well, no, because I'm -- I'm using the example of a restaurant, and the restaurant is a point of sale. So point of sale, restaurant, shut down from a hurricane, governor orders them to evacuate, they just got a million dollars from you on the week before, a week later hurricane comes around, their business is shutdown, wiped out by the hurricane and they can no longer operate. Do they still owe CBSG the $1.5 million?

MR. BERMAN: Objection on many grounds, Joe, but if you can answer with this limited fact set of hypothetical, please.

THE WITNESS: Yeah. Hypothetically you would still have the liability and we would get into some sort of negotiation to see when revenues could be resumed and the status of the company.

BY MR. HESKIN:

Q. What if the company is shut

down, can never operate again, $1.5 million. Do they still owe the $1.5 million? Does the company still owe it? Let's start with that.

MR. BERMAN: Objection. Asked and answered and many other objections.

But you can answer, Joe.

THE WITNESS: Yeah. Let me just -- I'll get to it. I think I understand what Shane is getting to here.

In that zero revenue scenario where the business experiences catastrophic losses and is unable to sustain, assuming that the next logical thing would be a bankruptcy proceeding, we would have the liability until it was absolved by the bankruptcy court.

So we'd get in line, see if there was any receivables collected in the time between when

we funded and when the guy shut down the business, and then we would see what we end up with there. There would no doubt be a loss in that scenario.

BY MR. HESKIN:

Q. Okay. So you would only be putting in a claim for bankruptcy for the 10 percent of the receivables that you purchased, right?

MR. BERMAN: Objection.

THE WITNESS: Our UCC usually would reflect the entire RTR value of that factoring agreement based on the underwriting.

BY MR. HESKIN:

Q. So you would put in a claim for the entire $1.5 million even though you only bought 10 percent of future receivables that never came to fruition?

MR. BERMAN: Objection.

THE WITNESS: We put the claim for the entire amount and we

would recover what we could in bankruptcy.

BY MR. HESKIN:

Q. And then you'd go ahead and seek it against the personal guarantor as well, correct, for the balance?

MR. BERMAN: Objection.

THE WITNESS: Yeah, depending on whatever assets the business owners had as part of their agreement, yes.

BY MR. HESKIN:

Q. So the personal guarantor would have to come out of his own pockets, sell his house, whatever assets he has to pay the full 1.5, right?

MR. BERMAN: Objection.

THE WITNESS: Correct. If they have a personal guarantee on their agreement, they would be liable for it personally. That's what a personal guarantee does.

BY MR. HESKIN:

Q. And I think maybe we can

short circuit all this because the point I'm making is the $1.5 million is absolutely repayable no matter what, right?

MR. BERMAN: Objection.

THE WITNESS: In your example, you said it's not repayable really. If it's a bankruptcy, we're often at a loss. The number one type of client we lose money on is through businesses that go out of business.

BY MR. HESKIN:

Q. Well, but that's just like any type of loan.

MR. BERMAN: Objection.

BY MR. HESKIN:

Q. The question is: You claim it's all owed no matter what, right?

MR. BERMAN: Objection.

BY MR. HESKIN:

Q. No matter what happens, you claim, either in bankruptcy or against

the personal guarantor, that the full $1.5 million is absolutely repayable no matter what, right?

MR. BERMAN: Objection.

THE WITNESS: So unlike a loan, which is time based and there's amortization of costs for the people that borrow money with principal. Ours is a fixed factor rate, meaning that it's a steady cost of capital for what was financed, meaning that if six months went by, two years went by, we would have the same receivable value on that agreement. Whereas a loan would amortize interest throughout that entire period of time because loans are based precisely on time value.

BY MR. HESKIN:

Q. That's a great point. Thank you. Thank you so much for that answer.

All right. I got it.

And -- but in either one of those

situations, the client would owe the $1.5 million no matter whether it takes a year or two years to pay it back. No matter what, they have to pay back the $1.5 million, right?

MR. BERMAN: Objection.

THE WITNESS: Assuming it doesn't fall under the qualifications of their liability with the guarantee, yes. But there would be no interest accrued on that during the time period.

BY MR. HESKIN:

Q. Got it. And under the terms of your agreements, is there a set term?

MR. BERMAN: Objection.

THE WITNESS: There is a daily installment and there is an expected time to pay off the RTR.

BY MR. HESKIN:

Q. Okay.

A. There's no fixed term.

Q. There's no fixed term?

A. No.

Q. Don't the agreements specifically state a fixed term?

A. They do.

Q. On the very face of the agreement?

A. They tell you exactly how many installments are needed based on the RTR projected, but I'm saying practically when we get into issues with our clients, we look at the receivables and see is feasible.

Q. Sure. I didn't mean to cut you off. Go ahead.

A. Yeah. We're looking to see what works for the client. We want them to make sure the business is still healthy, they can continue to generate revenue, because collecting more than what the client can pay puts them in a precarious position to pay the rest of our money back as part of that receivable.

So when you say -- let's say there's a 100 payment term, if they get

to the end of that transaction and there's still a slow down in revenues and their receivables, then it makes sense for us to work out a deal to extend the terms or reduce the payments to facilitate the production or receivables for that client.

Q. Okay. And I get how it may work in practice, but my question is: Just on the face of the agreement, if I look at the four corners of the agreement, it has a fixed term, right?

MR. BERMAN: Objection.

THE WITNESS: Yes, on the agreement itself, there is a defined term of how many installments and how many -- and how much money is to be paid on each installment.

BY MR. HESKIN:

Q. So on the face of the agreement it says you are to pay X per day and these are the amount of days you have to pay it back, right?

MR. BERMAN: Objection.

THE WITNESS: Yes.

BY MR. HESKIN:

Q. Okay. And even in the back, it has a reference to the term of the agreement, right?

MR. BERMAN: Objection.

BY MR. HESKIN:

Q. It's in several places, right?

MR. BERMAN: Objection.

THE WITNESS: Yes.

BY MR. HESKIN:

Q. Okay. And so when you say in practice you work with clients to come up with a different payment schedule, you're not required to do so under the four corners of the agreement, right?

MR. BERMAN: Objection.

THE WITNESS: Right. In practice we often work with our clients. The customer service and collections department have an ability to come up with a payment

plan that will make sense for the business.
BY MR. HESKIN:
Q. And if the -- and if the client doesn't agree to a payment plan that is workable with CBSG, then CBSG has the right to file a confession of judgment against the merchant, right?
MR. BERMAN: Objection.
THE WITNESS: Correct. We have the right to seek whatever remedies under the agreement we can to recover the receivable and monies owed.
BY MR. HESKIN:
Q. And in fact, CBSG regularly does that, correct?
A. Yes.
Q. Files COJs where the merchant says that they cannot make the payments demanded of CBSG, correct?
MR. BERMAN: Objection.
THE WITNESS: Yes. In the applicable jurisdictions, yes.

BY MR. HESKIN:
Q. Okay. Applicable jurisdictions, the majority of them are, if not all of them, are Pennsylvania, correct?
A. Yes.
Q. And how many COJs has CBSG filed against merchants since March of this year?
MR. BERMAN: Objection.
Don't answer the question.
MR. HESKIN: You're instructing him not to answer?
MR. BERMAN: I am absolutely. Look at the court order.
MR. HESKIN: All right. Let's take a break right now. We'll come back in 15 minutes. Let's say -- let's say 20 minutes. I got to take a call. We'll come back at 11:50.
(Recess.)
BY MR. HESKIN:

Q. Mr. Cole, can you just -- do you have -- can you just briefly explain what your duties are as CFO for CBSG?
A. Sure. A lot of it has to do with financial reporting and keeping track of the metrics for the portfolio, but that's not to say I'm not involved in the day-to-day granular items, accounts payable, obviously accounts receivable, and just regular operations involving finance.
Q. Okay. Are you -- do you have any responsibilities for dealing with investors in CBSG?
A. Yeah, creditors, yeah.
Q. I use the word investors, you used the word creditors. What's the difference between the two?
A. So the difference between the two is an investor applies for some sort of principal or equity stake. When you invest into a company listed on the NASDAQ, you're buying an actual share of the company. Creditor is just a loan

agreement effectively with people providing money to the company in exchange for a return, but there's no equity ownership as part of the transaction.
Q. Okay. So the sole owner of CBSG is and always has been Lisa McElhone?
A. The family trust technically.
Q. She has a family trust?
A. Yes.
Q. Am I pronouncing her name correctly?
A. No. I know who you're referring to.
Q. How do you pronounce it?
A. McElhone.
Q. McElhone? Okay. So there's a family trust, and that's 100 percent owned CBSG?
A. That's correct.
Q. And Ms. McElhone owns and controls that family trust?

A. She's the grantor of the trust.
Q. And who manages it?
A. Trust entity.
Q. Who is the trust entity?
A. We have an attorney in charge of the trust.
Q. Who's that attorney?
MR. BERMAN: Objection. You don't have to answer this.
MR. HESKIN: Are you instructing him not to answer?
MR. BERMAN: I am.
MR. HESKIN: Okay.
BY MR. HESKIN:
Q. Do you know who Peter Bazio or is Brezio, something like that?
A. It doesn't ring a bell to me.
Q. Okay. All right. So they're creditors, right? So these are -- how many creditors are there?
MR. BERMAN: Objection. If you could point to me to where in

your order you are allowed to go into any of this because I see it as being precluded, complete business relationship --
MR. HESKIN: I'm just asking how -- how many. You know, I --
MR. BERMAN: Don't answer the question. It's in violation of the court order.
MR. HESKIN: Okay.
BY MR. HESKIN:
Q. What -- what information is shared --
MR. HESKIN: So Mr. Berman, are you saying that creditors are the same thing as investors?
MR. BERMAN: I think you heard the testimony, and I think the testimony is clear as is the court order.
MR. HESKIN: Well, he's describing them as creditors. The -- the --
MR. BERMAN: Shane, it's

precluded by court order.
MR. HESKIN: So you're testifying -- you're representing that creditors are the same thing as investors?
MR. BERMAN: For the purposes of what you're asking him about, yes.
MR. HESKIN: Okay. Got it.
MR. BERMAN: Or you can ask him the question. He's the fact witness, but I'm saying your questions are in violation of the court order.
MR. HESKIN: The court order says investors --
MR. BERMAN: Okay. The answer is the answer. You're asking questions in violation of a court order.
MR. HESKIN: Or you're instructing him not to answer --
MR. BERMAN: I'm absolutely comfortable with my instruction.

He has the instruction from me.
BY MR. HESKIN:
Q. Okay. So Joe, you're not going to answer my question? And again my question is just how many creditors are there for CBSG?
A. Right, I'm not going to answer.
Q. Okay. That's fine.
What do you tell the creditors the nature of CBSG's business is?
A. We're in the business of providing working capital for businesses in the United States.
Q. Do you tell them that these are loans?
A. No.
Q. Do you tell them that they have interest rates?
A. No.
Q. Does CBSG tell these creditors that -- creditors/investors that there's a default rate?

A. Yes.
Q. What does CBSG tell the creditors/investors the default rate is on their business?
A. It depends on the point in time.
Q. Let's talk about between -- in 2018 and 2019, during the time period of my client's --
MR. BERMAN: Give him the dates, February 2018 to October 2019, Joe.
THE WITNESS: Uh-huh.
You're talking about the -- and I guess it depends on --
BY MR. HESKIN:
Q. The default rate. Like what were you telling investors that the default rate is?
A. The default rate approximately at that time was about 4 to 5 percent on receivables.
Q. So that's -- that's what you're telling investors?

A. Right. We also confirm exposure and capital loss rate, which is closer to about a point-and-a-half.
Q. A point-and-a-half. All right. And -- and what is your definition of default?
A. Definition of default are clients recognizing their factoring losses in their financials as determined by the rate of nonpayment and what we have in the pipeline for litigation.
Q. So that doesn't -- do you tell investors that, what that definition is?
A. We communicate -- I mean, especially the technical ones, we get into the whole GAAP jargon and going over our audited financials.
Q. And the default rate was 4 to 5 percent during this period?
A. Right, it depends.
Q. Is a client in default if they miss four payments?
MR. BERMAN: Objection.

THE WITNESS: Yes.
BY MR. HESKIN:
Q. Okay.
A. Let me clarify. They're in default legally. They're not necessarily recognized in our financials as factoring losses yet. There's a whole mechanism there.
Q. Is -- is HMC in default?
A. Yes.
Q. Is HMC in default as per what you tell investors?
A. Yes, both in the financials and categorically in the legal realm.
Q. Okay. And if someone is making small payments, even like, you know, let's say they owe one point -- let's say though owe $12 million or $11 million and they're making small payments of 100 million -- or $100 or $200 or $500 every month, is -- is that considered to be in default under what you tell investors?
MR. BERMAN: Objection.

THE WITNESS: No.
BY MR. HESKIN:
Q. That's not considered to be in default?
A. It's not considered in default.
Q. All right. So I just want to make sure. So if I owe $12 million to CBSG under the agreement, like HMC is alleged to owe or close to 12 million, and I stop making payments, correct?
A. Right.
Q. That's a default?
A. Yes.
Q. And that would be a default that's told to investors, correct?
A. Yes.
Q. Okay. But if CBSG -- if my client just decided, You know what? I'm going to make $100 payment in June, July, August or 500, that would not be considered default, right?
A. I mean, your hypothetical assumption is we're accepting that sort

of a deal, and it would be very unlikely we would.
Q. Was HMC reported to investors as a default?
A. In a subsequent period it was recognized as factoring losses, that's one that ends up on our report for financials sent to investors.
Q. When?
A. That was done at the -- well, it's outside the scope of our conversation, but it was done at the beginning of the year.
Q. Beginning of 2020?
A. Yes.
Q. Why wasn't it reported in May of 2020 when HMC stopped making payments?
MR. BERMAN: Objection.
THE WITNESS: We had a long series of negotiations trying to work out the deal.
BY MR. HESKIN:
Q. Working out a deal when

we're in litigation, filed suit, and --
A. Yeah. I mean, legally it's been in default that entire time. The recognition of the factoring losses occurred --
THE REPORTER: I'm sorry. The end of your question, it faded out.
MR. HESKIN: The answer was cut off.
THE WITNESS: Oh, the recognition of the factoring losses occurred in the subsequent period.
BY MR. HESKIN:
Q. So I don't understand that. My client stopped making payments in May of 2019. We filed a lawsuit by at least June of 2019 alleging that they weren't in breach and that CBSG has engaged in a criminal RICO conspiracy, and yet you didn't tell investors that they were in default until 2020?
A. Right. We had discussions

with the client and we were working it out with litigation. The recognition on our financials occurred in the following financial period.
Q. What negotiations occurred in June?
A. We were working this out during the time.
Q. What negotiations were happening in July?
A. That's -- that's between Brad and the client.
Q. Well --
A. You know better than I do. I'm not the one conveying the information, what the client will negotiate. I'm just recognizing revenue into --
Q. Well, you're the one that's responsible for reporting to investors whether a client is in default, right?
A. Yes.
MR. BERMAN: Objection.
BY MR. HESKIN:

Q. Okay. And -- and you just testified under oath that the reason you didn't report to investors that my client was in default until early 2020 was because they were in negotiations for a payment plan, right?
A. That's correct. As a part of our financial -- audited financial methodology, we had the ability to consider clients, even if they're underperforming, non-default for revenue purposes into a subsequent period if it's deemed by our collections and legal department as not truly a default.
Q. All right. So my client stopped making payments in May 2019, sued your client --
A. Yeah.
Q. -- in June of 2019, and hasn't made a payment since May of 2019.
A. Yeah.
Q. But you still didn't report that to investors as being in default because why?

MR. BERMAN: Object to the form.
THE WITNESS: So keep in mind, we're not sending default numbers through our investors on -- we're not sending the audited financials to investors. That's not a routine thing for us. And reporting on default figures are based on our financial methodology. So we had no requirement to do so based on our financial methodology.
This is not just your client, it's the routine course of our business of when we recognize default, because you can have the other argument saying, Oh, you guys are probably going to collect that, why would you write it off for taxes? You guys want to avoid paying taxes on that investor or that client?
So it's a little bit of

balancing act both ways or we truly want to recognize there's a lost cause, and that's when we right it off for the sake of income. We didn't want to be too aggressive and do so in 2019. If that answers your question.
BY MR. HESKIN:
Q. Well, what about the concern of being truthful with the -- the investors, is that a concern?
MR. BERMAN: Objection.
THE WITNESS: That's right. They understand our financial methodology.
BY MR. HESKIN:
Q. So they understand that a company can stop making payments, sue your client alleging a RICO conspiracy, file a counterclaim against CBSG claiming that they owe my client money, and -- and still not be in default. That's -- that's the understanding?
MR. BERMAN: Don't answer

that. That's in violation of the court order.
MR. HESKIN: How is that a -- how is that a --
MR. BERMAN: Look at what you're allowed to ask with respect to communications with investors and you tell me how any of those falls within the scope. If I'm wrong, I have the order right here.
MR. HESKIN: I'm allowed -- specifically allowed to ask what's being told to investors.
MR. BERMAN: No, you're not. What it says is:
"The information Complete Business Solutions Group shares with potential and secured investors regarding factoring loan agreements. Pursuant to Section 2(d) above, this matter does not include specific communications with specific investors."

You're asking for specific --
MR. HESKIN: I'm not. I'm not asking for specific investors. I'm asking generally what are they telling them?
MR. BERMAN: No, you are not, you're asking specific communications. I'm not arguing with you. You have my instruction.
MR. HESKIN: -- with my client what is being told to the investors.
MR. BERMAN: And I -- as I asked you, show me where on the order you're allowed to even talk about that.
MR. HESKIN: You can instruct him not to answer --
MR. BERMAN: Yup.
MR. HESKIN: -- at your own risk.
MR. BERMAN: Listen, you

threatened me four times now. You can call the judge any time you want. Keep on threatening me. It's really inappropriate in the deposition.

I'm really okay with my position. I read you the court order. If you think it's wrong, tell me. I'm happy to reconsider right now.

MR. HESKIN: I think you're wrong.

MR. BERMAN: Where in the order allows you to do it?

MR. HESKIN: I'm allowed to ask him what information is being shared with investors.

MR. BERMAN: Where are you -- where are you looking to make that statement?

MR. HESKIN: Listen, I've read the order, I've pointed it out.

MR. BERMAN: You did not,

you did not point out anything.

MR. HESKIN: I'm not debating.

MR. BERMAN: You got it. I just read you the applicable provision. That's my instruction.

MR. HESKIN: You're instructing him not to answer my question?

MR. BERMAN: You heard my instruction four times now and I read you the applicable section of the court order.

BY MR. HESKIN:

Q. I'm going to ask you the question again.

Did CBSG -- when did CBSG inform investors that my client was in default?

MR. BERMAN: Objection.

You can answer, Joe, because I think you've answered it. But you can answer that one again.

THE WITNESS: Yeah, I

never -- we recognized the default in 2020. We never specifically identified that client as being in default. It's not part of our practice there.

BY MR. HESKIN:

Q. So as of today you've never informed investors that my client is in default?

MR. BERMAN: Objection.

You don't have -- you answered it, so --

THE WITNESS: Yeah. I mean, we don't get into specific clients that go into default. We're looking at this as a large portfolio when there's, you know, thousands of clients. We don't say that one particular client is in default. We say, Here are the numbers that represent our defaults.

BY MR. HESKIN:

Q. Okay. And as of today, is

my client in default or being considered in default per your investors?

A. Yes.

Q. Yes. And when was it first brought or considered as being in default?

MR. BERMAN: Objection.

BY MR. HESKIN:

Q. In 2020?

A. No, it was considered in default legally in -- last year, at around probably May or June, right when we got into this nonpayment situation.

Q. My question is about what you're telling investors.

A. Yeah, financially it was recognized as part of our default methodology in this current year.

Q. What month?

A. February.

Q. And what happened in February to make the determination that HMC was suddenly in default?

A. It was deemed by our

collections, customer service and legal team to be noncollectible, and there was no likelihood, and this is under our financial guidelines, of being able to recover the asset in a near future point in time.

Q. And who made that decision?

A. That is an accounting decision. I made that decision.

Q. You made the decision?

A. I made the decision after conferring with legal.

Q. Legal in-house or --

MR. BERMAN: You don't have to answer that. Calls for attorney/client communication -- attorney/client --

MR. HESKIN: I'm asking who.

MR. BERMAN: Yeah. Calls for attorney/client privileged communication. You're asking directly about communications with legal to make decisions about this case.

No, don't answer it.

BY MR. HESKIN:

Q. You're not going to tell me who you discussed it with?

MR. BERMAN: Yeah, don't answer it.

BY MR. HESKIN:

Q. Were they actually an attorney admitted to practice law in the Commonwealth of Pennsylvania?

MR. BERMAN: You can answer whether you met with an attorney, but you're not saying who, when, where or what.

THE WITNESS: Yes, with an attorney that was admitted in PA.

BY MR. HESKIN:

Q. And not disbarred?

A. Right.

Q. Did you -- did you ever discuss this matter with Mr. Ring?

A. No.

Q. You know who Dan Ring, right?

A. Yes.

Q. He was acting as your general counsel with this matter, right?

MR. BERMAN: Objection.

BY MR. HESKIN:

Q. Right?

A. Dan Ring was an attorney representing CBSG, yes.

Q. During this time period, right, May of 2019, right?

A. He was with us for two months because he -- yeah.

Q. Because what?

A. Because he had an issue with his CLE class that he didn't take.

Q. He wasn't actually a licensed practicing attorney, right?

MR. BERMAN: Objection to the extent it calls for attorney/client, attorney work product.

If that's where you form your knowledge, you don't need to answer.

MR. HESKIN: It's a matter of public record.

MR. BERMAN: Okay. You heard my instruction. If you know it from a public record, answer it, Joe, but it's from communications with attorneys, you don't have to answer it. And I'm sure Mr. Heskin wouldn't disagree with that basic legal principle.

BY MR. HESKIN:

Q. Go ahead and answer it.

A. Yes, it was from a public record.

Q. And how long -- how long did Mr. Ring act as the general counsel for CBSG while he was not licensed to practice in the Commonwealth of Pennsylvania?

MR. BERMAN: Objection.

THE WITNESS: He was employed for two months under FSP, and served as counsel through CBSG, along with the other

attorneys on staff.
BY MR. HESKIN:
Q. And he specifically represented and made communications with my client during this time period, didn't he?
A. Yes.
Q. And his signature line represented that he was the general counsel of CBSG, correct?
MR. BERMAN: Objection.
BY MR. HESKIN:
Q. Correct?
A. Yes.
Q. And at that time he was not licensed to practice law in the Commonwealth of Pennsylvania, correct?
MR. BERMAN: Objection.
THE WITNESS: Yes.
BY MR. HESKIN:
Q. Did you report it? Did anyone report that to the Pennsylvania Ethics Bar?
MR. BERMAN: Objection to

the extent it calls for attorney --
BY MR. HESKIN:
Q. That he was practicing law without a license while he was disbarred?
MR. BERMAN: Objection, to the extent it calls for attorney/client work product.
THE WITNESS: No, he was, terminated.
BY MR. HESKIN:
Q. The answer is what?
A. No, he was terminated.
Q. Okay. Can you complete your answer?
A. Talking to me?
Q. Joe. To Joe.
A. My last response was no, he was terminated.
Q. Okay. Who is responsible for generating the payment history for a merchant that goes into default and has a COJ filed against them, who is responsible for that?

MR. BERMAN: Objection.
THE WITNESS: That's the accounting department.
BY MR. HESKIN:
Q. You're in the accounting department, right?
A. Yes.
Q. You're the head of the accounting department, right?
A. Yes.
Q. So you're responsible for generating that?
A. Yes, my department generates it.
Q. Okay.
MR. HESKIN: Could the court reporter pull up Exhibit No. 14?
BY MR. HESKIN:
Q. Can the witness see that? This is the confession of judgment that was filed against my client, right?
A. Yes.
Q. And did you approve this filing?

A. Yes.
Q. Do you see the date, October 3rd, 2019?
A. Yes.
Q. Did you review this before it was filed?
A. Yes.
Q. You did? You did, correct?
A. Yes.
Q. Did you review the entire file?
A. Yes.
Q. Okay. And this was after the first confession of judgment had already been vacated, correct?
A. I believe so, yes.
Q. And this was after my client stopped making payments in May of 2019, correct?
A. Yes.
Q. And this was after my client sued CBSG in June of 2019, correct?
A. Yes.
Q. Okay.

MR. HESKIN: Can you scroll down to the next page? Next page. Next page.
BY MR. HESKIN:
Q. All right. Do you see that, it's signed by Jamie McElhone?
A. Yes.
Q. Did you give this document to Ms. McElhone to sign?
A. John gave it to Jamie to sign.
Q. Is that a wet ink signature or is that a --
A. That looks like a wet ink signature to me.
Q. Wet ink? Okay. Not a DocuSign?
A. Yes.
Q. Got it. Thank you.
MR. HESKIN: Can you go to the next page? All right. Notice of right. Next page. Next page. All right. Next page.
BY MR. HESKIN:

Q. And again, this is a wet ink signature?
A. It looks like it.
Q. Are you sure about that?
A. I'm not 100 percent sure, but I'm saying it looks like it to me.
Q. Okay. You don't know one way or the other?
A. Right.
Q. If I had a handwriting expert compare this signature to the one above it and they were exactly identical, that would be a problem, right?
A. I'm not sure.
Q. You don't think -- so if this is a cut-and-paste job, that would be a problem, wouldn't it?
MR. BERMAN: Objection.
BY MR. HESKIN:
Q. Do you want to maybe -- maybe you might want to compare the signatures. Take a good look at this one. See where the J at the bottom cross sects and circles the J and goes through

the M in this signature? Do you see that?
A. Yup.
Q. Okay. Let's go back up to the next one above it.
MR. HESKIN: Can we go back a couple?
THE TRIAL TECH: I think I can do a -- cut the screen in half.
MR. HESKIN: Why don't you do that, yeah.
THE TRIAL TECH: Okay.
MR. HESKIN: Okay? Can you move them closer?
THE TRIAL TECH: I think that's as close as we can go.
BY MR. HESKIN:
Q. Can you see them?
A. I can see them, yeah, partially.
Q. Can you --
MR. HESKIN: Is there a way to move the -- the video screen so

that -- oh, there you go. And do the other one next to it or at the bottom?
THE TRIAL TECH: Absolutely.
BY MR. HESKIN:
Q. Do you see that?
A. Yes.
Q. It looks remarkably similar, no?
A. Yeah, I can't tell.
Q. Are you sure that Ms. McElhone actually signed this and this wasn't a cut-and-paste job?
MR. BERMAN: Objection.
THE WITNESS: I am not sure.
BY MR. HESKIN:
Q. Huh?
A. I am not sure.
Q. Was Ms. McElhone in the office at the time this was filed?
A. I'm not sure.
Q. Are you -- are you aware of the odds of someone making two signatures that -- in wet ink that are exactly

identical?
A. No.
Q. Do you know it's almost impossible?
A. No, I don't know that.
Q. Okay. So you understand that she testified or her signature appears on this under penalties of perjury, right, and falsification -- let's read this:
"Signor understands the statements herein are made subject to," let's pull that up. "Made subject to the penalties of 18," I can't really see that, "relating to unsworn falsifications to authorities." Right?
Do you see that?
A. Right.
Q. Did she sign this?
A. It looks like it.
Q. It looks like it. It looks like she signed it twice, doesn't it?
A. Yup.
Q. Exactly the same, huh?

A. Yeah.
Q. Okay. So if I ask her -- put her on the stand at trial and ask her whether or not she physically signed this, she's going to tell me she did, right?
A. I'm not sure.
Q. You're not sure?
A. No.
Q. This doesn't trouble you at all?
A. I'm not sure. I can't interpret that.
Q. Okay. It troubles me.
MR. BERMAN: Go ahead, Shane.
BY MR. HESKIN:
Q. You're in the accounting department, right?
MR. BERMAN: No one wants to hear your commentary. Ask a question.
BY MR. HESKIN:
Q. You authorized this, right?

A. No.
Q. I thought just a few words -- a few minutes back you said you authorized the filing of this document and you reviewed it and you reviewed the whole thing?
A. Yes, I reviewed the whole thing.
Q. Okay. And you were including these signatures?
A. Right. I authorized it in the sense that I confirmed with legal that it was fine to file.
Q. Okay. All right.
A. I did not review the signatures.
Q. Okay. Are you going to -- are you okay with this? Are you going to do anything to correct this?
A. I'm okay with it. As I understand it, they're both signed documents.
Q. Okay. All right.
MR. HESKIN: Can we go back

to the screen we were at before.
BY MR. HESKIN:
Q. And I assume when I look at the other judgments that were actually filed by CBSG during this same time period, none of these signatures are going to be identical to this because that would really be impossible, right?
A. I'm not sure.
Q. Wouldn't that be a problem if I go back and I look at the other COJs and find out that these wet ink signatures are exactly the same?
MR. BERMAN: Objection. Do you have a question about this case? Because I think that's what your deposition is.
BY MR. HESKIN:
Q. During this time period. I want to know if this was actually --
MR. BERMAN: Okay, Shane.
BY MR. HESKIN:
Q. -- sworn to under oath by Ms. McElhone or if this was a

cut-and-paste job by someone in your accounting department?
A. This is not prepared by accounting, this is a legal function. John Hartley prepared this document.
Q. Okay. I thought I heard earlier that accounting was responsible for it.
A. No, you said payment history.
Q. Okay.
MR. HESKIN: Can we go back to the full document now? I'm glad you talked about that.
MR. BERMAN: You like to hear yourself talk with commentary. Is this what this is?
MR. HESKIN: He raised a good point. I'm glad.
MR. BERMAN: Yeah.
MR. HESKIN: Go to the next page. Next page.
BY MR. HESKIN:
Q. Do you see any problems --

MR. HESKIN: No, no, no. Keep it there.
BY MR. HESKIN:
Q. Do you see any problems on this page?
A. No.
Q. No -- no problems on this page?
A. No.
Q. Is that your answer, there's no problems on this page?
A. No, none that I understand as a problem.
Q. Do you see the certification of addresses?
A. Yes.
Q. "The undersigned hereby certifies of record that the precise addresses of defendant is HMC."
Do you see that?
A. Yes.
Q. And then below it --
MR. HESKIN: Can you highlight that for me? Not that

one, the address of plaintiff.
THE WITNESS: Yeah, I see it.
BY MR. HESKIN:
Q. Any problems with that?
A. No.
Q. No problem with that?
A. No.
Q. You testified earlier today that CBSG doesn't have a physical presence in Philadelphia.
A. It does not have a physical presence in Philadelphia. The servicing entity which services CBSG has a physical presence in Philadelphia and facilitates communications on behalf of CBSG using that address.
Q. But this is a certification of address. It says that the plaintiff -- the plaintiff is not Full Spectrum, right?
A. Right.
Q. Who is -- who is the plaintiff?

A. CBSG.
Q. And where does CBSG have an office?
A. Florida.
Q. Doesn't have an office at 20 North 3rd Street, does it?
A. No.
Q. This is a false certification, isn't it?
MR. BERMAN: Objection. I think he's answered this.
But you can answer again.
THE WITNESS: No, I don't believe so.
BY MR. HESKIN:
Q. Why isn't it false? If Complete Business Solutions Group does not have a physical presence in the Commonwealth of Pennsylvania, how is this not a fraudulent representation to the court of Philadelphia?
MR. BERMAN: Objection.
But you can answer it again for the third time.

THE WITNESS: Under our operating agreements, they have the capacity to serve documents for CBSG by Full Spectrum.
BY MR. HESKIN:
Q. That's not Complete Business Solutions Group's address, correct?
A. Correct. There's no physical lease or address legally there for CBSG. It's being conducted by our servicing entity located at that address.
Q. Does this say that?
A. No, it's just an address.
Q. Okay. It's just an address?
A. Yeah, you're not going to put in the relationship for the servicing entity on an address line.
Q. Do you have an understanding of whether or not there's a requirement under the Pennsylvania Rules of Civil Procedure that the plaintiff actually be -- have a physical presence in the Commonwealth of Pennsylvania in order to file a confession of judgment against

someone?
MR. BERMAN: Objection. Are you asking for a legal conclusion on that?
MR. HESKIN: I'm asking for his understanding.
MR. BERMAN: You're asking him a legal question with a legal conclusion after he's answered your question multiple times. You don't like it so you want to keep making up laws, but that's fine.
BY MR. HESKIN:
Q. Do you have that understanding?
A. No, I do not.
Q. Okay. And is -- how many times between February of 2018 and May of -- or October of 2019 has CBSG represented to the Commonwealth of Pennsylvania that it has a physical location located in Philadelphia?
MR. BERMAN: Objection.
THE WITNESS: I don't think

we represent we have a physical location in Philadelphia, just a servicing agreement with our operating entity.
BY MR. HESKIN:
Q. And you'll agree with me that -- that doesn't say that Complete Business Solutions has a servicing agent at that location, right?
MR. BERMAN: Objection. But you can answer it, Joe.
THE WITNESS: Yeah, it does not say that.
BY MR. HESKIN:
Q. Okay. Is CBSG still making this representation to the courts of Pennsylvania?
MR. BERMAN: Objection. You don't have to answer that.
MR. HESKIN: Are you instructing him not to answer?
MR. BERMAN: I am. Read the order.
MR. HESKIN: Got it.

BY MR. HESKIN:
Q. Do you have any problem with this representation to the court, do you think it's accurate?
A. No, I have no problem.
Q. You think it's accurate?
A. Yes, under our operating agreement.
Q. Under your operating agreement, Complete Business Solutions Group is located at 20 North 3rd Street?
A. No, the operating agreement reflects that the servicing entity is located there and it can represent via mailing where it is located.
Q. So it does -- so CBSG does have a physical location in --
MR. BERMAN: Objection.
THE WITNESS: No, the -- by this, I mean the operating entity, Full Spectrum Processing.
BY MR. HESKIN:
Q. Isn't this just a scam to evade paying property taxes and taxes to

the City of Philadelphia?
MR. BERMAN: Objection.
BY MR. HESKIN:
Q. Isn't it?
A. Taxes?
Q. No, income taxes to the City of Philadelphia.
A. No, it's not a scam.
Q. It's not a scam? Well, what actually happens in Florida?
A. We have a business -- an office in Florida.
Q. What happens there?
A. You need to be more clear about what "happens there" means.
Q. Does anything happen there? I mean, you've got an office there. Is it an office that's just a mail drop or do people actually go there and work?
A. We have an office and we had people at the time that were working there, yes.
Q. Who? Who works there?
A. Lisa works there.

Q. Did she work there from February 2018 until October of 2019?
A. Yes.
Q. Every day?
A. No.
Q. How often?
A. For the duration of the time that we had an office in Miami.
Q. What did she actually do there for CBSG?
A. She worked with our sales organization located there.
Q. Okay. And what were her responsibilities?
A. Facilitate communications and manage operations with those individuals in that entity.
Q. Okay. And how many hours a day did she spend physically at the office in Florida?
A. I'm not saying she's regularly in the office every day, I'm saying when she is there, that's what she does.

Q. How often is she there?
A. A few times a month.
Q. A few times a month?
A. Yes.
Q. What's the address in Florida where she worked out of between February '18 and October 2019?
A. For that time period, the office was, to the best of my recollection, 30900 Northeast Boulevard in Aventura, and I forget the suite number. But it's 3500 or the third floor.
Q. Is that a virtual office space?
A. A physical office.
Q. Okay. It was a bulk office space, right, where it's shared with other companies, right?
A. We had a lease exclusive to our unit.
Q. How big was it?
A. About 2,500 square feet.
Q. Okay. And the only person

that worked there was Lisa?
A. Yes, but we also had sales reps that were working for that office employed under a separate entity.
Q. Okay. So let me get this straight: It's a Delaware -- CBSG is a Delaware corporation, right? Just incorporated in Delaware, right?
A. Yes.
Q. Okay. And during the entire time that my client entered into the agreements with CBSG from February 2018 through roughly May of 2019, CBSG had one office located in Florida, correct?
A. That's correct.
MR. BERMAN: Objection.
BY MR. HESKIN:
Q. And that was their only physical location, correct?
MR. BERMAN: Objection.
THE WITNESS: Yes.
BY MR. HESKIN:
Q. And CBSG's only employee was Ms. McElhone, correct?

A. That's right.
Q. Okay. And Ms. McElhone worked out of Florida, correct?
A. Yes.
Q. And she is the sole owner of the company, correct?
MR. BERMAN: Objection.
THE WITNESS: We went over that. It's the trust that owns it.
BY MR. HESKIN:
Q. Okay. And the trust is in her name only, correct?
A. She's the grantor of the trust.
Q. She's the manager of the trust, right?
A. No, we went over that as well, there's an attorney.
Q. Okay. And she makes the decisions, correct, for CBSG?
A. Yes.
Q. And she's a resident of Florida?

A. Yes.
Q. Because Florida doesn't have state income tax, correct?
A. I'm not sure.
Q. All right. So she's a resident of Florida, CBSG has a Florida office and only one office in Florida, correct?
A. Yes.
Q. And its only employee works out of Florida, correct?
A. Yes.
Q. Okay. And its sales staff works out of Florida, right?
MR. BERMAN: Objection.
THE WITNESS: It's not its sales staff, there's a third-party sales entity that worked out of that office.
BY MR. HESKIN:
Q. What's the name of it?
A. There were a couple that went in.
Q. Okay. And who -- who

runs -- and how many different aspects of CBSG are there? Does it just do factoring?
A. Yes.
Q. It doesn't also run other businesses that it acquires through these factoring agreements?
A. No.
Q. It doesn't do that?
A. No, it does not do that.
Q. Who is Anthony Ron?
A. Anthony is an FSB employee.
Q. What's his real name?
A. Anthony Ron Fazio.
Q. And what's his role at CBSG, if any?
A. He does not work for CBSG.
Q. He does not work for -- got it. He works for Full Spectrum, right?
A. That's correct.
Q. Does he do collections on behalf of CBSG?
A. Yes, through Full Spectrum.
Q. And does Full Spectrum

manage businesses on behalf of CBSG?
A. No.
Q. Had CBSG ever acquired a small business as a result of defaulting on a factoring agreement?
A. No.
Q. Did CBSG ever try and enter into a partnership with my client?
A. No.
Q. Never proposed an ownership interest in HMC?
A. No.
Q. Okay. And I assume that CBSG has never engaged in loan-to-own tactics, right?
A. No.
Q. It's never tried to seek ownership of a company as a result of defaulting on one of the factoring agreements, right?
A. No, it has not.
Q. You're not aware of that?
A. No.
Q. Okay. How many Anthonys

work at Full Spectrum?
MR. BERMAN: Objection. Are you now limiting it to February 2018 to --
MR. HESKIN: Yes, absolutely.
MR. BERMAN: Okay.
THE WITNESS: In Philadelphia, there's a lot of Anthonys.
BY MR. HESKIN:
Q. I know there's Anthony Fazio and then there's other Anthony that comes up. I don't know if they're one and the same.
A. Unless I'm remembering incorrect, I think Anthony Fazio is the only employee of Full Spectrum named Anthony.
Q. Okay. So maybe they are one and the same.
So Anthony Ron goes by both Anthony Ron and Anthony Fazio?
A. It's my understanding his

full name is Anthony Ron Fazio.
Q. And has Mr. Fazio ever been convicted of a crime?
A. Not to my knowledge.
Q. You're not aware of any criminal convictions of Mr. Fazio?
A. No.
Q. And you are aware that Mr. LaForte has criminal convictions, right?
A. Yes.
Q. And does Mr. LaForte have any managerial responsibilities over CBSG through his relationship with Full Spectrum?
A. No.
MR. BERMAN: Objection.
BY MR. HESKIN:
Q. No?
A. No.
Q. Does Mr. LaForte do anything on behalf of Full Spectrum for CBSG?
A. No.
Q. Does Mr. LaForte have any

involvement in CBSG?
A. He works through our sales entity.
Q. What's that?
A. Recruiting and Marketing Resources.
Q. Okay. And does Mr. LaForte, through Recruiting and Marketing Resources, have any managerial responsibilities of CBSG?
MR. BERMAN: Objection.
THE WITNESS: No.
BY MR. HESKIN:
Q. No? Does Mr. LaForte have any responsibility for CBSG?
MR. BERMAN: Objection.
THE WITNESS: No.
BY MR. HESKIN:
Q. Through any entity?
A. No.
Q. Does Mr. LaForte have any involvement of any kind with CBSG?
A. Yes, through the sales entity.

Q. Okay. Can you describe that, what those responsibilities involve?
A. He's director of sales and manages relations with our clients.
Q. And is he an owner of CBSG?
A. No.
Q. And you're aware that he holds himself out to investors as an owner of the company, right?
MR. BERMAN: Objection.
THE WITNESS: Yes.
BY MR. HESKIN:
Q. Yes?
A. Yes, he's represented that before.
Q. To investors?
A. Yes.
Q. And you know that's false, right?
A. Yes.
Q. And he knows that's false, right?
A. Yes.

MR. BERMAN: Shane, could you just take this exhibit down so we can actually see each other?
MR. HESKIN: I'm sorry. I want to go back to it.
MR. BERMAN: Yeah, that's fine.
MR. HESKIN: But we can take it down for now.
BY MR. HESKIN:
Q. All right. I think that's all I need to know on that.
And does Mr. LaForte represent to investors that he has his own money invested in CBSG?
MR. BERMAN: Objection.
THE WITNESS: Not to my understanding.
BY MR. HESKIN:
Q. What's that?
A. Not to my understanding.
Q. Does Mr. LaForte have money invested in CBSG?
A. No.

Q. No?
A. No.
Q. Does Mr. LaForte have money invested in the MCA fund?
A. No.
Q. If he told investors that he has $80 million invested in CBSG, that would be a false representation, correct?
MR. BERMAN: Objection.
THE WITNESS: Yes.
BY MR. HESKIN:
Q. That would be false?
A. Yes.
Q. That would be knowingly false, correct?
MR. BERMAN: Objection.
THE WITNESS: Yes.
Technically it's incorrect.
BY MR. HESKIN:
Q. Okay. Let's go back to the -- let's go back to -- let me ask you this: Has Mr. LaForte ever made the representation that he owns CBSG to investors in front of you?

A. Yes.
Q. Did you correct that representation?
A. No, not immediately.
Q. Why not?
A. Because we're in front of other people.
Q. You didn't see a problem with that?
A. No.
MR. HESKIN: Let's go back to that other exhibit. All right. Let's go down to the next page.
BY MR. HESKIN:
Q. And then it says again, plaintiff is Complete Business Solutions Group, Inc., doing business at 20 North 3rd Street, Philadelphia, Pennsylvania 19106.
Do you see that?
A. Yes.
Q. You reviewed and approved this filing, didn't you?
A. Yes.

Q. Is that a knowingly false statement?
A. No, it's through our servicing entity.
Q. Complete Business Solutions Group is a servicing entity?
A. No, through our servicing entity, as I explained, using that address.
Q. They're not actually located at 20 North 3rd Street, right?
A. Correct.
MR. HESKIN: Go to the next page.
BY MR. HESKIN:
Q. Paragraph 12 says:
"Defendant is in default of continuing interest at the rate of 6 percent per annum in the amount of" --
MR. HESKIN: Can you undo that because I can't see it that way.
BY MR. HESKIN:
Q. "In the amount of 279,531

from May 9, and as of the filing of the complaint in confession of judgment."

Do you see that?

A. Yes.

Q. $279,000, that's the amount they're in default?

A. Yes. For that line item.

Q. Okay. Did you confirm that?

A. Yes.

Q. That's a true statement?

A. Yes.

Q. You reviewed it?

A. Yes.

Q. And as the 30(b)(6) representative, you agree with that statement?

A. Yes.

Q. That's truthful and accurate?

A. Yes.

Q. Okay. And then 13, it says:

"Attorney's fees in the amount of 578,396, and a domestication fee in the amount of $650 are owed by

defendant to plaintiff pursuant to the agreements."

Do you see that?

A. Yes.

Q. Where in the agreement does it say they're entitled to a $650 domestication fee?

A. It doesn't say that specific amount. It lists remedies as part of legal and proceedings related to collections.

Q. Okay. Did -- did CBSG actually domesticate the judgment in Maryland?

MR. BERMAN: Objection.

THE WITNESS: I'm not sure.

BY MR. HESKIN:

Q. Well, as of this date, right, you're representing that this fee has been incurred or will be incurred, right?

A. Yes.

Q. This is October of 2019 and we're now in July 30th -- or June 30th,

2020. Has this fee been incurred?

A. Only as part of this proceeding, not on the books.

Q. But -- no, did -- was the $650 domestication fee actually incurred by CBSG?

MR. BERMAN: Objection.

BY MR. HESKIN:

Q. You approved this.

A. Yeah, there's certainly fees. I'm not sure specifically that amount is the precise amount that we had incurred. I believe it's the amount detailed as a part of our schedule of fees associated with collection remedies through this agreement.

Q. I got it. So I'll look at the schedule of fees and I'll see a $650 domestication fee, is that your testimony?

MR. BERMAN: Objection.

THE WITNESS: That isn't the amount, but it's the amount it's describing.

BY MR. HESKIN:

Q. Okay. So are you taking the position that you're entitled to a $650 domestication fee even if you don't domesticate the fee?

A. It's attorneys' fees and a domestication fee. So the attorneys' fee is in the amount of that $578,000 number and a domestication fee in the amount of 650.

Q. As of October of 2019, the date of this confession, had CBSG actually occurred $578,000 in attorneys' fees?

MR. BERMAN: Objection.

THE WITNESS: We incurred fees, yes.

BY MR. HESKIN:

Q. $578,000 in attorneys' fees as of October 2019? Really?

A. Yeah. We paid fees to our lawyers, yeah.

Q. Okay. So I just want to make sure I got this right. You're the

one that approved this filing, right? Right?
A. Yes.
Q. You read it?
A. Yes.
Q. You approved it, right?
A. Yes.
Q. You're in accounting, right?
A. Yes.
Q. You're the CFO of the company, right?
A. Right.
Q. You're representing here or CBSG is representing here that attorneys' fee in the amount of $578,000 have been incurred.
Do you see that?
MR. BERMAN: Objection.
THE WITNESS: Yes.
BY MR. HESKIN:
Q. And you're representing under oath right now that that -- that as of the filing of this date, CBSG had incurred $578,000 in attorneys' fees?

MR. BERMAN: Objection.
BY MR. HESKIN:
Q. Correct?
A. Not -- not necessarily incurred, but there's a reserve for that and related costs estimated for this client.
Q. Does it say that?
A. No. That's the definition of why we have that amount.
Q. Well, how did you come up with that amount?
A. It's based on the proportionality of the referables in question and the extent of the case.
Q. Okay. Well -- well, who calculated that?
A. That was done with legal and accounting.
Q. And how was it calculated?
A. Based on a reasonable estimate on cost of proceedings required to do the litigation. I believe we'll actually be in excess of that amount.

