

IN THE CIRCUIT COURT IN THE
ELEVENTH JUDICIAL CIRCUIT IN AND
FOR MIAMI-DADE COUNTY, FLORIDA

COMPLEX BUSINESS DIVISION

SARAH FOSTER, individually and on behalf
of all others similarly situated,

Plaintiff,

v.

CARL RUDERMAN, KOPELOWITZ
OSTROW P.A., and DALE LEDBETTER,

Defendants.

Case No. 2018-030906-CA-01

CLASS REPRESENTATION

**FIRST AMENDED CLASS ACTION COMPLAINT
AND DEMAND FOR JURY TRIAL**

Plaintiff Sarah Foster (“Plaintiff”) for her First Amended Complaint against Defendant Carl Ruderman (“Ruderman”), Defendant Kopelowitz Ostrow P.A. (“KO”), and Defendant Dale Ledbetter (“Ledbetter”), alleges as follows:

INTRODUCTION

1. Plaintiff in this action seeks relief for the unlawful offer and sale of unregistered securities issued by 1 Global Capital LLC d/b/a 1st Global Capital LLC (“1st Global”). 1st Global collapsed into bankruptcy on July 25, 2018. Shortly thereafter, on August 23, 2018, the SEC filed a lawsuit against 1st Global and Ruderman (“the SEC Action”) seeking relief for (*inter alia*) the sale of unregistered securities in violation of federal law, and alleging that 1st Global’s actions are part of a larger fraudulent scheme.

2. Plaintiff does not in this action name or otherwise seek relief against 1st Global. Plaintiff instead seeks such relief from Defendants, without any allegation of fraud, for their role in the offer and sale of unregistered securities, as authorized under the statutory liability provisions

of the federal Securities Act of 1933, 15 U.S.C. § 77a *et seq.* (the “Federal Securities Act”) and of the Florida Securities and Investor Protection Act (the “FSIPA”).

THE PARTIES

3. Plaintiff is an individual resident of Arizona.

4. Ruderman is an individual resident of the City of Aventura, located within Miami-Dade County, Florida, and citizen of Florida. Ruderman founded 1st Global, was its chairman, and functioned for the entirety of its operations as its Chief Executive Officer. Ruderman maintained sole operational control over 1st Global, closely monitored its fundraising from investors and the MCA Program, and made all key management decisions. Ruderman took many of these actions from his residence in Miami-Dade County, Florida.

5. KO is a professional association formed under Florida law, with its principal place of business in Florida, and an office in Miami-Dade County located at 2800 Ponce de Leon Blvd, Suite 1100, Coral Gables, FL 33134. KO is a citizen of Florida.

6. Ledbetter is a resident of Florida who at all times was employed by or otherwise acted as an agent of KO, and whose actions alleged herein were undertaken within the course and scope of his employment with KO. Ledbetter is a citizen of Florida.

7. Ruderman, KO and Ledbetter are hereinafter collectively referred to as “Defendants.” As alleged below, 1st Global and Defendants have, directly and indirectly, made use of the means and instrumentalities of interstate commerce, and the mails, in connection with the acts, practices, and courses of business set forth in this First Amended Complaint.

JURISDICTION

8. The Court has original jurisdiction over Plaintiff’s claims for violation of the Federal Securities Act pursuant to 15 U.S.C. § 77v(a).

9. The unregistered securities at issue in this case are not “covered securities” within the meaning of National Securities Market Improvement Act of 1996 (NMSIA), 15 U.S.C. § 77r(b), and accordingly this action is not removable to federal court under the Securities Litigation Uniform Standards Act (SLUSA), 15 U.S.C. § 77p(f)(3), nor is it subject to the procedural requirements of the Private Securities Litigation Reform Act (PSLRA), 15 U.S.C. § 78u-4(a).

10. The Court has original jurisdiction over Plaintiff’s claims for violation of the FSIPA under Fla. Const. Article V, § 5 (a). In addition, this is an action for damages and the amount in controversy exceeds this Court’s minimum jurisdiction amount (\$15,0000 exclusive of interest, costs, and attorney’s fees). Plaintiff’s FSIPA claims are not removable, since Defendants are citizens of Florida.

11. Venue is proper in this court because Ruderman resides in Miami-Dade County, because KO has an office in Miami-Dade County, and because a substantial part of the events or omissions giving rise to Plaintiff’s claims occurred in Miami-Dade County.

12. Assignment to the Complex Business Litigation Division is proper because the amount in controversy exceeds \$1 million, involves complex issues, and involves a proposed class action.

FACTUAL BACKGROUND

13. 1st Global over the last four years has raised some \$287 million from over 3,400 investors throughout the United States through the offer and sale to each investor of a so-called “Memorandum of Indebtedness” (“MOI”) – a form of security which 1st Global failed to register pursuant to the Federal Securities Act.

14. The 1st Global offered and sold the MOIs through its so-called “Merchant Cash Advance” program (“MCA Program”), described as a way for investors to “put their cash to work for merchants while earning healthy returns”

15. 1st Global used a network of barred brokers, registered and unregistered investment advisors, and other sales agents – to whom 1st Global paid millions of dollars in commissions, ranging from 0.75% to 3% of every new investment amount they procured for 1st Global – to offer and sell the MOIs to investors nationwide, including to Plaintiff in Arizona.

16. 1st Global placed no restrictions on who sales agents could solicit to purchase the MOIs; 1st Global instead accepted money from any and all investors the sales agents could procure, without regard to any minimum investment amount or accredited investor status. More than one-third of the money raised by 1st Global came from investors who invested using their IRAs or other retirement funds.

17. 1st Global provided sales material (including a Frequently Asked Questions (“FAQ”) brochure) to its sales agents for use in marketing the MOIs, who distributed the materials by mail and email to solicit potential investors.

18. 1st Global’s sales agents knew from the materials supplied to them by 1st Global that the MOIs were not registered as securities under the Federal Securities Act or the FSIPA. This was true even though under the MCA Program the terms of the MOIs obviously functioned as securities.

19. Specifically, under the MCA Program, the “Lender” (investor) was given the opportunity to participate in a loan portfolio of hundreds of small business loans developed by the “Borrower” (1st Global). The “return” to the investor was explicitly dependent on the performance of the portfolio developed by 1st Global.

20. For example, the MOI stated that an investor was providing money to 1st Global so 1st Global could expand its business activities, which it termed the “Covered Activities.” The only specific Covered Activity identified in the MOI was to provide short-term cash advances –

the MCAs – to 1st Global’s assembled portfolio of small and medium-sized businesses, with the investor to share in the repayments made by the businesses loaned funds under the MCAs.

21. Thus, the return received by the investor under the MOI was not a fixed interest rate; rather, the return to the investor fluctuated with the underlying results of 1st Global’s reinvestment of the invested funds through its portfolio of MCA borrowers. 1st Global’s marketing materials, also provided to the sales agents, made clear to them and to the investors that the return on investment would depend upon the success of the 1st Global’s decisions and business and financial acumen.

22. Second, under the terms of the MOI, 1st Global actually charged the investors for “loaning” their money to 1st Global. For example, 1st Global pocketed a 13% “management fee” from all MCA repayments. In addition, 1st Global charged investors to reimburse the finders’ fees that 1st Global paid to third-parties for finding merchants to borrow funds under the MCA Program.

23. Third, the MOI confirmed that it was within 1st Global’s discretion how to use investor money to make or fund MCA loans. After 1st Global received the investor funds, it pooled and commingled them together in non-segregated bank accounts maintained by 1st Global. In fact, investors had no say in how 1st Global used their money. Investors could not and did not manage 1st Global’s MCA loan portfolios; it was solely up to the 1st Global whether and when to use an investor’s money to fund MCAs and which MCAs to fund. The success of the investment and whether an investor earned profits was thus solely dependent on 1st Global’s efforts and its MCA funding decisions, as well as on its repayment and collection efforts.

24. Fourth, while the MOI described itself as a nine-month obligation, the MOI also stated the invested funds would automatically be reinvested unless the investor expressly informed 1st Global in writing at least 30 days before the end of the operative nine-month period that he or

she did not want the note to reinvest. In addition, the MOI is part of an integrated offering with other securities offered and sold by 1st Global with terms longer than nine-months.

25. Plaintiff and the overwhelming majority of other investors reinvested their MOIs on one or more occasions. According to the SEC, one sales agent estimated only six to eight of the hundreds of investors he solicited redeemed their investments after nine months. 1st Global bank records reviewed by the SEC show that as of April 30, 2018, investors had sent more than \$287 million to 1st Global, while 1st Global had returned only about \$16 million of those funds through redemptions or other payments.

26. Even if an investor took affirmative steps to redeem his or her investment after nine months, the MOI extended well beyond nine months because the MOI afforded 1st Global several months to fully pay out an investor's principal and interest, which it referred to as an "unwinding" or "grace period."

27. The MOIs provided for the unwinding period because, rather than using investor proceeds to fund to a single MCA or a small number of MCAs, 1st Global gave each investor a small, fractionalized interest in its hundreds of MCAs. 1st Global's computer system would assign the investor's funds automatically, based on the amount of MCAs funded daily in the weeks following an investment. Under this system, one MCA would be funded with dozens or even hundreds of investors' funds pooled together.

28. Using this process often resulted in 1st Global taking months to place all of an investor's funds into MCAs. Thus, should an investor elect to redeem his or her investment after nine months, it would take many months after that for the merchants who received the investor's money to fully repay their MCAs. Often 1st Global would not generate enough money from the MCAs to fully pay redeeming investors, forcing 1st Global to use new investor funds to pay off redeeming investors.

29. 1st Global ultimately memorialized the unwinding period into specific timetables at the beginning of 2018, informing investors – and its sales agents – that if an investor who sought to redeem his or her investment had placed less than \$250,000 with 1st Global, the investor would not be fully repaid until 12 months, three months after the end of the nine-month term; for investments of greater than \$250,000, the repayment would take six additional months, making the MOI a 15-month note.

30. Although the MOI contained a boilerplate paragraph stating the investor was sophisticated and was “qualified” (meaning he or she had a certain income level or net worth), the sales agents knew that 1st Global (1) never enforced this provision, (2) did not restrict to whom sales agents could offer the investments to, and (3) accepted investments from anyone located by the sales agents who wanted to invest, regardless of their net worth, income, or sophistication.

31. Each MOI offered and sold to Plaintiff and the other Class Members during the Class Period constituted a “security” within the meaning of the Federal Securities Act, which defines a “security” as any “note” or “investment contract,” or, in general, “any interest or instrument commonly known as a ‘security’[.]” 15 U.S.C. § 77b(a)(1). To determine whether a note, investment contract or interest is a security under federal law, courts go beyond labels and look to the “economic reality” of the transaction. *S.E.C. v. W.J. Howey Co.*, 328 U.S. 293, 298 (1946). This inquiry looks to whether the interest involves: (1) an investment of money; (2) “in a common enterprise”; (3) “with profits to come solely from the efforts of others.” *Id.* at 301.

32. The first *Howey* element, an investment of money, is plainly satisfied here.

33. The second *Howey* element, a “common enterprise,” is one where the fortunes of the investor are interwoven with and dependent upon the efforts and success of those seeking the investment of third parties. This second element is likewise satisfied here, for the return on

investment of the Plaintiff and other members of the Class was completely interwoven with and dependent upon the efforts and success of 1st Global's MCA Program.

34. The third and final element of the *Howey* test is met where the efforts made by those other than the investor are the undeniably significant ones, those essential managerial efforts which affect the failure or success of the enterprise. Here, Plaintiff and the other members of the Class had no role other than the transfer of funds to 1st Global, who retained all discretion as to how those funds were then allocated over its MCA portfolio, and who exercised that discretion for a fee charged to the investors.

35. In short, all three elements of the *Howey* test are readily satisfied here.

36. To whatever extent Defendants contend that the MOI is a "note" rather than an investment contract, it is likewise a "security" under *Reves v. Ernst & Young*, 494 U.S. 56, 67 (1990). *See also Honig v. Kornfeld*, No. 18-80019-CV, 2018 WL 4502174, at *2 (S.D. Fla. Aug. 20, 2018).

KO AND LEDBETTER'S ACTIVE INVOLVEMENT IN THE SALE OF UNREGISTERED SECURITIES

37. In a filing in the SEC's action against Ruderman, Ruderman admits that he hired KO to assist 1st Global and Ruderman "in all aspects of the company's business operations." Defendant Carl Ruderman's Memorandum in Opposition to Preliminary Injunction [Doc. 62], attached as **Exhibit A**, at 4. Ruderman further admits that KO's involvement in 1st Global's operation was "pervasive and substantial, and included forming the company, [and] overseeing the company's efforts to raise capital from individual lenders" *Id.*

38. In particular, Ruderman describes the direct involvement of KO and Ledbetter as follows:

First, 1st Global's marketing operations to potential individual lenders—described by the SEC as investors—was spearheaded by an attorney at KO (the "KO Attorney") who, to our knowledge, recently left the firm. As noted by the SEC, 1st

Global raised capital from individual lenders through a network of sales agents who were independent contractors and who were paid on a commission basis. The KO Attorney was responsible for overseeing 1 Global's entire network of sales agents, and received a commission "override" on all capital raised by these agents. In this role, the KO Attorney was responsible for preparing and disseminating 1 Global's marketing materials to potential lenders (through the sales agent network), and for supervising and overseeing the marketing efforts by the sales agent network, including their representations and statements to potential lenders. ***

Second, not only did KO oversee the company's efforts to raise funds, but it prepared the MOI contracts between 1 Global and its individual lenders. Moreover, when 1 Global sought advice as to whether the MOIs were securities that needed to be registered under the Securities Act, KO advised 1 Global that these were notes that did not need to be registered with the SEC.

Exhibit A, at 4-5 (citations omitted). The "KO Attorney" referenced by Ruderman is, upon information and belief, Ledbetter.

39. In addition to the foregoing, evidence gathered by the SEC demonstrates that Ledbetter was actively involved in attracting brokers to sell 1st Global's unregistered securities on behalf of 1st Global. One such broker was Goldstone Financial Group, which raised approximately \$30 million from investors for 1st Global. When Mike Pellegrino of the Goldstone Financial Group was introduced to 1st Global by a professional acquaintance, he was advised to speak with Mr. Ledbetter, who was described as "outside counsel for 1st Global" and "a securities attorney or a litigating securities attorney with thirty-five, forty years of experience." *See* Mike Pellegrino Deposition Transcript, attached as **Exhibit B**, at 38:19-39:14. Ledbetter assured Pellegrino that an MOI sold by 1st Global was "exempt from security laws or something like that." *Id.* at 49:8-22; *see also id.* at 59:23-60:25 (providing Ledbetter's detailed explanation for why, in his opinion, the MOIs were not securities). Pellegrino ultimately decided to have his firm sell 1st Global's MOIs in "reliance upon the information that was provided to me by Mr. Ledbedder [sic]." *Id.* at 78:23-79:12 (explaining that "I looked at him as a third-party, independent person, right. He described himself as outside legal counsel . . . So to me, that was saying, hey, I'm not with this company, I'm outside legal counsel.").

40. Ledbetter also presented Pellegrino (and many other individuals) with marketing materials indicating that 1st Global was “represented by the law firm of Kopelowitz Ostrow.” *See, e.g., id.* at 174:18–22.

41. Michael Latson, a senior analyst for 1st Global, further described Ledbetter’s deep involvement in selling the unregistered securities on behalf of 1 Global. Latson explained that, although Ledbetter did not work for 1st Global, he “received finder’s fees from 1st Global. His percentage varied from .75 percent to 1 percent of all the agents that brought in money to 1st Global.” Michael Latson Deposition Transcript, attached as **Exhibit C**, at 41:43–44:10. Describing the finder’s fee as a “commission,” Latson testified that Ledbetter “received in commission \$100,000 to upwards of 200 in any given month.” *Id.* at 87:10–88:23.

42. Ledbetter took the foregoing actions with KO’s approval, representing himself as a KO attorney, sending out official correspondence on KO letterhead, and informing individuals that KO was outside counsel for 1st Global. For example, while working at KO, Ledbetter provided updates on securities fraud cases on behalf of KO. *See, e.g.,* <https://myemail.constantcontact.com/Accusations-of-Fraud-at-Wells-Fargo-Spread-to-Sham-Insurance-Policies.html?soid=1108953382238&aid=qNCEY4WLxik>.

43. At the same time, KO publicly supported Ledbetter as one of their attorneys. When Ledbetter joined KO in 2014, KO ran an announcement in the Florida Bar News stating: “Ledbetter has joined Kopelowitz Ostrow in Ft. Lauderdale as of counsel. Ledbetter represents claimants who were victims of investment negligence or abuse. His practice also includes representing medical providers in claims against insurance companies, especially regarding enforcement of prompt pay statutes.” *See* <https://www.floridabar.org/news/tfb-news/?durl=%2FDIVCOM%2FJN%2Fjnnews01.nsf%2FArticles%2FE22A5937B3BFDD1185257DA8004E915B> As recently as October 2017, the KO website was touting Ledbetter as the

“founding partner of Ledbetter & Associates, P.A., a law firm which represented Claimants around the world who were victims of investment negligence or abuse.” See <https://web.archive.org/web/20170812051703/http://kolawyers.com/professionals/dale-ledbetter/>.

44. KO supported Ledbetter’s work in the business world and marketed Ledbetter’s credentials as an expert salesperson to burnish KO’s image. For example, KO’s website highlighted Ledbetter’s credentials as the “co-author of How Wall Street Rips you Off – and what you can do to defend yourself,” as well as books such as “The Ultimate Sales Professional, Success Yearbook and Bringing in the Business.” *Id.* KO attorneys also vouched for Ledbetter in public forums that touted Ledbetter’s business acumen. For instance, while working for KO, Ledbetter taught a class at Nova Southeastern University about “bringing in the business.” See <https://secure.business.nova.edu/ExecEd/sales-programs/bringing-in-the-business.cfm>. Nova’s website includes a testimonial from Michele Ostrow, Attorney, Kopelowitz Ostrow P.A., stating that “Dale provides key principles to success in all areas of business and relationships.” *Id.* Similarly, at a website marketing Ledbetter’s book, “Bringing in the Business,” Jan Atlas, a Kopelowitz Ostrow attorney who has repeatedly represented Ruderman and 1st Global, stated: “We practice what Dale Ledbetter teaches. Using his ideas, we have brought in a lot of business to our law firm.” See <http://bringinthebusiness.com/what-others-say/>.

45. Ledbetter’s work for 1st Global was just one facet of KO’s comprehensive representation of 1st Global and Ruderman. The comprehensive scope of KO’s representation of 1st Global further demonstrates that Ledbetter’s actions were taken in the course and scope of his employment with KO. For example, since 2015, KO attorneys have represented 1st Global and Carl Ruderman as both plaintiff and defendants in at least half a dozen different lawsuits. See, e.g., *1st Global Capital LLC v. Volt Electrical Systems LLC*, No. 17-61416-CIV-DIMITROULEAS (S.D. Fla.) (initiating lawsuit on behalf of 1st Global by KO attorneys Courtney Jared Bannan,

Steven Zakharyayev, Jan Douglas Atlas, and Kristen Lake Cardoso); *Carl Ruderman & 1 Global Capital LLC v. Adam Wolcott*, No. 16-000150 CACE (09) (Fla. 17th Jud. Cir.) (initiating lawsuit on behalf of 1st Global and Carl Ruderman by KO attorneys); *1 Global Capital LLC v. Jesse T Callis, et al*, No. 15-010514 CACE (09) (Fla. 17th Jud. Cir.) (initiating lawsuit by KO attorneys on behalf of 1st Global); *Whetstone Holdings, LLC v. Thorell*, No. 13–028075 CACE (07), 2015 WL 12804263 (Fla. 17th Jud. Cir. Oct. 28, 2015) (showing KO attorneys represented defendants Carl Ruderman and 1st Global); *Whetstone Holdings LLC v. Thorell*, No. 2013-033627-CA-01 (Fla. 11th Jud. Cir.) (showing KO attorneys represented defendant 1st Global). *See also, e.g., Reiseck v. Universal Communications of Miami, Inc.*, 141 F. Supp. 3d 1295 (S.D. Fla. 2015) (indicating that KO attorneys represented defendant Carl Ruderman).¹

46. Individuals who communicated and corresponded with Ledbetter reasonably believed the Ledbetter was offering advice in his capacity as 1st Global’s “outside counsel” (i.e., KO) and could do so based on KO’s expertise in practice areas such as securities litigation, commercial & general civil litigation, and corporate transactions. Ledbetter’s actions were taken in the ordinary course of KO’s business as 1st Global’s “outside advisors” and with KO’s actual or apparent authority.

DEFENDANTS’ OFFER AND SALE OF THE UNREGISTERED SECURITIES TO PLAINTIFF

47. On or about October 19, 2017, Plaintiff submitted a completed application to purchase a MOI issued by 1st Global, agreeing to invest \$75,000. Based on her submission, 1st

¹ As details of the 1st Global Ponzi scheme have emerged, KO and Ledbetter have attempted to distance themselves from each other. Ledbetter has been scrubbed from KO’s website, *see* <https://www.kolawyers.com/our-professionals/>, while Ledbetter has removed any reference to KO from his LinkedIn page. *See* <https://www.linkedin.com/in/daleledbetter/>. These superficial actions, however, do not change Ledbetter and KO’s liability for the actions they took together in service of 1st Global and Ruderman.

Global was aware that Plaintiff had limited investment experience and that her \$75,000 investment was more than half of her current liquid assets.

48. On or about October 26, 2017 1st Global from south Florida by email to Plaintiff in Arizona confirmed Plaintiff's \$75,000 investment. A true and accurate copy of 1st Global's October 26, 2017 confirmatory email is attached as **Exhibit D**.

49. Thereafter, 1st Global sent Plaintiff monthly statements depicting the performance of her investment, described as "the value of your portfolio."

50. Plaintiff reinvested her funds to purchase another MOI on or about July 21, 2018.

51. Approximately one week later, on July 28, 2018, 1st Global filed for bankruptcy.

52. On or about August 23, 2018, the SEC filed a civil action against 1st Global, alleging (among other things) the offer and sale of unregistered securities in violation of the Federal Securities Act.

CLASS ALLEGATIONS

53. Plaintiff brings her claims on behalf of herself and the following Nationwide Class:

All persons who, within the Class Period, invested in a 1st Global MOI, whether initial or by reinvestment.

(collectively, "the Class"). Excluded from the Class are Defendants, any of their affiliates and controlled entities, any trust in which they are either a settler or a beneficiary, and any members of their family, as well as any members of the judiciary to whom this case is assigned, their respective court staff, and the parties' counsel in the litigation.

54. The Class Period is one year from the date of filing of the initial Complaint for claims asserted under the Federal Securities Act and two years from the date of filing of the initial Complaint for claims asserted under the FSIPA.

55. Certification of the Class is appropriate and warranted under Florida Rule of Civil Procedure 1.220.

56. The members of the Class are so numerous that separate joinder of each member is impracticable, especially given that the SEC has estimated over 3,400 persons have purchased 1st Global's unregistered MOIs.

57. Plaintiff's contentions raise predominately questions of law or fact common to each member of the Class. These common legal and factual questions include, but are not limited to, the following:

- (A) whether the MOIs constitute a security under the Federal Securities Act;
- (B) whether the MOIs constitute a security under the FSIPA;
- (C) whether the MOIs were registered as required by the Federal Securities Act;
- (D) whether the MOIs were registered as required by the FSIPA;
- (E) whether the Ruderman is a "controlling person" liable for the offer and sale of unregistered securities under the Federal Securities Act;
- (F) whether KO and Ledbetter are liable as "statutory sellers" of the unregistered securities under the Federal Securities Act;
- (G) whether KO and Ledbetter are liable for the unlawful offer and sale of unregistered securities under the FSIPA;
- (H) whether Plaintiff and Class members are entitled to recessionary relief, damages or other forms of relief available under the Federal Securities Act and the FSIPA; and
- (I) whether Plaintiff and Class members are entitled to other equitable relief.

58. Plaintiff's claim is typical of the claim of each member of the Class, because, *inter alia*, all Class members were injured through the misconduct alleged herein. Plaintiff is advancing the same claim and legal theories on behalf of herself and all members of the Class.

59. Plaintiff will fairly and adequately protect and represent the interests of each member of the Class. Plaintiff is willing and prepared to serve the Court and the Class in a representative capacity with all of the obligations and duties material thereto. Plaintiff will fairly and adequately protect the interests of the members of the Class. Plaintiff has retained counsel experienced in complex consumer class action litigation, and Plaintiff intends to prosecute this action vigorously. Plaintiff has no adverse or antagonistic interests to those of the Class

60. In addition, Plaintiff satisfies the requisites of rule 1.220(b) by fulfilling rule 1.220(b)(3), since the questions of law or fact common to the claim of each member of the Class predominate over any question of law or fact affecting only individual members of the Class.

61. Finally, class representation is superior to other available methods for the fair and efficient adjudication of the controversy. In particular,

- (A) there is little economic incentive or other interest of Class members to individually prosecute separate claims,
- (B) Plaintiff is unaware of any other pending litigation to which any member of the Class is a party and in which any question of law or fact controverted in the subject action is to be adjudicated,
- (C) it is certainly desirable to concentrate this securities registration litigation in the 1st Global's home forum, and
- (D) there appear no difficulties likely to be encountered in the management of the claim or defense on behalf of the Class.

Judicial determination of the common legal and factual issues essential to this case would thus be far more efficient and economical as a class action than in piecemeal individual determinations.

FIRST CLAIM FOR RELIEF

**(Against Defendant Ruderman:
“Control Person” Liability for Federal Securities Law Violations
Based upon Sale of Unregistered Securities, 15 U.S.C. §§ 77e(a), 77(e)(c) & 77l(a)(1))**

62. Plaintiff refers to Paragraphs 1 through 61 of the First Amended Complaint, inclusive, and incorporates them by reference as though set forth in full.

63. Section 5(a) of the Federal Securities Act makes it unlawful for any person, directly or indirectly, to sell or deliver unregistered securities in interstate commerce. 15 U.S.C. § 77e(a). Section 5(c) of the Act requires the filing of a registration statement in order to offer or sell securities in interstate commerce. 15 U.S.C. § 77e(c).

64. Section 12(a)(1) of the Federal Securities Act provides that “[a]ny person who offers or sells a security in violation of [Section 5] * * * shall be liable * * * to the person purchasing such security from him, who may sue either at law or in equity in any court of competent jurisdiction, to recover the consideration paid for such security with interest thereon, less the amount of any income received thereon, upon the tender of such security, or for damages if he no longer owns the security.” 15 U.S.C. § 77l(a)(1).

65. Because the MOIs are securities, 1st Global’s offer or sale of the MOIs required registration under Sections 5(a) and 5(c), 15 U.S.C. §§ 77e(a) and 77e(c).

66. No registration statement was filed or in effect with the SEC pursuant to the Federal Securities Act or the FSIPA during the Class Period with respect to the securities issued by 1st Global and offered and sold to Plaintiff and the other members of the Class as described in this Complaint, and no exemption from registration existed with respect to those securities.

67. During the Class Period, the 1st Global and Defendants directly or indirectly

- (A) made use of any means or instruments of transportation or communication in interstate commerce or of the mails to sell securities, through the use or medium of a prospectus or otherwise;
- (B) carried or caused to be carried securities through the mails or in interstate commerce, by any means or instruments of transportation, for the purpose of sale or delivery after sale; or
- (C) made use of any means or instruments of transportation or communication in interstate commerce or of the mails to offer to sell or offer to buy through the use of medium of any prospectus or otherwise any security, without a registration statement having been filed or being in effect with the SEC as to such securities.

68. By reason of the foregoing the 1st Global violated Sections 5(a) and 5(c) of the Federal Securities Act. The three elements of a prima facie Section 5 violation are satisfied: [1] the sale or offer to sell securities, [2] the absence of a registration statement covering the securities, and [3] the use of the jurisdictional means.

69. Pursuant to Section 12(a)(1) of the Federal Securities Act, 15 U.S.C. § 77l(a)(1), “Any person who offers or sells a security . . . shall be liable to the person purchasing such security from him.” Section 12(a)(1)’s “strict” or “absolute” liability for the offer and sale of unregistered securities extends to any person who actively solicited the sale of the unregistered securities to the plaintiff and did so for financial gain of itself or the 1st Global. *Pinter v. Dahl*, 486 U.S. 622 (1988).

70. 1st Global is primarily liable Section 12(a)(1), because as alleged above it through direct and personal contact successfully solicited the purchase of the unregistered securities by Plaintiff and the Class motivated at least in part by a desire to serve its own financial interests.

71. Ruderman is secondarily liable for 1st Global's primary violation under the "controlling persons" provisions of 15 U.S.C. § 77o(a) ("Section 20"), which provide:

Every person who, by or through stock ownership, agency, or otherwise, or who, pursuant to or in connection with an agreement or understanding with one or more other persons by or through stock ownership, agency, or otherwise, controls any person liable under sections 77k or 77l of this title, shall also be liable jointly and severally with and to the same extent as such controlled person to any person to whom such controlled person is liable, unless the controlling person had no knowledge of or reasonable ground to believe in the existence of the facts by reason of which the liability of the controlled person is alleged to exist.

72. Throughout the Class Period, Ruderman was, directly or indirectly, a control person of the 1st Global, as he through ownership, agency or otherwise controlled the 1st Global. As the SEC stated in its amended complaint, Ruderman "received daily, weekly, and monthly reports on the status of MCA loans, fundraising from investors, MCA collection efforts, and company finances, and often criticized subordinates who did not get him exactly what he wanted."

73. For example, in a sworn declaration (attached as **Exhibit E**), 1st Global's former Chief Compliance Officer, Lyn Sohun, stated that "Ruderman reviewed and approved the monthly account statements before they went out to investors. Ruderman gave all of the directives at 1 Global, and totally ran the company with an autocratic style of leadership." Ex. E at ¶ 15. 1st Global's former Director of Accounting and Finance, Richard Samuels, also submitted a sworn declaration (attached as **Exhibit F**) detailing the ways in which Ruderman personally controlled 1st Global and its finances.

74. The extent of Ruderman's control over 1st Global was summarized by Michael Latson, a senior analyst for 1st Global. Latson testified that while Ruderman was nominally 1st Global's chairman, "for all intents and purposes, he was effectively the CEO . . . he managed every process of the organization. He was always in the sales department pushing sales. He was always in every collections meetings talking with them about merchants who had defaulted. He was in

charge of just about every department . . . he was there every day . . . he oversaw the capital raising [the money raised from lenders] . . . the statements that was sent out to the lenders . . . the technology rollout of the systems.” Ex. D at 48:23–50:17.

75. Ruderman himself admitted to his control of the company, writing in one email, “I’m personally on top of all operations from 8 am to 6:30 pm everyday!” See Email from Carl Ruderman dated Dec. 24, 2016, attached as **Exhibit G**.

76. Accordingly, pursuant to Section 20, Ruderman is jointly and severally liable to Plaintiff and the Class.

77. Plaintiff’s action under the Federal Securities Act is timely brought through the filing of Plaintiff’s initial Complaint within one year of her MOI purchases.

SECOND CLAIM FOR RELIEF

(Against Defendants KO and Ledbetter: “Statutory Seller” Liability for Federal Securities Law Violations Based upon Sale of Unregistered Securities, 15 U.S.C. §§ 77e(a), 77(e)(c) & 77l(a)(1))

78. Plaintiff refers to Paragraphs 1 through 77 of the First Amended Complaint, inclusive, and incorporates them by reference as though set forth in full.

79. By reason of the foregoing 1st Global violated Sections 5(a) and 5(c) of the Federal Securities Act. The three elements of a prima facie Section 5 violation are satisfied: [1] the sale or offer to sell securities, [2] the absence of a registration statement covering the securities, and [3] the use of the jurisdictional means.

80. Pursuant to Section 12(a)(1) of the Federal Securities Act, 15 U.S.C. § 77l(a)(1), “Any person who offers or sells a security . . . shall be liable to the person purchasing such security from him.” Section 12(a)(1)’s “strict” or “absolute” liability for the offer and sale of unregistered securities extends to any person who actively solicited the sale of the unregistered securities to the

plaintiff and did so for financial gain of itself or the 1st Global. *Pinter v. Dahl*, 486 U.S. 622 (1988).

81. Ledbetter and KO are with 1st Global primarily liable as a statutory seller under Section 12(a)(1), because as alleged above they too through direct and personal contact successfully solicited the purchase of the unregistered securities by Plaintiff and the Class, motivated at least in part by a desire to serve their own financial interests or those of 1st Global.

82. Accordingly, Ledbetter and KO are under Section 12(a)(1) jointly and severally liable to Plaintiff and the Class.

83. Alternatively, because Ledbetter acted within the scope and course of his employment with KO, KO is liable for his actions under the doctrine of *respondeat superior*.

84. Plaintiff's action under the Federal Securities Act is timely brought through the filing of Plaintiff's initial Complaint within one year of her MOI purchases.

THIRD CLAIM FOR RELIEF
(Against Defendants Ruderman, KO and Ledbetter:
FSIPA Violations under §§ 517.07 & 517.211, Fla. Stat.)

85. Plaintiff refers to Paragraphs 1 through 84 of the First Amended Complaint, inclusive, and incorporates them by reference as though set forth in full.

86. Pursuant to section 517.07, Florida Statutes ("Section 517.07"), it is unlawful for a person to offer to sell or to sell securities from the State of Florida unless such securities are registered or exempted from registration. "Failure to register [a security] results in strict liability for the rescission of the transactions." *Musolino v. Yeshiva Machzikei Hadas Belz*, 137 F. App'x 321, 323 (11th Cir. 2005).

87. Violations of the FSIPA arising out of conduct in the state of Florida are actionable by victimized investors residing both within and without of Florida.

88. Each MOI offered and sold to Plaintiff constituted a “security” under the FSIPA for the same reasons it constitutes a “security” under the Federal Securities Law. *Honig*, 2018 WL 4502174, at *2.

89. At no time during the Applicable Class Period were the MOIs registered for sale in Florida under Section 517.07.

90. Pursuant to section 517.211, Florida Statutes (“Section 517.211”), every sale made in violation of Section 517.07 “may be rescinded at the election of the purchaser,” and “[e]ach person making the sale and every director, officer, partner, or agent of or for the seller, if the director, officer, partner, or agent has personally participated or aided in making the sale, is jointly and severally liable to the purchaser in an action for rescission, if the purchaser still owns the security, or for damages, if the purchaser has sold the security.”

91. As alleged above, Ruderman was at all material times a “director, officer, partner, or agent” of 1st Global who “personally participated or aided in making the sale,” and accordingly is under Section 517.211 liable for the sale of unregistered securities in violation of Section 517.07.

92. As alleged above, and as admitted by Ruderman, KO and Ledbetter were “responsible for preparing and disseminating 1 Global’s marketing materials to potential lenders (through the sales agent network), and for supervising and overseeing the marketing efforts by the sales agent network, including their representations and statements to potential lenders.” Furthermore, “not only did KO oversee the company’s efforts to raise funds, but it prepared the MOI contracts between 1 Global and its individual lenders,” and “when 1 Global sought advice as to whether the MOIs were securities that needed to be registered under the Securities Act, KO advised 1 Global that these were notes that did not need to be registered with the SEC.”

93. KO and Ledbetter therefore acted as “an agent of or for” 1st Global who “personally participated or aided in making the sale,” and accordingly are under Section 517.211 liable for the sale of unregistered securities in violation of Section 517.07.

94. Alternatively, because Ledbetter acted within the scope and course of his employment with KO, KO is liable for his actions under the doctrine of *respondeat superior*.

95. Plaintiff’s action under the FSIPA is timely brought within two years of her MOI purchases.

TENDER

96. Conditioned upon the receipt of the recessionary relief afforded under the Federal Securities Act and the FSIPA, Plaintiff tenders her MOIs to Defendants.

PRAYER

WHEREFORE, Plaintiff prays for judgment against Defendants as follows on behalf of herself and the Class:

- A. For rescission of all purchases of MOIs during the Class Period, and for return of all monies paid in connection with such purchases, in an amount to be proven at trial;
- B. Alternatively, for recessionary damages in an amount to be proven at trial;
- C. For prejudgment interest at the maximum rate allowed by law;
- D. For Plaintiff’s costs of suit herein;
- E. For reasonable attorneys’ fees to the extent allowed by statute or common fund;
- F. For costs of consultants, investigations, and discovery and other expenses incurred as necessary to mitigate damages resulting from Defendants’ wrongful conduct; and
- G. For such other and further relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands trial by jury of all issues so triable.

Dated this 2nd day of October , 2018.

Respectfully submitted,

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Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on this October 2, 2018, I served the foregoing document by U.S.P.S. on the persons set forth on the service list.

By: s/ Adam M. Moskowitz

SERVICE LIST

Carl Ruderman
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EXHIBIT A

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

CASE NO. 18-cv-61991-BB

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

**1 GLOBAL CAPITAL LLC, and
CARL RUDERMAN,**

Defendants, and

1 WEST CAPITAL LLC, et al.,

Relief Defendants.

**DEFENDANT CARL RUDERMAN'S MEMORANDUM IN OPPOSITION TO
PRELIMINARY INJUNCTION**

Defendant Carl Ruderman, through undersigned counsel, hereby submits this memorandum in opposition to the SEC's request for a preliminary injunction. This memorandum previews the various grounds on which Mr. Ruderman will oppose the SEC's request for a preliminary injunction imposing a blanket asset freeze on Mr. Ruderman at the hearing scheduled for September 20, 2018. For the reasons stated below, and as will be shown in further detail at the upcoming hearing, the Court should deny the request for a preliminary injunction or, at a minimum, substantially narrow the scope of the proposed asset freeze.

INTRODUCTION

Despite openly investigating 1 Global Capital LLC ("1 Global") for several months, the SEC initiated this action under seal without notice to Mr. Ruderman, the former chairman of 1

Global, and moved *ex parte* for an asset freeze. The SEC's *ex parte* submission was one-sided. It failed to provide the Court with a complete picture of the facts and omitted crucial details necessary to determine the imposition of a severe, blanket asset freeze. The submission did not inform the Court that Mr. Ruderman was not involved in 1 Global's representations to purported investors; that 1 Global's marketing and sales to these "investors"—including the preparation of marketing materials that the SEC claims are misleading—were overseen by attorneys at a large Fort Lauderdale law firm; and that the same law firm was involved in approving of and putting together transactions the SEC claims were inconsistent with representations made to 1 Global's investors or were a misappropriation of company assets. These factual omissions in the SEC's papers are especially notable in an *ex parte* posture. For this reason, "our entire jurisprudence runs counter to the notion of court action taken before reasonable notice and an opportunity to be heard has been granted both sides of a dispute." *See Granny Goose Foods, Inc. v. Bhd. of Teamsters & Auto Truck Drivers Local No. 70 of Alameda Cty.*, 415 U.S. 423, 439 (1974).

The SEC did not want to share these details with the Court for an obvious reason: they show that Mr. Ruderman did not *knowingly* violate the securities laws, a key element of the SEC's claims. Without proving the requisite *mens rea*, the SEC cannot prevail on its securities fraud claims, nor could it have persuaded this Court to enter an *ex parte*, blanket asset freeze over Mr. Ruderman's personal and family assets. We will show the Court that Mr. Ruderman, age 76, is not liable for securities fraud. He operated the company at a top-level, delegating all of the operational details to other executives and his lawyers. And to the extent there is a shortfall of funds (and there is not), it is attributed to legitimate business transactions by 1 Global that ended up having negative outcomes. But that is not a securities violation. That's business.

As shown below, the Court should deny the SEC’s request for a preliminary injunction imposing a blanket asset freeze. *First*, the SEC has not established a *prima facie* case of securities violations by Mr. Ruderman, most notably due to his lack of intent. *Second*, even if the Court elects to impose an asset freeze, the freeze requested by the SEC is improper and exceedingly onerous. It encompasses assets with no nexus to the alleged securities violations, including assets pre-dating 1 Global’s operations and any future income obtained by Mr. Ruderman. Under the existing asset freeze, Mr. Ruderman has no way of supporting his family, which includes his wife and three young children, or of paying for his legal fees and expenses. The Court cannot impose such an injunction—it runs counter to case law and notions of fairness and due process.

BACKGROUND

A. 1 Global Operated with the Extensive Involvement of Legal Counsel

1 Global is a Florida company that provided direct merchant cash advances (“MCAs”) to small and medium-sized businesses. *See* Chapter 11 Case Management Summary, *In re Global Capital LLC*, Case No. 18-19121-RBR (S.D.Fla.), at ¶ 2 (the “Case Summary”). Mr. Ruderman was previously the chairman of 1 Global. The MCAs issued by 1 Global were essentially high-interest, short-term commercial loans, memorialized through “merchant agreements” and secured by an assignment of the merchant’s accounts receivable and future receipts. *See* SEC Emergency *Ex Parte* Motion for Asset Freeze (“SEC Motion”), Exhibit 24; *see also* Case Summary ¶ 3. Under the merchant agreements, the merchants were required to repay the cash advance by sending daily ACH payments to 1 Global until the full loan amount—typically 115-130% of funds advanced by 1 Global—was fully repaid. *See* SEC Motion, Ex. 32. There is a large industry of companies that offer MCAs to small businesses. For example, a survey conducted by the Federal Reserve found

that 7% of small businesses had applied for MCA financing. *See* Small Business Credit Survey (2017), Federal Reserve of Banks¹.

To finance the MCAs that it extended to small businesses, 1 Global borrowed money through short-term loans from individuals, maturing in nine months. *See* Case Summary ¶ 4; *see also* SEC Motion, Exs. 23, 53. These loans were memorialized through memorandums of indebtedness (MOIs) between 1 Global and the individual lenders or note holders. *Id.* Under the MOIs, the lender authorized 1 Global to use the loan funds to “expand its current business activities” in its “sole discretion.” *See* SEC Motion, Ex. 23 ¶ 7. Contrary to the SEC’s *ex parte* submission, the MOIs do not require that 1 Global use the loan funds only to fund MCAs. *Id.* In exchange for the loan, the individual lender received a 3% interest rate and additional income based on the profits of the MCAs and other activities financed by the lender’s funds. *Id.* ¶ 8.

Importantly, Mr. Ruderman hired the law firm of Kopelowitz Ostrow (KO) to assist 1 Global (and him) in all aspects of the company’s business operations. KO is a Fort Lauderdale-based, full-service law firm with almost forty lawyers. As will be shown, KO’s involvement in 1 Global was pervasive and substantial, and included forming the company, overseeing the company’s efforts to raise capital from individual lenders, and assisting with transactions involving third-party entities such as Bright Smile and Ganador, which the SEC has incorrectly described as misappropriations of investor funds. *See* SEC Motion at 20.

First, 1 Global’s marketing operations to potential individual lenders—described by the SEC as investors—was spearheaded by an attorney at KO (the “KO Attorney”) who, to our knowledge, recently left the firm. As noted by the SEC, 1 Global raised capital from individual

¹ Available at <https://www.fedsmallbusiness.org/medialibrary/fedsmallbusiness/files/2018/sbcs-employer-firms-report.pdf>

lenders through a network of sales agents who were independent contractors and who were paid on a commission basis. *See* SEC Motion at 9. The KO Attorney was responsible for overseeing 1 Global's entire network of sales agents, and received a commission "override" on all capital raised by these agents. In this role, the KO Attorney was responsible for preparing and disseminating 1 Global's marketing materials to potential lenders (through the sales agent network), and for supervising and overseeing the marketing efforts by the sales agent network, including their representations and statements to potential lenders. The SEC's own papers evidence the KO Attorney's involvement here. In support of its motion, the SEC submitted an e-mail where 1 Global forwarded the company's marketing materials to a sales agent. *Id.*, Ex. 24. The e-mail was sent "[a]t the request of [the KO Attorney]." *Id.* Carl Ruderman was not copied to that e-mail, nor to any other e-mails where marketing materials were disseminated. *See, e.g. id.*, Ex. 25. Indeed, the SEC has not submitted any evidence of Mr. Ruderman's involvement in the preparation of 1 Global's marketing materials. Importantly, KO never advised Mr. Ruderman that 1 Global's marketing materials were in any way misleading.

Second, not only did KO oversee the company's efforts to raise funds, but it prepared the MOI contracts between 1 Global and its individual lenders. Moreover, when 1 Global sought advice as to whether the MOIs were securities that needed to be registered under the Securities Act, KO advised 1 Global that these were notes that did not need to be registered with the SEC.

Third, KO was involved in 1 Global's decisions regarding deployments of "investor" capital that the SEC alleges were inconsistent with 1 Global's marketing materials. The SEC alleges that 1 Global misrepresented to investors that it would only deploy capital to finance small-scale MCAs, when in fact the company extended \$50 million to Travis Portfolio ("Travis") to purchase credit card debt. *See* SEC Motion at 15. But the SEC did not inform the Court that the

KO Attorney introduced Travis to 1 Global, that the KO Attorney was aware of the Travis transaction(s), and that the KO Attorney elected to continue disseminating marketing materials that did not disclose 1 Global's transactions with Travis. KO never informed Mr. Ruderman that 1 Global's transactions with Travis were improper or inconsistent with its marketing materials.

Fourth, KO was involved in transactions that the SEC alleges constituted misappropriation of "investor" funds. The SEC alleges that Mr. Ruderman improperly transferred funds from 1 Global to Bright Smile LLC, a company that extended loans for dental and cosmetic procedures, and to Ganador LLC, a consumer loan company. *See* SEC Motion at 20. But another KO attorney, who handled 1 Global's compliance and transactional needs, helped establish Bright Smile and served as the trustee the Bright Smile Trust, which owned Bright Smile. *Id.*, Ex. 37 at § 9. Also, KO prepared Ganador's operating agreement, which set out that Ganador received a multi-million loan from 1 Global (which the SEC claims was improper). *Id.*, Ex. 14 § 3.1. Despite its involvement in these transactions, KO never advised Mr. Ruderman they were problematic.

B. Mr. Ruderman's Untainted Assets Subject to the Proposed Freeze

Before he formed 1 Global, Mr. Ruderman was a successful, wealthy businessman. The SEC's proposed asset freeze attempts to restrain Mr. Ruderman's ability to transfer, sell, or spend untainted assets or funds that he obtained before 1 Global even began operating (the "Pre-1 Global Assets"). Relevant here, the Pre-1 Global Assets include (i) Mr. Ruderman's homestead residence located at 20165 NE 39th Place, #TS1, Aventura, Florida 33180 (the "Residence"), which he purchased in October 1999 for \$2.7 million, and (ii) a \$1 million deferred annuity purchased by Mr. Ruderman from Lincoln Financial Group in October 2012, for which his wife is the current beneficiary (the "Annuity").

ARGUMENT

I. The Court Should Deny the Entry of the Requested Asset Freeze

The SEC's proposed asset freeze is a preliminary injunction under Rule 65. *See SEC v. Concorde Am., Inc.*, No. 05-80128-CIV, 2005 WL 8156911, at *5 (S.D. Fla. Aug. 8, 2005) (an order freezing assets is either a temporary restraining order or a preliminary injunction under Rule 65); *see also SEC v. Asset Recovery & Mgmt. Tr., S.A.*, 340 F. Supp. 2d 1305, 1309 (M.D. Ala. 2004) ("for this court to freeze the assets in question, it must make findings warranting a preliminary injunction"). The burden is on the SEC because it is the movant. *See FTC v. U.S. Mortg. Funding, Inc.*, No. 11-CV-80155, 2011 WL 810790, at *1 (S.D. Fla. Mar. 1, 2011). The SEC claims that its only burden to obtain an asset freeze is for the Court to "find some basis for inferring a violation of the federal securities laws." *See* SEC Motion a 23. But this misstates the SEC's burden and the law, and if adopted would essentially allow the SEC to obtain an asset freeze in every single enforcement action that it brings. That cannot be the case.

Before entering an asset freeze, the SEC must establish a *prima facie* case of violations of the federal securities laws. *See SEC v. Creative Capital Consortium, LLC*, No. 08-81565-civ-Middlebrooks, 2009 WL 10664544, at *2 (S.D. Fla. 2009). And the Court should also consider "the egregiousness of the defendant's actions, the isolated or recurrent nature of the infraction, and the degree of scienter involved," among other factors. *Id.* (citation omitted). The more onerous the injunction sought by the SEC, the more severe its burden. *See SEC v. Compania Internacional Financiera S.A.*, No. 11 CIV 4904, 2011 WL 3251813, at *7 (S.D.N.Y. July 29, 2011) ("Like any litigant, the Commission [is] obliged to make a more persuasive showing of its entitlement to a preliminary injunction the more onerous are the burdens of the injunction it seeks."). As shown below, the SEC is not entitled to a preliminary injunction here.

A. The SEC Cannot Establish *Prima Facie* Securities Violations

The SEC will not be able to establish a *prima facie* case of securities fraud. In order to prove a securities fraud claim under Section 17(a)(1) of the Securities Act, Section 10(b) of the Exchange Act, and Rule 10b-5, the SEC must establish (1) material misrepresentations or materially misleading omissions, (2) in the offer or sale of securities, (3) made with scienter. *See SEC v. Merchant*, 483 F.3d 747, 766 (11th Cir. 2007). Scienter is “a mental state embracing intent to deceive, manipulate or defraud.” *See Ernst & Ernst v. Hochfelder*, 425 U.S. 185, 193 n.12 (1976). To establish scienter, the SEC must show that a defendant made a material misstatement, not merely innocently or negligently, but with an intent to deceive. *See SEC v. Betta*, No. 09-80803-Civ-Marra, 2011 WL 4369012, at *9 (S.D. Fla. Sept. 19, 2011). Claims under Section 17(a)(2) and (3) have the same elements except that they require negligence. *Merchant*, 483 F.3d at 766. For several reasons, the SEC fails to satisfy these elements.

First, as to the SEC’s claims under Section 10(b), those claims are not viable because the MOIs entered into by lenders are notes that mature within nine months and, thus, not considered securities subject to claims under the Exchange Act. *See* 15 U.S.C. § 78c(a)(10) (notes with a maturity not exceeding nine months are not considered “securities” under the Exchange Act); *see also SEC v. Better Life Club of Am., Inc.*, 203 F.3d 54 (D.C. Cir. 1999) (notes exempt under § 78c(a)(10) are not subject to securities fraud claims under the Exchange Act).

Second, 1 Global’s marketing materials did not make material misrepresentations or omissions to the company’s note holders. 1 Global operated consistent with its marketing materials: it almost exclusively funded MCAs to small and medium-sized businesses. While the SEC focuses on transactions with Travis and others with an auto-dealership, those transactions were of a similar nature to MCAs but simply larger. And those transactions were not prohibited

under the MOIs, which did not restrict 1 Global to small MCAs, but rather entrusted 1 Global with complete discretion regarding its funding decisions.

Third, Mr. Ruderman did not make direct representations to 1 Global's individual lenders and he did not participate in the preparation or dissemination of 1 Global's marketing materials to prospective lenders. *See SEC v. Tambone*, 417 F. Supp. 2d 127, 136 (D. Mass. 2006) ("Because the defendants in the case at bar were not responsible for the misleading disclosures in the funds' prospectuses, they were under no duty to correct those statements if they became misleading").

And, *fourth*, and most important, Mr. Ruderman did not possess the requisite scienter regarding any of the misrepresentations alleged by the SEC. Mr. Ruderman retained the services of and involved a law firm—Kopelowitz Ostrow—in virtually all aspects of 1 Global's business operations, and entrusted them with ensuring 1 Global complied with the securities laws. Lawyers at KO prepared 1 Global's marketing materials to note holders; vetted and participated in approving of 1 Global's transaction with Travis; and participated in and memorialized 1 Global's loans to Ganador and Bright Smile, among other things. KO never counseled Mr. Ruderman (or the company itself) that 1 Global was violating—or even at risk of violating—the securities laws with respect to any of the conduct at issue here. And, naturally, Mr. Ruderman heavily relied on KO's approval and assurances regarding 1 Global's business activities. Based on these facts, Mr. Ruderman will be able to establish an advice of counsel defense, or he will at least demonstrate that he acted in good faith and without scienter. *See SEC v. Huff*, 758 F. Supp. 2d 1288, 1348-49 (S.D. Fla. 2010); *see also Markowski v. SEC*, 34 F.3d 99, 104-05 (2d Cir. 1994).

Moreover, with respect to the SEC's allegations that the monthly account statements received by note holders were materially inaccurate, any inaccuracies (to the extent any existed) were due to sloppy book-keeping, and not intentional or knowing misconduct by Mr. Ruderman.

Indeed, while contending that Mr. Ruderman committed misrepresentations in these account statements due to inaccurate figures concerning the note holder's accounts, the SEC's own submission contains multiple declarations by former 1 Global employees who stated that the company's accounting records and books were in disarray. *See, e.g.*, SEC Motion, Ex. 7 (former chief compliance officer: "1 Global's books and records were in . . . disarray"); Ex. 8 (former director of finance: "[1 Global's] internal financial records were not in good order").

B. Equitable Factors Disfavor a Preliminary Injunction

In addition, the factors set forth by Judge Middlebrooks in *Creative Capital* weigh against an asset freeze. *See* 2009 WL 10664544, at *2. Mr. Ruderman's actions here were not egregious and lacked scienter. Mr. Ruderman did not intend to commit any securities violations, nor was he negligent. He managed 1 Global with the close assistance and guidance of outside counsel, which spearheaded the company's capital-raising efforts and assisted him with transactions the SEC claims were improper. And Mr. Ruderman was barely involved in raising capital from outside note holders, and had no involvement in preparing the marketing materials that the SEC claims contain misrepresentations. This is completely different from a case where a defendant intentionally sets out to defraud investors and was personally involved in the alleged securities violations. Further, this is the first time that Mr. Ruderman has been alleged to have committed securities violations and is the subject of an SEC enforcement action.

In addition, while the SEC may raise that Mr. Ruderman asserted his Fifth Amendment privilege in a deposition taken on an expedited basis in this case, it should be noted that we counseled Mr. Ruderman to assert his privilege because, at the time, Mr. Ruderman had not had the opportunity to review any of the relevant documents with his counsel. Indeed, to date, we have made various requests to KO for client files and records without success, and we are just beginning

to review voluminous records that were recently provided by 1 Global. Mr. Ruderman's counsel could not possibly allow its 76-year old client to sit for a deposition taken by the SEC without adequate preparation, especially given the serious nature of the SEC's allegations.

II. If the Court Imposes an Asset Freeze, It Must Exclude Untainted Assets

If the Court elects to impose a preliminary injunction imposing an asset freeze on Mr. Ruderman for the duration of this case, it must modify the asset freeze so that it only affects assets of Mr. Ruderman that are directly traced to the alleged securities violations here.

There is substantial case law in regulatory enforcement actions imposing this requirement on the scope of an asset freeze because a court's equitable jurisdiction under regulatory statutes extends only to specific assets that were obtained through violative conduct. *See CFTC v. Next Fin. Servs. Unlimited, Inc.*, No. 04-80562-cv-Ryskamp, 2005 WL 6292467, at *12 (S.D.Fla. June 7, 2005) ("A claim for equitable relief will only warrant imposition of a pre-judgment asset freeze when the freeze bears a sufficient nexus to both the merits of the action and the particular property sought."); *see also CFTC v. Aliaga*, No.10-21074-cv-Cooke, 2011 WL 766271, at *2 (S.D.Fla. Feb. 25, 2011) ("The propriety of the Statutory Restraining Order hinges on whether the CFTC has made sufficient allegations . . . to establish a nexus between the assets held . . . and the Defendants' alleged misconduct."). In *FTC v. Netran Devel. Corp.*, Judge Ungaro closely examined this issue and denied an asset freeze on this basis. She stated:

Here, because the availability of an asset freeze under [Section] 13(b) of the FTC Act derives from the Court's equitable jurisdiction, it follows that in order to grant such relief, there must be a nexus between those assets and the illegal gains akin to a tracing of assets.

See Order Adopting Magistrate's Report and Recommendation, No. 05-22223-cv-Ungaro (DE 80) at 10 (emphasis added).

Here, the existing asset freeze—which the SEC seeks to extend in a preliminary injunction—restrains *all* of Mr. Ruderman’s assets, even if there is no nexus between the frozen asset and the alleged securities violations at issue in this case. *See* Order Granting Asset Freeze (DE 13) at 3 (prohibiting Mr. Ruderman from dealing with “any assets or property” that are “owned by, controlled by, or in the possession of, whether jointly or singly, [Mr. Ruderman]”). This blanket freeze is improper in two specific ways and must be modified.

First, the freeze restrains Mr. Ruderman’s personal and family assets that pre-dated 1 Global. As noted, Mr. Ruderman had substantial assets before 1 Global was established—assets that obviously lack any nexus to Mr. Ruderman’s purported securities violations. Yet, the requested freeze would improperly restrain Mr. Ruderman and his family’s ability to access those untainted assets. Specifically, the freeze would restrain Mr. Ruderman’s family Residence (which he purchased over 14 years before 1 Global), and a \$1 million Annuity purchased approximately 2 years before 1 Global. Without being able to access, control, or sell these clean assets, Mr. Ruderman—like any other defendant in this situation—will be unable to pay for his family’s living expenses (including those of his three dependent children) as well as his legal fees.

FTC v. Washington Data is instructive here. There, faced with a defendant in a regulatory action who had substantial assets before the alleged regulatory violations occurred, the Court denied an asset freeze over personal assets that pre-dated the conduct at issue. The Court stated:

By my consideration, the available evidence demonstrates that Bishop had significant income in 2006 and especially 2007, income which indisputably was unrelated to the activity alleged by the FTC. . . . Furthermore, certain of his financial accounts existed before the pertinent time period in 2008 and 2009 and cannot be causally related to the alleged improper activities in this case. While the FTC seeks to impose personal liability against Bishop . . . **I conclude that assets amassed prior to the alleged wrongdoing should be excluded from any asset freeze.**

FTC v. Washington Data Res., No. 8:09-CV-2309-T-23TBM, 2011 WL 3566612, at *4 (M.D. Fla. July 15, 2011), *adopted*, No. 8:09-CV-2309-T-23TBM, 2011 WL 3566208 (M.D. Fla. Aug. 12, 2011) (emphasis added). Similarly, here, the Court should exclude from the scope of the proposed asset freeze Mr. Ruderman's Residence, the Annuity, and any other Pre-1 Global Assets.

Second, the asset freeze improperly purports to freeze even those assets or income obtained by Mr. Ruderman in the future. Asset freezes imposed in regulatory actions do not freeze future income or assets acquired by the subject defendant. That way, the defendant is still able to earn income and pay for his or her family's living expenses. *See, e.g.*, Preliminary Injunction (DE 105) at 40, *FTC v. World Patent Marketing*, Case No. 17-cv-20848-civ-Gayles (S.D.Fla.) (asset freeze did not apply to assets "obtained after date and time this Order was entered" unless they were derived from "Defendants' activities as alleged in the . . . Complaint"); *see also* Preliminary Injunction (DE 22) at 9, *FTC v. American Student Loan Consolidators*, Case No. 17-cv-61862-civ-Gayles (S.D.Fla.) (asset freeze did not apply to "assets obtained by Defendants after this Order is entered" unless the assets "derived from any activity that is the subject of the Complaint"). But here, the SEC's proposed asset freeze does not include this basic exclusion and purports to apply to future, untainted assets. Thus, if Mr. Ruderman earns income from a future business or employment, that income would ostensibly be subject to the proposed asset freeze. This is beyond onerous. The Court should therefore modify the scope of the proposed asset freeze to exclude any assets obtained by Mr. Ruderman after the asset freeze is entered unless somehow the assets are derived from the alleged securities violations asserted by the SEC in its Complaint.

In sum, as currently structured, the SEC's proposed asset freeze would deprive Mr. Ruderman and his family of access to untainted assets—those pre-existing 1 Global or obtained in the future—that the Ruderman family needs to be able to live. Mr. Ruderman needs to be able to

pay for housing, for his young children's schools, for basic life necessities, for health insurance, and for counsel in this action, among other things. Mr. Ruderman should be able to pay for these necessities with assets bearing no nexus to this action. The SEC's proposed freeze would prevent him from doing so. Such an asset freeze is exceedingly draconian and improper under the law.

CONCLUSION

For the foregoing reasons, the Court should deny the SEC's request for a preliminary injunction imposing an asset freeze on Mr. Ruderman. Alternatively, if the Court enters an asset freeze, the Court should substantially narrow its scope so that it applies to only those assets of Mr. Ruderman with a nexus to the securities violations alleged by the SEC.

Dated: September 14, 2018

Respectfully Submitted,

/s/ Michael A. Pineiro

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CERTIFICATE OF SERVICE

I hereby certify that on September 14, 2018, a true and correct copy of the foregoing memorandum was served via CM/ECF on all counsel or parties of record.

By: /s/ Michael A. Pineiro
Michael A. Pineiro

EXHIBIT B

FL-04148

PELLEGRINO_MICHAEL_20180802

8/2/2018 9:01 AM

Condensed Transcript

Prepared by:

Sean O'Neill
FL-04148

Thursday, August 09, 2018

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12	12
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14 DAVID PORTEOUS, ESQ.	14
15 Faegre, Baker, Daniels	15
16 [REDACTED]	16
17 [REDACTED]	17
18 Chicago, Illinois 60606	18
19 (312) 356-5117	19
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1 PROCEEDINGS

2 MR. LEVENSON: We are on the record then at

3 9:01 a.m. Eastern time on August 2nd, 2018.

4 Mr. Pellegrino, could you please raise your

5 right hand.

6 Do you swear to tell the truth, the whole

7 truth, and nothing but the truth?

8 MR. PELLEGRINO: Yes.

9 Whereupon,

10 MICHAEL PELLEGRINO

11 was called as a witness and, having been first duly

12 sworn, was examined and testified as follows:

13 MR. LEVENSON: Okay.

14 Could you please state your name and spell it

15 for the record.

16 THE WITNESS: Michael Pellegrino,

17 M-I-C-H-A-E-L, last name, P-E-L-L-E-G-R-I-N-O.

18 MR. LEVENSON: Thank you.

19 My name is Bob Levenson. I'm an officer of

20 the

21 Commission for purposes of this proceeding. And with me

22 is Gary Miller, who is also an officer of the Commission

23 for purposes of this proceeding.

24 This is an investigation by the United States

25 Securities and Exchange Commission in the matter of 1

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1 Global Capital, LLC to determine whether there have been

2 violations of certain provisions of the federal

3 securities laws; however, the facts developed in this

4 investigation might constitute violations of other

5 federal or state, civil or criminal laws.

6 Mr. Pellegrino, prior to the opening of the

7 record, I put in front of you two documents. The first

8 being the unmarked document, the Formal Order of

9 Investigation in this matter. It's the three-page

10 document, dated March 16th of 2018. Do you have that?

11 THE WITNESS: Yes.

12 MR. LEVENSON: And am I correct, I provided

13 you

14 with a copy of the Formal Order prior to the beginning

15 of

16 testimony today?

17 THE WITNESS: Yes.

18 MR. LEVENSON: Have you had a chance to review

19 the Formal Order?

20 THE WITNESS: Correct. Yes. This one? Yes.

21 MR. LEVENSON: Okay. Yes.

22 Do you have any questions about it?

23 THE WITNESS: No, not at this time.

24 MR. LEVENSON: Okay.

25 It will be available to you during today's

Page 7

1 testimony if you wish to refer to it. Okay?

2 THE WITNESS: Okay.

3 MR. LEVENSON: In addition, I put marked in

4 front of you another document marked as Exhibit 1. It's

5 the Commission's Supplement Form 1662 governing our uses

6 of information. Do you have that in front of you?

7 THE WITNESS: I do.

8 MR. LEVENSON: And do you agree, I provided

9 you

10 with a copy prior to the beginning of the testimony?

11 THE WITNESS: Yes.

12 MR. LEVENSON: Have you had a chance to review

13 it?

14 THE WITNESS: I have not.

15 MR. LEVENSON: Do you want a chance to review

16 it?

17 THE WITNESS: If I could, that'd be great.

18 MR. LEVENSON: Yes.

19 Why don't we go off the record and give

20 Mr. Pellegrino a chance to review that document.

21 (A brief recess was taken.)

22 (Mr. Miller is not present in the room.)

23 MR. LEVENSON: Back on the record.

24 Mr. Pellegrino, have you now had an

25 opportunity

Page 8

1 to review the Form 1662?

2 THE WITNESS: I have.

3 MR. LEVENSON: And do you have any questions

4 about it?

