

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO.: 20-CV-81205-RAR

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

**COMPLETE BUSINESS SOLUTIONS GROUP,
INC. d/b/a/ PAR FUNDING, et al.,**

**SECURITIES AND EXCHANGE COMMISSION'S NOTICE OF FILING RESPONSE
TO DEFENDANTS ADDITIONAL FACTS**

The Securities and Exchange Commission hereby gives notice of filing its Response to Defendants Additional Facts.

November 16, 2021

Respectfully submitted,

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**SECURITIES AND EXCHANGE
COMMISSION**

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Response to Dean Vagnozzi's Additional Facts

99. Disputed. The Complaint alleges that Dean Vagnozzi, directly as well as through four of his companies, participated in a “web” of Par Funding-related offerings from no later than 2016 until the SEC filed its Complaint, and that his conduct was “ongoing” throughout that time period, the offerings were never registered, and they “continued until this [Complaint filing] day.” [ECF No. 1 & 119]. The Complaint alleges Vagnozzi’s participation in the offer and sale of multiple securities offerings beginning no later than 2016 and continuing until the filing of the Complaint; the allegations are not as limited as what Vagnozzi states they are in his declaration. [ECF No 119].

100. Disputed. Vagnozzi’s declaration about what John Pauciulo purportedly communicated to him is inadmissible hearsay and is not admissible evidence of what Pauciulo advised Mr. Vagnozzi. Pauciulo testified that he understood Pennsylvania and New Jersey State Securities Regulators had initiated actions against Par Funding for failure to register the Par Funding securities offering. [Exhibit F, Pauciulo Testimony, at 8-25]. Pauciulo testified that he told investors that Vagnozzi’s offerings were not registered and were therefore *not saleable in the public market*. *Id.* 270:7-13.

101. First Sentence: Undisputed. Remaining sentences: Disputed. Mr. Vagnozzi’s declaration of what Mr. Pauciulo told him or advised him is inadmissible hearsay.

102. Disputed. See Exhibit A [Dean Vagnozzi Radio Show, mp4 file filed electronically]; Exhibit B [Dean Vagnozzi Advertisement, “MCA” Video Transcript of, at 2:3-3:9]; Exhibit C [Vagnozzi Advertising Mailer (Exh 18 to Vagnozzi Investigative Testimony)]; Exhibit D, Vagnozzi testimony authenticating Exhibit C hereto; Exhibits E & S [Mailers/Invites]. *See also* [TRO Exhibit 196 at ¶¶ 1-6; TRO Exhibit 200 at ¶¶ 1-6].

103. Disputed. As set forth in Response to Additional Fact 99, the SEC has alleged that Vagnozzi participated in the Par Funding unregistered offering continuously from 2016 until the Complaint was filed in July 2020, and participated in his own unregistered offerings as well and those of “Agent Funds” during that time period. *See* Response to Additional Fact 99, TRO Exhibit 211-214, ECF No. and DE 119, TRO Exhibits 180-181; 196, 199-200, 208, 211-213, ECF No 896-12.

Response to Perry Abbonizio's Additional Facts

99. Undisputed

100. Disputed. The evidence shows Mr. Abbonizio directly soliciting investors to invest in the promissory notes, touting the investment, urging agent fund managers to solicit investors, soliciting investors with agent fund managers, and involved in agent fund marketing pieces. [ECF No. 896-12]; [TRO Exhibit 211-213], [ECF No. , Sealed, Abbonizio Solicitation]; [TRO Exhibit 189 at ¶¶ 1-12 and 49-52 & pdf pp 100-106]; TRO Exhibit 136 at 6:19-7:16 and 25:2-26:10; TRO Exhibit 152; TRO Exhibits 125 & 126; Exhibit G, Email Editing Marketing Email]; [Exhibit I, Email re: Agent Fund Structure]; [ECF No. 816-10 at ¶ 9]; TRO Exhibit 24, Transcript of Beasley Deposition, at 6:6-13:7; TRO Exhibit 6; TRO Exhibit 18; TRO Exhibit 20 at 49:9-59:9; TRO Exhibit 25; TRO Exhibit 136 at 6:19-7:21; TRO Exhibit 164, January 11, 2018 email from Vagnozzi to “Finders” that Par Funding will only accept investor money through funds; TRO Exhibit 18 at ¶ 8 and Exh. A thereto (pdf page 6) (“Previously, those willing to place money with CBSG did so directly. However, as Perry discussed, in January of this year the investment structure has changed to a fund based platform.”); TRO Exhibit 24, Interview of Agent Fund Manager Gary Beasley at 6:6-13:7; TRO Exhibit 37; TRO Exhibit 156 at pp.1-12 (Beasley explaining his recruitment and training); TRO Exhibit 101 (Abbonizio speaking at one of Gissa’s solicitation events); TRO Exhibit 25 (Abbonizio speaking at one of Furman’s events); TRO Exhibit 136, at 40:23-41:1.; TRO Exhibit 103 at paragraph 6; TRO Exhibit 152, Transcript of January 16, 2020 Texas Board of Securities investigator call with Abbonezio, at 2:5-5:1; TRO Exhibit 85, Transcript of Undercover Par Funding Solicitation, at 136:5-10; TRO Exhibit 20, Transcript attached to Horner Declaration as Exh. A, at 51:5-52:19. Exhibits K-P hereto (helping Furman create fund, ppm, and paying part of invoice for PPM, participating with Furman’s calls with counsel to create fund).

101. Disputed. Abbonizio was not giving office tours or meeting with investors because he is an architecture enthusiast or teacher, as he now claims without evidentiary support; the evidence shows he was meeting with potential investors for one purpose – to close the deal or solicit them to invest. [TRO Exhibit 136 at 6:19-7:16 and 25:2-26:10; TRO Exhibit 152; TRO Exhibits 125 & 126]; [Exhibit H, Email About Meeting to “Close” The Investor]. Two of his solicitations have been filed with the Court. *See* TRO Exhibit 189 at ¶¶ 1-12 and 49-52 & pdf pp 100-106; and TRO

Exhibits cited above. Abbonizio admits in a recorded call with agent fund managers [ECF 816-10 pdf page 80, transcript at lines 6-13] that he had attended 500-1,000 meetings with agent fund investors/clients and that “my role is to bring principal capital.” TRO Exhibit 136, at 40:23-41:1.

102. Undisputed that Abbonizio received the information about Par Funding that appears in the marketing materials from others at Par Funding. Disputed that he did not give input on marketing. [ECF No. 896-12]; [Exhibit G hereto].

103. Disputed. SEC counsel never spoke with Abbonizio and did not know who he was until early 2020 [ECF No. 896-12 at 69:23-70:5] and as set forth in SEC Statement of Undisputed Facts, Par’s counsel did not receive all the facts, did not know about what Abbonizio was doing [*Id.* at 51:11-52:25, 70:8-16, 109:17-110:1, 112:2-25], let alone provide the advice Defendants claim. Disputed also as to inadmissible hearsay, what Abbonizio claims he heard others at Par Funding claim about what an attorney said.

104. First sentence: undisputed

Second sentence: Disputed. See, e.g., Exhibit I.

Third sentence: undisputed for purposes of summary judgment only; not relevant to the motion for summary judgment filed

Fourth and final sentence: undisputed, but not relevant to the motion for summary judgment

105. Disputed. See TRO Exhibit 136, Abbonizio solicitation; ECF 816-10 at pdf page 80, transcript at lines 6-13; ECF No 816-10 at paragraphs 1-9, Exhibit G, as well as evidence of solicitations in MSJ Facts filed by the SEC; TRO Exhibit 25 at paragraphs 19-33 (Abbonizio touting it is a great investment and presenting to investors).

106. Disputed. Two declarations are filed, which does not show what Abbonizio routinely did. As set forth in the SEC motion for summary judgment, these witnesses were not disclosed and the declarations were not produced by Defendants, but were withheld until they filed in connection with summary judgment. The SEC has filed a motion in limine to preclude this evidence. Regardless, this additional fact is not relevant to whether Abbonizio violated Section 5. *See also* ECF No. 136, Abbonizio Solicitation; TRO Exhibit 189 at ¶¶ 1-12 and 49-52 & pdf pp 100-106; Transcript of UC Undercover Meeting, at 123:4-20 and TRO Exhibit 136, at 37:23-41:1; TRO Exhibit 20, Transcript attached to Horner Declaration as Exh. A, at 51:5-52:19.

107. First and third sentences: undisputed as this additional statement is not read to include the management of the agent funds.

Sentence 2: Disputed. The evidence cited, Cole's deposition, does not show what advice was given or what was told to the lawyer. Those facts are in the lawyer's testimony. *See* ECF No. 896-12 at 45:2-19 (attorney testifying that his advice regarding the agent funds, which are referred to as independent pooled investment vehicles, was actually: "you have to make sure that these are independent pooled investment vehicles... You cannot be involved in creating them, in marketing them, in promoting them, in facilitating them, anything else.").

108. Disputed. TRO Exhibit 24, Transcript of Beasley Deposition, at 6:6-13:7; TRO Exhibit 6; TRO Exhibit 18; TRO Exhibit 20 at 49:9-59:9; TRO Exhibit 25; TRO Exhibit 136 at 6:19-7:21; TRO Exhibit 164, January 11, 2018 email from Vagnozzi to "Finders" that Par Funding will only accept investor money through funds; TRO Exhibit 18 at ¶ 8 and Exh. A thereto (pdf page 6) ("Previously, those willing to place money with CBSG did so directly. However, as Perry discussed, in January of this year the investment structure has changed to a fund based platform."); TRO Exhibit 24, Interview of Agent Fund Manager Gary Beasley at 6:6-13:7; TRO Exhibit 37; TRO Exhibit 156 at pp.1-12 (Beasley explaining his recruitment and training); TRO Exhibit 189 at ¶¶ 1-12 and 49-52 & pdf pp 100-106. Exhibits K-P hereto.

109. Disputed (though not relevant to whether Abbonizio violated Section 5). ECF 816-10 pdf page 80, transcript at lines 6-13] that he had attended 500-1,000 meetings with agent fund investors/clients and that "my role is to bring principal capital." TRO Exhibit 20 (Abbonizio presenting to 300 potential investors in 2019).

110. Undisputed, though not relevant to whether Abbonizio participated in the offer and sale of securities.

111. Sentences 1-2: Disputed in part. Not relevant to whether Abbonizio participated in the offer and sale of securities. Regardless, to the extent Abbonizio is trying to imply that the events marketed as client appreciation events are not sales events, disputed. *See* TRO Exhibit 20 and exhibits thereto (handout at event asking for interest in various investments, including MCA investment Abbonizio spoke about at the event in the transcript attached to Exhibit 20). *See also* TRO Exhibits 211-213; ECF 896-12 at paragraphs 1-11; TRO Exhibit 101 at ¶¶ 8-13; TRO Exhibit

25; TRO Exhibit 103 at ¶ 6; Exhibit 101 (Abbonizio speaking at one of Gissa's solicitation events); Exhibit 25 (Abbonizio speaking at one of Furman's events)

Sentences 3-4: Disputed. TRO Exhibit 101 (Abbonizio speaking at one of Gissa's solicitation events); TRO Exhibit 25 (Abbonizio speaking at one of Furman's events); TRO Exhibit 85, Transcript of Undercover Par Funding Solicitation, at 136:5-10; TRO Exhibit 132, Transcript of UC Undercover Meeting, at 123:4-20 and TRO Exhibit 136, at 37:23-41:1; TRO Exhibit 20, Transcript attached to Horner Declaration as Exh. A, at 51:5-52:19.

112. Undisputed for summary judgment purposes; not relevant to the MSJ motion and basis for finding Section 5 liability on summary judgment that the SEC briefed.

Response to Furman's Additional Facts (Furman did not number correctly under the Local Rules, and the SEC follows his numbers only because it might otherwise cause confusion)

1. Undisputed; not relevant to issues raised on summary judgment.
2. Undisputed; not relevant to issues raised on summary judgment
3. Undisputed for purposes of summary judgment only; not relevant to issues raised in motion for summary judgment.
4. Disputed to the extent Furman is including Par Funding's offering as an exempt offering, for which he provides no evidence to support this additional fact.
- 5 – 17: Disputed as not relevant to the motion for summary judgment the SEC filed. These are not material to any issue raised in the motion.
18. Disputed. [Exhibit J-Q]
19. Disputed Exhibits K-Q]
20. Not disputed for purposes of summary judgment; not relevant to SEC's motion.
21. Disputed. Inadmissible hearsay, speculation, and not relevant because whether or not investors understood that their money went to Par Funding, the fact is – and Furman does not dispute – he was raising money for Par Funding's offering of promissory notes and bought them with investor money he raised through his Fidelis offering. That is the issue. Regardless, *see* TRO Exhibit 25 at paragraphs 3-13, 18-19, 20-28.

22. Undisputed and irrelevant as to what he contemplated but did not do. Facts show Furman raised money for Par Funding's offering through the offer and sale of securities he issued through his own offering, Exhibits K-Q hereto and admitted by Furman in his Facts.

23. Disputed but not relevant. Regardless See Regardless, *see* TRO Exhibit 25 at paragraphs 3-13, 18-19, 20-28; Exhibits K-Q hereto (Furman writes his lawyer that Abbonizio is his "partner" and he is raising money for Par Funding).

24. Undisputed but not relevant to the motion for summary judgment.

25. Disputed. Furman produced no such evidence in this case and cannot present any evidence. Regardless, not relevant to the summary judgment motion.

26. Disputed. Furman produced no such evidence in this case and cannot present any evidence. Regardless, not relevant to the summary judgment motion.

27. Undisputed.

28. Undisputed for purposes of this motion; not relevant to any issue in the motion.

29. Undisputed for purposes of this motion; not relevant to any issue in the motion.

Response to Joseph Barleta, Lisa McElhone, and Joseph LaForte's Additional Facts

99. Disputed; Defendants cite no evidence.

100. First sentence: Disputed. Cole Declaration, ECF No. 893-4 at ¶ 6 (Cole admitting there was no inquiry about accredited investor status until *after* the investment occurred); ECF No. 896-1, Deposition Testimony of Philip Rutledge, at 22:20-24:3 (testifying that Par Funding had no mechanism in place to check whether an investor was accredited prior to 2018; in 2018, Par Funding checked whether investors who had *already* invested were accredited); *Id.* at 28:21-29:2 (this accreditation check was only done for investors residing in Pennsylvania).

Second sentence: undisputed.

101. Disputed.

- Disputed as to the portion of the statement that the period from 2012-2018 is a separate or "limited" offering rather than one that continued from 2012 until 2020.

- Exhibit R hereto [Cole's 2020 filing with the SEC on behalf of Par Funding, admitting the offering began in 2012 and was continuing in 2020. [Exhibit R at items 7 & 8 on pp 4-5, signature block, and attestation on p.1 for filing date.
- Also contrary to the Cole Declaration paragraph 7, the sole evidence Defendants offer, there was not \$88 million owed to investors between 2016 and 2017. Instead, the financial statement Cole purports to summarize clearly states that \$88,990,275 came from investors in the year 2017 alone. [TRO Exhibit 217 at pdf page 10 (2017 audited financial statement for year 2017, "Borrowings from investor loans payable").
- TRO Exhibit 75 at items 12 and 14 (showing that by February 2019 there were 488 investors located in more than a dozen states).
- Disputed as to portion of statement that the Defendants "knew many" of the investors that invested during the years 2012 until 2018 (disputed also as to relevance).
 - During this time period Par Funding utilized finders/sales agents who located investors nationwide. TRO Exhibit 78 (finders agreements); TRO Exhibit 75 (item 12 at pdf pp 4-7).
 - According to Defendants' own filing with the SEC in February 2019 [TRO Exhibit 75, attestation at p1 showing filing date; Form signature block showing same], investors were located in more than a dozen states [*id.* at Item 12 on pdf pp 4-7], and 488 investors had invested in the notes [*id.* at item 14, on pdf pp 7-8].

102. Undisputed that Defendants distributed materials to potential investors. Disputed that this was done on a monthly basis after investment: (1) See response to Def. Facts 13 and 14); (2) disputed on grounds Defendants rely on declarations from a few investors who were not disclosed until the Defendants filed for summary judgment (3) disputed because post-investment facts are not relevant to any claim.

103. Undisputed.

104. Undisputed.

105. Undisputed.

106. Undisputed.

107. Disputed. Defendants rely on inadmissible hearsay as to what Mr. Rutledge supposedly said and rely on it for the truth of the matter asserted.

108. Disputed as to hearsay and also Rutledge testified that they went back to investors located in Pennsylvania only, and only checked accreditation status of people who had already invested. [ECF No. 896-1, Deposition Testimony of Philip Rutledge, Volume 1, at 22:20-24:3 (testifying that Par Funding had no mechanism in place to check whether an investor was accredited prior to 2018; in 2018, Par Funding checked whether investors who had *already* invested were accredited); *Id.* at 28:21-29:2 (this accreditation check was only done for investors residing in Pennsylvania). *See also* Cole Declaration, ECF No. 893-4 at ¶ 6 (Cole admitting there was no inquiry about accredited investor status until *after* the investment occurred). TRO Exhibit 77 (item 12, showing investors were located in more than a dozen states). Rutledge only gave advice concerning offers to Pennsylvania residents that occurred prior to him being retained. [ECF No 896-13 at 378:23-379:14].

109. Disputed that Par Funding checked for accreditation prior to investment; disputed that Par Funding checked anything other than investors who lived in Pennsylvania, and even then, only *after* that limited state of investors had already invested. [ECF No. 896-13, Deposition Testimony of Philip Rutledge, at 22:20-24:3 (testifying that Par Funding had no mechanism in place to check whether an investor was accredited prior to 2018; *Id.* at 28:21-29:2 (this accreditation check was only done for investors residing in Pennsylvania, after the investment had occurred, and none was done prior to investing). *See also* Cole Declaration, ECF No. 893-4 at ¶ 6 (Cole admitting there was no inquiry about accredited investor status until *after* the investment had happened). TRO Exhibit 77 (item 12, showing investors were located in more than a dozen states). ECF No. 893-4 at pdf p 13 (evidence Defendants rely on shows that they did not even ask investors to complete the forms based on their status at the time of investing) and it is undisputed that the questionnaires were sent to investors in January 2018 even though they had invested from 2012-2017 [ECF No 893-4 at pdf p 13; ECF No 893 at paragraph 6 and ECF 896-13 at 22:20-24:3].

110. Undisputed that the 3 questionnaires Defendants filed as evidence for this fact include this language.

111. Undisputed that the 3 questionnaires Defendants filed as evidence for this fact include this language.

112. Disputed. There is no such evidence that Pennsylvania Regulators reached these conclusions. As Defendants admit, and even proposed as an undisputed additional fact, the investigation was about the payment of commissions to finders in Pennsylvania (Defendants' proposed fact 103). Disputed also as to hearsay because Mr. Cole's declaration purports to prove for the truth of the matter asserted what Mr. Rutledge said and what Pennsylvania regulators communicated and decided. Further, Mr. Rutledge testified only that Pennsylvania regulators understood from his communications "in the future" Par Funding would comply with Rule 506 in Pennsylvania and also not pay compensation to people for soliciting investors in Pennsylvania [ECF No. 896-1 at 91:21-92:6]. He further testified that he did not think he told Pennsylvania regulators that Par Funding had not (as he had determined they had not) checked to see if investors were accredited prior to investing. *Id.* at 22:20-24:3, 28:21-29:2, 31:24-32:9.

113. Disputed as to relevance. Mr. Rutledge was retained by Par Funding in January 2018 to respond to a Pennsylvania State Regulators' investigation concerning offers and sales that had already occurred [Defendants' Additional Facts 103-104], and gave advice only as to the offering in Pennsylvania prior to January 2018 – i.e., *after* Defendants had already done the offers and sales he was giving them advice about. [14:11-24]. [ECF No 896-13 at 378:23-379:14]. Further, Rutledge testified that had he known the facts and evidence shown to him in his deposition by the SEC, he would not have given the same advice [ECF No. 896-13 at 397:25-399:6]. Par Funding only sought his legal advice about things that had occurred already, when State Regulators initiated investigations about it [ECF No 896-13 at 381:7-12]. He also testified Defendants did not take his advice. [ECF No 896-12, Rutledge Volume 1, at 139:3-140:9].

114. Undisputed

115. Undisputed. Rutledge advised Cole the pooled investment vehicles could not have a connection to Par Funding and knew only of 1 pooled investment fund that Par Funding sold to. [ECF No 896-12, Volume 1, at 45:11-46:6].

116. Undisputed.

117. Disputed that Rutledge understood that this was a template. He testified that he drafted it for 1 PIV purchase of notes from Par Funding. [ECF No 896-12, Rutledge Volume 1, at 45:11-46:6, 48:21-49:6. 50:21-54:2].

118. Disputed. Ms. Clark wrote asking if language could be added to the Consent Order that was being entered and Rutledge testified. ECF 896-13 at 269:16-277:7. Further disputed as to relevance and Ms. Inadmissible hearsay by Ms. Clark.

119. Undisputed that Par Funding told Pennsylvania Regulators that they stopped paying compensation to people for raising money from investors. Otherwise disputed. *See* Declaration from Pennsylvania Regulators at ECF No 226. TRO Exhibit 163 at page 2, ¶ 3 of the letter. TRO Exhibit 164, January 11, 2018 email from Vagnozzi to “Finders” that Par Funding will only accept investor money through funds; Exhibit 18 at ¶ 8 and Exh. A thereto (pdf page 6) (“Previously, those willing to place money with CBSG did so directly. However, as Perry discussed, in January of this year the investment structure has changed to a fund based platform.”). TRO Exhibit 226 at paragraphs 3-4. Further disputed as to relevance regarding the matters raised in the Motion for Summary Judgment, which do not include the scheme liability claim.

120. Undisputed.

121. Disputed as to hearsay and further disputed as to what the advice was, and he did not have all the facts but told Cole Par Funding could participate or be involved in any agent fund offerings. [ECF No 896-12, Rutledge Volume 1, at 45:11-46:6, 48:21-49:6. 50:21-54:2].

122. Undisputed.

123. Undisputed that the Agent Funds purchased notes from Par Funding by raising money from investors.

124. Disputed. Some were prior finders, and other were not. *See, e.g.*, TRO Exhibit 200 at para. 4; TRO Exhibit 213 at 4; TRO Exhibit 156, Texas Recording of Conversation with Beasley, June 13, 2019, at 4:16-6:18; TRO Exhibit 24 at 6:6-13:7; Exhibit 80 (starting more funds).

125. Undisputed and not relevant.

126. Undisputed that the note purchase agreement requested this information.

127. Undisputed Rutledge recommended this. Disputed that Rutledge knew the facts, as set forth above he did not and would not have given the same advice had he known the facts. Disputed as to relevance as the Form D filing states it concerns primarily sales that already occurred, beginning in 2012 through the 2020 filing date.

128. Undisputed. Rutledge was told by Cole that Par Funding had discontinued the process of paying this, as set forth above and in the SEC's response to Defendants' Summary Judgment Statement of Facts.

129. Disputed. Defendants cite no evidence in support.

130. Disputed but also not relevant. Defendants cite their MSJ Facts and so the SEC cites its Response filing to those.

131. Disputed. Defendants cite one excerpt from testimony from Vagnozzi where he swears under oath that he was not raising money for Par Funding, and nothing more. Therefore, we respond to that. *See* TRO Exhibit 164; TRO Exhibit 149 at 10-11 and 20-21; TRO Exhibits 23 and 180; *See also* Exhibits K-P hereto; and ECF (Abbonizio saying Par Funding uses agent funds to raise money for Par Funding). TRO Exhibit 200.

132. Disputed. TRO Exhibit 164; TRO Exhibit 149 at 10-11 and 20-21; TRO Exhibits 23 and 180; *See also* Exhibits K-P hereto; and ECF (Abbonizio saying Par Funding uses agent funds to raise money for Par Funding). TRO Exhibit 200.

133. Disputed. TRO Exhibit 164; TRO Exhibit 149 at 10-11 and 20-21; TRO Exhibits 23 and 180; *See also* Exhibits K-P hereto; and ECF (Abbonizio saying Par Funding uses agent funds to raise money for Par Funding). TRO Exhibit 200.

134. Undisputed as to sentence 1 (the PPM does not reference Par Funding). Disputed as to sentence 2, for which Defendants cite no evidence.

135. Undisputed

136. Undisputed.

137. Disputed no evidence is cited to support this additional fact.

138. Disputed. This is not a proposed fact, but an attempt to use a fact witness as an expert witness opining about securities laws. It is inadmissible. This legal opinion is not a fact, but an inadmissible legal opinion about an issue for Judge to decide by a witness who was not disclosed as an expert witness and who provided no expert witness report and is not being called as an expert witness. Defendants do not and cannot even argue they received this advice from Rutledge.

139. Disputed. This is not a proposed fact, but an attempt to use a fact witness as an expert witness opining about securities laws, which is inadmissible. This legal opinion is not a fact, but an inadmissible legal opinion about an issue for Judge to decide by a witness who was not disclosed as an expert witness and who provided no expert witness report and is not being called as an expert witness. Defendants do not and cannot even argue they received this advice from Rutledge.

140. Undisputed that his role included this conduct.

141. Disputed. Defendants cite their Statement of Facts filed with their Summary Judgment and the SEC cites its response to those facts as previously filed.

142. Disputed. *See* TRO Exhibit 20 including Exhibit A thereto (the form given to attendees inquiring if they want to invest in the MCA investment), and at Exhibit B thereto beginning at page 16.

143. Disputed. Defendants cite no evidence to support this proposed additional fact. *See id.*

144. Disputed. Defendants cite no evidence to support this proposed additional fact.

145. – 148.: Undisputed that these were part of his role. Disputed as to relevance. LaForte asserted the Fifth Amendment in response to all questions about his role. Exhibit U.

149. Disputed. Defendants cite no evidence to support this proposed additional fact.

150. Disputed. *See, e.g.*, ECF No. 816-10 at paragraph 3 and at pdf. Page 37 lines 6 through page 38 line 7 and beyond (LaForte is recorded as having been introduced and then speaks as “Joe Mack” to the agent fund manager investors); Exhibit 19 at Exh. A thereto; Exhibit 18, at ¶¶ 2-3; Exhibit 3, at 318:6-16. Exhibit U (asserting the Fifth Amendment and refusing to testify).

151. Disputed. *See, e.g.*, ECF No 816-9. Exhibit G hereto (Abbonizio editing marketing email).

152. Disputed. *See* Abbonizio Deposition, ECF No 816-7 at 14-16; TRO Exhibit 98.

153. Disputed. No evidence filed or cited in support by Defendants.

154. Disputed. No evidence of what Par Funding thought. Further, see evidence regarding legal advice and Pennsylvania Regulators and Par Funding attorneys not having all information from Defendants to even give advice because the information was withheld. See evidence cited by the SEC in Response to Additional Facts 107-119 above.

155. Disputed that this was advice. The evidence cited merely shows Rutledge told them it would be publicly available, and did not give any advice as to that or what it meant.

156. Undisputed.

157. Undisputed Hewitt was hired. Disputed that the absence of evidence Defendants cite means anything. Disputed as to relevance. Defendants cite no evidence from Hewitt. Not relevant to any issue on summary judgment.

158. Undisputed that the New Jersey order states what it states on its face. Disputed as to Par Funding's belief as no evidence is even cited to support that portion of the additional fact.

159. Undisputed as to when the Texas action was filed; disputed that it concerns the same allegations as New Jersey and Pennsylvania actions. The Texas action included fraud charges as well as others, as the Texas Order Defendants cite clearly shows on its face. *See also* TRO Exhibit 220.

160. Disputed. Texas filed a declaration in this case to dispute this ongoing misrepresentation to the Court by the Defendants that the matter was resolved. TRO Exhibit 220.

161. Disputed. As set forth above, Rutledge testified Defendants did not follow his advice. Defendants rely on Brett Berman's testimony. However, he testified that he did not do any work for Par Funding in connection with the offering. Exhibit V, Berman Testimony at pp 19-20 and 54 ("Q: Did you ever provide any legal advice about whether or not disclosures to potential investors were adequate with respect to Complete Business Solutions Group? A. The answer is no, never.").

162. Disputed. See Deposition of Jamie McElhone, ECF No 816-3, at 27-28 ("I mean she was the boss, she did everything" (testifying about Lisa McElhone); TRO Exhibit 77, Form D Filing (Jamie McElhone was Par Funding's Treasurer). McElhone asserted her Fifth Amendment rights to these questions. Exhibit T beginning at page 9. 816-4 at paragraphs 1-12 (Admitting her authority over Par Funding).

163. Disputed. See Deposition of Jamie McElhone, ECF No 816-3, at 27-28 ("I mean she was the boss, she did everything" (testifying about Lisa McElhone); TRO Exhibit 77, Form D Filing (Jamie McElhone was Par Funding's Treasurer). McElhone asserted her Fifth Amendment rights to these questions. Exhibit T beginning at page 9. 816-4 at paragraphs 1-12 (Admitting her authority over Par Funding).

164. Disputed. See Deposition of Jamie McElhone, ECF No 816-3, at 27-28 (“I mean she was the boss, she did everything” (testifying about Lisa McElhone); TRO Exhibit 77, Form D Filing (Jamie McElhone was Par Funding’s Treasurer). McElhone asserted her Fifth Amendment rights to these questions. Exhibit T beginning at page 9. 816-4 at paragraphs 1-12 (Admitting her authority over Par Funding). Abbonizio Deposition, ECF No 816-7 at 14-16

165. Disputed. See Deposition of Jamie McElhone, ECF No 816-3, at 27-28 (“I mean she was the boss, she did everything” (testifying about Lisa McElhone); TRO Exhibit 77, Form D Filing (Jamie McElhone was Par Funding’s Treasurer). McElhone asserted her Fifth Amendment rights to these questions. Exhibit T beginning at page 9. 816-4 at paragraphs 1-12 (Admitting her authority over Par Funding). Abbonizio Deposition, ECF No 816-7 at 14-16. Defendants rely on testimony from Brett Berman, an outside attorney who admitted he did not begin work for Par Funding until 2018 (Exhibit V at page 9).

166. Disputed. See Deposition of Jamie McElhone, ECF No 816-3, at 27-28 (“I mean she was the boss, she did everything” (testifying about Lisa McElhone); TRO Exhibit 77, Form D Filing (Jamie McElhone was Par Funding’s Treasurer). McElhone asserted her Fifth Amendment rights to these questions. Exhibit T beginning at page 9. 816-4 at paragraphs 1-12 (Admitting her authority over Par Funding). Abbonizio Deposition, ECF No 816-7 at 14-16.

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1 UNITED STATES SECURITIES AND EXCHANGE COMMISSION

2

3 In the Matter of:)

4) File No. FL-04188-A

5 UNITED FIDELIS GROUP) AMENDED 7-15-2020

6

7 SUBJECT: Email-1C Link Video.mp4

8 Video starting with caption:

9 President & CEO Dean Vagnozzi A Better Financial Plan

10 PAGES: 1 through 7

11

12

13

14

15

16

17 VIDEO TRANSCRIPTION

18

19

20

21

22

23

24 Diversified Reporting Services, Inc.

25 (202) 467-9200

1 P R O C E E D I N G S

2 Email-1C Link Video.mp4

3 DEAN VAGNOZZI: This video is designed to
4 introduce you an investment opportunity like no other.
5 If you're looking for double digit investment growth
6 or investment income then we invite you to give this
7 opportunity strong consideration and take us up on our
8 invitation to meet in person to learn more.

9 Everyone knows that since the market
10 meltdown of 2008 the banking industry has become
11 tougher and tougher on small businesses. Banks are
12 lending substantially less money than ever before.
13 They require more and more paperwork during the
14 process and they are taking longer than ever to
15 approve loans. As a result the merchant cash advance
16 industry has experienced tremendous growth since 2008.
17 If you do your research, you'll see that there are
18 plenty of institutions and high net worth individuals
19 profiting from the merchant cash advance explosion.

20 Recently J.P. Morgan invested \$650 million
21 with On Deck Capital, the largest merchant cash
22 advance player in the industry. Barbara Corcoran,
23 from the hit show Shark Tank, has become On Deck's
24 spokesperson. Kevin O'Leary, also from Shark Tank,
25 has partnered with IOU Financial, another major player

1 in the merchant cash advance industry.
2 Why do you think J.P. Morgan and other high
3 net worth people are investing in the merchant cash
4 advance industry? They're investing because the
5 profits are massive. And now you're going to be able
6 to get into the game as well and invest like the big
7 boys.

8 In short merchant cash advance lenders
9 provide growth opportunity loans to small businesses.
10 They lend anywhere from 5,000 to \$250,000 usually
11 within 48 hours. These loans are given to financially
12 sound companies that have been in business for several
13 years and have a track record of strong daily cashflow
14 coming into their business bank account.

15 I want to stress that these loans are given
16 to financially sound companies. These are not loans
17 given to companies that are struggling to make
18 payroll. These are opportunistic business loans in
19 that the money is generally used to expand an already
20 successful business. The loans are usually paid back
21 to the merchant cash advance lender within 100 days
22 and are done so utilizing an ACH transaction.

23 So in other words the merchant cash advance
24 lender automatically withdraws a payment ever single
25 business day from the borrowing company. These

1 payments are typically 5 to 10 percent of the
2 borrower's available cash, and again the loan is
3 usually paid off in full in less than 100 days.

4 Since the merchant cash advance industry
5 lends money so quickly, again usually within 48 hours,
6 they typically charge the borrower an interest rate of
7 at least 35 percent. Yes, 35 percent.

8 So why would any company pay such a high
9 interest rate? Remember these are opportunistic
10 business loans which are allowing these small
11 companies to expand their already profitable business.

12 For example, a small construction company
13 wins a bid to complete a large job that will allow
14 them to earn \$100,000 in profits, but in order to
15 complete the job the construction company needs to
16 purchase \$25,000 in equipment. The construction
17 company doesn't have time to wait one month or two
18 months for a bank to approve a loan.

19 Merchant cash advance lenders provide the
20 funding that allows small businesses to seize the
21 moment and make serious profits as a result. These
22 small companies are not worried about the high
23 interest rate that the money will cost them.
24 Because the loans are usually paid back within
25 100 days the merchant cash advance lender can re-loan

1 this money three times within a year, which allows
2 them to generate 70 to 90 percent profits. Yes, 70 to
3 90 percent profits.

4 So where do you think many merchant cash
5 advance lenders get the money to give to borrowers?
6 They get the money from investors like you, that's
7 where. Because they are making such large profits the
8 merchant cash advance lenders can afford to pay you an
9 extremely attractive rate of return, generally between
10 8 and 14 percent.

11 Now that you have a good understanding of
12 the industry, we'd like to introduce you to one of the
13 best merchant cash advance lenders that you can find.
14 We've partnered with this extremely profitable
15 Philadelphia based lender to allow sophisticated
16 investors the opportunity to get fantastic investment
17 returns secured by the time of this recording over
18 \$120 million in collections that they have coming due
19 over the next 100 days alone. This company has an
20 impressive default rate of less than 1 percent.

21 You'll have the opportunity to visit their
22 offices and meet their executive staff to determine if
23 this investment is right for you. To arrange for a
24 convenient time to meet and discuss this investment in
25 greater detail each out to us using the number and

1 email on your screen. We look forward to hearing from
2 you.

3 (End of video file.)

4 * * * * *

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TRANSCRIBER'S CERTIFICATE

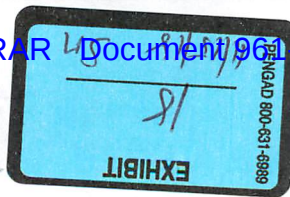
I, Cheryl Shifflett, hereby certify that the foregoing transcript is a complete, true and accurate transcription of all matters contained on the recorded proceedings in the matter of Email-1C Link Video.mp4.

Cheryl A. Shifflett

Transcriber

FINRA_000008

CONFIDENTIAL TREATMENT REQUESTED BY FINRA



- There are over 1.7M small businesses with <100 employees in the US; 500,000 NEW small businesses are started each year representing almost 50% of the US economy (according to the SBA).
- in 2006/7, Bank of America and Wells Fargo's combined lending to small businesses was \$70B; in 2014, that total dropped to \$37B (according to a Federal Reserve release)
- The Merchant Cash Advance (MCA) market is growing by an estimated 20% each year since 2013.

MARKET NEED

It's not really alternative lending anymore when JPMorgan Chase, the biggest bank in the country, and On Deck Capital, a major marketplace lender, team up on small business lending.

Their collaboration is set to launch in 2016 for the small-dollar loans that are the lifeblood of small businesses and a difficult area for banks. JPMorgan Chase CEO Jamie Dimon first disclosed the plans in a panel discussion in Washington, D.C., as reported by Bloomberg, noting that the venture would allow the bank to do "the kind of stuff we don't want to do or can't do." Read the rest of this article at our seminar!

Why JPMorgan Chase And On Deck Capital Are Teaming Up To Offer Small Business Loans

December 1, 2015

Forbes Entrepreneurs

www.abetterfinancialplan.com

855.999.1346

King of Prussia, PA 19406

1021 West 8th Avenue



A Better Financial Plan

President of
Dean Vagnozzi



SAVE THE DATE!



MAY 17 OR 19, 2016

INVEST *like the* BIG BOYS

JP Morgan recently invested 600 million into the small business lending market.

We invite you to learn how you can invest like the big boys and EARN 12, 14 or 16% RETURNS on your cash or IRA dollars.

INCREASED RETURNS



DECREASED RISKS

Dear Client/Friend/Family Member or Neighbor;

On behalf of all of us at **A Better Financial Plan**, I'd like to invite you to a complimentary dinner event to learn about an **extremely hot investment that will deliver you one of three fantastic returns** based on your preference:

- 12% ROI paid monthly with your principal returned in 12 months
- 14% ROI with your principal and interest returned in 24 months
- 16% ROI with your principal and interest returned in 36 months

Do those returns sound too good to be true? Well, come judge for yourself.

Are you familiar with the **Merchant Cash Advance** industry? I bet you have heard advertisements on the radio for one of the lenders and didn't even realize it. **JP Morgan just invested over 600 million dollars** into this small business loan space. It's a big industry and it is growing every day.

Since 2008, banks as everyone knows, have become tougher and tougher on borrowers. They are lending out less money to fewer companies. The approval process can be lengthy.

As a result, the **Merchant Cash Advance (MCA) Industry** was born, and has flourished, majorly flourished! In short, lenders in this space provide small business' the **money they need FAST, with 4-6 month payback periods**, with the money being taken directly from the borrower's bank accounts through ACH at rates as high as 40% with very little defaults. See the enclosed insert for a summary of the industry, or do your homework online.

One of the biggest companies in the MCA industry is headquartered right here in Philadelphia. My company has partnered with a firm allowing our clients to invest their money with **this local MCA lender** and share in their extremely high profits.

YOU NEED TO COME LEARN ABOUT THIS FOR YOURSELF DIRECTLY FROM THE OWNERS OF THE COMPANY WE PARTNERED WITH! Feel free to bring a friend or two that you think would have interest in investing as well. Seating is limited. You must RSVP. We are expecting **A LOT** of people. Choose from one of two dates & times:

Tuesday, May 17th from 6:30-8:30 p.m., Dinner is included

or

Thursday, May 19th from 6:30-8:30 p.m., Dinner is included

Radisson Valley Forge Hotel
1160 1st Ave
King of Prussia PA 19406

Contact my assistant Eileen to reserve your spot today. She can be reached at **(484) 425-7393** or via email at **eileen@abetterfinancialplan.com**. We look forward to seeing you on the 17th or 19th. You'll be glad you came.

Dean Vagnozzi

Join one of our seminars and learn more about
Merchant Cash Advance industry.



**This hot investment will
DELIVER 12, 14 or 16% RETURN
on your cash or IRA dollars!**

Merchant Cash Advance (MCA) companies provide funds to businesses in exchange for a percentage of the businesses daily credit card income, directly to the processor that clears and settles the credit card payment. A company's remittances are drawn from customers' debit and credit card purchases on a daily basis until the obligation has been met. Most providers form partnerships with payment processors and then take a fixed or variable percentage of a merchant's future credit card sales.

These merchant cash advances are not loans—rather, they are a sale of a portion of future credit and/or debit card sales. Therefore, merchant cash advance companies claim that they are not bound by state usury laws that limit lenders from charging high interest rates. This technicality allows them to operate in a largely unregulated market and charge much higher interest rates than banks.

This structure has some advantages over the structure of a conventional loan. Most importantly, payments to the merchant cash advance company fluctuate directly with the merchant's sales volumes, giving the merchant greater flexibility with which to manage their cash flow, particularly during a slow season. Advances are processed quicker than a typical loan, giving borrowers quicker access to capital. Also, because MCA providers like typically give more weight to the underlying performance of a business than the owner's personal credit score, merchant cash advances offer an alternative to businesses who may not qualify for a conventional loan.

**Call (484) 425-7393 to reserve your seat
to this exclusive event!**

Page 1	Page 3
1 THE UNITED STATES SECURITIES AND EXCHANGE COMMISSION	1 C O N T E N T S
2	2
3 In the Matter of:)	3 WITNESS: EXAMINATION
4) File No. NY-09593-A	4 Dean Vagnozzi 6
5 A BETTER FINANCIAL PLAN, LLC)	5
6	6 EXHIBITS: DESCRIPTION IDENTIFIED
7 WITNESS: Dean Vagnozzi	7 1 SEC Form 1662 6
8 PAGES: 1 through 334	8 2 Background Questionnaire 6
9 PLACE: Securities and Exchange Commission	9 3 October 16, 2017 Subpoena 6
10 200 Vesey Street	10 4 July 20, 2017 Subpoena 61
11 New York, New York 10281	11 5 July 17, 2018 Subpoena 61
12 DATE: Thursday, November 15, 2018	12 6 October 22, 2018 Subpoena 61
13	13 7 Organization chart, Bates BFP 000516 87
14 The above entitled matter came on for hearing,	14 8 January 10, 2013 with attachment 172
15 pursuant to notice, at 10:36 a.m.	15 9 January 11, 2013 e-mail, Bates 180
16	16 BFP 007010
17	17 10 April 5, 2013 e-mail trail 193
18	18 11 April 26, 2013 e-mail with attachment, 195
19	19 Bates BFP 006935 - 6938
20	20 12 Vagnozzi to Sarnes e-mail, Bates 219
21	21 BFP 005024
22	22 13 February 10, 2017 e-mail, Bates 223
23	23 BFP 048898 - 048902
24 Diversified Reporting Services, Inc.	24 14 April 14, 2015 e-mail, Bates 226
25 (202) 467-9200	25 BFP 021804 - 021805
Page 2	Page 4
1 APPEARANCES:	1 C O N T E N T S (CONT.)
2	2
3 On behalf of the Securities and Exchange Commission:	3 EXHIBITS: DESCRIPTION IDENTIFIED
4 MEGAN GENET, ESQ.	4 15 January 10, 2015 e-mail, Bates 228
5 KIMBERLY YUHAS, ESQ.	5 BFP 011760 - 011767
6 STEVEN G. RAWLINGS, Assistant Regional Director	6 16 January 28, 2016 e-mail, Bates 232
7 Division of Enforcement	7 BFP 050128 - 050129
8 Securities and Exchange Commission	8 17 January 28, 2016 e-mail, Bates 238
9 200 Vesey Street, Suite 400	9 BFP 050128 - 050129
10 New York, New York 10281	10 18 December 1, 2015 marketing material, 242
11 (212) 336-0422	11 Bates FINRA_000008 - 10
12 genetm@sec.gov	12 19 December 17, 2017 e-mail, Bates 254
13	13 BFP 059551
14 On behalf of the Witness:	14 20 September 9, 2015 e-mail, Bates 256
15 DAVID M. LAIGAIE, ESQ.	15 VERTO 016667 - 16668
16 Eckert, Seamans, Cherin & Mellott, LLC	16 21 Vagnozzi to Rochelle e-mail 262
17 Two Liberty Place	17 22 Four-page spreadsheet 269
18 50 South 16th Street, 22nd Floor	18 23 May 27, 2018 e-mail, Bates 283
19 Philadelphia, PA 19102	19 BFP 059877 - 059881
20 (215) 851-8386	20 24 June 5, 2018 e-mail, Bates 285
21 dlaigaie@eckertseamans.com	21 BFP 058528 - 058530
22	22 25 June 7, 2018 e-mail, Bates 299
23	23 BFP 060501 - 060502
24	24 26 August 27, 2018 Fall Catcher PPM, 309
25	25 Bates BFP 066414 - 066469

Page 5	Page 7
1 C O N T E N T S (CONT.)	1 identify themselves.
2	2 MR. LAIGAIE: Yes. Good morning, Dave
3 EXHIBITS: DESCRIPTION IDENTIFIED	3 Laigaie with the Law Firm Eckert, Seamans, Cherin
4 27 June 19, 2018 e-mail, Bates 318	4 and Mellott. That's L-A-I-G-A-I-E.
5 BFP 059694 - 59721	5 MS. GENET: And can you also spell the
6	6 name of your law firm and say your address and
7	7 phone number.
8	8 MR. LAIGAIE: Certainly. Eckert
9	9 Seamans, Cherin and Mellott. E-C-K-E-R-T.
10	10 C-H-E-R-I-N. S-E-A-M-A-N-S. M-E-L-L-O-T. 60
11	11 South 16th Street, Philadelphia, P.A., 19102.
12	12 (215) 851-8386.
13	13 Q My name is Megan Genet and sitting with
14	14 me here right now is Kim Yuhas, my colleague at
15	15 the SEC, and we are both Officers of the
16	16 Commission for the purposes of this proceeding.
17	17 Also, will be joining later is Steven Rawling,
18	18 another Officer of the Commission for the purpose
19	19 of this proceeding. And in addition to that, we'd
20	20 like an intern named Dan Morrison to join. And
21	21 so, I just want to ask your permission?
22	22 A Sure.
23	23 MS. GENET: Okay. And, Mr. Laigaie,
24	24 you're okay with that?
25	25 MR. LAIGAIE: Yeah. I assume he won't

Page 6	Page 8
1 P R O C E E D I N G S	1 be asking any questions.
2 (SEC Exhibit Nos. 1 through 3	2 MS. GENET: No.
3 were marked for	3 MR. LAIGAIE: It's perfectly fine then.
4 identification.)	4 MS. GENET: Okay.
5 MS. GENET: All right. We're on the	5 Q This is an investigation by the United
6 record and the time is 10:36 a.m. on November 15,	6 States Securities and Exchange Commission In The
7 2018.	7 Matter of A Better Financial Plan, LLC, NY-9593,
8 Do you swear to tell the truth, the	8 to determine whether there have been violations
9 whole truth and nothing but the truth?	9 of certain provisions of the Federal Securities
10 MR. VAGNOZZI: I do.	10 Laws. However, the facts developed in this
11 Whereupon,	11 investigation might constitute violations of
12 DEAN VAGNOZZI	12 other federal or state, civil or criminal laws.
13 was called as a witness and, having been first	13 Prior to the opening of the record you
14 duly sworn, was examined and testified as	14 were provided with a copy of the Formal Order of
15 follows:	15 Investigation in the matter. It will be
16 EXAMINATION	16 available for your examination during the course
17 BY MS. GENET:	17 of the proceeding.
18 Q Please state and spell your full name	18 Mr. Vagnozzi, have you had an
19 for the record.	19 opportunity to review the Formal Order?
20 A Dean James Vagnozzi. Vagnozzi is	20 A Yes.
21 spelled V, as in Victor, A-G-N-O-Z-Z-I.	21 Q I'm now handing you a document marked
22 Q Mr. Vagnozzi, are you represented by	22 Exhibit 1. Exhibit 1 is a copy of SEC Form 1662.
23 counsel?	23 And you were provided with a copy of Exhibit 1
24 A Yes.	24 prior to the opening of the record.
25 MS. GENET: Would counsel please	25 Mr. Vagnozzi, have you had an

Page 9

1 opportunity to review Exhibit 1?
 2 A Yes.
 3 Q Do you have any questions concerning
 4 this exhibit?
 5 A No.
 6 Q I'm now handing you a document that's
 7 been previously marked as Exhibit 3. Exhibit 3
 8 is a cover letter and attached subpoena for
 9 testimony to A Better Financial Plan, LLC and
 10 Dean J. Vagnozzi. Do you recognize this document?
 11 A Yes.
 12 Q And it's dated October 16, 2018; is
 13 that right?
 14 A Yes.
 15 Q What is it?
 16 A Pardon me?
 17 Q What is the document?
 18 A It's a --
 19 Q Is the document a subpoena for your
 20 testimony here today?
 21 A Oh, yes. Yes. I'm like -- yes. Yes,
 22 it is.
 23 Q Is this the subpoena you are appearing
 24 pursuant to here today?
 25 A Yes.

Page 10

1 Q All right. You can set Exhibit 3
 2 aside.
 3 And I'm now going to hand you a
 4 document that's been marked Exhibit 2. Exhibit 2
 5 is a background questionnaire filled out by you.
 6 Do you recognize this document?
 7 A Yes.
 8 Q What is it?
 9 A It's a questionnaire that I filled out.
 10 Q Can you take a look at it and tell me
 11 if it's a true and accurate copy of the
 12 questionnaire that you submitted to the SEC --
 13 A It is.
 14 Q -- or that your counsel submitted to
 15 the SEC?
 16 A Yes, it is.
 17 Q Just take a second to review it.
 18 A I've flipped through the pages. It's
 19 my handwriting, yes.
 20 MS. YUHAS: Anybody else help you?
 21 THE WITNESS: No.
 22 Q Okay. The background questionnaire is
 23 November 13, 2018. Is that the date that you
 24 filled it out?
 25 A Yes.

Page 11

1 Q Do you have any additions you'd like to
 2 make?
 3 A What's today's date?
 4 Q The 15th.
 5 A Yes, the 13th. I want to make sure I
 6 had the right date down. Yes.
 7 Q Okay. Turning to page four of Exhibit
 8 2.
 9 A Uh-huh.
 10 Q Question 15.
 11 A Yes.
 12 Q "Are you now or have you ever been a
 13 beneficial owner, directly or indirectly, of any
 14 privately held company, i.e., corporation,
 15 partnership, limited liability company or other
 16 corporate form." You respond "yes"; is that
 17 right?
 18 A Yes.
 19 Q And then you identify two entities,
 20 ABetterFinancialPlan.com, LLC and Vagnozzi
 21 Properties; is that right?
 22 A Correct.
 23 Q Are those the only entities you've ever
 24 been a beneficial owner of?
 25 A Well, when I filled this out it was

Page 12

1 late at night and I really didn't understand what
 2 a beneficial owner was. I assumed that it meant
 3 that I owned, right? I don't know what a
 4 beneficial owner is, but these are -- these are
 5 companies that I formed and I am the -- you know,
 6 I -- I incorporated them.
 7 Q And so, as far as your understanding of
 8 beneficial owner, what does it mean to you that
 9 you incorporated them?
 10 A Well, I'm -- I established them. I'm
 11 responsible for them. I own -- I own -- I own
 12 them. I don't share the ownership with anybody
 13 else. That's my --
 14 Q So --
 15 A -- thinking.
 16 Q -- is it your understanding that if you
 17 shared the ownership with anybody else then it --
 18 you wouldn't list the company --
 19 A Correct.
 20 Q You just have to let me finish the
 21 question.
 22 A I'm sorry.
 23 Q That you wouldn't list the company in
 24 response to question 15?
 25 A Yes. I listed companies that I'm --

Page 13

1 that I know that I'm complete owner of.
 2 Q Okay. So, could we now get a complete
 3 list of all companies that you are partial owner
 4 of? Is that something you could provide sitting
 5 here today?
 6 A I own -- so, the companies -- so, for
 7 example, Pillar -- the Pillar I, Pillar II,
 8 Pillar III, Pillar -- pretty much all the private
 9 placements I have a small piece of, small
 10 ownership piece of, is that -- is that what
 11 you're referring to?
 12 Q Yes.
 13 A So, I would own a small piece of Pillar
 14 I through VIII as I listed in question 16.
 15 Q Okay.
 16 A The -- the ABFP Income Fund, the Income
 17 Fund -- ABFP Income Fund II. I don't know if --
 18 I don't know if I'm an owner -- I'm the general
 19 partner of the -- of the -- I'm the general
 20 partner of Atrium Fund. I don't know that I have
 21 a ownership piece of that. So, I -- I do not
 22 know.
 23 The Multi Strategy -- the Multi
 24 Strategy Fund I do have a small ownership
 25 percentage of, as well as, the Gibraltar Fund.

Page 14

1 The Atrium Fund is the one I'm not sure if I have
 2 ownership of.
 3 Q Any other entities?
 4 A No, not that I --
 5 MR. LAIGAIE: And just for clarity, I
 6 don't -- you're not asking like if he owns 100
 7 shares of Apple or Ford or something like that,
 8 right?
 9 MS. GENET: Okay.
 10 MR. LAIGAIE: Okay, good. Besides
 11 which we're talking about privately held
 12 companies for question 15.
 13 MR. LAIGAIE: Okay. Now, what about
 14 these -- and I'm sorry to interrupt, but we
 15 didn't get time to go over this because it was --
 16 it was just yesterday. What about like the
 17 management company, ABFP Management?
 18 A Yes. Okay, ABFP Management company.
 19 Q And how would you characterize your
 20 relationship with ABFP Management Company?
 21 A I'm -- I'm the owner of ABFP Management
 22 Company.
 23 Q What is that?
 24 A It's a company that manages the -- it
 25 manages the transactions with my clients as far

Page 15

1 as paying distributions and -- and returns and --
 2 Q So, just to understand that better, if
 3 you have another entity, for example, Pillar I,
 4 and there are returns that need to be made to
 5 your investors, ABFP Management Company would be
 6 in charge of that process; is that accurate?
 7 A It used to be the Pillar Management
 8 Company then we changed the name to ABFP
 9 Management Company. My attorney changed the
 10 name. John Petrillo changed the name to ABFP
 11 Management Company. So, I believe that's an
 12 accurate statement that -- that the ABFP
 13 Management Company -- see for -- so, I'm walking
 14 through this and forgive me for not knowing the
 15 exact language of -- of the responsibilities
 16 of -- of, you know -- so, for example, in the
 17 Pillar -- the Life Settlement Fund, someone
 18 passes away, the check is made payable from the
 19 insurance company to Pillar Life Insurance
 20 Company -- the Pillar Life Settlement Company.
 21 ABFP Management Company doesn't get that check.
 22 It's payable to the Life Settlement Company and
 23 that distribution is paid to the investors in the
 24 fund.
 25 Q Is it ABFP that pays the money?

Page 16

1 A No. I guess that -- no. It never
 2 hits -- I look at it like a bank account, right.
 3 We have an ABFP Management Company bank account
 4 and the distributions never hit that account. It
 5 goes into the Pillar Life Settlement Fund account
 6 which is paid. So -- but yet -- but yet, the
 7 ABFP Management Company is the -- is the general
 8 partner. So, I don't know if that -- I don't
 9 know -- I don't know how to classify that.
 10 BY MS. YUHAS:
 11 Q Can you give us an example of funds
 12 that do hit the ABFP Management Company bank
 13 account?
 14 A Sure. The -- the -- the ABFP Income
 15 Fund, distributions are paid to ABFP -- oh, okay.
 16 Okay. All right. All right.
 17 So, the ABFP Management Company charges
 18 a fee to the income fund. So -- so, AB -- so,
 19 when a distribution is paid to the income fund,
 20 the money hits the income fund, the -- the
 21 investors are paid their return and our fee goes
 22 to the management company which is what I own.
 23 BY MS. GENET:
 24 Q What is Pillar Life Settlement Company?
 25 A It's a company that invests in life

Page 17

1 insurance policies.
 2 Q Is that a company that you own?
 3 A Yes.
 4 MR. LAIGAIE: Well, and I'm sorry to
 5 interject, but is that separate and apart from
 6 the Pillar -- the companies set up for the Pillar
 7 Funds, one through eight? There's another
 8 company called Pillar Life Settlement Funds?
 9 THE WITNESS: Yeah. No. We have -- we
 10 have the Pillar Life Settlement Fund. That was
 11 my first fund. Pillar Life Settlement Fund, I
 12 think that's what she just referenced. And then
 13 we have Pillar II. Then we have Pillar III.
 14 MR. LAIGAIE: No. No. You mentioned
 15 what sounded like a distinct company which is
 16 called Pillar Life Settlement Company.
 17 Q I don't have the transcript in front of
 18 me, but I think what you said -- what you made
 19 was a reference to Pillar Life Settlement
 20 Company. That's what I wrote down.
 21 MR. LAIGAIE: And -- and, I'm sorry to
 22 interrupt, Ms. Genet thought this was different
 23 than the -- the funds one through eight and I
 24 just want to make sure. I don't think it is, but
 25 if it is, let me sure.

Page 18

1 A No, it is not. It is not. Thank you.
 2 No, we have -- there's not a Pillar company --
 3 there's -- there's Pillar I -- there's Pillar --
 4 the first fund I did was the Pillar Life
 5 Settlement Company. We refer to that as Pillar
 6 I. At the time I didn't know I was going to have
 7 six, seven of them. So, we just called it the
 8 Pillar Life Settlement Company.
 9 Q Got you. So, Pillar Life Settlement
 10 Company is also known as --
 11 A Pillar I.
 12 Q -- Pillar I?
 13 A Yes.
 14 Q Any other entities that spring to mind
 15 that would be responsive to question 15?
 16 A Not that I didn't already mention.
 17 Q And when it comes to bank accounts, are
 18 there any other additional bank accounts now that
 19 we've had this discussion about additional
 20 companies?
 21 A I believe, to my best ability, every
 22 bank account that I have the ability to access is
 23 listed here.
 24 Q What is Commerce Corner Investment
 25 Group?

Page 19

1 A That is a real estate -- that is a -- a
 2 company that was formed 2009 time frame that
 3 investors -- we -- we bought in -- we bought
 4 ownership of a -- of a piece of real estate.
 5 Q And was that real estate sold?
 6 A It was -- the project went belly up.
 7 Q So, that's not active anymore?
 8 A No. Correct.
 9 Q What kind of project was it?
 10 A We had a -- we had a -- a company -- we
 11 had a company that invested in a -- in a -- a
 12 commercial piece of land that, I don't know, 30
 13 or so investors invested in and that land was
 14 sold. It was very profitable. \$1 million turned
 15 into about \$4 million for our investors in about
 16 a three-year time frame. And obviously that was
 17 very good. It was called the Epiphany Investment
 18 Group. And that is -- that is shut down. That
 19 is -- that's been shut down since 2008.
 20 And Commerce Corner was formed about a
 21 year after that successful investment and we
 22 pretty much invested in the same company that we
 23 had the success with on the first one, just it
 24 was just a different -- it was -- it was a
 25 different track of land across the street from

Page 20

1 this successful project. That was in the 2008,
 2 2009 time frame. And as everybody knows, the
 3 2008-2009 time frame was not good for real
 4 estate, and the project did not have the same
 5 success the first one does -- did.
 6 Q Okay. Is that related to --
 7 A I'm sorry to be a pain, but everybody's
 8 got something to drink but me and I'm doing all
 9 the talking.
 10 MS. GENET: You know what, the time is
 11 10:53 and we're going off the record.
 12 (A brief recess was taken.)
 13 MS. GENET: Okay. The time is 10:55
 14 and we are back on the record.
 15 BY MS. GENET:
 16 Q Mr. Vagnozzi, I just want to confirm
 17 that we did not have any substantiative
 18 conversations while you were a off the record?
 19 A Correct.
 20 Q And you were able to get your water?
 21 A Yes, thank you.
 22 Q My pleasure.
 23 MR. LAIGAIE: And, Ms. Genet, sorry to
 24 interrupt, but I want to go back to the question
 25 of ownership -- a beneficial ownership of

Page 21

1 private, non public companies. And I think Mr.
 2 Vagnozzi was -- he was unclear exactly what that
 3 definition is. So, there are two other private
 4 companies -- privately held companies that Mr.
 5 Vagnozzi has a small ownership interest in.
 6 A I think I was -- I was -- I think I
 7 was -- with my bank accounts here I think I was
 8 just focusing on what I had banking related stuff
 9 with. Yes. I own also a piece of Fall Catcher --
 10 Fall Catcher. And I own a piece of SRG,
 11 Sustainable Resources Group.
 12 Q What is Fall Catcher?
 13 A Fall Catcher is a -- is a -- is a start
 14 up company to invest in a -- invest in a --
 15 it's -- it's to invest in a solution to help
 16 curve the opioid epidemic. Sustainable Resources
 17 Group is a company that recycles organic waste.
 18 MR. LAIGAIE: And it's very efficient
 19 for you to answer questions she doesn't ask, but
 20 why don't you wait for Ms. Genet to ask the
 21 question before you answer.
 22 THE WITNESS: I'm sorry.
 23 BY MS. YUHAS:
 24 Q Would you just say what SRG is.
 25 A Sustainable Resources Group.

Page 22

1 Q Okay. Can you say what that is again?
 2 A They invest in organic waste.
 3 BY MS. GENET:
 4 Q They invest in companies that recycle
 5 organic waste or --
 6 A They -- I'm sorry. I apologize. I'll
 7 get this.
 8 Q They -- they invest in companies that
 9 recycle organic waste or they do that themselves?
 10 A They -- they -- they recycle organic
 11 waste.
 12 Q Okay. And are you an investor in it
 13 or --
 14 A Yes.
 15 BY MS. YUHAS:
 16 Q What percentage of ownership do you
 17 have in each of these companies?
 18 A Fall Catcher I have five percent and I
 19 do not know how much I own in SRG.
 20 Q What was your investment in Fall
 21 Catcher?
 22 A I did not write a check. I was granted
 23 five percent ownership.
 24 BY MS. GENET:
 25 Q In exchange for what?

Page 23

1 A Acting as a finder to introduce
 2 investors to them.
 3 Q And SRG?
 4 A SRG? Can you state the question?
 5 BY MS. YUHAS:
 6 Q What did you invest into SRG?
 7 A I did not invest anything into SRG.
 8 Q So, what --
 9 A I was given -- I was given a -- I don't
 10 even know how many shares I have, but I was given
 11 an ownership piece of SRG. It's not -- it's not
 12 a lot. I don't -- I get a quarterly check from
 13 them, a dividend check. Again, I never wrote a
 14 check to invest in it, but yeah. Again, I do not
 15 know the ownership percentage I have.
 16 BY MS. GENET:
 17 Q And what was that exchange for, that
 18 ownership?
 19 A I introduced -- I introduced -- I acted
 20 as a finder.
 21 Q Do you have an ongoing agreement with
 22 Fall Catcher aside from your ownership?
 23 A No.
 24 Q So, no kind of like ongoing consulting
 25 agreement --

Page 24

1 A No.
 2 Q -- or finder agreement or --
 3 A Correct. I do not have an ongoing
 4 agreement. I mean, I have a finders agreement
 5 with Fall Catcher. When that expires, I do not
 6 know. I don't know if it has an expiration date.
 7 I would -- I would refer that to my attorney.
 8 Q What's the terms of the finders
 9 agreement?
 10 A To introduce -- introduce -- introduce
 11 potential investors to the company.
 12 Q And what do you get if you do that?
 13 A Are we referring to Fall Catcher?
 14 Q Correct.
 15 A I received a flat fee for as long as
 16 they -- as long as they raised at least four --
 17 \$4 million I received a flat fee.
 18 Q So, you get the five percent, plus, if
 19 they raise \$4 million you get a flat fee; is that
 20 accurate?
 21 A Correct. Yes.
 22 Q What is that flat fee?
 23 A 500,000.
 24 Q Has the \$4 million been raised?
 25 A Yes.

Page 25

1 Q Have you received your payment?
 2 A Yes.
 3 Q Is there any future agreement with Fall
 4 Catcher?
 5 A Other than the finder agreement and if
 6 that would extend, how long it extends for --
 7 again, I do not know how long that extends for,
 8 but there's no other agreement with Fall Catcher
 9 outside of that finder agreement.
 10 BY MS. YUHAS:
 11 Q And just, when was the four million
 12 raised?
 13 A In the September time frame.
 14 Q Of 2018?
 15 A Yes.
 16 Q Yeah. And then, when did you get paid
 17 the 500,000?
 18 A Right after -- right after it was
 19 raised.
 20 Q Okay.
 21 BY MS. GENET:
 22 Q And with Sustainable Resources Group,
 23 do you have an ongoing agreement with them?
 24 A Again, I have a finder agreement with
 25 them, but I am unclear as to how long a finder

Page 26

1 agreement -- I'm -- I'm under the assumption it
 2 stays intact until we terminate it -- either
 3 party terminates it. That's my -- that's my
 4 understanding.
 5 Q What are the terms of the finder
 6 agreement?
 7 A For SRG?
 8 Q Correct.
 9 A To receive ten percent of money raised
 10 for -- invested in SRG.
 11 Q Is there a requirement for a dollar
 12 value before you achieve that ten percent?
 13 A No.
 14 Q So, with the Fall Catcher it capped at
 15 four million it seems like.
 16 A That was the minimum. Not the cap.
 17 Q Sorry. That was the minimum, but then
 18 you would get a flat fee even if you raised, for
 19 example, 100 million, is that the idea?
 20 A Correct.
 21 Q But with SRG it would be ten percent
 22 for whatever amount got raised --
 23 A Correct.
 24 Q -- is that accurate?
 25 A Yes.

Page 27

1 Q I just want to clarify, Sustainable
 2 Resources Group is SRG?
 3 A Correct.
 4 BY MS. YUHAS:
 5 Q And how much has been raised for SRG?
 6 A One -- 1.5 million.
 7 Q And have you received ten percent of
 8 that?
 9 A Yes.
 10 Q And then you also mentioned that you
 11 get paid dividends for your ownership interest in
 12 SRG?
 13 A Yes.
 14 Q That's a separate payment --
 15 A Yes.
 16 Q -- from the finder agreement?
 17 A Yes.
 18 Q And what are those dividend payments
 19 like quarterly?
 20 A I do not -- I do not know. I want to
 21 say -- I want to say seven, \$800.00 a quarter, in
 22 that range.
 23 Q Okay.
 24 A I don't -- yeah, I do not know exact
 25 amount.

Page 28

1 BY MS. GENET:
 2 Q What is Vagnozzi Properties?
 3 A That's a company that -- that was the
 4 first corporation I formed, and I don't know
 5 exactly when, 2000, 2001. I formed that to go
 6 buy a bunch of real estate when I started
 7 investing in real estate. I haven't done
 8 anything with that account -- that business in 15
 9 years.
 10 Q Does it own anything?
 11 A No. I don't even know if the bank
 12 account is open anymore for it.
 13 Q Turning your attention to question 25
 14 on page seven of Exhibit 2.
 15 A Uh-huh.
 16 Q The litigation.
 17 A Yes.
 18 Q What entity did that relate to?
 19 A I introduced -- no entity. Nothing --
 20 nothing -- no entity here. No entity that I own
 21 or anything like that.
 22 Q So, what was the subject of the
 23 litigation?
 24 A I introduced these gentlemen to a
 25 builder that I was working with -- that I had

Page 29

1 worked with in all -- I did a lot of real estate
 2 investing before 2008 on my own. And I
 3 introduced a bunch of -- a bunch. A handful of
 4 people to the builder that they wanted to mimic
 5 what I was doing. And again, it was the 2008
 6 time frame, things didn't go so well. So, these
 7 people -- these -- there was two individuals that
 8 blamed me for the introduction and they sued me.
 9 We settled for \$5,000.00.
 10 Q Had you received compensation in
 11 connection with the introduction?
 12 A Yes.
 13 Q What was the nature of that
 14 compensation?
 15 A I introduced -- I introduced people to
 16 a builder to go -- I introduced people to a
 17 builder that -- basically, just introduced them
 18 to him. And I received -- I received
 19 compensation for that introduction. This was, I
 20 want to say, 2006.
 21 Q What kind of compensation?
 22 A I don't recall. I want to say about
 23 \$100,000.00. I think it was \$100,000.00.
 24 Q And was that like a broker fee or how
 25 would you classify the category of the

Page 30

1 compensation?
 2 A It was 2006. I don't -- I -- I
 3 introduced him to a bunch of people that --
 4 that's all I did.
 5 Q So, would you consider that a finders
 6 fee or --
 7 A I guess looking -- knowing what I know
 8 today it would be considered a finders fee.
 9 Q But at the time how did you think of
 10 that fee?
 11 A It was 2006. I introduced a bunch of
 12 people to a builder that I made a lot of money
 13 with building my own properties. And back then,
 14 everybody wanted to get involved in real estate.
 15 And I pretty much introduced, I don't know -- I
 16 don't even know how many, a dozen people to a
 17 builder and I -- that's all I did.
 18 And he, basically, said help me meet --
 19 you know, introduce me to these people. I'll take
 20 it from here. And he did -- he did his own, you
 21 know, individual investments with them and some
 22 just real estate properties. Again, it was 2006.
 23 Q When you say it was 2006, what does
 24 that mean to you?
 25 A It means it was 12 years ago, I don't

Page 31

1 remember.
 2 Q Okay. Turning your attention to
 3 question 31 of Exhibit 2 on page nine. When you
 4 passed the Series 6 and 63 exam where did you
 5 hang your license, what entity?
 6 A I'm embarrassed to tell you that I
 7 don't remember the name of the broker-dealer.
 8 Q Okay.
 9 A I had my -- I had that license for, I
 10 don't even know how -- I bet six months and I --
 11 I -- I don't know. I was -- I don't even know
 12 the name of the broker-dealer.
 13 Q You just didn't like being a broker?
 14 A No. No. I kind of went into it
 15 reluctantly anyway. I was selling life
 16 insurance. That's -- that was what -- that was
 17 primarily what I was earning my living doing.
 18 And I met a -- there's a -- there's a company in
 19 our area, Delaware Valley Financial Group was
 20 their name, and I went and, basically, wrote life
 21 insurance with them. So, I didn't need to -- I
 22 wasn't an employee of theirs. I -- basically, I
 23 went to an office every day. They provided me
 24 office space and as a courtesy I wrote life
 25 insurance through the companies they wanted me to

Page 32

1 write through. Follow me?
 2 I don't know if you understand how the
 3 life insurance industry works, but they got an
 4 override on every piece of life insurance
 5 business I would write. So, they just bugged me,
 6 oh, go get your securities license. And I did so
 7 reluctantly, but yeah, just -- just drop it right
 8 after that, six months later. So, I couldn't
 9 even tell you the name of the broker-dealer I was
 10 with.
 11 Oh, they were with -- let me rephrase
 12 that. They were -- Principal appointed me, but
 13 then right after I got appointed, they changed --
 14 they changed broker-dealers. So, I literally
 15 passed it, got licensed with Principal, they
 16 changed the broker-dealer. Something to do with
 17 Union Central, but I don't think that -- Union
 18 Central was an insurance carrier, but they
 19 weren't the broker-dealer. And I -- and I think
 20 I switched it to them, but resigned right after
 21 that. I can't remember the name of that
 22 broker-dealer.
 23 Q Did they want you to sell securities,
 24 is that --
 25 A Yeah. Sure. They wanted me to make

Page 33

1 money for them.
 2 Q And you just didn't like that?
 3 A Correct, did not like that.
 4 Q Okay. And so, beginning in 2003 you
 5 started selling life insurance; is that right?
 6 A Yes.
 7 Q And so, can you just explain a little
 8 bit more about when you would sell life insurance
 9 how you got the person you were selling it to,
 10 the actual life insurance, what that looked like?
 11 A How did I sell life insurance, is that
 12 what you're asking?
 13 Q I guess. I mean, I'm assuming that the
 14 way you would sell it was you would go up to a
 15 person, ask them if they want life insurance and
 16 then if they said yes, you would figure out how
 17 to get it for them from some company. And I
 18 guess that's the part I'm interested in, how you
 19 got it from -- from a company.
 20 A I know a lot of people and I was
 21 selling -- I would -- I owned life insurance
 22 myself. And I would -- at the time I got into the
 23 business I made a complete career change. I was
 24 in the software business. I was in the ERP
 25 business, enterprise software I was selling. I

Page 34

1 was working for some big -- big accounting firms
 2 doing consulting around that.
 3 And 2001 to 2003 the stock market, as
 4 everybody knows, was gaining spring for three
 5 years and the only thing in my portfolio that was
 6 not losing money was life insurance, cash value
 7 life insurance. It went up every year.
 8 Everything else losing money except my life
 9 insurance.
 10 So, I'd be at lunch with -- I'd be at
 11 lunch with the people that I was working with
 12 before I made the career change and I referred so
 13 many of those people to the individual that I was
 14 working with and he -- he sold a lot of life
 15 insurance simply through introductions from me.
 16 And there's a key point in my life I'm like, I
 17 want to do this. I think I can do this. I
 18 enjoyed -- I enjoyed talking about it more than I
 19 did my -- my day job. So, I literally quit my
 20 job, got into the life insurance business and,
 21 basically, started networking. Instead of
 22 referring all these people to the agent that I
 23 was working with, I started handling the life
 24 insurance sales myself.
 25 Q Okay. Let's turn to page 12 of your

Page 35

1 background questionnaire and let's just kind of
 2 start at the beginning with -- I think it says
 3 here, Croft, Balkler & Drozd; is that accurate?
 4 A Craft -- Croft, Balkler & Drozd, page
 5 12? Oh, I'm looking at question 12. Here it is,
 6 yeah.
 7 Q What -- what is Croft, Balkler & Drozd?
 8 A Small accounting firm.
 9 Q What did you do there?
 10 A I was -- I was a -- I was an entry
 11 level accountant right out of college. Lasted
 12 two months.
 13 Q And then you -- what was your degree in
 14 again?
 15 A Accounting.
 16 Q Okay. Do you have any post college
 17 education?
 18 A Not from a school.
 19 Q Okay. The next company -- oh, why did
 20 you leave?
 21 A Got fired.
 22 Q How come?
 23 A Because I hated it and it showed in my
 24 work. And I -- and I -- and it was the best
 25 thing that I ever happened to me.

Page 36

1 Q You then moved to Asplundh Tree Expert
 2 Company. I think it's spelled A-S-P-L-U-N-D; is
 3 that right?
 4 A Yes.
 5 Q And it says you were in a management
 6 training program. What is that?
 7 A My college roommate was Matt Asplundh.
 8 They're a \$4 billion international company. You
 9 guys are probably familiar with who -- their
 10 trees -- orange trucks -- they trim all the
 11 power -- maybe you're not familiar with them in
 12 New York. They treat -- they -- so, my -- my
 13 roommate in college's family owned this
 14 international company. And they -- they trim
 15 trees for a living for the biggest utilities in
 16 the world. And I went to work for that company
 17 learning the business. The plan was to learn all
 18 aspects of the business.
 19 Q And why did you leave?
 20 A I met my wife and her dad had a better
 21 offer for me.
 22 Q So, was her father the owner of CPL?
 23 A Yes, Computers for the Professional.
 24 They're out of business today, but --
 25 Q And it -- is his name Jerry Nave?

Page 37

1 A Yes.
 2 Q Is that with a G or a J?
 3 A I think -- it's kind of weird. I think
 4 he spells Gerald -- I think he spells it with a
 5 G, Gerald, and a J when he says Jerry.
 6 Q And that's your father-in-law?
 7 A Yes.
 8 Q And what did you do there?
 9 A It was -- they had 100 employees. They
 10 sold -- they sold computer-related equipment to
 11 corporations, big corporations around the
 12 Philadelphia region and I was just learning the
 13 business. I was -- I was a account manager. I
 14 did all kinds of odd end jobs. I was just -- I
 15 was a -- I was a sales associate. I would
 16 handle -- I would handle companies -- big
 17 companies.
 18 Back -- back in -- you know, whether
 19 you know this or not, I don't know how old you
 20 are, but back in the early 1990s -- the '80s and
 21 '90s you didn't buy computers on line like you do
 22 today. Corporations would call a company like
 23 this and they would come in and handle all the
 24 printers, all the computers. Now it's a
 25 commodity, right, the computers and stuff are so

Page 38

1 cheap.
 2 Back then a company like that it was
 3 called a value added reseller. So, that company
 4 would handle all the office related technology
 5 for corporations. And I was -- and they had 100
 6 employees to do that. So, I was -- I was -- I
 7 was like a customer support adviser for their --
 8 for their customers. So, they would call in,
 9 I -- I would help place orders and stuff like
 10 that.
 11 Q Why did you leave in '98?
 12 A My father-in-law had a heart attack
 13 and -- and he retired. And I had -- so, I got --
 14 I went to work with SAP America.
 15 Q What is SAP America?
 16 A Third largest software company in the
 17 world headquartered in Newtown Square,
 18 Pennsylvania.
 19 Q What did you do there?
 20 A I was a junior sales rep. I would call
 21 into corporations and introduce SAP software to
 22 the biggest -- the biggest companies in the world
 23 run that software. And I -- my job was to open
 24 doors and find companies that wanted to look at
 25 the software. And then I would bring a senior

Page 39

1 sales rep into the company.
 2 Q It looks here like you left in May of
 3 2000, but you started at Deloitte in May of '99?
 4 A I -- I don't know -- I don't know -- I
 5 have no idea the exact month that I started
 6 any -- from -- from -- from the Deloitte, SAP and
 7 the following company, Intelligroup, I don't know
 8 the exact months, but they are -- they are, give
 9 or take, a month or two, in that range.
 10 Q Did Deloitte Consulting turn into
 11 Intelligroup?
 12 A Deloitte --
 13 Q 'Cause it looks to me like between
 14 Deloitte and Intelligroup you have Arthur
 15 Anderson.
 16 A Anderson, yes. Yes. Yes. I went from
 17 Deloitte to Anderson.
 18 Q Why did you leave Deloitte?
 19 A Anderson made me a better offer.
 20 Q What did you do at Anderson?
 21 A My job at Deloitte and Anderson was to
 22 find SAP related software installs. 'Cause
 23 Deloitte, Anderson, Pricewaterhouse, all these
 24 big companies make gazillions of dollars
 25 installing SAP software. And my job, because I

Page 40

1 knew all the reps from my days at SAP, I became
 2 very valuable to them. My job was to schmooze the
 3 SAP sales reps so when they made a sale they
 4 called on us to -- to go implement the software
 5 for the customer. When I say "us" I mean
 6 Deloitte or Arthur Anderson. I, basically, had
 7 the same job with Anderson as I did with Deloitte
 8 as I did with Intelligroup.
 9 Q And why did you leave Anderson?
 10 A The offers kept getting better. So,
 11 yeah, more money.
 12 Q And then you went to --
 13 A Well, actually, more money, but the
 14 writing on the wall -- I was with Anderson when
 15 the whole Enron -- remember the whole Enron issue
 16 came up? So, you know, everybody was getting
 17 laid off and -- and -- I didn't get laid off, but
 18 I would have sooner or later because that company
 19 was imploding. So, I went to Intelligroup which
 20 is a -- which is a small niche player out of
 21 Edison, New Jersey not far from here.
 22 Q And then you -- why did you leave
 23 Intelligroup in 2004?
 24 A That's when I went into the life
 25 insurance business.

Page 41

1 Q And you became a life insurance agent;
 2 is that right?
 3 A Yes.
 4 Q Which required you passing an exam; is
 5 that right?
 6 A Uh-huh. Yes. I had to pass, you know,
 7 the Pennsylvania State Insurance Exam.
 8 Q Okay. So, I still want to
 9 understand -- and then when you did that, you
 10 would then get the actual life insurance from
 11 where?
 12 A Insurance companies. You have to
 13 pass -- you pass -- when you became a life
 14 insurance agent you have to pass a life insurance
 15 exam with the state and then once you're
 16 appointed -- once you pass the exam then you have
 17 to go literally, like, all right, I got my
 18 license, then you go to the insurance companies
 19 and say, all right, can I sell your product.
 20 Then they have to appoint you.
 21 So, just 'cause I have a license
 22 doesn't mean I could sell for any insurance
 23 company. I had to go through, you know, their own
 24 set of background checks and -- and, you know,
 25 whatever they do to decide if they let me sell

Page 42

1 their product.
 2 Q Would you be approved for just one
 3 company -- insurance company at a time?
 4 A No. No. It's common -- most insurance
 5 advisers are approved with multiple insurance
 6 companies and I was also. I still am, but I --
 7 yes, but I -- you don't -- you generally most --
 8 most insurance professionals generally write most
 9 of their business through one company and they
 10 have ancillary companies. Like if I were to
 11 write a life insurance policy -- say you wanted a
 12 life insurance policy, and for whatever reason
 13 your rating didn't come back so good and we don't
 14 know why, then I might take your application and
 15 go to my second -- my second choice to see if I
 16 could get you approved at a better rate. So,
 17 that's why you generally have multiple carriers
 18 that you get approved with.
 19 Q So, you were kind of independent?
 20 A Not kind of. That is the work. In
 21 insurance industry you do -- you're either --
 22 you're either independent or you're captive.
 23 Captive means you go to work for like, just using
 24 examples, John Hancock. John Hancock is -- is --
 25 is notorious for being a captive agency. You go

Page 43

1 to John Hancock, you can only sell John -- and
 2 what they do, they give you the fancy office,
 3 they -- you know, you got a secretary. They pay
 4 you a lot less, but you've got the -- you've got
 5 the office comforts. And you can only sell their
 6 products. Excuse me.
 7 Independent, I pick and choose who I
 8 want. I make more money, but now I'm responsible
 9 for my own office, my own secretarial staff, any
 10 kind of -- excuse me. So, yes, but you hit it
 11 right on the head, that is what it's known as,
 12 independent.
 13 Q And since 2004 to this day you sell
 14 life insurance?
 15 A Oh, yes. A lot of it.
 16 Q Okay. I'm going to take a break on
 17 the -- on the background. Now that I have we've
 18 had a little bit of time just to experience
 19 the -- the questioning portion of -- of
 20 testimony. I want to just go over a couple of
 21 procedural items.
 22 MS. YUHAS: Can I just ask one --
 23 MS. GENET: Oh, sure.
 24 MS. YUHAS: I -- I'm sorry, one
 25 question.

Page 44

1 BY MS. YUHAS:
 2 Q Back to the privately held companies
 3 where you listed the -- ABetterFamilyPlan.com,
 4 LLC.
 5 A Yes.
 6 Q Just, what is -- what is that company?
 7 A Can you give me an example? What do
 8 you mean what is it? It's where I -- that's what
 9 I call my -- that's why in 2010 -- when I -- when
 10 I passed my exam in 2004 I don't need to be a
 11 corporation to sell life insurance. I was Dean
 12 Vagnozzi. Dean Vagnozzi was licensed with all of
 13 these carriers. And I -- I eventually -- and
 14 just everybody said, well, you should incorporate
 15 for all the reasons you incorporate, to protect
 16 yourself from liability or whatever. I -- I
 17 ended up forming a corporation. Is that --
 18 Q So, the -- I guess, is the
 19 corporation -- how does it interact with the
 20 Pillar Funds? You know, when you -- when you
 21 gave us an example of the ABFP Management Company
 22 you talked about -- sorry, just --
 23 A I'm sorry, I apologize.
 24 Q No problem, it takes a while.
 25 A By the time we're done, I'll stop

Page 45

1 interrupting you.
 2 Q It's okay. You know, you gave us an
 3 example of how the bank account worked with that
 4 and how it interacted with the investors and
 5 stuff like that.
 6 A Yes.
 7 Q So, just explain to us just what
 8 ABetterFinancialPlan.com, LLC is and its
 9 interaction with either your life insurance
 10 activity or your Pillar Fund activity or other
 11 investment type activities.
 12 A A Better Financial Plan when I
 13 incorporated it that's what I -- I swapped out
 14 Dean Vagnozzi with A Better Financial Plan. I
 15 then went to the insurance companies and I got A
 16 Better Financial Plan licensed with the insurance
 17 companies. So then, when I would make a life
 18 insurance sale the commissions would come to A
 19 Better Financial Plan. So, that's how that
 20 start.
 21 So, A Better Financial Plan became
 22 my -- that's where all my income started
 23 funneling through. It slowly weaned out of Dean
 24 Vagnozzi and it all funneled through A Better
 25 Financial Plan.

Page 46

1 Q So, it was a corporate entity --
 2 A Yes.
 3 Q -- an LLC that you used to create for
 4 your -- your compensation from insurance?
 5 A Correct. Yes.
 6 Q And then, what did it transform into
 7 it?
 8 A Well, it still is that.
 9 Q Okay.
 10 A It still is that.
 11 Q Okay.
 12 A I still get relatively small amounts of
 13 residual income from -- from the insurance
 14 companies. Like, life insurance companies you --
 15 you get small amounts for generally 10, 15 years.
 16 So, I still have income that comes into Dean
 17 Vagnozzi from -- from life insurance policies
 18 that I sold in 2009 for example. So, I still --
 19 I still see some money coming into Dean Vagnozzi,
 20 but the majority of all life insurance related
 21 income goes to A Better Financial Plan.
 22 And then, A Better Financial Plan was
 23 the -- the vehicle that collected any kind of
 24 commissions I earned when I got into the life
 25 settlement business. So, that's -- A Better

Page 47

1 Financial Plan is where I -- I transitioned all
 2 my -- I tried to have all my revenue come
 3 through.
 4 Q Got it, okay.
 5 So, with respect to the Pillar Funds
 6 and the ABFP Fund and the -- and the other -- and
 7 the Gibraltar, all the other funds that you've
 8 created since then, does that -- does
 9 ABetterFinancialPlan.com, LLC interact with
 10 investors at all?
 11 A No. No, people -- my clients know me
 12 as A Better Financial Plan. So, my clients don't
 13 refer to me as ABFP Management Company. They --
 14 they -- they know me as A Better Financial Plan.
 15 Q Okay.
 16 A Okay. That's -- I have to -- I
 17 can't -- I can't brand myself as 15 different
 18 companies. So, A Better Financial Plan is -- is
 19 who I am, in essence, if that -- if that's
 20 answering your question.
 21 Q Yes, it does. Thank you. Okay, great.
 22 So -- and then, I just -- we said this,
 23 but I just want to make sure. So -- and when you
 24 receive commissions, let's say from -- like the
 25 \$500,000.00 from Fall Catcher, does that go into

Page 48

1 A Better Financial Plan?
 2 A It went to me personally. I'm not
 3 sure. We provided -- we provided -- we provided
 4 bank records of that.
 5 Q Okay. And how about like commission --
 6 when you say "commissions," what are you talking
 7 about?
 8 A I believe that went to Dean Vagnozzi.
 9 MR. LAIGAIE: Well, the -- the payment
 10 from --
 11 THE WITNESS: Oh, I don't --
 12 MR. LAIGAIE: Well, you don't have to
 13 guess. You don't remember.
 14 THE WITNESS: I don't know.
 15 MR. LAIGAIE: There is a document that
 16 reflects it.
 17 A I don't know. There is a bank record
 18 that we provided that shows where the -- where
 19 the money went --
 20 Q Okay.
 21 A -- where -- what account it was
 22 deposited to.
 23 Q And could you just generally describe
 24 what kinds of commissions that you know of would
 25 go into ABetterFinancialPlan.com from any of

Page 49

1 these other offerings?
 2 MR. LAIGAIE: Well, when you say
 3 commissions, I want to make sure that -- that,
 4 you know, we're -- we're -- Dean's understanding.
 5 Are you including any kind of revenue of
 6 whatever -- whatever stripe it is?
 7 MS. YUHAS: Yeah. So, I was just
 8 using -- I thought he used the word commission.
 9 MR. LAIGAIE: He might have, but that
 10 doesn't mean that whatever payment he got from
 11 Fall Catcher was a commission. I mean, that
 12 payment was pursuant to a written agreement that
 13 you guys have.
 14 MS. YUHAS: Yeah. And I'm not talking
 15 about Fall Catcher. Now I'm just taking a step
 16 back and saying, just generally --
 17 A Generally earnings.
 18 Q Can you describe what that is.
 19 A When I -- if I say the word
 20 commissions -- let me be clear, if I say the word
 21 commissions, to me it's income. If I refer to it
 22 as income, commissions, 1099, for the sake of
 23 this discussion to me it's what hits my pocket.
 24 Whatever you want to call it. My Better
 25 Financial Plan is -- is primarily the -- the

Page 50

1 company that I receive life insurance related
 2 earnings from. I still, to this day, write a lot
 3 of life insurance. So, that's -- that's -- and
 4 that's what -- that's the entity that's -- that's
 5 licensed with the insurance companies. So,
 6 that's who they pay.
 7 Q Got it. I was just trying to, and I
 8 don't want to belabor this, but I was just trying
 9 to understand how and if at all
 10 ABetterFinancialPlan.com, LLC interacts with, for
 11 example, the Pillar Funds?
 12 A How does it interact? I don't think it
 13 interacts -- it has -- I think it has limited
 14 interaction at this point.
 15 Q How about ever?
 16 A When I first started -- well, you see
 17 again, Pillar Funds is -- is -- I'm not using the
 18 Pillar -- I'm not forming any new Pillar
 19 companies. So, Pillar is in the past. Pillar --
 20 when I would earn income from purchasing life
 21 insurance policies that income would be sent to A
 22 Better Financial Plan.
 23 Q Okay. Got it.
 24 A But today, I believe most of it goes
 25 through ABFP Management Company as the -- as the

Page 51

1 income that's generated from, like, for example,
 2 purchasing a life insurance policy on the life
 3 settlement side.
 4 Q Okay.
 5 A I realize we'll get to that, I'm sure,
 6 but --
 7 Q Right. Okay. Okay.
 8 BY MS. GENET:
 9 Q Okay. You mentioned that clients know
 10 you as ABetterFinancialPlan.com.
 11 A Uh-huh.
 12 Q Who are the clients that you're
 13 referring to?
 14 A Everybody that comes into my office.
 15 Everybody that I see, they -- they -- everybody.
 16 Q Would that include Pillar clients?
 17 A Yes.
 18 Q Would that include clients of all the
 19 various privately held --
 20 A Private placements?
 21 Q -- companies that we identified in
 22 response to question 15 on Exhibit 2?
 23 A Yes. People -- people -- peoples
 24 initial -- when I meet somebody for the first
 25 time, whether it's my next door neighbor or

Page 52

1 somebody who's a referral from a friend or
 2 somebody hears one of our advertisements, they --
 3 they come in and they -- they come in and they're
 4 meeting with Dean Vagnozzi at A Better Financial
 5 Plan.
 6 Q So, would it be accurate to say that A
 7 Better Financial Plan is kind of your umbrella
 8 organization?
 9 A Yes. I think that's an accurate
 10 description.
 11 MR. LAIGAIE: Well, let me make sure I
 12 understand because Dean referred to question 15
 13 and the written answer, but your testimony added,
 14 for instance, Fall Catcher and SRG to this list.
 15 And I think Ms. Genet's question, therefore,
 16 incorporated it. Is an investor in Fall Catcher
 17 an ABFP client?
 18 MS. GENET: Sorry. I think the
 19 question really would be is an investor -- does
 20 an investor in Fall Catcher know Dean as A Better
 21 Financial Plan?
 22 A Yes.
 23 MR. LAIGAIE: Okay. Okay.
 24 A I don't deal with anybody who doesn't
 25 know who A Better Financial Plan is. They come

Page 53

1 in and everybody knows who -- when I meet
 2 somebody they come into my office and it says A
 3 Better Financial Plan on the wall. It doesn't
 4 say Pillar. It doesn't say Fall Catcher. It
 5 doesn't say any of these other companies. It
 6 says A Better Financial Plan. They know that's
 7 who I am, that's my business.
 8 Q And they know A Better Financial Plan,
 9 therefore, refers to all of the business
 10 activities that you conduct; is that right?
 11 A I'm -- I'm -- I'm not -- I don't know
 12 how to answer that.
 13 Q So --
 14 A When somebody -- so, if you don't mind,
 15 let me make my -- if somebody walks into Merrill
 16 Lynch they're not necessarily invested in Merrill
 17 Lynch, are they? They're -- they're walking into
 18 the Merrill Lynch, they're sitting with the
 19 adviser and they're going to buy the XYZ fund.
 20 So are they a client of the XYZ fund? They're a
 21 Merrill Lynch client. It's kind of the same
 22 thing.
 23 They're working with A Better Financial
 24 Plan and based on -- based on why they came in,
 25 what they like, what they don't like, I introduce

Page 54

1 them to different entities. And they say, I love
 2 that, or I hate that or --
 3 Q So, an investor comes in and you might
 4 offer them any one of the investment
 5 opportunities that you're working with --
 6 A Correct.
 7 Q -- at the time?
 8 A Sorry I interrupted you.
 9 Q But your presentation would be under A
 10 Better Financial Plan; is that right?
 11 So, for example, you might sell an
 12 investor insurance or you might -- an investor
 13 might come in and you might offer them, let's say
 14 if we were in the 2014 time period, investments
 15 that would include life insurance, investment in
 16 one of the Pillar one through eight funds or in
 17 the A Better Financial Plan Income Fund, but all
 18 of those offerings would be under the umbrella of
 19 A Better Financial Plan?
 20 A I don't think -- I think -- they come
 21 in. They're meeting with the owner of a -- of
 22 this Better Financial Plan Company. I get to
 23 know them. I'm sure we'll get into a lot of this.
 24 I get to know them, talk to them, what kinds of
 25 assets do they have, what do they like, what

Page 55

1 don't they like, why are they here. And, how can
 2 you help me, Dean? Well, I can help you. Let me
 3 tell you the benefits of life insurance. Here's
 4 why this can help based on what you said to. Me
 5 let me tell you about how the life settlement
 6 industry works. Explain. I love it. How do I
 7 do it. Well, we have a corporation. It's called
 8 the Pillar Life Settlement Fund. You would put
 9 money into that. I'm generalizing this right now
 10 by the way. So, that's the -- so -- and at any
 11 one time I didn't have 100 things. I have only a
 12 couple.
 13 Q Uh-huh.
 14 A So, I told them, we don't have 100
 15 things. We've got a couple things. So -- so, I
 16 don't think anybody -- nobody -- nobody -- so,
 17 they would -- just like my Merrill Lynch example,
 18 they knew they were working with the team at A
 19 Better Financial Plan, but they weren't investing
 20 in A Better Financial Plan. They were investing
 21 in the life settlement fund or a life insurance
 22 policy with Allianz, right.
 23 I was the -- you know, again, I just
 24 for -- for -- hopefully you're okay with it, my
 25 examples of when you -- when you work with a car

Page 56

1 insurance person, I have a car insurance guy, but
 2 he's representing State Farm. That's kind of --
 3 so, when I write a check, I don't write it to the
 4 agent, I write it to State Farm. He just talks
 5 about how it works. So, is that helpful?
 6 BY MS. YUHAS:
 7 Q Is it fair to say -- I don't want to
 8 put words in your mouth, but I'm just asking.
 9 Would it be fair for me to think that A Better
 10 Financial Plan is sort some of like your
 11 corporate alter ego?
 12 A Yeah.
 13 Q Okay.
 14 A It's a company. Alter ego makes it
 15 sound like it's this fictitious -- it's as
 16 legitimate as any corporation in America, right?
 17 It's -- it's -- I have to -- it's my brand.
 18 Q Yeah, no nefarious intent in that at
 19 all. It's just --
 20 A Yeah.
 21 Q -- you're the person, Dean Vagnozzi,
 22 and A Better Financial Plan is like the
 23 incorporation of you?
 24 A Yes. Yes.
 25 Q Okay.

Page 57

1 A They're buying into me, be real clear.
 2 Q So, if somebody goes to invest in Fall
 3 Catcher -- I understand that's not, you know, an
 4 ABFP fund. I know that's not your fund, but if
 5 somebody goes to invest in Fall Catcher they
 6 might say, I learned about you from Dean Vagnozzi
 7 and A Better Financial Plan?
 8 A Yes. I would -- I would say that's a
 9 good -- that's a fair statement.
 10 Q Okay.
 11 BY MS. GENET:
 12 Q So, I think now that we've had some
 13 back and forth it's a good time to just go over
 14 the procedure that we talked about briefly before
 15 we opened the record.
 16 So, please verbalize your answers for
 17 the reporter. Say yes or no rather than nodding
 18 or shaking your head. I also noticed in this
 19 sort of short time that we've spoken there are
 20 times where you make gestures. So, to the extent
 21 possible, just verbalize all of your responses.
 22 That will make the record the clearest possible.
 23 We both have to try not to speak over
 24 one another so that we can preserve a clean
 25 record. That's something that everyone in the

Page 58

1 room will be guilty of except for the court
 2 reporter probably. So, we should all be mindful
 3 of that. Do you understand that?
 4 A Yes.
 5 Q If you don't understand any questions,
 6 please let me know and I will clarify. Is that
 7 okay?
 8 A Yes.
 9 Q If you don't tell me you don't
 10 understand my question I'm going to assume that
 11 you do understand my question. Do you understand
 12 that?
 13 A Yes.
 14 Q From time to time your counsel may
 15 object to one of my questions. After your
 16 counsel makes an objection please respond to my
 17 question unless he directs you not to. Do you
 18 understand that?
 19 A Yes.
 20 Q The reporter will only go off the
 21 record at my request. So, please let me know if
 22 you need a break. Do you understand that?
 23 A Yes.
 24 Q In general, if you need a break we will
 25 endeavor to go off the record as soon as possible

Page 59

1 as we did when you identified that you were the
 2 only person in the room without water, but there
 3 are times where we might want to finish up a
 4 question or even some follow-up. So, if you can
 5 let us know before it becomes an emergency type
 6 of situation that's always a better way for us.
 7 Do you understand?
 8 A Yes.
 9 Q Are you taking any medications of any
 10 kind that might make it difficult for you to
 11 understand or answer my questions?
 12 A No.
 13 Q Anything that would affect your memory?
 14 A No.
 15 Q Anything other than medication that
 16 might affect your memory?
 17 A No.
 18 Q Anything that would prevent you from
 19 testifying truthfully here today?
 20 A No.
 21 Q And also from time to time during the
 22 course of testimony today we might define certain
 23 terms. And so, we should work together to just
 24 agree on those definitions. For example, I think
 25 sitting here today we've already defined SRG; is

Page 60

1 that right?
 2 A Yes.
 3 Q And what is SRG?
 4 A Sustainable Resources Group I believe.
 5 Q And we've also define ABFP. What is
 6 ABFP?
 7 A A Better Financial Plan.
 8 Q When you say A Better Financial Plan do
 9 you mean ABetterFinancialPlan.com, LLC?
 10 A Yes.
 11 Q Okay. So, I want to agree with you
 12 that once we agreed to the meaning of a defined
 13 term we should both use that term consistently.
 14 Is that okay?
 15 A Yes.
 16 Q All right. And if there's ever any
 17 question about what a defined term means you will
 18 let me know.
 19 A Yes.
 20 Q But otherwise, I'm going to assume that
 21 you understand it. Is that all right?
 22 A Yes.
 23 Q If you need clarification at any time,
 24 please let me know. Can you do that?
 25 A Yes.

Page 61

1 Q And can we agree that you will let me
 2 know if there is anything that you don't
 3 understand?
 4 A Correct.
 5 Q Okay. We have served in this
 6 investigation -- in addition to the subpoena for
 7 testimony we have served a number of subpoenas
 8 for documents. I just want to take a quick look
 9 at those with you.
 10 (SEC Exhibit Nos. 4 through 6
 11 were marked for
 12 identification.)
 13 Q I'm going to start by handing you a
 14 document that's been marked by the court reporter
 15 as Exhibit 4. Exhibit 4 is a cover letter and
 16 subpoena for documents dated July 20, 2017 served
 17 by Kimberly Yuhas.
 18 Do you recognize this document?
 19 A Yes.
 20 Q Okay. And then I'm going to hand you a
 21 document that's been -- oh, sorry. What is it?
 22 What is Exhibit 4?
 23 A This is the subpoena. Is that what
 24 you're asking me?
 25 Q Yeah.

Page 62

1 Okay. And I'm going to hand you a
 2 document that's been marked Exhibit 5. Exhibit 5
 3 is a -- oh, you know what, can you hand me back
 4 Exhibit 5. Sorry about that.
 5 I'm going to hand you a document that's
 6 been marked Exhibit 6. Exhibit 6 is a subpoena
 7 for documents issued by me, Megan Genet, on
 8 October 22nd, 2018. Do you recognize this
 9 document?
 10 A I have not seen this. It went to my --
 11 it went --
 12 THE WITNESS: Right? You guys received
 13 this, right?
 14 MR. LAIGAIE: Yeah. Well, you've seen
 15 it. It wasn't sent to you initially.
 16 THE WITNESS: Yes, okay. So, it's
 17 addressed to -- it's addressed to your office,
 18 not mine.
 19 MR. LAIGAIE: She didn't ask you that.
 20 Do you recognize it?
 21 THE WITNESS: Okay. Yes, sir. I
 22 thought she said did I receive it.
 23 MR. LAIGAIE: No. Have you seen it she
 24 said.
 25 THE WITNESS: Okay.

Page 63

1 A Yes, I've seen this.
 2 Q Okay. All right. And I'm now going to
 3 give you back Exhibit 5. And Exhibit 5 is a
 4 subpoena dated July 17, 2018 served by Kimberly
 5 Yuhas.
 6 Do you recognize this document?
 7 A Yes.
 8 Q And what is it?
 9 A It's a subpoena.
 10 Q Okay. So, I'm just going to ask you
 11 some questions referring to Exhibits 4, 5 and 6.
 12 So, if you can just keep them all kind of handy.
 13 And I guess to the extent that your responses are
 14 different for them we'll deal with that, but have
 15 you tendered to the staff all the documents
 16 called for by Exhibits 4, 5 and 6?
 17 A I believe so.
 18 Q Can you describe the search that was
 19 conducted for each of Exhibits 4, 5 and 6 and who
 20 conducted that search?
 21 A Who conducted -- who provided the
 22 documentation, is that what you're asking?
 23 Q Like, when somebody asks for a
 24 particular set of documents, specifically --
 25 MR. LAIGAIE: Excuse me.

Page 64

1 Q -- in Exhibits 4, 5 and 6 the staff is
 2 requesting certain documents from you; is that
 3 right?
 4 A Correct.
 5 Q So, somebody has to actually physically
 6 looking for those documents --
 7 A Yes.
 8 Q -- is that right?
 9 A Yes.
 10 Q So, who would be the person who
 11 conducted the search for the documents requested
 12 in Exhibits 4, 5 and 6?
 13 A My -- my staff.
 14 Q So, who is your staff?
 15 A Michelle Price would be -- Michelle
 16 price is my controller.
 17 Q Can you spell her name, please?
 18 A P-R-I-C-E.
 19 Q And how long has Michelle worked for
 20 you?
 21 A Michelle has been working with me two
 22 years -- pretty much every day for about two
 23 years. Part-time two or three years prior to
 24 that.
 25 Q What -- what is her job title?

Page 65

1 A She acts as -- she's a -- she's a CPA.
 2 So, she acts as -- she handles all the paperwork.
 3 She handles any distributions of dollars to my
 4 clients. She, in essence, runs the office.
 5 Q Where is your office?
 6 A King of Prussia, Pennsylvania.
 7 Q Can you say the address?
 8 A 234 Mall Boulevard, Suite 270, King of
 9 Prussia, Pennsylvania.
 10 Q And how do you sit in your office
 11 space? Meaning, like, what's the layout?
 12 MR. LAIGAIE: On chairs I imagine is
 13 how you sit. That's what you were going to say?
 14 No, what's the office layout?
 15 Q Like is there one big open space and
 16 you and Michelle sit together?
 17 A No. No. No. No. I have -- my office
 18 is 2,500 square feet or so of -- no. I take that
 19 back. We're actually moving into an office, to a
 20 slightly bigger -- no, we're in about 2,000
 21 square feet office.
 22 MR. LAIGAIE: Is it one open area?
 23 A No. No. We have individual offices.
 24 There's three or four different offices, a
 25 conference room, reception area.

Page 66

1 Q So, you and Michelle don't share an
 2 office?
 3 A No.
 4 Q Okay. Did you -- okay. So, when you
 5 say your staff conducted the search, is there
 6 anyone besides Michelle Price that you would
 7 include in the term your "staff"?
 8 A Anita, I'll spell her last name,
 9 Badalamanti, B-A-D-A-L-A-M-A-N-T-I.
 10 Q Anyone else?
 11 A Recently a couple of weeks ago or
 12 whenever the -- the recent set of documents that
 13 you needed, Jody Markey.
 14 Q How do you spell her last name?
 15 A M-A-R-K-E-Y.
 16 Q Anyone else?
 17 A That would be it. No, that would be
 18 it.
 19 Q Okay. So, Jody we're going to limit to
 20 just Exhibit 6.
 21 A She just started working with us about
 22 a few -- a few -- about a month --
 23 month-and-a-half ago.
 24 BY MS. YUHAS:
 25 Q What's Anita's title?

Page 67

1 A She's a -- she handles -- no title. She
 2 handles -- she primarily focuses on all the life
 3 insurance related activity. It's a very
 4 paperwork intensive industry, the life insurance
 5 industry, and she handles a lot of that. But
 6 she -- but everybody helps out whatever --
 7 whatever -- she answers the phone. Somebody
 8 calls the office she's generally the first person
 9 to answer the phone.
 10 BY MS. GENET:
 11 Q Okay. So, getting back to the various
 12 subpoenas. Would you say with respect to Exhibit
 13 4 it was Michelle Price and Anita Badalamanti --
 14 A Yeah.
 15 Q -- that conducted the search in -- to
 16 identify documents responsive to Exhibit 4?
 17 A Yes.
 18 Q And with respect to Exhibit 5 would it
 19 have been Michelle Price and Anita Badalamanti
 20 that did the search?
 21 A Yes.
 22 Q With respect to Exhibit 6 would it have
 23 been Michelle Price, Anita Badalamanti and Jody
 24 Markey that conducted the search?
 25 A I think that's accurate.

Page 68

1 Q What instructions did you provide to
 2 them?
 3 A Get them everything our attorneys want.
 4 Q So, did you hand them the physical
 5 subpoena?
 6 A No.
 7 Q So, how did you instruct them?
 8 A We were obviously in dialogue with
 9 our -- the attorneys and they --
 10 Q Well, I'm not asking you for any
 11 communications from counsel. I'm really just
 12 limiting my questions to how the search was
 13 conducted.
 14 A I'm telling you. They -- they -- they
 15 clearly outlined -- they clearly outlined for us
 16 a list of everything that was needed.
 17 Q Did you identify for Michelle Price,
 18 Anita Badalamanti, and with respect to Exhibit 6,
 19 Jody Markey, which locations to look for
 20 documents?
 21 A No.
 22 Q How would they know what locations to
 23 look for documents?
 24 A Because they know significantly more
 25 than me where every document is kept,

Page 69

1 electronically, file cabinets.
 2 Q Is that because they maintain the
 3 documents?
 4 A Yes.
 5 Q Okay. So, just to clarify the
 6 categories of documents that you have in your
 7 office, you said that you keep hard copy files;
 8 is that right?
 9 A Not necessarily anymore. Electronic --
 10 most -- I believe most things are scanned in.
 11 Q When things are scanned in what do you
 12 do with the hard copy?
 13 A I don't do anything with the hard copy.
 14 I don't touch any paper. I pay my staff to do
 15 that. And for the most part, and they scan it,
 16 they keep it, they have electronic copies of it
 17 and we shred a ton of stuff. We have shredders.
 18 So, obviously people's Social Security Numbers
 19 and stuff like that on the paperwork.
 20 Q So, would you say you don't maintain
 21 any hard copy files in your office?
 22 A I'm not saying that. I'm saying to you
 23 I have no idea.
 24 Q Are you familiar with physically where
 25 you even have the furniture required to store

Page 70

1 hard copies in your office?
 2 A There is -- we have -- we have a
 3 handful of filing cabinets in our office.
 4 Q Where are they located?
 5 A Right in the -- in Michelle's office
 6 primarily most of them. Anita's got a filing
 7 cabinet or two with her in her -- at her
 8 reception area.
 9 Q Anywhere else?
 10 A No.
 11 Q In your office?
 12 A Nope.
 13 Q Are you aware of whether those hard
 14 copy files were searched to identify documents in
 15 response to Exhibits 4, 5 and 6?
 16 A We were able to turn all this paperwork
 17 pretty -- I believe pretty quickly. And my staff
 18 knew where everything was and it -- and it --
 19 they had access to it very quickly.
 20 Q So, you're not aware of whether they
 21 looked at the filing cabinets in Michelle's
 22 office or Anita's office --
 23 A No.
 24 Q -- in reception?
 25 A No.

Page 71

1 Q Okay.
 2 A I have no idea where -- I have no idea
 3 where any filing cabinet or computer drive that
 4 the particular stuff sits on. They do.
 5 Q Are you -- what kind of electronic
 6 files do you maintain? So, for example, like,
 7 you know, I could just say, my -- my personal
 8 home files I might have, you know, a folder
 9 dedicated to my daughter's school and another
 10 folder dedicated to my son's school.
 11 A You mean on your computer?
 12 Q Yes.
 13 A Yeah.
 14 Q I have another folder that might be
 15 dedicated to my insurance.
 16 A Yeah.
 17 Q So, I'm asking just how do you file
 18 electronic documents in your office?
 19 A Okay. So, I don't touch -- I -- held a
 20 gun to my head, I wouldn't know how. I'm the
 21 most un-tech savvy human being out there.
 22 Michelle is the exact opposite. Most organized,
 23 very technical. I've seen her desktop computer
 24 with files of everything. She's as organized as
 25 they get. So, I believe she scans stuff, it's

Page 72

1 backed up. I -- I have no idea how it's backed
 2 up. Meaning, I know she -- she talks over my
 3 head. It's all backed up. She has it on -- on a
 4 drive broken down into files, client files.
 5 Q So, do you keep, for example, a folder
 6 for every single client you have?
 7 A I believe they do.
 8 Q And would those folders be organized --
 9 A By name.
 10 Q -- by entity?
 11 A Sorry. Yes.
 12 Q So, for example, would all -- all of
 13 the Pillar I client folders be able to be
 14 identified in one file path?
 15 A I believe so.
 16 Q But you're not sure?
 17 A I'm not certain, but I'm -- I believe
 18 that's how they organize it.
 19 Q Do you know if those client files were
 20 searched in response to Exhibits 4, 5 and 6?
 21 A I do not know.
 22 Q Okay. How about e-mail?
 23 A E-mail was retrieved by Michelle.
 24 She -- she is -- Michelle is the most technical
 25 person that works with me. So, how she got it

Page 73

1 and where she got it, I don't know, but she never
 2 came back to me and said, I can't get it.
 3 Q How do you maintain your e-mail?
 4 A Through Outlook.
 5 Q Do you have, you know, sub folders of
 6 your inbox that you sort things into?
 7 A Not much. I'm not -- I'm that person
 8 with -- that has e-mails that just go unemptied
 9 and unopened and, you know, clog up my inbox.
 10 Q So you don't sort your e-mail; is that
 11 right?
 12 A I sort -- I sort -- I sort e-mails, but
 13 I'm not the most efficient at it.
 14 Q How do you sort your e-mail?
 15 A So, to answer your question, you have
 16 to understand that before -- ten years ago it was
 17 just me, right. So, I was doing things as I -- I
 18 was the -- I was doing everything. And I was
 19 doing everything as far as organizational,
 20 computer related stuff, very inefficiently and
 21 ineffectively. And years later when I got -- so,
 22 if you -- my computer -- like those folders you
 23 have that you reference, I have them from -- from
 24 things I set up ten years ago and they're still
 25 there. And if you went in there I would have no

Page 74

1 idea what's in them. I -- I dragged stuff to them
 2 here and there, but ever since I got a staff
 3 around me, they handle all of that.
 4 Q Does your staff have access to your
 5 e-mail?
 6 A Yes.
 7 Q Can your staff send out e-mails that
 8 would appear under the name Dean Vagnozzi?
 9 A Yes.
 10 Q Who on your staff can do that?
 11 A All of them, Anita, Jody, Michelle,
 12 Shannon.
 13 Q Who's Shannon?
 14 A Shannon Westhead, she's another --
 15 Q Anyone else?
 16 A No.
 17 Q Are those all your employees?
 18 A By the way, everybody's a 1099. They're
 19 free to leave any time they want.
 20 Q When you say "1099" you mean that
 21 they're independent contractors?
 22 A Yes. Then there's Dana Shaponik.
 23 Q Okay. Who is she?
 24 A Dana is another -- she helps -- she
 25 does a lot of -- she screens a lot of our

Page 75

1 clients. Her -- she is the gatekeeper for lack of
 2 a better term. Her job is to -- when people want
 3 to come meet with us her job is to make sure that
 4 it's a good use of everybody's time. She does
 5 not really touch any of the files or anything
 6 like that that we've eluded to thus far.
 7 Q Could she send an e-mail under your
 8 name?
 9 A Yes. I believe so. I changed -- I
 10 believe so. I'm not 100 percent sure of that.
 11 Q Anyone else?
 12 A No.
 13 BY MS. YUHAS:
 14 Q Sorry, I just want to make sure I
 15 understand your staff.
 16 So, there's Dana, Shannon, Anita,
 17 Michelle and Jody; is that right?
 18 A Yes.
 19 Q Are -- do you have anybody else on
 20 staff?
 21 A They -- they -- those individuals
 22 support me, yes.
 23 Q So, those are the support staff?
 24 A Yes.
 25 Q And is there anybody else that you

Page 76

1 would consider part of your staff or do you have
 2 any other salespeople that you work with?
 3 A Well, I have -- I have a couple
 4 advisers who help see people, but they're not --
 5 I wouldn't consider them staff that, like,
 6 touches my documents or anything like that.
 7 The -- there's -- they don't have access to any
 8 of the stuff we just referenced.
 9 Q And I know Megan's been talking about
 10 these folks in terms of the subpoena, but can we
 11 just name who those other staff people are at
 12 this time. I understand they might not have
 13 helped with the documents, but --
 14 A Jason Zweibel, Z-W-E-I-B-E-L. Michael
 15 Tierney, T-I-E-R-N-E-Y. Andy Zuck, Z-U-C-K. And
 16 my brother Al Vagnozzi. That would be it.
 17 Q And these people helped see clients?
 18 A They are -- they -- yes. That's --
 19 that's their only role.
 20 Q And are they also 1099 employees?
 21 A They -- yes. Correct. Yes, they are.
 22 BY MS. GENET:
 23 Q Is somebody named Dana Vagnozzi?
 24 A Dana Shaponik. Dana's my -- Dana
 25 Shaponik is -- that's my sister. It's Dana

Page 77

1 Vagnozzi and Dana Shaponik. I don't know what
 2 she goes by now a days. She's divorced and, you
 3 know, her name is still formally Dana Shaponik,
 4 but I think she's been using her -- obviously her
 5 maiden name more and more.
 6 BY MS. YUHAS:
 7 Q When you talked about the office before
 8 you said there were about four or five offices in
 9 2,000 square feet that you have now before you
 10 move.
 11 A Yes.
 12 Q Who has those offices?
 13 A The only office -- Michelle is the only
 14 one with an office. Jason -- Jason is there
 15 primarily more than everybody else. So, Jason
 16 is -- I would say Jason has an office, but it's
 17 not his office. They kind of know like anybody
 18 could use the -- there's -- there's -- there's
 19 three -- there's three empty offices and they can
 20 come in and use them, come and go as they -- as
 21 they want.
 22 Q Okay. And you mentioned that Michelle
 23 has been working with you for about two years
 24 full-time.
 25 A Yes.

Page 78

1 Q And prior to that she was with you
 2 part-time?
 3 A Yes.
 4 Q And for how long was she with you
 5 part-time?
 6 A I don't know the exact dates. My guess
 7 would be in that 2000 -- 2013, 2014 range.
 8 Q And when did you form Pillar I
 9 originally?
 10 A 2010.
 11 Q So, how did you maintain documents at
 12 that time?
 13 A Me. I -- in a filing cabinet.
 14 Q And what happened to the documents in
 15 that -- where are those documents?
 16 A Where they're at today, I don't know.
 17 They were scanned in. We -- we -- I don't know
 18 where they're at today, but I believe they are
 19 all -- have been scanned in electronically. For,
 20 again, 2004 when I first got into the life
 21 insurance business to 2010 I -- I had all these
 22 files. I didn't -- didn't know what a scanner
 23 was. Let's face it, when did scanners -- when
 24 did they come out? I had everything in a filing
 25 cabinet.

Page 79

1 So, a client would come in and I would
 2 keep records of -- again, it was all life
 3 insurance related stuff, but I don't know when
 4 exactly I started this task of -- I didn't feel
 5 like dragging a bunch of filing cabinets around.
 6 So, I by myself -- it's like the extent of what I
 7 could do, scan a document, drag it to a folder.
 8 And over like a -- a year period I -- I literally
 9 would do like ten a day. So, it was my -- I
 10 would do it.
 11 Q 'Cause prior to 2013 or so when
 12 Michelle would have started what Pillar funds
 13 came out? Pillar I was in 2010?
 14 A Yes.
 15 MS. GENET: Just want to state for the
 16 record that Steve Rawlings and Dan Morrison have
 17 come in and --
 18 A Would this be an okay time to use the
 19 little boys room or --
 20 MS. GENET: Sure. Or do you want to
 21 finish up?
 22 MS. YUHAS: Just finish up this
 23 questioning if you don't mind.
 24 A Sure. Sure. Sure. Sure.
 25 Q And when did Pillar II start?

Page 80

1 A 2011.
 2 Q And Pillar III?
 3 A I was doing one about a year, 2000 --
 4 again, I don't know exact dates, 2000 -- what did
 5 I say? 2012, 2013-ish.
 6 Q So, like, let's just say Pillars one
 7 through three at least started probably before
 8 Michelle started working with you?
 9 A Yes. Pillar I and II definitely. I'm
 10 pretty sure Pillar III also.
 11 Q And so, can you just walk us through
 12 how you maintain those files by yourself for
 13 those first three Pillar funds and then just walk
 14 us through the evolution of those files and --
 15 and where they are today?
 16 A Well, I would scan -- I would -- filing
 17 cabinets, subscription agreements to the -- to
 18 all the funds, filing cabinets. And I would have
 19 spreadsheets, you know. I know how to -- again,
 20 I know some basic stuff. I know PowerPoint. I
 21 know word. I know Excel. So, I would keep a
 22 list of names, what people invested, did they use
 23 their IRA, did they use cash, right.
 24 So, I'd have a simple spreadsheet that
 25 I was doing my best to maintain the names. And

Page 81

1 then I have a filing cabinet of -- of all the
 2 paperwork that I was doing all by myself.
 3 Q And for those first three Pillar funds
 4 are those papers still in the filing cabinet?
 5 A No. No. They've been all -- they've
 6 been all scanned in -- they've been all scanned
 7 in electronically.
 8 Q And did you do the scanning for all of
 9 them?
 10 A I -- I don't know when I trans -- I
 11 don't know when I stopped. I don't recall doing
 12 any of that. Again -- again, like I said
 13 earlier, 2004 to 2010-ish I had a bunch of life
 14 insurance clients only. Paperwork involved and
 15 their life insurance applications, I had all of
 16 that. I had hard copies of all of that. And I
 17 very quickly said, I don't want to drag all of
 18 this stuff around, right.
 19 So, like I said, I slowly started
 20 scanning in those documents into -- into a file
 21 which, like you eluded to earlier, might be
 22 some -- remnants of that were on my desktop for a
 23 while. So, if you look on my computer today, I've
 24 got folders there, but they're like -- I don't
 25 think I've touched 90 percent of them in forever.

Page 82

1 I just never deleted them, you know.
 2 They eventually -- when Michelle got
 3 involved, she took over -- she took all of
 4 that -- she handled all of that. And whether
 5 Anita or -- or Michelle, I don't know who -- who
 6 scanned -- finished scanning all of that stuff,
 7 but to this day, there's no filing cabinet that's
 8 of stuff that we did, you know, before 2013 kind
 9 of stuff. Does that make sense?
 10 Q It does, thank you.
 11 BY MS. GENET:
 12 Q So, when it comes to your e-mail it
 13 would have been Anita Badalamanti and Michelle
 14 Price who collected your e-mail for production;
 15 is that right?
 16 A I went to Michelle Price. Michelle,
 17 basically, is the most organized and technical of
 18 all -- she knows where everything is, Michelle.
 19 And I go to her. I, basically, brought them all
 20 into the room and said, here's a list of
 21 everything we've got to get. And I tasked
 22 Michelle. It's her responsibility. She's the
 23 most -- and what she had the other girls doing
 24 collecting, I don't know.
 25 Q Are you familiar with whose e-mail she

Page 83

1 searched in response to Exhibits 4, 5 and 6?
 2 A Every and all e-mails.
 3 Q So, you think she searched the e-mails
 4 for all of the -- all of your employees?
 5 A Yes.
 6 Q Okay. And just to clarify, when it
 7 comes to your e-mail, those e-mails could have
 8 been sent by you, Michelle Price, Anita
 9 Badalamanti, Jody Markey or Shannon Westhead?
 10 A Yeah.
 11 Q And possibly Dana Shaponik?
 12 A Yeah. So, is your -- your question is,
 13 could e-mails be sent by them from me? Yes, they
 14 could, but they -- they would -- you know, for
 15 the most part they wouldn't do that unless I told
 16 them to. Every now and then I get -- like --
 17 like you, like all of us, we're inundated with
 18 e-mails a day. And now -- now -- 'cause my
 19 e-mail address over the years I've, you know,
 20 bought stuff from Amazon and all kinds of stuff
 21 and I get -- we all get hounded with junk mail
 22 solicitations. So, one of the things Anita does
 23 every day is scans my e-mails and deletes the
 24 junk, right.
 25 And I get -- I get e-mails from people

Page 84

1 who want to meet with me, insurance companies,
 2 insurance agents, just -- just people, just --
 3 Anita has the authority -- they all have the
 4 authority to help unclog my e-mail. And if they
 5 see something that's just not -- they know that I
 6 wouldn't want to partake in, they'll sometimes
 7 respond from me to get the point out. Not
 8 interested, you know, leave me alone. That's the
 9 kind of e-mails they would do, but client
 10 e-mails, response -- so, a client will ask me a
 11 question, Dean, you know, I got a question about
 12 A, B and C and they may take my e-mail, respond
 13 and say, hey, Joe, you know, this is Anita, Dean
 14 asked me to -- you know, even though she didn't
 15 ask me, she'll say -- they know a handful of
 16 things to do without bothering me about. Like I
 17 think any -- happens at so many companies.
 18 Q But in general you don't think they
 19 would make a substantiative response to one of
 20 your clients without your specific direction?
 21 A Correct. Correct. Correct.
 22 Q Okay. Are you aware of whether they
 23 searched your sent folders for e-mail?
 24 A I'm under the assumption that they
 25 did -- looked everywhere they had to get -- I did

Page 85

1 not tell them not to look anywhere, how's that.
 2 They knew they had complete access to anything
 3 they needed to get to fulfill the requests that
 4 you guys made.
 5 Q So, you're not aware of whether or not
 6 they searched your sent -- the sent folders?
 7 A I'm not -- I'm not aware if they sent
 8 my inbox or searched that. I'm saying, the best
 9 of my --
 10 MR. LAIGAIE: Wouldn't be it easier if
 11 you just said, no, I'm not aware? We're going to
 12 be here 'til eight o'clock today with these
 13 circular questions and answers. Do you know
 14 whether they searched your sent files?
 15 Q Are you aware of whether they used any
 16 search terms?
 17 A No.
 18 THE WITNESS: Thank you.
 19 Q Did you review the -- the e-mail they
 20 collected for responsiveness?
 21 A No.
 22 Q Okay. I guess just to kind of move on
 23 from -- from this topic.
 24 MR. LAIGAIE: In that case, let's take
 25 a break and use the rest room.

Page 86

1 MS. GENET: Well, just one moment. I
 2 just want to sum up and in summary request that
 3 counsel identify which custodians' e-mail were
 4 searched, which folders were searched, if any
 5 search terms were used and provide that
 6 information. And also, what physical files, if
 7 any, exist and were searched. Is that okay?
 8 MR. LAIGAIE: Oh, yeah. Yeah. We'll --
 9 we'll be glad to provide you details about the
 10 search.
 11 MS. GENET: Okay.
 12 Q Have you withheld any documents called
 13 for by the subpoena based on any claim of
 14 privilege?
 15 A No.
 16 Q Were any documents called for by the
 17 subpoena not produced for any reason other than
 18 privilege?
 19 A No.
 20 Q Are you aware of any documents
 21 responsive to the subpoena, but not provided that
 22 were in your possession at a prior time or that
 23 were lost, destroyed or otherwise disposed of?
 24 A No.
 25 Q Okay.

Page 87

1 MS. GENET: We can go off the record
 2 the time is 12:11.
 3 (A brief recess was taken.)
 4 MS. GENET: It's 12:29 and we are back
 5 on the record.
 6 BY MS. GENET:
 7 Q Mr. Vagnozzi, I just want to confirm
 8 that we didn't have any substantiative
 9 conversations while we were off the record.
 10 A Yes.
 11 Q Okay. So, now I want to just turn to
 12 some of the entities that we kind of briefly
 13 discussed earlier. And I have a document that
 14 might just make it easier for everyone.
 15 (SEC Exhibit No. 7 was marked
 16 for identification.)
 17 Q I'm handing you a document that's been
 18 marked Exhibit 7. Exhibit 7 bears the Bates
 19 stamp BFP 000516. Do you recognize this
 20 document?
 21 A I recognize the names of the companies,
 22 yes.
 23 Q Do you recognize the document to be an
 24 organizational chart?
 25 A Yes.

Page 88

1 Q And are you at the head of the
 2 organizational chart?
 3 A Yes.
 4 Q Okay. And so, the chart kind of starts
 5 with Dean Vagnozzi up top and then it branches
 6 out from there. Do you see that?
 7 A Yes.
 8 Q Do you know who created this document?
 9 A No.
 10 Q Okay. Underneath Dean Vagnozzi there
 11 is ABetterFinancialPlan.com, LLC and it's
 12 identified as a PA, LLC; is that accurate?
 13 A I believe so.
 14 Q And when it says "sole member," do you
 15 know if that's a reference to the fact that Dean
 16 Vagnozzi is the sole member of
 17 ABetterFinancialPlan.com, LLC?
 18 A Yes.
 19 Q And is this entity identified here what
 20 you were referring to earlier in testimony as
 21 ABFP?
 22 A Yes.
 23 Q And would that also be what you were
 24 referring to earlier as your brand?
 25 A Yes.

Page 89

1 Q All right. And then the other branch
 2 directly under Dean Vagnozzi would be Pillar Life
 3 Settlement Management Company, LLC. And it's
 4 identified as a Delaware LLC. Do you see that?
 5 A Yes. Yes.
 6 Q And once again, you're identified as
 7 the sole member; is that right?
 8 A Yes.
 9 Q Under Pillar Life Settlement Management
 10 Company, LLC it's identified that that company --
 11 can we refer to that as Pillar Life Settlement or
 12 would you rather refer to it as the management
 13 company? What's the easiest for you?
 14 A The management company --
 15 Q Okay.
 16 A -- is easier.
 17 Q Okay. So, you, Dean Vagnozzi, are the
 18 sole member of the management company; is that
 19 right?
 20 A Yes.
 21 Q And the management company is
 22 identified on Exhibit 7 as the general partner of
 23 a variety of funds; is that right?
 24 A Yes.
 25 Q Okay. Can you describe what these

Page 90

1 funds are.
 2 A They invest in life settlements.
 3 Q So, all of them?
 4 A Yes.
 5 Q Okay. So, it identifies Gibraltar
 6 Fund, LP, Pillar Life Settlement Fund I, LP,
 7 Pillar II Life Settlement Fund, LP, Pillar III
 8 Life Settlement Fund, LP, Pillar IV Life
 9 Settlement Fund, LP, Pillar V Life Settlement
 10 Fund, LP, Pillar VI Life Settlement Fund, LP,
 11 Pillar VII Life Settlement Fund, LP and Pillar
 12 VIII Life Settlement Fund, LP; is that right?
 13 A Yes.
 14 Q And all of these entities invest in
 15 life settlements?
 16 A Yes.
 17 Q And then who are the limited partners
 18 of each of the funds?
 19 A Investors.
 20 Q So -- and where do you find the
 21 investors or how -- how do people come to be
 22 investors in the entities?
 23 A They come to my office, life insurance
 24 clients, friends, family, people who hear our
 25 radio ads.

Page 91

1 Q Where do you have radio ads?
 2 A Where do I have radio ads?
 3 Q Yeah.
 4 A Philadelphia -- Philadelphia area.
 5 Q What radio stations?
 6 A KYW 1060.
 7 Q Is that all -- is that one radio
 8 station?
 9 A Yes.
 10 Q 1060?
 11 A And 1210 WPHP.
 12 Q WBHP?
 13 A P as in Paul.
 14 Q Any other radio stations?
 15 A No.
 16 Q Anywhere else?
 17 A No.
 18 Q Do you have finders for your funds --
 19 A No.
 20 Q -- or for the funds identified in
 21 Exhibit 7?
 22 A No.
 23 Q Okay. Just starting -- well, I guess,
 24 where do you find the underlying life insurance
 25 policies that are part of the funds?

Page 92

1 A Brokers. Life settlement brokers.
 2 Q And what are the names of these
 3 brokers?
 4 A The primary one is Coventry Financial
 5 Group and, to a lesser extent, Senior
 6 Settlements.
 7 Q Anyone else?
 8 A No.
 9 Q How about an entity referred to as LPI
 10 or Life Partners?
 11 A Life Partners? Not anymore.
 12 Q When did you stop doing business with
 13 them?
 14 A Three years ago, four years ago, in
 15 that range.
 16 Q Well, do you still own policies in any
 17 of your funds that you purchased from them?
 18 A Yes.
 19 Q Okay. Are all of these funds still
 20 active?
 21 A Yes.
 22 Q In connection with all of these funds,
 23 do you create and distribute any documentation?
 24 A Private placement memorandum.
 25 Q Okay.

Page 93

1 A Is that what you're referring to? Yes,
 2 private placements.
 3 Q Anything else?
 4 A Quarterly reports.
 5 Q Anything else?
 6 A Payouts when people pass away. Nothing
 7 else. K-1s. K-1s at the end of the year.
 8 Q Any documentation that you execute with
 9 investors?
 10 A That would be -- that would be the --
 11 you mean like the subscription agreement?
 12 Q Sure.
 13 A Yeah. Well, they get -- yeah. They --
 14 they get that when they sign up, when they
 15 invest.
 16 Q Any other documentation --
 17 A No.
 18 Q -- that the investors fill out?
 19 A Not that I know of.
 20 Q And sorry, just to clarify, the
 21 employees that you identified, Jason Zweibel,
 22 Michael Tierney, Andy Zuck and Al Vagnozzi, do
 23 they also introduce investors to the funds
 24 identified in Exhibit 7?
 25 A No.

Page 94

1 Q So, all of the investors for the funds
 2 identified on Exhibit 7 are investors that you
 3 personally identified?
 4 A These are people that came into our
 5 office, yes.
 6 Q Okay. And so, just to kind of go
 7 through, what are the ways that you meet the
 8 investors?
 9 A Primarily -- primarily radio
 10 advertisements and we get referrals from existing
 11 customers.
 12 Q Anything else?
 13 A No.
 14 Q Your website?
 15 A That's generated from -- very -- very
 16 seldom.
 17 Q So, what's the substance of the radio
 18 ads?
 19 A Can you be more clear? What do you
 20 mean by "substance"?
 21 Q Like, what do you say in them?
 22 A We say something to the affect of, are
 23 you -- if you're leery of a stock market
 24 correction, if you're looking for investments not
 25 correlated to the stock market come see us at A

Page 95

1 Better Financial Plan basically. That's the --
 2 that's the driving theme.
 3 Q Do you identify what they would find?
 4 A No.
 5 Q You just say generally --
 6 A It's a mystery.
 7 Q And then what kind of contact
 8 information do you provide in the radio?
 9 A There's an 800 number.
 10 Q Anything else?
 11 A No.
 12 Q Do you refer to your website?
 13 A No.
 14 Q Just the 1 (800) number?
 15 A Yes.
 16 Q And when they call the 1 (800) number
 17 who picks up the phone?
 18 A Nobody.
 19 Q Answering machine?
 20 A It's a voice mail.
 21 Q Who hears the voice mail?
 22 A The consumer who calls.
 23 Q Oh, sorry. Who hears the messages that
 24 the consumers leave?
 25 A Dana.

Page 96

1 Q And then what does Dana do with that
 2 information?
 3 A Dana screens them. She -- she makes
 4 sure -- she -- we get a lot of people who call
 5 who are kicking tires who are not -- you know,
 6 what are you selling? What do you offer? We
 7 don't get into any of that. She -- she,
 8 basically, says the recorded message tells people
 9 we have -- we have a handful of alternatives,
 10 come in and -- we, basically, say, come in, leave
 11 your money at home, we'll educate you. And at
 12 the end of the message I say, give us -- leave us
 13 a message. We'll contact you. And when you
 14 leave a message, whoever contacts you, don't ask
 15 them what we do because we're not going to tell
 16 you. And we're very clear and very firm on
 17 our -- on our recorded message.
 18 Q How come you don't tell people what you
 19 do?
 20 A Because I'm not allowed to.
 21 Q How come?
 22 A Because I don't want to generally
 23 solicit anybody.
 24 Q What is generally solicit?
 25 A Making a -- I guess an offer to buy an

Page 97

1 investment to anybody.
 2 Q What would be soliciting that wouldn't
 3 be a generally -- generally soliciting?
 4 A What would be -- repeat the question.
 5 Q What would be a permissible form of
 6 soliciting in your mind?
 7 A Somebody that comes into my office I
 8 get to know, I understand their assets, their
 9 financial situation, are they credited, non
 10 accredited, you know. It's not a -- it's --
 11 it's -- I get to know them well before I make any
 12 kind of offer to invest in any of these life
 13 settlement funds.
 14 Q And why -- what is your understanding
 15 as to why it is important to get to know them
 16 before you offer for them to invest in any life
 17 settlement funds?
 18 A I apologize. I interrupted you and I
 19 apologize. I want to make sure it's suitable for
 20 them.
 21 Q What does it mean to be suitable?
 22 A I want to make sure that they have the
 23 right amount of assets. That they're not giving
 24 me too large of a portion of their assets. That
 25 the time frames are suitable for them. That they

Page 98

1 don't need the money tomorrow if it's going to
 2 take four years for it to get their money back.
 3 Q Anything else?
 4 A No.
 5 Q How do you go about getting to know
 6 clients?
 7 A In an interview when they come to my
 8 office.
 9 Q And what does that interview entail?
 10 A First, why are they here. Why did they
 11 come in. What do they like and don't like about
 12 their current financial situation. What do they
 13 like and don't like about their current
 14 investments. Do they feel they're ahead of
 15 the -- do they feel they have -- they're ahead of
 16 the savings game, retirement game or do they feel
 17 they're behind it. Everybody has a different
 18 opinion on they've got enough, not enough.
 19 Are they fearful of -- of, you know,
 20 whatever investments they have of them doing
 21 better or worse. Understanding their, you know,
 22 their age, do they have to pay for college. I
 23 want to know everything they can tell me about
 24 their financial situation.
 25 Q Do you have a checklist that you go

Page 99

1 through?
 2 A I used to have a -- I would ask the
 3 same questions, but we -- we -- no. Do I have a
 4 piece of paper that I check off? No.
 5 Q Do you have a checklist in your mind?
 6 A Yeah.
 7 Q So, aside from the items you
 8 identified, are there any other items that are on
 9 the checklist in your mind?
 10 A No. It's pretty thorough.
 11 Q Do you take notes?
 12 A Yes.
 13 Q And what do you do with those notes?
 14 A Enter them into -- enter them into a
 15 computer with the person's name next to it.
 16 Q What do you mean "enter them into a
 17 computer"?
 18 A I summarize -- I don't keep any paper
 19 today.
 20 Q But I guess, like, you know, what
 21 interface do you use, Word, Excel? What kind
 22 of --
 23 A We have a -- we have an on line
 24 database that we put the person's name in and
 25 notes about that person.

Page 100

1 Q And how is that database maintained?
 2 A It's on line.
 3 Q Is there a name of the database?
 4 A It's a CRM. CR -- it's a contact
 5 management system.
 6 Q So, it's like a piece of software that
 7 you pay for?
 8 A Yeah. Yes, monthly.
 9 Q Was that contact management system
 10 searched to identify if it had any documents
 11 responsive to the subpoena?
 12 A I don't know.
 13 Q Exhibits, I think, four, five and six?
 14 A Don't know.
 15 Q Okay.
 16 MS. GENET: I guess we would just ask
 17 that the contact management system be searched
 18 for documents responsive to the various document
 19 subpoenas that have been issued.
 20 MR. LAIGAIE: Yeah. I'll check whether
 21 it was searched and -- and --
 22 A It doesn't hold documents though.
 23 Q Well, does it hold information?
 24 A Okay, but I'm not scanning --
 25 Q You're entering information, right?

Page 101

1 A Yeah.
 2 Q And you can access that information
 3 once it's entered?
 4 A Yes.
 5 MR. LAIGAIE: I'll look into it.
 6 MR. RAWLINGS: What's the name of it?
 7 THE WITNESS: One Page CRM.
 8 Q One Page CRM?
 9 A Yes. Yes.
 10 Q And that's just like the name of the
 11 software?
 12 A It's not one page though, but it's -- I
 13 don't know why they came up with that, but that's
 14 what it's called.
 15 Q Maybe that's the goal.
 16 A Yeah.
 17 Q Okay. So, when you take notes, you --
 18 just as you're talking you put them into the One
 19 Page CRM system?
 20 A No, at the end of the meeting.
 21 Q At the end of the meeting. And you
 22 have, like, handwritten notes until then?
 23 A Yeah.
 24 Q But you don't maintain those?
 25 A No.

Page 102

1 Q Okay. And I guess, what -- what makes
 2 you -- what kind of answers cause you to feel
 3 comfortable offering an individual the
 4 opportunity to invest in one of the funds
 5 identified on Exhibit 7?
 6 A What kind of information? When I
 7 explain it to them they say, I like it.
 8 Q Well -- so, I guess, they come in and
 9 you say, why are you here?
 10 A Yeah.
 11 Q And then you say, what is your
 12 financial situation? What do you like about your
 13 financial situation? What don't you like about
 14 your financial situation? Do you feel ahead in
 15 your retirement savings or behind? So, I guess
 16 I'm trying to understand, what kind of answers do
 17 you hear that make you think that they would be
 18 suitable or unsuitable?
 19 A For the life settlements? If somebody
 20 has several hundred thousand dollars and there is
 21 a piece of that money that they don't need for
 22 four to eight years, that's -- that's a major
 23 piece of it. And if they are -- the overwhelming
 24 majority of people who come in come in because
 25 they -- they're scared of a market connection.

Page 103

1 There's a consensus of the people who come in
 2 that we're up -- you know, the market's done so
 3 well so long, so they're -- they are open to
 4 things that are not correlated to the market.
 5 So, if they've got several -- but
 6 the -- the -- they've got several hundred
 7 thousand dollars, this is a large -- this is a
 8 large -- this is a large investment and I want to
 9 make sure whatever they have, it's not all they
 10 have. It's a piece and they can do without it
 11 for four to eight years.
 12 Q Would these be the same types of
 13 questions that you would ask people before having
 14 them invest in Fall Catcher?
 15 A I don't ask them to invest in Fall
 16 Catcher.
 17 Q Okay. You said you were a finder for
 18 Fall Catcher. What does that entail?
 19 A Fall Catcher is -- was a -- a short
 20 window. I'm not talking to anybody about Fall
 21 Catcher.
 22 Q Okay. During the time period that you
 23 were asking -- speaking to people about Fall
 24 Catcher what were you speaking about with them?
 25 A I wasn't speaking about it with them. I

Page 104

1 was talking about the -- the -- I was -- I was,
 2 basically, forwarding information to -- to my
 3 existing investors by the way. These are not
 4 people that I just met yesterday. These are
 5 people that -- who -- who were in the life
 6 settlement fund from two years ago, three years
 7 ago, who I have a relationship and have gotten to
 8 know well.
 9 So, we would talk about the
 10 opportunity. We'd send an e-mail out, talk about
 11 the opportunity and they came to a handful of
 12 educational events that I didn't talk about it at
 13 all. So, they -- they heard it directly from
 14 the -- the CEO.
 15 Q So, you're saying that the people who
 16 might come in from hearing your radio ads would
 17 never hear about Fall Catcher?
 18 A Yes.
 19 Q It would -- the only people that would
 20 hear about Fall Catcher would be people who had
 21 already affirmatively invested in one of the
 22 funds identified on Exhibit 7 or one of the ABFP
 23 funds?
 24 A Correct.
 25 BY MS. YUHAS:

Page 105

1 Q Can I just -- what was the window that
 2 you were finding for Fall Catcher?
 3 A Six weeks.
 4 Q And -- and what were -- what actual
 5 dates were those?
 6 A I don't know.
 7 Q What month was it in?
 8 A June -- June and July primarily.
 9 Q Of 2018?
 10 A Yes.
 11 Q And when did your ABFP Fund start?
 12 A ABFP Income Fund?
 13 Q Sure.
 14 A January.
 15 Q Of 2018?
 16 A Yes.
 17 Q Okay. So, I just want to understand,
 18 in what instances would you talk to an existing
 19 investor about investing with you in one of your
 20 funds versus referring them to Fall Catcher?
 21 Because those two offerings were happening at the
 22 same time, right?
 23 A The only people who heard about Fall
 24 Catcher were people that I had an existing
 25 relationship with and that had invested in life

Page 106

1 settlements or the income funds or just -- or
 2 that had life insurance with me. Again, a lot of
 3 people that I have as clients for the past --
 4 since 2004, life insurance, life settlements,
 5 the -- the income funds, I've got -- I've got a
 6 big Rolodex, but people who came in, like, June
 7 they didn't hear about it.
 8 BY MS. GENET:
 9 Q Is there a reason why?
 10 A Didn't know them -- didn't know them
 11 well enough. I had enough people -- I had enough
 12 people that I did know well that I could
 13 introduce them to that. I didn't need to
 14 introduce anybody else.
 15 Q Any other reason?
 16 A No.
 17 BY MS. RAWLINGS:
 18 Q Why did you stop being a finder for
 19 Fall Catcher?
 20 A They had their money. They -- they --
 21 I accomplished what they asked me to do.
 22 Q So, it was a matter of six to eight
 23 weeks, but what did they ask you to do?
 24 A Could they -- could I introduce them to
 25 potential investors.

Page 107

1 Q And you did that?
 2 A Yes.
 3 Q But then why was it only -- I don't
 4 understand why that then runs out in six to eight
 5 weeks?
 6 A Because they only -- they don't want an
 7 unlimited amount of money. They wanted four
 8 million.
 9 Q So, they wanted --
 10 A They hit their -- they hit their money
 11 raise target.
 12 Q So, their money raise target was four
 13 million?
 14 A Yes.
 15 Q And you helped them hit that?
 16 A Yes.
 17 Q And so then after that you're not
 18 finding anymore Fall Catcher investors?
 19 A Correct.
 20 Q Okay.
 21 BY MS. GENET:
 22 Q Did you do any diligence personally
 23 into Fall Catcher's business?
 24 A Yes.
 25 Q What did you do?

Page 108

1 A Well, first of all, Fall Catcher was --
 2 was not an operational business. I've known
 3 Henry for several years. To the extent I've
 4 known Henry for several years, I've kept in touch
 5 with him for a few years.
 6 MS. YUHAS: And who is Henry?
 7 A Henry Ford is the -- the -- I guess the
 8 founder, the inventor, the -- the originator of
 9 Fall Catcher. I knew he wasn't, you know, an ax
 10 murderer. He had a -- he sent me a lot of
 11 material pertaining to the -- the solution they
 12 offered, demos of the product. Again, YouTube
 13 videos educating me on how it worked and I saw
 14 enough that I was very impressed with what I saw.
 15 Q Did you actually use the demo?
 16 A Yes.
 17 Q Did you meet any of its customers?
 18 A There were no customers that I was
 19 aware of.
 20 Q Because it wasn't yet operational?
 21 A Correct.
 22 Q So the idea was that they needed the \$4
 23 million to become operational and have a product
 24 to sell?
 25 A Yes.

Page 109

1 Q Did they show you any evidence that
 2 they would have customers once their product was
 3 operational? I mean, like, you know, indications
 4 of interest or anything like that.
 5 A Yes. They had -- they had letters from
 6 insurance companies that wanted to -- that
 7 expressed interest in doing trials and pilots.
 8 Those kinds of things I saw.
 9 Q Anything else?
 10 A No.
 11 BY MS. YUHAS:
 12 Q Can I go back to the radio ads for a
 13 quick second. The radio ads on KYW, how often do
 14 they air?
 15 A Five, six times a day.
 16 Q What time?
 17 A All times of the day 24/7.
 18 Q Five, six times a day, okay. How long
 19 have you been doing the ads?
 20 A Two years.
 21 Q And the voice recording, is it yours?
 22 A Yes.
 23 Q And has the ad changed --
 24 A Yes.
 25 Q -- over the course of two years? How

Page 110

1 many times?
 2 A Five, six times, yes. They haven't
 3 stayed -- we track -- we track the commercials.
 4 We know which ones -- there's -- there's a
 5 handful of them and we know which ones pull
 6 better than the others.
 7 BY MS. GENET:
 8 Q How do you track them?
 9 A We know which one runs on each day.
 10 They run different --
 11 BY MS. YUHAS:
 12 Q And how about -- but how do you get
 13 data to know which ones are doing better than the
 14 others?
 15 A Because we have every -- every -- we
 16 have -- we have a website that every time -- we
 17 know the commercial -- commercial one runs
 18 Monday. At the end of the day if three people
 19 want to meet with us and commercial two runs on
 20 Tuesday and nobody wants to meet with us,
 21 commercial one's doing better. That make sense?
 22 Q So, you track it based on the response
 23 you get --
 24 A Yes.
 25 Q -- to the 1 (800) number?

Page 111

1 A Yes.
 2 Q And so, that leads me to the next
 3 question, which is, how many voice mails do you
 4 get on the 1 (800) number let's say a day?
 5 A Two to five.
 6 Q So, over the course of a week about 25
 7 e-mails?
 8 A Two to five. So, I would say
 9 consistently at least ten. When the market has
 10 volatility, like it did last week, 25.
 11 Q And from those voice mails from
 12 customers --
 13 A Not customers.
 14 Q Sorry, yes. Voice mails, Dana then
 15 screens them?
 16 A Again.
 17 Q And from those voice mails how many
 18 people then come into the office and meet with
 19 you, roughly?
 20 A About 80 percent, 75, 80, yeah. In
 21 that range, 75 percent or so.
 22 Q And of the 80 percent that come into
 23 meet with you, how many end up investing with
 24 you?
 25 A 50 to 75 percent of that.

Page 112

1 Q Okay. So, if you get 25 phone calls,
 2 you're looking at maybe 20 coming in to meet with
 3 you. And then about a 15 to 17 that will invest
 4 with you after that meeting? Does that sound
 5 about right?
 6 A Yes. You're probably not far off, yes.
 7 Q Okay.
 8 BY MR. RAWLINGS:
 9 Q Is there -- I mean, I know that we're
 10 talking the average and sort of theoretical, but
 11 this is your business.
 12 A Yes.
 13 Q Do you track this? Like, do you find
 14 out -- do you get an e-mail from someone at the
 15 end of the day saying, we had eight phone calls
 16 today?
 17 A I -- like a hawk.
 18 Q Right. Okay.
 19 BY MS. GENET:
 20 Q Does it get input into the One Page CRM
 21 system?
 22 A No.
 23 Q So, do the voice mails get, you know,
 24 listed out anywhere?
 25 A They're forwarded to my e-mail.

Page 113

1 Q But meaning, like, is there some kind
 2 of master document where people are entering all
 3 of the information?
 4 A No. No.
 5 Q Is there a reason why you don't track
 6 that information?
 7 A Because it's all in our e-mail. Wait,
 8 we do track it. You're asking is there a
 9 master -- I have an e-mail every day. When
 10 somebody leaves a message, 30 seconds after the
 11 message is left I get an e-mail and so does Dana.
 12 Well, we -- I'm -- I'm -- yes, we get an e-mail
 13 and that -- we don't delete it.
 14 BY MR. RAWLINGS:
 15 Q So, who -- who --
 16 A The e-mail has the person -- has the
 17 recording. We hear it.
 18 Q Who sends you the e-mail?
 19 A It's automatically sent from
 20 Grasshopper. The -- the system is called
 21 Grasshopper.
 22 Q Okay.
 23 A Maybe you've heard of them. They
 24 advertise on the radio.
 25 Q And so, they record the message and

Page 114

1 automatically e-mail it to you?
 2 A Yes.
 3 Q But you said that Dana is the one who
 4 listens to all of the messages?
 5 A I listen to them too. She calls them.
 6 When you spend the money I spend on radio I want
 7 to hear every single one.
 8 Q Right. And how much money do you spend
 9 on radio?
 10 A I was spending 20,000 a week.
 11 Q Uh-huh.
 12 A Now I spend about 10,000 a week.
 13 Q And what was the period you were
 14 spending about 20,000 a week?
 15 A It went in -- it went in spurts. I
 16 started out at 2,000 a week two years ago and it
 17 was successful. 2,000 let to 3,000, 4,000. I
 18 started spending more and more and more. Then I
 19 started just spending more and just paired it
 20 back. I didn't need to spend what I was
 21 spending. So, the money we spend today is like a
 22 very manageable number.
 23 Q And it's pretty easy -- like, how do
 24 you get billed? You get billed from the radio
 25 station, right?

Page 115

1 A Uh-huh.
 2 Q You cut them a check or it's through
 3 your bank account?
 4 A My credit card.
 5 Q Your credit card?
 6 A Yeah.
 7 Q So, you know or you could find out
 8 precisely exactly how much you've paid?
 9 A Absolutely.
 10 Q So, in general about two years ago you
 11 were spending about \$2,000.00 on ads, but then am
 12 I --
 13 A A week.
 14 Q A week. 2,000 a week?
 15 A Yeah.
 16 Q Okay. But then you -- you started
 17 spending more, right? Right?
 18 A Yes.
 19 Q Okay. And that was primarily a
 20 function of the success of the ads?
 21 A Yes.
 22 Q And by success we mean, Dana calling
 23 the people, the people coming in to make an
 24 appointment and people then eventually investing,
 25 correct?

Page 116

1 A Correct.
 2 Q And so that grew to about 20,000,
 3 correct?
 4 A Yes.
 5 Q And what period would that be, the
 6 20,000?
 7 A Probably -- probably -- where are we?
 8 We are November. It probably peaked early this
 9 year. We paired it back a couple months ago.
 10 Q Okay. And so now it's about 10,000?
 11 A 10 to -- yes. Sorry I interrupted you.
 12 Q A week or a month?
 13 A A week.
 14 Q A week, okay. And -- and so, I don't
 15 know if we have this, but you -- you would have
 16 the statistics. And just, you say there's five
 17 ads. From your just knowledge, which are the ones
 18 that do the best?
 19 A They all do -- they all do -- they all
 20 do about the same.
 21 Q What is different about the ads?
 22 A Right now we have a couple of clients
 23 who have done testimonials for us. So, we're
 24 running them. And there's like five of them,
 25 three are women, two are men. And the women are,

Page 117

1 to my surprise, pulling better than the men.
 2 Q Great. Yeah. I mean -- and it's just
 3 easy to tell because the ad runs and then you get
 4 the phone calls, right?
 5 A And I'm -- I'm -- when you spend the
 6 kind of money that -- yes. Yes.
 7 Q And you mentioned then earlier that you
 8 can tell by the phone calls, but you also made
 9 reference to the web page and you can tell if
 10 there are more hits on the web page after ads
 11 have run; is that right?
 12 A Yes.
 13 Q And do you -- do you in fact track
 14 that?
 15 A Yes.
 16 Q And how many hits on the web page is
 17 sort of --
 18 A I don't know how many hits, what -- I
 19 don't know how many hits hit the web page. I
 20 couldn't give you -- I couldn't give you an
 21 exact.
 22 BY MS. GENET:
 23 Q How do you think they're getting to the
 24 web page?
 25 A Hearing -- hearing our ads. I don't

Page 118

1 promote the website anywhere. So, it has to be
 2 from the ads.
 3 Q I think I asked you before if you say
 4 the name of your website --
 5 A Yes.
 6 Q -- on the ad.
 7 A I do not.
 8 Q So, you think people are doing like a
 9 Google search and coming up with --
 10 A I don't know.
 11 Q You don't know?
 12 A No.
 13 Q So, you know the ads run on the radio
 14 and then get hit on the web page, but you're not
 15 clear how they go to the web page?
 16 A No.
 17 BY MS. YUHAS:
 18 Q What are the times that the radio ads
 19 are running right now?
 20 A 24/7.
 21 Q Oh, sorry. I thought you said they ran
 22 about five or six times a day?
 23 A They do all throughout the day.
 24 Q Yes, but specifically, what are the
 25 times that they --

Page 119

1 A I don't specify it.
 2 Q You don't?
 3 A No.
 4 Q The radio station determines --
 5 A Yes.
 6 Q -- when they'll run them?
 7 A Yes.
 8 BY MR. RAWLINGS:
 9 Q So, you can't sort of choose to have it
 10 run in the morning like commute versus the
 11 evening commute? Is that how the contract works
 12 with the radio?
 13 A I have a -- I have a relationship with
 14 the -- the rep and I am one of their top
 15 advertisers, as you can imagine.
 16 Q Right.
 17 A And their job is to keep me at top
 18 advertiser. So, they put me all over the place,
 19 throw me in, they give me freebies. They -- I
 20 don't even look. I have no idea when it runs.
 21 BY MS. YUHAS:
 22 Q What's the rep's name?
 23 A Tom Humphrey.
 24 BY MS. GENET:
 25 Q Did you produce copies of the radio ads

Page 120

1 in response to the subpoenas?
 2 A I'm not sure.
 3 MS. GENET: Is that something you can
 4 look into, Mr. Laigaie, whether the copies of the
 5 radio ads are produced?
 6 MR. LAIGAIE: Yeah. And when you say
 7 copies, audio or textual?
 8 MS. GENET: If you have both we'll take
 9 both. Whatever you have and whatever is
 10 maintained in the ordinary course of business.
 11 MR. LAIGAIE: I'll take a look. I
 12 don't know what we have, but I'll look into it.
 13 MS. YUHAS: We asked for recordings as
 14 well as scripts and schedules and things.
 15 MR. LAIGAIE: And I don't know as I sit
 16 here of the, I forget how many pages we produced,
 17 60,000 pages, are there transcripts of the -- are
 18 there anything that appear to be transcripts in
 19 the production?
 20 MS. YUHAS: Not that I have seen, but
 21 that's why we're asking you if you produced them.
 22 MR. LAIGAIE: Okay. Well --
 23 BY MS. YUHAS:
 24 Q Would you say, Mr. Vagnozzi, that the
 25 radio ads are one of the primary ways that you

Page 121

1 find potential investors?
 2 A Yes.
 3 Q Okay. The 1 (800) number that can have
 4 voice mails on it, are there other ways that you
 5 inform people about that 1 (800) number other
 6 than radio ads?
 7 A Not that I'm aware of.
 8 Q What is the full 1 (800) number?
 9 A (855) 999-1346.
 10 BY MS. GENET:
 11 Q Did you say 1346?
 12 A Yeah.
 13 Q We're calling it a 1 (800), but it's an
 14 (855)?
 15 A It's a toll free number.
 16 BY MR. RAWLINGS:
 17 Q In -- if I were to just ask, in your
 18 mind, how does the radio ad with the people
 19 making the phone call and then coming into your
 20 office not constitute general solicitation?
 21 A They have no idea why they're coming
 22 in. They have no idea what I'm offering when
 23 they come in.
 24 BY MS. GENET:
 25 Q Other than the funds identified on

Page 122

1 Exhibit 7, what do you offer to the people who
 2 come in? Like, what are the offerings?
 3 A I educate them on the benefits of cash
 4 value life insurance if it's applicable. Most
 5 people are -- you know, have -- most people are
 6 unaware how -- the benefits of cash value life
 7 insurance. I explain that. And I will introduce
 8 them, if -- if applicable, to the merchant cash
 9 opportunity.
 10 Q Anything else?
 11 A No.
 12 Q Well, I know right this second you
 13 might not have an open Pillar fund, but I guess
 14 in the 2014 -- or, let's say, January 2013 to
 15 present time period, what would have been the
 16 full kind of offerings?
 17 A That's it. Life settlements is --
 18 is --
 19 Q So you would have offered any of the
 20 funds identified in Exhibit 7 and cash value in
 21 life insurance or merchant cash opportunity?
 22 A Yes.
 23 Q Anything else?
 24 A We had a -- we had a litigation funding
 25 investment called the Atrium Fund which we no

Page 123

1 longer talk about.
 2 Q Anything else?
 3 A Uh-huh.
 4 Q How come you no longer talk about the
 5 Atrium Fund?
 6 A The company doesn't want anymore money.
 7 Q What was your relationship to the
 8 Atrium Fund?
 9 A I was the general partner.
 10 Q So, when you say, "The company doesn't
 11 want more money," who are you referring to as
 12 "the company"?
 13 A Thrivest.
 14 Q And who is Thrivest?
 15 A They are a litigation -- a legal
 16 capital company in -- just outside of
 17 Philadelphia.
 18 Q And why don't they want anymore money?
 19 A They want to make sure they can deploy
 20 it properly. And they -- they think they're
 21 maxed out. So -- which is good that they tell me
 22 that.
 23 Q Anything else?
 24 A No.
 25 BY MR. RAWLINGS:

Page 124

1 Q Just how much did you raise for the
 2 Atrium Fund?
 3 A I don't know the exact amount.
 4 BY MS. GENET:
 5 Q Ballpark?
 6 A Six million. Five, six million.
 7 BY MR. RAWLINGS:
 8 Q And from approximately how many
 9 investors?
 10 A '91-ish, 92 I think we're at.
 11 Q And what's the -- is there a return
 12 that is discussed about with respect to the
 13 Atrium Fund?
 14 A Yes. They -- they sign one of three --
 15 four notes. Want details on it?
 16 Q Yeah.
 17 A Okay. They could invest -- they could
 18 put money in and get a six-and-a-half percent
 19 return on their money, a check every month with
 20 a -- their principal returned in three years.
 21 And they could invest for a two-year time period
 22 and get a ten percent return at the end of that
 23 two years, no checks during the process. They
 24 can invest in a three-year note and get a 12
 25 percent return or a four-year note and get 14

Page 125

1 percent.
 2 BY MS. GENET:
 3 Q And those returns you mean at the end?
 4 A Correct.
 5 BY MS. RAWLINGS:
 6 Q And are those, basically, just returns
 7 that Thrivest -- is the note with Thrivest?
 8 A Yes.
 9 Q Okay.
 10 A Yes.
 11 MR. LAIGAIE: Hold on a minute. I
 12 think there might have been some imprecision
 13 here.
 14 The note between the fund and the fund
 15 investor?
 16 A The fund invests in -- in Atrium.
 17 Atrium signs a note with Thrivest.
 18 Q But Atrium signs a note with Thrivest
 19 for the collected amount?
 20 A Yes.
 21 Q So, I'm an investor. I want to go with
 22 the four years, ten percent at the end of four
 23 years. Did I get that right?
 24 A 14 percent.
 25 Q 14 percent. And I want to go 50,000

Page 126

1 in. And then somebody else comes along after I
 2 leave and puts 100,000 in for the same one.
 3 A Uh-huh.
 4 Q And then someone else puts 200,000 in
 5 for the same one, which is the four years.
 6 Then -- does Atrium then just aggregate that and
 7 sign a note for the aggregated amount which, in
 8 this case, would be 350 for a four-year note or
 9 they're back-to-back notes?
 10 A First one, yes, we sign one note.
 11 Q Okay. So -- so, currently -- and when
 12 was the last time you invested -- you solicited
 13 investments in Atrium?
 14 A It's been a couple of weeks now.
 15 Q So, it was being raised over --
 16 A Until recently, correct.
 17 Q Until recently. And when was the first
 18 time you began soliciting for Atrium?
 19 A I don't know the exact date. I want to
 20 say around September of last year.
 21 BY MS. GENET:
 22 Q September 2017?
 23 A Yes.
 24 BY MR. RAWLINGS:
 25 Q And do you consider yourself a finder

Page 127

1 for -- for Thrivest or you -- you are the seller
 2 of the Atrium Fund?
 3 A Yes. I'm the general partner of the
 4 fund.
 5 Q How do you get paid?
 6 A We -- we are -- we receive a commission
 7 from Thrivest.
 8 Q The commission is based on?
 9 A A percentage of every dollar that goes
 10 in.
 11 BY MS. GENET:
 12 Q And is it the management company that's
 13 the general partner the same management company
 14 that's identified on Exhibit 7?
 15 A Exhibit 7 -- so -- so, by the way, I'm
 16 not sure when this was created, but Pillar --
 17 Pillar as I stated earlier, Pillar Life
 18 Settlement Fund name has changed. So, this is no
 19 longer. It is ABFP Management Company. So,
 20 something tells me this is about a year old.
 21 Maybe if John produced this, I don't know who,
 22 but --
 23 BY MR. RAWLINGS:
 24 Q And so, do you know why Atrium Fund is
 25 not on here?

Page 128

1 MR. LAIGAIE: On Exhibit 7?
 2 MR. RAWLINGS: Or is it?
 3 Q So, I apologize. Is it? Is Atrium on
 4 Exhibit -- this is Exhibit 7. Is Atrium Fund on
 5 here?
 6 A No.
 7 Q Do you know why Atrium Fund would not
 8 be on here?
 9 A No. Maybe it wasn't created when this
 10 document was put together.
 11 Q If there would be a chart that
 12 accurately depicts all of the different LPs or
 13 corporate entities under you now, would Atrium be
 14 part of it?
 15 A Sure. Yes.
 16 Q What else would be part of it?
 17 A A Better Financial -- ABFP Income Fund
 18 and ABFP Income Fund II.
 19 Q Okay. And are those the only two
 20 things?
 21 A Yes.
 22 Q Okay.
 23 A Three things.
 24 Q Three things, right. Thank you.
 25 BY MS. GENET:

Page 129

1 Q In connection with Atrium Fund was
 2 there a private placement memorandum?
 3 A Yes.
 4 Q Was that provided to investors?
 5 A Yes.
 6 Q And would that be the case with all of
 7 the entities identified in Exhibit 7, plus ABFP
 8 Income Fund II, ABFP Income Fund and Atrium Fund?
 9 A Yes.
 10 Q How about with respect to Fall Catcher?
 11 A Never.
 12 Q You never sought a PPM, a private
 13 placement memorandum, for Fall Catcher?
 14 A Your question was did I distribute any
 15 of them and, no, I did not.
 16 Q So, to the question, did you distribute
 17 a private placement memorandum related to Fall
 18 Catcher the answer is no?
 19 A Correct.
 20 Q Did you ever see a private placement
 21 memorandum in connection with Fall Catcher?
 22 A I saw the original private placement
 23 from Fall Catcher when I first met Henry, but
 24 that was the one -- that was before it was
 25 changed.

Page 130

1 Q What do you mean by "changed"?
 2 A Fall Catcher engaged to re -- to -- to
 3 complete a new private placement.
 4 Q Oh, I see. You saw a private placement
 5 memorandum for Fall Catcher for a prior private
 6 placement?
 7 A Yeah. I don't know the -- I don't know
 8 the -- the details of why it was created, who
 9 created it, who got it. That's what I saw.
 10 BY MR. RAWLINGS:
 11 Q Could you just describe it. Was it --
 12 like, how many pages was it? Was it a PPM or was
 13 it just like a couple of pages that sort of had
 14 financials on it?
 15 A No idea.
 16 Q You can't remember?
 17 A I -- I didn't go through it.
 18 Q You raised \$4 million for an enterprise
 19 that you didn't go through the --
 20 A That's not -- I said I didn't go
 21 through the first one. The first -- so, the
 22 first one -- again, a private placement was
 23 raised -- was created by Henry Ford long before
 24 he met me. Well, I met him, but long before I
 25 recall getting engaged with him. He created that

Page 131

1 and I know he had it. He sent it to me and I
 2 never -- I never -- 'cause my first -- basically,
 3 what I'm saying is, if I'm going to be involved,
 4 my attorney's going to look at it, not your
 5 attorney.
 6 Q When did he send it to you?
 7 A I don't recall.
 8 Q When's your best guess?
 9 A June -- my guess, June-ish. June time
 10 frame.
 11 Q Okay. I mean, is it fair to say it
 12 wouldn't have been before then because you really
 13 weren't -- do you remember when the first time
 14 you had contact with Mr. Ford about raising funds
 15 for Fall Catcher was?
 16 A May.
 17 Q Okay.
 18 MR. LAIGAIE: 2018.
 19 MS. YUHAS: Of 2018.
 20 A May 2018 that's my kind of re --
 21 reengage with him. I've known him for years, but
 22 kind of reengaged with him around May.
 23 Q And he sent you the PPM via e-mail
 24 probably, right?
 25 A When I have no idea, yes.

Page 132

1 Q Right. Okay. But you -- did you read
 2 it at the time?
 3 A No.
 4 Q Why not?
 5 A Because I was never going to promote
 6 it. I was never going to send it to anybody.
 7 Q When did you decide to -- to promote
 8 it?
 9 A I was never -- I never promoted it.
 10 Q How would you describe what your
 11 relationship is with Fall Catcher?
 12 A When? What time frame are we talking?
 13 Q June.
 14 A June. I learned about the, let's just
 15 say, the product, the offering, the potential.
 16 Forget finder, whatever, as a -- as a business
 17 person, as somebody who has money to invest I
 18 said, this is really cool.
 19 Q Uh-huh.
 20 A And, I think you got something here.
 21 And --
 22 Q Now, I just want to make -- you made
 23 that determination without reading the PPM?
 24 A Yes.
 25 Q And how did you make that determination

Page 133

1 then?
 2 A Everybody in America knows there's an
 3 opioid epidemic and everybody knows there's --
 4 every politician in America is behind it, finding
 5 a solution for it, right. And -- and it has to
 6 get fixed. People are dying every day and I
 7 don't need to spread that awareness. I saw the
 8 demo, the on-line demos, right? And -- and based
 9 on what I saw, I thought, this is worth looking
 10 into. And that was the extent of it.
 11 Q So then, what did you do next?
 12 A Henry was coming up to -- for -- Henry
 13 was going to be in Maryland and I said, I've got
 14 an event going on with my -- one of my -- I had a
 15 client event going on and I offered to have him
 16 come by and talk about it with my clients to gain
 17 their -- did they think like I thought. Would
 18 they think that this would be, hey, tell me more.
 19 So, that's --
 20 BY MS. GENET:
 21 Q Prior to introducing Mr. Ford to your
 22 clients did you direct him to engage with
 23 different counsel and create a new private
 24 placement memorandum?
 25 A Not at that point. I eventually did,

Page 134

1 but not at that -- up until what I'm talking
 2 about, not at that point.
 3 Q So, when did you direct Mr. Ford to
 4 create a new private placement memorandum with
 5 your counsel?
 6 A Well, I didn't -- I wouldn't use the
 7 word "direct." I don't know if you're just being
 8 general or specific. After -- after my -- after
 9 I had an event with 100 and some odd clients, all
 10 of them, for the most part, thought like I did,
 11 this is neat. Wow, how do I be a part of this.
 12 And once we saw that level of enthusiasm, that
 13 night, I said to Henry -- I called my attorney.
 14 I called John Petrillo and I said --
 15 BY MR. RAWLINGS:
 16 Q Okay. Don't -- we don't want you to
 17 reveal any, either a request for advice or --
 18 A Okay.
 19 Q -- so -- but, you know, I don't know if
 20 what you're going to say reveals that. There are
 21 a lot of communications with lawyers that are not
 22 either advice or requests for advice. So, I
 23 don't know if you want to talk to your counsel
 24 before you answer that. I just want to caution
 25 you that we don't want any advice.

Page 135

1 A I appreciate that. The point is I
 2 asked -- she asked when -- when did I advise or
 3 whatever --
 4 MR. LAIGAIE: Direct.
 5 A Direct. And it was only after the
 6 enthusiastic, overwhelming response from people
 7 that I said in a professional, I said -- I said,
 8 Henry, I have an attorney that I know very well
 9 who's aces, good guy, securities, knows his
 10 stuff. I know nothing about the document that
 11 you sent me. I didn't read it basically. I
 12 said, go see my -- I introduced him to John at
 13 that point.
 14 Q That's John Petrillo?
 15 A Petrillo, yes.
 16 BY MS. GENET:
 17 Q How do you spell that?
 18 A Hold on. Ready? P-I-O-U --
 19 Q No.
 20 MR. LAIGAIE: Huh.
 21 A P-I-U?
 22 MR. LAIGAIE: Huh.
 23 Q That's okay. We'll have documents
 24 later.
 25 A I can look it up.

Page 136

1 Q We'll have documents later.
 2 BY MS. YUHAS:
 3 Q And so, did you then see the version of
 4 the PPM for Fall Catcher during the time period
 5 that you were finding investors?
 6 A No. The one that -- the one John put
 7 together?
 8 Q Is that the one that was in play when
 9 you were finding investors?
 10 A There was no -- there -- there was a
 11 private placement in the works. A revised
 12 private placement was in the works.
 13 Q Okay. And have -- and you haven't seen
 14 that version?
 15 A Never.
 16 Q So, what did you -- how did you make
 17 the introduction to Fall Catcher with an
 18 investor? What -- what kinds of documents did you
 19 give them? What did you say to them?
 20 A I pretty much got all the material, all
 21 the -- the e-mails that Henry introduced to me
 22 and I would either forward them directly to my
 23 clients or I would copy and paste some of his
 24 stuff and -- and put it in e-mail format, but it
 25 was all about getting people to come meet Henry

Page 137

1 at -- at one of a couple of events.
 2 Q When you say "materials," what kinds of
 3 materials would be forwarded?
 4 A An e-mail. Primarily e-mail. Henry
 5 had one document that was created, I don't know
 6 when and by who, but it was like a -- it was like
 7 a two-page summary of the opportunity, his
 8 company, the opportunity. And I would -- I think
 9 I forwarded -- I think I forwarded that.
 10 Q Anything else?
 11 A No.
 12 BY MS. GENET:
 13 Q Just getting back to some of the items
 14 you identified when you were -- when you'd be
 15 meeting an investor. You said you would want to
 16 know if they were accredited or non accredited;
 17 is that right?
 18 A That would come up.
 19 Q What would it mean to be an accredited
 20 investor?
 21 A Somebody with a net worth of over \$1
 22 million or somebody with annual income by
 23 themselves of over \$200,000.00.
 24 Q And net worth \$1 million, would that
 25 exclude any assets?

Page 138

1 A Would it exclude any assets?
 2 Q Meaning is that \$1 million including
 3 their home or --
 4 A No.
 5 Q -- not including their home?
 6 A No. It's excluding their home.
 7 Q Any other assets?
 8 A No.
 9 Q And so, a non accredited investor would
 10 just be an investor who had less than \$1 million
 11 of net worth excluding their home or had an
 12 income of less than \$200,000.00?
 13 A Yes.
 14 Q Is that your understanding?
 15 A Yes.
 16 Q And how would you identify whether a
 17 person was an accredited investor?
 18 A They would provide me with all their
 19 data, what they had, they didn't have. A lot of
 20 times -- most of the times financial statements.
 21 They -- they'd have all that stuff with them.
 22 Q Would you keep that stuff?
 23 A No.
 24 Q They would just show it to you?
 25 A Yeah.

Page 139

1 Q And then would you identify that
 2 information in any location?
 3 A It was part of my notes. If -- it was
 4 part of my notes.
 5 Q How would you notate it in the system?
 6 Like, what -- what note would I see and
 7 understand, oh, that means they're accredited?
 8 A It would say 401K 700,000, cash in the
 9 bank 250, earns 350 a year.
 10 Q So, it wasn't like you wrote
 11 accredited, non accredited?
 12 A Correct. I know what an accredited
 13 investor is, yeah.
 14 Q You actually wrote the underlying
 15 indicia?
 16 A Yes. Yes. Obviously if it got to an
 17 investment, they're going to check the box if
 18 accredited or not accredited.
 19 Q Okay. Before we get to that. That
 20 information that you would collect you would then
 21 put into the One Page CRM system; is that right?
 22 A Yes.
 23 Q And then when you referred to them
 24 checking a box on paperwork, what are you
 25 referring to?

Page 140

1 A The subscription agreement.
 2 Q And what is the subscription agreement?
 3 A A document that they fill out to be a
 4 part of the investments.
 5 Q Were there any times where a non
 6 accredited investor was permitted to invest --
 7 A Yes.
 8 Q -- in any of the funds identified on
 9 Exhibit 7 or ABFP Income II, ABFP Income Fund and
 10 Atrium Fund?
 11 A I apologize. Yes.
 12 Q Under what circumstances would a non
 13 accredited investor be permitted to invest in
 14 those funds?
 15 A Well, the private placements were
 16 design to accommodate 35 non accredited
 17 investors.
 18 Q How were they designed to permit 35 non
 19 accredited investors?
 20 A That's a question for my counsel.
 21 Q So, you just understood that you had a
 22 ceiling of 35 non accredited investors that were
 23 permitted to invest in the funds identified on
 24 Exhibit 7, plus ABFP Income Fund II, ABFP Income
 25 Fund and Atrium Fund; is that right?

Page 141

1 A Yes.
 2 Q How did you track how many non
 3 accredited investors you had in any particular
 4 fund?
 5 A In the -- in the -- let's just say
 6 prior to 2000 -- prior to Pillar V -- Pillar I
 7 through V I did it by myself with a -- with a
 8 spreadsheet. Since then I relied on other
 9 people.
 10 Q Do you know how they track that
 11 information?
 12 A Spreadsheet.
 13 BY MS. YUHAS:
 14 Q Who did you rely on?
 15 A My staff.
 16 Q So for Pillar VI for example, who would
 17 you rely on to track?
 18 A It would have been either Michelle or
 19 at the time I had a girl by the name of Eileen
 20 Brennan who was -- she doesn't work with me
 21 anymore, but again, my staff a few years ago was
 22 pretty much me. Now it's obviously much more.
 23 It's, you know, much more. We have a larger
 24 staff, but at the time it was -- I was trying to
 25 offload it to other people.

Page 142

1 BY MS. GENET:
 2 Q Where did you maintain the spreadsheet
 3 that you kept the information about how many
 4 accredited and non accredited investors you had
 5 prior to Pillar V?
 6 A Pillar I through V would be on my
 7 computer.
 8 Q On -- like, on the hard drive? In a
 9 folder? Where would it be?
 10 A On my computer.
 11 Q Where on your computer?
 12 A In a file. I mean, on a folder inside
 13 my -- it's on my desktop.
 14 Q Are you aware of if -- what -- what
 15 would be the name of the file folder?
 16 A I don't know.
 17 Q Are you aware of whether that file
 18 folder was searched in connection with the
 19 subpoenas issued in this investigation?
 20 A I'm not aware.
 21 Q Okay. Are you aware of whether those
 22 spreadsheets were produced or not?
 23 A I'm not aware.
 24 MS. GENET: So, I would just ask, Mr.
 25 Laigaie, that you would just make sure that if

Page 143

1 they exist that they have been produced, and if
 2 not, produce them.
 3 MR. LAIGAIE: Okay.
 4 Q And then you said since then you rely
 5 on your staff and you identified Michelle Price
 6 and Eileen Brennan; is that right?
 7 A It depends on the time frame, yes.
 8 Q Post Pillar V or Pillar V and -- and
 9 moving forward.
 10 A Michelle was involved pretty much
 11 starting with -- Pillar VI -- Pillar VI, Pillar
 12 VII Michelle was -- was involved.
 13 Q Anyone else --
 14 A No.
 15 Q -- for Pillar VI and Pillar VII?
 16 A I had a -- I had a young -- I had a
 17 gentleman by the name of Steve McCarthy who
 18 was -- who was a life insurance agent that was
 19 working with me and he would -- he would help me
 20 maintain this ever-growing mountain of paperwork,
 21 yes.
 22 Q Anyone else?
 23 A No.
 24 Q So, you identified previously some
 25 other folks that worked in the office, Jody

Page 144

1 Markey, Shannon Westhead and Dana Shaponik. Did
 2 they also assist in the Pillar V --
 3 A No.
 4 Q -- and after time period with --
 5 A Sorry.
 6 Q -- determining how many non accredited
 7 investors there were in any given fund?
 8 A No.
 9 Q Okay. So, just Michelle Price and
 10 Steven McCarthy on Pillar VI and VII. And then,
 11 what -- what did Eileen Brennan help out with?
 12 Well, what was the time period of her employment?
 13 I guess let's start with that.
 14 A 2014, 2015, in that range.
 15 Q Why did she stop working for you?
 16 A Stay at home mom.
 17 Q So, she left to be a mom?
 18 A Yeah.
 19 Q Okay. And would Michelle Price and
 20 Steven McCarthy or Eileen Brennan give you any
 21 updates of how many non accredited investors you
 22 had in any given fund?
 23 A I don't remember.
 24 Q Did you have to file any paperwork in
 25 connection with the number of investors you had

Page 145

1 in your funds?
 2 A I left that up to my counsel.
 3 Q If there were regulatory filings in
 4 connection with a fund would you be aware that
 5 they were being made?
 6 A I -- I left it up to my counsel. I
 7 don't know what -- I don't know what he did in --
 8 I don't know what my attorney did, what paperwork
 9 he had to file to create a fund or after it was
 10 created.
 11 Q So, is it your testimony that you would
 12 not be aware of regulatory filings made by your
 13 counsel?
 14 A I'm -- I was under the assumption that
 15 all filings were being made by my counsel.
 16 BY MR. RAWLINGS:
 17 Q I think the question is, did you not
 18 review any of the filings? Would you -- would
 19 you not take a look at it before it was filed?
 20 A I don't recall.
 21 Q Well, do -- do you not recall or do you
 22 think that you -- you would recall if he was? I
 23 mean, it would be sort of -- how -- how would you
 24 know whether or not it was filed?
 25 A I don't know what the answer is. I --

Page 146

1 how would I know? I pay a large law firm to file
 2 paperwork for me and to file anything needed in
 3 conjunction with these -- these private
 4 placements that -- that we were putting together.
 5 Q And to the best of your recollection,
 6 you -- you cannot recall whether or not you would
 7 actually review any drafts of those?
 8 A Any of any filings that he did? I
 9 would not recall those reviews.
 10 Q And do you think it's -- do you think
 11 there were reviews or there weren't interviews?
 12 You just really have any idea one way or the
 13 other?
 14 A I don't have any idea.
 15 Q Okay.
 16 BY MS. YUHAS:
 17 Q Do you know what a Form D is?
 18 A I've heard of it.
 19 Q Have you seen a Form D before?
 20 A I may have.
 21 Q I mean, I guess, can you be more
 22 specific? Yes, you have or no, you haven't?
 23 A I'm not -- I'm not -- I'm not sure if I
 24 have. I'm assuming I have.
 25 Q Why are you assuming you have?

Page 147

1 A Because I am -- I -- I am not good with
 2 paperwork. I don't know how else to say. I --
 3 there's things that I focus on and things I do
 4 not focus on. And I have a CPA in my office
 5 because she is really good with paperwork and she
 6 handles the day-to-day stuff, my paperwork. I
 7 work with a very large law firm that bills me a
 8 lot per hour that I assume is -- when I need to
 9 sign something, I got to sign something,
 10 that's -- that's what I pay them for. And I sign
 11 documents. And if you -- for me to say, oh, this
 12 was Reg D or, oh, here's what it looks like,
 13 there's a logo up in the corner. I sign a bunch
 14 of stuff with my counsel and whether they were
 15 signatures or -- that's the best I could tell
 16 you.
 17 BY MR. RAWLINGS:
 18 Q Well, would you -- to the best of your
 19 knowledge, do you know if you are required to
 20 sign a Reg D filing?
 21 A Yes.
 22 Q So, you recall signing Reg D filings?
 23 A I'm not trying to be vague, but I know
 24 I -- these private placements are Reg Ds and I
 25 sign a bunch of paperwork in the process of

Page 148

1 forming these. Stuff comes over, my staff prints
 2 it out, but if -- if you want me to say, oh,
 3 yeah, I've -- I knew exactly -- I could identify
 4 five pieces of paper. Which one was the Reg D
 5 signature? I don't know how else to say it.
 6 Q I guess, what -- when you sign
 7 something that your attorney sends you, do you --
 8 do you read it first?
 9 A For -- yeah. For the most part, yes.
 10 Q Okay.
 11 MS. GENET: I'd like to go off the
 12 record for a second. The time is 1:34 and we're
 13 off the record.
 14 (Whereupon, at 1:34 p.m., a luncheon
 15 recess was taken.)
 16 AFTERNOON SESSION
 17 MS. GENET: The time is 2:11. We're
 18 back on the record.
 19 BY MS. GENET:
 20 Q Mr. Vagnozzi, I just want to confirm we
 21 didn't have any substantive conversations
 22 while we were off the record?
 23 A Correct.
 24 Q And nothing happened at lunch that
 25 would prevent you from testifying truthfully here

Page 149

1 today?
 2 A Correct.
 3 Q All right. Turning back to our prior
 4 conversation, you know, just, we have now kind of
 5 had a long conversation about investors and --
 6 and how you met them. And I just want to ask you
 7 if anything in our conversation refreshed your
 8 recollection as to any additional ways that you
 9 met investors?
 10 A No.
 11 Q Okay, thank you. Just a reminder that
 12 we all have to make audible responses so that the
 13 court reporter can write them down.
 14 And I guess, did you meet investors
 15 through other investors?
 16 A Yes. We've been referred by other
 17 people.
 18 Q Did you have any individuals that you
 19 worked with that introduced you to people they
 20 know who might want to be investors?
 21 A Yes. We had referrals from other --
 22 from other clients.
 23 Q Other than your clients? For example,
 24 the independent contractors who you identified
 25 who worked in the office, such as, for example,

Page 150

1 Jason Zweibel, Michael Tierney, Andy Zuck and Al
 2 Vagnozzi?
 3 A No.
 4 Q None of those people introduced you to
 5 anyone to become an investor?
 6 A Correct.
 7 Q How about Anita Badalamanti?
 8 A Correct, no.
 9 Q Michelle Price?
 10 A No.
 11 Q Jody Markey?
 12 A Michelle Price's brother bought a life
 13 insurance policy. Aside from that, no.
 14 Q Okay. Shannon Westhead?
 15 A Shannon's father is a -- is a client.
 16 Q Any other person who acted as a finder
 17 for investors for you?
 18 MR. LAIGAIE: Is -- and, I'm sorry, I
 19 wasn't paying attention and I apologize. Is
 20 the -- embedded in that question that there's a
 21 formal relationship or some compensation paid?
 22 In other words, a finder as opposed to --
 23 MS. GENET: We were just going through
 24 all the different ways that Mr. Vagnozzi might
 25 have met someone. So, no referral source.

Page 151

1 MR. LAIGAIE: Okay.
 2 A So, the radio brings in almost more
 3 than I can handle. Years ago when I was doing
 4 seminars -- I was doing seminars for life
 5 insurance, you know. Primarily, I would talk --
 6 I would do -- I would do -- I would invite people
 7 to a restaurant and I would talk primarily about
 8 life insurance, but I haven't done them in -- in
 9 a long time; six, seven, eight years.
 10 Q Okay. So, I guess another way would be
 11 people who you knew preexisting to beginning with
 12 the radio ads?
 13 A Yes.
 14 Q All right. And then -- so, just kind
 15 of going back to what that process would look
 16 like. Somebody hears a radio ad, makes a phone
 17 call to the 855 number, leaves a message on the
 18 answering machine and then you make an
 19 appointment for them to come into the office; is
 20 that right?
 21 A Somebody from my -- Dana primarily
 22 would make an appointment if she thought they
 23 were suitable to come into the office.
 24 Q During your appointment in the office
 25 you would interview them to identify the various

Page 152

1 items that -- that we discussed; is that right?
 2 A Yes.
 3 Q And what would the next step be?
 4 A Most people would leave and come back
 5 at a later time.
 6 Q And would they come back to your office
 7 or to, like, some kind of dinner or seminar? How
 8 would that work?
 9 A They would come back to my office for
 10 the most part. The overwhelming majority of
 11 people would come to my office.
 12 Q And what would you do in your office
 13 during the second meeting?
 14 A Answer any further questions. A lot of
 15 times they would come back and they were ready to
 16 move forward. A lot of times they would come
 17 back and they just had a few more questions that
 18 I would clarify for them.
 19 Q And the options for moving forward
 20 would be either, as you said, I think cash life
 21 insurance is what you called it?
 22 A Yeah, cash life insurance.
 23 Q Or one of your various funds which are
 24 identified in Exhibit 7, plus ABFP Income Fund
 25 II, ABFP Income Fund and Atrium Fund; is that

Page 153

1 right?
 2 A Correct.
 3 Q Any other possible investment that
 4 would be offered when they returned to your
 5 office?
 6 A No. I didn't have a bunch of -- I had
 7 a handful of things, yeah.
 8 Q And at that point is that when the
 9 investment would take place?
 10 A Correct.
 11 Q So, what -- I know that you hosted
 12 dinners. Is that what you called them, dinners?
 13 A We would -- yes. Yes.
 14 Q Was there any other name you used for
 15 them?
 16 A Seminar. An educational seminar.
 17 Q So, who would be invited to those?
 18 A When we would have maturities, which is
 19 a polite of saying when somebody dies, that's a
 20 payout to our investors. So, not all the time.
 21 Sometimes we have small maturities, but recently
 22 the event like around Fall Catcher we had \$1.1
 23 million payout. And that means a lot of people
 24 are going to get 10, 15, \$20,000.00, \$40,000.00
 25 checks. It's a good day for them. So, we turned

Page 154

1 it into a marketing event where we invite people,
 2 we buy them dinner, bring a friend or two to hear
 3 about this if you'd like and a lot of people did
 4 it. So, that's what we would do.
 5 Q So, is it fair to say that all of the
 6 attendees of your dinners were either investors
 7 or people brought by investors?
 8 A Yes.
 9 Q And how many people would you request
 10 that an investor bring?
 11 A We wouldn't -- we wouldn't require it.
 12 We wouldn't -- if they wanted to.
 13 Q Would you ask them to forward your
 14 invitation to other people?
 15 A Yeah. We -- yes, we would. Sometimes
 16 we would do that, sure.
 17 Q Did you ask them to forward your
 18 invitation to a particular number of people?
 19 A No.
 20 Q Why not?
 21 A Why not? I just didn't.
 22 Q Okay. So, you did not specifically or
 23 personally, I guess, invite anyone to those
 24 dinners that was not a current investor by
 25 e-mail; is that right?

Page 155

1 A I didn't say that. The -- the
 2 events -- the events -- when we would have a
 3 maturity, it's -- it's a -- it's the -- it's the
 4 best form of marketing I do. People come in from
 5 the radio and people come in guarded. I get
 6 that. I don't blame them. They come in guarded.
 7 At these dinners we would hold,
 8 everybody's happy. And when they bring friends,
 9 everybody's happy. I'm handing out one million
 10 bucks, right. So, I would primarily leave it up
 11 to, hey, we're going to have this event.
 12 Invariably, our clients would bring a handful of
 13 people. I don't care if it was two people or 25.
 14 The people who would come, friends of friends, a
 15 high percentage of them would want to meet
 16 one-on-one after they saw, wow, this is really
 17 cool. I would bring my people here and there, a
 18 neighbor, someone I met, hey, come on down, but
 19 it wasn't --
 20 Q I see. So, you sometimes invited
 21 people who were not investors to the dinner?
 22 A Correct.
 23 Q But in large part, the people who you
 24 invited were already investors?
 25 A Yes.

Page 156

1 Q And those people were -- offered to
 2 bring friends?
 3 A Yes.
 4 Q And that would -- was that ever not the
 5 case? Was it ever the case that you invited a
 6 larger group of people to come to the dinners
 7 that were not prior investors with whom you had a
 8 relationship?
 9 A We would invite -- no. Every invite
 10 that we would send to any event were people that
 11 we knew. I would not --
 12 Q What does it mean to you to be a person
 13 that you know?
 14 A Client. Investor.
 15 Q Would you ever invite someone who you
 16 knew, but was not an investor?
 17 A Of course.
 18 Q And under what circumstances would you
 19 invite someone that you knew? Like, what would
 20 it mean to you that you knew them? Meaning,
 21 would that -- would a person who you just saw in
 22 the grocery store for the first time fit into
 23 that category?
 24 A Of course not.
 25 Q So, who would fit into that category of

Page 157

1 someone you knew?
 2 A Someone I had a dialogue with. Someone
 3 I -- who I've casually or in-depth or --
 4 high-level or in-depth -- went into depth
 5 discussion about what is it I do. You know,
 6 somebody who's expressed interest in learning
 7 more. A lot of people just -- a lot of people --
 8 there's two kinds of people. Some people want to
 9 come one-on-one and sit with me. A lot of people
 10 want that. Some people feel that I'm going to
 11 twist their arm and want to be in, like, a group
 12 setting so that I can't twist their arm. There's
 13 two camps. And they're two equally, you know, I
 14 don't want a one-on-one with this guy, he's going
 15 to hard sell me. It was never the case, but they
 16 didn't know that. So, I would use people that
 17 I've known and just for whatever reason, I know
 18 they liked what I heard, just, come on out, come
 19 meet our clients, come hear about it.
 20 BY MR. RAWLINGS:
 21 Q Can I -- I'm sorry. When you were
 22 having a seminar the people who had sort of
 23 called in from hearing the radio ad in the prior,
 24 like, three or four weeks, would you invite them?
 25 A Yes. Keep in mind, we don't do -- we

Page 158

1 don't do these that frequently.
 2 Q Right.
 3 A So, it was -- it was an exception, not
 4 the rule.
 5 Q Right. But the way that would work
 6 would be, you know that you're having an event
 7 coming up, you know. Two weeks before the radio
 8 ad runs, you get eight people who have called.
 9 Would you call and invite them to the event or
 10 would you have one of your assistants do so? How
 11 would they hear about it?
 12 A Very seldom would we call anybody. I
 13 don't want to put anybody on the spot. We're not
 14 telemarketers. The stuff -- stuff we do speaks
 15 for itself. So, if we're having -- we would --
 16 we would e-mail -- you know, we would e-mail
 17 people. People -- people who like -- like you
 18 said -- I forget who said it. People who come
 19 into our office, not everybody bought something.
 20 They came in, liked it, just never pulled the
 21 trigger.
 22 A month later we have one of these
 23 payout dinners. We e-mail, hey, Joe, come out.
 24 Sit with a bunch of our investors, ask them
 25 anything you want. So, for that -- that's how --

Page 159

1 yes, we would -- we would invite people that we
 2 met before in the past, but nobody would call
 3 them, you got to come.
 4 Q It's not a matter -- it's a free meal,
 5 right? I mean it's Ruth's Stake House, it's an
 6 invitation, right?
 7 A Yeah, that costs me 60 bucks every time
 8 per person and I'm not interested in having some
 9 freeloader that. I try to minimize that.
 10 Q I'm not talking about freeloaders. The
 11 specific question is, people who have called in
 12 response to the radio ads, would you invite them
 13 to an upcoming seminar?
 14 A No. If they came into my office, we
 15 had a dialogue with them, I got to know who they
 16 are, understanding their assets and didn't buy,
 17 yes. Somebody left a message, hi, blah, blah,
 18 blah, did we call them, hey, you called us three
 19 weeks ago, come to an event? That didn't happen.
 20 Q Okay.
 21 BY MS. GENET:
 22 Q Did you maintain a list of invitees?
 23 A No.
 24 Q How about attendees, Like, the people
 25 who actually attendee?

Page 160

1 A Which event?
 2 Q Any -- all of your events. Is that
 3 something you maintained a list of, like, in the
 4 ordinary course?
 5 A Whether we keep it -- no. We -- we
 6 would know if they were coming. If someone says,
 7 we're coming, we'd have to keep a list down just
 8 for -- to have the proper accommodations, seats
 9 and tables and chairs and food, if we're feeding
 10 them, but no. If you said, do I have a list of,
 11 you know, the 42 people who came to the event we
 12 did a year ago, no, I wouldn't have that.
 13 Q How about a month ago?
 14 A I wouldn't have it.
 15 Q Do you know how you maintained your --
 16 your list? Was it just, like, numbers or were
 17 there names on them?
 18 A We would know who was coming.
 19 Q How would you know who -- how would you
 20 know who was coming?
 21 A They would call them -- they would call
 22 or e-mail.
 23 Q Someone would just remember it in their
 24 mind?
 25 A Who -- no. I just said, we would have

Page 161

1 a list of who was coming.
 2 Q You wouldn't keep it?
 3 A I don't know that we would maintain it.
 4 Q Because would you follow-up with people
 5 who came?
 6 A Yes. But again, my point is, if six
 7 months ago we did an event, I'm telling you right
 8 now that I don't know that there's a piece of
 9 paper or an e-mail or a spreadsheet laying around
 10 from an event we did six months ago. Do we know
 11 immediately within -- you know, within -- leading
 12 up to the event who's coming, Joe Blow is coming
 13 and he's bringing his sister, we would know that.
 14 Q Would you put the information to the
 15 One Page CRM system?
 16 A No.
 17 Q Why not?
 18 A Because chances are a good bit of the
 19 people coming we already know who they are,
 20 right. I'm not a -- I'm not interested in
 21 gathering data on you unless you're serious.
 22 Q But how would you manage to follow-up
 23 with the people who attended the event?
 24 A We wouldn't necessarily follow-up. You
 25 know who follows up, people who are desperate for

Page 162

1 business. And I'm not desperate for business. We
 2 have plenty of people calling us from our radio
 3 ads.
 4 Q In addition to invitations by
 5 electronic mail to your dinners or seminars --
 6 sorry, scratch that. First, can we just decide
 7 whether we're calling them seminars or dinners or
 8 is there a distinction in your mind between
 9 dinners and seminars?
 10 A We didn't -- all seminars -- all
 11 dinners -- all seminars were not necessarily a
 12 dinner. I didn't necessarily feed everybody all
 13 the time. So, seminars, any kind of educational
 14 session.
 15 Q So, when you had a dinner you would
 16 consider it a seminar, but you didn't consider
 17 every seminar a dinner? Is that what you're
 18 saying? We should call it a seminar, is that
 19 okay with you?
 20 A Call it a seminar.
 21 Q Okay. So all of these seminars I
 22 understand from you that you invited people by
 23 e-mail; is that right?
 24 A Correct.
 25 Q And that you did not invite people by

Page 163

1 phone; is that right?
 2 A It's very seldom.
 3 Q Did you invite people by snail mail,
 4 like, just regular mail?
 5 A Occasionally. I -- since -- in what
 6 time frame are you speaking with?
 7 Q January 2014 to present -- or, sorry,
 8 January 2013 to present time frame.
 9 A Would we have mailed some things to
 10 people? I don't remember if we would have mailed
 11 anything. To say that definitively that a
 12 marketing piece never left the office, I do not
 13 know for sure.
 14 Q Did you ever make mailers in the
 15 office?
 16 A In the past four, five years have we
 17 ever made mailers? I don't recall a specific
 18 one. If -- if you put one in front of me right
 19 now and said, oh, did you create this four years
 20 ago, three years ago? Oh, okay, maybe we did. I
 21 don't recall anything off the top of my head of a
 22 mailing going out.
 23 Q If you were to have created a mailer
 24 who would have physically created it? Is that
 25 something that you had the technical capacity to

Page 164

1 do?
 2 A No way.
 3 Q Is it something that one of your
 4 in-house independent contractors would have been
 5 capable of doing?
 6 A Sure, but no -- but --
 7 Q Did you have a marketing company that
 8 you paid to make marketing materials for you?
 9 A No. I'm not a -- people come in my
 10 office, I don't -- I don't inundate them with --
 11 the marketing material that we've done would be
 12 the educational videos that we've created.
 13 That's better than any brochure that I could
 14 create.
 15 Q Just to stick to the physical kind of
 16 paper. Did you have anyone who can make physical
 17 paper marketing materials for you?
 18 A Everybody in our office is capable of
 19 making a marketing material, but I don't recall
 20 any that were created.
 21 Q As far as the videos that you created,
 22 who made them for you?
 23 A Anthony Iannuzzi --
 24 Q Could you spell that?
 25 A -- shot the videos. I-A-N-U -- two Ns

Page 165

1 and two Zs. I-A-N-N-U-Z-Z-I.
 2 Q An how about Lori Larr?
 3 A She was a producer.
 4 Q So, you would have one person shoot the
 5 video and then you would deliver the content to
 6 somebody else to edit?
 7 A Lori Larr -- Lori Larr would edit. Tony
 8 would shoot -- Anthony would shoot the videos and
 9 most of the time he would edit them also. If he
 10 was just too busy, Lori Larr would be a person to
 11 edit video.
 12 Q Would you participate -- participate in
 13 the editing process?
 14 A No.
 15 Q How about the radio spots, who produced
 16 those?
 17 A Me. I produced the radio spots.
 18 Q How? Would you speak into a
 19 recorder --
 20 A Yes.
 21 Q -- into your phone or how would you do
 22 it?
 23 A I would go to the studio and speak into
 24 a microphone.
 25 Q So, you would go down to the radio

Page 166

1 station and do it there?
 2 A Yes.
 3 Q Okay. And then, did you do any
 4 television spots?
 5 A Yes.
 6 Q And who produced those?
 7 A Same people, Tony and Lorrie.
 8 Q So, with respect to the content of
 9 the -- your e-mails, who decided on the content
 10 of your e-mails to your clients?
 11 A Which e-mails are we referring to?
 12 Q Your e-mail invitations, I'm sorry.
 13 A I would -- it depends on -- it depends
 14 on the event. It depends on what we're doing. I
 15 would be -- I would be the -- again, it depends
 16 on the event. I would have a hand in a good bit
 17 of it 'cause I want to make sure what's going out
 18 is accurate. And it's my business and I want to
 19 know what's being sent out. But again, we're --
 20 we're -- is there communications with my clients
 21 on some kind of event that goes in between, sure,
 22 but --
 23 Q In between what?
 24 A In between the time we say we're going
 25 to do something and the time the event happened.

Page 167

1 Q I think I'm confused. What do you mean
 2 by that? Like, meaning there might be somebody
 3 else who communicates with them?
 4 A Sure.
 5 Q But just the original invitations that
 6 you drafted inviting somebody to one of your
 7 seminars, who would draft those invitations?
 8 A I would do most of it.
 9 Q And then, to the extent anyone else did
 10 the drafting part of it, would you have final
 11 approval before they went out?
 12 A Again, it depends on the event. I'm
 13 not trying to be evasive, but -- first of all,
 14 again, I want to state that, we didn't did do
 15 this that much. So, this was not like, oh, let's
 16 have everyone we're doing -- this was not a
 17 frequent occurrence.
 18 So, when we would do these, for
 19 example, like the event in June where we had a
 20 dinner payout and then we invited Henry to speak
 21 at, I drafted like the -- I drafted the
 22 invitation, but it would be e-mailed to our
 23 current investors and with -- people wanted to
 24 say, hey, I'm coming or not coming, that wouldn't
 25 go to me. That would go to somebody in my

Page 168

1 office. If the office -- if they had a question
 2 or two, what time is dinner? I was unclear.
 3 What's the address? I wouldn't handle that.
 4 So, that's what I'm trying to say that
 5 like I would draft an initial, but in between is
 6 what I referred to, there was dialogue between my
 7 staff and the investors.
 8 Q And with respect to the radio spots,
 9 how was the content of the radio spots decided?
 10 A I did it.
 11 Q How about with the TV spots?
 12 A I did it. Oh, I would do -- we would
 13 shoot video, Tony would create -- he would create
 14 what he thought was a good spot out of a bunch of
 15 takes that we'd do. So, I'd shoot, I don't know,
 16 half hour worth of content. I'd say the same
 17 thing five different ways. And what he would do,
 18 he would go -- you know, go back to his editing
 19 studio with half an hour's worth of video and
 20 pick out what he thought was the best stuff.
 21 Q With respect to the half hour of
 22 content, who decided on what that was?
 23 A Me.
 24 Q And then once Tony put together the
 25 video would you have final say over the final

Page 169

1 product --
 2 A Of course.
 3 Q -- of the TV spot?
 4 A Of course.
 5 Q How about with the videos, how was the
 6 content decided on those?
 7 A I -- Tony came and recorded a video of
 8 everything that I wanted to record video of.
 9 Q And so, you had final editorial
 10 decision making on those as well?
 11 A He would take this much video -- sorry.
 12 He would take a large amount of video and he
 13 would narrow it down to the -- you know, if -- if
 14 we shot 15 minutes of -- of takes, I would say
 15 the same script that I would -- I would come up
 16 with a script or two or three, 60 second type
 17 scripts, and we would shoot two or three
 18 different takes of it. And then he would go
 19 back, you know, there are -- it's difficult to
 20 shoot a commercial and video. It's difficult. I
 21 would mess up a bunch of times and over and over
 22 again. He would give me a final, what do you
 23 think of this? And the guy was good. And he
 24 would find the best -- the gems of the 15-minute
 25 commercials and come up with 60 seconds that --

Page 170

1 that he thought was good.
 2 Q When it comes to the people -- oh,
 3 sorry, just one more question. With respect to
 4 the website ABetterFinancialPlan.com, is that
 5 your only website?
 6 A No.
 7 Q Which other websites did you have?
 8 A There's a few others I disclosed on
 9 the -- on the questionnaire. We have -- that
 10 is -- that is -- ABetterFinancialPlan.com is like
 11 my -- again, my brand. That's where -- that's
 12 where everything leads to. We have a ABFP Income
 13 Fund, we have the Atrium Fund website and I
 14 believe that's it.
 15 Q All right. Who decided on the content
 16 of your websites?
 17 A Me with some input from the people in
 18 the office, but I'm -- you know, it's my site. I
 19 ultimately say if something goes up or does not
 20 go up.
 21 Q You know, when you have attendees at
 22 your seminar I understood from you that the
 23 majority of those attendees are already
 24 investors; is that right?
 25 A Yes.

Page 171

1 Q And then, they would bring along
 2 perhaps some other people who are not yet
 3 investors. With respect to that entire group,
 4 would you have them fill out any paperwork?
 5 A No.
 6 Q For example, a response form?
 7 A What kind -- define "response form."
 8 Q What -- what do you think a -- have you
 9 ever heard that term used before?
 10 A Well, response form like a
 11 questionnaire, like, what did you think of what
 12 you heard kind of stuff? We would fill out -- we
 13 would have them -- there would be a sign-in sheet
 14 who attended -- who attended the event. None of
 15 which did I look at, did I maintain. That's what
 16 my staff would do, who attended and showed up.
 17 At the end would they -- it would be not uncommon
 18 for us to fill out -- have them fill out a form
 19 to say, you know, would you like to come in and
 20 learn more, something like that.
 21 Q Okay. So, if -- attendees, they would
 22 sign in on some kind of, like, sign-in sheet, is
 23 that what you're saying?
 24 A We did the best we could for that.
 25 Q How were those maintained? You're

Page 172

1 saying your employees would maintain those. I
 2 guess if those exist, we'd ask that they be
 3 produced in response to the subpoenas.
 4 A Okay.
 5 Q Okay. And then for response form --
 6 let's just get it document here. I'm going to
 7 show you something that's been marked as Exhibit
 8 8.
 9 (SEC Exhibit No. 8 was marked
 10 for identification.)
 11 Q All right. I'm showing you a document
 12 that's been marked Exhibit 8. It's dated January
 13 10, 2013. You'll see it's not from you. You're
 14 not on it. It's from Al Vagnozzi to some named
 15 J-E-O-Z-I-T-E Yahoo.com. The subject is, "Ruth's
 16 Chris dinner." And there's attachments, a
 17 questionnaire dot PPTX --
 18 A Okay.
 19 Q And an image. Do you recognize this
 20 document?
 21 A No.
 22 Q Okay. Have you ever -- so, it's an
 23 e-mail from Albert Vagnozzi who's your brother,
 24 right?
 25 A Yes.

Page 173

1 Q And also an independent contractor with
 2 A Better Financial Plan?
 3 A Yes. He's got his -- he does his own
 4 thing, but yes, he works with me.
 5 Q Okay. And he writes, "Hello, George.
 6 It was nice to meet you last night. You
 7 indicated on your response form that you would
 8 like to meet with us to work with you to improve
 9 your financial plan."
 10 So, do you have an understanding as to
 11 what he's referring to when he says "response
 12 form"?
 13 A Probably a seminar event at Ruth's
 14 Chris that was done.
 15 Q Okay. That would be the event --
 16 A Yes.
 17 Q -- but what's the -- what's a response
 18 form?
 19 A I don't know. I don't know what this
 20 is. This is -- this here is a questionnaire.
 21 BY MR. RAWLINGS:
 22 Q Right. In the e-mail your brother is
 23 referring to, "You indicated on your response
 24 form." So I think the question is, when you have
 25 a seminar is there a form that people fill out

Page 174

1 before they leave that is called a response form?
 2 A And I specifically said a minute or two
 3 ago that, yes, we probably have a form that
 4 people fill out that says, would you like to meet
 5 with us one-on-one.
 6 There's a form like that that would
 7 indicate -- in other words, if -- if we have 20
 8 people in a room, we don't want to be -- we're
 9 not looking to go hound the person that heard
 10 what you had to say and doesn't want to meet with
 11 us. We're looking to have them, basically, say,
 12 yeah, call me.
 13 Q Right. And so -- so -- and as you read
 14 this e-mail that's what this is referring to,
 15 such a form --
 16 A Yes.
 17 Q -- that people would fill out at a
 18 seminar, right?
 19 A Yes.
 20 BY MS. GENET:
 21 Q Do you maintain copies of that response
 22 form?
 23 A No.
 24 Q Do you have a template response form
 25 that you bring with you to these seminars?

Page 175

1 A No.
 2 Q So, I'm just trying to understand what
 3 it looks like for this George person to indicate
 4 on a response form.
 5 A Probably, you know, would you like to
 6 meet with us, name, address -- name, address --
 7 Q Right. But the template for that,
 8 where does it come from? Is that something
 9 that's provided by your office?
 10 A To this attendees?
 11 Q To the attendees, yeah, to fill out.
 12 A Of course we would -- of course we
 13 would do it.
 14 MS. GENET: Okay. So, I guess I would
 15 ask that if there is a template and -- for that
 16 response form, and if there are actual filled out
 17 response forms that exist that you provide them.
 18 MR. LAIGAIE: Okay.
 19 A From 2013?
 20 Q For the period January 2013 to present.
 21 A Okay. We're not going to have anything
 22 like that, but we're happy to search whatever you
 23 want to search.
 24 Q Okay. And then the -- then attached to
 25 it is a questionnaire. Is that a document that

Page 176

1 you're familiar with?
 2 A This is a questionnaire that I used to
 3 use, yes.
 4 Q Okay. So -- and is this something that
 5 you would ask people to fill out?
 6 A I have not had them fill this out in
 7 years, but this is -- this is -- this is a simple
 8 questionnaire that was created years ago, yes.
 9 Q When did you stop using it?
 10 A I don't know.
 11 Q Did you start using a different version
 12 of this document?
 13 A I -- I used this so many times I didn't
 14 need to look at this. So, I -- I can go right
 15 down the list right now and tell you in order
 16 what it is. So, I would do that. And I would
 17 take notes on a piece of paper. I didn't need --
 18 I didn't need a cheat sheet like that.
 19 Q And then you would put that information
 20 into the One Page CRM?
 21 A Which has only been used for about a
 22 year. I want to make that clear too. That's not
 23 something that's been around forever.
 24 Q Oh, okay. Do you know when you started
 25 using it?

Page 177

1 A About a year, year-and-a-half ago.
 2 Q Okay. So, basically, like, in
 3 beginning of 2017 you think?
 4 A I don't know exactly when, but yes. It
 5 has not been a long time.
 6 Q Somewhere in the 2017 time frame?
 7 A I would -- I would -- yes.
 8 Q All right. Do you know who George is?
 9 A No.
 10 Q Could it be someone named George
 11 Zitzler?
 12 A If -- if we -- we could -- I could do a
 13 search and see if he's a client.
 14 Q No, that's okay. I'm just asking if
 15 you know sitting here right now.
 16 BY MR. RAWLINGS:
 17 Q Where would you do that search in?
 18 A In my Outlook. Everybody who's a
 19 client goes in Outlook.
 20 Q Okay.
 21 BY MS. YUHAS:
 22 Q In what way, as a contact?
 23 A Yes. If somebody buys something from
 24 me they go in Outlook.
 25 Q And when --

Page 178

1 A And not until then.
 2 Q And when you save the contact
 3 information do you put some type of notation as
 4 to what they invested in?
 5 A Yes.
 6 Q And do you know if the contact from
 7 your -- the contacts from your Outlook was
 8 produced?
 9 A We -- I don't know.
 10 Q Okay.
 11 MR. LAIGAIE: A list of investors for
 12 every one of their fund has been produced,
 13 correct?
 14 MS. YUHAS: We do have lists --
 15 MR. LAIGAIE: Yeah.
 16 MS. YUHAS: -- you know, so.
 17 MS. GENET: But the lists are pretty
 18 barebones, right. So, like, the list that you
 19 produced, at least in the format that we've
 20 received them, it would have last name, first
 21 name, dollar invested and then IRA cash and then
 22 the percentage of the fund owned. It wouldn't
 23 have, for example, their physical location. So,
 24 their address. It wouldn't have their phone
 25 number. So, there's certainly a lot of

Page 179

1 information that would not be in the investor
 2 list as you produced them that would be in a
 3 contact.
 4 MR. LAIGAIE: Okay. Okay.
 5 MS. GENET: Okay.
 6 MR. LAIGAIE: So, you want a list of --
 7 you want the list of investors from the contact
 8 sheet -- from the Microsoft database, whatever?
 9 MS. YUHAS: Right. Just the -- the
 10 native file of the -- the native contacts
 11 exported from Outlook.
 12 MR. LAIGAIE: But not all of them?
 13 MS. GENET: The ones that are
 14 responsive.
 15 MS. YUHAS: The ones that are
 16 responsive?
 17 MR. LAIGAIE: Yeah. Yeah. Okay.
 18 A What's responsive?
 19 BY MS. GENET:
 20 Q Meaning we don't want your personal
 21 trainer's contact.
 22 A You can tell I have one, right?
 23 Q Well, someone who's totally unrelated
 24 we wouldn't want.
 25 MS. GENET: Okay. Can you mark this.

Page 180

1 (SEC Exhibit No. 9 was marked
 2 for identification.)
 3 Q I'm going to hand you a document that's
 4 been marked Exhibit 9. Exhibit 9 is an e-mail
 5 from you to Stephan and Carol Gammarino,
 6 G-A-M-M-A-R-I-N-O, dated January 11, 2013 bearing
 7 the Bates stamp BFP 007010.
 8 Do you recognize this document?
 9 A "Copy and paste the link below." I
 10 don't recall the video or the e-mail, but
 11 obviously -- or the e-mail, but this is from me.
 12 Q Who are Stephan and Carol Gammarino?
 13 A One of my best clients.
 14 Q What do you mean by "best clients"?
 15 A They bought life insurance from me in
 16 2006 and just great people. Just --
 17 Q Are they involved in any of your
 18 investments besides life insurance?
 19 A Yes, life settlements. Pillar --
 20 they're in the Pillar investment.
 21 Q Any others?
 22 A They are in my ABFP II Fund and that's
 23 it.
 24 Q Okay. So, you forward them a link --
 25 you send them a link to I guess a video of you

Page 181

1 speaking and you ask that they send the link to
 2 20 people; is that right?
 3 A I think I understand the context of
 4 this. I think they wanted to -- they -- okay.
 5 I think they -- what they wanted to do
 6 is they -- they would come into my office --
 7 again, they're very good clients of mine. They
 8 would come in wanting to -- they feel that they
 9 want to be able to talk to their clients, their
 10 friends, co-workers, about what they do because
 11 they were so excited with what they were doing
 12 with me. So, they don't know what to say.
 13 So this -- again, I don't know for
 14 sure, this is five years ago, almost six,
 15 saying -- in other words, let me explain what we
 16 do. The video that I did probably said something
 17 to the extent of, hey, I'm Dean Vagnozzi, I focus
 18 on stock market alternative investments. If
 19 you're leery of a correction, if you want to --
 20 whatever, I would say. I would say it for them.
 21 So, when I say encourage -- so, when I
 22 say, "Include some encouraging words," what I
 23 mean by that is, hey, Joe, whoever they would
 24 send it to, here's the -- here's the guy I've
 25 been working with, watch this. Something --

Page 182

1 encouraging words to have them watch that.
 2 That's exactly what that e-mail means.
 3 BY MR. RAWLINGS:
 4 Q Just want to make sure your testimony
 5 is clear. You're saying that this e-mail, the
 6 idea for it, originated because Steve and Carol
 7 Gammarino said to you, can you -- can you help us
 8 out? We want to be able to say all these great
 9 things about what we're doing. And so, we want
 10 you to please give us information so we can do
 11 that, is that your testimony?
 12 A My testimony is tweaking what you're
 13 saying. My testimony is, they didn't come to me,
 14 like, hey, do me -- like I was doing them a
 15 favor, but people -- I hear it all the time. I
 16 hear it all the time. I -- I want to explain --
 17 I want to explain what I'm doing with you with,
 18 you know, a handful of co-workers or friends.
 19 And people don't know how to -- they -- they
 20 don't want to come off like they're selling, but
 21 they want to spread the word about what I'm
 22 doing, but they don't want to be like the sales
 23 pitch. And obviously I would love to have 20 of
 24 his friends instead of people 20 people from the
 25 radio because 20 people from the radio come in

Page 183

1 and talk to me like a crook until they get to
 2 know me. 20 of Steve's friends, I'll deal with
 3 them all day long.
 4 So, what I do -- what I've done in the
 5 past, I've not done this is a while, hey, Steve,
 6 Carol, send this video out. So I record a video
 7 on my desktop, forward it to them. Just forward
 8 it to them. Let me say what needs to be said.
 9 All you have to do is just send it to 20 people
 10 or two people or 100.
 11 Q No. I just want to be clear because
 12 like if we go and talk to Steve and Carol do you
 13 think that -- do you think that they would say,
 14 oh, yeah, no, we contacted Dean and we wanted him
 15 to do something for us or do you think that they
 16 would say, yeah, no, actually Dean asked us to
 17 send this out to help solicit clients for him?
 18 A No. I would not -- I -- they would
 19 say -- they would never say that I said, send
 20 this to 20 people. They would say just that.
 21 You couldn't have picked a better client of mine.
 22 They're screaming advocates for what I do. And
 23 they say -- they would like -- again, I don't
 24 want to repeat myself, but that's exactly how,
 25 the contents of this e-mail.