Q. You're going to be in excess of $600,000 to litigate this case?
A. Yes.
Q. Have you incurred $578,000 in fees to this date as we sit here to date?
A. Yes.
Q. You have? On this account?
A. I don't know if it's specifically to this account, but we've definitely incurred that in general fees.
Q. Well, I'm not talking about general. I'm talking about with respect to this particular litigation, has CBSG come -- remotely come close to spending $578,000 in attorneys' fees? Because that's what it represented to the court.
MR. BERMAN: Shane, read the language. But whatever.
Joe, objection. Answer the question.
THE WITNESS: Yes. In my understanding when you would calculate all the in-house counsel

and third-party counsel retained to work on this on a per hour litigation cost, we have incurred 578, and we'll likely incur more than that by the time we're done with the proceedings.
BY MR. HESKIN:
Q. On this particular case, right?
A. On this particular case, yes.
Q. All right.
MR. HESKIN: Let's go to the next one go back real quick.
Let's go back. I'm sorry.
BY MR. HESKIN:
Q. It says here:
"16. See Exhibit H for each factoring agreements' payment history."
Do you see that?
A. Yes.
Q. Who prepared Exhibit H, that would be accountant, right?
A. Where is Exhibit A?

Q. H.
A. Oh, H. I don't see it.
Q. All right. It's the factoring agreement payment history, right?
A. That's an accounting function.
Q. And that's within your department, right?
A. Yes.
Q. Your responsibility, you're the head of that department?
A. Yes.
Q. Okay.
MR. HESKIN: Can you go to the next page? And next page?
BY MR. HESKIN:
Q. Do you see verification? We already discussed that, right?
A. Yes.
Q. This is yet another one that seems to have the exact same signature, right?
A. Yes.

Q. So that's three in the same document that has identical signatures, right?
A. It looks similar to me, yes.
Q. Okay. And again, this is verified under penalties related to unsworn falsification to authorities, right?
A. Right.
Q. Okay.
MR. HESKIN: Next one. That's Exhibit A. Let's keep ongoing. Go all the way to the end. I want to see if we can get to Exhibit H. Scroll all the way down to the end. Go to the last page. Can you go to the last page of the document? Just quickly going?
THE TRIAL TECH: Trying.
MR. HESKIN: This is the one I wanted to go to. So go back a few. All right. So this is good. All right. Go to the -- yeah,

keep on going back. Back, back, back, back, back, back, back.
Okay. That's good.
BY MR. HESKIN:
Q. So this is Exhibit H. Do you see that?
A. Yes.
Q. And this is a document that was filed with the Philadelphia Court of Common Pleas under penalties of false sworn statements, right? Right?
A. Yes.
Q. Okay. And this was reviewed by you, right?
A. Yes.
Q. And this is an accounting document that would have been prepared by someone underneath you or by you, right?
A. Yes.
Q. Okay.
MR. HESKIN: Can you go to the next page?
BY MR. HESKIN:
Q. All right. And this will

reflect -- we talked earlier about various agreements and that at the time that this was filed originally in May of 2019, that there had been four missed payments on each of the agreements, right?
MR. BERMAN: Objection.
BY MR. HESKIN:
Q. Right?
A. No, you're making that assumption.
Q. No, I'm --
A. You defined a default as being four missed payments and then you're assuming that's what occurred with every single one of these deals.
Q. I'm sure the record is clear. If you want to retract your statement now, you can.
MR. BERMAN: Okay. Listen, objection. Mischaracterization. Do you have a question you want to ask him?
BY MR. HESKIN:

Q. Sure. Can you -- can you -- here's exhibit -- on this loan, which is --

MR. BERMAN: Objection.

BY MR. HESKIN:

Q. -- 8/28/18, can you show me how many missed payments there were?

MR. BERMAN: Objection.

THE WITNESS: This doesn't show it on this page.

MR. HESKIN: Okay. Let's go to the next page.

BY MR. HESKIN:

Q. Do you see that finance fee?

A. Yes.

Q. What's your understanding of a finance fee?

A. It's a fee negotiated with the client usually as part of a restructure and modification.

Q. You're an accountant, right?

A. Yes.

Q. What's your understanding of what a finance fee is?

A. It's a fee assessed that we have as part of negotiations with our clients.

Q. It's not a factor rate is it?

A. No, it's a fixed fee.

Q. Okay. And did you get an agreement from HMC that authorized that finance fee?

A. No, I believe there were communications with the client.

Q. Who came up with the amount of that finance fee?

A. It was discussed with the client.

Q. And -- it was? When?

A. Subsequently and several times after confirming via phone and email on her current balances, especially when we had a meeting in May to go over the entire history of her payments and total outstanding balances.

Q. Well, this is dated November 8, '18, right?

A. That's right. Kara knew about this.

Q. Oh, she did? Did she know about it in November of '18?

A. Yes. She's very diligent about reconciling her accounts and fees assessed.

Q. Okay. And I suppose there's an email communicating that finance fee to her?

A. It may just be verbal, but there should be documentation for the communication of the reconciliation on those fees.

Q. Okay. How was it calculated?

A. It was based on the total outstanding, not just this transaction.

Q. Well, what's the formula?

A. There isn't a formula. A negotiation is verbally conducted over the phone.

Q. And so it's CBSG's word versus Kara's word, right?

A. Right. But at the end of the day, they were in agreement, and she confirmed the total outstanding balances.

Q. Where was -- who -- who negotiated that fee with HMC?

A. It was likely through Joe and Kara's conversations.

Q. Well, not likely. As the 30(b)(6) rep, who had that conversation?

A. We had several people involved with communications with her company, both in accounting, underwriting, sales, and her accounting department along with her.

Q. In November of '18 when that $472,356.60 finance fee was charged to my client's account, who made the determination to charge it and who that had conversation with my client?

MR. BERMAN: Objection.

THE WITNESS: I believe the determination was made between Kara and the sales representative Joe.

BY MR. HESKIN:
Q. Okay. And it's your testimony as CBSG's 30(b)(6) witness that Kara agreed to the finance fee?
A. Yes, along with several other expenses as part of this history of transactions we've had with her.
Q. And you understand that she in this litigation vehemently disagrees with that?
MR. BERMAN: Objection.
BY MR. HESKIN:
Q. Right?
A. She did not show any disagreement when it was confirmed with her and her accounting team before.
Q. Where in the agreement does it allow for a finance fee?
A. The finance fee is allowed under the schedule of fees in the back of the agreement under the appendix.
Q. Okay. So that's where I'm going to find this?
A. They have the capacity to

negotiate these fees.
Q. Okay. So I'm going to find it in the schedule?
A. Yes.
MR. BERMAN: Objection.
BY MR. HESKIN:
Q. Okay. And there's a formula there?
A. No, there is no formula. As I said, it's a negotiation.
Q. Okay. And this negotiation was it memorialized in writing?
A. It was especially for subsequent transactions is included and part of the transaction on the subsequent MCA agreement.
Q. With respect to this specific agreement, was it ever memorialized in writing that my client accepted this fee?
A. Not to my understanding.
Q. Did you understand that in the agreement it says that any modifications to the agreement must be in

writing?
MR. BERMAN: Objection.
THE WITNESS: Yes.
BY MR. HESKIN:
Q. Okay. But the modification was never provided in writing, right?
MR. BERMAN: Objection.
THE WITNESS: I'm not sure.
BY MR. HESKIN:
Q. Well, as the 30(b)(6) rep, are you aware of any writing memorializing this modification to the agreement?
A. I'm not aware.
Q. All right. So we looked at the first page, no missed payments, second page, no missed payments.
MR. HESKIN: Can we go to the next page?
BY MR. HESKIN:
Q. Do you see any missed payments here?
A. No.
MR. HESKIN: Go to the next

page.
BY MR. HESKIN:
Q. Any missed payments?
A. No.
MR. HESKIN: Go to the next page.
BY MR. HESKIN:
Q. Any missed payments?
A. No.
Q. This is through May 7, '19, right?
A. Yes.
MR. HESKIN: Go to the next page.
BY MR. HESKIN:
Q. Do you see the full payments going through May 16, 2019?
A. Yes.
Q. Okay. And --
A. Those last three payments were returned. So effectively, the last effective payment was 5/13/19.
Q. Got it. There hasn't been four missed payments, right?

A. No, there are more than four missed payments. What the schedule doesn't reflect are the daily requirements for these payments to be made.
Q. Okay. What --
A. The payments were required to replace the ones that were missed along with the additional payments subsequent to those payments.
Q. Okay. So --
A. We're talking about hundreds of missed payments at this point.
Q. There are hundreds of missed payments?
A. Yes.
Q. On this agreement?
A. You have a daily obligation, and you made a payment last effective 5/13, and then the next effective payment was 7/5.
Q. Okay. I'm not talking about that. I'm talking about as of the date of the original filing, which was -- I

believe it was on May 16th or May 19th.
A. Uh-huh.
Q. There weren't four missed payments, correct?
MR. BERMAN: Objection.
THE WITNESS: There's missing payments no matter how you cut it there.
BY MR. HESKIN:
Q. There weren't four, correct?
A. I'm not sure on the specific dates because the obligations are just business dates. So if it's a 5/19 business date and the last effective payment was done on 5/13, there could be four missed payments then.
Q. Okay. So are you -- are you claiming that there were four missed payments at the time of the first COJ filing?
A. It looks like there were, but I'm unable to see based on the business dates on that calendar time.
Q. Do you see anything that

troubles you about this document?
A. No.
Q. No?
A. No.
Q. Do you know this document was filed in October of 2019?
A. No, I didn't know the specific date.
Q. Well, I think it's October something of 2019.
A. Right.
Q. Maybe October 16th. And this was something that was generated by your department, right?
A. Yes.
Q. We talked earlier about how if a client is continuing to make small payments on a loan even though they're in legal default, that you wouldn't consider that to be in default with respect to the investors, correct?
MR. BERMAN: Objection.
THE WITNESS: Correct, they were not considered in default,

right.
BY MR. HESKIN:
Q. Yeah. Isn't there something strange here? Last three entries?
A. No, not to my understanding.
Q. Not -- to your understanding? You don't find that strange?
A. No.
Q. Did my client make a payment of $560 on July 5th, 2019?
A. Yes, that's what we have recorded.
Q. It is. That's not a fraudulent entry?
A. No.
MR. BERMAN: Objection.
THE WITNESS: My understanding is that was made.
BY MR. HESKIN:
Q. How did you get your understanding?
A. From the people making the collections on those payments.

Q. You understand that Ms. DiPietro had filed an action in June of '19 and that we actually were in litigation as of June and she stopped making payments in May, right?
MR. BERMAN: Objection.
THE WITNESS: No.
BY MR. HESKIN:
Q. Oh. How in the world did she start making these random payments all of a sudden in small amounts in July, August, September? Doesn't that seem odd to you?
A. No, I don't know how they were made.
Q. And I wonder, I just wonder if we ran this again and we -- we went through October '19, November '19, December '19, whether or not there were going to be other mysterious payments reflected in your book.
MR. BERMAN: Is that a question?
MR. HESKIN: Is it?

MR. BERMAN: I don't know. I don't hear a question. I hear musing, but I hear you.
BY MR. HESKIN:
Q. You don't think that's odd?
A. No.
Q. Is this a pattern -- is this common practice amongst CBSG to fabricate payments that one actually made?
MR. BERMAN: Objection.
THE WITNESS: No.
BY MR. HESKIN:
Q. It's not a common?
A. It's not a common practice, no.
Q. You don't think this is a fabricated payment history?
A. No, I do not think so.
Q. You reviewed it and you authorized this, right?
A. Yes.
Q. You think my client made a $50 payment on September 4, 2019?
A. The payment is more than

that because you're looking at one deal out of the numerous deals she has.
Q. All right. You think my client made a -- whatever payment during the pendency of litigation when she's saying that you owe them money?
A. Yes.
Q. Okay. What did you do to prepare for -- for that topic, the payments made?
A. I reviewed this schedule along with the others.
Q. So if I were to request bank statements from CBSG, they'd show a wire or some sort of deposit or payment from my client to your client on these dates?
MR. BERMAN: Objection.
THE WITNESS: Yes.
BY MR. HESKIN:
Q. And you reviewed them and confirmed that those payments were actually made?
A. Yes.
Q. You have?

A. Yes.
Q. You've confirmed that my client made a payment on July 5th, 2019 to CBSG? That's your testimony under oath?
MR. BERMAN: Objection.
THE WITNESS: Yes.
BY MR. HESKIN:
Q. And your testimony under oath is that my client made a payment on August 2nd, 2019 in the amount of $250? That's your testimony under oath?
MR. BERMAN: Objection.
THE WITNESS: It's not 250. Again, it's going to be multiple payments, multiple deals that we divide the payments to.
BY MR. HESKIN:
Q. I'm going to find a payment coming out of my client's bank account showing that she made a payment while she's in the pendency of litigation, right?
A. It was recorded at the time.

I don't know when it came out of her account.
Q. Did you produce your -- CBSG's bank statements reflecting these payments in this litigation?
A. I'm not sure.
Q. Have you seen the actual physical payment? You said you confirmed it.
A. No, I don't process the actual physical payments myself.
Q. How was it paid? Was it paid by check, was it paid by wire, ACH?
A. I'm not sure.
Q. But you confirmed it so how do you know it happened?
A. We reconciled the account. We have audited financials. Lots of people take a look at this and make sure those are recorded and reconciled every month.
Q. Were these payments provided to Clifton?
MR. BERMAN: Who?

BY MR. HESKIN:
Q. Clifton, your auditor.
A. Yes. They took a look at it, yes.
Q. You provided -- so when Clifton audits your books, do they look at the actual bank statements or do they just trust what you provide them in the sheets?
A. They look at the bank statements. It's a financial audit.
Q. So Clifton, if I were to subpoena Clifton and put them under oath, they would confirm that these payments were made?
A. Yes.
Q. Okay. Got it. And just for the record, Clifton, what's their full name?
A. The accounting firm is called Clifton Larson Allen.
Q. Okay. What are their responsibilities?
A. To do financial audits for

our company, CBSG.
Q. Okay. And those audits are used to provide to investors, correct?
A. No. We do not generally provide our audited financial statements to investors.
Q. Okay. Who do you -- who do you provided audited financial statements to?
A. They're for internal use.
Q. They're not provided to any tax authorities?
A. They could be if they requested it, but they are not.
Q. Are they used for tax purposes?
A. No.
Q. How are the MCA agreements accounted for on the books and records of CBSG?
MR. BERMAN: Which ones are you referring to? Are you talking about Kara?
MR. HESKIN: I'm just

talking about generally.
MR. BERMAN: General practices and procedures?
MR. HESKIN: Yeah.
MR. BERMAN: Okay. You can answer that, Joe.
THE WITNESS: They're recorded under GAAP guidance.
BY MR. HESKIN:
Q. Okay. And they're recorded as a receivable or liability?
A. For what, the merchant assets, the receivables that we are purchasing from Kara?
Q. Yup.
A. Of course they're recorded as a receivable.
Q. They're recorded as an asset or a receivable or both?
A. A receivable is an asset.
Q. Okay. And how is the payment to Ms. DiPietro or HMC or a merchant recorded?
MR. BERMAN: Objection.

THE WITNESS: You need to clarify what you mean there.

BY MR. HESKIN:

Q. The principal, how is that recorded, an expense?

A. No. Why would you record a payment as an expense? That's a --

Q. You're giving them money, right? You're giving them a million dollars, how do you -- how do you record that on your books?

A. It's a receivable.

Q. By giving away a million? I'm talking about when you fund someone, you give them a million dollars and then you get back 1.5.

A. Yes.

Q. When you get back the 1.5, you're saying that's -- that's a receivable, I get that.

A. Yes.

Q. How are you accounting for the million dollars that you're giving?

A. That's part of the

receivable.

Q. I'm not following that. Isn't that a cost or an expense?

A. No. If you put out an asset, you have a contra asset on your books. A contra asset is satisfied by the receivable, both the portion for the contra asset and the income portion in the receivable.

We send a million bucks out, $500,000 markup in your example.

Q. Yup.

A. A million five coming back.

Q. Sure.

A. The income portion is 500, the receivable portion is 1.5, and the portion sent out is the contra asset.

Q. So when -- how do you account for the --

A. You're going to see $500,000 of revenue, not including any kind of deferral adjustments, and $1 million receivable as part of the invoice.

Q. Isn't the amount that you're

giving the merchant an expense or a cost?

A. No, it's not a cost. A cost is an actual --

Q. You're giving them a million dollars. It's cash out the door, right?

A. That is not a cost, that's a liability by the client. It's booked as a receivable.

Q. The money that you're giving them is booked as a receivable?

A. Yeah. I mean, this is kind of basic. The -- I don't know if you want me to answer in a metaphor or explain that further.

Q. That's fine. However you can explain it, I just don't get it. I mean, just from a practical sense the way I'm looking at it --

A. Pretend I'm in a rental car business and I've got a $50,000 car that I rent out. I've given them $50,000, but I expect, I don't know, $500 for the rental income, right? So on my assets I have an exposure of $50,000 for that

receivable, right? They've got to give me back the car, I'm out 50 grand if they take the car and crash it or whatever, and it's not covered under insurance. So on my balance sheet I'm reporting a receivable for that total amount, plus the $500 revenue.

In my example to you, a million dollars is similar to a car. You're taking this, you're using it, it's part of a liability to you for a receivable on our end. There's no expense there. An expense is defined by capital outflows that are part of running a business. That's not part of running the business, that's effectively the rental car we have on this. It's not a perfect analogy, but the treatment of it is not as an expense.

Q. Okay.

A. And no accountant is going recognize outgoing factoring money as anything else but a receivable.

Q. Okay. I guess -- I guess

the experts are going to have to wrestle that one down because --
A. That's standard, you know, AICPA guidance on that.
Q. Yeah. I'm sure -- I'm sure you're right. It's just too complicated to for me to understand so --
A. It's not a cost because it's capital outflow, is not as part of running the business. It's effectively the balance -- it's a balance sheet transaction. It's going from your cash to your funding receivables, contra asset, back into receivables. Those are your journal entries.
Q. Okay.
A. As part of that last journal entry where you're putting it back into receivables, that's when you book the finance fee income as part of the $1.5 million receivable.
Against that, let's say there's 1,000 payments or 100 payments, you get 100 -- you know, $15,000 payments

against that to make it whole.
Q. Yeah. And I saw something in your expert report in this case, or maybe it was were Fleetwood, but the -- you know, what was the -- at the end of the day, what -- what does CBSG's balance sheet look like? For example, at the end of 2018 when -- during the timeframe of my client, did -- did CBSG's liabilities exceed its assets?
MR. BERMAN: Objection. You don't have to answer that.
MR. HESKIN: I'm trying to figure out how these are recorded.
MR. BERMAN: That's not your question. So ask a question that's confined within what the court allowed. Asking about their profitability, which is what you just asked, is not allowed.
BY MR. HESKIN:
Q. Theoretically you are, the way you're describing that, saying that these are all booked as receivables and

not as costs, so theoretically your books should show that you guys have net gains and net profits on your balance sheets, that you're positive, not negative, right?
MR. BERMAN: You -- just to be clear on my instruction, and the same instruction I'll give here, you can discuss the accounting treatment of income and losses. You do not need to answer a question about the end result of the books and records of CBSG.
So you can answer that.
THE WITNESS: Go ahead, if you want to clarify.
BY MR. HESKIN:
Q. Yeah. What does it look like? I mean, does -- so at the end of the day, are the -- when you're treating it like this, do you have net -- because when you treat it this way, your receivables should exceed your costs, right?

A. The receivables should always exceed the cost.
Q. Yeah.
A. I mean, if you're going to net a profit, your receivables should always exceed your costs, but I think you're mixing up balance sheet items from income statement items. They're two separate things. There is no cost to sending money out. I can give you a million bucks, I'm going to charge you a fee associated with that million bucks. The only expense on your end is that fee, not the million dollars. That's a balance sheet liability. You have to book that as a liability. That's standard practice for accounting.
You're not going to be able to take a tax write off because you borrowed a million dollars and now you paid it back as an expense, you're only going to be able to write off the expense portion of that transaction.
Q. All right. So how does CBSG

convey that to its investors? Do they convey, tell investors that they're solvent or insolvent?

MR. BERMAN: Objection. You don't have to answer that.

MR. HESKIN: I'm perfectly allowed to ask what information they're telling their investors.

MR. BERMAN: No, you're not.

MR. HESKIN: I'm --

MR. BERMAN: It says the information, complete -- shares the potential and secured investors regarding factoring loan agreements. So if you want to ask that, that's not your question though. You're asking about the balance sheet. That's a different question. That you're not allowed to ask.

BY MR. HESKIN:

Q. Are you -- are you refusing

to answer that question?

MR. BERMAN: Maybe the court reporter can read back the question.

(Pertinent portion of the record is read.)

MR. BERMAN: Yes, you don't have to answer that. That's my instruction.

BY MR. HESKIN:

Q. I'm asking you personally, not on behalf of CBSG. Have you ever been present when CBSG has represented whether it's solvent or insolvent to investors?

MR. BERMAN: Yes, that's my same instruction. You don't have to answer that question.

BY MR. HESKIN:

Q. Are you refusing to answer that question?

MR. BERMAN: I gave him that instruction.

BY MR. HESKIN:

Q. Is CBSG presently solvent?

MR. BERMAN: You absolutely don't need to answer that. Same instruction per the court order.

MR. HESKIN: You're saying that I cannot ask -- when my client has a claim against your client for many millions of dollars, I can't ask whether or not your client is currently solvent?

MR. BERMAN: You can't ask it even if there -- if there was a court order not in place, but here thankfully I don't need to get into mental gyrations with you like that. There's a court order. So no, you're not allowed to talk about any more on investors than what I already read to you per the court order. If you have a problem, the judge I'm sure is available.

MR. HESKIN: You understand

that I have a claim for punitive damages in this case?

MR. BERMAN: Yeah. You have a court order here on this point. So you had all the opportunity in the world to make arguments to the judge about that. The judge issued an order dated March 4th, 2020.

MR. HESKIN: Yup. And I don't see anything in there that prohibits me from asking whether or not they are solvent.

MR. BERMAN: You can -- I'm not going any further. I read you the --

MR. HESKIN: You're instructing him not to answer. You say you have a court order. Show me the provision in the court order that prevents me from asking him about solvency.

MR. BERMAN: What you're asking about is communications

with investors about whether or not they're solvent.
MR. HESKIN: That is not my question. I'm asking right now --
MR. BERMAN: No, that was your question. So if you have something else you want to ask, ask and I'll decide how to instruct him. Your question dealt with what did they tell investors.
BY MR. HESKIN:
Q. Is CBSG solvent as you sit here today?
MR. BERMAN: You don't have to answer that question because it's not in the relevant time period per the court order.
BY MR. HESKIN:
Q. Was CBSG solvent in 2018?
MR. BERMAN: You can answer that, Joe, generally.
THE WITNESS: Yes.
BY MR. HESKIN:
Q. What was CBSG's net worth in

2018?
MR. BERMAN: Don't answer the question.
BY MR. HESKIN:
Q. Was CBSG solvent in 2019?
A. Yes.
Q. Is CBSG currently solvent?
MR. BERMAN: Don't answer the question.
MR. HESKIN: On what basis are you instructing him?
MR. BERMAN: There's a court order.
You know what, Joe? Answer it. I don't want to get into a fight about it. Is solvent or not? How about that?
THE WITNESS: Yes.
MR. HESKIN: Thank you.
BY MR. HESKIN:
Q. How do you know that?
A. Because we look at the financials on a regular basis. We understand and track the health of the

company day-to-day.
Q. Okay. Has CBSG had to layoff any employees due to the pandemic?
MR. BERMAN: Objection.
You don't have to answer that.
MR. HESKIN: It goes to punitive damages.
MR. BERMAN: You don't have to answer that. There's a court order about the time period of relevance in this case.
Don't answer it.
MR. HESKIN: All right. Let's just take a quick break. We'll come back in 15. Let's go 'til 1:40.
MR. BERMAN: How long do you think you're going to be?
MR. HESKIN: All day.
MR. BERMAN: When you continue asking questions that have no relevance about pandemic time periods, I guess that's why

we'd be wasting time.
MR. HESKIN: We'll be here all day.
MR. BERMAN: That's great.
MR. HESKIN: Thank you.
1:40.
(Recess.)
BY MR. HESKIN:
Q. I want to just go back to when you first came to CBSG back in 2012. Since that time -- how were you first hired by CBSG? Who was your contact? Was it Lisa?
A. No. I spoke with Joe.
Q. How did you meet Joe?
A. Let's see what did I do? I responded to an ad for employment on line. He responded to my resume and said that his wife has this business in Philadelphia, he'd like to bring me in for an interview.
Q. Okay. And that business was founded at sometime around 2012?
A. Yes.

Q. The same time that you -- was CBSG already founded at that time or did you guys create it together?
A. No, it was already founded.
Q. It was already founded? Okay.
Did you ever speak with Lisa?
A. Yes.
Q. When's the first time you met Lisa?
A. My interview.
Q. Okay. Where was your interview, was it in Pennsylvania?
A. Yes.
Q. And was Joe there?
A. Yes.
Q. Who -- anyone else?
A. Yes.
Q. Who?
A. A bunch of people. Employees of the business.
Q. Okay. In the timeframe 2018 to 2019, did you have frequent

conversations with Lisa?
A. Yes.
Q. How many?
A. Every day.
Q. Concerning -- you spoke to Lisa every day?
A. Yeah.
Q. And specifically with respect to the operation and management of CBSG?
A. Yes.
Q. And those communications were by phone I assume since she lives in Florida, right?
A. Phone, email, yeah.
Q. Okay. But they -- those communications would occur from you being in Philadelphia and her being in Florida, right?
A. Yes.
Q. Okay. And -- so you have -- are you in email contact with her every day?
A. Yes.

Q. Concerning the factoring of CBSG's business?
A. The factoring?
Q. Yeah, the factoring. Isn't that what you guys do, the sale of receivables is the factoring.
A. Yeah, yeah.
Q. Say that again?
A. Yes. It's the general course of doing business.
Q. You understand what factoring is?
A. You said the factoring of CBSG. I didn't know what you meant by that.
Q. My bad. So you'll agree with me that, you know, CBSG's principal if not sole purpose of business is factoring, right?
A. Yes.
Q. Okay. And it's been doing factoring since 2012 when it first incepted?
A. Yes.

Q. That's all it does, right, is factoring?
A. That's right.
Q. What did you do -- so you're answering my question on personal knowledge yourself, right, that you personally have direct email conversations or communications with Lisa on a daily basis, correct?
A. That's right.
Q. Okay. So if I were to look at your emails, I'd find emails, text messages, et cetera, between you and Lisa every day?
A. Yes.
Q. And they would relate to the management and control of CBSG, correct?
A. Of course.
Q. Okay. And if I subpoenaed your phone records. I'd find numerous phone records of you having conversations with Lisa on a daily basis, right?
A. Yes.
Q. Actively involved, right?

A. Of course.
Q. And she is actively involved from Florida, which is her place of residency, right?
A. Yes.
Q. And she makes decisions on behalf of CBSG, right?
A. That's right.
Q. And she decides what investments to enter into or -- correct?
A. I'm not sure what you mean.
Q. I get confused, too, because we're talking about investments versus creditors, you know. Who is going to fund CBSG. She makes those decisions, right?
A. You're saying she makes decisions in regards to people who lend money to CBSG?
Q. Yes.
A. Yes.
Q. All right. And she's been intimately involved in that, correct?
A. Yes.

Q. And she would have done that from Florida, right?
A. Yeah. I mean, she's up here, too, but it's back and forth.
Q. But when she's here in Florida -- when she's up here in Pennsylvania, she has a house in Pennsylvania, right?
A. Right.
Q. And she -- does she still operate Lacquer Lounge?
A. Yes.
Q. That's her principal business, isn't it?
MR. BERMAN: Objection.
THE WITNESS: One of them.
BY MR. HESKIN:
Q. One of them?
A. Yes.
Q. Okay. And she still does -- is active in the daily management of Lacquer Lounge, correct?
A. I mean, not necessarily daily management. There's people that

run it, she just checks in.
Q. Are you the CFO of Lacquer Lounge?
A. Yes, through the agreement. The same as with CBSG.
Q. So Lacquer Lounge is run through Recruiting Management Resources or is it run through Full Spectrum?
A. That's right. Full Spectrum provides the accounting for Lacquer Lounge.
Q. And you in turn do it on its behalf, correct?
A. Yeah, on -- on the operating agreement's behalf. We do the accounting.
Q. Got it. Is there anyone other than Lisa who makes decisions on behalf of CBSG?
MR. BERMAN: Objection.
THE WITNESS: No.
BY MR. HESKIN:
Q. She's the sole decision maker?

A. No. Directors and myself, Jamie and her.
Q. Well, I just asked you if there's anyone else who makes decisions on behalf of CBSG and you said no.
A. I'm not sure what you meant.
Q. Okay. So --
A. The directors of the company are Lisa, myself and Jamie. Those are the only decision makers in the business. We do have departments, and it depends on how granular you want to get about decisions, you know.
Q. She has -- she has ultimate say, correct?
A. Of course.
Q. So if she says you should invest in this company or you should take money from that company, she's the ultimate backstop, she's the one that makes that decision, right?
MR. BERMAN: Objection.
THE WITNESS: Yeah, I'm not sure what you mean by invest.

BY MR. HESKIN:
Q. It's get money to fund CBSG. She's the ultimate decision maker?
A. If we borrow money from someone, she knows every single person before we do a loan.
Q. Does she sign off on it?
A. No, I sign that.
Q. You sign it on behalf of CBSG?
A. That's right.
Q. Have you ever heard of A Better Financial Plan?
A. Yes.
Q. Who is A Better Financial Plan?
MR. BERMAN: Objection. Generally as long as it complies with the scope of the order.
BY MR. HESKIN:
Q. Go ahead.
A. What's that?
MR. BERMAN: I might add, the scope of order does not allow

him to talk about any investors with specificity under CBSG. So that's covered.
You don't have to answer it.
MR. HESKIN: I'm just asking who they are.
MR. BERMAN: Right. My point was, Joe, if it complies with the scope of the order, you can answer his direct question.
THE WITNESS: If it's not specific to -- if it is specifically pertaining to an investor, then I should not or I can't?
MR. BERMAN: His general question was, I think, who is A Better Financial Plan? That's his question.
THE WITNESS: A Better Financial Plan is an investment custodian in Ambler.
BY MR. HESKIN:
Q. Not an investor, right?

MR. BERMAN: Investor in? Are you asking if he's --
MR. HESKIN: My understanding is that, they're a broker. They're the ones that are responsible for telling and communicating information to other investors?
MR. BERMAN: Again, if this is talking about specific investments in --
MR. HESKIN: No, no.
MR. BERMAN: You can be cute with your words. You're asking about investors in CBSG.
Don't answer the question.
MR. HESKIN: My understanding, Brett, is that A Better Financial Plan is not an investor. They are simply --
MR. BERMAN: You have my instruction.
MR. HESKIN: They're a broker who conveys information to

the actual investors.
MR. BERMAN: Got it. You have my instruction.
MR. HESKIN: Am I right or am I wrong?
MR. BERMAN: Are you asking about their role at CBSG? If that's what you're asking --
MR. HESKIN: I'm asking him in good faith to tell me who A Better Financial Plan is. I know who they are and I'm asking it in good faith. I think the answer is correct, it's within the scope so...
MR. BERMAN: Yeah. My instruction is if you're talking about anything to do with specific investors or vehicles of investors into CBSG, do not answer the question, Mr. Cole.
THE WITNESS: All right. I can't answer it then.
BY MR. HESKIN:

Q. You can't answer it because A Better Financial Plan is an investor?
MR. BERMAN: Objection. Don't answer questions about specific investors. Look at the court order. He has my answer.
BY MR. HESKIN:
Q. Who is Chessler Holdings?
MR. BERMAN: Objection. If it's also talking about specific investors in the group, I would not answer.
BY MR. HESKIN:
Q. Can you answer my question?
A. Chessler Holdings is a fund in Sarasota.
Q. Is a what?
A. It's a fund in Sarasota.
Q. Okay. And how are they related to CBSG?
A. They are not.
Q. They don't have any involvement in CBSG whatsoever?
A. No.

Q. Have they ever?
A. No.
Q. Is there a reason why on their website they purport to have an interest in Par Funding?
A. We've been in discussions.
MR. BERMAN: He asked you a very specific question, and if this deals with a specific investment in CBSG or anything beyond the time scope of the period set forth in Judge Sanchez's order, do not answer the question.
THE WITNESS: Oh, yeah. I can't answer that then.
BY MR. HESKIN:
Q. Okay. Was Chessler Holdings involved with any of the agreements involving my client, HMC?
A. No.
Q. Where is Chessler Holdings located?
A. Sarasota.

Q. Have you had direct conversations with Chessler Holdings?
MR. BERMAN: Joe, don't answer the question pursuant to the court order.
BY MR. HESKIN:
Q. Are you refusing to answer?
A. Yes.
MR. BERMAN: Pursuant to a court order. I'm instructing him not to answer.
MR. HESKIN: We can agree to disagree with that.
MR. BERMAN: The order says what it says. You're violating the court order by asking these questions.
MR. HESKIN: I don't know that I am.
MR. BERMAN: I'm pretty sure you are. I wouldn't be giving the instruction not to answer. I follow court orders.
MR. HESKIN: We can agree to

disagree with that.
MR. BERMAN: That's fine. Do whatever you need to do. Call the judge now if you'd like.
BY MR. HESKIN:
Q. Who is Colin Parone?
A. Colin Parone? Oh, he was an employee for Full Spectrum.
Q. You say he was, as in the past tense?
A. Yes, he was terminated.
Q. He's no longer an employee?
A. Yes.
Q. When was he terminated?
A. A few months ago.
Q. Why was he terminated?
A. What's that?
MR. BERMAN: Hold on. You said he was terminated a few months ago as an employee? Don't answer the question.
BY MR. HESKIN:
Q. Are you refusing to answer whether --

MR. BERMAN: Yes, pursuant to a court order, yes.
MR. HESKIN: We can disagree with your interpretation of that.
MR. BERMAN: That's great. Don't answer the question.
THE WITNESS: It's outside of the scope, right? This is only through the end of 2019.
MR. BERMAN: Correct. He can agree or disagree. He's violating a court order by wasting our time asking these questions.
BY MR. HESKIN:
Q. You do understand you're being put up in your personal individual capacity as well, right?
MR. BERMAN: You have -- you have our position. Call the judge if you're in disagreement.
MR. HESKIN: You're accusing me of violating a court order.
MR. BERMAN: You are.
MR. HESKIN: The court order

is specifically related solely to the deposition of the 30(b)(6) deposition of CBSG.
Now, if you wanted a court order preventing me from getting into these questions for a percipient fact witness --
MR. BERMAN: Got it.
MR. HESKIN: -- perhaps you should have gotten that order, but you don't have it.
MR. BERMAN: Got it.
MR. HESKIN: We'll deal with that later.
MR. BERMAN: You can do whatever you want.
You know what? Just to avoid wasting anybody's time, because this is your position and it is a global position in this deposition, call the judge now. This deposition is not being held open.
MR. HESKIN: You can take a

risk.
MR. BERMAN: I got it.
MR. HESKIN: You can instruct him not to answer, go for it. Good luck with it.
MR. BERMAN: I'm very comfortable with my position, Shane. I will tell him what not to answer. We will absolutely cross move for sanctions against you. Do whatever you've got to do.
MR. HESKIN: Oh, now you're threatening me.
MR. BERMAN: You threatened me with sanctions five times today, maybe six if I didn't count correctly.
Do whatever you've got to do. You're violating a court order.
MR. HESKIN: Okay. I got it. Thank you -- thanks for -- for accusing me of violating a

court order that I'm not violating. That's okay. Got it.
MR. BERMAN: Call the judge whenever you want. I welcome it. You know you're going to lose so you don't want to call the judge, you just want to threaten me and my client. So ask your next question.
MR. HESKIN: Mr. Berman, the time will come. This will all shake out in the end.
MR. BERMAN: You got it. Keep on making threats against me personally.
MR. HESKIN: I'm not threatening. It will shake out. One side will be right and one side will be wrong.
MR. BERMAN: Got it. Any motion will be cross met for a motion for sanctions. You have my word.
MR. HESKIN: You got it.

Can we get back to the deposition now?
MR. BERMAN: You're the only one who is distracting us from the deposition.
MR. HESKIN: Oh, I got it. I got it. I got it.
All right. So let's pull up Exhibit No. 12. Let's see if Mr. Cole has any problems with this document.
BY MR. HESKIN:
Q. Do you have that?
A. Yes.
Q. Ever seen this document?
A. Yes.
Q. You're aware of this document?
A. Yes.
Q. Did you authorize its filing?
MR. BERMAN: Hold on a second. Did you authorize its filing. I'm sorry. I'm not

seeing where this is anything on your corporate designee notice.
MR. HESKIN: Personally.
MR. BERMAN: I don't care. Personally, not personally, you're asking questions about another case.
MR. HESKIN: I'm asking if he authorized this.
BY MR. HESKIN:
Q. Did you authorize the filing of this?
MR. BERMAN: You can answer that, Joe.
THE WITNESS: Yes.
BY MR. HESKIN:
Q. Did you read it?
A. Yes.
Q. You read it from front to back?
A. Yes.
Q. Did you read it before the testimony you just gave five minutes ago?
A. Yes.

MR. HESKIN: Can we scroll down a few pages, get to the affidavit of Lisa McElhone? Right there. There you go.
BY MR. HESKIN:
Q. You read this, too, before its filing?
A. Yes.
Q. Is it a truthful and accurate affidavit made under penalties of perjury?
A. Yes.
Q. It is. Okay. Let's -- let's look at it.
You just testified five, ten minutes ago that you're on the phone every day with Lisa McElhone concerning the factoring side of CBSG, right?
A. Yes.
Q. All right. And that she's the sole decision maker, right?
A. No, you said the effective decision maker for the company.
Q. Yeah, right. She is, right?

A. Not the sole, because we make decisions outside of Lisa's purview.
Q. Okay. Can you look at paragraph 4?
A. Yes.
Q. Is that a true -- true statement?
A. Yes.
Q. I thought we just talked about numerous times that Ms. McElhone lives in Florida?
A. They have multiple properties.
Q. Does she pay taxes in the Commonwealth of Pennsylvania? Or does --
A. I don't know about her personal income taxes.
Q. You just testified earlier that she lives in Florida.
A. Yes.
Q. She's a Florida resident, right?
A. Yes.
Q. And this -- this says that

she lives in Pennsylvania. How can you reconcile the two?
A. She has a property in both locations.
Q. Okay. Where does she live?
A. She's a legal resident of Florida.
Q. Got it. Okay. Paragraph 5 -- well, let's -- let's talk about paragraph 4. It says:
"Joseph LaForte and I are married and live in Haverford, Pennsylvania."
Is that a truthful statement?
A. Yes, they have a house there.
Q. Number 5. "We" -- we, you know what the word we means, right, it means me and Joe, right? "We founded Complete Business Solutions Group in or around 2012."
Is that a truthful statement?

A. Yes.
Q. Okay. So Joe LaForte was a founder of CBSG?
A. Not legally. He was never an owner of CBSG. They did it in conjunction with the sales entity.
Q. So legally is this a truthful statement?
A. Legally, no.
Q. Okay. You know this was a declaration filed under penalties of perjury with a court of law, right?
A. Right. My interpretation of it is that he was part of setting up the company, but it doesn't say that his name is on the ownership of that business.
Q. Okay. So he really is a founder but just not -- not from a legal standpoint?
A. Sure.
Q. He effectively runs CBSG, right?
A. No. On the sales side.
Q. He runs it?

A. You keep going back to that. It's the sales entity versus the fund itself.
Q. Okay. All right. Let's continue. Be --
MR. HESKIN: No, no, go back. This going to be a while. Sorry. Thank you.
BY MR. HESKIN:
Q. So they founded it in 2012 and then it says:
"Mr. LaForte ran the factoring side of the business and I handled the accounting for less than a year."
Do you see that?
A. That's right.
Q. Is that true?
A. Yes.
Q. Got it. Now it says:
"I hired Joe Cole, the current CFO of CBSG, to replace me in 2012. At that time, I started a nail salon called the Lacquer Lounge."

That's a truthful statement, right?
A. Yup.
Q. Can you just were read paragraph 7, just read it -- read it out loud to all of us on the phone or on the video?
A. "I have worked full time at Lacquer Lounge since its inception and have no subsequent involvement in CBSG despite the fact I was never formally removed as its president."
Q. Any problems with that statement?
A. It conflicts with my daily accounts and reporting to her that I do.
Q. Wow, really? So this is a knowingly false statement that was submitted to a court under your approval?
MR. BERMAN: Objection.
BY MR. HESKIN:
Q. You testified earlier you read this from front to back and approved the filing of it, right?

A. Yes.
Q. And you know personally that Ms. McElhone is involved in the business on a daily basis, that they have emails tracking and confirming her daily payments that I'm going to be able to subpoena your records and emails and I'm going to be able to subpoena your phone records and show that Ms. McElhone filed a knowingly false affidavit, right?
MR. BERMAN: Yeah, okay. Is that a question about anything relevant in this case or do you want to just continue nonsense?
BY MR. HESKIN:
Q. Is it true?
MR. BERMAN: Is it true that you're going to subpoena his records, is that what you're talking about?
MR. HESKIN: I'm asking a question.
BY MR. HESKIN:
Q. Is it true?

MR. BERMAN: Is it true that you're going to subpoena his records?
MR. HESKIN: Stop, stop with the coaching objection.
MR. BERMAN: Is it -- is it true is not a question. What's your question?
BY MR. HESKIN:
Q. The documents that you just testified under oath are going to directly contradict the sworn testimony that Ms. McElhone gave to the California District Court, correct?
MR. BERMAN: Objection.
BY MR. HESKIN:
Q. Or were you making misrepresentations under it?
A. No, it conflicts with my testimony.
Q. What's that?
A. No, it conflicts with my testimony.
Q. This conflicts with it?

A. Yes.
Q. Okay. So your testimony was truthful, correct?
A. Yes.
Q. And you'll agree that paragraph 7 is an untruthful statement?
MR. BERMAN: Objection.
THE WITNESS: Paragraph 7 -- yes.
BY MR. HESKIN:
Q. Okay. Is 9 -- paragraph 9 a truthful statement?
A. Only in the context of the sales capacity that Joe has with Recruiting and Marketing.
Q. Well, it specifically states that it's her understanding, and she's the owner, the sole owner of CBSG, that Mr. LaForte, her husband, is responsible for evaluating and closing merchant cash advance transactions at CBSG.
A. It's true. The deals that originate from the sales entity end up being closed at CBSG. They have no

physical involvement in the closing of it in CBSG, but the origination from the sales entity occurs from his end.
MR. HESKIN: Okay. Can we go to the next page?
BY MR. HESKIN:
Q. What's the status of this contempt motion?
A. I'm not sure.
Q. CBSG was sanctioned for violating a stay order, right?
MR. BERMAN: Objection.
BY MR. HESKIN:
Q. Right?
A. Yes.
Q. Several hundred thousand dollars, right?
A. That's right.
Q. Has CBSG paid it?
A. Let me just remember where we ended up. We had funds sent to the court pending follow-up on the sanction and I'm unsure of how that ended up yet. I think it's still outstanding to my

recollection.
MR. HESKIN: Can you go to the next page?
BY MR. HESKIN:
Q. And do you know if Ms. McElhone -- is that her signature?
A. Yes, I believe that is it.
Q. Was that an ink signature?
A. It looks like it to me.
Q. Okay. And this was signed on August 12, 2019, correct?
A. Yes.
MR. HESKIN: I want to pull up another exhibit but I'm having a problem.
THE TRIAL TECH: Do you want me to stop sharing, this take exhibit down?
MR. HESKIN: You can take that one down. Let me get to -- can you pull up Exhibit 4?
THE TRIAL TECH: Sharing now.
BY MR. HESKIN:

Q. We've got -- okay.
MR. HESKIN: We've got -- okay. Can you go to the next page?
BY MR. HESKIN:
Q. So we talked earlier today about how these agreements aren't loans and there shouldn't be any reference to interest, correct?
A. Yes.
MR. HESKIN: Can the videographer pull up the middle portion of that right there? Yeah. That's good.
BY MR. HESKIN:
Q. Are my eyes wrong or is the word interest used?
A. Yes, they erroneously used the word interest.
Q. Why would they do that?
A. They're using it as a means of describing how the factoring transaction works for the client's purposes.

Q. So the client understands that it's interest?
A. That it's in effect similar to an interest product, meaning that they're only paying the fee portion of the transaction.
Q. Okay. And they understand that principal is the amount they receive?
A. The purchase price, right.
Q. Yeah. The words here are principal, right?
A. Yes.
Q. And you understand that the words principal and interest are used in loans, right?
A. Yes.
Q. And my eyes aren't deceiving me here that the plain language says principal and interest, right?
A. That's right.
Q. And it has a term, right?
A. The term is still based on the factoring rate.

Q. Okay. And it says principal is be returned or we reassess the factoring rate, right?
A. That's correct.
Q. Okay. And so if -- I thought earlier you said there was just a fixed payment, that the -- that there's a factor rate and it doesn't matter how long the term is, whether it goes beyond it, it's fixed?
A. There is. This is an unusual transaction to say the least.
Q. Okay. And it says: "Principal to be returned or we will reassess the factor rate." Do you see that?
A. Yes.
Q. And how is the factor rate to be reassessed?
A. Based on whatever the factor rate is on outstanding funding provided.
Q. Okay. And what's the factor rate here?
A. I don't have the factor rate

visible from here.
Q. Is the factor rate stated anywhere in the agreement?
A. Not that I can see from reading this.
Q. How do I know from reading the four corners of this agreement how the factor rate is supposed to be reassessed?
A. So Kara had multiple deals with us. The impetus for this transaction was she had individual purchase order receivables as listed in those invoices to secure the funding so that if she were to receive the payments for those individuals invoices, she would pay us back the amount that's being referred to as interest.
The factor rates are based on prior transactions from the numerous deals that she's done with us. So she's gotten to the point where we regularly do deals with her so often that she has a normal factor rate as expected from the

prior transactions.
Q. Got it. So if I looked at every transaction, it's going to have the exact same factor rate no matter what the term is?
A. In relative time. In the most recent deals that were around this time, it should be a similar structure, yes.
Q. Well, how was the factor rate determined on this deal?
A. The factor rate is negotiated just like other terms.
Q. So I'll find an email saying what the factor rate is?
A. Yeah. I mean, she said that these were receivables, she's going to get assessed at 6,000, you know, dollar amount listed there every day, until she collects on those receivables and pays us back.
The end of the story is we never got the funds from the proceeds on those receivables that we factored.

Q. So are these invoices what's being purchased or are these invoices security?
A. Those invoices are what we're -- she was purchasing for the purposes of this factoring agreement.
Q. She's purchasing invoices?
A. No, we're purchasing invoices. Those are her client receivables that she's collecting to repay us on the basis of this factoring agreement. In the end, she collected that but never remitted the proceeds to us to satisfy the factoring agreement.
Q. All right. If I were to look at those invoices and add them up, I'm going to come up with an amount that's 10 percent of a receipt's purchased amount?
A. No, that's incorrect.
MR. BERMAN: Objection.
THE WITNESS: And this is -- to clarify your further assumption -- your assumption

earlier that it's just 10 percent of revenue. This particular deal, Kara wanted the -- for that amount, so that it's just a $1.8 million advance on those specific receivables for her company and that she would pay a $6,000 -- that 6,000 amount for 44 days. She would receive all that money back and then we'll get the funds from that -- the receivables.
BY MR. HESKIN:
Q. How is that different from a loan?
A. Because it's based specifically on invoice factoring that she has a receivable. A loan is based on providing capital with no actual factoring involved. There's no receivable explained in the loan.
Q. Well, how is this not just merely security? She has to -- she gets 1.8 and she has to pay back 2.1, right?

