

§ 341 CREDITORS' MEETING OF DEL HODGES KIMBALL

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3 U.S. Bankruptcy Court
4 Western District of Missouri (Kansas City)
5 Bankruptcy Petition#: 15-42262-can7

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8 Cynthia A. Norton

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11 Asset discharge: 01/19/2016

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17 may also include misinterpreted words. The transcriber
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19 this transcript should not be considered verbatim.

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23 Tracy Hackleman

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1 (BEGINNING OF AUDIO)

2 MS. STANTON: Okay. We'll go ahead and get
3 started. This is the continued Section 341 meeting for
4 Del Kimball. Case number 15-42262-7.

5 The debtor appears in person with his
6 attorney Joel Pelofsky.

7 If you could raise your right hand.
8 Mr. Kimball, do you solemnly swear the testimony you're
9 about to give will be truth?

10 THE WITNESS: Yes.

11 QUESTIONS BY MS. STANTON:

12 Q Okay. Could you please state your name?

13 A Del Houston Hodges Kimball.

14 Q Okay. So, Mr. Kimball, the most recent
15 amendments to your schedules were filed on April the 22nd,
16 2016, is that correct?

17 A I'm not sure when Mr. Pelofsky filed the last
18 amendments. I don't --

19 Q Does that sound about right?

20 MR. PELOFSKY: Yeah. I don't know what, I
21 don't remember --

22 MS. STANTON: Okay.

23 MR. PELOFSKY: -- the date. That sounds
24 about right.

25 BY MS. STANTON:

1 Q Did you, did you work with Mr. Pelofsky in
2 **preparing the amended schedules?**

3 A Yes. And --

4 Q **And statement?**

5 A Yes.

6 Q **And statement of financial affairs?**

7 A Yes.

8 Q **To the best of your knowledge and belief, is
9 **everything true and correct?****

10 A Yes.

11 Q **Okay. So at this point, Mr. Kimball, do you
12 believe that to the best of your knowledge and belief you have
13 identified all of your assets?**

14 A Yes.

15 Q **And all of your creditors?**

16 A Yes.

17 Q **Okay. And all of the transfers of money or
18 property that you're required to disclose?**

19 A I believe so, yes.

20 Q **Okay. Are you aware of any other changes that
21 need to be made at this point?**

22 A Not that I can think of right now.

23 Q **Okay. Because we have been through this a
24 number of times --**

25 A Yes, I know.

1 Q Okay. So, you think everything is true and
2 correct to the best of your knowledge and belief?

3 A Yes. Everything that I reviewed from the
4 schedule and I believe Mr. Pelofsky filed something on Friday
5 --

6 Q And we'll talk about that.

7 A Okay.

8 Q That's a, I believe what he filed on Friday was
9 a supplemental response to my motion to compel.

10 A Yeah. That's what we worked on last week.

11 Q Okay. Very good. So, what I would like to do
12 is draw your attention to the addendum to Schedule A/B 19 and
13 Statement of Affairs 27, which for the record is document
14 number 178-1. And I believe you have that in front of you,
15 don't you?

16 A Yes.

17 Q Okay. Are you familiar with that addendum?

18 A Yes.

19 Q Okay. And you worked with your attorney in
20 preparing that addendum?

21 A Yes.

22 Q Okay. And do you believe the information
23 contained in this document is all accurate?

24 A Yes, I do.

25 Q Okay. I have a few questions regarding the

1 additions or the changes that you've made to this addendum over
2 the past few months. First question I have is the DMS
3 Marketing LLC, you show that you own a 50 percent interest in
4 that company, that is true?

5 A Yes.

6 Q And, and is Mr. Furseth the other 50 percent
7 owner?

8 A Yes.

9 Q Okay. Then you also show a company identified
10 as DMS Marketing. Do you see that under nonlending --

11 A Oh, I think, that looks like, it's just
12 duplicated that.

13 Q Okay.

14 A It's the same thing.

15 Q So, it's the same thing?

16 A Yes. Sorry about that.

17 Q Okay. That's all right. All right. All
18 right. Okay. One of the new entities I believe that you have
19 identified here on the addendum is a company known as Pay Crom
20 (ph)?

21 A Yes.

22 Q Now, what type of company is that?

23 A That's a, it's an Isle of Man limited company
24 that used to own the Russian version of the customer management
25 soft wear.

1 **Q Okay. Is that company still in existence?**

2 A It's in existence but it doesn't have a bank
3 account, there's no activity.

4 **Q How has it been since there's been any**
5 **activity?**

6 A It's, I couldn't tell you but it's been, it's
7 been a while.

8 **Q Like several years?**

9 A No.

10 **Q Okay.**

11 A They, they switched the, the Russian holding
12 company switched over to their own proprietary software within
13 the last year and a half. So probably about, the switching of
14 that date was about the time when Pay Crom no longer had any
15 functionality.

16 **Q Okay. So, but Pay Crom still owned some**
17 **software, is that true?**

18 A Well, the, the software they own was the
19 software that the Russian business used. It's not been
20 maintained. So, I don't know even know what condition or if
21 it's even there still.

22 **Q Okay. Who has control over the software?**

23 A The Russians.

24 **Q When you say the Russians --**

25 A The Russian business, MMK.

1 **Q Okay. Is this one particular person that would**
2 **have any knowledge about the software?**

3 A Well, I mean, Ian Bottomly (ph) would know and
4 Yuri Prokin (ph) who's the CEO of MMK.

5 **Q Okay. But to your knowledge, the software is**
6 **no longer being used?**

7 A That's what they've told me.

8 **Q Okay. And they being the Russians?**

9 A The Russians. Yeah.

10 **Q Do you have any reason to believe that it is**
11 **being used?**

12 A It would be very difficult because they don't
13 have the capacity to modify the software, as far as I
14 understand. So, I was told that they are 100 percent
15 independent with their own software now.

16 **Q Okay. And who would have the ability modify**
17 **that software?**

18 A The IT people that used to work for Glacier.

19 **Q Okay. And who are those people?**

20 A I don't, there was a whole team of them.

21 **Q Okay. All right.**

22 A They, they're no longer employed.

23 **Q Okay. So, and then did the Russians purchase**
24 **new software?**

25 A They, they hired a company in Russia to build

1 it for them.

2 Q Okay. Do you know the name of that company?

3 A Not off the top of my head.

4 Q Okay. Do you know how much they paid for the
5 software?

6 A I think about \$5 million.

7 Q Okay. And, and you think about \$5 million, how
8 did you come, how did you know that number?

9 A That just, that number, from the last board
10 meeting I went to, wind of rings in my head but I don't know
11 exactly.

12 Q Okay. Who did they purchase from software
13 from?

14 A She didn't purchase it. They had it developed
15 for them.

16 Q All right. Do you know who developed the
17 software?

18 A It's the same question. I don't know what, the
19 name of the company.

20 Q Okay. Do you have any affiliation with the
21 company that developed the software?

22 A None.

23 Q Okay. Why did she switch software?

24 A We, the board felt the company would be more
25 valuable in a sale or IPO opportunity with having their own

1 software, not being dependent on one group to, to control the
2 software that was on their side of the world.

3 Q Okay. All right.

4 A Because they had to pay very high rates to have
5 our people work from midnight to 9 in the morning because of
6 the time difference.

7 Q Okay. All right. And then you've got
8 identified here, Harvest Moon Farm?

9 A Yes.

10 Q And I think we've talked about that a little
11 bit before. What is Harvest Moon Farms do?

12 A It is a, I forget the exact term, it's like
13 the, they call it farm to table, it's like an organic farm. A
14 friend of mine in Chicago got Sam and I to invest in that, I
15 don't even know how long ago. And as far as I know, it's never
16 made any money. I looked at the K1, I don't remember seeing
17 any income on there.

18 Q So you've never received any dividends or any

19 --

20 A No.

21 Q -- royalties or anything like that?

22 A No.

23 Q Okay. Have you always owned just a 3.92
24 percent interest?

25 A Yes.

1 Q Okay. So you've never soled any interest --

2 A No.

3 Q -- in that company? Okay. Role Star, what is
4 that?

5 A It has a new name, and I can't, I don't know
6 what it is. But it was intended to be a Facebook application
7 that people could play out scenes from movies with each other
8 and, on Facebook. And as far as I know it's never been, gotten
9 off the shelf. It's just a friend of mine that Mr. Furseth and
10 I have known forever and he asked us to invest.

11 Q Okay.

12 A -- a long time ago.

13 Q How much did you invest?

14 A One hundred thousand dollars, I believe.

15 Q And about when did you invest that?

16 A Six, seven years ago.

17 Q Have you ever received any dividends?

18 A None.

19 Q And where is that company located?

20 A I believe, my friend lives in Santa Monica,
21 California but I believe it's headquartered in at Atlanta,
22 Georgia. It's a group of, I think, of his buddies. But it's,
23 as far as I know they've never generated any revenue. I don't
24 think we've even, I've even received a K1 or anything for it.

25 Q Okay. So, do you believe it has any value?

1 A I believe it's worth nothing.

2 Q So, but if I wanted some contact information
3 for Role Star so I could verify it's value --

4 A Sure.

5 Q -- could you get me that?

6 A Sure.

7 Q Okay. The same thing with Harvest Moon Farms?

8 A Sure.

9 Q Okay. All right. So, moving down the page a
10 little bit, you, towards the middle of the page of the
11 addendum, you say, "Debtor owned 1,000 shares of Borne Capital
12 Two, LTD." Do you still own the 1,000 shares?

13 A No.

14 Q Okay. I, I know that there was another company
15 with a similar name, Borne Capital One?

16 A Yes.

17 Q What was the difference between Borne Capital
18 One and Two?

19 A Borne Capital One was a, an Isle of Man company
20 that had a lending license in that name that Sam and I owned.
21 Borne Capital Two, we had a lending license in this company and
22 we had a large investor come in and he wanted to own the
23 license. So that was the, whatever mechanism in the Isle of
24 Man was necessary to transfer that license to him, was this
25 share transfer. And then that gentleman, as far as I know,

1 still owns it, we don't have any relationship with him any
2 more.

3 Q And that's regarding Borne Capital Two?

4 A Two, yes.

5 Q And what was that gentleman's name?

6 A Olig Boycoe (ph).

7 Q Okay. And where is he out of?

8 A He lives all other the world.

9 Q Okay. And when did you transfer that interest?

10 A Somewhere in the, end of 2012.

11 Q And, and what did you get in, in exchange for
12 the transfer?

13 A Nothing.

14 Q So, you didn't get any money?

15 A No. We, he invested in the company. We were
16 supposed to have a profit sharing agreement but we never got to
17 that part of the agreement before it terminated --

18 Q Okay.

19 A -- after Operation Choke Point, the
20 relationship --

21 Q Did it own any assets?

22 A Borne Capital Two had a set of loans but I
23 didn't, Mr. Furseth and I did not own Borne Capital Two. Those
24 were owned by Olig Boycoe or one of his holding companies, I
25 believe.

1 **Q So Borne Capital Two didn't own the loans?**

2 A They owned them but we didn't own, Mr. Furseth
3 and I did not have any ownership in Borne Capital Two.

4 **Q Okay. I guess I misunderstood. I thought what**
5 **you said was you transferred your --**

6 A The, the ownership rights and the license to
7 Mr. Boycoe's holding company. We did not have any ownership
8 over that in any -- we just listed it here because it was an
9 entity that we had set up at some point but we have no
10 ownership in.

11 **Q Okay. And you never have?**

12 A With did at the beginning but it was a dominant
13 account until he took over it. And then we had no ownership.

14 **Q Okay. And are you saying it didn't have any**
15 **assets until after you transferred your ownership?**

16 A Yes.

17 **Q Okay.**

18 A Yes, ma'am.

19 **Q All right. And then Borne Capital One, do you**
20 **still hold an interest in that?**

21 A No. That company was shut down after Operation
22 Choke Point.

23 **Q Okay. Did it own any assets?**

24 A I might have had some old loans but they've
25 been, they're no longer, the Isle of Man people took all the,

1 our registers agents over there took all of the loan funds we
2 had and froze them and took all that stuff from us. So --

3 Q And where are they today?

4 A I have no idea.

5 Q And how do you know they did that?

6 A Because they sent me a termination letter.

7 Q Okay. And the termination letter would say
8 what?

9 A We're no longer working with you in any
10 capacity.

11 Q Okay. And then what did they take though, from
12 you? You said they took something.

13 A Well, this is after Operation Choke Point,
14 there was no bank accounts or any activity on that account as
15 far as I knew.

16 Q Okay. But, didn't Borne One, Borne Capital One
17 or Borne Capital Two loan some of your other lending companies
18 money?

19 A No.

20 Q So if I found a promissory note made payable to
21 Borne Capital One or Two --

22 A Borne Capital One was funded from money that we
23 raised in the United States. Borne Capital Two, all it's
24 funding came from Olig Boycoe. I don't know if there was any
25 notes associated with that or not but there was, it was a, as

1 far as I understood it, it was totally, it was, we simply gave
2 him the ownership of that entity and that license. If that
3 makes sense.