5 THE WITNESS: Not at this time.

6 MR. LEVENSON: Okay.

7 It will also be available to you today if you

8 wish to refer to it at any time. Okay?

9 THE WITNESS: Okay.

10 MR. LEVENSON: All right. Mr. Pellegrino, are

11 you represented by counsel today?

12 THE WITNESS: I am.

13 MR. LEVENSON: And would Counsel please

14 identify himself for the record.

15 MR. PORTEOUS: My name is David Porteous.

16 MR. LEVENSON: And, Mr. Porteous, do you, in

17 fact, represent Mr. Pellegrino today?

18 MR. PORTEOUS: I do.

19 MR. LEVENSON: And would you mind stating your

20 firm name and address for the record.

21 MR. PORTEOUS: Faegre, Baker, Daniels, [REDACTED]

22 [REDACTED], Chicago, Illinois.

23 MR. LEVENSON: Thank you.

24 EXAMINATION

25 BY MR. LEVENSON:

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1 Q Mr. Pellegrino, just a few ground rules I
 2 wanted to go over with you today. You understand that
 3 you're under oath today just as you would be in court?
 4 A Uh-huh. Yes.
 5 Q Okay.
 6 And that brings me to my next ground rule.
 7 The Court Reporter's taking down your testimony, so it
 8 is important that you answer both out loud, as opposed
 9 to nodding and shaking your head. And that if you
 10 answer yes or no, answer yes or no, as opposed to uh-huh
 11 and huh-uh, because it comes out the same on the record.
 12 Okay?
 13 A Okay. Yes.
 14 Q Any time you don't understand a question that
 15 I ask, please let me know, and I'll rephrase it for you.
 16 Okay?
 17 A Okay. Yes.
 18 Q Okay.
 19 If you do answer a question, I'll assume that
 20 you understood it and that you're answering it to the
 21 best of your ability. Okay?
 22 A Okay.
 23 Q Do let me finish my question before you start
 24 answering. Okay?
 25 A Uh-huh.

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1 Q I need a yes.
 2 A Yes. Yes.
 3 Q Okay.
 4 If I inadvertently interrupt an answer of
 5 yours for any reason and you feel like you haven't had
 6 an appropriate opportunity to finish answering, let me
 7 know, and we'll let you finish. Okay?
 8 A Okay.
 9 Q Any of the -- either Mr. Miller or I can ask
 10 you any questions at any time. I don't know if anybody
 11 else will be joining us. If they do, I'll introduce
 12 them. But, basically, anybody who's an officer of the
 13 Commission can ask you a question today. Okay?
 14 A Okay.
 15 Q If you need a break at any time for any
 16 reason, just let me know, and we'll take a break. If
 17 there's a question pending, I'll ask you to answer the
 18 question first, and then we'll take a break. Okay?
 19 A Okay.
 20 Q But please also understand that the staff, Mr.
 21 Miller and I, control the record and only we can direct
 22 the Court Reporter to go off the record. So if you do
 23 need to go off the record for any reason, just let me
 24 know. Okay?
 25 A Yes.

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1 (Mr. Miller enters the room.)
 2 BY MR. LEVENSON:
 3 Q Are you on any medication that would impact
 4 your memory or impair your ability to understand and
 5 answer questions?
 6 A No.
 7 Q Okay.
 8 Anything else going on in your life outside of
 9 the testimony that would keep -- I'm used to calling it
 10 a deposition, but it's testimony. But is there anything
 11 else going on that would prevent you from devoting your
 12 full time and attention to the testimony today?
 13 A No.
 14 Q Okay.
 15 Have you ever testified before the Commission
 16 or any other federal or state agency?
 17 A The Securities and Exchange Commission?
 18 Q Yes.
 19 A It would be just a routine examination of a
 20 firm.
 21 MR. PORTEOUS: I think he's referring to
 22 testimony in this type of setting.
 23 THE WITNESS: Okay.
 24 In this type of setting, no.
 25 BY MR. LEVENSON:

Page 12

1 Q Okay.
 2 A To clarify, is FINRA, would that be a
 3 qualifying, I guess --
 4 Q Are you referring to testimony you gave FINRA,
 5 I guess, in what I'll call also about 1st Global
 6 Capital?
 7 A Yeah. Correct.
 8 THE WITNESS: Am I correct in saying that.
 9 MR. PORTEOUS: He's asking you a question.
 10 MR. LEVENSON: Well, he was actually asking
 11 you a question. But, you know, did you testify before
 12 FINRA?
 13 THE WITNESS: Yes.
 14 BY MR. LEVENSON:
 15 Q Okay.
 16 And when was that?
 17 A June -- it slips my mind. I think it was June
 18 2018.
 19 Q Okay.
 20 Other than with your lawyer, have you
 21 discussed your testimony with anyone today?
 22 A That I was coming here to the Securities and
 23 Exchange Commission to testify, is that your question?
 24 Q Well -- all right. We'll start with that,
 25 yes.

Page 13

1 A Okay. My wife, and, of course, my legal
 2 counsel.
 3 Q Okay. I don't want to know about any
 4 discussions with either of them.
 5 Have you discussed the substance of your
 6 testimony with anyone?
 7 A No.
 8 Q Okay.
 9 Again, did you -- please answer this yes or
 10 no. Did you review any documents in preparation for
 11 testimony?
 12 A Yes.
 13 Q Okay.
 14 Without indicating anything about who showed
 15 them to you or why or what you discussed about them, can
 16 you tell me what you reviewed?
 17 A The documents that we provided to you is what
 18 I reviewed.
 19 Q Okay.
 20 And those were the documents that your lawyer
 21 produced to us, I guess, last week?
 22 A Correct.
 23 Q Okay.
 24 Anything else?
 25 A General information from -- that we've had on

Page 14

1 file with 1st Global.
 2 Q What general -- can you be more specific about
 3 what -- let me finish -- about what general information
 4 you're referring to?
 5 A It would be like 1st Global's paperwork, like
 6 their Memorandum of Indebtedness. We have a Statement
 7 of Understanding also that we use.
 8 Q Okay.
 9 Anything else?
 10 A That's it.
 11 Q Okay.
 12 I'm going to go ahead and --
 13 MR. MILLER: When you say we, who's the we
 14 you're referring to?
 15 THE WITNESS: When I say we?
 16 MR. MILLER: Yes.
 17 THE WITNESS: Myself and Counsel.
 18 MR. MILLER: A Statement of Understanding that
 19 we use.
 20 THE WITNESS: That Goldstone Financial Group
 21 uses.
 22 BY MR. LEVENSON:
 23 Q Okay. Was that what you meant by we,
 24 Goldstone Financial --
 25 A Correct. Yes.

Page 15

1 Q Okay.
 2 MR. LEVENSON: I'm going to go ahead and mark
 3 this then. I'll ask the Court Reporter to mark this as
 4 Exhibit No. 39.
 5 (SEC Exhibit No. 39 was marked for
 6 identification.)
 7 MR. LEVENSON: I'm sorry. I don't have an
 8 extra copy of this.
 9 MR. MILLER: No. You do. There's three of
 10 them there.
 11 MR. LEVENSON: Oh, okay.
 12 MR. PORTEOUS: Thank you.
 13 BY MR. LEVENSON:
 14 Q Mr. Pellegrino, I placed in front of you what
 15 we've marked as Exhibit No. 39. It's a subpoena.
 16 Do you recognize this document?
 17 A Yes.
 18 Q Okay.
 19 And is this the subpoena for testimony, which
 20 you're appearing pursuant to today?
 21 A Yes.
 22 Q Okay. That's all the questions I have on
 23 that.
 24 What's your date of birth?
 25 A It's [REDACTED] 1974.

Page 16

1 Q Okay.
 2 And where do you live now?
 3 A Home address?
 4 Q Yes.
 5 A It's [REDACTED].
 6 City is Elgin, E-L-G-I-N. That's Illinois, IL 60124.
 7 Q Did you attend college?
 8 A I did not.
 9 Q Okay.
 10 So when did you graduate high school?
 11 A 1992.
 12 Q Okay.
 13 And did you go to work after you graduated
 14 high school?
 15 A That's correct.
 16 Q Okay.
 17 Starting in '92, where did you first go to
 18 work?
 19 A I worked for a mechanical contractor.
 20 Q And was that in the Chicago area?
 21 A That was, yes.
 22 Q Okay.
 23 Were you born and raised in the Chicago area?
 24 A I was.
 25 Q Okay.

Page 17

1 How long did you work for that contractor?
 2 A Wow. I don't recall exactly. Five years
 3 possibly, seven years.
 4 Q Okay.
 5 And then where did you next work after that?
 6 A Self-employed.
 7 Q As?
 8 A Head of a remodeling firm, a remodeling
 9 company.
 10 Q Okay.
 11 What kind of remodeling, home remodeling?
 12 A Correct. Yes.
 13 Q Okay.
 14 And how long did you do that?
 15 A Gosh, I'm not really sure. I'd have to go
 16 back and figure out dates.
 17 Q Do you have a rough estimate?
 18 A Seven, eight years.
 19 Q Okay.
 20 So does that take you up roughly into the
 21 mid-2000s?
 22 A Possibly, yes.
 23 Q Okay.
 24 What did you do after -- at some point, you
 25 left that firm or stopped operating your own firm?

Page 18

1 A Correct.
 2 Q And what did you do after that?
 3 A I worked for a home builder.
 4 Q And how long did you do that for?
 5 A It was about two years.
 6 Q Okay.
 7 What was the name of the home builder?
 8 A Kennedy Homes.
 9 Q Okay.
 10 Also, in the Chicago area?
 11 A Correct.
 12 Q As was with your firm, your business in the
 13 Chicago area, too?
 14 A Yes.
 15 Q Okay.
 16 And then what did you do after that?
 17 A Then started a firm selling annuities,
 18 Goldstone Financial Group.
 19 Q Okay.
 20 And do you remember what year that was?
 21 A It was 2008.
 22 Q Okay.
 23 And so when you started Goldstone, it was in
 24 the business of selling annuities?
 25 A Correct. Annuities and insurance.

Page 19

1 Q Okay.
 2 At some point, did Goldstone's -- and the
 3 business called Goldstone Financial Group?
 4 A Correct.
 5 Q Okay.
 6 And is that a business you still own or
 7 operate today?
 8 A Yes.
 9 Q Okay.
 10 Have you operated that business continuously
 11 since you started it in 2008?
 12 A Yes.
 13 Q And did you start that with anybody?
 14 A With my brother.
 15 Q Okay.
 16 Whose name is?
 17 A Anthony.
 18 Q Okay.
 19 Is he younger or older?
 20 A Younger.
 21 Q Okay.
 22 Was it just the two of you that started
 23 Goldstone?
 24 A Yes.
 25 Q Okay.

Page 20

1 And at some point, did Goldstone Financial
 2 Group expand its business beyond annuities and
 3 insurance?
 4 A Yes.
 5 Q And what did you expand it to?
 6 A I think it was 2011 had gotten my Series 65
 7 license --
 8 Q Okay.
 9 A -- to act as an IAR.
 10 Q Investment Advisor Representative?
 11 A Correct.
 12 Q Okay.
 13 And so did Goldstone become a Registered
 14 Investment Advisor?
 15 A It did not.
 16 Q Okay.
 17 Has it ever been a Registered Investment
 18 Advisor?
 19 A Yes, it has.
 20 Q Okay. When did Goldstone become a Registered
 21 Investment Advisor?
 22 A Late 2015.
 23 Q Okay.
 24 But you got your Series 65 you said in 2011?
 25 A Correct.

Page 21

1 Q Okay.
 2 Did you -- were you associated with a firm --
 3 another firm prior as an Investment Advisor Rep
 4 before --
 5 A Yes.
 6 Q -- 2015?
 7 A Yes.
 8 Q And who were you associated with?
 9 A It was called Brookstone Capital Management.
 10 Q Okay.
 11 And is Brookstone -- is or was Brookstone a
 12 Registered Investment Advisor?
 13 A Yes.
 14 Q And was it a Registered Investment Advisor, I
 15 guess, when you became associated with it in 2011?
 16 A Yes.
 17 Q Okay.
 18 And how long were you associated with
 19 Brookstone?
 20 A From 2011 through the end of 2015.
 21 Q Okay.
 22 Where is Brookstone located?
 23 A Wheaton, Illinois.
 24 Q Okay.
 25 And do you know who the principal -- who was

Page 22

1 the principal of Brookstone during the time you were
 2 associated with it?
 3 A Dean Zayed, Z-A-Y-E-D.
 4 Q And how big was Brookstone in terms of the
 5 number of registered representatives?
 6 A At the time that we left, our departure was, I
 7 believe, they said about two hundred and twenty to two
 8 hundred and thirty investment advisor reps.
 9 Q Okay.
 10 So was the office you worked for a branch
 11 office?
 12 A Correct.
 13 Q Do you know where Brookstone's main office
 14 was?
 15 A Wheaton, Illinois.
 16 Q Okay.
 17 MR. MILLER: When you say we left, who's the
 18 we?
 19 THE WITNESS: Oh, my brother and I were IARs
 20 together. That's when I say we. Would you like me to
 21 just refer to me, I guess?
 22 MR. LEVENSON: No. That's fine. You can
 23 refer to it however you want. We'll clarify it.
 24 THE WITNESS: Okay.
 25 MR. MILLER: That's it exactly.

Page 23

1 BY MR. LEVENSON:
 2 Q Did your brother obtain his Series 65 at the
 3 same time you did?
 4 A No.
 5 Q Earlier or later?
 6 A Later.
 7 Q Do you know when he obtained his?
 8 A I'm not exactly sure.
 9 Q Okay. So you were associated with Brookstone
 10 first, and then he came on later?
 11 A Correct.
 12 Q Okay. But you left at the same time together?
 13 A Correct.
 14 Q And was your brother also -- so from 2011
 15 until late 2015, am I correct that you continued to sell
 16 insurance and annuities for Goldstone, but acted as an
 17 IAR for Brookstone?
 18 A Correct.
 19 Q Okay.
 20 Was the Series 65 that you obtained in 2011
 21 your first securities license you had obtained?
 22 A Correct.
 23 Q Have you since obtained any -- well, do you
 24 still hold that license?
 25 A I do, yes.

Page 24

1 Q Okay.
 2 Have you since obtained any other securities
 3 license?
 4 A I had a registered rep license.
 5 Q Okay. What series is that?
 6 A Series 6.
 7 Q Okay.
 8 And when did you obtain that?
 9 A I'm not sure the exact dates. 2012.
 10 Q Sometime in 2012?
 11 A Yeah, 2012, 2013, I believe.
 12 Q Okay.
 13 And was -- were you associated with any
 14 registered broker/dealer then?
 15 A I was, yes.
 16 Q And who was that?
 17 A Center Street Securities.
 18 Q Okay.
 19 And Center Street is a registered BD?
 20 A Correct.
 21 Q Okay.
 22 Was Brookstone also a BD or just an IA?
 23 A Just an IA.
 24 Q Okay.
 25 And when did you become associated with Center

Page 25

1 Street?
 2 A It was shortly after I had gotten that license
 3 again 2012, 2013, if I recall.
 4 Q Okay.
 5 And was your brother also associated with
 6 Center Street?
 7 A He was not.
 8 Q Okay.
 9 And where -- do you know where Center Street
 10 is located?
 11 A I believe it was -- I want to say near
 12 Memphis, Tennessee.
 13 Q Okay.
 14 Where was the office that you were associated
 15 with?
 16 A Well, my office, or are you referring to the
 17 Center Street office?
 18 Q Well, was there a branch office you worked
 19 for, or did you just work independently for Center
 20 Street?
 21 A So I was independent, essentially, yes.
 22 Q Okay.
 23 So any BD business that you did was out of the
 24 Goldstone office?
 25 A Correct.

Page 26

1 Q Okay.
 2 And was that true for the IA business you were
 3 doing? Were you doing that out of the same Goldstone
 4 office?
 5 A Correct.
 6 Q Okay.
 7 And how long were you associated with Center
 8 Street then?
 9 A I believe it was only six or eight months.
 10 Q Okay.
 11 And then did you become associated with
 12 another registered BD?
 13 A Yes.
 14 Q And who he is that?
 15 A Taylor Capital Management.
 16 Q So was that still 2012 or --
 17 A Yeah. Somewhere in that timeframe, 2012,
 18 2013.
 19 Q And where's Taylor Capital Management located?
 20 A Near Atlanta, Georgia.
 21 Q Okay.
 22 Did you also operate out of your office during
 23 any work for Taylor Capital Management?
 24 A Yes.
 25 Q Okay.

Page 27

1 Are you still associated with Taylor Capital
 2 Management?
 3 A I am not.
 4 Q And when did you stop being associated with
 5 them?
 6 A I believe it was March or April of 2018.
 7 Q Okay.
 8 Are you currently associated with any other
 9 broker/dealer?
 10 A I am not.
 11 Q Okay.
 12 Are you currently associated with any
 13 Registered Investment Advisor?
 14 A I am.
 15 Q And who is that?
 16 A Goldstone Financial Group.
 17 Q Okay.
 18 And when did Goldstone become an IA?
 19 A 2015.
 20 Q Okay.
 21 So when Goldstone became an IA, did you stop
 22 being associated with Brookstone?
 23 A I did shortly thereafter.
 24 Q Okay.
 25 And is Goldstone the only IA that you've been

Page 28

1 associated with since the end of 2015?
 2 A Yes.
 3 Q Okay.
 4 So do you still currently hold a Series 6
 5 license?
 6 A I guess I don't know how to answer that. I
 7 terminated my registration with Taylor Capital
 8 Management.
 9 Q Okay?
 10 A I don't have that license associated with any
 11 other broker/dealer.
 12 Q Okay.
 13 So do you know if it's lapsed yet?
 14 A No. I think there's like a two-year window,
 15 if I'm correct.
 16 Q Okay.
 17 And do you still hold the Series 65?
 18 A I do yes.
 19 Q Do you hold any other securities licenses or
 20 have you held?
 21 A I do not.
 22 Q Okay.
 23 And do you hold any other professional
 24 licenses?
 25 A The only license, I believe, it's an Illinois

Page 29

1 securities license, which is required if you have a 6,
 2 or a 63 or 62. I'm not exactly sure on that.
 3 Q Okay.
 4 And that's a state securities license?
 5 A Correct.
 6 Q And do you still hold that?
 7 A Yes.
 8 Q Okay.
 9 Do you remember when you first got it?
 10 A The same time that I got the 6, so that would
 11 be 2012, 2013.
 12 Q Did you have to pass any kind of separate exam
 13 to obtain it?
 14 A Yes.
 15 Q Okay.
 16 Is there a license required to sell insurance,
 17 as well?
 18 A There's an insurance license.
 19 Q Okay.
 20 Do you still hold that?
 21 A Yes.
 22 Q Okay.
 23 Any other professional licenses that you hold?
 24 A No, not that I can recall.
 25 Q Okay.

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1 Have you ever been named as a defendant or
 2 respondent in any action that the SEC has brought?
 3 A No.
 4 Q How about any other federal or state agency?
 5 A No.
 6 Q Okay.
 7 Has FINRA ever brought any charges against
 8 you, to your knowledge?
 9 A No.
 10 Q Did you ever go to arbitration as a result of
 11 any customer complaints?
 12 THE WITNESS: David, how would we answer that
 13 with the Brookstone?
 14 MR. LEVENSON: I mean -- you know, if you
 15 know.
 16 MR. PORTEOUS: Answer his question to the
 17 extent that you can while it's pending, but if you'd
 18 like, we can go off the record after you've answered his
 19 question. We can talk about it.
 20 MR. LEVENSON: Sure. That's fine.
 21 THE WITNESS: Okay. When I was with
 22 Brookstone Capital Management, they had a mutual fund
 23 that had some problems and clients lost money in it.
 24 BY MR. LEVENSON:
 25 Q Okay.

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1 A So I don't know how to exactly answer that.
 2 There were customer complaints associated with that
 3 mutual fund that was offered through Brookstone.
 4 Q Were they filed against you, to your
 5 knowledge?
 6 A That's where I'm kind of unclear with the
 7 question, I guess.
 8 MR. PORTEOUS: Can we go off the record?
 9 MR. LEVENSON: Yeah.
 10 BY MR. LEVENSON:
 11 Q Do you believe that you're attorney has some
 12 knowledge that can help with that?
 13 A Yeah. Yeah.
 14 MR. LEVENSON: Okay. I don't mind if you
 15 confer about it.
 16 MR. PORTEOUS: Very briefly, it may be
 17 something that we can kind of do off the record.
 18 MR. LEVENSON: Yes.
 19 MR. PORTEOUS: Are we off the record?
 20 MR. LEVENSON: Yes. Let's go off the record
 21 for one minute.
 22 (A brief recess was taken.)
 23 MR. LEVENSON: All right. So we're back on
 24 the record at 9 28.
 25 Mr. Porteous, when we were off the record, am

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1 I correct that we discussed, you know, that you have
 2 some information that will help Mr. Pellegrino answer
 3 the previous question?
 4 MR. PORTEOUS: Yes, if you don't mind.
 5 MR. LEVENSON: No. Go ahead.
 6 MR. PORTEOUS: I'm providing a little
 7 clarifying information.
 8 MR. LEVENSON: Sure. Please do.
 9 MR. PORTEOUS: As Mr. Pellegrino testified,
 10 the entity with which he used to be affiliated,
 11 Brookstone, had a number of complaints from customers
 12 related to the mutual fund that he was referring to. I
 13 believe Goldstone may also have received some customer
 14 complaints. Nothing to my knowledge was initiated as a
 15 civil proceeding whether in litigation or arbitration.
 16 Ultimately, there was, I believe a mediation or a series
 17 of mediations in which the matters were disposed of.
 18 MR. LEVENSON: Okay.
 19 BY MR. LEVENSON:
 20 Q Mr. Pellegrino, do you adopt your attorney's
 21 answer?
 22 A I do.
 23 Q Okay.
 24 About how many customer households does
 25 Goldstone now have?

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1 A I believe it's about six hundred.
 2 Q Okay.
 3 And those are -- are all of those investment
 4 advisor clients?
 5 A Some of them will be. Some will be like
 6 insurance or annuity clients, as well.
 7 Q Do you know how many of that approximate six
 8 hundred are investor advisor clients?
 9 A To my knowledge, no. It's something I'd have
 10 to check to verify the numbers.
 11 Q Okay.
 12 I mean, more than half, less than half? Do
 13 you have an idea?
 14 A You know, I would have to say possibly sixty
 15 to seventy percent would be advisory clients.
 16 Q Okay.
 17 Have you heard of a firm -- our Formal Order
 18 calls it, I think, 1 Global Capital. I think it's name
 19 may actually be 1st Global Capital. Before I start
 20 asking questions about that, if I refer to 1 Global, 1st
 21 Global, I'm referring to the same company that's
 22 mentioned in our Formal Order. I mean, I just want to
 23 make sure we're referring to the same entity. So if you
 24 say 1st Global, I say 1 Global, back and forth, can we
 25 ever an agreement that we are referring to the same

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1 company, which is a company that, I believe, offers what
 2 they called merchant cash advances that's located in
 3 Hallandale, Florida?
 4 A Yes.
 5 Q Okay. Great.
 6 When did you first hear of 1st Global?
 7 A I first heard about 1st Global, I believe, it
 8 was February or March of 2017.
 9 Q And how did you first hear about it?
 10 A A colleague, I guess, is a good way of putting
 11 it, in a general conversation that we were having, a
 12 telephone call, had mentioned that he had been working
 13 with 1st Global.
 14 Q And who is the colleague?
 15 A His name was Trae Wienewitz.
 16 Q Okay. Would you mind spelling that for the
 17 Court Reporter, as best you know.
 18 A It's like Wienewitz. W-I-E-N-E-W-I-T-Z,
 19 maybe.
 20 Q Okay.
 21 And you said Trae is the first name?
 22 A Correct.
 23 Q Okay.
 24 Do you know if that T-R-E-Y or something else?
 25 A I believe it's T-R-A-E.

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1 Q Okay.
 2 And you said he's a colleague. Can you
 3 elaborate on that.
 4 A I've known Trae for about ten years. I met
 5 him when we were -- when we first started selling
 6 annuities through an FMO that we were associated with.
 7 Q An FMO, could you --
 8 A Field marketing organization.
 9 Q Okay.
 10 And what was the organization?
 11 A The Revolution.
 12 Q Okay.
 13 And what exactly is an FMO?
 14 A Probably the best way to describe an FMO is,
 15 they're the in-between company between like an insurance
 16 producer, myself, and the insurance company.
 17 Q Okay.
 18 A Gives us access to insurance products.
 19 Q Okay.
 20 And so you were both associated with the same
 21 one?
 22 A Correct.
 23 Q And where is -- is Mr. Wienewitz located in
 24 the Chicago area?
 25 A No.

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1 Q And where's he at?
 2 A I'm not sure of the city, but he's in
 3 Tennessee.
 4 Q Okay.
 5 And is that where he was when you first met
 6 him or became acquainted with him?
 7 A Yes.
 8 Q Okay.
 9 How did you first become acquainted with him?
 10 A Part of the FMO, they would have like
 11 different conferences. So I met him at some of the
 12 conferences that the FMO would have, and we became
 13 friends.
 14 Q Okay.
 15 How often generally do you talk to him or have
 16 you talked to him over the years?
 17 A I mean, when I was with that FMO, we had, you
 18 know, pretty constant contact. And then after we left
 19 the FMO, I'd say probably once or twice a year.
 20 Q And when did you leave the FMO?
 21 A Maybe 2012. I'm not sure of the dates
 22 exactly, so --
 23 Q Okay.
 24 And so how did you happen on this particular
 25 occasion in February or March of 2017, how did you

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1 happen to come to talk to Mr. Wienewitz?
 2 A I had bumped into a lady that was associated
 3 with the FMO, and I just had texted Trae. I said, hey,
 4 what's up, I bumped into so and so. So we kind of
 5 exchanged some texts back and forth and wound up getting
 6 on the telephone and just kind of catching up because we
 7 haven't talked to each other in several months.
 8 Q Okay.
 9 And so how did 1st Global come up?
 10 A We were really just in general conversation
 11 kind of talking about, you know, our families, and then
 12 kind of talking about business a little bit. And then
 13 he had mentioned that he had started working with 1st
 14 Global Capital.
 15 Q And I mean, how did he -- did he describe the
 16 company in some way?
 17 A Yeah. Briefly, he said that he had been
 18 working with 1st Global Capital for a little bit of time
 19 now, and he was happy with the results that he was
 20 seeing from his clients. He had mentioned that a friend
 21 of his that he had been associated with for a number of
 22 years had been working with 1st Global for several years
 23 prior to Trae working with 1st Global.
 24 Q And how did -- did he describe the company in
 25 some way, what it did?

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1 A Yeah. He said that they offered a short-term
 2 nine-month note that the clients could put money into as
 3 an alternative, that it would have a certain interest
 4 rate that it would earn, and then it would mature after
 5 nine months. And if clients liked the note, they could
 6 continue on another nine months with it. If they
 7 didn't, then after nine months, then they could get out
 8 of it.
 9 Q And did they say what 1st Global was in a
 10 particular business besides offering these nine-month
 11 notes?
 12 A He said that they essentially made short-term
 13 advances to small businesses.
 14 Q Okay.
 15 And did he say that's what they did with the
 16 money they received for the note?
 17 A Yes.
 18 Q Okay.
 19 Anything else he told you about the business?
 20 A He just said that, hey, if you're interested,
 21 I could get you in contact with 1st Global. He said a
 22 really good resource that he used kind of like in his
 23 initial dual diligence was this gentleman by the name of
 24 Dale Leddbedder.
 25 Q Okay.

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1 A So he said, he's a really good resource, if
 2 you'd like, I can get you in contact with him. He
 3 described him as outside counsel for 1st Global. He
 4 described him as a securities attorney or a litigating
 5 securities attorney with thirty-five, forty years of
 6 experience. He was somebody who helped investors who
 7 may have gotten hurt by Wall Street or products or
 8 something like that, that he was a really good resource
 9 to talk to about 1st Global. I wanted to gain more
 10 information.
 11 Q With the idea of offering this as an
 12 investment opportunity to your clients?
 13 A Potentially.
 14 Q Okay.
 15 Did he say how long he'd been working or doing
 16 business with 1st Global?
 17 A I think he had said like a few months. I
 18 don't recall exactly. I mean, it was a conversation
 19 that was a while ago.
 20 Q Sure.
 21 Did he -- he said he was happy -- I thought I
 22 heard you say he was happy with the results?
 23 A That's what he said, yes. He had referred to
 24 another gentleman that I had met back when I first met
 25 Trae. His name was Chris Danton. And he said that --

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1 and I knew Chris, again, as -- not personally, but, I
 2 guess, as an acquaintance. I met Chris at the FMO, as
 3 well. And he had mentioned that Chris had been working
 4 with 1st Global for a number of years, and Chris was
 5 really happy with them.
 6 Q And did Mr. Wienewitz elaborate on why he was
 7 happy? I mean, were his clients making money?
 8 A He said that he was seeing very consistent
 9 returns on clients' statements.
 10 Q Did he give you an amount? Did he say how
 11 much, what kind of returns?
 12 A No. I mean, he had forwarded a couple of like
 13 statements of clients that had been provided to him by
 14 1st Global.
 15 Q And do you recall what those showed?
 16 A I believe they're ones that we provided to
 17 you.
 18 Q Okay.
 19 A I believe -- and you're going to have to
 20 forgive, because I don't have the documentation in front
 21 of me, but, I believe, I saw one that was like a twelve
 22 percent return. I think another one was seventeen
 23 percent. And I don't recall exactly what the other one
 24 was.
 25 Q Okay.

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1 Let me actually -- give me a minute because I
 2 did bring one of them, I think. Let me go ahead and
 3 mark a document and see if this is one of them.
 4 MR. LEVENSON: Let me go ahead and mark this
 5 as Exhibit No. 40.
 6 (SEC Exhibit No. 40 was marked for
 7 identification.)
 8 BY MR. LEVENSON:
 9 Q Mr. Pellegrino, I placed in front of you
 10 what's been marked as Exhibit No. 40, which is -- give
 11 me one second. It's, I think, about a twenty-five or so
 12 page document, 1st Global Capital Financial Services,
 13 dated March 3rd of 2017, which appears to be -- well,
 14 I'm going to -- go ahead. Have you had a chance to
 15 review Exhibit No. 40?
 16 A Yeah, I'll take a brief look at it.
 17 Q Sure. Of course.
 18 A Thank you.
 19 Q If it helps, I'm going to just ask you a few
 20 questions about it at this point, but take as much time
 21 as you feel you need to review it.
 22 A No. I'm good.
 23 Q Okay. So you've had a chance to review
 24 Exhibit No. 40?
 25 A Correct.

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1 Q Is this, per chance, one of the statements
 2 that Mr. Wienewitz sent you?
 3 A Yes.
 4 Q Okay.
 5 I am curious, because I've seen other
 6 statements from 1st Global, and we'll look at them,
 7 usually there's a name associated with them and here
 8 there's a dear and then a blank space. Is the name on
 9 it redacted, do you know?
 10 A It is, yes.
 11 Q Okay.
 12 Did you redact it?
 13 A No, I did not.
 14 Q Okay.
 15 Did Mr. Wienewitz redact it when he sent it to
 16 you?
 17 A I don't know if it was him, but this is how I
 18 received it.
 19 Q Perfect. That was my question. This is how
 20 you received it, without the name?
 21 A Correct.
 22 Q Okay.
 23 If you look at the second page of Exhibit No.
 24 40, there's a rate of -- do you see about two thirds of
 25 the way down the page the line item, Rate of Return?

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1 A Yes.
 2 Q And it says average rate of return, twelve
 3 percent?
 4 A Correct.
 5 Q Okay.
 6 So do you know, was that -- I don't know if
 7 you knew at that point, but were these amounts that were
 8 actually being paid out to the customers, or were
 9 these -- this is just what the statement was showing how
 10 much their portfolio --
 11 A This is just what I saw in the statement.
 12 Q Okay.
 13 And, I think, you said another one showed a
 14 seventeen percent rate of return?
 15 A I believe it was, if I recall.
 16 Q Okay.
 17 A And I don't know if it's the same period of
 18 time, so --
 19 Q Sure.
 20 So did you discuss these statements with Mr.
 21 Wienewitz in any detail?
 22 A No. He had -- after our conversation, he had
 23 provided like copies of these that had been sent to him
 24 from 1st Global.
 25 Q Okay.

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1 Did Mr. Wienewitz tell you this was all from
 2 1st Global, as opposed to anything that he himself
 3 generated?
 4 A Correct.
 5 Q Okay.
 6 I'm going to have some more questions about
 7 Exhibit No. 40, but, I think, I want to come back to it.
 8 A Okay.
 9 Q But -- so how long -- was this just one
 10 conversation you had with --
 11 MR. LEVENSON: Gary, did you have any
 12 questions now?
 13 MR. MILLER: No.
 14 BY MR. LEVENSON:
 15 Q Did you have just the one conversation with
 16 Mr. Wienewitz about 1st Global, or was it more than one?
 17 A I believe it was more than one.
 18 Q Okay.
 19 Do you remember how many?
 20 A Possibly two.
 21 Q Okay.
 22 Do you remember how long after the first
 23 conversation the second conversation occurred?
 24 A Probably within a week or so.
 25 Q And what prompted the second conversation?

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1 A Because he had said, hey, if you're, you know,
 2 interested in learning more about it, I can get you in
 3 contact with somebody at 1st Global.
 4 Q Okay.
 5 A And then he had mentioned this resource,
 6 Dale --
 7 Q Mr. Leddbedder?
 8 A Correct.
 9 Q Okay.
 10 Do you know how Ledbetter, L-E-D-B-E-T-T-E-R,
 11 do you know? If you don't, that's fine. It's not a
 12 spelling contest.
 13 A I think it's Leddbedder, L-E-D-D-B-E-D-D-E-R,
 14 maybe. Leddbedder.
 15 Q Okay.
 16 A I don't think it's a T.
 17 Q So who called who on the second -- did you
 18 call Mr. Wienewitz back in the second conversation?
 19 A I don't remember exactly.
 20 Q Do you remember what the purpose of the second
 21 conversation was?
 22 A It was to get in contact with Mr. Leddbedder.
 23 Q Okay.
 24 So how long did that first conversation last?
 25 A With?

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1 Q I'm sorry. With Mr. Wienewitz.
 2 A The first conversation?
 3 Q Yeah.
 4 A Oh, gosh. Again, I don't remember exactly.
 5 Maybe an hour, possibly half an hour.
 6 Q And other than what we've discussed, did Mr.
 7 Wienewitz tell you anything else about 1st Global or the
 8 business or returns or anything?
 9 A Just what we had discussed already, that he
 10 had started working with them recently, that he was
 11 happy with the results he'd seen, that his friend, Chris
 12 Danton, had been working with 1st Global for a couple of
 13 years. He did mention that Chris, for a couple of
 14 years, had mentioned to him, hey, I'm really happy with
 15 these guys. And Trae said that he didn't really give it
 16 much thought until recently, and then that's when he
 17 started working with them. He said that Chris had been
 18 working with them for a couple of years.
 19 Q So after that first conversation, were you
 20 interested in pursuing it as a business opportunity?
 21 A I wouldn't say that I was necessarily
 22 interested. I was interested in gathering more
 23 information.
 24 Q Okay.
 25 So after that first call, did you go about

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1 gathering more information?
 2 A I wound up having a conversation with Mr.
 3 Leddbedder.
 4 Q Okay.
 5 Did you call him on your own, or was that
 6 something that Trae kind of set up?
 7 A I think Trae kind of worked it out with Dale,
 8 scheduled a time that Dale called me.
 9 Q Okay.
 10 So how long after your conversation with Mr.
 11 Wienewitz did Mr. Leddbedder call you?
 12 A It was in -- I believe it was in March 2017.
 13 Q Okay.
 14 So within the same month?
 15 A I believe so.
 16 Q Okay.
 17 And was that before or after your second
 18 conversation with Mr. Wienewitz?
 19 A I think it was kind of all -- I think I had
 20 two conversations with Trae, and then I had a
 21 conversation with Mr. Leddbedder.
 22 Q Okay.
 23 In the second call with Mr. Wienewitz, did you
 24 ask him to go ahead and set up --
 25 A Yes.

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1 Q -- the call with Mr. Leddbedder?
 2 A Yes.
 3 Q So had you done something between the first
 4 and second call with Mr. Wienewitz, had you done some
 5 independent research to, I guess, decide that you were
 6 interested in talking to the company?
 7 A Not at that time.
 8 Q Okay.
 9 You just decided, hey, I'll go ahead and talk
 10 to the company at this point?
 11 A Well, to -- essentially, this resource was
 12 their outside counsel that he said was a really good
 13 resource and kind of gave his background.
 14 Q Okay.
 15 A So that's where -- he's telling me this is an
 16 outside counsel of 1st Global. Right. So if you think
 17 1st Global, then he's their legal counsel. That's a
 18 third party.
 19 Q Okay.
 20 A He cited some of his accolades, right, that he
 21 had been a securities attorney for thirty-five or forty
 22 years, that he had written books or written a book. So
 23 the accolades were there.
 24 Q Okay.
 25 Did you independently check those out?

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1 A After I spoke to Mr. Leddbedder, I did, yes.
 2 Q Oh, okay.
 3 So tell me about that call with Mr.
 4 Leddbedder. What did you discuss with him?
 5 A Mr. Leddbedder kind of gave me an overview of
 6 1st Global and their business activities.
 7 Q All right.
 8 So what did he tell you in that overview?
 9 A He said that 1st Global essentially is filling
 10 a space where businesses need short-term capital or
 11 financing to grow and expand their current business,
 12 that capital is given to these companies on a short-term
 13 basis, and that 1st Global offers to clients that they
 14 can put money there, and then that money is then
 15 distributed or diversified through different merchants
 16 on a short-term basis, that -- according to Mr.
 17 Leddbedder, that a note that is nine months or less is
 18 an exempt -- commercial paper is exempt under the
 19 Securities Act, so it's -- because it's a short-term
 20 instrument, that it's considered not to be a security --
 21 or it's exempt from security laws or something like
 22 that.
 23 (Mr. Miller leaves the room.)
 24 BY MR. LEVENSON:
 25 Q Okay.

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1 You said a couple of times that it's on a
 2 short-term basis, the loans are short term. Was that
 3 term defined in the conversation?
 4 A I believe -- and, again, I don't recall every
 5 single part of this conversation. I believe he said
 6 that they were roughly around six to nine months, the
 7 advances to companies.
 8 Q Okay.
 9 And did he use the term "merchant cash
 10 advance"?
 11 A He did, yes.
 12 Q Okay.
 13 Had you heard that term before?
 14 A I have, yes.
 15 Q Oh, okay.
 16 A And he described that it also fell into what's
 17 called the Fintech space, the financial technology.
 18 Q Okay.
 19 A And he kind of described that business nature,
 20 that this falls in the financial technology space of
 21 Fintech.
 22 (Mr. Miller enters the room.)
 23 BY MR. LEVENSON:
 24 Q Did Mr. Leddbedder indicate what kind of
 25 businesses these were that 1st Global gave these

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1 merchant cash advances to?
 2 A He said it was -- it wasn't isolated to
 3 certain sectors. That it was diversified through all
 4 fifty states. He said virtually every type of business
 5 and sector.
 6 Q Okay.
 7 Did he describe an amount or size of the
 8 merchant cash advances?
 9 A I believe he had mentioned maybe around --
 10 only fifty or sixty thousand on average is advanced.
 11 Q Okay.
 12 A He described as short-term capital needs for
 13 small businesses.
 14 Q Okay.
 15 And that short term being roughly six to nine
 16 months?
 17 A Correct. I think at the time he was saying
 18 that the average note in the portfolio was around six or
 19 seven months.
 20 Q Okay.
 21 A He did describe, you know, some notes in the
 22 portfolio could be as short as three or four months, but
 23 could be as long as twelve months in the pool, I guess,
 24 is how he described it.
 25 Q Okay.

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1 Did he describe -- he'd mentioned the fifty to
 2 sixty sort of thousand dollar average. Did he describe
 3 a range of the cash advances?
 4 A Oh, gosh. No, I can't recall that.
 5 Q Did he mention one as high as thirty-nine
 6 million dollars?
 7 A No.
 8 Q Okay.
 9 And how -- did Mr. Leddbedder describe the
 10 repayment or collection process?
 11 A He did, yes.
 12 Q And what did he tell you about that?
 13 A He said that the collection process is billed
 14 on an ACH system, that as part of the approval process,
 15 that the merchants have to agree that on a daily basis a
 16 little bit of the principal and a little bit of the
 17 interest that's owed on that note is automatically
 18 deducted from that merchant's bank account on a daily
 19 basis. He described that it's a way of controlling the
 20 influx of capital -- the repayment, I guess, of the
 21 note, right, as opposed to advancing money to one of
 22 these companies and every month they have to write a
 23 check. They're sending a bill. He said it's a way we're
 24 using technology to kind of streamline the process.
 25 Q Okay.

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1 Did he discuss any kind of interest rate or
 2 what kind of interest were they charging on these
 3 things?
 4 A Oh, what they're charging on the loans?
 5 Q Yeah. And I want to be clear because there's
 6 certain terms here. If I use the word "term loan," I'm
 7 referring to merchant cash advance. I just want to be
 8 clear. Okay?
 9 A All right.
 10 Q All right. So did he -- was there a
 11 particular rate, interest rate or other charges that 1st
 12 Global charged on the cash advances?
 13 A He said that roughly -- you know, it depends
 14 on the company, the size of the note, the term of the
 15 note, that it could be -- you know, it varies, that --
 16 he said roughly around -- I think it was like a factor
 17 rate, he was saying, of like a hundred and thirty.
 18 Q Okay. Meaning?
 19 A A hundred and thirty percent, I guess, is a
 20 good way of putting it as far as the payment goes back.
 21 Q So, basically, a thirty percent -- they would
 22 get thirty percent on top of the loan --
 23 A Correct. He said it could be as high as --
 24 Q Let me finish.
 25 A Okay. Sorry.

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1 Q We'll drive her crazy.
 2 A Sorry.
 3 Q Not a problem.
 4 So they would get -- 1st Global would get back
 5 essentially thirty percent interest rate -- thirty
 6 percent on top of the loan amount?
 7 A Correct.
 8 Q Okay.
 9 A But it would vary depending on the size of the
 10 loan, the term. It could be higher than that. It could
 11 be lower than that. That 1st Global has had repeat
 12 merchants come back, and that a lot of times they'll
 13 give them a better interest rate, you know, if they're a
 14 repeat client.
 15 Q Okay.
 16 And did he indicate how the company found
 17 businesses to loan money to?
 18 A Let's clarify that one a little bit. I'm a
 19 little confused on that. How 1st Global went about
 20 finding the merchants or --
 21 Q Yes, exactly.
 22 A Okay. I believe he described that they use
 23 outside firms that, basically, go out and find merchants
 24 that need -- and then they're kind of that in between.
 25 Q Okay.

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1 And was there an approval process that 1st
 2 Global had that he described?
 3 A He did. He said they had an underwriting
 4 process.
 5 Q And how did he describe that?
 6 A He said that because it falls in the financial
 7 technology space or what have you, that they use a lot
 8 of technology to kind of streamline the approval
 9 process. He said that within -- if they have certain
 10 documentation, that 1st Global could within twenty-four
 11 to forty-eight hours of the approval process fund a
 12 merchant. If there was more documentation required, it
 13 could take several days or even several weeks depending
 14 on -- but he said the underwriting process was that
 15 companies had to be in business for a few years. It
 16 couldn't be like a startup firm. That the companies
 17 that they were looking for were companies that were
 18 using the money for growth and expansion, that the
 19 companies weren't going to be using it to try to pay
 20 off, you know, like debts or make payroll for the week.
 21 That they required bank statements of the companies.
 22 That they required like a personal background check on
 23 the owners. The owners of the firms had to personally
 24 guarantee. That they looked for companies that had some
 25 sort of collateral backing. He said that they would

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1 file something called the UCC, which I don't know,
 2 Universal Collateral Contract --
 3 Q Commercial code?
 4 A Commercial code. Thank you. Okay.
 5 That they would file this against each
 6 company, so they're kind of like first in line if
 7 somebody didn't pay back the loan. Then they were kind
 8 of first in line to --
 9 Q Did he describe these loans as secured or
 10 unsecured?
 11 A He said that the loans were -- how would you
 12 describe it? I don't know if he said secured to be
 13 exact, but he said that they looked for companies that
 14 had collateral to back the notes.
 15 Q Okay.
 16 But did they require any kind of secured
 17 interest agreement or anything?
 18 A That, I don't know.
 19 Q Okay.
 20 And I think -- was there -- I mean, you
 21 mentioned that they were looking for companies that use
 22 the money for expansion, you know, business activities,
 23 as opposed to paying off debts or something like that.
 24 Did they actually require companies to submit proposals,
 25 do you know, or written proposals for how they were

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1 going to use the money?
 2 A That, I do not know.
 3 Q Okay.
 4 A He did mention that like part of their
 5 approval process is that they deny nine out of ten
 6 applicants. He said that essentially what they're doing
 7 is, they're really strict about who they're lending
 8 money to, that they're only approving one out of ten, I
 9 guess, merchants.
 10 Q Okay.
 11 And you mentioned when it came to the notes,
 12 you said that the nine-month notes on the investor or
 13 lender side?
 14 A The lender side.
 15 Q Okay.
 16 And I'm going to -- just the same way with
 17 regard to the merchant cash advances. If I use -- I
 18 know 1st Global used the term "lender," correct?
 19 A Correct.
 20 Q If I use the term "investor," "lender", I'm
 21 using them interchangeably. Okay?
 22 A Okay.
 23 Q So if I use the term "investor" or
 24 "investment," I am referring to lender and the
 25 nine-month note just so we have a common understanding.

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1 Okay?
 2 A Okay.
 3 Q So on that side, you indicated that the
 4 lenders gave money and that their money was then
 5 diversified.
 6 MR. PORTEOUS: I'm sorry. On that side, what
 7 do you mean?
 8 MR. LEVENSON: On the lender side. Let me
 9 rephrase the question.
 10 BY MR. LEVENSON:
 11 Q Lenders gave money to the company in exchange
 12 for a nine-month note, and then the lender money was
 13 diversified into many cash advances -- or many merchant
 14 cash advances. Did I understand that correctly?
 15 A That's correct.
 16 Q It wasn't a situation where, let's say, a
 17 lender decided to give the company a hundred thousand
 18 dollars, and then all of their money was then put on one
 19 short-term loan, correct?
 20 A Correct. From what Mr. Leddbedder described
 21 was that no more than two percent of any money that was
 22 lent from a lender would go into any one merchant.
 23 Q Okay.
 24 A To further support that, if we looked at like
 25 Exhibit 40, if that's okay?

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1 Q Yes, absolutely.
 2 A To kind of support that, you know, if you look
 3 from pages three to twenty-three, I guess, is a good way
 4 of describing it, they had listed on there all the
 5 different merchants that had advances. So that was
 6 supporting documentation that they were actually
 7 diversifying it into multiple merchants and not just one
 8 or two.
 9 Q And did it later become your understanding
 10 when you started doing business with 1st Global that
 11 kind of a statement in Exhibit 40 was typical --
 12 A Yes.
 13 Q -- of a client's statement?
 14 A Yes.
 15 Q Okay.
 16 And did Mr. Leddbedder say why that was, that
 17 they were diversifying the lender money into multiple
 18 merchant cash advances?
 19 A I mean, it was for protection purposes, right.
 20 Instead of being in one merchant cash advance, being in
 21 multiples, helps to insulate client portfolio.
 22 Q Okay.
 23 Did -- and you mentioned that Mr. Leddbedder
 24 said that these nine-month notes were exempt from
 25 security registration?

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1 A He did.
 2 Q Okay.
 3 Is that something he just brought up, or did
 4 you ask him about that?
 5 A It's something he brought up.
 6 Q And tell me as best you can recollect what he
 7 said about that subject.
 8 A He just said that because it's a nine-month
 9 note, that any notes that are nine months or less,
 10 according to the Securities -- and don't quote me. I
 11 don't know the exact code. But it was are Securities
 12 Act of 1933 or something, some line that commercial
 13 paper that's nine months or less is considered exempt
 14 under the exchange rules. So that I -- it wasn't like a
 15 business that we would process through like the
 16 broker/dealer or something like that.
 17 Q Okay.
 18 At that point, did you have any independent
 19 experience with, you know, whether notes and under what
 20 circumstances notes qualify or don't qualify as
 21 securities?
 22 A Did I?
 23 Q Yes.
 24 A No, I did not.
 25 Q Okay.

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1 A But, I guess, another way of looking at it too
 2 was, one thing that if you were going to go forward,
 3 that we would have to get it approved by a
 4 broker/dealer -- my broker/dealer, my broker/dealer as
 5 an outside business activity.
 6 Q He indicated that?
 7 A Yes.
 8 Q And why did he say that?
 9 A Because he had asked, do you have like a
 10 securities license, and I had told him yes. And he
 11 said -- it wasn't Dale. I apologize. I want to clarify
 12 that. Trae had mentioned that, that, hey, if you --
 13 you're going to want to get it approved by your
 14 broker/dealer.
 15 Q And was that at one of those two
 16 conversations?
 17 A Correct. Yes.
 18 Q And why did Mr. Wienewitz say that was the
 19 case?
 20 A Just because he knew that I had a securities
 21 license.
 22 Q Okay. Did he indicate why -- I mean, do you
 23 have to get non-securities selling approved as an
 24 outside business activity by a broker/dealer?
 25 A Yes.

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1 Q Okay.
 2 A So an example is, I have an insurance license.
 3 So with the broker/dealer, I had to have that approved
 4 by the broker/dealer to be able to have access as an
 5 outside business activity.
 6 Q Okay.
 7 And was it your understanding, I guess, if you
 8 were to do business with the company, that essentially
 9 you would be offering the investment to potential
 10 lenders?
 11 A To --
 12 Q Potential lenders.
 13 A Yes. Yes.
 14 Q Okay.
 15 And did Mr. -- well, first of all, did Mr.
 16 Leddbedder tell you -- give you any idea how many
 17 merchant cash advances that the company had made or had
 18 outstanding, anything like that?
 19 A You know, I don't recall the exact numbers,
 20 but he said that the company had been growing over the
 21 last number of years pretty substantially.
 22 Q Okay.
 23 And did he indicate how many lenders the
 24 company had?
 25 A He did not.

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1 Q Okay.
 2 Did you discuss the lender process or the
 3 process of finding lenders with Mr. Leddbedder in that
 4 conversation?
 5 A I don't recall.
 6 Q Well, for example, did you talk about how the
 7 company, you know, I guess found its lenders?
 8 A Originally, he said that like the company was
 9 started by Mr. Ruderman, Carl Ruderman. He kind of
 10 described Mr. Ruderman's background, that Mr. Ruderman
 11 had been, I think, it was in the travel industry for
 12 many, many years and had made a lot of money in that
 13 travel industry, and that he had sold this company, and
 14 he had a bunch of money, I guess.
 15 And Mr. Ruderman had talked to a few of his
 16 friends or colleagues. He had mentioned that one of
 17 them was -- I don't know if he was a CEO or who -- of a
 18 company called OnDeck, and that -- I don't know if it
 19 was one of the Chairman or the CEO or somebody, he went
 20 to him and said, hey, you know, I've got this money, I
 21 don't trust putting my money in stocks, do you have
 22 anywhere that you would recommend? And he said, well,
 23 the Fintech space or the merchant cash advance space is
 24 a fast growing area. So that's what Mr. Ruderman wound
 25 up doing with, apparently, his money and his family's

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1 money, and then it began to kind of grow and expand, and
 2 he began to bring other lenders in.
 3 Q And did Mr. Leddbedder describe any particular
 4 restrictions or limits that the company had on the type
 5 of lender it was seeking?
 6 A No, he did not.
 7 Q Okay. For instance, did he say there had to
 8 be any kind of, you know, minimum -- a minimum lender
 9 amount?
 10 A Oh, as far as a minimum amount that a lender
 11 could --
 12 Q Yes.
 13 A It was twenty-five thousand.
 14 Q Okay.
 15 Were there -- did a lender have to have any
 16 particular, you know, income or asset level?
 17 A No. In our conversations, Mr. Leddbedder --
 18 one of the questions I asked, when you take a look at
 19 this as far as an allocation standpoint, right, being
 20 diversified in a portfolio, I said, you know, when I
 21 look at it, it looks like it falls into like an
 22 alternative quadrant. Right. It's not a mutual fund.
 23 It's not a stock or a bond. What do you think is like
 24 an appropriate or not appropriate type of allocation?
 25 And Mr. Leddbedder said, ten to twenty percent is

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1 probably like a maximum amount because it does still
 2 fall into the alternative space.
 3 Q When you say ten to twenty percent allocation,
 4 are you talking of a lender's overall investment
 5 portfolio?
 6 A Net worth, correct.
 7 Q Net worth?
 8 A Yes.
 9 Q Okay.
 10 So were there any dollar amounts that the
 11 company sort of set up as far as a net worth before
 12 somebody could invest, or just that it had to be no more
 13 than ten to twenty percent?
 14 A Well, they didn't even have a restriction on
 15 that. They didn't say. It was just Mr. Leddbedder's
 16 opinion. The company's minimum investment for a lender
 17 was twenty-five thousand.
 18 Q But as far as restrictions on income level,
 19 net worth, assets, am I correct that the company didn't
 20 have any restrictions on that?
 21 A 1st Global Capital?
 22 Q Yes.
 23 A No.
 24 Q Okay.
 25 And if I say the company, I am referring to

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1 1st Global.
 2 A 1st Global.
 3 Q No. I want us to have a common understanding.
 4 A Yeah.
 5 Q Okay.
 6 A I just want to make sure I'm clarifying it.
 7 Q I appreciate it.
 8 Did you discuss with Mr. Leddbedder the rates
 9 of return that the lenders had been making?
 10 A Yes.
 11 Q And tell me what that discussion was about.
 12 A He kind of gave it kind of a broad stroke. He
 13 said, you know, we've seen high single digits -- oh,
 14 no -- yeah, high single digits, low double digits.
 15 Q And was that on an annual basis?
 16 A That's correct.
 17 Mr. Leddbedder also said that he -- how he had
 18 gotten involved was that a friend of his had come to him
 19 and said, hey, I'm interested in lending money to this
 20 company, can you take a look at it for me because I know
 21 you're a securities attorney or a litigating -- you
 22 know, can you take a look at the company? He said that
 23 he looked at the company, investigated the company, and
 24 was actually impressed by it, and he actually put some
 25 of his own money in. And after a year, I think he said

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1 he put even more money in after he had received some
 2 good results.
 3 Q And what results did he tell you he --
 4 A He didn't give specifics.
 5 Q And he actually got the money back at that
 6 point, or just his statements --
 7 A Just what is --
 8 Q -- his statements were showing -- let me
 9 finish.
 10 A Okay.
 11 Q -- the statements were showing an appreciation
 12 in value?
 13 A Correct.
 14 Q Did you discuss whether there was an automatic
 15 rollover provision at that point with Mr. Leddbedder and
 16 the lenders?
 17 A Yes, he did mention that. Yes.
 18 Q And what did he tell you about that?
 19 A He said that it's a nine-month commitment or a
 20 nine-month note and that at the nine-month mark, that it
 21 will automatically renew for another nine months, that
 22 if a client doesn't want it to renew, that they have to
 23 just notify 1st Global Capital in that like eight month,
 24 seven to eight month that they don't want it to renew.
 25 Q Okay.

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1 And did he talk about any fees or anything
 2 that 1st Global took out of any money that it had
 3 received from lenders or loaned out to merchants?
 4 A He did not.
 5 Q Did he indicate how 1st Global decided to, you
 6 know, apportion lender's money into different cash
 7 advances?
 8 A The only thing he said is that 1st Global
 9 doesn't put more than two percent of any client money
 10 lent into one advance, that he says it's much more
 11 diversified than that to the point you could be in as
 12 many as a thousand to fifteen hundred different
 13 advances.
 14 Q Going back to this nine-month note and its
 15 security exemption, did -- anything else you discussed
 16 with Mr. Leddbedder about that?
 17 A Not that I can recall.
 18 Q Okay.
 19 So how long was this conversation with Mr.
 20 Leddbedder?
 21 A I believe the first one was about an hour to
 22 an hour and a half.
 23 Q Was there a subsequent conversation?
 24 A There was, yes.
 25 Q And how long was that conversation?

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1 A Probably an hour possibly.
 2 Q Do you remember how long after the first
 3 conversation did the second conversation occur?
 4 A Within a week.
 5 Q Okay.
 6 And the things that we've been discussing
 7 about what Mr. Leddbedder told you, was that across both
 8 conversations?
 9 A That's correct.
 10 Q Okay.
 11 So at some point -- well, did he tell you how
 12 long the company had been in business, the company being
 13 1st Global?
 14 A At that time, I believe he said they were in
 15 business for about four years.
 16 Q Okay.
 17 And did he indicate -- did he provide you with
 18 any financial -- either financial reports or discuss any
 19 of the company's financial information?
 20 A He did not.
 21 Q Okay.
 22 Did you talk about whether the company had an
 23 auditor or anything like that?
 24 A One of the things like on the statement here
 25 provided, if you look at, again, Exhibit 40, that first

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1 page, I believe it's the last sentence in that first
 2 paragraph. It says, Our independent audit firm, Daszkal
 3 Bolton, has endorsed and agrees with these rates of
 4 return formula or what have you. He had mentioned that
 5 this firm, Daszkal Bolton, they work with that firm to
 6 verify that the return information is correct on
 7 clients' statements.
 8 Q Okay.
 9 Did you ever independently confirm that, or
 10 did you just rely on Mr. Leddbedder's presentation?
 11 A I relied on Mr. Leddbedder.
 12 Q Okay.
 13 If you had known that, in fact, Daszhal Bolton
 14 hadn't performed any work for 1st Global Capital since
 15 2015, would that have made a difference in your ultimate
 16 evaluation of whether to offer the 1st Global product to
 17 your clients?
 18 MR. PORTEOUS: Are you asking hypothetically,
 19 or you're telling him facts?
 20 MR. LEVENSON: I'm asking him the question
 21 simply as I asked it.
 22 BY MR. LEVENSON:
 23 Q If you had known at the time that Daszkal
 24 Bolton had not done any work for the company since 2015,
 25 would that have made a difference in your decision as to

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1 whether or not to do business with 1st Global?
 2 A Quite possibly.
 3 Q Okay.
 4 And why is that?
 5 A I mean, they're on the statement there.
 6 Q Okay.
 7 And if, in fact, you had learned in this time
 8 table that Daszkal Bolton had never actually performed
 9 an independent audit of 1st Global Capital's financials,
 10 would that have made a difference in your decision as to
 11 whether to do business with the company?
 12 A I don't know how to answer that.
 13 Q Well, are you saying if you learned that
 14 Daszhal Bolton didn't -- you know, that this statement,
 15 Our independent audit firm have endorsed and agrees with
 16 the rate of return formula, if you'd learn that was not
 17 true, would you have done business with the company?
 18 A Again, I don't know how to answer that. I
 19 guess, yes.
 20 Q Okay.
 21 Well, if this statement wasn't true, would
 22 that indicate to you that 1st Global wasn't telling the
 23 truth to his clients?
 24 A Possibly, yes.
 25 Q Okay.

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1 But you still might've considered doing
 2 business with the company?
 3 A Again, you know, we're going back in history
 4 of what I would've done or not done. I guess I'd have
 5 to be in that situation at that time to answer the
 6 question properly.
 7 Q I'm trying to think of a circumstance under
 8 which -- well, you tell me. Is there a circumstance
 9 under if you found that a company that you were
 10 potentially considering doing business with was not
 11 telling the truth about something, that you would still
 12 consider doing business with that company?
 13 A No, I wouldn't.
 14 Q Okay.
 15 So, I guess, what I'm asking you is, if you
 16 knew -- if you had learned in 2017 that this statement
 17 on this client's statement, Our independent audit fir,
 18 Daszhal Bolton, LLP, has endorsed and agrees with the
 19 rate of return formula, was not true because, one,
 20 Daszkal Bolton had never performed an independent audit
 21 for 1st Global, and, two, had not done work for 1st
 22 Global since 2015, that you would still consider doing
 23 business with the company?
 24 A No, I wouldn't.
 25 Q Okay.

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1 So -- but, again, you relied on 1st Global,
 2 right, to tell you the truth, basically?
 3 A Well, there was, obviously, multiple sources.
 4 Q Okay.
 5 So after the two calls with Mr. Leddbedder
 6 and, I guess, after the two calls with Mr. Wienewitz, at
 7 some point, obviously, you decided to do business with
 8 1st Global; am I correct?
 9 A (The Witness nods head.)
 10 Q Do you remember how long after -- I'm sorry.
 11 You nodded your head. Can you answer?
 12 A I'm just thinking, so --
 13 Q Okay.
 14 So, yes, you did decide to do business, but
 15 how long after those calls did you decide to do business
 16 with 1st Global?
 17 A Again, I don't know the exact dates, but, I
 18 believe, it was in April 2017.
 19 Is it possible to use the washroom?
 20 Q Yes.
 21 MR. LEVENSON: We've been going a little
 22 while. It is now 10:16. So let's go off the order at
 23 10:16.
 24 (A brief recess was taken.)
 25 (Mr. Miller is not present in the room.)

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1 MR. LEVENSON: We're back on the record at
 2 10:27.
 3 BY MR. LEVENSON:
 4 Q And, Mr. Pellegrino, do you agree that there
 5 were no conversations of substance between you and the
 6 staff about the case or your testimony while we were off
 7 the record?
 8 A Yes.
 9 Q So a couple of quick questions about the
 10 conversation -- conversations with Mr. Leddbedder. Did
 11 you discuss what your compensation would be if you
 12 decided to do business with 1st Global?
 13 A I don't know if compensation came up with Mr.
 14 Leddbedder.
 15 Q Okay.
 16 Did you discuss whether Mr. Leddbedder or did
 17 Mr. Leddbedder tell you that he was being compensated
 18 for each lender that was brought into the company?
 19 A He did not.
 20 Q Okay.
 21 And when you talked about Mr. Leddbedder
 22 referring to commercial paper, do you know was he
 23 referring to the lender -- the lender's note or the
 24 merchant cash advance or both or neither?
 25 MR. PORTEOUS: Can you repeat the question? I

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1 got lost.
 2 BY MR. LEVENSON:
 3 Q Do you understand the question, Mr.
 4 Pellegrino?
 5 A I don't either.
 6 Q Okay.
 7 You said Mr. Leddbedder referred to commercial
 8 paper in the course of your conversation?
 9 A Yes.
 10 Q Was he referring to the merchant cash advance,
 11 do you know?
 12 A I don't know exactly. He said that a
 13 nine-month note is considered under the Securities Act
 14 of 1933, I think, it was to be exempt from the
 15 securities rule or something like that. That's exactly
 16 what he said.
 17 Q Okay.
 18 You also had said earlier that he called it
 19 commercial paper. Do you know if he was referring to
 20 the nine-month note that lenders executed or the
 21 merchant cash advances?
 22 A Again, what he said was anything that's nine
 23 months or less is considered to be under the exemption
 24 rule.
 25 Q Okay.

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1 A So, I guess, to clarify it would be that the
 2 client, right, is entering into a nine-month note.
 3 Q Right.
 4 A Right?
 5 Q Meaning your client?
 6 A Like -- correct, as a lender.
 7 Q Okay.
 8 Did Mr. Leddbedder say whether that was
 9 considered commercial paper?
 10 A Again, it was just a nine-month note is
 11 considered to be exempt under the exchange rule.
 12 Q Did you ever do any independent research on
 13 that issue before you started doing business with 1st
 14 Global?
 15 A As far as what?
 16 Q Determining whether he was correct in his
 17 statements about a nine-month note being exempt from the
 18 Securities Act of 1933.
 19 A I mean, I looked up the rule -- or, you know,
 20 whichever -- it's a Securities Act Rule 10-315,
 21 paragraph A thing, I looked that up, and I did find
 22 online that's what it said.
 23 Q What specifically did it say?
 24 A It was a bunch of research done by -- I think
 25 it was the University of Indiana or something like that.