A. So the basis of a factoring transaction always has to do with a merchant's receivables. These are the individual receivables that a factor rate is being applied on.
Q. Got it.
A. So the transaction is when your factor receivable is received, you then remit that to the finance company providing the capital for it. We sent her a million eight, we did not get a million eight back, and that's why we were reassessing the factor rate based on her prior rate.
Q. But isn't what she's supposed to pay back is 10 percent of each one of these invoices?
MR. BERMAN: Objection.
THE WITNESS: No, and again this is really an unusual structure that Kara was really in charge of forcing the underwriter to put this document together, we recommended it to underwriting at

the end of the day when this went through, but at least we understood the nature of the transaction confirming what was owed and how it was to be repaid.
BY MR. HESKIN:
Q. So the question is, is CBSG really purchasing receipts here or is there --
A. Factoring since these are --
THE REPORTER: I'm sorry. I didn't hear the end of your question at all.
BY MR. HESKIN:
Q. Or are the invoices merely security for what's being advanced?
A. They are purchasing those invoices.
Q. Okay.
A. If you're considering security in terms of collateral as you would in a loan product, like you put your house as collateral or any assets as collateral, the principal provided is

independent of that. That's a contingency. Meaning I get to collect that if you default. You've got to pay back the money, I don't care where the money comes from.
In a factoring transaction, you have specific receivables identified by Kara that she's saying, When these come in, you get the money and proceeds from that. You can charge me the $6,000 amount for the 44 days that I expect for these receivables to come in, and I'll make your 1.8 whole because you're giving me the time value of that money upfront so she can do whatever she needs to do, providing whatever $1.8 million opportunity opens up in her business.
Q. Okay. I got it. That's how it probably should work, right? But how did it actually work?
A. That mechanism is what defines the difference between factoring and loans.
Q. You're right. Absolutely.

100 percent.
And the question is: Here, what does the 10 percent mean? Specified percentage, 10 percent. What does that represent?
A. Yeah. And I have to -- I have to explain that that and the word interest and the word principal were put together haphazardly to reflect the transaction.
As I described, we both have an understanding of the intent of this factoring agreement. Everything else in the factoring agreement, the body of the language, refers to those specific invoices to the point where we actually have copies of those invoices knowing what we were factoring.
I don't think there's any ambiguity about it on Kara's end, especially since this is her, you know, 15th or 14th deal, whatever it was, after she's paid off several of these deals. I don't think she can claim that she

doesn't understand how the transaction works when she's fully taken and paid off several factoring agreements over the course of, whatever, two year relationship we've had.

Q. Well, you understand she filed a lawsuit disputing the way you are interpreting that, right?

MR. BERMAN: Objection.

THE WITNESS: Yes, I understand.

BY MR. HESKIN:

Q. All right. And so you're saying the 10 percent daily, or the specified percentage of 10 percent, that just doesn't mean anything?

A. That doesn't mean anything. That normally is part of her agreements. I believe underwriting made an error including that from a prior version because, you know, we use templates used by prior agreements with merchants so we don't have to remake a contract from scratch and they included that. It's

basically a fragment that has no pertinent applicability to the terms of this purchase.

Q. Okay. So what should this specified percentage be?

A. There is no specified percentage.

Q. Got it.

A. That's your 1.8, and if you take every one of those invoices and tally them up, she knows exactly, that's the 1.8 that we intended to factor.

Q. All right. So if I added up all these invoices, right, I'd come up with 2.107, right?

A. Right.

Q. And you're giving her 1.8 million in exchange for the 2.1, right?

A. Correct.

Q. And she's to pay that over 44 days irrespective of whether or not she collects on those invoices within the 44 days, right?

MR. BERMAN: Objection.

THE WITNESS: No, that's -- and then that's the after 44 days contingency. So we're saying you can pay a fixed fee for that amount of time, but after 44 days, if you do not collect on these receivables, which she sold to us as something right around the corner, money coming into her big operation, you can then go ahead and reassess it at the same factor rate you've done for the last two years.

BY MR. HESKIN:

Q. Okay. And -- and who did the calculations and where can I find a written copy of those calculations?

A. The calculations were done in underwriting as usual.

Q. Your calculations were in underwriting? So I'll go to this file and I'll see the calculations for that?

A. And the support. Obviously

these underwriters used a matrix and go into it.

The point to make with the Kara on this deal was really guided by the merchant. This is an unusual relationship because of how used to working with Kara we had become. She really decided the terms she wanted to work with, and at the end of the day we went with it because she's been, up until the end of it, a really good client.

Q. Okay. So just -- just so I'm clear, the specified percentage of 10 percent, that's false, correct?

MR. BERMAN: Objection.

THE WITNESS: Yes, that should not be on there.

BY MR. HESKIN:

Q. Okay. But it is. And the --

A. It has no relevance to the calculations.

Q. Got it. Got it. And the 6,606 for 44 days, interest only,

that's -- that's wrong, too, right?
A. It describes the payment structure to Kara. As she understands it. It should read fee only rather than the word interest because it's a fixed fee for that amount of time. We did not amortize that in any way akin to a loan on the financials.
Q. Well, who wrote interest only, the underwriter?
A. Yes, the underwriter for this agreement.
Q. Okay. Do you think the underwriter had an understanding of what the true nature of this transaction was?
A. Yes.
Q. And she characterized it as principal and interest, right?
MR. BERMAN: Objection.
THE WITNESS: Right. But not using the correct language. It's not interest and it's not principal.
BY MR. HESKIN:

Q. Got it. So interest is a mistake, right? Didn't mean that, right?
A. Right.
Q. And then principal, oops, you didn't mean that either, right?
A. Correct, that's coming from Kara. She took her words verbatim and said, Oh, can you just make it interest only based on how she understood the factoring fees to work.
Q. So she understood this to be a loan?
A. No. Nothing in the body of this understands it as a fee.
Q. You just described -- you just described to me what she understood, and in your own words, she said, Can you make it interest only. That sounds like a loan to me. She understood this to be a loan?
A. No, it's a fixed cost. There's no interest component, there's no amortization or change in amount based on time.

Q. I got it. You just said that she understood it to be interest, right?
A. Right. There's no APR or anything like you would find in a loan. The rest of the agreement is still the same as all the other agreements.
Q. There's no APR?
A. That's correct.
Q. Are you sure about that?
A. Yes, as a mechanism of the factoring agreement, there's no APR calculated as a loan.
Q. Really. Of course an APR would be associated with a loan, right?
A. And time. Keep in mind the time element that's associated with income received for a loan.
Q. All right. So we were talking about APR, right?
A. Yes.
Q. And APR would never be used in connection with a factoring agreement, right?

A. That's right.
Q. Be unheard of, right?
MR. BERMAN: Objection.
BY MR. HESKIN:
Q. And it would be totally inconsistent with a factoring agreement, right, because APRs are only used with loans, right?
MR. BERMAN: Objection.
BY MR. HESKIN:
Q. Right?
A. Yes.
Q. Got it. What's the APR on this agreement?
A. The what?
Q. What is the APR on this agreement?
A. There is no APR on this agreement, just a factor rate.
Q. And if there were an APR, that would make it a loan, right?
MR. BERMAN: Objection.
THE WITNESS: Correct.
BY MR. HESKIN:

Q. And you understand that the State of Florida has usury laws, right?
A. Yes.
Q. And it's a crime in the State of Florida to charge excess interest beyond the amount -- interest amount permitted under Florida law, right?
MR. BERMAN: Objection.
THE WITNESS: Correct.
BY MR. HESKIN:
Q. It's a crime, right?
A. Yes.
Q. And CBSG is based out of Florida, right?
A. Yes.
Q. Got it. And Ms. McElhone is the owner of CBSG and she lives in Florida, right?
A. Yes.
Q. And all of your communications are with her when she's in Florida, right?
A. Yes.

Q. Got it. So you wouldn't want this to be characterized as a loan, right, because if it was characterized as a loan, Ms. McElhone would be in a lot of trouble, right?
MR. BERMAN: Objection.
BY MR. HESKIN:
Q. Right? She'd be committing a felony in the State of Florida, right --
MR. BERMAN: Are you asking him to give you a legal conclusion that supports your --
MR. HESKIN: I'm asking his understanding.
MR. BERMAN: -- case across the board. Is that what you're asking for? This could be, like, Oh, my God, the ah-ha moment?
MR. HESKIN: I'm asking him his understanding in how these things are structured and why they're structured --
MR. BERMAN: No, that's not

what you're asking. You're asking legal conclusions and scary questions, like -- okay. Did you get what you want? You're asking the same questions over and over again.
MR. HESKIN: I am getting what I want, thank you.
MR. BERMAN: I'm happy you're happy.
BY MR. HESKIN:
Q. You can answer my question.
A. Yes.
Q. Thank you. All right.
So let's look at something.
MR. HESKIN: Can we pull up Exhibit No. 7?
THE TRIAL TECH: I'm not sure I have an Exhibit No. 7.
MR. HESKIN: Do you have Exhibit No. 8?
THE TRIAL TECH: Hold on one second. Oh, yeah, I have Exhibit 7.

MR. HESKIN: Okay. Can we pull that up?
THE TRIAL TECH: Sure. One second. Do you see that?
MR. HESKIN: I believe we can. Can you scroll down to the bottom? All the way down. I want to see the -- go up.
BY MR. HESKIN:
Q. Mr. Cole, have you seen this document before?
A. No, I have not seen this document before.
Q. Do you know who prepared it?
A. No, I do not.
Q. Do you see the APR column in the factor rate?
A. I see the factor rate. You're referring to percentage under Column O?
Q. Yeah.
A. Yes, I see that.
Q. And next to the factor rate it has an APR, right?

A. Yeah. They're labeling it as an APR. That is inaccurate.
Q. Well, this is a document that was produced by CBSG and designated confidential.
Do you see that at the top?
A. Yes.
Q. So this is a CBSG-created document, right?
MR. BERMAN: No, no, don't make false representations. These are documents I believe that were produced by Kara that were then produced back to you is my understanding. So don't make representations that may not be true. Ask threshold questions.
BY MR. HESKIN:
Q. Do you know if this was created by Kara or with CBSG?
A. I do not know.
Q. Okay. And do you know when this document was created?
A. No.

Q. And do you see that the factor rate is -- changes from 1.4 to 1.16?
A. I don't see the top of this. I don't know where you're referring to. I see 1.4 and 1.5 at the bottom.
Q. Okay. Was the typical factor rate 1.4 on all of CBSG -- CBSG's deals with HMC?
A. The base factor rate was, but she had discounted payback rates for shorter durations of time which she almost always took advantage of.
Q. Okay. So my question was this: If this was a document created by Kara, how come CBSG is designating it confidential? It's her document. How can CBSG in good faith designate it confidential?
MR. BERMAN: Are you asking me that question?
MR. HESKIN: I'm asking Joe.
MR. BERMAN: He doesn't designate documents confidential.

THE WITNESS: Yeah, I don't understand what this means.
BY MR. HESKIN:
Q. Is this a confidential document? I can go -- I can go share this with anyone?
A. I'm not sure in the context of the case what that means.
Q. Okay. So is this a document, and you've been produced on their discovery responses, is this a document that is -- was generated and created by CBSG or is it a document that -- that was created by Kara and she's free to share it with whoever she wants?
A. I'm not sure.
Q. You're not sure?
A. Yeah, I don't know who created this.
Q. Okay. And you do see the words APR, right?
A. Right, which wouldn't be something I'd do. That's in conflict of

having a factor rate. Why would you put an APR along the same lines as a factor rate?
Q. All right. So if I did a search of all of your business records, I wouldn't find the word APR anywhere, right?
A. No. If it was used, it's just an approximation for an annual return on the factor. It would not be legally in effect an APR rate used on the deal.
Q. And have you -- has CBSG ever represented to investors that the interest rate on -- on these agreements is 30 percent?
A. No, I would not -- and if they had, it would be a misnomer. It has to be a factor rate.
Q. So when A Better Financial Plan represents on its websites that these MCAs are loans, is that a true statement or a false statement?
A. That's a false statement.

Q. Okay. And when A Better Financial Plan represents to investors that these provide interest rates of 30 percent, is that a true statement or a false statement?

MR. BERMAN: Objection.

THE WITNESS: I'm not sure what that means. You're saying that the deals that we fund are providing an interest rate of 30 percent?

BY MR. HESKIN:

Q. Yeah. That these MCAs are loans with interest rates of 30 percent?

A. Interest rate is incorrect.

Q. Interest rate is incorrect. So that's a blatant misrepresentation that A Better Financial Plan is making to investors, correct?

MR. BERMAN: Objection.

THE WITNESS: It's a common mistake that people who don't understand the factoring business make.

BY MR. HESKIN:

Q. Okay. So you're admitting that they're false misrepresentations being made --

A. It's inaccurate. The factor rate is not an interest rate.

Q. And A Better Financial Plan is making those representations on behalf of CBSG, right?

MR. BERMAN: Objection.

THE WITNESS: No, they better not be.

BY MR. HESKIN:

Q. Well, you have a contract with A Better Financial Plan, don't you?

MR. BERMAN: Objection.

And don't answer that if this deals with the investor relationship.

THE WITNESS: No, I'm not going to answer that.

MR. HESKIN: How about this? Let's go to exhibit -- hold on. Exhibit 28. If you can pull that up.

THE TRIAL TECH: Okay. One second.

MR. BERMAN: Question, Jim (sic). Was this produced in this case?

MR. HESKIN: Probably.

MR. BERMAN: Well, I don't see a Bates stamp. Can you go to the bottom of the page?

MR. HESKIN: Listen, we dumped everything we had.

MR. BERMAN: No, no, no. The documents are Bates stamped in this case so we'll ask questions about Bates stamped documents.

MR. HESKIN: Feel free to bring it up.

MR. BERMAN: No, no, no. I'm not bringing it up. I'm going to tell him not to answer. Discovery is closed, and if you didn't produce this document and want to use it now in the case,

that's a problem for you.

MR. HESKIN: Brett, Brett, it's a publicly available document.

MR. BERMAN: That's an irrelevant answer.

MR. HESKIN: Instruct him not to answer on that basis.

MR. BERMAN: I'll wait to get a question from you.

MR. HESKIN: Good luck on that.

MR. BERMAN: Okay. You got it.

MR. HESKIN: And actually, this is a document that probably should have been produced by you, Mr. Berman.

MR. BERMAN: No, I don't think so.

MR. HESKIN: I think it should have because this is a --

MR. BERMAN: I have zero desire to engage in a discovery

discussion with you right now. I ask a question for the deposition.

If you have a problem, file a motion.

BY MR. HESKIN:

Q. All right. Who is Michael Ferman?

A. Michael Ferman is a manager of an investment entity.

Q. Of who?

A. An investment entity. I forget the name.

Q. Okay. You're familiar with an SEC Form D, right?

A. A little bit.

Q. A little bit. You signed one, right?

A. The Form Ds are filled out by securities counsel and I sign off on it.

Q. Did you review it before you signed it?

A. Yes.

Q. Okay. And are you aware

that you signed one disclosing that A Better Financial Plan was a -- a broker of securities for -- for CBSG? Do you recall that?

A. A broker of securities?

Q. Yeah. This is a securities disclosure, isn't it?

A. Yes, but in the form of the entity that they had.

Q. Sure. And CBSG pays A Better Financial Plan a commission, correct?

MR. BERMAN: No, don't answer the question.

BY MR. HESKIN:

Q. That's not true?

MR. BERMAN: Actually, Joe, don't even answer any questions about this document because I see it's dated May 26, 2020. That's outside of the scope of this case. So don't answer any questions.

MR. HESKIN: You're instructing him not to answer?

MR. BERMAN: I am.

MR. HESKIN: Okay. Let's take a break here. The court reporter probably could use a rest.

So we never took a lunch break. Do you guys want to take time to get something to eat or should we just come back in 15 minutes.

MR. BERMAN: That's not a question for 3 o'clock in the afternoon, but okay.

(Recess.)

BY MR. HESKIN:

Q. So I just wanted to direct your attention to this Form D. You signed this, right?

A. Yup.

Q. Okay. And it identifies A Better Financial Plan as a broker, right?

Well, let's just start with, this is an SEC disclosure, correct?

A. Yes.

Q. And on the first page under point 2, it says:

"Principal place of business and contact information."

Do you see that?

A. That's right.

Q. Principal place of business, right?

A. Right.

Q. And it lists Complete Business Solutions Group, Inc., with an address of 20 North 3rd Street.

Do you see that?

A. Yes.

Q. That's a knowingly false statement; isn't it?

A. It's again by -- under the operating agreement that we've had with the processing entity.

Q. Is that -- is that what you think the SEC is going to believe?

A. Yes, we're allowed to service it through a third party.

Q. Does the SEC know this?

A. Yes, we disclosed that.
Q. You disclosed that CBSG is not actually located at 20 North 3rd Street?
A. Yes, it has a form filing in Florida.
Q. It has a form filing in Florida. This is not really, even though under No. 2 it says principal place of business and you identify 20 North 3rd Street, that's really not it, right?
A. Correct. That's only the operating entity.
Q. Got it. So if I'm looking at this and I'm an investor and I look at this and I see that the principal place of business is for Complete Business Solutions Group is 20 North 3rd Street, that would be -- that would be incorrect, right?
A. Correct.
Q. It's not their principal place of business. Got it. Okay. And then it says, under related persons, it

lists Lisa, it lists you, right? Correct?
A. Yes.
Q. Okay. And it lists you as an executive officer and director, is that true?
A. That's correct.
Q. Even though you're not paid by CBSG?
A. Correct.
Q. Okay. And it also lists Jamie McElhone?
A. Right.
Q. As an executive officer and director?
A. That's right.
Q. And it has her address at 2646 Sartain Street?
A. Right.
Q. That's where -- that's where she resides, I take it?
A. Right.
Q. And you reviewed this, right?

A. Yes.
Q. And it says: "Issuer size, declined to disclose."
Right?
A. I don't see that.
Q. It's on page 4. It's not --
MR. HESKIN: Go to page 4 under 6 where it says Federal Exceptions and Exclusions.
THE WITNESS: Uh-huh.
BY MR. HESKIN:
Q. And it says you're exempt under Rule 506(b).
Do you see that?
A. Yup.
Q. And is that true and correct, that CBSG is exempt under Rule 506(b)?
A. That's correct.
Q. What's that?
A. Yes, that's correct.
Q. And you're filing this because you're offering securities, right?

MR. BERMAN: Objection.
THE WITNESS: No, it's the -- it's the notes that we have that they understand fall under that category, 506(b).
BY MR. HESKIN:
Q. And it's a debt that you're issuing, right?
A. That's right, it's a debt instrument.
Q. And then it says, Minimum Investment. If this is debt, why does it say minimum investment is $250,000.
A. That's the language they use in this form. There is no other term for loan.
Q. Well, I'm more concerned about the minimum accepted is $250,000. Is that right?
A. Yes.
Q. Well, Better Financial Plan is advertising day and night on the radio that you only need 50,000 to 100,000 to invest; is that right?

MR. BERMAN: Objection. You don't have to answer that.
BY MR. HESKIN:
Q. Is the minimum investment $250,000?
A. Yes.
Q. Okay. And then it's got Sales Compensation, and it lists A Better Financial Plan, right?
A. I don't see where that is.
Q. Okay. So go to page 5 under 12?
A. Oh, that right there?
Q. Yeah.
A. Yes.
Q. Okay. And you're familiar with A Better Financial Plan, right?
A. Yes.
Q. And who -- who do you regularly have contact with at A Better Financial Plan?
MR. BERMAN: Objection. You don't have to answer that.
BY MR. HESKIN:

Q. During the time period. Who -- who did you --
MR. BERMAN: Objection. You don't have to answer that.
BY MR. HESKIN:
Q. Go ahead. You can answer.
A. I don't have to answer.
Q. Are you familiar with Dean Vagnozzi (ph)?
A. Yes.
Q. Okay. And do you regularly have conversations with -- or communications with Dean Vagnozzi?
MR. BERMAN: Objection. You don't have to answer that.
MR. HESKIN: On what basis?
MR. BERMAN: On the basis of the court order that talks about the only set of communication with respect to potential and secured investors and it talks that you do not need to include specific communications with specific investors. So that's the basis.

MR. HESKIN: He's not an investor. It says right here he's a salesperson, and salespersons are the ones that are communicating information to the investors. So that's exactly what I'm entitled to.
MR. BERMAN: Yeah, I got you. My instruction stands.
MR. HESKIN: You're still refusing to allow him to answer even though A Better Financial Plan is the one that's making communications to investors, right?
MR. BERMAN: Yeah, you got it. That's my instruction.
MR. HESKIN: And I'm entitled to -- specifically entitled to ask about communications to investors, right?
MR. BERMAN: No, you are not allowed to talk about specific

communications to specific investors.
MR. HESKIN: I'm not.
MR. BERMAN: So you flipped that on its head. It's:
"Pursuant to Section 2(d) above, this matter does not include specific communications with specific investors."
MR. HESKIN: Yeah. And I'm not asking about specific investors. I'm asking about communications that A Better Financial Plan gives generally to investors.
MR. BERMAN: That's not your question.
MR. HESKIN: That's my -- that is my question.
MR. BERMAN: That was not your question.
BY MR. HESKIN:
Q. Mr. Cole, A Better Financial Plan provides information to investors on

behalf of CBSG, correct?
A. No.
Q. No?
A. No.
Q. They provide information to investors, correct?
A. No. Well, investors, yes, but not our investors.
Q. Well, A Better Financial Plan -- well, this is a filing by CBSG, right?
A. Yes.
Q. And you're paying A Better Financial Plan to go out and get investors for CBSG, right?
MR. BERMAN: Yeah. You don't have to answer that question.
THE WITNESS: No, I won't answer it.
BY MR. HESKIN:
Q. Okay. What does A Better Financial Plan do?
MR. BERMAN: Generally or

for CBSG?
MR. HESKIN: Generally.
MR. BERMAN: If you know generally what they do.
BY MR. HESKIN:
Q. What do they do generally for CBSG?
MR. BERMAN: That's different. No, don't answer the question.
BY MR. HESKIN:
Q. So -- all right. Maybe this answers it for me. Does A Better Financial Plan provide sales for CBSG?
A. I don't know what you mean by sales.
Q. Well, it says -- it lists right here, A Better Financial Plan, they're a broker or dealer, right?
A. Yes.
Q. Okay. What are they, are they a broker or a dealer?
A. They're allowed to do both.
Q. Okay. And they are

brokering, they're not an investor themselves, right?
MR. BERMAN: You don't have to answer that, Joe.
THE WITNESS: No, I won't answer that.
BY MR. HESKIN:
Q. Okay. Have you seen A Better Financial Plan's videos that are on their website?
A. No, I have not.
Q. You haven't seen the videos where Dean Vagnozzi calls MCAs loans 50 times?
A. No, I have not.
Q. If Dean Vagnozzi is out there describing to investors that CBSG's factoring agreements are loans with interest rates of 30 percent, would that be a true or false statement?
A. That would be false.
Q. Okay. And CBSG is not aware that these representations are being made publicly?

A. They're not aware.
Q. Okay. Has Dean Vagnozzi ever made that representation in front of you?
A. I've corrected him, yes.
Q. He has made that representation?
A. Yeah. The guy uses the loan word and doesn't understand the product properly, and I had to correct him and explain factoring.
Q. Okay. And did you ever correct him in front of investors?
A. No.
Q. Did he ever make that representation in front of investors?
A. He may have. I'm not sure.
Q. As you sit here today, were you ever aware of a time period when Dean Vagnozzi told investors that CBSG's MCA products were loans?
A. Yes, he has before.
Q. Okay. And did you correct him in front of those investors?

A. No.
Q. Okay. Did Dean Vagnozzi ever represent to investors that CBSG's MCA loans had interest rates of 30 percent?
A. Yes.
Q. And you witnessed this, correct?
A. Yes.
Q. Okay. Did Dean Vagnozzi ever represent to investors that the default rate of the CBSG's MCAs were between 2 and 4 percent?
A. Yes.
Q. Is that a true and correct statement?
A. It depends on the time.
Q. Is it a true and correct statement for the time period relevant to this litigation, February 2018 to October 2019?
A. Yes, it's a good approximation.
Q. Two to 4 percent?

A. Yes.
Q. As we defined it earlier today?
A. As we defined it earlier today, yes.
Q. Who is Lindsey Blake?
A. We're not supposed to talk about -- I mean --
MR. BERMAN: I --
MR. HESKIN: He's identified specifically right here as a broker or dealer, not an investor.
BY MR. HESKIN:
Q. Is that a true or false statement?
MR. BERMAN: Where are you looking?
MR. HESKIN: I'm looking on page 6, Recipient, Lindsey Blake, broker or dealer, X.
MR. BERMAN: If he's asking about Lindsey Blake as investor or having to do --
MR. HESKIN: Ah.

MR. BERMAN: You don't have to answer.
MR. HESKIN: I'm asking -- I'm asking --
BY MR. HESKIN:
Q. In your representation that you filed with the SEC that Lindsey Blake is a broker or dealer of securities on behalf of CBSG.
Do you see that?
A. Yes.
Q. Okay. Is that true?
MR. BERMAN: You can just answer that question. If you know.
THE WITNESS: Yeah, they're not any longer. They did before.
BY MR. HESKIN:
Q. Why are they no longer?
A. Because we don't have that legal structure with them any longer.
Q. Why not? Did something happen?
MR. BERMAN: Yeah, you don't

have to answer that question.
THE WITNESS: No, I won't answer that question.
BY MR. HESKIN:
Q. Okay. Does Lindsey Blake have a criminal history?
MR. BERMAN: You don't have to answer that question.
BY MR. HESKIN:
Q. Does -- did CBSG ever disclose to its investors that Lindsey Blake has a criminal history?
MR. BERMAN: You don't have to answer that question.
BY MR. HESKIN:
Q. During the time period of February 2018 and October of 2019, did CBSG ever disclose to any of its investors that Lindsey Blake had a criminal history?
MR. BERMAN: You don't have to answer that question.
BY MR. HESKIN:
Q. During the same time period,

did CBSG ever disclose to investors that Joe LaForte has a criminal history?
A. No.
Q. Did CBSG, during the same relevant time period, ever disclose to any of its investors that anyone associated or affiliated with CBSG had a criminal back -- a criminal history?
A. No.
Q. Was CBSG ever investigated for failing to make those disclosures?
MR. BERMAN: You don't have to answer that question.
BY MR. HESKIN:
Q. During the relevant time period.
MR. BERMAN: You don't have to answer that question.
MR. HESKIN: Well, let's look at the order.
MR. BERMAN: It says with respect to the use of factoring or loan agreements. That's not what you're asking about.

If you're asking about that, of course we'll comply with the court order.
MR. HESKIN: I am allowed to ask during the relevant time period investigations.
MR. BERMAN: Relating to the use of factoring or loan agreements.
MR. HESKIN: Okay.
BY MR. HESKIN:
Q. And are these -- are these securities for the sole purpose of funding the MCA agreements?
A. No.
Q. They're not?
A. No.
Q. What are they -- what's the purpose?
A. The notes are provided as capital for the business for general use.
Q. Capital for CBSG, right?
A. Yes.
Q. And they use those funds to

fund MCA agreements, right?
A. Along with every other cash flow-related activity the business has.
Q. But they -- they use those funds to fund MCA agreements, correct?
A. Not exclusively.
Q. Did they use those funds to fund the agreements at issue in this case?
A. No.
Q. They didn't? Where did the funds come for the MCA agreements at issue in this case?
MR. BERMAN: You don't have to answer that question.
THE WITNESS: I won't answer the question.
BY MR. HESKIN:
Q. Okay. Who is Alvin Holdings?
A. It's an entity in Texas.
Q. What do they do?
A. They invest in various deals.

Q. MCA deals?
A. No.
Q. Do they broker securities for CBSG?
A. No.
Q. And why are they listed on this SEC disclosure form?
A. They do not any longer. You said do they.
Q. Did they at the time of this?
A. Yes.
Q. All right. What -- what's a finder's fee?
A. Finder's fee is defined as a compensation for bringing in capital.
Q. Okay. And if you look at Item No. 15 on page 12, how did you come up with that number, $3.6 million?
A. That fee is proportionate for amounts paid.
Q. Paid to whom?
A. Huh?
Q. Paid to whom.

A. To the brokers.
Q. Which would include A Better Financial Plan, right?
A. Yes.
Q. And the lawyer, in-house counsel at the time this form was filed was Cynthia Clark; is that correct?
A. Yes.
Q. And was she the general counsel at this time?
A. Yes.
Q. The relevant period is February 12th, 2019, correct?
A. Yes.
Q. And this was directly the time period in which my client was being funded, right?
A. Yes.
Q. Okay. And so you're saying none of these funds were used to fund my client's agreements?
A. No, not directly.
Q. Indirectly were they used?
A. They could have.

Q. Does CBSG have a line of credit to -- did they use a line of credit to fund any of my client's loans?
A. No.
Q. Does CBSG have a line of credit?
A. No.
Q. Has CBSG ever had a line of credit?
A. No.
Q. What was the answer, I'm sorry?
A. No.
Q. Did it ever -- if it never had a line of credit, I assume it never had a $50 million line of credit, right?
A. Right.
MR. HESKIN: Can you pull up Exhibit No. 1?
BY MR. HESKIN:
Q. Have you ever seen this email before?
A. No, I have not.
Q. Okay. You can go to the

second email chain dated October 19, 2018. Do you see that?
Have you had a chance to read that?
MR. BERMAN: What?
BY MR. HESKIN:
Q. The second email.
A. The second email. Yes, I see it.
Q. Okay. And this is an email from Joe LaForte, right?
A. That's right.
Q. Is there a reason why his email says Joe Mack?
A. That's what he goes by.
Q. Is there a reason why his email says Par Funding if he's not employed by Par Funding?
A. Our brokers use Par Funding domain names for their emails.
Q. Do recipients know that he's not really employed by Par Funding?
A. No, they don't know the relationship between brokers and MCA

companies.
Q. Okay. And is that intentional?
A. No.
Q. It's not intentional? Then why not -- why doesn't this say Full Spectrum Processing or Recruiting and Marketing Resources because that's really what he works for, right?
A. No, he works for Recruiting and Marketing Resources. It makes it easier for them to work with a company by having that email address.
Q. Why is it easier? Because they -- because they're misled about who he actually works for?
A. No, because it makes it less complicated for them to understand that they're talking to representatives of the company rather than a broker.
Q. So less complicated for them to -- it's more complicated for them to know the truth?
A. For them to understand that

there's a broker involved, yes.
Q. So you don't want them to know there's a broker involved, right?
A. Yes.
Q. So you're intentionally misleading people to believe there's no broker involved, right?
MR. BERMAN: Objection.
THE WITNESS: It isn't to mislead the client, it's to make their relationship easier to convey.
BY MR. HESKIN:
Q. To knowingly keep them in the dark that they're employed by Par Funding when they're actually employed by Recruiting and Marketing Resources, right?
MR. BERMAN: Objection.
THE WITNESS: No, we have email accounts both ways. These guys often send deals from the broker entity directly. It so happens that Kara, the

relationship was inside of Par Funding. There's no need for it to go through the broker entity.
BY MR. HESKIN:
Q. That's interesting. So -- so did -- did you search for emails from Joe in the Recruiting and Marketing Resources email?
A. No.
Q. Why not?
A. I didn't need to.
Q. Did you search for his AOL account for responsive emails?
A. No.
Q. Did you put a litigation hold on his emails?
A. No.
Q. Did you put a litigation hold on anyone's emails?
A. Not to my understanding.
Q. Are you aware whether or not there's a litigation hold on documents related to this litigation?
A. No.

Q. Has a litigation hold been provided to anyone that worked on the HMC account?
A. No, not to my knowledge.
Q. Who would be responsible for that?
A. I'm not sure.
Q. You never received a litigation hold instruction, right?
A. Not that I remember.
Q. Okay. Let's look at this. So this is Joe Mack. We can -- we can agree that the Joe@ParFunding is one misrepresentation, correct?
A. No.
Q. Not -- not a misrepresentation?
A. No, it's not -- its intension isn't to misrepresent. It's for communication with our clients.
Q. I didn't say whether it was intentional or unintentional. It's a flat-out misrepresentation, right? Because he's not at ParFunding.com,

right?
MR. BERMAN: Objection.
THE WITNESS: No, he's not a ParFunding.Com.
BY MR. HESKIN:
Q. Okay. We can agree on that. All right.
And here's Joe saying:
"I can get him 12 percent for 24 months, interest payable monthly, 140K a month, balloon at 24th month."
And he says:
"Just got audited financials done."
That would be something you would have done, right?
A. Yes.
Q. Okay. And he says here:
"We have $270 million in advances working with Par and I have several other funds."
Is that a true and correct statement?
A. I'm not sure what he means

by, "I have several other funds."
Q. Well, what about the $270 million in advances? As of October 19, 2018, did Par Funding have $270 million in advances working?
A. Yes, that's a good approximation for that period of time.
Q. Okay. And it states here:
"I have 80 million in the company myself."
Is that a true and correct statement?
A. No.
Q. It's not? So this is an email that is being sent on Par Funding email representing that this is coming from Par Funding and that Joe Mack is not only associated or working for Par Funding, but that he has $80 million in the company himself, right?
A. I don't understand your question.
Q. Am I right with that characterization, that Joe Mack or Joe

LaForte is representing -- well, it's actually -- I think we talked about three misrepresentations.
First of all, his name is not Joe Mack, right? That's a false represent -- that's a knowingly false representation, right?
MR. BERMAN: Objection.
BY MR. HESKIN:
Q. Right?
A. I've already said that's what he goes by.
Q. One misrepresentation.
Second misrepresentation that he's Joe@ParFunding.com, correct? Knowingly false representation, right?
MR. BERMAN: Objection.
BY MR. HESKIN:
Q. That's two, right?
A. Yes.
Q. Three, that he has 80 million in the company itself, right? That's the third misrepresentation, right?

MR. BERMAN: Objection.
THE WITNESS: Yes.
BY MR. HESKIN:
Q. Okay. And that his money would be side-by-side with mine.
Do you see that?
A. Right.
Q. That's another misrepresentation, right?
A. Yes.
Q. Because Joe doesn't have any money, right?
A. Right.
Q. Do you have any idea why he would be making all these false representations --
A. No.
Q. -- to my client?
A. No.
Q. Who is Perry?
A. Perry is a consultant for the company.
Q. Okay. And what does he do for the company?

A. He communicates with investors.
Q. So he's responsible for telling -- making -- telling investors about what CBSG does, right?
A. Yes, he provides information to them.
Q. Okay. Perry doesn't actually work for Par Funding, right?
A. Perry does not directly work for Par Funding.
Q. He's a consultant, right? Right?
A. Yes.
Q. Any reason why Perry Abbonizio would be representing to people that he also works at Par Funding?
A. It depends on his interpretation of how a consulting agreement works.
Q. Well, how about him having a Par Funding email?
A. Yes, he is a representative of Par Funding and has a Par Funding

email.
Q. And that's something that Par Funding would authorize him to do, right?
A. Yes.
Q. I can't just get a Par Funding email and call it Shane@Parfunding.com, right?
A. Right.
Q. I'd have to get authorization from Par Funding, right?
A. Yes.
Q. And who at Par Funding authorized Perry and Joe to have Par Funding emails?
A. I authorized it.
Q. You authorized it?
A. Yes.
Q. How many other people did you authorize to have Par Funding emails that don't have any affiliation with Par Funding?
MR. BERMAN: Objection.
THE WITNESS: I don't know.

BY MR. HESKIN:
Q. Is it more than a dozen?
A. I don't know.
Q. How many people have Par Funding emails?
A. I don't know.
Q. You understand that there should be only one person with a Par Funding email, right?
A. No. We have, under our operating agreement, capacity to service the company and they often use Par Funding emails for that.
Q. And that's right in the agreement? If I read the agreement, it's going to say that they're authorized to use Par Funding and misrepresent to people that they're really with Par Funding?
A. No.
Q. I didn't think so. Okay.
And so just so we're clear, you were fully aware that Perry Abbonizio's in communication with my

client and Joe Mack representing himself as being with Par Funding, right?
A. Yes.
Q. Got it.
MR. HESKIN: Did you hear my Alexa? Let's pull up Exhibit 7.
BY MR. HESKIN:
Q. Have you seen this document?
A. I have not.
Q. This post says it's written by Joseph LaForte.
Do you see that?
A. Yes.
Q. And it says that he's the director of sales at Par Funding.
Do you see that?
A. Yes.
Q. And that he's generated over a billion dollars in sales for clients in his career.
Do you see that?
A. Yes.
Q. Are those truthful statements?

A. Yes.
Q. He's the director of sales at Par Funding?
A. They're a broker entity.
Q. I thought he's employed by Recruiting and Marketing Resources?
A. Right. We don't have a director of sales at Par Funding, we work with our close broker entity who serves in that function.
Q. So Par Funding doesn't have a director of sales, yet it's a truthful statement to say that Joe LaForte is the director of sales at Par Funding, right?
A. He's a director of sales by function with Par Funding just because of the operating agreement we have with our sales entity.
Q. Okay. Is the guy with the period, is that Joe LaForte?
A. No.
Q. Who is that guy?
A. It looks like stock footage.
Q. Okay. That's not really Joe

LaForte, right?
A. No.
Q. Why are -- why is Joe LaForte trying to lead people to believe that this is -- this is him?
MR. BERMAN: Objection.
THE WITNESS: I think it's just a use of stock photo. I think no one believes that that's the guy.
BY MR. HESKIN:
Q. Is this really an article that was on Forbes.com?
A. I would assume so.
Q. So if I go on Forbes.com, I'm going to find this article on there?
A. Yes. I have not seen this article myself, but I would assume it is on there.
Q. So if I called up Forbes, they're going to say that they wrote this article and that Forbes is misrepresenting to people that this picture is really Joe LaForte? You

really think that Forbes is that incompetent?
MR. BERMAN: Objection.
THE WITNESS: I have no reason to believe otherwise.
BY MR. HESKIN:
Q. Really. You think that Forbes Magazine is going to write an article and depict the wrong person on their article?
A. No.
Q. But that's exactly what this is, right?
A. No.
Q. It's not? That's not Joe LaForte, right?
A. It's not.
Q. Okay. But it appears on -- apparently it appears on Forbes's website as an article being written by Forbes, right?
A. No.
Q. No? Who is it written by?
A. It says at the top, Written

by --
Q. By who?
A. It says Joseph LaForte is the author.
Q. So Joe wrote this?
A. Yes, it looks like it.
Q. Joe -- Joe wrote all of this and he picked the picture and did all this, is that -- is that your testimony?
A. I'm not sure.
Q. I highly doubt that's true.
MR. BERMAN: Is that meant to insult him or just to put a statement otherwise? I mean...
MR. HESKIN: I can't imagine that Joe wrote this, but we'll find out.
MR. BERMAN: You already asked him these questions, but okay.
MR. HESKIN: Go to the next page. I think it's 8 of 36.
BY MR. HESKIN:
Q. Another post. Have you ever

seen this document?
A. I have not.
Q. Again, Joe LaForte -- written by Joe LaForte, director of sales Par Funding.
Do you see that?
A. Yes.
Q. That's not him, right?
A. Who are you asking? Do you think he's the woman?
Q. The picture. That's not him in the picture, right?
A. No, again that's stock footage.
Q. Okay.
MR. BERMAN: Shane, do you have any questions that you want to ask about Kara DiPietro or do you just want to continue this?
MR. HESKIN: Go to page 11.
BY MR. HESKIN:
Q. Joe LaForte, Par Funding, executive director of sales and operations, Miami, Florida.

Do you see that?
A. Yes.
Q. That's interesting, isn't it?
A. Are you asking me if it's interesting?
Q. Yes. Is it accurate?
A. Yes.
Q. It is accurate. So Par Funding has an office in Miami?
A. Yes.
Q. And that's where Joe LaForte works out of?
A. No.
Q. Well, it says here he's in Miami, doesn't it?
A. Yes.
Q. Okay. And it also says he's the executive director of sales and operations, right?
A. Right, I've already explained that.
Q. Okay. Well, if he's a director, isn't that something you have

to disclose on your SEC Form D that you signed?
A. No.
Q. No? You don't have to disclose all of your directors on the Form D?
MR. BERMAN: Objection.
BY MR. HESKIN:
Q. You identified the three.
A. That's not legally who is the director of CBSG.
Q. Okay. So this isn't true, he's not really a director, right, even though he's --
A. I've already explained, he serves a function through our sales entity.
Q. Okay. Well, he's representing that he's the director of sales operations at Par Funding, but you're not disclosing it to the SEC. Is there a reason for it?
A. Because it's not really legally valid that he's a sales director

at Par Funding. He's not on operating agreements or corporate documents.
Q. So -- all right. If you go to page 14. Do you see the education portion of this?
A. Yes, I see that.
Q. If I went to Belmont Abbey College am I going to find an MBA for Joe LaForte?
A. I don't know.
Q. You don't know? It says right here he's got a master's, an MBA from Belmont Abbey College from 1990 to 1992. Is that true?
A. I don't know.
Q. If I want to Rollins College, am I going to find a bachelor's degree that he earned that one year?
A. I don't know.
Q. Do you know whether or not that's a truthful statement?
A. I don't know.
Q. Okay. All right.
MR. HESKIN: So go to page

15.
BY MR. HESKIN:
Q. It looks like Joe's got a Twitter -- Twitter feed as well? He represents here that he's the vice president at Par Funding; is that right?
A. He's not a vice president of Par Funding.
Q. Do you understand why he's representing that on his Twitter feed?
A. It's the same thing I explained before with our relationship to the sales entity.
Q. Do you have any vice presidents at Par Funding?
A. No.
Q. Oh, okay. Sir, you testified earlier that CBSG only does factoring, right?
A. Correct.
Q. All right. What's Par Funding's Farm Factory?
A. I don't know.
Q. You don't know?

A. I don't know.
Q. Well, can you turn to page 23? Does this refresh your memory of what Par Funding Farm Factory is?
A. No.
Q. You've never seen that?
A. No.
Q. Does it exist?
A. No.
Q. No, it's not a new program that offers business planning?
A. No.
Q. Does Par Funding offer business advice to small businesses?
A. In the spirit of our product, we give guidance to make sure that the factoring transactions make sense for our clients.
Q. And this is directly during the period of my client's agreements, right, June 12th, 2019?
A. That's about when they stopped paying us.
Q. Yeah. Did Par Funding ever

give my client business advice?
A. I believe that there were a lot of conversations between Joe and Kara in regards to how her business should be run and Kara --
Q. Okay. Go ahead.
A. And Kara was very appreciative of advice provided to her by Joe.
Q. Worked out well, right?
A. She said that she would not have grown her business the way she had without the assistance of the factoring product.
Q. Sure. And was that statement before or after CBSG confessed judgment against her, froze her bank accounts and sent out 4,000 UCC notices to various entities, is that before or after?
MR. BERMAN: Objection.
THE WITNESS: Yes, that was before she defaulted on her transactions.

BY MR. HESKIN:
Q. Got it. And you're aware that CBSG sent out 4,000 UCC notices, right?
A. I am not aware.
Q. You're not aware of that?
A. I'm not aware of the total count.
Q. Okay. You're aware they sent out UCC notices, right?
A. Right.
MR. HESKIN: All right. I've got to take a break real quick. Let's come back in 15. So come back at 4:10.
(Recess.)
BY MR. HESKIN:
Q. All right. So welcome back. Joe, is there any reason why everyone at Par Funding uses fake names?
A. I don't know what you mean.
Q. Well, your name is not really Joe Cole, is it?
A. It is.

Q. Your name -- your last name is Cole?
A. No, it's my middle name.
Q. Okay. Your real name is Joseph Barleta, right?
A. Joseph Louis Cole Barleta.
Q. Okay. And why do you use the word Cole?
A. Because it's easier to understand and remember.
Q. Okay. Do you always use the word -- the name as Joe Cole? What's it say on your license?
A. Joseph L. Cole Barleta.
Q. And do you always represent yourself as Joe Cole on media, et cetera?
A. It depends on the document, but generally, yes.
Q. Why does it depend on the document?
A. It didn't require full names.
Q. So you don't ever go by Joe Barleta?

A. My mom calls me that.
Q. Okay. Well, you don't call yourself Joe Barleta, right?
A. No.
Q. And Joe Mack is not really Joe Mack, right?
A. No. I don't know where he got the nickname from.
Q. Okay. And Anthony Ron, that's not really his name, right?
A. I believe Ron is his middle name as well.
Q. Okay. So he doesn't use his -- his real first and last name, right?
A. Anthony is his real first name.
Q. Okay. A lot of people misrepresent themselves as being employed by Par Funding. You wouldn't do that, right?
A. I was employed by Funding -- by Par Funding and still a director of it.

Q. Okay.
A. So if you asked me if I worked for Par Funding I would say yes without getting into the nuances of what a director in the company means.
Q. What are the nuances?
A. A director is in charge of certain aspects of the business, not necessarily an employee, that whole conversation.
Q. What's Capital Source 2000?
A. Capital Source 2000 is a company I have outside of Par Funding.
Q. And you're the owner of Capital Source?
A. One of the owners.
Q. Who is the other owner?
A. William Bromley.
Q. All right. Well, you wouldn't -- you wouldn't misrepresent to people that Par Funding is based in Philadelphia, would you?
A. We have operations through our operating agreement with the

processing entity in Philadelphia.
Q. Yeah. But I mean, we talked about this ad nauseam today. Par Funding is not based in Philadelphia, right?
A. Correct.
Q. Okay.
MR. HESKIN: Can you pull up Exhibit No. 20, please?
BY MR. HESKIN:
Q. What is The Marque?
A. That's a profile.
Q. Did you write it?
A. Nope, it's a professional that wrote that.
Q. Did they contact you?
A. Yes.
Q. And you gave them the information for it?
A. Yes.
Q. And -- and you reviewed it before it was published, right?
A. Yes.
Q. And if I go on that website right now, which I just did, I'd find the

exact same information, right?
A. That's correct.
Q. Okay. Any reason why you're representing that Par Funding is based in Philadelphia?
A. It's where we operate through the Full Spectrum operating entity.
Q. Well, let's look at what you say here on here under Biography, second paragraph:
"Since 2012, Joseph has also served as the chief financial officer for Complete Business Solutions Group, Inc., a commercial factoring company based in Philadelphia."
Do you see that?
A. Yes.
Q. It's not true, is it?
A. It was originally based in Philadelphia. Subsequently moved to Florida.
Q. So that statement, as we stand here today, is incorrect, right?

A. Yeah. I mean, you're talking about an old profile, right?
Q. This is an old profile?
A. I don't know the last time they updated this thing was.
Q. When did you do this profile?
A. It was a while ago.
Q. Well, it couldn't have been too far, it talks about your positions include CFO at Full Spectrum Processing, that --
A. Yeah, they update the copy on it. The writer does.
Q. That happened in 2017, right?
A. Correct.
Q. Okay. So they got that updated information, right?
A. Yes.
Q. Okay. And Vision Solar, what's that?
A. That is a solar panel construction company in New Jersey.

