

**In the Matter Of:**

**PETER S. DAVIS vs CLARK HILL PLC**

CV2017-013832

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**WARREN BUSH**

*March 20, 2019*

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SUPERIOR COURT OF ARIZONA

COUNTY OF MARICOPA

PETER S. DAVIS, as )  
Receiver of Densco )  
Investment Corporation, an )  
Arizona corporation, )  
Plaintiff, )

VS. )

CASE NO: CV2017-013832

CLARK HILL PLC, a Michigan )  
Limited Liability Company; )  
DAVID G. BEAUCHAMP AND )  
JANE DOE BEAUCHAMP, )  
husband and wife, )

Defendants. )

-----  
ORAL DEPOSITION OF  
WARREN BUSH  
MARCH 20, 2019  
-----

ORAL DEPOSITION OF WARREN BUSH, produced as a  
witness at the instance of the DEFENDANTS, and duly  
sworn, was taken in the above-styled and numbered cause  
on March 20, 2019, from 10:14 a.m. to 1:09 p.m., before  
Kimberly Byrns Buchanan, CSR, RPR in and for the State  
of Texas, reported by machine shorthand, at the Marriott  
Solana, 1301 Solana Boulevard, Westlake, Texas 76262,  
pursuant to the Arizona Rules of Civil Procedure and the  
provisions stated on the record or attached hereto.

A P P E A R A N C E S

FOR THE PLAINTIFF:

Mr. Geoffrey M.T. Stuff (via videoconference)  
OSBORN MALEDON, P.A.  
2929 North Central Avenue  
21st Floor  
Phoenix, Arizona 85012-2793  
Tel: (602) 640-9377  
E-mail: gsturr@omlaw.com

FOR THE DEFENDANTS, CLARK HILL PLC, a Michigan Limited  
Liability Company; DAVID G. BEAUCHAMP AND JANE DOE  
BEAUCHAMP, husband and wife:

Mr. John E. DeWulf (via videoconference)  
COPPERSMITH BROCKELMAN PLC  
2800 North Central Avenue  
Suite 1900  
Phoenix, Arizona 85004  
Tel: (602) 224-0999  
E-mail: jdewulf@cblawyers.com

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P R O C E E D I N G S

THE REPORTER: We are on the record.

Would counsel please state their  
appearances, and then I will swear in the witness.

MR. DEWULF: John DeWulf for Defendants,  
Clark Hill and David Beauchamp.

MR. STURR: Geoffrey Sturr of Osborn  
Maledon for the Plaintiff, the Receiver, Peter Davis.

THE REPORTER: Thank you.

WARREN BUSH,  
having been first duly sworn, testified as follows:

EXAMINATION

BY MR. DEWULF:

Q. So, Mr. Bush, off the record you told me that  
you were comfortable with being addressed as Warren?

A. Yes.

Q. Is that right?

A. Yes.

Q. All right. So let me talk to you a little bit  
about the process.

Have you been deposed before?

A. Yes.

Q. On multiple occasions?

A. No. About 50 years ago.

Q. Okay. There are a couple of things that I

1 think will make things more efficient if we can both be  
2 mindful of them. Number one is the Court Reporter will  
3 have a difficult time keeping track if we are both  
4 speaking at the same time. So we need to extend the  
5 courtesy to one another to allow the other to complete  
6 speaking before we speak. 10:15

7 Do you understand that?

8 A. Yes.

9 Q. And my questions today are intended to explore  
10 with you your knowledge and memory about certain events. 10:15  
11 If my questions are difficult to understand, will you  
12 let me know and I'll rephrase them?

13 A. Yes.

14 Q. Now, if you answer the question I ask you, I  
15 will assume that you understood the question. Is that 10:16  
16 fair?

17 A. Yes.

18 Q. We try to break about every hour or so, but if  
19 you need to break more frequently than that, just let us  
20 know. Whatever your needs are, just let us know and 10:16  
21 we'll be happy to accommodate them.

22 We appreciate you making the trip there to  
23 Westlake and being available today. So just let us  
24 know. All right?

25 A. All right. 10:16

1 Q. Your responses will need to be audible so the  
2 Court Reporter can hear you, and they'll need to be  
3 verbal so she can understand you. So uh-huh, huh-uh,  
4 those kinds of things are difficult to understand and  
5 transcribe. So will you work on that --

10:17

6 A. Yes.

7 Q. -- to the best of your ability?

8 A. Yes.

9 Q. Okay. The other thing is the -- well, I lost  
10 my train of thought, so let me move on.

10:17

11 I have some background information for  
12 you, but not a lot.

13 You're currently retired, right?

14 A. Right.

15 Q. When did you retire?

10:17

16 A. 2004.

17 Q. And you currently reside in Southlake, Texas?

18 A. No. Fort Worth, Texas.

19 Q. All right. And how long have you been living  
20 in Fort Worth?

10:17

21 A. Two and a half years.

22 Q. Where did you move from?

23 A. Albuquerque, New Mexico.

24 Q. Now, I know you're a CPA, right?

25 A. Right.

10:18

1 Q. And you've kept your CPA status current?

2 A. I've been a Texas CPA for over 50 years, but my  
3 license is in retired status.

4 Q. All right. Could you summarize for me -- well,  
5 where did you graduate high school? Did you graduate in  
6 Albuquerque? 10:18

7 A. Las Cruces, New Mexico.

8 Q. And then where did you attend college?

9 A. New Mexico State University.

10 Q. Did you -- was your degree in accounting? 10:18

11 A. It was in business administration with a  
12 concentration in accounting.

13 Q. Okay. Any post-college education?

14 A. No formal degrees, just numerous seminars,  
15 etcetera, from my employers. 10:19

16 Q. Now, I want to talk to you about your kind of  
17 career path.

18 I know you were a bank officer at one  
19 point, and I know you worked with the FDIC for a number  
20 of years. But could you summarize for us in a narrative  
21 fashion what you did after you graduated New Mexico  
22 State, bringing us up to the point you retired in 2004? 10:19

23 A. Yes.

24 My first job was with a Big Eight CPA firm  
25 in El Paso, Texas, Peat Marwick Mitchell at the time. I 10:19

1 was an auditor.

2 I was about to be drafted for Vietnam, and  
3 I chose to go to Air Force officer training school. I  
4 was commissioned and became the accounting and finance  
5 officer at Sewart Airforce Base in Tennessee. 10:20

6 I applied to be an auditor and was  
7 accepted and transferred to Kirtland Air Force Base in  
8 New Mexico.

9 I was offered an early out of the Air  
10 Force when they were winding down Vietnam, so I got out 10:20  
11 at the end of '69 and went back to my former employer in  
12 El Paso, Peat Marwick Mitchell, and continued as an  
13 auditor. And I went to work for the largest client of  
14 that firm, Farah Manufacturing Company, and became an  
15 international accountant. They were starting 10:21  
16 international operations.

17 From there, I took a somewhat similar job  
18 with Sonoco Manufacturing Company in Hartsville, South  
19 Carolina. I was the administrative manager for the  
20 international division and did such things as 10:22  
21 consolidate the monthly financials and so forth and  
22 traveled overseas.

23 From there, I was employed by a large bank  
24 in Downtown Dallas. Due to my international experience,  
25 I was the division controller for their international 10:22

1 division and did accounting and analytical work for  
2 InterFirst Bank Dallas.