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1 It was like an eighty-five hundred page report on that
 2 section.
 3 Q Okay.
 4 And what did it say?
 5 A Basically, to round it off, it was just saying
 6 that like -- it's going through different case files and
 7 said something to the effect of that nine-month notes
 8 are considered exempt.
 9 Q Okay.
 10 Besides --
 11 A So I was clarifying what he had said, I guess.
 12 Q Okay.
 13 Any other research that you did on the issue
 14 of whether the nine-month notes that the lenders
 15 executed are securities or not securities?
 16 A No.
 17 Q Okay.
 18 So, I guess, tell me all the reasons you
 19 decided that you would do business with 1st Global?
 20 A Well, I did like the fact that it was a
 21 short-term vehicle.
 22 Q Okay.
 23 A We offer -- I, I offer clients annuities,
 24 fixed and fixed index type annuities, which can have
 25 terms anywhere from five years to as long as ten years

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1 in duration. So I like the simple fact that this was a
 2 little bit of a shorter. Several years ago, I had
 3 offered, through my broker/dealer, non-traded REITs,
 4 which typically were in that four to seven year, that
 5 range to tie up money.
 6 Q And just I want clarify when you say REITs,
 7 R-E-I-T --
 8 A Correct.
 9 Q -- Real Estate Investment Trusts?
 10 A Correct. Perfect.
 11 Q Keep going.
 12 A So as a separate alternative, nine months or
 13 less -- you know, nine months, essentially, versus four
 14 years or seven years or ten years, it seemed something
 15 relatively good, especially with some of the returns
 16 that 1st Global is reporting and Mr. Leddbedder had
 17 reported, you know.
 18 Q Okay. So you like the fact that it was a
 19 short-term vehicle and the returns that the company was
 20 showing you -- that 1st Global was showing you or
 21 telling you that it was earning?
 22 A Uh-huh.
 23 Q Any other reasons that you decided to offer
 24 that -- you know, solicit lenders for 1st Global?
 25 A Well, the reliance upon the information that

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1 was provided to me by Mr. Leddbedder, information
 2 provided by Mr. Wienewitz.
 3 Q What specific information from Mr. Leddbedder?
 4 A Well, I mean, I looked at him as a
 5 third-party, independent person, right. He described
 6 himself as outside legal counsel.
 7 Q Right.
 8 A Right. So to me, that was saying, hey, I'm
 9 not with this company, I'm outside legal counsel. His
 10 experience, his personal experience with his own money
 11 that he had invested with 1st Global.
 12 Q Okay.
 13 A And as I said before, Mr. Wienewitz and his
 14 description, his experience, the fact that he said that
 15 a friend of his, a guy that I knew or an acquaintance
 16 of, Chris Danton, being with -- or working with 1st
 17 Global for a few years is what Chris -- or Trae had
 18 described. So it was these things.
 19 Q And when you say the experience that Mr.
 20 Leddbedder's personal experience, Mr. Wienewitz's
 21 experience, Mr. Danton's experience, are you talking
 22 about with the rates of return that they were seeing?
 23 A Rates of return and that it's nine months.
 24 Q Okay.
 25 Any other reasons you decided to do business

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1 with 1st Global?
 2 A I can't recall. I think that's pretty much
 3 it.
 4 Q Okay.
 5 MR. LEVENSON: So let's go ahead then and mark
 6 this as Exhibit No. 41.
 7 (SEC Exhibit No. 41 was marked for
 8 identification.)
 9 BY MR. LEVENSON:
 10 Q Mr. Pellegrino, I have placed in front of you
 11 a three-page document that we've marked as Exhibit No.
 12 41. It is an April 11th, 2017 letter addressed to Mr.
 13 Carl Ruderman and it's signed on the last page, it
 14 appears to be signed by both you and Mr. Ruderman.
 15 So first of all, do you recognize Exhibit 41?
 16 A I do.
 17 Q Okay.
 18 Can you tell me what it is.
 19 A It was the, essentially, agreement for me to
 20 be associated to be able to refer lenders to 1st Global
 21 and receive a referral fee in exchange for that
 22 relationship.
 23 Q Okay.
 24 Who drafted Exhibit 41?
 25 A 1st Global.

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1 Q Okay.
 2 Do you know who specifically at 1st Global?
 3 A Not specifically.
 4 Q Who sent it to you, let's put it that way?
 5 A Darice Lang.
 6 Q Okay.
 7 Now, had you spoken to Ms. Lang prior to April
 8 11th of 2017?
 9 A Yes.
 10 Q When did you first speak to her?
 11 A Right around that date.
 12 Q Okay.
 13 Was it in connection with Exhibit 41 that you
 14 spoke to her?
 15 A Yes.
 16 Q Okay.
 17 Did she send it to you and then you spoke to
 18 her, or did you speak to her and then she sent it to
 19 you?
 20 A I spoke to her first.
 21 Q And what caused you to speak to her?
 22 A She was just kind of going through the
 23 understanding of like, okay, if you'd like to become
 24 associated with 1st Global, there's some paperwork you
 25 have to sign, you know, so if you refer lenders to us,

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1 we'll pay a referral fee to you.
 2 Q Okay.
 3 So did you speak to her after you, I guess,
 4 decided that you wanted to do business with 1st Global?
 5 A Yes.
 6 Q How was it that you came to speak to her?
 7 A I think it was Mr. Leddbedder that had said,
 8 you know, if you do want to work with them, you would
 9 speak with Ms. Lang, and then there's like an agreement
 10 that you'll sign.
 11 Q So was that what caused you to call Ms. Lang
 12 to say, okay, I want to do business with the company --
 13 A Yes.
 14 Q -- what do we do?
 15 A Yes.
 16 Q Okay.
 17 So did she send you this agreement pretty much
 18 in the form? I mean, did you make any changes to it
 19 before you signed it?
 20 A No. No, I didn't.
 21 Q Okay.
 22 What is Stone Trust Capital?
 23 A Stone Trust is just an S corporation that I've
 24 had established since 2007, 2008 for -- at the
 25 advisement of my accountant for tax purposes.

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1 Q Okay.
 2 Is that where you receive payment for your
 3 selling, I guess, your insurance selling, your annuity
 4 selling, your IA selling activities?
 5 A That's correct.
 6 Q Okay.
 7 Does all that money go into Stone Trust
 8 Capital?
 9 A That's correct.
 10 Q Okay.
 11 So as of April 11th, 2017, you had not
 12 actually started -- is that correct, you hadn't actually
 13 started referring lenders to 1st Global?
 14 A I had not.
 15 Q Okay.
 16 You had to execute this first?
 17 A Correct.
 18 Q Okay.
 19 So in the third paragraph, it talks -- of
 20 Exhibit 41 on the first page, it talks about fees. So
 21 it says, "In the event of any actual financing being
 22 procured" -- I'm looking at the third sentence of the
 23 third paragraph.
 24 A Okay.
 25 Q Second line, "In the event of any actual

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1 financing," do you see where I'm reading?
 2 A Yes.
 3 Q Okay.
 4 "In the event of any actual financing being
 5 procured by affiliate, a fee shall be generated and
 6 deemed payable to affiliated by the company in the sum
 7 of four percent per annum of any money secured from
 8 lenders limited to the first year." So is that you're
 9 referral fee, you got four percent of the amount that
 10 any lender invested or sent to 1st Global?
 11 A Correct. Can I clarify this? I guess it says
 12 four percent per annum, but technically what we were
 13 being compensated was three percent, because the way it
 14 was spelled out in their kind of boiler plate agreement
 15 here was, okay, four percent per annum, but it was a
 16 nine-month note, right?
 17 Q Okay.
 18 A So you're only really making three percent,
 19 right, as the referral fee because it's a nine-month.
 20 Q Okay.
 21 So if somebody invested a hundred thousand
 22 dollars in a nine-month note, you got three thousand
 23 dollars?
 24 A Correct.
 25 Q Okay.

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1 So what happened then if the lender decided to
 2 rollover, did you get any fee for that?
 3 A Yes.
 4 Q What did you get for that?
 5 A It was I believe -- if we break it down to the
 6 nine -- because it was -- it was two and a quarter
 7 percent for the renewal, because it was considered a
 8 separate or a second transaction.
 9 Q Okay. So two and a quarter percent.
 10 If they rollover the hundred thousand dollars,
 11 you got three thousand for the initial investment and
 12 then you would get two thousand, two hundred fifty for
 13 the rollover?
 14 A Correct.
 15 Q Okay.
 16 And then if they -- if at some point an
 17 investor decided to contribute more money beyond the
 18 rollover, did you get that same three percent for the
 19 new amount?
 20 A So if they added additional funds?
 21 Q Yes.
 22 A Yes and no, I guess is a way to put it. If it
 23 was new money that was being added, so use your example,
 24 a hundred thousand dollars, right, and then a client
 25 added another hundred thousand, let's just say, it would

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1 be that three percent, but it was essentially -- how do
 2 you put it -- prorated, right.
 3 Q Okay.
 4 A So if it was, let's just say again,
 5 hypothetically, nine months, month five the client puts
 6 in additional money, you know, it's just, basically,
 7 prorated for that five-month period that that money's
 8 going in.
 9 Q I'm talking about a four-month period.
 10 A Four, yeah. Right. You're not making three
 11 percent. You know, I'm not making another three
 12 thousand dollars on that addition. It's much smaller, I
 13 guess.
 14 Q What if at nine months, let's say, not only
 15 does the client rollover the initial hundred thousand,
 16 but now they decide to put in a hundred thousand dollars
 17 for, let's say, a new note, are you getting the three
 18 percent on that, plus the two and a quarter rollover,
 19 plus the initial three percent?
 20 A I'm a little confused by -- so, I guess, to
 21 clarify it to make it real easy was that, if they were
 22 rolling over an original one hundred thousand, that's
 23 two and a quarter.
 24 Q Right.
 25 A If at that new nine-month mark, they're

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1 putting an additional one hundred thousand, then it
 2 three percent of that.
 3 Q Right. So -- okay. Fair enough.
 4 And then at the very end, it talks about a one
 5 percent per annum of any money secured from lenders by
 6 an authorized agent of the affiliate. So did you have
 7 anybody -- I would assume that would be somebody working
 8 for you or with you who was also offering the --
 9 A No. You know, we found out later that that
 10 was -- that fee was being paid to Mr. Wienewitz because
 11 he had referred us.
 12 Q Oh.
 13 A We later found out that he had recruited
 14 several like affiliates, I guess, you'd say or agents,
 15 like myself, to 1st Global, and he was essentially
 16 getting paid an override.
 17 Q Okay. So he got -- well, one percent, for
 18 example, in your example, three quarters of the percent
 19 for a nine-month note on every note that you --
 20 A Right.
 21 Q Did you have any else that you recruited then
 22 to sell the investment?
 23 A No, I did not.
 24 Q Okay.
 25 Had you done so, that's where that one percent

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1 per annum fee would've come in?
 2 A That's correct.
 3 Q Okay.
 4 Over on the second page of Exhibit 41, the
 5 third paragraph down, it's the paragraph that begins,
 6 "Affiliate agrees that all marketing materials not
 7 supplied by the company," do you see where I'm reading,
 8 third paragraph down?
 9 A Yes.
 10 Q Okay.
 11 And it goes on to describe a number of
 12 materials. It says, "Must be approved by the company
 13 prior to distribution by the affiliate."
 14 So my understanding, I guess, is that 1st
 15 Global had to approve any marketing materials that you
 16 send out to potential lenders?
 17 A According to this, yes.
 18 Q Okay.
 19 Was that true in practice? I mean, did 1st
 20 Global, you know, have to approve any marketing
 21 materials that you sent out?
 22 A Yeah. I mean, we didn't send out marketing
 23 materials. We sent out one piece of marketing material,
 24 but we didn't send out multiple pieces of marketing
 25 materials.

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1 Q Okay.
 2 And that one piece -- and I think you produced
 3 it and I'm going to look at here shortly -- is that
 4 something 1st Global had to approve?
 5 A Yes. I mean, it was -- I guess probably when
 6 we get to it, it'll be better to explain that.
 7 Q All right.
 8 Did 1st Global -- and we can talk more about
 9 it, but did 1st Global actually send you any materials,
 10 marketing materials, that you could send to lenders?
 11 A They periodically would send out like an Email
 12 with like a frequently asked questions page or, you
 13 know, company information, things of that sort.
 14 Q Okay.
 15 And that was all prepared and drafted by 1st
 16 Global, right?
 17 A That's correct.
 18 Q Okay.
 19 So is it fair to say that you didn't send out
 20 any marketing or solicitation materials that were on
 21 your own, that they were all company sanctioned, company
 22 approved?
 23 A Correct.
 24 Q Okay.
 25 Did 1st Global ever send you any sales

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1 scripts?
 2 A Sales scripts?
 3 Q Yeah.
 4 A No.
 5 Q Okay.
 6 And was this the only written agreement that
 7 existed between you or Stone Trust and 1st Global?
 8 A Yes.
 9 Q Okay.
 10 So did you begin then offering or, I guess,
 11 soliciting your clients after this was executed, this
 12 being Exhibit 41?
 13 A No, I did not.
 14 Q Okay.
 15 How long after, I guess -- after April 11th
 16 did you begin offering the lending opportunity to your
 17 clients?
 18 A Kind of take a step back. After this was
 19 executed, I then reached out to my broker/dealer,
 20 Capital Management, because, again, I wanted to have it
 21 approved as an outside business activity.
 22 Q Okay.
 23 MR. LEVENSON: So let me go ahead and mark
 24 as -- have the Court Reporter mark the next document as
 25 Exhibit 42.

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1 (SEC Exhibit No. 42 was marked for
 2 identification.)
 3 BY MR. LEVENSON:
 4 Q All right. I have -- Mr. Pellegrino, I've
 5 placed in front of you what I've marked as Exhibit No.
 6 42. It's, approximately, a ten or so page document.
 7 The page of which is entitled, TCM Evaluation of
 8 Proposed New Outside Business Activities Pursuant to
 9 FINRA Rule 3270.
 10 A Can I take a minute to read it?
 11 Q Absolutely, take a minute to review it. Let
 12 me know when you've had an opportunity.
 13 MR. LEVENSON: We can go off the record while
 14 he's reviewing the document.
 15 (A brief recess was taken.)
 16 MR. LEVENSON: Back on the record.
 17 BY MR. LEVENSON:
 18 Q Have you had a chance to review Exhibit 42?
 19 A I have, yes.
 20 Q Do you recognize this document?
 21 A I do.
 22 Q Can you tell me what it is.
 23 A It was Taylor Capital Management's outside
 24 business activity approval documentation, I guess, is a
 25 good way of putting it.

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1 Q Okay.
 2 And it appears to be signed by Dennis -- is it
 3 Dennis Taylor?
 4 A Dennis Taylor, correct.
 5 Q And he's the -- is he the Taylor Capital
 6 Management compliance officer?
 7 A Compliance officer, correct. Yes.
 8 Q And it's dated May 16th of 2017?
 9 A Correct.
 10 Q Okay.
 11 So tell me -- walk me through what you did to
 12 get this approval from Mr. Taylor.
 13 A I believe around the -- toward the end of
 14 April, I had reached out to Mr. Taylor -- right -- yeah,
 15 Dennis Taylor of Taylor Capital. I had reached out to
 16 Dennis and asked him, hey, I have a business activity
 17 and I want to submit it to you guys for approval to
 18 engage as an outside business activity, what do I need
 19 to do? He then asked me a few questions about, you
 20 know, the activity or what have you. And then he sent
 21 me an Email with like bullet points of like what -- to
 22 answer his questions of what the business activity was.
 23 Q And what kinds of questions or what questions
 24 did he ask?
 25 A It was in the Email that he sent me. It's not

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1 in this documentation. But it coincides to page three
 2 of --
 3 MR. PORTEOUS: Would that be the page Bates
 4 stamped FMR-000338 in the lower right-hand corner?
 5 THE WITNESS: That's correct. Yes.
 6 BY MR. LEVENSON:
 7 Q Okay. The one that says, 1st Global Financial
 8 Services is not investment related with an address?
 9 A Correct.
 10 Q Are these your answers to --
 11 A These are my answers coinciding to his Email
 12 requesting information for the outside business
 13 activity.
 14 Q Okay.
 15 A Okay.
 16 So page two, right, which would the document
 17 000337, that was their kind of form letter that I filled
 18 out. And you can see it says, Disclosure outside
 19 business, see attached Word doc, and that would be page
 20 three or document 000338, which should coincide to Mr.
 21 Taylor's Email about requesting information about the
 22 outside business activity.
 23 Q Okay.
 24 The second line on the page marked 000338
 25 says, It is not investment related. When you answered,

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1 on what did you base that statement?
 2 A Again, I think he had -- and I don't have the
 3 Email in front of me, so I apologize. I'm just kind of
 4 going off the top of my head. I believe his bullet
 5 point says, Is this investment related?
 6 Q Your answer stating it's not investor related,
 7 was that based on Mr. Leddbedder's -- the information
 8 Mr. Leddbedder had given you?
 9 A Correct.
 10 Q Okay.
 11 And your looking up of the rule that you
 12 described earlier?
 13 A Correct.
 14 Q Anything else?
 15 (Mr. Miller enters the room.)
 16 THE WITNESS: I mean, I had described the
 17 business activity to Mr. Taylor. You know, my reliance
 18 upon Dennis Taylor as the Chief Compliance Officer at
 19 Taylor Capital Management, him being the -- Taylor
 20 Capital Management always kind of touted that Mr. Taylor
 21 had twenty something odd years of examination experience
 22 with FINRA and knows the laws and the rules really,
 23 really well. So my reliance upon him was pretty pivotal
 24 in him approving it, if it's an outside business
 25 activity or if it's not an outside business activity,

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1 it's a private securities transaction, you know, and he
 2 had approved it as an outside business activity.
 3 BY MR. LEVENSON:
 4 Q So on the first page of Exhibit 42, which
 5 is -- this is Mr. Taylor's, I guess -- the first page of
 6 Exhibit 42 is Mr. Taylor's words, correct?
 7 A Correct.
 8 Q All right. So he says, "Since this is a
 9 non-investment entity," which about the middle of the
 10 first paragraph. Do you see that?
 11 A Yes.
 12 Q Okay.
 13 And then about four lines down from that, it
 14 says, "Or its customers will not constitute engaging in
 15 private securities transactions." Do you see that?
 16 A Uh-huh.
 17 Q Do you know on what Mr. Taylor based those two
 18 statements?
 19 A Again, I don't know. I provided him what he
 20 requested from me on that page three.
 21 Q Right.
 22 A After I had provided that information to him,
 23 he sent me another Email wanting me to clarify the
 24 company website, I guess, because he said, you know,
 25 when I go out there and I do some research, I'm seeing

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1 like two different 1st Globals or something like that,
 2 can you clarify which one it is. And then, I believe, I
 3 just Emailed him the link to what you're seeing in these
 4 copies on -- I guess it's form 339 through 344.
 5 MR. PORTEOUS: You mean Bates numbers?
 6 THE WITNESS: Yeah. On Exhibit 41 -- or 42,
 7 page number 339 through 344.
 8 BY MR. LEVENSON:
 9 Q Okay.
 10 Are those documents that Mr. Taylor
 11 independently got and attached to this form?
 12 A That's correct.
 13 Q You did not provide those to him, correct?
 14 A I did not.
 15 Q Okay.
 16 Did you -- other than your answer that says it
 17 is not invested related that's on page 338 of Exhibit
 18 42, did you give Mr. Taylor any other information about
 19 relating to whether or not this was an investment or a
 20 security?
 21 A I just gave him the information that he
 22 requested.
 23 Q I understand. There's that statement, but did
 24 you give him any other information besides that
 25 statement?

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1 A I did not. He didn't request anything else
 2 from me.
 3 Q Okay.
 4 MR. PORTEOUS: Do you mean just in writing, or
 5 do you mean based on phone conversations they had?
 6 MR. LEVENSON: Well, right now, I meant in
 7 writing. Okay?
 8 THE WITNESS: Okay.
 9 BY MR. LEVENSON:
 10 Q Now, in the telephone conversation you had,
 11 the initial telephone conversation you had with Mr.
 12 Taylor, did you give him any information on that
 13 conversation relating to whether or not this was a
 14 security?
 15 A I just gave him general information, that I'd
 16 be referring clients to 1st Global, if 1st Global -- or
 17 if the clients then became a lender of 1st Global, that
 18 I'd get paid a referral fee for referring those clients
 19 to 1st Global.
 20 Q Did you discuss with Mr. Taylor that this was
 21 a nine-month note?
 22 A I don't recall the exact conversation, but I
 23 did describe to him that 1st Global lends out money to
 24 small businesses on a short-term basis.
 25 Q Okay.

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1 Did you discuss with Mr. Taylor anymore detail
 2 about whether this was a securities transaction, other
 3 than beyond your answer on page 338 that says it is not
 4 investment related?
 5 A Again, whatever Mr. Taylor requested from me
 6 is exactly what I gave him.
 7 Q That doesn't answer my question. I'm asking
 8 what you told him. Okay. So I'll ask again. Beyond
 9 this statement, it is not investment related, did you
 10 provide Mr. Taylor, whether he asked for it or not, any
 11 other information related to whether this is a security?
 12 A No.
 13 Q Okay.
 14 MR. PORTEOUS: Other than what he just
 15 testified to telephonically.
 16 MR. LEVENSON: Well, I'm going to ask that you
 17 not answer questions that I'm asking your client.
 18 MR. PORTEOUS: I'm trying to clarify --
 19 MR. LEVENSON: Well, no --
 20 MR. PORTEOUS: -- so it's clear as to what the
 21 question is. You asked him a question, and a minute ago
 22 you asked him a question about what he said
 23 telephonically. You asked him a question about what he
 24 did in writing. So I just want to make sure the
 25 record's clear as to what you're referring to, so he can

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1 answer the question clearly.
 2 MR. LEVENSON: You will have a chance at the
 3 end of the testimony to ask any clarifying questions
 4 that you wish, but I find it inappropriate that you are
 5 adding to your client's answers. The answers are clear.
 6 If you want to ask him a clarifying question, you'll
 7 have an opportunity at the end --
 8 MR. PORTEOUS: I'm asking you a question. I'm
 9 not asking him to testify at all.
 10 MR. LEVENSON: My question was clear. His
 11 answer was clear. I'm not asking you a question. You
 12 can ask it at the end of the testimony, if you so
 13 desire. Okay?
 14 BY MR. LEVENSON:
 15 Q Did Mr. Taylor ever indicate to you what he
 16 based his statements on on the first page of Exhibit 42,
 17 that this was a non-investment entity or that this did
 18 not constitute engaging in private securities
 19 transactions?
 20 A Did Mr. Taylor explain --
 21 Q Tell you.
 22 A No, he didn't.
 23 Q Okay.
 24 A I guess to clarify, you know, he was my Chief
 25 Compliance Officer with thirty years or twenty-five

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1 years or how many years of experience he has in it as an
 2 examiner. I was giving him the information that he
 3 requested and that he could make that determination of
 4 whether or not it was an outside business activity or
 5 not.
 6 Q Okay.
 7 The pages that are from 339 to 344, had you
 8 seen these pages prior to seeing this, I guess, Exhibit
 9 42?
 10 A The 1st Global's website pages?
 11 Q Yes.
 12 A Yes.
 13 Q Okay.
 14 And when had you seen those?
 15 A I don't recall the exact times, but in general
 16 research, you know, going online looking things up, I,
 17 of course, looked up 1st Global's website.
 18 Q And this was prior to you -- was this prior to
 19 you seeking the approval for the outside business
 20 activity?
 21 A Yes.
 22 Q Okay.
 23 Did you have any discussion about these six
 24 pages, 339 through 344, with Mr. Taylor?
 25 A I did not.

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1 Q So on the -- on the page that's marked
 2 FMR-000341, do you see about halfway down it says, Our
 3 services?
 4 A Yes.
 5 Q And then underneath it it says, Unsecured
 6 business cash advances?
 7 A Yes.
 8 Q Okay.
 9 Was this consistent with your understanding of
 10 what the merchant cash transaction -- the merchant cash
 11 advance transaction was?
 12 A If you don't mind, I'll read it real quick.
 13 Q Sure. Well, I'm just asking about that one --
 14 that line that says, Unsecured business cash advances.
 15 A Okay. As far as what I was told by Mr.
 16 Leddbedder is that the merchants that they advance cash
 17 to, that they're advancing it to merchants that have
 18 some sort of a collateral backing, whether it was real
 19 estate or equipment or what have you.
 20 Q Well -- but do you agree with me here that 1st
 21 Global describes its own transaction as an unsecured
 22 business cash advance?
 23 A I understand what you're saying there, yes.
 24 Q Okay.
 25 A But that's where I'm going back to Mr.

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1 Leddbedder in providing, saying that, hey -- 1st Global
 2 files an UCC, which puts us in first line if somebody
 3 defaults on the cash advance or something like that,
 4 that there's some sort of backing that they're going
 5 after.
 6 Q Well, do you see above the last line of the
 7 document, or the previous section above, Our services,
 8 it says, "We provide businesses with unsecured funding
 9 they can use to get their business on solvent footing"?
 10 A Yes.
 11 Q Okay.
 12 Again, this is 1st Global -- am I correct that
 13 this is 1st Global's representation of what their
 14 business constitutes?
 15 A I'm not denying what's here. I'm also
 16 providing to you what was told to me from their outside
 17 legal counsel.
 18 Q Is what Mr. Leddbedder told you inconsistent
 19 with what is written here?
 20 A I would have to agree, yes.
 21 Q Okay.
 22 A I mean, one of the other things that he had
 23 said is that with their approval process, that -- so
 24 they are only approving one out of ten applicants. So
 25 what they do with the other ones that they don't approve

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1 is they, basically, are selling that lead to other firms
 2 because they're, again, looking for companies that are
 3 using the financing for expansion, have some sort of
 4 collateral, but they'll sell those leads off to another
 5 company.
 6 Q Do you remember if you saw this language about
 7 unsecured funding or unsecured business cash
 8 advancements in May of 2017?
 9 A I don't recall.
 10 Q Okay.
 11 Did you ever ask Mr. Leddbedder about this
 12 language and say, hey, this is not what you told me?
 13 A Well, when we went to -- because I'm kind of
 14 jumping a little bit. We did an on site visit.
 15 Q And I want to get to that, but just at this
 16 time --
 17 A Okay. Not at this time.
 18 Q Okay.
 19 Later, did you?
 20 A Yes.
 21 Q Okay.
 22 So remind me because we're going to come to
 23 that, and then I want to talk to you more about that
 24 when we talk about that.
 25 A Okay.

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1 Q One other line I wanted to ask you about here.
 2 In the second paragraph under, Unsecured business cash
 3 advancements. The second sentence, it says -- do you
 4 see where it says, "We fund ninety percent of the
 5 businesses that apply without basing it on their credit
 6 scores?" Do you see that?
 7 A Uh-huh.
 8 Q Do you know --
 9 MR. MILLER: Is that a yes?
 10 THE WITNESS: Oh, I'm sorry. Do I see it?
 11 BY MR. LEVENSON:
 12 Q Yes.
 13 A Yes.
 14 Q Okay.
 15 So do you know -- I can see two meanings to
 16 that sentence, and I just want to ask you if you know
 17 which one it means. Do you know whether that means that
 18 1st Global is saying, we fund ninety percent of the
 19 businesses that apply, or do you know whether it's
 20 saying, we fund ninety percent of the businesses without
 21 referring to their credit score?
 22 A And, again, I don't know if it's referring to
 23 this just being the explanations of their approval
 24 process or their underwriting process, I guess, is a way
 25 of putting was that it's not necessarily based one

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1 hundred percent on client's credit scores. They were
 2 basing a lot of their criteria on their ability to
 3 repay.
 4 Q Okay.
 5 So -- because I know you had said before, and
 6 I think we'll see materials later where the company says
 7 they only approve ten percent of the people that apply.
 8 So I mean, did you have any -- ever see anything to make
 9 you doubt that number?
 10 A No. I mean, it was very consistent through
 11 everybody and anyone that we spoke with at 1st Global,
 12 you know, from Mr. Leddbedder to Mr. Ruderman to most of
 13 their executives that we spoke with, that they were
 14 denying ninety percent of the applicants.
 15 Q Okay.
 16 So then after you received Exhibit 42, is that
 17 when you began offering -- soliciting clients?
 18 A Shortly after this, yes.
 19 Q Okay.
 20 When you say shortly period, how long after?
 21 A Probably by the end of May.
 22 MR. LEVENSON: All right. Let me have marked
 23 this next document as Exhibit No. 43.
 24 (SEC Exhibit No. 43 was marked for
 25 identification.)

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1 BY MR. LEVENSON:
 2 Q Mr. Pellegrino, I placed in front of you a
 3 one-page document, dated August 22nd of 2017 as Exhibit
 4 No. 43.
 5 Why don't you go ahead and take a look at it,
 6 and let me know when you've had a chance to review it.
 7 A Yes.
 8 Q Okay.
 9 Do you recognize Exhibit 43?
 10 A I do.
 11 Q Okay.
 12 I guess this is -- is this a letter that you
 13 wrote to FINRA?
 14 A Yes.
 15 Q Okay.
 16 And it says, "FINRA request number 1212916
 17 documentation." What was that?
 18 A Shortly -- I think it was -- I don't know the
 19 dates exactly. It was the beginning of August of 2017,
 20 I had gotten an Email from Mr. Taylor that he had an
 21 inquiry request from FINRA based on a flyer that we had
 22 sent out, and they were inquiring about that flyer and
 23 what it was.
 24 Q Okay.
 25 MR. LEVENSON: Let me go ahead and mark this

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1 next document then as Exhibit No. 44.
 2 (SEC Exhibit No. 44 was marked for
 3 identification.)
 4 BY MR. LEVENSON:
 5 Q I'm actually placing in front of you a
 6 one-page document that we've marked as Exhibit No. 44.
 7 Is that the flyer that you were just referring
 8 to?
 9 A That is correct.
 10 Q Okay.
 11 So I want to come back to this, but just for
 12 the moment, so this is something that, I guess, FINRA
 13 saw and inquired of Taylor Capital Management about?
 14 A Correct.
 15 Q Okay.
 16 And so when you say the item referenced,
 17 you're talking about the flyer?
 18 A That's correct.
 19 Q Okay.
 20 And on what did you base your statement here
 21 that is not a secured -- where you say it's not a
 22 security and not an investment?
 23 A Well, I'd gotten the request from Mr. Taylor,
 24 and I had Emailed him back, and I said, hey, this was
 25 approved as an outside business activity.

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1 Q Right.
 2 A And it's not a security. It's an outside
 3 business activity, which you approved. Right. And he
 4 said, I understand that. As far as -- and this was his
 5 Email -- as far as Taylor Capital Management's concerned
 6 you've done nothing wrong, but because you're a
 7 registered rep, you do have to respond to their --
 8 their -- their request. And so that's what I did. I
 9 sent the request to Mr. Taylor, and Mr. Taylor forwarded
 10 it on to FINRA.
 11 Q But the statement that says it's not a
 12 security and not an investment, is that based on what
 13 Mr. Leddbedder told you?
 14 A Again, based on Mr. Leddbedder, based on that
 15 Taylor Capital Management approved it as an outside
 16 business activity in Exhibit 42, that's what it's based
 17 upon.
 18 Q Okay.
 19 So since we have it out, let's talk about the
 20 flyer that's Exhibit 44. So is this something that
 21 Goldstone sent out to -- well, who did -- did Goldstone
 22 send this out?
 23 A We did, yes.
 24 Q Okay.
 25 And by we meaning, I guess, you and --

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1 A Goldstone. Yeah, Goldstone Financial Group.
 2 Q Let me just ask, was there anyone -- was
 3 Goldstone just you and your brother?
 4 A That's correct.
 5 Q Okay.
 6 Were there any other representatives selling
 7 products?
 8 A We have two -- they're called service advisors
 9 that help us service the clients.
 10 Q Okay.
 11 Do they actually sell the products or just
 12 service them after you sell them?
 13 A Both.
 14 Q Okay.
 15 Did either of them actually offer the 1st
 16 Global opportunity to any clients?
 17 A I believe they have, yes.
 18 Q Okay.
 19 So a total of four people were offering this?
 20 A My brother and I are actually, obviously, the
 21 main advisors, and they're kind of like the under --
 22 sub-advisors, I guess, you could say.
 23 Q Do they have any separate clients from you and
 24 your brother?
 25 A No.

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1 Q Okay.
 2 So then do you know how many Goldstone clients
 3 Exhibit 44 was sent to?
 4 A I don't have an exact number. This was sent
 5 one time in July of 2017 to existing clients only. It
 6 wasn't sent -- you know, we weren't standing on a
 7 corner, handing it out as a flyer or anything like that
 8 or potential clients. It was just sent to our existing
 9 client based.
 10 Q Your existing investment advisory client base,
 11 or all of your clients?
 12 A Investment advisory based clients and annuity
 13 insurance clients.
 14 Q Okay.
 15 So at that time, I think you said total
 16 Goldstone currently has about six hundred or so
 17 household clients?
 18 A Correct.
 19 Q In July of 2017, was that number the same,
 20 less, more?
 21 A We're going to say roughly the same. I don't
 22 think that all six hundred clients had received that.
 23 Q That was my question. So not all six hundred
 24 clients received Exhibit 44?
 25 A Correct.

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1 Q Do you know how many did?
 2 A I'd have to find that information for you.
 3 Q Okay.
 4 Was there some criteria you used to determine
 5 which of your clients to send Exhibit 44 to?
 6 A And, again, I'm just trying to recollect back
 7 from July of last year. We have our clients kind of
 8 categorized, A, B, C clients, and I believe we were only
 9 sending it to our like A and B clients.
 10 Q How are your clients categorized as A and B?
 11 A Well, there's different criteria. The A
 12 clients are typical clients that have larger amounts of
 13 money, that they're clients who referred people to us.
 14 B clients are typically people who have a decent amount
 15 of money with us. C clients are typically clients who
 16 have maybe just a little bit of money with us or maybe
 17 they purchased an annuity eight, nine, ten years ago and
 18 not done any other business besides purchasing an
 19 annuity or something like that.
 20 Q Okay. So is the delineation essentially -- as
 21 I understood what you said, the delineation is based on
 22 the amount of money they have under -- invested or under
 23 advisement with Goldstone?
 24 A Correct. Correct.
 25 Q Do you remember what the specific numbers that

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1 are delineated?
 2 A And, again, it's a moving number. So a
 3 client, right, we would consider -- I think, it's like
 4 two hundred and fifty thousand and above, but -- but
 5 with that being said, is if I have a client who has a
 6 hundred thousand and they've referred, you know, their
 7 friend or their sister, and we put them in the A
 8 category because they're an advocate essentially.
 9 Q Okay.
 10 And where do you sort of draw the line, again,
 11 roughly with the B clients?
 12 A I think it's about two fifty.
 13 Q For the B clients?
 14 A Yeah. Under. Under.
 15 Q Under two fifty.
 16 Is there a minimum for -- I guess a hundred
 17 thousand to two fifty?
 18 A And, again, it's all based on each
 19 relationship a lot of times, too.
 20 Q Okay.
 21 So the A and B clients, do you know how many
 22 that constituted that got Exhibit 44?
 23 A Again, that's something I have to find out,
 24 look up. I don't have that information.
 25 Q The decision to send Exhibit 44 to the A and B

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1 clients, was that a -- was that your -- I mean, your
 2 meaning Goldstone's decision?
 3 A Yeah. We had received a version of this flyer
 4 from Mr. Wienewitz. He had provided it to us in June of
 5 2018. He said that he had sent it out to his clients.
 6 MR. MILLER: June of 2018?
 7 THE WITNESS: Oh, I'm sorry. 2018. I
 8 apologize.
 9 MR. MILLER: June of 2018 or '17?
 10 THE WITNESS: June of 2017. Right? Yes, June
 11 of 2017. Because then we sent this out like end of July
 12 2017.
 13 BY MR. LEVENSON:
 14 Q Okay.
 15 But going back to Goldstone, was it Goldstone
 16 that decided which clients to send Exhibit 44 to?
 17 A Yes.
 18 Q Okay.
 19 1st Global didn't tell you, only send it to
 20 these clients?
 21 A No.
 22 Q Okay.
 23 If I understood what you said, they didn't
 24 give you any restrictions on people to offer the
 25 investment to?

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1 A No.
 2 Q Or the lending opportunity to?
 3 A Correct.
 4 Q Okay.
 5 So I'm going to go back. Did Mr. Wienewitz --
 6 what, Mr. Wienewitz sent you this exact flyer?
 7 A No, it was not exact. It was a version of
 8 this.
 9 Q Okay.
 10 Can you tell me what -- other than, of course,
 11 your firm name and your contact information, you know,
 12 above that line, can you tell me which elements, you
 13 know, were in the flyer that Mr. Wienewitz sent you
 14 versus which elements that Goldstone added to this.
 15 A Without having his to reference, I'm going to
 16 kind of try to go off from memory, but I can't be exact
 17 about it.
 18 Q Of course.
 19 A But you're correct, anything, I guess, below
 20 the Goldstone logo, right, would be our contact
 21 information, boiler plate information at the bottom,
 22 obviously. Short-term high yield contract, I believe,
 23 was part of his. The six to ten consistent predictable
 24 returns, his was different there.
 25 Q Okay.

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1 A Nine to twelve months, his was different a
 2 little bit. Contracts, asset backed, like cash CDs,
 3 that was off of his flyer. Stated terms, again, I
 4 believe that was half -- like stated terms was there,
 5 but his said like, you know -- I don't know, nine months
 6 to six years or something like that.
 7 So some of this stuff is very similar, you
 8 know, backed by collateral, client chooses timeframe,
 9 discover thirty minute -- schedule a thirty-minute
 10 discovery meeting, so a lot of that was on his form.
 11 Q Okay.
 12 I wanted to ask you about the six to ten
 13 percent predictable returns.
 14 A Yes.
 15 Q What was that statement based on?
 16 A It was based upon conversations that we had
 17 with Mr. Wienewitz, conversations that we had with Mr.
 18 Leddbedder, the statements that they had provided to us,
 19 copies of those statements, and then, I believe, it's
 20 also on their frequently asked questions page. There's
 21 a line that says, you know, what has been the historical
 22 rate of return? They put low double digits or something
 23 like that.
 24 Q Okay.
 25 I mean, did you pick those numbers sort of

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1 based on all of those different conversations or
 2 factors?
 3 A Correct.
 4 Q Okay.
 5 Was there something -- I mean, how did you
 6 come to six to ten percent, as opposed to eight to
 7 twelve or three to five?
 8 A I don't remember the exact numbers like Mr.
 9 Leddbedder saying, you know, I start at high double
 10 digit -- high single digits, low double digits, right.
 11 And kind of looking at that, looking at statements and
 12 things like that. Well, you know, if we kind of back it
 13 down a little bit, you know, and not be so off -- okay,
 14 six to ten is a decent range. If a client does
 15 experience more, well, then, hey, that's great, but, you
 16 know, we'd rather kind of go more on the lower side of
 17 things, be more conservative, I guess, is a way of
 18 putting it.
 19 Q And then the stated nine months to twelve
 20 months, previously you said Mr. Wienewitz said something
 21 like six years. Do you know why that was?
 22 A From our understanding, he sells a bunch of
 23 different products, so not just, you know, the 1st
 24 Global notes. I think he sells like some oil and gas
 25 stuff and maybe some real estate REITs or what have you,

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1 so that's why his was --

2 Q Okay.

3 But here you're referring just to the 1st

4 Global --

5 A Yes. Correct. That's correct.

6 Q -- Opportunity?

7 A That's correct.

8 Q So where does the twelve months come from?

9 A Well, this actually comes from, if we look at

10 1st Global's -- their document, their contract, which is

11 called a Memorandum of Indebtedness -- I don't know, you

12 may have a copy of it.

13 Q We do, and I want to go through it with you in

14 just a little bit.

15 A Okay.

16 In their contract, it states nine months,

17 right, it's a nine-month note or what have you. But in

18 conversations with Mr. Leddbedder and 1st Global and in

19 their Memorandum of Indebtedness, it talks about what's

20 called a grace period. Okay.

21 Q Okay.

22 A There was what we would call the use of

23 capital, you know, versus the return of capital. So if

24 a client was going into the nine-month note, it's going

25 to mature at nine months. Okay. But it could take up

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1 to twelve months, just like Mr. Leddbedder said, for

2 that money to be distributed back to the client.

3 Q Okay.

4 In other words, for it to come in from

5 merchants, so that it can be distributed --

6 A Correct.

7 So it would essentially mature. So 1st Global

8 was using that money and advancing that money into the

9 merchant cash advances for that nine-month period.

10 Q Right.

11 A If the client then decided, hey, I'm not going

12 to renew that, then no more activity on that client

13 capital was happening, because essentially what they

14 said was as capital would come in, a little bit of

15 principal, a little bit of interest on their daily ACH,

16 that they would take that and then reinvest that back

17 out into new cash advances. Well, that activity would

18 end at nine months.

19 Q Right.

20 A And then there would be this distribution

21 phase, and what's where we're -- we're just trying to be

22 very, you know, transparent --

23 Q Sure.

24 A -- with clients. Instead of saying, hey, it's

25 nine months, we're saying, hey, well, it's nine to

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1 twelve essentially is what it is.

2 Q Right.

3 Okay. So as I understand it, and we can look

4 a little bit more at the investments or their loan

5 process. But -- so it wasn't a situation where somebody

6 loaned the company -- you know, became a lender and sent

7 in a hundred thousand dollars on day one, it wasn't all

8 sent out to merchant cash advances on day two?

9 A No.

10 Q It was over time?

11 A It took several months in my experience.

12 Q Okay.

13 And so that amount was just -- the grace

14 period was to allow that money to come back --

15 A To flow back in, right. As Mr. Leddbedder had

16 described it, he said, if a client ends that nine-month

17 note at nine months, well, if a note, like a merchant

18 cash advance was advanced out in month six, and it was a

19 six-month cash advance, right, well, it's going to take

20 six months for the note to come back in.

21 Q The statement on here on Exhibit 44, it says,

22 "Client chooses the timeframe."

23 A Uh-huh.

24 Q What does that mean?

25 A Again, because it's a nine-month note, right,

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1 the client has a choice of it renewing or what have you

2 or continuing on. So if a client chose to be in it for

3 nine months, well -- but if they wanted to continue,

4 then they could choose to continue.

5 Q The rollover provision?

6 A Yes.

7 Q Okay.

8 And it says, "Backed by collateral." What does

9 that refer to?

10 A Again, that was on Mr. Wienewitz's and that

11 referenced back to what Mr. Leddbedder was saying is

12 that they tend to look for merchants that have some sort

13 of collateral backing, and they file a UCC on those

14 merchants.

15 Q Okay.

16 But, again, do you know if the statement,

17 backed by collateral, made it a secured versus an

18 unsecured loan?

19 A That, I do not know.

20 MR. MILLER: I have one question on this

21 document before you move on.

22 MR. LEVENSON: Sure. Any time.

23 MR. MILLER: When it says, "Repayment limited

24 to the financial stability of the company issuing the

25 contract," did you write that, or was that in Mr.

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1 Wienewitz's iteration?
 2 THE WITNESS: I believe that was in Mr.
 3 Wienewitz's.
 4 MR. MILLER: And what does that mean?
 5 THE WITNESS: That the repayment of the note
 6 or the contract is limited to the company that's writing
 7 the contract.
 8 MR. MILLER: Which is what company?
 9 THE WITNESS: 1st Global Capital.
 10 MR. MILLER: And how does that work exactly?
 11 THE WITNESS: As far as?
 12 MR. MILLER: Why would it be limited to the
 13 financial stability of 1st Global?
 14 THE WITNESS: This was a line that, from my
 15 understanding, where we've seen this over and over is
 16 like from an insurance company, and the insurance
 17 company, when an insurance company writes a contract,
 18 like an annuity or an insurance policy, that the
 19 insurance policy or the annuity is backed by the claim's
 20 paying ability of that company. So it's kind of a
 21 boiler plate for contracts in my experience.
 22 MR. MILLER: And just a follow-up quick
 23 questions. Do you know were Mr. Wienewitz received his
 24 iteration of the flyer that eventually turned the notes
 25 into 44?

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1 THE WITNESS: That, I'm not a hundred percent
 2 sure. I think through 1st Global and Mr. Leddbedder.
 3 MR. MILLER: Why do you think that?
 4 THE WITNESS: I'm just trying to recall
 5 conversations that I had when he provided this to us,
 6 and I'm pretty sure he said, yeah, this is approved by
 7 Dale or something like that.
 8 BY MR. LEVENSON:
 9 Q Did you ever discuss Exhibit 44 with Mr.
 10 Leddbedder or -- well, let's start with Mr. Leddbedder?
 11 A No, I didn't.
 12 Q Did you ever discuss it with anyone at 1st
 13 Global?
 14 A This, I did not, no.
 15 Q Okay.
 16 A Because, again, Trae had provided us a similar
 17 version to this and said that it was that approved by
 18 Dale.
 19 Q Okay.
 20 MR. MILLER: So now, do you know for a fact
 21 that Wienewitz said that his iteration he sent to you
 22 was approved by Dale?
 23 THE WITNESS: In that phone conversation I had
 24 with Trae in June, I believe he did say that.
 25 MR. MILLER: You believe or you know for a

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1 fact?
 2 THE WITNESS: I'm going say I believe he did
 3 say that.
 4 MR. MILLER: And Goldstone, I take it did not
 5 have a compliance department?
 6 THE WITNESS: No.
 7 MR. MILLER: Did -- at any time before you
 8 disseminated Exhibit 44 to any of your clientele, did
 9 you have it approved by any outside compliance
 10 department or consulting firm?
 11 THE WITNESS: As far as like Taylor Capital
 12 Management are you referring to?
 13 MR. MILLER: Anything.
 14 THE WITNESS: No.
 15 MR. MILLER: Why not?
 16 THE WITNESS: Well, again, as I saw it, it was
 17 approved as an outside business activity from Taylor
 18 Capital Management, so that's why -- I mean, I'd be
 19 going back and second guessing then Taylor Capital
 20 Management to say, hey, you know, there's an outside
 21 business activity that you're saying is not securities
 22 related, so I wouldn't send this in to him to get
 23 approved if he's already told me that, you know --
 24 BY MR. LEVENSON:
 25 Q Well, does his approval with an outside

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1 business activity mean you can send anything out, or
 2 would you --
 3 A Well, if it was securities related, then, yes.
 4 Q Okay.
 5 So if it was securities related, it's your
 6 understanding you would need to get approval from the
 7 compliance department --
 8 A Correct.
 9 Q -- at Taylor Capital Management?
 10 Is there any reason you didn't go back to the
 11 company, to 1st Global and say, hey, I'm going to send
 12 this out, you know, Trae Wienewitz said you guys had
 13 approved this?
 14 A No. Again, we're relaying on -- Trae had one
 15 that he was designed, and he said that Dale had approved
 16 it, so --
 17 Q Okay.
 18 MR. MILLER: But you testified before that in
 19 Mr. Wienewitz's it went out as far as six years, as
 20 opposed to twelve months. Was that the iteration that
 21 was approved by Mr. Leddbedder?
 22 THE WITNESS: That, I don't know.
 23 MR. MILLER: As far the nine months and twelve
 24 months, my colleague has already asked, did you give
 25 that twelve month stated term information to Mr. Taylor?

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1 THE WITNESS: I don't recall.
 2 BY MR. LEVENSON:
 3 Q So when you spoke to 1st Global clients about
 4 possibly becoming lenders of 1st Global, what items or
 5 what things did you prioritize or stress as far as why
 6 you thought it was a good opportunity?
 7 A Well, again, it would be different choices, a
 8 client would have different types of -- whether it was a
 9 mutual fund, an advisory account that we offer through
 10 Goldstone Financial Group. This was just one of the
 11 options made available.
 12 Q Right, but if a client came back to you and
 13 said, hey, I'm interested, okay, what you did tell them
 14 about the investment? What things did you say --
 15 A Well, basically, we -- what we tell them is
 16 that it's a lending opportunity, that you're lending
 17 money to a firm that is going to take that money and
 18 then they're going to lend it out to small businesses on
 19 a short-term basis. And then that the repayment of the
 20 note is on a daily basis, but it's money that is tied up
 21 for nine months. So it's not a product that you're
 22 going to go into and then you're going to receive like a
 23 monthly income or a monthly distribution, that this is
 24 capital. Essentially you have to be willing that it's
 25 going to be tied up for nine to twelve months. It's not

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1 stuff that you're going to be using necessarily to live
 2 off of.
 3 Q Earlier when I asked about the different
 4 reasons you personally decided to start doing business
 5 with 1st Global, one of the things you said was that you
 6 liked that it was a shorter alternative to some of the
 7 other annuity products that you offered. Was that
 8 something that you discussed with clients or emphasized
 9 to client?
 10 A Well, again, if my client was interested in an
 11 annuity, I would discuss an annuity with them.
 12 Q But was it the fact that this was a
 13 different -- you know, that this was an alternative
 14 investment something that you discussed with clients?
 15 A Well, that was part of it because it falls
 16 into that alternative quadrant, that if they have money
 17 that's invested in the stock market via stocks, mutual
 18 funds, or bonds, or what have you, obviously, they have
 19 the potential for growth, right, but they also have a
 20 potential for risk associated with market correction.
 21 If they were inside of an annuity, well, the
 22 annuity, you've got fixed index in a fixed annuity
 23 provided essentially safety of principal for our client.
 24 The trade off with that is then you tie up money for
 25 longer periods of time, you lower access or limited

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1 access to those funds over a period time.
 2 As we looked at this, this kind of falls
 3 inside of that alternative quadrant, but it's on a
 4 shorter basis.
 5 Q So when in Exhibit 44 it says, no stock market
 6 or interest rate risk, is that something you emphasized
 7 to clients?
 8 A So that would be, you know, referencing that
 9 because this is lending money, right, it's a lending.
 10 It's not tied to the stock market or it's not tied to
 11 the bottom market.
 12 Q I notice that looking at 44 that, you know,
 13 stated terms and average earnings, the items next to
 14 that, nine months, twelve months six to ten percent,
 15 those are in bold.
 16 A Uh-huh.
 17 Q Why?
 18 A I don't know.
 19 Q You wanted to emphasize it to clients,
 20 perhaps?
 21 A I mean, I guess so. I mean, we put it
 22 together. I can't give a definitive answer why it's
 23 bolded.
 24 Q Well, you know why?
 25 A I mean, it's -- up here, it's not bolded.

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1 Q I know, but it says six to ten percent
 2 consistent predictable returns. Whose adjectives were
 3 those, Mr. Wienewitz's or yours?
 4 A Again, I'd have to look back at his flyer to
 5 be exact about it.
 6 Q You know why you recommend products to
 7 clients, don't you, when you recommend them?
 8 A As far as?
 9 Q Any reason. If you recommend a product to
 10 clients, you have reasons for recommending it, don't
 11 you?
 12 A Of course.
 13 Q So what are your reasons for recommending this
 14 product to your clients?
 15 A Well, again, we would give clients multiple
 16 options, right, that they can -- I mean, we're telling
 17 clients, like if this is something you're interested in,
 18 you don't want to put all your money here, right. This
 19 would be for a small portion, not all of your money into
 20 something like this.
 21 What it is, we looked at it, it's filling a
 22 space where you have some alternative type of
 23 investment. Like with a REIT that client would normally
 24 go into, it would be four, five, six years. They were
 25 used to getting a six, seven, or eight percent, you

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1 know, distribution or dividend, you know, an annual
 2 basis. This kind of fit into that kind of -- that void
 3 area.
 4 Q I'm assuming that when you sent this out and
 5 clients asked if you were interested, you didn't tell
 6 them. Don't do it, it's a terrible opportunity? You
 7 didn't tell them that, did you?
 8 A No, I didn't, of course not.
 9 Q Okay. So all I'm trying to understand is,
 10 what did you tell them was -- why did you tell them that
 11 you thought this might be a good opportunity for those
 12 clients that you told that to?
 13 A One, it adds diversification, right.
 14 Q Okay.
 15 A We're not recommending that a client put all
 16 of their money, right. If it's something you're
 17 interested in, you want to put a small portion, not all
 18 of your assets. We're straight about, hey, it ties
 19 money up, right, your money is going to be tied up for
 20 nine or twelve months, but it was part of the
 21 diversification process, that if you have money in
 22 stocks and money in bonds and money in annuities or real
 23 estate investment trust, that this is just, you know,
 24 one of the spokes in the wheel, I guess, is a way of
 25 putting it.

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1 The other side of it was that the
 2 diversification inside of here is that it was going into
 3 multiple businesses, right, so it wasn't isolated to one
 4 merchant or ten merchants. Our experience is that it
 5 was going into anywhere from a thousand to fifteen
 6 hundred different merchants. So in that fact that this
 7 was being diversified, which was helping to insulate
 8 risk to a client, as well.
 9 Q Were the clients interested in the returns
 10 that this offered?
 11 A Whenever you go into an investment, clients
 12 are interested in some sort of return.
 13 Q Yeah. I mean, was that -- based on what your
 14 clients told you or communicated to you, was that -- how
 15 important was that in their decision as to whether to
 16 lend money to 1st Global these six to ten percent
 17 returns?
 18 A I'm going to say it's probably part of it.
 19 Q Do you know how big a part?
 20 A I'm speculating at that point.
 21 Q Well, I mean, if clients said anything to you.
 22 Did any of your clients say, I'm investing in this
 23 because?
 24 A I can't ever recall them ever saying something
 25 like that. I mean, if you think about it, any

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1 investment a client puts money into, they want to make
 2 some sort of appreciation.
 3 Q Sure. Okay.
 4 MR. MILLER: But isn't it true that one of the
 5 things that you convey -- one of the things that got you
 6 interested that, I think, you already testified to was
 7 the rate of return that was articulated on Exhibit 40,
 8 isn't that right, twelve percent?
 9 THE WITNESS: Okay. So, again, we can back
 10 that up a little bit, right, because what was provided
 11 to me were staples. This one's showing twelve. Another
 12 one's showing seventeen, right. And I don't know what
 13 the other one was, but, I believe, the other one was
 14 double digits too, as well. Mr. Leddbedder saying, aha,
 15 you know, typically what we're seeing is high double --
 16 or high single digits, low double digits. Okay. So if
 17 they're saying, hey, we're seeing eight, nine, tens,
 18 elevens, twelves, thirteens, okay, and we went more
 19 conservative and backed those numbers down. I mean, we
 20 said six to ten.
 21 MR. MILLER: No. I understand that. My
 22 question is a little different. What attracted you to
 23 the investment was seeing those numbers; be it, twelve
 24 percent, seventeen, and then saying, hey, if it's twelve
 25 to seventeen, I can probably easily say it's six to ten

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1 percent; isn't that right?
 2 THE WITNESS: Well, I think what we're doing
 3 is being more conservative on the numbers, right.
 4 MR. MILLER: Exactly. But it was the income,
 5 the yield that attracted you; isn't that right?
 6 THE WITNESS: Well, I think it's one of the
 7 things.
 8 BY MR. LEVENSON:
 9 Q Okay. No. Wait. That's all you had said
 10 earlier. I mean, that was something that caught your
 11 eye? That's why you decided --
 12 A Of course.
 13 Q So is it something that caught -- I know you
 14 used different numbers, which is -- but that's something
 15 that caught your client's eye?
 16 A If I look at a mutual fund that's offered by
 17 Fidelity and it has a ten-year average of -- I don't
 18 know, fifteen percent and the market has averaged nine
 19 percent, well, wouldn't I be attracted to that, as well?
 20 Q That's all we're asking.
 21 A You got to think about it. I understand you
 22 got to understand from where we come from. You know, we
 23 sit in front of clients every single day, and what do
 24 clients want? Clients want to make a return on their
 25 investment.

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1 Q So that was something that was good about this
 2 investment or lending opportunity, right?
 3 A That it had the potential to do that and it
 4 was an alternative to --
 5 Q Okay. I was going to move into a different
 6 area. Did you want to take a break for a few minutes?
 7 You want to keep going?
 8 A If I could take a washroom break, that'd be
 9 good.
 10 Q Absolutely.
 11 A And then I need a water, just fill it up, the
 12 bathroom or is there a water thing to fill this thing
 13 up.
 14 Q I can -- I mean, I have bottled water that's
 15 personal. I can give you one. I don't care. It's just
 16 not going to be cold because it's not in the fridge.
 17 There's a vending machine in there too that has bottled
 18 water in our lunchroom.
 19 MR. MILLER: I can escort you in there if
 20 you'd like.
 21 THE WITNESS: Okay. Yeah.
 22 MR. LEVENSON: All right. We're going off the
 23 record at 1:39 a.m.
 24 (A brief recess was taken.)
 25 MR. LEVENSON: We are back on the record at

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1 11:49 a.m.
 2 BY MR. LEVENSON:
 3 Q Mr. Pellegrino, do you agree there were no
 4 conversations of substance about the testimony or the
 5 investigation while we were off the record?
 6 A No.
 7 Q There were none?
 8 A There were none, correct.
 9 Q Okay.
 10 I think Mr. Miller had a couple of quick
 11 questions.
 12 MR. MILLER: You mentioned that there are two
 13 other folks that work in a sales capacity at Goldstone;
 14 is that accurate?
 15 THE WITNESS: Yes.
 16 MR. MILLER: And are they licensed?
 17 THE WITNESS: Yes.
 18 MR. MILLER: What are their names?
 19 THE WITNESS: Justin Reppy and Brian Korienek.
 20 MR. LEVENSON: Do you mind spelling those for
 21 the Court Reporter.
 22 THE WITNESS: Last names only or --
 23 MR. LEVENSON: Yeah.
 24 THE WITNESS: Okay. So Justin Reppy,
 25 R-E-P-P-Y. And Brian Korienek, K-O-R-I-E-N-E-K.

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1 MR. MILLER: Both of these man were present
 2 when Goldstone was soliciting 1 Global; is that
 3 accurate?
 4 THE WITNESS: Yes.
 5 MR. MILLER: Do they actually solicit on their
 6 own Goldstone clients on the possibility of investing in
 7 1 Global?
 8 THE WITNESS: Yes.
 9 MR. MILLER: And did those solicitations
 10 result in any sales?
 11 THE WITNESS: A few, yes.
 12 MR. MILLER: Okay.
 13 Does Goldstone have records that delineate the
 14 customers that were sold by these two gentlemen?
 15 THE WITNESS: I'm going to say no. I mean,
 16 they would've been existing clients of like myself or my
 17 brother's.
 18 MR. MILLER: Were these two gentlemen that you
 19 just referred to, were they compensated for their sales
 20 of 1 Global Capital?
 21 THE WITNESS: We paid them a salary and part
 22 of the proceeds or the referral fee that we received.
 23 MR. MILLER: So it would be reflected as to
 24 the referral fee if they succeeded in turning one of
 25 your clients into a 1 Global Capital investor; is that

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1 accurate?
 2 THE WITNESS: Correct. It's the same capacity
 3 like if they sold an unity, right. So if a client of
 4 mine purchases an annuity from Mr. Korienek, and I get
 5 paid a commission, then Brian gets part of that
 6 commission.
 7 BY MR. LEVENSON:
 8 Q In this case, if they -- if client became a
 9 lender through, say, Mr. Korienek, one of your clients,
 10 so you got three percent from -- you know, for the
 11 nine-month note from 1st Global. What part of that
 12 three percent did Mr. Korienek get?
 13 A I give twenty percent.
 14 Q Twenty percent of the three percent?
 15 A Of the three percent, correct.
 16 Q Okay.
 17 That should be like point six percent,
 18 basically?
 19 A Correct.
 20 Q Okay. All right.
 21 At some point, did you come to understand that
 22 there was any management fees or fees that 1st Global
 23 was charging as part of its merchant cash advance
 24 process?
 25 A The only thing that I was aware of, what was

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1 in their Memorandum of Indebtedness.
 2 Q And what was that?
 3 A I think there's a line in there that says
 4 something to the effect that they collected thirteen
 5 percent management, if you had anything collected.
 6 Q Okay.
 7 And was that something you made your clients
 8 aware of?
 9 A They were aware of what was in the memorandum,
 10 correct. Yes.
 11 Q Okay.
 12 Was that anything that was a big discussion
 13 point with clients?
 14 A Not really.
 15 Q Okay.
 16 Did you ever learn that Mr. Leddbedder was
 17 receiving an override for every lender that signed up --
 18 A No.
 19 Q -- that loaned money to 1st Global?
 20 A I was not aware of that.
 21 Q Okay.
 22 Would that have made any difference in your
 23 decision to offer the product, do you think?
 24 A I don't know.
 25 Q Okay.

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1 I think you said -- earlier you talked about,
 2 you know, they were averaging roughly the thirty
 3 percent. When they loaned out money, they were getting
 4 back a hundred and thirty percent essentially. Do you
 5 recall that testimony? Or that's what they told you?
 6 A That's what they told me. So we had a visit.
 7 We went and did a visit with 1st Global in August of
 8 2017, right, make that correct. And what I remember
 9 from that meeting and my notes, that was one of the
 10 things that they said roughly -- I think it was they
 11 said at that time somewhere between a hundred and thirty
 12 to a hundred and thirty-five percent was kind of like
 13 the averaging factor rate is what they called it of
 14 monies coming -- of monies that were lent out to
 15 merchants.
 16 Q And was that something you discussed with your
 17 clients that were interested in investing?
 18 A No, not really. I mean -- I understood it's a
 19 business model that if they were lending out money and
 20 bringing it back in, right, and it was a hundred and
 21 thirty percent, well, there's other costs associated
 22 with that thirty percent, so the client's not getting
 23 thirty percent.
 24 Q Do you know what part of the thirty percent
 25 the client was getting?

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1 A And this is a rough -- I don't remember who or
 2 what or when, but from my understanding is, what they
 3 were doing was, the monies coming in, they were,
 4 basically -- they said they would split it in half. So
 5 if there was a hundred and thirty percent coming in,
 6 that that thirty percent, they were splitting in half,
 7 right, fifteen was going to 1st Global, fifteen was
 8 going to the client, but then you had like their
 9 management cost that's up inside there, as well as
 10 merchants that would default or not pay or what have
 11 you, so that's what would lower their percentage
 12 returns, too, as well.
 13 Q Okay.
 14 And out of the fifteen percent, when you say
 15 the client, you mean the lender?
 16 A The lender.
 17 Q Yeah.
 18 Did your commission come out of that money?
 19 A No. What we were told from 1st Global is that
 20 they were paying us directly and no money was being paid
 21 to us from the client, that 1st Global was paying us the
 22 referral fee directly.
 23 Q Okay.
 24 MR. MILLER: Out of what monies?
 25 THE WITNESS: Out of their's. Out of 1st

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1 Global's money.
 2 BY MR. LEVENSON:
 3 Q If, in fact, 1st Global wasn't making a
 4 hundred thirty, a hundred thirty-five percent, but was
 5 making less and was actually losing money on the
 6 merchant cash advances, would that have made a
 7 difference in your decision to offer the products?
 8 A I think that's a logical question.
 9 Q Okay. What's the answer?
 10 A And, again, just to kind of give you the
 11 scenario when we went and visited with 1st Global --
 12 Q Before you talk about the visit, I'd like to
 13 get, if I could, an answer to my question, which is: If
 14 you learned that was false, would still have offered the
 15 product?
 16 A Well, I think that you know the answer to
 17 that.
 18 Q Well, I'd like to hear it.
 19 MR. MILLER: The record doesn't.
 20 BY MR. LEVENSON:
 21 Q The record doesn't. So what is the answer?
 22 A Well, obviously. I mean, it's pretty obvious
 23 that if they weren't making money and we knew that,
 24 then, yes.
 25 Q Okay.

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1 MR. LEVENSON: So let me go ahead and mark
 2 this as 45.
 3 (SEC Exhibit No. 45 was marked for
 4 identification.)
 5 BY MR. LEVENSON:
 6 Q I've marked as Exhibit 45 a one-page document
 7 that's entitled, Meeting Agenda, August 8th, 2017.
 8 Have you seen this document before?
 9 A Yes.
 10 Q Okay.
 11 And is this -- does this refer to the visit
 12 you mentioned a couple of times now, the on site visit
 13 that you made to 1st Global Capital in August of 2017?
 14 A That is correct.
 15 Q Okay.
 16 So tell me about the visit. How long were you
 17 there at 1st Global?
 18 A We were there for a day.
 19 Q Okay.
 20 What, a full day? Did you fly down one day
 21 and meet with them and then fly back, or how did it
 22 work?
 23 A Yeah. Correct. We flew in in the morning,
 24 and then spent the day there and flew out in the
 25 evening.