Q. Who owns that?
MR. BERMAN: You don't have to answer these questions.
BY MR. HESKIN:
Q. Are you refusing to answer?
MR. BERMAN: Yeah, I'm telling him not to answer.
BY MR. HESKIN:
Q. Okay.
MR. BERMAN: This is not an asset deposition of Joe Cole. It's actually harassing.
BY MR. HESKIN:
Q. What's your role at Vision Solar?
MR. BERMAN: You don't have to answer that question.
MR. HESKIN: You're instructing him not to answer?
MR. BERMAN: I'm instructing him you have zero good faith basis as part of the HMC versus Complete Business Group, Inc., to be talking about Joe Cole's role with

a solar company in New Jersey, yes. This is harassing.
MR. HESKIN: Okay. It's actually impeachment for his prior testimony that Par Funding doesn't loan-to-own.
MR. BERMAN: I have no idea what you're talking about. That has nothing --
MR. HESKIN: I know you don't, so that's why your objection is baseless.
MR. BERMAN: Listen, you can call it whatever you want. You're not going to go into ownership information of his assets. Ask him a question that you can impeach.
MR. HESKIN: This isn't his asset, this is owned by Lisa McElhone, isn't it?
MR. BERMAN: That's none of your business. It's none of your business.

BY MR. HESKIN:
Q. Is it or is it not true that Vision Solar was obtained -- was a prior merchant agreement -- was a merchant customer of CBSG?
MR. BERMAN: Yes. Your questions are directly violative of a court order.
Do not answer the question.
MR. HESKIN: Okay. Got it.
BY MR. HESKIN:
Q. And if you look -- look at page 2, it lists separately CBSG and Par Funding, right?
A. Yes.
Q. Aren't they one and the same?
A. Yes.
Q. Is there a reason why you did it twice?
A. No.
MR. HESKIN: All right. Let's pull up Exhibit No. 31.
BY MR. HESKIN:

Q. Have you seen this document before?
A. Yes.
Q. You signed it, right?
A. Correct.
Q. Do you typically misrepresent the location of CBSG, is this a common practice of yours?
A. Same thing with the operating agreement we have in Philadelphia.
Q. Okay. So you think that's a truthful and accurate statement --
A. Yes.
Q. -- at the top?
A. Yes.
Q. That CBSG is located at 20 North 3rd Street?
A. Yes, by proxy with our operating agreement with the processing entity.
Q. Even though CBSG doesn't pay taxes to Philadelphia, right?
A. Correct.

Q. Okay. Does the City of Philadelphia know that CBSG's representing that it's located at 20 North 3rd Street?
MR. BERMAN: Objection.
THE WITNESS: I don't know.
BY MR. HESKIN:
Q. Okay. All right. Can you again state for the record who -- who this Clifton Larson Allen is?
A. That is a financial auditor.
Q. Okay. And the information provided in here is from you, right?
A. From our department, yes.
Q. And it's dated October 24th, 2019, right?
A. Yes.
Q. Is the information in here true and correct?
A. Yes.
Q. Yes?
A. Yes.
Q. Okay. This is for the December 19th, 2018 agreement, right?

A. Correct.
Q. And it states here that the daily specified payment is $3,500, right?
A. Correct.
Q. And that's a required payment, right?
A. Yes.
Q. And it's a fixed payment, isn't it?
A. It is.
Q. It is. In fact, I have an email from Joe confirming that these payments are fixed, right?
A. Correct.
Q. Okay.
MR. HESKIN: Can you pull up -- let me just see. I want to pull up this one first. Pull up Exhibit No. 22.
BY MR. HESKIN:
Q. Have you seen this document?
A. No.
Q. This is an email from Aida Lau, right?

A. Yes.
Q. And again it says that she's at Par Funding, right?
A. Yes.
Q. Not really true, right?
A. She's an operator out of Full Spectrum. Again, the same service agreement that we have.
Q. Okay. And here she is confirming that the Joe says the agreements are fixed, you need to come and discuss about this, right?
A. Yes.
Q. And that's your understanding as well, right?
A. Yes.
Q. Okay.
MR. HESKIN: Let's pull up Exhibit No. 29. Well, before we get to 29. Let's go to -- yeah, let's go to Exhibit 25.
BY MR. HESKIN:
Q. Have you ever seen this document before?

A. Yes.
Q. It's inconsistent with the testimony you just gave me, isn't it?
A. Let me read it. Oh, this was in communications with Kara letting her know we didn't want to do an additional deal.
Q. Well, this is on the 12/19 contract?
A. Yes.
Q. The daily payment went from 3,500, which you said was fixed --
A. Right.
Q. -- to 16,500. Do you see that?
A. Yup.
Q. What's the basis for doing that?
A. There's multiple payments that we were processing for her at the time. She was confused about how those payments are being reconciled and applied to her different deals.
Q. Really? Are you sure about

that?
A. Yes.
Q. And what's the basis for that?
A. Because Kara's bookkeeper and her accounting know-how on this is not very good.
Q. Really? So you're not -- you don't -- you didn't speak to Joe -- Joe LaForte about this, did you?
A. No, that's an email from her to me copying her accountant, Aida and Joe.
Q. Are you aware that Joe instructed Aida to increase the payments?
MR. BERMAN: Objection.
THE WITNESS: No.
BY MR. HESKIN:
Q. You're not aware of that?
A. No.
Q. Who directed the payments to be increased from 3,500 to 16,500?
A. I directed it.
Q. You directed it?

A. Aida reports to me.
Q. Okay. You directed it?
A. Yes.
Q. And how did you come up from the number increasing it from $3,500 to 16,500?
A. Because like your other transaction, she was passed on the regular fee portion and we had to reassess the factor rate on that transaction.
Q. That's your testimony?
A. That's correct.
MR. HESKIN: Let's pull up Exhibit No. 29.
BY MR. HESKIN:
Q. Have you ever seen this document?
A. No.
Q. Who is John Hartley?
A. John Hartley is counsel for FSP.
Q. For who?
A. Full Spectrum Processing.

Q. And he's actually counsel for -- acts as counsel on behalf of CBSG, right?
A. Correct.
Q. Okay. And what does he say the reason for the payments is?
MR. BERMAN: Objection, that would call for attorney/client privileged communication.
MR. HESKIN: No, it's not. It's right here in writing and it's an email --
MR. BERMAN: I misunderstood. You actually want him to read the email to you and say what John Hartley said. I'm sorry, I didn't realize that would be your question.
So Joe, yeah, please look at the email and tell him what the email says.
THE WITNESS: John Hartley's email reads:
"Joshua, Regarding your

question, under both the August 24th, 2018 and October 3rd, 2018 agreement" --

BY MR. HESKIN:

Q. And I'm not talking about that one, I'm talking about December 19th, which is the second paragraph.

A. You want me just to read the second paragraph?

Q. You don't have to read it out loud. Just tell me -- tell me if that's consistent with what you just told me under oath. Which story is correct, the one you just told me or the one that Hartley told Krakowski back May 14th, 2019, when this actually transpired?

A. I agree. It's based on the agreement having the ability to increase the payment.

Q. That's not what you just testified to.

A. That what I concurred on my agreement, too. It was listed on there

as an ability for us to raise payment.

Q. Okay. And it's saying that -- first of all, your testimony again is all over the, place but that's fine.

Second of all --

MR. BERMAN: Are you making a statement to him or are you like -- are you -- you don't like his answers, you just make statements.

MR. HESKIN: No, I love them. Don't worry, I love his answers.

MR. BERMAN: I love you that love it. Shane, I mean, you love it when you have a client that has no damages. But keep on going. Keep on making the insulting statements about everyone at the company. It's okay. And make up lies about racketeering claims against certain individuals. Just keep on going.

Ask questions, it's a deposition.

MR. HESKIN: Good.

BY MR. HESKIN:

Q. So which is true, the testimony you gave me five minutes ago or what's stated here by her?

A. Both. I don't see -- don't see an incongruent statement here with the one that I said.

Q. Here it says that the increases were based on an increase in income, right?

A. Are you asking me to read this again?

Q. I'm -- am I reading that correctly?

A. No, it doesn't say it's based on an increase in income.

Q. It says:

"Because the daily amount could be increased based on a percentage of income."

Do you see that?

A. Yes.

Q. Okay. So I'd assume that when they increased from 3,500 to $19,000 a day, there must have been a corresponding increase in income, right?

A. Yes.

Q. And you're the one that calculated it. You just testified five minutes ago you calculated it, right?

A. Yes, based on the agreement that that was the reason why we could increase the rate.

Q. Okay.

MR. BERMAN: Shane, Shane, Shane. Shane, before you ask a question, I have to take a call for one second. All right.

MR. HESKIN: Sure.

MR. BERMAN: Okay. Thanks.

(Recess.)

BY MR. HESKIN:

Q. Sir -- so Joe, you testified earlier that you made the calculation to increase the payments. What information

did you base it on? What information did you have to base the calculation?
A. That was based on the same information John Hartley is referring to on the agreement.
Q. Okay. What specific information did you have? Did you have their bank statements?
A. I'd have to refer back to what it said on the agreement.
Q. Well, it says income, remember, can increase it based on income?
A. Yes.
Q. And I want to know, you're the one that made the decision to increase it, you're the one that increased it from 3,500 to $19,000 a day. Actually, I think it was $20,000 a day. What did you base it on?
A. It was based on the agreement.
Q. Okay. I got -- I got the agreement, but what financial

information? Hartley says it was because there was an increase in income. What did you have in your -- in front of you that showed that the income increased by a factor of six in less than a month?
MR. BERMAN: Objection.
THE WITNESS: I'd have to refer to the agreement and the information provided by the customer department.
BY MR. HESKIN:
Q. You're the 30(b)(6), you should have reviewed and educated yourself on it. What's CBSG's position on what the basis was for increasing the daily payments from 3,500 to nearly $20,000 a day?
A. Based on a percentage of income as detailed on the agreement.
Q. Okay. And what information did CBSG -- you, since you're the one that did it, what information did you have that showed such a drastic increase in income?

MR. BERMAN: Objection.
BY MR. HESKIN:
Q. What did you review?
A. We have to -- we would have had the client information and communications from the client.
Q. I'm asking you not what would you have done, what did you do? What did you review? So I can make the same calculation, I can go look at the bank statement, I can go look at the income statement, whatever statement you looked at and compare and do the math and come up with these numbers?
A. Yeah, it would be based on that information.
Q. On the bank statements?
A. On whatever they provided to me at the time.
Q. So I'll be able to see an email from -- that your lawyers produced showing the bank statements that you looked at to make that calculation?
A. It's not necessarily the

bank statements, it's whatever current information is being communicated by the client in our underwriting customer service department.
Q. Well, I'm asking you specifically what you based it on. You just said bank statements. So I should be able to look at the bank statements, see it in your email, see some record of it in the underwriting file or whatever that you made the calculation that the -- an increase by 6, 7 percent -- six, seven times, right?
A. I didn't say bank statement, you said bank statement.
Q. Oh, I said it. So when we go back and look at the transcript, I'm not going to find the word bank statement from you?
A. You brought it up, yes.
Q. Well, then if -- it wasn't the bank statements, right? Okay. So now we're taking -- you didn't look at the bank statements, right? You didn't

look at the bank statements?
A. I don't recall what was reviewed.
Q. What was reviewed?
A. I said I don't recall what was reviewed.
Q. Well, what's CBSG's corporate position as to what they based it on?
A. It was based on --
Q. If you don't know, that's fine, that's great. Is it CBSG's corporate position that they don't know what they based the increase on, is that their corporate position?
MR. BERMAN: Objection.
THE WITNESS: No.
BY MR. HESKIN:
Q. Okay. Well, what did they base it on?
A. I'm saying the decision was based on the agreement and documentation provided by our customer service underwriting department when we increased

that payment.
Q. Okay. And what specific information was provided to you since you're the one that made that calculation?
A. I don't recall what the specific information was.
Q. Okay. So you can't identify to me as you sit here today why you authorized an increase from 3,500 to $19,995 a day in the span of less than a month?
A. I don't recall the specific information reviewed to make that decision.
Q. As you sit here today, do you -- are you aware that HMC's income increased by seven times, 700 percent in the span of a month?
A. No, I'm not aware of that.
Q. Is that what you thought when you increased it from 3,500 to nearly $20,000 a day?
A. We had a discussion with her

and her numbers.
Q. So I'm going to find an email that says that, Yeah, go ahead and increase my payments to 20,000 a day?
A. The information she provided to us from emails and verbal communications. This is how we're receiving this information. That's how it's typically done.
Q. We just look at the email from Kara to you saying, What are you doing, you increased it from 3,500 to $16,000, what are you basing it on?
A. We're basing it on --
Q. Right? So she wasn't in agreement.
A. Yeah.
Q. So you didn't get that information from my client, right, because she's disagreeing with it, right? Right?
A. That's the only source of information. We don't have any other source of information other than what's

provided to us from their communications.
Q. Okay. And the information that my client is saying that she gave you doesn't support an increase of 700 percent in payments, right?
MR. BERMAN: Objection.
THE WITNESS: The information provided by Kara supports, based on the document that we have with that transaction, the basis to increase the payment. There's no doubt about that.
BY MR. HESKIN:
Q. Okay. And you can't point to the document that supports your increase, right?
A. The merchant agreement.
Q. Okay. That's the legal -- purported legal basis, but I want to know what document can you point me to that demonstrates that HMC's income increased 700 percent in the span of a month?
A. That's not what I'm saying.

You're saying that their income increased by 700 percent in the span of a month.
Q. That's what your calculations did. It went from $3,500 a day to $19,995 a day. So apparently the income must have correspondedly increased by that amount, right?
A. You're citing that in hypothetical, not the actual transaction.
Q. I'm trying to get inside your head, so you tell me what you were thinking when you did it. You're the one that did it. Tell me.
A. The decision was based on the merchant agreement that she had executed with us that we provided in discovery and the communications we had with her and her company.
Q. Okay. Got it. And you can't point me to a document, right?
A. No, I don't have a specific document to point to.
Q. Not bank statements, right? You didn't look at her bank statements,

right?
MR. BERMAN: Objection.
THE WITNESS: I did not look at her bank statements.
BY MR. HESKIN:
Q. Did you look at her -- what other than bank statements would you look at? Tell me what are the -- what's the world of possibilities that you could have looked at in order to determine that her -- her income increased by 700 percent?
MR. BERMAN: Objection.
THE WITNESS: Again, I'm not saying that her income increased by 700 percent.
BY MR. HESKIN:
Q. Well, the payments did.
MR. BERMAN: Objection.
THE WITNESS: That payment increased, yes.
BY MR. HESKIN:
Q. By 700 percent?
A. 3,500 to 19,000, correct.

Q. Yeah. And so tell me what -- what document -- what's the world of documents that you had to look at that justified you making an ACH withdrawal of 19,995? That's a wire transfer that you authorized, you calculated and you did it. What did you base it on?
MR. BERMAN: You mean other than the multiple times he's answered this question for you?
MR. HESKIN: I want to know what he looked at.
MR. BERMAN: Well, you've asked him the same question and he's answered you over and over again, with discussions with counsel. So do you want him to just repeat that again or do you want a different question?
MR. HESKIN: I want the world of possibilities.
MR. BERMAN: Joe, answer again just like you did three times.

THE WITNESS: The discussion with the client and the numbers provided by them.
BY MR. HESKIN:
Q. Okay. What numbers were provided from my client and when did they provide them to you?
A. The numbers provided by their client were their internal cash flow revenue numbers, internal financials and Josh, her CFO, and her regularly communicated that to our team, both in accounting and underwriting.
Q. Okay. And where in the agreement did it say that you could increase the payment in a matter of weeks?
A. It's detailed on the agreement provided.
Q. Okay. How many times did you make that calculation?
A. How many times did I calculate what the rate of increase was?
Q. Yeah, how many times?

A. One time.
Q. One time?
A. This specific payment or other deals?
Q. No, this -- this deal, how many times did you make a calculation saying that this should be increased?
A. Yeah, one time. We don't have to redo it. It's a fairly straightforward agreement.
Q. So one time, that's your testimony?
A. That I looked at it. You can be sure that other departments and other personnel looked at it as well.
Q. How many times was it increased?
A. How many times was what increased?
Q. The daily payment increased.
A. For this transaction?
Q. Yeah. You said you only had to do it once, right?
A. Yeah, for this specific

payment. We calculated it that day.
Q. Well, it started at 3,500, right?
A. Yes.
Q. So under the terms of agreement, how frequently would you assess that?
A. I don't recall.
Q. Well, what's it say under the agreement?
A. I don't have the agreement in front of me.
Q. Okay. Well, let's pull up the agreement.
THE TRIAL TECH: What exhibit number is that?
MR. HESKIN: I'm looking for it. Hold on. I might not have it. Here it is. I'm going to email it to you right now.
THE TRIAL TECH: All right.
MR. HESKIN: Let's take a five-minute break and I'll send it to you.

THE TRIAL TECH: Okay.
MR. HESKIN: Try Exhibit 14. Keep on going. This is it.
THE TRIAL TECH: Okay.
MR. HESKIN: All right. Go all the way -- keep ongoing. Next page. Next page, next page, next page, next page. Actually, go back. Go back. I think it's right there. That one right there. So this actually doesn't even list the December '19 agreement on it. All right.
Let's go to -- instead we'll use -- I think it's the last exhibit I gave you guys. Can you pull that up?
THE TRIAL TECH: The one you just sent over or the one before that?
MR. HESKIN: Try the one before. Yup, I think this is it.
BY MR. HESKIN:
Q. Okay. All right. Joe, have

you seen these?
A. Yes.
Q. Okay. So this is page 2 of each of the factoring agreements. Are you familiar with this?
A. Yes.
Q. Okay. And on this first one, it says here the --
MR. HESKIN: If you can blow that up a little bit, the purchase price in the middle?
BY MR. HESKIN:
Q. Is 862, and your specified percentage is 10 percent.
Do you see that?
A. Yes.
Q. So CBSG is buying 10 percent of HMC's receivables in this agreement, right?
MR. BERMAN: Objection.
THE WITNESS: Yes.
BY MR. HESKIN:
Q. Yes. Okay. And the daily amount is $7,812, right?

A. Correct.
Q. And that's supposed to represent a good faith estimate of the 10 percent, right?
A. Right.
MR. BERMAN: Objection.
BY MR. HESKIN:
Q. Right? Okay. And that's how I understand it as well.
And this is -- the 167 days is how many days it's anticipated to be paid off on?
A. 167 installments, correct.
Q. That's business days, correct?
A. Correct.
Q. So as of February 15th, 2018, 10 percent of HMC's daily receivables is estimated at $7,800 a day, right?
A. As of the time that they underwrote this file, correct.
Q. Got it. Okay.
MR. HESKIN: Can we go to

the next page?
BY MR. HESKIN:
Q. So this is a month later, right? March 16th, 2018.
A. Yes.
Q. All right.
MR. HESKIN: Can you blow up the middle portion again?
BY MR. HESKIN:
Q. Now, 10 percent of their daily receivables is only 27,000 -- 2,750, right?
A. It's not total daily receivables. It's for what was being underwritten.
Q. Explain that to me.
A. When we look at merchant receivables, we have a basis on whatever cash flow they're receiving from their clients. Like the original one that you showed me details out 10 percent of that $800,000 number, there can be specific receivables assigned to each one of these deals, meaning if we know that there's

one receivable item on their AR schedule that happens to be a $275,000 contract for the business, we'll base our funding from that total.
Q. Okay. Well, this agreement doesn't say that, does it?
A. I'm explaining to you, that's what the 10 percent basis is.
Q. Well --
A. The purchase price and not a receivable.
Q. Well, this agreement says it's buying 10 percent of all of HMC's receivables, doesn't it?
A. No.
Q. No? It doesn't say that?
A. No, I'm saying in underwriting we go through and identify specific receivables such as the one you detailed out those invoices for. Remember the 10 percent that you pointed out that was incorrect?
Q. Yeah.
A. We are basing that on actual

invoices that the client has and we're applying a factor rate to it to collect on so that we can be made whole when we advance this money.
Q. So this 10 percent of what?
A. Of an underwritten receivable that they went through for this deal.
Q. Where am I going to find in this agreement where the -- those receivables are? Because the agreement says you're purchasing 10 percent of all of the receivables.
MR. BERMAN: Objection.
BY MR. HESKIN:
Q. Right? That's what the contract says, right?
MR. BERMAN: Objection.
THE WITNESS: Yeah, what I'm saying is in actual practical day-to-day, when you have multiple deals like Kara does, it isn't just a single agreement that applies anymore. You're talking

about the entirety of all these different deals.

Kara is an industrious business owner. She's got multiple contracts, multiple clients she is working on, and she's asking for cash flow from those receivables to be advanced to her as part of this agreement.

BY MR. HESKIN:

Q. But that's not what the actual agreement says, right?

A. What I'm describing to you is what the agreement says when it pertains to a client that has multiple large factoring agreements with us. It's not just a one-and-done, this is a complex system of deals we did with Kara's entity that we've done for a couple years.

Q. Well, right now this is just two deals, right?

A. Correct.

Q. We're through two, and in

the first agreement you purchased 10 percent, right?

A. Yes.

Q. And 10 percent of her receivables in February of 2018 was about $7,800, right?

A. Yeah, based on that one deal, right.

Q. Okay.

A. Do you see the contingency on this entity or this deal?

Q. Okay. And then a month later it's now 2,750, right?

A. No, what I'm saying is on a per deal basis, we're looking at specific receivables and I'm trying to describe to you how this is being calculated.

Q. Yeah.

A. The number of deals that Kara has with the company.

Q. So what actually happened is different than what the agreement actually says, right?

A. No, it still covers the

agreement, we still have the basic purchase and we're trying to cover 10 percent of receivables, but when you have multiple large dollar contracts, we silo each transaction out for that one receivable.

Obviously Kara is making more than 275,000 in receivables and in the other contracts, they have very healthy numbers, they had strong underwriting.

So the hypothetical here as detailed in this installment program is that the expected turnaround on the receivable that we detailed, if it's received in a shorter period of time, we're buying less of it, and it's done in a longer period of time, we're buying more of it because we expect her to make the decision as a competent business person to -- when to leverage the MCA money. That's the spirit of this transaction.

Q. Okay. Can you read for me

the first paragraph under purchase and sale of future receivable seller recourse? Can you just read for me that first sentence, tell me what that means? It's totally different from what you just explained.

THE TRIAL TECH: Do you want me to blow that up so you can read it better?

THE WITNESS: Yeah, if you could, please.

"Seller and merchant hereby sells, assigns and transfers to CBSG, making CBSG the absolute owner in consideration of the funds provided, purchase price. As specified below, all of seller and merchant's future receipts, accounts, contract rights and other obligations arising from or relating to the payment of monies from seller and merchant's customers and/or third party payors, collectively the receipts,

defined as all payments made by cash, check, credit, debit card, electronic transfer or other form of monetary payment in the ordinary course of the merchant's business until such time as the receipts purchased amount has been delivered by seller/merchant to CBSG."

BY MR. HESKIN:

Q. Okay. So in the first contract, HMC already sold all of its receivables to CBSG, right?

A. No. By this portion of it --

Q. That's not what that says. Hereby sells, assigns transfers all of the receivables, right?

A. Right, under the context of this funding.

Q. It's purchasing all of them, right?

A. No.

Q. It's not?

A. It's not.

Q. So it doesn't really say -- what it says, "Hereby sells, assigns and transfers to CBSG all of seller's future receipts," that doesn't really mean that?

A. No, and I think you're being deliberately dense. I keep explaining to you how each individual deal is transacted on the funding receivables for different receivables the client has.

Business does not have a static revenue curve, right? They're going to have more deals coming in, they're going to have different transactions coming through.

Kara provided to us document that she has new receivables, new projects, new lines of revenue from her business, so when we do these factoring agreements, they're individually considered to facilitate working capital for her to do those transactions with.

Q. Okay. And it's not -- that's inconsistent with what's stated at

the front of the agreement, though, right?

A. It is exactly what I'm describing is that we're financing a part of that receivable. Whatever that project is, call it 275, call it $800,000, this individual factoring agreement is reflected with that amount.

Q. Where are the invoices that are -- that are being bought? Where is that identified at?

A. So in the other agreement you showed me, you had the list of invoices. You submitted a list of PO numbers, receivables that we were supposed to get, but it turns out she liquidated the collateral that we funded, unbeknownst to us, and collected receivables without remitting it to us.

Q. I got it, and my question is on this agreement. I understand you want to talk about a different agreement, but I'm talking about --

A. I'm trying to answer all

your questions. I'm trying to answer, this agreement, that agreement --

Q. Yeah.

A. -- and the details are being provided by Kara. I'm saying specifically this agreement. Your other agreement had a Schedule A to it.

Q. We can get to the next agreement, but I'm talking about this agreement, and you said there are certain receivables that are being purchased, that there's certain invoices, where? Where is it identified? It's not identified here, right?

A. It's identified as part of our underwriting process.

Q. But it's not in the contract, right?

A. It's not in the body of the contract. We have a whole underwriting package that identifies this, and sometimes they have individually identified receivables like in the other example you provided.

Q. Okay. So somewhere, if I look at the underwriting file which has been produced, I'm going to see that there were specific receivables and invoices that were specifically bought for each one of these transactions, right?

A. Her accountant, CFO Josh provided the receivables schedule, he had intimate knowledge of the type of business she's in, just like our other merchants, specifically what receivables we're financing as part of this --

Q. Here's my question: If you're buying a receivable that's tied to an invoice on day one, right? You're buying it for a purchase price and you're supposedly buying that -- 10 percent of that invoice and that receivable hasn't come in on day two, where is that money coming from?

MR. BERMAN: Objection.

THE WITNESS: It comes from the routine cash flow of the

business.

BY MR. HESKIN:

Q. So it's coming from some other invoice, right?

MR. BERMAN: Objection.

THE WITNESS: I don't know where the regular cash flow for each deal comes in from. The company is a healthy company that has regular cash flow that we look at in the underwriting.

BY MR. HESKIN:

Q. So you're getting paid from receipts that are coming from invoices that you didn't purchase, right? Has to be.

A. No, it's a purchase of future receivables.

Q. Okay.

A. Whatever the other receivables that are coming in and cash flow for the business, the merchant has obligations specified on here, defined as all payments made by cash, check, credit,

debit card, electronic transfers or other form of monetary payment as listed in this agreement.

Q. Got it. So on day one you're purchasing -- and you're telling me that you're purchasing specific invoices. Kara is saying, Hey, listen I've got this job on day one, fund me for it. You say, Okay, great, I'm going to buy that invoice for, you know, let's call it the Pennsylvania job, and on day two, she has to pay back a daily payment, right?

A. Sure.

MR. BERMAN: Objection.

BY MR. HESKIN:

Q. Okay. And she hasn't been paid yet for that invoice that you bought, right?

MR. BERMAN: Objection.

THE WITNESS: Right.

BY MR. HESKIN:

Q. So she's got to make that payment from a different invoice, right?

From an invoice you didn't purchase, right?

A. From whatever cash flow the business has.

Q. So you're being paid back with funds other than the receipts that you purchased. It has to be that way, right?

MR. BERMAN: Objection.

THE WITNESS: That's not the only origination of a cash flow for a business.

BY MR. HESKIN:

Q. So you're being paid through receipts that you didn't purchase, correct?

MR. BERMAN: Objection.

THE WITNESS: No.

BY MR. HESKIN:

Q. It has to be that way, right?

A. No.

Q. No? So where -- where -- on day -- on day two of the agreement, where

is that money coming from? Is it coming from the receipts you purchased or is it coming from other receipts?
A. You know there's more cash flow than receipts, right, for a business? Retained earnings, other loans, income that the business already had.
Q. You're telling me that you bought invoices, that you bought specific invoices in connection with each one of these agreements.
A. Right.
Q. So when day two comes around and the invoice that you have -- that you purchased hasn't had any payment made on it, but there's a daily payment required, by common sense, that money has to come from somewhere else, correct?
A. Correct.
Q. Okay. That's all I'm trying to --
A. No, you're saying it's coming from another invoice and other

receivables, and I'm saying a company has cash outside of -- she had a zero dollar bank account when we did this deal.
Q. It's coming from some other source than the receivable you actually purchased, right?
MR. BERMAN: Objection.
THE WITNESS: It could, but that's why we have this verbiage in the agreement, right? We're saying assigning of all future receipts, accounts, anything coming in by check, cash, credit card, electronic payments.
BY MR. HESKIN:
Q. No, no, no. You're saying you're selling it, selling all future, right? And you did that how many times? You bought her future receivables 60 times?
A. No.
Q. Well, you got -- in each one of these agreements, you state, "Seller/ merchants hereby sells assigns and

transfer to CBSG all future receipts."
A. Yeah.
Q. And you do it several times in the same day, right?
A. You did -- the client knows exactly when the payments start and where the cash comes from.
Q. I get all that, but how -- how are you purchasing receivables that you already -- you already bought?
A. The contract that you're inferring to says -- it doesn't say that we have to wait for receivables to come in before we're paid on this, right? Did you read that somewheres?
Q. On day one you're buying all their future receivables, right?
A. Buying future receivables. Day one, we expect a payment the following business day as part of this agreement. Our contract doesn't say I need to wait for that receivable to come in before you make payments, right?
Q. I'm not talking about that.

I'm talking about --
A. You're putting words in my mouth and saying that she somehow needs to get payments from this one factoring agreement that we have before we're supposed to collect anything. Obviously there's horizons on this. That's why there's options for her to pay that back. She's a business owner. She's a smart lady, Kara.
Q. See, we're going backwards. I'm going on -- I'm not going back about where the funds come from. I'm going on day one -- on the first agreement you're buying all of her receivables, right? That's what this says?
A. Yes.
Q. A month later, right, you enter into other factoring agreement and again it says in the agreement you're buying all of her receivables, right?
A. Buying the receivables we underwrote for this deal, and I described to you earlier how we handle this for

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clients' multiple concurrent factoring deals. It's always going to be based on that individual deal's underwriting.
Q. I'm just reading -- I understand what you're saying is in the underwriting file. I'm just reading the contract. And each one of those says you're buying 100 percent of her receivables.
So my question is: How can you buy receivables that you already bought? How do you buy them again?
A. I'm explaining to you how this is treated when there's multiple contracts. It isn't just a one-and-done everything that your company gets it. There's no fixed the amount.
I think you have false assumption that somehow receivables are a fixed value for a company and they don't grow and contract depending on the business volume the company has. From a practical standpoint, each new transaction that comes in is reviewed,

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Josh identifies the receivables on their schedule, they have more receivables that come in, they make good on paying off old obligations, and then we keep doing new deals.
Kara is a master at this agreement. She's done 19 deals with us, paid off most of them.
Q. 19?
A. Yeah, whatever the amount is, whatever we have. It's something like 19 deals.
Q. I think you've got triple that. I think it was more like 60.
A. No, I think we have a disagreement there.
Q. Really?
A. Yeah.
Q. You're not aware that there were about 60 different agreements?
A. You're talking about brand new agreements or agreements including reloads?
Q. I'm talking about --

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A. That's different.
Q. There's 60 factoring agreements that I have.
A. Yeah, but I'm treating that differently. If we have a reloaded deal and they take a balance from an existing contract and bring it into a new contract, it's not really new deals, it's the same receivables. That's what I've been trying to explain to you.
Q. What do you mean by a reloaded deal?
A. So let's say Kara has an outstanding receivable --
Q. Yeah.
A. -- that we have a prior contract on.
Q. Yeah.
A. And they take the existing balance from that transaction, which we've done a few times with her, and load it into a new factoring agreement. Those receivables from the original factoring agreement are carried over into the next

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agreement, right? We're not coming up with brand new receivables, there may be new opportunities and other things the business is doing, but those balances are carried over as part of the new deal, the new updated balance. So that's not really a fresh new contract. There's no -- you know, brand new agreements coming from nothing. There's an existing precedent contract it's pointing to.
Q. That makes no sense whatsoever. So she's selling --
A. It's because you don't understand our contract.
Q. -- again receivables that you already purchased?
A. I don't understand your question.
Q. You're saying you're reloading it, you're moving receivables that she had already sold to you into a new agreement, so she's selling to you twice, receivables that you already bought?

A. No, that's incorrect.
Q. Okay. But you're charging a new factor rate for receivables that you already bought, right?
A. No, there's new money being provided.
Q. Okay.
A. To expand on whatever -- so let's say -- let's just say hypothetically they had a contract, she did a $400,000 contract, and there was a change order and now it becomes 500,000 and she paid down that original factoring agreement that reflected a portion of that original $400,000 contract, she could take that same receivable with the expanded scope of the project for the business and ask for more money to revise the existing factoring agreement. That's not a brand new factoring agreement, that's like a change order in a construction job.
Q. Got it. We'll do this the hard way. All right. So we're on

agreement 2 and it says 10 percent specified percentage, and the first paragraph says they're purchasing all of their receivables. But your testimony is that, on this agreement that we're looking at right now, it's not really all of her future receivables, it's some specified invoice that's contained in the underwriting file?
A. No, that language covers all her receivables, everything coming in. That's all that does, right, it gives us the right to collect those receivables.
Q. Okay. It says you're purchasing all, right?
A. Yes.
Q. And what's the specified percentage of 10 mean?
A. I'm saying that 10 percent is a basis for whatever project that this factoring agreement reflects.
Q. What's 10 percent mean, what's it reflective of?
A. If she has a million dollar

contract and we're buying 10 percent, we're buying 10 percent of that receivable.
Q. Okay. That makes sense.
A. Buying $100,000.
Q. So for every single one of these I'm going to be able to go through and find that, right? So you have -- in your underwriting file, you're going to be able to show me, when it comes time at trial, in the underwriting file the invoices that support this, right?
A. You're going to be able to see in the underwriting file the basis for that factoring transaction.
Q. Sure. And it's going to be different than the ones that were provided just less than a month ago, right?
A. Correct.
Q. Okay. Got it. I got it. Let's go to the next one.
MR. HESKIN: Next page, please? Can you highlight the

middle portion?
BY MR. HESKIN:
Q. Again it's 10 percent?
A. Yup.
Q. Right?
A. Yes.
Q. For 22 days, right?
A. Yes.
Q. And what -- what are the -- so if I look at this, I'm going to find $2.5 million of invoices that -- or actually more than that, right, about it's 275, so I'm going to find $2.75 million worth of invoices that are being purchased, right?
A. This was something unique to Kara's transactions with us. She wanted us, for the sake of own her reconciliation with her, to list the specific invoice. That 294601-01 at the bottom of that?
Q. Yup.
A. She's saying, and this demonstrates what I've been trying to

explain, that that is the particular invoice we have a right to collect on for this transaction.
Q. Got it. Okay. Good. And so that invoice is going to be, since you're only purchasing 10 percent of that invoice, is going to be $2.75 million, right?
A. Whatever the value is that they agreed upon.
Q. 10 percent. Right?
A. Yes.
Q. Because you're getting 275,000, and 10 percent would be 2.7 million, 2.75 million, right?
A. Yes.
Q. That's -- so if I look at that invoice, that's what it should be, right?
A. Yes.
Q. Okay. Got it.
MR. HESKIN: Next -- next page? If you could highlight that again.

BY MR. HESKIN:
Q. We're going to have the same thing again, right? I'm going to look at that invoice 2946 --
A. Exactly. So going back to what I was explaining, this is the individual factoring agreement for that particular invoice.
Q. Got it.
A. Merchants may only have one, and literally is all of the receivables of whatever we are purchasing from it. You're referring to that invoice number that we have --
Q. I got it. I'm going to look at that invoice and it's going to be $3.1 million, right?
A. Right, or whatever they agreed to as part of the holdback for that.
Q. No, no. You just testified it's 10 percent, you're purchasing 10 percent of that receivable. 10 percent would be 3 million -- of 3 million -- 3.1

would be $313,000, right?
A. Yeah, but that's the basis of it.
Q. Yeah, I got it.
A. I kept trying to explain basis to you and I don't think it's sticking for whatever reason.
Q. I know you're buying 10 percent.
A. You're trying to lock me into a statement.
THE REPORTER: All right, everybody. This is the court reporter. You guys are really talking over each other.
BY MR. HESKIN:
Q. So let's start clean. The specified percentage is 10 percent of the invoice you're buying, right?
A. 10 percent is the basis for the invoice we're buying. That's negotiated with the client.
Q. It's 10 percent on all of these, right?

A. It's 10 percent as a basis. So that's -- I don't want to argue about it because you're not getting what I'm trying to explain. The basis -- again it's not a fixed number. Invoices change. There can be more receipts, for whatever order the project can be of greater value down the road because there's a change order. We have payback options on this because of that. You see the four different payment amounts that she could have to do with this deal depending on how long it goes. This is something Kara wanted as part of the agreement so she's not paying additional fees for the invoice she's factoring given the variability of the receivable.
Q. What does your underwriter times -- multiply 10 percent by?
A. You're not getting it, Shane. I'm telling you.
Q. I am. The invoice amount, if it's a million dollars, and you're buying 10 percent of that invoice, should

be $100,000, right?
A. And you keep trying to tie this back to a fixed amount. I'm saying it's not fixed. A basis is variable. We have ten points. A contract can be changed. This invoice can be underpaid and overpaid, right? So you can't just say 10 percent of a contract when they're negotiating every single deal individually and it's not a precise 10.00 percent of that particular invoice.
Q. What did you calculate to come up with $313,000? You had -- it's 10 percent of something, so what number did you use? You had to come up with that number from something, right?
A. I feel like I'm not getting through to you. I don't know why.
Q. You're definitely not. Because I just want to know what you times 10 percent through to come up with 313 and the daily specified amount of $3,000?
A. Let me explain three things:

The basis for the amount is underwriting. They go through whatever the invoice is to figure that amount. That's where we're getting the 313. 10 percent is basis number, it's not a fixed I'm going to get a perfect ten point calculation on the invoice given with variability of invoices in her business. And lastly, this is individually tailored for every single invoice because we have to go through and underwrite that deal with her CFO.
So it's not a perfect 10 percent. There's isn't X variable I can multiply against to get a perfect 313. By the very definition of this contract, you're seeing the variability with her receivables to begin with. You see the payment schedules for different lengths of time and how many installments it will take, and that's what I'm trying to get through to you. It's not a perfect ten point calculation.
Q. Okay. It's based off the --

it should be roughly 10 percent of that invoice, right?
A. Use the word roughly and you're close.
Q. Okay. So it should basically be roughly 10 percent of this invoice 2946?
A. Sure.
Q. Okay. See how easy that was?
A. It's not. I would rather cut off a finger than talk to you.
Q. Let's get to the next one.
MR. HESKIN: Can you pull up the middle portion again?
BY MR. HESKIN:
Q. Okay. This has invoice No. 50. This is what's being purchased, right?
A. Correct. Whatever her accountant identified as invoice No. 50 as part of the underwriting package.
Q. And so the invoice for No. 50 should be approximately $4.2 million,

right?
A. Right. That's the basis that they're talking about for the underwriting process.
Q. Okay. So I'll go to the underwriting file, I'll find an invoice for some, give-or-take, $4.2 million?
A. Yes.
Q. Okay. Got it.
MR. HESKIN: Next?
BY MR. HESKIN:
Q. And the same thing here?
A. Yes.
Q. Invoice 51, I'm going to find an invoice for roughly $4.2 million?
A. Yes.
Q. Got it.
MR. HESKIN: Next?
BY MR. HESKIN:
Q. Same thing, I'm going to find an invoice for roughly $5.6 million, invoice No. 52, it should be in the underwriting file, $5.6 million?
A. Right. You should have

copies of all these individual factoring invoices that we're funding.
Q. Got it. Got it.
MR. HESKIN: All right.
Next one.
BY MR. HESKIN:
Q. Same thing here, I'm going to find an invoice that 2807-11 is going to be roughly $2.6 million, right?
A. Correct. An interesting thing on this one, it's agreement 104, meaning that Kara had the intention to fund and do factoring transactions for several invoices that she had for merchant payments coming in.
Q. Got it. They might be in here.
MR. HESKIN: The next one?
THE WITNESS: I want you to understand that that's the crux of this relationship, it's all these different invoices coming in that we're financing individually.
It's not an easy ten

across the board with everything what she makes with HMC.
BY MR. HESKIN:
Q. So 2806-11, it's going to be roughly 2.6?
A. Same thing.
MR. HESKIN: Okay. Next one.
BY MR. HESKIN:
Q. And the exact same thing, it's going to be 2.6?
A. That's right.
Q. That's going to be -- the invoice number is going to be 2946-02, right?
A. Correct.
Q. Okay.
MR. HESKIN: Next one.
BY MR. HESKIN:
Q. And it's the same invoice, just broken up. Why are they broken up in -- in four different tranches?
A. Given the variability of the collectible receivable. She's giving

herself some flexibility if it's going to take more time.
Q. But it's all the same invoice number?
A. Correct. It's the same invoice, same receivables, but do you understand that when they bill, there's a time element to them basing it on their receivable.
Q. Got it. And so --
A. -- the longer the billing is going to be higher for that receivable, right?
Q. I got it. So when I add up the totals to these invoices, it should be $10 million, right, for all four?
A. Yeah. For you're saying the last four agreements that we did in December or --
Q. Yeah. These last four we looked at, agreement --
A. Yeah, they're part of the same group, right.
Q. Okay. Got it.

MR. HESKIN: Next one?
BY MR. HESKIN:
Q. So those invoice numbers, and there's going to be two of these identical, they should add up to about $6 million, right?
A. Correct. We identified individual invoices for this factoring agreement.
MR. HESKIN: Okay. Go to the next one?
BY MR. HESKIN:
Q. Same thing, same answer?
A. Correct.
Q. Those invoices, they'll total cumulatively 6 million?
A. Correct.
Q. Okay.
MR. HESKIN: Next one?
BY MR. HESKIN:
Q. And this is 29406-04, and it looks like this is 1 of 3, right?
A. Yes.
Q. And so for this particular

agreement I'm going to look at, if there's three of them, you times it by three, it's roughly 7.5 million?
A. It depends on the values of the other invoices. They're not the same amount.
Q. Okay. But as far as this invoice, it should be roughly 2.4 million, right?
A. Right. Approximate basis for the transaction.
Q. Okay.
MR. HESKIN: Next, please?
BY MR. HESKIN:
Q. Same thing, right?
A. Yes.
MR. HESKIN: All right. Let's go to the next one?
BY MR. HESKIN:
Q. This is 3 of 3, same thing?
A. Yes.
Q. They're all equal, correct?
A. Yes.
Q. Okay.

MR. HESKIN: Next one, please?
BY MR. HESKIN:
Q. Isn't this exact same thing we just did?
A. That one --
Q. Just got a different invoice number?
A. Yes.
Q. All right.
MR. HESKIN: So let's go to the next one.
BY MR. HESKIN:
Q. This is 2 of 3. So again, we're going to be talking about, if you times it by three, roughly $7.5 million?
A. Right.
Q. Okay.
MR. HESKIN: We can go to the next one, please.
BY MR. HESKIN:
Q. Same -- same thing, 7.5 million between the three of them?
A. Yes.

Q. Got it.
MR. HESKIN: Go to the next one.
BY MR. HESKIN:
Q. There are no invoice on this one, right?
A. Correct.
Q. So what are you buying?
A. So this is that example I discussed earlier where you have an existing advance and you're adding on $500,000 to it. It's the same receivable that we're financing under this new agreement that carries that existing agreement over.
Q. Okay. But you're getting $500,000 in new money, right?
A. Right, and then there's a new RTR or the receipts purchase total.
Q. There's a new fee added to it, roughly $200,000, $240,000, right?
A. Right, the fees are in addition to the payoff on the existing plus the new capital.

Q. Okay. But what invoices are you purchasing?
A. The ones from the existing one.
Q. But you're getting new money, where's the $500,000 coming from?
A. That's why I'm going back to it. Remember I said the invoices are variable and additional capital may be needed for certain projects.
Q. So those other invoices would justify an increase of roughly, is that 50 million?
A. No. Again, the contract value and the money is being requested for that.
Q. Is it 5 million? 10 percent of -- another $5 million?
A. You really have to check the underwriting file for that. Again, don't get hung up on the fixed 10 percent, it's a rough approximation for the basis on these factoring agreements.
Q. Okay. But you've got

$500,000 of new money, there's got to be $5 million worth of additional invoice that are --

A. There would more detail in the underwriting file.

Q. Okay. So there's another $5 million here somewhere?

A. Right.

Q. Okay. Got it.

MR. HESKIN: If we can go to the next one?

BY MR. HESKIN:

Q. Okay. So this has the new invoice number, right?

A. Yup.

Q. This is 1 of 9?

A. Correct.

Q. So we're talking about a project that's roughly $40 million, right, if there's nine of these?

A. I don't know what those other agreements are like.

Q. We'll go through them. But just for this one, it's 4.6 million?

A. Yeah, the amount they agreed to was this total, right.

Q. So it's $4.6 million worth of invoices that supposedly support this.

MR. HESKIN: Let's go to the next one.

BY MR. HESKIN:

Q. This is 3 of 9. This is only 28,000 so we're -- they're different, right?

A. Yeah. It's a different invoice number, it's a different amount.

Q. All right. So this one would be roughly 280,000, right?

A. Again, don't get hung up on a fixed 10 percent. It's not always going to be the perfect base for that.

Q. I get it. Just roughly it should be about 280, right, if I look at invoice No. 3002, No. 20, right?

A. Yeah, focus on the underwriting, look at that invoice.

Q. Got it.

A. Look at what we agreed to

when they decided to do this transaction, every single one just like, you know, we're going over. There was a discussion, an agreement, a review, invoices, and a detail out on what was to be paid back.

Q. Got it.

MR. HESKIN: Go to the next agreement, please? This one is 4 of 9. We can go to the next. One this is 5. You can skip this one. Go to the -- let's try to get past these. So let's try -- there's seven, eight, nine --

THE WITNESS: It's all the same idea. There's individual invoices.

BY MR. HESKIN:

Q. Yeah, but it's not all the same?

MR. BERMAN: How much longer do you have here? We're going on our eighth hour.

MR. HESKIN: We're not on

our eighth hour, but I'm almost done.

If you can just highlight that again, I'm just going to go through this document and I'm done.

BY MR. HESKIN:

Q. Okay. And this is the same concept, right?

A. That's right. They agreed to that invoice number, to purchase that 150,000.

Q. Okay. And so there should be, you know, the receipts purchased amounts 210,000, so I'd be looking at invoices totally approximately $2 million, right?

A. Right. Just whatever is on that invoice number.

Q. All right.

MR. HESKIN: So let's skip through the next eight. Now, let's look at this one.

BY MR. HESKIN:

Q. This is a big one, right?
A. Yup.
Q. So --
A. It's the same though. It's the same looking at those deals, looking at the factor in advance, and understanding that Kara went through each of these deals to confirm with underwriting that's what she wanted on those transactions. We don't routinely put these installment breakdowns on our transactions. This is uniquely developed for Kara.
Q. What's Advance No. 2. What's that mean?
A. I'm not sure, but that's sounds like it's referring to the basis for this invoice.
Q. I'm not sure I'm following that.
A. I'm not sure --
Q. What does Advance No. 2 mean?
A. I'm not sure.

Q. What does Factor No. 36 mean?
A. I'm not sure.
Q. Okay. But there should be invoices about $10 million supporting this, right?
A. I'm not sure.
Q. Okay.
MR. HESKIN: Let's go to the next one.
BY MR. HESKIN:
Q. And this basically has an invoice that should correspond with roughly $5.6 million, right?
A. Yes, same methodology.
Q. Okay.
MR. HESKIN: Let's go to the next agreement, please?
BY MR. HESKIN:
Q. And this -- is this a repeat or is this --
A. It looks like the same one, huh?
Q. Yeah.