3 Q. Warren, could I ask you roughly what year would  
4 that have been that you would have joined InterFirst?

5 A. I got out of the Air Force the beginning  
6 of '70 -- around 1980 probably. 10:23

7 Q. And on behalf of Jeff and me, thank you for  
8 your service to the country, the time you spent there.

9 So resume, if you could, after joining  
10 InterFirst in roughly 1980, what did you do then? 10:23

11 A. Okay. All of the -- that job lasted four or  
12 five years, I believe.

13 And all of the large Downtown Dallas banks  
14 failed in the -- around '85, '86, maybe a little later.

15 So InterFirst merged with First Republic. North  
16 Carolina National Bank bought them out when the  
17 combination failed and I believe went on to be Bank of  
18 America. 10:24

19 I briefly worked for a savings and loan in  
20 Lubbock, Texas, for less than a year. I was hired by a  
21 former boss of mine from the bank. The name of the  
22 savings and loan was Briarcroft. They moved the  
23 headquarters to Austin, I believe. I had never moved  
24 the family to Lubbock so I -- that job terminated. 10:24

25 And, from there, I applied to work for the 10:25

1 FDIC in a temporary position. They were hiring, and I  
2 was hired as a liquidation specialist, which meant that  
3 they would take the loans of the failed banks, create  
4 receiverships, and we would do what we could to pay back  
5 the bank insurance fund.

10:25

6 So during that period of temporary  
7 employment -- I forget what the official category was  
8 called -- I closed probably 10 or 15 banks. I was  
9 working out of Bossier City Louisiana. And I --

10 Q. And roughly what time frame are we talking  
11 about, Warren, that time when you were closing banks for  
12 FDIC?

10:26

13 A. Late '80s.

14 And then I applied for a permanent  
15 position with the FDIC, and I was hired by the Office of  
16 Inspector General for the FDIC. And I spent the last  
17 maybe 15 years of my career in that capacity auditing  
18 the various processes, liquidation, bank examinations.

10:26

19 And the final two years I spent on  
20 assignment with the Assistant U.S. Attorney in Denver.  
21 I would travel to Denver weekly. And we had a special  
22 office, including FBI agents, investigators for the FDIC  
23 Inspector General, and IRS special agents.

10:27

24 We were working on a bank failure out of  
25 Boulder that was the result of a massive fraud and Ponzi

10:28



1 scheme.

2 And from that job I retired in about 2004.

3 Q. Did you own property in Arizona at some point  
4 in time?

5 A. Yes.

10:28

6 Q. When?

7 A. I bought a condo in 2010, I believe, as a  
8 result of the DenSco investment, which started in about  
9 2005.

10 And, basically, it was going very well, so  
11 my wife and I decided we would do something specific  
12 with that money.

10:29

13 Q. What was the name of the condo development?

14 A. Cachet at the Legacy Golf Resort.

15 Q. And where was it, Warren?

10:29

16 A. In Phoenix, basically at the corner of Baseline  
17 and 32nd, I believe.

18 Q. 32nd Street?

19 A. I think so.

20 I forget the distinction whether it was  
21 Street or Avenue. I know there's both.

10:29

22 Q. Streets being east of Central and avenues being  
23 west of Central, does that help you at all?

24 Was it near Ahwatukee?

25 A. Yes. It was east of Central.

10:30

1 Q. All right. And did you sell that property at  
2 some point?

3 A. Yes.

4 Q. Do you remember when you sold it?

5 A. I sold it at the beginning of 2016.

10:30

6 Q. You mind me asking why?

7 A. No, I don't mind.

8 It was basically because we had been there  
9 and done that for five or so years, and it sort of kept  
10 my wife and I from traveling different places because we  
11 owned and were paying for the condo, so we would tend to  
12 go there rather than anyplace else.

10:30

13 MR. DEWULF: So let's look at that first  
14 document in the stack, Kim. It should be a March 22,  
15 2005, letter on DenSco letterhead.

10:31

16 Q. (BY MR. DEWULF) Do you have that document?

17 A. Yes.

18 MR. DEWULF: Kim, can we mark that as 818?

19 (Exhibit 818 marked.)

20 Q. (BY MR. DEWULF) So the beginning of this  
21 letter, Warren -- and, again, it's sent by Denny  
22 Chittick and it says to you on March 22,  
23 2005 -- (reading): I'm not sure what my dad has told  
24 you about what DenSco is all about. You've known him  
25 for a long time. You have to consider the source!

10:31

10:32

1                   The reading of the letter makes me think  
2                   that you would have known Denny Chittick's father, who I  
3                   think is Eldon Chittick, prior to 2005. Is that a true  
4                   statement?

5           A.    My wife and I went to college with Eldon and                   10:32  
6           his wife, Carleen.

7           Q.    And Eldon's wife is Carleen, and that's spelled  
8           C-a-r-l-e-e-n?

9           A.    I think so.

10          Q.    And so they went to New Mexico State as well?                   10:33

11          A.    Yes.

12          Q.    And so by the time that Exhibit 818, which is  
13               dated March 22, 2005, rolls around, do you know about  
14               DenSco and do you know about it as an investment  
15               opportunity?   10:33

16          A.    I was told about DenSco by Eldon, Denny's  
17               father.

18          Q.    And you ultimately chose to invest with DenSco  
19               with your wife Fay, correct?

20          A.    Correct.   10:33

21          Q.    Now, let me just circle back just for a moment.

22                       You were born in 1940?

23          A.    Yes.

24          Q.    And your wife is Fay?

25          A.    Yes.   10:34

1 Q. I don't want to embarrass you, but you remember  
2 what year you got married?

3 A. Yes. 1963.

4 Q. 1963?

5 A. Yes.

10:34

6 Q. All right. And do you have any children?

7 A. Two.

8 Q. Can you give us their names and their ages?

9 A. Joanna was born in 1967, and Matthew was born  
10 in 1970.

10:34

11 Q. So let's go back to Exhibit 818.

12 Can you explain to us why you chose to  
13 invest in DenSco?

14 A. Well, the investment was introduced by Eldon,  
15 and he knew that I had an interest in investing in the  
16 stock market, and he thought DenSco would be a good fit,  
17 having invested himself with other family and friends.

10:35

18 Q. When you chose to invest in DenSco, did you  
19 discuss with Denny Chittick his business model, how it  
20 went about lending money, and those kinds of things?

10:35

21 A. Yes.

22 Q. Do you remember what Denny Chittick told you  
23 about his lending practices and procedures?

24 A. Denny had a new-investor notebook that laid it  
25 all out in some detail. It had all the forms and so

10:36

1     forth. It had the business model. It had a  
2     introduction page, which summarized the business, quick  
3     facts and history, etcetera, etcetera. So it was all  
4     laid out in the manual.

5           Q.     So let me ask about that because I've seen a  
6     lot of documents in this case. I'm not sure I've seen a  
7     notebook, and I'm just trying to get a sense of what  
8     that might be.

10:36

9                     You know there were Private Offering  
10    Memoranda that were provided to investors every two  
11    years or so, but this notebook you're describing, that's  
12    something different than the POM?

10:37

13          A.     The POM was undoubtedly part of that or  
14    separate.

15                    The notebook was a typical one-inch binder  
16    with tabs, forms; the explanation of what an accredited  
17    investor was; the business model.

10:37

18                    And, like I say, either the POM was part  
19    of that or provided along with that.

20          Q.     Let me focus on what he -- what Denny Chittick  
21    either told you or what he provided you in writing about  
22    his lending practices.

10:37

23                    Did he talk to you about securing the  
24    loans he made with deeds of trust?

25          A.     Always first leads.

10:38

1 Q. Did he talk to you about Loan To Value ratios?

2 A. That was disclosed at about 70 percent.

3 Q. Did he talk to you about diversification, that  
4 is, not concentrating too many loans with any particular  
5 borrowers, that kind of thing?