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1 Q Okay.
 2 And the we, was that you and your brother?
 3 A Correct.
 4 Q Anybody else from Goldstone?
 5 A No.
 6 Q Okay.
 7 What caused the meeting to happen? Did they
 8 invite you? Did you say, hey, I want to come meet
 9 people? What happened?
 10 A Both. So, you know, they said, hey, we'd love
 11 to have you come down, see part of our ongoing due
 12 diligence. Obviously, we wanted to, of course, meet
 13 everybody face to face and see the operation, see the
 14 people, get an understanding of everything going on.
 15 Q So tell me everything you did that particular
 16 day you were there.
 17 A I believe the first kind of meeting that we
 18 had was with Juancarlos and Leo Vargas.
 19 Q Okay. That would be the Director of
 20 Underwriting and the Director of Collections?
 21 A Correct. I guess the one that kind of led
 22 everything when we first got there was Scott Merkelson.
 23 Q Okay.
 24 A So we went into a conference room, you know,
 25 kind of got acquainted, things of that sort. Scott

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1 Merkelson was in the conference room the whole time with
 2 us. He kind of gave us his background. He was probably
 3 the first one we really met with, right.
 4 Q Okay.
 5 A Got his background, his experience, his role
 6 that he was playing at 1st Global. And then after that,
 7 we met with --
 8 MR. MILLER: What was his role at 1st Global?
 9 THE WITNESS: I mean, his title was Director
 10 of Business Development. So he was really kind of in
 11 the front line of working with agents, like myself, as
 12 well as client communication. So if clients had
 13 questions or anything like that, they could contact, you
 14 know, Mr. Merkelson directly.
 15 BY MR. LEVENSON:
 16 Q Did any of your clients, to your knowledge,
 17 ever speak with Mr. Merkelson directly?
 18 A Yes.
 19 Q Do you know how many?
 20 A I think two or three.
 21 Q Do you know what they talked to him about?
 22 A One, a client had a question about like their
 23 statement in the porthole. They had launched a new
 24 porthole in March of 2018, and the client just had
 25 questions about what he was viewing and things of that

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1 sort, because it was different from the original
 2 porthole.
 3 Q Okay.
 4 Did any of your clients ever speak to Mr.
 5 Merkelson before they became lenders, do you know?
 6 A To my knowledge, no.
 7 Q Okay.
 8 Do you know if Mr. Merkelson, you know, ever
 9 spoke with, on any kind of regular basis, spoke with or
 10 met with lenders before they invested?
 11 A To my knowledge, no.
 12 Q Okay.
 13 And what do you base that statement on?
 14 A I mean, I have no recollection of him ever
 15 interacting with a client prior to that.
 16 Q Okay.
 17 A I mean, he was accessible and available to
 18 answer questions if clients needed or if we had any
 19 questions or anything like that. He was kind of like
 20 our main contact person, I guess, is a good way of
 21 putting it.
 22 Q Okay.
 23 Did you speak with Mr. Merkelson before you
 24 had actually started offering the lending opportunity to
 25 your clients?

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1 A I'm trying to recall. You're talking about
 2 around the time when I was talking with --
 3 Q With Dale Leddbedder and with Trae Wienewitz,
 4 in that timeframe.
 5 A I don't recall exactly when I talked to Scott,
 6 whether it was at that beginning or after we started
 7 working with them. I don't recall exactly.
 8 Q Okay.
 9 Did Mr. Merkelson tell you anything, you know,
 10 about, you know, the company or the business it was in
 11 or any of the things we talked about in terms of -- did
 12 he tell you anything about the merchant cash advances?
 13 A A lot of the same stuff that had been already
 14 spoken to about with Trae.
 15 Q What stuff is that?
 16 A Just the same general information, you know,
 17 it's a nine-month note, right, it's distributed through
 18 multiple merchants, paybacks are on a daily basis via
 19 ACH. He talked about like some of the expectations, he
 20 said, what you're going to see is, like with the
 21 statements that clients will receive is that typically
 22 as initial money start getting deployed, is what they
 23 said, into cash advances, what you're going to start to
 24 see is in the first couple of months, you're going to
 25 see a pretty steady rise on the statement. And he said,

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1 basically, what you're seeing is that as money gets
 2 deployed into cash advances, it's, basically, factoring,
 3 this is the money that's being lent out along with what
 4 the potential return is on that money coming back in,
 5 that a lot of times what you'll see is maybe four
 6 months, five months down the road, you'll start to see
 7 kind of a lull, maybe even a decrease because defaults
 8 are starting to hit down the road because he said that
 9 defaults don't hit in the beginning when money is being
 10 lent out. But what you'll start to see is then kind of
 11 more of an even scale type of -- instead of like a surge
 12 up you may see in the beginning or what have you. He's
 13 kind of setting expectations on what clients will see on
 14 statements.
 15 Q Okay.
 16 You talked about the default. I mean, did
 17 anyone at 1st Global ever communicate to you what their
 18 default rate was?
 19 A They always said that it was around like four
 20 percent, five percent.
 21 Q Who said that?
 22 A Mr. Merkelson. I believe Juancarlos, Mr.
 23 Ruderman, I believe this Leo Vargas or whatever. Those
 24 are all -- it's all pretty consistent. Plus materials
 25 that they would send out, you know, periodically.

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1 Q The frequently --
 2 A The frequently asked questions. They have it
 3 in there. I believe, if I recall, some of my notes from
 4 this meeting here at that time, that they had said
 5 historically the default rate, they anticipate a default
 6 rate of about ten to twelve percent, but they've been
 7 able to control the default rate with their underwriting
 8 process and their collection process, and they've been
 9 able to keep it around four to five, six percent, in
 10 there. At that meeting, I believe they were saying,
 11 hey, right now I have a default rate of about four to
 12 five percent.
 13 Q Okay.
 14 And do you remember who said that?
 15 A I don't remember exactly. It was notes I was
 16 taking.
 17 Q If the default rate were actually ten percent
 18 or even higher, would that have made a difference to you
 19 in offering the product?
 20 A I have a client that is kind of like off to
 21 the side, I guess, a little bit. I had a client that
 22 during my initial introduction to 1st Global, that it
 23 just -- by happenstance, I was doing a review with that
 24 client, and in general conversation after our review, he
 25 was showing me pictures on his phone, that he had just

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1 visited with a client at the Atlantis in the Bahamas,
 2 and he proceeding to show me this big yacht parked out
 3 in front of the Atlantis. And I was kind of amazed by
 4 it. I said, well, what does your client do? He says,
 5 he owns a bunch of those check -- check into cash or
 6 whatever, those payday loan places.
 7 So he proceeded to say this guys owns a bunch
 8 of payday loan places. And I was kind of mesmerized. I
 9 said, they make that amount of money? And he says --
 10 he's like, Mike, it's sickening. This guys owns to
 11 yachts. He owns a bunch of these places. He says, they
 12 have a thirty percent default rate on an annual basis,
 13 but they shovel in cash like there's no tomorrow.
 14 He proceeds to tell me where the biggest
 15 opportunity is right now and moving forward is in the
 16 small business place or financial technology. And he
 17 proceeded to fill me in kind of on that space. And that
 18 kind of came together when we first started talking with
 19 Mr. Merkelson -- or Mr. Leddbedder and Trae Wienewitz,
 20 that, basically, what the client was describing about
 21 small business, Fintech was what these guys were
 22 involved in, right. And that's where he, in our
 23 conversation, was saying, the small business side has
 24 lower default rates than the cash advance does and the
 25 opportunity is larger, I guess, moving forward.

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1 Q That still doesn't answer my question, which
 2 is: If the actual default rate -- if you had learned
 3 that the actual default rate were ten percent or higher,
 4 would you still have offered the opportunity?
 5 A Again, I -- at that point, I don't know. I'd
 6 have to be in that situation, but, I guess, what I'm
 7 saying is that listening to a client who is in that
 8 space, because he said that what his company does is,
 9 they build the technology that these companies use, that
 10 when a payday loan client or customer comes in or a
 11 small business customer comes in, that the information
 12 that's being entered into this system his company
 13 develops for these firms, and it helps to streamline
 14 their approval processes and things like that.
 15 His thing was like, hey, you know, these
 16 payday loan places got a thirty percent default and
 17 they're making hand over fist. Small businesses -- a
 18 small business or Fintech side has a lower default rate,
 19 and they're making money hand over first, too.
 20 Q Well, would you agree with me that if 1st
 21 Global consistently told you that the default rate was
 22 four to five percent, which they did, and the actual
 23 default rate was ten percent more, then 1st Global
 24 wasn't telling you the truth about the default rate?
 25 A I wouldn't disagree with you.

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1 Q Okay.
 2 So if you knew that --
 3 A But on the other side --
 4 Q Let me ask a question then. If you knew that
 5 1st Global was not telling you the truth about the
 6 default rate, would you still have offered the
 7 investment opportunity?
 8 A Again, you're kind of pigeon holing me into
 9 saying, you know, that would I, could I -- I have to be
 10 in that situation. If I knew more now, than, yeah,
 11 maybe. But what they were telling us was their
 12 historical rate, somewhere around four, five, six
 13 percent. Now, if I flip it around and say, okay, well,
 14 it's a ten percent default, okay, so that means ninety
 15 percent of the loans are paying back, and you got a ten
 16 percent default rate? Well, okay, is it still
 17 profitability? Is it still making money?
 18 I mean, in all lending across the board, I
 19 don't care in it's small business loans, like these
 20 merchant cash advances, or if it's a home mortgages, or
 21 what have you, there's always going to be a default rate
 22 in lending.
 23 Q What if the default rate were twenty percent?
 24 A Again, I -- it's tough answering that question
 25 now where I'm sitting.

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1 Q Do you regularly -- do you do business at all
 2 with anyone that you learn lies to you about their
 3 business? Do you make a habit of doing business with
 4 someone who lies to you about their business?
 5 A No, of course not.
 6 Q So tell me more about the meeting.
 7 A The meeting just consisted of these people
 8 that you're seeing here. Juancarlos, Director of
 9 Underwriting seemed to be a pretty impressive guy. He
 10 said that his background, he was with JP Morgan, Chase
 11 Manhattan in their underwriting or fraud department, and
 12 he was their Chief Director of Underwriting, and he had
 13 a really good feel for when a deal was -- they called it
 14 a deal, right, a deal was coming in. He could look at
 15 it and determine pretty quickly if it was one they
 16 should look at or one they shouldn't look at. And he
 17 really went back through his history and just from my
 18 experience, he even said that sometimes they'll put a
 19 deal in front of me and the hair on the back of my neck
 20 stands up, and I know this is not one that we want, you
 21 know.
 22 Leo Vargas went through kind of the collection
 23 aspect of it, that if a merchant -- and, of course, it
 24 has a daily ACH that's being debited from their account,
 25 that if all a sudden an ACH doesn't show up one day,

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1 that his team is on the phone that day with that
 2 merchant trying to figure out what's happening, how they
 3 could rectify the situation.
 4 He proceeded to say that -- he said thirty
 5 percent of the merchant cash advances have problems.
 6 But he said that roughly they're able to rectify ninety
 7 percent, I think is what he was saying, whether they
 8 extend the loan terms or double up a payment next week
 9 or what have you, and that's where they've been really
 10 good at controlling the default rate. And that was from
 11 Mr. Vargas himself.
 12 Q Okay.
 13 I think earlier we talked about, and I was
 14 asking you about the statements, you know, that there
 15 was collateral involved, you know, when we were looking
 16 at unsecured funding, and I remember you had mentioned
 17 this is an issue, I think, you said that came up during
 18 this meeting, this visit. So tell me about that.
 19 A I believe with the Director of Collections and
 20 then their corporate counsel, this Steven, that these
 21 guys kind of work together. That Mr. Vargas was -- his
 22 team was the ones that were -- they're trying to
 23 rehabilitate merchants if there was a problem, right.
 24 They were the ones that were in front lines trying to
 25 get, you know, payments to come in or what have you.

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1 Apparently, from my understanding, it had like a ninety
 2 day kind of window of like they're trying to
 3 rehabilitate. And then at ninety days, I think, they
 4 said that then it goes into legal or collection counsel
 5 or what have you, and that's when their legal staff is
 6 now pursuing them on a legal level.
 7 Q Okay.
 8 So how does that relate to the -- whether
 9 there was collateral or this was unsecured or secured?
 10 A Well, they said that they would go after --
 11 you know, obviously, they have UCC filed, and they would
 12 go after the merchant's assets or --
 13 Q But am I correct they didn't automatic -- they
 14 would have to file a legal action to get those assets?
 15 A That's what --
 16 Q What they told you?
 17 A That's what they told me.
 18 Q Okay.
 19 Did Mr. Ruderman, was he involved -- I know
 20 that Exhibit 45 indicates, I guess, he was there, but
 21 did he speak?
 22 A He did.
 23 Q Tell us about what Mr. Ruderman told you.
 24 A He kind of came in at the end, introduced
 25 himself.

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1 Q So he wasn't there the whole time?
 2 A No. No.
 3 Q Okay.
 4 A He introduced himself, kind of gave his
 5 background and his history in business.
 6 Q What did he tell you?
 7 A He said that he had been in the travel
 8 business for many, many years. The conference room that
 9 we were in, the one wall was covered in photos of him
 10 with past presidents and different dignitaries from
 11 around the world. And he said that he was responsible
 12 for, you know, bringing like a ton of travel, I think,
 13 it was to Israel or -- he was like one of the main
 14 people that, you know, with tourism bringing, I guess,
 15 bringing it in, and sold the company and had made really
 16 good amount of money on the sale of the company.
 17 And then he had approached -- I believe he
 18 said it was like the CEO or a Chairman of OnDeck and had
 19 asked him, hey, I got this money from the sale of my
 20 company, I don't trust Wall Street, you know, I don't
 21 trust stocks, you know, where would you advise a place
 22 to go? And he proceeded to say that this Chairman or
 23 somebody had referred him and said, hey, you know, why
 24 don't you look at the merchant cash advance space. And
 25 he said that's how he started, was he started with his

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1 own capital, started the company, and he started
 2 bringing on, you know, like friends and family. And
 3 then it started to grow from there.
 4 Q Okay.
 5 And did Mr. Ruderman get into any details with
 6 you as far as the merchant cash advances or the
 7 lending -- the process on the lending, slash, investment
 8 side? Did he talk about any details?
 9 A I mean, he reiterated a lot of what people had
 10 already talked about the merchant cash advance. He said
 11 that every Monday, they have a -- they have a
 12 collections meeting and that they go through like all
 13 the problem type accounts. And he says, you know, I
 14 make sure that I'm at that meeting every single week.
 15 He's like, because my own money, my own kid's money is
 16 also invested in this. And he proceeded to say at one
 17 point, you know, I have consistently averaged since the
 18 beginning over eight and a half percent per year, which,
 19 I think, is a reasonable rate of return.
 20 MR. MILLER: When you said he consistently
 21 averaged eight and a half percent, was that 1 Global's
 22 performance across the board or for his own personal
 23 money?
 24 THE WITNESS: The way he said it was, on my
 25 own money and my family's money, I've consistently

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1 averaged eight and a half percent since the beginning.
 2 BY MR. LEVENSON:
 3 Q Did Mr. Ruderman discuss with you his personal
 4 compensation as Chairman of the company?
 5 A Did not.
 6 Q Did he indicate to you -- did you ever gain an
 7 understanding of who -- whether he had -- strike that.
 8 Did Mr. Ruderman indicate to you that he
 9 controlled the money of the company?
 10 A He did not.
 11 Q Okay.
 12 Hold on one second.
 13 You mentioned that you took notes of the
 14 meeting?
 15 A (The Witness nods head.)
 16 Q Do you still have those notes?
 17 A I do.
 18 Q Would you be willing to produce them to us,
 19 send them to us?
 20 A Of course.
 21 Q Okay. Great. I appreciate that.
 22 MR. MILLER: Same question regarding your
 23 brother, did he take notes?
 24 THE WITNESS: That, I'm not sure.
 25 MR. MILLER: Counsel, could you endeavor to

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1 find out, and if so, produce those?
 2 MR. PORTEOUS: Yes.
 3 MR. MILLER: Thank you.
 4 BY MR. LEVENSON:
 5 Q Actually, I was going to ask you, you know,
 6 going back, I can't remember if you said you took notes
 7 of any of your conversations at the beginning with Mr.
 8 Leddbedder.
 9 A I did not.
 10 Q Okay.
 11 Have you ever heard of a company by the name
 12 of -- well, it goes by Bright Smile?
 13 A It sounds familiar.
 14 Q Okay.
 15 In connection with 1st Global Capital?
 16 A No.
 17 Q Okay.
 18 Did you ever -- did you know that 1st Global
 19 was sending money to Bright Smile, which is a dental --
 20 it's a dental firm?
 21 A I did not. The only thing that I do recall in
 22 that meeting was that Mr. Ruderman said that they're
 23 looking at other areas to lend money, you know,
 24 potentially down the road.
 25 Q Did he mention anything specifically as to

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1 what they're looking at?
 2 A He did mention something like with medical or
 3 something like that.
 4 Q Okay.
 5 Do you recall any other details of what he
 6 said?
 7 A No. It was just kind of flippant at the end.
 8 Oh, and the other thing --
 9 Q Go ahead.
 10 A I'm just recalling some of the --
 11 Q Go ahead.
 12 A He said they were looking at a couple of
 13 different areas of possibly lend money on an advance
 14 basis. So one, I think, he was talking about like
 15 medical, but another one he was talking about possibly
 16 they were looking at buying -- what is it, you know, if
 17 somebody had a credit card or what have you, and they
 18 didn't pay the credit card and it goes into default,
 19 right, so the company just kinds of writes it off or
 20 what have you. He was mentioning something about
 21 like -- I don't know, something about companies buy
 22 these leads or something like that.
 23 Q Does the name Travis Portfolio, have you ever
 24 heard of that company?
 25 A No.

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1 Q Do you know if 1st Global, in fact, was
 2 purchasing, what I'll call distressed credit card debt
 3 from -- or purchase distressed credit cards from
 4 Travis --
 5 A I didn't. I wasn't aware of it.
 6 Q Was that something that you would have
 7 regarded as an authorized use of money under the
 8 Memorandum of Indebtedness?
 9 A From my understanding, according to the
 10 Memorandum of Indebtedness, that the money that clients
 11 were lending was going into merchant cash advances.
 12 Q So would sending money to -- you know, lending
 13 money to a dental firm be authorized in the Memorandum
 14 of Indebtedness?
 15 A From my understanding, no.
 16 Q What about buying distressed credit cards
 17 debt?
 18 A From my understanding, no. I mean, according
 19 to the Memorandum of Indebtedness, they were using it
 20 for merchant cash advance.
 21 Q Okay.
 22 MR. MILLER: Just so I have clarity, when you
 23 said that Mr. Ruderman was mentioning buying distressed
 24 credit debt, he was going to use lenders' money?
 25 THE WITNESS: No. No. He was saying that he

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1 was looking at it as another business.
 2 MR. MILLER: For what? With what source of
 3 money?
 4 BY MR. LEVENSON:
 5 Q An outside business from 1st Global or part of
 6 1st Global's business?
 7 A The way it seems that it was something that
 8 they were exploring is the way he kind of made it look
 9 or sound like.
 10 Q So did he say at any point that he was going
 11 to use lender money to do this?
 12 A Never.
 13 Q Okay.
 14 And your understanding of the Memorandum of
 15 Indebtedness, that that would not have been permitted?
 16 A Correct. And everything from every single
 17 person that we spoke with, that's exactly where client
 18 capital was being distributed.
 19 Q Have you ever heard of a company called
 20 Ganador, which is a payday lending service?
 21 A I have not.
 22 Q If 1st Global was sending lender money to
 23 Ganador, would have that been an authorized use under
 24 the Memorandum of Indebtedness?
 25 A Again, according to what I remember of the

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1 Memorandum of Indebtedness is that it's supposed to
 2 allocated to merchant cash advance.
 3 Q Would Mr. Ruderman sending a million dollars
 4 to his son have been an accepted use of lender money?
 5 A Probably not.
 6 Q So I didn't want to get -- did we cover the --
 7 well, let me go back to Mr. Ruderman. Is there anything
 8 else he discussed with you, told you that we haven't
 9 covered so far at that meeting?
 10 A No. Then they took us on a tour of the
 11 office.
 12 Q What did you see?
 13 A They brought us to kind of where the executive
 14 offices were, and then their sales department, which
 15 Juancarlos was. So it was kind of where they would get
 16 what they would call deals coming in, you know, for
 17 advances or what have you. And then that department was
 18 the ones that were determining if it was a good deal or
 19 not.
 20 Q So when you say sales, you're talking about
 21 the merchant cash advance?
 22 A Correct. Right.
 23 We went up to this -- they had like two
 24 floors. On the second floor was their kind of IT
 25 department, I guess, you'd call it. Yeah. Then I

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1 forget if it was this guy Lyn or Steven. I think Steven
 2 was for the IT department, and this guy Lyn, kind of
 3 their office areas and things like that. So we kind of
 4 got to see the whole, I guess, facility.
 5 MR. MILLER: How many hours were you there?
 6 THE WITNESS: I believe we arrived around like
 7 noon or 12:30. Then I think we had like a 6:00 or 7:00
 8 flight, so we had -- I think we're out of there by 5:00,
 9 5:30-ish or something like that.
 10 BY MR. LEVENSON:
 11 Q Anything else that you heard or were told or
 12 saw that day regarding any of the topics we've been
 13 discussing with 1st Global?
 14 A No. I mean, they really reiterated that
 15 they're a growing company, that their growth patterns
 16 over the last couple of years has just been increasing
 17 and doubling, that they're real strict about the money
 18 that they lend out as far as approval, and they stressed
 19 that, that, hey, we only approve one out of ten. You
 20 know, we're really strict. Mr. Ruderman was like, I'm
 21 really strict because my money's involved in this, too,
 22 as well, and I'm concerned about my return of capital,
 23 as well. So my money's alongside everybody else's
 24 money.
 25 Q And at any point during this visit, did anyone

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1 discuss with you any restrictions on who you offered the
 2 investment to or the lending opportunity to?
 3 A No. As far as like a lender client?
 4 Q Yes.
 5 A Like they have to have so much money or is
 6 that --
 7 Q Any restrictions like that.
 8 A No. It was, you know, hey, a twenty-five
 9 thousand dollar minimum.
 10 Q That was it?
 11 A Right.
 12 Q Okay.
 13 MR. MILLER: Any time during that meeting, did
 14 anyone from 1st Global say, you know, now that we've
 15 shown you the place, is there anything that we can do
 16 better or you would recommend that we do better to help
 17 you and your sales effort in attracting clients to 1
 18 Global?
 19 THE WITNESS: No. I mean, I think Mr.
 20 Merkelson stressed that, you know, if you guys ever need
 21 anything, just let us know, and we can see how we can
 22 assist it, but that's pretty general.
 23 MR. MILLER: Did anyone at any time during
 24 that meeting say to you, do you have any comments or
 25 questions on the marketing materials, are they effective

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1 to clients and customers, do you think they're getting
 2 the job done for you?
 3 THE WITNESS: No. And we didn't really use
 4 their marketing materials. I mean, they sent this stuff
 5 out periodically, and we look at it and review it, but
 6 we weren't handing it out to clients or anything like
 7 that.
 8 MR. MILLER: Did you have any understanding as
 9 to who drafted and approved and authorized the marketing
 10 materials?
 11 THE WITNESS: No, I don't know who's drafting
 12 those. At the end of a lot of the material, it list
 13 people's names and things like that, so --
 14 MR. MILLER: Sure.
 15 THE WITNESS: But I don't know specifically
 16 who was drafting those.
 17 MR. MILLER: And just one other thing I
 18 neglected to ask before. When you presented 1 Global as
 19 an opportunity to your clientele, what percentage of
 20 your clientele that you presented this to actually ended
 21 up purchasing?
 22 THE WITNESS: I don't know. That's a broad
 23 answer or -- I don't know if I have the exact figures.
 24 MR. MILLER: Ballpark. What's your close
 25 rate?

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1 THE WITNESS: I don't know. Maybe sixty
 2 percent, seventy percent. As I said before, it was
 3 always as a choice.
 4 MR. MILLER: And as far as the ones that did
 5 invest, what percentage elected to rollover the
 6 investment?
 7 THE WITNESS: I think the majority of them.
 8 MR. MILLER: Ninety percent?
 9 THE WITNESS: Ninety percent.
 10 BY MR. LEVENSON:
 11 Q Do you recall specifically how many of your
 12 clients have actually redeemed their investment after
 13 nine months?
 14 A That's a number I'd have to verify for you. I
 15 mean, just off the top of my head, I think maybe six,
 16 seven, eight, somewhere in that area.
 17 Q Okay.
 18 So let me just go ahead and ask you --
 19 MR. PORTEOUS: I'm sorry. We're coming up on
 20 12:30. Is this a natural stopping point?
 21 MR. LEVENSON: I think it's actually a good
 22 stopping point. I mean, I do have a little while to go.
 23 I mean, like I said, probably another one to two hours.
 24 MR. PORTEOUS: Maybe we just go down to
 25 like -- is there a cafeteria in the building?

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1 MR. LEVENSON: There's a small little stand on
 2 the first floor.
 3 Let's go off the record at 12:29.
 4 (Whereupon, at 12:29 p.m., a luncheon recess
 5 was taken.)
 6 A F T E R N O O N S E S S I O N
 7 (Mr. Miller is not present in the room.)
 8 MR. LEVENSON: So we're going back on the
 9 record at 1:19 p.m. We've been off for about fifty
 10 minutes or so for lunch.
 11 BY MR. LEVENSON:
 12 Q Is it correct there were no conversations of
 13 substance between you, Mr. Pellegrino, and the staff
 14 during our break?
 15 A No.
 16 Q There were not?
 17 A There were not. I'm sorry.
 18 Q Okay.
 19 (SEC Exhibit No. 46 was marked for
 20 identification.)
 21 BY MR. LEVENSON:
 22 Q So I wanted to show you what we have marked as
 23 Exhibit No. 46, which is a January 2nd Email from Laura
 24 Rand with a number of attachments, Laura Rand of 1st
 25 Global Capital.

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1 Take whatever time you want to review it. I'm
 2 not going to ask you too many detailed questions, but
 3 let me know when you've reviewed Exhibit No. 46.
 4 Have you reviewed Exhibit 46 enough to
 5 recognize what it is?
 6 A I do, yes.
 7 Q Okay.
 8 Can you tell me what it is.
 9 A It's promotional material that's sent out from
 10 1st Global.
 11 Q Okay.
 12 Laura Rand -- did you receive this Email and
 13 the materials attached to it on January 2nd of 2018?
 14 A Yes.
 15 Q Okay.
 16 Throughout the testimony today, you referred
 17 to occasional, you know, updates or Emails that --
 18 marketing materials that you received from 1st Global.
 19 Is this one such Email?
 20 A Correct.
 21 Q Okay.
 22 When you received Emails like Exhibit 46, I
 23 mean, how closely did you look at them?
 24 A We'd review. So I'd get the Email and just
 25 review what was in the materials.

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1 Q I mean, five minutes, two hours?
 2 A You know, I'd read through everything, I
 3 guess, is a good way of putting it. You know, some of
 4 the materials can be redundant, like it's just repeated
 5 materials or what have you.
 6 Q Typically, were there many changes from update
 7 to update?
 8 A Not too often. I mean, at the bottom of the
 9 frequently asked questions page -- it's showing
 10 1/2/2018. This page was pretty consistent, you know,
 11 through the other versions, I guess.
 12 Q Okay.
 13 Did you -- did you ever share any of these
 14 marketing -- let's start, did you ever share the
 15 frequently asked questions with clients?
 16 A I never handed it to clients.
 17 Q Handed, you mean like handed, mail, sent,
 18 period?
 19 A Right.
 20 Q And any of these other materials attached the
 21 history or the -- what they call the history or the
 22 lender brochure, did you ever share any of these
 23 materials with clients?
 24 A I did not. I did not share these materials
 25 with clients.

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1 Q Did you use them to fashion your presentations
 2 or your conversations with clients?
 3 A Of course, I would gain information from this
 4 material and be able to communicate it to clients.
 5 Q Okay.
 6 And this was all drafted by the company,
 7 right?
 8 A That's correct.
 9 Q Okay.
 10 And you didn't -- I mean, did you have any way
 11 of, you know, essentially going behind any of the
 12 statements in any of these marketing materials to
 13 determine whether they were true or false?
 14 A Did I -- I guess I don't --
 15 Q Did you have any means of independently
 16 confirming what the company was telling you in these
 17 marketing materials?
 18 A Again, I'd review the information. It's
 19 pretty consistent with a lot of the things that they
 20 already communicated.
 21 Q Right. But my question is: Did you have a
 22 way of like determining whether any of these -- you
 23 know, you relied on the company for the truth and
 24 accuracy of the statements in here; is that fair to say?
 25 A That's a fair statement.

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1 (Mr. Miller enters the room.)
 2 BY MR. LEVENSON:
 3 Q Okay.
 4 Did you have any way of independently
 5 determining whether any of the statements were true or
 6 false?
 7 A No.
 8 Q Okay.
 9 When you read through these materials, did you
 10 ever find anything in here that you questioned as far as
 11 the truth of it at the time that you read them?
 12 A At the time that I read them, it coincided
 13 with a lot of what was communicated from 1st Global
 14 throughout, I guess, almost a year, right, that we had
 15 been speaking with them, and it also coincided to in
 16 their Memorandum of Indebtedness. Everything pretty
 17 much matched what they were communicating versus
 18 material that they were putting out as you see here.
 19 Q Okay.
 20 (SEC Exhibit No. 47 was marked for
 21 identification.)
 22 BY MR. LEVENSON:
 23 Q All right. So let me now show you what I've
 24 marked as Exhibit No. 47.
 25 Let me know when you've had a chance to review

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1 it. And, again, I'm going to ask you similar questions
 2 to the last exhibit.
 3 Have you had a chance to review Exhibit 47?
 4 A Okay.
 5 Q You had a chance to review Exhibit 47?
 6 A Yes.
 7 Q Do you recognize it?
 8 A Yes. It was an Email sent from Ms. Rand in
 9 March.
 10 Q Did you receive this Email from Laura Rand on
 11 March 6th of 2018?
 12 A Yes.
 13 Q So is this another one of the periodic updates
 14 with marketing materials that 1st Global sent?
 15 A Correct.
 16 Q Did you have any -- did you ever speak with
 17 Laura Rand? She was the business administrator.
 18 A I never spoke to Laura personally. I had the
 19 opportunity to meet her just recently. I did another
 20 site visit at the end of May 2018. And that was the
 21 first time I met Ms. Rand.
 22 Q Okay.
 23 Again, do you know who specifically within 1st
 24 Global drafted the materials attached to Exhibit 47?
 25 A That, I do not.

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1 Q Okay.
 2 Again, when you received Exhibit 47, did you
 3 review it?
 4 A This one, I believe I did. I can't recall.
 5 Q Okay.
 6 I mean, was it your practice when you got
 7 these periodic updates from 1st Global to look at them?
 8 A Uh-huh.
 9 Q Okay.
 10 MR. MILLER: Is that a yes?
 11 THE WITNESS: Yes.
 12 BY MR. LEVENSON:
 13 Q Again, do you recall anything in here that had
 14 substantively changed from the prior marketing
 15 materials?
 16 A I mean, it pretty much looked identical.
 17 Q Okay.
 18 I noticed actually in the frequently asked
 19 questions of both this one -- both Exhibit 47 and 46,
 20 that there's a reference to -- and I'm specifically
 21 looking at question three in those, it talks about
 22 syndicate partners.
 23 A Okay.
 24 Q Is it your understanding that a syndicate
 25 partner is the same thing as a lender?

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1 A Yeah.

2 Q Had you seen that term before or heard that

3 term?

4 A I had.

5 Q Do you know why 1st Global used the term

6 "syndicate partner"?

7 A I have no idea. It references clients as

8 lenders or syndicate partners of 1st Global.

9 Q Okay.

10 In your mind, was there any substantive

11 difference between a lender and a syndicate partner?

12 A No. They, basically, said it's the same

13 thing.

14 Q Okay.

15 1st Global told you that?

16 A Yeah. Syndicate partners were lenders, I

17 guess.

18 Q Okay.

19 If you look at the frequently asked questions

20 in -- actually, let's start with Exhibit 46 first.

21 Question fourteen on the second page of the frequently

22 asked questions. It says, "How are syndicate partner

23 account performances verified?" And the answer is, "An

24 external accounting firm validates syndicate partner

25 portfolio performances and balances quarterly." Do you

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1 see that?

2 A Yes.

3 Q Do you know if that's referring to the firm

4 Daszkal Bolton that was mentioned in the client account

5 statement that's Exhibit 40 that we looked at earlier?

6 A I believe it does.

7 Q Okay.

8 And did you ever speak with anyone from

9 Daszkal Bolton about their work?

10 A I did not. I believe, if I remember

11 correctly, in the -- this one form here putting cash to

12 work for merchants -- where is it at -- if you look

13 under -- the second page it says, Our company.

14 Q Okay. What's the bold number at the bottom of

15 the page?

16 A It's 5276.

17 Q Okay. Go ahead.

18 A So our company, if you go to the last

19 paragraph, the last sentence, I believe it is, where it

20 says, "We are represented by the law firm of Kopelowitz

21 Ostrow and accounting and auditing services are provided

22 by the firm Daszhal Bolton." So that's kind of that

23 reference, which kind of tied together to the statement

24 where on the statement it said it was verified by

25 Daszkal, the frequently asked questions and then, Our

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1 company.

2 Q Did you have -- did you know at the time that

3 Daszkal Bolton had not performed any work for 1st Global

4 since 2015?

5 A I did not.

6 Q Do you know that Daszkal Bolton had not -- did

7 not verify syndicate partner or validate syndicate

8 partner portfolio performances and balances quarterly?

9 A I did not. From what I was told, Daszkal

10 Bolton does --

11 Q Okay.

12 You'll see the same thing in Exhibit 47 under

13 question fourteen, frequently asked question fourteen.

14 You see there it says, "An external accounting firm

15 validates syndicate partner loan balances quarterly,"

16 similar, but not identical language to 46.

17 If, in fact, you had learned at any time,

18 either January or March 2018, that Daszkal Bolton was

19 not doing the work that is represented here in the

20 frequently asked questions or in the lender brochure,

21 would you have reconsidered whether you continue doing

22 business with 1st Global?

23 A It's quite possibly if we're finding that

24 material evidence, obviously, at that point. I will say

25 that in -- I believe it was March of 2016 -- or.

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1 Q '18?

2 A 2018. I apologize. In March of 2018, I did

3 reach out to 1st Global to find out if they had -- on a

4 due diligence level to find out if they had audited

5 financials.

6 Q What caused you to do that?

7 A We were having like a routine SEC examination

8 for our firm, and providing materials for that

9 examination, they had asked about 1st Global, and if we

10 had any financials. So he we reached out to the

11 company, asking about, do you have audited financials?

12 They had --

13 Q When you say we, was it you?

14 A Yeah, I did. I apologize.

15 Q No. That's fine.

16 And who did you talk to at the company?

17 A So I reached out to -- I'd have to look up

18 their name again. I believe spoke with or Emailed Scott

19 Merkelson. Maybe spoke with him. And, basically, they

20 said they're a private firm. They don't have audited

21 financials, but they're working on right now with an

22 outside firm to begin getting audited financials put

23 together. We got a communication from 1st Global

24 explaining their relationship at that time with Daszkal

25 Bolton.

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1 Q This was in March of 2018?
 2 A Yes.
 3 Q What did the communication say?
 4 A I don't have the communication in front of me,
 5 but, I believe, it was sent to my brother, and it just
 6 kind of explained their relationship, in that we use
 7 Daszkal Bolton on an ad hoc basis to review client
 8 statements or something to that effect.
 9 Q Did -- I don't recall and if I missed it. Was
 10 that in the materials you produced, that communication?
 11 A No. We haven't got those put together yet. I
 12 think that was a communication that was sent to my
 13 brother.
 14 Q Okay. Would you be able to send that --
 15 A Oh, yeah, absolutely.
 16 Q Okay.
 17 A So what we were trying to find out is, when
 18 are you going to have audited financials? Okay.
 19 Shortly after that, they proceeded -- Mr. Merkelson
 20 called me and said, hey, listen, I spoke with Mr.
 21 Ruderman, again, we're a private firm, so we don't have
 22 audited financials. We do have financials that we
 23 produced as a company. We're working on audited
 24 financials. They're probably not going to be done till
 25 the end of the year. We're in the process of choosing an

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1 auditing firm that we want to work with.
 2 At that time, he did invite me to come down.
 3 He said, Mr. Ruderman, though, would -- he's an open
 4 book. He said, come on down, he'd open up his
 5 financials for you to review them with him personally.
 6 So I, of course, accepted that offer.
 7 Q Okay.
 8 The communication, did it come from a specific
 9 person?
 10 A That was a conversation with Scott Merkelson.
 11 Q No. The -- okay. You said your brother had
 12 gotten some communication explaining the relationship
 13 with Daszhal Bolton.
 14 A Correct.
 15 Q Was that an Email?
 16 A I believe it was.
 17 Q And do you know who --
 18 A I don't remember who it came -- but it was
 19 somebody like in their -- I don't know, Chief Financial
 20 Officer or accounting officer or somebody.
 21 Q Do you remember a name?
 22 A No, I don't. It's something I can, obviously,
 23 find out.
 24 MR. PORTEOUS: We'll produce the Email to you.
 25 Just a statement for the record, I think we

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1 talked very briefly before about supplementing our
 2 production.
 3 MR. LEVENSON: Sure. Absolutely. No. I
 4 appreciate it.
 5 BY MR. LEVENSON:
 6 Q Did anything in the communication cause you
 7 any concern as to whether 1st Global had been accurately
 8 representing its relationship with Daszkal Bolton up
 9 until that time?
 10 A No. Because even in my visit -- so I did a
 11 visit, I think, it was the very last week of May 2018.
 12 At that visit, Mr. Ruderman had -- you know, I was just
 13 straight with them. I said, you need to understand from
 14 my perspective as having clients that we've referred to
 15 you, you know, we need to be doing our due diligence and
 16 make sure that everything is on the up and up. And he
 17 proceeded to say that he had -- I just had had lunch
 18 last week with Michael of Daszkal Bolton, what I'm
 19 willing to do is set up a meeting, have you come back
 20 down here to Florida, you can meet with Michael
 21 personally and ask him whatever questions you want to
 22 ask about our company.
 23 Q Did you take him up on that offer?
 24 A I said, of course, you know. And I said, I
 25 don't know if I want to make a trip back. You know

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1 what, if we could possibly even just, you know, schedule
 2 some sort of a phone thing, I said, but if I can avoid
 3 flying back to have a sit down. And he says, I'll make
 4 it happen. That's what he said, I'll make it happen.
 5 Q Did he?
 6 A No.
 7 Q Did you ever speak with Michael Daszkal?
 8 A I did not.
 9 Q Okay.
 10 A I did -- a couple of weeks after I'd gotten
 11 back, of course, I'm in the thick of things with normal
 12 business activities, I had followed back up with -- I
 13 think it was Mr. Merkelson saying, hey, you know, Mr.
 14 Ruderman had said that he'd set up a meeting with
 15 Michael Daszkal, and I'd like to get that meeting set
 16 up.
 17 At that meeting with -- in May --
 18 Q May?
 19 A -- Mr. Ruderman also had proceeded to tell me
 20 that they were in the process of hiring like a high
 21 level -- he said, we realize we're at a point where --
 22 we're a private firm, we don't necessarily have to have
 23 audited financials, but we're at a point where we need
 24 to have audited financials in order for us to bring on
 25 like institutional funds. They were also referencing

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1 that they were in the process of launching a Reg -- a
 2 Regulation D product, a securities product in Colorado,
 3 and their attorneys were working on that at that time,
 4 and they realized this. He said that they were in the
 5 process of interviewing to bring in a high level CFO,
 6 that Mr. Daszkal had told Carl, you're at a point where
 7 you need -- so he says we understand it's going to take
 8 several months for us to find that right CFO, so Michael
 9 is sending over one of his accountants to fill in for
 10 that spot until we do hire a CFO, I believe, is what he
 11 was referring to.
 12 Q Did he say who that was?
 13 A As far as?
 14 Q Who the person Daszkal is sending?
 15 A No. He just said, Michael -- because he says
 16 he's friends with Michael. I'm friends with Michael.
 17 All right. Michael is sending over an accountant to
 18 fill in because it's going to take us several months
 19 until we can find the appropriate person for that
 20 position.
 21 Q So when you went back to Mr. Merkelson to say
 22 about that, what Mr. Merkelson's response?
 23 A He said, yeah, let me get back to you on that.
 24 Q Was this a phone call?
 25 A I believe it was, yes.

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1 Q Okay.
 2 And in June, you think it was?
 3 A I think it was end of June or beginning of
 4 July.
 5 Q Okay.
 6 Did Mr. Merkelson ever get back to you on
 7 that?
 8 A And then he got back to me saying, hey, I'm
 9 able to set up a meeting with Harry Levenstein or
 10 something. I'm probably off by the name, the last name,
 11 but I know his first name was Harry. Hey, I'm able to
 12 set up a meeting for you to sit down with Harry whoever,
 13 you know, that reviewed the financials. I said, okay,
 14 that's great, you know, let's schedule a time, can we do
 15 a time like next week Tuesday or something like that?
 16 Then his response was, hey, Harry's out of the office on
 17 a project, but let me get with Harry and then I'll get
 18 back to you on scheduling a time.
 19 Q So Harry was a 1st Global employee?
 20 A That's where I'm little bit unclear. I didn't
 21 know if it was a 1st Global person or if this was the
 22 accountant person that was being sent over by Daszkal.
 23 Q But that meeting never happened?
 24 A It didn't happen.
 25 Q Okay.

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1 So you never wound up speaking with anyone
 2 from Daszhal Bolton?
 3 A Huh-uh.
 4 Q And did you ever look at any financials for
 5 the company?
 6 A I did.
 7 Q You did?
 8 A Yes.
 9 Q When you were down there in May?
 10 A Correct.
 11 Q All right. So what did you look at?
 12 A Mr. Ruderman had pulled out his personal
 13 computer. So the conference room that I'm in is right
 14 next to his office. So in that meeting here, he says,
 15 hold on, I'll be right back. He goes into his office.
 16 He grabs his personal computer and brings it in, and
 17 then he types some stuff. Sits down right next to me
 18 and turns the screen. He's got all these spreadsheet on
 19 there. He's showing me, okay, here's January of 2018,
 20 okay, here's the receivables, here's, you know, this
 21 expense, that expense. And then, okay, here the bottom
 22 line for that month, we were positive, and I don't
 23 recall the exact number, you know, one point two
 24 million.
 25 Q What format? Was it an Excel spreadsheet?

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1 A Yes.
 2 Q Was it Quickbooks?
 3 A It was like an Excel spreadsheet, and it had
 4 like the months, you know, delineated, here's January,
 5 here's February, here's March. He said on average,
 6 they're averaging a profitability of two million dollars
 7 a month.
 8 Q Do you know, was it an income statement, a
 9 profit and loss, balance sheet? What was it?
 10 A It looked like an income expense format,
 11 because it would show what the total receivables were,
 12 and then it would have the different expenses. And then
 13 at the bottom, it was what the net return was for that
 14 month.
 15 Q And was this, basically, the -- okay. I mean,
 16 did it show, for example, lender money coming in, what
 17 you looked at?
 18 A As far as one of the line items?
 19 Q Yeah.
 20 A I believe it did.
 21 Q Did it show, you know, merchant cash advances,
 22 money going out?
 23 A Correct. It was like one of --
 24 Q And then coming in?
 25 A Yeah. Okay. Here's like the referral fee

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1 that we pay out for like people like myself. He had it
 2 line itemed.
 3 Q Okay.
 4 Do you know who had prepared this?
 5 A That, I do not.
 6 Q And for what time period was it showing?
 7 A He had shown me, I believe, it was for the
 8 last six months. When I was there, I think it was like
 9 December, January, February, March through April.
 10 Q Okay.
 11 I mean, what did you think of what you saw? I
 12 mean, did it look like a legitimate income statement to
 13 you?
 14 A It did. And it varied from month to month.
 15 He said, on average, we've been profitable after all is
 16 said and done about two million a month.
 17 Q Is that what it showed?
 18 A Well, it was variable. Like one month I saw
 19 it was like maybe one point two, one point three. One
 20 month I saw, it was like three hundred grand. Another
 21 month I saw, it was, you know -- I don't know, two point
 22 three million. So it was variable on the screen for
 23 sure. He said, on average, we're about profitable at
 24 two million a month.
 25 MR. MILLER: Anybody that went with you

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1 besides Mr. Ruderman?
 2 THE WITNESS: I think Mr. Merkelson was.
 3 MR. MILLER: Anybody else.
 4 THE WITNESS: I don't believe so.
 5 BY MR. LEVENSON:
 6 Q Did that give you some comfort, I guess, that
 7 the company was being upfront with you about its
 8 finances?
 9 A Of course. But then the reiteration was, you
 10 know, I still kind of press for the Daszkal Bolton,
 11 right.
 12 Q Right.
 13 A And that's where he's like, hey, I'll set up a
 14 meeting, you know, I'll set it up. You want to fly back
 15 down to Florida, I'll set up a meeting with you and
 16 Michael.
 17 Q When you learned that they actually -- when
 18 you first started inquiring and you learned that they
 19 did not have audited financial statements, did that
 20 surprise you in any way given some of the statements
 21 that you had previously seen?
 22 A Not necessarily, because understanding it's a
 23 private firm, as opposed to a public firm. One of the
 24 things that they had said that they were starting to
 25 attract hedge funds and institutional money, but the

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1 hedge funds and institutional money, before they would
 2 start to give them money, they wanted to see audited
 3 financials.
 4 MR. MILLER: Your brother was in the meeting,
 5 as well?
 6 THE WITNESS: In May of 2018?
 7 BY MR. LEVENSON:
 8 Q Yes.
 9 A No.
 10 Q Just you?
 11 A Just me.
 12 MR. MILLER: So it was just you, Merkelson,
 13 and Ruderman?
 14 THE WITNESS: At that point.
 15 MR. MILLER: Looking at the computer?
 16 THE WITNESS: Correct.
 17 MR. MILLER: Did you ask for a printout?
 18 THE WITNESS: I did not.
 19 MR. MILLER: Why not?
 20 THE WITNESS: I didn't think about it at the
 21 time.
 22 BY MR. LEVENSON:
 23 Q What else did you discuss at that meeting with
 24 Mr. Ruderman? Did you discuss anything else about the
 25 company?

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1 A He said that 2008 was going really well for
 2 them, that they --
 3 Q You mean 2018?
 4 A I'm sorry. 2018 was going well, that they
 5 believe by the end -- I believe they said they were
 6 ranked like number eight as far as merchant cash advance
 7 companies. That they thought by the end of year they'd
 8 probably close to number five, the fifth largest
 9 merchant cash advance company that's out there. He said
 10 at that time too that they were approving one out of
 11 eleven, as opposed to one out of ten. And their legal
 12 counsel -- and her name slips me, but I can find it out
 13 for you, that she said at that time, they were averaging
 14 a three point seven percent default rate.
 15 MR. MILLER: A three point seven percent
 16 default?
 17 THE WITNESS: Yes.
 18 BY MR. LEVENSON:
 19 Q I noticed -- again, back we were in the
 20 frequently asked questions, I think, for one of the
 21 exhibits, but the frequently asked questions refer to
 22 the write-off rate. I think it's on the first page of
 23 them.
 24 A Yes.
 25 Q Do you know if the write-off rate is the same

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1 as the default rate?
 2 A That was kind of what they were referring to
 3 is the write-off rate was three point seven percent.
 4 Q Okay.
 5 Is that the same thing, at least in your
 6 experience and conversations with 1st Global as the
 7 default rate, or is that something different?
 8 A To kind of clarify, I guess, because when I
 9 went for that second meeting, their legal counsel, who
 10 essentially is the one that handles the collection,
 11 right, if somebody goes into default, along with Leo
 12 Vargas, basically, they kind of walked me through their
 13 collection process. They kind of showed me that it's a
 14 ninety-day process that they go through.
 15 As I said before, Leo's teams is the ones that
 16 are trying to -- he said roughly about thirty percent
 17 become what are called problems, right. But Leo
 18 reiterated that ninety percent of the time they're able
 19 to rehabilitate those. The legal counsel, the woman
 20 said that, basically, it comes to her lap if all avenues
 21 are exhausted and they can't collect funds. Now it's
 22 her job to pursue them legally.
 23 MR. MILLER: Was her name Courtney?
 24 THE WITNESS: Do you have a last name?
 25 MR. MILLER: Banon? I'm speculating --

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1 BY MR. LEVENSON:
 2 Q That ninety-day window, was that after that
 3 ninety days, is that what was considered written off or
 4 in default?
 5 A Correct.
 6 Q Are those terms synonymous with 1st Global, do
 7 you know?
 8 A As far as how they've explained it to me was
 9 that thirty percent of the loans have some sort of a
 10 problem.
 11 Q No, I know, but I'm just saying the term
 12 "default rate" and "write-off rate," are they the same
 13 thing?
 14 A They're interchangeable, correct.
 15 Q Do you recognize the name Richard Samuels?
 16 A It sounds very familiar.
 17 Q Is he the accountant who you might have spoken
 18 with you do you know at some point in the spring or
 19 summer of 2018?
 20 A I'm not sure. But the name does sound very
 21 familiar.
 22 Q Okay.
 23 All right. Let me -- anything else you
 24 discussed at that May meeting as far the company's
 25 finances that we haven't covered?

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1 A Not that I can recall at this moment.
 2 Q Okay.
 3 MR. MILLER: How did that make you feel when
 4 you saw the Excel spreadsheet on Mr. Ruderman's
 5 computer?
 6 THE WITNESS: How did it make me feel?
 7 MR. MILLER: Yeah. Did it increase your
 8 confidence to sell more?
 9 THE WITNESS: Not necessarily.
 10 BY MR. LEVENSON:
 11 Q Did it give you comfort that the company was
 12 being honest with you?
 13 A Well, they're showing me material. He's
 14 offering to set up a meeting with Michael Daszkal, I'll
 15 set up a meeting -- I just had lunch with Michael last
 16 week, I'll set up a meeting with you, you come down to
 17 Florida, you know. Okay. So he was very adamant about,
 18 here, I got nothing to hind, here's the financials, I'll
 19 set up a meeting with you.
 20 Q Okay.
 21 And did Mr. Ruderman represent to you that the
 22 company had been profitable up until that point?
 23 A He did.
 24 Q Okay.
 25 MR. LEVENSON: Let me go ahead and mark the

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1 next exhibit. It's going to be 48.
 2 (SEC Exhibit No. 48 was marked for
 3 identification.)
 4 BY MR. LEVENSON:
 5 Q I place in front of you a two-page document.
 6 It's Exhibit 48.
 7 While Mr. Pellegrino is reviewing Exhibit 48,
 8 some of you have a copy of it that shows an Exhibit 2 on
 9 it. That's a FINRA exhibit sticker. I believe it was a
 10 document that they showed to Mr. Pellegrino, as well.
 11 It's not on Mr. Pellegrino's copy. I just went ahead
 12 and put the exhibit over it.
 13 MR. PORTEOUS: Okay.
 14 THE WITNESS: Okay.
 15 BY MR. LEVENSON:
 16 Q Okay. So what we've marked as Exhibit 48 is a
 17 two-page document on Goldstone Financial Group, I guess,
 18 letterhead or stationary entitled, Memorandum of
 19 Indebtedness, MOI, Statement of Understanding.
 20 Do you recognize Exhibit 48?
 21 A I do.
 22 Q And what do you recognize it as?
 23 A It's a document that we use for kind of
 24 clarifying, understanding for clients.
 25 Q We, meaning Goldstone Financial?

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1 A Correct.
 2 Q Okay.
 3 So was this given to each client who invested
 4 or who lent money to 1st Global?
 5 A Yes.
 6 Q Okay.
 7 Did you -- do you keep signed copies of the
 8 Exhibit 48 for each client who became a lender?
 9 A We do.
 10 Q Do you have those still with the firm?
 11 A Uh-huh.
 12 MR. LEVENSON: Is that amongst the
 13 documents --
 14 MR. MILLER: Is that a yes?
 15 THE WITNESS: Yes.
 16 MR. LEVENSON: Okay. Thank you.
 17 Are those that amongst the documents that
 18 you're still going to produce in the second wave, or can
 19 you?
 20 MR. PORTEOUS: Absolutely. I don't know if it
 21 got picked up in, perhaps, in one of those requests, but
 22 we don't have any problem producing that. That's fine.
 23 MR. LEVENSON: Okay. No. I'd like to see
 24 them.
 25 MR. PORTEOUS: Maybe when we get to the end

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1 we can talk off-line in terms of the scope of things
 2 that you're looking for. I think there are a few other
 3 categories of things that have come up that we can
 4 provide some assistance on.
 5 MR. LEVENSON: Okay. I appreciate that.
 6 BY MR. LEVENSON:
 7 Q So who came up with the wording generally for
 8 Exhibit 48? Was this something that someone at
 9 Goldstone drafted or someone at 1st Global?
 10 A I believe that Trae Wienewitz drafted this.
 11 Q Okay.
 12 Did you get the substance of Exhibit 48 from
 13 Trae Wienewitz?
 14 A That's correct.
 15 Q Okay.
 16 Do you know where he got it, if he drafted it,
 17 or he got it from 1st Global?
 18 A I believe he drafted it, and he just provided
 19 a copy that he was using this to us. He said that --
 20 Q No. Go ahead.
 21 A And, I think, he provided a copy of this to
 22 Mr. Leddbedder.
 23 Q Okay. How did he come to provide it to you?
 24 Was it something you asked for, or he just said, here,
 25 you might want to use this?

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1 A You know, I don't remember exactly how that
 2 communication went. I believe it was a document that we
 3 received in June of 2017.
 4 (Mr. Miller leaves the room.)
 5 BY MR. LEVENSON:
 6 Q Okay.
 7 And did Mr. Wienewitz tell you that he had
 8 sent this to Mr. Leddbedder?
 9 A Yes.
 10 Q Okay.
 11 Did he tell you whether Mr. Leddbedder had a
 12 reaction to it?
 13 A He came back and said that Mr. Leddbedder
 14 didn't think this was a good idea to use this with
 15 clients.
 16 Q Why was that?
 17 A Because he said that by having clients initial
 18 and sign off on the document like this, then we may
 19 be -- it could be construed by regulators possibly down
 20 the road as like a security disclosure. I kind of
 21 disagreed. My brother and I disagreed. We felt that
 22 this gave more clarification and understanding to the
 23 clients, that you're initially understanding that the
 24 money I'm putting here, it's not liquid. There's not a
 25 public market. I think we were being forthright and

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1 upfront by providing more information than not enough is
 2 how we looked at it.
 3 (Mr. Miller enters the room.)
 4 BY MR. LEVENSON:
 5 Q Did you personally have any conversations with
 6 Mr. Leddbedder or anyone at 1st Global about this
 7 Exhibit 48?
 8 A I did not.
 9 Q Okay.
 10 So did you understand that the company did not
 11 want you to give this to clients?
 12 A I mean, I wasn't under the impression that 1st
 13 Global didn't want us to. Mr. Leddbedder was saying to
 14 Trae that he didn't feel that this was necessary.
 15 Q Okay.
 16 So I just want to ask you about a few of the
 17 statements in there. Did you make any changes to this
 18 document from the version that Mr. Wienewitz sent you,
 19 other than putting it on Goldstone letterhead?
 20 A Yeah, we put it on our letterhead, obviously,
 21 the boiler plate information on the back side.
 22 Q When you say the boiler plate, you're talking
 23 about the very bottom of page --
 24 A Yeah, investment advisors --
 25 Q Let me finish -- the very bottom of page

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1 00485?
 2 A Yes.
 3 Q Okay.
 4 Any other changes?
 5 A I'd have to go back and review the original
 6 documentation that we got from him because there may
 7 have been some things that we changed up in the top
 8 here.
 9 Q Can you identify any now?
 10 A Again, I don't know exactly. It may have been
 11 like the net worth, liquid net worth, you know, gross
 12 annual income, the risk of -- you know, aware that there
 13 may be a risk of your account with loss of principal.
 14 Q You think you added those categories?
 15 A Possibly. Again, I don't have that original
 16 documentation to compare it against.
 17 Q Right.
 18 A Right.
 19 Q I understand. And I apologize for cutting you
 20 off. You started to say, we revised this --
 21 A This is one of -- because we revised this
 22 document also at the beginning of 2018.
 23 Q And how did you revise it?
 24 A Added more information.
 25 Q What information did you add?

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1 A We added the understanding of what's called a
 2 distribution phase of the monies.
 3 Q And where is that on here?
 4 A That's not on this one.
 5 Q So is this an older version?
 6 A This is an older version, correct.
 7 Q Okay.
 8 And so, again, I'm sorry, what was it that you
 9 added?
 10 A If you remember when we were talking on
 11 Exhibit 44 about that --
 12 Q The grace period?
 13 A Yeah, the grace period. We had put that on
 14 there, as well.
 15 Q Okay.
 16 The later version of this included some
 17 information that it would be longer than nine months for
 18 a full payout --
 19 A Correct.
 20 Q -- is that what you're saying?
 21 A Correct. There was a -- and I don't know if
 22 it's included in the Emails that we forwarded to you,
 23 that there was a communication that came from 1st Global
 24 explaining the grace periods depended upon the dollar
 25 amounts that were lent by a lender is a good way of

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1 putting it.
 2 Q Let me see if we can show you that while we're
 3 talking about this.
 4 MR. LEVENSON: So let's go ahead and mark this
 5 as Exhibit 49.
 6 (SEC Exhibit No. 49 was marked for
 7 identification.)
 8 BY MR. LEVENSON:
 9 Q I'm placing a document, it's an Email, dated
 10 December 29th, 2007 (sic) in front of you. It is from
 11 Laura Rand. A two-page document.
 12 A Correct. I have two copies.
 13 Q Oh, that would explain that.
 14 Do you recognize Exhibit 49?
 15 A I do.
 16 Q Okay.
 17 Is this the document you were talking about
 18 just a minute ago in terms of further explanation of the
 19 payout for the grace period?
 20 A Yes.
 21 Q Okay.
 22 And specifically I'm looking at the bottom of
 23 the first page of Exhibit 49. It talks about a
 24 distribution schedule, and it says, "For lenders who
 25 have deposited less than two hundred and fifty thousand

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1 dollars, three-month payout." And then further down, it
 2 says, "For lenders who have deposited more than two
 3 hundred and fifty thousand dollars, six-month payout."
 4 A Yes.
 5 Q Okay. Is that the information -- first of
 6 all, is that the information you added to the later
 7 version of Exhibit 48?
 8 A It is.
 9 Q Okay.
 10 Prior to this, getting this on December 29th
 11 of 2017, was this -- to your knowledge, was this the
 12 distribution schedule, or did it change with this
 13 document?
 14 A I think this was clarified, because, I think,
 15 there was some confusion behind it a little bit.
 16 Because of the way it was originally conveyed to me from
 17 Mr. Leddbedder is that when it matures at nine months,
 18 it could take several months after as the merchant cash
 19 advances are unwinding is how he kind of referenced to
 20 it.
 21 Q And that was the reason for the nine to twelve
 22 months on Exhibit 44?
 23 A That's correct.
 24 Later that year we received -- you know, at
 25 the end of the year we received this with further

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1 clarifying. Okay. So here's kind of the line in the
 2 sand, right. If they have this amount of money, it's a
 3 three month. If they have above that amount, it's a six
 4 months.
 5 Q So it wasn't that specific before?
 6 A No.
 7 Q Okay.
 8 But it was understood that there would be some
 9 period of months after for a redeemed note to fully pay
 10 out?
 11 A Correct.
 12 Q Okay.
 13 So going back to Exhibit 48. On the first
 14 page, the first sentence of the text says, "A Memorandum
 15 of Indebtedness, MOI, is a private commercial loan."
 16 Again, is that language that came from Mr.
 17 Wienewitz in his version?
 18 A Yes.
 19 Q Okay.
 20 So at what point -- so at the point where, as
 21 I understand this, it's a private commercial loan --
 22 this is saying, it's a private commercial loan when
 23 lender sends his or her money to 1st Global?
 24 A Correct. Because they were referenced as
 25 lenders. That you are lending money. You weren't

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1 investing money. You were lending money.
 2 Q Okay.
 3 And to your understanding, is this statement,
 4 the factual basis for this statement the same as the
 5 comments that Mr. Leddbedder had made to you regarding
 6 why this was not a security?
 7 A That's correct.
 8 Q Okay.
 9 The second sentence says, "Typically, MOIs are
 10 not regulated by any state or federal securities
 11 agencies, insurance agencies, or banking agencies."
 12 Again, was that wording Mr. Wienewitz's?
 13 A Yes.
 14 Q And was that your understanding of the facts?
 15 A Yes.
 16 Q That there was no other regulatory, federal or
 17 state regulatory scheme that covered these transactions?
 18 A That's from my understanding, yes.
 19 Q Okay.
 20 It says, "MOIs are regulated by traditional
 21 commercial and business laws," is the next sentence.
 22 Again, was that the wording in Mr. Wienewitz's
 23 version that he sent you?
 24 A Yes.
 25 Q And what traditional commercial and business

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1 laws is that referring to?
 2 A I believe it's under contract law. It's a
 3 contract between the lender and 1st Global.
 4 Q Okay.
 5 So --
 6 A Or MOI, the Memorandum of Indebtedness, right,
 7 the contract with 1st Global.
 8 Q So your understanding is traditional contract
 9 law regulated these transaction?
 10 A From my understanding.
 11 Q Okay.
 12 There was nothing else?
 13 A Correct.
 14 Q Okay.
 15 The language in the second paragraph, "In an
 16 MOI transactions, clients, lenders lend funds to 1st
 17 Global Capital, who then advance the funds to multiple
 18 commercial borrowers and merchants."
 19 That's your understanding of how the process
 20 worked?
 21 A Correct.
 22 Q And was that in Mr. Wienewitz's version that
 23 he sent you?
 24 A Uh-huh.
 25 Q Is that a yes?

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1 A Yes. Yes.
 2 Q Okay.
 3 It says, "The proposed MOI transactions are
 4 nine months in length and diversified in multiple
 5 merchant advances to reduce the risk to one GC and to
 6 the clients."
 7 Again, is that in Mr. Wienewitz's version?
 8 A Correct.
 9 Q Okay.
 10 And is that your understanding of the
 11 transaction process?
 12 A Again, according to the Memorandum of
 13 Indebtedness provided by 1st Global, yes.
 14 Q Okay.
 15 And then there are three bullets points that
 16 say what MOIs are not. Again, are those -- were those
 17 three bullet points in the version that Mr. Wienewitz
 18 sent you?
 19 A Yes.
 20 Q And is that your understanding of the
 21 situation?
 22 A Oh, I understand that -- from my understanding
 23 it wasn't a bank, you know, a banking product, right.
 24 It wasn't an insurance product, and it wasn't a
 25 security, like a mutual fund, stock, or a bond. So that

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1 would be why.
 2 Q Okay.
 3 And then it says, "In general, under the
 4 federal securities acts notes with a maturity of nine
 5 months or less are not," and the not is bolded and
 6 underlined, "considered securities," and then it quotes
 7 a section of the security -- a definitional sections of
 8 both the Securities Act and the Exchange Act.
 9 Was this language in Mr. Wienewitz's version?
 10 A Yes.
 11 Q Okay.
 12 Was the fact that the word "not" underlined
 13 and bolded the same in Mr. Wienewitz's version?
 14 A I believe it is, yes.
 15 Q Okay.
 16 I notice it says, in general. Do you know if
 17 there are exceptions to that nine-month rule?
 18 A Again, I'm not a, you know, securities
 19 attorney or an SEC examiner. I can't say that I'm
 20 qualified to interpret, right. I did look up the
 21 Securities Act and found information online that
 22 referenced that commercial paper that was not -- you
 23 know, according to that act number, right.
 24 Q So it would be fair to say, you accepted the
 25 company's interpretation or the company's conclusion on

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1 this issue?
 2 A Correct. And I also relied upon Taylor
 3 Capital Management in providing information to them as
 4 if this was an outside business activity or a private
 5 securities transaction, which they clearly signed off on
 6 that they looked at it as an outside business activity.
 7 Q On the second page, so am I fair to say you've
 8 had clients initial and sign each one of these
 9 statements, and then sign it overall?
 10 A Yes.
 11 Q Okay.
 12 So the last area for an initial it says, "I/we
 13 acknowledge that the proposed MOI transactions are nine
 14 months in length and will automatically renew for an
 15 additional nine-month period or periods and will
 16 continue ongoing, unless notified." That's the first
 17 sentence of that section.
 18 Was that in Mr. Wienewitz's version?
 19 A I don't believe it was.
 20 Q Is that something that you -- Goldstone added?
 21 A Yes, I believe it is.
 22 Q Why? Why was that?
 23 A Again, wanting to provide clarity and
 24 understanding to the client that these are nine months
 25 in length and that they're going to automatically renew

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1 after that initial nine-month period for another nine
 2 months. So there was no conflict. If it renewed and
 3 then the client's calling saying, you know, at month ten
 4 or eleven saying, hey, you know, that thing matured last
 5 month, where's my money? Well, this is clarifying that,
 6 hey, it's a nine month -- according to the MOI it's nine
 7 months. So this is just tying back to the original MOI
 8 that they signed with 1st Global Capital, right. Then
 9 it's nine months, and then it's automatically renewed
 10 for another nine months.
 11 Q Did you ever have any discussions with Mr.
 12 Wienewitz's or anyone at 1st Global about whether the
 13 fact that there was an automatic rollover provision made
 14 this not a nine-month note?
 15 A I did not.
 16 Q Okay.
 17 Did you ever hear anyone talk about that?
 18 A As far as?
 19 Q Whether the automatic rollover made this not a
 20 nine-month note.
 21 A From my understanding, it was a separate
 22 transaction. So it was nine months, and then once that
 23 matured, then the next nine months was a secondary
 24 transaction.
 25 Q And who told you that?