THE TRIAL TECH: Maybe it's a repeat.
MR. HESKIN: All right. Let's go to the next one. Thank you.
BY MR. HESKIN:
Q. Okay. So this is -- I should look at Invoices 24605 and 0607 and it should be about $4.2 million, right?
A. Right. That determines the basis for this factoring amount.
Q. Got it.
MR. HESKIN: Go to the next one, please.
BY MR. HESKIN:
Q. Same thing, just look at the invoice, it should be about 4.2 million?
A. Yes, same thing.
Q. Okay.
MR. HESKIN: We can look at the next one.
BY MR. HESKIN:
Q. Same thing, right? Right,

Joe?
A. Yes.
MR. HESKIN: All right. We can go to the next one.
BY MR. HESKIN:
Q. Same thing, correct?
A. Correct.
MR. HESKIN: All right. We can go to the next one.
BY MR. HESKIN:
Q. This one is Invoice 41250-00, should be about 3.5 million, right?
A. Again, basis on that invoice, but right.
Q. Yeah. I got it.
MR. HESKIN: All right. So if we can go to the next one, please?
THE WITNESS: And that's the big one. That's the one we had all these individual purchase orders that Kara collected on that we did not receive.

BY MR. HESKIN:
Q. Okay. And this is the one that incorrectly calls it principal and interest, right?
A. Correct.
Q. Okay. And there should be about $20 million of -- of receipts total there, right?
A. Whatever those total amounts end up being. I wouldn't get, you know, hung up on the 10 percent basis, which again is just a guidance on the original underwriting.
Q. Okay.
MR. HESKIN: Next one, please?
THE WITNESS: Yeah, that's the same thing.
BY MR. HESKIN:
Q. All right. And this one again incorrectly uses the word principal?
A. Correct.
Q. Okay.

MR. HESKIN: Go to the next one.
THE WITNESS: So this one goes back to the original form with identifying the invoice first.
BY MR. HESKIN:
Q. Invoice and then whatever deal No. 44 is?
A. Correct.
Q. You don't know what deal No. 44 is?
A. I'm not sure.
Q. All right.
MR. HESKIN: If we can go to the next one, please?
BY MR. HESKIN:
Q. Same thing, right?
A. Correct.
Q. All right.
MR. HESKIN: Let's go to the next one.
THE WITNESS: Yup.
BY MR. HESKIN:

Q. This is a pretty big one. This is probably $14 million in receipts purchased?
A. Again, you'd have to go back to the underwriting file to verify the basis for it.
Q. There's no specific invoice here, right?
A. Yeah, this one is missing the specific invoice so we really have to go back to the underwriting file. It's even more important for this one.
Q. Okay. If I look at the underwriting file, I should see invoices for $14 million, right?
A. Again, not to get hung up on a fixed ten point calculation, but you have to identify what the basis is from the underwriting discussion when they did this deal.
Q. It's going to be roughly 14 million, right?
A. Sure, roughly.
Q. Okay.

MR. HESKIN: We can go to the next 1, please.
THE WITNESS: And this is with the other advance company.
BY MR. HESKIN:
Q. Fast Advanced Funding?
A. Correct.
Q. Well, this is buying 10 percent of what?
A. Their receivable.
Q. Of what receivable?
A. It's identified in the underwriting based on the underwriting matrix and cash flow of the business.
Q. Well, it's certainly not buying receipts that were already sold to the CBSG, right?
A. No, those are separate. And unlike the other ones that identify the specific invoices, this has to be based on the underwriting cash flow matrix for that deal.
Q. Well, explain that.
A. They have to go through the

average balances in their account for the last four months, you have to get a good feel for the specific cash flow business as -- to ascertain a feasible number for them to work with.

Q. So their average daily balance would be 10 percent of 499 -- or it would be 499, right, $5,000?

A. Not daily, monthly balances.

Q. Yeah, monthly?

A. You said daily. There's a big difference.

Q. Their average receipts would be $50,000 per day, right?

A. Let me give you an example from an underwriting perspective.

Let's say they take the last three months' of bank statements for this merchant. Minus any other liabilities from MCA transactions and/or loans, what's the average basic deposit amount in cash flow the business has. So let's say in this case it was $5 million a month, it would do a 10 percent basis to

determine that we're willing to provide an advance on cash flow and funding receivables to the tune of 10 percent of that average basis for the last three months. So if that $10 million, this is where you get to your neat and tidy calculation of 10 percent, you can make the assumption that we should only do about $500,000. We'll go lower than that just to make sure that they're not biting off more than they can chew based on their receivables purchased.

Q. Well, there are 22 business days in a month, right?

A. Not a perfect 22 business days.

Q. 22, 23, right? What do you -- what do you use?

A. I'm saying a calendar month.

Q. What you do is you take the average per month, let's say it's 100,000, and you divide by 22 or 23. What do you use, do or 23?

A. We don't use either. We

look at the total bank statement cash inflows from a business.

Q. Yeah.

A. It's never going to be a perfect $5 million on a 10 percent basis, but it's going to be an average of at least the last three months, if not the last four or five months, right?

Q. Yup.

A. And we want to use a reasonable number for them to use as a basis for the advance amount, so we're not going to give them half of their monthly cash flows as an advance, that would be too aggressive. It wouldn't make any sense to give them, let's say in this example, 2-and-a-half-and-a-half million dollars. There's no way it would be feasible for them to work with that number. But from our historic average with a very low default rate, we find that a number closer to 10 percent is feasible depending on the business. We have to look at each deal individually

and look at how the business revenues are generated and individual cash flow for every transaction.

That's a good approximation on what we use that 10 percent basis for. That's really the value in that number.

Q. I want -- I want you to remember what you just testified to.

What's the -- what is the date of this agreement?

MR. HESKIN: If you can put the top of that?

THE WITNESS: It's the 5th of December 2018.

BY MR. HESKIN:

Q. Fifth of December, 2018. Got it. 12/18. Got it.

So as of December '18, 10 percent of their daily specified amount which would be tied to all the formula you just did, right?

A. Right.

Q. Would be about $5,000 per day, right?

A. Correct. And I meant that as an example to demonstrate how it's structured.
Q. Well, they did that, right? They must have made those calculations and --
A. I'm explaining to you how they come up with the underwriting matrix and what this 10 percent basis is used for.
Q. Okay. Roughly $5,000 for 10 percent, right, in December 5th, 2018, right?
A. Correct, that's right.
Q. Okay. And you would -- it's the same underwriters that are doing this for cash --
A. Same underwriting department, I don't know if it's the same underwriter.
Q. Okay. Same underwriting department?
A. Yeah. They should have consistent results, yeah.

Q. Okay. They should have consistent results, right?
A. Right.
Q. Okay. All right. So let's just remember that on December 5th, 2018, 10 percent -- and this is 10 percent of her revenues, right? Bank statements, what the bank statements show?
A. Cash flow.
Q. Cash flow. Should be $5,000 a day, right?
A. Right.
Q. Got it.
MR. HESKIN: If we can go to the next one, please?
BY MR. HESKIN:
Q. This is the tricky one, right? This is the December 19th one, right? What's the date of this one? Yup, this is the December 19th one, right?
A. Yup.
Q. Right?
A. Yes.

Q. Okay. So it states here that the purchase price is 3.89, and that the purchased amount is $5.4 million, right?
A. Right.
Q. So that would have to be pledging approximately $50 million of receipts, right?
A. That's incorrect.
Q. It's not. Okay. What's it pledging?
A. This is a consolidation deal. You see the line there that says weekly payment funding?
Q. Yup.
A. The objective of this structure in our factoring agreements is to be able to lower the overall exposure for capital provided to a client by distributing it over a longer period of time. It helps the client collect on existing receivables and be able to, similar to a reload, get additional capital while at the same time making

good on repaying the prior receivables.
Q. Got it. So what --
A. The money we funded Kara at this point, we were really worried that giving her additional money would increase our exposure, how much capital we're out of pocket. So this was the reason for this structure. The 10 percent basis has the least amount of relevance to this because that was just a by-product of prior transactions with her.
Q. What are you purchasing?
A. It's the same receivable, we're talking about the future receivables of her company.
Q. Wait, so you're repurchasing receivables you already purchased?
A. Correct. And you really want to refer to the consolidation schedule, meaning existing -- treat this like a reload. There's existing advances already provided that we're restructuring to make it more affordable for her to

work with.
Q. And you're charging her an extra 2.4 million, $2.5 million?
A. It's still the same proportionate rate we had before, it's just being taken over a much longer period of time. The idea here is to spread out the funding and the exposure risk since we're already out. As you know, where this deal ends up, she collected $3-and-a-half million more than we got paid back.
Q. So all the prior agreements should be paid off through this agreement, right?
A. I don't believe it's all the prior agreements, but I believe it's a good portion of it.
Q. Well, where am I going to find that?
A. It will as part of her body of agreements that we've done.
Q. Where am I going to find out that this is paying off other factoring

agreements?
A. Beyond that, the attachment. There should be detail on there. We go through that very carefully with the merchants.
Q. So to be clear, this is not a purchase and sale of future receipts, right?
A. It's a purchase and sale of the existing, again reloads, right? We have an existing transaction.
Q. Yeah, I get it.
A. It's brought into a new deal with additional capital for an expansion on the original obligation she has under the factoring agreement. So additional receivables that the company will have.
Q. You're rebuying receivables that you already purchased, right?
A. No, we are still getting money for those purchased receivables, we're extending the amount of receivables that we're purchasing. We said, Okay, Kara, we want to get -- we want to

provide additional working capital, but in order for us to do that, we need to buy additional future receivables your business is generating. So it's not necessarily those individual invoices anymore, it's on the general pool of her company's receivables.
Q. Okay. And how did you determine --
A. I made a distinction between those and the regular invoices we had because structurally it's a lot different. We're not laying out that whole amount of money either, it's going to be distributed over a long period of time so we're careful about the amount of money we're providing to minimize the risk on exposure being that, as you know, we're already out a lot of capital with this company.
Q. How much did she get under this deal? How much cash is she getting?
A. Under this transaction -- hold on a second. Do you have the

schedule that goes with it?
Q. I couldn't find it. It's somewhere.
A. There's a supporting schedule that breaks this all out. It will be very transparent with that.
Q. Okay. And how did you come up with the specified amount?
A. The specified amount is broken out in that agreement as well.
Q. It is?
A. Yes.
Q. And it says here that it should be determined on percentage of income, right?
A. Correct. Same legal structure as all the other agreements.
Q. And this is the agreement that went from $3,500 per day to 19,995, right?
A. Correct.
Q. So --
A. And I want to refer to that schedule because that really explains the

entire story based on what she provided to us in her discussions with our underwriting and customer service department, and the numbers we got from her CFO Josh.

Q. Say that again?

A. This is based on the conversations she had with our accounting and underwriting staff along with the numbers provided by her CFO Josh.

Q. So how much in receivables are you actually purchasing through this agreement?

A. I'd have to take look at that agreement, the detail on this.

Q. Okay. But it's -- it's not $5.4 million in receipts, right, because you had already purchased those?

MR. BERMAN: Objection.

THE WITNESS: Correct.

They're not purchasing another 5.4, you're taking whatever we had rights to already and you're adding on to that the additional

capital we are providing to Kara.

BY MR. HESKIN:

Q. Okay.

A. It's the same money we had before, right? This isn't any new -- we're not laying out this new capital altogether, there's new capital being added on top of her existing liabilities from the existing factoring agreements.

Q. Okay. And where is the 10 percent of the income, what does that mean?

A. At this point, the 10 percent really isn't just based on 10 percent of cash flows any longer. I'm not explaining this, but that larger agreement that had multiple invoices listed, it really is just a basic rough guideline on what her cash flow basis is. It isn't necessarily going to calculate to a clean ten points of revenues. We're just prolonging the deal, buying additional receivables for a longer period of time.

So if 10 percent represents $50 million, it's not $50 million day one, it's $50 million over a longer period of time.

Q. All right. So --

A. Does that makes sense as far as, you know, we are calculating a portion of the holdback in her receivables?

Q. It's based on a percentage of income, right? The 10 percent daily specified amount is supposed to be based on her income, right?

A. In this case, we take the existing receivables that we already financed adding on to it, and we're extending the scope of time for her receivables to come into her business and collecting that at a longer pace.

Q. Okay. All right. So just -- so we're clear --

A. I don't want -- $50 million receivable that this is based on that's currently sitting in receivables, it's a

longer scope of time that the cash flows are going to come in.

Q. This agreement is dated December 19th, 2018, right?

A. Yes.

Q. And the agreement for Fast Advance Funding that we looked about earlier was dated just two weeks earlier, it was dated December 5th, 2018, right?

A. A separate agreement, a separate company.

Q. And it did 10 percent, and it looked at her average receivables and that amount, her daily amount, came out to be $5,000 per day, right?

A. Right.

Q. So shouldn't this be roughly $5,000 per day?

A. No. That's what I keep trying to explain to you.

Q. Why isn't it 5,000 per day, what should it be?

A. Because there's a separate existing agreement that we already had

with her. There's already ongoing receivables that we're collecting.

To go back to your point, you're saying that the current invoice that we're purchasing receivables on is being paid by prior deals, we're collecting on those deals. This is extending those original transactions that we had factored already.

Q. So how much -- how much is collected on day one? What's the daily amount?

A. It's on that detail. I keep going back if you want to have a relevant conversation.

MR. HESKIN: All right. This is my last area of questioning we're almost done. So let's take a ten minute break and we should wrap this up shortly. Okay?

THE WITNESS: All right.

(Recess.)

MR. HESKIN: Can you pull up

the exhibit I just sent you?

BY MR. HESKIN:

Q. This is the copy of the -- of the factoring agreement. Have you seen this before, the one we were just discussing?

A. Yes.

Q. Okay. Can you show me in here where it specific -- where the -- where the payment schedule it?

A. It should be towards the end.

Q. Okay. Can you show me exactly where it is?

A. If you want to flip through it. I'm looking for a thing that basically looks like a big spreadsheet.

Q. This is what was filed as a true and correct copy of the agreement by CBSG.

A. Right.

Q. The confession of judgment.

A. Well, that's the detail on those invoices that you're talking about.

Q. Where is it?

A. That's not it though. Is that it?

THE TRIAL TECH: I believe that's the last page.

MR. BERMAN: Just for clarity of record, this is -- I'm assuming, Shane, just so he knows what he's looking at, this is the attachment to the confession of judgment or is this something else?

MR. HESKIN: Yeah, I believe so.

MR. BERMAN: Okay.

THE WITNESS: That's missing the consolidation schedule referred to on that last agreement.

BY MR. HESKIN:

Q. Okay. And the consolidation schedule, that's where it would have the -- the income, how the income is calculated?

A. It would have the breakdown for existing funding that we've done through prior factoring agreements, the additional capital being provided on a weekly basis, and the payments collected in relation to that capital.

Q. And it's not attached to the confession of judgment, correct?

A. I'm not --

Q. All right. I hate to do this. I've got to find this.

MR. HESKIN: Brett, do you have a copy of it?

MR. BERMAN: I don't have any. That's not my forte to get documents like that.

MR. HESKIN: Sorry. I don't know why this is such a problem, but it's not anywhere I can find it.

Give me another five minutes. I apologize to everyone. I've got to find this.

(Recess.)

MR. HESKIN: So what exhibit number is this?
THE TRIAL TECH: I have it written down as 34.
MR. HESKIN: Okay.
BY MR. HESKIN:
Q. So Joe, what is this exhibit?
A. This exhibit is HMC's records breaking down the daily payment amounts and was the point of negotiation when we were talking to Kara and Josh about their payment history with us.
Q. Okay. And this is specifically about the 12/19 agreement, right?
A. Yes. That's just this deal, correct.
Q. All right. And according to this deal, this is what, in the middle column, the daily payment contract says 3,500, right?
A. Yes.
Q. And that's based on 10

percent of her income, right?
A. Well, again, this is the one that skewed away from the original underwriting. This is by far the most complicated given the litany of funding that was associated with it.
Q. Okay. So -- so in December, it's $3,500 every day, right?
A. Yes.
Q. In January, it's $3,500 every day?
A. Yes.
Q. Okay.
MR. HESKIN: So can you -- can the court reporter or the technician just go to the next set? There you go, yup. Thanks.
BY MR. HESKIN:
Q. And then up until January 23, it's at $3,500 a day. Do you see that?
A. Yes.
Q. And then it jumps from 123 to 124 from 3,500 a day to 12,337, right?

A. Right. That's how you end up with the $19,000 payment.
Q. Well, why did it jump from 3,500 to 12,337?
A. Again, that's the detail that we have on this agreement and how this transaction was structured.
Q. Okay. Well, I mean, I looked at the agreement. I don't see a schedule. All I see is in the front of the agreement it says increased based on income.
So who -- who authorized the jump from $3,500 a day on 1/23 to 12,337 on 1/24?
A. That's the basis of the agreement.
Q. Where -- where in the agreement does it say that that's allowed?
A. Based on the communications with Kara and the information we received from her team, we made the decision to increase it from the agreement we had

with her.
Q. Okay. So what information on 1/24 justified an increase of roughly 400 percent?
MR. BERMAN: Objection.
THE WITNESS: We're treading the same ground, Shane. This isn't anything new. We're just going to keep going back to the same information.
BY MR. HESKIN:
Q. Okay. So just so I'm clear, you made this calculation, right?
A. This calculation was part of the agreement that she signed off on. It's detailed in that schedule for her funding.
Q. And who made the calculation that the daily payment should now be 12,337 on 1/24? That would be you, right?
A. We made the calculations, yes.
Q. You did?

A. I didn't specifically make that individual calculation on the funding schedule. I don't prepare the numbers.
Q. But did her income increase by 400 percent in one day?
A. I don't know.
Q. Well, according to the agreement it says, increase is based on income, right?
A. Yes.
Q. So by any plain reading of income, the income must have, according to you, in order to justify a 400 percent increase, it must have increased by 400 percent, right?
A. You'd have to look at the funding schedule. In this agreement we're adding -- we're providing her weekly capital as part of the transaction which is detailed on that list.
Q. Why would the funding schedule have anything to do with the percentage of her income?

A. Because it was structured and agreed upon in that manner.
Q. That you get to increase the payment by 400 percent?
A. Correct.
Q. And that's going to be on some schedule that no one can find?
A. It was provided. She signed off on it.
Q. Well, the -- the copy that you -- your company filed with the Philadelphia Court of Common Pleas that said this is a true and correct copy, doesn't have that schedule. We looked at it, right?
A. It's not on there. It should have been provided.
Q. But your lawyer, Mr. Hartley, said this is a true and correct copy, right?
A. Yes.
Q. And you've looked at it and you don't see that schedule, right?
A. Right.

Q. And if you look at the numbering, it's 1 of 22, and I went through and there's no pages, I don't see a schedule, right?
A. Yup.
Q. Okay. So unless we can -- you can come up with some document, some schedule that I haven't seen, and that your lawyer represented didn't exist to the Court of Common Pleas, what we're left with is what's been filed -- what we have seen here today, right?
A. Sure.
Q. Okay. And in that document, there's nothing in there justifying an increase of 400 percent, right?
A. Like the other deals we had, the basis is on the underwriting in the background on the deal itself. There's supporting documents as part of the underwriting file. If it's not attached to this -- to this agreement, the other underwriting criteria we have is part of the transaction, it doesn't necessarily

say that it's not valid, that there isn't a payable for that amount. It just so happens the details on the receivable and how we're collecting it are itemized on that schedule.
Q. Well, I'm looking at the front of the agreement and it says the daily --
A. She's got to pay us back a good amount of money.
Q. The daily amount is based on the percentage of income, right?
A. Right.
Q. And so when -- on day one the percentage of income was 3,500, right?
A. Right.
Q. And now just over a month later, because this -- this started December 19th, right?
A. Yup.
Q. Just a month later, it went from 3,500 to $12,000. That's nearly a 400 percent increase, right?

A. Correct.
Q. So you're telling me that their income increased by nearly 400 percent, right?
MR. BERMAN: Objection.
THE WITNESS: No, I'm not telling you that.
BY MR. HESKIN:
Q. You're not telling me that?
A. No, I'm not saying that.
Q. Okay.
MR. BERMAN: But Shane, I do have to say, you've asked all these questions already.
MR. HESKIN: Yeah. I just can't figure it out.
MR. BERMAN: Right, but you got your answers, so you're just asking the same questions you previously asked at 6:45 at night.
MR. HESKIN: All right.
BY MR. HESKIN:
Q. Let's look at the -- let's look at what happened. So we got 1/24

for a period of -- to 2/14, it looks like another 20 days or so, you collect 12,037 and then it increases to 14,525.
Do you see that?
A. Yes.
Q. Okay. What's the basis for that increase?
A. It's on a schedule.
Q. It's on a schedule that no one can find, right?
A. No, we have it. You don't have it.
Q. Okay. And --
A. Kara should have it, she went over it with Josh.
Q. Okay. Maybe we'll find it. Maybe we'll find it.
And so you're saying my client has it, but here's an exhibit that she prepared and obviously doesn't agree with that and she -- she met with you and said, Hey, listen, this is not what we agreed to, this is how much we should have been charged, $3,500 a day, and

you're charging me, why? You're charging 12,000, you're charging me 14, 16, 19.
So obviously she doesn't have the schedule that you're saying exists, right? Because if she had it, she would just look at the schedule and say, You know what, you're right?
A. That's incorrect. That's not what the meeting was about.
Q. Okay. Well, she had a meeting with you, right?
A. Yes.
Q. She's telling you this is what the agreement calls for, 3,500 per day, right?
A. No.
Q. That's not what she's saying there?
A. No.
Q. What's she saying?
A. The meeting was to cover all her transactions and to work on doing a deal. It was a negotiation.
Q. It's a negotiation. So

she's not -- she's not telling you during this meeting that you've overcharged me by over a million dollars, right?
A. She's not disputing that we overcharged her. She said, We need to get on the same page on the balances for all the transactions and come up with a plan that's feasible for the business.
Q. Okay. So she sits down with you, she presents this schedule and says, You should have been charging me $3,500 a day, but you --
A. No, she never said.
Q. Isn't that what this says?
A. No.
Q. Look at the heading at the top.
A. You're asking me if she said you should not have charged me the $19,000. $3,500 a day. That is not factually correct.
Q. Let's look at the top.
MR. HESKIN: Can the technician highlight the top of

the page? The heading at the top.
Yup.
BY MR. HESKIN:
Q. Daily payment contract. That's what she's saying is $3,500 per day, CBSG daily ACH debit amounts. Do you see that?
A. Yup.
Q. So she's alleging that the contract only allows 3,500, isn't she?
A. So look at your bottom right on there, the draw schedule.
Q. Yup.
A. Similar to what I'm describing on the agreement we had. They definitely got that because that schedule is based entirely on that other schedule that I'm referring to.
Q. Okay.
A. But you're seeing additional funds we're providing to HMC over the life of this deal so that when we provide additional capital, you can see it lined up there with those dates, we're able to

increase the payments proportionate to the additional capital we're providing for additional receivables that are being financed.
Q. What -- how does that correspond to income? It says the daily payments are supposed to increase based on the income, right?
A. Additional receivables that she's making based on this agreement that we can provide more capital to buy more receivables which would correlate to the increase in payments. There's no surprise to her, if you're trying to paint this in a way that she thinks she doesn't know where those additional payments are coming from.
Q. Okay.
A. She understands that.
Q. Got it. So on 1/4, you guys fund with her $550,000 in additional money, right? Right?
A. Yes.

Q. Let's look at the schedule. On 1/4, how much did the daily amount increase?
A. Nothing, it's still the 3,500.
Q. I thought you just said two minutes ago that it was supposed to increase every time she got more money from you?
A. It goes up over time. I'm not saying it's a direct correlation with the schedule on the right.
Q. Okay. And so on 1/4, she got more money but the daily payment didn't increase?
A. Yeah. Her detailing this out shows that she understands exactly how this agreement works.
Q. No, it doesn't.
A. Yes, it does. The schedule of payments going out, this is provided by them, understanding and confirming that her accountant knows exactly what payments were coming in. Why wouldn't

they be able to understand that the payments funded on that draw schedule correlate to the increase in the daily ACH from additional receivables, so rather than breaking it out into, you know, seven or eight more deals, we just decided to do this schedule that increases over time. That's the way she wanted it and she instructed us to structure this deal that we came in agreement to.
Q. You're purchasing 10 percent of what?
A. No. Again you're hung up on this 10 percent like you're expecting a flat ten point calculation from a receivable basis. This negotiation is outside of that. Even if we had that 10 percent basis, that's always been the basis for her deals. But this negotiation, it's a very complicated transaction with multiple tranches of capital coming in to purchase additional receivables was developed and negotiated

by Kara. There should be no ambiguity about that.
Q. This is what she's saying. Dated 12/19/18, contract date, 12/9/18, contract amount, 3.8 million, daily payment stated in the contract, 3,500, income payment options specified 10 percent. Right? That's her understanding of the deal, right?
A. No.
Q. She's not saying that?
A. She's not. She has this deal. This is what I'm explaining to you that you're failing to produce the schedule. She has the entire structure of when deals -- when this capital is going to come her way, when the payment increases occur, and it's only after we gave her the last tranche of capital before we had any issues with this client.
Q. All right. I'm just telling you what she's claiming on this piece of paper. Isn't it true that she's saying

that the daily payment should be 3,500 or 10 percent?
A. That's not correct. She is factually inaccurate and she understands how this deal was structured.
Q. I don't care whether she's right or wrong, I just want to know, this is what she's saying and this is what she told you at that meeting.
A. No, not during the meeting. Again, the meeting was to discuss all of the advances that she has with our company.
Q. Okay. As for this particular one?
A. They came in to try to do a negotiation, do an additional deal to potentially get more capital and we responded, We're already in this too deep, we need to lower the payment. We agreed because we want you to sustain your business for us to be able to collect those receivables.
Q. All right. I got it.

Just so I'm clear, that the entire basis for you increasing this amount is found somewhere on a schedule that I've never seen?
A. That your client has seen and has detailed out right here with the funding provided.
Q. Okay.
A. Because the funding amounts aren't provided on that version of the schedule you provided either, right? How are they getting the numbers if they don't have the schedule that went along with that contract?
Q. Okay. So you've got that schedule, and you know, it either exists or it doesn't exist.
A. I'm looking at it right now on my computer.
Q. You have it? Then share it with us. Email it -- email it to the court reporter and we'll look at it right now together.
A. You have the payment

schedule already.
Q. Well, you've got this agreement that you prepared for and you're relying upon for your testimony, email it to the court reporter and we'll --
MR. BERMAN: Shane, let me -- let me put you on mute and I'm going to call Joe for one second. Okay?
MR. HESKIN: Sure.
MR. BERMAN: Your question is not pending anymore, correct?
MR. HESKIN: No.
(Recess.)
BY MR. HESKIN:
Q. Okay. All right, Joe. Can you please -- is this the document you were referring to earlier?
A. It's a sample of the weekly funding we were describing.
Q. Where are the daily payments on this?
A. This one does not have the

daily payments. It's a sample of how wires were scheduled to complete the funding for HMC.

Q. Okay. But -- but the document that you're talking about, would it have a payment schedule, too?

A. Yeah, the one that was with that deal specifically should have the increased detail on that payment.

Q. They should have it, right?

A. Right. But the point of this document in reviewing what we're doing with the funding to this client, this is normally included in these MCA agreements listing out the wires received every week so there's no ambiguity on their end when capital was coming in. This one so happened to have a fixed payment so it didn't need to have a breakdown on the increasing payments because it was the same amount the whole time.

Q. What does exposure mean?

A. Exposure means capital out

versus capital in. This was a mechanism for us to limit our exposure with all the deals we had with Kara, especially down the road with that last transaction. So you can see that week one we fund 137,000, we collect five installments of that 700 -- 7,812 payment on the top right.

Q. Got it.

A. We fund another 48,000, we collect another 7,812 in the top right. The exposure is a sum of the payments wired out versus payments collected. So by week two, we wired out a total of approximately 2 -- or 197 -- what is that, $187,000, right? 187 minus ten installments of the 78 equals that 185 balance, right? Not balance, but the exposure on that capital.

So all-in-all we funded $108,000 more than we received. And this doesn't break even until we're done funding her at the bottom of the list where you see on week -- 7/23, we're

ahead on the total capital sent out. We collected more than what we sent out.

Q. And so as of 10/22/18, you're plus -- you're in the black $538,000, right?

A. Correct.

Q. Okay. And what's your current exposure?

A. This one is paid off. It was done. It was satisfied as of 12/5/18.

Q. 12/5/18?

A. Yes.

Q. But overall, isn't it true that CBSG has received more than $2 million in payments than it gave HMC?

A. No, not at all, we're behind on the exposure 3-and-a-half million dollars.

Q. Okay. And what document --

A. We gave Kara 3-and-a-half million dollars more than she gave to us, not including any factor for your income.

Q. Okay. And what document did

you review to come up with that number?

A. We didn't have a document to review. That's a calculation we did internally.

Q. When did you do that?

A. It's on your payment schedules. If you net out on those payment histories the amounts paid versus amounts funded, you'll come up with that same number. And that's not even talking about the 11-and-a-half million dollar outstanding balance. If she collected 11-and-a-half million dollars, we would get our 3-and-a-half million dollars back and $8 million of income for the total amount of money we funded to her.

Q. And that --

A. We haven't even broken even with Kara yet. She's still out more than we received.

Q. And do you understand that she disputes that payment schedule, that there were wires --

A. She didn't dispute it when

we met with her CFO in our meeting. Again, we got to the same numbers, we weren't too far off, we ended at that 11-and-a-half million dollars number as the true outstanding balance, and that's where it went sideways. She pulled the plug on payments, she did not make good on any other further payments. She decided to go to legal with it.

She knows she's ahead 3-and-a-half million dollars no matter how you cut it.

Q. Do you have an email where she -- that memorializes her agreement to the 11.5?

A. Yes.

Q. You do?

A. Oh, we should have communications confirming that. I have several messages back and forth with her accounting department. Time and again, her CFO and her confirmed this is the current outstanding balance.

In fact, even before we did

another funding, we trued it up. When she did this last agreement saying you're taking existing balances and putting them into new agreement with new capital, we always have to true up the existing balances. If she's not on the same page with that, we're not going to do that next deal.

So we confirm with her, Hey, Kara, this is the current balance, we're going to give you this additional capital, here's what it's going to owe. When you collect your receivables, you have to turn over that capital.

Q. All right. So --

A. This deal is evidence that she understands exactly what the structure is in liabilities. Just keep in mind, she paid off most of these deals. She was a great client up until this went sideways because she understood the product, she customized it to fit her business needs, and she paid us back those prior deals.

Q. Okay. And I'm just trying to figure out what you said earlier with these re -- re-upped deals where you combine the deals together.

So are you using this new agreement to pay off the old agreements and you just combine them in one, is that what you're doing?

A. Yeah, in effect you can call it a payoff. You're taking the existing factoring agreement and you're bringing it into a new transaction. You're confirming the balances owed and the new payment schedule as a negotiation for subsequent payments to be collected.

Q. Okay. And that's perfectly okay?

A. Yes, she agreed to it several times.

Q. Okay. And you're okay -- your auditors are okay with that?

A. Are you asking if our auditors are okay with the legal structure of our agreement?

Q. If your auditors are okay with using a new factoring agreement to pay off old factoring agreements?

A. Yes, they're okay with the mechanism for subsequent agreements replacing existing agreements.

Q. So they're okay with a new agreement repurchasing receivables that were already purchased by CBSG?

A. Correct.

Q. Just to be clear, you would be taking funds that are not generated from future receivables to pay off receivables that you purchased, and so you're getting paid off from -- not from those receivables you purchased, but you're getting paid off from yourself?

MR. BERMAN: Objection, form.

THE WITNESS: No, that's incorrect.

BY MR. HESKIN:

Q. So I've got an agreement, right?

A. That's not correct.
Q. Tell me how I'm wrong.
A. You have a commitment for those receivables on the last transaction. You're expanding the commitment for additional receivables as part of additional funding. You're carrying over the remaining liability for the original commitment and building upon it with additional capital provided to Kara, meaning that we have the right to additional receivables the company will now generate under the subsequent agreement.
The financial auditors signed off on the structure and the legal on these documents.
Q. When?
A. As part of our audit.
Q. When?
A. For 2017 we had our audit completed at the start of -- at the end of 2018. We just had 2018 under QC review, and we expect 2019 to be

completed by the end of the year.
Q. Okay. Just so I understand this correctly, the money that's going -- where is the money coming from to pay off the first agreement?
A. The money coming from -- to payoff the first agreement?
Q. Yup. So if I got two agreements, the first one -- the second one is paying off the first, right? Where is the money coming from to pay off the first? It's coming from CBSG, right?
A. Depends on which agreement you're referring to and what the business operations cash flows are like.
Q. Well, I'm just talking about when you do one of these consolidations where you're paying off an old one, where is the actual money coming from to pay off the first agreement? It's not coming from the receivables of the business --
A. Operations of the business.
Q. -- it's coming from you, CBSG, right?

A. No, it's not coming from us. I mean, it can if they put that in the same account that they're paying us back from. We actually wire to different accounts specifically for that reason.
But if the business is generating revenues -- remember, we're only buying a portion of the receivables. They're getting revenues from other deals that we're not buying into. This is why we don't fund 100 percent of receivables or even 50 percent. It doesn't make any sense for us to buy out the entire receivables, otherwise, what's the utility of the business we're doing business with?
Q. Let's just try and keep it simple. I've got an agreement -- let's take the first agreement. I get 100,000, I have to pay back 150. I pay it off for a while through receivables, $75,000 left that I owe. Right?
A. Okay.
Q. Then I enter into a new

agreement with CBSG for an additional 100 -- $200,000. Let's say it's another $200,000. I owe 75 from the last one, right?
A. Right.
Q. How does that $75,000 get paid off if I -- if I consolidate it with the second?
A. It doesn't matter if it's a reload or if it's the same transaction. There's cash flow coming in from the business outside of what we're providing. Again, we're only funding a small portion of the overall monthly statement cash flow. If we're basing a 10 percent basis on the funding amount for our receivables, they should have plenty of other capital from other deals that we did not purchase the future receivables on for that to occur.
Q. You're making no sense whatsoever. They owed $75,000, how is that money getting paid?
MR. BERMAN: He just

answered that. Objection.
But Shane, it's 7:15 at night. So are you finishing this up now? We're been here since ten o'clock this morning.
MR. HESKIN: Very close.
BY MR. HESKIN:
Q. Where is that money -- how is it getting paid off?
A. This is what I just explained. You understand there's more receivables out there than what we're financing, right?
Q. Okay.
A. I'm not getting every single dollar that the company gets. They have a healthy payroll, they have SGNA, they have rents, they have all sorts of bills that the company needs to operate. There's revenues, Kara takes a nice fat salary. There's revenue outside of what we're financing.
Q. Where is the $75,000 coming from? The company pays the 75,000 or

does CBSG pay the 75?
A. No, the 75,000 is not physically paid off when we do a subsequent deal. It's an expansion of the receivables commitment that she's making subsequently after the first transaction. I don't get 75 grand back when we do that reload. We're still on the hook for that. She has to receive that in future receivables from her merchants. We're saying we agree to provide additional capital to purchase additional receivables that your company is going to receive in the future. It's up to you to make good on that under this new agreement when you collect that receivable.
Q. But when you do the new agreement, right, the deal No. 2, right, that extinguishes deal No. 1, right? Deal No. 1 is paid off, right?
A. It's not physically paid off. I'm not getting cash in hand to pay that off.

Q. I got it. But I no longer owe money under that agreement, right?
A. You do. You carry over -- well, yeah. Legally the -- that agreement is complete.
Q. Paid, right?
A. But the liability as part of the next agreement, which is a carryover subsequent agreement, which I'm sure you've come across before.
Q. Yeah, but --
THE REPORTER: Guys, really, one at a time.
THE WITNESS: Go ahead, Shane. You go first.
BY MR. HESKIN:
Q. When I do the refactoring, or whatever you want to call it, at that point in time, I no longer legally owe any money under the first agreement, correct?
A. Correct.
Q. I didn't pay that off with receivables of my own, right?

A. No.
Q. How did it get paid then?
A. Liability for those future receivables is carried over into the subsequent agreement. Future receivables like the original agreement will pay that off.
MR. HESKIN: Can the technician please pull up the email I just sent?
BY MR. HESKIN:
Q. Can you read that second paragraph? The second full paragraph.
A. Okay.
Q. Did you write this email?
A. Yes.
Q. Is this email consistent with what we just spent 20 minutes debating over?
A. Yes.
Q. Okay.
A. You can't apply funds allocated for client funding against the balances. We're not going to take our

own money and pay back your last receivable. You're renegotiating the next contract. That's exactly what I'm describing.

Q. Okay. So this is exactly what you've been trying to tell me for the last 20 minutes. Maybe I'm dense.

A. Yeah, you are dense. And she called me after this and said she understood.

Q. Okay. I guess I'm the dense one. That's fine.

MR. HESKIN: All right. Well, that's all I have. Thank you very much for your time.

Thank you everyone for being so patient.

And those are all the questions I have.

Brett, do you have anything?

MR. BERMAN: No, nothing.

Thank you everyone. Have a good night. I appreciate it.

THE REPORTER: Mr. Berman,

do you need a copy of the transcript?

MR. BERMAN: Not as quickly as Mr. Heskin does, but I need a copy, yes.

THE REPORTER: Thank you.

(Witness excused.)

(Deposition concluded at approximately 7:17 PM.)

CERTIFICATE

I HEREBY CERTIFY that the witness was duly sworn by me and that the within deposition is a true and accurate transcript of the stenographic notes of the testimony given by the witness.

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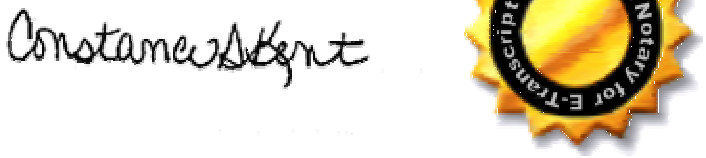

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IN THE UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF PENNSYLVANIA

- - -

FLEETWOOD SERVICES, LLC, ROBERT L. FLEETWOOD, and PAMELA A. FLEETWOOD, Individually and on behalf of all others similarly situated, Plaintiffs	:CIVIL ACTION : : : :NO. 18-CV-00268 :(JS) : :
vs.	:
COMPLETE BUSINESS SOLUTIONS GROUP, INC. D/B/A Par Funding; JOHN AND JANE DOES, Defendant.	: : : : :

- - -

Oral Deposition of JOSEPH LEWIS COLE BARLETA, taken pursuant to notice, held at WHITE AND WILLIAMS, LLP, 1800 One Liberty Place, 1650 Market Street, Philadelphia, Pennsylvania 19102, on February 11, 2020, beginning at 10:00 a.m., before Kathleen Jastrzembski, Court Reporter-Notary Public, there being present.

- - -

APPEARANCES:

WHITE AND WILLIAMS, LLP
BY: JUSTIN PROPER, ESQUIRE
SHANE HESKIN, ESQUIRE
1800 One Liberty Place
1650 Market Street
Philadelphia, PA 19103
Phone: 215-864-7142
Representing the Defendant

FOX ROTHSCHILD, LLP
BY: BRETT BERMAN, ESQUIRE
2000 Market Street
Floor 20th Floor
Phone: 215-299-2842
Bberman@foxrothschild.com
Representing the Defendant

I N D E X

Witness

JOSEPH LEWIS COLE BARLETA

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THE COURT REPORTER: Usual stipulations?

ALL COUNSEL: Yes.

- - -

(It is hereby stipulated and agreed by and between counsel for respective parties that reading, signing, sealing, certification and filing are waived and that all objections, except as to the form of questions, be reserved until the time of trial.)

- - -

JOSEPH LEWIS COLE BARLETA, after having been first duly sworn, was examined and testified as follows:

- - -

EXAMINATION

- - -

(Whereupon the court reporter marked P-8 for purposes of identification.)

- - -

BY MR. PROPER:

Q. Good morning, Mr. Cole.

A. Good morning.
Q. You are here as a corporate designee for Complete Business Solutions Group, correct?
A. Yes.
Q. Do you have an understanding of what a corporate designee deposition is?
A. Yes.
Q. What is that understanding?
A. I represent the company under this court matter.
Q. Okay, and I have in front of you what's been marked as Plaintiff's-8 for identification. Have you seen this document before?
A. Yes.
Q. When did you first receive this document?
A. It was a while ago.
Q. Okay. What did you do when you received it?
A. I followed up with counsel.
Q. Did you read the entirety of Exhibit-8?

A. That's right.
Q. Can you take a look at page two, please?
A. (Witness complies).
Q. Actually, there's an initial notice. So it's identified page two, but it's actually four of the document.
A. Okay.
Q. My apologizes, turn back one page. Excellent. So with respect to topic one, the marketing, soliciting, underwriting and funding of each Merchant Agreement between You and Fleetwood. Can you tell me what you did to testify in that topic?
A. We reviewed all of our procedures and discussed specifically this file that we underwrote.
Q. What specific procedures are you referring to?
A. The origination and underwriting of each file.
Q. Did you review a written policy?
A. Yes.

Q. Can you explain to me each and every written policy that you reviewed?
A. We would have to refer to the specific documents in detail, but we do have a general underwriting policy and origination policy.
Q. Okay, stop there. When you would say, I would have to refer a specific document, what did you mean by that?
A. Depends on how granular you needed the steps.
Q. Okay, so you mean that if I needed to get granular and ask you specific questions about that particular underwriting policy, I would need to refer you to the policy itself, right?
A. It depends on how granular.
Q. Okay. What if the policy hadn't been produced in the litigation, what am I supposed to do then?
A. I should be able to cover this discussion.
Q. How many different policies did you review concerning underwriting and

origination?
A. We have one.
Q. You have one. How many pages is that document?
A. It's a big document. I can't say specifically how many pages it is.
Q. I don't recall seeing any document of any kind concerning underwriting an origination. Do you know if that document you're referring to has been produced in this lawsuit?
A. I don't know.
Q. What types of things are covered in that document?
A. Procedures for file origination and our standard underwriting practice.
Q. File origination and standard underwriting practice. Who created that document?
A. It's created by several employees over a period of time.
Q. When was the document first created?
A. It was created 2013.

Q. Okay. I need to ask some questions about it because I have never seen it, it would have been helpful.

MR. HESKIN: Was it produced to day?

MR. BERMAN: I have no idea.

MR. HESKIN: I know there was a production this morning.

MR. PROPER: Well, we asked for the document in our original request.

MR. HESKIN: Well, I know we requested it. I just know there was a production this morning, but we'll deal with it. Obviously we're going to reserve our right to recall the witness.

MR. PROPER: Sure.

BY MR. PROPER:

Q. So it was created in 2013. Whose decision was it to implement written origination and underwriting guidelines?

MR. BERMAN: Objection. You can answer.

THE WITNESS: It was decided by management.

BY MR. PROPER:

Q. Who specifically at management made that decision?

A. Our head underwriter.

Q. Who was your head underwriter at the time?

A. That would have been Susan.

Q. Who Susan?

A. Graesar.

Q. How do you spell her last name?

A. I believe it's G-R-A-E-S-E-R.

Q. Is Ms. Graesar still employed by CBSG?

A. No.

Q. When did she leave employment with CBSG?

A. About two or three years ago.

Q. Who took over a head underwriter for CBSG upon Ms. Graeser's departure?

A. Tory Villarose.

Q. How do you spell Ms. Villarose's last name?

A. V-I-L-L-A-R-O-S-E.

Q. Is Ms. Villarose still employed

by CBSG?
A. Yes.
Q. Is she still employed as the head underwriter?
A. Yes.
Q. What are her responsibilities as head underwriter for CBSG?
A. She's supervising underwriting, and as part of our credit committee.
Q. When was the credit committee formed?
A. Near inception when we first started.
Q. When did you first start?
A. The end of 2012.
Q. Can you tell me the names of the individuals that were originally on the credit committee for CBSG at the formation of the company?
A. Yes. Credit committee was Lisa.
Q. Lisa who?
A. McElhone. Jamie McElhone.
Q. Anyone else?
A. No.

Q. Has anyone -- strike that.
Has the composition of the credit committee changed since that time?
A. Yes.
Q. When did it change, and how did it change?
A. It changed a few times. We had different employees some in.
Q. Can you tell me some of the other individuals that were on the credit committee and what periods of time they served?
A. We had Susan Graesar as part of the credit committee, that was approximately from 2013 to 2017.
Q. Was she on the committee with Lisa and Jamie McElhone?
A. Yes.
Q. Okay. About how about Ms. Graesar left?
A. Tory took over. They had some overlap, she was part of the credit committee. Tory has been with us since 2014, I believe, and promoted to that

position after two years.
Q. Is she still on the credit committee?
A. Yes.
Q. Is anyone else on the credit committee other than those three women?
A. Yes.
Q. Who else?
A. Alexander Shelpin.
Q. How do you spell Alexander's last name?
A. S-H-E-L-P-I-N.
Q. Okay. When did she get appointed to the committee?
A. That was about two years ago.
Q. Okay. Anyone else?
A. No.
Q. What does the credit committee do?
A. It provides final approval for every file that comes in.
Q. What information does the credit committee review in making finale determinations on each file that comes in?

MR. BERMAN: Objection. You can answer.

THE WITNESS: They review the entire underwriting file associated for each transaction.

BY MR. PROPER:

Q. Okay. Is there a standard underwriting file for each transaction?

A. No, there are different elements depending on the client.

Q. Okay. Is there a standard underwriting policy that your underwriters are supposed to follow as part of the document I haven't yet seen?

MR. BERMAN: Objection.

THE WITNESS: There are general guidelines.

BY MR. PROPER:

Q. Okay. Are those general guidelines that your underwriters are expected to follow when underwriting a file?

A. Yes.

Q. Okay, and can you walk me through

all of the underwriting guidelines that your underwriters are expected to follow?
A. Yes.
Q. Go ahead.
A. Initial applications are received from our ISO's.
Q. Is there a form application?
A. There's a standard application, although ISO's submit different information and it's pretty inconsistent depending on which ISO we're working with.
Q. Well, how many different form applications do you approve your ISO's to use?
A. Our ISO's don't use -- our applications, we may give them a copy of our application, we generally send it to them ourselves, the client.
Q. Does -- strike. Is each applicant required to fill out a CBSG application?
A. No.
Q. Okay, so they can either fill out a CBSG application or an ISO application?

MR. BERMAN: Objection. You can answer.

THE WITNESS: No.

BY MR. PROPER:

Q. So is an application required for each file?

A. Yes.

Q. Okay. Tell me each and every application that may be used?

A. We have the CBSG application. We have our individual ISO application.

Q. Who created the individual ISO application?

A. That's the ISO's themselves.

Q. Got it. Does the individual ISO that uses this application have to submit it to CBSG for approval?

A. No.

Q. Go ahead.

A. We often proceed a file without the application. We may take information verbally and put it into our CRM directly.

Q. And the CRM is?

A. CRM on our online platform we use

to manage our clients.
Q. And when you verbally take an application, are your underwriters using your form to ask questions of the applicant?
A. No, they don't necessarily use the form to ask questions from the applicant. They may take it also verbally.
Q. When one of your underwriters takes an application verbally, what questions is the underwriter asking?
A. They verify the submitted items as part of the application such as banking information, company information, and ownership information.
Q. Okay. I'll talk about each of those. Is every applicant required to submit banking information?
A. Yes.
Q. Okay. What type of banking information is required of every applicant?
A. Bank statements.
Q. For how long?
A. For at least three months.