10:39

6 A. That was part of the POM as well. The maximum  
7 concentration, I believe it was a million dollars.

8 The other thing that was interesting in  
9 the first POM is the fact that Denny guaranteed to lose  
10 himself, if there were losses, the first million  
11 dollars. And since, at the time I first invested, it  
12 was only up to five or six million -- I believe it was  
13 under ten -- the million-dollar guarantee was  
14 significant.

10:39

15 Q. So would that be a loss on a particular loan?  
16 Is that what you're talking about?

10:39

17 A. No.

18 As you know, the notes are General  
19 Obligation Notes. They're not tied to any particular  
20 property, which, to me, is a good thing because you're  
21 spreading the risk.

10:40

22 So the point is, if there were losses, he  
23 would take the first million-dollar hit.

24 Q. Do you know how that million dollars was held?  
25 Was it held in the name of DenSco or was it in a line of

10:40

1 credit? Do you have any idea?

2 A. No.

3 But my assumption was he started the  
4 business with his own investment of one or two million.  
5 He gathered two or three more from family and friends.  
6 So it would have been part of the capital of the  
7 business, so to speak.

10:40

8 Q. Did he talk to you about how he would fund the  
9 loan? In other words, to whom would he provide the  
10 money in connection with the loan and that kind of  
11 thing?

10:41

12 A. I don't know the details of the process. I  
13 certainly didn't know it at the time. But it was  
14 whatever the process required to obtain the first lien.

15 Q. Did he ever talk to you about providing the  
16 loan money directly to the borrower as opposed to  
17 providing the money to a third party, such as a escrow  
18 company or a title company or a trustee?

10:41

19 A. No.

20 Q. So you -- the providing of the funds for the  
21 loan was done in a way that would assure DenSco of  
22 having a first-position deed of trust against the  
23 property?

10:41

24 A. Yes.

25 Q. Let's skip the next document in that stack and

10:42

1 skip the document after that.

2 And let's go to an exhibit that -- there's  
3 an e-mail dated September 21, 2009, from Denny Chittick  
4 to you. Do you see that?

5 A. I've got it. 10:42

6 Q. All right. Why don't you give that to Kim and  
7 let her mark it.

8 MR. DEWULF: That'll be 819.

9 (Discussion between the Reporter and  
10 Mr. Bush.) 10:43

11 (Exhibit 819 marked.)

12 Q. (BY MR. DEWULF) Warren, I'm mainly showing this  
13 as a point of reference for a couple of questions I  
14 wanted to ask you.

15 So these e-mails are dated September 10:43  
16 of 2009, and they primarily relate to kind of market  
17 information. Do you see that?

18 A. Yes.

19 Q. Now, there are a number of e-mails to you from  
20 Denny Chittick that contain market information on the 10:43  
21 Phoenix market.

22 Do you recall receiving a lot of that type  
23 of thing from him?

24 A. I'm reminded of it by these exhibits.

25 He provided a quarterly write-up on his 10:43



1 Web site, and I can't remember whether this market  
2 detail was part of that or separate from that.

3 Q. Okay. Was there a particular reason -- for  
4 example, these e-mails are just with you, as opposed to  
5 you and a number of other investors.

10:44

6 Was there any sort of situation or  
7 relationship you had with him regarding market  
8 information that was unique that you knew of?

9 A. I think Denny just thought that I was uniquely  
10 more interested in some of this than maybe some of the  
11 other investors.

10:44

12 Q. Did he ever come to you for advice about  
13 DenSco's business or how he went about lending money or  
14 anything like that?

15 A. No.

10:45

16 Q. Let me ask a broader question.

17 Did he ever come to you for advice about  
18 anything?

19 A. No.

20 Q. Do you know if anyone was giving Denny Chittick  
21 advice with respect to the business of DenSco?

10:45

22 A. Not to my knowledge.

23 Q. Okay. Did you ever gain any impression or  
24 opinion of him as to whether he actually wanted advice  
25 from anyone?

10:45

1 A. I don't think he wanted advice.

2 He seemed to know more about it than  
3 anybody, so he was the leader in this regard.

4 Q. Now, you say he seemed to -- and we've had a  
5 number of witnesses share with us that he was a really  
6 bright man and really good with numbers.

10:46

7 Sitting here today, do you still believe  
8 that he was someone who seemed to know what he was  
9 doing?

10 A. Yes. That was always my impression.

10:46

11 Q. So these e-mails in 819 relate to that  
12 2009 time frame. And, if you'll recall, the great  
13 recession hit in 2008-ish, and it hit Arizona really  
14 hard. But it appears from everything I've seen that  
15 DenSco was able to work its way through and survive that  
16 recession. Was that what you observed as well?

10:46

17 A. Yes.

18 I didn't necessarily think that that was a  
19 particular negative for DenSco because it provided more  
20 opportunity for the flippers. And as long as the  
21 Loan-To-Values were updated in the declining market,  
22 that was how that was handled. And I always thought of  
23 Denny as an expert in values by neighborhood.

10:47

24 Q. That reminds of a question I forgot to ask a  
25 moment ago.

10:48

1                   As he was explaining his business at  
2     DenSco to you as an investor, Warren, did he talk to you  
3     about the -- I'll call it due diligence -- but the  
4     research he did with respect to the properties that  
5     would secure the loans that DenSco was making? 10:48

6           A.     My understanding early on was that he would do  
7     a drive-by, sometimes with his father, and take pictures  
8     of the properties and post them on the Web site.

9                   Later, I learned that those properties  
10    were primarily examples of what he was lending on. The 10:48  
11    business moved so fast that he didn't attempt to update  
12    all of those pictures and properties as they turned  
13    over.

14          Q.     Let me try to break that down a little bit.

15                   So, as it relates to making the loans, 10:49  
16    though, your understanding was that he would drive by  
17    the property that would be the subject of the -- that  
18    was serve as security for the loans he was making?

19          A.     No. I don't think that's how he did his  
20    evaluation. That was maybe more for the purpose of 10:49  
21    posting the pictures on the Web site.

22                   He would determine the value of the  
23    property, add to it the amount he was going to loan, and  
24    then make sure that the Loan-To-Value was 70 percent.

25          Q.     Do you know what he did to determine the value? 10:50

1 Was it public records? Was it something else, market  
2 research?

3 A. No, I don't.

4 Q. Okay. The description you provided to us that  
5 Denny Chittick was sharing with you when you initially  
6 became an investor, did you ever learn that he changed  
7 his procedures and how he did loans at DenSco?

10:50

8 A. No.

9 Q. So do you think that he was following that  
10 format that you've described when you initially became  
11 an investor, that he followed that format up to the time  
12 that he passed away in 2016?

10:50

13 A. I thought he was.

14 Q. Have you since learn that had he wasn't?

15 A. Certainly.

10:51

16 Q. What have you learned since Mr. Chittick passed  
17 away in July of 2016 about his loan practices at DenSco?

18 A. Well, I've learned -- I've read most of the  
19 material that's on the Receiver's Web site.

20 I've learned that he did not maintain his  
21 loyalty to investors and family. And, of course, I  
22 learned that he did not obtain first liens.

10:52

23 Q. Did you ever, Warren, meet any of DenSco's  
24 borrowers?

25 A. Yes.

10:52

1 Q. Who did you meet?

2 A. I attended a number of the MOMs meetings  
3 whenever I was in town, and that was more borrowers than  
4 investors in attendance.

5 Q. Do you remember any names of any borrowers you 10:53  
6 met at these meetings?

7 A. Miller Blackford, Kevin Potempa, Don Kimble,  
8 Bennett Caudle. That's all of the names that come to  
9 mind right now.