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1 A Just from reading the MOI and understanding
 2 how the maturity dates worked.
 3 Q So that was a 1st Global representation?
 4 A Well, the other side of it is the -- like if
 5 we look at the compensation part of it, we were
 6 compensated on that nine months, and then if it matured,
 7 we weren't compensated going forward from there. If it
 8 renewed, then you were compensated again.
 9 Q That wasn't my question. My question was on
 10 what is your -- you made the statement that it's a
 11 separate -- your understanding was it's a separate
 12 transaction. My question is: On what is that
 13 understanding based?
 14 A Based on the MOI.
 15 Q Okay.
 16 Provided by 1st Global?
 17 A Correct.
 18 Q Is there anything in the -- did you draw that
 19 conclusion from the MOI? Is there anything in the MOI
 20 you can point to that says it's a separate transaction?
 21 A Not necessarily, but from my understanding,
 22 it's nine months, and then it's going to mature, and
 23 then start another nine-month period separately.
 24 Q And that came from reading the MOI?
 25 A Correct.

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1 Q Okay. Well, when we get to MOI, you can point
 2 out to me the specific parts of it that -- which we're
 3 about to, that led you to conclude that it's a separate
 4 transaction.
 5 MR. MILLER: I have a couple of questions on
 6 this document, if I may.
 7 MR. LEVENSON: Okay.
 8 MR. MILLER: On the first page, it says,
 9 "There is some degree of potential risk of loss of
 10 principal in some circumstances."
 11 Was that in Wienewitz's, or did you draft
 12 that?
 13 THE WITNESS: I believe it was.
 14 MR. MILLER: Was what?
 15 MR. PORTEOUS: You asked a compound question,
 16 so --
 17 MR. MILLER: Sure. Let me ask it a little
 18 cleaner. Did you write, There is some degree of
 19 potential risk of loss of principal in some
 20 circumstances?
 21 THE WITNESS: I'm not sure if that was on
 22 Wienewitz's or if we did that. I can't answer that.
 23 MR. MILLER: What does that mean, that
 24 sentence?
 25 THE WITNESS: That's there's, obviously,

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1 potential risk with any type of -- whether it's an
 2 investment or a lending opportunity or what have you,
 3 that there's a degree of risk with anything that you
 4 invest in.
 5 MR. MILLER: Okay. Well, there's some degree
 6 of risk, so let's start with that. Did you quantify
 7 that to any customers?
 8 THE WITNESS: Oh, of course. We always tell
 9 clients that's there's always going to be risk
 10 associated with any type of investment. I mean, if we
 11 reference to the second page, one, two, three, four --
 12 fourth line down, there's a line there that it says,
 13 We're aware that there may be risk to our account and
 14 loss of principal is possible. We're clarifying that
 15 there's potential risk.
 16 MR. MILLER: But that wasn't my question,
 17 though. I said, did you quantify the degree of what you
 18 meant by some degree of risk?
 19 THE WITNESS: I don't understand what you mean
 20 by quantify.
 21 MR. MILLER: Was it a five percent risk, ten
 22 percent risk, a hundred percent risk?
 23 THE WITNESS: I couldn't quantify it.
 24 MR. MILLER: That's all you had to do was
 25 answer. I just was simply asking, did you quantify it?

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1 THE WITNESS: I did not.
 2 MR. MILLER: Okay.
 3 And then some circumstances, what are you
 4 referring to there?
 5 THE WITNESS: Again, I believe it has to do
 6 with, obviously, the contract itself, 1st Global, right,
 7 the -- paying 1st Global itself. It goes back to
 8 diversification.
 9 MR. MILLER: And in the first sentence says --
 10 my colleague alluded to, it says, A private commercial
 11 loan. What does a private commercial loan mean?
 12 THE WITNESS: From my understanding on that
 13 line there, is that it was a private loan from a lender
 14 to 1st Global, that was then lending that money out to
 15 small businesses or merchants essentially, which would
 16 be considered small businesses or commercial lending,
 17 guess.
 18 MR. MILLER: So forget the language that's
 19 there. What is a commercial loan?
 20 THE WITNESS: From my understanding, a loan
 21 between like a small business or a large business, that
 22 would be a commercial loan.
 23 MR. MILLER: What's the other side of the
 24 party there? Who's the counter-party?
 25 THE WITNESS: Well, you have the lender and

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1 you have 1st Global.
 2 MR. MILLER: No. In an instance of a
 3 commercial loan, who are the two parties?
 4 THE WITNESS: Well, in this instance, it would
 5 be the lender's lending money to 1st Global. Then 1st
 6 Global lending that money to merchants.
 7 MR. MILLER: And how did you get that
 8 understanding, other than by reading the MOI?
 9 THE WITNESS: Again, this was originally in
 10 Mr. Wienewitz's documentation that he provided to us.
 11 MR. MILLER: Okay.
 12 Outside of getting the information from Mr.
 13 Wienewitz, did you get it from any other source that the
 14 instrument, the MOI, constituted a commercial loan
 15 relationship?
 16 THE WITNESS: From my understanding, again, by
 17 1st Global lending money to small businesses, that was a
 18 small business transaction or a commercial loan.
 19 MR. MILLER: Well, that's really my question.
 20 What was the commercial loan? Was it the lender giving
 21 money to 1 Global, or was 1 Global lending the lender's
 22 money to the merchant?
 23 THE WITNESS: I think to clarify, it's the
 24 money being lent to small businesses.
 25 MR. MILLER: So are you testifying that the

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1 lender did not enter into a commercial loan through the
 2 MOI?
 3 THE WITNESS: Well, if they were lending -- I
 4 guess I'm confused by the question. I'm having a hard
 5 time.
 6 BY MR. LEVENSON:
 7 Q This says an MOI is a private commercial loan.
 8 A Correct.
 9 Q So that's the process of the lender lending
 10 money to --
 11 A To 1st Global.
 12 Q That's what this say, doesn't it?
 13 A Right.
 14 Q Okay.
 15 So how is that a commercial loan?
 16 A So they're lending money to 1st Global, right,
 17 which is essentially a business, a small business, and
 18 then they're lending that money out to small businesses
 19 or merchants.
 20 Q Doesn't a commercial loan have to be between
 21 businesses, commercial parties?
 22 A I guess.
 23 Q Well, weren't these individual clients, some
 24 of them were investing out of their personal IRAs?
 25 A Sure.

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1 Q So how is that a commercial loan?
 2 A Because the way it was explained to us is that
 3 clients are lending money as lenders, right. They're in
 4 a lending capacity. They're lending money to 1st
 5 Global. 1st Global is borrowing that money and then
 6 distributing that into merchant cash advances.
 7 MR. MILLER: Is your understanding of a
 8 commercial loan, that is it's a type of debt financing?
 9 THE WITNESS: Well, a loan, I would agree,
 10 when you lend somebody a loan, it's a debt instrument.
 11 MR. MILLER: Did you explain that to your
 12 customers?
 13 THE WITNESS: Of course. They were acting --
 14 I mean, I wasn't hiding anything from them. We're
 15 explaining they were acting in a lending capacity. They
 16 were lending money 1st Global, and 1st Global was
 17 lending that money to small businesses.
 18 BY MR. LEVENSON:
 19 Q Did you invest in 1st Global?
 20 A I did not.
 21 Q Okay.
 22 Did you consider it?
 23 A I did.
 24 Q And why did you decide not to?
 25 A Just cash flow.

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1 MR. LEVENSON: So let me go ahead and have
 2 this marked as Exhibit No. 50.
 3 (SEC Exhibit No. 50 was marked for
 4 identification.)
 5 BY MR. LEVENSON:
 6 Q I've placed in front of you a document
 7 entitled, Memorandum of Indebtedness. We've marked as
 8 Exhibit No. 50, dated November 6th of 2017.
 9 Just let me know when you've had a chance to
 10 review it.
 11 A Okay.
 12 Q Do you recognize what Exhibit No. 50 is?
 13 A I do.
 14 Q And what is it?
 15 A It's 1st Global's Memorandum of Indebtedness.
 16 Q Is David Eberhard a Goldstone client?
 17 A Yes.
 18 Q Is he your client or your brother's?
 19 A My brother's client.
 20 Q Okay.
 21 So did you speak to Mr. Eberhard about his
 22 investment, or was that your brother?
 23 A That would be my brother.
 24 Q Okay.
 25 So do you know why he decided to become a

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1 lender?
 2 A I don't.
 3 Q No.
 4 So when someone decides to become a lender,
 5 they give you -- they signed the Memorandum of
 6 Indebtedness, and then you forwarded it to 1st Global?
 7 A That's correct.
 8 Q Okay.
 9 And then what was the method of payment?
 10 A Well, it be dependent. I mean, some clients,
 11 they may write a check. Other clients, it may be a
 12 transfer of funds.
 13 Q What about those who invested through their
 14 IRA, was there a specific method?
 15 A Yeah, it was different. They would establish
 16 an IRA account with an IRA custodian. Provident Trust
 17 was the one that we primarily referred clients to. And
 18 money could be transferred to their IRA account at
 19 Provident Trust for 1st Global.
 20 Q Okay.
 21 So in this MOI, specifically on page two of
 22 it, there is paragraph six, maturity date. Is this the
 23 rollover provision that we've been discussing?
 24 A That's correct.
 25 Q Okay.

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1 And was this the standard rollover? Is this
 2 the standard language for the rollover?
 3 A Yes.
 4 Q Did the MOIs change at some point with regard
 5 to paragraph six?
 6 A That I recall, no.
 7 Q Okay.
 8 Do you recall whether at some point in 2018,
 9 did you ever see for any of your clients this change
 10 from, you know, automatically rolling over, unless the
 11 client opted out to client specifically had to opt-in if
 12 they wanted to?
 13 A There was one point where, I believe, it was
 14 in March 2018 1st Global came back and said, hey,
 15 instead of it being automatic, what we're going to want
 16 is everybody to resign a new MOI if they wanted to
 17 renew. So that's what we did in the month of March.
 18 By the end of March, 1st Global came back to
 19 us and said, listen, it's a paperwork nightmare. Their
 20 reason behind it was they said that in Texas, that Texas
 21 requires them to resign a new one every month. So they
 22 thought it'd be a good idea just to do it across the
 23 board. And then I think they realized it was a
 24 paperwork nightmare, so they said, no, we're just going
 25 to go back to the old way of doing it where it

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1 automatically renews.
 2 Q The old way being the language in paragraph
 3 six in Exhibit 50?
 4 A Correct.
 5 Q Okay.
 6 MR. MILLER: Who told that you from 1 Global?
 7 THE WITNESS: I believe that was Mr.
 8 Merkelson.
 9 BY MR. LEVENSON:
 10 Q And did you see MOIs from April and later 2018
 11 where the automatic rollover provision language of
 12 Exhibit 50 was back in?
 13 A I don't recall a hundred percent.
 14 Q So paragraph seven describes -- it's called,
 15 Covered activities. Do you see that?
 16 A Yes.
 17 Q And do you see the second sentence to that
 18 paragraph says, "The covered activity shall be conducted
 19 by borrower in borrower's sole discretion"? Do you see
 20 that?
 21 A Uh-huh.
 22 Q And borrower is 1st Global, correct?
 23 A Correct.
 24 Q So what does that mean, that the covered
 25 activity shall be conducted by borrower at borrower's

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1 sole discretion?
 2 A From my understanding, the covered activities
 3 were the merchant cash advances.
 4 Q Okay.
 5 So what discretion did 1st Global have?
 6 A Well, from my experience, the covered
 7 activities were the merchant cash advances, right. They
 8 were advancing money into those different merchants.
 9 Under the next section, section eight, it shows lender
 10 payments activity period shall be based upon borrowers
 11 covered activities for the activity period as follows.
 12 Borrower shall enter into MCATs in certain amounts and
 13 certain merchants. So the continuing language was
 14 always merchant cash.
 15 Q But my question is simply: What discretion
 16 did 1st Global have to conduct those activities since it
 17 says they have the sole discretion? What does that
 18 mean?
 19 A So, again, from my understanding, they
 20 received lender money, and then they would then use that
 21 money to distribute it or diversify it into different
 22 cash advances.
 23 Q So are you saying that the discretion is which
 24 merchant cash advances to put the money into?
 25 A Correct.

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1 Q Is there any other discretion that you're
 2 aware of?
 3 A From my experience and looking at the
 4 statements, you can see that those were being
 5 distributed or diversified into merchant cash advances.
 6 Q My question was: Did 1st Global, under
 7 paragraph seven, have any other discretion?
 8 A From my understanding, no. I mean, it states
 9 through the rest of the contract in eight that it was
 10 entered into MCATs in certain amounts, use borrower's
 11 use indebtedness for each individual MCAT. Borrower
 12 shall assign a lender percentage in such MCAT. So
 13 through all of eight, it's consistently MCAT.
 14 Q So let's look at the next -- going back to
 15 paragraph seven, that's the sentence after the one I
 16 read to you, it says, "Covered activities shall include,
 17 but shall not be limited to providing innovative funding
 18 known as a merchant cash transaction." Do you see that?
 19 A I do.
 20 Q Did you see that sentence during the entirety
 21 of the time you were offering the lending opportunity to
 22 your clients?
 23 A Yes. And I understand what you're saying, but
 24 what I'm saying --
 25 Q Well, I haven't even asked the question yet,

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1 so you don't -- I simply asked if you saw that sentence,
 2 and you said yes.
 3 So my next question is: What did it mean?
 4 A So, again, from my experience, what we had
 5 experienced and seen was that clients, according to
 6 their statements, of course, were being diversified into
 7 cash advances.
 8 Q Under this sentence, do you believe that 1st
 9 Global had the discretion to do whatever it wanted with
 10 the lender's money?
 11 A It appears that way, but, again, what I'm
 12 saying is from my experience and the statements and the
 13 reports that we got, that they were being distributed to
 14 merchant cash advances.
 15 Q Did you ever ask anyone at 1st Global, hey,
 16 what does it mean, shall include, but shall not be
 17 limited to?
 18 A I did not.
 19 Q Did you ever highlight this sentence to your
 20 clients and tell them 1st Global doesn't have to put the
 21 money into merchant cash transactions?
 22 A No.
 23 Q Okay.
 24 Was it your clients' understanding that that's
 25 what 1st Global had to do with their money?

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1 A Well, that's what, again, according to
 2 paragraph eight, that they were entering into merchant
 3 cash advances, according to section eight, along with
 4 the statements that we've seen and the experience that
 5 we've seen with those statements, they were being
 6 distributed to merchant cash advances.
 7 Q Did you ever see any statements of any kind
 8 that indicated 1st Global wasn't doing anything else
 9 with the money, other than entering into merchant cash
 10 transactions?
 11 A Did not, no.
 12 Q If you had seen that, would you have -- would
 13 that raised questions in your mind?
 14 A Of course. It would raise a red flag.
 15 Q So if -- I think earlier I asked you if 1st
 16 Global was, you know, lending money to a payday
 17 lender -- not lending money, but, in fact, was sending
 18 money to payday lending service, not under a merchant
 19 cash transaction, but simply sending it to that that was
 20 owned by a relative of Carl Ruderman, so that would
 21 cause concern in your mind?
 22 A Of course, it would.
 23 Q Okay.
 24 And in your understanding, was that a
 25 violation of the MOI?

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1 A From my understanding, yes. Because what was
 2 always communicated to us and what was in the MOI and
 3 what we'd seen in the statements was that money was
 4 always being used for merchant cash advances.
 5 Q Okay.
 6 And similarly, if you had known that 1st
 7 Global was sending money to this dental firm known as
 8 Bright Smile, not as a merchant cash transaction, but
 9 simply as another business transaction, was that
 10 something that was outside the scope of the MOI?
 11 A I would believe it was. I mean, if they're
 12 providing financing to Bright Smile in a merchant cash
 13 advance, well, then that's according to what was always
 14 communicated to us what was in the MOI and in the
 15 statements, but --
 16 Q But if there were not written cash advance,
 17 they were just sending money --
 18 A That would raise a definite red flag.
 19 Q Okay.
 20 And did any of the financial statements that
 21 you saw when you visited 1st Global and were looking at
 22 Mr. Ruderman's computer show any activity, other than
 23 merchant cash advances?
 24 A Did not.
 25 Q If it had, would that have raised a red flag

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1 for you?
 2 A Of course.
 3 Q I know you were talking about paragraph eight.
 4 I actually wanted to ask you about -- let's start with
 5 paragraph eight point four.
 6 A Okay.
 7 Q Talking about the thirteen percent management
 8 fee. Okay. Is that -- I think you referenced that
 9 before, so that money was coming -- is it your
 10 understanding that thirteen percent fee was coming out
 11 of the money being repaid from merchants?
 12 A That's how it was explained, correct.
 13 Q And who explained it that way?
 14 A I think it was Mr. Leddbedder.
 15 Q Did you ever -- did 1st Global, to your
 16 knowledge, ever take more or less than thirteen percent
 17 as a management fee?
 18 A From my understanding, no.
 19 Q Okay.
 20 So paragraph eight point five says, "Borrower
 21 shall allocate lender's payment to lender pursuant to
 22 this section; however, lender's understands and agrees
 23 that lender's payment will be retained by borrower's
 24 working capital through the maturity date."
 25 What's your understanding of what that means?

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1 A So my understanding of that was, due to the
 2 nature of the payback of the advance, it was on a daily
 3 ACH, and then as that money was coming back in, then
 4 they would redeploy that capital into new advances.
 5 Q Okay.
 6 So it would show on the clients' statements as
 7 a return, but it would actually -- 1st Global would
 8 continue using that money until such time as the lender
 9 redeems --
 10 A Correct. At the maturity.
 11 Q Okay.
 12 And that's the reason for the additional time
 13 to pay out because the money had to come back in from
 14 the merchants who it had gone out to if there was a
 15 redemption?
 16 A That's how it was explained to us, yes.
 17 Q Okay.
 18 Paragraph eleven of the MOI.
 19 A Yes.
 20 Q On page four, Grace period. This is the three
 21 to six month period we've been talking about for the
 22 payouts?
 23 A That is correct.
 24 Q And was this in every MOI that you saw?
 25 A Every one that I saw, yes.

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1 Q Okay.
 2 And then twelve point one says -- paragraph
 3 twelve point one, "The proceeds of this indebtedness may
 4 be aggregated with other funds of the borrower for the
 5 covered activities of the borrower."
 6 Is that simply they're pulling the
 7 fractionalized interest in each one of the loans to make
 8 an overall loan to merchants?
 9 A That's what I was under that understanding.
 10 MR. MILLER: On eleven, did you say that --
 11 did you testify that eleven constitutes a six-month
 12 payout?
 13 THE WITNESS: No. According to --
 14 MR. MILLER: Maybe I misheard. I'll withdraw
 15 that question.
 16 On paragraph ten, fees.
 17 THE WITNESS: Uh-huh.
 18 MR. MILLER: What does that mean?
 19 THE WITNESS: From my understanding the 1st
 20 Global used an outside firm called independent sales
 21 organizations or ISOs. These are the firms that were
 22 essentially getting the merchants. And 1st Global is
 23 paying them a fee for bringing in that business. So
 24 it's kind of like a -- I think it says like an
 25 origination fee.

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1 MR. MILLER: And whose fees were being used to
 2 pay those?
 3 THE WITNESS: From my understanding, it was
 4 part of the pool of assets that they were bringing in.
 5 BY MR. LEVENSON:
 6 Q Lender's fee?
 7 A The repayment. It was part of the return, I
 8 guess, you'd say.
 9 Q From the merchants?
 10 A From the merchants, correct. When it says,
 11 hey, it's one point three percent coming back in or a
 12 hundred thirty percent coming back, a hundred
 13 thirty-five percent coming back in, from my
 14 understanding, there was an origination fee on that that
 15 would go the third party as payment for their bringing
 16 in a merchant.
 17 MR. MILLER: Okay. So let me see if I
 18 understand it. Are you saying that the lender was
 19 paying this fee, or someone else was paying this fee?
 20 THE WITNESS: According to how it was
 21 explained to us, was that, let's say this independent
 22 sales organization brings in Joe's Pizza, right. Joe's
 23 Pizza needs an advance of a hundred thousand dollars.
 24 1st Global would review the documents, and if they
 25 believed that this was a good transaction to take on as

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1 a merchant cash advance, they would go back to that
 2 independent sales organization and say, yeah, we'll loan
 3 Joe's Pizza the money, and here's what we'll loan it
 4 at -- you know, we'll give them a hundred grand, but we
 5 want, let's say, a hundred and twenty-five back. The
 6 ISOs, the independent sales organizations, would go back
 7 to Joe's Pizza and say, hey, great news, I got you the
 8 loan, so we'll give you a hundred thousand, but you've
 9 got to pay back a hundred and thirty -- or a hundred and
 10 thirty-two. So those independent sales organizations
 11 were keeping that overage as an origination fee.
 12 BY MR. LEVENSON:
 13 Q So it was coming from the merchants, not the
 14 lender's money?
 15 A Correct, that's how it was explained to us.
 16 MR. MILLER: What does this sentence mean
 17 that --
 18 MR. LEVENSON: Hold on. Let me follow-up on
 19 that.
 20 BY MR. LEVENSON:
 21 Q Essentially, all of the money coming back from
 22 the merchants was, in fact, lender's funds because that
 23 was the source of capital for the company, right?
 24 A Correct. I would agree, right.
 25 Q So did that mean a reduced payout to lenders,

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1 to your knowledge?
 2 A Well, again, how it was explained was that,
 3 they would -- to the independent sales organizations
 4 saying, hey, yeah, we can do that, we can do that loan
 5 or whatever you want to call it, the merchant cash
 6 advance, we can do it for -- like I said, a hundred
 7 thousand dollar loan, hey, we'll do it, but the payment
 8 back to us is a hundred and twenty-five grand. Then
 9 that independent sales organization could pack on,
 10 right, an origination fee by going back to Joe's Pizza
 11 and saying, I got you the loan, no problem,
 12 congratulations, I can get it done, you know.
 13 Q So you're saying it came from additional money
 14 charged to the merchants?
 15 A That's how it was explained, correct.
 16 Q Okay.
 17 MR. MILLER: And is that your understanding of
 18 the second sentence of paragraph ten, "Lender
 19 acknowledges and agrees that borrower will use the
 20 indebtedness or lender's payment to pay lender's pro
 21 rata share of such origination fee based on lender's
 22 allocation"?
 23 THE WITNESS: That's what my understanding
 24 was, or how it was explained to us.
 25 BY MR. LEVENSON:

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1 Q So how did you like make sure that you were
 2 getting paid for, you know, all of the clients -- all of
 3 the lenders that you referred to them?
 4 A How did we make sure --
 5 Q That you were getting paid properly for the
 6 lenders that you referred to 1st Global, that you were
 7 getting the appropriate commissions?
 8 A They would send us a spreadsheet of the
 9 clients that had lent money.
 10 Q Okay.
 11 I take it that you looked at that pretty
 12 closely to make sure they were keeping accurate track?
 13 A Of course.
 14 MR. LEVENSON: So I want to mark this as
 15 Exhibit 51.
 16 (SEC Exhibit No. 51 was marked for
 17 identification.)
 18 BY MR. LEVENSON:
 19 Q Exhibit 51 is a four-page document.
 20 Have you had a chance to review it?
 21 A Yes, I have.
 22 Q Do you recognize what it is?
 23 A Yes.
 24 Q And can you tell me what it is.
 25 A A spreadsheet of clients that lent money to

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1 1st Global.
 2 Q And are these your clients --
 3 A Yes.
 4 Q -- at Goldstone?
 5 A Yes.
 6 Q Okay.
 7 There's not a date on it. Do you know what
 8 date this is as of?
 9 A You know what, I don't, to be honest with you.
 10 Q And I take it the amounts are the amounts that
 11 your clients -- that each of the clients invested?
 12 A That's correct.
 13 Q Or is the amount the amounts that they were
 14 due at a certain point? Because I'm wondering -- you
 15 know, like I see the first couple of entries, there's
 16 one hundred fifty, two hundred thousand, those are round
 17 numbers, but then like the third one for John J. Gura,
 18 IRA, G-U-R-A, fifty-six thousand, four hundred
 19 twenty-two dollars and eighty-eight cents. I mean, did
 20 you have clients who invested like that, specific
 21 amounts?
 22 A Yes.
 23 Q What would -- I mean, what would cause a
 24 client to invest like that, as opposed to a typical, you
 25 know, fifty thousand, a hundred thousand, whatever

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1 amount that it would be?
 2 A I mean, I can't recall every single one of
 3 these, but I would say like with the one that you're
 4 referencing, John Gura, why wasn't it an even number, as
 5 compared to Mrs. Lasoda?
 6 Q Right.
 7 A I believe what that was was a rollover of an
 8 account.
 9 Q Okay.
 10 A Right. So it was the total rollover of that,
 11 so it wasn't like a specific amount.
 12 Q Okay.
 13 Do you believe that to be the case for the
 14 ones that are like that, you know, with specific dollar
 15 and cent amounts, as opposed to rounded amounts?
 16 A Yes, I believe that is.
 17 Q Okay.
 18 Do you know who prepared this? Was this
 19 something your firm prepared or 1st Global?
 20 A I think it's 1st Global.
 21 Q And I counted these up. There's a hundred and
 22 forty-four names on here. I didn't really look to see
 23 whether they were duplicates, but does that --
 24 A It sounds about accurate.
 25 Q -- for your clients?

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1 MR. PORTEOUS: I don't think we produced this.
 2 MR. LEVENSON: I don't think you did.
 3 MR. PORTEOUS: I know we produced a lot of
 4 this information.
 5 MR. LEVENSON: I'm honestly not sure whether
 6 it came from them or whether it came from FINRA.
 7 MR. PORTEOUS: I would've thought they
 8 would've Bates stamped all the documents.
 9 If it's information that you want, we're happy
 10 to --
 11 MR. LEVENSON: Well, there's another
 12 document -- I have a couple of other documents, so I'm
 13 just trying to sort of -- let me go through them.
 14 MR. PORTEOUS: Okay.
 15 MR. LEVENSON: I'm not sure --
 16 MR. PORTEOUS: My point was simply, if it's
 17 information that you need or find, we're happy to
 18 provide you more information.
 19 MR. LEVENSON: Okay. We might. I appreciate
 20 it.
 21 MR. PORTEOUS: I understand.
 22 MR. LEVENSON: I have another one that I
 23 wanted to mark then as Exhibit 52.
 24 (SEC Exhibit No. 52 was marked for
 25 identification.)

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1 BY MR. LEVENSON:
 2 Q Exhibit 52 is another client list, and I --
 3 it's slightly a different format. It's a three-page
 4 document. This one has dates on it.
 5 A Okay.
 6 Q But -- it appears to be a list of IRAs because
 7 every one of these clients -- well, let me, first of
 8 all, why don't you review Exhibit 52, and let me know
 9 when you're done. Then I'll ask you about it.
 10 MR. PORTEOUS: Can I consult with my client
 11 very briefly?
 12 MR. LEVENSON: Yeah. Sure.
 13 MR. PORTEOUS: Can we go off the record?
 14 MR. LEVENSON: Yes. You want to take a
 15 break -- I'll tell you what, consult on this, let's deal
 16 with this, and then we can take a break, if you want.
 17 MR. PORTEOUS: That's fine. I was just trying
 18 to understand to what extent -- this may have been
 19 documents produced in connection with the examination.
 20 Are these documents we just produced?
 21 MR. LEVENSON: No, they're not.
 22 MR. PORTEOUS: It could've been something that
 23 came up during the exam, so I was just trying to figure
 24 that out.
 25 MR. LEVENSON: That's fine.

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1 MR. PORTEOUS: So that he can orient himself.
 2 MR. LEVENSON: No problem.
 3 MR. PORTEOUS: So is it something you want to
 4 talk to me about, or you have a pretty good sense --
 5 THE WITNESS: Sure. I mean, can I use the
 6 bathroom?
 7 MR. LEVENSON: Yeah. That's fine.
 8 Let's go off the record at 2:49.
 9 (A brief recess was taken.)
 10 MR. LEVENSON: We'll go back on the record at
 11 3:06.
 12 BY MR. LEVENSON:
 13 Q We had no substantive discussions about the
 14 testimony or the case while we were off the record; is
 15 that right?
 16 A Correct.
 17 Q I got that one right.
 18 A So did I.
 19 Q So I wanted to go back to Exhibit 51 for just
 20 a minute, and I think I told you I had counted a hundred
 21 forty-four names that were listed on Exhibit 51. Did
 22 some quick math, and then it looks like ninety-nine of
 23 them were IRAs from, you know, counted up.
 24 A It's quite possible.
 25 Q I mean, is that something that you know you

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1 marketed this as a good investment for qualified -- for
 2 IRAs?
 3 A I would just have to say that the vast
 4 majority of client monies or assets are primarily
 5 usually in an IRA account.
 6 Q Okay.
 7 So I wanted to -- I was looking at the
 8 amounts, too, just real quick on that first page of
 9 Exhibit 51. It's third from the bottom Diane Zwicker
 10 looks like invested five hundred eighteen thousand, four
 11 hundred sixty-nine dollars with 1st Global.
 12 A Okay.
 13 Q Do you see that?
 14 A Yes.
 15 Q Do you know, was that in one investment? Was
 16 it a rollover? Was it a renewal or additional amounts?
 17 Do you recall any details about this?
 18 A From what I recall, I think it was just one
 19 initial.
 20 Q And do you recall what percentage of Ms.
 21 Wicker's investment portfolio that five hundred eighteen
 22 thousand dollars covered?
 23 A No, without being able to see --
 24 Q I understand you don't have the records in
 25 front of you.

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1 A Right. Without being able to see the records
 2 in front of me, my estimate is that it's probably
 3 somewhere between ten percent to maybe -- it's got to be
 4 less than twenty percent of her net worth.
 5 Q Do you know of anybody who invested more than
 6 twenty percent of their net worth of their investment
 7 amounts?
 8 A That I know of, no.
 9 Q Okay.
 10 So on the third page, there's about the middle
 11 of the way down, there's a Russell Rasner and Kimberly
 12 Ann Rasner Joint Living Trust, dated 10/3/17. Do you
 13 see that? It's on Exhibit -- no. This one, Exhibit 51,
 14 third page.
 15 A Oh, third page.
 16 Q It's a million dollar investment.
 17 A Yes.
 18 Q And that was a loan to 1st Global?
 19 A Correct.
 20 Q Do you know, again, if that was in one loan or
 21 multiple loans?
 22 A That was one.
 23 Q And do you know what percentage of their
 24 portfolio or net worth that represented?
 25 A Maybe eleven percent, twelve percent roughly.

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1 Q Okay.
 2 And I'll ask you one more. There's one on
 3 that same page, fifth from the bottom, a Christopher
 4 Sheally IRA, four hundred eighty-one thousand, seven
 5 hundred twenty-four and thirty-seven.
 6 A Yes.
 7 Q And, again, was that one loan, to your
 8 knowledge?
 9 A Yes.
 10 Q And do you have any idea of what percentage of
 11 their investment portfolio or net worth that that amount
 12 represented?
 13 A Again, I don't have the records in front of
 14 me. My guess is going to be less than twenty percent.
 15 Q Okay.
 16 When a nine-month term expired, if somebody
 17 wanted to rollover, did it just happen automatically?
 18 Was there additional paperwork, or just it was done,
 19 unless the client said something?
 20 A Correct, it was automatic.
 21 Q Okay. There's no new paperwork or
 22 notification or anything? It was just if the client
 23 wanted to redeem, they had to say something by the eight
 24 month?
 25 A Correct. One thing that we did do for clients

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1 is at the six-month mark, we would send out like a
 2 letter just notifying them that their maturing date was
 3 coming up.
 4 Q Okay.
 5 A Letting them know that if they wanted to renew
 6 it, it would renew automatically. If they didn't want
 7 to renew, that they would have to contact our office
 8 prior to the maturity date, so that we could notify 1st
 9 Global for them on their behalf. We kind of took that
 10 initiative instead of letting it just mature, sending
 11 out some sort of communication previous to the
 12 nine-month mark.
 13 Q And if you didn't hear anything from them -- I
 14 guess three things could happen. You'd hear that they
 15 wanted to rollover, you'd hear that they didn't want to
 16 rollover, or you'd hear nothing?
 17 A Correct.
 18 Q If you heard nothing, rollover happened?
 19 A Correct.
 20 Q Okay.
 21 Did you follow-up on those, or it's just a
 22 letter and then --
 23 A It was just a letter.
 24 Q Okay.
 25 How many -- generally, do you have any idea

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1 what percentage of your clients responded to that
 2 letter?
 3 A I don't know.
 4 Q Okay.
 5 Do you know how many clients your brother had
 6 invest?
 7 A I'm not sure of that number.
 8 Q Three hundred four ring a bell?
 9 A It could be.
 10 MR. LEVENSON: Let me go ahead. I'm going to
 11 mark this as Exhibit 53.
 12 (SEC Exhibit No. 53 was marked for
 13 identification.)
 14 BY MR. LEVENSON:
 15 Q So I'm placing a -- it's about a seven or
 16 eight page document in front of you we've marked as
 17 Exhibit 53. It's entitled, 1st Global Capital, LLC,
 18 Anthony Pellegrino.
 19 And my question is: Do you know if this is a
 20 list of your brother's clients who loaned money --
 21 A I believe it is.
 22 Q -- to 1st Global Capital?
 23 A I believe it is.
 24 Q Okay.
 25 Do you recognize some of the names on there?

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1 A I do.
 2 Q Okay.
 3 So, again, I added up the names on here. I
 4 didn't really look to see if there were duplicates, but
 5 the total amount of line items is three hundred and
 6 four?
 7 A Okay.
 8 Q So I don't know if that rings a bell in terms
 9 of how much --
 10 A It could very well be. I mean, I'm looking at
 11 a documentation that I'm almost confident was one that
 12 we had provided during our examination.
 13 Q Okay. I think that's correct. I just don't
 14 know for sure. Okay.
 15 Do you know what the total value of the
 16 loans -- the total loan amount was of the Goldstone
 17 clients who did loan money to 1st Global?
 18 A I don't know the exact figure.
 19 Q Okay.
 20 Would it have been as high as thirty million,
 21 do you know?
 22 A It could be.
 23 Q Okay.
 24 MR. LEVENSON: So let me mark this then as
 25 Exhibit 54.

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1 (SEC Exhibit No. 54 was marked for
 2 identification.)
 3 BY MR. LEVENSON:
 4 Q So I placed a four-page document in front of
 5 you.
 6 MR. PORTEOUS: If I can make a brief comment.
 7 MR. LEVENSON: Yes.
 8 MR. PORTEOUS: Faegre, Baker, Daniels prepared
 9 this in connection to the production.
 10 MR. LEVENSON: Okay.
 11 MR. PORTEOUS: So it wasn't work product from
 12 Goldstone.
 13 MR. LEVENSON: Okay.
 14 MR. PORTEOUS: It's just our summary of all
 15 the accounts we provided you. I thought I put it in the
 16 cover letter, but, perhaps, I didn't.
 17 MR. LEVENSON: You may have. I may have
 18 missed it.
 19 BY MR. LEVENSON:
 20 Q So with that, let me ask, Mr. Pellegrino, have
 21 you seen Exhibit 54 before today?
 22 A No.
 23 Q Okay.
 24 Take a minute to look at it because I want to
 25 ask you if this, in fact --

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1 MR. LEVENSON: Well, would you mind, Mr.
 2 Porteous, if I asked you on the record what this
 3 comprises?
 4 MR. PORTEOUS: Yes.
 5 MR. LEVENSON: Okay. I appreciate your
 6 clarification. Can you tell us what this is then?
 7 MR. PORTEOUS: Yes. I believe you had made an
 8 informal request to us for documentation reflecting
 9 statements of the most recent month for Michael
 10 Pellegrino's Goldstone clients that were in 1st Global,
 11 and so we had provided you with, I believe, the June
 12 2018 statements.
 13 MR. LEVENSON: Right, you did.
 14 MR. PORTEOUS: And because of the numerosity
 15 of them, as well as the fact that I didn't have a
 16 spreadsheet or anything like that indicating whose all
 17 statements you had and it was too difficult to compile
 18 in the cover letter, this is purporting to represent the
 19 list of account statements that we provided you with the
 20 production from last --
 21 MR. LEVENSON: Last week.
 22 MR. PORTEOUS: Last week, July -- the days are
 23 flying by. I apologize.
 24 MR. LEVENSON: I think it was the 27th.
 25 MR. PORTEOUS: If that was Friday, then, yes.

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1 So this was our effort just to summarize the account
 2 statement for June 2018 that we were providing you.
 3 MR. LEVENSON: Okay. Great.
 4 BY MR. LEVENSON:
 5 Q Let me ask you this: On the first page of
 6 Exhibit 54, which is the one I just handed you, about
 7 halfway down, there is the Charles J. Pellegrino and
 8 Joan Pellegrino Revocable Trust, dated 2/12 of '99. Do
 9 you see that?
 10 A Yes.
 11 Q I'm going to assume that Charles and Joan
 12 Pellegrino are related to you in some way?
 13 A No, they're not.
 14 Q They're not?
 15 A No. Cool last name, though.
 16 Q Are they related to your brother?
 17 A They are not.
 18 Q They just happened to have the same last name?
 19 A Yeah.
 20 Q Are they your clients?
 21 A Yes.
 22 Q Okay.
 23 No relation that you know of?
 24 A No.
 25 Q Okay.

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1 Did any of your relatives -- I know you said
 2 you didn't. Do you know if your brother invested in 1st
 3 Global?
 4 A I believe my brother did, yes.
 5 Q Okay.
 6 Was he your client, or was he his own client?
 7 A No. He's his own client.
 8 Q Okay.
 9 Did any other of your relatives, beside your
 10 brother, invest in 1st Global?
 11 A Yes. If you go to page three on document 54,
 12 Exhibit 54. Kind of halfway down in the middle, Robert
 13 Polanek, P-O-L-A-N-E-K.
 14 Q I see that.
 15 A He's my stepfather.
 16 Q Okay.
 17 Do you know how much he invested?
 18 A I guess fifty thousand.
 19 Q Okay.
 20 Do you know what percentage of his investment
 21 portfolio or net worth that represents?
 22 A Less than ten percent, I think.
 23 Q Okay.
 24 And is he one of your advisory clients?
 25 A He is.

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1 Q Okay.
 2 Any other relatives of either you or your
 3 brother at that you're aware of?
 4 A Not that I -- I mean, I have to review, you
 5 know, all the names.
 6 Q Okay.
 7 Do you know how much your brother loaned to
 8 1st Global?
 9 A I'm not sure of the exact figure, but three
 10 hundred thousand comes to my mind.
 11 Q Okay.
 12 MR. MILLER: Do you know if your brother
 13 redeemed yet?
 14 THE WITNESS: From my understanding, I don't
 15 think so.
 16 BY MR. LEVENSON:
 17 Q And we can review this at the end, but just
 18 because we've got all these different -- I'm sorry. Go
 19 ahead. You wanted to say something.
 20 A Yeah. I mean, if you just -- Exhibit 53.
 21 Q 53?
 22 A Second page, eight lines down.
 23 Q Oh, there we go, three hundred thousand.
 24 Okay. Thanks.
 25 A You're welcome.

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1 Q Do you know when he invested?
 2 A I don't know exactly.
 3 Q Okay.
 4 MR. LEVENSON: I was going to say -- we can
 5 talk afterwards. We've got these different lists. You
 6 know, if there's a way to get a complete list, both of
 7 Mr. -- of Michael Pellegrino and Anthony Pellegrino's
 8 clients and the amounts they each invested, that way we
 9 don't have all this --
 10 MR. PORTEOUS: And do you want it as of a
 11 certain date?
 12 MR. LEVENSON: Well, I mean, basically, from
 13 inception till now.
 14 MR. PORTEOUS: When you say inception to now,
 15 just so I'm clear, the amounts may have changed at
 16 different points in time. Are you trying to get
 17 snapshots at different points or just --
 18 MR. LEVENSON: No. Just a total.
 19 MR. PORTEOUS: As it stands today, kind of
 20 thing?
 21 MR. LEVENSON: Yeah, as it stands today, but,
 22 you know, even including the ones who redeemed. I'd
 23 still want to know what they invested.
 24 MR. PORTEOUS: Okay. So let's say they
 25 redeemed out three months ago or something like that, we

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1 still pick them up as having been an initial investor?
 2 MR. LEVENSON: Yes. I'm just trying to get a
 3 sense of how much the total -- total amount of clients
 4 and total amount from the time they started offering the
 5 opportunity till now.
 6 BY MR. LEVENSON:
 7 Q Are you till currently offering the lending
 8 opportunity?
 9 A We were.
 10 Q Until?
 11 A Recently.
 12 Q How recently?
 13 A Well, I've been on a little bit of a family
 14 vacation through July. I mean, it's been sporadic, I
 15 guess, you know, over the last couple of months, but
 16 we're no longer offering it.
 17 Q Is that in connection with 1st Global's
 18 bankruptcy?
 19 A Partially, yes.
 20 Q Okay.
 21 I mean, had you stopped offering the lending
 22 opportunity before 1st Global declared bankruptcy?
 23 A I'm going to say no.
 24 Q Okay.
 25 A I think it was more in the beginning and it

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1 has been more just sporadic.
 2 Q Right, but were you still offering the
 3 opportunity --
 4 A Oh, yeah.
 5 Q -- until last Friday when 1st Global declared
 6 bankruptcy?
 7 A Correct.
 8 Q Okay.
 9 Have any of your clients asked to redeem in
 10 the whatever, five days, six days since 1st Global
 11 declared bankruptcy?
 12 A At this moment, no. We're working on
 13 communication with our clients as we speak.
 14 Q Okay.
 15 What are you working on?
 16 A Just notifying them of 1st Global's
 17 bankruptcy.
 18 Q Has 1st Global communicated with you in any
 19 way as far the status of the company?
 20 A No. I mean, I spoke with Mr. Leddbedder.
 21 And, again, I was on vacation, so this was a little bit
 22 difficult getting ahold of people. He just, basically,
 23 said that he didn't have much information that he could
 24 convey.
 25 Q When did you speak with him?

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1 A I think it was Monday or Tuesday.
 2 Q Okay.
 3 MR. PORTEOUS: Can I speak with him very
 4 briefly?
 5 MR. LEVENSON: Yeah.
 6 MR. PORTEOUS: Can I ask him a clarifying
 7 question just while we're on this point?
 8 MR. LEVENSON: Sure.
 9 MR. PORTEOUS: You'd asked him whether or not
 10 he received any communication from 1st Global in
 11 reference to their bankruptcy.
 12 MR. LEVENSON: Yes.
 13 MR. PORTEOUS: Do you have anything you want
 14 to clarify on that?
 15 THE WITNESS: I believe my brother had
 16 received an Email from 1st Global communicating that
 17 information. I haven't seen it yet.
 18 BY MR. LEVENSON:
 19 Q Do you know when he got it?
 20 A I'm not sure. Again, I apologize. I was on
 21 vacation until Tuesday evening.
 22 Q No apology necessary.
 23 So do you know what the substance of what it
 24 said?
 25 A I don't. I haven't seen it.

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1 Q Do you know who it came from?
 2 A I believe it was Scott Merkelson.
 3 Q Okay.
 4 And other than that and you said your
 5 conversation with Mr. Leddbedder, any other
 6 communications from 1st Global since the bankruptcy last
 7 Friday?
 8 A No. Like I said, I talked to Mr. Leddbedder
 9 on, I think, it was Monday evening.
 10 Q How long did you talk with him?
 11 A Five minutes.
 12 Q Did you call him?
 13 A I did.
 14 Q And what did you -- tell me what you asked
 15 him?
 16 A I said, hey, I saw this thing about 1st Global
 17 declaring bankruptcy, you know, what's going on? He
 18 just proceeded to say that he didn't really know. He
 19 was just going to be transparent. He's like, it just
 20 happened on Friday, and right now I really have no
 21 answers, I can't give you anything, I'm kind of shocked
 22 and surprised at it myself.
 23 He did say -- he said, I'm having a hard time
 24 understanding what's going on, so I can't give you much
 25 information, but he did say, he's like, I don't

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1 understand as little as ten days ago, there was an
 2 accounting firm in 1st Global, and they were working on
 3 auditing statements, and they were, I believe, creating
 4 audited financials to be ready for the end of July,
 5 because he said that they were going to start to attempt
 6 to go after, I guess, institutional money.
 7 Q And did he say what firm was doing --
 8 A No, he didn't. He said, I just don't
 9 understand, because as little as ten days ago, there was
 10 an accounting firm in 1st Global.
 11 Q Anything else that he said?
 12 A No.
 13 Q Okay.
 14 MR. LEVENSON: Let me mark go ahead and this
 15 as Exhibit 55.
 16 (SEC Exhibit No. 55 was marked for
 17 identification.)
 18 BY MR. LEVENSON:
 19 Q I'm placing what's been marked as Exhibit No.
 20 55. It's a two-page document.
 21 Let me know when you've had a chance to review
 22 it.
 23 A Okay.
 24 Q Have you had a chance to review Exhibit 55?
 25 A Yes.

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1 Q Do you recognize what it is?
 2 A I do.
 3 Q Is this a document that you received from 1st
 4 Global in, I guess, either sometime around the end of
 5 2017 or the beginning of 2018?
 6 A Yes.
 7 Q Okay.
 8 And you received it from Sylvain Grenier, the
 9 controller?
 10 A That's correct.
 11 Q Was it sent by Email, mail, do you know?
 12 A I believe it was Email.
 13 Q Okay.
 14 Obviously, it refers two Mr. Pellegrinos and
 15 the amounts for the commissions for tax year 2017.
 16 A Uh-huh.
 17 Q Do you know which page is referring to you and
 18 which is referring to your brother?
 19 A I'm not exactly sure. I'm just going to take
 20 a guess at it. I believe the first page is Anthony, and
 21 the second page is mine.
 22 Q Okay.
 23 So if that were the case, then your brother
 24 received three hundred eighty-seven thousand, eighty-one
 25 dollars and ninety-six cents in commissions for 2017,

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1 and the second page, you received three hundred eighty
 2 thousand, eighty-six dollars and fifty-six cents in
 3 commissions for 1st Global referrals?
 4 A Correct.
 5 Q Okay.
 6 Do you know what you have earned so far in
 7 2018?
 8 A I do not.
 9 Q Okay.
 10 Do you know if it's more or less than the
 11 amounts on Exhibit --
 12 A Again, I don't know. I'd be guessing at this
 13 point.
 14 Q Okay.
 15 Is that something that would be possible to
 16 get, do you know? I mean, do you have any records of --
 17 A Yeah. I can go back through and figure it
 18 out.
 19 Q Well, has 1st Global sent you anything in
 20 2018?
 21 A As far as communication like we're seeing
 22 here?
 23 Q Like 55, yes.
 24 A No, they have not.
 25 Q Okay.

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1 So I just wanted to show you one more area
 2 that I wanted to cover with you.
 3 MR. LEVENSON: Let me go ahead and mark this
 4 as Exhibit 56.
 5 (SEC Exhibit No. 56 was marked for
 6 identification.)
 7 BY MR. LEVENSON:
 8 Q So I have placed in front of you what is an
 9 eight-page document that we've marked as Exhibit 56,
 10 which is a January 5th, 2018 letter to David Eberhard.
 11 Let me know when you've had a chance to review
 12 it.
 13 A Okay.
 14 Q Do you recognize what Exhibit 56 is?
 15 A Yes.
 16 Q What is it?
 17 A It's a client statement from 1st Global.
 18 Q Okay.
 19 And this was sent. And David Eberhardt, I
 20 believe, was the lender whose MOI we looked at a little
 21 bit ago?
 22 A Correct.
 23 Q He invested in November 2017, so this is the
 24 client statement for the end of December, almost two
 25 months after he invested, right?

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1 A Correct.
 2 Q Okay.
 3 So according to this, his portfolio has gone
 4 up just under three percent in that two month time
 5 period?
 6 A Correct.
 7 Q Okay.
 8 And you don't have any -- this is all coming
 9 from 1st Global? You don't have any information on the
 10 accounting or anything?
 11 A No. This is just sent from them.
 12 Q And did you get copies when client statements
 13 were sent to the clients?
 14 A Yes.
 15 Q Okay.
 16 So -- and, I guess, then pages three through
 17 eight are the individual merchant cash advances that has
 18 been deployed in his account?
 19 A Correct.
 20 Q Okay.
 21 And, I think -- well, this indicates that -- I
 22 think we saw if before -- Mr. Eberhardt invested three
 23 hundred thousand dollars?
 24 A Correct.
 25 Q Okay.

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1 So pages three through eight, again, I added
 2 up the amounts, and it comes to about -- it came to
 3 seventy-four thousand, three hundred ninety dollars.
 4 A Okay.
 5 Q So it looks about roughly almost seventy-five,
 6 which would be one quarter of his investment that had
 7 been deployed at that time. Is that typical from your
 8 experience, you know, the money -- the smaller
 9 percentage of -- well, not all the money got deployed
 10 initially?
 11 A Correct. From my understanding and what we've
 12 seen and experienced is that as money's being deployed
 13 from the beginning, like Mr. Eberhard here, because
 14 these are, I guess, cash advances that coming in on a
 15 daily basis to 1st Global, then that money is being
 16 deployed on a daily basis, and it's variable because it
 17 could be ten new merchant cash advances for the day, it
 18 could be fifty. But it takes -- we've seen it take
 19 several months for the cash to be deployed.
 20 Q So do you know what was happening to the -- so
 21 the rest of the initial loan that Mr. Eberhard made of
 22 roughly seventy-five had been deployed. Where was the
 23 other two hundred twenty-five thousand at that point?
 24 A Just sitting in cash.
 25 Q Okay.

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1 Do you know if it was literally sitting in
 2 cash in a bank account somewhere, or whether 1st Global
 3 was using it in some other fashion?
 4 A I have no knowledge of any of that, but what
 5 clients had access to was a portal, right, and then they
 6 could log into the portal daily, and it would show the
 7 different numbers. It would show, okay, initial
 8 contribution of three hundred thousand, and the balance
 9 of his portfolio for the day, you know, based on --
 10 again, let's say it was at the end of the month, it'd be
 11 three zero eight. It would show cash deployed, and then
 12 it would show another section that would say cash to be
 13 deployed. So that was like kind of that holding money
 14 that was waiting to be deployed.
 15 Q And that portal was populated by 1st Global,
 16 right?
 17 A That's correct.
 18 Q It wasn't populated by a bank or a brokerage
 19 or any outside party --
 20 A 1st Global, correct.
 21 Q On the first page of Exhibit 56, on the second
 22 paragraph -- well, right after the sentence that says,
 23 The value of your portfolio is, there's a second
 24 sentence that says, "Your increase in valuation since
 25 inception less an allowance for doubtful accounts is

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1 eight thousand, five hundred and sixty-seven dollars."
 2 A Okay.
 3 Q Do you see that?
 4 A Yes.
 5 Q Do you know what the allowance was for
 6 doubtful accounts?
 7 A They said that on average they would hold
 8 about ten percent.
 9 Q And do you know how 1st Global determined
 10 that?
 11 A I believe it was based on the figure of the
 12 total -- the total loan value.
 13 Q Right. Do you know how they determined ten
 14 percent, as opposed to five percent, twenty percent, you
 15 know, how they determined that?
 16 A From my understanding, they just said, we hold
 17 about ten percent for doubtful accounts, and there was a
 18 section on the portal that reflected that figure.
 19 Q Okay.
 20 So was that something standard that they did,
 21 as opposed to because there was a specific problem with
 22 loans already?
 23 A Again, what was communicated to us from 1st
 24 Global was that they had anticipated somewhere around a
 25 ten to twelve percent default rate was kind of their

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1 baked in anticipation, though, they said that because of
 2 their underwriting processes and their collection
 3 processes, that's where they've been able to keep it
 4 around that four percent, five percent mark.
 5 Q Okay.
 6 So I wanted to go back for a minute to -- do
 7 you still have Exhibit 40, which is the account
 8 statement, I think, you said you got from either 1st
 9 Global or Mr. Wienewitz in March of 2017 back when you
 10 were contemplating whether to do business with 1st
 11 Global.
 12 A Okay.
 13 Q So I notice there in Exhibit 40 that when you
 14 get to the specific merchant cash advance section, the
 15 specific merchant names are listed.
 16 A Yes.
 17 Q And they are not in Mr. Eberhard's account
 18 statement.
 19 A Uh-huh.
 20 Q Did any of your clients ever get an account
 21 statement like Exhibit 40 where the specific merchant
 22 cash advances the merchants were listed?
 23 A I mean, I'd have to go back and look at
 24 statements from the beginning.
 25 Q But you don't know, as you sit here today?

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1 A No. What was communicated to us of why they
 2 changed having the names there and just referencing the
 3 contract number was because of privacy policy issues of
 4 listing the names of businesses.
 5 Q Whose privacy?
 6 A The businesses' privacy.
 7 Q Didn't you ever talk to anyone about,
 8 shouldn't my clients know where their money is going?
 9 A Their thing was like, we're putting people's
 10 names on here, we don't want our merchants calling them
 11 up and asking them, hey, how's your -- are you paying
 12 your money, you know. So they said because of privacy
 13 issues, that's why they moved it to a contract number.
 14 Q Who told you that?
 15 A Mr. Merkelson.
 16 Q And when was that?
 17 A Oh, gosh, I don't know a specific.
 18 Q Something caused to you ask. Was it the
 19 account statements changing format?
 20 A I believe it was for that reason, yes.
 21 Q Okay. So --
 22 A Do I know the exact date and time? No, I
 23 don't.
 24 Q Okay.
 25 But at some point after you started selling --

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1 offering the lending opportunity, the account statements
 2 did change to eliminate the merchants?
 3 A And, again, I'd have to clarify that, because
 4 I don't know exactly what the first statements looked
 5 like versus the contract numbers.
 6 Q Okay.
 7 But at some point, you asked him?
 8 A Yes, I did.
 9 Q Okay.
 10 One other difference that I noticed is, if you
 11 go to the last page of Exhibit No. 40.
 12 A Yes.
 13 Q You'll see some totals in that statement, net
 14 current accounts receivable, cash to be deployed, and
 15 then total portfolio value. Do you see that?
 16 A Yes.
 17 Q Again, if you look at Mr. Eberhard's
 18 statement, Exhibit 56, when you look at the last page,
 19 no totals. Do you see that?
 20 A Uh-huh.
 21 Q Was that something that changed during the
 22 time that you were referring clients to 1st Global?
 23 A Again, it's something that I would have to go
 24 back and look at past statements and clarify.
 25 Q Do you know why that changed, why the totals

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1 aren't on anymore?
 2 A I do not.
 3 Q Okay.
 4 (SEC Exhibit No. 57 was marked for
 5 identification.)
 6 BY MR. LEVENSON:
 7 Q I'm going to put an eighteen-page document in
 8 front of you, which is marked Exhibit 57, dated March
 9 3rd of 2018.
 10 So let me know when you've had a chance to
 11 review Exhibit 57.
 12 Have you had a chance to review Exhibit 57?
 13 A Yes, I have.
 14 Q Okay.
 15 Do you recognize what it is?
 16 A A client statement.
 17 Q Again, for David Eberhardt?
 18 A From 1st Global.
 19 Q And this one's dated March 3rd, so it's two
 20 months later. It's the February account statement?
 21 A Correct.
 22 Q Okay.
 23 And you got this at the time that it was sent
 24 out, a copy of it?
 25 A Yes.

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1 Q Okay.
 2 So now it says that the account is worth three
 3 hundred fifteen thousand, seventy-four dollars, so it's
 4 a five percent increase. So, again, did you have any
 5 other -- other than 1st Global stating that that's what
 6 the account value was, did you have any way of
 7 determining the account value?
 8 A Again, just based on the statements that were
 9 provided.
 10 Q Okay.
 11 So, again, if you go to page three, and all
 12 the way over to the top of page eighteen, this looks
 13 like, again, the merchant -- individual merchant cash
 14 advances that Mr. Eberhard's money has been put in?
 15 A Correct.
 16 Q Okay.
 17 So I added these up too, and the total came to
 18 one hundred seventy-six thousand, nine hundred
 19 eighty-six dollars and sixty-nine cents. So more than
 20 the December account statement, but still roughly only
 21 about sixty percent of Mr. Eberhard's investment. Is
 22 that typical? We're now -- I guess he invested in
 23 November, so we're, what, one, two, three -- three
 24 months, almost four months later. Was that a typical
 25 time table in your experience?

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1 A Yeah, it was.
 2 Q Okay.
 3 And your understanding is the rest of the
 4 money was essentially sitting in a bank account?
 5 A Correct.
 6 Q Okay.
 7 I think this is going to be the last one.
 8 MR. LEVENSON: Let's mark this as Exhibit 58.
 9 (SEC Exhibit No. 58 was marked for
 10 identification.)
 11 BY MR. LEVENSON:
 12 Q We have -- I'm now placing in front of you
 13 Exhibit 58, which is a twenty-five page document, dated
 14 July -- July 5th of 2018.
 15 A Okay.
 16 Q Just let me know when you've had a chance to
 17 review it.
 18 A Okay.
 19 Q So this is a different -- this is an account
 20 statement -- well, first of all, do you recognize what
 21 Exhibit 58 is?
 22 A I do.
 23 Q And what is?
 24 A It's a client statement from 1st Global.
 25 Q And Carol Kirkwood, was she a client of yours?

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1 A Yes.
 2 Q Okay.
 3 So this is her June account statement from 1st
 4 Global?
 5 A Correct.
 6 Q Okay.
 7 So if you go over to the second -- page two of
 8 it, I'm looking at this and now there isn't a
 9 specific -- the category of merchant cash advances is
 10 now listed as business type.
 11 A Uh-huh.
 12 Q Do you know, does each of these represent an
 13 individual merchant cash advance, or is it -- are they
 14 combined by business type?
 15 A From my understanding, it's each individual.
 16 I believe it was roughly around March 2018, 1st Global
 17 Capital updated there client portal and changed the
 18 statement layouts.
 19 Q Do you know why they changed the statement
 20 layout?
 21 A They said what they were using -- for more
 22 clarity, instead of just having a contract number, they
 23 were using -- they had a name for it. They're using a
 24 business code name or something like that to reference
 25 the specific merchant cash advance.

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1 MR. LEVENSON: Let's mark this as Exhibit 59.
 2 (SEC Exhibit No. 59 was marked for
 3 identification.)
 4 BY MR. LEVENSON:
 5 Q I am handing you a two-page document we've
 6 marked as Exhibit 59. It's entitled, 1GC Affiliate
 7 Agent Update New MOI Three Percent.
 8 Have you had a chance to review Exhibit 59?
 9 A Just give me a minute.
 10 Okay.
 11 Q Have you had a chance to review it now?
 12 A I have.
 13 Q Do you recognize what it is?
 14 A I do.
 15 Q And what is it?
 16 A It was a communication from 1st Global that
 17 they were updated their Memorandum of Indebtedness to
 18 include the -- like a three percent minimum interest
 19 rate.
 20 Q What was the reasoning for doing that?
 21 A In all honesty, they were saying that some
 22 agents had referenced having like some sort of a fixed
 23 rate type of product, I guess, or memorandum, so that's
 24 why they had -- they came out with one.
 25 Q Well, this says it's the minimum three percent

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1 interest rate.
 2 A Right.
 3 Q So that's a guarantee. Is that a guarantee?
 4 A Again, it was never referenced to me as a
 5 guarantee. They're saying there's a minimum of three
 6 percent.
 7 Q Well, but it could go higher, correct?
 8 A From my understanding, it could, yes.
 9 Q Okay.
 10 So when they say there's a minimum three
 11 percent rate, what happens if the actual interest rate
 12 on the loans amounted to two percent? Was 1st Global
 13 going to make up the difference?
 14 A I'm not aware of anything. I can't speak to
 15 that.
 16 Q Well, what does minimum mean to you?
 17 A Well, minimum, from my understanding, is that
 18 the MOI would earn a minimum interest rate of three
 19 percent. I mean, to clarify, I never went to a client
 20 and said, hey, I've got this 1st Global thing, they're
 21 giving a minimum of three percent.
 22 Q Why not? 1st Global is telling you it is.
 23 A Just never did it.
 24 Q Did you ever speak to any -- for new investors
 25 after -- new lenders after this came out, was that part

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1 of your presentation, there's a minimum three percent
 2 interest rate?
 3 A Never.
 4 Q Did you ever question how or why 1st Global
 5 could offer a minimum, any kind of a minimum interest
 6 rate?
 7 A No.
 8 Q Have you ever had any other investment that
 9 you -- other than a fixed rate product, offer a specific
 10 minimum?
 11 A Besides an annuity or a fixed index annuity or
 12 like with an income guarantee or a fixed, I can't
 13 recall.
 14 MR. LEVENSON: Okay. I think we're close to
 15 being done, but let me just take a break for a minute
 16 or two and consult with Mr. Miller.
 17 (A brief recess was taken.)
 18 MR. LEVENSON: Back on the report. It's 3:58.
 19 We've been off the record ten, fifteen minutes.
 20 No conversations of substance while we were
 21 off the record; is that correct?
 22 THE WITNESS: That's correct.
 23 MR. LEVENSON: Okay.
 24 Mr. Pellegrino, I don't have anymore specific
 25 questions for you today. Is there anything before I

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1 turn this over to your attorney that you want to
 2 clarify, add, change about any of your previous answers
 3 today?
 4 THE WITNESS: At this moment, no.
 5 MR. LEVENSON: Okay.
 6 Is there anything I haven't asked you about
 7 1st Global that you think is important or relevant that
 8 you'd like to talk about?
 9 THE WITNESS: I think we've covered a lot.
 10 MR. LEVENSON: Okay. Nothing additional.
 11 Mr. Porteous, do you have any clarifying
 12 questions you'd like to ask?
 13 MR. PORTEOUS: I do have a couple of
 14 clarifying questions, if it's okay to use some of the
 15 exhibits that you put in front of us?
 16 MR. LEVENSON: Okay. Yes.
 17 MR. PORTEOUS: Mr. Pellegrino, can I call your
 18 attention to Exhibit 42. The first page of it says, A
 19 TCM evaluation of proposed new outside business
 20 activities.
 21 THE WITNESS: Yes.
 22 MR. PORTEOUS: Do you see the Bates stamp in
 23 the lower right-hand corner where it says FMR-0000336?
 24 THE WITNESS: Yes.
 25 MR. PORTEOUS: Can you turn to the page

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1 0000341 through 342, and take a minute to review that.
 2 MR. MILLER: What page are you on, Counsel?
 3 MR. PORTEOUS: We are on page -- the lower
 4 right-hand corner, it says FMR-0000341 through 342, the
 5 next page.
 6 THE WITNESS: Okay.
 7 MR. PORTEOUS: Do you recall the testimony
 8 before where we were discussing Exhibit 42 and in
 9 particular these screenshots reflected at FMR-0000341
 10 through 342, do you recall generally the testimony when
 11 we were talking about that earlier today?
 12 THE WITNESS: Correct. Yes.
 13 MR. PORTEOUS: And Mr. Levenson was asking you
 14 questions about some of the language on the first page
 15 of this -- I'm just going to call it 341 for short, so
 16 we're all on the same page literally, in reference to
 17 the unsecured cash advances. Do you see that first
 18 paragraph?
 19 THE WITNESS: Yes.
 20 MR. PORTEOUS: Then you see the bottom of --
 21 the paragraph at the bottom of page 341 that says,
 22 merchant cash advancements?
 23 THE WITNESS: Yes.
 24 MR. PORTEOUS: And can you -- can you read --
 25 I'm sorry. Turning to page 342, do you see where it has

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1 at the beginning, asset based funding?
 2 THE WITNESS: Yeah.
 3 MR. PORTEOUS: And do you see the language in
 4 asset based funding underneath that header on page 342
 5 that says, "At 1st Global, we also offer asset-based
 6 advancements"?
 7 THE WITNESS: Uh-huh.
 8 MR. PORTEOUS: "Many merchants like these
 9 because the interest rates are much lower than other
 10 types of advancements. In fact, they can be the perfect
 11 choice for many businesses. All it requires is your
 12 business own something of value, that can be machinery,
 13 computers, property, or anything else which can be used
 14 as collateral. It can also be secured by accounts
 15 receivable, balance sheets, assets, or inventory." Do
 16 you see that language?
 17 THE WITNESS: Yes.
 18 MR. PORTEOUS: Is this description here
 19 consistent with some of the conversations that you had
 20 referred to before with Mr. Leddbedder and other
 21 conversations you had with 1st Global in terms of what
 22 the MOI was purporting to be tied to or those types of
 23 loans were related to the asset based funding as
 24 reflected on page 342?
 25 THE WITNESS: Yeah. Under the asset based

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1 funding, this is consistent with what was communicated
 2 to me in regards to the way they were advancing cash to
 3 merchants.
 4 MR. PORTEOUS: Okay. That was all I had on
 5 Exhibit 42.
 6 Can I refer you to Exhibit 43 and Exhibit 44.
 7 Exhibit 43 is a letter that's dated August 22nd, 2017 on
 8 Goldstone Financial Group header. And Exhibit 44 is a
 9 flyer.
 10 THE WITNESS: Okay.
 11 MR. PORTEOUS: Short-term high yield contract
 12 is at the top of it.
 13 THE WITNESS: Okay. 43, 44.
 14 MR. PORTEOUS: Yes.
 15 And do you recall -- and just putting these
 16 next to one another, do you recall the testimony earlier
 17 when Mr. Levenson asked you about Exhibit 43, that this
 18 was a letter that you had prepared in response to some
 19 request for information from FINRA; is that correct?
 20 THE WITNESS: Yes, that's correct.
 21 MR. PORTEOUS: Did you have any conversation
 22 with Taylor Capital Management related to the
 23 preparation of this letter and the flyer reflected at
 24 Exhibit 44?
 25 THE WITNESS: Yes.