Q. What is your underwriting guidelines say in terms of the requirement of applicants to submit bank statements?
A. We prefer at least three months. Actually, minimum three months and preferably six months.
Q. And that's a written policy?
A. That's right.
Q. And your underwriters are expected to follow that, correct?
A. Yes.
Q. How about the second factor you said, was it owner information?
A. That's right.
Q. What type of owner information?
A. The incorporation documents and proof of ownership in the business.
Q. Is every applicant expected to provide that information?
A. Yes.
Q. Is there a written underwriting guideline requiring that information to be submitted by applicants?
A. Yes.

Q. Okay. What was the third one?
A. The information about the business itself.
Q. What type of information?
A. Industry type. Revenues, specifically cash flow for the prior three months and the review of the statements.
Q. What type of revenue information is an applicant required to submit in addition to bank statements?
A. Financials, accounts receivables, statements, the types --
Q. Is --
MR. BERMAN: Let him finish. You keep interrupting.
THE WITNESS: The types of invoices received to get an understanding of their business in industry.
BY MR. PROPER:
Q. Is there a written underwriting guideline requiring that information?
A. There is for financials. There is not for invoices.
Q. Okay, s what type of financial

information specifically do you require applicants to submit?

MR. BERMAN: Objection. Asked and answered.

MR. HESKIN: It's not a proper objection.

MR. BERMAN: I'll object how I want, thanks. You can answer.

MR. HESKIN: No, you won't. You will not give speaking objections. If we need to call up Judge Sanchez to stop your speaking objections, we will.

MR. BERMAN: Call. Call now. Do whatever you want.

MR. HESKIN: Continue it. You're warned. Continue it.

MR. BERMAN: Shane, I don't go with warnings. I'll object. You have a problem, call the Judge. Call it what you want. I'll object however I want.

BY MR. PROPER:

Q. Do you require applicants to submit profit and loss statements specifically?

A. No.
Q. Do you require applicants to submit tax turns?
A. No.
Q. Do you require applicants to submit balance sheets?
A. No.
Q. Okay. What specific financial documents do you require applicants to submit?
A. We generally will take account receivable aging reports, which is the focus for our underwriting.
Q. When you reviewed my clients file, did my client submit accounts receive aging reports?
A. Yes.
Q. Okay. What specifically are you referring to as an accounts receivable aging report?
A. It's a list of outstanding invoices for their business detailing the revenues being produced by the company currently, which we base our factoring

transaction on.
Q. Okay. Would those be existing receivables or future receivables that you're obtaining information about?
A. Existing receivables and future receivables.
Q. What type of future receivable would the client provide?
A. Future receivables are determined by their projected business that we discuss with them.
Q. What type of projections do you do to estimate what a future might be for an applicant?
A. We compare prior invoices to what the client currently is pursuing with billable -- with invoices not currently billed yet to get an idea of their projected revenue for the length of the factoring transaction.
Q. What type of internal documents are created to prepare that projection?
A. We have an underwriting matrix.
Q. Do you know if the underwriting

matrix that was used for my clients application were produced in this litigation?

A. I do not know.

Q. What does an underwriting matrix look like?

A. It's a spreadsheet that details their bank statement and deposit averages, and the collected receivables. The objective of the spreadsheet is to understand the cash flow for the business and to compare it to prior months?

Q. Because the cash flow is securing the advance, correct?

MR. BERMAN: Objection. You can answer.

THE WITNESS: That is not true.

BY MR. PROPER:

Q. Okay. We'll get to that. Does the credit committee -- strike that. Are there notes of the credit committee meetings?

A. No, there generally no notes.

Q. Do you attend the credit

committee meetings?
A. I do not.
Q. Are there any documents created to reflect what happens at a credit committee meeting?
A. No.
Q. How frequently does a credit committee meet?
A. Everyday.
Q. Is there an agenda for credit committee meetings?
A. There is no agenda.
Q. Are there emails exchanged concerning the meetings?
A. They're generally verbal. There may be some.
Q. What did you do, if anything, to determine whether or not there are credit committee documents specific to my client's transaction?
A. We went over communications that we had, and we reviewed the file itself where we often make notes on that file from the credit committee.

Q. Were there any such notes?
A. I believe so.
Q. What specific notes from the credit committee do you recall seeing?
A. We would have to review the application. Those were noted directly on the file freehand.
Q. Well, I haven't seen freehand notes from a credit committee, so you're gonna have to help me. Can you tell me in a little more detail, as part of your preparation for this deposition what credit committee notes you recalled seeing?
A. There were notes on the bank statements themselves highlighting certain items of coming in for the clients receivables. The deposit, transfers between the accounts, part of their general day do day cash flow.
Q. What were the nature of the notes?
A. The notes just highlight the items that are coming in to help the credit committee just make a decision on the file.

Q. Were there concerns expressed by the credit committee?
A. No.
Q. Were there notes of any kind in terms of the nature of my clients receivables; good, bad or otherwise?
MR. BERMAN: Objection. You can answer.
THE WITNESS: Yes.
BY MR. PROPER:
Q. What were some of comments that were made by the credit committee concerning my clients business and/or receivables?
A. The consistency of their deposits.
Q. Was it a good note or a bad note?
A. It was positive.
Q. What specifically did the credit committee note?
A. That the deposits for this client were consistent for the reviewed months on the bank statements.
Q. Anything else?

A. It also noted debits for other transactions that they had, which we reviewed as part of the consolidation for thi client specifically.
Q. What other debits are you referring to?
A. Other factoring transactions the client had.
Q. And who were the agreements with?
A. Those are in the documents we provided already.
Q. Okay. Do you recall any of the other companies that my clients had agreements with?
A. I don't recall their names specifically.
Q. Are there common MCA companies that you see your customers dealing with before they come to you?
A. There's a lot in the industry. We can note there's some that we see once in a while, but no consistency between file to file.
Q. It's common for an applicant to

have existing MCA agreements in place when they come to you, correct?
A. No.
Q. It's not common?
A. It can be either or. There are clients with no MCA transactions beforehand.
Q. What percentage of the applicants would you estimate have existing MCA agreements in place when they apply for funding with CBSG?
A. We would have to review our funding list.
Q. So you don't know the answer to that question one way or the other?
A. No.
Q. And you said you would have to review what?
A. We would have to review our funding list, our history of funding.
Q. What is a funding list exactly? Other than a history of funding, can you give me a little more info?
A. Just a list of deals we've done.

Q. And is that something you can easily print out?
A. No.
Q. How would you print out a list of the deals that you've done this, so called, funding list?
A. We don't print it out, we use it online.
Q. Walk me through how you would go about pulling the funding list, what would you do? Go onto your computer and do what?
A. We'd log to our system. We would run the report.
Q. How do you run the report? What do you have to?
A. There our CRM.
Q. When you say run the report, what does that mean?
A. Specify perimeters, period of time, basically what information you want to include on the list.
Q. Okay, and what search would you have to do to determine whether or not an applicant had an existing MCA agreement in

place at the time they came to CBSG for funding?
A. We would have to reference the file and see if it was part of a consolidation list.
Q. Is every applicant that has an MCA agreement in place required to consolidate that agreement in order to get funding?
A. No, it's a case by case basis.
Q. All right, so there may be instances where there's not a consolidation transaction, but you simply provide the customer funding and the customer continues with the agreement that it has in place with some other MCA agreement, correct?
MR. BERMAN: Objection. You can answer.
THE WITNESS: That's right. It depends on the need of the business.
BY MR. PROPER:
Q. So you can't just do a search and consolidation and accurately answer whether or not an applicant had an existing MCA

agreement, correct?

MR. BERMAN: Objection. You can answer.

THE WITNESS: It would have to be that information plus pulling the information for other clients that had MCA's, there's other perimeters involved with that report. If we were to get that specific?

BY MR. PROPER:

Q. Yeah, I want to get that specific. How would you get that specific and find out even if a customer had one existing MCA agreement with another company and they were not looking to consolidate, they just wanted another MCA agreement with CBSG?

A. In that case, which is a report we don't normally run, we would have to pull the files directly.

Q. How many customers does CBSG currently have?

MR. BERMAN: Objection. Don't answer.

MR. PROPER: Joe LaForte represented at an investor event, I believe you attended, that there were 3500 customers. Was that an accurate statement, or not.

MR. BERMAN: Objection. Don't answer.

BY MR. PROPER:

Q. Who is Joe LaForte?

A. He's the sales director for one of our ISO's.

Q. Sales director which for ISO?

A. Recruiting and Marketing Resources.

Q. Do you have a written agreement with Recruiting and Marketing Resources?

A. Yes.

Q. Has that agreement been produced in this case?

A. I don't know.

Q. It hasn't. Do you know why it hasn't?

A. I don't know.

Q. Was Mr. LaForte involved in the

formation of CBSG?
A. No.
Q. Has Mr. LaForte ever been employed at CBSG?
A. No.
Q. Ever Mr. LaForte ever had an ownership interest in CBSG?
A. No.
Q. Has Mr. LaForte ever been at CBSG?
A. No.
Q. Has Mr. LaForte ever had an ownership interest ata CBSG?
A. No.
Q. Did you attend an investor event on November 21 at the Sheraton Hotel in Valley Forge, Pennsylvania?
MR. BERMAN: Objection. Don't answer.
MR. PROPER: That's not a proper objection.
MR. BERMAN: Call the Judge.
MR. PROPER: I will. Because I've got case law that says I can ask a

witness questions in an individual capacity at a 30B.6, it doesn't have to be within the topic. So I'm happy to call the Judge on this.

MR. BERMAN: Call the Judge.

MR. PROPER: It Also goes to creditability and goes to --

MR. BERMAN: Call the Judge. Call the Judge.

MR. PROPER: -- also to the organization of the company.

MR. BERMAN: Call the Judge.

BY MR. PROPER:

Q. Are you aware that Mr. LaForte represented0 to my client that he was the owner of CBSG?

A. I am aware.

Q. You are aware of that?

A. (Witness nods.)

Q. When did you learn of that?

A. When reviewing the case file.

Q. What specifically did you review where you saw that Mr. LaForte was telling my client that he owned CBSG?

A. There were communications via email.
Q. What specific email are you referring to?
A. There was something we came across.
Q. I don't recall that specific email. Do you recall anything additional about that?
A. I don't.
Q. You saw an email from who to who where Mr. LaForte represented he was the owner of CBSG?
A. I don't recall.
Q. When did you see the email?
A. In discussions with our counsel.
Q. Okay. Was there a bates number on the email that you saw?
A. No. Not that I recall.
Q. Was it an internal email or was it a communication between my client and Mr. LaForte?
A. I don't remember.
Q. So Mr. LaForte was representing

that he was the owner of CBSG in that email you saw. Was that an accurate or inaccurate statement?

A. You know, now that I've mentioned it, I don't know if it was this specific file. I can't say with confidence.

Q. You saw some email where Mr. LaForte represented to somebody that he owns CBSG, that's what you remember?

A. Yes.

Q. Is that a truthful or not a truthful statement that me made?

A. It is not a truthful statement.

Q. Do you know if Mr. LaForte is regularly representing to the public that he's the owner of CBSG?

A. We often see our ISO burgers do that.

Q. Your ISO who?

A. Our ISO reps. The people talking to the clients. Their job is to talk to the clients and determine, you know, provide information. They always represent they're some kind of managerial or

ownership position in the business.
Q. Which one of your ISO's, other than Mr. LaForte, is telling applicants that they own CBSG?
A. It's common practice in the industry.
Q. Give me the name of one other person that represents to applicants that they own CBSG that you personally recall seeing?
MR. BERMAN: Objection. It's beyond the scope of this case, but you can answer.
THE WITNESS: If I had to pull one out of the hat, Darren Dorval.
BY MR. PROPER:
Q. What is CBSG's position with respect to ISO's providing false information to your customers?
A. It is something we clarify before we fully complete the transaction.
Q. When did you first learn that Mr. LaForte was telling people that he owned CBSG?

A. I don't recall.
Q. Have you known this for a week, a month, a year, five years? How long has he been doing it?
A. It's common place in the business, it's just a generally understood tactic used by sales reps.
Q. I don't care about anyone other than Mr. LaForte.
A. Uh-huh.
Q. So how long has he been representing to people that he owns CBSG?
A. I don't know.
Q. Does he represent to investors that he owns CBSG?
MR. BERMAN: Objection. Don't answer the question.
BY MR. PROPER:
Q. Have you ever been in a public even where Mr. LaForte has represented himself as the owner of CBSG?
A. No, not that I recall.
Q. Okay, so let me be clear. You don't recall any instance where you

attended an event where Mr. LaForte represented to the public that he was the owner of CBSG?

MR. BERMAN: Was it done with a special tone to get a different answer?

THE WITNESS: No, I don't recall.

BY MR. PROPER:

Q. If you had heard Mr. LaForte represent to the public that he was the owner of CBSG, would you have corrected that statement?

A. If I had, yes.

Q. Because that's important to correct, right?

A. Yes.

Q. You don't want to lead people with the misimpression that the ownership includes Mr. LaForte, correct?

MR. BERMAN: Objection. You can answer.

THE WITNESS: It depends on the context.

BY MR. PROPER:

Q. Well, how about the context that

Mr. LaForte doesn't have the cleanest background in the world?

MR. BERMAN: Objection.

THE WITNESS: It's irrelevant to the business.

BY MR. PROPER:

Q. It's irrelevant to the business. Is it irrelevant to the fact that you're trying to acquire a bank that Mr. LaForte is an owner with a criminal background?

MR. BERMAN: Objection. Don't answer the question.

BY MR. PROPER:

Q. Is CBSG trying to acquire a bank?

MR. PROPER: Objection. Don't answer the question.

BY MR. PROPER:

Q. What is you understanding of Mr. LaForte's criminal background?

A. Not much. He had some issues over a decade ago.

Q. Did the issues involve fraud and dishonesty?

A. I'm not aware of the particular

details.
Q. You never did a background check on this person that's holding himself o ut to be an owner of CBSG and your sales rep?
A. No, I have not.
MR. BERMAN: Objection. You can finish your answer.
THE WITNESS: No, we haven't.
BY MR. PROPER:
Q. When did you first learn Mr. LaForte may have been involved in some crimes of dishonesty?
MR. BERMAN: Objection. You can answer.
THE WITNESS: We knew this from the first day.
BY MR. PROPER:
Q. Do you know that he was convicted of running an illegal gambling operation?
A. No.
Q. Did you know he was convicted of mortgage fraud?
A. I had some details, I don't know the specifics.

Q. You're involved in a business that involves providing money to your customers, right?
A. Yes.
Q. And the individuals that are your ISO's and sales agents are representing CBSG, correct?
MR. BERMAN: Objection. You can answer.
THE WITNESS: Yes.
BY MR. PROPER:
Q. You have written agreements with these individuals, correct?
A. Correct.
Q. And you expect them to represent your business in a way that's truthful and honest, correct?
A. Not necessarily.
Q. Okay, so when do you expect your representatives to be honest and when are you okay with them not being honest?
MR. BERMAN: Objection.
THE WITNESS: It wasn't matter for the origination of the file. We verify

what the transaction is after the ISO rep turns in a client or a lead.

BY MR. PROPER:

Q. So you're saying that it doesn't matter if your ISO's lie or not in terms of the application process?

MR. BERMAN: Objection. You can answer.

THE WITNESS: It's irrelevant because we go over the actual terms per client withe the underwriting department, and we clarify any ambiguities that a rep may have made.

BY MR. PROPER:

Q. How do you know what representations a rep made so that they -- strike that.

How do you know what representations the ISO made that would require correction?

A. We don't. We go through the specifics of the contract, how the deals are being funded, and what receivables are being factored.

Q. Do you have a common practice, since it's common for ISO's to represent that they're owners of the business to tell the customers who the owners are?
A. No, we don't need to do.
Q. So it's not a material consideration for a customer who owns a business?
MR. BERMAN: Objection.
THE WITNESS: No.
BY MR. PROPER:
Q. Customers don't care whether the business is owned by a convicted felon or not, right?
A. They don't.
Q. That's not material to a decision in your experience, right?
A. Yes.
Q. How many of your customers have you asked whether or not they care whether or not an owner is a convicted felon?
A. It's not a standard practice for us.
Q. Why does Mr. LaForte not use his

real name?
A. I don't know.
Q. Do you know he goes by Joe Mack in his business with PAR, correct?
A. Sometimes.
Q. Well, when does he use his real name and when does he use Joe Mack?
A. It's on him to use whatever he wants on his signature. He's just an ISO.
Q. What name does he use in internal correspondence with CBSG?
A. I've seen both.
Q. You never asked him why he's using an alias?
A. No. He's already disclosed any issues in his past beforehand.
Q. Who has disclosed what issues in his past beforehand?
A. As I mentioned when we first started the business when I got involved in CBSG this was disclosed.
Q. Did he disclose it to you personally?
A. Yes.

Q. This was a disclosure made for what purpose?
A. Transparency, and to build trust.
Q. At that point in time, was Mr. LaForte involved with CBSG's business?
A. No. Only as a third party ISO broker we worked with.
Q. So before he was approved as a third party ISO, did he make a disclosure about his background?
A. Yes.
Q. And the disclosure would have been largely immaterial because his wife presumably would have known what his criminal background was, right?
MR. BERMAN: Objection.
THE WITNESS: Yes.
BY MR. PROPER:
Q. And Lisa McElhone is Mr. LaForte's wife?
A. Yes.
Q. Is she an owner of the business?
A. Yes.
Q. Is she the sole owner?

A. Yes.
Q. Does she work at an office for CBSG?
A. Yes.
Q. Which office?
A. We have a few offices.
Q. What office does she work out of primarily?
A. She's at the office on 3rd Street.
Q. How long have you had an office on 3rd Street?
A. Two and a half years now.
Q. Any idea why Mr. LaForte testified that CBSG did not have an office in Philadelphia?
MR. BERMAN: Objection you can answer.
THE WITNESS: Because it's our operating entity that primarily resides there, which handles files for CBSG.
BY MR. PROPER:
Q. Which entity are you referring to?

A. FSP.
Q. What does FSP refer to?
A. Full Spectrum Processing.
Q. Whose name is on the lease for the 3rd Street location, Full Spectrum Processing or CBSG?
MR. BERMAN: Objection. You can answer.
THE WITNESS: It's Full Spectrum Processing.
BY MR. PROPER:
Q. When you testified that CBSG has a presence on 3rd Street, what did you mean by that?
A. That we have personnel that handles files for CBSG there.
Q. Which CBSG employee works at the 3rd Street?
A. Only Lisa.
Q. Does CBSG represent to customers that it has an office on 3rd Street in Philadelphia?
A. No.
Q. It's not on the top of every

agreement?
A. Should be our Florida domicile. There may be prior agreements using the old address.
Q. There's a prior agreement, in fact, the agreement with my client that has 141 North 2nd Street. Did you have a presence there at some point?
A. Yes, we did.
Q. And then I see actually on the schedule A for a different agreement, let me show you what I'm referring to. That has the North 3rd Street address, correct?
A. Right.
Q. So this is a more recent agreement, I assume, after your location change, right?
A. Yes.
Q. So you are representing to customers on every one of your agreements that you have an office on North 3rd Street, at least after you moved there, right?
MR. BERMAN: Objection.

THE WITNESS: For mailing correspondence.
BY MR. PROPER:
Q. Is that a truthful statement? Is that a real office?
A. Yes.
MR. BERMAN: Objection.
THE WITNESS: Yes.
BY MR. PROPER:
Q. So you share an office with Full Spectrum?
A. We are not in the office with Full Spectrum. We are operating -- we are having Full Spectrum process files for CBSG.
Q. Okay, so I just want to understand. Have you been to the North 3rd Street office?
A. Yes.
Q. How many times?
A. Several.
Q. How many times have you been there over the last month?
A. At least ten time.

Q. Okay. Do you work out of that office?
A. No.
Q. What office do you work out of?
A. 205 Arch Street.
Q. How long have you had an office at 205 Arch Street?
A. Approximately three years.
Q. Is CBSG a tenant at 205 Arch Street?
A. No.
Q. So with respect to 205 Arch Street, do you work at that location as an employee of CBSG or some other business?
A. Some other business.
Q. What other business is that?
A. Full Spectrum Processing.
Q. Are you an employee of both Full Spectrum and CBSG?
A. No.
Q. Are you an employee of CBSG?
A. No.
Q. Have you ever been an employee of CBSG?

A. Yes.
Q. What period of time were you employed by CBSG?
A. From the end of 2012 to the end of 2016.
Q. What was your position during that period of time?
A. CFO.
Q. And in 2016 what happened?
A. We moved all our personnel in Philadelphia to Full Spectrum Processing and began working under our operating agreement.
Q. When you say you moved all your personnel, does that mean one day a bunch of people were employees of CBSG and the next day they're employees of Full Spectrum?
A. That's correct.
Q. Did these individuals job titles change from one day to the next?
A. No.
Q. Did the responsibilities change in any way?

A. Yes.
Q. Okay. So how did the responsibilities of the employees change from when they worked at CBSG to when they worked at Full Spectrum?
MR. BERMAN: Objection. Don't answer these questions. You can raise it with the Judge. You're going well beyond the scope of a 30B6.
MR. PROPER: Which I'm permitted to do.
MR. HESKIN: Goes to corporate --
MR. BERMAN: Not in this limited deposition.
MR. PROPER: It goes go to corporate organization.
MR. BERMAN: Which you took out of your 30B6.
MR. PROPER: No, I did not.
MR. BERMAN: You did. We'll have the Judge in a minute, so you can raise that then if you want.
MR. PROPER: I will.
MR. BERMAN: Okay.

BY MR. PROPER:
Q. What are your roles and responsibilities at Full Spectrum?
A. I'm in charge of accounting, payroll, HR and IT.
Q. Does CBSG have its own accounting department?
A. No.
Q. Does it have its own payroll department?
A. No.
Q. How about HR and IT?
A. No.
Q. So Full Spectrum is a consultant, or an outside vendor for CBSG with respect to these activities, correct?
MR. BERMAN: Objection. You can answer.
THE WITNESS: Servicing entity.
MR. PROPER: It's a servicing entity.
BY MR. PROPER:
Q. And you said there's a written agreement between CBSG and Full Spectrum?

A. Yes.
Q. Were you involved in the decision to form Full Spectrum?
A. Yes.
Q. What was the reason that Full Spectrum was formed?
A. Because it services other entities, and it's not solely CBSG's managing.
Q. Does Ms. McElhone have any ownership interest in Full Spectrum?
A. Yes.
Q. Did she have an ownership at the time the servicing agreement came into play?
A. Yes.
Q. Do you know what percent?
A. 100 percent.
Q. Does Full Spectrum do or perform services for companies other than CBSG?
A. Yes.
Q. Does CBSG have its own underwriting department?
A. No.

Q. Who does underwriting for CBSG currently?
A. Full Spectrum.
Q. How long has Full Spectrum performed the underwriting?
A. Since 2017.
Q. Did CBSG have underwriters prior to 2017?
A. Yes.
Q. At the time my client entered into an agreement with CBSG, was CBSG performing the underwriting internally or in-house?
A. I'm sorry, can you clarify.
Q. At the time my client entered into an agreement with CBSG, did a CBSG employee perform the underwriting?
A. No.
Q. Who performed the underwriting?
A. A Full Spectrum Processing employee.
Q. Do you recall what the date was that Full Spectrum took over?
A. January 1, 2017.

Q. Who was the employee of Full Spectrum that underwrote my clients?
A. Susan Graesar.
Q. In --

- - -

(Phone call with the Judge.)

- - -

(Whereupon a short recess was taken.)

- - -

BY MR. PROPER:
Q. So since January 2017 you have not been employed by CBSG, correct?
A. Correct.
Q. And since January of 2017, have you represented to the public that you are an employee of CBSG?

MR. BERMAN: Objection.

THE WITNESS: Not necessarily an employee, but an operator servicing it.

BY MR. PROPER:
Q. Do you routinely correspond with CBSG customers using CBSG letterhead?
A. No, I don't, but the company

does.

- - -

(Whereupon the court reporter marked P-9 for purposes of identification.)

- - -

BY MR. PROPER:

Q. Is this a letter you sent, Mr. Cole, on October 24, 2019?

MR. BERMAN: Objection. Don't answer the questions about this document. This is related to an unrelated merchant. You heard the Judge's instruction. You're free to call him again.

BY MR. PROPER

Q. Did you represent in this instance that you were a representative of CBSG?

MR. BERMAN: Objection. Don't answer the question.

BY MR. PROPER:

Q. Are you a representative of CBSG?

A. Yes.

Q. In what capacity are you a representative of CBSG?

A. I'm a decision maker in the business.
Q. Explain that. What do you mean you're a decision maker in CBSG's business?
A. I'm a director of the company.
Q. You're not an employee CBSG, you're a director?
A. Correct.
Q. Are you paid by CBSG for being a director?
A. No.
Q. You're volunteering as a director?
A. Yes.
Q. What other directors are there at CBSG?
A. Lisa and Jamie McElhone.
Q. What are your roles and responsibilities as a director of CBSG?
A. I am in charge of the accounting, treasurer.
Q. Are you involved in working with third party auditors?
A. Yes.

Q. Is CBSG an audited company?
A. Yes.
Q. And who performs the audits?
A. Current?
MR. BERMAN: Objection. Don't answer the question.
BY MR. PROPER:
Q. Do the audits provide any information with respect to common and typical practices at CBSG in terms of underwriting files?
MR. BERMAN: Objection. Don't answer the question.
Feel free to call the Court, we're here today.
BY MR. PROPER:
Q. One of the topics, can you look at the 30B6 notice? What is topic one again? Can you read that, please?
A. "Broker" as used herein.
MR. BERMAN: These here.
THE WITNESS: Oh, Topic one. Got it.
Marketing, soliciting,

underwriting and funding of each Merchant Agreement between You and Fleetwood.

BY MR. PROPER:

Q. Do the audit reports contain any information with respect to the marketing, soliciting, underwriting and funding of the merchant agreements between CBSG and my client?

A. Our financial audits?

Q. Yeah, is there any information about common practices that would pertain to the transactions between CBSG and my client?

A. Let me think about that. It says generally how it's produced in business, meaning working with ISO's. It doesn't get into detail about how those procedures are carried.

Q. Right. So what general information does the audit contain with respect to CBSG's policies and procedures with respected to underwriting?

MR. BERMAN: Objection. Don't answer the question. He can answer about

the Fleetwood. Read the topic and his question.

BY MR. PROPER:

Q. I thought you just testified that that generally policy would have pertained to my clients transaction, yes?

A. No, in general, not specifically to Fleetwood.

Q. I understand. Would that general policy pertain to all of your customers, including Fleetwood?

A. No. Not necessarily.

Q. Okay, so what ways would it pertain and what ways would it necessarily not pertain?

A. General policy means this is what the company uses as a standard practice for underwriting. It may or may not pertain to this client specifically because it's not necessarily used for every client.

Q. But it may pertain?

A. May pertain, sure.

Q. Okay, so what information in the audit report may pertain to Fleetwood.

MR. BERMAN: Objection. You can answer about Fleetwood, sure.

THE WITNESS: Just the general origination of how the deal came in, through an ISO and how it was serviced by Full Spectrum Processing. There is no information about the specific methodology used for either.

BY MR. PROPER:

Q. Is there a written underwriting guideline that Full Spectrum uses?

A. They have a checklist.

Q. Is Full Spectrum expected to follow the organization and underwriting guideline that you testified about earlier in the deposition?

A. Yes.

Q. Okay, and in addition to that document, Full Spectrum has some checklist?

A. No, no, I'm talking about the same instrument. It is a checklist. It's the guidelines that they have to review for files.

Q. Is there a shorthand version that

Full Spectrum underwriters use when underwriting my clients deal?

A. No, it's the same thing. It's one instrument that they use.

Q. As part of the underwriting guidelines, are underwriters expected to pull a Dun and Bradstreet report?

MR. BERMAN: Are you talking about the Fleetwood's? Objection. Limit your question to Fleetwood's.

BY MR. PROPER:

Q. Was there an underwriting policy in place in January of 2017? I thought you said there was.

A. Yes.

Q. And I thought you said that underwriters were expected to follow that policy, yes?

A. Yes.

Q. And my clients deal was in 2017, right?

A. I don't recall.

Q. Okay. I'm going to ask you to assume that for purposes of the next

question. That if my clients deal was in January of 2017, the guidelines would have pertained to my clients deal, right?

MR. BERMAN: Objection.

THE WITNESS: Yes.

BY MR. PROPER:

Q. Okay, so back to where I was.

A. I don't recall if Dun and Bradstreet was part of the checklist.

Q. Don't have the document.

A. Yeah, we would have to refer to the document, the underwriting file itself.

Q. Okay. So it may have been required for my clients deal, it might not have been required for my clients deal, I would have to look at the document that I don't have to find out the answer. Is that what you're telling me?

A. No. You don't need to look at the document, we generally had Dun and Bradstreet reports at that time pulled.

Q. Okay. When you say generally, when would a Dun and Bradstreet report been pulled during that time period, and when

wouldn't it be pulled?

MR. BERMAN: Objection. You can answer about the Fleetwood's.

MR. PROPER: Just to be clear. You're instructing your witness to answer no questions about whether or not a particular policy extended beyond my clients?

MR. BERMAN: I'm --

MR. PROPER: Just so I'm clear. So it's your position that for commonality purposes, that it's not relevant whether other transactions were similar my clients transaction? Just so we can --

MR. BERMAN: If you want to refer me to which of the topics you're talking about?

MR. PROPER: Talking about underwriting, one.

MR. BERMAN: Okay, that says the Fleetwood's. So yes, if you're referring to that topic I will instruct him to only answer to the Fleetwood's. If you disagree, call the Judge. I'm looking at

your topics.

MR. PROPER: Just to be clear, you're limiting this deposition to only questions about Fleetwood, not any other merchant.

MR. BERMAN: I'm limiting this deposition to your 30B6 notice, and if you want a clarification of scope, as you're well aware, we had many letters back and forth where your old response, which I have, your old 30B6 had the marketing, soliciting, underwriting and funding of each Merchant Agreement, that was rejected by the Court based on the letters that came, or didn't have to be because you changed it and you then changed modified it say between You and Fleetwood.

So if you want the Court to sanction you going beyond your 30B6, let's get the Judge on the phone and ask him the question.

I'm not limiting anything but a 30B6 notice you gave.

MR. HESKIN: Based on your

objections.

MR. PROPER: I understand. You're saying you're not allowing the witness to answer --

MR. BERMAN: No, I'm going by your 30B6 notice that says between You and the Fleetwood's.

MR. HESKIN: Then instruct him not to answer.

MR. BERMAN: I'm instructing him this is what he's here for.

MR. HESKIN: Based on your objection.

MR. BERMAN: Ask whatever questions you want. We will take it objection by objection. I'm not giving you any blanket objections. I'm not here to do that. Question by question.

MR. HESKIN: We got it.

MR. BERMAN: If you have a problem, call the Judge.

MR. PROPER: You're objecting, it's good.

BY MR. PROPER:

Q. So the underwriting policy that was in place in January 17, you don't specifically remember whether there's anything about Dun and Bradstreet, right?
A. Right.
Q. Was the underwriting guidelines changed at some point in time?
A. The underwriting guidelines are modified over time depending on the policies of the department.
Q. When a modification to the underwriting guidelines occurs, walk me through that process? Is there a supplement? Is there a new policy that's created with the change? How is that change communicated to the underwriters?
A. The underwriting manager and credit committee discuss potential changes for their policies, and they implement it when needed.
Q. How is it implemented?
A. It's given to all the underwriters to use going forward.
Q. What's given?

A. The checklist, the updated checklist.
Q. Maybe we're having a disconnect. Is the checklist included somewhere within the underwriting guidelines?
A. No. I'm saying there's only one document. The policy, the checklist, that they review for every file is the same document.
Q. There's a big underwriting guideline, right? You said it was a big document, the origination and underwriting policy?
A. No.
Q. You didn't testify earlier in the deposition that the underwriting, the origination and underwriting document was big?
A. No, the application files are big, there's a lot of stuff in there, but the specific checklist that they review is not that long.
Q. I'm not talking about the checklist. We can go back and when we have

a break, I'll pull it. But I thought you testified earlier in the deposition, I asked you how big the origination and underwriting guidelines were, and you said they were big and you couldn't be expected to remember everything in there, and it got to a granular level you wouldn't be able to answer the questions. Am I thinking of a different deposition or am I at the right one?

A. No, I misunderstood then. I meant the entire underwriting file is a big file. There's a lot stuff in there and if you need to get granular, you would have to go through the file.

MR. BERMAN: I want to be clear for the deposition because I didn't know about this checklist either before today, so I do want to get you that checklist while we're sitting here at a break. He's going to get it for me, so you tell me when we can take a break so I can get that.

BY MR. PROPER:

Q. Is it your testimony under oath

that the only origination and underwriting guideline is the checklist?
A. Yes.
Q. No other document relating to underwriting?
A. Well, there's other documents relating to underwriting, but it's not necessarily a procedures manual if that's what you're talking about.
Q. I want you to tell me every written piece of paper that underwriters are expected to rely upon when underwriting a file?
MR. BERMAN: Objection. You can answer.
THE WITNESS: We have our merchant applications. We have our underwriting checklist. We have our underwriting reports, which are including, you know, site inspections and on line credit verification for the business and its owners. We have the bank statements produced for the business. We have the financials included as part of the

document. We also have the underwriting matrix that I mentioned before where they calculate the cash flow worthiness of the business and the receivables.

We have any other relevant company information such as invoices, or client list, or particular information about that industry that the underwriters use to make a decision before moving forward with a factoring transaction.

Q. Okay. So, do you recall since January of 2015 how many iterations of the underwriting checklist there have been?

A. I don't recall.

Q. What have you done in preparation for this deposition to determine what information is on the checklist, and when changes were made to that checklist?

A. We reviewed the client file.

Q. Anything other than that?

A. No, just that client file.

Q. The underwriting report, you mentioned some things that were in the underwriting report. What were those

again?
A. What underwriting report? Are you referring to the matrix?
Q. No, I thought you said that there was an underwriting report that would include a site inspection?
A. Yes, there are site inspections. You check the Yelp pages for these business to make sure they're in good shape.
Q. Was there a site inspection done on my clients business?
A. I believe so, yes.
Q. Was that part of the policy that was in place at the time to do a site inspection?
A. It is one of the items on the checklist.
Q. Has that policy changed, that a site inspection is required?
A. It's never required, it's often done depending on the client, the industry, the regionality. There's a couple considerations for the business.
Q. So does a checklist have some

information about site inspections?
A. Just says it's a thing they need to go over if need. The underwriting and the credit committee needs to make a decision on whether or not to run it.
Q. But it's often run?
A. Yes.
Q. Okay, and you said -- is the Dun and Bradsheet report also often run?
A. No, we stopped using that one.
Q. When did you stop using Dun and Bradstreet?
A. I want to say two years ago.
Q. How about Experian or some type of credit report?
A. We still run Experian.
Q. Okay. Was there an Experian credit report pulled from my client's deal?
A. Yes.
Q. Was that part of some policy that was in place at the time?
A. It's on the checklist.
Q. Okay. Has the checklist changed to take off any necessity for pulling a

credit report, or is that still required?
A. It's still required.
Q. Okay. And bank statements are on the checklist?
A. Of course.
Q. And that's still required?
A. Yes.
Q. Okay. So the things that are always required as part of the underwriting would be the credit report, right?
A. Yes.
Q. Three to six months of bank statements?
A. Yes.
Q. The underwriting matrix, is that always done?
A. No. I mean we have exceptions to that.
Q. Is that often done?
A. Yes.
Q. Is that typically done?
A. Yes.
Q. Okay. What else is typically done when underwriting an file? We got the

bank statements, the credit report, the underwriting matrix, the site inspection. Any other financials other than bank statements?

A. Typically look at their AR.

Q. You typically look at their AR?

A. Yes. The tax returns and financials are not necessarily a component, they are sometimes included.

Q. Client list, is that typically requested?

A. Yes.

Q. Okay. Do you typically request whether the applicant has other MCA agreements in place?

A. Yes.

Q. Any other information on the checklist that underwriters typically follow when underwriting a deal that we haven't already discussed?

A. Online social media pieces, we check that.

Q. Okay. Was there anything that was done in underwriting my client's deal

that was not typical?
A. No.
Q. So my clients underwriting process was pretty typical for what you would do for any applicant; is that fair?
A. It really depends on the business. We have to look at that specific business in Texas and that industry.
Q. Yeah, so was that -- was the underwriting that was done for my clients business typical of what the policies would require in terms of underwriting?
MR. BERMAN: Objection.
THE WITNESS: No. There were specific questions asked about that client about their business and industry that we had to understand before proceeding with the funding.
BY MR. PROPER:
Q. What specific questions?
A. The revenue window of the year, when you guys are the most busy with the business.
Q. Don't you ask that of every

applicant, or isn't that part of every underwriting file, is to look at bank statements and determine whether or not the revenue is fluctuating from month to month for seasonality?

A. Not necessarily. Landscapers are extremely seasonal. From our understanding, they require that a lot more than other types of businesses, let's say dentist. They're less seasonal because people are checking their teeth all year.

Q. Yeah. When you're looking at three to six months of bank statements, is one of the things that is being looked at consistency of revenue?

A. Yes.

Q. And in my clients case, you are look at consistency of revenue, right?

A. Yes.

Q. So that wasn't unique, right?

A. No. Every business is going to have revenue, obviously you want to look at that.

Q. So what specifically in my

clients underwriting file was unique and different than any other underwriting file in terms of the questions and policies and procedures that you follow?

MR. BERMAN: Objection.

MR. PROPER: You can answer.

THE WITNESS: So during the merchant interview, which is a standard thing that they do, they had to understand the seasonality aspect of their landscaping business, that is not a usual thing that they need to go over, again depending on the industry and the merchant business type.

BY MR. PROPER:

Q. Whose landscaping business are you referring to?

A. The Fleetwood's.

Q. Okay. Tell me your understanding of what specific type of landscaping the company does?

A. Golf courses.

Q. Okay, so you're saying that t were some specific questions about the

nature of my clients business?
A. Yes. Our credit, and one of the things we developed was that they really get an understanding of the business when they're doing the underwriting. They want to know the idiosyncrasies about that clients business before they proceed.
Q. Is that something that's common in the underwriting process, to find out the idiosyncrasies of the borrower?
A. It depends on the business.
Q. Don't you want to know everything you can know about a borrower before you enter into a transaction with them?
MR. BERMAN: Objection. You can answer.
THE WITNESS: No, not necessarily.
BY MR. PROPER:
Q. So are you an algorithmic or a non-algorithmic lender?
A. Non-algorithmic.
Q. So as a non-algorithmic lender, it's not important for you to know

everything you can about the nature of the borrower's business?
A. It is important, but there are questions asked specifically for that industry and business type.
Q. Right, so you may ask a question of a landscaper that may be different than an automobile repair shop?
A. Sure.
Q. But the nature of the questions are designed to find out how that business operates and how they generate revenue, right?
MR. BERMAN: Objection. You can answer.
THE WITNESS: The questions aren't always asked. We don't need to ask the dentist how to drill a tooth, we just need to know the revenue basis. There's cash flow based underwriting and it's consistent.
BY MR. PROPER
Q. Now, the cash flow based underwriting, do you perform cash based

underwriting for every transaction?
A. Yes.
Q. That's what you do, right, you're doing cash based underwriting, right?
A. No, we're doing receivables based underwriting, and cash flow is a consideration as part of it.
Q. Right. The revenue of a business is their cash flow, right?
A. No.
Q. How is a business's revenue that comes in the door different than their cash flow?
A. Revenue can be produced without cash coming in. You can have it accrued as receivables, but it doesn't mean they're making deposits everyday.
Q. So you're looking at both receivables and cash flow, right?
A. Revenue and cash flow.
Q. Do you look at revenue and cash flow for every transaction?
A. Yes, that's very important.
Q. Got it. And you looked at

revenue and cash flow in my clients transaction?
A. That's correct.
Q. And you also look at the debt to income ratio of the applicant, right?
A. No, we don't look at it that way.
Q. Okay, so if Mr. LaForte testified at his deposition that it was really important to check the borrower's debt to income ratio, you would not agree with that?
MR. BERMAN: Objection.
THE WITNESS: He's a sales rep. If it's an analysis he's making as a sales rep, that's on him, but that's not our standard underwriting practices.
BY MR. PROPER:
Q. Got it. So there's no analysis done of the borrower's debt to income ratio?
A. It's not conducted in the usual DTI comparison.
Q. That's not part of the underwriting matrix?

A. No.
Q. What else does my client do in terms of its business? You said landscaping for golf courses. Can you just generally tell me your understanding of my clients business?
A. Also servicing for landscaping.
Q. What do you mean servicing for landscaping?
A. Taking care of the landscaping.
Q. What do you mean taking care of the landscaping?
A. Of the landscaping that they produce. There's some servicing to it.
Q. I'm not following you. Can you give me an example of some of the things my client would do?
A. If they need to follow up with a client and patch something up, they do that. There's a service aspect to their business.
Q. Service aspect meaning the golf course may retain my client to go and generally maintain the golf course?

A. They may. They may have to do a follow up on that client's billables. If there's anything wrong, obviously they want to keep their clients happy because they're running a good business.

Q. Is my client involved in the design at all of golf courses?

A. Not that I know of.

Q. Is it involved in constructing golf courses?

A. No.

Q. Is it important when underwriting a file to fully understand the type of business and work that an applicant performs?

A. In general, yes.

Q. What did you do to educate yourself on the nature of my client's business?

A. I looked at the underwriting file.

Q. What specifically in the underwriting file do you recall seeing that discussed or described the nature of my

client's business?
A. Just the industry type that's listed on the CRM.
Q. When you say the industry type, what does the underwriting file say about my client's industry?
A. Landscaping, golf related.
Q. Is the underwriting decision -- strike that.
How important is understanding correctly what a business does in making an underwriting decision?
A. It's very important.
Q. So it's typical for every underwriting file to ask questions to understand what the applicant does, right?
A. Yes. You need to know what type of business they're in.
Q. And those questions were asked in underwriting my client's deal, right?
A. This's correct.
Q. Did you review an AR report for my client's business?
A. Yes.

Q. Okay. Did you review a client list for my client's business?
A. Yes.
Q. And you reviewed the credit report, right?
A. Yes.
Q. And you reviewed online social media, right?
A. Yes.
Q. And you performed a site inspection, correct?
A. I don't remember specifically if there was one done for them.
Q. Okay, and you required my client to submit bank statements, correct?
A. Yes.
Q. And my client submitted an application, correct?
A. Yes.
Q. And my client provided information about outstanding MCA agreements, correct?
A. Yes.
Q. So, so far everything that was

done to underwrite my client's file would be things that would be typically done when underwriting a file, correct?

MR. BERMAN: Objection.

THE WITNESS: Most of those elements are included as part of the underwriting package, yes.

BY MR. PROPER:

Q. So what are the items that I just mentioned are not part of the underwriting package?

A. They may have gone into more of the AR than other clients.

Q. Did they? When you say may have?

A. Yes, they did.

Q. So how did the underwriters delve deeper into the AR for my client than typically would be required to perform under the policies?

A. They looked at individual clients that that client had.

Q. What individual clients -- strike that.

What individual clients of

Fleetwood did CBSG look into?
A. The ones listed on the receivables schedule.
Q. What does the receivables schedule look like?
A. It's a financial report prepared by the client in the form of listing their balances owed by different clients.
Q. Is that type of AR report requested typically of customers?
A. Yes. It depends on the business. Again, a dentist isn't going to have an AR schedule, they're not going to need to know individual clients.
Q. But if a customer has an AR schedule, you want to see it?
A. Again, it depends on the business. It really is a case by case basis.
Q. Okay. Is there an underwriting checklist that differs by region?
A. No.
Q. So the underwriting checklist that's used for a Pennsylvania business

would be used for a California business, a Florida business, and a Texas business?

MR. BERMAN: Objection. You can answer.

THE WITNESS: In different states, yes. It's the same list they go over.

BY MR. PROPER:

Q. Same checklist, 50 states?

A. Sure.

Q. Got it. Is there a -- strike that.

Was there a term for my clients transaction.

MR. BERMAN: Objection.

BY MR. PROPER:

Q. You can answer.

A. A term for the transaction?

Q. Yeah, the money that you gave to my client, was there a pay back term?

A. The details on the factoring agreement are determined per client on the factoring agreement themselves. Meaning that there are a number of payments

required to satisfy the RTR.
Q. Is that a term or that's not a term?
MR. BERMAN: Objection. You can answer.
THE WITNESS: It's terms in the sense of how many installments are required to have it paid back, yes.
BY MR. PROPER:
Q. Are you familiar with the concept term of a loan?
A. Yes, I'm familiar with the terms of a loan, which is not what we are providing in this transaction.
Q. Right. So, is there a specific number of days that my client had to repay the monies you gave to its business? Yes or no?
MR. BERMAN: Objection.
THE WITNESS: No.
BY MR PROPER:
Q. So if I'm using the word, term, to connote the period of time someone is required to pay back money, there is no

term in my clients agreement, correct?

MR. BERMAN: Objection.

THE WITNESS: Correct.

BY MR. PROPER:

Q. I'm going to hand you what's been marked as P-2 in a prior deposition. Do you recognize P-2?

A. Yes.

Q. And what is P-2?

A. It's a Factoring Agreement for Fleetwood.

Q. Is this a form agreement that you use?

A. Yes.

Q. Is this the same -- strike that.

Is the agreement that you use for Fleetwood the same form that you use for all of your merchant transactions.

MR. BERMAN: Objection.

THE WITNESS: The factoring agreement structure is the same. The specific terms detailed on the purchase price and pay back details vary.

BY MR. PROPER:

Q. Got it. So I think I understood your answer, I just want to make sure. So, can you point out to me on P-2 what terms would change from deal to deal, and what language would be the same for every transaction?

MR. BERMAN: Objection.

MR. PROPER: You can answer.

THE WITNESS: So, the primary item that would change is the fourth paragraph detailing the purchase price. Obviously sizes of transactions are different depending on the industry and clients receivables.

BY MR. PROPER:

Q. Okay.

A. And to go back to the underwriting point I made before, the percentage, here the non specified percentage is based on the cash flow basis for that client, meaning are they able to sustain based on the receivables the amount of payments they are planning to pay back.

Q. Which number are you referring

to?
A. The 25 percent.
Q. Okay, so is it your testimony that the daily payment under this agreement, which is how much?
A. $5,000.75.
Q. That should, based upon your underwriting, approximate 25 percent of the daily receipts for this business?
A. No, not necessarily.
Q. Okay. How do you come up with the daily payment in relation to the specified percentage, which in this case was 25 percent?
A. So the daily payment is an amount that underwriting decides is -- that is sustainable under our client's underwriting, the cash flow percentage. The 25 percent listed on there is a guideline for them to use, but doesn't necessarily reflect that precise percentage. It may be higher or lower depending on the clients worthiness for the factoring agreement. If they're confident

or not, or worried about it. There's different criteria for the underwriting.