4 Q No. I'm not really following but let's move
5 on. We might come back to that. Okay. So, go back to the,
6 where you're describing your interest in various companies.
7 You see that?

8 A Yes.

9 Q Okay. So go to Dayton Ventures.

10 A Yes.

11 Q Okay. And in parenthesis you have "Edgewater"
12 there?

13 A Yes.

14 Q Okay. So what is the relationship between
15 Dayton Ventures and edge water?

16 A Edge water was just a holding company that held
17 Mr. Furseth and I's interest in Dayton Ventures.

18 Q Okay. So, edge water held an interest in
19 Dayton ventures, correct?

20 A I believe 100 percent of Dayton Ventures with
21 you owned by edge water.

22 Q Okay. Is there a way I can tell from this
23 document, if -- well, let me back up. If, if it says edge
24 water, which it does throughout the addendum and edge water is
25 in parenthesis, can I assume that edge water owned 100 percent

1 of Dayton Ventures or Eldridge Marketing?

2 A Yes.

3 Q Okay. So, if edge water is not listed, like,
4 for example, Weston Marketing on the second page --

5 A Let me look at that. That's probably a typo
6 because I believe Weston was also owned by edge water, but I'd
7 have to double check.

8 Q Okay. Okay. Let's see, so, Alpine Ventures,
9 the next --

10 A Yes.

11 Q -- after Weston Marketing. It shows Evergreen
12 in parenthesis, and then it says 50 percent KCMH Holdings.
13 What does that mean?

14 A So that would mean Alpine Ventures would have
15 been owned 50 percent by Evergreen and 50 percent by KCMH
16 Holdings.

17 Q Okay. All right.

18 A So, any time it said that, the other company
19 would be a 50/50 relationship in that particular LLC.

20 Q Can you tell me why you set up the companies in
21 this fashion?

22 A These particular LLCs were, as opposed to a
23 form of a promissory note or debt --

24 Q Mm-hmm.

25 A -- these were partnerships where the profits

1 were split with the entity listed so they didn't have a, like,
2 a payment schedule, it was --

3 Q Okay. Well, if edge water was 100 percent
4 owner of Imperial Ventures, for example --

5 A Mm-hmm.

6 Q Why, why was it necessary to create Imperial
7 Ventures?

8 A Because we kept pools of money as they came in
9 separately. That's just a way we did things.

10 Q Okay. Are any of the entities that's
11 identified in the addendum on pages 1, 2, 3 and 4, are any of
12 those entities still operating?

13 A Well, I mean, there's, on page 4, the
14 nonlending --

15 Q Let's, let's exclude the nonlending.

16 A Okay. All the lending ones are out of
17 business.

18 Q Okay. And do any of those entities, the
19 lending entities that are identified on pages 1, 2, 3 and part
20 of 4, have bank accounts at this point?

21 A The only entities that would have any bank
22 accounts would be as you know Glacier, Evergreen and, I don't
23 know if, I think the LTS one has been shut down.

24 Q Okay.

25 A At the Five Star Bank.

1 **Q** All right. Now, as to the nonlending entities
2 that, let's just talk about page 4, those, that are identified
3 on page 4, are any of those entities still operating?

4 A Well, there's a question mark in my mind of 110
5 West 9th and 107 West 9th because those were the entities that
6 owned the building at 908 Baltimore.

7 **Q** Mm-hmm.

8 A And there's a supposed million dollar plus tax
9 credit coming back to those entities --

10 **Q** Okay.

11 A -- but they don't have any bank accounts for
12 example. Shore of the States was a warehouse that was sold.
13 City productions is that, I don't believe it has a bank
14 account. And Fairways Mountain Lodge was the house in
15 Breckenridge, Colorado that was sold. Shubert Condos was the
16 Chicago condo that was sold. So, those would all be dormant or
17 not, there's no bank accounts or anything for them.

18 **Q** Okay. So Fairways Mountain Lodge, that's no
19 longer operating?

20 A No. That was, it was, the single purpose of
21 that --

22 **Q** Okay. So it's no longer operating?

23 A Yes.

24 **Q** Okay. And then the condos, Shubert, that's no
25 longer operating?

1 A Nope.

2 Q Okay. All right. What about Sherwood Estates?

3 A Nope.

4 Q Okay. All right. So there's a question about
5 110 West 9th and 107 West 9th?

6 A Just because of the tax credits hasn't flowed
7 back to the entities yet.

8 Q Okay. But they don't have a bank account?

9 A No.

10 Q Okay. All right. Let's move onto page 5?

11 MR. STRAUSS: Where would those tax credits
12 go to?

13 THE WITNESS: I don't fully -- it's from
14 the, it's from the federal tax credits that were used to
15 build the building that we had a partnership with Chevron
16 Oil. And then the IRS disallowed the tax credits after we
17 had been in the building for five years. And so we were
18 both given the tax credits, some formula that the IRS came
19 up with, with the, to give back to the entity. I think
20 it's 107 West 9th. And that, we've received a letter, I
21 think I've sent Ms. Stanton a letter but we've not
22 received the formal paperwork from the IRS. And that was
23 about six months ago.

24 BY MS. STANTON:

25 Q Was there any attorney helping you with the tax

1 **credits --**

2 A Yes.

3 **Q -- and working through the process? And who**
4 **was that?**

5 A Skyler Cropal (ph).

6 **Q Okay. So he would have some knowledge about**
7 **what you're rights are, what, what --**

8 A Yes. I believe so. It was a fairly unique
9 case. So --

10 **Q Okay. Let's move to page 5 now. Red River**
11 **Explorations, LLC. Now I've, we've talked briefly about that**
12 **LLC. That's stale operating as far as you know, is that**
13 **correct?**

14 A I believe. Well, just, not to not answer your
15 question, Mr. Furseth basically did almost all the day to day
16 activity on Red River. I believe there is some wells that do
17 exist, I don't know whether they produce any income or anything
18 to date --

19 **Q Have you received any income from that entity**
20 **in the last year?**

21 A No.

22 **Q Okay. If there is income, where does it go?**

23 A I believe there was a bank account a Five Star
24 in Colorado but I don't know if it still exists or not.

25 **Q No. But if there are royalties or anything**

1 like that --

2 A I don't think, I don't think there is.

3 Q Okay.

4 A But like I said, Mr. Furseth was well --

5 Q Do you know, do you know whether or not
6 Mr. Furseth has received any income from Red River?

7 A He's told me he has not.

8 Q Okay. Didn't you sell an interest in Red
9 River --

10 A -- sold an interest right after Operation Choke
11 Point to one of the operators. They bought our share of
12 whatever, the wells we invested in.

13 Q Why didn't you sell your entire interest at
14 that time?

15 A They're different operators.

16 Q Okay.

17 A So that was just one operator that offered.

18 Q Okay. Ivonix (ph) Holdings, LLC, that's still
19 in existence, that is true?

20 A Yes.

21 Q Okay. And who are the owners of Ivonix
22 Holdings, LLC?

23 A It's owned partly by, observation my gosh,
24 Uriss (ph), LLC and, I can't believe I can't think of this.
25 You'd have to give me a minute. But it's basically where the

1 shares of the settlements were put into, it may with all Uriss,
2 I can't remember.

3 **Q Okay. Uriss.**

4 MR. STRAUSS: Excuse me. Is Uriss one of
5 the entities that's one this or --

6 THE WITNESS: No.

7 MS. STANTON: No. I'm trying to think of
8 the name that I have on the schedules.

9 THE WITNESS: I'm drawing a blank.

10 MS. STANTON: It's Neil Sader's client, I
11 believe. If I remember correctly.

12 BY MS. STANTON:

13 **Q You created Ivonix Holding, LLC to, for the**
14 **purposes of entering into settlements with some of your**
15 **creditors?**

16 A Sole purpose.

17 **Q Okay. And was Mr. Furseth involved in that?**

18 A Yeah. From a high level perspective, yes.

19 **Q Okay. And who negotiated those settlement**
20 **agreements?**

21 A Mostly Gar Selth (ph) and in some cases Brock
22 Thompson.

23 **Q Okay.**

24 A In some cases John Mullin. In some cases
25 myself.

1 **Q** Okay. And other than Uriss, or, I'm think it's
2 **a different entity name --**

3 **A.**

4 **Q** Oh, okay.

5 **A** That one name that probably rings a bell to
6 you.

7 **Q** Okay. Now, there's another entity that Neil
8 **Sader represents.**

9 MR. STRAUSS: He has Collective Recovery
10 Trust.

11 MS. STANTON: Thank you. Yes. Thank you,
12 Jim. Collective Recovery Trust.

13 THE WITNESS: That's, that's, there's a
14 supplemental settlement that's in that overall pool.
15 There's a whole bunch of settlements, obviously.

16 BY MS. STANTON:

17 **Q** Okay. So, I have received the settlement
18 **documents from Collective Recovery Trust.**

19 **A** Yes.

20 **Q** And again, Ivonix Holding LLC, was, was
21 **commenced or started for the sole purpose of entering into**
22 **these settlement agreements?**

23 **A** Yes.

24 **Q** Okay. And one of the settlement agreements
25 **were with Ian's company, is that right?**

1 A Yes. He, he had an equity stake in the --

2 Q Pardon me.

3 A He had an equity take in Ivonix.

4 Q Okay. And when you say he an equity stake in
5 Ivonix are you speaking of Ivonix holdings, or excuse me,
6 Ivonix Holdings, LLC or Ivonix --

7 A Limited.

8 Q Limited, okay.

9 A Sorry.

10 Q So, does Ian now hold an interest in Ivonix
11 holding and in Ivonix Limited?

12 A It's just Ivonix Holding as far as I know.

13 Q Okay.

14 A But it may be in Ivonix Limited well but I'm
15 not sure.

16 Q Okay. And why did he obtain on interest in
17 Ivonix Holding?

18 A Because when we transferred the shares of the
19 Ivonix, it was a way, it was a little bit simpler way for him
20 to receive his percentage of shares.

21 Q Why was it a simpler way? I guess I'm not
22 following.

23 A That's the, the Akin and Gump people, you know
24 --

25 Q They set that up?

1 A They, at the beginning that was their advice.
2 So I don't recall exactly.

3 **Q Did you give Ian the shares in Ivonix Holdings**
4 **because you owed him money?**

5 A No. It was part of his package of coming onto
6 work for the Russian entity.

7 **Q But hadn't he been working for the Russian**
8 **entity for many years?**

9 A Yeah. But that was, from day one, that was
10 always the agreement.

11 **Q What was the agreement? That he'd get a**
12 **percentage share?**

13 A Yes.

14 **Q Okay. But was the percentage share supposed to**
15 **be in Ivonix Limited?**

16 A At that point, we didn't have Ivonix Limited
17 until after, you know, for the first year, we didn't have
18 anything. So, this was done several years ago. Like, like I
19 said, it was done by the Akin and Gump people. So, I don't
20 want to say something inaccurate because I didn't, I don't know
21 exactly how they did it.

22 **Q Okay. Well, let me ask you this, Ivonix**
23 **Investments Limited, that's the other Ivonix company --**

24 A Yes.

25 **Q -- entity, right? Who are the owners of that**

1 **company?**

2 A Mr. Furseth, myself and Mr. Bottomly.

3 Q **Okay. Do you each own a third --**

4 A But, but it's owned through a various array of
5 entities as you know.

6 Q **Okay. So, what is your percent interest in
7 Ivonix Investments Limited?**

8 A My percentage is 42 and a half percent, I
9 believe.

10 Q **Okay. And what is Mr. Fur fur's?**

11 A Forty-two and a half percent.

12 Q **Okay. And the balance is to?**

13 A Mr. Bottomly.

14 Q **Okay. And --**

15 A That's 15, that you add up to 100, right?

16 Q **I think that's, yeah.**

17 A Okay.

18 Q **I think that's right. Okay. And so,
19 Mr. Bottomly owns a percent interest in Ivonix Investments
20 Limited?**

21 A I believe, like I told you, the
22 Akin and Gump people who the, I'd have to refer to them but I
23 believe that's how it's set up.

24 Q **And do you believe that Mr. Bottomly has owned
25 an interest in Ivonix Investments Limited since the inception**

1 of that company?

2 A It was not set up that way but it was always in
3 the, intention that when we had the opportunity, we would, that
4 was part of his incentive to come work for us.

5 Q Okay. And so when you had the opportunity,
6 that's when you started Ivonix Holdings?

7 A No. It was --

8 Q Okay.

9 A -- way before Ivonix Holdings.

10 Q Okay. So Ian holds an interest in Ivonix
11 Investments Limited and Ivonix Holdings, LLC?

12 A I believe so. Again, I'd have to call the Akin
13 and Gump attorney to --

14 Q Okay. Who did you deal with at Akin and Gump
15 about this?

16 A His name is Richard Wilkie.

17 Q Bilkey?

18 A Wilkie.

19 Q Wilkie.

20 A Wilkie.

21 Q And what office is he out of?

22 A He was in the Houston office. He's since left
23 Akin and Gump and there's a, but he didn't, but he's available
24 to --

25 Q Okay.

1 A -- discuss this. If heck even remember. I
2 mean -- then we have a Moscow, we did have a Moscow
3 representative who was Russian, his first name is Olig (ph), I
4 can't remember his last name.