Page 184

1 Q And then you're saying, you know, you
 2 e-mail them a few days later to see if they'll
 3 join you for dinner, you're just sort of adding
 4 that in as -- as sort of advice?
 5 A Clients would come to me -- clients --
 6 if over -- over the years -- this is a couple --
 7 right here this couple said to me -- 'cause
 8 again, years ago what did I say, these guys are
 9 life insurance -- they started out as life
 10 insurance clients. And how did I say I got a lot
 11 of life insurance clients? I used to do a lot of
 12 seminars around life insurance and that's how I
 13 met them. 2005 I think they're clients, they go
 14 back.
 15 So, over the years it was like they
 16 wanted to -- so, the idea was put a bunch of
 17 people -- could they put -- could they put a
 18 bunch of people in a room. And I said to them,
 19 you put a bunch of people in the room, I'll pay
 20 for it, right. You do the heavy lifting. So,
 21 that would have been the context around this.
 22 BY MS. GENET:
 23 Q Would they receive any compensation?
 24 A I don't think I ever did this with
 25 anybody. So, the answer is no. I don't think

Page 185

1 anybody ever -- this is -- you won't find 20 of
 2 these.
 3 So again, you picked one that -- like
 4 the needle in the haystack that -- that, no.
 5 This would have been -- they want to -- Carol --
 6 his wife Carol wanted me to come talk to -- come
 7 to talk to a bunch of employees at her -- this is
 8 years ago. I couldn't even tell you when. I
 9 have Apostles as clients. I don't know how to
 10 say it. And this is they wanted to tell people
 11 and I said, either forward this to them or you
 12 want to get ten people in a room for in dinner,
 13 I'll buy.
 14 BY MS. YUHAS:
 15 Q So, other than that last statement you
 16 just made about offering to buy the dinner, is
 17 there any incentive you would give to Carol and
 18 Steven about referring people to you?
 19 A We've offered people \$500.00 gift
 20 certificate or something like a Visa gift card
 21 if -- you know, as -- as like an introduction,
 22 but -- but again, this is five years ago. I
 23 don't -- I don't recall any kind of compensation
 24 being --
 25 Q Did you ever give anybody a \$500.00

Page 186

1 Visa gift card.
 2 A Yes. Couple of people. Not many, but
 3 yeah.
 4 Q And in what circumstances?
 5 A If somebody came into our office that
 6 was qualified they got a \$500.00 gift
 7 certificate.
 8 BY MS. GENET:
 9 Q Meaning if they referred the different
 10 person?
 11 A That's it. 'Cause right now each
 12 person in my radio costs me \$1,000.00 for a
 13 stranger to come in to fight me. And then --
 14 whereas, I'd rather -- I'd rather have a
 15 qualified person, a friend of my client's come
 16 in. It's -- it's a better -- it's a warm lead
 17 and it's -- it's cheaper.
 18 BY MS. YUHAS:
 19 Q And which clients have been given
 20 \$500.00 Visa gift cards?
 21 A I don't know.
 22 BY MR. RAWLINGS:
 23 Q You can't remember any of them?
 24 A No. It's --
 25 BY MS. YUHAS:

Page 187

1 Q Have the Gammarinos ever been given a
 2 \$500.00 Visa gift card?
 3 A No. I'm pretty certain they haven't.
 4 They introduced me to a client a year ago. I
 5 don't know if I -- whether I gave them, you know,
 6 \$100.00 gift card or something like that, but
 7 not -- no, I don't think so.
 8 BY MR. RAWLINGS:
 9 Q Who was the client they introduced you
 10 to?
 11 A Yeah. Oh, gosh, I'm drawing a blank on
 12 her name. I could find out her name, but it's --
 13 it was a -- it was a woman that their daughter
 14 played -- their daughter played volleyball with
 15 this woman's -- excuse me, this woman's kid, so.
 16 Q And that person invested?
 17 A Yeah.
 18 Q And, so for the other --
 19 A She bought life insurance. She bought
 20 multiple things from me.
 21 Q Did she buy at Pillar?
 22 A I don't recall.
 23 Q For the \$500.00 gift card, would you
 24 say that it was like five? More like ten? Like,
 25 how many of those do you think you gave out?

Page 188

1 A Probably not more than ten. I don't
 2 know. I do not know, but it was not a large
 3 amount.
 4 Q And would they get the gift card if
 5 they just referred a qualified investor or if
 6 they referred a qualified investor who invested?
 7 A If they just referred a qualified
 8 investor.
 9 Q So, you've only had ten people referred
 10 to you qualified investors?
 11 A That I've given a gift card to.
 12 Q Okay. So, then why would some do it
 13 and they don't get a gift card? What's the
 14 distinction?
 15 A I don't have to gift you a gift card.
 16 I'd rather not give you a gift card. I'm not
 17 going to go around throwing -- 500 bucks is 500
 18 bucks, right.
 19 Q True, but it's a better investment for
 20 you than the radio because the radio casts you
 21 1,000 a person?
 22 A Absolutely.
 23 Q So, I'm just -- just curious why it
 24 wouldn't be more formulaic. Why it wouldn't be,
 25 look, if you were to give me -- refer an investor

Page 189

1 I'll always give you a \$500.00 gift card. As a
 2 business model that would actually make a lot of
 3 sense, no?
 4 A It would make a lot of sense, but
 5 nobody does it. We've discussed that internally
 6 and -- and we've discussed that. And it's just
 7 something that -- people don't like referring
 8 people to financial -- we don't get a ton of
 9 referrals. Not because people are unhappy because
 10 it's not like I'm saying, here, I bought a
 11 vacuum, go get -- financial services is a lot of
 12 risk side to it. If it doesn't work out they're
 13 going to blame the person who made the
 14 introduction.
 15 Q Do you recall from this e-mail whether
 16 or not Steven and Carol sent this to 20 people?
 17 A No. I know 100 percent certain that I
 18 didn't do any kind of meeting with them. No
 19 group setting like --
 20 BY MS. GENET:
 21 Q And you just remember that?
 22 A Yeah, absolutely.
 23 Q Why does it stand out in your mind?
 24 A Because again, this is -- you picked my
 25 favorite -- if not my favorite client, my top

Page 190

1 three favorite clients and I know everything
 2 about them. There's -- you know how a minute ago
 3 you asked me the -- I can't remember -- I have a
 4 lot of clients. I can't remember all their
 5 names. This one --
 6 BY MR. RAWLINGS:
 7 Q Well, the other two favorite ones,
 8 which are they? What are their names?
 9 A Phil Maury, Tom Monahan. I got a
 10 handful, but my point is, this couple, they're my
 11 age. They've been with me a long time. They're
 12 great people.
 13 Q Did Phil Maury ask a similar thing to
 14 have similar information that you provide so he
 15 could send it to other friends or other people?
 16 A No.
 17 Q What about the other person?
 18 A No. No. This is a -- this is a --
 19 this is not a regular thing.
 20 Q Uh-huh. Okay.
 21 BY MS. YUHAS:
 22 Q And when I asked you about the
 23 Gammarinos getting a \$500.00 gift card you said
 24 no, right? But then you mentioned that they did
 25 get \$100.00 gift card.

Page 191

1 A Because this is -- you're asking --
 2 this is a -- this is 2013 and -- and the whole
 3 \$500.00 idea is like a year old kind of thing
 4 because I'm always comparing it to radio and
 5 radio is so expensive.
 6 Q Yeah. I just -- let me just -- that
 7 wasn't my question.
 8 So, other than -- you know, outside of
 9 my very specific question of a \$500.00 gift card,
 10 what kinds of things have the Gammarinos received
 11 from you for referrals?
 12 A None that I'm aware of.
 13 Q Other than the \$100.00?
 14 A I didn't say for sure. I'm saying, it
 15 would have been -- the client that they referred
 16 me to, her name is Nadia, Russian woman.
 17 Nadia -- I -- I want to say Comaneci, right? Do
 18 you know remember that? Do you guys know --
 19 okay, thank you.
 20 But they -- she -- this woman was --
 21 bought a very large life insurance policy from
 22 me. I just know her husband passed away. She's a
 23 widow -- widower? I always get -- she's a widow
 24 and a couple of kids, didn't have enough life
 25 insurance. It would have been not uncommon -- I

Page 192

1 would not be surprised at all if I sent the
 2 Gammarinos a thank you, a \$100.00 Visa gift card
 3 or something, but -- but it wasn't required
 4 that -- did they say, send me money, I have
 5 clients whose, you know, family member die, I
 6 send flowers. I mean, that's what we do.
 7 Q Yeah. No, I get it. I just -- you
 8 know, you said you know -- you know a lot about
 9 these people and you have a very good
 10 recollection about them. So, I just wanted you
 11 to specifically tell us what you've given them.
 12 A And if the card was mailed, I didn't do
 13 it. So, that's what I'm saying. It would be one
 14 of those things I would not be surprised if
 15 somebody in my staff mail them 100 bucks with a
 16 thank you letter, thanks for referring Nadia.
 17 BY MS. GENET:
 18 Q Would you direct your staff to ask your
 19 investors to bring qualified people to the
 20 seminars?
 21 A Would I direct my staff? My staff is
 22 an extension of me. So, we always want -- we
 23 always want our clients to bring people. It just
 24 doesn't happen much. Back to the reasons I -- I
 25 elaborated on earlier.

Page 193

1 (SEC Exhibit No. 10 was
2 marked for identification.)
3 Q Handing you a document that's been
4 marked Exhibit 10. Exhibit 10 is an e-mail trail
5 dated January 11, 2013 from -- oh, excuse me.
6 Sorry, scratch that.
7 Exhibit 10 is an e-mail trail dated
8 April 5th, 2013 from Al Vagnozzi to Joe Bennett.
9 The subject is, "Dinner Invitation." And it has
10 an attachment of an invitation to a dinner at
11 Ruth's Chris. I see you're not -- I know you're
12 not on the e-mail, but do you recognize the
13 document --
14 A No.
15 Q -- as an e-mail?
16 A I do not recognize.
17 Q But you recognize it as an e-mail?
18 A Sure.
19 Q It's just not something you've seen
20 before, right?
21 A Correct.
22 Q And do you know who Joe Bennett is?
23 A Yes.
24 Q Who is he?
25 A He's good friends with my brother.

Page 194

1 Q And is he an investor?
2 A He's in one of my Pillar funds, yes.
3 Q Okay. And so, do you know if he was an
4 investor prior to the April 2013 time frame when
5 the e-mail was sent out?
6 A I don't recall. I don't know -- I
7 don't know what fund he's in, what life
8 settlement fund he's in.
9 Q And Al writes to Joe, "See if you can
10 get a qualified person to this dinner." Do you
11 have an understanding as to what a "qualified
12 person" is?
13 A Somebody who can -- probably
14 somebody -- not to speak for my brother, but I
15 know what a qualified person is, somebody who has
16 the ability -- like we discussed earlier,
17 somebody that's got the ability that has, you
18 know, large -- several hundred thousand dollars
19 that they can do without 100 of it 50 of it for
20 long periods of time.
21 Q And was it your practice to direct
22 your -- the independent contractors who work for
23 you to request that people they know invite
24 qualified people to the seminars that you
25 conducted?

Page 195

1 A No. No, but they can take it upon
2 themselves to do this.
3 (SEC Exhibit No. 11 was
4 marked for identification.)
5 Q I'm handing you a document --
6 BY MR. RAWLINGS:
7 Q I just want to ask a question about
8 this.
9 Just, if you look at the flier itself.
10 This is -- so, if you want to open it up and take
11 a look at the flier itself. It's an invitation
12 for the Ruth's Chris event, right?
13 A Uh-huh.
14 Q And so the invitation says, "You and
15 three guests" --
16 A Uh-huh.
17 Q -- "are invited." Is that -- so, I just
18 want to make sure, that -- that would -- this
19 invitation exists that is. And so, basically,
20 whoever would be invited is invited to go with
21 three guests; is that right?
22 A If they want.
23 Q Do they have to call you ahead of time?
24 A Yeah, they had to RSVP. This
25 invitation that you see here is what we did.

Page 196

1 Again, I haven't done them in years, but these
2 are -- these are our -- this is a sample of the
3 type of invitations that we've done.
4 Q Got it. And then when you say, "Your
5 host Dean Vagnozzi," he says, "He is not your
6 typical financial adviser," and the "financial
7 adviser" is in capital letters. What makes you a
8 financial adviser?
9 A People refer to me as a financial
10 adviser.
11 Q And you refer to yourself as a
12 financial adviser yourself, right?
13 A No.
14 Q Well, you're doing it right here. Is
15 that not what you're doing? I mean, you wrote
16 this, right?
17 A No. Well, I don't know who drafted it.
18 Q Well, whoever drafted it you had to
19 approve it, right?
20 A Not necessarily.
21 Q You think that this would go out
22 without you approving, you know, what's being
23 said in here?
24 A Potentially.
25 Q I mean, suppose someone just said, how

Page 197

1 to safely earn 8 to 12 percent and they switched
 2 that to 8 to 52 percent.
 3 A Okay.
 4 Q You'd say that's a mistake, that's not
 5 really -- you don't have anything to do with
 6 that?
 7 A We had -- yes. So, you're asking me
 8 about the typical financial adviser. I think
 9 it's referring to, not that I'm an adviser, but
 10 who they're dealing with as a financial adviser.
 11 Q Okay. 'Cause you're not a financial
 12 adviser, right?
 13 A Well, define financial adviser.
 14 Q Well, a financial adviser is actually
 15 someone who's registered as a financial
 16 adviser -- in some context, someone who is --
 17 it's a term of art. Someone is a financial
 18 adviser, they, you know, get paid to give you
 19 advice.
 20 A Yeah. I -- I -- I don't have a
 21 securities license and I know the -- the
 22 distinction of -- people ask me, you know, are
 23 you a certified financial planner? No. I don't
 24 have a securities license. I don't do -- I'm
 25 licensed to sell life insurance.

Page 198

1 Q All right. And, you know, I guess I
 2 just want to sort of ask, what in your mind makes
 3 this not a general solicitation? Like, not just
 4 a solicitation to anyone who receives it to make
 5 an investment.
 6 A Because there's nothing specific about
 7 what we're -- there's no offer to -- no offer to
 8 buy -- invest in the Pillar Life Settlement Fund.
 9 There's no offer to invest in any particular
 10 investment.
 11 Q And -- and it's that, it's that there's
 12 no offer to invest in any particular investment,
 13 right?
 14 A Yeah.
 15 Q Do you -- do you recognize or do you
 16 think that someone looking at it would see this
 17 as a solicitation to invest into something?
 18 A No.
 19 Q Why not?
 20 A Because where on here does it say any
 21 specific product that they're investing in? It
 22 doesn't talk about -- there's no specifics here.
 23 It's vague.
 24 Q "You will learn about safe and simple
 25 investments that have been available for years."

Page 199

1 A Yes.
 2 Q So, the person who's coming is going to
 3 learn about investments, right?
 4 A They're going to learn about -- they're
 5 going to learn why I feel the pitfalls of
 6 traditional planning and we're going to talk high
 7 level about the types of offerings. In
 8 particular, back then the -- the life settlements
 9 and life insurance. We talked about life
 10 settlements, life insurance, what's wrong with
 11 annuities. I was not a big fan of annuities at
 12 all. How does that grab you? There's a lot of
 13 guys pushing these annuities and I would let them
 14 why I didn't like it. Why -- just the pitfalls I
 15 think of the traditional investing.
 16 And then I would talk, again, high
 17 level about what it is that we do. And if they
 18 wanted to come in and learn more details then we
 19 would -- you know, then the offer was to be able
 20 to come in and talk to us for real specifics.
 21 Q And the bullet point, "How to safely
 22 earn 8 to 12 percent in an investment not offered
 23 by any stock broker or banker."
 24 A Okay.
 25 Q Where do you get the 8 to 12 percent

Page 200

1 from?
 2 A A life settlement.
 3 Q A life settlement or an investment in a
 4 Pillar Life Settlement Fund?
 5 A We would talk about how life settlement
 6 works.
 7 Q A life settlement is -- is -- you're --
 8 correct me if I'm wrong, but you're not selling
 9 anyone life settlements, right? You're selling
 10 them -- what you -- what you offer are limited
 11 partnership interests in a fund that buys life
 12 settlements, right?
 13 A Correct.
 14 Q I mean, a life settlement costs how
 15 much? If you wanted to go buy how much does a
 16 life settlement cost?
 17 A Half million.
 18 Q What's your usual investment?
 19 A 150,000. In a life settlement?
 20 Q Yeah.
 21 A 150,000.
 22 Q So, most people aren't going to be
 23 looking for -- to buy a life settlement. They're
 24 looking to buy into a fund that buys life
 25 settlements. That's what you offer, right?

Page 201

1 A They're not looking -- when they come
 2 in -- when they came to this they had no idea
 3 what a fund was, they didn't know what a life
 4 settlement was, they didn't know anything I was
 5 going to talk about.
 6 Q Well, don't they know that you're going
 7 to talk about how to safely earn 8 to 12 percent
 8 in an investment not offered by any stock broker
 9 or banker?
 10 A We're going to talk about -- we're
 11 going to talk about life settlement, but if --
 12 but I'm standing behind when they came there they
 13 did not hear the specifics about a private
 14 placement emphatically. It was vague.
 15 Q Got it, okay.
 16 BY MS. YUHAS:
 17 Q So what's the point of this invitation?
 18 A To have people come out that I can get
 19 a warm -- get an overview. People come to these
 20 seminars, be real clear, they come for one
 21 reason, what do you think of this, a free meal,
 22 okay. So, they come for a free meal. Unless I
 23 wouldn't do it at Ruth's Chris, I'd do it in a
 24 library.
 25 Q But the point is not -- for you isn't

Page 202

1 to give somebody a free meal. So, what's the
 2 point of this?
 3 A The point is to educate them. So for
 4 them -- when they're -- at the end of let's say a
 5 90-minute session for them to make a gut -- at
 6 the end of the day we'd be like, okay, you want
 7 to learn more -- and I would say it matter of
 8 fact just like I'm talking to you now, thanks for
 9 coming. You got 90 minutes to kind of assess, am
 10 I the kind of guy that you think you want to go
 11 sit down with one-on-one. And that was -- and we
 12 would talk generalities, high level. I would --
 13 I would -- look, I'm there -- I'm there to help
 14 differentiate myself from everybody else. And
 15 every other adviser is pushing annuities and I'm
 16 the guy that's saying here's why I don't like
 17 them. I'm not saying you should or shouldn't get
 18 one, but here's -- here's what I think is the
 19 pitfalls. And let me tell you about couple of
 20 other -- here's -- you know, have you heard of a
 21 life settlement. Here's how they work. And then
 22 say just enough for them to come in and sit
 23 one-on-one for us to give them all the details
 24 after I got all their financials and understood
 25 that they were qualified to potentially invest or

Page 203

1 not.
 2 Q So even though you're not giving
 3 specifics in this, it's my understanding that the
 4 point of the -- of the invitation is to get
 5 people interested in what you're offering.
 6 A It's for them to -- for them to make an
 7 assessment on me and for me to, when they come
 8 in, spend less time with them, you know. It's
 9 a -- it's a -- it's a qualification thing, that's
 10 all. It's -- it's for me to give people a high
 11 level understanding.
 12 People know within ten minutes after
 13 they come to see me if they like me, don't like
 14 me. And it's the same thing here. People -- when
 15 we would do these events people would get up and
 16 run for the door or they'd run to come up and see
 17 me as I'm breaking down my stuff, hey, I heard
 18 about what you said. When can we get together
 19 and learn more.
 20 BY MR. RAWLINGS:
 21 Q And then there at least two places
 22 where it says safer or safely. "There are safer
 23 higher yielding options." And then it says, "How
 24 to safely earn to 8 to 12 percent." What is safe
 25 about an investment in any of the Pillar funds?

Page 204

1 A It's backed by death and it's backed by
 2 companies like John Hancock paying out when
 3 people die. I don't know much safer than that.
 4 Q But you don't know how much -- you
 5 know, you don't know when people are going to
 6 die, right?
 7 A Of course. And any time anybody would
 8 want to get bought out I'd gladly buy them.
 9 Q I'm sorry?
 10 A It's safe because if they wanted to get
 11 out, we could buy them out. If -- if people pass
 12 away -- again, I don't need to convince people on
 13 death. That's the beauty of this. I don't need
 14 to convince people that death is going to happen.
 15 I don't need to convince them on the reliability
 16 of the insurance company paying people.
 17 The thing I have to manage, and I do an
 18 excellent job of it, is making sure they don't
 19 give me one penny that they don't need for a few
 20 years. That's -- that's what I do with this
 21 investment. And that's where I sleep at night
 22 really well because I don't have anybody giving
 23 me anything that they can't do without for a few
 24 years.
 25 Q Well, aren't you doing that for the

Page 205

1 very reason that it's not safe?
 2 A No.
 3 Q I mean, if it was safe then why -- why
 4 wouldn't you want to have money that they -- that
 5 they could get back in -- in two months, three
 6 months?
 7 A Should somebody have all their
 8 investment -- money in any one investment? The
 9 answer is no.
 10 Q No, it doesn't matter.
 11 A It does matter.
 12 Q But what you're saying is that you want
 13 to make sure that it's not money that they're
 14 going to need, what is it, in the next 12 to 18
 15 months or is it two years?
 16 A I tell people -- I tell people don't
 17 give me anything for this life settlement
 18 investment that you'd need before four years --
 19 four to eight.
 20 Q But why? Why?
 21 A Because I don't know -- we have life
 22 expectancies from third parties that are in the
 23 three- to five-year time frame, but they're
 24 medically underwritten. Not a guarantee. So,
 25 what happens, people live -- they die sooner than

Page 206

1 expected and they die later than expected.
 2 There's only two options, they die before a life
 3 expectancy estimate or they die later. And I
 4 want to make sure that they can handle it if the
 5 guy dies later.
 6 Q Because there's a risk that the guy
 7 dies later, right?
 8 A Obviously the longer somebody lives
 9 the -- the -- you know, they're being delayed
 10 getting access to their cash or their -- or their
 11 investment dollar. So, yes. I -- I want to make
 12 sure that they have the financial assets that
 13 they don't give me that they can live off of and
 14 do what they need to do while this investment
 15 matures.
 16 Q Okay.
 17 BY MS. GENET:
 18 Q Did you offer that as an option to your
 19 clients when they invested that -- let them know
 20 that you'd be able to buy them out at any time?
 21 A Every -- no. The private placement
 22 clearly says they cannot force us to buy them
 23 out.
 24 Q But did you orally make that statement?
 25 A Every now and then I'll say that to

Page 207

1 somebody. Like, every now and then. Like --
 2 like ten times in -- in the past two years.
 3 Every now and then if somebody who's just like
 4 skittish or you can tell they want to invest,
 5 they're really into it, but, oh, I'm like look --
 6 every now and then I'll be like, listen, give it
 7 two years. Give it two years. And here's how
 8 I'll explain it 'cause one of two things are
 9 going to happen, Mr. Smith, in two years, a bunch
 10 of people will pass away on schedule and you're
 11 not going to want to get out. You're going to
 12 wish you had put in more. Or if they haven't
 13 passed away, that means they're on death's
 14 doorstep, and that's exactly how I say it, and if
 15 you want to get out, I will easily find in a
 16 buyer for you. And then they shift in their
 17 seats and they're like, oh, my gosh that makes
 18 all the sense in the world. This is an
 19 investment that every year that goes buy it gets
 20 more attractive.
 21 BY MS. GENET:
 22 Q And did any investor ever take you up
 23 on that offer?
 24 A No.
 25 Q No one ever even asked you to buy them

Page 208

1 out?
 2 A No.
 3 Q If they had asked you to buy them out
 4 would have bought them out?
 5 A Yes, I can buy them out.
 6 Q Can is not the question. Would you
 7 have?
 8 A I have -- I have about ten people that
 9 have gone through divorce or medical reason -- I
 10 bought a guy out two weeks out. My CPA, Joe
 11 Borghese, he had a stroke a month ago and his
 12 wife died. Stroke, wife died in a
 13 month-and-a-half. And he had a relatively small,
 14 \$30,000.00 ownership in -- in one of my -- in my
 15 first fund, I wrote him a check.
 16 BY MS. YUHAS:
 17 Q Did he ask you?
 18 A Yes.
 19 Q Okay. So, that's an example of
 20 somebody who asked you to buy them out?
 21 A Yes.
 22 BY MS. GENET:
 23 Q Did anybody ever ask you to buy them
 24 out and you said no?
 25 A If -- if we have the assets or the cash

Page 209

1 to buy them out we will buy them out.
 2 Q Who's "we"?
 3 A The fund. I mean, "we" meaning the --
 4 the -- if we have the proceeds in the -- if we
 5 have the -- if we have the proceeds in -- in the
 6 bank account to buy them out it's easy.
 7 Q So, if you -- unless you have the
 8 proceeds in the particular fund to be able to buy
 9 them out -- I guess, sorry, going back to this
 10 example that you provided. That person, where
 11 did you get the money to buy that person out?
 12 A Me, Dean Vagnozzi.
 13 Q You personally purchased his share?
 14 A I did in this case.
 15 Q Okay. But in other examples?
 16 A The other ten previous times we used
 17 the assets in the kitty.
 18 Q In the particular fund?
 19 A Which increased everybody else's
 20 ownership when we bought somebody else out.
 21 Q Was there ever a time that somebody
 22 asked you to buy them out and you had to say no
 23 to them?
 24 A I don't recall that.
 25 Q Okay. I'm going to hand you a document

Page 210

1 that's been marked Exhibit 11. Exhibit 11 is an
 2 e-mail --
 3 A Uh-huh.
 4 Q -- and attachment dated BFP -- sorry,
 5 bearing the Bates stamp BFP 006935 through 6938.
 6 And it's dated April 26th, 2013 from you, Dean
 7 Vagnozzi, to Mike West, Matthew Ramsey and Kurt
 8 Schumacher, S-C-H-U-M-A-C-H-E-R, CC'ing Cosimo
 9 Isabella. The subject is, "Requested info." And
 10 there's two attachments and an image.
 11 Do you recognize this document?
 12 A Okay.
 13 Q Okay.
 14 MR. LAIGAIE: Do you recognize this
 15 document?
 16 A Yes. I don't remember it, but now I
 17 do.
 18 Q What is it?
 19 A It's an -- it's a letter to Dr. Ramsey,
 20 to a Matt West -- Mike West.
 21 Q Okay. And so, this is kind of a
 22 back-and-forth e-mail trail where -- who's Kurt
 23 Schumacher let's start there?
 24 A He's an agent -- he's an investor of
 25 mine from years ago that went out and started

Page 211

1 selling life settlements also after he became an
 2 investor.
 3 Q And did he sell life -- he became an
 4 investor in what?
 5 A One of my -- he's in my -- I think my
 6 first life settlement fund.
 7 Q And then, he would purchase the actual
 8 life settlement policies themselves or he just
 9 began putting together funds for --
 10 A Okay. So, without even having to read
 11 this, here's what -- here's what -- so, I used to
 12 buy through LPI, Life Partners, and Life Partners
 13 had agents that sold -- that sold shares. And he
 14 became licensed with Life Partners and was
 15 selling his -- he was selling into Life Partners
 16 investments and he was getting paid by them. And
 17 I believe he went out and did his own fund like
 18 me on his own.
 19 Q So, he would, basically, like source
 20 the actual underlying policies for Life Partners?
 21 A Through Life Partners.
 22 Q When you -- what do you mean by
 23 "through Life Partners"?
 24 A Life Partners had -- he -- he would --
 25 if you look at my first fund, this is very

Page 212

1 important, my first fund, my second fund, my
 2 third fund, all of the policies were purchased
 3 through Life Partners. So, Kurt would buy them
 4 all through Life Partners. And -- and -- well,
 5 again, I don't know if he -- I don't know if he
 6 issued -- if he bought one or 100. I have no
 7 idea what he did.
 8 Q So, his e-mail address says ABFP,
 9 right? KurtS.ABFP@Gmail.com.
 10 A Yeah.
 11 Q So, was he working for you?
 12 A No.
 13 Q Would you understand that ABFP to be a
 14 reference to A Better Financial Plan?
 15 A I guess so, but it wasn't -- it
 16 wasn't -- it wasn't Kurt at A Better Financial
 17 Plan.
 18 Q Well, then underneath is his signature.
 19 And it says, "A Better Financial Plan." And then
 20 it has address information. It refers -- it has
 21 your website information. And then it has like
 22 a -- kind of a warning.
 23 A A what?
 24 Q A warning. It says, "Attention." And
 25 then it says, "This e-mail may be legally

Page 213

1 privileged and confidential," blah, blah, blah.
 2 Then it ends with his e-mail address,
 3 KurtS.ABFP.Gmail.com. Do you see that?
 4 A Yes, but I'm not familiar with this
 5 e-mail.
 6 Q And he's letting -- so -- and Kurt
 7 seems to be letting somebody -- this Matt person
 8 know about seminars that you put on at William
 9 Penn Inn and Ruth's Chris Stake House in King of
 10 Prussia.
 11 A Yes.
 12 Q And then -- so, it's -- it's hard for
 13 me to see whether you were on the original
 14 e-mail, but in response Matt writes back and he
 15 addresses it to you and to Kurt saying that, you
 16 know, he sent a copy of the e-mail to Mike West,
 17 the CEO of the Rothman Institute and talked to
 18 him about the products that you offered. And
 19 your interest in working with other individuals
 20 at the Rothman Institute and then he invites you
 21 to contact him directly. Do you see that? Do
 22 you remember that?
 23 A So, I can explain this. Ready?
 24 So -- a couple of things. So, very few
 25 people, as you can imagine, can speak in public

Page 214

1 and I can. So, Kurt -- Kurt became a client of
 2 mine, went out and got licensed with Life
 3 Partners to sell this all by himself and collect
 4 commissions from Life Partners outside of me. I
 5 didn't pay him. He did this -- he got licensed
 6 directly with Life Partners, public company,
 7 listed on the NASDAQ, that paid guys like Kurt.
 8 So, I must have been doing my own
 9 seminar, not relying on Kurt, and Kurt wanted to
 10 piggyback on, can he get Dr. Ramsey. This guy
 11 Dr. Ramsey bought a very large life insurance
 12 policy from me, okay. And he was introduced to
 13 me by Kurt. Kurt's a -- Kurt was a patient of
 14 this orthopedic surgeon Dr. Ramsey. So, Dr.
 15 Ramsey had such a good experience with us and --
 16 and obviously Kurt saying, hey, basically,
 17 introduce me some friends. Oh, I got a great
 18 event, come to this event Dean is doing. I didn't
 19 mind him coming because he fills the room. I'd
 20 rather talk to 40 people than 20 people. It just
 21 looks better for the 20 strangers.
 22 So, I would have been okay -- without
 23 even reading this, I would have been okay with
 24 this because if -- if Kurt can get a surgeon in
 25 the room who really likes me along with two,

Page 215

1 three, four of his buddies, I'm all supportive of
 2 it, but this is something Kurt did all by
 3 himself, right, working directly with Life
 4 Partners and not through me.
 5 Q And what would Kurt get out of it if
 6 these people came to listen to you pitch your
 7 investment offerings?
 8 A He would get -- he would get a sale and
 9 Life Partners would pay him.
 10 Q Meaning Life Partners would pay him for
 11 the policies that you were purchasing --
 12 A That he bought, not -- not Dean.
 13 Q Why would -- how would this dinner
 14 invitation cause Kurt to purchase life
 15 settlements from Life Partners?
 16 A Kurt was licensed with Life Partners
 17 just like I was. He became licensed after he
 18 learned about the -- he invested with me and a
 19 year later, two months later, I don't remember
 20 when, but he's like, man, this is great. Can I
 21 make money doing this? I'm like, sure. Call
 22 Life Partners, get licensed with them and you can
 23 be an agent of theirs just like me.
 24 Q But how does Kurt get money from
 25 filling seats at your seminar?

Page 216

1 A He said he gets -- he gets -- I'm going
 2 to be the guy that helps educates his people on a
 3 life settlement for which he can then go
 4 one-on-one and sit with them.
 5 Q So, your understanding is that he would
 6 invite people to your seminar and then they
 7 wouldn't invest with you, they would invest with
 8 him?
 9 A Correct.
 10 Q And why would you do that?
 11 A Because I'm a good guy. Because my
 12 benefit is -- my benefit is I don't mind people
 13 in the room. I don't mind. And -- and here's
 14 the other thing, 'cause at the seminars -- guess
 15 what, at the seminars we talked -- I always
 16 talked about cash value life insurance. And this
 17 guy Matt Ramsey owned a big policy. So, the way
 18 I looked at it is, hey, bring him. Bring him.
 19 Kurt, you go make your money on the life
 20 settlements. I'll take my chances one-on-one to
 21 buy a life insurance policy from me.
 22 Q And then you -- so then, you then
 23 create a letter -- but I just want to kind of
 24 back up.
 25 First of all, so it doesn't bother you

Page 217

1 that Kurt is representing himself to be with A
 2 Better Financial Plan?
 3 A I'm telling right now, I didn't -- I
 4 didn't -- I don't know -- I don't know that -- I
 5 don't remember seeing that e-mail that he sent to
 6 them.
 7 Q And then when you reply all, so you
 8 reply to Mike West, Matt Ramsey, Kurt Schumacher
 9 and who is Cosimo Isabella?
 10 A No, I don't. I don't know.
 11 Q When you reply you reply with a
 12 document that looks like it, you know, was
 13 particularly created for the Rothman shareholder.
 14 A Yeah.
 15 Q And then -- identifying, you know,
 16 "safer higher yielding ways to improve your
 17 returns, pay less taxes," et cetera. And then
 18 you also attach the invitation that we saw
 19 previously or something very similar to what we
 20 saw previously to a dinner at the Dilworthtown --
 21 A Yes.
 22 Q -- Inn. And here, similar to the prior
 23 invitation you identify, you know, the earning 8
 24 to 12 percent and an investment not offered by
 25 any stock broker or banker; is that right?

Page 218

1 A Yep. Yes.
 2 Q And so, you think that Kurt is giving
 3 you entree to these people because he thinks he's
 4 going to be able to pitch them himself directly,
 5 but -- but you're providing all of the
 6 information to them that you're providing to --
 7 A Yes. So, can I elaborate?
 8 So, you guys are familiar with Rothman?
 9 Have you heard of Rothman? I don't know, I'm in
 10 New York here. Rothman is the biggest orthopedic
 11 group of doctors I think in the country
 12 headquartered right in Philadelphia. Everybody
 13 in Philadelphia knows Rothman.
 14 So, this guy Ramsey is a Rothman
 15 surgeon, makes big, big, big, big money. He's
 16 got nothing but partners making big, big, big
 17 money. So, yes, in this -- and this guy Kurt, the
 18 guy Kurt who I eluded to, nice guy, you know.
 19 He's no Burt Reynolds. He's not -- don't write
 20 that. He's not a charismatic -- so, he doesn't
 21 feel comfortable speaking in front of a room.
 22 And it's as straight forward as, bring your
 23 doctors. Bring them. I'd love to have these
 24 doctors come.
 25 The largest life insurance policy I

Page 219

1 ever sold, ever, was to this guy. Ever. You
 2 don't want to know what I made. And -- and I --
 3 I would like to have 20 of them. So, absolutely
 4 I'm inviting Kurt. If anything comes of it,
 5 knock yourself out, you can have the life
 6 settlement business with Life Partners. I'll
 7 take my chances with how I explain life insurance
 8 and that one, two, three more of these doctors
 9 will come sign up with a life insurance policy
 10 just like Dr. Ramsey.
 11 MR. LAIGAIE: Megan, would you mind if
 12 we took a quick break to use the restroom?
 13 MS. GENET: Sure. The time is 3:26 and
 14 we're off the record.
 15 (A brief recess was taken.)
 16 MS. GENET: The time is 3:34 and we're
 17 back on the record.
 18 BY MS. GENET:
 19 Q Just want to confirm, Mr. Vagnozzi, we
 20 didn't have any substantiative conversations
 21 while we were off the record?
 22 A Correct.
 23 (SEC Exhibit No. 12 was
 24 marked for identification.)
 25 Q Okey-doke. I'm going to hand you a

Page 220

1 document that the court reporter marked Exhibit
 2 12. Exhibit 12 is an e-mail from Al Vagnozzi to
 3 Matt.Sarnes, S-A-R-N-E-S, at X-C-E-N-D-A.com.
 4 The subject is "Life Settlements." And even
 5 though there are attachments, I don't have the
 6 attachments printed out here. The Bates stamp on
 7 the document is BFP 005024.
 8 Do you recognize this document?
 9 A Recognize it in that -- no, I've never
 10 seen it before.
 11 Q All right. It's an e-mail and you're
 12 not -- you're not on the e-mail. It's neither to
 13 nor from you and you're not CC'ed or anything,
 14 but I just want to point out to you, your brother
 15 Al writes, "Hello, Matt. Many homeowner --
 16 homeowners in Providence Chase received a mailer
 17 with the attachments inviting them to the dinner
 18 next week. Everyone you would come into contact
 19 with received the letter. I put a personal," and
 20 then it says "not," but I think he meant "note in
 21 most envelopes indicating that one of the
 22 neighbors participated in the payout without
 23 identifying any names. A couple of referrals
 24 from you would be greatly appreciated."
 25 What kind of mailer is your brother Al

Page 221

1 referring to?
 2 A Don't know.
 3 Q Did you guys send mailers to many
 4 homeowners in Providence Chase?
 5 A I never was involved in any mailer to
 6 people in Providence Chase.
 7 Q Would AI send a mailer to people in
 8 Providence Chase without running it by you?
 9 A He obviously did.
 10 Q Are you aware of AI sending out any
 11 other mailers to people?
 12 A No.
 13 Q And so, your testimony is you just had
 14 nothing to do with any mailer going out; is that
 15 right?
 16 A Correct.
 17 Q And do you know what he would be
 18 referring to when he would say, "Everyone you
 19 would come into contact with received a letter"?
 20 A No.
 21 Q Who is Matt Sarnes?
 22 A Matt Sarnes is an investor in one of my
 23 funds and he's my brother's neighbor.
 24 Q I see also that AI writes, "A couple of
 25 referrals from you would be greatly appreciated."

Page 222

1 Does this refresh your recollection as to whether
 2 or not you directed AI to ask people for
 3 referrals?
 4 A No.
 5 Q Okay.
 6 A My brother's a registered investment
 7 adviser.
 8 Q What does it mean to be a registered
 9 investment adviser?
 10 A I don't know.
 11 Q Are you a registered investment
 12 adviser?
 13 A No.
 14 Q Is there a reason why you think it's
 15 important to mention that he's a registered
 16 investment adviser?
 17 A Because maybe he's trying to solicit
 18 customers for his own business, that's why.
 19 Q Oh meaning, you -- he -- even though he
 20 has the A Better Financial Plan signature on the
 21 e-mail and he's attaching an invitation to the --
 22 one of the dinners or seminars that you had at
 23 Ruth's Chris concerning a \$1 million payout, you
 24 think he might have been referring to his own
 25 business in this e-mail?

Page 223

1 A I'm saying that in addition to selling
 2 life insurance that he does with my office he
 3 could be hoping to gain clients to manage their
 4 other assets. I had nothing to do with this
 5 e-mail.
 6 Q Is there something that makes you think
 7 that he would be referring to his own separate
 8 investments in this -- content of this e-mail?
 9 A I knew nothing about this mailing.
 10 (SEC Exhibit No. 13 was
 11 marked for identification.)
 12 Q I'm going to hand you a document that's
 13 been marked Exhibit 13. Exhibit 13 is an e-mail
 14 trail dated February 10, 2017 from
 15 BillF@FirstFinLLC.com to you, Dean Vagnozzi. And
 16 it's marked BFP 048898 through BFP 048902.
 17 Do you recognize this document?
 18 A Yes.
 19 Q So, the bottom e-mail in the trail is
 20 from you and it says, "Pillar detailed update.
 21 Please read." It's dated February 10, 2017 at
 22 7:26 a.m. And I think it's fair to say that it's
 23 an update on a bankruptcy concerning Life
 24 Partners.
 25 A Yes.

Page 224

1 Q And then Bill writes you back to that
 2 e-mail saying, "No words. Seems very unfair
 3 based on your story. Also seems like this has
 4 been going on for a long time even before I
 5 invested. This is something that probably should
 6 have been disclosed to investors before plucking
 7 down the money. The situation seems like it is
 8 going to take a long time to resolve. I just
 9 hope our money really is safe. It may be, but
 10 that doesn't mean we can get it any time soon.
 11 So, that doesn't mean much. I guess we'll just
 12 have to say wait." Do you see that?
 13 A Yes.
 14 Q Do you know who BillF@FirstFinLLC.com
 15 is?
 16 A Yes, he's an investor.
 17 Q Named Bill Formica, right?
 18 A Yes.
 19 Q And did he invest subsequent to the
 20 time you learned about the Life Partners
 21 bankruptcy?
 22 A No.
 23 Q Were you aware of any of the subject
 24 matter that you -- or, like, the legal issues?
 25 A No.

Page 225

1 Q You know what, sorry, the time is 3:40
 2 and we're off the record.
 3 (A brief recess was taken.)
 4 MS. GENET: The time is 3:41 and we're
 5 back on the record.
 6 BY MS. GENET:
 7 Q Just turning your attention back to
 8 Exhibit 13. And just because I can't remember
 9 exactly where we left off, you weren't aware of
 10 the facts of the Life Partners bankruptcy prior
 11 to Bill Formica making his investment; is that
 12 right?
 13 A Correct.
 14 Q Were you aware of the issue of these
 15 incorrect life expectancies?
 16 A There was allegations that there
 17 were --
 18 (Reporter asks for clarification.)
 19 A There -- there was allegations that
 20 there were inaccurate life expectancies.
 21 MR. LAIGAIE: But did -- I'm sorry, the
 22 question was, were you aware of those allegations
 23 before Bill Formica invested?
 24 A Was I aware? I don't know when he
 25 invested. I'll say probably. He's eluding to a

Page 226

1 bankruptcy. I was not aware of any kind of
 2 bankruptcy issues before he invested.
 3 Q Were you aware that Life Partners was
 4 having trouble and that might have embroiled your
 5 Pillar funds in litigation?
 6 A I was not -- I was not aware of
 7 anything that would cause my Pillar funds to be
 8 in any kind of litigation.
 9 (SEC Exhibit No. 14 was
 10 marked for identification.)
 11 Q I'm handing you a document that's been
 12 marked Exhibit 14. Exhibit 14 is an e-mail trail
 13 dated April 14, 2015 from you, Dean Vagnozzi, to
 14 Steve Whitby, W-H-I-T-B-Y, CC'ing Steve McCarthy.
 15 And the subject is, "Steve, you in?" The Bates
 16 stamp on the document is BFP 021804 through
 17 021805.
 18 Do you recognize this document?
 19 A Yes.
 20 Q So, it seems like what's happening, and
 21 you can correct me if I'm getting it wrong, is
 22 that you're reopening the Pillar Fund. And I'm
 23 just -- I guess you write to him, quote,
 24 "Following up to see if you want in on my Pillar
 25 I Fund. Over 1.5 million has been added to the

Page 227

1 fund, no premiums for at least two years.
 2 Average years is 87," exclamation point,
 3 exclamation point, exclamation point. "This fund
 4 hasn't had the number of maturities as we had
 5 hoped. That's bad for the original investors,"
 6 dot, dot, dot. "Great for anyone that gets in
 7 now," open paren, "you," close paren. "You," I
 8 assume you meant "your money will add new
 9 policies to the fund which will help the existing
 10 investors. Let us know, Dean."
 11 Do you see that?
 12 A Yes.
 13 Q What was it that you were saying to Mr.
 14 McCarthy or Mr. Whitby I guess?
 15 A Pillar I -- we -- we did a second
 16 offering, did another -- another document, a
 17 second offering. Pillar I did not have the
 18 payouts that we had hoped. So, we were going --
 19 it was either going to -- it was either get a --
 20 do a premium call and ask everybody for money or
 21 raise more money and that's what we did.
 22 Q Did you speak to the investors about
 23 the premium call prior to raising -- determining
 24 to raise the money?
 25 A A, I didn't need to. Sure, it's --

Page 228

1 whether I did or not, I'm not sure. I'm not
 2 sure. I -- I didn't take a poll.
 3 Q And would this dilute the prior
 4 investors?
 5 A Would it dilute them? It would dilute
 6 them, but it would also give them more policies.
 7 So, it should have the same no net affect to
 8 them.
 9 Q At this time in April 2015 you are
 10 already aware of the Life Partners bankruptcy,
 11 right?
 12 A I'm not sure. I'm not sure when it --
 13 it was announced. And if it was announced
 14 doesn't mean that I knew about it.
 15 Q Exhibit 13 has your e-mail dated
 16 February 10 -- oh, I see. So, we're going
 17 backward in time. Excuse me. I see. So, maybe
 18 not. Maybe it hadn't been.
 19 A Uh-huh.
 20 Q All right, thank you. You can put that
 21 document aside.
 22 (SEC Exhibit No. 15 was
 23 marked for identification.)
 24 Q I'm going to hand you a document that's
 25 been marked Exhibit 15. Exhibit 15 is an e-mail

Page 229

1 trail. The top e-mail in the trail is dated June
 2 10th, 2015 from Jerry Nave to Mark Brightonbach.
 3 Subject, "Re "Dean Vagnozzi." It's got the Bates
 4 stamp BFP 011760 through BFP 011767 and that
 5 includes an attachment.
 6 I know that you're not on the e-mail,
 7 but it's in reference to you. Do you recognize
 8 the document? Did Jerry Nave work for you?
 9 A That's my father-in-law.
 10 Q Yes.
 11 A In a -- you know, for -- for a short
 12 capacity.
 13 Q Okay. And so, he has here this -- a
 14 signature that reflects that he works for A
 15 Better Financial Plan, right?
 16 A Uh-huh. Yes.
 17 Q And he -- writes Mark an e-mail just
 18 about an independent finder. Do you see that?
 19 A Yes.
 20 Q Was there a time where you were
 21 considering hiring independent finders for ABFP?
 22 A Yes.
 23 Q Did that ever come to pass?
 24 A No.
 25 Q And then Mark responds and he says, "I

Page 230

1 guess my first question is, is the original
 2 investment as proposed off the table? It's been
 3 a while, but I recall that Dean put a plan
 4 together where we could be conceivable," I think
 5 it meant conceivably, "triple our investment over
 6 three years." Is that something that you told Mr.
 7 Brightonbach?
 8 A We were -- we were contemplating, with
 9 my attorney's help, putting together a -- a
 10 corporation that people could invest in and own a
 11 piece of the corporation that would be used to
 12 go -- in essence, be like one big finders group
 13 to bring people to our investment. So, my
 14 attorney, John, was involved. And like Jerry
 15 says here, it became so complicated, so like,
 16 wait a minute, this is just too much, too much of
 17 an accounting nightmare, too much of a legal
 18 headache, could I be at risk, we said scrap it
 19 and we did.
 20 Q What is the, quote, "original
 21 investment where they could conceivably triple
 22 their investment over three years"? Do you know
 23 what it that is that he's referring to?
 24 A Yes. That's the investment that I just
 25 talked about.

Page 231

1 Q Okay. How -- the investment being
 2 purchasing the right to be a finder?
 3 A Again -- so, first of all, it's three
 4 years earlier. Three years ago. So, I don't
 5 remember all the details, but the idea was, could
 6 we put a group of people that could help and be
 7 compensated properly, legally, whatever the right
 8 terminology is, to help bring people to a
 9 corporation that the corporation benefits. And
 10 if they're owners of the corporation they can
 11 benefit also. So, that was the plan, but like I
 12 said, it was so complicated we just said, no.
 13 No.
 14 Q And then it says -- Jerry responds, "We
 15 do not want to lose the excitement of the
 16 potential investor. So we came up with a much
 17 more lucrative finder initiative." And then he
 18 also writes, "I have attached a very legal
 19 looking finder agreement for your review." Do you
 20 see that?
 21 A Yes.
 22 Q Do you recognize this finder agreement?
 23 A Yes.
 24 Q Did you enter into this finder
 25 agreement with anybody?

Page 232

1 A No.
 2 Q Why not?
 3 A Did I enter into -- so, let me -- let
 4 me take that back. Did -- did Jerry -- did we
 5 have anybody sign this? I do not believe so.
 6 Q Did you ever pay out money in
 7 connection with this finders agreement?
 8 A Not that I'm aware of.
 9 (SEC Exhibit No. 16 was
 10 marked for identification.)
 11 Q Okay. I'm going to hand you a document
 12 that's been marked Exhibit 16. Exhibit 16 is an
 13 e-mail trail. Top e-mail in the trail is from
 14 Anthony with an e-mail address P-O-R-R-E-C-A-A-P
 15 at Yahoo dot com to Jerry Nave. Subject again,
 16 "Re: Dean Vagnozzi." And the Bates stamp on the
 17 document is BFP 011772 to 011773. And it looks
 18 like Jerry -- and I'll note for the record that
 19 you're not on the e-mail at all, but Jerry it
 20 looks like had also forwarded the finders
 21 agreement to this person Anthony. And Anthony
 22 writes back, "Hi, Jerry. Agreement looks
 23 straightforward. Don't act like an agent, make
 24 sure you have an existing relationship, don't run
 25 ads using the company name, et cetera."

Page 233

1 Do you know why the agreement would
 2 include a requirement that you not act like an
 3 agent?
 4 A I didn't write this e-mail.
 5 Q I understand you did not write the
 6 e-mail, but I am asking you if you understand why
 7 the -- well, who made the agreement? Who drafted
 8 the agreement?
 9 A John Petrillo.
 10 Q Do you have an understanding why the
 11 agreement would include a requirement that you
 12 not act like an agent?
 13 A Because we didn't want to break any
 14 securities laws.
 15 Q And do you understand why the agreement
 16 would have a requirement that you make sure you
 17 have an existing relationship?
 18 A I have -- I'm -- define with who?
 19 I'm -- that I have a relationship with who?
 20 Q With the investor. We could go to the
 21 agreement itself. I guess I'll direct your
 22 attention back to Exhibit 15.
 23 So, 3B on BFP 011763. Do you see that?
 24 A 3B, okay.
 25 Q "The finder shall not use any general

Page 234

1 solicitation or general advertising within the
 2 meaning of the Securities Act of 1933 in
 3 connection with the services provided to the
 4 company pursuant to the terms of the agreement."
 5 Do you understand why the finders agreement would
 6 include this prohibition?
 7 A Because my attorney said it should be
 8 in there.
 9 Q Do you understand why it should be in
 10 there other than your attorney saying so?
 11 A You can't -- you can't be a broker for
 12 this. You can't -- you can't act as -- I don't
 13 know the right terminology to say it, but --
 14 Q You can't do what is called the general
 15 solicitation?
 16 A Right.
 17 Q Do you have an understanding what that
 18 means?
 19 A Yes.
 20 Q What does that mean?
 21 A You can't go out and solicit, just take
 22 money from anybody at any place for any reason,
 23 you know, and make a -- make a -- I guess an
 24 appeal for the investment to complete strangers.
 25 You can't advertise. You can't do all the stuff

Page 235

1 that would consider you not a finder.
 2 Q And it says, the -- "This prohibition
 3 against general solicitation includes" -- well,
 4 it doesn't say against general solicitation.
 5 What it says is, quote, "This prohibition
 6 includes, but is not limited to any mass mailing,
 7 any advertisement, article or notice published in
 8 any magazine, newspaper or newsletter, any
 9 seminar or meeting where the attendees have been
 10 invited by any mass mailing, general solicitation
 11 or advertising." Do you see that?
 12 A Yes.
 13 Q Do you have any understanding of what
 14 that means?
 15 A Everything I just said, yes.
 16 Q And then I direct your attention to 3
 17 sub C. "The finder shall not introduce the
 18 company to any prospective companies with whom
 19 the finder does not have a preexisting
 20 substantive relationship. And the finder
 21 shall not hold any seminar or meeting where any
 22 attendee does not have a preexisting relationship
 23 with the finder. The finder shall not mention
 24 the company or any of its products or services in
 25 any public medium, including any newspaper, on

Page 236

1 radio or telephone or otherwise." Do you see
 2 that?
 3 A Yes.
 4 Q Do you have any understanding as to why
 5 the finder would not be able to introduce the
 6 company to anyone with whom they didn't have a
 7 preexisting substantive relationship?
 8 A Yes.
 9 Q Why?
 10 A Because it would be general
 11 solicitation.
 12 Q And why they would not be able to hold
 13 any seminar or meeting where any attendee doesn't
 14 have a preexisting relationship with the finder?
 15 A It's a general solicitation.
 16 Q And why the finder would not be able to
 17 mention the company or any of its products and
 18 services in any public medium, including any
 19 newspaper, on radio or television or otherwise?
 20 A All general solicitation.
 21 BY MR. RAWLINGS:
 22 Q So, as you -- as you read the agreement
 23 do you think one of your finders could put ads on
 24 the radio?
 25 A No, absolutely not.

Page 237

1 Q Then why are you able to put ads on the
 2 radio?
 3 A Because I'm not specific about anything
 4 that I do. I'm vague, generic, don't mention
 5 what the investment is, don't mention the
 6 details, I don't talk about any specifics.
 7 Q But if the finder would do the same
 8 thing?
 9 A Then you have a problem, right. If the
 10 finder would go out and promote an investment in
 11 a life settlement fund, called -- get these
 12 returns and all the -- and outline it, that would
 13 be -- that would be a problem and that's why we
 14 don't do it.
 15 Q But if it was general and vague do you
 16 think the finder could put an ad out just the way
 17 you do?
 18 A I guess so. We -- I wouldn't want
 19 these -- any of these people -- if I look through
 20 this, which I'd be willing to bet that they
 21 couldn't do anything unless I told them they can
 22 advertise. I'd be shocked if that's not in here
 23 somewhere.
 24 In other words, I didn't want any of
 25 these people -- if -- if this got out of ground,

Page 238

1 which again, this did not get out of ground,
 2 okay. We deemed this to be too much work. The
 3 last thing I wanted to do was have one million
 4 people competing with me.
 5 Q But I'm just sort of saying under the
 6 paragraph dealing with general solicitation it
 7 doesn't say you can place a vague ad. It
 8 simply -- it says you can't place any
 9 advertisement, correct?
 10 A Correct.
 11 Q Okay.
 12 A I don't want the -- that's again
 13 language that my attorney put in.
 14 (SEC Exhibit No. 17 was
 15 marked for identification.)
 16 BY MS. GENET:
 17 Q Okay. I'm handing you a document
 18 that's been marked Exhibit 17. Exhibit 17 is a
 19 letter from Eckert Seamans to Dean Vagnozzi
 20 bearing the Bates stamp BFP 050128 through BFP
 21 050129 dated January 28, 2016.
 22 Do you recognize this document?
 23 (The witness examined the document.)
 24 A Yes.
 25 Q What is it?

Page 239

1 A It's a summary from my attorney as to
 2 the make up of the life settlement funds.
 3 Q What do you understand the Pillar
 4 Fund's term to mean?
 5 A All the Pillar Funds encompassing, you
 6 know, at the time of this letter.
 7 Q So, just going back to Exhibit 7. It
 8 would refer to which of the funds listed on
 9 Exhibit -- so, I guess would Pillar Funds refer
 10 to Gibraltar Fund?
 11 A Any fund dated before January 28th that
 12 was incorporated. And I do not know when the
 13 dates of each of these funds were created.
 14 Q Okay. So even if, let's say, ABFP
 15 Income Fund II had been created prior to the
 16 January 28, 2016 date you would consider that to
 17 be a Pillar Fund?
 18 A No. Anything that says the word Pillar
 19 on it.
 20 Q Oh, okay.
 21 A Yeah.
 22 Q So, any of the Pillars I through VIII
 23 identified on Exhibit 7 that were in effect prior
 24 to January 28, 2016 you would understand to be
 25 encompassed in the term Pillar Fund; is that

Page 240

1 right?
 2 A I think that would be a fair summary.
 3 Q Okay. And this summary was provided to
 4 certain of your investors or prospective
 5 investors. Why was it provided to them?
 6 A This was provided to me to hand to
 7 people in my office that came in because people
 8 would come in and have never heard of a life
 9 settlement fund. Let me rephrase that.
 10 They would come in with no
 11 understanding what a PPM is, no understanding of
 12 any of this. Most people think investing is
 13 mutual funds and only mutual funds and stuff like
 14 that. So, when I introduce what a private
 15 placement is people still look at me funny.
 16 Like, what, how come my traditional guy hasn't
 17 explained this to me? So, I asked John to put a
 18 letter together, something that I can kind of
 19 show people that can -- on a -- on the letterhead
 20 of a very large law firm in the city that can
 21 help summarize the make up of a fund.
 22 Q So even though it's a letter from your
 23 lawyer you consider it to be a piece of marketing
 24 material?
 25 A No. Marketing -- it's a -- it's a -- I

Page 241

1 don't think marketing is an accurate summary of
 2 this.
 3 Q Sorry. How would you describe it?
 4 A It is a -- it is a piece of -- it is a
 5 letter that has helped my clients be put -- my
 6 potential investors to be put at ease that I
 7 wasn't just winging this stuff. That I had a big
 8 law firm behind me and this stuff had -- had
 9 validity to it and I wasn't making this stuff up
 10 as I went.
 11 Q I'm just going to direct you to the
 12 second to last paragraph on the first page of
 13 Exhibit 16 where it says, "The Pillar Fund offers
 14 its limited partnership." Do you see that?
 15 A Yes.
 16 Q So it says, "The Pillar Fund offers its
 17 limited partnership under Regulation D, which is
 18 part of the Federal Securities Laws, and in order
 19 to comply with Regulation D each of the Pillar
 20 Funds files Form D with the United States
 21 Securities and Exchange Commission, SEC, and with
 22 states securities regulators in those states
 23 where investors in the Pillar Fund reside. By
 24 filing Form D, the SEC and state securities
 25 regulars," I guess that's a typo, it should say

Page 242

1 regulators, "have noticed that an offering has
 2 been made." Do you see that?
 3 A Yes.
 4 Q Does this refresh your recollection
 5 that in connection with each of your funds you
 6 had to file a Form D?
 7 A Yes. And I go back saying again that I
 8 paid my attorney to file all this stuff.
 9 Q Okay. You can set Exhibit 17 aside.
 10 (SEC Exhibit No. 18 was
 11 marked for identification.)
 12 Q Okay. I am handing you a document, or
 13 I will in one second, hand you a document marked
 14 Exhibit 18. Exhibit 18 is a three-page document
 15 bearing the Bates stamp FINRA_000008 through 10.
 16 Here, now it's before you. And it looks like a
 17 marketing -- piece of marketing material dated
 18 December 1, 2015.
 19 Do you recognize this document?
 20 A Yes.
 21 Q What is it?
 22 A It's a letter that went to our existing
 23 customers about a -- an event that we were going
 24 to hold.
 25 Q How did it go out to your existing

Page 243

1 customers?
 2 A I don't know.
 3 Q Are you aware of whether it was mailed
 4 out physically?
 5 A No. I'm not sure if it was mailed or
 6 e-mailed or if it ever went out.
 7 Q I can represent to you that it went out
 8 in the mail to at least one person.
 9 A Okay.
 10 Q And I guess I'm trying to understand if
 11 this refreshes your recollection that there were
 12 times where you sent out physical mailers?
 13 A I said earlier, and I'll say again, I
 14 never said we didn't send out mailers. I said
 15 that I don't know exactly when they were or how
 16 often they were mailed out.
 17 Q Who took charge of sending out mailers?
 18 A At the time if -- nothing -- nothing
 19 went out unless I said to go out. So, I don't
 20 know when. Again, I've been doing this for --
 21 been in this, we'll call it, business since 2003
 22 and we've mailed out stuff, but when exactly --
 23 could I give you a list of when stuff got mailed?
 24 No, I couldn't.
 25 Q Okay. This is dated December 1, 2015

Page 244

1 and it was --
 2 A No, it's not. No, it's not.
 3 Q I apologize. Help me out.
 4 A Okay. So, this Entrepreneur Magazine
 5 had an article in it from December 1st, 2015.
 6 Q Oh, got you, okay. Thank you.
 7 So, it refers to -- let me take mine
 8 out of the three-ring binder here so I can turn
 9 it upside down. It refers to a dinner that would
 10 take place on either May 17 or 19, 2016; is that
 11 right?
 12 A Yes, it does.
 13 Q Okay. So, in all likelihood it would
 14 have been what, do you think, the six-week period
 15 prior to --
 16 A Uh-huh.
 17 Q -- May 17 or 19, 2016; is that correct?
 18 A Yes.
 19 Q Okay. So, some time in the April 2016
 20 time period this went out. And just kind of walk
 21 through some of the language here. What does it
 22 mean, "Invest like the big boys"?
 23 A Invest in vehicles that -- that
 24 traditional -- you know, that are only offered to
 25 high net worth people I think is the intent of

Page 245

1 that.

2 Q And then you specify here that "J.P.

3 Morgan recently invested 600 million into the

4 small business lending market"; is that right?

5 A Yes.

6 Q So, is that a reference to the fact

7 that -- that the investment that you would be

8 offering would be an investment into the small

9 business lending market?

10 A Yes. That's where it referred to by

11 what you see here. It referred to what J.P.

12 Morgan did with On Deck Capital.

13 Q What would be the reason for -- for

14 telling people that fact?

15 A To let them know if J.P. Morgan put

16 \$650 million into something, probably worth

17 looking into it.

18 Q You're also letting them know that's

19 going to be the topic of -- of conversation at

20 dinner on May 17 or 19, 2016?

21 A That will be a topic, yes.

22 Q Let's just not talk over each other.

23 A I'm sorry, I apologize.

24 Q No. No, that's okay. I just want it

25 be clear so that there's a clear record.

Page 246

1 A I apologize.

2 Q So, sorry. So, the reference is that

3 then at this -- at the dinner on May 17 or 19

4 that the discussion would be the small business

5 lending market and investments into that, right?

6 A Yes.

7 Q And saying that the investment that

8 would be offered at the dinner on May 17 or 19,

9 2016 would permit earnings of 12, 14 or 16

10 percent returns on either cash or dollars

11 invested in an IRA account; is that right?

12 A Yes.

13 Q Okay. And turning to the page bearing

14 the Bates stamp FINRA_0000009. Again, you

15 specify the returns. So, 12 percent ROI. What

16 does "ROI" refer to?

17 A Return on investment.

18 Q For -- "in 12 months with principal, 14

19 percent ROI with your principal and interest

20 returned in 24 months and 16 percent ROI with

21 your principal and interest returned in 36

22 months." Do you see that?

23 A Yes.

24 Q Am then you specify that the topic is

25 going to be the merchant cash advance industry --

Page 247

1 A Correct.

2 Q -- is that right?

3 Okay. And so, who would decide who the

4 mailer went out to?

5 A This would have gone to probably our --

6 our life settlement investors, our life insurance

7 investors, our existing customers.

8 Q Did -- would it go out to anyone who

9 wasn't an existing customer?

10 A We would have done our best not to.

11 Q How would you do your best not to?

12 A Tell my staff to just mail it to the

13 Pillar investors, yeah.

14 Q Would it surprise you to know that at

15 least one person who did not know you and was not

16 an investor in any of your products received this

17 physically in the mail?

18 A Would it surprise me? Yes, but you

19 know, stranger things have happened. We have

20 people in our database that could be of a

21 category accidentally put into a file of people

22 that, you know, are not customers, but

23 accidentally put there.

24 Q Can you describe this merchant cash

25 advance investment.

Page 248

1 A So, at the time that this went out I

2 was working with counsel, our attorneys, to put

3 together a private placement and we were -- we

4 were -- this was a -- a test of waters type

5 discussion with my existing customers to see what

6 they thought of it. If they thought -- if

7 they -- if they thought it made sense and they

8 liked it, we would have proceeded on the -- the

9 private placement. And if they didn't, we would

10 have squashed it.

11 Q And what ended up happening?

12 A The company we were partnering with

13 didn't want to do it.

14 Q What company is that?

15 A Complete Business Solutions Group.

16 Q So, you never raised any money for

17 them?

18 A We never formed the private placement

19 that I just eluded to.

20 Q Did you ever raise money for them?

21 A I was a finder for them.

22 Q But you never created your own fund?

23 A We -- we were far down the path with my

24 counsel -- with John. We were going -- we had --

25 we were drafting it and at the 11th hour we

1 decided not to do a fund. It was just --

2 Q Was it your decision or was it Complete

3 Solution --

4 A It was -- it was -- it was -- I guess

5 it was mutual.

6 Q So, any money that you ended up --

7 well, I guess, did this May 17 or 19 dinner, did

8 they take place, these dinners?

9 A Yes.

10 Q Did you raise any money?

11 A No.

12 Q Not even as a finder?

13 A No. I don't -- I don't believe so.

14 They were -- they -- the event was scheduled and

15 literally by the time -- between the time this

16 was scheduled and people were RSVP'ing my clients

17 saying they were coming, the deal fell apart.

18 Q Did you cancel the dinner?

19 A No.

20 Q Did you change the topic of the dinner?

21 A No. We talked to them about it and

22 told them, basically, we had egg on our face. We

23 were -- we had already paid the money for the

24 event. We had, I don't know, 80 people coming,

25 all clients of ours. And we, basically,

1 didn't -- we didn't -- we were very vague. We

2 just said -- we talked about the -- the industry

3 and we, basically, said that, you know what, we

4 apologize, but we're not -- we're not ready for

5 this. And it was a -- it was a very awkward

6 event.

7 I'm sorry, can I go get one more?

8 Q Sure thing.

9 MS. GENET: The time is 4:13 and we're

10 off the record.

11 (A brief recess was taken.)

12 MS. GENET: We're back on the record.

13 The time is 4:14.

14 BY MS. GENET:

15 Q Mr. Vagnozzi, I just want to clarify

16 that we did not have any substantiative

17 conversations while we were off the record; is

18 that correct?

19 A Correct.

20 Q Turning back to the May 17 or 19, 2016

21 dinners, were any investments made as a result of

22 that event?

23 A I do not know.

24 Q Is that something that you would track

25 or have access to that information?

1 A This -- again, the -- the -- the

2 purpose of this event was to determine if there

3 was interest in what we were doing and that's

4 what we do. That's what I have done before I've

5 done any of these private placements. Before I

6 go spend 10 grand, 20 grand on a legal document

7 with an expensive law firm I want to do a

8 preliminary, tell me what you think. That's what

9 the purpose of this investment, of this -- of

10 this dinner that I would have been the general

11 partner of this private placement and it went no

12 where. This -- this private placement never got

13 off the ground.

14 Q How much money did you raise for

15 Complete as a finder?

16 A I don't know the exact number.

17 Q Do you -- ballpark? Is it under one

18 million?

19 A 20 million.

20 Q During what time period did you

21 raise --

22 A Couple of years.

23 Q Which years?

24 A End of 2000 -- 2000 -- say, third,

25 fourth quarter of 2016 through 2017.

1 Q So, even after the deal fell apart

2 during the May 2016 time frame you continued to

3 raise money for them?

4 A The -- I'm just -- I want to make sure

5 we're clear and there's no misunderstanding. This

6 was a -- this was a -- this was a meeting. As it

7 says at the top, "Dear Clients, Friends, Family

8 Members." These are not "Dear Strangers." These

9 are people that we knew, existing clients, come

10 learn about something we're going to put

11 together. The idea is they get there.

12 They all know -- they all know that I

13 do life settlement funds. They all know what a

14 fund is. They know that's what Dean Vagnozzi

15 does, he puts private investments together that

16 I'm the general partner of and the purpose was to

17 go form this. So, when this basically fell apart

18 it wasn't -- it just fell apart for various

19 reasons. We just, we kept talking to -- to the

20 people at Complete Better Solutions Group and it

21 was decided to, I'll just be a finder. Not to go

22 down this path. So, yeah. Again, that's --

23 Q So, from this meeting I'm -- from -- or

24 I guess when you say that you continued to act as

25 a finder, the people who you were finding were

Page 253

1 the same people as the people who you would have
 2 been inviting to this dinner; is that right?
 3 A Continuing to act as a finder makes it
 4 sound like I was acting as a finder day one.
 5 These are clients of mine that think the world of
 6 me. I don't know how else to say it. They think
 7 the world of me and when I say, look at
 8 something, they take me seriously. That doesn't
 9 mean they invest. That doesn't mean they invest
 10 blindly.
 11 So, when this fell apart -- I really
 12 liked the -- the opportunity. So, we -- we
 13 continued the discussions later in the summer.
 14 Forget the PPM. How does a finder arrangement
 15 work. And that's -- then, I entered into a finder
 16 role with them.
 17 Q So, you didn't begin acting a finder
 18 with them until after the May 2016 time period?
 19 A Absolutely. Absolutely.
 20 Q Absolutely yes or absolutely no?
 21 A Absolutely, I did not start with --
 22 Q I see. So, you didn't even start with
 23 them as a finder until after this time period.
 24 When did you start with them as a finder?
 25 A I want to say September -- August,

Page 254

1 September time frame.
 2 Q Of 2016?
 3 A Yes.
 4 Q And you -- you stopped by August,
 5 September 2018?
 6 A No. I stopped in -- in January -- say,
 7 December -- this -- this time last year.
 8 Q December --
 9 A About a year-and-a-half.
 10 Q Okay. Let me give you a document.
 11 A In that range.
 12 (SEC Exhibit No. 19 was
 13 marked for identification.)
 14 Q I'll hand you a document that's been
 15 marked Exhibit 19. Exhibit 19 is an e-mail trail
 16 dated December 17th, 2017 from Dean Vagnozzi to
 17 Perry Abbonizio. The subject is, "Fund Flow."
 18 And it bears the Bates stamp BFP 059551.
 19 Do you recognize this document?
 20 A Yes.
 21 Q What is it?
 22 A Talking about I guess how a -- how a
 23 potential fund would work.
 24 Q So, does this refresh your recollection
 25 that you were continuing to talk about creating a

Page 255

1 fund with Complete Business Services Group?
 2 A So, again, look at the date. The
 3 date's December 17th. And as I just said, I was
 4 acting as a finder right up until around then.
 5 Because by then the -- I -- I kept pressuring
 6 them, do a fund. Do a fund. I wanted to do a
 7 fund because a fund allowed me to -- I wanted to
 8 do a fund because a fund allowed me to be in
 9 control, right. I can be -- more reasons for my
 10 clients to come see me. Very important. I
 11 wanted my clients. I want to strengthen our
 12 relationship. The more they have an excuse to
 13 come sit in my office the more I have an excuse
 14 to strengthen my relationship with them. And
 15 smaller investors could get involved. These guys
 16 had a \$200,000.00 minimum to get involved. So, I
 17 was -- they -- they were warming up, okay, let's
 18 talk about this fund structure again. So, that's
 19 exactly what you see here.
 20 Q So, this would have been like
 21 resurrected conversations, meaning, you think
 22 between the May 2016 time frame and the December
 23 2017 time frame you wouldn't have been having any
 24 conversations about a fund, but then this e-mail
 25 would be in connection with resurrecting

Page 256

1 conversations about a fund?
 2 A Christmas -- I'm sorry. Christmas is a
 3 slower time and it was a perfect time to revisit
 4 this.
 5 Q And you were just pitching how it would
 6 work. So, is that your handwriting?
 7 A Yes.
 8 Q And you drew that out and scanned it
 9 and sent it over?
 10 A I don't know how --
 11 Q Who is Perry Abbonizio?
 12 A He's one of the owners of -- he's one
 13 of the principals with Complete Business
 14 Solutions Group.
 15 Q Okay.
 16 (SEC Exhibit No. 20 was
 17 marked for identification.)
 18 Q Handing you a document that's been
 19 marked Exhibit 20. Exhibit 20 is an e-mail trail
 20 dated September 9, 2015. The top e-mail in the
 21 trail is from you, Dean Vagnozzi, to Bill
 22 Schantz, S-C-H-A-N-T-Z. Subject is, "Re: Fund."
 23 And the Bates stamp is VERT 0 -- oh, sorry, VERTO
 24 016667 to 16668.
 25 Do you recognize this document?

Page 257

1 MS. GENET: I'm sorry, can we go off
 2 the record. The time is 4:22.
 3 (A brief recess was taken.)
 4 MS. GENET: The time is 4:23 and we are
 5 back on the record.
 6 BY MS. GENET:
 7 Q Just referring back to Exhibit 20. Do
 8 you recognize this document?
 9 A I do now.
 10 Q What is it?
 11 A It's a correspondence.
 12 Q Whose Bill Schantz?
 13 A He's the -- hold on. Can I get a
 14 second to read the back? I didn't see the back
 15 of this.
 16 (The witness examined the document.)
 17 A Okay. Okay. So, I'm sorry, I
 18 recognize this now.
 19 Q Okay. So, it looks like what's
 20 happening is that you and Bill are talking about
 21 possibly entering into business together. And
 22 then you decide not to. And then you write to
 23 him that you're not missing anything by not
 24 entering into business with him; is that right?
 25 A He -- he is -- in the middle of part of

Page 258

1 this paragraph he wanted me to introduce advisers
 2 to him that could, basically, source policies
 3 through him. The timing -- look at the date on
 4 this, 9/19/2015. Life Partners --
 5 Q 9/9?
 6 A 9/9/2015. Life Partners had imploded
 7 at this point, right. And they were agents all
 8 over the country that had been marketing a life
 9 settlement investment and Bill, basically, had,
 10 hey, Dean, can you go get ten guys, like he says
 11 here, and I'll give you an override on anybody
 12 you bring to him, okay. And I said, no, thanks.
 13 Q And at this point you're saying, "I had
 14 four conversations with some former LPI sales
 15 reps that want nothing to do with the business
 16 moving forward." What do you mean by that?
 17 A In other words, people were burned by
 18 Life Partners. And Bill -- Bill has a life
 19 settlement business and he was looking for guys
 20 that -- that could -- that could go, basically,
 21 do with him like they were doing with Life
 22 Partners. Simple. And people were just turned
 23 off by this investment after the -- after the
 24 headache they had with Life Partners a lot of
 25 these agents.

Page 259

1 Q So, at that point you were not
 2 interested in doing any business with Life
 3 Partners; is that right?
 4 A With Life Partners?
 5 Q Uh-huh.
 6 A With Life Partners? Life Partners
 7 wasn't open for business at that point in 2015.
 8 BY MR. RAWLINGS:
 9 Q So, just to be clear, this is not
 10 referring to Life Partners. This is referring to
 11 doing business with Mr. Schantz.
 12 A Okay. Well, she just --
 13 Q No. No. I want to make sure for the
 14 record to be clear. This e-mail is not
 15 referencing -- when Mr. Schantz says to you, "You
 16 are missing out on a big opportunity," he's not
 17 referring to you finding finders for Life
 18 Partners, it's for you finding finders for --
 19 A Him.
 20 Q -- whatever feeder fund he's raising?
 21 A Yes.
 22 Q Do you know what that was called?
 23 A No. I think -- he had a couple of
 24 funds going and the idea was that -- I think he
 25 wanted to kind of replicate -- again, I don't

Page 260

1 want to speak for Bill.
 2 The idea was, could he replicate a
 3 fund -- could he do a fund where people could
 4 money into it -- I hope I'm properly doing
 5 this -- explaining this. It's been a few years.
 6 Could he put a fund together that people could
 7 invest into with no risk of premiums 'cause
 8 that's the risk of the investment, the premiums.
 9 So, could he put something together there's no
 10 risk of premiums for like seven, eight years.
 11 What I didn't like about that candidly,
 12 not that I didn't like it, was it unethical, was
 13 it -- was it -- I wasn't questioning any of that.
 14 I just didn't think that the returns were that
 15 good. And as I even stated in the back part of
 16 the e-mail, I clearly say, "I think it's best for
 17 my investors not to do that." My clients can make
 18 more money in my funds --
 19 Q Right.
 20 A -- than his funds.
 21 Q You -- in your e-mail you send, "My
 22 three percent back end charge has a smaller
 23 impact on their overall returns." What is the
 24 three percent back end charge?
 25 A So, I get -- in all my funds I get a

Page 261

1 three percent ownership of my funds. So that
 2 obviously my three percent water's peoples
 3 rates -- returns down, but with that comes the --
 4 the premium risk for me also, so.
 5 Q You'd have to kick in three percent of
 6 the premiums?
 7 A Absolutely. I'm in it with them.
 8 Q All right.
 9 A And not just one fund, eight funds.
 10 Q Uh-huh.
 11 A And I wouldn't want to put my exposure
 12 to anything that I didn't think was the greatest
 13 thing in the world. If I didn't -- if I
 14 didn't -- I wouldn't tie three percent of my
 15 potential premium risk.
 16 Q Uh-huh. And he's referring to a one
 17 percent override on any referral. Is he
 18 referring -- is he referring to like a one
 19 percent transaction-based compensation for the
 20 referral? In other words, if you put in
 21 \$100,000.00 you'd get one percent of that, right?
 22 A Keep in mind I met Bill through my
 23 attorney. So, Bill's attorney and my attorney,
 24 right, same guy. So, again, three years ago, the
 25 idea was -- we never formalized -- he wanted to

Page 262

1 be able to compensate me for helping to introduce
 2 him to people. And no where in this did I -- did
 3 I think or did he insinuate that I would be
 4 compensated in any way that was not -- not
 5 allowed, okay.
 6 So -- 'cause obviously his attorney is
 7 my attorney. You know, he'd put us together.
 8 Hey, if we liked the idea -- the idea was, could
 9 I bring him people. In other words, if I said
 10 yes, then my assumption was, all right, let's get
 11 together and figure out how this is going to work
 12 for everybody. I didn't like this fund. So, I
 13 stopped it. I didn't like -- too small of an
 14 upside. I stopped.
 15 (SEC Exhibit No. 21 was
 16 marked for identification.)
 17 BY MS. GENET:
 18 Q Okay. I'm going to hand you a document
 19 that's been marked Exhibit 21. Exhibit 21 is an
 20 e-mail from you to JRochelle@Comcast.net, Jerry
 21 Grand -- oh, GandMSales.com, Shuesser,
 22 S-H-U-E-S-S-E-R, at Yahoo.com, John.McNally
 23 SAP.com and CC'ing Dana Vagnozzi. The subject
 24 is, "Rochelle video."
 25 Do you recognize this document?

Page 263

1 MR. RAWLINGS: Do you have copies?
 2 MS. GENET: Did I not give you --
 3 MR. RAWLINGS: No.
 4 MS. YUHAS: Oh, I'm sorry.
 5 MR. LAIGAIE: Thank you.
 6 MS. YUHAS: Uh-huh.
 7 A Yes.
 8 Q What is this?
 9 A These are friends of mine. These
 10 are -- John -- they're all friends of mine. It
 11 was an invitation I guess to come learn about the
 12 merchant cash opportunity with CBSG that I was
 13 acting as a finder on.
 14 Q Okay. And it says here, "We have a
 15 very strong addition to our investment offering."
 16 Does that mean that it's going to be a fund --
 17 one of your funds?
 18 A No.
 19 Q What do you understand that to mean?
 20 A It means, come talk to me about this --
 21 this investment that I can introduce you to.
 22 That's what it means.
 23 Q And then you say, "We can get you a
 24 15.5 percent rate of return on your money for a
 25 one-year note." Was that something that you were

Page 264

1 able to get for people?
 2 A I would educate them on the merchant
 3 cash opportunity and I would turn them over to
 4 the principals at CBSG who would solidify any
 5 kind of returns.
 6 Q Where did you get the understanding
 7 that you would be able to get them a 15.5 percent
 8 rate of return on their money?
 9 A Because that's -- I'm sorry. Because
 10 that's what they had paid other people, other
 11 introductions.
 12 Q And then you said, "I spent 18K with my
 13 attorney doing as much due diligence on this
 14 before we rolled out." What did you mean by that?
 15 A I paid my attorney \$18,000.00 to sit
 16 with the CFO, CEO, the executives of this company
 17 couple hours a day for two, three weeks. He sent
 18 me an \$18,000.00 bill for his due diligence.
 19 Q For the due diligence on the underlying
 20 business of the company?
 21 A Yeah. Make sure that they were up and
 22 up people, you know. It wasn't some kind of --
 23 best of his ability, some kind of scam.
 24 Q Did you learn from that due diligence
 25 what kind of merchants they were engaged with?

1 A Did I learn what kind of merchants?
 2 Small business -- I had a very thorough
 3 understanding of what the merchant cash space is
 4 by then.
 5 Q Not the space generally, but
 6 specifically who the merchants were that they
 7 were contracting with.
 8 A No.
 9 Q Do you understand if that was
 10 information collected by your counsel and you
 11 just didn't look at it?
 12 A No. I did not -- I did not know what
 13 he collected or didn't collect.
 14 Q Did you find out what their agreements
 15 with vendors looked like? What information did
 16 you learn from the due diligence that was
 17 conducted besides the dollar value?
 18 A My attorney might be the most
 19 conservative human being I've ever met and he
 20 compliments me beautifully, okay. And his job
 21 is -- I learned long ago through error, right,
 22 that -- that measure twice, cut once. And I
 23 said, John, met these guys, looks good, I want to
 24 pay you to go ask the questions that I don't know
 25 how to ask or can ask.

1 Q Did you understand what those questions
 2 were?
 3 A No. That's why I pay him \$500.00 an
 4 hour.
 5 Q And then what kind of comfort did
 6 you -- well, okay. All right.
 7 BY MR. RAWLINGS:
 8 Q Were you concerned that by telling
 9 potential people who might be invested that --
 10 that you and your attorney had kicked the tires
 11 that you were in some way vouching for the
 12 investment?
 13 A My job is to -- my job -- I'm looking
 14 at -- let's be real clear. I care about my
 15 clients, right. My dad's got money in this,
 16 right. I want to do what's best -- I've got a
 17 lot of money in this. So, these four guys, they
 18 all live within a quarter mile of me. My kids go
 19 to school with my kids. So, when I say, come
 20 look at this, right, I want to make sure -- I
 21 want to be able to say to them, I paid a big law
 22 firm. And I would simultaneously don't know
 23 the -- honestly, I don't know the questions to
 24 ask. I want to be able to check the box and say,
 25 I paid a large law firm to go sit with these

1 individuals.
 2 Q I guess -- so, maybe I should rephrase
 3 the question. You purposely did that so you
 4 could give them information they could rely on in
 5 the investment, right? You told them that
 6 because you expected that to be impressive to
 7 them?
 8 A I told them that so they'd know that
 9 Dean Vagnozzi didn't just rush into something.
 10 Q He -- he actually spent \$18,000.00
 11 kicking the tires and looking under the hood,
 12 right?
 13 A Okay. So, 2016 is the date of this.
 14 John Rochelle, each of these guys are in my
 15 Pillar I fund.
 16 Q Uh-huh.
 17 A That by the time this e-mail had gone
 18 out had been burned by Life Partners. So, kind
 19 of jumping back. Each of these guys -- two or
 20 three of them literally got on an airplane with
 21 me to fly down to Life Partners in 2010 to meet
 22 them. My job -- my job is not to sell this. My
 23 job is -- what I bring value to, I bring what I
 24 am -- I am the guy that kicks up stuff and is it
 25 my job to -- I think it passes my sniff test, but

1 don't trust Dean Vagnozzi. Trust me that I've
 2 done what I can do. Come look for your own
 3 satisfaction, but suffice to say, John, I learned
 4 from the Life Partners mess where I just,
 5 basically, oh, they're a NASDAQ company, let's
 6 get involved. Now I'm saying, John -- John, I'm
 7 sorry I got you involved in that headache. I'm
 8 saying, I did as much due diligence as I can.
 9 And for that, I paid my law firm another chunk of
 10 money to do my best to vet this.
 11 Q You're saying on November 28th, 2016
 12 that, "We have 42 investors over the past two
 13 months" --
 14 A Uh-huh.
 15 Q -- "that have invested close to five
 16 million." Is that an accurate statement?
 17 A I can't confirm it right now, but I
 18 would not have exaggerated that.
 19 Q Okay. And the "we" would be -- who's
 20 the "we" there?
 21 A We Dean, A Better Financial Plan. It's
 22 my company.
 23 Q So -- so, what you're referring to
 24 there is 42 A Better Financial Plan investors
 25 have invested close to \$5 million in the this

Page 269

1 enterprise, right?
 2 A Yes. Signed -- signed notes with that
 3 company directly that I, basically, introduced
 4 them to so that they can go do their own homework
 5 and due diligence.
 6 Q Okay.
 7 MR. RAWLINGS: Go ahead.
 8 (SEC Exhibit No. 22 was
 9 marked for identification.)
 10 BY MS. GENET:
 11 Q I'm going to hand you a document that's
 12 been marked Exhibit 22. Exhibit 22 is a document
 13 that was produced in native format. So, there's
 14 no Bates stamp, but it's a spreadsheet with
 15 columns for first name, last name, status,
 16 background, added and tags. And it is four
 17 pages. I just want to note for the record that I
 18 did mess with the formatting in order to print
 19 it, but in no other way did I change the document
 20 from how it was produced.
 21 Mr. Vagnozzi, do you recognize this
 22 document?
 23 A No.
 24 Q Do you think these -- this is a
 25 printout -- Exhibit 22 is a printout from your

Page 270

1 One Page CRM program?
 2 A I'm not sure.
 3 Q It looks like notes of -- you know, of
 4 conversations or meetings with investors or
 5 clients. What would a drip meeting be?
 6 A This must be from -- this must be then
 7 from -- from the One Page 'cause that's the only
 8 place I've seen those -- that -- that -- that
 9 column, drip in progress.
 10 Q What does drip meeting mean?
 11 A Drip would mean -- drip would mean --
 12 this would -- this is somebody who we met with
 13 and didn't do anything and we either delete them
 14 from the records or we drip them. In other
 15 words, we put in what's called mail chimp or
 16 something like that that we -- in other words,
 17 we -- we -- these are -- people come in, we sat
 18 with them, talked to them and didn't go anywhere.
 19 And for whatever reason -- so, what are our
 20 options? Our options is, like, delete them from
 21 the records or just why delete them, we already
 22 collected dated on them. Drip meaning keep in
 23 touch with them here and there.
 24 Q Is it like an indication in a drop down
 25 menu or --

Page 271

1 A Yeah. Yeah.
 2 Q Okay. So, basically, like the CRM --
 3 A Yes.
 4 Q The One Page CRM software when you
 5 enter in people's information allows you to
 6 designate kind of their level of importance --
 7 A Yes.
 8 Q -- or something?
 9 A Not level of importance. Status where
 10 they're at.
 11 Q Status, okay. So, under status there
 12 would be different options. So, one of the
 13 options looks like here was first meeting; is
 14 that right?
 15 A Yes.
 16 Q Another option, what would 2018 drip
 17 mean?
 18 A Where do you see that?
 19 Q Kind of halfway down the page by
 20 Richard Hampton's name.
 21 A Okay, there we go. That would have
 22 been, I guess, somebody that we met this month --
 23 this year that was no good. Not no good. Just
 24 like didn't buy anything. Let's just, you
 25 know --

Page 272

1 Q That's not like an indication of when
 2 to follow-up with them? 'Cause it looks like you
 3 added this information on October 26, 2017, but
 4 then it says, "2018 drip."
 5 A Yeah. No. These are -- yeah. I --
 6 so, I'm sorry, what's the question? I -- I --
 7 this is what this is from.
 8 Q What 2018 drip means?
 9 A It means it would be somebody that --
 10 somebody that we met -- I -- I don't -- I have
 11 never seen 2018 drip.
 12 Q Do you know what drip stands for?
 13 A Yeah, drip like --
 14 Q Like loser?
 15 A No.
 16 Q Oh. Like what?
 17 A Drip, like drip them. Like I just
 18 said, drip market them.
 19 Q Oh, I see. Market them kind of like a
 20 dripping faucet?
 21 A Yeah. In other words, reach out to
 22 them every now and then. Some people come in and
 23 just, for whatever reason, they like it, but
 24 they're skittish. Like, is this -- is this some
 25 fly-by-night organization. Well, guess what, a

Page 273

1 year-and-a-half from now we'll call them, we'll
 2 keep in touch with them. Hey, Mr. Smith, you
 3 came in two years ago, we're still here. You
 4 want to come revisit what we're doing. That's
 5 what we mean by drip.
 6 Q Would all these people be people who
 7 learned about you from the radio?
 8 A I -- I don't know that. That would
 9 be -- that would be a good bit -- again, 95
 10 percent of the people -- okay, don't hold me to
 11 the 59. A very large percentage of people hear
 12 about us from our marketing.
 13 Q Do you know if any of these people
 14 became investors?
 15 A It would be easy enough to find out. I
 16 don't know when you got this, but we could -- we
 17 can -- yeah.
 18 Q So, this document seems to go back at
 19 least to January 2018 time period. Oh, even
 20 before that, there's an entry I see in October of
 21 2016 on the second page for Joseph Pitzo for
 22 example. Does that refresh your recollection as
 23 to when you got the One Page CRM software?
 24 A When's the first say?
 25 Q Looks like October 2016.

Page 274

1 A October 2016? It -- it would not have
 2 been much before that.
 3 Q Do you have a document that you
 4 maintain like this for investors prior to that
 5 time period?
 6 A No. This? No.
 7 Q Okay. So, what -- what stands out to
 8 me is that it doesn't seem like it's the two to
 9 five a week even though I didn't --
 10 A What do you mean?
 11 Q Oh, sorry. How many people did you
 12 say -- you get two to five people calling a
 13 day --
 14 A Two to five a day.
 15 Q -- did you say from your -- okay. And
 16 then you said maybe -- on average, maybe 10 a
 17 week 15 a week?
 18 A We got 25 last week.
 19 Q All right. So, these would be the ones
 20 from that that actually, physically came in?
 21 A I don't know.
 22 Q And do you know if these are all
 23 entries that were made by you or if they were
 24 made by someone else?
 25 A It would have been me or my staff or

Page 275

1 any -- any summary of -- of -- yeah. This is a
 2 summary of where these people sit in our process.
 3 Q So, are you the only -- not -- you're
 4 not then the only person who has access to the
 5 CRM -- One Page CRM system?
 6 A Correct.
 7 Q Is there any indication reflected about
 8 who entered the information in?
 9 A There's -- there's five or six people
 10 that have access to this. So -- so, this is --
 11 so, if we go back three years, you know -- so,
 12 three years. Two -- two years at least.
 13 Q Who are the people that have access to
 14 this?
 15 A Everybody in my office today and I've
 16 had four or five people work with me in the past
 17 couple of years who don't work with me anymore
 18 that had access to it.
 19 Q Okay. Would that include like Mr.
 20 Tierney?
 21 A Yes.
 22 Q And Jerry Nave and all those people?
 23 A Yeah, Eileen. Couple people that don't
 24 work with me anymore.
 25 Q I see next to Gary and Sandy Lauderback

Page 276

1 that there is an indication that they were at the
 2 MCA dinner. Do you have an understanding as to
 3 what MCA stands for?
 4 A Merchant cash advance.
 5 Q Are these -- how -- how would they have
 6 made it to the merchant cash advance dinner? Gary
 7 and Sandy Lauderback, how would they have made
 8 it?
 9 A An invite or they -- either an invite
 10 or -- yeah, an invite. I -- I don't even know if
 11 they're a client. If they're a client --
 12 Q Well, that's why I'm wondering because
 13 it doesn't seem like you're making entries for
 14 ongoing clients. It seems like these entries are
 15 for initial contacts.
 16 A Let me just --
 17 Q Is that accurate?
 18 A This is -- I'm sorry.
 19 Q Sure.
 20 A State your question again. I'm sorry
 21 to interrupt you.
 22 Q No, that's okay. What were you going
 23 to say?
 24 A What were you going to -- ask your
 25 question.

Page 277

1 Q I was going to ask you if these are
 2 current clients or these are records of initial
 3 contacts with new, potential clients?
 4 A But then you said, it doesn't look like
 5 we're what, maintaining this? Is that what
 6 you're saying?
 7 Q It doesn't look like you continued to
 8 add every single contact you have with existing
 9 clients.
 10 A To this?
 11 Q Right.
 12 A No.
 13 Q Like some salespeople will enter in
 14 every contact they have with a client into one of
 15 these management systems.
 16 A Yes.
 17 Q So, I'm just saying, from a glance of
 18 it, it doesn't like look like you do that.
 19 A Okay. So, this needs a quick summary.
 20 Q Thank you.
 21 A This is -- this -- this program --
 22 let's say it's two years old. I don't know if
 23 it's two years and two days or two years and four
 24 months. It's not much longer than that. This
 25 was -- when people would call our 800 number not

Page 278

1 knowing -- not knowing, gosh, is this radio, for
 2 example, going to bring in one person a year or
 3 one person a day. We literally inputted every
 4 person into this thing every day.
 5 People call, Hi, I'm Joe Blow. I'll
 6 come see you. Put in Joe Blow, right. Put in
 7 his phone number, his e-mail because they would
 8 provide that. This is like the talk of our
 9 office today because this program is like a junk
 10 drawer for us because for a while we were putting
 11 anybody who could fog a mirror into this thing.
 12 And for a while, we were putting -- then we
 13 shifted to only people that call -- then we
 14 were -- we were putting people into this who
 15 called and said they wanted to meet, come in. We
 16 were putting people who left messages. We were
 17 putting people that just left messages. We were
 18 putting people that left messages and said they
 19 were going to come in because a lot of people
 20 canceled.
 21 Then, we were putting in -- this has
 22 shifted to the only time somebody goes into this
 23 is if they come into my office at this point, but
 24 over the past two-and-a-half years we've got
 25 2,000 names plus in this system and that's like

Page 279

1 the -- not the joke because it's like a -- from
 2 a -- any sales perspective it's like a junk
 3 drawer. I can't -- and half of these are -- all
 4 these categories are miss-categorized.
 5 Q Currently the version that I have only
 6 has 50 entries on it. So, I hear you saying that
 7 there would be -- there were thousands, to your
 8 knowledge, but I for whatever reason am seeing
 9 only 50. And what I am also seeing is that Gary
 10 and Sandy Lauderback --
 11 A Uh-huh.
 12 Q -- September 25th, 2017 is the entry
 13 and it indicates next to it MCA dinner. Lawrence
 14 Ren, also January 29th, 2018 and it indicates MCA
 15 dinner.
 16 A Where?
 17 Q Bottom of the second page, Lawrence
 18 Ren, second to the bottom.
 19 A Okay.
 20 Q So, I'm just wondering how those
 21 designations got made for people who look like,
 22 you know, not current investors of yours?
 23 A I didn't say current investors. This --
 24 this system doesn't have just current investors.
 25 This is people who just called the office.

Page 280

1 BY MR. RAWLINGS:
 2 Q I think maybe the question is, do
 3 you -- can you by looking at this have any
 4 understanding or explain to us why we would only
 5 see 50 people on this? I think part of reason is
 6 is we would imagine that there would be 2000,
 7 right? This huge -- if -- if there's this
 8 database that has all these 2,000 people that we
 9 would have 2,000. Can you see any reason why
 10 there would just be this subset of 50?
 11 A I don't know what you asked for that
 12 you got this. I don't even know why you got this
 13 candidly.
 14 Q Okay, that's -- that's helpful.
 15 A Yeah. It's a mystery how you got your
 16 hands on this.
 17 Q We got it and we're asking you if
 18 you -- like, on the right-hand side it all says,
 19 CBS dash 1 and number 429. It looks like that's
 20 some sort of designation like that's a tag.
 21 A No, that's CBS radio that they called
 22 us from.
 23 Q So, all of these, they all called from
 24 the CBS radio?
 25 A Okay. So, no. And I can't even -- so,

Page 281

1 that's not even true because the default, when
 2 you go into the system, it's defaulted there.
 3 And whoever put it in, unless they changed it,
 4 it's inaccurate. And that's what this is. It's
 5 like I'm saying, we did a -- we get an F minus
 6 internally of putting stuff into this properly.
 7 When somebody is a client -- so, if any
 8 of these people bought something, they go into my
 9 Outlook database. We protect my Outlook
 10 database. That is -- that ain't -- that can't be
 11 a junk drawer, you know what I mean? This is a
 12 junk drawer.
 13 Q The only thing that I think we're just
 14 trying to understand is why there's only these 50
 15 names. Do you have any understanding as to why
 16 this would be?
 17 A I don't know how got this.
 18 Q Okay.
 19 BY MS. GENET:
 20 Q I'm also trying to understand what the
 21 MCA dinner indication refers to and why two
 22 people, who you hadn't had any communication with
 23 prior, seemingly, are asking about --
 24 A I don't know that I --
 25 Q -- the MCA dinner --

Page 282

1 A I apologize.
 2 Q -- or being indicated in relation to
 3 the MCA dinner?
 4 A I don't know that -- I don't know that
 5 they didn't come to the MCA dinner that we did.
 6 MR. LAIGAIE: One thing I'd suggest,
 7 because I think we're all kind of spinning around
 8 on this thing, if -- if you could send me the
 9 native version of this that we produced to you,
 10 Megan, or, Kimberly, I'll be glad to work with
 11 the people in Dean's office to figure out -- to
 12 try to get to the bottom of how did this -- how
 13 is this what came off of the One Page System
 14 'cause I just, I don't know as I'm sitting here.
 15 I didn't appreciate what this document was when
 16 it was produced. There's probably a reason and
 17 it probably very rational reason, but I'll be
 18 darned if we'll conjure it today.
 19 THE WITNESS: The question I have is,
 20 what did they ask for that would have caused me
 21 to need to go into this system is the question?
 22 MR. LAIGAIE: Well, I mean, the
 23 subpoena is what they asked for.
 24 MR. RAWLINGS: It's an exhibit. It's
 25 the second exhibit. You can go out and take a

Page 283

1 look at it. Take a look. I mean, go to the
 2 bottom of your stack, that's where the subpoena
 3 is. We've talked about it when you first came
 4 here. We asked for pretty much everything that
 5 has to do with every client you have.
 6 MR. LAIGAIE: Yeah, with -- with
 7 investors.
 8 THE WITNESS: With investors.
 9 MR. LAIGAIE: But, Dean, you weren't
 10 part of the production process, the search and
 11 whatnot. You're people did it and in conjunction
 12 with us. So, let me do some spade work on this
 13 and figure out what this document is. I have not
 14 looked at it or given it any thought until you
 15 brought it up.
 16 (SEC Exhibit No. 23 was
 17 marked for identification.)
 18 BY MS. GENET:
 19 Q Okay. I'm handing you a document
 20 that's been marked Exhibit 23. Exhibit 23 is an
 21 e-mail trail between you and Henry Ford. The top
 22 e-mail trail is from Henry Ford to you. The
 23 subject is, "Fall Catcher PPM Final 3/22/18." And
 24 it bears the Bates stamp BFP 059877 to 059881.
 25 And it's dated May 27, 2018.

Page 284

1 Do you recognize this document?
 2 A I guess this is where he sent me his
 3 existing PPM.
 4 Q Okay. So, this is what you were
 5 referring to as -- you were saying earlier that
 6 you had a recollection of seeing the PPM and this
 7 is where he sent it to you; is that right?
 8 Would -- was this the initial
 9 reconnecting with Mr. Ford? Was this the time
 10 frame of that initial reconnection?
 11 A It would have been -- it would have
 12 been a few weeks before this.
 13 Q Okay. What we see in the production is
 14 only e-mail beginning in the May 2018 --
 15 A Yeah.
 16 Q -- time period. So, I'm just wondering
 17 if there would have been communication prior to
 18 that.
 19 A Nothing -- probably no e-mails.
 20 Q Aside from looking at this PPM and
 21 also, you know, testing out the demo of the -- of
 22 the product, and I guess also you got a couple of
 23 letter of intents from certain insurance
 24 companies, did you do any other due diligence on
 25 Fall Catcher?

Page 285

1 A Other than what I explained to you
 2 earlier, no.
 3 Q Attend their offices, see their office
 4 space?
 5 A I didn't see the need to do that yet.
 6 Q Speak to any of the employees other
 7 than Henry Ford?
 8 A Didn't see any need to do that.
 9 Q Any other diligence?
 10 A No, not yet. Wouldn't want to waste my
 11 time on anything I didn't know I was going to
 12 pursue.
 13 Q Okay.
 14 (SEC Exhibit No. 24 was
 15 marked for identification.)
 16 Q I'm going to hand you a document that's
 17 been marked Exhibit 24. Exhibit 24 is an e-mail
 18 trail from Dean Vagnozzi to yourself, Dean
 19 Vagnozzi, dated June 5th, 2018. And the subject
 20 is, "E-mail to Pilla VI-VIII MCA, MSF, IUL, SRG,
 21 Prospects Attachments Fall Catcher ES
 22 2018/2/18.PDF" and an image. It bears the Bates
 23 stamp BFP 0582 -- 058528 to 058530.
 24 Do you recognize this document?
 25 A Yes.

Page 286

1 Q What is it?
 2 A It is a -- an e-mail from -- from me to
 3 our investors -- to -- to -- not my investors.
 4 At -- right here, Pillar VI, Pillar VIII,
 5 Merchant Cash investors, IUL stands for life
 6 insurance and SRG, yeah. So, that's who it went
 7 out to.
 8 Q So, as you can -- well, it doesn't go
 9 out to those people this e-mail. So, it's from
 10 you to you. We don't have meta data here. So,
 11 you wouldn't be able to see the BCC, but at least
 12 from what I've looked at in our office I can tell
 13 you I don't see any BCCs. So, from -- from what
 14 it looks like to me, it looks like a draft?
 15 A Okay.
 16 Q Is that what it looks like to you if it
 17 didn't go out to anybody, but yourself?
 18 A I can't -- I don't know if it -- I
 19 would assume the intent was to go out to the
 20 people in our database.
 21 Q Did you sometimes e-mail yourself
 22 drafts?
 23 A No. I would have -- I would have -- I
 24 think I would have blind copied everybody.
 25 Q You think you maybe accidentally didn't

Page 287

1 blind copy anybody or maybe the meta data is
 2 messed up?
 3 A What's meta -- I don't understand what
 4 meta data is.
 5 Q Sorry. I can -- we -- we get an
 6 electronic version of this. So, we're --
 7 MS. GENET: It's not right here in
 8 front of you, Mr. Laigaie, but I can tell you I
 9 don't see that it was sent to anybody by BCC
 10 unless there's missing information.
 11 MR. LAIGAIE: And what I can tell you
 12 is I'll check. Kroll has this data and I will
 13 find out if there's -- Kroll typically knows to
 14 produce all meta data and I'd be surprised if it
 15 didn't.
 16 MR. RAWLINGS: Well, we're going to get
 17 another e-mail shortly after this and so that's
 18 why Megan is saying this looks like a draft.
 19 MR. LAIGAIE: Looks like it's a draft,
 20 yeah.
 21 MR. RAWLINGS: Looks like a draft. The
 22 fact is that it was e-mailed from Vagnozzi to
 23 Vagnozzi, but -- so, you know. And then the
 24 subject is, "E-mail to Pillar VI, VIII MCA" dot,
 25 it's not -- that's just in the subject line.

Page 288

1 MR. LAIGAIE: Uh-huh.
 2 BY MR. RAWLINGS:
 3 Q But by looking at this, Mr. Vagnozzi,
 4 would you sort of say that your best guess is to
 5 sort of -- by having put that in the subject that
 6 in your mind you're thinking, I'm going to send
 7 this e-mail to --
 8 A Yes.
 9 Q -- the e-mail group that consists of
 10 Pillar VI, Pillar VIII, MCA, MSF, IUL?
 11 A Yes. And what I also look at is I look
 12 at the date, the time.
 13 Q Uh-huh.
 14 A And I'm a night owl and I'm shocked
 15 that this doesn't say 1:30 a.m. or something like
 16 that 'cause a lot of the times what I'll do, I
 17 will send it to myself because it's a reminder
 18 when I get into the office and do e-mails, it's
 19 not sitting in a draft. I'll send it to myself
 20 and I won't open it, you know what I mean? That
 21 will be my way of like reviewing this again at
 22 9:30 in the morning or something.
 23 Q Right.
 24 A So, I wouldn't rule that passed me.
 25 Again, you can see the date and the time that I

Page 289

1 did this.
 2 Q Right.
 3 BY MS. YUHAS:
 4 Q What's MSF? You said MCA is merchant
 5 cash advance. What's MSF?
 6 A Multi-strategy fund.
 7 BY MS. GENET:
 8 Q And IUL?
 9 A Index universal life.
 10 BY MR. RAWLINGS:
 11 Q Do we know what multi-strategy fund is?
 12 What is the multi-strategy fund?
 13 A That's a fund where we have -- it's a
 14 combination of -- of -- of life settlements and
 15 the merchant cash investment in one -- one fund.
 16 Q What's the name of that fund?
 17 A Multi-Strategy Fund.
 18 Q Okay. That's not on this list, right?
 19 When I say "this list" I'm referring to the chart
 20 that --
 21 A Yeah.
 22 Q -- is marked? What's the exhibit
 23 number?
 24 MS. GENET: I think seven.
 25 A Yeah. No. 'Cause that was done --

Page 290

1 again, that document must have been done a
 2 year -- over a year, year-and-a-half ago.
 3 Q So, there's a multi-strategy fund. And
 4 when was that created?
 5 A Earlier this year.
 6 Q And is there a PPM for that fund?
 7 A Yes.
 8 Q Okay. How many investors are in that
 9 fund, approximately?
 10 A 60, 70 -- 50, 60 or so, in that range.
 11 Q And how much raised?
 12 A Ten million.
 13 Q Okay. And IUL, was is that?
 14 A Index universal life.
 15 Q Is that a fund or is that just people
 16 who own life insurance policies?
 17 A Who own life insurance through me.
 18 Q And SRG, what is that?
 19 A That's the Sustainable Resource Group.
 20 Q The what?
 21 A Sustainable Resources Group that we
 22 talked about earlier.
 23 Q We talked about it. Is that a fund?
 24 A No. That was a finder.
 25 Q Okay. And then, "Prospects." So, who

Page 291

1 would be included in prospects?
 2 A People who -- people who have come in
 3 who are, you know, talking to us now who have
 4 come into our office over the past month or two
 5 who just maybe haven't pulled the trigger on
 6 something.
 7 Q To be a prospect do you have to have
 8 come into the office or might someone who just
 9 called from the radio ad be a prospect?
 10 A No, they have to come to my office.
 11 Q And who makes the designation to put
 12 them on the prospects list?
 13 A Whoever is entering their name into the
 14 CRM system.
 15 Q Okay. But in the CRM system, if you
 16 were to search for all the people in the group
 17 prospects there is some defined number of those,
 18 right?
 19 A But they're not all accurate.
 20 Q But they're all going to get an e-mail?
 21 Like the intent would be to send them an e-mail,
 22 correct?
 23 A I didn't -- the intent would be --
 24 prospects means -- that means whoever's --
 25 whoever we have an active dialogue going on right

Page 292

1 now.
 2 Q But I guess, but it's also, it's an
 3 e-mail list, right?
 4 A No.
 5 Q It's not as though there is an e-mail,
 6 like, you know, you would actually have to go and
 7 pick out every single prospect --
 8 A Absolutely.
 9 Q Okay.
 10 A Yes. Yes. That's -- that would be --
 11 there's an e-mail list on the other people, but
 12 the prospects would be like, you know, all right,
 13 who's come in the past few weeks that might have
 14 interest in this.
 15 Q Got it, okay.
 16 BY MS. GENET:
 17 Q So you write, "Dear Client, Prospective
 18 Client, we are going to raise \$3 million." How
 19 did you know you were going to raise \$3 million?
 20 A I was extremely confident I was going
 21 to raise \$3 million.
 22 Q Why were you extremely confident you
 23 were going to raise \$3 million?
 24 A Because if it's something I believe in
 25 and get excited about I can raise \$3 million. And

Page 293

1 I've got the clients and the contacts to do it
 2 if -- if it's something I'm on board with.
 3 Q And then you said --
 4 MR. RAWLINGS: I'm sorry.
 5 BY MR. RAWLINGS:
 6 Q And how -- so, we just talked about
 7 this. May 27th is when you got the PPM, which
 8 you didn't read. So, this is less than two weeks
 9 later. How did you get so on board with it in
 10 that time, which is, approximately eight or nine
 11 days?
 12 A So, the purpose of this is, share this
 13 with -- share this with a handful of people --
 14 handful. A dozen or so people the same -- you
 15 know, hey, look at this, what do you think of
 16 this. Everybody I shared it with thought it was
 17 a -- had a lot of legs.
 18 The purpose of this e-mail was for me,
 19 again, exploratory because I've done this how
 20 many times now for 15 years. The intent was, I
 21 was going to go do a private placement, a Reg D
 22 like I've done a million times, hire competent
 23 counsel to set this PPM up so that Dean Vagnozzi
 24 can be the general partner and do this the right
 25 way and that was the goal. So, I invited people

Page 294

1 if -- if people came to this and they thought,
 2 this stinks, I would have said -- I would have
 3 kaiboshed the whole thing. I got egg on my face.
 4 We're going to go -- we're going to go -- we're
 5 just going to stop doing it, but that was the
 6 intent.
 7 The intent was for me to do a -- my own
 8 fund to go invest in Fall Catcher. My PPM invest
 9 in Fall Catcher's PPM. Not to raise money for
 10 Fall Catcher.
 11 Q This is June 5, 2018. Was that the
 12 idea now that you were going to have a fund that
 13 was going to invest in Fall Catcher or is the
 14 idea that people are going to invest directly in
 15 Fall Catcher at this time?
 16 A At this -- this time was for me to put
 17 together my own PPM, invest in my fund which I
 18 then invest in Fall Catcher the -- the -- that
 19 entity.
 20 Q I thought that we had talked about how
 21 Fall Catcher needed to raise four million and you
 22 were going to help raise them as a finder.
 23 When -- tell me the genealogy, how did that
 24 change after -- so, that was after this e-mail?
 25 A Yes. This all evolved. This was a

Page 295

1 fluid --
 2 Q Okay.
 3 A It evolved.
 4 Q Okay.
 5 MR. LAIGAIE: Explain.
 6 A Okay. All right. Okay. Yeah. I'm
 7 trying to give you the answers to your questions,
 8 but --
 9 So, the intent -- very key here, the
 10 intent was for me to raise money, people come in,
 11 invest in my fund. I control the assets. I
 12 control the money with my -- with my staff and
 13 because by me doing it I know it's going to get
 14 done the right way and there's not going to be
 15 one penny unaccounted for. That was the intent.
 16 They invest in our fund. And then the idea is
 17 to -- if -- again, assuming there was interest
 18 and assuming everyone liked it an all that stuff
 19 and then the idea was to have our fund invest in
 20 Fall Catcher.
 21 What happened was, we got the -- when
 22 we had a couple of these dinners, I have never,
 23 ever had the response from people like this.
 24 Everybody was there. You saw the video. There
 25 was -- everybody wanted in on this. Heard Henry

Page 296

1 and -- and we handed out forms that basically
 2 said, and I even said it on video, you think
 3 you -- let us know what you think you would do,
 4 no commitments, give us an idea of what you think
 5 you would do. And all that first -- those
 6 meetings -- all those forms that we collected
 7 over a couple of those meetings totaled up to
 8 like five, six million.
 9 So, originally Henry said -- he said,
 10 could we get 2.5 to three million, okay. Once we
 11 got the interest then I said to Henry, right,
 12 Henry -- and I -- I had hunch I was going to do
 13 this. Henry, all do respect, but if I'm going to
 14 be involved in this with my clients, people trust
 15 me, we're not using your PPM. So, I could care
 16 less very candidly what was in his PPM because I
 17 knew I was never, ever going to invest in it.
 18 I introduced him to my attorney John
 19 who I have a great relationship with and trust
 20 him wholeheartedly, very conservative guy. I
 21 literally introduced those two together and I
 22 said, John, here's what I'm thinking of doing.
 23 I'm want to do a PPM. I want my PPM to invest in
 24 his PPM. Long story short John, basically,
 25 said --

Page 297

1 MR. LAIGAIE: Don't say what you said
 2 to the lawyer or the lawyer said to you.
 3 A But my point is, once John got
 4 involved, John, basically, said, Dean --
 5 MR. LAIGAIE: Stop with what he said.
 6 What did it turn into as a result of John's
 7 involvement?
 8 A A major change.
 9 Q And what -- what was the change as you
 10 perceived it -- as you understood it?
 11 A That I was not going to do my own fund.
 12 Q And -- and -- okay.
 13 BY MS. GENET:
 14 Q Why did you decide not to do your own
 15 fund?
 16 A Because my counsel recommended --
 17 MR. LAIGAIE: Gee whittakers.
 18 A Relax. Relax. I don't need to relax.
 19 You guys do this ten times a day. I don't.
 20 So -- so, I -- I chose -- I -- I
 21 just -- it wasn't the right fit for me to do a
 22 PPM.
 23 Q Okay. So, you refer to the SRG
 24 investment which you raised 1.5 million in 15
 25 days, right?

Page 298

1 A Yeah.
 2 Q And you did do that, right, for SRG?
 3 A As a finder I introduced a lot of
 4 people to the company and they very quickly got
 5 excited about that and invested with SRG.
 6 Q And SRG raised 1.5 million from your
 7 funds -- from your folks?
 8 A Yep.
 9 Q And so now you're saying that, "We have
 10 an opportunity that is going to be 20 times
 11 bigger." What made you say it was going to be 20
 12 times bigger?
 13 A Subsequent e-mails I also said you
 14 could lose your money also, just for the record.
 15 I said -- I said I thought it had the ability to
 16 be, and it does, national. Still believe that or
 17 I wouldn't have spent time on it.
 18 Q Okay. And then you forwarded the
 19 attached document that had projected revenues,
 20 right?
 21 A Which were much higher than 20 times.
 22 Much higher.
 23 Q 20 times -- 20 times what? Like, when
 24 you say it needs to be 20 times bigger, are you
 25 saying 20 times bigger than the revenues than the

Page 299

1 SRG investment opportunity?
 2 A Yes. Yes. Yes.
 3 Q Okay.
 4 (SEC Exhibit No. 25 was
 5 marked for identification.)
 6 BY MS. GENET:
 7 Q I'm going to hand you a document that's
 8 been marked Exhibit 25. Exhibit 25 is an e-mail
 9 from you, Dean Vagnozzi, to Dean Vagnozzi dated
 10 June 7, 2018. In this case, CC'ing Shannon
 11 Westhead and BCC'ing a number of people. The
 12 subject is, "Possible Grand Slam." And there is
 13 an attachment, Fall Catcher, underscore, ES,
 14 underscore, 2018-02-0 -- excuse me, dash 18.PDF.
 15 Bates stamped BFP 060501 to 060502.
 16 Do you recognize this document?
 17 A Yes.
 18 Q What is it?
 19 A It is an invitation to join us at -- at
 20 our -- at one of our events coming up to learn
 21 about either the Fall Catcher opportunity or the
 22 event where -- we're having an event, a
 23 distribution of -- of proceeds from one of our
 24 maturities.
 25 Q What makes you think that it might be

Page 300

1 for maturities?
 2 A Because of the date of the event.
 3 Q And you recall that on that date you
 4 were distributing money from maturities?
 5 A Yep.
 6 BY MR. RAWLINGS:
 7 Q I mean, that's a strategy of yours,
 8 right? I mean, obviously when you're going to
 9 give them money back, have an investment
 10 opportunity that they might then use to invest
 11 that money?
 12 A No.
 13 Q No?
 14 A No. The handing out of the investment
 15 check had nothing to do with using that money to
 16 invest in Fall Catcher.
 17 Q Nothing at all to do with it?
 18 A No. I've got other monies. I'm
 19 handing them a check -- we put in 400 grand, it's
 20 turned into one million. I promise you, they
 21 want to put it back right into the same
 22 investment. These are people that had other
 23 assets.
 24 Q Uh-huh.
 25 BY MS. GENET:

Page 301

1 Q Oh, okay. So, I see the list of events
 2 and it looks like there are four events listed, a
 3 Tuesday June 19th event at Gino's, a June 20th
 4 event at King of Prussia, a June 20th event at
 5 the Ace Golf Club, and a June 21st event at Mount
 6 Laurel. And it looks like the June 20th event at
 7 the Ace Golf Club is the Pillar VII payout --
 8 A Correct.
 9 Q -- dinner combined event?
 10 A Correct.
 11 Q Okay. So, does that refresh your
 12 recollection that three of these events would
 13 have been dedicated solely to Fall Catcher and
 14 one of the events would have also included a
 15 Pillar VII payout dinner?
 16 A Correct.
 17 Q All right. Now, looking back to the
 18 first page of Exhibit 25. I'm just going to go
 19 through the list of recipients, the BCC list.
 20 And just start with the first e-mail address
 21 RAD157@Comcast.net. Do you recognize that e-mail
 22 address?
 23 A No.
 24 Q 10Charles?
 25 A No.

Page 302

1 Q AGGold56?
 2 A I don't know any of these e-mail
 3 addresses.
 4 Q Do you think that these e-mails are in
 5 fact the e-mails referred to in Exhibit 24, the
 6 Pillar VI, VIII, MCA, MSF, IUL SRG and Prospect?
 7 A I think there's a very high likelihood
 8 that these are people from that list.
 9 Q Do you think it would also have the
 10 Pillar VII payout folks?
 11 A Yes. In this e-mail? I'm not sure if
 12 this e-mail -- I'm not sure if this e-mail was to
 13 those people.
 14 Q Okay.
 15 BY MR. RAWLINGS:
 16 Q I just, I wanted to ask, because the
 17 very first sentence in the e-mail says, "I want
 18 to extend an invitation to you that 120 of my
 19 current clients already signed up for it since
 20 yesterday."
 21 A Yes.
 22 Q So, I want to ask you, is that true?
 23 A Yes.
 24 Q So, when you wrote this e-mail on June
 25 7th you already had -- 120 clients had signed up?

Page 303

1 A I think that -- I think the -- I
 2 looked -- I think the wording should be "not
 3 signed up since yesterday." It should have been
 4 "as of yesterday," not "since yesterday."
 5 Q Okay. And signed up for what? Signed
 6 up to go to the dinners or --
 7 A Yes.
 8 Q -- signed up to go -- was this to go to
 9 the combined four dinners or was is it that they
 10 signed up to do?
 11 A I'm looking for an e-mail or two from
 12 somebody in the -- the Pillar VII group to see if
 13 this is that -- those people. So, bear with me a
 14 second.
 15 Q Uh-huh.
 16 (The witness examined the document.)
 17 A I'm not seeing --
 18 Q I want to just suggest a possibility
 19 from the reading is that, there's a draft on June
 20 5th, okay. And then we see this e-mail on June
 21 7th, but the June 7th e-mail at 8:46 you're
 22 saying that 120 people have already accepted an
 23 invitation. Does this -- is it possible that
 24 there is a previous e-mail that might have gone
 25 out to Pillar VI, VIII, these other people --

Page 304

1 just let me finish.
 2 A I'm sorry.
 3 Q From which you'd already gotten 120
 4 people who were interested and you're using that
 5 number to -- to get the 120 from?
 6 A Our Pillar VII dinner event was planned
 7 a month in advance.
 8 Q Right.
 9 A And in that -- in that -- in that group
 10 of investors, I don't know the exact number,
 11 let's just say there's 60, 70 investors, a good
 12 bid of them were coming, a good bit of them will
 13 bring a spouse -- you know, their spouse. So --
 14 so, when I'm eluding to 120 people, I'm probably
 15 eluding to a good bit of the people who are
 16 already going to be there at the event. In other
 17 words -- in other words, the Ace event can only
 18 hold so many people. So, in other words, if you
 19 want to come, we've already got 120 people
 20 coming, hurry up, tell us because we already have
 21 so many people at that -- at that event.
 22 Q Got it, okay. So then the sentence you
 23 say now is, "Target returns are 20 times your
 24 investment in 18-month time frame." Before when
 25 you -- when we talked about -- you had said this

Page 305

1 is going to be 20 times bigger, this is in
 2 Exhibit 24. Do you recall that?
 3 A Yes.
 4 Q And I asked you what 20 times means and
 5 you said 20 times was 20 times the revenue of
 6 Fall Catcher versus SRG, okay. That's become
 7 now, "Target returns of 20 times your investment
 8 in 18-month time frame." Can you tell me what
 9 your thinking was.
 10 A My thinking is several months later I
 11 don't know what exactly I meant, but the intent
 12 was, be real clear, I am 100 percent certain that
 13 this could be significantly bigger than anything
 14 that I had put together. And I used 20 times
 15 because every -- every number that Henry gave me
 16 was significantly bigger than that. So much
 17 bigger I didn't feel comfortable referencing what
 18 Henry was referencing. So, I paired it down just
 19 to say, like, look, this could be really big.
 20 Q So, Henry was telling you that people
 21 could earn more than 20 times their investment?
 22 A Of course. Yes, he was. He wasn't
 23 guaranteeing it and I wasn't being gullible to
 24 think. And again, I know you've got a bunch of
 25 documents. Other documents will show that I

Page 306

1 clearly told people, this is not the money you
 2 put if you need.
 3 Q But the sentence is, "Target returns
 4 are 20 times." I mean, I guess if you were to be
 5 fully truthful, the -- the truth is is, no, the
 6 target returns were actually far more than 20
 7 times because that's what Henry Ford was telling
 8 you and you've haircut that down?
 9 A Correct.
 10 Q Why aren't you telling people that?
 11 A Because the bigger -- my experience is,
 12 the bigger the number you tell somebody, the more
 13 they are like standoffish about it. So, because
 14 I didn't -- because I knew -- because I knew that
 15 when these events happened and because, for the
 16 most part, these are clients who know, like and
 17 trust me and who I care about, I knew I would say
 18 to them expose the risk and everything associated
 19 with this. I wouldn't let them just hear the
 20 rosy pitch. So, I knew this could be really big.
 21 And I still believe that.
 22 Q But where is the risk in this e-mail?
 23 Is there any reference to the risk in this
 24 e-mail?
 25 A Not in this e-mail, no. Other ones,

Page 307

1 yes.
 2 Q So, basically, what this e-mail is
 3 saying is that the minute investment is 75,000.
 4 So, if you invest 75,000 the target return --
 5 what you're telling your investors is that the
 6 target return would be -- what is 20 times
 7 75,000?
 8 A 1.5 million.
 9 Q So you'd turn your 75,000 into 1.5
 10 million in 18 months, that's what you're telling
 11 your investors?
 12 A I don't see it as that. I disagree
 13 with that. I'm not saying that. I say, could
 14 be.
 15 Q Where's the "could be"?
 16 MS. GENET: "Target returns are."
 17 A We -- we -- no. Here's what it is. We
 18 feel, feel means my opinion, doesn't mean
 19 guarantee. It says, "We feel that we have an
 20 opportunity that's going to be 20 times bigger."
 21 It doesn't say, hey, come with everything you
 22 got.
 23 Q But you're referring to Exhibit 24.
 24 A Okay.
 25 Q Now, look at Exhibit 25, which is the

Page 308

1 one -- the e-mail that we see actually getting
 2 sent to people.
 3 A Okay.
 4 Q And I'm kind of glad you pointed that
 5 out because the sentence was, "We feel that we
 6 have another opportunity that is going to be."
 7 But -- but that sentence now becomes, "Target
 8 returns are 20 times your investment in an
 9 18-month time frame."
 10 A Okay.
 11 Q So, I'm pointing out that it doesn't
 12 say "we feel" here. It says, "Target returns are
 13 20 times your investment."
 14 A I agree. And the last time I checked
 15 target doesn't mean guarantee, target doesn't
 16 mean without risk, target doesn't mean safe as
 17 money in the bank. Target doesn't mean Dean
 18 isn't going to explain everything to you.
 19 That's -- that's what it means.
 20 You don't fill a room -- you don't fill
 21 a room of investors, potential people that want
 22 to look at something, by saying, you're going to
 23 lose all your money, come. So, I give them the
 24 optimistic view, come look at this. And my
 25 client -- here's what you have to understand,

Page 309

1 every person on this list would have been
 2 investors of ours for the most part. Are there a
 3 handful of people that showed up that I didn't
 4 know? Absolutely, but not on purpose. These are
 5 people that I have a strong relationship and
 6 trust me that if I think it's worth looking at
 7 that it's worth looking at. That's all. Uh-huh.
 8 Q Okay.
 9 MR. RAWLINGS: Sorry, Megan. I'm done.
 10 BY MS. GENET:
 11 Q No. I mean, that's the point, right,
 12 they trust you. And I guess what you don't have
 13 in here are, as Steve pointed out, any risks.
 14 So, you know, for example, if you turn to the
 15 PPM, which we can mark.
 16 (SEC Exhibit No. 26 was
 17 marked for identification.)
 18 Q I'll hand you a document that's been
 19 marked Exhibit 26 which is the private placement
 20 memorandum for Fall Catcher, Inc. --
 21 A What's the date on this?
 22 Q -- bearing the Bates stamp BFP 066414
 23 through 066469 dated August 27, 2018.
 24 Identified in here are a number of
 25 risks, including limited transferability in

Page 310

1 liquidity, the long-term nature of the
 2 investment. And so, both of those items go to the
 3 time period for the investment, right?
 4 A I never seen this.
 5 Q You just have to reply orally. You
 6 were shaking your head.
 7 A What's the question?
 8 Q The question is that the two items on
 9 page seven, the page bearing Bates stamp BFP
 10 066427, the two paragraphs that relate to limited
 11 transferability in liquidity and the long-term
 12 nature of the investment, those both relate to
 13 the time frame of the investment; is that right?
 14 A Yes.
 15 Q And so, here you're indicating to your
 16 investors that the investment would have an
 17 18-month time frame; is that right?
 18 A And as I eluded -- yes. And as I
 19 eluded to, this changed. This -- this was the
 20 document that was not created when I sent that
 21 e-mail out. This is not the final -- this is not
 22 what they invested in. I got my legal counsel
 23 involved to, which I knew he would, put together
 24 all the risks and this is a document that I never
 25 saw.

Page 311

1 Q Were you aware that the software code
 2 had not been complete at the time that you sent
 3 the June 7, 2018 e-mail?
 4 A Yes. That's what they needed the funds
 5 for, to complete it.
 6 Q So, you're not indicating to any of
 7 these potential investors that at this point they
 8 have zero market share because they don't have a
 9 product yet?
 10 A Yes. They -- they were all aware of
 11 that. They -- this -- this was all -- this is
 12 new -- this is not a -- this document is not
 13 representing the investment like a private
 14 placement does. This document is saying, come
 15 learn about something that I've looked at on a
 16 surface level and I think it's worth your time to
 17 look at. There's nothing more, nothing less in
 18 this. And as we went along and once we got my --
 19 once we saw the interest level, I do what any --
 20 I did what I -- what I do looking after my
 21 clients and said, okay, Henry, go meet my
 22 attorney because he's going to put -- he's going
 23 to cover -- he's going to put a PPM together
 24 that -- that I know will be done the right way.
 25 Q Were you aware if there were any

Page 312

1 competitors that were already in the market for
 2 Fall Catcher?
 3 A Henry made it sound like there was
 4 not -- there wasn't any, no.
 5 BY MR. RAWLINGS:
 6 Q You sort of say that my attorney is
 7 going to do it the right way. Was there
 8 something that you saw in Henry's PPM that you
 9 didn't read or at least in Henry's pitch that
 10 made you concerned he was going about it the
 11 wrong way?
 12 A No.
 13 Q Yeah.
 14 A Henry told me he worked with a law firm
 15 in Colorado with a guy he never met.
 16 Q Right.
 17 A Some company that he never met. So,
 18 I'm not saying -- it could have been a
 19 beautifully put together PPM, but again, you have
 20 to understand, if I put people -- if nobody
 21 responded, if nobody showed up, this thing would
 22 have been done, but the interest level was
 23 through the rough. Again, got John involved and
 24 I -- I didn't know this his document wasn't good.
 25 I wanted my guy who I trust -- know, like and

Page 313

1 trust to polish it, improve it --
 2 Q Okay. And let's talk about the
 3 chronology about exactly how it happened. So,
 4 the meetings with the potential investors were
 5 late June. So, June 19th through June 21st,
 6 right?
 7 A Yes.
 8 Q Okay. And so, you -- you say that
 9 there was a great deal of outpouring. Like, a
 10 lot of people at these events said that they
 11 wanted to invest. I think you actually said that
 12 you got an indication of four million, was
 13 that --
 14 A More than that.
 15 Q And what was that? Was that like a
 16 feedback form that --
 17 A People -- and I had a very generic --
 18 again, I don't know else to do this. It's what
 19 I've done before. A generic -- a just one-pager
 20 put your name -- at the end -- again, it's on
 21 video. At the end we handed out a form, give us
 22 an indication, no commitments.
 23 Q Uh-huh.
 24 A Based on what you heard, do you like
 25 this.

Page 314

1 Q Right. Where are those forms?
 2 A I don't -- I don't know that with have
 3 them anymore.
 4 Q It's November. This was just in June.
 5 There's a PPM that was drafted in late August.
 6 You're saying you don't know if -- if -- if the
 7 original indications of interest, like, the
 8 leads, the people who were interested, someone
 9 might have said, listen, I'll -- I'll put half a
 10 million dollars in there, you don't know where
 11 that piece of paper is that says Jack Smith is
 12 going to put in a half a million dollars?
 13 A It might be in my office. It might be
 14 shredded. I don't -- this -- no. I don't know
 15 where, if we still have it.
 16 Q So, let's talk about -- so, you found
 17 out there's a lot of interest.
 18 A Yes.
 19 Q Then you put him in touch with your
 20 lawyer. And "him" is Mr. Ford. And when did
 21 that happen? I think you mentioned it happened
 22 the very night of the -- the events; is that
 23 right?
 24 A The -- the very next day.
 25 Q Okay.

Page 315

1 A I -- I sent John -- I don't know if I
 2 called him. Henry was in town.
 3 Q Uh-huh.
 4 A Right. He lives in Florida.
 5 Q Right.
 6 A He's in town. And I called John -- I
 7 don't know if I called him, e-mailed him, what I
 8 did, John, what are you doing for lunch? And,
 9 oh, can you meet me? Henry and I went to meet
 10 John. I wanted to at least put Henry in front of
 11 him, name to face, so whatever they talk about
 12 over the phone after that at least he met the
 13 guy.
 14 Q So, I just -- for the record, the last
 15 seminar was Thursday, June 21st. So, you met
 16 with Henry and Mr. Petrillo on Friday, June 22nd
 17 for lunch, right?
 18 A I met with him after the Ace event.
 19 Q Okay.
 20 A So, the Ace event was on the 20th.
 21 Q Okay.
 22 A And you notice how our next event was
 23 at 6:30 the next night?
 24 Q Yeah.
 25 A I had nothing going on at lunchtime. I

Page 316

1 was in the city with my attorney and John.
 2 Q Okay. And at that time, did your
 3 attention change to no longer have your own fund
 4 and just be a finder?
 5 A Not -- that's -- that's where it
 6 started. It wasn't there immediately. It was
 7 more an introduction over a hamburger, putting
 8 the two and two together. And John obviously
 9 started talking with Henry directly over the next
 10 few weeks.
 11 Q So, when did you decide that you were
 12 not going to do your own fund to invest in their
 13 fund?
 14 A Probably mid -- mid August or so.
 15 Q Okay. And by that time had anyone made
 16 any investments?
 17 A No.
 18 Q And how do you know that?
 19 A Nothing to invest in.
 20 Q Okay. What -- who -- who did the --
 21 the people who were interested from these four
 22 meetings who was the contact for them to sort of
 23 keep the conversation going with respect to Fall
 24 Catcher.
 25 A Shannon.

Page 317

1 Q Okay. And what did she say to people?
 2 A She didn't say -- basically, she didn't
 3 say anything. She -- she was, basically -- at
 4 the end of the night we, basically, said, you
 5 know, give us a few weeks. We got to get with
 6 our attorney, we got to put legal documents
 7 together, you know. We'll be in touch kind of
 8 thing. There was no deadlines. There was no
 9 concrete --
 10 Q Right. And so, people don't know if
 11 you're going to get back to them or if Henry is
 12 going to get back to them, right?
 13 A Or Shannon or whoever. We would be in
 14 touch with them.
 15 Q Okay. When was it determined that you
 16 would be a finder?
 17 A I signed the finder agreement around
 18 the 20th or so of August, in that range.
 19 Q Okay. And what were the terms of that?
 20 A That I would receive compensation as
 21 long as I received -- they were -- \$4 million or
 22 more was raised.
 23 MS. GENET: Can you mark that?
 24 MR. LAIGAIE: Megan, just a general
 25 question, it's 5:30. How much longer do you

Page 318

1 have.
 2 MS. GENET: This is the last document I
 3 think that I have to mark. So, we'll have to
 4 take a short break to just make sure that I have
 5 everything in order, but should be close to the
 6 end.
 7 (SEC Exhibit No. 27 was
 8 marked for identification.)
 9 BY MS. GENET:
 10 Q Okay. I'm handing you a document
 11 that's been marked Exhibit 27. Exhibit 27 is an
 12 e-mail from Henry Ford to you, Dean Vagnozzi.
 13 The subject is, "Forward: Fall Catcher
 14 Presentation, V1.3.PPTX" dated June 19, 2018 and
 15 there's an attachment --
 16 A Uh-huh.
 17 Q -- included which is the Fall
 18 Presentation V1.3PPTX, Fall Catcher Financial
 19 Model 2018-2, June 2018 V1.0.XLSX. And it bears
 20 the Bates stamp BFP 059694 through 59721.
 21 Do you recognize this document?
 22 A Hold on a second. Do I recognize
 23 everything contained in here? Yes.
 24 Q And Mr. Ford writes in the body of the
 25 e-mail, "Dean, please see the attached. Will you

Page 319

1 please have these printed up for us to distribute
 2 to the clients today." Do you see that?
 3 A Yep.
 4 Q And that's June 19th, 2018 would be
 5 today and that's the date of your --
 6 A First presentation.
 7 Q The first of your four events --
 8 A Yes.
 9 Q -- concerning Fall Catcher that are
 10 identified in Exhibit 25; is that right?
 11 A Yes.
 12 Q Did you in fact have them printed up --
 13 A No.
 14 Q -- for distribution?
 15 A No.
 16 Q Did you provide them to any --
 17 A No.
 18 Q -- clients?
 19 A 100 percent certain.
 20 Q How come?
 21 A Because he wanted to and I said no.
 22 Q How come?
 23 A Because I'm not distributing anything.
 24 It's -- you don't -- I don't want -- I didn't
 25 want clients walking away -- first of all, he had

Page 320

1 a computer that wasn't -- he -- he wanted me
 2 to -- his computer wasn't syncing up with a
 3 projector that he was using. So, he -- not only
 4 did he send this, but this was -- you -- we -- I
 5 believe we used my computer to show because it
 6 was syncing up with the projector. We didn't --
 7 I didn't print out any of this stuff.
 8 Q Did you have him show it to or did you
 9 allow him to show it to the attendees of the
 10 seminar?
 11 A He could have done whatever he wanted.
 12 Q Is that a yes or a no?
 13 A I don't -- I don't know if this is
 14 exactly what he sent or not, but it was his
 15 presentation.
 16 MR. LAIGAIE: Well, did he show this
 17 presentation at these meetings?
 18 THE WITNESS: I'm not sure.
 19 MR. LAIGAIE: Okay.
 20 BY MR. RAWLINGS:
 21 Q Did he show a presentation at a
 22 meeting?
 23 A Yes.
 24 BY MS. GENET:
 25 Q Turning your attention to the page

Page 321

1 bearing the Bates stamp 59718. Do you see the
 2 five-year forecast?
 3 A Yes. This here? Yes.
 4 Q Did you have any understanding about
 5 what the basis would have been for this five-year
 6 forecast summary?
 7 A I have a -- I have a -- the idea was to
 8 put these units in the treatment centers. And
 9 every time a patient would touch the unit it
 10 would trigger a fee. And he, basically,
 11 extrapolated -- don't hold me -- I'm not even
 12 going to give you numbers, but there's 5,000
 13 treatment centers in the State of Florida. If --
 14 if -- you know, of the 5,000 each treatment
 15 center was going to have four or five units in
 16 it, right. So, you're talking 25,000 units, but
 17 he's not saying 25,000. He's saying a couple
 18 hundred. So, that's how he came up with his
 19 numbers, very -- he came up with what he feels
 20 very conservative numbers on revenue this would
 21 produce.
 22 Q But there was no proof of concept for
 23 the basis of the forecast summary as far as you
 24 know? Meaning, like, no proven sales?
 25 A I -- I knew there was no proven sales.

Page 322

1 Q And also for the positive cash flow
 2 within one year on the next page, were you aware
 3 of the information underlying these revenue
 4 projections were?
 5 A What page? Is there a page before?
 6 Q It's BFP 059719.
 7 A I don't -- I don't have -- yeah. I
 8 can't extrapolate how that -- how these numbers
 9 total up to that.
 10 MS. GENET: We're going to go off the
 11 record. The time is 5:36.
 12 (A brief recess was taken.)
 13 MS. GENET: All right. We are back on
 14 the record. The time is 5:41.
 15 BY MS. GENET:
 16 Q Mr. Vagnozzi, I just want to clarify
 17 that we didn't have any substantiative
 18 conversations while we were off the record except
 19 to say that we just think we have a few minutes
 20 left.
 21 A Yes.
 22 Q Okay. So, I want to direct your
 23 attention to the Pillar VI investment.
 24 A Okay.
 25 Q And let you know that we've done our

Page 323

1 own look see at the investors and the
 2 questionnaires and what we see is that there are
 3 more than 35 non accredited investors. Is that
 4 something you're aware of?
 5 A Yes.
 6 Q Do you know how many non accredited
 7 investors there are?
 8 A It was my understanding two or three.
 9 I'm not -- I forget -- at one time I knew. I
 10 don't know exactly how many I'm over.
 11 MR. LAIGAIE: Two or three over 35?
 12 THE WITNESS: Oh, yes. That's what I
 13 meant. I apologize.
 14 Q Are you also aware that there are
 15 certain investors for whom there does not seem to
 16 be substantiation as to whether or not there are
 17 accredited investors for the Pillar VI fund?
 18 A I'm sorry, restate the question. Am I
 19 aware -- say that again.
 20 Q So, there's one category of investors
 21 that are clearly not accredited investors because
 22 they filled out the form and they identify
 23 themselves as non accredited investors.
 24 A Okay.
 25 Q In addition to that, there's another

Page 324

1 category of investors for whom there just simply
 2 is no documentation about whether or not they are
 3 accredited. Is that something that you are aware
 4 of with respect to the Pillar VI fund?
 5 A I was not aware of that.
 6 Q When did you become aware that Pillar
 7 VI was over for the number of non accredited
 8 investors?
 9 A I think when we put the paperwork
 10 together for you last -- a year-and-a-half ago,
 11 the first subpoena.
 12 Q What steps, if any, have you taken
 13 since then?
 14 A About the -- about that? About the
 15 over subscription? I don't know what the right
 16 terminology -- having more than 35? We haven't
 17 taken any -- I've been waiting.
 18 Q Is there a reason why no Form D was
 19 filed in connection with the Pillar VI fund?
 20 A I relied on my attorney to file that
 21 paperwork. I am not aware why it wasn't.
 22 Q Are you aware that it wasn't?
 23 A Yes. I am now aware that it was not.
 24 Q Is that just from me telling you?
 25 A No. We found that out recently.

Page 325

1 Q Can you say when?
 2 A I don't know. It's been more than --
 3 it's been a while now.
 4 Q A month, three months?
 5 A More than that. I would say, more than
 6 six months. I've known for -- I've known for I
 7 think -- yeah. It hasn't been -- it's not --
 8 it's not a month or two. I've known for a couple
 9 of months.
 10 Q Okay. And with respect to the Pillar
 11 VII fund we as well did our own investigation and
 12 we see that there were more than 35 non
 13 accredited investors. Is that something you're
 14 aware of?
 15 A Yes.
 16 Q When did you become aware of that?
 17 A Same time.
 18 Q And what is your understanding --
 19 meaning 18 months ago?
 20 A Yeah.
 21 Q What is your understanding as to how
 22 many more non accredited investors you have than
 23 the 35 that are permitted?
 24 A A couple, two or three.
 25 Q The -- the understanding that you have

Page 326

1 about how many over you are for Pillar VI and
 2 Pillar VII where does that come from?
 3 A How do I -- how am I aware that we're
 4 over? Just from -- just counting.
 5 Q Did you do the count physically
 6 yourself? Like, look at the paperwork and do the
 7 count yourself?
 8 A No. I believe my staff pointed it out
 9 to me.
 10 Q And also with respect to the Pillar VII
 11 Fund no Form D has been filed. Are you aware of
 12 that?
 13 A Yes.
 14 Q Did you become aware of that in the
 15 same time period --
 16 A Yes.
 17 Q -- that you found out about the non
 18 filing of the --
 19 A I'm sorry.
 20 Q -- Form D for the Pillar VI Fund?
 21 A Yes, became aware at the same time.
 22 BY MR. RAWLINGS:
 23 Q Do you -- do you have any
 24 understanding -- like, what is your understanding
 25 as to how it came to be that you sold more than

Page 327

1 35 accredited investors?
 2 A Well, the -- the -- I thought she was
 3 going to say something.
 4 Q Unaccredited investors, I apologize. I
 5 misspoke.
 6 A How did I became aware?
 7 Q No. What is your best understanding as
 8 to how it happened?
 9 A Well, it's a very honest oversight.
 10 Like I said before, for the first several years I
 11 did this all by myself. I didn't miss a beat. I
 12 kept track of every single one. The
 13 spreadsheet -- I'm sorry, I've seen her flip
 14 through some pages. I've seen the spreadsheets
 15 that I've used, name, accredited, non accredited.
 16 Like, I would keep track.
 17 Q Right.
 18 A And the first six all by myself, I did
 19 it, nobody touched, I didn't miss a thing.
 20 Q And were you -- I think this is
 21 implicit in what you're saying. I just want to
 22 make it very clear. You were very careful in
 23 those instances that as the unaccredited
 24 investors got up to 35 not to sell anymore?
 25 A Absolutely. And then, as we got -- and

Page 328

1 Pillar VI and VIII, like the head coach takes
 2 responsibility, I'm responsible, but I relied on
 3 my staff to do that and they whiffed, but --
 4 Q Was there a spreadsheet that somebody
 5 else was maintaining that itemized the number of
 6 unaccredited investors?
 7 A I don't know if there is a
 8 spreadsheet -- I don't know if -- if there was a
 9 spreadsheet that they kept on that.
 10 Q I'm just kind of wondering if it was
 11 that when the 36th unaccredited investor came in,
 12 the person entered them in and the spreadsheet
 13 just went from 35 to 36 and that person wasn't
 14 aware of the significance, or alternatively, they
 15 just weren't keeping a spreadsheet and so they
 16 just didn't know?
 17 A I suspect -- I suspect this kid
 18 Steve -- kid. This -- this young adviser
 19 agent -- life insurance agent that was working
 20 with me, he was -- I was trying to give him
 21 things to do. And he was doing that and he
 22 dropped the ball. And again, not -- I'm not
 23 blaming -- he -- he did. I should have -- I
 24 should have been responsible. He was keeping
 25 track and -- and he whiffed.

Page 329

1 BY MS. GENET:
 2 Q What was his last name again?
 3 A Steve McCarthy.
 4 BY MR. RAWLINGS:
 5 Q And it was specifically him, it was his
 6 responsibility to be the person who was sort of
 7 monitoring the investors for Pillar VI and VII?
 8 A Again, I'm trying to be --
 9 Q Or VII and VIII?
 10 MR. RAWLINGS: Is it VII and VIII or VI
 11 and VII?
 12 MS. GENET: VI and VII.
 13 A I did not have a document that listed
 14 his responsibilities, but he was -- he was
 15 handling that. And again, I'm not blaming him.
 16 I'm simply blaming that I got this right all by
 17 myself. And as a -- as I -- as my company has
 18 grown, it was an oversight. If you look at all
 19 the funds that we've done, you know, other --
 20 just all the funds we've done, it was an
 21 oversight on two of them.
 22 BY MS. GENET:
 23 Q It seems like with all of the other
 24 funds where you don't go over the Form D gets
 25 filed. And then for the two funds that you did go

Page 330

1 over the Form D doesn't get filed. So, it -- it
 2 looks like maybe not an oversight. Like, maybe
 3 it was something that you were aware of and
 4 that's how come the Form D didn't get filed.
 5 A No, it's not.
 6 Q So, you're saying it's just
 7 coincidental that for these two funds there
 8 were -- you went over the number of non
 9 accredited investors and also no Form D got
 10 filed?
 11 A I will say this that, yes. I need to
 12 elaborate on this a minute.
 13 My attorney dropped the ball and that
 14 doesn't mean he -- he -- I relied on him to do
 15 this and he didn't do it. And when this -- the
 16 subpoena came out, we pulled all the records and
 17 I went to him and said, all right, what do we do
 18 about this? We're over. Do I refund people's
 19 money? Do I -- what do I do?
 20 BY MR. RAWLINGS:
 21 Q Again, don't -- that is -- that is a
 22 request for legal advice and I don't want you to
 23 answer that here just because it's privileged.
 24 It's your own privilege. You don't have to tell
 25 us.

Page 331

1 A Okay, thank you.
 2 My point is, it was brought up with
 3 this going on. It was, let's just see what
 4 happens as a result of this. In other words, you
 5 can't undue it. You're over subscribed.
 6 Q Right. You -- you -- regardless of
 7 whatever your attorney said to you then, you have
 8 not paid anyone money back, you didn't refund
 9 investments, you've taken no action to date?
 10 A Correct.
 11 Q Okay, fine. Yep.
 12 BY MS. GENET:
 13 Q Okay. Mr. Vagnozzi, we have no further
 14 questions at this time. We may, however, call
 15 you again to testify in this investigation.
 16 Should this be necessary we will contact your
 17 counsel.
 18 Mr. Vagnozzi, do you wish to clarify
 19 anything or add anything to the statements you've
 20 made today?
 21 A Not at this time.
 22 MS. GENET: Do you guys want a break?
 23 MR. LAIGAIE: No, we're good.
 24 MS. GENET: Okay. Counsel, is there
 25 anything that you wish to clarify or add?

Page 332

1 MR. LAIGAIE: No, not at this time.
 2 And -- and if anything subsequently comes to
 3 mind, I'll let you know.
 4 MS. GENET: Okay. Just a quick
 5 reminder just to identify the items that we
 6 discussed today for production. And other than
 7 that, the time is 5:50 and we're off the record.
 8 (Whereupon, at 5:50 p.m., the
 9 examination was concluded.)
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1 PROOFREADER'S CERTIFICATE

2

3 In The Matter of: A BETTER FINANCIAL PLAN, LLC

4 Witness: Dean Vagnozzi

5 File Number: NY-09593-A

6 Date: Thursday, November 15, 2018

7 Location: New York, NY

8

9 This is to certify that I, Maria E.

10 Paulsen,

11 (the undersigned), do hereby certify that the

12 foregoing transcript is a complete, true and accurate

13 transcription of all matters contained on the

14 recorded proceedings of the investigative testimony.

15

16 _____

17 (Proofreader's Name) (Date)

18

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1 REPORTER'S CERTIFICATE

2

3 I, SHAUNNA MORAN, reporter, hereby certify that the

4 foregoing transcript of 332 pages is a complete, true

5 and accurate transcript of the testimony indicated,

6 held on November 15, 2018, at New York, NY in the

7 matter of:

8 A BETTER FINANCIAL PLAN, LLC.

9

10 I further certify that this proceeding was recorded

11 by me, and that the foregoing transcript has been

12 prepared under my direction.

13

14

15 Date: _____

16 Official Reporter: _____

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Transcript Word Index

[& - 1st]

&	059877 4:19 283:24	100,000 126:2	15.5 263:24 264:7
& 2:16 35:3,4,7	059881 4:19 283:24	100,000.00 261:21	150,000 200:19,21
0	060501 4:23 299:15	100,000.00. 29:23,23	15th 11:4
0 256:23	060502 4:23 299:15	100.00 187:6 190:25 191:13 192:2	16 3:9 4:6 9:12 13:14 232:9,12
0000009 246:14	066414 4:25 309:22	10281 1:11 2:10	232:12 241:13 246:9,20
000008 4:11 242:15	066427 310:10	1060 91:6,10	1662 3:7 8:22
000516 3:13 87:19	066469 4:25 309:23	1099 49:22 74:18,20 76:20	16668 4:15 256:24
005024 3:21 220:7	09593 1:4 333:5	10charles 301:24	16th 2:18 7:11
006935 3:19 210:5	1	10th 229:2	17 3:11 4:8,12 63:4 112:3
007010 3:16 180:7	1 1:8 3:7 4:10 6:2 8:22,22,23	10th 229:2	238:14,18,18 242:9 244:10
011760 4:5 229:4	9:1 19:14 95:14,16 110:25	11 3:15,18 180:6 193:5 195:3	244:17 245:20 246:3,8
011763 233:23	111:4 121:3,5,8,13 137:21	210:1,1	249:7 250:20
011767 4:5 229:4	137:24 138:2,10 222:23	11th 248:25	172 3:14
011772 232:17	242:18 243:25 280:19	12 3:20 30:25 34:25 35:5,5	17th 254:16 255:3
011773 232:17	1,000 188:21	124:24 197:1 199:22,25	18 4:10 205:14 242:10,14,14
016667 4:15 256:24	1,000.00 186:12	201:7 203:24 205:14	304:24 305:8 307:10 308:9
021804 3:25 226:16	1.1 153:22	217:24 219:23 220:2,2	310:17 325:19
021805 3:25 226:17	1.5 27:6 226:25 297:24 298:6	246:9,15,18	18,000.00 264:15,18 267:10
048898 3:23 223:16	307:8,9	12:11 87:2	18.pdf. 299:14
048902 3:23 223:16	1:30 288:15	12:29 87:4	180 3:15
050128 4:7,9 238:20	1:34 148:12,14	120 302:18,25 303:22 304:3,5	18k 264:12
050129 4:7,9 238:21	10 3:14,17,22 4:4,11 46:15	304:14,19	19 4:12 5:4 244:10,17 245:20
0582 285:23	116:11 153:24 172:13	1210 91:11	246:3,8 249:7 250:20
058528 4:21 285:23	193:1,4,4,7 223:14,21	13 3:22 10:23 223:10,13,13	254:12,15,15 318:14
058530 4:21 285:23	228:16 242:15 251:6	225:8 228:15	19102 2:19 7:11
059551 4:13 254:18	274:16	1346 121:11	193 3:17
059694 5:5 318:20	10,000 114:12 116:10	13th 11:5	1933 234:2
059719 322:6	10:36 1:15 6:6	14 3:24,24 124:25 125:24,25	195 3:18
	10:53 20:11	226:9,12,12,13 246:9,18	1990s 37:20
	10:55 20:13	15 1:12 4:4 6:6 11:10 12:24	19th 301:3 313:5 319:4
	100 14:6 26:19 37:9 38:5 55:11	14:12 18:15 28:8 46:15	1s 93:7,7
	55:14 75:10 134:9 183:10	47:17 51:22 52:12 112:3	1st 244:5
	189:17 192:15 194:19	153:24 169:14,24 228:22	
	212:6 305:12 319:19	228:25,25 233:22 274:17	
		293:20 297:24 333:6 334:6	

[2 - 36]

2	2010 44:9 78:10,21 79:13 81:13 267:21	215 2:20 7:12	270 65:8
2 3:8 10:4,4 11:8 28:14 31:3 51:22	2011 80:1	219 3:20	27th 293:7
2,000 65:20 77:9 114:16,17 115:14 278:25 280:8,9	2012 80:5	21st 301:5 313:5 315:15	28 4:6,8 238:21 239:16,24
2,000.00 115:11	2013 3:14,15,17,18 78:7 79:11 80:5 82:8 122:14 163:8 172:13 175:19,20 180:6 191:2 193:5,8 194:4 210:6	22 3:12 4:17 269:8,12,12,25	283 4:18
2,500 65:18	2014 54:14 78:7 122:14 144:14 163:7	223 3:22	285 4:20
2.5 296:10	2015 3:24 4:4,10,14 144:14 226:13 228:9 229:2 242:18 243:25 244:5 256:20 259:7	226 3:24	28th 239:11 268:11
2:11 148:17	2016 4:6,8 238:21 239:16,24 244:10,17,19 245:20 246:9 250:20 251:25 252:2 253:18 254:2 255:22 267:13 268:11 273:21,25 274:1	228 4:4	299 4:22
20 3:10 4:14 61:16 112:2 174:7 181:2 182:23,24,25 183:2,9,20 185:1 189:16 214:20,21 219:3 251:6,19 256:16,19,19 257:7 298:10 298:11,21,23,23,24,25 304:23 305:1,4,5,5,7,14,21 306:4,6 307:6,20 308:8,13	2017 3:9,10,22 4:12 61:16 126:22 177:3,6 223:14,21 251:25 254:16 255:23 272:3 279:12	22nd 2:18 62:8 315:16	29th 279:14
20,000 114:10,14 116:2,6	2018 1:12 3:11,12 4:18,20,22,24 5:4 6:7 9:12 10:23 25:14 62:8 63:4 105:9,15 131:18 131:19,20 254:5 271:16 272:4,8,11 273:19 279:14 283:25 284:14 285:19 294:11 299:10 309:23 311:3 318:14,19 319:4 333:6 334:6	23 4:18 283:16,20,20	3
20,000.00 153:24	2018/2/18.pdf 285:22	232 4:6	3 3:9 6:2 9:7,7 10:1 235:16 292:18,19,21,23,25
200 1:10 2:9	2018-02-0 299:14	234 65:8	3,000 114:17
200,000 126:4	2018-2 318:19	238 4:8	3/22/18 283:23
200,000.00 138:12 255:16	202 1:25	24 4:20 246:20 285:14,17,17 302:5 305:2 307:23	3:26 219:13
200,000.00. 137:23	20th 301:3,4,6 315:20 317:18	24/7 109:17 118:20	3:34 219:16
2000 28:5 39:3 78:7 80:3,4 141:6 251:24,24 280:6	21 4:16 262:15,19,19	242 4:10	3:40 225:1
2001 28:5 34:3	212 2:11	25 4:22 28:13 111:6,10 112:1 155:13 274:18 299:4,8,8 301:18 307:25 319:10	3:41 225:4
2003 33:4 34:3 243:21		25,000 321:16,17	30 19:12 113:10
2004 40:23 43:13 44:10 78:20 81:13 106:4		250 139:9	30,000.00 208:14
2005 184:13		254 4:12	309 4:24
2006 29:20 30:2,11,22,23 180:16		256 4:14	31 31:3
2008 19:19 20:1 29:2,5		25th 279:12	318 5:4
2008-2009 20:3		26 3:18 4:24 272:3 309:16,19	332 334:4
2009 19:2 20:2 46:18		262 4:16	334 1:8
		269 4:17	336-0422 2:11
		26th 210:6	35 140:16,18,22 323:3,11 324:16 325:12,23 327:1,24 328:13
		27 4:18,24 5:4 283:25 309:23 318:7,11,11	350 126:8 139:9
			36 246:21 328:13

[36th - accidentally]

36th 328:11	50 (cont.) 280:5,10 281:14 290:10	7:26 223:22	9593 8:7
3b 233:23,24	50,000 125:25	70 290:10 304:11	98 38:11
4	500 188:17,17	700,000 139:8	99 39:3
4 3:10 19:15 24:17,19,24 36:8 61:10,15,15,22 63:11 63:16,19 64:1,12 67:13,16 70:15 72:20 83:1 108:22 130:18 317:21	500,000 24:23 25:17	75 111:20,21,25	999-1346 121:9
4,000 114:17	500,000.00 47:25	75,000 307:3,4,7,9	a
4:13 250:9	500.00 185:19,25 186:6,20 187:2 187:23 189:1 190:23 191:3 191:9 266:3	7th 302:25 303:21,21	a.com. 220:3
4:14 250:13	52 197:2	8 3:14 172:8,9,12 197:1,2 199:22,25 201:7 203:24 217:23	a.m. 1:15 6:6 223:22 288:15
4:22 257:2	59 273:11	8:46 303:21	ab 16:18
4:23 257:4	59718 321:1	80 111:20,20,22 249:24	abbonizio 254:17 256:11
40 214:20	59721 5:5 318:20	800 95:9,14,16 110:25 111:4 121:3,5,8,13 277:25	abbetterfamilyplan.com 44:3
40,000.00 153:24	5th 193:8 285:19 303:20	800.00 27:21	abbetterfinancialplan.com 11:20 45:8 47:9 48:25 50:10 60:9 88:11,17 170:4 170:10
400 2:9 300:19	6 3:4,7,8,9,12 31:4 61:10 62:6,6 63:11,16,19 64:1,12 66:20 67:22 68:18 70:15 72:20 83:1	800s 37:20	abbetterfinancialplan.com. 51:10
401k 139:8	6:30 315:23	851-8386 2:20 7:12	abfp 13:16,17 14:17,18,20,21 15:5,8,10,12,21,25 16:3,7 16:12,14,15,17 44:21 47:6 47:13 50:25 52:17 57:4 60:5,6 88:21 104:22 105:11 105:12 127:19 128:17,18 129:7,8 140:9,9,24,24 152:24,25 170:12 180:22 212:8,13 229:21 239:14
42 160:11 268:12,24	60 7:10 159:7 169:16,25 290:10,10 304:11	855 121:9,14 151:17	ability 18:21,22 194:16,17 264:23 298:15
429 280:19	60,000 120:17	87 3:13 227:2	able 20:20 70:16 72:13 181:9 182:8 199:19 206:20 209:8 218:4 236:5,12,16 237:1 262:1 264:1,7 266:21,24 286:11
467-9200 1:25	600 245:3	9 3:15 4:14 180:1,4,4 256:20	absolutely 115:9 188:22 189:22 219:3 236:25 253:19,19,20,20,21 261:7 292:8 309:4 327:25
5	61 3:10,11,12	9/19/2015 258:4	accepted 303:22
5 3:11,17 4:20 62:2,2,4 63:3 63:3,11,16,19 64:1,12 67:18 70:15 72:20 83:1 268:25 294:11	63 31:4	9/9 258:5	access 18:22 70:19 74:4 76:7 85:2 101:2 206:10 250:25 275:4 275:10,13,18
5,000 321:12,14	650 245:16	9/9/2015 258:6	accidentally 247:21,23 286:25
5,000.00. 29:9	6938 3:19 210:5	9:30 288:22	
5:30 317:25	7	90 81:25 202:5,9	
5:36 322:11	7 3:13 4:22 87:15,18,18 89:22 91:21 93:24 94:2 102:5 104:22 122:1,20 127:14,15 128:1,4 129:7 140:9,24 152:24 239:7,23 299:10 311:3	90s 37:21	
5:41 322:14		91 124:10	
5:50 332:7,8		92 124:10	
50 2:18 111:25 194:19 279:6,9		95 273:9	

[accommodate - announced]

accommodate 140:16	actual 33:10 41:10 105:4 175:16	adviser 38:7 53:19 196:6,7,8,10,12	ain't 281:10
accommodations 160:8	211:7,20	197:8,9,10,12,13,14,16,18	air 109:14
accomplished 106:21	ad 109:23 117:3 118:6 121:18	202:15 222:7,9,12,16	airplane 267:20
account 16:2,3,4,5,13 18:22 28:8,12	151:16 157:23 158:8	328:18	al 76:16 93:22 150:1 172:14
37:13 45:3 48:21 115:3	237:16 238:7 291:9	advisers 42:5 76:4 258:1	193:8 194:9 220:2,15,25
209:6 246:11	add 227:8 277:8 331:19,25	advocates 183:22	221:7,10,24 222:2
accountant 35:11	38:3 52:13 226:25 269:16	affect 59:13,16 94:22 228:7	albert 172:23
accounting 34:1 35:8,15 230:17	272:3	affirmatively 104:21	allegations 225:16,19,22
accounts 18:17,18 21:7	adding 184:3	age 98:22 190:11	allianz 55:22
accredited 97:10 137:16,16,19 138:9	addition 7:19 61:6 162:4 223:1	agency 42:25	allow 320:9
138:17 139:7,11,11,12,18	263:15 323:25	agent 34:22 41:1,14 56:4 143:18	allowed 96:20 255:7,8 262:5
139:18 140:6,13,16,19,22	additional 18:18,19 149:8	210:24 215:23 232:23	allows 271:5
141:3 142:4,4 144:6,21	additions 11:1	233:3,12 328:19,19	alter 56:11,14
323:3,6,17,21,23 324:3,7	address 7:6 65:7 83:19 168:3 175:6	agents 84:2 211:13 258:7,25	alternative 181:18
325:13,22 327:1,15,15	175:6 178:24 212:8,20	aggold56 302:1	alternatively 328:14
330:9	213:2 232:14 301:20,22	aggregate 126:6	alternatives 96:9
accurate 10:11 15:6,12 24:20 26:24	addressed 62:17,17	aggregated 126:7	amazon 83:20
35:3 52:6,9 67:25 88:12	addresses 213:15 302:3	ago 30:25 66:11,23 73:16,24	america 38:14,15 56:16 133:2,4
166:18 241:1 268:16	ads 90:25 91:1,2 94:18 104:16	92:14,14 104:6,7 114:16	amount 26:22 27:25 97:23 107:7
276:17 291:19 333:12	109:12,13,19 115:11,20	115:10 116:9 141:21 151:3	124:3 125:19 126:7 169:12
334:5	116:17,21 117:10,25 118:2	159:19 160:12,13 161:7,10	188:3
accurately 128:12	118:13,18 119:25 120:5,25	163:20,20 174:3 176:8	amounts 46:12,15
ace 301:5,7 304:17 315:18,20	121:6 151:12 159:12 162:3	177:1 181:14 184:8 185:8	ancillary 42:10
aces 135:9	232:25 236:23 237:1	185:22 187:4 190:2 208:11	anderson 39:15,16,17,19,20,21,23
achieve 26:12	advance 246:25 247:25 276:4,6	210:25 231:4 261:24	40:6,7,9,14
act 232:23 233:2,12 234:2,12	289:5 304:7	265:21 273:3 290:2 324:10	andy 76:15 93:22 150:1
252:24 253:3	advertise 113:24 234:25 237:22	325:19	anita 66:8 67:13,19,23 68:18
acted 23:19 150:16	advertisement 235:7 238:9	agree 59:24 60:11 61:1 308:14	74:11 75:16 82:5,13 83:8
acting 23:1 253:4,17 255:4 263:13	advertisements 52:2 94:10	agreed 60:12	83:22 84:3,13 150:7
action 331:9	advertiser 119:18	agreement 23:21,25 24:2,4,4,9 25:3,5	anita's 66:25 70:6,22
active 19:7 92:20 291:25	advertisers 119:15	25:8,9,23,24 26:1,6 27:16	announced 228:13,13
activities 45:11 53:10	advertising 234:1 235:11	49:12 93:11 140:1,2 231:19	
activity 45:10,10 67:3	advice 134:17,22,22,25 184:4	231:22,25 232:7,21,22	
acts 65:1,2	197:19 330:22	233:1,7,8,11,15,21 234:4,5	
	advise 135:2	236:22 317:17	
		agreements 80:17 265:14	
		ahead 98:14,15 102:14 195:23	
		269:7	

[annual - ax]

annual 137:22	appoint 41:20	assess 202:9	attendees 154:6 159:24 170:21,23
annuities 199:11,11,13 202:15	appointed 32:12,13 41:16	assessment 203:7	171:21 175:10,11 235:9
answer 21:19,21 52:13 53:12 59:11 67:9 73:15 129:18 134:24 145:25 152:14 184:25 205:9 330:23	appointment 115:24 151:19,22,24	assets 54:25 97:8,23,24 137:25 138:1,7 159:16 206:12 208:25 209:17 223:4 295:11 300:23	attention 28:13 31:2 150:19 212:24 225:7 233:22 235:16 316:3 320:25 322:23
answering 47:20 95:19 151:18	appreciate 135:1 282:15	assist 144:2	attorney 15:9 24:7 131:5 134:13 135:8 145:8 148:7 230:14 234:7,10 238:13 239:1 242:8 261:23,23,23 262:6,7 264:13,15 265:18 266:10 296:18 311:22 312:6 316:1 317:6 324:20 330:13 331:7
answers 57:16 67:7 85:13 102:2,16 295:7	appreciated 220:24 221:25	assistant 2:6	attorneys 68:3,9 248:2
anthony 164:23 165:8 232:14,21,21	approval 167:11	assistants 158:10	attorney's 131:4 230:9
anybody 10:20 12:12,17 52:24 55:16 75:19,25 77:17 96:23 97:1 103:20 106:14 132:6 158:12,13 184:25 185:1,25 204:7,22 208:23 231:25 232:5 234:22 258:11 278:11 286:17 287:1,9	approve 196:19	associate 37:15	attractive 207:20
anymore 19:7 28:12 69:9 92:11 107:18 123:6,18 141:21 275:17,24 314:3 327:24	approved 42:2,5,16,18	associated 306:18	audible 149:12
anyway 31:15	approving 196:22	assume 7:25 58:10 60:20 147:8 227:8 286:19	audio 120:7
apart 17:5 249:17 252:1,17,18 253:11	approximately 124:8 290:9 293:10	assumed 12:2	august 4:24 253:25 254:4 309:23 314:5 316:14 317:18
apologize 22:6 44:23 97:18,19 128:3 140:11 150:19 244:3 245:23 246:1 250:4 282:1 323:13 327:4	april 3:17,18,24 193:8 194:4 210:6 226:13 228:9 244:19	assuming 33:13 146:24,25 295:17,18	authority 84:3,4
apostles 185:9	area 31:19 65:22,25 70:8 91:4	assumption 26:1 84:24 145:14 262:10	automatically 113:19 114:1
appeal 234:24	arm 157:11,12	atrium 13:20 14:1 122:25 123:5,8 124:2,13 125:16,17,18 126:6,13,18 127:2,24 128:3 128:4,7,13 129:1,8 140:10 140:25 152:25 170:13	available 8:16 198:25
appear 74:8 120:18	arrangement 253:14	attach 217:18	average 112:10 227:2 274:16
appearances 2:1	art 197:17	attached 9:8 175:24 231:18 298:19 318:25	aware 70:13,20 84:22 85:5,7,11 85:15 86:20 108:19 121:7 142:14,17,20,21,23 145:4 145:12 191:12 221:10 224:23 225:9,14,22,24 226:1,3,6 228:10 232:8 243:3 311:1,10,25 322:2 323:4,14,19 324:3,5,6,21 324:22,23 325:14,16 326:3 326:11,14,21 327:6 328:14 330:3
appearing 9:23	article 235:7 244:5	attaching 222:21	awareness 133:7
apple 14:7	aside 10:2 23:22 99:7 150:13 228:21 242:9 284:20	attachment 3:14,18 193:10 210:4 229:5 299:13 318:15	awkward 250:5
applicable 122:4,8	asked 84:14 106:21 118:3 120:13 135:2,2 183:16 190:3,22 207:25 208:3,20 209:22 240:17 280:11 282:23 283:4 305:4	attachments 172:16 210:10 220:5,6,17 285:21	ax 108:9
application 42:14	asking 8:1 14:6 33:12 56:8 61:24 63:22 68:10 71:17 103:23 113:8 120:21 177:14 191:1 197:7 233:6 280:17 281:23	attack 38:12	
applications 81:15	asks 63:23 225:18	attend 285:3	
	aspects 36:18	attended 161:23 171:14,14,16	
	asplundh 36:1,7	attende 159:25 235:22 236:13	

[back - bought]

b	basically	believe (cont.)	bigger (cont.)
back 20:14,24 30:13 37:18,18,20 38:2 42:13 44:2 49:16 57:13 62:3 63:3 65:19 67:11 73:2 87:4 98:2 109:12 114:20 116:9 126:9 126:9 137:13 148:18 149:3 151:15 152:4,6,9,15,17 168:18 169:19 184:14 192:24 199:8 205:5 209:9 210:22 213:14 216:24 219:17 224:1 225:5,7 232:4 232:22 233:22 239:7 242:7 250:12,20 257:5,7,14,14 260:15,22,24 267:19 273:18 275:11 300:9,21 301:17 317:11,12 322:13 331:8	29:17 30:18 31:20,22 34:21 40:6 82:17,19 95:1 96:8,10 104:2 125:6 131:2 135:11 174:11 177:2 195:19 211:19 214:16 249:22,25 250:3 252:17 258:2,9,20 268:5 269:3 271:2 296:1,24 297:4 307:2 317:2,3,4 321:10	298:16 306:21 320:5 326:8	305:1,13,16,17 306:11,12 307:20
backed 72:1,1,3 204:1,1	basis 321:5,23	belly 19:6	biggest 36:15 38:22,22 218:10
background 3:8 10:5,22 35:1 41:24 43:17 269:16	bates 3:13,15,19,20,22,24 4:4,6,8 4:11,12,14,18,20,22,25 5:4 87:18 180:7 210:5 220:6 226:15 229:3 232:16 238:20 242:15 246:14 254:18 256:23 269:14 283:24 285:22 299:15 309:22 310:9 318:20 321:1	beneficial 11:13,24 12:2,4,8 20:25	bill 224:1,17 225:11,23 256:21 257:12,20 258:9,18,18 260:1 261:22 264:18
backward 228:17	bcc 286:11 287:9 301:19	benefit 216:12,12 231:11	billed 114:24,24
bad 227:5	bcc'ing 299:11	benefits 55:3 122:3,6 231:9	billf 223:15 224:14
badalamanti 66:9 67:13,19,23 68:18 82:13 83:9 150:7	bccs 286:13	bennett 193:8,22	billion 36:8
balker 35:3,4,7	bear 303:13	best 18:21 35:24 80:25 85:8 116:18 131:8 146:5 147:15 147:18 155:4 168:20 169:24 171:24 180:13,14 247:10,11 260:16 264:23 266:16 268:10 288:4 327:7	bills 147:7
ball 328:22 330:13	bearing 180:6 210:5 238:20 242:15 246:13 309:22 310:9 321:1	bet 31:10 237:20	bill's 261:23
ballpark 124:5 251:17	bears 87:18 254:18 283:24 285:22 318:19	better 1:5 8:7 9:9 15:2 36:20 39:19 40:10 42:16 45:12,14 45:16,19,21,24 46:21,22,25 47:12,14,18 48:1 49:24 50:22 52:4,7,20,25 53:3,6,8 53:23 54:10,17,19,22 55:19 55:20 56:9,22 57:7 59:6 60:7,8 75:2 95:1 98:21 110:6,13,21 117:1 128:17 164:13 173:2 183:21 186:16 188:19 212:14,16 212:19 214:21 217:2 222:20 229:15 252:20 268:21,24 333:3 334:8	binder 244:8
bank 16:2,3,12 18:17,18,22 21:7 28:11 45:3 48:4,17 115:3 139:9 209:6 308:17	beat 327:11	bf 3:13,16,19,21,23,25 4:5,7,9 4:13,19,21,23,25 5:5 87:19 180:7 210:4,5 220:7 223:16 223:16 226:16 229:4,4 232:17 233:23 238:20,20 254:18 283:24 285:23 299:15 309:22 310:9 318:20 322:6	bit 33:8 43:18 161:18 166:16 273:9 304:12,15
banker 199:23 201:9 217:25	beautifully 265:20 312:19	bid 304:12	blah 159:17,17,18 213:1,1,1
banking 21:8	beauty 204:13	big 34:1,1 37:11,16 39:24 65:15 106:6 199:11 216:17 218:15,15,15,15,16,16,16 230:12 241:7 244:22 259:16 266:21 305:19 306:20	blame 155:6 189:13
bankruptcy 223:23 224:21 225:10 226:1,2 228:10	began 126:18 211:9	bigger 65:20 298:11,12,24,25	blamed 29:8
barebones 178:18	beginning 33:4 35:2 151:11 177:3 284:14		blaming 328:23 329:15,16
based 53:24,24 55:4 86:13 110:22 127:8 133:8 224:3 261:19 313:24	behalf 2:3,14		blank 187:11
basic 80:20	belabor 50:8		blind 286:24 287:1
	believe 15:11 18:21 48:8 50:24 60:4 63:17 69:10 70:17 71:25 72:7,15,17 75:9,10 78:18 88:13 170:14 211:17 232:5 249:13 292:24		blindly 253:10

[bought - category]

<p>bought (cont.) 191:21 204:8 208:4,10 209:20 212:6 214:11 215:12 281:8 boulevard 65:8 box 139:17,24 266:24 boys 79:19 244:22 branch 89:1 branches 88:5 brand 47:17 56:17 88:24 170:11 break 43:16 58:22,24 85:25 219:12 233:13 318:4 331:22 breaking 203:17 brennan 141:20 143:6 144:11,20 brief 20:12 87:3 219:15 225:3 250:11 257:3 322:12 briefly 57:14 87:12 brightonbach 229:2 230:7 bring 38:25 154:2,10 155:8,12,17 156:2 171:1 174:25 192:19 192:23 216:18,18 218:22 218:23 230:13 231:8 258:12 262:9 267:23,23 278:2 304:13 bringing 161:13 brings 151:2 brochure 164:13 broken 72:4 broker 29:24 31:7,12,13 32:9,14 32:16,19,22 199:23 201:8 217:25 234:11 brokers 92:1,1,3 brother 76:16 150:12 172:23 173:22 193:25 194:14 220:14,25</p>	<p>brother's 221:23 222:6 brought 82:19 154:7 283:15 331:2 bucks 155:10 159:7 188:17,18 192:15 buddies 215:1 bugged 32:5 builder 28:25 29:4,16,17 30:12,17 building 30:13 bullet 199:21 bunch 28:6 29:3,3 30:3,11 79:5 81:13 147:13,25 153:6 158:24 168:14 169:21 184:16,18,19 185:7 207:9 305:24 burned 258:17 267:18 burt 218:19 business 28:8 32:5 33:23,24,25 34:20 36:17,18,24 37:13 40:25 42:9 46:25 53:7,9 78:21 92:12 107:23 108:2 112:11 120:10 132:16 162:1,1 166:18 189:2 219:6 222:18,25 243:21 245:4,9 246:4 248:15 255:1 256:13 257:21,24 258:15,19 259:2 259:7,11 264:20 265:2 busy 165:10 buy 28:6 37:21 53:19 96:25 154:2 159:16 185:13,16 187:21 198:8 200:15,23,24 204:8,11 206:20,22 207:19 207:25 208:3,5,20,23 209:1 209:1,6,8,11,22 211:12 212:3 216:21 271:24 buyer 207:16 buying 57:1 buys 177:23 200:11,24</p>	<p style="text-align: center;">c</p> <p>cabinet 70:7 71:3 78:13,25 81:1,4 82:7 cabinets 69:1 70:3,21 79:5 80:17,18 call 37:22 38:8,20 44:9 49:24 95:16 96:4 121:19 151:17 158:9,12 159:2,18 160:21 160:21 162:18,20 174:12 195:23 215:21 227:20,23 243:21 273:1 277:25 278:5 278:13 331:14 called 6:13 17:8,16 18:7 19:17 38:3 40:4 55:7 63:16 86:12 86:16 101:14 113:20 122:25 134:13,14 152:21 153:12 157:23 158:8 159:11,18 174:1 234:14 237:11 259:22 270:15 278:15 279:25 280:21,23 291:9 315:2,6,7 calling 115:22 121:13 162:2,7 274:12 calls 67:8 95:22 112:1,15 114:5 117:4,8 camp 157:13 cancel 249:18 canceled 278:20 candidly 260:11 280:13 296:16 cap 26:16 capable 164:5,18 capacity 163:25 229:12 capital 123:16 196:7 245:12 capped 26:14 captive 42:22,23,25 car 55:25 56:1 card 115:4,5 185:20 186:1 187:2 187:6,23 188:4,11,13,15,16 189:1 190:23,25 191:9</p>	<p>card (cont.) 192:2,12 cards 186:20 care 155:13 266:14 296:15 306:17 career 33:23 34:12 careful 327:22 carol 180:5,12 182:6 183:6,12 185:5,6,17 189:16 carrier 32:18 carriers 42:17 44:13 case 85:24 126:8 129:6 156:5,5 157:15 209:14 299:10 cash 34:6 80:23 122:3,6,8,20,21 139:8 152:20,22 178:21 206:10 208:25 216:16 246:10,25 247:24 263:12 264:3 265:3 276:4,6 286:5 289:5,15 322:1 casts 188:20 casually 157:3 catcher 4:24 21:9,10,12,13 22:18 22:21 23:22 24:5,13 25:4,8 26:14 47:25 49:11,15 52:14 52:16,20 53:4 57:3,5 103:14,16,18,19,21,24 104:17,20 105:2,20,24 106:19 107:18 108:1,9 129:10,13,18,21,23 130:2,5 131:15 132:11 136:4,17 153:22 283:23 284:25 285:21 294:8,10,13,15,18 294:21 295:20 299:13,21 300:16 301:13 305:6 309:20 312:2 316:24 318:13,18 319:9 catcher's 107:23 294:9 categories 69:6 279:4 categorized 279:4 category 29:25 156:23,25 247:21</p>
--	--	---	---

[category - coming]

category (cont.) 323:20 324:1	changed 15:8,9,10 32:13,14,16 75:9	circular 85:13	clients (cont.) 306:16 311:21 319:2,18,25
cause 39:13,22 41:21 79:11 83:18 102:2 131:2 166:17 184:7 186:11 197:11 207:8 215:14 216:14 226:7 260:7 262:6 270:7 272:2 282:14 288:16 289:25	109:23 127:18 129:25 130:1 281:3 310:19	circumstances 140:12 156:18 186:4	client's 186:15
caused 282:20	characterize 14:19	city 240:20 316:1	clog 73:9
caution 134:24	charge 15:6 243:17 260:22,24	civil 8:12	close 227:7 268:15,25 318:5
cbs 280:19,21,24	charges 16:17	claim 86:13	club 301:5,7
cbsg 263:12 264:4	charismatic 218:20	clarification 60:23 225:18	coach 328:1
cc'ed 220:13	chart 3:13 87:24 88:2,4 128:11 289:19	clarify 27:1 58:6 69:5 83:6 93:20 152:18 250:15 322:16 331:18,25	code 311:1
cc'ing 210:8 226:14 262:23 299:10	chase 220:16 221:4,6,8	clarity 14:5	coincidental 330:7
ceiling 140:22	cheap 38:1	classify 16:9 29:25	colleague 7:14
center 321:15	cheaper 186:17	clean 57:24	collect 139:20 214:3 265:13
centers 321:8,13	cheat 176:18	clear 49:20 57:1 94:19 96:16 118:15 176:22 182:5 183:11 201:20 245:25,25 252:5 259:9,14 266:14 305:12 327:22	collected 46:23 82:14 85:20 125:19 265:10,13 270:22 296:6
central 32:17,18	check 15:18,21 22:22 23:12,13,14 56:3 99:4 100:20 115:2 124:19 139:17 208:15 266:24 287:12 300:15,19	clearest 57:22	collecting 82:24
ceo 104:14 213:17 264:16	checked 308:14	clearly 68:15,15 206:22 260:16 306:1 323:21	college 35:11,16 36:7 98:22
certain 8:9 59:22 64:2 72:17 187:3 189:17 240:4 284:23 305:12 319:19 323:15	checking 139:24	client 52:17 53:20,21 72:4,6,13 72:19 79:1 84:9,10 133:15 150:15 156:14 177:13,19 183:21 187:4,9 189:25 191:15 214:1 276:11,11 277:14 281:7 283:5 292:17 292:18 308:25	college's 36:13
certainly 7:8 178:25	checklist 98:25 99:5,9	clients 14:25 47:11,12 51:9,12,16 51:18 65:4 75:1 76:17 81:14 84:20 90:24 98:6 106:3 116:22 133:16,22 134:9 136:23 149:22,23 155:12 157:19 166:10,20 180:13,14 181:7,9 183:17 184:5,5,10,11,13 185:9 186:19 190:1,4 192:5,23 206:19 223:3 241:5 249:16 249:25 252:7,9 253:5 255:10,11 260:17 266:15 270:5 276:14 277:2,3,9 293:1 296:14 302:19,25	colorado 312:15
certificate 185:20 186:7 333:1 334:1	cherin 2:16 7:3,9		column 270:9
certified 197:23	chimp 270:15		columns 269:15
certify 333:9,11 334:3,10	choice 42:15		com 232:15
cetera 217:17 232:25	choose 43:7 119:9		comaneci 191:17
cfo 264:16	chose 297:20		combination 289:14
chairs 65:12 160:9	chris 172:16 173:14 193:11 195:12 201:23 213:9 222:23		combined 301:9 303:9
chances 161:18 216:20 219:7	christmas 256:2,2		comcast.net 262:20
change 33:23 34:12 249:20 269:19 294:24 297:8,9 316:3	chronology 313:3		comcast.net. 301:21
	chunk 268:9		comfort 266:5
			comfortable 102:3 218:21 305:17
			comforts 43:5
			coming 46:19 112:2 115:23 118:9 121:19,21 133:12 158:7

[coming - corporate]

<p>coming (cont.) 160:6,7,18,20 161:1,12,12 161:19 167:24,24 199:2 202:9 214:19 249:17,24 299:20 304:12,20</p> <p>commerce 18:24 19:20</p> <p>commercial 19:12 110:17,17,19,21 169:20</p> <p>commercials 110:3 169:25</p> <p>commission 1:1,9 2:3,8 7:16,18 8:6 48:5 49:8,11 127:6,8 241:21</p> <p>commissions 45:18 46:24 47:24 48:6,24 49:3,20,21,22 214:4</p> <p>commitments 296:4 313:22</p> <p>commodity 37:25</p> <p>common 42:4</p> <p>communicates 167:3</p> <p>communication 281:22 284:17</p> <p>communications 68:11 134:21 166:20</p> <p>commute 119:10,11</p> <p>companies 12:5,25 13:3,6 14:12 17:6 18:20 21:1,4,4 22:4,8,17 31:25 37:16,17 38:22,24 39:24 41:12,18 42:6,10 44:2 45:15,17 46:14,14 47:18 50:5,19 51:21 53:5 84:1,17 87:21 109:6 204:2 235:18 284:24</p> <p>company 11:14,15 12:18,23 14:17,18 14:20,22,24 15:5,8,9,11,13 15:19,20,20,21,22 16:3,7 16:12,17,22,24,25 17:2,8 17:15,16,20 18:2,5,8,10 19:2,10,11,22 21:14,17 24:11 28:3 31:18 33:17,19 35:19 36:2,8,14,16 37:22 38:2,3,16 39:1,7 40:18 41:23 42:3,3,9 44:6,21 47:13 50:1,25 54:22 56:14 89:3,10,10,13,14,18,21 123:6,10,12,16 127:12,13 127:19 137:8 164:7 204:16</p>	<p>company (cont.) 214:6 232:25 234:4 235:18 235:24 236:6,17 248:12,14 264:16,20 268:5,22 269:3 298:4 312:17 329:17</p> <p>comparing 191:4</p> <p>compensate 262:1</p> <p>compensated 231:7 262:4</p> <p>compensation 29:10,14,19,21 30:1 46:4 150:21 184:23 185:23 261:19 317:20</p> <p>competent 293:22</p> <p>competing 238:4</p> <p>competitors 312:1</p> <p>complete 13:1,2 33:23 85:2 130:3 234:24 248:15 249:2 251:15 252:20 255:1 256:13 311:2,5 333:12 334:4</p> <p>complicated 230:15 231:12</p> <p>compliments 265:20</p> <p>comply 241:19</p> <p>computer 37:10 71:3,11,23 73:20,22 81:23 99:15,17 142:7,10,11 320:1,2,5</p> <p>computers 36:23 37:21,24,25</p> <p>conceivable 230:4</p> <p>conceivably 230:5,21</p> <p>concept 321:22</p> <p>concerned 266:8 312:10</p> <p>concerning 9:3 222:23 223:23 319:9</p> <p>concluded 332:9</p> <p>concrete 317:9</p> <p>conduct 53:10</p>	<p>conducted 63:19,20,21 64:11 66:5 67:15,24 68:13 194:25 265:17</p> <p>conference 65:25</p> <p>confident 292:20,22</p> <p>confidential 213:1</p> <p>confirm 20:16 87:7 148:20 219:19 268:17</p> <p>confused 167:1</p> <p>conjunction 146:3 283:11</p> <p>conjure 282:18</p> <p>connection 29:11 92:22 102:25 129:1 129:21 142:18 144:25 145:4 232:7 234:3 242:5 255:25 324:19</p> <p>consensus 103:1</p> <p>conservative 265:19 296:20 321:20</p> <p>consider 30:5 76:1,5 126:25 162:16 162:16 235:1 239:16 240:23</p> <p>considered 30:8</p> <p>considering 229:21</p> <p>consistently 60:13 111:9</p> <p>consists 288:9</p> <p>constitute 8:11 121:20</p> <p>consulting 23:24 34:2 39:10</p> <p>consumer 95:22</p> <p>consumers 95:24</p> <p>cont 4:1 5:1</p> <p>contact 95:7 96:13 100:4,9,17 131:14 177:22 178:2,6 179:3,7,21 213:21 220:18 221:19 277:8,14 316:22 331:16</p>	<p>contacted 183:14</p> <p>contacts 96:14 178:7 179:10 276:15 277:3 293:1</p> <p>contained 318:23 333:13</p> <p>contemplating 230:8</p> <p>content 165:5 166:8,9 168:9,16,22 169:6 170:15 223:8</p> <p>contents 183:25</p> <p>context 181:3 184:21 197:16</p> <p>continued 252:2,24 253:13 277:7</p> <p>continuing 253:3 254:25</p> <p>contract 119:11</p> <p>contracting 265:7</p> <p>contractor 173:1</p> <p>contractors 74:21 149:24 164:4 194:22</p> <p>control 255:9 295:11,12</p> <p>controller 64:16</p> <p>conversation 149:4,5,7 245:19 316:23</p> <p>conversations 20:18 87:9 148:21 219:20 250:17 255:21,24 256:1 258:14 270:4 322:18</p> <p>convince 204:12,14,15</p> <p>cool 132:18 155:17</p> <p>copied 286:24</p> <p>copies 69:16 70:1 81:16 119:25 120:4,7 174:21 263:1</p> <p>copy 8:14,22,23 10:11 69:7,12 69:13,21 70:14 136:23 180:9 213:16 287:1</p> <p>corner 18:24 19:20 147:13</p> <p>corporate 11:16 46:1 56:11 128:13</p>
--	---	--	--

[corporation - december]

corporation 11:14 28:4 44:11,17,19 55:7 56:16 230:10,11 231:9 231:9,10	course 8:16 59:22 109:25 111:6 120:10 156:17,24 160:4 169:2,4 175:12,12 204:7 305:22	curve 21:16	daughter 187:13,14
corporations 37:11,11,22 38:5,21	court 58:1 61:14 149:13 220:1	custodians 86:3	daughter's 71:9
correct 11:22 12:19 19:8 20:19 24:3,14,21 26:8,20,23 27:3 33:3 46:5 54:6 61:4 64:4 76:21 84:21,21,21 104:24 107:19 108:21 115:25 116:1,3 125:4 126:16 129:19 139:12 148:23 149:2 150:6,8 153:2,10 155:22 162:24 178:13 193:21 200:8,13 216:9 219:22 221:16 225:13 226:21 238:9,10 244:17 247:1 250:18,19 275:6 291:22 301:8,10,16 306:9 331:10	courtesy 31:24	customer 38:7 40:5 247:9	dave 7:2
corporation's 37:11,11,22 38:5,21	coventry 92:4	customers 38:8 94:11 108:17,18 109:2 111:12,13 222:18 242:23 243:1 247:7,22 248:5	david 2:15
correction 94:24 181:19	cover 9:8 61:15 311:23	cut 115:2 265:22	day 31:23 34:19 43:13 50:2 64:22 79:9 82:7 83:18,23 109:15,17,18 110:9,18 111:4 112:15 113:9 118:22 118:23 133:6 147:6,6 153:25 183:3 202:6 253:4 264:17 274:13,14 278:3,4 297:19 314:24
correlated 94:25 103:4	cpa 65:1 147:4 208:10	d	dealer 31:7,12 32:9,16,19,22
correspondence 257:11	cpl 36:22	dad 36:20	dealers 32:14
cosimo 210:8 217:9	cr 100:4	dad's 266:15	dealing 197:10 238:6
cost 200:16	craft 35:4	dan 7:20 79:16	dean 1:7 3:4 6:12,20 9:10 44:11 44:12 45:14,23 46:16,19 48:8 52:4,12,20 55:2 56:21 57:6 74:8 84:11,13 88:5,10 88:15 89:2,17 181:17 183:14,16 196:5 209:12 210:6 214:18 215:12 223:15 226:13 227:10 229:3 230:3 232:16 238:19 252:14 254:16 256:21 258:10 267:9 268:1,21 283:9 285:18,18 293:23 297:4 299:9,9 308:17 318:12,25 333:4
costs 159:7 186:12 200:14	create 46:3 92:23 133:23 134:4 145:9 163:19 164:14 168:13,13 216:23	dana 74:22,24 75:16 76:23,24,24 76:25 77:1,3 83:11 95:25 96:1,3 111:14 113:11 114:3 115:22 144:1 151:21 262:23	death 204:1,13,14
counsel 6:23,25 10:14 58:14,16 68:11 86:3 133:23 134:5,23 140:20 145:2,6,13,15 147:14 248:2,24 265:10 293:23 297:16 310:22 331:17,24	created 47:8 88:8 127:16 128:9 130:8,9,23,25 137:5 145:10 163:23,24 164:12,20,21 176:8 217:13 239:13,15 248:22 290:4 310:20	dana's 76:24	death's 207:13
count 326:5,7	creating 254:25	darned 282:18	december 4:10,12 242:18 243:25
counting 326:4	credit 115:4,5	dash 280:19 299:14	
country 218:11 258:8	credited 97:9	data 110:13 138:19 161:21 286:10 287:1,4,12,14	
couple 43:20 55:12,15 66:11 76:3 116:9,22 126:14 130:13 137:1 184:6,7 186:2 190:10 191:24 202:19 213:24 220:23 221:24 251:22 259:23 264:17 275:17,23 284:22 295:22 296:7 321:17 325:8,24	criminal 8:12	database 99:24 100:1,3 179:8 247:20 280:8 281:9,10 286:20	
	crm 100:4 101:7,8,19 112:20 139:21 161:15 176:20 270:1 271:2,4 273:23 275:5 275:5 291:14,15	date 1:12 10:23 11:3,6 24:6 126:19 239:16 255:2 258:3 267:13 288:12,25 300:2,3 309:21 319:5 331:9 333:6 333:17 334:15	
	croft 35:3,4,7	dated 9:12 61:16 63:4 172:12 180:6 193:5,7 210:4,6 223:14,21 226:13 228:15 229:1 238:21 239:11 242:17 243:25 254:16 256:20 270:22 283:25 285:19 299:9 309:23 318:14	
	crook 183:1	dates 78:6 80:4 105:5 239:13	
	curious 188:23	date's 255:3	
	current 98:12,13 154:24 167:23 277:2 279:22,23,24 302:19		
	currently 126:11 279:5		

[december - document]

december (cont.) 244:5 254:7,8,16 255:3,22	depends (cont.) 167:12	died 208:12,12	disclosed 170:8 224:6
decide 41:25 132:7 162:6 247:3 257:22 297:14 316:11	depicts 128:12	dies 153:19 206:5,7	discussed 87:13 124:12 152:1 189:5,6 194:16 332:6
decided 166:9 168:9,22 169:6 170:15 249:1 252:21	deploy 123:19	different 17:22 19:24,25 47:17 54:1 63:14 65:24 98:17 110:10 116:21 128:12 133:23 150:24 168:17 169:18 176:11 186:9 271:12	discussion 18:19 49:23 157:5 246:4 248:5
decision 169:10 249:2	deposited 48:22	differentiate 202:14	discussions 253:13
deck 245:12	depth 157:3,4,4	difficult 59:10 169:19,20	disposed 86:23
dedicated 71:9,10,15 301:13	describe 48:23 49:18 63:18 89:25 130:11 132:10 241:3 247:24	diligence 107:22 264:13,18,19,24 265:16 268:8 269:5 284:24 285:9	distinct 17:15
deemed 238:2	design 140:16	dilute 228:3,5,5	distinction 162:8 188:14 197:22
default 281:1	designate 271:6	dilworthtown 217:20	distribute 92:23 129:14,16 319:1
defaulted 281:2	designation 280:20 291:11	dinner 152:7 154:2 155:21 162:12 162:15,17 167:20 168:2 172:16 184:3 185:12,16 193:9,10 194:10 215:13 217:20 220:17 244:9 245:20 246:3,8 249:7,18,20 251:10 253:2 276:2,6 279:13,15 281:21,25 282:3 282:5 301:9,15 304:6	distributing 300:4 319:23
define 59:22 60:5 171:7 197:13 233:18	designations 279:21	dinners 153:12,12 154:6,24 155:7 156:6 158:23 162:5,7,9,11 222:22 249:8 250:21 295:22 303:6,9	distribution 15:23 16:19 299:23 319:14
defined 59:25 60:12,17 291:17	designed 140:18	direct 133:22 134:3,7 135:4,5 192:18,21 194:21 233:21 235:16 241:11 322:22	distributions 15:1 16:4,15 65:3
definitely 80:9	desktop 71:23 81:22 142:13 183:7	direction 84:20 334:12	diversified 1:24 334:17
definition 21:3	desperate 161:25 162:1	directly 11:13 89:2 104:13 136:22 213:21 214:6 215:3 218:4 269:3 294:14 316:9	dividend 23:13 27:18
definitions 59:24	destroyed 86:23	director 2:6	dividends 27:11
definitively 163:11	detailed 223:20	disagree 307:12	division 2:7
degree 35:13	details 86:9 124:15 130:8 199:18 202:23 231:5 237:6		divorce 208:9
delaware 31:19 89:4	determination 132:23,25		divorced 77:2
delayed 206:9	determine 8:8 251:2		dlaigae 2:21
delete 113:13 270:13,20,21	determined 317:15		doctors 218:11,23,24 219:8
deleted 82:1	determines 119:4		document 8:21 9:6,10,17,19 10:4,6 48:15 61:14,18,21 62:2,5,9 63:6 68:25 79:7 87:13,17 87:20,23 88:8 100:18 113:2 128:10 135:10 137:5 140:3 172:6,11,20 175:25 176:12 180:3,8 193:3,13 195:5 209:25 210:11,15 217:12 220:1,7,8 223:12,17 226:11 226:16,18 227:16 228:21 228:24 229:8 232:11,17 238:17,22,23 242:12,13,14 242:19 251:6 254:10,14,19 256:18,25 257:8,16 262:18 262:25 269:11,12,19,22
deletes 83:23	determining 144:6 227:23		
deliver 165:5	developed 8:10		
deloitte 39:3,6,10,12,14,17,18,21 39:23 40:6,7	dialogue 68:8 157:2 159:15 168:6 291:25		
demo 108:15 133:8 284:21	die 192:5 204:3,6 205:25 206:1 206:2,3		
demos 108:12 133:8			
depends 143:7 166:13,13,14,15			

[document - ended]

document (cont.) 273:18 274:3 282:15 283:13,19 284:1 285:16,24 290:1 298:19 299:7,16 303:16 309:18 310:20,24 311:12,14 312:24 318:2,10 318:21 329:13	drafted (cont.) 233:7 314:5 drafting 167:10 248:25 drafts 146:7 286:22 drag 79:7 81:17 dragged 74:1 dragging 79:5 drawer 278:10 279:3 281:11,12 drawing 187:11 drew 256:8 drink 20:8 drip 270:5,9,10,11,11,14,22 271:16 272:4,8,11,12,13,17 272:17,18 273:5 dripping 272:20 drive 71:3 72:4 142:8 driving 95:2 drop 32:7 270:24 dropped 328:22 330:13 drozd 35:3,4,7 ds 147:24 due 264:13,18,19,24 265:16 268:8 269:5 284:24 duly 6:14 dying 133:6	earned 46:24 earning 31:17 217:23 earnings 49:17 50:2 246:9 earns 139:9 ease 241:6 easier 85:10 87:14 89:16 easiest 89:13 easily 207:15 easy 114:23 117:3 209:6 273:15 eckert 2:16 7:3,8 238:19 eckertseamans.com 2:21 edison 40:21 edit 165:6,7,9,11 editing 165:13 168:18 editorial 169:9 educate 96:11 122:3 202:3 264:2 educates 216:2 educating 108:13 education 35:17 educational 104:12 153:16 162:13 164:12 effect 239:23 efficient 21:18 73:13 egg 249:22 294:3 ego 56:11,14 eight 17:7,23 54:16 85:12 102:22 103:11 106:22 107:4 112:15 151:9 158:8 205:19 260:10 261:9 293:10 eileen 141:19 143:6 144:11,20	eileen (cont.) 275:23 either 26:2 42:21,22 45:9 134:17 134:22 136:22 141:18 152:20 154:6 185:11 227:19,19 244:10 246:10 270:13 276:9 299:21 elaborate 218:7 330:12 elaborated 192:25 electronic 69:9,16 71:5,18 162:5 287:6 electronically 69:1 78:19 81:7 else's 209:19 eluded 75:6 81:21 218:18 248:19 310:18,19 eluding 225:25 304:14,15 embarrassed 31:6 embedded 150:20 embroiled 226:4 emergency 59:5 emphatically 201:14 employee 31:22 employees 37:9 38:6 74:17 76:20 83:4 93:21 172:1 185:7 285:6 employment 144:12 empty 77:19 encompassed 239:25 encompassing 239:5 encourage 181:21 encouraging 181:22 182:1 endeavor 58:25 ended 44:17 248:11 249:6			
documentation 63:22 92:23 93:8,16 324:2	documents 61:8,16 62:7 63:15,24 64:2 64:6,11 66:12 67:16 68:20 68:23 69:3,6 70:14 71:18 76:6,13 78:11,14,15 81:20 86:12,16,20 100:10,18,22 135:23 136:1,18 147:11 305:25,25 317:6	doing 20:8 29:5 31:17 34:2 73:17 73:18,19 80:3,25 81:2,11 82:23 92:12 98:20 109:7,19 110:13,21 118:8 151:3,4 164:5 166:14 167:16 181:11 182:9,14,17,22 196:14,15 204:25 214:8,18 215:21 243:20 251:3 258:21 259:2,11 260:4 264:13 273:4 294:5 295:13 296:22 315:8 328:21	doke 219:25 dollar 26:11 127:9 178:21 206:11 265:17 dollars 39:24 65:3 102:20 103:7 194:18 246:10 314:10,12 door 51:25 203:16 doors 38:24 doorstep 207:14 dot 172:17 227:6,6,6 232:15 287:24 dozen 30:16 293:14 dr 210:19 214:10,11,14,14 219:10 draft 167:7 168:5 286:14 287:18 287:19,21 288:19 303:19 drafted 167:6,21,21 196:17,18	doing 20:8 29:5 31:17 34:2 73:17 73:18,19 80:3,25 81:2,11 82:23 92:12 98:20 109:7,19 110:13,21 118:8 151:3,4 164:5 166:14 167:16 181:11 182:9,14,17,22 196:14,15 204:25 214:8,18 215:21 243:20 251:3 258:21 259:2,11 260:4 264:13 273:4 294:5 295:13 296:22 315:8 328:21 doke 219:25 dollar 26:11 127:9 178:21 206:11 265:17 dollars 39:24 65:3 102:20 103:7 194:18 246:10 314:10,12 door 51:25 203:16 doors 38:24 doorstep 207:14 dot 172:17 227:6,6,6 232:15 287:24 dozen 30:16 293:14 dr 210:19 214:10,11,14,14 219:10 draft 167:7 168:5 286:14 287:18 287:19,21 288:19 303:19 drafted 167:6,21,21 196:17,18	earliest 89:13 easily 207:15 easy 114:23 117:3 209:6 273:15 eckert 2:16 7:3,8 238:19 eckertseamans.com 2:21 edison 40:21 edit 165:6,7,9,11 editing 165:13 168:18 editorial 169:9 educate 96:11 122:3 202:3 264:2 educates 216:2 educating 108:13 education 35:17 educational 104:12 153:16 162:13 164:12 effect 239:23 efficient 21:18 73:13 egg 249:22 294:3 ego 56:11,14 eight 17:7,23 54:16 85:12 102:22 103:11 106:22 107:4 112:15 151:9 158:8 205:19 260:10 261:9 293:10 eileen 141:19 143:6 144:11,20	document (cont.) 273:18 274:3 282:15 283:13,19 284:1 285:16,24 290:1 298:19 299:7,16 303:16 309:18 310:20,24 311:12,14 312:24 318:2,10 318:21 329:13 documentation 63:22 92:23 93:8,16 324:2 documents 61:8,16 62:7 63:15,24 64:2 64:6,11 66:12 67:16 68:20 68:23 69:3,6 70:14 71:18 76:6,13 78:11,14,15 81:20 86:12,16,20 100:10,18,22 135:23 136:1,18 147:11 305:25,25 317:6 doing 20:8 29:5 31:17 34:2 73:17 73:18,19 80:3,25 81:2,11 82:23 92:12 98:20 109:7,19 110:13,21 118:8 151:3,4 164:5 166:14 167:16 181:11 182:9,14,17,22 196:14,15 204:25 214:8,18 215:21 243:20 251:3 258:21 259:2,11 260:4 264:13 273:4 294:5 295:13 296:22 315:8 328:21 doke 219:25 dollar 26:11 127:9 178:21 206:11 265:17 dollars 39:24 65:3 102:20 103:7 194:18 246:10 314:10,12 door 51:25 203:16 doors 38:24 doorstep 207:14 dot 172:17 227:6,6,6 232:15 287:24 dozen 30:16 293:14 dr 210:19 214:10,11,14,14 219:10 draft 167:7 168:5 286:14 287:18 287:19,21 288:19 303:19 drafted 167:6,21,21 196:17,18
e						
earlier 81:13,21 87:13 88:20,24 117:7 127:17 192:25 194:16 231:4 243:13 284:5 285:2 290:5,22 early 37:20 116:8 earn 50:20 197:1 199:22 201:7 203:24 305:21	earliest 89:13 easily 207:15 easy 114:23 117:3 209:6 273:15 eckert 2:16 7:3,8 238:19 eckertseamans.com 2:21 edison 40:21 edit 165:6,7,9,11 editing 165:13 168:18 editorial 169:9 educate 96:11 122:3 202:3 264:2 educates 216:2 educating 108:13 education 35:17 educational 104:12 153:16 162:13 164:12 effect 239:23 efficient 21:18 73:13 egg 249:22 294:3 ego 56:11,14 eight 17:7,23 54:16 85:12 102:22 103:11 106:22 107:4 112:15 151:9 158:8 205:19 260:10 261:9 293:10 eileen 141:19 143:6 144:11,20	document (cont.) 273:18 274:3 282:15 283:13,19 284:1 285:16,24 290:1 298:19 299:7,16 303:16 309:18 310:20,24 311:12,14 312:24 318:2,10 318:21 329:13 documentation 63:22 92:23 93:8,16 324:2 documents 61:8,16 62:7 63:15,24 64:2 64:6,11 66:12 67:16 68:20 68:23 69:3,6 70:14 71:18 76:6,13 78:11,14,15 81:20 86:12,16,20 100:10,18,22 135:23 136:1,18 147:11 305:25,25 317:6 doing 20:8 29:5 31:17 34:2 73:17 73:18,19 80:3,25 81:2,11 82:23 92:12 98:20 109:7,19 110:13,21 118:8 151:3,4 164:5 166:14 167:16 181:11 182:9,14,17,22 196:14,15 204:25 214:8,18 215:21 243:20 251:3 258:21 259:2,11 260:4 264:13 273:4 294:5 295:13 296:22 315:8 328:21 doke 219:25 dollar 26:11 127:9 178:21 206:11 265:17 dollars 39:24 65:3 102:20 103:7 194:18 246:10 314:10,12 door 51:25 203:16 doors 38:24 doorstep 207:14 dot 172:17 227:6,6,6 232:15 287:24 dozen 30:16 293:14 dr 210:19 214:10,11,14,14 219:10 draft 167:7 168:5 286:14 287:18 287:19,21 288:19 303:19 drafted 167:6,21,21 196:17,18	document (cont.) 273:18 274:3 282:15 283:13,19 284:1 285:16,24 290:1 298:19 299:7,16 303:16 309:18 310:20,24 311:12,14 312:24 318:2,10 318:21 329:13 documentation 63:22 92:23 93:8,16 324:2 documents 61:8,16 62:7 63:15,24 64:2 64:6,11 66:12 67:16 68:20 68:23 69:3,6 70:14 71:18 76:6,13 78:11,14,15 81:20 86:12,16,20 100:10,18,22 135:23 136:1,18 147:11 305:25,25 317:6 doing 20:8 29:5 31:17 34:2 73:17 73:18,19 80:3,25 81:2,11 82:23 92:12 98:20 109:7,19 110:13,21 118:8 151:3,4 164:5 166:14 167:16 181:11 182:9,14,17,22 196:14,15 204:25 214:8,18 215:21 243:20 251:3 258:21 259:2,11 260:4 264:13 273:4 294:5 295:13 296:22 315:8 328:21 doke 219:25 dollar 26:11 127:9 178:21 206:11 265:17 dollars 39:24 65:3 102:20 103:7 194:18 246:10 314:10,12 door 51:25 203:16 doors 38:24 doorstep 207:14 dot 172:17 227:6,6,6 232:15 287:24 dozen 30:16 293:14 dr 210:19 214:10,11,14,14 219:10 draft 167:7 168:5 286:14 287:18 287:19,21 288:19 303:19 drafted 167:6,21,21 196:17,18			

[ends - expiration]

ends 213:2	equipment 37:10	evidence 109:1	execute 93:8
enforcement 2:7	erp 33:24	evolution 80:14	executives 264:16
engage 133:22	error 265:21	evolved 294:25 295:3	exhibit 6:2 8:22,22,23 9:1,4,7,7 10:1,4,4 11:7 28:14 31:3 51:22 61:10,15,15,22 62:2 62:2,4,6,6 63:3,3 66:20 67:12,16,18,22 68:18 87:15 87:18,18 89:22 91:21 93:24 94:2 102:5 104:22 122:1,20 127:14,15 128:1,4,4 129:7 140:9,24 152:24 172:7,9,12 180:1,4,4 193:1,4,4,7 195:3 210:1,1 219:23 220:1,2 223:10,13,13 225:8 226:9 226:12,12 228:15,22,25,25 232:9,12,12 233:22 238:14 238:18,18 239:7,9,23 241:13 242:9,10,14,14 254:12,15,15 256:16,19,19 257:7 262:15,19,19 269:8 269:12,12,25 282:24,25 283:16,20,20 285:14,17,17 289:22 299:4,8,8 301:18 302:5 305:2 307:23,25 309:16,19 318:7,11,11 319:10
engaged 130:2,25 264:25	es 285:21 299:13	exact 15:15 27:24 39:5,8 71:22 78:6 80:4 117:21 124:3 126:19 251:16 304:10	
enjoyed 34:18,18	esq 2:4,5,15	exactly 21:2 28:5 79:4 115:8 148:3 177:4 182:2 183:24 207:14 225:9 243:15,22 255:19 305:11 313:3 320:14 323:10	
enron 40:15,15	essence 47:19 65:4 230:12	exaggerated 268:18	
entail 98:9 103:18	established 12:10	exam 31:4 41:4,7,15,16 44:10	
enter 99:14,14,16 231:24 232:3 271:5 277:13	estate 19:1,4,5 20:4 28:6,7 29:1 30:14,22	examination 3:3 6:16 8:16 332:9	
entered 101:3 253:15 275:8 328:12	estimate 206:3	examined 6:14 238:23 257:16 303:16	
entering 100:25 113:2 257:21,24 291:13	et 217:17 232:25	example 13:7 15:3,16 16:11 26:19 44:7,21 45:3 46:18 50:11 51:1 54:11 55:17 59:24 71:6 72:5,12 141:16 149:23 149:25 167:19 171:6 178:23 208:19 209:10 273:22 278:2 309:14	
enterprise 33:25 130:18 269:1	evasive 167:13	examples 42:24 55:25 209:15	
enthusiasm 134:12	evening 119:11	excel 80:21 99:21	
enthusiastic 135:6	event 133:14,15 134:9 153:22 154:1 155:11 156:10 158:6 158:9 159:19 160:1,11 161:7,10,12,23 166:14,16 166:21,25 167:12,19 171:14 173:13,15 195:12 214:18,18 242:23 249:14 249:24 250:6,22 251:2 299:22,22 300:2 301:3,4,4 301:5,6,9 304:6,16,17,21 315:18,20,22	excellent 204:18	
entire 171:3	events 104:12 137:1 155:2,2 160:2 203:15 299:20 301:1,2,12 301:14 306:15 313:10 314:22 319:7	exception 158:3	
entities 11:19,23 14:3 18:14 54:1 87:12 90:14,22 128:13 129:7	eventually 44:13 82:2 115:24 133:25	exchange 1:1,9 2:3,8 8:6 22:25 23:17 241:21	
entitled 1:14	everybody 20:2 30:14 34:4 40:16 44:14 51:14,15,15 53:1 67:6 77:15 98:17 133:2,3 158:19 162:12 164:18 177:18 202:14 209:19 218:12 227:20 262:12 275:15 286:24 293:16 295:24,25	excited 181:11 292:25 298:5	
entity 15:3 28:18,19,20,20 31:5 46:1 50:4 72:10 88:19 92:9 294:19	everybody's 20:7 74:18 75:4 155:8,9	excitement 231:15	
entree 218:3		exclamation 227:2,3,3	
entrepreneur 244:4		exclude 137:25 138:1	
entries 274:23 276:13,14 279:6		excluding 138:6,11	
entry 35:10 273:20 279:12		excuse 43:6,10 63:25 187:15 193:5 228:17 255:12,13 299:14	
envelopes 220:21			exists 195:19
epidemic 21:16 133:3			expectancies 205:22 225:15,20
epiphany 19:17			expectancy 206:3
equally 157:13			expected 206:1,1 267:6
			expensive 191:5 251:7
			experience 43:18 214:15 306:11
			expert 36:1
			expiration 24:6

[expires - first]

expires 24:5	fall (cont.) 129:10,13,17,21,23 130:2,5	feels 321:19	financial (cont.) 196:6,6,8,9,12 197:8,10,11
explain 33:7 45:7 55:6 102:7 122:7 181:15 182:16,17 207:8 213:23 219:7 280:4 295:5 308:18	131:15 132:11 136:4,17 153:22 283:23 284:25 285:21 294:8,9,10,13,15,18 294:21 295:20 299:13,21 300:16 301:13 305:6 309:20 312:2 316:23 318:13,17,18 319:9	feet 65:18,21 77:9	197:13,14,15,17,23 206:12 212:14,16,19 217:2 222:20 229:15 268:21,24 318:18 333:3 334:8
explained 240:17 285:1	familiar 36:9,11 69:24 82:25 176:1 213:4 218:8	fell 249:17 252:1,17,18 253:11	financials 130:14 202:24
explaining 260:5	family 36:13 90:24 192:5 252:7	fictitious 56:15	find 38:24 39:22 90:20 91:24 95:3 112:13 115:7 121:1 169:24 185:1 187:12 207:15 265:14 273:15 287:13
exploratory 293:19	fan 199:11	fight 186:13	finder 23:1,20 24:2 25:5,9,24,25 26:5 27:16 103:17 106:18 126:25 132:16 150:16,22 229:18 231:2,17,19,22,24 233:25 235:1,17,19,20,23 235:23 236:5,14,16 237:7 237:10,16 248:21 249:12 251:15 252:21,25 253:3,4 253:14,15,17,23,24 255:4 263:13 290:24 294:22 298:3 316:4 317:16,17
exported 179:11	fancy 43:2	figure 33:16 262:11 282:11 283:13	finders 24:4,8 30:5,8 91:18 229:21 230:12 232:7,20 234:5 236:23 259:17,18
expose 306:18	far 12:7 14:25 40:21 73:19 75:6 112:6 164:21 248:23 306:6 321:23	file 1:4 69:1 71:17 72:14 81:20 142:12,15,17 144:24 145:9 146:1,2 179:10 242:6,8 247:21 324:20 333:5	finding 105:2 107:18 133:4 136:5,9 252:25 259:17,18
exposure 261:11	farm 56:2,4	filed 145:19,24 324:19 326:11 329:25 330:1,4,10	fine 8:3 331:11
expressed 109:7 157:6	father 36:22 37:6 38:12 150:15 229:9	files 69:7,21 70:14 71:6,8,24 72:4,4,19 75:5 78:22 80:12 80:14 85:14 86:6 241:20	finish 12:20 59:3 79:21,22 304:1
extend 25:6 302:18	faucet 272:20	filing 70:3,6,21 71:3 78:13,24 79:5 80:16,18 81:1,4 82:7 147:20 241:24 326:18	finished 82:6
extends 25:6,7	favor 182:15	filings 145:3,12,15,18 146:8 147:22	finra 4:11 242:15 246:14
extension 192:22	favorite 189:25,25 190:1,7	fill 93:18 140:3 171:4,12,18,18 173:25 174:4,17 175:11 176:5,6 308:20,20	fired 35:21
extent 57:20 63:13 79:6 92:5 108:3 133:10 167:9 181:17	fearful 98:19	filled 10:5,9,24 11:25 175:16 323:22	firm 7:3,6 35:8 96:16 146:1 147:7 240:20 241:8 251:7 266:22,25 268:9 312:14
extrapolate 322:8	february 3:22 223:14,21 228:16	filling 215:25	firms 34:1
extrapolated 321:11	federal 8:9,12 241:18	fills 214:19	first 6:13 17:11 18:4 19:23 20:5 28:4 50:16 51:24 67:8 78:20 80:13 81:3 98:10 108:1 126:10,17 129:23 130:21,21,22 131:2,13 148:8 156:22 162:6 167:13
extremely 292:20,22	fee 16:18,21 24:15,17,19,22 26:18 29:24 30:6,8,10 321:10	final 167:10 168:25,25 169:9,22 283:23 310:21	
f	feed 162:12	financial 1:5 8:7 9:9 31:19 45:12,14 45:16,19,21,25 46:21,22 47:1,12,14,18 48:1 49:25 50:22 52:4,7,21,25 53:3,6,8 53:23 54:10,17,19,22 55:19 55:20 56:10,22 57:7 60:7,8 92:4 95:1 97:9 98:12,24 102:12,13,14 128:17 138:20 173:2,9 189:8,11	
face 78:23 249:22 294:3 315:11	feedback 313:16		
fact 88:15 117:13 202:8 245:6 245:14 287:22 302:5 319:12	feeder 259:20		
facts 8:10 225:10	feeding 160:9		
fair 56:7,9 57:9 131:11 154:5 223:22 240:2	feel 79:4 98:14,15,16 102:2,14 157:10 181:8 199:5 218:21 305:17 307:18,18,19 308:5 308:12		
fall 4:24 21:9,10,12,13 22:18 22:20 23:22 24:5,13 25:3,8 26:14 47:25 49:11,15 52:14 52:16,20 53:4 57:2,5 103:14,15,18,19,20,23 104:17,20 105:2,20,23 106:19 107:18,23 108:1,9			