Q. So in this particular case, was the $5,000.25 -- strike that. Was the $5,000.75 daily payment 25 percent of my clients expected future receivables?

A. No.

Q. Okay. Was it less or was it more?

A. It should be less.

Q. Do you know how much less?

A. No, not specifically.

Q. Is there something in the underwriting matrix that would tell you how much 25 percent of the future expected receivables should be on a daily basis?

A. Yes.

Q. And do you know what that number is?

A. I don't, but that underwriting matrix that's objective, as I mentioned, it is to determine proportionality with their cash flow.

Q. Okay. The 110 days is not a

term, correct?
A. That's correct.
Q. Can you turn to the second to the last page of exhbiit-2.
MR. BERMAN: I also just wanted to tell you to check your email, you have the checklist he referred to.
BY MR. PROPER:
Q. Are you familiar with schedule A?
A. Yes.
Q. Is schedule A a common schedule for your MCA agreements?
A. Yes.
Q. Okay, and I want to direct your attention to the middle of the page, and it has some language, I think it's right under specified percentage, 25 percent. Do you see that?
A. Yes.
Q. What does that say?
A. Specified --
Q. The line right under that?
A. Underneath specified percentage?
Q. Yeah.

A. The term of MCA consolidation program?
Q. Yeah, what does that mean?
MR. BERMAN: Objection. You can answer.
THE WITNESS: So a consolidation program, they have to establish a number of installments that it's going to be paid back under.
BY MR. PROPER:
Q. So when this says term of MCA consolidation program, does that mean my client was required to pay back the money you gave to its business in 110 days?
MR. BERMAN: Objection.
THE WITNESS: Not in a 110 calendar days, but in 110 installments reflected as business days.
BY MR. PROPER:
Q. Business days, so let me ask that in a clearer way. My client, under this arrangement, was required to pay back the money you gave to its business in 110 business days, correct?

MR. BERMAN: Objection.
THE WITNESS: The -- yes.
BY MR. PROPER:
Q. And the 110 business days under schedule A is referred to as the term of MCA consolidation program, correct?
A. On this, yes.
Q. And every schedule A that you use has this same form language, where the term of the MCA consolidation program, that number would be taken from page one of the agreement, correct?
MR. BERMAN: Objection.
THE WITNESS: Not necessarily. It depends on the client, and it depends on the transaction.
BY MR. PROPER:
Q. Right. Does every agreement have a daily specified amount, and the days that this specified amount has to be repaid?
A. No.
Q. Okay. So you're telling me that some agreements may require a daily payment of some amount, but not say for how long?

A. No, there's different structures.
Q. So it may not be daily, it may be weekly or biweekly?
A. Sure.
Q. What percentage of your deals are daily would you say?
MR. BERMAN: Objection. Don't answer.
BY MR. PROPER:
Q. Was it typical for you to enter into payback arrangements where the merchant was repaying you on a daily business basis?
MR. BERMAN: Objection.
THE WITNESS: Can you restate that?
BY MR. PROPER:
Q. Yeah, was it typical in terms of the arrangement my client had where you were debiting Fleetwood's account every business day? Was that something that was a typical arrangement with other merchants?
MR. BERMAN: Objection.
THE WITNESS: Yes.

BY MR. PROPER:
Q. Okay. So provided that the agreement was predicated upon business days, the term of the agreement as reflected on schedule A would have the number of business days that would be required to repay the purchased amount, correct?
MR. BERMAN: Objection.
THE WITNESS: Yes.
BY MR. PROPER:
Q. Got it. And if you provide money to a business, you expect that business to repay that money during -- strike that.
When you provide money to a business, you expect the business to pay that money over the term specified in the agreement, correct.
MR. BERMAN: Objection.
THE WITNESS: It depends on the business. In general, that's what we anticipate, but we have a provision for under performance built into the business model.

BY MR. PROPER:
Q. What is the provision for under performance?
A. So if there's any issues with that client's receivables. Obviously there is a percentage of default in the business, we have to factor that in.
Q. What is -- is the failure to make a payment specified in the agreement in the event of default?
MR. BERMAN: Objection.
THE WITNESS: Yes.
BY MR. PROPER:
Q. Okay. Is a client indicating to you that they don't have money in their account sufficient to make a daily or weekly payment as may be required by an agreement in the event of default?
MR. BERMAN: Objection.
THE WITNESS: I'm sorry?
BY MR. PROPER:
Q. Let's talk about a daily payment.
A. Okay.
Q. If a client sends you an email

and says: Don't debit by account today, there's no money in it. Would that technically be an event of default under the agreement? I know you may work with the client?

MR. BERMAN: Objection.

THE WITNESS: No.

BY MR. PROPER:

Q. If a client writes to you and says, there's no money in my account, and you're unable to debit my client's account, as that an event of default under the agreement?

MR. BERMAN: Objection.

BY MR. PROPER:

Q. I thought you just said the failure to make a payment is an event of default?

A. No, if they have four returned payments.

Q. Okay.

A. We work with our clients.

Q. I understand. So, if you tried to debit my clients account one time and

there's no money, is that an event of default?
A. No.
MR. BERMAN: Objection.
BY MR. PROPER:
Q. Two times, is that an event of default?
MR. BERMAN: Objection.
THE WITNESS: No.
BY MR. PROPER:
Q. Three times, is that an event of default?
A. No.
MR. BERMAN: Objection.
BY MR. PROPER:
Q. Four times, is that an event of default?
A. Yes.
MR. BERMAN: Objection.
BY MR. PROPER:
Q. Now, you said you're willing to work with your customers, correct?
A. Of course.
Q. And there were some instances

where my client wrote to CBSG and advised you that she did not have sufficient monies in her account to make the daily payment. You recall that, right?

A. Yes.

Q. And in those instances, would she have been in default had you tried to debit her account four times unsuccessfully?

MR. BERMAN: Objection.

THE WITNESS: Yes.

BY MR. PROPER:

Q. So rather than put her in default, did you work with my client?

A. Yes.

Q. On how many occasions did my client write to CBSG and advise you that she didn't have enough receipts to pay you?

MR. BERMAN: Objection.

THE WITNESS: There were several correspondences back and forth discussing her ability to pay, and also to try to get another MCA deal.

BY MR. PROPER:

Q. Okay.

A. And restructure the payment, which I believe they ended up doing subsequently after about 30 days or so.
Q. Okay. Is there anything in -- just to circle back. On Exhibit-2 you mention the things that changed from agreement to agreement, I think you said it was the fourth paragraph on the first page.
A. Correct.
Q. Is the rest of the agreement standard form language that is in all of these agreements?
MR. BERMAN: Objection.
THE WITNESS: Yes. Except for the consolidation case, which may or may not apply if it's part of the agreement.
BY MR. PROPER:
Q. Just refer to where on the agreement is the consolidation piece?
A. In discussing the consolidation program, which isn't always the case depending the deal.
Q. Okay, so some deals you may not be using -- strike that. Some deals the

business may not be using funds to payoff existing MCA agreements, right?
A. Correct.
Q. Is there anything in the form agreement that we're talking about that discusses this workout arrangement when a borrower doesn't have money and you're working with them?
A. No.
Q. Do you have any written policies and procedures, whether in collections or anywhere else that talk about the types of things you're willing to do when a business doesn't have money to pay you?
MR. BERMAN: Objection.
THE WITNESS: No.
BY MR. PROPER:
Q. Who is the person or persons at CBSG or Full Spectrum that are empowered to make modifications to an agreement?
A. That would be the collections department.
Q. Okay. Is the collections department out sourced?

A. No.
Q. Who are the current employees in CBSG's collections department?
A. It has none.
Q. It has none currently?
A. Right.
Q. Was there a collections department with actual employees back in January of 2017?
A. No.
Q. Is there a collections department at CBSG currently?
A. No.
Q. Who handles collections for CBSG currently?
A. Full Spectrum Processing.
Q. Prior to January 2017, did CBSG have a collections department?
A. Yes.
Q. How many individuals were in the collections department at the end of 2016, ballpark?
A. Two or three.
Q. Who are the current employees of

Full Spectrum that handle collections?

MR. BERMAN: Objection. Don't answer the question.

BY MR. PROPER:

Q. Is there a collections policy?

A. No.

Q. Is there any policy at CBSG that talks about finance charges?

A. No.

Q. Did CBSG charge my client finance fees?

A. Yes.

Q. Do you recall how much, in total, my client was charged in finance fees?

A. About $14,000.

Q. Okay. I'm going to show what's been marked as Exhibit-45 in a prior deposition?

MR. BERMAN: Just to be clear, these are the exhibits that I used at the Fleetwood's deposition?

MR. PROPER: Yes. I was just about to do that, thank you.

BY MR. PROPER:

Q. Have you seen this document before?
A. Yes.
Q. Did you review this document in preparation for your deposition?
A. Yes.
Q. Okay. What is this document?
A. This is a payment history for the client including any returns, holds, or fees charged additionally.
Q. Okay. Why were additional fees charged to my client?
A. The client requested a modification to their payment amount. They negotiated verbally that wouldn't be able to facilitate that at an additional cost.
Q. What's the thought process from CBSG's prospective on charging a finance fee when there's a modification done?
A. There is negotiation in extending the amount of days for the pay back of the RTR.
Q. So is the finance fee based upon an expected adjusted to the term?

MR. BERMAN: Objection.

THE WITNESS: No.

BY MR. PROPER:

Q. So how did you, for instance, calculate a finance charge on February 3, 2017 -- strike that.

Off the record.

- - -

(Whereupon a short recess was taken.)

- - -

BY MR. PROPER:

Q. Taking a look at the second page of Exhibit-45, there's a reference on March 17, 2017 to a finance fee in the amount of $7,001. Do you see that?

A. Sure.

Q. How was that finance fee calculated?

A. They negotiated.

Q. Who negotiated it?

A. The collector or customer service rep that's discussing with the client.

Q. Who was the specific person that

was negotiating this fee with my client?
A. I don't recall who specifically discussed this fee.
Q. Do you have some document that would reflect communications between some person and my client about this fee?
A. No, there's no documentation about that.
Q. Do you have a case management system where CBSG representatives type in notes to reflect the sum and substance of conversations they have with customers?
A. No.
Q. Did you speak to someone at CBSG or Full Spectrum about this particular fee?
A. No.
Q. You testified previously that this was a fee negotiated with my client, correct?
A. Correct.
Q. What's the basis for you making that statement?
A. Basis on review of this file and discussion with the department.

Q. Who specifically did you discuss this with?
A. The collections department.
Q. Who specifically in the collections department?
A. Anthony Fazio.
Q. And Mr. Fazio was the one that spoke to my client?
A. I don't know.
Q. Did Mr. Fazio communicate to you something about this particular fee?
A. That it was done as a negotiation with the client in order for them to pay a reduced payment after the $5,000 amount.
Q. What information was Mr. Fazio relying upon?
A. That's discussions within their department.
Q. So you don't know the name of the person specifically that this alleged conversation with my client?
A. No, we have a large collections department.
Q. Did you review any documents that

referenced this alleged negotiation with my client?

A. No.

Q. Are there any written documents that you came across that reference an alleged negotiation of this fee with my client?

A. No.

Q. So this $7,001 would have been added to the total repayment amount due and owing under the agreement, correct?

A. That's correct. It's a fixed amount added to the balance directly.

Q. So the balance went from $309,338.25 to $316,339.25, correct?

A. Correct.

Q. And it's your testimony that there would be no written document sent to the customer advising him or her about the imposition of a finance fee, correct?

MR. BERMAN: Objection.

THE WITNESS: There was. This was done two days. They have access to their online log in, so they can go and

review their payment history and any associated fees with their balance. And we also supply current balance letters and payoff letters. I believe five were produced with this particular client to confirm that this fee was assessed as part of their negotiation.

BY MR. PROPER:

Q. The payoff letter -- is the payoff letter Exhibit-45 or some other document?

A. It's a different payoff letter every time they request it.

Q. Is the payoff letter just a letter advising my client what the amount, the total fixed amount due under the agreement is at that point in time?

A. It can, and it's often provided with a payment history with the current balance for the client.

Q. In my client's case, was she just given a document setting forth the amount that had to be repaid, or did it also attach a detailed breakdown of payments and

fees that were imposed like Exhibit-45?

MR. BERMAN: Objection.

THE WITNESS: I'm unsure, at least it was the balance for the current date.

BY MR. PROPER:

Q. If it was just a balance, then the balance wouldn't reflect the imposition of a finance fee on a particular date, right?

MR. BERMAN: Objection.

THE WITNESS: Right, but they have access to their client portal, which they often look up and we can verify that they have accessed it.

BY MR. PROPER:

Q. Were you able to verify that my client accessed the client portal?

A. No, I don't have verification specifically for this.

Q. Does that mean you looked and my client didn't access the client portal?

A. No, I didn't look.

Q. So you had the means to know

whether my client looked for information on the client portal, but at this point you haven't done that, right?

A. They often do. It's assumed that they do because they refer to specific items in their discussions with collections.

Q. Just to take us out of assumptions, do you know for a fact, one way or another, whether or not my client accessed the client portal?

A. Yes.

Q. You know for a fact it did or it did not?

A. It did based on our discussions with collections.

Q. So let's talk about the basis for that answer. You said you know my client did based upon discussions with collections. So what discussions with collections are you referring to that makes you certain that my client accessed the client portal?

A. In reviewing this payment history

with collections as part of preparation for this, we went over the story of the client on their returns, the fees assessed, and any help payments that they had. So there was a discussion about the general history of this client, and the payments that they were making.

Q. As part of this discussion, did you instruct somebody to look for verification whether or not my client accessed the client portal?

A. We didn't need to. They generally all log on to the portal.

Q. So it was based upon someone's assumption in the collections department?

A. No, it's standard practice. Almost everyone logs into the portal.

Q. How do you know my client fell within the "almost everyone"?

A. Because they were citing specific dates and payment amounts on the portal in negotiations with our collections department.

Q. What specific document are you

referring to that my client was referencing the payment of a $7,000 finance fee?
A. The payment history available on the portal.
Q. And the document that you are relying upon to show that my client accessed the portal is what?
A. I don't have a document. I'm talking about the verbal discussions we had with collections with regards to this client, and the assessment for the fees that they paid off.
Q. Got it. Who was at this meeting with the collections department, you and who else?
A. Me and Fazio.
Q. You and Fazio. Was Fazio the person dealing directly with my client or no?
A. No.
Q. So you've got second hand information that makes you certain that my client accessed the portal when you could have verified this very easily, but decided

not to, right?

MR. BERMAN: Objection.

THE WITNESS: It wouldn't have been easy. We shifted to a new client portal that we're currently using. It's not the same system in 2017.

BY MR. PROPER:

Q. How long would it have taken you to find out if my client accessed the client portal?

A. It depends. We would have to figure out the IT logistics behind it.

Q. Ballpark? You speak to someone in your IT department. How long do you think it would have taken?

A. It really does depend on the structure because we have never gone back into that old collections portal.

Q. Got it.

A. It's been decommissioned, and it's archived.

Q. Okay. How about on February -- strike that.

How about on May 1, 2017 my

client was charged $4,000. Why?
A. It's the same nature. They had a discussion on what they were looking for as far as payments, and they agreed to that amount.
Q. Why was there a need for a finance fee at all?
A. Because the amount of installments required to pay back the RTR was increased.
Q. Why was it increased?
A. Because we agreed that the payment would be reduced in order for this thing to make sense mathematically on the total RTR required to be paid back, we would do that. We also got into a discussion of helping them find an SBA deal to payoff this transaction.
Q. Why did the payment need to be reduced at all?
A. Because at the request of the client.
Q. Why did the client request a reduction?

A. The client does it for different reasons.
Q. Why did this client do it?
A. The clients often do it because they want to pay back a different deal or they have other use for their capital in their business that makes sense to them.
Q. Yeah, I'm not talking about anyone but my client. What did you do in anticipation of this deposition to determine why my client was asking for a reduced payment on May 1, 2017?
A. We reviewed our discussions with collections in regards to those finance fees.
Q. So, what did my client tell collections on or about May 1, 2017 about her financial condition of the business?
A. She was not specific.
Q. Did my client ever advise CBSG orally or in writing that my client didn't have enough money to make the May payment?
A. Yes.
Q. So she was specific that she

didn't have money in her account, and that's why the reduction happened?

A. Not necessarily. A client will often say that they don't have money in the account, and then we go and check it and they have capital in the account.

Q. Okay. In this particular case, on or about May of 2017, did my client advise CBSG or Full Spectrum that it did not have sufficient funds in its account to make the daily payment?

A. Yes.

Q. Okay, and did my client also make the same representation to you in March of 2017 that she did not have sufficient funds to make the daily payment?

A. Yes.

Q. Okay. And what, if anything, did your collections department do to verify whether or not my client was being honest with you?

A. They verified the client balances.

Q. Okay, and when collections

verified the collection balances in March and May of 2017, did you confirm that my client was being honest or dishonest about not having enough money to make the daily payment?

MR. BERMAN: Objection.

THE WITNESS: They were.

BY MR. PROPER:

Q. They were what?

A. That there was not sufficient funds to run it.

Q. And based upon your investigation checking the accounts, did you confirm that my client was being truthful with you?

A. Yes.

Q. Okay. So, my client tells you in March and May, I don't have enough money, I can't make the daily payment. You look into it and confirm that was an accurate and truthful statement, yes?

A. Yes.

Q. And that's when the negotiation took place and you said, okay, you still got to make some payments, but we're

willing to work with you and we're going to reduce the payment for some period of time, right?

A. Correct. Or hold it in the case of 4/11/17.

Q. Got it. But in order to work with the customer, in this case my client, you needed to make some additional monies because you're effectively extending the term?

A. No.

MR. BERMAN: Objection.

THE WITNESS: No. We were financing receivables as part of that negotiation. She was saying there would be more money from the receivables we factored coming in subsequently.

BY MR. PROPER:

Q. Right, but the reason you're charging the finance fee is because you're getting paid back in a longer period of time, right?

MR. BERMAN: Objection.

THE WITNESS: No. It's because

of the exact same structure that the initial deal was struck.
BY MR. PROPER:
Q. So the finance fee is charged for what purpose?
A. Because there is an extension to the number of installments on her receivables that would be coming in.
Q. I thought that's what I just said. Okay.
A. Let me just clarify. It's not a time basis. We're very particular about that because it's not being amortized or accrued on some kind of actual calculation based on a percentage. It is based on the cash flow and receivables that were originally factored, and if there was a delay in that receivables based on the cash flow coming in for the business, we will extend the receivables and the amount of installments out as if we renegotiated the original contract.
Q. So under the original agreement, my client was required to pay you the money

in 111 business days, we went over this.

MR. BERMAN: Objection.

THE WITNESS: No. You keep tying it back to time. I don't think you understand.

BY MR. PROPER:

Q. I'm sorry?

A. You keep tying it back to time. It's not the amount of days, it's the amount of installments on the RTR.

Q. How many installments were there on the RTR for this deal?

A. 110.

Q. Was it a fixed amount?

A. It was a fixed amount.

Q. Okay. And then the fixed amount of 110 days, business days when my client didn't have funds to make a daily payment and that fixed period had to be extended, more money was needed?

MR. BERMAN: Objection.

THE WITNESS: No, not more money.

BY MR. PROPER:

Q. Well, what is the finance fee but

more money?
A. It's a restructure on the original payment terms for the factored receivables.
Q. Where in the agreement does it talk about finance fees?
A. It's under the collections expenses on schedule A.
Q. Can you just read me the specific language you're referring to?
A. You're missing program fee discussion on this service agreement.
Q. I thought I had everything. What am I missing?
A. It's additional language we had on subsequent versions of this schedule. It's not included on here regarding that finance fee in particular. It's part of a renegotiation of the third paragraph with recourse of the receivables.
Q. I want to understand something. Are you saying that I'm missing a page or that the form was subsequently amended to add language about these fees?

A. The subsequent form elaborated on how this was negotiated for the receivables under the paragraph 3.
Q. Okay. Can you just point to me where in the agreement that my client executed there's language about these finance fees?
A. There is language about the factoring of the receivables under paragraph 3, which was the point of negotiation with the collector.
Q. Just read to me whatever language you're relying upon that entitles you to charge a finance fee when my client didn't have sufficient monies to make a daily payment.
MR. BERMAN: Objection.
THE WITNESS: It's paragraph 3.
BY MR. PROPER:
Q. Just what language?
A. Factoring agreement with recourse. The purchase amount shall paid to CBSG by seller or merchants irrevocably authorizing only one depositing account

acceptable to CBSG to remit the daily specified amount from the seller or merchants receipts until such discernable as CBSG receives payment in full for the receipts purchased amount.

The discussion with the collectors were additional receivables as part of this negotiation.

BY MR. PROPER:

Q. So when you just read that language from P-2, what is your understanding as to what that language obligates Fleetwood to do and entitles CBSG to do if that doesn't take place?

MR. BERMAN: Objection.

THE WITNESS: To negotiate if additional receivables would be part of paying back the original RTR due to changes on the agreed upon term.

BY MR. PROPER:

Q. What is RTR?

A. Right to receivables.

Q. Okay.

A. The $14,000 that was additional

on top of the original agreement reflects the additional right to receivable negotiated upon with the collector.

Q. Is there a specific formula in the agreement, P-2, that sets forth how you're going to calculate the additional fees?

A. There isn't. I have to stress, it is a negotiation with the business owner.

Q. Okay. Is there something in the agreement that advises a customer that if they don't have money to make the daily payment and they have to restructure the agreement, that there's going to be some type of fee imposed?

MR. BERMAN: Objection.

THE WITNESS: No.

BY MR. PROPER:

Q. Can you look at paragraph 4.1 of Exhibit P-2, please?

A. Yep.

Q. It says modification agreements?

A. Uh-huh.

Q. No modification amendment waiver or consent of any provision of this agreement shall be effective unless the same shall be in writing and signed by purchaser. Did I read that correctly?
A. Yes.
Q. As part of your preparation for this deposition, do you have a signed document where my client agreed to pay $7,001 on March 17, 2017?
MR. BERMAN: Objection.
THE WITNESS: It's at the discretion of CBSG.
BY MR. PROPER:
Q. Where does it say that this provision is at CBSG's discretion?
A. I have to review this.
Q. Yeah.
A. This is under appendix A under the fee structure. In part of additional service fees and also the returns that they have -- that they had as far as the rejected ACH. In regards to the --
Q. I'm sorry, what are you relying

upon for your statement that a modification agreement, which requires a writing signed by the purchaser, is at the discretion of CBSG?

A. You're missing a page.

Q. What am I missing, and I can get someone to get it for you?

A. No. Sorry, I thought the bottom of this was cut off. Under page two of the agreement under 1.4 Future purchaser reserves the right to rescind the offer to make any purchase amounts hereunder in its sole discretion. This was the point that we use as a negotiation for the client in determining if additional purchase of receivables are warranted to resolve requests from the client on any reduction of payment or holds.

Q. Okay. What additional receivables do you claim were sold in March or May of 2017?

A. The standard receivables as part of their normal course of business.

Q. I thought 1.4 said there were

talks about the sale of additional receivables, no?

A. They talked about it on the phone, that in order to facilitate an additional purchase of receivables or modification of your payment, which is again, a fixed piece on this contract, they negotiated and agreement upon that future receivables would be required to extent the RTR needed to pay back this transaction. It's a modification of RTR.

Q. Where does 1.4 use the word, modification of an existing agreement?

A. They didn't. This was the point of negotiation that they had. That's the basis for having that negotiation.

Q. So you're relying upon 1.4 of the agreement for the imposition of finance fees, just so I'm clear?

A. Yes, primarily.

Q. Was there anything else?

A. There may be and have to discuss this further.

Q. Where specifically on page two

are you looking at. I got it.
A. The details under the terms of the agreement.
Q. So the section titled Future Purchases?
A. Yes.
Q. You're relying upon to charge finance fees to modify an existing agreement?
MR. BERMAN: Objection.
THE WITNESS: Yes.
BY MR. PROPER:
Q. Got it. We can agree that you don't have any actual document between you and my client where you advise my client of finance fees, correct?
A. Correct.
Q. And -- but this was CBSG's policy whenever an agreement was modified in this nature, right, additional fees would have to be charged?
MR. BERMAN: Objection.
THE WITNESS: No, there is no policy for that. It's a case by case

negotiation with the client, and they were provided this detail and subsequent payoff letters that they requested, and ultimately paid off?

BY MR. PROPER:

Q. Which payoff letter advised my client that $22,000 in finance fees were charged?

A. The amounts reflected in the payoff letters.

Q. Was there any document that was specifically sent to my client informing Fleetwood that $22,000 in finance fees were charged?

A. No, that was primarily communicated over the phone. There was access, again, to this online portal that allowed them to access in detail.

Q. Got it. Now, you talked about $14,000, so I just want to go through the math. March 17, $7,001 was charged to extend my clients payment, right?

A. Uh-huh.

Q. Yes?

A. Yes.
Q. And May 1 it was $4,000?
A. Yes.
Q. And on May 12 it was another $4,000?
A. Yes.
Q. May 17, $3,200?
A. Yes.
Q. And June 21 was $4,000, right?
A. Correct.
Q. And if we add that up, $7,000 plus $4,000 is roughly 11, plus 4 is 15, plus 3200 is $18,200, plus $4,000 is like $22,000 and change, change, right?
A. Uh-huh.
Q. Yes?
A. Yes.
Q. So we can agree that over $22,000 in finance charges were assessed to my client because she didn't have money to make a daily payment, right?
A. No.
MR. BERMAN: Objection.
BY MR. PROPER:

Q. Why -- go ahead.
A. So if you look at the bottom total on this payment schedule, they had a payoff of $85,907.95.
Q. Yeah.
A. Which netted out to a surplus of $14,000 on top of their original pay back of $547,600.
Q. Meaning what?
A. Meaning that based on this accounting, that there were finance fees which may have been incorrectly listed as return payments.
Q. So you're saying with the final payoff there was an adjustment made, and my client was credited money?
A. Correct.
Q. How much was my client credited?
A. The delta from what we're seeing are finance fees in the $14,000 as you've approximated as 20 something.
Q. Okay, so the finance fees were actually what that were imposed?
A. There's a $14,000 net payment

higher than the original RTR on this, on their final payoff letter.

Q. Why was the adjustment made?

A. Because of the finance fees assessed, and she agreed in getting that payoff done.

Q. Did my client agree to pay the $22,000, and then you gave her a credit for some reason or she didn't agree to the $22,000 and there was a mistake? I'm trying to find out what was going on.

MR. BERMAN: Objection.

THE WITNESS: Payoff letter she received. I'm assuming your client is doing their accounting on this as well, and negotiating with our collectors. That amount is what we received as a final payment. That final payment is $14,000 more than the original $547,600 RTR. There was an understanding on the final payoff letter between us and the client for that amount. If there's any errors, our standard procedure is to reconcile that with the client on the final payoff.

BY MR. PROPER:
Q. So my client paid $14,000 more than what the agreement required her to pay?
MR. BERMAN: Objection.
THE WITNESS: Correct, and that's a net out of the fees. Not just finance fees, but the return payments as well.
BY MR. PROPER:
Q. Well, how much were the return payment fees?
A. $100.
Q. So most of the $14,000 were the finance fees?
A. Yes.
Q. Okay. What is Joe LaForte's role with my client when she doesn't have money to make a daily payment?
A. Often clients are will talk to brokers they worked with in negotiating the original deal.
Q. Does Mr. LaForte have a Par Funding email address?
A. Yes, he does.

Q. When do you allow non employees of Par Funding to have a Par Funding email?
A. All the time.
Q. How many of your ISO's have Par Funding emails?
A. A few of them.
Q. Which ones?
MR. BERMAN: Objection. You don't have to answer that.
BY MR. PROPER:
Q. So you are permitting Mr. LaForte to represent to my client that he's employed by PAR Funding?
MR. BERMAN: Objection.
THE WITNESS: Yes.
BY MR. PROPER:
Q. And what role did Mr. LaForte have in agreeing to reduce my clients payments in charging her finance fees?
A. They often work with the collectors in tandem with the client.
Q. Why was Mr. LaForte contacted? Who contacted him?
A. The collections department. It

depends on every client and who has the best rapport in order to negotiate the terms for payment.

Q. Do you know who specifically asked Mr. LaForte to get involved in dealing with my client?

A. No.

Q. What was his role specifically with the modifications?

A. He may have negotiated on behalf of the collector, or conveyed information to the collections department.

Q. Do you know or are you guessing?

A. I don't know specifically.

Q. Okay. Did you speak to Mr. LaForte in preparation for today's deposition?

A. No.

Q. If he was involved with the modifications, is there a reason you didn't communicate with him?

A. No.

- - -

(Whereupon the court reporter

marked P-10 for purposes of identification.)

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BY MR. PROPER:

Q. Did you review Mr. LaForte's deposition transcript?

A. Yes.

Q. Was there anything that Mr. LaForte testified to at his deposition that you believe to have been inaccurate?

MR. BERMAN: Did you hear his question?

THE WITNESS: Yes, I heard it.

BY MR. PROPER:

Q. Was there anything you recall from Mr. LaForte's deposition that you believe to be inaccurate?

A. No.

Q. Okay. Is Mr. LaForte authorized to direct your collections department in whether to make a modification or not?

A. No.

Q. Can you look at an email dated March 17, 2017, which coincides with one of

the finance fees?
A. Yes.
Q. Mr. LaForte writes an email to Ken Calcagnini?
A. Yes.
Q. And Susan at PAR Funding is copied on this email, correct?
A. Yes.
Q. And the email has a subject line: Call me please, thanks. And Joe writes to Ken and CCing Susan: Okay. Call this bitch and tell her it starts that Monday. That the ach carrier takes a day. Make some shit up. Keep in mind we are doing her a favor. But she owes a ton. Did I read that will correctly?
A. Yes.
Q. Mr. LaForte seems to be directing PAR Funding in terms of the modification process, no?
A. Yes. Sales reps often use this kind of communication with the company, but it's not necessarily a directive that decision is made internally in the

collections department.
Q. Does Susan respond to Mr. LaForte?
A. She writes in her response email: I will call her.
Q. It common for Mr. LaForte to make modification decisions and instruct collections to act in accordance with his direction?
MR. BERMAN: Objection.
THE WITNESS: No, it's not common.
BY MR. PROPER:
Q. Was it a fair statement on March 17, 2017 that the bitch owes you a ton of money?
A. I wouldn't use uncouth language.
Q. To you condone your representatives to "make some shit up" when dealing with your customers?
A. In communications internally between our ISO reps and our staff, we often speak in that manner.
Q. Did Susan make some stuff up when

she spoke to my client?
A. What do you mean make some stuff up?
Q. I don't know, Mr. LaForte was telling her to make some shit up. I'm just asking whether, in fact, she did when she contacted my client as she said she was going to do?
A. No. She discussed it per the regular procedures we have in our internal communications with our clients.
Q. What were the regular policies that she was instructed to follow?
A. That is to address things in a professional manner, and also discuss the fees associated with here account in a standard -- in manner consistent with our department, our communication policy.
Q. Did you speak to Susan about what the nature of her conversation was with my client in March of 2017?
A. No.
Q. So how do you know that she didn't "make some shit up" if you never

spoke to her and asked her what she told my client?

A. I spoke with other members in the department.

Q. So your preparation for this deposition was to speak to someone other than Susan about what Susan said to my client in March of 2017?

A. She was a terminated employee.

Q. Got it. When was Susan terminated?

A. She left the company approximately two and a half years ago.

Q. Did she voluntarily or was she fired?

MR. BERMAN: Objection. You don't have to answer.

BY MR. PROPER:

Q. Was she fired for reasons having to do with Fleetwood?

A. No.

Q. Was she fired for lying to customers?

A. No.

- - -

(Whereupon the court reporter marked P-11 for purposes of identification.)

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BY MR. PROPER:

Q. Just for the record, those are my underlines. They are not yours.

This is an email from my client to Joe Mack, which is Joe@PARFunding.com. Do you see that?

A. Uh-huh.

Q. This is bates number CBSG(Fleetwood)0000899. And my client writes: Hi, Joe. Two things please. Can you give me a ten day payoff of my loan and do I get a break for paying this off early. Did I read this correctly?

A. Yes.

Q. There's two additional -- three additional lines that I'm not asking questions about.

A. Sure.

Q. I didn't see a response to this

particular email. Do you know if Mr. Mack, or Mr. LaForte responded to this email?
A. I don't know.
Q. Okay. Do you know if anyone respond to this email and advised my client of apparently mistaken belief that this was a loan?
A. There should be correspondence from either the accounting department or underwriting department.
Q. Okay. Did you see any such correspondence in your preparation for this deposition?
A. No. It's likely verbal.
Q. Okay.
A. And the issuance of the payoff letters are usually what proceed the verbal conversations.

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(Whereupon the court reporter marked P-12 for purposes of identification.)

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BY MR. PROPER:

Q. Here is an email from my client to Ken Jenkins at ken@parfunding.com and Aida at aida@parfunding.com dated June 5, 2017. Do you see that?
A. Yes.
Q. It says bates number CBSG(Fleetwood)000741. Who are Ken and Aida?
A. Ken is the collections manager at that time, and Aida is an accountant.
Q. Are they employees of PAR Funding?
A. No.
Q. They're employees at Full Spectrum?
A. That's correct.
Q. And my client writes: Hi all, is it possible to reduce the payment to 3K this week? Our loan that is to pay you off has been delayed and need to pay vendors. Need to know. Thanks.
Did I rad that correctly?
A. Yes.
Q. Do you have some email responding

to my client's apparent misapprehension that she was about to pay off a loan with you?

MR. BERMAN: Objection.

THE WITNESS: No, this is referring to a loan that was coming to her to pay us off.

BY MR. PROPER:

Q. Okay. What was your role in the SBA loan that my client secured to payoff the money you gave to her?

A. I believe she was introduced to the entity that ended up facilitating the SBA loan.

Q. Say that again.

A. I believe she was provided the company that ended up financing her SBA loan.

Q. Who at CBSG helped my client with that?

A. I'm not sure.

Q. What is the basis for your belief that CBSG was the introducing party?

A. This is the discussion we had in

regards to the preparation for the deposition.

Q. Discussion with who?

A. Discussions with our collection staff.

Q. Who specifically in your collection staff told you that CBSG helped my client get an SBA loan?

A. Fazio.

Q. Fazio. Were our clear with my client when she contacted you that if she didn't make her payments that she would be in default under the agreement?

MR. BERMAN: Objection.

THE WITNESS: Yes.

BY MR. PROPER:

Q. And that would be standard that when any customer contacts you and says, I don't have money, the response is going to be you either have to pay us or enter into an agreement or you're going to be in default, right.

MR. BERMAN: Objection.

THE WITNESS: Some sort of

negotiation is taken.
BY MR. PROPER:
Q. And if a business is unable to make any payment through some type of modification and there's four NSF's, 0that business is in default, correct?
MR. BERMAN: Objection.
THE WITNESS: It's in default, yes.
BY MR. PROPER:
Q. And then there's remedies in the agreement that CBSG has in the event of a default, correct?
A. Yes.
Q. And what are some of those remedies?
A. The first, we always have a negotiation with the client.
Q. Assume the negotiation doesn't result in an agreement about a reduced payment.
A. Then we exercise the remedies as detailed in the factoring agreement.
Q. And what are the common remedies

that you would pursue in that circumstance?
A. End up in litigation.
Q. Would that frequently involve a confession of judgment being filed?
MR. BERMAN: Objection. You don't have to answer that question.
BY MR. PROPER:
Q. The remedies under the agreement, do they include the filing of a confession of judgment?
A. Yes.
Q. And the remedies under my clients agreement, also include executing on the UCC lien that was filed, correct?
MR. BERMAN: Objection.
THE WITNESS: Yes.
BY MR. PROPER:
Q. And the remedies would include going after my clients personally because they executed personal guarantees, correct?
A. If in default, yes.
Q. And these are common remedies that are in every agreement, right?
MR. BERMAN: Objection.

THE WITNESS: Yes, on the standard factoring agreement, yes.
BY MR. PROPER:
Q. If my client didn't generate any receivables from day one, you would have the right to go after my client personally under this agreement?
A. Yes.
Q. And this form agreement that we've spoken about, how long has this agreement been in use?
A. This draft or this --
Q. This form with all the different form language that's in my clients agreement, how long has that been in use?
MR. BERMAN: Objection.
THE WITNESS: We've had a form of this agreement since 2012.
BY MR. PROPER:
Q. Okay.
A. But it has been revised heavily.
Q. The version, say from January of 2015 to present, has your form always had an attorney's fee provision that would

entitle CBSG to attorney's fee that are incurred to enforce the agreement?

MR. BERMAN: Objection. You don't have to answer what the present is. If you want to answer to '17, if you even know, answer it.

THE WITNESS: I believe it did at that time.

BY MR. PROPER:

Q. So from 2015 through 2017, there was that attorney's fee provision that was only for CBSG's benefit, correct?

MR. BERMAN: Objection.

THE WITNESS: Yes.

BY MR. PROPER:

Q. Okay, and then there was also on all these form agreements during that time period -- and all my questions now are going to be during that 2015 and 2017 time period.

A. Sure.

Q. All the agreements had class action waivers, correct?

A. Yes.

Q. And all the agreements had choice of law provisions, correct?
A. That's correct.
Q. And all the agreements had choice of venue provisions, correct?
A. Yes.
Q. And all the agreements had -- were the attorney's fees, choice of law, choice of venue, class action waivers all the same form agreement during this time period?
MR. BERMAN: Objection.
THE WITNESS: From?
BY MR. PROPER:
Q. '15 to '17.
A. There were certainly modifications made during that time.
Q. What were the nature of the modifications?
A. There were done -- listing what sort of fees would be part of the MCA agreement.
Q. What do you mean?
A. The amount of the fees, perhaps.

Q. So all the agreements had certain language about fees, right?
A. Yes.
Q. What fees are you talking about?
A. The ACH fees, default fees, collections fees, program fees, origination fees.
Q. So all of them had some ability for CBSG to re-coop fees, the amounts of the fees may have changed, right?
MR. BERMAN: Objection.
THE WITNESS: Yes.
BY MR. PROPER:
Q. And all of the agreements had the schedule A in the form of that agreement, right?
A. In some form, yes.
Q. And all of the agreements had the language that if there's four NFS's, the business is in default, correct?
A. I can't say with certainty, I would have to look at those. Especially in the early 2015 there may have been significant differences for that.

Q. But you don't know one way of the other?
A. Right.
Q. But we have since obtained agreements during that time period, so we can look at those forms and see if there's any changes, right?
A. Since 2017?
Q. Are you aware that recently within the last three or four days, your attorneys on your behalf have produced the agreements with the Texas merchants that are part of the proposed class in this case?
A. Yes.
Q. So we don't necessarily need you to answer whether changes have been made, we can look at those agreements and see whether there's been any changes in the language, right?
A. Yes.
Q. So we can compare attorney's fees, provisions, and class waivers, and choice of law, and we can see if those

forms are the same with respect to those provisions, correct?

A. Of course.

Q. And we can look at the agreements and see if they're the same with respect to all of this form language, right?

MR. BERMAN: Objection. Tell him it's redacted, right? You're making representations, so tell him what the agreements show. You're saying you can see things, he's testified as to certain things. So do want to tell him what's redacted?

MR. PROPER: Do I want to tell him that the customers names are redacted?

MR. BERMAN: And, I don't know, other identifying information?

MR. PROPER: Well, you want to answer, go ahead.

MR. BERMAN: I'm not answering, but he's not a lawyer.

MR. PROPER: So put on the record what's been redacted so we're clear.

MR. BERMAN: All identifying

information from those agreements have been redacted.

MR. PROPER: Has the form language been redacted?

MR. BERMAN: You have the agreements.

MR. PROPER: No, I'm asking you. You did the redaction.

MR. BERMAN: I made my statement. I didn't do the redaction.

MR. PROPER: I'm representing to you that none of the form language has been redacted.

BY MR. PROPER:

Q. So, assuming that none of the form language has been redacted, we can look at the different clauses and see if they're the same from my client's agreement for the rest of the proposed class, right?

A. Yes.

Q. Okay. Are you aware of any material differences in the form language starting on page two of Exhibit P-2 under the terms of enrollment and program between

'15 and '17.

A. Page two of P-2?

Q. Yeah. Are you aware of any changes from '15 to '17 with respect to clause 1.1?

A. No.

Q. How about clause 1.2, are you aware of any changes?

A. No.

Q. 1.3?

A. No.

Q. 1.4?

A. No.

Q. 1.5?

A. No.

Q. 1.6?

A. No.

Q. How about 1.7, 1.8, 1.9 or 1.10, any changes?

A. No, I don't have any.

Q. How about the power of attorney provision in 1.11, any changes?

A. No.

Q. How about anything on the

remainder of page 2 of P-2, page 3, or page 4?

A. There was language changed on part 3, the event of default and remedies.

Q. What specifically?

A. The detail of the remedies referenced in section 4.2.1 were modified.

Q. When and how?

A. We would have to get into that with the prior iteration of the contract.

Q. What's your general understanding of when and what was changed?

A. The actual remedies themselves and the types of fees assessed.

Q. Was the provision that it was an event of default if the merchant, I'm referring to 3.1C, merchant shall admit in writing its inability to pay it debts or shall make a general assignment for the benefit of creditors, or any proceeding shall be instituted by or against merchants seeking adjudicate bankrupt or insolvent, or seeking reorganization, arrangement, adjustment, or composition of it or its

debts. Was that provision changed or modified at all from '15 to '17?

A. I believe so, yes.

Q. When and how?

A. I believe it was done with our counsel at the time, Norm Vals. We had a specific meeting with regards to the event.

MR. BERMAN: Don't talk about counsel discussions.

THE WITNESS: Sure.

BY MR. PROPER:

Q. What was changed?

A. The specific events of default and what constituted it.

Q. Was this provision removed at some point in time?

A. It was not removed, it was modified.

Q. Modified how?

A. The specific terms of what constituted the event of default.

Q. So in this agreement with my client, my client was in default if it admitted in writing that it was insolvent,

or a proceeding voluntary or involuntary and bankruptcy was filed?

A. Yes.

Q. How was that requirement changed?

A. This requirement is likely still there from the prior version.

Q. Got it. Was the requirement that the business sign a security agreement, or rather the owners of the business sign a security agreement, was that standard from '15 to '17?

MR. BERMAN: Objection.

THE WITNESS: No, it wasn't at the beginning of '15.

BY MR. PROPER:

Q. When was the security agreement included to the form?

A. It would have at the same time we revised the defaults.

Q. Which was when in '15?

A. It wasn't in '15, it was sometime in 2016. I want to say later in the year.

Q. So the first time CBSG started using security agreements as part of its

form agreement was some time in 2016?
A. I believe so.
Q. How about personal guarantees, how long had that been used?
A. That should have there from 2015 to 2017.
Q. And the disclosure for confession of judgments, was that used during that entire period?
A. Yes, but there was modifications to the language as well.
Q. What type of modifications?
A. I don't think it was anything substantial.
Q. And then there's the fee structure on page 12, which lays out, among other things, the NSF fee and the up to four times only before default is declared language. Was the form in appendix A the same form used during this entire period, from '15 to '17?
A. That's what I was referring to as some of those amounts were adjusted.
Q. I understand. So, for instance,

the risk assessment fee, or the UCC fee, or the origination fee, the amounts of those fees may have changed?

A. Yes.

Q. Understood. Otherwise the form remained the same?

A. Yes, largely.

Q. And how about the first page of P-2, the language under this is a factoring agreement with recourse. Did that language in the form stay the same during this period?

A. No, there were changes to that as well.

Q. What changes?

A. I would have to get into the older version, the highlighted.

Q. What is your understanding of the changes?

A. The changes were done to clarify what the structure of the contract was with factoring.

Q. Was there any change to the requirement that you read earlier in the

first sentence that the business was, I'm paraphrasing, absolutely required to repay the monies until the receipts purchase amount was paid in full?

A. No, I don't believe so.

Q. So that language about absolutely repaying the monies you're giving to the borrowers stayed the same?

A. Yes.

Q. Okay. How about the form in terms of the purchase price specified percentage, the daily amount, and the receipts purchased amount? I know the amounts change from agreement to agreement, but was the form the same with that type of information?

A. It's effectively the same structure.

Q. Okay. Do you know whether or not it's common in the MCA industry for all of these agreements to have class action waivers and choice of law provisions a type of form language your agreements have?

MR. BERMAN: Objection.

THE WITNESS: I'm not aware if it's standard practice for everyone, but it is in ours.
BY MR. PROPER:
Q. Did you review any of the other agreements that my client had with MCA companies in this case, like Yellowstone and Snap and some of the others?
A. No.
Q. Okay, so you're not aware, as you sit here today, whether or not those agreements also contain action waivers?
A. I am not aware.
Q. Can you explain to me your understanding of the reconciliation provision in the agreement?
MR. BERMAN: You're referring to Exhibit-2?
MR. PROPER: Yes.
BY MR. PROPER:
Q. Do you know what a reconciliation provision is?
A. You mean determining the accounting behind the clients receivables.

Q. I'm just asking do you know what I mean by a reconciliation provision?
A. No.
Q. Okay. Have you personally ever been involved in a reconciliation with a merchant?
A. Yes.
MR. BERMAN: You don't have to answer that.
BY MR. PROPER:
Q. Are you aware of how many Texas businesses CBSG has identified as being part of the proposed class?
A. No.
Q. At some point in time was the form agreement that my client used -- strike that.
Let's take a quick break.
- - -
(Whereupon a short recess was taken.)
- - -
BY MR. PROPER:
Q. So, does CBSG have offices other

than the North 3rd Street?
A. CBSG doesn't have an office on North 3rd Street.
Q. Oh, it doesn't. Okay.
A. So yes it does, in Florida.
Q. Okay, so tell me everyplace CBSG has an office?
A. Just Florida.
Q. How many employees of CBSG work out of the Florida office?
A. Just Lisa when she's down there.
Q. How many employes does CBSG currently have?
A. One.
MR. BERMAN: Don't answer.
BY MR. PROPER:
Q. Just Lisa. What are Lisa's responsibilities? Actually, let me ask a different question. What is Lisa's title with CBSG?
A. She's the President.
Q. And what are Lisa's -- I'll be more formal. What are Ms. McElhone's responsibilities as President of CBSG?

A. General oversight of the business.
Q. What sole, if any, did Ms. McElhone have with this transaction?
A. No direct involvement with that specific transaction.
Q. Was Ms. McElhone consulted with respect to my clients request to reduce payments?
A. No.
Q. There was a reference in one of the email that my client was told was going to be a credit committee meeting with respect to one of her requests. Do you recall that email?
A. Yes.
Q. Okay. Ms. McElhone is on the credit committee, correct?
A. Yes.
Q. Did you ask Ms. McElhone whether she had any memory of the credit committee meeting where my client came up?
A. I asked her.
Q. Okay, and was her response?

A. It wasn't one of the matters she reviewed in the credit committed.
Q. How does that work that there was a credit committee meeting, but she wouldn't have been involved with my clients request?
A. The credit committee makes decisions. It doesn't have to be the entire committee for every decision.
Q. Was she not at that particular meeting, or were files split up and decisions made independently? I just don't understand the process.
MR. BERMAN: Do you want to ask what the process is as to Fleetwood?
MR. PROPER: That was my question. Maybe it was in artful, which is possible.
BY MR. PROPER:
Q. So with respect to the my clients deal and the credit committee meeting that took place regarding her request for a modification, was Ms. McElhone present that the meeting or not?