5 Q -- here, yeah, okay. So he would have some
6 knowledge about how this was --

7 A He would.

8 Q -- set up?

9 A But Ian would really probably have the most
10 because he, he's the one that communicated with Olig because he
11 can speak Russian and what not.

12 Q Okay. And do you have any documentation that
13 sets forth what Ian's interest is in, in any of these
14 companies?

15 A I believe Ian does. I, I can't say off the top
16 of my head that I, that I do.

17 Q Okay.

18 MR. STRAUSS: How did you value the, his,
19 what his interest was to be if it --

20 THE WITNESS: It was always, he was going
21 to get five percent of the company regardless of what it
22 was worth. There was no value. It was, five percent of
23 the companies. So, that's 15 percent of our third.

24 BY MS. STANTON:

25 Q Oh. Five percent of the -- okay.

1 A Whole, whole. So that's 15 percent of our
2 third.

3 Q Okay. All right. So moving on, is -- let's
4 look at the offshore entities that are identified on the
5 addendum.

6 A Yes.

7 Q The first one is Six Kingdoms, is that company
8 still operating?

9 A No.

10 Q Okay. When did it cease operating?

11 A Right after Operation Choke Point.

12 Q Okay. I think we talked about Borne Capital
13 One and Two. Evergreen International Limited, that's still
14 active, correct?

15 A Yes.

16 Q Okay. And the owners of Evergreen
17 International Limited?

18 A Are DS, LLC.

19 Q Okay. Which was owned by you and Mr. Furseth
20 50/50?

21 A Yes, yes.

22 Q Okay. And then Orbatrust (ph), that's you --
23 or excuse me. Ivonix Investment Limited owns a one-third
24 interest in Orbatrust, is that right?

25 A Yes. With two other partnerships.

1 Q Right. Okay. And then DS, LLC, what does that
2 company do?

3 A Owns Evergreen International.

4 Q Okay. Does it have any assets?

5 A No. I mean --

6 Q Over than Evergreen, okay.

7 A If you go down the, the chain of command,
8 eventually it owns --

9 Q Is that 50/50, you and Mr. Furseth?

10 A Yes.

11 Q Okay. And then Pay Crom Holdings, LTD, is that
12 the same --

13 A It's the same as one that we discussed earlier.

14 Q Okay. And that is not an active --

15 A Not active.

16 Q Okay.

17 A (Inaudible) about it, it's just closing it
18 because there's no reason to continue to pay the agent fees if
19 it doesn't do anything.

20 Q Okay. All right. Okay. Let's see here. I
21 want to look now at the statement of financial affairs, the
22 document 178 which was amended on 4/22/16. I believe you have
23 that in front of you as well. If you could look at page 7.
24 Question number 18.

25 A Okay.

1 Q In the first entry there, it relates to the
2 sale of the Chicago condo, is that correct?

3 A Yes.

4 Q Okay. The funds that you received from the
5 sale of the condo, where did those go?

6 A I believe they went to my Missouri Bank and
7 Trust bank account.

8 Q Okay. And did you get the entire \$750,000?

9 A No. I was one-third of that.

10 Q Okay. And the other third went to, other the
11 other --

12 A Mr. Furseth.

13 Q Uh-huh?

14 A And Mr. Grant Jordan.

15 Q Okay. So that, those funds were distributed at
16 the closing?

17 A Yes.

18 Q A third, each of you, okay.

19 A Yes.

20 Q And you would have deposited those funds into
21 your Missouri, Missouri bank account?

22 A Yes.

23 Q Okay.

24 A I believe, I think we've identified the, when
25 those --

1 Q Okay.

2 A -- was deposited.

3 Q All right. Now, on the page 8, looking at the
4 Mackey Road transaction?

5 A Mm-hmm.

6 Q Would the same be true? You didn't receive the
7 entire \$950,000?

8 A No. I received 40 percent of the net proceeds.

9 Q Okay. And who received the other 60 percent?

10 A Forty percent was received by Mr. Furseth. And
11 I believe 10 percent was Mr. David Sanchez and 10 percent was
12 Mr. Dennis Milks. I knew that they had 20 percent but I don't
13 know if they had an equal --

14 Q Okay. Is, is that the way that the ownership
15 of the building was always held?

16 A The ownership of the building was in the
17 Sherwood Estates, LLC.

18 Q Okay. And, so you owned 40 percent of Sherwood
19 Estates?

20 A Yes.

21 Q And Mr. Furseth owned 40 percent?

22 A Forty percent.

23 Q And the other 20 percent was divided between
24 Milks and Sanchez?

25 A Yes. And I'm not sure, like I said, how they

1 divided theirs up.

2 Q Okay. And how long had you owned that building
3 prior to, or how long had Sherwood owned the building prior to
4 the sale approximately?

5 A Six, seven years.

6 Q Okay. And what was the purpose of the
7 purchase?

8 A Well, it was an investment and we also used it
9 as a storage facility. And we also used, they had office
10 facility, it was our redundant call center.

11 Q Okay.

12 A For when KCP and L would, which they have a
13 particular knack of cutting our lines as you know because
14 you're on the same street as us. So, whenever they would cut
15 the power, they would be able, we would be able to send a
16 certain amount of staff over there to work so we wouldn't be
17 down.

18 Q Okay. And that's also where you stored all
19 your cars and --

20 A Cars and all kind of stuff.

21 Q Now, did you have a realtor sell that, sell
22 that property for you?

23 A Yes. Pat Carpenter.

24 Q Okay. That's right, you told me that. And how
25 long had it been up for sale?

1 A It sold fairly quickly, within like 60 days, I
2 think.

3 Q Okay. And were you friends or relatives with
4 the purchaser of that building?

5 A No, don't know them.

6 Q Did you know the buyer?

7 A No.

8 Q Okay. And was there anything in the warehouse
9 when you sold it?

10 A No.

11 Q Okay. So they didn't get personal property as
12 well?

13 A Not that I know of.

14 Q Okay. All right. So let's move to page 9.
15 The middle of the page there is a transfer, is it Tarona,
16 Tryona?

17 A That would be the entity that Mr. Boycoe owned
18 Borne Capital Two in.

19 Q Say that again.

20 A Mr. Boycoe owned Tryona Limited which then
21 owned Borne Capital Two.

22 Q Okay. So, did you transfer an interest in
23 that?

24 A No. We just listed it because that was the
25 owner of Borne Capital Two.

1 **Q** I guess I'm trying to figure out what the
2 **purpose of that entire entry would be because it shows an**
3 **entity and then it shows value unknown, describe any payment or**
4 **any --**

5 A There was no, there was no payment. It was
6 just letting you know who owned Borne Capital Two.

7 **Q** How does that let me know who owned Borne
8 **Capital Two?**

9 A Well, it's not a very good description, I will
10 -- but it's, that's why we put it in there.

11 **Q** Did you own an interest in the LTD that's
12 **identified there?**

13 A No, I don't.

14 **Q** Okay. Did this company own any assets?

15 A I don't know what they owned besides Borne
16 Capital Two.

17 MS. STANTON: Joel, do you know why this
18 was identified as a transfer?

19 MR. PELOFSKY: Well, I know that Tryona
20 bought Borne Two about that date. So, I think that's why
21 it's in this.

22 (Multiple people talking).

23 MR. STRAUSS: What did they pay for Borne
24 Two?

25 THE WITNESS: There was no money

1 transferred.

2 MR. PELOFSKY: I think you have a --

3 MR. STRAUSS: You said they bought it.

4 MR. PELOFSKY: I think you have a copy of
5 the document. And I think it --

6 MR. STRAUSS: I'm sure I have a lot of
7 documents but I'm trying to understand this. This
8 indicates, this is the section showing a transfer. I'm
9 trying to understand. It has Tryona Limited and Cypress,
10 no relation, one share of Borne Two value unknown January
11 14, 2014.

12 MS. STANTON: Where do you see the one
13 share?

14 MR. STRAUSS: Where I see one, one share.

15 MS. STANTON: Oh, well that's funny.

16 MR. STRAUSS: This is not yours, this is
17 the one in my case.

18 MS. STANTON: Okay.

19 MR. STRAUSS: But it's the same, it's the
20 same. They don't match up and I realize that. But I'm
21 asking that. So it says one share of Borne Two, value
22 unknown, transferred. And --

23 MR. PELOFSKY: I think that's what Sam had.

24 MR. STRAUSS: And no money received. So --

25 THE WITNESS: No. We didn't receive any

1 money.

2 MR. STRAUSS: Okay. So why did you two of
3 you transfer? I still don't, we're going in circles here.

4 THE WITNESS: They ended the relationship
5 with us and I believe --

6 MR. STRAUSS: They being who ended the
7 relationship?

8 THE WITNESS: Borne Capital Two ended the
9 relationship with our entities. And I believe, this could
10 be maybe a little inaccurate, but under Isle of Man law,
11 we were required to have, maybe we each had one share left
12 and then when they ended the relationship, we just gave
13 them the share. We didn't receive any compensation or
14 anything for it.

15 BY MS. STANTON:

16 Q So you may have had a share in the Borne Two or
17 in the Tryona?

18 A No, in Borne Two. Maybe it's an Isle of Man
19 procedure. I don't know. We would have to ask the agents At
20 Integrated Capabilities because they're the ones who were the,
21 they're the ones procedurally who have to follow certain Isle
22 of Man laws. We are not on a speaking relationship with them
23 currently.

24 MS. STANTON: Well, let me ask you this.
25 Joel, and we can get into this in Mr. Fur fur's, what did

1 you look at or was there a document that you looked at
2 that would indicate that somebody held a one percent
3 interest?

4 MR. PELOFSKY: Yeah, there's a document.

5 MS. STANTON: Okay. So, I would like to
6 see that document, I know that. But we don't know for
7 certain if it only pertains to Mr. Furseth or does it
8 pertain to Mr. Kimball as well?

9 MR. PELOFSKY: They were both, Mr. Furseth
10 and Mr. Kimball had an interest in the transfer. And I
11 think, I thought I may have given that to you, if not, we
12 have it. I'll give you what I have.

13 MR. STRAUSS: When you say they both had an
14 interest in the transfer, what are you referring to? The
15 one share you've identified in here?

16 MR. PELOFSKY: No. There was a thousand
17 shares total, my recollection.

18 MR. STRAUSS: So there were a thousand
19 shares and are you saying that Mr. Furseth and Mr. Kimball
20 each owned half those?

21 MR. PELOFSKY: No.

22 MR. STRAUSS: Okay. Tell us the break
23 down.

24 MR. PELOFSKY: My recollection was
25 Mr. Furseth had a share and Mr. Kimball had the rest.

1 LIEUTENANT ENGELHART: He had 999 shares.

2 MR. PELOFSKY: Yes.

3 MR. STRAUSS: Okay. And Mr. Furseth
4 transferred his share to Tryona and did not receive any
5 compensation in January of 2014?

6 MR. PELOFSKY: That's my recollection of
7 what it says.

8 MR. STRAUSS: Did Mr., Mr. Kimball
9 transferred 999 shares and did not receive any
10 compensation?

11 MR. PELOFSKY: That's my recollection of
12 what the document says.

13 MR. STRAUSS: And what would a share of
14 Borne Two had been worth at that time?

15 THE WITNESS: I have no idea. It was
16 basically out of business. It was after Operation Choke
17 Point.

18 MR. STRAUSS: So why did the transaction
19 take place then?

20 THE WITNESS: Because, well, Boycoe fired
21 our company and wanted his, it back and that was part of
22 the preestablished in the operating agreement that --

23 MR. STRAUSS: When they fired your company
24 were, was your company owned any money?

25 THE WITNESS: Yes.

1 MR. STRAUSS: Approximately how much?

2 THE WITNESS: I don't know.

3 MR. STRAUSS: Would I be a substantial
4 amount? As vague as that is.

5 THE WITNESS: I don't know, quite honestly.

6 BY MS. STANTON:

7 Q Which company are you speaking of that was owed
8 the money?

9 A It would have been Sex Kingdoms, was the
10 company that processed the loans for him and also LTS and
11 Glacier. I mean, we had quite an operation.

12 MR. STRAUSS: So, so, if he owed, if they
13 owed your company money, whatever company that may be --

14 THE WITNESS: They, they said they didn't
15 owe was any money. So --

16 MR. STRAUSS: I'm trying, I'm still trying
17 to understand the transaction. If, if you think they
18 owned you money, which is the important thing from our
19 viewpoint, and you transferred 999 shares and Mr. Furseth
20 transferred one, why would you do that if they owned you
21 money?