[first - funds]

first (cont.) 178:20 208:15 211:6,25 212:1 216:25 230:1 231:3 241:12 269:15 271:13 273:24 283:3 296:5 301:18 301:20 302:17 319:6,7,25 324:11 327:10,18	folks 76:10 143:25 298:7 302:10	forms 175:17 296:1,6 314:1	friday 315:16
firstfinllc.com 223:15 224:14	follow 32:1 59:4 161:4,22,24 272:2	formulaic 188:24	friend 52:1 154:2 186:15
fit 156:22,25 297:21	following 39:7 226:24	forth 57:13 210:22	friends 90:24 155:8,14,14 156:2 181:10 182:18,24 183:2 190:15 193:25 214:17 252:7 263:9,10
five 22:18,23 24:18 77:8 100:13 109:15,18 110:2 111:5,8 116:16,24 118:22 124:6 148:4 163:16 168:17 181:14 185:22 187:24 205:23 268:15 274:9,12,14 275:9,16 296:8 321:2,5,15	follows 6:15 161:25	forward 136:22 143:9 152:16,19 154:13,17 180:24 183:7,7 185:11 218:22 258:16 318:13	front 17:17 163:18 218:21 287:8 315:10
fixed 133:6	food 160:9	forwarded 112:25 137:3,9,9 232:20 298:18	fulfill 85:3
flat 24:15,17,19,22 26:18	force 206:22	forwarding 104:2	full 6:18 77:24 121:8 122:16
flier 195:9,11	ford 14:7 108:7 130:23 131:14 133:21 134:3 283:21,22 284:9 285:7 306:7 314:20 318:12,24	found 314:16 324:25 326:17	fully 306:5
flip 327:13	forecast 321:2,6,23	founder 108:8	function 115:20
flipped 10:18	foregoing 333:12 334:4,11	four 4:17 11:7 24:16 25:11 26:15 65:24 77:8 92:14 98:2 100:13 102:22 103:11 107:7,12 124:15,25 125:22 125:22 126:5,8 157:24 163:16,19 205:18,19 215:1 258:14 266:17 269:16 275:16 277:23 294:21 301:2 303:9 313:12 316:21 319:7 321:15	fund 13:16,17,17,20,24,25 14:1 15:17,24 16:5,15,18,19,20 17:10,11,11 18:4 45:10 47:6 53:19,20 54:17 55:8 55:21 57:4,4 90:6,6,7,8,9 90:10,10,11,12 104:6 105:11,12 122:13,25 123:5 123:8 124:2,13 125:14,14 125:16 127:2,4,18,24 128:4 128:7,17,18 129:1,8,8,8 140:9,10,24,25,25 141:4 144:7,22 145:4,9 152:24,25 152:25 170:13,13 178:12 178:22 180:22 194:7,8 198:8 200:4,11,24 201:3 208:15 209:3,8,18 211:6,17 211:25 212:1,1,2 226:22,25 227:1,3,9 237:11 239:10,11 239:15,17,25 240:9,21 241:13,16,23 248:22 249:1 252:14 254:17,23 255:1,6,6 255:7,7,8,8,18,24 256:1,22 259:20 260:3,3,6 261:9 262:12 263:16 267:15 289:6,11,12,13,15,16,17 290:3,6,9,15,23 294:8,12 294:17 295:11,16,19 297:11,15 316:3,12,13 323:17 324:4,19 325:11 326:11,20
floor 2:18	form 3:7 8:22 11:16 78:8 97:5 146:17,19 155:4 171:6,7,10 171:18 172:5 173:7,12,18 173:24,25 174:1,3,6,15,22 174:24 175:4,16 241:20,24 242:6 252:17 313:16,21 323:22 324:18 326:11,20 329:24 330:1,4,9	fourth 251:25	
florida 315:4 321:13	forever 81:25 176:23	frame 19:2,16 20:2,3 25:13 29:6 131:10 132:12 143:7 163:6 163:8 177:6 194:4 205:23 252:2 254:1 255:22,23 284:10 304:24 305:8 308:9 310:13,17	
flow 254:17 322:1	forget 120:16 132:16 158:18 253:14 323:9	frames 97:25	
flowers 192:6	forgive 15:14	free 74:19 121:15 159:4 201:21 201:22 202:1	
fluid 295:1	formal 8:14,19 150:21	freebies 119:19	
fly 267:21 272:25	formalized 261:25	freeloader 159:9	
focus 147:3,4 181:17	formally 77:3	freeloaders 159:10	
focuses 67:2	format 136:24 178:19 269:13	frequent 167:17	
focusing 21:8	formatting 269:18	frequently 158:1	
fog 278:11	formed 12:5 19:2,20 28:4,5 248:18		
folder 71:8,10,14 72:5 79:7 142:9 142:12,15,18	former 258:14		
folders 72:8,13 73:5,22 81:24 84:23 85:6 86:4	formica 224:17 225:11,23		
	forming 44:17 50:18 148:1		

[funds - going]

<p>funds (cont.) 80:13,18 81:3 89:23 90:1 90:18 91:18,20,25 92:17,19 92:22 93:23 94:1 97:13,17 102:4 104:22,23 105:20 106:1,5 121:25 122:20 131:14 140:8,14,23 145:1 152:23 194:2 203:25 211:9 221:23 226:5,7 239:2,5,8,9 239:13 240:13,13 241:20 242:5 252:13 259:24 260:18,20,25 261:1,9 263:17 298:7 311:4 329:19 329:20,24,25 330:7</p> <p>fund's 239:4</p> <p>funneled 45:24</p> <p>funneling 45:23</p> <p>funny 240:15</p> <p>furniture 69:25</p> <p>further 152:14 331:13 334:10</p> <p>future 25:3</p> <hr/> <p style="text-align: center;">g</p> <hr/> <p>gain 133:16 223:3</p> <p>gaining 34:4</p> <p>game 98:16,16</p> <p>gammarino 180:5,12 182:7</p> <p>gammarinos 187:1 190:23 191:10 192:2</p> <p>gandmsales.com 262:21</p> <p>gary 275:25 276:6 279:9</p> <p>gatekeeper 75:1</p> <p>gathering 161:21</p> <p>gazillions 39:24</p> <p>gee 297:17</p> <p>gems 169:24</p> <p>genealogy 294:23</p>	<p>general 13:18,19 16:7 58:24 84:18 89:22 115:10 121:20 123:9 127:3,13 134:8 198:3 233:25 234:1,14 235:3,4,10 236:10,15,20 237:15 238:6 251:10 252:16 293:24 317:24</p> <p>generalities 202:12</p> <p>generalizing 55:9</p> <p>generally 42:7,8,17 46:15 48:23 49:16,17 67:8 95:5 96:22 96:24 97:3,3 265:5</p> <p>generated 51:1 94:15</p> <p>generic 237:4 313:17,19</p> <p>genet 2:4 6:5,17,25 7:5,13,23 8:2 8:4 14:9 16:23 17:22 20:10 20:13,15,23 21:20 22:3,24 23:16 25:21 28:1 43:23 51:8 52:18 57:11 62:7 67:10 76:22 79:15,20 82:11 86:1,11 87:1,4,6 100:16 106:8 107:21 110:7 112:19 117:22 119:24 120:3,8 121:10,24 124:4 125:2 126:21 127:11 128:25 133:20 135:16 137:12 142:1,24 148:11,17,19 150:23 159:21 174:20 175:14 178:17 179:5,13,19 179:25 184:22 186:8 189:20 192:17 206:17 207:21 208:22 219:13,16 219:18 225:4,6 238:16 250:9,12,14 257:1,4,6 262:17 263:2 269:10 281:19 283:18 287:7 289:7 289:24 292:16 297:13 299:6 300:25 307:16 309:10 317:23 318:2,9 320:24 322:10,13,15 329:1 329:12,22 331:12,22,24 332:4</p> <p>genetm 2:12</p> <p>genet's 52:15</p> <p>gentleman 143:17</p>	<p>gentlemen 28:24</p> <p>george 173:5 175:3 177:8,10</p> <p>gerald 37:4,5</p> <p>gestures 57:20</p> <p>getting 40:10,16 67:11 98:5 117:23 130:25 136:25 137:13 190:23 206:10 211:16 226:21 308:1</p> <p>gibraltar 13:25 47:7 90:5 239:10</p> <p>gift 185:19,20 186:1,6,20 187:2 187:6,23 188:4,11,13,15,15 188:16 189:1 190:23,25 191:9 192:2</p> <p>gino's 301:3</p> <p>girl 141:19</p> <p>girls 82:23</p> <p>give 16:11 39:8 43:2 44:7 63:3 96:12 117:20,20 119:19 136:19 144:20 169:22 182:10 185:17,25 188:16 188:25 189:1 197:18 202:1 202:23 203:10 204:19 205:17 206:13 207:6,7 228:6 243:23 254:10 258:11 263:2 267:4 295:7 296:4 300:9 308:23 313:21 317:5 321:12 328:20</p> <p>given 23:9,9,10 144:7,22 186:19 187:1 188:11 192:11 283:14</p> <p>giving 97:23 203:2 204:22 218:2</p> <p>glad 86:9 282:10 308:4</p> <p>gladly 204:8</p> <p>glance 277:17</p> <p>gmail.com. 212:9</p> <p>go 14:15 20:24 28:5 29:6,16 32:6 33:14 40:4 41:17,18 41:23 42:15,23,25 43:20</p>	<p>go (cont.) 47:25 48:25 57:13 58:20,25 73:8 77:20 82:19 87:1 94:6 98:5,25 109:12 125:21,25 130:17,19,20 135:12 148:11 165:23,25 167:25 167:25 168:18,18 169:18 170:20 174:9 176:14 177:24 183:12 184:13 188:17 189:11 195:20 196:21 200:15 202:10 216:3,19 230:12 233:20 234:21 237:10 242:7,25 243:19 247:8 250:7 251:6 252:17,21 257:1 258:10,20 265:24 266:18,25 269:4,7 270:18 271:21 273:18 275:11 281:2,8 282:21,25 283:1 286:8,17,19 292:6 293:21 294:4,4,8 301:18 303:6,8,8 310:2 311:21 322:10 329:24,25</p> <p>goal 101:15 293:25</p> <p>goat 118:15</p> <p>goes 16:5,21 46:21 50:24 57:2,5 77:2 127:9 166:21 170:19 177:19 207:19 278:22</p> <p>going 10:3 18:6 20:11 43:16 53:19 58:10 60:20 61:13,20 62:1,5 63:2,10 65:13 66:19 85:11 96:15 98:1 131:3,4 132:5,6 133:13,14,15 134:20 139:17 150:23 151:15 153:24 155:11 157:10,14 163:22 166:17 166:24 172:6 175:21 180:3 188:17 189:13 199:2,4,5,6 200:22 201:5,6,10,11 204:5 204:14 205:14 207:9,11,11 209:9,25 216:1 218:4 219:25 221:14 223:12 224:4,8 227:18,19 228:16 228:24 232:11 239:7 241:11 242:23 245:19 246:25 248:24 252:10 259:24 262:11,18 263:16 269:11 276:22,24 277:1 278:2,19 285:11,16 287:16 288:6 291:20,25 292:18,19 292:20,23 293:21 294:4,4,5 294:12,13,14,22 295:13,14 296:12,13,17 297:11</p>
--	---	--	--

[going - help]

going (cont.) 298:10,11 299:7 300:8 301:18 304:16 305:1 307:20 308:6,18,22 311:22 311:22,23 312:7,10 314:12 315:25 316:12,23 317:11 317:12 321:12,15 322:10 327:3 331:3	group (cont.) 291:16 303:12 304:9 growing 143:20 grown 329:18 guarantee 205:24 307:19 308:15 guaranteeing 305:23 guarded 155:5,6 guess 16:1 30:7 33:13,18 44:18 48:13 63:13 78:6 85:22 91:23 96:25 99:20 100:16 102:1,8,15 108:7 122:13 131:8,9 144:13 146:21 148:6 149:14 151:10 154:23 172:2 175:14 180:25 198:1 209:9 212:15 216:14 224:11 226:23 227:14 230:1 233:21 234:23 237:18 239:9 241:25 243:10 249:4,7 252:24 254:22 263:11 267:2 271:22 272:25 284:2 284:22 288:4 292:2 306:4 309:12	half 66:23 124:18 168:16,19,21 177:1 200:17 208:13 254:9 273:1 278:24 279:3 290:2 314:9,12 324:10 halfway 271:19 hamburger 316:7 hampton's 271:20 hancock 42:24,24 43:1 204:2 hand 10:3 61:20 62:1,3,5 68:4 166:16 180:3 209:25 219:25 223:12 228:24 232:11 240:6 242:13 254:14 262:18 269:11 280:18 285:16 299:7 309:18 handed 296:1 313:21 handful 29:3 70:3 84:15 96:9 104:11 110:5 153:7 155:12 182:18 190:10 293:13,14 309:3 handing 8:21 9:6 61:13 87:17 155:9 193:3 195:5 226:11 238:17 242:12 256:18 283:19 300:14,19 318:10 handle 37:16,16,23 38:4 74:3 151:3 168:3 206:4 handled 82:4 handles 65:2,3 67:1,2,5 147:6 handling 34:23 329:15 hands 280:16 handwriting 10:19 256:6 handwritten 101:22 handy 63:12 hang 31:5 happen 159:19 192:24 204:14 207:9 314:21	happened 35:25 78:14 148:24 166:25 247:19 295:21 306:15 313:3 314:21 327:8 happening 105:21 226:20 248:11 257:20 happens 84:17 205:25 331:4 happy 155:8,9 175:22 hard 69:7,12,13,21 70:1,13 81:16 142:8 157:15 213:12 hate 54:2 hated 35:23 hawk 112:17 head 43:11 57:18 71:20 72:3 88:1 163:21 310:6 328:1 headache 230:18 258:24 268:7 headquartered 38:17 218:12 hear 90:24 102:17 104:17,20 106:7 113:17 114:7 154:2 157:19 158:11 182:15,16 201:13 273:11 279:6 306:19 heard 104:13 105:23 113:23 146:18 157:18 171:9,12 174:9 202:20 203:17 218:9 240:8 295:25 313:24 hearing 1:14 104:16 117:25,25 157:23 hears 52:2 95:21,23 151:16 heart 38:12 heavy 184:20 held 11:14 14:11 21:4 44:2 51:19 71:19 334:6 hello 173:5 220:15 help 10:20 21:15 30:18 38:9 55:2,2,4 76:4 84:4 143:19 144:11 182:7 183:17
	h		
	haircut 306:8		

[help - incorporated]

help (cont.) 202:13 227:9 230:9 231:6,8 240:21 244:3 294:22	homeowner 220:15	hunch 296:12	image 172:19 210:10 285:22
helped 76:13,17 107:15 241:5	homeowners 220:16 221:4	hundred 102:20 103:6 194:18 321:18	imagine 65:12 119:15 213:25 280:6
helpful 56:5 280:14	homework 269:4	hurry 304:20	immediately 161:11 316:6
helping 262:1	honest 327:9	husband 191:22	impact 260:23
helps 67:6 74:24 216:2	honestly 266:23	i	implement 40:4
henry 108:3,4,6,7 129:23 130:23 133:12,12 134:13 135:8 136:21,25 137:4 167:20 283:21,22 285:7 295:25 296:9,11,12,13 305:15,18 305:20 306:7 311:21 312:3 312:14 315:2,9,10,16 316:9 317:11 318:12	hood 267:11	i.e. 11:14	implicit 327:21
henry's 312:8,9	hope 224:9 260:4	iannuzzi 164:23	imploded 258:6
hey 84:13 133:18 155:11,18 158:23 159:18 167:24 181:17,23 182:14 183:5 185:4 203:17 214:16 216:18 258:10 262:8 273:2 293:15 307:21	hoped 227:5,18	idea 26:19 39:5 69:23 71:2,2 72:1 74:1 108:22 119:20 121:21,22 130:15 131:25 146:12,14 182:6 184:16 191:3 201:2 212:7 231:5 252:11 259:24 260:2 261:25 262:8,8 294:12,14 295:16,19 296:4 321:7	imploding 40:19
hi 159:17 232:22 278:5	hopefully 55:24	identification 6:4 61:12 87:16 172:10 180:2 193:2 195:4 219:24 223:11 226:10 228:23 232:10 238:15 242:11 254:13 256:17 262:16 269:9 283:17 285:15 299:5 309:17 318:8	importance 271:6,9
high 155:15 157:4 199:6,16 202:12 203:10 244:25 302:7	hoping 223:3	identified 3:6 4:3 5:3 51:21 59:1 72:14 88:12,19 89:4,6,10 89:22 91:20 93:21,24 94:2 94:3 99:8 102:5 104:22 121:25 122:20 127:14 129:7 137:14 140:8,23 143:5,24 149:24 152:24 239:23 309:24 319:10	important 97:15 212:1 222:15 255:10
higher 203:23 217:16 298:21,22	host 196:5	identifies 90:5	imprecision 125:12
hire 293:22	hosted 153:11	identify 7:1 11:19 67:16 68:17 70:14 86:3 95:3 100:10 138:16 139:1 148:3 151:25 217:23 323:22 332:5	impressed 108:14
hiring 229:21	hound 174:9	identifying 217:15 220:23	impressive 267:6
hit 16:4,12 43:10 107:10,10,15 117:19 118:14	hounded 83:21	ii 13:7,17 17:13 79:25 80:9 90:7 128:18 129:8 140:9,24 152:25 180:22 239:15	improve 173:8 217:16 313:1
hits 16:2,20 49:23 117:10,16,18 117:19	hour 147:8 168:16,21 248:25 266:4	iii 13:8 17:13 80:2,10 90:7	inaccurate 225:20 281:4
hold 100:22,23 125:11 135:18 155:7 235:21 236:12 242:24 257:13 273:10 304:18 318:22 321:11	hours 264:17		inbox 73:6,9 85:8
home 71:8 96:11 138:3,5,6,11 144:16	hour's 168:19		incentive 185:17
	house 159:5 164:4 213:9		include 51:16,18 54:15 66:7 181:22 233:2,11 234:6 275:19
	how's 85:1		included 291:1 301:14 318:17
	huge 280:7		includes 229:5 235:3,6
	huh 11:9 28:15 41:6 51:11 55:13 114:11 115:1 123:3 126:3 132:19 135:20,22 190:20 195:13,16 210:3 228:19 229:16 244:16 259:5 261:10,16 263:6 267:16 268:14 279:11 288:1,13 300:24 303:15 309:7 313:23 315:3 318:16		including 49:5 138:2,5 235:25 236:18 309:25

[incorporation - investment]

incorporation 56:23	initial (cont.) 284:8,10	intent 56:18 244:25 286:19	introduced (cont.) 296:18,21 298:3
incorrect 225:15	initially 62:15	291:21,23 293:20 294:6,7	introducing 133:21
increased 209:19	initiative 231:17	295:9,10,15 305:11	introduction 29:8,11,19 136:17 185:21
independent 42:19,22 43:7,12 74:21	inn 213:9 217:22	intents 284:23	189:14 316:7
149:24 164:4 173:1 194:22	input 112:20 170:17	interact 44:19 47:9 50:12	introductions 34:15 264:11
229:18,21	inputted 278:3	interacted 45:4	inundate 164:10
index 289:9 290:14	inside 142:12	interaction 45:9 50:14	inundated 83:17
indicate 174:7 175:3	insinuate 262:3	interacts 50:10,13	invariably 155:12
indicated 173:7,23 282:2 334:5	installing 39:25	interest 21:5 27:11 109:4,7 157:6	inventor 108:8
indicates 279:13,14	installs 39:22	213:19 246:19,21 251:3	invest 21:14,14,15 22:2,4,8 23:6,7
indicating 220:21 310:15 311:6	instance 52:14	292:14 295:17 296:11	23:14 57:2,5 90:2,14 93:15
indication 270:24 272:1 275:7 276:1	instances 105:18 327:23	311:19 312:22 314:7,17	97:12,16 102:4 103:14,15
281:21 313:12,22	institute 213:17,20	interested 33:18 84:8 159:8 161:20	112:3 124:17,21,24 132:17
indications 109:3 314:7	instruct 68:7	203:5 259:2 304:4 314:8	140:6,13,23 198:8,9,12,17
indicia 139:15	instructions 68:1	316:21	202:25 207:4 216:7,7
indirectly 11:13	insurance 15:19,19 17:1 31:16,21,25	interests 200:11	224:19 230:10 244:22,23
individual 30:21 34:13 65:23 102:3	32:3,4,18 33:5,8,10,11,15	interface 99:21	253:9,9 260:7 294:8,8,13
individuals 29:7 75:21 149:18 213:19	33:21 34:6,7,9,15,20,24	interject 17:5	294:14,17,18 295:11,16,19
267:1	40:25 41:1,7,10,12,14,14	intern 7:20	296:17,23 300:10,16 307:4
industry 32:3 42:21 55:6 67:4,5	41:18,22 42:3,4,5,8,11,12	internally 189:5 281:6	313:11 316:12,19
246:25 250:2	42:21 43:14 44:11 45:9,15	international 36:8,14	invested 19:11,13,22 26:10 53:16
ineffectively 73:21	45:16,18 46:4,13,14,17,20	interrupt 14:14 17:22 20:24 276:21	80:22 104:21 105:25
inefficiently 73:20	50:1,3,5,21 51:2 54:12,15	interrupted 54:8 97:18 116:11	126:12 178:4,21 187:16
info 210:9	55:3,21 56:1,1 67:3,4 71:15	interrupting 45:1	188:6 206:19 215:18 224:5
inform 121:5	78:21 79:3 81:14,15 84:1,2	interview 98:7,9 151:25	225:23,25 226:2 245:3
information 86:6 95:8 96:2 100:23,25	90:23 91:24 106:2,4 109:6	interviews 146:11	246:11 266:9 268:15,25
101:2 102:6 104:2 113:3,6	122:4,7,21 143:18 150:13	introduce 23:1 24:10,10,10 30:19	298:5 310:22
139:2,20 141:11 142:3	151:5,8 152:21,22 180:15	38:21 53:25 93:23 106:13	investigation 8:5,11,15 61:6 142:19
161:14 176:19 178:3 179:1	180:18 184:9,10,11,12	106:14,24 122:7 214:17	325:11 331:15
182:10 190:14 212:20,21	187:19 191:21,25 197:25	235:17 236:5 240:14 258:1	investigative 333:14
218:6 250:25 265:10,15	199:9,10 204:16 214:11	262:1 263:21	investing 28:7 29:2 55:19,20 105:19
267:4 271:5 272:3 275:8	216:16,21 218:25 219:7,9	introduced 23:19,19 28:19,24 29:3,15	111:23 115:24 198:21
287:10 322:3	223:2 247:6 284:23 286:6	29:15,16,17 30:3,11,15	199:15 240:12
initial 51:24 168:5 276:15 277:2	290:16,17 328:19	135:12 136:21 149:19	investment 18:24 19:17,21 22:20 45:11
	intact 26:2	150:4 187:4,9 214:12 269:3	54:4,15 97:1 103:8 122:25
	intelligroup 39:7,11,14 40:8,19,23		139:17 153:3,9 180:20
	intensive 67:4		188:19 198:5,10,12 199:22

[investment - kind]

<p>investment (cont.) 231:1 234:24 237:5,10 245:7,8 246:7,17 247:25 251:9 258:9,23 260:8 263:15,21 266:12 267:5 289:15 297:24 299:1 300:9 300:14,22 304:24 305:7,21 307:3 308:8,13 310:2,3,12 310:13,16 311:13 322:23</p> <p>investments 30:21 54:14 94:24 98:14,20 126:13 140:4 180:18 181:18 198:25 199:3 211:16 223:8 246:5 250:21 252:15 316:16 331:9</p> <p>investor 22:12 52:16,19,20 54:3,12 54:12 105:19 125:15,21 136:18 137:15,20 138:9,10 138:17 139:13 140:6,13 150:5 154:10,24 156:14,16 179:1 188:5,6,8,25 194:1,4 207:22 210:24 211:2,4 221:22 224:16 231:16 233:20 247:16 328:11</p> <p>investors 15:5,23 16:21 19:3,13,15 23:2 24:11 45:4 47:10 90:19,21,22 93:9,18,23 94:1,2,8 104:3 106:25 107:18 121:1 124:9 129:4 136:5,9 140:17,19,22 141:3 142:4 144:7,21,25 149:5,9 149:14,15,20 150:17 153:20 154:6,7 155:21,24 156:7 158:24 167:23 168:7 170:24 171:3 178:11 179:7 188:10 192:19 224:6 227:5 227:10,22 228:4 240:4,5 241:6,23 247:6,7,13 255:15 260:17 268:12,24 270:4 273:14 274:4 279:22,23,24 283:7,8 286:3,3,5 290:8 304:10,11 307:5,11 308:21 309:2 310:16 311:7 313:4 323:1,3,7,15,17,20,21,23 324:1,8 325:13,22 327:1,4 327:24 328:6 329:7 330:9</p> <p>invests 16:25 125:16</p> <p>invitation 154:14,18 159:6 167:22 193:9,10 195:11,14,19,25 201:17 203:4 215:14 217:18,23 222:21 263:11 299:19 302:18 303:23</p>	<p>invitations 162:4 166:12 167:5,7 196:3</p> <p>invite 151:6 154:1,23 156:9,9,15 156:19 157:24 158:9 159:1 159:12 162:25 163:3 194:23 216:6 276:9,9,10</p> <p>invited 153:17 155:20,24 156:5 162:22 167:20 195:17,20 195:20 235:10 293:25</p> <p>invitees 159:22</p> <p>invites 213:20</p> <p>inviting 167:6 219:4 220:17 253:2</p> <p>involved 30:14 81:14 82:3 131:3 143:10,12 180:17 221:5 230:14 255:15,16 268:6,7 296:14 297:4 310:23 312:23</p> <p>involvement 297:7</p> <p>ira 80:23 178:21 246:11</p> <p>isabella 210:9 217:9</p> <p>ish 80:5 81:13 124:10 131:9</p> <p>issue 40:15 225:14</p> <p>issued 62:7 100:19 142:19 212:6</p> <p>issues 224:24 226:2</p> <p>itemized 328:5</p> <p>items 43:21 99:7,8 137:13 152:1 310:2,8 332:5</p> <p>iul 285:20 286:5 288:10 289:8 290:13 302:6</p> <p>iv 90:8</p>	<p>january (cont.) 122:14 163:7,8 172:12 175:20 180:6 193:5 238:21 239:11,16,24 254:6 273:19 279:14</p> <p>jason 76:14 77:14,14,15,16 93:21 150:1</p> <p>jerry 36:25 37:5 229:2,8 230:14 231:14 232:4,15,18,19,22 262:20 275:22</p> <p>jersey 40:21</p> <p>job 34:19,20 38:23 39:21,25 40:2,7 64:25 75:2,3 119:17 204:18 265:20 266:13,13 267:22,22,23,25</p> <p>jobs 37:14</p> <p>jody 66:13,19 67:23 68:19 74:11 75:17 83:9 143:25 150:11</p> <p>joe 84:13 158:23 161:12 181:23 193:8,22 194:9 208:10 278:5,6</p> <p>john 15:10 42:24,24 43:1,1 127:21 134:14 135:12,14 136:6 204:2 230:14 233:9 240:17 248:24 263:10 265:23 267:14 268:3,6,6 296:18,22,24 297:3,4 312:23 315:1,6,8,10 316:1 316:8</p> <p>john.mcnally 262:22</p> <p>john's 297:6</p> <p>join 7:20 184:3 299:19</p> <p>joining 7:17</p> <p>joke 279:1</p> <p>joseph 273:21</p> <p>rochelle 262:20</p> <p>july 3:10,11 61:16 63:4 105:8</p> <p>jumping 267:19</p>	<p>june 4:20,22 5:4 105:8,8 106:6 131:9,9,9 132:13,14 167:19 229:1 285:19 294:11 299:10 301:3,3,4,5,6 302:24 303:19,20,21 311:3 313:5,5,5 314:4 315:15,16 318:14,19 319:4</p> <p>junior 38:20</p> <p>junk 83:21,24 278:9 279:2 281:11,12</p> <p style="text-align: center;">k</p> <p>kaiboshed 294:3</p> <p>keep 63:12 69:7,16 72:5 79:2 80:21 99:18 119:17 138:22 157:25 160:5,7 161:2 261:22 270:22 273:2 316:23 327:16</p> <p>keeping 328:15,24</p> <p>kept 40:10 68:25 108:4 142:3 252:19 255:5 327:12 328:9</p> <p>key 34:16 295:9</p> <p>kick 261:5</p> <p>kicked 266:10</p> <p>kicking 96:5 267:11</p> <p>kicks 267:24</p> <p>kid 187:15 328:17,18</p> <p>kids 191:24 266:18,19</p> <p>kim 7:14</p> <p>kimberly 2:5 61:17 63:4 282:10</p> <p>kind 19:9 23:24 29:21 31:14 35:1 37:3 42:19,20 43:10 46:23 49:5 52:7 53:21 56:2 59:10 63:12 71:5 77:17 82:8 84:9 85:22 87:12 88:4 94:6 95:7 97:12 99:21 102:2,6,16 113:1 117:6 122:16 131:20,22 149:4 151:14 152:7 162:13 164:15 166:21 171:7,12,22</p>
--	--	---	---

[kind - left]

<p>kind (cont.) 185:23 189:18 191:3 202:9 202:10 210:21 212:22 216:23 220:25 226:1,8 240:18 244:20 259:25 264:5,22,23,25 265:1 266:5 267:18 271:6,19 272:19 282:7 308:4 317:7 328:10</p> <p>kinds 37:14 48:24 54:24 83:20 109:8 136:18 137:2 157:8 191:10</p> <p>king 65:6,8 213:9 301:4</p> <p>kitty 209:17</p> <p>knew 40:1 55:18 70:18 85:2 108:9 148:3 151:11 156:11 156:16,19,20 157:1 223:9 228:14 252:9 296:17 306:14,14,17,20 310:23 321:25 323:9</p> <p>knock 219:5</p> <p>know 12:3,5 13:1,17,18,20,22 15:16 16:8,9,9 18:6 19:12 20:10 22:19 23:10,15 24:6 24:6 25:7 27:20,24 28:4,11 30:7,15,16,19,21 31:10,11 31:11 32:2 33:20 37:18,19 37:19 39:4,4,7 40:16 41:6 41:23,24 42:14 43:3 44:20 45:2 47:11,14 48:14,17,24 49:4 51:9 52:20,25 53:6,8 53:11 54:23,24 55:23 57:3 57:4 58:6,21 59:5 60:18,24 61:2 62:3 68:22,24 71:7,8 71:20 72:2,19,21 73:1,5,9 76:9 77:1,3,17 78:6,16,17 78:22 79:3 80:4,19,19,20 80:20,21,21 81:10,11 82:1 82:5,8,24 83:14,19 84:5,8 84:11,13,14,15 85:13 88:8 88:15 93:19 96:5 97:8,10 97:11,15 98:5,19,21,23 99:20 100:12,14 101:13 103:2 104:8 105:6 106:10 106:10,12 108:9 109:3 110:4,5,9,13,17 112:9,23 115:7 116:15 117:18,19 118:10,11,13 120:12,15 122:5,12 124:3 126:19 127:21,24 128:7 130:7,7 131:1 134:7,19,19,23 135:8</p>	<p>know (cont.) 135:10 137:5,16 139:12 141:10,23 142:16 145:7,7,8 145:24,25 146:1,17 147:2 147:19,23 148:5 149:4,20 151:5 153:11 156:13 157:5 157:13,16,17 158:6,7,16 159:15 160:6,11,15,18,19 160:20 161:3,8,10,11,13,19 161:25 163:13 166:19 168:15,18 169:13,19 170:18,21 171:19 173:19 173:19 175:5 176:10,24 177:4,8,15 178:6,9,16 181:12,13 182:18,19 183:2 184:1 185:9,21 186:21 187:5,5 188:2,2 189:17 190:1,2 191:8,18,18,22 192:5,8,8,8 193:11,22 194:3,6,7,15,18,23 196:17 196:22 197:18,21,22 198:1 199:19 201:3,4,6 202:20 203:8,12 204:3,4,5,5 205:21 206:9,19 212:5,5 213:8,16 217:4,4,10,12,15 217:23 218:9,18 219:2 221:2,17 222:10 224:14 225:1,24 227:10 229:6,11 230:22 233:1 234:13,23 239:6,12 243:2,15,20 244:24 245:15,18 247:14 247:15,19,22 249:24 250:3 250:23 251:16 252:12,12 252:13,14 253:6 256:10 259:22 262:7 264:22 265:12,24 266:22,23 267:8 270:3 271:25 272:12 273:8 273:13,16 274:21,22 275:11 276:10 277:22 279:22 280:11,12 281:11 281:17,24 282:4,4,14 284:21 285:11 286:18 287:23 288:20 289:11 291:3 292:6,12,19 293:15 295:13 296:3 302:2 304:10 304:13 305:11,24 306:16 309:4,14 311:24 312:24,25 313:18 314:2,6,10,14 315:1 315:7 316:18 317:5,7,10 320:13 321:14,24 322:25 323:6,10 324:15 325:2 328:7,8,16 329:19 332:3</p> <p>knowing 15:14 30:7 278:1,1</p> <p>knowledge 116:17 147:19 279:8</p>	<p>known 18:10 43:11 108:2,4 131:21 157:17 325:6,6,8</p> <p>knows 20:2 34:4 53:1 82:18 133:2 133:3 135:9 218:13 287:13</p> <p>kroll 287:12,13</p> <p>kurt 210:7,22 212:3,16 213:6,15 214:1,1,7,9,9,13,13,16,24 215:2,5,14,16,24 216:19 217:1,8 218:2,17,18 219:4</p> <p>kurt's 214:13</p> <p>kurts.abfp 212:9</p> <p>kurts.abfp.gmail.com. 213:3</p> <p>kyw 91:6 109:13</p> <hr/> <p>lack 75:1</p> <p>laid 40:17,17</p> <p>laigaie 2:15 7:2,3,8,23,25 8:3 14:5 14:10,13 17:4,14,21 20:23 21:18 48:9,12,15 49:2,9 52:11,23 62:14,19,23 63:25 65:12,22 85:10,24 86:8 100:20 101:5 120:4,6,11,15 120:22 125:11 128:1 131:18 135:4,20,22 142:25 143:3 150:18 151:1 175:18 178:11,15 179:4,6,12,17 210:14 219:11 225:21 263:5 282:6,22 283:6,9 287:8,11,19 288:1 295:5 297:1,5,17 317:24 320:16 320:19 323:11 331:23 332:1</p> <p>land 19:12,13,25</p> <p>language 15:15 238:13 244:21</p> <p>large 97:24 103:7,8,8 146:1 147:7 155:23 169:12 188:2 191:21 194:18 214:11 240:20 266:25 273:11</p> <p>larger 141:23 156:6</p> <p>largest 38:16 218:25</p>	<p>larr 165:2,7,7,10</p> <p>lasted 35:11</p> <p>late 12:1 313:5 314:5</p> <p>lauderback 275:25 276:7 279:10</p> <p>laurel 301:6</p> <p>law 7:3,6 37:6 38:12 146:1 147:7 229:9 240:20 241:8 251:7 266:21,25 268:9 312:14</p> <p>lawrence 279:13,17</p> <p>laws 8:10,12 233:14 241:18</p> <p>lawyer 240:23 297:2,2 314:20</p> <p>lawyers 134:21</p> <p>laying 161:9</p> <p>layout 65:11,14</p> <p>lead 186:16</p> <p>leading 161:11</p> <p>leads 111:2 170:12 314:8</p> <p>learn 36:17 171:20 198:24 199:3 199:4,5,18 202:7 203:19 252:10 263:11 264:24 265:1,16 299:20 311:15</p> <p>learned 57:6 132:14 215:18 224:20 265:21 268:3 273:7</p> <p>learning 36:17 37:12 157:6</p> <p>leave 35:20 36:19 38:11 39:18 40:9,22 74:19 84:8 95:24 96:10,12,14 126:2 152:4 155:10 174:1</p> <p>leaves 113:10 151:17</p> <p>leery 94:23 181:19</p> <p>left 39:2 113:11 144:17 145:2,6 159:17 163:12 225:9 278:16,17,18 322:20</p>
---	--	--	--

[legal - lpi]

<p>legal 123:15 224:24 230:17 231:18 251:6 310:22 317:6 330:22</p> <p>legally 212:25 231:7</p> <p>legitimate 56:16</p> <p>legs 293:17</p> <p>lending 245:4,9 246:5</p> <p>lesser 92:5</p> <p>letter 9:8 61:15 192:16 210:19 216:23 220:19 221:19 238:19 239:6 240:18,22 241:5 242:22 284:23</p> <p>letterhead 240:19</p> <p>letters 109:5 196:7</p> <p>letting 213:6,7 245:18</p> <p>level 35:11 134:12 157:4 199:7 199:17 202:12 203:11 271:6,9 311:16,19 312:22</p> <p>liability 11:15 44:16</p> <p>liberty 2:17</p> <p>library 201:24</p> <p>license 31:5,9 32:6 41:18,21 197:21,24</p> <p>licensed 32:15 44:12 45:16 50:5 197:25 211:14 214:2,5 215:16,17,22</p> <p>life 15:17,19,20,22 16:5,24,25 17:8,10,11,16,19 18:4,8,9 31:15,20,24 32:3,4 33:5,8 33:10,11,15,21 34:6,7,8,14 34:16,20,23 40:24 41:1,10 41:13,14 42:11,12 43:14 44:11 45:9,17 46:14,17,20 46:24 50:1,3,20 51:2,2 54:15 55:3,5,8,21,21 67:2,4 78:20 79:2 81:13,15 89:2,9 89:11 90:2,6,7,8,8,9,10,11 90:12,15,23 91:24 92:1,10 92:11 97:12,16 102:19</p>	<p>life (cont.) 104:5 105:25 106:2,4,4 122:4,6,17,21 127:17 143:18 150:12 151:4,8 152:20,22 180:15,18,19 184:9,9,11,12 187:19 191:21,24 194:7 197:25 198:8 199:8,9,9,10 200:2,3 200:4,5,7,9,11,16,19,23,24 201:3,11 202:21 205:17,21 206:2 211:1,3,6,8,12,12,14 211:15,20,21,23,24 212:3,4 214:2,4,6,11 215:3,9,10,14 215:15,16,22 216:3,16,19 216:21 218:25 219:5,6,7,9 220:4 223:2,23 224:20 225:10,15,20 226:3 228:10 237:11 239:2 240:8 247:6,6 252:13 258:4,6,8,18,18,21 258:24 259:2,4,6,6,10,17 267:18,21 268:4 286:5 289:9,14 290:14,16,17 328:19</p> <p>lift 200:14</p> <p>lifting 184:20</p> <p>liked 157:18 158:20 248:8 253:12 262:8 295:18</p> <p>likelihood 244:13 302:7</p> <p>limit 66:19</p> <p>limited 11:15 50:13 90:17 200:10 235:6 241:14,17 309:25 310:10</p> <p>limiting 68:12</p> <p>line 37:21 99:23 100:2 133:8 287:25</p> <p>link 180:9,24,25 181:1</p> <p>liquidity 310:1,11</p> <p>list 12:18,23 13:3 52:14 68:16 80:22 82:20 159:22 160:3,7 160:10,16 161:1 176:15 178:11,18 179:2,6,7 243:23 289:18,19 291:12 292:3,11 301:1,19,19 302:8 309:1</p> <p>listed 12:25 13:14 18:23 44:3</p>	<p>listed (cont.) 112:24 214:7 239:8 301:2 329:13</p> <p>listen 114:5 207:6 215:6 314:9</p> <p>listens 114:4</p> <p>lists 178:14,17</p> <p>literally 32:14 34:19 41:17 79:8 249:15 267:20 278:3 296:21</p> <p>litigation 28:16,23 122:24 123:15 226:5,8</p> <p>little 33:7 43:18 79:19</p> <p>live 205:25 206:13 266:18</p> <p>lives 206:8 315:4</p> <p>living 31:17 36:15</p> <p>llc 1:5 2:16 8:7 9:9 11:20 44:4 45:8 46:3 47:9 50:10 60:9 88:11,12,17 89:3,4,10 333:3 334:8</p> <p>located 70:4</p> <p>location 139:2 178:23 333:7</p> <p>locations 68:19,22</p> <p>logo 147:13</p> <p>long 24:15,16 25:6,7,25 64:19 78:4 103:3 109:18 130:23 130:24 149:5 151:9 177:5 183:3 190:11 194:20 224:4 224:8 265:21 296:24 310:1 310:11 317:21</p> <p>longer 123:1,4 127:19 206:8 277:24 316:3 317:25</p> <p>look 10:10 16:2 38:24 61:8 68:19,23 81:23 85:1 101:5 119:20 120:4,11,12 131:4 135:25 145:19 151:15 171:15 176:14 188:25 195:9,11 202:13 207:5 211:25 237:19 240:15 253:7 255:2 258:3 265:11</p>	<p>look (cont.) 266:20 268:2 277:4,7,18 279:21 283:1,1 288:11,11 293:15 305:19 307:25 308:22,24 311:17 323:1 326:6 329:18</p> <p>looked 33:10 70:21 84:25 216:18 265:15 283:14 286:12 303:2 311:15</p> <p>looking 30:7 35:5 64:6 94:24 112:2 133:9 174:9,11 198:16 200:23,24 201:1 231:19 245:17 258:19 266:13 267:11 280:3 284:20 288:3 301:17 303:11 309:6,7 311:20</p> <p>looks 39:2,13 147:12 175:3 214:21 217:12 232:17,20 232:22 242:16 257:19 265:23 270:3 271:13 272:2 273:25 280:19 286:14,14 286:16 287:18,19,21 301:2 301:6 330:2</p> <p>lori 165:2,7,7,10</p> <p>lorrie 166:7</p> <p>lose 231:15 298:14 308:23</p> <p>loser 272:14</p> <p>losing 34:6,8</p> <p>lost 86:23</p> <p>lot 23:12 29:1 30:12 33:20 34:14 43:4,15 50:2 54:23 67:5 74:25,25 96:4 106:2 108:10 134:21 138:19 147:8 152:14,16 153:23 154:3 157:7,7,9 178:25 184:10,11 189:2,4,11 190:4 192:8 199:12 258:24 266:17 278:19 288:16 293:17 298:3 313:10 314:17</p> <p>love 54:1 55:6 182:23 218:23</p> <p>lp 90:6,6,7,8,9,10,10,11,12</p> <p>lpi 92:9 211:12 258:14</p>
---	---	--	--

[lps - medical]

lps 128:12	mailed (cont.) 315:7	mark 179:25 229:2,17,25 309:15 317:23 318:3	maturities 153:18,21 227:4 299:24 300:1,4
lucrative 231:17	mailer 163:23 220:16,25 221:5,7 221:14 247:4	marked 6:3 8:21 9:7 10:4 61:11,14 62:2,6 87:15,18 172:7,9,12 180:1,4 193:2,4 195:4 210:1 219:24 220:1 223:11 223:13,16 226:10,12 228:23,25 232:10,12 238:15,18 242:11,13 254:13,15 256:17,19 262:16,19 269:9,12 283:17 283:20 285:15,17 289:22 299:5,8 309:17,19 318:8,11	maturity 155:3
lunch 34:10,11 148:24 315:8,17	mailers 163:14,17 221:3,11 243:12 243:14,17	market 34:3 94:23,25 102:25 103:4 111:9 181:18 245:4,9 246:5 272:18,19 311:8 312:1	maury 190:9,13
luncheon 148:14	mailing 163:22 223:9 235:6,10	marketing 4:10 154:1 155:4 163:12 164:7,8,11,17,19 240:23,25 241:1 242:17,17 258:8 273:12	maxed 123:21
lunchtime 315:25	mails 73:8,12 74:7 83:2,3,7,13,18 83:23,25 84:9,10 111:3,7 111:11,14,17 112:23 121:4 136:21 166:9,10,11 284:19 288:18 298:13 302:4,5	market's 103:2	mca 276:2,3 279:13,14 281:21 281:25 282:3,5 285:20 287:24 288:10 289:4 302:6
lynch 53:16,17,18,21 55:17	maintain 69:2,20 71:6 73:3 78:11 80:12,25 101:24 142:2 143:20 159:22 161:3 171:15 172:1 174:21 274:4	markey 66:13 67:24 68:19 83:9 144:1 150:11	mccarthy 143:17 144:10,20 226:14 227:14 329:3
m	maintained 100:1 120:10 160:3,15 171:25	maryland 133:13	meal 159:4 201:21,22 202:1
machine 95:19 151:18	maintaining 277:5 328:5	mass 235:6,10	mean 12:8 24:4 30:24 33:13 40:5 41:22 44:8 49:10,11 60:9 71:11 74:20 93:11 94:20 97:21 99:16 109:3 112:9 115:22 117:2 125:3 130:1 131:11 137:19 142:12 145:23 146:21 156:12,20 159:5 167:1 180:14 181:23 192:6 196:15,25 200:14 205:3 209:3 211:22 222:8 224:10,11 228:14 234:20 239:4 244:22 253:9,9 258:16 263:16,19 264:14 270:10,11,11 271:17 273:5 274:10 281:11 282:22 283:1 288:20 300:7,8 306:4 307:18 308:15,16,16,17 309:11 330:14
magazine 235:8 244:4	major 102:22 297:8	master 113:2,9	meaning 60:12 65:11 72:2 113:1 138:2 156:20 167:2 179:20 186:9 209:3 215:10 222:19 234:2 255:21 270:22 321:24 325:19
maiden 77:5	majority 46:20 102:24 152:10 170:23	material 4:10 108:11 136:20 164:11 164:19 240:24 242:17	means 30:25 42:23 60:17 139:7 153:23 182:2 207:13 234:18 235:14 263:20,22 272:8,9 291:24,24 305:4 307:18 308:19
mail 3:15,17,18,20,22,24 4:4,6,8 4:12,14,16,18,20,22 5:4 72:22,23 73:3,10,14 74:5 75:7 82:12,14,25 83:7,19 83:21 84:4,12,23 85:19 86:3 95:20,21 104:10 112:14,25 113:7,9,11,12,16 113:18 114:1 131:23 136:24 137:4,4 154:25 158:16,16,23 160:22 161:9 162:5,23 163:3,4 166:12 172:23 173:22 174:14 180:4,10,11 182:2,5 183:25 184:2 189:15 192:15 193:4 193:7,12,15,17 194:5 210:2 210:22 212:8,25 213:2,5,14 213:16 217:5 220:2,11,12 222:21,25 223:5,8,13,19 224:2 226:12 228:15,25 229:1,6,17 232:13,13,14,19 233:4,6 243:8 247:12,17 254:15 255:24 256:19,20 259:14 260:16,21 262:20 267:17 270:15 278:7 283:21,22 284:14 285:17 285:20 286:2,9,21 287:17 287:24 288:7,9 291:20,21 292:3,5,11 293:18 294:24 299:8 301:20,21 302:2,11 302:12,12,17,24 303:11,20 303:21,24 306:22,24,25 307:2 308:1 310:21 311:3 318:12,25	making 96:25 121:19 164:19 169:10 204:18 218:16 225:11 241:9 276:13	matt 36:7 210:20 213:7,14 216:17 217:8 220:15 221:21,22	meant 12:2 220:20 227:8 230:5 305:11 323:13
mailed 163:9,10 167:22 192:12 243:3,5,6,16,22,23 287:22	man 65:8	matt.sarnes 220:3	measure 265:22
	manage 161:22 204:17 223:3	matter 1:3,14 8:7,15 106:22 159:4 202:7 205:10,11 224:24 333:3 334:7	medical 208:9
	manageable 114:22	matters 333:13	
	management 14:17,17,18,20,21 15:5,7,9 15:11,13,21 16:3,7,12,17 16:22 36:5 44:21 47:13 50:25 89:3,9,12,14,18,21 100:5,9,17 127:12,13,19 277:15	matthew 210:7	
	manager 37:13	matures 206:15	
	manages 14:24,25		
	maria 333:9		

[medically - multi]

<p>medically 205:24</p> <p>medication 59:15</p> <p>medications 59:9</p> <p>medium 235:25 236:18</p> <p>meet 30:18 51:24 53:1 75:3 84:1 94:7 108:17 110:19,20 111:18,23 112:2 136:25 149:14 155:15 157:19 173:6,8 174:4,10 175:6 267:21 278:15 311:21 315:9,9</p> <p>meeting 52:4 54:21 101:20,21 112:4 137:15 152:13 189:18 235:9,21 236:13 252:6,23 270:5,10 271:13 320:22</p> <p>meetings 270:4 296:6,7 313:4 316:22 320:17</p> <p>megan 2:4 7:13 62:7 219:11 282:10 287:18 309:9 317:24</p> <p>megan's 76:9</p> <p>mellott 2:16 7:4,9</p> <p>member 88:14,16 89:7,18 192:5</p> <p>members 252:8</p> <p>memorandum 92:24 129:2,13,17,21 130:5 133:24 134:4 309:20</p> <p>memory 59:13,16</p> <p>men 116:25 117:1</p> <p>mention 18:16 222:15 235:23 236:17 237:4,5</p> <p>mentioned 17:14 27:10 51:9 77:22 117:7 190:24 314:21</p> <p>menu 270:25</p> <p>merchant 122:8,21 246:25 247:24 263:12 264:2 265:3 276:4,6 286:5 289:4,15</p>	<p>merchants 264:25 265:1,6</p> <p>merrill 53:15,16,18,21 55:17</p> <p>mess 169:21 268:4 269:18</p> <p>message 96:8,12,13,14,17 113:10,11 113:25 151:17 159:17</p> <p>messages 95:23 114:4 278:16,17,18</p> <p>messed 287:2</p> <p>met 31:18 36:20 104:4 129:23 130:24,24 149:6,9 150:25 155:18 159:2 184:13 261:22 265:19,23 270:12 271:22 272:10 312:15,17 315:12,15,18</p> <p>meta 286:10 287:1,3,4,14</p> <p>michael 76:14 93:22 150:1</p> <p>michelle 64:15,15,19,21 65:16 66:1 66:6 67:13,19,23 68:17 71:22 72:23,24 74:11 75:17 77:13,22 79:12 80:8 82:2,5 82:13,16,16,18,22 83:8 141:18 143:5,10,12 144:9 144:19 150:9,12</p> <p>michelle's 70:5,21</p> <p>microphone 165:24</p> <p>microsoft 179:8</p> <p>mid 316:14,14</p> <p>middle 257:25</p> <p>mike 210:7,20 213:16 217:8</p> <p>mile 266:18</p> <p>million 19:14,15 24:17,19,24 25:11 26:15,19 27:6 107:8,13 108:23 124:6,6 130:18 137:22,24 138:2,10 153:23 155:9 200:17 222:23 226:25 238:3 245:3,16 251:18,19 268:16,25 290:12 292:18,19,21,23,25 293:22 294:21 296:8,10</p>	<p>million (cont.) 297:24 298:6 300:20 307:8 307:10 313:12 314:10,12 317:21</p> <p>mimic 29:4</p> <p>mind 18:14 53:14 79:23 97:6 99:5,9 121:18 157:25 160:24 162:8 189:23 198:2 214:19 216:12,13 219:11 261:22 288:6 332:3</p> <p>mindful 58:2</p> <p>mine 62:18 181:7 183:21 210:25 214:2 244:7 253:5 263:9,10</p> <p>minimize 159:9</p> <p>minimum 26:16,17 255:16</p> <p>minus 281:5</p> <p>minute 125:11 169:24 174:2 190:2 202:5 230:16 307:3 330:12</p> <p>minutes 169:14 202:9 203:12 322:19</p> <p>mirror 278:11</p> <p>missing 257:23 259:16 287:10</p> <p>misspoke 327:5</p> <p>mistake 197:4</p> <p>misunderstanding 252:5</p> <p>model 189:2 318:19</p> <p>mom 144:16,17</p> <p>moment 86:1</p> <p>monahan 190:9</p> <p>monday 110:18</p> <p>money 15:25 16:20 26:9 30:12 33:1 34:6,8 40:11,13 43:8 46:19 48:19 55:9 96:11 98:1,2 102:21 106:20 107:7 107:10,12 114:6,8,21 117:6 123:6,11,18 124:18,19</p>	<p>money (cont.) 132:17 192:4 205:4,8,13 209:11 215:21,24 216:19 218:15,17 224:7,9 227:8,20 227:21,24 232:6 234:22 248:16,20 249:6,10,23 251:14 252:3 260:4,18 263:24 264:8 266:15,17 268:10 294:9 295:10,12 298:14 300:4,9,11,15 306:1 308:17,23 330:19 331:8</p> <p>monies 300:18</p> <p>monitoring 329:7</p> <p>month 39:5,9 66:22,23 105:7 116:12 124:19 158:22 160:13 208:11,13 271:22 291:4 304:7,24 305:8 308:9 310:17 325:4,8</p> <p>monthly 100:8</p> <p>months 31:10 32:8 35:12 39:8 116:9 161:7,10 205:5,6,15 215:19 246:18,20,22 268:13 277:24 305:10 307:10 325:4,6,9,19</p> <p>moran 334:3</p> <p>morgan 245:3,12,15</p> <p>morning 7:2 119:10 288:22</p> <p>morrison 7:20 79:16</p> <p>mount 301:5</p> <p>mountain 143:20</p> <p>mouth 56:8</p> <p>move 77:10 85:22 152:16</p> <p>moved 36:1</p> <p>moving 65:19 143:9 152:19 258:16</p> <p>msf 285:20 288:10 289:4,5 302:6</p> <p>multi 13:23,23 289:6,11,12,17 290:3</p>
---	--	---	---

[multiple - oh]

multiple 42:5,17 187:20	need (cont.) 205:14,18 206:14 227:25	nope 70:12	o'clock 85:12
murderer 108:10	282:21 285:5,8 297:18	nos 6:2 61:10	october 3:9,12 9:12 62:8 272:3
mutual 240:13,13 249:5	needed 66:13 68:16 85:3 108:22	notate 139:5	273:20,25 274:1
mystery 95:6 280:15	146:2 294:21 311:4	notation 178:3	odd 37:14 134:9
n	needle 185:4	note 124:24,25 125:7,14,17,18	offer 36:21 39:19 54:4,13 96:6
nadia 191:16,17 192:16	needs 183:8 277:19 298:24	126:7,8,10 139:6 220:20	96:25 97:12,16 122:1 198:7
name 6:18 7:6,13 15:8,10,10 31:7	nefarious 56:18	232:18 263:25 269:17	198:7,9,12 199:19 200:10
31:12,20 32:9,21 36:25	neighbor 51:25 155:18 221:23	notes 99:11,13,25 101:17,22	200:25 206:18 207:23
64:17 66:8,14 72:9 74:8	neighbors 220:22	124:15 126:9 139:3,4	offered 108:12 122:19 133:15
75:8 76:11 77:3,5 99:15,24	neither 220:12	176:17 269:2 270:3	153:4 156:1 185:19 199:22
100:3 101:6,10 118:4	net 137:21,24 138:11 228:7	notice 1:15 235:7 315:22	201:8 213:18 217:24
119:22 127:18 141:19	244:25	noticed 57:18 242:1	244:24 246:8
142:15 143:17 153:14	networking 34:21	notorious 42:25	offering 102:3 121:22 132:15
175:6,6 178:20,21 187:12	new 1:11,11 2:10,10 36:12	november 1:12 6:6 10:23 116:8	185:16 203:5 227:16,17
187:12 191:16 232:25	40:21 50:18 130:3 133:23	268:11 314:4 333:6 334:6	242:1 245:8 263:15
269:15,15 271:20 289:16	134:4 218:10 227:8 277:3	ns 164:25	offerings 49:1 54:18 105:21 122:2,16
291:13 313:20 315:11	311:12 333:7 334:6	number 7:7 61:7 95:9,14,16 110:25	199:7 215:7
327:15 329:2 333:17	newsletter 235:8	111:4 114:22 121:3,5,8,15	offers 40:10 241:13,16
named 7:20 76:23 172:14 177:10	newspaper 235:8,25 236:19	144:25 151:17 154:18	office 31:23,24 38:4 43:2,5,9
224:17	newtown 38:17	178:25 227:4 251:16	51:14 53:2 62:17 65:4,5,10
names 80:22,25 87:21 92:2 160:17	nice 173:6 218:18	277:25 278:7 280:19	65:14,17,19,21 66:2 67:8
190:5,8 220:23 278:25	niche 40:20	289:23 291:17 299:11	69:7,21 70:1,3,5,11,22,22
281:15	night 12:1 134:13 173:6 204:21	304:5,10 305:15 306:12	71:18 77:7,13,14,16,17
narrow 169:13	272:25 288:14 314:22	309:24 324:7 328:5 330:8	90:23 94:5 97:7 98:8
nasdaq 214:7 268:5	315:23 317:4	333:5	111:18 121:20 143:25
national 298:16	nightmare 230:17	numbers 69:18 160:16 321:12,19,20	147:4 149:25 151:19,23,24
native 179:10,10 269:13 282:9	nine 31:3 293:10	322:8	152:6,9,11,12 153:5 158:19
nature 29:13 310:1,12	nodding 57:17	ny 1:4 8:7 333:5,7 334:6	159:14 163:12,15 164:10
nave 36:25 229:2,8 232:15	non 21:1 97:9 137:16 138:9	o	164:18 168:1,1 170:18
275:22	139:11 140:5,12,16,18,22	object 58:15	175:9 181:6 186:5 223:2
neat 134:11	141:2 142:4 144:6,21 323:3	objection 58:16	240:7 255:13 275:15 278:9
necessarily 53:16 69:9 161:24 162:11	323:6,23 324:7 325:12,22	obviously 19:16 68:8 69:18 77:4	278:23 279:25 282:11
162:12 196:20	326:17 327:15 330:8	139:16 141:22 180:11	285:3 286:12 288:18 291:4
necessary 331:16		182:23 206:8 214:16 221:9	291:8,10 314:13
need 15:4 31:21 44:10 58:22,24		261:2 262:6 300:8 316:8	officer 7:18
60:23 98:1 102:21 106:13		occasionally 163:5	officers 7:15
114:20 133:7 147:8 176:14		occurrence 167:17	offices 65:23,24 77:8,12,19 285:3
176:17,18 204:12,13,15,19			official 334:16

[oh - paid]

<p>oh (cont.) 86:8 95:23 118:21 130:4 139:7 147:11,12 148:2 163:19,20 167:15 168:12 170:2 176:24 183:14 187:11 193:5 207:5,17 214:17 222:19 228:16 239:20 244:6 256:23 262:21 263:4 268:5 272:16 272:19 273:19 274:11 301:1 315:9 323:12</p> <p>okay 7:23,24 8:4 10:22 11:7 13:2 13:15 14:9,10,13,18 16:15 16:16 20:6,13 22:1,12 25:20 27:23 31:2,8 33:4 34:25 35:16,19 41:8 43:16 45:2 46:9,11 47:4,15,16,21 48:5,20 50:23 51:4,7,9 52:23,23 55:24 56:13,25 57:10 58:7 60:11,14 61:5 61:20 62:1,16,21,25 63:2 63:10 66:4,4,19 67:11 69:5 71:1,19 72:22 74:23 77:22 79:18 83:6 84:22 85:22 86:7,11,25 87:11 88:4,10 89:15,17,25 90:5 91:23 92:19,25 94:6 100:15,24 101:17 102:1 103:17,22 105:17 107:20 109:18 112:1,7,18 113:22 115:16 115:19 116:10,14 120:22 121:3 124:17 125:9 126:11 128:19,22 131:11,17 132:1 134:16,18 135:23 136:13 139:19 142:21 143:3 144:9 144:19 146:15 148:10 149:11 150:14 151:1,10 154:22 159:20 162:19,21 163:20 166:3 171:21 172:4 172:5,18,22 173:5,15 175:14,18,21,24 176:4,24 177:2,14,20 178:10 179:4,4 179:5,17,25 180:24 181:4 188:12 190:20 191:19 194:3 197:3,11 199:24 201:15,22 202:6 206:16 208:19 209:15,25 210:12 210:13,21 211:10 214:12 214:22,23 222:5 229:13 231:1 232:11 233:24 238:2 238:11,17 239:14,20 240:3 242:9,12 243:9,25 244:4,6 244:13,19 245:24 246:13 247:3 254:10 255:17 256:15 257:17,17,19</p>	<p>okay (cont.) 258:12 259:12 262:5,18 263:14 265:20 266:6 267:13 268:19 269:6 271:2 271:11,21 273:10 274:7,15 275:19 276:22 277:19 279:19 280:14,25 281:18 283:19 284:4,13 285:13 286:15 289:18 290:8,13,25 291:15 292:9,15 295:2,4,6 295:6 296:10 297:12,23 298:18 299:3 301:1,11 302:14 303:5,20 304:22 305:6 307:24 308:3,10 309:8 311:21 313:2,8 314:25 315:19,21 316:2,15 316:20 317:1,15,19 318:10 320:19 322:22,24 323:24 325:10 331:1,11,13,24 332:4</p> <p>okey 219:25</p> <p>old 37:19 127:20 191:3 277:22</p> <p>once 41:15,16 60:12 89:6 101:3 109:2 134:12 168:24 265:22 296:10 297:3 311:18,19</p> <p>ones 110:4,5,13 116:17 179:13 179:15 190:7 274:19 306:25</p> <p>one's 110:21</p> <p>ongoing 23:21,24 24:3 25:23 276:14</p> <p>open 28:12 38:23 65:15,22 103:3 122:13 195:10 227:7 259:7 288:20</p> <p>opened 57:15</p> <p>opening 8:13,24</p> <p>operational 108:2,20,23 109:3</p> <p>opinion 98:18 307:18</p> <p>opioid 21:16 133:3</p> <p>opportunities 54:5</p> <p>opportunity 8:19 9:1 102:4 104:10,11 122:9,21 137:7,8 253:12</p>	<p>opportunity (cont.) 259:16 263:12 264:3 298:10 299:1,21 300:10 307:20 308:6</p> <p>opposed 150:22</p> <p>opposite 71:22</p> <p>optimistic 308:24</p> <p>option 206:18 271:16</p> <p>options 152:19 203:23 206:2 270:20,20 271:12,13</p> <p>orally 206:24 310:5</p> <p>orange 36:10</p> <p>order 8:14,19 176:15 241:18 269:18 318:5</p> <p>orders 38:9</p> <p>ordinary 120:10 160:4</p> <p>organic 21:17 22:2,5,9,10</p> <p>organization 3:13 52:8 272:25</p> <p>organizational 73:19 87:24 88:2</p> <p>organize 72:18</p> <p>organized 71:22,24 72:8 82:17</p> <p>original 129:22 167:5 213:13 227:5 230:1,20 314:7</p> <p>originally 78:9 296:9</p> <p>originated 182:6</p> <p>originator 108:8</p> <p>orthopedic 214:14 218:10</p> <p>outline 237:12</p> <p>outlined 68:15,15</p> <p>outlook 73:4 177:18,19,24 178:7 179:11 281:9,9</p> <p>outpouring 313:9</p>	<p>outside 25:9 123:16 191:8 214:4</p> <p>overall 260:23</p> <p>override 32:4 258:11 261:17</p> <p>oversight 327:9 329:18,21 330:2</p> <p>overview 201:19</p> <p>overwhelming 102:23 135:6 152:10</p> <p>owl 288:14</p> <p>owned 12:3 33:21 36:13 178:22 216:17</p> <p>owner 11:13,24 12:2,4,8 13:1,3,18 14:21 36:22 54:21</p> <p>owners 231:10 256:12</p> <p>ownership 12:12,17 13:10,21,24 14:2 19:4 20:25,25 21:5 22:16 22:23 23:11,15,18,22 27:11 208:14 209:20 261:1</p> <p>owns 14:6</p> <hr/> <p style="text-align: center;">p</p> <hr/> <p>p.a. 7:11</p> <p>p.m. 148:14 332:8</p> <p>pa 2:19 88:12</p> <p>page 4:17 11:7 28:14 31:3 34:25 35:4 101:7,8,12,19 112:20 117:9,10,16,19,24 118:14 118:15 137:7 139:21 161:15 176:20 241:12 242:14 246:13 270:1,7 271:4,19 273:21,23 275:5 279:17 282:13 301:18 310:9,9 320:25 322:2,5,5</p> <p>pager 313:19</p> <p>pages 1:8 10:18 120:16,17 130:12 130:13 269:17 327:14 334:4</p> <p>paid 15:23 16:6,15,19,21 25:16 27:11 115:8 127:5 150:21 164:8 197:18 211:16 214:7</p>
--	---	--	--

[paid - person]

<p>paid (cont.) 242:8 249:23 264:10,15 266:21,25 268:9 331:8</p> <p>pain 20:7</p> <p>paired 114:19 116:9 305:18</p> <p>paper 69:14 99:4,18 148:4 161:9 164:16,17 176:17 314:11</p> <p>papers 81:4</p> <p>paperwork 65:2 67:4 69:19 70:16 81:2 81:14 139:24 143:20 144:24 145:8 146:2 147:2,5 147:6,25 171:4 324:9,21 326:6</p> <p>paragraph 238:6 241:12 258:1</p> <p>paragraphs 310:10</p> <p>pardon 9:16</p> <p>paren 227:7,7</p> <p>part 33:18 64:23 69:15 76:1 78:2,5 83:15 91:25 128:14 128:16 134:10,11 139:3,4 140:4 148:9 152:10 155:23 167:10 241:18 257:25 260:15 280:5 283:10 306:16 309:2</p> <p>partake 84:6</p> <p>partial 13:3</p> <p>participate 165:12,12</p> <p>participated 220:22</p> <p>particular 63:24 71:4 141:3 154:18 198:9,12 199:8 209:8,18</p> <p>particularly 217:13</p> <p>parties 205:22</p> <p>partner 13:19,20 16:8 89:22 123:9 127:3,13 251:11 252:16 293:24</p> <p>partnering 248:12</p>	<p>partners 90:17 92:10,11 211:12,12 211:14,15,20,21,23,24 212:3,4 214:3,4,6 215:4,9 215:10,15,16,22 218:16 219:6 223:24 224:20 225:10 226:3 228:10 258:4 258:6,18,22,24 259:3,4,6,6 259:10,18 267:18,21 268:4</p> <p>partnership 11:15 200:11 241:14,17</p> <p>party 26:3</p> <p>pass 41:6,13,13,14,16 93:6 204:11 207:10 229:23</p> <p>passed 31:4 32:15 44:10 191:22 207:13 288:24</p> <p>passes 15:18 267:25</p> <p>passing 41:4</p> <p>paste 136:23 180:9</p> <p>path 72:14 248:23 252:22</p> <p>patient 214:13 321:9</p> <p>paul 91:13</p> <p>paulsen 333:10</p> <p>pay 43:3 50:6 69:14 98:22 100:7 146:1 147:10 184:19 214:5 215:9,10 217:17 232:6 265:24 266:3</p> <p>payable 15:18,22</p> <p>paying 15:1 150:19 204:2,16</p> <p>payment 25:1 27:14 48:9 49:10,12</p> <p>payments 27:18</p> <p>payout 153:20,23 158:23 167:20 220:22 222:23 301:7,15 302:10</p> <p>payouts 93:6 227:18</p> <p>pays 15:25</p> <p>peaked 116:8</p>	<p>penn 213:9</p> <p>pennsylvania 38:18 41:7 65:6,9</p> <p>penny 204:19 295:15</p> <p>people 29:4,7,15,16 30:3,12,16,19 33:20 34:11,13,22 47:11 51:23,23 75:2 76:4,11,17 80:22 83:25 84:2 90:21,24 93:6 94:4 96:4,8,18 102:24 103:1,13,23 104:4,5,15,19 104:20 105:23,24 106:3,6 106:11,12 110:18 111:18 113:2 115:23,23,24 118:8 121:5,18 122:1,5,5 133:6 135:6 136:25 141:9,25 149:17,19 150:4 151:6,11 152:4,11 153:23 154:1,3,7 154:9,14,18 155:4,5,13,13 155:14,17,21,23 156:1,6,10 157:7,7,8,8,9,10,16,22 158:8,17,17,17,18 159:1,11 159:24 160:11 161:4,19,23 161:25 162:2,22,25 163:3 163:10 164:9 166:7 167:23 170:2,17 171:2 173:25 174:4,8,17 176:5 180:16 181:2 182:15,19,24,24,25 183:9,10,20 184:17,18,19 185:10,12,18,19 186:2 188:9 189:7,8,9,16 190:12 190:15 192:9,19,23 194:23 194:24 196:9 197:22 200:22 201:18,19 203:5,10 203:12,14,15 204:3,5,11,12 204:14,16 205:16,16,25 207:10 208:8 213:25 214:20,20 215:6 216:2,6,12 218:3 221:6,7,11 222:2 230:10,13 231:6,8 237:19 237:25 238:4 240:7,7,12,15 240:19 244:25 245:14 247:20,21 249:16,24 252:9 252:20,25 253:1,1 258:17 258:22 260:3,6 262:2,9 264:1,10,22 266:9 270:17 272:22 273:6,6,10,11,13 274:11,12 275:2,9,13,16,22 275:23 277:25 278:5,13,14 278:16,17,18,19 279:21,25 280:5,8 281:8,22 282:11 283:11 286:9,20 290:15 291:2,2,16 292:11 293:13 293:14,25 294:1,14 295:10</p>	<p>people (cont.) 295:23 296:14 298:4 299:11 300:22 302:8,13 303:13,22,25 304:4,14,15 304:18,19,21 305:20 306:1 306:10 308:2,21 309:3,5 312:20 313:10,17 314:8 316:21 317:1,10</p> <p>peoples 51:23 261:2</p> <p>people's 69:18 271:5 330:18</p> <p>perceived 297:10</p> <p>percent 22:18,23 24:18 26:9,12,21 27:7 75:10 81:25 111:20,21 111:22,25 124:18,22,25 125:1,22,24,25 189:17 197:1,2 199:22,25 201:7 203:24 217:24 246:10,15 246:19,20 260:22,24 261:1 261:2,5,14,17,19,21 263:24 264:7 273:10 305:12 319:19</p> <p>percentage 13:25 22:16 23:15 127:9 155:15 178:22 273:11</p> <p>perfect 256:3</p> <p>perfectly 8:3</p> <p>period 54:14 79:8 103:22 114:13 116:5 122:15 124:21 136:4 144:4,12 175:20 244:14,20 251:20 253:18,23 273:19 274:5 284:16 310:3 326:15</p> <p>periods 194:20</p> <p>permissible 97:5</p> <p>permission 7:21</p> <p>permit 140:18 246:9</p> <p>permitted 140:6,13,23 325:23</p> <p>perry 254:17 256:11</p> <p>person 33:9,15 56:1,21 59:2 64:10 67:8 72:25 73:7 99:25 113:16 132:17 138:17 150:16 156:12,21 159:8 165:4,10 174:9 175:3</p>
---	--	--	--

[person - preliminary]

person (cont.) 186:10,12,15 187:16 188:21 189:13 190:17 194:10,12,15 199:2 209:10 209:11 213:7 232:21 243:8 247:15 275:4 278:2,3,4 309:1 328:12,13 329:6	pillar 13:7,7,7,8,8,13 15:3,7,17 15:19,20 16:5,24 17:6,6,8 17:10,11,13,13,16,19 18:2 18:3,3,4,5,8,9,11,12 44:20 45:10 47:5 50:11,17,18,18 50:19,19 51:16 53:4 54:16 55:8 72:13 78:8 79:12,13 79:25 80:2,9,10,13 81:3 89:2,9,11 90:6,7,7,8,9,10 90:11,11 122:13 127:16,17 127:17 141:6,6,16 142:5,6 143:8,8,11,11,11,15,15 144:2,10 180:19,20 187:21 194:2 198:8 200:4 203:25 223:20 226:5,7,22,24 227:15,17 239:3,5,9,17,18 239:25 241:13,16,19,23 247:13 267:15 286:4,4 287:24 288:10,10 301:7,15 302:6,10 303:12,25 304:6 322:23 323:17 324:4,6,19 325:10 326:1,2,10,20 328:1 329:7	plan (cont.) 47:1,12,14,18 48:1 49:25 50:22 52:5,7,21,25 53:3,6,8 53:24 54:10,17,19,22 55:19 55:20 56:10,22 57:7 60:7,8 95:1 173:2,9 212:14,17,19 217:2 222:20 229:15 230:3 231:11 268:21,24 333:3 334:8 planned 304:6 planner 197:23 planning 199:6 play 136:8 played 187:14,14 player 40:20 please 6:18,25 57:16 58:6,16,21 60:24 64:17 182:10 223:21 318:25 319:1 pleasure 20:22 plenty 162:2 plucking 224:6 plus 24:18 129:7 140:24 152:24 278:25 pocket 49:23 point 34:16 50:14 84:7 133:25 134:2 135:1,13 153:8 161:6 190:10 199:21 201:17,25 202:2,3 203:4 220:14 227:2 227:3,3 258:7,13 259:1,7 278:23 297:3 309:11 311:7 331:2 pointed 308:4 309:13 326:8 pointing 308:11 policies 17:1 46:17 50:21 91:25 92:16 211:8,20 212:2 215:11 227:9 228:6 258:2 290:16 policy 42:11,12 51:2 55:22 150:13 191:21 214:12 216:17,21	policy (cont.) 218:25 219:9 polish 313:1 polite 153:19 politician 133:4 poll 228:2 portfolio 34:5 portion 43:19 97:24 positive 322:1 possession 86:22 possibility 303:18 possible 57:21,22 58:25 153:3 299:12 303:23 possibly 83:11 257:21 post 35:16 143:8 potential 24:11 106:25 121:1 132:15 231:16 241:6 254:23 261:15 266:9 277:3 308:21 311:7 313:4 potentially 196:24 202:25 power 36:11 powerpoint 80:20 ppm 4:24 129:12 130:12 131:23 132:23 136:4 240:11 253:14 283:23 284:3,6,20 290:6 293:7,23 294:8,9,17 296:15,16,23,23,24 297:22 309:15 311:23 312:8,19 314:5 pptx 172:17 practice 194:21 precisely 115:8 preexisting 151:11 235:19,22 236:7,14 preliminary 251:8
personal 71:7 179:20 220:19	pillars 80:6 239:22		
personally 48:2 94:3 107:22 154:23 209:13	pilots 109:7		
person's 99:15,24	pitch 182:23 215:6 218:4 306:20 312:9		
perspective 279:2	pitching 256:5		
pertaining 108:11	pitfalls 199:5,14 202:19		
petrillo 15:10 134:14 135:14,15 233:9 315:16	pitzo 273:21		
phil 190:9,13	place 1:9 2:17 38:9 119:18 153:9 234:22 238:7,8 244:10 249:8 270:8		
philadelphia 2:19 7:11 37:12 91:4,4 123:17 218:12,13	placement 92:24 129:2,13,17,20,22 130:3,4,6,22 133:24 134:4 136:11,12 201:14 206:21 240:15 248:3,9,18 251:11 251:12 293:21 309:19 311:14		
phone 7:7 67:7,9 95:17 112:1,15 117:4,8 121:19 151:16 163:1 165:21 178:24 278:7 315:12	placements 13:9 51:20 93:2 140:15 146:4 147:24 251:5		
physical 68:4 86:6 164:15,16 178:23 243:12	places 203:21		
physically 64:5 69:24 163:24 243:4 247:17 274:20 326:5	plan 1:5 8:7 9:9 36:17 45:12,14 45:16,19,21,25 46:21,22		
pick 43:7 168:20 292:7			
picked 183:21 185:3 189:24			
picks 95:17			
piece 13:9,10,13,21 19:4,12 21:9 21:10 23:11 32:4 99:4 100:6 102:21,23 103:10 161:8 163:12 176:17 230:11 240:23 241:4 242:17 314:11			
pieces 148:4			
piggyback 214:10			
pilla 285:20			

[premium - put]

premium 227:20,23 261:4,15	prior 8:13,24 64:23 78:1 79:11	producer 165:3	prospects (cont.) 291:24 292:12
premiums 227:1 260:7,8,10 261:6	86:22 130:5 133:21 141:6,6	product 41:19 42:1 108:12,23 109:2	protect 44:15 281:9
prepared 334:12	142:5 149:3 156:7 157:23	132:15 169:1 198:21	proven 321:24,25
present 122:15 163:7,8 175:20	194:4 217:22 225:10	284:22 311:9	provide 13:4 68:1 86:5,9 95:8
presentation 54:9 318:14,18 319:6	227:23 228:3 239:15,23	production 82:14 120:19 283:10	138:18 175:17 190:14
320:15,17,21	244:15 274:4 281:23	284:13 332:6	278:8 319:16
preserve 57:24	284:17	products 43:6 213:18 235:24 236:17	provided 8:14,23 31:23 48:3,3,3,18
pressuring 255:5	private 13:8 21:1,3 51:20 92:24	247:16	63:21 86:21 129:4 175:9
pretty 13:8 19:22 30:15 64:22	93:2 129:2,12,17,20,22	professional 36:23 135:7	209:10 234:3 240:3,5,6
70:17,17 80:10 99:10	130:3,4,5,22 133:23 134:4	professionals 42:8	providence 220:16 221:4,6,8
114:23 136:20 141:22	136:11,12 140:15 146:3	profitable 19:14	providing 218:5,6
143:10 178:17 187:3 283:4	147:24 201:13 206:21	program 36:6 270:1 277:21 278:9	provisions 8:9
prevent 59:18 148:25	240:14 248:3,9,18 251:5,11	progress 270:9	prussia 65:6,9 213:10 301:4
previous 209:16 303:24	251:12 252:15 293:21	prohibition 234:6 235:2,5	public 21:1 213:25 214:6 235:25
previously 9:7 143:24 217:19,20	309:19 311:13	project 19:6,9 20:1,4	236:18
price 64:15,16 66:6 67:13,19,23	privately 11:14 14:11 21:4 44:2	projected 298:19	published 235:7
68:17 82:14,16 83:8 143:5	51:19	projections 322:4	pull 110:5
144:9,19 150:9	privilege 86:14,18 330:24	projector 320:3,6	pulled 158:20 291:5 330:16
price's 150:12	privileged 213:1 330:23	promise 300:20	pulling 117:1
pricewaterhouse 39:23	probably 36:9 58:2 80:7 112:6 116:7	promote 118:1 132:5,7 237:10	purchase 211:7 215:14
primarily 31:17 49:25 67:2 70:6	116:7,8 131:24 173:13	promoted 132:9	purchased 92:17 209:13 212:2
77:15 94:9,9 105:8 115:19	174:3 175:5 181:16 188:1	proof 321:22	purchasing 50:20 51:2 215:11 231:2
137:4 151:5,7,21 155:10	194:13 224:5 225:25	proofreader's 333:1,17	purpose 7:18 251:2,9 252:16 293:12
primary 92:4 120:25	245:16 247:5 282:16,17	proper 160:8	293:18 309:4
principal 32:12,15 124:20 246:18,19	284:19 304:14 316:14	properly 123:20 231:7 260:4 281:6	purposely 267:3
246:21	problem 44:24 237:9,13	properties 11:21 28:2 30:13,22	purposes 7:16
principals 256:13 264:4	procedural 43:21	prospect 291:7,9 292:7 302:6	pursuant 1:15 9:24 49:12 234:4
print 269:18 320:7	procedure 57:14	prospective 235:18 240:4 292:17	pursue 285:12
printed 220:6 319:1,12	proceeded 248:8	prospects 285:21 290:25 291:1,12,17	pushing 199:13 202:15
printers 37:24	proceeding 7:16,19 8:17 334:10		put 55:8 56:8 99:24 101:18
printout 269:25,25	proceedings 333:14		119:18 124:18 128:10
prints 148:1	proceeds 209:4,5,8 299:23		136:6,24 139:21 158:13

[put - recorder]

<p>put (cont.) 161:14 163:18 168:24 176:19 178:3 184:16,17,17 184:19 207:12 213:8 220:19 228:20 230:3 231:6 236:23 237:1,16 238:13 240:17 241:5,6 245:15 247:21,23 248:2 252:10 260:6,9 261:11,20 262:7 270:15 278:6,6 281:3 288:5 291:11 294:16 300:19,21 305:14 306:2 310:23 311:22,23 312:19,20 313:20 314:9,12,19 315:10 317:6 321:8 324:9</p> <p>puts 126:2,4 252:15</p> <p>putting 146:4 211:9 230:9 278:10 278:12,14,16,17,18,21 281:6 316:7</p> <hr/> <p style="text-align: center;">q</p> <p>qualification 203:9</p> <p>qualified 186:6,15 188:5,6,7,10 192:19 194:10,11,15,24 202:25</p> <p>quarter 27:21 251:25 266:18</p> <p>quarterly 23:12 27:19 93:4</p> <p>question 11:10 12:21,24 13:14 14:12 18:15 20:24 21:21 23:4 28:13 31:3 35:5 43:25 47:20 51:22 52:12,15,19 58:10,11,17 59:4 60:17 73:15 83:12 84:11,11 97:4 111:3 129:14,16 140:20 145:17 150:20 159:11 168:1 170:3 173:24 191:7,9 195:7 208:6 225:22 230:1 267:3 272:6 276:20,25 280:2 282:19,21 310:7,8 317:25 323:18</p> <p>questioning 43:19 79:23 260:13</p> <p>questionnaire 3:8 10:5,9,12,22 35:1 170:9 171:11 172:17 173:20 175:25 176:2,8</p> <p>questionnaires 323:2</p> <p>questions 8:1 9:3 21:19 58:5,15 59:11</p>	<p>questions (cont.) 63:11 68:12 85:13 99:3 103:13 152:14,17 265:24 266:1,23 295:7 331:14</p> <p>quick 61:8 109:13 219:12 277:19 332:4</p> <p>quickly 70:17,19 81:17 298:4</p> <p>quit 34:19</p> <p>quote 226:23 230:20 235:5</p> <hr/> <p style="text-align: center;">r</p> <p>rad157 301:21</p> <p>radio 90:25 91:1,2,5,7,14 94:9,17 95:8 104:16 109:12,13 113:24 114:6,9,24 118:13 118:18 119:4,12,25 120:5 120:25 121:6,18 151:2,12 151:16 155:5 157:23 158:7 159:12 162:2 165:15,17,25 168:8,9 182:25,25 186:12 188:20,20 191:4,5 236:1,19 236:24 237:2 273:7 278:1 280:21,24 291:9</p> <p>raise 24:19 107:11,12 124:1 227:21,24 248:20 249:10 251:14,21 252:3 292:18,19 292:21,23,25 294:9,21,22 295:10</p> <p>raised 24:16,24 25:12,19 26:9,18 26:22 27:5 126:15 130:18 130:23 248:16 290:11 297:24 298:6 317:22</p> <p>raising 131:14 227:23 259:20</p> <p>ramsey 210:7,19 214:10,11,14,15 216:17 217:8 218:14 219:10</p> <p>ran 118:21</p> <p>range 27:22 39:9 78:7 92:15 111:21 144:14 254:11 290:10 317:18</p> <p>rate 42:16 263:24 264:8</p> <p>rates 261:3</p>	<p>rating 42:13</p> <p>rational 282:17</p> <p>rawling 7:17</p> <p>rawlings 2:6 79:16 101:6 106:17 112:8 113:14 119:8 121:16 123:25 124:7 125:5 126:24 127:23 128:2 130:10 134:15 145:16 147:17 157:20 173:21 177:16 182:3 186:22 187:8 190:6 195:6 203:20 236:21 259:8 263:1,3 266:7 269:7 280:1 282:24 287:16,21 288:2 289:10 293:4,5 300:6 302:15 309:9 312:5 320:20 326:22 329:4,10 330:20</p> <p>reach 272:21</p> <p>read 132:1 135:11 148:8 174:13 211:10 223:21 236:22 257:14 293:8 312:9</p> <p>reading 132:23 214:23 303:19</p> <p>ready 135:18 152:15 213:23 250:4</p> <p>real 19:1,4,5 20:3 28:6,7 29:1 30:14,22 57:1 199:20 201:20 266:14 305:12</p> <p>realize 51:5</p> <p>really 12:1 52:19 68:11 75:5 131:12 132:18 146:12 147:5 155:16 197:5 204:22 207:5 214:25 224:9 253:11 305:19 306:20</p> <p>reason 42:12 86:17 106:9,15 113:5 157:17 201:21 205:1 208:9 222:14 234:22 245:13 270:19 272:23 279:8 280:5 280:9 282:16,17 324:18</p> <p>reasons 44:15 192:24 252:19 255:9</p> <p>recall 29:22 81:11 130:25 131:7 145:20,21,22 146:6,9 147:22 163:17,21 164:19 180:10 185:23 187:22</p>	<p>recall (cont.) 189:15 194:6 209:24 230:3 300:3 305:2</p> <p>receive 26:9 47:24 50:1 62:22 127:6 184:23 317:20</p> <p>received 24:15,17 25:1 27:7 29:10 29:18,18 62:12 178:20 191:10 220:16,19 221:19 247:16 317:21</p> <p>receives 198:4</p> <p>reception 65:25 70:8,24</p> <p>recess 20:12 87:3 148:15 219:15 225:3 250:11 257:3 322:12</p> <p>recipients 301:19</p> <p>recognize 9:10 10:6 61:18 62:8,20 63:6 87:19,21,23 172:19 180:8 193:12,16,17 198:15 210:11,14 220:8,9 223:17 226:18 229:7 231:22 238:22 242:19 254:19 256:25 257:8,18 262:25 269:21 284:1 285:24 299:16 301:21 318:21,22</p> <p>recollection 146:5 149:8 192:10 222:1 242:4 243:11 254:24 273:22 284:6 301:12</p> <p>recommended 297:16</p> <p>reconnecting 284:9</p> <p>reconnection 284:10</p> <p>record 6:6,19 8:13,24 20:11,14,18 48:17 57:15,22,25 58:21,25 79:16 87:1,5,9 113:25 148:12,13,18,22 169:8 183:6 219:14,17,21 225:2,5 232:18 245:25 250:10,12 250:17 257:2,5 259:14 269:17 298:14 315:14 322:11,14,18 332:7</p> <p>recorded 96:8,17 169:7 333:14 334:10</p> <p>recorder 165:19</p>
--	--	---	---

[recording - rest]

recording 109:21 113:17	refresh (cont.) 301:11	relying 214:9	require 154:11
recordings 120:13	refreshed 149:7	remember 31:1,7 32:21 40:15 48:13	required 41:4 69:25 147:19 192:3
records 48:4 79:2 270:14,21 277:2 330:16	refreshes 243:11	130:16 131:13 144:23 160:23 163:10 186:23	requirement 26:11 233:2,11,16
recycle 22:4,9,10	refund 330:18 331:8	189:21 190:3,4 191:18 210:16 213:22 215:19	reseller 38:3
recycles 21:17	reg 147:12,20,22,24 148:4 293:21	217:5 225:8 231:5	reside 241:23
reengage 131:21	regardless 331:6	reminder 149:11 288:17 332:5	residual 46:13
reengaged 131:22	region 37:12	remnants 81:22	resigned 32:20
refer 18:5 24:7 47:13 49:21 89:11,12 95:12 188:25 196:9,11 239:8,9 246:16 297:23	regional 2:6	ren 279:14,18	resolve 224:8
reference 17:19 73:23 88:15 117:9 212:14 229:7 245:6 246:2 306:23	registered 197:15 222:6,8,11,15	reopening 226:22	resource 290:19
referenced 17:12 76:8	regular 163:4 190:19	rep 38:20 39:1 119:14	resources 21:11,16,25 25:22 27:2 60:4 290:21
referencing 259:15 305:17,18	regulars 241:25	repeat 97:4 183:24	respect 47:5 67:12,18,22 68:18 124:12 129:10 166:8 168:8 168:21 170:3 171:3 296:13 316:23 324:4 325:10 326:10
referral 52:1 150:25 261:17,20	regulation 241:17,19	replicate 259:25 260:2	respond 11:16 58:16 84:7,12
referrals 94:10 149:21 189:9 191:11 220:23 221:25 222:3	regulators 241:22 242:1	reply 217:7,8,11,11 310:5	responded 312:21
referred 34:12 52:12 92:9 139:23 149:16 168:6 186:9 188:5,6 188:7,9 191:15 245:10,11 302:5	regulatory 145:3,12	reporter 57:17 58:2,20 61:14 149:13 220:1 225:18 334:3,16	responds 229:25 231:14
referring 13:11 24:13 34:22 51:13 63:11 88:20,24 93:1 105:20 123:11 139:25 166:11 173:11,23 174:14 185:18 189:7 192:16 197:9 221:1 221:18 222:24 223:7 230:23 257:7 259:10,10,17 261:16,18,18 268:23 284:5 289:19 307:23	regulate 28:18 310:10,12	reporter's 334:1	response 12:24 51:22 70:15 72:20 83:1 84:10,19 110:22 120:1 135:6 159:12 171:6,7,10 172:3,5 173:7,11,17,23 174:1,21,24 175:4,16,17 213:14 295:23
refers 53:9 212:20 244:7,9 281:21	related 20:6 21:8 37:10 38:4 39:22 46:20 50:1 67:3 73:20 79:3 129:17	reporting 1:24 334:17	responses 57:21 63:13 149:12
reflected 275:7	relation 282:2	reports 93:4	responsibilities 15:15 329:14
reflects 48:16 229:14	relationship 14:20 104:7 105:25 119:13 123:7 132:11 150:21 156:8 232:24 233:17,19 235:20 235:22 236:7,14 255:12,14 296:19 309:5	represent 243:7	responsibility 82:22 328:2 329:6
refresh 222:1 242:4 254:24 273:22	relatively 46:12 208:13	represented 6:22	responsible 12:11 43:8 328:2,24
	relax 297:18,18,18	representing 56:2 217:1 311:13	responsive 18:15 67:16 86:21 100:11 100:18 179:14,16,18
	reliability 204:15	reps 40:1,3 258:15	responsiveness 85:20
	relied 141:8 324:20 328:2 330:14	rep's 119:22	rest 85:25
	reluctantly 31:15 32:7	request 58:21 86:2 134:17 154:9 194:23 330:22	
	rely 141:14,17 143:4 267:4	requested 64:11 210:9	
		requesting 64:2	
		requests 85:3 134:22	

[restate - saying]

restate 323:18	right (cont.) 11:21 12:3 14:8 16:2,16,16	risk (cont.) 306:22,23 308:16	s
restaurant 151:7	25:18,18 32:7,13,20 33:5	risks 309:13,25 310:24	safe 198:24 203:24 204:10 205:1,3 224:9 308:16
restroom 219:12	35:11 36:3 37:25 41:2,5,17	rochelle 4:16 262:24 267:14	safely 197:1 199:21 201:7 203:22 203:24
result 250:21 297:6 331:4	41:19 43:11 51:7 53:10	roi 246:15,16,19,20	safer 203:22,22 204:3 217:16
resurrected 255:21	54:10 55:9,22 56:16 60:1	role 76:19 253:16	sake 49:22
resurrecting 255:25	60:16,21 62:12,13 63:2	rolled 264:14	sale 40:3 45:18 215:8
retired 38:13	64:3,8 69:8 70:5 73:11,17	rolodex 106:6	sales 34:24 37:15 38:20 39:1 40:3 182:22 258:14 279:2 321:24,25
retirement 98:16 102:15	75:17 80:23 81:18 82:15	room 58:1 59:2 65:25 79:19 82:20 85:25 174:8 184:18 184:19 185:12 214:19,25 216:13 218:21 308:20,21	salespeople 76:2 277:13
retrieved 72:23	83:24 89:1,7,19,23 90:12	roommate 36:7,13	sample 196:2
return 16:21 124:11,19,22,25 246:17 263:24 264:8 307:4 307:6	97:23 100:25 105:22 112:5	rosy 306:20	sandy 275:25 276:7 279:10
returned 124:20 153:4 246:20,21	112:18 114:8,25 115:17,17	rothman 213:17,20 217:13 218:8,9 218:10,13,14	sap 38:14,15,21 39:6,22,25 40:1,3
returns 15:1,4 125:3,6 217:17 237:12 246:10,15 260:14 260:23 261:3 264:5 304:23 305:7 306:3,6 307:16 308:8 308:12	116:22 117:4,11 118:19	rough 312:23	sap.com 262:23
reveal 134:17	119:16 122:12 125:23	roughly 111:19	sarnes 3:20 221:21,22
reveals 134:20	128:24 131:24 132:1 133:5	rsvp 195:24	sat 270:17
revenue 47:2 49:5 305:5 321:20 322:3	133:8 137:17 139:21	rsvp'ing 249:16	satisfaction 268:3
revenues 298:19,25	140:25 143:6 149:3 151:14	rule 158:4 288:24	save 178:2
review 8:19 9:1 10:17 85:19 145:18 146:7 231:19	151:20 152:1 153:1 154:25	run 38:23 110:10 117:11 118:13 119:6,10 203:16,16 232:24	savings 98:16 102:15
reviewing 288:21	155:10 158:2,5 159:5,6	running 116:24 118:19 221:8	savvy 71:21
reviews 146:9,11	161:7,20 162:23 163:1,18	runs 65:4 107:4 110:9,17,19 117:3 119:20 158:8	saw 108:13,14 109:8 129:22 130:4,9 133:7,9 134:12 155:16 156:21 217:18,20 295:24 310:25 311:19 312:8
revised 136:11	170:15,24 172:11,24	rush 267:9	saying 49:16 69:22,22 85:8 104:15 112:15 131:3 153:19 162:18 171:23 172:1 181:15 182:5,13 184:1 189:10 191:14 192:13 202:16,17 205:12 213:15 214:16 223:1 224:2 227:13 234:10 238:5 242:7 246:7 249:17 258:13 268:6,8,11
revisit 256:3 273:4	173:22 174:13,18 175:7	russian 191:16	
reynolds 218:19	176:14,15 177:8,15 178:18	ruth's 159:5 172:15 173:13 193:11 195:12 201:23 213:9 222:23	
richard 271:20	179:9,22 181:2 184:7,20		
right 6:5 7:14 9:13 10:1 11:6,17	186:11 188:18 190:24		
	191:17 193:20 195:12,21		
	196:12,14,16,19 197:12		
	198:1,13 199:3 200:9,12,25		
	204:6 206:7 212:9 215:3		
	217:3,25 218:12 220:11		
	221:15 224:17 225:12		
	228:11,20 229:15 231:2,7		
	234:13,16 237:9 240:1		
	244:11 245:4 246:5,11		
	247:2 253:2 255:4,9 257:24		
	258:7 259:3 260:19 261:8		
	261:21,24 262:10 265:21		
	266:6,15,16,20 267:5,12		
	268:17 269:1 271:14		
	274:19 277:11 278:6 280:7		
	280:18 284:7 286:4 287:7		
	288:23 289:2,18 291:18,25		
	292:3,12 293:24 295:6,14		
	296:11 297:21,25 298:2,20		
	300:8,21 301:17 304:8		
	309:11 310:3,13,17 311:24		
	312:7,16 313:6 314:1,23		
	315:4,5,17 317:10,12		
	319:10 321:16 322:13		
	324:15 327:17 329:16		
	330:17 331:6		
	ring 244:8		
	risk 189:12 206:6 230:18 260:7 260:8,10 261:4,15 306:18		

[saying - shannon]

saying (cont.) 277:6,17 279:6 281:5 284:5 287:18 298:9,25 303:22 307:3,13 308:22 311:14 312:18 314:6 321:17,17 327:21 330:6	screens 74:25 96:3 111:15	seen (cont.) 193:19 220:10 270:8 272:11 310:4 327:13,14	sentence (cont.) 308:7
says 35:2 36:5 37:5 53:2,6 88:14 96:8 160:6 173:11 174:4 195:14 196:5 203:22,23 206:22 212:8,19,24,25 220:20 223:20 229:25 230:15 231:14 235:2,5 238:8 239:18 241:13,16 252:7 258:10 259:15 263:14 272:4 280:18 302:17 307:19 308:12 314:11	script 169:15,16	seldom 94:16 158:12 163:2	separate 17:5 27:14 223:7
scam 264:23	scripts 120:14 169:17	sell 32:23 33:8,11,14 41:19,22 41:25 43:1,5,13 44:11 54:11 108:24 157:15 197:25 211:3 214:3 267:22 327:24	september 4:14 25:13 126:20,22 253:25 254:1,5 256:20 279:12
scan 69:15 79:7 80:16	seamans 2:16 7:3,9 238:19	seller 127:1	series 31:4
scanned 69:10,11 78:17,19 81:6,6 82:6 256:8	search 63:18,20 64:11 66:5 67:15 67:20,24 68:12 85:16 86:5 86:10 118:9 175:22,23 177:13,17 283:10 291:16	selling 31:15 33:5,9,21,25 96:6 182:20 200:8,9 211:1,15,15 223:1	serious 161:21
scanner 78:22	searched 70:14 72:20 83:1,3 84:23 85:6,8,14 86:4,4,7 100:10 100:17,21 142:18	seminar 152:7 153:16,16 157:22 159:13 162:16,17,18,20 170:22 173:13,25 174:18 214:9 215:25 216:6 235:9 235:21 236:13 315:15 320:10	seriously 253:8
scanners 78:23	seats 160:8 207:17 215:25	seminars 151:4,4 162:5,7,9,10,11,13 162:21 167:7 174:25 184:12 192:20 194:24 201:20 213:8 216:14,15 222:22	served 61:5,7,16 63:4
scanning 81:8,20 82:6 100:24	sec 3:7 6:2 7:15 8:22 10:12,15 61:10 87:15 172:9 180:1 193:1 195:3 219:23 223:10 226:9 228:22 232:9 238:14 241:21,24 242:10 254:12	send 74:7 75:7 104:10 131:6 132:6 156:10 180:25 181:1 181:24 183:6,9,17,19 190:15 192:4,6 221:3,7 243:14 260:21 282:8 288:6 288:17,19 291:21 320:4	services 1:24 189:11 234:3 235:24 236:18 255:1 334:17
scans 71:25 83:23	sec.gov 2:12	sending 221:10 243:17	session 162:14 202:5
scared 102:25	second 10:17 42:15,15 109:13 122:12 148:12 152:13 169:16 212:1 227:15,17 241:12 242:13 257:14 273:21 279:17,18 282:25 303:14 318:22	sends 113:18 148:7	set 10:1 17:6 41:24 63:24 66:12 73:24 242:9 293:23
schantz 256:22 257:12 259:11,15	seconds 113:10 169:25	senior 38:25 92:5	setting 157:12 189:19
schedule 207:10	secretarial 43:9	sense 82:9 110:21 189:3,4 207:18 248:7	settled 29:9
scheduled 249:14,16	secretary 43:3	sent 50:21 62:15 83:8,13 84:23 85:6,6,7,14 108:10 113:19 131:1,23 135:11 166:19 189:16 192:1 194:5 213:16 217:5 243:12 256:9 264:17 284:2,7 287:9 308:2 310:20 311:2 315:1 320:14	settlement 15:17,20,22 16:5,24 17:8 17:10,11,16,19 18:5,8,9 46:25 51:3 55:5,8,21 89:3,9 89:11 90:6,7,8,9,9,10,11,12 92:1 97:13,17 104:6 127:18 194:8 198:8 200:2,3,4,5,7 200:14,16,19,23 201:4,11 202:21 205:17 211:6,8 216:3 219:6 237:11 239:2 240:9 247:6 252:13 258:9 258:19
schedules 120:14	securities 1:1,9 2:3,8 8:6,9 32:6,23 135:9 197:21,24 233:14 234:2 241:18,21,22,24	senior 38:25 92:5	settlements 90:2,15 92:6 102:19 106:1 106:4 122:17 180:19 199:8 199:10 200:9,12,25 211:1 215:15 216:20 220:4 289:14
schmooze 40:2	security 69:18	sent 50:21 62:15 83:8,13 84:23 85:6,6,7,14 108:10 113:19 131:1,23 135:11 166:19 189:16 192:1 194:5 213:16 217:5 243:12 256:9 264:17 284:2,7 287:9 308:2 310:20 311:2 315:1 320:14	seven 18:7 27:21 28:14 151:9 260:10 289:24 310:9
school 35:18 71:9,10 266:19	seeing 217:5 279:8,9 284:6 303:17	sentence 302:17 304:22 306:3 308:5	shaking 57:18 310:6
schumacher 210:8,23 217:8	seemingly 281:23		shannon 74:12,13,14 75:16 83:9 144:1 150:14 299:10 316:25 317:13
scrap 230:18	seen 62:10,14,23 63:1 71:23 120:20 136:13 146:19		
scratch 162:6 193:6			
screaming 183:22			

[shannon's - source]

shannon's 150:15	side 51:3 189:12 280:18	six (cont.) 124:6,18 151:9 161:6,10	solidify 264:4
shaponik 74:22 76:24,25 77:1,3 83:11 144:1	sign 93:14 124:14 126:7,10 147:9,9,10,13,20,25 148:6 171:13,22,22 219:9 232:5	181:14 244:14 275:9 296:8 325:6 327:18	solution 21:15 108:11 133:5 249:3
share 12:12 66:1 209:13 293:12 293:13 311:8	signature 148:5 212:18 222:20 229:14	skittish 207:4 272:24	solutions 248:15 252:20 256:14
shared 12:17 293:16	signatures 147:15	slam 299:12	somebody 51:24 52:1,2 53:2,14,15 57:2,5 63:23 64:5 67:7 76:23 97:7 102:19 113:10 126:1 132:17 137:21,22 151:16,21 153:19 157:6 159:17 165:6 167:2,6,25 177:23 186:5 192:15 194:13,14,15,17 202:1 205:7 206:8 207:1,3 208:20 209:20,21 213:7 270:12 271:22 272:9,10 278:22 281:7 303:12 306:12 328:4
shareholder 217:13	signed 269:2,2 302:19,25 303:3,5 303:5,8,10 317:17	slightly 65:20	son's 71:10
shares 14:7 23:10 211:13	significance 328:14	slower 256:3	soon 58:25 224:10
shaunna 334:3	significantly 68:24 305:13,16	slowly 45:23 81:19	sooner 40:18 205:25
sheet 171:13,22 176:18 179:8	signing 147:22	small 13:9,9,13,24 21:5 35:8 40:20 46:12,15 153:21 208:13 245:4,8 246:4 262:13 265:2	sorry 12:22 14:14 17:4,21 20:7 20:23 21:22 22:6 26:17 43:24 44:22,23 52:18 54:8 61:21 62:4 72:11 75:14 93:20 95:23 111:14 116:11 118:21 144:5 150:18 157:21 162:6 163:7 166:12 169:11 170:3 193:6 204:9 209:9 210:4 225:1,21 241:3 245:23 246:2 250:7 256:2 256:23 257:1,17 263:4 264:9 268:7 272:6 274:11 276:18,20 287:5 293:4 304:2 309:9 323:18 326:19 327:13
she'll 84:15	signs 125:17,18	smaller 255:15 260:22	sooner 40:18 205:25
shift 207:16	similar 190:13,14 217:19,22	smith 207:9 273:2 314:11	
shifted 278:13,22	simple 80:24 176:7 198:24 258:22	snail 163:3	
shocked 237:22 288:14	simply 34:15 238:8 324:1 329:16	sniff 267:25	
shoot 165:4,8,8 168:13,15 169:17 169:20	simultaneously 266:22	social 69:18	
short 57:19 103:19 229:11 296:24 318:4	single 72:6 114:7 277:8 292:7 327:12	software 33:24,25 38:16,21,23,25 39:22,25 40:4 100:6 101:11 271:4 273:23 311:1	
shortly 287:17	sir 62:21	sold 19:5,14 34:14 37:10,10 46:18 211:13,13 219:1 326:25	
shot 164:25 169:14	sister 76:25 161:13	sole 88:14,16 89:7,18	
show 109:1 138:24 172:7 240:19 305:25 320:5,8,9,16,21	sit 65:10,13,16 120:15 157:9 158:24 202:11,22 216:4 255:13 264:15 266:25 275:2	solely 301:13	
showed 35:23 171:16 309:3 312:21	site 170:18	solicit 96:23,24 183:17 222:17 234:21	
showing 172:11	sits 71:4	solicitation 121:20 198:3,4,17 234:1,15 235:3,4,10 236:11,15,20 238:6	
shows 48:18	sitting 7:13 13:4 53:18 59:25 177:15 282:14 288:19	solicitations 83:22	
shred 69:17	situation 59:6 97:9 98:12,24 102:12 102:13,14 224:7	solicited 126:12	
shredded 314:14	six 18:7 31:10 32:8 100:13 105:3 106:22 107:4 109:15 109:18 110:2 118:22 124:6	soliciting 97:2,3,6 126:18	
shredders 69:17			
shuesser 262:21			
shut 19:18,19			

[south - subject]

south 2:18 7:11	spreadsheet 4:17 80:24 141:8,12 142:2	started (cont.) 45:22 50:16 66:21 79:4,12	stock 34:3 94:23,25 181:18
space 31:24 65:11,15 265:3,5 285:4	161:9 269:14 327:13 328:4 328:8,9,12,15	80:7,8 81:19 114:16,18,19 115:16 176:24 184:9	199:23 201:8 217:25
spade 283:12	spreadsheets 80:19 142:22 327:14	210:25 316:6,9	stop 44:25 92:12 106:18 144:15 176:9 294:5 297:5
speak 57:23 165:18,23 167:20 194:14 213:25 227:22 260:1 285:6	spring 18:14 34:4	starting 91:23 143:11	stopped 81:11 254:4,6 262:13,14
speaking 103:23,24,25 163:6 181:1 218:21	spurts 114:15	starts 88:4	store 69:25 156:22
speaks 158:14	square 38:17 65:18,21 77:9	state 6:18 8:12 23:4 41:7,15 56:2	story 224:3 296:24
specific 84:20 134:8 146:22 159:11 163:17 191:9 198:6,21 237:3	squashed 248:10	56:4 79:15 167:14 241:24 276:20 321:13	straight 218:22
specifically 63:24 118:24 154:22 174:2 192:11 265:6 329:5	srg 21:10,24 22:19 23:3,4,6,7 23:11 26:7,10,21 27:2,5,12 52:14 59:25 60:3 285:20 286:6 290:18 297:23 298:2 298:5,6 299:1 302:6 305:6	stated 127:17 260:15	straightforward 232:23
specifics 198:22 199:20 201:13 203:3 237:6	stack 185:4 283:2	statement 15:12 57:9 185:15 206:24 268:16	stranger 186:13 247:19
specify 119:1 245:2 246:15,24	staff 43:9 63:15 64:1,13,14 66:5 66:7 69:14 70:17 74:2,4,7 74:10 75:15,20,23 76:1,5 76:11 141:15,21,24 143:5 148:1 168:7 171:16 192:15 192:18,21,21 247:12 274:25 295:12 326:8 328:3	statements 138:20 331:19	strangers 214:21 234:24 252:8
spell 6:18 7:5 64:17 66:8,14 135:17 164:24	stake 159:5 213:9	states 1:1 8:6 241:20,22,22	strategy 13:23,24 289:6,11,12,17 290:3 300:7
spelled 6:21 36:2	stamp 87:19 180:7 210:5 220:6 226:16 229:4 232:16 238:20 242:15 246:14 254:18 256:23 269:14 283:24 285:23 309:22 310:9 318:20 321:1	station 91:8 114:25 119:4 166:1	street 1:10 2:9,18 7:11 19:25
spells 37:4,4	stamped 299:15	stations 91:5,14	strengthen 255:11,14
spend 114:6,6,8,12,20,21 117:5 203:8 251:6	stand 189:23	statistics 116:16	stripe 49:6
spending 114:10,14,18,19,21 115:11 115:17	standing 201:12	status 269:15 271:9,11,11	stroke 208:11,12
spent 264:12 267:10 298:17	standoffish 306:13	stay 144:16	strong 263:15 309:5
spinning 282:7	stands 272:12 274:7 276:3 286:5	stayed 110:3	structure 255:18
spoken 57:19	start 21:13 35:2 45:20 61:13 79:25 105:11 144:13 176:11 210:23 253:21,22 253:24 301:20	stays 26:2	studio 165:23 168:19
spot 158:13 168:14 169:3	started 28:6 33:5 34:21,23 39:3,5	step 49:15 152:3	stuff 21:8 37:25 38:9 45:5 69:17 69:19 71:4,25 73:20 74:1 76:8 79:3 80:20 81:18 82:6 82:8,9 83:20,20 135:10 136:24 138:21,22 147:6,14 148:1 158:14,14 168:20 171:12 203:17 234:25 240:13 241:7,8,9 242:8 243:22,23 267:24 281:6 295:18 320:7
spots 165:15,17 166:4 168:8,9,11		stephan 180:5,12	sub 73:5 235:17
spouse 304:13,13		steps 324:12	subject 28:22 172:15 193:9 210:9 220:4 224:23 226:15 229:3 232:15 254:17 256:22 262:23 283:23 285:19 287:24,25 288:5 299:12
spread 133:7 182:21		steve 79:16 143:17 182:6 183:5 183:12 226:14,14,15 309:13 328:18 329:3	
		steven 2:6 7:17 144:10,20 185:18 189:16	
		steve's 183:2	
		stick 164:15	
		stinks 294:2	

[subject - testimonials]

subject (cont.) 318:13	support 38:7 75:22,23	t	telemarketers 158:14
submitted 10:12,14	supportive 215:1	table 230:2	telephone 236:1
subpoena 3:9,10,11,12 9:8,19,23 61:6 61:16,23 62:6 63:4,9 68:5 76:10 86:13,17,21 100:11 282:23 283:2 324:11 330:16	suppose 196:25	tables 160:9	television 166:4 236:19
subpoenas 61:7 67:12 100:19 120:1 142:19 172:3	sure 7:22 11:5 14:1 16:14 17:24 17:25 32:25 43:23 47:23 48:3 49:3 51:5 52:11 54:23 72:16 75:3,10,14 79:20,24 79:24,24,24 80:10 93:12 96:4 97:19,22 103:9 105:13 120:2 123:19 127:16 128:15 142:25 146:23 154:16 163:13 164:6 166:17,21 167:4 181:14 182:4 191:14 193:18 195:18 204:18 205:13 206:4,12 215:21 219:13 227:25 228:1,2,12,12 232:24 233:16 243:5 250:8 252:4 259:13 264:21 266:20 270:2 276:19 302:11,12 318:4 320:18	tag 280:20	tell 6:8 10:10 31:6 32:9 55:3,5 58:9 85:1 96:15,18 98:23 117:3,8,9 123:21 133:18 147:15 176:15 179:22 185:8,10 192:11 202:19 205:16,16 207:4 247:12 251:8 286:12 287:8,11 294:23 304:20 305:8 306:12 330:24
subscribed 331:5	surface 311:16	tags 269:16	telling 68:14 161:7 217:3 245:14 266:8 305:20 306:7,10 307:5,10 324:24
subscription 80:17 93:11 140:1,2 324:15	surgeon 214:14,24 218:15	taken 20:12 87:3 148:15 219:15 225:3 250:11 257:3 322:12 324:12,17 331:9	tells 96:8 127:20
subsequent 224:19 298:13	surprise 117:1 247:14,18	talk 54:24 104:9,10,12 105:18 123:1,4 133:16 134:23 151:5,7 181:9 183:1,12 185:6,7 198:22 199:6,16,20 200:5 201:5,7,10,11 202:12 214:20 237:6 245:22 254:25 255:18 263:20 278:8 313:2 314:16 315:11	template 174:24 175:7,15
subsequently 332:2	surprised 192:1,14 287:14	talked 44:22 57:14 77:7 199:9 213:17 216:15,16 230:25 249:21 250:2 270:18 283:3 290:22,23 293:6 294:20 304:25	ten 26:9,12,21 27:7 73:16,24 79:9 111:9 124:22 125:22 185:12 187:24 188:1,9 203:12 207:2 208:8 209:16 258:10 290:12 297:19
subset 280:10	suspect 328:17,17	talking 14:11 20:9 34:18 48:6 49:14 76:9 101:18 103:20 104:1 112:10 132:12 134:1 159:10 202:8 252:19 254:22 257:20 291:3 316:9 321:16	tendered 63:15
substance 94:17,20	sustainable 21:11,16,25 25:22 27:1 60:4 290:19,21	talks 56:4 72:2	term 60:13,13,17 66:7 75:2 171:9 197:17 239:4,25 310:1,11
substantiation 323:16	swapped 45:13	target 107:11,12 304:23 305:7 306:3,6 307:4,6,16 308:7 308:12,15,15,16,17	terminate 26:2
substantiative 20:17 84:19 87:8 148:21 219:20 235:20 236:7 250:16 322:17	swear 6:8	task 79:4	terminates 26:3
success 19:23 20:5 115:20,22	switched 32:20 197:1	tasked 82:21	terminology 231:8 234:13 324:16
successful 19:21 20:1 114:17	sworn 6:14	taxes 217:17	terms 24:8 26:5 59:23 76:10 85:16 86:5 234:4 317:19
sued 29:8	syncing 320:2,6	team 55:18	test 248:4 267:25
suffice 268:3	system 100:5,9,17 101:19 112:21 113:20 139:5,21 161:15 275:5 278:25 279:24 281:2 282:13,21 291:14,15	tech 71:21	testified 6:14
suggest 282:6 303:18	systems 277:15	technical 71:23 72:24 82:17 163:25	testify 331:15
suitable 97:19,21,25 102:18 151:23		technology 38:4	testifying 59:19 148:25
suite 2:9 65:8			testimonials 116:23
sum 86:2			
summarize 99:18 240:21			
summary 86:2 137:7 239:1 240:2,3 241:1 275:1,2 277:19 321:6 321:23			
summer 253:13			

[testimony - trail]

<p>testimony 9:9,20 43:20 52:13 59:22 61:7 88:20 145:11 182:4,11 182:12,13 221:13 333:14 334:5</p> <p>testing 284:21</p> <p>textural 120:7</p> <p>thank 18:1 20:21 47:21 82:10 85:18 128:24 149:11 191:19 192:2,16 228:20 244:6 263:5 277:20 331:1</p> <p>thanks 192:16 202:8 258:12</p> <p>theirs 31:22 215:23</p> <p>theme 95:2</p> <p>theoretical 112:10</p> <p>thing 34:5 35:25 53:22 168:17 173:4 190:13,19 191:3 203:9,14 204:17 216:14 237:8 238:3 250:8 261:13 278:4,11 281:13 282:6,8 294:3 312:21 317:8 327:19</p> <p>things 29:6 55:11,15,15 69:10,11 73:6,17,24 83:22 84:16 103:4 109:8 120:14 128:20 128:23,24 147:3,3 153:7 163:9 182:9 187:20 191:10 192:14 207:8 213:24 247:19 328:21</p> <p>think 17:12,18,24 21:1,6,6,7 29:23 30:9 32:17,19 34:17 35:2 36:2 37:3,3,4 50:12,13 52:9,15,18 54:20,20 55:16 56:9 57:12 59:24 67:25 77:4 81:25 83:3 84:17,18 100:13 102:17 117:23 118:3,8 123:20 124:10 125:12 132:20 133:17,18 137:8,9 145:17,22 146:10 146:10 152:20 167:1 169:23 171:8,11 173:24 177:3 181:3,4,5 183:13,13 183:15 184:13,24,25 187:7 187:25 196:21 197:8 198:16 199:15 201:21 202:10,18 211:5 218:2,11 220:20 222:14,24 223:6,22</p>	<p>think (cont.) 230:4 236:23 237:16 240:2 240:12 241:1 244:14,25 251:8 253:5,6 255:21 259:23,24 260:14,16 261:12 262:3 267:25 269:24 280:2,5 281:13 282:7 286:24,25 289:24 293:15 296:2,3,4 299:25 302:4,7,9 303:1,1,2 305:24 309:6 311:16 313:11 314:21 318:3 322:19 324:9 325:7 327:20</p> <p>thinking 12:15 288:6 296:22 305:9 305:10</p> <p>thinks 218:3</p> <p>third 38:16 205:22 212:2 251:24</p> <p>thorough 99:10 265:2</p> <p>thought 17:22 49:8 62:22 118:21 133:9,17 134:10 151:22 168:14,20 170:1 248:6,6,7 283:14 293:16 294:1,20 298:15 327:2</p> <p>thousand 102:20 103:7 194:18</p> <p>thousands 279:7</p> <p>three 19:16 34:4 64:23 65:24 77:19,19 80:7,13 81:3 92:14 104:6 110:18 116:25 124:14,20,24 128:23,24 157:24 159:18 163:20 169:16,17 190:1 195:15,21 205:5,23 215:1 219:8 230:6 230:22 231:3,4 242:14 244:8 260:22,24 261:1,2,5 261:14,24 264:17 267:20 275:11,12 296:10 301:12 323:8,11 325:4,24</p> <p>thrivest 123:13,14 125:7,7,17,18 127:1,7</p> <p>throw 119:19</p> <p>throwing 188:17</p> <p>thursday 1:12 315:15 333:6</p> <p>tie 261:14</p>	<p>tierney 76:15 93:22 150:1 275:20</p> <p>time 6:6 14:15 18:6 19:2,16 20:2 20:3,10,13 25:13 29:6 30:9 33:22 42:3 43:18 44:25 51:25 54:7,14 55:11 57:13 57:19 58:14,14 59:21,21 60:23 64:23 74:19 75:4 76:12 77:24 78:2,5,12 79:18 86:22 87:2 97:25 103:22 105:22 109:16 110:16 122:15 124:21 126:12,18 131:9,13 132:2 132:12 136:4 141:19,24 143:7 144:4,12 148:12,17 151:9 152:5 153:20 156:22 159:7 162:13 163:6,8 165:9 166:24,25 168:2 177:5,6 182:15,16 190:11 194:4,20 195:23 203:8 204:7 205:23 206:20 209:21 219:13,16 224:4,8,10,20 225:1,4 228:9,17 229:20 239:6 243:18 244:19,20 248:1 249:15,15 250:9,13 251:20 252:2 253:18,23 254:1,7 255:22,23 256:3,3 257:2,4 267:17 273:19 274:5 278:22 284:9,16 285:11 288:12,25 293:10 294:15 294:16 298:17 304:24 305:8 308:9,14 310:3,13,17 311:2,16 316:2,15 321:9 322:11,14 323:9 325:17 326:15,21 331:14,21 332:1 332:7</p> <p>times 57:20 59:3 109:15,17,18 110:1,2 118:18,22,25 138:20,20 140:5 152:15,16 169:21 176:13 207:2 209:16 243:12 288:16 293:20,22 297:19 298:10 298:12,21,23,23,24,25 304:23 305:1,4,5,5,7,14,21 306:4,7 307:6,20 308:8,13</p> <p>timing 258:3</p> <p>tires 96:5 266:10 267:11</p> <p>title 64:25 66:25 67:1</p> <p>today 9:20,24 13:5 30:8 36:24 37:22 50:24 59:19,22,25</p>	<p>today (cont.) 78:16,18 80:15 81:23 85:12 99:19 112:16 114:21 149:1 275:15 278:9 282:18 319:2 319:5 331:20 332:6</p> <p>today's 11:3</p> <p>told 55:14 83:15 230:6 237:21 249:22 267:5,8 306:1 312:14</p> <p>toll 121:15</p> <p>tom 119:23 190:9</p> <p>tomorrow 98:1</p> <p>ton 69:17 189:8</p> <p>tony 165:7 166:7 168:13,24 169:7</p> <p>top 88:5 119:14,17 163:21 189:25 229:1 232:13 252:7 256:20 283:21</p> <p>topic 85:23 245:19,21 246:24 249:20</p> <p>total 322:9</p> <p>totaled 296:7</p> <p>totally 179:23</p> <p>touch 69:14 71:19 75:5 108:4 270:23 273:2 314:19 317:7 317:14 321:9</p> <p>touched 81:25 327:19</p> <p>touches 76:6</p> <p>town 315:2,6</p> <p>track 19:25 110:3,3,8,22 112:13 113:5,8 117:13 141:2,10,17 250:24 327:12,16 328:25</p> <p>traditional 199:6,15 240:16 244:24</p> <p>trail 3:17 193:4,7 210:22 223:14 223:19 226:12 229:1,1 232:13,13 254:15 256:19 256:21 283:21,22 285:18</p>
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[trainer's - vagnozzi]

trainer's 179:21	try 57:23 159:9 282:12	unaccounted 295:15	union 32:17,17
training 36:6	trying 50:7,8 102:16 141:24	unaccredited 327:4,23 328:6,11	unit 321:9
trans 81:10	147:23 167:13 168:4 175:2	unaware 122:6	united 1:1 8:5 241:20
transaction 261:19	222:17 243:10 281:14,20	unclear 21:2 25:25 168:2	units 321:8,15,16
transactions 14:25	295:7 328:20 329:8	unclog 84:4	universal 289:9 290:14
transcript 17:17 333:12 334:4,5,11	tuesday 110:20 301:3	uncommon 171:17 191:25	unlimited 107:7
transcription 333:13	turn 34:25 39:10 70:16 87:11	underlying 91:24 139:14 211:20	unopened 73:9
transcripts 120:17,18	244:8 264:3 297:6 307:9	264:19 322:3	unrelated 179:23
transferability 309:25 310:11	309:14	underneath 88:10 212:18	unsuitable 102:18
transform 46:6	turned 19:14 153:25 258:22	underscore 299:13,14	upcoming 159:13
transitioned 47:1	300:20	undersigned 333:11	update 223:20,23
treat 36:12	turning 11:7 28:13 31:2 149:3	understand 12:1 15:2 32:2 41:9 50:9	updates 144:21
treatment 321:8,13,14	225:7 246:13 250:20	52:12 57:3 58:3,5,10,11,11	upside 244:9 262:14
tree 36:1	320:25	61:3 73:16 75:15 76:12	use 60:13 75:4 77:18,20 79:18
trees 36:10,15	tv 168:11 169:3	97:8 102:16 105:17 107:4	80:22,23 85:25 99:21
trials 109:7	tweaking 182:12	139:7 162:22 175:2 181:3	108:15 134:6 157:16 176:3
tried 47:2	twice 265:22	212:13 233:5,6,15 234:5,9	219:12 233:25 300:10
trigger 158:21 291:5 321:10	twist 157:11,12	239:3,24 243:10 263:19	usual 200:18
trim 36:10,14	type 45:11 59:5 169:16 178:3	265:9 266:1 281:14,20	utilities 36:15
triple 230:5,21	196:3 248:4	287:3 308:25 312:20	v
trouble 226:4	types 103:12 199:7	understanding 12:7,16 26:4 49:4 97:14	v1.0.xlsx 318:19
trucks 36:10	typical 196:6 197:8	98:21 138:14 159:16	v1.3.pptx 318:14
true 10:11 188:19 281:1 302:22	typically 287:13	173:10 194:11 203:3,11	v1.3pptx 318:18
333:12 334:4	typo 241:25	216:5 233:10 234:17	vacuum 189:11
trust 268:1,1 296:14,19 306:17	u	235:13 236:4 240:11,11	vagnozzi 1:7 3:4,20 4:16 6:10,12,20
309:6,12 312:25 313:1	uh 11:9 28:15 41:6 51:11	264:6 265:3 276:2 280:4	6:20,22 8:18,25 9:10 11:20
truth 6:8,9,9 306:5	55:13 114:11 115:1 123:3	281:15 321:4 323:8 325:18	20:16 21:2,5 28:2 44:12,12
truthful 306:5	126:3 132:19 190:20	325:21,25 326:24,24 327:7	45:14,24 46:17,19 48:8
truthfully 59:19 148:25	195:13,16 210:3 228:19	understood 140:21 170:22 202:24	52:4 56:21 57:6 74:8 76:16
	229:16 244:16 259:5	297:10	76:23 77:1 87:7 88:5,10,16
	261:10,16 263:6 267:16	underwritten 205:24	89:2,17 93:22 120:24
	268:14 279:11 288:1,13	undue 331:5	148:20 150:2,24 172:14,23
	300:24 303:15 309:7	unemptied 73:8	181:17 193:8 196:5 209:12
	313:23 315:3 318:16	unethical 260:12	210:7 219:19 220:2 223:15
	ultimately 170:19	unfair 224:2	226:13 229:3 232:16
	umbrella 52:7 54:18	unhappy 189:9	
	un 71:21		

[vagnozzi - whatnot]

<p>vagnozzi (cont.) 238:19 250:15 252:14 254:16 256:21 262:23 267:9 268:1 269:21 285:18 285:19 287:22,23 288:3 293:23 299:9,9 318:12 322:16 331:13,18 333:4</p> <p>vague 147:23 198:23 201:14 237:4,15 238:7 250:1</p> <p>validity 241:9</p> <p>valley 31:19</p> <p>valuable 40:2</p> <p>value 26:12 34:6 38:3 122:4,6,20 216:16 265:17 267:23</p> <p>variety 89:23</p> <p>various 51:19 67:11 100:18 151:25 152:23 252:18</p> <p>vehicle 46:23</p> <p>vehicles 244:23</p> <p>vendors 265:15</p> <p>verbalize 57:16,21</p> <p>version 136:3,14 176:11 279:5 282:9 287:6</p> <p>versus 105:20 119:10 305:6</p> <p>vert 256:23</p> <p>verto 4:15 256:23</p> <p>vesey 1:10 2:9</p> <p>vet 268:10</p> <p>vi 90:10 141:16 143:11,11,15 144:10 285:20 286:4 287:24 288:10 302:6 303:25 322:23 323:17 324:4,7,19 326:1,20 328:1 329:7,10,12</p> <p>victor 6:21</p> <p>video 165:5,11 168:13,19,25</p>	<p>video (cont.) 169:7,8,11,12,20 180:10,25 181:16 183:6,6 262:24 295:24 296:2 313:21</p> <p>videos 108:13 164:12,21,25 165:8 169:5</p> <p>view 308:24</p> <p>vii 90:11 143:12,15 144:10 301:7,15 302:10 303:12 304:6 325:11 326:2,10 329:7,9,10,11,12</p> <p>viii 13:14 90:12 239:22 285:20 286:4 287:24 288:10 302:6 303:25 328:1 329:9,10</p> <p>violations 8:8,11</p> <p>visa 185:20 186:1,20 187:2 192:2</p> <p>voice 95:20,21 109:21 111:3,11 111:14,17 112:23 121:4</p> <p>volatility 111:10</p> <p>volleyball 187:14</p> <p>vouching 266:11</p> <hr/> <p style="text-align: center;">w</p> <hr/> <p>wait 21:20 113:7 224:12 230:16</p> <p>waiting 324:17</p> <p>walk 80:11,13 244:20</p> <p>walking 15:13 53:17 319:25</p> <p>walks 53:15</p> <p>wall 40:14 53:3</p> <p>want 7:21 11:5 17:24 20:16,24 27:1,20,21 29:20,22 32:23 33:15 34:17 41:8 43:8,20 47:23 49:3,24 50:8 56:7 59:3 60:11 61:8 68:3 74:19 75:2,14 77:21 79:15,20 81:17 84:1,6 86:2 87:7,11 96:22 97:19,22 98:23 103:8 105:17 107:6 110:19 114:6 123:6,11,18,19 124:15</p>	<p>want (cont.) 125:21,25 126:19 132:22 134:16,23,24,25 137:15 148:2,20 149:6,20 155:15 157:8,10,11,14 158:13,25 166:17,18 167:14 174:8,10 175:23 176:22 179:6,7,20 179:24 181:9,19 182:4,8,9 182:16,17,20,21,22 183:11 183:24 185:5,12 191:17 192:22,23 195:7,10,18,22 198:2 202:6,10 204:8 205:4 205:12 206:4,11 207:4,11 207:15 216:23 219:2,19 220:14 226:24 231:15 233:13 237:18,24 238:12 245:24 248:13 250:15 251:7 252:4 253:25 255:11 258:15 259:13 260:1 261:11 265:23 266:16,20 266:21,24 269:17 273:4 285:10 296:23,23 300:21 302:17,22 303:18 304:19 308:21 319:24,25 322:16 322:22 327:21 330:22 331:22</p> <p>wanted 29:4 30:14 31:25 32:25 38:24 42:11 107:7,9 109:6 154:12 167:23 169:8 181:4 181:5 183:14 184:16 185:6 185:10 192:10 199:18 200:15 204:10 214:9 238:3 255:6,7,11 258:1 259:25 261:25 278:15 295:25 302:16 312:25 313:11 315:10 319:21 320:1,11</p> <p>wanting 181:8</p> <p>wants 110:20</p> <p>warm 186:16 201:19</p> <p>warming 255:17</p> <p>warning 212:22,24</p> <p>waste 21:17 22:2,5,9,11 285:10</p> <p>watch 181:25 182:1</p> <p>water 20:20 59:2</p> <p>waters 248:4</p>	<p>water's 261:2</p> <p>ways 94:7 120:25 121:4 149:8 150:24 168:17 217:16</p> <p>wbhp 91:12</p> <p>weaned 45:23</p> <p>web 117:9,10,16,19,24 118:14 118:15</p> <p>website 94:14 95:12 110:16 118:1,4 170:4,5,13 212:21</p> <p>websites 170:7,16</p> <p>week 111:6,10 114:10,12,14,16 115:13,14,14 116:12,13,14 220:18 244:14 274:9,17,17 274:18</p> <p>weeks 66:11 105:3 106:23 107:5 126:14 157:24 158:7 159:19 208:10 264:17 284:12 292:13 293:8 316:10 317:5</p> <p>weird 37:3</p> <p>went 19:6 31:14,20,23 34:7 36:16 38:14 39:16 40:12,19 40:24 45:15 48:2,8,19 62:10,11 73:25 82:16 114:15,15 157:4 167:11 210:25 211:17 214:2 241:10 242:22 243:6,7,19 244:20 247:4 248:1 251:11 286:6 311:18 315:9 328:13 330:8,17</p> <p>west 210:7,20,20 213:16 217:8</p> <p>westhead 74:14 83:9 144:1 150:14 299:11</p> <p>we've 18:19 43:17 55:15 57:12,19 59:25 60:5 75:6 82:21 149:16 164:11,12 178:19 185:19 189:5,6 196:3 243:22 278:24 283:3 304:19 322:25 329:19,20</p> <p>whatnot 283:11</p>
--	---	---	--

[when's - zweibel]

when's 131:8 273:24	words (cont.) 304:17,18 331:4	wrote (cont.) 139:10,14 196:15 208:15 302:24	years (cont.) 141:21 151:3,9 163:16,19 163:20 176:7,8 181:14 184:6,8,15 185:8,22 196:1 198:25 204:20,24 205:15 205:18 207:2,7,7,9 210:25 227:1,2 230:6,22 231:4,4 251:22,23 260:5,10 261:24 273:3 275:11,12,12,17 277:22,23,23 278:24 293:20 327:10
whiffed 328:3,25	work 35:24 36:16 38:14 42:20,23 55:25 59:23 76:2 141:20 147:7 152:8 158:5 173:8 189:12 194:22 202:21 229:8 238:2 253:15 254:23 256:6 262:11 275:16,17,24 282:10 283:12	x	yep 218:1 298:8 300:5 319:3 331:11
whitby 226:14 227:14	worked 29:1 45:3 64:19 108:13 143:25 149:19,25 312:14	xyz 53:19,20	yesterday 14:16 104:4 302:20 303:3,4 303:4
whittakers 297:17	workers 181:10 182:18	y	yielding 203:23 217:16
whoever's 291:24	working 28:25 34:1,11,14,23 53:23 54:5 55:18 64:21 66:21 77:23 80:8 143:19 144:15 181:25 212:11 213:19 215:3 248:2 328:19	yahoo 232:15	york 1:11,11 2:10,10 36:12 218:10 333:7 334:6
wholeheartedly 296:20	works 32:3 55:6 56:5 72:25 119:11 136:11,12 173:4 200:6 229:14	yahoo.com 262:22	young 143:16 328:18
widow 191:23,23	world 36:16 38:17,22 207:18 253:5,7 261:13	yahoo.com. 172:15	youtube 108:12
widower 191:23	worse 98:21	yeah 7:25 17:9 23:14 25:16 27:24 32:7,25 35:6 40:11 49:7,14 56:12,18,20 61:25 62:14 67:14 71:13,16 83:10 83:12 86:8,8 91:3 93:13,13 99:6 100:8,20 101:1,16,23 102:10 111:20 115:6,15 117:2 120:6 121:12 124:16 130:7 138:25 139:13 144:18 148:3,9 152:22 153:7 154:15 159:7 174:12 175:11 178:15 179:17,17 183:14,16 186:3 187:11,17 189:22 191:6 192:7 195:24 197:20 198:14 200:20 212:10 217:14 239:21 247:13 252:22 264:21 271:1,1 272:5,5,13,21 273:17 275:1,23 276:10 280:15 283:6 284:15 286:6 287:20 289:21,25 295:6 298:1 312:13 315:24 322:7 325:7,20	yuhas 2:5 7:14 10:20 16:10 21:23 22:15 23:5 25:10 27:4 43:22,24 44:1 49:7,14 56:6 61:17 63:5 66:24 75:13 77:6 79:22 104:25 108:6 109:11 110:11 118:17 119:21 120:13,20,23 131:19 136:2 141:13 146:16 177:21 178:14,16 179:9,15 185:14 186:18,25 190:21 201:16 208:16 263:4,6 289:3
wife 36:20 185:6 208:12,12	worth 133:9 137:21,24 138:11 168:16,19 244:25 245:16 309:6,7 311:16	year 19:16,21 34:7 79:8 80:3 93:7 116:9 124:21,24,25 126:8,20 127:20 139:9 160:12 176:22 177:1,1 187:4 191:3 205:23 207:19 215:19 254:7,9 263:25 271:23 273:1 278:2 290:2,2 290:2,5 321:2,5 322:2 324:10	z
william 213:8	wow 134:11 155:16	years 28:9 30:25 34:5 46:15 64:22,23,23 73:16,21,24 77:23 83:19 92:14,14 98:2 102:22 103:11 104:6,6 108:3,4,5 109:20,25 114:16 115:10 124:20,23 125:22 125:23 126:5 131:21	zero 311:8
willing 237:20	wphp 91:11		zitzler 177:11
window 103:20 105:1	write 22:22 32:1,5 42:8,11 50:2 56:3,3,4 149:13 218:19 226:23 233:4,5 257:22 292:17		zs 165:1
winging 241:7	writes 173:5 194:9 213:14 220:15 221:24 224:1 229:17 231:18 232:22 318:24		zuck 76:15 93:22 150:1
wish 207:12 331:18,25	writing 40:14		zweibel 76:14 93:21 150:1
withheld 86:12	written 49:12 52:13		
witness 1:7 2:14 3:3 6:13 10:21 17:9 21:22 48:11,14 62:12 62:16,21,25 85:18 101:7 238:23 257:16 282:19 283:8 303:16 320:18 323:12 333:4	wrong 199:10 200:8 226:21 312:11		
woman 187:13 191:16,20	wrote 17:20 23:13 31:20,24		
woman's 187:15,15			
women 116:25,25			
wondering 276:12 279:20 284:16 328:10			
word 49:8,19,20 80:21 99:21 134:7 182:21 239:18			
wording 303:2			
words 56:8 150:22 174:7 181:15 181:22 182:1 224:2 237:24 258:17 261:20 262:9 270:15,16 272:21 304:17			

----- Forwarded message -----

From: **A Better Financial Plan** <shannon@abetterfinancialplan.com>

Date: Sat, Nov 2, 2019 at 9:14 AM

Subject: \$1 Million Dollar Payout Event

To: <wbutler13@gmail.com>

[View this email in your browser](#)



**A BETTER
FINANCIAL PLAN**
Increased Returns - Decreased Risk

***\$1
MILLION
DOLLAR
PAYOUT
DINNER!***

LOCATION: TBD in Conshohocken

November 21st at 6:00 PM

OFFER IS LIMITED TO
ACCREDITED INVESTORS ONLY.

RSVP

Save the Date:

November 21st 6:00

PM

Message from Dean. Play Video.



**\$1 Million Dollar Payout to Our
MSIF Investors.**

You are going to wish you invested more!

Our Multi-Strategy Fund Investors will receive a check from a \$1M policy that recently matured.

A "*Life Settlement*" is just about the safest, highest yielding investment in existence. It is the name of the transaction that involves the purchase of life

insurance policies from elderly individuals who want to sell their life insurance policy. Warren Buffet has over \$1 billion dollars' worth of Life Settlements in the portfolio of Berkshire Hathaway. This investment is fantastic because it helps elderly people that want money today, while investors can own as asset with ZERO volatility and almost zero risk of loss. This is backed by mortality and financial security of insurance companies. Targeted returns are in the 10-14% range.

What else is new? The BANK.

Invest in a Bank?

CBSG is buying a Nationally Chartered Bank. It is a natural progression for their business. They feel the bank will allow them to offer many of the MCA products through the bank and vice versa. CBSG revenues have gone from \$30 Million to \$400 Million in 3 years and they feel owning a bank will allow them to triple the revenues of the bank and deliver substantial returns for their investors in a 3 year time frame.

OFFER LIMITED TO ACCREDITED INVESTORS ONLY: PROOF REQUIRED.

Show & Tell Your Friends.

Bring a friend who would be a good candidate for our investments vehicles.

Most people have reservations about what could happen in the market in the near future. The solution is diversification. Our events are a great way for you to introduce your friends and family members to learn about of alternative

investments. They will have the chance to meet and talk with other investors for the opportunity of complete and full disclosure.

\$100 Bonus for You. *When your referral simply comes into the office for a meeting as a result of you bringing him or her to the event, we will mail you a \$100 gift card that day.*

EVENT AGENDA

6:00 PM - BANK Investment Presentation!

6:30 PM - Dinner & Distribute Checks!

7:30 PM - ALL of ABFP!

484-425-7293

Our mailing address is:

[234 Mall Blvd Suite 270 King of Prussia PA 19406]

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1 UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

2

3 SECURITIES AND EXCHANGE)
COMMISSION,)

4)
Plaintiff,) Civil Action No.:
5) 20-cv-81205-RAR
vs.)
6)

7 COMPLETE BUSINESS SOLUTIONS)
GROUP, INC. D/B/A PAR FUNDING)
8 FULL SPECTRUM PROCESSING, INC.,)
ABETTERFINANCIALPLAN.COM LLC)
9 D/B/A A BETTER FINANCIAL PLAN,)
ABFP MANAGEMENT COMPANY, LLC)
F/K/A PILLAR LIFE SETTLEMENT)
10 MANAGEMENT COMPANY, LLC, ABFP)
INCOME FUND, LLC, ABFP INCOME)
11 FUND 2, L.P., UNITED FIDELIS)
GROUP CORP., FIDELIS FINANCIAL)
12 PLANNING LLC, RETIREMENT)
EVOLUTION GROUP, LLC, RETIREMENT)
13 EVOLUTION INCOME FUND, LLC F/K/A)
RE INCOME FUND, LLC, RE INCOME)
14 FUND 2 LLC, LISA MCELHONE,)
JOSEPH COLE BARLETA A/K/A JOE)
15 COLE, JOSEPH W. LAFORTE A/K/A)
JOE MACK A/K/A JOE MACKI A/K/A)
16 JOE MCELHONE, PERRY S.)
ABBONIZIO, DEAN J. VAGNOZZI,)
17 MICHAEL C. FURMAN, and JOHN)
GISSAS,)

18)
Defendants, and)
19)
L.M.E. 2017 FAMILY TRUST,)
20)
Relief Defendant.)

21 _____)
22 VIDEOCONFERENCE DEPOSITION OF JOHN PAUCIULO
23 Friday April 9, 2021
24 Reported by:
Denise Sankary, RPR, RMR, CRR
25 Job No. 210409DSA

1

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2

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3

1 UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

2

3 SECURITIES AND EXCHANGE)
COMMISSION,)

4)
Plaintiff,) Civil Action No.:
5) 20-cv-81205-RAR
vs.)
6)

7 COMPLETE BUSINESS SOLUTIONS)
GROUP, INC. D/B/A PAR FUNDING,)
et al.,)
8)
Defendants, and)
9)
L.M.E. 2017 FAMILY TRUST,)
10)
Relief Defendant.)

11 _____)
12
13 Deposition of JOHN PAUCIULO taken via
14 videoconference on behalf of Plaintiff, all parties
15 appearing remotely, commencing at 10:15 a.m. and
16 ending at 7:07 p.m., on Friday, April 9, 2021,
17 before Denise Sankary, RPR, RMR, CRR, and Notary
18 Public of the State of Florida, pursuant to notice.
19
20
21
22
23
24
25

2

1 APPEARANCES (All appearing remotely):
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21 ALSO PRESENT:
22 Dean Vagnozzi
23 Victoria Wilson
24 Clifford Haines, Esquire
25 Natalie Silver, Deposition Assistant
Michael Furman

5

1 Exhibit 10 05/16/16 E-mail from John Pauciulo to Alan Candell and copied others Re: CBSG Agreement with Services Agreement attached 192
2
3
4 Exhibit 11 05/17/16 E-mail string between Dean Vagnozzi and Joe Mack and copied to others Re: Terms 195
5
6 Exhibit 12 05/17/16 - 05/18/16 E-mail string between Joe Mack and John Pauciulo, Alan Candell and copied to others Re: Terms 204
7
8 Exhibit 13 12/7/16 E-mail from Joe Cole to Joe Mack Re: CBSG Org Chart and CBSG Employee Organizational Chart attached 209
9
10
11 Exhibit 14 07/21/20 Declaration of Victoria Jacqmein and 11/5/17 E-mail from Dean Vagnozzi to Joe Mack and copying Perry Abbonizio Re: Questions... 217
12
13
14 Exhibit 15 Agent Guide with attachments 239
15
16 Exhibit 16 03/19/18 - 03/30/18 E-mail string between Dean Vagnozzi and John Pauciulo Re: Agents meeting on 5th 244
17
18 Exhibit 17 07/10/18 Retainer agreement with Fallcatcher and Invoices 246
19
20
21 Exhibit 18 05/16/18 E-mail from Perry Abbonizio to John Pauciulo Re: Gassman 249
22
23
24 Exhibit 19 04/14/17 E-mail from Dean Vagnozzi to John Pauciulo and others Re: Golf Date 268
25
26
27 Exhibit 20 05/17/18 E-mail string between John Pauciulo to Jason Zwiebel Re: Heads up 270
28
29
30 Exhibit 21 Eckert Seamans Invoices to Dean Vagnozzi 272

7

1 I N D E X
2 Examination Page
3 JOHN PAUCIULO
4 By MS. BERLIN 9
5
6 E X H I B I T S
7 No. Page
8 Exhibit 1 Mr. Pauciulo's Bio from Eckert Seamans' website 13
9
10 Exhibit 2 03/12/21 Subpoena to Testify at a Deposition in a Civil Action 54
11
12 Exhibit 3 07/21/20 Declaration of Lori Boyogueno 59
13
14 Exhibit 4 07/17/18 Subpoena issued by the SEC to A Better Financial Plan LLC 83
15
16 Exhibit 5 Invoices from Eckert Seamans to Dean Vagnozzi 95
17
18 Exhibit 6 07/21/20 Declaration of Brad Beebe with attachments 98
19
20 Exhibit 7 04/13/16 - 04/19/16 E-mail string between John Pauciulo, Joe Cole, Dean Vagnozzi and Jerry Nave with Due Diligence Request 167
21
22 Exhibit 8 04/13/16 - 04/23/16 E-mail string between Joe Cole and John Pauciulo Re: Due Diligence Request List 180
23
24 Exhibit 9 04/13/16 - 04/28/16 E-mail string between John Pauciulo and Joe Cole and copied to others Re: Due Diligence Request List 183
25

6

1 Exhibit 22 A Better Financial Plan PowerPoint presentation 281
2
3 Exhibit 23 03/23/20 E-mail from Dean Vagnozzi to John Pauciulo with a copy to Shannon Westhead Re: Take a look, John 299
4
5 Exhibit 26 05/02/19 - 05/07/19 E-mail string between John Pauciulo and Richard Muldawer Re: External request for phone appt. 273
6
7
8 Exhibit 27 02/13/20 E-mail from Dean Vagnozzi to John Pauciulo Re: More Pillar 1 Buyout Info
9 ** NOTE: attorney-client privilege invoked on this exhibit (not attached) 306
10
11 Exhibit 28 02/25/20 E-mail string between Dean Vagnozzi, Joe Mack and John Pauciulo Re: Joe, for your review 307
12
13 Exhibit 29 10/02/19 E-mail from Joe Cole to Dean Vagnozzi with a copy to John Pauciulo Re: Bank PPM 302
14
15 Exhibit 30A A Declaration authenticating A Better Financial Plan website 282
16
17 Exhibit 30 Video Our Attorney John Pauciulo 290
18
19 Exhibit 31 Video MCA Overview 2018 293
20
21 Exhibit 32 Video Our Attorney John Pauciulo 293
22
23 Exhibit 33 Video with John Pauciulo and Dean Vagnozzi 294
24
25

8

1 10:15 a.m. - 7:07 p.m.
2 THE COURT REPORTER: Mr. Pauciulo, would
3 you raise your right hand, please?
4 Do you swear the testimony you're about to
5 give today will be the truth, the whole truth,
6 and nothing but the truth?
7 THE WITNESS: I affirm that my testimony
8 will be the truth.
9 THE COURT REPORTER: Thank you.
10 Thereupon:
11 JOHN PAUCIULO
12 having been first duly sworn, was examined and
13 testified as follows:
14 EXAMINATION
15 BY MS. BERLIN:
16 Q. I just wanted to clear, Mr. Pauciulo.
17 You're swearing under oath under penalty
18 of perjury, correct?
19 A. I understand that.
20 Q. Okay. Have you ever testified in a
21 deposition before?
22 A. Yes, I have.
23 Q. Okay. In which matters?
24 A. I've testified in two civil actions.
25 Q. And what actions were those?

9

1 A. The first action was captioned Carty,
2 C-A-R-T-Y, versus Pauciulo, White and Williams. The
3 second action was captioned O'Neill and others
4 versus Pauciulo, Mooney, Biehn, B-I-E-H-N, Jordan,
5 and White and Williams.
6 Q. And what types of cases were those?
7 A. The Carty action was a case where the
8 plaintiff alleged -- the plaintiff alleged fraud and
9 aiding and abetting a fraud in connection with an
10 investment made in a newly formed entity. The
11 O'Neill action was an action in -- with claims of
12 legal malpractice.
13 Q. Have you ever testified in a trial?
14 A. No.
15 Q. How about in an administrative proceeding?
16 A. No.
17 Q. And are you currently a party to any
18 litigation?
19 A. Yes.
20 Q. And what matters are those?
21 A. There's a case pending in the Philadelphia
22 Court of Common Pleas. The plaintiffs include Dean
23 Parker and Davis Parker. And there is a case
24 pending in Florida, and there's a case pending in
25 Delaware. I don't recall the names of the

10

1 plaintiffs in the Delaware action and the Florida
2 action.
3 Q. Are all three of those cases matters that
4 concern allegations about A Better Financial Plan or
5 Complete Business Solutions Group?
6 A. Yes.
7 Q. And so the matter that you referred to
8 that's pending in the Philadelphia Court of Common
9 Pleas, is that the case of Joseph Cacchione, Francis
10 Cassidy, Yahun Chu, Brian Drake, Joseph Gassman, and
11 David Goldman and others and their funds against you
12 for malpractice? Is that what you're referring to?
13 A. Yes.
14 Q. Okay. And do you understand that those
15 plaintiffs have waived their attorney-client
16 privilege by bringing legal malpractice claims
17 against you as their attorney?
18 MS. RECKER: Objection. It calls for
19 privileged information.
20 MS. BERLIN: So are you directing him not
21 to answer?
22 MS. RECKER: I'm directing him not to
23 answer.
24 MS. BERLIN: And what is the basis of the
25 privilege? Is it attorney-client or attorney

11

1 work product?
2 MS. RECKER: It would be both.
3 MR. HAINES: Ms. Riggle, this is Cliff
4 Haines. I represent all of the plaintiffs in
5 that action, and they have waived the privilege
6 as it relates to their claims against
7 Mr. Pauciulo and specifically for the purposes
8 of allowing you to question Mr. Pauciulo today.
9 MS. BERLIN: Thank you.
10 MS. RECKER: So this is the first we're
11 hearing it.
12 And Mr. Pauciulo, you may answer questions
13 to the extent that they relate to privileges
14 belonging to the plaintiffs in the Parker
15 matter.
16 THE WITNESS: I understand that and may
17 need to seek additional advice of counsel as
18 additional questions come.
19 BY MS. BERLIN:
20 Q. Mr. Pauciulo, have you ever had a judgment
21 entered against you?
22 A. No, I've not.
23 Q. Do you have any criminal record?
24 A. No, I do not.
25 Q. Any disciplinary action by the

12

1 Pennsylvania Bar or any other entity?
2 **A.** No, I do not.
3 **MS. BERLIN:** I wonder if the court
4 reporter could please show Exhibit 1.
5 **MS. SILVER:** Okay.
6 (Thereupon, marked as Exhibit 1.)
7 **BY MS. BERLIN:**
8 **Q.** Mr. Pauciulo, you're an attorney?
9 **A.** Yes, I am.
10 **Q.** And you're an attorney at Eckert Seamans?
11 **A.** Yes, I am an attorney with the law firm of
12 Eckert Seamans.
13 **Q.** Okay. And what is your title there?
14 **A.** I'm a member.
15 **Q.** Do you have any other positions or titles
16 at the firm?
17 **A.** I'm chair of the corporate and financial
18 transactions practice group.
19 **Q.** Anything else?
20 **A.** No.
21 **Q.** How long have you been at Eckert Seamans?
22 **A.** I've been with Eckert Seamans a little
23 more than 11 years.
24 **Q.** So since approximately 1990?
25 **A.** No, that would be 31 years.

13

1 **Q.** Oh, sorry. What year did you start
2 working at Eckert Seamans?
3 **A.** I started working at Eckert Seamans in the
4 year 2010.
5 **Q.** Okay. And you've been an attorney since
6 1991?
7 **A.** No, that's not correct.
8 **Q.** Oh, when did you become an attorney?
9 **A.** I became licensed to practice law in 1990.
10 **Q.** And where did you practice law before
11 Eckert Seamans?
12 **A.** I first practiced law with the United
13 States Securities and Exchange Commission. After
14 leaving the United States Securities and Exchange
15 Commission I practiced with the law firm of Lamb
16 McErlane. After leaving McErlane, I practiced law
17 with the corporation Pep Boys. And after leaving
18 Pep Boys, I practiced with the law firm of White and
19 Williams. And after leaving White and Williams,
20 I've been practicing with Eckert Seamans.
21 **Q.** And so during what time period did you
22 work at the Securities and Exchange Commission?
23 **A.** I worked at the Securities and Exchange
24 Commission from August 1990 until May or June of
25 1992.

14

1 **Q.** And you were a staff attorney at the SEC?
2 **A.** Yes, that's correct.
3 **Q.** In the New York office?
4 **A.** Yes.
5 **Q.** Did you work exclusively on investigations
6 while you were at the SEC?
7 **A.** Yes.
8 **Q.** Did you work on offering fraud matters
9 while you were at the SEC?
10 **A.** I would not describe the cases on which I
11 worked as offering fraud cases.
12 **Q.** What about financial fraud?
13 **A.** Yes, some of the cases on which I worked
14 involved financial fraud.
15 **Q.** Did you work on investigations involving
16 accounting fraud?
17 **A.** Yes, I did.
18 **Q.** And insider trading?
19 **A.** Yes, I did.
20 **Q.** So looking at -- you should see on your
21 screen Deposition Exhibit 1.
22 Is this a copy of your biography on your
23 firm's website?
24 **A.** Yes, it is. Yes.
25 **Q.** And if you could look under the heading,

15

1 it says --
2 **MS. BERLIN:** I'm sorry, if everyone could
3 mute their phones except for perhaps
4 Ms. Recker, the witness, and me, I hear a lot
5 of feedback. I'm not sure if I'm the only one.
6 **MR. KOLAYA:** Yeah, Ms. Berlin, I think it
7 was Mr. Furman, and it appears that he just
8 muted himself.
9 **MS. BERLIN:** Oh, okay. Thank you.
10 I wonder if we could scroll down to the
11 section of the biography that says "Financing
12 and Capital Formation." Keep scrolling. Thank
13 you.
14 **BY MS. BERLIN:**
15 **Q.** And Mr. Pauciulo, do any of these matters
16 under the Financing and Capital Formation on
17 Exhibit A, do -- do any of these list a concern for
18 funding or Dean Vagnozzi or A Better Financial Plan
19 or any of the funds that raised money in connection
20 with Par Funding?
21 **A.** Yes.
22 **Q.** Which ones?
23 **A.** Looking at Exhibit 1 under the caption
24 Financing and Capital Formation, the second bullet
25 point item reading "Represented several individuals

16

1 in the formation of funds through a private
2 placement to invest in merchant cash advance
3 business," that references investments in Par
4 Funding and merchant cash companies, generally.
5 **Q.** Any other matters that are under this
6 heading on your bio?
7 **A.** It's hard to see on the screen.
8 **MS. BERLIN:** Can we make it larger?
9 **A.** Yeah, I can't see the whole website on the
10 screen, so I really can't say.
11 **BY MS. BERLIN:**
12 **Q.** Well, we're going to scroll down. If you
13 want, I can read them off to you, but if you can --
14 can you explain the problem? Is the text too small
15 for you to read or is it -- is it fuzzy on your end?
16 Can you explain what the issue is? Do you need me
17 to read it to you?
18 **A.** The image is clear, but I cannot see the
19 entire web page on the screen. I see just a portion
20 of the page.
21 **Q.** Right. We were scrolling down.
22 **MS. BERLIN:** So what we'll do is, Madam
23 Court Reporter, could you go back up to the
24 heading? We'll just go one by one.
25

17

1 **BY MS. BERLIN:**
2 **Q.** One, the first one, "Represented real
3 estate development company in connection with
4 raising 25 million in capital through private
5 placement for the acquisition and development of
6 commercial real estate in Las Vegas, Nevada."
7 Yes or no?
8 **A.** Can you restate the question, please?
9 **Q.** The question for each of these items is,
10 does this concern Par Funding -- which is also known
11 as Complete Business Solutions Group -- Dean
12 Vagnozzi, or any of his entities or any of the funds
13 that were raising money for Par Funding?
14 So since you're having a hard time reading
15 it, I'll read each one to you.
16 So for that first bullet, which you should
17 be able to see on your screen, is the answer yes or
18 no?
19 **A.** The answer is no.
20 **Q.** Okay. The second bullet, same question.
21 You said the answer is yes, correct?
22 **A.** Correct.
23 **Q.** Third bullet, "Represented several
24 individuals in the formation of funds through a
25 private placement to invest in Life Settlements,

18

1 cash value life insurance policies."
2 What about that one?
3 **A.** That would relate to representations of
4 Dean Vagnozzi and entities formed and managed by
5 Dean Vagnozzi.
6 **Q.** Okay. And his Life Settlement offerings,
7 correct?
8 **A.** Yes, that's correct.
9 **Q.** Okay. Next bullet. "Served as local
10 counsel to an Ireland-based bank in connection with
11 a commercial loan to a global company with
12 operations in Pennsylvania."
13 **A.** Unrelated to Dean Vagnozzi and Par.
14 **Q.** Okay. Served as -- next bullet, "Served
15 as local counsel to the China Investment Funds."
16 Hopefully you can read the rest.
17 What about that one, unrelated or related?
18 **A.** Unrelated.
19 **Q.** Okay. And the last two, can you see them
20 on your screen so I don't have to read them?
21 "Served as local counsel to an Australia-based
22 bank," and the other one, "Served as local counsel
23 to a China-based bank."
24 I'm guessing those are unrelated to Par
25 Funding or Mr. Vagnozzi; am I correct?

19

1 **A.** That is correct. They're unrelated.
2 **Q.** Very good. Now, with respect to funding
3 for -- in connection with merchant cash advance
4 companies, have you ever done work in connection
5 with a fund that is raising funds or seeking
6 contributions in connection with a merchant cash
7 advance company other than Par Funding?
8 **A.** Can you restate the question, please?
9 **Q.** Sure. Have you ever done work for any
10 other merchant cash advance company other -- in
11 connection -- sorry, I'll ask it again.
12 Have you ever done any work in connection
13 with a merchant cash advance company other than Par
14 Funding?
15 **A.** Well, I think your question implies that I
16 worked for a merchant cash advance company, and
17 that's not the case.
18 **Q.** It does not imply that, Mr. Pauciulo. The
19 question is whether you've done any work in
20 connection with a merchant cash advance company
21 other than Par Funding.
22 How about this: I'll ask it another way
23 since there's a long pause.
24 Mr. Pauciulo, have you ever done work in
25 connection with a merchant cash advance company?

20

1 A. I've represented clients who invested in
2 merchant cash advance companies.
3 Q. Okay. Any other -- have you done any
4 other work in connection with a merchant cash
5 advance company?
6 A. No, I have not.
7 Q. Okay. And the clients that you just
8 testified about, did the work involve any merchant
9 cash advance company other than Par Funding?
10 A. Can you repeat the question, please?
11 Q. Sure. Your answer is that you've
12 represented the clients who have either done things
13 in connection with a merchant cash advance company.
14 My question is, was that merchant cash
15 advance company Par Funding?
16 A. That was one of the merchant cash
17 companies that I understood clients to have invested
18 in.
19 Q. Okay. And what are the others?
20 A. I don't have any knowledge of any others.
21 Q. Have you ever talked to -- so why do you
22 believe there were investments in other merchant
23 cash advance companies?
24 MS. RECKER: Object to the form.
25 A. Well, I also think that answer to that

21

1 question would involve privileged information, and I
2 need to confer with counsel on that.
3 BY MS. BERLIN:
4 Q. Okay. Do you need to take a moment?
5 A. Yes.
6 MS. BERLIN: Okay.
7 (A discussion was held off the record.)
8 MS. RECKER: So object to the extent that
9 this calls for privileged information and
10 instruct the witness not to answer.
11 BY MS. BERLIN:
12 Q. Mr. Pauciulo, you drafted private
13 placement memoranda for investments that concerned
14 merchant cash advances, correct?
15 MS. RECKER: Object to the form.
16 A. Yes, that's correct.
17 BY MS. BERLIN:
18 Q. Okay. And what merchant cash advance
19 companies were you referring to in those PPMs?
20 MS. RECKER: Object to the form.
21 A. I think the PPMs speak for themselves, and
22 the private placement memoranda don't refer to any
23 specific merchant cash advance company.
24 BY MS. BERLIN:
25 Q. All right. But there was only one

22

1 merchant cash advance company that any of your
2 clients were ever raising money to invest in, and
3 that was Par Funding, correct?
4 MS. RECKER: Object to the form.
5 And to the extent that it requires
6 privileged information, I'll instruct you not
7 to answer.
8 MR. MILLER: And this is Brian Miller. I
9 join in the objection.
10 MS. BERLIN: So are you instructing him --
11 BY MS. BERLIN:
12 Q. Mr. Pauciulo, are you going to --
13 MS. BERLIN: Is Mr. Pauciulo answering or
14 not?
15 A. Well, on advice of counsel, I am not
16 answering.
17 BY MS. BERLIN:
18 Q. Mr. Pauciulo, did you provide advice on
19 that issue in anticipation of litigation to any of
20 your clients, and if so, which ones?
21 MS. RECKER: Objection.
22 To the extent it calls for privileged
23 information, I'll instruct you not to say what
24 the advice was.
25 A. Can you restate the question, please?

23

1 BY MS. BERLIN:
2 Q. Sure. Did you provide advice
3 concerning -- you just asserted the attorney-client
4 privilege, and I'm asking if you're doing that based
5 on advice that you provided to a client in
6 anticipation of litigation, and if so, which
7 clients?
8 MS. RECKER: Objection.
9 To the extent that it requires privileged
10 information, I will instruct you not to answer.
11 MS. BERLIN: I just want to make sure the
12 record is clear and that I'm understanding
13 because you're saying "to the extent."
14 Are you instructing him not to answer
15 whether he provided advice in anticipation of
16 litigation and to which client?
17 MS. RECKER: Yes.
18 MS. BERLIN: Are you going to refuse --
19 are you going to instruct him all day not to
20 answer any questions concerning whether he gave
21 advice in anticipation of litigation or to
22 which client?
23 MS. RECKER: I'm going to instruct him not
24 to answer on a question-by-question basis,
25 depending on what you're asking for.

24

1 MS. BERLIN: Okay. We need to take a few
 2 minutes break then if that's one of the
 3 objections you're raising. Thank you. We'll
 4 take a five- to ten-minute break.
 5 And just so everyone can plan, why don't
 6 we just reconvene at 10:50 because I always
 7 hate it when I'm in a deposition and someone
 8 does that and I don't know how long I have to
 9 sit in front of my laptop. We'll just come
 10 back on -- it's 10:38. Why don't we just
 11 reconvene at 10:50.
 12 (A discussion was held off the record.)
 13 MS. BERLIN: Okay. Let's go back on the
 14 record.
 15 BY MS. BERLIN:
 16 Q. So Mr. Pauciulo, with respect to the PPMs
 17 that we were just discussing, did you create those
 18 in anticipation of any litigation?
 19 A. I'm sorry, can you say that again?
 20 MS. RECKER: Object to the form.
 21 BY MS. BERLIN:
 22 Q. Sure. The PPMs that you just testified
 23 about, Mr. Pauciulo, or that I just asked you before
 24 we took our break, that mentioned the MCA
 25 investments, did you create those in anticipation of

25

1 any litigation?
 2 MS. RECKER: Object to the form.
 3 A. I didn't draft them with respect to any
 4 specific litigation. They're drafted to provide
 5 disclosure which may serve as a defense or
 6 protection from future litigation asserted by
 7 investors in the fund.
 8 BY MS. BERLIN:
 9 Q. And at the time you drafted them, did you
 10 draft them in -- at the time you drafted them, did
 11 you draft them in anticipation of litigation?
 12 MS. RECKER: Object to the form.
 13 A. I think that you just asked me that
 14 question, and I just answered it.
 15 BY MS. BERLIN:
 16 Q. So is your -- I'm sorry, I don't
 17 understand your answer then.
 18 Can you clarify?
 19 A. You've asked me the same question twice,
 20 and I gave you one answer, and I refer to my first
 21 answer.
 22 Q. At the time -- so was there any litigation
 23 that was pending at the time when you drafted the
 24 PPMs?
 25 MS. RECKER: Object to the form.

26

1 A. Any litigation by whom?
 2 BY MS. BERLIN:
 3 Q. Mr. Pauciulo, any litigation. You're
 4 asserting the attorney-client privilege and so I --
 5 and/or attorney work product, so I'm going to
 6 inquire about the specific things I'm entitled to
 7 ask about under Federal Rule of Civil Procedure
 8 26(b), and one of them is whether you created a
 9 document in anticipation of litigation, and that is
 10 the question.
 11 And if I -- am I understanding you
 12 correctly that your answer is yes?
 13 A. The PPMs were not drafted in anticipation
 14 of any specific litigation. PPMs were drafted to
 15 provide disclosure to investors. And the
 16 disclosures may be useful in possible litigation,
 17 but at the time they were drafted, I was not aware.
 18 MS. RECKER: Object to the form and object
 19 to the extent that this requires privileged
 20 information.
 21 BY MS. BERLIN:
 22 Q. No. Mr. Pauciulo, you understand that all
 23 of the -- your clients and their funds that are the
 24 plaintiffs in the action that we discussed earlier
 25 today, they have all waived their attorney-client

27

1 privilege, and you've heard their counsel tell you
 2 that today, correct?
 3 MS. RECKER: Object to the form and object
 4 to the extent that this requires privileged
 5 information because some clients, we learned
 6 today, have waived privilege and other clients
 7 have not.
 8 BY MS. BERLIN:
 9 Q. Mr. Pauciulo, can you answer my question?
 10 A. Can you restate it, please?
 11 Q. Sure. Do you understand that some of your
 12 clients have waived their attorney-client privilege
 13 as was stated on the record today by their counsel?
 14 A. I understand that those clients
 15 represented by Clifford Haines have waived the
 16 attorney-client privilege.
 17 Q. Did you draft --
 18 A. I also understand that other clients have
 19 not waived their attorney-client privilege.
 20 Q. Okay. Now, with respect to the clients
 21 represented by Mr. Haines -- and you are familiar
 22 with who they are because they have a malpractice
 23 action pending against you, correct?
 24 A. There is a malpractice action pending
 25 against me and Eckert Seamans.

28

1 Q. Okay. Now, with respect to those clients
2 of yours, did you draft PPMs for them?
3 A. Yes, I did.
4 Q. And those PPMs reference an MCA
5 investment, correct? A merchant cash advance
6 company, correct?
7 A. That is correct.
8 Q. And what merchant cash advance company is
9 that referencing in the PPMs that you drafted for
10 the clients who have waived their privilege?
11 A. The PPMs don't reference any particular
12 merchant cash advance company.
13 Q. But your clients were -- were they doing
14 any work in connection with any merchant cash
15 advance company other than Par Funding?
16 MS. RECKER: Object to the form.
17 A. I don't know.
18 BY MS. BERLIN:
19 Q. Now, did you ever speak to any merchant
20 cash advance company that any of your clients were
21 doing any work with? And I'm talking about your
22 clients who have waived their attorney-client
23 privilege.
24 A. I don't understand your question.
25 Can you rephrase it, please?

29

1 Q. Sure. For the clients who have waived the
2 attorney-client privilege, they were circulating a
3 private placement memorandum that you drafted where
4 they were selling promissory notes, and they were
5 going to use those proceeds to then invest in
6 merchant cash advance companies; is that right?
7 MS. RECKER: Object to the form.
8 A. That is correct.
9 BY MS. BERLIN:
10 Q. Okay. And you had conversations and
11 communications with Par Funding, which is a merchant
12 cash advance company; is that right?
13 A. I had contact and communication with
14 representatives of Par Funding.
15 Q. Did you have contact or communications
16 with representatives of any other merchant cash
17 advance company?
18 A. No, I did not.
19 Q. Is there a reason why the PPMs for the
20 clients who have not waived privilege only -- do not
21 reference a specific merchant cash advance company?
22 MS. RECKER: Object. You said for the
23 PPMs for clients who have not waived privilege,
24 so I would instruct the witness not to answer
25 to the extent that it -- the answer would

30

1 reveal privileged communication.
2 BY MS. BERLIN:
3 Q. For the clients who have waived their
4 privilege, is there a reason why the PPMs you
5 drafted do not identify the specific merchant cash
6 advance company that they were going to invest in?
7 A. Yes.
8 Q. And what is that?
9 A. We wanted to allow for the flexibility to
10 invest in any number of merchant cash advance
11 companies and also did not necessarily want to
12 create an environment where those entities were
13 deemed to be formed solely for the purpose of
14 investing in one particular company.
15 Q. And you at some point conducted due
16 diligence of Par Funding as a merchant cash advance
17 company, correct?
18 MS. RECKER: Object to the form.
19 And to the extent that the answer reveals
20 work product privilege, I would object and
21 instruct you not to answer.
22 A. On advice of counsel, I can't answer that
23 question.
24 BY MS. BERLIN:
25 Q. Mr. Pauciulo, did you file an answer in

31

1 your -- in the malpractice -- you know what? I
2 withdraw my question.
3 So you're refusing to testify about
4 whether you conducted due diligence.
5 Mr. Pauciulo, did you conduct -- the work
6 that you're claiming is work product with respect to
7 due diligence, did you conduct a due diligence in
8 anticipation of litigation?
9 A. Well, your question requires that I talk
10 about whether I disclosed, whether I conducted due
11 diligence, and I believe we objected to that
12 question on the basis of attorney-client privilege,
13 so I don't think I can really answer your question
14 as stated.
15 Q. Mr. Pauciulo, have you read your client --
16 oh, I'm sorry. Was someone speaking?
17 MS. RECKER: I was going to say, the basis
18 was the work product privilege.
19 MS. BERLIN: It was work product
20 privilege?
21 BY MS. BERLIN:
22 Q. So Mr. Pauciulo, have you read -- my
23 question, though, is, you have conducted due
24 diligence of Par Funding clients, correct?
25 MS. RECKER: You cut out, Counsel. I

32

1 didn't hear the question.
 2 MS. BERLIN: Sure.
 3 BY MS. BERLIN:
 4 Q. Mr. Pauciulo, you conducted due diligence
 5 concerning Par Funding for your clients, correct?
 6 MS. RECKER: Object to the form.
 7 A. I need to confer with counsel. I'm going
 8 to stop my video.
 9 MS. BERLIN: Okay.
 10 MR. HAINES: Amie, at the risk of
 11 overstating my boundaries, take him through
 12 them one by one.
 13 MS. BERLIN: I'm going to. Let's go off
 14 the record.
 15 (A discussion was held off the record.)
 16 THE WITNESS: I've had an opportunity to
 17 confer with counsel. Can you please --
 18 MS. BERLIN: We'll go back on the record.
 19 Hold on. Let me just see if everybody's back.
 20 THE WITNESS: Okay.
 21 MS. BERLIN: Let's go back on the record.
 22 Thank you.
 23 BY MS. BERLIN:
 24 Q. Mr. Pauciulo, there was a question pending
 25 when you asked to speak with your counsel.

33

1 Do you have an answer to the question?
 2 A. Can you restate the question, please, or
 3 have the reporter read it back?
 4 MS. BERLIN: If the reporter can read it
 5 back easily, that would be great.
 6 (Record read.)
 7 A. Yes, that's correct.
 8 BY MS. BERLIN:
 9 Q. And just for purposes of today's
 10 deposition, I'm going to just refer today to your
 11 clients who have waived their privilege, and when I
 12 refer to that, I want the record to be clear which
 13 clients I'm referring to.
 14 And so I am referring to the following
 15 clients of yours: Joseph Cacchione, that's
 16 C-A-C-C-H-I-O-N-E; Francis Cassidy; Yahun Chu;
 17 Y-A-H-U-N C-H-U; Ryan Drake; Joseph Gassman;
 18 G-A-S-S-M-A-N; David Gollner; G-O-L-L-N-E-R; Kurt
 19 Henry; Sherri, S-H-E-R-R-I, Marini, M-A-R-I-N-I;
 20 Andrew McKinley; Christopher McMorow; Mark
 21 Nardelli; Paul Nick; Davis Parker; Dean Parker;
 22 Daniel Reisinger; Philip Sharpton; Michael Tierney;
 23 Merchant Factoring Income, LLC; Victory Income Fund,
 24 LLC; Work Well Fund, LLC; Cape Cod Income Fund;
 25 Wellen Fund, spelled W-E-L-L-E-N; Wellen Fund I LLC;

34

1 LWM Income Fund II, LLC; LWM Equity Fund, LP; LWM
 2 Income Fund Parallel, LLC; Blue Stream Income Fund
 3 LLC; Jade Funding, LLC; MK1 Income Fund, LLC; GR8
 4 Income Fund, LLC; STFG Income Fund, LLC; RAZR MCA
 5 Fund, LLC; Mariner MCA Income Fund, LLC; MCA
 6 Carolina Income Fund, LLC; and Merchant Services
 7 Income Fund, LLC.
 8 Today, all of the clients that I've just
 9 named will be referred to as clients who have waived
 10 the privilege.
 11 Do you understand, Mr. Pauciulo?
 12 A. I'm not -- what are you asking me to
 13 confirm my understanding of?
 14 Q. That when I refer to your clients who have
 15 waived the privilege, I am referring to all of the
 16 clients that I've just named.
 17 Do you understand what I'm referring to
 18 today when I refer to your clients who have waived
 19 their privilege?
 20 A. Yes, I understand that.
 21 Q. Okay. Thank you. That's a very long
 22 list. I just don't want to repeat it all day, and I
 23 know you don't want me to either. Okay. Wonderful.
 24 So for your attorneys to have waived their
 25 privilege, did you conduct due diligence of any

35

1 company other than Par Funding, any MCA company
 2 other than Par Funding?
 3 MS. RECKER: Object to the form.
 4 A. Yes.
 5 BY MS. BERLIN:
 6 Q. And what MCA company was that?
 7 A. I conducted research into several other
 8 companies that operated either a merchant cash
 9 business in the terms of a form of factoring or
 10 companies which provided financing to small
 11 businesses, generally; people who served kind of the
 12 same customer base.
 13 Q. And what are the names of those companies
 14 that you researched?
 15 A. I researched a company called Kabbage,
 16 which is, I believe, spelled K-A-B-B-A-G-E.
 17 Q. Okay. What else?
 18 A. There was another company, and I forget
 19 their name. Had the word "deck" in it. I forget
 20 the full name of the company.
 21 Q. Where is it located?
 22 A. I don't remember.
 23 Q. Okay. What other companies?
 24 A. Those are the only companies that I
 25 recall.

36

1 Q. Okay. When did you research them?
 2 A. I don't remember a specific time period.
 3 Q. Do you remember a year?
 4 A. Somewhere between 2016 and 2019.
 5 Q. Did you speak to anyone at Kabbage?
 6 A. No.
 7 Q. Did you request any documents or materials
 8 from Kabbage?
 9 A. No, I did not.
 10 Q. Did you conduct due diligence with respect
 11 to Kabbage?
 12 A. Yes, in the sense that I reviewed publicly
 13 available information regarding Kabbage.
 14 Q. So you went online and reviewed
 15 information about Kabbage; is that correct?
 16 A. That is correct. Kabbage was at that
 17 time, and to the best of my knowledge, remains a
 18 publicly traded company, so they had SEC filings,
 19 and I reviewed their SEC filings as well as
 20 materials on their website.
 21 Q. Okay. Did you review any of their
 22 financial statements?
 23 A. I don't recall whether I reviewed their
 24 financial statements.
 25 Q. Did you do any research concerning their

37

1 ownership or management?
 2 A. Not that I recall.
 3 Q. Did you -- and about how much time did you
 4 spend researching Kabbage?
 5 A. I don't remember specifically how much
 6 time I spent researching Kabbage, but several hours.
 7 Two, three, four hours.
 8 Q. Okay. And you did that in your capacity
 9 as the lawyer, as a lawyer retained by these
 10 clients?
 11 MS. RECKER: Object to the form.
 12 A. I need to confer with counsel.
 13 MS. BERLIN: I'm not going to permit --
 14 let's take a break for a second so that
 15 Ms. Recker and I can just talk about taking the
 16 breaks while the question is pending. Taking
 17 breaks is permissible, but I do want to give
 18 some leeway. And I realize that we're all
 19 virtual, so it's a little difficult not being
 20 together.
 21 Ms. Recker, do you want to maybe we just
 22 like talk for a few minutes so we can come up
 23 with some agreed procedure for how to handle it
 24 if there's a question pending and he wants to
 25 seek guidance to answer it? We can do it off

38

1 the record.
 2 MS. RECKER: We can do that.
 3 MS. BERLIN: Okay. So why don't we
 4 just -- should we go off the record and maybe
 5 talk outside the presence of your client and we
 6 can figure out how to proceed?
 7 MS. RECKER: Sure.
 8 MS. BERLIN: Okay.
 9 (A discussion was held off the record.)
 10 BY MS. BERLIN:
 11 Q. So I'm going to re-ask that question, and
 12 if for any question I ask you, if you don't
 13 understand the question or you think it's -- you
 14 know, you're not understanding precisely what I'm
 15 asking, you can let me know that, and I will
 16 rephrase my question.
 17 Do you understand?
 18 A. Yes, I do.
 19 Q. Okay. So I'm going to try to ask that
 20 question a bit more precisely.
 21 So the research that you did with respect
 22 to Kabbage, which clients did you engage in that
 23 research for?
 24 MS. RECKER: Object to the form.
 25 A. Dean Vagnozzi.

39

1 BY MS. BERLIN:
 2 Q. And so that's work that should appear in
 3 invoices that you sent to Mr. Dean Vagnozzi for
 4 your -- the legal work that you provided to him?
 5 A. In part. When doing sort of general
 6 research about an industry, my practice is sometimes
 7 not to bill for that because it's just I'm just
 8 doing research to understand an industry, and
 9 that's, you know, for my benefit as much as a
 10 client.
 11 So I may have billed Dean Vagnozzi time
 12 for research into Kabbage. It's possible that I
 13 didn't. I just don't recall.
 14 Q. Okay. But you used EDGAR for that
 15 research?
 16 A. Yes. Among other things, but reviewed
 17 Kabbage public filings via EDGAR.
 18 Q. And did anything further happen with
 19 respect to Kabbage other than you did some online
 20 research for a few hours?
 21 MS. RECKER: Object to the form.
 22 And to the extent that anything further
 23 involves privileged communications, I would
 24 instruct you not to answer.
 25 A. Yeah, on advice of counsel, I can't answer

40

1 that.
 2 BY MS. BERLIN:
 3 Q. Mr. Pauciulo, did you do any other work --
 4 other than your online research of a few hours, did
 5 you do any other work with respect to Kabbage?
 6 A. No, I did not.
 7 Q. And what about the other MCA companies?
 8 It was "correct," but you don't really recall the
 9 name.
 10 What kind of -- what did you do with
 11 respect to -- I'll call it "Deck" since I think
 12 that's the only part of the name you might be able
 13 to remember.
 14 What research or what work did you do in
 15 connection with Deck?
 16 A. That company was, at the time, also a
 17 publicly traded company and, as such, had publicly
 18 available filings. And I recall reviewing their
 19 public filings via EDGAR, also looking at their
 20 website.
 21 Q. And what was the purpose of going online
 22 and doing some online research with respect to
 23 Kabbage and Deck?
 24 MS. RECKER: Object to the form and object
 25 to the extent that the purpose involved

41

1 rendering legal advice, I would instruct you
 2 not to answer.
 3 A. On advice of counsel, I can't answer that
 4 question.
 5 BY MS. BERLIN:
 6 Q. And so are you asserting -- is it an
 7 attorney-client privilege assertion, or is it an
 8 attorney work product assertion?
 9 A. It's an attorney-client privilege
 10 assertion.
 11 Q. And who is the client that you're
 12 asserting the --
 13 A. Dean Vagnozzi.
 14 Q. And did you -- was this work for Kabbage
 15 and Deck done in anticipation of any litigation?
 16 MS. RECKER: Object to the form.
 17 A. The research was not conducted in
 18 anticipation of any specific or particular
 19 litigation.
 20 BY MS. BERLIN:
 21 Q. Did you ever speak to anyone at the Deck
 22 company?
 23 A. No, I did not.
 24 Q. Are you a certified public accountant?
 25 A. No, I am not.

42

1 Q. Do you have a degree in accounting?
 2 A. No, I do not.
 3 Q. Any license concerning accounting?
 4 A. No, I do not hold any license concerning
 5 accounting.
 6 Q. Do you have any expertise in accounting?
 7 A. I would not say I have expertise. I would
 8 say I have working knowledge of fundamental
 9 accounting concepts.
 10 Q. And what accounting experience do you
 11 have, if any?
 12 A. I studied financial accounting in college.
 13 I studied corporate finance in law school. I worked
 14 on accounting fraud cases while with the Securities
 15 and Exchange Commission and worked very closely with
 16 staff accountants. Over the course of my career,
 17 I've worked closely with chief financial officers of
 18 companies, and throughout all of these interactions
 19 and experiences have gained, again, a working
 20 knowledge of fundamental accounting principles.
 21 Q. So when you say you studied financial
 22 accounting in college, do you have a degree in that
 23 or are you talking about a class you took?
 24 A. It was a class I took.
 25 Q. And what year?

43

1 A. I don't recall the specific year. I
 2 attended college between the years of 1983 and 1987.
 3 It would have been sometime within that time frame.
 4 Q. And when you testified you studied this in
 5 law school, corporate finance in law school, is that
 6 a class that you took?
 7 A. Correct, yes.
 8 Q. So you took a class in law school on
 9 corporate finance in approximately what year?
 10 A. I attended law school from the years 1987
 11 to 1990, so it would have been sometime within that
 12 time frame.
 13 Q. Okay. So aside from the --
 14 A. It was probably in my second or third year
 15 of law school. I'm quite sure I didn't take it
 16 during my first year of law school.
 17 Q. So aside from a couple classes in college
 18 and law school, do you have any other educational
 19 background in accounting?
 20 A. I've taken continuing legal education
 21 programming for lawyers. I've also done research
 22 into various accounting issues in connection with
 23 client engagements.
 24 Q. Okay. So with respect to your CLE, your
 25 continuing legal education, you've done continuing

44

1 legal education classes on accounting?
2 **A.** Yeah, there's a CLE called Accounting for
3 Lawyers.
4 **Q.** Okay. And when did you take that?
5 **A.** I don't remember.
6 **Q.** But your CLE records would reflect it?
7 **A.** To the extent I applied for and received
8 credit, I guess so.
9 **Q.** How many years ago did you take Accounting
10 for Lawyers?
11 **A.** I don't remember.
12 **Q.** Was it more than five years ago?
13 **A.** Yes.
14 **Q.** More than ten years ago?
15 **A.** I don't remember.
16 **Q.** Was it a one-hour class?
17 **A.** No, it was longer than one hour.
18 **Q.** Was it all done in one afternoon, or was
19 it multiple days?
20 **A.** I don't recall, specifically. I think it
21 was a two- or three-hour program.
22 **Q.** Anything else? Any other education that
23 you can add in accounting?
24 **A.** No other formal education.
25 **Q.** Okay. And could you please state on the

45

1 remember because I don't use it, and I have a
2 mail.com account which I think is
3 silversun2008@mail.com.
4 **Q.** Silver sun, S-U-N or S-O-N?
5 **A.** S-U-N.
6 **Q.** So I'd like to talk a little bit about
7 Complete Business Solutions Group.
8 You're familiar with that company,
9 correct?
10 **A.** I am aware of that company, yes.
11 **Q.** Okay. And I might also refer to it today
12 as Par Funding, which is a name that company goes
13 by.
14 So if I say Par Funding or Complete
15 Business Solutions Group, do you understand that I
16 am always referring to the entity that is known --
17 that has a legal name of Complete Business Solutions
18 Group?
19 **A.** I understand that you'll use those terms
20 interchangeably.
21 **Q.** Okay. When did you first hear of Complete
22 Business Solutions Group?
23 **A.** I don't recall the specific date on which
24 I first heard of Complete Business Solutions Group
25 but generally, sometime in the early part of 2016.

47

1 record your cellphone number?
2 **A.** (484)318-9179.
3 **Q.** Do you have any other cellphone number?
4 **A.** No, I do not.
5 **Q.** Since 2015, have you had any other
6 cellphone number?
7 **A.** No, I have not.
8 **Q.** And what is your work e-mail address?
9 **A.** My work e-mail address is the letter J
10 followed by my last name spelled P-A-U-C-I-U-L-O
11 @EckertSeamans.com.
12 **Q.** Since 2016, have you had any other work
13 e-mail address?
14 **A.** No, I have not.
15 **Q.** Do you have a personal e-mail address
16 also?
17 **A.** Yes, I do.
18 **Q.** And what is that?
19 **A.** It's my last name, P-A-U-C-I-U-L-O
20 @hotmail.com.
21 **Q.** Since 2015, have you had any other
22 personal e-mail account?
23 **A.** Yes.
24 **Q.** And what was that?
25 **A.** I have a Gmail account which I don't

46

1 **Q.** And how did you come to hear about it?
2 **MS. RECKER:** Object to the form.
3 And to the extent that's a privileged
4 communication, I would instruct you not to
5 answer.
6 **A.** On the advice of counsel, I cannot answer
7 that question.
8 **BY MS. BERLIN:**
9 **Q.** Okay. And so what -- is it an
10 attorney-client privilege that is being raised?
11 **A.** Yes.
12 **MS. RECKER:** I'm instructing him not to
13 answer on the basis of attorney-client
14 privilege.
15 **BY MS. BERLIN:**
16 **Q.** Which client?
17 **A.** Dean Vagnozzi.
18 **Q.** And was this communication where you
19 learned about the existence of Complete Business
20 Solutions Group, was that in connection with work
21 you were doing or communication in connection
22 with -- communication in anticipation of any
23 litigation?
24 **MS. RECKER:** Object to the form.
25 **A.** No, it was not done -- no, the work was

48

1 not done in connection with anticipation of
2 litigation.
3 BY MS. BERLIN:
4 Q. Have you ever invested in Complete
5 Business Solutions Group?
6 A. I'm sorry. You broke up.
7 Can you please repeat the question?
8 Q. Sure. Have you ever invested money into
9 Complete Business Solutions Group?
10 A. No, I have not.
11 Q. Have you ever invested money in any fund
12 that invests in Complete Business Solutions Group?
13 A. No, I have not.
14 Q. Do you have any family members or close
15 friends who invest in Complete Business Solutions
16 Group or a fund that invests in Complete Business
17 Solutions Group?
18 A. Not to my knowledge, no.
19 Q. Do you know a man named Dean Vagnozzi?
20 A. Yes, I do.
21 Q. And when did you meet Dean Vagnozzi?
22 A. I don't recall the specific date on which
23 I met Dean Vagnozzi, but sometime in the year 2004.
24 Q. And did Mr. Vagnozzi at a certain point
25 retain you as his lawyer in his personal capacity?

49

1 A. Yes.
2 Q. And when did Mr. Vagnozzi retain you in
3 his personal capacity to be his lawyer?
4 A. I think 2004.
5 Q. You also represented some of
6 Mr. Vagnozzi's companies, correct?
7 A. Yes, that's correct.
8 Q. And some of those companies are now in a
9 receivership under the court order in the SEC case
10 that you're testifying in today.
11 Do you understand that?
12 MS. RECKER: Object to the form.
13 BY MS. BERLIN:
14 Q. Mr. Pauciulo, are you aware that some of
15 the companies that you used to represent for
16 Mr. Vagnozzi are now in a receivership?
17 A. Yes, I am aware of that.
18 Q. And is it your understanding that the
19 receiver has waived the attorney-client privilege
20 with respect to the entities that are in the
21 receivership that you used to represent?
22 A. I've been told that.
23 Q. And we have counsel for the receiver
24 here --
25 MR. KOLAYA: Ms. Berlin, I can confirm

50

1 that the receiver has, in fact, waived the
2 privilege as to any of the A Better Financial
3 Plan-related entities that are within the scope
4 of the receivership. And if you would like, I
5 can list them if necessary.
6 MS. BERLIN: That would be helpful, thank
7 you, just so Mr. Pauciulo can hear that.
8 MR. KOLAYA: Sure. Give me one second.
9 I'll pull up the list, and I'll be right back
10 with you.
11 MS. BERLIN: Thank you.
12 MR. KOLAYA: Okay. For purposes of the
13 record, the companies I'm referring to are:
14 ABetterFinancialPlan.com, LLC, doing business
15 as A Better Financial Plan; ABFP Management
16 Company, LLC, formerly known as Hiller Life
17 Settlement Management Company, LLC; ABFP Income
18 Fund, LLC; ABFP Income Fund II, LP; ABFP Income
19 Fund 3, LLC; ABFP Income Fund 4, LLC; ABFP
20 Income Fund 6, LLC; ABFP Income Fund Parallel,
21 LLC; ABFP Income Fund II Parallel, LLC; ABFP
22 Income Fund 3 Parallel, LLC; ABFP Income Fund 4
23 Parallel, LLC; ABFP Income Fund 6 Parallel,
24 LLC; ABFP Multi-strategy Investment Fund, LP,
25 ABFP Multi-strategy Investment Fund 2, LP; and

51

1 MK Corporate Debt Investment Company, LLC.
2 That was M as in Michael, K as in Kenneth.
3 BY MS. BERLIN:
4 Q. And Mr. Pauciulo, for purposes of your
5 deposition, I might refer to the receivership
6 clients or the receivership entities that have
7 waived their attorney-client privilege with you, and
8 if I do, do you understand that I'm referring to the
9 list of your former clients that Mr. Kolaya just
10 read to you?
11 A. Yes, I understand.
12 Q. Okay. Do you continue to represent Dean
13 Vagnozzi today?
14 A. No, I do not.
15 Q. When did your representation of him end?
16 A. I don't recall the specific date on which
17 our representation ended.
18 Q. Was it within the last year?
19 A. Yes, it was within the last year.
20 Q. Was it after the SEC filed the case that
21 you're testifying in today?
22 A. Yes.
23 Q. And do you know of a woman named Shannon
24 Westhead?
25 A. Yes.

52

1 Q. And she was an employee of one of
2 Mr. Vagnozzi's companies, A Better Financial Plan?
3 A. That was my understanding, yes.
4 Q. And she -- she had retained you as well,
5 correct?
6 A. Yes, that's correct.
7 Q. And she retained you for a fund
8 registration in a fund called Pisces Income Fund?
9 A. Yes, that's correct.
10 Q. And that was in 2019?
11 A. I don't recall when that was.
12 Q. Your retainer letter with her would
13 reflect the date?
14 A. Yes.
15 Q. And Ms. Westhead never retained you for
16 any matter other than opening the fund Pisces Income
17 Fund, correct?
18 A. Yes, that's correct.
19 Q. She never retained you in connection with
20 A Better Financial Plan, correct?
21 A. Yes, that's correct.
22 MS. BERLIN: I wonder if we could please
23 show what I've premarked Exhibit 2.
24 MS. SILVER: Okay.
25 MS. BERLIN: Thanks, Natalie.

53

1 (Thereupon, marked as Exhibit 2.)
2 BY MS. BERLIN:
3 Q. Mr. Pauciulo, do you see a document on
4 your screen that says Deposition Exhibit 2?
5 A. Yes, I do.
6 Q. Okay. Is Deposition Exhibit 2 the
7 subpoena the SEC issued to you in the SEC versus
8 Complete Business Solutions Group case?
9 A. I'm sorry, I don't think I understood your
10 question, or it didn't come through clearly.
11 Can you repeat it, please?
12 Q. Sure. I'll ask it a different way.
13 Mr. Pauciulo, this is the subpoena that
14 you received to produce documents and appear in the
15 SEC versus Complete Business Solutions Group case,
16 correct?
17 A. Yes, it appears to be a copy of a subpoena
18 that I received.
19 Q. And did you produce all of the documents
20 responsive to each of the requests in this subpoena?
21 MS. RECKER: Object to the form.
22 A. I helped assemble documents responsive to
23 the subpoena and provided copies of those documents
24 to my counsel for production.
25 MS. BERLIN: I wonder if we can scroll

54

1 down to the subpoena. Natalie, can you keep
2 scrolling? I'll tell you where to stop. We're
3 going to get to the -- can you scroll down?
4 And I see it doesn't have the notice of
5 documents attached to it. Exhibit 2 is three
6 pages long.
7 BY MS. BERLIN:
8 Q. So Mr. Pauciulo, we'll come back to this
9 issue about the subpoena productions at the end of
10 the deposition today, and during our lunch break,
11 we'll amend this to add the section that was
12 requesting specific documents.
13 MS. BERLIN: Thank you, Natalie. We can
14 take that off the screen.
15 MS. RECKER: I just want to make a
16 clarification. You've shown a subpoena to John
17 Pauciulo and the request, I don't believe you
18 identified what was requested because what was
19 requested were Eckert Seamans documents, not
20 personal documents of John Pauciulo.
21 MS. BERLIN: So yes, I was just saying
22 that we're going to come back to this issue at
23 the end of the deposition because we have the
24 wrong subpoena that was shown. So we'll come
25 back to that at the end of the deposition and

55

1 speak with Mr. Pauciulo about it at that time.
2 BY MS. BERLIN:
3 Q. So turning now to Complete Business
4 Solutions Group.
5 Initially, Mr. Vagnozzi had a finder's
6 agreement with Complete Business Solutions Group,
7 correct?
8 MS. RECKER: Object to the form.
9 And to the extent that this requires you
10 to reveal attorney-client privileged
11 information, I would instruct you not to
12 answer.
13 BY MS. BERLIN:
14 Q. Mr. Pauciulo, did you prepare for a fee a
15 finder agreement for Mr. Vagnozzi and Complete
16 Business Solutions Group?
17 MS. RECKER: Object to the form.
18 And to the extent that this requires you
19 to reveal attorney-client privileged
20 communication, I would instruct you not to
21 answer.
22 A. On advice of counsel, I cannot answer that
23 question.
24 BY MS. BERLIN:
25 Q. And can you identify any anticipated

56

1 litigation that is at issue in you raising the
2 privilege?
3 MS. RECKER: Object to the form and object
4 to the extent that this reveals privileged
5 communications, I would instruct you not to
6 answer.
7 A. On advice of counsel, I cannot answer that
8 question.
9 BY MS. BERLIN:
10 Q. Mr. Vagnozzi, did you ever -- did you
11 draft a finder's agreement in anticipation of
12 litigation?
13 MS. RECKER: Object to the form. His name
14 is Pauciulo and not Vagnozzi.
15 BY MS. BERLIN:
16 Q. Oh, I'm sorry.
17 Mr. Pauciulo, did you draft a finder's
18 agreement for Mr. Vagnozzi in anticipation of
19 litigation?
20 MS. RECKER: Object to the form and object
21 to the extent that this would require you to
22 reveal privileged communication, I would
23 instruct you not to answer.
24 A. On advice of counsel, I cannot answer that
25 question.

57

1 BY MS. BERLIN:
2 Q. I just want to be clear. Are you raising
3 an attorney-client privilege -- just so the record
4 is clear that you're raising an attorney-client
5 privilege as the basis for not answering the
6 question of whether you drafted a finder's agreement
7 between Complete Business Solutions Group and Par
8 Funding?
9 A. Yes, that's correct.
10 THE WITNESS: Can we take like five
11 minutes?
12 MS. BERLIN: No. It's almost noon. If
13 you need a personal break real quick because I
14 don't --
15 THE WITNESS: That's fine. If you want to
16 go till noon, I can wait.
17 MS. BERLIN: Is that okay?
18 THE WITNESS: That's fine. I'd like to
19 take a personal break, but if we want to wait
20 until the noon hour and then break for lunch,
21 that's perfect.
22 MS. BERLIN: Mr. Pauciulo, we'll break
23 now. That's just 12 minutes from now, so why
24 don't we take our break. We'll take it now.
25 THE WITNESS: We used to go for car rides

58

1 when I was a kid and my dad refused to stop to
2 go to the restroom, and he'd be like, we're
3 going.
4 So if we want to go to noon and then take
5 a break, that's fine.
6 MS. BERLIN: No. No, I definitely can't
7 do that to you. No, I can't. We're stopping.
8 We're going to break right now. We're going to
9 do a quick lunch.
10 Is 30 minutes enough time for everybody to
11 do what they need to do to grab a lunch or
12 whatever they need to do? If we come back on
13 the record at like 12:20, is that okay?
14 MS. RECKER: Works for me.
15 THE WITNESS: Yeah, sure.
16 MS. BERLIN: Okay. So I'll see you all at
17 12:20.
18 (At this time, a luncheon recess was taken
19 from 11:50 a.m. to 12:28 p.m.)
20 MS. BERLIN: I wonder if we could please
21 show what I premarked as Exhibit 3.
22 MS. SILVER: Okay.
23 MS. BERLIN: Thanks, Natalie.
24 (Thereupon, marked as Exhibit 3.)
25

59

1 BY MS. BERLIN:
2 Q. Mr. Pauciulo, I'm showing you a
3 declaration of Lori Boyogueno from the Pennsylvania
4 Department of Banking and Securities Bureau of
5 Securities Compliance and Examination. And for
6 purposes of today's deposition, I'll just refer to
7 that agency as the Pennsylvania securities
8 regulators.
9 Do you understand?
10 A. Yes, I understand.
11 MS. BERLIN: Okay, great. I wondered if
12 we could, please, scroll to LORI PDF page 2.
13 Scroll down to the next page. Thank you.
14 BY MS. BERLIN:
15 Q. And I'm showing you -- do you see at the
16 top it says "justification for issuance of
17 subpoena." It's dated January 4th, 2018.
18 A. Yes, I see that.
19 Q. Okay. And do you also see it's in
20 connection with a subpoena that the Pennsylvania
21 securities regulators were issuing to Complete
22 Business Solutions Group, I think?
23 A. Yes, I see that.
24 Q. Okay. Can we turn to the next page,
25 please?

60

1 MS. BERLIN: Thank you, Natalie.
 2 BY MS. BERLIN:
 3 Q. Do you see up at the top it says
 4 "justification"?
 5 A. Yes, I see the word "justification."
 6 Q. Okay. And I just wanted to turn your
 7 attention, please, to the second full paragraph on,
 8 this is PDF page 3 of Exhibit 3. And do you see
 9 where the Pennsylvania securities regulators are
 10 stating that one of the justifications for issuing
 11 the subpoena to Complete Business Solutions Group is
 12 that it received a customer complaint --
 13 (Technical interruption.)
 14 BY MS. BERLIN:
 15 Q. I'll back up just for a minute.
 16 Mr. Pauciulo, you were representing Dean Vagnozzi in
 17 January 2018, correct?
 18 A. Yes, that's correct.
 19 Q. And do you see the second full paragraph
 20 on page 3 of Exhibit 3 where the Pennsylvania
 21 securities regulators are providing the
 22 justification for the subpoena to CBSG and stating
 23 that they had received a complaint in March of 2017
 24 concerning Mr. Vagnozzi and his advertisement of
 25 investments concerning Par Funding or Complete

61

1 Business Solutions Group? Do you see that?
 2 A. Yes, I do see that.
 3 Q. Did there come a time when you became
 4 aware of the fact that the Pennsylvania securities
 5 regulators had issued a subpoena to Par Funding
 6 based in part on complaints about Mr. Vagnozzi?
 7 MS. RECKER: Objection, and to the extent
 8 that your answer would reveal attorney-client
 9 privileged information, I would instruct you
 10 not to answer.
 11 MR. MILLER: This is Brian Miller. I
 12 object to the form.
 13 BY MS. BERLIN:
 14 Q. So Mr. Pauciulo?
 15 A. I'm unaware of any subpoena issued by the
 16 Pennsylvania securities regulators to CBSG and/or
 17 Par.
 18 Q. So is this the first time that you've seen
 19 any document in connection with the subpoena issued
 20 to Par Funding?
 21 A. Yes, that's correct.
 22 Q. And you had no knowledge that the -- that
 23 the securities -- the Pennsylvania securities
 24 regulators had issued a subpoena to them?
 25 A. Yes --

62

1 MS. RECKER: Object to the form.
 2 A. Yes, that's correct.
 3 BY MS. BERLIN:
 4 Q. Did there come a time when you became
 5 aware that the Pennsylvania securities regulators
 6 were investigating Par Funding?
 7 MS. RECKER: Objection to the form. And
 8 to the extent that your answer would reveal
 9 attorney-client privileged information, I would
 10 instruct you not to answer.
 11 A. Can you restate the question, please?
 12 BY MS. BERLIN:
 13 Q. Sure.
 14 Did there come a time when you became
 15 aware that the Pennsylvania securities regulators
 16 were investigating Par Funding?
 17 MS. RECKER: Objection to the form and
 18 assert privilege to the extent your answer
 19 would reveal attorney-client privileged
 20 information.
 21 A. I became aware that there had been an
 22 investigation after reading articles in the press
 23 regarding a settlement between CBSG and Pennsylvania
 24 state regulators.
 25

63

1 BY MS. BERLIN:
 2 Q. And so you -- you were unaware of anything
 3 about an investigation until a settlement became
 4 public?
 5 MS. RECKER: Object to the form.
 6 A. I became aware of a settlement that was
 7 publicly announced and I recall reading an article
 8 about the settlement.
 9 BY MS. BERLIN:
 10 Q. And approximately when did you -- and
 11 we're talking about the settlement, but just for
 12 clarity, are you referring to an order to show cause
 13 that the Pennsylvania securities regulators had
 14 issued concerning Par Funding?
 15 MS. RECKER: Object to the form.
 16 A. No, I'm -- I'm referring to a document
 17 that evidenced some sort of settlement between the
 18 Pennsylvania securities regulators and CBSG.
 19 BY MS. BERLIN:
 20 Q. And did you become aware of that, was it
 21 in approximately November 2018?
 22 MS. RECKER: Object to the form. And to
 23 the extent that your answer would reveal
 24 attorney-client privileged information, I would
 25 instruct you not to answer.

64

1 BY MS. BERLIN:
 2 Q. Mr. Pauciulo?
 3 A. I am considering your question.
 4 Q. Oh, okay. I'm sorry. I wasn't -- I
 5 wasn't sure.
 6 A. I apologize for speaking slowly and being
 7 deliberate.
 8 Q. No, let me ask it another way. Let me --
 9 let me ask it another way.
 10 When did you -- when did you read the
 11 article about a settlement between the Pennsylvania
 12 securities regulators and Par Funding?
 13 A. I don't recall the specific date on which
 14 I read an article concerning the settlement between
 15 the Pennsylvania state regulators and Par Funding.
 16 But that said, my recollection is that I read the
 17 article in a matter of days or maybe a week or two
 18 after the article had been published.
 19 Q. Did there come a time when you --
 20 MS. BERLIN: And, Natalie, we can take
 21 down this exhibit.
 22 BY MS. BERLIN:
 23 Q. Did there come a time that you became
 24 aware that the New Jersey securities regulators had
 25 instituted an action against Par Funding?

65

1 MS. RECKER: Objection. To the extent
 2 that your answer would reveal attorney-client
 3 privileged information, I would instruct you
 4 not to answer.
 5 A. Yeah, on advice of counsel, I cannot
 6 answer that question.
 7 BY MS. BERLIN:
 8 Q. And is that on the basis of -- are you
 9 raising an attorney-client privilege on behalf of
 10 one of your clients?
 11 A. Yes, that's correct.
 12 Q. And which client?
 13 A. Dean Vagnozzi.
 14 Q. And can you please provide the name of the
 15 person making the communication that you're claiming
 16 is privileged?
 17 A. Dean Vagnozzi.
 18 Q. And can you please name the person or
 19 persons who were present when that communication was
 20 made?
 21 A. Well, your question assumes that someone
 22 else was present.
 23 Q. If the answer is no one, then, you know,
 24 just you can -- you can -- was anyone present when
 25 Mr. Vagnozzi made this communication to you?

66

1 A. Well, you're sort of putting the rabbit in
 2 the hat, right, by assuming the communication and we
 3 asserted privilege. So I -- I don't know how to
 4 answer that.
 5 Q. So my -- my question was, the name of the
 6 person making the communication that you're claiming
 7 was privileged, you stated was Mr. Vagnozzi.
 8 And so my next question is the names of
 9 any person who was present while that communication
 10 from Mr. Vagnozzi was made.
 11 A. No other person was present.
 12 Q. And can you please provide the date and
 13 the place of that communication that you're claiming
 14 is attorney-client privileged?
 15 A. I don't recall the date.
 16 Q. And what about the place?
 17 A. I believe I was in my office.
 18 Q. And can you tell me the general subject
 19 matter of the communication that you're claiming is
 20 privileged?
 21 A. The subject matter was the New Jersey
 22 settlement between Par Funding and the New Jersey
 23 state securities regulators.
 24 Q. And are you aware, sitting here today,
 25 that there was a case between the New Jersey

67

1 securities regulators against Par Funding?
 2 MS. RECKER: Object to the form.
 3 A. I -- I'm not sure I understand your
 4 question. Are you asking me do I know now today as
 5 I sit here that there was such a question? Is that
 6 your question?
 7 BY MS. BERLIN:
 8 Q. Yes, yes.
 9 A. Yes, I am aware that there was a
 10 regulatory action -- excuse me -- commenced by New
 11 Jersey securities regulators with regard to Par
 12 Funding.
 13 Q. And when did you learn about that?
 14 A. I don't recall specifically when I learned
 15 about it. Again, I believe there was some public
 16 announcement or article in the press about it and I
 17 learned about it sometime thereafter.
 18 Q. So I'll proffer to you that that action
 19 was in December 2018.
 20 Would you have learned about it shortly
 21 after that? Or -- I mean, I recognize you don't
 22 know the date that you might have learned about it,
 23 but can you provide an approximate time frame or
 24 even a year?
 25 A. I -- I recognize that the public

68

1 announcement was sometime in December of 2018. I
 2 don't recall the specific date on which I learned
 3 about it. To the best of my recollection, it was
 4 probably some number of days or weeks after the
 5 public announcement.
 6 **Q.** And did you learn about the New Jersey
 7 securities regulatory action against Par Funding
 8 before it became public?
 9 **A.** No.
 10 **MS. RECKER:** Object to the form.
 11 **BY MS. BERLIN:**
 12 **Q.** And did you -- do you have an
 13 understanding that the Pennsylvania and New Jersey
 14 securities regulatory actions against Par Funding
 15 concerned violations of the state securities rules
 16 and regulations?
 17 **MS. RECKER:** Object to the form.
 18 **A.** I'm not sure I understood your question.
 19 **BY MS. BERLIN:**
 20 **Q.** Okay. We'll break it down. The
 21 Pennsylvania securities regulatory action of
 22 November 2018, let's talk about that one first.
 23 Did you read -- did you read the -- the
 24 papers in that case?
 25 **MS. RECKER:** Object to the form.

69

1 **A.** I don't recall whether I read the actual
 2 filings or what. You used the term "papers." I'm
 3 not sure what you mean by "papers." I recall
 4 reading, you know, published media account of the
 5 matter. I don't recall whether I read the actual
 6 documents related to the case.
 7 **BY MS. BERLIN:**
 8 **Q.** And -- and what was your understanding of
 9 what the findings were or the settlement was in the
 10 Pennsylvania regulatory action against Par Funding?
 11 **A.** In the Pennsylvania action, my
 12 understanding was that the Pennsylvania regulators
 13 asserted the position that Par Funding had sold
 14 securities without registering them and without
 15 satisfactorily complying with an exemption for
 16 registration, and that the case was settled on a no
 17 admit/no deny basis.
 18 **Q.** And that the -- with respect to the New
 19 Jersey action, did you understand that that also
 20 involved a state securities regulator and Par
 21 Funding's alleged violation of the New Jersey state
 22 securities rules and regulations?
 23 **MS. RECKER:** Object to the form.
 24 **A.** Yes, my understanding was that the gist of
 25 the New Jersey regulatory action was very similar

70

1 to, if not the same as the gist of the Pennsylvania
 2 regulatory action.
 3 **BY MS. BERLIN:**
 4 **Q.** And are you aware of the May 2019
 5 settlement between Dean Vagnozzi doing business as A
 6 Better Financial Plan and the Pennsylvania
 7 securities regulators for violations of state
 8 securities rules and regulations?
 9 **A.** I'm aware that the Pennsylvania state
 10 regulators asserted claims against Dean Vagnozzi
 11 with regard to potential violations of the
 12 Pennsylvania securities laws, and I'm generally
 13 aware that that matter was settled on a no admit/no
 14 deny basis.
 15 **Q.** And prior to the settlement, did you
 16 become aware of the Pennsylvania securities
 17 regulators investigation of Mr. Vagnozzi?
 18 **MS. RECKER:** Objection. To the extent
 19 that that answer would reveal attorney-client
 20 privileged information, I would instruct you
 21 not to answer it and I object to the form.
 22 **A.** I cannot answer that question.
 23 **BY MS. BERLIN:**
 24 **Q.** Did you represent Mr. Vagnozzi in
 25 connection with the Pennsylvania securities

71

1 regulators action that manifested in a settlement in
 2 May 2019?
 3 **A.** Yes, I did.
 4 **Q.** And the communication that you're claiming
 5 is privileged, was that from Mr. Vagnozzi?
 6 **A.** Yes, that's correct.
 7 **Q.** And with respect to -- that investigation
 8 also concerned A Better Financial Plan; is that
 9 correct?
 10 **MS. RECKER:** Object to the form.
 11 **A.** I don't recall whether it also involved
 12 the entity known as abetterfinancialplan.com, LLC.
 13 **BY MS. BERLIN:**
 14 **Q.** Well, you were A Better Financial Plan's
 15 counsel during the Pennsylvania securities
 16 regulators investigation --
 17 **MS. RECKER:** Object to the form.
 18 **BY MS. BERLIN:**
 19 **Q.** -- of Mr. Vagnozzi doing business as A
 20 Better Financial Plan, correct?
 21 **MS. RECKER:** Object to the form.
 22 **A.** I represented abetterfinancialplan.com,
 23 LLC, from time to time in various matters. I simply
 24 don't recall whether that entity was a party to the
 25 Pennsylvania action.

72

1 BY MS. BERLIN:
 2 Q. And the Pennsylvania regulatory action,
 3 did that result in any sort of sanction or fine
 4 against Mr. Vagnozzi?
 5 MS. RECKER: Object to the form.
 6 MR. MILLER: This is Mr. Miller. I object
 7 to the form.
 8 A. Yes, there was a regulatory sanction that
 9 was issued as part of a public order.
 10 BY MS. BERLIN:
 11 Q. Did you understand that the Pennsylvania
 12 regulatory action against Par Funding resulted in
 13 any sort of sanction or fine with respect to Par
 14 Funding?
 15 A. Yes, from what I read in the media
 16 account, there was some sanction against Par
 17 Funding.
 18 Q. And similarly, with respect to the New
 19 Jersey securities regulatory action of December 2018
 20 and Par Funding, did you understand that there was
 21 some sanction concerning Par Funding?
 22 MS. RECKER: Object to the form.
 23 A. My understanding, that there were some
 24 sanctions assessed against Par Funding by the New
 25 Jersey state securities regulators based on my

73

1 reading of the news articles.
 2 BY MS. BERLIN:
 3 Q. Did there come a time when you became
 4 aware of the Texas state security board issuance of
 5 a cease and desist order against Par Funding?
 6 MS. RECKER: Objection. To the extent
 7 that your answer would reveal attorney-client
 8 privileged information, I would instruct you
 9 not to answer.
 10 A. On the advice of counsel, I cannot answer
 11 that question.
 12 BY MS. BERLIN:
 13 Q. Mr. Vagnozzi -- I mean Mr. Pauciulo, were
 14 you Mr. Vagnozzi's counsel in connection with any
 15 proceeding that the Texas Securities Board has had
 16 concerning Mr. Vagnozzi?
 17 A. I provided some advice to Dean Vagnozzi
 18 about the Texas state regulatory action, but
 19 referred Dean Vagnozzi to counsel licensed to
 20 practice in Texas.
 21 Q. And when did you become aware of the Texas
 22 Security Board's action?
 23 And when I say the Texas Security Board
 24 action, I'm referring to the February 25, 2020 cease
 25 and desist order that the Texas Security Board

74

1 issued against Par Funding, Perry Abbonizio, it
 2 concerned A Better Financial Plan and others.
 3 Do you understand which cease and desist
 4 order I'm referring to?
 5 MS. RECKER: Object to the form. And to
 6 the extent that the answer requires you to
 7 reveal attorney-client privileged information,
 8 I would instruct you not to answer.
 9 A. On the advice of counsel, I cannot answer
 10 that question.
 11 BY MS. BERLIN:
 12 Q. Just one moment.
 13 MS. RECKER: I couldn't hear what you just
 14 said, Counsel.
 15 MS. BERLIN: I said just one moment,
 16 please.
 17 MS. RECKER: Okay.
 18 BY MS. BERLIN:
 19 Q. So when did you refer Mr. Vagnozzi to
 20 counsel in Texas?
 21 A. I don't recall the specific date on which
 22 I referred Mr. Vagnozzi to counsel in Texas, but it
 23 would have been very shortly after the filing in
 24 February 2020.
 25 Q. I think you might have cut off or you're

75

1 muted.
 2 A. Do you need me to repeat my answer?
 3 Q. Yes. Sorry, I think you were muted. I
 4 didn't hear the end of your answer.
 5 A. We may have been disconnected, but I don't
 6 think we went on mute. Again, my -- my response to
 7 your question was that I don't recall the specific
 8 date on which I referred Dean Vagnozzi to Texas
 9 counsel in connection with the Texas regulatory
 10 matter, but it would have been sometime very shortly
 11 after the matter was filed. Excuse me.
 12 Q. And did you have -- have you ever reviewed
 13 the matter?
 14 And when we say "the matter," I'm
 15 referring to the cease and desist order that the
 16 Texas securities regulators issued in February 2020.
 17 A. I did review the order.
 18 Q. And so approximately when did you review
 19 that order?
 20 MS. RECKER: Object to the form.
 21 A. I don't recall specifically when I
 22 reviewed the order, but I do recall that I reviewed
 23 it some number of days after it was issued.
 24 BY MS. BERLIN:
 25 Q. Do you also represent -- there's --

76

1 there's another party to that case named Gary
2 Beasley.
3 Are you familiar with them?
4 **A.** I'm familiar with an individual named Gary
5 Beasley.
6 **Q.** And he's also -- he's a respondent in that
7 Texas action of the cease and desist order in
8 February 2020?
9 **A.** Yes. Gary Beasley is a named party in
10 that action.
11 **Q.** And are you his counsel as well?
12 **A.** Not in connection with the Texas action.
13 **Q.** Were you his attorney in connection with
14 the fund he had to raise money that he was then
15 using to purchase promissory notes from Complete
16 Business Solutions Group?
17 **MS. RECKER:** Object to the form.
18 **A.** I represented Gary Beasley in connection
19 with the formation of an entity and preparation of a
20 private placement memorandum and other offering
21 materials.
22 **BY MS. BERLIN:**
23 **Q.** And -- and that private placement
24 memorandum was used to raise money from investors to
25 then invest into Complete Business Solutions Group

77

1 in exchange for promissory notes, correct?
2 **MS. RECKER:** Object to the form.
3 **A.** Yeah, I don't know that I can answer that
4 based on attorney-client privilege. To my
5 knowledge, Mr. Beasley hasn't waived privilege. I
6 don't think I could talk about what work I did or
7 didn't do for him.
8 **BY MS. BERLIN:**
9 **Q.** Okay. So are you raising an attorney work
10 product privilege?
11 **A.** I -- I think both with regard
12 communications and work product.
13 **Q.** Okay. With respect to work product, the
14 question I asked about whether or not he was raising
15 money from investors to invest in Par Funding, is
16 your attorney work product based on work that you
17 did in anticipation of litigation? And if so, what
18 litigation?
19 **MS. RECKER:** Object to the form.
20 **A.** The work that I did on behalf of
21 Mr. Beasley with regard to fund formation was not
22 done in anticipation of any litigation.
23 **BY MS. BERLIN:**
24 **Q.** Okay. Now, you also represented
25 Mr. Vagnozzi in connection with the Securities and

78

1 Exchange Commission's investigation of Dean Vagnozzi
2 concerning Fallcatcher; is that correct?
3 **MS. RECKER:** Object to the form.
4 **A.** Yes, I represented Mr. Vagnozzi in
5 connection with the SEC investigation with respect
6 to Dean Vagnozzi's involvement with a company called
7 Fallcatcher.
8 **BY MS. BERLIN:**
9 **Q.** And during the -- during the SEC's
10 investigation of Mr. Vagnozzi in Fallcatcher, you
11 responded to subpoenas issued by the SEC to
12 Mr. Vagnozzi, correct?
13 **MS. RECKER:** Object to the form and object
14 to the extent that it requires you to reveal
15 attorney-client information and work product, I
16 would instruct you not to answer.
17 **MR. MILLER:** I join.
18 **A.** On advice of counsel, I cannot answer that
19 question.
20 **BY MS. BERLIN:**
21 **Q.** Mr. Pauciulo, do you understand that I'm
22 asking you if you responded to the SEC in response
23 to subpoenas issued to your client? I just want
24 to -- do you -- do you understand my question?
25 **MS. RECKER:** Same objection.