10 Q. So for someone who is not familiar with this 10:53  
11 MOMs meeting idea, that was a get-together that Denny  
12 would organize where he brought borrowers together with  
13 folks who were involved in home improvements and fixing  
14 properties up and that kind of thing, right?

15 A. Yes. 10:54

16 And sometimes there would be a guest  
17 speaker like someone who took pictures of homes, did  
18 staging.

19 There was a representative --

20 Q. So -- 10:54

21 A. -- once from Home Depot that explained the  
22 concessions they give to contractors and so forth.

23 Q. You used the word "flipper" a moment ago when  
24 you were talking about the -- in response to one of my  
25 questions. And the term "flipper," is that the idea 10:54

1 where a borrower of DenSco would use a loan to buy a  
2 property and would then quickly sell it to a third party  
3 or maybe fix the property up and then sell it to a third  
4 property, and they usually do that in a fairly quick  
5 time frame?

10:55

6 A. The idea was that the buyer would fix up the  
7 property and remarket it, and typically that would  
8 happen in a three- to four-month period.

9 Q. So I started out talking to you about DenSco  
10 working its way through the recession. Do you remember  
11 how it did that?

10:55

12 A. No.

13 I never took particular note of that  
14 because of the fact that there were more properties  
15 available at the auction, and it was perceived by me as  
16 a opportunity.

10:55

17 There were some properties that were taken  
18 back, and he would rent them for a period of time. And  
19 notably, there was a 12-plex that he lent on that took  
20 some time to liquidate.

10:56

21 Q. Understand.

22 All right. So let's go back to the  
23 documents. The next document in the stack that I have  
24 relates to this individual named Doug Vaughn, who I  
25 think did business in Albuquerque. And we're not going

10:56

1 to mark that document.

2 Turn to the next document and we're going  
3 to mark it. It is an e-mail at the top that's dated  
4 March 8, 2010. Do you see that?

5 A. Yes.

10:57

6 MR. DEWULF: So let's mark that, Kim.

7 (Exhibit 820 marked.)

8 Q. (BY MR. DEWULF) So I want to focus, if I could,  
9 Warren, on the e-mail that starts at the top of the  
10 first page from Denny Chittick to you dated March 8,  
11 2010. He says: It says seconds. I'm not sure how big  
12 of that was his business but that's risky as hell.

10:57

13 Is he referencing here to the idea that  
14 this Vaughn -- Doug Vaughn character was providing  
15 investors second-position deeds of trust?

10:58

16 MR. STURR: Objection; form. Foundation.

17 A. Yes. That's what he means by that.

18 Q. (BY MR. DEWULF) I'm sorry. Say again.

19 A. That's what he means by that, second liens  
20 rather than first liens.

10:58

21 Q. Okay. So this would convey that Denny, in  
22 observing this fact -- and did Vaughan end up getting  
23 later prosecuted? Do you remember?

24 A. Yes, and imprisoned.

25 Q. And was he perpetrating a Ponzi scheme?

10:58

1 A. Yes.

2 Q. So Denny Chittick's comment about seconds is  
3 that he's observing that being in a second-position deed  
4 of trust is risky because there may not be sufficient  
5 value in the property to provide security for the loan. 10:59  
6 Is that fair?

7 A. It's far more risky because any first has to be  
8 paid off before the second gets any money.

9 Q. Understand.

10 Let me ask a broader question, Warren, 10:59  
11 while we're talking about this document.

12 Was there any doubt in your mind that  
13 Denny Chittick understood the fundamentals of good  
14 hard-money lending at least as early as 2005 when you  
15 first became an investor? 10:59

16 A. No doubt in my mind.

17 Q. So he knew the right thing to do to make sure  
18 that when investors entrusted him with their money that  
19 he would use it in a prudent way to make sure that they  
20 were protected on the -- that the DenSco loans were 10:59  
21 protected and properly secured, correct?

22 A. Correct.

23 Q. And for -- well -- and we'll look at some  
24 documents, and I know you've seen them also.

25 But really up to 2011 or 2012, he and 11:00



1 DenSco had had tremendous success just doing the basics  
2 of making sure that the monies were handled and  
3 safeguarded, that there were first-position deeds of  
4 trust, and that there were proper Loan-To-Value ratios?

5 MR. STURR: Foundation.

11:00

6 A. Yes.

7 And I remember one time I asked Denny  
8 specifically. I said, Denny, have you ever messed up  
9 and learned after the fact that you didn't really have a  
10 first lien when you thought you had?

11:00

11 And, of course, it doesn't matter if you  
12 got paid, but I asked the question just to see how tight  
13 the process was. His answer was no.

14 Q. Do you remember when you asked that question?

15 A. No.

11:01

16 Q. You choose to invest in 2005. But, according  
17 to the records I've seen, Denny Chittick started doing  
18 business through DenSco in, I think, around 2001. Is  
19 that consistent with your memory?

20 A. I didn't know about DenSco at the time.

11:01

21 Q. You didn't talk to Denny's parents about DenSco  
22 before 2005?

23 A. Not much before.

24 Once I was --

25 Q. Okay.

11:01

1           A.    -- offered the investment, so to speak, I did  
2   it fairly quickly.  It was not a long several-year  
3   process.

4           Q.    When you did choose to invest in 2005, did you  
5   do any research about DenSco's performance prior to you  
6   making your investment, in other words what the historic  
7   performance had been of the company?

11:02

8           A.    I read the POM.

9           Q.    And the POMs will typically provide some  
10  history of performance, right, to share with the  
11  prospective investor?

11:02

12          A.    Very detailed.

13          Q.    So let's go to the next document.  I'm not  
14  going to mark it yet.  It's a e-mail dated March 18,  
15  2010.  Do you see that?

11:03

16          A.    Yes.

17          Q.    Reed Smith, Jeff Phalen, yourself, and Jan  
18  van Campen, correct?

19          A.    Correct.

20          Q.    Was there anything in 2010 unique about that  
21  group that you would receive a separate e-mail from him?

11:03

22          A.    No.

23                   I don't specifically remember these  
24  people, although I've seen their names often.

25          Q.    So let me digress for a moment.  But I think

11:03

1 I've been able to discern from the documents that were a  
2 few individuals that you introduced the idea of a DenSco  
3 investment to, and those were Ralph Haight, Tony  
4 Burdette, and Van Butler. Is that right?

5 A. Correct, correct. 11:04

6 Q. And let me ask you: How did you know Ralph  
7 Haight?

8 A. Through a senior golf group in New Mexico.

9 Q. And how did you know Tony Burdette?

10 A. Tony worked for me back in -- at Farah 11:04  
11 Manufacturing. And we had not kept up with each other,  
12 but we got reacquainted when he called me after Farah  
13 had had sort of a reunion of certain employees. I did  
14 not attend, but Tony did and he tracked me down.

15 Q. And how did you know Van Butler? 11:04

16 A. Same golf group in New Mexico.

17 Q. So let's skip the next document and I -- for  
18 now, let's set aside the subscription agreement.

19 That next document in that stack has your  
20 name handwritten on the first page, and then it has a 11:05  
21 subscription agreement contained in the document. Let's  
22 put that aside for a moment. Okay?

23 And let's get the next document. This has  
24 to do with Mr. Burdette's decision to invest. Let's  
25 look at the document, which is dated August 9, 2010. 11:05

1 It's an e-mail from Denny to you, Subject, Suitability  
2 Question. Do you see that document?

3 A. Yes.

4 MR. DEWULF: Kim, could you mark that?

5 (Exhibit 821 marked.)

11:06

6 Q. (BY MR. DEWULF) So the Document says: Dave  
7 just called, he said it's been a guide line but never  
8 requirement because of the stipulation that you can no  
9 longer count home equity, he believes it will be dropped  
10 from the guidelines.