22 THE WITNESS: It was part of the
23 arrangement with the operating agreement. So, they
24 weren't going to pay us and they fired us. So, it was a
25 dispute over Operation Choke Point. They didn't believe

1 that that was a universal problem and then they found out
2 it was and so --

3 BY MS. STANTON:

4 **Q What operating agreement with you speaking of?**

5 A Borne, there was a operating agreement between
6 the entities --

7 MR. STRAUSS: You're starting to mumble.

8 But what entities?

9 THE WITNESS: Between Borne Capital Two and
10 Six Kingdoms and affiliated companies doing work. It was
11 like a service agreement, operating agreement.

12 MR. STRAUSS: And that agreement provided
13 that in the event of a dispute you would give all your
14 stock back?

15 THE WITNESS: I believe so. I mean,
16 basically he had the ability fire us.

17 MR. STRAUSS: That's different. Firing and
18 giving --

19 THE WITNESS: I don't, I don't,
20 Mr. Strauss, I don't recall --

21 MR. STRAUSS: Where would that document be?

22 THE WITNESS: It Akin Gump in Moscow.

23 MR. STRAUSS: You don't have one.

24 THE WITNESS: I couldn't find one.

25 BY MS. STANTON:

1 Q Is that who generated the document, Akin and
2 Gump?

3 A They, they did -- Mr. Boycoe was already an
4 existing client of Akin and Gump for his other businesses so we
5 waived conflict and they represented him in the particular -- I
6 can't remember. We hired maybe Squire Sanders. But
7 Mr. Bottomly would know and Mr. Selth.

8 UNIDENTIFIED MALE: How did you put
9 together tax turns when you made, like, you give up shares
10 and so forth --

11 THE WITNESS: Because there were no shares,
12 the shares had no value though. It's because we, he owned
13 Borne Capital Two theoretically. So --

14 UNIDENTIFIED MALE: Well, but you had to
15 file tax returns, right? You have to show --

16 THE WITNESS: We didn't, we didn't have any
17 income from this transaction because there was no income.
18 There was no money transferred.

19 UNIDENTIFIED MALE: I don't know.

20 THE WITNESS: I don't know either.

21 UNIDENTIFIED MALE: I don't know. You,
22 you, if you owned them at some point, you had some basis
23 in it and then you disposed of them.

24 THE WITNESS: This was, to my
25 understanding, was, in order to transfer the Borne Capital

1 Two entity and the lending license associated with it, it
2 was following some Isle of Man procedures that were, had
3 nothing to do with, with whether, how it was done, it was
4 Isle of Man regulatory -- that the, I don't know how that
5 was set up. It was following some rules that they have in
6 the Isle of Man but we did not receive my money for that.

7 Do you mind if I get a drink of water real
8 fast?

9 MS. STANTON: Sure. We can take a quick
10 break.

11 THE WITNESS: Sorry. It was just my mouth
12 is dry.

13 UNIDENTIFIED MALE: When we talk about
14 Boycoe, is it Olig Boycoe, is the --

15 MS. STANTON: Okay.

16 UNIDENTIFIED MALE: -- the guy's name?

17 THE WITNESS: Yes.

18 MS. STANTON: We're back on the record for
19 a short break. Okay. So, we're back to Borne Two, Borne
20 Capital Two and Joel's going to get us some documentation
21 that you have.

22 MR. PELOFSKY: Whatever I have, you got it.

23 MS. STANTON: Okay. And you do have
24 documentation, right?

25 MR. PELOFSKY: I do have a document, yes.

1 MS. STANTON: Okay.

2 BY MS. STANTON:

3 Q And Mr. Kimball, what you're telling us that is
4 you did not transfer any value to Tryona or Borne Two, is that
5 what you're saying?

6 A I, I don't know if I understand the question.
7 We received no compensation --

8 Q Okay.

9 A -- for that.

10 Q All right. But you did transfer a license --

11 A Right.

12 Q -- to them? Okay. But you can't really tell
13 us why you didn't get anything in return?

14 A In order for him to make an investment in Borne
15 Capital Two, the requirement was is that the license and the
16 company be owned by him.

17 Q Okay.

18 A So, we, we were basically supposed to be
19 compensated to operate the business for him, once he got a
20 certain level of profitability, we never reached that point.
21 All he did was basically repay us for bills that we incurred
22 operating for him, but we made no money from that.

23 Q Okay. Do you have any affiliation with Borne
24 Capital Two or any of his companies at this time?

25 A No.

1 Q Okay. Do any of your relatives?

2 A No.

3 Q Does Mr. Sanchez?

4 A No.

5 Q Does Ian?

6 A No.

7 Q Okay. What about Grant Jordan?

8 A No.

9 Q Okay. As far as you know?

10 A Nobody, nobody I know.

11 Q Okay. All right. Let's move down to the
12 Cypress Partners LLC entry there on page 9 of the SOFA. And it
13 shows that you transferred an 8.75 percent interest in
14 Evergreen International, LTD. And you did that in October of
15 2014. Do you see that?

16 A Yes.

17 Q Okay. Did you actually transfer your interest
18 in Evergreen International LTD or did you pledge your stock, if
19 you know?

20 A I'm not exactly sure. We signed, I believe a
21 pledge but again, like I said, as far as I know, none of that
22 actually has been interested but I'm, I'm not aware. That was
23 part of the settlement that Gar Selth and Rob Thompson
24 negotiated with Mr. Maloney's clients.

25 Q Okay. And did Mr. Furseth, as far as you know,

1 **also transfer an interest in that --**

2 A Yes.

3 **Q Okay.**

4 A Well, he, we signed the piece of paperwork.

5 **Q Okay. Now, let's move onto page 10 of the**
6 **statement of financial affairs. Under question number 23**
7 **regarding the transfer of the Dewitt watch. You see that?**

8 A Yes.

9 **Q Okay. You show there that the Dewitt watch had**
10 **an appraised value of 190,000. Who appraised that watch?**

11 A Tibble.

12 **Q Okay. And when did they do that?**

13 A Sometime in 2008.

14 **Q Okay.**

15 A I believe. I don't remember exactly.

16 **Q Did Tibble provide other appraisals for you for**
17 **other --**

18 A Typically when you buy something from Tibble,
19 they, they may have the appraisal attached. I don't remember.

20 **Q Okay. Did you buy that from Tibble?**

21 A No. It's Mr. Prokin's watch. He bout it in
22 Switzerland.

23 **Q But you had Tibble appraisal?**

24 A I had Tibble appraise it because if there was
25 anything that happened to Mr. Prokin's watch, I wanted to have

1 it insured because I didn't want to have to buy him a \$200,000
2 watch.

3 Q Okay. Now, moving down to your description of
4 furniture owned by Grant Jordan and Sam Furseth. And all that
5 furniture is as 1509 Burlington, is that correct?

6 A I believe so.

7 Q Okay. And that, all that furniture came from
8 the Chicago condo when you sold it?

9 A There was other furniture in there that's not
10 mine or Mr. Fur fur's. But the furniture from our Chicago
11 condo, I believe all of it is in that location.

12 Q Would there be any other place where it might
13 be?

14 A Not that I know of.

15 Q Okay. Let's see. In your schedules you valued
16 your collectibles at \$25,000, how did you come up with that
17 value? You don't have that document in front of you.

18 A Okay. Sorry. I was looking down there to see.
19 I don't, I don't recall.

20 Q Okay. Did you go through the collectibles and
21 assign a value to each collectible to come up with the \$25,000?

22 A More than likely, yes.

23 Q Okay. But you were the person that gave that
24 number to Mr. Pelofsky, is that true?

25 A Yes.

1 **Q** **Okay. Would it be based on what you paid for**
2 **the collectibles?**

3 **A** Probably. I don't recall.

4 **Q** **Okay. You've identified a set of golf clubs**
5 **having a value of \$400, I believe. Do you just have one set of**
6 **golf clubs?**

7 **A** Two sets.

8 **Q** **Okay.**

9 **A** I think we put that in there.

10 **Q** **All right. And what kind are they?**

11 **A** Taylor Made.

12 **Q** **Okay. They're both Taylor Made?**

13 **A** Yes.

14 **Q** **Okay. And how much do you think those are**
15 **worth?**

16 **A** Used golf clubs could be worth \$50. It's, I
17 don't know. They're a five year old set.

18 **Q** **Okay.**

19 **A** Four or five years old.

20 **Q** **And are those the clubs that are at your home?**

21 **A** Yes.

22 **Q** **Do you have clubs anywhere else?**

23 **A** No.

24 **Q** **Okay. None at, no country club or any place?**

25 **A** No.

1 Q Okay. Do you own a gun?

2 A No.

3 Q Okay. Have you identified all of your jewelry?

4 A As far as I know, yes.

5 Q Okay. You've been here a couple of times,
6 right?

7 A Seems like this is the fifth or sixth time. I
8 can't remember.

9 Q At least the first two times you had a watch on
10 when you came here?

11 A Yes.

12 Q Okay. And that's not, I don't think it's
13 identified?

14 A It was a rubber watch that was given to me by a
15 friend so I don't, 10 years ago, I don't have any value for it.

16 Q Okay. So, your required to identify all of
17 your assets whether or not you think they're worth anything.
18 So, how much watches do you have?

19 A I have that and another rubber watch that was
20 given to me by a credit card company.

21 Q When you say rubber watch, what do you mean?

22 A A Swatch watch.

23 Q Okay. And you have a wedding ring?

24 A Yes.

25 Q Okay. So that's not identified either. What

1 other jewelry would you own? You have the cuff links
2 identified and then --

3 A Yes, just the cuff links. I don't have any
4 other jewelry.

5 Q Okay. So, you probably need to, well, you do
6 need to amend your schedules to reflect that.

7 Earlier in this proceeding, you said this
8 people did owe you money. You told us that people owed you
9 money and that you were going to have to think about who it was
10 that owed you the money. Have you been able to gather your
11 thoughts in that regard?

12 A I've not been able to come up with any kind of
13 information that could give me an accurate number because it
14 was so long ago.

15 Q Okay. But people do owe you money?

16 A I mean, these people would have owed me some
17 money don't have any means to pay me the money. So --

18 Q Okay. Like who?

19 A A friend of mine in Chicago, Eric Lynch. I
20 lent him money when he was out of, had to go to substance
21 rehabilitation.

22 Q Okay.

23 A Eight, nine years ago.

24 Q Okay. So who else owes you money?

25 A A guy here in turn named Pete industry. I know

1 he's gone through bankruptcy. I don't know if he listed my
2 loans to him or not. I don't even know. It's been seven,
3 eight years since I loaned him money.

4 **Q Okay. Who else?**

5 A Off the top of my head, that's the only couple
6 people --

7 **Q Okay. So, because earlier you said lots of**
8 **people owed you money?**

9 A Well, I meant, I mean, little bits and pieces
10 here but I can't remember things that happened from 7, 8 years
11 ago necessarily.

12 **Q Okay. So, to the extent that someone owes you**
13 **money, even if you don't think it's collectible, you have an**
14 **obligation to identify that.**

15 A But if I don't know the amount, that's what
16 confused --

17 **Q Well, you can talk to Mr. Pelofsky about that.**

18 A Okay.

19 **Q But if that is, if somebody owes you money,**
20 **they need to be identified in the schedules because that's an**
21 **asset.**

22 MR. STRAUSS: Do you know how much you
23 loaned them?

24 THE WITNESS: I can't remember. I don't
25 have any records of, it was friend transactions. Well,

1 most of them are former friends now.

2 BY MS. STANTON:

3 Q Do you have your response that you filed on
4 Friday? Hold on, here's one I can give you. On Friday, your
5 attorney filed a supplemental response to the Trustee's motion
6 to compel, which is docket number 195. I just handed you a
7 copy of what was filed. Mr. Kimball, are you familiar with
8 that?

9 A Yes.

10 Q Okay. And did you work with Mr. Pelofsky in
11 preparing those answers?

12 A Yes.

13 Q And did you authorize him to file that?

14 A Yes.

15 Q Okay. Is all the information in there true and
16 accurate to the best of your knowledge and belief?

17 A To the best of any knowledge, yes.

18 Q Okay. I have a few questions about what you
19 stated here. Let's look at the third paragraph down. You said
20 that Abrovich (ph) --

21 A Abrovovich (ph) is --

22 Q Were introduced any a Russian associate of the
23 debtor and subsequently lent money to LTS and or related
24 entities. The amount of the loan was \$1 million. When was
25 that loan?