79

1 **MS. BERLIN:** Ms. Recker, are you claiming
2 that me asking if he understands that question
3 is attorney-client privilege?
4 **MS. RECKER:** Well, you're asking if he
5 understands a question, and the question has
6 substance to it, and that's what I'm objecting
7 to.
8 **BY MS. BERLIN:**
9 **Q.** Okay. So just let's go back to the
10 question I just asked, and I'm asking this in
11 isolation. Mr. Pauciulo, do you understand that my
12 question concerns is simple. Did you respond to the
13 SEC in response to subpoenas issued to your client,
14 Dean Vagnozzi?
15 **MS. RECKER:** I object to the form. And to
16 the extent that your answer implicates
17 attorney-client privileged and/or work product,
18 I would instruct you not to answer.
19 **A.** Yeah, on advice of counsel, I can't answer
20 that question. You're asking what services we
21 provided to Mr. Vagnozzi, and my understanding is
22 that's privileged.
23 **BY MS. BERLIN:**
24 **Q.** That's not -- that wasn't my question.
25 My question was whether you responded to

80

1 the SEC in response to subpoenas issued to
 2 Mr. Vagnozzi. That's why I was asking it a few
 3 times to make sure you understood my question that
 4 you're asserting privilege to.
 5 Do you understand the question I'm asking?
 6 My question is, did you send letters and respond to
 7 the SEC after you received subpoenas issued to
 8 Mr. Vagnozzi?
 9 MS. RECKER: Object to the form.
 10 A. I recall that -- well, I don't think I can
 11 answer that. I think that's all subject to
 12 attorney-client privilege.
 13 BY MS. BERLIN:
 14 Q. Okay. And so you're raising
 15 attorney-client -- so you're raising attorney-client
 16 privilege or attorney work product or both?
 17 A. Both.
 18 Q. So your response to the SEC, can you
 19 please tell me the name of the person who would have
 20 made the communication.
 21 MS. RECKER: Object to the form. What
 22 communication?
 23 MS. BERLIN: The communication he's
 24 claiming privilege over.
 25 MS. RECKER: Object to the form.

81

1 A. I don't understand your question.
 2 BY MS. BERLIN:
 3 Q. So okay. Let me -- let me back up. Let
 4 me back up. My question was a simple one.
 5 It was, did you respond to the SEC, you
 6 meaning John Pauciulo, did you respond to the SEC
 7 when we sent subpoenas to your client, Dean
 8 Vagnozzi?
 9 You asserted that that is attorney-client
 10 privileged and that it's also attorney work product
 11 whether or not you sent responses to the SEC.
 12 So you asserted a privilege about your
 13 responses to the SEC, and now I'm going to probe
 14 your assertion of the privilege for the record, for
 15 the magistrate judge. So under our local rule
 16 26.1(f), I am asking you -- I'm going to ask you the
 17 same questions under our local rule each time you
 18 assert it. I'm not trying to be difficult, it's
 19 just what's required.
 20 The name of the person who made this
 21 communication to the SEC that is the basis of
 22 your -- your privilege assertion.
 23 A. I'm not entirely sure that I understand
 24 your question. To the extent that there was a
 25 communication made -- I don't know if you are asking

82

1 whether I, John Pauciulo, personally, in my capacity
 2 for Dean Vagnozzi, made the communication, or
 3 whether other Eckert Seamans' attorneys in their
 4 capacity as counsel for -- for Dean Vagnozzi made
 5 the communication. I'm not quite sure what you are
 6 trying to -- the information you're trying to
 7 elicit.
 8 Q. So I'll ask the question again. And I
 9 think I said this before, but I'm going to say it
 10 again.
 11 My question is whether you, John Pauciulo,
 12 responded to the Securities and Exchange Commission
 13 in response to subpoenas issued to your client, Dean
 14 Vagnozzi, in the Fallcatcher investigation?
 15 MS. RECKER: Object to the form.
 16 A. I don't remember. I don't recall.
 17 BY MS. BERLIN:
 18 Q. Okay. That's --
 19 MS. BERLIN: So I wonder, Natalie, if you
 20 could please pull up Exhibit 4.
 21 MS. SILVER: Okay.
 22 (Thereupon, marked as Exhibit 4.)
 23 BY MS. BERLIN:
 24 Q. I am showing you a subpoena that the SEC
 25 issued July 17, 2018, and we sent it to A Better

83

1 Financial Plan, LLC, care of you, Mr. Pauciulo.
 2 Do you see that?
 3 A. Yes, I see that.
 4 Q. Okay. And you understand that A Better
 5 Financial Plan is now in receivership and the
 6 receiver has waived attorney -- has waived privilege
 7 completely with respect to your representation of A
 8 Better Financial Plan.
 9 Do you understand that?
 10 A. I understand that.
 11 Q. Okay. And this is a subpoena to which you
 12 responded to the SEC after you received it, correct?
 13 MS. RECKER: Object to the form.
 14 A. I don't recall.
 15 MS. BERLIN: Okay. Natalie, I wonder if
 16 you could please turn to PDF page 9.
 17 BY MS. BERLIN:
 18 Q. The SEC subpoena included a long list of
 19 documents to produce that was fairly broad. It
 20 included, you'll see in Item No. 1, all documents
 21 and communications concerning Fallcatcher, including
 22 offering documents, agreements, contracts, marketing
 23 materials. It also included -- basically it's
 24 including a very broad range of any offering --
 25 offering material documents.

84

1 Do you see that?
 2 **A.** Yes, I see the document on the screen.
 3 **Q.** Okay. Mr. Vagnozzi, in August, during the
 4 course of the investigation of Fallcatcher, you had
 5 numerous communications with the SEC staff; is that
 6 correct?
 7 **MS. RECKER:** You referred to him as
 8 Mr. Vagnozzi.
 9 **BY MS. BERLIN:**
 10 **Q.** I'm sorry. Mr. Pauciulo, in connection
 11 with the Fallcatcher investigation, you had numerous
 12 communications with the SEC staff; isn't that
 13 correct?
 14 **MS. RECKER:** Object to the form.
 15 **A.** Yeah, I don't know what you mean by
 16 "numerous." We certainly had -- I certainly had
 17 communications with the SEC staff in connection
 18 with -- with this matter as well as some of my
 19 colleagues at Eckert Seamans.
 20 **BY MS. BERLIN:**
 21 **Q.** And in August 2018, after receiving this
 22 subpoena, did you represent, you personally, I'm
 23 saying you -- when I say you for the whole day, I'm
 24 talking about John Pauciulo.
 25 Do you understand that?

85

1 **A.** I understand what you said.
 2 **Q.** Okay. So did you represent to the SEC in
 3 August 2018 that there were no investors in
 4 Fallcatcher?
 5 **MS. RECKER:** Object to the form.
 6 **A.** I don't recall.
 7 **BY MS. BERLIN:**
 8 **Q.** Did you represent to the SEC staff in
 9 August 2018 after receiving this -- this subpoena
 10 that we see as Exhibit 4, that there was at that
 11 time no offering for Fallcatcher?
 12 **MS. RECKER:** Object to the form.
 13 **A.** I don't recall.
 14 **BY MS. BERLIN:**
 15 **Q.** Mr. Pauciulo, would you agree with me that
 16 by August 2018 you were actually drafting the
 17 private placement memorandum for Fallcatcher?
 18 **MS. RECKER:** Objection. To the extent
 19 that this requires privileged communications, I
 20 would instruct you not to answer. And to the
 21 extent that it invokes work product privilege,
 22 I would also instruct you not to answer.
 23 **A.** Yeah, on the advice of counsel, I cannot
 24 answer that question.
 25

86

1 **BY MS. BERLIN:**
 2 **Q.** Okay. So as for the work product
 3 privilege -- well, are you asserting work product
 4 privilege?
 5 **A.** I'm asserting attorney-client privilege.
 6 **Q.** Okay. So you're --
 7 **A.** I want to confer -- I want to confer with
 8 counsel.
 9 **Q.** Sure.
 10 **A.** I need two minutes.
 11 **Q.** Absolutely. No problem.
 12 **MS. BERLIN:** Denise, can we go off the
 13 record.
 14 (A discussion was held off the record.)
 15 **BY MS. BERLIN:**
 16 **Q.** Mr. Pauciulo, are you prepared to answer?
 17 **A.** Yes. I'll -- I'll restate and clarify my
 18 answer. I cannot answer that question based on
 19 attorney-client privilege and work product
 20 privilege.
 21 **Q.** Okay. And with respect to work product
 22 privilege, what are you -- are you claiming
 23 privilege over the private placement memorandum for
 24 Fallcatcher?
 25 **MS. RECKER:** Object to the form. And to

87

1 the extent that your answer reveals work
 2 product privileged material, I would instruct
 3 you not to answer.
 4 **A.** On the advice of counsel, I cannot answer
 5 your question.
 6 **BY MS. BERLIN:**
 7 **Q.** Did you prepare -- the materials you're
 8 claiming privilege over, did you prepare them in
 9 anticipation of litigation?
 10 **MS. RECKER:** Object to the form.
 11 **A.** What -- what -- to what materials are you
 12 referring?
 13 **BY MS. BERLIN:**
 14 **Q.** The question that you asserted privilege
 15 to is -- was my question about whether you were
 16 drafting PP -- the private placement memorandum for
 17 Fallcatcher by August 2018. You asserted privilege
 18 over that.
 19 So my question is -- I'm trying to find
 20 out what are you asserting -- what -- what is
 21 privileged? Is it the PPM that's privileged that
 22 you're claiming attorney work product over? And if
 23 so, my question is, did you -- like, was that
 24 created in anticipation of litigation?
 25 **MS. RECKER:** Object to the form and object

88

1 to the extent that it reveals privileged and
 2 work product information.
 3 **A.** On advice of counsel, I cannot answer that
 4 question.
 5 **BY MS. BERLIN:**
 6 **Q.** So with respect to what you're claiming
 7 attorney work product over, and whether it's the
 8 private placement memorandum, I just want to make
 9 sure the record is clear, you're asserting -- am I
 10 correct in understanding that you're asserting a
 11 privilege in response to that question?
 12 **MS. RECKER:** Objection to the form. And
 13 to the extent that anything you would say would
 14 reveal attorney-client and work product
 15 privilege, I would instruct you not to answer.
 16 **A.** On advice of counsel, I cannot answer that
 17 question.
 18 **BY MS. BERLIN:**
 19 **Q.** And I -- unfortunately, I'm entitled and
 20 required to probe the things that are supposed to be
 21 disclosed under the federal rules when one raises a
 22 privilege.
 23 So I'm trying to ask those questions, and
 24 my understanding is you refuse to provide the
 25 information on the basis of privilege; is that

89

1 correct?
 2 **A.** Well, I object to your use of the word
 3 "refuse."
 4 **Q.** You're asserting a privilege in response
 5 to my questions about -- so let me ask you each one.
 6 Will you -- and if it's just privileged, just say
 7 so, but I would like to move on. I just need to
 8 understand -- all I'm trying to do is understand
 9 what you're raising a privilege to.
 10 The initial question was, by the end of
 11 August of 2018, you were actually drafting a private
 12 placement memorandum for Fallcatcher, correct?
 13 **MS. RECKER:** Object to the form.
 14 **BY MS. BERLIN:**
 15 **Q.** You have asserted --
 16 **MS. BERLIN:** I'm not finished with my
 17 question. I haven't finished my question.
 18 **BY MS. BERLIN:**
 19 **Q.** You asserted the privilege of
 20 attorney-client privilege and attorney work product
 21 privilege. I would first like to address your
 22 attorney work product privilege assertion.
 23 With respect to that assertion, are you --
 24 what specifically are you -- are you claiming about
 25 the -- I'm sorry.

90

1 Specifically on -- on the work product
 2 privilege, are you claiming that you drafted the
 3 private placement memorandum for Fallcatcher in
 4 anticipation of litigation?
 5 **MS. RECKER:** Object to the form. Object
 6 to the extent that the answer reveals
 7 attorney-client privileged information and work
 8 product information.
 9 **A.** On advice of counsel, I cannot answer that
 10 question.
 11 **BY MS. BERLIN:**
 12 **Q.** And Mr. Pauciulo, how many lawyers are
 13 representing you here today?
 14 **A.** I don't know.
 15 **Q.** We have Ms. Recker, that's one. Melanie
 16 Damian, I see her name, that's two, correct?
 17 Allison Leonard is three.
 18 Is Amy Carver another one of your lawyers?
 19 **A.** Yes.
 20 **Q.** Four. And Jay Dubow.
 21 That's five, correct?
 22 **A.** That is correct.
 23 **Q.** And you have two attorneys here,
 24 Ms. Damian and Ms. Leonard, who are -- who are
 25 actually members of the Bar here and presumably are

91

1 familiar with our local rules, correct?
 2 **A.** I can't speak to their experience or
 3 capabilities.
 4 **Q.** Well, you hired them.
 5 Are you aware of the fact that they are
 6 Florida lawyers and that they practice law in Miami,
 7 Florida?
 8 **A.** (Shaking head.)
 9 **Q.** You don't know? You're shaking your head.
 10 You don't know?
 11 **MS. RECKER:** Object to the form.
 12 **BY MS. BERLIN:**
 13 **Q.** Am I correct -- you just have to give a
 14 verbal answer.
 15 You don't know; is that correct, from you
 16 shaking your head?
 17 **MS. RECKER:** Object to the form.
 18 **A.** I have no direct knowledge of their board
 19 admissions or where they practice. I understand
 20 from one of my lawyers that --
 21 **MS. RECKER:** Objection. To the extent
 22 that you're going to reveal attorney-client
 23 privileged information, please don't.
 24 **A.** I can't answer your question further.
 25

92

1 BY MS. BERLIN:
2 Q. Okay, understood.
3 So on your attorney work product
4 privilege, I understand you won't disclose whether
5 you drafted it in anticipation of litigation.
6 With respect to your other -- the -- your
7 invocation of the privilege, does it concern any
8 oral communications?
9 MS. RECKER: Object to the form.
10 BY MS. BERLIN:
11 Q. Are you asserting privilege in response to
12 my question about whether you're drafting the
13 Fallcatcher PPM by August 2018 on the basis of oral
14 communications?
15 MS. RECKER: Object to the form.
16 A. I don't understand the question. I don't
17 understand what information you're trying to elicit.
18 BY MS. BERLIN:
19 Q. I'm trying to elicit the information
20 that's provided in our local rule that is supposed
21 to be provided when you assert a privilege. So I
22 apologize, I can tell it's frustrating you, but --
23 but if you'll just bear with me. And if you don't
24 know the answer, you can just say so. And if I am
25 not clear, please tell me and I'll try to rephrase.

93

1 Okay? Do you understand?
2 A. I'm not frustrated. I'm trying to answer
3 your questions to the best of my -- I'm trying to
4 answer your questions to the best of my ability.
5 Q. Okay. So are you -- when I asked you --
6 the question that's been pending for a while is just
7 whether you drafted the PPM for Fallcatcher, whether
8 you were drafting that by August 2018.
9 With respect to your attorney-client
10 privilege, is that based on oral communications --
11 MS. RECKER: Object to the form.
12 BY MS. BERLIN:
13 Q. -- with the client?
14 A. I don't understand your question.
15 Q. You're asserting the attorney-client
16 privilege with respect to whether you drafted a
17 document.
18 And so my question is, is it with respect
19 to oral or written communications with the client or
20 none of the above?
21 MS. RECKER: Object to the form.
22 A. I don't recall.
23 BY MS. BERLIN:
24 Q. Okay.
25 MS. BERLIN: Can we please -- Natalie, can

94

1 you please show Exhibit 5.
2 MS. SILVER: Okay.
3 MS. BERLIN: Thank you.
4 (Thereupon, marked as Exhibit 5.)
5 BY MS. BERLIN:
6 Q. Mr. -- Mr. Pauciulo, this is one of your
7 invoices to -- that you sent to Mr. Vagnozzi in 2018
8 from Eckert Seamans, correct?
9 A. Yes, that's what it appears to be.
10 Q. Thank you.
11 MS. BERLIN: Natalie, can you please turn
12 to Exhibit 5, PDF page 5.
13 Thank you. And so can you scroll down one
14 more page, Natalie. Thank you.
15 Natalie, can you go back up to page 1.
16 I'm sorry, PDF page -- wait. Wait. Down one.
17 Thank you.
18 BY MS. BERLIN:
19 Q. Now, in this -- in this invoice -- and do
20 your invoices accurately reflect the work you're
21 doing on matters?
22 A. Yes.
23 Q. Okay. So if -- if one of your invoices
24 shows that you're drafting the Fallcatcher PPM or
25 billing for it, is it safe to assume that you

95

1 actually were drafting a PPM on that date?
2 A. It's a reasonable assumption.
3 Q. So we can see -- let's -- we'll look at a
4 few things in Exhibit 5. The first is, do you see
5 on April 5, 2018 it states that you're meeting with
6 agents? Do you see that?
7 A. I see that time entry, yes.
8 Q. Okay. And what agents are you meeting
9 with in April of 2018?
10 MS. RECKER: Objection to form.
11 A. The word "agent" there refers to
12 individuals who were interested in forming an
13 investment fund.
14 BY MS. BERLIN:
15 Q. And is that an investment fund that would
16 issue promissory notes to people in exchange for
17 money?
18 MS. RECKER: Object to the form.
19 A. I don't recall whether -- at that point
20 sort of the structure of what the nature of the
21 securities would be issued, whether a debt
22 investment or an equity investment.
23 BY MS. BERLIN:
24 Q. Okay. Did you ever -- did you ever meet
25 with any agent funds that you were billing

96

1 Mr. Vagnozzi for or ABFP for that were offering a
 2 security other than a promissory note?
 3 MS. RECKER: Object to the form.
 4 MR. MILLER: Join.
 5 A. I'm sorry, can you repeat the question,
 6 please?
 7 BY MS. BERLIN:
 8 Q. Yeah. Hold on one -- just one moment,
 9 though.
 10 MS. BERLIN: Natalie, can you take down
 11 this exhibit for a moment.
 12 BY MS. BERLIN:
 13 Q. Now, the Fallcatcher investigation -- and
 14 when I say "Fallcatcher investigation," do you
 15 understand that I'm referring to the matter you
 16 represented ABFP, A Better Financial Plan and
 17 Mr. Vagnozzi in before the Securities and Exchange
 18 Commission in 2018 and 2019 and 2020?
 19 I -- I'm trying to give you a quick
 20 definition. Do you know -- if I say -- how about
 21 this, Mr. Pauciulo, because you look puzzled. If I
 22 say "the Fallcatcher investigation," I am referring
 23 to the matter that ultimately resulted in an order
 24 against your client in July 2020 in connection with
 25 the Fallcatcher offering.

97

1 Do you understand what I mean when I say
 2 "the Fallcatcher matter"?
 3 A. I understand what you mean when you say
 4 the Fallcatcher matter.
 5 Q. Thank you.
 6 Now, the Fallcatcher matter ultimately
 7 ended in a settled order being entered against
 8 Mr. Vagnozzi on July 14, 2020; is that correct?
 9 A. That is correct.
 10 MS. BERLIN: Natalie, could you please
 11 show Exhibit 6.
 12 MS. SILVER: Okay.
 13 MS. BERLIN: Thank you.
 14 (Thereupon, marked as Exhibit 6.)
 15 BY MS. BERLIN:
 16 Q. So this is a declaration of an investor.
 17 Mr. Beebe is his name.
 18 MS. BERLIN: And I wonder, Natalie, if you
 19 could please turn to PDF page 97.
 20 BY MS. BERLIN:
 21 Q. Mr. Pauciulo, do you see that on page 97
 22 of Exhibit 6 it is an e-mail dated July 17, 2020
 23 from Dean Vagnozzi?
 24 Do you see right below the line it says
 25 from Dean Vagnozzi, sent Friday, July 17, 2020 to

98

1 Dean Vagnozzi, subject, ABFP press release. Please
 2 read? Do you see that?
 3 A. Yes, I see that.
 4 Q. Have you seen this e-mail before today?
 5 A. No, I have not.
 6 Q. So you did not review a draft of this
 7 e-mail message?
 8 MS. RECKER: Object to the form. And to
 9 the extent that your answer reveals
 10 attorney-client privileged or work product
 11 privilege, I instruct you not to answer.
 12 A. I cannot answer that question.
 13 BY MS. BERLIN:
 14 Q. And -- and why? Can you -- can you state
 15 whatever -- if you're asserting a privilege, could
 16 you please state the privilege and the basis for the
 17 privilege?
 18 A. It's attorney-client privileged
 19 communication. You're asking me to disclose
 20 attorney-client privileged communication.
 21 Q. Mr. Pauciulo, did you -- did you read
 22 Mr. Vagnozzi's testimony in this case?
 23 MS. RECKER: Objection to the form.
 24 BY MS. BERLIN:
 25 Q. Do you understand the question,

99

1 Mr. Pauciulo?
 2 A. I understand your question, and I am -- I
 3 am thinking about it.
 4 I do not recall reading the transcript of
 5 Mr. Vagnozzi's testimony in this current matter.
 6 Q. But your testimony is that you are seeing
 7 this e-mail message that we have on PDF page 97 of
 8 Exhibit 6 for the first time today, correct?
 9 A. My testimony is that I have not seen this
 10 specific e-mail that you're displaying as Exhibit 6
 11 before.
 12 Q. And it's on PDF page 97 of Exhibit 6,
 13 correct? Do you see that?
 14 A. I don't see the page reference, but I
 15 haven't seen this specific e-mail before.
 16 Q. Okay. I'm just trying to make sure the
 17 record is clear, because this is a very lengthy
 18 exhibit. I am -- for the record, I am showing you
 19 PDF page 97 of 100. And if you look where the arrow
 20 is pointed, Natalie is pointing to you where it says
 21 the page number.
 22 Do you see that?
 23 A. I see that.
 24 Q. Okay. Great.
 25 So let's look at a few things in this

100

1 e-mail message. If we could look -- do you see the
 2 heading Number 1 that says the SEC? Do you see
 3 that?
 4 **A.** I see that.
 5 **Q.** Okay. And do you see that under that
 6 heading in the second full paragraph Mr. Vagnozzi is
 7 discussing the SEC's Fallcatcher investigation?
 8 **MR. MILLER:** I object to form.
 9 **A.** I don't see -- maybe I'm just not seeing
 10 it, but I don't --
 11 **BY MS. BERLIN:**
 12 **Q.** Okay, no problem. Let me help you. Let
 13 me help you.
 14 Do you see, under the SEC heading, the
 15 paragraph that reads, "Like many of you, the SEC
 16 heard my commercials on the radio three years ago
 17 and started an investigation. We cooperated fully
 18 with them. We gave them everything they wanted.
 19 They looked at all my bank transactions since 2013.
 20 We gave 85,000 pages of documents, including all
 21 internal e-mails, client e-mails, and potential
 22 client e-mails. They called many of you and spoke
 23 with you. I went to New York twice and answered
 24 questions for hours and hours. I spent \$300,000 in
 25 legal fees during this process."

101

1 Do you see that paragraph?
 2 **A.** Yes, I see that paragraph.
 3 **Q.** Did I read that correctly?
 4 **A.** I believe you read the words on the page
 5 correctly.
 6 **Q.** Okay. Do you see the last sentence where
 7 it says, "I spent \$300,000 in legal fees during this
 8 process"? Do you see that?
 9 **A.** I do see that sentence.
 10 **Q.** Is that true?
 11 **MS. RECKER:** Object to the form.
 12 **A.** The specific amount -- the specific amount
 13 may not be exactly correct, but I believe it's a
 14 reasonable approximation.
 15 **BY MS. BERLIN:**
 16 **Q.** So approximately how much did you make --
 17 or how much in legal fees did Mr. Vagnozzi pay you
 18 for your work on the Fallcatcher investigation?
 19 **MS. RECKER:** Object to the form.
 20 **A.** I don't recall the specific amount. I
 21 just don't know.
 22 **BY MS. BERLIN:**
 23 **Q.** Can you provide an approximation?
 24 **MS. RECKER:** Object to the form.
 25 **A.** The fees were in the hundreds of thousands

102

1 of dollars. Beyond that, I -- I don't know offhand.
 2 I would have to review, you know, our billing
 3 records to give you a more specific answer.
 4 **BY MS. BERLIN:**
 5 **Q.** Okay. And did Mr. Vagnozzi pay you for
 6 the Fallcatcher investigation personally or did one
 7 of his entities pay your fees for the Fallcatcher
 8 investigation work?
 9 **MS. RECKER:** Object to the form.
 10 **A.** I don't know -- I don't know through what
 11 account, whether it was an entity or a Dean Vagnozzi
 12 personal account. I don't know from what accounts
 13 payments were made.
 14 **BY MS. BERLIN:**
 15 **Q.** Could it have been A Better Financial Plan
 16 that paid these legal fees?
 17 **MS. RECKER:** Objection. To the extent
 18 that this requires you to reveal
 19 attorney-client privileged information, I would
 20 instruct you not to answer.
 21 **A.** On advice of counsel, I cannot answer that
 22 question.
 23 **BY MS. BERLIN:**
 24 **Q.** So to clarify, are you claiming that
 25 whether or not A Better Financial Plan paid your

103

1 legal fees is attorney-client privileged
 2 information?
 3 **A.** On advice of counsel, I cannot answer that
 4 question.
 5 **Q.** Okay. Well, what -- what specifically are
 6 you asserting is attorney-client privileged?
 7 **A.** The fact of what party may or may not have
 8 paid Eckert Seamans' legal fees.
 9 **Q.** And is that based on a -- an
 10 attorney-client communication? Is that the basis
 11 for you claiming it's attorney-client privileged?
 12 **A.** I think the form of payment itself is a
 13 form of client communication subject to
 14 attorney-client privilege.
 15 **Q.** And was the -- so you're claiming that the
 16 payment itself -- the form of the payment is itself
 17 a form of communication that is attorney-client
 18 privileged? Is that -- am I understanding you
 19 correctly?
 20 **A.** Yes, that's correct.
 21 **Q.** Can we please look at the next paragraph
 22 in this e-mail message?
 23 Do you see where it says -- the second
 24 sentence where Mr. Vagnozzi writes, "The SEC
 25 reviewed all of ABFP's bank records"?

104

1 Do you see it's -- the last paragraph on
 2 the page it says, "Further" -- the second paragraph,
 3 do you see it? We could maybe put an arrow there if
 4 you can't see it. "Further, the SEC reviewed all of
 5 ABFP's bank records."
 6 Do -- do you see what I'm -- unfortunately
 7 we're in two different locations and I can't -- I
 8 can't point on the document. But it's the last
 9 paragraph on the page, second sentence, and it's in
 10 bold -- bold-faced type. Do you see it?
 11 "Further, the SEC reviewed all of ABFP's
 12 bank records and found that no investor funds were
 13 mishandled or misused."
 14 Do you see that sentence?
 15 **A.** Yes, I see that sentence.
 16 **Q.** Did the SEC make a finding that no
 17 investor funds were mishandled or misused?
 18 **MR. MILLER:** I'll object to the form.
 19 **BY MS. BERLIN:**
 20 **Q.** Mr. Pauciulo?
 21 **A.** Yes, I'm considering your question.
 22 **Q.** Oh, okay, sorry.
 23 **A.** I apologize for trying to be thoughtful.
 24 **Q.** No, please don't. I couldn't tell if you
 25 were delayed or muted or if you were thinking. So

105

1 please take all the time that you need.
 2 The question is, did the SEC communicate
 3 to you a finding that no investor funds were
 4 mishandled or misused?
 5 **MS. RECKER:** Object to the form.
 6 **MR. MILLER:** Join.
 7 **A.** Yes.
 8 **BY MS. BERLIN:**
 9 **Q.** Okay. And -- and what -- tell me about --
 10 **A.** At least with respect to the scope of the
 11 investigation that the SEC staff was conducting at
 12 that time.
 13 **Q.** I apologize. I couldn't make out what you
 14 were just saying.
 15 **A.** At least with respect to the investigation
 16 that the SEC staff was conducting at that time.
 17 **Q.** Okay. And where is that finding located?
 18 Is that in writing anywhere, that the SEC made a
 19 finding that no investor funds were mishandled or
 20 misused in connection with the Fallcatcher
 21 investigation?
 22 **A.** That was not your question.
 23 **Q.** That was exactly my question.
 24 Did the SEC communicate to you a finding
 25 that no investor funds were mishandled or misused?

106

1 And I will add, we were talking about the
 2 Fallcatcher investigation.
 3 **MS. RECKER:** Object to the form.
 4 **BY MS. BERLIN:**
 5 **Q.** Your lawyer seems to think I'm being very
 6 confusing with the questions. So let me try to be
 7 clearer for you, Mr. Pauciulo. And I apologize if
 8 I'm being confusing in any way. I'm just trying to
 9 use the language that's used in your client's
 10 e-mail. I'm going to ask it again.
 11 Did the SEC make a finding that no
 12 investor funds were mishandled or misused in
 13 connection with the Fallcatcher offering?
 14 **MS. RECKER:** Object to the form.
 15 **MR. MILLER:** Join.
 16 **A.** I'm not sure what you mean by the phrase
 17 "finding." They make a finding. I know that they
 18 didn't assert a claim that investor funds had been
 19 misused, and I had conversations with the SEC staff
 20 in which I and other colleagues asked the SEC staff
 21 whether they had concerns around mishandling or
 22 misuse of investor funds and was told that they did
 23 not.
 24 **BY MS. BERLIN:**
 25 **Q.** And the staff of the SEC -- staff people

107

1 at the SEC told you that they personally didn't have
 2 those concerns.
 3 Is that what you're saying?
 4 **A.** Correct.
 5 **Q.** Okay. You understand because you used to
 6 work at the SEC. The SEC is an agency and the SEC
 7 speaks only through the commissioners of the SEC.
 8 You understand that, don't you?
 9 **MR. MILLER:** Object to the form.
 10 **BY MS. BERLIN:**
 11 **Q.** Do you understand that, Mr. Pauciulo?
 12 **A.** As a technical matter, I appreciate the
 13 point you're making.
 14 **Q.** Okay. So we're going to talk about the --
 15 when I ask about the SEC, I'm not talking about a
 16 specific staff person or an individual who might
 17 work there. I'm talking about the SEC. As you
 18 know, all orders and findings are made only by the
 19 SEC as a commission.
 20 Do you understand that?
 21 **MS. RECKER:** Object to the form.
 22 **MR. MILLER:** Join.
 23 **BY MS. BERLIN:**
 24 **Q.** Mr. Pauciulo, do you understand that the
 25 SEC only makes findings through the commissioners of

108

1 the SEC?
 2 MR. MILLER: Same objection.
 3 BY MS. BERLIN:
 4 Q. Mr. Pauciulo, are you there?
 5 A. I am -- I am here and I am thinking about
 6 your question.
 7 Q. Okay. Mr. Pauciulo, we're going to move
 8 on. I'm on page 6 of a 36-page outline. I wasn't
 9 anticipating it was going to take this long. So
 10 we're just -- we're going to skip that and we're
 11 going to talk about the staff that supposedly told
 12 you that there was a finding of the SEC that -- that
 13 there were no concerns about mishandling or misuse
 14 of funds.
 15 What staff told you that and when?
 16 MS. RECKER: Object to the form.
 17 A. That's not -- that's not -- that's not my
 18 testimony. That was not what I said.
 19 BY MS. BERLIN:
 20 Q. Okay.
 21 A. That was not my testimony.
 22 Q. So what -- you said that -- your testimony
 23 is on the record. You referred in your testimony to
 24 staff.
 25 So what staff were you referring to in

109

1 your answer?
 2 A. The staff to whom I was referring is Steve
 3 Rawlings.
 4 Q. Okay.
 5 A. Other members of the New York --
 6 Q. And --
 7 A. Other members of the New York SEC staff
 8 were present for conversations, but the
 9 communication was with Steve Rawlings primarily.
 10 Q. And when did Steve Rawlings tell you that?
 11 A. I don't recall the specific dates on which
 12 Steve Rawlings told me that.
 13 Q. Did he write it down or did he tell it to
 14 you verbally?
 15 A. He told me that verbally.
 16 Q. Was anyone else present?
 17 A. Yes.
 18 Q. Who?
 19 A. I recall that Dave Laigaie, who is an
 20 attorney with Eckert Seamans, was present, and I
 21 recall that one or more other members of the SEC
 22 staff were present. I don't recall specifically
 23 who.
 24 Q. Megan Genet?
 25 A. Megan Genet who was involved in the matter

110

1 may well have been present for that conversation,
 2 but I don't specifically recall whether she was.
 3 Q. And did Mr. Rawlings, did he tell you that
 4 the SEC actually found that there was -- I'm sorry.
 5 Let me ask that again.
 6 Did Mr. Rawlings tell you that the SEC
 7 found that no investor funds were mishandled or
 8 misused?
 9 A. Steve Rawlings did not use those words in
 10 that way.
 11 Q. Well, did he communicate to you maybe not
 12 verbatim, but did he communicate to you that the SEC
 13 had found that no investor funds were mishandled or
 14 misused in connection with the Fallcatcher matter?
 15 A. Steve Rawlings did not use that language.
 16 Q. Again, I'm not asking verbatim,
 17 Mr. Pauciulo. I'm asking if he communicated that
 18 message to you. He might have used different words.
 19 If you could please just listen and answer the
 20 question. I'm not asking verbatim, if he said these
 21 words to you verbatim.
 22 Did Mr. Rawlings communicate to you that
 23 SEC had found that no investor funds were mishandled
 24 or misused?
 25 A. Dave Laigaie and I asked Steve Rawlings

111

1 whether he had concerns about the use or misuse of
 2 investor funds, and Mr. Rawlings conveyed in some
 3 form or fashion that that was not an area of
 4 concern.
 5 Q. Mr. Rawlings is an attorney in the New
 6 York office of the SEC, correct?
 7 A. That's my understanding, yes.
 8 Q. He's not a commissioner of the SEC and he
 9 doesn't -- he is not the SEC.
 10 Do you understand that?
 11 A. He's certainly a representative of the
 12 SEC. He's a member of the SEC staff.
 13 Q. So did Mr. Rawlings communicate to you
 14 that he had made a finding that no investor funds
 15 were mishandled or misused?
 16 A. I don't recall Steve Rawlings using those
 17 exact words that he made a, quote, finding. Again,
 18 I had a conversation with Mr. Rawlings in which we
 19 asked whether that was an area of concern for the
 20 staff and Mr. Rawlings, as a member of the SEC
 21 staff, told us that that was not an area of concern.
 22 Q. Did you have an understanding that the SEC
 23 was conducting an investigation concerning the use
 24 of investor funds and whether they were handled
 25 properly or not?

112

1 **A.** I was generally aware that the SEC staff
2 had obtained copies of bank records for accounts
3 controlled by Mr. Vagnozzi whether directly or
4 through his affiliates.
5 **Q.** Okay. That's not my question. My
6 question is -- and maybe you don't know. But I'm
7 not asking about what you think they might have
8 received.
9 My question is, you were the lawyer on the
10 investigation. Was the investigation about
11 Mr. Vagnozzi's mishandling or misuse of funds?
12 **MR. MILLER:** Object to the form.
13 **BY MS. BERLIN:**
14 **Q.** Mr. Pauciulo, was it?
15 **A.** I'm -- I'm thinking. Thank you.
16 To my understanding, and based on the
17 lines of questioning and our interactions with the
18 New York SEC staff, that that was not an area of
19 concern. They had other areas of concern, but they
20 were not -- they didn't -- they did not focus on
21 misappropriation of funds or misuse of funds or
22 anything like that.
23 **Q.** Just one minute.
24 And in fact, you were present for
25 Mr. Vagnozzi's deposition, and they didn't ask him

113

1 any -- in his investigative testimony, he was not
2 asked about his use or misuse of investor funds,
3 correct?
4 **MS. RECKER:** Object to the form.
5 **MR. MILLER:** Join.
6 **A.** I was not present for Mr. Vagnozzi's
7 investigative testimony in the New York SEC matter.
8 **BY MS. BERLIN:**
9 **Q.** But you reviewed it, didn't you?
10 **A.** No, I did not.
11 **Q.** So if your invoices -- I just want to be
12 clear again. Anything that's in your invoices we
13 can assume is accurate, because if you're billing
14 for time, then it should accurately reflect what you
15 were actually doing.
16 Would you agree with me in general?
17 **A.** I do agree with that in general. I'll
18 qualify my answer and say I don't have any
19 recollection of reviewing the record or transcript
20 of Mr. Vagnozzi's investigative testimony.
21 **Q.** Okay. Did you communicate to Mr. Vagnozzi
22 that the SEC had found that no investor funds were
23 mishandled or misused?
24 **MS. RECKER:** Objection. To the extent the
25 answer requires privileged communications, I

114

1 would instruct you not to answer.
2 **MR. MILLER:** And I join.
3 **A.** I cannot answer that question.
4 **BY MS. BERLIN:**
5 **Q.** Well, is the -- I asked you did you
6 communicate something to Mr. Vagnozzi.
7 And so is the communication you're
8 asserting privilege over one that you -- one that
9 you had with Mr. Vagnozzi directly?
10 **MS. RECKER:** Objection to form and to
11 whether or not the answer may reveal privileged
12 communication. I would instruct you not to
13 answer.
14 **A.** I cannot answer that question.
15 **BY MS. BERLIN:**
16 **Q.** Okay. And during the time when the
17 communication that you're claiming was privileged
18 was made, was anyone else present? Were there any
19 third parties there that weren't your clients?
20 **A.** No.
21 **Q.** And when and where did this communication
22 that you're asserting is privileged, where did it
23 take place and when?
24 **A.** I don't recall when. It would have been
25 in this general time frame.

115

1 **Q.** And was it by phone or e-mail or where did
2 it take place? Was it in public? Where was it?
3 **A.** I don't recall. Either a telephone
4 conversation or face-to-face meeting with
5 Mr. Vagnozzi.
6 **Q.** And what was the general subject matter of
7 this communication that you're claiming is
8 privileged?
9 **A.** I don't think I can answer that based on
10 privilege. You're asking me to tell you what we
11 talked about.
12 **Q.** And just to be clear, you're not claiming
13 that Mr. Rawlings told you that he had made an
14 affirmative finding that there was no misuse or
15 misappropriation of funds.
16 Am I correct in understanding that he
17 conveyed to you that that was not part of the scope
18 of the investigation?
19 **MR. MILLER:** Object to the form.
20 **A.** Again, I think I've already offered
21 testimony on this point and I'll reference my prior
22 answer, but we'll just reiterate that when we asked
23 the staff about the scope of their concerns, we were
24 told that misuse, misappropriation of investor funds
25 was beyond the scope of their areas of concern.

116

1 BY MS. BERLIN:
2 Q. But I'm trying -- you understand there's a
3 difference between someone saying we're not looking
4 at that or we're not considering that versus we have
5 reviewed it and made a finding that there is no
6 misuse or misappropriation? Do you agree with me
7 that those are two different things?
8 A. I'm not sure that I do.
9 Q. Okay. Now, did the SEC make a finding
10 that all investments offered by A Better Financial
11 Plan were carried out in a manner consistent with
12 the information provided to investors?
13 A. I don't know what you mean by the word
14 "finding."
15 Q. I'm looking at your client's press
16 release. So we're going back -- let's go back to
17 the language that's in the press release. Your
18 client wrote this press release where he states
19 that -- it's in bold in the original. It says --
20 starts -- it's the last sentence of the page that's
21 in front of you and it says, "Also determined that
22 all investments offered by ABFP were carried out in
23 a manner consistent with the information provided to
24 investors."
25 Do you see that sentence?

117

1 A. I see that sentence.
2 Q. Okay. Did the SEC make that determination
3 in the Fallcatcher investigation?
4 MR. MILLER: Object to the form.
5 A. The SEC staff perhaps did not use the
6 exact language as shown in the document here, but
7 again, in conversations when asked about whether
8 there were concerns about the use of investor money
9 and whether the actual use of the investor money was
10 consistent with disclosure documents provided to
11 investors, we were advised by the SEC staff that
12 they did not have concerns that investor money had
13 been misused or used in a manner inconsistent with
14 the disclosure documents.
15 BY MS. BERLIN:
16 Q. Okay. And was that Mr. Rawlings who
17 communicated that to you?
18 A. Yes.
19 Q. Okay. And so Mr. Rawlings communicated to
20 you that he had figured out that all investments
21 offered by ABFP, meaning A Better Financial Plan,
22 were carried out in a manner consistent with the
23 information provided to investors?
24 MS. RECKER: Object to the form.
25 A. Can you repeat the question, please?

118

1 BY MS. BERLIN:
2 Q. Sure.
3 Did Mr. Rawlings convey to you that he
4 determined that all investments offered by A Better
5 Financial Plan were carried out in the manner
6 consistent with the information provided to
7 investors?
8 A. Mr. Rawlings conveyed that with respect to
9 the ABFP offerings that were within the scope --
10 within the scope of their investigation at that
11 time.
12 Q. So what ABFP -- I'm sorry, are you
13 claiming that Mr. Rawlings and the New York SEC
14 staff conducted an investigation in the Fallcatcher
15 matter that went beyond the Fallcatcher offering and
16 included other of Mr. Vagnozzi's offerings?
17 MS. RECKER: Object to the form.
18 MR. MILLER: Join.
19 A. Yes, I am.
20 BY MS. BERLIN:
21 Q. Okay. And what offerings do you believe
22 they were investigating other than Fallcatcher?
23 A. My understanding is that the New York SEC
24 staff investigated offerings made by a number of
25 Mr. Vagnozzi's entities including Pillar Life

119

1 Settlement Fund, Pillar Life Settlement Fund II,
2 Pillar Life Settlement 4, and so on.
3 Q. And it's your understanding that they came
4 to a conclusion that -- that these investments were
5 carried out in a manner consistent with the
6 information provided to investors and that
7 Mr. Rawlings conveyed that you to verbally.
8 Am I understanding correctly?
9 A. Yes, you're understanding correctly.
10 Q. Okay.
11 A. They asked on multiple occasions or had
12 concerns of whether funds raised for those
13 investment funds were in fact used in a manner
14 described in the private placement memoranda.
15 Q. Okay. And these communications with
16 Mr. Rawlings, did they happen in the SEC's office?
17 A. Yes.
18 Q. So you were --
19 A. There were -- there were multiple
20 conversations, some of which were in the office of
21 the SEC in New York and some of which were by
22 telephone.
23 Q. But some of them were actually in our
24 physical office space in New York?
25 A. Yes, that's correct.

120

1 Q. And around what time frame?
 2 A. I don't recall.
 3 Q. Okay.
 4 A. Obviously before -- obviously before
 5 July 2020. I think I could say sometime during 2019
 6 in terms of the face-to-face meetings and then
 7 telephone conversations in the months preceding the
 8 ultimate settlement agreement. And I guess I should
 9 say -- clarify that the SEC investigation out of New
 10 York was ultimately resolved through a settlement
 11 and the terms of that settlement were negotiated
 12 over the course of some number of months.
 13 Q. I'm not asking that. I was just trying to
 14 pin down when Mr. Rawlings, when you claim he made
 15 these representations about the SEC's findings to
 16 you. So --
 17 A. No, I understand. I'm trying to provide
 18 you --
 19 Q. Yeah.
 20 A. -- with a time frame because we were back
 21 and forth with meetings and telephone conversations
 22 with the SEC staff over many months.
 23 Q. Okay. Understood.
 24 MS. BERLIN: Can you please turn to PDF
 25 page 99 within this exhibit.

121

1 THE WITNESS: It's 2:00. Can we take
 2 five?
 3 MS. BERLIN: Sure. Yeah. We can take
 4 five.
 5 THE WITNESS: Thank you.
 6 MS. BERLIN: Sure, no problem.
 7 (A discussion was held off the record.)
 8 MS. BERLIN: Natalie, could you put
 9 Exhibit 6 back up.
 10 MS. SILVER: Okay.
 11 MS. BERLIN: And could you please turn to
 12 PDF page 99. I think that's where we left off.
 13 Thank you.
 14 BY MS. BERLIN:
 15 Q. Mr. Pauciulo, have you seen -- I'm showing
 16 you a press release from ABFP. It's PDF page 99 of
 17 Exhibit 6.
 18 Have you seen this press release before
 19 today?
 20 A. I don't recall seeing this final form of
 21 the press -- this press release.
 22 Q. Okay. Do you -- have you seen the
 23 substance of this press release before? Did you
 24 see -- let me ask it another way.
 25 Did you see a draft of this press release?

122

1 A. Yes, I did.
 2 Q. And did you provide any edits to it before
 3 it was published?
 4 MS. RECKER: Objection. To the extent
 5 that your answer would implicate
 6 attorney-client privileged information, I would
 7 instruct you not to answer.
 8 A. I cannot -- I cannot answer that question.
 9 BY MS. BERLIN:
 10 Q. Did you -- and is it on grounds of
 11 attorney-client privilege? Is that what I'm
 12 gathering?
 13 A. Yes, it's on the grounds of
 14 attorney-client privilege.
 15 Q. Okay. And is the communication that
 16 you're claiming privilege over with Mr. Vagnozzi as
 17 the client?
 18 A. Yes, that's correct.
 19 Q. And was it in anticipation of any
 20 litigation?
 21 A. Yes.
 22 Q. And with whom?
 23 A. Claims that might be asserted by investors
 24 in any one of Mr. Vagnozzi's funds.
 25 Q. And what was the date and the place of the

123

1 communication with Mr. Vagnozzi that you're claiming
 2 is privileged?
 3 A. I don't recall the date. The place would
 4 have been either the Better Financial Plan's offices
 5 or might have been communication via telephone.
 6 MS. BERLIN: Okay. And if we could scroll
 7 to just the bottom of the press release. Thank
 8 you. Right there.
 9 BY MS. BERLIN:
 10 Q. Do you see the last sentence in the press
 11 release where it says, "The findings of these
 12 proceedings have also paved the way for the company
 13 to restructure as a public company, which will
 14 alleviate advertising restrictions in the future"?
 15 Do you see that?
 16 A. I see that sentence.
 17 Q. Okay. So was there a -- a plan for A
 18 Better Financial Plan to restructure as a public
 19 company?
 20 MS. RECKER: Objection. To the extent
 21 that the answer implicates attorney-client
 22 privileged information, I would instruct you
 23 not to answer.
 24 A. I cannot answer that question based on
 25 attorney-client privilege.

124

1 BY MS. BERLIN:
2 Q. And is the client -- who is the client in
3 the communications you're claiming are privileged?
4 A. Dean Vagnozzi.
5 Q. And was anyone else present when you had
6 these communications?
7 A. When you say "these communications," to
8 what are you referring?
9 Q. The communications you are claiming are
10 privileged. You're claiming attorney-client
11 privilege over whether or not there was a plan to
12 restructure A Better Financial Plan as a public
13 company as this press release states.
14 So I'm asking, was anyone else present
15 during any oral communication that you're claiming
16 are privileged in response to my question?
17 A. Yes, there were other people present.
18 Q. Okay. And -- were any of them individuals
19 who were not your clients?
20 A. Yes.
21 MS. BERLIN: Okay. We can remove
22 Exhibit 6 from the screen. Thank you, Natalie.
23 BY MS. BERLIN:
24 Q. Now, in connection with Fallcatcher, you
25 also represented an individual named Henry Ford; is

125

1 that correct?
2 A. I represented a Fallcatcher entity. I
3 don't know that I represented Henry Ford
4 individually.
5 Q. If you have a retainer agreement with an
6 individual, would that reflect that you were his
7 attorney?
8 A. Yes, it would.
9 Q. Okay. Now, Mr. Ford, was he the main
10 principal of Fallcatcher?
11 MS. RECKER: Object to the form.
12 BY MS. BERLIN:
13 Q. Mr. Pauciulo, you're taking a pause. If
14 you don't understand the question, just let me know
15 and I'll rephrase it.
16 A. No, I understand your question. I'm --
17 I'm thinking through whether there's attorney-client
18 privileged issues with regard to communications that
19 I had with Henry Ford.
20 Q. Okay. I'm asking you if Mr. Ford was a
21 principal of Fallcatcher.
22 MS. RECKER: Object to the form.
23 A. Mr. Ford was involved with Fallcatcher.
24 He was a shareholder or an owner, an equity owner in
25 Fallcatcher.

126

1 BY MS. BERLIN:
2 Q. Okay. And his real name was actually
3 Cleothus Lefty Jackson?
4 MS. RECKER: Object to the form.
5 A. I have no direct knowledge of that. I
6 mean, I came to hear about that at some point later.
7 BY MS. BERLIN:
8 Q. Okay. So you -- when did you find out
9 that Mr. Henry Ford was actually an individual named
10 Cleothus Lefty Jackson?
11 A. I don't recall.
12 Q. Was it in 2019? Do you remember a year?
13 A. It would have been 2018 or 2019. I don't
14 recall.
15 Q. Okay. And if Mr. Vagnozzi testified that
16 he told you information about Henry Ford and
17 Cleothus Lefty Jackson at some time between June 22,
18 2018 and mid August 2018, would you have any reason
19 to doubt that statement?
20 MS. RECKER: Object to the form.
21 A. To the extent you're asking about
22 conversations that I had with Dean Vagnozzi, I think
23 those are subject to attorney-client privilege and I
24 cannot answer that.
25

127

1 BY MS. BERLIN:
2 Q. The way -- my question isn't about your
3 communication. My question is about if Mr. Vagnozzi
4 testified himself about the fact that he told you
5 information about Henry Ford and Cleothus Lefty
6 Jackson between June 22, 2018 and mid August 2018,
7 would you have a reason to doubt Mr. Vagnozzi's
8 testimony?
9 MS. RECKER: Object to the form.
10 MR. MILLER: Join.
11 A. So I -- I don't think I can answer your
12 question as presented. You're saying if. So it's
13 conjecture.
14 BY MS. BERLIN:
15 Q. Yes.
16 A. And would I, yeah, I don't know whether I
17 would or would not.
18 Q. Okay. Now, before the Fallcatcher
19 offering, Henry Ford, who is actually Cleothus Lefty
20 Jackson, he pleaded guilty to one count of
21 conspiracy to commit wire fraud in a federal
22 criminal proceeding and was sentenced to prison,
23 correct?
24 MS. RECKER: Object to the form.
25 A. I was aware that Henry Ford had a prior

128

1 criminal conviction.
 2 BY MS. BERLIN:
 3 Q. Okay. And you learned about that at some
 4 point in 2018, correct?
 5 A. I don't recall when I learned that, but
 6 there did come a time when I did learn that.
 7 Q. Okay. And you learned that information
 8 before you drafted the Fallcatcher PPM, correct?
 9 A. I don't know that it was before. It may
 10 have been before or during. But again, there did
 11 come a time when I did learn that information.
 12 Q. Okay. And if Mr. Vagnozzi testified in a
 13 deposition in this very case that he told you about
 14 that criminal history and that he told you at some
 15 time between June 22, 2018 and mid August 2018, do
 16 you have any reason to doubt his sworn testimony?
 17 MS. RECKER: Object to the form.
 18 MR. MILLER: Join.
 19 A. I'm not entirely sure I understand your
 20 question, but if you're asking me did I have reason
 21 to doubt information Mr. Vagnozzi was conveying to
 22 me?
 23 BY MS. BERLIN:
 24 Q. No. I'm asking you, if Mr. Vagnozzi
 25 testified in his deposition in this case on pages

129

1 479 and pages 633 of his transcript that he told you
 2 about Henry Ford's criminal conviction between
 3 June 22, 2018 and mid August 2018, do you have a
 4 reason to believe that he's wrong --
 5 MS. RECKER: Object to the form.
 6 BY MS. BERLIN:
 7 Q. -- in testifying that way?
 8 MR. MILLER: Join.
 9 A. I can't comment on Mr. Vagnozzi's
 10 testimony. His testimony is his testimony.
 11 BY MS. BERLIN:
 12 Q. My question is, do you have reason to
 13 question what he says under oath that he told you
 14 between June and August 2018 that Henry Ford has a
 15 criminal record?
 16 MS. RECKER: Object to the form.
 17 MR. MILLER: I'll join.
 18 A. Again, I don't -- I can't comment on
 19 Mr. Vagnozzi's testimony.
 20 BY MS. BERLIN:
 21 Q. Well, I'm asking you to. I'm asking
 22 questions.
 23 Are you refusing to answer that question?
 24 A. I don't know how to answer your question.
 25 I'm not familiar with the testimony. I guess I'm

130

1 relying on your presentation and that the reflection
 2 of testimony is accurate.
 3 Q. I will posit to you that Mr. Vagnozzi --
 4 Mr. Pauciulo, Mr. Vagnozzi testified that he found
 5 out about the criminal history of Henry Ford shortly
 6 after meeting in June 21, 2018, sometime between
 7 then and mid August 2018, that he told his counsel,
 8 and in his transcript elsewhere he discusses that
 9 you are his counsel.
 10 So my question is not -- I'm just asking
 11 you. You said you don't remember when you learned.
 12 So I'm asking, Mr. Vagnozzi testified that he told
 13 you about it between this two-month period.
 14 Does that sound right? Does that sound
 15 wrong? Do you think that's right or wrong? And if
 16 you could just answer, so we can move on. And if
 17 you don't know, then just say so.
 18 MS. RECKER: Object to the form.
 19 A. I don't have any recollection of such
 20 conversations with Mr. Vagnozzi regarding Mr. Ford's
 21 criminal conviction in that time frame.
 22 BY MS. BERLIN:
 23 Q. Okay. Did the Fallcatcher PPM disclose
 24 Mr. Ford's criminal record?
 25 A. I don't recall.

131

1 Q. It did not, did it?
 2 MS. RECKER: Object to the form.
 3 A. I don't recall.
 4 BY MS. BERLIN:
 5 Q. You drafted the PPM, and you don't recall
 6 if you included a section on Mr. Ford actually being
 7 named Cleothus Lefty Jackson with a criminal -- a
 8 felony criminal conviction?
 9 A. I don't recall.
 10 Q. But you would agree with me that that
 11 information would be important information to
 12 include in a PPM?
 13 MS. RECKER: Object to the form.
 14 MR. MILLER: Join.
 15 A. Not necessarily.
 16 BY MS. BERLIN:
 17 Q. You believe it's not necessarily important
 18 for investors to know that an owner of the company
 19 they're investing in is a -- has a criminal
 20 conviction for mortgage fraud and was sentenced by a
 21 federal judge to prison?
 22 MS. RECKER: Object to the form.
 23 MR. MILLER: Join.
 24 A. No, not necessarily. It depends on how
 25 old the conviction was, whether the conviction

132

1 related to the nature of the business of the current
 2 offering.
 3 BY MS. BERLIN:
 4 Q. So did you know about Mr. Ford's criminal
 5 conviction and decide not to include it in the PPM?
 6 MS. RECKER: Object to the form.
 7 A. Yes, that's correct.
 8 BY MS. BERLIN:
 9 Q. A few minutes ago you couldn't remember if
 10 the PPM didn't include that. Now you remember that
 11 you made an affirmative decision not to include it?
 12 I just want to make sure I'm understanding.
 13 A. You said on the record that in fact the
 14 PPM did not. So you looked at it more recently than
 15 I have. So you told me that it did not. If it did
 16 not, then I made the decision on consultation with
 17 the client that it was not material.
 18 Q. Okay. So if the PPM did not, but you
 19 don't recall whether or not it did, then you would
 20 have made an affirmative decision. Am I
 21 understanding -- not to include it.
 22 Am I understanding correctly?
 23 MS. RECKER: Object to the form.
 24 A. Yes.
 25

133

1 BY MS. BERLIN:
 2 Q. Okay. Did you -- you met with potential
 3 investors or actual investors in the Fallcatcher
 4 offering, correct?
 5 MS. RECKER: Object to the form.
 6 A. I didn't -- I was present at meetings with
 7 prospective Fallcatcher investors. I would not say
 8 that I met with them.
 9 BY MS. BERLIN:
 10 Q. If your invoices state and you billed time
 11 for meeting with investors or potential investors,
 12 would you have -- would those invoices accurately
 13 reflect what you were doing on that day and for that
 14 amount of time?
 15 A. Well, again, I think it may be a question
 16 of language. I'm saying that I was present where
 17 investors were present, but I didn't meet with them
 18 in the sense that I sat down and met with them one
 19 on one.
 20 Q. It could have just been that you were
 21 present during the time that someone else was
 22 speaking with the investors.
 23 Am I understanding correctly?
 24 A. Yes, that's correct.
 25 Q. Okay. Are you familiar with the radio

134

1 show called The Better Financial Plan Show?
 2 A. No. I'm aware that at one point Dean
 3 Vagnozzi had a radio show, but I don't recall that
 4 that -- I don't remember what the name of the show
 5 was.
 6 Q. Okay. But you went on that show, you
 7 spoke on that show, correct?
 8 A. Yes, correct.
 9 Q. You talked about the Fallcatcher offering
 10 on that show?
 11 A. Not that I recall.
 12 Q. You talked about the Fallcatcher --
 13 Fallcatching -- Fallcatcher offering and the
 14 legal -- the legal aspects of the offering, correct?
 15 MS. RECKER: Object to the form.
 16 A. Not that I recall.
 17 BY MS. BERLIN:
 18 Q. Do you recall what you talked about on the
 19 show?
 20 A. No.
 21 Q. Why were you as an attorney on a radio
 22 show talking about an investment offering to the
 23 general public? How did that come about?
 24 A. Mr. Vagnozzi invited me to appear on the
 25 show.

135

1 Q. And during the show he's pitching his
 2 Fallcatcher offering?
 3 MR. MILLER: Object to the form.
 4 A. I don't recall --
 5 BY MS. BERLIN:
 6 Q. Excuse me, Mr. Pauciulo?
 7 A. I said I don't recall whether Mr. Vagnozzi
 8 discussed the Fallcatcher investment on the program
 9 on which I also appeared. I just don't recall that.
 10 Q. Well, maybe not on that day, but -- we'd
 11 have to listen to the audio together to figure that
 12 out.
 13 But you're familiar with the radio show.
 14 So are you familiar with the fact that
 15 Mr. Vagnozzi -- Mr. Vagnozzi used that radio show to
 16 pitch different investment offers?
 17 MR. MILLER: Object to the form.
 18 MS. RECKER: Object to the form.
 19 A. I'm not aware of what Mr. Vagnozzi may
 20 have said on any number of radio broadcasts.
 21 BY MS. BERLIN:
 22 Q. Did you ever -- did you ever listen to his
 23 radio show?
 24 A. Other than the show in which I appeared,
 25 no.

136

1 Q. Did he tell you why he wanted you to
2 appear on the radio show with him?
3 MS. RECKER: Object to the form.
4 A. Well, I also think it calls for
5 attorney-client privileged communication.
6 BY MS. BERLIN:
7 Q. Are you claiming that you being on a radio
8 show talking about an offering to the general public
9 is attorney work product, or is your legal work?
10 MS. RECKER: Object to the form.
11 A. No, but I don't think that's what the --
12 that's not what your -- your question was why did I
13 appear on the show, and my answer to that question
14 is, I had a conversation with Mr. Vagnozzi. You
15 then asked me what did he say. And again, I think
16 that communication is subject to attorney-client
17 privilege.
18 BY MS. BERLIN:
19 Q. Okay.
20 A. I'm not sure I understood your question.
21 Q. So I'd like to know why you think that's
22 attorney -- what the basis is for claiming that
23 that's an attorney-client privileged communication,
24 your client asking you to go on a radio show. Why
25 is that attorney -- can you state the basis for

137

1 claiming that that's attorney-client privilege,
2 please?
3 A. Because it was -- because it was
4 communication between Dean Vagnozzi and I.
5 Q. You understand that not -- you're an
6 attorney.
7 Do you understand that not all
8 communications between you and a client are
9 attorney-client privileged?
10 A. The scope and nature of the privilege I
11 will leave to others to decide.
12 Q. You're an attorney and you're the one
13 asserting it on his behalf.
14 Are you claiming that when he asked you to
15 come on his radio show, that you were providing or
16 he was seeking any sort of legal advice or legal
17 opinion from you?
18 MS. RECKER: Objection. To the extent
19 that your answer would implicate
20 attorney-client privileged information, I'm
21 instructing you not to answer.
22 And you -- you've raised the point,
23 Ms. Berlin, that he is asserting it on behalf
24 of a client and consequently he's got to be
25 able to be as protective as possible because

138

1 it's the client -- the client's interpretation
2 and the client's decision about what is and
3 isn't privileged.
4 MS. BERLIN: And we don't debate on the
5 record, but we do have to go through, and we
6 have our local rule on this issue that I
7 referred everyone to multiple times today, any
8 inquiries that are required to be made, that we
9 are permitted to be made, and the things that
10 you were required to state when you raise a
11 privilege. And if you don't state them under
12 our local rule, then I am asking you to state
13 them.
14 BY MS. BERLIN:
15 Q. So I am asking you, tell me the general
16 subject matter of the communication between you and
17 Mr. Vagnozzi about going on this radio show that you
18 claim is attorney-client privileged.
19 A. I have the same answer. It's a
20 conversation between Mr. Vagnozzi and I, and my
21 understanding is those -- those communications are
22 subject to attorney-client privilege.
23 Q. And did the communication about the radio
24 show involve giving any legal advice or requesting
25 any legal advice?

139

1 A. Again --
2 Q. I'm not asking what it was. I'm just
3 asking whether it included -- whether it concerned
4 that or whether it concerned the radio show, a
5 public radio show.
6 A. I can't -- I don't see the distinction
7 that you're trying to make.
8 Q. Okay. Did you ever disclose to any
9 investor that Henry Ford a/k/a Cleothus Lefty
10 Jackson was a convicted felon?
11 MS. RECKER: Object to the form.
12 A. Well, to the extent that Dean Vagnozzi was
13 an investor of Fallcatcher, again, I don't think I
14 can say more than that because that's
15 attorney-client privileged communication.
16 BY MS. BERLIN:
17 Q. Okay. So other than your clients that you
18 still have a privilege with, not the 30 or so that
19 we've gone over who don't, who have waived their
20 privilege with you, so as to any client who waived
21 their privilege or anyone who is not a client with a
22 privilege, did you ever disclose to anyone, to
23 anyone that you don't have an attorney-client
24 privilege, who is not your client with a privilege
25 intact, that Henry Ford a/k/a Cleothus Lefty Jackson

140

1 was a convicted felon?
 2 MS. RECKER: Object to the form.
 3 A. Not that I recall.
 4 BY MS. BERLIN:
 5 Q. Okay. When you attended these investor --
 6 these meetings with investors or potential investors
 7 regarding Fallcatcher, did you -- did you ever say
 8 that Henry Ford was an alias for Cleothus Lefty
 9 Jackson or tell the investors or potential investors
 10 his true identity?
 11 MS. RECKER: Object to the form.
 12 A. I did not.
 13 BY MS. BERLIN:
 14 Q. Okay. And in fact, Cleothus Lefty
 15 Jackson, Henry Ford, and Dean Vagnozzi were both
 16 your clients in connection with the Fallcatcher
 17 offering, and they both had retainer agreements with
 18 you, correct?
 19 A. Both Dean Vagnozzi and Henry Ford retained
 20 me in connection with raising capital to invest in
 21 Fallcatcher.
 22 Q. And you prepared the Fallcatcher filings
 23 that were filed with the SEC?
 24 A. To what filings are you referring? Are
 25 you referring to the Form D that was filed?

141

1 Q. Any filing.
 2 Did you -- did you create or file any
 3 filing for Fallcatcher with the SEC? It doesn't
 4 matter what it was.
 5 A. Well, to the extent a Form D was filed, I
 6 did not file it, although someone from Eckert
 7 Seamans may have filed it at my direction.
 8 Q. Would you have reviewed it?
 9 A. Would I have or did I?
 10 Q. If your name is on it, would you have
 11 reviewed it?
 12 A. Not necessarily.
 13 Q. Did you disclose to the SEC in any filings
 14 for Fallcatcher that Henry Ford was Cleothus Lefty
 15 Jackson, or did you file under his alias?
 16 A. Again, your question assumes that there
 17 were required filings with the SEC.
 18 Q. My question does not assume anything.
 19 It's a very direct simple question. When you
 20 file -- if you filed anything with the SEC for
 21 Fallcatcher. I'm not saying it's mandatory. Please
 22 don't read anything into it. This is a very simple
 23 question.
 24 If you filed something on behalf of
 25 Fallcatcher, did you disclose -- did you file it

142

1 using the name Henry Ford or Cleothus Lefty Jackson?
 2 A. I don't recall reviewing any particular
 3 filings made with the SEC in connection with the
 4 Fallcatcher offering and I don't recall whether the
 5 name Henry Ford is required to be included in any
 6 such filing and I don't recall whether his name was
 7 included in such a filing.
 8 Q. Okay. We're going to now turn to another
 9 individual with an alias, Joseph LaForte.
 10 Who is Joe Mack?
 11 A. I understand Joe Mack to be the same
 12 person as Joseph LaForte.
 13 Q. And how did you come to learn that Joseph
 14 Mack and Joseph LaForte are the same people?
 15 MS. RECKER: Objection. To the extent
 16 that that implicates attorney-client privileged
 17 information, I would instruct you not to
 18 answer.
 19 A. I don't recall when I learned that
 20 Joseph -- the individual that had been introduced to
 21 me as Joe Mack or Joey Mack, his legal name was
 22 Joseph LaForte.
 23 BY MS. BERLIN:
 24 Q. Do you remember a year?
 25 A. I think it was 2017.

143

1 Q. Did you ever come to learn that Joseph
 2 LaForte had a criminal record?
 3 A. Yes.
 4 Q. And did you learn that during your due
 5 diligence of Par Funding?
 6 A. No.
 7 Q. When did you learn it?
 8 A. Sometime in 2017.
 9 Q. Did you learn what the criminal record was
 10 for or what the convictions --
 11 THE COURT REPORTER: You cut out.
 12 MS. BERLIN: Oh.
 13 BY MS. BERLIN:
 14 Q. Did you learn what the criminal
 15 convictions were?
 16 A. There came a time when I learned the
 17 nature of the criminal convictions, but I don't know
 18 that I became aware of that when I first learned of
 19 the criminal convictions. I remember being informed
 20 that there were such, but I don't recall having more
 21 sort of information about the nature of those
 22 convictions upon my first learning about them.
 23 BY MS. BERLIN:
 24 Q. Did you look him up? Did you do any
 25 research to find out who this guy was once you found

144

1 out his real name?
 2 **A.** Not that I recall.
 3 **Q.** Did you read any of the -- any newspaper
 4 articles about Mr. LaForte and his criminal record?
 5 **A.** I recall reading a newspaper article that
 6 was published sometime in late 2018.
 7 **Q.** Okay. But you knew about the criminal
 8 record before then, before the Philadelphia Inquirer
 9 published it in its paper, correct?
 10 **A.** I'm -- I'm remembering an article that was
 11 published by -- by Bloomberg.
 12 **Q.** I'm sorry. I -- you're right, it was
 13 Bloomberg. Yeah.
 14 You knew about the criminal record before
 15 then, correct?
 16 **A.** I knew the existence of a criminal record
 17 before then; that is correct.
 18 **Q.** Okay. And you communicated with Joseph
 19 LaForte via e-mail where he's using his alias Joe
 20 Mack, correct?
 21 MS. RECKER: Object to the form.
 22 **A.** Yeah, and I wouldn't use the word "alias."
 23 Joe LaForte held himself out to be Joe Mack. I was
 24 initially introduced to him as Joe McElhone, and I
 25 understood Joe Mack or Joey Mack to be a diminutive

145

1 or a nickname.
 2 BY MS. BERLIN:
 3 **Q.** Why did you believe it was -- well, okay.
 4 So I call it an alias, you call it a nickname. I
 5 think that's about the same thing. He has a
 6 different name that he uses sometimes including in
 7 his e-mails with you.
 8 Do you agree with me on that?
 9 MS. RECKER: Object to the form.
 10 **A.** I recall the individual again using the
 11 firm -- using the name Joe Mack, Joey Mack, and also
 12 using the name Joe McElhone.
 13 BY MS. BERLIN:
 14 **Q.** Okay. And have you ever communicated with
 15 Mr. LaForte -- when I say "Mr. LaForte," I mean,
 16 Joseph LaForte, a/k/a Joe Mack, a/k/a Joseph
 17 McElhone, and he's got some other ones.
 18 So you know who I'm referring to when I
 19 say Joseph LaForte of Complete Business Solutions
 20 Group?
 21 **A.** I know to whom you're referring.
 22 **Q.** We'll agree on one name to use for him.
 23 So with respect to Mr. LaForte, have you
 24 ever communicated with him by text message?
 25 **A.** Not that I recall.

146

1 **Q.** Okay. And have you ever met him in
 2 person?
 3 **A.** Yes.
 4 **Q.** You -- you've flown on his plane with him?
 5 **A.** Yes.
 6 **Q.** You guys have in -- was it 2020, early
 7 2020, you and Mr. LaForte were going on frequent
 8 trips together on the plane, correct?
 9 MS. RECKER: Object to the form.
 10 **A.** I don't know what -- what you mean by
 11 "frequent," but I flew on Joseph LaForte's plane on
 12 two occasions.
 13 BY MS. BERLIN:
 14 **Q.** You're saying only two ever?
 15 **A.** Correct.
 16 **Q.** And where did you go together on those two
 17 occasions?
 18 **A.** Well, there were a number of other
 19 individuals present. It wasn't just Joe.
 20 **Q.** That's not my question.
 21 Where did you go together? Where did you
 22 and LaForte go? And I'm not asking about who else
 23 went with you. Where did you go on those two
 24 occasions? So the first occasion, when was it and
 25 where did you go?

147

1 **A.** We flew from Philadelphia to Bradenton,
 2 Florida. We flew from Bradenton, Florida to an
 3 airport located in the Panhandle of Florida the next
 4 day. And then we flew from the Panhandle of Florida
 5 to an airport located in western Virginia. And then
 6 that same day we flew from western Virginia back to
 7 Philadelphia.
 8 **Q.** Okay. And what was in Bradenton? Why did
 9 you all go to Bradenton? What did you do there?
 10 **A.** In Bradenton we met -- we had several
 11 business meetings with an individual named David
 12 Chessler.
 13 **Q.** And that was about an investment with
 14 Complete Business Solutions Group, correct? David
 15 Chessler's Group?
 16 I'm simplifying it. If we want, we can go
 17 into all the details. I don't care about the
 18 nitty-gritty details of Chessler's, but can you give
 19 me -- because I know you're going to disagree with
 20 my use of the word "investment."
 21 Can you please generalize what it was that
 22 Mr. Chessler -- was Mr. Chessler going to contribute
 23 funds for Complete Business Solutions Group?
 24 MS. RECKER: Object to the form.
 25 **A.** We met with -- I was present in a

148

1 conference room with Mr. Chessler and others for
 2 several hours, and during those discussions lots of
 3 different business opportunities were discussed.
 4 BY MS. BERLIN:
 5 Q. But the purpose of the meeting was a deal
 6 where Mr. Chessler was going to transact business
 7 with Complete Business Solutions Group, correct?
 8 A. Not correct. That was not my
 9 understanding.
 10 Q. So why were you there?
 11 A. Dean Vagnozzi asked me to attend.
 12 Q. Was Dean Vagnozzi on this trip?
 13 A. Yes.
 14 Q. Were you all discussing -- what was the
 15 purpose of the transaction? Was it a bank
 16 investment? Was it a CBSG investment?
 17 A. Again, there were any number of potential
 18 business transactions discussed. The main
 19 discussion with Mr. Chessler was whether Dean
 20 Vagnozzi or others were interested in investing in
 21 Mr. Chessler's company. And I'd understood through
 22 that meeting that Mr. Chessler had a private equity
 23 fund and Mr. Chessler spoke at length about some of
 24 Mr. Chessler's portfolio companies. And there was
 25 very broad, high-level discussion as to the nature

149

1 of those businesses and whether there was any
 2 interest whether from Dean Vagnozzi or others in
 3 investing in his business.
 4 Q. And so why were you there? Were you
 5 presenting to Mr. Chessler?
 6 A. I was there at the request of my client.
 7 I did not make a presentation.
 8 Q. So then next you all flew to the
 9 Panhandle.
 10 And what did you do in the Panhandle with
 11 Mr. LaForte?
 12 A. Mr. LaForte, Dean Vagnozzi, myself and
 13 several other individuals traveled to a limestone
 14 quarry.
 15 Q. What was the purpose of that?
 16 A. It was a site visit to see the quarry.
 17 Q. For what purpose? Were you guys on a
 18 field trip because you were interested in lime
 19 quarries, or was it in connection with a business
 20 opportunity or something else?
 21 A. My understanding was that Mr. LaForte
 22 directly or indirectly had an ownership interest in
 23 the limestone quarry. It was a site visit to see
 24 the operation and to provide an opportunity to learn
 25 more about it as a preliminary discussion as to

150

1 whether Dean Vagnozzi or others might be interested
 2 in investing in the lime -- the limestone quarry
 3 operation.
 4 Q. Was this going to be another offering to
 5 solicit investors, to contribute in something or
 6 another PPM involving the lime quarry?
 7 MS. RECKER: Object to the form.
 8 A. The site visit was very preliminary, so
 9 there was no determination as to what, if anything,
 10 would be done.
 11 BY MS. BERLIN:
 12 Q. Was a PPM or anything else ever created in
 13 connection with the lime quarry or an investment in
 14 a company concerning lime quarry?
 15 A. Not that I was involved in.
 16 Q. Okay. What was the name of the company
 17 that was involved with the lime quarry?
 18 A. I don't understand your question.
 19 Q. So typically -- you know, did Mr. LaForte
 20 own this himself, or was there like a name of a
 21 company that he held -- that he owned or that he had
 22 that owned this lime quarry? So do you understand a
 23 little bit better? Was it Mr. LaForte individually
 24 that you all were looking at doing business with in
 25 connection with the lime quarry, or was there a name

151

1 of a company of any kind or a fund of any kind that
 2 had the lime quarry?
 3 MS. RECKER: Object to the form.
 4 BY MS. BERLIN:
 5 Q. If you don't understand the question, just
 6 let me know.
 7 A. I'll try to answer your question to the
 8 best of my ability. I don't recall being told the
 9 name of an entity that owned the quarry, and I don't
 10 recall at that point any -- any information with
 11 respect to who owned or what entity owned the
 12 quarry.
 13 Q. Okay. Next you all went to West Virginia.
 14 And by the way, when -- what time period
 15 is this trip where you went from Philadelphia to
 16 Bradenton to the Panhandle to West Virginia and back
 17 to Philadelphia? What month and year was that?
 18 A. It was June of 2021 -- excuse me, June of
 19 2020.
 20 Q. Okay. And then what was in West Virginia?
 21 A. We traveled to West Virginia to visit a
 22 coal mine.
 23 Q. Okay. And what coal mine was that? Was
 24 there an entity name associated with that coal mine?
 25 A. I don't recall being told the name of a

152

1 coal mine. I just don't remember.
 2 **Q.** Okay. So were there any other trips you
 3 went on on the -- by the way, this was the CBSG or
 4 the Complete Business Solutions Group plane that you
 5 were flying on during this June 2020 trip that you
 6 just testified about; is that correct?
 7 **MS. RECKER:** Object to the form.
 8 **A.** I don't know who owned the plane. I
 9 was -- I was told it was Joe LaForte's plane, but
 10 you know, you would have to look at the pilot log
 11 information to determine what person or entity
 12 actually owned the plane.
 13 **Q.** Understood. I got it.
 14 Okay. Did you ever ride with Mr. -- did
 15 you ever travel with Mr. LaForte again or before
 16 that -- that trip in June 2020 that you just
 17 testified about?
 18 **A.** I did not.
 19 **Q.** Okay. Did you ever tell anyone that
 20 Mr. LaForte had a criminal record?
 21 **MS. RECKER:** Objection. To the extent
 22 that the answer implicates attorney-client
 23 privilege, I will instruct you not to answer.
 24 **BY MS. BERLIN:**
 25 **Q.** Let me ask you another way. Let me ask

153

1 you another way. So you know, the whole group of
 2 individuals that we went over at the beginning of
 3 the case, that I said I'm going to refer to these as
 4 your clients who have waived their privilege. Do
 5 you remember the long list? It's all the plaintiffs
 6 in the malpractice case? They're represented by
 7 Clifford Haines. Do you know who I'm referring to?
 8 **A.** I recall, yes. I understand -- I
 9 understand to whom you are referring.
 10 **Q.** Okay. Because that was a long list so I
 11 don't have to read it again.
 12 That group of individuals, did you tell
 13 any of them that Mr. LaForte had a criminal record?
 14 **A.** I don't recall whether I told any of those
 15 individuals that, but I do recall having discussions
 16 around that with some -- some of those individuals.
 17 **Q.** Who?
 18 **A.** I recall having a discussion with Paul
 19 Nick. I recall a discussion with Dave Gollner.
 20 **Q.** Uh-huh.
 21 **A.** There may have been others, but I recall
 22 speaking with them.
 23 **Q.** When did the conversation with Paul Nick
 24 happen?
 25 **A.** I don't recall.

154

1 **Q.** Do you remember the year?
 2 **A.** 2018.
 3 **Q.** Okay.
 4 **A.** Or 2019. I mean...
 5 **Q.** Did you tell -- you drafted the PPM for
 6 Paul Nick's fund, correct?
 7 **A.** Yes, I did.
 8 **Q.** Did you tell him about Mr. LaForte's
 9 criminal record before or after that PPM was
 10 finalized?
 11 **A.** I don't recall.
 12 **Q.** Was anyone else present when you told Paul
 13 Nick about the -- about LaForte's criminal record?
 14 **A.** Well, again, I -- the phrasing of your
 15 question is that I told him and I don't --
 16 **Q.** Oh, correct me then. I apologize,
 17 Mr. Pauciulo. I could see how I sort of assumed
 18 something that you didn't say, so let me back up.
 19 I apologize for that.
 20 Did you tell Paul Nick that Joseph LaForte
 21 had a criminal record?
 22 **A.** I don't recall whether I told Paul Nick
 23 that Joseph LaForte had a criminal record.
 24 **Q.** Okay. And what about with respect to
 25 David Gollner? Did you tell him that Mr. LaForte

155

1 had a criminal record?
 2 **A.** I don't recall telling Mr. Gollner that
 3 Mr. LaForte had a criminal record.
 4 **Q.** So what was discussed in the two
 5 conversations that you just testified about with
 6 Mr. Nick and Mr. Gollner where the issue of
 7 Mr. LaForte's criminal record would have come up?
 8 Like why -- why did you -- why did you in your
 9 testimony answer raise discussions with Paul Nick
 10 and David Gollner? What specifically did you
 11 discuss?
 12 **A.** I just seemed to recall having a general
 13 discussion about it.
 14 **Q.** When you say "it," what do you mean?
 15 **A.** I seem to recall them asking me about it
 16 and what the significance of such conviction might
 17 mean.
 18 **Q.** And what was it? What was that? What do
 19 you mean what it might mean? Can you elaborate a
 20 little bit?
 21 **A.** You know, we discussed materiality and
 22 whether that conviction was material and something
 23 that could or should be disclosed to existing or
 24 potential investors.
 25 **Q.** Did you write a legal opinion about that

156

1 issue for them?
2 **A.** No, I did not.
3 **Q.** Did you put together a legal memo or any
4 research that you sent them on that issue?
5 **A.** No, I did not.
6 **Q.** Did you write -- is there anything in
7 writing memorializing that discussion or was it
8 verbal?
9 **A.** It was a verbal discussion.
10 **Q.** Okay. So aside from those two
11 discussions, you know, the ones that you just
12 testified about with Mr. Paul Nick and Mr. David
13 Gollner, set those aside, did you -- did you ever
14 tell anyone that you don't currently have an
15 attorney-client privilege with that Joseph LaForte
16 had a criminal record?
17 **MS. RECKER:** Object to the form.
18 **A.** Not that I recall.
19 **BY MS. BERLIN:**
20 **Q.** Okay. Did you tell Mr. Vagnozzi that?
21 **MS. RECKER:** Objection. To the extent
22 that it implicates attorney-client privileged
23 discussions, I would instruct you not to
24 answer.
25 **A.** I can't answer that question based on

157

1 attorney-client privilege.
2 **BY MS. BERLIN:**
3 **Q.** Okay. So you're asserting attorney-client
4 privilege as to any communication you would have had
5 with Mr. Vagnozzi where you would have discussed
6 Mr. LaForte's criminal record.
7 Am I correct in understanding that?
8 **A.** Yes, that's correct.
9 **Q.** Okay. And the communications that you're
10 asserting privilege to, approximately when and where
11 did they occur?
12 **A.** I don't recall when. And it would have
13 been either telephone conversations with
14 Mr. Vagnozzi or face-to-face meetings with
15 Mr. Vagnozzi.
16 **Q.** Okay. And did -- was anyone else present
17 during any of those conversations?
18 **A.** Not that I recall.
19 **Q.** Okay. You were -- I'm just going to
20 switch gears.
21 You were A Better Financial Plan's lawyer
22 until the court appointed a receiver over A Better
23 Financial Plan last year, correct?
24 **A.** Yes, I think that's correct.
25 **Q.** Okay. And A Better Financial Plan and Par

158

1 Funding, did they engage in any business
2 transactions together?
3 **MS. RECKER:** Object to the form.
4 **A.** I guess I would have to ask you to be a
5 little bit more specific. There's a number of
6 different A Better Financial Plan entities.
7 Are you referring to any particular
8 entity?
9 **BY MS. BERLIN:**
10 **Q.** Any of them. Any of them. I'm just
11 trying to lay a foundation for more questions.
12 So A Better Financial Plan 1, 2, 4, 6, any
13 of them, any of Mr. Vagnozzi's entities, did any of
14 Mr. Vagnozzi's entities have business relationships
15 with Par Funding at any time?
16 **MS. RECKER:** Object to the form.
17 **A.** Yes.
18 **BY MS. BERLIN:**
19 **Q.** And so when -- and was the relationship
20 that A Better Financial Plan had offerings through
21 PPMs where it issued promissory notes to investors
22 and then A Better Financial Plan would use the
23 investor money to purchase promissory notes from
24 CBSG that CBSG issued to ABFP? Does that sort of
25 summarize it?

159

1 **MS. RECKER:** Object to the form.
2 **A.** Yes, Dean Vagnozzi created entities, which
3 raised funds from investors, proceeds of which were
4 used to acquire promissory notes issued by Par
5 Funding.
6 **BY MS. BERLIN:**
7 **Q.** And approximately when did that begin,
8 that process begin? Was it in roughly early 2018?
9 **A.** My recollection is that -- well, I believe
10 it began in late 2017, December of 2017.
11 **Q.** Okay. And prior to that time,
12 Mr. Vagnozzi and Par Funding had a business
13 relationship -- a relationship that you knew about
14 as his counsel, correct?
15 **MS. RECKER:** Object to the form.
16 **A.** There was a time when I became aware that
17 Mr. Vagnozzi had a business relationship with Par
18 Funding.
19 **BY MS. BERLIN:**
20 **Q.** And when was that?
21 **A.** I don't recall.
22 **Q.** Do you recall a year?
23 **A.** Sometime in 2017.
24 **Q.** And you didn't know about it before then?
25 **MS. RECKER:** Object to the form.

160

1 **A.** I only recall that I learned about the
2 business relationship after the business
3 relationship had been established.
4 **BY MS. BERLIN:**
5 **Q.** Okay. And so you learned about their
6 business relationship together sometime after --
7 whether it was late 2017, early 2018, sometime in
8 that time range.
9 Is that accurate?
10 **MS. RECKER:** Object to the form.
11 **BY MS. BERLIN:**
12 **Q.** Am I accurately summarizing what -- what
13 you testified to or not?
14 **MS. RECKER:** Object to the form.
15 **A.** Yeah, I believe my testimony is that
16 again, at some point in 2017, I became aware that
17 Mr. Vagnozzi had a relation- -- a business
18 relationship with Par Funding.
19 **BY MS. BERLIN:**
20 **Q.** Okay. And what business relationship did
21 you discover?
22 **A.** I came to learn that Mr. Vagnozzi was
23 acting as a finder on behalf of Par Funding.
24 **Q.** And you didn't know that until sometime in
25 late 2017 or early 2018; is that right?

161

1 **MS. RECKER:** Object to the form.
2 **A.** I believe my testimony is that I learned
3 about it sometime during 2017.
4 **BY MS. BERLIN:**
5 **Q.** Okay. Understood. Sorry for mixing it.
6 So sometime in 2017.
7 Now, did you conduct due diligence of Par
8 Funding at any time?
9 **A.** Yes.
10 **Q.** And why did you conduct due diligence
11 concerning Par Funding?
12 **MS. RECKER:** Objection. To the extent
13 that the answer reveals attorney-client
14 privileged information, I would instruct you
15 not to answer.
16 **A.** On advice of counsel I cannot answer your
17 question based on attorney-client privilege.
18 **BY MS. BERLIN:**
19 **Q.** What was the purpose of the due diligence
20 that you performed of Par Funding?
21 **MS. RECKER:** Objection. To the extent
22 that the answer implicates attorney-client
23 privilege, I would instruct you not to answer.
24 **A.** I cannot answer your question based on
25 attorney-client privilege.

162

1 **BY MS. BERLIN:**
2 **Q.** Now, you conducted due diligence of Par
3 Funding on behalf of the Pillar Life Management
4 Company; is that accurate?
5 **MS. RECKER:** Objection. To the extent
6 that that implicates attorney-client privileged
7 information, I would instruct you not to
8 answer.
9 **MS. BERLIN:** As stated earlier today,
10 Pillar Life Settlement waived the privilege.
11 Mr. Kolaya came on to this -- this hearing and
12 he waived it.
13 **MS. RECKER:** And I understand that
14 Mr. Vagnozzi has asserted a joint privilege.
15 As to what extent the content of that privilege
16 are implicated by your question, I can't answer
17 that.
18 **MS. BERLIN:** Okay. All right. But my
19 question is not about Mr. Vagnozzi. My
20 question was only about Pillar.
21 **BY MS. BERLIN:**
22 **Q.** My question is, did Pillar Life Settlement
23 Management Company retain you to conduct due
24 diligence concerning Par Funding?
25 **MS. RECKER:** Same objection. To the

163

1 extent that the answer implicates a joint
2 attorney-client privilege, I would instruct you
3 not to answer.
4 **BY MS. BERLIN:**
5 **Q.** Mr. Pauciulo?
6 **MR. MILLER:** I join in the objection.
7 **BY MS. BERLIN:**
8 **Q.** Mr. Pauciulo?
9 **MR. KOLAYA:** Let me just note for the
10 record the receiver disagrees that a joint
11 privilege exists.
12 **BY MS. BERLIN:**
13 **Q.** So Mr. Pauciulo, I wonder if you could
14 answer the question. Whether you're asserting a
15 privilege or giving an answer, whatever it is that
16 you're doing, could you -- I wonder if you are
17 prepared to do that so we can proceed.
18 **A.** On advice of counsel I cannot answer your
19 question based on attorney-client privilege.
20 **Q.** Okay. And who is the client that you're
21 asserting the privilege for?
22 **A.** Dean Vagnozzi.
23 **Q.** Okay. And what communications -- the
24 communications that you're claiming are privileged
25 about due diligence, are they -- were those between

164

1 you and Mr. Vagnozzi?
 2 **A.** Yes.
 3 **Q.** And approximately when and where were the
 4 communications made?
 5 **A.** I don't recall specific dates. It would
 6 have been in March through August of 2016 and in --
 7 **Q.** And in fact --
 8 **A.** -- conversation either by face-to-face or
 9 telephone and perhaps --
 10 **Q.** And by e-mail -- and by e-mail as well,
 11 correct?
 12 **A.** I don't recall specifically, but certainly
 13 possible.
 14 **Q.** Okay. And in fact, you e-mailed with Dean
 15 Vagnozzi, Joe Cole, Joseph LaForte, Jerry Nave and
 16 others about this due diligence process that you are
 17 asserting as privileged today, correct?
 18 Did you e-mail with all of those third
 19 parties who are not your clients about the due
 20 diligence that you conducted of -- of CBSG in 2016?
 21 **MS. RECKER:** Objection. And to the extent
 22 that your answer implicates a joint privilege,
 23 I would instruct you not to answer.
 24 **BY MS. BERLIN:**
 25 **Q.** And so that you're understanding,

165

1 Mr. Pauciulo, I'm asking you about your
 2 communications with Joseph LaForte, Joseph Cole and
 3 others who are not your clients.
 4 **MS. RECKER:** Object to the form.
 5 **BY MS. BERLIN:**
 6 **Q.** Do you understand the question,
 7 Mr. Pauciulo?
 8 **A.** Frankly, I lost track of what the question
 9 is.
 10 **Q.** Yeah, that's why I -- that's why I asked
 11 you. That was a lot of objections. That was a lot
 12 of back and forth.
 13 So my question to you is this: The
 14 information -- you were communicating about the Par
 15 Funding due diligence and the Pillar Life Settlement
 16 due diligence with Joseph LaForte and Joe Cole and
 17 others who are not your clients in 2016, correct?
 18 **A.** I had communications with Joseph Cole and
 19 with Joe LaForte and other representatives of Par
 20 Funding with respect to the due diligence review
 21 that I was conducting into Par.
 22 **Q.** And those -- so Joseph LaForte, has he
 23 ever been your client?
 24 **A.** I'm sorry, can you repeat that?
 25 **Q.** Has Joseph LaForte ever been your client?

166

1 **A.** No, I've never represented Joseph LaForte.
 2 **Q.** What about Joseph Cole? Has he ever been
 3 your client?
 4 **A.** No, I've never represented Joseph Cole.
 5 **Q.** Alan Candell, has he ever been your
 6 client?
 7 **A.** No, I've never represented Alan Candell.
 8 **Q.** And in fact, this due diligence process
 9 that you spent a lot of time earlier today asserting
 10 your privilege over, actually you produced your due
 11 diligence correspondence in response to the SEC
 12 subpoena to you and Eckert Seamans, correct?
 13 **MS. RECKER:** Objection. To the extent --
 14 **MS. BERLIN:** I'll just show you. I
 15 withdraw that question. I'll just show you.
 16 I wonder if we could please show on the
 17 screen what I premarked as Exhibit 7.
 18 **MS. SILVER:** Okay.
 19 **MS. BERLIN:** Thank you, Natalie.
 20 (Thereupon, marked as Exhibit 7.)
 21 **BY MS. BERLIN:**
 22 **Q.** So I'm showing you Exhibit 7. This is
 23 your e-mail to Joseph Cole of Par Funding of
 24 April 19, 2016 with the subject line of "Due
 25 Diligence Request List."

167

1 Do you see that?
 2 Do you see what I'm saying to you on the
 3 screen? On your screen in front of you,
 4 Mr. Pauciulo, just so the record is clear that we're
 5 showing you the exhibit, do you see a document that
 6 says, with a yellow sticker, Deposition Exhibit 7.
 7 And then at the top it says from John W. Pauciulo
 8 sent Tuesday, April 19, 2016 to Joe Cole at
 9 parfunding.com, subject, due diligence request list.
 10 Do you see that on your screen?
 11 **A.** Yes, I do.
 12 **Q.** Okay. Great.
 13 And in these e-mails you are writing to
 14 them, "Attached is a list of due diligence items
 15 which we would like to review. As we discussed, I
 16 will see you at 2:00 on Friday in your offices. If
 17 you have any questions regarding the list, please
 18 contact me. Regards, John."
 19 Do you see that? That's your e-mail?
 20 **A.** I do see that.
 21 **Q.** Okay. Great.
 22 **MS. BERLIN:** Can we scroll down, please.
 23 One more page. One more page. Thanks,
 24 Natalie. One more. I think it's PDF 4.
 25 Perfect.

168

1 BY MS. BERLIN:
2 Q. This is your attachment, the due diligence
3 request list, of the documents you sought from Par
4 Funding in your April 20, 2016 request list.
5 Is that accurate?
6 A. That's the due diligence request list that
7 I sent to Par Funding.
8 Q. And did Par Funding provide everything
9 that you requested on this due diligence request
10 list?
11 A. No, I don't think they provided everything
12 that we requested.
13 Q. Okay. So did they provide you with
14 audited financial statements?
15 A. They did not.
16 Q. Okay. Did you -- did you ask them whether
17 they had audited financial statements, whether any
18 existed?
19 A. Yes.
20 Q. And what did they tell you?
21 A. In 2016 I was told that Par Funding did
22 not have audited financial statements.
23 Q. Did they -- did anyone from CBSG ever
24 provide you any audited financial statements?
25 A. No.

169

1 Q. Okay. Were you -- when CBSG told you
2 during due diligence that there were no audited
3 financial statements, were you concerned about that?
4 A. I was not concerned about the absence of
5 audited financial statements.
6 Q. In the PPMs you drafted, there are -- or
7 in -- in these offerings concerning Par Funding,
8 representations are made about the success and
9 profitability of Par Funding or of the MCA company,
10 the anonymous MCA company that's being invested in.
11 Would you agree with me?
12 MS. RECKER: Object to the form.
13 A. I did not understand your question and you
14 broke up a little bit there. So I didn't -- I don't
15 think I heard all of it.
16 BY MS. BERLIN:
17 Q. Sure.
18 Mr. Pauciulo, in any PPM that you drafted
19 for any client who hasn't raised a -- who has waived
20 their privilege, is it ever disclosed that Par
21 Funding lacks audited financial statements?
22 A. There's no disclosure as to whether Par
23 Funding has audited financial statements.
24 MS. BERLIN: Okay. I wonder if we could
25 please turn to PDF page 6 of 9.

170

1 BY MS. BERLIN:
2 Q. Just to be clear, when you asked them for
3 the audited financial statements and they told you
4 they didn't have them, did I -- did I catch that
5 correctly, that was in 2016?
6 A. Correct.
7 Q. Okay. Do you see where your due diligence
8 request in Item 6, officers and directors,
9 employees, benefit plans and labor disputes, and
10 there A and B are highlighted. The names and
11 addresses of each director and officer of the
12 company is something that you requested.
13 Why -- why did you request that
14 information in your due diligence?
15 A. Just so we had knowledge of who could
16 speak and act on behalf of the company.
17 Q. Is it important to know who is controlling
18 a company, who the directors and officers are?
19 MS. RECKER: Object to the form.
20 MR. MILLER: Join.
21 A. It's information that you would want to
22 have.
23 BY MS. BERLIN:
24 Q. Yeah. In fact, didn't you give a
25 presentation recently, like in February, to -- in

171

1 Philadelphia online about due diligence and about
2 how you conduct due diligence?
3 MS. RECKER: Object to the form.
4 A. Yes.
5 BY MS. BERLIN:
6 Q. Okay. And I mean, getting information
7 about who runs the company and what's going on at
8 the company is sort of the purpose of due diligence.
9 Would you agree with me that's one of the
10 purposes of due diligence?
11 A. That is one of the -- that's one that is a
12 purpose.
13 Q. A purpose is to find out who you're doing
14 business with and to find out what the potential
15 liabilities and risks are with the company that
16 you're performing due diligence on.
17 Would you agree with me on that?
18 A. Yes, to some extent. I'm really more
19 focused, again, on who has power and authority to
20 speak and act on behalf of the entity.
21 Q. Okay. And in 2016, who did you learn or
22 who did you come to understand from your
23 interactions with them had the power and authority
24 over Complete Business Solutions Group?
25 A. Lisa McElhone as president or CEO and

172

1 Joseph Cole as chief financial officer, and I was
2 also told some of the names of the board of --
3 members of the board of directors at that time.
4 **Q.** Now, what about Mr. -- but you were,
5 during the same time period, running everything by
6 Joseph LaForte by e-mail, correct?
7 **MS. RECKER:** Object to the form.
8 **A.** No, I don't think that's correct.
9 **BY MS. BERLIN:**
10 **Q.** Okay. And in fact, you never e-mailed
11 Lisa McElhone in connection with your due diligence
12 or anything else, did you?
13 **A.** I don't recall exchanging e-mails with
14 Lisa McElhone in the 2016 time frame.
15 **Q.** And in fact, you went to Pennsylvania, you
16 conducted interviews and you met with management of
17 Par Funding, correct, in 2016 as part of your due
18 diligence process?
19 **A.** In 2016, I visited the office of Par
20 Funding and I met individuals who held themselves
21 out to be management of Par Funding.
22 **Q.** And who did you meet with?
23 **A.** I arranged to meet with Joseph Cole and
24 visited the Par offices, at which time I asked for
25 and was introduced to Joseph Cole. Joseph Cole gave

173

1 me a brief tour of the office and led me to a
2 conference room. I met Lisa McElhone in that
3 conference room and several other individuals.
4 **Q.** You met Joe Mack or Joseph LaForte?
5 **A.** I met Joe Mack. I met -- I met an
6 individual who was introduced to me as Joseph
7 McElhone as part of that visit.
8 **Q.** Right.
9 And you later learned that that's Joseph
10 LaForte?
11 **A.** I came to learn later that his name was
12 Joseph LaForte.
13 **Q.** Okay. And in fact, Joseph LaForte was the
14 person that you were communicating -- well, at that
15 time he was -- you were e-mailing with him as Joe
16 Mack, but that's who you were communicating with and
17 sending your drafts and coming up with plans and
18 packages in 2016.
19 It was with Joseph LaForte and Joe Cole
20 and not Lisa McElhone, correct?
21 **MS. RECKER:** Object to the form.
22 **A.** I recall having primary contact with
23 Joseph Cole in this time frame. Joe McElhone was
24 part of that communication. Again, I don't recall
25 communicating directly with Lisa McElhone during

174

1 this time frame. I also recall interacting with --
2 the fellow's last name is Candell, I forget. I
3 think his first name is Alan. I think it's Alan
4 Candell.
5 (Technical interruption.)
6 **MS. RECKER:** I would like to take a break,
7 if possible.
8 **MS. BERLIN:** Let's do it then. Why
9 don't -- is a five-minute break enough, or do
10 you need longer?
11 **MS. RECKER:** Perfect. No, that's perfect.
12 **MS. BERLIN:** Okay. Okay. Sounds good.
13 (A discussion was held off the record.)
14 **MS. BERLIN:** Natalie, I wonder if you
15 could put Exhibit 7 back up on the screen and
16 if you could pull it back to PDF page 6 where
17 we were.
18 **BY MS. BERLIN:**
19 **Q.** Mr. Pauciulo, in your -- I'm showing you
20 this is your April 2016 discovery list. You also
21 requested information about litigation; is that
22 right?
23 **A.** Yes, that's correct.
24 **Q.** Okay. And I highlighted at 7E you asked
25 for a list and brief description of threatened or

175

1 pending claims and lawsuits.
2 Did -- do you see that on the page?
3 **A.** I do.
4 **Q.** Did Par Funding provide that to you?
5 **A.** They didn't provide a list of claims. I
6 do recall representative of Par Funding just
7 remarking about collections and efforts sort of
8 generally and that that was, you know, part -- part
9 and parcel of the business that they were in.
10 **Q.** Okay. Now, in connection -- just going
11 back briefly to the officers and directors.
12 Did you do any research into Lisa McElhone
13 since you thought she was -- you understood she was
14 the president and CEO at that time?
15 **A.** I don't recall.
16 **Q.** Okay. Did you ever come to learn that she
17 had a -- my dog is barking. Just a minute.
18 **A.** Yeah, and the connection is breaking up.
19 It's been fine --
20 **Q.** Oh, no.
21 **A.** -- but your last question was very choppy.
22 **Q.** I'll repeat it. Let me know if it happens
23 again and I'll make sure to repeat.
24 Did -- did you -- did you ever come to
25 learn that Ms. McElhone had any sort of history,

176

1 criminal or regulatory?
2 **A.** No, I did not.
3 **Q.** Did you ever come to learn of any -- any
4 proceedings against her whatsoever?
5 **A.** No, I did not.
6 **Q.** Did you do any background searches on
7 anyone at Par Funding?
8 **A.** Not that I recall.
9 **Q.** Did Par Funding provide you with -- you
10 requested tax returns on -- on the list that we're
11 looking at on Exhibit 7.
12 Did Par Funding provide you with any tax
13 returns in connection with your due diligence
14 request?
15 **A.** No, they did not.
16 **Q.** Did they tell you why?
17 **A.** Not that I recall.
18 **Q.** Did you do any Westlaw searches or any --
19 any other research about litigation that Par Funding
20 was involved in?
21 **A.** No, I did not.
22 **Q.** Did you ever come to learn that Par
23 Funding had actions pending against entities and
24 individuals that Par Funding claimed owed money to
25 Par Funding?

177

1 **A.** In what time frame?
2 **Q.** Any. The question was ever.
3 Did you ever come to learn about such
4 lawsuits or such actions?
5 **A.** Yes.
6 **Q.** And when did you come to learn about that?
7 **A.** Well, as I testified previously, I was
8 generally aware based on representations made to me
9 by Par that they were involved in litigations to
10 collect, you know, their -- their cash advances.
11 Later I came to learn that affirmative
12 defenses in some of those litigations had been
13 asserted by their -- their customers or their
14 clients that Par was engaged in lending and subject
15 to banking regulations and the like.
16 At some point I think I came to learn
17 there may have been some kind of class action
18 lawsuit involving those same issues.
19 **Q.** Okay. And did you learn about a lawsuit
20 alleging RICO violations against Par Funding and
21 others?
22 **MS. RECKER:** Object to the form.
23 **A.** I don't recall learning about a lawsuit
24 involving RICO allegations involving Par Funding.
25

178

1 **BY MS. BERLIN:**
2 **Q.** Okay. Did you -- understood.
3 Did you ever learn about the -- that Par
4 Funding had hundreds of actions against individuals
5 who -- and entities who Par Funding claimed were in
6 default, that they had hundreds of such actions
7 pending?
8 **A.** Yes.
9 **Q.** When did you come to learn that?
10 **A.** In March or April of 2020.
11 **Q.** How did you come to find that out?
12 **A.** I had a telephone conversation with an
13 attorney who represented Par Funding.
14 **Q.** Brett Berman?
15 **A.** Yes, that's correct.
16 **Q.** Have you ever read any of the articles,
17 whether in Bloomberg or the Philadelphia Inquirer or
18 anywhere else, about Par Funding's collection
19 practices?
20 **MS. RECKER:** Object to the form.
21 **A.** I recall reviewing or reading the article
22 that was published by Bloomberg that we referenced
23 earlier today.
24 **BY MS. BERLIN:**
25 **Q.** And that was an article that discussed,

179

1 among other things, the collections practices at Par
2 Funding?
3 **A.** I recall that being an item covered in the
4 article, yes.
5 **Q.** And you -- and I'm sorry if you -- if you
6 answered this already, I don't recall if you did.
7 Did -- did you review that article shortly
8 after it was published?
9 **A.** I don't know that I can say shortly. I
10 don't think there was -- you know, maybe a matter of
11 weeks or a month between the published date and the
12 date I read it.
13 **MS. BERLIN:** Okay. I wonder, Natalie, if
14 you could please show Exhibit 8.
15 (Thereupon, marked as Exhibit 8.)
16 **BY MS. RECKER:**
17 **Q.** Exhibit 8 is an e-mail from Joe Cole to
18 you. The subject is "Due diligence request list."
19 It's from April of 2016.
20 Do -- do you see that on your screen?
21 **A.** Yes, I do see it.
22 **Q.** Okay. And in this e-mail Mr. Cole is
23 attaching a series of documents. They're all
24 identified. I won't -- I'm not going to read them
25 into the record, but they're all listed on this

180

1 message.
 2 Did Mr. -- is this all that Mr. Cole, or
 3 CBSG, rather, provided to you in response to your
 4 discovery request list that we just saw in
 5 Exhibit 6?
 6 **A.** I don't recall.
 7 **Q.** Is it possible they could have made
 8 further disclosures or productions to you?
 9 **MS. RECKER:** Object to the form.
 10 **A.** Yes, it's possible.
 11 **BY MS. BERLIN:**
 12 **Q.** Okay. And it's copying -- the CC is
 13 the -- you see Joe Mack. Hold on.
 14 **MS. BERLIN:** Can you scroll up, please,
 15 Natalie. Thank you. From Joe Cole to you.
 16 Could you scroll down, Natalie. Keep
 17 scrolling. Thank you.
 18 **BY MS. BERLIN:**
 19 **Q.** So in this message --
 20 **MS. BERLIN:** Sorry. Go back up to the
 21 top. Thank you. Go right up to the very first
 22 sentence on this -- on the message. Perfect.
 23 Thank you.
 24 **BY MS. BERLIN:**
 25 **Q.** Do you see where Mr. Cole writes to John,

181

1 "Thanks again for taking the time to discuss our
 2 company and possible partnership with Dean and his
 3 group yesterday."
 4 Do you see that?
 5 **A.** Yes, I do see that.
 6 **Q.** And did you meet with Mr. Cole on
 7 April 22, 2016?
 8 **A.** I don't recall the specific date of the
 9 meeting. Obviously the e-mail suggests that that
 10 happened. No reason to think that that e-mail is
 11 incorrect.
 12 **Q.** Is -- would this meeting, if it -- you
 13 know, whenever it occurred, but around the time of
 14 April 23, the meeting that Mr. Cole is referencing,
 15 would that be the meeting that you testified about
 16 earlier where you went into a conference room, you
 17 met Lisa McElhone and Joe Cole and -- and the person
 18 holding himself at that time out as Joe Mack and
 19 others?
 20 **A.** Yes, I believe so.
 21 **Q.** Okay. And now after receiving the e-mail
 22 in Exhibit 8 -- we can remove Exhibit 8 -- you
 23 requested additional documents from Par Funding?
 24 **A.** I don't recall.
 25 **Q.** Okay.

182

1 **MS. BERLIN:** Natalie, can we show
 2 Exhibit 9, please.
 3 **MS. SILVER:** Okay.
 4 **MS. BERLIN:** Thank you.
 5 (Thereupon, marked as Exhibit 9.)
 6 **BY MS. BERLIN:**
 7 **Q.** Is Exhibit 9, your message -- it's
 8 Thursday, April 28, 2016 from you to Joe Cole and
 9 the subject is regarding the due diligence request
 10 list.
 11 Do you see that on your screen?
 12 **A.** Yes, I do.
 13 **Q.** Okay. And in this e-mail you're
 14 requesting additional items. You've requested a
 15 list of the names of the officers with titles, the
 16 directors and shareholders and copies of any
 17 documents concerning the ownership of the shares.
 18 Do you see that?
 19 **A.** Excuse me. Sorry. It's allergy season in
 20 Philadelphia.
 21 Yes, I do see that.
 22 **Q.** And did -- did -- did Mr. Cole or anyone
 23 from Par Funding provide you with these additional
 24 documents that you were requesting?
 25 **A.** I don't recall.

183

1 **Q.** Did you ever get any documents concerning
 2 the ownership or any documents concerning the names
 3 of the officers and directors or the ownership of
 4 Par Funding?
 5 And to be clear, I'm asking about at any
 6 time, not necessarily in response to this e-mail,
 7 but did you ever get those documents?
 8 **A.** Not that I recall.
 9 **MS. BERLIN:** Okay. We can remove
 10 Exhibit 9.
 11 **BY MS. BERLIN:**
 12 **Q.** During your meeting, during the due
 13 diligence period, did you speak with Par Funding
 14 representatives about their default rate?
 15 **MS. RECKER:** Object to the form.
 16 **BY MS. BERLIN:**
 17 **Q.** Do you know what I mean by "default rate,"
 18 Mr. Pauciulo?
 19 **A.** Yes, I do. I remember in -- in the
 20 meeting there was a presentation made by Joe Cole
 21 and I recall there being some information about
 22 default rate generally.
 23 **Q.** Okay. Did you ever review any of the
 24 documents that would reflect what the actual default
 25 rates were?

184

1 For example, were you provided transaction
 2 documents and accounting statements or anything else
 3 where you could discern what the actual default rate
 4 was?
 5 **A.** No.
 6 **Q.** And during these meetings at Par Funding,
 7 did you all discuss the management experience of the
 8 people who were running Par Funding?
 9 **MS. RECKER:** Object to the form.
 10 **A.** As part of the presentation made by Joe
 11 Cole, I recall there being some presentation about,
 12 you know, the executive team generally.
 13 **BY MS. BERLIN:**
 14 **Q.** Okay. And who was discussed as part of --
 15 do you remember just generally like what that
 16 executive team discussion was and who they discussed
 17 in that presentation at the executive team?
 18 **A.** I only recall that Lisa McElhone was
 19 identified as the CEO and Joe Cole was identified as
 20 the CFO.
 21 **Q.** And how long total -- how long was the
 22 presentation that Mr. Cole gave, roughly? And I
 23 realize this is, what, five years ago. So if you --
 24 if you could remember about how long it was.
 25 **A.** To the best of my recollection, roughly an

185

1 hour, 45 minutes to an hour.
 2 **Q.** Okay. So after -- at any time after the
 3 initial due diligence process of 2016, did you ever
 4 do any other fact-finding concerning Par Funding?
 5 **A.** Yes.
 6 **Q.** Okay. And what was that?
 7 **A.** In 2020 Par Funding had sent an e-mail to
 8 certain of its investors that Par Funding was
 9 suspending payments under its outstanding notes.
 10 And in the wake of that I had conversations with
 11 counsel for Par Funding and ultimately was provided
 12 some additional documentation from Par Funding.
 13 **Q.** Okay. And we -- we'll talk about that a
 14 bit later.
 15 **MS. RECKER:** Aside from that -- that funding in 2020,
 16 did you ever do any other fact-finding other than
 17 the due diligence in 2016 and then the fact-finding
 18 in 2020?
 19 **A.** Not that I recall.
 20 **Q.** Okay. At any time prior to the SEC filing
 21 its case against -- the instant case that you're
 22 testifying in today against Par Funding and others,
 23 did you ever learn about an action pending against,
 24 or an action and order issued against Lisa McElhone
 25 in Oregon?

186

1 **A.** Not that I recall, no.
 2 **Q.** Okay. What about did you ever, at any
 3 time before the SEC filed this case, learn about an
 4 action -- the Fleetwood action pending in the
 5 Eastern District of Pennsylvania against Par Funding
 6 and others?
 7 **A.** Yes.
 8 **Q.** And when did you learn about that lawsuit?
 9 **A.** In the -- excuse me. I'm sorry. I have a
 10 tickle in my throat -- the March, April 2020 time
 11 frame.
 12 **Q.** And what about -- prior to the SEC filing
 13 its suit, did you know that Par Funding had
 14 thousands of lawsuits pending against merchants that
 15 it claimed were in default?
 16 **A.** I did not know the number of cases that
 17 Par Funding had against its merchants or customers.
 18 **Q.** Okay. So I'm not asking -- like, just to
 19 be clear, I'm not asking you to give me the precise
 20 number, but that in general it was like thousands of
 21 them, or you know -- did you know that before the
 22 SEC filed its case?
 23 **A.** No, I was unaware of the number of cases.
 24 Again, after the preliminary due diligence done in
 25 2016, I was aware that there was -- excuse me --

187

1 some collection litigation to collect funds from
 2 their customers.
 3 **Q.** And you spoke with Brett Berman, counsel
 4 for CBSG, about -- about some of those lawsuits,
 5 correct?
 6 **A.** I recall speaking with Brett Berman about
 7 the Fleetwood lawsuit.
 8 **Q.** Okay. Oh, and about the Fleetwood
 9 lawsuit.
 10 **MS. RECKER:** Is that how -- was that in March or April
 11 of 2020?
 12 **A.** Yes.
 13 **Q.** At any time did you learn that there was
 14 an adverse opinion audit of Par Funding?
 15 **A.** I'm sorry, could you repeat the question?
 16 I'm not sure I understood you.
 17 **Q.** Sure.
 18 **MS. RECKER:** At any time did you learn that Par Funding
 19 had received an -- had an audit done and had an
 20 adverse opinion?
 21 **MS. RECKER:** Object to the question to the
 22 extent that it would -- an answer would
 23 implicate attorney-client privileged
 24 information.
 25 **A.** On advice of counsel, I don't think I can

188

1 answer that question based on attorney-client
 2 privilege.
 3 BY MS. BERLIN:
 4 Q. Okay. And who is the client that you're
 5 asserting the privilege for?
 6 A. Dean Vagnozzi, Albert Vagnozzi, Paul
 7 Terence Kohler, and their respective affiliated
 8 entities.
 9 Q. Okay. And when and where did those
 10 communications take place, the communications you're
 11 claiming are privileged?
 12 A. I don't recall when conversations that I
 13 may have had with Dean Vagnozzi about the audit, and
 14 I don't recall whether they were part of
 15 face-to-face meetings with Dean Vagnozzi or
 16 telephone calls with Dean Vagnozzi. I had
 17 conversations with Albert Vagnozzi and Paul Terence
 18 Kohler about the audit in the March, April, May 2020
 19 time frame.
 20 Q. Okay. And do you have the year when you
 21 and Mr. Vagnozzi would have discussed this
 22 privileged conversation, like a general month and
 23 year when it would have occurred?
 24 A. I don't recall when it was.
 25 Q. But it was while you were representing

189

1 him, not after the SEC filed its case when you
 2 stopped representing him, correct?
 3 A. Yes, correct.
 4 Q. Did you ever come to learn that -- and by
 5 the way, did you ever discuss the -- what we're
 6 calling the adverse opinion, which was a 2017
 7 financial audit, just to make sure that we're all on
 8 the same page?
 9 Did you ever discuss that audit with
 10 anyone who wasn't a client who still has an
 11 attorney-client privilege with you?
 12 So for example, nonclients or any of the
 13 dozens of clients who have waived their privilege
 14 with you.
 15 MS. RECKER: Object to the form.
 16 BY MS. BERLIN:
 17 Q. Did you come to learn that the -- that
 18 individuals at Par Funding had a profit-sharing
 19 arrangement amongst themselves?
 20 A. No. I don't know anything about that.
 21 Q. Okay. At any time did you come to learn
 22 that Lisa McElhone was paying herself through a
 23 consulting firm that she owned called Eagle or that
 24 she had several consulting firms that were getting
 25 paid by Par Funding to be consultants?

190

1 A. I don't know anything about that.
 2 Q. At any time did you come to learn that Par
 3 Funding was paying consulting firms, but that those
 4 consulting firms were actually owned by Joe Cole and
 5 Perry Abbonizio or Lisa McElhone?
 6 A. No.
 7 Q. At any time did you learn -- did you come
 8 to know about Par Funding -- the -- the individual
 9 defendants in this case, did you ever come to learn
 10 about them using Par Funding funds to invest in real
 11 estate or to purchase real estate?
 12 MR. MILLER: Object to the form.
 13 A. No, I was -- no.
 14 BY MS. BERLIN:
 15 Q. Did A Better Financial Plan and Complete
 16 Business Solutions Group have a written agreement?
 17 MS. RECKER: Object to the form.
 18 A. I'm aware of a written finder's agreement.
 19 I just don't recall whether the party -- excuse me,
 20 sorry. I recall there was a written finder's
 21 agreement between CBSG. I just don't recall whether
 22 it was Dean Vagnozzi individually or Dean Vagnozzi
 23 the affiliated entity. I'm aware of that agreement.
 24 I'm not aware of any other.
 25

191

1 BY MS. BERLIN:
 2 Q. Okay.
 3 MS. BERLIN: Natalie, I wonder if we could
 4 please show Exhibit 10.
 5 MS. SILVER: Okay.
 6 (Thereupon, marked as Exhibit 10.)
 7 BY MS. BERLIN:
 8 Q. And do you see Exhibit 10 is a -- it's an
 9 e-mail from you to AlanSQ47, which I will tell you
 10 is Alan Candell, a lawyer for Par Funding, and
 11 you're copying Dean Vagnozzi and Jerry Nave, and the
 12 subject is "CBSG Agreement."
 13 Do you see that?
 14 It says, "Attached is a draft services
 15 agreement. Please review and call me with any
 16 questions or comments you may have. In the interest
 17 of time, I am sending this draft to you and my
 18 client simultaneously and, accordingly, this draft
 19 remains subject to my client's review."
 20 Is that what you see on your screen as
 21 well?
 22 A. Yes, it is.
 23 MS. BERLIN: Can we scroll down to the
 24 next page, please, Natalie.
 25

192

1 BY MS. BERLIN:
 2 Q. And then we see on PDF page 2 at the top
 3 it says "Services Agreement," and it's -- it states
 4 in the first paragraph that it's between A Better
 5 Financial Plan, LLC and Complete Solution Business
 6 Group.
 7 Do you see that?
 8 A. Yes, I do.
 9 Q. And in paragraph 1 there's a paragraph
 10 about services that states that CBSG will issue
 11 notes to a -- to the fund with the following
 12 repayment terms and interest rates, and then it has
 13 sort of set terms and interest rates, a rate of
 14 17 1/2 percent per year with interest payable
 15 monthly in arrears, and then two-year notes bearing
 16 interest at the rate of 21 percent per year, and
 17 three-year notes bearing interest at the rate of
 18 23 1/2 percent.
 19 Do you see that?
 20 A. Yes, I do.
 21 Q. Okay. And so was this -- you -- you
 22 ultimately sent this on to Mr. LaForte?
 23 A. Not that I recall.
 24 Q. Okay. And was this agreement ultimately
 25 executed?

193

1 A. To my knowledge, it was not.
 2 Q. Why? Why -- why wasn't it?
 3 MS. RECKER: Objection. To the extent
 4 that the answer reveals attorney-client
 5 privileged information, I instruct you not to
 6 answer.
 7 A. On advice of counsel, I cannot answer your
 8 question based on attorney-client privilege.
 9 BY MS. BERLIN:
 10 Q. Okay. And so is the client Dean Vagnozzi?
 11 A. Yes.
 12 Q. Okay. And so you're -- you're claiming
 13 your privilege with Dean Vagnozzi extends to this --
 14 to my question.
 15 And when is the -- the communication over
 16 which you claim is privileged, when and where did
 17 that occur with Mr. Vagnozzi?
 18 A. Communication was in the April through
 19 August 2016 time frame. I don't recall whether it
 20 was through face-to-face meeting or telephone
 21 conversation or other form of communication.
 22 Q. Was anyone else present for those
 23 communications?
 24 A. Not that I recall.
 25 Q. Ultimately after this 2016 draft was

194

1 circulated, an agreement was reached with
 2 Mr. Vagnozzi where he would receive a certain
 3 percentage on his promissory notes from Par Funding,
 4 correct?
 5 MS. RECKER: Object to the form.
 6 MR. MILLER: Join.
 7 A. Again, I'm familiar with the finder
 8 agreement. I'm not sure if that's the agreement to
 9 which you're referring.
 10 BY MS. BERLIN:
 11 Q. It -- it is not, but -- but that's okay if
 12 you're not aware of that. I don't need to go there.
 13 MS. BERLIN: Let's -- let's take this down
 14 and take a look at Exhibit 11.
 15 (Thereupon, marked as Exhibit 11.)
 16 BY MS. BERLIN:
 17 Q. Exhibit 11 is -- starts with a message
 18 from Mr. Vagnozzi to Joe Mack and you and Alan
 19 Candell. So really Joseph LaForte, you and Alan
 20 Candell who is the counsel for Par Funding at this
 21 time. It's from May 17, 2017. The subject is
 22 "Terms."
 23 Do you see that?
 24 A. I do see that.
 25 Q. Okay.

195

1 MS. BERLIN: Natalie, could you please
 2 scroll down. Actually, scroll up a little bit,
 3 I'm sorry. Perfect. Stop.
 4 BY MS. BERLIN:
 5 Q. So we see it's from Joe Mack to you,
 6 Mr. Pauciulo, and Alan Candell and copying Vagnozzi,
 7 Abbonizio and Cole and Nave. It says, "Gentlemen, I
 8 understand what you're saying, but the deal is not
 9 completed."
 10 Actually, to give you some context, would
 11 you like us to scroll down this document so you
 12 could see the pages beneath to see what he's
 13 referring to, Mr. Pauciulo?
 14 A. I'm -- I'm fine. I'm just looking. I
 15 don't think --
 16 Q. Okay.
 17 A. I don't think that's necessary.
 18 Q. Okay. If for any of these exhibits you
 19 need us to scroll down or up, you know, you hear me
 20 asking Natalie to do it, but you can also make the
 21 request as well. I know it's hard to look at
 22 documents on a screen.
 23 MS. RECKER: To that point, Ms. Berlin, I
 24 would like to ask if they could be made a
 25 little bit larger. Terrific. Thank you.

196

1 MS. BERLIN: Is that better?
 2 BY MS. BERLIN:
 3 Q. So in a -- prior messages on the page
 4 before there's an issue about wanting to do a joint
 5 presentation coming up for CBSG and A Better
 6 Financial Plan, and I, you know, rely on -- it is
 7 what it is. It's stated below, but you can't see it
 8 on your screen.
 9 MS. BERLIN: Natalie, why don't you just
 10 scroll up a bit, so he can glance at it. I
 11 mean scroll down in the document, sorry. Thank
 12 you.
 13 BY MS. BERLIN:
 14 Q. So this is your message that we see here
 15 to Mr. Candell from you, Mr. Pauciulo, where you're
 16 talking about that there was a concern about the
 17 disclosure and the representations and that there
 18 was supposed to be a preliminary meeting scheduled
 19 for that day and Thursday to speak to prospective
 20 investors at a general level. And then you go on to
 21 discuss what the fund was going to discuss versus
 22 what CBSG was going to discuss at this meeting, and
 23 that the purpose of the meeting is to gauge interest
 24 in a possible investment. And there's -- you talk
 25 in your message here, you can see, about getting

197

1 some pushback from CBSG.
 2 MS. BERLIN: So can we scroll back up
 3 again, Natalie. Thank you.
 4 BY MS. BERLIN:
 5 Q. So Joe Mack, which is Joe LaForte, writes
 6 to you all and says, "Gentlemen, I understand what
 7 you were saying, but the deal is not completed.
 8 Respectfully, John, it was your responsibility to
 9 put together the package. We are going to have our
 10 attorney review and then we could continue our
 11 relationship. You never sent the agreement. I
 12 cannot put my company at risk because you guys were
 13 unprepared. You have the insurance product to sell
 14 tonight. CBSG will not participate until we have an
 15 agreement and an opinion from our counsel at
 16 Stradley. I am anxious to do the deal, but I must
 17 be prudent on protecting the company."
 18 Do you see that?
 19 A. Yes, I do see that.
 20 Q. Okay. And so it's Joe Mack is -- is
 21 writing to you.
 22 And what package is it that he's saying
 23 you were supposed to be putting together?
 24 A. I don't recall.
 25 Q. Okay. He also writes to you, you guys

198

1 were unprepared. He says that you guys have the
 2 insurance products to sell tonight.
 3 What is he referring to there? What is
 4 the insurance product that you -- you all were
 5 supposed to sell that night?
 6 A. I don't know --
 7 MS. RECKER: Object to the form.
 8 A. Yeah, I don't know to what Joe Mack was
 9 referring to in that e-mail.
 10 BY MS. BERLIN:
 11 Q. You didn't understand what he was
 12 referring to?
 13 A. I don't know whether I understood at the
 14 time one way or the other. As I sit here today, I'm
 15 not sure to what he is referring.
 16 Q. Okay.
 17 MS. BERLIN: And can we scroll down -- can
 18 we scroll to the next page, Natalie.
 19 BY MS. BERLIN:
 20 Q. So do you see in the second and third
 21 paragraphs of this e-mail that you sent, it's in
 22 20 -- May of 2016, where you're telling Mr. Candell,
 23 counsel for Par Funding, what's supposed to happen
 24 at the investor meeting that night.
 25 Did you come up with the agendas for these

199

1 meetings?
 2 MS. RECKER: Object to the form.
 3 A. No, I did not create and prepare an agenda
 4 for this meeting.
 5 BY MS. BERLIN:
 6 Q. Okay. And you wrote -- in the last
 7 sentence of the second full paragraph of your
 8 message you wrote to him, "We expected that CBSG
 9 would present some general nonconfidential
 10 information about its business."
 11 And you're writing about that in context
 12 of this investor meeting.
 13 What -- were you making decisions about
 14 what CBSG was going to present at these investor
 15 meetings versus what A Better Financial Plan was
 16 going to be presenting at these investor meetings?
 17 MS. RECKER: Object -- I'm sorry. Have
 18 you finished?
 19 Object to the form.
 20 A. I don't know that I understood the
 21 question.
 22 BY MS. BERLIN:
 23 Q. Read the last sentence of the second full
 24 paragraph. I'll read it to you. It says, "We
 25 expected that CBSG would present" -- hold on. I'll

200

1 back up one more sentence.
 2 You wrote, "At these meetings, the fund
 3 does not intend to and will not distribute any kind
 4 of confidential information such as financial
 5 statements. We expected that CBSG would present
 6 some general nonconfidential information about its
 7 business. The purpose of these meetings is to gauge
 8 interest in the possible investment. The attendees
 9 at these meetings are people with whom A Better
 10 Financial Plan has an existing business
 11 relationship."
 12 Do you see that?
 13 **A.** Yes, I do.
 14 **Q.** And do you see the very first sentence of
 15 the paragraph, the second full paragraph of your
 16 message, you write that -- you're talking about,
 17 "The first phase including preliminary meetings such
 18 as those scheduled for today and Thursday, A Better
 19 Financial Plan intends to speak to prospective
 20 investors at a general level."
 21 Do you see that? Do you see those words
 22 on the screen in front of you?
 23 **A.** I'm -- I'm -- I'm trying to read while
 24 you're talking and I'm not good at doing two things
 25 at once. I'm trying to listen to your question. If

201

1 you'll give me an opportunity to read the e-mail, I
 2 will read it.
 3 **Q.** You know what, because we're pressed for
 4 time, the message sort of speaks for itself.
 5 Mr. Pauciulo, did you ever have any
 6 involvement in deciding what was going to be
 7 discussed at -- at meetings with potential
 8 investors?
 9 MS. RECKER: Object to the form.
 10 **A.** Any meeting ever at any time?
 11 BY MS. BERLIN:
 12 **Q.** Yes.
 13 MS. RECKER: Object to the form.
 14 **A.** I think the answer to the question is
 15 seeking information that's subject to
 16 attorney-client privilege.
 17 BY MS. BERLIN:
 18 **Q.** What about with all of those clients who
 19 waived their privilege or ABFP or any of the
 20 receivership entities, if you think that's
 21 privileged, any of the entities that have waived
 22 their privilege, did you ever participate in any
 23 discussion about what would be discussed at their
 24 meetings with prospective investors?
 25 MS. RECKER: Objection. To the extent

202

1 that your answer reveals attorney-client
 2 privilege held jointly with another client, I
 3 would instruct you not to answer.
 4 **A.** On the advice of counsel I can't answer
 5 that question with regard to clients who have not
 6 waived the attorney-client privilege.
 7 With respect to those former clients who
 8 have waived the attorney-client privilege, and I
 9 don't know if we all agree, the list of folks that
 10 you rattled off earlier today, I don't recall ever
 11 having any discussions with any of them about
 12 meetings with any of their prospective investors.
 13 BY MS. BERLIN:
 14 **Q.** Okay. And with respect to the privilege
 15 assertion, is that with respect to the client Dean
 16 Vagnozzi?
 17 **A.** Yes, it is.
 18 **Q.** Okay. And would the communications have
 19 been with Mr. Vagnozzi and anyone else present?
 20 Would anyone else have been present during those
 21 communications?
 22 **A.** Not that I recall.
 23 **Q.** Okay. And was the purpose of these
 24 discussions to provide legal advice or guidance to
 25 Mr. Vagnozzi?

203

1 **A.** Yes, in part and no, in part.
 2 **Q.** Okay. Can you -- can you explain what the
 3 part is that's not? Where you said "no, in part,"
 4 what are you referring to?
 5 **A.** I need to seek advice of counsel.
 6 **Q.** Sure.
 7 (A discussion was held off the record.)
 8 **A.** I would like to try to respond to your
 9 question. I think I heard your question include the
 10 word "planning" and I certainly had discussions with
 11 Dean Vagnozzi about logistics. And when I heard the
 12 word "planning," so we talked about, you know, time
 13 and place and what time could I get there and how
 14 long -- would I talk for five minutes. And so --
 15 so, you know, we had discussions around that. I
 16 don't know if that really answers your question.
 17 BY MS. BERLIN:
 18 **Q.** Okay.
 19 MS. BERLIN: Exhibit -- can we show
 20 Exhibit 12, please.
 21 (Thereupon, marked as Exhibit 12.)
 22 BY MS. BERLIN:
 23 **Q.** So Exhibit 12 is May 18, 2016
 24 correspondence between you and Joe LaForte and
 25 others.

204

1 Do you see that?
 2 **A.** Yes, I see that.
 3 **Q.** Okay. And you're writing -- do you see at
 4 the same subject line, it says "Re: Terms"? If we
 5 scroll down, it's -- following up it is the same
 6 e-mail string as the -- where you sent the draft
 7 agreement, the draft service agreement between Par
 8 Funding and ABFP?
 9 **MS. RECKER:** Object to the form.
 10 **MS. BERLIN:** What's that?
 11 **MS. RECKER:** I was objecting to the form.
 12 I'm not following.
 13 **MS. BERLIN:** You're not following?
 14 Okay. Megan -- I'm sorry, Natalie, can
 15 you scroll down or scroll up so I can show
 16 them -- just scroll to the third page and then
 17 scroll down slowly. There you go.
 18 **BY MS. BERLIN:**
 19 **Q.** So you might recognize some of this. This
 20 is your message of May 17 that we just talked about.
 21 Do you see that? It's on PDF pages 2 and
 22 3.
 23 **A.** Yes.
 24 **Q.** Okay. Great.
 25 **MS. BERLIN:** Keep scrolling, please.

205

1 Scrolling up towards the top. Towards page 1.
 2 **BY MS. BERLIN:**
 3 **Q.** And then we see -- stop. We see Mr. Mack
 4 sending a message on Tuesday, May 17. He says the
 5 deal was not completed. John, it was your
 6 responsibility -- are you seeing that this is the
 7 same string that we just looked at -- looked at two
 8 exhibits ago?
 9 **A.** Yes, I see that.
 10 **Q.** Okay. Great.
 11 It has the same subject line, "Terms."
 12 Do you see that?
 13 **A.** Yes, I see that.
 14 **Q.** Okay. Great. So you write --
 15 **MS. BERLIN:** Can we scroll to the top,
 16 please. Thanks.
 17 **BY MS. BERLIN:**
 18 **Q.** Do you see that you're writing to Joe Mack
 19 and Alan Candell on May 18, 2016 saying, "Please let
 20 me know when we can expect to receive comments to
 21 the document we circulated on Monday evening with
 22 corrective copies sent Tuesday morning, a copy of
 23 which is attached for your convenience."
 24 And you send that to Joe Mack and Alan
 25 Candell, the Par Funding attorney. And then

206

1 Mr. Mack, do you see at the top, he responds to you
 2 Wednesday, May 18 -- tell me to slow down if you're
 3 not following -- but do you see where he responds to
 4 you Wednesday, May 18, 2016 and he writes to you and
 5 Alan Candell and says, "Gentlemen, the contract was
 6 forwarded to Bill Sasso at Stradley Ronnin. He will
 7 review and get this done. Great job, men"?
 8 Do you see that?
 9 **A.** Yes.
 10 **Q.** And this -- why did you e-mail to Joe Mack
 11 on May 18, 2016 asking when you would receive
 12 comments to a document that you had circulated to
 13 him?
 14 **MS. RECKER:** Object to the form.
 15 **A.** I don't think I can answer that based on
 16 attorney-client privilege.
 17 **BY MS. BERLIN:**
 18 **Q.** Okay. Were you writing -- you mean the
 19 privilege would be with Dean Vagnozzi?
 20 **A.** Yes, that's correct.
 21 **Q.** Okay. And so you're claiming that while
 22 you're e-mailing Joseph LaForte on May 18, 2016 that
 23 that's privileged information held by Dean Vagnozzi.
 24 Am I understanding correctly?
 25 **A.** Yes.

207

1 **Q.** Okay.
 2 **A.** Yes, correct.
 3 **Q.** Okay. And in connection with this
 4 communication you're claiming is privileged with
 5 Mr. Vagnozzi, when and where did it occur?
 6 **MS. RECKER:** I'm sorry, I didn't hear
 7 that.
 8 **A.** Yeah, you broke up a bit.
 9 **BY MS. BERLIN:**
 10 **Q.** In connection with your communication with
 11 Mr. Vagnozzi that you claim is privileged, when and
 12 where did it occur?
 13 **A.** Tuesday, May 17 or Wednesday, May 18 of
 14 2016. I don't recall whether that was a telephone
 15 conversation, a face-to-face meeting or some other
 16 form of communication.
 17 **Q.** And why were you e-mailing to Mr. LaForte
 18 as opposed to anyone else at Par Funding? Is it --
 19 why -- why Mr. LaForte specifically?
 20 **A.** I think because he had initiated the
 21 e-mail further down in the string, but I'm not sure.
 22 **Q.** Well, was Mr. LaForte the person who was
 23 making decisions for Par Funding at this time on the
 24 matters in which you were involved?
 25 **MS. RECKER:** Object to the form.

208

1 **A.** He appeared to be a decision-maker.
 2 MS. BERLIN: I wonder if we could
 3 please -- we could take down Exhibit 12. Could
 4 we please put up Exhibit 13.
 5 Thank you, Natalie.
 6 (Thereupon, marked as Exhibit 13.)
 7 BY MS. BERLIN:
 8 **Q.** I'm showing you Exhibit 13. It's an
 9 e-mail between Joe Cole and Joe LaForte from
 10 December of 2016.
 11 MS. BERLIN: Can we scroll down to the
 12 second page?
 13 BY MS. RECKER:
 14 **Q.** Does this organizational chart of Par
 15 Funding, is that something that you've ever seen
 16 before?
 17 **A.** Not that I recall, no.
 18 **Q.** Have you ever seen an organizational chart
 19 for Par Funding?
 20 **A.** I don't recall ever seeing an
 21 organizational chart of Par Funding. Although, they
 22 may have -- in the meeting that I attended in 2016
 23 they may have shown something. I just don't
 24 remember.
 25 **Q.** Okay. And did you ever have the sense

209

1 from your interactions with Par Funding that
 2 Mr. Mack was -- well, just look at the top row. Joe
 3 Cole, CFO; Joe Mack, president; Perry Abbonizio,
 4 investor relations; Alan Candell, general counsel;
 5 Nate Trunfio, director of sales.
 6 In the 2016 time frame, did -- were these
 7 individuals that we see in the top row in blue
 8 boxes, were they engaging in sort of that -- the
 9 role that's designated under their names based on
 10 your experience?
 11 MS. RECKER: Object to the form.
 12 BY MS. BERLIN:
 13 **Q.** If you -- if you don't understand, Mr. --
 14 Mr. Pauciulo, I could do one by one. I'm just
 15 trying to go faster, and I think you understand what
 16 I'm asking, but if you want, I could go one by one
 17 and I could ask you about each of them.
 18 Do you understand the question or would
 19 you like me to go one by one?
 20 **A.** I think I understand your question. And I
 21 think what I hear you asking me is that did my
 22 interactions with these individuals, was it
 23 consistent with the roles shown on the chart versus
 24 the roles that they had described to me.
 25 **Q.** Yes.

210

1 **A.** It's kind of an either/or question.
 2 Certainly my interaction with Joe Cole seemed
 3 consistent with my understanding of what a chief
 4 financial officer does.
 5 I had limited interaction with Perry
 6 Abbonizio in this, again, we're talking about the
 7 2016 time frame, but he was introduced to me as
 8 somebody involved with investor relations.
 9 I did have interactions with Alan Candell
 10 in the 2016 time. And Mr. Candell held himself out
 11 to be an attorney, but I don't recall him saying
 12 that he was general counsel for CBSG. He had also
 13 described himself as an investor.
 14 And obviously I had some e-mail exchange
 15 with Joe Mack, but it was not my understanding at
 16 that time that he was the president of CBSG. As I
 17 testified earlier, it was represented to me that
 18 Lisa McElhone was.
 19 **Q.** No, I understand what was represented to
 20 you. I'm asking if -- when you interacted with Joe
 21 Mack, was he interacting with you? You're sending
 22 him drafts, he's giving you feedback, he's telling
 23 you good job. You're e-mailing with him throughout
 24 2016.
 25 Is he interacting with you the way someone

211

1 would who was operating a company, either as the
 2 president or as a principal of the business?
 3 MS. RECKER: Object to the form.
 4 **A.** I can't say that his actions were
 5 consistent with the actions of somebody holding the
 6 title of president.
 7 BY MS. BERLIN:
 8 **Q.** Okay. Were Lisa McElhone's?
 9 **A.** I was not interacting with Lisa McElhone
 10 in this time frame.
 11 **Q.** So who was -- who -- what person at CBSG
 12 was acting like the president during this time
 13 period?
 14 MS. RECKER: Object to the form.
 15 **A.** I can only testify to my interactions with
 16 these individuals.
 17 BY MS. BERLIN:
 18 **Q.** Yes. And so out of -- who -- you're
 19 interacting with a company. You're doing due
 20 diligence. You're interacting with them and going
 21 to certain people with certain requests and
 22 negotiating agreements and we've seen all of that.
 23 In your opinion, who is in charge? Like,
 24 not that they're telling you who is charge, but what
 25 is your sense of who was in charge?

212

1 MS. RECKER: Object to the form.
 2 A. I didn't have a sense of any one person
 3 being in charge. There was obviously a team and I'm
 4 interacting with groups of people at the same time.
 5 BY MS. BERLIN:
 6 Q. Have you ever received any threats
 7 about -- from anyone, received any threats based on
 8 anything having to do with Par Funding or Joseph
 9 LaForte?
 10 A. What do you mean by "threat"?
 11 Q. I mean that as broadly as you can
 12 interpret it. I think we all know the plain meaning
 13 of threat.
 14 Has anyone ever threatened you? Had you
 15 ever received something that looked like a threat?
 16 Have you ever felt threatened?
 17 I think that you know what I mean by
 18 threat. Threat as a general definition. So I mean
 19 it in a general sense, not in any sort of legal
 20 definition.
 21 But has anyone ever threatened you?
 22 A. Well, I'm the subject of several different
 23 litigations, and prior to the filing of those
 24 litigations, we received claims asserting -- you
 25 know, threatening litigation.

213

1 Q. What about threatening your safety?
 2 A. No.
 3 Q. So initially --
 4 MS. BERLIN: We can take -- we can take
 5 down this exhibit.
 6 BY MS. BERLIN:
 7 Q. So initially, Mr. Vagnozzi [sic], you
 8 testified there was a finder agreement with Par
 9 Funding. And then sometime in 2017 or '18 Par
 10 Funding stopped using the finder agreement and began
 11 accepting money from investment funds.
 12 Would you agree with me in that general
 13 statement?
 14 MS. RECKER: Object to the form.
 15 A. I -- I agree that there came a time when
 16 Par Funding was willing to accept investments from
 17 entities that had pooled money.
 18 BY MS. BERLIN:
 19 Q. Okay. And do you also understand that
 20 there came a time when Par Funding stopped operating
 21 under the agreements it had -- they were called
 22 finder agreements -- that they stopped operating
 23 under their finder agreements, whether they canceled
 24 them or rescinded them or just said they're not
 25 working anymore? They stopped operating under

214

1 those. Do you understand that?
 2 MS. RECKER: Object to the form.
 3 A. In what time frame?
 4 BY MS. BERLIN:
 5 Q. At any time frame. At some point,
 6 Mr. Pauciulo. At some point -- here. Let me put it
 7 another way.
 8 You testified earlier Mr. Vagnozzi had a
 9 finder agreement with Par Funding, yes?
 10 A. Yes, Mr. Vagnozzi had a finder's agreement
 11 with Par Funding.
 12 Q. He doesn't now, correct? There's no
 13 longer a finder's agreement in place, correct?
 14 A. As far as I know, that's correct.
 15 Q. At a certain point, instead of operating
 16 under a finder's agreement, Mr. Vagnozzi started
 17 opening up his own funds and operating -- and
 18 overseeing investment funds instead.
 19 Would you agree with me?
 20 MS. RECKER: Object to the form.
 21 MR. MILLER: Object to the form.
 22 A. There came a time when Dean Vagnozzi
 23 created a fund for the purpose of investing in
 24 merchant cash businesses including Par Funding.
 25

215

1 BY MS. BERLIN:
 2 Q. And when Par Funding started using
 3 investment funds to raise money instead of using the
 4 finder agreements.
 5 MS. RECKER: Object to the form.
 6 A. I don't have any knowledge of Par
 7 Funding's, you know, capital raising methods other
 8 than, you know, the knowledge I have in connection
 9 with representing my clients.
 10 BY MS. BERLIN:
 11 Q. Well, you -- you testified earlier that
 12 you have knowledge of the Pennsylvania and the New
 13 Jersey lawsuits about those finder's agreements,
 14 correct?
 15 A. Correct, which is why I asked you earlier
 16 what time frame are you talking about.
 17 Q. And I said any. All I am trying to get --
 18 this is like a baseline question.
 19 Am I wrong that at some point Par Funding
 20 stopped using the finder agreements and changed to a
 21 model where they used investment funds instead?
 22 And if you disagree, just say so and let's
 23 move on.
 24 A. I don't know if you're right or wrong
 25 because I don't have information about --

216

1 Q. Okay, great. So let me show you
 2 Exhibit 14.
 3 MS. BERLIN: Natalie, can you pop up
 4 Exhibit 14, please.
 5 MS. SILVER: Yes.
 6 MS. BERLIN: Thank you.
 7 (Thereupon, marked as Exhibit 14.)
 8 BY MS. BERLIN:
 9 Q. Exhibit 14 is an exhibit of Victoria
 10 Jacqmein.
 11 MS. BERLIN: Can you scroll to the next
 12 page, please.
 13 BY MS. BERLIN:
 14 Q. This is an e-mail from Dean Vagnozzi to
 15 Joe Mack which is Joseph LaForte, November 5, 2017.
 16 It says --
 17 MS. RECKER: Ms. Berlin, I can't read
 18 this. It's too small.
 19 MS. BERLIN: You can also increase the
 20 size of things on your own computer by like
 21 going to the -- I don't know how, but you can
 22 change the size of the text on your own screen
 23 too, but we've increased it. Is that better?
 24 MS. RECKER: Thank you.
 25 MS. BERLIN: Is that okay?

217

1 BY MS. BERLIN:
 2 Q. For this one, it's a little fuzzy. So let
 3 me know if -- if anybody has a problem. But it says
 4 we are going to give agents two options. Okay, and
 5 then there's option 1, do their own MCA fund.
 6 MS. BERLIN: Can you scroll down, please.
 7 BY MS. BERLIN:
 8 Q. And then option 2, sell my MCA fund. And
 9 he notes on the first line there that his attorney
 10 loved that idea.
 11 Do you see this message on your screen
 12 that is Exhibit 14 to your deposition?
 13 A. I see it. The image is fuzzy, but I think
 14 I can make out the language.
 15 Q. Do you need me to read it to you?
 16 A. If you just hold it still --
 17 Q. Yeah.
 18 A. -- and just give me a chance to read it.
 19 Q. Okay.
 20 A. It's difficult to read a moving document.
 21 Okay. I've read what I can see on the
 22 screen.
 23 Q. Okay. Would you like us to scroll down so
 24 you could see the rest of the e-mail?
 25 A. Why don't I try to answer your question

218

1 and then if we need to look further, I'll look
 2 further.
 3 Q. Okay. Okay. I got it. I think that's a
 4 good idea too.
 5 So did you come up with these -- with the
 6 two options that are laid out in this e-mail
 7 message? By "two options" I mean --
 8 MS. BERLIN: Natalie, can you scroll up a
 9 bit.
 10 BY MS. BERLIN:
 11 Q. -- Option 1, do their own MCA fund, Option
 12 2, sell my own MCA fund.
 13 Did you come up with these two ideas?
 14 MS. RECKER: Objection. To the extent
 15 that your answer implicates the attorney-client
 16 privilege, I would instruct you not to answer.
 17 A. On advice of counsel I cannot answer that
 18 question based on attorney-client privilege.
 19 BY MS. BERLIN:
 20 Q. Okay. And I assume you're talking about
 21 the client being Mr. Vagnozzi?
 22 A. Yes, that's correct.
 23 Q. Okay. And can you give me a general
 24 approximate time and location for the communications
 25 that you claim are privileged?

219

1 A. No, I cannot.
 2 Q. Okay. A year?
 3 A. 2017.
 4 Q. Okay. So were you aware in 2000 -- during
 5 this time period in November 2017 that this idea --
 6 that the idea for using one of these two options was
 7 being discussed with Par Funding?
 8 A. I think your question asked
 9 attorney-client privileged information. I can't
 10 answer it.
 11 Q. Was this structure, the -- the fund
 12 structure, so beginning to use investment funds to
 13 raise money from investors through the sale of
 14 promissory notes. Okay? So I don't have to repeat
 15 that over and over, I'm just going to call that as
 16 the agent fund structure. Okay? That's what I'm
 17 going to call it.
 18 Do you understand what I mean when I just
 19 refer to the agent fund structure, or do you want me
 20 repeat it?
 21 A. Yeah, please repeat.
 22 Q. Okay. Agent fund structure, I am defining
 23 that term for purposes of today as this: Investment
 24 funds that issue securities in the form of
 25 promissory notes or otherwise to investors and then

220

1 use those proceeds to acquire promissory notes from
 2 Par Funding that Par Funding issues to the
 3 investment fund.
 4 Do you understand?
 5 You could think of that little drawing
 6 that you made in April that you showed all the
 7 investors that we're going to look at in a little
 8 bit. That is what I'm calling the agent fund.
 9 Do you understand?
 10 **A.** I understand what you said.
 11 **Q.** Okay. So was the agent -- was the agent
 12 fund structure, was it -- did Par Funding start
 13 using the agent fund structure in order to avoid the
 14 Securities Act limitations concerning accredited and
 15 unaccredited investors?
 16 **MS. RECKER:** Object to the form.
 17 **MR. MILLER:** Join.
 18 **MS. RECKER:** I'm sorry. To the extent
 19 that there's privileged implications, I would
 20 instruct you not to answer.
 21 **MR. MILLER:** And that was just Mr. Miller
 22 objecting to the form.
 23 **MS. RECKER:** I didn't hear that objection.
 24 **MR. MILLER:** I was objecting to the form.
 25 **MS. RECKER:** Okay.

221

1 **A.** Other than Par Funding issuing promissory
 2 notes to investor -- investment funds in what you
 3 have described as agent fund structure, I'm not
 4 aware of what Par's intentions were in terms of
 5 their capital raising in the 20- -- late 2017, early
 6 2018 time frame.
 7 **BY MS. BERLIN:**
 8 **Q.** Well, what about for the agent funds? And
 9 some of them were your clients? Was one of the
 10 benefits of using your own agent fund structure --
 11 and let's just talk about your clients who have
 12 waived their privilege -- that one of the benefits
 13 of utilizing the structure for the agent funds, your
 14 clients who have waived their privilege, offer their
 15 own promissory notes, is that they can circumvent
 16 the Securities Act limitations on accredited versus
 17 unaccredited investors?
 18 **MS. RECKER:** Object to the form.
 19 **A.** I don't know that I understand your
 20 question.
 21 **BY MS. BERLIN:**
 22 **Q.** Okay. So I'm going to ask a question and
 23 this question only concerns your clients who have
 24 waived their privilege.
 25 Do you understand that?

222

1 **A.** I -- I understand that you're referring to
 2 the long list of funds that we discussed earlier
 3 today, yes.
 4 **Q.** Okay. Great.
 5 So with respect to the -- all of your
 6 clients who are these agent funds, was the structure
 7 that was created for those agent funds for your
 8 clients who have waived the privilege, was that done
 9 to avoid the Securities Act limitations concerning
 10 accredited and unaccredited investors?
 11 **MS. RECKER:** Object to the form.
 12 **A.** Well, with regard to whom?
 13 **BY MS. BERLIN:**
 14 **Q.** You tell me. I'm asking -- you can answer
 15 however you would like. Whatever your knowledge is,
 16 Mr. Pauciulo. And if you have none, you can just
 17 say that and we'll move on.
 18 **A.** Well, I want to give clear and accurate
 19 testimony, and I am trying to understand your
 20 questions so I can give you the information that
 21 you're seeking.
 22 **Q.** I think it's pretty clear. So I asked if
 23 you came up with this idea for the -- for the agent
 24 fund structure. You asserted attorney-client
 25 privilege.

223

1 So I'm asking, concerning your clients who
 2 have waived their privilege, okay, so based on
 3 information you know or conversations you've had
 4 with clients with whom you no longer have an
 5 attorney-client privilege and who have waived it,
 6 was the agent fund structure utilized to avoid the
 7 Securities Act limitations concerning accredited and
 8 unaccredited investors?
 9 **MS. RECKER:** To the extent that an answer
 10 would implicate attorney-client privilege or
 11 joint privilege, I would instruct you not to
 12 answer.
 13 **BY MS. BERLIN:**
 14 **Q.** And I'm explicitly excluding any client
 15 you've ever had a privilege with. I think that's
 16 very clear on the transcript.
 17 **Mr. Pauciulo,** if you --
 18 **MS. BERLIN:** Go ahead, Ms. Recker. What
 19 else were you saying?
 20 **MS. RECKER:** My objection includes to the
 21 extent that the answer implicates a joint
 22 privilege, I would instruct him not to answer.
 23 **BY MS. BERLIN:**
 24 **Q.** Mr. Pauciulo, I think you understand, I'm
 25 talking about third parties, people that -- clients

224

1 who you no longer have a privilege with. But if you
2 understand the question, I wonder if you could
3 please respond. And if you don't understand, tell
4 me, and I will phrase it for you a different way.

5 **A.** I'm not sure that I understand your
6 question.

7 **Q.** Okay. Mr. Pauciulo, I got it. Let me try
8 it again.

9 And again, because I don't want to have to
10 do this again, I am only asking about clients you
11 don't have a privilege with, people you've waived
12 the privilege with or third parties. I don't want
13 to know anything that implicates Mr. Vagnozzi and
14 his claim to an attorney-client privilege. So we
15 don't have to go through that whole thing. Just
16 your knowledge based on your -- the whole universe
17 other than Mr. Vagnozzi basically, I'm going to ask
18 you a question.

19 Are you ready for the question?

20 **A.** Yes, I'm ready for the question.

21 **Q.** Okay. The question is, whether or not
22 this agent fund fund structure, as I defined it
23 earlier in your testimony, whether that was utilized
24 to avoid Securities Act limitations concerning
25 accredited and unaccredited investors?

225

1 **Q.** Okay. And were any -- was anyone else
2 ever present or participating in these
3 communications other than you and Mr. Vagnozzi?

4 **A.** Not that I recall.

5 **Q.** Did the Pennsylvania securities
6 regulators' investigation of Par Funding or its case
7 against Par Funding in 2018, did that have any
8 bearing on the decision -- let me start over again
9 because I don't want to get you confused by saying
10 2018.

11 Did the Pennsylvania securities
12 regulators' investigation or case concerning Par
13 Funding have any bearing on the decision to utilize
14 an agent fund structure?

15 **MS. RECKER:** Objection. To the extent the
16 answer implicates attorney-client privilege, I
17 would instruct you not to answer.

18 **MR. MILLER:** Object to the form.

19 **A.** To my knowledge, no.

20 **BY MS. BERLIN:**

21 **Q.** Now, the -- one moment.

22 So when Mr. Vagnozzi had a finder's
23 agreement with Par Funding, he was receiving a
24 percentage of the investment amount as his
25 compensation, correct?

227

1 **MS. RECKER:** Objection. To the extent
2 that the answer implicates any joint privilege,
3 I would instruct you not to answer.

4 **A.** On advice of counsel, I cannot answer your
5 question due to attorney-client privilege.

6 **BY MS. BERLIN:**

7 **Q.** Okay. And who is the joint -- is it an
8 attorney-client privilege or are you asserting a
9 joint privilege, like your attorney just signaled?

10 And could you please state specifically
11 what privilege with what client and then we'll take
12 it from there?

13 **A.** The client is Dean Vagnozzi.

14 **Q.** Okay. And is this a joint privilege
15 situation like your -- your attorney just said? And
16 if so, with whom?

17 **A.** I don't know how to answer that.

18 **Q.** Okay. Maybe it's not. I'm sorry. I
19 don't want to -- I don't want to ask you a question
20 that elicits something that might violate a
21 privilege.

22 So when were these communications -- were
23 these oral communications with Mr. Vagnozzi that
24 you're asserting privilege to?

25 **A.** Throughout 2017 into 2018.

226

1 **MS. RECKER:** Object to the form.

2 **MR. MILLER:** Join.

3 **A.** I -- I don't recall.

4 **BY MS. BERLIN:**

5 **Q.** What's that?

6 **MS. BERLIN:** We can take this down.

7 **BY MS. BERLIN:**

8 **Q.** The finder's agreement is already like in
9 the court record. It's public record. I will just
10 state that for those of you not familiar with it.

11 If you need me to put it on the screen, I will. But
12 Mr. Pauciulo, it's up to you, you drafted the
13 finder's agreement.

14 Do you agree with me that it states that
15 Mr. Vagnozzi will receive a percentage commission?
16 I don't mean using those words verbatim.

17 **MS. RECKER:** Object to the form.

18 **MR. MILLER:** Join.

19 **A.** Yeah, I don't know that I drafted the
20 finder's agreement between Dean Vagnozzi and CBSG.
21 **BY MS. BERLIN:**

22 **Q.** Did you ever -- did you see it?

23 **MS. RECKER:** Object -- objection. To the
24 extent the answer implicates attorney-client
25 privilege, I would instruct you not to answer.

228

1 BY MS. BERLIN:
2 Q. All right. We'll put the finder's
3 agreement on the screen, and then we can just --
4 we'll just be able to get this down. Hold on. Let
5 me pull it from the court docket for you.
6 Let's see. Finder's agreement. Okay.
7 I'm going to share my screen. And I am showing you,
8 do you see on your screen a document at the top, it
9 says Case Number 20 Civil 81205-RAR? Do you see
10 that, Mr. Pauciulo, on your screen? I just want to
11 make sure I'm sharing correctly.
12 A. Yes, I do see it.
13 Q. Yes?
14 A. Yes.
15 Q. Okay. Great.
16 So we were just on the court docket, and
17 I'm not going to introduce it as an exhibit. We're
18 just going to tell you and state on the record, we
19 are showing Mr. Pauciulo Document Entry 28-3, which
20 is in the public filing, the finder's agreement that
21 was the subject of the attorney-client privilege
22 just a moment ago.
23 Mr. Pauciulo, do you see that this is a
24 finder's agreement between Complete Business
25 Solutions Group and A Better Financial Plan dated

229

1 April 14, 2017?
2 A. Yes, I see the agreement shown on the
3 screen.
4 Q. Great.
5 And do you see where it discusses that
6 there is going to be -- the purpose of providing
7 service -- hold on. I'm just going to scan it for
8 you to help you out. First sentence -- it talks at
9 the end, it talks about in form of a loan, the
10 client for use in company operations in exchange for
11 a commission, fees paid by the client to the finder,
12 that this agreement states that the company A Better
13 Financial -- or Complete Business Solutions Group is
14 to going to pay a commission to the finder, which is
15 defined here to mean A Better Financial Plan.
16 Do you see that in the first paragraph of
17 the finder's fee agreement?
18 A. Yes, I do.
19 Q. Okay. And do you see down below,
20 commission structure; and there's a commission
21 structure paragraph?
22 A. Yes, I do.
23 Q. Do you see that right here, paragraph 3?
24 Yeah?
25 A. Yes, I see.

230

1 Q. Okay. Super.
2 And then it's going to be -- and then
3 there's a percentage that they're going to be paid.
4 Do you see that?
5 I'm highlighting it for you. Paragraph
6 3A, page 3 of 4 of the court filing.
7 A. I see the text --
8 Q. Do you see it?
9 A. I see the text that you're highlighting.
10 Q. Okay. Perfect. So I'm going to stop
11 sharing my screen now. And when I refer to the
12 finder's agreement, I'm referring to that document.
13 Do you understand?
14 A. I do.
15 Before you take it down, could you scroll
16 to the bottom of the agreement, please?
17 Q. Sure. And there are many, many of these.
18 This is a public document. It is publicly filed.
19 It is out there for the world to see. So I'm going
20 to ask you about this briefly.
21 Are you -- do you want to see any other
22 portion of this document?
23 A. No, not at this time.
24 Q. Okay.
25 A. Based on your questions I may ask to see

231

1 it again.
2 Q. Okay, no problem. I'm just going to stop
3 sharing so I can see you again. You let me know if
4 you want to see it again, and I'll put it back up.
5 This is my only question. There was a
6 finder's agreement that provided a commission based
7 on a percentage of -- of the transaction. I just
8 showed you one of the finder's agreements. It was
9 between Par Funding and A Better Financial Plan.
10 So do you agree with me that there was
11 a -- a commission arrangement with finders that Par
12 Funding had?
13 MR. MILLER: Object to the form.
14 MS. RECKER: Object to the form.
15 BY MS. BERLIN:
16 Q. Mr. Pauciulo, do you understand?
17 A. Well, you've just shown me a finder's
18 agreement and I acknowledge seeing the finder's
19 agreement and I saw that it had been signed by the
20 parties, so I'm aware that there is that finder's
21 agreement.
22 Q. Right.
23 And you're also aware of the Pennsylvania
24 case, the New Jersey case, about the use of these
25 finder's agreements and about your own client,

232

1 Mr. Vagnozzi, having a Pennsylvania securities
 2 regulatory action filed against him and being
 3 sanctioned for his role under one of his agreements
 4 with Par Funding, correct?
 5 MS. RECKER: Object to the form.
 6 A. Yes, I'm aware of those regulatory
 7 actions.
 8 BY MS. BERLIN:
 9 Q. Okay. So I just want to be clear, you're
 10 not hearing about this type of arrangement for the
 11 first time in our conversation today, correct, or
 12 are you, Mr. Pauciulo?
 13 A. I'm considering your question. I
 14 appreciate your patience. Thank you.
 15 Q. No problem.
 16 A. There came a time I became aware that Par
 17 Funding had used finders for the purpose of raising
 18 capital.
 19 Q. Yes. And you actually have many e-mails
 20 with Mr. Vagnozzi that have been produced where you
 21 talk about his finder role, correct?
 22 MS. RECKER: Object to the form.
 23 MS. BERLIN: Strike that.
 24 BY MS. BERLIN:
 25 Q. I -- we don't have time to get into all of

233

1 your -- the e-mails about the finder agreement.
 2 My question is this: After the -- after
 3 they ceased operating under finder's agreements and
 4 they switched to the agent fund model, which is
 5 defined as I explained it to you earlier today, how
 6 did the people who were operating the agent funds
 7 get compensated?
 8 MS. RECKER: Object to the form.
 9 BY MS. BERLIN:
 10 Q. To -- to break it down for you,
 11 Mr. Pauciulo, they were getting a commission based
 12 on a percentage. Now, Mr. Vagnozzi and other
 13 similar people who were finders, now they have an
 14 agent fund.
 15 So how did they get their compensation
 16 under the agent fund structure?
 17 MS. RECKER: Object to the form.
 18 MR. MILLER: Join.
 19 A. With regard to the individuals who have
 20 waived privilege, they were being compensated on the
 21 difference between the interest paid on the notes
 22 issued by Par Funding and the interest on the notes
 23 issued by their firm, what I would colloquially
 24 refer to as the spread.
 25 So simply by way of example and not with

234

1 respect to any particular specific fund, if Par
 2 Funding was issuing a note with an interest rate
 3 of -- again, I'm just going to pull a number, I
 4 don't know if this is an actual number --
 5 15 percent, the individual funds would issue notes
 6 to their investors at some lesser percent, and the
 7 fund manager of -- the difference would be profit
 8 distributable to the fund manager as the owner of
 9 the LLC which had issued its notes to its investors.
 10 BY MS. BERLIN:
 11 Q. Understood.
 12 So the amount that -- that -- I
 13 understand, and I'm going to use your word, the
 14 spread, for what that compensation is.
 15 Did the spread vary from agent fund to
 16 agent fund?
 17 MS. RECKER: Object to the form.
 18 BY MS. BERLIN:
 19 Q. So the agent fund is determined based on a
 20 few things.
 21 You would agree with me it's based in part
 22 on the percentage of -- the percentage that the fund
 23 is offering in its own notes to investors, but it's
 24 also then based on the percentage that Par Funding
 25 is offering to that agent fund, correct?

235

1 A. That's correct.
 2 Q. Okay. And do those percentages vary from
 3 agent fund to agent fund?
 4 MS. RECKER: Object to the form.
 5 A. Different agent funds issued their notes
 6 at different rates.
 7 BY MS. BERLIN:
 8 Q. And Par Funding issued its notes at
 9 different rates as well, correct?
 10 MS. RECKER: Object to the form.
 11 A. I don't have knowledge of that.
 12 BY MS. BERLIN:
 13 Q. Well, you've seen -- have you seen the
 14 promissory notes that Par Funding issued to your
 15 clients who have waived their privilege?
 16 A. What time frame?
 17 Q. Any time frame.
 18 Have you ever seen a promissory note that
 19 Par Funding issued to one of your many clients who
 20 have waived their privilege?
 21 A. Yes.
 22 Q. Okay. And would you agree with me that
 23 the interest that Par Funding provides on the
 24 promissory note is not always the same?
 25 So one promissory note from Par Funding

236

1 might have one interest rate percentage -- one
 2 interest rate, another promissory note to another
 3 person could have a different interest rate.
 4 Would you agree with me on that?
 5 MS. RECKER: Object to the form.
 6 **A.** I -- I have -- I have not reviewed all of
 7 the promissory notes that may have been acquired by
 8 agent funds issued by Par Funding. So I -- I can't
 9 tell you that -- whether the interest rates vary and
 10 to what extent they may vary.
 11 BY MS. BERLIN:
 12 **Q.** I'm not asking to what extent they may
 13 vary, and I'm not asking if every single one is
 14 different. Let me ask you another -- let me ask you
 15 the opposite way since I see why you're not
 16 answering.
 17 In all the promissory notes you saw that
 18 Par Funding issued, was the percentage always
 19 exactly the same?
 20 MS. RECKER: Object to the form.
 21 **A.** I don't recall.
 22 BY MS. BERLIN:
 23 **Q.** Okay. Would there be a reason why some
 24 agent funds would receive a higher interest rate
 25 from Par Funding than other agent funds would

237

1 receive?
 2 MS. RECKER: Object to the form.
 3 **A.** Assuming that there was variation, I don't
 4 know why there is variation.
 5 BY MS. BERLIN:
 6 **Q.** Did you have any role in negotiating the
 7 interest rates on the promissory notes?
 8 **A.** I was not involved in negotiating the
 9 interest rate on the promissory notes issued by Par
 10 Funding to the so-called agent funds.
 11 **Q.** Okay. What about with respect to
 12 Mr. Vagnozzi and his funds?
 13 **A.** I think your question asked me to share
 14 information with you that's subject to the
 15 attorney-client privilege held by Dean Vagnozzi.
 16 **Q.** I'm -- I'm not asking what you negotiated
 17 or what advice you gave. I want to make sure you
 18 understand.
 19 I'm just asking, did you or did you not
 20 negotiate interest rates between Par Funding and
 21 Mr. -- Mr. Vagnozzi and his funds?
 22 **A.** I did not communicate directly with Par
 23 Funding with regard to the interest rates -- excuse
 24 me -- payable on promissory notes issued by Par
 25 Funding.

238

1 **Q.** Did you communicate with them indirectly?
 2 **A.** Not that I recall.
 3 MS. BERLIN: Okay. Can I -- can we please
 4 show Exhibit 15.
 5 MS. SILVER: Okay.
 6 MS. BERLIN: Thank you, Natalie.
 7 (Thereupon, marked as Exhibit 15.)
 8 BY MS. BERLIN:
 9 **Q.** Mr. Pauciulo, I am -- you're about to see
 10 a document that's labeled "Agent Guide" at the top.
 11 The Agent Guide, have you seen this
 12 document before.
 13 MS. RECKER: Objection. To the extent
 14 that your answer implicates attorney-client
 15 privilege, I would instruct you not to answer.
 16 BY MS. BERLIN:
 17 **Q.** The question is, have you seen this
 18 document before? I want to be very clear. I'm not
 19 asking if you gave advice about it. I'm not asking
 20 you anything other than whether you have seen this
 21 document prior to today.
 22 **A.** Not that I recall.
 23 **Q.** Okay. Were you aware -- so I guess you
 24 weren't aware that this -- that -- you were not
 25 aware of the existence of the document appearing as

239

1 Exhibit 15 until this moment?
 2 **A.** I was aware that there were materials
 3 provided, but I don't recall seeing this particular
 4 document that you're showing me now.
 5 **Q.** Okay. Now, there was -- Mr. Vagnozzi --
 6 MS. BERLIN: We can take this exhibit
 7 down.
 8 BY MS. BERLIN:
 9 **Q.** Mr. Vagnozzi received a cut of most of
 10 these agent funds spread, as you call it, the
 11 spread. He received a cut of it between -- and just
 12 a moment. Let me just quiet my dog. I'm so sorry.
 13 Sorry about that.
 14 Did you -- did you draft the ABFP
 15 management agreement that was entered into by ABFP
 16 management and various agent funds?
 17 MR. MILLER: Object to the form.
 18 **A.** Yes, I drafted it.
 19 BY MS. BERLIN:
 20 **Q.** Did you and Mr. Vagnozzi recruit people to
 21 be agent -- to -- to have these agent funds or
 22 create these agent funds?
 23 MS. RECKER: Object to the form.
 24 MR. MILLER: Join.
 25

240

1 BY MS. BERLIN:
 2 Q. I'm not asking about any legal advice.
 3 I'm asking whether you recruited people to -- to
 4 start agent funds.
 5 MS. RECKER: Object to the form.
 6 A. I did not recruit anyone to form an agent
 7 fund.
 8 BY MS. BERLIN:
 9 Q. Okay. Did you help Mr. Vagnozzi recruit
 10 anyone to start an agent fund?
 11 MS. RECKER: Object to the form.
 12 MR. MILLER: Join.
 13 A. I attended two or three sessions with
 14 people who were interested in funds and talked about
 15 my background and talked about Regulation D
 16 generally.
 17 BY MS. BERLIN:
 18 Q. And then if they were interested, you
 19 would do all the legal work for them and all the
 20 offering documents while Mr. Vagnozzi would help
 21 them with the marketing aspect of things.
 22 Is that accurate?
 23 MS. RECKER: Object to the form.
 24 MR. MILLER: I'll join.
 25 A. It's not wholly accurate. The first part

241

1 of your question or statement I think is accurate in
 2 that the individuals would retain me to provide
 3 legal services for them. I don't know that it's
 4 accurate what Dean Vagnozzi did in terms of -- the
 5 phrase you used was marketing or anything like that.
 6 BY MS. BERLIN:
 7 Q. Okay. So you would do the legal aspect of
 8 it though, and you already established -- you're
 9 familiar -- when I say the ABFP management agreement
 10 that was in effect between ABFP and agent funds to
 11 provide ABFP management with private management
 12 services for those agent funds, are you -- you're
 13 familiar with that, correct?
 14 A. Yes, I am.
 15 MS. RECKER: Object to the form.
 16 BY MS. BERLIN:
 17 Q. Okay. So you would agree with me that you
 18 would provide the legal services and then -- for the
 19 agent funds who entered into those ABFP management
 20 agreements, then ABFP management and that entity
 21 would handle the management aspect of those agent
 22 funds.
 23 MS. RECKER: Object to the form.
 24 BY MS. BERLIN:
 25 Q. Do you agree with me or not?

242

1 A. I think that's correct.
 2 Q. Okay. So was it -- it sounds sort of
 3 like -- almost like a franchise or a turnkey kind of
 4 thing. Like simple. They give you money. You
 5 create the offering documents. You set up their
 6 EIN. You -- they give you the name of the company.
 7 You'll do their SEC filings. And then Vagnozzi does
 8 all of the back office stuff. All they have to do
 9 is focus on selling.
 10 Is that accurate?
 11 MS. RECKER: Object to the form.
 12 MR. MILLER: I'll join.
 13 A. It's accurate to the extent that we
 14 provided legal services as described in our
 15 engagement letters, and it's correct to the extent
 16 that the management company provided management
 17 services under that contract.
 18 BY MS. BERLIN:
 19 Q. Well, it sounds like it's kind of like a
 20 turnkey operation. If people just come to you and
 21 Vagnozzi, you can handle everything. All they have
 22 to do is worry about the solicitation --
 23 MS. RECKER: Object to the form.
 24 BY MS. BERLIN:
 25 Q. -- correct?

243

1 MR. MILLER: Join.
 2 A. I think there's more to it than that.
 3 BY MS. BERLIN:
 4 Q. Okay. What's the more to it?
 5 A. The fund managers were in direct contact
 6 with Par Funding, so they had to deal with Par
 7 Funding. The fund managers had responsibility for
 8 their relations with their investors.
 9 Q. Got it.
 10 Other than that, anything else?
 11 A. To my knowledge, no.
 12 MS. BERLIN: Okay. Could we please go to
 13 Exhibit 16.
 14 (Thereupon, marked as Exhibit 16.)
 15 BY MS. BERLIN:
 16 Q. Exhibit 16 is an e-mail from Mr. Vagnozzi
 17 to you. It is just March 30, 2018 telling you,
 18 "John, we have ten agents, five local that have the
 19 10K for a fund and we have thoroughly vetted them.
 20 Need you at Perry's office to talk about the
 21 process. This will lead to at least five PPMs, I
 22 assure you. I sent you an invite for next week the
 23 5th at 10:00 a.m., Dean."
 24 Is this one of the -- would this be
 25 relevant to one of the meetings you testified you

244

1 attended where some of the agent funds prospectives
2 were?
3 **A.** Yes, if not this specific meeting, then --
4 then a meeting, but yes. This was an invitation for
5 me to attend a meeting with individuals who
6 expressed interest in forming a fund.
7 **Q.** Okay. And how much would you get paid for
8 each of the -- by each of these agent funds? Did
9 you have a flat fee for them to do the legal work
10 for PPMs and your side of things or was it hourly?
11 **A.** The fee structure was hourly.
12 **Q.** The -- but every one of these, where he
13 says we will have at least five PPMs, I assure you,
14 basically that could be like five new clients for
15 you, correct?
16 **MS. RECKER:** Object to the form.
17 **A.** That's correct.
18 **MS. BERLIN:** Okay. Can we please show
19 Exhibit 17.
20 Oh, this is -- I'm so sorry. Natalie,
21 this is a duplicate of Exhibit 5 that we shared
22 earlier. There was a document that I had Vicky
23 send you as a replacement, and it shows -- I
24 don't know what she called it, but the first
25 page is the -- it's a retainer with Henry Ford,

245

1 and it has some invoices attached.
2 I'm amazed that you just did that.
3 Okay, thank you.
4 (Thereupon, marked as Exhibit 17.)
5 **BY MS. BERLIN:**
6 **Q.** Okay. So this is now going to be
7 Exhibit 17.
8 **MS. BERLIN:** Can you scroll down, Natalie.
9 I just want to see the Bates number. Oh, it
10 says deposition exhibit, but we're going to fix
11 it, 37. It's going to be 17. It has a Bates
12 number -- can you scroll back so I can see
13 again the Bates number -- BFP088413 in the
14 bottom right. So we'll relabel that as
15 Deposition Exhibit 17.
16 Can you scroll back up to the top.
17 **BY MS. BERLIN:**
18 **Q.** Okay. I'm just going to hop back in time
19 for a minute to earlier today. Mr. Pauciulo, we
20 talked about your representation of Henry Ford and
21 when that might have occurred.
22 Is this your retainer agreement with Henry
23 Ford a/k/a Cleothus -- that is quite a name. I
24 can't even remember. But we'll just call him
25 Mr. Jackson, because it's a very long name.

246

1 Is this your retainer agreement with
2 him -- with him?
3 **A.** It's a retainer agreement with
4 Fallcatcher.
5 **Q.** Right.
6 And it says Henry Ford, Fallcatcher, and
7 you addressed the letter to Henry Ford or to
8 Mr. Ford.
9 Do you see that?
10 **A.** I do see that.
11 **Q.** Okay. Great.
12 **MS. BERLIN:** Can we scroll down, please.
13 Thank you. Keep scrolling. Sorry. Thank you,
14 Natalie. Keep going. We can keep going.
15 Thank you.
16 So this was sent to Mr. Pauciulo and
17 Mr. Ford, July 2018.
18 And can we turn to the next page, the next
19 PDF page. And scroll one more page. I think
20 that this is one -- okay. Hold on. Scroll
21 down one more page. Thank you.
22 **BY MS. BERLIN:**
23 **Q.** So we see here -- if you look on this
24 page, do you see where it says August 6, 2018,
25 prepare PPM? Do you see that, Mr. Pauciulo?

247

1 **A.** Yes, I do.
2 **Q.** Okay. Does that help to sort of refresh
3 when you were working on the Fallcatcher PPM?
4 **A.** Yes.
5 **Q.** Okay. And JWP is you, correct?
6 **MS. RECKER:** I'm sorry, I couldn't hear
7 that question.
8 **BY MS. BERLIN:**
9 **Q.** Oh, J -- the initials JWP, under the
10 attorney column, I was just asking, is that you,
11 Mr. Pauciulo?
12 **A.** Yes, it is.
13 **Q.** Okay. Thank you.
14 **MS. BERLIN:** We can remove Exhibit 17.
15 Can we please show Exhibit 18. Well,
16 actually, hold off for a second.
17 **BY MS. BERLIN:**
18 **Q.** Mr. Pauciulo, did you -- yeah.
19 Did you -- did you ever report your
20 progress in creating more PPMs or more agent funds
21 to anyone at Par Funding?
22 **MS. RECKER:** Object to the form.
23 **A.** Yes.
24 **BY MS. BERLIN:**
25 **Q.** Okay. Who would you report to?

248

1 A. Well, I -- I wouldn't use the word
 2 "report." On occasion, Perry Abbonizio would -- had
 3 contacted me and would ask me, you know, the status
 4 of the matter.
 5 Q. Okay. And is that because the PPMs that
 6 you were drafting, they're created because they're
 7 going to generate investor funds that go eventually
 8 to Par Funding for the promissory notes that they
 9 issue; is that right?
 10 MS. RECKER: Object to the form.
 11 A. Mr. Abbonizio didn't expressly say what
 12 the purpose of his call was, but I think that's a
 13 reasonable conclusion.
 14 BY MS. BERLIN:
 15 Q. Well, yeah, he's calling -- you're --
 16 you're creating the PPMs that raise money from
 17 investors that get funneled to CBSG. So I would say
 18 that he has an interest in how many PPMs are in the
 19 pipeline.
 20 Would you agree with me?
 21 A. Yes.
 22 Q. Okay.
 23 MS. BERLIN: Can we please show
 24 Exhibit 18.
 25 (Thereupon, marked as Exhibit 18.)

249

1 BY MS. BERLIN:
 2 Q. Is one of your clients -- was one of your
 3 clients Joseph Gassman?
 4 A. Yes, I represented Joseph Gassman in
 5 connection with forming an investment fund.
 6 Q. Okay. And the name of that fund is Wellen
 7 fund; is that right?
 8 A. Yes, I believe that's correct.
 9 Q. And Wellen fund is one of those funds
 10 that's waived its privilege, correct?
 11 A. Correct, that's my understanding.
 12 Q. And you drafted the PPM for the Wellen
 13 fund, correct?
 14 Did you -- did you draft the PPM for the
 15 Wellen Fund?
 16 A. I don't recall specifically. I either
 17 drafted it or I reviewed a draft prepared by one of
 18 my colleagues. I don't recall.
 19 Q. All right. So by that you mean -- like
 20 did you have associates who were working on these
 21 matters with you?
 22 A. Yes.
 23 Q. Okay. And those associates, those are the
 24 attorneys that are listed and whose initials appear
 25 on the invoices, I imagine; is that correct?

250

1 A. That's correct.
 2 Q. Okay. Super.
 3 So Exhibit 18, this is from Perry
 4 Abbonizio to you, and you to Perry.
 5 Do you see where it says, on Wednesday,
 6 May 16, 2018 John Pauciulo wrote "Perry, I turned
 7 his PPM today. It should be final or very close to
 8 final"?
 9 And do you see the subject line is
 10 regarding Gassman?
 11 A. Yes, I see that.
 12 Q. Okay. So are you referring to the PPM for
 13 the Wellen fund?
 14 A. Yes.
 15 Q. Okay. And then Perry Abbonizio, do you
 16 see where he responds to you, May 16, 2018, "Thank
 17 you, my friend. Doing a great job. Perry."
 18 Do you see that?
 19 A. Yes, I do.
 20 Q. Okay. So were you in part kind of working
 21 for Par Funding in drafting all these PPMs and
 22 working with these agent funds?
 23 MS. RECKER: Object to the form.
 24 A. No, I was not representing Par Funding or
 25 working for Par Funding in any way, shape or form.

251

1 BY MS. BERLIN:
 2 Q. Well, I know that you weren't representing
 3 Par Funding, but I'm talking about were you part
 4 of -- I mean, you're part of sort of the -- their
 5 overall structure that helps bring investor money
 6 into their business. So, you know, Mr. Abbonizio,
 7 you're reporting to him that you're turning in
 8 another PPM for CBSG and he's telling you you're
 9 doing a great job.
 10 So I mean, how do you -- how do you gel
 11 this kind of reaction from Mr. Abbonizio with your
 12 representation that you don't really work with or
 13 for CBSG?
 14 MS. RECKER: Object to the form.
 15 A. I wasn't working for them. I wasn't
 16 working at their direction. I wasn't receiving
 17 compensation from them. I was representing clients
 18 who had business with them.
 19 BY MS. BERLIN:
 20 Q. And so why would you -- why did you just
 21 reach out to let him know that you turned the PPM
 22 today and that you should be very close to
 23 finalizing it? Is that because you're trying to let
 24 Perry Abbonizio know that soon you and Mr. Vagnozzi
 25 are going to have one more person out there on the

252

1 streets raising money for Par Funding?
 2 MS. RECKER: Object to the form.
 3 MR. MILLER: Join.
 4 A. I don't recall, but I'm looking at the
 5 time when that e-mail -- I don't remember. Perry
 6 Abbonizio would call me periodically and probably --
 7 I don't recall specifically, but in all likelihood
 8 he called me and left me a telephone message and I
 9 sent him an e-mail responding to that telephone
 10 message.
 11 BY MS. BERLIN:
 12 Q. Okay. Let's look at --
 13 MS. BERLIN: We can take this exhibit
 14 down.
 15 BY MS. BERLIN:
 16 Q. Did you tell any -- the next round of
 17 questions I'm only asking you about -- I'm just
 18 going to ask you only about the -- the agent funds
 19 and the individuals who sued you for malpractice
 20 that have waived their privilege. I am not asking
 21 you about Dean Vagnozzi or any of his companies.
 22 Do you understand?
 23 A. Yes, I understand.
 24 Q. Okay. So did you tell any of the -- these
 25 agent funds who have waived their privilege with you

253

1 that Par Funding had a regulatory history?
 2 A. In what time frame?
 3 Q. Any.
 4 A. Well, at some point in 2020, I guess the
 5 March, April time frame following the Par default,
 6 Par produced a set of documents outlining revised
 7 terms of the promissory notes that they had issued.
 8 And within that document, there are disclosures
 9 about the Texas regulatory action, the New Jersey
 10 regulatory action and the Pennsylvania regulatory
 11 action. And all of those folks, to the best of my
 12 knowledge, received that.
 13 Q. So let me just stop you. My question for
 14 all of these, because I have a long way to go, and I
 15 would love to finish today. I am only asking about
 16 what you did. And again, I've defined this a few
 17 times today. When I say "you," I mean John
 18 Pauciulo. I don't mean the global you as you and
 19 CBSG and Joseph LaForte. I just mean you
 20 personally. You, Mr. John Pauciulo.
 21 Did you, Mr. John Pauciulo, tell any of
 22 the agent funds who have waived their privilege with
 23 you that Par Funding had a regulatory history?
 24 A. Not that I recall.
 25 Q. Did you, John Pauciulo, tell any of the

254

1 agent funds who have waived their privilege with you
 2 that ABFP, meaning A Better Financial Plan, had a
 3 regulatory history?
 4 MS. RECKER: Object to the form.
 5 MR. MILLER: Join in the objection.
 6 A. I do recall speaking with some fund
 7 managers about the New York SEC matter and I
 8 certainly recall speaking with some of the agents
 9 after the announcement of the New York SEC matter
 10 with regard to Dean Vagnozzi and A Better Financial
 11 Plan.
 12 BY MS. BERLIN:
 13 Q. The meeting after the -- after it became
 14 public and it was in the newspaper you spoke with
 15 them?
 16 A. Certainly then, but I seem to recall
 17 talking about some -- with some of the fund managers
 18 about the existence of the pending investigation.
 19 Q. Okay. And which of them -- which of them
 20 did you discuss it with?
 21 A. I don't recall.
 22 Q. Hold on one second.
 23 THE WITNESS: We need to take a break if
 24 this is going on much longer.
 25 MS. RECKER: We need to take a break.

255

1 MS. BERLIN: Okay. Can we -- maybe if I
 2 just -- if I just ask this one last question,
 3 then that would be a perfect breaking point, so
 4 I don't have to circle back. Because it's a
 5 follow-on to the question. Can you hang in
 6 there for one more question?
 7 THE WITNESS: Of course.
 8 BY MS. BERLIN:
 9 Q. Okay. Thanks.
 10 I'm going to share my screen again and
 11 just ask you one question and then we'll take a
 12 break.
 13 Okay. Do you see -- it's just a page that
 14 says "Complaint," and it's plaintiff, Joseph R.
 15 Cacchione.
 16 Is that what you see on your screen as
 17 well?
 18 A. Yes.
 19 Q. I am apparently technologically
 20 challenged, so I'm always -- I always get delighted
 21 when I actually share my screen correctly.
 22 So I thought this would make it easier. I
 23 just put all the names of those agent funds and
 24 agents who have waived their privileged, and I
 25 thought this would be easy.

256

1 Do you want to just scan this list of them
2 and tell me if you disclosed to any of them the
3 regulatory history of A Better Financial Plan, Dean
4 Vagnozzi?
5 **A.** I have some recollection of discussing the
6 New York SEC matter with respect to Dean Vagnozzi
7 and A Better Financial Plan with some of the fund
8 managers. I don't have a recollection specifically
9 as to whom or when.
10 **Q.** Okay. You don't remember which person?
11 **A.** That's correct, I don't remember which
12 person.
13 **Q.** Okay. Would it have been verbal or in
14 writing?
15 **A.** Verbal.
16 **Q.** Okay. I'll let you go. I'm sorry. I
17 went past one question.
18 MS. BERLIN: Let's take a break.
19 THE WITNESS: Thank you.
20 MS. BERLIN: Thank you. All right.
21 (A discussion was held off the record.)
22 BY MS. BERLIN:
23 **Q.** It might be helpful. I'm just going to
24 share my screen again so I can ask more quickly.
25 Does everybody -- can you all see my

257

1 screen that has that paragraph with all of
2 the --
3 BY MS. BERLIN:
4 **Q.** Mr. Pauciulo, with your clients who waived
5 their privilege? Is that what you see on your
6 screen?
7 **A.** Yes, it is.
8 **Q.** Okay. Wonderful.
9 And this is just the -- the complaint that
10 they filed against you and it's just the -- I think
11 like the PDF page 2, first paragraph.
12 Mr. Pauciulo, did you tell any of the
13 individuals or entities listed in the paragraph on
14 your screen -- all these agent funds that have
15 waived their privilege that sued you in the
16 malpractice case, did you tell any of them that
17 Mr. LaForte used an alias or as you call it a
18 nickname, Joe Mack?
19 **A.** Not that I recall.
20 **Q.** Okay. And would you agree with me that
21 Mr. LaForte was -- oh, I'm sorry, were you trying to
22 say more?
23 **A.** I was -- I was only going to remark
24 that -- that Michael Tierney was very actively
25 involved in the A Better Financial Plan business and

258

1 interacted with Par and may well have been -- may
2 well have been aware of that.
3 **Q.** Okay. But I'm just asking -- all the
4 questions I'm about to ask are just about you and
5 whether you, personally, John Pauciulo, told these
6 people.
7 (Technical interruption.)
8 BY MS. BERLIN:
9 **Q.** Now, was it your understanding during the
10 time that you were aware of Mr. LaForte that he had
11 some management role at Par Funding?
12 MS. RECKER: Object to the form.
13 **A.** I -- I was aware that he had some role at
14 Par Funding. That role was never clearly described
15 to me.
16 BY MS. BERLIN:
17 **Q.** Based on your experience of interacting
18 with him for -- since 2016, did you have an
19 understanding that the role that he had was a
20 management function?
21 **A.** I don't know how to answer that. Again,
22 his role was somewhat undefined to me.
23 **Q.** Your experience of working with him. If
24 you don't know, if you've never assessed whether he
25 was like a regular employee or if he was somebody

259

1 who had some management authority at the company,
2 you can just say so. My question is based on your
3 experience of interacting with Mr. LaForte from at
4 least 2016 onward.
5 Did you have the -- the impression, based
6 on your experience of him, that he has -- that the
7 role he had at CBSG was a management function?
8 **A.** My interaction, my direct interaction with
9 Joe LaForte was inconclusive to me as to whether he
10 had a management role at Par Funding. I don't feel
11 like I interacted with him --
12 **Q.** Who did you understand was the owner --
13 okay.
14 Who did you understand to be the owner of
15 Par Funding?
16 **A.** At what time frame?
17 **Q.** Any time frame. If it varied over time,
18 you can explain that in your answer.
19 **A.** In 2016, in the time period when I was
20 doing initial due diligence, my understanding was
21 that Par Funding was owned by Lisa McElhone.
22 At some time later, I was told that Joe
23 LaForte had an ownership interest in Par Funding and
24 I also had been told sometime later that Perry
25 Abbonizio had some ownership interest in Par

260

1 Funding.
2 **Q.** Okay. Did you know that Lisa McElhone and
3 Joseph LaForte are married?
4 **A.** I was told that they were married.
5 **Q.** Okay. When?
6 **A.** Sometime in 2016.
7 **Q.** Okay. Did you tell any of the individuals
8 that appear on the screen, any of the plaintiffs in
9 the malpractice lawsuit pending against you, Case
10 Number 00892 in the Philadelphia Court of Common
11 Pleas Trial Division, did you tell any of the
12 plaintiffs in that case that Par Funding did not
13 have any audited financial records even though you
14 asked for them?
15 **MS. RECKER:** Object to the form.
16 **A.** I don't recall speaking with any of these
17 individuals with regard to financial statements of
18 Par Funding. Although, again, I would call out
19 Michael Tierney as someone who interacted with Par
20 Funding and communicated with them.
21 **BY MS. BERLIN:**
22 **Q.** But again, Mr. Pauciulo, I'm only asking
23 you about what you did, not what you think other
24 people might have done.
25 So did you or did you not tell anyone on

261

1 the screen, any of the plaintiffs in the malpractice
2 case against you that Par Funding did not have
3 audited financial records?
4 **A.** I don't recall speaking about Par
5 Funding's financial records with any of those
6 individuals whether they had audited financials or
7 unaudited financials or what they had.
8 **Q.** Okay. Now, the -- you drafted PPMs for
9 the agent funds, correct?
10 **A.** Yes, that's correct. Either I drafted
11 them myself or I had a colleague draft them and I
12 reviewed the draft.
13 **Q.** Okay. Were the PPMs mostly identical from
14 agent fund to agent fund?
15 **MS. RECKER:** Object to the form.
16 **A.** The private placement memoranda for the
17 agent funds were substantially similar or the same.
18 **BY MS. BERLIN:**
19 **Q.** Did -- did any of the PPMs disclose any
20 regulatory history or any criminal history of anyone
21 whatsoever or any entity whatsoever?
22 **A.** No, they do not.
23 **Q.** Okay. And approximately how many private
24 placement memorandums did you create for agent funds
25 altogether?

262

1 **A.** I don't know the specific number.
2 Somewhere between 25 and 30.
3 **Q.** Did any of those 25 to 30 PPMs that you
4 created disclose that the agent fund was going to
5 invest in promissory notes issued by Par Funding
6 specifically?
7 **A.** No, they do not.
8 **Q.** Did all of your agent fund clients invest
9 in PPMs issued by Par Funding?
10 **MS. RECKER:** Object to the form.
11 **A.** To the best of my knowledge, yes.
12 **BY MS. BERLIN:**
13 **Q.** Did Mr. Vagnozzi under the -- Mr. --
14 Mr. Vagnozzi and his companies always received the
15 same interest rate from Par Funding on their
16 promissory notes, correct?
17 We can pull all the promissory notes and
18 look at each one, and I will, but if you know, you
19 can answer. And if not, we will pull them up.
20 **MR. MILLER:** I'll object to the form.
21 **MS. RECKER:** Object to the form.
22 **A.** I don't know whether promissory notes
23 issued by Par Funding to investment funds managed by
24 Dean Vagnozzi had different interest rates than
25 those paid to the other agent funds. I -- I just

263

1 don't know.
2 **BY MS. BERLIN:**
3 **Q.** Oh, no, that's not my question. I'm
4 sorry. I'm just saying for -- let's say for
5 Mr. Vagnozzi's fund, A Better Financial Plan, the
6 promissory notes that A Better Financial Plan
7 purchases from Par Funding, those promissory notes
8 from CBSG to A Better Financial Plan, they always
9 have the same interest rate, correct?
10 **MS. RECKER:** Object to the form.
11 **MR. MILLER:** Object to the form.
12 **A.** Yeah, I don't know that either.
13 **BY MS. BERLIN:**
14 **Q.** I'm sorry, you don't know that?
15 **A.** I don't know -- I don't know that they --
16 all the interest rates are the same. I didn't
17 review those documents in the normal course, so I
18 haven't seen them. I haven't reviewed them. I
19 don't know if the interest rates varied or are the
20 same. I don't know.
21 **Q.** Okay. But would -- how about this: Would
22 you agree with me that if the interest rate that Par
23 Funding gives to -- Mr. Vagnozzi gives to a specific
24 fund is always the same, then the agent fund knows
25 what its spread, what percentage of the spread it's

264

1 going to get?
2 So in other words, if Par Funding always
3 gives a specific fund a 20 percent interest rate,
4 then that fund can always know in advance what its
5 spread will be because it knows what interest rate
6 it is offering to investors itself on its own
7 promissory notes.
8 Do you agree with me?
9 MS. RECKER: Object to the form.
10 MR. MILLER: Join.
11 BY MS. BERLIN:
12 Q. Mr. Pauciulo, do you want me to rephrase
13 it or is it -- is it confusing to you?
14 A. I understand the question to be that the
15 agent fund managers are able to calculate the spread
16 based on the terms of the notes that the funds --
17 that their funds are offering as compared to the
18 interest rate payable by Par under its notes.
19 Q. Right.
20 A. That's -- that's correct.
21 Q. Okay. And did you draft any PPM that
22 actually disclosed the percentage, the interest rate
23 percentage that the fund was going to receive from
24 Par Funding?
25 A. No.

265

1 Q. Did you attend any portion of any event
2 where people were told about the agent fund's
3 offerings?
4 MS. RECKER: Object to the form.
5 A. Yes.
6 BY MS. BERLIN:
7 Q. About how many? About how many times?
8 A. Well, I'm -- I'm -- I'm referring to the
9 two or three sessions arranged by Dean Vagnozzi in
10 which he made presentations to prospective agent
11 fund managers.
12 Q. Okay. What about to -- with respect to
13 individuals who might be investing in agent funds?
14 Did you ever attend any meetings or events with
15 anyone who was a prospective investor in an agent
16 fund's promissory note?
17 MS. RECKER: Object to the form.
18 A. No, I do not.
19 BY MS. BERLIN:
20 Q. Okay. Did you record any messages about A
21 Better Financial Plan -- sorry. Let me ask that
22 again.
23 Did you record any messages for A Better
24 Financial Plan to utilize in any way in its
25 solicitation efforts?

266

1 MR. MILLER: Object to the form.
2 A. Yeah, I didn't do the recording, but I
3 appeared in videos related to A Better Financial
4 Plan. We're talking about the structure under which
5 A Better Financial Plan conducted offerings.
6 BY MS. BERLIN:
7 Q. Okay. That's videos.
8 Any other types of recordings?
9 A. There were two recordings made in the
10 March, April 2020 time frame following Par's
11 default.
12 Q. But other than -- I'm sorry.
13 But other than videos, are there any other
14 types of recordings? Like a radio recording? A
15 voice mail recording? A TV recording? Anything
16 like that, or were they all just video recordings?
17 A. Yes, to my knowledge they were just --
18 they were video recordings.
19 Q. Okay.
20 A. I'm not aware of any other kind of audio
21 recording or anything like that.
22 Q. No podcast, nothing like that, right?
23 A. To my knowledge, no, there's nothing like
24 that.
25 Q. Did you ever meet with any -- let -- I

267

1 just want to make sure. Did you ever meet with any
2 individuals who were considering investing in an
3 agent fund's promissory note?
4 MS. RECKER: Object to the form.
5 A. Not that I recall.
6 MS. BERLIN: Okay. Natalie, can you
7 please show Exhibit 19.
8 MS. SILVER: Okay.
9 (Thereupon, marked as Exhibit 19.)
10 BY MS. BERLIN:
11 Q. Exhibit 19 is an e-mail from Dean Vagnozzi
12 April 14, 2017 to you and Perry Abbonizio and
13 copying Alexis at ABFP. It's talking about a golf
14 date.
15 And do you see here that Mr. Vagnozzi is
16 asking if you're available on the 27th because an
17 individual who wants to potentially invest in Life
18 Settlements as well as MCA with Perry would be there
19 as well?
20 Do -- do you see this?
21 I'm paraphrasing. I want to be clear I'm
22 not reading the full e-mail. But do you see this
23 e-mail on your screen?
24 A. I do see the e-mail on my screen.
25 Q. Okay. So from time to time, would

268

1 Mr. Vagnozzi ask you to speak or play golf with or
 2 talk to a potential investor in, you know, an agent
 3 fund promissory note or a CBSG investment?
 4 **A.** There were occasions where Mr. Vagnozzi
 5 asked me to speak with a prospective investor in one
 6 of the Dean Vagnozzi funds.
 7 **Q.** Okay. And would you do it?
 8 **A.** I did on some occasions.
 9 **Q.** Okay. About how many times?
 10 **A.** In terms of a face-to-face meeting?
 11 **Q.** Just talking on the phone, face to face,
 12 in any way. It doesn't matter how. It could be in
 13 writing, verbal, face to face, virtual.
 14 **A.** Yeah, I -- sure. I recall two or three
 15 face-to-face meetings with prospective investors.
 16 Occasionally prospective investors would call me at
 17 the request or instruction of Dean Vagnozzi.
 18 **Q.** And would you speak with them?
 19 **A.** Yes.
 20 **Q.** Okay. And they would ask you questions
 21 about the investment? Would you talk to them about
 22 the -- would you talk to them about the investment?
 23 **MS. RECKER:** Object to the form.
 24 **A.** I would talk to them about sort of the
 25 nature or character of the security being issued but

269

1 not to sort of the investment itself.
 2 **BY MS. BERLIN:**
 3 **Q.** Would you tell them it was low risk?
 4 **A.** No.
 5 **Q.** Did you tell them it was a low risk
 6 investment? No?
 7 Did you tell them that a lot of brokers
 8 don't offer this type of investment and that's why
 9 it's a special kind of investment that Dean offers?
 10 **A.** No. I probably spoke to the nature that
 11 it was a security issued through a private
 12 placement, and as such was not registered and not
 13 saleable on a public market.
 14 **Q.** Did you --
 15 **MS. BERLIN:** Can we please show
 16 Exhibit 20.
 17 (Thereupon, marked as Exhibit 20.)
 18 **BY MS. BERLIN:**
 19 **Q.** Sometimes the agent funds would also refer
 20 potential investors to talk to you, correct?
 21 **A.** Not that I recall.
 22 **Q.** Okay. I'm showing you Exhibit 20.
 23 Do you see here where Jason Zwiebel of A
 24 Better Financial Plan is giving you a heads up that
 25 Charles Sandler may be reaching out to chat with you

270

1 to ask some questions? Do you see that message from
 2 May 17, 2018?
 3 **MS. RECKER:** Can you scroll down to the
 4 bottom of this document, please.
 5 **BY MS. BERLIN:**
 6 **Q.** This is just an example to show -- to help
 7 move things along.
 8 Do -- do you agree with me that sometimes
 9 the agent funds would -- would refer potential
 10 investors to speak with you?
 11 **A.** Again, not that I recall.
 12 **Q.** Okay. Does seeing Exhibit 20 help refresh
 13 your recollection that this occurred?
 14 **A.** No, it does not. I'm -- I'm sure I got
 15 the e-mail, but I don't remember seeing it. And I
 16 don't recall whether Jason Zwiebel had a fund.
 17 **Q.** He's with A Better Financial Plan.
 18 Do you see his signature block?
 19 **A.** Correct, correct, I see that.
 20 **Q.** Okay. All right. Let's move on.
 21 So if Mr. -- Mr. Sandler said that -- that
 22 you spoke with him and solicited him, is it your
 23 testimony that you don't recall if you ever spoke
 24 with him?
 25 **A.** I don't recall speaking to Charles

271

1 Sandler.
 2 **Q.** Okay. Next. Exhibit 21, you met with
 3 potential investors, correct?
 4 Let's go to Exhibit 21. These are your
 5 invoices, correct?
 6 (Thereupon, marked as Exhibit 21.)
 7 **MS. RECKER:** Object to the form.
 8 **BY MS. BERLIN:**
 9 **Q.** Is this your invoice, Mr. Pauciulo?
 10 **A.** It is an invoice from Eckert Seamans to
 11 Dean Vagnozzi, I see that.
 12 **Q.** Okay. Please turn to PDF page 2.
 13 Do you see -- here's an example, second
 14 line down, May 7, 2019. Telephone call with Richard
 15 Muldawer, potential investor.
 16 Do you see that?
 17 **A.** Yes, I do.
 18 **Q.** Did you -- you spoke with Richard
 19 Muldawer?
 20 **A.** I don't recall, but if that's what the
 21 record shows, that's what the record shows.
 22 **Q.** Did you speak with other -- so there could
 23 be other investors that you spoke to that you don't
 24 recall; is that correct?
 25 **MS. RECKER:** Object to the form.

272

1 A. That's correct. As I testified,
 2 occasionally prospective investors would call me and
 3 I would speak with them on the phone. And those
 4 were Dean Vagnozzi folks.
 5 I'm sorry, is there a question pending?
 6 MS. BERLIN: Natalie, can you please show
 7 the exhibit that I premarked as Exhibit 26.
 8 (Thereupon, marked as Exhibit 26.)
 9 BY MS. BERLIN:
 10 Q. Is this you -- this is your e-mail
 11 exchange between you and Richard Muldawer. We just
 12 saw him in your invoice, correct?
 13 A. Correct.
 14 Q. Okay. And you're telling him to give you
 15 a call at your office May 7, 2019?
 16 A. I see the e-mail, yes.
 17 MS. BERLIN: Okay. Do you want to scroll
 18 down, Natalie, please. Scroll down a little
 19 bit more.
 20 BY MS. BERLIN:
 21 Q. And do you see where Mr. Muldawer reached
 22 out to you on Thursday, May 2, 2019 saying, "Hi,
 23 John, I'm a prospective investor in the MCA fund
 24 from A Better Financial Plan and have some
 25 questions. Can we set up a ten-minute call?"

273

1 Do you see that?
 2 A. Yes, I do.
 3 Q. And you told him to call and then we saw
 4 in your invoice that you billed for a call with the
 5 potential investor.
 6 Any reason to doubt that -- that you spoke
 7 with this potential investor?
 8 A. No.
 9 Q. Okay. And would the same thing hold true
 10 if -- if there are other similar individuals who
 11 claim they spoke with you and you might not recall,
 12 but perhaps you did after all?
 13 A. Yes, it's entirely possible that I spoke
 14 to individuals whose names I don't remember.
 15 Q. Okay. Did you prepare any brochures
 16 relating to any A Better Financial Plan or agent
 17 fund investment?
 18 MS. RECKER: Object to the form.
 19 A. Other than the PPMs? No.
 20 BY MS. BERLIN:
 21 Q. Yes.
 22 A. No.
 23 Q. What about the associates or your
 24 colleagues at Eckert Seamans who were working on
 25 your team? Did they prepare any brochures or

274

1 marketing materials?
 2 MS. RECKER: Object -- object to the form.
 3 A. Yes.
 4 BY MS. BERLIN:
 5 Q. They did.
 6 And -- and so what types of brochures and
 7 marketing materials did they prepare?
 8 A. Well, as part of a broker-dealer
 9 registration, there is a document that needs to be
 10 prepared that is commonly referred to as a brochure.
 11 At some point Mr. Vagnozzi engaged Eckert Seamans to
 12 begin to prepare the documents necessary to be
 13 registered as a broker -- or excuse me, more
 14 correctly to create a broker-dealer. I believe we
 15 prepared a, quote/unquote, brochure.
 16 Q. Okay. And when was that, roughly?
 17 MS. RECKER: I'm sorry, but I had asked
 18 you to scroll to the bottom of this document
 19 that's on the screen, and we're --
 20 MS. BERLIN: Let me be clear. I don't --
 21 yeah, I'm sorry, I don't control the exhibits
 22 at all. There's someone else, Natalie, that
 23 I've been talking to all day. She controls the
 24 exhibits. So I'm -- I'm sorry, I wasn't
 25 ignoring your request. I simply can't do it.

275

1 MS. SILVER: I didn't hear you.
 2 MS. BERLIN: I didn't hear you either.
 3 Ms. Recker, I didn't hear you, but just so you
 4 know, I can't -- I can't move -- that's why I
 5 keep saying out loud "please scroll down." I
 6 can't touch it at all. So --
 7 MS. RECKER: The issue is that, when you
 8 flash a document and you zip to the middle of
 9 it, you deprive us of the ability to look at
 10 the whole document and look at everything that
 11 might be on that document. And so I just ask
 12 that you give us the courtesy when you flash
 13 documents to allow to us read them from start
 14 to finish.
 15 MS. BERLIN: Absolutely. And that's why
 16 the transcript will reflect that way earlier
 17 today at the almost beginning I offered that we
 18 can scroll down any time you guys want. You
 19 just have to ask. So I'm glad you're now
 20 asking, and we'll make sure that we respond to
 21 every request you make, just as I said at the
 22 beginning of the day. This is the first time
 23 that's come up, but that's why I said it at the
 24 very beginning. It's tricky with these online
 25 exhibits. But any time you need it, as I've

276

1 stated, and the transcript will reflect, you
 2 just need to -- need to ask.
 3 MS. RECKER: I would ask, if you don't
 4 mind --
 5 MS. BERLIN: Yeah.
 6 MS. RECKER: -- so we're down at the
 7 bottom -- I thought we started in the middle.
 8 Could we just scroll all the way up to the top
 9 of it?
 10 MS. BERLIN: Sure.
 11 MS. RECKER: Slowly, please. Please.
 12 Please. And could you scroll up.
 13 MS. BERLIN: Yeah, it's a two-page
 14 document. So it's -- you can see that up in
 15 the left-hand corner. It's just two those
 16 pages, and I showed him both pages. I showed
 17 him the second page with the message from
 18 Mr. Muldawer to him and then the first page.
 19 MS. RECKER: So I would like to see the
 20 top of the document.
 21 MS. BERLIN: Of course.
 22 MS. RECKER: Thank you.
 23 And I would just note for the record that
 24 the top of the document is blacked out. It
 25 looks like it's a redaction.

277

1 MS. BERLIN: Uh-huh. Looks like it.
 2 MS. RECKER: Right. So you're showing a
 3 document --
 4 MS. BERLIN: This is my exhibit.
 5 MS. RECKER: It's your exhibit, and I'm
 6 just reflecting for the record that there's a
 7 large section of this document that's been
 8 redacted.
 9 MS. BERLIN: Yes. So that section of the
 10 document has internal correspondence or
 11 correspondence that's unrelated to -- it's not
 12 between Mr. Pauciulo. It's not part of the
 13 original e-mail. Sometimes e-mails are
 14 forwarded to us. It's redacted. And you don't
 15 need to -- you can reserve for the transcript,
 16 but the exhibits all appear with the
 17 transcript. So when it's used, it will be
 18 clear what the document is.
 19 BY MS. BERLIN:
 20 Q. Mr. -- Mr. Pauciulo, when was it that
 21 Mr. Vagnozzi's entities wanted to create a
 22 broker-dealer, like roughly, month and year?
 23 MS. RECKER: I'm sorry, I didn't hear the
 24 end of that question.
 25 MS. BERLIN: Oh, when was it, Mr. -- when

278

1 you asked us to stop and play and move around
 2 the document, Mr. Pauciulo was testifying about
 3 Mr. Vagnozzi's entities wanting to create a
 4 broker-dealer, and my question was, when was
 5 that.
 6 MS. RECKER: Can you please slow down?
 7 I'm sorry, Ms. Berlin.
 8 MS. BERLIN: Sure.
 9 MS. RECKER: It's late. I'm having a hard
 10 time following you, because you're speaking
 11 very quickly at the moment.
 12 MS. BERLIN: Oh, okay. You just need
 13 to -- you just need to say something. You
 14 don't have to get upset about it. Absolutely.
 15 MS. RECKER: I'm not getting upset.
 16 MS. BERLIN: Oh, it's your tone, I'm
 17 sorry.
 18 BY MS. BERLIN:
 19 Q. Mr. Pauciulo, you just let me know any
 20 time I'm speaking too quickly for you.
 21 In response to your last answer, can you
 22 please tell me when it was -- you testified that
 23 Mr. Pauciulo's entities wanted to create a
 24 broker-dealer. My follow-up question was, when was
 25 that?

279

1 A. I don't recall specifically.
 2 Q. Okay. Do you remember a year?
 3 A. Probably sometime in 2019.
 4 Q. Okay. So A Better Financial Plan used
 5 your name and your law firm's name in its
 6 solicitation efforts, correct?
 7 MR. MILLER: I'll object to the form.
 8 BY MS. BERLIN:
 9 Q. Mr. Pauciulo, asked another -- another
 10 way, are you aware of the fact that A Better
 11 Financial Plan used your name and your law firm's
 12 name in its solicitation efforts?
 13 MR. MILLER: Same objection.
 14 MS. RECKER: Object to the form.
 15 A. I'm not aware of any specific incidents
 16 where A Better Financial Plan used my name or my law
 17 firm's name in connection with a solicitation to an
 18 investor.
 19 BY MS. BERLIN:
 20 Q. Okay. Have you ever been on A Better
 21 Financial Plan's website?
 22 A. Not that I recall.
 23 Q. Okay.
 24 MS. BERLIN: Can we please share
 25 Exhibit 22.

280

1 (Thereupon, marked as Exhibit 22.)
 2 BY MS. BERLIN:
 3 Q. And I'm showing you a document that's A
 4 Better Financial Plan, it looks like a PowerPoint
 5 presentation.
 6 MS. BERLIN: Can we scroll down, please.
 7 BY MS. BERLIN:
 8 Q. And you see it says, "Merchant cash
 9 advance."
 10 MS. BERLIN: Keep scrolling. And keep
 11 scrolling, Natalie. I'll tell you when to
 12 stop. Keep going. Continue. Keep going.
 13 Okay, stop.
 14 BY MS. BERLIN:
 15 Q. Do you see the slide, it says -- we're on
 16 PDF page 10 of 18 of Exhibit 22. It says, "Don't
 17 take our word for it."
 18 MS. BERLIN: And then please go to the
 19 next slide.
 20 BY MS. BERLIN:
 21 Q. -- "Eckert Seamans, John Pauciulo." And
 22 then it has -- do you see that this is your firm bio
 23 here?
 24 Do you see that on the screen?
 25 A. Yes, I do see that on the screen.

281

1 MS. BERLIN: Okay. Scroll down, please.
 2 Okay. Thank you.
 3 BY MS. BERLIN:
 4 Q. So do you see that -- were you -- have you
 5 ever seen Exhibit 22 before today?
 6 A. Not that I recall.
 7 Q. Okay. Would you have authorized Mr. --
 8 did you ever authorize Mr. Vagnozzi to use your name
 9 or your firm's -- Eckert Seamans' name in any of
 10 their marketing materials?
 11 A. No.
 12 MS. BERLIN: Okay. Can we please take
 13 down exhibit --
 14 THE WITNESS: I'll stop.
 15 MS. RECKER: Objection. If that
 16 implicates attorney-client privilege, I would
 17 instruct you not to answer.
 18 A. Yeah, on advice of counsel I cannot answer
 19 that question.
 20 MS. BERLIN: Exhibit 30A, please. Can we
 21 show Exhibit 30.
 22 (Thereupon, marked as Exhibit 30A.)
 23 BY MS. BERLIN:
 24 Q. I'm going to show you this is the a --
 25 this is the declaration authenticating A Better

282

1 Financial Plan website.
 2 MS. BERLIN: Can we scroll to PDF page 6.
 3 Keep going, sorry. Hold on. Slow. Slow
 4 down. Okay, stop.
 5 BY MS. BERLIN:
 6 Q. So do you see where -- this is on the A
 7 Better Financial Plan website where it says, "John
 8 Pauciulo is pivotal to the story, as he helped Dean
 9 put together corporations utilizing private
 10 placement memorandums, which allowed Dean to raise
 11 money from friends and family by pooling their money
 12 and, therefore, investing in real estate
 13 opportunities that they could not afford on their
 14 own."
 15 Do you see that paragraph?
 16 A. Yes, I do.
 17 Q. Okay. And do you see above where he's
 18 also talking about meeting you, "an attorney that
 19 specialized in securities law, John Pauciulo who is
 20 still Dean's attorney to this day."
 21 Do you see that?
 22 A. Yes, I see that.
 23 Q. Okay. Had you ever seen this -- were you
 24 aware that you were mentioned on Mr. Vagnozzi's
 25 website before today, on the A Better Financial Plan

283

1 before seeing this exhibit?
 2 A. To the best of my knowledge, I've never
 3 seen this before.
 4 Q. Are you aware of representations --
 5 MS. BERLIN: We can take down this
 6 exhibit.
 7 BY MS. BERLIN:
 8 Q. -- on -- in Mr. Vagnozzi's marketing
 9 materials and on websites that state, "With the help
 10 of Dean Vagnozzi's attorney, John Pauciulo, and one
 11 of the largest law firms in the Philadelphia region,
 12 clients at ABFP are able to invest like the big boys
 13 by pooling their money together and creating private
 14 placement memorandums?"
 15 Were you aware -- have you ever been aware
 16 of Mr. Vagnozzi utilizing your name and your law
 17 firm name in connection with solicitation efforts?
 18 MR. MILLER: Objection.
 19 A. I'm not aware of --
 20 BY MS. BERLIN:
 21 Q. Excuse me. What's that?
 22 You're breaking up.
 23 A. I'm not aware of Dean Vagnozzi using my
 24 name in connection with solicitations of investors.
 25 I was generally aware that Dean Vagnozzi used

284

1 advertising which he referred to, quote, one of the
 2 largest law firms -- I forget the geographic region,
 3 whether he said Philadelphia or Pennsylvania.
 4 **Q.** Okay. Were you aware that Mr. Vagnozzi
 5 was representing that all of his investment
 6 opportunities were carefully vetted and facilitated
 7 by one of the nation's largest law firms, meaning
 8 Eckert Seamans?
 9 **MR. MILLER:** I'll object to the form.
 10 **MS. RECKER:** Object to the form.
 11 **A.** I'm not sure I understood the question.
 12 **BY MS. BERLIN:**
 13 **Q.** Are you aware of Mr. Vagnozzi publicly
 14 stating on his website and elsewhere that, quote,
 15 "All of the investment opportunities are carefully
 16 vetted and facilitated by one of the nation's
 17 largest law firms," referring to Eckert Seamans?
 18 **A.** I'm not familiar with that language. I
 19 don't recall hearing that before.
 20 **Q.** Okay. Did Eckert Seamans carefully vet
 21 all of Mr. Vagnozzi's investment opportunities?
 22 **MS. RECKER:** Object to the form.
 23 **A.** We conducted due diligence with regard to
 24 the various investments for which Dean Vagnozzi
 25 created funds.

285

1 **BY MS. BERLIN:**
 2 **Q.** Hold on.
 3 Okay. Did you ever hear -- you live in
 4 Philadelphia, right?
 5 **A.** No, I do not. I live -- I don't live in
 6 the city of Philadelphia. I live in the
 7 Philadelphia Metropolitan area.
 8 **Q.** Oh, okay. Have you ever heard
 9 Mr. Vagnozzi's radio advertisement?
 10 **A.** Once or twice.
 11 **Q.** Did you ever hear any of the radio
 12 advertisements that mentioned the law firm or his
 13 attorney or legal advice in any of those ads?
 14 **A.** Not that I recall.
 15 **Q.** Did you ever tell Mr. Vagnozzi to stop
 16 using your name or your firm's name in any
 17 solicitation efforts?
 18 **MS. RECKER:** Objection. To the extent
 19 that the answer implicates the attorney-client
 20 privilege, I would instruct you not to answer.
 21 **A.** On advice of counsel I cannot answer your
 22 question due to attorney-client privilege held by
 23 Dean Vagnozzi.
 24 **BY MS. BERLIN:**
 25 **Q.** Okay. And was that -- when --

286

1 approximately when was the communication that you're
 2 claiming is privileged?
 3 **MS. RECKER:** Object to the form.
 4 **A.** I don't remember.
 5 **BY MS. BERLIN:**
 6 **Q.** And was anyone else present when the
 7 communications that you're claiming that are
 8 privileged occurred?
 9 **A.** Not that I recall.
 10 **Q.** And when you had these privileged
 11 communications, were you providing or offering any
 12 legal advice or was Mr. Vagnozzi seeking any legal
 13 advice?
 14 **A.** No.
 15 **Q.** Okay. I will just tell you all we're very
 16 close to finished. That's the good news.
 17 Now, Mr. Vagnozzi -- I'm sorry.
 18 Mr. Pauciulo, in fact, you helped -- did
 19 you help Mr. Vagnozzi sort of tout the legitimacy of
 20 his offerings by appearing with him and speaking on
 21 videos and to his investors?
 22 **MS. RECKER:** Object to the form.
 23 **MR. MILLER:** I join.
 24 **A.** That was not my intent or understanding of
 25 any appearance that I made or videos that were

287

1 recorded in which I appeared.
 2 **MS. BERLIN:** Natalie, I wonder if you
 3 could just -- sorry. Natalie, I wonder if you
 4 could just pull up -- I have the four videos,
 5 and I am just going to show --
 6 Mr. Pauciulo, I'm just going to show you I
 7 think the first -- I'm not even going to play
 8 them for you because we're not going to take up
 9 that much time. I think you'll recognize them
 10 just by seeing the -- the starting point.
 11 So Natalie, you can put them in any order.
 12 **MS. SILVER:** Okay.
 13 **MS. BERLIN:** And we will just label them
 14 as exhibits as we go. I don't remember where
 15 we dropped off because I didn't use up all my
 16 exhibits.
 17 **MS. SILVER:** Is it just like the first
 18 five seconds of each or just the first clip?
 19 **MS. BERLIN:** I think he'll recognize it.
 20 I think you can just put it on the screen
 21 and -- well, let's put it on the screen, she'll
 22 hit play, and as soon as you -- after three
 23 seconds I'll tell you to stop and see if
 24 Mr. Pauciulo recognizes it. But I do need to
 25 give them exhibit numbers.