11:06

11 I believe this is referencing David  
12 Beauchamp as it relates to David communicating with  
13 Denny Chittick about investors and guidelines for  
14 investing in a -- what would be an unregistered  
15 security.

11:07

16 Is that what you understand that to  
17 reference?

18 A. This has to do with the definition of an  
19 accredited investor, which is an SEC guideline.

20 Q. All right. I want to ask you about David  
21 Beauchamp. This prompts the question.

11:07

22 Did David -- or I'm sorry.

23 Did Denny Chittick ever talk to you about  
24 David Beauchamp?

25 A. I met David Beauchamp at the first investor's

11:07

1 party that I attended, which may have been the spring of  
2 2006.

3 Q. Did you meet him any other time?

4 A. No.

5 Q. Did you speak with David Beauchamp at that  
6 investor party?

11:07

7 A. I did.

8 Q. Do you remember what you talked about?

9 A. Yes. I was, at the time, handling my aging  
10 mother's finances, doing stock market investments and so  
11 forth. And my mother would not have met the \$1 million  
12 net worth requirement for the DenSco investment, and I  
13 was talking to David about was there any way that I  
14 could invest her money and bring her in and I would step  
15 in for her as the guarantor for the \$1 million  
16 requirement.

11:08

17 Q. Do you remember what he told you?

18 A. Basically, no.

19 Q. Did you have any other conversations with David  
20 other than the one you've just described?

11:09

21 A. No.

22 Q. Did -- do you recall -- back to my earlier  
23 question, do you remember Denny Chittick ever sharing  
24 information with you about David Beauchamp?

25 A. In regard to the POM and my offer to read it

11:09

1 for Denny as -- from an investor's viewpoint.

2 Q. And what do you recall Denny sharing with you  
3 about David Beauchamp?

4 A. I just remember David was on some of the  
5 e-mails back and forth regarding the POM. 11:10

6 Q. All right. And let me ask about that. And  
7 we've put in this stack of document -- I'm not  
8 necessarily going to mark them as exhibits, but it looks  
9 like you were involved in reviewing the language in the  
10 2011 Private Offering Memorandum and the 2013 Private 11:10  
11 Offering Memorandum. Is that correct?

12 MR. STURR: Object to the form and  
13 foundation.

14 A. I believe that's correct.

15 Q. (BY MR. DEWULF) All right. And you said a 11:11  
16 moment ago, Warren, you used the word from an  
17 "investor's viewpoint" or an "investor's standpoint."  
18 Could you explain that to us?

19 What was your objective in reviewing the  
20 language in the POM? 11:11

21 A. I thought about why I got involved in that in  
22 the first place, and I cannot remember. However, Denny  
23 knew that I was the type that would read it word for  
24 word.

25 And also, at some point, there had been a 11:11

1 dispute with Tony regarding some of the language in  
2 there. And I can't remember whether that occurred  
3 before or after I was involved in reading the POM.

4 But, nevertheless, I offered to do that as  
5 a favor to Denny to make sure that it read appropriately 11:12  
6 from an investor's viewpoint. Denny --

7 Q. Do you know if anyone else -- I'm sorry. Go  
8 ahead?

9 A. Denny was not a particularly good writer.

10 Q. Was there anyone else other than you, Denny 11:12  
11 Chittick, and David Beauchamp, and perhaps the  
12 accountant, to your knowledge, that was involved in  
13 reviewing the language of the POM or any version of the  
14 POM?

15 A. No. 11:13

16 Q. Okay. So it would be fair to say that by 2011  
17 Denny Chittick had grown to trust your judgment  
18 sufficiently to have you involved in drafting -- or  
19 helping to draft important documents for him?

20 A. I think that overstates it quite a bit. 11:13

21 My involvement was an after-the-fact  
22 reader once it was prepared. And the purpose was to  
23 clarify anything that didn't seem to make sense to me.

24 And I can't remember specifically those  
25 clarifications, but there were not too many. But I 11:13

1 believe most of them were accepted as I had offered  
2 them.

3 Q. So let me talk to you again about David  
4 Beauchamp for a moment.

5 After Denny Chittick's death in July 11:14  
6 of 2016, did you ever communicate by phone or in person  
7 with David Beauchamp?

8 A. No.

9 Q. There were some e-mails that were exchanged  
10 with you and other investors and Mr. Beauchamp. Do you 11:14  
11 recall that?

12 A. I was reminded of them when you provided me  
13 with the documents. I would not have remembered those  
14 specific e-mails.

15 Q. Do you have sitting here today, Warren, any 11:14  
16 complaints or criticisms of David Beauchamp based on  
17 what you know?

18 A. Well, yes. I read the lawsuits.

19 Q. And what is your view of the criticism? What  
20 is your criticism of him? 11:15

21 A. The most glaring problem I can see has to do  
22 with the forbearance agreement.

23 And then, otherwise, there's this  
24 confusion as to who was his client, in other words,  
25 whether it was DenSco, Denny, or after his death, his 11:15



1 involvement. Looking back on that, I can see the  
2 conflicts.

3 Q. Let me ask you about the forbearance agreement.

4 Is your view that they -- DenSco should  
5 not have entered into a forbearance agreement?

11:16

6 A. Definitely.

7 Q. Were you aware of the fact that Denny Chittick  
8 had already started an oral agreement with Scott Menaged  
9 before Denny -- David Beauchamp and his law firm got  
10 involved?

11:16

11 A. No.

12 Q. All right. The conflicts -- you understand  
13 there is a provision in the Private Offering Memorandum  
14 that essentially says that David Beauchamp is counsel to  
15 DenSco and Denny Chittick as its president? Do you  
16 recall that language?

11:16

17 A. Yes.

18 Q. Your memory and experience is that Denny  
19 Chittick was the primary actor for DenSco, right?

20 A. Right.

11:17

21 Q. In serving in his capacity as lawyer to DenSco,  
22 David Beauchamp would have to communicate to  
23 Mr. Chittick in his role as an officer and director of  
24 the entity?

25 A. Yes.

11:17

1 Q. All right. Let's look at the next document in  
2 the stack, which is a DenSco form that's a -- it's a  
3 statement of February 2011. Do you see that document?

4 A. Do you mean my investor statement?

5 Q. Yes.

11:17

6 A. Yes.

7 Q. That's it.

8 MR. DEWULF: Kim, could you mark that,  
9 please?

10 Off the record.

11:18

11 (Exhibit 822 marked.)

12 MR. DEWULF: So, Kim, why don't you mark  
13 822. We'll take a break.

14 How much time do you need, Warren? What  
15 would be a good break time?

16 THE WITNESS: Five minutes.

17 MR. DEWULF: All right. Let's resume in  
18 five minutes then.

19 Thanks, Kim.

20 THE REPORTER: Okay. Off the record.

21 (Break was from 11:18 a.m. to 11:24 a.m.)

22 Q. (BY MR. DEWULF) So I'm showing you 822, Warren.

23 A. Yes.

24 Q. And this is a DenSco form. It says it's a  
25 statement as of February 2011, and it shows a current

11:24

1 investment balance of \$217,809.59.

2 And on the investment history, it shows  
3 that you made an investment on March 31, 2005, of  
4 \$50,000; another investment on July 8, 2005, of \$50,000;  
5 and another investment on May 1, 2006, of \$20,000.

11:24

6 Does that appear accurate?

7 A. Yes.

8 Q. And then interest earned is shown on the lower  
9 right side of the document, and it shows the interest  
10 you would have earned for 2005 through 2011. Do you see  
11 that?