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1 MR. PORTEOUS: Can you explain the context in
 2 which you discussed this letter and the flyer reflected
 3 in Exhibit 44.
 4 THE WITNESS: Well, a communication was sent
 5 from FINRA requesting an explanation, that's what this
 6 request was on 43 was, in reference to this flyer.
 7 MR. PORTEOUS: Do you remember when that was,
 8 approximately?
 9 THE WITNESS: The beginning of August,
 10 something like that.
 11 MR. PORTEOUS: And when had Goldstone -- you
 12 had said that they had sent it out one time in July.
 13 When was that, approximately?
 14 THE WITNESS: It was like mid to late July
 15 2017.
 16 MR. PORTEOUS: Okay.
 17 And you're saying you got a communication or
 18 Taylor Capital Management got a communication from FINRA
 19 regarding the flyer sometime in mid-August of 2017; is
 20 that correct?
 21 THE WITNESS: Yeah. It was probably beginning
 22 of August they had got an inquiry regarding this flyer.
 23 MR. PORTEOUS: And then --
 24 THE WITNESS: This is attached to the Email
 25 from FINRA requesting that information.

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1 MR. PORTEOUS: And how was that request
 2 communicated to you, the request from FINRA communicated
 3 to you?
 4 THE WITNESS: It was forwarded from Dennis
 5 Taylor.
 6 MR. PORTEOUS: And did you have a conversation
 7 with Mr. Taylor about FINRA'S request?
 8 THE WITNESS: Yes.
 9 MR. PORTEOUS: And what was the nature of that
 10 conversation?
 11 THE WITNESS: I just reached because I didn't
 12 understand. I'm like this is an approved outside
 13 business activity. You know, why do I have to respond
 14 to something that you guys approved? He, basically,
 15 said that I didn't do anything wrong, they did approve
 16 it, Taylor Capital Management did approve it as an
 17 outside business activity, but I'm required to respond,
 18 obviously, to FINRA'S request. And I asked him, you
 19 know, can I put that in there that, you know, this was
 20 approved as an outside business activity through TCM?
 21 He said, yeah, absolutely. So that's where you have
 22 this reference letter.
 23 MR. PORTEOUS: In Exhibit 43, you're talking
 24 about?
 25 THE WITNESS: In Exhibit 43, correct.

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1 After this was submitted in August of -- 22nd,
 2 I believe it was at the end of September, beginning of
 3 October, because, again, I didn't hear anything else
 4 from Taylor Capital Management or FINRA, I had gotten a
 5 call or Email from Dennis saying that a FINRA examiner
 6 from Atlanta wanted to have a conference call with me
 7 just to get an understanding of what the short-term high
 8 yield contract was.
 9 MR. PORTEOUS: In reference to the flyer at
 10 Exhibit 44?
 11 THE WITNESS: 44, correct.
 12 So, I believe, it was the beginning of
 13 October, I had a conference call with myself, Dennis
 14 Taylor, and Dennis McKay, who was with the Atlanta FINRA
 15 office, and, basically, I was explaining to him, he was
 16 asking questions about the flyer and what it was in
 17 reference to, and Dennis was on the call, as well.
 18 MR. PORTEOUS: And what, if anything, was
 19 discussed on that call?
 20 THE WITNESS: He was just trying to get -- or
 21 Mr. McKay was trying to get an understanding of what
 22 this was. I explained it to him as best as I could. He
 23 said that he may be requesting some more information
 24 down the road. After that, I mean, again, Dennis was
 25 like, you haven't done anything wrong, you know, we did

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1 approve it as an outside business activity. That was
 2 pretty much it from there.
 3 MR. PORTEOUS: So am I correct in
 4 understanding from the testimony we've heard here today,
 5 that when you originally submitted for permission to --
 6 for approval from Taylor Capital Management with regard
 7 to the arrangement with 1st Global, that was in May
 8 2017, correct?
 9 THE WITNESS: That's correct.
 10 MR. PORTEOUS: And this flyer, you didn't have
 11 or had not circulated in May of 2017; is that correct?
 12 THE WITNESS: That's correct.
 13 MR. PORTEOUS: And you used the flyer, as you
 14 said a minute ago, sometime between middle and end of
 15 July of 2017, correct?
 16 THE WITNESS: Correct.
 17 MR. PORTEOUS: And then Taylor Capital
 18 Management received this flyer reflected in Exhibit 44
 19 sometime middle of -- of August 2017, a few weeks
 20 after --
 21 THE WITNESS: We sent it out.
 22 MR. PORTEOUS: -- Goldstone had sent it out?
 23 THE WITNESS: Correct. Yes.
 24 MR. PORTEOUS: And you had conversations with
 25 Dennis Taylor both in August of 2017 about FINRA'S

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1 inquiry about the flyer reflected in Exhibit 44?
 2 THE WITNESS: Correct.
 3 MR. PORTEOUS: And then you also had a
 4 conversation with Mr. Taylor, as well as FINRA,
 5 answering questions that Mr. McKay had, you believe,
 6 sometime in September or the end of September 2017,
 7 correct?
 8 THE WITNESS: By the end of September,
 9 beginning of October.
 10 MR. PORTEOUS: Okay.
 11 And in the conversation you had with Mr.
 12 McKay, did you go through some of the terms that are
 13 reflected in the flyer in Exhibit 44, such as the nine
 14 to twelve months or the security issues?
 15 THE WITNESS: Yes, I did. As a matter of
 16 fact, one of the other things that I had mentioned on
 17 the phone call was -- in general conversation, I had
 18 referenced the Securities Act and the Exchange Act that
 19 we have in Exhibit 48. So, you know, I said from my
 20 understanding, according to those Acts, and I'm not an
 21 expert, Mr. McKay, obviously, you are, but from what
 22 I've been told is that something that's nine months or
 23 less, as far as a note or what have you, falls under an
 24 exemption rule. And Dennis Taylor proceeded to say on
 25 that phone call to Dennis McKay, he said, yeah, I

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1 believe, you know, Mike is correct on that. So he did
 2 clarify some of the things that I was saying in that
 3 call.
 4 MR. PORTEOUS: He meaning Dennis Taylor?
 5 THE WITNESS: Dennis Taylor, correct.
 6 MR. PORTEOUS: And at this time Dennis
 7 Taylor's Chief Compliance Office at Taylor Capital
 8 Management?
 9 THE WITNESS: Correct. Yes.
 10 MR. PORTEOUS: So am I correct in
 11 understanding, after this phone call with Mr. McKay in
 12 which Mr. Taylor participated, and after Taylor Capital
 13 Management had this flyer since August -- I'm going to
 14 strike that. I'm going to rephrase my question.
 15 At any time after your conversations with Mr.
 16 Taylor, whether in August or September related to this
 17 flyer, did either Mr. Taylor, in his capacity as Chief
 18 Compliance Officer, or anyone else at Taylor Capital
 19 Management advise you that they had further questions
 20 about whether this was an outside business activity or
 21 private securities transaction?
 22 THE WITNESS: No.
 23 MR. PORTEOUS: So as far as you understood it
 24 from your conversations with Mr. Taylor in reference to
 25 this flyer between August and September of 2017, they

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1 had not changed their position that it was an outside
 2 business activity as compared to a private securities
 3 transaction?
 4 THE WITNESS: That's correct.
 5 MR. PORTEOUS: Okay. I have no further
 6 questions.
 7 BY MR. LEVENSON:
 8 Q The FINRA representative never told you he
 9 agreed with Mr. Taylor, did he?
 10 A The FINRA representative?
 11 Q On the phone. He never said, I agree with
 12 you, this is not a security?
 13 A No. No. That was Dennis Taylor who --
 14 Q Yeah. My question was simply, did the FINRA
 15 representative ever tell you that he agreed with you?
 16 A No.
 17 MR. LEVENSON: Okay. That's all. We don't
 18 have any other questions today. If we do develop any
 19 other questions or need any other information,
 20 obviously, we'll contact you through your Counsel.
 21 I appreciate your coming down very much. I
 22 appreciate you taking the time. This is a -- you know,
 23 you're free to discuss or not discuss this as you wish.
 24 This is a nonpublic investigation. However, we cannot
 25 discuss it with anyone outside the confines of, you

1 know, this room or take additional testimony. So, you
2 know, we'd appreciate you keeping that in when you're
3 making your decisions whether you talk about this or
4 not.

5 That's really it. Thanks a lot.

6 Let's go off the record at 4:13.

7 (Whereupon, at 4:13 p.m., the examination was
8 concluded.)

9 *****

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1 PROOFREADER'S CERTIFICATE

2

3 In The Matter of: 1 GLOBAL CAPITAL, LLC

4 Witness: Michael Pellegrino

5 File Number: FL-04148-A

6 Date: Thursday, August 2, 2018

7 Location: Miami, FL

8

9 This is to certify that I, Maria E. Paulsen,
10 (the undersigned), do hereby swear and affirm that the
11 attached proceedings before the U.S. Securities and
12 Exchange Commission were held according to the record
13 and that this is the original, complete, true and
14 accurate transcript that has been compared to the
15 reporting or recording accomplished at the hearing.

16

17 _____

18 (Proofreader's Name) (Date)

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UNITED STATES SECURITIES AND EXCHANGE
REPORTER'S CERTIFICATE

I, BRIGITTE ROTHSTEIN, Court Reporter, hereby certify that the foregoing transcript of 277 pages (August 2nd, 2018) is a complete, true and accurate transcript of the testimony indicated held on August 2nd, 2018 at 9:02 a.m. in the matter of: 1 GLOBAL CAPITAL, LLC.

I further certify that this proceeding was recorded by me, and that the foregoing transcript was prepared under my direction.

Date: August 3rd, 2018
Official Reporter: Brigitte Rothstein
Diversified Reporting Services, Inc.



BRIGITTE ROTHSTEIN, Court Reporter
Notary Public - State of Florida
Commission No.: FF 972276
Expires: March 17th, 2020
Transmittal Number: M000183



EXHIBIT C

THE UNITED STATES SECURITIES AND EXCHANGE COMMISSION

In the Matter of:)

)

1 GLOBAL CAPITAL, LLC.) File No. FL-04148-A

WITNESS: Michael Latson

PAGES: 1 through 173

PLACE: 801 Brickell Avenue

Suite 1800

Miami, Florida 33141

DATE: Thursday, August 9, 2018

The above-entitled matter came on for hearing, pursuant to notice, at 9:35 a.m.

Diversified Reporting Services, Inc.

(202) 467-9200

Page 2	Page 4
<p>1 APPEARANCES:</p> <p>2</p> <p>3 On behalf of the Securities and Exchange Commission:</p> <p>4</p> <p>5 GARY MILLER</p> <p>6 ELISHA FRANK</p> <p>7 ROBERT LEVENSON</p> <p>8 FERNANDO TORRES</p> <p>9 801 Brickell Avenue</p> <p>10 Suite 1800</p> <p>11 Miami, FL 33141</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 CONTENTS</p> <p>2 WITNESS: EXAMINATION</p> <p>3 Michael Latson 5</p> <p>4</p> <p>5</p> <p>6 EXHIBITS DESCRIPTION IDENTIFIED</p> <p>7 60 Subpoena 11</p> <p>8 61 Document with names 40</p> <p>9 62 Document with names 84</p> <p>10 63 Spreadsheet 123</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
Page 3	Page 5
<p>1 APPEARANCES(CONT.)</p> <p>2</p> <p>3 On behalf of the Witness:</p> <p>4</p> <p>5 Michael Latson, PRO SE</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 PROCEEDINGS</p> <p>2 MR. LEVENSON: We are on the record at 9:35</p> <p>3 on Thursday August 9th, 2018. Could you please</p> <p>4 raise your right hand?</p> <p>5 Whereupon,</p> <p>6 MICHAEL LATSON</p> <p>7 was called as a witness and, having been first duly sworn,</p> <p>8 was examined and testified as follows:</p> <p>9 THE WITNESS: Yes.</p> <p>10 EXAMINATION</p> <p>11 BY MR. LEVENSON:</p> <p>12 Q Okay. Could you please state your name and</p> <p>13 spell your last name for the record?</p> <p>14 A Michael Latson, L-A-T-S-O-N.</p> <p>15 Q Mr. Latson, my name is Bob Levenson. I'm an</p> <p>16 officer of the Commission for purposes of these</p> <p>17 proceedings. With me also are Gary Miller, Fernando</p> <p>18 Torres and Elisha Frank, who are also officers of the</p> <p>19 Commission for purposes of this proceeding. This is an</p> <p>20 investigation by the United States Securities and</p> <p>21 Exchange Commission in the matter of Global Capital,</p> <p>22 LLC, to determine whether there have been violations of</p> <p>23 certain provisions of the federal securities laws.</p> <p>24 However, the facts developed in this investigation</p> <p>25 might constitute violations of other federal or state,</p>

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1 civil, or criminal laws.
 2 Okay. Before the -- we went on the
 3 record, I put -- or I gave you two documents. The
 4 first is a three-page document titled "Formal Order
 5 of Investigation" in this matter, dated -- it's a
 6 three-page document dated March 16, 2018. Do you
 7 have that?
 8 A Yes.
 9 Q Okay. And do you agree I gave you a copy of
 10 the formal order prior to the -- going on the record?
 11 A Yes.
 12 Q Have you had a chance to review the formal
 13 order?
 14 A Yes.
 15 Q Do you have any questions about it?
 16 A No.
 17 Q Okay. It will be available to you if you
 18 want to refer to it at any time during the time today.
 19 Okay?
 20 A Okay.
 21 Q The second document I placed in front of you
 22 is the Commission's Supplemental Form 1662, which was
 23 previously marked as Exhibit No. 1. Do you have that?
 24 A Yes.
 25 Q Okay. And I -- did I give you a copy of that

Page 7

1 prior to going on the record?
 2 A Yes.
 3 Q And have you had an opportunity to review
 4 that?
 5 A Yes.
 6 Q Okay. Do you have any questions about that
 7 form?
 8 A No.
 9 Q Okay. It will also be available to you today
 10 if you want to refer to it at any time. Okay?
 11 A Okay.
 12 Q And am I correct you're not represented by a
 13 lawyer today?
 14 A You're correct.
 15 Q Okay. Do you understand that you do have the
 16 right to have a lawyer with you today if you want it --
 17 if you want one?
 18 A Yes.
 19 Q And you're okay to go ahead with today's
 20 testimony without a lawyer?
 21 A Yes.
 22 Q Few ground rules I'd like to go over with
 23 you.
 24 Do you understand you're under oath just
 25 as you would be in court?

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1 A Yes.
 2 Q Okay. And the court reporter is taking down
 3 your testimony, so it's important that you answer, you
 4 know, out loud as opposed to nodding or shaking your
 5 head, and yes or no as opposed to uh-huh or ah-huh. Is
 6 that okay?
 7 A Yes.
 8 Q If at any time you don't understand a
 9 question that I ask, let me know and I'll rephrase it
 10 for you, okay?
 11 A Okay.
 12 Q If you answer a question, I'm going to assume
 13 that you understood it and answer it to the best of
 14 your ability, okay?
 15 A Okay.
 16 Q Do let me finish my question before you start
 17 answering, simply because, you know, the court reporter
 18 can't take down both of us at the same time, okay?
 19 A Okay.
 20 Q And if I for -- you know, from time to time I
 21 may interrupt your answer, if I do that and you feel
 22 like you haven't had an adequate opportunity to finish
 23 your answer, let me know and I'll stop and you can
 24 finish your answer, okay?
 25 A Okay.

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1 Q Besides myself, any of the officers of the
 2 commission today can ask you and probably will ask you
 3 questions at any time, okay?
 4 A Okay.
 5 Q If you need a break at any time for any
 6 reason, let me know right away, we'll take a break. If
 7 there's a question pending, you know, I'll ask you to
 8 answer the question first and then we'll take a break,
 9 okay?
 10 A Okay.
 11 Q If you need to go off the record for any
 12 reason, just let us know because the staff is the only
 13 one that can instruct the court reporter to go off the
 14 record, okay?
 15 A Okay.
 16 Q This is something I ask everybody.
 17 Are you on any medication today that would
 18 impact your memory or your ability to understand and
 19 answer questions?
 20 A No.
 21 Q And is there anything else going on in your
 22 life that would prevent you from devoting your full
 23 time and attention to the testimony today?
 24 A No.
 25 Q Have you ever testified before the Commission

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1 or any other federal or state agency before?
 2 A No.
 3 Q Have you discussed your testimony, the fact
 4 that you're testifying, with anyone?
 5 A No.
 6 Q Okay. Did you review any documents in
 7 preparation for your testimony today?
 8 A Yes.
 9 Q Okay. Can you tell me what you reviewed?
 10 A The documents that I sent over to the SEC:
 11 the bank statements, the Excel spreadsheets of the mark
 12 to market reconciliation.
 13 Q Okay. I'm going to show you --
 14 BY MR. MILLER:
 15 Q When you say the bank statements, the bank
 16 statements of what?
 17 A Of I Global Capital.
 18 BY MR. LEVENSON:
 19 Q I'm going to go ahead and mark this as
 20 Exhibit number --
 21 MR. LEVENSON: Gary, we're staring at 60,
 22 right?
 23
 24 BY MR. LEVENSON:
 25 Q Okay. I'm going to go ahead and mark this as

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1 Exhibit No. 60.
 2 (SEC Exhibit No. 60 was marked for
 3 identification.)
 4 BY MR. LEVENSON:
 5 Q Mr. Latson, I'm handing you Exhibit No. 60,
 6 which is a one-page document; it's a subpoena. Have
 7 you -- let me know when you've had a chance to review
 8 Exhibit No. 60.
 9 A I've had a chance to review it.
 10 Q Okay. Do you recognize what it is?
 11 A Yes.
 12 Q Can you tell me what it is?
 13 A It is a subpoena to testify and provide
 14 information to the SEC in regards to I Global Capital.
 15 Q Okay. So is this the subpoena pursuant to
 16 which you are appearing for testimony today?
 17 A Yes.
 18 Q And is this also the subpoena pursuant to
 19 which you produced the documents to the SEC that you
 20 just referred to as having reviewed?
 21 A Yes.
 22 Q Okay. What's your date of birth?
 23 A [REDACTED] 1990.
 24 Q And where do you live?
 25 A I live in Brooklyn, New York.

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1 Q Okay. And how long have you lived there?
 2 A Two months.
 3 Q Okay. And where did you live before that?
 4 A Prior to that I lived in Davie, Florida.
 5 Q How long did you live in Davie?
 6 A I lived in Davie, Florida for a year and a
 7 half. Approximately a year and a half.
 8 Q Okay. Was that during the time, correct,
 9 that at certain point you worked for I Global Capital?
 10 A Yes.
 11 Q Okay. I'm just -- just for -- so we're --
 12 have the same understanding, the company that we're
 13 here to talk about today is alternately been called I
 14 Global, 1st Global, I Global Capital, so if I refer to
 15 I Global, or 1st Global, I GC, I'm referring to the
 16 same company, the company that you worked for, okay?
 17 A Yes.
 18 Q So did you attend college?
 19 A Yes.
 20 Q Did you graduate?
 21 A Yes.
 22 Q Where did you go and what degree did you get?
 23 A I went to Florida A&M University and I got a
 24 BBA in finance.
 25 Q And when was that?

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1 A This was 2009 to 2011.
 2 Q And did you do any post-graduate work?
 3 A I did at Georgia Tech. I did Flashpoint,
 4 which is an engineering program.
 5 Q Okay. Did you get a degree from that?
 6 A It's not a degree, but I finished the
 7 program. I graduated from the program.
 8 Q Is it like a certification that you get?
 9 A It's similar to that.
 10 Q Okay.
 11 A Not exactly.
 12 Q What do you get?
 13 A So it's for tech companies. So I built the
 14 FinTech startup that was similar to I GC and the
 15 context that we did loans or made loan origination
 16 faster, and I did that at Georgia Tech.
 17 Q Okay. So after you -- after you graduated
 18 then, can you start -- what was the first job that you
 19 had?
 20 A The first job that I had, I worked for
 21 Cornhusker Capital, which was a middle-market
 22 investment bank up in Chicago. I did that for about
 23 nine months and then I moved over to private equity,
 24 and worked with Panton Equity Partners.
 25 Q Let's -- let me stop you 'cause I -- the

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1 first company, Cornhusker, what was your position
 2 there?
 3 A I was an analyst and then an associate.
 4 Q Okay. What did you do as an analyst and an
 5 associate?
 6 A I structure transaction and I did comps for
 7 companies. I helped raise equity. I helped raise
 8 debt. I helped with the portfolio company that we also
 9 owned, which was called Diatri up in Chicago. And that
 10 was pretty much my overall role.
 11 Q And was the promotion from analyst to
 12 associate, was that a promotion or --
 13 A Yes.
 14 Q Okay. And what were the dates that you
 15 worked there, roughly?
 16 A August 2011 until approximately August 2012.
 17 Q Okay. And you said you did comps for
 18 companies, what did that mean?
 19 A Comparable analysis.
 20 Q So then, what was that next job that you
 21 held?
 22 A Pantan Equity Partners.
 23 Q And where was that?
 24 A It was in Atlanta.
 25 Q Okay. And when did you work there?

Page 15

1 A I worked there from August 2012 up until
 2 approximately January 2015.
 3 Q And why did you leave Cornhusker to go to
 4 Pantan?
 5 A I wanted to get into private equity.
 6 Q So what did you do for Pantan?
 7 A For Pantan I did -- I did research on
 8 particular industries. I looked for companies and
 9 evaluated companies as potential acquisitions. I
 10 helped structure transactions. I managed relationships
 11 with banks, financial partners, equity partners. I led
 12 the due diligence and underwriting process. I
 13 structured the transactions and essentially executed
 14 the transactions.
 15 Q Okay. When you talk about --
 16 MR. MILLER: May I stop you for one second?
 17 BY MR. MILLER:
 18 Q Can you spell the name of the company you
 19 worked for?
 20 A Pantan?
 21 Q Yes.
 22 A P-A-N-T-O-N.
 23 Q Thank you.
 24 BY MR. LEVENSON:
 25 Q Did that require any kind of a securities

Page 16

1 license?
 2 A No.
 3 Q Okay. And so you said in January -- roughly
 4 January 15 is when you stopped working at Pantan?
 5 A Yes.
 6 Q And what did you do next?
 7 A I left Pantan Equity Partners and launched
 8 the FinTech startup.
 9 Q Okay. By FinTech, you mean financial
 10 technology?
 11 A Yes.
 12 Q What was the name of that company?
 13 A It was called Melii, M-E-L-I-I.
 14 Q And where was that located?
 15 A It was originally located in Atlanta. I
 16 founded it with my cofounder Gamal Codner, and we did
 17 that. And then we built the technology and applied it
 18 to different incubators, and accelerator, and
 19 post-graduate programs and we got into Georgia Tech.
 20 Q Okay. Can you spell your cofounder's name?
 21 I know the court reporter is going to ask.
 22 A Gamal, G-A-M-A-L, Codner, C-O-D-N-E-R.
 23 Q Okay. And what kind of -- I mean, what kind
 24 of businesses were you -- I guess, were you working
 25 with?

Page 17

1 A We were working with banks helping them to
 2 speed up their loan origination process.
 3 Q Okay. So did you build a specific program to
 4 help them do that?
 5 A Yes.
 6 Q Okay. Can you describe a little bit what the
 7 program did?
 8 A So the program plugged into a potential
 9 applicant's QuickBooks and did the underwriting process
 10 for a financial institution.
 11 Q Okay. And so how long were you -- was it
 12 basically a two-person firm or did you have --
 13 A Yes.
 14 Q -- other people working for you?
 15 A It was a two-person firm.
 16 Q And how long did you do that for?
 17 A I did that up until December of 2016.
 18 Q Okay. And I think you said the company you
 19 originally had in Atlanta -- did you relocate it
 20 somewhere else?
 21 A No. We kept it in Atlanta.
 22 Q Okay. And so what did you do after December
 23 2016?
 24 A I took a two-month sabbatical and then
 25 started looking for different positions in financial

Page 18

1 services.

2 Q Okay. Did you -- did your company -- did you

3 close your company or did you --

4 A Yes, we closed the company.

5 Q So what was the next job that you had?

6 A I Global Capital.

7 Q And when did you start there?

8 A I started there March 22nd, 2017.

9 Q Okay. Before -- real quick before we get to

10 that. Have you ever held any securities licenses?

11 A No.

12 Q Have you ever held any other kind of

13 professional licenses?

14 A No.

15 Q Okay. So how did you hear about -- how did

16 you hear about I Global?

17 A It was through a recruiter.

18 Q Okay.

19 MR. LEVENSON: Anybody else have any

20 background questions before I -- okay.

21 BY MR. LEVENSON:

22 Q So had you signed up -- I mean, did the

23 recruiter contact you or did you contact the recruiter

24 for assistance in finding a job?

25 A No. A colleague of mine was looking for a

Page 19

1 position in South Florida and they had applied for a

2 position, and the contact -- the recruiter contacted

3 them and they gave me the recruiter's information.

4 Q Okay. And who was the colleague?

5 A Lisa K. Ramsey.

6 Q Okay. Was that somebody you've worked with

7 before or just a friend?

8 A A friend from college.

9 Q And who was the recruiter? Do you remember?

10 A Alex, Brehier. I don't know if I'm

11 pronouncing his last name correctly.

12 Q Do you have any idea how to spell it?

13 A B-R-E-H-E-I-R (sic).

14 Q Okay. And is that a man or a woman?

15 A A man.

16 Q Okay. And is Mr. Brehier in South Florida

17 somewhere?

18 A Yes.

19 Q Okay. So what did he -- so he contacted you

20 or you contacted him?

21 A He contact -- I contacted him --

22 Q Okay.

23 A -- in regards to any potential positions that

24 he had available.

25 Q Okay. Were you looking -- what kind of

Page 20

1 position were you looking for at that point?

2 A Financial analyst position.

3 Q And so what did Mr. Brehier tell you?

4 A He told me that he had a couple of

5 opportunities and that he would put my resume in front

6 of them.

7 Q Okay. And did one of those turn out to be

8 1st Global?

9 A Yes.

10 Q Okay. So what happened from there?

11 A From there I was contacted by Eric to set up

12 an interview.

13 Q Eric?

14 A Alexander.

15 Q Okay. And what was Mr. Alexander's position

16 with the company?

17 A At that point in time he was the CFO, chief

18 finance officer.

19 Q Okay. And when -- do you remember when this

20 was? Was this sometime in 2017?

21 A Yes.

22 Q Do you remember how much before March 22nd?

23 A Probably late February.

24 Q Okay. And had you heard of 1st Global before

25 that?

Page 21

1 A No.

2 Q Okay. So did Mr. Alexander contact you by

3 phone?

4 A Yes.

5 Q Okay. And how long was that conversation

6 with him?

7 A Probably about 45 minutes.

8 Q Okay. So can you tell me as best you can

9 recall what you talked about?

10 A He gave me a high-level overview of 1st

11 Global Capital. He told me where the company was

12 financially in terms of how much they were doing in

13 revenue, and how the company had grown over the past

14 couple years, going from 30 million to approximately

15 52 million in funding. And he told me about the

16 potential position that I would be working at or

17 working in, in regards to working with the company

18 known as Ganador --

19 Q Okay.

20 A -- and Unified Analytics, and helping them

21 with their P&L and their balance sheet.

22 Q And their what? I'm sorry.

23 A Balance sheet.

24 Q Okay.

25 A Helping them with their financials.

Page 22

1 Q So let me ask you a couple -- you said he --
 2 Mr. Alexander said the company had gone from 32 million
 3 to 52 million in funding. Funding of what?
 4 A I'm sorry. From 3 million to 52 million.
 5 Q 3 million. Okay.
 6 3 million to 52 million of funding of
 7 what?
 8 A Loans.
 9 Q Okay. Loans to?
 10 A Small businesses.
 11 Q Okay. And is that what Mr. --
 12 A Merchant cash advances.
 13 Q And is that what Mr. Alexander told you the
 14 business of the company was?
 15 A Yes.
 16 Q How did he describe, you know -- have you
 17 heard the term merchant cash advances before?
 18 A Yes.
 19 Q How did he describe what 1 Global's term
 20 merchant cash advance is?
 21 A Him and I had a conversation about it and he
 22 told me that they gave short term advances against the
 23 receivables, and they charge a -- what is known as the
 24 factor rate. And we discussed the terms of those
 25 factor rates, which were typically from six to nine

Page 23

1 months.
 2 Q Okay.
 3 A And he told me that anything above twelve
 4 months is where they begin to get uncomfortable.
 5 Q Why was that?
 6 A Because it pushes out the duration of the
 7 loan, so effectively the return is smaller.
 8 Q Okay. Was there a specific rate that the
 9 company charged on these advances?
 10 A A factor rate? Their average factor rate was
 11 a 136, and it goes based upon a multiple of the actual
 12 funded amount or the principal.
 13 Q So when you say 136, do you mean \$1.36 for
 14 every dollar loaned out?
 15 A Yes.
 16 Q And what -- you said -- can you elaborate on
 17 the -- did the rate vary by amount loaned?
 18 A It had a number of factors. It was by the
 19 strength of the company -- the financial strength of
 20 the company. By that I mean, the deposits of the
 21 organization; the credit score of the borrower; the
 22 term of the loan; the number of years the business has
 23 been opened; the industry. There were a number of
 24 factors that played into the average or determine that
 25 a merchant received.

Page 24

1 Q And in that first -- in that initial
 2 conversation, did you get into things like how -- you
 3 know, how 1st Global, you know, found the companies
 4 that it loaned money to?
 5 A I do not believe we got into a conversation
 6 about that. We primarily focused on the financials,
 7 which was going to be consummate with my position.
 8 Q Okay. So let's -- one other quick -- did you
 9 in that first conversation speak with Mr. Alexander
 10 about how 1st Global got the money to loan out to the
 11 merchants?
 12 A No.
 13 Q Okay. So you mentioned you would be -- he
 14 said you would be working with a company called
 15 Ganador?
 16 A Yes.
 17 Q Okay. And tell me what he said about that.
 18 A He told me it was a company that they loaned
 19 money to to make small consumer loans.
 20 Q Okay.
 21 A And it was a company that was headquartered
 22 in Gainesville, Florida. And he just told me that I
 23 would be frequently traveling back and forth between
 24 Gainesville and South Florida.
 25 Q And did he -- did you get into a

Page 25

1 discussion -- I mean, was Ganador an affiliate somehow
 2 of 1st Global?
 3 A We didn't get into the discussion at that
 4 point in regards to the relationship between 1st Global
 5 and Ganador.
 6 Q Okay. At some later point after you went to
 7 work for the company, did you learn further information
 8 about that?
 9 A Yes.
 10 Q Okay. And we'll come back to that.
 11 But you were going to be specifically
 12 working with Ganador on its financials?
 13 A Yes.
 14 Q Its profit and loss, and the statement, and
 15 balance sheet?
 16 A Yes. That's what they were originally
 17 looking for a person for.
 18 Q Okay. That was going to be your primary job
 19 responsibility?
 20 A Yes.
 21 Q Okay. And then you also mentioned a company
 22 called -- you mentioned Unified Analytics?
 23 A Yes. Ganador works with Unified Analytics.
 24 Q And what is -- what's Unified Analytics?
 25 A Unified Analytics is the underwriting

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1 division of Ganador.
 2 Q Okay. And you said consumer loans. Is that
 3 payday loans or something else?
 4 A I believe it isn't paydays loans. It's short
 5 term loans. I'm not too -- I haven't looked at
 6 Gango -- at -- excuse me -- at Ganador in probably a
 7 year or so.
 8 Q Okay. How -- did you have an understanding
 9 at that point of how who and what, or what Ganador
 10 loaned money to is different from who or what 1st
 11 Global loaned money to?
 12 A Yes.
 13 Q And what was the difference?
 14 A The difference was that Ganador loaned money
 15 to individuals.
 16 Q Okay.
 17 A 1st Global loaned money to merchants.
 18 Q And did you speak at all with Mr. Alexander
 19 at that point about, you know, how Ganador found the
 20 people it loaned money to?
 21 A No.
 22 Q Okay. And was it your understanding, based
 23 on your conversation with Mr. Alexander, that Ganador
 24 got the money it loaned out exclusively from 1st
 25 Global?

Page 27

1 A During that conversation that didn't take
 2 place. It happened in a later conversation.
 3 Q Okay. So we'll come back to that.
 4 So other than setting up an interview and
 5 other than what you've described, did you have any
 6 other -- any other details of the conversation with
 7 Mr. Alexander in that first call that you can
 8 remember?
 9 A No.
 10 Q So then, did you, in fact, have an interview?
 11 A Yes. I had an in-person interview with Eric
 12 Alexander and Lyn Sohun in March. In March.
 13 Q And where did that take place?
 14 A At 1st Global.
 15 Q You said Lyn Sohun?
 16 A Ah-huh.
 17 Q Is that S-O-H-U-N?
 18 A Yes.
 19 Q Okay. And do you know what Ms. Sohun's
 20 position was?
 21 A She was -- her position was the chief
 22 compliance officer, but effectively her role was in
 23 charge of the financial planning and analysis team, as
 24 well as in charge of sales.
 25 Q Okay. Sales to who?

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1 A Sales to merchants.
 2 Q Okay. So it was -- did anybody else that you
 3 spoke with or interviewed with, or just the two of you?
 4 A Just the two of them.
 5 Q And how long was the interview?
 6 A The interview was approximately an hour.
 7 Q All right. So tell me again, as best you can
 8 recall, everything that you talked about in that
 9 interview.
 10 A During that interview, we discussed what they
 11 were looking for in regards to an FP&A person. During
 12 that interview I walked them through a financial model
 13 that I had worked on previously at Panton Equity
 14 Partners. They told me what I would be doing in
 15 regards to the financial planning and analysis role.
 16 Q Okay. And so what did they tell you that you
 17 would be doing?
 18 A They told me that I would be doing static
 19 pools analysis, which is basically the performance of
 20 the loans given to the merchants. They told me that I
 21 would probably be doing a lot of ad hoc assignments
 22 where something would pop up and Lyn would make our
 23 team responsible for them. They told me that I would
 24 do the sales slides or the sales meeting slides to see
 25 how the company is performing in regards to sales.

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1 Q Okay. So, did -- was Ganador discussed at
 2 that interview?
 3 A Ganador was mentioned briefly. They didn't
 4 think that I would be a great fit for that position
 5 because I didn't have an accounting background where I
 6 did lot of the entries and lot of the journal entries
 7 for QuickBooks.
 8 Q Okay. So at that point, did the interview
 9 become one for a -- you said a P&A financial
 10 planning -- planner and analyst?
 11 A Yeah. Planning and analysis.
 12 Q Okay. And did you get into anymore
 13 discussion of, you know, 1st Global's, you know,
 14 business in terms of, you know, what its loan process
 15 was or how it found merchants to loan money to?
 16 A No. That came after when I first started.
 17 Q Okay.
 18 A I got an in depth understanding of the
 19 organization.
 20 Q Okay. So what else did you -- other than
 21 what you've described, what else did you discuss in
 22 that -- in the interview?
 23 A That was pretty much it, in addition to why I
 24 wanted to move down to South Florida.
 25 Q Why was that?

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1 A I liked the weather.
 2 Q Okay. So did they offer you a job at that
 3 point?
 4 A After the interview they offered me a job
 5 through Alex, the recruiter.
 6 Q Okay. How long after the interview was it?
 7 A Approximately a week.
 8 Q Okay. And I take it you accepted?
 9 A Yes, I accepted the position.
 10 Q And so you went to work on March 22nd of 2017
 11 as a -- in the financial planning and analysis?
 12 A Yes.
 13 Q Did you have a specific title or position?
 14 A It was originally a financial analyst and I
 15 got promoted to a senior financial analyst.
 16 Q And when did you get promoted?
 17 A Approximately three months after I started.
 18 Q So -- okay. So roughly June?
 19 A Roughly June.
 20 Q Okay. And how long were you a senior
 21 financial analyst?
 22 A Until I left the company.
 23 Q And when did you leave the company?
 24 A June -- approximately June 14th, 2018.
 25 Q Okay. So when you first started, who did you

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1 report to?
 2 A I reported to Lyn Sohun.
 3 Q And were there other financial analysts, you
 4 know, who you worked with who also reported to
 5 Ms. Sohun?
 6 A Yes.
 7 Q And who was that?
 8 A Ryan Jumi.
 9 Q Okay. Is that J-U-M-I?
 10 A Yes.
 11 Q Anybody else or just the two of you and --
 12 A It was just the two of us.
 13 Q And Ms. Sohun.
 14 So that -- were you and Ms. Sohun
 15 essentially -- the two of you and Ms. Sohun the
 16 financial planning and analysis department?
 17 A Yes.
 18 Q So when you started, what -- tell me what
 19 your job duties were, what you did.
 20 A When I first started it was -- we worked on
 21 the sales slides, which is basically a week-over-week
 22 performance of the organization in regards to how many
 23 new loans they're making and by what ISOs or what sales
 24 people.
 25 Q When you say ISOs, it would be the initial

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1 I-S-O?
 2 A ISO is the independent sales organization.
 3 Q Okay.
 4 A So the way I Global work, what I realized
 5 when I first started maybe my first week or two working
 6 there is that, merchants would fill out an application
 7 with the independent sales organization; these
 8 independent sales organization or ISOs are companies
 9 that are essentially brokers between the merchant and
 10 the funding company.
 11 Q Okay. So between the merchant, and in this
 12 case 1st Global?
 13 A 1st Global.
 14 Q Okay. Did -- and so did 1st Global have
 15 companies or ISOs that it worked regularly with in
 16 terms of finding merchants?
 17 A Yes.
 18 Q And how many were there?
 19 A There's approximately I want to say close 100
 20 to 200 different ISOs.
 21 Q Okay.
 22 A There are top ISOs that they worked with
 23 regularly. At that time it's companies like Fast Cash
 24 or Fora Financial.
 25 Q Fast Cash and what was the other company?

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1 A Fora Financial.
 2 Q You know how to spell it?
 3 A F-O-R-A Financial.
 4 Q Okay.
 5 MR. LEVENSON: We can go off the record for
 6 one minute.
 7 (Whereupon, a brief discussion was had off
 8 the record, after which, the following was
 9 had.)
 10 MR. LEVENSON: We can go back on the record.
 11 MR. TORRES: Can I ask a follow up question?
 12 MR. LEVENSON: Yes, please. Go ahead.
 13 MR. MILLER: Are we back on the record?
 14 MR. LEVENSON: Yes. We're back on the record
 15 at -- excuse me. We're back on the record at
 16 10:06 a.m.
 17 BY MR. LEVENSON:
 18 Q Mr. Latson, is it correct that we did not
 19 have any substantive discussions or any discussions
 20 about the case while we were off the record?
 21 A Yes.
 22 Q Okay.
 23
 24 BY MR. TORRES:
 25 Q Sir, in March 2017 when you interviewed, did

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1 you have an understanding why were you asked or why
 2 were you considered to be hired to prepare the
 3 financial statements for Ganador and Unified
 4 Financial -- Analytics? I'm sorry.
 5 A From my conversations with Alex at that
 6 time -- or -- excuse -- with Eric at that time, it
 7 seemed like Ganador wasn't capable of producing the
 8 financials at that current time. They had a bookkeeper
 9 who wasn't accruing any of the financials, who wasn't
 10 properly accounting for the loans that Ganador and
 11 Unified Analytics were making to consumers.
 12 Q You said they had a bookkeeper, is that
 13 bookkeeper at 1 Global or at Ganador?
 14 A At Ganador.
 15 Q At Ganador. Who was that person?
 16 A I cannot remember her name.
 17 Q But you were not hired to prepare --
 18 eventually your position didn't consist of -- you were
 19 not hired to prepare the financial statements for
 20 Ganador and Unified Analytics, correct?
 21 A Correct. However, I did take a trip with
 22 Ryan Jumi to Ganador to go over their books and their
 23 accounting practices.
 24 Q Do you know --
 25 BY MR. LEVENSON:

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1 Q I know at -- and let me just -- I know at --
 2 when I asked you about that before, you said you did
 3 later come to an understanding of the relationship
 4 between Ganador and 1st Global.
 5 A Yes.
 6 Q Okay. So -- and what understanding did you
 7 come to as far as what the relationship was?
 8 A 1st Global gave money to Ganador for Ganador
 9 to loan out through an entity called Midwassi,
 10 M-I-D-W-A-S-S-I.
 11 Q And how did you come to that understanding?
 12 A From my conversations with Ganador, Unified
 13 Analytics, Oscar at -- Oscar is over Ganador and I
 14 can't remember the gentleman's name at Unified
 15 Analytic.
 16 Q And who is Oscar?
 17 A Oscar was the owner of Ganador.
 18 Q Okay. Do you remember Oscar's last name?
 19 A No.
 20 Q And how soon after you started did you
 21 develop that understanding from these conversations?
 22 A When I took a trip to Gainesville. It was
 23 approximately in June.
 24 Q June of 2017?
 25 A Yes.

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1 Q Okay.
 2 BY MR. TORRES:
 3 Q And was someone hired to prepare the
 4 financial statements for Ganador and Unified Analytics?
 5 A No.
 6 BY MR. LEVENSON:
 7 Q Was Oscar's last name by any chance
 8 Rodriguez? Does that ring a bell?
 9 A I think it was Oscar Rodriguez.
 10 Q Okay. And did you ever determine how much --
 11 was there like a regular amount that 1st Global gave to
 12 Ganador?
 13 A It wasn't a consistent amount. It was based
 14 upon the number of loans that Ganador initiated or
 15 originated.
 16 Q Okay. And did you learn whether 1st Global
 17 was the exclusive source of loan money for Ganador?
 18 A I believe it was.
 19 Q And what do you base that belief?
 20 A My conversations with Oscar and the other
 21 gentleman who was in charge of Unified Analytics.
 22 Q Okay. Did you come to understand who the
 23 owner of 1st Global was?
 24 A Owner of 1st Global?
 25 Q Yes.

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1 A Yes.
 2 Q And who is that?
 3 A Carl Ruderman.
 4 Q Okay.
 5 A Carl Ruderman and Steven Schwartz.
 6 Q Did -- was there some relationship, be it,
 7 you know, relative or friend or, you know, some other
 8 relationship between Oscar and Carl Ruderman?
 9 A Not to my knowledge.
 10 Q Do you know how 1st Global and Ganador
 11 started doing business?
 12 A No. That was prior to my tenure there.
 13 Q And did you ever learn during that time how
 14 that happened?
 15 A No, I did not.
 16 Q Okay. Did you, after you started working at
 17 1st Global, learn what the source of 1st Global's
 18 funding was to make the merchant cash advances that it
 19 did?
 20 A Yes.
 21 Q And what was that?
 22 A It was loans through sales agents or
 23 financial agents.
 24 Q Loans from who?
 25 A Loans from individuals.

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1 Q Okay. Did those individuals at 1st Global
 2 give them a name?
 3 A They call them lenders. Initial they were
 4 investors and then they changed the name to lenders.
 5 Q Do you remember when the name change was?
 6 A No, I do not remember.
 7 Q And do you know why the name change occurred?
 8 A I do not know why the name change occur. I
 9 just remember Darice Lang making everyone change every
 10 name from investor to lender.
 11 Q Do you know who made the decision to change
 12 the name from investors to lenders?
 13 A I do not know who made the decision. I just
 14 know that Darice enforce the decision. She could have
 15 been the person who made the decision, I'm not entirely
 16 sure.
 17 Q Okay. You said Darice?
 18 A Yes.
 19 Q What's Darice's last name?
 20 A Lang.
 21 Q Okay. And Darice, D-A-R-I-C-E?
 22 A Yes.
 23 Q What position did Ms. Lang had with the
 24 company -- with 1st Global?
 25 A She was the office manager.

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1 Q All right.
 2 BY MR. TORRES:
 3 Q When did that change happen?
 4 A Approximately July of 2017.
 5 Q Do you recall receiving an e-mail or some
 6 type of notification to make the changes from lenders
 7 to -- I'm sorry -- from investors to lenders?
 8 A There wasn't an e-mail. How I remember it
 9 happening was, approximately in July of 2017 they
 10 delegated the responsibility for the finders fees from
 11 the controller at that time to Ryan and myself. So we
 12 were in charge of putting together the payouts for all
 13 of the lenders -- or all of the agents. I'm sorry.
 14 Q Okay. When you say finders fees, are you
 15 talking about the finder -- first of all, let me
 16 just -- I'm going to probably interchangeably
 17 throughout the rest of our time today refer to those
 18 people who made -- who invested with 1st Global as
 19 investors or lenders. I'm just referring to the same
 20 people. The group of people you just described who
 21 provided the funding to 1st Global, okay?
 22 A Okay.
 23 Q All right. So you referred to finders fees,
 24 are those fees that were -- that 1st Global paid to
 25 what I'll call sales agents who found lenders for the

Page 40

1 company?
 2 A Yes.
 3 Q Okay. Now, were there a separate group of
 4 fees paid to companies you referred to who found
 5 merchants for 1st Global to loan money to?
 6 A Yes.
 7 Q And what were those called?
 8 A Those were called ISO commissions.
 9 Q ISO, okay. So if -- commissions -- just to
 10 have the same understanding. Commissions or ISO
 11 commissions, was the money paid to companies that found
 12 merchants?
 13 A Yes, that's correct.
 14 Q And finders fees was what 1st Global called
 15 the fees that were paid to the people who found
 16 lenders?
 17 A Yes. Sales agents.
 18 Q All right. So I want to show -- I want to go
 19 ahead then and mark this as Exhibit No. 61.
 20 (SEC Exhibit No. 61 was marked for
 21 identification.)
 22 BY MR. LEVENSON:
 23 Q So I have placed in front of you what has
 24 been marked as Exhibit No. 61, which is a one-page
 25 document with three columns of names on it. Let me

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1 know when you've had a chance to review Exhibit No. 61.
 2 A Okay.
 3 Q Exhibit 61 has, like I said, three columns of
 4 names on it. Do you know if Exhibit No. 61 represents
 5 either names of either group of people, either those
 6 who received ISO commissions or those who received
 7 finders fees?
 8 A It appears that it is mostly ISO -- that's
 9 mostly ISO commissions.
 10 Q Okay.
 11 A There are exceptions with people who actually
 12 worked for 1 GC, as well as Dale Ledbetter, who
 13 received finders fees.
 14 Q Okay. Let's talk about Mr. Ledbetter for a
 15 minute.
 16 That's the name on the -- about ten names
 17 down on the first column?
 18 A Yes.
 19 Q And who was Mr. Ledbetter?
 20 A Dale Ledbetter was an attorney who worked
 21 with Scott Merkelson to help raise money for 1 Global
 22 Capital.
 23 Q Raise money from lenders?
 24 A Yes.
 25 Q Okay. And who is Scott Merkelson?

1 A Scott Merkelson was the director of business
 2 development.
 3 Q Okay. And was his primary responsibility --
 4 Mr. Merkelson's primary responsibility to find lenders
 5 or raise money from lenders for 1st Global?
 6 A Yes.
 7 Q And what else? Did Mr. Ledbetter have
 8 other -- was he actually on the payroll of 1st Global?
 9 A I don't believe he was on the payroll. He
 10 did however receive, as I mentioned, the finders fees
 11 from 1st Global.
 12 Q Okay. And do you know what his fees were?
 13 A His fees? Do you have the exhibit for the
 14 Dale Ledbetter schedule?
 15 Q I think we do. We can find it.
 16 I guess I was just asking, did he get a
 17 percentage? Do you remember?
 18 A His percentage varied.
 19 Q Okay.
 20 A His percentage I have it. It would be on the
 21 finders fee template data sheet that I provided.
 22 Q Okay. And did you want to refer to that on
 23 your computer?
 24 A We can refer to it on the computer, if you
 25 have the exhibit, we can refer to that as well.

1 Q Okay. Why don't you go ahead and -- if you
 2 have that document on your computer, you can just look
 3 at it. We'll identify what document you're looking at.
 4 I don't think we need to go through the trouble of
 5 printing it out.
 6 A Okay.
 7 Q Tell me what document you're pulling up?
 8 A I'm looking at the finders fee template data
 9 sheet.
 10 Q Okay. And was this a document you produced
 11 to the SEC under the subpoena?
 12 A Yes.
 13 Q And what does that show?
 14 A It shows Dale Ledbetter's fee on every main
 15 sale agent.
 16 Q Okay.
 17 A He received anywhere from .75 percent to 1
 18 percent of all the agents that brought in money to 1st
 19 Global.
 20 Q Okay. And was that percentage of the loan --
 21 the amount of the lenders investment?
 22 A Yes.
 23 Q So if somebody invested \$100,000 with 1st
 24 Global, depending on what percentage, Mr. Ledbetter
 25 would get -- would he get, I guess, 750 or \$1,000?

1 A He would get 750 if it was 1 percent, because
 2 they did it based upon the nine month term.
 3 Q Okay.
 4 A So it was 100,000 times 1 percent, times 9
 5 over 12.
 6 Q Okay. So it was -- okay.
 7 A It was effectively prorated.
 8 Q Okay. So the percentage was annual and then
 9 it was prorated based on nine months?
 10 A Yes.
 11 Q Did Mr. Ledbetter ever received ISO
 12 commissions to your knowledge?
 13 A To my knowledge? No.
 14 Q Okay. So you said -- were there other
 15 people -- were there other people or entities listed on
 16 Exhibit No. 60 -- and we'll come back to Mr. Ledbetter.
 17 Were there other people or entities listed
 18 on Exhibit 61, to your knowledge, did not get ISO
 19 commissions?
 20 A Did not?
 21 Q Yeah.
 22 A I do not think so. There are people on the
 23 list that received -- that were also on payroll.
 24 Q Who? Can you identify those people?
 25 A To my knowledge, Melissa Santos.

1 Q Okay. Anybody else?
 2 A Christopher Snead.
 3 Q Okay.
 4 A Those are the only two to my knowledge.
 5 Q Okay.
 6 A However, I don't know if there was a
 7 relationship to 1 Global Capital prior to them starting
 8 to work for them.
 9 Q Okay. What did Ms. Santos do at 1st Global?
 10 A She was one of the sales reps -- sales
 11 representatives. So she managed the relationships
 12 between the independent sales organizations and 1
 13 Global Capital.
 14 Q Okay. And the ISOs were the people who found
 15 merchants?
 16 A Yes.
 17 Q And so do you know if Ms. Santos received as
 18 part of her compensation some percentage of the ISO
 19 commission?
 20 A I'm not entirely sure.
 21 Q And what did Mr. Snead do?
 22 A Mr. Snead was in charge of the sales
 23 department.
 24 Q Okay. So would he have been Ms. Santos'
 25 supervisor?

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1 A Yes.

2 Q And was the sales department on the merchant

3 side?

4 A Yes, it was on the merchant side.

5 Q And same question.

6 Do you know if Mr. Snead received a

7 percent as part of his compensation, a percentage of

8 the ISO commissions?

9 A He received a percentage. I'm not entirely

10 sure what that percentage was.

11 Q Were the -- okay.

12 Were the rest of the people on here, to

13 your knowledge, ISO -- I mean receiving ISO

14 commissions?

15 A Andrew Alig, I believe, was a lender. On the

16 third column about half way down.

17 Q Okay. Andrew Alig, A-L-I-G?

18 A Yes, as well as Michael Abinder (ph).

19 Q And where?

20 A About three-fourths of the way down on the --

21 Q Okay. He was -- those two people were actual

22 lenders?

23 A Yes.

24 Q Okay. Do you know if they also were people

25 who -- if they were ISOs who found merchants as well?

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1 A I'm not entirely sure.

2 Q I notice a few names up in the third

3 column -- a few names up from the bottom. The name

4 Oscar Rodriguez.

5 A Yes.

6 Q Is that -- do you know if that is the owner

7 of Ganador that you spoke with?

8 A That is his name. However, I don't know if

9 there were multiple Oscar Rodriguezes.

10 Q Okay. You don't know if Mr. Rodriguez was

11 also in addition to being the owner of Ganador,

12 somebody who found merchants for 1st Global?

13 A No, I do not know that.

14 BY MR. MILLER:

15 Q And if I may. The name right above Oscar

16 Rodriguez, I believe it's a typo. It says

17 R-G-J-E-S-U-S. I believe that's Jesus.

18 Do you know if Jesus Diaz was the other

19 owner along with Mr. Rodriguez of Ganador?

20 A He was the owner of Unified Analytics.

21 Q Do you know whether or not he was also an

22 ISO?

23 A I do not know if he was an ISO or not.

24 Q Thank you.

25 BY MR. LEVENSON:

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1 Q So I want to go back to this again, your

2 duties as a financial analyst.

3 Tell me again, when you started, you know,

4 what were your duties as a financial analyst at 1st

5 Global?

6 A So initially it was to look at our entire

7 portfolio to see how it has been performing by vintage,

8 by ISO, by dollar amount in terms of the size of the

9 loan that we gave merchants, by the terms of that -- of

10 those loans, by the factor rate, by the state that the

11 merchant was located in, by the industry. So it was

12 looking at our entire portfolio and doing an analysis

13 of how that portfolio was performing.

14 Q Okay. Did you generate reports based on that

15 work?

16 A Yes.

17 Q And who got those reports?

18 A We circulated those reports to the top

19 managers. We sent it to Carl Ruderman. We sent it to

20 Scott Merkelson, Darice Lang, Christopher Snead, the

21 underwriter -- I can't remember -- Juan Carlos, JC as

22 we call him of the company.

23 Q Let's talk about Mr. Ruderman.

24 What was his position with the company?

25 A His position was the chairman, but for all

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1 intents and purposes, he was effectively the CEO.

2 Q And why do you say that?

3 A Because he managed every process of the

4 organization. He was always in the sales department

5 pushing sales. He was always in every collections

6 meeting talking with them about merchants who had

7 defaulted. He was in charge of just about every

8 department.

9 Q Was he there every day?

10 A He was there every day.

11 Q Did he have an office at 1st Global?

12 A Yes.

13 Q Okay. And you mentioned, I think, the sales

14 and the collections; what else did he -- I guess, was

15 he involved in?

16 A He oversaw the capital raising. One of the

17 reports that my team eventually took over was the

18 capital raise report.

19 Q When you say capital raising, is that the

20 money raised from lenders?

21 A Yes.

22 Q Okay.

23 A And our team took over the capital raising

24 report, which was a report that was generated weekly

25 and sent to Carl Ruderman in regards to how much money

Page 50

1 the company brought in from lenders.
 2 Q Okay. And when did you take that over?
 3 A We took that over approximately June of 2017.
 4 Q Okay. And what else was Mr. Ruderman -- what
 5 else was he involved in or oversee?
 6 A The statements that was sent out to the
 7 lenders. He had a major part in that regard.
 8 Q Did he review those statements before they
 9 were sent out?
 10 A He reviewed those statements. He requested
 11 changes to those statements in regards to individual's
 12 management fees.
 13 Q Okay. And I want to come back to that.
 14 Right now I just kind of want to get an overview.
 15 What else with regard to Mr. Ruderman?
 16 A And he oversaw the technology rollout of the
 17 systems. So we moved from fund perfect, regular fund
 18 perfect to fund perfect platinum, and he managed and
 19 oversaw that process, too.
 20 Q And when you say -- what were those systems?
 21 A Those systems were our loan tracking and
 22 accountant systems.
 23 Q Did you -- during your time there, did you
 24 know whether 1st Global had what I will refer to as
 25 marketing materials, which is materials that the

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1 company sent to the sales agents for use in soliciting
 2 lenders?
 3 A Yes.
 4 Q Okay. Did Mr. Ruderman have a role -- any
 5 role in developing those marketing materials?
 6 A I'm not entirely sure if he had a role in
 7 developing those marketing materials.
 8 Q Did he --
 9 A Majority of the marketing materials were
 10 created prior to when I joined 1 Global Capital.
 11 Q Did you ever have any interaction with
 12 Mr. Ruderman regards him looking at the -- you know,
 13 reviewing, making changes, discussing the marketing
 14 materials, sending them out?
 15 A No, I do not.
 16 Q Okay. Was there anybody else at the company
 17 who had -- who you observed or understood was in charge
 18 of those marketing materials?
 19 A Darice Lang.
 20 Q And what was her role with regard to those
 21 marketing materials?
 22 A She would request changes to marketing
 23 materials. If something wasn't correct or if she
 24 didn't agree with the wording, she would make or
 25 request changes.

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1 Q Did she have to get those changes approved by
 2 anyone?
 3 A I don't think she had to get those changes
 4 approved.
 5 Q Okay. And how often did that process occur
 6 as for as making changes or changing the marketing
 7 materials?
 8 A I'm not entirely sure how often it occurred.
 9 It was -- I would hear her say something in regards to
 10 them in passing.
 11 So if I was in her office on a completely
 12 unrelated subject, or if I was talking with one of
 13 the people that worked for her, they would mention
 14 the marketing materials or speak with someone else
 15 in regards to the marketing materials and I would
 16 just be present.
 17 Q Okay. Was there anybody in charge of sending
 18 those marketing materials out to sales agents?
 19 A I believe it was Scott Merkelson.
 20 Q Okay. Did Mr. Merkelson have any role in
 21 developing those materials?
 22 A I'm not entirely sure in that regard.
 23 Q Okay. What else did Mr. -- was Mr. Ruderman
 24 involved in supervising?
 25 A The Bright Smile rollout.

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1 Q Okay. We'll come back to Bright Smile.
 2 What else? How about with -- what else
 3 with regard to Mr. Ruderman?
 4 A That was, to my knowledge, what he was in
 5 charge of.
 6 Q If -- did Mr. Ruderman make all the decisions
 7 at the company?
 8 A He made the major decisions at the company.
 9 Q Such as?
 10 A Such as the statements and what goes on
 11 those; the statements sent to lenders. He made major
 12 decisions in terms of funding large deals.
 13 Q Merchant deals?
 14 A Merchant deals.
 15 Q Okay.
 16 A Darice to my -- Darice was in charge of the
 17 commissions paid to the actual agents.
 18 Q On which side? The merchants or the lender
 19 side?
 20 A The lender side. The sales agents.
 21 Q Okay. How often --
 22 MR. MILLER: Can we just stay with this for a
 23 second?
 24 MR. LEVENSON: Yeah. Go ahead.
 25 BY MR. MILLER:

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1 Q Were there any other major decisions that
 2 Mr. Ruderman was responsible for besides funding large
 3 merchants deals and statements to lenders?
 4 BY MR. LEVENSON:
 5 Q The technology rollout you had said?
 6 A Yeah. The technology rollout and --
 7 BY MR. MILLER:
 8 Q Bright Smile?
 9 A Bright Smile.
 10 BY MR. LEVENSON:
 11 Q And I think you said --
 12 BY MR. MILLER:
 13 Q Capital raising report?
 14 A Yeah. That was something that was sent to
 15 him on a weekly basis. And he would -- based upon the
 16 capital raise report, he would push Scott to raise more
 17 money.
 18 Q What do you mean by that?
 19 A He would go to Scott and tell Scott that
 20 funding is down -- I'm sorry -- that new investment is
 21 down, and he would yell at Scott in regard to the
 22 amount of money that the company brings in on a weekly
 23 basis.
 24 Q How did you know that?
 25 A Because I've been in the room when he would

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1 have those conversations, or I would come into Scott's
 2 office immediately after Mr. Ruderman had left and
 3 Scott would tell me that -- tell me about the
 4 conversation that he had with Mr. Ruderman.
 5 Q Can you recount that for us to the best of
 6 your recollection?
 7 A Scott was saying how Mr. Ruderman was
 8 complaining that the new investments were down, and how
 9 Scott just told him that had a lot to do with
 10 Woodbridge, and that people weren't putting their -- or
 11 the agents weren't sending their clients to I Global
 12 Capital anymore.
 13 Q And did Mr. Ruderman instruct Mr. Merkelson
 14 on ways to get sales agents motivated to bring in more
 15 money?
 16 A I'm not entirely sure. I wasn't privy to
 17 that part of the conversation.
 18 Q Did Mr. Merkelson share with you any of his
 19 ideas to get sales agents more motivated to send to --
 20 solicit more money?
 21 A He didn't in regards to individuals. Scott
 22 Merkelson and Dale Ledbetter were trying to raise
 23 capital through other sources outside of traditional
 24 investors.
 25 Q Such as?