288

1 I think we're on -- I'm going to go with
 2 23 for the next one. Oh, no I'm sorry, I'm
 3 not. Hold on one second. One moment,
 4 Mr. Pauciulo. I just want to make sure I give
 5 it the correct number.
 6 It's going to be -- let's just go with 30,
 7 okay.
 8 BY MS. BERLIN:
 9 Q. So we'll start with the first one, and
 10 Mr. Pauciulo, I'm going quickly because I know your
 11 counsel wants to finish, but if you need me to slow
 12 down with showing you the videos or you want to
 13 watch them in total, of course you can. You just
 14 let us know.
 15 THE COURT REPORTER: I'm sorry, I can't
 16 hear you, Mr. Recker.
 17 MS. RECKER: I said we need to take the
 18 time required for the witness to answer the
 19 questions. Don't blame anything on his
 20 counsel.
 21 MS. BERLIN: Oh, no, no. No one is
 22 blaming anything, and I think the transcript
 23 will reflect that. I was saying to
 24 Mr. Pauciulo, almost apologizing in advance if
 25 I'm going quickly through these videos, in any

289

1 way, just tell me stop and slow down. Because
 2 I'm trying to be mindful of the time. But we
 3 will go as slowly as you want to go. And I
 4 think the transcript will reflect what I
 5 stated.
 6 Natalie, would you go ahead and play this
 7 one? And we're going to call this Exhibit 30.
 8 (Thereupon, marked as Exhibit 30.)
 9 (At this time, a video was played.)
 10 MS. BERLIN: Natalie, you can stop.
 11 BY MS. BERLIN:
 12 Q. Mr. Pauciulo, are you familiar with this
 13 video?
 14 Mr. Pauciulo?
 15 A. I'm considering your question.
 16 Q. Oh, okay. Sorry, I can't see you. I can
 17 only see -- well, I can see you but only the large
 18 video of you. I can't -- I can't see you as a
 19 witness today.
 20 A. Your question was am I familiar with it.
 21 Q. Have you ever seen -- have you ever seen
 22 this video before?
 23 A. Not that I recall. I mean, obviously -- I
 24 don't remember ever going back after the fact and
 25 watching it.

290

1 Q. Okay. Is that you that we see on the
 2 screen right now? Where it says John Pauciulo --
 3 A. Yes.
 4 Q. -- is that an image of you?
 5 A. That's correct, that is an image of you --
 6 excuse me, an image of me.
 7 Q. Okay. Did you record this video? Is this
 8 one of the videos that was recorded?
 9 A. Yes.
 10 Q. Okay. And who asked you to do that?
 11 A. Dean Vagnozzi.
 12 Q. Okay. And roughly when did you record
 13 this?
 14 A. I don't recall, but in the short bit that
 15 we listened to, I'm on camera saying I've been
 16 practicing for 24 years. So by extrapolation, I
 17 would say it was recorded six or seven years ago.
 18 Q. Okay. Is that your office that we see in
 19 the background, can you tell?
 20 A. I'm not sure.
 21 Q. Was this filmed at Eckert Seamans?
 22 A. I'm not sure. It's hard to tell from this
 23 screenshot.
 24 Q. Okay. And was this video scripted?
 25 A. No.

291

1 Q. Were you -- you were just speaking of --
 2 without a script at all?
 3 A. Correct, there was no script. Someone was
 4 asking me questions and I was answering them, but
 5 there was no script that I was following. I was
 6 answering, you know, just off the cuff.
 7 Q. Got it.
 8 And so the questions that you're referring
 9 to, I think they -- they show up across the screen.
 10 There's a question asked and then you provide an
 11 answer.
 12 So am I correct in understanding that you
 13 would just respond to those questions off the cuff
 14 and no one told you what to say?
 15 A. Correct, the questions were asked and I
 16 answered them.
 17 Q. Okay. And did you have an understanding
 18 of what this video was going to be used for?
 19 A. Yes.
 20 Q. Okay. And what was that?
 21 A. That the video would be shown to
 22 prospective investors on occasion as they had
 23 questions.
 24 Q. Okay. And by "prospective investors," you
 25 mean people who might be purchasing like promissory

292

1 notes in one of the -- in one of Mr. Vagnozzi's
2 funds?
3 **A.** Yes, correct.
4 **MS. BERLIN:** Okay. We can take down
5 Exhibit 30, and next we'll show -- this is
6 Exhibit 31. Go ahead.
7 (Thereupon, marked as Exhibit 31.)
8 (At this time, a video was played.)
9 **MS. BERLIN:** Okay. We can stop, Natalie.
10 Press pause.
11 **BY MS. BERLIN:**
12 **Q.** Mr. Pauciulo, have you ever seen
13 Exhibit 31?
14 **A.** Not that I recall.
15 **MS. BERLIN:** Okay. Let's show the next
16 one. We'll call it Exhibit 32.
17 (Thereupon, marked as Exhibit 32.)
18 (At this time, a video was played.)
19 **MS. BERLIN:** Okay. We can stop.
20 **BY MS. BERLIN:**
21 **Q.** Mr. Pauciulo, is that you that we are
22 watching on this video in Exhibit 32?
23 **A.** Yes, it is.
24 **Q.** Okay. Do you recall approximately when
25 this video was filmed?

293

1 **A.** No. But, again, based on the statement
2 that was just played, sounds like it could have been
3 three or four years ago.
4 **Q.** Okay. And was this video scripted?
5 **A.** No, it was not scripted.
6 **Q.** Did anyone tell you what to say in this
7 video?
8 **A.** No. Again, my recollection is that
9 questions were posed and I -- I answered the
10 questions.
11 **Q.** Okay. And is it the same thing with the
12 other video, that Mr. Vagnozzi asked you to make the
13 video and that you understood the video would be
14 shown to prospective investors in the ABFP-related
15 funds?
16 **A.** Yes, that's correct.
17 **MS. BERLIN:** Okay. And then let's show
18 Exhibit 33, which is the last video.
19 (Thereupon, marked as Exhibit 33.)
20 (At this time, a video was played.)
21 **MS. BERLIN:** Let's stop.
22 **BY MS. BERLIN:**
23 **Q.** Do you recognize Exhibit 33?
24 **A.** Yes, I do.
25 **Q.** Okay. That's you on the left?

294

1 **A.** Yes, it is.
2 **Q.** Okay. And when did you film this? Was it
3 like in April 2020?
4 **A.** It would be in the March, April 2020 time
5 frame.
6 **Q.** Okay. Did Mr. Vagnozzi ask you to make
7 this video with him?
8 **A.** Yes.
9 **Q.** And what was the purpose of this video?
10 **A.** This video was made following the Par --
11 (Reporter clarification.)
12 **A.** This video was made after Par Funding had
13 issued its notice that it was suspending its
14 payments under the notes.
15 **Q.** And did -- the audience for the video in
16 Exhibit 33 were the individuals who were in -- who
17 had promissory notes in any of the agent funds in
18 like the March, April 2020 time frame; is that
19 correct? That's who you're speaking to in this
20 video?
21 **MS. RECKER:** Object to the form.
22 **A.** No, that -- that's not my understanding of
23 the persons to whom this video was shown or would be
24 shown.
25

295

1 **BY MS. BERLIN:**
2 **Q.** Who did you understand it would be shown
3 to?
4 **A.** Individuals who had invested in A Better
5 Financial Plan funds.
6 **Q.** Well, Mr. Furman's -- individuals in
7 Mr. Furman's funds participated in this as well,
8 right, or are you not aware of that?
9 You don't know how the video was used.
10 You thought it was only going to be used for A
11 Better Financial Plan's investors.
12 Is that your testimony?
13 **MS. RECKER:** Object to the form.
14 **A.** That's correct.
15 **BY MS. BERLIN:**
16 **Q.** Okay. And in this video you talk about
17 the fact that you had been privy to financial data
18 at Par Funding that showed that the company was
19 insolvent; is that correct?
20 **MS. RECKER:** Object to the form.
21 **A.** That's correct.
22 **BY MS. BERLIN:**
23 **Q.** Mr. Pauciulo?
24 **A.** Yes, I said that's correct.
25 **Q.** I couldn't hear you over the objection.

296

1 MS. BERLIN: Natalie, we can take down the
 2 video. Thank you.
 3 BY MS. BERLIN:
 4 Q. And did you -- so did you see
 5 documentation that showed that Par Funding was
 6 insolvent?
 7 A. I saw documentation provided to me by Par
 8 Funding from which I drew -- I drew that conclusion.
 9 Q. What documentation did they give you that
 10 you were able to draw that conclusion from?
 11 A. It was an internally prepared financial
 12 statement.
 13 Q. Who prepared it?
 14 A. I don't know.
 15 Q. So Par Funding gave you a financial
 16 statement that they themselves had prepared?
 17 A. Correct.
 18 Q. Okay.
 19 A. Well, it was represented --
 20 Q. I thought that's what you meant by
 21 internally prepared, but I just wanted to make sure
 22 you meant by the Par Funding internal.
 23 A. I was told by Par Funding's counsel that
 24 the document had been prepared by Par, by
 25 representatives of Par.

297

1 Q. Okay. And did you review any of the
 2 financial records themselves, like any -- any
 3 audited financial statements or tax returns or bank
 4 account statements or speak with their accountant,
 5 for example, or did you rely solely on the
 6 internally prepared financial statement?
 7 A. At this time frame in connection with the
 8 video?
 9 Q. Yeah.
 10 A. Not that I recall, no.
 11 Q. Okay. In the video -- now, the -- the --
 12 I'm going to call it the exchange note, okay? And
 13 by exchange note that's just shorthand for the notes
 14 that were offered in like the April 2018 -- or
 15 April 2020 time frame that would replace investors'
 16 initial promissory notes with ABFP and other funds,
 17 offering them the lower interest rate and the longer
 18 maturity range. So I'm just referring to those sort
 19 of replacement or exchange notes as "the exchange
 20 notes."
 21 Do -- do you understand what I mean if I
 22 use the phrase "exchange notes"?
 23 A. Yes, I do.
 24 Q. Okay. So the -- in the exchange note --
 25 in the video that we just looked at, Exhibit 33,

298

1 you're discussing and walk investors through the
 2 exchange notes and the various provisions.
 3 Is there a provision in the exchange notes
 4 that releases the funds from liability, releases the
 5 agent funds from liability?
 6 MS. RECKER: Object to the form.
 7 A. Yes, I think so.
 8 BY MS. BERLIN:
 9 Q. Okay. Any reason why you didn't -- when
 10 you walked through all the documents you skipped
 11 over that provision.
 12 Was there any reason you skipped over
 13 that?
 14 A. Not that I recall.
 15 MS. BERLIN: Okay. Can we please show
 16 Exhibit 23 on the screen.
 17 (Thereupon, marked as Exhibit 23.)
 18 BY MS. BERLIN:
 19 Q. Have you ever seen this -- this e-mail
 20 before from Dean Vagnozzi? And I don't mean --
 21 well, it's -- it's to you, but -- so I guess let me
 22 retract my question.
 23 This is exhibit -- it's premarked as
 24 Exhibit 23. Mr. Vagnozzi e-mailed this to you. It
 25 was the draft of what he was going to send out to

299

1 the investors in advance of the -- the video.
 2 Do you see that?
 3 A. I do see that.
 4 Q. Okay. Did you provide any -- any comment
 5 or feedback on this?
 6 MS. RECKER: Objection. To the extent
 7 that your answer would implicate
 8 attorney-client privilege, I would instruct you
 9 not to answer.
 10 Can you scroll down to the bottom of the
 11 document, please.
 12 Can you just scroll down to the bottom of
 13 it so that we can see where it starts.
 14 That looks like the middle of the
 15 document. Scroll -- scroll down to the bottom,
 16 the very --
 17 MS. BERLIN: She's saying turn to page --
 18 to PDF page 3 of 3.
 19 MS. SILVER: All right. Yeah, that's just
 20 the signature. It's all one long e-mail, so
 21 it's not a thread.
 22 MS. RECKER: Is there a question pending?
 23 MS. BERLIN: You interrupted -- we stopped
 24 to answer your question. And I think there was
 25 a question pending. I'm not sure if

300

1 Mr. Pauciulo answered it.
 2 **A.** Upon advice of counsel, I cannot answer
 3 your question as it would have me give you
 4 information that's subject to attorney-client
 5 privilege held by Dean Vagnozzi.
 6 BY MS. BERLIN:
 7 **Q.** Okay. And is that -- approximately when
 8 did the communication occur that you're claiming
 9 privilege over?
 10 **A.** Sometime in March 2020.
 11 **Q.** Okay.
 12 MS. BERLIN: Natalie, can you go back up
 13 to PDF page 1 of 1.
 14 BY MS. BERLIN:
 15 **Q.** And do you see Shannon Westhead is copied
 16 on this message?
 17 **A.** I see that she's blind copied on this
 18 message.
 19 **Q.** Yeah. Oh, yes, I see that. Is the
 20 communication that you're claiming privilege over
 21 with Mr. Vagnozzi, did anyone else participate or
 22 have any participation at all in -- in that
 23 communication who was not -- gosh, I can't talk.
 24 This has been a long day.
 25 Other than you and Mr. Vagnozzi, did

301

1 anyone participate in the communication over which
 2 you're asserting attorney-client privilege on
 3 Mr. Vagnozzi's behalf?
 4 **A.** Not that I recall.
 5 **Q.** Okay.
 6 MS. BERLIN: And if we could please put up
 7 Exhibit 29. Thank you.
 8 (Thereupon, marked as Exhibit 29.)
 9 BY MS. BERLIN:
 10 **Q.** So Exhibit 29 is concerning Project
 11 Bastante and it is to you, you're copied, it's to
 12 Dean Vagnozzi.
 13 Project Bastante is the offering to invest
 14 in a bank, correct?
 15 **A.** I don't recall what -- I don't recall that
 16 project name.
 17 **Q.** Okay.
 18 **A.** But I do see the reference on the e-mail.
 19 **Q.** Okay. And did you -- were you involved at
 20 all in drafting any documents in connection with any
 21 offering that was to raise funds for the acquisition
 22 of a bank?
 23 **A.** Yes.
 24 **Q.** Okay. And on behalf of which clients?
 25 **A.** On behalf of Dean Vagnozzi.

302

1 **Q.** Okay.
 2 **A.** And also on -- on behalf of Shannon
 3 Westhead.
 4 **Q.** Okay. Anyone else?
 5 **A.** Alec Vagnozzi.
 6 **Q.** Okay. Anyone else?
 7 **A.** Maybe Mike Tierney, but I'm not sure.
 8 **Q.** Okay. And the issue -- the -- the bank
 9 acquisition, do you see here the second paragraph,
 10 it says, "The most important consideration for you
 11 guys when forming the entities is the cap of
 12 4.9 percent and that the controlling member for each
 13 entity cannot be redundantly included for separate
 14 entities"?
 15 Do you see that?
 16 I omitted the parenthesis that says "499
 17 shares." Do you see what I'm talking about? Do you
 18 see the sentence that starts, "The most important
 19 consideration for you guys when forming the
 20 entities"?
 21 Do -- do you see that sentence on the
 22 screen?
 23 **A.** Yes, I see the sentence on the screen.
 24 **Q.** Okay. And that's referring to the -- to
 25 the cap about, you can't have -- there can't be --

303

1 sorry.
 2 With trying to acquire a bank, there are
 3 certain rules and regulations about the percentage
 4 of ownership that any one person or individual can
 5 have; is that correct?
 6 **A.** I don't know if that's factually correct.
 7 That's obviously what Joe Cole is communicating in
 8 the e-mail.
 9 **Q.** Okay. And that's why there were multiple
 10 funds set up so that every fund would have less than
 11 the cap, less than the 4.9 percent; is that right?
 12 MS. RECKER: Objection. To the extent the
 13 answer would implicate attorney-client
 14 privileged information.
 15 I also want to just note that I think that
 16 we're hitting the seven-hour mark if we have
 17 haven't gone over it.
 18 MS. BERLIN: Okay. Understood. And I am
 19 going to be finished very soon.
 20 MS. RECKER: It's 6:40, and we are a half
 21 an hour beyond where you said you would finish
 22 up last time.
 23 MS. BERLIN: That is true. So let's --
 24 let's try to get it done.
 25

304

1 BY MS. BERLIN:
2 Q. Mr. Pauciulo, do you see -- you see
3 that -- that provision, and so I'm asking you if the
4 reason why multiple entities were formed to raise
5 money for the bank was because of the cap that any
6 one fund or any fund could actually have; like,
7 nobody could have more than 4.9 percent --
8 MS. RECKER: Object to the form.
9 BY MS. BERLIN:
10 Q. -- or more than 499 shares in the
11 investment and so multiple funds were structured; is
12 that true?
13 MS. RECKER: Objection. To the extent the
14 answer implicates attorney-client privilege, I
15 would instruct you not to answer.
16 A. On advice of counsel I cannot answer your
17 question.
18 BY MS. BERLIN:
19 Q. Okay. Which clients?
20 A. Dean Vagnozzi, Shannon Westhead, Alec
21 Vagnozzi.
22 Q. And what about -- Mike Tierney has waived
23 his privilege. So what about with respect to Mike
24 Tierney? Can you answer the question with respect
25 to Mike Tierney as your client, because he's waived

305

1 his privilege?
2 A. I don't recall talking to Mike Tierney
3 about why there was a cap of 4.9 percent in
4 connection with any work I did with Mike Tierney on
5 this.
6 Q. Okay. And did you see the materials that
7 were presented in connection with the bank
8 application?
9 MS. RECKER: Object to the form.
10 A. I recall seeing documents related to the
11 proposed acquisition of the bank. I don't recall
12 whether I specifically saw the documents to which
13 you just referred.
14 BY MS. BERLIN:
15 Q. Okay. Got it.
16 MS. BERLIN: Can we please pull up
17 Exhibit 27? Thank you.
18 (Thereupon, marked as Exhibit 27.)
19 BY MS. BERLIN:
20 Q. So Exhibit 27 is to you from Mr. Pauciulo
21 [sic] from February 13, 2020, and this is a message
22 about the Pillar 1 buyout.
23 Do you see that?
24 MS. RECKER: Object to the form.
25 A. Yes.

306

1 BY MS. BERLIN:
2 Q. Okay. And so this is -- I'm just showing
3 you this to like -- move this forward in case you
4 didn't remember what that was. But the Pillar 1 --
5 the Pillar 1 buyout involved Mr. -- or CBSG
6 acquiring the -- the notes and investment interests
7 of investors in Pillar 1, and then Pillar 1 using
8 the money they received from that sale to invest in
9 CBSG promissory notes; is that correct?
10 MR. MILLER: This is Mr. Miller. I don't
11 know where this document came from, but I think
12 that it appears to be a privileged document as
13 to Pillar 1, which is not a receivership
14 entity, which is a different entity that
15 Mr. Vagnozzi had formed. So it appears to me
16 this was inadvertently produced, and I don't
17 think you should be asking about it.
18 MS. BERLIN: Can you scroll down to the
19 Bates number?
20 Yeah, it was -- it was produced to us by
21 the receiver, but that's fine. We can -- we
22 can take it off the screen.
23 Let's put up Exhibit 28.
24 (Thereupon, marked as Exhibit 28.)
25

307

1 BY MS. BERLIN:
2 Q. So Exhibit 28, Mr. Vagnozzi to Mr. Mack,
3 copying you, February 25, 2020, and Mr. Vagnozzi is
4 writing about this same sort of Life Settlement
5 swap, right?
6 He writes -- do you see where he writes,
7 "Joe, we would like to get this process going since
8 we'll need to arrange for between 230 to 290 people
9 to complete the paperwork that these guys create."
10 And if you scroll down, so that you guys
11 can see everything, you'll see that Mr. Vagnozzi is
12 writing to Joe -- here he says, Joe Mack, it's Joe
13 LaForte -- "trying to pull together the Life
14 Settlement investors as many as we can to have you
15 buy them out to then simultaneously invest in an MCA
16 fund which will send the money back to CBSG/Par."
17 Do you see that?
18 A. Yes, I see that.
19 Q. Okay. So --
20 MS. RECKER: What's the Bates number on
21 this document, please? Can you scroll to the
22 bottom?
23 MS. BERLIN: Sure.
24 MS. RECKER: Okay. Thank you.
25 MS. BERLIN: Yup. Thank you, Natalie.

308

1 BY MS. BERLIN:
2 Q. So does that sort of accurately -- what
3 Mr. Vagnozzi wrote there, does that sort of
4 accurately reflect what this sort of Life Settlement
5 buyout was?
6 MS. BERLIN: We can scroll back up.
7 Natalie, if you'll scroll back up to the
8 paragraph where Mr. Vagnozzi explains it.
9 Right there.
10 MR. MILLER: I'll object to the form.
11 BY MS. BERLIN:
12 Q. Is that what happened, Mr. Pauciulo?
13 MR. MILLER: Same objection.
14 BY MS. BERLIN:
15 Q. Mr. Pauciulo, do you want me to be clearer
16 in -- in my question, or do you understand what I'm
17 asking?
18 I'm pointing to the sentence that
19 Mr. Vagnozzi wrote to Mr. McElhone where he's
20 explaining what's going to happen, and I'm asking if
21 that's actually what happened. So let me ask the
22 question to make it really clear.
23 Mr. Vagnozzi wrote to Joe LaForte, "We are
24 working hard to pull together as many of the 290
25 Life Settlement investors as we can to have you buy

309

1 them out to then simultaneously invest in an MCA
2 fund which will send the money back to CBSG/Par."
3 Do you see that sentence?
4 A. Yes, I see that sentence.
5 Q. Okay. Is that what ultimately occurred
6 with the Life Settlement buyout?
7 MS. RECKER: Object to the form.
8 MR. MILLER: Join.
9 A. The transaction described in these e-mails
10 never materialized.
11 BY MS. BERLIN:
12 Q. Really? So is it your testimony that the
13 Life Settlement funds were never -- like there was
14 no buyout that occurred?
15 MS. RECKER: Object to the form.
16 A. To my knowledge, the transaction outlined
17 in this e-mail never transpired. To my knowledge,
18 it was never -- it never went forward. It was never
19 consummated.
20 BY MS. BERLIN:
21 Q. Okay. Okay. And so the Life
22 Settlement -- the investors in the Life Settlement
23 fund, they still have those -- investors still have
24 their investments --
25 MS. RECKER: Object to the form.

310

1 BY MS. BERLIN:
2 Q. -- as far as you know?
3 A. As far as I know.
4 Q. Yeah. Okay. And Par Funding learned in
5 2018 that the 75 million-dollar credit insurance
6 policy that it had purchased did not cover its
7 merchants' defaults. And I'm wondering if -- if you
8 ever became aware of that fact that Par Funding
9 didn't have any insurance on its investments.
10 MR. MILLER: I'll object to the form.
11 BY MS. BERLIN:
12 Q. Mr. Pauciulo, I'll ask another way.
13 Did you ever come to learn that the --
14 that there was no insurance policy for Par Funding
15 on their MCA transactions that actually covered the
16 MCA transactions?
17 MS. RECKER: Object to the form.
18 MR. MILLER: Join.
19 A. I'm not sure I understand.
20 BY MS. BERLIN:
21 Q. Okay. Did you -- did you ever become
22 aware of a cease and desist letter that Euler Hermes
23 sent to Mr. Vagnozzi to stop making representations
24 that there was insurance coverage?
25 MR. MILLER: I'll object to the form.

311

1 MS. BERLIN: We can take down this
2 exhibit. Thank you.
3 A. I'm not familiar with a cease and desist
4 that was sent to Dean Vagnozzi about --
5 BY MS. BERLIN:
6 Q. Perhaps it wasn't labeled cease and
7 desist, but it was a letter from the insurance
8 company to Mr. Vagnozzi and Par Funding telling them
9 to stop making representations about insurance.
10 Are you aware of that -- are you aware of
11 any such letter?
12 MR. MILLER: Object to the form.
13 A. I want to confer with counsel.
14 BY MS. BERLIN:
15 Q. Sure.
16 (Brief pause.)
17 A. Can you restate the question, please?
18 MS. RECKER: No.
19 THE WITNESS: No?
20 A. Can you restate the question, please?
21 BY MS. BERLIN:
22 Q. Restate it? Sure.
23 Have you ever -- are you aware of any
24 letter that communicated to Mr. Vagnozzi that
25 there -- that he should not be making

312

1 representations about insurance coverage?
2 MS. RECKER: Objection. You can answer
3 the question to the extent that it is -- does
4 not reflect anything that your lawyer -- you
5 discussed with your lawyers.
6 A. I can't answer the question.
7 BY MS. BERLIN:
8 Q. Okay. Based on attorney-client privilege
9 with Mr. Vagnozzi?
10 A. No.
11 Q. Okay.
12 MS. RECKER: I'm instructing him not to
13 answer to the extent -- about anything that he
14 discussed with his own counsel. Other than
15 that, he can answer the question.
16 BY MS. BERLIN:
17 Q. Mr. Pauciulo, are you mulling it over, or
18 did you already answer and I missed it?
19 A. I thought I answered the question.
20 Q. Oh, okay. I wasn't sure if when your
21 lawyer said it again, your answer would change.
22 No, okay.
23 Mr. Pauciulo, did you ever receive any
24 complaints from an investor that they felt you
25 pressured them into accepting the exchange note?

313

1 A. Not that I recall, no.
2 Q. And what about from the attorney of any
3 investor? Did you ever receive any complaint from
4 the attorney of any investor that they felt you
5 pressured them into accepting the exchange note?
6 A. Not that I recall.
7 Q. Okay. Quick follow-up.
8 When you testified earlier about the plane
9 ride with Mr. LaForte to go see the -- the natural
10 resources mines, was that in connection with
11 investment offerings in Kingdom Coal, Kingdom Energy
12 or Kingdom Logistics?
13 A. The name Kingdom sounds familiar, but I --
14 I don't -- I don't know for certain.
15 Q. Okay. The IOLTA account at Eckert
16 Seamans, are you -- for Mr. Vagnozzi's entities, are
17 you the person responsible for those accounts?
18 MS. RECKER: Object to the form.
19 A. I don't know that I understand the
20 question.
21 BY MS. BERLIN:
22 Q. So your clients, they have accounts at
23 your law firm that are called I-O-L-T-A. I don't
24 know how you pronounce that. IOLTA accounts?
25 A. Okay, yes.

314

1 Q. Okay. And -- and one of the entities that
2 has that is MK -- hold on a second -- what is your
3 client's fund name that starts with the MK,
4 Mr. Pauciulo?
5 A. I don't remember.
6 Q. Okay.
7 A. You mentioned it earlier today.
8 Q. I know I did.
9 A. MK Corporate Debt Investment Fund? I
10 wrote that down.
11 Q. Yes, thank you. That's it.
12 MK Corporate Debt Investment Fund, has
13 monies -- had monies at Eckert Seamans at some
14 point?
15 MS. RECKER: Object to the form.
16 A. I don't remember.
17 BY MS. BERLIN:
18 Q. Okay. When did you become aware of the
19 SEC's temporary restraining order entered by the
20 Court in the case that you're testifying in today?
21 MS. RECKER: Object. To the extent that
22 the answer would implicate attorney-client
23 privilege, I would instruct you not to answer.
24 And Ms. Berlin, I also want to identify to
25 you that it's 6:55.

315

1 MS. BERLIN: Okay.
2 MS. RECKER: And at 7:00 this is over.
3 MS. BERLIN: Great.
4 BY MS. BERLIN:
5 Q. So Mr. Pauciulo, let me help you out. The
6 day after we filed our case, you were at ABFP and
7 the receiver walked in and took control of the
8 premises. You were there.
9 You knew about it at least no later than
10 the day after we filed; isn't that correct?
11 A. Yes, that's correct.
12 Q. Okay. Great.
13 And so you knew that there was an asset
14 freeze, that there was an injunction order, that a
15 receiver had been appointed, correct?
16 A. On what day?
17 Q. It was the day after the Court entered the
18 order. An attorney from the receiver's office
19 showed up at A Better Financial Plan, you were
20 there. It was maybe the day after the order was
21 entered.
22 Do you recall that?
23 A. Yes, I recall that.
24 Q. Okay. Super. So you knew about it no
25 later than probably the day after the Court entered

316

1 its order; agreed?
 2 Agreed?
 3 **A.** I'm thinking about the timing. The
 4 receiver came to the offices of A Better Financial
 5 Plan, I think it was a Tuesday. And I don't know
 6 what date the Court entered the order, but it was --
 7 I became aware of it certainly when the receiver
 8 came.
 9 **Q.** Well, and it was also in the Philadelphia
 10 Inquirer on the front page above the fold, right?
 11 Did you see it there?
 12 **A.** I did not see it there.
 13 **Q.** You didn't hear the news that there was an
 14 emergency action against your clients?
 15 **A.** I saw the article online. I didn't see
 16 it -- you described it above the fold --
 17 **Q.** Oh, okay. I'm sorry, you saw it online.
 18 Did you see it online --
 19 **A.** I didn't see it --
 20 **Q.** Got it.
 21 Did you see it online, the story online,
 22 the day that it came out?
 23 **A.** I don't recall if I saw it the day it came
 24 out.
 25 **Q.** Okay.

317

1 **A.** I saw it shortly after it was posted
 2 online, but whether it was the very same day, I
 3 don't -- I don't know.
 4 **Q.** Did you ever take a look at the orders
 5 that were entered? The receivership order?
 6 **A.** Yes.
 7 **Q.** Okay. Great.
 8 So at a certain point there was an
 9 individual named David Jancarski who was in
 10 litigation with Mr. Vagnozzi and ABFP, correct?
 11 **A.** Yes, there came a time when Mr. Jancarski
 12 asserted claims.
 13 **Q.** Great.
 14 And there was a settlement and funds were
 15 held at your law firm, Eckert Seamans, in an
 16 account, and they were supposed to be held there
 17 until August 12, 2020, correct?
 18 **MS. RECKER:** I just want to remind you
 19 it's 6:58.
 20 **MS. BERLIN:** Please let me finish and
 21 don't interrupt.
 22 **BY MS. BERLIN:**
 23 **Q.** Mr. Pauciulo, do you agree with me that
 24 the funds were to be held --
 25 **MS. BERLIN:** I literally have three

318

1 questions left on my page, and I am astounded
 2 that you're literally like going down to the
 3 minute.
 4 **BY MS. BERLIN:**
 5 **Q.** Mr. Pauciulo, the funds were held in your
 6 law firm's IOLTA account and were supposed to be
 7 there until August 12, 2020 at which time they would
 8 be released to Mr. Jancarski, correct?
 9 **A.** I don't remember that.
 10 **Q.** Okay. You transferred the funds from the
 11 Eckert Seamans account to Mr. Jancarski after --
 12 after the SEC had filed this instant case and the
 13 Court had entered its orders appointing the receiver
 14 and freezing certain assets; isn't that right?
 15 **MS. RECKER:** Object to the form.
 16 **BY MS. BERLIN:**
 17 **Q.** Isn't that true?
 18 **A.** I did not initiate that transfer.
 19 **Q.** Who did?
 20 **A.** I don't know.
 21 **Q.** Were Mr. Vagnozzi and his entities some of
 22 your biggest clients?
 23 **A.** In what time frame?
 24 **Q.** Any.
 25 Was there ever a time when Mr. Vagnozzi

319

1 and his entities were some of your biggest clients?
 2 **A.** In 2018 and 2019 Dean Vagnozzi and his
 3 related entities were among my larger clients.
 4 **MS. RECKER:** All right, that's it.
 5 **BY MS. BERLIN:**
 6 **Q.** And approximately --
 7 **MS. BERLIN:** This is my very last
 8 question.
 9 **MS. RECKER:** We're going off.
 10 **BY MS. BERLIN:**
 11 **Q.** Approximately how much in --
 12 **MS. BERLIN:** Seriously, I have one
 13 question. I'm on my last question. You're
 14 going to make me go to the magistrate to get an
 15 answer? I mean, it's one question. Really?
 16 **MS. RECKER:** It's 7:00. I think you
 17 should finish.
 18 **BY MS. BERLIN:**
 19 **Q.** Okay. Mr. Pauciulo -- Mr. Pauciulo,
 20 approximately how much in legal fees did you collect
 21 in connection with Mr. Vagnozzi, his entities and
 22 the agent funds that you represented?
 23 **A.** I don't know that number.
 24 **Q.** You don't have even a rough guess of -- of
 25 how much you billed over all those years?

320

1 A. Exactly, over 17 years, I -- I don't. I
 2 would be guessing.
 3 MS. RECKER: All right. That was your
 4 last question.
 5 BY MS. BERLIN:
 6 Q. How about within the last --
 7 MS. BERLIN: Hold on a second.
 8 BY MS. BERLIN:
 9 Q. How about within --
 10 MS. BERLIN: Ms. Recker, I think this is
 11 rude, and I would like to state, he says he
 12 doesn't remember, I should be allowed to ask
 13 some follow-up questions to that. And I think
 14 that Judge Reinhart, when he reads this, will
 15 agree with me. And we're going to end up
 16 having to spend resources to come right back
 17 and do this. If he doesn't remember, he
 18 doesn't know, and he gave a 17-year time
 19 period. I'm going to ask him this question,
 20 you tell him not to answer, then that will be
 21 it. We'll take it up with the court like
 22 other -- as with the other issues concerning
 23 you and your client.
 24 BY MS. BERLIN:
 25 Q. Mr. Pauciulo --

321

1 MS. RECKER: You are taking up time with
 2 your speech-making. So please finish.
 3 BY MS. BERLIN:
 4 Q. Mr. Pauciulo -- Mr. Pauciulo, I understand
 5 you can't give an estimate for the last 17 years.
 6 Can you give an estimate from 2016 through present
 7 like approximately?
 8 A. No, not without the benefit of looking at
 9 records. I would be guessing.
 10 Q. Okay. Understood. I don't want you to
 11 guess.
 12 And Mr. Pauciulo, in connection with the
 13 SEC's Fallcatcher investigation, you produced your
 14 invoices to the SEC, and in connection with this
 15 litigation, you claim that these same documents are
 16 attorney-client privileged.
 17 Why? What's the difference -- what's the
 18 distinction with this case and the other case that
 19 you were on?
 20 MS. RECKER: Objection. You're invoking
 21 and talking about other claims, privileges and
 22 other people making invocations of privilege.
 23 I'm instructing him not to answer.
 24 MS. BERLIN: It's the same person. It's
 25 Mr. Vagnozzi. We already have his invoices

322

1 that you're claiming privilege.
 2 MS. RECKER: I'm instructing him not to
 3 answer.
 4 MS. BERLIN: Are you instructing --
 5 BY MS. BERLIN:
 6 Q. So Mr. Pauciulo, is your answer that
 7 you're asserting the attorney-client privilege?
 8 A. Yes, it is.
 9 Q. Okay. And that's with respect to
 10 Mr. Vagnozzi?
 11 A. Yes.
 12 MS. BERLIN: Thank you so much. I have no
 13 further questions, Mr. Pauciulo.
 14 MS. RECKER: I would like to put on the
 15 record that Mr. Pauciulo reserves the right to
 16 read and sign the transcript, and that we
 17 request that the deposition be designated
 18 confidential pursuant to the protective order
 19 entered on December 16, 2020 on Docket
 20 Number 437.
 21 MS. BERLIN: You will have to follow the
 22 proper procedures for that, and the SEC would
 23 dispute that this is a -- any sort of
 24 confidential proceeding. We have third
 25 parties, and we'll litigate that in court, but

323

1 we'll direct you to the order and to the proper
 2 process for doing that.
 3 MS. HAINES: Ms. Recker, I don't know
 4 how -- I don't know how -- I don't know how you
 5 can do that if I'm sitting here listening to it
 6 for eight hours. Now you're going to declare
 7 it confidential and I can't have it? Please.
 8 Are you serious?
 9 MS. RECKER: I think the deposition is
 10 over.
 11 MR. KOLAYA: Before we go off the
 12 record --
 13 MS. HAINES: Now that is -- this is rude.
 14 I asked you several questions. It's rude for
 15 you not to respond. You keep doing that to me.
 16 I don't appreciate it. It's unprofessional.
 17 Good night.
 18 MR. KOLAYA: Just before we all depart for
 19 the weekend, I just want to make clear on the
 20 record, the receiver has not had an opportunity
 21 to ask questions today. We have our own
 22 investigative powers and duties under the
 23 receivership order, and we do intend to
 24 schedule another deposition of Mr. Pauciulo at
 25 a later date.

324

1 MS. BERLIN: Thank you, Mr. Kolaya. Does
 2 anyone else have any other statements they want
 3 to make on the record?
 4 MR. COX: This is Jeff Cox on behalf of
 5 Michael Furman, and we reserve the right to
 6 take Mr. Pauciulo's deposition as well.
 7 MS. BERLIN: I don't think anyone's rights
 8 are -- anyone, in my view at least, is
 9 precluded from taking Mr. Pauciulo's
 10 deposition. We -- we took it, and no one had a
 11 chance to even cross-examine him. So at least,
 12 you know -- just so you all know, there will be
 13 no objection from me if anyone wants to
 14 continue today. In fact, I'm not even sure we
 15 can conclude, because we didn't have an
 16 opportunity for cross-examination. I don't
 17 know if anyone was intending to cross-examine
 18 him. If so, you know, I don't know if we
 19 should actually technically continue it. So
 20 there's an opportunity for defendants to cross
 21 Mr. Pauciulo.
 22 MS. HAINES: Ms. Court Reporter, I'm
 23 requesting -- I am requesting a copy of the
 24 transcript. I was given permission to listen
 25 to this deposition today. There's obviously no

325

1 reason I can't seek the transcript. If
 2 Ms. Recker wants to motion the Court to
 3 preclude you from providing a copy to me,
 4 sobeit, we'll deal with that in court.
 5 Otherwise, I have every reason to believe,
 6 having listened to this, that I am entitled to
 7 a copy of the transcript and I would ask that
 8 you prepare one for me and invoice me for it,
 9 in which I will gladly pay.
 10 MS. BERLIN: Sounds good.
 11 Okay. So I think that we will pause here.
 12 And then I -- I don't know if defense counsel
 13 want to speak up and identify if they plan to
 14 cross-examine Mr. Pauciulo, and therefore, we
 15 should be choosing another day, or if everyone
 16 wants to just take your own depositions of him.
 17 I'm not hearing anything, so let's just do
 18 it this way.
 19 Does anyone have any cross-examination?
 20 If I don't hear anything, I think we can
 21 just end it.
 22 MR. KOLAYA: So Ms. Berlin, from the
 23 receiver's perspective, we intend to schedule
 24 our own separate deposition at a later date.
 25 MS. BERLIN: Sounds good.

326

1 MR. COX: And on behalf of Mr. Furman,
 2 this is Jeff Cox, we also reserve the right to
 3 do so. At this time I have no cross.
 4 MS. BERLIN: Sounds good.
 5 MR. MARCUS: This is Jeff Marcus on behalf
 6 of Mr. Abbonizio. We'll reserve as well.
 7 Thank you.
 8 MS. BERLIN: Okay. Sounds great. So I
 9 think that we can conclude it. Thank you so
 10 much, everyone.
 11 Thank you. Have a nice weekend.
 12 (Whereupon, the hearing in this matter was
 13 concluded at 7:07 p.m. EDT.)

327

1
 2
 3 CERTIFICATE OF OATH
 4
 5
 6 STATE OF FLORIDA
 7 COUNTY OF PINELLAS
 8
 9
 10 I, the undersigned authority, certify
 11 that JOHN PAUCIULO appeared remotely before me
 12 and was duly sworn on the 9th day of April, 2021.
 13 Signed this 13th day of April, 2021.
 14
 15
 16
 17 _____
 18 DENISE SANKARY, RPR, RMR, CRR
 19 Notary Public, State of Florida
 20 My Commission No. GG 944837
 21 Expires: 1/27/24
 22
 23
 24
 25

328

1 CERTIFICATE OF REPORTER
2
3 STATE OF FLORIDA
4 COUNTY OF PINELLAS
5
6 I, DENISE SANKARY, Registered Merit
7 Reporter, do hereby certify that I was authorized
8 to and did stenographically report the foregoing
9 remote deposition of JOHN PAUCIULO; pages 1
10 through 327; that a review of the transcript was
11 requested; and that the transcript is a true
12 record of my stenographic notes.
13 I FURTHER CERTIFY that I am not a
14 relative, employee, attorney, or counsel of any
15 of the parties, nor am I a relative or employee
16 of any of the parties' attorneys or counsel
17 connected with the action, nor am I financially
18 interested in the action.
19 Dated this 13th day of April, 2021.
20
21 _____
22 DENISE SANKARY, RPR, RMR, CRR
23
24
25

329

1 ERRATA SHEET
2 Deposition of: JOHN PAUCIULO
3 Date taken: APRIL 9, 2021
4 Case: SEC v. COMPLETE BUSINESS SOLUTIONS GROUP, et al.
5 PAGE LINE
6 _____ CHANGE: _____
7 REASON: _____
8 _____ CHANGE: _____
9 REASON: _____
10 _____ CHANGE: _____
11 REASON: _____
12 _____ CHANGE: _____
13 REASON: _____
14 _____ CHANGE: _____
15 REASON: _____
16 _____ CHANGE: _____
17 REASON: _____
18 _____ CHANGE: _____
19 REASON: _____
20 _____ CHANGE: _____
21 REASON: _____
22 _____ CHANGE: _____
23 REASON: _____
24 Signed _____
25 Dated _____

331

1 CERTIFICATE OF WITNESS
2
3
4 I, JOHN PAUCIULO, do hereby declare under
5 penalty of perjury that I have read the entire
6 foregoing transcript of my deposition testimony,
7 or the same has been read to me, and certify that
8 it is a true, correct and complete transcript of
9 my testimony given on April 9, 2021, save and
10 except for changes and/or corrections, if any, as
11 indicated by me on the attached Errata Sheet, with
12 the understanding that I offer these changes and/or
13 corrections as if still under oath.
14 _____ I have made corrections to my deposition.
15 _____ I have NOT made any changes to my deposition.
16
17 Signed: _____
18 JOHN PAUCIULO
19 Dated this _____ day of _____ of 20____.
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330

1
2
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7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

A

<p>a.m 2:15 9:1 59:19 244:23 a/k/a 1:14,15,15,15 140:9 140:25 146:16,16 246:23 Abbonizio 1:16 4:15 7:12 7:19 75:1 191:5 196:7 210:3 211:6 249:2,11 251:4,15 252:6,11,24 253:6 260:25 268:12 327:6 abcarver@welshrecker.... 4:8 abetterfinancialplan.com 1:8 51:14 72:12,22 abetting 10:9 ABFP 1:9,10,10 51:15,17 51:18,18,19,19,20,21,21 51:22,23,24,25 97:1,16 99:1 117:22 118:21 119:9 119:12 122:16 159:24 202:19 205:8 240:14,15 242:9,10,11,19,20 255:2 268:13 284:12 298:16 316:6 318:10 ABFP's 104:25 105:5,11 ABFP-related 294:14 ability 94:4 152:8 276:9 able 18:17 41:12 138:25 229:4 265:15 284:12 297:10 absence 170:4 Absolutely 87:11 276:15 279:14 accept 214:16 accepting 214:11 313:25 314:5 account 46:22,25 47:2 70:4 73:16 103:11,12 298:4 314:15 318:16 319:6,11 accountant 42:24 298:4 accountants 43:16 accounting 15:16 43:1,3,5 43:6,9,10,12,14,20,22 44:19,22 45:1,2,9,23 185:2 accounts 103:12 113:2 314:17,22,24 accredited 221:14 222:16 223:10 224:7 225:25 accurate 114:13 131:2 161:9 163:4 169:5 223:18 241:22,25 242:1,4 243:10 243:13 accurately 95:20 114:14 134:12 161:12 309:2,4 acknowledge 232:18 acquire 160:4 221:1 304:2 acquired 237:7 acquiring 307:6 acquisition 18:5 302:21</p>	<p>303:9 306:11 act 171:16 172:20 221:14 222:16 223:9 224:7 225:24 acting 161:23 212:12 action 1:4 2:4 6:9 10:1,3,7 10:11,11 11:1,2 12:5,25 27:24 28:23,24 65:25 68:10,18 69:7,21 70:10 70:11,19,25 71:2 72:1,25 73:2,12,19 74:18,22,24 77:7,10,12 178:17 186:23 186:24 187:4,4 233:2 254:9,10,11 317:14 329:17,18 actions 9:24,25 69:14 177:23 178:4 179:4,6 212:4,5 233:7 actively 258:24 actual 70:1,5 118:9 134:3 184:24 185:3 235:4 add 45:23 55:11 107:1 additional 12:17,18 182:23 183:14,23 186:12 address 46:8,9,13,15 90:21 addressed 247:7 addresses 171:11 administrative 10:15 admissions 92:19 admit/no 70:17 71:13 ads 286:13 advance 17:2 20:3,7,10,13 20:16,20,25 21:2,5,9,13 21:15,23 22:18,23 23:1 29:5,8,12,15,20 30:6,12 30:17,21 31:6,10,16 265:4 281:9 289:24 300:1 advances 22:14 178:10 adverse 188:14,20 190:6 advertisement 61:24 286:9 advertisements 286:12 advertising 124:14 285:1 advice 12:17 23:15,18,24 24:2,5,15,21 31:22 40:25 42:1,3 48:6 56:22 57:7,24 66:5 74:10,17 75:9 79:18 80:19 86:23 88:4 89:3,16 91:9 103:21 104:3 138:16 139:24,25 162:16 164:18 188:25 194:7 203:4,24 204:5 219:17 226:4 238:17 239:19 241:2 282:18 286:13,21 287:12 287:13 301:2 305:16 advised 118:11 affiliated 189:7 191:23 affiliates 113:4 affirm 9:7 affirmative 116:14 133:11 133:20 178:11 afford 283:13</p>	<p>afternoon 45:18 agency 60:7 108:6 agenda 200:3 agendas 199:25 agent 7:13 96:11,25 220:16 220:19,22 221:8,11,11,13 222:3,8,10,13 223:6,7,23 224:6 225:22 227:14 234:4,6,14,16 235:15,16 235:19,25 236:3,3,5 237:8,24,25 238:10 239:10,11 240:10,16,21 240:21,22 241:4,6,10 242:10,12,19,21 245:1,8 248:20 251:22 253:18,25 254:22 255:1 256:23 258:14 262:9,14,14,17,24 263:4,8,25 264:24 265:15 266:2,10,13,15 268:3 269:2 270:19 271:9 274:16 295:17 299:5 320:22 agents 7:15 96:6,8 218:4 244:18 255:8 256:24 ago 45:9,12,14 101:16 133:9 185:23 206:8 229:22 291:17 294:3 agree 86:15 114:16,17 117:6 132:10 146:8,22 170:11 172:9,17 203:9 214:12,15 215:19 228:14 232:10 235:21 236:22 237:4 242:17,25 249:20 258:20 264:22 265:8 271:8 318:23 321:15 agreed 38:23 317:1,2 agreement 7:2,2,17 56:6 56:15 57:11,18 58:6 121:8 126:5 191:16,18,21 191:23 192:12,15 193:3 193:24 195:1,8,8 198:11 198:15 205:7,7 214:8,10 215:9,10,13,16 227:23 228:8,13,20 229:3,6,20 229:24 230:2,12,17 231:12,16 232:6,18,19,21 234:1 240:15 242:9 246:22 247:1,3 agreements 84:22 141:17 212:22 214:21,22,23 216:4,13,20 232:8,25 233:3 234:3 242:20 ahead 224:18 290:6 293:6 aiding 10:9 airport 148:3,5 AKERMAN 4:11 al 2:7 331:3 Alan 7:1,6 167:5,7 175:3,3 192:10 195:18,19 196:6 206:19,24 207:5 210:4 211:9</p>	<p>AlanSQ47 192:9 Albert 189:6,17 Alec 303:5 305:20 aleonard@dvlip.com 5:7 Alexis 268:13 ALFANO 3:15 alias 141:8 142:15 143:9 145:19,22 146:4 258:17 allegations 11:4 178:24 alleged 10:8,8 70:21 alleging 178:20 allergy 183:19 alleviate 124:14 Allison 5:4 91:17 allow 31:9 276:13 allowed 283:10 321:12 allowing 12:8 altogether 262:25 amazed 246:2 amend 55:11 Amie 3:4 33:10 amount 102:12,12,20 134:14 227:24 235:12 Amy 4:5 91:18 and/or 27:5 62:16 80:17 330:10,12 Andrew 34:20 announced 64:7 announcement 68:16 69:1 69:5 255:9 anonymous 170:10 answer 11:21,23 12:12 18:17,19,21 21:11,25 22:10 23:7 24:10,14,20 24:24 26:17,20,21 27:12 28:9 30:24,25 31:19,21 31:22,25 32:13 34:1 38:25 40:24,25 42:2,3 48:5,6,13 56:12,21,22 57:6,7,23,24 62:8,10 63:8 63:10,18 64:23,25 66:2,4 66:6,23 67:4 71:19,21,22 74:7,9,10 75:6,8,9 76:2,4 78:3 79:16,18 80:16,18 80:19 81:11 86:20,22,24 87:16,18,18 88:1,3,4 89:3 89:15,16 91:6,9 92:14,24 93:24 94:2,4 99:9,11,12 103:3,20,21 104:3 110:1 111:19 114:18,25 115:1,3 115:11,13,14 116:9,22 123:5,7,8 124:21,23,24 127:24 128:11 130:23,24 131:16 137:13 138:19,21 139:19 143:18 152:7 153:22,23 156:9 157:24 157:25 162:13,15,16,22 162:23,24 163:8,16 164:1 164:3,14,15,18 165:22,23 188:22 189:1 194:4,6,7 202:14 203:1,3,4 207:15</p>
---	--	---	--

218:25 219:15,16,17
220:10 221:20 223:14
224:9,12,21,22 226:2,3,4
226:17 227:16,17 228:24
228:25 239:14,15 259:21
260:18 263:19 279:21
282:17,18 286:19,20,21
289:18 292:11 300:7,9,24
301:2 304:13 305:14,15
305:16,24 313:2,6,13,15
313:18,21 315:22,23
320:15 321:20 322:23
323:3,6
answered 26:14 101:23
180:6 292:16 294:9 301:1
313:19
answering 23:13,16 58:5
237:16 292:4,6
answers 204:16
anticipated 56:25
anticipating 109:9
anticipation 23:19 24:6,15
24:21 25:18,25 26:11
27:9,13 32:8 42:15,18
48:22 49:1 57:11,18
78:17,22 88:9,24 91:4
93:5 123:19
anxious 198:16
anybody 218:3
anymore 214:25
anyone's 325:7
apologize 65:6 93:22
105:23 106:13 107:7
155:16,19
apologizing 289:24
apparently 256:19
appear 40:2 54:14 135:24
137:2,13 250:24 261:8
278:16
appearance 287:25
APPEARANCES 3:1 4:1 5:1
appeared 136:9,24 209:1
267:3 288:1 328:11
appearing 2:15 3:1 4:1 5:1
239:25 287:20
appears 16:7 54:17 95:9
307:12,15
application 306:8
applied 45:7
appointed 158:22 316:15
appointing 319:13
appreciate 108:12 233:14
324:16
approximate 68:23 219:24
approximately 13:24 44:9
64:10,21 76:18 102:16
158:10 160:7 165:3
262:23 287:1 293:24
301:7 320:6,11,20 322:7
approximation 102:14,23
appt 8:6

April 1:23 2:16 96:5,9
167:24 168:8 169:4
175:20 179:10 180:19
182:7,14 183:8 187:10
188:10 189:18 194:18
221:6 230:1 254:5 267:10
268:12 295:3,4,18 298:14
298:15 328:12,13 329:19
330:9 331:2
Arch 3:22
area 112:3,19,21 113:18
286:7
areas 113:19 116:25
arrange 308:8
arranged 173:23 266:9
arrangement 190:19
232:11 233:10
arrears 193:15
arrow 100:19 105:3
article 64:7 65:11,14,17,18
68:16 145:5,10 179:21,25
180:4,7 317:15
articles 63:22 74:1 145:4
179:16
aside 44:13,17 157:10,13
186:15
asked 25:23 26:13,19 33:25
78:14 80:10 94:5 107:20
111:25 112:19 114:2
115:5 116:22 118:7
120:11 137:15 138:14
149:11 166:10 171:2
173:24 175:24 216:15
220:8 223:22 238:13
261:14 269:5 275:17
279:1 280:9 291:10
292:10,15 294:12 324:14
asking 24:4,25 35:12 39:15
68:4 79:22 80:2,4,10,20
81:2,5 82:16,25 99:19
111:16,17,20 113:7
116:10 121:13 125:14
126:20 127:21 129:20,24
130:21,21 131:10,12
137:24 139:12,15 140:2,3
147:22 156:15 166:1
184:5 187:18,19 196:20
207:11 210:16,21 211:20
223:14 224:1 225:10
237:12,13 238:16,19
239:19,19 241:2,3 248:10
253:17,20 254:15 259:3
261:22 268:16 276:20
292:4 305:3 307:17
309:17,20
aspect 241:21 242:7,21
aspects 135:14
assemble 54:22
assert 63:18 82:18 93:21
107:18
asserted 24:3 26:6 67:3

70:13 71:10 82:9,12
88:14,17 90:15,19 123:23
163:14 178:13 223:24
318:12
asserting 27:4 42:6,12 81:4
87:3,5 88:20 89:9,10 90:4
93:11 94:15 99:15 104:6
115:8,22 138:13,23 158:3
158:10 164:14,21 165:17
167:9 189:5 213:24 226:8
226:24 302:2 323:7
assertion 42:7,8,10 82:14
82:22 90:22,23 203:15
assessed 73:24 259:24
asset 316:13
assets 319:14
Assistant 5:18
associated 152:24
associates 250:20,23
274:23
assume 95:25 114:13
142:18 219:20
assumed 155:17
assumes 66:21 142:16
assuming 67:2 238:3
assumption 96:2
assure 244:22 245:13
ASTARITA 4:22
astounded 319:1
attached 7:2,9 8:10 55:5
168:14 192:14 206:23
246:1 330:11
attaching 180:23
attachment 169:2
attachments 6:15 7:13
attend 149:11 245:5 266:1
266:14
attended 44:2,10 141:5
209:22 241:13 245:1
attendees 201:8
attention 61:7
attorney 8:16,18 11:17,25
13:8,10,11 14:5,8 15:1
27:5 42:8 77:13 78:9,16
81:16 82:10 84:6 88:22
89:7 90:20,22 93:3
110:20 112:5 126:7
135:21 137:9,22,25 138:6
138:12 179:13 198:10
206:25 211:11 218:9
226:9,15 248:10 283:18
283:20 284:10 286:13
314:2,4 316:18 329:14
attorney-client 8:9 11:15
11:25 24:3 27:4,25 28:12
28:16,19 29:22 30:2
32:12 42:7,9 48:10,13
50:19 52:7 56:10,19 58:3
58:4 62:8 63:9,19 64:24
66:2,9 67:14 71:19 74:7
75:7 78:4 79:15 80:3,17

81:12,15,15 82:9 87:5,19
89:14 90:20 91:7 92:22
94:9,15 99:10,18,20
103:19 104:1,6,10,11,14
104:17 123:6,11,14
124:21,25 125:10 126:17
127:23 137:5,16,23 138:1
138:9,20 139:18,22
140:15,23 143:16 153:22
157:15,22 158:1,3 162:13
162:17,22,25 163:6 164:2
164:19 188:23 189:1
190:11 194:4,8 202:16
203:1,6,8 207:16 219:15
219:18 220:9 223:24
224:5,10 225:14 226:5,8
227:16 228:24 229:21
238:15 239:14 282:16
286:19,22 300:8 301:4
302:2 304:13 305:14
313:8 315:22 322:16
323:7
attorneys 35:24 83:3 91:23
250:24 329:16
audience 295:15
audio 136:11 267:20
audit 188:14,19 189:13,18
190:7,9
audited 169:14,17,22,24
170:2,5,21,23 171:3
261:13 262:3,6 298:3
August 14:24 85:3,21 86:3
86:9,16 88:17 90:11
93:13 94:8 127:18 128:6
129:15 130:3,14 131:7
165:6 194:19 247:24
318:17 319:7
Australia-based 19:21
authenticating 8:15 282:25
authority 172:19,23 260:1
328:10
authorize 282:8
authorized 282:7 329:7
available 37:13 41:18
268:16
Avenue 3:4 5:5,11
avoid 221:13 223:9 224:6
225:24
aware 27:17 47:10 50:14
50:17 62:4 63:5,15,21
64:6,20 65:24 67:24 68:9
71:4,9,13,16 74:4,21 92:5
113:1 128:25 135:2
136:19 144:18 160:16
161:16 178:8 187:25
191:18,23,24 195:12
220:4 222:4 232:20,23
233:6,16 239:23,24,25
240:2 259:2,10,13 267:20
280:10,15 283:24 284:4
284:15,15,19,23,25 285:4

285:13 296:8 311:8,22
312:10,10,23 315:18
317:7

B

B 6:5 171:10
B-I-E-H-N 10:4
back 17:23 25:10,13 33:18
33:19,21 34:3,5 51:9 55:8
55:22,25 59:12 61:15
80:9 82:3,4 95:15 117:16
117:16 121:20 122:9
148:6 152:16 155:18
166:12 175:15,16 176:11
181:20 198:2 201:1 232:4
243:8 246:12,16,18 256:4
290:24 301:12 308:16
309:6,7 310:2 321:16
background 44:19 177:6
241:15 291:19
bank 8:14 19:10,22,23
101:19 104:25 105:5,12
113:2 149:15 298:3
302:14,22 303:8 304:2
305:5 306:7,11
banking 60:4 178:15
Bar 13:1 91:25
barking 176:17
Barleta 1:14 5:9
base 36:12
based 24:4 62:6 73:25 78:4
78:16 87:18 94:10 104:9
113:16 116:9 124:24
157:25 162:17,24 164:19
178:8 189:1 194:8 207:15
210:9 213:7 219:18 224:2
225:16 231:25 232:6
234:11 235:19,21,24
259:17 260:2,5 265:16
294:1 313:8
baseline 216:18
basically 84:23 225:17
245:14
basis 11:24 24:24 32:12,17
48:13 58:5 66:8 70:17
71:14 82:21 89:25 93:13
99:16 104:10 137:22,25
Bastante 302:11,13
Bates 246:9,11,13 307:19
308:20
bear 93:23
bearing 193:15,17 227:8,13
Beasley 77:2,5,9,18 78:5
78:21
Beebe 6:15 98:17
began 160:10 214:10
beginning 154:2 220:12
276:17,22,24
behalf 2:14 3:7,13,19 4:3
4:10,15,21 5:3,9 66:9
78:20 138:13,23 142:24

161:23 163:3 171:16
172:20 302:3,24,25 303:2
325:4 327:1,5
believe 21:22 32:11 36:16
55:17 67:17 68:15 102:4
102:13 119:21 130:4
132:17 146:3 160:9
161:15 162:2 182:20
250:8 275:14 326:5
belonging 12:14
beneath 196:12
benefit 40:9 171:9 322:8
benefits 222:10,12
Berlin 3:4 6:4 9:15 11:20,24
12:9,19 13:3,7 16:2,6,9
16:14 17:8,11,22 18:1
22:3,6,11,17,24 23:10,11
23:13,17 24:1,11,18 25:1
25:13,15,21 26:8,15 27:2
27:21 28:8 29:18 30:9
31:2,24 32:19,21 33:2,3,9
33:13,18,21,23 34:4,8
36:5 38:13 39:3,8,10 40:1
41:2 42:5,20 48:8,15 49:3
50:13,25 51:6,11 52:3
53:22,25 54:2,25 55:7,13
55:21 56:2,13,24 57:9,15
58:1,12,17,22 59:6,16,20
59:23 60:1,11,14 61:1,2
61:14 62:13 63:3,12 64:1
64:9,19 65:1,20,22 66:7
68:7 69:11,19 70:7 71:3
71:23 72:13,18 73:1,10
74:2,12 75:11,15,18
76:24 77:22 78:8,23 79:8
79:20 80:1,8,23 81:13,23
82:2 83:17,19,23 84:15
84:17 85:9,20 86:7,14
87:1,12,15 88:6,13 89:5
89:18 90:14,16,18 91:11
92:12 93:1,10,18 94:12
94:23,25 95:3,5,11,18
96:14,23 97:7,10,12
98:10,13,15,18,20 99:13
99:24 101:11 102:15,22
103:4,14,23 105:19 106:8
107:4,24 108:10,23 109:3
109:19 113:13 114:8
115:4,15 117:1 118:15
119:1,20 121:24 122:3,6
122:8,11,14 123:9 124:6
124:9 125:1,21,23 126:12
127:1,7 128:1,14 129:2
129:23 130:6,11,20
131:22 132:4,16 133:3,8
134:1,9 135:17 136:5,21
137:6,18 138:23 139:4,14
140:16 141:4,13 143:23
144:12,13,23 146:2,13
147:13 149:4 151:11
152:4 153:24 157:19

158:2 159:9,18 160:6,19
161:4,11,19 162:4,18
163:1,9,18,21 164:4,7,12
165:24 166:5 167:14,19
167:21 168:22 169:1
170:16,24 171:1,23 172:5
173:9 175:8,12,14,18
179:1,24 180:13 181:11
181:14,18,20,24 183:1,4
183:6 184:9,11,16 185:13
189:3 190:16 191:14
192:1,3,7,23 193:1 194:9
195:10,13,16 196:1,4,23
197:1,2,9,13 198:2,4
199:10,17,19 200:5,22
202:11,17 203:13 204:17
204:19,22 205:10,13,18
205:25 206:2,15,17
207:17 208:9 209:2,7,11
210:12 212:7,17 213:5
214:4,6,18 215:4 216:1
216:10 217:3,6,8,11,13
217:17,19,25 218:1,6,7
219:8,10,19 222:7,21
223:13 224:13,18,23
226:6 227:20 228:4,6,7
228:21 229:1 232:15
233:8,23,24 234:9 235:10
235:18 236:7,12 237:11
237:22 238:5 239:3,6,8
239:16 240:6,8,19 241:1
241:8,17 242:6,16,24
243:18,24 244:3,12,15
245:18 246:5,8,17 247:12
247:22 248:8,14,17,24
249:14,23 250:1 252:1,19
253:11,13,15 255:12
256:1,8 257:18,20,22
258:3 259:8,16 261:21
262:18 263:12 264:2,13
265:11 266:6,19 267:6
268:6,10 270:2,15,18
271:5 272:8 273:6,9,17
273:20 274:20 275:4,20
276:2,15 277:5,10,13,21
278:1,4,9,19,25 279:7,8
279:12,16,18 280:8,19,24
281:2,6,7,10,14,18,20
282:1,3,12,20,23 283:2,5
284:5,7,20 285:12 286:1
286:24 287:5 288:2,13,19
289:8,21 290:10,11 293:4
293:9,11,15,19,20 294:17
294:21,22 296:1,15,22
297:1,3 299:8,15,18
300:17,23 301:6,12,14
302:6,9 304:18,23 305:1
305:9,18 306:14,16,19
307:1,18 308:1,23,25
309:1,6,11,14 310:11,20
311:1,11,20 312:1,5,14

312:21 313:7,16 314:21
315:17,24 316:1,3,4
318:20,22,25 319:4,16
320:5,7,10,12,18 321:5,7
321:8,10,24 322:3,24
323:4,5,12,21 325:1,7
326:10,22,25 327:4,8
berlina@sec.gov 3:6
Berman 179:14 188:3,6
best 37:17 69:3 94:3,4
152:8 185:25 254:11
263:11 284:2
better 1:8 6:12 8:1,15 11:4
16:18 51:2,15 53:2,20
71:6 72:8,14,20 75:2
83:25 84:4,8 97:16
103:15,25 117:10 118:21
119:4 124:4,18 125:12
135:1 151:23 158:21,22
158:25 159:6,12,20,22
191:15 193:4 197:1,5
200:15 201:9,18 217:23
229:25 230:12,15 232:9
255:2,10 257:3,7 258:25
264:5,6,8 266:21,23
267:3,5 270:24 271:17
273:24 274:16 280:4,10
280:16,20 281:4 282:25
283:7,25 296:4,11 316:19
317:4
BETTINA 5:10,10
beyond 103:1 116:25
119:15 304:21
BFP088413 246:13
Biehn 10:4
big 284:12
biggest 319:22 320:1
bill 40:7 207:6
billed 40:11 134:10 274:4
320:25
billing 95:25 96:25 103:2
114:13
bio 6:7 17:6 281:22
biography 15:22 16:11
Biscayne 3:10,10 4:17,18
bit 39:20 47:6 151:23
156:20 159:5 170:14
186:14 196:2,25 197:10
208:8 219:9 221:8 273:19
291:14
blacked 277:24
blame 289:19
blaming 289:22
blind 301:17
block 271:18
Bloomberg 145:11,13
179:17,22
blue 35:2 210:7
board 74:4,15,23,25 92:18
173:2,3
Board's 74:22

Boca 4:24
bold 105:10 117:19
bold-faced 105:10
BOSICK 3:15
bottom 124:7 231:16
 246:14 271:4 275:18
 277:7 300:10,12,15
 308:22
Boulevard 3:10 4:18
boundaries 33:11
boxes 210:8
Boyogueno 6:10 60:3
boys 14:17,18 284:12
Brad 6:14
Bradenton 148:1,2,8,9,10
 152:16
break 25:2,4,24 38:14
 55:10 58:13,19,20,22,24
 59:5,8 69:20 175:6,9
 234:10 255:23,25 256:12
 257:18
breaking 176:18 256:3
 284:22
breaks 38:16,17
Brett 179:14 188:3,6
Brian 4:11 11:10 23:8 62:11
brian.miller@akerman.c...
 4:13
Brickell 3:4 5:5
brief 174:1 175:25 312:16
briefly 176:11 231:20
bring 252:5
bringing 11:16
broad 84:19,24 149:25
broadcasts 136:20
broadly 213:11
brochure 275:10,15
brochures 274:15,25 275:6
broke 49:6 170:14 208:8
broker 275:13
broker-dealer 275:8,14
 278:22 279:4,24
brokers 270:7
bschein@bettinaschein...
 5:12
bullet 16:24 18:16,20,23
 19:9,14
Bureau 60:4
business 1:6 2:6 11:5 17:3
 18:11 36:9 47:7,15,17,22
 47:24 48:19 49:5,9,12,15
 49:16 51:14 54:8,15 56:3
 56:6,16 58:7 60:22 61:11
 62:1 71:5 72:19 77:16,25
 133:1 146:19 148:11,14
 148:23 149:3,6,7,18
 150:3,19 151:24 153:4
 159:1,14 160:12,17 161:2
 161:2,6,17,20 172:14,24
 176:9 191:16 193:5
 200:10 201:7,10 212:2

229:24 230:13 252:6,18
 258:25 331:3
businesses 36:11 150:1
 215:24
buy 308:15 309:25
buyout 8:8 306:22 307:5
 309:5 310:6,14

C

C 1:17
C-A-C-C-H-I-O-N-E 34:16
C-A-R-T-Y 10:2
C-H-U 34:17
Cacchione 11:9 34:15
 256:15
calculate 265:15
call 41:11 146:4,4 192:15
 220:15,17 240:10 246:24
 249:12 253:6 258:17
 261:18 269:16 272:14
 273:2,15,25 274:3,4
 290:7 293:16 298:12
called 36:15 45:2 53:8 79:6
 101:22 135:1 190:23
 214:21 245:24 253:8
 314:23
calling 190:6 221:8 249:15
calls 11:18 22:9 23:22
 137:4 189:16
camera 291:15
canceled 214:23
Candell 7:1,6 167:5,7 175:2
 175:4 192:10 195:19,20
 196:6 197:15 199:22
 206:19,25 207:5 210:4
 211:9,10
cap 303:11,25 304:11 305:5
 306:3
capabilities 92:3
capacity 38:8 49:25 50:3
 83:1,4
Cape 34:24
capital 16:12,16,24 18:4
 141:20 216:7 222:5
 233:18
caption 16:23
captioned 10:1,3
car 58:25
care 84:1 148:17
career 43:16
carefully 285:6,15,20
Carolina 35:6
carried 117:11,22 118:22
 119:5 120:5
Carty 10:1,7
Carver 4:5 91:18
case 10:7,21,23,24 11:9
 20:17 50:9 52:20 54:8,15
 67:25 69:24 70:6,16 77:1
 99:22 129:13,25 154:3,6
 186:21,21 187:3,22 190:1

191:9 227:6,12 229:9
 232:24,24 258:16 261:9
 261:12 262:2 307:3
 315:20 316:6 319:12
 322:18,18 331:3
cases 10:6 11:3 15:10,11
 15:13 43:14 187:16,23
cash 17:2,4 19:1 20:3,6,10
 20:13,16,20,25 21:2,4,9
 21:13,14,16,23 22:14,18
 22:23 23:1 29:5,8,12,14
 29:20 30:6,12,16,21 31:5
 31:10,16 36:8 178:10
 215:24 281:8
Cassidy 11:10 34:16
catch 171:4
CATHERINE 4:4
cause 64:12
CBSG 7:2,8,9 61:22 62:16
 63:23 64:18 149:16 153:3
 159:24,24 165:20 169:23
 170:1 181:3 188:4 191:21
 192:12 193:10 197:5,22
 198:1,14 200:8,14,25
 201:5 211:12,16 212:11
 228:20 249:17 252:8,13
 254:19 260:7 264:8 269:3
 307:5,9
CBSG/Par 308:16 310:2
CC 181:12
cease 74:5,24 75:3 76:15
 77:7 311:22 312:3,6
ceased 234:3
cellphone 46:1,3,6
CEO 172:25 176:14 185:19
certain 49:24 186:8 195:2
 212:21,21 215:15 304:3
 314:14 318:8 319:14
certainly 85:16,16 112:11
 165:12 204:10 211:2
 255:8,16 317:7
CERTIFICATE 328:3 329:1
 330:1
certified 42:24
certify 328:10 329:7,13
 330:7
CFO 185:20 210:3
chair 13:17
challenged 256:20
chance 218:18 325:11
change 217:22 313:21
 331:4,6,7,9,10,12,13,15
 331:16,18,19,21,22
changed 216:20
changes 330:10,12,15
character 269:25
charge 212:23,24,25 213:3
Charles 270:25 271:25
chart 7:8,9 209:14,18,21
 210:23
chat 270:25

Chessler 148:12,22,22
 149:1,6,19,22,23 150:5
Chessler's 148:15,18
 149:21,24
chief 43:17 173:1 211:3
China 19:15
China-based 19:23
choosing 326:15
choppy 176:21
Christopher 34:20
Chu 11:10 34:16
circle 256:4
circulated 195:1 206:21
 207:12
circulating 30:2
circumvent 222:15
city 286:6
civil 1:4 2:4 6:9 9:24 27:7
 229:9
claim 107:18 121:14 139:18
 194:16 208:11 219:25
 225:14 274:11 322:15
claimed 177:24 179:5
 187:15
claiming 32:6 66:15 67:6
 67:13,19 72:4 80:1 81:24
 87:22 88:8,22 89:6 90:24
 91:2 103:24 104:11,15
 115:17 116:7,12 119:13
 123:16 124:1 125:3,9,10
 125:15 137:7,22 138:1,14
 164:24 189:11 194:12
 207:21 208:4 287:2,7
 301:8,20 323:1
claims 10:11 11:16 12:6
 71:10 123:23 176:1,5
 213:24 318:12 322:21
clarification 55:16 295:11
clarify 26:18 87:17 103:24
 121:9
clarity 64:12
class 43:23,24 44:6,8 45:16
 178:17
classes 44:17 45:1
CLE 44:24 45:2,6
clear 9:16 17:18 24:12
 34:12 58:2,4 89:9 93:25
 100:17 114:12 116:12
 168:4 171:2 184:5 187:19
 223:18,22 224:16 233:9
 239:18 268:21 275:20
 278:18 309:22 324:19
clearer 107:7 309:15
clearly 54:10 259:14
Cleothus 127:3,10,17
 128:5,19 132:7 140:9,25
 141:8,14 142:14 143:1
 246:23
client 24:5,16,22 32:15
 39:5 40:10 42:11 44:23
 48:16 66:12 79:23 80:13

<p>82:7 83:13 94:13,19 97:24 101:21,22 104:13 117:18 123:17 125:2,2 133:17 137:24 138:8,24 139:1 140:20,21,24 150:6 164:20 166:23,25 167:3,6 170:19 189:4 190:10 192:18 194:10 203:2,15 219:21 224:14 226:11,13 230:10,11 232:25 305:25 321:23 client's 107:9 117:15 139:1 139:2 192:19 315:3 clients 21:1,7,12,17 23:2 23:20 24:7 27:23 28:5,6 28:12,14,18,20 29:1,10 29:13,20,22 30:1,20,23 31:3 32:24 33:5 34:11,13 34:15 35:8,9,14,16,18 38:10 39:22 52:6,9 66:10 115:19 125:19 140:17 141:16 154:4 165:19 166:3,17 178:14 190:13 202:18 203:5,7 216:9 222:9,11,14,23 223:6,8 224:1,4,25 225:10 236:15 236:19 245:14 250:2,3 252:17 258:4 263:8 284:12 302:24 305:19 314:22 317:14 319:22 320:1,3 Cliff 12:3 Clifford 5:17 28:15 154:7 clip 288:18 close 49:14 251:7 252:22 287:16 closely 43:15,17 cmrecker@welshrecker.... 4:7 coal 152:22,23,24 153:1 314:11 Cod 34:24 Cole 1:14,15 5:9 6:17,19,22 7:8 8:13 165:15 166:2,16 166:18 167:2,4,23 168:8 173:1,23,25,25 174:19,23 180:17,22 181:2,15,25 182:6,14,17 183:8,22 184:20 185:11,19,22 191:4 196:7 209:9 210:3 211:2 304:7 colleague 262:11 colleagues 85:19 107:20 250:18 274:24 collect 178:10 188:1 320:20 collection 179:18 188:1 collections 176:7 180:1 college 43:12,22 44:2,17 colloquially 234:23 column 248:10</p>	<p>come 12:18 25:9 38:22 48:1 54:10 55:8,22,24 59:12 62:3 63:4,14 65:19 65:23 74:3 129:6,11 135:23 138:15 143:13 144:1 156:7 172:22 176:16,24 177:3,22 178:3 178:6 179:9,11 190:4,17 190:21 191:2,7,9 199:25 219:5,13 243:20 276:23 311:13 321:16 coming 174:17 197:5 commenced 68:10 commencing 2:15 comment 130:9,18 300:4 comments 192:16 206:20 207:12 commercial 18:6 19:11 commercials 101:16 commission 1:3 2:3 3:3 14:13,15,22,24 43:15 83:12 97:18 108:19 228:15 230:11,14,20,20 232:6,11 234:11 328:17 Commission's 79:1 commissioner 112:8 commissioners 108:7,25 commit 128:21 Common 10:22 11:8 261:10 commonly 275:10 communicate 106:2,24 111:11,12,22 112:13 114:21 115:6 238:22 239:1 communicated 111:17 118:17,19 145:18 146:14 146:24 261:20 312:24 communicating 166:14 174:14,16,25 304:7 communication 30:13 31:1 48:4,18,21,22 56:20 57:22 66:15,19,25 67:2,6 67:9,13,19 72:4 81:20,22 81:23 82:21,25 83:2,5 99:19,20 104:10,13,17 110:9 115:7,12,17,21 116:7 123:15 124:1,5 125:15 128:3 137:5,16,23 138:4 139:16,23 140:15 158:4 174:24 194:15,18 194:21 208:4,10,16 287:1 301:8,20,23 302:1 communications 30:11,15 40:23 57:5 78:12 84:21 85:5,12,17 86:19 93:8,14 94:10,19 114:25 120:15 125:3,6,7,9 126:18 138:8 139:21 158:9 164:23,24 165:4 166:2,18 189:10,10 194:23 203:18,21 219:24</p>	<p>226:22,23 227:3 287:7,11 companies 17:4 20:4 21:2 21:17,23 22:19 30:6 31:11 36:8,10,13,23,24 41:7 43:18 50:6,8,15 51:13 53:2 149:24 253:21 263:14 company 1:9,10 18:3 19:11 20:7,10,13,16,20,25 21:5 21:9,13,15 22:23 23:1 29:6,8,12,15,20 30:12,17 30:21 31:6,14,17 36:1,1,6 36:15,18,20 37:18 41:16 41:17 42:22 47:8,10,12 51:16,17 52:1 79:6 124:12,13,19 125:13 132:18 149:21 151:14,16 151:21 152:1 163:4,23 170:9,10 171:12,16,18 172:7,8,15 182:2 198:12 198:17 212:1,19 230:10 230:12 243:6,16 260:1 296:18 312:8 compared 265:17 compensated 234:7,20 compensation 227:25 234:15 235:14 252:17 complaint 61:12,23 256:14 258:9 314:3 complaints 62:6 313:24 complete 1:6 2:6 11:5 18:11 47:7,14,17,21,24 48:19 49:4,9,12,15,16 54:8,15 56:3,6,15 58:7 60:21 61:11,25 77:15,25 146:19 148:14,23 149:7 153:4 172:24 191:15 193:5 229:24 230:13 308:9 330:8 331:3 completed 196:9 198:7 206:5 completely 84:7 Compliance 60:5 complying 70:15 computer 217:20 concepts 43:9 concern 11:4 16:17 18:10 93:7 112:4,19,21 113:19 113:19 116:25 197:16 concerned 22:13 69:15 72:8 75:2 140:3,4 170:3,4 concerning 24:3,20 33:5 37:25 43:3,4 61:24,25 64:14 65:14 73:21 74:16 79:2 84:21 112:23 151:14 162:11 163:24 170:7 183:17 184:1,2 186:4 221:14 223:9 224:1,7 225:24 227:12 302:10 321:22 concerns 80:12 107:21</p>	<p>108:2 109:13 112:1 116:23 118:8,12 120:12 222:23 conclude 325:15 327:9 concluded 327:13 conclusion 120:4 249:13 297:8,10 conduct 32:5,7 35:25 37:10 162:7,10 163:23 172:2 conducted 31:15 32:4,10 32:23 33:4 36:7 42:17 119:14 163:2 165:20 173:16 267:5 285:23 conducting 106:11,16 112:23 166:21 confer 22:2 33:7,17 38:12 87:7,7 312:13 conference 149:1 174:2,3 182:16 confidential 201:4 323:18 323:24 324:7 confirm 35:13 50:25 confused 227:9 confusing 107:6,8 265:13 conjecture 128:13 connected 329:17 connection 10:9 16:19 18:3 19:10 20:3,4,6,11,12 20:20,25 21:4,13 29:14 41:15 44:22 48:20,21 49:1 53:19 60:20 62:19 71:25 74:14 76:9 77:12 77:13,18 78:25 79:5 85:10,17 97:24 106:20 107:13 111:14 125:24 141:16,20 143:3 150:19 151:13,25 173:11 176:10 176:18 177:13 208:3,10 216:8 250:5 280:17 284:17,24 298:7 302:20 306:4,7 314:10 320:21 322:12,14 consequently 138:24 consideration 303:10,19 considering 65:3 105:21 117:4 233:13 268:2 290:15 consistent 117:11,23 118:10,22 119:6 120:5 210:23 211:3 212:5 conspiracy 128:21 consultants 190:25 consultation 133:16 consulting 190:23,24 191:3,4 consummated 310:19 contact 30:13,15 168:18 174:22 244:5 contacted 249:3 content 163:15 context 196:10 200:11</p>
---	--	---	---

continue 52:12 198:10
281:12 325:14,19
continuing 44:20,25,25
contract 207:5 243:17
contracts 84:22
contribute 148:22 151:5
contributions 20:6
control 275:21 316:7
controlled 113:3
controlling 171:17 303:12
controls 275:23
convenience 206:23
conversation 111:1 112:18
116:4 137:14 139:20
154:23 165:8 179:12
189:22 194:21 208:15
233:11
conversations 30:10
107:19 110:8 118:7
120:20 121:7,21 127:22
131:20 156:5 158:13,17
186:10 189:12,17 224:3
convey 119:3
conveyed 112:2 116:17
119:8 120:7
conveying 129:21
convicted 140:10 141:1
conviction 129:1 130:2
131:21 132:8,20,25,25
133:5 156:16,22
convictions 144:10,15,17
144:19,22
cooperated 101:17
copied 6:22 7:2,4,6 301:15
301:17 302:11
copies 54:23 113:2 183:16
206:22
copy 8:3,13 15:22 54:17
80:22 325:23 326:3,7
copying 7:12 181:12
192:11 196:6 268:13
308:3
corner 277:15
CORP 1:11
corporate 13:17 43:13 44:5
44:9 52:1 315:9,12
corporation 14:17
corporations 283:9
correct 9:18 14:7 15:2
18:21,22 19:7,8,25 20:1
22:14,16 23:3 28:2,23
29:5,6,7 30:8 31:17 32:24
33:5 34:7 37:15,16 41:8
44:7 47:9 50:6,7 53:5,6,9
53:17,18,20,21 54:16
56:7 58:9 61:17,18 62:21
63:2 66:11 72:6,9,20 78:1
79:2,12 84:12 85:6,13
89:10 90:1,12 91:16,21
91:22 92:1,13,15 95:8
98:8,9 100:8,13 102:13

104:20 108:4 112:6 114:3
116:16 120:25 123:18
126:1 128:23 129:4,8
133:7 134:4,24 135:7,8
135:14 141:18 145:9,15
145:17,20 147:8,15
148:14 149:7,8 153:6
155:6,16 158:7,8,23,24
160:14 165:11,17 166:17
167:12 171:6 173:6,8,17
174:20 175:23 179:15
188:5 190:2,3 195:4
207:20 208:2 215:12,13
215:14 216:14,15 219:22
227:25 233:4,11,21
235:25 236:1,9 242:13
243:1,15,25 245:15,17
248:5 250:8,10,11,13,25
251:1 257:11 262:9,10
263:16 264:9 265:20
270:20 271:19,19 272:3,5
272:24 273:1,12,13 280:6
289:5 291:5 292:3,12,15
293:3 294:16 295:19
296:14,19,21,24 297:17
302:14 304:5,6 307:9
316:10,11,15 318:10,17
319:8 330:8
corrections 330:10,13,14
corrective 206:22
correctly 27:12 102:3,5
104:19 120:8,9 133:22
134:23 171:5 207:24
229:11 256:21 275:14
correspondence 167:11
204:24 278:10,11
counsel 12:17 19:10,15,21
19:22 22:2 23:15 28:1,13
31:22 32:25 33:7,17,25
38:12 40:25 42:3 48:6
50:23 54:24 56:22 57:7
57:24 66:5 72:15 74:10
74:14,19 75:9,14,20,22
76:9 77:11 79:18 80:19
83:4 86:23 87:8 88:4 89:3
89:16 91:9 103:21 104:3
131:7,9 160:14 162:16
164:18 186:11 188:3,25
194:7 195:20 198:15
199:23 203:4 204:5 210:4
211:12 219:17 226:4
282:18 286:21 289:11,20
297:23 301:2 305:16
312:13 313:14 326:12
329:14,16
count 128:20
COUNTY 328:7 329:4
couple 44:17
course 43:16 85:4 121:12
256:7 264:17 277:21
289:13

court 1:1 2:1 9:2,9 10:22
11:8 13:3 17:23 50:9
144:11 158:22 228:9
229:5,16 231:6 261:10
289:15 315:20 316:17,25
317:6 319:13 321:21
323:25 325:22 326:2,4
Court-Appointed 3:7,13
courtesy 276:12
cover 311:6
coverage 311:24 313:1
covered 180:3 311:15
Cox 4:22,23 325:4,4 327:1
327:2
create 25:17,25 31:12
142:2 200:3 240:22 243:5
262:24 275:14 278:21
279:3,23 308:9
created 27:8 88:24 151:12
160:2 215:23 223:7 249:6
263:4 285:25
creating 248:20 249:16
284:13
credit 45:8 311:5
criminal 12:23 128:22
129:1,14 130:2,15 131:5
131:21,24 132:7,8,19
133:4 144:2,9,14,17,19
145:4,7,14,16 153:20
154:13 155:9,13,21,23
156:1,3,7 157:16 158:6
177:1 262:20
cross 325:20 327:3
cross-examination 325:16
326:19
cross-examine 325:11,17
326:14
CRR 1:24 2:17 328:16
329:21
cuff 292:6,13
current 100:5 133:1
currently 10:17 157:14
customer 36:12 61:12
customers 178:13 187:17
188:2
cut 32:25 75:25 144:11
240:9,11

D

D 4:5 6:1 141:25 142:5
241:15
D/B/A 1:7,8 2:7
dad 59:1
Damian 5:4,5 91:16,24
Daniel 34:22
data 296:17
date 7:21 47:23 49:22
52:16 53:13 65:13 67:12
67:15 68:22 69:2 75:21
76:8 96:1 123:25 124:3
180:11,12 182:8 268:14

317:6 324:25 326:24
331:2
dated 60:17 98:22 229:25
329:19 330:19 331:25
dates 110:11 165:5
Dave 110:19 111:25 154:19
David 11:11 34:18 148:11
148:14 155:25 156:10
157:12 318:9
Davis 10:23 34:21
day 24:19 35:22 85:23
134:13 136:10 148:4,6
197:19 275:23 276:22
283:20 301:24 316:6,10
316:16,17,20,25 317:22
317:23 318:2 326:15
328:12,13 329:19 330:19
days 45:19 65:17 69:4
76:23
deal 149:5 196:8 198:7,16
206:5 244:6 326:4
Dean 1:16 4:10 5:15 6:13
6:17 7:4,11,15,20,25 8:2
8:7,11,13,20 10:22 16:18
18:11 19:4,5,13 34:21
39:25 40:3,11 42:13
48:17 49:19,21,23 52:12
61:16 66:13,17 71:5,10
74:17,19 76:8 79:1,6
80:14 82:7 83:2,4,13
98:23,25 99:1 103:11
125:4 127:22 135:2 138:4
140:12 141:15,19 149:11
149:12,19 150:2,12 151:1
160:2 164:22 165:14
182:2 189:6,13,15,16
191:22,22 192:11 194:10
194:13 203:15 204:11
207:19,23 215:22 217:14
226:13 228:20 238:15
242:4 244:23 253:21
255:10 257:3,6 263:24
266:9 268:11 269:6,17
270:9 272:11 273:4 283:8
283:10 284:10,23,25
285:24 286:23 291:11
299:20 301:5 302:12,25
305:20 312:4 320:2

Dean's 283:20
debate 139:4
debt 52:1 96:21 315:9,12
December 68:19 69:1
73:19 160:10 209:10
323:19
decide 133:5 138:11
deciding 202:6
decision 133:11,16,20
139:2 227:8,13
decision-maker 209:1
decisions 200:13 208:23
deck 36:19 41:11,15,23

42:15,21
declaration 6:10,14 7:10
 8:15 60:3 98:16 282:25
declare 324:6 330:4
deemed 31:13
default 179:6 184:14,17,22
 184:24 185:3 187:15
 254:5 267:11
defaults 311:7
Defendant 1:20 2:10
defendants 1:18 2:8 191:9
 325:20
defense 26:5 326:12
defenses 178:12
defined 225:22 230:15
 234:5 254:16
defining 220:22
definitely 59:6
definition 97:20 213:18,20
degree 43:1,22
Delaware 10:25 11:1
delayed 105:25
deliberate 65:7
delighted 256:20
Denise 1:24 2:17 87:12
 328:16 329:6,21
deny 70:17 71:14
depart 324:18
Department 60:4
depending 24:25
depends 132:24
deposition 1:22 2:13 5:18
 6:9 9:21 15:21 25:7 34:10
 52:5 54:4,6 55:10,23,25
 60:6 113:25 129:13,25
 168:6 218:12 246:10,15
 323:17 324:9,24 325:6,10
 325:25 326:24 329:9
 330:6,14,15 331:2
depositions 326:16
deprive 276:9
describe 15:10
described 120:14 210:24
 211:13 222:3 243:14
 259:14 310:9 317:16
description 175:25
designated 210:9 323:17
desist 74:5,25 75:3 76:15
 77:7 311:22 312:3,7
details 148:17,18
determination 118:2 151:9
determine 153:11
determined 117:21 119:4
 235:19
development 18:3,5
difference 117:3 234:21
 235:7 322:17
different 54:12 105:7
 111:18 117:7 136:16
 146:6 149:3 159:6 213:22
 225:4 236:5,6,9 237:3,14

263:24 307:14
difficult 38:19 82:18 218:20
diligence 6:17,19,22 31:16
 32:4,7,7,11,24 33:4 35:25
 37:10 144:5 162:7,10,19
 163:2,24 164:25 165:16
 165:20 166:15,16,20
 167:8,11,25 168:9,14
 169:2,6,9 170:2 171:7,14
 172:1,2,8,10,16 173:11
 173:18 177:13 180:18
 183:9 184:13 186:3,17
 187:24 212:20 260:20
 285:23
diminutive 145:25
direct 92:18 127:5 142:19
 244:5 260:8 324:1
directing 11:20,22
direction 142:7 252:16
directly 113:3 115:9 150:22
 174:25 238:22
director 171:11 210:5
directors 171:8,18 173:3
 176:11 183:16 184:3
disagree 148:19 216:22
disagrees 164:10
discern 185:3
disciplinary 12:25
disclose 93:4 99:19 131:23
 140:8,22 142:13,25
 262:19 263:4
disclosed 32:10 89:21
 156:23 170:20 257:2
 265:22
disclosure 26:5 27:15
 118:10,14 170:22 197:17
disclosures 27:16 181:8
 254:8
disconnected 76:5
discover 161:21
discovery 175:20 181:4
discuss 156:11 182:1
 185:7 190:5,9 197:21,21
 197:22 255:20
discussed 27:24 136:8
 149:3,18 156:4,21 158:5
 168:15 179:25 185:14,16
 189:21 202:7,23 220:7
 223:2 313:5,14
discusses 131:8 230:5
discussing 25:17 101:7
 149:14 257:5 299:1
discussion 22:7 25:12
 33:15 39:9 87:14 122:7
 149:19,25 150:25 154:18
 154:19 156:13 157:7,9
 175:13 185:16 202:23
 204:7 257:21
discussions 149:2 154:15
 156:9 157:11,23 203:11
 203:24 204:10,15

displaying 100:10
dispute 323:23
disputes 171:9
distinction 140:6 322:18
distributable 235:8
distribute 201:3
District 1:1,1 2:1,1 187:5
Division 261:11
dkr@pietragallo.com 3:18
docket 229:5,16 323:19
document 27:9 54:3 62:19
 64:16 85:2 94:17 105:8
 118:6 168:5 196:11
 197:11 206:21 207:12
 218:20 229:8,19 231:12
 231:18,22 239:10,12,18
 239:21,25 240:4 245:22
 254:8 271:4 275:9,18
 276:8,10,11 277:14,20,24
 278:3,7,10,18 279:2
 281:3 297:24 300:11,15
 307:11,12 308:21
documentation 186:12
 297:5,7,9
documents 37:7 54:14,19
 54:22,23 55:5,12,19,20
 70:6 84:19,20,22,25
 101:20 118:10,14 169:3
 180:23 182:23 183:17,24
 184:1,2,7,24 185:2
 196:22 241:20 243:5
 254:6 264:17 275:12
 276:13 299:10 302:20
 306:10,12 322:15
dog 176:17 240:12
doing 24:4 29:13,21 40:5,8
 41:22 48:21 51:14 71:5
 72:19 95:21 114:15
 134:13 151:24 164:16
 172:13 201:24 212:19
 251:17 252:9 260:20
 324:2,15
dollars 103:1
doubt 127:19 128:7 129:16
 129:21 274:6
DOUGLAS 3:16
dozens 190:13
draft 26:3,10,11 28:17 29:2
 57:11,17 99:6 122:25
 192:14,17,18 194:25
 205:6,7 240:14 250:14,17
 262:11,12 265:21 299:25
drafted 22:12 26:4,9,10,23
 27:13,14,17 29:9 30:3
 31:5 58:6 91:2 93:5 94:7
 94:16 129:8 132:5 155:5
 170:6,18 228:12,19
 240:18 250:12,17 262:8
 262:10
drafting 86:16 88:16 90:11
 93:12 94:8 95:24 96:1

249:6 251:21 302:20
drafts 174:17 211:22
Drake 11:10 34:17
draw 297:10
drawing 221:5
DRESSLER 3:21
drew 297:8,8
dropped 288:15
Dubow 3:21 91:20
due 6:17,19,22 31:15 32:4
 32:7,7,10,23 33:4 35:25
 37:10 144:4 162:7,10,19
 163:2,23 164:25 165:16
 165:19 166:15,16,20
 167:8,10,24 168:9,14
 169:2,6,9 170:2 171:7,14
 172:1,2,8,10,16 173:11
 173:17 177:13 180:18
 183:9 184:12 186:3,17
 187:24 212:19 226:5
 260:20 285:23 286:22
duly 9:12 328:12
duplicate 245:21
duties 324:22

E

E 6:1,5
e-mail 6:16,18,21 7:1,3,5,8
 7:11,14,18,20,22 8:2,5,7
 8:11,13 46:8,9,13,15,22
 98:22 99:4,7 100:7,10,15
 101:1 104:22 107:10
 116:1 145:19 165:10,10
 165:18 167:23 168:19
 173:6 180:17,22 182:9,10
 182:21 183:13 184:6
 186:7 192:9 199:9,21
 202:1 205:6 207:10
 208:21 209:9 211:14
 217:14 218:24 219:6
 244:16 253:5,9 268:11,22
 268:23,24 271:15 273:10
 273:16 278:13 299:19
 300:20 302:18 304:8
 310:17
e-mailed 165:14 173:10
 299:24
e-mailing 174:15 207:22
 208:17 211:23
e-mails 101:21,21,22 146:7
 168:13 173:13 233:19
 234:1 278:13 310:9
Eagle 190:23
earlier 27:24 163:9 167:9
 179:23 182:16 203:10
 211:17 215:8 216:11,15
 223:2 225:23 234:5
 245:22 246:19 276:16
 314:8 315:7
early 47:25 147:6 160:8
 161:7,25 222:5

<p>easier 256:22 easily 34:5 Eastern 187:5 easy 256:25 Eckert 3:19 4:3 6:7,13 7:24 13:10,12,21,22 14:2,3,11 14:20 28:25 55:19 83:3 85:19 95:8 104:8 110:20 142:6 167:12 272:10 274:24 275:11 281:21 282:9 285:8,17,20 291:21 314:15 315:13 318:15 319:11 EckertSeamans.com 46:11 EDGAR 40:14,17 41:19 edits 123:2 EDT 327:13 education 44:20,25 45:1,22 45:24 educational 44:18 effect 242:10 efforts 176:7 266:25 280:6 280:12 284:17 286:17 eight 324:6 Eighteenth 3:22 EIN 243:6 either 21:12 35:23 36:8 116:3 124:4 158:13 165:8 212:1 250:16 262:10 264:12 276:2 either/or 211:1 elaborate 156:19 elicit 83:7 93:17,19 elicits 226:20 Email 3:6,12,18,24,24 4:7,8 4:8,13,19,20,25 5:7,7,12 emergency 317:14 employee 7:9 53:1 259:25 329:14,15 employees 171:9 ended 52:17 98:7 Energy 314:11 engage 39:22 159:1 engaged 178:14 275:11 engagement 243:15 engagements 44:23 engaging 210:8 entered 12:21 98:7 240:15 242:19 315:19 316:17,21 316:25 317:6 318:5 319:13 323:19 entire 17:19 330:5 entirely 82:23 129:19 274:13 entities 18:12 19:4 31:12 50:20 51:3 52:6 103:7 119:25 159:6,13,14 160:2 177:23 179:5 189:8 202:20,21 214:17 258:13 278:21 279:3,23 303:11</p>	<p>303:14,20 305:4 314:16 315:1 319:21 320:1,3,21 entitled 27:6 89:19 326:6 entity 10:10 13:1 47:16 72:12,24 77:19 103:11 126:2 152:9,11,24 153:11 159:8 172:20 191:23 242:20 262:21 303:13 307:14,14 entry 96:7 229:19 environment 31:12 equity 35:1 96:22 126:24 149:22 ERICA 3:21 erica.dressler@troutma... 3:24 Errata 330:11 331:1 Esquire 3:4,9,16,21,21 4:4 4:5,5,11,16,17,23 5:4,5 5:10,17 established 161:3 242:8 estate 18:3,6 191:11,11 283:12 estimate 322:5,6 et 2:7 331:3 Euler 311:22 evening 206:21 event 266:1 events 266:14 eventually 249:7 everybody 59:10 257:25 everybody's 33:19 evidenced 64:17 EVOLUTION 1:12,13 exact 112:17 118:6 exactly 102:13 106:23 237:19 321:1 Examination 6:2 9:14 60:5 examined 9:12 example 185:1 190:12 234:25 271:6 272:13 298:5 exchange 1:3 2:3 3:3 14:13 14:14,22,23 43:15 78:1 79:1 83:12 96:16 97:17 211:14 230:10 273:11 298:12,13,19,19,22,24 299:2,3 313:25 314:5 exchanging 173:13 excluding 224:14 exclusively 15:5 excuse 68:10 76:11 136:6 152:18 183:19 187:9,25 191:19 238:23 275:13 284:21 291:6 executed 193:25 executive 185:12,16,17 exemption 70:15 exhibit 6:7,8,10,11,13,14 6:16,18,21 7:1,3,5,8,10 7:13,14,17,18,20,22,24</p>	<p>8:1,2,5,7,9,11,13,15,16 8:17,18,19 13:4,6 15:21 16:17,23 53:23 54:1,4,6 55:5 59:21,24 61:8,20 65:21 83:20,22 86:10 95:1,4,12 96:4 97:11 98:11,14,22 100:8,10,12 100:18 121:25 122:9,17 125:22 167:17,20,22 168:5,6 175:15 177:11 180:14,15,17 181:5 182:22,22 183:2,5,7 184:10 192:4,6,8 195:14 195:15,17 204:19,20,21 204:23 209:3,4,6,8 214:5 217:2,4,7,9,9 218:12 229:17 239:4,7 240:1,6 244:13,14,16 245:19,21 246:4,7,10,15 248:14,15 249:24,25 251:3 253:13 268:7,9,11 270:16,17,22 271:12 272:2,4,6 273:7,7 273:8 278:4,5 280:25 281:1,16 282:5,13,20,21 282:22 284:1,6 288:25 290:7,8 293:5,6,7,13,16 293:17,22 294:18,19,23 295:16 298:25 299:16,17 299:23,24 302:7,8,10 306:17,18,20 307:23,24 308:2 312:2 exhibits 196:18 206:8 275:21,24 276:25 278:16 288:14,16 existed 169:18 existence 48:19 145:16 239:25 255:18 existing 156:23 201:10 exists 164:11 expect 206:20 expected 200:8,25 201:5 experience 43:10 92:2 185:7 210:10 259:17,23 260:3,6 experiences 43:19 expertise 43:6,7 Expires 328:18 explain 17:14,16 204:2 260:18 explained 234:5 explaining 309:20 explains 309:8 explicitly 224:14 expressed 245:6 expressly 249:11 extends 194:13 extent 12:13 22:8 23:5,22 24:9,13 27:19 28:4 30:25 31:19 40:22 41:25 45:7 48:3 56:9,18 57:4,21 62:7 63:8,18 64:23 66:1 71:18</p>	<p>74:6 75:6 79:14 80:16 82:24 86:18,21 88:1 89:1 89:13 91:6 92:21 99:9 103:17 114:24 123:4 124:20 127:21 138:18 140:12 142:5 143:15 153:21 157:21 162:12,21 163:5,15 164:1 165:21 167:13 172:18 188:22 194:3 202:25 219:14 221:18 224:9,21 226:1 227:15 228:24 237:10,12 239:13 243:13,15 286:18 300:6 304:12 305:13 313:3,13 315:21 External 8:6 extrapolation 291:16</p> <hr/> <p style="text-align: center;">F</p> <hr/> <p>F/K/A 1:9,13 face 269:11,11,13,13 face-to-face 116:4 121:6 158:14 165:8 189:15 194:20 208:15 269:10,15 facilitated 285:6,16 fact 51:1 62:4 92:5 104:7 113:24 120:13 128:4 133:13 136:14 141:14 165:7,14 167:8 171:24 173:10,15 174:13 280:10 287:18 290:24 296:17 311:8 325:14 fact-finding 186:4,16,17 factoring 34:23 36:9 factually 304:6 fairly 84:19 Fallcatcher 7:17 79:2,7,10 83:14 84:21 85:4,11 86:4 86:11,17 87:24 88:17 90:12 91:3 93:13 94:7 95:24 97:13,14,22,25 98:2,4,6 101:7 102:18 103:6,7 106:20 107:2,13 111:14 118:3 119:14,15 119:22 125:24 126:2,10 126:21,23,25 128:18 129:8 131:23 134:3,7 135:9,12,13 136:2,8 140:13 141:7,16,21,22 142:3,14,21,25 143:4 247:4,6 248:3 322:13 Fallcatching 135:13 familiar 28:21 47:8 77:3,4 92:1 130:25 134:25 136:13,14 195:7 228:10 242:9,13 285:18 290:12 290:20 312:3 314:13 family 1:19 2:9 49:14 283:11 far 215:14 311:2,3 fashion 112:3</p>
--	---	---	---

<p>faster 210:15 February 74:24 75:24 76:16 77:8 171:25 306:21 308:3 federal 27:7 89:21 128:21 132:21 fee 56:14 230:17 245:9,11 feedback 16:5 211:22 300:5 feel 260:10 fees 101:25 102:7,17,25 103:7,16 104:1,8 230:11 320:20 fellow's 175:2 felon 140:10 141:1 felony 132:8 felt 213:16 313:24 314:4 FIDELIS 1:11,11 field 150:18 Fifth 5:11 figure 39:6 136:11 figured 118:20 file 31:25 142:2,6,15,20,25 filed 52:20 76:11 141:23,25 142:5,7,20,24 187:3,22 190:1 231:18 233:2 258:10 316:6,10 319:12 filing 75:23 142:1,3 143:6,7 186:20 187:12 213:23 229:20 231:6 filings 37:18,19 40:17 41:18,19 70:2 141:22,24 142:13,17 143:3 243:7 film 295:2 filmed 291:21 293:25 final 122:20 251:7,8 finalized 155:10 finalizing 252:23 finance 43:13 44:5,9 financial 1:8,11 6:12 8:1,15 11:4 13:17 15:12,14 16:18 37:22,24 43:12,17 43:21 51:2,15 53:2,20 71:6 72:8,14,20 75:2 84:1 84:5,8 97:16 103:15,25 117:10 118:21 119:5 124:4,18 125:12 135:1 158:21,23,25 159:6,12,20 159:22 169:14,17,22,24 170:3,5,21,23 171:3 173:1 190:7 191:15 193:5 197:6 200:15 201:4,10,19 211:4 229:25 230:13,15 232:9 255:2,10 257:3,7 258:25 261:13,17 262:3,5 264:5,6,8 266:21,24 267:3,5 270:24 271:17 273:24 274:16 280:4,11 280:16,21 281:4 283:1,7 283:25 296:5,11,17 297:11,15 298:2,3,6</p>	<p>316:19 317:4 financially 329:17 financials 262:6,7 financing 16:11,16,24 36:10 find 88:19 127:8 144:25 172:13,14 179:11 finder 56:15 161:23 195:7 214:8,10,22,23 215:9 216:4,20 230:11,14 233:21 234:1 finder's 56:5 57:11,17 58:6 191:18,20 215:10,13,16 216:13 227:22 228:8,13 228:20 229:2,6,20,24 230:17 231:12 232:6,8,17 232:18,20,25 234:3 finders 232:11 233:17 234:13 finding 105:16 106:3,17,19 106:24 107:11,17,17 109:12 112:14,17 116:14 117:5,9,14 findings 70:9 108:18,25 121:15 124:11 fine 58:15,18 59:5 73:3,13 176:19 196:14 307:21 finish 254:15 276:14 289:11 304:21 318:20 320:17 322:2 finished 90:16,17 200:18 287:16 304:19 firm 13:11,16 14:15,18 146:11 190:23 234:23 281:22 284:17 286:12 314:23 318:15 firm's 15:23 280:5,11,17 282:9 286:16 319:6 firms 190:24 191:3,4 284:11 285:2,7,17 first 9:12 10:1 12:10 14:12 18:2,16 26:20 44:16 47:21,24 62:18 69:22 90:21 96:4 100:8 144:18 144:22 147:24 175:3 181:21 193:4 201:14,17 218:9 230:8,16 233:11 241:25 245:24 258:11 276:22 277:18 288:7,17 288:18 289:9 five 45:12 58:10 91:21 122:2,4 185:23 204:14 244:18,21 245:13,14 288:18 five- 25:4 five-minute 175:9 fix 246:10 flash 276:8,12 flat 245:9 Fleetwood 187:4 188:7,8 flew 147:11 148:1,2,4,6</p>	<p>150:8 flexibility 31:9 Floor 5:11 Florida 1:1 2:1,18 3:5,11 4:12,18,24 5:6 10:24 11:1 92:6,7 148:2,2,3,4 328:6 328:17 329:3 flown 147:4 flying 153:5 focus 113:20 243:9 focused 172:19 fold 317:10,16 folks 203:9 254:11 273:4 follow 323:21 follow-on 256:5 follow-up 279:24 314:7 321:13 followed 46:10 following 34:14 193:11 205:5,12,13 207:3 254:5 267:10 279:10 292:5 295:10 follows 9:13 Ford 125:25 126:3,9,19,20 126:23 127:9,16 128:5,19 128:25 130:14 131:5 132:6 140:9,25 141:8,15 141:19 142:14 143:1,5 245:25 246:20,23 247:6,7 247:8,17 Ford's 130:2 131:20,24 133:4 foregoing 329:8 330:6 forget 36:18,19 175:2 285:2 form 21:24 22:15,20 23:4 25:20 26:2,12,25 27:18 28:3 29:16 30:7 31:18 33:6 36:3,9 38:11 39:24 40:21 41:24 42:16 48:2 48:24 50:12 54:21 56:8 56:17 57:3,13,20 62:12 63:1,7,17 64:5,15,22 68:2 69:10,17,25 70:23 71:21 72:10,17,21 73:5,7,22 75:5 76:20 77:17 78:2,19 79:3,13 80:15 81:9,21,25 83:15 84:13 85:14 86:5 86:12 87:25 88:10,25 89:12 90:13 91:5 92:11 92:17 93:9,15 94:11,21 96:10,18 97:3 99:8,23 101:8 102:11,19,24 103:9 104:12,13,16,17 105:18 106:5 107:3,14 108:9,21 109:16 112:3 113:12 114:4 115:10 116:19 118:4,24 119:17 122:20 126:11,22 127:4,20 128:9 128:24 129:17 130:5,16 131:18 132:2,13,22 133:6</p>	<p>133:23 134:5 135:15 136:3,17,18 137:3,10 140:11 141:2,11,25 142:5 145:21 146:9 147:9 148:24 151:7 152:3 153:7 157:17 159:3,16 160:1,15 160:25 161:10,14 162:1 166:4 170:12 171:19 172:3 173:7 174:21 178:22 179:20 181:9 184:15 185:9 190:15 191:12,17 194:21 195:5 199:7 200:2,19 202:9,13 205:9,11 207:14 208:16 208:25 210:11 212:3,14 213:1 214:14 215:2,20,21 216:5 220:24 221:16,22 221:24 222:18 223:11 227:18 228:1,17 230:9 232:13,14 233:5,22 234:8 234:17 235:17 236:4,10 237:5,20 238:2 240:17,23 241:5,6,11,23 242:15,23 243:11,23 245:16 248:22 249:10 251:23,25 252:14 253:2 255:4 259:12 261:15 262:15 263:10,20 263:21 264:10,11 265:9 266:4,17 267:1 268:4 269:23 272:7,25 274:18 275:2 280:7,14 285:9,10 285:22 287:3,22 295:21 296:13,20 299:6 305:8 306:9,24 309:10 310:7,15 310:25 311:10,17,25 312:12 314:18 315:15 319:15 formal 45:24 formation 16:12,16,24 17:1 18:24 77:19 78:21 formed 10:10 19:4 31:13 305:4 307:15 former 52:9 203:7 formerly 51:16 forming 96:12 245:6 250:5 303:11,19 forth 121:21 166:12 forward 307:3 310:18 forwarded 207:6 278:14 FOSLID 3:9 found 105:12 111:4,7,13,23 114:22 131:4 144:25 foundation 159:11 four 38:7 91:20 288:4 294:3 frame 44:3,12 68:23 115:25 121:1,20 131:21 173:14 174:23 175:1 178:1 187:11 189:19 194:19 210:6 211:7 212:10 215:3 215:5 216:16 222:6 236:16,17 254:2,5 260:16</p>
---	--	--	---

260:17 267:10 295:5,18
298:7,15 319:23
franchise 243:3
Francis 11:9 34:16
Frankly 166:8
fraud 10:8,9 15:8,11,12,14
15:16 43:14 128:21
132:20
freeze 316:14
freezing 319:14
frequent 147:7,11
Friday 1:23 2:16 98:25
168:16
friend 251:17
friends 49:15 283:11
front 25:9 117:21 168:3
201:22 317:10
frustrated 94:2
frustrating 93:22
full 1:7 36:20 61:7,19 101:6
200:7,23 201:15 268:22
fully 101:17
function 259:20 260:7
fund 1:10,11,13,13,14 20:5
26:7 34:23,24,24,25,25
35:1,1,2,2,3,4,4,5,5,6,7
49:11,16 51:18,18,19,19
51:20,20,21,22,22,23,24
51:25 53:7,8,8,16,17
77:14 78:21 96:13,15
120:1,1 149:23 152:1
155:6 193:11 197:21
201:2 215:23 218:5,8
219:11,12 220:11,16,19
220:22 221:3,8,12,13
222:3,10 223:24 224:6
225:22,22 227:14 234:4
234:14,16 235:1,7,8,15
235:16,19,22,25 236:3,3
241:7,10 244:5,7,19
245:6 250:5,6,7,9,13,15
251:13 255:6,17 257:7
262:14,14 263:4,8 264:5
264:24,24 265:3,4,15,23
266:11 269:3 271:16
273:23 274:17 304:10
305:6,6 308:16 310:2,23
315:3,9,12
fund's 266:2,16 268:3
fundamental 43:8,20
funding 1:7 2:7 16:18,20
17:4 18:10,13 19:25 20:2
20:7,14,21 21:9,15 23:3
29:15 30:11,14 31:16
32:24 33:5 35:3 36:1,2
47:12,14 58:8 61:25 62:5
62:20 63:6,16 64:14
65:12,15,25 67:22 68:1
68:12 69:7,14 70:10,13
73:12,14,17,20,21,24
74:5 75:1 78:15 144:5

159:1,15 160:5,12,18
161:18,23 162:8,11,20
163:3,24 166:15,20
167:23 169:4,7,8,21
170:7,9,21,23 173:17,20
173:21 176:4,6 177:7,9
177:12,19,23,24,25
178:20,24 179:4,5,13
180:2 182:23 183:23
184:4,13 185:6,8 186:4,7
186:8,11,12,15,22 187:5
187:13,17 188:14,18
190:18,25 191:3,8,10
192:10 195:3,20 199:23
205:8 206:25 208:18,23
209:15,19,21 210:1 213:8
214:9,10,16,20 215:9,11
215:24 216:2,19 220:7
221:2,2,12 222:1 227:6,7
227:13,23 232:9,12 233:4
233:17 234:22 235:2,24
236:8,14,19,23,25 237:8
237:18,25 238:10,20,23
238:25 244:6,7 248:21
249:8 251:21,24,25 252:3
253:1 254:1,23 259:11,14
260:10,15,21,23 261:1,12
261:18,20 262:2 263:5,9
263:15,23 264:7,23 265:2
265:24 295:12 296:18
297:5,8,15,22 311:4,8,14
312:8
Funding's 70:21 179:18
216:7 262:5 297:23
funds 11:11 16:19 17:1
18:12,24 19:15 20:5
27:23 96:25 105:12,17
106:3,19,25 107:12,18,22
109:14 111:7,13,23 112:2
112:14,24 113:11,21,21
114:2,22 116:15,24
120:12,13 123:24 148:23
160:3 188:1 191:10
214:11 215:17,18 216:3
216:21 220:12,24 222:2,8
222:13 223:2,6,7 234:6
235:5 236:5 237:8,24,25
238:10,12,21 240:10,16
240:21,22 241:4,14
242:10,12,19,22 245:1,8
248:20 249:7 250:9
251:22 253:18,25 254:22
255:1 256:23 258:14
262:9,17,24 263:23,25
265:16,17 266:13 269:6
270:19 271:9 285:25
293:2 294:15 295:17
296:5,7 298:16 299:4,5
302:21 304:10 305:11
310:13 318:14,24 319:5
319:10 320:22

funneled 249:17
Furman 1:17 4:21 5:19
16:7 325:5 327:1
Furman's 296:6,7
further 40:18,22 92:24
105:2,4,11 181:8 208:21
219:1,2 323:13 329:13
future 26:6 124:14
fuzzy 17:15 218:2,13

G

G-A-S-S-M-A-N 34:18
G-O-L-L-N-E-R 34:18
gained 43:19
Gary 77:1,4,9,18
Gassman 7:19 11:10 34:17
250:3,4 251:10
gathering 123:12
gauge 197:23 201:7
gears 158:20
gel 252:10
general 40:5 67:18 114:16
114:17 115:25 116:6
135:23 137:8 139:15
156:12 187:20 189:22
197:20 200:9 201:6,20
210:4 211:12 213:18,19
214:12 219:23
generalize 148:21
generally 17:4 36:11 47:25
71:12 113:1 176:8 178:8
184:22 185:12,15 241:16
284:25
generate 249:7
Genet 110:24,25
Gentlemen 196:7 198:6
207:5
geographic 285:2
getting 172:6 190:24
197:25 234:11 279:15
GG 328:17
GISSAS 1:17
gist 70:24 71:1
give 9:5 38:17 51:8 92:13
97:19 103:3 148:18
171:24 187:19 196:10
202:1 218:4,18 219:23
223:18,20 243:4,6 273:14
276:12 288:25 289:4
297:9 301:3 322:5,6
given 325:24 330:9
gives 264:23,23 265:3
giving 139:24 164:15
211:22 270:24
glad 276:19
gladly 326:9
glance 197:10
global 19:11 254:18
Gmail 46:25
go 17:23,24 25:13 33:13,18
33:21 39:4 58:16,25 59:2

59:4 80:9 87:12 95:15
117:16 137:24 139:5
147:16,21,22,23,25 148:9
148:16 181:20,21 195:12
197:20 205:17 210:15,16
210:19 224:18 225:15
244:12 249:7 254:14
257:16 272:4 281:18
288:14 289:1,6 290:3,3,6
293:6 301:12 314:9
320:14 324:11
goes 47:12
going 17:12 23:12 24:18,19
24:23 27:5 30:5 31:6
32:17 33:7,13 34:10
38:13 39:11,19 41:21
55:3,22 59:3,8,8 82:13,16
83:9 92:22 107:10 108:14
109:7,9,10,11 117:16
139:17 143:8 147:7
148:19,22 149:6 151:4
154:3 158:19 172:7
176:10 180:24 197:21,22
198:9 200:14,16 202:6
212:20 217:21 218:4
220:15,17 221:7 222:22
225:17 229:7,17,18 230:6
230:7,14 231:2,3,10,19
232:2 235:3,13 246:6,10
246:11,18 247:14,14
249:7 252:25 253:18
255:24 256:10 257:23
258:23 263:4 265:1,23
281:12,12 282:24 283:3
288:5,6,7,8 289:1,6,10,25
290:7,24 292:18 296:10
298:12 299:25 304:19
308:7 309:20 319:2 320:9
320:14 321:15,19 324:6
Goldman 11:11
golf 7:21 268:13 269:1
Gollner 34:18 154:19
155:25 156:2,6,10 157:13
good 20:2 175:12 201:24
211:23 219:4 287:16
324:17 326:10,25 327:4
GORDON 3:15
gosh 301:23
GR8 35:3
grab 59:11
great 34:5 60:11 100:24
168:12,21 205:24 206:10
206:14 207:7 217:1 223:4
229:15 230:4 247:11
251:17 252:9 316:3,12
318:7,13 327:8
grounds 123:10,13
group 1:7,11,12 2:7 11:5
13:18 18:11 47:7,15,18
47:22,24 48:20 49:5,9,12
49:16,17 54:8,15 56:4,6

56:16 58:7 60:22 61:11
62:1 77:16,25 146:20
148:14,15,23 149:7 153:4
154:1,12 172:24 182:3
191:16 193:6 229:25
230:13 331:3
groups 213:4
guess 45:8 121:8 130:25
159:4 239:23 254:4
299:21 320:24 322:11
guessing 19:24 321:2
322:9
guidance 38:25 203:24
Guide 7:13 239:10,11
guilty 128:20
guy 144:25
guys 147:6 150:17 198:12
198:25 199:1 276:18
303:11,19 308:9,10

H

H 6:5
Haines 5:17 12:3,4 28:15
28:21 33:10 154:7 324:3
324:13 325:22
half 304:20
HALL 3:21
hand 9:3
handle 38:23 242:21
243:21
handled 112:24
hang 256:5
happen 40:18 120:16
154:24 199:23 309:20
happened 182:10 309:12
309:21
happens 176:22
hard 17:7 18:14 196:21
279:9 291:22 309:24
hat 67:2
hate 25:7
he'll 288:19
head 92:8,9,16
heading 15:25 17:6,24
101:2,6,14
heads 7:23 270:24
hear 16:4 33:1 47:21 48:1
51:7 75:13 76:4 127:6
196:19 208:6 210:21
221:23 248:6 276:1,2,3
278:23 286:3,11 289:16
296:25 317:13 326:20
heard 28:1 47:24 101:16
170:15 204:9,11 286:8
hearing 12:11 163:11
233:10 285:19 326:17
327:12
held 22:7 25:12 33:15 39:9
87:14 122:7 145:23
151:21 173:20 175:13
203:2 204:7 207:23

211:10 238:15 257:21
286:22 301:5 318:15,16
318:24 319:5
help 101:12,13 230:8 241:9
241:20 248:2 271:6,12
284:9 287:19 316:5
helped 54:22 283:8 287:18
helpful 51:6 257:23
helps 252:5
Henry 34:19 125:25 126:3
126:19 127:9,16 128:5,19
128:25 130:2,14 131:5
140:9,25 141:8,15,19
142:14 143:1,5 245:25
246:20,22 247:6,7
Hermes 311:22
Hi 273:22
high-level 149:25
higher 237:24
highlighted 171:10 175:24
highlighting 231:5,9
Hiller 51:16
hired 92:4
history 129:14 131:5
176:25 254:1,23 255:3
257:3 262:20,20
hit 288:22
hitting 304:16
hold 33:19 43:4 97:8
181:13 200:25 218:16
229:4 230:7 247:20
248:16 255:22 274:9
283:3 286:2 289:3 315:2
321:7
holding 182:18 212:5
hop 246:18
Hopefully 19:16
hotmail.com 46:20
hour 45:17 58:20 186:1,1
304:21
hourly 245:10,11
hours 38:6,7 40:20 41:4
101:24,24 149:2 324:6
hundreds 102:25 179:4,6

I

I-O-L-T-A 314:23
idea 218:10 219:4 220:5,6
223:23
ideas 219:13
identical 262:13
identified 55:18 180:24
185:19,19
identify 31:5 56:25 315:24
326:13
identity 141:10
ignoring 275:25
Il 35:1 51:18,21 120:1
Ill 4:5
image 17:18 218:13 291:4
291:5,6

imagine 250:25
implicate 123:5 138:19
188:23 224:10 300:7
304:13 315:22
implicated 163:16
implicates 80:16 124:21
143:16 153:22 157:22
162:22 163:6 164:1
165:22 219:15 224:21
225:13 226:2 227:16
228:24 239:14 282:16
286:19 305:14
implications 221:19
implies 20:15
imply 20:18
important 132:11,17
171:17 303:10,18
impression 260:5
inadvertently 307:16
incidents 280:15
include 10:22 132:12 133:5
133:10,11,21 204:9
included 84:18,20,23
119:16 132:6 140:3 143:5
143:7 303:13
includes 224:20
including 84:21,24 101:20
119:25 146:6 201:17
215:24
Income 1:10,10,13,13,13
34:23,23,24 35:1,2,2,3,4
35:4,5,6,7 51:17,18,18,19
51:20,20,21,22,22,23
53:8,16
inconclusive 260:9
inconsistent 118:13
incorrect 182:11
increase 217:19
increased 217:23
indicated 330:11
indirectly 150:22 239:1
individual 77:4 108:16
125:25 126:6 127:9 143:9
143:20 146:10 148:11
174:6 191:8 235:5 268:17
304:4 318:9
individually 126:4 151:23
191:22
individuals 16:25 18:24
96:12 125:18 147:19
150:13 154:2,12,15,16
173:20 174:3 177:24
179:4 190:18 210:7,22
212:16 234:19 242:2
245:5 253:19 258:13
261:7,17 262:6 266:13
268:2 274:10,14 295:16
296:4,6
industry 40:6,8
Info 8:8
information 11:19 22:1,9

23:6,23 24:10 27:20 28:5
37:13,15 56:11 62:9 63:9
63:20 64:24 66:3 71:20
74:8 75:7 79:15 83:6 89:2
89:25 91:7,8 92:23 93:17
93:19 103:19 104:2
117:12,23 118:23 119:6
120:6 123:6 124:22
127:16 128:5 129:7,11,21
132:11,11 138:20 143:17
144:21 152:10 153:11
162:14 163:7 166:14
171:14,21 172:6 175:21
184:21 188:24 194:5
200:10 201:4,6 202:15
207:23 216:25 220:9
223:20 224:3 238:14
301:4 304:14
informed 144:19
initial 90:10 186:3 260:20
298:16
initially 56:5 145:24 214:3
214:7
initials 248:9 250:24
initiate 319:18
initiated 208:20
injunction 316:14
inquire 27:6
Inquirer 145:8 179:17
317:10
inquiries 139:8
insider 15:18
insolvent 296:19 297:6
instant 186:21 319:12
instituted 65:25
instruct 22:10 23:6,23
24:10,19,23 30:24 31:21
40:24 42:1 48:4 56:11,20
57:5,23 62:9 63:10 64:25
66:3 71:20 74:8 75:8
79:16 80:18 86:20,22
88:2 89:15 99:11 103:20
115:1,12 123:7 124:22
143:17 153:23 157:23
162:14,23 163:7 164:2
165:23 194:5 203:3
219:16 221:20 224:11,22
226:3 227:17 228:25
239:15 282:17 286:20
300:8 305:15 315:23
instructing 23:10 24:14
48:12 138:21 313:12
322:23 323:2,4
instruction 269:17
insurance 19:1 198:13
199:2,4 311:5,9,14,24
312:7,9 313:1
intact 140:25
intend 201:3 324:23 326:23
intending 325:17
intends 201:19

<p>intent 287:24 intentions 222:4 interacted 211:20 259:1 260:11 261:19 interacting 175:1 211:21 211:25 212:9,19,20 213:4 259:17 260:3 interaction 211:2,5 260:8,8 interactions 43:18 113:17 172:23 210:1,22 211:9 212:15 interchangeably 47:20 interest 150:2,22 192:16 193:12,13,14,16,17 197:23 201:8 234:21,22 235:2 236:23 237:1,2,3,9 237:24 238:7,9,20,23 245:6 249:18 260:23,25 263:15,24 264:9,16,19,22 265:3,5,18,22 298:17 interested 96:12 149:20 150:18 151:1 241:14,18 329:18 interests 307:6 internal 101:21 278:10 297:22 internally 297:11,21 298:6 interpret 213:12 interpretation 139:1 interrupt 318:21 interrupted 300:23 interruption 61:13 175:5 259:7 interviews 173:16 introduce 229:17 introduced 143:20 145:24 173:25 174:6 211:7 invest 17:2 18:25 23:2 30:5 31:6,10 49:15 77:25 78:15 141:20 191:10 263:5,8 268:17 284:12 302:13 307:8 308:15 310:1 invested 21:1,17 49:4,8,11 170:10 296:4 investigated 119:24 investigating 63:6,16 119:22 investigation 63:22 64:3 71:17 72:7,16 79:1,5,10 83:14 85:4,11 97:13,14 97:22 101:7,17 102:18 103:6,8 106:11,15,21 107:2 112:23 113:10,10 116:18 118:3 119:10,14 121:9 227:6,12 255:18 322:13 investigations 15:5,15 investigative 114:1,7,20 324:22 investing 31:14 132:19</p>	<p>149:20 150:3 151:2 215:23 266:13 268:2 283:12 investment 10:10 19:15 29:5 51:24,25 52:1 96:13 96:15,22,22 120:13 135:22 136:8,16 148:13 148:20 149:16,16 151:13 197:24 201:8 214:11 215:18 216:3,21 220:12 220:23 221:3 222:2 227:24 250:5 263:23 269:3,21,22 270:1,6,8,9 274:17 285:5,15,21 305:11 307:6 314:11 315:9,12 investments 17:3 21:22 22:13 25:25 61:25 117:10 117:22 118:20 119:4 120:4 214:16 285:24 310:24 311:9 investor 98:16 105:12,17 106:3,19,25 107:12,18,22 111:7,13,23 112:2,14,24 114:2,22 116:24 118:8,9 118:12 140:9,13 141:5 159:23 199:24 200:12,14 200:16 210:4 211:8,13 222:2 249:7 252:5 266:15 269:2,5 272:15 273:23 274:5,7 280:18 313:24 314:3,4 investors 26:7 27:15 77:24 78:15 86:3 117:12,24 118:11,23 119:7 120:6 123:23 132:18 134:3,3,7 134:11,11,17,22 141:6,6 141:9,9 151:5 156:24 159:21 160:3 186:8 197:20 201:20 202:8,24 203:12 220:13,25 221:7 221:15 222:17 223:10 224:8 225:25 235:6,9,23 244:8 249:17 265:6 269:15,16 270:20 271:10 272:3,23 273:2 284:24 287:21 292:22,24 294:14 296:11 299:1 300:1 307:7 308:14 309:25 310:22,23 investors' 298:15 invests 49:12,16 invitation 245:4 invite 244:22 invited 135:24 invocation 93:7 invocations 322:22 invoice 95:19 272:9,10 273:12 274:4 326:8 invoices 6:13 7:17,24 40:3 95:7,20,23 114:11,12 134:10,12 246:1 250:25</p>	<p>272:5 322:14,25 invoked 8:9 invokes 86:21 invoking 322:20 involve 21:8 22:1 139:24 involved 15:14 41:25 70:20 72:11 110:25 126:23 151:15,17 177:20 178:9 208:24 211:8 238:8 258:25 302:19 307:5 involvement 79:6 202:6 involves 40:23 involving 15:15 151:6 178:18,24,24 IOLTA 314:15,24 319:6 Ireland-based 19:10 isolation 80:11 issuance 60:16 74:4 issue 17:16 23:19 55:9,22 57:1 96:16 139:6 156:6 157:1,4 193:10 197:4 220:24 235:5 249:9 276:7 303:8 issued 6:11 54:7 62:5,15 62:19,24 64:14 73:9 75:1 76:16,23 79:11,23 80:13 81:1,7 83:13,25 96:21 159:21,24 160:4 186:24 234:22,23 235:9 236:5,8 236:14,19 237:8,18 238:9 238:24 254:7 263:5,9,23 269:25 270:11 295:13 issues 44:22 126:18 178:18 221:2 321:22 issuing 60:21 61:10 222:1 235:2 item 16:25 84:20 171:8 180:3 items 18:9 168:14 183:14</p> <hr/> <p style="text-align: center;">J</p> <p>J 1:16 46:9 248:9 Jackson 127:3,10,17 128:6 128:20 132:7 140:10,25 141:9,15 142:15 143:1 246:25 Jacqmein 7:11 217:10 Jade 35:3 Jancarski 318:9,11 319:8 319:11 January 60:17 61:17 Jason 4:17 7:23 270:23 271:16 Jay 3:21 91:20 jay.dubow@troutman.c... 3:24 Jeff 325:4 327:2,5 JEFFREY 4:16,23 Jerry 6:17 165:15 192:11 Jersey 65:24 67:21,22,25 68:11 69:6,13 70:19,21</p>	<p>70:25 73:19,25 216:13 232:24 254:9 jlc@sallahlaw.com 4:25 jmarcus@mnrlawfirm.c... 4:19 jmay@mnrlawfirm.com 4:20 job 1:25 207:7 211:23 251:17 252:9 Joe 1:14,15,15,16 6:16,19 6:22 7:4,6,8,8,11 8:11,12 8:13 143:10,11,21 145:19 145:23,23,24,25 146:11 146:12,16 147:19 153:9 165:15 166:16,19 168:8 174:4,5,15,19,23 180:17 181:13,15 182:17,18 183:8 184:20 185:10,19 191:4 195:18 196:5 198:5 198:5,20 199:8 204:24 206:18,24 207:10 209:9,9 210:2,3 211:2,15,20 217:15 258:18 260:9,22 304:7 308:7,12,12,12 309:23 Joey 143:21 145:25 146:11 John 1:17,22 2:13 3:19 4:3 5:3 6:3,16,19,21 7:1,6,15 7:19,21,23 8:3,4,5,8,11 8:13,16,18,19 9:11 55:16 55:20 82:6 83:1,11 85:24 168:7,18 181:25 198:8 206:5 244:18 251:6 254:17,20,21,25 259:5 273:23 281:21 283:7,19 284:10 291:2 328:11 329:9 330:4,17 331:2 join 23:9 79:17 97:4 106:6 107:15 108:22 114:5 115:2 119:18 128:10 129:18 130:8,17 132:14 132:23 164:6 171:20 195:6 221:17 228:2,18 234:18 240:24 241:12,24 243:12 244:1 253:3 255:5 265:10 287:23 310:8 311:18 joint 163:14 164:1,10 165:22 197:4 224:11,21 226:2,7,9,14 jointly 203:2 Jordan 10:4 Joseph 1:14,15 5:9 11:9,10 34:15,17 143:9,12,13,14 143:20,22 144:1 145:18 146:16,16,19 147:11 155:20,23 157:15 165:15 166:2,2,16,18,22,25 167:1,2,4,23 173:1,6,23 173:25,25 174:4,6,9,12 174:13,19,23 195:19</p>
---	---	---	--

207:22 213:8 217:15
250:3,4 254:19 256:14
261:3
judge 82:15 132:21 321:14
judgment 12:20
July 83:25 97:24 98:8,22,25
121:5 247:17
June 14:24 127:17 128:6
129:15 130:3,14 131:6
152:18,18 153:5,16
justification 60:16 61:4,5
61:22
justifications 61:10
JWP 248:5,9

K

K 3:16 52:2
K-A-B-B-A-G-E 36:16
Kabbage 36:15 37:5,8,11
37:13,15,16 38:4,6 39:22
40:12,17,19 41:5,23
42:14
keep 16:12 55:1 181:16
205:25 247:13,14,14
276:5 281:10,10,12,12
283:3 324:15
Kenneth 52:2
kid 59:1
kind 36:11 41:10 152:1,1
178:17 201:3 211:1 243:3
243:19 251:20 252:11
267:20 270:9
Kingdom 314:11,11,12,13
knew 145:7,14,16 160:13
316:9,13,24
know 25:8 29:17 32:1
35:23 39:14,15 40:9
49:19 52:23 66:23 67:3
68:4,22 70:4 78:3 82:25
85:15 91:14 92:9,10,15
93:24 97:20 102:21 103:1
103:2,10,10,12 107:17
108:18 113:6 117:13
126:3,14 128:16 129:9
130:24 131:17 132:18
133:4 137:21 144:17
146:18,21 147:10 148:19
151:19 152:6 153:8,10
154:1,7 156:21 157:11
160:24 161:24 171:17
176:8,22 178:10 180:9,10
182:13 184:17 185:12
187:13,16,21,21 190:20
191:1,8 196:19,21 197:6
199:6,8,13 200:20 202:3
203:9 204:12,15,16
206:20 213:12,17,25
215:14 216:7,8,24 217:21
218:3 222:19 224:3
225:13 226:17 228:19
232:3 235:4 238:4 242:3

245:24 249:3 252:2,6,21
252:24 259:21,24 261:2
263:1,18,22 264:1,12,14
264:15,15,19,20 265:4
269:2 276:4 279:19
289:10,14 292:6 296:9
297:14 304:6 307:11
311:2,3 314:14,19,24
315:8 317:5 318:3 319:20
320:23 321:18 324:3,4,4
325:12,12,17,18,18
326:12
knowledge 21:20 37:17
43:8,20 49:18 62:22 78:5
92:18 127:5 171:15 194:1
216:6,8,12 223:15 225:16
227:19 236:11 244:11
254:12 263:11 267:17,23
284:2 310:16,17
known 18:10 47:16 51:16
72:12
knows 264:24 265:5
Kohler 189:7,18
Kolaya 3:9,9 16:6 50:25
51:8,12 52:9 163:11
164:9 324:11,18 325:1
326:22
Kurt 34:18

L

L.M.E 1:19 2:9
L.P 1:11
label 288:13
labeled 239:10 312:6
labor 171:9
lacks 170:21
LaForte 1:15 143:9,12,14
143:22 144:2 145:4,19,23
146:15,15,16,19,23 147:7
147:22 150:11,12,21
151:19,23 153:15,20
154:13 155:20,23,25
156:3 157:15 165:15
166:2,16,19,22,25 167:1
173:6 174:4,10,12,13,19
193:22 195:19 198:5
204:24 207:22 208:17,19
208:22 209:9 213:9
217:15 254:19 258:17,21
259:10 260:3,9,23 261:3
308:13 309:23 314:9
LaForte's 147:11 153:9
155:8,13 156:7 158:6
laid 219:6
Laigaie 110:19 111:25
Lamb 14:15
language 107:9 111:15
117:17 118:6 134:16
218:14 285:18
laptop 25:9
large 278:7 290:17

larger 17:8 196:25 320:3
largest 284:11 285:2,7,17
Las 18:6
late 145:6 160:10 161:7,25
222:5 279:9
law 5:10 13:11 14:9,10,12
14:15,16,18 43:13 44:5,5
44:8,10,15,16,18 92:6
280:5,11,16 283:19
284:11,16 285:2,7,17
286:12 314:23 318:15
319:6
laws 71:12
lawsuit 178:18,19,23 187:8
188:7,9 261:9
lawsuits 176:1 178:4
187:14 188:4 216:13
lawyer 38:9,9 49:25 50:3
107:5 113:9 158:21
192:10 313:4,21
lawyers 44:21 45:3,10
91:12,18 92:6,20 313:5
lay 159:11
lead 244:21
learn 68:13 69:6 129:6,11
143:13 144:1,4,7,9,14
150:24 161:22 172:21
174:11 176:16,25 177:3
177:22 178:3,6,11,16,19
179:3,9 186:23 187:3,8
188:13,18 190:4,17,21
191:2,7,9 311:13
learned 28:5 48:19 68:14
68:17,20,22 69:2 129:3,5
129:7 131:11 143:19
144:16,18 161:1,5 162:2
174:9 311:4
learning 144:22 178:23
leave 138:11
leaving 14:14,16,17,19
led 174:1
leeway 38:18
left 122:12 253:8 294:25
319:1
left-hand 277:15
Lefty 127:3,10,17 128:5,19
132:7 140:9,25 141:8,14
142:14 143:1
legal 10:12 11:16 40:4 42:1
44:20,25 45:1 47:17
101:25 102:7,17 103:16
104:1,8 135:14,14 137:9
138:16,16 139:24,25
143:21 156:25 157:3
203:24 213:19 241:2,19
242:3,7,18 243:14 245:9
286:13 287:12,12 320:20
legitimacy 287:19
lending 178:14
length 149:23
lengthy 100:17

Leonard 5:4 91:17,24
lesser 235:6
let's 25:13 33:13,21 38:14
69:22 80:9 96:3 100:25
117:16 175:8 195:13,13
216:22 222:11 229:6
253:12 257:18 264:4
271:20 272:4 288:21
289:6 293:15 294:17,21
304:23,24 307:23 326:17
letter 46:9 53:12 247:7
311:22 312:7,11,24
letters 81:6 243:15
level 197:20 201:20
liabilities 172:15
liability 299:4,5
license 43:3,4
licensed 14:9 74:19
life 1:9 18:25 19:1,6 51:16
119:25 120:1,2 163:3,10
163:22 166:15 268:17
308:4,13 309:4,25 310:6
310:13,21,22
likelihood 253:7
lime 150:18 151:2,6,13,14
151:17,22,25 152:2
limestone 150:13,23 151:2
limitations 221:14 222:16
223:9 224:7 225:24
limited 211:5
line 98:24 167:24 205:4
206:11 218:9 251:9
272:14 331:4
lines 113:17
Lisa 1:14 172:25 173:11,14
174:2,20,25 176:12
182:17 185:18 186:24
190:22 191:5 211:18
212:8,9 260:21 261:2
list 6:20,22 16:17 35:22
51:5,9 52:9 84:18 154:5
154:10 167:25 168:9,14
168:17 169:3,4,6,10
175:20,25 176:5 177:10
180:18 181:4 183:10,15
203:9 223:2 257:1
listed 180:25 250:24
258:13
listen 111:19 136:11,22
201:25 325:24
listened 291:15 326:6
listening 324:5
literally 318:25 319:2
litigate 323:25
litigation 10:18 23:19 24:6
24:16,21 25:18 26:1,4,6
26:11,22 27:1,3,9,14,16
32:8 42:15,19 48:23 49:2
57:1,12,19 78:17,18,22
88:9,24 91:4 93:5 123:20
175:21 177:19 188:1

213:25 318:10 322:15
litigations 178:9,12 213:23
 213:24
little 13:22 38:19 47:6
 151:23 156:20 159:5
 170:14 196:2,25 218:2
 221:5,7 273:18
live 286:3,5,5,6
LLC 1:8,9,10,10,12,12,13
 1:13,14 4:22 6:12 34:23
 34:24,24,25 35:1,2,3,3,3
 35:4,4,5,5,6,7 51:14,16
 51:17,18,19,19,20,21,21
 51:22,23,24 52:1 72:12
 72:23 84:1 193:5 235:9
LLP 3:15 4:11,16 5:4
loan 19:11 230:9
local 19:9,15,21,22 82:15
 82:17 92:1 93:20 139:6
 139:12 244:18
located 36:21 106:17 148:3
 148:5
location 219:24
locations 105:7
log 153:10
Logan 3:22
logistics 204:11 314:12
long 13:21 20:23 25:8
 35:21 55:6 84:18 109:9
 154:5,10 185:21,21,24
 204:14 223:2 246:25
 254:14 300:20 301:24
longer 45:17 175:10 215:13
 224:4 225:1 255:24
 298:17
look 8:4 15:25 96:3 97:21
 100:19,25 101:1 104:21
 144:24 153:10 195:14
 196:21 210:2 219:1,1
 221:7 247:23 253:12
 263:18 276:9,10 318:4
looked 101:19 133:14
 206:7,7 213:15 298:25
looking 15:20 16:23 41:19
 117:3,15 151:24 177:11
 196:14 253:4 322:8
looks 277:25 278:1 281:4
 300:14
Lori 6:10 60:3,12
lost 166:8
lot 16:4 166:11,11 167:9
 270:7
lots 149:2
loud 276:5
love 254:15
loved 218:10
low 270:3,5
lower 298:17
LP 35:1 51:18,24,25
lunch 55:10 58:20 59:9,11
luncheon 59:18

LWM 35:1,1,1

M

M 4:4 52:2
M-A-R-I-N-I 34:19
Mack 1:15 7:4,6,8,11 8:11
 143:10,11,14,21,21
 145:20,23,25,25 146:11
 146:11,16 174:4,5,16
 181:13 182:18 195:18
 196:5 198:5,20 199:8
 206:3,18,24 207:1,10
 210:2,3 211:15,21 217:15
 258:18 308:2,12
MACKI 1:15
Madam 17:22
magistrate 82:15 320:14
mail 267:15
mail.com 47:2
main 126:9 149:18
making 66:15 67:6 108:13
 200:13 208:23 311:23
 312:9,25 322:22
malpractice 10:12 11:12,16
 28:22,24 32:1 154:6
 253:19 258:16 261:9
 262:1
man 49:19
managed 19:4 263:23
management 1:9,10 38:1
 51:15,17 163:3,23 173:16
 173:21 185:7 240:15,16
 242:9,11,11,19,20,21
 243:16,16 259:11,20
 260:1,7,10
manager 235:7,8
managers 244:5,7 255:7,17
 257:8 265:15 266:11
mandatory 142:21
manifested 72:1
manner 117:11,23 118:13
 118:22 119:5 120:5,13
March 61:23 165:6 179:10
 187:10 188:10 189:18
 244:17 254:5 267:10
 295:4,18 301:10
Marcus 4:16,16 327:5,5
Mariner 35:5
Marini 34:19
mark 34:20 304:16
marked 13:6 54:1 59:24
 83:22 95:4 98:14 167:20
 180:15 183:5 192:6
 195:15 204:21 209:6
 217:7 239:7 244:14 246:4
 249:25 268:9 270:17
 272:6 273:8 281:1 282:22
 290:8 293:7,17 294:19
 299:17 302:8 306:18
 307:24
market 3:16 270:13

marketing 84:22 241:21
 242:5 275:1,7 282:10
 284:8
married 261:3,4
material 84:25 88:2 133:17
 156:22
materiality 156:21
materialized 310:10
materials 37:7,20 77:21
 84:23 88:7,11 240:2
 275:1,7 282:10 284:9
 306:6
matter 11:7 12:15 53:16
 65:17 67:19,21 70:5
 71:13 76:10,11,13,14
 85:18 97:15,23 98:2,4,6
 100:5 108:12 110:25
 111:14 114:7 116:6
 119:15 139:16 142:4
 180:10 249:4 255:7,9
 257:6 269:12 327:12
matters 9:23 10:20 11:3
 15:8 16:15 17:5 72:23
 95:21 208:24 250:21
maturity 298:18
MAYS 4:17
MCA 8:17 25:24 29:4 35:4,5
 35:5 36:1,6 41:7 170:9,10
 218:5,8 219:11,12 268:18
 273:23 308:15 310:1
 311:15,16
McElhone 1:14,16 145:24
 146:12,17 172:25 173:11
 173:14 174:2,7,20,23,25
 176:12,25 182:17 185:18
 186:24 190:22 191:5
 211:18 212:9 260:21
 261:2 309:19
McElhone's 212:8
McErlane 14:16,16
McKinley 34:20
McMorrow 34:20
mdamian@dvlip.com 5:7
mean 68:21 70:3 74:13
 85:15 98:1,3 107:16
 117:13 127:6 146:15
 147:10 155:4 156:14,17
 156:19,19 172:6 184:17
 197:11 207:18 213:10,11
 213:17,18 219:7 220:18
 228:16 230:15 250:19
 252:4,10 254:17,18,19
 290:23 292:25 298:21
 299:20 320:15
meaning 82:6 118:21
 213:12 255:2 285:7
meant 297:20,22
media 70:4 73:15
meet 49:21 96:24 134:17
 173:22,23 182:6 267:25
 268:1

meeting 7:15 96:5,8 116:4
 131:6 134:11 149:5,22
 182:9,12,14,15 184:12,20
 194:20 197:18,22,23
 199:24 200:4,12 202:10
 208:15 209:22 245:3,4,5
 255:13 269:10 283:18
meetings 121:6,21 134:6
 141:6 148:11 158:14
 185:6 189:15 200:1,15,16
 201:2,7,9,17 202:7,24
 203:12 244:25 266:14
 269:15
Megan 110:24,25 205:14
Melanie 5:5 91:15
member 13:14 112:12,20
 303:12
members 49:14 91:25
 110:5,7,21 173:3
memo 157:3
memoranda 22:13,22
 120:14 262:16
memorandum 30:3 77:20
 77:24 86:17 87:23 88:16
 89:8 90:12 91:3
memorandums 262:24
 283:10 284:14
memorializing 157:7
men 207:7
mentioned 25:24 283:24
 286:12 315:7
merchant 17:2,4 20:3,6,10
 20:13,16,20,25 21:2,4,8
 21:13,14,16,22 22:14,18
 22:23 23:1 29:5,8,12,14
 29:19 30:6,11,16,21 31:5
 31:10,16 34:23 35:6 36:8
 215:24 281:8
merchants 187:14,17
merchants' 311:7
Merit 329:6
message 99:7 100:7 101:1
 104:22 111:18 146:24
 181:1,19,22 183:7 195:17
 197:14,25 200:8 201:16
 202:4 205:20 206:4
 218:11 219:7 253:8,10
 271:1 277:17 301:16,18
 306:21
messages 197:3 266:20,23
met 49:23 134:2,8,18 147:1
 148:10,25 173:16,20
 174:2,4,5,5,5 182:17
 272:2
methods 216:7
Metropolitan 286:7
Miami 3:5,11 4:12,18 5:6
 92:6
Michael 1:17 4:21 5:19
 34:22 52:2 258:24 261:19
 325:5

mid 127:18 128:6 129:15
130:3 131:7
middle 276:8 277:7 300:14
Mike 303:7 305:22,23,25
306:2,4
Military 4:23
Miller 4:11 23:8,8 62:11,11
73:6,6 79:17 97:4 101:8
105:18 106:6 107:15
108:9,22 109:2 113:12
114:5 115:2 116:19 118:4
119:18 128:10 129:18
130:8,17 132:14,23 136:3
136:17 164:6 171:20
191:12 195:6 215:21
221:17,21,21,24 227:18
228:2,18 232:13 234:18
240:17,24 241:12,24
243:12 244:1 253:3 255:5
263:20 264:11 265:10
267:1 280:7,13 284:18
285:9 287:23 307:10,10
309:10,13 310:8 311:10
311:18,25 312:12
million 18:4
million-dollar 311:5
mind 277:4
mindful 290:2
mine 152:22,23,24 153:1
mines 314:10
minute 61:15 113:23
176:17 246:19 319:3
minutes 25:2 38:22 58:11
58:23 59:10 87:10 133:9
186:1 204:14
misappropriation 113:21
116:15,24 117:6
mishandled 105:13,17
106:4,19,25 107:12 111:7
111:13,23 112:15 114:23
mishandling 107:21
109:13 113:11
missed 313:18
misuse 107:22 109:13
112:1 113:11,21 114:2
116:14,24 117:6
misused 105:13,17 106:4
106:20,25 107:12,19
111:8,14,24 112:15
114:23 118:13
mixing 162:5
MK 52:1 315:2,3,9,12
MK1 35:3
model 216:21 234:4
moment 22:4 75:12,15 97:8
97:11 227:21 229:22
240:1,12 279:11 289:3
Monday 206:21
money 16:19 18:13 23:2
49:8,11 77:14,24 78:15
96:17 118:8,9,12 159:23

177:24 214:11,17 216:3
220:13 243:4 249:16
252:5 253:1 283:11,11
284:13 305:5 307:8
308:16 310:2
monies 315:13,13
month 152:17 180:11
189:22 278:22
monthly 193:15
months 121:7,12,22
Mooney 10:4
morning 206:22
mortgage 132:20
motion 326:2
move 90:7 109:7 131:16
216:23 223:17 271:7,20
276:4 279:1 307:3
moving 218:20
Muldawer 8:6 272:15,19
273:11,21 277:18
mulling 313:17
Multi-strategy 51:24,25
multiple 45:19 120:11,19
139:7 304:9 305:4,11
mute 16:3 76:6
muted 16:8 76:1,3 105:25

N

N 6:1
name 36:19,20 41:9,12
46:10,19 47:12,17 57:13
66:14,18 67:5 81:19
82:20 91:16 98:17 127:2
135:4 142:10 143:1,5,6
143:21 145:1 146:6,11,12
146:22 151:16,20,25
152:9,24,25 174:11 175:2
175:3 243:6 246:23,25
250:6 280:5,5,11,12,16
280:17 282:8,9 284:16,17
284:24 286:16,16 302:16
314:13 315:3
named 35:9,16 49:19 52:23
77:1,4,9 125:25 127:9
132:7 148:11 318:9
names 10:25 36:13 67:8
171:10 173:2 183:15
184:2 210:9 256:23
274:14
Nardelli 34:21
Natalie 5:18 53:25 55:1,13
59:23 61:1 65:20 83:19
84:15 94:25 95:11,14,15
97:10 98:10,18 100:20
122:8 125:22 167:19
168:24 175:14 180:13
181:15,16 183:1 192:3,24
196:1,20 197:9 198:3
199:18 205:14 209:5
217:3 219:8 239:6 245:20
246:8 247:14 268:6 273:6

273:18 275:22 281:11
288:2,3,11 290:6,10
293:9 297:1 301:12
308:25 309:7
Nate 210:5
nation's 285:7,16
natural 314:9
nature 96:20 133:1 138:10
144:17,21 149:25 269:25
270:10
Nave 6:17 165:15 192:11
196:7
necessarily 31:11 132:15
132:17,24 142:12 184:6
necessary 51:5 196:17
275:12
need 12:17 17:16 22:2,4
25:1 33:7 38:12 58:13
59:11,12 76:2 87:10 90:7
106:1 175:10 195:12
196:19 204:5 218:15
219:1 228:11 244:20
255:23,25 276:25 277:2,2
278:15 279:12,13 288:24
289:11,17 308:8
needs 275:9
negotiate 238:20
negotiated 121:11 238:16
negotiating 212:22 238:6,8
NEIMAN 4:16
Nevada 18:6
never 53:15,19 167:1,4,7
173:10 198:11 259:14,24
284:2 310:10,13,17,18,18
310:18
new 5:11,11 15:3 65:24
67:21,22,25 68:10 69:6
69:13 70:18,21,25 73:18
73:24 101:23 110:5,7
112:5 113:18 114:7
119:13,23 120:21,24
121:9 216:12 232:24
245:14 254:9 255:7,9
257:6
newly 10:10
news 74:1 287:16 317:13
newspaper 145:3,5 255:14
nice 327:11
Nick 34:21 154:19,23
155:13,20,22 156:6,9
157:12
Nick's 155:6
nickname 146:1,4 258:18
night 199:5,24 324:17
nitty-gritty 148:18
nonclients 190:12
nonconfidential 200:9
201:6
noon 58:12,16,20 59:4
normal 264:17
North 4:23

Notary 2:17 328:17
note 8:9 97:2 164:9 235:2
236:18,24,25 237:2
266:16 268:3 269:3
277:23 298:12,13,24
304:15 313:25 314:5
notes 30:4 77:15 78:1
96:16 159:21,23 160:4
186:9 193:11,15,17 195:3
218:9 220:14,25 221:1
222:2,15 234:21,22 235:5
235:9,23 236:5,8,14
237:7,17 238:7,9,24
249:8 254:7 263:5,16,17
263:22 264:6,7 265:7,16
265:18 293:1 295:14,17
298:13,16,19,20,22 299:2
299:3 307:6,9 329:12
notice 2:18 55:4 295:13
November 64:21 69:22
217:15 220:5
number 31:10 46:1,3,6
69:4 76:23 100:21 101:2
119:24 121:12 136:20
147:18 149:17 159:5
187:16,20,23 229:9 235:3
235:4 246:9,12,13 261:10
263:1 289:5 307:19
308:20 320:23 323:20
numbers 288:25
numerous 85:5,11,16

O

O'Neill 10:3,11
oath 9:17 130:13 328:3
330:13
object 21:24 22:8,15,20
23:4 25:20 26:2,12,25
27:18,18 28:3,3 29:16
30:7,22 31:18,20 33:6
36:3 38:11 39:24 40:21
41:24,24 42:16 48:2,24
50:12 54:21 56:8,17 57:3
57:3,13,20,20 62:12 63:1
64:5,15,22 68:2 69:10,17
69:25 70:23 71:21 72:10
72:17,21 73:5,6,22 75:5
76:20 77:17 78:2,19 79:3
79:13,13 80:15 81:9,21
81:25 83:15 84:13 85:14
86:5,12 87:25 88:10,25
88:25 90:2,13 91:5,5
92:11,17 93:9,15 94:11
94:21 96:18 97:3 99:8
101:8 102:11,19,24 103:9
105:18 106:5 107:3,14
108:9,21 109:16 113:12
114:4 116:19 118:4,24
119:17 126:11,22 127:4
127:20 128:9,24 129:17
130:5,16 131:18 132:2,13

<p>132:22 133:6,23 134:5 135:15 136:3,17,18 137:3 137:10 140:11 141:2,11 145:21 146:9 147:9 148:24 151:7 152:3 153:7 157:17 159:3,16 160:1,15 160:25 161:10,14 162:1 166:4 170:12 171:19 172:3 173:7 174:21 178:22 179:20 181:9 184:15 185:9 188:21 190:15 191:12,17 195:5 199:7 200:2,17,19 202:9 202:13 205:9 207:14 208:25 210:11 212:3,14 213:1 214:14 215:2,20,21 216:5 221:16 222:18 223:11 227:18 228:1,17 228:23 232:13,14 233:5 233:22 234:8,17 235:17 236:4,10 237:5,20 238:2 240:17,23 241:5,11,23 242:15,23 243:11,23 245:16 248:22 249:10 251:23 252:14 253:2 255:4 259:12 261:15 262:15 263:10,20,21 264:10,11 265:9 266:4,17 267:1 268:4 269:23 272:7 272:25 274:18 275:2,2 280:7,14 285:9,10,22 287:3,22 295:21 296:13 296:20 299:6 305:8 306:9 306:24 309:10 310:7,15 310:25 311:10,17,25 312:12 314:18 315:15,21 319:15 objected 32:11 objecting 80:6 205:11 221:22,24 objection 11:18 23:9,21 24:8 62:7 63:7,17 66:1 71:18 74:6 79:25 86:18 89:12 92:21 96:10 99:23 103:17 109:2 114:24 115:10 123:4 124:20 138:18 143:15 153:21 157:21 162:12,21 163:5 163:25 164:6 165:21 167:13 194:3 202:25 219:14 221:23 224:20 226:1 227:15 228:23 239:13 255:5 280:13 282:15 284:18 286:18 296:25 300:6 304:12 305:13 309:13 313:2 322:20 325:13 objections 25:3 166:11 obtained 113:2 obviously 121:4,4 182:9 211:14 213:3 290:23</p>	<p>304:7 325:25 occasion 147:24 249:2 292:22 occasionally 269:16 273:2 occasions 120:11 147:12 147:17,24 269:4,8 occur 158:11 194:17 208:5 208:12 301:8 occurred 182:13 189:23 246:21 271:13 287:8 310:5,14 offer 222:14 270:8 330:12 offered 116:20 117:10,22 118:21 119:4 276:17 298:14 offering 15:8,11 77:20 84:22,24,25 86:11 97:1 97:25 107:13 119:15 128:19 133:2 134:4 135:9 135:13,14,22 136:2 137:8 141:17 143:4 151:4 235:23,25 241:20 243:5 265:6,17 287:11 298:17 302:13,21 offerings 19:6 119:9,16,21 119:24 159:20 170:7 266:3 267:5 287:20 314:11 offers 136:16 270:9 offhand 103:1 office 15:3 67:17 112:6 120:16,20,24 173:19 174:1 243:8 244:20 273:15 291:18 316:18 officer 171:11 173:1 211:4 officers 43:17 171:8,18 176:11 183:15 184:3 offices 5:10 124:4 168:16 173:24 317:4 oh 14:1,8 16:9 32:16 57:16 65:4 105:22 144:12 155:16 176:20 188:8 245:20 246:9 248:9 258:21 264:3 278:25 279:12,16 286:8 289:2,21 290:16 301:19 313:20 317:17 okay 9:20,23 11:14 13:5,13 14:5 16:9 18:20 19:6,9,14 19:19 21:3,7,19 22:4,6,18 25:1,13 28:20 29:1 30:10 33:9,20 35:21,23 36:17 36:23 37:1,21 38:8 39:3,8 39:19 40:14 44:13,24 45:4,25 47:11,21 48:9 51:12 52:12 53:24 54:6 58:17 59:13,16,22 60:11 60:19,24 61:6 65:4 69:20 75:17 78:9,13,24 80:9 81:14 82:3 83:18,21 84:4 84:11,15 85:3 86:2 87:2,6</p>	<p>87:21 93:2 94:1,5,24 95:2 95:23 96:8,24 98:12 100:16,24 101:5,12 102:6 103:5 104:5 105:22 106:9 106:17 108:5,14 109:7,20 110:4 113:5 114:21 115:16 117:9 118:2,16,19 119:21 120:10,15 121:3 121:23 122:10,22 123:15 124:6,17 125:18,21 126:9 126:20 127:2,8,15 128:18 129:3,7,12 131:23 133:18 134:2,25 135:6 137:19 140:8,17 141:5,14 143:8 145:7,18 146:3,14 147:1 148:8 151:16 152:13,20 152:23 153:2,14,19 154:10 155:3,24 157:10 157:20 158:3,9,16,19,25 160:11 161:5,20 162:5 163:18 164:20,23 165:14 167:18 168:12,21 169:13 169:16 170:1,24 171:7 172:6,21 173:10 174:13 175:12,12,24 176:10,16 178:19 179:2 180:13,22 181:12 182:21,25 183:3 183:13 184:9,23 185:14 186:2,6,13,20 187:2,18 188:8 189:4,9,20 190:21 192:2,5 193:21,24 194:10 194:12 195:11,25 196:16 196:18 198:20,25 199:16 200:6 203:14,18,23 204:2 204:18 205:3,14,24 206:10,14 207:18,21 208:1,3 209:25 212:8 214:19 217:1,25 218:4,19 218:21,23 219:3,3,20,23 220:2,4,14,16,22 221:11 221:25 222:22 223:4 224:2 225:7,21 226:7,14 226:18 227:1 229:6,15 230:19 231:1,10,24 232:2 233:9 236:2,22 237:23 238:11 239:3,5,23 240:5 241:9 242:7,17 243:2 244:4,12 245:7,18 246:3 246:6,18 247:11,20 248:2 248:5,13,25 249:5,22 250:6,23 251:2,12,15,20 253:12,24 255:19 256:1,9 256:13 257:10,13,16 258:8,20 259:3 260:13 261:2,5,7 262:8,13,23 264:21 265:21 266:12,20 267:7,19 268:6,8,25 269:7,9,20 270:22 271:12 271:20 272:2,12 273:14 273:17 274:9,15 275:16 279:12 280:2,4,20,23</p>	<p>281:13 282:1,2,7,12 283:4,17,23 285:4,20 286:3,8,25 287:15 288:12 289:7 290:16 291:1,7,10 291:12,18,24 292:17,20 292:24 293:4,9,15,19,24 294:4,11,17,25 295:2,6 296:16 297:18 298:1,11 298:12,24 299:9,15 300:4 301:7,11 302:5,17,19,24 303:1,4,6,8,24 304:9,18 305:19 306:6,15 307:2 308:19,24 310:5,21,21 311:4,21 313:8,11,20,22 314:7,15,25 315:1,6,18 316:1,12,24 317:17,25 318:7 319:10 320:19 322:10 323:9 326:11 327:8 old 132:25 omitted 303:16 once 144:25 201:25 286:10 one-hour 45:16 ones 16:22 23:20 146:17 157:11 online 37:14 40:19 41:4,21 41:22 172:1 276:24 317:15,17,18,21,21 318:2 onward 260:4 opening 53:16 215:17 operated 36:8 operating 212:1 214:20,22 214:25 215:15,17 234:3,6 operation 150:24 151:3 243:20 operations 19:12 230:10 opinion 138:17 156:25 188:14,20 190:6 198:15 212:23 opportunities 149:3 283:13 285:6,15,21 opportunity 33:16 150:20 150:24 202:1 324:20 325:16,20 opposed 208:18 opposite 237:15 option 218:5,8 219:11,11 options 218:4 219:6,7 220:6 oral 93:8,13 94:10,19 125:15 226:23 order 50:9 64:12 73:9 74:5 74:25 75:4 76:15,17,19 76:22 77:7 97:23 98:7 186:24 221:13 288:11 315:19 316:14,18,20 317:1,6 318:5 323:18 324:1,23 orders 108:18 318:4 319:13 Oregon 186:25 Org 7:8</p>
--	---	--	---

organizational 7:9 209:14
209:18,21
original 117:19 278:13
outline 109:8
outlined 310:16
outlining 254:6
outside 39:5
outstanding 186:9
overall 252:5
overseeing 215:18
overstating 33:11
Overview 8:17
owed 177:24
owned 151:21,22 152:9,11
152:11 153:8,12 190:23
191:4 260:21
owner 126:24,24 132:18
235:8 260:12,14
ownership 38:1 150:22
183:17 184:2,3 260:23,25
304:4

P

P 4:11
P-A-U-C-I-U-L-O 46:10,19
P.C 4:4
p.m 2:16 9:1 59:19 327:13
package 198:9,22
packages 174:18
page 6:2,6 17:19,20 60:12
60:13,24 61:8,20 84:16
95:12,14,15,16 98:19,21
100:7,12,14,19,21 102:4
105:2,9 109:8 117:20
121:25 122:12,16 168:23
168:23 170:25 175:16
176:2 190:8 192:24 193:2
197:3 199:18 205:16
206:1 209:12 217:12
231:6 245:25 247:18,19
247:19,21,24 256:13
258:11 272:12 277:17,18
281:16 283:2 300:17,18
301:13 317:10 319:1
331:4
pages 55:6 101:20 129:25
130:1 196:12 205:21
277:16,16 329:9
paid 103:16,25 104:8
190:25 230:11 231:3
234:21 245:7 263:25
Panhandle 148:3,4 150:9
150:10 152:16
paper 145:9
papers 69:24 70:2,3
paperwork 308:9
Par 1:7 2:7 16:20 17:3
18:10,13 19:13,24 20:7
20:13,21 21:9,15 23:3
29:15 30:11,14 31:16
32:24 33:5 36:1,2 47:12

47:14 58:7 61:25 62:5,17
62:20 63:6,16 64:14
65:12,15,25 67:22 68:1
68:11 69:7,14 70:10,13
70:20 73:12,13,16,20,21
73:24 74:5 75:1 78:15
144:5 158:25 159:15
160:4,12,17 161:18,23
162:7,11,20 163:2,24
166:14,19,21 167:23
169:3,7,8,21 170:7,9,20
170:22 173:17,19,21,24
176:4,6 177:7,9,12,19,22
177:24,25 178:9,14,20,24
179:3,5,13,18 180:1
182:23 183:23 184:4,13
185:6,8 186:4,7,8,11,12
186:22 187:5,13,17
188:14,18 190:18,25
191:2,8,10 192:10 195:3
195:20 199:23 205:7
206:25 208:18,23 209:14
209:19,21 210:1 213:8
214:8,9,16,20 215:9,11
215:24 216:2,6,19 220:7
221:2,2,12 222:1 227:6,7
227:12,23 232:9,11 233:4
233:16 234:22 235:1,24
236:8,14,19,23,25 237:8
237:18,25 238:9,20,22,24
244:6,6 248:21 249:8
251:21,24,25 252:3 253:1
254:1,5,6,23 259:1,11,14
260:10,15,21,23,25
261:12,18,19 262:2,4
263:5,9,15,23 264:7,22
265:2,18,24 295:10,12
296:18 297:5,7,15,22,23
297:24,25 311:4,8,14
312:8
Par's 222:4 267:10
paragraph 61:7,19 101:6
101:15 102:1,2 104:21
105:1,2,9 193:4,9,9 200:7
200:24 201:15,15 230:16
230:21,23 231:5 258:1,11
258:13 283:15 303:9
309:8
paragraphs 199:21
Parallel 35:2 51:20,21,22
51:23,23
paraphrasing 268:21
parcel 176:9
parenthesis 303:16
parfunding.com 168:9
Parker 10:23,23 12:14
34:21,21
part 40:5 41:12 47:25 62:6
73:9 116:17 173:17 174:7
174:24 176:8,8 185:10,14
189:14 204:1,1,3,3

235:21 241:25 251:20
252:3,4 275:8 278:12
participate 198:14 202:22
301:21 302:1
participated 296:7
participating 227:2
participation 301:22
particular 29:11 31:14
42:18 143:2 159:7 235:1
240:3
parties 2:14 115:19 165:19
224:25 225:12 232:20
323:25 329:15
parties' 329:16
partnership 182:2
party 10:17 72:24 77:1,9
104:7 191:19
patience 233:14
Pauciulo 1:22 2:13 3:19 4:3
5:3 6:3,16,19,21 7:1,6,15
7:19,21,23 8:3,5,8,12,14
8:16,18,19 9:2,11,16 10:2
10:4 12:7,8,12,20 13:8
16:15 20:18,24 22:12
23:12,13,18 25:16,23
27:3,22 28:9 31:25 32:5
32:15,22 33:4,24 35:11
41:3 50:14 51:7 52:4 54:3
54:13 55:8,17,20 56:1,14
57:14,17 58:22 60:2
61:16 62:14 65:2 74:13
79:21 80:11 82:6 83:1,11
84:1 85:10,24 86:15
87:16 91:12 95:6 97:21
98:21 99:21 100:1 105:20
107:7 108:11,24 109:4,7
111:17 113:14 122:15
126:13 131:4 136:6
155:17 164:5,8,13 166:1
166:7 168:4,7 170:18
175:19 184:18 196:6,13
197:15 202:5 210:14
215:6 223:16 224:17,24
225:7 228:12 229:10,19
229:23 232:16 233:12
234:11 239:9 246:19
247:16,25 248:11,18
251:6 254:18,20,21,25
258:4,12 259:5 261:22
265:12 272:9 278:12,20
279:2,19 280:9 281:21
283:8,19 284:10 287:18
288:6,24 289:4,10,24
290:12,14 291:2 293:12
293:21 296:23 301:1
305:2 306:20 309:12,15
311:12 313:17,23 315:4
316:5 318:23 319:5
320:19,19 321:25 322:4,4
322:12 323:6,13,15
324:24 325:21 326:14

328:11 329:9 330:4,17
331:2
Pauciulo's 6:7 279:23
325:6,9
Paul 34:21 154:18,23 155:6
155:12,20,22 156:9
157:12 189:6,17
pause 20:23 126:13 293:10
312:16 326:11
paved 124:12
pay 102:17 103:5,7 230:14
326:9
payable 193:14 238:24
265:18
paying 190:22 191:3
payment 104:12,16,16
payments 103:13 186:9
295:14
PDF 60:12 61:8 84:16 95:12
95:16 98:19 100:7,12,19
121:24 122:12,16 168:24
170:25 175:16 193:2
205:21 247:19 258:11
272:12 281:16 283:2
300:18 301:13
penalty 9:17 330:5
pending 10:21,24,24 11:8
26:23 28:23,24 33:24
38:16,24 94:6 176:1
177:23 179:7 186:23
187:4,14 255:18 261:9
273:5 300:22,25
Pennsylvania 3:17,23 4:6
13:1 19:12 60:3,7,20 61:9
61:20 62:4,16,23 63:5,15
63:23 64:13,18 65:11,15
69:13,21 70:10,11,12
71:1,6,9,12,16,25 72:15
72:25 73:2,11 173:15
187:5 216:12 227:5,11
232:23 233:1 254:10
285:3
people 36:11 96:16 107:25
125:17 143:14 185:8
201:9 212:21 213:4
224:25 225:11 234:6,13
240:20 241:3,14 243:20
259:6 261:24 266:2
292:25 308:8 322:22
Pep 14:17,18
PEPPER 3:20
percent 193:14,16,18 235:5
235:6 265:3 303:12
304:11 305:7 306:3
percentage 195:3 227:24
228:15 231:3 232:7
234:12 235:22,22,24
237:1,18 264:25 265:22
265:23 304:3
percentages 236:2
perfect 58:21 168:25

175:11,11 181:22 196:3
231:10 256:3
performed 162:20
performing 172:16
period 14:21 37:2 131:13
152:14 173:5 184:13
212:13 220:5 260:19
321:19
periodically 253:6
perjury 9:18 330:5
permissible 38:17
permission 325:24
permit 38:13
permitted 139:9
Perry 1:16 4:15 7:12,18
75:1 191:5 210:3 211:5
249:2 251:3,4,6,15,17
252:24 253:5 260:24
268:12,18
Perry's 244:20
person 66:15,18 67:6,9,11
81:19 82:20 108:16
143:12 147:2 153:11
174:14 182:17 208:22
212:11 213:2 237:3
252:25 257:10,12 304:4
314:17 322:24
personal 46:15,22 49:25
50:3 55:20 58:13,19
103:12
personally 83:1 85:22
103:6 108:1 254:20 259:5
persons 66:19 295:23
perspective 326:23
phase 201:17
Philadelphia 3:17,23 4:6
10:21 11:8 145:8 148:1,7
152:15,17 172:1 179:17
183:20 261:10 284:11
285:3 286:4,6,7 317:9
Philip 34:22
phone 8:6 116:1 269:11
273:3
phones 16:3
phrase 107:16 225:4 242:5
298:22
phrasing 155:14
physical 120:24
PIETRAGALLO 3:15
Pillar 1:9 8:8 119:25 120:1
120:2 163:3,10,20,22
166:15 306:22 307:4,5,7
307:7,13
pilot 153:10
pin 121:14
PINEIRO 4:16
PINELLAS 328:7 329:4
pipeline 249:19
Pisces 53:8,16
pitch 136:16
pitching 136:1

pivotal 283:8
place 67:13,16 115:23
116:2 123:25 124:3
189:10 204:13 215:13
placement 17:2 18:5,25
22:13,22 30:3 77:20,23
86:17 87:23 88:16 89:8
90:12 91:3 120:14 262:16
262:24 270:12 283:10
284:14
plain 213:12
plaintiff 1:4 2:4,14 3:2 10:8
10:8 256:14
plaintiffs 10:22 11:1,15
12:4,14 27:24 154:5
261:8,12 262:1
plan 1:8 6:12 8:1,15 11:4
16:18 25:5 51:15 53:2,20
71:6 72:8,20 75:2 84:1,5
84:8 97:16 103:15,25
117:11 118:21 119:5
124:17,18 125:11,12
135:1 158:23,25 159:6,12
159:20,22 191:15 193:5
197:6 200:15 201:10,19
229:25 230:15 232:9
255:2,11 257:3,7 258:25
264:5,6,8 266:21,24
267:4,5 270:24 271:17
273:24 274:16 280:4,11
280:16 281:4 283:1,7,25
296:5 316:19 317:5
326:13
Plan's 72:14 124:4 158:21
280:21 296:11
Plan-related 51:3
plane 147:4,8,11 153:4,8,9
153:12 314:8
planning 1:12 204:10,12
plans 171:9 174:17
play 269:1 279:1 288:7,22
290:6
played 290:9 293:8,18
294:2,20
pleaded 128:20
Pleas 10:22 11:9 261:11
please 9:3 13:4 18:8 20:8
21:10 23:25 28:10 29:25
33:17 34:2 45:25 49:7
53:22 54:11 59:20 60:12
60:25 61:7 63:11 66:14
66:18 67:12 75:16 81:19
83:20 84:16 92:23 93:25
94:25 95:1,11 97:6 98:10
98:19 99:1,16 104:21
105:24 106:1 111:19
118:25 121:24 122:11
138:2 142:21 148:21
167:16 168:17,22 170:25
180:14 181:14 183:2
192:4,15,24 196:1 204:20

205:25 206:16,19 209:3,4
217:4,12 218:6 220:21
225:3 226:10 231:16
239:3 244:12 245:18
247:12 248:15 249:23
268:7 270:15 271:4
272:12 273:6,18 276:5
277:11,11,12 279:6,22
280:24 281:6,18 282:1,12
282:20 299:15 300:11
302:6 306:16 308:21
312:17,20 318:20 322:2
324:7
podcast 267:22
point 16:25 31:15 49:24
96:19 105:8 108:13
116:21 127:6 129:4 135:2
138:22 152:10 161:16
178:16 196:23 215:5,6,15
216:19 254:4 256:3
275:11 288:10 315:14
318:8
pointed 100:20
pointing 100:20 309:18
policies 19:1
policy 311:6,14
pooled 214:17
pooling 283:11 284:13
pop 217:3
portfolio 149:24
portion 17:19 231:22 266:1
posed 294:9
posit 131:3
position 70:13
positions 13:15
possible 27:16 40:12
138:25 165:13 175:7
181:7,10 182:2 197:24
201:8 274:13
posted 318:1
potential 71:11 101:21
134:2,11 141:6,9 149:17
156:24 172:14 202:7
269:2 270:20 271:9 272:3
272:15 274:5,7
potentially 268:17
power 172:19,23
PowerPoint 8:1 281:4
powers 324:22
PP 88:16
PPM 8:14 88:21 93:13 94:7
95:24 96:1 129:8 131:23
132:5,12 133:5,10,14,18
151:6,12 155:5,9 170:18
247:25 248:3 250:12,14
251:7,12 252:8,21 265:21
PPMs 22:19,21 25:16,22
26:24 27:13,14 29:2,4,9
29:11 30:19,23 31:4
159:21 170:6 244:21
245:10,13 248:20 249:5

249:16,18 251:21 262:8
262:13,19 263:3,9 274:19
practice 13:18 14:9,10 40:6
74:20 92:6,19
practiced 14:12,15,16,18
practices 179:19 180:1
practicing 14:20 291:16
preceding 121:7
precise 187:19
precisely 39:14,20
preclude 326:3
precluded 325:9
preliminary 150:25 151:8
187:24 197:18 201:17
premarked 53:23 59:21
167:17 273:7 299:23
premises 316:8
preparation 77:19
prepare 56:14 88:7,8 200:3
247:25 274:15,25 275:7
275:12 326:8
prepared 87:16 141:22
164:17 250:17 275:10,15
297:11,13,16,21,24 298:6
presence 39:5
present 5:14 66:19,22,24
67:9,11 110:8,16,20,22
111:1 113:24 114:6
115:18 125:5,14,17 134:6
134:16,17,21 147:19
148:25 155:12 158:16
194:22 200:9,14,25 201:5
203:19,20 227:2 287:6
322:6
presentation 8:1 131:1
150:7 171:25 184:20
185:10,11,17,22 197:5
281:5
presentations 266:10
presented 128:12 306:7
presenting 150:5 200:16
president 172:25 176:14
210:3 211:16 212:2,6,12
press 63:22 68:16 99:1
117:15,17,18 122:16,18
122:21,21,23,25 124:7,10
125:13 293:10
pressed 202:3
pressured 313:25 314:5
presumably 91:25
pretty 223:22
previously 178:7
primarily 110:9
primary 174:22
principal 126:10,21 212:2
principles 43:20
prior 71:15 116:21 128:25
160:11 186:20 187:12
197:3 213:23 239:21
prison 128:22 132:21
private 17:1 18:4,25 22:12

22:22 30:3 77:20,23
 86:17 87:23 88:16 89:8
 90:11 91:3 120:14 149:22
 242:11 262:16,23 270:11
 283:9 284:13
privilege 8:9 11:16,25 12:5
 24:4 27:4 28:1,6,12,16,19
 29:10,23 30:2,20,23 31:4
 31:20 32:12,18,20 34:11
 35:10,15,19,25 42:7,9
 48:10,14 50:19 51:2 52:7
 57:2 58:3,5 63:18 66:9
 67:3 78:4,5,10 80:3 81:4
 81:12,16,24 82:12,14,22
 84:6 86:21 87:3,4,5,19,20
 87:22,23 88:8,14,17
 89:11,15,22,25 90:4,9,19
 90:20,21,22 91:2 93:4,7
 93:11,21 94:10,16 99:11
 99:15,16,17 104:14 115:8
 116:10 123:11,14,16
 124:25 125:11 127:23
 137:17 138:1,10 139:11
 139:22 140:18,20,21,22
 140:24,24 153:23 154:4
 157:15 158:1,4,10 162:17
 162:23,25 163:10,14,15
 164:2,11,15,19,21 165:22
 167:10 170:20 189:2,5
 190:11,13 194:8,13
 202:16,19,22 203:2,6,8
 203:14 207:16,19 219:16
 219:18 222:12,14,24
 223:8,25 224:2,5,10,11
 224:15,22 225:1,11,12,14
 226:2,5,8,9,11,14,21,24
 227:16 228:25 229:21
 234:20 236:15,20 238:15
 239:15 250:10 253:20,25
 254:22 255:1 258:5,15
 282:16 286:20,22 300:8
 301:5,9,20 302:2 305:14
 305:23 306:1 313:8
 315:23 322:22 323:1,7
privileged 11:19 22:1,9
 23:6,22 24:9 27:19 28:4
 31:1 40:23 48:3 56:10,19
 57:4,22 62:9 63:9,19
 64:24 66:3,16 67:7,14,20
 71:20 72:5 74:8 75:7
 80:17,22 82:10 86:19
 88:2,21,21 89:1 90:6 91:7
 92:23 99:10,18,20 103:19
 104:1,6,11,18 114:25
 115:11,17,22 116:8 123:6
 124:2,22 125:3,10,16
 126:18 137:5,23 138:9,20
 139:3,18 140:15 143:16
 157:22 162:14 163:6
 164:24 165:17 188:23
 189:11,22 194:5,16

202:21 207:23 208:4,11
 219:25 220:9 221:19
 256:24 287:2,8,10 304:14
 307:12 322:16
privileges 12:13 322:21
privy 296:17
probably 44:14 69:4 253:6
 270:10 280:3 316:25
probe 82:13 89:20
problem 17:14 87:11
 101:12 122:6 218:3 232:2
 233:15
procedure 27:7 38:23
procedures 323:22
proceed 39:6 164:17
proceeding 10:15 74:15
 128:22 323:24
proceedings 124:12 177:4
proceeds 30:5 160:3 221:1
process 101:25 102:8
 160:8 165:16 167:8
 173:18 186:3 244:21
 308:7 324:2
PROCESSING 1:7
produce 54:14,19 84:19
produced 167:10 233:20
 254:6 307:16,20 322:13
product 12:1 27:5 31:20
 32:6,18,19 42:8 78:10,12
 78:13,16 79:15 80:17
 81:16 82:10 86:21 87:2,3
 87:19,21 88:2,22 89:2,7
 89:14 90:20,22 91:1,8
 93:3 99:10 137:9 198:13
 199:4
production 54:24
productions 55:9 181:8
products 199:2
proffer 68:18
profit 235:7
profit-sharing 190:18
profitability 170:9
program 45:21 136:8
programming 44:21
progress 248:20
project 302:10,13,16
promissory 30:4 77:15
 78:1 96:16 97:2 159:21
 159:23 160:4 195:3
 220:14,25 221:1 222:1,15
 236:14,18,24,25 237:2,7
 237:17 238:7,9,24 249:8
 254:7 263:5,16,17,22
 264:6,7 265:7 266:16
 268:3 269:3 292:25
 295:17 298:16 307:9
pronounce 314:24
proper 323:22 324:1
properly 112:25
proposed 306:11
prospective 134:7 197:19

201:19 202:24 203:12
 266:10,15 269:5,15,16
 273:2,23 292:22,24
 294:14
prospectives 245:1
protecting 198:17
protection 26:6
protective 138:25 323:18
provide 23:18 24:2 26:4
 27:15 66:14 67:12 68:23
 89:24 102:23 121:17
 123:2 150:24 169:8,13,24
 176:4,5 177:9,12 183:23
 203:24 242:2,11,18
 292:10 300:4
provided 24:5,15 36:10
 40:4 54:23 74:17 80:21
 93:20,21 117:12,23
 118:10,23 119:6 120:6
 169:11 181:3 185:1
 186:11 232:6 240:3
 243:14,16 297:7
provides 236:23
providing 61:21 138:15
 230:6 287:11 326:3
provision 299:3,11 305:3
provisions 299:2
prudent 198:17
public 2:18 40:17 41:19
 42:24 64:4 68:15,25 69:5
 69:8 73:9 116:2 124:13
 124:18 125:12 135:23
 137:8 140:5 228:9 229:20
 231:18 255:14 270:13
 328:17
publicly 37:12,18 41:17,17
 64:7 231:18 285:13
published 65:18 70:4 123:3
 145:6,9,11 179:22 180:8
 180:11
pull 51:9 83:20 175:16
 229:5 235:3 263:17,19
 288:4 306:16 308:13
 309:24
purchase 77:15 159:23
 191:11
purchased 311:6
purchases 264:7
purchasing 292:25
purpose 31:13 41:21,25
 149:5,15 150:15,17
 162:19 172:8,12,13
 197:23 201:7 203:23
 215:23 230:6 233:17
 249:12 295:9
purposes 12:7 34:9 51:12
 52:4 60:6 172:10 220:23
pursuant 2:18 323:18
pushback 198:1
put 105:3 122:8 157:3
 175:15 198:9,12 209:4

215:6 228:11 229:2 232:4
 256:23 283:9 288:11,20
 288:21 302:6 307:23
 323:14
putting 67:1 198:23
puzzled 97:21

Q

quality 114:18
quarries 150:19
quarry 150:14,16,23 151:2
 151:6,13,14,17,22,25
 152:2,9,12
question 12:8 18:8,9,20
 20:8,15,19 21:10,14 22:1
 23:25 26:14,19 27:10
 28:9 29:24 31:23 32:2,9
 32:12,13,23 33:1,24 34:1
 34:2 38:16,24 39:11,12
 39:13,16,20 42:4 48:7
 49:7 54:10 56:23 57:8,25
 58:6 63:11 65:3 66:6,21
 67:5,8 68:4,5,6 69:18
 71:22 74:11 75:10 76:7
 78:14 79:19,24 80:2,5,5
 80:10,12,20,24,25 81:3,5
 81:6 82:1,4,24 83:8,11
 86:24 87:18 88:5,14,15
 88:19,23 89:4,11,17
 90:10,17,17 91:10 92:24
 93:12,16 94:6,14,18 97:5
 99:12,25 100:2 103:22
 104:4 105:21 106:2,22,23
 109:6 111:20 113:5,6,9
 115:3,14 118:25 123:8
 124:24 125:16 126:14,16
 128:2,3,12 129:20 130:12
 130:13,23,24 131:10
 134:15 137:12,13,20
 142:16,18,19,23 147:20
 151:18 152:5,7 155:15
 157:25 162:17,24 163:16
 163:19,20,22 164:14,19
 166:6,8,13 167:15 170:13
 176:21 178:2 188:15,21
 189:1 194:8,14 200:21
 201:25 202:14 203:5
 204:9,9,16 210:18,20
 211:1 216:18 218:25
 219:18 220:8 222:20,22
 222:23 225:2,6,18,19,20
 225:21 226:5,19 232:5
 233:13 234:2 238:13
 239:17 242:1 248:7
 254:13 256:2,5,6,11
 257:17 260:2 264:3
 265:14 273:5 278:24
 279:4,24 282:19 285:11
 286:22 290:15,20 292:10
 299:22 300:22,24,25
 301:3 305:17,24 309:16

309:22 312:17,20 313:3,6
313:15,19 314:20 320:8
320:13,13,15 321:4,19
question-by-question
24:24
questioning 113:17
questions 7:12 12:12,18
24:20 82:17 89:23 90:5
94:3,4 101:24 107:6
130:22 159:11 168:17
192:16 223:20 231:25
253:17 259:4 269:20
271:1 273:25 289:19
292:4,8,13,15,23 294:9
294:10 319:1 321:13
323:13 324:14,21
quick 58:13 59:9 97:19
314:7
quickly 257:24 279:11,20
289:10,25
quiet 240:12
quite 44:15 83:5 246:23
quote 112:17 285:1,14
quote/unquote 275:15

R

R 256:14
rabbit 67:1
radio 101:16 134:25 135:3
135:21 136:13,15,20,23
137:2,7,24 138:15 139:17
139:23 140:4,5 267:14
286:9,11
raise 9:3 77:14,24 139:10
156:9 216:3 220:13
249:16 283:10 302:21
305:4
raised 16:19 48:10 120:12
138:22 160:3 170:19
raises 89:21
raising 18:4,13 20:5 23:2
25:3 57:1 58:2,4 66:9
78:9,14 81:14,15 90:9
141:20 216:7 222:5
233:17 253:1
range 84:24 161:8 298:18
RASHBAUM 4:16
RASPANTI 3:15
rate 184:14,17,22 185:3
193:13,16,17 235:2 237:1
237:2,3,24 238:9 263:15
264:9,22 265:3,5,18,22
298:17
rates 184:25 193:12,13
236:6,9 237:9 238:7,20
238:23 263:24 264:16,19
Raton 4:24
rattled 203:10
Rawlings 110:3,9,10,12
111:3,6,9,15,22,25 112:2
112:5,13,16,18,20 116:13

118:16,19 119:3,8,13
120:7,16 121:14
RAZR 35:4
re-ask 39:11
reach 252:21
reached 195:1 273:21
reaching 270:25
reaction 252:11
read 17:13,15,17 18:15
19:16,20 32:15,22 34:3,4
34:6 52:10 65:10,14,16
69:23,23 70:1,5 73:15
99:2,21 102:3,4 142:22
145:3 154:11 179:16
180:12,24 200:23,24
201:23 202:1,2 217:17
218:15,18,20,21 276:13
323:16 330:5,7
reading 16:25 18:14 63:22
64:7 70:4 74:1 100:4
145:5 179:21 268:22
reads 101:15 321:14
ready 225:19,20
real 18:2,6 58:13 127:2
145:1 191:10,11 283:12
realize 38:18 185:23
really 17:10 32:13 41:8
172:18 195:19 204:16
252:12 309:22 310:12
320:15
reason 30:19 31:4 127:18
128:7 129:16,20 130:4,12
182:10 237:23 274:6
299:9,12 305:4 326:1,5
331:5,6,8,9,11,12,14,15
331:17,18,20,21,23
reasonable 96:2 102:14
249:13
recall 10:25 36:25 37:23
38:2 40:13 41:8,18 44:1
45:20 47:23 49:22 52:16
53:11 64:7 65:13 67:15
68:14 69:2 70:1,3,5 72:11
72:24 75:21 76:7,21,22
81:10 83:16 84:14 86:6
86:13 94:22 96:19 100:4
102:20 110:11,19,21,22
111:2 112:16 115:24
116:3 121:2 122:20 124:3
127:11,14 129:5 131:25
132:3,5,9 133:19 135:3
135:11,16,18 136:4,7,9
141:3 143:2,4,6,19
144:20 145:2,5 146:10,25
152:8,10,25 154:8,14,15
154:18,19,21,25 155:11
155:22 156:2,12,15
157:18 158:12,18 160:21
160:22 161:1 165:5,12
173:13 174:22,24 175:1
176:6,15 177:8,17 178:23

179:21 180:3,6 181:6
182:8,24 183:25 184:8,21
185:11,18 186:19 187:1
188:6 189:12,14,24
191:19,20,21 193:23
194:19,24 198:24 203:10
203:22 208:14 209:17,20
211:11 227:4 228:3
237:21 239:2,22 240:3
250:16,18 253:4,7 254:24
255:6,8,16,21 258:19
261:16 262:4 268:5
269:14 270:21 271:11,16
271:23,25 272:20,24
274:11 280:1,22 282:6
285:19 286:14 287:9
290:23 291:14 293:14,24
298:10 299:14 302:4,15
302:15 306:2,10,11 314:1
314:6 316:22,23 317:23
receive 195:2 206:20
207:11 228:15 237:24
238:1 265:23 313:23
314:3
received 45:7 54:14,18
61:12,23 81:7 84:12
113:8 188:19 213:6,7,15
213:24 240:9,11 254:12
263:14 307:8
receiver 3:8,14 50:19,23
51:1 84:6 158:22 164:10
307:21 316:7,15 317:4,7
319:13 324:20
receiver's 316:18 326:23
receivership 50:9,16,21
51:4 52:5,6 84:5 202:20
307:13 318:5 324:23
receiving 85:21 86:9
182:21 227:23 252:16
recess 59:18
Recker 4:4,4 11:18,22 12:2
12:10 16:4 21:24 22:8,15
22:20 23:4,21 24:8,17,23
25:20 26:2,12,25 27:18
28:3 29:16 30:7,22 31:18
32:17,25 33:6 36:3 38:11
38:15,21 39:2,7,24 40:21
41:24 42:16 48:2,12,24
50:12 54:21 55:15 56:8
56:17 57:3,13,20 59:14
62:7 63:1,7,17 64:5,15,22
66:1 68:2 69:10,17,25
70:23 71:18 72:10,17,21
73:5,22 74:6 75:5,13,17
76:20 77:17 78:2,19 79:3
79:13,25 80:1,4,15 81:9
81:21,25 83:15 84:13
85:7,14 86:5,12,18 87:25
88:10,25 89:12 90:13
91:5,15 92:11,17,21 93:9
93:15 94:11,21 96:10,18

97:3 99:8,23 102:11,19
102:24 103:9,17 106:5
107:3,14 108:21 109:16
114:4,24 115:10 118:24
119:17 123:4 124:20
126:11,22 127:4,20 128:9
128:24 129:17 130:5,16
131:18 132:2,13,22 133:6
133:23 134:5 135:15
136:18 137:3,10 138:18
140:11 141:2,11 143:15
145:21 146:9 147:9
148:24 151:7 152:3 153:7
153:21 157:17,21 159:3
159:16 160:1,15,25
161:10,14 162:1,12,21
163:5,13,25 165:21 166:4
167:13 170:12 171:19
172:3 173:7 174:21 175:6
175:11 178:22 179:20
180:16 181:9 184:15
185:9 188:21 190:15
191:17 194:3 195:5
196:23 199:7 200:2,17
202:9,13,25 205:9,11
207:14 208:6,25 209:13
210:11 212:3,14 213:1
214:14 215:2,20 216:5
217:17,24 219:14 221:16
221:18,23,25 222:18
223:11 224:9,18,20 226:1
227:15 228:1,17,23
232:14 233:5,22 234:8,17
235:17 236:4,10 237:5,20
238:2 239:13 240:23
241:5,11,23 242:15,23
243:11,23 245:16 248:6
248:22 249:10 251:23
252:14 253:2 255:4,25
259:12 261:15 262:15
263:10,21 264:10 265:9
266:4,17 268:4 269:23
271:3 272:7,25 274:18
275:2,17 276:3,7 277:3,6
277:11,19,22 278:2,5,23
279:6,9,15 280:14 282:15
285:10,22 286:18 287:3
287:22 289:16,17 295:21
296:13,20 299:6 300:6,22
304:12,20 305:8,13 306:9
306:24 308:20,24 310:7
310:15,25 311:17 312:18
313:2,12 314:18 315:15
315:21 316:2 318:18
319:15 320:4,9,16 321:3
321:10 322:1,20 323:2,14
324:3,9 326:2
recognize 68:21,25 205:19
288:9,19 294:23
recognizes 288:24
recollection 65:16 69:3

<p>114:19 131:19 160:9 185:25 257:5,8 271:13 294:8</p> <p>reconvene 25:6,11</p> <p>record 12:23 22:7 24:12 25:12,14 28:13 33:14,15 33:18,21 34:6,12 39:1,4,9 46:1 51:13 58:3 59:13 82:14 87:13,14 89:9 100:17,18 109:23 114:19 122:7 130:15 131:24 133:13 139:5 144:2,9 145:4,8,14,16 153:20 154:13 155:9,13,21,23 156:1,3,7 157:16 158:6 164:10 168:4 175:13 180:25 204:7 228:9,9 229:18 257:21 266:20,23 272:21,21 277:23 278:6 291:7,12 323:15 324:12 324:20 325:3 329:12</p> <p>recorded 288:1 291:8,17</p> <p>recording 267:2,14,15,15 267:21</p> <p>recordings 267:8,9,14,16 267:18</p> <p>records 45:6 103:3 104:25 105:5,12 113:2 261:13 262:3,5 298:2 322:9</p> <p>recruit 240:20 241:6,9</p> <p>recruited 241:3</p> <p>redacted 278:8,14</p> <p>redaction 277:25</p> <p>redundantly 303:13</p> <p>refer 22:22 26:20 34:10,12 35:14,18 47:11 52:5 60:6 75:19 154:3 220:19 231:11 234:24 270:19 271:9</p> <p>reference 29:4,11 30:21 100:14 116:21 302:18</p> <p>referenced 179:22</p> <p>references 17:3</p> <p>referencing 29:9 182:14</p> <p>referred 11:7 35:9 74:19 75:22 76:8 85:7 109:23 139:7 275:10 285:1 306:13</p> <p>referring 11:12 22:19 34:13 34:14 35:15,17 47:16 51:13 52:8 64:12,16 74:24 75:4 76:15 88:12 97:15,22 109:25 110:2 125:8 141:24,25 146:18 146:21 154:7,9 159:7 195:9 196:13 199:3,9,12 199:15 204:4 223:1 231:12 251:12 266:8 285:17 292:8 298:18 303:24</p> <p>refers 96:11</p>	<p>reflect 45:6 53:13 95:20 114:14 126:6 134:13 184:24 276:16 277:1 289:23 290:4 309:4 313:4</p> <p>reflecting 278:6</p> <p>reflection 131:1</p> <p>refresh 248:2 271:12</p> <p>refuse 24:18 89:24 90:3</p> <p>refused 59:1</p> <p>refusing 32:3 130:23</p> <p>regard 68:11 71:11 78:11 78:21 126:18 203:5 223:12 234:19 238:23 255:10 261:17 285:23</p> <p>regarding 37:13 63:23 131:20 141:7 168:17 183:9 251:10</p> <p>Regards 168:18</p> <p>region 284:11 285:2</p> <p>registered 270:12 275:13 329:6</p> <p>registering 70:14</p> <p>registration 53:8 70:16 275:9</p> <p>regular 259:25</p> <p>Regulation 241:15</p> <p>regulations 69:16 70:22 71:8 178:15 304:3</p> <p>regulator 70:20</p> <p>regulators 60:8,21 61:9,21 62:5,16,24 63:5,15,24 64:13,18 65:12,15,24 67:23 68:1,11 70:12 71:7 71:10,17 72:1,16 73:25 76:16</p> <p>regulators' 227:6,12</p> <p>regulatory 68:10 69:7,14 69:21 70:10,25 71:2 73:2 73:8,12,19 74:18 76:9 177:1 233:2,6 254:1,9,10 254:10,23 255:3 257:3 262:20</p> <p>Reinhart 321:14</p> <p>Reisinger 34:22</p> <p>reiterate 116:22</p> <p>relabel 246:14</p> <p>relate 12:13 19:3</p> <p>related 19:17 70:6 133:1 267:3 306:10 320:3</p> <p>relates 12:6</p> <p>relating 274:16</p> <p>relation- 161:17</p> <p>relations 210:4 211:8 244:8</p> <p>relationship 159:19 160:13 160:13,17 161:2,3,6,18 161:20 198:11 201:11</p> <p>relationships 159:14</p> <p>relative 329:14,15</p> <p>release 99:1 117:16,17,18 122:16,18,21,23,25 124:7 124:11 125:13</p>	<p>released 319:8</p> <p>releases 299:4,4</p> <p>relevant 244:25</p> <p>Relief 1:20 2:10</p> <p>rely 197:6 298:5</p> <p>relying 131:1</p> <p>remains 37:17 192:19</p> <p>remark 258:23</p> <p>remarking 176:7</p> <p>remember 36:22 37:2,3 38:5 41:13 45:5,11,15 47:1 83:16 127:12 131:11 133:9,10 135:4 143:24 144:19 153:1 154:5 155:1 184:19 185:15,24 209:24 246:24 253:5 257:10,11 271:15 274:14 280:2 287:4 288:14 290:24 307:4 315:5,16 319:9 321:12,17</p> <p>remembering 145:10</p> <p>remind 318:18</p> <p>remote 329:9</p> <p>remotely 2:15 3:1 4:1 5:1 328:11</p> <p>remove 125:21 182:22 184:9 248:14</p> <p>rendering 42:1</p> <p>repayment 193:12</p> <p>repeat 21:10 35:22 49:7 54:11 76:2 97:5 118:25 166:24 176:22,23 188:15 220:14,20,21</p> <p>rephrase 29:25 39:16 93:25 126:15 265:12</p> <p>replace 298:15</p> <p>replacement 245:23 298:19</p> <p>report 248:19,25 249:2 329:8</p> <p>Reported 1:24</p> <p>reporter 9:2,9 13:4 17:23 34:3,4 144:11 289:15 295:11 325:22 329:1,7</p> <p>reporting 252:7</p> <p>represent 12:4 50:15,21 52:12 71:24 76:25 85:22 86:2,8</p> <p>representation 52:15,17 84:7 246:20 252:12</p> <p>representations 19:3 121:15 170:8 178:8 197:17 284:4 311:23 312:9 313:1</p> <p>representative 112:11 176:6</p> <p>representatives 30:14,16 166:19 184:14 297:25</p> <p>represented 16:25 18:2,23 21:1,12 28:15,21 50:5 72:22 77:18 78:24 79:4</p>	<p>97:16 125:25 126:2,3 154:6 167:1,4,7 179:13 211:17,19 250:4 297:19 320:22</p> <p>representing 61:16 91:13 189:25 190:2 216:9 251:24 252:2,17 285:5</p> <p>request 6:17,20,22 8:6 37:7 55:17 150:6 167:25 168:9 169:3,4,6,9 171:8,13 177:14 180:18 181:4 183:9 196:21 269:17 275:25 276:21 323:17</p> <p>requested 55:18,19 169:9 169:12 171:12 175:21 177:10 182:23 183:14 329:11</p> <p>requesting 55:12 139:24 183:14,24 325:23,23</p> <p>requests 54:20 212:21</p> <p>require 57:21</p> <p>required 82:19 89:20 139:8 139:10 142:17 143:5 289:18</p> <p>requires 23:5 24:9 27:19 28:4 32:9 56:9,18 75:6 79:14 86:19 103:18 114:25</p> <p>rescinded 214:24</p> <p>research 36:7 37:1,25 39:21,23 40:6,8,12,15,20 41:4,14,22 42:17 44:21 144:25 157:4 176:12 177:19</p> <p>researched 36:14,15</p> <p>researching 38:4,6</p> <p>reserve 278:15 325:5 327:2 327:6</p> <p>reserves 323:15</p> <p>resolved 121:10</p> <p>resources 314:10 321:16</p> <p>respect 20:2 25:16 26:3 28:20 29:1 32:6 37:10 39:21 40:19 41:5,11,22 44:24 50:20 70:18 72:7 73:13,18 78:13 79:5 84:7 87:21 89:6 90:23 93:6 94:9,16,18 106:10,15 119:8 146:23 152:11 155:24 166:20 203:7,14 203:15 223:5 235:1 238:11 257:6 266:12 305:23,24 323:9</p> <p>Respectfully 198:8</p> <p>respective 189:7</p> <p>respond 80:12 81:6 82:5,6 204:8 225:3 276:20 292:13 324:15</p> <p>responded 79:11,22 80:25 83:12 84:12</p> <p>respondent 77:6</p>
---	---	--	---

responding 253:9
responds 207:1,3 251:16
response 76:6 79:22 80:13
 81:1,18 83:13 89:11 90:4
 93:11 125:16 167:11
 181:3 184:6 279:21
responses 82:11,13
responsibility 198:8 206:6
 244:7
responsible 314:17
responsive 54:20,22
rest 19:16 218:24
restate 18:8 20:8 23:25
 28:10 34:2 63:11 87:17
 312:17,20,22
restraining 315:19
restrictions 124:14
restroom 59:2
restructure 124:13,18
 125:12
result 73:3
resulted 73:12 97:23
retain 49:25 50:2 163:23
 242:2
retained 38:9 53:4,7,15,19
 141:19
retainer 7:17 53:12 126:5
 141:17 245:25 246:22
 247:1,3
RETIREMENT 1:12,12
retract 299:22
returns 177:10,13 298:3
reveal 31:1 56:10,19 57:22
 62:8 63:8,19 64:23 66:2
 71:19 74:7 75:7 79:14
 89:14 92:22 103:18
 115:11
reveals 31:19 57:4 88:1
 89:1 91:6 99:9 162:13
 194:4 203:1
review 8:12 37:21 76:17,18
 99:6 103:2 166:20 168:15
 180:7 184:23 192:15,19
 198:10 207:7 264:17
 298:1 329:10
reviewed 37:12,14,19,23
 40:16 76:12,22,22 104:25
 105:4,11 114:9 117:5
 142:8,11 237:6 250:17
 262:12 264:18
reviewing 41:18 114:19
 143:2 179:21
revised 254:6
Richard 4:5 8:5 272:14,18
 273:11
RICO 178:20,24
ride 153:14 314:9
rides 58:25
Riggle 3:4 12:3
right 9:3 17:21 22:25 30:6
 30:12 51:9 59:8 67:2

98:24 124:8 131:14,15
 145:12 161:25 163:18
 174:8 175:22 181:21
 216:24 229:2 230:23
 232:22 246:14 247:5
 249:9 250:7,19 257:20
 265:19 267:22 271:20
 278:2 286:4 291:2 296:8
 300:19 304:11 308:5
 309:9 317:10 319:14
 320:4 321:3,16 323:15
 325:5 327:2
rights 325:7
risk 33:10 198:12 270:3,5
risks 172:15
RMR 1:24 2:17 328:16
 329:21
role 210:9 233:3,21 238:6
 259:11,13,14,19,22 260:7
 260:10
roles 210:23,24
Ronnin 207:6
room 149:1 174:2,3 182:16
ROSENBLUM 3:16
ROSS 3:9
rough 320:24
roughly 160:8 185:22,25
 275:16 278:22 291:12
round 253:16
row 210:2,7
RPR 1:24 2:17 328:16
 329:21
rude 321:11 324:13,14
rule 27:7 82:15,17 93:20
 139:6,12
rules 69:15 70:22 71:8
 89:21 92:1 304:3
running 173:5 185:8
runs 172:7
rwalk@welshrecker.com
 4:8
Ryan 3:7,13 34:17

S

S 1:16 6:5
S-H-E-R-R-I 34:19
S-O-N 47:4
S-U-N 47:4,5
safe 95:25
safety 214:1
sale 220:13 307:8
saleable 270:13
sales 210:5
SALLAH 4:22
sanction 73:3,8,13,16,21
sanctioned 233:3
sanctions 73:24
Sandler 270:25 271:21
 272:1
Sankary 1:24 2:17 328:16
 329:6,21

Sasso 207:6
sat 134:18
satisfactorily 70:15
save 330:9
saw 181:4 232:19 237:17
 273:12 274:3 297:7
 306:12 317:15,17,23
 318:1
saying 24:13 55:21 85:23
 106:14 108:3 117:3
 128:12 134:16 142:21
 147:14 168:2 196:8 198:7
 198:22 206:19 211:11
 224:19 227:9 264:4
 273:22 276:5 289:23
 291:15 300:17
says 16:1,11 54:4 60:16
 61:3 98:24 100:20 101:2
 102:7 104:23 105:2
 117:19,21 124:11 130:13
 168:6,7 192:14 193:3
 196:7 198:6 199:1 200:24
 205:4 206:4 207:5 217:16
 218:3 229:9 245:13
 246:10 247:6,24 251:5
 256:14 281:8,15,16 283:7
 291:2 303:10,16 308:12
 321:11
scan 230:7 257:1
schedule 324:24 326:23
scheduled 197:18 201:18
SCHEIN 5:10,10
school 43:13 44:5,5,8,10
 44:15,16,18
scope 51:3 106:10 116:17
 116:23,25 119:9,10
 138:10
screen 15:21 17:7,10,19
 18:17 19:20 54:4 55:14
 85:2 125:22 167:17 168:3
 168:3,10 175:15 180:20
 183:11 192:20 196:22
 197:8 201:22 217:22
 218:11,22 228:11 229:3,7
 229:8,10 230:3 231:11
 256:10,16,21 257:24
 258:1,6,14 261:8 262:1
 268:23,24 275:19 281:24
 281:25 288:20,21 291:2
 292:9 299:16 303:22,23
 307:22
screenshot 291:23
script 292:2,3,5
scripted 291:24 294:4,5
scroll 16:10 17:12 54:25
 55:3 60:12,13 95:13
 124:6 168:22 181:14,16
 192:23 196:2,2,11,19
 197:10,11 198:2 199:17
 199:18 205:5,15,15,16,17
 206:15 209:11 217:11

218:6,23 219:8 231:15
 246:8,12,16 247:12,19,20
 271:3 273:17,18 275:18
 276:5,18 277:8,12 281:6
 282:1 283:2 300:10,12,15
 300:15 307:18 308:10,21
 309:6,7
scrolling 16:12 17:21 55:2
 181:17 205:25 206:1
 247:13 281:10,11
Seamans 3:19 4:3 6:13
 7:24 13:10,12,21,22 14:2
 14:3,11,20 28:25 55:19
 85:19 95:8 110:20 142:7
 167:12 272:10 274:24
 275:11 281:21 285:8,17
 285:20 291:21 314:16
 315:13 318:15 319:11
Seamans' 6:7 83:3 104:8
 282:9
searches 177:6,18
season 183:19
SEC 6:12 15:1,6,9 37:18,19
 50:9 52:20 54:7,7,15 79:5
 79:11,22 80:13 81:1,7,18
 82:5,6,11,13,21 83:24
 84:12,18 85:5,12,17 86:2
 86:8 101:2,14,15 104:24
 105:4,11,16 106:2,11,16
 106:18,24 107:11,19,20
 107:25 108:1,6,6,6,7,15
 108:17,19,25 109:1,12
 110:7,21 111:4,6,12,23
 112:6,8,9,12,12,20,22
 113:1,18 114:7,22 117:9
 118:2,5,11 119:13,23
 120:21 121:9,22 141:23
 142:3,13,17,20 143:3
 167:11 186:20 187:3,12
 187:22 190:1 243:7 255:7
 255:9 257:6 319:12
 322:14 323:22 331:3
SEC's 79:9 101:7 120:16
 121:15 315:19 322:13
second 10:3 16:24 18:20
 38:14 44:14 51:8 61:7,19
 101:6 104:23 105:2,9
 199:20 200:7,23 201:15
 209:12 248:16 255:22
 272:13 277:17 289:3
 303:9 315:2 321:7
seconds 288:18,23
section 16:11 55:11 132:6
 278:7,9
securities 1:3 2:3 3:3 14:13
 14:14,22,23 43:14 60:4,5
 60:7,21 61:9,21 62:4,16
 62:23,23 63:5,15 64:13
 64:18 65:12,24 67:23
 68:1,11 69:7,14,15,21
 70:14,20,22 71:7,8,12,16

71:25 72:15 73:19,25
74:15 76:16 78:25 83:12
96:21 97:17 220:24
221:14 222:16 223:9
224:7 225:24 227:5,11
233:1 283:19
security 74:4,22,23,25 97:2
269:25 270:11
see 15:20 17:7,9,18,19
18:17 19:19 33:19 54:3
55:4 59:16 60:15,18,19
60:23 61:3,5,8,19 62:1,2
84:2,3,20 85:1,2 86:10
91:16 96:3,4,6,7 98:21,24
99:2,3 100:13,14,22,23
101:1,2,4,5,9,14 102:1,2
102:6,8,9 104:23 105:1,3
105:4,6,10,14,15 117:25
118:1 122:24,25 124:10
124:15,16 140:6 150:16
150:23 155:17 168:1,2,5
168:10,16,19,20 171:7
176:2 180:20,21 181:13
181:25 182:4,5 183:11,18
183:21 192:8,13,20 193:2
193:7,19 195:23,24 196:5
196:12,12 197:7,14,25
198:18,19 199:20 201:12
201:14,21,21 205:1,2,3
205:21 206:3,3,9,12,13
206:18 207:1,3,8 210:7
218:11,13,21,24 228:22
229:6,8,9,12,23 230:2,5
230:16,19,23,25 231:4,7
231:8,9,19,21,25 232:3,4
237:15 239:9 246:9,12
247:9,10,23,24,25 251:5
251:9,11,16,18 256:13,16
257:25 258:5 268:15,20
268:22,24 270:23 271:1
271:18,19 272:11,13,16
273:16,21 274:1 277:14
277:19 281:8,15,22,24,25
282:4 283:6,15,17,21,22
288:23 290:16,17,17,18
291:1,18 297:4 300:2,3
300:13 301:15,17,19
302:18 303:9,15,17,18,21
303:23 305:2,2 306:6,23
308:6,11,11,17,18 310:3
310:4 314:9 317:11,12,15
317:18,19,21
seeing 100:6 101:9 122:20
206:6 209:20 232:18
240:3 271:12,15 284:1
288:10 306:10
seek 12:17 38:25 204:5
326:1
seeking 20:5 138:16
202:15 223:21 287:12
seen 62:18 99:4 100:9,15

122:15,18,22 209:15,18
212:22 236:13,13,18
239:11,17,20 264:18
282:5 283:23 284:3
290:21,21 293:12 299:19
sell 198:13 199:2,5 218:8
219:12
selling 30:4 243:9
send 81:6 206:24 245:23
299:25 308:16 310:2
sending 174:17 192:17
206:4 211:21
sense 37:12 134:18 209:25
212:25 213:2,19
sent 40:3 82:7,11 83:25
95:7 98:25 157:4 168:8
169:7 186:7 193:22
198:11 199:21 205:6
206:22 244:22 247:16
253:9 311:23 312:4
sentence 102:6,9 104:24
105:9,14,15 117:20,25
118:1 124:10,16 181:22
200:7,23 201:1,14 230:8
303:18,21,23 309:18
310:3,4
sentenced 128:22 132:20
separate 303:13 326:24
series 180:23
serious 324:8
Seriously 320:12
serve 26:5
served 19:9,14,14,21,22
36:11
service 205:7 230:7
services 7:2 35:6 80:20
192:14 193:3,10 242:3,12
242:18 243:14,17
sessions 241:13 266:9
set 157:13 193:13 243:5
254:6 273:25 304:10
settled 70:16 71:13 98:7
settlement 1:9 19:6 51:17
63:23 64:3,6,8,11,17
65:11,14 67:22 70:9 71:5
71:15 72:1 120:1,1,2
121:8,10,11 163:10,22
166:15 308:4,14 309:4,25
310:6,13,22,22 318:14
Settlements 18:25 268:18
seven 291:17
seven-hour 304:16
Seventh 4:12
shaking 92:8,9,16
Shannon 8:3 52:23 301:15
303:2 305:20
shape 251:25
share 229:7 238:13 256:10
256:21 257:24 280:24
shared 245:21
shareholder 126:24

shareholders 183:16
shares 183:17 303:17
305:10
sharing 229:11 231:11
232:3
Sharpton 34:22
she'll 288:21
Sheet 330:11 331:1
Sherri 34:19
short 291:14
shorthand 298:13
shortly 68:20 75:23 76:10
131:5 180:7,9 318:1
show 13:4 53:23 59:21
64:12 95:1 98:11 135:1,1
135:3,4,6,7,10,19,22,25
136:1,13,15,23,24 137:2
137:8,13,24 138:15
139:17,24 140:4,5 167:14
167:15,16 180:14 183:1
192:4 204:19 205:15
217:1 239:4 245:18
248:15 249:23 268:7
270:15 271:6 273:6
282:21,24 288:5,6 292:9
293:5,15 294:17 299:15
showed 221:6 232:8
277:16,16 296:18 297:5
316:19
showing 60:2,15 83:24
100:18 122:15 167:22
168:5 175:19 209:8 229:7
229:19 240:4 270:22
278:2 281:3 289:12 307:2
shown 55:16,24 118:6
209:23 210:23 230:2
232:17 292:21 294:14
295:23,24 296:2
shows 95:24 245:23
272:21,21
sic 214:7 306:21
side 245:10
sign 323:16
signaled 226:9
signature 271:18 300:20
signed 232:19 328:13
330:17 331:24
significance 156:16
Silver 5:18 13:5 47:4 53:24
59:22 83:21 95:2 98:12
122:10 167:18 183:3
192:5 217:5 239:5 268:8
276:1 288:12,17 300:19
silversun2008@mail.com
47:3
similar 70:25 234:13
262:17 274:10
similarly 73:18
simple 80:12 82:4 142:19
142:22 243:4
simplifying 148:16

simply 72:23 234:25
275:25
simultaneously 192:18
308:15 310:1
single 237:13
sit 25:9 68:5 199:14
site 150:16,23 151:8
sitting 67:24 324:5
situation 226:15
six 291:17
size 217:20,22
skip 109:10
skipped 299:10,12
slide 281:15,19
SLOMAN 3:9
slow 207:2 279:6 283:3,3
289:11 290:1
slowly 65:6 205:17 277:11
290:3
small 17:14 36:10 217:18
so-called 238:10
sobeit 326:4
sold 70:13
solely 31:13 298:5
solicit 151:5
solicitation 243:22 266:25
280:6,12,17 284:17
286:17
solicitations 284:24
solicited 271:22
Solution 193:5
Solutions 1:6 2:6 11:5
18:11 47:7,15,17,22,24
48:20 49:5,9,12,15,17
54:8,15 56:4,6,16 58:7
60:22 61:11 62:1 77:16
77:25 146:19 148:14,23
149:7 153:4 172:24
191:16 229:25 230:13
331:3
somebody 211:8 212:5
259:25
somewhat 259:22
soon 252:24 288:22 304:19
sorry 14:1 16:2 20:11 25:19
26:16 32:16 49:6 54:9
57:16 65:4 76:3 85:10
90:25 95:16 97:5 105:22
111:4 119:12 145:12
162:5 166:24 180:5
181:20 183:19 187:9
188:15 191:20 196:3
197:11 200:17 205:14
208:6 221:18 226:18
240:12,13 245:20 247:13
248:6 257:16 258:21
264:4,14 266:21 267:12
273:5 275:17,21,24
278:23 279:7,17 283:3
287:17 288:3 289:2,15
290:16 304:1 317:17

sort 40:5 64:17 67:1 73:3
73:13 96:20 138:16
144:21 155:17 159:24
172:8 176:7,25 193:13
202:4 210:8 213:19 243:2
248:2 252:4 269:24 270:1
287:19 298:18 308:4
309:2,3,4 323:23
sought 169:3
sound 131:14,14
sounds 175:12 243:2,19
294:2 314:13 326:10,25
327:4,8
South 3:10 4:18
Southeast 4:12
SOUTHERN 1:1 2:1
space 120:24
speak 22:21 29:19 33:25
37:5 42:21 56:1 92:2
171:16 172:20 184:13
197:19 201:19 269:1,5,18
271:10 272:22 273:3
298:4 326:13
speaking 32:16 65:6
134:22 154:22 188:6
255:6,8 261:16 262:4
271:25 279:10,20 287:20
292:1 295:19
speaks 108:7 202:4
special 270:9
specialized 283:19
specific 22:23 26:4 27:6,14
30:21 31:5 37:2 42:18
44:1 47:23 49:22 52:16
55:12 65:13 69:2 75:21
76:7 100:10,15 102:12,12
102:20 103:3 108:16
110:11 159:5 165:5 182:8
235:1 245:3 263:1 264:23
265:3 280:15
specifically 12:7 38:5
45:20 68:14 76:21 90:24
91:1 104:5 110:22 111:2
156:10 165:12 208:19
226:10 250:16 253:7
257:8 263:6 280:1 306:12
SPECTRUM 1:7
speech-making 322:2
spelled 34:25 36:16 46:10
spend 38:4 321:16
spent 38:6 101:24 102:7
167:9
spoke 101:22 135:7 149:23
188:3 255:14 270:10
271:22,23 272:18,23
274:6,11,13
spread 234:24 235:14,15
240:10,11 264:25,25
265:5,15
Square 3:22
staff 15:1 43:16 85:5,12,17