1 A It was right around the August or September of
2 2013.

3 Q And do you know who the loan was made to?

4 A LTS Limited.

5 Q Okay. So, it would have been deposited into
6 LTS's account?

7 A No.

8 Q Where would it have been deposited?

9 A It was deposited in a Russian bank and then was
10 supposed to be sent to us but it was never sent.

11 Q So, was there a loan at all?

12 A Yes.

13 Q Okay. So, I'm sorry. I guess I, I'm not
14 following what you're saying?

15 A The proceeds of the loan went to pay some
16 debtors in Russia.

17 Q Okay. Okay. So, the money was deposited into
18 a Russian bank account owned by who?

19 A I don't know.

20 Q Okay. All right. And the proceeds were used
21 to pay Russian debtors?

22 A Debtors, yes.

23 Q Okay. And who was that?

24 A I don't know how they divided up the money.

25 Q Who made the distribution?

1 A One of the, one of my Russian associates.

2 Q Okay. Who's the Russian associate?

3 A Rufat Nosrosouf (ph).

4 Q Okay. And so, you became obligated to pay a
5 loan that wasn't made to you or to --

6 A We made the loan with the expectation to pay
7 these individuals with --

8 Q You made the loan.

9 A We knew, no --

10 Q You took the loan.

11 A With the expectation to use the proceeds to
12 give it to these individuals.

13 Q And why were the individuals being paid?

14 A Because there was some back payments, some
15 personal loans, subsequently, before that for the last year or
16 so.

17 Q You were personally obligated to these
18 individuals?

19 A No. That's, there was some, there was a point
20 where some people were, hadn't had some payments and this was a
21 way that we were trying to negotiate towards a settlement. So
22 --

23 Q Okay. So when you say we, who are you
24 referring to?

25 A This is right when Choke Point happened and

1 payments stopped and they were very confused and --

2 Q They were demanding to be repaid. Is that --

3 A That's, that would be a polite way of saying
4 it.

5 Q Okay. And these were individuals or entities
6 in Russia?

7 A I don't know how the, where the proceeds, was
8 divided but there, obligation was back to the Abrovivich's. We
9 didn't, we did not dispute that we owned them the money.

10 MR. STRAUSS: You know, you're confusing
11 me. When you first started answering, I thought what you
12 were saying was that the money was borrowed, it was put in
13 an account but you never actually got it because it was
14 then taken.

15 THE WITNESS: They took --

16 UNIDENTIFIED MALE: Then you followed up by
17 saying well, that's who was intended to receive it
18 nonetheless.

19 THE WITNESS: Yes. No. That was always
20 the purpose.

21 UNIDENTIFIED MALE: Okay. So, let's, let's
22 -- where are the documents regarding this transaction?

23 THE WITNESS: There's a simple promissory
24 note between LTS Limited and (Unintelligible).

25 MR. STRAUSS: Have we been provided that?

1 THE WITNESS: I don't know.

2 MS. STANTON: No.

3 MR. STRAUSS: All right. So, we need that
4 promissory note --

5 THE WITNESS: Okay.

6 MR. STRAUSS: -- for both estates, that's
7 number one.

8 Okay. Then the money went into a bank in
9 Russia. What bank in Russia did it go into?

10 THE WITNESS: I don't remember.

11 MR. STRAUSS: Well, how could you refresh
12 your memory?

13 THE WITNESS: I'd have to make some phone
14 calls.

15 MR. STRAUSS: Okay. So you'll make some
16 phone calls in the next 48 hours to get that information?

17 THE WITNESS: I can.

18 MR. STRAUSS: Yes. Okay. Then we'd ask
19 that you do it.

20 THE WITNESS: Okay.

21 UNIDENTIFIED MALE: All right. And then
22 how do you, how do you determine, if this was as you
23 intimate almost a threatening situation regarding to have
24 to pay these people back, how did you verify that the
25 people you wanted to be paid were in fact paid?

1 THE WITNESS: I was just told by
2 Mr. Nosrosouf that they were paid.

3 MS. STANTON: Mister who?

4 THE WITNESS: Mr. Nosrosouf.

5 MR. STRAUSS: And who were these payment
6 that you were to, who were these people that were --

7 THE WITNESS: I'd have to ask him who, how
8 he divided that, I don't know.

9 MR. STRAUSS: No. I didn't ask you how he
10 divided it. I'm asking you who the people are that you
11 were fearful of that were making demand for payment?

12 THE WITNESS: I prefer not to answer that
13 question.

14 MR. STRAUSS: Well, I think that you do
15 have to answer that question. Now, is that part of what
16 you think should be under seal?

17 MR. PELOFSKY: Yes.

18 MR. STRAUSS: Okay.

19 MS. STANTON: Okay. So here's, here's what
20 I'm willing to do. I am willing to hold off on my further
21 questioning about that particular issue until we get this
22 sorted through. But honestly, if this is, what you, the
23 response that you provide here is nonsense. No one can
24 make heads of tails of what you mean here.

25 MR. STRAUSS: Not only that, this, that is

1 not something that the court will take in camera. It just
2 isn't.

3 MS. STANTON: They won't.

4 MR. STRAUSS: It isn't.

5 MS. STANTON: They won't take it.

6 MR. STRAUSS: So --

7 MS. STANTON: But I'm willing to hold off
8 for the time being --

9 MR. STRAUSS: Yeah.

10 MS. STANTON: -- so we can see if we can
11 come to some kind of agreement or resolution that, if you
12 don't feel comfortable talking about it on the record in
13 public --

14 MR. STRAUSS: You can provide it to us but
15 the bottom line is that the court's never going to protect
16 that.

17 THE WITNESS: My understanding was, what
18 Mr. Pelofsky and I discussed after the motion to compel
19 here --

20 MR. STRAUSS: He thinks differently. I
21 mean, you don't, I mean, he, you think that's going to be
22 protected?

23 MR. PELOFSKY: I don't know at this point.

24 MR. STRAUSS: Okay. I don't think it is.
25 It's a transfer that we're looking at and we need to find

1 out about it and the, the scope of what can be put in
2 camera is narrow.

3 THE WITNESS: I don't --

4 MR. STRAUSS: And I don't think it fits
5 into it. But, I'm, I agree with Janice, you can get that
6 information to us and we're not putting it out anywhere
7 but --

8 MS. STANTON: No. You know, I agree with
9 Joel, that I would keep it confidential until we decide
10 otherwise. But I think that this needs to be determined
11 and --

12 THE WITNESS: As long as it's confidential,
13 I can get the information. So --

14 MS. STANTON: Well, we'll go with let's see
15 what information you get us and then we'll talk about it
16 to see whether or not it needs to remain confidential.
17 But I, what I'm telling you is I'm agreeing to keep it
18 that way until --

19 THE WITNESS: Thank you.

20 MS. STANTON: -- decide otherwise.

21 THE WITNESS: I appreciate it.

22 MS. STANTON: And we don't need to talk
23 about this on the record for now, until we see what you
24 guys --

25 UNIDENTIFIED MALE: But where are we in

1 that process of addressing it with the court, which the
2 judge suggested that you do if you wanted to --

3 MR. PELOFSKY: I have began drafting a
4 document to file.

5 MS. STANTON: Well, I don't think there's
6 any basis to do it in camera. I think what I would
7 suggest you do, Joel, is provide the information to me.
8 I'm going to agree to keep it confidential until such time
9 as we decide that for some reason it needs to be
10 disclosed. But I think we have to look at any transfers
11 and --

12 MR. STRAUSS: Well, get it on file quickly.
13 I mean --

14 MS. STANTON: Yeah. So is that something
15 we can --

16 THE WITNESS: I probably would need, if, if
17 it's okay with you, to the end the week because some of
18 these people are, don't necessarily live in the United
19 States or I have to track them down, their numbers may
20 have changed.

21 MR. STRAUSS: I don't think we'll be doing
22 anything by the end of the week in any event but --

23 MS. STANTON: That's fine.

24 THE WITNESS: Numbers may have changed. I
25 haven't spoken to some of the individuals in years. So --

1 BY MS. STANTON:

2 Q Okay. And is Mr. Furseth knowledgeable about
3 this --

4 A No.

5 Q -- as well? Okay.

6 A I mean, he's, he knows who the people are but
7 he don't know any of the details.

8 Q Okay. All right. So let's leave it like that.
9 We'll, by the end the week, we're going to get some information
10 from you, documentation, names and, and an adequate description
11 of what's happened here.

12 Okay. So, we can do for now. Okay. All
13 right. Moving onto the third page. Wait a minute. Let me
14 make sure I got that right.

15 MR. STRAUSS: Let me, you know, the other
16 thing is, you can always ask to meet with us and we'll sit
17 down and go through the information you have to try to
18 understand it rather than doing it in this form because
19 quite honestly, this is getting frustrating to sit here
20 and hear some of these well, I don't know how I valued
21 something. You valued it. It's your schedule. I mean, I
22 don't, you know, or I don't want to really talk about it.
23 Okay. Then set up a meeting and we'll sit down and go
24 over it because you're wasting your time some what, you're
25 wasting our time. And --

1 THE WITNESS: I'm not trying to waste any
2 time. I'm just trying to do the best I can.

3 MR. STRAUSS: Well, as you noted, we're now
4 on, like, our sixth meeting of creditors which is unusual.

5 BY MS. STANTON:

6 Q Okay. Let's move on. Look at page 2 of the
7 supplemental response. And towards the middle of that page you
8 say because these transactions were internal, the supporting
9 documentation is not completely available. What do you mean by
10 that?

11 A Because of the invoices that we showed you,
12 there would usually be a, an invoice from a third party vendor
13 or something. And that file is not, does not exist anymore.
14 So, what I found was as much internal documentation as I could.

15 Q Okay. Now, where did you find the
16 documentation that you did find?

17 A Through the, we have a, there's a link to the
18 old accounting software that, when you came over to my office
19 and downloaded all the LTS stuff, that was the, that was the
20 link. And so basically, we look in that place. And in this
21 particular instance, I went back and looked through some emails
22 because I couldn't find any documentation for any third party
23 vendor other than the overall invoice.

24 Q Okay. And is this on your server?

25 A Yes.

1 Q Okay. At your office?

2 A It's, it's virtual server.

3 Q Okay. And, and, on Gregory where you office?

4 A This, my server, there's no server there. It's
5 a virtual server.

6 Q Okay. All right. But you were able to get on
7 your computer and get these documents?

8 A Yes.

9 Q Okay.

10 A Because of the link to the virtual server.

11 Q Okay. And then you say but it's not, the
12 supporting documentation is not completely available, why not?

13 A This was done with the accounting, when I had
14 it, when we had an accounting department, I assume that they
15 kept invoices and some format, maybe they, that particular file
16 just, it just doesn't exist.

17 Q Okay. All right.

18 MR. STRAUSS: Let me ask something about
19 that. Are you saying they don't exist or you're unaware
20 where the information might exist somewhere, either in
21 electronically or --

22 THE WITNESS: Let me clarify my answer. I
23 apologize. We have a former accounting person that will
24 answer questions that, that we call and there was a file
25 that was specific to third party invoices and they copied.

1 And this accounting person told someone who was helping me
2 on this project that that file does not exist anymore.
3 That's where I got the answer.

4 MR. STRAUSS: You say helping in this
5 project, the project of completing bankruptcy --

6 THE WITNESS: Of pulling documents up out
7 of the system because there's quite a bit of documents
8 that we've produced to Ms. Stanton.

9 MR. STRAUSS: And you talked to somebody
10 that talked to that person?

11 THE WITNESS: Yes. I mean, I can also call
12 that person and verify it because I was wanting to get
13 that supporting documents and they said that that file
14 does not exist on the accounting software anymore for some
15 reason. I have no idea why.

16 MR. STRAUSS: Well, within the operation of
17 the business, was there a policy or procedure with regard
18 to scanning documents and then destroying documents or
19 were they retained for a period of time?

20 THE WITNESS: I don't know. On third party
21 invoices for, like, buying paper from ICON, I don't know
22 what the procedure of keeping those documents was.

23 BY MS. STANTON:

24 Q Who would know the procedure?

25 A Well, this girl, Sarah Okun. But she said

1 that, like I said, she says that file was, was gone because,
2 you know, all those relationships with, were eliminated from
3 the company. So, I don't know.

4 MR. STRAUSS: Is Sarah Okun the former
5 accounting person?

6 THE WITNESS: She was one of the former
7 accounting people.

8 UNIDENTIFIED MALE: As in O-k-e-n or
9 O-a-k-e-n?

10 WITNESS: O-k-u-n.

11 BY MS. STANTON:

12 Q Where is she working now?

13 A I don't no idea.

14 Q Okay.

15 MR. STRAUSS: Who talked to her that talked
16 to you?

17 THE WITNESS: A lady named Maggie Terry
18 who's a part time assistant in the office that I office
19 in.

20 MR. STRAUSS: Do you know who Maggie
21 Terry's employee is?

22 THE WITNESS: Agile Fish.

23 MR. STRAUSS: Did, did Maggie Terry know
24 anything about any of this before you asked her --

25 THE WITNESS: No. I just, I --

1 MR. STRAUSS: -- an as employee of Agile
2 Fish to contact Ms. Okun?

3 THE WITNESS: They're, they're friends from
4 back when they worked together at Glacier. And so I just
5 asked her from time to time when I, we'd give her a list
6 of documents to look for, she would call Ms. Okun and ask
7 her where to look because it's quite a large directory of
8 folders.

9 UNIDENTIFIED MALE: Where does Sarah work
10 now?

11 THE WITNESS: I don't know.

12 BY MS. STANTON:

13 Q Okay. Go down to paragraph B. on page 2, the
14 IT hardware used to operate the Russian lending business was
15 sold in 2014. Who was it sold to?

16 A It was sold to Pay Crom but since Pay Crom
17 didn't have a bank account, the procedures came to either LTS
18 or Glacier or Evergreen. I can't remember.