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1 A Such as banks and hedge funds.
 2 Q How do you know that?
 3 A Because I was on a call -- and I actually
 4 have a recording of a conversation between myself, Dale
 5 Ledbetter and the agent -- or excuse me -- the banking
 6 institution or financial institution that he was trying
 7 to raise money from.
 8 BY MR. LEVENSON:
 9 Q Let me ask you a couple questions about that
 10 recording.
 11 Where were you when you record it?
 12 A I was in my office.
 13 Q And where was Mr. Ledbetter?
 14 A I'm not entirely sure where Dale was.
 15 Q And you said Mr. Merkelson?
 16 A Mr. Merkelson I don't believe was on that
 17 call. It was myself, Ryan and Dale Ledbetter, as well
 18 as the other financial institution.
 19 Q And where was the financial institution?
 20 A I believe it was Bridge Bank in California.
 21 Q Did the other people on the call know you
 22 were recording it?
 23 A No.
 24 Q And I want to come back to Bridge Bank.
 25 BY MR. TORRES:

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1 Q On the subject of Ruderman overseeing
 2 technology.
 3 Did Mr. Ruderman implement or have a role
 4 in the implementation of QuickBooks?
 5 A I do not know. QuickBooks was implemented
 6 prior to me starting there. And there had been several
 7 implementations of QuickBooks, because our QuickBooks
 8 kept crashing. So I don't -- from my conversations
 9 with the people in the accounting department, the
 10 QuickBooks was always wrong. It was never updated. It
 11 was never up to date; never reconciled. QuickBooks was
 12 never right.
 13 Q How often did you interact with Mr. Ruderman?
 14 A I would say -- in regards to via e-mail
 15 communication, at least once a week, because we had to
 16 send him the capital raise report and then when the
 17 statements were supposed to be sent out, I would
 18 interact with him frequently.
 19 Q The client statement -- you mean the lender
 20 statements?
 21 A Yes, the lender statements.
 22 Q And what is -- how frequently? First of all,
 23 how often did those statement go out?
 24 A Once a month.
 25 Q And how often did you interact with

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1 Mr. Ruderman on those statements?
 2 A At the beginning of the month. I would say
 3 for the first three business days -- three to four
 4 business days we would interact with Mr. Ruderman in
 5 regards to those dates for hours.
 6 Q And can you describe your interactions with
 7 him regard to the statements?
 8 A So he would tell us who to send the
 9 statements within the organization.
 10 When Lyn Sohun was fired and we were doing
 11 the statements for the first time with -- under the
 12 new supervision from Richard Samuels and Sylvain
 13 Grenier, both of them requested that we send the
 14 data sheet to them. And when we e-mailed the data
 15 sheet to Richard, we got a phone call from -- or
 16 Ryan Jumi got a phone call from Mr. Ruderman asking
 17 Ryan if he knew who owned 1 GC, and asking him if --
 18 he asking Ryan if Mr. Ruderman had gave him
 19 permission to share that information with our direct
 20 bosses.
 21 Q And that occurred when?
 22 A That occurred in the beginning of January of
 23 2018.
 24 Q Okay. And did you hear the conversation?
 25 A Ryan had it on speaker.

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1 Q So you heard Mr. Ruderman say those things?
 2 A Yes.
 3 Q Okay. So tell us about the rest of the
 4 conversation?
 5 A And Ryan was like, yes, but those -- he told
 6 Mr. Ruderman, but those are who we report to. And
 7 Ryan -- and Mr. Ruderman responded that he didn't care
 8 who Ryan reported to. He was in charge of the company
 9 and he made the decisions. That's what he told Ryan.
 10 Q Okay.
 11 BY MR. TORRES:
 12 Q Just to be clear. At that time you reported
 13 to Richard Samuels?
 14 A Yes. Richard Samuels and Sylvain Grenier.
 15 BY MR. LEVENSON:
 16 Q Mr. Grenier was the controller?
 17 A Yes.
 18 Q And Mr. -- what was Mr. Samuels' position at
 19 the time?
 20 A He was the -- either the vice president of
 21 financials or director of finance and accounting. He
 22 was the director of finance and accounting.
 23 Q And was that a position -- was that a CFO
 24 position? Was that below the CFO? Above the CFO?
 25 A We didn't have a CFO of the organization, so

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1 I would say it was below.
 2 Q Okay. Any other, you know, the stories that
 3 you can relate regarding Mr. Ruderman like the one you
 4 just told us about the call on January 2018, as far
 5 Mr. Ruderman telling people he was in charge or making
 6 decisions?
 7 A That was the only decision that -- or --
 8 excuse me. That was the only conversation that I can
 9 recall where he explicitly told us, "Do you know who
 10 owns 1 GC?"
 11 Q Okay. So anybody else?
 12 BY MR. MILLER:
 13 Q Yeah. Can you give us a little bit more
 14 detail about what your interaction was precisely with
 15 Mr. Ruderman regarding the monthly statements?
 16 A Mr. Ruderman would ask us or tell us to
 17 either increase or decrease the management fees.
 18 So starting in approximately January of
 19 2018 -- January, February 2018, he would sit in the
 20 conference room with myself and Ryan when we would
 21 go over the monthly statements, we would look at
 22 lenders rates of return, and if we felt as if they
 23 weren't performing because of maybe write-offs that
 24 that company had took, we would lower the management
 25 fees. So we would essentially take less in terms of

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1 fees that we could charge the lenders.
 2 Q Okay. I want to come back to that because I
 3 do have several questions about that. But before we
 4 get there, I wanted to ask you, you know, as you
 5 continue your work for 1st Global, did you come to have
 6 a better understanding of the process by which
 7 merchants, you know, were found, got loans, you know,
 8 repaid money?
 9 A Yes.
 10 Q Okay. So can you describe -- you know, let's
 11 say, how did -- you know, can you describe in anymore
 12 detail how 1st Global found the merchants?
 13 A So 1st Global primarily worked with -- there
 14 are two separate parts of it. 1st Global primarily did
 15 the majority of their business through ISOs or
 16 independent sales organizations. These ISO would call
 17 up merchants and see if they needed any funding, have
 18 them fill out an application and then send that
 19 application to 1st Global to the data entry people.
 20 The data entry people would take the application and
 21 put it into our fund perfect system, and then the
 22 underwriters would go through the process of
 23 underwriting those merchants.
 24 Q And who were the underwriters?
 25 A There were a lot of underwriters.

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1 Q Who was in charge of the underwriters?
 2 A Initially it was Juan Carlos, and then
 3 subsequently after Juan Carlos was terminated, it was
 4 Jonathan Snead.
 5 Q And why was Mr. -- why was Juan Carlos
 6 terminated?
 7 A I believe -- I'm not entirely sure.
 8 Q Okay.
 9 BY MR. MILLER:
 10 Q Who terminated him?
 11 A I'm not entirely sure who terminated him. I
 12 just remember him being terminated on a flight. They
 13 called him while he was getting off a flight and
 14 terminated him.
 15 Q When was that?
 16 A This was July or August of 2017.
 17 Q Okay. So describe -- can you describe the
 18 underwriting process?
 19 A The underwriters would look at the daily bank
 20 balances of the merchant. They would see how many
 21 negative days each merchant has, the average balance.
 22 The average -- the deposits of the particular merchant.
 23 They would look at the FICO score, the industry, the
 24 background. They would pull a background report on the
 25 merchant and if they liked everything that they saw, or

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1 if it passed our underwriting standards, they would
 2 fund the merchant or send it up to our accounting
 3 department, and the accounting department would send
 4 the money to the merchant.
 5 Q Who actually at 1st Global approved funding
 6 of a merchant?
 7 A It varied. When you say funding, do you mean
 8 the wire sent to the merchant?
 9 Q No. I mean the decision to fund. I'm sorry.
 10 A It varied. On smaller deals it was JTS, or
 11 Johnathan T. Snead.
 12 Q Okay.
 13 A On larger deals he didn't. There are certain
 14 instances where Johnathan or JTS didn't have a say in
 15 regards to funding the actual merchant.
 16 Q And who made that decision?
 17 A Carl Ruderman made that decision.
 18 Q Do you know how many loans that are -- cash
 19 advances that involved that Mr. Ruderman made the
 20 decision?
 21 A I'm not entirely sure the number of them. I
 22 know the major companies that -- or the major merchants
 23 that Ruderman agreed to fund.
 24 Q And who were those?
 25 A It was Travis Portfolio and Momentum Auto

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1 Group.
 2 Q Okay. And how do you know Mr. Ruderman made
 3 the decision to fund Travis Portfolio?
 4 A Because there were times -- because I
 5 remember specifically -- this was back in May of 2018.
 6 We had just funded a Travis Portfolio deal and JTS came
 7 up to our office. He was dropping off PTO for
 8 employees and our office was right next to HR's.
 9 Q And what's PTO?
 10 A Paid time off. Paid time off forms.
 11 Q Okay.
 12 A And I called JTS into the office and I asked
 13 him why were we funding another Travis Portfolio deal.
 14 I told him that those deals don't pay back their
 15 excepted pay back term. Based upon what we've
 16 collected it was about four years. I told him it
 17 didn't make sense that they paid the longest and we
 18 charged them the cheapest factor rate, which was a 120.
 19 Q \$1.20 for every dollar?
 20 A \$1.20 for every dollar.
 21 Q Okay.
 22 A And I told him it didn't make any sense. And
 23 JTS said, I know exactly what you're saying. I've been
 24 fighting this for months now, but it's Ruderman. He's
 25 the one that told me to fund it.

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1 Q Other than Mr. Snead, was that the way you
 2 knew that Mr. Ruderman had made the decision to fund
 3 Travis Portfolio?
 4 A I had a conversation with Richard Samuels in
 5 regards to Momentum as well as Travis Portfolio.
 6 Q And when was that conversation?
 7 A This conversation was approximately in March
 8 of 2018.
 9 Q Okay. And tell us about the conversation.
 10 A I asked Sylvain and Richard why were we still
 11 funding Momentum and Travis Portfolio, and they told me
 12 that it was CR, or Carl Ruderman, who made the
 13 decision.
 14 Q And can you tell -- what was Travis Portfolio
 15 to your understanding?
 16 A To the best of my knowledge, it was distress
 17 debt that was purchased from another lender.
 18 Q So already -- when you say distress debt,
 19 what do you mean?
 20 A Distress debt, meaning already
 21 underperforming.
 22 Q Okay. And do you know how much 1st Global
 23 funded Travis Portfolio for this debt?
 24 A As of the time that I left, it was
 25 50 million.

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1 Q And do you know --

2 A Or 47 million.

3 Q Do you know how much debt or, you know,

4 potential debt recovery that 1st Global received in

5 return?

6 A I can give you an -- I can give you the

7 numbers as of a particular date.

8 Q Whatever the latest date is that you have.

9 A Give me one second. I'm not entirely sure

10 how to use this.

11 Q Okay. And what -- so that was not -- Travis

12 was not what I'll call a standard merchant cash

13 advance?

14 A To my knowledge, no, it was not. They didn't

15 ACH them regularly.

16 Q It was the purchase of -- and you said the

17 term -- you mentioned the term of repayment being four

18 years, what did you mean by that?

19 A So the actual term per the loan agreement was

20 12 months. However, based upon the number of payments

21 that they had sent in and how long it took them to send

22 those payments, and how much they had outstanding, it

23 would take them 48 months to pay back the cumulative

24 amount that they owed.

25 Q So as I understand it, they were purchasing

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1 essentially, you know, you said distress debt from

2 another company and trying to collect on it?

3 A Yes.

4 Q Okay. What would -- do you know what

5 Momentum was?

6 A Momentum was a -- Momentum was a auto

7 dealership based in California.

8 Q And so did 1st Global advance money to

9 Momentum?

10 A Yes.

11 Q Do you know how much?

12 A To the tune of approximately 40 million.

13 Q And over -- do you know over what time period

14 that was?

15 A It was from approximately October of 2017

16 through the time that I left. It was approximately

17 40 million.

18 Q And so it was -- it wasn't one loan. It was

19 a series of advances?

20 A Yes. It was a series of advances. But they

21 would do a significant amount at one time.

22 Q And what --

23 A They would do anywhere from 10 to 15 all at

24 once. And the way that they did it was, they broke it

25 up into individual loans. Because what happened was,

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1 when the statements were generated, lenders, as they

2 call them, would see those statements and they would go

3 through the amount of their participation.

4 Q Right.

5 A So it would range from -- anywhere from,

6 like, \$10 to, like, \$50 on a normal, regular size loan.

7 However, when they got to the Travis -- excuse me --

8 not Travis, but the Momentum deals, they were

9 syndicated for a much larger dollar amount, so it

10 raised red flags with them. And so Scott and his team

11 started receiving significant calls in regards to why

12 was this particular merchant such a large amount in

13 terms of their portfolio.

14 Q Calls from lenders?

15 A Yes.

16 Q Okay.

17 A And so what I GC did in response to that was,

18 instead of doing a really large loan that's like 10 or

19 15 million, they broke it into two and a half million

20 dollar loan. Like four or five two and a half million

21 dollars loans.

22 Q And who made the decision to do that?

23 A I'm not entirely sure who made that decision

24 to do that.

25 Q Do you know if there was any relationship --

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1 outside relationship between Mr. Ruderman and anyone at

2 Momentum or Travis Portfolio?

3 A I do not know if there is a relationship

4 between them. When I actually -- Ryan and myself

5 looked into Travis Portfolio, but we couldn't find

6 anything in regards to -- anything in regards to any

7 filings -- any public filings in relation to them

8 setting up an entity, or who the owner was, or any

9 other information in regards to Travis Portfolio.

10 Q Did you ever have any conversations or

11 written communications with Mr. Ruderman about other

12 company?

13 A No. I can't recall that I ever did.

14 Q With regard to the loan or the cash advance

15 process generally, do you know how many -- if there's

16 a -- how -- what percentage of merchants who applied

17 for cash advances got them?

18 A I'm not entirely sure of the percentage.

19 Q There was a -- there were statements and 1st

20 Global's marketing materials that only 10 percent were

21 approved. Do you have any knowledge as to whether

22 that's a true statement?

23 A I don't know if that's a true statement or

24 not, because 1st Global wasn't keeping track of the

25 number of -- or applications that were coming in. They

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1 only had the number of applications that they actually
 2 put into the system.
 3 Q And what -- what made the decision or what
 4 made the choice as far as whether an application got
 5 put into the system? Was it only those that were
 6 approved?
 7 A It wouldn't be only those that are approved.
 8 How it would happen was, the data entry person would
 9 look at a particular contract and if something isn't
 10 correct, let's say is in a restricted industry, then it
 11 would be automatically declined. So the data entry
 12 people would never actually put it into the system, so
 13 1st Global would have no way of knowing that the deal
 14 actually existed in regards to their data analytics.
 15 Q What other criteria would determine whether a
 16 contract or application was put into the system versus
 17 not?
 18 A If it was already in the system, it wouldn't
 19 be put in twice. So if another ISO submitted it, it
 20 wouldn't be resubmitted under a different ISO.
 21 Q Anything else?
 22 A The years in business. If it's anywhere, I
 23 think, less than, I believe, a year in business, then
 24 they automatically decline it. I think there were
 25 several reasons for auto declines, but those were

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1 probably the main ones.
 2 Q Do you have any idea of the contracts that
 3 got put into the system what percentage were approved?
 4 A I don't know the actual amount.
 5 Q Okay. We've been going for about --
 6 BY MR. MILLER:
 7 Q Mr. Latson, the Travis Portfolio, do you know
 8 whether or not it was an ICO (sic) that brought them
 9 in?
 10 A An ISO. I'm not entirely --
 11 Q I'm sorry. ISO.
 12 A I'm not entirely sure of any ISO that brought
 13 them in.
 14 Q Same question regarding Momentum.
 15 A Momentum I do believe was brought through an
 16 ISO.
 17 BY MR. LEVENSON:
 18 Q Do you know which one?
 19 A I'm not entirely sure which one.
 20 BY MR. MILLER:
 21 Q Do you know whether Mr. Ruderman received any
 22 payments with regard to structuring -- help struct --
 23 helping to structure the Travis Portfolio advance?
 24 A I don't know if he received any payments.
 25 Q Same question regarding Momentum.

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1 A I don't know if he received any payments in
 2 regards to that either.
 3 BY MR. TORRES:
 4 Q Was there an underwriting process that was
 5 done on the Momentum deals?
 6 A To my knowledge? Yes. Richard and Samuel --
 7 Richard and Sylvain actually wanted Ryan and I to do an
 8 analysis of the Momentum deals, but we never actually
 9 did it because we were busy at that time working on the
 10 statement for the month end.
 11 Q Do you know if the underwriting process that
 12 was done on initial loans to Momentum different than
 13 the other underwriting process that was done on other
 14 -- for other merchants?
 15 A Yes. They had a credit committee that was
 16 dedicated to same, approving or denying Momentum. I'm
 17 not entirely sure who was apart of the credit committee
 18 or who made the decision of that credit committee,
 19 because I was never a part of it.
 20 BY MR. MILLER:
 21 Q Same question with regard to Travis.
 22 Was there an underwriting process before
 23 the 50 million was advanced to Travis?
 24 A I don't think that there was too much
 25 underwriting in regard to that, because I would mention

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1 it with people who were in the underwriting department
 2 and they would have no knowledge of it.
 3 MR. LEVENSON: Okay. Why don't we go
 4 ahead -- it's about 5 to 11 -- and I want to take
 5 a five to ten minute break and we'll come back.
 6 We're off the record at 10:55.
 7 (Whereupon, a brief recess was taken,
 8 after which, the following was had.)
 9 MR. LEVENSON: So we are going to go back on
 10 the record at 11:06 a.m.
 11 BY MR. LEVENSON:
 12 Q Mr. Latson, am I correct we had no discussion
 13 about the case while we were off the record?
 14 A Yes, that's correct.
 15 Q Okay. I do -- I wanted to turn our attention
 16 to the lender side, but I had a couple other just brief
 17 things. Well, maybe not so brief.
 18 But first, I know you had mentioned you
 19 were promoted to senior financial analyst. Did your
 20 duties change? I mean, did you take on additional
 21 duties as senior financial analyst?
 22 A My role didn't change in regard to additional
 23 responsibilities.
 24 Q Okay. So did you over time at 1st Global
 25 come to take on more responsibilities as far as

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1 analyzing different things than what you first started
 2 with or additional things?
 3 A Yes.
 4 Q Tell us all of the things you ultimately
 5 were -- you know, what your ultimate duties or
 6 day-to-day responsibilities were?
 7 A Just a number of them. I was in charge of
 8 trying to reconcile the system with what they had in
 9 QuickBooks.
 10 Q When you say the system --
 11 A Fund perfect system. That was our system of
 12 record.
 13 Q Right. Okay.
 14 A I was in charge of helping our IT department
 15 manage that. I was -- Ryan and I would field questions
 16 in regards to the lender statements. So when lenders
 17 want to know like what was the calculation behind the
 18 rate of return, or the 10 percent, or whatever
 19 percentage they saw, Ryan and I would be responsible
 20 for producing a report that showed them, okay, this is
 21 mathematically how we got to that percentage amount.
 22 Q Okay.
 23 A My duties included the capital raise report,
 24 which I mentioned; the lender statement every month,
 25 reviewing those. I helped the accounting department

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1 with any ad hoc reports that they had. Like when was
 2 the mark to market, which was all the accounts that I
 3 GC purchased. I helped them set up a payment table for
 4 all the lenders that were liquidating their portfolios.
 5 Analysis of our portfolio, which is how we found out
 6 that Travis Portfolio was paying in 48 months -- on
 7 pace to pay in 48 months. I worked with the
 8 collections department in regards to -- in regards to
 9 merchants that were underperforming. At a high level I
 10 did some analysis on Bright Smile in trying to
 11 reconcile their system as well. Bright Smile was using
 12 a similar system to fund perfect, but designed for
 13 consumer loans. That was pretty much my role and
 14 responsibilities.
 15 Q Okay. So what -- did you come to understand
 16 the process by which lenders invested money in 1st
 17 Global through your work?
 18 A Yes.
 19 Q Okay. So how did that work?
 20 A Because we were in charge of the capital
 21 raise report that was sent every week, we saw -- and
 22 one of the other reports that we were in charge of that
 23 we actually sent on a daily basis and sent it to
 24 Mr. Ruderman on a daily basis, whenever the person who
 25 normally does it was out of office, was the daily cash

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1 deposits.
 2 Q Okay.
 3 A So every single day the deposits that the
 4 lenders made. So if they did either a wire to 1 Global
 5 Capital or they sent a check to 1 Global Capital, we
 6 would record the cumulative amount of money that came
 7 in for the previous day.
 8 Q Okay. So what -- then what was your
 9 understanding of how the company found lenders?
 10 A It was my understanding that the company used
 11 the sales agents, the sales agents then took the
 12 marketing materials to potential investors, convinced
 13 the potential investors to put their money with 1
 14 Global Capital. From my conversation with Scott
 15 Merkelson, the majority of the sales agents recommended
 16 two alternative investments products: one was
 17 Woodbridge and the other was 1 Global Capital. And so
 18 a lot of the agents who had money with Woodbridge, also
 19 had money with 1 Global Capital as well.
 20 And to my knowledge, it was the sales
 21 agents that recommended these two investment options
 22 and the individual would put their money with either
 23 1st Global, Woodbridge or both, and they would
 24 either send 1st Global a check, or they would wire
 25 the money, or have it wired from their IRA account

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1 to 1st Global.
 2 Q Okay.
 3 BY MR. MILLER:
 4 Q Can I just stop you for one second, please?
 5 When you said the sales agents used
 6 marketing materials, the market materials are they
 7 the ones that were created by 1 Global Capital?
 8 A Yes.
 9 Q And then you also said the daily cash deposit
 10 reports are sent to Mr. Ruderman; is that right?
 11 A Yes. The daily lender deposits.
 12 Q Sorry about that. Thank you for the
 13 clarification.
 14 Did anybody else receive those reports
 15 besides Mr. Ruderman?
 16 A Yes. It was in a -- it was a group e-mail.
 17 I'm not entirely sure who the group was. It was the
 18 lender daily deposits group. I believe the accounting
 19 department was on that group, as well as the lender
 20 relation's team and Mr. Ruderman.
 21 Q Before you got to 1 Global, to your
 22 knowledge, was there a -- was this report generated
 23 each day?
 24 A Yes.
 25 Q Do you know who requested it be generated?

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1 A I do not know who requested it to be
 2 generated. There's one portion of that report that we
 3 sent directly to Mr. Ruderman.
 4 Q Which portion was that?
 5 A It was a breakdown of how much money was
 6 deposited every day, how much was deposited
 7 cumulatively for the month, and then in aggregate for
 8 the year. It was a running total and we sent that to
 9 Mr. Ruderman every day.
 10 BY MR. LEVENSON:
 11 Q To your knowledge, did 1st Global give --
 12 place any restrictions on who the sales agents could
 13 solicit as lenders?
 14 A Not to my knowledge. I don't think they
 15 placed any restrictions. From -- Ryan and I would
 16 jokingly say that we took money by any means necessary.
 17 Q Why did you say that?
 18 A Because we -- they initially were talking
 19 about having restrictions on the minimum amount of
 20 money that people could deposit, but we never saw those
 21 restrictions enforced.
 22 Q And was that minimum \$25,000?
 23 A Yes.
 24 Q And you said -- but did you see instances of
 25 less -- lenders investing less than \$25,000?

Page 79

1 A Yes. 10,000, 5,000. We even had some people
 2 investing a couple hundred bucks.
 3 Q Okay. Did you ever discuss that with anyone
 4 at the company?
 5 A No, other than Ryan.
 6 Q Okay. To your -- okay.
 7 So when -- to your knowledge, did 1st
 8 Global have any other source of funding for the
 9 merchant cash advances other than lender money?
 10 A Yes.
 11 Q It did?
 12 A Yes.
 13 Q Where did it?
 14 A They had a hedge fund called Arena Capital.
 15 Arena does loans -- or does business with a lot of
 16 merchant cash advance companies in the space. They had
 17 a specific SPV set up specifically for Arena loans.
 18 Q What's SPV?
 19 A Special purpose vehicle.
 20 Q Okay. So did Arena provide money to 1st
 21 Global?
 22 A Yes.
 23 Q When?
 24 A November of 2016 through possibly July or
 25 August of 2017.

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1 Q Do you know how much money Arena provided?
 2 A There was a 10 million-dollar lot.
 3 Q Okay. And do you know how much 1st Global
 4 drew down on that 10 million-dollar line of credit?
 5 A I would say about nine point -- nine and a
 6 half million.
 7 Q Other than that nine and a half million
 8 dollars provided by Arena to 1st Global, was there any
 9 other source of funding besides lender money for the
 10 merchant cash advances?
 11 A No.
 12 Q Okay. I think you briefly described before
 13 that lender money -- lender funds were allocated across
 14 a number of merchant cash advances; is that correct?
 15 A Yes.
 16 Q In other words, let's say a lender invested
 17 \$100,000, it wasn't all placed on a 100,000-dollar loan
 18 to a specific merchant?
 19 A No.
 20 Q Was there a specific maximum you know per --
 21 you know how much of an investor's investment could be
 22 placed on any single loan?
 23 A They said 2 percent. Or the marketing
 24 materials and in conversations they said 2 percent.
 25 However, in a case of Momentum, I don't think there is

Page 81

1 ever a dollar amount.
 2 Q Was the -- other than Momentum, did you ever
 3 see instances of more than 2 percent of an investor's
 4 loan being placed on a specific cash advance?
 5 A So the 2 percent probably needs
 6 clarification. In regards to 2 percent, I don't know
 7 if they meant 2 percent of an investor's investment, or
 8 if they meant 2 percent of the actual loan amount.
 9 Q Okay.
 10 A And I don't think that was -- I think that
 11 was something that was always kind of ambiguous, and I
 12 don't know if anyone in the company ever clarified
 13 that.
 14 Q Okay. Now, you mentioned -- do you know how
 15 the -- do you know how the -- how was it determined --
 16 let's say we got a lender who invest \$100,000, how was
 17 it determined which cash advances that lender's money
 18 was placed on?
 19 A It was all done automatically by the
 20 system -- by the Fund Perfect System.
 21 Q And how did the Fund Perfect System do that?
 22 A They had an algorithm that said if this
 23 person has cash not yet deployed, then syndicate them
 24 into a deal.
 25 Q Okay. So I want you to describe those terms

Page 82

1 for me if you could.

2 What is cash not yet deployed?

3 A Cash not yet deployed, so using an example.

4 If you put \$100,000 into 1 Global Capital and let's say

5 1 Global Capital decided to give \$20,000 of your money

6 to a merchant, you would have \$80,000 -- according to

7 the system, \$80,000 of cash not yet deployed or cash

8 for future receivables. That's essentially what money

9 should be in the bank account that the organization has

10 to allocate for merchants.

11 Q So just -- let's say I've given my \$100,000

12 to 1st Global as a lender, the money is -- now 1st

13 Global has the money, got it today.

14 A Yes.

15 Q When is my -- when is my money lent out; how

16 much of it is lent out, and when?

17 A The amount of how much varies based upon the

18 number of deals that they fund in a particular day, the

19 size of the deals, the cumulative amount. So that's

20 always one to fluctuate. They would do it, they would

21 start syndicating day one.

22 Q So if you -- if they got -- for instance, was

23 it just based on the fact that if my money comes in on

24 August 9th of 2018, whatever merchant cash advances got

25 approved on August 9th, my money would go to?

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1 A Yes, a portion of those.

2 Q And then money on August 10th, more on

3 August 11?

4 A Yes. It would keep into perpetuity until you

5 decide that you want to liquidate your account.

6 Q Okay. So did it take some amount of time --

7 or would it take some amount of time for my entire

8 \$100,000 to be loaned out?

9 A Yes.

10 Q And how long was that time frame?

11 A It varied, but it would never get fully

12 loaned out. And the reason why is because the way 1st

13 Global structure the business is that, when a merchant

14 pays back, you would get allocated your percentage, and

15 then that money would be in turn reloaned out or

16 redistributed, or reallocated to another merchant. So

17 you never actually got down to zero in terms of your

18 actual portfolio 'cause you had daily collections.

19 Q Zero, meaning cash not yet deployed?

20 A Yes.

21 Q Okay. And this was all done by the system?

22 A Yes. This was all done by the system.

23 Q Okay. So -- okay. And the lender -- the

24 lenders didn't have any say in how their money was lent

25 out, right?

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1 A No, in regards to how it was allocated.

2 Q Or who it was lent out to?

3 A No.

4 Q 1st Global determined all of that?

5 A Yes.

6 Q Okay.

7 BY MR. MILLER:

8 Q Did the lenders have any role in selecting

9 which merchants got funded?

10 A No, to the best of my knowledge. I believe

11 all of those came in through independent sales

12 organizations. All of the leads.

13 Q But once those loans -- once -- okay. Never

14 mind. You've answered it.

15 So I want to go ahead and mark -- are we

16 up to 62?

17 MR. MILLER: Yes.

18 (SEC Exhibit No. 62 was marked for

19 identification.)

20 BY MR. LEVENSON:

21 Q So you said, I think -- the sales agents who

22 solicited lenders, how were they compensated? Do you

23 know?

24 A They were paid a percentage of the amount

25 that they brought in for the month.

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1 Q And do you know what that percentage was?

2 A It varied. I varied from 3 percent to

3 6 percent on people that they brought in directly.

4 Some sales agents got a percentage of what other people

5 brought in.

6 Q Okay. I'm going go ahead and -- well, we've

7 had marked what is Exhibit No. 62, which is a one-page

8 document with two columns of names of people and

9 entities, so let me know when you've had a chance to

10 review Exhibit 62.

11 A Okay.

12 Q Do you -- do you recognize -- do you know who

13 the names and entities on Exhibit 62 represent?

14 A They represent the sales agents.

15 Q Okay. Are these the -- is this a list of

16 entities and people who got commissions for finding

17 lenders?

18 A Yes.

19 Q Okay. Do you know if it's complete or a

20 partial list?

21 A I'm not sure if it's complete or a partial

22 list.

23 Q Okay. But you definitely recognize --

24 A I recognize a significant amount of the

25 people on this list.

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1 Q As sales agents who solicited lenders?
 2 A As sales agents who solicited lenders. There
 3 are a few that seem to be ISOs.
 4 Q Do you know if they were people -- there were
 5 entities that essentially doubled as both ISOs and
 6 sales agents?
 7 A I'm not sure if they doubled as both ISOs and
 8 sales agents.
 9 Q What are the names on here that appear to be
 10 ISOs?
 11 A Like Lift Capital in the second column.
 12 Q Okay. Anybody else?
 13 A Lendfi in the first column.
 14 Q L-E-N-D-F-I?
 15 A Yes.
 16 Q Okay.
 17 A Express Capital Funding.
 18 Q Okay.
 19 A That's primarily it.
 20 BY MR. MILLER:
 21 Q What about Go Capital?
 22 A Where do you -- Go Capital.
 23 Q Do you see it?
 24 A Yeah. Right-hand column towards the bottom.
 25 That appears to be an ISO.

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1 Q Appears to be or do you know it to be an ISO?
 2 A I know it to be an ISO. Actually, let me
 3 just doublecheck. I can doublecheck and get back with
 4 you in that regard.
 5 Q And the same question regarding Worldwide
 6 Capital MA. Is that an ISO? The first column, three
 7 from the bottom.
 8 A I'm not entirely sure.
 9 BY MR. LEVENSON:
 10 Q Do you know what the percentage was of -- do
 11 you know what the commissions were that sales agents
 12 got? Was it a standard amount?
 13 A It ranged from 3 percent to 6 percent. There
 14 wasn't a standard.
 15 Q What made the difference?
 16 A Some were people who they paid more on in
 17 terms of the -- so how it worked was, using a tree
 18 relationship. There was the child, the parent and then
 19 the grandparent. It comes from -- that relationship is
 20 an IT term. It comes from IT when you set up a tree.
 21 And depending upon how many parents and grandparents
 22 were involved, that determine the child's commission.
 23 So let's say -- giving an example, let's
 24 say Ronald Shere -- or easier example, AAI Global.
 25 Let's say AAI Global brings in a lender, Trey

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1 Winowitz may have brought in AAI Global to 1st
 2 Global, so Trey Winowitz may have introduced AAI to
 3 I GC, and subsequently because of that introduction,
 4 I GC would pay out a commission to Trey Winowitz as
 5 well as AAI.
 6 Q Okay.
 7 A And then Dale Ledbetter would get a
 8 commission on top of whoever AAI brought in.
 9 Q And Mr. Ledbetter got -- did Mr. Ledbetter
 10 get a commission for all lenders who were brought into
 11 the company?
 12 A Yes.
 13 Q Do you know why that is?
 14 A I do not. 'Cause From my conversations with
 15 Scott, it was that he brought in everyone.
 16 Q Okay.
 17 A He was the first person who introduced the
 18 agents. He essentially started the domino effect of
 19 introducing the sales agents.
 20 Q Do you know how much Mr. Ledbetter received
 21 in commission?
 22 A In any given month it ranged from \$100,000 to
 23 upwards of 200.
 24 Q Okay. And who is Trey Winowitz?
 25 A Trey Winowitz was a sales agent that was

Page 89

1 based in the -- I want to say Kansas.
 2 Q Do you know if he was in Tennessee?
 3 A Or Tennessee.
 4 Q Okay. And did Mr. Winowitz bring a number of
 5 other sales agents into the company?
 6 A Yes.
 7 Q And did he -- was he just a sales agent for
 8 the company? Did he have any other position with 1st
 9 Global?
 10 A He was just a sales agent for 1st Global.
 11 Q Do you know if Mr. Winowitz participated in
 12 any way in distributing marketing materials?
 13 A I'm not sure if he participated in
 14 distributing marketing materials. However, I do know
 15 that he brought in clients directly.
 16 Q Okay. Is --
 17 BY MR. MILLER:
 18 Q Do you know --
 19 MR. MILLER: Excuse me for a second.
 20 MR. LEVENSON: Go ahead.
 21 BY MR. MILLER:
 22 Q Do you know who set the sales commission
 23 at -- from 1st Global's side?
 24 A Darice Lang. She was in charge of managing
 25 the sales commissions. What Ryan and I would do

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1 because we were in charge of updating the sheets is, we
 2 would take Darice's sales commission file and we would
 3 create a template that had the commissions for every
 4 lender -- every new lender for that particular month,
 5 and we would input them into the sheets, like the one
 6 that I provided for Dale Ledbetter, based upon Darice'
 7 sheet what the commission is.
 8 Q Was it solely up to Darice Lang how much
 9 commissions would be made on each transaction effected
 10 by a sales agent, or did she have to get approval from
 11 someone else?
 12 A I'm not entirely sure if she had to get
 13 approval. I just knew that she was in charge of
 14 maintaining that sheet.
 15 Q Maintaining the sheet?
 16 A Yes. She created the sheet.
 17 BY MR. LEVENSON:
 18 Q Did sales agents -- were sales agents paid
 19 from lender funds or some other account?
 20 A They were paid from the operating account,
 21 which I can reasonably assume is lender funds.
 22 Q Okay. You had earlier in our conversation
 23 mentioned a 13 percent management fee?
 24 A Yes.
 25 Q Okay. Where was that? Where did that money

Page 91

1 come from?
 2 A The 13 percent management fee came from
 3 collections.
 4 Q Okay.
 5 A So every lender was charged 13 percent on the
 6 cumulative collections that 1 Global Capital had
 7 received.
 8 Q All right. So if a lender -- okay.
 9 So at what point 1st Global took that when
 10 the money came in for collections?
 11 A Yes. So they took that on the back-end.
 12 They didn't charge an up front fee. They only -- their
 13 income was on the back-end. When they received any
 14 collections, they would take 13 percent of that
 15 collection, or depending upon any adjustments made,
 16 they would lower the management fee if the particular
 17 account wasn't performing.
 18 Q So let's assume a merchant borrowed \$100,000
 19 from 1st Global and they were paying back that money,
 20 so are you saying that assuming everything worked
 21 right, the initial -- the payback money was going to be
 22 113 because --
 23 A No. So the payback money would be based upon
 24 the factor rate.
 25 Q Okay.

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1 A So the average factor rate was about a 136.
 2 So if a merchant borrowed 100,000, they would pay back
 3 136,000, and of that 136,000 -- just grab a calculator.
 4 Q Did 1st Global get 13 of that 36,000?
 5 A They would get 13 percent, which is \$17,680.
 6 Q Oh. So they would get 13 percent total?
 7 A Of the collections.
 8 Q Okay. All right.
 9 A And then the remainder would be distributed
 10 to the actual lenders.
 11 Q Okay. So -- all right. And -- okay.
 12 So do you know if 1st Global paid the
 13 sales commissions from that 13 percent?
 14 A I'm not entirely sure they did, because they
 15 paid the sales commissions up front.
 16 Q Okay. So if a lender sent \$100,000 to 1st
 17 Global, was the entire 100 invested, or was only, let's
 18 say, 96,000 invested and 4,000 of that money was sent
 19 to a sales agent?
 20 A That could be true. How we accounted for it
 21 was whatever the lenders sent in is what we recognize
 22 as their principal.
 23 Q Okay.
 24 A So let's say this is the main difference
 25 between system and bank account. So if someone sends

Page 93

1 in \$100,000 in the system, it would show, hey, you have
 2 \$100,000 principal in your investment. In the bank
 3 account, it may be \$100,000 less 4,000 that they
 4 decided they wanted to send to one of the sales agents.
 5 Q Do you know if 1st Global ever told either
 6 lenders or lenders through sales agents that their
 7 money was not -- was coming from 1st Global funds and
 8 not lender funds?
 9 A I'm not entirely sure if they ever
 10 communicated that with them.
 11 Q All right. So, when -- was there a specific
 12 account that a lender's fund went into when they came
 13 into 1st Global from which they were over time deployed
 14 into merchant cash advances?
 15 A Yes.
 16 Q And what account was that?
 17 A I would have to check. It originally was one
 18 of the Bank of American accounts, then was subsequently
 19 changed to one of the City National account when they
 20 changed bank account -- when they changed banks.
 21 Q And was that sometime in 2018?
 22 A That was the end of 2017.
 23 Q Okay.
 24 BY MR. TORRES:
 25 Q And lender moneys was commingled in the same

Page 94

1 account, correct?

2 A What do you mean by that?

3 Q Like when additional lenders sent money to I

4 Global, were they also deposited in that same account

5 your mentioned at Bank of America?

6 A So here is how it worked. How it worked was,

7 lender money would come in through the -- there was a

8 specific account set up solely or esoterically for

9 lenders, and then from that account, they would

10 transfer money to I Global's either -- I think it was I

11 Global's funding account, and then from that account,

12 they would send money to the merchants, and when they

13 ACH, they would pull it back into the operating

14 account.

15 Q So which account actually -- in which account

16 were lender moneys deposited in?

17 A That, I would have to go and doublecheck.

18 BY MR. MILLER:

19 Q But for example if myself -- if I invested

20 \$100,000 with I Global and Mr. Torres invested

21 \$100,000, and Mr. Levenson invested \$100,000, would all

22 of our money be put into the same account?

23 A Yes.

24 BY MR. LEVENSON:

25 MR. LEVENSON: I'm sorry can I take one

Page 95

1 minute?

2 MR. MILLER: It's 11:34, we're off the

3 record for a brief break.

4 (Whereupon, a brief recess was taken,

5 after which, the following was had.)

6 MR. LEVENSON: So we're going to go back on

7 at 11:37 a.m.

8 BY MR. LEVENSON:

9 Q So just -- you may answer this, but I just

10 want to -- there was not a separate account for each

11 lender, correct?

12 A No.

13 Q Okay. It was all put in the same account?

14 A Yes. It was all put into the one -- the CNB

15 1786 account.

16 Q Okay.

17 MR. MILLER: May I?

18 BY MR. MILLER:

19 Q During the break we just took, Mr. Latson,

20 you didn't have any conversations of substance

21 regarding this investigation with the staff; is that

22 correct?

23 A That's correct.

24 BY MR. LEVENSON:

25 Q So in addition to the management fee, was

Page 96

1 there something called a loan origination fee?

2 A Yes.

3 Q And what was that?

4 A The loan origination fee was a fee that I GC

5 took or charged the merchants --

6 Q Okay.

7 A -- for underwriting a particular loan.

8 Q Okay. So did that -- all right.

9 So that -- how did that work in terms of

10 the -- was that part of the repayment or how was

11 that done?

12 A So if you -- so let's say a merchant borrowed

13 \$100,000 and I Global decided to charge him \$4,000 or 4

14 percent merchant analysis fee or underwriting fee, the

15 net amount would be 96,000 that would be actually sent

16 to the merchant, but the merchant would be responsible

17 for \$100,000 in principal, plus whatever the factor

18 rate was on top of that.

19 Q Okay. So the 96 you said -- so the 96, where

20 did that come from? Was that the --

21 A That was less the 4 percent fee --

22 Q Okay.

23 A -- that I Global would be charging.

24 Q All right. And did I Global keep that fee or

25 did that go -- did that go to anyone else?

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1 A I Global kept that fee.

2 Q All right. So now the ISOs also got finders

3 fees or -- correct?

4 A Yes. They got commission.

5 Q Commission. So out of what fund were those

6 commissions paid?

7 A Those commissions were paid out of the

8 operating account.

9 Q Okay. And so on \$100,000, did those -- did

10 the -- was the factor rate increased to account for

11 those commissions?

12 A Yes.

13 Q So in other words, without those commissions,

14 say, the factor rate might have been 132 versus 136

15 with the commissions?

16 A Yes.

17 Q Okay. And who determined what the -- how

18 much of an increase in the factor rate occurred as a

19 result of the commission? Was that I Global or was it

20 the ISO?

21 A That was I Global.

22 Q Okay. So they would tell the ISO how much

23 commission they were going to get?

24 A Yes.

25 Q Okay.

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1 A How many in their -- in their language how
 2 many points they would be getting on a particular bill.
 3 Q Okay.
 4 BY MR. TORRES:
 5 Q And just to clarify. You mentioned
 6 underwriting fees and merchant analysis fees, those are
 7 the same as loan origination fees, correct?
 8 A Yes.
 9 BY MR. LEVENSON:
 10 Q Who made the decision at I Global on the
 11 points that the ISO would get?
 12 A I'm not entirely sure.
 13 Q Okay. Do you know if Mr. Ruderman had any
 14 input into that?
 15 A I'm not entirely sure if he had any say into
 16 who got what percentage.
 17 Q Okay. I want to show you what has previously
 18 been marked as Exhibit No. 40 in these proceedings and
 19 ask you to take a look at it.
 20 Have you had a chance to review Exhibit 40
 21 or you're still reviewing it?
 22 A I've had a chance to review it.
 23 Q Do you recognize what Exhibit No. 40 is?
 24 A Yes.
 25 Q And can you tell me what that is?

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1 A It is a statement that was produced on March
 2 3rd that was sent out to a particular lender.
 3 Q Is this what we refer to as client account
 4 statements?
 5 A Yes.
 6 Q The particular statement is -- the particular
 7 name has been deleted here, but did you have an
 8 opportunity during your time as a financial analyst and
 9 senior financial analyst to review a client account
 10 statements?
 11 A Yes.
 12 Q I think you said you did.
 13 These are the statements that you
 14 interacted with Mr. Ruderman on and send out every
 15 month or participated --
 16 A Yes, these are --
 17 Q -- in sending out every month?
 18 A Yes.
 19 Q Okay. So is this a format for a client
 20 account statement that you recognize?
 21 A Yes, it is.
 22 Q Okay. And these statement were sent to each
 23 lender every month; is that correct?
 24 A Yes.
 25 Q Okay. And how did these -- who prepared

Page 100

1 these statements?
 2 A So -- the system. There was a script that
 3 was created to take data from the actual system and
 4 create these statements with that data.
 5 Q And who did that script?
 6 A It was Julio Rojas that actually wrote the
 7 script to create and produce these statements.
 8 Q And did Mr. Alexander during his time as CFO
 9 signed these statements?
 10 A His name was on the statements. From my
 11 conversations with Eric Alexander, he was uncomfortable
 12 with his name being on the statements because they
 13 never actually reconciled.
 14 Q Okay. What do you mean by they never -- I
 15 have some specific questions, but what do you mean by
 16 they never actually reconciled?
 17 A The -- so the cash never reconciled to what
 18 was actually in the bank account. So if you put in
 19 \$100,000 and the statements would show that you
 20 deposited \$100,000, the bank would show that you
 21 deposited \$100,000. If 1st Global or I Global decided
 22 to send \$20,000 to a merchant, the statements would
 23 show that you had \$80,000 in cash. The bank statement
 24 account would show that you had 80,000 in cash, but if
 25 1st Global decide to do anything subsequently with your

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1 funds, like let's say pay out finders fees, or pay out
 2 the -- let's say they decide to pay out \$5,000 of
 3 finders fees and then decided to send money to another
 4 entity, let's call it \$15,000 to another entity, the
 5 bank account would show that you have cumulatively
 6 \$60,000. However, the statements would show that you
 7 had \$80,000 in cash to be deployed.
 8 Q Okay. I want to break that down a little
 9 bit.
 10 So if we turn to page 3 of Exhibit No. 40.
 11 A Yes.
 12 Q And it goes all the way over to page 23.
 13 Okay. There are -- it says net -- on page 3 it says,
 14 "Net current merchant accounts receivable."
 15 Is this a list of merchant cash advances
 16 that this particular lender's money was put into?
 17 A Yes. This is --
 18 Q This appear on every statement?
 19 A Yes. This appeared on every statement. It
 20 has changed over time from showing the merchant name to
 21 showing the industry, or not showing the merchant name
 22 at all, but this is the format of it at the top.
 23 Q Okay. So I did want to ask about that.
 24 This particular format -- and I'm going to
 25 show you some later -- shows specific merchant

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1 names; correct?
 2 A Yes, this is correct.
 3 Q Okay. Did there come a point where the
 4 merchant names were removed from the client statements?
 5 A Yes.
 6 Q When was that?
 7 A This was approximately April or May of 2017.
 8 Q Do you know who decided to remove the
 9 merchant names?
 10 A I'm not entirely sure who decided to remove
 11 it.
 12 Q Do you know why they were removed?
 13 A They were removed from my conversations with
 14 Scott because he didn't want -- or whoever decided that
 15 they wanted them removed, they didn't want them to --
 16 they didn't want the lenders to call the actual
 17 merchant.
 18 Q Scott being Scott Merkelson?
 19 A Yes.
 20 Q Who -- is Mr. Merkelson responsible for
 21 sending these -- approving these and sending these out,
 22 or who was?
 23 A Carl Ruderman had the final say on these, but
 24 Julio actually ran the script and sent them out.
 25 Q Okay. How -- what do you mean Mr. Merkelson

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1 had the final say?
 2 A No. Carl Ruderman.
 3 Q I mean Mr. Ruderman. I'm sorry. I
 4 apologize.
 5 A They were sent to Carl Ruderman prior to us
 6 even doing anything and we would have to hear back from
 7 him in regards to whether or not he was okay with the
 8 statements and sending them out.
 9 Q Did you send him every client account
 10 statement?
 11 A We sent him a essentially every client
 12 account statement, but in summary format.
 13 Q Can you elaborate on that?
 14 A So in a document that -- an Excel spreadsheet
 15 that I provided, there was a statement summary, and the
 16 statement summary had every single lender, and it had
 17 by columns, by fields their -- essentially a snapshot
 18 of their portfolio at that time. It had the cash not
 19 yet deployed; it had the total amount of accounts
 20 receivable; it had what their allowance for doubtful
 21 accounts were or their bad debt; it had net receivables
 22 and it had the ROI.
 23 Q So Mr. Ruderman did not get Exhibit No. 40,
 24 but he got the spreadsheet you just described each
 25 month?

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1 A Yes, that's correct. The --
 2 Q And what was that spreadsheet called?
 3 A It was called the statement summary.
 4 Q Okay. And Mr. Ruderman had to approve the
 5 statement summary?
 6 A Yes.
 7 Q And the client account statements could not
 8 be sent out until Mr. Ruderman approved of these
 9 statement summary?
 10 A Yes, that's correct.
 11 Q Okay. In -- so at the end of this statement
 12 there are some totals. It's at -- on page 23. It
 13 says, "Net current accounts receivable." And here that
 14 says \$65,701.42. Do you see that?
 15 A Yes.
 16 Q Would that be -- that's the amount of the
 17 investors portfolio, if you will, that was actually
 18 loaned out to merchants at that time; is that correct?
 19 A That is the total expected amount, less the
 20 allowance for doubtful account.
 21 Q Okay. So that's what -- I'm sorry. So
 22 that's not -- that's what your -- the company, 1st
 23 Global, is expecting to be paid back from the loans?
 24 A Yes.
 25 Q Okay. And then the second statement is the

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1 cash to be deployed?
 2 A Yes.
 3 Q And that's the money in this particular
 4 lender's account that has not been loaned out?
 5 A Yes, that's correct.
 6 Q And then two were totaled up and that is the
 7 total portfolio value?
 8 A Yes, that's correct.
 9 Q And is this cash to be deployed, is that the
 10 amounts that you were saying, if I understood you, if
 11 you added all of the cash to be deployed amounts from
 12 all of the client account statements, okay, and
 13 compared that to the money in the bank accounts, were
 14 they the same?
 15 A No.
 16 Q When did that start?
 17 A I'm not entirely sure when it started. We
 18 discovered it in August of 2017.
 19 Q Okay. I'm going to come back to that.
 20 When you say "we," who is that?
 21 BY MR. TORRES:
 22 Q When you say "we," who is we?
 23 A Myself, Ryan Jumi and Lyn Sohun.
 24 BY MR. LEVENSON:
 25 Q Okay. I want to come back to that. Couple

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1 other quick questions on the statement.
 2 You mentioned the allowance for
 3 doubtful -- an allowance for doubtful accounts?
 4 A Yes.
 5 Q How is the allowance for doubtful accounts
 6 determined?
 7 A It varied. It varied based upon deal.
 8 Initially it varied based upon deal. So the reserve
 9 was initially determined based upon whether or not a
 10 merchant has been paying and what status the collection
 11 department had for that particular merchant. So if a
 12 merchant was originally paying, there would be an
 13 automatic 7 percent reserve on every merchant for their
 14 receivable, and then if a merchant moved to, let's say,
 15 legal, there would be a 20 percent reserve for that
 16 particular merchant and it would vary based upon the
 17 statutes that the merchant was in. That changed over
 18 time. It changed to 7 and a half percent on every merchant, and
 19 then based upon the aging, whether they were 30 days or
 20 45 days, it would change to 36 percent, or would go to
 21 70 percent, and then it would subsequently be written
 22 off.
 23 Q Okay. And did the system perform those
 24 calculations?
 25 A Yes. The system performed those

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1 calculations.
 2 Q When did it change from, you know,
 3 essentially an analysis of every deal to the 7 and a half percent
 4 for every merchant, plus whatever status it was in?
 5 A Approximately September or October of 2017.
 6 Q Who decided to change it?
 7 A Steve Bernadone.
 8 Q And what was his role?
 9 A He was the CIO.
 10 Q Do you know if Mr. Ruderman had to approve
 11 that or anybody else at the company had to approve
 12 that?
 13 A I'm not entirely sure who had to approve
 14 that.
 15 Q Why was it changed?
 16 A I'm not entirely sure why it was changed. I
 17 just know that Steve Bernadone was responsible for
 18 rolling that out within the system.
 19 Q Okay. On the first page -- on the first page
 20 of Exhibit 40 in the bold at the end of the first
 21 paragraph, it says, "The average annual rate of return
 22 since the date of initial funding is 12 percent." Do
 23 you see that?
 24 A On the first page?
 25 Q Yeah.

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1 A Yes.
 2 Q Do you know how the rate of return was
 3 determined for the client account statements?
 4 A Yes.
 5 Q How?
 6 A It was an annualized rate if the lender had
 7 been over 365 days. So they took the portfolio value
 8 less their initial deposit and divided that by their
 9 weighted average balance. And the weighted average
 10 balance is the weighted amount of their deposits at any
 11 particular time.
 12 Q Deposits being?
 13 A So if somebody initially invested \$50,000 on
 14 January 1st, and then they invested another \$50,000 on
 15 July 1st, they would take the outstanding time that
 16 you've had \$50,000 and the outstanding time that you've
 17 had \$100,000 to come up with the weighted average
 18 balance based upon the time of those investments.
 19 Q Okay. So that formula, who came up with that
 20 formula?
 21 A I believe it was Eric Alexander.
 22 Q Okay. Do you know -- did he have to have it
 23 approved by anyone?
 24 A I'm not entirely sure if he had to have it
 25 approved by anyone.

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1 Q Do you see the line, it says -- well, give me
 2 a second.
 3 So was part of the determination of -- was
 4 part -- one of the things that determine that
 5 average annual rate of return, the cash not to be --
 6 not yet deployed in the banks or on the statement?
 7 A Mmm-hmm.
 8 Q Okay. So that was --
 9 BY MR. MILLER:
 10 Q Is that a yes?
 11 BY MR. LEVENSON:
 12 Q Is that a yes?
 13 A I'm sorry. Can you rephrase the question?
 14 Q Sure. Did the cash not yet deployed on a
 15 client account statement, was that a factor in
 16 determining the rate of return?
 17 A Yes.
 18 Q Okay. So --
 19 A Because you would take the receivables -- the
 20 net receivables and add the cash not yet deployed to
 21 get their total portfolio value.
 22 Q So if -- the cash not yet deployed and cash
 23 to be deployed, is that the same thing?
 24 A Yes, as well as cash for future receivables.
 25 Q So if the cash -- and we're going to come

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1 right to this.

2 But you indicated that the -- in

3 approximately August of 2017 you learned or

4 discovered that the cash not yet deployed was

5 actually greater than the amounts in the bank

6 accounts?

7 A Yes.

8 Q So if the cash not yet deployed was a false

9 figure, was the rate of return a false figure? Let me

10 rephrase the question.

11 If the cash not yet deployed in a client's

12 account statement was overstated, would the rate of

13 return necessarily be overstated?

14 A Yes.

15 Q Okay. And so did you ever come to a

16 conclusion as to whether the average rate of return

17 listed on client account statements after August 2017

18 was overstated?

19 A I'm sorry. Can you rephrase the question?

20 Q Was the client -- was the average rate of

21 return listed on clients statements after August 2017

22 overstated?

23 A Yes.

24 Q And was that because the cash not yet

25 deployed was overstated?

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1 A Yes.

2 Q Okay. Tell me how you discovered -- so would

3 that have been true consistently after August of 2017?

4 A Yes, because it never reconciled.

5 Q During the rest of your time at the company?

6 A Yes.

7 Q So you discovered in August 2017 -- you said

8 you discovered that. How did you discover in

9 August 2017 that the cash not yet deployed figures on

10 the client account statements were overstated?

11 A Sylvain Grenier mentioned in passing how much

12 money the company had in the bank accounts.

13 Q Do you remember how much that was?

14 A 45 million -- no. Excuse me. 30 million at

15 the time.

16 Q Okay.

17 A And Ryan and I had did a back-of-the-envelope

18 calculation as well as looked at what the statements

19 provided for how much money the statements would show.

20 So if we had X amount as of the previous

21 month, we brought in -- because we were doing the

22 capital raise we saw how much money was coming in

23 from the lenders. We saw how much money was being

24 funded, so how much money was being subtracted from

25 that amount, and then we saw how money was being

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1 collected in terms of how much we were ACHing and

2 collecting from the merchants. It gave us a

3 ballpark of the money that these statements would

4 show as of August -- as of the end of August or the

5 end of July. And so in August we estimated that the

6 amount that the statements would show was about

7 \$45 million. And when we actually looked at the

8 statements it was around that amount, but when we

9 spoke with Sylvain, he told us that the amount -- or

10 mentioned in passing that the amount that was in the

11 bank account was about 30 million.

12 Q And so what did you -- what did you do at

13 that point?

14 A At that point, Ryan and I went to our direct

15 boss, Lyn Sohun, and told Lyn that there were different

16 amounts or less money in the bank account than there

17 were in the statements, and Lyn Sohun took that

18 information and she went and spoke with two people:

19 with Eric Alexander and with Carl Ruderman.

20 Q And how do you know she did that?

21 A Because she told me that she was going to go

22 speak with Carl Ruderman and she actually pulled -- or

23 Eric pulled Lyn into her office with Ryan and myself in

24 that office.

25 Q And what ensued there?

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1 A In that office Lyn told Eric that the bank

2 account had less money than the actual statement, and

3 Eric Alexander said that you're right -- he told Lyn

4 that she's right, because we're using lender money for

5 operations, and that's when Lyn said that that's fucked

6 up. And Eric replied, "Yes, you're right. That's

7 fucked up."

8 Q And how did Mr. -- did Mr. Alexander say how

9 he knew that the company was using lender money for

10 operations?

11 A He didn't say how he knew that.

12 Q Okay. Did he give an indication of how much?

13 A He didn't give an indication of how much. I

14 think at that point he had been removed from the CFO

15 position and he was the chief credit officer.

16 Q Who removed him from the chief financial

17 officer position?

18 A Mr. Ruderman.

19 Q Do you know why?

20 A I'm not entirely sure why.

21 Q So did Ms. Sohun then speak to Mr. Ruderman

22 after that?

23 A Yes. She went and spoke with Mr. Ruderman.

24 Q And how do you know that?

25 A Because she had initially told us that she

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1 was going to go talk to Mr. Ruderman about it.
 2 Q And did she report -- did she give you an
 3 update after she speak to him?
 4 A I do not recall getting an update from Lyn in
 5 that regard. What we -- what Ryan and myself actually
 6 got was an e-mail either the same day or -- actually
 7 the same day.
 8 Q And was this in August of 2017?
 9 A Yes. This was in August of 2017.
 10 Q Do you remember the actual date?
 11 A I don't remember the actual date.
 12 Q Okay. Tell me about the e-mail.
 13 A We got an e-mail from Sylvain to Ryan and
 14 myself letting us know -- it was about a four or five
 15 paragraph e-mail explaining how Sylvain does a daily
 16 cash rec. He reconcile -- he reconciled the bank
 17 accounts. Was the bank accounts to QuickBooks is what
 18 I believe he told us -- or he stated in the e-mail.
 19 Ryan and myself, we initially dismissed
 20 the e-mail because we didn't think it was anything
 21 of any substance, because although he rec the bank
 22 accounts to QuickBooks, he should have rec the bank
 23 accounts to the system, which was what we were
 24 looking at, which is our red flag.
 25 Q Okay. But what -- how do you know Ms. Sohun

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1 followed through with her statement? When she said she
 2 was going to talk to Carl Ruderman, how do you know she
 3 did?
 4 A I'm not entirely -- from -- she had to have
 5 mentioned it to Mr. Ruderman because we got an e-mail
 6 from Sylvain in regards to the concern that Ryan and
 7 myself had.
 8 Q And was it that e-mail you just --
 9 A Yes, that's the e-mail that I just
 10 referenced.
 11 Q Why would her talking to Mr. Ruderman -- why
 12 did -- why would her talking to Mr. Ruderman would have
 13 resulted in that e-mail?
 14 A Because someone would have had spoken with
 15 Sylvain about the conversation that Sylvain had with
 16 Ryan and myself about him mentioning the amount that
 17 was in the bank account.
 18 Q Okay. Did you ever have any direct
 19 interaction with Mr. Ruderman about the fact that the
 20 cash not deployed showed greater amounts than the
 21 amounts actually in the bank account?
 22 A No. All conversations I had was with Lyn
 23 Sohun, who, to my knowledge, relayed that information
 24 to Carl Ruderman.
 25 Q Okay. But did she ever come back to you?

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1 A Actually, yes, she did. She came back to me
 2 and she told me about how Darice was standing there and
 3 Mr. Ruderman was upset with Lyn because Lyn had
 4 mentioned, as we rephrased -- or as we phrased it, we
 5 mentioned the hole. She mentioned the hole to
 6 Mr. Ruderman in front of Darice and he -- and she told
 7 Ryan and myself that Mr. Ruderman was upset with her
 8 for mentioning it in front of Darice.
 9 Q Did she say anything else about her
 10 conversation with Mr. Ruderman about the hole?
 11 A Not in the -- not in regard to, like, actual
 12 dialogue in regards to what she said and what he said.
 13 Q Did Mr. Ruderman have a reaction, to your
 14 knowledge, to her?
 15 A Not that I actually saw. Only from my
 16 conversation with Lyn.
 17 Q With -- okay. Were there any changes in --
 18 to your knowledge, were there any changes in the client
 19 account statements as a results of Ms. Sohun informing
 20 Mr. Ruderman that there was a difference between the
 21 cash not yet deployed and the amounts in the bank
 22 account?
 23 A Yes, there was.
 24 Q And what was the result?
 25 A They subsequently took the cash to be

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1 deployed off of the actual statements themselves.
 2 Q And did Mr. Ruderman make that decision?
 3 A Yes.
 4 Q How do you know that?
 5 A Because I walked into a meeting with Steve
 6 Bernadone, Julio Rojas and Ruderman in which they were
 7 discussing removing it from the statements themselves.
 8 Q And when was that?
 9 A This was in August as well. This was before
 10 the next round of statements were produced -- the next
 11 month of statements.
 12 Q Were you -- did you stay in that meeting?
 13 A No.
 14 Q Okay. So how do you know it was Mr. Ruderman
 15 who -- was it Mr. Ruderman who ordered that change to
 16 be made?
 17 A Yes.
 18 Q How do you know that?
 19 A Because I was in there during that part.
 20 Q And Mr. Ruderman said take it?
 21 A Yes.
 22 Q Do you remember specifically what he said?
 23 A He said it just like that. He was just like,
 24 just remove it from the statements.
 25 Q And did he --

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1 A And Bernadone -- Steve Bernadone agreed with
 2 him and said that, yeah. We'll just remove it from the
 3 statements.
 4 Q And do you know why Mr. Ruderman said that or
 5 decided to do that?
 6 A I can reasonably assume that it was because
 7 of the conversation that Lyn Sohun had had with Carl
 8 Ruderman.
 9 Q Do you know -- I mean, did you hear him say
 10 anything about that conversation or that circumstance
 11 in the meeting?
 12 A No.
 13 Q I mean, did they -- during the part of the
 14 meeting you were in for, did you -- was there anything
 15 said about why they were discussing taking the cash not
 16 yet deployed off the statement?
 17 A No. They were discussing general changes to
 18 the statements and they said they wanted to remove the
 19 cash not yet deployed form the statements.
 20 BY MR. MILLER:
 21 Q What caused you to go in the meeting? Were
 22 you invited in?
 23 A Yes. We were going over the -- over, kind
 24 of, the appearance of the statements and so they pulled
 25 myself and Julio into that meeting, because Julio has

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1 to effect the changes that were made to the statements.
 2 And I was in there until I had another obligation. I
 3 can't remember the reason as to why I left.
 4 Q Who is the one that asked you to come in?
 5 A Steve Bernadone.
 6 BY MR. TORRES:
 7 Q Who else was in the meeting?
 8 A I remember Steve, Julio, Mr. Ruderman,
 9 myself, I believe Scott Merkelson was in that meeting
 10 as well.
 11 BY MR. LEVENSON:
 12 Q So I want to show you what we previously
 13 marked as Exhibit No. 56. Let me know when you had a
 14 chance to review it.
 15 A I've had a chance to review it.
 16 Q Do you recognize what Exhibit 56 is?
 17 A Yes.
 18 Q Okay. And can you tell me what that is?
 19 A It is a lenders statement that was through
 20 the end of December.
 21 Q Okay. And we've been talking -- is a lender
 22 statement the same thing as a client account statement?
 23 A Yes.
 24 Q Okay. So if you look at page 3 of Exhibit
 25 56, is this where the -- this is where the net current

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1 merchant accounts receivable start?
 2 A Yes, that's correct.
 3 Q So here you see, am I correct, that there is
 4 a contract number listed, but no merchant name?
 5 A Yes, that's correct.
 6 Q Okay. And then if your turn to page 8, you
 7 see that there are no totals on --
 8 A Yes, that's correct.
 9 Q -- there as far as cash not yet deployed or
 10 the total receivables?
 11 A That is correct.
 12 Q Was that as a result of this change that you
 13 described from the August meeting?
 14 A Yes.
 15 Q Do you know if any lenders ever called the
 16 company or ask about why that was, or complained about
 17 it?
 18 A I don't know of any lenders that complained
 19 about it. Lender relations or the team that Scott
 20 managed would be responsible for handling any lender
 21 calls in regards to questions or complaints.
 22 Q So just briefly, on Exhibit 56 I had totaled
 23 up the totals on page 3 to 8 -- I mean I did it myself
 24 and it came to just under -- came to be about \$74,390,
 25 okay?