86:8 106:11,16 107:19,20
107:25,25 108:16 109:11
109:15,24,25 110:2,7,22
112:12,20,21 113:1,18
116:23 118:5,11 119:14
119:24 121:22
start 14:1 221:12 227:8
241:4,10 276:13 289:9
started 14:3 101:17 215:16
216:2 277:7
starting 288:10
starts 117:20 195:17
300:13 303:18 315:3
state 2:18 45:25 63:24
65:15 67:23 69:15 70:20
70:21 71:7,9 73:25 74:4
74:18 99:14,16 134:10
137:25 139:10,11,12
226:10 228:10 229:18
284:9 321:11 328:6,17
329:3
stated 28:13 32:14 67:7
163:9 197:7 277:1 290:5
statement 127:19 214:13
242:1 294:1 297:12,16
298:6
statements 37:22,24
169:14,17,22,24 170:3,5
170:21,23 171:3 185:2
201:5 261:17 298:3,4
325:2
states 1:1 2:1 3:3 14:13,14
96:5 117:18 125:13 193:3
193:10 228:14 230:12
stating 61:10,22 285:14
status 249:3
stenographic 329:12
stenographically 329:8
Steve 110:2,9,10,12 111:9
111:15,25 112:16
STFG 35:4
sticker 168:6
stop 33:8 55:2 59:1 196:3
206:3 231:10 232:2
254:13 279:1 281:12,13
282:14 283:4 286:15
288:23 290:1,10 293:9,19
294:21 311:23 312:9
stopped 190:2 214:10,20
214:22,25 216:20 300:23
stopping 59:7
story 283:8 317:21
Stradley 198:16 207:6
Stream 35:2
Street 3:16 4:6,12
streets 3:22 253:1
Strike 233:23
string 6:16,19,21 7:3,6,15
7:22 8:5,11 205:6 206:7
208:21
structure 96:20 220:11,12

220:16,19,22 221:12,13
222:3,10,13 223:6,24
224:6 225:22 227:14
230:20,21 234:16 245:11
252:5 267:4
structured 305:11
studied 43:12,13,21 44:4
stuff 243:8
Stumphauzer 3:7,9,13
subject 67:18,21 81:11
99:1 104:13 116:6 127:23
137:16 139:16,22 167:24
168:9 178:14 180:18
183:9 192:12,19 195:21
202:15 205:4 206:11
213:22 229:21 238:14
251:9 301:4
subpoena 6:8,11 54:7,13
54:17,20,23 55:1,9,16,24
60:17,20 61:11,22 62:5
62:15,19,24 83:24 84:11
84:18 85:22 86:9 167:12
subpoenas 79:11,23 80:13
81:1,7 82:7 83:13
substance 80:6 122:23
substantially 262:17
success 170:8
sued 253:19 258:15
suggests 182:9
suit 187:13
Suite 3:4,10,16 4:12,18,23
5:5
summarize 159:25
summarizing 161:12
sun 47:4
Super 231:1 251:2 316:24
supposed 89:20 93:20
197:18 198:23 199:5,23
318:16 319:6
supposedly 109:11
sure 16:5 20:9 21:11 24:2
24:11 25:22 28:11 30:1
33:2 39:7 44:15 49:8 51:8
54:12 59:15 63:13 65:5
68:3 69:18 70:3 81:3
82:23 83:5 87:9 89:9
100:16 107:16 117:8
119:2 122:3,6 129:19
133:12 137:20 170:17
176:23 188:16,17 190:7
195:8 199:15 204:6
208:21 225:5 229:11
231:17 238:17 268:1
269:14 271:14 276:20
277:10 279:8 285:11
289:4 291:20,22 297:21
300:25 303:7 308:23
311:19 312:15,22 313:20
325:14
suspending 186:9 295:13
swap 308:5

swear 9:4
swearing 9:17
switch 158:20
switched 234:4
sworn 9:12 129:16 328:12

T

T 6:5
take 8:3 22:4 25:1,4 33:11
38:14 44:15 45:4,9 55:14
58:10,19,24,24 59:4
65:20 97:10 106:1 109:9
115:23 116:2 122:1,3
175:6 189:10 195:13,14
209:3 214:4,4 226:11
228:6 231:15 240:6
253:13 255:23,25 256:11
257:18 281:17 282:12
284:5 288:8 289:17 293:4
297:1 307:22 312:1 318:4
321:21 325:6 326:16
taken 2:13 44:20 59:18
331:2
talk 32:9 38:15,22 39:5 47:6
69:22 78:6 108:14 109:11
186:13 197:24 204:14
222:11 233:21 244:20
269:2,21,22,24 270:20
296:16 301:23
talked 21:21 116:11 135:9
135:12,18 204:12 205:20
241:14,15 246:20
talking 29:21 43:23 64:11
85:24 107:1 108:15,17
135:22 137:8 197:16
201:16,24 211:6 216:16
219:20 224:25 252:3
255:17 267:4 268:13
269:11 275:23 283:18
303:17 306:2 322:21
talks 230:8,9
tax 177:10,12 298:3
team 185:12,16,17 213:3
274:25
technical 61:13 108:12
175:5 259:7
technically 325:19
technologically 256:19
telephone 3:5,11,17,23 4:7
4:13,19,24 5:6,12 116:3
120:22 121:7,21 124:5
158:13 165:9 179:12
189:16 194:20 208:14
253:8,9 272:14
tell 28:1 55:2 67:18 81:19
93:22,25 105:24 106:9
110:10,13 111:3,6 116:10
137:1 139:15 141:9
153:19 154:12 155:5,8,20
155:25 157:14,20 169:20
177:16 192:9 207:2

223:14 225:3 229:18
 237:9 253:16,24 254:21
 254:25 257:2 258:12,16
 261:7,11,25 270:3,5,7
 279:22 281:11 286:15
 287:15 288:23 290:1
 291:19,22 294:6 321:20
telling 156:2 199:22 211:22
 212:24 244:17 252:8
 273:14 312:8
temporary 315:19
ten 45:14 244:18
ten-minute 25:4 273:25
Terence 189:7,17
term 70:2 220:23
terms 7:4,7 36:9 47:19
 121:6,11 193:12,13
 195:22 205:4 206:11
 222:4 242:4 254:7 265:16
 269:10
Terrific 196:25
testified 9:13,20,24 10:13
 21:8 25:22 44:4 127:15
 128:4 129:12,25 131:4,12
 153:6,17 156:5 157:12
 161:13 178:7 182:15
 211:17 214:8 215:8
 216:11 244:25 273:1
 279:22 314:8
testify 6:8 32:3 212:15
testifying 50:10 52:21
 130:7 186:22 279:2
 315:20
testimony 9:4,7 99:22
 100:5,6,9 109:18,21,22
 109:23 114:1,7,20 116:21
 128:8 129:16 130:10,10
 130:10,19,25 131:2 156:9
 161:15 162:2 223:19
 225:23 271:23 296:12
 310:12 330:6,9
Texas 74:4,15,18,20,21,23
 74:25 75:20,22 76:8,9,16
 77:7,12 254:9
text 17:14 146:24 217:22
 231:7,9
thank 9:9 12:9 16:9,12 25:3
 33:22 35:21 51:6,11
 55:13 60:13 61:1 95:3,10
 95:13,14,17 98:5,13
 113:15 122:5,13 124:7
 125:22 167:19 181:15,17
 181:21,23 183:4 196:25
 197:11 198:3 209:5 217:6
 217:24 233:14 239:6
 246:3 247:13,13,15,21
 248:13 251:16 257:19,20
 277:22 282:2 297:2 302:7
 306:17 308:24,25 312:2
 315:11 323:12 325:1
 327:7,9,11

Thanks 53:25 59:23 168:23
 182:1 206:16 256:9
thing 146:5 225:15 243:4
 274:9 294:11
things 21:12 27:6 40:16
 89:20 96:4 100:25 117:7
 139:9 180:1 201:24
 217:20 235:20 241:21
 245:10 271:7
think 16:6 20:15 21:25
 22:21 26:13 32:13 39:13
 41:11 45:20 47:2 50:4
 54:9 60:22 75:25 76:3,6
 78:6,11 81:10,11 83:9
 104:12 107:5 113:7 116:9
 116:20 121:5 122:12
 127:22 128:11 131:15
 134:15 137:4,11,15,21
 140:13 143:25 146:5
 158:24 168:24 169:11
 170:15 173:8 175:3,3
 178:16 180:10 182:10
 188:25 196:15,17 202:14
 202:20 204:9 207:15
 208:20 210:15,20,21
 213:12,17 218:13 219:3
 220:8 221:5 223:22
 224:15,24 238:13 242:1
 243:1 244:2 247:19
 249:12 258:10 261:23
 288:7,9,19,20 289:1,22
 290:4 292:9 299:7 300:24
 304:15 307:11,17 317:5
 320:16 321:10,13 324:9
 325:7 326:11,20 327:9
thinking 100:3 105:25
 109:5 113:15 126:17
 317:3
third 18:23 44:14 115:19
 165:18 199:20 205:16
 224:25 225:12 323:24
thoroughly 244:19
thought 176:13 256:22,25
 277:7 296:10 297:20
 313:19
thoughtful 105:23
thousands 102:25 187:14
 187:20
thread 300:21
threat 213:10,13,15,18,18
threatened 175:25 213:14
 213:16,21
threatening 213:25 214:1
threats 213:6,7
three 11:3 38:7 55:5 91:17
 101:16 241:13 266:9
 269:14 288:22 294:3
 318:25
three-hour 45:21
three-year 193:17
throat 187:10

Thursday 183:8 197:19
 201:18 273:22
tickle 187:10
Tierney 34:22 258:24
 261:19 303:7 305:22,24
 305:25 306:2,4
till 58:16
time 14:21 18:14 26:9,10
 26:22,23 27:17 37:2,17
 38:3,6 40:11 41:16 44:3
 44:12 56:1 59:10,18 62:3
 62:18 63:4,14 65:19,23
 68:23 72:23,23 74:3
 82:17 86:11 96:7 100:8
 106:1,12,16 114:14
 115:16,25 119:11 121:1
 121:20 127:17 129:6,11
 129:15 131:21 134:10,14
 134:21 144:16 152:14
 159:15 160:11,16 161:8
 162:8 167:9 173:3,5,14
 173:24 174:15,23 175:1
 176:14 178:1 182:1,13,18
 184:6 186:2,20 187:3,10
 188:13,18 189:19 190:21
 191:2,7 192:17 194:19
 195:21 199:14 202:4,10
 204:12,13 208:23 210:6
 211:7,10,16 212:10,12
 213:4 214:15,20 215:3,5
 215:22 216:16 219:24
 220:5 222:6 231:23
 233:11,16,25 236:16,17
 246:18 253:5 254:2,5
 259:10 260:16,17,17,19
 260:22 267:10 268:25,25
 276:18,22,25 279:10,20
 288:9 289:18 290:2,9
 293:8,18 294:20 295:4,18
 298:7,15 304:22 318:11
 319:7,23,25 321:18 322:1
 327:3
times 81:3 139:7 254:17
 266:7 269:9
timing 317:3
TIMOTHY 3:9
title 13:13 212:6
titles 13:15 183:15
tkolaya@sflaw.com 3:12
today 9:5 12:8 27:25 28:2,6
 28:13 34:10 35:8,18
 47:11 50:10 52:13,21
 55:10 67:24 68:4 91:13
 99:4 100:8 122:19 139:7
 163:9 165:17 167:9
 179:23 186:22 199:14
 201:18 203:10 220:23
 223:3 233:11 234:5
 239:21 246:19 251:7
 252:22 254:15,17 276:17
 282:5 283:25 290:19

315:7,20 324:21 325:14
 325:25
today's 34:9 60:6
told 50:22 107:22 108:1
 109:11,15 110:12,15
 112:21 116:13,24 127:16
 128:4 129:13,14 130:1,13
 131:7,12 133:15 152:8,25
 153:9 154:14 155:12,15
 155:22 169:21 170:1
 171:3 173:2 259:5 260:22
 260:24 261:4 266:2 274:3
 292:14 297:23
tone 279:16
tonight 198:14 199:2
top 60:16 61:3 168:7
 181:21 193:2 206:1,15
 207:1 210:2,7 229:8
 239:10 246:16 277:8,20
 277:24
total 185:21 289:13
touch 276:6
tour 174:1
tout 287:19
Tower 3:10 4:17
track 166:8
traded 37:18 41:17
trading 15:18
Trail 4:23
transact 149:6
transaction 149:15 185:1
 232:7 310:9,16
transactions 13:18 101:19
 149:18 159:2 311:15,16
transcript 100:4 114:19
 130:1 131:8 224:16
 276:16 277:1 278:15,17
 289:22 290:4 323:16
 325:24 326:1,7 329:10,11
 330:6,8
transfer 319:18
transferred 319:10
transpired 310:17
travel 153:15
traveled 150:13 152:21
trial 10:13 261:11
tricky 276:24
trip 149:12 150:18 152:15
 153:5,16
trips 147:8 153:2
TROUTMAN 3:20
true 102:10 141:10 274:9
 304:23 305:12 319:17
 329:11 330:8
Trunfio 210:5
TRUST 1:19 2:9
truth 9:5,5,6,8
try 39:19 93:25 107:6 152:7
 204:8 218:25 225:7
 304:24
trying 82:18 83:6,6 88:19

89:23 90:8 93:17,19 94:2
94:3 97:19 100:16 105:23
107:8 117:2 121:13,17
140:7 159:11 201:23,25
210:15 216:17 223:19
252:23 258:21 290:2
304:2 308:13
Tuesday 168:8 206:4,22
208:13 317:5
turn 60:24 61:6 84:16 95:11
98:19 121:24 122:11
143:8 170:25 247:18
272:12 300:17
turned 56:3 252:21
turning 25:3 252:7
turnkey 243:3,20
TV 267:15
twice 26:19 101:23 286:10
two 3:22 9:24 19:19 38:7
65:17 87:10 91:16,23
105:7 117:7 147:12,14,16
147:23 156:4 157:10
201:24 206:7 218:4 219:6
219:7,13 220:6 241:13
266:9 267:9 269:14
277:15
two- 45:21
two-month 131:13
two-page 277:13
two-year 193:15
type 105:10 233:10 270:8
types 10:6 267:8,14 275:6
typically 151:19

U

Uh-huh 154:20 278:1
ultimate 121:8
ultimately 97:23 98:6
121:10 186:11 193:22,24
194:25 310:5
unaccredited 221:15
222:17 223:10 224:8
225:25
unaudited 262:7
unaware 62:15 64:2 187:23
undefined 259:22
undersigned 328:10
understand 9:19 11:14
12:16 26:17 27:22 28:11
28:14,18 29:24 35:11,17
35:20 39:13,17 40:8
47:15,19 50:11 52:8,11
60:9,10 68:3 70:19 73:11
73:20 75:3 79:21,24
80:11 81:5 82:1,23 84:4,9
84:10 85:25 86:1 90:8,8
92:19 93:4,16,17 94:1,14
97:15 98:1,3 99:25 100:2
108:5,8,11,20,24 112:10
117:2 121:17 126:14,16
129:19 138:5,7 143:11

151:18,22 152:5 154:8,9
163:13 166:6 170:13
172:22 196:8 198:6
199:11 210:13,15,18,20
211:19 214:19 215:1
220:18 221:4,9,10 222:19
222:25 223:1,19 224:24
225:2,3,5 231:13 232:16
235:13 238:18 253:22,23
260:12,14 265:14 296:2
298:21 309:16 311:19
314:19 322:4
understanding 24:12 27:11
35:13 39:14 50:18 53:3
69:13 70:8,12,24 73:23
80:21 89:10,24 104:18
112:7,22 113:16 116:16
119:23 120:3,8,9 133:12
133:21,22 134:23 139:21
149:9 150:21 158:7
165:25 207:24 211:3,15
250:11 259:9,19 260:20
287:24 292:12,17 295:22
330:12
understands 80:2,5
understood 21:17 54:9
69:18 81:3 93:2 121:23
137:20 145:25 149:21
153:13 162:5 176:13
179:2 188:16 199:13
200:20 235:11 285:11
294:13 304:18 322:10
unfortunately 89:19 105:6
United 1:1,11 2:1 3:3 14:12
14:14
universe 225:16
unprepared 198:13 199:1
unprofessional 324:16
unrelated 19:13,17,18,24
20:1 278:11
upset 279:14,15
use 30:5 47:1,19 90:2 107:9
111:9,15 112:1,23 114:2
118:5,8,9 145:22 146:22
148:20 159:22 220:12
221:1 230:10 232:24
235:13 249:1 282:8
288:15 298:22
useful 27:16
uses 146:6
utilize 227:13 266:24
utilized 224:6 225:23
utilizing 222:13 283:9
284:16

V

v 331:3
Vagnozzi 1:16 4:10 5:15
6:13,17 7:4,11,15,21,25
8:3,8,11,13,20 16:18
18:12 19:4,5,13,25 39:25

40:3,11 42:13 48:17
49:19,21,23,24 50:2,16
52:13 56:5,15 57:10,14
57:18 61:16,24 62:6
66:13,17,25 67:7,10 71:5
71:10,17,24 72:5,19 73:4
74:13,16,17,19 75:19,22
76:8 78:25 79:1,4,10,12
80:14,21 81:2,8 82:8 83:2
83:4,14 85:3,8 95:7 97:1
97:17 98:8,23,25 99:1
101:6 102:17 103:5,11
104:24 113:3 114:21
115:6,9 116:5 123:16
124:1 125:4 127:15,22
128:3 129:12,21,24 131:3
131:4,12,20 135:3,24
136:7,15,15,19 137:14
138:4 139:17,20 140:12
141:15,19 149:11,12,20
150:2,12 151:1 157:20
158:5,14,15 160:2,12,17
161:17,22 163:14,19
164:22 165:1,15 189:6,6
189:13,15,16,17,21
191:22,22 192:11 194:10
194:13,17 195:2,18 196:6
203:16,19,25 204:11
207:19,23 208:5,11 214:7
215:8,10,16,22 217:14
219:21 225:13,17 226:13
226:23 227:3,22 228:15
228:20 233:1,20 234:12
238:12,15,21 240:5,9,20
241:9,20 242:4 243:7,21
244:16 252:24 253:21
255:10 257:4,6 263:13,14
263:24 264:23 266:9
268:11,15 269:1,4,6,17
272:11 273:4 275:11
282:8 284:16,23,25 285:4
285:13,24 286:15,23
287:12,17,19 291:11
294:12 295:6 299:20,24
301:5,21,25 302:12,25
303:5 305:20,21 307:15
308:2,3,11 309:3,8,19,23
311:23 312:4,8,24 313:9
318:10 319:21,25 320:2
320:21 322:25 323:10
Vagnozzi's 50:6 53:2 74:14
79:6 99:22 100:5 113:11
113:25 114:6,20 119:16
119:25 123:24 128:7
130:9,19 159:13,14 264:5
278:21 279:3 283:24
284:8,10 285:21 286:9
293:1 302:3 314:16
VALORI 5:4
value 19:1
variation 238:3,4

varied 260:17 264:19
various 44:22 72:23 240:16
285:24 299:2
vary 235:15 236:2 237:9,10
237:13
Vegas 18:6
verbal 92:14 157:8,9
257:13,15 269:13
verbally 110:14,15 120:7
verbatim 111:12,16,20,21
228:16
versus 10:2,4 54:7,15
117:4 197:21 200:15
210:23 222:16
vet 285:20
vetted 244:19 285:6,16
Vicky 245:22
Victoria 5:16 7:10 217:9
Victory 34:23
video 8:16,17,18,19 33:8
267:16,18 290:9,13,18,22
291:7,24 292:18,21 293:8
293:18,22,25 294:4,7,12
294:13,13,18,20 295:7,9
295:10,12,15,20,23 296:9
296:16 297:2 298:8,11,25
300:1
videoconference 1:22 2:14
videos 267:3,7,13 287:21
287:25 288:4 289:12,25
291:8
view 325:8
violate 226:20
violation 70:21
violations 69:15 71:7,11
178:20
Virginia 148:5,6 152:13,16
152:20,21
virtual 38:19 269:13
visit 150:16,23 151:8
152:21 174:7
visited 173:19,24
voice 267:15
vs 1:5 2:5

W

W 1:15 168:7
W-E-L-L-E-N 34:25
wait 58:16,19 95:16,16
waived 11:15 12:5 27:25
28:6,12,15,19 29:10,22
30:1,20,23 31:3 34:11
35:9,15,18,24 50:19 51:1
52:7 78:5 84:6,6 140:19
140:20 154:4 163:10,12
170:19 190:13 202:19,21
203:6,8 222:12,14,24
223:8 224:2,5 225:11
234:20 236:15,20 250:10
253:20,25 254:22 255:1
256:24 258:4,15 305:22

305:25
wake 186:10
walk 4:5 299:1
walked 299:10 316:7
Walnut 4:6
want 17:13 24:11 31:11
 34:12 35:22,23 38:17,21
 55:15 58:2,15,19 59:4
 79:23 87:7,7 89:8 114:11
 133:12 148:16 171:21
 210:16 220:19 223:18
 225:9,12 226:19,19 227:9
 229:10 231:21 232:4
 233:9 238:17 239:18
 246:9 257:1 265:12 268:1
 268:21 273:17 276:18
 289:4,12 290:3 304:15
 309:15 312:13 315:24
 318:18 322:10 324:19
 325:2 326:13
wanted 9:16 31:9 61:6
 101:18 137:1 278:21
 279:23 297:21
wanting 197:4 279:3
wants 38:24 268:17 289:11
 325:13 326:2,16
wasn't 65:4,5 80:24 109:8
 147:19 190:10 194:2
 252:15,15,16 275:24
 312:6 313:20
watch 289:13
watching 290:25 293:22
way 20:22 54:12 65:8,9
 107:8 111:10 122:24
 124:12 128:2 130:7
 152:14 153:3,25 154:1
 190:5 199:14 211:25
 215:7 225:4 234:25
 237:15 251:25 254:14
 266:24 269:12 276:16
 277:8 280:10 290:1
 311:12 326:18
we'll 17:22,24 25:3,9 33:18
 55:8,11,24 58:22,24
 69:20 96:3 116:22 146:22
 186:13 223:17 226:11
 229:2,4 246:14,24 256:11
 276:20 289:9 293:5,16
 308:8 321:21 323:25
 324:1 326:4 327:6
we're 12:10 17:12 38:18
 55:2,22 59:2,7,8,8 64:11
 105:7 108:14 109:7,10,10
 109:10 117:3,4,16 143:8
 168:4 177:10 190:5,7
 202:3 211:6 221:7 229:17
 246:10 267:4 275:19
 277:6 281:15 287:15
 288:8 289:1 290:7 304:16
 320:9 321:15
we've 140:19 212:22

217:23
web 17:19
website 6:7 8:15 15:23
 17:9 37:20 41:20 280:21
 283:1,7,25 285:14
websites 284:9
Wednesday 207:2,4 208:13
 251:5
week 65:17 244:22
weekend 324:19 327:11
weeks 69:4 180:11
Wellen 34:25,25 250:6,9,12
 250:15 251:13
WELSH 4:4
went 37:14 76:6 101:23
 119:15 135:6 147:23
 152:13,15 153:3 154:2
 173:15 182:16 257:17
 310:18
weren't 115:19 239:24
 252:2
West 152:13,16,20,21
western 148:5,6
Westhead 8:3 52:24 53:15
 301:15 303:3 305:20
Westlaw 177:18
whatsoever 177:4 262:21
 262:21
White 10:2,5 14:18,19
wholly 241:25
Williams 10:2,5 14:19,19
willing 214:16
Wilson 5:16
wire 128:21
withdraw 32:2 167:15
witness 9:7 12:16 16:4
 22:10 30:24 33:16,20
 58:10,15,18,25 59:15
 122:1,5 255:23 256:7
 257:19 282:14 289:18
 290:19 312:19 330:1
woman 52:23
wonder 13:3 16:10 53:22
 54:25 59:20 83:19 84:15
 98:18 164:13,16 167:16
 170:24 175:14 180:13
 192:3 209:2 225:2 288:2
 288:3
wondered 60:11
Wonderful 35:23 258:8
wondering 311:7
word 36:19 61:5 90:2 96:11
 117:13 145:22 148:20
 204:10,12 235:13 249:1
 281:17
words 102:4 111:9,18,21
 112:17 201:21 228:16
 265:2
work 12:1 14:22 15:5,8,15
 20:4,9,12,19,24 21:4,8
 27:5 29:14,21 31:20 32:5

32:6,18,19 34:24 40:2,4
 41:3,5,14 42:8,14 46:8,9
 46:12 48:20,25 78:6,9,12
 78:13,16,16,20 79:15
 80:17 81:16 82:10 86:21
 87:2,3,19,21 88:1,22 89:2
 89:7,14 90:20,22 91:1,7
 93:3 95:20 99:10 102:18
 103:8 108:6,17 137:9,9
 241:19 245:9 252:12
 306:4
worked 14:23 15:11,13
 20:16 43:13,15,17
working 14:2,3 43:8,19
 214:25 248:3 250:20
 251:20,22,25 252:15,16
 259:23 274:24 309:24
Works 59:14
world 231:19
worry 243:22
wouldn't 145:22 249:1
write 110:13 156:25 157:6
 201:16 206:14
writes 104:24 181:25 198:5
 198:25 207:4 308:6,6
writing 106:18 157:7
 168:13 198:21 200:11
 205:3 206:18 207:18
 257:14 269:13 308:4,12
written 94:19 191:16,18,20
wrong 55:24 130:4 131:15
 131:15 216:19,24
wrote 117:18 200:6,8 201:2
 251:6 309:3,19,23 315:10

X

X 6:1,5

Y

Y-A-H-U-N 34:17
Yahun 11:10 34:16
yeah 16:6 17:9 40:25 45:2
 59:15 66:5 78:3 80:19
 85:15 86:23 97:8 121:19
 122:3 128:16 145:13,22
 161:15 166:10 171:24
 176:18 199:8 208:8
 218:17 220:21 228:19
 230:24 248:18 249:15
 264:12 267:2 269:14
 275:21 277:5,13 282:18
 298:9 300:19 301:19
 307:20 311:4
year 14:1,4 37:3 43:25 44:1
 44:9,14,16 49:23 52:18
 52:19 68:24 127:12
 143:24 152:17 155:1
 158:23 160:22 189:20,23
 193:14,16 220:2 278:22
 280:2

years 13:23,25 44:2,10
 45:9,12,14 101:16 185:23
 291:16,17 294:3 320:25
 321:1 322:5
yellow 168:6
yesterday 182:3
York 5:11,11 15:3 101:23
 110:5,7 112:6 113:18
 114:7 119:13,23 120:21
 120:24 121:10 255:7,9
 257:6
Yup 308:25

Z

zip 276:8
Zwiebel 7:23 270:23
 271:16

0

00892 261:10
02/13/20 8:7
02/25/20 8:11
03/12/21 6:8
03/19/18 7:14
03/23/20 8:2
03/30/18 7:14
04/13/16 6:16,18,21
04/14/17 7:20
04/19/16 6:16
04/23/16 6:18
04/28/16 6:21
05/02/19 8:5
05/07/19 8:5
05/16/16 7:1
05/16/18 7:18
05/17/16 7:3,5
05/17/18 7:22
05/18/16 7:5
07/10/18 7:17
07/17/18 6:11
07/21/20 6:10,14 7:10

1

1 6:7 8:8 13:4,6 15:21 16:23
 84:20 95:15 101:2 159:12
 193:9 206:1 218:5 219:11
 301:13,13 306:22 307:4,5
 307:7,7,13 329:9
1/2 193:14,18
1/27/24 328:18
10 7:1 192:4,6,8 281:16
10/02/19 8:13
10:00 244:23
10:15 2:15 9:1
10:38 25:10
10:50 25:6,11
100 100:19
1000 5:5
10017 5:11
1020 5:5

10K 244:19
 11 7:3 13:23 195:14,15,17
 11/5/17 7:11
 11:50 59:19
 1100 4:12
 12 7:5 58:23 204:20,21,23
 209:3 318:17 319:7
 12/7/16 7:8
 12:20 59:13,17
 12:28 59:19
 13 6:7 7:8 209:4,6,8 306:21
 13th 328:13 329:19
 14 7:10 98:8 217:2,4,7,9
 218:12 230:1 268:12
 15 7:13 235:5 239:4,7 240:1
 16 7:14 244:13,14,16 251:6
 251:16 323:19
 167 6:16
 17 7:17 83:25 98:22,25
 193:14 195:21 205:20
 206:4 208:13 245:19
 246:4,7,11,15 248:14
 271:2 321:1 322:5
 17-year 321:18
 18 7:18 204:23 206:19
 207:2,4,11,22 208:13
 214:9 248:15 249:24,25
 251:3 281:16
 180 6:18
 1800 3:4
 1818 3:16
 183 6:21
 19 7:20 167:24 168:8 268:7
 268:9,11
 19103 3:17,23
 19106 4:6
 192 7:1
 195 7:3
 1983 44:2
 1987 44:2,10
 1990 13:24 14:9,24 44:11
 1991 14:6
 1992 14:25

2

2 1:11,14 3:10 4:18 6:8
 51:25 53:23 54:1,4,6 55:5
 60:12 159:12 193:2
 205:21 218:8 219:12
 258:11 272:12 273:22
 2:00 122:1 168:16
 20 7:22 169:4 199:22 229:9
 265:3 270:16,17,22
 271:12 330:19
 20- 222:5
 20-cv-81205-RAR 1:5 2:5
 2000 220:4
 2004 49:23 50:4
 2010 14:4
 2013 101:19
 2015 46:5,21

2016 37:4 46:12 47:25
 165:6,20 166:17 167:24
 168:8 169:4,21 171:5
 172:21 173:14,17,19
 174:18 175:20 180:19
 182:7 183:8 186:3,17
 187:25 194:19,25 199:22
 204:23 206:19 207:4,11
 207:22 208:14 209:10,22
 210:6 211:7,10,24 259:18
 260:4,19 261:6 322:6
 2017 1:19 2:9 61:23 143:25
 144:8 160:10,10,23 161:7
 161:16,25 162:3,6 190:6
 195:21 214:9 217:15
 220:3,5 222:5 226:25
 230:1 268:12
 2018 8:17 60:17 61:17
 64:21 68:19 69:1,22
 73:19 83:25 85:21 86:3,9
 86:16 88:17 90:11 93:13
 94:8 95:7 96:5,9 97:18
 127:13,18,18 128:6,6
 129:4,15,15 130:3,3,14
 131:6,7 145:6 155:2
 160:8 161:7,25 222:6
 226:25 227:7,10 244:17
 247:17,24 251:6,16 271:2
 298:14 311:5 320:2
 2019 37:4 53:10 71:4 72:2
 97:18 121:5 127:12,13
 155:4 272:14 273:15,22
 280:3 320:2
 2020 74:24 75:24 76:16
 77:8 97:18,24 98:8,22,25
 121:5 147:6,7 152:19
 153:5,16 179:10 186:7,15
 186:18 187:10 188:11
 189:18 254:4 267:10
 295:3,4,18 298:15 301:10
 306:21 308:3 318:17
 319:7 323:19
 2021 1:23 2:16 152:18
 328:12,13 329:19 330:9
 331:2
 204 7:5
 209 7:8
 21 7:24 131:6 193:16 272:2
 272:4,6
 210409DSA 1:25
 212-880-9417 5:12
 215-754-5179 3:17
 215-972-6430 4:7
 215-981-4691 3:23
 217 7:10
 22 8:1 127:17 128:6 129:15
 130:3 182:7 280:25 281:1
 281:16 282:5
 23 8:2 182:14 193:18 289:2
 299:16,17,24
 230 308:8

239 7:13
 24 291:16
 244 7:14
 246 7:17
 249 7:18
 25 18:4 74:24 263:2,3 308:3
 2530 4:18
 2550 3:10
 26 8:5 273:7,8
 26(b) 27:8
 26.1(f) 82:16
 268 7:20
 27 8:7 306:17,18,20
 270 7:22
 272 7:24
 273 8:5
 27th 268:16
 28 8:11 183:8 307:23,24
 308:2
 28-3 229:19
 281 8:1
 282 8:15
 29 8:13 302:7,8,10
 290 8:16 308:8 309:24
 293 8:17,18
 294 8:19
 299 8:2

3

3 6:10 51:19,22 59:21,24
 61:8,8,20,20 205:22
 230:23 231:6 300:18,18
 30 8:16 59:10 140:18
 244:17 263:2,3 282:21
 289:6 290:7,8 293:5
 300,000 101:24 102:7
 3000 3:22
 3010 4:23
 302 8:13
 305-371-3960 5:6
 305-400-4260 4:19
 305-614-1400 3:11
 305-982-5626 4:13
 305-982-6300 3:5
 306 4:6 8:7
 307 8:11
 30A 8:15 282:20,22
 31 8:17 13:25 293:6,7,13
 310 4:23
 32 8:18 293:16,17,22
 327 329:10
 33 8:19 294:18,19,23
 295:16 298:25
 33131 3:5,11 4:12,18
 33431 4:24
 3402 3:16
 36-page 109:8
 37 246:11
 3A 231:6

4

4 6:11 51:19,22 83:20,22
 86:10 120:2 159:12
 168:24 231:6
 4.9 303:12 304:11 305:7
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 4th 60:17

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 217:15 245:21
 54 6:8
 561-989-9080 4:24
 565 5:11
 59 6:10
 5th 7:16 244:23

6

6 6:14 51:20,23 98:11,14,22
 100:8,10,12 109:8 122:9
 122:17 125:22 159:12
 170:25 171:8 175:16
 181:5 247:24 283:2
 6:40 304:20
 6:55 315:25
 6:58 318:19
 633 130:1

7

7 6:16 167:17,20,22 168:6
 175:15 177:11 272:14
 273:15
 7:00 316:2 320:16
 7:07 2:16 9:1 327:13
 75 311:5
 7E 175:24
 7th 5:11

8

8 6:18 180:14,15,17 182:22
 182:22
 801 3:4
 81205-RAR 229:9
 83 6:11
 85,000 101:20

9

9 1:23 2:16 6:4,21 84:16
 170:25 183:2,5,7 184:10
 330:9 331:2
 944837 328:17
 95 6:13
 97 98:19,21 100:7,12,19
 98 4:12 6:14
 99 121:25 122:12,16
 9th 328:12

Message

From: Perry Abbonizio [perry@parfunding.com]
Sent: 6/22/2018 7:51:42 PM
To: David Alperstein [dalperstein@alpersteinlegal.com]
Subject: Re: MCA National Fund, LLC Rate Increased to 10.5% for Clients! [Memo #18062202]
Attachments: HGI_Logo_Blue copy.png

They should insert that we provide businesses with opportunistic capital designed to help them achieve growth goals

On Fri, Jun 22, 2018, 2:18 PM David R. Alperstein, Esquire <dalperstein@alpersteinlegal.com> wrote:
Maybe take a look at the below before I reply. If u have a minute.

David R. Alperstein, Esquire
215 710-0690

----- Forwarded message -----

From: "Len Perroots" <len@hgicrusade.com>
Date: Fri, Jun 22, 2018 at 1:41 PM -0400
Subject: Fwd: MCA National Fund, LLC Rate Increased to 10.5% for Clients! [Memo #18062202]
To: <dalperstein@alpersteinlegal.com>
Cc: "John Muratore" <jmuratore6@gmail.com>

Hi David -

Please review this email and let me know if the "wording" is correct and if we are OK to send to our field force.

If there are corrections or disclosures that should be included, please provide.

Thanks,



Len Perroots
Director of Sales & Marketing
Acting Chief Compliance Officer

Office: 404.685.0208 Ext. 107
Cell: 678.325.1382

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Begin forwarded message:

From: Hegemon Group International <marketing@hgicrusade.com>

Subject: MCA National Fund, LLC Rate Increased to 10.5% for Clients! [Memo #18062202]

Date: June 22, 2018 at 10:25:38 AM PDT

To: len@hgicrusade.com

Reply-To: marketing@hgicrusade.com



HEGEMON GROUP INTERNATIONAL

Merchant Cash Advance

MCA National Fund, LLC PRODUCT UPDATE

Merchant Cash Advance National Fund, LLC is now paying 10.5% for 12 Months to your clients!

This program allows **Accredited Investors** to purchase an **10.5%PPM** Promissory Note for a 12-month period of time in the MCA National Fund, LLC. Income is paid to the client on a monthly basis.

Merchant Cash Advance programs provide businesses with working capital. MCA programs are a viable alternative to banks. They enable businesses to leverage cash flow when needed to uplift their business. MCA payback systems are based on a percentage of business receipts.

Accredited Investors lend their money to the MCA National Fund, LLC, which in turn is provided to these businesses through a company known as Par Funding.

About Par Funding

Par Funding was founded in 2012 and is a direct provider of merchant cash advances to businesses. They provide cash management solutions to help companies grow. In fact, they have provided over \$400 million in business funding since inception. Par Funding serves a niche market currently overlooked by conventional financing.



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Message

From: Perry Abbonizio [perry@parfunding.com]
Sent: 6/19/2018 3:45:38 PM
To: Jacalyn Kerbeck [drjacalyn@me.com]
CC: David Alperstein [david@mcacapfund.com]
Subject: Re: Lunch meeting w/Osagie

The 26th is good for me

On Tue, Jun 19, 2018, 11:41 AM Jacalyn Kerbeck <drjacalyn@me.com> wrote:

Hi. Do any of these times work for you to join me to close Osagie on the PPM? His existing note matures in August.

Regards,
Jacalyn

Jacalyn Kerbeck MBA, DBA
drjacalyn@me.com
215.852.9406

-National Education Advisory Task Force for Crohn's & Colitis Foundation; Psychosocial Subcommittee

-Volunteer I Fundraiser at Crohn's & Colitis Foundation

-Ambassador at The Union League of Philadelphia

Life is not a dress rehearsal. Live your dream now!

Our Mission: To cure Crohn's disease and ulcerative colitis, and to improve the quality of life of children and adults affected by these diseases.



Begin forwarded message:

From: Tonya Jones <Tonya@phoenixipv.com>
Date: June 19, 2018 at 10:17:17 AM EDT
To: Jacalyn Kerbeck <drjacalyn@me.com>
Subject: Lunch meeting w/Osagie

Hi Jacalyn,

I've listed a few dates/times below to have a lunch meeting with Osagie. Please let me know if any of them will work within your calendar.

June 26th (12-1)

July 5th , 6th (12-1)

Regards,

Tonya Jones | Executive Assistant/Office Manager |

PIPV Capital |

2005 Market Street, Suite 2030 | Philadelphia, PA, 19103 |

T: +1-267-765-3235 | F: +1-267-765-3221 | tonya@phoenixipv.com

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Message

From: Perry Abbonizio [perry@parfunding.com]
Sent: 12/13/2017 3:24:02 PM
To: Joe Mack [Joe@parfunding.com]
Subject: Fwd: Protected agent list/Recap

Tks Brother!!

----- Forwarded message -----

From: "john muratore" <jmuratore6@gmail.com>
Date: Dec 12, 2017 2:29 PM
Subject: Protected agent list/Recap
To: <perry@parfunding.com>
Cc:

Hi Perry, really enjoyed our time together and look forward to more of the same. Just wanted to recap our conversation and some the main points we covered;

1. 100k minimum at 10% note rate
2. Agents to be directly by Par with override to myself and Greg paid directly at 1.50% each. this could be paid monthly to start.
3. We will keep agent base relatively small for now until "trial" period over[90-120days]
4. Agents can flow business directly through you when necessary or handle directly.
5. Pipeline transparency- report to myself and Greg of pending business.

Here are agents we are rolling it out to initially:

Mark Nichols
Cameron Bryant
Craig Ponder
Matthew Ponder
Craig Ponder JR.
Greg Talbot
Gilbert cordova
Eric Shilka
Kevin Richards
John Marques
Brett Barber
Daniel Dougherty
Vince Pelligrini

Thank you.

To Your Success,

John Muratore
HGI RMD
Muratore Financial Services, Inc.
Principal
[714.402.0171](tel:714.402.0171)
Ca.License #0H57488
www.champion-investments.com

"My goal is to help you reach your goal"

The highest compliment I can receive is the referral of my name and number, or the introduction to your friends, family and business associates. Please be assured that anyone you refer to me will be treated with the same high standards, respect and confidentiality.

Thank you for your trust and on-going confidence

To: michael furman[mfurman@unitedfidelisgroup.com]
From: Joe Mackie via Strikingly
Sent: 2018-04-05T22:52:25-04:00
Importance: Normal
Subject: Joe Mackie commented on your site!
Received: 2018-04-05T22:53:11-04:00

Joe Mackie commented on your site (<https://www.highreturnlowrisk.com/>):

Was great meeting you again at dinner with Perry I look forward to working with you and definitely want to sit down with you about the financial planning annuities you brought up! Thanks again! Joe

Name: Joe Mackie

Phone: 610-298-8710

Email: Joe@parfunding.com

Reply to this email directly to respond to Joe Mackie (Joe@parfunding.com).

VIEW ALL RESPONSES

support@strikingly.com

To: Darren Hayes[dhayes@ppmlawyers.com]
From: michael furman
Sent: 2018-03-19T18:16:05-04:00
Importance: Normal
Subject: Re: PPM
Received: 2018-03-19T18:16:05-04:00

Yeah I'm sure we went over more than most just didn't see it coming so wanted to let you know. Perry is the gentleman that will paying 5k of my bill and is the face & one of the owners of the company all of my PPM will be investing into etc. All other advisors I'll be sending your way will all be doing the same as we have 3 seperate funds we can do with this other partner of mine but I'm only doing the one that invests into MCA with Perry's company who said he knew Eric. I have to call Perry now so we will get this wrapped up for you sometime today or tomorrow latest!

Michael

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From: Darren Hayes <dhayes@ppmlawyers.com>
Sent: Monday, March 19, 2018 5:14:02 PM
To: michael furman
Subject: Re: PPM

Sorry, Mike, I make it my practice to go over the 3% fee every time someone indicates they may use CC. I guess with having so many conversations I assumed we had discussed it or maybe we never discussed payment type. my bad. Perry is who?

Darren

Sincerely,

Darren Hayes
Director of Client Relations

Email: dhayes@ppmlawyers.com
Phone: 1-310-857-0812
Website: www.ppmlawyers.com

On Mon, Mar 19, 2018 at 2:06 PM, michael furman <mfurman@unitedfidelisgroup.com> wrote:

Darren,

Thanks for your help just wanted to let you know that it does allow you to split the payments up for anyone else that ever asks. Also not a big deal but I'd bring up ahead of time to pass on to any future clients that there is a 3% charge or for mine shows a \$255 charge to use a credit/debit card. Was surprised to see that so I just wanted to bring it up for you for future clients as it wasn't expected. I'll let you know once Perry gets his portion in and I finish my side up to get going!

Michael C Furman

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From: Darren Hayes <dhayes@ppmlawyers.com>
Sent: Monday, March 19, 2018 4:38 PM
Subject: Re: PPM
To: michael furman <mfurman@unitedfidelisgroup.com>

Mike, I think I got most of that email? NO, it does not include the setting up of your Delaware LLC. It includes an LLC operating agreement and we can have one set up for you if you request one but it is not included in the \$8500. I have listed below what is included in the gold package.

If you want to have any other services quoted you will tell Erik in your kickoff meeting.

To reiterate, once we have received your engagement the and payment has been received we set your KO call. At this time you can go over all your needs.

Gold Service – \$8,500

This service provides all the documentation you need to conduct your fundraising in full compliance with federal and state securities laws. We provide a custom drafted private placement memorandum (PPM) with custom industry-specific and company-specific risk factors, subscription agreement, investor questionnaire, and accredited investor verification letter.

Includes the following:

- Full custom drafted PPM
- Preparation of state notice (blue sky) filings for up to 10 states
- Preparation and filing of federal Form D
- Custom LLC Operating Agreement
- Introductions to our network of funding sources
- Ongoing support throughout the offering

Sincerely,

Darren Hayes
Director of Client Relations

Email: dhayes@ppmlawyers.com

Phone: [1-310-857-0812](tel:1-310-857-0812)

Website: www.ppmlawyers.com

On Mon, Mar 19, 2018 at 12:57 PM, michael furman <mfurman@unitedfidelisgroup.com> wrote:

We are working on it now I'm on the road yes he will do his first payment if he hasn't already and I'll let you know. I also wanted to make sure as we spoke that this includes the Delaware LLC I need started to own and run the PPM like they want and the can add my partner as I forget the term but VP not an owner but so that the funds pay that company and PPM which he can share in the funds like we spoke about. Can't wait to get this going and I know I'm safe advertising with you guys having my defense I'd or when needed as I do it by the book only approved by your firm but just know what the other firm they wanted us to use had pretty much same scope not detailed either so I guess that will all be in the first call with Erik? I'll email or call after both payments are in and schedule with Erik as soon as possible as id like to be up and running ASAP!

Thanks again and look forward to doing a lot of business!

Michael Furman

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From: Darren Hayes <dhayes@ppmlawyers.com>

Sent: Monday, March 19, 2018 11:47:50 AM

To: michael furman

Subject: Re: PPM

Hi Mike, I think you may be able to share the invoice and each pay your respective amounts. In the even it does not work I will resend two separate invoices for \$5000 and \$3500. Please let me know when you have tried.

Thanks,

Darren

Sincerely,

Darren Hayes
Director of Client Relations

Email: dhayes@ppmlawyers.com

Phone: [1-310-857-0812](tel:1-310-857-0812)

Website: www.ppmlawyers.com

On Mon, Mar 19, 2018 at 7:36 AM, Darren Hayes <dhayes@ppmlawyers.com> wrote:

Mike, good morning I have a few moments until my next call if you have time now.
Darren

[310-857-0812](tel:310-857-0812)

Sincerely,

Darren Hayes
Director of Client Relations

Email: dhayes@ppmlawyers.com

Phone: [1-310-857-0812](tel:1-310-857-0812)

Website: www.ppmlawyers.com

On Fri, Mar 16, 2018 at 8:53 AM, Darren Hayes <dhayes@ppmlawyers.com> wrote:

Hey Mike, TGIF, how are things coming along? Any chance you can sign your engagement today? The firm jumps on me when an engagement is out for a while.

Give me a call if you need to.

Sincerely,

Darren Hayes
Director of Client Relations

Email: dhayes@ppmlawyers.com

Phone: [1-310-857-0812](tel:1-310-857-0812)

Website: www.ppmlawyers.com

To: Darren Hayes[dhayes@ppmlawyers.com]
From: michael furman
Sent: 2018-03-18T19:34:08-04:00
Importance: Normal
Subject: Re: PPM
Received: 2018-03-18T19:34:09-04:00

Darren,

I finally got through and will be moving forward I do need to ask a few quick questions and I wanted to see if you can call me tomorrow and whether I'll be dealing directly with Erik as the person I'll be working with knows him and his firm so I want to make sure he can do the extra couple easy things we already went over but of course the other firm is saying they will come through in one way I just want to make sure that's part of what I'll get through your firm of course I don't believe it'll be a problem but have to ask before signing. Also can you email me the information for my credit card as my partner wants to pay 5k and I'll pay the rest since he wants my fund going ASAP!

Thanks again & talk Monday,

Michael C Furman

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From: Darren Hayes <dhayes@ppmlawyers.com>
Sent: Friday, March 16, 2018 11:53:43 AM
To: michael furman
Subject: PPM

Hey Mike, TGIF, how are things coming along? Any chance you can sign your engagement today? The firm jumps on me when an engagement is out for a while. Give me a call if you need to.

Sincerely,

Darren Hayes
Director of Client Relations

Email: dhayes@ppmlawyers.com
Phone: 1-310-857-0812
Website: www.ppmlawyers.com

To: michael furman[mfurman@unitedfidelisgroup.com]
From: Perry Abbonizio
Sent: 2018-01-24T19:51:30-05:00
Importance: Normal
Subject: Re: Urgent Help for Client for New Note coming
Received: 2018-01-24T19:51:37-05:00

Spoke to Russel and all is good.Thanks for your patience Michael.

On Jan 24, 2018 1:38 PM, "michael furman" <mfurman@unitedfidelisgroup.com> wrote:

Perry,

I know we played phone tag and that you said you were traveling but my client is still wanting to know when exactly his over \$200k will be invested into the now fund that we are waiting on with Dean. If you can please give him a call as well as myself to update me as I still did not hear back from you when you were walking into Dean's office that day to confirm it was going to be about 10 days which was awhile ago now so I am just trying to look out for my client. He just emailed me last night asking again and I was able to calm him down that day after speaking with you but if it takes more than the 2 weeks I told him from that date I can't blame him or anyone for being upset. He also was quite concerned with why you would be lowering the rate, which I did tell him you would make that up to him and keep it at the 12.5% rate to him but his concern was that you couldn't afford to keep paying so I simply told him that was going to the fees to manage the fund. Here is this clients information if you can email & call him to assure him this is being invested asap AND please call me back with the update so I know as well!

Russell J Meyer phone number – [772-485-9353](tel:772-485-9353) and they live in Stuart Florida as we discussed. His email is : kahunaf1@bellsouth.net

Thank you,

--

Michael C. Furman, MDRT®



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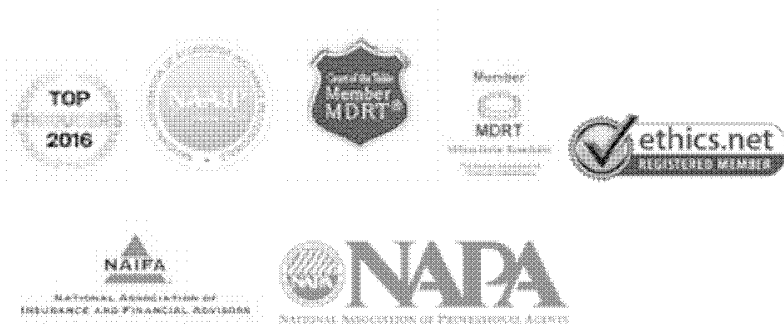
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To: Erik P. Weingold[erik@ppmlawyers.com]
From: michael furman
Sent: 2018-04-18T13:45:50-04:00
Importance: Normal
Subject: Re: Draft PPM Attached
Received: 2018-04-18T13:45:51-04:00

Erik

Left a message please call Perry and myself for a few questions right now at 561-202-7345

Thank you,

Michael Furman

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From: Erik P. Weingold <erik@ppmlawyers.com>
Sent: Wednesday, April 18, 2018 1:09:39 PM
To: michael furman
Cc: Darren Hayes
Subject: Re: Draft PPM Attached

Sounds good. Note that I am going out of town tomorrow and will be unavailable until Monday.



Erik P. Weingold, Esq.
70 Battery Place, Suite 707
New York, NY 10280
646.389.4776
erik@ppmlawyers.com
www.ppmlawyers.com

We Help Entrepreneurs Raise Money The Right Way So They Don't Get In Trouble With The SEC.

Mr. Weingold is an attorney admitted to practice law in the States of New York and New Jersey.

On Apr 18, 2018, at 12:54 PM, michael furman
<mfurman@unitedfidelisgroup.com> wrote:

Erik & Darren,

I'm up in Philadelphia gathering the final details that need to be added & the very small changes that we need for this PPM to get it going ASAP! I sent over the

corporate documents and EIN, I'll have the Wells Fargo account set up by Friday.

The changes are very minor so should not take long to get this finished

Perry wants to see if you have the time to speak about 1:45pm today?

Let us know and speak to you then!

Thanks

Michael Furman

Get [Outlook for iOS](#)

From: Erik P. Weingold <erik@ppmlawyers.com>

Sent: Monday, April 9, 2018 10:29:28 AM

To: michael furman

Cc: Darren Hayes

Subject: Draft PPM Attached

Dear Michael,

I am pleased to present you with your completed PPM draft. Since we do not yet have a company formed, I have inserted the placeholder company name of NewCo MCA Fund LLC.

Review Document Carefully

Kindly review this entire document very carefully and be sure that it contains no misrepresentations or inaccuracies, nor omits any material facts about the business. In addition, please note that we may have highlighted certain sections of the document in yellow as well as placed blank lines or asterisks as placeholders in certain sections. Kindly pay special attention to each of these highlighted sections because they require either your particular input or your affirmative sign off as to accuracy. Also, review all risk factors very carefully, and let us know if you think any do not apply to your business, or if we are missing any that you are aware of. Ultimately, it is completely up to you to ensure that this is an accurate document that offers full disclosure, and no misrepresentations or misleading statements.

In addition, absent unique or extenuating circumstances, we believe that 2-3 revisions is usually enough to get a PPM finalized. We think two months should be plenty of time for all 2-3 revisions to go back and forth. And we commit to turn revisions around based on your comments within about a week in most cases. In other words, if we give you a draft to review and you sit on it for a month and then we give you the revision and you sit on it for another month, and we give you a third revision, we think it's fair and reasonable for us to expect you to get your final round of comments back to

us before a total of two months has elapsed. If you believe you are experiencing unique circumstances, or unanticipated extenuating circumstances arise, it is your responsibility to advise us. That means call and speak with us to explain what's going on, or write us an email. Maybe we can help. But please don't hide out or disappear on us. In any event, unless we specifically agree to extend the time or number of revisions, your flat fee engagement is good for 2-3 revisions, which must all be made within two months of the circulation of the first draft. Any proposed revisions or amendments received after this two month period will be subject to billing at our hourly rate.

Subject to the foregoing, once we receive your final comments on the PPM, if any, we will finalize and provide you with a clean Word and PDF version, along with the subscription agreement and investor questionnaire/verification letter (and operating agreement, if applicable to your engagement). Please only use the final PDF version for distribution to potential investors.

Accredited Investors Only

Please note that this is a PPM prepared in connection with a proposed private offering of securities to be offered and sold only to accredited investors under one or more applicable exemptions to the federal securities law. In the event that this offering is made to any non-accredited investors, this PPM may not include all necessary disclosures, including, but not limited to, an audited financial statement, and may accordingly fail to fulfill the necessary requirements of any applicable exemptions to the securities laws.

Federal Form D

Under Regulation D, you must file a federal Form D with the Securities and Exchange Commission ("SEC") within 15 days after the first sale of securities. If you fail to timely file such Form D, the SEC may take action against you and/or you could lose your rights in the future to offer securities under the Regulation D exemptions. Accordingly, if we are handling this filing requirement for you, it is imperative that you advise us immediately of any investor engagements.

Blue Sky Notice Filings

Please note that in the event that any securities are sold under this PPM, depending on the state into which such securities are sold, state securities blue sky laws will be invoked. In most cases, this means that a state blue sky notice filing will be required to be made within 15 days after such sale of securities into such state. Note that New York is a pre-filing state, meaning that you must file the NY notice filing prior to making any offers to investors residing in the state of New York. If you fail to make such state blue sky filings, the securities commissions of any such states may take enforcement action against you, including, but not limited to, require rescission of your offering, assess a fine, and/or require a full registration of securities. Accordingly, if we are handling these filings for you, it is imperative that you advise us immediately of any investor engagements.

Ultimately, it is our goal to not only meet but exceed your expectations. Please do

not hesitate to contact us if we can be of service. Thank you.

<WEINGOLD LAW FINAL - Small1.png>

Erik P. Weingold, Esq.
70 Battery Place, Suite 707
New York, NY 10280
646.389.4776
erik@ppmlawyers.com
www.ppmlawyers.com

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Cc: Darren Hayes[dhayes@ppmlawyers.com]
To: Erik P. Weingold[erik@ppmlawyers.com]
From: michael furman
Sent: 2018-04-18T12:54:38-04:00
Importance: Normal
Subject: Re: Draft PPM Attached
Received: 2018-04-18T12:54:39-04:00

Erik & Darren,

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Federal Form D

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Mr. Weingold is an attorney admitted to practice law in the States of New York and New Jersey.



WEINGOLD LAW PLLC
 6465220473
 312 11th Avenue
 New York, New York
 10001
 United States

Billed To	Date of Issue	Invoice Number	Amount Due (USD)
Michael Furman	03/19/2018	0000255	\$0.00
United Fidelis Group Inc. 1615 Forum Place #500 West Palm Beach, Florida 33401 United States	Due Date 03/19/2018		

Description	Rate	Qty	Line Total
Gold Service Package Complete Custom Preparation/Drafting of PPM, Form D, State Blue Sky Notice filings (10 states), LLC Operating Agreement.	\$8,500.00	1	\$8,500.00
Credit Card Surcharge 3% credit card surcharge.	\$255.00	1	\$255.00
	Subtotal		8,755.00
	Tax		0.00
	Total		8,755.00
	Amount Paid		8,755.00
	Amount Due (USD)		\$0.00

Terms

Thank you for your business!

Wire Instructions:

Chase Bank
 NY, NY 10280
 Routing No.: 021000021
 Checking Acct.: 938270191
 Name of Account: Weingold Law PLLC

--> If paying by check, please make payable to: WEINGOLD LAW PLLC. Note we will not begin work until check has been received.

ALL FEES ARE EARNED UPON RECEIPT AND DEPOSITED INTO OUR OPERATING ACCOUNT (NOT AN ATTORNEY TRUST ACCOUNT).

WEINGOLD LAW PLLC

To: Perry@parfunding.com[Perry@parfunding.com]
From: michael furman
Sent: 2018-03-19T13:46:10-04:00
Importance: Normal
Subject: FW: New invoice 0000255 from WEINGOLD LAW PLLC, sent using FreshBooks
Received: 2018-03-19T13:46:00-04:00

Here is the invoice they sent to me as we discussed. I could not thank you more for all of your help on top of the offer to help with part of this to get going so thank you! I will call you when I'm on the road in a little bit to my last client I just signed all of the paperwork to get the ppm going and Erik Weingold will protect me when the SEC comes in which I'll go over with him during my call with him we are scheduling now as they know I want this pushed through. They also will help advertise it to their investors online even where they raise funds and I looked into that and looks like a promising chance on top of clients and local advertising of course! I also have been speaking with the gentleman from North Carolina who wants to move forward with the MCA Fund and has a great client base there nice guy from what I've seen just met him up in Philly but he has kept in touch.

--



Michael C. Furman, MDRT®

Financial & Estate Planning

Income Planning Specialist

THE UNITED FIDELIS GROUP

561-623-0913 Home Office

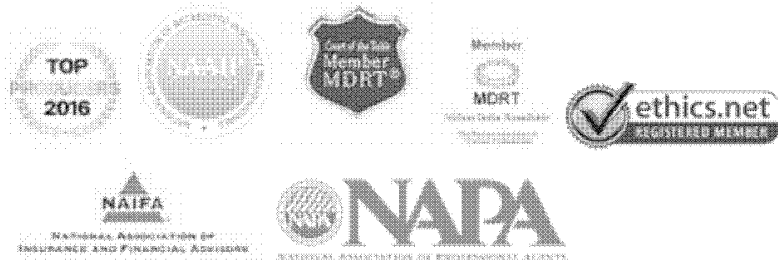
1-800-727-8139 Toll Free

561-202-7345 Direct Cell

1-888-229-2756 Fax

MFurman@UnitedFidelisGroup.com

Specialized Tax Planning Services Provided By The Palm Beach Tax Group



This email and its content, and any files transmitted with it, are intended solely for the addressee(s) and may be legally privileged and/or confidential. Access by any other party is unauthorized without the express written permission of the sender. If you have received this email in error you may not copy or use the contents, attachments or information in anyway. Please destroy it and contact the sender via email return. This email has been prepared using information believed by the author to be reliable and accurate, but I make no warranty as to accuracy or completeness. In particular Michael Furman does not accept responsibility for changes made to this email after it was sent.

This e-mail & any attachments may contain confidential & privileged information for the use of the designated recipients named above. If you are not the intended recipient, you are hereby notified that you have received this communication in error & that any review, disclosure, dissemination, distribution or copying of it or its contents is prohibited. If you have received this communication in error, please notify me immediately by replying to this message & deleting it from your computer. Thank you.

From: WEINGOLD LAW PLLC <maildelivery@freshbooks.com>
Sent: Monday, March 19, 2018 9:51 AM
To: michael furman <mfurman@unitedfidelisgroup.com>
Subject: New invoice 0000255 from WEINGOLD LAW PLLC, sent using FreshBooks

WEINGOLD LAW PLLC

To view your invoice from WEINGOLD LAW PLLC for 8,755.00, or to download a PDF copy for your records, click the link below:

<https://ppmlawyers.freshbooks.com/view/DxdywcKm35pn4Fz>

Best regards,
PPM LAWYERS (erik@ppmlawyers.com)

Sent using FreshBooks,
#1 Cloud Accounting Solution Designed for Small Business Owners.
[Try it for free.](#)





UNITED STATES OF AMERICA
SECURITIES AND EXCHANGE COMMISSION

ATTESTATION

IT IS HEREBY ATTESTED THAT:

The attached Form D/A was received in this Commission on 4/28/2020, under the name of Complete Business Solutions Group, Inc., File No. 021-332652, pursuant to the relevant Act(s) of the Commission.


This certified document was produced from the files of this Commission on

6/24/2020

Date

It is hereby certified that the Secretary of the U.S. Securities and Exchange Commission, Washington, DC, which Commission was created by the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is official custodian of the records and files of said Commission and was such official custodian at the time of executing the above attestation.

For the Commission



Secretary

The Securities and Exchange Commission has not necessarily reviewed the information in this filing and has not determined if it is accurate and complete.

The reader should not assume that the information is accurate and complete.

UNITED STATES SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM D

OMB APPROVAL

OMB Number: 3235-0076
 Estimated average burden hours per response: 4.00

Notice of Exempt Offering of Securities

1. Issuer's Identity

CIK (Filer ID Number) [0001739848](#)
 Name of Issuer [Complete Business Solutions Group, Inc.](#)
 Jurisdiction of Incorporation/Organization [DELAWARE](#)
 Year of Incorporation/Organization
 Over Five Years Ago
 Within Last Five Years (Specify Year)
 Yet to Be Formed

Previous Names None

Entity Type
 Corporation
 Limited Partnership
 Limited Liability Company
 General Partnership
 Business Trust
 Other (Specify)

2. Principal Place of Business and Contact Information

Name of Issuer [Complete Business Solutions Group, Inc.](#)
 Street Address 1 [2000 PGA Blvd.](#)
 City [Palm Beach Gardens](#)
 State/Province/Country [FLORIDA](#)
 Street Address 2 [Suite 4440](#)
 ZIP/PostalCode [33408](#)
 Phone Number of Issuer [2156134126](#)

3. Related Persons

Last Name [McElhone](#) First Name [Lisa](#) Middle Name [Marie](#)
 Street Address 1 [107 Quayside Drive](#) Street Address 2
 City [Jupiter](#) State/Province/Country [FLORIDA](#) ZIP/PostalCode [33477](#)
 Relationship: Executive Officer Director Promoter

Clarification of Response (if Necessary):

Last Name [Barleta](#) First Name [Joseph](#) Middle Name [L Cole](#)
 Street Address 1 [205 Arch Street](#) Street Address 2 [Floor 2](#)
 City [Philadelphia](#) State/Province/Country [PENNSYLVANIA](#) ZIP/PostalCode [19106](#)
 Relationship: Executive Officer Director Promoter

Clarification of Response (if Necessary):

Last Name [McElhone](#) First Name [Jamie](#) Middle Name
 Street Address 1 [2646 Sartain Street](#) Street Address 2
 City [Philadelphia](#) State/Province/Country [PENNSYLVANIA](#) ZIP/PostalCode [19148](#)
 Relationship: Executive Officer Director Promoter

Clarification of Response (if Necessary):

4. Industry Group

- | | | |
|---|---|--|
| <input type="checkbox"/> Agriculture | Health Care | <input type="checkbox"/> Retailing |
| Banking & Financial Services | <input type="checkbox"/> Biotechnology | <input type="checkbox"/> Restaurants |
| <input type="checkbox"/> Commercial Banking | <input type="checkbox"/> Health Insurance | Technology |
| <input type="checkbox"/> Insurance | <input type="checkbox"/> Hospitals & Physicians | <input type="checkbox"/> Computers |
| <input type="checkbox"/> Investing | <input type="checkbox"/> Pharmaceuticals | <input type="checkbox"/> Telecommunications |
| <input type="checkbox"/> Investment Banking | <input type="checkbox"/> Other Health Care | <input type="checkbox"/> Other Technology |
| <input type="checkbox"/> Pooled Investment Fund | <input type="checkbox"/> Manufacturing | Travel |
| Is the issuer registered as an investment company under the Investment Company Act of 1940? | Real Estate | <input type="checkbox"/> Airlines & Airports |
| <input type="checkbox"/> Yes <input type="checkbox"/> No | <input type="checkbox"/> Commercial | <input type="checkbox"/> Lodging & Conventions |
| <input checked="" type="checkbox"/> Other Banking & Financial Services | <input type="checkbox"/> Construction | <input type="checkbox"/> Tourism & Travel Services |
| <input type="checkbox"/> Business Services | <input type="checkbox"/> REITS & Finance | <input type="checkbox"/> Other Travel |
| Energy | <input type="checkbox"/> Residential | <input type="checkbox"/> Other |
| <input type="checkbox"/> Coal Mining | <input type="checkbox"/> Other Real Estate | |
| <input type="checkbox"/> Electric Utilities | | |
| <input type="checkbox"/> Energy Conservation | | |
| <input type="checkbox"/> Environmental Services | | |
| <input type="checkbox"/> Oil & Gas | | |
| <input type="checkbox"/> Other Energy | | |

5. Issuer Size

- | Revenue Range | OR | Aggregate Net Asset Value Range |
|---|----|---|
| <input type="checkbox"/> No Revenues | | <input type="checkbox"/> No Aggregate Net Asset Value |
| <input type="checkbox"/> \$1 - \$1,000,000 | | <input type="checkbox"/> \$1 - \$5,000,000 |
| <input type="checkbox"/> \$1,000,001 - \$5,000,000 | | <input type="checkbox"/> \$5,000,001 - \$25,000,000 |
| <input type="checkbox"/> \$5,000,001 - \$25,000,000 | | <input type="checkbox"/> \$25,000,001 - \$50,000,000 |
| <input type="checkbox"/> \$25,000,001 - \$100,000,000 | | <input type="checkbox"/> \$50,000,001 - \$100,000,000 |
| <input type="checkbox"/> Over \$100,000,000 | | <input type="checkbox"/> Over \$100,000,000 |
| <input checked="" type="checkbox"/> Decline to Disclose | | <input type="checkbox"/> Decline to Disclose |
| <input type="checkbox"/> Not Applicable | | <input type="checkbox"/> Not Applicable |

6. Federal Exemption(s) and Exclusion(s) Claimed (select all that apply)

- | | | |
|--|--|---|
| <input type="checkbox"/> Rule 504(b)(1) (not (i), (ii) or (iii)) | <input type="checkbox"/> Investment Company Act Section 3(c) | |
| <input type="checkbox"/> Rule 504 (b)(1)(i) | <input type="checkbox"/> Section 3(c)(1) | <input type="checkbox"/> Section 3(c)(9) |
| <input type="checkbox"/> Rule 504 (b)(1)(ii) | <input type="checkbox"/> Section 3(c)(2) | <input type="checkbox"/> Section 3(c)(10) |
| <input type="checkbox"/> Rule 504 (b)(1)(iii) | <input type="checkbox"/> Section 3(c)(3) | <input type="checkbox"/> Section 3(c)(11) |
| <input checked="" type="checkbox"/> Rule 506(b) | <input type="checkbox"/> Section 3(c)(4) | <input type="checkbox"/> Section 3(c)(12) |
| <input type="checkbox"/> Rule 506(c) | <input type="checkbox"/> Section 3(c)(5) | <input type="checkbox"/> Section 3(c)(13) |
| <input type="checkbox"/> Securities Act Section 4(a)(5) | <input type="checkbox"/> Section 3(c)(6) | <input type="checkbox"/> Section 3(c)(14) |
| | <input type="checkbox"/> Section 3(c)(7) | |

7. Type of Filing

- New Notice Date of First Sale 2012-08-01 First Sale Yet to Occur
- Amendment

8. Duration of Offering

Does the Issuer intend this offering to last more than one year? Yes No

9. Type(s) of Securities Offered (select all that apply)

- Equity
- Debt
- Option, Warrant or Other Right to Acquire Another Security
- Security to be Acquired Upon Exercise of Option, Warrant or Other Right to Acquire Security
- Pooled Investment Fund Interests
- Tenant-in-Common Securities
- Mineral Property Securities
- Other (describe)

10. Business Combination Transaction

Is this offering being made in connection with a business combination transaction, such as a merger, acquisition or exchange offer? Yes No

Clarification of Response (if Necessary):

11. Minimum Investment

Minimum investment accepted from any outside investor \$0 USD

12. Sales Compensation

Recipient (Associated) Broker or Dealer <input checked="" type="checkbox"/> None	Recipient CRD Number <input checked="" type="checkbox"/> None
Street Address 1	Street Address 2
City	State/Province/Country
State(s) of Solicitation (select all that apply) Check "All States" or check individual States <input type="checkbox"/> All States	<input type="checkbox"/> Foreign/non-US
	ZIP/Postal Code

13. Offering and Sales Amounts

Total Offering Amount USD or Indefinite
 Total Amount Sold \$378,409,655 USD
 Total Remaining to be Sold USD or Indefinite

Clarification of Response (if Necessary):

14. Investors

Select if securities in the offering have been or may be sold to persons who do not qualify as accredited investors, and enter the number of such non-accredited investors who already have invested in the offering. _____
 Regardless of whether securities in the offering have been or may be sold to persons who do not qualify as accredited investors, enter the total number of investors who already have invested in the offering:

15. Sales Commissions & Finder's Fees Expenses

Provide separately the amounts of sales commissions and finders fees expenses, if any. If the amount of an expenditure is not known, provide an estimate and check the box next to the amount.

Sales Commissions \$0 USD Estimate
 Finders' Fees \$0 USD Estimate

Clarification of Response (if Necessary):

16. Use of Proceeds

Provide the amount of the gross proceeds of the offering that has been or is proposed to be used for payments to any of the persons required to be named as executive officers, directors or promoters in response to Item 3 above. If the amount is unknown, provide an estimate and check the box next to the amount.

\$0 USD Estimate

Clarification of Response (if Necessary):

Signature and Submission

Please verify the information you have entered and review the Terms of Submission below before signing and clicking SUBMIT below to file this notice.

Terms of Submission

In submitting this notice, each issuer named above is:

- Notifying the SEC and/or each State in which this notice is filed of the offering of securities described and undertaking to furnish them, upon written request, in the accordance with applicable law, the information furnished to offerees.*
- Irrevocably appointing each of the Secretary of the SEC and, the Securities Administrator or other legally designated officer of the State in which the issuer maintains its principal place of business and any State in which this notice is filed, as its agents for service of process, and agreeing that these persons may accept service on its behalf, of any notice, process or pleading, and further agreeing that such service may be made by registered or certified mail, in any Federal or state action, administrative proceeding, or arbitration brought against the issuer in any place subject to the jurisdiction of the United States, if the action, proceeding or arbitration (a) arises out of any activity in connection with the offering of securities that is the subject of this notice, and (b) is founded, directly or indirectly, upon the provisions of: (i) the Securities Act of 1933, the Securities Exchange Act of 1934, the Trust Indenture Act of 1939, the Investment Company Act of 1940, or the Investment Advisers Act of 1940, or any rule or regulation under any of these statutes, or (ii) the laws of the State in which the issuer maintains its principal place of business or any State in which this notice is filed.
- Certifying that, if the issuer is claiming a Regulation D exemption for the offering, the issuer is not disqualified from relying on Rule 504 or Rule 506 for one of the reasons stated in Rule 504(b)(3) or Rule 506(d).

Each Issuer identified above has read this notice, knows the contents to be true, and has duly caused this notice to be signed on its behalf by the undersigned duly authorized person.

For signature, type in the signer's name or other letters or characters adopted or authorized as the signer's signature.

Issuer	Signature	Name of Signer	Title	Date
Complete Business Solutions Group, Inc.	/s/ Joe Cole	Joe Cole	Chief Financial Officer	2020-04-24

Persons who respond to the collection of information contained in this form are not required to respond unless the form displays a currently valid OMB number.

* This undertaking does not affect any limits Section 102(a) of the National Securities Markets Improvement Act of 1996 ("NSMA") [Pub. L. No. 104-290, 110 Stat. 3416 (Oct. 11, 1996)] imposes on the ability of States to require information. As a result, if the securities that are the subject of this Form D are "covered securities" for purposes of NSMA, whether in all instances or due to the nature of the offering that is the subject of this Form D, States cannot routinely require offering materials under this undertaking or otherwise and can require offering materials only to the extent NSMA permits them to do so under NSMA's preservation of their anti-fraud authority.



A BETTER
FINANCIAL PLAN
Increased Returns - Decreased Risk

DRUMROLL *please...*



WE ARE PAYING OUT
\$1,500,000 *to our*

MULTI-STRATEGY INVESTORS

and we want you to join us!



Bring a Guest!

*Here's the opportunity for your friends to learn about these fantastic investments **first-hand!** Bring a friend or family member and when they invest, you will be rewarded with our **\$250 Referral Program.***



**A BETTER
FINANCIAL PLAN**
Increased Returns - Decreased Risk

234 Mall Blvd, Suite 270 • King of Prussia, PA 19406 • 484-425-7393
www.abetterfinancial.com

Our Agenda for the Night includes:

Multi-Strategy Life Settlement Fund

We are paying out \$1,500,000!

Our second Multi-Strategy Fund is still open for funding!

New!

Real Estate Fund

10% Compounded Return
2-Year Return of Principal

New!

Litigation Fund

10% Compounded Return
2-Year Return of Principal

Merchant Cash Advance (MCA)

10 - 14% Annual Return
Interest Paid Monthly
One-Year Return of Principal

New!

Regulation A - SEC Reviewed MCA Fund *(in the works)*

\$15,000 Minimums • Same GREAT Returns

RIA & Broker Dealer Update

Update on the Cendera Bank Purchase

There are still a few spots open!

1
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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

SECURITIES AND EXCHANGE)	
COMMISSION,)	
)	
Plaintiff,)	
)	
v.)	Case No.
)	20-CV-81205-RAR
COMPLETE BUSINESS SOLUTIONS)	
GROUP, INC. d/b/a PAR)	
FUNDING, et al.,)	
)	
Defendants, and)	
)	
L.M.E. 2017 FAMILY TRUST,)	
)	
Relief Defendant.)	
_____)	

REMOTE VIDEOTAPED DEPOSITION OF LISA MCELHONE,
called by the Plaintiffs for examination, taken by
and before Ann Medis, Registered Professional
Reporter and Notary Public in and for the
Commonwealth of Pennsylvania, via Webex
videoconference, on Thursday, May 27, 2021,
commencing at 10:47 a.m.

JOB No. 210527AME

A P P E A R A N C E S

(Participants appeared via Webex videoconference)

On behalf of Plaintiff

UNITED STATES SECURITIES AND EXCHANGE
COMMISSION

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On behalf of Defendant Joseph W. LaForte

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On behalf of Defendant Lisa McElhone

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A P P E A R A N C E S (Continued)

On behalf of the Receiver Ryan K. Stumphauzer

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Also present

Michael C. Furman
Dean Vagnozzi
Richard Brueckner
Nancy Holmstock, videographer

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* I N D E X *

WITNESS:	PAGE
LISA MCELHONE	
EXAMINATION BY MS. BERLIN	6

* I N D E X O F E X H I B I T S *

NO.	DESCRIPTION	PAGE
Exhibit 45	Letter, 9/25/18, from P. Rutledge to Pennsylvania Department of Banking and Securities, Re: CBSG	68
Exhibit 46	Declaration of Lisa McElhone	73
Exhibit 47	2020 CBSG Form D	79
Exhibit 48	2019 CBSG Form D	92

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P R O C E E D I N G S

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10:46 3 THE VIDEOGRAPHER: We're on the record.
4 This is the video deposition of Lisa McElhone in the
5 matter of Securities and Exchange Commission versus
6 Complete Business Solutions Group, et al., pending
7 in the United States District Court, Southern
8 District of Florida, Case No. 20-CV-81205-RAR.
9 Today's date is May 27, 2021. The time on the video
10 monitor is 10:47 a.m.

10:47 11 My name is Nancy Holmstock, videographer
12 and the court reporter today is Ann Medis. Both are
13 with Gradillas Court Reporters, located at 520 North
14 Central Avenue, Glendale, California.

10:47 15 Will counsel please identify yourselves
16 for the record starting with the taking attorney.

10:47 17 MS. BERLIN: Amie Riggle Berlin on behalf
18 of the Securities and Exchange Commission.

10:47 19 MR. FUTERFAS: Alan Futerfas for the
20 witness and joined by...

10:47 21 MR. BACHNER: Michael Bachner on behalf of
22 Lisa McElhone.

10:47 23 MR. SOTO: Alex Soto on behalf of
24 defendant Joseph LaForte.

10:47 25 MR. KOLAYA: Good morning. Timothy Kolaya

1 on behalf of the receiver Ryan K. Stumphauzer.

10:48 2 MR. ALFANO: Gaetan Alfano on behalf of
3 the receiver.

10:48 4 MR. FURMAN: Michael Furman on behalf of
5 myself.

6 LISA MCELHONE,
7 having been first duly sworn, was examined
8 and testified as follows:

9 EXAMINATION

10 BY MS. BERLIN:

10:48 11 Q. Hi, Ms. McElhone. My name is Amie Riggle
12 Berlin, and I work with the U.S. Securities and
13 Exchange Commission. If you need me to repeat a
14 question or restate it in better way, just let me
15 know that. And any time you want to take a break,
16 you can just let me know, and we'll accommodate that
17 and take a break right away. Okay?

10:48 18 A. Thank you. Sure.

10:48 19 Q. By the way, can you tell me how to
20 pronounce your last name?

10:49 21 A. It's McElhone.

10:49 22 Q. And then we heard a different one this
23 morning.

10:49 24 A. Thank you.

10:49 25 THE VIDEOGRAPHER: I apologize for

1 mispronouncing your last name.

10:49 2 THE WITNESS: That's okay.

3 BY MS. BERLIN:

10:49 4 Q. Ms. McElhone, could you begin by just
5 telling us your educational background?

10:49 6 A. Sure. I have a bachelor's degree in
7 management information systems, and I graduated from
8 Saint Joseph's University.

10:49 9 Q. And where do you currently work?

10:49 10 MR. FUTERFAS: Hold on one second, please.

10:49 11 MS. BERLIN: Sure.

10:49 12 MR. FUTERFAS: I'll put you on that mute.

13 Hold on. Thank you.

14 (Counsel and witness conferred 10:50 a.m. to 10:50 a.m.)

10:49 15 THE WITNESS: Upon the advice counsel, I
16 am asserting the rights and privileges guaranteed
17 under the Fifth Amendment to the United States
18 Constitution.

19 BY MS. BERLIN:

10:50 20 Q. Are you using any proceeds from Complete
21 Business Solutions Group to pay your legal fees in
22 connection with this case?

10:50 23 MR. FUTERFAS: Hold on.

24 (Counsel and witness conferred 10:50 a.m. to 10:51 a.m.)

10:50 25 MR. FUTERFAS: Thank you. The witness

1 will answer.

10:50 2 THE WITNESS: Upon the advice counsel, I
3 am asserting the rights and privileges guaranteed
4 under the Fifth Amendment to the United States
5 Constitution.

6 BY MS. BERLIN:

10:51 7 Q. Are you founder of a company called
8 Complete Business Solutions Group?

10:51 9 A. Upon the advice counsel, I am asserting
10 the rights and privileges guaranteed under the Fifth
11 Amendment to the United States Constitution.

10:51 12 Q. Did you control the business decisions for
13 Complete Business Solutions Group?

10:52 14 A. Upon the advice counsel, I am asserting
15 the rights and privileges guaranteed under the Fifth
16 Amendment to the United States Constitution.

10:52 17 Q. Did Complete Business Solutions Group
18 provide short-term loans to small businesses from no
19 later than August 27, 2013 through at least February
20 of 2020?

10:52 21 MR. FUTERFAS: Hold on please while we
22 consult. Thank you. Hold on.
23 (Counsel and witness conferred 10:53 a.m. to 10:54 a.m.)

10:53 24 MR. FUTERFAS: Ms. Berlin, do you mind
25 repeating the question or at least having the court

1 reporter read it back.

10:53 2 MS. BERLIN: Yes. Can the court reporter
3 read it back.

4 (The following record was read back:

5 "Q Did Complete Business Solutions
6 Group provide short-term loans to small
7 businesses from no later than August 27, 2013
8 through at least February of 2020?")

10:54 9 MR. FUTERFAS: Just give us one second to
10 consult. Thank you. Hold on one second.

11 (Counsel and witness conferred 10:54 a.m. to 10:57 a.m.)

10:56 12 MR. FUTERFAS: Thank you very much. We're
13 ready. The witness will answer.

10:56 14 THE WITNESS: I decline to answer the
15 question on the basis of the spousal testimonial
16 privilege.

10:56 17 MR. SOTO: Amie, this is Alex Soto. To
18 the extent that the answer requires further reliant
19 communications she had with Mr. LaForte, we're also
20 asserting the marital communications privilege.

21 BY MS. BERLIN:

10:57 22 Q. From 2011 through June of 2020, did you
23 have ultimate decision-making authority for Complete
24 Business Solutions Group?

10:57 25 MR. FUTERFAS: Hold on one second, Amie.

1 Thank you.

2 (Counsel and witness conferred 10:58 a.m. to 10:58 a.m.)

10:57 3 MR. FUTERFAS: Thank you. The witness
4 will answer.

10:57 5 THE WITNESS: I decline to answer the
6 question on the basis of the marital communications
7 privilege. I decline to answer the question on the
8 basis of the spousal testimonial privilege.

9 BY MS. BERLIN:

10:58 10 Q. And what is the name of the spouse that
11 you're claiming the privilege for? Is that Joseph
12 LaForte?

10:58 13 MR. FUTERFAS: Hold on one second.

14 (Counsel and witness conferred 10:58 a.m. to 10:59 a.m.)

10:58 15 MR. FUTERFAS: You can answer.

10:58 16 THE WITNESS: Yes.

17 BY MS. BERLIN:

10:58 18 Q. Are you an owner of Complete Business
19 Solutions Group?

10:58 20 MR. FUTERFAS: Hold on, please.

21 (Counsel and witness conferred 10:59 a.m. to 11:00 a.m.)

11:00 22 MR. FUTERFAS: Thank you, Amie. The
23 witness will answer.

11:00 24 THE WITNESS: Upon the advice of counsel,
25 I'm asserting the rights and privileges guaranteed

1 under the Fifth Amendment to the United States
2 Constitution.

3 BY MS. BERLIN:

11:00 4 Q. Are you the grantor of the L.M.E. 2017
5 Family Trust?

11:00 6 MR. FUTERFAS: Hold on, please. Thank
7 you. One moment.

8 (Counsel and witness conferred 11:01 a.m. to 11:02 a.m.)

11:01 9 MR. FUTERFAS: Amie, thank you. The
10 witness will answer.

11:02 11 THE WITNESS: Upon the advice of counsel,
12 I'm asserting the rights and privileges guaranteed
13 under the Fifth Amendment to the United States
14 Constitution.

15 BY MS. BERLIN:

11:02 16 Q. No later than 2013 through present, have
17 you and Joseph LaForte been the beneficiaries of the
18 L.M.E. 2017 Family Trust?

11:02 19 MR. FUTERFAS: Hold on, please, Amie.
20 Thank you.

21 (Counsel and witness conferred 11:03 a.m. to 11:04 a.m.)

11:04 22 MR. FUTERFAS: Thank you, Amie. The
23 witness will answer.

11:04 24 THE WITNESS: I decline to answer the
25 question on the basis of the marital communications

1 privilege. I decline to answer the question on the
2 basis of the spousal testimonial privilege.

11:04 3 MR. SOTO: Amie, this is Alex Soto. I'm
4 just going to have her lodge a standing objection
5 whenever the witness declines to answer on the basis
6 of the marital communications privilege.
7 Mr. LaForte will be joining to speed things up a
8 little bit more.

11:05 9 MS. BERLIN: I just realized I was saying
10 Alex, thank you. Understood. And I then asked Alex
11 and Alan do we also just want to sort of have like a
12 standing any time the spousal testimony privilege or
13 marital communications privilege are asserted, that
14 the spouse at issue is Joseph LaForte?

11:05 15 MR. FUTERFAS: We agree the spouse at
16 issue is Joseph LaForte.

11:05 17 MR. SOTO: Yes. On behalf of Mr. Soto,
18 that's true, yes.

11:05 19 MS. BERLIN: That way I don't have to keep
20 asking. I want to make sure. I assumed, but I want
21 to make sure. Okay. Great.

22 BY MS. BERLIN:

11:06 23 Q. In 2017, did you become aware of an
24 investigation by the Commonwealth of Pennsylvania
25 acting through the Department of Banking and

1 Securities concerning Complete Business Solutions
2 Group?

11:06 3 MR. FUTERFAS: Hold on, please, Amie.
4 Thank you.

5 (Counsel and witness conferred 11:07 a.m. to 11:07 a.m.)

11:07 6 MR. FUTERFAS: Amie, thank you. The
7 witness will answer.

11:07 8 THE WITNESS: I decline to answer the
9 question on the basis of the marital communications
10 privilege. I decline to answer the question on the
11 basis of the spousal testimonial privilege.

12 BY MS. BERLIN:

11:07 13 Q. From 2016 until at least June of 2020,
14 were you the sole owner of Full Spectrum Processing
15 Inc.?

11:07 16 MR. FUTERFAS: Thank you, Amie. Hold on,
17 please.

18 (Counsel and witness conferred 11:08 a.m. to 11:08 a.m.)

11:08 19 MR. FUTERFAS: Thank you, Amie. The
20 witness will answer.

11:08 21 THE WITNESS: Upon the advice of counsel I
22 am asserting the rights and privilege guaranteed
23 under the Fifth Amendment to the United States
24 Constitution.

25

1 BY MS. BERLIN:

11:08 2 Q. From no later than 2017 through at least
3 June of 2020, did you use Spectrum Processing, Inc.
4 to operate Complete Business Solutions Group?

11:08 5 MR. FUTERFAS: Hold on, please. Thank
6 you, Amie.
7 (Counsel and witness conferred 11:09 a.m. to 11:10 a.m.)

11:09 8 MR. FUTERFAS: Thank you, Amie. Before
9 the witness answers, we're going to object to the
10 form of the question. But after that objection,
11 without waiving any objections, the witness will
12 answer as follows.

11:10 13 THE WITNESS: I decline to answer the
14 question on the basis of the marital communications
15 privilege. I decline to answer the question on the
16 basis of the spousal testimonial privilege.

17 BY MS. BERLIN:

11:10 18 Q. From no later than January 2015 until
19 June 2020, were you the chief executive officer of
20 Complete Business Solutions Group?

11:10 21 MR. FUTERFAS: Hold on, please, Amie.
22 Thank you.
23 (Counsel and witness conferred 11:11 a.m. to 11:12 a.m.)

11:12 24 MR. FUTERFAS: Amie, thank you. We have
25 an objection to the form. But after that objection,

1 the witness will answer as follows.

11:12 2 THE WITNESS: Upon the advice of counsel I
3 am asserting the rights and privileges guaranteed
4 under the Fifth Amendment to the United States
5 Constitution.

11:12 6 MS. BERLIN: Alan, can you give me a
7 clarification of your objection so that I can
8 understand and maybe try to resolve it?

11:12 9 MR. FUTERFAS: I think you assumed a fact
10 in evidence. That is, whether -- I don't think you
11 laid a proper foundation for the designation CEO.

11:13 12 MS. BERLIN: Okay. Thank you.

11:13 13 MR. FUTERFAS: You're welcome.

14 BY MS. BERLIN:

11:13 15 Q. From no later than -- I'm sorry. Let's do
16 it again. From 2016 through June 2020, were you the
17 sole owner of Full Spectrum Processing, Inc.?

11:13 18 MR. FUTERFAS: Thank you, Amie. Hold on,
19 please.

20 (Counsel and witness conferred 11:14 a.m. to 11:15 a.m.)

11:14 21 MR. FUTERFAS: Amie, thank you. The
22 witness will answer the question.

11:14 23 THE WITNESS: Upon the advice of counsel,
24 I'm asserting the rights and privileges guaranteed
25 under the Fifth Amendment to the United States

1 Constitution.

2 BY MS. BERLIN:

11:14 3 Q. At all times that Complete Business
4 Solutions Group had a bank account, were you a
5 signatory on the bank account prior -- let me start
6 again. I'm sorry, Ms. McElhone.

11:15 7 A. Sure.

11:15 8 Q. Prior to the court's appointment of the
9 receiver in this case, were you a signatory on all
10 of the bank accounts for Complete Business Solutions
11 Group?

11:15 12 MR. FUTERFAS: Hold on, Amie. Thank you.
13 (Counsel and witness conferred 11:15 a.m. to 11:16 a.m.)

11:15 14 MR. FUTERFAS: Thank you, Amie. The
15 witness will answer.

11:15 16 THE WITNESS: Upon the advice of counsel,
17 I'm asserting the rights and privileges guaranteed
18 under the Fifth Amendment to the United States
19 Constitution.

11:15 20 MS. BERLIN: Just one moment, please.
21 Sorry.

11:16 22 MR. FUTERFAS: No problem.

23 BY MS. BERLIN:

11:17 24 Q. From no later than 2015 through at least
25 June 2020, did your husband, Joseph LaForte, use the

1 alias Joe Mack?

11:17 2 MR. FUTERFAS: Hold on, please.

3 (Counsel and witness conferred 11:18 a.m. to 11:18 a.m.)

11:17 4 MR. FUTERFAS: Thank you, Amie. The
5 witness will answer.

11:17 6 THE WITNESS: I decline to answer the
7 question on the basis of the marital communications
8 privilege. I decline to answer the question on the
9 basis of the spousal testimonial privilege.

10 BY MS. BERLIN:

11:18 11 Q. From no later than 2015 until at least
12 June 2020, did you refer to your husband as Joe
13 Mack?

11:18 14 MR. FUTERFAS: Hold on, please.

15 (Counsel and witness conferred 11:18 a.m. to 11:20 a.m.)

11:20 16 MR. FUTERFAS: Amie, thank you very much.
17 The witness will answer.

11:20 18 THE WITNESS: I decline to answer the
19 question on the basis of the marital communications
20 privilege. I decline to answer the question on the
21 basis of the spousal testimonial privilege.

11:20 22 MR. FUTERFAS: Amie, you might be on mute.

11:20 23 MS. BERLIN: Thank you.

11:20 24 MR. FUTERFAS: You're welcome. We saw you
25 talking, but we didn't hear you. Go ahead.

11:20 1 MS. BERLIN: I can hear Ms. McElhone
2 whispering. So tell her to mute.

11:20 3 MR. FUTERFAS: Thank you very much.

11:21 4 MS. BERLIN: I apologize. I'll tell you
5 you'll see me looking around because I have like so
6 many people. Everybody is home today in my
7 household doing virtual school and everything else
8 nearby. So when you're speaking, I try to mute it
9 so that you don't hear any of the background noise
10 here between like my kids and my dog. Thank you for
11 letting me know.

12 BY MS. BERLIN:

11:21 13 Q. I asked the question during the period
14 2015 through June 2020, were there occasions where
15 you heard your husband, Joseph LaForte, pretend to
16 be a person named Joe Mack while in the company of
17 third parties?

11:21 18 MR. FUTERFAS: Okay. Amie, I'm going to
19 object to the form of the question. Beyond that,
20 give us a second, and we will have an answer. Thank
21 you.

11:22 22 MS. BERLIN: Okay.
23 (Counsel and witness conferred 11:22 a.m. to 11:23 a.m.)

11:22 24 MR. FUTERFAS: Thank you, Amie. The
25 witness will answer.

11:22 1 THE WITNESS: I decline to answer the
2 question on the basis of the spousal testimonial
3 privilege.

4 BY MS. BERLIN:

11:23 5 Q. In at least 2019 and early 2020, was the
6 primary business location of Complete Business
7 Solutions Group in Florida?

11:23 8 MR. FUTERFAS: I'm sorry. Can you just
9 repeat the question.

11:23 10 MS. BERLIN: Yes. Just one moment.

11:23 11 MR. FUTERFAS: Okay.

11:23 12 MS. BERLIN: Alan, I'm not going to re-ask
13 the question. I'm just going to move on.

11:24 14 MR. FUTERFAS: Okay. Okay.

15 BY MS. BERLIN:

11:24 16 Q. From no later than 2015 through June 2020,
17 did your husband, Joseph LaForte, act as the
18 de facto chief executive officer at Complete
19 Business Solutions Group?

11:24 20 MR. FUTERFAS: Okay. Hold on, please.

21 (Counsel and witness conferred 11:25 a.m. to 11:25 a.m.)

11:24 22 MR. FUTERFAS: Thank you, Amie. The
23 witness will answer.

11:24 24 THE WITNESS: I decline to answer the
25 question on the basis of the marital communications

1 privilege. I decline to answer the question on the
2 basis of the spousal testimonial privilege.

3 BY MS. BERLIN:

11:25 4 Q. Did Joseph LaForte use aliases in order to
5 conceal from potential investors the fact that he
6 had a criminal record?

11:25 7 MR. FUTERFAS: Hold on, please.

8 (Counsel and witness conferred 11:25 a.m. to 11:30 a.m.)

11:29 9 MR. FUTERFAS: Thank you, Amie. We have
10 an objection to the form of the question. And
11 beyond that, the witness will answer as follows.

11:29 12 THE WITNESS: I decline to answer the
13 question on the basis of the marital communications
14 privilege. I decline to answer the question on the
15 basis of the spousal testimonial privilege.

16 BY MS. BERLIN:

11:29 17 Q. Did you conceal from Complete Business
18 Solutions Group's investors that Joseph LaForte had
19 a criminal record?

11:30 20 MR. FUTERFAS: I lost the first three or
21 four words of your question. Can you repeat it,
22 please?

11:30 23 MS. BERLIN: Sure.

24 BY MS. BERLIN:

11:30 25 Q. Did you conceal from Complete Business

1 Solutions Group's investors the fact that Joseph
2 LaForte a criminal record?

11:30 3 MR. FUTERFAS: Thank you. Hold on,
4 please.

5 (Counsel and witness conferred 11:30 a.m. to 11:33 a.m.)

11:32 6 MR. FUTERFAS: Thank you, Amie. We're
7 going to object to the form of the question. And
8 the witness can answer as follows.

11:32 9 THE WITNESS: I decline to answer the
10 question on the basis of the spousal testimonial
11 privilege.

11:32 12 THE VIDEOGRAPHER: Ms. McElhone, can you
13 center yourself to the screen?

11:32 14 THE WITNESS: Sure.

11:32 15 THE VIDEOGRAPHER: Thank you.

16 BY MS. BERLIN:

11:33 17 Q. From no later than 2015 through June 2020,
18 were you the president of Complete Business
19 Solutions Group?

11:33 20 MR. FUTERFAS: Hold on, please, Amie.
21 Thank you.

22 (Counsel and witness conferred 11:34 a.m. to 11:35 a.m.)

11:35 23 MR. FUTERFAS: Thank you, Amie. The
24 witness will answer as follows.

11:35 25 THE WITNESS: Upon the advice of counsel,

1 I'm asserting the rights and privileges guaranteed
2 under the Fifth Amendment to the United States
3 Constitution.

4 BY MS. BERLIN:

11:35 5 Q. From 2015 through June 2020, did you and
6 your husband, Joseph LaForte, operate Complete
7 Business Solutions Group together?

11:35 8 MR. FUTERFAS: Hold on, please. Thank
9 you.

10 (Counsel and witness conferred 11:36 a.m. to 11:36 a.m.)

11:36 11 MR. FUTERFAS: Thank you, Amie. The
12 witness will answer.

11:36 13 THE WITNESS: I decline to answer the
14 question on the basis of the marital communications
15 privilege. I decline to answer the question on the
16 basis of the spousal testimonial privilege.

17 BY MS. BERLIN:

11:36 18 Q. From 2015 -- I'm sorry. Let me start
19 again.

11:36 20 From no later than 2015 through June 2020,
21 did Joseph LaForte have hiring and firing authority
22 at Complete Business Solutions Group?

11:36 23 MR. FUTERFAS: Hold on, please. Thank
24 you.

25 (Counsel and witness conferred 11:37 a.m. to 11:41 a.m.)

11:40 1 MR. FUTERFAS: Thank you, Amie. The
2 witness will answer as follows.

11:40 3 THE WITNESS: I decline to answer the
4 question on the basis of the spousal testimonial
5 privilege.

6 BY MS. BERLIN:

11:40 7 Q. During 2015 through June 2020, did you
8 observe Joseph LaForte running the day-to-day
9 operations of Complete Business Solutions Group?

11:41 10 MR. FUTERFAS: Hold on. Thank you.
11 (Counsel and witness conferred 11:41 a.m. to 11:42 a.m.)

11:42 12 MR. FUTERFAS: Thank you, Amie. We object
13 to the form of the question. And the witness will
14 answer as follows.

11:42 15 THE WITNESS: I decline to answer the
16 question on the basis of the spousal testimonial
17 privilege.

11:43 18 MR. FUTERFAS: Amie, are you talking? You
19 might be on mute again.

11:43 20 MS. BERLIN: Thank you.

11:43 21 MR. FUTERFAS: Okay. No problem.

22 BY MS. BERLIN:

11:43 23 Q. Did you and Joseph LaForte jointly decide
24 which loans Complete Business Solutions Group would
25 make to borrowers?

11:43 1 MR. FUTERFAS: Hold on, please.
2 (Counsel and witness conferred 11:43 a.m. to 11:45 a.m.)

11:44 3 MR. FUTERFAS: Thank you. Amie, we object
4 to the form of the question. And the witness will
5 answer as follows.

11:45 6 THE WITNESS: I decline to answer the
7 question on the basis of the spousal testimonial
8 privilege.

9 BY MS. BERLIN:

11:45 10 Q. Prior to August of 2012, did you and
11 Joseph LaForte make a joint decision that Complete
12 Business Solutions Group would begin offering and
13 selling promissory notes?

11:45 14 MR. FUTERFAS: Sorry, Amie. What was the
15 beginning of the question, what period of time?

11:45 16 MS. BERLIN: Prior to August 2012.

11:45 17 MR. FUTERFAS: Okay. Hold on, please.
18 (Counsel and witness conferred 11:46 a.m. to 11:48 a.m.)

11:47 19 MR. FUTERFAS: Thank you, Amie. We object
20 to the form of the question. And the witness will
21 answer as follows.

11:47 22 THE WITNESS: I decline to answer the
23 question on the basis of the marital communications
24 privilege. I decline to answer the question on the
25 basis of the spousal testimonial privilege.

1 BY MS. BERLIN:

11:48 2 Q. During the time period of August 2012
3 through June 2020, did you sign promissory notes on
4 behalf of Complete Business Solutions Group?

11:48 5 MR. FUTERFAS: Thank you. Hold on,
6 please.

7 (Counsel and witness conferred 11:49 a.m. to 11:49 a.m.)

11:48 8 MR. FUTERFAS: Thank you. The witness
9 will answer.

11:48 10 THE WITNESS: Upon the advice of counsel,
11 I am asserting the rights and privileges guaranteed
12 under the Fifth Amendment to the United States
13 Constitution.

14 BY MS. BERLIN:

11:49 15 Q. From no later than January 2015 until no
16 later than 2018, did Complete Business Solutions
17 Group utilize finders to locate potential investors?

11:49 18 MR. FUTERFAS: Hold on. Thank you.

19 (Counsel and witness conferred 11:50 a.m. to 11:51 a.m.)

11:51 20 MR. FUTERFAS: Thank you, Amie. The
21 witness will answer.

11:51 22 THE WITNESS: I decline to answer the
23 question on the basis of the spousal testimonial
24 privilege.

25

1 BY MS. BERLIN:

11:51 2 Q. Did you make the decision on behalf of
3 Complete Business Solutions Group that it would use
4 finders to solicit investors?

11:51 5 MR. FUTERFAS: Thank you.
6 (Counsel and witness conferred 11:52 a.m. to 11:52 a.m.)

11:52 7 MR. FUTERFAS: Thank you, Amie. The
8 witness will answer.

11:52 9 THE WITNESS: I decline to answer the
10 question on the basis of the spousal testimonial
11 privilege.

12 BY MS. BERLIN:

11:53 13 Q. In early January 2018, did you become
14 aware of a subpoena that Pennsylvania securities
15 regulators issued to Complete Business Solutions
16 Group?

11:53 17 MR. FUTERFAS: Thank you.
18 (Counsel and witness conferred 11:54 a.m. to 11:55 a.m.)

11:55 19 MR. FUTERFAS: Thank you, Amie. The
20 witness will answer.

11:55 21 THE WITNESS: I decline to answer the
22 question on the basis of the spousal testimonial
23 privilege.

24 BY MS. BERLIN:

11:55 25 Q. By early January of 2018, were you aware

1 of the fact that Pennsylvania securities regulators
2 were investigating Complete Business Solutions
3 Group's use of unregistered sales agents?

11:55 4 MR. FUTERFAS: Hold on, please. Thank
5 you.

6 (Counsel and witness conferred 11:56 a.m. to 11:56 a.m.)

11:56 7 MR. FUTERFAS: Thank you, Amie. The
8 witness will answer.

11:56 9 THE WITNESS: I decline to answer the
10 question on the basis of the marital communications
11 privilege. I decline to answer the question on the
12 basis of the spousal testimonial privilege.

13 BY MS. BERLIN:

11:56 14 Q. Did you make the decision on behalf of
15 Complete Business Solutions Group that it would
16 convert its sales agents into agent fund managers?

11:57 17 MR. FUTERFAS: Hold on. Thank you.

18 (Counsel and witness conferred 11:57 a.m.)

11:57 19 THE VIDEOGRAPHER: Ms. Berlin, would you
20 like to go off the record while they confer?

11:58 21 MS. BERLIN: Yes. Thank you.

11:58 22 THE VIDEOGRAPHER: The time is 11:58 a.m.
23 Going off the record.

24 (Off the record 11:58 a.m. to 12:02 p.m.)

12:01 25 MR. FUTERFAS: Thank you. We're back on

1 the record. Thank you for the conferral.

12:02 2 THE VIDEOGRAPHER: We're not on the record
3 yet, sir.

12:02 4 MR. FUTERFAS: Okay. Go ahead.

12:02 5 MS. BERLIN: We can go back on the record.

12:02 6 THE VIDEOGRAPHER: We're back on the
7 record. The time is now 12:02 p.m.

12:02 8 MR. FUTERFAS: Thank you for the
9 conferral. The witness will now answer the answer.

12:02 10 THE WITNESS: I decline to answer the
11 question on the basis of the spousal testimonial
12 privilege.

13 BY MS. BERLIN:

12:02 14 Q. Did you make the decision on behalf of
15 Complete Business Solutions Group to convert its
16 sales agents into investment fund managers for
17 purposes of trying to circumvent the Pennsylvania
18 securities laws?

12:03 19 MR. FUTERFAS: Hold on, please. Thank
20 you.

21 (Counsel and witness conferred 12:03 p.m. to 12:04 p.m.)

12:03 22 MR. FUTERFAS: Thank you. We have an
23 objection to the form. And the witness will answer
24 the question.

12:04 25 THE WITNESS: I decline to answer the

1 question on the basis of the spousal testimonial
2 privilege.

3 BY MS. BERLIN:

12:04 4 Q. Did you review the correspondence sent on
5 behalf of Complete Business Solutions Group to the
6 Pennsylvania state regulators in connection with
7 their investigation of Complete Business Solutions
8 Group?

12:04 9 MR. FUTERFAS: Amie, can I get a
10 clarification. Are you talking about the
11 correspondence from the law firms? Which
12 correspondence are we talking about?

12:04 13 MS. BERLIN: Any of the correspondence
14 sent on behalf of Complete Business Solutions Group
15 to the Pennsylvania state regulators. So it could
16 have been sent by an attorney, by an officer of the
17 company, but if she reviewed any of the
18 communications that were sent to the Pennsylvania
19 regulators on behalf of Complete Business Solutions
20 Group.

12:04 21 MR. FUTERFAS: Thank you for the
22 clarification. Be right there. Hold on. Thank
23 you.
24 (Counsel and witness conferred 12:05 p.m. to 12:07 p.m.)

12:06 25 MR. FUTERFAS: Thank you, Amie. The

1 witness will answer the question.

12:06 2 THE WITNESS: I decline to answer the
3 question on the basis of the spousal testimonial
4 privilege.

12:06 5 MS. BERLIN: Wait. Were we back on the
6 record?

12:06 7 MR. FUTERFAS: Yes. Yes.

12:06 8 THE VIDEOGRAPHER: We never went off the
9 record.

12:06 10 MS. BERLIN: Okay. Thank you.

12:06 11 THE VIDEOGRAPHER: We're still on the
12 record.

12:06 13 MS. BERLIN: Thank you.

14 BY MS. BERLIN:

12:07 15 Q. From January 2018 until June 2020, did
16 Complete Business Solutions Group raise money
17 primarily through the offer and sale of promissory
18 notes?

12:07 19 MR. FUTERFAS: Hold on, please. Thank
20 you.

21 (Counsel and witness conferred 12:08 p.m. to 12:09 p.m.)

12:08 22 MR. FUTERFAS: Thank you, Amie. The
23 witness will answer.

12:08 24 THE WITNESS: I decline to answer the
25 question on the basis of the spousal testimonial

1 privilege.

2 BY MS. BERLIN:

12:08 3 Q. Prior to July of 2020, did you sign checks
4 for Complete Business Solutions Group's bank
5 accounts?

12:09 6 MR. FUTERFAS: Thank you. Hold on.
7 (Counsel and witness conferred 12:10 p.m. to 12:10 p.m.)

12:09 8 MR. FUTERFAS: Thank you, Amie. The
9 witness will answer.

12:10 10 THE WITNESS: Upon the advice of counsel,
11 I'm asserting the rights and privileges guaranteed
12 under the Fifth Amendment to the United States
13 Constitution.

14 BY MS. BERLIN:

12:10 15 Q. Did you give anyone permission to sign
16 your name for you on checks for Complete Business
17 Solutions Group's bank accounts?

12:10 18 MR. FUTERFAS: Okay. Hold on. Thank you.

12:10 19 MS. BERLIN: We can go off the record
20 while they confer.

12:10 21 THE VIDEOGRAPHER: The time is now
22 12:10 p.m. Going off the record.
23 (Counsel and witness conferred 12:10 p.m. to 12:11 p.m.)

12:11 24 THE VIDEOGRAPHER: Back on the record
25 12:11 p.m.

12:11 1 MR. FUTERFAS: The witness will answer.
2 Thank you.

12:11 3 THE WITNESS: Upon the advice of counsel,
4 I'm asserting the rights and privileges guaranteed
5 under the Fifth Amendment to the United States
6 Constitution.

7 BY MS. BERLIN:

12:12 8 Q. Did you give your sister, Jamie McElhone,
9 permission to sign your name on checks or other
10 documents related to Complete Business Solutions
11 Group?

12:12 12 MR. FUTERFAS: Thank you. Hold on.

12:12 13 MS. BERLIN: We can go off the record.

12:12 14 THE VIDEOGRAPHER: The time is now
15 12:12 p.m. Going off the record.
16 (Counsel and witness conferred 12:12 p.m. to 12:13 p.m.)

12:13 17 THE VIDEOGRAPHER: We're back on the
18 record. The time is now 12:13 p.m.

12:13 19 MR. FUTERFAS: The witness will answer.
20 Thank you.

12:13 21 THE WITNESS: Upon the advice of counsel,
22 I'm asserting the rights and privileges guaranteed
23 under the Fifth Amendment to the United States
24 Constitution.

25

1 BY MS. BERLIN:

12:13 2 Q. Did you give Joseph LaForte permission to
3 sign your name on checks or other documents related
4 to Complete Business Solutions Group?

12:13 5 MR. FUTERFAS: Thank you.

12:13 6 MS. BERLIN: We can go off the record.

12:13 7 THE VIDEOGRAPHER: The time is now

8 12:13 p.m. Going off the record.

9 (Counsel and witness conferred 12:13 p.m. to 12:14 p.m.)

12:14 10 THE VIDEOGRAPHER: Back on the record.

11 The time now is 12:14 p.m.

12:14 12 MR. FUTERFAS: The witness will answer.

13 Thank you.

12:14 14 THE WITNESS: I decline to answer the
15 question on the basis of the spousal testimonial
16 privilege.

17 BY MS. BERLIN:

12:15 18 Q. Did you approve bank transfers on behalf
19 of Complete Business Solutions Group during the time
20 period 2012 through June of 2020?

12:16 21 MR. FUTERFAS: Amie, I'm going to object
22 to the form. Can you just clarify what transfers
23 you're talking about? We're dealing with millions
24 of transactions here.

12:16 25 MS. BERLIN: Sure.

1 BY MS. BERLIN:

12:16 2 Q. During the time period 2012 through
3 June 2020, did you ever make any electronic bank
4 transfers, whether through wire transfer or an
5 inter-fund electronic transfer on behalf of Complete
6 Business Solutions Group's bank accounts?

12:16 7 MR. FUTERFAS: Okay. Thank you. Hold on.
8 Thank you.

12:16 9 MS. BERLIN: Let's go off the record while
10 they confer.

12:16 11 THE VIDEOGRAPHER: The time is now
12 12:16 p.m. Off the record.
13 (Counsel and witness conferred 12:16 p.m. to 12:22 p.m.)

12:22 14 THE VIDEOGRAPHER: We're back on the
15 record. The time is now 12:22.

12:22 16 MR. FUTERFAS: Thank you for the
17 conferral. The witness will answer the question.

12:22 18 THE WITNESS: Upon the advice of counsel,
19 I'm asserting the rights and privileges guaranteed
20 under the Fifth Amendment to the United States
21 Constitution.

12:23 22 MR. FUTERFAS: Now, Amie, do you want to
23 take a break at this point?

12:23 24 MS. BERLIN: Yeah. We can go off the
25 record for a lunch break, and that way we can wrap

1 up the personal break and lunch break into one and
2 kind of move things along.

12:23 3 THE VIDEOGRAPHER: Do you want to go off
4 the record first?

12:23 5 MS. BERLIN: Oh, I'm sorry. I thought we
6 were off the record already.

12:23 7 THE VIDEOGRAPHER: The time is now
8 12:23 p.m. Going off the record.

9 (Recess from 12:23 p.m. to 1:09 p.m.)

01:09 10 THE VIDEOGRAPHER: We're on the record.
11 The time is now 1:09 p.m.

12 BY MS. BERLIN:

01:09 13 Q. I'd like to show you what we've marked as
14 Exhibit 46, Ms. McElhone.

01:09 15 A. Okay.

01:09 16 MR. FUTERFAS: Amie, where is it going to
17 appear on the screen?

01:09 18 MS. BERLIN: I'm not sure. Is the
19 videographer going to show it, or is the court
20 reporter going to show it?

01:09 21 THE VIDEOGRAPHER: I was not given any
22 kind of instructions for sharing the screen today.

01:10 23 MS. BERLIN: Okay. Well, I can share it
24 then. Hold on. See if I have it in the marked
25 version that Vicky sent.

01:10 1 THE VIDEOGRAPHER: Did you want to go off
2 the record so that you can figure that out?

01:10 3 MS. BERLIN: We'll go off the record. And
4 I'll call Vicky and ask her to send the marked
5 version that she sent to you, I'll ask her to send
6 it to me, and then I'll show it.

01:10 7 MR. FUTERFAS: No problem. We're standing
8 by.

01:10 9 THE VIDEOGRAPHER: The time is now
10 1:10 p.m. Going off the record.

11 (Off the record 1:10 p.m. to 1:12 p.m.)

01:12 12 THE VIDEOGRAPHER: We're on the record.
13 The time is 1:12 p.m.

14 BY MS. BERLIN:

01:12 15 Q. Ms. McElhone, did you review the marketing
16 brochures Complete Business Solutions Group utilized
17 to solicit investors for its promissory notes?

01:13 18 MR. FUTERFAS: Thank you. Hold on,
19 please.

01:13 20 MS. BERLIN: We'll go off the record while
21 they confer.

01:13 22 THE VIDEOGRAPHER: The time is 1:13. Off
23 the record.

24 (Counsel and witness conferred 1:13 p.m. to 1:16 p.m.)

01:16 25 THE VIDEOGRAPHER: Back on the record

1 1:16 p.m.

01:16 2 MR. FUTERFAS: Thank you. The witness
3 will answer the question.

01:16 4 THE WITNESS: Upon the advice of counsel,
5 I'm asserting the rights and privileges guaranteed
6 under the Fifth Amendment to the United States
7 Constitution.

8 BY MS. BERLIN:

01:17 9 Q. Did you conceal from Complete Business
10 Solutions Group's investors the fact that Joseph
11 LaForte had a criminal record?

01:17 12 MR. FUTERFAS: Hold on. Thank you.

01:17 13 MS. BERLIN: We can go off the record.

01:17 14 THE VIDEOGRAPHER: The time is 1:17 p.m.
15 Off the record.

16 (Counsel and witness conferred 1:17 p.m. to 1:18 p.m.)

01:18 17 THE VIDEOGRAPHER: We're back on the
18 record 1:18 p.m.

01:18 19 MR. FUTERFAS: Thank you. We have an
20 objection to form. We believe the question has been
21 asked and answered.

01:18 22 But in any event, the witness will answer
23 as follows.

01:18 24 THE WITNESS: I decline to answer the
25 question on the basis of the spousal testimonial

1 privilege.

2 BY MS. BERLIN:

01:18 3 Q. Ms. McElhone, do you understand that the
4 SEC's case against you is a civil action?

01:18 5 MR. FUTERFAS: Hold on, please.

6 (Counsel and witness conferred 1:19 p.m.)

01:19 7 MS. BERLIN: Let's go off the record.

01:19 8 THE VIDEOGRAPHER: The time is now 1:19.
9 Off the record.

10 (Off the record 1:19 p.m. to 1:20 p.m.)

01:20 11 THE VIDEOGRAPHER: We're back on the
12 record 1:20 p.m.

01:20 13 MR. FUTERFAS: Thank you. Amie, we're
14 going to object to the form of the question and
15 we're going to assert attorney/client privilege over
16 the answer for that question.

17 BY MS. BERLIN:

01:20 18 Q. Ms. McElhone, did you determine the
19 interest rates that Complete Business Solutions
20 Group offered in its promissory notes?

01:20 21 MR. FUTERFAS: Thank you. We'll be right
22 with you. Thank you.

01:20 23 MS. BERLIN: Go off the record.

01:20 24 THE VIDEOGRAPHER: The time is 1:20 p.m.
25 Going off the record.

1 (Counsel and witness conferred 1:20 p.m. to 1:22 p.m.)

01:22 2 THE VIDEOGRAPHER: Back on the record

3 1:22 p.m.

01:22 4 MR. FUTERFAS: Thank you. The witness
5 will answer.

01:22 6 THE WITNESS: Upon the advice of counsel,
7 I'm asserting the rights and privileges guaranteed
8 under the Fifth Amendment to the United States
9 Constitution.

10 BY MS. BERLIN:

01:22 11 Q. Did you supervise the underwriting process
12 at Complete Business Solutions Group?

01:23 13 MR. FUTERFAS: Hold on, please.

14 (Counsel and witness conferred 1:23 p.m.)

01:23 15 MS. BERLIN: They left the screen to
16 confer, so we'll go off the record.

01:23 17 THE VIDEOGRAPHER: The time is 1:23 p.m.
18 Off the record.

19 (Off the record 1:23 p.m. to 1:24 p.m.)

01:25 20 THE VIDEOGRAPHER: Back on the record
21 1:24 p.m.

01:25 22 MR. FUTERFAS: Thank you. The witness
23 will answer the question.

01:25 24 THE WITNESS: Upon the advice of counsel,
25 I'm asserting the rights and privileges guaranteed

1 under the Fifth Amendment to the United States
2 Constitution.

3 BY MS. BERLIN:

01:26 4 Q. Did you ever solicit any investors to
5 purchase a Par Funding or Complete Business
6 Solutions Group promissory note?

01:26 7 MR. FUTERFAS: Give us a second to confer.
8 Thank you.

01:26 9 MS. BERLIN: We can go off.

01:26 10 THE VIDEOGRAPHER: The time is 1:26 p.m.
11 Off the record.

12 (Counsel and witness conferred 1:26 p.m. to 1:28 p.m.)

01:28 13 THE VIDEOGRAPHER: Back on the record.
14 The time is 1:28.

01:28 15 MR. FUTERFAS: Thank you. The witness
16 will answer the question.

01:28 17 THE WITNESS: Upon the advice of counsel,
18 I'm asserting the rights and privileges guaranteed
19 under the Fifth Amendment to the United States
20 Constitution.

21 BY MS. BERLIN:

01:28 22 Q. During the time period 2015 until July of
23 2020, did you have knowledge of the underwriting
24 process that was conducted for Complete Business
25 Solutions Group?

01:29 1 MR. FUTERFAS: Hold on, please. Thank
2 you.

01:29 3 MS. BERLIN: Go off the record.

01:29 4 THE VIDEOGRAPHER: The time is 1:28 p.m.
5 Off the record.
6 (Counsel and witness conferred 1:28 p.m. to 1:30 p.m.)

01:30 7 THE VIDEOGRAPHER: Back on the record.
8 The time is 1:30.

01:30 9 MR. FUTERFAS: Thank you. The witness
10 will answer the question.

01:30 11 THE WITNESS: Upon the advice of counsel,
12 I'm asserting the rights and privileges guaranteed
13 under the Fifth Amendment to the United States
14 Constitution.

15 BY MS. BERLIN:

01:30 16 Q. Was the underwriting process at Complete
17 Business Solutions Group stringent?

01:30 18 MR. FUTERFAS: Give us a moment. Thank
19 you.

01:31 20 MS. BERLIN: Go off.

01:31 21 THE VIDEOGRAPHER: The time is 1:30 p.m.
22 Going off the record.
23 (Counsel and witness conferred 1:30 p.m. to 1:37 p.m.)

01:37 24 THE VIDEOGRAPHER: Back on the record
25 1:37.

01:37 1 MR. FUTERFAS: Thank you. We have an
2 objection to the form. I did want to say we
3 appreciate the conferrals. Obviously, there are
4 different privileges involved, and some of the
5 questions are complicated.

01:37 6 But in any event, with that the witness
7 will answer the question.

01:38 8 THE WITNESS: I decline to answer the
9 question on the basis of the spousal testimonial
10 privilege.

11 BY MS. BERLIN:

01:38 12 Q. During the time period from 2015 through
13 June of 2020, was it your understanding that Par
14 Funding was conducting an on-site inspection prior
15 to approving all loans?

01:38 16 MR. FUTERFAS: We're going to confer, but
17 I certainly object to the form of the question. But
18 we do have to confer. Hold on one minute. Thank
19 you.

01:38 20 THE VIDEOGRAPHER: The time is 1:38 p.m.
21 Going off the record.

22 (Counsel and witness conferred 1:38 p.m. to 1:39 p.m.)

01:40 23 THE VIDEOGRAPHER: On the record 1:39.

01:40 24 MR. FUTERFAS: Thank you. With the form
25 objection in place, the witness will answer the

1 question.

01:40 2 THE WITNESS: I decline to answer the
3 question on the basis of the spousal testimonial
4 privilege.

5 BY MS. BERLIN:

01:40 6 Q. During the time period 2015 through
7 June 2020, did you know that Par Funding was not
8 conducting on-site inspections before approving
9 loans?

01:40 10 MR. FUTERFAS: Hold on, please. We object
11 to the form of the question. Amie, so the record
12 will be clear, these are not loans. But we object
13 to the form, use of the word loans in the context of
14 the MCA business, but we will confer and get back to
15 you immediately. Hold on one second.

01:41 16 THE VIDEOGRAPHER: The time is now
17 1:40 p.m. Going off the record.
18 (Counsel and witness conferred 1:40 p.m. to 1:41 p.m.)

01:41 19 THE VIDEOGRAPHER: Back on the record
20 1:41.

01:41 21 MR. FUTERFAS: I think I all already
22 objected the form. The witness will answer the
23 question.

01:41 24 THE WITNESS: I decline to answer the
25 question on the basis of the spousal testimonial

1 privilege.

2 BY MS. BERLIN:

01:42 3 Q. During the time period 2015 through June
4 of 2020, was it your understanding that Complete
5 Business Solutions Group approved merchant cash
6 advance funding for borrowers without obtaining
7 financial information for the borrowers?

01:42 8 MR. FUTERFAS: Hold on, please.

01:42 9 THE VIDEOGRAPHER: The time is 1:42. Off
10 the record.

11 (Counsel and witness conferred 1:42 p.m. to 1:43 p.m.)

01:43 12 THE VIDEOGRAPHER: On the record 1:43 p.m.

01:43 13 MR. FUTERFAS: Thank you. The witness
14 will answer.

01:43 15 THE WITNESS: I decline to answer the
16 question on the basis of the spousal testimonial
17 privilege.

18 BY MS. BERLIN:

01:43 19 Q. Ms. McElhone, I wonder if you could
20 provide the basis for asserting the spousal
21 testimony privilege. I guess my question to you is:
22 Is it the case that the only way you have access to
23 information that you'd be answering is with respect
24 to your spouse, or is it another reason? Can you
25 provide some basis to explain why you're asserting

1 the privilege?

01:43 2 MR. FUTERFAS: Amie, that is the answer
3 that calls for attorney/client privilege with
4 respect to conversations between her and her
5 counsel.

01:44 6 MS. BERLIN: Obviously, we'll move on, and
7 we'll raise issues with the privilege assertions
8 with the court rather than discuss them here.

9 BY MS. BERLIN:

01:44 10 Q. Ms. McElhone, did you review Complete
11 Business Solutions Group's filings with the
12 Securities and Exchange Commission before Complete
13 Business Solutions Group filed them?

01:44 14 MR. FUTERFAS: Give us one second. Thank
15 you.

01:44 16 MS. BERLIN: Go off the record.

01:44 17 THE VIDEOGRAPHER: The time is 1:44. Off
18 the record.

19 (Counsel and witness conferred 1:44 p.m. to 1:45 p.m.)

01:45 20 THE VIDEOGRAPHER: The time is now
21 1:45 p.m. On the record.

01:45 22 MR. FUTERFAS: Thank you. The witness
23 will answer.

01:45 24 THE WITNESS: Upon the advice of counsel,
25 I am asserting the rights and privileges guaranteed

1 under the Fifth Amendment to the United States
2 constitution.

3 BY MS. BERLIN:

01:46 4 Q. Did you approve Complete Business
5 Solutions Group's filings before Complete Business
6 Solutions Group filed them with the SEC?

01:46 7 MR. FUTERFAS: Hold on one second while we
8 confer. Thank you.

01:46 9 MS. BERLIN: Go off the record.

01:46 10 THE VIDEOGRAPHER: The time is 1:46. Off
11 the record.

12 (Counsel and witness conferred 1:46 p.m. to 1:47 p.m.)

01:47 13 THE VIDEOGRAPHER: On the record 1:47 p.m.

01:47 14 MR. FUTERFAS: The witness will answer.
15 Thank you.

01:47 16 THE WITNESS: Upon the advice of counsel,
17 I'm asserting the rights and privileges guaranteed
18 under the Fifth Amendment to the United States
19 Constitution.

20 BY MS. BERLIN:

01:47 21 Q. Did you make the decision on behalf of
22 Complete Business Solutions Group to omit Joseph
23 LaForte's name from Complete Business Solutions
24 Group's SEC filings?

01:47 25 MR. FUTERFAS: Hold on, please. Thank

1 you.

01:48 2 THE VIDEOGRAPHER: 1:47 p.m. off the
3 record.

4 (Counsel and witness conferred 1:47 p.m. to 1:51 p.m.)

01:51 5 THE VIDEOGRAPHER: Back on the record
6 1:51 p.m.

01:51 7 MR. FUTERFAS: We're going to have an
8 objection to form. And beyond that objection, the
9 witness will answer.

01:51 10 THE WITNESS: Upon the advice of counsel,
11 I'm asserting the rights and privileges guaranteed
12 under the Fifth Amendment to the United States
13 Constitution.

14 BY MS. BERLIN:

01:51 15 Q. Did you fail to disclose Joseph LaForte in
16 the Complete Business Solutions Group's SEC filings
17 because you wanted to conceal Mr. LaForte's
18 management role at Complete Business Solutions
19 Group?

01:52 20 MR. FUTERFAS: Hold on for the conferral.
21 Hold on.

01:52 22 THE VIDEOGRAPHER: The time is now
23 1:52 p.m. Going off the record.

24 (Counsel and witness conferred 1:52 p.m. to 1:56 p.m.)

01:56 25 THE VIDEOGRAPHER: We're on the record.

1 The time is now 1:56 p.m.

01:56 2 MR. FUTERFAS: Thank you. We have an
3 objection to form. And the witness will answer.

01:56 4 THE WITNESS: I decline to answer the
5 question on the basis of the spousal testimonial
6 privilege.

7 BY MS. BERLIN:

01:57 8 Q. During the time period 2015 through
9 June 2020, did you approve on behalf of Complete
10 Business Solutions Group its funding of merchant
11 cash advances without an on-site inspection?

01:57 12 MR. FUTERFAS: Okay. Give us a second.
13 Thank you.

01:57 14 THE VIDEOGRAPHER: The time is 1:57 p.m.
15 Off the record.

16 (Counsel and witness conferred 1:57 p.m. to 1:59 p.m.)

01:59 17 THE VIDEOGRAPHER: Back on the record
18 1:59 p.m.

01:59 19 MR. FUTERFAS: We object to the form of
20 the question. And then the witness will answer.

01:59 21 THE WITNESS: I decline to answer the
22 question on the basis of the spousal testimonial
23 privilege.

24 BY MS. BERLIN:

01:59 25 Q. During the period 2015 through June 2020,

1 did you tell any investor or potential investor in
2 Complete Business Solutions Group that Complete
3 Business Solutions Group had a 1 percent default
4 rate on its merchant cash advances?

02:00 5 MR. FUTERFAS: Give us one second. Thank
6 you.

02:00 7 THE VIDEOGRAPHER: The time is now
8 2:00 p.m. Off the record.

9 (Counsel and witness conferred 2:00 p.m. to 2:01 p.m.)

02:01 10 THE VIDEOGRAPHER: We're on the record.
11 2:01 p.m.

02:01 12 MR. FUTERFAS: Thank you. We have an
13 objection to form. In addition to that, the witness
14 will answer.

02:02 15 THE WITNESS: Upon the advice of counsel,
16 I'm asserting the rights and privileges guaranteed
17 under the Fifth Amendment to the United States
18 Constitution.

19 BY MS. BERLIN:

02:02 20 Q. During the time period 2015 through
21 June 2020, were you aware of the fact that Complete
22 Business Solutions Group had a default rate on its
23 merchant cash advances that far exceeded 1 percent?

02:02 24 MR. FUTERFAS: We object to the form of
25 the question because it assumes a fact, obviously it

1 assumes a fact that certainly we dispute. But I
2 will get back to you in one second on that. Thank
3 you.

02:02 4 THE VIDEOGRAPHER: The time is now
5 2:02 p.m. Going off the record.
6 (Counsel and witness conferred 2:02 p.m. to 2:08 p.m.)

02:08 7 THE VIDEOGRAPHER: We're back on the
8 record. The time is now 2:08 p.m.

02:09 9 MR. FUTERFAS: Thank you very much. We
10 object to the form of the question. And the witness
11 will answer.

02:09 12 THE WITNESS: I decline to answer the
13 question on the basis of the spousal testimonial
14 privilege.

15 BY MS. BERLIN:

02:09 16 Q. Do you have any understanding between 2015
17 and June 2020, other than through learned from your
18 spouse, that the default rate on Complete Business
19 Solutions Group's merchant cash advances exceeded
20 10 percent?

02:09 21 MR. FUTERFAS: Can you restate -- just say
22 it again so we understand exactly what default rate
23 you're referring to, Amie? Thank you.

02:09 24 MS. BERLIN: Sure.

25

1 BY MS. BERLIN:

02:09 2 Q. Did you have the understanding between
3 2015 and June 2020, other than as or through learned
4 from your spouse default rate on Complete Business
5 Solutions Group's merchant cash advances exceeded
6 10 percent?

02:10 7 MR. FUTERFAS: And what default rate are
8 you referring to?

02:10 9 MS. BERLIN: Well, I think the -- I mean,
10 I'm asking the question about the default rate, and
11 the witness can explain that in her answer.

02:10 12 MR. SOTO: Amie, this is Mr. Soto. I
13 think we're asking for, if you can provide one, a
14 definition of default rate so that we can make a
15 decision whether a particular privilege is
16 applicable or whether she should answer.

02:11 17 MS. BERLIN: Well, I think the issue is if
18 the witness is confused and requires me to provide
19 more detail.

02:11 20 MR. FUTERFAS: The witness is confused.

02:11 21 MS. BERLIN: How do you know?

02:11 22 THE WITNESS: Amie, do you mind repeating
23 the question just so I can understand better.

24 BY MS. BERLIN:

02:11 25 Q. Sure.

02:11 1 A. Thank you.

02:11 2 Q. Of course. Did you have the understanding
3 between 2015 and June 2020, other than as learned
4 from your spouse, that the default rate on Complete
5 Business Solutions Group's merchant cash advances
6 exceeded 10 percent?

02:11 7 MR. FUTERFAS: Amie, we have an objection
8 because of the definition of default rate. We don't
9 know what default rate you're referring to, what
10 mathematics you're actually referring to.

02:11 11 MS. BERLIN: Well, the witness can answer
12 and explain that in her answer, but I don't think
13 I'm required to provide a definition. If we have
14 to, we can have the court review the question. But
15 I'm going to ask for an answer on the question as
16 posed.

02:12 17 MR. FUTERFAS: We object to the form of
18 the question because the definition of default rate
19 is clearly not -- is certainly not clear. And we
20 will confer quickly. Thank you. Thank you.

02:12 21 THE VIDEOGRAPHER: The time is now
22 2:12 p.m. Off the record.

23 (Counsel and witness conferred 2:12 p.m. to 2:13 p.m.)

02:13 24 THE VIDEOGRAPHER: On the record 2:13 p.m.

02:13 25 MR. FUTERFAS: Thank you. With those

1 objections repeated, the witness will answer the
2 question.

02:13 3 THE WITNESS: I decline to answer the
4 question on the basis of the spousal testimonial
5 privilege.

6 BY MS. BERLIN:

02:14 7 Q. By 2019 were you aware of the fact that
8 Complete Business Solutions Group was in collections
9 litigation with about 1,000 merchant cash advance
10 borrowers for failure to pay on the merchant cash
11 advances?

02:15 12 MR. FUTERFAS: Object. We object to the
13 form of the question. We're not really sure what
14 you mean by failure to pay merchant cash borrowers.
15 But we preserve that objection.

02:15 16 MS. BERLIN: I can re-ask it then.

17 BY MS. BERLIN:

02:15 18 Q. By 2019 were you aware of the fact that
19 Complete Business Solutions Group had about a
20 thousand lawsuits pending against merchant cash
21 advance borrowers who had not made their payments to
22 Complete Business Solutions Group?

02:15 23 MR. FUTERFAS: I still -- it's better,
24 Amie. We still have an objection to the form
25 because the question of not made payments, I'm not

1 really sure which payments we're talking about
2 because it's payments -- it's total RTR. Are we
3 talking about total RTR, right to return under the
4 contract? It could be any. So there's ambiguity
5 there. So we object to the form. But let me
6 quickly confer.

02:16 7 MS. BERLIN: Payments isn't specified. It
8 can be anything. The question is whether she knew
9 about these lawsuits or not.

02:16 10 MR. FUTERFAS: Got it. Okay. We'll
11 confer.

02:16 12 MS. BERLIN: I didn't specify what kind of
13 payment hadn't been made in the question.

02:16 14 MR. FUTERFAS: Okay. Fair enough. We'll
15 confer quickly and get back to you. Hold on one
16 second.

02:16 17 MS. BERLIN: Okay. Thanks.

02:16 18 THE VIDEOGRAPHER: The time is now
19 2:16 p.m. Going off the record.
20 (Counsel and witness conferred 2:16 p.m. to 2:18 p.m.)

02:18 21 THE VIDEOGRAPHER: On the record 2:18 p.m.

02:18 22 MR. FUTERFAS: Thank you. Obviously, we
23 have an objection to form. And the witness will
24 answer the question.

02:18 25 THE WITNESS: I decline to answer the

1 question on the basis of the spousal testimonial
2 privilege.

3 BY MS. BERLIN:

02:19 4 Q. During the time period 2015 through
5 June 2020, were you aware of Complete Business
6 Solutions Group understating the default rate on its
7 merchant cash advances when it was trying to solicit
8 investors to invest in Complete Business Solutions
9 Group's promissory notes?

02:19 10 MR. FUTERFAS: I'm going to object to the
11 form. And I believe it's been asked and answered.
12 Didn't you just ask this question a few minutes ago?

02:19 13 MS. BERLIN: No.

02:19 14 MR. FUTERFAS: Okay. Then do you mind
15 repeating it? I'm sorry.

16 BY MS. BERLIN:

02:19 17 Q. Did you have an understanding during the
18 time period of 2015 through June 2020 that Complete
19 Business Solutions Group was understating the
20 default rate on its merchant cash advances when it
21 was soliciting investors.

02:20 22 MR. FUTERFAS: All right. Thank you. We
23 got to confer. Thank you.

02:20 24 MS. BERLIN: Go off.

02:20 25 THE VIDEOGRAPHER: 2:20 off the record.

1 (Counsel and witness conferred 2:20 p.m. to 2:21 p.m.)

02:21 2 THE VIDEOGRAPHER: Back on the record
3 2:21.

02:21 4 MR. FUTERFAS: Thank you. We have an
5 objection to the form and renew the objections on
6 the indefiniteness and the vagueness of the words
7 default rate.

02:21 8 But with those objections, the witness
9 will answer.

02:21 10 THE WITNESS: I decline to answer the
11 question on the basis of the spousal testimonial
12 privilege.

13 BY MS. BERLIN:

02:22 14 Q. During the time period of 2016 through
15 June 2020, did Complete Business Solutions Group
16 have insurance coverage that provided coverage for
17 the merchant cash advance loans that Complete
18 Business Solutions Group was offering?

02:22 19 MR. FUTERFAS: I'll object to the form of
20 the question. Can you clarify, if you wish or can
21 or choose to, what the nature of that coverage that
22 you're referring to, the insurance coverage?

02:23 23 MS. BERLIN: Well, I'm asking the question
24 about whether there is insurance coverage. Then if
25 she answers, I would ask her. If she says yes, I'll

1 ask her what kind of coverage was there.

02:23 2 So right now it's just the general
3 question of coverage.

02:23 4 MR. FUTERFAS: What kind of coverage?

02:23 5 MS. BERLIN: Any kind of coverage
6 whatsoever. This is very general. Depending on her
7 answer, I would get narrower.

02:23 8 MR. FUTERFAS: Okay. All right. No
9 problem. Thank you. We'll confer. Thank you.

02:23 10 MS. BERLIN: Thank you.

02:23 11 THE VIDEOGRAPHER: The time is now
12 2:23 p.m. Off the record.

13 (Counsel and witness conferred 2:23 p.m. to 2:27 p.m.)

02:27 14 THE VIDEOGRAPHER: On the record. The
15 time is 2:27.

02:27 16 MR. FUTERFAS: Thank you. We object to
17 the form. And with that objection, the witness will
18 answer.

02:27 19 THE WITNESS: Upon the advice of counsel,
20 I am asserting the rights and privileges guaranteed
21 under the Fifth Amendment to the United States
22 Constitution.

23 BY MS. BERLIN:

02:28 24 Q. During the time period of 2015 through
25 2020, were you present Joseph LaForte made

1 representations to potential investors of Complete
2 Business Solutions Group about his business acumen?

02:28 3 MR. FUTERFAS: Thank you. We'll confer.
4 Thank you.

02:28 5 THE VIDEOGRAPHER: It's 2:28. Off the
6 record.

7 (Counsel and witness conferred 2:28 p.m. to 2:30 p.m.)

02:30 8 THE VIDEOGRAPHER: Back on the record
9 2:30 p.m.

02:30 10 MR. FUTERFAS: The witness will answer.

02:30 11 THE WITNESS: I decline to answer the
12 question on the basis of the spousal testimonial
13 privilege.

14 BY MS. BERLIN:

02:30 15 Q. Were you present at any time between 2015
16 and June 2020 when Joseph Cole Barleta was telling
17 any potential investor of Complete Business
18 Solutions Group that Complete Business Solutions
19 Group's management team was highly successful?

02:31 20 MR. FUTERFAS: We'll confer. Thank you.

02:31 21 THE VIDEOGRAPHER: It's 2:31 p.m. Off the
22 record.

23 (Counsel and witness conferred 2:31 p.m. to 2:33 p.m.)

02:33 24 THE VIDEOGRAPHER: Back on the record
25 2:33.

02:33 1 MR. FUTERFAS: Thank you. The witness
2 will answer the question.

02:34 3 THE WITNESS: I decline to answer the
4 question on the basis of the spousal testimonial
5 privilege.

6 BY MS. BERLIN:

02:34 7 Q. During the time period 2015 through
8 June 2020, did you ever witness a single occasion
9 where anyone disclosed to a potential Complete
10 Business Solutions Group investor that Joseph
11 LaForte had a criminal record?

02:34 12 MR. FUTERFAS: We will confer. Thank you.

02:34 13 THE VIDEOGRAPHER: The time is 2:34 p.m.
14 Off the record.

15 (Counsel and witness conferred 2:34 p.m. to 2:41 p.m.)

02:36 16 THE VIDEOGRAPHER: Back on the record.
17 The time is now 2:41.

02:41 18 MR. FUTERFAS: Thank you. Thank you. We
19 have an objection to form. And with that objection,
20 the witness will answer the question.

02:41 21 THE WITNESS: Upon the advice of counsel,
22 I am asserting the rights and privileges guaranteed
23 under the Fifth Amendment to the United States
24 Constitution.

25

02:41 1 MS. BERLIN: Before we came back on the
2 record, did I hear you all say something about
3 wanting to take a personal break?

02:42 4 MR. FUTERFAS: Yes. Love to.

02:42 5 MS. BERLIN: That's all we heard. It was
6 like right as you came on. We didn't hear anything
7 other than that.

02:42 8 MR. FUTERFAS: You didn't hear this
9 unbelievable telemuted discussion of the evolution
10 of the law of privileges?

02:42 11 MS. BERLIN: No.

02:42 12 MR. FUTERFAS: Then I'm sorry you missed
13 that.

02:42 14 MR. SOTO: The knock-knock jokes.

02:42 15 MR. FUTERFAS: I would love to take a
16 two-minute break or a three-minute break if we can.

02:42 17 MS. BERLIN: Sure. Why don't we make it
18 five minutes. And I'll see you guys back at 2:48.

02:42 19 MR. SOTO: Amie, I know we're going a
20 little slower than you probably anticipated. What's
21 your target time now?

02:42 22 THE VIDEOGRAPHER: Would you like to have
23 this on the record or would you like to go off the
24 record?

02:42 25 MR. FUTERFAS: We can go off the record.

02:42 1 MR. SOTO: Off.

02:42 2 MS. BERLIN: We can go off the record.

02:42 3 THE VIDEOGRAPHER: The time is 2:42 p.m.
4 We're going off the record.

5 (Recess from 2:42 p.m. to 3:07 p.m.)

03:07 6 THE VIDEOGRAPHER: We're back on the
7 record. The time is now 3:07 p.m.

8 BY MS. BERLIN:

03:07 9 Q. Have you ever disclosed to any investor in
10 Complete Business Solutions Group excluding your
11 spouse that Complete Business Solutions Group was
12 sanctioned by state securities regulators?

03:08 13 MR. FUTERFAS: We got to confer. Thank
14 you. Thank you, everyone. Hold on one second.

03:08 15 THE VIDEOGRAPHER: The time is 3:08. Off
16 the record.

17 (Counsel and witness conferred 3:08 p.m. to 3:13 p.m.)

03:13 18 THE VIDEOGRAPHER: The time is 3:13 p.m.
19 On the record.

03:13 20 MR. FUTERFAS: Amie, we object to form.
21 But beyond that objection, the witness will answer.
22 Thank you.

03:13 23 THE WITNESS: I decline to answer the
24 question on the basis of the spousal testimonial
25 privilege.

1 BY MS. BERLIN:

03:13 2 Q. When I refer to investors in Complete
3 Business Solutions Group or Complete Business
4 Solutions Group investors in the questions that
5 follow today, I am excluding Joseph LaForte. Do you
6 understand that? Do you understand, Ms. McElhone?

03:14 7 MR. FUTERFAS: We do understand that, and
8 that's why the privilege being asserted is the
9 spousal testimonial privilege as opposed to the
10 marital communications privilege.

03:14 11 MS. BERLIN: I understand. I was just
12 going to make that statement now so that when I ask
13 the next group of questions, I don't have to just
14 keep saying "excluding Joseph LaForte."

03:14 15 MR. FUTERFAS: Understood. Understood.
16 Sorry. I misunderstood you. Got it. Got it. Got
17 it.

03:14 18 MS. BERLIN: Just so my questions can be
19 shorter.

03:14 20 MR. FUTERFAS: Okay.

21 BY MS. BERLIN:

03:14 22 Q. Do you understand, Ms. McElhone, that I'm
23 excluding Joseph LaForte?

03:14 24 A. Yes.

03:14 25 Q. Okay. Great. Prior to the SEC filing its

1 case against you, did you ever hear anyone disclose
2 to a Complete Business Solutions Group investor that
3 Complete Business Solutions Group had been
4 sanctioned for violating state securities laws?

03:15 5 MR. FUTERFAS: One second. I'm pausing
6 for a minute because it sounds like the question you
7 just asked.

03:15 8 MS. BERLIN: No. The question prior was
9 whether Ms. McElhone had ever disclosed to any CBSG
10 investor. And the question I just asked is whether
11 she ever witnessed anyone telling a CBSG investor.
12 So they're two separate questions.

03:15 13 MR. FUTERFAS: Just a question of
14 clarification of form. Does "anyone" include
15 lawyer's letters or forms filed or schedules
16 submitted to investors in documents prepared by
17 lawyers?

03:16 18 MS. BERLIN: It could be anyone.

03:16 19 MR. FUTERFAS: I'm sorry?

03:16 20 MS. BERLIN: It could be anyone. So I'm
21 asking about whether Ms. McElhone ever witnessed
22 anyone making that disclosure to a CBSG investor.
23 So it could include attorneys because those would be
24 third parties, right.

03:16 25 MR. FUTERFAS: We've seen disclosures in

1 some of the documents. So I just want to make sure
2 that the question -- would the question include
3 disclosures made by lawyers in documents submitted
4 and sent to various investors?

03:16 5 MS. BERLIN: It could include anyone. It
6 could include anyone. Then if she answers, then I
7 would ask her specifically who, when and where and
8 what was said.

03:17 9 Now the question pending is whether prior
10 to the SEC filing its case Ms. McElhone ever
11 witnessed anyone disclose to a Complete Business
12 Solutions Group investor that Complete Business
13 Solutions Group had been fined or sanctioned for
14 violating the state securities laws.

03:17 15 MR. FUTERFAS: Okay. I understand your
16 question. Give us a second to confer. Thank you so
17 much.

03:17 18 MS. BERLIN: We'll go off the record.

03:17 19 THE VIDEOGRAPHER: The time is 3:17 p.m.
20 Off the record.

21 (Counsel and witness conferred 3:17 p.m. to 3:20 p.m.)

03:20 22 THE VIDEOGRAPHER: Back on the record
23 3:20.

03:20 24 MR. FUTERFAS: Thank you. The witness
25 will answer is as follows.

03:20 1 THE WITNESS: Upon the advice of counsel,
2 I am asserting the rights and privileges guaranteed
3 under the Fifth Amendment to the United States
4 Constitution.

5 BY MS. BERLIN:

03:20 6 Q. Have you ever disclosed to any investor in
7 Complete Business Solutions Group that Pennsylvania
8 securities regulators filed a consent agreement and
9 order against Complete Business Solutions Group?

03:21 10 MR. FUTERFAS: Amie, can I ask, does the
11 word "you" in that sentence, "have you," does that
12 include attorney's filings?

03:21 13 MS. BERLIN: "You" is Ms. McElhone.

03:21 14 MR. FUTERFAS: Individually?

03:21 15 MS. BERLIN: Yes. This is not a 30(b)(6)
16 deposition of the company. It's a deposition of
17 Ms. McElhone in her personal capacity.

03:21 18 MR. FUTERFAS: Okay. Thank you for that
19 clarification.

03:21 20 MS. BERLIN: If her answer is that she has
21 made those disclosures through an attorney, then
22 obviously would be responsive and included, that
23 would have to be included in her answer, that she
24 has. Then I would ask who, when, where, how, why
25 and she would then be testifying that it was done

1 through an attorney.

03:21 2 But, yes, it could be her directly or if
3 she had her attorney do it on her behalf, that would
4 also -- I think it could be included. It just
5 depends on the circumstances which only she knows.

03:22 6 MR. FUTERFAS: Okay. With that
7 clarification, we will confer. Thank you.

03:22 8 MS. BERLIN: Okay. Great.

03:22 9 THE VIDEOGRAPHER: The time is 3:21. Off
10 the record.

11 (Counsel and witness conferred 3:21 p.m. to 3:27 p.m.)

03:27 12 THE VIDEOGRAPHER: We're back on the
13 record. The time is now 3:27.

03:27 14 MR. FUTERFAS: Thank you. We have an
15 objection to form. But beyond that, the witness
16 will answer as follows. Thank you.

03:27 17 THE WITNESS: I decline to answer the
18 question on the basis of the spousal testimonial
19 privilege.

20 BY MS. BERLIN:

03:27 21 Q. Have you ever disclosed to any investor of
22 Complete Business Solutions Group that Complete
23 Business Solutions Group paid a -- I'm sorry. Let
24 me start again.

03:27 25 Have you ever disclosed to any investor of

1 Complete Business Solutions Group that the New
2 Jersey Bureau of Securities issued a
3 Cease-and-Desist Order against Complete Business
4 Solutions Group concerning securities law
5 violations?

03:28 6 THE WITNESS: I decline to answer the
7 question on the basis of the spousal testimonial
8 privilege.

9 BY MS. BERLIN:

03:28 10 Q. Prior to February 2020, did you ever
11 witness anyone disclose to any Complete Business
12 Solutions Group investor that the New Jersey Bureau
13 of Securities issued a Cease-and-Desist Order
14 against Complete Business Solutions Group for
15 securities law violations?

03:28 16 MR. FUTERFAS: Amie, I'm going to object
17 to the form. I think that's what you just asked.

03:28 18 MS. BERLIN: No. I asked Ms. McElhone if
19 she had ever disclosed it. Then I asked her whether
20 she ever witnessed anyone else disclose it prior to
21 February 2020.

03:29 22 THE WITNESS: I decline to answer the
23 question on the basis of the spousal testimonial
24 privilege.

25

1 BY MS. BERLIN:

03:29 2 Q. Have you ever disclosed to any investor in
3 Complete Business Solutions Group that Texas
4 securities regulators had issued a Cease-and-Desist
5 Order against Complete Business Solutions Group for
6 violations of state securities laws?

03:29 7 A. I decline to answer the question on the
8 basis of the spousal testimonial privilege.

03:29 9 Q. Prior to February 2020, have you ever
10 witnessed anyone disclose to any Complete Business
11 Solutions Group investor that the Texas state
12 securities regulators had issued a Cease-and-Desist
13 Order against Complete Business Solutions Group?

03:30 14 A. I decline to answer the question on the
15 basis of the spousal testimonial privilege.

03:30 16 Q. Just one moment.

03:30 17 MR. FUTERFAS: Take your time, Amie.
18 Sorry. I thought maybe you are muted or something.

03:31 19 MS. BERLIN: No, no. I have to share the
20 exhibits myself. I'm going to share the screen now,
21 show you what we've marked as Exhibit 45.

22 BY MS. BERLIN:

03:31 23 Q. Ms. McElhone, I'm showing you what I have
24 marked as Exhibit 45 for this deposition and it is a
25 letter to Lori Boyogueno at the Pennsylvania Bureau

1 of Securities Compliance and Examinations. Do you
2 see that on your screen?

03:31 3 A. Yes.

03:31 4 Q. Did you review Exhibit 45, the document
5 that you see as Exhibit 45, before it was sent to
6 the Pennsylvania Bureau of Securities Compliance and
7 Examinations?

03:31 8 MR. FUTERFAS: We have to confer. Let me
9 have a moment, please. Hold on. Thank you.

03:32 10 THE VIDEOGRAPHER: The time is now 3:31.
11 Off the record.

12 (Counsel and witness conferred 3:31 p.m. to 3:34 p.m.)

03:34 13 THE VIDEOGRAPHER: Back on the record
14 3:34.

03:35 15 MR. FUTERFAS: Thank you. The witness
16 will answer.

03:35 17 THE WITNESS: Upon the advice of counsel,
18 I'm asserting the rights and privileges guaranteed
19 under the Fifth Amendment to the United States
20 Constitution.

21 BY MS. BERLIN:

03:35 22 Q. Did you on behalf -- did you on behalf of
23 Complete Business Solutions Group approve the
24 representations that Complete Business Solutions
25 Group made to the Pennsylvania Bureau of Securities

1 Compliance and Examinations that appear in
2 Exhibit 45?

03:35 3 MR. FUTERFAS: Okay. We'll confer very
4 briefly. Hold on, please. Thank you.

03:35 5 THE VIDEOGRAPHER: 3:35 off the record.
6 (Counsel and witness conferred 3:35 p.m. to 3:38 p.m.)

03:38 7 THE VIDEOGRAPHER: The time is 3:38. On
8 the record.

03:38 9 MR. FUTERFAS: Thank you. The witness
10 will answer. Thank you.

03:39 11 THE WITNESS: Upon the advice of counsel,
12 I'm asserting the rights and privileges guaranteed
13 under the Fifth Amendment to the United States
14 Constitution.

15 BY MS. BERLIN:

03:39 16 Q. At the time Exhibit 45 was sent -- just
17 one moment. Let me share it again. I just realized
18 it's not sharing any longer.

03:39 19 Can you all see it on your screen?

03:39 20 A. Yes.

03:39 21 MR. FUTERFAS: It's pretty tiny. That's
22 better. That's better. Okay. I'm sorry. Go ahead
23 with your questioning. Sorry.

24 BY MS. BERLIN:

03:39 25 Q. At the time that CBSG or Complete Business

1 Solutions Group sent the letter appearing as
2 Exhibit 45 to the Pennsylvania securities
3 regulators, were you aware of the fact that
4 representations about -- in Exhibit 45 concerning
5 agreements with individuals for compensation in
6 connection with the sale of promissory notes were
7 misleading.

03:40 8 Let me ask that question again. I'm
9 sorry.

03:40 10 MR. FUTERFAS: Okay.

11 BY MS. BERLIN:

03:40 12 Q. At the time Exhibit 45 was sent to the
13 Pennsylvania securities regulators in
14 September 2018, were you aware that Exhibit 45
15 contained misleading representations to the
16 Pennsylvania securities regulators with respect to
17 whether or not Complete Business Solutions Group
18 continued to have agreements with people providing
19 compensation for the sale of promissory notes?

03:41 20 MR. FUTERFAS: Hold on a second. We have
21 to confer for a minute. Thank you.

03:41 22 THE VIDEOGRAPHER: 3:41 off the record.
23 (Counsel and witness conferred 3:41 p.m. to 3:44 p.m.)

03:44 24 THE VIDEOGRAPHER: Back on the record
25 3:44.

03:44 1 MR. FUTERFAS: Thank you. We have a form
2 objection. The objection assumes certain facts. So
3 any answer -- our objection is any answer would not
4 adopt any facts alleged in the question. And with
5 that form objection, the witness' answer is as
6 follows.

03:44 7 THE WITNESS: Upon the advice of counsel,
8 I'm asserting the rights and privileges guaranteed
9 under the Fifth Amendment to the United States
10 Constitution.

11 BY MS. BERLIN:

03:45 12 Q. In September 2018, was it your
13 understanding Complete Business Solutions Group was
14 compensating individuals for the offer and sale of
15 promissory notes relating to Complete Business
16 Solutions Group?

03:45 17 MR. FUTERFAS: Okay. Please stand by.
18 Thank you.

03:45 19 THE VIDEOGRAPHER: The time is 3:45. Off
20 the record.

21 (Counsel and witness conferred 3:45 p.m. to 3:47 p.m.)

03:47 22 THE VIDEOGRAPHER: 3:47 on the record.

03:47 23 MR. FUTERFAS: Thank you. We have the
24 same objection as to the previous question. The
25 question alleges facts in the body of the question

1 which aren't in evidence. So the witness' answer in
2 no adopts the allegation that was made in the
3 question. And with that the witness' answer is as
4 follows.

03:48 5 THE WITNESS: Upon the advice of counsel,
6 I'm asserting the rights and privileges guaranteed
7 under the Fifth Amendment to the United States
8 Constitution.

9 BY MS. BERLIN:

03:48 10 Q. Let me show you what we've marked as
11 Exhibit 46. I'll share my screen. Ms. McElhone,
12 can you see on your screen something that says
13 Declaration of Lisa McElhone and it as a yellow
14 sticker that says Deposition Exhibit 46?

03:49 15 A. Yes.

03:49 16 Q. Okay. Is Exhibit 46 a declaration --
17 first of all, do you recognize Exhibit 46?

03:49 18 A. I can't recall.

03:49 19 MR. FUTERFAS: Can you make it a little
20 bit larger?

03:49 21 MS. BERLIN: Yeah. Do you want me to
22 scroll back to the top and then scroll down? Let me
23 know if I scroll too fast.

03:50 24 MR. FUTERFAS: We're not in a position to
25 review the document. Let's say for purposes of the

1 record so we can move on that I do not object to the
2 document representing what it appears to be.

03:50 3 MS. BERLIN: Okay. What I'll also do, I
4 can email it to you. Would that be easier?

03:50 5 MR. SOTO: Probably.

03:50 6 MR. FUTERFAS: I could probably print it
7 out.

03:50 8 MS. BERLIN: Just so you have it there,
9 too. Let's go off the record for a moment.

03:50 10 THE VIDEOGRAPHER: The time is now
11 3:50 p.m. Going off the record.

12 (Recess from 3:50 p.m. to 4:03 p.m.)

04:02 13 THE VIDEOGRAPHER: On the record. Time is
14 4:02.

15 BY MS. BERLIN:

04:03 16 Q. Ms. McElhone, do you recognize Exhibit 46.

04:03 17 A. Upon the advice of counsel, I'm asserting
18 the rights and privileges guaranteed under the Fifth
19 Amendment to the United States Constitution.

04:03 20 Q. Turning to page 3 of Exhibit 46, is this a
21 true and correct copy of your signature on the
22 signature line here?

04:03 23 A. Upon the advice of counsel, I'm asserting
24 the rights and privileges guaranteed under the Fifth
25 Amendment to the United States Constitution.

04:03 1 Q. Did you sign the declaration appears as
2 Exhibit 46?

04:03 3 A. Upon the advice of counsel, I'm asserting
4 the rights and privileges guaranteed under the Fifth
5 Amendment to the United States Constitution.

04:04 6 Q. Do you see right above the signature line
7 where it states, "I declare under penalty of perjury
8 that the foregoing is true and correct, executed on
9 August 12, 2019."

04:04 10 A. Upon the advice of counsel, I'm asserting
11 the rights and privileges guaranteed under the Fifth
12 Amendment to the United States Constitution.

04:04 13 Q. When you executed Exhibit 46, did you
14 understand that you were making representations that
15 in Exhibit 46 under penalty of perjury?

04:04 16 A. Upon the advice of counsel, I'm asserting
17 the rights and privileges guaranteed under the Fifth
18 Amendment to the United States Constitution.

04:04 19 Q. Do you see on page 1 paragraph 5, where it
20 states, "We founded Complete Business Solutions
21 Group d/b/a Par Funding ('CBSG') in or around 2012.
22 Mr. LaForte ran the factoring side of the business
23 and I handled the accounting for less than a year."

04:05 24 Do you see that paragraph?

04:05 25 A. Upon the advice of counsel, I'm asserting

1 the rights and privileges guaranteed under the Fifth
2 Amendment to the United States Constitution.

04:05 3 Q. I just want to be. Do you understand what
4 I'm just asking, if you see the paragraph in a
5 document that's on your screen?

04:05 6 MR. FUTERFAS: We will all stipulate that
7 we see a document that's on your screen.

04:05 8 MS. BERLIN: And that it's Exhibit 46?

04:05 9 MR. FUTERFAS: Yes. We can see that it's
10 Exhibit 46.

11 BY MS. BERLIN:

04:05 12 Q. So is the representation in paragraph 5 of
13 Exhibit 46, which I just read into the record -- are
14 the representations in paragraph 5 true?

04:05 15 A. Upon the advice of counsel, I'm asserting
16 the rights and privileges guaranteed under the Fifth
17 Amendment to the United States Constitution.

04:06 18 Q. I would like to turn your attention to
19 paragraph 6 of Exhibit 46 where it states, "I hired
20 Joe Cole, the current CFO of CBSG, to replace me in
21 2012. At that time I started a nail salon called
22 The Lacquer Lounge, see www.lacquerlounge.com."

04:06 23 Do you see paragraph 6 in Exhibit 46 which
24 I just read into the record?

04:06 25 A. Upon the advice of counsel, I'm asserting

1 the rights and privileges guaranteed under the Fifth
2 Amendment to the United States Constitution.

04:06 3 Q. Are the representations you made in
4 paragraph 6 of Exhibit 46 true and correct?

04:06 5 A. Upon the advice of counsel, I'm asserting
6 the rights and privileges guaranteed under the Fifth
7 Amendment to the United States Constitution.

04:06 8 Q. Turning to paragraph 7 of Exhibit 46,
9 which states "I have worked full time at the Lacquer
10 Lounge since its inception and have had no
11 subsequent involvement in CBSG despite the fact that
12 I was never formally removed as its president."

04:07 13 Did I read that correctly?

04:07 14 A. Upon the advice of counsel, I'm asserting
15 the rights and privileges guaranteed under the Fifth
16 Amendment to the United States Constitution.

04:07 17 Q. At the time that you executed Exhibit 46,
18 were the representations in paragraph 7 true?

04:07 19 A. Upon the advice of counsel, I'm asserting
20 the rights and privileges guaranteed under the Fifth
21 Amendment to the United States Constitution.

04:07 22 Q. Turning to paragraph 9 of Exhibit 46,
23 which states, "It is my understanding that
24 Mr. LaForte is responsible for evaluating and
25 closing merchant cash advance actions at CBSG, and I

1 believe he closes approximately 20 to 25
2 transactions per day."

04:08 3 Did I read that correctly?

04:08 4 A. Upon the advice of counsel, I'm asserting
5 the rights and privileges guaranteed under the Fifth
6 Amendment to the United States Constitution.

04:08 7 Q. Was paragraph 9, which I just read into
8 the record, were the representations made in
9 paragraph 9 true as of August 12, 2019?

04:08 10 MR. FUTERFAS: We just need to confer for
11 a moment, if you don't mind. Hold on one minute.

04:08 12 THE VIDEOGRAPHER: The time is 4:08. Off
13 the record.

14 (Counsel and witness conferred 4:08 p.m. to 4:10 p.m.)

04:10 15 THE VIDEOGRAPHER: On the record 4:10.

04:10 16 MR. FUTERFAS: Amie, you completed your
17 question?

04:10 18 MS. BERLIN: Yes, I did.

04:10 19 MR. FUTERFAS: Okay. Fair enough.

04:10 20 THE WITNESS: Upon the advice of counsel,
21 I'm asserting the rights and privileges guaranteed
22 under the Fifth Amendment to the United States
23 Constitution.

24 BY MS. BERLIN:

04:10 25 Q. Was your representations in Exhibit 46

1 that you had no involvement in CBSG from 2012 until
2 August 12, 2019, was that representation true at the
3 time that you signed Exhibit 46?

04:11 4 A. Upon the advice of counsel, I'm asserting
5 the rights and privileges guaranteed under the Fifth
6 Amendment to the United States Constitution.

04:11 7 MS. BERLIN: Just to confirm, is my screen
8 still sharing or no?

04:11 9 MR. FUTERFAS: It's not.

04:11 10 MS. BERLIN: Okay. Good. Thank you.

11 BY MS. BERLIN:

04:11 12 Q. I'm going to turn now to show you
13 Exhibit 47.

04:12 14 MS. BERLIN: Let's go off the record for a
15 moment.

04:12 16 MR. FUTERFAS: No problem.

04:12 17 THE VIDEOGRAPHER: The time is 4:12 p.m.
18 Going off the record.

19 (Recess from 4:12 p.m. to 4:13 p.m.)

04:13 20 THE VIDEOGRAPHER: Back on the record.
21 The time is now 4:13.

22 BY MS. BERLIN:

04:13 23 Q. Ms. McElhone, I am showing you what we
24 have marked as Exhibit 47. Do you see a document on
25 your screen that has the yellow sticker that says

1 Deposition Exhibit 47?

04:13 2 MR. FUTERFAS: We'll acknowledge we can
3 see that on the screen. And I'll also put on the
4 record that I received the same document via email,
5 and we have printed it out so we have a hard copy
6 here.

04:13 7 MS. BERLIN: Okay. Great.

8 BY MS. BERLIN:

04:13 9 Q. So I'm showing you Exhibit 47, which has
10 also been filed in this case as document entry 41-3.

04:13 11 Ms. McElhone, do you recognize the
12 document that appears as Exhibit 47?

04:14 13 A. Upon the advice of counsel, I'm asserting
14 the rights and privileges guaranteed under the Fifth
15 Amendment to the United States Constitution.

04:15 16 Q. Prior to Complete Business Solutions Group
17 filing Exhibit 47 with the SEC, did you review it?

04:15 18 A. Upon the advice of counsel, I'm asserting
19 the rights and privileges guaranteed under the Fifth
20 Amendment to the United States Constitution.

04:15 21 Q. Prior to Complete Business Solutions Group
22 filing the Form D that appears as Exhibit 47, did
23 you approve the filing?

04:15 24 MR. FUTERFAS: We got to take a minute to
25 consult. Thank you. Thank you.

04:15 1 THE VIDEOGRAPHER: The time is 4:15. Off
2 the record.

3 (Counsel and witness conferred 4:15 p.m. to 4:19 p.m.)

04:19 4 THE VIDEOGRAPHER: The time is 4:19. On
5 the record.

04:19 6 MR. FUTERFAS: Ms. Berlin, can you
7 rephrase or just repeat the question if you don't
8 mind?

04:19 9 MS. BERLIN: Sure.

10 BY MS. BERLIN:

04:19 11 Q. Ms. McElhone, did you approve the Form D
12 filing that appears as Exhibit 47 before it was
13 filed with the SEC?

04:19 14 A. Upon the advice of counsel, I'm asserting
15 the rights and privileges guaranteed under the Fifth
16 Amendment to the United States Constitution.

04:19 17 Q. I'm going to share my screen again. I'm
18 showing Exhibit 47 on the screen. Turning to PDF
19 page 2 of Exhibit 47, which is the Form D filing for
20 Complete Business Solutions Group, I'd like to turn
21 your attention to Section No. 4, Related Person on
22 page 205. Do you see where Section 3 of Exhibit 47
23 discloses to the SEC that you are an executive
24 officer of Complete Business Solutions Group?

04:20 25 A. Upon the advice of counsel, I'm asserting

1 the rights and privileges guaranteed under the Fifth
2 Amendment to the United States Constitution.

04:20 3 Q. Was the representation made to the SEC in
4 Section 3 of Exhibit 47 true as of April 2019?

04:21 5 A. Upon the advice of counsel, I'm asserting
6 the rights and privileges guaranteed under the Fifth
7 Amendment to the United States Constitution.

04:21 8 Q. Was the representation to the SEC that was
9 made in Exhibit 47 true with respect you to being an
10 executive officer of CBSG as of April 2020?

04:21 11 A. Upon the advice of counsel, I'm asserting
12 the rights and privileges guaranteed under the Fifth
13 Amendment to the United States Constitution.

04:21 14 Q. Turn your attention now to Section 16 of
15 Exhibit 47, which is on PDF page 4 of 5. It's
16 entitled Use of Proceeds, and it states -- it asks
17 that CBSG provide the amount of the gross proceeds
18 of the offering that has been or is proposed to be
19 used for payments to any person required to be named
20 as executive officers, directors or promoters in
21 response to item 3 above.

04:22 22 Do you see that on Exhibit 47? I'm
23 highlighting it on the screen.

04:22 24 A. Upon the advice of counsel, I'm asserting
25 the rights and privileges guaranteed under the Fifth

1 Amendment to the United States Constitution.

04:22 2 Q. Was the representation CBSG made to the
3 SEC in Exhibit 47, item No. 16, that zero was paid
4 to you from the securities proceeds, was that
5 representation true as of April 2020?

04:22 6 A. Upon the advice of counsel, I'm asserting
7 the rights and privileges guaranteed under the Fifth
8 Amendment to the United States Constitution.

04:23 9 Q. Turning back to item No. 3, on page 2 of
10 Exhibit 47, it also identifies Joseph Cole Barleta
11 as an executive officer and Jamie McElhone as an
12 executive officer. I'm just going to highlight that
13 section so that it's there on the screen what I'm
14 referring to.

04:23 15 Do you see that on your screen?

04:23 16 A. Upon the advice of counsel, I'm asserting
17 the rights and privileges guaranteed under the Fifth
18 Amendment to the United States Constitution.

04:23 19 Q. Was Jamie McElhone an executive officer of
20 Complete Business Solutions Group as of April 2020?

04:24 21 A. Upon the advice of counsel, I'm asserting
22 the rights and privileges guaranteed under the Fifth
23 Amendment to the United States Constitution.

04:24 24 Q. Had Jamie McElhone received any of the
25 proceeds from the Complete Business Solutions Group

1 securities offering as of April 2020?

04:24 2 A. Upon the advice of counsel, I am asserting
3 the rights and privileges guaranteed under the Fifth
4 Amendment to the United States Constitution.

04:24 5 Q. As of April 2020, had Joseph Cole Barleta
6 received any of the securities offering proceeds
7 from Complete Business Solutions Group?

04:24 8 A. Upon the advice of counsel, I'm asserting
9 the rights and privileges guaranteed under the Fifth
10 Amendment to the United States Constitution.

04:25 11 Q. Is the representation made to the SEC on
12 page 4, item No. 16 regarding use of proceeds, is
13 the representation made there that zero dollars had
14 been received by Jamie McElhone as of April 2020,
15 was that representation to the SEC true at the time
16 it was made?

04:25 17 MR. FUTERFAS: Hold on. Let me just find
18 this, please. What page are you on, Amie?

04:25 19 MS. BERLIN: It's page 4 of 5, item
20 No. 16, Use of Proceeds.

04:25 21 MR. FUTERFAS: Okay. It's a single
22 paragraph. Okay. I understand your question. Okay.
23 Thank you.

04:25 24 THE WITNESS: Upon the advice of counsel,
25 I'm asserting the rights and privileges guaranteed

1 under the Fifth Amendment to the United States
2 Constitution.

3 BY MS. BERLIN:

04:25 4 Q. Were the representations made in
5 Section 16 of Exhibit 47 true at the time they were
6 made with respect to Joseph Cole Barleta?

04:26 7 A. Upon the advice of counsel, I'm asserting
8 the rights and privileges guaranteed under the Fifth
9 Amendment to the United States Constitution.

04:26 10 Q. In addition to you, Joseph Cole Barleta
11 and Jamie McElhone being executive officers of
12 Complete Business Solutions Group as of April 2020,
13 was Joseph LaForte also an executive officer of
14 Complete Business Solutions Group as of April 2020?

04:26 15 MR. FUTERFAS: We have to confer. Give us
16 a moment. Thank you.

04:26 17 THE VIDEOGRAPHER: The time is 4:26. Off
18 the record.

19 (Counsel and witness conferred 4:26 p.m. to 4:28 p.m.)

04:28 20 THE VIDEOGRAPHER: Back on the record
21 4:28.

04:29 22 MR. FUTERFAS: Thank you. Amie, have you
23 completed your question?

04:29 24 MS. BERLIN: Yes.

04:29 25 MR. FUTERFAS: Okay. Good. Thank you.

04:29 1 THE WITNESS: Upon the advice of counsel,
2 I'm asserting the rights and privileges guaranteed
3 under the Fifth Amendment to the United States
4 Constitution.

5 BY MS. BERLIN:

04:29 6 Q. Did you omit disclosure of Joseph LaForte
7 as an executive officer or director of Complete
8 Business Solutions Group from the Form D filing that
9 appears as Exhibit 47 in order to conceal the fact
10 that a convicted felon was managing Complete
11 Business Solutions Group?

04:29 12 MR. FUTERFAS: We object to the form. I
13 think it's a compound question and assumes facts not
14 in evidence. And so presuming that objection, the
15 witness' answer is as follows.

04:29 16 MS. BERLIN: I'll break it down.

04:29 17 MR. FUTERFAS: Okay.

18 BY MS. BERLIN:

04:30 19 Q. Ms. McElhone, did you make the decision to
20 omit Joseph LaForte from the Form D filing with the
21 SEC that appears as Exhibit 47?

04:30 22 MR. FUTERFAS: We have to confer for just
23 a second. Hold on.

04:30 24 THE VIDEOGRAPHER: The time is 4:30 p.m.
25 Going off the record.

1 (Counsel and witness conferred 4:30 p.m. to 4:33 p.m.)

04:33 2 THE VIDEOGRAPHER: Back on the record
3 4:33.

04:33 4 MR. FUTERFAS: Thank you. Amie, did you
5 finish your question?

04:34 6 MS. BERLIN: Yes.

04:34 7 MR. FUTERFAS: We object to the form of
8 the question to the word "omit." The word omit --
9 our objection is the word omit presumes that there
10 was an understanding or a belief or something that
11 something should have happened. And so omit
12 suggests purposefulness. So we're objecting to the
13 form on that basis.

04:34 14 With that objection, the witness will
15 answer.

04:34 16 MS. BERLIN: I'll just change the
17 question.

04:34 18 MR. FUTERFAS: I'm sorry?

04:34 19 MS. BERLIN: We'll just change it.

04:34 20 MR. FUTERFAS: Okay. Okay. Okay.

04:34 21 MS. BERLIN: No problem.

22 BY MS. BERLIN:

04:34 23 Q. Ms. McElhone, did you make the decision
24 not to list Joseph LaForte on the Form D filing with
25 the SEC that appears as Exhibit 47?

04:35 1 MR. FUTERFAS: Hold on one second. Sorry.
2 I appreciate you changed the question. Hold on one
3 second.

04:35 4 THE VIDEOGRAPHER: 4:34 off the record.
5 (Counsel and witness conferred 4:34 p.m. to 4:35 p.m.)

04:35 6 THE VIDEOGRAPHER: On the record 4:35.

04:35 7 MR. BACHNER: Hi, Amie. It's Michael
8 Bachner. Alan's voice is tired from talking. So
9 I'm going to chime in here. The question -- we
10 object to the form. The question assumes facts not
11 in evidence and that is that Joe should have, in
12 fact, been listed on the Form D. So we object as to
13 form. And otherwise, the question -- the response
14 as follows.

04:36 15 THE WITNESS: Upon the advice of counsel,
16 I'm asserting the rights and privileges guaranteed
17 under the Fifth Amendment to the United States
18 Constitution.

04:36 19 MS. BERLIN: And just for the record, I
20 don't have any objection to you switching lawyers
21 like from Alan Futerfas to Michael Bachner at this
22 point. Just so the record is clear, usually the
23 rule is that one lawyer has to do the representation
24 through the whole deposition. I'm not going to
25 raise any issue with that.

04:36 1 MR. BACHNER: Thank you.

04:36 2 MR. FUTERFAS: He's been here the whole
3 time telling me what to do.

04:36 4 MR. BACHNER: I wish that was true, but
5 it's not.

04:37 6 We're assuming your dog is not giving you
7 any advice either here.

04:37 8 MS. BERLIN: Oh, yeah. He's my secret.
9 I'm kidding.

10 BY MS. BERLIN:

04:37 11 Q. Ms. McElhone, did you make the decision
12 not to list Mr. LaForte in the Form D filing that
13 appears as Exhibit 47 because you did not want to
14 disclose to the SEC that Complete Business Solutions
15 Group was being operated by a convicted felon?

04:37 16 MR. FUTERFAS: Amie, I object. This was
17 the same question you asked, and you said you were
18 going to bifurcate. So it's a compound question,
19 and it also assumes -- the word "decision" assumes
20 purposefulness. Like A decision assumes that
21 there's some evidence or requirement that a person
22 should have been on the form in the first place. So
23 it's almost like me saying did you make a decision,
24 you know, not to speak to -- I don't have to go into
25 detail. I object to the form of the question. If

1 you want to try it again.

04:38 2 MS. BERLIN: No. I already broke down the
3 part. So I think it's okay. I think if it's no, I
4 didn't do it for that reason, I did it because he
5 wasn't an executive officer, that would be the
6 answer. I'll ask the question. Let me see if I can
7 fine tune it a little bit more.

04:38 8 MR. FUTERFAS: Okay.

04:38 9 MS. BERLIN: Yeah.

10 BY MS. BERLIN:

04:38 11 Q. Did you determine that Joseph LaForte
12 should not be identified in Section 3 of the Form D
13 filing that appears as Exhibit 47 because you wanted
14 to conceal from the SEC that a convicted felon was
15 involved in the securities offering of CBSG?

04:39 16 MR. FUTERFAS: Okay. We're objecting on
17 the grounds --

04:39 18 MS. BERLIN: It's more complex. All
19 right.

20 BY MS. BERLIN:

04:39 21 Q. Let me try it one more time, Ms. McElhone.
22 I'm trying to make it simpler, but I think I'm
23 making it worse. So let me try again.

04:39 24 Is the reason that you did not list
25 Mr. LaForte in Exhibit 47 that you wanted to conceal

1 the involvement of a convicted felon with Complete
2 Business Solutions Group?

04:39 3 MR. BACHNER: Amie, it's Michael. We
4 object to the form assuming Lisa had the
5 decision-making authority over that.

04:40 6 MS. BERLIN: She can answer that in her
7 answer. I'm just asking the question. I get it.
8 You can make your objection, and the judge can
9 review it, I guess.

04:40 10 THE WITNESS: Upon the advice of counsel,
11 I'm asserting the rights and privileges guaranteed
12 under the Fifth Amendment to the United States
13 Constitution.

14 BY MS. BERLIN:

04:40 15 Q. Did you decide to file Exhibit 47 with the
16 SEC for purposes of obstructing the SEC's
17 enforcement obligations?

04:40 18 MR. FUTERFAS: We object to the form of
19 the question. Object to the form of the question.
20 Anyway, with that objection, the witness will
21 answer.

04:41 22 THE WITNESS: Upon the advice of counsel,
23 I'm asserting the rights and privileges guaranteed
24 under the Fifth Amendment to the United States
25 Constitution.

1 BY MS. BERLIN:

04:41 2 Q. I'm going to -- give me a moment. We're
3 going to switch to Exhibit 48 on the screen. I just
4 want to make sure it's fine if counsel advises me
5 whether or not on your screens you all are seeing
6 what I'm going to mark as Exhibit 48, which has a --
7 it was filed this document as document entry 28 in
8 this case. Do you see that on your screen?

04:42 9 MR. FUTERFAS: Yes. This one does not --
10 this one does not have the yellow deposition
11 sticker; right? We agree on that?

04:42 12 MS. BERLIN: No, it does not. We'll mark
13 that so that we have it for future.

04:43 14 MR. FUTERFAS: I'm just going to mark it
15 on the hard copy. Yes. For the record, we have
16 printed out a hard copy of Deposition Exhibit 48
17 which we see on the screen.

04:43 18 MS. BERLIN: Okay.

19 BY MS. BERLIN:

04:43 20 Q. Ms. McElhone, do you recognize Exhibit 48?

04:43 21 A. Upon the advice of counsel, I'm asserting
22 the rights and privileges guaranteed under the Fifth
23 Amendment to the United States Constitution.

04:43 24 Q. Did you review the document appears as
25 Exhibit 48 before Complete Business Solutions Group

1 filed it with the SEC?

04:43 2 A. Upon the advice of counsel, I'm asserting
3 the rights and privileges guaranteed under the Fifth
4 Amendment to the United States Constitution.

04:43 5 Q. Did you approve the document appearing as
6 Exhibit 48 before Complete Business Solutions Group
7 filed it with the SEC?

04:44 8 A. Upon the advice of counsel, I'm asserting
9 the rights and privileges guaranteed under the Fifth
10 Amendment to the United States Constitution.

04:44 11 Q. And do you see under the section that
12 states Related Persons on PDF page 2 of Exhibit 48,
13 which lists you, Joseph Cole Barleta and Jamie
14 McElhone as executive officers of CBSG?

04:44 15 A. Upon the advice of counsel, I'm asserting
16 the rights and privileges guaranteed under the Fifth
17 Amendment to the United States Constitution.

04:44 18 Q. Was the representation to the SEC in item
19 No. 3 of Exhibit 48 that you were an executive
20 officer as of the date of the filing, February 2019?
21 Let me start again. I'm sorry, Ms. McElhone.

04:45 22 In February of 2019, it was the
23 representation in Exhibit 48 true with respect to
24 the statement that you were an executive officer of
25 Complete Business Solutions Group at that time?

04:45 1 A. Upon the advice of counsel, I'm asserting
2 the rights and privileges guaranteed under the Fifth
3 Amendment to the United States Constitution.

04:45 4 Q. Was the representation in the filing with
5 the SEC that appears in Exhibit 48, item 3, stating
6 that Jamie McElhone was an executive officer of
7 Complete Business Solutions Group as of
8 February 2019, was that representation true when
9 made?

04:45 10 MR. FUTERFAS: I'm just going to take a
11 second and consult, please. Thank you.

04:46 12 THE VIDEOGRAPHER: The time is 4:45. Off
13 the record.

14 (Counsel and witness conferred 4:45 p.m. to 4:47 p.m.)

04:54 15 THE VIDEOGRAPHER: The time is now 4:54.
16 On the record.

04:54 17 MR. FUTERFAS: Thank you for the
18 conferral. Amie, do you want to ask the question
19 again or -- we recall it.

04:54 20 MS. BERLIN: I think it's okay.

21 BY MS. BERLIN:

04:54 22 Q. Go ahead.

04:54 23 A. I decline to answer the question on the
24 basis of the spousal testimonial privilege.

25

04:54 1 Q. Did you ever -- prior to February 2019,
2 did you discuss with Jamie McElhone what her role
3 was at Complete Business Solutions Group?

04:55 4 MR. BACHNER: Hold on. Sorry. Can we
5 just get that question repeated?

6 BY MR. BACHNER:

04:55 7 Q. As of February of 2019, did you ever
8 discuss with your sister, Jamie McElhone, what her
9 role at Complete Business Solutions Group was?

04:55 10 A. Upon the advice of counsel, I'm asserting
11 the rights and privileges guaranteed under the Fifth
12 Amendment to the United States Constitution.

04:55 13 Q. Did you make a decision not to identify
14 Joseph LaForte in item number 3 of Exhibit 48?

04:56 15 A. I decline to answer the question on the
16 basis of the spousal testimonial privilege.

04:56 17 Q. And did you decide not to include Joseph
18 LaForte in the CBSG disclosure to the SEC,
19 Exhibit 48, because you were trying to conceal the
20 involvement of a convicted felon?

04:56 21 MR. FUTERFAS: Objection to the form. But
22 with that objection, the witness will answer.

04:56 23 THE WITNESS: I decline to answer the
24 question on the basis of the spousal testimonial
25 privilege.

1 BY MS. BERLIN:

04:56 2 Q. Turning to PDF page 405, item 16,
3 Proceeds?

04:56 4 MR. FUTERFAS: Hold on. Let's get there.
5 We're not there yet. Okay. I'm there. Thank you.

6 BY MS. BERLIN:

04:57 7 Q. And we're looking at item 16, Proceeds,
8 which states, "Provide the amount of the gross
9 proceeds at the offering that has been or is
10 proposed to be used for payments to any of the
11 persons required to be named as executive officers,
12 directors or promoters in response to item 3 above."

04:57 13 Do you see that provision of Exhibit 48?

04:57 14 MR. FUTERFAS: We recognize that that is
15 on the page.

04:57 16 MS. BERLIN: On the page. Do you all
17 recognize or, Al, do just you want to stipulate
18 there's no number other than zero which I'll
19 highlight here?

04:57 20 MR. FUTERFAS: We'll stipulate to that,
21 yes.

22 BY MS. BERLIN:

04:57 23 Q. Was the representation made to the SEC in
24 paragraph 16 true as of February 2019 with respect
25 to your receipt of funds?

04:58 1 A. I decline to answer the question on the
2 basis of the spousal testimonial privilege.

04:58 3 Q. By February 12, 2019, had you received any
4 of the gross proceeds from the promissory note
5 offering conducted by Complete Business Solutions
6 Group?

04:58 7 MR. FUTERFAS: Hold on. Let's just confer
8 one second on that. Thank you.

04:58 9 THE VIDEOGRAPHER: The time is 4:58. Off
10 the record.

11 (Counsel and witness conferred 4:59 p.m. to 4:59 p.m.)

04:59 12 THE VIDEOGRAPHER: The time is 4:59 p.m.
13 on the record.

04:59 14 THE WITNESS: You completed your question,
15 right, Amie?

04:59 16 MS. BERLIN: Yes, I did.

04:59 17 MR. FUTERFAS: The witness will answer.

04:59 18 THE WITNESS: Upon the advice of counsel,
19 I'm asserting the rights and privileges guaranteed
20 under the Fifth Amendment to the United States
21 Constitution.

22 BY MS. BERLIN:

04:59 23 Q. Did you direct Complete Business Solutions
24 Group to transfer investor funds to other entities
25 that you owned or controlled?

04:59 1 MR. FUTERFAS: We have to confer on that.
2 Sorry. Hold on.

04:59 3 THE VIDEOGRAPHER: 4:59 p.m. off the
4 record.

5 (Counsel and witness conferred 4:59 p.m. to 5:01 p.m.)

05:02 6 THE VIDEOGRAPHER: On the record 5:01.

05:02 7 MR. FUTERFAS: Amie, have you completed
8 your question. We're back on the record.

05:02 9 MS. BERLIN: Yes, I did.

05:02 10 MR. FUTERFAS: Okay. Good. The witness
11 will answer.

05:02 12 THE WITNESS: Upon the advice of counsel,
13 I'm asserting the rights and privileges guaranteed
14 under the Fifth Amendment to the United States
15 Constitution.

05:02 16 MR. BACHNER: I understood in your
17 conversations with Alan that you were going to be
18 breaking at 5:00. I kind of planned to have another
19 phone call at a few minutes after 5:00. Are we okay
20 breaking now?

05:02 21 MS. BERLIN: Yeah, with the final clock
22 cutoff, actually we're going to get super close
23 because I just have two more questions.

05:02 24 MR. FUTERFAS: Okay.

05:02 25 MS. BERLIN: That could take one minute.

1 BY MS. BERLIN:

05:02 2 Q. Ms. McElhone, did you direct Complete
3 Business Solutions Group to transfer investor funds
4 for your personal benefit?

05:03 5 A. Upon the advice of counsel, I'm asserting
6 the rights and privileges guaranteed under the Fifth
7 Amendment to the United States Constitution.

05:03 8 Q. Did you direct Complete Business Solutions
9 Group to transfer investor funds to acquire real
10 estate for your benefit?

05:03 11 A. Upon the advice of counsel, I'm asserting
12 the rights and privileges guaranteed under the Fifth
13 Amendment to the United States Constitution.

05:03 14 MS. BERLIN: So as we discussed earlier,
15 as Alan and I discussed, we're going to stop at
16 5:00, and we will resume. While get in touch with
17 Alan, Mr. Futerfas if we need to resume after we
18 address some of the privilege issues. We're ready
19 to break for the day. Unless anyone else has
20 anything they wanted to add on the record, thank you
21 so much, Ms. McElhone, for your time today. And as
22 always, Alan it's a pleasure to see you.

05:04 23 MR. FUTERFAS: Same here, Amie. Thank
24 you, although I'm not seeing you right now. You
25 went off screen.

05:04 1 MR. KOLAYA: I'm sorry. If we could make
2 one statement on the record before we go.

05:04 3 MS. BERLIN: Sure.

05:04 4 MR. KOLAYA: I think we went off the
5 record. If we could go back on, please.

05:04 6 THE VIDEOGRAPHER: We're not off the
7 record. We're still on the record.

05:04 8 MR. KOLAYA: Oh, perfect. This is Tim
9 Kolaya on behalf of the receiver. I know that this
10 deposition may or may not continue. I know Amie and
11 Alan need to discuss that.

05:04 12 I just want to make clear on the record
13 that the receiver does have the right to conduct his
14 own independent discovery and investigation. And we
15 reserve the right to schedule a separate deposition
16 of Ms. McElhone potentially in the future.

05:04 17 MS. BERLIN: Okay. Does anyone else want
18 to say anything on the record today?

05:05 19 MR. FUTERFAS: No.

05:05 20 THE VIDEOGRAPHER: It is May 27, 2021.
21 The time is 5:04 p.m. completing today's deposition.

22 (Whereupon, at 5:04 p.m., the taking of
23 the instant deposition ceased.)
24
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1 COMMONWEALTH OF PENNSYLVANIA)
2 COUNTY OF ALLEGHENY) SS:

3 C E R T I F I C A T E

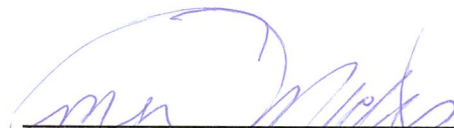
4 I, Ann Medis, Registered Professional
5 Reporter, Certified Livenote Reporter and Notary
6 Public within and for the Commonwealth of
7 Pennsylvania, do hereby certify:

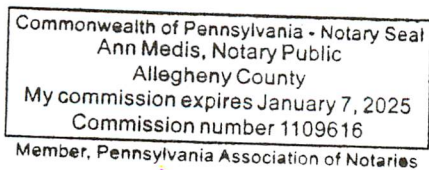
8 That LISA MCELHONE, the witness whose
9 deposition is hereinbefore set forth, was duly sworn
10 by me and that such deposition is a true record of
11 the testimony given by such witness.

12 I further certify the inspection, reading
13 and signing of said deposition were not waived by
14 counsel for the respective parties and by the
15 witness.

16 I further certify that I am not related to
17 any of the parties to this action by blood or
18 marriage and that I am in no way interested in the
19 outcome of this matter.

20 IN WITNESS WHEREOF, I have hereunto set my
21 hand this 8th day of June, 2021.

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Notary Public



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CERTIFICATE OF WITNESS

I, LISA MCELHONE, do hereby declare under penalty of perjury that I have read the entire foregoing transcript of my deposition testimony, or the same has been read to me, and certify that it is a true, correct and complete transcript of my testimony given on May 27, 2021, save and except for changes and/or corrections, if any, as indicated by me on the attached Errata Sheet, with the understanding that I offer these changes and/or corrections as if still under oath.

_____ I have made corrections to my deposition.

_____ I have NOT made any changes to my deposition.

Signed: _____
LISA MCELHONE

Dated this _____ day of _____ of 20____.

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ERRATA SHEET

Deposition of: LISA MCELHONE
Date taken: MAY 27, 2021
Case: SEC v. COMPLETE BUSINESS SOLUTIONS GROUP, et al.

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Signed _____
Dated _____

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF FLORIDA
3
4 SECURITIES AND EXCHANGE)
5 COMMISSION,)
6 Plaintiff,)
7) Case No.
8 v.) 20-CV-81205-RAR
9)
10 COMPLETE BUSINESS SOLUTIONS)
11 GROUP, INC. d/b/a PAR)
12 FUNDING, et al.,)
13 Defendants, and)
14)
15 L.M.E. 2017 FAMILY TRUST,)
16 Relief Defendant.)
17 _____)
18
19 REMOTE VIDEOTAPED DEPOSITION OF JOSEPH W. LAFORTE,
20 called by the Plaintiffs for examination, taken
21 by and before Ann Medis, Registered Professional
22 Reporter and Notary Public in and for the
23 Commonwealth of Pennsylvania, via Webex
24 videoconference, on Tuesday, May 4, 2021,
25 commencing at 10:09 a.m.

JOB NO. 210504AME

1

1 APPEARANCES
2 (Participants appeared via Webex videoconference)
3 On behalf of Plaintiff:
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5 COMMISSION
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21 clucien@ffslawfirm.com
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23 On behalf of Defendant Perry S. Abbonizio:
24
25 MARCUS NEIMAN RASHBAUM & PINEIRO
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2

1 APPEARANCES (Continued)
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9
10 On behalf of the Receiver Ryan K. Stumphauzer:
11 STUMPHAUZER FOSLID SLOMAN ROSS &
12 KOLAYA, PLLC
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19 RASPANTI, LLP
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21 1818 Market Street, Suite 3402
22 Philadelphia, Pennsylvania 19103
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24 gja@pietragallo.com
25
Also present
Michael C. Furman
Richard Brueckner
Doug Rosenblum
Tim Hunter, videographer

3

1 * I N D E X *
2 JOSEPH W. LAFORTE PAGE
3 EXAMINATION BY MS. BERLIN 6
4
5 * I N D E X O F E X H I B I T S *
6 NO. DESCRIPTION PAGE
7 Exhibit 40 Defendant Joseph LaForte's Response 40
8 to the Receiver's Motion to Lift
9 the Litigation Stay to Allow
10 Commencement of Proceedings Against
11 D19 Liquor Inc., Fawzi Simon and
12 Related Entities
13 Exhibit 41 Defendants' Joint Response to 50
14 Receiver's Status Report of
15 September 8, 2020 (DE 240)
16 Exhibit 42 Defendants' Joint Response to 58
17 Receiver's Interim Status Report
18 dated February 1, 2021 (DE 482)
19 Exhibit 43 Defendants' Joint Response to 62
20 Receiver's Quarterly Status Reports
21 dated December 13, 2020 and
22 February 1, 2021
23 Exhibit 44 USA v LaForte, Memorandum in Support 68
24 of Motion for Pretrial Release and
25 Revocation of Detention Order

4

<p>1 PROCEEDINGS 2 - - - - 3 THE VIDEOGRAPHER: Here begins the 4 videotape deposition of Joseph LaForte in the matter 5 of SEC versus Complete Business Solutions Group, 6 Inc. This case is being heard in the United States 7 District Court, Southern District of Florida, 8 Case No. 20-cv-81205 9 This deposition is being held via Webex. 10 Today's date is May 4, 2021, and the time on the 11 record is 10:09 a.m. My name is Timothy Hunter. 12 I'm your legal videographer. Our court reporter 13 today is Ann Medis. 14 Counsel, please introduce yourselves, 15 state whom you represent for the record starting 16 with noticing counsel. And the witness will be 17 sworn. 18 MS. BERLIN: Good morning. This is Amie 19 Riggle Berlin, senior trial counsel with the 20 Securities and Exchange Commission. 21 MR. SOTO: Good morning. Alex Soto 22 representing the deponent, Joseph LaForte. 23 MR. KOLAYA: Good morning, Timothy Kolaya 24 here on behalf of the Receiver, Ryan Stumphauzer. 25 MR. ALFANO: Gaetan Alfano on behalf of</p> <p style="text-align: center;">5</p>	<p>1 States Constitution. 2 Q. Since 2015, what work telephone numbers 3 have you used? 4 A. On the advice of counsel I must respect 5 fully decline to answer that question pursuant to my 6 rights under the Fifth Amendment of the Constitution 7 of the United States. 8 Q. Are you married to Lisa McElhone? 9 A. I am. 10 Q. When did you get married, what year? 11 A. I better remember this one. 2005. 12 Q. Do you know what complete Business 13 Solutions Group is? 14 A. On the advice of counsel, I respectfully 15 must decline to answer that question pursuant to my 16 rights under the Fifth Amendment of the Constitution 17 of the United States. 18 Q. From no later than August of 2013 through 19 present, has Complete Business Solutions Group done 20 business using the fictitious name Par Funding? 21 A. On the advice of counsel, I respectfully 22 decline to answer that question as provided by my 23 Fifth Amendment rights under the U.S. Constitution. 24 Q. From 2013 until at least July of 2020, did 25 Par Funding provide short-term loans to small</p> <p style="text-align: center;">7</p>
<p>1 the Receiver, Ryan Stumphauzer. 2 MS. LUCIEN: Good morning. Cherly Lucien, 3 associate at Fridman Fels & Soto, on behalf of 4 Joseph LaForte. 5 MR. MARCUS: Good morning. Jeff Marcus 6 and Jason Mays on behalf of Perry Abbonizio. 7 MR. MILLER: Brian Miller from Akerman, on 8 behalf of defendant Dean Vagnozzi, who is also 9 attending. 10 JOSEPH LAFORTE, 11 having been first duly sworn, was examined 12 and testified as follows: 13 EXAMINATION 14 BY MS. BERLIN: 15 Q. Good morning, Mr. LaForte. My name is 16 Amie Riggle Berlin. I'm senior trial counsel with 17 the Securities and Exchange Commission. If you need 18 to take a break at any time today, just let me know. 19 And also if you would like me to repeat any question 20 or rephrase it, just let me know that as well. 21 Since 2015, what cell phone numbers have 22 you used? 23 A. On the advice of counsel, I respectfully 24 must decline to answer that question pursuant to my 25 rights under the Fifth Amendment of the United</p> <p style="text-align: center;">6</p>	<p>1 business? 2 A. On the advice of counsel, I respectfully 3 decline to answer that question as provided by my 4 Fifth Amendment rights under the Constitution. 5 Q. Did you and Lisa McElhone form Par Funding 6 together in 2011? 7 A. On the advice of counsel, I respectfully 8 must decline to answer that question pursuant to my 9 rights under the Fifth Amendment of the Constitution 10 of the United States. 11 Q. From no later than 2015 until at least 12 July 2020, were you an owner of Par Funding? 13 A. On the advice of counsel, I respectfully 14 must decline to answer that question pursuant to my 15 rights under the Fifth Amendment of the Constitution 16 of the United States. 17 Q. From 2011 until July 2020, did you and 18 Lisa McElhone control Par Funding together? 19 A. On the advice of counsel, I respectfully 20 must decline to answer that question pursuant to my 21 rights under the Fifth Amendment of the Constitution 22 of the United States. 23 Q. From the inception of Full Spectrum until 24 July 2020, did you and Lisa McElhone control Full 25 Spectrum together?</p> <p style="text-align: center;">8</p>

1 **A.** On the advice of counsel, I respectfully
 2 decline to answer the question as provided by the
 3 Fifth Amendment of the U.S. Constitution.
 4 **Q.** From no later than 2015 until at least
 5 July 2020, did you run the day-to-day operations at
 6 Par Funding?
 7 **A.** On the advice of counsel, I respectfully
 8 decline to answer the question as provided by the
 9 Fifth Amendment of the U.S. Constitution.
 10 **Q.** From no later than 2015 until at least
 11 July 2020, did you act as the de facto CEO of Par
 12 Funding?
 13 **A.** On the advice of counsel, I respectfully
 14 decline to answer the question as provided by my
 15 Fifth Amendment rights under the U.S. Constitution.
 16 **Q.** Was one of the email addresses that you
 17 utilized at Par Funding called
 18 management@parfunding.com?
 19 **A.** On the advice of counsel, I respectfully
 20 decline to answer the question as provided by the
 21 Fifth Amendment of the U.S. Constitution.
 22 **Q.** From no later than 2018 until July 2020,
 23 if messages were sent to the email address
 24 management@parfunding.com, then would those messages
 25 be forwarded to you?

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1 **MR. SOTO:** Objection to the form.
 2 **THE WITNESS:** On the advice of counsel, I
 3 respectfully decline to answer the question as
 4 provided by the Fifth Amendment of the U.S.
 5 Constitution.
 6 **BY MS. BERLIN:**
 7 **Q.** From no later than 2015 until at least
 8 July 2020, did you have hiring and firing authority
 9 at Par Funding?
 10 **A.** On advice of counsel, I respectfully
 11 decline to answer the question as provided by the
 12 Fifth Amendment to the U.S. Constitution.
 13 **Q.** From the inception of the company Full
 14 Spectrum until at least July 2020, did you have
 15 firing and hiring authority at Full Spectrum?
 16 **MR. SOTO:** Objection. Form.
 17 **THE WITNESS:** On the advice of counsel, I
 18 respectfully decline to answer the question as
 19 provided by the Fifth Amendment of the U.S.
 20 Constitution.
 21 **BY MS. BERLIN:**
 22 **Q.** From no later than 2015 until at least
 23 July 2020, did you supervise the Par Funding
 24 employees?
 25 **MR. SOTO:** Objection to the form.

10

1 **THE WITNESS:** On advice of counsel, I
 2 respectfully decline to answer the question as
 3 provided by the Fifth Amendment of the U.S.
 4 Constitution.
 5 **BY MS. BERLIN:**
 6 **Q.** From no later than 2017 until about
 7 July 2020, did you supervise the employees at Full
 8 Spectrum?
 9 **A.** On advice of counsel, I respectfully
 10 decline to answer the question as provided by the
 11 Fifth Amendment of the U.S. Constitution.
 12 **Q.** From no later than 2015 until about July
 13 of 2020, did you decide which merchant cash advance
 14 loans Par Funding would fund?
 15 **A.** On the advice of counsel, I respectfully
 16 decline to answer the question as provided by the
 17 Fifth Amendment of the U.S. Constitution.
 18 **Q.** From no later than 2015 until about
 19 July 2020, did you decide which merchant cash
 20 advance loans Par Funding would approve for funding?
 21 **A.** On the advice of counsel, I respectfully
 22 decline to answer the question as provided by the
 23 Fifth Amendment of the U.S. Constitution.
 24 **Q.** From no later than 2015 until about
 25 July 2020, did you sign contracts on behalf of Par

11

1 Funding?
 2 **A.** On advice of counsel, I respectfully
 3 decline to answer the question as provided by the
 4 Fifth Amendment of the U.S. Constitution.
 5 **Q.** From no later than 2015 until about
 6 July 2020, did you negotiate the terms of the
 7 merchant cash advance loans with Par Funding's
 8 borrowers?
 9 **MR. SOTO:** Objection to the form.
 10 **THE WITNESS:** I'm sorry. Can you repeat
 11 the question?
 12 **BY MS. BERLIN:**
 13 **Q.** Sure. From no later than 2015 until about
 14 July 2020, did you negotiate the terms of Par
 15 Funding's merchant cash advance loans?
 16 **MR. SOTO:** Objection to the form.
 17 **THE WITNESS:** Thank you. On advice of
 18 counsel, I respectfully decline to answer the
 19 question as provided by the Fifth Amendment of the
 20 U.S. Constitution.
 21 **BY MS. BERLIN:**
 22 **Q.** From no later than 2015 until about
 23 July 2020, did you approve Par Funding's
 24 expenditures?
 25 **A.** On advice of counsel, I respectfully

12

1 decline to answer the question as provided by the
 2 Fifth Amendment of the U.S. Constitution.
 3 **Q.** From no later than 2015 until about
 4 July 2020, did you approve Par Funding's wire
 5 transfers?
 6 **A.** On advice of counsel, I respectfully
 7 decline to answer the question as provided by the
 8 Fifth Amendment of the U.S. Constitution.
 9 **Q.** From no later than 2015 until about
 10 July 2020, did you act as the de facto CEO of Full
 11 Spectrum?
 12 **MR. SOTO:** Objection to the form.
 13 **THE WITNESS:** On advice of counsel, I
 14 respectfully decline to answer the question as
 15 provided by the Fifth Amendment of the U.S.
 16 Constitution.
 17 **BY MS. BERLIN:**
 18 **Q.** In about 2017 did you and Lisa McElhone
 19 decide together to convert all of the Par Funding
 20 employees to employees of Full Spectrum?
 21 **A.** On the advice of counsel, I respectfully
 22 decline to answer the question as provided by my
 23 Fifth Amendment of the U.S. Constitution.
 24 **Q.** From about 2017 until about July 2020, did
 25 Full Spectrum operate Par Funding?

13

1 provided by the Fifth Amendment of the U.S.
 2 Constitution.
 3 **BY MS. BERLIN:**
 4 **Q.** And, Mr. LaForte, for purposes of today's
 5 deposition, if I use the word "you," I'm referring
 6 to you personally as Joseph LaForte, not an entity
 7 just so you understand.
 8 **A.** Thank you so much. I understand. Thank
 9 you.
 10 **Q.** Of course. And just let me know if
 11 anything is confusing or you need me rephrase it.
 12 **A.** Okay. Thanks.
 13 **Q.** Sure. Did you and Lisa McElhone decide
 14 together to conceal from Par Funding's merchant
 15 borrowers that you, Joseph LaForte, were managing
 16 Par Funding?
 17 **MR. SOTO:** Objection to the form.
 18 **THE WITNESS:** On advice of counsel, I
 19 respectfully decline to answer the question as
 20 provided by the Fifth Amendment of the U.S.
 21 Constitution.
 22 **BY MS. BERLIN:**
 23 **Q.** Did you and Lisa McElhone decide together
 24 that in order to conceal your management role at Par
 25 Funding, you would claim Lisa McElhone alone managed

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1 **MR. SOTO:** Objection to the form.
 2 **THE WITNESS:** On advice of counsel, I
 3 respectfully decline to answer the question as
 4 provided by the Fifth Amendment of the U.S.
 5 Constitution.
 6 **BY MS. BERLIN:**
 7 **Q.** From no later than 2017 until about
 8 July 2020, was Lisa McElhone Par Funding's sole
 9 employee?
 10 **A.** On advice of counsel, I respectfully
 11 decline to answer the question as provided by the
 12 Fifth Amendment of the U.S. Constitution.
 13 **Q.** From no later than 2015 until about
 14 July 2020, did you conduct work for Par Funding
 15 primarily from Full Spectrum's office space in
 16 Philadelphia, Pennsylvania?
 17 **A.** On advice of counsel, I respectfully
 18 decline to answer the question as provided by the
 19 Fifth Amendment of the U.S. Constitution.
 20 **Q.** Did you and Lisa McElhone decide together
 21 to conceal from Par Funding's investors that you
 22 were managing Par Funding?
 23 **MR. SOTO:** Objection to the form.
 24 **THE WITNESS:** On advice of counsel, I
 25 respectfully decline to answer the question as

14

1 Par Funding and she, Lisa McElhone, would claim that
 2 you alone managed Par Funding?
 3 **MR. SOTO:** Objection to the form.
 4 **THE WITNESS:** Sorry. Can you repeat the
 5 question again?
 6 **BY MS. BERLIN:**
 7 **Q.** Sure.
 8 **A.** Thank you.
 9 **Q.** Did you and Lisa McElhone decide together
 10 that in order to conceal your management role at Par
 11 Funding, you would claim Lisa McElhone alone managed
 12 Par Funding while she would claim that you alone
 13 managed Par Funding?
 14 **MR. SOTO:** Objection to the form.
 15 **THE WITNESS:** On advice of counsel, I
 16 respectfully decline to answer the question as
 17 provided by the Fifth Amendment of the U.S.
 18 Constitution.
 19 **BY MS. BERLIN:**
 20 **Q.** Since 2011 have you used any names other
 21 than Joseph LaForte?
 22 **A.** On advice of counsel, I respectfully
 23 decline to answer the question as provided by the
 24 Fifth Amendment of the U.S. Constitution.
 25 **Q.** Since no later than 2015, have you used

16

1 the alias Joe Mack?
 2 MR. SOTO: Objection to form.
 3 THE WITNESS: On advice of counsel, I
 4 respectfully decline to answer the question as
 5 provided by the Fifth Amendment of the U.S.
 6 Constitution.
 7 BY MS. BERLIN:
 8 Q. Since no later than 2015, have you used
 9 the name Joe Mackie?
 10 A. On advice of counsel, I respectfully
 11 decline to answer the question as provided by the
 12 Fifth Amendment of the U.S. Constitution.
 13 Q. Since no later than 2015, have you used
 14 the alias Joe McElhone?
 15 MR. SOTO: Objection to form.
 16 THE WITNESS: On advice of counsel, I
 17 respectfully decline to answer the question as
 18 provided by my Fifth Amendment rights to the U.S.
 19 Constitution.
 20 BY MS. BERLIN:
 21 Q. Did you use an alias at Par Funding so
 22 that potential investors would not know that Par
 23 Funding was managed by a convicted felon?
 24 MR. SOTO: Objection to the form.
 25 THE WITNESS: On the advice of counsel, I

17

1 respectfully decline to answer the question as
 2 provided by the Fifth Amendment of the U.S.
 3 Constitution.
 4 BY MS. BERLIN:
 5 Q. Did you use an alias at Par Funding in
 6 order to conceal from potential investors that Par
 7 Funding was owned by a convicted felon?
 8 MR. SOTO: Objection to the form.
 9 THE WITNESS: On advice of counsel, I
 10 respectfully decline to answer the question as
 11 provided by the Fifth Amendment of the U.S.
 12 Constitution.
 13 BY MS. BERLIN:
 14 Q. Did you and Lisa McElhone decide together
 15 to conceal your true identity from Par Funding's
 16 merchants?
 17 MR. SOTO: Objection to the --
 18 BY MS. BERLIN:
 19 Q. Let me rephrase that question.
 20 Did you and Lisa McElhone decide together
 21 to conceal your true identity from Par Funding's
 22 merchants borrowers?
 23 MR. SOTO: Objection to the form.
 24 THE WITNESS: On advice of counsel, I
 25 respectfully decline to answer the question as

18

1 provided by the Fifth Amendment to the U.S.
 2 Constitution.
 3 BY MS. BERLIN:
 4 Q. Did you and Lisa McElhone decide together
 5 to conceal your true identity from Par Funding's
 6 investors?
 7 MR. SOTO: Objection to the form.
 8 THE WITNESS: On advice of counsel, I
 9 respectfully decline to answer the question as
 10 provided by the Fifth Amendment to the U.S.
 11 Constitution.
 12 BY MS. BERLIN:
 13 Q. Did you and Joseph Cole Barleta work
 14 together to conceal your true identity from Par
 15 Funding's investors?
 16 MR. SOTO: Objection to the form.
 17 THE WITNESS: On the advice of counsel, I
 18 respectfully decline to answer the question as
 19 provided by the Fifth Amendment of the U.S.
 20 Constitution.
 21 BY MS. BERLIN:
 22 Q. Did you and Joseph Cole Barleta work
 23 together to conceal your true identity as Joseph
 24 LaForte from Par Funding's merchant borrowers?
 25 MR. SOTO: Objection to the form.

19

1 THE WITNESS: On the advice of counsel, I
 2 respectfully decline to answer the question as
 3 provided by the Fifth Amendment of the U.S.
 4 Constitution.
 5 BY MS. BERLIN:
 6 Q. Did you and Joseph Cole Barleta decide
 7 together that you would only be referred to using
 8 one of your aliases in discussions with Par
 9 Funding's investors?
 10 MR. SOTO: Objection to the form.
 11 THE WITNESS: On advice of counsel, I
 12 respectfully decline to answer the question as
 13 provided by the Fifth Amendment of the U.S.
 14 Constitution.
 15 BY MS. BERLIN:
 16 Q. Did you and Perry Abbonizio work together
 17 to conceal your true identity as Joseph LaForte from
 18 Par Funding's investors?
 19 MR. SOTO: Objection to the form.
 20 THE WITNESS: On the advice of counsel, I
 21 respectfully decline to answer the question as
 22 provided by the Fifth Amendment of the U.S.
 23 Constitution.
 24 BY MS. BERLIN:
 25 Q. Did you and Joseph Cole Barleta work

20

1 together to conceal your criminal history from Par
 2 Funding's investors?
 3 MR. SOTO: Objection to the form.
 4 THE WITNESS: On the advice of counsel, I
 5 respectfully decline to answer the question as
 6 provided by the Fifth Amendment of the U.S.
 7 Constitution.
 8 BY MS. BERLIN:
 9 Q. Did you and Perry Abbonizio work together
 10 to conceal your criminal history from Par Funding's
 11 investors?
 12 MR. SOTO: Objection to the form.
 13 THE WITNESS: Can you repeat that one more
 14 time, please?
 15 BY MS. BERLIN:
 16 Q. Sure. Did you and Perry Abbonizio work
 17 together to conceal your criminal history from Par
 18 Funding?
 19 MR. SOTO: Objection to the form.
 20 THE WITNESS: On advice of counsel, I
 21 respectfully decline to answer the question as
 22 provided by the Fifth Amendment of the U.S.
 23 Constitution.
 24 BY MS. BERLIN:
 25 Q. Did you and Perry Abbonizio decide

21

1 together that you would only be referred to as using
 2 one of your aliases in all discussions with Par
 3 Funding investors?
 4 MR. SOTO: Objection to the form.
 5 THE WITNESS: On advice of counsel, I
 6 respectfully decline to answer the question as
 7 provided by the Fifth Amendment of the U.S.
 8 Constitution.
 9 BY MS. BERLIN:
 10 Q. Did you and Joseph Cole Barleta work
 11 together to conceal your management role at Par
 12 Funding from Par Funding's investors?
 13 MR. SOTO: Objection to the form.
 14 THE WITNESS: On advice of counsel, I
 15 respectfully decline to answer the question as
 16 provided by the Fifth Amendment of the U.S.
 17 Constitution.
 18 BY MS. BERLIN:
 19 Q. Did you and Perry Abbonizio work together
 20 to conceal from Par Funding's investors your
 21 management role at Par Funding?
 22 MR. SOTO: Objection to the form.
 23 THE WITNESS: On advice of counsel, I
 24 respectfully decline to answer the question as
 25 provided by the Fifth Amendment of the U.S.

22

1 Constitution.
 2 BY MS. BERLIN:
 3 Q. Did you and Dean Vagnozzi work together to
 4 conceal your true identity as Joseph LaForte?
 5 MR. SOTO: Objection to the form.
 6 THE WITNESS: On the advice of counsel, I
 7 respectfully must decline to answer that question
 8 pursuant to my rights under the Fifth Amendment of
 9 the Constitution of the United States.
 10 BY MS. BERLIN:
 11 Q. Did you and Dean Vagnozzi work together to
 12 conceal your criminal history from Par Funding's
 13 investors?
 14 MR. SOTO: Objection to the form.
 15 THE WITNESS: On advice of counsel, I
 16 respectfully decline to answer the question as
 17 provided by the Fifth Amendment of the U.S.
 18 Constitution.
 19 BY MS. BERLIN:
 20 Q. Did you and Dean Vagnozzi work together to
 21 conceal your management role at Par Funding from
 22 investors in Mr. Vagnozzi's investment fund?
 23 MR. SOTO: Objection to the form.
 24 THE WITNESS: On advice of counsel, I
 25 respectfully decline to answer the question as

23

1 provided by the Fifth Amendment to the U.S.
 2 Constitution.
 3 BY MS. BERLIN:
 4 Q. Did you and Mr. Vagnozzi work together to
 5 conceal your real name from investors of Par
 6 Funding?
 7 MR. SOTO: Objection to the form.
 8 THE WITNESS: On advice of counsel, I
 9 respectfully decline to answer the question as
 10 provided by the Fifth Amendment to the U.S.
 11 Constitution.
 12 BY MS. BERLIN:
 13 Q. Did you and Dean Vagnozzi decide together
 14 that you would only be referred to using one of your
 15 aliases in any and all discussions with any
 16 potential investor?
 17 MR. SOTO: Objection to the form.
 18 THE WITNESS: Can you repeat that one more
 19 time? I'm sorry.
 20 BY MS. BERLIN:
 21 Q. Sure. Did you and Dean Vagnozzi decide
 22 together that you would only be referred to by one
 23 of your aliases in discussions with potential
 24 investors of Mr. Vagnozzi's investment funds?
 25 MR. SOTO: Objection to the form.