11:25

12 A. Yes.

13 Q. Or through February of 2011.

14 And you were one of those investors where  
15 your interest accrued year to year, correct?

11:25

16 A. Correct.

17 Q. And when we use that description, what we're  
18 saying is that you're not receiving interest payments  
19 either on a monthly or quarterly basis, but rather the  
20 interest that you earned on your principal is just held  
21 by DenSco and continues to accrue over time?

11:25

22 A. Yes.

23 Q. All right. And did you do any further  
24 investing beyond what's being described here?

25 A. No.

11:25

1 Q. All right. Was there a reason why you did not  
2 invest in DenSco after 2006?

3 A. Well, I'm involved in other investments, stock  
4 market and some oil royalties, and there was no negative  
5 reason why I didn't invest more. 11:26

6 But the 12 percent is attractive, when you  
7 subtract the taxes, it gets down to about nine percent,  
8 so I can do that well in the stock market.

9 Q. All right. Understand.

10 So let's skip the next page -- the next 11:26  
11 document. Skip the next document.

12 Let's go to a document, the fairly thick  
13 document. It's dated April 8, 2011, at the top. Do you  
14 see that?

15 A. Yes. 11:27

16 Q. Could you have that marked by Kim?

17 (Exhibit 823 marked.)

18 Q. (BY MR. DEWULF) Warren, I'm showing you 823.  
19 And this is, again, market information being shared with  
20 you. It also shows it's being provided to your 11:27  
21 wife -- oh, I'm sorry, to Jeff Phalen, Tony Saundra  
22 Smith. But it has to do with the market in early 2011.

23 You've had an opportunity to review this  
24 document?

25 A. I've leafed through it. 11:28

1 Q. Do you remember -- in this e-mail that starts  
2 at the top of that first page, Denny Chittick is  
3 describing to you the fact that it's been a busy month,  
4 and it looks like he was referring to the March 2011  
5 month.

11:28

6 He says: I typically do 25 to 30 deals a  
7 month. I did 76 last month. First week of April, 34.

8 Do you recall that time frame of early  
9 2011 being a time when DenSco was very, very active in  
10 making loans?

11:28

11 A. No.

12 Q. Okay. Do you remember anything about early  
13 2011 as it relates to DenSco?

14 A. No.

15 Q. All right. So let's go to -- well, let's skip  
16 the next document.

11:29

17 And the one after that document relates to  
18 the 2011 private offering memorandum. Do you see that?

19 A. What's the date?

20 Q. It's dated June 11, 2011.

11:29

21 A. Yes.

22 Q. All right.

23 MR. DEWULF: And so let's mark this just  
24 for reference, Kim.

25 (Exhibit 824 marked.)

11:29

1 Q. (BY MR. DEWULF) I just -- earlier in your  
2 deposition, Warren, I asked you about your involvement  
3 with DenSco in connection with reviewing and revising  
4 portions of the language in the POM. Do you recall that  
5 area of testimony?

11:30

6 A. Yes.

7 Q. How did you communicate to Denny Chittick the  
8 modifications or clarifications that you thought would  
9 be helpful?

10 A. E-mail.

11:30

11 Q. And did you just send him the summary of the  
12 things you thought should be changed or did you actually  
13 redline the document?

14 A. I didn't redline. I just communicated by  
15 e-mail. I didn't actually work on the document.

11:30

16 Q. All right. Let's skip the next document, and  
17 let's go to a document that is dated June 20, 2011.

18 A. Okay.

19 (Discussion off the record.)

20 Q. (BY MR. DEWULF) I'm mainly showing this to you,  
21 Warren, because it contains some calculations on it and  
22 it relates to, I think, a monthly statement that was  
23 being provided to you.

11:31

24 And it appears that, in your review of the  
25 statement, you thought that might be inaccurate. Is

11:31

1 that right?

2 A. Correct.

3 Q. And Denny Chittick responded at the top of that  
4 first page, and he goes through all the calculations,  
5 and he basically agrees there was a miscalculation. His 11:31  
6 spreadsheets were correct. But he didn't communicate  
7 that in his statement to you?

8 A. Correct.

9 Q. Well, my purpose in asking about this document  
10 is to show that what -- were you generally observing 11:32  
11 that Denny Chittick was adept at numbers and  
12 calculations?

13 A. Yes.

14 Q. Did you ever talk to him about how he kept  
15 track of everything? 11:32

16 A. Just in general.

17 He would maintain elaborate Excel  
18 worksheets.

19 Q. Did he ever share with you and -- did you ever  
20 meet David Preston, his CPA? 11:32

21 A. Yes.

22 Q. How did you meet him?

23 A. David attended the yearly investor's parties in  
24 the spring.

25 Q. Did you ever learn what David Preston was doing 11:33

1 for DenSco?

2 A. Yes.

3 Q. What did you learn?

4 A. He prepared the 1099s for the interest. He  
5 prepared the tax returns. 11:33

6 Q. Do you know if anyone did periodic financial  
7 statements for DenSco?

8 A. I don't know that a third party did. I believe  
9 Denny did his own.

10 Q. Were any financial statements of DenSco ever 11:33  
11 shared with you?

12 A. Nothing other than what was contained in the  
13 quarterly updates and the POMs, which were not complete  
14 financial statements.

15 Q. Do you know if Denny ever used -- the POM, if 11:34  
16 you'll recall, indicates that he might use consultants  
17 or third parties to help him at DenSco.

18 Did you ever become aware of Denny ever  
19 using any persons to help him at DenSco?

20 A. I believe his wife, when they were married, 11:34  
21 helped him some.

22 Q. Anybody else?

23 A. Nobody other than the backup guy. I can't  
24 remember his name right now.

25 Q. Robert Kohler? 11:35



1 A. Yes.

2 Q. Did you ever meet Robert Kohler?

3 A. Yes.

4 Q. Did you ever communicate with him?

5 A. No.

11:35

6 Q. You remember how you met him?

7 A. At one of the investor parties in the spring.

8 Q. Okay. Did -- you know Mr. Kohler is referenced  
9 in the POM. Do you recall that?

10 A. Yes.

11:35

11 Q. And did you understand that Mr. Kohler -- in  
12 the event something were to happen to Denny Chittick,  
13 Mr. Kohler would step in to help with DenSco's business?

14 A. Yes, to unwind it.

15 Q. Did you ever talk to Denny Chittick about  
16 Robert Kohler?

11:35

17 A. No.

18 Q. Let's skip the next document in the stack,  
19 Warren. And let's look at the next document. And I'm  
20 not going to mark it.

11:36

21 But there's a reference to LLR paragraphs  
22 in the POM. And I wasn't quite sure if that relates to  
23 risk factors or something else. What is LRR -- or, I'm  
24 sorry, LLR reference?

25 A. That's the June 20th e-mail?

11:36

1 Q. Yeah, it's June 20th.

2 If you look halfway from Gus Schneider,  
3 the lawyer, he -- and I think your -- well, they forward  
4 the e-mail to you. But there's a reference to an LLR  
5 paragraph found on pages 16 and 26. I just didn't know 11:36  
6 if you know what that refers to.

7 A. Not offhand.

8 Q. All right. Let's look at the next document.  
9 Skip that.

10 There's a subscription agreement. And 11:37  
11 given what we saw earlier with the exhibit which related  
12 to the total investments you made being completed in  
13 2006, here's the document that relates to investment in  
14 2011. But I take it this document was never signed by  
15 you? 11:37

16 A. What I have is not signed by me.

17 But I think what this is about is, when  
18 the notes would mature, there would be a redo of the  
19 notes.

20 Q. Understand. All right. That helps me. So 11:38  
21 we'll get to some documents later which will -- that  
22 helps as background and -- for a couple of questions. I  
23 appreciate that.