19 Q So, the IT hardware, I thought the software,
20 well, at least the software was owned by Pay Crom?

21 A I'm sorry. I'm sorry. The IT hardware was
22 owned by LTS Limited. And LTS Limited doesn't have a bank
23 account so they sent the money to one of the U.S. Bank
24 accounts.

25 Q Okay. Wait the minute. Okay. So, the IT

1 hardware was owned by LTS Limited, is that what you're saying?

2 A Yes.

3 Q Okay. And that was the hardware that was used
4 in the Russian lending business, right?

5 A Yes. It was housed, it was in the Isle of Man.

6 Q Okay. And it was sold?

7 A Yes.

8 Q Who was it sold to?

9 A It was sold to LTS Limited but the proceeds
10 went to either Evergreen, Glacier or LTS because LTS Limited
11 did not have a bank account.

12 Q Okay. Who was it sold to? I mean, I don't
13 know, maybe I'm not hearing you correctly. I thought what you
14 said was the LTS Limited owned the IT hardware.

15 A Yes.

16 Q My question is, who did LTS Limited --

17 A Oh, I'm sorry.

18 Q Yeah.

19 A The Russian, MMK.

20 Q It sold it to MMK?

21 A Yes.

22 Q Okay. And for how much?

23 A I believe it was \$1.1 million.

24 Q Okay. And to this day, is the Russian lending
25 business still using that hardware as far as you know?

1 A I have no idea what they did with it.

2 Q Okay. And that money that was received went to
3 Evergreen?

4 A I think it went to Glacier.

5 Q Okay. Maybe to Glacier. And what bank
6 account?

7 A I believe the Five Star Bank account.

8 Q Okay. And this would have been in 2014?

9 A May or June of 2014.

10 Q Okay.

11 A I think Mr. Pelofsky's identified that in the
12 bank statements.

13 Q Okay.

14 MR. STRAUSS: I don't know what the
15 hardware is.

16 BY MS. STANTON:

17 Q What is the hardware, what is it?

18 A There was a list somewhere. I don't know where
19 that list is.

20 Q Okay. But what would it consist of?

21 A Well, it consisted of actual physical computer
22 equipment. No laptops or anything but like server -- and then
23 it had a bunch of Microsoft licenses to operate. At each desk
24 top in Russia, they had to have a license and those were all
25 included in that sale.

1 UNIDENTIFIED MALE: And list is somewhere?

2 THE WITNESS: I've seen it but I can't --
3 I'd have to search for, that would take a little bit of
4 time to find that list.

5 BY MS. STANTON:

6 Q Would you look for it and see if you can make
7 some headway on that?

8 A Yes.

9 Q Okay. So that was LTS Limited?

10 A Yes.

11 Q I, that's different than LTS Management,
12 correct?

13 A Exactly.

14 Q Okay.

15 A Because the hardware was held in the Isle of
16 Man, we had to have an Isle of Man company that owned it or the
17 I'll of Man wouldn't let us have it there.

18 Q Who were the owners of LTS Limited?

19 A Mr. Furseth and myself.

20 Q And I don't believe I see LTS Limited on --

21 A It's not in the foreign ones?

22 Q Let me look real quick here.

23 A Sorry if it's not, I thought it was.

24 Q Could be but I --

25 A We could definitely add that.

1 Q I don't see that. Okay. So --

2 A Sorry. I thought it was in there.

3 Q Okay. So LTS Limited, the owner of the
4 hardware, did you own any other assets?

5 A No.

6 Q Was it purpose to own that hardware?

7 A Yes.

8 Q Okay. And it was an Isle of Man company?

9 A Yes.

10 Q Okay. Owned 50/50 by you and Mr. Furseth?

11 A I believe that's how it was owned. I don't
12 remember if there was any ownership above that.

13 Q Okay. And it sold the hardware to MMK for \$1.1
14 million or thereabouts?

15 A Somewhere around there.

16 Q And the proceeds from the sale went into the
17 bank account of Evergreen?

18 A I believe it was Glacier.

19 Q Glacier. I'm sorry, you did say that. And
20 that bank account was at Five Star?

21 A Yeah. I believe it, Mr. Pelofsky highlighted
22 that in one of the statements he gave to you.

23 Q Okay. And Glacier was no longer operating?

24 A At that point they were doing some work for
25 some of these tribal entities.

1 **Q Okay. Can you tell me generally what Glacier**
2 **Management did with the \$1.1 million it received from the sale**
3 **of the hardware?**

4 **A I believe we paid operational expenses and we**
5 **made a settlement payment to Mr. Kenny Hertz, had, had two**
6 **clients we were in the process of --**

7 **Q Okay.**

8 **A -- settling with. And those, I think you**
9 **asked, you've seen those are highlights are in the bank**
10 **statements as well.**

11 **Q Okay. So the next sentence is the proceeds**
12 **were used to pay U.S. operating expenses. Is that true?**

13 **A Yes.**

14 **Q And to purchase a server for the Indian tribe**
15 **being served by Glacier and Agile Fish.**

16 **A Right.**

17 **Q And we've talked about the purchase of the**
18 **server before?**

19 **A Yes.**

20 **Q Okay. All right. So, the, would it be true**
21 **that Glacier Management purchased the server for the Indian**
22 **tribes?**

23 **A theoretically, yes.**

24 **Q Okay. All right. What was the difference in**
25 **businesses between Glacier and Agile Fish?**

1 A Agile Fish essentially, when Glacier lost all
2 it's clients, which would have been the tribal entities, Agile
3 Fish took over those responsibilities.

4 **Q Okay. And why did Glacier lose its clients?**

5 A Because the owners of the, the people that
6 were, maintained the relationship with the tribal entities felt
7 like it was in their best interest not to be associated with
8 Glacier Management.

9 **Q And why do you believe that was the case?**

10 A Pending litigation.

11 **Q Okay.**

12 A Etcetera.

13 **Q All right. So, in response to my motion to
14 compel, then you say Glacier continued to provide business
15 contacts to Agile Fish. What do you mean by that?**

16 A In, in, after Operation Choke Point, it was
17 very difficult to develop a vendor relationship if you didn't
18 have one already established. And so, there was a period of
19 time that, that Glacier maintained those relationships and
20 Agile Fish would reimburse Glacier for the cost of having those
21 preexisting relationships. And then after they had enough, I
22 assume, track record then they were able to apply to get those
23 relationships with different vendors.

24 **Q So, they were able to apply -- give me an
25 example of vendor that you're talking about.**

1 A A vendor would be like Clarity. Clarity is a
2 vendor that provides underwriting services, ID verification and
3 in some cases provides lead applications. And at that point, I
4 know some of these companies refused to take on new customers
5 until, kind of, saw the landscape of the regulatory, and then
6 you would have to apply with this Clarity for example, to, to
7 be vendor, have vendor relationship with them because they
8 wanted to make sure that your operating policies would not get
9 them in trouble with the different regulatory bodies.

10 **Q Okay. So Glacier was basically helping Agile**
11 **Fish start up its business?**

12 A We just had the relationships in existence and
13 they reimbursed us.

14 **Q So you were kind of transitioning between**
15 **Glacier and Agile Fish?**

16 A Yes.

17 **Q Okay. Did then Glacier, did it pay a**
18 **management fee to Agile Fish?**

19 A There was a previous amount that Agile paid to
20 Glacier. And then there was circumstances where, I don't know
21 where Agile would pay, I mean, Glacier would pay Agile a
22 management fee but I could be wrong. Some of these I -- there
23 was different entities that had different relationships and so
24 depending on that relationship, at some point Agile Fish had
25 the IT support of Russia so they would pay maybe Glacier back

1 for, a management fee for that. But, each one of those
2 invoices would be, sometimes accumulative of several weeks or a
3 month and then there were specific one time transactions.

4 Q Did, where did you get the documents that you
5 attached to the supplemental response?

6 A The invoices?

7 Q No. The documents you attached to the, to the
8 pleading that was filed on May the 13th.

9 A I'm not sure what documents those are.

10 Q You attached various emails.

11 A I went and looked in my email.

12 Q Okay. So those are available?

13 A Yeah. It only goes back to a certain time.
14 But that's all I could find.

15 Q You all are also going to amend your schedule C
16 pursuant to our agreement. So when you amend your schedules,
17 would you do that as well?

18 MR. PELOFSKY: You talking about the house?

19 MS. STANTON: Well, no. The painting and
20 the other items, you agreed to change your amendment --

21 MR. PELOFSKY: Okay.

22 MS. STANTON: Or change your exemption.

23 MR. PELOFSKY: All right. Yeah.

24 BY MS. STANTON:

25 Q Okay.

1 A Do you want this stuff back?

2 Q I don't know. They may have some questions.
3 I'm going to open it up for questions.

4 BY MR. MALONEY:

5 Q Yeah. Del, if you want to just keep those same
6 documents in front of you --

7 A Can I ask Mr. Maloney How long this will be
8 because I would like to get another drink of water?

9 Q Oh, absolutely. Sure.

10 MS. STANTON: Shall we take a quick break.

11 MR. STRAUSS: Yeah.

12 MS. STANTON: Okay. We're back on the
13 record.

14 BY MR. MALONEY:

15 Q Thank you. Del, if we could take a look, just
16 start with that addendum, the one that has the chart of all the
17 companies on it.

18 A Yes.

19 MS. STANTON: Could you state your name so
20 we can --

21 MR. MALONEY: This is Jim Maloney and I am
22 here representing Keris (ph) Partners, a creditor in the
23 case.

24 BY MR. MALONEY:

25 Q I think on this particular form we've seen

1 enough little changes, this might get amended again, so I kind
2 of want to go through it and make sure that, where we are at
3 this point on it okay. Number one, is it correct that this,
4 this form will probably be amended to show what LTS Limited is,
5 who owns it and what it does?

6 A I, as far as I can remember, that's the only
7 one that we identified that we forgot to put on there.

8 Q Okay. And what I also notice is that once we
9 go down into the list, we start describing the idea that edge
10 water is a controlling or maybe a hundred percent member of
11 several different companies?

12 A They're 100 percent owner of those LLCs.

13 Q Okay. What is the ownership of edge water
14 then?

15 A Fifty percent Del Kimball, 50 percent Sam
16 Furseth.

17 Q Okay. Is there a reason that edge water does
18 not exist up in your first heading of lending companies then?

19 A I mean, I guess it could be put up there.

20 Q Okay. I just, I looked to me like
21 organization, you were trying to describe entities in which you
22 had a direction interest up at that top and then kind of
23 defaulted down later. Anyway, I may be that edge water is one
24 of the companies that would be appropriate to have up in your
25 top section as a, as a lending company. Okay. Now?

1 A Well, the -- okay. Yes.

2 Q And that's just, again, a 50/50 with you and
3 Sam?

4 A Yes.

5 Q Okay. If we look at these companies, LTS
6 Management, Glacier Management and Evergreen Capital, is it
7 correct that each of those companies is, is an LLC?

8 A Yes. I believe that they were all identified
9 correctly as LLCs.

10 Q Okay. Is it true that each of those LLCs is
11 not at this time dissolved or are they all dissolved at this
12 point?

13 A I don't know if their -- I know that they have,
14 two of them have bank accounts but there's no money in either
15 one of those bank accounts. And I do not remember if the
16 annual fees to Delaware have been paid. So, to answer your
17 question, they're not, they're not operational but I don't know
18 if they've been dissolved yet.

19 Q Okay. For the LTS, the Glacier and the
20 Evergreen Capital entities, do any of them have operating
21 employees right now?

22 A No.

23 Q Okay. And for each of those entities were you
24 a 50 percent member of the LLC?

25 A Yes.

1 Q Did you have any other office or, were you an
2 officer of the LLC or a manager, anything to describe your
3 otherwise relation?

4 A I believe in most of the these cases, I was the
5 managing member but I do not recall exactly.

6 Q Okay.

7 A You know, you can see some of these were formed
8 10, 12 years ago. So I don't recall.

9 Q Okay. Do you believe you were the managing
10 member for LTS Management or Glacier Management and for
11 Evergreen Capital?

12 A I believe so.

13 Q Okay. And when we also, if we were to add edge
14 water to that, would you also be, as a 50/50 member, would you
15 also the managing member of edge water Marketing --

16 A More than likely. More than likely.

17 Q Okay. And again, edge water Marketing, LLC
18 also has no operating employees at this time?

19 A No. None of these entities have any employees.

20 Q Okay. And I believe that you clarified that in
21 general once we start working down the chart and we begin with,
22 I think, the idea of Dayton Ventures, you begin using the
23 parenthetical phrase edge water, I think to let us know that
24 each of those companies were edge water follows by that little
25 parenthesis, that each of those is wholly owned by edge water,

1 **correct?**

2 A One of the previous meeting, Ms. Stanton asked
3 us to identify the owners of each of the LLCs and that's what
4 we did to the best of our ability.