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1 A Yes.
 2 Q And if you look at page 1, there is a
 3 contribution of -- from this lender, \$300,000?
 4 A Yes.
 5 Q And I can tell you that this lender -- I've
 6 seen other documentation and best -- gave that \$300,000
 7 on November 6 of 2017, so roughly about two months
 8 before this statement.
 9 Was that typical in terms of your
 10 experience in terms of -- so in this two month
 11 period about a quarter of his money had been put
 12 into merchant cash advances. Do you know if that's
 13 a typical amount?
 14 A Yes, that seems about accurate.
 15 Q Okay. Even though the totals were off the
 16 statements, did Mr. Ruderman continue to get that
 17 monthly summary that you've described before the --
 18 A Yes.
 19 Q -- client account statements went out?
 20 A We sent that to him up until the day that
 21 Ryan and myself left. And any changes that we made, we
 22 always put in the e-mail, "Per Mr. Ruderman," and
 23 listed the changes.
 24 Q Okay. So Mr. Ruderman was aware of the total
 25 for cash not yet deployed across all of the lender

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1 accounts?
 2 A Yes.
 3 Q After August of 2017?
 4 A Yes.
 5 Q And was he -- do you know if he was aware --
 6 I think you said that that difference between the cash
 7 not yet deployed and the actual amount in the bank
 8 accounts continue to exist after August of 2017?
 9 A Yes.
 10 Q And was Mr. Ruderman aware of that after
 11 August of 2017?
 12 A Yes.
 13 Q And how do you know that?
 14 A Because I've had conversations with Richard
 15 in regards to Richard saying that he didn't agree with
 16 the money that I GC was spending in regards to IT and
 17 operations, and we provided an e-mail to Mr. Ruderman
 18 that had the cumulative amount of the cash not yet
 19 deployed.
 20 Q Okay. Did it -- did he -- Richard was
 21 Richard Samuels?
 22 A Yes.
 23 Q So how do you know Mr. Ruderman was aware
 24 that the cash not yet deployed was overstated after
 25 August of 2017?

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1 A Because Richard mentioned that he had had
 2 those conversations with Carl Ruderman.
 3 Q How many times did Mr. Samuels mention that?
 4 A I just remember him mentioning it once.
 5 Q Okay. Did you do any -- you mentioned your
 6 initial calculation, you described it as
 7 back-of-the-envelope and described how you got there.
 8 Did you do anymore detailed, you know, comparison after
 9 August of 2017 between the cash not yet deployed and
 10 amounts in the bank accounts?
 11 A Yes.
 12 Q And what did you do?
 13 A So Ryan and myself put together a file called
 14 "E = mcquared." It's Einstein's theory of relativity that
 15 relates to black holes.
 16 Q Yes, I know.
 17 A And so we consider it the black hole. And it
 18 was a file that had the cash not yet deployed as of
 19 month-end, and it had the bank accounts as of month --
 20 bank account balances as of month-end for all the major
 21 bank accounts.
 22 Q I want to go ahead and mark this as Exhibit
 23 No. 63.
 24 (SEC Exhibit No. 63 was marked for
 25 identification.)

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1 BY MR. LEVENSON:
 2 Q Mr. Latson, I am showing you what we have
 3 marked as Exhibit No. 63. Go ahead and take a moment
 4 to review it and let me know when you have done so.
 5 A I've reviewed it.
 6 Q Do you recognize what Exhibit No. 63 is?
 7 A Yes.
 8 Q What is it?
 9 A It was Ryan and myself's spreadsheet in
 10 regard to the total in the bank and the cumulative
 11 amount of cash not deployed. We kept this on a
 12 separate -- or external flash drive.
 13 Q And did you produce this to the SEC pursuant
 14 to the subpoena that was issued to you?
 15 A Yes.
 16 Q So this appears -- this appears to show three
 17 months: October -- month-end for October, November and
 18 December of 2017.
 19 A Yes.
 20 Q So if I am reading this correctly, the --
 21 you've totaled up -- let's look at October of 2017.
 22 At that time, does your calculation show
 23 there were approximately \$65.7 million in the major
 24 bank accounts at 1st Global?
 25 A Yes, that's correct.

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1 Q And the cash not yet deployed -- is the C&D
 2 cash not deployed?
 3 A Yes, that's correct.
 4 Q And that's the same thing as cash to be
 5 deployed, cash not yet deployed?
 6 A Cash for future receivables.
 7 Q Same calculation?
 8 A They are all the same.
 9 Q And there you're showing that -- I guess if
 10 you totaled up the cash not yet deployed in all of the
 11 lender accounts, that total comes to \$89 million?
 12 A Yes, that's correct.
 13 Q And so you've got about a 23.2 -- looks like
 14 a 23.2 million and roughly what you call the hole, the
 15 difference between the total in the bank and the cash
 16 not deployed?
 17 A Yes, that's correct.
 18 Q And so then, that number goes up to just
 19 under 24.8 million for the difference for November of
 20 2017?
 21 A Yes, that's correct.
 22 Q And it's up to 25.3 million, approximately,
 23 for December of 2017?
 24 A Yes.
 25 Q Did you share Exhibit No. 63 with anyone at

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1 1st Global?
 2 A Only Ryan Jumi.
 3 Q Did you convey its results to anyone at 1st
 4 Global without necessarily sharing this sheet?
 5 A Only Ryan Jumi, the results of what we've
 6 been tracking.
 7 Q Did you continue to do this calculation each
 8 month into 2018?
 9 A We did it through 2017. To my knowledge, we
 10 did January and February of 2018.
 11 Q And do you remember what the results were for
 12 those two months?
 13 A It was approaching 30 million.
 14 Q So the number -- the hole was going up?
 15 A Yes.
 16 Q Did you convey that to anyone at 1st Global?
 17 A Only between conversations between Ryan and
 18 myself.
 19 Q Why did you and Ryan decide to do the
 20 calculations that are captured in Exhibit 63?
 21 A Because from our standpoint, we were
 22 concerned about job security and the solvency of the
 23 company going forward, and we wanted to keep track of
 24 what we had discovered within the organization.
 25 Q Okay. On Exhibit 63 it said, "C&D does not

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1 include the do not send and not renewing."
 2 A Yes.
 3 Q What does that -- what do those two things
 4 mean?
 5 A So the do not send and not renewing people
 6 are the people that took money or fully liquidated
 7 their account.
 8 So the way the system was set up is that,
 9 we couldn't have negative cash not yet deployed. So
 10 if a merchant had a \$100,000 portfolio value and
 11 their cash not yet deployed was only 50,000, 1st
 12 Global or 1 Global would basically pay out the
 13 entire amount to the actual lender before they
 14 received the --
 15 BY MR. MILLER:
 16 Q You said lender or merchant before?
 17 A So I'm using both. So if a merchant owes 1st
 18 Global let's say \$100,000, and the lenders' portfolio
 19 was \$100,000, but in the actual account they only had
 20 \$50,000 in cash in the cash to be deployed. There was
 21 only \$50,000, then 1st Global can't pay out \$100,000,
 22 or they can't record the \$100,000 in the system, so
 23 what they would do is, pay out the full \$100,000 and
 24 wait to collect on the receivables.
 25 BY MR. TORRES:

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1 Q So when it paid out the full \$100,000 in this
 2 case, what funds would it use? Would it use other
 3 lenders' moneys to pay that -- redeem that lender?
 4 A They would use a combination of other lenders
 5 money, whatever money they've made from operations.
 6 Any capital that they had available they would use that
 7 to pay out the -- to pay out the lender, because
 8 there's a tailend on when they can expect to receive
 9 the receivables. They don't pay it out as they go.
 10 They shut off the account and say -- and tell the
 11 lender that they're going to pay them out in three
 12 months. But if a lender is syndicating to a nine-month
 13 deal, then they're only going to have collections for
 14 three months of those nine months. So for six months
 15 that balance, you're essentially going to loan that, or
 16 float that, or give that to the actual lender, but it
 17 runs the risk of what does that lender -- or excuse me,
 18 not lender, what if that merchant defaults, then they
 19 have already paid out that amount to the actual lender.
 20 So when I say that this does not include
 21 those, we excluded those because that was money that
 22 was already paid out that they no longer owe, so
 23 that's why we excluded those from the actual
 24 calculation here.
 25 Q Okay. And did you ever discuss, you know --

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1 do you know if Mr. Ruderman was aware that this hole
 2 was increasing?
 3 A Other than my conversations with Richard --
 4 or my one conversation with Richard, I'm not entirely
 5 sure if he was aware that it was increasing in as into
 6 what we were calculating every month.
 7 Q Okay. I'm going to -- why don't we take --
 8 how are you doing, Mr. Latson? You want to take five
 9 minutes?
 10 A Yeah. We can do that.
 11 MR. LEVENSON: We're going to go off the
 12 record. It's 12:20. Why don't we come back at
 13 12:30.
 14 So we are off the record at 12:20.
 15 (Whereupon, a brief recess was taken,
 16 after which, the following was had.)
 17 MR. LEVENSON: Let's go back on the record
 18 it's 12:34.
 19 BY MR. LEVENSON:
 20 Q Mr. Latson, am I correct that when we were
 21 off the record that I asked you if the client account
 22 summary that you had provided to Mr. Ruderman was
 23 something you had produced to the SEC, and you said it
 24 was not part of those documents?
 25 A Yes, that's correct.

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1 Q Okay. Do you still have a copy of that
 2 statement?
 3 A I do not have a copy of it on my computer. I
 4 may have a copy of it on another flash drive.
 5 Q Would you be willing to check and if you do
 6 have a copy of it, send it as part of the production
 7 pursuant to the subpoena?
 8 A Yes.
 9 Q Perfect. Thanks.
 10 So I know you had mentioned you did the --
 11 did you stop doing that $E = mc^2$ calculation after
 12 February of 2018?
 13 A Yes. After February of 2018 we just looked
 14 at the total amount that was actually in the bank
 15 account. We got access to the daily banks and ACH
 16 balances report of one of which, which I provided the
 17 balances as of May 2018.
 18 Q Okay. I think at a certain point much
 19 earlier in our conversation you had indicated that the
 20 13 percent management fee was adjusted sometimes.
 21 A Yes.
 22 Q If I recall correctly, was it Mr. Ruderman
 23 who adjusted that?
 24 A Per Mr. Ruderman's and Scott Merkelson's
 25 request, Ryan and I made the changes in the actual

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1 spreadsheet that we maintained, and Julio made the
 2 changes in the actual system.
 3 Q And why -- so did Mr. Ruderman request that
 4 the management fee be upped or decreased -- increased
 5 or decreased?
 6 A Initially it was decreased.
 7 Q Why?
 8 A Because a portfolio may not be performing
 9 because we may not be getting corrections back or we
 10 may be writing off a particular amount of deals that a
 11 lender is syndicated into, and so we would decrease the
 12 management fees during that particular month and take
 13 less management fees of their actual money.
 14 Q Okay.
 15 A Subsequently the management fees began to
 16 increase per Mr. Ruderman and Scott Merkelson's
 17 direction.
 18 Q And did Mr. Ruderman give those direction --
 19 did Mr. Merkelson give those directions directly to
 20 you?
 21 A Yes. And he would sit in those meetings.
 22 Those meetings that we would have at the beginning of
 23 the month, he would request that we raise the
 24 management fees.
 25 Q To what? Do you remember from what to what?

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1 A It varies. So initially when we put them in
 2 the system, they were -- everybody's default rate is 13
 3 percent, but they increase upwards to close to 100
 4 percent of collections.
 5 Q Of collections?
 6 A Yes, for new lenders.
 7 Q When did that occur?
 8 A That occurred March, April, and May of 2018.
 9 Q For all lenders?
 10 A Not for all lenders. For certain lenders.
 11 So typically --
 12 Q What percentage of it? What percentage? Do
 13 you know?
 14 A I'm not entirely sure of the percentage.
 15 What happened was, when lenders put money in, they were
 16 immediately allocated to a deal, so their portfolio
 17 value would shoot up because the portfolio value is
 18 based upon expected collections, correct? And their
 19 expected collections would be significantly more than
 20 their actual collections, because they just funded it
 21 so they haven't had collections for those particular
 22 lenders. So Mr. Ruderman, in an effort to get more
 23 management fees for the companies, raised management
 24 fees to sometimes 100 percent. But overall it was
 25 meaningless because they may be had may be \$15 of

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1 collections for that particular month, or \$30, or may
 2 be \$100 for that particular month.
 3 Q So was Mr. Ruderman raising the management
 4 fee essentially to get operating income for the
 5 company?
 6 A Yes. So something that Ryan and myself
 7 actually did was, we put together a file. I believe
 8 Ryan still has this file, and we called it atonement,
 9 which was how much -- which was based upon the period
 10 that a merchant -- or not a merchant, a lender was
 11 invested. So at the seven, eight, nine, month mark
 12 when they became more or less due for -- they came to
 13 the end of their term, their contract term, their MOI
 14 term, Ryan and I put together a file that shows how
 15 much money that we would have to give back from
 16 management fees to those particular lenders so that
 17 their rate was no more than 13 percent, which was what
 18 we were contractually obligated.
 19 Q That was in the -- what was called the
 20 memorandum of indebtedness, right, that 13 percent?
 21 A Yes, MOI. I believe they changed or took out
 22 the percentage for the MOI starting in January so they
 23 could charge -- so that management fee was up to their
 24 discretion.
 25 Q Did -- was Mr. Ruderman manipulating the

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1 management fee to get more operating income for the
 2 company?
 3 A Yes.
 4 Q As of when?
 5 A It started I want to say December, roughly
 6 December, which was -- remember the -- earlier in the
 7 conversation I mentioned how we sent the statements to
 8 Richard Samuel and Sylvain. Richard was worried about
 9 a class action lawsuit against I GC for the management
 10 fees being above 13 percent, and he told -- he had the
 11 conversation with me; he had the conversation with
 12 Sylvain, Ryan and Steve Bernadone as well 'cause I
 13 remember Steve Bernadone being apart of that. And
 14 Richard told them that we shouldn't do management fees
 15 above what we contractually were obligated to, which
 16 was the 13 percent. However, Mr. Ruderman wanted the
 17 management fees increased because he figured if he
 18 could lower them, he could also raise them as well.
 19 Q And how -- did you hear Mr. Ruderman say that
 20 or did somebody tell you?
 21 A Yes. I was actually in the room when
 22 Mr. Ruderman said that.
 23 Q And when was that?
 24 A This was January of 2018.
 25 Q And -- do from Jan- --

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1 BY MR. MILLER:
 2 Q You're talking about 2017?
 3 A 2018.
 4 MR. LEVENSON: 2018.
 5 A It was this year.
 6 BY MR. MILLER:
 7 Q Oh, January. I'm sorry.
 8 BY MR. LEVENSON:
 9 Q So from January 2018 until you left in June
 10 of 2018, do you know if 1st Global was collecting more
 11 than a 13 percent management fee overall?
 12 A Yes.
 13 Q Okay. Was it --
 14 A When you say "overall," do you mean --
 15 Q I mean across all accounts. For instance,
 16 you've indicated that on some accounts -- or some
 17 lenders accounts, that management fee was up to 100
 18 percent. If you added up all of the collections on all
 19 of the merchants, you know, was that management fee
 20 higher than 13 percent?
 21 A Yes.
 22 Q Across the company?
 23 A Yes.
 24 Q Do you know what it was for those months?
 25 A It would reach close to 18, 19 percent.

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1 Q Each month?
 2 A Not each month. It was probably -- if we did
 3 this for five or six months, it was probably at least
 4 three or four of those months.
 5 Q And do you have a report, spreadsheet,
 6 document that shows those calculations?
 7 A I may. I'm not entirely sure. It was on --
 8 it would have been in my e-mails to Julio or to
 9 Mr. Ruderman in regards to the actual statement
 10 summary.
 11 Q Do you know -- was that -- were those
 12 calculations amongst the documents you've previously
 13 produced to the SEC?
 14 A They wouldn't have been. I don't think I
 15 actually had a copy of -- personal copy of it. Ryan
 16 may have a copy of it.
 17 Q Okay. So you now do not have a copy of those
 18 calculations?
 19 A I do not have a copy of it. Ryan may have a
 20 copy of it and he may also have a copy of the atonement
 21 file that we put together so that fees were never above
 22 13 percent.
 23
 24 BY MR. TORRES:
 25 Q Do you know how much the company recorded in

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1 the management fees in 2018 and prior years?
 2 A In 2017 cumulatively they had \$17 million
 3 worth of management fees.
 4 BY MR. LEVENSON:
 5 Q Was that a 13 percent fee?
 6 A I'm not entirely sure.
 7 Q Do you know if in 2017 the amount recorded
 8 was less than the actual amount taken?
 9 A In terms of -- when you say the amount
 10 recorded, what do you mean by that?
 11 Q Well, did the company take more in management
 12 fees than it put on its books and records in 2017?
 13 A I'm not entirely sure.
 14 Q Okay. You just know about 2018?
 15 A I don't know what the company actually
 16 recorded on its books in terms of QuickBooks.
 17 BY MR. TORRES:
 18 Q And then in prior years, in 2016 and 2015, do
 19 you have an estimate of how much the company recorded
 20 as management fees?
 21 A I would have to filter. The sheet that I
 22 provide -- or the spreadsheet, the mark to market
 23 reconciliation sheet, if you filter by the period date
 24 and the period ending date. So if you do period ending
 25 date May 31st, 2018, there's a column that shows the

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1 management fee. It's the cumulative management fee up
 2 to that point. So you can see based on each month-end
 3 what the actual management fee was cumulatively, and
 4 then just take a difference to get the actual month --
 5 the monthly management fee.
 6 Q What's the title of that column?
 7 A It's MGA & T, I believe. Doublecheck. It
 8 would have been the MTM reconciliation for liquidated
 9 accounts Excel spreadsheet.
 10 Q And the -- go ahead.
 11 A And it would have been on the PHP report tab
 12 I'm waiting for it to open.
 13 Q While we wait for that, let me ask you. In
 14 addition to the management fees, was the origination
 15 fees another source of income for the company?
 16 A Yes.
 17 Q And I believe you said that the origination
 18 fees were the underwriting fees and then merchant
 19 analysis fees; is that correct?
 20 A Yes, that's correct.
 21 Q And I believe you also said that the
 22 underwriting fees were 4 percent based on the
 23 disbursements to the merchants; is that correct?
 24 A It varied. It wasn't a flat rate.
 25 Q Did you provide us what percentage it was for

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1 the merchant analysis fees?
 2 A It ranged from, I believe, 2 percent and 4
 3 percent.
 4 BY MR. LEVENSON:
 5 Q Did you ever do any work to determine why the
 6 shortfall between the cash not deployed and the actual
 7 amount in the bank accounts exist?
 8 A I looked into some of the bank statements to
 9 see where was money actually going to.
 10 Q Okay. And did you come -- did you find
 11 anything out?
 12 A I saw that money was being sent from I Global
 13 Capital to companies like Pay Now Direct, which Darice
 14 Lang was a manager of or the person listed on the
 15 account for Sunbiz.
 16 I also saw money going from I Global
 17 Capital to Ruderman Family Trust and then
 18 subsequently to Pay Now Direct. I saw money being
 19 spent on the Amex somewhere to the tune of 50 to
 20 \$100,000 per month. On Ruderman's Amex there
 21 were -- there was money being sent to entities that
 22 I didn't recognize, like the Green -- I forgot what
 23 the entity was called.
 24 Q Greentree Funding?
 25 A No. Not Greentree Funding. It was a --

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1 BY MR. MILLER:
 2 Q Travel agency?
 3 A Yes. It was a travel agency.
 4 BY MR. LEVENSON:
 5 Q So let me -- earlier you mentioned a company
 6 called Bright Smile or Bright Smile Financing, do you
 7 recall that?
 8 A Yes.
 9 Q Do you know what that was?
 10 A Bright Smile Financing was a company that was
 11 set up to provide loans for surgical procedures.
 12 Just to answer Fernando's question. The
 13 column is called A_MGMT_FEE.
 14 BY MR. TORRES:
 15 Q Thank you.
 16 A It's column AJ.
 17 BY MR. LEVENSON:
 18 Q So did you observe 1st Global sending money
 19 to Bright Smile Financing?
 20 A Yes.
 21 Q Over what time period?
 22 A October of 2017 up until the time that I
 23 left.
 24 Q Do you know how much you observed or how
 25 much?

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1 A I'm not sure the tune of how much was
 2 actually sent. I want to say it was roughly in the
 3 neighborhood of 8 to 9 million because the expected
 4 receivables or the outstanding balance was
 5 approximately \$10 million for Bright Smile at the time
 6 that I left.
 7 Q Do you know -- was this a merchant cash
 8 advance?
 9 A No, it wasn't a merchant cash advance.
 10 However, they also gave a \$250,000 merchant cash
 11 advance to Bright Smile initially to get it started.
 12 Q Do you know what the remainder of the money
 13 was being sent to Bright Smile Financing for?
 14 A For loans and for operations.
 15 Q And do you know -- was there a relationship
 16 between Bright Smile Financing and 1st Global to your
 17 knowledge?
 18 A The relationship to my understanding was that
 19 Bright Smile was a subsidiary of I Global Capital.
 20 Q And what gave you that understanding?
 21 A In the actual -- in the actual balance sheet
 22 that I received or that I've seen, Bright Smile was
 23 listed as an intercompany and so was Ganador and
 24 Unified Analytics.
 25 Q Okay. You mentioned Ganador and I think we

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1 talked about that. That was a consumer loan service
 2 you said?
 3 A Yes.
 4 Q And do you know how much -- we talked about
 5 that earlier -- how much 1st Global sent to Ganador?
 6 A I'm not entirely sure of the cumulative
 7 amount that 1st Global sent to Ganador.
 8 Q Okay. And was that ongoing during the entire
 9 time you worked at 1st Global?
 10 A Yes.
 11 Q And that was for it's operations and loaning
 12 money?
 13 A Yes.
 14 Q So that was not a merchant cash advance?
 15 A Yes, that's correct.
 16 Q Okay. Was there any kind -- do you know if
 17 there were any kind of loan agreements or repayment
 18 agreements between 1st Global and Bright Smile or
 19 Ganador?
 20 A I don't know if there were any loan repayment
 21 agreements. To my knowledge, there was never money
 22 that was sent from Ganador or Unified Analytics back to
 23 1 Global.
 24 Q Okay. What about Bright Smile? Did you see
 25 any moneys --

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1 A Or Bright Smile for that matter.
 2 Q You mentioned The Ruderman Family Trust.
 3 A Yes.
 4 Q What was that?
 5 A The Ruderman Family Trust was an account that
 6 was -- that money was sent from 1 Global Capital to The
 7 Ruderman Family Trust, sometimes monthly, sometimes
 8 twice a month, sometimes 3,000 a month and -- three
 9 times a month. And the ranges vary from 75,000 --
 10 roughly 75,000 to upwards of 300,000.
 11 Q Do you know how much in total -- over what
 12 time period was 1st Global sending money to The
 13 Ruderman Family Trust?
 14 A I noticed it back in -- 2015 it actually
 15 started.
 16 Q And did it continue every month?
 17 A Yes.
 18 Q Until --
 19 A Every month or almost every month.
 20 Q Until you left the company?
 21 A Until I left the company.
 22 Q Did you ever aggregate how much -- did you
 23 know how much in total was sent to The Ruderman Family
 24 Trust?
 25 A I'm not sure how much in total was sent to

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1 The Ruderman Family Trust. I haven't or I never
 2 actually added the cumulative amount for it.
 3 Q Okay. Do you know what the money was for?
 4 A I do not know what the money was for. And it
 5 was subsequently sent from The Ruderman Family Trust
 6 almost immediately to Pay Now Direct.
 7 Q And what's pay -- what was Pay Now Direct?
 8 A I have no idea.
 9 Q Was it -- okay. You said Darice Lang was
 10 associated with that company?
 11 A Yes. If you look the organization up on
 12 Sunbiz.org, Darice Lang is listed as the registered
 13 agent.
 14 Q And did you also indicate -- I believe I
 15 heard you indicate that 1st Global also sent money
 16 directly to Pay Now Direct?
 17 A Yes, that's correct.
 18 Q Do you know over what time period that was?
 19 A I'm not sure the time period. I noticed it
 20 in 2018. I'm not sure if it happened in 2017.
 21 Q Do you know if -- how much was sent to Pay
 22 Now Direct from 1st Global?
 23 A If you give me one second I can pull up the
 24 actual amount. On May 3rd of 2018, \$207,283.09 was
 25 sent directly from 1 Global's Capital operating

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1 account. That is the 18- -- the CNB 1825 directly to
 2 Pay Now Direct.
 3 Q And that was a one-time transfer that day.
 4 That's not a cumulative total?
 5 A That was a one-time transfer that day.
 6 Q Okay. What records did you look at to
 7 ascertain that The Ruderman Family Trust was sending
 8 money to Pay Now Direct?
 9 A The Ruderman Family Trust bank account.
 10 Q Was that an account that was maintained on
 11 1st Global's system?
 12 A Yes.
 13 Q And what time period did you look at the
 14 Ruderman Family Trust bank account records for?
 15 A That was for 2014. The first statement that
 16 I have is for June 30th, 2014, to present.
 17 Q Do you still have access to those records?
 18 A Yes.
 19 Q Did you -- have you previously provided them
 20 to the -- to us pursuant to the subpoena?
 21 A Yes.
 22 Q Okay.
 23
 24 BY MR. MILLER:
 25 Q What's the name of the bank that the Ruderman

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1 family held its money at?
 2 A BOA 7733. It would be in -- I think the file
 3 may be zipped. It would be The Ruderman Family
 4 Trust.zipfile.
 5 Q Did you observe The Ruderman Family Trust
 6 sending money to other entities besides Pay Now Direct?
 7 A No. It was only directly to Pay Now Direct.
 8 Q And was Pay Now Direct, to your knowledge, a
 9 merchant cash advance?
 10 A No, not to my knowledge.
 11 Q You mentioned an American Express credit
 12 card?
 13 A Yes.
 14 Q Is that a business 1st Global credit card or
 15 a credit card in Mr. Ruderman's name?
 16 A I'm not entirely sure in that regard. I
 17 didn't have access to the actual statements themselves
 18 for the credit cards. I just saw the payments that
 19 were being made, I want to say, twice a month.
 20 Q Do you know how much they totaled and over
 21 what time period that was?
 22 A Not cumulatively. I know that they were
 23 anywhere from the range of -- at one time, 25 to
 24 50,000.
 25 Q Okay. Are you familiar with Svetlana

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1 Ruderman? Do you know who she is?
 2 A Yes.
 3 Q And who is Svetlana Ruderman?
 4 A That is Carl Ruderman's wife.
 5 Q Did Ms. -- did Svetlana Ruderman receive
 6 money from 1st Global?
 7 A Yes. She was on payroll for 1st Global for
 8 \$116,000 a year.
 9 Q Did Ms. Ruderman ever go to work at 1st
 10 Global?
 11 A No. I never saw her in the office.
 12 Q Did you ever see her name on any documents as
 13 doing any work?
 14 A I never saw her name on any documents.
 15 Q Okay.
 16 BY MR. TORRES:
 17 Q Was Carl Ruderman on payroll?
 18 A Yes.
 19 Q And how much did he -- what was his annual
 20 salary?
 21 A 250,000, I believe.
 22 Q Were any other family members?
 23 MR. LEVENSON: I've got a list I'm going to
 24 ask.
 25 MR. TORRES: Okay.

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1 A Give me just one second. Let me doublecheck
 2 Carl Ruderman. 240,000.
 3 BY MR. LEVENSON:
 4 Q And -- okay. Did you observe -- do you know
 5 who Blake Ruderman is?
 6 A Yes.
 7 Q And who is Blake Ruderman?
 8 A Blake Ruderman is Carl Ruderman's son.
 9 Q Did you observe Blake Ruderman getting any
 10 money from 1st Global?
 11 A Yes. He was on payroll as well.
 12 Q Do you know what he -- what his salary was?
 13 A His salary was \$36,000 a year.
 14 Q Did Blake Ruderman work for 1st Global?
 15 A I've only saw Blake Ruderman in the office
 16 maybe once or twice.
 17 Q Okay.
 18 A I've never saw him actually do any
 19 work-related activities at 1 Global.
 20 Q Do you -- are you familiar with an entity
 21 called BRR Block?
 22 A No, I'm not.
 23 Q Okay. Did you know if money -- if that
 24 entity is associated with Blake Ruderman?
 25 A I have no idea if that entity is associated

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1 with Blake Ruderman.
 2 Q So is it fair to say -- did you observe any
 3 money being sent from 1st Global to BRR Block?
 4 A No. I wouldn't have known to actually look
 5 for that.
 6 Q Okay. Who is Linda Ruderman?
 7 A Linda Ruderman is, to my knowledge, Carl
 8 Ruderman's first wife.
 9 Q Did you ever see 1st Global sending funds to
 10 Linda Ruderman?
 11 A Yes.
 12 Q And how -- do you know how much?
 13 A I don't know the cumulative amount. I do
 14 know that \$35,000 was sent to Linda Ruderman.
 15 Q When was that?
 16 A Give me just one second. Money was sent to
 17 Linda Ruderman April 19th.
 18 Q Of what year?
 19 A Of 2018 from the CNB 1825 account.
 20 Q And do you know why that money was sent?
 21 A I do not know why that money was sent.
 22 Q Do you know if they were any early -- there
 23 was money sent any earlier to Linda Ruderman?
 24 A I don't know if money was sent any earlier
 25 directly to Linda Ruderman.

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1 Q Was Linda Ruderman -- did Linda Ruderman work
 2 at 1st Global?
 3 A No, she did not.
 4 Q Okay. Have you heard of an entity called
 5 Media Pay, LLC?
 6 A Yes.
 7 Q And what -- do you know what that is?
 8 A I don't know what the company actually did.
 9 I knew -- I know that I Global Capital sent money to
 10 Media Pay, LLC in 2015.
 11 Q Do you know how much?
 12 A I don't know the cumulative amount.
 13 Q Do you know who owned or -- do you know who
 14 own media Pay, LLC or who was the chief officer or
 15 director?
 16 A It was -- the person listed as the registered
 17 agent was Carl Ruderman's sister-in-law.
 18 Q Was it -- was she Svetlana Ruderman's sister?
 19 A Yes.
 20 Q Have you heard an entity called Digi South?
 21 A Yes.
 22 Q And do you know what that is?
 23 A I don't know what Digi South actually does.
 24 I know that towards the latter half of my tenure there
 25 I Global Capital was sending \$10,000 to Digi South

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1 every month to pay the payroll of someone who worked at
 2 Digi South.
 3 Q Do you know who that was?
 4 A I'm not entirely sure.
 5 Q So it was not a merchant cash advance?
 6 A It was not.
 7 Q Do you know who owns Digi South?
 8 A I believe Carl Ruderman owns Digi South.
 9 Q Okay. And you said during the latter part of
 10 your tenure, how -- when exactly was -- did you observe
 11 1st Global sending money to Digi South?
 12 A I only started looking for it in January and
 13 it was recurring expense of 10- -- or recurring amount
 14 of \$10,000 being sent to Digi South.
 15 Q Did -- I forgot. When I was talking about
 16 Media Pay, LLC., was that a merchant cash advance?
 17 A No, it was not.
 18 Q And how do you know that these things were
 19 not merchant cash advances?
 20 A Because there were no paybacks. They're not
 21 in the system as merchant cash advances where we have
 22 every single MCA company.
 23 Q Have you ever heard of a company called Funds
 24 4 Growth?
 25 A Yes.

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1 Q And what -- do you know what that is?
 2 A I believe that is an ISO.
 3 Q Okay. Did you observe any other payments
 4 that you would, I guess -- were not merchant cash
 5 advance payments or ISO payments, or commission?
 6 A In --
 7 Q In 2018 let's say or at any time.
 8 A No. Not any that actually stood out.
 9 Q Okay. Do you know -- did you observe a
 10 payment to East Coast Jewelry?
 11 A Yes.
 12 Q Do you know what East Coast -- and was that
 13 in 2018?
 14 A Yes, that was in 2018.
 15 Q Do you know -- was that an MCA payment?
 16 A I don't know if it was an MCA payment. I
 17 know that it is listed in our system as a merchant cash
 18 advance loan to ECJ.
 19 Q Okay.
 20 A I don't know if it is consistent with what a
 21 MCA actually is, where they ACH every single day are
 22 consistent with what the other MCAs were.
 23 Q Were there not -- were there no ACH payments?
 24 A I don't think they were daily ACH payments
 25 with ECJ.

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1 Q But -- I mean, did that happen sometimes with
 2 the merchant cash advances?
 3 A With MCAs you either pay daily or weekly.
 4 Q Okay.
 5 A They were funding other types of deals that
 6 fell outside of the realm of MCAs, but when I actually
 7 Googled -- Ryan and myself actually Googled ECJ
 8 Jewelers, and it appears that they have a relationship
 9 Steven Schwartz.
 10 Q What kind of relationship?
 11 A They held a charity event together where
 12 Steven Schwartz was listed as the person that was
 13 responsible for hosting the event.
 14 Q Did you observe a payment to a Mercedes Benz?
 15 A Yes.
 16 Q And when was that?
 17 A This was late 2017 throughout early 2018.
 18 Q How often?
 19 A Monthly.
 20 Q Do you know what these payments were for?
 21 A Those monthly payments were for Carl
 22 Ruderman's Mercedes Benz.
 23 Q Did he own it or lease it?
 24 A He leased it.
 25 Q Do you know what kind of Mercedes -- I mean

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1 what model it was?
 2 A It was a E400 Cabriolet.
 3 Q Do you know what year?
 4 A 2018.
 5 Q And --
 6 A And it has listed that his primary use of the
 7 Mercedes Benz was for personal reasons.
 8 Q Okay. So how could you tell this was a
 9 monthly car payment -- monthly lease car payment?
 10 A Because there also was the Mercedes Benz
 11 financial services auto pay that was set up on February
 12 2018 to come from the 1825, which is the operating
 13 account of 1 Global Capital.
 14 Q What about something called The Luxury
 15 Collection? Did you observe a payment to --
 16 A I didn't see a payment to Luxury Collection.
 17 I want to say that that falls under ECJ Jewelers.
 18 Q Okay.
 19 BY MR. MILLER:
 20 Q Why do you want to say that?
 21 A Because when I looked as ECJ Jewelers'
 22 website, it had Luxury Collection at the top of it, so
 23 I figured that those two were synonymous with one
 24 another.
 25 BY MR. TORRES:

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1 Q Did you observe any payments for art, or
 2 paintings?
 3 A No, I didn't. I'm not entirely sure how they
 4 would have been classified in the actual bank account.
 5 Q Did you observe any payments from 1 Global to
 6 pay for Bright Smiles employees salary?
 7 A Yes. The payroll was done for Bright Smile
 8 and taken out of 1 Global Capital's operations.
 9 Q Do you know why 1 Global was paying for
 10 Bright Smile's employees salaries?
 11 A Blight smile wasn't self-sufficient. They
 12 didn't have any streams of income that was sufficient
 13 enough to cover operations, and they had no other
 14 capital in terms of a capitalization.
 15 Q How do you know this?
 16 A Because of my conversations with Richard
 17 Samuels and because of my conversations with Bright
 18 Smiles employees.
 19 BY MR. MILLER:
 20 Q Do you know whether or not 1 Global's money
 21 was used to pay for Mr. Ruderman's housekeeper?
 22 A Yes.
 23 Q Do you know whether or not moneys from 1
 24 Global were used to pay for his personal driver?
 25 A Yes.

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1 Q Do you know whether or not 1 Global's money
 2 were used to pay for Mr. Ruderman's chef?
 3 A I'm not entirely sure in regards to the chef.
 4 I know that it happened for the driver and the
 5 housekeeper because of my conversations with human
 6 resources, who is responsible for doing the payroll for
 7 those employees, as well as Bright Smiles employees,
 8 and 1st Global's employees.
 9 BY MR. LEVENSON:
 10 Q Payments were made for the housekeeper and
 11 the driver?
 12 A Yes.
 13 BY MR. MILLER:
 14 Q Were other payments -- were other moneys from
 15 1st Global used by Mr. Ruderman to pay for any of his
 16 household expenses that you know of?
 17 A None that I know of. However, it could have
 18 been on the Amex that he -- that 1 Global was paying
 19 off every two weeks.
 20 Q Do you know whether or not any 1 Global
 21 moneys were used to pay for Mr. Ruderman's children's
 22 rent?
 23 A Evan Ruderman. 1 Global paid for Evan
 24 Ruderman's rent for a year.
 25 BY MR. LEVENSON:

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1 Q Was Evan Ruderman on the payroll?
 2 A Yes.
 3 Q Do you know what he made? Or what did he
 4 make?
 5 A He made -- initially Evan made 52,000, but
 6 when he moved back from New York to Florida he was
 7 making 96,000 plus commissions.
 8 Q Did he actually work for 1st Global?
 9 A Yes.
 10 Q What did he do?
 11 A He was in charge of sales for 1st Global.
 12 Sales with ISOs.
 13 BY MR. MILLER:
 14 Q Do you know whether or not -- were payments
 15 made from 1 Global for Evan Ruderman's car insurance?
 16 A Yes.
 17 BY MR. LEVENSON:
 18 Q Were the payments to the various entities
 19 we've just gone over for the last little while
 20 responsible for the hole that you observed?
 21 A I believe so.
 22 Q Why do you believe that?
 23 A Because there were no other -- in terms of
 24 capitalization, there was no other additional money put
 25 into 1 Global Capital, so they only had to run the

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1 business up through December 17 million cumulatively in
 2 terms of management fees, plus whatever they made from
 3 operations and -- excuse me -- not from operations,
 4 whatever they made from underwriting -- underwriting
 5 fees.
 6 Q Did -- was 1st Global, during the time you
 7 were there, profitable?
 8 A Not to my knowledge. However, I always knew
 9 that the QuickBooks that they maintained was
 10 inaccurate.
 11 Q Was the source of the payments that we went
 12 through the various entities ultimately traced back to
 13 lender funds?
 14 A I don't think it can be directly because they
 15 pooled all the money together: management fees,
 16 operations lender funds.
 17 Q Let me ask you this; the management fees came
 18 from money collected from MCA to pay back, correct?
 19 A Yes, that's correct.
 20 Q And the money sent to MCAs came from lenders,
 21 right?
 22 A Yes.
 23 Q So would there have been any other way -- so
 24 am I correct that 1st Global got it's management fees
 25 ultimately if you trace it back from lenders?

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1 A Yes, that's correct.
 2 Q Without lenders there would have been no
 3 management fee, right?
 4 A That's correct.
 5 Q So -- and the same -- would the same be for
 6 the other fees you've described, underwriting fees?
 7 Would those have -- without lender funds 1st Global
 8 would have had no funds to lend merchants, correct?
 9 A That's correct, outside of Arena.
 10 Q Outside of the 9 million or so --
 11 A Yes.
 12 Q -- or almost 10 million in Arena?
 13 So then would the -- ultimately would the
 14 end source of any of those payments have been lender
 15 funds?
 16 A Yes.
 17 Q Tell me -- you had mentioned Arena, we talked
 18 about it a couple times, but -- and if I ask before, I
 19 think you said that was obtained in 2017.
 20 A 2016.
 21 Q Okay. Do you know -- did 1st Global have to
 22 put up anything as collateral for those?
 23 A Not to my knowledge. They used the loans as
 24 collateral.
 25 Q The merchant loans?

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1 A Merchant cash advances as collateral and made
 2 loans to grow the business out of Arena's \$10 million
 3 of funding.
 4 Q So if they -- if 1st Global had defaulted on
 5 that line of credit, ultimately, you know, would
 6 lenders have, you know -- would lenders have lost money
 7 if Arena came in and took the merchant cash advance
 8 repayment?
 9 A I'm not entirely sure because I don't know
 10 how the contract was initially set up in that regard.
 11 I knew that Arena would provide 75 percent of every
 12 merchant cash advance that we funded, and the lenders
 13 would be responsible for the other 25. So they used
 14 existing capital to fund 25 percent of everything that
 15 Arena put 75 percent into.
 16 Q Over what time period?
 17 A This was November 2016 through May of 2017.
 18 And then they stopped funding with Arena because they
 19 had more investors coming in, or more lenders coming
 20 in, and so they stopped funding with Arena and just
 21 paid down the Arena loan from the collections.
 22 Q Okay. Are you familiar with attempts or --
 23 by 1st Global to get a loan from Bridge Bank?
 24 A I have had conversations with Scott Merkelson
 25 and was on the phone when Dale Ledbetter was pitching

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1 to either Bridge Bank or an agent of Bridge Bank.
 2 Q And so what do you know about -- did 1st
 3 Global attempt to get a loan from Bridge Bank?
 4 A Yes.
 5 Q Was it a \$100 million loan?
 6 A I believe so. They attempted to get a
 7 \$100 million loan from several people.
 8 Q Do you know who else besides Bridge Bank?
 9 A Bridge Bank and there was another company
 10 based in Europe -- based in London I can't remember the
 11 name of they attempted to get a loan from.
 12 Q When was -- is it all around the same time
 13 that 1st Global was attempting to get loan from these
 14 two entities?
 15 A No. It was -- the lending company they were
 16 attempting to get a loan back in October, November of
 17 2017, and then Bridge Bank was more recently.
 18 Q Do you know when Bridge Bank was?
 19 A May or June, but I didn't do anything in
 20 regards to -- I didn't do anything in regards to kind
 21 of the analysis I did with the other company.
 22 Q And you said May or June of 2018?
 23 A Yes.
 24 Q While -- let me digress for one second.
 25 The Arena funding, how do you know --

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1 since you weren't at the company until March of
 2 2017, how do you know that that all occurred in
 3 2016?
 4 A Because I saw the reports. So pursuant with
 5 Arena's -- what is it called -- Arena's covenants, we
 6 had to provide a weekly report, and in that weekly
 7 report I can see from inception when we started funding
 8 with Arena to current, what our cumulative funding was;
 9 what cumulative collections; what the cumulative taken
 10 interest that we were paying; the servicing fee,
 11 everything associated with the loan.
 12 Q So tell me about the London entity in late
 13 2017 that 1st Global was attempting to get a
 14 \$100 million loan from. What do you know about that?
 15 A They were providing data to the -- they asked
 16 Ryan and myself to provide data to the lending company
 17 or the -- I believe it was a hedge fund to analyze what
 18 our default rate was to see how the portfolio performed
 19 over time. And so Ryan and myself put that together
 20 and sent that package over to Scott Merkelson, and then
 21 he subsequently forwarded it to the hedge fund.
 22 Q How do you know Mr. Merkelson forwarded it to
 23 the hedge fund?
 24 A He would tell us that he sent it over to the
 25 hedge fund and he's waiting back. Because I would

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1 follow up with him and say, hey, have you heard
 2 anything back and he would say, no. I just sent it
 3 over to them and then there would back and forth
 4 communications and request from the actual hedge fund.
 5 Q How do you know that this was for the purposes of
 6 getting a loan?
 7 A Because Scott told us that.
 8 Q And why was 1st Global trying to get this
 9 loan from the hedge fund?
 10 A I'm not entirely sure why. I guess it's to
 11 increase their solvency or their capital so that they
 12 could loan out more money. Because in the beginning of
 13 2018, the companies had a -- projections that they were
 14 going to fund \$900 million in 2018. From -- I think
 15 they funded close 200 million all of 2017 and so they
 16 were trying to bring in more capital to fund more
 17 loans.
 18 Q Okay. Did the hedge fund lend money to 1st
 19 Global?
 20 A No, they did not.
 21 Q Why did -- do you know why not?
 22 A I'm not entirely sure why they didn't.
 23 Q You had mentioned -- you referred to the
 24 default rate, do you know how 1st Global -- do you know
 25 if the term -- have you heard the term write-off rate?

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1 A Yes.
 2 Q Is that the same thing as the default rate or
 3 something else?
 4 A Not necessarily. Write-off is the amount
 5 that you actually write-off of your books.
 6 Q Okay.
 7 A Default rate could just mean merchants that
 8 haven't paid, so they would eventually get to write-off
 9 if they consistently stop paying or if there's a
 10 judgment, or some other type of legal proceedings you
 11 can eventually recover some of what was default or
 12 delinquent.
 13 Q Okay. Do you know how 1st Global determined
 14 its write-off rate?
 15 A I'm not entirely sure. I knew that there was
 16 30 million in accounts receivable based upon or aging,
 17 based upon what was above 90 days that Richard Samuels
 18 was writing off starting in January. Every month he
 19 was writing off a portion of that.
 20 Q Okay. 30 million every month?
 21 A No.
 22 Q Okay. Sorry.
 23 A 30 million was the cumulative amount.
 24 Richard Samuels was writing off maybe two and a half --
 25 two to two and a half million dollars a month.

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1 Q Of that 30 million?
 2 A Of the 30 million. He wanted to get the
 3 write-offs up to be more reflective of the actual
 4 portfolio.
 5 Q Did you ever have a conversation with him in
 6 which he told you what he thought the real write-off
 7 rate it was or should be?
 8 A I didn't have a conversation with him in
 9 regards to that. I had a conversation with Carl
 10 Ruderman and Scott Merkelson, and Ryan was also in the
 11 room in regards to the actual write-offs for a
 12 particular month.
 13 Q And for a particular?
 14 A Month.
 15 Q And when was -- what month was that?
 16 A This was in February or March.
 17 Q Of 2018?
 18 A Of 2018. I actually recorded the
 19 conversation.
 20 Q Was this an in-person conversation?
 21 A Yes. This was an in-person conversation.
 22 Q Did they see you recording the -- did they
 23 know you were recording the conversation?
 24 A No. I started after January of 2018. I
 25 started to record the majority of my conversations that

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1 I was having with Carl Ruderman.
 2 Q How many conversations did you record?
 3 A Probably about five or six conversations.
 4 Q And did Mr. Ruderman know you were recording
 5 any of these conversations?
 6 A No. He was unaware.
 7 Q Okay. Do you still have -- do you still have
 8 the audios of all those recordings?
 9 A Yes, I do.
 10 Q What discussions did you have -- you
 11 mentioned the discussions about the one month
 12 write-off, can you tell us about that discussion or
 13 discussions?
 14 A He was trying to figure out how much Richard
 15 Samuels had wrote off in the particular month, and Ryan
 16 and myself were going through how the write-offs were
 17 related to the allowance for doubtful accounts and how
 18 much he actually wrote off.
 19 So if we were already reserving 60 percent
 20 of a particular loan, then the write-off amount
 21 would be cumulatively the 100 percent, but the
 22 impact it would have on the lender account summaries
 23 or statements would be the 40 percent 'cause that's
 24 the amount that would be moved to zero.
 25 Q So if you don't mind, I'd like to take just a

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1 couple minute break and I -- we're getting close to
 2 being finished. I just kind of want to -- if you don't
 3 mind giving us just a couple minutes --
 4 A Okay.
 5 Q -- then we'll come back and wrap up.
 6 MR. MILLER: Off the record at 1:25 p.m.
 7 (Whereupon, a brief recess was taken,
 8 after which, the following was had.)
 9 MR. LEVENSON: So we'll go back on the record
 10 at 1:31.
 11 BY MR. LEVENSON:
 12 Q Mr. Latson, did you resign from 1st Global?
 13 BY MR. MILLER:
 14 Q During the break we just took, you didn't
 15 have any conversations of substance about this
 16 investigation with the staff, did you?
 17 A No.
 18 BY MR. LEVENSON:
 19 Q Did you resign from 1st Global or were you
 20 fired?
 21 A I resigned.
 22 Q When -- and when was that?
 23 A My last day of employment was June 15th,
 24 2018.
 25 Q Why --

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1 A I resigned on the 4th of June.
 2 Q Why did you resign?
 3 A I resigned because of everything that was
 4 happening financially with the company and my old boss
 5 who was terminated from 1 Global Capital offered me a
 6 position at her current company.
 7 Q And was that Lyn Sohun?
 8 A Yes.
 9 Q Do you know why Ms. Sohun was fired?
 10 A She was fired for a number of reasons:
 11 personality differences. She didn't agree with Carl
 12 Ruderman on a lot of things and she was subsequently
 13 terminated.
 14 Q Did will Ruderman fire her?
 15 A Yes. Mr. Ruderman and Steven Schwartz fired
 16 her. They called her into her office -- or called her
 17 into Carl Ruderman's office and terminated her. And I
 18 remember walking from my office pass hers when she was
 19 getting terminated and she just told me at that point
 20 that she was out.
 21 BY MR. TORRES:
 22 Q Do you know if Mr. Ruderman had foreign
 23 accounts?
 24 A I don't know.
 25 Q Do you know if he had safe deposit boxes or

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1 box at a financial institution?
 2 A I'm not entirely sure.
 3 Q How about storage units?
 4 A I have no idea in that regard.
 5 BY MR. LEVENSON:
 6 Q You -- just a minute ago you said you didn't
 7 like everything that was happening financially with the
 8 company. Would everything be the matters we've
 9 discussed in your testimony this morning?
 10 A Yes.
 11 Q Is there anything else we haven't asked you
 12 about that you found to be irregular in terms of 1st
 13 Global's finances that you think is important?
 14 A 1st Global was doing an ICO.
 15 Q What ICO?
 16 A An initial coin offering. They were going to
 17 create a bitcoin token and use that to raise money and
 18 they were paying out \$15,000 every month for
 19 consulting.
 20 Q To who?
 21 A So how it worked was, if you go through the
 22 bank statements you'll see a check that was written to
 23 Mario. I can't remember his last name. A check for
 24 \$15,000 to Mario. Mario then in turn -- because we had
 25 a contractual agreement between 1 Global Capital and

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1 the consulting company in Atlanta, Mario would in turn
 2 take those \$15,000 that he received, convert it to
 3 bitcoin and then pay the bitcoin consultant.
 4 Q And over what time period was these payments
 5 made?
 6 A This was January through I want to say April
 7 of 2018.
 8 Q And the -- so did this initial coin offering
 9 ever occur?
 10 A No, it did not.
 11 Q And the money -- okay.
 12 Do you know why not?
 13 A I'm not entirely sure. I think it was -- it
 14 had something to do with market conditions. Bitcoin
 15 was high during January and leading up to that. And
 16 Carl Ruderman actually asked Ryan and myself about
 17 bitcoin, just trying to get a general prospective. I
 18 told him the value wasn't in bitcoin. It was in the
 19 block chain technology behind it, the general ledger
 20 idea. And I told him it was basically a fad. And
 21 he -- this was back in may be November or December --
 22 back in November actually 'cause Lyn Sohun was still
 23 employed there. And I told him that was a fad and he
 24 still went along with the ICO, or the idea of the ICO
 25 because he saw it rising constantly.

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1 Q Anything we haven't asked you think is
 2 important?
 3 BY MR. MILLER:
 4 Q Do you know whether or not -- do you know if
 5 Mr. Ruderman used 1 Global money to fund his vacation
 6 in Greece?
 7 A Yes.
 8 BY MR. LEVENSON:
 9 Q He did use it? Do you know how much?
 10 A The trip was \$18,000.
 11 Q And when was this?
 12 A This was earlier in 2018. We paid the
 13 deposit I want to say around March of 2018.
 14 Q Anything else that you can think of that's
 15 important?
 16 A I think that covers it.
 17 Q Okay.
 18 MR. LEVENSON: Well then we are done. We'll
 19 go off the record at 1:35 p.m. on Thursday
 20 August 9th. Thank you very much.
 21 (Whereupon, at 1:35 p.m., the examination
 22 was concluded.)
 23 * * * * *
 24
 25

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1 PROOFREADER'S CERTIFICATE
 2
 3 In the Matter of: 1 GLOBAL CAPITAL
 4 Witness: Michael Latson
 5 File Number: FL-04148-A
 6 Date: Thursday, August 9, 2018
 7 Location: Miami, Florida
 8
 9 This is to certify that I, Christine Boyce, (the
 10 undersigned) do hereby swear and affirm that the attached
 11 proceedings before the U.S. Securities and Exchange
 12 Commission were held according to the record, and that
 13 this is the original, complete, true and accurate
 14 transcript, which has been compared with the reporting or
 15 recording accomplished at the hearing.
 16
 17
 18
 19 _____
 (Proofreader's Name) (Date)
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C E R T I F I C A T E

STATE OF FLORIDA

COUNTY OF PALM BEACH

I, Caretha Wisdom, Professional Court Reporter and Notary Public in and for the State of Florida at Large, do hereby certify that I was authorized to and did report said hearing in stenotype; and that the foregoing pages are a true and correct transcription of my shorthand notes of said hearing.

I further certify that said Hearing was taken at the time and place hereinabove set forth and that the taking of said hearing was commenced and completed as hereinabove set out.

I further certify that I am not an attorney or counsel of any of the parties, nor am I a relative or employee of any attorney or counsel of any party connected with the action, nor am I financially interested in the action.

Dated this 15th day of August, 2018.



Caretha Wisdom,
Professional Court Reporter



EXHIBIT D

From: Katherine Valarezo <[REDACTED]>

Subject: Welcome to 1st Global Capital

Date: October 26, 2017 at 1:59:43 PM MST

To: "[REDACTED]" <[REDACTED]>

Cc: "[REDACTED]" <[REDACTED]>, "[REDACTED]" <[REDACTED]>

Dear Ms. Foster,

We are pleased to welcome you as a lender to 1st Global Capital. We wanted to inform you that your funds have been received and your new account is being activated:

Account Title – [REDACTED]

Loan Amount – \$75,000.00

You will receive correspondence from us from time to time updating you on your account. If you have requested access to the 1GC online portal, you will be receiving your log in credentials within the next 3 business days. Should you have any questions, please reach out to Kevin Richards directly for assistance

Best Regards,

Katherine Valarezo *Lender Relations Coordinator*

1st Global Capital Financial Services 1250 East Hallandale Beach Blvd.

Suite #409

Hallandale Beach, FL 33009

T: 888-374-3150

D: [REDACTED]

E: [REDACTED]



"Funding the Future of Small Business"

EXHIBIT E

DECLARATION OF LYN SOHUN

Pursuant to 28 U.S.C. Section 1746, the undersigned states as follows:

1. My name is Lyn Sohun. I am over twenty-one years of age and have personal knowledge of the matters set forth herein.
2. From July 2016 until I was terminated in December 2017, I was employed by 1 Global Capital LLC ("1 Global" or the "Company") as the Company's Chief Compliance Officer and the head of the Financial Planning and Analysis group (FP&A).
3. 1 Global is an entity that primarily provides merchant cash advances ("MCAs") to small and medium-sized businesses. To fund its business, 1 Global solicits money from investors, referred to by 1 Global as "Lenders." Carl Ruderman is 1 Global's founder and was its Chairman during the entire time I worked at the Company.
4. Ruderman personally was involved in negotiating 1 Global's financial transaction with Travis Portfolio ("Travis"). Travis is an entity that purchases distressed debt. Ruderman insisted that 1 Global invest millions of dollars of 1 Global investor money into Travis instead of MCAs. I ~~personally saw documentation where~~ ^{personally heard} Ruderman described himself as the "broker" for the Travis investment.
5. I observed that Ruderman was also personally involved in placing millions of dollars of 1 Global's investors' money into an MCA for Momentum Automotive. Ruderman set the factor rates for that MCA.
6. At Ruderman's request to me, I sent him a daily update denoting the total amount of MCAs that 1 Global funded that day.
7. I did not observe that 1 Global took any steps to determine whether investors were accredited, sophisticated or qualified.

General Concerns About 1 Global's Financials

8. By no later than the summer of 2017, I became concerned about the way 1 Global kept its financial books and records because I became aware that the Company was not reconciling its financial records. During the summer of 2017, I understood 1 Global was seeking to get its financials audited, to comply with the requirements of an agreement 1 Global had entered into with a hedge fund that had invested in 1 Global.
9. In July 2017, I became more concerned about the state of 1 Global's financial books and records because I had a telephone conversation with 1 Global's then Chief Financial

Officer (“CFO”) who told me he was not able to find a beginning balance for the Company’s financials. The CFO told me he did not think the Company would be able to get audited financials. He told me that 1 Global’s books and records were in such disarray that he had difficulty in determining a starting balance. Without having the starting balance he said that he could not complete the accounting work required for 1 Global to produce financials that an auditor could then audit. The CFO also expressed his opinion that 1 Global was a Ponzi scheme and told me that Ruderman was improperly using investor money for his personal expenses.

10. A few days after my call with the CFO, I went to Ruderman to express my concerns. I told Ruderman about my call with the CFO and explained that the CFO was unable to find a beginning balance or reconcile the ending balance for the financials. I told Ruderman the CFO said that he could not get comfortable with the Company’s financials. Ruderman brushed off my concerns and said that maybe this was not the right job for the CFO.

Shortage of Investor Funds

11. In about October 2017, two 1 Global employees in FP&A who reported to me told me they had discovered a shortage of investor money in the 1 Global bank accounts. The two employees had learned from someone in the accounting department the amount of money in the 1 Global bank accounts. They compared that balance to the amount of cash from investors that FP&A’s records reflected should be on hand for use in 1 Global’s financing business (funds referred to by 1 Global as “Cash Not Deployed”), and discovered there was a \$15 million shortage.

12. I was extremely concerned to learn of this shortfall because I understood that if each investor was missing some of his money that should have been available to deploy into MCAs, then if investors requested redemptions while the shortfall existed, 1 Global would have to pay the redemptions out with other investors’ money.

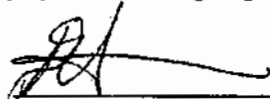
13. Shortly after learning this information, I went to Ruderman and told him about the shortage of investor funds that my two reports discovered. Ruderman told me the employees did not know what they were talking about, and that we were not aware of all of the 1 Global bank accounts.

14. Soon after this conversation, I noticed that there was a change to the monthly account statements that investors received. The categories for net current accounts receivables,

cash not deployed (or cash for future receivables) were removed from the statements. Only the category of total portfolio value remained on the statements. Without the cash to be deployed figures, 1 Global investors had no ability to determine whether their money was fully invested in MCAs. In addition, by removing the cash to be deployed figures investors could not inquire whether 1 Global had sufficient money in its bank accounts to actually deploy that money for the investor.

15. Ruderman reviewed and approved the monthly account statements before they went out to investors. Ruderman gave all of the directives at 1 Global, and totally ran the company with an autocratic style of leadership.

I declare under penalty of perjury that the foregoing is true, correct, and made in good faith.



Lyn Sohun

Executed on this 15 day of August 2018

EXHIBIT F

Ordaz, Magaly

Subject: FW: First Global Funding Borrowing Request #14

From: Carl Ruderman <CR@1stglobalcapital.com>
Date: December 24, 2016 at 1:17:14 AM EST
To: John Eck <jeck@arenaco.com>
Cc: Victor Dupont <vdupont@arenaco.com>, Scharon Gordon <sgordon@arenaco.com>, "John Felletter, CFA" <jfelletter@arenaco.com>, Eric Alexander <eric@1stglobalcapital.com>, Alan Heide <alan@1stglobalcapital.com>
Subject: RE: First Global Funding Borrowing Request #14

Good morning John -- I understand your concern due to the mismanagement of some of the other companies in the lending space.

As you and Victor appreciate, we run a very healthy and tight organization.... I'm personally on top of all operations from 8am thru 6:30pm everyday!

That, plus the great team we assembled, is the reason why we have such a low delinquency rate.....and our performance is one of the best in the industry!

Perhaps you may want to install your own in-house auditor to gain more comfort in the early stages of our relationship? . We want to grow with Arena.....and don't want to delay the funding and growth of our company.

Is there a possibility of your visiting us next month? You would be very impressed with the operations and our experienced executive team.

As you know we've hired many CAN executives in the last month, as well as a few from other companies in the lending space. We are growing slowly and steadily..that's my mantra!

Anyone can lend money ... collecting it is the key!

Please let's move quickly on your review and walk through.....the delay in redeployment of ACH collections will hurt us as we are still paying interest daily. I hope you appreciate the situation of not funding on time.

Would like to wish you and Victor the compliments of the season and a prosperous, contented, and fulfilling New Year.

Warmest wishes, Carl

----- Original message -----

From: John Eck <jeck@arenaco.com>
Date: 12/24/16 12:36 AM (GMT+03:00)
To: Alan Heide <alan@1stglobalcapital.com>

Cc: Victor Dupont <vdupont@arenaco.com>, Scharon Gordon <sgordon@arenaco.com>, "John Felletter, CFA" <jfelletter@arenaco.com>, Carl Ruderman <CR@1stglobalcapital.com>, Eric Alexander <eric@1stglobalcapital.com>
Subject: Re: First Global Funding Borrowing Request #14

Yes we have noted the favorable performance to date.

We treat re-deployed collections in the same manner as new fundings, so we'll need to complete our review prior to any of Arena's dollars being used to fund new transactions.

On Dec 23, 2016, at 1:31 PM, Alan Heide <alan@1stglobalcapital.com> wrote:

Hi John,

I hope all is well and wish you and your family a wonderful holiday season!

We understand your request and will prepare a schedule as you requested for your review. In the mean time, it would be helpful if we could at least be allowed to redeploy our daily cash receipts (ACH Collections) from the existing portfolio. Our ability to generate sustained profits (which goes in part to paying the interest on the debt) is predicated upon our ability to spin those funds and redeploy them into new deals. As you have seen so far, our performance has been very good with very low delinquencies.

Please confirm that we can do so.

Regards,
Alan Heide

From: John Eck [<mailto:jeck@arenaco.com>]
Sent: Friday, December 23, 2016 9:34 AM
To: Alan Heide <alan@1stglobalcapital.com>; Carl Ruderman <CR@1stglobalcapital.com>
Cc: Victor Dupont <vdupont@arenaco.com>; Scharon Gordon <sgordon@arenaco.com>; John Felletter, CFA <jfelletter@arenaco.com>
Subject: RE: First Global Funding Borrowing Request #14

Good morning. Given the rapid pace of your fundings and the noise in the industry created by CAN, prior to any fundings beyond this one we need to gain a better understanding of and comfort with how you are sourcing and underwriting transactions. Please provide us with supporting data that shows the broker activity, # of deals screened / bid / funded and how your underwriting criteria / pricing compares to the broader market. Once we've had a chance to review the data we'd like to have a call to walk through it with you. Thank you.

John

From: Lina Kats [<mailto:linakats@1stglobalcapital.com>]
Sent: Thursday, December 22, 2016 8:47 PM
To: Victor Dupont <vdupont@arenaco.com>; Linda Supaswud <lsupaswud@arenaco.com>; John Eck <jeck@arenaco.com>; LoanOps <loanops@arenaco.com>
Cc: Alan Heide <alan@1stglobalcapital.com>; Lyn Sohun <lyn@1stglobalcapital.com>; Ronald J. Castrillo <ronaldj@1stglobalcapital.com>; Robert Kantor <robert@1stglobalcapital.com>; Sharon Gordon <sgordon@arenaco.com>; Matthew Childs <matthew@1stglobalcapital.com>; Eric Alexander <eric@1stglobalcapital.com>
Subject: First Global Funding Borrowing Request #14

Hi Victor,

Please see the attached Funding Request made on 12/22/2016.

Date Request Made	12/22/2016
Date of Funding	<u>12/27/2016</u>
Request #	14
Funds Available after Fees & Interest - Requested Release	\$0.00
Amount of the draw request	<u>\$285,573.75</u>
Total Funds to be Wired	<u>\$285,573.75</u>
Initial Asset Basis Originated	\$463,100.00
Cuml. # of U/L Assets	127
# of U/L Assets	7
Cuml. Asset Basis Orig.	\$8,149,980.00
Cuml. Loss Adjusted Assets - Initial	\$7,375,263.50
Cuml. Loss Adjusted Assets - Current	\$6,866,554.54
Cuml. Amt of Draw request	\$5,001,694.70
Arena Loan Balance Outstanding (includes Request #13 to be funded)	\$4,716,120.95
Cuml. \$ amt. collected	\$508,708.96
Cuml. \$ amt principal	\$373,754.35
Cuml. Amt revenue	\$134,954.61

Note1: All deals submitted are within eligibility criteria

Note2: Cumulative Loss Adjusted Assets - Current are net of collections to date and changes in Assumed Asset Loss Rates

The following 2 deals did not meet the eligibility criteria for the following reason:

██████████6021	Adj. monthly deposit < \$20k
██████████7040	Merchant filed extension no current return

- The bottom performance chart has been augmented to show a comparison with the 12/21/2016 funding request:

- o Cumulative % RTR in default: no change, 0% in default
- o Cumulative # of deals in default: no change, 0% in default
- o # of deals ever bounced: 19 deals bounced to date

12/22/2016

	Total
# Deals	127
<i>Change over period %</i>	6%
Payback Amount	\$10,110,090
Default RTR	\$0
Default Rate (%)	0%
<i>% change since last funding request</i>	N/A
# of deals in default	0
<i>% change since last funding request</i>	N/A
# of deals ever bounced	19
<i>% change since last funding request</i>	27%

Kind Regards,

Lina Kats
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