24 Lets skip the next document.

25 Let's go to a document that is dated 11:38

1 August 4, 2011, an e-mail from Denny Chittick to you.

2 Do you see that?

3 A. Yes.

4 (Sotto voce discussion between Mr. DeWulf  
5 and Mr. Sturr.)

11:38

6 MR. DEWULF: Kim, could you mark that as  
7 an exhibit?

8 (Exhibit 825 marked.)

9 Q. (BY MR. DEWULF) So Exhibit 825 is an e-mail  
10 from Denny Chittick to you dated August 4, 2011. Do you  
11 see that?

11:39

12 A. Yes.

13 Q. Paragraph 1, Number 1, he says: I have  
14 330 loans, all current.

15 And the next paragraph, Number 2 -- and  
16 then it goes on to say other things.

11:40

17 And then the next paragraph, Number 2, it  
18 says: I have turned down 2 million worth at loans in  
19 the last 47 hours because I'm out of cash. I would have  
20 done every one of them. I have 700,000 planned to be  
21 reserved, plus 500,000 in my account reserved. Another  
22 500,000 ready to be deployed to guys that buy with cash  
23 and just want me to take them out of it when I can.

11:40

24 Did I read that correctly?

25 A. Yes.

11:40

1 Q. So I wasn't clear about what he was saying and  
2 maybe, because you were communicating with him, you can  
3 understand.

4 I think what he's saying here is that he  
5 has a lot of borrowers who want loans, but he's turning 11:40  
6 them down because he doesn't have the cash from  
7 investors to make the loans?

8 A. Correct.

9 Q. But then he goes on, and he says he's got  
10 700,000 planned to be reserved. Do you know what he's 11:41  
11 saying there?

12 A. My guess would be that sometimes guys would pay  
13 him interest to keep the cash reserved before they  
14 needed it.

15 Q. As a borrower, you mean? 11:41

16 A. A borrower would.

17 Q. Okay. And then he says: Plus 500,000 in my  
18 account reserved. And another 500,000 ready to be  
19 deployed.

20 So this is money he's holding back to be 11:41  
21 used for future loans. Is that the way you're reading  
22 it?

23 A. Sounds like it.

24 Q. Then the next -- Number 3, Warren, says: I  
25 just met with a guy today that with help of a private 11:41

1 equity group wants to buy 20 a month. They have been  
2 buying about 10 to 15 a month.

3 Do you know -- did he ever share with you  
4 who this guy was?

5 A. No. 11:42

6 Q. Do you suspect it might be Scott Menaged?

7 A. No, I did not suspect that. I never knew of  
8 Scott Menaged.

9 Q. All right. And so let's go to the next  
10 document. 11:42

11 Earlier, you identified a group of  
12 borrowers that you had met at some of the MOM's  
13 meetings, but this document references a Kevin Potempa,  
14 which was one of the individuals you said you had met at  
15 one of the MOM's meetings who was a borrower. 11:42

16 Can you share anything with us about  
17 knowing anything about Mr. Potempa?

18 A. Yes.

19 Q. What can you share with us?

20 A. In the MOM's meetings, Kevin struck me as a 11:43  
21 person who was more broadly involved in the marketplace  
22 than just the typical flipper.

23 And one thing that I recall is that he was  
24 aware of a group of investors from either New Zealand or  
25 Australia that were using their strong currency to come 11:43

1 into the depressed market and buy up many, maybe  
2 hundreds, of these foreclosures with the business plan  
3 of holding them for several years, renting them, and  
4 then liquidating them.

5 So Kevin was aware of things like that.

11:44

6 And then the other thing about Kevin  
7 that's notable is that at one of the MOM's meetings  
8 Kevin convinced Denny to allow a group by the name of  
9 Payson Petroleum to pitch an oil and gas investment with  
10 the idea that this type of investment had tax advantages  
11 for the participants in DenSco.

11:44

12 Q. Did you ever learn whether any of the investors  
13 or other borrowers ever did business with Mr. Potempa?

14 A. I believe Kevin was a borrower.

15 Q. He was a borrower.

11:45

16 These other individuals, you mentioned  
17 them a Miller -- was it Blackford?

18 A. Yes.

19 Q. Did you get to know him or do you have any  
20 knowledge of him?

11:45

21 A. Got to know him a little bit from the MOM's  
22 meetings and the investor parties.

23 He had lived or had a business in  
24 Albuquerque for a period of time, so we had some things  
25 in common. He was a golfer, and one time he hosted the

11:46

1 MOM's meeting at his golf club.

2 Q. And how about Don Kimble? Any knowledge of him  
3 other than having met him the one time at a meeting?

4 A. Just that he was a very nice, personable guy.  
5 And talked to him several times, again, at the investor 11:46  
6 parties and the MOMs meetings.

7 Q. Did -- and Bennett Caudle, I think, was the  
8 other borrower you identified. Did you ever get to know  
9 that individual or anything about him?

10 A. Just a little bit. 11:47

11 The reason why I remembered Bennett  
12 specifically is because he had the same last name as a  
13 boss of mine at Sonoco Products Company, so it was easy  
14 to remember the name Caudle.

15 But he and Denny went into partnership on 11:47  
16 a very large property in a prominent location, I think,  
17 going toward Pinnacle Peak. And this property used to  
18 be some sort of a embassy house where they would  
19 entertain and so forth.

20 And so one time we drove up 11:48  
21 there -- Denny, his parents, and me and Fay -- to look  
22 at this property. And it was kind of notable because it  
23 certainly wasn't a typical DenSco investment, and I  
24 think there was some sort of a special arrangement with  
25 Denny and Bennett on this particular property. 11:48

1 Q. Was it a DenSco investment or was it being done  
2 by Denny Chittick personally?

3 A. I don't know.

4 Q. Do you remember roughly when that was?

5 A. No.

11:48

6 Q. So let's go back to the stack of documents  
7 Warren. And these are documents that were really  
8 intended -- or this one is -- to refresh your memory.

9 So this document has to do with the Little  
10 League Baseball schedule for one of Denny's sons. It  
11 doesn't reference which one. And later you'll see a  
12 document that references a soccer schedule.

11:49

13 Did you and your wife, Fay, attend some of  
14 Denny's boys' sporting events?

15 A. Yes.

11:49

16 Q. How often would you do that?

17 A. Maybe 10 or 15 times. We would make a point of  
18 it whenever we were at the condo.

19 Q. Did you ever spend time at Denny Chittick's  
20 home?

11:50

21 A. Yes. My wife and I --

22 Q. And how was it -- okay.

23 A. My wife and I stayed there the first investor's  
24 party that we attended. And we were there for occasions  
25 such as Thanksgiving, St. Patrick's Day. Did that

11:50



1 probably four times, four or five times.

2 Q. And would Denny's parents typically be there  
3 also when you were doing these things?

4 A. Yes.

5 Q. For these like Thanksgiving, St. Patrick's Day, 11:50  
6 would there be other investors attending too or would it  
7 be just family and perhaps you and your wife?

8 A. On a couple of occasions, Ranasha's parents  
9 were there. And there were a few others that would have  
10 been invited, but not investors. 11:51

11 Q. And the property that you visited was in this  
12 development Trevia, I think, is the name of the  
13 development?