5 Q **Right. I'm just saying that when we see edge**
6 **water there parenthetically indicated for each of those**
7 **companies, what you're showing us there is that edge water owns**
8 **100 percent of those entities?**

9 A Yes. If there's not another name listed, it
10 would be 100 percent ownership.

11 Q **Perfect. When we get down on page 2, about**
12 **one, two, three, four, five entries down, we see Pacific**
13 **Capital, is that one that is, is also an edge water entity or**
14 **is that one not?**

15 A Pacific Capital and Weston Marketing, to the
16 best of my knowledge, were both owned by edge water but we
17 probably couldn't find the operating agreement.

18 Q **Okay. So there is no typo error there, it just**
19 **that those are omitted because you couldn't find the --**

20 A That would be the only reason or, you know, we
21 can also take another shot at trying to find, but they're in
22 the group that, to my knowledge, would have been the edge
23 water.

24 Q **Okay. And at that point, after we get below**
25 **Weston Marketing, we come up on the first of the, what I'm just**

1 going to call every Green companies. Again, here we have
2 companies that are all followed by the parenthetical entry of
3 Evergreen. And I believe that what you're saying here, with
4 document 1781, is that those company's ownership is shown that
5 each of them has Evergreen as a 50 percent partner and the
6 other named, either entity or individual there, is the other 50
7 percent of that particular company, correct?

8 A Correct.

9 Q All right. Did I follow you that, that
10 Evergreen was a vehicle where you were using the, that these
11 particular people were equity investors as opposed to
12 promissory note holders?

13 A They were members of the LLC. So they would
14 receive their compensation on the profitability split, not a
15 debt instrument payment.

16 Q Okay. And, and because they were 50 percent
17 members, they would basically get an amount equal to that that
18 Evergreen itself was getting?

19 A Theoretically, yes.

20 Q Okay. And I think Evergreen runs all the way
21 onto page 4 where we, where we pick up these nonlending
22 companies.

23 Okay. So, if I could have you flip to page 5
24 and get the offshore entities one more time here. Just on
25 specific questions about them. While you have recited, I

1 believe, the 100 percent of the membership of Ivonix, the
2 reason that Ian's 15 percent comes out to be 5 percent of
3 something is because Ivonix holds only a one third interest in
4 Orbatrust, correct?

5 A That's, yes.

6 Q And effectively, what Ian has by virtue of that
7 is a 5 percent interest in Orbatrust?

8 A He does not hold it, as far as I know. Like I
9 said, it was the Akin Gump arrangement but he does not hold it
10 in the direction fashion, as far as I know. But again, I'd
11 have to check with Akin Gump.

12 MR. STRAUSS: Could you repeat that and
13 louder.

14 THE WITNESS: Sorry. He would, my
15 knowledge, even though Akin Gump did this transaction,
16 would be that it would not be a direct ownership be
17 through the Ivonix. That's my understanding. I need to
18 clarify that --

19 BY MR. MALONEY:

20 Q yes.

21 A -- to make sure.

22 Q Okay. All right. If we move down there to DS,
23 LLC, that is actually a 50/50 arrangement between you and Sam
24 personally, correct?

25 A Yes.

1 Q And that is a company that, am I correct that
2 it wholly owns Evergreen International?

3 A Yes.

4 Q Okay. Does DS, LLC own other things besides
5 Evergreen International?

6 A Not that I know of.

7 Q Okay. So once we get to Evergreen
8 International, it owns certain other things on this chart, is
9 that correct?

10 A My understanding is that single, single asset
11 is Ivonix Limited.

12 Q Okay. And --

13 A But I could be mistaken but I believe that to
14 be true.

15 Q Okay. And so, is it correct that we've
16 describing, the 42.5, the 42.5 and the 15 percent, that, that
17 you Sam and Ian do not directly own that in Ivonix but rather
18 through some vehicle of Evergreen?

19 A Sam and I own our shares through Evergreen.

20 Q Okay.

21 A I don't, like I said, I cannot tell you, give
22 you an accurate answer on Ian's.

23 Q Okay. And then when we get to the Ivonix, from
24 Evergreen down to Ivonix, then we descend once more to
25 Orbatrust itself, right?

1 A Orbatrust, yes.

2 Q Okay. And at that point, we're not descending
3 any further, that's as far down as that arrangement goes or
4 does that keep going on down to MMK at some point?

5 A There's a layer of Cypress entities between
6 Orbatrust and MMK of Russia.

7 Q Okay.

8 A Those were done for tax treaty purposes in the
9 event that we would receive distributions. And again, those
10 were, at some point, I know Ms. Stanton has a flow chart of
11 those. I don't --

12 Q Okay?

13 A -- I don't know if you do or not.

14 Q All right. And, and all I just mean by that is
15 just kind of general point of if we get down to Orbatrust and
16 we go from there down to MMK of Russia, is the true that the
17 value of Orbatrust, whatever it is, is somewhat dependent upon
18 the operations of MMK?

19 A One hundred percent.

20 Q Okay. When you describe Six Kingdom's
21 management responsibilities, does Six Kingdoms perform
22 management responsibilities like, like Glacier did or LTS did
23 at one point but on a different, more international level?

24 A It was, it was parallel operation but it was
25 headquartered in the Isle of Man. And did, did almost all the

1 exact same functions but on a smaller scale.

2 Q Did LTS or Glacier employees, as we kind of
3 move through the chronology, did they actually do work that
4 was, essentially working for Six Kingdoms to, to, manage those
5 assets?

6 MS. STANTON: Wait. Say that again. I'm
7 sorry.

8 BY MR. MALONEY:

9 Q Well, we've, we've described Six Kingdoms as
10 somewhat of a management company in the same manner that LTS
11 and Glacier helped manage investment entities, okay, their,
12 their investments. What I'm asking is whether LTS and Glacier
13 employees, you know, humans, here in the United States were
14 actually doing some of the management functions for Six
15 Kingdoms?

16 A Well, that's, the answer to the question is
17 that in order to make these loans out of the Isle of Man into
18 the United States, three, basically LTS and before it became
19 Glacier, Glacier and Six Kingdoms all made these loans every
20 day. Six Kingdoms pushed the button, for lack of a better
21 term, on the money going in and out for the Borne Capital One,
22 Borne Capital Two because of the way that Isle of Man law
23 worked with these licenses. So, they worked together to make
24 the loans but Six Kingdoms had specific functions that LTS
25 could not perform which was to actually send the money out for

1 the loan and receive the money back for the loan, that had to
2 be done by an Isle of Man Company.

3 Q Okay. Was Borne Capital, the one who actually
4 was basically making loans through the operations of Six
5 Kingdoms for some period of time?

6 A But they also were making loans through Glacier
7 and LTS

8 Q Okay. And when they made loans through Six
9 Kingdoms, was that some unique retail borrower? Meaning did
10 Six Kingdoms only handle management for things outside the
11 United States or did Six Kingdoms help the management to make
12 loans inside the United States to retail borrowers?

13 A Six Kingdoms only made loans to United States
14 citizens.

15 Q Okay.

16 A They -- at the end of every day, I think I
17 explained to you before, we divided up the loops. If it was a
18 loan that was going to Borne Capital Two or One, Six Kingdoms
19 had to make that loan in order to be compliant with Isle of Man
20 law. Now, LTS or Glacier would make the loans for the entities
21 that were U.S. based.

22 Q Okay.

23 A But every day, it was divided up on who had
24 money or what not.

25 Q We've talked about a little bit about the

1 relationship between Ivonix Investments and Ivonix holdings.

2 Is, am I correct at the end of the day that what we really mean
3 is that Ivonix Holdings was an entity formed to help make
4 settlements of disputes and that entity was never formed until
5 2015?

6 A It was formed specifically for , for
7 settlements. That's all it was formed for.

8 Q Did, did someone transfer assets to Ivonix
9 Holdings for the purposes of those settlements?

10 A I believe.

11 Q Okay. And when they transferred assets to
12 Ivonix Holdings, who were the transfers, or what entities were
13 transferring value into Ivonix Holdings in order to support
14 those settlements?

15 A The only things that were sent were from Ivonix
16 Limited.

17 Q Okay. Okay.

18 A And I'm not sure on the for malts of how that
19 was done.

20 Q Okay. I also see, and Janice has asked you
21 about Harvest Moon and Role Star, am I correct in my
22 recollection that Claw Consulting is your current employer?

23 A That's my consulting company.

24 Q Okay. And when people pay money to Claw
25 Consulting, what are they paying it for?

1 A I do consulting work for some of those tribal
2 relationships. I do --

3 Q **I'm just saying, are they doing that for your
4 services or are there other things that Claw does besides --**

5 A No. Just my own personal --

6 Q **Okay.**

7 A -- knowledge of things. Harvest Moon and Role
8 Star, like I told Ms. Stanton, I have no idea if they have any
9 revenue or anything.

10 Q **Okay. I'm going to now move to what Janice
11 talked to you about, your supplemental response, this is, of
12 the court documents, this is 195. We had some discussion about
13 the idea of the Abromovich (ph) settlements. And I don't want
14 to go into too much more detail about those because we
15 obviously hit some points that have some confidentiality
16 issues. What I did want to ask though is that, did this loan,
17 and I want to make clear, the (Unintelligible) loan was made
18 just before the imposition of Operation Choke Point, correct?**

19 A Around the same time.

20 Q **Okay. So when I read it made just before the
21 imposition of Operation Choke Point, that's not correct at this
22 point?**

23 A As I recall, the loan that was signed but not
24 funded, signed before and then funded afterwards, so there's
25 some --

1 Q Okay.

2 A -- ambiguity there.

3 Q Okay. So there was a need for the million
4 dollar loan from whatever Russians involved were to LTS and
5 that need arose before August 13th of 2013, correct?

6 A Yes. It was --

7 Q And what was the need for that extra money?

8 A Well, like I said, it was to, repayment of some
9 outstanding debts.

10 Q LTS had outstanding debts to certain Russian
11 investors?

12 A Like I said, I'd prefer to --

13 MS. STANTON: Yeah. Let's move on.

14 BY MR. MALONEY:

15 Q I'm sorry. LTS had, had debts to someone that
16 were not getting paid and they had to borrow money to get those
17 debts paid?

18 A Like I said, it's something I'd prefer to --

19 MS. STANTON: Jim, let's, we've agreed to,
20 in fairness to them, let's move off that. And let's, for
21 time's sake, let's move on.

22 BY MR. MALONEY:

23 Q Okay. On page 2, subparagraph B., your
24 sentence reads that the sale of hardware occurred in 2014. Do
25 you know the date of that sale?

1 A As I stated earlier, I believe it was May or
2 June of 2014.

3 Q **There's a sentence that reads Glacier continues**
4 **to provide business contacts to Agile Fish while that company,**
5 **Agile Fish, built up it's financial standing. What are the**
6 **approximate dates of that time of, where the service was being**
7 **provided and Agile Fish was building up its standing?**

8 A Through most of '14 and a little bit of 2015.

9 Q **Most of 2014, beginning in approximate**
10 **February?**

11 A I believe so.

12 Q **Paragraph C. beginning on page 3 tells us that**
13 **Agile Fish took over maintenance operation of the software**
14 **utilized by the business. Do you know when they actually took**
15 **over that function?**

16 A I do not know exactly when but I can try to
17 find out.

18 Q **Are Coho, Shanook, Choice and Upfront currently**
19 **operating entities, I'm sorry operating as tribal lenders?**

20 A I cannot answer about Coho or Shanook but I'm,
21 know that Choice and Upfront are operating entities for the
22 tribal lending.

23 Q **Does Claw Consulting consult with those**
24 **entities at this point?**

25 A Yes. Through a, another consulting group, but

1 yes.

2 Q And --

3 A Those entities are owned by the tribal, by the
4 tribe, sovereign nations, excuse me.

5 Q Okay. And so, Claw Consulting indirectly does
6 work for those entities and those entities at one time had some
7 management by Glacier and now are managed, their management
8 services come from Agile Fish?

9 A Yes.

10 Q Okay. I now turn to a, I kit of documents that
11 came along with your submission of document 195 which was the
12 supplemental response. And again, these were a series of
13 emails, bank statements, things of that nature. Do I
14 understand that you pulled all of these documents in court
15 document 195 -- 1, you pulled all of those from your own email?

16 A Well, not all those documents are emails.

17 Q To the extent they're emails, did you pull them
18 from your own email?

19 A Yes. The email --

20 Q To the extent they're otherwise, say invoices
21 and such, were these something that somebody else helped you
22 find?

23 A Maggie Terry helped me find them on the, Eric
24 Plane's (ph) accounting software.

25 Q Okay. When we see in certain emails in era of

1 August of 2014, Dave Sanchez giving directions to move money
2 from Evergreen to Glacier, he's talking about Evergreen Capital
3 or Evergreen International?

4 A Capital.

5 Q Okay. In approximately the month of August of
6 2014, who did Dave Sanchez work for?

7 A He worked for Glacier. He resigned in October
8 of 2014.

9 Q And when he resigned in October, and I think
10 some of these emails read approximately that date, yes. So we
11 still see emails from him in his work for Glacier through
12 October 2014. And where did he go to work when he resigned?

13 A He was a consultant, my understanding, of Coho
14 and Shanook. But he continued to help us divide up the
15 expenses until they, we parted ways with Coho and Shanook.