MR. BERMAN: Objection.
THE WITNESS: No.
BY MR. PROPER:
Q. Who was present at the meeting?
A. Susan.
Q. Just Susan?
A. To my understanding it was primarily Susan reviewing the file, yes.
Q. Was Susan conducting the meeting herself, or how does that work?
A. The credit committee members can approve a file themselves after reviewing with the underwriting.
Q. So Susan made the independent decision to approve each of the various modifications that we've already discussed, right?
MR. BERMAN: Objection.
THE WITNESS: Yes.
BY MR. PROPER:
Q. And she's empowered being on the committee to make those types of adjustments, right?
A. That's right.

Q. So Ms. McElhone did not have any actual involvement with my client?
A. No direct involvement with the client.
Q. Is she involved at all with the underwriting of CBSG deals?
A. Yes.
Q. Just walk me through, as President, the types of things she's overseeing?
A. She sees the general health of the company, the financials -- in regards to underwriting or the whole?
Q. The whole. What does she do?
A. Looks at the day-to-day cash balances of the business. Makes sure that things are being taken care of as far as the operations from very high level prospective.
Q. How frequently do you have email and/or direct communications with Ms. McElhone?
MR. BERMAN: Objection.
THE WITNESS: Every single day.

BY MR. PROPER:
Q. And how frequently does she work out of the Florida office?
A. Once every couple months, something like that.
Q. Where does she work otherwise?
A. 20 North 3rd Street.
Q. Which is the Full Spectrum office?
A. That's correct.
Q. Does she just squat there or does she pay rent? What's their arrangement? I know she owns Full Spectrum, so --
A. Are you asking if Full Spectrum has a lease?
Q. No. Let me ask it this way. When Ms. McElhone is using an office at Full Spectrum, is she there as an owner of Full Spectrum, an owner of CBSG, or both?
A. Both.
MR. BERMAN: Objection.
BY MR. PROPER:
Q. And is CBSG incorporated in Delaware?

MR. BERMAN: Objection.

THE WITNESS: Yes.

BY MR. PROPER:

Q. Is Jamie McElhone employed by Full Spectrum or CBSG?

A. Yes.

Q. What does she so?

A. She is part of the underwriting and processing department.

Q. What is her title?

A. It's on the corporate organization, directors. I believe it's secretary.

Q. She's one of the directors?

A. Yes.

Q. When you say the corporate origination, what did you say?

A. I'm just thinking of the charter documents.

Q. Okay. Is this Full Spectrum or CBSG?

A. CBSG.

Q. The three directors are you, Lisa McElhone and Jamie McElhone, right?

A. Yes.
Q. Are they sisters?
A. Yes.
Q. What does Recruiting and Marketing Resources do for CBSG?
A. They're an ISO.
Q. They're an ISO like any other ISO?
A. Yes.
Q. Was Recruiting and Marketing Resources involved with my clients transaction?
A. Yes.
Q. What was the nature of their involvement?
A. They often coordinate with other ISO's and introduce deals to underwriters.
Q. So are they -- strike that.
So you can have two ISO's involved in a transaction?
A. No, only one ISO gets paid for the origination.
Q. Who was paid for the origination in my client's deal?

A. Prime Time.
Q. Was Recruiting and Marketing Resources paid?
A. No.
Q. What did Recruiting and Marketing Resources do, if anything, with respect to my clients transaction?
A. Not much really. It's mostly between us and Prime Time.
Q. Why when my client request a modification was Mr. LaForte involved as opposed to Prime Time?
A. Joe's role often deals with talking to some of the other ISO's. He knows us the best.
Q. Why does Mr. LaForte know you the best, why do you say that?
A. We've been working that ISO for a long time.
Q. Where is Recruiting and Marketing Resources located?
A. In an adjacent office in a separate unit in the building.
Q. What's the physical address, do

you know?
A. Unit 202.
Q. Same address, different unit?
A. Yes.
Q. Do you have a written agreement with Recruiting and Marketing Resources?
A. Yes.
Q. Does that agreement discuss general policies that would have pertained to my clients agreement?
A. No.
Q. Does it discuss how Recruiting and Marketing Resources will be paid?
A. Yes.
Q. Does it discuss the nature of the products and services that CBSG offers?
A. Very briefly. Just talks about the product itself.
Q. But it does have language about the product that my client secured from your company, right, same product?
A. Yes.
Q. What other documents do you have that would describe the nature of the

product that my client had with your business?
A. You mean --
Q. Well, we talked about policies and procedures, I'm just talking about what other documents you may use in marketing or otherwise that would describe the nature of the agreement that my client had with your business?
MR. BERMAN: Objection. I'll instruct him not to answer anything about marketing or advertising materials pursuant to court order.
MR. PROPER: That pertains specifically to my client?
MR. BERMAN: Look at the order.
MR. PROPER: Refresh my memory.
MR. BERMAN: It says advertising, marketing materials, and none of these documents are relevant to the limited precertification discovery that is appropriate at this stage.
MR. PROPER: Thank you.
BY MR. PROPER:

Q. What interactions did CBSG have with Prime Time? And when I say CBSG, I'm including Full Spectrum in that question.
A. We talked directly to the broker at Prime Time.
Q. Who was the broker at prime time?
A. I don't recall.
Q. Were there email communications between you and Prime Time concerning my client's deal?
A. Yes.
Q. Okay. How many emails were there?
A. I don't recall, there was a few.
Q. Do you know if those emails have been produced in this litigation?
A. I'm not aware.
Q. What were the nature of those emails?
A. To outline the sort of deal they were looking for.
MR. PROPER: They may have been produced, I just don't recall, so if you could look into that.

MR. BERMAN: We produced everything that's responsive.

MR. HESKIN: Except for you produced today.

MR. BERMAN: It's a form for them, so I wanted to make sure you had it so we didn't have any call backs. With respect to Prime Time, as you're aware, Prime Time has represented to us in response to a subpoena, they have zero responsive document wit respect to the Fleetwood's other than in the confidential settlement agreement.

In this case, maybe ask a question, how are documents delivered from the broker to the company, and that may get you the answer you want because it was produced.

MR. PROPER: I don't want the answer I want, I want the answer that's true.

MR. BERMAN: That should get you the answer to what the communications would be and the structure.

MR. PROPER: Well, your client just testified there were emails internally between CBSG --

MR. BERMAN: He didn't say that.

BY MR. PROPER:

Q. Did you review emails between CBSG and Fleetwood concerning my clients deal? Yes or no?

A. Fleetwood?

Q. Strike that. Did you review emails between CBSG and Prime Time relating to my clients agreement? Yes or no?

A. Yes.

Q. More than one email?

A. I don't recall.

Q. Okay, but you recall seeing at least one email between CBSG and Prime Time?

A. I wasn't sure if was between CBSG and us, or the broker.

Q. But you saw something between CBSG and the broker?

A. On the bottom it said Prime Time.

MR. PROPER: I'll do a search,

and if I missed it, I missed it. If I didn't, then you're mistaken and I ask for the production.

MR. BERMAN: Why I'm clear about it is, anything he's talking about he looked at from me, and anything I showed him was produced. So that's why I'm pretty clear that whatever I gave him was produced in this case.

BY MR. PROPER:

Q. When did you review the emails?

A. As part of the -- I don't recall specifically. We've had several meetings about this. It wasn't when we went over the deposition documents.

MR. BERMAN: But if you can't find it, let me know and I'll look. There's no reason to belabor this.

MR. PROPER: I'm not accusing anybody. I'm fairly familiar with the documents, I just don't recall.

MR. BERMAN: Let me know.

MR. PROPER: There's also a lot of documents, so I could be wrong.

BY MR. PROPER

Q. Do you have a written ISO agreement with Prime Time?

A. Yes.

Q. Is it the same form ISO agreement you had with R&R?

A. It should be, yes.

Q. So that agreement also would have some general information about the services that CBSG provides, right?

A. That's right.

Q. The same services that you purport to have provided to my client, right?

A. Yes.

- - -

(Whereupon the court reporter marked P-13 for purposes of identification.)

- - -

BY MR. PROPER:

Q. Mr. Cole, I'm going to show you what's been marked as Exhibit-13. Is it your testimony that the only origination

and underwriting policy, guideline, or documents you have is this one page document?

A. Yes.

Q. So I'm going to review your deposition, and if you testified about a bigger document, you were talking generally about the underwriting file, not specifically about a policy?

A. That's right. That's a clarification I wanted to make.

Q. What does a holdback under 30 percent mean?

A. A holdback under 30 percent is the amount of cash deposits that need to b held back to pay for other liabilities that this company has.

Q. Give me an example, please?

A. Let's say they have mortgage payments, let's say they have receivables or even another MCA deal, all that would be held back outside of the cash flow calculation that underwriting uses to underwrite the particular merchant.

Q. Was that used with my clients deal?
A. Yes.
Q. And that's standard to use in all the transactions between '15 and '17?
A. That's correct.
Q. Was the same underwriting control sheet used between 2015 and 2017?
A. There may have been modifications to the format of this.
Q. Do you recall anything material taking place?
A. No.
Q. Neither CBSG nor Full Spectrum has a collections policy?
A. That's right.
Q. Neither CBSG nor Full Spectrum has any document laying out what constitutes a default under your agreements?
MR. BERMAN: Objection.
BY MR. PROPER:
Q. Outside the agreement itself?
A. Outside the agreement, no.

Q. Where -- strike that.

Is there a completed underwriting control sheet for my clients deal?

A. I'm not sure. I would have to check the file.

Q. I know that hasn't been produced. There should be though, right?

A. I'm not sure.

Q. You didn't come across one in preparation for your deposition?

A. Not that I remember.

MR. PROPER: We ask for the production of a completed underwriting control sheet.

MR. BERMAN: We gave the underwriting file.

MR. PROPER: You weren't aware of this particular form, so maybe you overlooked that too. I'm just asking you to take another look since you missed this.

MR. BERMAN: I will take a look, but that's why I gave you this today because we gave you the underwriting file. So you have what we have. Since his

testimony was clear, I wasn't going to allow you to have any come back points, so I got you what he was referring to so you can ask anything you want about it today.

MR. PROPER: We're good. Thanks.

- - -

(Whereupon the witness was excused and the deposition ended at 1:17.)

C E R T I F I C A T I O N

I hereby certify that the proceedings and evidence noted are contained fully and accurately in the stenographic notes taken by me upon the foregoing matter on February 11, 2020, and that this is a correct transcript of the same.

Kathleen Jastrzembski

Kathleen Jastrzembski
Court Reporter and
Notary Public

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Read your deposition over carefully. It is your right to read your deposition and make changes in form or substance. You should assign a reason in the appropriate column on the errata sheet for any change made. After making any change in form or substance which has been noted on the following errata sheet along with the reason for any change, sign your name on the errata sheet and date it. Then sign your deposition at the end of your testimony in the space provided. You are signing it subject to the changes you have made in the errata sheet, which will be attached to the deposition before filing. You must sign it in front of a witness. Have the witness sign in the space provided. The witness need not be a notary public. Any competent adult may witness your signature. Return the original errata sheet & transcript to deposing attorney, (attorney asking questions) promptly!

Court rules require filing within

30 days after you receive the deposition.
Thank you.

I have read the foregoing deposition and the answers given by me are true and correct, to the best of my knowledge and belief.

_____
JOSEPH LEWIS COLE BARLETA

_____
WITNESS TO SIGNATURE

_____
ADDRESS

My Commission Expires

.....

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Delaware

The First State

I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED ARE TRUE AND CORRECT COPIES OF ALL DOCUMENTS ON FILE OF "COMPLETE BUSINESS SOLUTIONS GROUP, INC." AS RECEIVED AND FILED IN THIS OFFICE.

THE FOLLOWING DOCUMENTS HAVE BEEN CERTIFIED:

CERTIFICATE OF INCORPORATION, FILED THE TWENTY-FIRST DAY OF OCTOBER, A.D. 2011, AT 9:24 O`CLOCK A.M.

CERTIFICATE OF REVIVAL, FILED THE TWENTY-FOURTH DAY OF JUNE, A.D. 2016, AT 12:38 O`CLOCK P.M.

CERTIFICATE OF REVIVAL, FILED THE NINETEENTH DAY OF JULY, A.D. 2018, AT 6:27 O`CLOCK P.M.

AND I DO HEREBY FURTHER CERTIFY THAT THE AFORESAID CERTIFICATES ARE THE ONLY CERTIFICATES ON RECORD OF THE AFORESAID CORPORATION, "COMPLETE BUSINESS SOLUTIONS GROUP, INC.".

Jeffrey W. Bullock, Secretary of State

5055423 8100H
SR# 20195901947

Authentication: 203235481
Date: 07-17-19

You may verify this certificate online at corp.delaware.gov/authver.shtml

State of Delaware
Secretary of State
Division of Corporations
Delivered 09:24 AM 10/21/2011
FILED 09:24 AM 10/21/2011
SRV 111123087 - 5055423 FILE

CERTIFICATE OF INCORPORATION

OF

Complete Business Solutions Group, Inc.

THE UNDERSIGNED, in order to form a corporation for the purposes hereinafter stated, under and pursuant to the provisions of the General Corporation Law of the State of Delaware, does hereby certify as follows:

1. The name of the corporation is:

Complete Business Solutions Group, Inc.

2. The address of the registered office of the corporation in the State of Delaware is 203 NE Front Street, Suite 101, Milford Kent County, DE 19963 and the registered agent in charge thereof is Registered Office Service Company.

3. The purpose of the corporation is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of Delaware.

4. The corporation is authorized to issue capital stock to the extent of:

One Thousand Five Hundred (1,500) Shares Without Par Value

5. The Board of Directors is authorized and empowered to make, alter, amend and rescind the By-Laws of the corporation, but By-Laws made by the Board may be altered or repealed, and new By-Laws made, by the stockholders.

6. Election of directors need not be by written ballot unless so provided in the By-Laws of the corporation.

7. No Director shall be personally liable to the corporation or its stockholders for monetary damages for breach of fiduciary duty as a Director, provided that this provision shall not eliminate the liability of a Director (i) for any breach of the Director's duty of loyalty to the corporation or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) under section 174 of the General Corporation Law or (iv) for any transaction from which the Director derived an improper personal benefit.

8. Except as otherwise required by statute, the books and records of the corporation may be kept outside of the State of Delaware at such place or places as provided in the By-Laws of the corporation or from time to time designated by the Board of Directors.

9. The names and addresses of the incorporators are as follows:

NAME	ADDRESS
Lisa McElhone	325 Cherry Street Philadelphia, PA 19106

IN WITNESS WHEREOF, the incorporators have hereunder set their hands and seal this 20th day of October, 2011.

Lisa McElhone
Incorporator

STATE OF DELAWARE
CERTIFICATE FOR RENEWAL
AND REVIVAL OF CHARTER

The corporation organized under the laws of the State of Delaware, the charter of which was voided for non-payment of taxes and/or for failure to file a complete annual report, now desires to procure a restoration, renewal and revival of its charter pursuant to Section 312 of the General Corporation Law of the State of Delaware, and hereby certifies as follows:

1. The name of the corporation is Complete Business Solutions Group, Inc.

2. The Registered Office of the corporation in the State of Delaware is located at 203 NE Front Street - Suite 101 (street), in the City of Milford, County of Kent Zip Code 19963. The name of the Registered Agent at such address upon whom process against this Corporation may be served is Registered Office Service Company.

3. The date of filing of the Corporation's original Certificate of Incorporation in Delaware was October 21, 2011.

4. The renewal and revival of the charter of this corporation is to be perpetual.

5. The corporation was duly organized and carried on the business authorized by its charter until the 1st day of March A.D. 2016, at which time its charter became inoperative and void for non-payment of taxes and/or failure to file a complete annual report and the certificate for renewal and revival is filed by authority of the duly elected directors of the corporation in accordance with the laws of the State of Delaware.

By: _____
Authorized Officer

Name: Jamie McElhone
Print or Type

State of Delaware
Secretary of State
Division of Corporations
Delivered 12:38 PM 06/24/2016
FILED 12:38 PM 06/24/2016
SR 20164632365 - File Number 5055423

STATE OF DELAWARE
CERTIFICATE FOR REVIVAL OF CHARTER

The corporation organized under the laws of the State of Delaware, the charter of which was voided for non-payment of taxes and/or for failure to file a complete annual report, now desires to procure a revival of its charter pursuant to Section 312 of the General Corporation Law of the State of Delaware, and hereby certifies as follows:

1. The name of the corporation is COMPLETE BUSINESS SOLUTIONS GROUP, INC. and, if different, the name under which the corporation was originally incorporated _____.

2. The Registered Office of the corporation in the State of Delaware is located at 203 NE Front Street, Suite 101 (street), in the City of Milford, County of Kent Zip Code 19963. The name of the Registered Agent at such address upon whom process against this Corporation may be served is Registered Office Service Company.

3. The date of filing of the Corporation's original Certificate of Incorporation in Delaware was October 21, 2011.

4. The corporation desiring to be revived and so reviving its certificate of incorporation was organized under the laws of this State.

5. The corporation was duly organized and carried on the business authorized by its charter until the 1st day of March A.D. 2018, at which time its charter became inoperative and void for non-payment of taxes and/or failure to file a complete annual report and the certificate for revival is filed by authority of the duly elected directors of the corporation in accordance with the laws of the State of Delaware.

By: _____
Authorized Officer

Name: Lisa McElhone
Print or Type

State of Delaware
Secretary of State
Division of Corporations
Delivered 06:27 PM 07/19/2018
FILED 06:27 PM 07/19/2018
SR 20185754439 - File Number 5055423

Delaware

The First State

I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THAT THE CERTIFICATE OF INCORPORATION OF "COMPLETE BUSINESS SOLUTIONS GROUP, INC.", WAS RECEIVED AND FILED IN THIS OFFICE THE TWENTY-FIRST DAY OF OCTOBER, A.D. 2011.

AND I DO HEREBY FURTHER CERTIFY THAT THE AFORESAID CORPORATION REMAINS A DOMESTIC CORPORATION ON OUR RECORDS BUT HAS FAILED TO FILE THE ANNUAL FRANCHISE TAX REPORT AND PAY THE FRANCHISE TAXES CURRENTLY DUE.

Jeffrey W. Bullock, Secretary of State

5055423 8300U

SR# 20195901947

Authentication: 203235482

Date: 07-17-19

You may verify this certificate online at corp.delaware.gov/authver.shtml

2

Delaware Division of Corporations

Division of Corporations Survey

401 Federal Street, Suite 4
Dover, DE 19901
Fax: 302-739-7219

On a scale of 1 (unacceptable) to 10 (outstanding), please rate the following questions.

1. How would you rate the **overall quality** of service provided by the Division of Corporations?
   1 2 3 4 5 6 7 8 9 10 NA

2. How would you rate the **convenience** of our services?
   1 2 3 4 5 6 7 8 9 10 NA

3. How would you rate the **promptness** of service provided?
   1 2 3 4 5 6 7 8 9 10 NA

4. How would you rate the **accessibility** of the Division of Corporations staff?
   1 2 3 4 5 6 7 8 9 10 NA

5. How would you rate the **training** you received from the Division of Corporations staff?
   1 2 3 4 5 6 7 8 9 10 NA

6. How would you rate the **written materials** received from the Division of Corporations? (Were they easy to read and helpful? i.e., guidelines, forms, DCIS Manual.)
   1 2 3 4 5 6 7 8 9 10 NA

7. Were Division of Corporations **staff attentive and helpful** relative to your comments and concerns?
   1 2 3 4 5 6 7 8 9 10 NA

8. Did Division of Corporations staff display **professionalism & courtesy**?
   1 2 3 4 5 6 7 8 9 10 NA

9. Are Division of Corporations staff **knowledgeable**?
   1 2 3 4 5 6 7 8 9 10 NA

Please let us know about experiences and incidents with the Division of Corporations (i.e., staff, equipment, connectivity, customer service) that impressed or disappointed you.

Comments: _____

_____

Company name and contact information: _____

If you would prefer, you may take this survey online at
https://surveymonkey.com/r/corporationssurvey

COMMONWEALTH OF PENNSYLVANIA

DEPARTMENT OF STATE

12/05/2019

TO ALL WHOM THESE PRESENTS SHALL COME, GREETING:

Par Funding

I, Kathy Boockvar, Secretary of the Commonwealth of Pennsylvania, do hereby certify that the foregoing and annexed is a true and correct copy of

Fictitious Creation filed on Aug 27, 2013 - Pages (2)
Fictitious Amendment filed on Jul 31, 2018 - Pages (3)
Fictitious Amendment filed on Mar 29, 2019 - Pages (3)

which appear of record in this department.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Seal of the Secretary's Office to be affixed, the day and year above written

Kathy Boockvar

Secretary of the Commonwealth

Certification Number: TSC191205121047-1

Verify this certificate online at http://www.corporations.pa.gov/orders/verify

Entity #: 4210569
Date Filed: 08/27/2013
Carol Aichele
Secretary of the Commonwealth

ST, PAO4B

From: pao4b@state.pa.us
Sent: Tuesday, August 27, 2013 4:43 PM
To: ST, PAO4B
Subject: PAO4B New Registration 397056

PENNSYLVANIA DEPARTMENT OF STATE
CORPORATION BUREAU
Application for Registration of Fictitious Name
(54 Pa.C.S. § 311)

Document will be returned to the name and address you enter below.

Name
Jamie McElhone
Address
141 N. 2nd Street
Address

City
Philadelphia

State Zip Code
PA 19106

Email: tina@parfunding.com

Commonwealth of Pennsylvania
FICTITIOUS NAME 2 Page(s)

T1324264053

Fee: $70

In compliance with the requirements of 54 Pa.C.S. § 311 (relating to registration), the undersigned entity(ies) desiring to register a fictitious name under 54 Pa.C.S. Ch.3 (relating to fictitious names), hereby state(s) that:

1. The fictitious name is:
   Par Funding
2. A brief statement of the character or nature of the business or other activity to be carried on under or through the fictitious name is:
   Advance Funds Small Businesses
3. The address, including number and street, if any, of the principal place of business (P.O. Box alone is **not** acceptable):

141 N. 2nd Street	**Philadelphia**	**PA**	**19106**	**51**
Number and Street	City	State	Zip	County

4. The name and address, including number and street, if any, of each individual interested in the business is:

Name	Number and Street Address	City	State	Zip
Lisa McElhone	**2100 Market Street**	**Philadelphia**	**PA**	**19103**

5. Each entity, other than an individual, interested in such business is (are)::

6. The applicant is familiar with the provisions of 54 Pa.C.S. § 332 (relating to effect of registration) and understands that filling under the Fictitious Names Act does not create any exclusive or other right in the fictitious name.
7. Optional): The name(s) of the agents(s), if any, any one of whom is authorized to execute amendments to, withdrawals from or cancellation of this registration in behalf of all then existing parties to the registration, is (are):

IN TESTIMONY WHEREOF, the undersigned have caused this Application for Registration of Fictitious Name to be executed this _____ day of _____, _____.

Individual Signature	Individual Signature
Individual Signature	Individual Signature
Entity Name	Entity Name
Signature	Signature
Title	Title

O705620130827

CC- $40

Case 9:20-cv-81205-RAR Document 30-5 Entered on FLSD Docket 07/27/2020 Page 3 of 9

PENNSYLVANIA DEPARTMENT OF STATE
CORPORATION BUREAU
Fictitious Name Registration Signature Form

Document must be completed and mailed to the address listed below.

Department of State
Corporation Bureau
P.O. Box 8722
Harrisburg, PA 17105-8722
(717) 787-1057

1. **The enterprise structure is:**
   Corporation

2. **The enterprise legal name is:**
   Complete Business Solutions Group, Inc.

3. **The enterprise's fictitious name is:**
   Par Funding

IN TESTIMONY WHEREOF, the undersigned have caused this Application for Registration of Fictitious Name to be executed this

21 day of August 2013

Individual Signature of Lisa McElhone

0705620130827

To avoid any delay or rejection, signature form(s) should be received within 7-10 days of the registration submission date.

PA DEPT. OF STATE

AUG 27 2013

Entity# : 4210569
Date Filed : 07/31/2018
Pennsylvania Department of State

PENNSYLVANIA DEPARTMENT OF STATE
BUREAU OF CORPORATIONS AND CHARITABLE ORGANIZATIONS

☐ **Return document by mail to:**
M. BURR KEIM COMPANY
Name

Address

City State Zip Code

☒ **Return document by email to:** info@mburrkeim.com

Fictitious Name
Amendment, Withdrawal, Cancellation
DSCB:54-312/313 (rev. 7/2015)

TCO180801MC0322

Fee: $70

Check one: ☒ Amendment (§ 312) ☐ Withdrawal (§ 313) ☐ Cancellation (§ 313)

In compliance with the requirements of 54 Pa.C.S. Ch.3 (relating to fictitious names), the undersigned entity or entities, desiring to amend, withdraw or cancel from a fictitious name registration, hereby state(s) that:

1. The fictitious name is:
Par Funding

2. The address of the principal place of business, including number and street, if any, is:
141 North 2nd Street, Philadelphia, PA 19106 Philadelphia
Number and street City State Zip County

3. The last preceding filing with respect to this fictitious name was made in the Department on
August 27, 2013
Date (MM/DD/YYYY)

4. A brief statement of the character or nature of the business or other activity to be carried on under or through the fictitious name is:
Advance funds small business

2018 JUL 31 AM 11:59
PA. DEPT. OF STATE

DSCB:54-312/313–2

5. *Check one or more of the following, as appropriate:*

___ The fictitious name has been changed to:

_____

_X_ The principal place of business set forth in paragraph 2 has been changed to (PO Box alone not acceptable):

c/o Full Spectrum Processing, 205 Arch Street, 2nd Floor, Philadelphia, PA 19106 Philadelphia County

Number and street City State Zip County

___ The following party(ies) has (have) been added to the registration and their signature(s) appear(s) at the end of this application.

Name Number and street City State Zip

_____

_____

_____

___ The following party(ies) has (have) withdrawn from the business and their signature(s) appear(s) at the end of this application.

Name Number and street City State Zip

_____

_____

_____

___ The fictitious name registration is cancelled.

6. *Check box for Application for Amendment Only:*

_X_ This amendment, without reference to any other filing sets forth all information with respect to the fictitious name which would be required in an original filing under the Fictitious Names Act.

7. *Optional-See Instruction F:* This application has been executed by an agent heretofore designated for that purpose in a prior filing in this registration.

DSCB:54-312/313-3

IN TESTIMONY WHEREOF, the undersigned has (have) caused this Application for Amendment, Withdrawal or Cancellation of/from Fictitious Name to be executed this 30th day of July, 2018.

Adding party(ies) signature(s)	Withdrawing party(ies) signature(s)	All current party(ies) signature(s)
_____	_____	Lisa McElhone
_____	_____	_____
_____	_____	_____
_____	_____	_____
Name of Entity	Name of Entity	Name of Entity
_____	_____	_____
Signature	Signature	Signature
_____	_____	_____
Title	Title	Title

Entity# : 4210569
Date Filed : 03/29/2019
Pennsylvania Department of State

PENNSYLVANIA DEPARTMENT OF STATE
BUREAU OF CORPORATIONS AND CHARITABLE ORGANIZAT

Fictitious Name Amendment, Withdrawal, Cancellation

(54 Pa.C.S.)

_X_ Amendment (§ 312)
_X_ Withdrawal (§ 313)
____ Cancellation (§ 313)

Name
Cynthia A Clark

Address
20 N. 3rd Street,

City	State	Zip Code
Philadelphia	**PA**	**19106**

Document will be returned to the name and address you enter to the left.

Fee: $70.00

In compliance with the requirements of 54 Pa.C.S. Ch.3 (relating to fictitious names), the undersigned entity or entities, desiring to amend, withdraw or cancel from a fictitious name registration, hereby state(s) that:

1. The fictitious name is:

Par Funding

2. The address of the principal place of business, including number and street, if any, is (the Department is authorized to conform to the records of the Department):

205 Arch Street, 2nd Floor	Philadelphia	PA	19106	Philadelphia
Number and street	City	State	Zip	County

3. The last preceding filing with respect to this fictitious name was made in the Department on

7/31/2018 (Date at) (Roll and Film)

4. A brief statement of the character or nature of the business or other activity to be carried on under or through the fictitious name is:

advance funds small businesses

PENN File: March 29, 2019

5. ***Check one or more of the following, as appropriate:***

____ The fictitious name has been changed to:

____ The principal place of business has been changed to (PO Box alone not acceptable):

Number and Street	City	State	Zip	County

_X_ The following party(ies) has(have) been added to the registration and their signature(s) appear(s) at the end of this application.

Name	Number and Street	City	State	Zip
Complete Business Solutions Group, Inc	c/o Full Spectrum Processing , 205 Arch Street, 2nd Floor , Philadelphia , Philadelphia , PA , United States , 19106			

_X_ The following party(ies) has(have) withdrawn from the business and their signature(s) appear(s) at the end of this application.

Name	Number and Street	City	State	Zip
Lisa McElhone	205 Arch Street, 2nd Floor , Philadelphia , Philadelphia , PA , United States , 19106			

___ The fictitious name registration is cancelled.

6. ***Check box for Application for Amendment Only:***

_X_ This amendment, without reference to any other filing sets forth all information with respect to the fictitious name which would be required in an original filing under the Fictitious Names Act.

7. (Optional) This application has been executed by an agent heretofore designated for that purpose in a prior filing in this registration.

DSCB: 54-312/313-3

IN TESTIMONY WHEREOF, the undersigned has (have) caused this Application for Amendment, Withdrawal or Cancellation of/from Fictitious Name to be executed this 29th day of March , 2019 .

Adding party(ies) signature(s)	Withdrawing party(ies) signature (s)	All current party(ies) signature (s))
	Lisa McElhone	

Complete Business Solutions Group, Inc

Name of Entity

Joe Cole

Signature

CFO

Title

pennsylvania
DEPARTMENT OF BANKING
AND SECURITIES

CERTIFICATION

Name of Requester: Raynalda N. Milord, Senior Paralegal Specialist
U.S. Securities and Exchange Commission
Miami Regional Office
801 Brickell Avenue, Suite 1950
Miami, FL 33131

Records Requested: Certified copy of Consent Agreement and Order in the matter of:
Complete Business Solutions Group, Inc. d/b/a PAR Funding
Docket No. 180098 (SEC-CAO)

I, Linnea Freeberg, hereby declare under the penalty of 108 Pa.C.S. § 4904, that the following statements are true and correct based upon my personal knowledge, information and belief:

1. I serve as the Docket Clerk for the Department of Banking and Securities ("Agency").

2. I am custodian of files related to administrative proceedings at the Agency.

3. In my capacity as Docket Clerk, I am familiar with the records of the Agency.

4. Upon receipt of the request, I conducted a thorough examination of files in the possession, custody and control of the Agency for records responsive to the request.

5. After conducting a good faith search of the Agency's files, I identified all records within the Agency's possession, custody or control that are responsive to the request.

6. The Agency records identified as responsive to the request are attached to this certification.

7. I certify that the attached documents are a complete and true copy of the original responsive records.

Date: 6/30/2020 Signature: Linnea Freeberg
Linnea Freeberg, Docket Clerk
Department of Banking and Securities

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PA DEPARTMENT OF
BANKING AND SECURITIES

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING AND SECURITIES

COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF BANKING AND SECURITIES, BUREAU OF SECURITIES COMPLIANCE AND EXAMINATIONS	:	**DOCKET No. 18-0098-CAO (SEC-C&D)**
v.	:	
COMPLETE BUSINESS SOLUTIONS GROUP, INC. d/b/a PAR FUNDING	:	

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, acting through the Department of Banking and Securities ("Department"), Bureau of Securities Compliance and Examinations ("Bureau"), has conducted an investigation of certain securities-related activities of Complete Business Solutions Group, Inc. d/b/a PAR Funding ("CBSG"). Based on the results of its investigation, the Bureau has concluded that CBSG has engaged in certain securities-related activities in violation of the Pennsylvania Securities Act of 1972, 70 P.S. §1-301. ("1972 Act"). CBSG, in lieu of litigation, and without admitting or denying the allegations herein, and intending to be legally bound, hereby agrees to the terms of this Consent Agreement and Order ("Order").

BACKGROUND

1. The Department is the Commonwealth of Pennsylvania's administrative agency authorized and empowered to administer and enforce the 1972 Act.

2. The Bureau is primarily responsible for administering and enforcing the 1972 Act for the Department.

3. CBSG was, at all times material herein, a Pennsylvania corporation with an address at 141 N. Second Street, Philadelphia, Pennsylvania 19106.

4. CBSG is engaged in the business of providing working capital to merchants through the purchase of an interest in a designated portion of the merchant's future accounts and receivables.

5. From in or about May 2016 through December 2017, CBSG entered into agreements ("Agreements") with persons to represent CBSG in connection with the offer and sale of promissory notes issued by CBSG ("Notes") who were not registered under Section 301 of the 1972 Act, 70 P.S. §1-301 nor exempt from registration as agents of CBSG. CBSG terminated the Agreements on February 8, 2018.

6. CBSG offered and sold, and continues to offer and sell, Notes only to persons that CBSG had a reasonable basis to believe were accredited investors as that term is defined in Rule 501(a) of Regulation D adopted by the U.S. Securities & Exchange Commission ("SEC") under the Securities Act of 1933, as amended, in good faith reliance on the exemptions from securities registration provided by Rule 506(b) of SEC Regulation D and Section 211(b) of the 1972 Act. As of February 8, 2018, CSBG does not pay any compensation to any person in connection the sale of the Notes.

VIOLATION

7. Paragraphs 1 through 6 are incorporated by reference as if set forth in their entirety.

8. By engaging in acts and conduct set forth in paragraphs 1 through 5 above, CBSG employed at least one unregistered agent in violation of Section 301(b) of the 1972 Act, 70 P.S. §1-301(b).

RELIEF

9. Within 30 days of the Effective Date of this Order, as defined in paragraph 19, CBSG shall pay the Department an administrative assessment in the amount of $499,000.00. Payment shall be made by certified check, money order or wire transfer in immediately available funds made payable to the "Department of Banking and Securities" and shall be mailed or delivered in person to the Bureau of Licensing, Compliance and Examinations located at 17 N. Second Street, Suite 1300, Harrisburg, PA 17101 or wired to a depository designated by the Department.

10. This Order is not intended to indicate that CBSG or any affiliate or current or former employee should be subject to any disqualification contained in the federal securities laws, the rules and regulations thereunder; the rules and regulations of self-regulatory organizations or the provisions of various states' securities laws or regulations adopted thereunder, including the provisions of the 1972 Act and regulations promulgated thereunder and including, without limitation, any disqualification from relying on the registration exemptions or safe harbor provisions, and this Order is not intended to form the basis of any such disqualification.

11. This Order concludes the investigation by the Department and any other action that the Department could commence against CBSG under applicable Pennsylvania law as it relates to the offer and sale of Notes and the payment of compensation by CBSG to persons engaged by CBSG to represent it in connection with the sale of the Notes who were not registered under the 1972 Act.

12. CBSG is ORDERED to comply with the 1972 Act and Regulations adopted by the Department, and in particular Section 301 of the 1972 Act, 70 P.S. §1-301.

13. Should CBSG fail to pay the costs and the assessment as set forth in paragraph 9 above, the sanctions set forth elsewhere in the Order shall continue in full force and effect until full payment is made. However, this provision shall not be construed as affording CBSG the option of either paying the costs and the assessment or being indefinitely subject to the sanctions.

14. Should CBSG fail to comply with any and all provisions of this Order, the Department may impose additional sanctions and costs and seek other appropriate relief subject to CBSG's right to a hearing pursuant to the 1972 Act.

FURTHER PROVISIONS

15. Consent. CBSG hereby knowingly, willingly, voluntarily and irrevocably consents to the entry of this Order pursuant to the Bureau's authority under the 1972 Act and agrees that it understands all of the terms and conditions contained herein. CBSG, by voluntarily entering into this Order, waives any right to a hearing or appeal concerning the terms, conditions and/or penalties set forth in this Order.

16. Entire Agreement. This Order contains the entire agreement between the Department and CBSG. There are no other terms, obligations, covenants, representations, statements, conditions, or otherwise, of any kind whatsoever concerning this Order. This Order may be amended in writing by mutual agreement by the Department and CBSG.

17. Binding Nature. The Department, CBSG, and all officers, owners, directors, employees, heirs and assigns of CBSG intend to be and are legally bound by the terms of this Order.

18. Counsel. This Order is entered into by the parties upon full opportunity for legal advice from legal counsel.

19. Effectiveness. CBSG hereby stipulates and agrees that the Order shall become effective on the date the Bureau executes the Order ("Effective Date").

20. Other Enforcement Action.

a. The Department reserves all of its rights, duties, and authority to enforce all statutes, rules, and regulations under its jurisdiction against CBSG in the future regarding all matters not resolved by this Order.

b. CBSG acknowledges and agrees that this Order is only binding upon the Department and not any other local, state or federal agency, department, or office regarding matters within this Order.

21. Authorization. The parties below are authorized to execute this Order and legally bind their respective parties.

22. Counterparts. This Order may be executed in separate counterparts, by facsimile and/or by PDF.

23. Titles. The titles used to identify the paragraphs of this document are for the convenience of reference only and do not control the interpretation of this document.

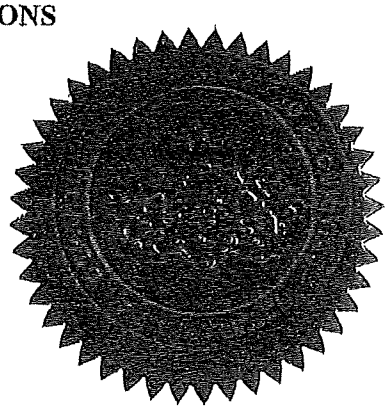
24. Finding. The Department finds that it is necessary and appropriate in the public interest and for the protection of investors, and consistent with the purposes fairly intended by the policy and provisions of the 1972 Act to issue this Order.

WHEREFORE, in consideration of the foregoing, including the recital paragraphs, the Commonwealth of Pennsylvania, Department of Banking and Securities, Bureau of Securities Compliance and Examinations, and Complete Business Solutions Group, Inc, d/b/a PAR Funding, intending to be legally bound, do hereby execute this Consent Agreement and Order.

FOR THE COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING AND SECURITIES
BUREAU OF SECURITIES COMPLIANCE AND EXAMINATIONS

Redacted
Joseph J. Minisi, Deputy Secretary for Securities

Date: 11/28/18



FOR COMPLETE BUSINESS SOLUTIONS, INC.
d/b/a PAR FUNDING

Redacted
(Officer Signature)

JOE COLE
(Print Officer Name)

CFO
(Title)

Date: 11/27/18

STATE OF NEW JERSEY
Bureau of Securities
P.O. Box 47029
Newark, NJ 07101

CERTIFICATION

John Seuberth, of full age, certifies as follows:

1. I am the Director of the Operations Unit of the New Jersey Bureau of Securities ("Bureau") and have been employed by the Bureau since December, 2000.

2. To the best of my knowledge, the attached is a true copy of the Summary Cease and Desist Order In The Matter Of: Complete Business Solutions Group, Inc., and Complete Business Solutions Group, Inc. d/b/a PAR Funding, entered by the Bureau Chief on December 27, 2018.

I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: July 13, 2020

John Seuberth
Director, Operations Unit, Bureau of Securities

STATE OF NEW JERSEY
BUREAU OF SECURITIES
P.O. Box 47029
Newark, New Jersey 07101
(973) 504-3600

IN THE MATTER OF:

Complete Business Solutions Group, Inc., and Complete Business Solutions Group, Inc. d/b/a PAR Funding,

Respondent.

SUMMARY CEASE AND DESIST ORDER

Pursuant to the authority granted to Christopher W. Gerold, Chief of the New Jersey Bureau of Securities ("Bureau Chief"), under the Uniform Securities Law (1997), N.J.S.A. 49:3-47 to -83 ("Securities Law") and certain regulations thereunder, and based upon an investigation by the New Jersey Bureau of Securities ("Bureau"), the Bureau Chief hereby finds that there is good cause and it is in the public interest to enter this Summary Cease and Desist Order ("Order") against Complete Business Solutions Group, Inc. and Complete Business Solutions Group, Inc. d/b/a PAR Funding (collectively "CBSG").

The Bureau Chief makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. CBSG, a purported small business funding company, sold and continues to offer to sell unregistered securities. Nationally, CBSG sold more than $90 million of unregistered securities to hundreds of investors, including more than $8 million of unregistered securities to at least twenty-nine New Jersey investors.

2. The CBSG securities were sold by unregistered agents who received commissions which varied between 5% and potentially as high as 25%, depending on the amount of interest that would be paid to the investors. As a result, millions of dollars of commissions were paid to unregistered agents, including agents in New Jersey.

3. On November 28, 2018, CBSG and the Pennsylvania Department of Banking and Securities, Bureau of Securities Compliance and Examinations ("PABOS") entered into a Consent Order wherein the PABOS concluded that CBSG violated Pennsylvania securities laws by entering into agreements with unregistered agents to sell CBSG securities. As a result of the Consent Order, CBSG was required to pay an administrative assessment of $499,000 to the PABOS.

A. The Respondent

4. CBSG, a Delaware Corporation headquartered in Philadelphia, Pennsylvania, is a privately owned company that purports to generate returns through investing in the factoring of receivables of small and medium businesses. CBSG further purports to have funded 2,500 clients and funded over $600 million since 2013.

5. CBSG has never been registered with the Bureau in any capacity.

B. Sale of Unregistered CBSG Securities

6. CBSG offered and sold, and continues to offer and sell, securities as defined by N.J.S.A 49:3-49(m) in the form of Non-Negotiable Term Promissory Notes ("CBSG Notes") and concurrent Security Agreements ("CBSG Agreement") (together the "CBSG Securities").

7. The CBSG Notes accrued interest on the principal amount at rates ranging from approximately 12% to 44% annually.

8. The CBSG Notes provided different interest payment terms. For example, some CBSG Notes provided that that the accrued interest would be paid after twelve months. Other CBSG

Notes provided that a sum certain would be paid monthly with a balloon payment at the end of the twelve month period for the balance of the accrued, but unpaid, interest. And still others provided for monthly payments, among other terms.

9. Between April 12, 2016 and December 20, 2017 CBSG offered and sold at least forty-four CBSG Securities to at least twenty-nine New Jersey residents for a total face value of not less than $8,715,300.

10. Nationally, between April 12, 2016 and December 20, 2017, CBSG sold over three hundred CBSG Securities with a total face value of more than $90,000,000 to investors.

11. The CBSG Securities are not registered with the Bureau, not "federally covered," and not exempt from registration.

12. CBSG entered into "Finder's Fee Agreements" with at least sixteen persons ("Finders") to offer and sell the CBSG Securities, of which at least four of the Finders offered and sold CBSG Securities to or from New Jersey. Pursuant to such agreements, Finders received varying commissions for many but not all of their sales of the CBSG Securities.

13. The Finders were not registered with the Bureau, or exempt from registration, to offer and sell the CBSG Securities.

CONCLUSIONS OF LAW

14. CBSG Securities are "securities" as defined by N.J.S.A. 49:3-49(m).

15. CBSG is offering and selling securities that are not registered with the Bureau, not "federally covered," and not exempt from registration, in violation of N.J.S.A. 49:3-60.

16. CBSG is effecting or attempting to effect transactions in securities without registration in violation of N.J.S.A. 49:3-56.

17. CBSG employed unregistered agents, in violation of N.J.S.A. 49:3-56(h).

18. N.J.S.A. 49:3-67 empowers the Bureau Chief to issue orders that are reasonably necessary to carry out the provisions of the Law.

19. N.J.S.A. 49:3-69(a)(1) empowers the Bureau Chief to issue a cease and desist order against persons engaged in prohibited activities, directing them to cease and desist from further illegal activity or doing acts in furtherance thereof.

20. CBSG's violations are continuous and ongoing, therefore making a cease and desist order in the public interest and an appropriate remedy.

ORDER

Therefore, based upon all of the foregoing,

It is on this 27th day of December 2018 hereby **ORDERED** that:

21. CBSG and any person, employee, officer, director, entity, agent, Finder, or independent contractor under CBSG direction or control immediately CEASE AND DESIST from:

a. offering for sale any security in New Jersey until the security is registered with the Bureau or is offered for sale pursuant to an exemption from registration under the Securities Law. This shall include additional sales to current investors, rollovers, or any extension of maturity dates of previously issued securities;

b. acting as agents in New Jersey until each is registered with the Bureau or are acting pursuant to an exemption from registration under the Securities Law; and

c. violating any other provisions of the Securities Law and any rules promulgated thereunder for the sale of any security in New Jersey.

22. All exemptions contained in N.J.S.A. 49:3-50 subsection (a) paragraph 9, 10, and 11 and subsection (b) are hereby **DENIED** as to CBSG.

23. All exemptions to the registration requirements provided by N.J.S.A. 49:3-56(b), N.J.S.A. 49:3-56(c) and N.J.S.A. 49:3-56(g) are hereby **DENIED** as to CBSG.

24. Nothing in this order shall preclude CBSG from paying interest and/or principal to the owners of the CBSG Securities pursuant to the terms of the CBSG Securities.

Christopher W. Gerold
Chief, New Jersey Bureau of Securities

NOTICE OF RIGHT TO HEARING

Pursuant to N.J.S.A. 49:3-69(a)(1)(i) the Bureau Chief shall entertain on no less than three days' notice a written application to lift the Order to Cease and Desist on written application of the person subject thereto and in connection therewith may, but need not, hold a hearing and hear testimony, but shall provide to the person subject thereto a written statement of the reasons for the Order to Cease and Desist.

Pursuant to N.J.S.A. 49:3-69(a)(l)(ii), upon service of notice of the Order to Cease and Desist issued by the Bureau Chief, the person subject thereto shall have up to 15 days to respond to the Bureau in the form of a written answer and written request for a hearing. The Bureau Chief shall, within five days of receiving the answer and request for a hearing, either transmit the matter to the Office of Administrative Law for a hearing or schedule a hearing at the Bureau of Securities.

Orders issued pursuant to N.J.S.A. 49:3-69 shall be subject to an application to vacate upon 10 days' notice, and a preliminary hearing on the Order shall be held in any event within 20 days after it is requested, and the filing of a motion to vacate the Order shall toll the time for filing an answer and written request for a hearing.

Pursuant to N.J.S.A. 49:3-69(a)(l)(iii), if any person subject to the Order fails to respond by filing a written answer and written request for a hearing with the Bureau or moving to vacate the order within the 15 day prescribed period, that person shall have waived the opportunity to be heard. The Order will be a Final Order and shall remain in effect until modified or vacated.

NOTICE OF OTHER ENFORCEMENT REMEDIES

You are advised that the Uniform Securities Law provides several enforcement remedies, which are available to be exercised by the Bureau Chief, either alone or in combination. These remedies include, in addition to this action revoking your registration, the right to seek and obtain injunctive and ancillary relief in a civil enforcement action, N.J.S.A. 49:3-69, and the right to seek and obtain civil penalties in an administrative or civil action, N.J.S.A. 49:3-70.1.

You are further advised that the entry of the relief requested does not preclude the Bureau Chief from seeking and obtaining other enforcement remedies against you in connection with the claims made against you in this action.