24

1 THE WITNESS: On advice of counsel, I
 2 respectfully decline to answer the question as
 3 provided by the Fifth Amendment of the U.S.
 4 Constitution.
 5 BY MS. BERLIN:
 6 Q. Did you conceal your management role
 7 from -- did you conceal from investors your
 8 management role at Par Funding because you knew that
 9 a reasonable person would not want to invest their
 10 money in a business operated by a convicted felon?
 11 MR. SOTO: Objection to the form.
 12 THE WITNESS: On advice of counsel, I
 13 respectfully decline to answer the question as
 14 provided by the Fifth Amendment of the U.S.
 15 Constitution.
 16 BY MS. BERLIN:
 17 Q. Did you conceal from Par Funding's
 18 investors your true identity as a convicted felon
 19 because you knew that a reasonable person would not
 20 want to invest in any business that was owned or
 21 operated by a convicted felon?
 22 MR. SOTO: Objection to the form.
 23 THE WITNESS: Sorry. Could you repeat
 24 that one more time?
 25

25

1 BY MS. BERLIN:
 2 Q. Sure. Did you conceal your true identity
 3 from investors at Par Funding because you knew that
 4 a reasonable person would not want to invest in a
 5 business operated or owned by a convicted felon?
 6 MR. SOTO: Objection to the form.
 7 THE WITNESS: On advice of counsel, I
 8 respectfully decline to answer the question as
 9 provided by the Fifth Amendment of the U.S.
 10 Constitution.
 11 BY MS. BERLIN:
 12 Q. Did you and Lisa McElhone decide together
 13 to hire Joseph Cole Barleta to work at Par Funding?
 14 A. On the advice of counsel, I respectfully
 15 decline to answer the question as provided by the
 16 Fifth Amendment of the U.S. Constitution.
 17 Q. By no later than 2016, did you and Lisa
 18 McElhone decide together to pay Joseph Cole Barleta
 19 through this consulting firms rather than pay him
 20 directly?
 21 A. On advice of counsel, I respectfully
 22 decline to answer the question as provided by the
 23 Fifth Amendment of the U.S. Constitution.
 24 Q. Did you and Lisa McElhone decide together
 25 to pay Joseph Cole Barleta through this consulting

26

1 firms in order to conceal from Par Funding's
 2 investors the amount of money that Par Funding was
 3 paying Mr. Barleta personally?
 4 MR. SOTO: Objection to the form.
 5 THE WITNESS: On the advice of counsel, I
 6 respectfully decline to answer the question as
 7 provided by the Fifth Amendment of the U.S.
 8 Constitution.
 9 BY MS. BERLIN:
 10 Q. Did you and Lisa McElhone decide together
 11 to retain Perry Abbonizio at Par Funding?
 12 A. On advice of counsel, I respectfully
 13 decline to answer the question as provided by the
 14 Fifth Amendment to the U.S. Constitution.
 15 Q. Did you and Lisa McElhone decide together
 16 to enter into a contract with Perry Abbonizio for
 17 him to provide services to Par Funding?
 18 MR. SOTO: Objection to the form.
 19 THE WITNESS: On the advice of counsel, I
 20 respectfully decline to answer the question as
 21 provided by the Fifth Amendment to the U.S.
 22 Constitution.
 23 BY MS. BERLIN:
 24 Q. By no later than February 2017, did you
 25 and Lisa McElhone decide together to pay Perry

27

1 Abbonizio through his consulting firms rather than
 2 pay him personally?
 3 A. On the advice of counsel, I respectfully
 4 decline to answer the question as provided by the
 5 Fifth Amendment to the U.S. Constitution.
 6 Q. Did you and Lisa McElhone decide to pay
 7 Perry Abbonizio through this consulting firms in
 8 order to conceal the amount of money that Par
 9 Funding was paying Mr. Abbonizio?
 10 MR. SOTO: Objection to the form of the
 11 question.
 12 THE WITNESS: Could you repeat that
 13 question, please?
 14 BY MS. BERLIN:
 15 Q. Sure. Did you and Lisa McElhone decide
 16 together to pay Perry Abbonizio through this
 17 consulting firms rather than pay him directly in
 18 order to conceal the amount of money Par Funding was
 19 paying Perry Abbonizio?
 20 MR. SOTO: Objection to the form.
 21 THE WITNESS: On the advice of counsel, I
 22 respectfully decline to answer the question as
 23 provided by the Fifth Amendment to the U.S.
 24 Constitution.
 25

28

1 BY MS. BERLIN:
 2 Q. From 2015 until about July 2020, did some
 3 of Par Funding's merchant cash advance loans carry
 4 interest rates of more than 400 percent?
 5 A. On the advice of counsel, I respectfully
 6 decline to answer the question as provided by the
 7 Fifth Amendment to the U.S. Constitution.
 8 Q. From 2015 until about July 2020, did Par
 9 Funding have a net profit of less than \$7 million?
 10 MR. SOTO: Objection to the form of the
 11 question.
 12 THE WITNESS: I'm sorry. Ask you repeat
 13 the question again, please?
 14 BY MS. BERLIN:
 15 Q. Sure. From 2015 until July 2020, did Par
 16 Funding have a net profit of less than \$7 million?
 17 A. On the advice of counsel, I respectfully
 18 decline to answer the question as provided by the
 19 Fifth Amendment to the U.S. Constitution.
 20 Q. In 2015 would Par Funding have gone out of
 21 business without new investor money being raised?
 22 MR. SOTO: Objection to the form of the
 23 question.
 24 THE WITNESS: On the advice of counsel, I
 25 respectfully decline to answer the question as

29

1 provided by the Fifth Amendment to the U.S.
 2 Constitution.
 3 BY MS. BERLIN:
 4 Q. In 2016 would Par Funding been insolvent
 5 without new investor money being raised from
 6 investors?
 7 MR. SOTO: Objection to the form of the
 8 question.
 9 THE WITNESS: On the advice of counsel, I
 10 respectfully decline to answer the question as
 11 provided by the Fifth Amendment to the U.S.
 12 Constitution.
 13 BY MS. BERLIN:
 14 Q. In 2017 would Par Funding have been
 15 insolvent without new investor money being raised?
 16 A. On the advice of counsel, I respectfully
 17 decline to answer the question as provided by the
 18 Fifth Amendment to the U.S. Constitution.
 19 MR. SOTO: For the record -- excuse me.
 20 For the record, Mr. LaForte answered before I was
 21 able to object. I'm objecting to the form of the
 22 last question.
 23 BY MS. BERLIN:
 24 Q. In 2018 would Par Funding have been
 25 insolvent without new investor money being raised?

30

1 MR. SOTO: Objection to the form of the
 2 question.
 3 THE WITNESS: On the advice of counsel, I
 4 respectfully decline to answer the question as
 5 provided by the Fifth Amendment to the U.S.
 6 Constitution.
 7 BY MS. BERLIN:
 8 Q. In 2019 would Par Funding have to be
 9 insolvent without new investor money being raised?
 10 MR. SOTO: Objection to the form of the
 11 question.
 12 THE WITNESS: Can you repeat that, please?
 13 BY MS. BERLIN:
 14 Q. Sure. In 2019 would Par Funding have been
 15 insolvent without new investor money being raised?
 16 MR. SOTO: Objection to the form.
 17 THE WITNESS: On the advice of counsel, I
 18 respectfully decline to answer the question as
 19 provided by the Fifth Amendment to the U.S.
 20 Constitution.
 21 BY MS. BERLIN:
 22 Q. In 2015 was Par Funding operating as a
 23 Ponzi scheme?
 24 MR. SOTO: Objection to the form of the
 25 question.

31

1 THE WITNESS: On the advice of counsel, I
 2 respectfully decline to answer the question as
 3 provided by the Fifth Amendment to the U.S.
 4 Constitution.
 5 BY MS. BERLIN:
 6 Q. In 2016 was Par Funding operating as a
 7 Ponzi scheme?
 8 MR. SOTO: Objection to the form.
 9 THE WITNESS: On advice of counsel, I
 10 respectfully decline to answer the question as
 11 provided by the Fifth Amendment to the U.S.
 12 Constitution.
 13 BY MS. BERLIN:
 14 Q. In 2015 did Par Funding pay investors
 15 their purported returns under promissory notes Par
 16 Funding issued by using other investors' money to
 17 make those payments?
 18 MR. SOTO: Objection to the form.
 19 THE WITNESS: On the advice of counsel, I
 20 respectfully must decline to answer that question
 21 pursuant to my rights under the Fifth Amendment of
 22 the Constitution of the United States.
 23 BY MS. BERLIN:
 24 Q. In 2016 did Par Funding pay investors
 25 their purported -- I'm sorry. Let me ask it again.

32

1 In 2016 did Par Funding pay investors
 2 their returns under promissory notes Par Funding
 3 issued by paying those investors with other
 4 investors' monies?
 5 MR. SOTO: Objection to the form.
 6 THE WITNESS: I'm sorry. Can you repeat
 7 the question?
 8 BY MS. BERLIN:
 9 Q. Um-hum. In 2016 did Par Funding pay
 10 investors their returns under Par Funding's
 11 promissory notes by using other investors' money?
 12 MR. SOTO: Objection to the form.
 13 THE WITNESS: On the advice of counsel, I
 14 respectfully decline to answer the question as
 15 provided by the Fifth Amendment to the U.S.
 16 Constitution.
 17 BY MS. BERLIN:
 18 Q. In 2017 did Par Funding use investor money
 19 to pay other investors their returns under
 20 promissory notes that Par Funding had issued?
 21 MR. SOTO: Objection to the form.
 22 THE WITNESS: On the advice of counsel, I
 23 respectfully decline to answer the question as
 24 provided by the Fifth Amendment to the U.S.
 25 Constitution.

33

1 BY MS. BERLIN:
 2 Q. In 2018 did Par Funding use investor money
 3 to pay investors their returns under promissory
 4 notes that Par Funding had issued to the investors?
 5 MR. SOTO: Objection to the form.
 6 THE WITNESS: On the advice of counsel, I
 7 respectfully decline to answer the question as
 8 provided by the Fifth Amendment to the U.S.
 9 Constitution.
 10 BY MS. BERLIN:
 11 Q. In 2019 did Par Funding use investor money
 12 to pay other investors their returns under
 13 promissory notes Par Funding issued?
 14 MR. SOTO: Objection to the form.
 15 THE WITNESS: On the advice of counsel, I
 16 respectfully decline to answer the question as
 17 provided by the Fifth Amendment to the U.S.
 18 Constitution.
 19 BY MS. BERLIN:
 20 Q. Did you and Lisa McElhone decide to use --
 21 decide together to use investor money to pay other
 22 investors for purported returns under promissory
 23 notes Par Funding issued?
 24 MR. SOTO: Objection to the form.
 25 THE WITNESS: On the advice of counsel, I

34

1 respectfully decline to answer the question as
 2 provided by the Fifth Amendment to the U.S.
 3 Constitution.
 4 BY MS. BERLIN:
 5 Q. Did you and Joseph Cole Barleta also
 6 decide to utilize investor funds to pay other
 7 investors their returns under Par Funding's
 8 promissory notes?
 9 MR. SOTO: Objection to the form.
 10 THE WITNESS: On the advice of counsel, I
 11 respectfully decline to answer the question as
 12 provided by the Fifth Amendment to the U.S.
 13 Constitution.
 14 BY MS. BERLIN:
 15 Q. From no later than 2015 until 2020, did
 16 you work together with Lisa McElhone to oversee Par
 17 Funding's offer and sale of promissory notes to
 18 investors?
 19 A. Repeat that, please.
 20 Q. Sure. From 2015 until or from no later
 21 than 2015 until 2020, did you and Lisa McElhone
 22 together oversee Par Funding's offer and sale of
 23 promissory notes to investors?
 24 A. On the advice of counsel, I respectfully
 25 decline to answer the question as provided by the

35

1 Fifth Amendment to the U.S. Constitution.
 2 Q. In 2015 was Par Funding operating at a net
 3 loss?
 4 MR. SOTO: Objection to the form.
 5 THE WITNESS: Please repeat that.
 6 BY MS. BERLIN:
 7 Q. In 2015 was Par Funding operating at a net
 8 loss?
 9 MR. SOTO: Objection to the form.
 10 THE WITNESS: On the advice of counsel, I
 11 respectfully decline to answer the question as
 12 provided by the Fifth Amendment to the U.S.
 13 Constitution.
 14 BY MS. BERLIN:
 15 Q. In 2016 was Par Funding operating at a
 16 loss?
 17 MR. SOTO: Objection to the form.
 18 THE WITNESS: On the advice of counsel, I
 19 respectfully decline to answer the question as
 20 provided by the Fifth Amendment to the U.S.
 21 Constitution.
 22 BY MS. BERLIN:
 23 Q. In 2017 was Par Funding operating at a
 24 loss?
 25 MR. SOTO: Objection to the form.

36

1 THE WITNESS: On the advice of counsel, I
 2 respectfully decline to answer the question as
 3 provided by the Fifth Amendment to the U.S.
 4 Constitution.
 5 BY MS. BERLIN:
 6 Q. In 2018 was Par Funding operating at a
 7 loss?
 8 MR. SOTO: Objection to the form.
 9 THE WITNESS: On the advice of counsel, I
 10 respectfully decline to answer the question as
 11 provided by the Fifth Amendment to the U.S.
 12 Constitution.
 13 BY MS. BERLIN:
 14 Q. In 2019 was Par Funding operating at a
 15 loss?
 16 MR. SOTO: Objection to the form.
 17 THE WITNESS: On the advice of counsel, I
 18 respectfully decline to answer the question as
 19 provided by my Fifth Amendment rights under the U.S.
 20 Constitution.
 21 BY MS. BERLIN:
 22 Q. Did you implement procedures at Par
 23 Funding where a merchant borrower could make any
 24 payment on their loan and, therefore, be deemed not
 25 in default of their loan?

37

1 MR. SOTO: Objection to the form.
 2 THE WITNESS: Can you repeat that, please.
 3 BY MS. BERLIN:
 4 Q. Sure. Did you implement a procedure at
 5 Par Funding whereby a merchant cash borrower could
 6 make a nominal payment on a loan and would thereby
 7 not be deemed in default?
 8 MR. SOTO: Objection to the form.
 9 THE WITNESS: On the advice of counsel, I
 10 respectfully decline to answer the question as
 11 provided by the Fifth Amendment to the U.S.
 12 Constitution.
 13 MS. BERLIN: Can you hold on just one
 14 moment, please.
 15 MR. SOTO: Amie, we can't hear you.
 16 MS. BERLIN: I wonder if we can take a
 17 15-minute break. And I request that letting you
 18 know that I think we should be finished by lunch. I
 19 don't think this will be more than maybe an hour
 20 longer.
 21 But I wonder if we could just take a
 22 15-minute break right now, and then we'll plow
 23 through and we'll finish. I think my goal is to be
 24 finished like 12:00 or 12:30. Is that okay?
 25 MR. SOTO: That would be fine.

38

1 MS. BERLIN: Okay. Thank you. So I'm
 2 going to log off, and we'll go off the record for
 3 about 15 minutes. Why don't we come back on --
 4 almost 10:50. So why don't we come on at, say,
 5 11:05.
 6 MR. SOTO: Perfect. Thank you.
 7 THE VIDEOGRAPHER: We're going off the
 8 record at 10:48 a.m.
 9 (Recess from 10:48 a.m. to 11:06 a.m.)
 10 THE VIDEOGRAPHER: And we're back on the
 11 record at 11:06 a.m.
 12 MS. BERLIN: Thank you.
 13 BY MS. BERLIN:
 14 Q. Mr. LaForte, did you pay yourself in cash
 15 from Par Funding in order to conceal that you were
 16 taking investor funds?
 17 MR. SOTO: Objection to the form.
 18 THE WITNESS: On the advice of counsel, I
 19 respectfully must decline to answer that question
 20 pursuant to my rights under the Fifth Amendment of
 21 the Constitution of the United States.
 22 BY MS. BERLIN:
 23 Q. Did you direct Par Funding's outside
 24 accountants to prepare a financial statement -- I'm
 25 sorry. Let me ask that again.

39

1 Mr. LaForte, did you direct Par Funding's
 2 outside accountants to revise their financial
 3 analysis and audit of Par Funding in order to
 4 conceal Par Funding's true financial position?
 5 MR. SOTO: Objection to the form.
 6 THE WITNESS: On the advice of counsel, I
 7 respectfully decline to answer the question as
 8 provided by the Fifth Amendment to the U.S.
 9 Constitution.
 10 BY MS. BERLIN:
 11 Q. Did you direct Par Funding's outside
 12 accountant to change Par Funding's financial reports
 13 and audit statements?
 14 A. On the advice of counsel, I respectfully
 15 decline to answer the question as provided by the
 16 Fifth Amendment to the U.S. Constitution.
 17 MS. BERLIN: I wonder if we could please
 18 show the witness on the screen what we premarked as
 19 Exhibit 40.
 20 THE VIDEOGRAPHER: Okay. One second.
 21 BY MS. BERLIN:
 22 Q. Mr. LaForte, is Exhibit 40 a copy of your
 23 court filing in this case from April 30, 2021?
 24 A. Please repeat your question.
 25 Q. Sure. Is Exhibit 40 your April 30, 2021

40

1 filing in this case?
2 **A.** On the advice of counsel, I respectfully
3 decline to answer the question as provided by the
4 Fifth Amendment to the U.S. Constitution.
5 **Q.** Are your representations to the court in
6 Exhibit 40 true?
7 **A.** On the advice of counsel, I respectfully
8 decline to answer the question provided by the Fifth
9 Amendment to the U.S. Constitution.
10 **MS. BERLIN:** I wonder if we could please
11 turn to page 4 of Exhibit 40. If we could please
12 zoom in on the last full paragraph on the page. It
13 begins "On April 7..."
14 **BY MS. BERLIN:**
15 **Q.** Mr. LaForte, do you see on page 4 of
16 Exhibit 40 where you state, "On April 7, 2020, the
17 D19 entities and Par Funding entered into a new
18 merchant cash advance agreement under which the
19 previously outstanding total (RTR) of \$5,437,515.91
20 owed under the prior entity agreement was
21 consolidated into a single new agreement requiring
22 daily \$25,000 payments with a payoff date of
23 November 24, 2020."
24 Do you see that language in the last full
25 paragraph on page 4 of Exhibit 40?

41

1 **A.** Yes, I do now. Yes, I do see it. Thank
2 you.
3 **Q.** And with respect to the new merchant cash
4 advance agreement referenced in the sentence that I
5 just read from your filing, did you negotiate that
6 agreement on behalf of Par Funding?
7 **A.** On the advice of counsel, I respectfully
8 decline to answer the question as provided by the
9 Fifth Amendment to the U.S. Constitution.
10 **Q.** Did you decide the terms of the April 7,
11 2020 agreement with the D19 entities that's
12 referenced on page 4 of Exhibit 40?
13 **A.** Sorry. Could you repeat that?
14 **Q.** Sure. Did you negotiate the April 7, 2020
15 agreement between Par Funding and the D19 entities
16 that is referenced on page 4 of Exhibit 40?
17 **A.** On the advice of counsel, I respectfully
18 decline to answer the question as provided by the
19 Fifth Amendment to the U.S. Constitution.
20 **Q.** Do you see the second sentence in the last
21 full paragraph on page 4 of Exhibit 40 where it
22 reads, "No new money was advanced under the terms of
23 the April 7 agreement"?
24 Do you see that sentence?
25 **A.** Yes.

42

1 **Q.** And so how -- what is the basis for your
2 representation to the court in Exhibit 40 that no
3 new money was advanced under the terms of the
4 April 7 agreement?
5 **A.** On the advice of counsel --
6 **MR. SOTO:** One second, Mr. LaForte. Amie,
7 I think you're crossing into attorney/client
8 privilege here. If you're asking him for the basis
9 of a statement made in a filing by his lawyers, he
10 would have had conversations with his lawyers about
11 that filing.
12 **MS. BERLIN:** So are you making a privilege
13 assertion and directing your client not to answer?
14 **MR. SOTO:** I'm making a privilege
15 assertion with respect to your question.
16 **BY MS. BERLIN:**
17 **Q.** If we could please turn to page 5. Do you
18 see page 5 of Exhibit 40 on your screen,
19 Mr. LaForte?
20 **A.** Make it a little bigger, sir.
21 **Q.** Can you see page 5 of Exhibit 40?
22 **A.** I see it now. Thank you, Ms. Berlin.
23 Yes.
24 **Q.** Are you the representations that you made
25 to the court on page 5 of Exhibit 40 true?

43

1 **MR. SOTO:** Hold on one second,
2 Mr. LaForte. I'm going to make the same objection
3 based on privilege, Amie, with respect to this page
4 and the basis for the statement made on this page.
5 **MS. BERLIN:** So are you directing your
6 client not to answer?
7 **MR. SOTO:** I'm objecting on the basis of
8 privilege with respect to your last question.
9 Attorney/client privilege.
10 **MS. BERLIN:** So is the witness going to
11 answer now?
12 **MR. SOTO:** I'm directing him not to answer
13 this question.
14 **BY MS. BERLIN:**
15 **Q.** Mr. LaForte, did you read Exhibit 40
16 before your attorneys filed it on your behalf?
17 **A.** On the advice of counsel, I respectfully
18 decline to answer the question as provided by the
19 Fifth Amendment to the U.S. Constitution.
20 **Q.** Was Par Funding profitable in its
21 transactions with the D19 entities?
22 **A.** On the advice of counsel, I respectfully
23 decline to answer the question as provided by the
24 Fifth Amendment to the U.S. Constitution.
25

44

1 Q. Do you see Footnote 1 on page 5 of
 2 Exhibit 40 where it reads, "As explained in the
 3 previously submitted declaration of Joel D. Glick,
 4 since Par Funding measured its profitability using
 5 the GAAP recognized accrual method, Par Funding was
 6 profitable in its transactions with the D19 entities
 7 in the amount of \$7,068,770.68."
 8 Do you see that language in Footnote 1 of
 9 Exhibit 40?
 10 A. Yes, I do.
 11 Q. Is the statement made in Footnote 1 of
 12 Exhibit 40 true?
 13 MR. SOTO: Objection to form.
 14 Mr. LaForte, give me one second.
 15 Amie, same objection on the basis of
 16 privilege with respect to the Footnote 1 on page 5.
 17 I'm instructing him not to answer.
 18 BY MS. BERLIN:
 19 Q. Mr. LaForte, from 2015 until 2020, did Par
 20 Funding ever measure its profitability using the
 21 GAAP recognized accrual method?
 22 MR. SOTO: Objection to the form.
 23 THE WITNESS: On the advice of counsel, I
 24 respectfully decline to answer the question as
 25 provided by the Fifth Amendment to the U.S.

45

1 Constitution.
 2 MS. BERLIN: I wonder if we could please
 3 turn to page 6 of Exhibit 40. Thank you.
 4 BY MS. BERLIN:
 5 Q. Mr. LaForte, do you see page 6 of
 6 Exhibit 40 on your screen?
 7 A. I do.
 8 Q. Are the representations that you made to
 9 the court on page 6 of Exhibit 40 true and correct?
 10 MR. SOTO: Mr. LaForte, give me one
 11 another second. You're referring just to page 6,
 12 Amie?
 13 MS. BERLIN: Yes.
 14 MR. SOTO: I'm objecting on the same
 15 basis. Attorney/client privileged, work product.
 16 Instructing him not to answer.
 17 BY MS. BERLIN:
 18 Q. Mr. LaForte, do you see on page 6 in the
 19 last paragraph? It's under the heading B. Par
 20 Funding's Underwriting of the D19 Entities.
 21 A. Yes, I do.
 22 Q. Do you see that section?
 23 A. Yes.
 24 Q. In Exhibit 40 you made certain
 25 representations to the court about Par Funding's

46

1 underwriting methods; correct?
 2 A. On the advice of counsel, I respectfully
 3 decline to answer the question as provided by the
 4 Fifth Amendment to the U.S. Constitution.
 5 Q. Did Par Funding conduct robust
 6 underwriting of the D19 entities?
 7 A. On the advice of counsel, I respectfully
 8 decline to answer the question as provided by the
 9 Fifth Amendment to the U.S. Constitution.
 10 Q. From 2015 until about July 2020, you
 11 oversaw the underwriting for Par Funding's merchant
 12 cash advance loans; correct?
 13 A. Can you repeat that, please?
 14 Q. Sure. From 2015 until about July 2020,
 15 did you oversee the underwriting for Par Funding's
 16 merchant cash advance loans?
 17 A. On the advice of counsel, I respectfully
 18 decline to answer that question as provided by the
 19 Fifth Amendment to the U.S. Constitution.
 20 MS. BERLIN: I wonder if we could please
 21 turn to page 7 of Exhibit 40.
 22 BY MS. BERLIN:
 23 Q. Mr. LaForte, do you see page 7 of
 24 Exhibit 40 on your screen?
 25 A. Yes.

47

1 Q. And are the representations about the D19
 2 entities on page 7 of Exhibit 40 true and correct?
 3 MR. SOTO: Same objection, Amie, on the
 4 basis of privilege.
 5 MS. BERLIN: So are you instructing the
 6 witness not to answer?
 7 MR. SOTO: Yes, I am.
 8 BY MS. BERLIN:
 9 Q. Mr. LaForte, did the D19 entities average
 10 \$4,851,720 per month in income?
 11 MR. SOTO: Objection to the form.
 12 THE WITNESS: On the advice of counsel, I
 13 respectfully decline to answer that question as
 14 provided by the Fifth Amendment to the U.S.
 15 Constitution.
 16 BY MS. BERLIN:
 17 Q. Did the D19 entities make total monthly
 18 payments of \$500,000 per month to Par Funding?
 19 MR. SOTO: Objection to the form.
 20 THE WITNESS: On the advice of counsel, I
 21 respectfully decline to answer that question as
 22 provided by the Fifth Amendment to the U.S.
 23 Constitution.
 24 MS. BERLIN: Can we please turn to page 8
 25 of Exhibit 40.

48

1 BY MS. BERLIN:
 2 Q. Do you see page of Exhibit 40 on your
 3 screen, Mr. LaForte?
 4 A. I do.
 5 Q. Did Par Funding thoroughly analyze the
 6 underwriting data from a personal standpoint,
 7 business and even social media standpoint when it
 8 comes to the D19 entities?
 9 A. On the advice of counsel, I respectfully
 10 decline to answer the question as provided by the
 11 Fifth Amendment to the U.S. Constitution.
 12 Q. Was it Par Funding's practice for -- let
 13 me rephrase that. I apologize.
 14 Was it the practice of Par Funding's
 15 executives to meet with the merchant cash advance
 16 borrowers of Par Funding?
 17 A. On the advice of counsel, I respectfully
 18 decline to answer the question as provided by the
 19 Fifth Amendment to the U.S. Constitution.
 20 MS. BERLIN: Can we please turn to page 9
 21 of Exhibit 40.
 22 BY MS. BERLIN:
 23 Q. Mr. LaForte, did Par Funding conduct
 24 underwriting concerning the D19 entities that
 25 included reviewing bank statements, lease

49

1 agreements, landlord verifications, a Clear Report,
 2 an on-site inspection, a franchise agreement and
 3 Mr. Fawzi's personal credit report?
 4 A. On the advice of counsel, I respectfully
 5 decline to answer that question as provided by the
 6 Fifth Amendment to the U.S. Constitution.
 7 Q. Mr. LaForte, did Par Funding complete all
 8 of its review of documents during the underwriting
 9 process for the D19 entities after approving the D19
 10 entities for their merchant cash advance loans?
 11 MR. SOTO: Objection to the form.
 12 THE WITNESS: Repeat that question,
 13 please.
 14 BY MS. BERLIN:
 15 Q. Sure. Did Par Funding conclude its
 16 underwriting process for the D19 entities after it
 17 had already approved the D19 entities for merchant
 18 cash advance loans?
 19 MR. SOTO: Objection to the form.
 20 THE WITNESS: On the advice of counsel, I
 21 respectfully decline to answer the question as
 22 provided by the Fifth Amendment to the U.S.
 23 Constitution.
 24 MS. BERLIN: I wonder if we could please
 25 show Exhibit 41.

50

1 BY MS. BERLIN:
 2 Q. Mr. LaForte, do you see on your screen a
 3 document that's stamped Deposition Exhibit 41 and it
 4 has as a caption that says Defendants' Joint
 5 Response to Receiver's Status Report of September 8,
 6 2020?
 7 A. Yes.
 8 Q. And this is your filing together with Lisa
 9 McElhone and Joseph Cole Barleta in the SEC's case
 10 against you?
 11 A. Can you repeat the question?
 12 Q. Sure. Is Exhibit 41 your filing with the
 13 court in the SEC's case against you?
 14 A. On the advice of counsel, I respectfully
 15 decline to answer that question as provided by the
 16 Fifth Amendment to the U.S. Constitution.
 17 Q. Did you review Deposition Exhibit 41
 18 before it was filed with the court on your behalf?
 19 A. On the advice of counsel, I respectfully
 20 decline to answer the question as provided by the
 21 Fifth Amendment to the U.S. Constitution.
 22 Q. Does Deposition Exhibit 41 contain false
 23 representations to the court?
 24 MR. SOTO: Mr. LaForte, one second. Go
 25 ahead and answer.

51

1 THE WITNESS: On the advice of counsel, I
 2 respectfully must decline to answer the question
 3 pursuant to my rights under the Fifth Amendment of
 4 the Constitution of the United States.
 5 BY MS. BERLIN:
 6 Q. Prior to the court entering the temporary
 7 restraining order in this case in July 2020, was Par
 8 Funding on unstable financial grounds?
 9 MR. SOTO: Objection to the form.
 10 THE WITNESS: On the advice of counsel, I
 11 respectfully decline to answer the question as
 12 provided by the Fifth Amendment to the U.S.
 13 Constitution.
 14 MS. BERLIN: Can we please turn to page 2
 15 of Exhibit 41.
 16 MR. SOTO: Amie, if you wouldn't mind,
 17 could you note for the record the docket entry for
 18 this exhibit. Something is blocking it, its view.
 19 MS. BERLIN: Sure. Exhibit 41 is Docket
 20 Entry 249.
 21 MR. SOTO: Thank you.
 22 MS. BERLIN: Sure.
 23 MR. SOTO: Amie, is there a question
 24 pending?
 25

52

1 BY MS. BERLIN:
2 Q. Mr. LaForte, I just want to make sure
3 you're seeing the same thing on your screen that I
4 am on mine.
5 A. Yes, I am. Thank you.
6 Q. Do you see page 2 of Exhibit 41 on your
7 screen?
8 A. I do. Thank you.
9 Q. Sure. On page 2, do you see where you
10 reference the law firm Fox Rothschild?
11 A. Yes.
12 Q. Was Fox Rothschild the attorney for Par
13 Funding in 2019 and 2020?
14 A. On the advice of counsel, I respectfully
15 decline to answer that question as provided by the
16 Fifth Amendment to the U.S. Constitution.
17 Q. Are you the person at Par Funding who made
18 the decision to retain Fox Rothschild on behalf of
19 Par Funding?
20 A. Repeat that, please.
21 Q. Yeah. Are you the person at Par Funding
22 who decided that Par Funding would retain Fox
23 Rothschild as its attorney?
24 A. On the advice of counsel, I respectfully
25 decline to answer the question as provided by the

53

1 Fifth Amendment to the U.S. Constitution.
2 Q. Has anyone at the law firm Fox Rothschild
3 ever represented you as counsel?
4 A. On the advice of counsel --
5 MR. SOTO: Objection to the form.
6 THE WITNESS: On the advice of counsel, I
7 respectfully decline to answer the question as
8 provided by the Fifth Amendment to the U.S.
9 Constitution.
10 MS. BERLIN: I wonder if we could please
11 turn to page 3 of Exhibit 41.
12 BY MS. BERLIN:
13 Q. Mr. LaForte, do you see on page 3 of
14 Exhibit 41 where you represent to the court -- it's
15 the first full paragraph on the page.
16 Do you see where you represent to the
17 court, "Par Funding holds a whopping 421 million in
18 current accounts receivable"?
19 Do you see that?
20 A. Yes, I do.
21 Q. Is that statement true?
22 MR. SOTO: Objection to the form. And on
23 the basis of your question, I am asserting a
24 privilege with respect to that particular question,
25 the way you phrased it, and instructing him not to

54

1 answer.
2 BY MS. BERLIN:
3 Q. Mr. LaForte, in September 2020, did Par
4 Funding have 421 million in current accounts
5 receivable?
6 MR. SOTO: Objection to the form.
7 THE WITNESS: On the advice of counsel, I
8 respectfully decline to answer the question as
9 provided by the Fifth Amendment to the U.S.
10 Constitution.
11 BY MS. BERLIN:
12 Q. In July of 2020, did Par Funding hold
13 \$421 million in current accounts receivable?
14 MR. SOTO: Objection to the form.
15 THE WITNESS: On the advice of counsel, I
16 respectfully decline to answer the question as
17 provided by the Fifth Amendment to the U.S.
18 Constitution.
19 MS. BERLIN: I wonder if we could please
20 turn to page 4 of Exhibit 41.
21 BY MS. BERLIN:
22 Q. Mr. LaForte, on your screen, do you see
23 page 4 of Exhibit 41? It has a heading that says
24 No. 2 Receiver's Counsel's Supplement to the Report
25 During the Conference Mischaracterizes the Meaning

55

1 and the Context of the Largest Ten Merchants.
2 Do you see that on your screen as well?
3 A. Yes.
4 Q. Are the representations that you made to
5 the court under heading number two starting on page
6 4 of Exhibit 41, are those representations to the
7 court true?
8 MR. SOTO: Objecting to your question
9 asking him to opine with respect to this particular
10 document on the basis of privilege. Instructing him
11 not to answer.
12 BY MS. BERLIN:
13 Q. Mr. LaForte, were many of the debt of Par
14 Funding's ten largest merchants significantly
15 collateralized beyond Par Funding's standard
16 factoring agreement protections?
17 MR. SOTO: Objection to the form.
18 THE WITNESS: On the advice of counsel, I
19 respectfully decline to answer the question as
20 provided by the Fifth Amendment of the U.S.
21 Constitution.
22 BY MS. BERLIN:
23 Q. Mr. LaForte, was there any effort to
24 obtain any photos of any merchant site that was
25 seeking a loan from Par Funding in an amount less

56

1 than \$30,000?
 2 MR. SOTO: Objection to the form.
 3 THE WITNESS: I'm sorry, Ms. Berlin. Can
 4 you repeat that, please?
 5 BY MS. BERLIN:
 6 Q. Sure. If a merchant cash advance borrower
 7 wanted to borrow less than \$30,000 from Par Funding,
 8 did Par Funding's underwriting process include an
 9 on-site inspection?
 10 A. On the advice of counsel, I respectfully
 11 decline to answer the question as provided by the
 12 Fifth Amendment to the U.S. Constitution.
 13 Q. If a merchant cash advance borrower wanted
 14 to borrow less than \$30,000 from Par Funding, did
 15 Par Funding seek photos of the merchant cash
 16 borrower's site?
 17 A. On the advice of counsel, I respectfully
 18 decline to answer the question as provided by the
 19 Fifth Amendment to the U.S. Constitution.
 20 Q. Mr. LaForte, isn't it true that you knew
 21 that entities retained to engage in inspections of
 22 merchant cash borrowers during the underwriting
 23 process were often unable to complete or conduct any
 24 on-site inspection whatsoever?
 25 A. On the advice of counsel, I respectfully

57

1 decline to answer the question as provided by the
 2 Fifth Amendment of the U.S. Constitution.
 3 MS. BERLIN: I wonder if we could please
 4 show Exhibit 42. Thank you.
 5 BY MS. BERLIN:
 6 Q. Mr. LaForte, do you see on your screen a
 7 document? It says Deposition Exhibit 42, and at the
 8 top it says Docket Entry 493 in blue at the very
 9 top. And then the title is Defendants' Joint
 10 Response to Receiver's Interim Status Report Dated
 11 February 1, 2021. Do you see that on your screen?
 12 A. Yes. Yes, I do.
 13 Q. Did you review Deposition Exhibit 42
 14 before counsel filed Exhibit 42 with the court on
 15 your behalf?
 16 A. On the advice of counsel, I respectfully
 17 decline to answer the question as provided by the
 18 Fifth Amendment to the U.S. Constitution.
 19 MS. BERLIN: I wonder if we could please
 20 turn to page 4 of Exhibit 42.
 21 BY MS. BERLIN:
 22 Q. Mr. LaForte, are the representations that
 23 you make on page 4 of Exhibit 42, are these
 24 representations to the court false?
 25 MR. SOTO: One second, Mr. LaForte. Let

58

1 me review this page.
 2 Amie, I'm asserting attorney/client
 3 privilege with respect to the question, the way you
 4 phrased it, and instructing him not to answer.
 5 BY MS. BERLIN:
 6 Q. Mr. LaForte, did you and Lisa McElhone
 7 decide to transfer property located at 4309 Old
 8 Decatur Road in Fort Worth, Texas?
 9 MR. SOTO: Objection.
 10 THE WITNESS: On the advice of counsel --
 11 BY MS. BERLIN:
 12 Q. I'm sorry?
 13 A. On the advice of counsel, I respectfully
 14 decline to answer the question as provided by the
 15 Fifth Amendment of the U.S. Constitution --
 16 Q. Mr. LaForte, you told the court in this
 17 case that you had not transferred any of the
 18 property for your benefit, including this Fort
 19 Worth, Texas property. But when you made that
 20 representation to the court, you had, in fact,
 21 already secretly transferred this property; isn't
 22 that right?
 23 MR. SOTO: Objection to the form.
 24 THE WITNESS: On the advice of counsel, I
 25 respectfully decline to answer the question as

59

1 provided by the Fifth Amendment to the U.S.
 2 Constitution.
 3 BY MS. BERLIN:
 4 Q. Did you lie to the court in this case
 5 about maintaining the status quo of the Fort Worth,
 6 Texas property in order to obstruct the receiver's
 7 efforts to secure all of the assets in this case?
 8 MR. SOTO: Objection to the form.
 9 THE WITNESS: On the advice of counsel, I
 10 respectfully decline to answer the question as
 11 provided by the Fifth Amendment to the U.S.
 12 Constitution.
 13 BY MS. BERLIN:
 14 Q. And, in fact, the timing of the transfer
 15 of the Fort Worth, Texas property was something that
 16 you and Lisa McElhone decided on together; isn't
 17 that right?
 18 MR. SOTO: Objection to the form.
 19 THE WITNESS: On the advice of counsel, I
 20 respectfully decline to answer the question as
 21 provided by the Fifth Amendment to the U.S.
 22 Constitution.
 23 BY MS. BERLIN:
 24 Q. Specifically you and Ms. McElhone decided
 25 to transfer the Fort Worth, Texas property only

60

1 after the court had entered the temporary
 2 restraining order against you and Par Funding and
 3 Ms. McElhone in this case; isn't that true?
 4 **A.** On the advice of counsel, I respectfully
 5 decline to answer the question as provided by the
 6 Fifth Amendment to the U.S. Constitution.
 7 **Q.** You could have transferred this property
 8 at any time beginning in 2019; isn't that true?
 9 **MR. SOTO:** Objection to the form.
 10 **BY MS. BERLIN:**
 11 **Q.** Mr. LaForte, to be clear, when I say "this
 12 property," I'm talking about the property I've been
 13 asking you about, which is the Fort Worth, Texas
 14 property located at 4309 Old Decatur Road. Do you
 15 understand that?
 16 **A.** Yes, I do. Thank you.
 17 **Q.** I might refer to it as "this property" in
 18 the next few questions. Do you understand I'm
 19 talking about the 4309 Old Decatur Road property?
 20 **A.** Yes, I do.
 21 **Q.** Okay. Thank you. So the Fort Worth,
 22 Texas property could have been transferred in 2019,
 23 but you and Ms. McElhone chose not to do so; isn't
 24 that correct?
 25 **MR. SOTO:** Objection to the form.

61

1 **THE WITNESS:** On the advice of counsel, I
 2 respectfully decline to answer the question as
 3 provided by the Fifth Amendment to the U.S.
 4 Constitution.
 5 **BY MS. BERLIN:**
 6 **Q.** In fact, you and Ms. McElhone together
 7 decided to transfer -- you only decided to actually
 8 effectuate the transfer of that property after this
 9 case was filed and in order to conceal assets and
 10 obstruct the SEC's case; isn't that right?
 11 **MR. SOTO:** Mr. LaForte, one second.
 12 Objection to the form. This also implicates
 13 attorney/client privilege, and I'm instructing him
 14 not to answer on that basis based on the wording of
 15 your question.
 16 **MS. BERLIN:** I wonder if we could please
 17 turn to the next exhibit, Exhibit 43.
 18 **BY MS. BERLIN:**
 19 **Q.** Mr. LaForte, do you see on your screen a
 20 document that's stamped Deposition Exhibit 43 and at
 21 the top in blue it says Document 535? Do you see
 22 that on your screen?
 23 **A.** Yes.
 24 **Q.** Okay. Thank you. And it should have as
 25 the caption Defendants' Joint Response to the

62

1 Receiver's Quarterly Status Reports dated
 2 December 13, 2020 and February 1, 2021. Do you see
 3 that?
 4 **A.** Yes.
 5 **Q.** Mr. LaForte, do you file responses to the
 6 receiver's status reports in order to burden the
 7 receiver's efforts of harnessing assets for the
 8 benefit of the investors in this case?
 9 **MR. SOTO:** Objection to the form.
 10 Instructing him not to answer on the basis of
 11 privilege in light of your question regarding the
 12 basis of this filing.
 13 **BY MS. BERLIN:**
 14 **Q.** Mr. LaForte, do you choose to file
 15 responses to the receiver's status reports in an
 16 effort to cause the receivership to spend further
 17 investor funds addressing the issues that you raise
 18 in your responses?
 19 **MR. SOTO:** Objection to the form. Also
 20 objecting on the basis of privilege with respect to
 21 your question asking him for the basis of this
 22 filing.
 23 **BY MS. BERLIN:**
 24 **Q.** Mr. LaForte, to be clear, Exhibit 43 is
 25 your response to the receiver's quarterly status

63

1 reports of December 13, 2020 and February 1, 2021;
 2 correct?
 3 **A.** On the advice of counsel, I respectfully
 4 decline to answer the question as provided by the
 5 Fifth Amendment to the U.S. Constitution.
 6 **Q.** Did you review Exhibit 43 before attorneys
 7 filed it with the court on your behalf?
 8 **A.** On the advice of counsel, I respectfully
 9 decline to answer the question as provided by the
 10 Fifth Amendment to the U.S. Constitution.
 11 **Q.** In Exhibit 43, do you make representations
 12 to the court about Par Funding's merchant cash
 13 advance business under your management?
 14 **MR. SOTO:** Objection to the form.
 15 **THE WITNESS:** Can you repeat that, please?
 16 **BY MS. BERLIN:**
 17 **Q.** Sure. In Exhibit 43, do you make
 18 misrepresentations to the court about Par Funding's
 19 merchant cash advance business?
 20 **MR. SOTO:** Objection to the form.
 21 **THE WITNESS:** On the advice of counsel, I
 22 respectfully decline to answer the question as
 23 provided by the Fifth Amendment to the U.S.
 24 Constitution.
 25

64

1 MS. BERLIN: Please turn to page 2 of
 2 Exhibit 43.
 3 BY MS. BERLIN:
 4 Q. Mr. LaForte, on page 2 of Exhibit 43 --
 5 I'm sorry. I'm going to withdraw that question.
 6 MS. BERLIN: We'll go to page 3, please.
 7 BY MS. BERLIN:
 8 Q. Mr. LaForte, did you retain an individual
 9 named Joel Glick?
 10 A. On the advice of counsel, I respectfully
 11 decline to answer the question as provided by the
 12 Fifth Amendment to the U.S. Constitution.
 13 Q. Mr. LaForte, did you file the -- did you
 14 retain Mr. Glick in order to conduct a forensic
 15 analysis for you of Par Funding?
 16 MR. SOTO: Objection on the basis of
 17 privilege. Instructing him not to answer.
 18 MS. BERLIN: Can we move to page 4,
 19 please. I wonder if we could advance the exhibit to
 20 page 4, please. Thank you.
 21 BY MS. BERLIN:
 22 Q. Mr. LaForte, did Par Funding utilize U.S.
 23 general accepted accounting principles at any time
 24 between 2012 and 2019?
 25 MR. SOTO: Objection to the form.

65

1 THE WITNESS: On the advice of counsel, I
 2 respectfully decline to answer the question as
 3 provided by the Fifth Amendment to the U.S.
 4 Constitution.
 5 BY MS. BERLIN:
 6 Q. Mr. LaForte, is it true that Par Funding
 7 did not maintain its records or conduct analyses of
 8 its financials under GAAP between 2012 and 2018?
 9 MR. SOTO: Objection to the form.
 10 THE WITNESS: On the advice of counsel, I
 11 respectfully decline to answer the question as
 12 provided by the Fifth Amendment to the U.S.
 13 Constitution.
 14 BY MS. BERLIN:
 15 Q. Mr. LaForte, what are your current sources
 16 of income?
 17 A. On the advice of counsel, I respectfully
 18 decline to answer the question as provided by the
 19 Fifth Amendment to the U.S. Constitution.
 20 Q. Are you spending investor proceeds from
 21 Par Funding on legal counsel in this case?
 22 A. Repeat that question, please.
 23 Q. Yeah. Are you using Par Funding's
 24 investor funds to pay your legal counsel in this
 25 case?

66

1 A. On the advice of counsel, I respectfully
 2 decline to answer the question as provided by the
 3 Fifth Amendment to the U.S. Constitution.
 4 Q. What is the source of money that you are
 5 using to pay your attorneys on this case?
 6 A. On the advice of counsel, I respectfully
 7 decline to answer that question as provided by the
 8 Fifth Amendment to the U.S. Constitution.
 9 Q. Are you using investor money that you
 10 concealed in order to pay your attorneys?
 11 MR. SOTO: Objection to the form.
 12 THE WITNESS: On the advice of counsel, I
 13 respectfully decline to answer the question as
 14 provided by the Fifth Amendment to the U.S.
 15 Constitution.
 16 MS. BERLIN: Can we please turn to page 5.
 17 Thank you.
 18 BY MS. BERLIN:
 19 Q. Do you see page 5 of your Filing Docket
 20 Entry 535, Exhibit 43 in this case on your screen,
 21 Mr. LaForte?
 22 A. I do, Ms. Berlin. Thank you.
 23 Q. Okay. Great. So, Mr. LaForte, isn't it
 24 true that without new investor money coming in, Par
 25 Funding would have collapsed by no later than 2017?

67

1 MR. SOTO: Objection to the form.
 2 THE WITNESS: On the advice of counsel, I
 3 respectfully decline to answer the question as
 4 provided by the Fifth Amendment to the U.S.
 5 Constitution.
 6 MS. BERLIN: Let's turn to our next
 7 exhibit. It is Exhibit 44.
 8 THE VIDEOGRAPHER: One second.
 9 MS. BERLIN: Thank you.
 10 THE VIDEOGRAPHER: I currently have 40
 11 through 43.
 12 MS. BERLIN: I wonder if we could go off
 13 the record for a moment.
 14 THE VIDEOGRAPHER: And we're going off the
 15 record at 11:55 a.m.
 16 (Recess from 11:55 a.m. to 11:57 a.m.)
 17 THE VIDEOGRAPHER: And we're back on the
 18 record at 11:57 a.m.
 19 MS. BERLIN: Thank you. Show Exhibit 44,
 20 please. Thank you. I wonder if we could show
 21 Exhibit 44.
 22 THE VIDEOGRAPHER: One second. Okay.
 23 MS. BERLIN: Thank you.
 24 BY MS. BERLIN:
 25 Q. Mr. LaForte, Exhibit 44, at the top you

68

1 should see Docket 21, and this is in the case United
 2 States of America versus Joseph LaForte. It's a
 3 criminal action, Case No. 20-231.
 4 Do you see that on your screen?
 5 **A.** Yes.
 6 **Q.** Thank you.
 7 **MS. BERLIN:** Can we turn to PDF page 3,
 8 please. Thank you.
 9 **BY MS. BERLIN:**
 10 **Q.** Mr. LaForte, what you see on your screen,
 11 do you see a document that says Memorandum in
 12 Support of Motion for Pretrial Release and
 13 Revocation of Detention Order? Is that on you
 14 screen?
 15 **A.** Yes. I see it.
 16 **Q.** So is this Memorandum that's included in
 17 Exhibit 44, is this the Memorandum filed on your
 18 behalf on August 25, 2020 in the criminal case
 19 pending against you in the Eastern District of
 20 Pennsylvania?
 21 **A.** I don't understand your question. Can you
 22 repeat that, please?
 23 **Q.** Sure. Is the Memorandum in Support of
 24 Motion for Pretrial Release and Revocation of
 25 Detention Order that appears on your screen and it

69

1 is within Exhibit 44, is this Memorandum a document
 2 that was filed on your behalf in the criminal case
 3 against you currently pending in the Eastern
 4 District of Pennsylvania?
 5 **MR. SOTO:** Amie, I'm going to object to
 6 this question and this line of questioning as
 7 completely outside the scope of your case. I don't
 8 typically object on the basis of relevance, but I
 9 see absolutely no connection between the questions
 10 you're asking and the basis of your claims or any of
 11 the defenses that have been raised.
 12 **BY MS. BERLIN:**
 13 **Q.** Mr. LaForte, there's a question pending.
 14 **A.** On the advice of counsel, I respectfully
 15 decline to answer the question as provided by the
 16 Fifth Amendment to the U.S. Constitution.
 17 **Q.** Mr. LaForte, are you currently out on
 18 house arrest?
 19 **MR. SOTO:** Same objection.
 20 **THE WITNESS:** On the advice of counsel, I
 21 respectfully decline to answer the question as
 22 provided by the Fifth Amendment to the U.S.
 23 Constitution.
 24 **BY MS. BERLIN:**
 25 **Q.** Mr. LaForte, while you were at Par

70

1 Funding, did you utilize threats of violence against
 2 merchant cash borrowers in order to collect money
 3 they owed to Par Funding?
 4 **A.** On the advice of counsel, I respectfully
 5 decline to answer the question as provided by the
 6 Fifth Amendment to the U.S. Constitution.
 7 **Q.** Mr. LaForte, are you currently on house
 8 arrest in a property that is owned by -- are you
 9 currently on house arrest in a home that was
 10 purchased with Par Funding investor funds?
 11 **MR. SOTO:** Objection to the form.
 12 **THE WITNESS:** On the advice of counsel, I
 13 respectfully decline to answer the question as
 14 provided by the Fifth Amendment to the U.S.
 15 Constitution.
 16 **BY MS. BERLIN:**
 17 **Q.** Mr. LaForte, at any time since July 2020,
 18 have you either directly or through any entity or
 19 person that you've hired reached out to investors by
 20 email or other means?
 21 **A.** On the advice of counsel, I respectfully
 22 decline to answer the question as provided by the
 23 Fifth Amendment to the U.S. Constitution.
 24 **Q.** Mr. LaForte --
 25

71

1 **MS. BERLIN:** PDF page 6 of Exhibit 44, I
 2 wonder if we could just turn there.
 3 **BY MS. BERLIN:**
 4 **Q.** Do you see in the first paragraph --
 5 **MS. BERLIN:** I wonder if we could turn it
 6 to PDF page -- it should say at the top -- on mine
 7 it says 6 of 29. On yours it says 10 of 29. I
 8 wonder if we could go back four pages so that in the
 9 upper right-hand corner it says page 6 of 29. Thank
 10 you. Thank you.
 11 **BY MS. BERLIN:**
 12 **Q.** Mr. LaForte, do you see where in your
 13 filing in the criminal case against you, you
 14 represented to the court that you "ran one of the
 15 largest merchant cash advance companies in the
 16 country with over 100 employees and millions of
 17 dollars in revenue. The company founded in 2011
 18 offered short-term funding to small and medium-sized
 19 businesses in exchange for a share of the business'
 20 future receivables."
 21 Do you see that language in Exhibit 44?
 22 **A.** Yes, I do.
 23 **Q.** Are you referring to Par Funding in that
 24 sentence that I just read?
 25 **MR. SOTO:** Mr. LaForte, one second.

72

1 Amie, I'm going to object on the basis of
 2 privilege with respect to the basis for the
 3 statements made in this filing.
 4 BY MS. BERLIN:
 5 Q. Mr. LaForte, did you review the document
 6 we're looking at in Exhibit 44 before your attorneys
 7 filed it on your behalf?
 8 MR. SOTO: On the advice of my counsel, I
 9 respectfully decline to answer the question as
 10 provided by the Fifth Amendment to the U.S.
 11 Constitution.
 12 BY MS. BERLIN:
 13 Q. Mr. LaForte, until July 2020, did you run
 14 one of the largest merchant cash advance companies
 15 in the country?
 16 A. On the advice of counsel, I respectfully
 17 decline to answer the question as provided by the
 18 Fifth Amendment to the U.S. Constitution.
 19 Q. Mr. LaForte, until July of 2020, did you
 20 run one of the largest merchant cash advance
 21 companies in the country with millions of dollars in
 22 revenue?
 23 A. On the advice of counsel, I respectfully
 24 decline to answer the question as provided by the
 25 Fifth Amendment to the U.S. Constitution.

73

1 MS. BERLIN: We can remove Exhibit 44,
 2 please.
 3 THE VIDEOGRAPHER: Page number one more
 4 time, please?
 5 MS. BERLIN: I said we can remove --
 6 sorry -- we can remove Exhibit 44 from the screen
 7 altogether. Thank you. Just one moment.
 8 BY MS. BERLIN:
 9 Q. Mr. LaForte, including in 2019, were you
 10 endeavoring to raise funds so that you could take
 11 over or start a bank?
 12 MR. SOTO: Objection to the form.
 13 THE WITNESS: On the advice of counsel, I
 14 respectfully decline to answer the question as
 15 provided by the Fifth Amendment to the U.S.
 16 Constitution.
 17 BY MS. BERLIN:
 18 Q. And did you provide documentation and
 19 information to the Federal Reserve in connection
 20 with your efforts to start a bank?
 21 MR. SOTO: Objection to the form.
 22 THE WITNESS: On the advice of my counsel,
 23 I respectfully decline to answer the question as
 24 provided by the Fifth Amendment to the U.S.
 25 Constitution.

74

1 BY MS. BERLIN:
 2 Q. In connection with your attempts to start
 3 a bank, did you make misrepresentations to the
 4 Federal Reserve?
 5 MR. SOTO: Objection to the form.
 6 THE WITNESS: On the advice of my counsel,
 7 I respectfully decline to answer the question as
 8 provided by the Fifth Amendment to the U.S.
 9 Constitution.
 10 BY MS. BERLIN:
 11 Q. In connection with your efforts to start a
 12 bank, did you make misrepresentations to the Federal
 13 Reserve about your management role at Par Funding?
 14 MR. SOTO: Objection to the form.
 15 THE WITNESS: On the advice of my counsel,
 16 I respectfully decline to answer the question as
 17 provided by the Fifth Amendment to the U.S.
 18 Constitution.
 19 BY MS. BERLIN:
 20 Q. In connection with your efforts to
 21 purchase and start a new bank, did you make
 22 misrepresentations to the Federal Reserve about the
 23 nature of Par Funding's business?
 24 THE WITNESS: On the advice of counsel, I
 25 respectfully decline to answer the question as

75

1 provided by the Fifth Amendment to the U.S.
 2 Constitution.
 3 BY MS. BERLIN:
 4 Q. In connection with your efforts to
 5 purchase or create a bank, did you make
 6 misrepresentations to the Federal Reserve about who
 7 was actually trying to purchase and start the bank?
 8 A. On the advice of counsel, I respectfully
 9 decline to answer the question as provided by the
 10 Fifth Amendment to the U.S. Constitution.
 11 Q. Did you utilize investment firms to
 12 conceal the fact that you and Lisa McElhone and
 13 Joseph Cole were, in fact, acquiring primary
 14 ownership of the bank?
 15 A. Can you repeat that question, please?
 16 Q. Did you utilize investment funds and
 17 investment firms in order to conceal the true
 18 ownership interest of you with Joseph Cole Barleta
 19 and Lisa McElhone in the creation of this bank?
 20 MR. SOTO: Objection to the form.
 21 MS. BERLIN: I hear someone talking. I'm
 22 not sure who that is.
 23 MR. SOTO: I believe it's Perry Abbonizio.
 24 Mr. Abbonizio, would you please mute your
 25 line.

76

1 THE WITNESS: To answer your question,
 2 Ms. Berlin, on the advice of counsel, I respectfully
 3 decline to answer the question as provided by the
 4 Fifth Amendment to the U.S. Constitution.
 5 BY MS. BERLIN:
 6 Q. Isn't it true that once the Federal
 7 Reserve sent letters to Par Funding actually probing
 8 the veracity of some of the representations that you
 9 had made to the Federal Reserve, that you chose to
 10 walk away and not pursue the bank investment so that
 11 your lies would not be discovered?
 12 MR. SOTO: Objection to the form.
 13 THE WITNESS: On the advice of my counsel,
 14 I respectfully decline to answer the question as
 15 provided by the Fifth Amendment to the U.S.
 16 Constitution.
 17 BY MS. BERLIN:
 18 Q. Isn't it true that the only reason that
 19 you stopped pursuing the creation of the bank is
 20 because the Federal Reserve started asking you
 21 detailed questions about the lies that you had told
 22 to the Federal Reserve in connection with your
 23 efforts to purchase or create a bank?
 24 MR. SOTO: Objection to the form.
 25 THE WITNESS: On the advice of counsel, I

77

1 respectfully decline to answer the question as
 2 provided by the Fifth Amendment to the U.S.
 3 Constitution.
 4 BY MS. BERLIN:
 5 Q. Mr. LaForte, have you filed federal income
 6 taxes in the last ten years?
 7 A. On the advice of counsel, I respectfully
 8 decline to answer the question as provided by the
 9 Fifth Amendment to the U.S. Constitution.
 10 Q. Mr. LaForte, did you and Lisa McElhone
 11 gain control over at least 25 real estate properties
 12 that you all acquired using commingled investor funds
 13 from Par Funding?
 14 MR. SOTO: Objection to the form.
 15 THE WITNESS: On the advice of my counsel,
 16 I respectfully decline to answer the question as
 17 provided by the Fifth Amendment to the U.S.
 18 Constitution.
 19 BY MS. BERLIN:
 20 Q. Did you and Lisa McElhone use Par Funding
 21 investor funds to purchase at least 25 real estate
 22 properties for your own benefit?
 23 A. On the advice of my counsel, I
 24 respectfully decline to answer the question as
 25 provided by the Fifth Amendment to the U.S.

78

1 Constitution.
 2 Q. Did you and Dean Vagnozzi edit videos in
 3 March of 2020 in order to remove all reference to
 4 you so that investors would not discover your
 5 involvement with Par Funding?
 6 MR. SOTO: Objection to the form.
 7 THE WITNESS: On the advice of my counsel,
 8 I respectfully decline to answer the question as
 9 provided by the Fifth Amendment to the U.S.
 10 Constitution.
 11 MS. BERLIN: One moment.
 12 BY MS. BERLIN:
 13 Q. From 2012 until 2017, did Par Funding
 14 offer promissory notes directly to individual
 15 investors?
 16 A. On the advice of my counsel, I
 17 respectfully decline to answer the question as
 18 provided by the Fifth Amendment of the U.S.
 19 Constitution.
 20 Q. Isn't it true that you shifted from using
 21 finders and issuing your own promissory notes to
 22 investors to a structure where you utilized other
 23 investment funds to offer promissory notes and
 24 filter that investor money to Par Funding?
 25 MR. SOTO: Objection to the form.

79

1 THE WITNESS: Can you please repeat that
 2 question, Ms. Berlin?
 3 BY MS. BERLIN:
 4 Q. Sure. In early 2018, did Par Funding stop
 5 issue -- ask it another way.
 6 At some point in early 2018, did Par
 7 Funding begin utilizing investment firms to issue
 8 their own promissory notes and then filter that
 9 investor money to Par Funding?
 10 MR. SOTO: Objection to the form.
 11 THE WITNESS: On the advice of my counsel,
 12 I respectfully decline to answer the question as
 13 provided by the Fifth Amendment to the U.S.
 14 Constitution.
 15 BY MS. BERLIN:
 16 Q. Did Par Funding shift from issuing
 17 promissory notes directly to investors to utilizing
 18 investment firms to get investor money in 2018 in
 19 order to conceal Par Funding's compensation for the
 20 solicitation of investors?
 21 MR. SOTO: Objection to the form.
 22 THE WITNESS: On the advice of my counsel,
 23 I respectfully decline to answer the question as
 24 provided by the Fifth Amendment to the U.S.
 25 Constitution.

80

1 BY MS. BERLIN:
 2 Q. In fact, the whole reason why Par Funding
 3 started utilizing investment firms to sell
 4 promissory notes for the benefit of Par Funding was
 5 because Par Funding had received a subpoena from the
 6 Pennsylvania State regulators; correct?
 7 MR. SOTO: Objection to the form. And I'm
 8 going to instruct the witness not to answer with
 9 respect to your questions regarding the reason that
 10 Par Funding might have made the shift you described
 11 in your question.
 12 MS. BERLIN: On what basis?
 13 MR. SOTO: On the basis of attorney/client
 14 privilege.
 15 BY MS. BERLIN:
 16 Q. I want to be clear. Mr. LaForte, I'm not
 17 asking you for any of your attorneys' viewpoints.
 18 I'm asking whether the company made the change.
 19 MS. BERLIN: Am I correct in
 20 understanding, Mr. Soto, that you're instructing
 21 your client not to answer on the basis of
 22 attorney/client privilege?
 23 MR. SOTO: On the basis of your revised
 24 question, I would not. If you're asking him whether
 25 he knows if that change was made, I am not asserting

81

1 attorney/client privilege.
 2 MS. BERLIN: Okay.
 3 BY MS. BERLIN:
 4 Q. So, Mr. LaForte, can you answer the
 5 question, please.
 6 A. What are you asking me, Ms. Berlin? I'm
 7 sorry.
 8 Q. I'm asking -- this question is not about
 9 any attorney decision. It's about you. So all of
 10 my questions are about you. When I say "you," I
 11 think we established at the beginning I mean you,
 12 Joe LaForte.
 13 A. Thank you.
 14 Q. So did Par Funding -- is it your
 15 understanding that Par Funding began utilizing
 16 investment firms to raise investor money early in
 17 2018 because it had received a subpoena from
 18 Pennsylvania State regulators and wanted to conceal
 19 that Par Funding was still compensating people for
 20 soliciting investors?
 21 MR. SOTO: Sorry for interrupting.
 22 Objection to the form.
 23 THE WITNESS: Thank you, Ms. Berlin.
 24 On the advice of my counsel, I
 25 respectfully decline to answer the that question as

82

1 provided by the Fifth Amendment to the U.S.
 2 Constitution.
 3 BY MS. BERLIN:
 4 Q. Why did Par Funding begin using investment
 5 firms to issue promissory notes in early 2018?
 6 A. On the advice of my counsel, I
 7 respectfully decline to answer the question as
 8 provided by the Fifth Amendment to the U.S.
 9 Constitution.
 10 Q. Did Par Funding begin utilizing investment
 11 firms to find investors in 2018 in order to conceal
 12 its securities offerings from state regulators?
 13 MR. SOTO: Objection to the form.
 14 THE WITNESS: Sorry, Ms. Berlin. Can you
 15 please repeat that one more time?
 16 BY MS. BERLIN:
 17 Q. Sure. When Par Funding started using
 18 investment firms to offer promissory notes in early
 19 2018, was the reason for that in order to conceal
 20 Par Funding's securities offerings from state
 21 securities regulators?
 22 MR. SOTO: Objection to the form.
 23 THE WITNESS: On the advice of counsel, I
 24 respectfully decline to answer the question as
 25 provided by the Fifth Amendment to the U.S.

83

1 Constitution.
 2 BY MS. BERLIN:
 3 Q. Between 2018 and 2020, did you help Dean
 4 Vagnozzi solicit investors to purchase promissory
 5 notes that were offered by Mr. Vagnozzi's investment
 6 funds?
 7 A. On the advice of my counsel, I
 8 respectfully decline to answer the question as
 9 provided by the Fifth Amendment to the U.S.
 10 Constitution.
 11 Q. Between 2018 and July 2020, did you
 12 solicit investors to purchase Par Funding promissory
 13 notes?
 14 A. On the advice of my counsel, I
 15 respectfully decline to answer the question as
 16 provided by the Fifth Amendment to the U.S.
 17 Constitution.
 18 Q. Since no later than early 2018, you knew
 19 that Par Funding did not have insurance coverage on
 20 its merchant cash advance loans; isn't that true?
 21 MR. SOTO: Objection to the form.
 22 THE WITNESS: On the advice of my counsel,
 23 I respectfully decline to answer the question as
 24 provided by the Fifth Amendment to the U.S.
 25 Constitution.

84

1 BY MS. BERLIN:
 2 Q. Did you tell potential investors of Par
 3 Funding that you invested your own money in Par
 4 Funding?
 5 A. On the advice of counsel, I respectfully
 6 decline to answer the that question as provided by
 7 the Fifth Amendment to the U.S. Constitution.
 8 Q. Isn't it true that you never invested any
 9 of your own money in Par Funding?
 10 A. On the advice of my counsel, I
 11 respectfully decline to answer the question as
 12 provided by the Fifth Amendment to the U.S.
 13 Constitution.
 14 Q. Did you tell potential investors of Par
 15 Funding that Par Funding's merchant cash advance
 16 loans had a default rate of about 1 percent?
 17 A. On the advice of my counsel, I
 18 respectfully decline to answer the question as
 19 provided by the Fifth Amendment to the U.S.
 20 Constitution.
 21 Q. Between 2017 and July of 2020, Par Funding
 22 never had a 1 percent default rate on the merchant
 23 cash advance loans; correct?
 24 MR. SOTO: Objection to the form.
 25 THE WITNESS: On the advice of my counsel,

85

1 I respectfully decline to answer the question as
 2 provided by the Fifth Amendment to the U.S.
 3 Constitution.
 4 MS. BERLIN: Just one moment. We're
 5 almost finished.
 6 BY MS. BERLIN:
 7 Q. Mr. LaForte, do you have an ownership or
 8 financial interest in Colorado Sky?
 9 A. On the advice of my counsel, I
 10 respectfully decline to answer the question as
 11 provided by the Fifth Amendment to the U.S.
 12 Constitution.
 13 Q. Do you have an ownership or financial
 14 interest in Colorado World?
 15 A. On the advice of my counsel, I
 16 respectfully decline to answer the question as
 17 provided by the Fifth Amendment to the U.S.
 18 Constitution.
 19 Q. Do you have an ownership or financial
 20 interest in Colorado Farms Holding?
 21 A. On the advice of my counsel, I
 22 respectfully decline to answer the question as
 23 provided by the Fifth Amendment to the U.S.
 24 Constitution.
 25 Q. Do you have an ownership or -- let me ask

86

1 it another way.
 2 Do you now or have you ever had an
 3 ownership or financial interest in Visions?
 4 A. On the advice of my counsel, I
 5 respectfully decline to answer the question as
 6 provided by the Fifth Amendment to the U.S.
 7 Constitution.
 8 Q. Have you ever had an ownership or
 9 financial interest in Alternative Material?
 10 A. On the advice of my counsel, I
 11 respectfully decline to answer the question as
 12 provided by the Fifth Amendment to the U.S.
 13 Constitution.
 14 Q. Have you ever had an ownership or
 15 financial interest in Kingdom Logistics?
 16 A. On the advice of my counsel, I
 17 respectfully decline to answer the question as
 18 provided by the Fifth Amendment to the U.S.
 19 Constitution.
 20 Q. Have you ever had an ownership or
 21 financial interest in Colorado Natural Products?
 22 A. On the advice of my counsel, I
 23 respectfully decline to answer the question as
 24 provided by the Fifth Amendment to the U.S.
 25 Constitution.

87

1 Q. Have you ever had an ownership or
 2 financial interest in Rare Earth Elements of the
 3 World?
 4 A. On the advice of my counsel, I
 5 respectfully decline to answer the question as
 6 provided by the Fifth Amendment to the U.S.
 7 Constitution.
 8 Q. Have you ever had an ownership or
 9 financial interest in Millennium Holdings?
 10 A. On the advice of my counsel, I
 11 respectfully decline to answer the question as
 12 provided by the Fifth Amendment to the U.S.
 13 Constitution.
 14 Q. I believe that's all that I have for you.
 15 MS. BERLIN: But I wonder, do you mind if
 16 maybe we just take like five minutes and I can just
 17 go through my notes and make sure there was nothing
 18 else?
 19 MR. SOTO: Not at all.
 20 MS. BERLIN: If I do, it will be very
 21 brief because I think I'm finished, but if we can
 22 just take five minutes, I'll review and then we'll
 23 finish.
 24 MR. SOTO: All right.
 25 MS. BERLIN: Thank you.

88

1 THE VIDEOGRAPHER: We're going off record
 2 at 12:29 p.m.
 3 (Recess from 12:29 p.m. to 12:35 p.m.)
 4 MS. BERLIN: I just have a little bit
 5 more, maybe 10 minutes at the most.
 6 THE VIDEOGRAPHER: And we're back on the
 7 record at 12:35 p.m.
 8 BY MS. BERLIN:
 9 Q. Have you ever had an ownership or
 10 financial interest in Millennium Holding?
 11 A. On the advice of my counsel, I
 12 respectfully decline to answer the question as
 13 provided by the Fifth Amendment to the U.S.
 14 Constitution.
 15 Q. Have you ever had an ownership or
 16 financial interest in My CBD Lab?
 17 A. Can you repeat that, please?
 18 Q. My CDB Lab.
 19 A. On the advice of my counsel, I
 20 respectfully decline to answer the question as
 21 provided by the Fifth Amendment to the U.S.
 22 Constitution.
 23 Q. Have you ever had an ownership or
 24 financial interest in a company called Marianna,
 25 M-A-R-I-A-N-N-A?

89

1 A. On the advice of my counsel, I
 2 respectfully decline to answer the question as
 3 provided by the Fifth Amendment to the U.S.
 4 Constitution.
 5 Q. Have you ever had an ownership or
 6 financial interest in a company called Double
 7 Mountain?
 8 A. On the advice of my counsel, I
 9 respectfully decline to answer the question as
 10 provided by the Fifth Amendment to the U.S.
 11 Constitution.
 12 Q. Have you ever had an ownership or
 13 financial interest in a company called Pink Lyon?
 14 A. On the advice of my counsel, I
 15 respectfully decline to answer the question as
 16 provided by the Fifth Amendment to the U.S.
 17 Constitution.
 18 Q. Have you ever had an ownership or
 19 financial interest in a company called Liberty Sixth
 20 Avenue?
 21 A. On the advice of my counsel, I
 22 respectfully decline to answer the question as
 23 provided by the Fifth Amendment to the U.S.
 24 Constitution.
 25 Q. Have you ever had an ownership or

90

1 financial interest in Liberty Seventh Avenue?
 2 A. On the advice of my counsel, I
 3 respectfully decline to answer the question as
 4 provided by the Fifth Amendment to the U.S.
 5 Constitution.
 6 Q. Who owns Colorado Sky?
 7 A. On the advice of my counsel, I
 8 respectfully decline to answer the question as
 9 provided by the Fifth Amendment to the U.S.
 10 Constitution.
 11 Q. Do you know who owns Colorado Sky?
 12 A. On the advice of my counsel, I
 13 respectfully decline to answer the question as
 14 provided by the Fifth Amendment to the U.S.
 15 Constitution.
 16 Q. Does Lisa McElhone own Colorado Sky?
 17 A. On the advice of my counsel, I
 18 respectfully decline to answer the question as
 19 provided by the Fifth Amendment to the U.S.
 20 Constitution.
 21 Q. Do you know who owns Colorado World?
 22 A. On the advice of my counsel, I
 23 respectfully decline to answer the question as
 24 provided by the Fifth Amendment to the U.S.
 25 Constitution.

91

1 Q. Does Lisa McElhone have an ownership or
 2 financial interest in Colorado World?
 3 A. On the advice of my counsel, I
 4 respectfully decline to answer the question as
 5 provided by the Fifth Amendment to the U.S.
 6 Constitution.
 7 Q. Do you know who owns Colorado Farms
 8 Holding?
 9 A. On the advice of my counsel, I
 10 respectfully decline to answer the question as
 11 provided by the Fifth Amendment to the U.S.
 12 Constitution.
 13 Q. Does Lisa McElhone have an ownership or
 14 financial interest in Colorado Farms Holding?
 15 A. On the advice of my counsel, I
 16 respectfully decline to answer the question as
 17 provided by the Fifth Amendment to the U.S.
 18 Constitution.
 19 Q. Do you know who owns Vision Solar?
 20 A. On the advice of my counsel, I
 21 respectfully decline to answer the question as
 22 provided by the Fifth Amendment to the U.S.
 23 Constitution.
 24 Q. Does Lisa McElhone have an ownership or
 25 financial interest in Vision Solar?

92

1 **A.** On the advice of my counsel, I
2 respectfully decline to answer the question as
3 provided by the Fifth Amendment to the U.S.
4 Constitution.
5 **Q.** Do you know who owns Alternative Material?
6 **A.** On the advice of my counsel, I
7 respectfully decline to answer the question as
8 provided by the Fifth Amendment to the U.S.
9 Constitution.
10 **Q.** Does Lisa McElhone -- has Lisa McElhone
11 ever had an ownership or financial interest in
12 Alternative Materials?
13 **A.** On the advice of my counsel, I
14 respectfully decline to answer the question as
15 provided by the Fifth Amendment to the U.S.
16 Constitution.
17 **Q.** Do you know who owns Kingdom Logistics?
18 **A.** On the advice my counsel, I respectfully
19 decline to answer the question as provided by the
20 Fifth Amendment to the U.S. Constitution.
21 **Q.** Has Lisa McElhone ever had an ownership or
22 financial interest in Kingdom Logistics?
23 **A.** On the advice my counsel, I respectfully
24 decline to answer the question as provided by the
25 Fifth Amendment to the U.S. Constitution.

93

1 **Q.** Do you know who owns Colorado Natural
2 Products?
3 **A.** On the advice of my counsel, I
4 respectfully decline to answer the question as
5 provided by the Fifth Amendment to the U.S.
6 Constitution.
7 **Q.** Has Lisa McElhone ever had an ownership or
8 financial interest in Colorado Natural Products?
9 **A.** On the advice of my counsel, I
10 respectfully decline to answer the question as
11 provided by the Fifth Amendment to the U.S.
12 Constitution.
13 **Q.** Do you know who owns Rare Earth Elements
14 of the World?
15 **A.** On the advice of my counsel, I
16 respectfully decline to answer the question as
17 provided by the Fifth Amendment of the U.S.
18 Constitution.
19 **Q.** Has Lisa McElhone ever had an ownership or
20 financial interest in Rare Earth Elements of the
21 World?
22 **A.** On the advice my counsel, I respectfully
23 decline to answer the question as provided by the
24 Fifth Amendment to the U.S. Constitution.
25 **Q.** Do you know who owns Millennium Holdings?

94

1 **A.** On the advice my counsel, I respectfully
2 decline to answer the question as provided by the
3 Fifth Amendment to the U.S. Constitution.
4 **Q.** Has Lisa McElhone ever had a financial or
5 ownership interest in Millennium Holdings?
6 **A.** On the advice of my counsel, I
7 respectfully decline to answer the question as
8 provided by the Fifth Amendment to the U.S.
9 Constitution.
10 **Q.** Do you know who owns My CDB Lab?
11 **A.** Can you repeat that, please?
12 **Q.** Do you know who owns My CDB Lab?
13 **A.** Thank you, Ms. Berlin.
14 On the advice of my counsel, I
15 respectfully decline to answer the question as
16 provided by the Fifth Amendment to the U.S.
17 Constitution.
18 **Q.** Has Lisa McElhone ever had an ownership or
19 financial interest in My CDB Lab?
20 **A.** On the advice of my counsel, I
21 respectfully decline to answer the question as
22 provided by the Fifth Amendment to the U.S.
23 Constitution.
24 **Q.** Do you know who owns Marianna?
25 **A.** On the advice of my counsel, I

95

1 respectfully decline to answer the question as
2 provided by the Fifth Amendment to the U.S.
3 Constitution.
4 **Q.** Does Lisa McElhone have an ownership or
5 financial interest in Marianna?
6 **A.** On the advice of my counsel, I
7 respectfully decline to answer the question as
8 provided by the Fifth Amendment to the U.S.
9 Constitution.
10 **Q.** Do you know who owns Double Mountain?
11 **A.** On the advice of my counsel, I
12 respectfully decline to answer the question as
13 provided by the Fifth Amendment to the U.S.
14 Constitution.
15 **Q.** Does Lisa McElhone have an ownership or
16 financial interest in Double Mountain?
17 **A.** On the advice of my counsel, I
18 respectfully decline to answer the question as
19 provided by the Fifth Amendment to the U.S.
20 Constitution.
21 **Q.** Do you know who owns Pink Lyon?
22 **A.** On the advice of my counsel, I
23 respectfully decline to answer the question as
24 provided by the Fifth Amendment to the U.S.
25 Constitution.

96

1 Q. Does Lisa McElhone have an ownership or
 2 financial interest in Pink Lyon?
 3 A. On the advice of my counsel, I
 4 respectfully decline to answer the question as
 5 provided by the Fifth Amendment to the U.S.
 6 Constitution.
 7 Q. Do you know who owns Liberty Sixth Avenue?
 8 MR. SOTO: Amie, I might be mistaken, but
 9 it sounds as though we're going over some of the
 10 same companies. I'm not keeping a list of them, but
 11 I'm hearing the names. They seem to be repeated. I
 12 don't know if you're asking a slightly different
 13 question. I'm trying to give you some latitude, but
 14 it sounds like we're going over some of the same
 15 companies.
 16 BY MS. BERLIN:
 17 Q. Do you know who owns Liberty Sixth Avenue?
 18 MR. SOTO: I'm just going to object as
 19 asked and answered.
 20 You can go ahead and answer, Mr. LaForte.
 21 THE WITNESS: On the advice of my counsel,
 22 I respectfully decline to answer the question as
 23 provided by the Fifth Amendment to the U.S.
 24 Constitution.
 25

97

1 BY MS. BERLIN:
 2 Q. Does Lisa McElhone have an ownership or
 3 financial interest in Liberty Sixth Avenue?
 4 A. I'm sorry. I missed the last part.
 5 Somebody was coughing. Can you say that again,
 6 please.
 7 Q. Sure. Does Lisa McElhone have an
 8 ownership or financial interest in Liberty Sixth
 9 Avenue?
 10 A. Thank you. On the advice of my counsel, I
 11 respectfully decline to answer the question as
 12 provided by the Fifth Amendment to the U.S.
 13 Constitution.
 14 Q. Do you know who owns Liberty Seventh
 15 Avenue?
 16 A. On the advice of my counsel, I
 17 respectfully decline to answer the question as
 18 provided by the Fifth Amendment to the U.S.
 19 Constitution.
 20 Q. Does Lisa McElhone have an ownership or
 21 financial interest in Liberty Seventh Avenue?
 22 A. On the advice of my counsel, I
 23 respectfully decline to answer the question as
 24 provided by the Fifth Amendment to the U.S.
 25 Constitution.

98

1 Q. Between 2016 and 2020, Par Funding did not
 2 engage in underwriting on all of the merchant cash
 3 advance loans that it funded; correct?
 4 A. On the advice of my counsel, I
 5 respectfully decline to answer the question as
 6 provided by the Fifth Amendment to the U.S.
 7 Constitution.
 8 Q. Between 2016 and 2020, what was Par
 9 Funding's average default rate on the merchant cash
 10 advance loans that it funded?
 11 MR. SOTO: Objection to the form.
 12 THE WITNESS: On the advice of my
 13 counsel --
 14 MS. BERLIN: Sorry?
 15 MR. SOTO: I objected to the form.
 16 Mr. LaForte, go ahead and answer.
 17 THE WITNESS: On the advice of my counsel,
 18 I respectfully decline to answer the question as
 19 provided by the Fifth Amendment to the U.S.
 20 Constitution.
 21 BY MS. BERLIN:
 22 Q. Thank you. I have no further questions.
 23 A. Thank you, Ms. Berlin.
 24 MR. SOTO: We don't have any questions,
 25 Amie.

99

1 MR. KOLAYA: This is Tim Kolaya on behalf
 2 of the receiver. I just want to the state, as the
 3 parties know, the receiver has independent
 4 investigative powers and duties under the Amended
 5 Order Appointing Receiver, which is Docket Entry
 6 141.
 7 The receiver does intend to notice our own
 8 separate deposition of Mr. LaForte at a later date
 9 pursuant to those investigative powers.
 10 MS. BERLIN: Thank you, Mr. Kolaya.
 11 Is there anyone else who would like to be
 12 heard before we conclude? No? Okay. I believe we
 13 are now finished.
 14 THE VIDEOGRAPHER: This concludes today's
 15 videotape deposition of Joseph LaForte. We're going
 16 off the record 12:47 p.m.
 17 (Whereupon, at 12:47 p.m., the taking of
 18 the instant deposition ceased.)
 19
 20
 21
 22
 23
 24
 25

100

1 COMMONWEALTH OF PENNSYLVANIA)
 2 COUNTY OF ALLEGHENY) SS:
 3 C E R T I F I C A T E
 4 I, Ann Medis, Registered Professional
 5 Reporter, Certified Livenote Reporter and Remote
 6 Notary Public within and for the Commonwealth of
 7 Pennsylvania, do hereby certify:
 8 That JOSEPH W. LAFORTE, the witness whose
 9 deposition is hereinbefore set forth, was duly sworn
 10 by me and that such deposition is a true record of
 11 the testimony given by such witness.
 12 I further certify that I am not related to
 13 any of the parties to this action by blood or
 14 marriage and that I am in no way interested in the
 15 outcome of this matter.
 16 IN WITNESS WHEREOF, I have hereunto set my
 17 hand this 13th day of May, 2021.
 18
 19
 20
 21 _____
 22 Remote Notary Public
 23
 24
 25

101

1 CERTIFICATE OF WITNESS
 2
 3
 4 I, JOSEPH W. LAFORTE, do hereby declare under
 5 penalty of perjury that I have read the entire
 6 foregoing transcript of my deposition testimony,
 7 or the same has been read to me, and certify that
 8 it is a true, correct and complete transcript of
 9 my testimony given on May 4, 2021, save and
 10 except for changes and/or corrections, if any, as
 11 indicated by me on the attached Errata Sheet, with
 12 the understanding that I offer these changes and/or
 13 corrections as if still under oath.
 14 _____ I have made corrections to my deposition.
 15 _____ I have NOT made any changes to my deposition.
 16
 17 Signed: _____
 18 JOSEPH W. LAFORTE
 19 Dated this _____ day of _____ of 20 ____.
 20
 21
 22
 23
 24
 25

102

1 ERRATA SHEET
 2 Deposition of: JOSEPH W. LAFORTE
 3 Date taken: MAY 4, 2021
 4 Case: SEC v. COMPLETE BUSINESS SOLUTIONS GROUP, et al.
 5 PAGE LINE
 6 CHANGE: _____
 7 REASON: _____
 8 CHANGE: _____
 9 REASON: _____
 10 CHANGE: _____
 11 REASON: _____
 12 CHANGE: _____
 13 REASON: _____
 14 CHANGE: _____
 15 REASON: _____
 16 CHANGE: _____
 17 REASON: _____
 18 CHANGE: _____
 19 REASON: _____
 20 CHANGE: _____
 21 REASON: _____
 22 CHANGE: _____
 23 REASON: _____
 24
 25 Signed _____
 Dated _____

103

A			
a.m 1:22 5:11 39:8,9,9,11 68:15,16,16,18	85:17,25 86:9,15,21 87:4 87:10,16,22 88:4,10 89:11 89:19 90:1,8,14,21 91:2,7 91:12,17,22 92:3,9,15,20 93:1,6,13,18,23 94:3,9,15 94:22 95:1,6,14,20,25 96:6 96:11,17,22 97:3,21 98:10 98:16,22 99:4,12,17	92:22 93:3,8,15,20,25 94:5 94:11,17,24 95:3,8,16,22 96:2,8,13,19,24 97:5,23 98:12,18,24 99:6,19	answered 30:20 97:19 apologize 49:13 appeared 2:2 appears 69:25 Appointing 100:5 approve 11:20 12:23 13:4 approved 50:17 approving 50:9 April 40:23,25 41:13,16 42:10,14,23 43:4 arrest 70:18 71:8,9 asked 97:19 asking 43:8 56:9 61:13 63:21 70:10 77:20 81:17 81:18,24 82:6,8 97:12 asoto@ffslawfirm.com 2:12 asserting 54:23 59:2 81:25 assertion 43:13,15 assets 60:7 62:9 63:7 associate 6:3 attached 102:11 attempts 75:2 attending 6:9 attorney 53:12,23 82:9 attorney/client 43:7 44:9 46:15 59:2 62:13 81:13,22 82:1 attorneys 44:16 64:6 67:5 67:10 73:6 attorneys' 81:17 audit 40:3,13 August 7:18 69:18 authority 10:8,15 Avenue 2:5 3:4 90:20 91:1 97:7,17 98:3,9,15,21 average 48:9 99:9
Abbonizio 2:14 6:6 20:16 21:9,16,25 22:19 27:11,16 28:1,7,9,16,19 76:23,24	agreement 41:18,20,21 42:4 42:6,11,15,23 43:4 50:2 56:16 agreements 50:1 ahead 51:25 97:20 99:16 Akerman 2:22 6:7 al 1:8 103:3 ALEJANDRO 2:10 Alex 5:21 Alfano 3:12,13 5:25,25 alias 17:1,14,21 18:5 aliases 20:8 22:2 24:15,23 ALLEGHENY 101:2 Allow 4:8 Alternative 87:9 93:5,12 altogether 74:7 Amended 100:4 Amendment 6:25 7:6,16,23 8:4,9,15,21 9:3,9,15,21 10:4,12,19 11:3,11,17,23 12:4,19 13:2,8,15,23 14:4 14:12,19 15:1,20 16:17,24 17:5,12,18 18:2,11 19:1,10 19:19 20:3,13,22 21:6,22 22:7,16,25 23:8,17 24:1,10 25:3,14 26:9,16,23 27:7,14 27:21 28:5,23 29:7,19 30:1 30:11,18 31:5,19 32:3,11 32:21 33:15,24 34:8,17 35:2,12 36:1,12,20 37:3,11 37:19 38:11 39:20 40:8,16 41:4,9 42:9,19 44:19,24 45:25 47:4,9,19 48:14,22 49:11,19 50:6,22 51:16,21 52:3,12 53:16 54:1,8 55:9 55:17 56:20 57:12,19 58:2 58:18 59:15 60:1,11,21 61:6 62:3 64:5,10,23 65:12 66:3,12,19 67:3,8,14 68:4 70:16,22 71:6,14,23 73:10 73:18,25 74:15,24 75:8,17 76:1,10 77:4,15 78:2,9,17 78:25 79:9,18 80:13,24 83:1,8,25 84:9,16,24 85:7 85:12,19 86:2,11,17,23 87:6,12,18,24 88:6,12 89:13,21 90:3,10,16,23 91:4,9,14,19,24 92:5,11,17	America 69:2 Amie 2:5 5:18 6:16 38:15 43:6 44:3 45:15 46:12 48:3 52:16,23 59:2 70:5 73:1 97:8 99:25 amount 27:2 28:8,18 45:7 56:25 analyses 66:7 analysis 40:3 65:15 analyze 49:5 and/or 102:10,12 ANDREW 3:9 Ann 1:18 5:13 101:4 answer 6:24 7:5,15,22 8:3,8 8:14,20 9:2,8,14,20 10:3 10:11,18 11:2,10,16,22 12:3,18 13:1,7,14,22 14:3 14:11,18,25 15:19 16:16 16:23 17:4,11,17 18:1,10 18:25 19:9,18 20:2,12,21 21:5,21 22:6,15,24 23:7,16 23:25 24:9 25:2,13 26:8,15 26:22 27:6,13,20 28:4,22 29:6,18,25 30:10,17 31:4 31:18 32:2,10,20 33:14,23 34:7,16 35:1,11,25 36:11 36:19 37:2,10,18 38:10 39:19 40:7,15 41:3,8 42:8 42:18 43:13 44:6,11,12,18 44:23 45:17,24 46:16 47:3 47:8,18 48:6,13,21 49:10 49:18 50:5,21 51:15,20,25 52:2,11 53:15,25 54:7 55:1 55:8,16 56:11,19 57:11,18 58:1,17 59:4,14,25 60:10 60:20 61:5 62:2,14 63:10 64:4,9,22 65:11,17 66:2,11 66:18 67:2,7,13 68:3 70:15 70:21 71:5,13,22 73:9,17 73:24 74:14,23 75:7,16,25 76:9 77:1,3,14 78:1,8,16 78:24 79:8,17 80:12,23 81:8,21 82:4,25 83:7,24 84:8,15,23 85:6,11,18 86:1 86:10,16,22 87:5,11,17,23 88:5,11 89:12,20 90:2,9,15 90:22 91:3,8,13,18,23 92:4 92:10,16,21 93:2,7,14,19 93:24 94:4,10,16,23 95:2,7 95:15,21 96:1,7,12,18,23 97:4,20,22 98:11,17,23 99:5,16,18	answering 30:20 97:19 apologize 49:13 appeared 2:2 appears 69:25 Appointing 100:5 approve 11:20 12:23 13:4 approved 50:17 approving 50:9 April 40:23,25 41:13,16 42:10,14,23 43:4 arrest 70:18 71:8,9 asked 97:19 asking 43:8 56:9 61:13 63:21 70:10 77:20 81:17 81:18,24 82:6,8 97:12 asoto@ffslawfirm.com 2:12 asserting 54:23 59:2 81:25 assertion 43:13,15 assets 60:7 62:9 63:7 associate 6:3 attached 102:11 attempts 75:2 attending 6:9 attorney 53:12,23 82:9 attorney/client 43:7 44:9 46:15 59:2 62:13 81:13,22 82:1 attorneys 44:16 64:6 67:5 67:10 73:6 attorneys' 81:17 audit 40:3,13 August 7:18 69:18 authority 10:8,15 Avenue 2:5 3:4 90:20 91:1 97:7,17 98:3,9,15,21 average 48:9 99:9
			B
			B 46:19 back 39:3,10 68:17 72:8 89:6 bank 49:25 74:11,20 75:3,12 75:21 76:5,7,14,19 77:10 77:19,23 Barleta 3:2 19:13,22 20:6,25 22:10 26:13,18,25 27:3 35:5 51:9 76:18 based 44:3 62:14 basis 43:1,8 44:4,7 45:15 46:15 48:4 54:23 56:10 62:14 63:10,12,20,21 65:16 70:8,10 73:1,2 81:12 81:13,21,23 began 82:15 beginning 61:8 82:11 begins 5:3 41:13

<p>behalf 2:3,8,14,21 3:2,7 5:24 5:25 6:3,6,8 11:25 42:6 44:16 51:18 53:18 58:15 64:7 69:18 70:2 73:7 100:1 believe 76:23 88:14 100:12 benefit 59:18 63:8 78:22 81:4 Berlin 2:5 4:3 5:18,19 6:14 6:16 10:6,21 11:5 12:12,21 13:17 14:6 15:3,22 16:6,19 17:7,20 18:4,13,18 19:3,12 19:21 20:5,15,24 21:8,15 21:24 22:9,18 23:2,10,19 24:3,12,20 25:5,16 26:1,11 27:9,23 28:14 29:1,14 30:3 30:13,23 31:7,13,21 32:5 32:13,23 33:8,17 34:1,10 34:19 35:4,14 36:6,14,22 37:5,13,21 38:3,13,16 39:1 39:12,13,22 40:10,17,21 41:10,14 43:12,16,22 44:5 44:10,14 45:18 46:2,4,13 46:17 47:20,22 48:5,8,16 48:24 49:1,20,22 50:14,24 51:1 52:5,14,19,22 53:1 54:10,12 55:2,11,19,21 56:12,22 57:3,5 58:3,5,19 58:21 59:5,11 60:3,13,23 61:10 62:5,16,18 63:13,23 64:16 65:1,3,6,7,18,21 66:5,14 67:16,18,22 68:6,9 68:12,19,23,24 69:7,9 70:12,24 71:16 72:1,3,5,11 73:4,12 74:1,5,8,17 75:1 75:10,19 76:3,21 77:2,5,17 78:4,19 79:11,12 80:2,3,15 81:1,12,15,19 82:2,3,6,23 83:3,14,16 84:2 85:1 86:4 86:6 88:15,20,25 89:4,8 95:13 97:16 98:1 99:14,21 99:23 100:10 berlina@sec.gov 2:7 better 7:11 BETTINA 3:3,3 beyond 56:15 bigger 43:20 Biscayne 2:17,17 3:9 bit 89:4 blocking 52:18 blood 101:13 blue 58:8 62:21 borrow 57:7,14 borrower 37:23 38:5 57:6,13 borrower's 57:16 borrowers 12:8 15:15 18:22 19:24 49:16 57:22 71:2</p>	<p>BOSICK 3:12 Boulevard 2:11,17 3:9 break 6:18 38:17,22 Brian 2:22 6:7 brian.miller@akerman.com 2:25 Brickell 2:5,23 brief 88:21 Brueckner 3:18 bschein@bettinascheinla... 3:5 burden 63:6 business 1:7 5:5 7:12,19,20 8:1 25:10,20 26:5 29:21 49:7 64:13,19 75:23 103:3 business' 72:19 businesses 72:19</p> <hr/> <p style="text-align: center;">C</p> <hr/> <p>C 2:1 3:1,17 5:1 101:3,3 called 1:17 9:17 89:24 90:6 90:13,19 caption 51:4 62:25 carry 29:3 case 1:6 5:6,8 40:23 41:1 51:9,13 52:7 59:17 60:4,7 61:3 62:9,10 63:8 66:21,25 67:5,20 69:1,3,18 70:2,7 72:13 103:3 cash 11:13,19 12:7,15 29:3 38:5 39:14 41:18 42:3 47:12,16 49:15 50:10,18 57:6,13,15,22 64:12,19 71:2 72:15 73:14,20 84:20 85:15,23 99:2,9 cause 63:16 CBD 89:16 CDB 89:18 95:10,12,19 ceased 100:18 cell 6:21 Centre 2:23 CEO 9:11 13:10 certain 46:24 CERTIFICATE 102:1 Certified 101:5 certify 101:7,12 102:7 change 40:12 81:18,25 103:4,6,7,9,10,12,13,15,16 103:18,19,21,22 changes 102:10,12,15 Cherly 2:10 6:2 choose 63:14 chose 61:23 77:9 City 2:23 claim 15:25 16:1,11,12 claims 70:10</p>	<p>clear 50:1 61:11 63:24 81:16 client 43:13 44:6 81:21 clucien@ffslawfirm.com 2:13 Cole 3:2 19:13,22 20:6,25 22:10 26:13,18,25 35:5 51:9 76:13,18 collapsed 67:25 collateralized 56:15 collect 71:2 Colorado 86:8,14,20 87:21 91:6,11,16,21 92:2,7,14 94:1,8 come 39:3,4 comes 49:8 coming 67:24 Commencement 4:8 commencing 1:22 commingled 78:12 Commission 1:4 2:4 5:20 6:17 Commonwealth 1:20 101:1 101:6 companies 72:15 73:14,21 97:10,15 company 10:13 72:17 81:18 89:24 90:6,13,19 compensating 82:19 compensation 80:19 complete 1:7 5:5 7:12,19 50:7 57:23 102:8 103:3 completely 70:7 conceal 14:21 15:14,24 16:10 18:6,15,21 19:5,14 19:23 20:17 21:1,10,17 22:11,20 23:4,12,21 24:5 25:6,7,17 26:2 27:1 28:8 28:18 39:15 40:4 62:9 76:12,17 80:19 82:18 83:11,19 concealed 67:10 concerning 49:24 conclude 50:15 100:12 concludes 100:14 conduct 14:14 47:5 49:23 57:23 65:14 66:7 Conference 55:25 confusing 15:11 connection 70:9 74:19 75:2 75:11,20 76:4 77:22 consolidated 41:21 Constitution 7:1,6,16,23 8:4 8:9,15,21 9:3,9,15,21 10:5 10:12,20 11:4,11,17,23 12:4,20 13:2,8,16,23 14:5 14:12,19 15:2,21 16:18,24</p>	<p>17:6,12,19 18:3,12 19:2,11 19:20 20:4,14,23 21:7,23 22:8,17 23:1,9,18 24:2,11 25:4,15 26:10,16,23 27:8 27:14,22 28:5,24 29:7,19 30:2,12,18 31:6,20 32:4,12 32:22 33:16,25 34:9,18 35:3,13 36:1,13,21 37:4,12 37:20 38:12 39:21 40:9,16 41:4,9 42:9,19 44:19,24 46:1 47:4,9,19 48:15,23 49:11,19 50:6,23 51:16,21 52:4,13 53:16 54:1,9 55:10 55:18 56:21 57:12,19 58:2 58:18 59:15 60:2,12,22 61:6 62:4 64:5,10,24 65:12 66:4,13,19 67:3,8,15 68:5 70:16,23 71:6,15,23 73:11 73:18,25 74:16,25 75:9,18 76:2,10 77:4,16 78:3,9,18 79:1,10,19 80:14,25 83:2,9 84:1,10,17,25 85:7,13,20 86:3,12,18,24 87:7,13,19 87:25 88:7,13 89:14,22 90:4,11,17,24 91:5,10,15 91:20,25 92:6,12,18,23 93:4,9,16,20,25 94:6,12,18 94:24 95:3,9,17,23 96:3,9 96:14,20,25 97:6,24 98:13 98:19,25 99:7,20 consulting 26:19,25 28:1,7 28:17 contain 51:22 Context 56:1 Continued 3:1 contract 27:16 contracts 11:25 control 8:18,24 78:11 conversations 43:10 convert 13:19 convicted 17:23 18:7 25:10 25:18,21 26:5 copy 40:22 Coral 2:11 corner 72:9 correct 46:9 47:1,12 48:2 61:24 64:2 81:6,19 85:23 99:3 102:8 corrections 102:10,13,14 coughing 98:5 counsel 5:14,16,19 6:16,23 7:4,14,21 8:2,7,13,19 9:1,7 9:13,19 10:2,10,17 11:1,9 11:15,21 12:2,18,25 13:6 13:13,21 14:2,10,17,24 15:18 16:15,22 17:3,10,16</p>
--	---	---	---

<p>17:25 18:9,24 19:8,17 20:1 20:11,20 21:4,20 22:5,14 22:23 23:6,15,24 24:8 25:1 25:12 26:7,14,21 27:5,12 27:19 28:3,21 29:5,17,24 30:9,16 31:3,17 32:1,9,19 33:13,22 34:6,15,25 35:10 35:24 36:10,18 37:1,9,17 38:9 39:18 40:6,14 41:2,7 42:7,17 43:5 44:17,22 45:23 47:2,7,17 48:12,20 49:9,17 50:4,20 51:14,19 52:1,10 53:14,24 54:3,4,6 55:7,15 56:18 57:10,17,25 58:14,16 59:10,13,24 60:9 60:19 61:4 62:1 64:3,8,21 65:10 66:1,10,17,21,24 67:1,6,12 68:2 70:14,20 71:4,12,21 73:8,16,23 74:13,22 75:6,15,24 76:8 77:2,13,25 78:7,15,23 79:7 79:16 80:11,22 82:24 83:6 83:23 84:7,14,22 85:5,10 85:17,25 86:9,15,21 87:4 87:10,16,22 88:4,10 89:11 89:19 90:1,8,14,21 91:2,7 91:12,17,22 92:3,9,15,20 93:1,6,13,18,23 94:3,9,15 94:22 95:1,6,14,20,25 96:6 96:11,17,22 97:3,21 98:10 98:16,22 99:4,13,17 Counsel's 55:24 COUNTRY 72:16 73:15,21 COUNTY 101:2 course 15:10 court 1:1 5:7,12 40:23 41:5 43:2,25 46:9,25 51:13,18 51:23 52:6 54:14,17 56:5,7 58:14,24 59:16,20 60:4 61:1 64:7,12,18 72:14 coverage 84:19 create 76:5 77:23 creation 76:19 77:19 credit 50:3 criminal 21:1,10,17 23:12 69:3,18 70:2 72:13 crossing 43:7 current 54:18 55:4,13 66:15 currently 68:10 70:3,17 71:7 71:9</p>	<p>48:9,17 49:8,24 50:9,9,16 50:17 daily 41:22 data 49:6 date 5:10 41:22 100:8 103:2 dated 4:13,15 58:10 63:1 102:19 103:25 day 101:17 102:19 day-to-day 9:5 de 2:11 4:11,13 9:11 13:10 Dean 2:21 6:8 23:3,11,20 24:13,21 79:2 84:3 debt 56:13 Decatur 59:8 61:14,19 December 4:15 63:2 64:1 decide 11:13,19 13:19 14:20 15:13,23 16:9 18:14,20 19:4 20:6 21:25 24:13,21 26:12,18,24 27:10,15,25 28:6,15 34:20,21 35:6 42:10 59:7 decided 53:22 60:16,24 62:7 62:7 decision 53:18 82:9 declaration 45:3 declare 102:4 decline 6:24 7:5,15,22 8:3,8 8:14,20 9:2,8,14,20 10:3 10:11,18 11:2,10,16,22 12:3,18 13:1,7,14,22 14:3 14:11,18,25 15:19 16:16 16:23 17:4,11,17 18:1,10 18:25 19:9,18 20:2,12,21 21:5,21 22:6,15,24 23:7,16 23:25 24:9 25:2,13 26:8,15 26:22 27:6,13,20 28:4,22 29:6,18,25 30:10,17 31:4 31:18 32:2,10,20 33:14,23 34:7,16 35:1,11,25 36:11 36:19 37:2,10,18 38:10 39:19 40:7,15 41:3,8 42:8 42:18 44:18,23 45:24 47:3 47:8,18 48:13,21 49:10,18 50:5,21 51:15,20 52:2,11 53:15,25 54:7 55:8,16 56:19 57:11,18 58:1,17 59:14,25 60:10,20 61:5 62:2 64:4,9,22 65:11 66:2 66:11,18 67:2,7,13 68:3 70:15,21 71:5,13,22 73:9 73:17,24 74:14,23 75:7,16 75:25 76:9 77:3,14 78:1,8 78:16,24 79:8,17 80:12,23 82:25 83:7,24 84:8,15,23 85:6,11,18 86:1,10,16,22 87:5,11,17,23 88:5,11</p>	<p>89:12,20 90:2,9,15,22 91:3 91:8,13,18,23 92:4,10,16 92:21 93:2,7,14,19,24 94:4 94:10,16,23 95:2,7,15,21 96:1,7,12,18,23 97:4,22 98:11,17,23 99:5,18 deemed 37:24 38:7 default 37:25 38:7 85:16,22 99:9 defendant 1:11 2:8,14,21 3:2 4:7 6:8 Defendants 1:9 Defendants' 4:10,12,14 51:4 58:9 62:25 defenses 70:11 deponent 5:22 deposition 1:16 5:4,9 15:5 51:3,17,22 58:7,13 62:20 100:8,15,18 101:9,10 102:6,14,15 103:2 DESCRIBED 81:10 DESCRIPTION 4:6 detailed 77:21 Detention 4:18 69:13,25 different 97:12 direct 39:23 40:1,11 directing 43:13 44:5,12 directly 26:20 28:17 71:18 79:14 80:17 discover 79:4 discovered 77:11 discussions 20:8 22:2 24:15,23 District 1:1,2 5:7,7 69:19 70:4 docket 52:17,19 58:8 67:19 69:1 100:5 document 51:3 56:10 58:7 62:20,21 69:11 70:1 73:5 documentation 74:18 documents 50:8 dollars 72:17 73:21 Double 90:6 96:10,16 Doug 3:18 duly 6:11 101:9 duties 100:4</p>	<p>effort 56:23 63:16 efforts 60:7 63:7 74:20 75:11,20 76:4 77:23 either 71:18 Elements 88:2 94:13,20 email 9:16,23 71:20 employee 14:9 employees 10:24 11:7 13:20 13:20 72:16 endeavoring 74:10 engage 57:21 99:2 enter 27:16 entered 41:17 61:1 entering 52:6 entire 102:5 entities 4:9 41:17 42:11,15 44:21 45:6 46:20 47:6 48:2 48:9,17 49:8,24 50:9,10,16 50:17 57:21 entity 15:6 41:20 71:18 entry 52:17,20 58:8 67:20 100:5 Errata 102:11 103:1 ESQUIRE 2:5,10,10,16,16 2:22 3:3,9,13 established 82:11 estate 78:11,21 et 1:8 103:3 examination 1:17 4:3 6:13 examined 6:11 exchange 1:4 2:4 5:20 6:17 72:19 excuse 30:19 executives 49:15 exhibit 4:7,10,12,14,17 40:19,22,25 41:6,11,16,25 42:12,16,21 43:2,18,21,25 44:15 45:2,9,12 46:3,6,9 46:24 47:21,24 48:2,25 49:2,21 50:25 51:3,12,17 51:22 52:15,18,19 53:6 54:11,14 55:20,23 56:6 58:4,7,13,14,20,23 62:17 62:17,20 63:24 64:6,11,17 65:2,4,19 67:20 68:7,7,19 68:21,25 69:17 70:1 72:1 72:21 73:6 74:1,6 EXHIBITS 4:5 expenditures 12:24 explained 45:2</p>
<p style="text-align: center;">D</p> <p>D 2:16 4:1 5:1 45:3 d/b/a 1:8 D19 4:9 41:17 42:11,15 44:21 45:6 46:20 47:6 48:1</p>		<p style="text-align: center;">E</p> <p>E 2:1,1 3:1,1 4:1 5:1,1 101:3 101:3 early 80:4,6 82:16 83:5,18 84:18 Earth 88:2 94:13,20 Eastern 69:19 70:3 edit 79:2 effectuate 62:8</p>	<p style="text-align: center;">F</p> <p>F 101:3 fact 59:20 60:14 62:6 76:12 76:13 81:2 facto 9:11 13:10</p>

<p>factoring 56:16 false 51:22 58:24 FAMILY 1:10 Farms 86:20 92:7,14 Fawzi 4:9 Fawzi's 50:3 February 4:13,16 27:24 58:11 63:2 64:1 federal 74:19 75:4,12,22 76:6 77:6,9,20,22 78:5 felon 17:23 18:7 25:10,18,21 26:5 Fels 2:9 6:3 fictitious 7:20 Fifth 3:4 6:25 7:6,16,23 8:4 8:9,15,21 9:3,9,15,21 10:4 10:12,19 11:3,11,17,23 12:4,19 13:2,8,15,23 14:4 14:12,19 15:1,20 16:17,24 17:5,12,18 18:2,11 19:1,10 19:19 20:3,13,22 21:6,22 22:7,16,25 23:8,17 24:1,10 25:3,14 26:9,16,23 27:7,14 27:21 28:5,23 29:7,19 30:1 30:11,18 31:5,19 32:3,11 32:21 33:15,24 34:8,17 35:2,12 36:1,12,20 37:3,11 37:19 38:11 39:20 40:8,16 41:4,8 42:9,19 44:19,24 45:25 47:4,9,19 48:14,22 49:11,19 50:6,22 51:16,21 52:3,12 53:16 54:1,8 55:9 55:17 56:20 57:12,19 58:2 58:18 59:15 60:1,11,21 61:6 62:3 64:5,10,23 65:12 66:3,12,19 67:3,8,14 68:4 70:16,22 71:6,14,23 73:10 73:18,25 74:15,24 75:8,17 76:1,10 77:4,15 78:2,9,17 78:25 79:9,18 80:13,24 83:1,8,25 84:9,16,24 85:7 85:12,19 86:2,11,17,23 87:6,12,18,24 88:6,12 89:13,21 90:3,10,16,23 91:4,9,14,19,24 92:5,11,17 92:22 93:3,8,15,20,25 94:5 94:11,17,24 95:3,8,16,22 96:2,8,13,19,24 97:5,23 98:12,18,24 99:6,19 file 63:5,14 65:13 filed 44:16 51:18 58:14 62:9 64:7 69:17 70:2 73:7 78:5 filing 40:23 41:1 42:5 43:9 43:11 51:8,12 63:12,22 67:19 72:13 73:3 filter 79:24 80:8</p>	<p>financial 39:24 40:2,4,12 52:8 86:8,13,19 87:3,9,15 87:21 88:2,9 89:10,16,24 90:6,13,19 91:1 92:2,14,25 93:11,22 94:8,20 95:4,19 96:5,16 97:2 98:3,8,21 financials 66:8 find 83:11 finders 79:21 fine 38:25 finish 38:23 88:23 finished 38:18,24 86:5 88:21 100:13 firing 10:8,15 firm 53:10 54:2 firms 26:19 27:1 28:1,7,17 76:11,17 80:7,18 81:3 82:16 83:5,11,18 first 6:11 54:15 72:4 five 88:16,22 Floor 3:4 Florida 1:2 2:6,11,18,24 3:10 5:7 follows 6:12 Footnote 45:1,8,11,16 foregoing 102:6 forensic 65:14 form 8:5 10:1,16,25 12:9,16 13:12 14:1,23 15:17 16:3 16:14 17:2,15,24 18:8,23 19:7,16,25 20:10,19 21:3 21:12,19 22:4,13,22 23:5 23:14,23 24:7,17,25 25:11 25:22 26:6 27:4,18 28:10 28:20 29:10,22 30:7,21 31:1,10,16,24 32:8,18 33:5 33:12,21 34:5,14,24 35:9 36:4,9,17,25 37:8,16 38:1 38:8 39:17 40:5 45:13,22 48:11,19 50:11,19 52:9 54:5,22 55:6,14 56:17 57:2 59:23 60:8,18 61:9,25 62:12 63:9,19 64:14,20 65:25 66:9 67:11 68:1 71:11 74:12,21 75:5,14 76:20 77:12,24 78:14 79:6 79:25 80:10,21 81:7 82:22 83:13,22 84:21 85:24 99:11,15 Fort 59:8,18 60:5,15,25 61:13,21 forth 101:9 forwarded 9:25 FOSLID 3:8 founded 72:17 four 72:8</p>	<p>Fox 53:10,12,18,22 54:2 franchise 50:2 Fridman 2:9 6:3 full 8:23,24 10:13,15 11:7 13:10,20,25 14:15 41:12 41:24 42:21 54:15 fully 7:5 fund 11:14 23:22 funded 99:3,10 funding 1:8 7:20,25 8:5,12 8:18 9:6,12,17 10:9,23 11:14,20,20 12:1 13:19,25 14:14,22 15:16,25 16:1,2 16:11,12,13 17:21,23 18:5 18:7 21:18 22:3,12,21 23:21 24:6 25:8 26:3,13 27:2,11,17 28:9,18 29:9,16 29:20 30:4,14,24 31:8,14 31:22 32:6,14,16,24 33:1,2 33:9,18,20 34:2,4,11,13,23 36:2,7,15,23 37:6,14,23 38:5 39:15 40:3 41:17 42:6 42:15 44:20 45:4,5,20 47:5 48:18 49:5,16,23 50:7,15 52:8 53:13,17,19,21,22 54:17 55:4,12 56:25 57:7 57:14,15 61:2 65:15,22 66:6,21 67:25 71:1,3,10 72:18,23 75:13 77:7 78:13 78:20 79:5,13,24 80:4,7,9 80:16 81:2,4,5,10 82:14,15 82:19 83:4,10,17 84:12,19 85:3,4,9,15,21 99:1 Funding's 12:7,15,23 13:4 14:8,21 15:14 18:15,21 19:5,15,24 20:9,18 21:2,10 22:12,20 23:12 25:17 27:1 29:3 33:10 35:7,17,22 39:23 40:1,4,11,12 46:20 46:25 47:11,15 49:12,14 56:14,15 57:8 64:12,18 66:23 75:23 80:19 83:20 85:15 99:9 funds 24:24 35:6 39:16 63:17 66:24 71:10 74:10 76:16 78:12,21 79:23 84:6 Furman 3:17 further 63:16 99:22 101:12 future 72:20</p> <hr/> <p style="text-align: center;">G</p> <hr/> <p>G 5:1 GAAP 45:5,21 66:8 Gables 2:11 Gaetan 3:13 5:25 gain 78:11</p>	<p>general 65:23 give 45:14 46:10 97:13 given 101:11 102:9 gja@pietragallo.com 3:15 Glick 45:3 65:9,14 go 39:2 51:24 65:6 68:12 72:8 88:17 97:20 99:16 goal 38:23 going 39:2,7 44:2,10 65:5 68:14 70:5 73:1 81:8 89:1 97:9,14,18 100:15 Good 5:18,21,23 6:2,5,15 GORDON 3:12 Great 67:23 grounds 52:8 Group 1:8 5:5 7:13,19 103:3</p> <hr/> <p style="text-align: center;">H</p> <hr/> <p>hand 101:17 harnessing 63:7 heading 46:19 55:23 56:5 hear 38:15 76:21 heard 5:6 100:12 hearing 97:11 held 5:9 help 84:3 hereinbefore 101:9 hereunto 101:16 hire 26:13 hired 71:19 hiring 10:8,15 history 21:1,10,17 23:12 hold 38:13 44:1 55:12 Holding 86:20 89:10 92:8,14 Holdings 88:9 94:25 95:5 holds 54:17 home 71:9 hour 38:19 house 70:18 71:7,9 Hunter 3:19 5:11</p> <hr/> <p style="text-align: center;">I</p> <hr/> <p>identity 18:15,21 19:5,14,23 20:17 23:4 25:18 26:2 implement 37:22 38:4 implicates 62:12 inception 8:23 10:13 include 57:8 included 49:25 69:16 including 59:18 74:9 income 48:10 66:16 78:5 independent 100:3 INDEX 4:5 indicated 102:11 individual 65:8 79:14 information 74:19</p>
--	--	---	--

insolvent 30:4,15,25 31:9 31:15
inspection 50:2 57:9,24
inspections 57:21
instant 100:18
instruct 81:8
instructing 45:17 46:16 48:5 54:25 56:10 59:4 62:13 63:10 65:17 81:20
insurance 84:19
intend 100:7
interest 29:4 76:18 86:8,14 86:20 87:3,9,15,21 88:2,9 89:10,16,24 90:6,13,19 91:1 92:2,14,25 93:11,22 94:8,20 95:5,19 96:5,16 97:2 98:3,8,21
interested 101:14
Interim 4:13 58:10
interrupting 82:21
introduce 5:14
invest 25:9,20 26:4
invested 85:3,8
investigative 100:4,9
investment 23:22 24:24 76:11,16,17 77:10 79:23 80:7,18 81:3 82:16 83:4,10 83:18 84:5
investor 24:16 29:21 30:5 30:15,25 31:9,15 33:18 34:2,11,21 35:6 39:16 63:17 66:20,24 67:9,24 71:10 78:12,21 79:24 80:9 80:18 82:16
investors 14:21 17:22 18:6 19:6,15 20:9,18 21:2,11 22:3,12,20 23:13,22 24:5 24:24 25:7,18 26:3 27:2 30:6 32:14,24 33:1,3,10,19 34:3,4,12,22 35:7,18,23 63:8 71:19 79:4,15,22 80:17,20 82:20 83:11 84:4 84:12 85:2,14
investors' 32:16 33:4,11
involvement 79:5
issue 80:5,7 83:5
issued 32:16 33:3,20 34:4 34:13,23
issues 63:17
issuing 79:21 80:16

J

J 2:21 3:13
Jason 2:16 6:6
Jeff 6:5
JEFFREY 2:16

jmarcus@mnrlawfirm.com 2:19
jmaps@mnrlawfirm.com 2:19
JOB 1:25
Joe 17:1,9,14 82:12
Joel 45:3 65:9
Joint 4:10,12,14 51:4 58:9 62:25
Joseph 1:16 2:8 3:2 4:2,7 5:4,22 6:4,10 15:6,15 16:21 19:13,22,23 20:6,17 20:25 22:10 23:4 26:13,18 26:25 35:5 51:9 69:2 76:13 76:18 100:15 101:8 102:4 102:17 103:2
July 7:24 8:12,17,24 9:5,11 9:22 10:8,14,23 11:7,12,19 11:25 12:6,14,23 13:4,10 13:24 14:8,14 29:2,8,15 47:10,14 52:7 55:12 71:17 73:13,19 84:11 85:21

K

K 3:7
keeping 97:10
Kingdom 87:15 93:17,22
knew 25:8,19 26:3 57:20 84:18
know 6:18,20 7:12 15:10 17:22 38:18 91:11,21 92:7 92:19 93:5,17 94:1,13,25 95:10,12,24 96:10,21 97:7 97:12,17 98:14 100:3
knows 81:25
Kolaya 3:8,9 5:23,23 100:1,1 100:10

L

L.M.E 1:10
Lab 89:16,18 95:10,12,19
LaForte 1:16 2:8 4:2,17 5:4 5:22 6:4,10,15 15:4,6,15 16:21 19:24 20:17 23:4 30:20 39:14 40:1,22 41:15 43:6,19 44:2,15 45:14,19 46:5,10,18 47:23 48:9 49:3 49:23 50:7 51:2,24 53:2 54:13 55:3,22 56:13,23 57:20 58:6,22,25 59:6,16 61:11 62:11,19 63:5,14,24 65:4,8,13,22 66:6,15 67:21 67:23 68:25 69:2,10 70:13 70:17,25 71:7,17,24 72:12 72:25 73:5,13,19 74:9 78:5 78:10 81:16 82:4,12 86:7

97:20 99:16 100:8,15 101:8 102:4,17 103:2
LaForte's 4:7
landlord 50:1
language 41:24 45:8 72:21
largest 56:1,14 72:15 73:14 73:20
latitude 97:13
law 3:3 53:10 54:2
lawyers 43:9,10
lease 49:25
legal 5:12 66:21,24
Leon 2:11
Let's 68:6
letters 77:7
letting 38:17
Liberty 90:19 91:1 97:7,17 98:3,8,14,21
lie 60:4
lies 77:11,21
Lift 4:7
light 63:11
line 70:6 76:25 103:4
Liquor 4:9
Lisa 7:8 8:5,18,24 13:18 14:8,20 15:13,23,25 16:1,9 16:11 18:14,20 19:4 26:12 26:17,24 27:10,15,25 28:6 28:15 34:20 35:16,21 51:8 59:6 60:16 76:12,19 78:10 78:20 91:16 92:1,13,24 93:10,10,21 94:7,19 95:4 95:18 96:4,15 97:1 98:2,7 98:20
list 97:10
Litigation 4:8
little 43:20 89:4
Livenote 101:5
LLP 2:22 3:12
loan 37:24,25 38:6 56:25
loans 7:25 11:14,20 12:7,15 29:3 47:12,16 50:10,18 84:20 85:16,23 99:3,10
located 59:7 61:14
log 39:2
Logistics 87:15 93:17,22
longer 38:20
looking 73:6
loss 36:3,8,16,24 37:7,15
Lucien 2:10 6:2,2
lunch 38:18
Lyon 90:13 96:21 97:2

M

M-A-R-I-A-N-N-A 89:25
Mack 17:1

Mackie 17:9
maintain 66:7
maintaining 60:5
making 43:12,14
managed 15:25 16:2,11,13 17:23
management 15:24 16:10 22:11,21 23:21 25:6,8 64:13 75:13
management@parfundin... 9:18,24
managing 14:22 15:15
March 79:3
Marcus 2:15,16 6:5,5
Marianna 89:24 95:24 96:5
Market 3:13
marriage 101:14
married 7:8,10
Material 87:9 93:5
Materials 93:12
matter 5:4 101:15
Mays 2:16 6:6
McElhone 7:8 8:5,18,24 13:18 14:8,20 15:13,23,25 16:1,9,11 17:14 18:14,20 19:4 26:12,18,24 27:10,15 27:25 28:6,15 34:20 35:16 35:21 51:9 59:6 60:16,24 61:3,23 62:6 76:12,19 78:10,20 91:16 92:1,13,24 93:10,10,21 94:7,19 95:4 95:18 96:4,15 97:1 98:2,7 98:20
mean 82:11
Meaning 55:25
means 71:20
measure 45:20
measured 45:4
media 49:7
Medis 1:18 5:13 101:4
medium-sized 72:18
meet 49:15
Memorandum 4:17 69:11,16 69:17,23 70:1
merchant 11:13,19 12:7,15 15:14 19:24 29:3 37:23 38:5 41:18 42:3 47:11,16 49:15 50:10,17 56:24 57:6 57:13,15,22 64:12,19 71:2 72:15 73:14,20 84:20 85:15,22 99:2,9
merchants 18:16,22 56:1,14
messages 9:23,24
method 45:5,21
methods 47:1
Miami 2:6,18,24 3:10

Michael 3:17
Millennium 88:9 89:10
 94:25 95:5
Miller 2:22 6:7,7
million 29:9,16 54:17 55:4
 55:13
millions 72:16 73:21
mind 52:16 88:15
mine 53:4 72:6
minutes 39:3 88:16,22 89:5
Mischaracterizes 55:25
misrepresentations 64:18
 75:3,12,22 76:6
missed 98:4
mistaken 97:8
moment 38:14 68:13 74:7
 79:11 86:4
money 25:10 27:2 28:8,18
 29:21 30:5,15,25 31:9,15
 32:16 33:11,18 34:2,11,21
 42:22 43:3 67:4,9,24 71:2
 79:24 80:9,18 82:16 85:3,9
monies 33:4
month 48:10,18
monthly 48:17
morning 5:18,21,23 6:2,5,15
Motion 4:7,17 69:12,24
Mountain 90:7 96:10,16
move 65:18
mute 76:24

N

N 2:1 3:1 4:1 5:1
name 5:11 6:15 7:20 17:9
 24:5
named 65:9
names 16:20 97:11
Natural 87:21 94:1,8
nature 75:23
need 6:17 15:11
negotiate 12:6,14 42:5,14
NEIMAN 2:15
net 29:9,16 36:2,7
never 85:8,22
new 3:4,4 29:21 30:5,15,25
 31:9,15 41:17,21 42:3,22
 43:3 67:24 75:21
nominal 38:6
Notary 1:19 101:6,21
note 52:17
notes 32:15 33:2,11,20 34:4
 34:13,23 35:8,17,23 79:14
 79:21,23 80:8,17 81:4 83:5
 83:18 84:5,13 88:17
notice 100:7
noticing 5:16

November 41:23
number 56:5 74:3
numbers 6:21 7:2

O

O 2:10 5:1
oath 102:13
object 30:21 70:5,8 73:1
 97:18
objected 99:15
objecting 30:21 44:7 46:14
 56:8 63:20
objection 10:1,16,25 12:9
 12:16 13:12 14:1,23 15:17
 16:3,14 17:2,15,24 18:8,17
 18:23 19:7,16,25 20:10,19
 21:3,12,19 22:4,13,22 23:5
 23:14,23 24:7,17,25 25:11
 25:22 26:6 27:4,18 28:10
 28:20 29:10,22 30:7 31:1
 31:10,16,24 32:8,18 33:5
 33:12,21 34:5,14,24 35:9
 36:4,9,17,25 37:8,16 38:1
 38:8 39:17 40:5 44:2 45:13
 45:15,22 48:3,11,19 50:11
 50:19 52:9 54:5,22 55:6,14
 56:17 57:2 59:9,23 60:8,18
 61:9,25 62:12 63:9,19
 64:14,20 65:16,25 66:9
 67:11 68:1 70:19 71:11
 74:12,21 75:5,14 76:20
 77:12,24 78:14 79:6,25
 80:10,21 81:7 82:22 83:13
 83:22 84:21 85:24 99:11
obstruct 60:6 62:10
obtain 56:24
offer 35:17,22 79:14,23
 83:18 102:12
offered 72:18 84:5
offerings 83:12,20
office 14:15
OFFICES 3:3
okay 15:12 38:24 39:1 40:20
 61:21 62:24 67:23 68:22
 82:2 100:12
Old 59:7 61:14,19
on-site 50:2 57:9,24
once 77:6
operate 13:25
operated 25:10,21 26:5
operating 31:22 32:6 36:2,7
 36:15,23 37:6,14
operations 9:5
opine 56:9
order 4:18 15:24 16:10 18:6
 27:1 28:8,18 39:15 40:3

52:7 60:6 61:2 62:9 63:6
 65:14 67:10 69:13,25 71:2
 76:17 79:3 80:19 83:11,19
 100:5
outcome 101:15
outside 39:23 40:2,11 70:7
outstanding 41:19
oversaw 47:11
oversee 35:16,22 47:15
owed 41:20 71:3
owned 18:7 25:20 26:5 71:8
owner 8:12
ownership 76:14,18 86:7,13
 86:19,25 87:3,8,14,20 88:1
 88:8 89:9,15,23 90:5,12,18
 90:25 92:1,13,24 93:11,21
 94:7,19 95:5,18 96:4,15
 97:1 98:2,8,20
owns 91:6,11,21 92:7,19
 93:5,17 94:1,13,25 95:10
 95:12,24 96:10,21 97:7,17
 98:14

P

P 2:1,1,22 3:1,1 5:1
p.m 89:2,3,3,7 100:16,17
page 4:2,6 41:11,12,15,25
 42:12,16,21 43:17,18,21
 43:25 44:3,4 45:1,16 46:3
 46:5,9,11,18 47:21,23 48:2
 48:24 49:2,20 52:14 53:6,9
 54:11,13,15 55:20,23 56:5
 58:20,23 59:1 65:1,4,6,18
 65:20 67:16,19 69:7 72:1,6
 72:9 74:3 103:4
pages 72:8
Par 1:8 7:20,25 8:5,12,18 9:6
 9:11,17 10:9,23 11:14,20
 11:25 12:7,14,23 13:4,19
 13:25 14:8,14,21,22 15:14
 15:16,24 16:1,2,10,12,13
 17:21,22 18:5,6,15,21 19:5
 19:14,24 20:8,18 21:1,10
 21:17 22:2,11,12,20,21
 23:12,21 24:5 25:8,17 26:3
 26:13 27:1,2,11,17 28:8,18
 29:3,8,15,20 30:4,14,24
 31:8,14,22 32:6,14,15,24
 33:1,2,9,10,18,20 34:2,4
 34:11,13,23 35:7,16,22
 36:2,7,15,23 37:6,14,22
 38:5 39:15,23 40:1,3,4,11
 40:12 41:17 42:6,15 44:20
 45:4,5,19 46:19,25 47:5,11
 47:15 48:18 49:5,12,14,16
 49:23 50:7,15 52:7 53:12

53:17,19,21,22 54:17 55:3
 55:12 56:13,15,25 57:7,8
 57:14,15 61:2 64:12,18
 65:15,22 66:6,21,23 67:24
 70:25 71:3,10 72:23 75:13
 75:23 77:7 78:13,20 79:5
 79:13,24 80:4,6,9,16,19
 81:2,4,5,10 82:14,15,19
 83:4,10,17,20 84:12,19
 85:2,3,9,14,15,21 99:1,8
paragraph 41:12,25 42:21
 46:19 54:15 72:4
part 98:4
Participants 2:2
particular 54:24 56:9
parties 100:3 101:13
pay 26:18,19,25 27:25 28:2
 28:6,16,17 32:14,24 33:1,9
 33:19 34:3,12,21 35:6
 39:14 66:24 67:5,10
paying 27:3 28:9,19 33:3
payment 37:24 38:6
payments 32:17 41:22
 48:18
payoff 41:22
PDF 69:7 72:1,6
penalty 102:5
pending 52:24 69:19 70:3
 70:13
Pennsylvania 1:20 3:14
 14:16 69:20 70:4 81:6
 82:18 101:1,7
people 82:19
percent 29:4 85:16,22
Perfect 39:6
perjury 102:5
Perry 2:14 6:6 20:16 21:9,16
 21:25 22:19 27:11,16,25
 28:7,16,19 76:23
person 25:9,19 26:4 53:17
 53:21 71:19
personal 49:6 50:3
personally 15:6 27:3 28:2
Philadelphia 3:14 14:16
phone 6:21
photos 56:24 57:15
phrased 54:25 59:4
PIETRAGALLO 3:12
PINEIRO 2:15
Pink 90:13 96:21 97:2
Plaintiff 1:5 2:3
Plaintiffs 1:17
please 5:14 21:14 28:13
 29:13 31:12 35:19 36:5
 38:2,14 40:17,24 41:10,11
 43:17 46:2 47:13,20 48:24

<p>49:20 50:13,24 52:14 53:20 54:10 55:19 57:4 58:3,19 62:16 64:15 65:1,6 65:19,20 66:22 67:16 68:20 69:8,22 74:2,4 76:15 76:24 80:1 82:5 83:15 89:17 95:11 98:6</p> <p>PLLC 3:8 plow 38:22 point 80:6 Ponce 2:11 Ponzi 31:23 32:7 position 40:4 potential 17:22 18:6 24:16 24:23 85:2,14 powers 100:4,9 practice 49:12,14 premarked 40:18 prepare 39:24 present 3:16 7:19 Pretrial 4:17 69:12,24 previously 41:19 45:3 primarily 14:15 primary 76:13 principles 65:23 prior 41:20 52:6 privilege 43:8,12,14 44:3,8 44:9 45:16 48:4 54:24 56:10 59:3 62:13 63:11,20 65:17 73:2 81:14,22 82:1</p> <p>privileged 46:15 probing 77:7 procedure 38:4 procedures 37:22 Proceedings 4:8 proceeds 66:20 process 50:9,16 57:8,23 product 46:15 Products 87:21 94:2,8 Professional 1:18 101:4 profit 29:9,16 profitability 45:4,20 profitable 44:20 45:6 promissory 32:15 33:2,11 33:20 34:3,13,22 35:8,17 35:23 79:14,21,23 80:8,17 81:4 83:5,18 84:4,12</p> <p>properties 78:11,22 property 59:7,18,19,21 60:6 60:15,25 61:7,12,12,14,17 61:19,22 62:8 71:8 protections 56:16 provide 7:25 27:17 74:18 provided 7:22 8:3 9:2,8,14 9:20 10:4,11,19 11:3,10,16 11:22 12:3,19 13:1,7,15,22</p>	<p>14:4,11,18 15:1,20 16:17 16:23 17:5,11,18 18:2,11 19:1,10,19 20:3,13,22 21:6 21:22 22:7,16,25 23:17 24:1,10 25:3,14 26:9,15,22 27:7,13,21 28:4,23 29:6,18 30:1,11,17 31:5,19 32:3,11 33:15,24 34:8,17 35:2,12 35:25 36:12,20 37:3,11,19 38:11 40:8,15 41:3,8 42:8 42:18 44:18,23 45:25 47:3 47:8,18 48:14,22 49:10,18 50:5,22 51:15,20 52:12 53:15,25 54:8 55:9,17 56:20 57:11,18 58:1,17 59:14 60:1,11,21 61:5 62:3 64:4,9,23 65:11 66:3,12,18 67:2,7,14 68:4 70:15,22 71:5,14,22 73:10,17,24 74:15,24 75:8,17 76:1,9 77:3,15 78:2,8,17,25 79:9 79:18 80:13,24 83:1,8,25 84:9,16,24 85:6,12,19 86:2 86:11,17,23 87:6,12,18,24 88:6,12 89:13,21 90:3,10 90:16,23 91:4,9,14,19,24 92:5,11,17,22 93:3,8,15,19 93:24 94:5,11,17,23 95:2,8 95:16,22 96:2,8,13,19,24 97:5,23 98:12,18,24 99:6 99:19</p> <p>Public 1:19 101:6,21 purchase 75:21 76:5,7 77:23 78:21 84:4,12 purchased 71:10 purported 32:15,25 34:22 purposes 15:4 pursuant 6:24 7:5,15 8:8,14 8:20 23:8 32:21 39:20 52:3 100:9 pursue 77:10 pursuing 77:19</p> <hr/> <p style="text-align: center;">Q</p> <hr/> <p>quarterly 4:15 63:1,25 question 6:19,24 7:5,15,22 8:3,8,14,20 9:2,8,14,20 10:3,11,18 11:2,10,16,22 12:3,11,19 13:1,7,14,22 14:3,11,18,25 15:19 16:5 16:16,23 17:4,11,17 18:1 18:10,19,25 19:9,18 20:2 20:12,21 21:5,21 22:6,15 22:24 23:7,16,25 24:9 25:2 25:13 26:8,15,22 27:6,13 27:20 28:4,11,13,22 29:6</p>	<p>29:11,13,18,23,25 30:8,10 30:17,22 31:2,4,11,18,25 32:2,10,20 33:7,14,23 34:7 34:16 35:1,11,25 36:11,19 37:2,10,18 38:10 39:19 40:7,15,24 41:3,8 42:8,18 43:15 44:8,13,18,23 45:24 47:3,8,18 48:13,21 49:10 49:18 50:5,12,21 51:11,15 51:20 52:2,11,23 53:15,25 54:7,23,24 55:8,16 56:8,19 57:11,18 58:1,17 59:3,14 59:25 60:10,20 61:5 62:2 62:15 63:11,21 64:4,9,22 65:5,11 66:2,11,18,22 67:2 67:7,13 68:3 69:21 70:6,13 70:15,21 71:5,13,22 73:9 73:17,24 74:14,23 75:7,16 75:25 76:9,15 77:1,3,14 78:1,8,16,24 79:8,17 80:2 80:12,23 81:11,24 82:5,8 82:25 83:7,24 84:8,15,23 85:6,11,18 86:1,10,16,22 87:5,11,17,23 88:5,11 89:12,20 90:2,9,15,22 91:3 91:8,13,18,23 92:4,10,16 92:21 93:2,7,14,19,24 94:4 94:10,16,23 95:2,7,15,21 96:1,7,12,18,23 97:4,13,22 98:11,17,23 99:5,18</p> <p>questioning 70:6 questions 61:18 70:9 77:21 81:9 82:10 99:22,24 quo 60:5</p> <hr/> <p style="text-align: center;">R</p> <hr/> <p>R 2:1 3:1 5:1 101:3 raise 63:17 74:10 82:16 raised 29:21 30:5,15,25 31:9 31:15 70:11 ran 72:14 Rare 88:2 94:13,20 RASHBAUM 2:15 RASPANTI 3:12 rate 85:16,22 99:9 rates 29:4 reached 71:19 read 42:5 44:15 72:24 102:5 102:7 reads 42:22 45:2 real 24:5 78:11,21 reason 77:18 81:2,9 83:19 103:5,6,8,9,11,12,14,15,17 103:18,20,21,23 reasonable 25:9,19 26:4 receivable 54:18 55:5,13</p>	<p>receivables 72:20 received 81:5 82:17 receiver 3:7 5:24 6:1 100:2 100:3,5,7 receiver's 4:7,11,13,15 51:5 55:24 58:10 60:6 63:1,6,7 63:15,25 receivership 63:16 Recess 39:9 68:16 89:3 recognized 45:5,21 record 5:11,15 30:19,20 39:2,8,11 52:17 68:13,15 68:18 89:1,7 100:16 101:10 records 66:7 refer 61:17 reference 53:10 79:3 referenced 42:4,12,16 referred 20:7 22:1 24:14,22 referring 15:5 46:11 72:23 regarding 63:11 81:9 Registered 1:18 101:4 regulators 81:6 82:18 83:12 83:21 related 4:9 101:12 Release 4:17 69:12,24 relevance 70:8 Relief 1:11 remember 7:11 Remote 1:16 101:5,21 remove 74:1,5,6 79:3 repeat 6:19 12:10 16:4 21:13 24:18 25:23 28:12 29:12 31:12 33:6 35:19 36:5 38:2 40:24 42:13 47:13 50:12 51:11 53:20 57:4 64:15 66:22 69:22 76:15 80:1 83:15 89:17 95:11 repeated 97:11 rephrase 6:20 15:11 18:19 49:13 report 4:11,13 50:1,3 51:5 55:24 58:10 reporter 1:19 5:12 101:5,5 reports 4:15 40:12 63:1,6,15 64:1 represent 5:15 54:14,16 representation 43:2 59:20 representations 41:5 43:24 46:8,25 48:1 51:23 56:4,6 58:22,24 64:11 77:8 represented 54:3 72:14 representing 5:22 request 38:17 requiring 41:21</p>
--	--	---	---

Reserve 74:19 75:4,13,22
76:6 77:7,9,20,22
respect 7:4 42:3 43:15 44:3
44:8 45:16 54:24 56:9 59:3
63:20 73:2 81:9
respectfully 6:23 7:14,21
8:2,7,13,19 9:1,7,13,19
10:3,10,18 11:2,9,15,21
12:2,18,25 13:6,14,21 14:3
14:10,17,25 15:19 16:16
16:22 17:4,10,17 18:1,10
18:25 19:9,18 20:2,12,21
21:5,21 22:6,15,24 23:7,16
23:25 24:9 25:2,13 26:8,14
26:21 27:6,12,20 28:3,22
29:5,17,25 30:10,16 31:4
31:18 32:2,10,20 33:14,23
34:7,16 35:1,11,24 36:11
36:19 37:2,10,18 38:10
39:19 40:7,14 41:2,7 42:7
42:17 44:17,22 45:24 47:2
47:7,17 48:13,21 49:9,17
50:4,21 51:14,19 52:2,11
53:14,24 54:7 55:8,16
56:19 57:10,17,25 58:16
59:13,25 60:10,20 61:4
62:2 64:3,8,22 65:10 66:2
66:11,17 67:1,6,13 68:3
70:14,21 71:4,13,21 73:9
73:16,23 74:14,23 75:7,16
75:25 76:8 77:2,14 78:1,7
78:16,24 79:8,17 80:12,23
82:25 83:7,24 84:8,15,23
85:5,11,18 86:1,10,16,22
87:5,11,17,23 88:5,11
89:12,20 90:2,9,15,22 91:3
91:8,13,18,23 92:4,10,16
92:21 93:2,7,14,18,23 94:4
94:10,16,22 95:1,7,15,21
96:1,7,12,18,23 97:4,22
98:11,17,23 99:5,18
response 4:7,10,12,14 51:5
58:10 62:25 63:25
responses 63:5,15,18
restraining 52:7 61:2
retain 27:11 53:18,22 65:8
65:14
retained 57:21
returns 32:15 33:2,10,19
34:3,12,22 35:7
revenue 72:17 73:22
review 50:8 51:17 58:13
59:1 64:6 73:5 88:22
reviewing 49:25
revise 40:2
revised 81:23

Revocation 4:18 69:13,24
Richard 3:18
Riggle 2:5 5:19 6:16
right 38:22 59:22 60:17
62:10 88:24
right-hand 72:9
rights 6:25 7:6,16,23 8:4,9
8:15,21 9:15 17:18 23:8
32:21 37:19 39:20 52:3
Road 59:8 61:14,19
robust 47:5
role 15:24 16:10 22:11,21
23:21 25:6,8 75:13
Rosenblum 3:18
ROSS 3:8
Rothschild 53:10,12,18,23
54:2
RTR 41:19
run 9:5 73:13,20
Ryan 3:7 5:24 6:1

S

S 2:1,14 3:1 5:1
sale 35:17,22
save 102:9
says 51:4 55:23 58:7,8
62:21 69:11 72:7,7,9
SCHEIN 3:3,3
scheme 31:23 32:7
scope 70:7
screen 40:18 43:18 46:6
47:24 49:3 51:2 53:3,7
55:22 56:2 58:6,11 62:19
62:22 67:20 69:4,10,14,25
74:6
SEC 5:5 103:3
SEC's 51:9,13 62:10
second 40:20 42:20 43:6
44:1 45:14 46:11 51:24
58:25 62:11 68:8,22 72:25
secretly 59:21
section 46:22
secure 60:7
securities 1:4 2:4 5:20 6:17
83:12,20,21
see 41:15,24 42:1,20,24
43:18,21,22 45:1,8 46:5,18
46:22 47:23 49:2 51:2 53:6
53:9 54:13,16,19 55:22
56:2 58:6,11 62:19,21 63:2
67:19 69:1,4,10,11,15 70:9
72:4,12,21
seeing 53:3
seek 57:15
seeking 56:25
sell 81:3

senior 5:19 6:16
sent 9:23 77:7
sentence 42:4,20,24 72:24
separate 100:8
September 4:11 51:5 55:3
services 27:17
set 101:9,16
Seventh 2:23 91:1 98:14,21
share 72:19
Sheet 102:11 103:1
shift 80:16 81:10
shifted 79:20
short-term 7:25 72:18
show 40:18 50:25 58:4
68:19,20
sign 11:25
Signed 102:17 103:24
significantly 56:14
Simon 4:9
single 41:21
sir 43:20
site 56:24 57:16
Sixth 90:19 97:7,17 98:3,8
Sky 86:8 91:6,11,16
slightly 97:12
SLOMAN 3:8
small 7:25 72:18
social 49:7
Solar 92:19,25
sole 14:8
solicit 84:4,12
solicitation 80:20
soliciting 82:20
Solutions 1:7 5:5 7:13,19
103:3
Somebody 98:5
sorry 12:10 16:4 24:19
25:23 29:12 32:25 33:6
39:25 42:13 57:3 59:12
65:5 74:6 82:7,21 83:14
98:4 99:14
Soto 2:9,10 5:21,21 6:3 10:1
10:16,25 12:9,16 13:12
14:1,23 15:17 16:3,14 17:2
17:15,24 18:8,17,23 19:7
19:16,25 20:10,19 21:3,12
21:19 22:4,13,22 23:5,14
23:23 24:7,17,25 25:11,22
26:6 27:4,18 28:10,20
29:10,22 30:7,19 31:1,10
31:16,24 32:8,18 33:5,12
33:21 34:5,14,24 35:9 36:4
36:9,17,25 37:8,16 38:1,8
38:15,25 39:6,17 40:5 43:6
43:14 44:1,7,12 45:13,22
46:10,14 48:3,7,11,19

50:11,19 51:24 52:9,16,21
52:23 54:5,22 55:6,14 56:8
56:17 57:2 58:25 59:9,23
60:8,18 61:9,25 62:11 63:9
63:19 64:14,20 65:16,25
66:9 67:11 68:1 70:5,19
71:11 72:25 73:8 74:12,21
75:5,14 76:20,23 77:12,24
78:14 79:6,25 80:10,21
81:7,13,20,23 82:21 83:13
83:22 84:21 85:24 88:19
88:24 97:8,18 99:11,15,24
sounds 97:9,14
source 67:4
sources 66:15
South 2:17 3:9
Southeast 2:23
Southern 1:2 5:7
space 14:15
Specifically 60:24
Spectrum 8:23,25 10:14,15
11:8 13:11,20,25
Spectrum's 14:15
spend 63:16
spending 66:20
SS 101:2
stamped 51:3 62:20
standard 56:15
standpoint 49:6,7
start 74:11,20 75:2,11,21
76:7
started 77:20 81:3 83:17
starting 5:15 56:5
state 5:15 41:16 81:6 82:18
83:12,20 100:2
statement 39:24 43:9 44:4
45:11 54:21
statements 40:13 49:25
73:3
States 1:1 2:4 5:6 7:1,7,17
8:10,16,22 23:9 32:22
39:21 52:4 69:2
status 4:11,13,15 51:5 58:10
60:5 63:1,6,15,25
Stay 4:8
stop 80:4
stopped 77:19
Street 2:23 3:13
structure 79:22
Stumphauzer 3:7,8 5:24 6:1
submitted 45:3
subpoena 81:5 82:17
Suite 2:5,11,17 3:9,13
supervise 10:23 11:7
Supplement 55:24
Support 4:17 69:12,23

<p>sure 12:13 15:13 16:7 21:16 24:21 26:2 28:15 29:15 31:14 35:20 38:4 40:25 42:14 47:14 50:15 51:12 52:19,22 53:2,9 57:6 64:17 69:23 76:22 80:4 83:17 88:17 98:7 sworn 5:17 6:11 101:9</p>	<p>62:8 transferred 59:17,21 61:7 61:22 transfers 13:5 trial 5:19 6:16 true 18:15,21 19:5,14,23 20:17 23:4 25:18 26:2 40:4 41:6 43:25 45:12 46:9 48:2 54:21 56:7 57:20 61:3,8 66:6 67:24 76:17 77:6,18 79:20 84:20 85:8 101:10 102:8</p>	<p>98:12,18,24 99:6,19 Um-hum 33:9 unable 57:23 understand 15:7,8 61:15,18 69:21 understanding 81:20 82:15 102:12 underwriting 46:20 47:1,6 47:11,15 49:6,24 50:8,16 57:8,22 99:2</p>	<p>88:22 we're 39:7,10 68:14,17 73:6 86:4 89:1,6 97:9,14 100:15 Webex 1:20 2:2 5:9 whatsoever 57:24 WHEREOF 101:16 whooping 54:17 wire 13:4 withdraw 65:5 witness 5:16 10:2,17 11:1</p>
<p style="text-align: center;">T</p> <p>T 101:3,3 take 6:18 38:16,21 74:10 88:16,22 taken 1:17 103:2 talking 61:12,19 76:21 taxes 78:6 telephone 7:2 tell 85:2,14 temporary 52:6 61:1 ten 56:1,14 78:6 terms 12:6,14 42:10,22 43:3 testified 6:12 testimony 101:11 102:6,9 Texas 59:8,19 60:6,15,25 61:13,22 Thank 12:17 15:8,8 16:8 39:1,6,12 42:1 43:22 46:3 52:21 53:5,8 58:4 61:16,21 62:24 65:20 67:17,22 68:9 68:19,20,23 69:6,8 72:9,10 74:7 82:13,23 88:25 95:13 98:10 99:22,23 100:10 Thanks 15:12 thing 53:3 think 38:18,19,23 43:7 82:11 88:21 thoroughly 49:5 threats 71:1 Three 2:23 Tim 3:19 100:1 time 5:10 6:18 21:14 24:19 25:24 61:8 65:23 71:17 74:4 83:15 timing 60:14 Timothy 3:9 5:11,23 title 58:9 tkolaya@sfslaw.com 3:11 today 5:13 6:18 today's 5:10 15:4 100:14 told 59:16 77:21 top 58:8,9 62:21 68:25 72:6 total 41:19 48:17 Tower 2:17 transactions 44:21 45:6 transcript 102:6,8 transfer 59:7 60:14,25 62:7</p>	<p>TRUST 1:10 trying 76:7 97:13 Tuesday 1:21 turn 41:11 43:17 46:3 47:21 48:24 49:20 52:14 54:11 55:20 58:20 62:17 65:1 67:16 68:6 69:7 72:2,5 two 56:5 typically 70:8</p>	<p>United 1:1 2:4 5:6 6:25 7:7 7:17 8:10,16,22 23:9 32:22 39:21 52:4 69:1 unstable 52:8 upper 72:9 USA 4:17 use 15:5 17:21 18:5 33:18 34:2,11,20,21 78:20 utilize 35:6 65:22 71:1 76:11 76:16 utilized 9:17 79:22 utilizing 80:7,17 81:3 82:15 83:10</p>	<p>12:10,17 13:13 14:2,24 15:18 16:4,15 17:3,16,25 18:9,24 19:8,17 20:1,11,20 21:4,13,20 22:5,14,23 23:6 23:15,24 24:8,18 25:1,12 25:23 26:7 27:5,19 28:12 28:21 29:12,24 30:9 31:3 31:12,17 32:1,9,19 33:6,13 33:22 34:6,15,25 35:10 36:5,10,18 37:1,9,17 38:2 38:9 39:18 40:6,18 44:10 45:23 48:6,12,20 50:12,20 52:1,10 54:6 55:7,15 56:18 57:3 59:10,24 60:9,19 62:1 64:15,21 66:1,10 67:12 68:2 70:20 71:12 74:13,22 75:6,15,24 77:1,13,25 78:15 79:7 80:1,11,22 81:8 82:23 83:14,23 84:22 85:25 97:21 99:12,17 101:8,11,16 102:1 wonder 38:16,21 40:17 41:10 46:2 47:20 50:24 54:10 55:19 58:3,19 62:16 65:19 68:12,20 72:2,5,8 88:15 word 15:5 wording 62:14 work 7:2 14:14 19:13,22 20:16,25 21:9,16 22:10,19 23:3,11,20 24:4 26:13 35:16 46:15 World 86:14 88:3 91:21 92:2 94:14,21 Worth 59:8,19 60:5,15,25 61:13,21 wouldn't 52:16</p>
<p style="text-align: center;">T</p>	<p style="text-align: center;">U</p> <p>U.S 7:23 9:3,9,15,21 10:4,12 10:19 11:3,11,17,23 12:4 12:20 13:2,8,15,23 14:4,12 14:19 15:1,20 16:17,24 17:5,12,18 18:2,11 19:1,10 19:19 20:3,13,22 21:6,22 22:7,16,25 23:17 24:1,10 25:3,14 26:9,16,23 27:7,14 27:21 28:5,23 29:7,19 30:1 30:11,18 31:5,19 32:3,11 33:15,24 34:8,17 35:2,12 36:1,12,20 37:3,11,19 38:11 40:8,16 41:4,9 42:9 42:19 44:19,24 45:25 47:4 47:9,19 48:14,22 49:11,19 50:6,22 51:16,21 52:12 53:16 54:1,8 55:9,17 56:20 57:12,19 58:2,18 59:15 60:1,11,21 61:6 62:3 64:5 64:10,23 65:12,22 66:3,12 66:19 67:3,8,14 68:4 70:16 70:22 71:6,14,23 73:10,18 73:25 74:15,24 75:8,17 76:1,10 77:4,15 78:2,9,17 78:25 79:9,18 80:13,24 83:1,8,25 84:9,16,24 85:7 85:12,19 86:2,11,17,23 87:6,12,18,24 88:6,12 89:13,21 90:3,10,16,23 91:4,9,14,19,24 92:5,11,17 92:22 93:3,8,15,20,25 94:5 94:11,17,24 95:3,8,16,22 96:2,8,13,19,24 97:5,23</p>	<p style="text-align: center;">V</p> <p>v 1:6 4:17 103:3 Vagnozzi 2:21 6:8 23:3,11 23:20 24:4,13,21 79:2 84:4 Vagnozzi's 23:22 24:24 84:5 veracity 77:8 verifications 50:1 versus 5:5 69:2 videoconference 1:21 2:2 videographer 3:19 5:3,12 39:7,10 40:20 68:8,10,14 68:17,22 74:3 89:1,6 100:14 videos 79:2 videotape 5:4 100:15 VIDEOTAPED 1:16 view 52:18 viewpoints 81:17 violence 71:1 Vision 92:19,25 Visions 87:3</p>	<p style="text-align: center;">V</p> <p>W 1:16 2:8 4:2 101:8 102:4 102:17 103:2 walk 77:10 want 25:9,20 26:4 53:2 81:16 100:2 wanted 57:7,13 82:18 way 54:25 59:3 80:5 87:1 101:14 we'll 38:22,23 39:2 65:6</p>
<p style="text-align: center;">X</p> <p>X 4:1</p>	<p style="text-align: center;">W</p>	<p style="text-align: center;">W</p>	<p style="text-align: center;">X</p> <p style="text-align: center;">Y</p> <p>Yeah 53:21 66:23 year 7:10 years 78:6 York 3:4,4</p>

Z	83:11,19 84:3,11,18	52:15,19 53:6 54:11,14
zoom 41:12	2019 31:8,14 34:11 37:14	55:20,23 56:6
0	53:13 61:8,22 65:24 74:9	42 4:12 58:4,7,13,14,20,23
1	2020 4:11,15 7:24 8:12,17	421 54:17 55:4,13
1 4:13,16 45:1,8,11,16 58:11	8:24 9:5,11,22 10:8,14,23	43 4:14 62:17,20 63:24 64:6
63:2 64:1 85:16,22	11:7,13,19,25 12:6,14,23	64:11,17 65:2,4 67:20
10 72:7 89:5	13:4,10,24 14:8,14 29:2,8	68:11
10:09 1:22 5:11	29:15 35:15,21 41:16,23	4309 59:7 61:14,19
10:48 39:8,9	42:11,14 45:19 47:10,14	44 4:17 68:7,19,21,25 69:17
10:50 39:4	51:6 52:7 53:13 55:3,12	70:1 72:1,21 73:6 74:1,6
100 72:16	63:2 64:1 69:18 71:17	482 4:13
10017 3:4	73:13,19 79:3 84:3,11	493 58:8
11:05 39:5	85:21 99:1,8	5
11:06 39:9,11	2021 1:21 4:13,16 5:10	5 43:17,18,21,25 45:1,16
11:55 68:15,16	40:23,25 58:11 63:2 64:1	67:16,19
11:57 68:16,18	101:17 102:9 103:2	5,437,515.91 41:19
12:00 38:24	21 69:1	50 4:10
12:29 89:2,3	210504AME 1:25	500,000 48:18
12:30 38:24	212.880.9417 3:5	535 62:21 67:20
12:35 89:3,7	215.320.6200 3:14	565 3:4
12:47 100:16,17	24 41:23	58 4:12
13 4:15 63:2 64:1	240 4:11	6
13th 101:17	249 52:20	6 4:3 46:3,5,9,11,18 72:1,7,9
141 100:6	25 69:18 78:11,21	62 4:14
15 39:3	25,000 41:22	68 4:17
15-minute 38:17,22	2525 2:11	7
1800 2:5	2530 2:17	7 29:9,16 41:13,16 42:10,14
1818 3:13	2550 3:9	42:23 43:4 47:21,23 48:2
19103 3:14	29 72:7,7,9	7,068,770.68 45:7
2	3	750 2:11
2 2:17 3:9 52:14 53:6,9	3 54:11,13 65:6 69:7	7th 3:4
55:24 65:1,4	30 40:23,25	8
20 102:19	30,000 57:1,7,14	8 4:11 48:24 51:5
20-231 69:3	305.371.9686 3:10	801 2:5
20-cv-81205 5:8	305.374.5600 2:24	9
20-CV-81205-RAR 1:6	305.434.4941 2:18	9 49:20
2005 7:11	305.569.7701 2:12	98 2:23
2011 8:6,17 16:20 72:17	305.982.6300 2:6	
2012 65:24 66:8 79:13	33131 2:6,18,24 3:10	
2013 7:18,24	33134 2:11	
2015 6:21 7:2 8:11 9:4,10	3402 3:13	
10:7,22 11:12,18,24 12:5	4	
12:13,22 13:3,9 14:13	4 1:21 5:10 41:11,15,25	
16:25 17:8,13 29:2,8,15,20	42:12,16,21 55:20,23 56:6	
31:22 32:14 35:15,20,21	58:20,23 65:18,20 102:9	
36:2,7 45:19 47:10,14	103:2	
2016 26:17 30:4 32:6,24	4,851,720 48:10	
33:1,9 36:15 99:1,8	40 4:7,7 40:19,22,25 41:6,11	
2017 1:10 11:6 13:18,24	41:16,25 42:12,16,21 43:2	
14:7 27:24 30:14 33:18	43:18,21,25 44:15 45:2,9	
36:23 67:25 79:13 85:21	45:12 46:3,6,9,24 47:21,24	
2018 9:22 30:24 34:2 37:6	48:2,25 49:2,21 68:10	
66:8 80:4,6,18 82:17 83:5	400 29:4	
	41 4:10 50:25 51:3,12,17,22	

1
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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

SECURITIES AND EXCHANGE)	
COMMISSION,)	
)	
Plaintiff,)	
)	
v.)	Case No.
)	20-CV-81205-RAR
COMPLETE BUSINESS SOLUTIONS)	
GROUP, INC. d/b/a PAR)	
FUNDING, et al.,)	
)	
Defendants, and)	
)	
L.M.E. 2017 FAMILY TRUST,)	
)	
Relief Defendant.)	
_____)	

REMOTE VIDEOTAPED DEPOSITION OF
BRETT BERMAN, ESQUIRE,
called by the Plaintiffs for examination, taken by
and before Ann Medis, Registered Professional
Reporter and Notary Public in and for the
Commonwealth of Pennsylvania, via Webex
videoconference, on Tuesday, June 8, 2021,
commencing at 10:08 a.m.

JOB No. 210608AME

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A P P E A R A N C E S

(Participants appeared via Webex videoconference)

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Also present

Joseph LaForte
Joseph Cole
Dean Vaggio
George Bochetto
Richard Brueckner
Tim Hunter, videographer

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* I N D E X *

WITNESS:

BRETT BERMAN, ESQUIRE	PAGE
EXAMINATION BY MS. BERLIN	7, 242
EXAMINATION BY MR. FUTERFAS	203
EXAMINATION BY MR. MILLER	232
EXAMINATION BY MR. SOTO	235

* I N D E X O F E X H I B I T S *

NO.	DESCRIPTION	PAGE
Exhibit 49	CBSG Funding Analysis 01/01/13 - 12/31/18	116

- - - -

1 P R O C E E D I N G S

2 - - - -

3 THE VIDEOGRAPHER: Here begins the
4 videotape deposition of Brett Berman in the matter
5 of the SEC versus Complete Business Solutions Group.
6 This deposition is being held via Webex.

7 Today's date is June 8, 2021. The time on
8 the record is 10:08 a.m. My name is Tim Hunter.
9 I'm a legal videographer. Our court reporter today
10 is Ann Medis.

11 Counsel, would you please introduce
12 yourselves and state whom you represent for the
13 record starting with noticing counsel. And the
14 witness will be sworn.

15 MS. BERLIN: This is Amie Riggle Berlin on
16 behalf of the U.S. Securities and Exchange
17 Commission.

18 MR. LEVITT: Good morning. Peter Levitt,
19 Shutts & Bowen, on behalf of the witness, Brett
20 Berman.

21 MR. KOLAYA: Good morning. This is Tim
22 Kolaya on behalf of the court appointed receiver,
23 Brian K. Stumphauzer.

24 MR. SOTO: Good morning. This is Alex
25 Soto on behalf of defendant, Joseph LaForte.

1 MR. MILLER: Brian Miller from Akerman on
2 behalf of defendant, Dean Vagnozzi.

3 MR. MARCUS: Jeff Marcus on behalf of
4 Perry Abbonizio.

5 MS. SCHEIN: Bettina Schein on behalf of
6 Joe Cole.

7 BRET BERTMAN, ESQUIRE,
8 having been first duly sworn, was examined
9 and testified as follows:

10 EXAMINATION

11 BY MS. BERLIN:

12 Q. Good morning, Mr. Berman. My name is Amie
13 Riggle Berlin. I'm senior trial counsel with the
14 U.S. Securities and Exchange Commission. If you
15 need to take a break at any time today, just let me
16 know. And if you don't understand a question that
17 you're asked, just let me know that, and I'll try to
18 ask it in a better way. Do you understand?

19 A. I do.

20 Q. Are you familiar with a company called
21 Complete Business Solutions Group?

22 A. I am.

23 Q. And how did you first become aware of
24 Complete Business Solutions Group?

25 A. Fox Rothschild was engaged to represent

1 Complete Business Solutions Group.

2 Q. And who was the primary attorney at Fox
3 Rothschild who worked for Complete Business
4 Solutions Group?

5 A. I'm not sure what you mean by primary
6 attorney, but I was the relationship attorney.

7 Q. How did it come about that you became an
8 attorney representing Complete Business Solutions
9 Group?

10 A. I was introduced to someone in 2018 -- I
11 couldn't tell you who it was; it's a while ago --
12 who hired us to undertake a limited engagement on
13 behalf of Complete Business Solutions Group.

14 Q. I'm sorry. I don't understand. Someone
15 retained you and you don't remember who it was?

16 A. I can't tell you the person I spoke to in
17 2018 about the engagement. It was a limited
18 engagement involving looking at some of their
19 corporate documents related to the MCA deals, and it
20 was very minor. No, I don't remember exactly who it
21 was who we spoke to in 2018.

22 Q. Well, how did it come about Complete
23 Business Solutions Group initially became a client
24 of Fox Rothschild?

25 A. Sure. A gentleman by the name of Anthony

1 Zingarelli made the introduction to someone at
2 Complete Business Solutions Group back in 2018. And
3 I have known Mr. Zingarelli for a decade.

4 Q. And so was a retainer agreement signed
5 with Complete Business Solutions Group back in 2018?

6 A. Yes, it was.

7 Q. And who signed that on behalf of Complete
8 Business Solutions Group?

9 A. I don't remember, but it could have well
10 been -- I don't remember, to be honest with you. I
11 know it was turned over to the receiver in this
12 case, Mr. Kolaya and Mr. Alfano.

13 Q. And so during what -- would this be the
14 first of several representations that Fox Rothschild
15 undertook for Complete Business Solutions Group?

16 A. Yes, that is correct.

17 Q. So can you tell me a little bit more about
18 the work that was done in connection with this first
19 cycle of the firm being retained by Complete
20 Business Solutions Group? What was the firm doing?

21 A. By recollection, they were -- "they" being
22 Complete Business Solutions Group -- were
23 considering alternative type lending-related
24 products, and they wanted us to look at and opine on
25 certain issues on those documents. I didn't do any

1 of the work myself on that, so I can't be any more
2 specific. But it was a very limited engagement,
3 i.e., I think by memory a few thousand dollars of
4 legal work.

5 Q. Okay. And then did there come a time when
6 Fox Rothschild was retained again by Complete
7 Business Solutions Group?

8 A. Yes. I would say sometime in late --
9 well, the answer is yes to your question. Yes.

10 Q. Okay. And when did the second occurrence
11 happen?

12 A. Sure. By memory, and there was an
13 engagement letter for this as well that was turned
14 over to Mr. Cole and Mr. Alfano, I was engaged or
15 Fox Rothschild was engaged to assist with the
16 Fleetwood litigation. The Fleetwood litigation was
17 the next time or the real only -- the legal work
18 really substantively began in late 2019.

19 Q. And what exactly is the Fleetwood
20 litigation?

21 A. Fleetwood was a litigation pending in the
22 Eastern District of Pennsylvania that was being
23 handled by in-house counsel prior to our engagement.
24 It was a proposed class action that never got there.

25 Q. So Complete Business Solutions Group

1 retained Fox Rothschild to represent it in defending
2 against the case?

3 A. Correct.

4 Q. Okay. And who was the primary contact at
5 Complete Business Solutions Group for Fox Rothschild
6 attorneys?

7 A. Sure. At that time you're asking,
8 Ms. Berlin?

9 Q. Yes, for the 2019 representation in
10 connection with the Fleetwood case.

11 A. Sure. It was primarily focused on
12 in-house counsel at the time, Pete Mulcahy and John
13 Hartley. Those were the primary points of contact.

14 Q. And was there a point of contact with
15 anyone other than two of them?

16 A. At the very beginning, very little. It
17 was primarily done through in-house counsel. That's
18 who engaged me, I believe who signed the engagement
19 letter that I gave to Mr. Kolaya, by memory. I
20 think that's correct. And I would say maybe
21 Mr. Cole at that point in time, but not right at the
22 beginning. It was in-house counsel.

23 Q. How long did the representation continue
24 in connection with the Fleetwood case?

25 A. Until the day this case was filed.

1 Q. So did your primary contact at Complete
2 Business Solutions Group ever change from the
3 initial in-house counsel and Joseph Cole?

4 A. Yes. At some point by memory, it was
5 early February 2020. Mr. Hartley and Mr. Mulcahy
6 were no longer associated with Complete Business
7 Solutions Group. So on that case, I would say I
8 dealt primarily with -- although we were pretty far
9 into the case. I can't say how much I had to deal
10 with people at that point.

11 But I would say it was then Mr. Cole or
12 Mr. Anthony Ronn Fazio who I would get most of my
13 information for for things related to that case.

14 Q. And so who would you reach out to at
15 Complete Business Solutions Group when you had to
16 confer with your client? Was it Mr. Cole or someone
17 else?

18 A. Yeah, again, depending on the issue. By
19 that I mean Mr. Cole was involved. I believe his
20 official title was chief financial officer. So if
21 it dealt with issues surrounding financial aspects
22 of the case, you know, pulling up payment histories
23 or other related information or in the Fleetwood
24 case, given that it was a proposed class, although
25 it was not a class certified case, I needed to

1 obtain information about proposed class members and
2 things like that I got from either Mr. Cole -- there
3 was a woman at the company, Tori Villarose, that I
4 would obtain information from or, as I said, Anthony
5 Ronn Fazio. I know him as Fazio.

6 Q. Anyone other than those four people?

7 A. Primary points of contact were those
8 people. I'm sure I spoke at some point in time to
9 Lisa McElhone, Joe LaForte, other people in
10 accounting or collections. There was a guy who I'm
11 blanking on his name who came in about that time who
12 was leading the collections department with Anthony
13 Fazio. I think his Tim was by memory, although it
14 was a while ago now.

15 So really depending on the type of issue I
16 needed, it was primarily the people I told you
17 about, but there could be many others since there
18 were a lot of people there.

19 Q. When you say primarily the people you told
20 me about, you mean Mr. Cole, Villarose, Aida Lau or
21 the Fazio individual; is that accurate?

22 A. That's correct.

23 Q. Okay. And so was there any other matter
24 that Fox Rothschild was retained for by Complete
25 Business Solutions Group?

1 A. Yes. After being engaged for the
2 Fleetwood case, I believe the next engagement,
3 although that was also pursuant to a fee letter, I
4 believe was the HMC case.

5 Q. That's another lawsuit against Complete
6 Business Solutions Group?

7 A. I don't think either were really -- don't
8 hold me to the specific procedural aspects. It's
9 been a while. But the way that those cases were
10 both initiated, the Fleetwood and HMC were the
11 filing of a confession of judgment by Complete
12 Business Solutions in the Court of Common Pleas, and
13 they were either removed or a petition to open
14 and/or separate claims brought through counterclaims
15 or affirmative claims.

16 So it's not really that they were
17 independent lawsuits, per se. They were responses
18 to judgments that were entered by Complete Business
19 Solutions Group.

20 Q. And who contacted you to retain Complete
21 Business Solutions Group in that matter?

22 A. Pete Mulcahy.

23 Q. And who was the primary contact at
24 Complete Business Solutions Group?

25 A. I would say that the answer is the same as

1 I gave previously for Fleetwood, although there was
2 some more history to that given that this was an
3 extended relationship, not a single MCA deal.

4 So it was again all of the people I spoke
5 about before, both from the primary point of contact
6 and the secondary points of contact, that I
7 referenced for the Fleetwood case.

8 Q. In addition to the Fleetwood and HMC
9 matters, was there anything else that Fox Rothschild
10 was retained to do for Complete Business Solutions
11 Group?

12 A. Sure. Sometime after or about at the same
13 time as the engagement involving Fleetwood and HMC,
14 we were asked to -- we weren't alone. There were
15 other people who were involved -- to look into and
16 potentially enter our appearance in -- I'm blanking
17 on the name, but it was Sharma/Dual Diagnosis, which
18 was a case pending in New York Supreme Court before
19 Justice Borrok and a corresponding action involving
20 the same parties down in Lee County, Florida.

21 Q. And who were primary client contacts at
22 Complete Business Solutions Group for that?

23 A. Pete Mulcahy.

24 Q. Anyone else?

25 A. I mean, just depending on the aspects of

1 what I needed to determine up and through that case,
2 which eventually settled I believe right before this
3 case was filed, it varied because I needed payment
4 information and things like that.

5 So there were definitely Joe Cole and Aida
6 Lau and people in their group. And Anthony Fazio
7 provided information on things that occurred long
8 before my time representing the company.

9 Q. Is there any other matter that Fox
10 Rothschild was retained on in connection with
11 Complete Business Solutions Group?

12 A. Yes. After that engagement, I would say
13 that the engagement expanded to additional
14 litigation. And I may be placing one before the
15 other from the Dual Diagnostics case, but it was
16 about the same time.

17 There were a series of cases that were
18 filed in the Eastern District of Pennsylvania by
19 merchants who were -- again, as I said, I don't
20 believe they were independent cases. Well, they
21 were in fact. Let me take back.

22 These were cases that were filed in the
23 Court of Common Pleas as a confession of judgment.
24 They were then removed to federal court, improperly
25 I would add because they were eventually all

1 remanded or most of them were remanded by different
2 federal judges. But it was a series of cases filed
3 by an individual by the name of Shane Heskin on
4 behalf of his clients.

5 Q. Okay. And who was primary contact at
6 Complete Business Solutions Group for those cases?

7 A. Initially Pete Mulcahy and John Hartley
8 until -- as I said, they left in February. And I
9 don't know exactly the time period, but probably
10 about then -- no, no. It was probably before that.
11 But it was those two.

12 And, as I said before, similar to what I
13 said about HMC and Fleetwood, it involved a lot of
14 different people at the company trying to obtain
15 different information. Anthony Fazio, Tim were
16 involved obviously in gaining information on any
17 merchant files.

18 We at some point had to get discovery in
19 all of these cases. So I dealt with the IT person
20 to pull custodian logs of emails for production or
21 review for production. I dealt with Joe Cole on
22 financial issues. I'm sure I spoke to Joe LaForte
23 or Lisa McElhone at some point about those cases and
24 issues, if they had personal knowledge. That
25 summarizes it I think.

1 Q. But who was the primary client contact?
2 If your client needed to make a decision, meaning
3 CBSG, who would you reach out to?

4 A. On a day to day, Joe Cole would be my
5 primary point of contact.

6 Q. Okay. And approximately how many of those
7 cases are there that you're identifying?

8 A. I would say 10 to 15, purely by memory.
9 And I could name a few if you want, Annies Pooch
10 Pots, Knava's Bounce House. There was a travel
11 company. I forget the name. Some sunroom
12 installer, Sun something.

13 I don't remember all the names, but, as I
14 said, what they were were cases that were filed as
15 confessions and then removed to federal court. And
16 we challenged them as improper removal. So none of
17 them progressed that far other than HMC and
18 Fleetwood because they were stuck in waiting for
19 motion practice and then decisions were made
20 remanding them. At that point, we were in the
21 middle of the pandemic.

22 Q. Okay. And did you have any other
23 representation in connection with Complete Business
24 Solutions Group?

25 A. Yes. In about February of 2020, as I

1 relayed before, the in-house counsel were
2 terminated, and Fox Rothschild was hired under a
3 separate fee agreement, again that was provided to
4 Mr. Alfano and Mr. Kolaya, where we took over the
5 function of filing confessions of judgment in the
6 City of Philadelphia for defaulted merchants.

7 So that ran from some point early
8 February 2020 through the time this case was filed.

9 Q. Anything else in connection with any
10 representation provided to Complete Business
11 Solutions Group?

12 A. As part of that engagement, which was all
13 defined in a fee agreement what it would be, we
14 would deal with defaulted merchants or making
15 modification agreements for merchants, potentially
16 settlement agreements with merchants. But the
17 primary representation dealt with that.

18 And then the other engagement that
19 occurred for Complete Business Solutions Group was
20 in March or April of 2020, in the heart of the
21 pandemic, we were asked to provide corporate
22 documents with respect to investors.

23 Q. What were you asked to provide?

24 A. We were asked to review the existing
25 promissory notes with investors. And we were hired

1 solely to do the corporate function of what was
2 later described by the securities counsel as an
3 exchange note process.

4 Q. So you drafted the offering documents for
5 the exchange note process?

6 A. I'm not sure exactly what offering
7 documents are, but I know that there was a
8 promissory note and a security agreement. When you
9 say "you," it wasn't me. I'm not a corporate
10 lawyer. But there were people at Fox Rothschild
11 that prepared the corporate pieces of it.

12 And then when you talked about offering,
13 that sounds more like something that prior to this
14 case I wasn't familiar with. But, as I said, there
15 was -- there was a securities lawyer that was
16 representing Complete Business Solutions that dealt
17 with, I think, what you're talking about, which is
18 the offering component or something like that.

19 Q. Who is that?

20 A. Phil Rutledge.

21 Q. He's not with Fox Rothschild; right?

22 A. No. Phil Rutledge is on his own firm. I
23 think the name of the firm -- don't hold me to it,
24 but I think it's Harrisburg, Pennsylvania. They
25 were the securities lawyer prior to Fox Rothschild's

1 engagement. I believe so, although I never spoke to
2 Phil prior to that limited window of time.

3 And as part of this, Phil was hired and
4 retained pursuant to a fee agreement to provide all
5 securities advice relating to what became known as
6 the exchange offer.

7 Q. But when you testified a few minutes ago
8 about in March or April of 2020 being retained to
9 prepare corporate documents for investors including
10 promissory notes, were you testifying about work
11 that Fox Rothschild did, or were you testifying
12 about work that Phil Rutledge did?

13 A. Well, what we were hired to do initially
14 was to review the existing agreements with
15 investors. And all of those documents were provided
16 us for the first time by Joe Cole. We
17 immediately -- we're dealing with Phil Rutledge.

18 So it was Fox Rothschild was working on
19 the corporate piece of it, and Phil Rutledge was
20 working on the securities piece. So we drafted, as
21 I just said, the corporate piece of those documents,
22 and Phil Rutledge then created and gave the
23 recommendation that this should be part of what
24 later would be called the exchange offer. So he
25 drafted that part of it. And these documents, I

1 believe, were attachments to that pile of documents.

2 Q. Okay. So setting aside Phil Rutledge who
3 is not with your firm, can you just explain to me
4 what Fox Rothschild did, not Phil Rutledge and not
5 an attorney at another firm, but what Fox Rothschild
6 did, what work you provided generally in connection
7 with the exchange offering so there's clarity on the
8 record?

9 A. I think I just answered. We provided and
10 drafted the corporate documents that were then used
11 by Phil Rutledge to create the exchange offer. And
12 by corporate documents, because I think I said this
13 before, it was, by my memory, a promissory note and
14 a security agreement. And obviously we were working
15 with Phil Rutledge.

16 I can't subtract from it. I mean, I'm
17 sure we dealt with Phil, you know, on however this
18 entire package would then come together. But you
19 can't look at one without the other because he was
20 doing the piece that I think was the securities
21 piece of it.

22 Q. Any other work Fox Rothschild has done in
23 connection with Complete Business Solutions Group?

24 A. I think that probably adequately describes
25 to my memory what we did.

1 Q. Okay. And so who is the -- I guess at a
2 law firm you said there's the relationship partner,
3 which is you. And whose client -- at Fox Rothschild
4 whose client is Complete Business Solutions Group?
5 Is it your client, or is there another partner?

6 A. Yeah. That's what I meant by the
7 relationship partner. And I would say they were
8 mine, yes.

9 Q. Okay. And you don't remember how it was
10 specifically that you came about being retained by
11 them or who the individual was at Complete Business
12 Solutions Group that initially retained you; is that
13 accurate?

14 A. Well, I don't think that was what I said.
15 What I said was I was introduced to the company by
16 Anthony Zingarelli. And the fee arrangement would
17 memorialize who signed that. And that was provided
18 over to Mr. Alfano and Mr. Kolaya. So I'm sure if
19 they have it or you have it, you can see who signed
20 it. But the introduction to the company generally
21 was Anthony Zingarelli.

22 Q. Right. You don't remember who at Complete
23 Business Solutions Group Mr. Zingarelli introduced
24 you to?

25 A. I'm not sure I was introduced to anybody.

1 We spoke with I'm sure someone from the collections
2 department at that time, although I don't remember
3 specifically. As I said, it wasn't me who did that
4 work. But I know generally what the work was, and I
5 would be on that phone call.

6 But it wasn't really an introduction to
7 anybody. It was we have these documents. Can you
8 take a look at these documents. We want to roll out
9 this new type of product that was part of their
10 portfolio of work they were doing.

11 Q. Before we sort of talk in more detail
12 about the various matters that Fox Rothschild worked
13 on for Complete Business Solutions Group, I wonder
14 if you could just briefly give an overview of your
15 educational and work history.

16 A. Sure. I went to George Washington
17 University and got a bachelor's in business
18 administration. And then I went to Rutgers
19 University for law school and a master's in business
20 administration. And I have worked at Fox Rothschild
21 my entire career, from a summer associate in 2005 to
22 the present.

23 Q. And you're a partner at Fox Rothschild;
24 correct?

25 A. I am a partner at Fox Rothschild.

1 Q. Okay. And do you have any other titles
2 within the firm?

3 A. Yes. I'm the co-chairman of the firm's
4 litigation department, and I'm a member of the
5 executive committee of the firm.

6 Q. So where is Complete Business Solutions
7 Group headquartered?

8 A. That's a legal question I don't know the
9 answer to. The office that I would go to if I had
10 to go in person was on Third Street in Philadelphia.

11 Q. Well, did you sign affidavits on behalf of
12 Complete Business Solutions Group as to where
13 Complete Business Solutions Group was located?

14 A. As I knew, they were located in
15 Philadelphia.

16 Q. Did you ever do any checking of any of the
17 corporate records to see where, in fact, Complete
18 Business Solutions Group identified its principal
19 place of business was?

20 A. Did I do checking? No, because I told you
21 where I went and what I knew. I do know at some
22 point in the litigations that I previously
23 described, which was probably pretty close to when
24 this case was filed, there was an issue raised at a
25 deposition about the principal place of business

1 versus where the company was.

2 And, as I said, that's a legal
3 determination that I have litigated not for Complete
4 Business Solutions Group, but for many clients.
5 When you're asking me where the headquarters or
6 nerve center, this is the United States Supreme
7 Court issue that's been addressed for 200 years. So
8 I can't answer the legal determination.

9 And I'm not aware of any legal
10 determination of, you know, what the headquarters is
11 or what the nerve center is or any other types of
12 things that your question implied.

13 Q. My question wasn't to imply anything. So
14 we're taking your deposition, Mr. Berman, in your
15 person capacity and we're not asking you for any
16 legal opinions or conclusions today. We're asking
17 you questions --

18 A. But I'm a lawyer. But I'm a lawyer. So
19 you ask me questions calling for legal conclusions.
20 Obviously I practice law every day of my life.

21 Q. I want the record to be clear, Mr. Berman,
22 so that you understand that you're being asked
23 questions in your individual capacity and you're not
24 being asked for any legal opinion about anything.

25 Do you understand that for the questions

1 going forward?

2 A. I do, but I'm a lawyer for the past 16 or
3 15 years. So when you ask me questions that have
4 legal conclusions, of course it's going to -- I will
5 answer you always that I cannot give you a legal
6 conclusion.

7 Q. And did there ever come a time where you
8 learned that Complete Business Solutions Group had
9 an office or a location in Florida?

10 A. I can't say for an office. I'm aware that
11 they have some office down -- I believe it was in
12 Palm Beach, but I've never been there. So I don't
13 know more than that. And as I said, this came up
14 right near the end of our representation at a
15 deposition, by memory.

16 Q. But you're not referring to a deposition
17 involving the SEC; correct? Was this --

18 A. No, no. Yes. I'm sorry. I didn't mean
19 to interrupt. Yes. I'm talking about prefiling of
20 this case.

21 Q. So I'm not asking you about another
22 deposition in another case. I'm just asking you for
23 your knowledge about matters and not what occurred
24 in other litigation or in other depositions, but
25 about your personal knowledge based on what you,

1 Brett Berman, know. Do you understand?

2 A. And I -- and I answered that. I only know
3 things because I was a lawyer. So I would find out
4 at a deposition, and that's the first I heard of
5 this distinction between Philadelphia versus
6 Florida.

7 Q. So am I understanding correctly that you
8 didn't know there was any sort of connection between
9 CBSG and Florida until it came up in a deposition in
10 another case?

11 A. That's correct. I mean, again, as I said,
12 I would -- I visited the office at Third Street in
13 Philadelphia. I do know at a deposition the issue
14 came up about whether it's a Florida corporation or
15 a Philadelphia, Pennsylvania corporation. But, as I
16 said, that's what I know. I learned questions at a
17 deposition about this topic.

18 Q. Okay. So when did that occur? When is
19 this deposition that you're referring to and in what
20 case?

21 A. It was one of either the HMC or Fleetwood
22 depositions. There were two depositions of Joe Cole
23 and two depositions of Joe LaForte. And at one of
24 those depositions, I remember questions being asked
25 of, I believe, Mr. Cole on this topic.

1 Q. Okay. And that was the first that you
2 knew there might be an office or principal location
3 of Complete Business Solutions Group in Florida?

4 A. That's the best of my memory. That's when
5 I recall. It could have been that I learned that
6 before, but I don't remember.

7 Q. Did Fox Rothschild provide any tax advice
8 to Complete Business Solutions Group?

9 A. To my knowledge, we provided no tax
10 advice.

11 Q. And did you ever become aware of any sort
12 of connection between Complete Business Solutions
13 Group and the State of Florida for tax purposes?

14 A. We didn't provide tax advice. So my
15 testimony previously about when I became aware of
16 this distinction between Philadelphia and Florida is
17 what I testified to previously.

18 Q. Understood. But did you ever become aware
19 of -- have you ever become aware of any issue
20 involving Complete Business Solutions Group
21 identifying Florida as a business location for tax
22 purposes?

23 A. I don't know what you mean by issue, but,
24 no, I'm not aware that that's an issue to this day.

25 Q. How many offices did Complete Business

1 Solutions Group have in Pennsylvania?

2 A. I can't answer that. But the two I knew
3 about, one was on Third Street. I believe it was 20
4 and 22 North Third. And I knew that building long
5 before Complete Business Solutions Group from prior
6 representation of the former owners. And an office
7 I think it was Arch Street, Second and Arch which I
8 only went to one time.

9 Q. And during the course of your
10 representation of Complete Business Solutions Group,
11 who did you understand to be the person who was
12 operating Complete Business Solutions Group on a
13 day-to-day basis?

14 A. Joe Cole was my primary point of contact
15 on the day to day, everything going on from a
16 financial perspective, getting information from him
17 or his team. Anthony Fazio was who I dealt with on
18 all of collection-type work.

19 I knew that -- you know, Joe LaForte I
20 dealt with with respect to specific issues on
21 specific merchants. Lisa McElhone, if there were a
22 question more about some corporate aspect, which is
23 fairly limited. And then really every single person
24 at the company at a higher level.

25 You know, as I said before, Tori I would

1 have to deal with on certain issues. There were a
2 team of collection people, Cory and Sam and another
3 woman. Those who we dealt with day to day every day
4 on issues relating to merchants.

5 Q. So is it your testimony that all the
6 people you just named were the individuals that you
7 understood to be running the day-to-day operations
8 at Complete Business Solutions Group?

9 A. I can't answer running day-to-day
10 operations as I didn't work there. I was handling
11 legal matters. So the question for me was who do I
12 need to obtain information from.

13 And the people I just identified in my
14 previous answer were the people I would obtain
15 information from. I don't really understand the
16 question beyond that.

17 Q. During the representation of Complete
18 Business Solutions Group, who did you understand was
19 the owner of the company?

20 A. Lisa McElhone is what I was told.

21 Q. And who told you that?

22 A. I believe I learned that either prepping
23 for one of the four depositions I told you about or
24 at the depositions. But there did become a time
25 later I saw documents to that effect.

1 Q. And did you have an understanding of
2 anyone else as the owner of the company?

3 A. No, I don't think so.

4 Q. What document did you see that reflected
5 that Lisa McElhone was the owner?

6 A. Well, that, I think, deals with a separate
7 engagement of individuals that are not -- they're
8 part of this case, but I think that starts to
9 implicate privilege.

10 Q. Oh. I'm sorry. I didn't realize that you
11 represented individuals as well. Tell me about what
12 individuals have you represented in connection with
13 Complete Business Solutions Group.

14 A. We were hired by Joe LaForte and Lisa
15 McElhone. I believe it was the summer of 2020
16 personally.

17 Q. After the SEC filed its case?

18 A. No, before the SEC filed the case.

19 Q. Tell me when was the firm retained.

20 A. I would say general ranges between April
21 and June of 2020.

22 Q. And the firm was retained by Lisa McElhone
23 and Joseph LaForte in their individual capacities?

24 A. Yes.

25 Q. And was that in connection with a

1 particular legal -- was it in connection with a case
2 or what kind of work was done?

3 MR. FUTERFAS: This is Alan Futerfas. I'm
4 going to object on the grounds of privilege.

5 MR. LEVITT: I'm mostly going to object on
6 the grounds privilege for the witness. The matter
7 did not involve work for Par Funding. It involved
8 something else, and he represented the individuals.
9 Objecting on the grounds of privilege.

10 MR. SOTO: This is Mr. Soto also objecting
11 on behalf of Mr. LaForte on the grounds of
12 privilege.

13 BY MS. BERLIN:

14 Q. Mr. Berman?

15 A. My attorney objected on the grounds of
16 privileged which means it's privileged.

17 Q. Does that mean you're going to refuse to
18 answer on privilege grounds what the general nature
19 of the representation was?

20 A. The general --

21 MR. LEVITT: I'll instruct you not to
22 answer on privilege grounds.

23 MS. BERLIN: We do need an answer from the
24 witness as to whether or not he's going to answer
25 the question so that we can provide this to the

1 court.

2 THE WITNESS: The answer is I will defer
3 to what my lawyer just instructed me.

4 BY MS. BERLIN:

5 Q. Are you still representing Lisa McElhone
6 and Joseph LaForte?

7 A. I would say the answer is no.

8 Q. And when did the representation conclude?

9 A. I would say that the representation
10 concluded when the receivership was expanded.

11 Q. But the receivership was not expanded over
12 Lisa McElhone and Joseph LaForte in their individual
13 capacities; correct?

14 A. Well, I'm not -- I can't say the effect of
15 an order, but what I would say to that is the
16 receivership was expanded, to my knowledge, to
17 affect everything that Ms. McElhone or Mr. LaForte
18 owned. So there was nothing to be representing them
19 about since everything is under the control of the
20 receiver.

21 BY MS. BERLIN:

22 Q. So have you represented anyone else in
23 connection with -- in their individual capacities in
24 connection with Complete Business Solutions Group?

25 A. No, I don't think so.

1 Q. And is the matter that you just testified
2 about in connection with Lisa McElhone and Joseph
3 LaForte the only time that you've represented them
4 in their individual capacities?

5 A. No. I don't think that's correct. In
6 some of the litigation, for instance, Dual
7 Diagnostics litigation, by memory, they were
8 individually named along with other actions I
9 believe that were pending in Philadelphia they were
10 individually named.

11 And so, no, again, that was a different
12 scope of representation. But I would say that I was
13 representing them as part of the Par
14 Funding/Complete Business Solutions Group umbrella
15 during a previous time.

16 Q. When? What time period?

17 A. At some point after the filing, after me
18 getting involved in the Fleetwood case until the
19 time you filed this case.

20 Q. So when is the -- what do you mean by --
21 what time period is the Fleetwood case? Can you
22 give us a range of when you're claiming you were
23 actually providing legal work for Lisa McElhone and
24 Joseph LaForte in their individual capacities?

25 A. Well, you kind of twisted my answer a bit,

1 so I can't really go by your sandbox of what you
2 just asked me. I'll say what I just said before.

3 They were sued personally in certain
4 cases. As part of the representation of the
5 company, they were subject to the representation I
6 was giving to the company. And so I don't know.
7 And as to Fleetwood, I think I answered that
8 previously, but it was at some point in mid 2019.

9 Q. Okay. So did Joseph LaForte and Lisa
10 McElhone, did they retain Fox Rothschild in their
11 individual capacities back in 2019?

12 A. I don't remember what the fee letter said,
13 but there was not a specific fee letter -- what may
14 have occurred is that it was -- a fee letter would
15 define who the defendants were in a case, but the
16 bills would be sent to CBSG because these were not
17 independent representations outside of the scope of
18 company.

19 Q. But my question you to was whether or not
20 Fox Rothschild represented Lisa McElhone and Joseph
21 LaForte in their individual capacities. And I'm
22 understanding your testimony to be, yes, in
23 connection with the Fleetwood -- in connection with
24 cases where they were named as defendants in CBSG
25 matters; is that correct?

1 A. I think that's what I just said.

2 Q. Okay. Just making sure. But am I also
3 understanding correctly that Lisa McElhone and
4 Joseph LaForte did not pay Fox Rothschild for that
5 representation, but instead Complete Business
6 Solutions Group paid for it?

7 A. That is correct.

8 Q. And you're not sure if Lisa McElhone and
9 Joseph LaForte signed any sort of retainer in their
10 individual capacities to retain Fox Rothschild; is
11 that correct?

12 A. I don't believe that occurred, other than
13 the fee agreements that were provided to Mr. Kolaya
14 and Mr. Alfano. I can't speak to anything more
15 specific. But, no, I don't believe so.

16 Q. Have you represented anyone else in their
17 individual capacity other than -- anyone else
18 connected with CBSG in their individual capacity
19 other than Ms. McElhone and Mr. LaForte?

20 A. I'm not sure exactly what that means. I
21 don't think so though.

22 Q. What about Wendy Furman, did you represent
23 her in her individual capacity?

24 A. She was a witness at a deposition. So she
25 was there as part of the company, but, no, I didn't

1 independently represent her.

2 Q. But you were her attorney during her
3 deposition; correct? You appeared as her attorney
4 when she was deposed?

5 A. I appeared as the company's attorney, and
6 she was an employee of the company. So I'm not sure
7 of the distinction. But I was there on behalf of
8 the company defending a deposition of an employee of
9 the company.

10 Q. But just so I understand, you represented
11 Wendy Furman not in her individual capacity, but as
12 an employee of the company as counsel for CBSG. But
13 when it came to Lisa McElhone and Joseph LaForte, in
14 2019, you were representing them in their individual
15 capacity. So it was not the same type of
16 representation you were providing for Wendy Furman;
17 is that accurate?

18 A. I'm not sure I could parse the way you
19 just did, but I gave my answer, and the answer
20 was -- I'll say it again just so we're not lacking
21 any clarity -- Joe LaForte and Lisa McElhone were
22 either sued personally in cases. And if they were,
23 we would then defend them as part of claims against
24 the company.

25 But I'm not aware, by my memory, of Wendy

1 Furman being personally sued. I dealt with Wendy
2 Furman as a -- she was noticed as a deposition in
3 either the HMC or Fleetwood case.

4 Q. Did you defend the depositions of any
5 other employees of Complete Business Solutions Group
6 at any time?

7 A. Joe LaForte, Joe Cole, Aida Lau and Wendy
8 Furman, that's who comes to memory.

9 Q. Anyone else?

10 A. I don't remember sitting here right now,
11 but I don't think so.

12 Q. Did you prepare Aida Lau for her
13 deposition?

14 A. I had a joint meeting with Aida Lau and
15 Wendy Furman and Joe Cole to prepare the three of
16 them for their depositions.

17 Q. And Joseph LaForte was there as well;
18 correct?

19 A. He may have popped his head in, but I
20 don't think he was really there. He could have been
21 there for a few minutes, but I don't think, by my
22 memory, he was there. I mean, I brought three
23 binders, and the three binders were for Joe Cole,
24 Aida Lau and Wendy Furman.

25 Q. Who else attended the prep session from

1 your law firm?

2 A. There were probably two different prep
3 sessions that we went for. There was the first
4 deposition of Joe Cole and Joe LaForte. And I
5 believe my former colleague, John Christman, may
6 have attended with me.

7 And at the second prep session -- second
8 or third because it was canceled at one point. So I
9 don't remember if there were two or three. There
10 was -- either John Christman was there or not there.
11 It may have been, as I'm saying, the second or
12 third. But that's who it would have been.

13 Q. Okay. And was there any associate other
14 than -- it was just -- John was there. But was
15 there any other associate who was present for the
16 prep sessions?

17 A. No, no, not to my memory. I don't think
18 so. I don't think so.

19 Q. Can you spell John's last name for the
20 court reporter, please?

21 A. Christ man.

22 Q. So I'm going to guess it's
23 C-H-R-I-S-T-M-A-N with one N; is that correct?

24 A. I think so. He's not here anymore though.

25 Q. Where is he now?

1 A. He's a pastor or in pastoral school. He
2 decided to join the seminary.

3 Q. So you prepared Aida Lau, Wendy Furman and
4 Joseph Cole for their depositions together in a prep
5 session where the three of them all attended; is
6 that accurate?

7 A. That sounds right, yes.

8 Q. Okay. And about when was this?

9 A. Right before the depositions. I couldn't
10 tell you the exact dates, but I think this was for
11 the HMC case, and that would lead me to believe it
12 was in late 2019, early 2020.

13 Q. So was the first prep session attended by
14 Ms. Lau, Mr. Cole and Ms. Furman? You said multiple
15 sessions.

16 A. Yeah. Okay. I'm sorry. The first prep
17 session, what I referred to before, was I believe
18 the Fleetwood case, which was first. And that was a
19 prep session of Joe Cole and Joe LaForte. That was
20 meeting one.

21 And then there were either one or two
22 meetings because, as I said, the deposition was
23 canceled. So it may have been a few months went by,
24 and I went and did a reprep or I went to prep. I
25 just don't remember specifically if it were two or

1 three. And the two or three are what you're
2 referring to, which was Joe Cole, Aida Lau, Wendy
3 Furman, and perhaps Joe LaForte popped his head in.

4 Q. And these prep sessions occurred at the
5 Complete Business Solutions Group office in
6 Pennsylvania?

7 A. Correct.

8 Q. And what did you understand Joseph
9 LaForte's role at Complete Business Solutions Group
10 to be beginning from when you first began doing work
11 for Complete Business Solutions Group?

12 A. And by first I think you're referring to
13 the limited 2018. I didn't know Joe LaForte, never
14 spoke to him, or Joe Cole for that matter, back
15 then. So it would be the only time I would start to
16 gain an understanding would have been in the 2019
17 into '20 representation.

18 And my understanding was that he was
19 involved for a company, Resources and Benefits,
20 which to me meant he was the originator of merchant
21 deals, certain merchant deals at CBSG. And he was
22 essentially a broker type role. So broker would be
23 someone who deals with the merchants on origination
24 of the MCA deal.

25 Q. Did you understand that he had any sort of

1 management position in connection with Complete
2 Business Solutions Group?

3 A. I don't think he had formal management
4 positions in that way. You know, the company was
5 pretty tiered out. And that's what I said before.
6 You had the collection arm, which was Anthony Fazio
7 and Tim. You had the accounting arm, which was Joe
8 Cole, Aida and others. You had the underwriting
9 team, which included -- or underwriting such
10 documentation, which was Wendy Furman and that
11 group.

12 And Joe LaForte was, you know, there
13 because, obviously, merchants were the life blood of
14 CBSG. So he had that function of knowing what
15 happened to form a merchant relationship and some of
16 the dealings with merchants as they either went good
17 or bad or new deals. So he was one of probably
18 multiple pieces of people I would talk to.

19 But I wouldn't say he dealt with the Joe
20 Cole side of finance and he didn't deal with
21 necessarily the Anthony Ronn Fazio side of the
22 collection arm.

23 Q. You testified that Mr. LaForte had no
24 formal management position. I'm not just speaking
25 about a formal management position. I'm talking

1 about as a practical matter or more informal. Did
2 he have any sort of role at the company where he was
3 managing any aspect of Complete Business Solutions
4 Group's operations?

5 A. I think my last answer is the same. I
6 mean, I definitely dealt with Joe LaForte at the
7 company. But everybody had their own silos of what
8 they did, and his was -- he could give me the
9 background on merchants. He could tell me what
10 happened at origination. He could tell me what
11 happened at a reload or the on-the-ground facts of
12 how the deal came to be and what the deal looked
13 like.

14 But he wouldn't deal with Joe Cole. I
15 won't say he didn't deal with Joe Cole. I'm sure he
16 did. But if I needed financial information, I
17 called Joe Cole or Aida Lau. If I needed collection
18 information, I called Anthony Fazio or one of this
19 people. I think that answers your question.

20 Q. It actually doesn't. I was just asking --
21 I wasn't asking about any -- I just asked a very
22 simple question, which was whether or not during
23 your time representing Complete Business Solutions
24 Group at any time you understood that Joseph LaForte
25 had any sort of management role, whether formal or

1 informal, in connection with Complete Business
2 Solutions Group.

3 And let me clarify. I mean in any aspect,
4 not necessarily finance. You're talking about all
5 these other people. I'm just asking about Joseph
6 LaForte.

7 Did you ever understand him -- during the
8 entire time you represented Complete Business
9 Solutions Group, did you understand him to have any
10 management role in connection with the company,
11 whether it was a formal management role or informal
12 management role? That's the only question I was
13 asking.

14 A. Well, you asked a lot of questions right
15 there.

16 MR. LEVITT: Object to the last question.
17 BY MS. BERLIN:

18 Q. Well, that's the third time I've asked it.
19 So I'm trying to provide to you --

20 A. But I've given you the answer. I mean,
21 you're asking me -- are you asking what I felt or
22 what I observed? And what I observed was -- I mean,
23 sure, I told you I dealt with Joe LaForte, but I
24 dealt with a lot of people there. And he was one of
25 the many people I dealt with and probably not the

1 most because I would deal with Anthony Fazio all day
2 every day. I would deal with Joe Cole.

3 But Joe LaForte was -- yeah, I mean, he
4 was involved in the mix. No doubt about it. But he
5 was the merchant guy. So I would deal with him on
6 questions like, as we said, about HMC, like what
7 happened with Kara DiPietro. How did this
8 relationship come to be? How did it go bad? I
9 would deal with Joe LaForte on that type of topic
10 because he helped originate it. He had a
11 relationship. And he was able to describe to me
12 what happened in the entire process.

13 BY MS. BERLIN:

14 Q. So during the time you represented
15 Complete Business Solutions Group, did Joseph
16 LaForte have a management role, whether formal or
17 informal, in connection with the merchant
18 agreements?

19 A. Not the agreements. I don't think he was
20 an agreement guy like that. He had other people
21 from his own team who would do the agreements, like
22 Wendy Furman, for instance. She was the one who, to
23 my knowledge, would document a lot of these deals,
24 especially for HMC. And I know that from her
25 deposition.

1 But he was someone who dealt with
2 originating a merchant. So, yeah, I mean, clearly
3 that has a big piece of CBSG since their money was
4 made or lost by merchants. But I don't think I can
5 answer --

6 Q. I'm sorry. You broke up. Mr. Berman,
7 your answer was cut off, at least on my end. I
8 don't know if the court reporter heard the end of
9 what he was saying.

10 MR. LEVITT: We lost you, Brett. We lost
11 your audio feed.

12 THE WITNESS: Can you hear me now?

13 MS. BERLIN: Yes.

14 MR. LEVITT: Yes, we can.

15 THE WITNESS: I'm sorry. For some reason,
16 my line went dead. Let me just hang up on my other
17 line because it just went dead on me. Hold on. I'm
18 back.

19 BY MS. BERLIN:

20 Q. So did Mr. LaForte have any -- did you
21 understand during your representation of Complete
22 Business Solutions Group that Mr. LaForte had any
23 sort of management role in connection with Complete
24 Business Solutions Group in any aspect of the
25 company?

1 MR. FUTERFAS: This is Alan Futerfas. I'm
2 going to object. I think this is about the eighth
3 time that the exact same question has been asked and
4 answered. So I'm going to lodge an objection.
5 Thank you.

6 THE WITNESS: I stand by my last answer.
7 I've answered this. If you want to ask a different
8 question, I could answer, but I've answered this
9 question.

10 BY MS. BERLIN:

11 Q. So are you refusing to answer --

12 A. No.

13 Q. -- the question of --

14 A. No.

15 Q. -- whether or not he had management
16 exper -- whether or not he had a management role?

17 You testified about what Joseph Cole did,
18 what other people did, and about what -- that Joseph
19 LaForte had some involvement in the merchant
20 origination. But you haven't answered the question
21 I'm going to ask. This is the fifth time. But the
22 transcript will reflect it. It's pretty simple.

23 During your entire representation, did you
24 understand that Joseph LaForte had a management
25 role, whether formal or informal, in connection with

1 any aspect of Complete Business Solutions Group?

2 MR. FUTERFAS: I maintain -- Alan
3 Futerfas. I maintain the same objection. That same
4 question has been asked a number of times. It has
5 been answered very thoroughly by the witness. Thank
6 you.

7 THE WITNESS: So just to be clear, because
8 I'm absolutely not refusing to answer, so let's not
9 put words in my mouth. I'll tell you when I'm not
10 going to answer.

11 And the answer is, again, Joe LaForte's
12 role as I knew it was dealing with merchants. So
13 when it came to dealing with merchants, Joe LaForte
14 was someone I absolutely dealt with regularly on
15 specific merchant questions or issues about --
16 dealing with -- you know, if there was an interplay
17 with the collection piece with Anthony Fazio.

18 But you're asking me was he a manager. I
19 mean, he was clearly doing that. And he did a lot,
20 I mean, but I don't -- I don't -- I can't answer
21 your question any better than I've answered it five
22 times now.

23 BY MS. BERLIN:

24 Q. Okay. So in connection with whether or
25 not you understood him to be a manager of the

1 company, formally or informally, your answer is just
2 that if you had a matter concerning a merchant
3 issue, that you would contact him. That doesn't
4 answer the question about management.

5 And so if you refuse to provide an
6 answer -- and it could be that you don't know. But
7 whether you understood that he was providing a
8 management role, not what happened to the company he
9 was in, not who you would call sometimes. It's a
10 very specific question.

11 MR. LEVITT: Excuse me, Mr. Berman.

12 BY MS. BERLIN:

13 Q. We just want to make sure the transcript
14 is clear so that if we ask the court for assistance
15 in getting an answer, that we don't later learn that
16 you were willing to continue to actually answer the
17 question posed.

18 MR. FUTERFAS: Amie, I object. This is
19 Alan Futerfas. I object to everything you said. I
20 represent a litigant here. You are asking -- this
21 witness has given you detailed factual information,
22 which a deposition is for. He's answered your
23 question 12 times.

24 You're mischaracterizing his testimony in
25 every way, shape and form. I have nothing further

1 to say except that I think your comments are
2 misplaced. Thank you.

3 MR. LEVITT: May I speak for the witness
4 for a moment. Peter Levitt.

5 MS. BERLIN: You can make an objection if
6 you like.

7 MR. LEVITT: I'll tell you what.

8 MS. BERLIN: If he's going to answer,
9 that's great. And if he's not going to answer the
10 question posed, then we'll move on.

11 THE WITNESS: We're going to let my lawyer
12 speak for a second. How about that.

13 MR. LEVITT: Would you allow me to speak,
14 Ms. Berlin?

15 MS. BERLIN: I am not going to preclude
16 you from speaking on this transcript.

17 MR. LEVITT: I know what's appropriate.
18 Ms. Berlin, I know what's appropriate in a
19 deposition and what isn't appropriate. You don't
20 have to teach me that.

21 MS. BERLIN: I wasn't trying to do that.
22 I'm sorry. I was just trying to point out to you
23 that you don't have to (indecipherable), that you'll
24 have an opportunity through any sort of litigation
25 process to address this. But by all means, you can

1 speak as much as you like. I'll give you an
2 opportunity to just talk.

3 MR. LEVITT: I think I'd like to take a
4 sidebar with Mr. Berman to see if we can -- if I can
5 help clarify this issue.

6 MS. BERLIN: Sounds good.

7 MR. LEVITT: And get you what you need. I
8 think he has answered the question. Let's go off
9 record. I'd like to confer with my client for just
10 a minute since this seems to be an important
11 question for you.

12 MS. BERLIN: Sure. And why don't we --
13 actually, I was going to ask if we could take a
14 personal break soon. So why don't we do that now.
15 Why don't we take -- let's take 15 minutes. And you
16 can confer. And everyone can take a break. We'll
17 become back on at like 11:25. All right. Sounds
18 good. Thank you.

19 THE VIDEOGRAPHER: And we're going off the
20 record at 11:09 a.m.

21 (Recess from 11:09 a.m. to 11:28 a.m.)

22 THE VIDEOGRAPHER: And we're back on the
23 record at 11:28 a.m.

24 BY MS. BERLIN:

25 Q. Mr. Berman, is there anything that you

1 wanted to add in connection with your answer to the
2 question of whether or not during your time
3 representing CBSG, whether Mr. Joseph LaForte had
4 any management role in connection with Complete
5 Business Solutions Group?

6 A. Yeah. So what I would just further add is
7 similar to what I said before. The company, as I
8 knew it, was broken up into various subparts,
9 collections, finance, underwriting. Joe LaForte I
10 dealt with, you know, primarily on the merchant
11 relations and the deal.

12 And as to your specific questions about
13 whether that means he was the manager of the
14 company, I don't know the answer to that question.

15 Q. Did you understand that he was managing
16 that merchant relations aspect of the business?

17 MR. FUTERFAS: Objection to form.

18 THE WITNESS: As I understood it is how I
19 heard him to testify to it in the HMC and Fleetwood
20 cases, which was that he worked for a company,
21 Resources and Benefits, and they were essentially a
22 third-party broker that worked out of the
23 neighboring connected office space that originated
24 the deals.

25 So that's what I knew his role was. But

1 that had a fairly large role for dealing with
2 merchants because that was the function of the
3 company, merchants. So that's how I understood his
4 role at the company, in that way.

5 BY MS. BERLIN:

6 Q. At any time did you meet with any
7 investors of Complete Business Solutions Group?

8 A. Never.

9 Q. What about any potential investors?

10 A. Never.

11 Q. What about any of the individuals who had
12 set up investment firms that were raising money in
13 connection with Complete Business Solutions Group?

14 A. To my knowledge, never.

15 Q. Did you ever review any marketing
16 materials that were in connection with Complete
17 Business Solutions Group?

18 A. Never.

19 Q. Did you ever provide any legal advice
20 about whether or not disclosures to potential
21 investors were adequate with respect to Complete
22 Business Solutions Group?

23 A. The answer is no, never. But what I would
24 say is that as part of what came to be called the
25 exchange offer, there was discussions with Phil

1 Rutledge where he gave the opinions as to what
2 disclosures would be required. That would be the
3 only discussion or discussions I'm aware of on top
4 of when the Texas Securities Board filed the claim,
5 the Cease and Desist Order, if that's what it's
6 called. Haynes & Boone was representing them on
7 that securities piece.

8 And I was involved in discussion with
9 Haynes & Boone where the general topic came up in
10 light of the allegation in that suit or in that
11 administrative proceeding.

12 Q. Okay. So my question was just whether you
13 provided any legal advice concerning the
14 disclosures.

15 A. I did not provide legal advice concerning
16 the disclosures.

17 Q. Okay. Did anyone at Complete Business
18 Solutions Group ever seek your legal advice in
19 connection with the disclosures being made to
20 investors or potential investors?

21 A. The answer is no, not -- the only time
22 that ever came up with me or Fox Rothschild would
23 have been as part of what became known as the
24 exchange offer where there were discussions about
25 what would be in that disclosure document. But

1 prior to that, zero.

2 Q. Okay. So with respect to the exchange
3 note offering, and I assume you're talking about the
4 April 2020 offering where investors were asked to
5 exchange their promissory notes for notes that
6 offered a lower interest rate paid with a later
7 maturity date.

8 Is that what you're referring to when you
9 talk about the exchange offering?

10 A. I can't describe it the way you just
11 described it because it sounded like things -- I
12 can't -- I do know that there was a promissory note
13 that modified terms of other promissory notes. But
14 the rest of it, I'm not sure I can answer your
15 question.

16 Q. Well, why don't you tell us -- why don't
17 you explain what the exchange offering is that you
18 referred to in your testimony.

19 A. I think I did before twice, but I'll do it
20 again. We, Fox Rothschild, was engaged to review
21 the existing promissory notes that were in effect at
22 the time, in March or April of 2020 when we were --

23 Q. I don't think you understood my question
24 correctly. I just want to make sure the transcript
25 is clear.

1 When you refer to the phrase -- so I'm not
2 asking what work you did. But when you used
3 exchange note or exchange offering, can you just
4 clarify for the record what that means, not the work
5 you did, but the phrase that you're using, what that
6 means, exchange note or exchange offering?

7 A. Got it. Understood. My apologies. So as
8 I said before, Phil Rutledge called it an exchange
9 offer, and it was the document that would, I guess,
10 go to investors that enclosed a lot of disclosures
11 and certain things and the corporate documents that
12 Fox Rothschild prepares.

13 Q. So is the exchange offering, is that an
14 offering that occurred in about April of 2020?

15 A. If exchange offering is the correct way to
16 describe it, yes, that's what I was referring to.
17 And that was my testimony when I talked about the
18 exchange -- what Phil Rutledge called the exchange
19 offer, yes, in April or May 2020. But prior to
20 that, nothing.

21 Q. And so during the exchange offering, just
22 to be clear -- I was a little confused. My question
23 was just whether anyone at CBSG asked you for legal
24 advice, not what discussions you had with other
25 lawyers. But just did anyone at CBSG ask you for

1 legal advice concerning the disclosures that needed
2 to be made?

3 MR. FUTERFAS: I'm going to object as
4 asked and answered. I believe that question was --
5 Alan Futerfas. I believe that question was asked
6 before and answered completely before. Thank you.

7 THE WITNESS: And with that objection, I
8 will answer it again, but I did answer it before. I
9 was involved in phone calls with Joe LaForte, Joe
10 Cole and maybe others and Phil Rutledge where that
11 discussion was had with me present on the phone
12 where Phil Rutledge gave them advice as to what
13 needed to be disclosed.

14 But I'm not a securities lawyer ever,
15 don't know it. And I'm surely not someone who would
16 be giving legal advice about what needs or need not
17 be disclosed nor would they ask me.

18 BY MS. BERLIN:

19 Q. So if I understand correctly, no one at
20 CBSG asked you for legal advice about disclosures
21 that should be made, but you were present when they
22 received legal advice from a lawyer outside your law
23 firm; is that correct?

24 A. Right. The answer to your question is
25 yes, but, you know, Phil was hired to do the

1 securities work. So there could have been a
2 question that I was on that was -- by email, too, by
3 the way. And that was all turned over in response
4 to Mr. Soto's subpoena.

5 And I remember seeing communications about
6 that topic. But I can't say they were asking me.
7 They knew that I wouldn't be the one who would say
8 disclose or don't disclose. They were looking to
9 Phil Rutledge and were asking questions about what
10 needed to be disclosed.

11 Q. So I just need to clarify, and I'm sorry
12 to do this, but I'm not asking about Phil Rutledge
13 right now. I'm just going to try one more time to
14 see if we can get a direct answer.

15 Did anyone -- and if you could just listen
16 to the question asked. I'm not asking about Phil
17 Rutledge and what advice he provided and I'm not
18 even asking what you provided. I'm just asking the
19 simple question of whether anyone at CBSG asked you
20 for legal advice about the disclosures being made to
21 investors regarding the CBSG investments.

22 MR. FUTERFAS: I'm going to object as
23 asked and answered. So I object to form. Thank
24 you.

25 THE WITNESS: The answer is I was on at

1 least one telephone where CBSG asked the general
2 question, Joe LaForte and Joe Cole. They didn't
3 say, Phil, can you answer or, Brett, can you answer.
4 But Phil answered. So I can't say no. They did ask
5 the question. But I can't say it was me because
6 they knew I wouldn't be the guy who has any idea
7 about securities advice.

8 BY MS. BERLIN:

9 Q. I now understand. So this was a
10 conference call, and because they didn't direct the
11 question you to or Phil, but it was just generally
12 posed, Phil Rutledge was the one who answered; is
13 that correct?

14 A. That is correct.

15 Q. Okay. And other than that conference call
16 where the question was posed generally without
17 identifying whether it was being asked of you or
18 Mr. Rutledge, was there any other time when you were
19 even possibly asked for legal advice about the
20 disclosures?

21 A. The answer is yes. When the Texas
22 securities issue arose, I was on telephone calls,
23 multiple, with both Haynes & Boone, Phil Rutledge
24 and myself where Joe Cole asked the question about
25 whether or not there needed to be more disclosures

1 or whether the disclosures were adequate.

2 And again, just like I said before, he
3 didn't pose it to me, but he didn't say kit at
4 Haynes & Boone or Phil at Bybel Rutledge, here's the
5 question. He just posed the question.

6 And one further. One further. There was
7 another telephone call where Joe LaForte
8 participated and posed a similar question generally
9 to Haynes & Boone, generally to Phil Rutledge, and
10 Haynes & Boone -- by memory, it could have just been
11 Phil, but I think they were on that call and just
12 talked generally about what disclosures were
13 required. But that was in light of the Texas
14 Securities Board allegation that there were not
15 enough disclosures.

16 Q. So why was Joseph LaForte on a call with
17 counsel if he was working for this separate entity
18 that handled the merchant accounts? Was the
19 separate entity where Mr. LaForte was employed, was
20 that also your client?

21 A. No. It was not my client, Resources and
22 Benefits. But the allegations of disclosure, some
23 of the allegation of disclosure related to the
24 nondisclosure of litigation, and that was a primary
25 focus of the inquiry regarding -- I think it was the

1 Fleetwood case involving the Texas Securities Board.

2 And, therefore, as I said before, Joe
3 LaForte would have specific knowledge about merchant
4 cases and what the allegations were. So that's why
5 Joe LaForte would be involved, because that was a
6 big component of what they claimed was not
7 disclosed, Fleetwood.

8 Q. I'm sorry. Are you saying the Texas case
9 involved the failure to disclose the Fleetwood
10 litigation? Am I understanding that correctly?

11 A. By memory, I'm pretty sure that was one of
12 the allegations, that there was a nondisclosure of
13 either a lot of litigation or specifically the
14 Fleetwood litigation because that was a Texas-based
15 case. And I'm pretty sure, although now you just
16 made me doubt myself a little bit, that that was
17 absolutely at issue.

18 Q. Did Mr. LaForte ever direct your legal
19 work for CBSG?

20 A. It's the same I said before. I dealt with
21 Joe LaForte on matters involving merchants, and I
22 had constant communication with him about merchants.
23 But that overlapped with all the litigation I was
24 handling because all of the -- not all, but 98
25 percent of the litigation involved merchants. So I

1 absolutely dealt with Joe LaForte about those cases
2 because of the merchants.

3 Q. Okay. So I'm not asking if you dealt with
4 him. I'm asking if he ever directed your legal work
5 that you did for CBSG.

6 MR. FUTERFAS: Objection. Asked and
7 answered.

8 THE WITNESS: Joe LaForte, because of the
9 role he had involving merchants, was involved in
10 settlements. So if you're including settlements or
11 potential settlements, Joe LaForte would be involved
12 because he had direct knowledge of exposure and
13 topics related to that involving specific merchants.

14 So I didn't look at it as directed, but he
15 was absolutely a client person that I spoke to about
16 to get information.

17 BY MS. BERLIN:

18 Q. Okay. So if you needed to get from, like,
19 your clients feedback on whether or not to enter
20 into a settlement in connection with any of these
21 cases where you were representing CBSG, which
22 individual in connection with CBSG would have the
23 authority or tell you, yes, we'll settle or, no, we
24 won't? Who was that person at CBSG?

25 A. So at the outset of my representation, it

1 was general counsel. Pete Mulcahy was the primary
2 point of contact. I would say post general counsel
3 being terminated or leaving, I would then deal
4 primarily -- I mean, there were a lot of people
5 involved in that, but Anthony Fazio was the direct
6 point of contact on a day-to-day basis who would
7 help me get information as to whether or not it was
8 settleable and amount.

9 But Joe Cole was intimately involved.
10 Aida Lau would provide that and help me guide as
11 to -- it all came down to numbers, by the way,
12 right, so it's numbers. And Joe LaForte was in the
13 discussion as well.

14 Q. And so Aida Lau is one of the people at
15 the company who had authority to tell you whether or
16 not, like, the terms of a settlement were
17 acceptable. Am I understanding that correctly?

18 A. Well, Aida Lau was someone who got me
19 numbers every single day. And the company was based
20 on numbers, right. So the way it would be looked at
21 would be -- remember, my role expanded to deal with
22 all the confessions in February of 2020.