16 Q Okay. And he, he consulted with Coho and
17 Shanook at, at the time he resigned in October of 2014?

18 A Yes.

19 Q Do you know what he's doing now?

20 A I believe he's still doing that, I don't know.

21 Q But you do not know his employer or the company
22 that he, that he works for at this time?

23 A No, I don't.

24 Q So if I take emails from Dave Sanchez from
25 January 6 of 2015, and he's still directing where the money

1 goes, what is his role at that point if he's already resigned
2 from Glacier?

3 A It was just helping, doing the things that we,
4 that, to be able to create these accurate management fees
5 because that's what he did before. He basically did it pro
6 bono for a lack of a better term.

7 Q That's it. Thank you.

8 MS. STANTON: Okay. Michelle, do you have
9 some questions?

10 BY MS. SUITER:

11 Q Hi Mr. Kimball. I'm Michelle Suiter, I
12 represent EData Holdings and that, that group. I've just a few
13 questions, follow up what the trustee has asked you today.

14 You mentioned early on that Pay, is it Pay Com?

15 A Pay Crom.

16 Q Pay Crom. And the, that there was a, the
17 Russian group switched to it's own software. What was the
18 original contract on the software to, when it was using yours?

19 A There was --

20 Q Let me be clearer. Did they buy actual
21 software that was created?

22 A No. We created it ourselves.

23 Q Right. You created it and then they used it?

24 A They paid us, they reimbursed us for the time
25 and a small markup on the IT people who did the conversion of

1 the software into Russian and from an online customer
2 management system to a retail customer management system.

3 **Q And then did you also charge them for updates**
4 **and maintenance of that software?**

5 A We would, they, for seven years, we charged
6 them monthly for whatever work they wanted to have done.

7 **Q Okay. And was that a contract at that was in**
8 **writing somewhere?**

9 A There is one somewhere.

10 **Q Okay. And so, at the time that it was**
11 **converted over and they decided to do their own, had that**
12 **contract with you expired?**

13 A We had some phase out period. I can't remember
14 what the language was. But it, once they were fully
15 operational, it was agreed upon that we would only provide
16 minimal services for their software.

17 **Q All right. And then when they converted to**
18 **their own system, was their own system built upon the software**
19 **that you acquired and provided to them originally?**

20 A Well, they didn't have access to the source
21 codes. They just, as far as I know, they invented it
22 themselves.

23 **Q Did you ever investigate?**

24 A I've not been back to Russia in almost two and
25 a half years. So --

1 **Q** Do you have any claims still for any
2 outstanding sums that are due on, on the software, either for
3 maintenance or for the original payments?

4 A Not that I know of.

5 **Q** Who would know that?

6 A Well, I mean, we don't -- as far as I know, we
7 have been paid to date what work we had done on their software.

8 **Q** Okay. You mentioned a couple of times about a
9 lending license that you and Sam owned that had to be through
10 the Isle of Man company, Borne Capital.

11 A Borne Capital Two.

12 **Q** Okay. And so, is that a lending license issued
13 by the Isle of Man?

14 A Yes.

15 **Q** Did you -- okay. Do you have any obligations
16 under that license now?

17 A No.

18 **Q** Who, who counseled you to form the Isle of Man
19 and Cypress companies?

20 A Well, the Cypress companies were formed by Akin
21 Gump. I have no relationship with -- the Isle of Man, we, we,
22 we just did it on our own with, with local counsel there.

23 **Q** Okay. And who directed you to, to set them up
24 in the Isle of Man? Did someone you go suggest that to you?

25 A We just, we discovered it was a, a place that

1 had a lot of advantages towards online lending with these
2 nondepository licenses.

3 **Q And you mentioned that you're not on speaking**
4 **terms with anyone there at ICap (ph) now?**

5 A That is correct.

6 **Q What happened?**

7 A After Operation Choke Point, there was quite a
8 few disputes over reimbursements and performance and once we
9 were fired by Borne Capital Two, Integrated Capabilities
10 divided to sever their relationships with us.

11 **Q And they're paid directly out of the, I think**
12 **you said before they had the, you had the Barkley's account?**

13 A That's what they told me.

14 **Q All right. And did you ever receive any of**
15 **those, any of those statements?**

16 A As far as what I understand, all those
17 statements were mailed to them directly.

18 **Q But did you ever ask for copies?**

19 A I don't know. I didn't handle that. That was
20 handled by the accounting department.

21 **Q My understanding of how that works is they're**
22 **the actual on site directors and -- were you aware of the**
23 **actions that they took on your behalf?**

24 A Yeah. We had a daily synopsis. We do not have
25 access to Borne Capital Two's bank accounts. We did not own

1 Borne Capital Two.

2 **Q Did you receive any accounting information at**
3 **all from I. Cap?**

4 A I believe there was some kind of monthly or
5 quarterly accounting was done.

6 **Q Did you have any complaint of their, their work**
7 **on your behalf?**

8 A Well, there was, it was a very good
9 relationship and then deteriorated very quickly around the
10 summer of 2013. And then, as I said, in, I believe it was
11 January or February they terminated their services with us.

12 **Q Do you have any idea how much they took as**
13 **compensation and whether or not it was appropriate?**

14 A They took a large amount. I don't remember the
15 percentage of, they paid themselves very well to manage the
16 portfolio.

17 **Q Did they create any operating agreements or any**
18 **other contracts that you became aware of later, that you didn't**
19 **know about at the time?**

20 A I believe they did but I don't have access to
21 that. I mean, the fundamental relationship between us and
22 Borne Capital Two was through us. And then their obligation as
23 the agents was to follow the operating agreement. When they
24 quit following the operating agreement, that's when we got into
25 a dispute with them. And then once they realized that, that we

1 were, by Isle of Man law, they're supposed to follow the
2 operating agreement and not what some billionaire Russian tells
3 them to do, they fired us.

4 Q Mm-hmm.

5 A I don't know if I answered your question
6 accurately. They may have --

7 Q And who was your, who was your -- I think I
8 asked you this before, I'm sorry. But I, just so it's on this
9 part of the record, who did you, did you deal with Kevin Perks?

10 A Yes. Mostly.

11 Q All right. Do you have any -- this is kind of
12 a sideline. Do you have any diagnosable health issue that
13 prevents you from understanding any of the questions that have
14 been posed at these meetings?

15 A I don't know. I don't think so.

16 Q Okay. You were talking about a little bit
17 earlier about people who owe you money and the trustee asked
18 you and you said Eric and Pete and a couple of other people.
19 How did you make personal loans? You're in the lending
20 business, so when you personally would make a loan, how would
21 you keep track of that?

22 A I didn't.

23 Q You didn't?

24 A It was made through my own personal account.

25 Q I understand how you would give the money. But

1 **how did you record it? Did you have promissory notes executed?**

2 A No, no.

3 **Q Why not?**

4 A Just didn't.

5 **Q How did you determine who you would loan money**
6 **to?**

7 A Basically when people would call me and ask me.

8 **Q And why would they start calling and asking**
9 **you?**

10 A Because I knew, they knew I had money.

11 **Q Did you, either before or after you made loans**
12 **to these people, did you ever borrow money from them?**

13 A No.

14 **Q Did people borrow money from you more than**
15 **once?**

16 A Yes.

17 **Q Who borrowed money from you more than once?**

18 A Those two gentleman, they borrowed several
19 times.

20 **Q For what other reasons? You said --**

21 A They would call me up when they were broke.

22 **Q Did they have a job?**

23 A I don't believe either one of them did at the
24 time I made loans to them.

25 **Q Do they now?**

1 A I don't know.

2 **Q Was your agreement to make them a loan in**
3 **exchange for them to repay it?**

4 A Well, it was, they were friends, so I thought
5 they were going to repay it.

6 **Q And did you have any conversations with them**
7 **when they couldn't repay it that you might get something else**
8 **from it later?**

9 A It was no terms on these loans. So --

10 **Q Did you ever receive a written opinion on the**
11 **formation of any of your companies and where they should be**
12 **located from an attorney or an accountant?**

13 A As far as -- I don't think I understand your
14 question.

15 **Q Did you ever receive a written opinion on, from**
16 **an, let's start with an attorney, on how to structure and how**
17 **to create these various entities and how they should own**
18 **different interests together?**

19 A I know that we got advise from Akin Gump on how
20 to structure the Russian portion. As far as the Isle of Man, I
21 believe that we went off the registered agent's advice. And as
22 far as the United States, Delaware, just kind of did it on our
23 own, as far as I know.

24 **Q I understand for the individuals. But as far**
25 **as these different relationships and how the companies are**

1 related and how you would put loans into one company, expense
2 it out and then start another loan group, did you come up with
3 that system yourself or did you have any professionals who
4 guided or provided you underlying advice to create this
5 structure?

6 A I don't care I understand your question. We,
7 we had attorneys write the promissory notes but then we would
8 modify them ourselves.

9 Q Okay.

10 A But we had, as far as like, John Mullin didn't
11 say set up a Delaware, LLC because for these reasons. We never
12 had any of that kind, type of relationship.

13 Q Okay. Let me ask it this way. For example,
14 just use John Mullin, did you go to him and say I need a
15 company for X, Y, Z, please form it for me?

16 A He, he only formed maybe one or two companies
17 but we did all of the rest internally.

18 Q Okay. How did you decide when to start a new
19 company and how the ownerships would be related?

20 A The ownerships were either edge water or
21 Evergreen. And then each entity was created by an investor
22 group or a tranche of investor money.

23 Q I understand. And did you set that system up
24 at the beginning by yourself?

25 A For the most part, yes.

1 **Q** **What about using the foreign entities, what was**
2 **your basis to, to get into the different foreign jurisdictions**
3 **with these companies? Did you have any accounting advice that**
4 **you followed?**

5 A We just followed whatever -- like the, the
6 Russian stuff was all done by the Akin Gump and people. And
7 the Isle of Man was done by the registered agents.

8 **Q** **All right. But what was your benefit that you**
9 **intended to get from forming an entity in the Isle of Man?**

10 A Well, the, the intended benefit was to
11 eventually have all the operations out of there because of some
12 of the tax advantages and these deposit, nondepository licenses
13 and was, that was going to be the basis for multiple
14 operations. And then Operation Choke Point came and kind of
15 blew that whole theory --

16 **Q** **But, but how were you going to specifically**
17 **benefit? What taxes were you going to save that you knew of?**

18 A Well, there's, there's the ability in the Isle
19 of Man, I was told by the agents, that you can compound your
20 earnings and you don't have to, there's no corporate tax there.
21 So, when you (Unintelligible) money you would pay taxes then.

22 **Q** **And did you ever evaluate the percentage of tax**
23 **you would save based upon a comparison of the management fees**
24 **that they were going to charge you?**

25 A No. Not that I know of.

1 **Q Have you ever realized any savings from any of**
2 **these overseas entity creations that you know of?**

3 A They, they never were, never were operational
4 long enough to get, see those benefits.

5 MS. STANTON: Are you almost ready to wrap
6 it up?

7 MS. SUITER: Yep. I got --

8 MS. STANTON: I'm not getting any, I can't
9 get my emails. It says I'm connected but I can't get --

10 UNIDENTIFIED MALE: You may have lost the
11 password. You may have to go back in and get your
12 password.

13 BY MS. SUITER:

14 **Q You made one comment about, when you were**
15 **talking to Keris's counsel, about Evergreen and the members of**
16 **the LLC would theoretically get 50 percent of the ownership, or**
17 **50 percent of the payments and 50 percent of the equity in the**
18 **entities that Evergreen was an owner of. Did Evergreen ever**
19 **receive any benefits from any of the companies that it was an**
20 **owner of?**

21 A Sure. That was one of the ways we were able to
22 make money.

23 **Q I don't mean from management fees but I mean**
24 **from actual return on investment?**

25 A Well, Evergreen made no investment into those

1 entities.

2 **Q When you say we made money, are you talking**
3 **about the management fees that were paid?**

4 A No. I'm talking about after the management
5 fees, the profits were split 50/50 --

6 **Q Okay.**

7 A -- between the member group and Evergreen if
8 there was a partnership.

9 **Q And how did you decide which ones would be**
10 **owned by group Evergreen and which ones through edge water?**

11 A Edge water are all debt instruments. So they
12 didn't have any partnerships involved with those. So,
13 evergreen, it already had some partnerships and also some sole
14 ownerships. So we decided to do edge water where there was
15 only debt.

16 **Q Okay. Thank you.**

17 MS. STANTON: Okay. Anybody else have any
18 questions? Okay. So, we'll get the amendments done and
19 then we'll talk about the other issue and if you want to
20 talk about that through a meeting or --

21 MR. PELOFSKY: Okay.

22 MS. STANTON: -- try to get us something,
23 then we'll work on that. And we're going to at least
24 start on that and get some information regarding the
25 confidential issue by the end of the week.

1 THE WITNESS: Okay.

2 THE COURT: Okay. All right. Thank you
3 very much.

4 THE WITNESS: Thank you.

5

6 (END OF RECORDING)

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TRACY L. HACKLEMAN

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