23 So Aida Lau was someone I dealt with every
24 day. And the numbers are what mattered. So is a
25 settlement offer in excess of the exposure plus rate

1 of return. And, therefore, Aida was intimately
2 involved in that process of helping guide us towards
3 whether or not it was a settleable matter, yes.

4 Q. But ultimately did you have to get a
5 client approval on a settlement in connection with
6 CBSG?

7 A. Yeah, but most of the litigation, the real
8 heavy litigation in the Eastern District of
9 Pennsylvania did not settle. And the settlements
10 occurred every day, all day with merchants all over
11 the country. And that was run through many people,
12 but primarily it was Anthony Fazio, Anthony Ronn
13 Fazio who was the head. And he would delegate who
14 could answer is it a deal that the company would
15 take.

16 But Joe LaForte was involved. Joe Cole
17 was involved. Aida was involved and lots of other
18 people in collections.

19 Q. Was your contact with CBSG primarily
20 through email or some other method?

21 A. Email, telephone calls and meetings,
22 although, remember, most of my heaviest role, which
23 is when the role was expanded in February of 2020,
24 occurred corresponding to the pandemic.

25 So I would say it became in that window of

1 time, February of 2020 to the takeover, I mean the
2 closedown based in July, end of July, it was
3 primarily telephone calls and emails, maybe one
4 meeting in that entire period.

5 Q. How many times have you been to the CBSG
6 offices in Pennsylvania?

7 A. I would say maybe -- definitely under ten,
8 but probably about five.

9 Q. And so in connection with the exchange
10 note offering in April of 2020, what was the advice
11 that Phil Rutledge gave concerning the disclosures
12 that needed to be made for that offering?

13 A. Everything that was disclosed was what
14 Phil Rutledge recommended. That was the scope of
15 disclosures recommended.

16 Q. Did Phil Rutledge express that they needed
17 to disclose the Texas regulatory matter?

18 A. I think if that was in there, it was Phil
19 Rutledge's recommendation to disclose it. And by
20 memory, there was an Exhibit A or an exhibit
21 something that was prepared primarily by Phil
22 Rutledge which disclosed the issues that had
23 occurred, both obviously Texas being the pending
24 matter and New Jersey and Pennsylvania. So that was
25 at the advice of Phil Rutledge, yes.

1 And I just want to clarify. I can't give
2 the ultimate conclusion about whether Phil Rutledge
3 said that it needed to be disclosed, but he
4 recommended, you know, that if disclosures are going
5 to be made in light of what happened in Texas,
6 disclose everything. And that was his
7 recommendation. Everything that was in there was at
8 Phil Rutledge's recommendation.

9 Q. Did Aida Lau work with -- like did she
10 work with Joe Cole at Complete Business Solutions
11 Group?

12 A. That was my understanding, yes.

13 Q. Okay. And what about with Mr. LaForte?

14 A. Not -- I mean, did they know each other
15 and say hi and maybe get information relating to
16 merchants? Yes. But my understanding was Aida Lau
17 worked for Joe Cole.

18 Q. Okay. But did you understand that she
19 also worked with Joseph LaForte on matters?

20 A. No. I mean, she was in accounting, and
21 that was Joe Cole's complete domain.

22 Q. Did she know who Joseph LaForte was at the
23 office?

24 A. Of course. Everybody knows who Joe
25 LaForte was. He originated merchant deals, and the

1 entire company was based on merchants.

2 Q. And what about Wendy Furman, did she work
3 with Joseph LaForte?

4 A. I don't know. She was, to my knowledge --
5 and I didn't know Wendy well except for the HMC
6 case. I had nothing to do with underwriting.
7 That's not something I dealt with. So I learned in
8 the HMC case that she dealt with or was the head of
9 underwriting the files, but that's the extent of my
10 dealing with Wendy Furman.

11 Q. When you prepared Wendy Furman and Aida
12 Lau for their deposition testimonies in the private
13 litigation against Complete Business Solutions
14 Group, did you advise them to avoid answering
15 questions about Joseph LaForte's involvement in the
16 company?

17 A. No. Joseph LaForte's role in the company
18 dealing with the merchants was public knowledge.
19 He's on all the emails that we were showing them
20 because Wendy and Aida had very specific roles in
21 HMC because they dealt with Kara DiPietro
22 personally. And Joseph LaForte was in all those
23 emails.

24 What we did was we showed them a book of
25 emails, and Joe LaForte was on them. So I don't

1 think that could even be possible.

2 Q. So did you direct Wendy Furman to answer
3 that she didn't know in response to questions about
4 Joseph LaForte during her sworn testimony?

5 A. I don't ever direct a witness how to
6 testify. So if what you're asking is when I showed
7 emails to her that she was on and Joe LaForte was
8 on -- I don't know what you mean by direct because I
9 helped prepare witnesses for testimony. I don't
10 direct anything.

11 Q. Well, in preparing Wendy Furman for her
12 testimony, did you advise her or indicate in any way
13 to her that she should answer that she didn't know
14 when asked about Joseph LaForte?

15 MR. FUTERFAS: Object to the form of the
16 question. I have no idea, Ms. Berlin, what
17 testimony you're referring to, what question, what
18 specific answer you're referring to. So I object to
19 the form. Thank you.

20 BY MS. BERLIN:

21 Q. Mr. Berman, just to make sure, to help
22 Mr. Futerfas, you testified previously that you were
23 the counsel for CBSG in defending a deposition where
24 Wendy Furman was the witness and that you prepared
25 her for her testimony; correct?

1 A. Correct. That's the HMC case involving
2 Kara DiPietro. And the answer is no, because that
3 would be impossible. She was on emails with Joe
4 LaForte. We went through the emails that she
5 exchanged with Kara DiPietro, many of which involved
6 Joseph LaForte and Aida Lau and Joe Cole.

7 So I don't even know how that could be
8 possible when we were showing her emails involving
9 Joseph LaForte.

10 Q. So to be clear, is it your testimony
11 that -- I want to be clear because I think I asked
12 you a question, and then I clarified for
13 Mr. Futerfas. I'm going to ask the question so we
14 can make sure that it's clear on the transcript what
15 question you're answering.

16 So just going back to the deposition of
17 Wendy Furman in the HMC case, when preparing
18 Ms. Furman for that testimony, did you in any way
19 indicate to her that she should answer that she did
20 not know in response to questions concerning Joseph
21 LaForte and his involvement with CBSG?

22 MR. FUTERFAS: I object to the form.
23 Excuse me. I object to the form. I interpose my
24 objection. I object to the form because your
25 question, Ms. Berlin, assumes a certain question and

1 answer. You're not quoting from the record. So I
2 for one am lost as to what the question actually is
3 because I don't know what Ms. Furman said with
4 respect to one question or another.

5 Anyway, my objection is there. I object
6 to the form. Thank you. Sorry for the delay.

7 THE WITNESS: So the answer is I don't
8 remember every word of our discussion, of course.
9 It was from a year ago. But I absolutely could not
10 have told her "Say you don't know who Joe LaForte
11 is" because he's on emails with her with Kara
12 DiPietro. That's nonsensical.

13 If what you're referring to is that "I
14 don't know" is a perfectly acceptable answer at a
15 deposition if you truly do not know, that could have
16 been because that's a standard thing I tell
17 witnesses. "You shouldn't guess at questions. If
18 you don't know or if you don't understand, you
19 should tell the questioner you don't know or you
20 don't understand."

21 But your implication of not knowing Joe
22 LaForte when Joe LaForte is on the emails that were
23 being shown to her, exchanged with Kara DiPietro at
24 HMC and their CFO is impossible.

25

1 BY MS. BERLIN:

2 Q. Similarly, did you ever indicate in any
3 way during these prep sessions with Ms. Wendy Furman
4 that she should testify that she did not know about
5 Mr. LaForte's involvement with work done in
6 connection with Complete Business Solutions Group?

7 MR. FUTERFAS: Object to the form. I
8 object to the form. Same objection I lodged before.
9 Thank you.

10 THE WITNESS: Yeah. Same answer. That's
11 impossible because we brought a book of emails for
12 her that Joe LaForte was on. So I don't even
13 understand the scope of the question.

14 BY MS. BERLIN:

15 Q. The scope of the question is I'm asking if
16 during that prep sessions or at any time before
17 Ms. Furman testified in the HMC case, did you
18 indicate to her in any way that she should testify
19 under oath that she did not know when she was asked
20 questions about Joseph LaForte?

21 MR. FUTERFAS: Same objection. I have to
22 lodge my objection. I'm sorry, Mr. Berman. It's
23 Alan Futerfas. I'm objecting to the form. I'm
24 objecting that it's been asked and answered about
25 five times. Thank you.

1 BY MS. BERLIN:

2 Q. You said you were confused, Mr. Berman, so
3 I'm trying to explain what I was asking about.

4 A. You're asking me the same question for the
5 fifth time, and my answer stands.

6 Q. Okay. So your answer was that it would be
7 impossible. So does that mean no, you did not
8 indicate to Ms. Furman that she should answer that
9 she did not know in response to questions about
10 Joseph LaForte?

11 MR. FUTERFAS: Objection.

12 THE WITNESS: That's impossible.

13 MR. FUTERFAS: Objection to the form of
14 the question. And I reiterate in full my prior
15 objections to this line. Thank you.

16 THE WITNESS: The answer is the prep of
17 Ms. Furman was reviewing a booklet of documents that
18 we received in discovery, and Joe LaForte was on so
19 many of those communications that the premise of
20 your question that we could ignore that Joe LaForte
21 is on the communication is just impossible.

22 BY MS. BERLIN:

23 Q. I'm not asking about what documents there
24 were. I'm asking if you ever, you, Brett Berman,
25 ever indicated to her -- I'm not asking about the

1 documents you showed her or book or anything else.

2 I'm just asking something else.

3 I'm asking: Did you indicate to
4 Ms. Furman that she should answer "I don't know"
5 when asked about Joseph LaForte? I'm not asking
6 about all the other things you've been testifying
7 about.

8 MR. FUTERFAS: Ms. Berlin, I object to the
9 form. You've asked the same question. The witness
10 is a seasoned lawyer, understands the question, has
11 answered the question repeatedly. So I object to
12 the form and reiterate my prior objections. Thank
13 you.

14 THE WITNESS: Yeah. I've now answered
15 this five times.

16 BY MS. BERLIN:

17 Q. Mr. Berman, just to be clear, no one is
18 asking about the documents you showed or anything
19 else. I'm asking a very simple, I think very direct
20 question.

21 Did you or did you not indicate to
22 Ms. Furman how she should testify and indicate to
23 her that she should claim that she didn't know
24 anything about Joseph LaForte's involvement at CBSG?
25 Did you --

1 MR. FUTERFAS: Same objection. Thank you.

2 BY MS. BERLIN:

3 Q. Did you indicate that or not? And then we
4 can move on.

5 MR. FUTERFAS: Same objection. Same
6 objection. Asked and answered. I've lodged my
7 objections. Thank you.

8 THE WITNESS: The answer is I have no
9 recollection of giving any advice like you're
10 talking about, and I stand by my previous answers.

11 BY MS. BERLIN:

12 Q. So you don't recall whether or not you
13 indicated that to Ms. Furman?

14 A. No.

15 MR. FUTERFAS: Objection to the form of
16 the question.

17 THE WITNESS: You heard my -- I can't
18 clarify the answer any more than I have. The answer
19 is not I don't recall. It's impossible of what
20 you're asking because the deposition prep was solely
21 about going through the documents to refresh her
22 recollection on the entire transaction
23 (indecipherable) all of those communications and
24 that was our meeting.

25 So I don't have any recollection of

1 telling Ms. Furman to say you don't know who Joe
2 LaForte is when he's on all of the emails or a
3 significant amount of the emails we're talking
4 about.

5 BY MS. BERLIN:

6 Q. And you understand that my question wasn't
7 just about whether she knew who Joseph LaForte was,
8 but I also asked you if you indicated to her she
9 should answer "I don't know" when asked about Joseph
10 LaForte's role at Complete Business Solutions Group.
11 You understand that?

12 MR. FUTERFAS: Same objection. Asked and
13 answered probably the tenth time. All of us
14 understand your question, Ms. Berlin. You've asked
15 it multiple times. It's been answered multiple
16 times. That's my objection. Thank you.

17 THE WITNESS: No. I have no recollection
18 of instructing Ms. Furman in any such way.

19 BY MS. BERLIN:

20 Q. What about Ms. Lau, did you indicate to
21 her that she should answer questions with "I don't
22 know" if she was asked anything about Joseph LaForte
23 and his role and involvement at Complete Business
24 Solutions Group?

25 A. Ms. Lau's prep was with Mr. Furman and

1 Mr. Cole. Anything I've said about Ms. Furman is
2 also applied to Ms. Lau.

3 Q. So the same answer, that you don't recall?

4 A. That's not my answer. My answer was all
5 of what I said, and I have no recollection of ever
6 giving such advice.

7 Q. So you have no recollection. You don't
8 recall if you gave that advice. And you didn't
9 answer whether or not you did, but you, in fact,
10 testified that it just would have been impossible.
11 So I just want to make sure that I'm understanding
12 correctly. If I am not, then this is your
13 opportunity to clarify.

14 MR. FUTERFAS: Object to the form of the
15 question. The question is argumentative. So I
16 object. Thank you.

17 BY MS. BERLIN:

18 Q. Is there anything you want to clarify,
19 Mr. Berman?

20 A. I've given you my answer now maybe eight
21 times. I stand by my answer.

22 Q. Okay. Is there anything that you wanted
23 to clarify so that the complete picture is provided?

24 A. The complete picture has been provided.

25 Q. Did there come a time when you became

1 aware that Joseph LaForte had a criminal record?

2 A. Yes.

3 Q. When did you become aware of that?

4 A. The day the representation expanded in
5 2019.

6 Q. So the 2019 expansion, was that in
7 connection with the Fleetwood litigation?

8 A. Yes.

9 Q. And so what did you learn in 2019
10 concerning Mr. LaForte's criminal record?

11 A. That he had a criminal conviction.

12 Q. Did you learn what it was for?

13 A. Not day one, but definitely early on
14 because it was something that was raised in the
15 various cases.

16 Q. When you say the various cases, do you
17 mean the litigation against Complete Business
18 Solutions where you were the counsel for CBSG?

19 A. I wouldn't describe it that way because,
20 as I said before, these were confessions of judgment
21 where merchants had judgments against them for
22 millions of dollars and were raising defenses and/or
23 counterclaims to try to get out of the judgments.
24 So as to that part, I can't agree with you.

25 But as to the actual question, yes, in

1 those cases where there was litigation involving
2 CBSG involving certain merchants, it was public
3 knowledge that Joe LaForte had a criminal
4 conviction.

5 Q. Okay. When you say those cases, you're
6 talking about -- are you talking -- tell me which
7 cases are you referring to where you learned details
8 about the criminal conviction. Can you identify
9 them?

10 A. Fleetwood. When it was raised in the
11 Fleetwood case in 2019, either I was provided
12 documents by the lawyer on the other side or we ran
13 an independent search and I knew exactly what the
14 convictions were for.

15 Q. Okay. So in the Fleetwood case at some
16 point in 2019, it was raised by your opposing party
17 in the Fleetwood case that Mr. LaForte had a
18 criminal conviction. Am I understanding correctly?

19 A. Probably in my first phone call with him.

20 Q. Okay.

21 A. This was public knowledge. Everybody knew
22 he had a criminal conviction.

23 Q. What is the basis for you saying everybody
24 knew that Joseph LaForte had a criminal conviction?

25 A. He didn't hide it from anybody. Every

1 single person at CBSG knew it. You just ran a
2 search on Joe LaForte on Google, and I think it was
3 the second thing that popped up, a mugshot of him.

4 When I learned -- when I met Joe LaForte,
5 which I didn't until this 2019 period, I probably
6 searched Par Funding on Google and I searched Joe
7 LaForte and Joe Cole, which is part of what I do. I
8 saw the criminal conviction from the first
9 significant engagement.

10 Q. Okay. And how do you know that everyone
11 at CBSG knew about Joseph LaForte's criminal
12 conviction?

13 A. Because there was no hiding it. I mean,
14 remember, we were involved in constant litigation.
15 And in every single case that was of significance,
16 not just in the Eastern District of Pennsylvania,
17 but in the South Coast case in California to various
18 cases that were filed in Florida and Texas and
19 wherever else these things were occurring, every
20 opposing counsel, it was the first thing they said.
21 A guy associated with Complete Business Solutions
22 has criminal convictions.

23 It was involved in every communication.
24 There were so many communications that everybody
25 knew it because it was just raised by counsel in all

1 these cases all over the country.

2 Q. Okay. And so it was raised in the
3 litigation, and so that's the reason why you think
4 that everyone at Complete Business Solutions Group
5 knew?

6 A. Sure. I'll tell you. It was not only
7 raised in litigation, but, remember, we were
8 involved and saw lots of communications from
9 merchants and from lots of counsel around the
10 country that would send emails to all the collection
11 people. So that was a huge portion of this
12 business.

13 And frequently their defense would be you
14 have a criminal associated with you named Joe
15 LaForte or Joe Mack and, therefore, we're not
16 paying, usury, RICO.

17 I mean, it was part of a defense for
18 nonpayment. So those communications would involve
19 the entire finance department, Aida Lau, the entire
20 collections department, all of the people,
21 underwriters. I mean, it was -- it was -- that's
22 how people, merchants defended against not paying.
23 So everybody I ever spoke to knew Joe LaForte had a
24 criminal conviction.

25 Q. Understood. So it wasn't just from the

1 pleadings. But also there were communications
2 happening from like the merchants to the individuals
3 who were working in connection with CBSG where they
4 were raising this; is that right?

5 A. Correct. Correct.

6 Q. Because I was going to ask you were they
7 circulating the pleadings in the litigation matters.
8 But it sounds like there's more correspondence --

9 A. I'll tell you why. I'll tell you why.
10 There were two cases, South Coast in California,
11 which is before my time and we just handled the
12 appeal portion of it, and Fleetwood where these
13 issues were raised.

14 And it wasn't very hard to just do a
15 Google search or search them out, and you'd see
16 these opinions that talked about the criminal
17 conviction. And, therefore, every single person who
18 touched the merchant cash advance world and dealt
19 with Complete Business Solutions thought they had
20 this smoking gun that Joseph LaForte had a criminal
21 conviction.

22 Everybody knew. He didn't hide it. He
23 was very open about his criminal conviction. It was
24 the furthest thing from a secret for anyone having
25 anything to do with Complete Business Solutions.

1 Q. Okay. So all of the employees and anyone
2 who is working at Full Spectrum or Complete Business
3 Solutions Group, they all -- this was -- you believe
4 it was common knowledge amongst all of them that
5 Joseph LaForte had a criminal record?

6 A. Absolutely, yes.

7 Q. Now, Joseph LaForte, would he communicate
8 with you using one of his aliases, either Joe Mack
9 or Joe Macki?

10 A. Or Joe LaForte. I mean, I knew him as Joe
11 LaForte. You know, again, from very early on, one
12 of my first things with him was dealing with
13 Fleetwood where this issue was raised. And I didn't
14 communicate with anybody but Joe LaForte because
15 that was his name. I knew that from the day I met
16 him in 2019. He was Joe LaForte. He went by Joe
17 LaForte.

18 Q. So he wasn't communicating with you as Joe
19 Mack or Joe Macki?

20 A. Well, he had emails that had Joe Mack on
21 it, but he also had Joe LaForte. So to me I knew
22 his name was Joe LaForte from the second I got
23 involved in 2019.

24 I heard allegations in all of those cases
25 about aliases and things. But I knew Joe LaForte,

1 and I said probably the first day I met him in 2019,
2 I ran a Google search on him and the second article
3 that came up was his criminal conviction and
4 mugshot. So I always knew he was Joe LaForte.

5 Q. And you got his mugshot by Googling the
6 name Joe LaForte; right?

7 A. I think it was the second thing that came
8 up. Or Joe Mack. I don't -- again, I only knew him
9 as Joe LaForte. So I would be surprised if I
10 Googled Joe Mack.

11 Q. Well, Mr. LaForte, he would email you
12 using his Joe Mack email address with his Joe Mack
13 signature block on his email. Do you remember that?

14 A. I do. But I told you from day one I knew
15 who Joe LaForte was.

16 Q. I understand. I was just asking if you
17 recall that he would communicate --

18 A. Yes.

19 Q. -- using an email address that identified
20 him -- where he identified himself as Joe Mack and
21 had a signature block that said Joe Mack or Joe
22 Macki.

23 A. I'm sorry. You're right. I don't
24 remember the signature block, so I can't answer
25 that. But, yes, one of his emails was Joe Mack.

1 Q. Did you ever ask him why he used the name
2 or the email address Joe Mack to identify himself?

3 A. I can't say I asked him, but he was
4 deposed very early on in the Fleetwood case when I
5 got really involved and met him. It was very short
6 into the representation, and he was asked that
7 question at a deposition, and he answered it.

8 And his answer was essentially he goes by
9 Joe. And if he's dealing with certain merchants,
10 it's just easier to use a short name so they're
11 not -- I don't remember exactly what the testimony
12 said, but he gave that explanation like very early
13 on in the representation.

14 So it was nothing that I really had a
15 discussion with him about because I heard him
16 testify to it.

17 Q. So you heard him testify, and you never
18 asked about it yourself?

19 A. He testified to it, and he gave the answer
20 under oath. So I didn't have any reason to ask him
21 why he goes by names. Because I'll tell you a lot
22 of clients I know use their middle name or use some
23 abbreviation where they have long names. A lot of
24 immigrants use the shorter names.

25 So it wasn't something that like jumped

1 off the page at me because I always knew of him as
2 Joe LaForte.

3 Q. In the cases where you were representing
4 Complete Business Solutions, there were allegations
5 that Mr. LaForte was utilizing an alias in order to
6 conceal his criminal record; correct?

7 A. I don't know if that was the exact
8 allegation. So I can't say correct to what you
9 said. But there was discussion that Joe LaForte had
10 a criminal record. So I think that answers your
11 question.

12 Q. Okay. So I just want to make sure your
13 testimony is clear that you never asked Mr. LaForte
14 about his use of the alias and why. Your only
15 knowledge is based on hearing him testify in
16 connection with a question posed by your opposing
17 counsel during a deposition?

18 A. No. I'm sorry. Thank you for refreshing
19 my memory by asking further. I prepped him for the
20 Fleetwood deposition, and this was an allegation in
21 the case. So I had the direct discussion with him
22 in preparing him for his deposition as to why he
23 went by Joe Mack.

24 But he didn't only go by Joe Mack. So I
25 asked him why his email said Joe Mack, and he said

1 it was just easier for merchants to understand and
2 easier for merchants to just have a simple name.

3 Q. Were you aware that he used names other
4 than Joe Mack and Joe LaForte?

5 A. Not that I remember.

6 Q. What about Joe Macki?

7 A. I don't remember any distinction between
8 Joe Mack and Joe Macki.

9 Q. Did you ever ask Mr. LaForte whether he
10 used the alias to conceal his true identity so
11 people didn't Google him and didn't find out about
12 his criminal record?

13 A. Well, I asked him why he used the alias.
14 I just told you. But further, in the Fleetwood case
15 and others, South Coast and others, there were these
16 allegations of criminal-type conspiracies. And I
17 think part of it was -- his answer to me at the time
18 and at his deposition was, by my memory, was they
19 associate -- they always try to throw, like, LaForte
20 is a Mafia felon.

21 And, therefore, Mack was just a lot more
22 neutral, and, therefore, he would use a name that
23 people didn't start associating with how you search
24 CBSG. Because there was a lot of sites in the
25 merchant cash advance business. And that was the

1 answer that I got.

2 Q. Okay. But my question was whether you
3 ever directly asked him whether he used an alias or
4 used a different name in order to conceal his real
5 name so people wouldn't find out about his criminal
6 record.

7 Did you ever ask him? I understand the
8 other things you talked about. But I'm just asking,
9 like yes or no, did you ever ask him whether or
10 not --

11 A. Yes.

12 Q. -- he used the alias to conceal the
13 criminal record?

14 MR. FUTERFAS: I object to the form. That
15 exact same question was asked and answered. Thank
16 you.

17 THE WITNESS: But to answer again, I
18 prepped him very early on for the Fleetwood case
19 where I asked him why he uses the name Joe Mack, and
20 I told you why. And I remember him being asked at
21 the deposition do you do it to conceal you have this
22 criminal record. And his answer was no.

23 So I didn't -- that's my answer. I don't
24 know how to answer any better.

25

1 BY MS. BERLIN:

2 Q. I understand. You just talked about what
3 opposing counsel asked. I'm asking you: Did you,
4 Brett Berman, ask him whether or not he uses an
5 alias so that people don't -- in order to help
6 conceal his criminal record. I'm not asking about
7 what (indecipherable).

8 A. Sure, sure.

9 Q. I'm not asking about a first prep session.
10 I'm just asking a very direct question.

11 Did you or did you not ask him directly
12 yourself whether or not he used an alias to conceal
13 his criminal record? And I don't mean verbatim
14 using those words. But did you ever inquire about
15 that subject?

16 A. The answer is I asked him why he used Joe
17 Mack on his emails, because it was something raised
18 in the case. And he gave me the answer, which I
19 think is the exact same thing you're asking. I
20 didn't ask: Are you trying to hide a criminal
21 background? I said, "Why do you use Joe Mack?"

22 MR. FUTERFAS: Objection to the form of
23 the question. Object to the form of the question.

24 THE WITNESS: I knew about the criminal
25 record. We discussed the criminal record at that

1 same dep prep session because I was preparing him
2 for his deposition.

3 BY MS. BERLIN:

4 Q. My question is: You didn't poke further
5 to ask him whether he used the alias to conceal his
6 criminal record; correct?

7 MR. FUTERFAS: Objection to the form of
8 the question.

9 THE WITNESS: I didn't use the exact words
10 you're saying, but I've adequately described me
11 asking him both about his criminal record and about
12 the use of the name Joe Mack.

13 MS. BERLIN: I think this is a good time
14 to take a break. Let's take a lunch break. And
15 we'll go off the record.

16 THE VIDEOGRAPHER: And we're going off the
17 record at 12:14.

18 (Recess from 12:14 p.m. to 1:15 p.m.)

19 THE VIDEOGRAPHER: And we're back on the
20 record at 1:25 p.m.

21 BY MS. BERLIN:

22 Q. Mr. Berman, did you participate in any
23 collections efforts on behalf of Complete Business
24 Solutions Group?

25 A. Yes.

1 Q. And what collection efforts did you engage
2 in?

3 A. Starting in February of 2020 -- well, it
4 could have been some minor issues on specific cases
5 before, but we were involved in the filing of
6 confessions of judgment, and we worked out deals and
7 related efforts on collection in that February to
8 July 2020 period.

9 Q. How many confessions of judgment did you
10 file approximately?

11 A. I don't know the exact number, but my
12 educated guess would be a hundred or so.

13 Q. And approximately how much were those
14 confessions of judgment seeking in total?

15 A. I don't know the exact number because I
16 never added it up. There were some larger ones. So
17 I just can't give the exact number. I'm sorry.

18 Q. And how much were you able to collect?

19 A. Significant amounts of money because
20 not -- I don't know the exact number. I'm sorry.
21 But there were a lot of deals made based on
22 confessions that were filed to do modification
23 agreements, and that led to collection of money.

24 Q. Okay. Can you give an approximation? Was
25 it in the range of a million, tens of millions,

1 hundreds of million?

2 A. Definitely more than a million, but not
3 hundreds of millions. I'm sorry. I don't know the
4 exact number. I never added it up.

5 Q. Okay. And like approximately what
6 percentage -- of the confessions of judgment that
7 you filed, approximately what percentage of those
8 did you win in court?

9 A. Confessions are not a win or loss. You
10 file a confession, and that's a statutory notice
11 that goes out under -- excuse me -- a
12 Philadelphia -- excuse me -- a Pennsylvania Rule of
13 Civil Procedure notice that goes out giving 30 days
14 to petition and/or open, or it's a final judgment.

15 I would say the hundred'ish or more,
16 whatever the number exactly is, 98 percent of them
17 are not challenged.

18 Q. And so were you able to collect on about
19 98 percent of those confessions of judgment, whether
20 it was the amount in the confession of judgment or a
21 modified amount?

22 A. We made deals, I would say, which we
23 called modification agreements or Par Funding called
24 modification agreements on significant percentages
25 of the ones that were filed by us.

1 And just one point of clarification
2 because it goes greater than what we filed. In
3 February of 2020, we were entered in older
4 confessions of judgment that were filed by in-house
5 counsel or others, and we entered into many
6 modification agreements on those older deals but not
7 ones we filed in, if that makes sense.

8 Q. And so who made the decisions about the
9 modification agreements and how much to accept from
10 a merchant as a modification from the amount
11 initially owed?

12 A. If it were less than 100 cents on the
13 dollar, face of the MCA deal, my primary point of
14 contact was Anthony Ronn Fazio, but there were
15 obviously discussions with Joe Cole -- discussions
16 and decisions made by Joe Cole, Aida Lau, Joe
17 LaForte to weigh in with respect to the merchants he
18 was involved with.

19 So it was not one person making a
20 decision. It was multiple people giving input to
21 try to get the highest value.

22 Q. And so, ultimately, who was the decision
23 made by? Was it made by, like, collectively between
24 Anthony Fazio, Joe Cole, Aida Lau and Joseph
25 LaForte?

1 A. And others, because there were instances
2 where we were dealing with -- as I said I think
3 before, Anthony Ronn had a counterpart that started
4 sometime in the pandemic. I think his name was Tim.
5 So he was a decision-maker in that process.

6 And then depending on the specifics of the
7 default, there were also, you know, collection
8 people who would make a decision because not all of
9 these were very large. So all of the people you
10 named and then other people in the collection
11 department and/or the -- Tori Villarose would weigh
12 in on things. So it was really depending on the
13 type of deal and what was at issue.

14 Q. How would you go about it if there was
15 going to be a modification agreement? Would you
16 email all of those people, or did you have regular
17 meetings with a group of people at Complete Business
18 Solutions Group? How did this work?

19 A. Yes. There were no regular meetings like
20 that, but it was a constant phone
21 call/email/discussion chain. And on larger matters,
22 I would send, you know, an update every day or every
23 few days about, you know, status.

24 Q. And who would you send the status updates
25 to?

1 A. I'm sorry. What did you say, Ms. Berlin?

2 Q. I apologize. I didn't realize you weren't
3 finished. Go ahead.

4 A. No, no. I was. I cut you off. I
5 apologize.

6 Q. Who would you send the status updates to?

7 A. Typically depending on the type of issue,
8 it would be Joe Cole, Anthony Ronn, Aida Lau, Joe
9 LaForte, Tim when he got involved, general counsel
10 when they were involved. So it really varied on
11 what it was and what the topic was. Various. I
12 mean, it was emails all day every day.

13 Q. And what about Lisa McElhone, was she
14 someone that you'd consult about the modification
15 agreement?

16 A. No, not on a standard modification. I
17 would not consult with Ms. McElhone.

18 Q. And did someone from Complete Business
19 Solutions execute modification agreements on behalf
20 of Complete Business Solutions Group?

21 A. Yes, and I think that was primarily
22 Mr. Ronn.

23 Q. Did Joseph Cole ever execute them?

24 A. Yes. I'm sorry. Yes. You're absolutely
25 right. Joe Cole would also execute modification

1 agreements and other documents.

2 Q. Would anyone else execute the modification
3 agreements other than Mr. Ronn and Mr. Cole?

4 A. There's a chance Ms. McElhone did or her
5 sister, Jamie McElhone.

6 Q. Okay. Anyone else?

7 A. Not to the best of my knowledge.

8 Q. Were there specific guidelines in place
9 for determining what the company would accept as a
10 modification?

11 A. It depended on each and every merchant
12 relationship and the history of it, but on the
13 whole, they were never under -- none that I can
14 remember. I don't want to say never because that's
15 too broad. There was so many. Never that were
16 below the advanced amount plus a return on
17 investment.

18 So just to give you an example of that,
19 let's say there was a \$150,000 agreement, MCA deal
20 that was on the face of the paper. It would never
21 be -- let me just clarify -- 150,000 on the face of
22 paper, but 120,000 was advanced. It would never be
23 under any circumstances, to my recollection, less
24 than the principal amount, i.e., the amount that was
25 advanced by Complete Business Solutions plus, by

1 memory, on the whole it was around a 30 percent
2 minimum return.

3 Q. So at 30 percent of the amount that was
4 provided with the merchant cash advance?

5 A. The amount that was advanced by CBSG to
6 the merchant. So that amount, which is not
7 principal, but the principal amount just for this
8 discussion plus a return on investment of about
9 30 percent of that number at a minimum.

10 And most of the modification deals,
11 however, were not writing off or anything like the
12 question implies. It was getting under a new deal
13 with new payment terms. So there could be some
14 upfront advance plus an amount of money paid out
15 over time.

16 Q. And were the modification agreements
17 collected upon?

18 A. Yes, I mean, in the sense that -- so I
19 would get involved if there was a default. I
20 wouldn't know about nondefault with rare exception.
21 And we would do a modification agreement. And most,
22 if not all, were then paying out through the time
23 because it wasn't that long of a time.

24 So I can't tell you were there
25 modifications that then defaulted. Very rare to my

1 recollection. But most modification deals kept the
2 confession of judgment in place pending a payout on
3 the modification deal. So it wasn't that you had to
4 refile a confession most of the time. It would be
5 that they perform under the terms of the
6 modification deal.

7 Q. But do you know -- do you have any
8 knowledge of the success rate that CBSG had
9 collecting under the modification agreements?

10 A. To my knowledge, it was pretty close to a
11 hundred percent.

12 Q. And what is that knowledge based on?

13 A. Based on the fact that if they were not
14 performing under the modification agreement, it
15 would be back to me in a default status. And I
16 can't remember any that came back to me
17 post-modification.

18 Q. So is it an assumption that they were at a
19 100 percent level of collection, or do you actually
20 know that it was about 100 percent collection?

21 MR. FUTERFAS: Objection to the form of
22 the question. Asked and answered.

23 THE WITNESS: It's an educated reason I
24 gave the answer, but I can't tell you that I
25 reviewed the books and records. And I would need to

1 review the books and records today obviously to
2 answer your question.

3 But during the time I was involved up
4 until the case was filed, I cannot remember any
5 instances where those modification deals were not
6 lived up to by the merchant.

7 BY MS. BERLIN:

8 Q. And that understanding is based on the
9 fact that you were not asked to take any
10 additional -- make any additional collection efforts
11 in connection with the modification agreements. Am
12 I understanding you correctly?

13 A. Yes. It was based on that fact and it was
14 based on the fact that -- for instance, there were
15 some larger ones, like, by memory, a merchant called
16 OXY Media based in California who owed -- don't hold
17 me to the exact number -- but let's say a million
18 dollars by rough numbers under the modification
19 deal, and it was a three-payment deal.

20 And prior to the receivership -- well, no.
21 Prior the receivership, there was one payment made
22 on that for a large chunk of money. Then during the
23 receivership I had communications with Mr. Kolaya
24 and/or Mr. Alfano where I told them that second
25 payment was coming. And it's my understanding that

1 it came in.

2 So I can't tell you about the third
3 payment. But I think I answered your question. But
4 if I didn't, sorry, I got lost in my own answer.

5 Q. It's okay. I was trying to understand for
6 all of the modifications. The only question I had
7 was whether or not -- I was just clarifying your
8 testimony about the 100 percent collection rate on
9 the modification agreements is not based on a review
10 of the financial records, but is based on the fact
11 that you weren't asked to make any further
12 collections efforts?

13 A. Right. And I would get regularly from
14 Mr. Cole or someone under his staff a default list
15 of people, merchants that were in default. And it
16 was a very long list because lots of merchants
17 obviously. And I don't remember seeing any of those
18 on the default list post-modification.

19 And one further point of clarification
20 just on this and why I have an educated opinion is
21 that, remember, my role in this collection domain
22 was February of 2020 until July of 2020, and that
23 was in the heart of the pandemic.

24 And, therefore, the company made lots of
25 deals with merchants, and they weren't the full

1 payment stream that were on the face of the
2 document. They were modifications that were met --
3 that were reached by working very closely with each
4 of the merchants to find a method that would avoid a
5 default scenario moving forward, and they were done
6 with the basis of finding a deal and giving the
7 merchant some room to breathe in the pandemic.

8 Q. When did that process begin?

9 A. Which process?

10 Q. The process that you were discussing about
11 during the pandemic trying to reach agreements with
12 merchants to modify so that there would not be a
13 default. Approximately.

14 A. I'm sorry. That happened from the first
15 day I got involved in February. But obviously, the
16 pandemic had an impact on this and every other
17 company in the world. And my educated watch of the
18 outside was that they were really trying with
19 merchants to make deals for the people who couldn't
20 pay because they didn't want default scenarios
21 either.

22 It was to try to work with the merchants
23 because a lot of these merchants are longtime
24 multiyear customers. And the goal always was of Par
25 Funding to not have litigation, but to actually find

1 a way to bring in the money.

2 Q. So you testified about the modification
3 agreement. I understand when you use the word
4 principal, you're just talking about the amount that
5 is provided to a merchant by CBSG as the merchant
6 cash advance.

7 A. Correct.

8 Q. So if I use the same word just for
9 simplification purposes, I'm not using it in any way
10 other than like referring to the amount that was
11 provided by CBSG to a merchant at the advanced
12 figure. Do you understand?

13 A. Okay. I do.

14 Q. So I understand your testimony that
15 modifications were never agreed to that were the
16 principal, as we're using that term, plus 30
17 percent.

18 What would the -- how much of a discount
19 was that typically from the amount that the
20 merchants owed under the merchant cash advances?

21 A. So those are really kind of two separate
22 concepts. The modification deals that we did
23 without any exception that I can recall sitting here
24 today were a hundred percent deals in that they were
25 face amount of the merchant cash advance agreement,

1 just the modified payment stream.

2 On the ones I was talking about, and I may
3 have confused the answer, it was on -- there were
4 cases or merchants that a deal was made to
5 essentially walk away from the relationship, and
6 that's what I was referring to, where it was, you
7 know, a hundred percent of the advanced amount plus
8 some rate of return.

9 So they're kind of two separate concepts
10 that could overlap, but modifications were nearly
11 hundred percent deals.

12 Q. Understood. And just to make sure that
13 I'm clear, the modifications typically were not
14 agreed to unless it was the amount initially funded
15 plus a 30 percent return on the amount funded. Did
16 I understand correctly?

17 A. Again, just two different concepts,
18 Ms. Berlin. That's why I'm struggling with the
19 answer. Because modification deals were pretty
20 universally face value of the paper amount with
21 limited exception.

22 A settlement agreement let's call it, a
23 walk away from the relationship may involve some
24 reduction on the face amount of the MCA paper, but
25 that was more the exception, very minor exception,

1 versus the rule of modifications with daily or
2 weekly payments.

3 Q. Okay. So if I understand
4 correctly because I'm just -- you testified about
5 the 30 percent figure. So I'm just trying to
6 understand.

7 Was it the case that it was typically the
8 amount that was funded to the merchant plus a 30
9 percent return, but there were some exceptions when
10 it would have been less than that?

11 A. It's actually reversed. The typical was a
12 hundred cents on the dollar of the MCA paper. The
13 exception would be there would be no resolution but
14 for some abnormality ever below the amount advanced
15 plus some rate of return.

16 Q. Okay. And so on the merchant cash advance
17 papers, what was like the average amount, like
18 percentage of return that merchants were supposed to
19 pay?

20 I understand in a settlement context, it
21 could be -- the exception could be 30 percent
22 return. But what was it typically or on average
23 what was the percentage that the merchants would
24 have owed on the paper?

25 A. I don't know if I can give an average

1 because I didn't do a statistical analysis. But
2 what I would say to answer your question is that the
3 face of the paper typically had a multiple I
4 think -- I haven't looked at the document in a year,
5 but I think it was like 1.4 or 1.25 or 1.3, and I
6 think that tied to your question because that, I
7 think, is, you know, 25 to 40 percent returns or
8 something like that.

9 I can't tell you I remember. I don't
10 remember exactly, so I don't want to guess, but it
11 was -- that's my answer. I don't think I could
12 answer better than that.

13 Q. Were you ever asked for any legal opinion
14 about whether or not the merchant cash advances were
15 usurious?

16 A. We weren't asked for a legal opinion in
17 the sense that you're asking, like a client asking
18 can you give us a formal legal opinion. We didn't
19 do that. I wasn't asked to. But we filed a lot of
20 briefs in court addressing the legality of the
21 merchant cash advance business and the fact that
22 they were not usurious or loans or anything of the
23 sort.

24 Q. Understood. I'm not asking about what was
25 filed in court. I'm just asking you about legal

1 advice that was provided to Complete Business
2 Solutions Group about the way they were operating
3 and whether you were asked for that legal advice.

4 A. I was not.

5 Q. Okay. At any point did you advise anyone
6 at Complete Business Solutions about whether or not
7 it was legal for them to charge merchants the amount
8 that was being charged under the merchant cash
9 advances?

10 A. Did you say was I asked? I'm sorry.

11 Q. No. Did you provide legal advice about
12 that?

13 A. No. The answer is no, other than
14 defending against the lawsuits that were -- or the
15 lawsuits or counterclaims or whatever they may be
16 challenging that fact, because when we got involved
17 in this part of it in February of 2020, obviously
18 this company had been around for six years and the
19 merchant cash advance business had been around for a
20 very long time. So we were not asked, nor did I
21 provide that.

22 Q. Okay. Now, you used -- earlier in your
23 testimony you referred to default.

24 What do you mean by that? You testified
25 about that you would have been advised if a merchant

1 cash advance was in default or if a modification was
2 in default. What do you mean by default?

3 A. I didn't have a definition. What I meant
4 by that, I didn't have a definition of default
5 because that wasn't my decision or anything.

6 What would happen would be we would get an
7 email from Cory in that department or Sam, or I
8 forget the other person's name. And they would say
9 the following merchants are in default. Please run
10 a conflict check. If the conflict check comes back
11 clear, we need to move forward with a confession of
12 judgment. So I would know it from that sense.

13 Q. I believe you testified that you would
14 receive a default list from -- was it from Joseph
15 Cole?

16 A. I can't promise you it was from him
17 personally, but it was something that was maintained
18 by his department, and it was either sent by him or
19 sent by someone else under him.

20 Q. And so when was a company deemed to be in
21 default for purposes of having you file a case?

22 A. I cannot answer the question because I
23 only got the end result. I didn't weigh in on what
24 was a default or not a default. So I don't know.

25 Q. Well, your pleadings in the CJ cases, you

1 plead that, did you not, that a certain merchant is
2 in default based on certain facts, and you attached
3 an affidavit from Complete Business Solutions laying
4 out why an entity is in default? Isn't that right?

5 A. I would, but we would -- I don't remember
6 sitting here now if the confession would say there
7 were multiple balances or some more reason. I don't
8 think that's what it is.

9 I think what you plead is that there is a
10 default on the paper and they have not cured it, and
11 that's what's pled. I don't remember there being
12 more, but I could be wrong.

13 Q. Did you have a role in deciding which of
14 the merchants was in default?

15 A. No.

16 Q. So if Joseph Cole testified in this case
17 that you made those decisions or participated in
18 making those decisions, how would you respond to
19 that assertion?

20 A. I didn't --

21 MR. FUTERFAS: Object to the form. Object
22 to the form.

23 THE WITNESS: I was not involved in the
24 decision-making process of which merchants were in
25 default. So I don't -- I would be surprised if he

1 said that, but maybe -- who knows. That's not how
2 it worked.

3 BY MS. BERLIN:

4 Q. So would it be -- if there was testimony
5 in this case from Joe Cole that you would decide
6 what was in default based on your relationship with
7 opposing counsel and the status of negotiations
8 regarding loans and that you would sort of advise
9 about what merchant cash advances should be deemed
10 in default, I mean, is that accurate?

11 A. I was not involved. I was not involved in
12 the process of calling merchants into default or
13 making the decision about who was in default. I
14 wasn't even privy to that information.

15 MR. FUTERFAS: I object to the form of the
16 question. There are different definitions of
17 default used by the company and by lawyers. And
18 Ms. Berlin knows that. So in my view, we are using
19 two different definitions of default operating at
20 the same time. So I object to the form of the
21 question.

22 BY MS. BERLIN:

23 Q. Did anyone at Complete Business Solutions
24 Group ever ask you to identify any merchant cash
25 advances that you believed should be held in default

1 in any definition of that word?

2 A. Did they ask me if I -- I don't believe
3 so, Ms. Berlin.

4 Q. Did anyone at Complete Business Solutions
5 Group consult you about various merchant cash
6 advances to obtain your opinion on whether specific
7 merchant cash advances could be collected upon?

8 A. I mean, that was kind of my role, right,
9 to collect, to file and collect. So, yes, I would
10 say they consulted with me about, you know, the
11 ability to collect on certain files, yes, of course.

12 Q. Did you ever understand that your
13 responses to any inquiries about which merchant cash
14 advances, that your responses were utilized as the
15 basis for Complete Business Solutions Group
16 identifying merchant cash advances or some in their
17 accounting?

18 MR. LEVITT: Object to the form.

19 THE WITNESS: No, no, because I didn't
20 have anything to do with accounting like that. And
21 the system that I walked into in February 2020
22 didn't get changed. So I just took on a role, but I
23 didn't modify the way they did business for the six
24 years prior.

25

1 BY MS. BERLIN:

2 Q. Did you ever have any understanding that
3 any sort of status updates about the merchant cash
4 advances that you were working on collections on,
5 that those status reports were utilized in any way
6 for Complete Business Solutions Group's accounting?

7 A. I didn't have that understanding with one
8 exception. At one point I was asked by Mr. Cole to
9 advise as to the potential exposure on the Fleetwood
10 case pretty early on in the representation, and I
11 sent a detailed email. I can't tell you the exact
12 words, but I remember it being a detailed email
13 laying out potential exposure because that was the
14 first potential class action I had handled for them.

15 Other than that, no, I didn't weigh in on
16 anything to do with the accounting, to the best of
17 my memory.

18 Q. And were you ever asked by anyone at
19 Complete Business Solutions Group about the exposure
20 rate of any merchant cash advance other than
21 Fleetwood?

22 A. I think I would say that there were
23 probably general discussions, not specific, about
24 all of those litigations I was talking about in the
25 Eastern District of Pennsylvania, but I don't

1 think -- it was not as detailed as what I told you
2 about Fleetwood.

3 That was a specific email that I was asked
4 to give it. I think it was for the accounting
5 reason, but I don't know. It was to Mr. Cole. So I
6 think the answer is no, not that I recall.

7 Q. And did Complete Business Solutions Group
8 ask you to opine about what you thought the chances
9 of recovery were on all of the CJAs that you had
10 either filed or that you had stepped into for
11 representation purposes?

12 A. They didn't ask me, but I have done this
13 type of work for 14 years, not for merchant cash
14 advance, but for hard money lenders and banks and
15 credit unions and, therefore, I have a pretty good
16 understanding of the ability to collect on files,
17 and I have been very successful in my career doing
18 so. And I think that's why they were using me.

19 Q. So did you ever tell anyone at Complete
20 Business Solutions Group that the default rate of
21 the merchant cash advances that Complete Business
22 Solutions Group had offered was 1 percent?

23 MR. FUTERFAS: Object to the form. Object
24 to the form. The question is unintelligible.

25

1 BY MS. BERLIN:

2 Q. Mr. Berman, if you don't understand any
3 question, just let me know.

4 A. Of course. To the best I understand your
5 question, no, I didn't personally weigh in on that.
6 But there were discussions in front of me with
7 Mr. Cole and others about this concept of 1 percent.

8 I can't tell you when exactly, Ms. Berlin,
9 but it's not -- it's not a default in the way you're
10 thinking of it. Because technically, let's play
11 this out, even of the hundred or so I filed, by my
12 memory, let's say 50 percent were actually default
13 prereturn of money. Simply filing a confession
14 doesn't mean there's a default. Many of those they
15 had actually made money on and made their return
16 back.

17 So I didn't talk to them or give advice in
18 the way you just asked me about 1 percent or any
19 default rate because I didn't have access to those
20 type of files. But I think from what I saw, most of
21 the deals that I was involved with were people who
22 had paid back the money and we were talking about,
23 you know, the profit on the deal, for lack of a
24 better word.

25 Q. Okay. But in your filings, you pled on

1 behalf of Complete Business Solutions Group that the
2 merchants were in default.

3 A. Default under the MCA agreement, yes.

4 Q. Okay. So just going back to my question,
5 which is a very narrow question, did you advise
6 Complete Business Solutions Group that there was a
7 1 percent default rate on the merchant cash
8 advances?

9 MR. FUTERFAS: Object to the form, the
10 same reasons I said before, that the default rates
11 that are being discussed are completely different
12 definitions of the term. Ms. Berlin knows that.
13 We've gone over that in prior depositions. I object
14 to the form of the question.

15 THE WITNESS: The answer to your question
16 is no, never.

17 BY MS. BERLIN:

18 Q. Okay. Did you ever advise Complete
19 Business Solutions Group about what the exposure
20 percentage was on all of the merchant cash advances
21 that Complete Business Solutions Group had made?

22 A. I'm not sure what the exposure percentage
23 is, so I think I have to say no, but maybe if you
24 give me a little bit better of a definition.

25 Q. Did you receive from Complete Business

1 Solutions Group any of their monthly status reports?

2 A. If you're talking about the document that
3 I think you're talking about, it's a document that
4 had thousands of merchants on it. Some were in
5 default. Some weren't. There were default lists.

6 I'm not sure a monthly status report I'm
7 aware of, but merchant lists with some in red, some
8 in blue, some in green, lots of different colors.

9 Q. Okay. My question is: Did you ever give
10 any opinion or any advice or make any representation
11 to anyone at Complete Business Solutions Group about
12 what the exposure rate or exposure percentage was on
13 the merchant cash advances?

14 MR. LEVITT: Object to the form.

15 THE WITNESS: No, because I don't know
16 what exposure rate is. But no, the way you're
17 asking it, no.

18 MS. BERLIN: Let's go off the record for a
19 moment.

20 THE VIDEOGRAPHER: And we're going off the
21 record at 1:56 p.m.

22 (Recess from 1:56 p.m. to 1:57 p.m.)

23 THE VIDEOGRAPHER: And we're back on the
24 record at 1:57 p.m.

25

1 BY MS. BERLIN:

2 Q. Mr. Berman, I'd like to show you and I'm
3 going to ask the video record to show on the screen
4 an exhibit.

5 Mr. Berman, I'm showing what has been
6 marked as Deposition Exhibit 49. And we can zoom in
7 on it. And there's some handwriting on this
8 particular version of the document. So I'm not
9 asking if you've seen this particular version with
10 someone's handwriting on it.

11 But generally --

12 MS. BERLIN: And if we could zoom in on it
13 into in the upper left-hand corner where it
14 indicates the title of the document as -- let's see
15 if we can just zoom in.

16 THE WITNESS: I see it. I see the
17 document.

18 BY MS. BERLIN:

19 Q. Okay. Have you ever seen anything like
20 Deposition Exhibit 49 before? And, again, I'm not
21 asking you about the handwriting. That just happens
22 to be the particular copy that I'm showing you of
23 this status report.

24 A. It does not look familiar to me, but I
25 can't say I haven't seen something like this. I'm

1 looking at the date. You maybe asked me about later
2 versions. Obviously, I wasn't involved in any of
3 this time period. But I don't remember seeing this
4 before.

5 Q. Again, I'm not asking about this
6 particular one. Have you ever seen any sort of
7 document from CBSG that has this type of information
8 where it's providing information about -- and you
9 can see that I've circled the column about the
10 exposure, which is the third or fourth column from
11 the right.

12 A. It is possible, but this does not look
13 familiar to me.

14 Q. Okay. And do you see where this document
15 indicates --

16 MS. BERLIN: And I don't know if you can
17 zoom into the heading on the column that has
18 handwriting around it that's sort of circled at the
19 top of the document. Thank you.

20 BY MS. BERLIN:

21 Q. So do you see where it says Exposure
22 Percentage?

23 A. I do.

24 Q. Okay. Have you ever heard that phrase
25 before with Complete Business Solutions Group or

1 opined about an exposure percentage before? And I'm
2 asking you about this particular phrase.

3 A. I don't recall it. I don't remember ever
4 having this type of discussion. The answer is I
5 don't ever remember having this discussion. It
6 could be possible, but I don't remember seeing
7 something like this.

8 Q. Okay.

9 MS. BERLIN: And can we scroll down to the
10 bottom of the page where it shows --

11 BY MS. BERLIN:

12 Q. Do you see where it says Exposure
13 Percentage. There was a Footnote 4.

14 MS. BERLIN: Can we just zoom in on
15 Footnote 4 in the bottom right-hand corner of the
16 document. Right under the handwriting in the bottom
17 right-hand corner, if could just enlarge that
18 section so that Mr. Berman can read it.

19 BY MS. BERLIN:

20 Q. Do you see Footnote 4 states, "Factoring
21 losses realized in respective months equal to total
22 AR balance for transactions written off against
23 factoring loss reserve."

24 Do you see that line?

25 A. I do see the line.

1 Q. Okay. And here I will posit to you AR
2 means accounts receivable. Did you ever provide any
3 advice or opinion or facts to anyone at Complete
4 Business Solutions Group providing the figure for
5 the exposure percentage as defined by the sentence I
6 just read to you in Footnote 4?

7 A. Absolutely not.

8 MS. BERLIN: Okay. We can take down this
9 exhibit.

10 BY MS. BERLIN:

11 Q. Did some of the -- in the matters that you
12 were involved in with collections, had some of the
13 merchants pledged collateral in connection with the
14 merchant cash advances they received?

15 A. Yes.

16 Q. And did you participate in collections
17 efforts with respect to the collateral?

18 A. Yes.

19 Q. And on approximately how many occasions?

20 A. Not alot because there were some that
21 occurred long before we got involved. That we may
22 have entered our appearance in, I can only think of
23 a handful on one hand that come to mind now.

24 Q. Okay. And what are those?

25 A. There was the Welkowitz estate, Steve

1 Gerba which is -- I forget how it's known here --
2 Eagle Express or something. I don't know the exact
3 name. That was one where a foreclosure action was
4 filed in the State of New Jersey against Steve
5 Gerba. Let me think what else there would have
6 been.

7 Q. So the collateral was a foreclosure on
8 what property?

9 A. It was described to me as the farm in New
10 Jersey. So that's one. I can't tell you more. I
11 think it was a farm obviously. I never visited the
12 property, so I don't have a lot of detail.

13 There was a -- as part of also that estate
14 of Welkowitz, Gerba, Eagle -- if Eagle is the name.
15 I'm just blanking out right now -- the Big Red
16 Trucking, that merchant, there was a property in
17 Florida that we didn't file, but there was a title
18 dispute going on based on an assignment of rights in
19 the interest there that we were working with a
20 lawyer assigned by the title company.

21 There were other actions that CBSG had
22 with what we called local counsel that were hired
23 pre-Fox Rothschild ever being involved that we then
24 tried to clean up once we got involved just to make
25 sure it was managed and organized. And we created

1 lists of status on foreclosures, but most of those
2 were filed prior to our involvement.

3 And I'll say the reason for that is
4 because, remember, my role was primarily involved in
5 the pandemic in this area, and there were no -- you
6 couldn't really file that type of action in the
7 pandemic because there were freezes across the
8 country on court shutdowns and ability to file those
9 types of actions. So it was fairly minimal new
10 filings during my time.

11 Q. At a certain point, did you become aware
12 of a Pennsylvania securities regulatory action
13 against Complete Business Solutions Group?

14 A. Yes.

15 Q. And approximately when did you become
16 aware of it?

17 A. After the Texas cease and desist was filed
18 because it was mentioned there. I didn't know about
19 it before.

20 Q. Okay. And did you provide -- I think it's
21 already been included in your prior testimony, which
22 was a little broader, but just to confirm, did you
23 provide any legal advice to Complete Business
24 Solutions Group about the disclosure of any
25 securities regulatory action against the company?

1 A. No.

2 Q. Okay. And do you know who John Pauciulo
3 is?

4 A. He was a lawyer for Dean Vagnozzi.

5 Q. Did you ever advise John Pauciulo that
6 Complete Business Solutions Group was insolvent?

7 A. No.

8 Q. Did you provide Mr. Pauciulo with
9 financial spreadsheets showing that Complete
10 Business Solutions Group was insolvent?

11 A. I can't say what they showed. I was
12 provided by Mr. Cole a few documents that were given
13 to Mr. Pauciulo, but I can't say it said they were
14 insolvent. I don't think that's correct. But they
15 had financial information.

16 Q. What exactly did you -- am I correct in
17 understanding this is in the March, April 2020
18 timeframe?

19 A. Correct. Mr. Pauciulo asked for financial
20 documents, and I forwarded the request to Mr. Cole,
21 and Mr. Cole provided the financial documents.

22 Q. So you did not provide the financial
23 documents to Mr. Pauciulo?

24 A. Sorry. I'm sorry. It was confusing. I
25 was like the intermediary on that. So, yes, I

1 forwarded the financial documents that Mr. Cole gave
2 me, yes.

3 Q. And what financial documents did
4 Mr. Pauciulo request?

5 A. I don't specifically remember, but my
6 general recollection was he requested documents
7 showing the status of the company in the pandemic.

8 Q. Was that the financial status?

9 A. I don't want to say financial status of
10 the company, because I don't think that's what he
11 was asking. I think it was, you know, what's going
12 on with the merchant portfolio is what I remember.

13 Q. So what documents did you provide to John
14 Pauciulo?

15 A. The answer is I can't even tell you
16 exactly what they were because I don't think I
17 reviewed them so closely, to my memory. But they
18 were documents that I think showed collections from
19 the merchants during that limited window of time,
20 from the start of the pandemic or the real start of
21 the pandemic mid March until whatever date they were
22 provided is my memory of what was given.

23 Q. Did you provide this by email or through
24 some sort of portal or like online workroom?

25 A. I don't know how to do online workrooms.

1 So I think it must have been -- it was fairly
2 discrete documents. By memory, it was email,
3 although I haven't seen that email in, you know, a
4 year.

5 Q. Did Mr. Pauciulo after you provided the
6 documents to him -- by the way, I'd like to just get
7 a sense of this. Approximately how many documents
8 did you provide?

9 A. I think it was three documents by memory.
10 It could be five. It could be three. But I think
11 it was three.

12 Q. And were these documents massive or was it
13 a relatively lean collection of material?

14 A. I don't think it was massive because I
15 wouldn't have been able to forward it. I don't
16 think I had anyone else upload them. I just am not
17 good at that. I think they were fairly small by my
18 memory.

19 Q. And after you sent those documents to
20 Mr. Pauciulo, did he request additional materials
21 from you?

22 A. Not to my recollection.

23 Q. And did Mr. Pauciulo ever speak with you
24 at all about whether or not Complete Business
25 Solutions Group was insolvent?

1 A. I don't remember a discussion on
2 insolvency because I wouldn't have known the answer
3 to that question, although nothing I saw ever led me
4 to believe there was an insolvency. So I don't
5 think I would have had that discussion with him.

6 Q. Did you discuss with Mr. Pauciulo the
7 possibility that Complete Business Solutions Group
8 would have to file for bankruptcy?

9 A. I think the concept of what would happen
10 if -- I don't think we ever talked about bankruptcy.
11 So, no, I don't think that conversation ever
12 happened. But the concept if you couldn't pay
13 certain amounts of money and everybody starts suing,
14 I think we had that general discussion. But I don't
15 remember having a bankruptcy discussion because I'm
16 not a bankruptcy expert, and I didn't know enough to
17 even begin to opine whether bankruptcy was an option
18 or not.

19 Q. Did anyone at Complete Business Solutions
20 Group ever advise you that the company was
21 insolvent?

22 A. No.

23 Q. And I don't mean that they used that
24 specific word. They might have just communicated
25 the concept that Complete Business Solutions was

1 insolvent by using different words, not verbatim the
2 actual word "insolvent".

3 A. It's actually the opposite. I was never
4 told anything related to insolvency. It was, you
5 know, obviously the pandemic had an effect on
6 everybody, every business, including Par Funding.

7 But it was always positive, positive being
8 like there was no -- obviously there was a crunch
9 there where there was worry for everybody, but not
10 anything about insolvency or bankruptcy or anything
11 like that.

12 Q. Thank you. Sorry. I didn't mean to
13 interrupt you, but that was perfect. I was going to
14 ask you about bankruptcy.

15 So how did you first learn about the
16 possibility that there might be an exchange offering
17 as we sort of defined that phrase earlier in your
18 testimony?

19 A. I think I spoke to Joe Cole. And when you
20 say exchange offer, I didn't -- that concept was
21 foreign to me. Even maybe today it's a little
22 foreign to me. But what we knew early, I would say
23 probably late March, was that they wanted to look
24 at -- they wanted us to look at the existing notes,
25 which I had never seen before, and talk about a way

1 to restructure the notes.

2 And then Phil got on that first or second
3 phone call and started coming up with this
4 concept of -- it may not have been the first day or
5 second day, but he's the one who, I believe,
6 introduced the concept of an exchange offer.

7 Q. I'm sorry. Who introduced? Phil Rutledge
8 you said?

9 A. Phil Rutledge.

10 Q. And did you have an understanding from
11 Complete Business Solutions as to why they wanted to
12 modify the existing promissory notes?

13 A. I think if there was -- again, just like
14 this and every other client I had at the time, the
15 world was in complete panic about shutdowns and
16 pandemic.

17 And they were always very clear, Mr. Cole
18 before, Anthony Ronn, whoever else I spoke to, that
19 they saw that there would be an opportunity to grow
20 and thrive, and they wanted to put the company in a
21 position to make sure that every investor -- and I
22 didn't know investors before that period -- would be
23 paid back.

24 So they didn't want to default on any
25 obligations to anybody. They said they always pay

1 their bills and they want to make sure the company
2 is viable and everybody who's owed money will be
3 paid.

4 Q. But am I understanding correctly at that
5 time, they were thinking about what possibly could
6 happen and the risk that they might not be able to
7 pay, or was it that they were already seeing a
8 situation where they were not going to be able to
9 pay based on a change in merchant payments?

10 A. I don't -- I don't -- I can't say I know
11 exactly because I wasn't -- I don't know the exact
12 financial -- exact financials at time period.

13 But I think it was just like everyone else
14 in the world. I mean, all of a sudden, we got
15 thrown into a pandemic with shutdown orders and no
16 office space. I just think everybody including Par
17 was not knowing what would happen in the future for
18 them, their business, their families. I don't think
19 there was something specific like that.

20 Q. So it was sort of preparing for the
21 unknown and like the worst case scenario that could
22 happen with the pandemic?

23 A. I think that's fair. And, again, it was
24 because they were very clear in every discussion
25 that I had that if they owe people money, they want

1 to pay back the money. So however they can do it to
2 make sure everybody is made whole, that's what their
3 goal was.

4 Q. Did you ever understand prior to the SEC
5 filing its case that representations were being made
6 to investors in order to get them to sign and agree
7 to the exchange notes that Complete Business
8 Solutions Group was insolvent and so this was their
9 only hope of getting any of their money back?

10 MR. FUTERFAS: Object to the form.

11 MR. MILLER: Mr. Miller. Join in the
12 objection.

13 THE WITNESS: Ms. Berlin, I'm sorry. For
14 some reason again, my audio went out. Let me put
15 that on ahold and end it. I'm sorry. I didn't hear
16 your question. So one second.

17 BY MS. BERLIN:

18 Q. Oh, sure. Prior to the SEC filing its
19 case against --

20 A. I didn't hear you. And I'm so sorry. If
21 you could ask one more time.

22 Q. Sure. No problem. Prior to the SEC
23 filing its case against Complete Business Solutions
24 Group, did you know that representations were being
25 made to investors that Complete Business Solutions

1 Group was insolvent and that agreeing to the
2 exchange offering was their best chance of getting
3 any of their money back?

4 A. I honestly don't recall.

5 MR. MILLER: Mr. Miller. Same objection.

6 MR. FUTERFAS: Same objection. Thank you.

7 MR. FERGUSON: Ferguson joins in that.

8 THE WITNESS: I don't remember any
9 discussion like that, insolvency, so no.

10 BY MS. BERLIN:

11 Q. I imagine, but I just need to ask, no one
12 asked you for any legal advice about whether they
13 could make representation to investors; is that
14 right?

15 A. Fox Rothschild never was asked and never
16 gave any legal advice on anything to do with
17 investors or raising money at all other than the
18 corporate documents we did in April or May. But
19 prior to that, nothing ever under any circumstance.

20 Q. And was Fox Rothschild asked for an
21 opinion? Obviously, I'm only asking you. This
22 isn't the law firm's deposition.

23 So just based on your personal knowledge,
24 are you aware of any advice that was asked of you or
25 your colleagues about whether or not you all

1 believed that Complete Business Solutions Group
2 would need to file for bankruptcy?

3 MR. FUTERFAS: Object to the form of the
4 question.

5 THE WITNESS: Two things I would say. No
6 one at Fox Rothschild will have more information
7 than me because I was involved in nearly everything.
8 So I can answer your question individually, of
9 course, but I would be the same person answering for
10 Fox Rothschild.

11 But the answer is we did not -- we were
12 not asked, to the best of my recollection, nor did
13 we give them any advice on anything related to
14 bankruptcy because I don't even think that
15 discussion ever occurred or any topic of bankruptcy
16 or insolvency or anything like that was really on
17 the table.

18 BY MS. BERLIN:

19 Q. Did anyone at Complete Business Solutions
20 Group ask you for any advice or ask you to review
21 any of the emails that they were sending out to
22 noteholders regarding the status of the company in
23 March or April of 2020?

24 MR. FUTERFAS: Object to the form. I
25 don't know who "they" is.

1 THE WITNESS: You said prior to or during
2 April and May? I'm sorry.

3 BY MS. BERLIN:

4 Q. Sure. At any time. At any time did
5 anyone from Complete Business Solutions Group ask
6 you to review and give legal advice concerning
7 correspondence that anyone at Complete Business
8 Solutions Group was sending to noteholders?

9 A. Definitely never anything prior to the
10 pandemic because I didn't even know about
11 noteholders prior to that. So definitely not.

12 And to the best of my recollection, no,
13 although I thought I saw, or it could have been
14 after the fact, an email that was sent out to
15 somebody. I don't know who the somebody is. I
16 think it was after. But I just don't specifically
17 remember. But I don't think so.

18 Q. Are you aware of a UCC lien that Albert
19 Vagnozzi filed in connection with Complete Business
20 Solutions Group?

21 A. I'm aware that there was discussion about
22 all of the liens that would be filed as a result of
23 this process in April and May. I don't remember if
24 I saw an actual lien, but I do remember Albert
25 Vagnozzi in some capacity with some document would

1 be essentially filing a lien on behalf of all the
2 funds or something like that. But that was the more
3 Phil creature of things and how you do this. So I
4 don't -- I remember general, but I don't remember
5 that ever happening or not happening.

6 Q. Okay. Were you aware of whether prior to
7 the pandemic -- I'm talking like February,
8 March 2020 -- whether there were already any UCC
9 liens against Complete Business Solutions Group?

10 A. I definitely didn't know prior to that
11 time period, although I remember once this role of
12 dealing with the corporate documents, that we
13 learned somehow that there were various liens
14 outstanding, filed I guess pursuant to their rights
15 under the security agreement. But I didn't know
16 prior to the pandemic, no.

17 Q. And about when did you learn about those
18 other liens, those prior liens?

19 A. It would be once we were working on the
20 corporate piece and Phil advised what would be done.
21 Somehow we learned that certain people filed liens
22 as they had a right to do, to my understanding, in
23 that time period.

24 Q. Did you ever represent to John Pauciulo
25 that there were no liens against Complete Business

1 Solutions Group?

2 A. No, because there were liens. And I think
3 his clients had liens, to my knowledge. So, no, we
4 didn't have that discussion.

5 Q. So prior to Albert Vagnozzi filing the UCC
6 lien, just to clarify, prior to his clients filing
7 UCC liens, did you ever advise John Pauciulo that
8 there were no UCC liens against Complete Business
9 Solutions Group?

10 A. No, absolutely not. And I actually -- by
11 the best of my memory, John told me he knew what
12 liens were there. So it's the reverse.

13 Q. And when approximately did John Pauciulo
14 indicate that to you?

15 A. John and I probably, to the best of my
16 memory, had two calls, very brief phone calls
17 because I wasn't someone who had information. I was
18 purely providing the financials that we talked about
19 before to him. I didn't -- I didn't have anything
20 to add, right.

21 So I know that he and/or his clients were
22 having discussions with people over at CBSG, but
23 this wasn't a lawyer-to-lawyer process because I
24 just didn't have the knowledge to even relay other
25 than here are the documents. That's why I said I

1 was kind of the middleman in that process. I just
2 didn't have information.

3 Q. Understood. If I understand correctly, in
4 connection with the exchange offering, all you were
5 doing with John Pauciulo was passing on to
6 Mr. Pauciulo what Mr. Cole was giving you to pass
7 on; is that accurate?

8 A. Yeah. I mean, we had a very brief, by my
9 memory, phone call or two or three. I don't want to
10 hold exactly to it. But they were very brief
11 because I didn't -- he knew I didn't know. It was
12 just not -- how would I know about levels of
13 financial aspects. It just wasn't my area.

14 And he knew that his client, clients -- he
15 always referred to them as Dean and Albert -- were
16 the ones who were having direct discussions with
17 CBSG people, right.

18 I think I answered your question. No, we
19 didn't have that level of discussion because I had
20 nothing to add.

21 Q. Understood. But your testimony about that
22 it was the reverse, that it wasn't you telling John
23 Pauciulo anything about the UCC liens, that he
24 mentioned to you that there were outstanding UCC
25 liens, do you recall approximately like the month

1 and year that that discussion happened?

2 A. What was the date of the exchange offers
3 being signed? Because that would help me.

4 Q. It was in April. I think it was
5 April 2020.

6 A. Then if it was, I think probably the end
7 of April, to the best of my memory, and it would
8 have been within the two-week period leading up to
9 the signatures.

10 Q. Okay. So if the exchange offerings
11 occurred -- let me ask you this: Did he mention
12 that to you, that there were other outstanding UCC
13 liens before or after his client, Albert Vagnozzi,
14 filed the UCC lien?

15 A. It would have had to have been before
16 because I didn't speak to them after the documents
17 were provided to them by CBSG.

18 Q. And to be clear, the discussion where John
19 Pauciulo acknowledged to you the prior outstanding
20 lien against CBSG, that conversation would have
21 occurred before the exchange offering materials,
22 like the agreements were presented to the
23 noteholders; is that right?

24 A. Pretty sure. I mean, I'm pretty sure. I
25 can't be a hundred percent, but I don't remember

1 speaking to him. I don't know. I don't think I
2 spoke to him after those because, remember, I wasn't
3 providing those documents.

4 I can't tell you exactly when they were
5 provided or how, because we weren't involved in
6 that. I think Joe Cole did that. But I don't think
7 I spoke to him after.

8 Q. Okay. So the discussion with Pauciulo
9 about the UCC liens would have occurred before you
10 provided him with the financial documents that you
11 passed on to Mr. Pauciulo from Mr. Cole; is that
12 correct?

13 A. Yeah, but I don't want to put too much
14 emphasis. He just said to me in passing there are
15 liens already filed on the company and I'm looking
16 at, you know, all this stuff. We didn't have like a
17 what's the impact of a lien or how many liens. It
18 wasn't -- I don't want to give you that implication.
19 He said it in passing, and that's all I remember of
20 the discussion.

21 Q. I understand. But the only thing that
22 I've asked about and that you've testified about
23 this far is that Mr. Pauciulo told you that he knew
24 that there were already liens outstanding. So I
25 think that's all that has been discussed in your

1 testimony.

2 A. Okay. All right. All right.

3 Q. I understand. But the timing of that is
4 important. So that's why I'm just trying to
5 pinpoint whether or not that discussion with him
6 would have occurred before you sent him the
7 materials that he requested.

8 A. I think it was before, yes.

9 Q. Okay.

10 MS. BERLIN: I wonder if we can just go
11 off -- let's go off the record, please.

12 THE VIDEOGRAPHER: And we're going off the
13 record 2:28 p.m.

14 (Recess from 2:28 p.m. to 2:46 p.m.)

15 THE VIDEOGRAPHER: And we're back on the
16 record on the 2:46 p.m.

17 MS. BERLIN: I can't hear any audio.

18 THE WITNESS: You don't hear me?

19 MS. BERLIN: Can someone speak just so I
20 can test the audio because I'm not hearing anyone.

21 THE WITNESS: Can you hear me?

22 MR. LEVITT: I just heard -- I heard
23 Mr. Berman speaking.

24 MS. BERLIN: Can someone say something so
25 I can see if the audio is working now?

1 MR. FUTERFAS: Ms. Berlin, we all hear
2 each other testing. Yeah, we're all talking.

3 MS. BERLIN: All right. Hold on a second.
4 Can someone say something? Can someone say
5 something? It's definitely me. All right. I can
6 see on my screen that Peter Levitt is speaking, but
7 I can't hear.

8 THE VIDEOGRAPHER: And we're back on the
9 record at 2:49 p.m.

10 BY MS. BERLIN:

11 Q. Mr. Berman, were you ever present in any
12 meeting where a noteholder or potential noteholder
13 was also present?

14 A. Not that I know of.

15 Q. Did you ever meet with Dean Vagnozzi?

16 A. Never have met Dean Vagnozzi.

17 Q. Have you ever spoken with him?

18 A. Maybe one phone call about something to do
19 with his life insurance product that he was talking
20 to Par Funding about at some point, but other than
21 that, no.

22 Q. Did you -- who was present when you
23 prepared Joseph Cole for his depositions in the
24 private litigation?

25 A. For the first deposition in HMC, I think

1 John Christman because I remember being in the
2 office there. In the second dep, second prep, Aida
3 Lau and Wendy Furman and Joe Cole and maybe John
4 Christmas, but I don't think so. But maybe he came
5 the second time and not when I went back the third
6 time.

7 Q. Was anyone else present when you prepped
8 Joseph LaForte for any of his testimony?

9 A. Joe Cole.

10 Q. Anyone else?

11 A. John Christman would have been there, at
12 least in the Fleetwood case because that happened on
13 the same day. And it's possible that John was with
14 me for the second deposition prep as well.

15 Q. What about Aida Lau or Wendy Furman?

16 A. I don't think so, no.

17 Q. Okay. How do you know Anthony Zingarelli?

18 A. I met him 12 years ago when he was a union
19 contractor in Philadelphia.

20 Q. Sorry. I just realized my video is off.
21 So let me start it. Sorry about that.

22 A. No problem.

23 Q. And what was his role in Complete Business
24 Solutions Group when you were initially retained?

25 A. I don't know, to be honest with you. I'm

1 not sure he had an official role there ever.

2 Q. Would it surprise you to learn that
3 Anthony Zingarelli signed a retainer agreement on
4 behalf of Complete Business Solutions Group?

5 A. No, not surprise because I told you that
6 would actually make sense because that's the only
7 person or probably the only person other than maybe
8 general counsel that I spoke to back in 2018 about
9 it. I didn't even know who Joe LaForte and Joe Cole
10 were or Lisa or Anthony Ronn. It was well before I
11 met anyone at the company.

12 Q. But you had an understanding that Anthony
13 Zingarelli could execute a contract on behalf of
14 Complete Business Solutions Group?

15 A. He asked if we could help on that limited
16 task. I said who -- by memory, I said who do I send
17 an engagement letter to? And he said him. I didn't
18 ask does he have the authority or not. I sent it to
19 him. I got it back signed.

20 Q. Okay. And you didn't ask and you never
21 knew what his position was or now what his role was
22 at Complete Business Solutions Group?

23 A. I never asked the question. I mean, I --
24 I spoke to him about Par Funding stuff over time.
25 He had information on certain merchants that he

1 would deal with in some capacity. But I never asked
2 officially what his formal role or title was.

3 Q. Did you have an understanding what type of
4 work he did in connection with Complete Business
5 Solutions Group?

6 A. No, not exactly, but what I will say is
7 what I dealt with him on involving Complete Business
8 Solutions was certain merchant defaults in a similar
9 way I would talk to Joe LaForte about certain
10 default. He knew some background on certain of the
11 merchants and he would request something to be done
12 on a certain merchant file. And that was my primary
13 dealing with Anthony Zingarelli with his role at Par
14 Funding.

15 Q. Did you understand that Mr. Zingarelli
16 worked closely with Joseph LaForte?

17 A. I mean, I knew that they were friendly and
18 that, you know -- I don't know. Closely is hard for
19 me to say. Anthony is a guy who's always on the
20 move, always doing things, always traveling. So I
21 knew -- I mean, he's the one who introduced me to
22 Par Funding. So I figured he was tied in with
23 everyone, but I can't say closely. I don't know
24 that.

25 Q. My question was just whether your

1 understanding was that he worked -- how about this.

2 Did you have an understanding that he worked with
3 Joseph LaForte at Complete Business Solutions Group?

4 A. I know that him and Joe dealt with each
5 other, yes.

6 Q. In connection with the merchant cash
7 advances?

8 A. Yeah, exactly.

9 Q. Did you ever represent Anthony Zingarelli
10 personally?

11 A. Yes.

12 Q. In connection with what matter?

13 A. Many matters over a decade. As I said, he
14 was a union contractor to start, which is how I met
15 him. He was referred by another friend. And then
16 various companies and dealings over time in the
17 contracting business. I was the president of a
18 condo board in the mid 2000s, in 2010. His company
19 did the storefront on the commercial space. I
20 represented him in matters for a decade.

21 Q. Did you ever represent him in connection
22 with any matter that related in any way to Complete
23 Business Solutions Group?

24 A. No, I don't think so.

25 Q. Okay. Did you ever represent any other

1 company with which Anthony Zingarelli was
2 associated?

3 A. Yes.

4 Q. What was that company?

5 A. Colorado Sky, CMP Operating, and then, as
6 I said, various contracting-type entities over a
7 decade. He had a bunch, United American Builders,
8 some other -- I can't tell you all the names, but it
9 was various matters over a decade.

10 Q. Okay. What is Colorado Sky?

11 A. It was an entity that -- I don't know what
12 it is. It's an entity that he was affiliated with.
13 I don't know where or what it is exactly.

14 Q. What kind of legal work did you provide in
15 connection with Colorado Sky generally?

16 A. I would call it privileged.

17 MR. LEVITT: Amie, I'm going to object on
18 privilege. If it's something that was done for
19 Mr. Zingarelli's companies, it's not related to Par
20 Funding. I would object to disclosing the substance
21 of the work that was done or the communications that
22 occurred as privileged.

23 MS. BERLIN: We're just inquiring about
24 the bases that I'm allowed to inquire about under
25 the federal rules for when someone raises the

1 privilege.

2 BY MS. BERLIN:

3 Q. So I'm not asking about any specific legal
4 advice you gave, but the general type of work you
5 did. Was it corporate or litigation?

6 A. For which entity you said? I'm sorry.
7 Colorado Sky?

8 Q. Yeah.

9 A. It was litigation.

10 Q. Okay. And was it a lawsuit that was
11 pending?

12 A. It was a lawsuit.

13 Q. Okay. And what's the name of the lawsuit?

14 A. I don't -- I don't remember the exact
15 name. I'm sorry.

16 Q. Where was it pending?

17 A. Colorado.

18 Q. Other than Anthony Zingarelli, was anyone
19 else who is affiliated with Complete Business
20 Solutions Group also affiliated with Colorado Sky?

21 A. He was the only person I ever dealt with
22 for Colorado Sky.

23 Q. Did you ever have any understanding of who
24 owned Colorado Sky?

25 A. My understanding was him.

1 Q. And did you have any knowledge of Lisa
2 McElhone's involvement or interest in Colorado Sky?

3 A. Not to the best of my recollection.

4 Q. And what about Mr. LaForte?

5 A. Not to the best of my recollection. I
6 only dealt with him, Anthony Zingarelli.

7 Q. Did you understand that -- was Colorado
8 Sky ever -- did they ever receive a merchant cash
9 advance from Complete Business Solutions Group?

10 A. No idea in the world. No idea.

11 Q. When was the last time you spoke with
12 Anthony Zingarelli?

13 A. Probably three or four weeks ago.

14 Q. And do you socialize often with him?

15 A. I never socialized with him.

16 Q. What about Michael Alperstein, do you know
17 him?

18 A. I think you mean David Alperstein.

19 Q. I'm sorry. David Alperstein. Do you know
20 David Alperstein?

21 A. I do know David Alperstein, yes.

22 Q. And have you ever represented him?

23 A. No, I don't think so.

24 Q. Do you know David Alperstein in connection
25 with anything having to do with Complete Business

1 Solutions Group?

2 A. The answer is no. I've known Dave
3 Alperstein for a decade. He's from the same town as
4 me. We have mutual friends, et cetera. But I knew
5 him from the taxi medallion world. And I learned
6 after the fact, probably after this case was filed
7 by my best guess, that he had a role with Par
8 Funding at some point and then had something to do
9 with the fund. But we never discussed Par Funding
10 prior to the filing of this case ever.

11 Q. Okay. Did you ever review any SEC filings
12 that were made on behalf of Complete Business
13 Solutions Group?

14 A. No, but I think I would probably be on
15 some emails if Phil was sending it to Joe Cole for
16 review, and I didn't review because I wouldn't even
17 know what to look at quite frankly.

18 Q. Okay. So were you ever asked for any
19 legal advice in connection -- you, not Phil Rutledge
20 or anyone else -- but were you ever asked for any
21 legal advice in connection with the Complete
22 Business Solutions Group's SEC filings?

23 A. I hate to go in a circular answer, but I
24 was on phone calls where there was discussions of
25 it. It was not posed to me directly because that

1 was fully Phil's domain as the securities lawyer for
2 CBSG. Fox Rothschild did not provide nor were we
3 asked to provide any securities advice at all.

4 Q. Okay. And so am I correct in
5 understanding then that you did not provide any
6 legal advice to anyone at Complete Business
7 Solutions Group about the Form D filings or any
8 other SEC filing?

9 A. We provided absolutely no advice on Form
10 D, securities or anything related to securities.
11 That was 100 percent Phil Rutledge's role for the
12 company.

13 Q. Okay. Did you ever meet Lisa McElhone in
14 person?

15 A. That's a great question. I don't know. I
16 feel like I have in passing, but I don't have a
17 specific recollection of when that would be. I
18 think maybe when I was in the office one day, she
19 walked through or I saw her in front of the Lacquer
20 Lounge where she was, too, because there was parking
21 right behind there. But I don't -- I talked to her,
22 of course, but I've never, I don't think, had a -- I
23 don't have a clear recollection of meeting her.

24 Q. And approximately how many times did you
25 speak with Lisa McElhone in connection with being

1 the attorney for Complete Business Solutions Group?

2 A. I spoke to her a bunch of times. I mean,
3 there were various things that Lisa handled or
4 banking or I needed a signature on something, you
5 know. It was not infrequent, but it also wasn't
6 frequent, if that makes sense.

7 Q. Was it, you know, a hundred times, 50
8 times?

9 A. No.

10 Q. Once? I mean, can you give an
11 approximation of how many times you spoke with her?

12 A. Definitely not a hundred. And I don't
13 think it was 50. So it's somewhere in that
14 ballpark. But it was not an everyday occurrence
15 like I would speak to Joe Cole or Anthony Fazio, you
16 know, or other collectors there. It was nothing
17 like that.

18 Q. Okay. So did you speak with Joseph Cole
19 and Joseph LaForte more frequently than you spoke
20 with Lisa McElhone?

21 A. I spoke with definitely both of them more
22 frequently, but I can't lump them together because
23 Joe Cole was a day to day, every day, all day, back
24 and forth. And Joe LaForte was more when I had
25 specific questions on specific topics on cases I was

1 handling.

2 Q. Okay. So you would -- I get it. You
3 spoke with Joe Cole on a day-to-day basis. You
4 spoke to with Joe LaForte when you had something
5 specific to ask him, but you spoke with each of Joe
6 Cole and Joseph LaForte more frequently than you
7 spoke with Lisa McElhone; is that right?

8 A. I think that would be fair, yes.

9 Q. Okay. What about Perry Abbonizio, did you
10 speak with him?

11 A. I have no recollection of speaking to
12 Perry Abbonizio ever other than meeting him as a hi,
13 bye in the office one day prior to the filing of
14 this case.

15 Q. Okay. What about Jamie McElhone, did you
16 speak with her?

17 A. I did email and speak with her, yes.

18 Q. And Jamie McElhone provided affidavits of
19 default for many of the actions that you filed
20 against merchants; is that right?

21 A. That is correct.

22 Q. And what would you speak with Jamie
23 McElhone about or email with her about, what
24 subjects?

25 A. I can't say I emailed too much. There was

1 intermediaries there. Again, there were collectors
2 and Cory and Sam there. I don't know what exactly
3 you call them, but they were the ones who primarily
4 dealt with Jamie McElhone. So I can't say I emailed
5 frequently.

6 I'm pretty sure I emailed with her because
7 she notarized and signed documents, but it was not
8 for frequent and it was not greatly substantive.

9 Q. But did you ever speak with her on the
10 phone?

11 A. I think so.

12 Q. Did you ever meet her in person?

13 A. I don't remember. I don't think so, but
14 possible. Definitely, I mean, hi, this is Jamie,
15 but not substantive.

16 Q. Is Jamie McElhone -- is she able to
17 communicate?

18 A. I'm not exactly sure what that means.

19 Q. Is she someone who is able to communicate
20 or is she an individual who cannot communicate,
21 meaning like she's not verbal or she can't type?
22 Did you ever have any indication that she lacked any
23 sort of like mental capacity to communicate?

24 A. I can't -- truthfully sitting here, I
25 can't even remember talking to her on the phone. So

1 I can't answer from a phone perspective. And her
2 emails were usually just -- if I exchanged a lot,
3 which I honestly don't remember to be honest with
4 you if I got them from her or if emails were
5 forwarded to me from her, you know, with the
6 signatures. I don't remember any communication
7 issues, but I don't have really one way or the other
8 to say on that.

9 Q. Why did you prepare the affidavits of
10 default for Jamie McElhone's signature as opposed to
11 other staff at Complete Business Solutions Group?

12 A. It was my understanding from the outset
13 that she was the authorized signatory for those type
14 of documents.

15 Q. Did anyone ever tell you that Jamie
16 McElhone lacked any sort of mental capacity to be
17 able to notarize documents?

18 A. I've never heard that before, no.

19 Q. Did anyone ever tell you that Jamie
20 McElhone was disabled and might not be able to
21 comprehend or communicate adequately?

22 A. That would be surprising, so no.

23 Q. If you had known that, would that have
24 affected who you asked to execute affidavits on
25 behalf of Complete Business Solutions Group for

1 filing with the court?

2 A. I didn't ask for her to do that, so I
3 can't answer that part of the question. That was
4 something I was told. She's the authorized
5 signatory. She's on the credit committee. She
6 reviews each of the files.

7 This is news to me if she's disabled or
8 unable to comprehend things. I never heard anything
9 like that.

10 Q. If you had told that she lacks the ability
11 to communicate or that she has any sort of
12 disability mentally with respect to communication or
13 processing, would that have impacted your decision
14 to file and rely upon her sworn statements in court?

15 MR. FUTERFAS: Object to the form. Object
16 to the form.

17 THE WITNESS: Hypothetically, but I'm not
18 aware of anything like that. And Jamie was
19 providing documentation -- review of documentation
20 and looking at the business records of the company
21 that showed default.

22 I mean, hypothetically, I mean, as extreme
23 as you're talking about, maybe, but I never heard
24 this before today.

25

1 BY MS. BERLIN:

2 Q. Was her deposition ever taken in
3 connection with any case?

4 A. Not -- nothing to do with me, no.

5 Q. Were you ever asked for any legal advice
6 by anyone at Complete Business Solutions Group about
7 insurance that Complete Business Solutions Group had
8 in connection with merchant cash advances?

9 A. No. I never heard about anything
10 involving insurance before this case.

11 Q. Okay. Do you mean the SEC filed its case?

12 A. Before the SEC filed its case; correct.

13 Q. Okay. And when did you learn of the SEC's
14 case approximately?

15 A. The day it was filed, there was a -- I had
16 a -- I and a few other colleagues at my firm had
17 trackers for Complete Business Solutions and Joe
18 LaForte, anybody really -- anyone that I touched in
19 this company, Anthony Ronn. And we got a notice
20 from the court filing system that this was filed.

21 Q. And did you notify Complete Business
22 Solutions Group the same day?

23 A. Yes.

24 Q. Who did you notify?

25 A. Joe Cole is who I spoke to.

1 Q. Okay. And did you direct Joe Cole to --
2 so, by the way, when you learned about the SEC's
3 filing that day, did you also understand that the
4 SEC was seeking the appointment of a receiver?

5 A. I can't say we knew anything that day
6 because I think we just got a docket entry on a
7 sealed docket. So I don't think we found that out
8 until a few days later when maybe you emailed it to
9 us or something of the sort. But we didn't know
10 that day exactly it was filed, no, not to my memory.
11 I don't think we knew.

12 Q. Not whether you've seen the document, but
13 whether you knew that the SEC was seeking a
14 receiver.

15 A. I don't think we knew it at that point,
16 no, because my memory is it was a sealed docket. We
17 just knew a case was filed. But I could be wrong.
18 I don't think so.

19 Q. But if you have emails with the SEC or
20 with the court about a receiver, that would indicate
21 when you became aware of it; correct?

22 A. Yeah. And we would have shared it with
23 Joe Cole at that time. So whatever that was, we
24 would have shared it, yes.

25 Q. I understand. I was just trying to

1 pinpoint. I'm not asking you to, like, recall from
2 your memory the specific day. But I think it's fair
3 to say if someone from your firm was emailing the
4 SEC or the court on a certain date about the
5 receivership, it would indicate that you were aware
6 of it by at least that time; fair?

7 A. Fair to assume, but I just can't remember
8 exactly.

9 Q. Okay. Did you direct Joe Cole to remove
10 documents from Complete Business Solutions Group
11 after you learned about the SEC's filing?

12 A. No.

13 Q. If Joe Cole testified that you told him to
14 download or take materials from Complete Business
15 Solutions Group after you learned about the case,
16 would you say that that was false, that Mr. Cole's
17 testimony was false?

18 MR. FUTERFAS: Object to the form of the
19 question.

20 THE WITNESS: It was actually the way you
21 said, to take. What we told Joe Cole was that --
22 and I had never been involved in this type of case
23 before and I have no idea what was possible. But
24 what my colleague, Joe DeMaria, told me was that we
25 should advise Mr. Cole that he should take a copy

1 of, definitely not delete and we actually said do
2 not delete, do not alter, do not modify, but take a
3 copy of any key documents you're going to need to
4 defend yourself in this case, and that's what we
5 told him.

6 BY MS. BERLIN:

7 Q. Did you tell that to anyone else at
8 Complete Business Solutions Group?

9 A. I think I had that discussion with Joe
10 Cole and Lisa McElhone and potentially I mentioned
11 it to Joe LaForte and then -- those three would be
12 the only three I would have that discussion with.

13 Q. Did you at any time advise anyone from
14 Complete Business Solutions Group about whether or
15 not they should turn over any materials that they
16 had taken or downloaded from Complete Business
17 Solutions Group, that they should turn those back
18 over to the receiver?

19 A. I think that was well after we were
20 terminated by the court where that was really a
21 topic of discussion.

22 Q. Okay. So --

23 A. So no. Ms. Berlin, no, I don't recall
24 such a discussion because I think we were
25 terminated. We didn't do any work after that on

1 this case or anything. So, no, I don't remember
2 being involved in that.

3 Q. Okay. After you learned about the
4 appointment of the receiver in this case, did you
5 continue to appear in court cases on behalf of
6 Complete Business Solutions Group?

7 A. Not without the consent of the receiver.
8 I do remember an instance right when this case was
9 filed we had -- we were ordered to appear in an
10 emergency status conference before Judge Sanchez in
11 the Eastern District. And that's the only thing I
12 recall.

13 We discussed it with Mr. Alfano after
14 fact. But other than that, no, I'm not aware of
15 anything like that, no.

16 Q. So the matter that you're talking about,
17 is that the matter where there was an emergency
18 hearing concerning the SEC's subpoena for documents
19 issued to your opposing parties in that case?

20 A. It could be. I just don't remember
21 exactly the circumstances. It was a pretty brief
22 phone call, and I don't remember exactly what was
23 talked about. I do remember -- I more remember the
24 discussion with Mr. Alfano after the fact where he
25 said you can't -- you can't do anything. We said if

1 there's a receiver order, we will do nothing other
2 than run it by you and Mr. Kolaya.

3 Q. When you went into court on that matter in
4 July after the receiver was appointed, it was
5 actually that you were challenging the request to
6 the court to lift the confidentiality designation on
7 documents in the case so that they could be produced
8 in responses to an SEC subpoena; correct?

9 A. No. I think your facts are a little
10 wrong, and I clarified all of this for Mr. Alfano in
11 writing. We actually did not have notice of the
12 receiver. It all came after. And I produced all
13 the documents to Mr. Alfano and Mr. Kolaya about
14 when we learned and when we filed what you're
15 talking about.

16 So, no, it was not after we had knowledge
17 of the receiver in the way you're talking about it,
18 no.

19 Q. So your testimony is that on the day you
20 went to court in that case in the hearing
21 concerning -- I think you were opposing -- it was in
22 the Pennsylvania federal court; is that right?

23 A. We didn't go to court. It was a
24 telephonic conference.

25 Q. I know it were a telephone conference.

1 But the court where the case was pending was the
2 federal district court in Pennsylvania; correct?

3 A. That's correct.

4 Q. And it was scheduled to occur by telephone
5 that same day?

6 A. Correct, correct.

7 Q. And what was the name of that case?

8 A. I don't remember if it was Fleetwood or
9 HMC.

10 Q. And so it's your testimony that when you
11 appeared in that case in July for the telephonic
12 hearing, that you did not yet know that a receiver
13 had been appointed over Complete Business Solutions
14 Group?

15 A. No. I think what I said was that I
16 believe, and you're testing my memory a bit, but I
17 think there was a letter that went out with the
18 position. When we got on the call with the judge,
19 we were then aware of the receiver. And I informed
20 him that this is all going to be subject to what's
21 going on in court.

22 I'm sure there's a transcript of it. I
23 just don't remember exact words or details. But I'm
24 pretty sure when we appeared, we then knew that
25 there was a receiver.

1 But, remember, that was also before the
2 receiver was actually expanded. I'm not talking
3 about the later expansion. This was -- there was
4 still a dispute as to what the role of the receiver
5 was. To my memory, that's what we told Judge
6 Sanchez, that this is all going to have to be
7 addressed in Florida.

8 Q. So is it your testimony that you disclosed
9 to Judge Sanchez during this hearing that a receiver
10 had been appointed over Complete Business Solutions
11 Group?

12 A. I think -- I don't remember the exact
13 words to Judge Sanchez. I'm sure there's a
14 transcript because it was before a federal judge.
15 But my memory of it was that we told him the case
16 was filed. I'm not sure -- I don't remember the
17 exact timeline of what time in the day we learned of
18 the receiver motion versus appearing.

19 I sent all of that to Mr. Alfano about ten
20 months ago. And I'm pretty sure what I sent him
21 showed that we didn't have the knowledge that you're
22 now implying I would have had at the time.

23 But Judge Sanchez absolutely knew about
24 this case, and the case was discussed. So yeah, I
25 don't remember if we told him, the receiver, the

1 extent of the order. I don't remember that.

2 Q. Let's back up for a moment. Judge Sanchez
3 was aware of the SEC investigation because the SEC's
4 subpoena was utilized as a case filing in your case
5 and was the subject of the hearing that you're
6 testifying about; correct?

7 A. I have no memory of that, to be honest
8 with you.

9 Q. Okay. But I just want to make sure that
10 it's clear. Why do you believe that Judge Sanchez
11 knew that the SEC had filed a case as opposed to
12 investigating the matter, that we had actually filed
13 a case against Complete Business Solutions Group
14 when you appeared at that hearing before him?

15 A. I actually think you're confusing two
16 different events in time.

17 Q. Okay.

18 A. Again, I don't exactly remember. I'm
19 going to be honest with you. And John Christman was
20 handling the day to day on that case with other
21 people. But I think the SEC's subpoena that you're
22 talking about was whether or not opposing counsel
23 had turned over documents improperly because there
24 was a lot of fight in that case about who and what
25 disclosures would be made about documents provided

1 to the government.

2 I think you're talking about something
3 different by my memory, but I don't exactly
4 remember.

5 Q. But this is a hearing where it wasn't
6 Mr. Christman. It was you who appeared at the
7 hearing in July 2020 after the SEC filed its case.
8 That's the hearing I'm talking about, the hearing
9 before Judge Sanchez that you appeared at after the
10 receiver was appointed.

11 A. Again, it was not a hearing. It was a
12 status conference. And I don't remember every
13 detail, but I do know that the judge was aware of
14 this case.

15 Q. Okay. So why is it your testimony that
16 Judge Sanchez was aware of the SEC's case when that
17 hearing or status conference occurred in July 2020?

18 A. Because my memory is it was discussed with
19 Judge Sanchez.

20 Q. By whom?

21 A. Me.

22 Q. Did you have an exparte communication with
23 Judge Sanchez?

24 A. No. But again, I'm a little -- what date
25 was the hearing you're talking about? I just

1 haven't looked at those emails in a year. So I
2 don't remember every detail, but I'm pretty sure it
3 was after. It had to have been after we knew about
4 this case because I sent all of these to Mr. Alfano.
5 And he said, don't do it unless the receiver knows.
6 And I showed him how we didn't know before that
7 time.

8 And I think actually you sent the email
9 not to me, but to a colleague who forwarded it a few
10 hours later. All was sent to Mr. Alfano and
11 Mr. Kolaya.

12 Q. But that's not my question. My question
13 is: When did you have the communication with Judge
14 Sanchez about the SEC having filed a case?

15 A. I don't think -- on a status conference
16 that was set by the court.

17 Q. And during that status conference, you
18 successfully on behalf of Complete Business
19 Solutions Group prevented the SEC from obtaining
20 documents that had been filed in that case; correct?

21 A. I have no specific recollection of that,
22 but I'm pretty sure -- I don't remember what
23 happened exactly, to be honest with you, but I'm
24 pretty sure -- when you say successfully, I think
25 they were then turned over like that day. So I

1 don't know what that means, successfully.

2 Q. You won the status conference. You showed
3 up at the status conference and you argued against
4 the documents being produced by the subpoenaed party
5 on grounds that CBSG opposed the production and
6 opposed the lifting of the confidentiality
7 designation as to those documents and you did so on
8 behalf of Complete Business Solutions Group; isn't
9 that correct?

10 MR. FUTERFAS: I object to the form of the
11 question, and I'm going to object on the grounds of
12 relevancy. I really don't know what this has to do
13 with the SEC's case against various defendants. My
14 objection is noted.

15 THE WITNESS: I have no specific memory of
16 what occurred of it. My bigger memory is talking to
17 Mr. Alfano after the fact and showing him that
18 whatever notice he said I had or didn't have, I
19 didn't, and I sent him all the emails to show the
20 exact time period. I don't remember the specifics
21 of what occurred at that status conference and the
22 win or lose. It was a status conference. I don't
23 know exactly -- it wasn't a hearing with motions.
24 That would be a win or loss. I just don't remember
25 what you're talking about.

1 BY MS. BERLIN:

2 Q. I'm talking about during the status
3 conference you argued that the SEC shouldn't get
4 these documents under the subpoena issued in
5 connection with the investigation in this case that
6 you're testifying in today. And the judge agreed
7 with you. And the SEC was not able to obtain the
8 documents during that status conference; isn't that
9 correct?

10 A. I have no idea.

11 MR. FUTERFAS: Same objections. Object to
12 the form. Object to the form. Thank you.

13 THE WITNESS: I have no idea what you're
14 talking about. And I'm pretty sure what you're
15 talking about is not what went down. But maybe -- I
16 don't remember. I'm sorry.

17 BY MS. BERLIN:

18 Q. And, in fact, after that status
19 conference, you did not voluntarily disclose what
20 had occurred to the receiver's counsel or Gaetan
21 Alfano. In fact, the receiver's counsel and
22 Mr. Alfano learned about it and then contacted you
23 to inquire. Isn't that correct?

24 MR. FUTERFAS: Object to the form of the
25 question. How would he know when someone else

1 learned something. Object to the form of the
2 question.

3 THE WITNESS: I honestly have no idea what
4 you're talking about. And this is almost silly the
5 questions you're asking because I think you have
6 your facts wrong. But when you say -- there was not
7 even -- I don't even know who was appointed when or
8 when that occurred. So, no, I have no idea what
9 you're talking about.

10 BY MS. BERLIN:

11 Q. Meaning after the status conference
12 occurred in July after the receiver had been
13 appointed, you did not voluntarily reach out to the
14 receiver or his counsel to tell him about it.
15 Instead you only disclosed information about it
16 after the receiver and his counsel asked you about
17 it, after they learned about it and inquired of you;
18 isn't that correct?

19 MR. FUTERFAS: I'm going to object to the
20 form. It's a compound question. I object to the
21 form. It assumes all kinds of facts not in
22 evidence. I object to the form.

23 MR. LEVITT: I'm going to object. These
24 questions are harassing to the witness. This is not
25 relevant to the SEC's complaint in this action.

1 You're cross-examining him on matters that are not
2 relevant, and it's harassment. Please move on.

3 THE WITNESS: Yeah. And I have no idea
4 what you're talking about your. Questions are just
5 lacking foundation in so many different ways
6 because, in fact, you should read the emails I sent
7 to Mr. Alfano after the fact showing him exactly
8 when I learned what I learned. I don't remember the
9 timing. But I can assure you you're wrong in your
10 entire line of questioning.

11 BY MS. BERLIN:

12 Q. Okay. Is the answer to my last question
13 no or yes?

14 A. I have no idea what you're even asking me,
15 to be honest with you.

16 Q. I'm asking you after the status
17 conference -- that you testified that you discussed
18 status conference with Gaetan Alfano who is one of
19 the receiver's counsel. So I'll ask you directly.

20 The conversation that you're referring to,
21 did Mr. Alfano contact you to ask to discuss that
22 status conference with you, or did you voluntarily
23 disclose what had occurred to the receiver before
24 they asked you?

25 MR. FUTERFAS: Objection to the form of

1 the question.

2 MR. LEVITT: Objection to the form.
3 Harassing the witness. Lack of relevance. Lack of
4 foundation.

5 THE WITNESS: I have no idea.

6 BY MS. BERLIN:

7 Q. Okay. When was the last time that you
8 spoke with any of the defense counsel involved in
9 this case?

10 A. I can't exactly remember, to be honest
11 with you. I remember I spoke to Mr. Futerfas
12 probably a month ago where he said, you're going to
13 be deposed. I said, yeah, and that was our
14 discussion.

15 And Mr. Soto sent me an email probably a
16 month ago or three weeks ago asking me can I sign a
17 records custodian form for the subpoena that was
18 served on my firm for records involving the exchange
19 offer or SEC or regulatory filings, whatever the
20 subpoena said. So I've had no discussion.

21 Q. And so your office received a subpoena
22 from -- was it Joseph LaForte or Lisa McElhone?

23 A. I don't know who. And the documents were
24 provided. Yes, we received a subpoena. We did the
25 production in conjunction with Mr. Kolaya who

1 reviewed everything before it went out.

2 Q. And who made the production? Fox
3 Rothschild or was it the receiver?

4 A. Fox Rothschild at the request of the
5 receiver.

6 Q. And you sent that to Alex Soto?

7 A. I sent it -- I think so. I think so. I
8 think I sent it to Gaetan and Tim, too, both before,
9 after and during. I asked Mr. Kolaya specifically a
10 lot of questions to make sure the receiver didn't
11 think we shouldn't produce. So we gave them
12 everything, and they reviewed it.

13 Q. So other than just simply acknowledging
14 the fact that you were being deposed in this case
15 with Mr. Futerfas, did you discuss anything else
16 with Mr. Futerfas about this case or about Complete
17 Business Solutions Group?

18 A. In the call I just said, no. And I
19 haven't had substantive discussions with any counsel
20 for the defense at any time that I can vividly
21 remember. Many, many months ago. I have really not
22 been involved.

23 Q. And have you spoken with any of the
24 individual defendants in this case recently, like
25 within last six months?

1 A. Probably the last time I spoke to anyone
2 was Joe LaForte, and it was, I'd say, three, four
3 months ago.

4 Q. And what did you discuss?

5 A. Just generally, you know, how upset he was
6 about the case and how -- I mean, it was very -- not
7 substantive and it was like, you know, distraught
8 that this could happen.

9 Q. Any other discussions with any of the
10 other individual defendants?

11 A. Nothing in the last many months, and
12 nothing that jumps out at me, to be honest with you.

13 Q. Okay. Did you become aware at any time of
14 any transfers of money that occurred by anyone
15 connected with Complete Business Solutions Group of
16 Complete Business Solutions -- let me ask that a
17 better way. I just realized how convoluted that was
18 going. I'm sorry.

19 At any time did you learn about the
20 transfer of any funds related to Complete Business
21 Solutions Group after the SEC had filed its case?

22 A. Did I learn? Yes. Money was sent to Fox
23 Rothschild.

24 Q. And that money has been returned to the
25 receiver?

1 A. The money that was not earned was returned
2 to the receiver.

3 Q. And so how much did Fox Rothschild retain?

4 A. The money that was earned. I don't know
5 the exact number. It's probably around \$700,000.

6 Q. And that was for work done during what
7 time period?

8 A. The work prior to the filing of this
9 action, all of the money was earned for legal fees
10 that were incurred.

11 Q. What about any other money transfers, were
12 you ever asked for any legal advice by any of the
13 defendants about their transfer of any Complete
14 Business Solutions Group related funds after the SEC
15 filed its case?

16 A. No.

17 Q. What about any of their personal funds or
18 assets after the SEC filed its case?

19 A. I think there was an asset freeze in this
20 case. So, no, I'm not aware of personal assets
21 being talked about.

22 Q. So you weren't asked for any legal advice
23 about that?

24 A. Not that I recall, no.

25 Q. And did you give any legal advice to any

1 of the defendants in this case about the transfer of
2 funds after the SEC filed its case?

3 MR. LEVITT: I'm going to have a -- go off
4 the record and talk to my client. I want to make
5 sure that we don't inadvertently reveal any
6 privileged information. So let's take a five-minute
7 break so I can do that.

8 MS. BERLIN: Understood. Before we go off
9 the record, please be aware that Mr. LaForte,
10 Mr. McElhone and Mr. Cole have all asserted reliance
11 on advice of counsel defenses in this case.

12 MR. LEVITT: Thanks for advising.

13 MS. BERLIN: Sure.

14 MR. LEVITT: So give us about five
15 minutes, and we'll get back on.

16 MS. BERLIN: Sounds good. I'm going to
17 turn my camera off and go on mute, but I'm here. So
18 just let me know whenever --

19 MR. FUTERFAS: Those advice of counsel
20 defenses as to the allegation of the SEC's
21 complaint. That's what the advice of counsel
22 defenses are for, just so we're clear.

23 MS. BERLIN: That has to be something
24 litigated if you're claiming --

25 MR. FUTERFAS: I just want to make sure.

1 I just want to make sure that we understand what
2 we're all talking about.

3 MS. BERLIN: I would suggest that you look
4 at the -- if you look at the answer and affirmative
5 defense, you could see the scope of the waiver of
6 the attorney/client privilege. There are three
7 affirmative defenses on reliance.

8 MR. FUTERFAS: I'm not sure there's --

9 MS. BERLIN: I'm speaking to Mr. Levitt.
10 Just to let you know, Mr. Levitt, you might want to
11 take a look at the docket, you know, before you come
12 back on so you can see like exactly what was pled by
13 the defense. They filed it just last week. So it's
14 one of the most recent ones. And if it's easier for
15 us to email it to you, I can email it to you in a
16 matter of minutes if that's a simpler thing.

17 MR. LEVITT: No. That's fine. I'll take
18 your word for it. And we'll get back on soon.

19 MS. BERLIN: Okay.

20 THE VIDEOGRAPHER: And we're going off the
21 record at 3:30 p.m.

22 (Recess from 3:30 p.m. to 3:37 p.m.)

23 THE VIDEOGRAPHER: And we're back on the
24 record at 3:37 p.m.

25

1 BY MS. BERLIN:

2 Q. Mr. Berman, we just came back from the
3 break so you could confer with your counsel. Would
4 you like to respond to the question?

5 MR. LEVITT: We're going to object to the
6 question based on attorney/client privilege because
7 it asks for communications with his clients after
8 the SEC action was filed regarding legal advice.

9 MS. BERLIN: And which client is that?

10 MR. LEVITT: Mr. Berman was representing
11 the individual defendants in the SEC action at that
12 time.

13 MS. BERLIN: Which ones?

14 MR. LEVITT: Well, whoever the -- I think
15 it was Mr. LaForte and Ms. McElhone -- Mr. Berman,
16 you can correct me if I'm wrong -- you were
17 representing at that time. So we're going to assert
18 a privilege based upon that attorney/client
19 relationship with regard to your last question.

20 MS. BERLIN: He's asserting a privilege in
21 connection with Lisa McElhone and Joseph LaForte?

22 MR. LEVITT: That is correct.

23 BY MS. BERLIN:

24 Q. Mr. Berman, when were you representing
25 Ms. McElhone and Mr. LaForte until their individual

1 capacities other than what you testified about
2 earlier that was before the SEC filed its case.

3 After the SEC filed its case, when were
4 representing Ms. Lisa McElhone and Mr. Joseph
5 LaForte?

6 A. Until the time we got out of -- until the
7 time the court issued the order having us withdraw.

8 Q. And so when did you begin representing
9 Lisa McElhone and Joseph LaForte?

10 A. When the case was filed.

11 Q. So in July 2020?

12 A. Yes. July 28 by memory.

13 Q. Okay. And who -- were you only
14 representing Lisa McElhone and Joseph LaForte, or
15 were you also representing others during that same
16 time period?

17 A. Joe Cole for a very limited window and the
18 company for a very limited window until the court
19 issued an order. Then there was further briefing on
20 the issue.

21 Q. And is the attorney/client privileged
22 communication, the privilege that you're claiming
23 regarding communication, was it written
24 communication or was it verbal?

25 MR. LEVITT: I want to assert the

1 attorney/client privilege as to any details about
2 the communications.

3 MS. BERLIN: So I would direct you to the
4 local rule which permits inquiry into the insertion
5 of attorney/client privilege without going into any
6 detail about what the substance of the communication
7 was. I would direct you to that.

8 I'm going to ask the questions again just
9 so that I'm providing you an opportunity to review
10 that.

11 BY MS. BERLIN:

12 Q. My question is: Was the communication
13 you're claiming privilege over with respect to
14 Ms. McElhone and Mr. LaForte about the transfer of
15 funds, was that communication written or verbal or
16 both?

17 MR. LEVITT: I'm going to object. The
18 witness has not identified the exact nature of the
19 communication, and he has not -- you're assuming
20 facts that are not in evidence. The subject is
21 something that we're objecting to. I'm not going to
22 let you inquire as to any communications involving
23 legal advice to those individuals after this SEC was
24 filed for the period of time that Mr. Berman was
25 representing them. It's an improper question. I'm

1 going to stand on that objection.

2 MS. BERLIN: So you're making a blanket
3 objection on privilege grounds to any questions
4 concerning whether or not he gave advice to the
5 individual defendants after we filed the case; is
6 that accurate?

7 MR. LEVITT: That's correct. I'm going to
8 object to any questions about legal advice sought or
9 received between Mr. Berman and those individuals
10 during the time that he was representing them after
11 this action was filed. It's privileged.

12 MS. BERLIN: So, again, just because we
13 need to make the record, I'm going to ask the
14 questions under local rule for when someone is
15 asserting a privilege in a deposition.

16 BY MS. BERLIN:

17 Q. I've already asked you if you provided any
18 legal advice about the transfer of funds, and you
19 asserted privilege. I'm going to have to ask again.
20 You can assert privilege or however you want to
21 answer and those things will be addressed, but the
22 court can only address things that are on the
23 transcript.

24 Were your communications -- were any of
25 the communications at issue that you're claiming

1 attorney/client privilege over with Ms. McElhone and
2 Mr. LaForte about the transfer of funds after the
3 SEC filed its case?

4 MR. SOTO: This is Mr. Soto. I'm
5 objecting on the basis of privilege.

6 MR. LEVITT: I'm objecting to the basis of
7 privilege. Instructing the witness not to answer.

8 MR. FUTERFAS: Alan Futerfas. I join the
9 objections on privilege.

10 BY MS. BERLIN:

11 Q. And the privilege that's being asserted,
12 with it with respect to written or verbal
13 communication?

14 MR. LEVITT: Same objection.

15 BY MS. BERLIN:

16 Q. And was anyone else present other than
17 Ms. McElhone and Mr. LaForte when any legal advice
18 was provided concerning the transfer of funds after
19 the SEC filed its case?

20 MR. LEVITT: He's not testified that legal
21 advice was given on that subject as you described
22 it. Object to the form of the question. Object on
23 grounds on privilege. If you rephrase the question,
24 we may be able to answers that, but not the way it's
25 phrased.

1 BY MS. BERLIN:

2 Q. You asserted privilege in response to a
3 question about whether he provided any legal advice
4 about the transfer of funds. So under the standing
5 discovery order in this case, that would indicate
6 that there is a responsive answer.

7 So I'm now following the local rules
8 guidance, and I'm asking if any third parties were
9 present during any communications with Ms. McElhone
10 or Mr. LaForte regarding the transfer of -- in any
11 communications regarding the transfer of funds after
12 the SEC filed its case?

13 MR. LEVITT: I'm going to object to the
14 form of the question because you are -- the way you
15 phrased your question, that requires a disclosure of
16 privileged information. You have to rephrase the
17 question.

18 MS. BERLIN: I think the transcript is
19 clear that we're not asking for the substance or
20 what advice was given. So are you instructing your
21 client not to answer the question?

22 MR. LEVITT: As phrased, yes. You have to
23 ask a more general question as to whether anyone was
24 present other than his clients during legal advice
25 that was given in connection with this case during

1 that time period. I'll let him answer that, but not
2 when you load the question up with information about
3 was that advice may or may not have been because
4 that invades the privilege.

5 MS. BERLIN: I think the transcript is
6 clear that we didn't ask about what the advice was
7 but the general subject matter, which is
8 permissible. But we're not going to litigate that
9 here. I just wanted to make sure that everyone was
10 on notice of the local rule.

11 BY MS. BERLIN:

12 Q. Mr. Berman, are you refusing to answer the
13 question about whether you had any discussions with
14 Lisa McElhone or Joseph LaForte concerning the
15 transfer of funds in the presence of third parties?

16 MR. LEVITT: Objection. Privileged.
17 Instruct you not to answer.

18 You'll have to take that to the court.

19 MS. BERLIN: I'm sorry. Are you claiming
20 that it's attorney/client privileged whether or not
21 he communicated with Lisa McElhone and Joseph
22 LaForte about the transfer of funds while in the
23 presence of third parties?

24 MR. LEVITT: I'm objecting to your
25 question as phrased based on attorney/client

1 privilege. I'm instructing him not to answer.

2 BY MS. BERLIN:

3 Q. And, Mr. Berman, do you understand that
4 I'm asking you about whether or not you had
5 communications with third parties who are not your
6 clients together with -- so let me be clear. I want
7 to make sure that you understand, Mr. Berman, that
8 my question is whether or not you had communications
9 in the presence of third parties who were not your
10 clients with Lisa McElhone and Joseph LaForte about
11 the transfer of funds after the SEC filed its case?

12 MR. LEVITT: I'm going to object to that
13 question as phrased on the grounds privilege and
14 instruct him not to answer.

15 MS. BERLIN: And which privilege again?
16 Are you claiming attorney/client privilege over
17 that?

18 MR. LEVITT: I've said that a few times.

19 MS. BERLIN: I just have to clarify for
20 the record you're not talking about a different work
21 product privilege or something else. So is that the
22 attorney/client privilege that you're asserting?

23 MR. LEVITT: That's correct.

24 MS. BERLIN: Okay. And the clients at
25 issue are Ms. McElhone, Mr. LaForte and no one else;

1 is that accurate?

2 MR. LEVITT: Mr. Cole as well.

3 MS. BERLIN: And Mr. Cole as well?

4 MR. LEVITT: Yeah.

5 BY MS. BERLIN:

6 Q. Did you have any discussions with Lisa
7 McElhone after the SEC filed its case where someone
8 was present who was not also your client?

9 MR. FUTERFAS: I'm going to object to the
10 form of the question.

11 MR. LEVITT: I object to the form. But,
12 Mr. Berman, since that question doesn't contain
13 contents about was those discussions may have been
14 or the subject matter, if you understand the
15 question, I'll allow you to answer that.

16 THE WITNESS: No, not to my knowledge.

17 BY MS. BERLIN:

18 Q. And what about Mr. LaForte, did you have
19 any communications with him after the SEC filed its
20 case when a third party was present who was not also
21 your client?

22 A. No, not to my knowledge.

23 Q. Okay. At any time during -- at any time
24 were you asked for any legal advice about
25 transferring funds from any of CBSG's accounts for

1 the purposes of acquiring property and real estate?

2 MR. LEVITT: I'm going to object on the
3 grounds of attorney/client privilege. Probing into
4 any advice that may or may not have been sought by
5 the client or given is privileged. And it's not
6 relevant to your complaint as well.

7 BY MS. BERLIN:

8 Q. So, Mr. Berman, are you refusing to answer
9 whether you were representing Complete Business
10 Solutions Group when you were asked for any legal
11 advice about the transfer of Complete Business
12 Solutions Group funds for the purposes of acquiring
13 real estate?

14 MR. LEVITT: What time period are we
15 speaking about?

16 MS. BERLIN: We're talking about while he
17 represented Complete Business Solutions Group and
18 the receiver's (indecipherable) that privilege.

19 MR. FUTERFAS: I object to the form of the
20 question. Funds belonging to CBSG or funds
21 belonging to individual persons? I don't understand
22 your question. I'd ask you to rephrase it.

23 MS. BERLIN: I think the question was
24 clear.

25

1 BY MS. BERLIN:

2 Q. Mr. Berman, would you please respond.

3 MR. LEVITT: Can I hear the question read
4 back by the reporter because I'm not clear about it
5 myself.

6 MS. BERLIN: I'll just ask it again. You
7 don't have to do that, court reporter.

8 BY MS. BERLIN:

9 Q. Mr. Berman, during the time that you
10 were -- any time you were representing Complete
11 Business Solutions Group, were you asked for any
12 legal advice about the use of funds from Complete
13 Business Solutions Group's accounts to be
14 transferred for purposes of acquiring property and
15 real estate?

16 MR. FUTERFAS: Object to the form of the
17 question. If you're asking -- I don't know whether
18 you're asking Mr. Berman whether he was advising
19 people to take money from CBSG or you're asking
20 whether he's advising people what to do with money
21 they've earned from CBSG. I really don't understand
22 your question at all, Amie. I'd ask you to rephrase
23 it, please.

24 MS. BERLIN: I'm not going to unless
25 Mr. Berman claims he's confused, but I think the

1 transcript will be very clear. I think it's a clear
2 question.

3 BY MS. BERLIN:

4 Q. Mr. Berman, do you understand the question
5 about whether you were asked for legal advice about
6 the transfer of funds from Complete Business
7 Solutions Group towards the purchase of real estate?

8 MR. FUTERFAS: Object to the form for the
9 reasons I've stated.

10 MR. LEVITT: I'll object to the form, too.
11 But, Mr. Berman, if you understand the question, you
12 can answer it. And if it concerns matters that
13 occurred before this action was filed, you can
14 answer the question.

15 THE WITNESS: Sure. I think I understand
16 the question. And the answer is I was not aware of
17 any funds being transferred for any purpose, so no.

18 BY MS. BERLIN:

19 Q. Okay. And then, Mr. Berman, during the
20 time that you were representing Complete Business
21 Solutions Group, so before the SEC filed -- I'll
22 narrow the time.

23 Before the SEC filed its case, did you
24 know that Complete Business Solutions Group had
25 funded about \$1.2 billion in merchant cash advances

1 and had collected about \$1.2 billion from the
2 merchants?

3 A. I was not aware of the specific numbers,
4 no.

5 Q. Were you aware of the fact that Complete
6 Business Solutions Group received from merchants
7 about the same amount that it actually had sent out
8 to merchants?

9 A. I was not aware of that number.

10 Q. I'm not asking if you knew the specific
11 number. I'm asking if you knew that they -- that
12 CBSG funded an amount that was about equal to what
13 Complete Business Solutions Group ultimately
14 collected from the merchants.

15 MR. FUTERFAS: I object to the form and I
16 object to the relevance. And it's assuming facts
17 that are completely erroneous as proven by reports
18 filed in this case.

19 THE WITNESS: So the answer to your
20 question is no, I wasn't aware of specifics, but
21 what I would say to you in response to your question
22 is that that ignores the fact that there was an
23 excess of \$500 million of receivables that were
24 subject to collection and active agreements or
25 agreements that were just subject to collection. So

1 I don't even understand how you're making that link.

2 BY MS. BERLIN:

3 Q. Mr. Berman, what is your understanding of
4 receivables? Are you talking about account
5 receivables?

6 A. I'm talking about the fact that there was,
7 by my knowledge, over \$400 million in active money
8 on the street, either owed in MCA deals or money
9 advanced, plus there was \$100 to \$150 million of
10 deals that were subject to collection.

11 So when you say the numbers equal, I have
12 no idea if the numbers equal or don't equal. But
13 you've completely ignored the fact that there are
14 hundreds of millions of dollars on the street that
15 were able to be collected.

16 Q. Let's back up. I'm not asking you
17 about -- what is your definition -- what do you mean
18 when you say receivables? Are you referring to
19 accounts receivables?

20 A. This is the MCA business. So merchant
21 cash advance lends on future receivables.

22 Q. Okay. But accounts receivables is not the
23 cash that's coming back into Complete Business
24 Solutions Group. You would agree with me that it's
25 the amount that -- the accounts receivables is the

1 money that has not yet been -- it's the cash that
2 has not yet been received in the accounts of
3 Complete Business Solutions Group; correct?

4 A. I have no idea what you're talking about.

5 Q. Mr. Berman, is your understanding of
6 accounts receivable that that's actual dollars that
7 have been returned to Complete Business Solutions
8 Group? For example, if I looked in their bank
9 account, I would see that money?

10 MR. LEVITT: Object to the form.

11 THE WITNESS: I think you have a
12 fundamental misperception of this business based on
13 your question.

14 BY MS. BERLIN:

15 Q. Mr. Berman, I'm just asking if and I can
16 agree that accounts receivables is not cash that has
17 come into Complete Business Solutions Group yet.

18 A. I have no idea what you're talking about.
19 It's not even a sensical question. It's not a
20 sensical question. So a bank -- when a bank lends
21 money, they are not are owed receivables on their
22 balance sheet? That's GAAP accounting. I just
23 think you have a fundamental misperception of
24 accounting.

25

1 BY MS. BERLIN:

2 Q. Oh, okay. So are you refusing to answer
3 other than personally attacking me for what you
4 perceive is my lack of my accounting knowledge,
5 Mr. Berman?

6 A. I told you multiple times I don't even
7 understand your question. It doesn't make sense.
8 So if you want to rephrase it, I'm always happy to
9 answer any question you want.

10 Q. Mr. Berman, I'm not asking for your
11 opinion about me personally. And fortunately, your
12 counsel is not intervening to assist here. But I
13 will just sort of let it be known that I object to
14 that sort of personal attack in our litigation.

15 A. There have been no personal attacks.

16 Q. That's specifically not how we conduct
17 ourselves.

18 A. There have been no personal attacks.

19 (Multiple speakers talking at the same time.)

20 MS. BERLIN: I think the transcript will
21 reflect exactly you said, Mr. Berman, the video as
22 recorded will reflect your tone.

23 MR. LEVITT: Ms. Berlin, let me just
24 intervene, if I may, for one second.

25 MS. BERLIN: I'm going to ask the

1 question.

2 MR. LEVITT: I would like to just object
3 to that characterization. I think he was critical
4 of your question. He's very critical of the
5 question you asked. But he wasn't critical of you
6 personally.

7 MS. BERLIN: I think the transcript will
8 reflect it.

9 MR. LEVITT: If you can rephrase the
10 question. Let's spend the time so that you get the
11 information that you want to get because -- I'm sure
12 you can rephrase the question. And you and
13 Mr. Berman can come to the terms on the subject
14 matter and he can give you the information you want.
15 But he's just not understanding your question.

16 BY MS. BERLIN:

17 Q. Well, Mr. Berman, it's a simple question,
18 and I think you might have your own personal opinion
19 about it, but I wonder if you could just listen to
20 the question I'm asking and answer me.

21 I never asked you a question at the
22 beginning about account receivable. My initial
23 question -- I'd like to go back to that. I'm just
24 going to focus on that.

25 The question I have for you is not about

1 accounts receivable. I asked you a question about
2 the amount that had been collected, the actual cash
3 that came into Complete Business Solutions Group.

4 Do you understand what I mean by the cash?
5 I mean the dollars that came into Complete Business
6 Solutions Group as opposed to the accounts
7 receivable figure that might be reflected in
8 merchant cash advance agreements. Do you understand
9 the distinction between those two things?

10 MR. FUTERFAS: I object to the form of the
11 question.

12 BY MS. BERLIN:

13 Q. Mr. Berman, do you understand the
14 distinction that I am drawing between those two
15 things?

16 A. You're talking about numbers and issues
17 that I have no idea about. So, yes, I understand
18 the concept of cash in the door versus money owed.
19 Yes, I do understand that.

20 Q. That's I was trying to get to before with
21 my question about accounts receivable.

22 So my initial question you to was not
23 about money code. My question to you is about the
24 money collected. And by money collected,
25 Mr. Berman, I mean the cash that has been received.

1 Do you understand what I mean by money
2 collected?

3 A. I understand your words, yes.

4 Q. Okay. So my question is simply: Did you
5 know before the SEC filed its case or did you have
6 an understanding before the SEC file its case while
7 you were representing Complete Business Solutions
8 Group that the amount of cash that Complete Business
9 Solutions Group sent out to the merchants through
10 funded merchant cash advances was about equal to the
11 amount of cash that came in from the merchants? Did
12 you have that understanding?

13 MR. FUTERFAS: Objection. Asked and
14 answered. Let me state my objection before you
15 answer, Mr. Berman.

16 Objection. Asked and answered. And as I
17 recall, Mr. Berman, in the course of his answer also
18 said that that financial question does not include,
19 I think, about \$600 million of other value. So that
20 was my recollection of his prior answer.

21 MS. BERLIN: I'm objecting to the speaking
22 objection.

23 BY MS. BERLIN:

24 Q. And, Mr. Berman, again, I'm not asking
25 about the 600 million in accounts receivable.

1 MS. BERLIN: So I would ask that counsel
2 refrain from making speaking objections.

3 BY MS. BERLIN:

4 Q. This is a very simple question. I'm going
5 to ask you again, Mr. Berman.

6 Mr. Berman, did you or did you not have an
7 understanding while you represented Complete
8 Business Solutions Group before the SEC filed its
9 case that Complete Business Solutions Group, the
10 money that went out, meaning the cash that went out,
11 to the merchants through the merchant cash advances
12 was about equal to the amount of cash that came back
13 in from the merchants? Did you have an
14 understanding or not?

15 MR. SOTO: Objection to form.

16 THE WITNESS: No.

17 BY MS. BERLIN:

18 Q. Okay. And did anyone at Complete Business
19 Solutions Group give you a sense of how much more or
20 less was coming in from the merchants, than cash,
21 than was going out to merchants while you were
22 representing CBSG before the SEC filed its case?

23 A. I saw both default lists and active files
24 and saw \$500 to \$600 million in collectible
25 receivables. So that's --

1 Q. Mr. Berman, I'm not asking you about
2 accounts receivable. And I'd really like to finish
3 your deposition.

4 MR. FUTERFAS: Please let the witness
5 finish his answer. I object to you interrupting the
6 witness because you don't like what the witness is
7 saying. You asked the question. He's answering
8 your question. I object to the interruption of the
9 witness.

10 MS. BERLIN: Mr. Futerfas, there's no
11 issue with liking or not liking what he's saying.
12 I'm just trying to get an answer to the question.

13 BY MS. BERLIN:

14 Q. But, Mr. Berman, by all the means speak
15 for as long as you want about accounts receivable.
16 And then I'll ask my question again. So go ahead.

17 A. No. You could ask your question. I'd
18 like to be done.

19 Q. No, please. Mr. Futerfas has objected
20 that I cut you off. Please speak as long as you
21 would like about accounts receivable or whatever it
22 is that you were discussing that was not the subject
23 of your question.

24 A. It was as I understood your question to
25 be. You're talking about dollars in versus dollars

1 out. And I don't think that's how -- I don't
2 understand, but I told you before I don't know if
3 the dollars match. So if you want another question,
4 here I am.

5 Q. Thank you. Did anyone at Complete
6 Business Solutions Group ever indicate to you like
7 anything about the dollars out versus dollars in for
8 merchants? And I am not asking about the amount
9 owed. I'm talking about cash out and cash in.

10 MR. SOTO: Objection to the form.

11 THE WITNESS: It was my understanding that
12 the company was always cash flow positive.

13 BY MS. BERLIN:

14 Q. But did you understand by how much?

15 MR. SOTO: Objection to the form.

16 THE WITNESS: No, no. I did not know by
17 how much, no.

18 BY MS. BERLIN:

19 Q. And by how much, I don't mean a specific
20 dollar figure, but they were extremely positive or
21 barely breaking even. Did you ever have an
22 understanding of that from your clients at CBSG
23 while you were representing them before the SEC file
24 its case?

25 MR. SOTO: Objection to the form,

1 specifically to the phrase breaking even. Objection
2 to the form.

3 THE WITNESS: The answer is I said as part
4 of those spreadsheets that I would see whatever time
5 period, they would analysis on there about money in
6 versus money out, and it was significantly greater
7 of what was owed or outstanding than what was
8 advanced, which to me meant there was always more
9 money coming in than your questions implicates.

10 Q. Okay.

11 MR. SOTO: Amie, this is Mr. Soto. I just
12 want to make clear I understand the questions where
13 you're trying to distinguish cash from GAAP
14 accounting. But when you use a phrase like breaking
15 even, now you're conflating two different things
16 unless you make your question much more clear.

17 MS. BERLIN: I don't think so, but you
18 guys can ask that on cross.

19 MR. SOTO: That's just my objection.

20 MS. BERLIN: There have been so many
21 speaking objections and just like revisions to the
22 questions I've asked.

23 MR. SOTO: Amie, I objected merely to the
24 form, and I wanted make sure you understood my
25 objection. I haven't given you any speaking

1 objections during this whole long depo. I just
2 wanted to make sure you understood the reason for my
3 objection on that very last question.

4 MS. BERLIN: Understood.

5 BY MS. BERLIN:

6 Q. And, Mr. Berman, what spreadsheets are you
7 referring to that you were provided that showed
8 money in and money out?

9 A. If I said money in and money out, I didn't
10 mean that. It was the documents I referenced
11 earlier that had lots of different color coding on
12 it. And those documents listed all, to my
13 knowledge -- I don't want to say all because I can't
14 verify it was every single deal that ever occurred
15 in the history of CBSG, but they showed different
16 line items for the money advanced versus the amount,
17 the face amount of the MCA deal, and it showed
18 hugely positive numbers.

19 Q. And you're not sure if that was cash
20 in/cash out or if that was including accounts
21 receivable?

22 A. I remember seeing in Mr. Cole's office or
23 in the office in a boardroom presentations that
24 showed an analysis of the numbers, and it was hugely
25 profitable.

1 Q. It was hugely profitable. And what kind
2 of document was that?

3 A. It was both the document I told you, which
4 they were able to break down and show deals since
5 inception and it had line items that totaled
6 everything at the end. And it was -- again, I
7 didn't do an audit of it. That's not my role. But
8 I saw numbers that were hugely in the positive.

9 Q. And this spreadsheet with the color
10 coding, who would email that to you?

11 A. You asked that a few times before, and it
12 was either Mr. Cole directly or someone that he had
13 send it out. I don't remember.

14 Q. Okay. And have you ever litigated a case
15 involving GAAP or an accounting fraud case?

16 A. Yes. I have an MBA. I'm very familiar
17 with GAAP accounting.

18 Q. My question is: Have you litigated cases
19 regarding accounting fraud or GAAP accounting
20 principles?

21 A. I can't talk -- I mean, the answer is I've
22 litigated so many different cases. And, yes, I have
23 litigated issues on alleged improprieties on
24 financial statements through accounting. I've
25 represented accounting firms. So, yes, I'm very

1 familiar with the topic.

2 Q. Okay. So you're fully knowledgeable about
3 these matters. And when you reviewed the -- and you
4 reviewed Complete Business Solutions Group's
5 finances from what I understand from your testimony
6 today; is that accurate?

7 MR. SOTO: Objection to form.

8 THE WITNESS: No. I don't think that's
9 what I said. I told you I saw spreadsheets that
10 showed the gross amount that was given out in MCA
11 deals versus the amount that was both outstanding
12 and collected. And everything I saw was positive.

13 Did I do a forensic review of their
14 financials? Absolutely not. Did I have access to
15 that? No. But the documents that I was shown in
16 the time period I was representing them only showed
17 positives.

18 BY MS. BERLIN:

19 Q. Did you ever review their finances to see
20 if they were in compliance with GAAP?

21 A. What finances?

22 Q. Any financial records for Complete
23 Business Solutions Group to determine if they were
24 in compliance with GAAP. You brought up GAAP today
25 in your testimony. So I'm allowed to probe that,

1 why you raised that issue.

2 Did you do any sort of review or
3 assessment of Complete Business Solutions Group's
4 records to determine if they were in compliance with
5 GAAP?

6 MR. SOTO: Objection to form.

7 THE WITNESS: The answer is no.

8 BY MS. BERLIN:

9 Q. And are you CPA?

10 A. I'm not.

11 Q. And have you ever done securities
12 litigation?

13 A. Never.

14 Q. And so why was it earlier today that you
15 began testifying about GAAP?

16 A. Because it's a revenue recognition
17 vehicle. So when you ask me about whether or not
18 dollars in and dollars out equal zero, you're
19 ignoring the fact that there's revenue recognition
20 of accounts receivable.

21 Q. But you understand that that's an
22 accounting principle. And I was simply asking you
23 about the dollars collected by the company, and that
24 that's a vastly different issue. Do you understand
25 that?

1 MR. SOTO: Objection to form.

2 MR. FUTERFAS: Objection to form.

3 THE WITNESS: I understand your question.
4 Your question asked me 1.2 billion in, 1.2 billion
5 out equals zero. And I don't understand how you
6 just ignore the fact that there are receivables of
7 hundreds of millions of dollars in making a zero
8 analysis.

9 BY MS. BERLIN:

10 Q. I don't think anyone was ignoring
11 anything. I simply asked you a question. I just
12 want to make sure that you understood the questions
13 you've been asked today and that you understand --

14 A. I have answered all the questions. I've
15 answered all the questions. If you want to ask them
16 again, I'm here. But I understood all the questions
17 you asked today. I don't know 1.2 in, 1.2 out, I
18 have no idea. I told you that.

19 Q. Okay. And is there anything from your
20 testimony earlier today that you feel the need that
21 you need to clarify because I'd like to give you an
22 opportunity to clarify anything that you might be
23 concerned you weren't clear enough on.

24 A. No.

25 MS. BERLIN: Okay. I have no other

1 questions today.

2 MR. FUTERFAS: This is Alan Futerfas. We
3 have a few questions on cross. Can we take maybe a
4 five-minute break and then resume at 4:14 or
5 whatever it is.

6 MR. LEVITT: Mr. Futerfas, can I ask you
7 if you have any estimate of how long you're
8 expecting to go?

9 MR. FUTERFAS: Maybe half an hour.

10 MR. LEVITT: Thank you.

11 MS. BERLIN: Can we go off the record now?

12 MR. FUTERFAS: Fine with me.

13 THE VIDEOGRAPHER: Going off the record at
14 4:09 p.m.

15 (Recess from 4:09 p.m. to 4:16 p.m.)

16 THE VIDEOGRAPHER: We're back on the
17 record at 4:16 p.m.

18 THE WITNESS: Alan, I'm not sure if Peter
19 is back. I haven't seen him.

20 EXAMINATION

21 BY MR. FUTERFAS:

22 Q. Thank you, Mr. Berman. I know it's a
23 little late in the day. I will try to be clear and
24 efficient. If I'm not clear with any question,
25 please feel free to let me know that, and I'll

1 rephrase the question for you.

2 I want to start off where Ms. Berlin just
3 left off. Do you recall that she was asking you
4 questions about whether you were a CPA and whether
5 you reviewed the records for compliance with GAAP?

6 Do you recall those questions just a few
7 minutes ago?

8 A. I do recall the questions.

9 Q. And do you recall an answer to one of her
10 questions that you have an MBA and you are familiar
11 with GAAP accounting and you've represented
12 accounting firms? Do you recall that answer to one
13 of her questions just a few minutes ago?

14 A. I do.

15 Q. What is GAAP accounting?

16 A. GAAP accounting is a revenue recognition
17 principle.

18 Q. And for a company and organization to file
19 tax returns, do they need to recognize revenue in
20 accordance with GAAP accounting?

21 MS. BERLIN: I object on grounds that
22 Mr. Berman is not an expert in this area and you're
23 asking him for his professional opinion as a lay
24 witness.

25 MR. FUTERFAS: Your objection is duly

1 noted.

2 BY MR. FUTERFAS:

3 Q. Can you answer the question, Mr. Berman?

4 A. So the answer is I'm not a GAAP expert.

5 My only point I was trying to make is in response to
6 Ms. Berlin's questions about 1.2 billion in, 1.2
7 billion out equals zero. I was saying that ignores
8 GAAP principles of revenue recognition from accounts
9 receivable that are on their books at the time of
10 the question she asked me, as of July 28, 2020.

11 BY MR. FUTERFAS:

12 Q. Fair enough. You do recall her question
13 to you of whether you are a CPA; correct?

14 A. Yes. I'm not a CPA.

15 Q. If you were analyzing the books and
16 records of a company for profitability, would you
17 want a CPA to determine profitability under GAAP?

18 A. With all due respect, Mr. Futerfas, I
19 wouldn't be asking a lawyer that question. I think
20 that's much better suited to an accountant.

21 Q. Fair enough. Have you seen the report of
22 the Joel Glick filed in this case on April 15, 2021?

23 MS. BERLIN: Objection. Outside of the
24 scope of direct examination.

25 MR. FUTERFAS: Your objection is noted.

1 BY MR. FUTERFAS:

2 Q. Have you seen that report, Mr. Berman?

3 A. I saw a Glick document that was filed on
4 the public docket, yes.

5 Q. Okay. And did you note in that report
6 that Mr. Glick, a CPA, determined that the
7 profitability of CBSG was, if memory serves,
8 1.339 -- have an average rate of return of 1.339?
9 Did you see that?

10 MS. BERLIN: Objection. Hearsay.

11 THE WITNESS: I can't remember if I
12 specifically saw that, but I did think I saw that
13 there was an analysis with respect to the
14 profitability.

15 BY MR. FUTERFAS:

16 Q. Okay. Did the analysis that you saw --
17 was that consistent with your recollection of,
18 quote, hugely positive numbers, closed quote, that
19 you recall seeing from spreadsheets prepared by
20 Mr. Cole?

21 A. You are adequately quoting my testimony.
22 I obviously did not review all books and records of
23 the company. Based on what I saw, which was an
24 analysis of MCA deals that were funded, I only saw
25 positives. Because there were red ink or parens if

1 there was something negative. And I only saw
2 positive numbers.

3 Q. I want to turn your attention to a subject
4 matter that Ms. Berlin asked you about with respect
5 to the exchange offers in April, March, April of
6 2020.

7 Specifically she asked you and you
8 recalled conversations with you and other lawyers,
9 including Phil Rutledge, and then certain defendants
10 in this case, including Joe LaForte.

11 Do you recall generally those questions
12 and answers earlier today?

13 A. I do.

14 Q. Okay. And I think you testified that you
15 recall phone calls with either Joe LaForte or Joe
16 Cole and Mr. Rutledge regarding what should be
17 disclosed, period, regarding what should be
18 disclosed. Do you recall those questions and
19 answers?

20 A. I do.

21 Q. Did Mr. Rutledge know of Joe LaForte's
22 prior criminal history?

23 A. 100 percent, yes.

24 Q. And were there discussions about whether
25 that criminal history needed to be disclosed in

1 connection with the exchange notes that Mr. Rutledge
2 was advising on?

3 MS. BERLIN: Objection. Calls for
4 hearsay.

5 BY MR. FUTERFAS:

6 Q. You may answer.

7 A. The answer is yes. Mr. Rutledge was part
8 of those discussions and gave his opinion about the
9 disclosability of that, of Mr. LaForte's criminal
10 conviction.

11 Q. And were those conversations during the
12 very same conversations that Ms. Berlin asked you
13 about in which also disclosure of regulatory
14 actions, the Texas action, the New Jersey action,
15 the Texas action, whether those should be disclosed
16 as well?

17 MS. BERLIN: Objection. Hearsay.

18 THE WITNESS: The answer is yes. These
19 were all part of the same discussion related to all
20 disclosable events where Mr. Cole and Mr. LaForte
21 were asking Mr. Rutledge for his advice with respect
22 to what should or should not be disclosed.

23 BY MR. FUTERFAS:

24 Q. At any point to your recollection, did
25 Lisa McElhone or Joseph LaForte or quite frankly

1 anyone else who was affiliated with CBSG in any way
2 suggest to you that Mr. LaForte's criminal
3 background should be hidden or concealed from
4 anyone?

5 A. I didn't speak to Lisa McElhone about
6 that, so I can't answer as to her. But it's quite
7 to the contrary. I mean, as I said before, it was
8 public knowledge for merchants, opposing counsel,
9 employees of CBSG and Phil Rutledge and Haynes &
10 Boone that Mr. LaForte had a criminal conviction.
11 So no, it was actually the opposite of trying to
12 hide it.

13 Q. You just mentioned Haynes & Boone, and I
14 neglected to ask you that question. Were the
15 lawyers at Haynes & Boone aware of Mr. LaForte's
16 prior criminal history?

17 MS. BERLIN: Objection. Hearsay and calls
18 for speculation.

19 THE WITNESS: To the best of my
20 recollection, yes.

21 BY MR. FUTERFAS:

22 Q. Now, to your knowledge, is either
23 Mr. LaForte, Lisa McElhone or Joe Cole an attorney?

24 A. To my knowledge, they are not attorneys.

25 Q. Did they draft the PPM agreements, to your

1 knowledge?

2 A. If you're talking about the underlying
3 documents, I didn't have knowledge of those prior to
4 April or May of 2020. So I have no idea.

5 Q. Okay. To your experience from the time
6 you were affiliated with CBSG, to your knowledge,
7 did either of those -- did those individuals,
8 Mr. LaForte, Ms. McElhone or Mr. Cole, draft legal
9 documents, whether it was subscription agreements,
10 PPM agreements, exchange notes or any other legal
11 documents?

12 MS. BERLIN: Objection.

13 THE WITNESS: Not that I remember.

14 MR. FUTERFAS: Please give me a moment to
15 object. Objection. Outside the scope of the direct
16 examination and calls for speculation.

17 BY MR. FUTERFAS:

18 Q. You may answer.

19 A. I have no recollection of any of the three
20 people you named drafting legal documents.

21 Q. Okay. Is your recollection, in fact, to
22 the contrary, that they hired lawyers to draft
23 documents, different kinds of legal documents
24 including those that I just described?

25 A. Either hired or had in-house counsel who

1 did that type of work for them, yes.

2 Q. Fair enough. Thank you.

3 And when it came to the disclosure issues
4 that we just talked about and that you recall
5 conversations about, again, did these individuals,
6 who are not attorneys, rely on and utilize the
7 expertise of attorneys with respect to what needed
8 to be disclosed, if anything?

9 MS. BERLIN: Objection. Calls for
10 speculation.

11 THE WITNESS: The answer was they were
12 very proud of the fact that they had someone like
13 Phil Rutledge on their team because he is, to my
14 knowledge, a renowned securities expert. And they
15 relied on -- I can't say what they did, but they
16 asked him questions, and they followed his advice.

17 BY MR. FUTERFAS:

18 Q. And those questions included disclosure of
19 regulatory actions and criminal history and matters
20 of that nature?

21 A. As far as regulatory actions --

22 MS. BERLIN: If you don't mind, please --

23 MR. LEVITT: I can't see. You're not on
24 the screen, so it's hard --

25 MS. BERLIN: Please, Mr. Berman, if you

1 could give me the same courtesy you gave defense
2 counsel of pausing to allow for an objection.

3 I object on the grounds that this is
4 seeking hearsay testimony.

5 BY MR. FUTERFAS:

6 Q. You may answer if you recall the question,
7 Mr. Berman.

8 THE WITNESS: I just disagree with the
9 characterization that I waited or didn't wait for
10 any pause. I don't see anyone on the screen and
11 your phone is on mute. So it's just all of a sudden
12 you come when I'm answering. But I will try to
13 pause out of respect to you, Ms. Berlin.

14 I think you asked about regulatory and
15 legal disclosures. As far as the regulatory
16 disclosures, again, I was not representing the
17 company on anything to do with Pennsylvania, New
18 Jersey. Phil Rutledge was. So Phil Rutledge told
19 Mr. Cole and Mr. LaForte exactly what needed to be
20 disclosed for the three regulatory events that I'm
21 aware of or became aware of in April or May of 2020.

22 And as far as legal issues, that's kind of
23 broad, so I'm not sure I understand your question.
24 But my best guess at what you're asking me is that,
25 you know, there was a disclosure made about the fact

1 that there was a large amount of litigation, and
2 that was at the recommendation of Phil Rutledge
3 because he understood, as addressed in the
4 Fleetwood -- in the Texas action, that there was a
5 claim of nondisclosure of litigation.

6 So he said you should just disclose that
7 there's a lot of litigation all over the place in a
8 very large format.

9 BY MR. FUTERFAS:

10 Q. Thank you.

11 MS. BERLIN: Mr. Futerfas, does that
12 conclude your cross-examination?

13 MR. FUTERFAS: No. I'm going through my
14 questions to weed out those that I do not need to
15 ask. I am trying to save time actually, Ms. Berlin.

16 BY MR. FUTERFAS:

17 Q. Turning to a different topic, do you
18 recall being asked questions by Ms. Berlin of
19 confessions of judgment and whether a merchant deal
20 could be profitable even with the filing of a
21 confession of judgment? Do you recall those
22 questions?

23 A. Again, with all due respect, I'm not sure
24 Ms. Berlin asked me about that. I brought up the
25 fact that there were confessions of judgment. Maybe

1 if you ask me a different way, but I don't know if I
2 understand what you're asking.

3 Q. We'll do it this way. Would an MC --
4 excuse me. Withdrawn.

5 Would a confession of judgment be filed
6 where the deal, the underlying deal was profitable,
7 but the deal had not reached its RTR, the total
8 right to return? Do you understand my question?

9 MR. LEVITT: I'm going to object to the
10 form. But if you understand it, you can answer it.

11 THE WITNESS: I think it's rate of return.
12 But I think the answer is, as best I understand your
13 question, that many of the deals for which
14 confessions of judgment were filed, the company was
15 a cash flow positive. Simply because a confession
16 was filed doesn't mean that the merchant hadn't
17 returned the underlying amount that was provided
18 along with some rate of return.

19 It was purely that there was a default
20 based on the face of the MCA papers. So, yes, there
21 could be lots of deals that are and there were, in
22 fact, many, many deals I was involved in that were,
23 in your world, cash flow positive.

24 BY MR. FUTERFAS:

25 Q. And you used the word default. And when

1 you used the word default in that answer, you were
2 referring to a default under the merchant agreement;
3 correct?

4 A. Yes. I'm pausing just to make sure
5 Ms. Berlin doesn't have any objection now I can see
6 her.

7 But the answer is I was talking about
8 technical defaults under the agreements because
9 there were things like, you know, by memory, for
10 insufficient funds or overdrafts. It was spelled
11 out in the MCA agreement.

12 So when I said default, I was talking
13 about when one of those events of default occurred
14 under the MCA paper.

15 Q. Okay. And have you heard the same term
16 default used in connection with a determination of
17 bad debt for the purposes of reporting on tax
18 returns or to the IRS?

19 A. You're on mute, Ms. Berlin. We can't hear
20 you.

21 MR. FUTERFAS: Amie, we can't hear you if
22 you have an objection.

23 MS. BERLIN: Objection. Outside of the
24 scope of direct examination. Relevance.

25

1 BY MR. FUTERFAS:

2 Q. You may answer, Mr. Berman, if you
3 understand the question.

4 A. I think I understand the question, but I'm
5 not sure I could analyze it from a tax perspective
6 like that. It's just a little above my scope or
7 knowledge of accounting fundamentals.

8 Q. Fair enough. I want to ask you a few
9 questions about -- withdrawn.

10 Do you recall questions at the beginning
11 of your testimony about where CBSG was located?

12 A. I do remember Ms. Berlin asking me those
13 questions, yes.

14 Q. Okay. And do you recall at some point,
15 and it may have been prior to your representation of
16 the company, that CBSG was domiciled in Florida?

17 A. I mean, I'm generally aware, and
18 Ms. Berlin explored this with me. That's before my
19 time. But, yes, I've heard in cases, in
20 specifically one or two cases prior to this case
21 being filed, this whole discussion about Florida
22 versus Pennsylvania.

23 Q. Okay. Have you heard of a company called
24 Full Spectrum Processing?

25 A. Yes. I have heard of Full Spectrum

1 Processing.

2 Q. Okay. And did you understand that the
3 offices in Philadelphia or that you were visiting
4 were the offices of Full Spectrum Processing?

5 A. I mean, I heard testimony from Mr. Cole
6 about this, but I can't say I did a deep dive into a
7 loan processing servicing company versus the
8 underlying -- I didn't ever have a reason to analyze
9 that. This was raised in a litigation right before
10 this case was filed.

11 Q. Fair enough. Have you heard of an
12 accounting firm called Rod Ermel Associates?

13 A. Yes.

14 Q. And do you understand that they provided
15 accounting advice and tax advice to CBSG?

16 A. I'm aware, but I never had a discussion
17 with Rod Ermel Associates. So I never spoke with
18 them or communicated with him.

19 Q. Okay. I'm going to ask you a different
20 question then. Are you aware of, do you have
21 knowledge whether they provided advice to domicile
22 CBSG to Florida and open the company Full Spectrum
23 Processing in Philadelphia?

24 MS. BERLIN: Objection on relevance and
25 hearsay grounds.

1 THE WITNESS: The answer is I was not
2 privy to any such advice, although I believe
3 Mr. Cole testified in one of the cases I mentioned
4 earlier that this was based on the advice of
5 accountants and tax professionals. But it was not
6 Fox Rothschild, and we didn't look at that, opine on
7 that, and it's before my time.

8 BY MR. FUTERFAS:

9 Q. Fair enough. Going back to a few
10 questions that Ms. Berlin asked you kind of late in
11 the day, when she was asking you about monies out,
12 monies in, and you were having that discussion about
13 revenue recognition.

14 In that connection, did CBSG or FSP, Full
15 Spectrum Processing, employ accountants?

16 MS. BERLIN: Objection. Outside the scope
17 of direct examination and relevance.

18 THE WITNESS: The answer is yes. There
19 were a team of internal accountants that were led by
20 Joe Cole, Aida Lau and others who every day were
21 crunching numbers. You couldn't -- I wasn't -- Joe
22 Cole's instruction was essentially unless it's very
23 important, don't write me before 11:00 in the
24 morning because that was the time that the
25 accountants did their reconciliation.

1 BY MR. FUTERFAS:

2 Q. And do you recall if any of those
3 accountants were CPAs?

4 A. I was told that, but I have no independent
5 knowledge.

6 Q. Did you know someone by the name of James
7 Klenk, K-L-E-N-K, at FSP?

8 MS. BERLIN: Objection. Outside of the
9 scope of direct examination.

10 THE WITNESS: I was aware that James Klenk
11 worked there, yes.

12 BY MR. FUTERFAS:

13 Q. Were you aware that he was a CPA?

14 A. I was told he was a CPA.

15 Q. Did you ever see the tax returns filed by
16 CBSG?

17 A. I don't think so, no.

18 Q. Okay. You were asked questions by
19 Ms. Berlin about prep sessions with, I think,
20 Ms. Lau and Joe Cole in connection with some of
21 these private litigations.

22 Do you remember those questions?

23 A. I do. I do.

24 Q. Do you recall in those meetings or -- in
25 those meetings whether the instruction, whether it

1 came from you or indeed from Joe LaForte, for
2 everyone to simply to tell the truth about what
3 happened?

4 A. I was just seeing if Ms. Berlin objected
5 to be respectful to her.

6 The answer is if you talk about me, my
7 recollection of it was, you know, essentially you
8 have to give some context to the type of litigation
9 that was occurring. We were dealing with an
10 onslaught of litigation from one firm who was using
11 those litigations to ask a lot of different
12 questions about things that were completely
13 irrelevant to the cases.

14 So, you know, what my instruction to any
15 witness I've ever prepped for a deposition in my
16 career, which are hundreds or thousands, is tell the
17 truth. It is absolutely your job to tell the truth.
18 But you should not be guessing at any questions
19 under any circumstance.

20 So if you're asked questions that you
21 think you know, but you really don't and you're just
22 making conjecture, the answer is "I don't know" or
23 "rephrase the question." You're not there to guess
24 or give conjecture. So it was the same deposition
25 instructions I give to all witnesses who are being

1 deposed.

2 Q. Do you recall any of the participants in
3 those meetings, including Joe LaForte, saying to the
4 group, look, just tell the truth; all you got to do
5 is go in there and tell the truth?

6 A. The answer to that was, I mean,
7 truthfully, that was Joe LaForte's mantra always.
8 It was -- you know, there wasn't lying. It was try
9 to do the right thing, try to be respectful to
10 merchants. So, yes. I mean, I can't say I recall
11 specifically, you know, every word that was said at
12 that meeting, the same way I couldn't recall
13 specifically when Ms. Berlin asked me the questions.
14 But that sounds like something Mr. LaForte would
15 say, yes.

16 Q. You just referenced this onslaught of
17 legal action. I want to ask you just a few
18 questions about that. Do you recall that a lawyer
19 named Shane Heskin filed some actions against CBSG?

20 A. Yes. I'm very well aware.

21 Q. And in those actions, did he challenge the
22 legality of the MCA deals and contracts?

23 A. He did that there and he did it all up and
24 down various states against various companies, yes.

25 Q. And did courts uphold the validity and

1 enforceability of the MCA contracts?

2 MS. BERLIN: Objection. Relevance and
3 outside of the scope of direct examination.

4 THE WITNESS: The answer is I'm not aware
5 of any reported decisions that did not uphold the
6 MCA agreements for Complete Business Solutions.
7 And, in fact, it's quite the contrary. Courts have
8 routinely upheld the legality of these. And there's
9 actually state statute that allow for this type of
10 business.

11 So, no, I'm not aware of any victories
12 like that by Mr. Heskin.

13 BY MR. FUTERFAS:

14 Q. And you referenced a few moments ago
15 depositions that were taken in these private actions
16 and that questions were asked that appeared not to
17 be relevant to those actions. Do you remember
18 saying that just a few moments ago?

19 A. I do remember saying that, yes.

20 Q. Okay. So I just want to ask you a little
21 bit more about that.

22 Do you recall disputes during some of
23 those depositions occurring arising from certain
24 questions being asked by Mr. Heskin?

25 MS. BERLIN: Objection. Objection on

1 relevance grounds and also on the grounds this is
2 outside of the scope of direct examination, and it's
3 calling for hearsay.

4 BY MR. FUTERFAS:

5 Q. You may answer.

6 A. The answer is I think by saying disputes
7 puts it mildly. These were some of the most
8 litigious cases involving issues that had nothing to
9 do with the facts of any of the cases. And they
10 dealt with really what this case is about.

11 BY MR. FUTERFAS:

12 Q. I'm going to try to parse your answer a
13 little bit. Are you suggesting that Mr. Heskin was
14 asking questions during these private litigations
15 that had nothing to do with those litigations, but,
16 in fact, were relating to issues raised by the SEC
17 in its action here?

18 MS. BERLIN: Objection. Relevance and
19 hearsay and outside the scope of direct.

20 THE WITNESS: The answer is the
21 depositions that occurred and the discovery that was
22 served had 98 percent nothing to do with the actual
23 merchants and issues in any of those cases. And all
24 of the questions or 98 percent of the questions
25 dealt with issues that now are part of this action,

1 which I didn't understand at the time, but now I've
2 seen them in this action.

3 BY MR. FUTERFAS:

4 Q. By the way, do you recall when those
5 depositions occurred?

6 A. The first deposition was shortly after I
7 was really engaged, as I would say it, by the
8 company in the Fleetwood case. Both Joe LaForte and
9 Joe Cole were deposed, I believe, in 2019.

10 Q. Okay. And do you recall a deposition in
11 the summer of 2020?

12 A. Both Mr. LaForte and Mr. Cole were deposed
13 twice, once in HMC and once in Fleetwood. One would
14 be in 2019. One would be in -- well, two in '19,
15 two in '20.

16 Q. And the ones in 2020 -- excuse me. The
17 two depositions that occurred in the summer of 2020,
18 were those basically weeks before the SEC filed its
19 action in this case?

20 MS. BERLIN: Objection. Relevance and
21 outside of the scope of direct examination.

22 THE WITNESS: The answer is it was right
23 before this case. And I didn't understand the
24 questions at the time they were being asked. But
25 when you look or think back to what was asked, it's

1 identical to the facts in this case.

2 BY MR. FUTERFAS:

3 Q. I'm going to turn to a different topic
4 now, Mr. Berman. You were asked a few questions by
5 Ms. Berlin about the use of collateral or collateral
6 being used as security on some of the MCA deals. Do
7 you recall a few questions about that?

8 A. I do remember Ms. Berlin asking me those
9 questions, yes.

10 Q. Okay. And I was unclear about one thing.
11 Did you institute some of that collateral or had
12 prior counsel, whether they were external counsel or
13 in-house counsel, put in place that collateral?
14 Could you just clarify that a little bit for us?

15 A. Both. There were a significant number of
16 actions that were pending to go after collateral.
17 We took over or organized and worked with local
18 counsel to make sure they were proceeding
19 efficiently.

20 And after we were retained to do more of
21 that collection work in February of 2020, we also
22 brought certain actions. There would have been
23 others as part of the same deals that were occurring
24 in default, but because, as I explained to
25 Ms. Berlin, the court systems essentially shut down

1 in late March, that became much harder to institute
2 those type of actions for that window of court
3 emergencies across the country.

4 Q. Let me ask you this question. When you,
5 let's say, got more involved in February of 2020, as
6 part of some of these MCA or as part of your work,
7 did you create collateral instruments?

8 In other words, did you file confessions?
9 Did you take mortgages? In other words, did you do
10 some of that work anew starting when you got
11 involved, or was the collateral that was on these
12 deals preexisting, put in place by prior counsel?

13 MS. BERLIN: Objection. Relevance.

14 THE WITNESS: The answer is I'm not sure I
15 fully understand your question, but what I did
16 understand from it, I was not involved in any way in
17 underwriting or origination of deals. Zero
18 involvement in that. So I wouldn't have been doing
19 what you're talking about. I just don't remember
20 anything where we would have been involved in that.

21 BY MR. FUTERFAS:

22 Q. Okay. So if there was collateral to be
23 executed upon, whether it's a mortgage or a deed
24 that was held by CBSG or notes or other kinds of
25 collateral, that would have been put in place by

1 counsel before your time? Let's put it that way.

2 A. I want to give one proviso to my answer
3 because now you just -- you reminded me of deeds of
4 trust. There were certain deeds of trust that were
5 done with us, but I think those were modification
6 deals.

7 But there was a very large double filing
8 cabinet, like huge, that was filled with collateral
9 deals from many years that were in place on many MCA
10 agreements originated by CBSG.

11 Q. Okay. And what is the purpose of having
12 collateral where it's sought underlying some of
13 theses approximately MCA deals?

14 MR. LEVITT: I'm going to object to the
15 form. He's not here as an expert witness,
16 Mr. Futerfas.

17 MS. BERLIN: Same objection. And it's
18 outside of the scope of direct.

19 THE WITNESS: I mean, again, I said I
20 represented a lot of alternative lenders, banks,
21 et cetera. Like any deal where you're providing
22 money to a third-party business, collateral is done,
23 you know, not as an expert opinion, but just common
24 sense to bring additional collateral to the deal,
25 i.e., bring down the risk on the amount that's owed.

1 You have additional source beyond the underlying
2 business, the guarantor.

3 And then you can go after collateral as
4 well. So it's done to provide an extra layer of
5 security to whoever is lending or giving a third
6 party money.

7 BY MR. FUTERFAS:

8 Q. Okay. You were also asked questions by
9 Ms. Berlin about some of your collection activities.

10 Was the work you did and your firm did in
11 these collections, was that a source of revenue for
12 CBSG?

13 A. 1000 percent. Collection and work with
14 lawyers was a huge portion of their business because
15 that's how they made money in the event someone
16 wasn't paying them or got people to enter into new
17 deals to make them pay. So it was an essential
18 function of their business.

19 Q. Okay. Do you know if your collection work
20 brought in 10 percent of the revenue, 15 percent of
21 the revenue, 20 percent? Do you have any idea
22 whatsoever of the percentage of the revenue that
23 your collection work brought in?

24 A. The answer is, just like I said to
25 Ms. Berlin, I can't tell you exact numbers we

1 brought in. I think we were pretty profitable for
2 the company because that was our job, right. That's
3 what we were paid to do, which is address default
4 situations and either make modification deals or
5 collect. I can't tell you exact numbers just like I
6 couldn't tell Ms. Berlin.

7 Q. Have you been to the offices -- you said
8 you've been at the offices in Pennsylvania; is that
9 right?

10 A. Yes.

11 Q. How many times have you been to those
12 offices?

13 A. I think, as I said to Ms. Berlin -- maybe
14 she didn't ask me that. I went to Joe Cole's office
15 over on Arch Street once or twice. And I went to
16 the main CBSG office ten or so times.

17 But, as I said to Ms. Berlin, I
18 represented the former owners of that building in a
19 multiyear litigation. So I've been in that building
20 many, many, many, many times before CBSG was even a
21 thought in my mind.

22 Q. Okay. Okay. So you recall then where Joe
23 Cole was located and the accounting -- all the
24 accountants that worked for FSP, they were located
25 which address, if you recall?

1 MS. BERLIN: Objection. Relevance.
2 Outside of the scope of direct examination.

3 THE WITNESS: They were -- to the best of
4 my knowledge, they were all located at Second and
5 Arch Street, 205 and 208 Arch.

6 BY MR. FUTERFAS:

7 Q. Okay. And then there was another location
8 with about six floors of offices; is that right?

9 A. There were two separate --

10 MS. BERLIN: Same objection. Just a
11 moment.

12 THE WITNESS: Sorry.

13 MS. BERLIN: That's okay. Objection on
14 relevance grounds. And we're going so far outside
15 of direct examination. So I object on that ground
16 as well.

17 THE WITNESS: I apologize for speaking too
18 quickly. It was -- on North Third Street there were
19 two different addresses that had a series of broken
20 up offices in them for different functions of CBSG
21 or Full Spectrum. That's what it was.

22 BY MR. FUTERFAS:

23 Q. Understood. Okay. Okay. And did you
24 have a sense of how many employees you saw at these
25 offices, whether it was 50, 70, a hundred, more than

1 a hundred, just what your sense was?

2 MS. BERLIN: Objection. Relevance
3 grounds. Outside of the scope of direct.

4 THE WITNESS: There were well in excess of
5 a hundred employees, and they were all broken up by
6 various departments. So you would look down at the
7 floor for the underwriting team, and it was a series
8 of open office space with 20, 30 people who would be
9 processing deals, looking at, you know, files,
10 looking at bank account statements, doing
11 investigation on each of the merchants.

12 You then had the collection area with a
13 similar type setup with a team of -- to me it looked
14 like 20 people who were on their phone talking.
15 Anthony Ronn Fazio and Tim were walking around
16 dealing with each of them. They would intercede in
17 calls.

18 Then you had the Wendy Furman people who
19 were doing deal documentation. It was a very broken
20 up but organized, highly organized situation.

21 I actually remember the first time I went
22 there, and it was shocking because it was so high
23 tech and so fast moving and so many people
24 collaborating on origination, collection, deal work,
25 finance that I actually didn't -- I remember my

1 initial reaction was I shocked this was in the City
2 of Philadelphia given that I'm a Philly guy.

3 BY MR. FUTERFAS:

4 Q. So you observed a fully operational
5 ongoing company employing over a hundred individuals
6 as of 2020; is that correct?

7 MS. BERLIN: Objection. Relevance and
8 outside of the scope of direct.

9 THE WITNESS: I 100 percent observed that,
10 and it was actually a sight to be seen.

11 MR. FUTERFAS: I have no further
12 questions.

13 MR. MILLER: This is Brian Miller. I have
14 a couple questions.

15 MR. SOTO: This is Alex. I have some
16 questions. Go ahead, Brian.

17 EXAMINATION

18 BY MR. MILLER:

19 Q. Can you see me, Mr. Berman?

20 A. I can.

21 Q. I just want to ask you a couple of
22 follow-up questions regarding the testimony you gave
23 earlier today about passing on some financial
24 records to John Pauciulo during the spring of 2020.
25 Do you remember that testimony?

1 A. I do.

2 Q. Now, I believe you testified that you had
3 no discussions with Mr. Pauciulo regarding whether
4 CBSG was solvent or insolvent; is that correct?

5 A. I don't recall the discussion of solvency.
6 I do recall Mr. Pauciulo asking for financial
7 documents, for me to get from CBSG financial
8 documents so that he can do an analysis.

9 But more importantly, as I think I said
10 before, that there was very limited discussion of
11 anything with Mr. Pauciulo because it was my
12 understanding that his client, clients as I came to
13 learn, were dealing directly with CBSG principals.

14 Q. So did Mr. Pauciulo ever tell you what
15 analysis he was going to do with the financial
16 records you obtained from Mr. Cole and passed along
17 to Mr. Pauciulo?

18 MS. BERLIN: Objection. Calls for
19 hearsay.

20 THE WITNESS: I can't say I got into the
21 mind of John Pauciulo. I didn't know him very well.
22 So I'm not -- we weren't -- like we weren't
23 co-counsel or anything, and I never worked with
24 Mr. Pauciulo before.

25 So the answer is I don't know what he was

1 going to do. He made requests. I relayed them to
2 CBSG. He was satisfied with what was given to him
3 by CBSG, and I didn't engage in an extended analysis
4 with him because we didn't talk like that.

5 BY MR. MILLER:

6 Q. Sure. And my question really was just a
7 simple factual question. Did Mr. Pauciulo tell you
8 what analysis he was going to do with these
9 documents?

10 MS. BERLIN: Objection. Relevance and
11 also calls for hearsay.

12 THE WITNESS: No, I don't think he did.
13 He told me he wanted them so he could review them
14 for his clients.

15 BY MR. MILLER:

16 Q. Thank you. And then a follow-up question
17 on that, Mr. Berman. Would it also be fair to say
18 that Mr. Pauciulo -- actually, let me rephrase that
19 question.

20 Did Mr. Pauciulo tell you what the results
21 were of any analysis that he performed on these
22 financial records you got from Mr. Cole and passed
23 along to Mr. Pauciulo?

24 A. The answer is I don't think I -- I don't
25 know if Ms. Berlin was saying something.

1 MR. MILLER: I was just going to object on
2 hearsay grounds. Thank you.

3 THE WITNESS: My apologies.

4 The answer is I don't recall having a
5 discussion with Mr. Pauciulo after he got the
6 documents, but what I would say is he was clearly
7 satisfied with what he was given because the next
8 thing I knew, his clients signed the exchange offer.

9 BY MR. MILLER:

10 Q. Thank you very much, Mr. Berman. I have
11 no further questions.

12 MR. SOTO: Mr. Berman, this is Mr. Soto.
13 I have just a couple of quick questions.

14 EXAMINATION

15 BY MR. SOTO:

16 Q. The first question relates to a series of
17 questions and answers you gave earlier regarding
18 whether you provided a legal opinion to CBSG
19 regarding whether their advances were usurious.

20 Do you recall that line of questioning?

21 A. I do remember Ms. Berlin asking me those
22 questions.

23 Q. Right. And do you recall saying that you
24 don't recall providing CBSG specifically advice
25 regarding whether the advances were usurious. Did I

1 hear you correctly?

2 A. I did not provide them with that advice,
3 but they were given -- like Mr. Cole was given
4 copies of our briefing along with the general
5 counsel where we made substantial and significant
6 arguments with respect to the legality of the entire
7 portfolio of what they were doing as we understood
8 it.

9 Q. Okay. And that's exactly what I wanted to
10 clarify. You testified earlier that you had filed
11 briefings with respect to whether the advances were
12 usurious. Those are the briefings that you are now
13 testifying you provided to Mr. Cole?

14 A. Of course, yeah.

15 Q. And I imagine in those briefings you
16 argued that the advances were not usurious; correct?

17 A. 1,000 percent.

18 Q. So would it be fair to say that you
19 provided an opinion at minimum through those
20 briefings to Mr. Cole that the advances were not
21 usurious?

22 A. You know, what I would say, Mr. Soto, and
23 I said this to Mr. Kolaya and Mr. Alfano when they
24 were asking these questions at the beginning of this
25 case about opinions, I've been practicing for almost

1 15 years. I've never given a legal opinion on
2 things. There's a very technical meaning to legal
3 opinions that at Fox Rothschild involve audit
4 committees and approvals. So I've never done what
5 you're asking.

6 Did we file legal briefs in court? Yes.
7 Did we take the position these are not usurious or
8 illegal loans? Yes. Do I believe that sitting here
9 today? Yes. And the reason I believe that are the
10 court opinions around the country that have upheld
11 the legality of this type of business.

12 But I'm not in the business, unless
13 there's a specific request, which I never had in 15
14 years, to give legal opinions in the way you just
15 framed it.

16 Q. Okay. And I didn't mean to ascribe any
17 particular meaning to the phrase legal opinion.

18 My question is simply: Did Mr. Cole have
19 an understanding with respect to your position on
20 whether these advances were usurious based on the
21 pleadings you provided to him?

22 MR. LEVITT: I'm going to object to form.

23 BY MS. BERLIN:

24 Q. Is it your understanding that he had an
25 opinion with respect to whether these advances were

1 usurious based on the pleadings that you provided to
2 him?

3 A. I think that Mr. Cole had an understanding
4 that this was not illegal.

5 MS. BERLIN: Mr. Berman, I'm objecting on
6 grounds that this calls for speculation about what
7 you think Mr. Cole was thinking based on pleadings
8 you filed.

9 THE WITNESS: What I was going to say was
10 not only did I think Mr. Cole believed 100 percent
11 that these were not illegal. I think he had been
12 working with lawyers for many, many years before me.
13 They were very well aware of cases all around the
14 country involving MCA, the MCA business.

15 This was a hotly litigated topic in New
16 York for a number of years and in Pennsylvania and
17 in Texas and in California.

18 The answer was they were not -- to my
19 knowledge other than, you know -- that this was
20 legal. I mean, yeah, that was their -- of course,
21 that was their opinion.

22 BY MS. BERLIN:

23 Q. Fair to say after he discussed the
24 pleadings with you, that opinion hadn't changed?

25 MS. BERLIN: Objection. Again, calls for

1 speculation.

2 BY MR. SOTO:

3 Q. You can answer, Mr. Berman.

4 A. I don't think Mr. Cole's opinion changed
5 after reading my briefing that supported the
6 legality of the business.

7 Q. Did you have a conversation with Mr. Cole
8 regarding the pleadings that were filed and the
9 legality of the advances?

10 A. Again, I didn't give a legal opinion to
11 him. But, I mean, remember, the prime thrust of my
12 role in 2019 into '20 was defending the cases
13 brought by who you said before, Mr. Heskin on behalf
14 of his clients, where he was bringing criminal RICO
15 allegations involving the alleged impropriety of
16 this entire business.

17 And so, yeah, that was a topic of
18 discussion because they were defending and spending
19 a lot of money on legal fees defending that type of
20 allegation, none of which were getting any traction
21 from any courts, by the way.

22 Q. Okay. I want to turn to a different
23 topic. You were asked during Ms. Berlin's
24 questioning regarding whether you played any role
25 you, Brett Berman, played any role in decisions made

1 at CBSG regarding whether an MCA deal was going to
2 be put into a category of default.

3 Do you recall that general line of
4 questioning?

5 A. I remember her asking me about Mr. Cole's
6 testimony where he supposedly said that, yes.

7 Q. Okay. Let me ask you: Did you engage in
8 pre-suit negotiations with merchants on behalf of
9 CBSG in connection with deals where the merchants
10 either weren't paying or weren't paying on time?

11 A. Absolutely.

12 Q. Before filing suit?

13 A. In certain instances, yes.

14 Q. Okay.

15 A. That was the exception, not the rule,
16 because the only time it would get to me is in a
17 multi default scenario. So you had a team of people
18 who did that every single day, is negotiated deals
19 with merchants pre-default, post-default and
20 everywhere in between.

21 Q. Right. But my question was whether you
22 engaged, whether rarely or often, in pre-suit
23 negotiations with merchants who had been identified
24 to you as either not paying or not paying on time.

25 A. If asked, yes. And I was asked, yes.

1 Q. Okay. And did you communicate the results
2 of your negotiations to anybody at CBSG?

3 A. Of course.

4 Q. Of course, you did. And do you know
5 whether CBSG made use of the information you
6 provided to them with respect to the results of your
7 negotiations?

8 A. I can't answer what they made use of, but
9 that was a revenue. They would receive the revenue
10 or they would sign an agreement or they would begin
11 a process by which they were beginning or restarting
12 the collection. So I think they knew what results
13 were coming.

14 Q. Okay. And they knew results based on
15 conversations with you in this specific instance
16 that I just asked about?

17 A. I think that's fair to say.

18 MR. SOTO: Okay. I have no further
19 questions.

20 MS. BERLIN: Is there anyone else who
21 wants to cross-examine the witness?

22 MR. KOLAYA: This is Tim Kolaya on behalf
23 of the receiver. We do not intend to ask any
24 question today. The only thing I would say on the
25 record is the receiver does have his own

1 investigative powers under the receivership orders.
2 We haven't made any determination as to whether we
3 may want to seek a deposition of Mr. Berman, but I
4 just wanted to say we do not intend to ask any
5 questions today.

6 MS. BERLIN: Okay. Understood.

7 So we have a brief redirect.

8 RE-EXAMINATION

9 BY MS. BERLIN:

10 Q. Mr. Berman, you referred in your
11 cross-examination to court orders all around the
12 country that you relied on that supported the idea
13 that these merchant cash advances of Complete
14 Business Solutions were legal. I wonder if you can
15 identify what cases you're referring to.

16 A. I am not. I can't identify cases, but I
17 have stream sites that go on for a day about
18 challenges to the merchant cash advance business and
19 upholding the veracity of it.

20 And in the Pennsylvania, which is where
21 we're talking about specifically, there are various
22 decisions issued by various Court of Common Pleas
23 judges and Eastern District judges. And I'm not
24 aware of any decisions that have -- especially in
25 Pennsylvania that have questioned the validity of

1 these agreements.

2 Q. Okay. So can you identify for me?
3 Because, you know, the defense has sort of now
4 turned you into sort of an expert witness on this
5 issue, and you testified in your legal opinion that
6 you gave on cross that these are legal merchant cash
7 advances, but it's based on decisions from all
8 around the country. And I'm asking you if you can
9 identify any one of them.

10 MR. SOTO: Object to the form.

11 BY MS. BERLIN:

12 Q. Can you identify?

13 A. Yeah. There was a decision entered by
14 Judge Tucker in the Eastern District. There was a
15 decision entered by Judge McInerney in the Court Of
16 Common Pleas.

17 Q. Mr. Berman, if you could slow down so the
18 court reporter can take down what you're saying and,
19 two, when you identify the court, if you could just
20 say the state.

21 A. I said the Eastern District. That's
22 Pennsylvania. The Eastern District of Pennsylvania,
23 Judge Tucker, I believe; the Court of Common Pleas,
24 various decisions by the commerce court judges,
25 commercial division judges, Judge Glazer, Judge

1 Djerassi, Judge Nina Wright Padilla, Judge
2 McInerney.

3 And there were so many countless
4 challenges to confessions of judgment that were
5 denied which shows the courts, despite hearing
6 challenges in Pennsylvania, frequently were
7 upholding them.

8 Further in New York, there was a series of
9 cases that eventually went up to the court of
10 appeals about the ability to challenge these
11 judgments. Again, I didn't file these judgments in
12 New York, but this is something we look to, that
13 upheld them. So I'm not giving a legal opinion,
14 legal or not in legal. I believe that the case law
15 supports legality.

16 Q. Okay. So these New York cases, did those
17 involve Complete Business Solutions Group?

18 A. No, but you asked me about the MCA
19 business.

20 Q. Okay. And so can you identify -- I guess
21 what we'll do is rather than spending time today,
22 we'll just issue a subpoena to you for those cases
23 that you were referencing.

24 And, by the way, when you are referencing
25 the string of judges and courts, were those all like

1 Pennsylvania Court of Common Pleas cases?

2 A. I think I just to answered the Eastern
3 District of Pennsylvania, which is federal court.

4 Q. When you gave the list of judges, those
5 are federal district court judges in the Eastern
6 District of Pennsylvania?

7 A. No. They're Court of Common Pleas, which
8 is state court, and federal court. And I gave you
9 the most important example of the legality of the
10 business, Judge Ruiz --

11 Q. If you could stop because I really would
12 like to finish. The only question pending --

13 MR. FUTERFAS: I object to you
14 interrupting the witness. He was just giving you
15 the name of another court decision, Ms. Berlin, and
16 you've interrupted the witness when he was trying to
17 answer your question.

18 BY MS. BERLIN:

19 Q. Mr. Berman --

20 A. I'm going to finish.

21 Q. Okay. Stop. Since Mr. Berman is being
22 utilized as an expert by the defense, we'll issue a
23 subpoena for those cases and your opinions.

24 MR. FUTERFAS: Ms. Berlin, I object you to
25 suggesting that we're utilizing him as an expert,

1 and I'm happy to send you -- I'm happy to send you
2 tomorrow pages and pages of string cites that you
3 can look up yourself. They're all available. We're
4 all lawyers. We can all look up the same opinions,
5 Mr. Berlin. I disagree and object.

6 MS. BERLIN: Could you please stop the
7 speaking objection.

8 BY MS. BERLIN:

9 Q. The only question, Mr. Berman, that I
10 asked you was just to clarify when you gave the list
11 of judges, were those all judges in the federal
12 district court in Pennsylvania and/or the
13 Pennsylvania Court of Common Pleas? Or were those
14 judges that you referenced, are they in other
15 courts? That's the only question that was pending.

16 A. Sure. And I was going to answer before
17 you interrupted me. So my answer was they're all
18 around the country including in the Eastern District
19 of Pennsylvania, Court of Common Pleas, but most
20 importantly where you cut me off before, in this
21 very case, the Honorable Judge Ruiz, approved the
22 fact that these are able to be collected on.
23 Because the receiver has filed motions saying that
24 they're going to proceed in collections on MCA
25 contracts for CBSG. Don't trust me. Trust Judge

1 Ruiz who issued an order.

2 Q. Okay. Well, just a moment. Are you
3 testifying that Judge Ruiz issued an order finding
4 that the merchant cash advance agreements are legal?
5 And if so --

6 A. Sure. What Judge Ruiz did, if you'll
7 recall -- because I followed the docket. I'm
8 curious -- is the receiver has filed motions asking
9 for relief from the litigation stay to proceed in
10 collections on merchant cash advance agreements held
11 by CBSG.

12 So the opinions allowed the receiver to
13 file those lawsuits on the same agreements that were
14 being collected on prefiling of this case.

15 Q. And so are you testifying under oath that
16 Judge Ruiz has made a finding that the merchant cash
17 advances are legal?

18 A. I think I just gave the answer to that
19 question.

20 Q. I wonder if you can just state it clearly
21 for the record and for the transcript for the court.

22 MR. FUTERFAS: I object to the form.
23 Asked and answered.

24 BY MS. BERLIN:

25 Q. I'm sorry. You just brought up Judge Ruiz

1 who is the judge presiding this case who is
2 reviewing this transcript. So I'd like to get
3 clarification on exactly what it is you're
4 testifying Judge Ruiz has found in this case.

5 A. I think Judge Ruiz' orders speak for
6 himself. I don't speak for judges. But what I will
7 say again is the receiver filed motions to lift
8 litigation stay to proceed in collection on certain
9 of the MCA agreements, and Judge Ruiz granted that
10 relief.

11 Q. Okay. And so based on the fact that the
12 order imposing a litigation stay was lifted by a
13 receiver, it's then your understanding that Judge
14 Ruiz has somehow blessed the legality of the
15 merchant cash advances themselves; is that accurate?

16 A. No. I don't think -- I don't think those
17 were my words. My words were what my testimony was.
18 I'm not in the mind of Judge Ruiz. I'm telling you
19 that Judge Ruiz, like judges all around the country,
20 have allowed the collection on MCA deals.

21 I mean, you can subpoena me, but I think
22 this is a -- these are in briefs. So I don't have
23 any cases in my possession. I don't keep hard copy
24 briefs. So I have zero to give you on that, except
25 for they're publicly filed documents arguing about

1 the legality of the merchant cash advance business
2 and specifically the merchant cash advance
3 agreements that were utilized by Complete Business
4 Solutions.

5 Q. Are you relying on in any other case or
6 with any other client Judge Ruiz's rulings in this
7 case to argue to any other court that the merchant
8 cash advances of CBSG are legal?

9 A. No, because I don't represent any merchant
10 cash advance companies.

11 Q. And do you understand that receivers can
12 be appointed over any sort of investment, even if
13 it's one like this in an SEC case where there's an
14 allegation that the investment violates the law, and
15 the receiver is, nonetheless, permitted to collect
16 under that investment regardless of whether it's
17 legal, that their job is to simply try to get the
18 investor funds without passing on the legality of
19 the underlying investment?

20 MR. FUTERFAS: Objection. Form. This
21 question was about eight minutes long. But I object
22 to the form of this multiple compound question.

23 MS. BERLIN: That's fine. Mr. Berman had
24 testified about these things. And so I'm asking.

25

1 BY MS. BERLIN:

2 Q. Mr. Berman, are you knowledgeable about
3 the law as it applies to receiverships in SEC cases
4 and whether the underlying investment has to be
5 legal in order for the receiver to collect upon it?

6 A. I'm aware of no law nor have I ever looked
7 at it.

8 Q. Right. So, in fact, even if a case is a
9 Ponzi scheme and is inherently illegal, a receiver
10 can go and re-collect the funds from the investment
11 agreements. Would you agree with me on that?

12 A. I think you're taking out of context the
13 fact that I have not seen any negative law around
14 the country. And Mr. Alfano and Mr. Kolaya, as part
15 of their -- actually, I won't talk about that.
16 That's privileged, I'm assuming, Mr. Kolaya.

17 But I assume when I provided all the
18 documents to them, which you're asking me for now
19 about the cases that I'm talking about, that they
20 analyzed that on behalf of the receivership.

21 Q. Well, to the extent the defense is
22 utilizing you as a witness on the law concerning the
23 legality of this, which I believe has already been
24 addressed in our case, we will just seek that
25 discovery from you and your firm at a different time

1 rather than using more of today.

2 Going back --

3 MR. LEVITT: We reserve the right to
4 object to that discovery, of course.

5 MS. BERLIN: Right. Well, we're issuing a
6 subpoena to the firm, to Fox Rothschild.

7 MR. FUTERFAS: And I reiterate -- I have
8 an objection to make. My objection is I object to
9 how you characterize our use or questioning of
10 Mr. Berman. And I reiterate my offer to the SEC to
11 provide literally pages of case law supporting
12 precisely what Mr. Berman said.

13 These are public decisions all around the
14 country that are accessible to the SEC and
15 every lawyer on this deposition. And we're happy to
16 provide that. And, in fact, I will provide it to
17 you --

18 MS. BERLIN: Mr. Futerfas, stop.

19 MR. FUTERFAS: -- and to Mr. Berman's
20 counsel tomorrow.

21 MR. FERGUSON: This is Ferguson. I'm
22 sorry. Can we stop hearing about what you're going
23 to do and just ask the witness some questions.

24 MS. BERLIN: Mr. Ferguson --
25 Mr. Ferguson --

1 MR. FERGUSON: Let me just make my record.
2 I haven't spoken much here. I want to make my
3 record.

4 MS. BERLIN: Mr. Ferguson --
5 Mr. Ferguson --

6 MR. FERGUSON: I'm getting a lot -- we're
7 getting a lot --

8 MS. BERLIN: We're going off the record.
9 I'm calling a break.

10 MR. FERGUSON: I want to make my record.

11 MS. BERLIN: Mr. Ferguson, you cannot --

12 MR. FERGUSON: No. I want to make my
13 record.

14 MS. BERLIN: There's only one attorney per
15 party. Mr. Ferguson, stop shouting.

16 MR. FERGUSON: Just ask the witness. Ask
17 the witness questions.

18 MS. BERLIN: You need to stop
19 interrupting. Mr. Ferguson --

20 MR. FERGUSON: Ask the witness --

21 MS. BERLIN: Mr. Ferguson --

22 MR. FERGUSON: No, I'm not going to stop.
23 I want to say this on the record to what you said.

24 MS. BERLIN: Mr. Ferguson --

25 MR. FERGUSON: Ask the witness questions.

1 MS. BERLIN: Mr. Ferguson, please stop.
2 You're not representing anyone today. There's one
3 attorney per witness.

4 MR. FERGUSON: I am representing Joe
5 LaForte.

6 COURT REPORTER: This is not on the
7 record.

8 MS. BERLIN: Mr. Ferguson, please stop
9 shouting. Stop interrupting.

10 MR. FERGUSON: I'm not shouting.

11 MS. BERLIN: This is not an objection to a
12 question.

13 MR. FERGUSON: I said it's not.

14 MS. BERLIN: Mr. Ferguson, I'm going to ask
15 that you please stop speaking. There's no question
16 pending. And Mr. Soto is representing Mr. LaForte
17 today and has conducted a cross-examination. You
18 are not --

19 MR. FERGUSON: I'm counsel of record in
20 this case. And I am asking you to stop talking
21 about what you're going to do and ask the witness
22 some questions. Proceed with your questioning.

23 MS. BERLIN: Oh, my word. We're going to
24 take a 15-minute break because Mr. Ferguson is
25 shouting.

1 (Multiple speakers talking at the same time.)

2 MS. BERLIN: We'll provide this to the
3 court. I've been yelled at. I'm actually shaking.
4 We are taking a break. We are taking a ten-minute
5 break, and we will resume at 5:28.

6 THE VIDEOGRAPHER: And we're going off the
7 record at 5:18 p.m.

8 (Recess from 5:18 p.m. to 5:31 p.m.)

9 THE VIDEOGRAPHER: And we're back on the
10 record at 5:31 p.m.

11 MR. FUTERFAS: And so before the break, I
12 was simply trying to indicate that I'm not asking
13 any additional questions about the legality of the
14 merchant cash advances because it's not at issue in
15 our case.

16 So sorry. My dog is barking in the
17 background.

18 It's not an issue in our case. And to the
19 extent if in the future when experts are disclosed
20 the defendants identify Mr. Berman or his law firm
21 as an expert, then we'll address it at that time.
22 But I'm not going to address any of that even though
23 it was addressed on cross because it's not at issue.
24 It's not relevant in our case. So I'm going to move
25 on.

1 BY MS. BERLIN:

2 Q. Mr. Berman, you testified about -- on
3 cross you had testified more about the legal advice
4 from Phil Rutledge. And I wonder if you could just
5 clarify the advice that you testified about on
6 cross.

7 When did you witness Phil Rutledge giving
8 that advice?

9 A. Sure. The answer was, I mean, I guess I
10 have to give you two points of reference. The first
11 point of reference is when the Texas Securities
12 Board filed the initial Cease and Desist Order, Phil
13 Rutledge was engaged that day to provide the
14 securities advice or to continue his securities
15 advice for the company.

16 And then we got Haynes & Boone involved.
17 So there were multiple phone calls with Haynes &
18 Boone where he provided his analysis. And I think
19 there was actually a detailed memo that was produced
20 as part of the subpoena served to my firm where he
21 analyzed disclosure issues and should it be -- does
22 it need to be registered in a certain way, et
23 cetera. So that was the start. And there were
24 multiple calls with Haynes & Boone to the clients
25 and Phil Rutledge where that was discussed.

1 And then to your question, there were
2 phone calls, multiple phone calls with clients and
3 Phil Rutledge where this was analyzed at length
4 about what would need to be disclosed, what would
5 not need to be disclosed. And everything that he
6 recommended for disclosure was identified in that
7 document.

8 Q. Okay. So my question was a little
9 different. It was when. So my question is asking
10 about the time period. So you split it into the two
11 parts. And the first was the day that the Texas
12 Securities Board entered its order against CBSG. So
13 I understand the timing on that.

14 And then as far as the second time, my
15 question is when. You've the already testified
16 about those on cross. But when did you witness the
17 evidence -- I'm sorry -- witness Phil Rutledge
18 giving the testimony, meaning like month and year?

19 A. It was in April or May of 2020 on multiple
20 occasions.

21 Q. Okay. So in April and May of 2020. And
22 then when the Texas Securities Board case was filed
23 in February of 2020?

24 A. Yes. But, again, that was also for a
25 six-week period or longer. I guess it really went

1 until this case was filed that there were many phone
2 calls with clients, Phil Rutledge and Haynes & Boone
3 and Rutledge and clients and me. That was more
4 extended than just the April into May period of the
5 exchange offer.

6 Q. Okay. So fair to say like between
7 February 2020 and July 2020 when the SEC filed its
8 case?

9 A. Correct.

10 Q. Okay. Now, Haynes & Boone was the law
11 firm retained in connection with the Texas matter;
12 correct?

13 A. Yes. We got a recommendation, being me,
14 to have Haynes & Boone retained for that matter.

15 Q. Okay. And they represented Complete
16 Business Solutions Group before the Texas Securities
17 regulators; is that accurate?

18 A. That's my understanding.

19 Q. Okay. And so when you testified about the
20 legal advice that Haynes & Boone was providing, was
21 it in connection with that Texas securities
22 litigation matter?

23 A. And Haynes & Boone, I believe, reviewed
24 and was in discussions, limited discussions with
25 respect to the issues on the exchange offer.

1 Q. Okay. So, again, the time period for
2 legal advice you testified about on cross was
3 between February 2020 and when the SEC filed its
4 case in July of 2020. Do I have that right?

5 A. That is correct.

6 Q. Okay. You testified on cross that
7 everyone knew that Joseph LaForte was a criminal,
8 and you went through the people who knew about it.

9 What about the investors in promissory
10 notes related to Complete Business Solutions Group,
11 do you have any knowledge of whether or not the
12 investors knew that Joseph LaForte was a criminal?

13 MR. FUTERFAS: Can I object to the word
14 criminal. Someone who has a conviction going back
15 10 or 15 years or 20 years, I don't think it's
16 appropriate to refer to them in that way. People
17 are allowed to move onto their lives in our society
18 and form businesses and participate in society if
19 they have a prior conviction.

20 BY MS. BERLIN:

21 Q. I'm going to rephrase the question. Do
22 you have any personal knowledge, Mr. Berman, of
23 whether all of the investors in promissory notes
24 related to Complete Business Solutions Group knew
25 that Joseph LaForte had a criminal record?

1 A. The answer is prior to the exchange offer,
2 I didn't even know what the investors were that
3 you're referring to. So no. But I have read
4 obviously things in this case from Mr. Vagnozzi
5 where he acknowledges he learned about it in 2018 I
6 believe, by what I've seen.

7 Q. Okay. So your testimony is that Dean
8 Vagnozzi knew in 2018, and your knowledge of that is
9 based on something that -- a document that you read
10 in this case. Do I have that right?

11 A. Correct. You have that right.

12 Q. Do you have any personal knowledge of
13 Mr. Dean -- of Dean Vagnozzi's knowledge? Have you
14 ever spoken with him yourself? You're testifying
15 under oath about your personal knowledge.

16 Do you have any personal knowledge of what
17 Dean Vagnozzi knew and when?

18 A. I read the Complaint Mr. Vagnozzi filed in
19 the Court of Common Pleas where he described it,
20 verified petition. So it's not lack of knowledge.
21 I actually saw his words sworn under oath.

22 But the answer is I just told you -- I
23 told you before, at best, I had one limited
24 discussion with Dean Vagnozzi about some life
25 insurance issue he was talking to someone, Joe Cole

1 or Joseph LaForte, about. So no, I've never had
2 that discussion with Mr. Vagnozzi.

3 Q. So you have no personal knowledge about
4 whether Mr. Vagnozzi -- the only knowledge -- the
5 only basis for your sworn testimony about what
6 Mr. Vagnozzi knew and when is what you read in a
7 complaint Mr. Vagnozzi filed in a Court of Common
8 Pleas? I'm not sure of the name of the court, but
9 in Pennsylvania state court. Is that true?

10 A. I said it was also in this case. And you
11 harp unsworn, but those were sworn statements. I
12 read them and I have knowledge from reading them.

13 Q. Okay. So what sworn statements are you
14 referring to exactly?

15 A. A sworn verified complaint and there was
16 something filed in this action about the same thing,
17 I believe in opposition to the injunction that I
18 read many months ago.

19 Q. So something the defense filed in this
20 case and then a complaint Mr. Vagnozzi filed in
21 another case and then you're testifying under oath
22 that Mr. Vagnozzi knew in 2018 based on you reading
23 two documents. Is that -- do I have summarized
24 inaccurately?

25 A. You keep on talking about testifying under

1 oath. I told you how I gained that knowledge. So
2 it's no do I know or don't know. I told you I
3 didn't speak to Dean Vagnozzi. So I know what I
4 just told you.

5 Q. I think it's clear, Mr. Berman, I'm asking
6 about what you knew in your personal knowledge and
7 not what you've read somewhere. Do you understand?

8 A. I do, and I answered what I knew and when
9 I knew it.

10 Q. Okay. You testified questions were asked
11 in private lawsuits that had 98 percent nothing to
12 do with the lawsuit you were involved in and had to
13 do with the SEC's action.

14 Do you recall that testimony on
15 cross-examination?

16 A. Yeah, but you didn't adequately summarize
17 what I said. You added some quotes of your own at
18 the end of the sentence.

19 Q. Okay. Well, did I -- okay. Did I
20 accurately summarize what you conveyed in your
21 testimony?

22 A. What I -- yeah. I mean, no, you didn't
23 accurately summarize. I said that. But what I did
24 say in my testimony was that I was hearing those
25 questions where we had phone calls with the judge,

1 et cetera, about the scope of the questions that
2 were being asked at every deposition, looking back
3 at it today, the questions that were asked in both
4 cases, but primarily the HMC case, were word for
5 word what you now have in your Complaint.

6 Q. Okay. And so what case is it that you're
7 referring to?

8 A. I just told you. HMC.

9 Q. Okay. And that's pending in the
10 Pennsylvania federal district court?

11 A. When you say pending, I haven't been
12 involved in that case for 10 months. So I have no
13 idea where it stands.

14 Q. Okay. Let me correct it. Was that
15 pending in Pennsylvania federal district court or
16 was it a different -- was it another court?

17 A. It was pending in the federal district
18 court, the last I checked.

19 Q. Okay. And I understood from your
20 cross-examination that you were testifying about
21 four depositions. It happened in two depositions of
22 Joe Cole and two depositions of Joseph LaForte; is
23 that accurate?

24 A. That's what I said, yeah.

25 Q. Okay. I'm just making sure. And so the

1 first time was in 2019. Did I also get that
2 correct?

3 A. Well, I also added -- the answer to your
4 question is yes, but I also added that this was
5 significantly addressed and briefed in various
6 proceedings before Judge Sanchez in the Eastern
7 District.

8 Q. Okay. That's fine. That's not my
9 question. My question was just was it 2019 the
10 first time that these questions came up that you
11 testified were word for word what was in the SEC's
12 case. Was the first time that this occurred in a
13 deposition in 2019 in the HMC case?

14 A. No. The HMC case depositions were in
15 2020.

16 Q. Okay. So I thought I heard you testify on
17 cross that this also happened in 2019. Did I
18 misunderstand you?

19 A. You misunderstood. What I said was
20 questions at the deposition in 2019 had no bearing
21 on the facts or circumstances of the case at issue.
22 In 2020 when I think back to what was said at that
23 deposition, those are directly parallel to what you
24 filed weeks later.

25 Q. Okay. And so it didn't happen before the

1 2020 deposition; is that correct?

2 A. I didn't say that either. I just remember
3 the 2020 deposition better.

4 Q. Okay. So let's go back. The question
5 that I asked you was -- because we're going to go
6 through all four depositions.

7 The only question I asked, was the first
8 time this happened that you were asked -- that your
9 clients were asked questions that you testified
10 under oath were unrelated to your case and were
11 later reflected in the SEC's case, the first time
12 that happened, was that 2019?

13 A. Yes.

14 Q. Okay. So we're going to go one by one.
15 If you listen to the questions I'm asking, it will
16 go a lot faster.

17 So in 2019 --

18 A. I've been listening the whole time.

19 Q. Okay. Great. The first time this
20 occurred, whose deposition was being taken?

21 A. I told you two depositions of Joe Cole and
22 two depositions Joe LaForte. I don't know who was
23 first or second. I don't know who was first or
24 second.

25 Q. Okay. So in 2019, was it Joe Cole twice

1 or was it one Cole and one LaForte?

2 A. I told you before Fleetwood cases were in
3 2019 into '20, and HMC was in 2020.

4 Q. Okay. So identify for me -- let's try it
5 a different way. Tell me the first deposition that
6 this occurred in, the name of the case and the name
7 of the deponent.

8 A. I just told you, 2019, Fleetwood, Joe Cole
9 or Joe LaForte or both along with briefing on these
10 issues prior to the deposition, stoppages during the
11 deposition and rulings by Judge Sanchez on these
12 issues, yes.

13 Q. Okay. And so what were the questions that
14 were asked during that deposition that you were --
15 that you testified under oath were unrelated to your
16 case and later reflected word for word in the SEC's
17 case.

18 A. You'd have to recite or you'd have to show
19 me the 2019 depositions if you're going to ask by
20 parsing through them. I will tell you that the 2020
21 depositions all dealt with disclosures to investors
22 relating to how money was raised, what was made with
23 respect to default rates, what was done with respect
24 to Joe LaForte's criminal conviction, what was done
25 with respect to regulatory actions, nearly identical

1 to the complaint that was filed by the SEC.

2 Q. Okay. And so we're talking about 2019.
3 We're going to talk about 2020?

4 A. I parsed between two.

5 Q. Well, you testified under oath that it
6 happen in 2019. So what were you referring when you
7 swore under oath that it happened in 2019?

8 A. You keep saying swear under oath, like
9 that's going to change my answer. But my answer is
10 the same as I said before. The 2019 depositions
11 dealt 98 percent with things that were not anything
12 to do with Fleetwood. They were dealing solely with
13 extraneous issues about everything in the world but
14 Fleetwood.

15 But what I remember more specifically are
16 the 2020 depositions. I can't differentiate between
17 the two sitting here today.

18 Q. Okay. So you've identified so far three,
19 disclosures to investors about what? Like, what was
20 it that was asked in that case you said was weeks
21 later like in the SEC's case?

22 A. You'll have to show me the deposition
23 transcript.

24 Q. But it's your testimony. So I'm asking
25 you.

1 A. I don't have more specific for you. I
2 told you the scope, the scope of my recollection.

3 Q. Okay. So we'll take a break and we'll get
4 the transcripts and you can point out each thing in
5 there that you're referring to.

6 A. We have 14 minutes left of this
7 deposition.

8 Q. You testified -- Mr. Berman, you testified
9 under oath that in 2019 and 2020 depositions were
10 taken where questions were asked that were almost
11 verbatim word for word what was in the SEC's case.

12 Now I'm asking you to identify what those
13 questions were. And you can't identify without
14 looking at the transcript.

15 Can you identify generally what areas
16 you're talking about so that we can review these
17 transcripts and examine it? You said disclosures to
18 investors. About what? Like, were there inquiries
19 in the depositions about disclosures to investors
20 about insurance rates?

21 MS. SCHEIN: Ms. Berlin, I'm going to
22 object as asked and answered. Surely the deposition
23 transcripts will speak for themselves. Asked and
24 answered.

25 MS. BERLIN: Okay.

1 MR. LEVITT: I'm going to object also. It
2 has been asked and answered. He gave you a general
3 description of his recollection of the overlap of
4 the 2020 HMC deposition with the allegations in the
5 SEC's complaint. He gave you the best of his
6 recollection some general responses to that. He
7 can't give you more detailed responses.

8 And frankly, I know that he was asked this
9 question. I know he gave testimony about the
10 overlap. Frankly, it's not relevant, and going into
11 more detail, excessive detail about that is a
12 complete waste of time.

13 MS. BERLIN: Well, I'm going to continue
14 to ask because it was asked on cross, and you didn't
15 object then as to relevance or to anything else,
16 Mr. Levitt. You permitted it. And you didn't
17 object. So I need to now ask them on redistrict.

18 MR. LEVITT: He told you he can't remember
19 more detail.

20 MS. BERLIN: That's a matter to take up
21 with the court if you wanted to litigate it, but
22 right now I'd just like to proceed with asking your
23 client to identify.

24 BY MS. BERLIN:

25 Q. So far you have disclosures to investors.

1 I'll just ask, can you recall anything specific, yes
2 or no? Do you recall anything specific about the
3 disclosures to investors questions that were asked
4 in the depositions that you believe paralleled the
5 SEC's complaint?

6 A. I have given you all of my recollection of
7 the transcripts from 2019 and '20. I have no
8 further recollection.

9 Q. Okay. So it's just those three areas, the
10 disclosures to investors, the default rate and
11 Mr. LaForte's criminal record, is that --

12 A. You will have to cite to the deposition
13 testimony. That's the best part of depositions.
14 There's a transcript. And I've given you my full
15 recollection.

16 Q. Okay. And so, Mr. Berman, do you believe,
17 have you conveyed to the defendants before that
18 there's some overlap? It seems like an unusual
19 thing for them to ask you out of blue about.

20 Did you have a discussion with defense
21 counsel about this overlap and why --

22 A. Sure.

23 Q. Can you answer that?

24 A. Yes, sure. No, I have not had discussions
25 with defense counsel, but what I will tell you is

1 that when you look at the affidavits that you filed
2 in support of the preliminary injunction, which I
3 did read at the time they were filed, but have not
4 since, nearly, by my memory, 95 percent of the
5 merchants that are listed in those affidavits were
6 the merchants that were represented by Shane Heskin
7 litigating in the cases in the Eastern District.

8 So that led me to look back at the
9 deposition transcripts where I saw and refreshed my
10 memory that the overlap was striking.

11 Q. Okay. And is there some reason why that's
12 relevant?

13 A. You're asking me questions. I'm not here
14 or weigh in on relevancy.

15 Q. You keep saying it struck you after the
16 fact. So I'm just curious as to -- why did it
17 strike you? Why was this an issue in your mind as
18 you conveyed it today?

19 A. I will tell you, because I walked out of
20 each and every dealing in one of those cases pending
21 in the Eastern District, every deposition, every
22 argument, every review of written discovery,
23 scratching my head why we were possibly talking
24 about issues that had nothing to do with the claims
25 and defenses of the action. And the filing of this

1 action showed me why we were talking about those
2 issues.

3 Q. So do you believe that the questions were
4 being asked in that case because the SEC -- I don't
5 understand what you mean. What is the connection
6 between the two?

7 A. Sure. So you're asking me to disclose
8 communications that were clawed back by Judge
9 Sanchez in the Eastern District. So let me be clear
10 on that.

11 Mr. Heskin on behalf of Kara DiPietro
12 produced a series of communications in the action
13 pending in the Eastern District Court of
14 Pennsylvania that had correspondence with various
15 state and federal agencies, including the Securities
16 and Exchange Commission. Those were clawed back. I
17 don't have them in my possession. But looking back
18 at it now, if you want to start asking me those
19 questions, that's why.

20 Q. Okay. I'm not sure I still understand.
21 So why was it -- was this an issue that was raised
22 or came up in the Eastern District of Pennsylvania
23 case before Judge Sanchez?

24 A. Yes.

25 MR. LEVITT: Mr. Berman, before you go any

1 further, I just want to caution you if there are
2 any protective orders, confidentiality orders or
3 other orders entered by the U.S. District Court for
4 the Eastern District of Pennsylvania regarding what
5 you called the clawed back documents, obviously --

6 THE WITNESS: I'm not testifying as to the
7 clawed back documents because of that reason. So I
8 won't give any substance without a court order.

9 MR. LEVITT: Thank you.

10 THE WITNESS: But to answer your question,
11 this was an issue that was regularly addressed with
12 Judge Sanchez, the scope of the irrelevant and
13 harassing discovery on topics that had nothing to do
14 with the case, cases. And Judge Sanchez frequently
15 ruled and stopped this type of questioning. That is
16 also cited within the transcripts that I referenced
17 previously.

18 BY MS. BERLIN:

19 Q. Okay. And so what is the relevance of
20 that to this case? Like how does that connect to
21 this case?

22 MR. SOTO: Objection to form.

23 THE WITNESS: I don't know how to weigh in
24 the relevance. My point was I was asked a question
25 before about those cases. And I can't tell you

1 relevance or not relevance. That's not really what
2 I'm here for. I'm here at a fact deposition.

3 But I found it striking looking back how
4 closely those questions and discovery mirrored the
5 complaint that was filed in this action.

6 BY MS. BERLIN:

7 Q. Okay. And that's it?

8 A. I don't know what --

9 Q. You testified there was some overlay and
10 on the things. Your testimony on the transcript
11 will reflect a little bit of more detail about that.
12 And I'm just trying to understand what is the
13 significance of questions that were asked by Kara
14 DiPietro's lawyer in a Pennsylvania lawsuit.

15 How are those things relevant -- in 2019
16 and 2020, how are they -- what connection are you
17 perceiving to this action?

18 A. I make no parallel link. I answered a
19 question. So I have no special significance to
20 anything.

21 Q. Okay. I was just trying to understand why
22 this was addressed, and the fact that your attorney
23 did not object on relevance grounds at that time led
24 me to believe it must be relevant somehow. So I
25 apologize for asking you why it's relevant.

1 MR. LEVITT: I should have objected to it
2 on relevance grounds. I apologize for that.

3 MS. BERLIN: And I'm sorry for taking up
4 so much time, but the fact that you didn't object,
5 made me think, okay, is this somehow connected to
6 this case.

7 BY MS. BERLIN:

8 Q. And then were the issues about Joseph
9 LaForte being -- like his criminal record, were
10 those things that merchants had raised trying to get
11 out of the collections efforts in court? Had
12 merchants been raising that for years prior?

13 A. I can't say years because I told you I was
14 only involved in that portion of it from February of
15 2020. But, yes, that was raised and, yes, that was
16 raised in all of the cases that were brought by
17 Mr. Heskin on behalf of his clients.

18 Q. Okay. And when did you start litigating
19 against Mr. Heskin's clients?

20 A. I think I testified that Fleetwood was the
21 first starting in mid 2019.

22 Q. Okay. And you mentioned Kara DiPietro.
23 She's an investor in Complete Business Solutions
24 Group?

25 A. I don't think she was an investor in

1 Complete Business Solutions Group. But I don't know
2 exactly, to be honest.

3 Q. So you're not aware of whether or not
4 she's an investor in a promissory note issued by
5 Complete Business Solutions Group?

6 A. I'm aware from her deposition and
7 documents produced in that case, which, again, I'll
8 do some caution because there was confidentiality
9 agreements in that case.

10 THE WITNESS: So should I be testifying as
11 to potential documents that were marked confidential
12 or should I not?

13 MR. LEVITT: You should not. You should
14 comply with the court confidentiality orders.

15 BY MS. BERLIN:

16 Q. So you are --

17 A. I am aware, but the last thing I'm looking
18 to do is violate a standing order from the Eastern
19 District of Pennsylvania on confidentiality.

20 Q. Understood. Am I right in saying you were
21 at the Par Funding offices about five times?

22 A. I think I said between five and ten during
23 the tenure. But five probably sounds right.

24 Q. Okay. And that was starting in what year?

25 A. '20 probably, 2020 or right -- it would be

1 if we know the date of the Fleetwood deposition.
2 Actually, I don't know if I was -- no, yeah, the
3 date of the Fleetwood deposition may have been the
4 first time I ever went there, right before that to
5 prepare Joe LaForte and Joe Cole.

6 Q. Okay. And so do you remember what time of
7 year that was?

8 A. I think it was winter, winter going
9 into -- going into spring.

10 Q. Of 2019?

11 A. '19 into '20.

12 Q. Okay. So you were there five times
13 between the end of 2019 or early 2020. And then
14 when was the last time you were at the office?

15 A. Right before -- no, no, no, no. So there
16 was a gap of the four-month COVID, right. So this
17 representation expanded to the collection side of
18 things in February of 2020. I probably went once or
19 twice. And then the last time -- and then obviously
20 I didn't go for the shutdown, so four months. And
21 then whatever the date of the HMC depositions where
22 we talked about the prep I believe was the last time
23 I was at their office to prepare Wendy, Aida and Joe
24 Cole.

25 Q. Okay. And do you recall about when that

1 was?

2 A. April. Between February and April --
3 that's the best I can tell you -- 2020.

4 Q. Okay. So you were at Par Funding's
5 offices during the timeframe of -- your visits there
6 all occurred starting either at the end of 2019 or
7 early 2020, but during winter. And the last time
8 you were there was sometime between April and July
9 of 2020?

10 A. That's correct, to the best of my
11 knowledge.

12 Q. Okay. So you were there like five times
13 over the course of like six or seven months?

14 A. That sounds about right.

15 Q. Okay. That's all I have.

16 MR. LEVITT: Thank you.

17 MR. FUTERFAS: I'm sorry. I have a very
18 brief re-cross. Do we have two minutes?

19 MS. BERLIN: Then you're probably going to
20 get another re-redirect. I don't think there is
21 such a thing as a re-cross.

22 MR. FUTERFAS: Well, I'll take a shot.

23 MS. BERLIN: If you're willing to do it,
24 go ahead.

25 MR. FUTERFAS: It will be very fast. I'll

1 try to be very fast.

2 RE-EXAMINATION

3 BY MR. FUTERFAS:

4 Q. Mr. Berman, you were asked a whole bunch
5 of questions about why you found it striking that
6 you were getting questions by Mr. Heskin that had
7 nothing to do with the lawsuits under consideration.

8 Do you recall those questions two minutes
9 ago?

10 A. I do.

11 Q. Did you -- and I'll get right to it. Did
12 you find it striking -- did you come to a belief or
13 an understanding that Mr. Heskin was feeding and
14 creating the SEC's eventual case?

15 MR. LEVITT: I'm going to object. I
16 should have objected before on relevance, but to
17 raise this issue again on re-cross, I really do need
18 to object.

19 MR. FUTERFAS: Fine. The witness can
20 answer.

21 MS. BERLIN: I object as well on
22 relevance.

23 MR. FUTERFAS: Fine.

24 THE WITNESS: If Ms. Berlin is done, the
25 answer is I can't draw that -- I mean, that's a

1 little deeper than I can go to say what was in the
2 SEC's head. Hopefully, this is my first and last
3 experience with the SEC. No offense Ms. Berlin.

4 MS. BERLIN: None taken.

5 BY MR. FUTERFAS:

6 Q. I'll ask you one more question. Did you
7 have an understanding that Heskin, not the SEC, but
8 at least Mr. Heskin was in some way trying to use
9 the SEC to bring a case that he was continuing to
10 lose in the courts that you were dealing with?

11 MS. BERLIN: Objection. Relevance.
12 Nothing to do with this case and speculation.

13 Mr. Levitt, do you have anything that you
14 want to add to that?

15 MR. LEVITT: I'm going to renew my prior
16 objection.

17 BY MR. FUTERFAS:

18 Q. You may answer.

19 A. What I would say is that I can't draw the
20 link of Heskin, DiPietro, Amie Berlin, SEC. That's
21 a little too deep for me. But I would say that I
22 didn't understand at the time why this was happening
23 in the cases. It was a cause to bring down the
24 business as I saw it. I scratched my head at every
25 turn in those cases not understanding what was going

1 on. And here we are.

2 Q. That's all I have. Thank you.

3 MS. BERLIN: Okay. Thank you.

4 MR. LEVITT: Thank you all.

5 MR. FUTERFAS: Thank you all. Thank you.

6 MS. BERLIN: We're off the record.

7 THE VIDEOGRAPHER: This concludes
8 today's videotape deposition. We're going off the
9 video record at 6:01 p.m.

10 (Whereupon, at 6:01 p.m., the taking of
11 the instant deposition ceased.)

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1 COMMONWEALTH OF PENNSYLVANIA)
2 COUNTY OF ALLEGHENY) SS:

3 C E R T I F I C A T E

4 I, Ann Medis, Registered Professional
5 Reporter, Certified Livenote Reporter and Notary
6 Public within and for the Commonwealth of
7 Pennsylvania, do hereby certify:

8 That BRETT BERMAN, ESQUIRE, the witness
9 whose deposition is hereinbefore set forth, was
10 duly sworn by me and that such deposition is a
11 true record of the testimony given by such
12 witness.

13 I further certify the inspection,
14 reading and signing of said deposition were not
15 waived by counsel for the respective parties and
16 by the witness.

17 I further certify that I am not related
18 to any of the parties to this action by blood or
19 marriage and that I am in no way interested in the
20 outcome of this matter.

21 IN WITNESS WHEREOF, I have hereunto set
22 my hand this 14th day of June, 2021.

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25 _____
Notary Public

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CERTIFICATE OF WITNESS

I, BRETT BERMAN, do hereby declare under penalty of perjury that I have read the entire foregoing transcript of my deposition testimony, or the same has been read to me, and certify that it is a true, correct and complete transcript of my testimony given on June 8, 2021, save and except for changes and/or corrections, if any, as indicated by me on the attached Errata Sheet, with the understanding that I offer these changes and/or corrections as if still under oath.

_____ I have made corrections to my deposition.

_____ I have NOT made any changes to my deposition.

Signed: _____
BRETT BERMAN

Dated this _____ day of _____ of 20____.