14 A. Are you talking about Denny's residence?

15 Q. Yes. 11:51

16 A. Yes. I can't remember the name of the  
17 development, but same house as long as I knew him.

18 Q. So Denny lived in that house for a fairly  
19 extended period of time?

20 A. Yes. 11:52

21 Q. How would you describe his lifestyle that you  
22 would have observed, if you could share with us?

23 A. Very frugal. He lived in a big house that I  
24 believe was paid for from his time at Insight, but the  
25 furnishings were modest. His lifestyle was modest. 11:52

1 Q. There is reference to the fact that he at one  
2 point bought a Tesla car. Do you recall that?

3 A. Yes.

4 Q. Was that a big deal as it related to his  
5 lifestyle or not? 11:53

6 A. No, not particularly. I think he was just  
7 intrigued by the concept.

8 And one interesting point is he wasn't in  
9 any hurry to get it because when he first decided to buy  
10 it it was not offered in green. And Denny was 11:53  
11 color-blind, I later learned, and there's something to  
12 do with him favoring green, so he waited until they'd  
13 make a green one.

14 Q. So there are references in some of the  
15 documents -- I haven't marked them for your deposition, 11:54  
16 Warren -- about him not being happy about lawyer's bills  
17 and paying attorneys fees and that kind of thing. Did  
18 he ever share that with you?

19 A. Yes. He would complain about those kinds of  
20 things, and he was certainly frugal in that point of 11:54  
21 view.

22 Q. Did you ever see any other evidence of him  
23 being frugal, either at his parties or at his house?

24 A. Well, he sort of prided himself in putting on  
25 the party for a thousand dollars for so, which was 11:54

1 minimal for that type of a party.

2 Q. Did he ever save food or drinks from those  
3 events?

4 A. Yes.

5 Q. What do you remember about that?

11:55

6 A. Well, typically, he would have maybe Eldon and  
7 I go buy the wine and the beer, and then he would save  
8 what was left over from year to year.

9 Q. When -- I've seen -- there's one e-mail from  
10 his older sister -- well, let me ask a general question.

11:55

11 Did you get to know any of Denny  
12 Chittick's siblings?

13 A. Met them all. Visited Quilene in Bend, Oregon,  
14 when they had a party for Eldon, attended that. Briefly  
15 met the other two girls.

11:56

16 Q. Now, did the other two girls are, I think,  
17 Shawna and Sharla. Does that ring a bell?

18 A. Yes.

19 Q. Did you ever gain any impressions of any of the  
20 girls: Quilene, Sharla, or Shawna?

11:56

21 A. Well, Sharla was a student type who studied  
22 environmental history. And Shawna was a business type  
23 back in Coeur d'Alene.

24 Q. I've seen a series of e-mails between Sharla  
25 and Denny that would leave you with the impression that

11:57

1 they weren't as close as Denny may have been to his  
2 other sisters. Did you ever see that or learn that from  
3 anyone?

4 A. I do know that he was probably closest to  
5 Shawna. 11:57

6 Q. I saw in writing a point where Sharla was  
7 critical of Denny's love of money or obsession with  
8 money. Did you ever see any evidence of that?

9 You mentioned he was frugal, but did you  
10 ever see any evidence of money being more important to  
11 him than it might be to others? 11:58

12 A. He was a businessperson and striving to make a  
13 profit, but he certainly didn't use his money for an  
14 extravagant lifestyle. Maybe a better way to put it is  
15 that for Denny money is how he kept score. 11:58

16 Q. One of the -- and now I want to ask you  
17 about -- a little bit about now, in retrospect, your  
18 take on things in light of Denny Chittick's suicide.

19 But let me ask more of a background  
20 question. 11:59

21 You know, this -- there were some folks  
22 that were on the TV show Property Wars and -- including  
23 this Scott Menaged individual. And these were folks who  
24 were on TV and had interesting lifestyles, etcetera.

25 Did anyone ever share with you that he was 11:59

1 interested in that lifestyle or envious of it or was  
2 attracted to it or anything like that?

3 A. I don't think he was.

4 Q. Did you ever meet Denny's uncle and aunt, Arden  
5 and Nina? 12:00

6 A. Yes.

7 Q. On more than one occasion?

8 A. Yes.

9 Q. Family gatherings, social events, that kind of  
10 thing? 12:00

11 A. They were probably at a couple of the DenSco  
12 parties. And I met Arden once in Seattle where he was  
13 working, and my wife and I were there with Denny's  
14 parents.

15 Q. So, in terms of knowing Denny Chittick, aside 12:00  
16 from family members, do you know of anyone other than  
17 family members who you think would have -- and, of  
18 course, his former wife, Ranasha, can you think of  
19 anyone that would be someone who could share -- would  
20 have knowledge of Denny Chittick and what kind of person 12:01  
21 was, his character traits, those kinds of things?

22 A. No.

23 Q. Do you feel like among the investors you would  
24 have known him as well as anyone did or not?

25 A. No, I don't think so. 12:01

1                   He was in contact with his investors and  
2                   borrowers a lot more than he was with me.

3                   And you have to realize, Denny was about  
4                   the same age as my children.

5           Q.     Was it your experience that he was an easy guy  
6           to get to know? 12:02

7           A.     Yes.

8           Q.     Do you feel like you knew him well or you just  
9           knew him at a certain level?

10                   And I know that's a hard thing to answer. 12:02  
11           But you now -- we now know that a number of things have  
12           transpired with him and I'm -- so I ask -- it's a  
13           difficult question. But do you feel like you really  
14           knew him well?

15           A.     Reflecting on it, I would have to say no. 12:02

16           Q.     And is that because he committed suicide?

17           A.     Well, that's because he betrayed his investors  
18           and family.

19           Q.     Do you have any thoughts today as to why he did  
20           that? 12:03

21           A.     No.

22           Q.     Let me ask you, if I could -- there's a  
23           document I forwarded to you separately, Warren, that is  
24           a letter that he wrote to the investors before his  
25           death. Do you have that document? 12:03

1 A. Yes.

2 Q. I think it's already Exhibit 448. It should  
3 have a stamp on it already.

4 A. Yes, it does down at the bottom. Yeah.

5 Q. All right. So let's not remark that. Let's  
6 treat that as Exhibit 448.

7 Let me ask you to look at what would be  
8 the second page of the document under the heading,  
9 "Investors." Do you see that?

12:04

10 A. Yes.

12:04

11 Q. All right. Now, I'm not going to go through  
12 the whole document with you, but there are some things  
13 he says in the letter that I want to ask about and  
14 whether you may have known some of the things that he is  
15 saying he would have shared with some of the investors.

12:04

16 Unfortunately, there aren't paragraphs, so  
17 I'm going to have to kind of give you general like line  
18 numbers.

19 And the first part of this letter, he  
20 starts talking about getting through the recession and,  
21 you know, working through that.

12:04

22 And about -- one, two, three, four,  
23 five -- about eight lines down or so, he begins a  
24 sentence that reads: We have the great recession.

25 Do you see that sentence?

12:05

1 A. Yes.

2 Q. About eight lines down?

3 And he goes on, and he talks about what he  
4 did to get through the recession.

5 And he says -- a few lines down, he says: 12:05

6 I was able to talk to a few of you to help me make  
7 decisions on what I should do. Should I sell these  
8 house I was getting back and take huge losses or keep  
9 them, rent them, hope the market comes back. Gladly,  
10 after consultations from several of you, you agreed with 12:05  
11 my strategy. It was smarter to rent them at cash flow,  
12 neutral my interest, and wait it out.

13 Did you see that statement?

14 A. Yes.

15 Q. Did he ever talk to you about his strategy for 12:06  
16 getting through the recession?

17 A. No.

18 Q. All right. So let's go down to -- about  
19 halfway down the document, there's a reference to Scott  
20 Menaged, a little over halfway down, with a phone number 12:06  
21 and an address. Do you see that?

22 A. Which page? The pages are at the bottom.

23 Q. Yeah. The same page we were on --

24 A. Oh.

25 Q. -- that first page, a little bit farther than 12:06



1 halfway down, there's a sentence that begins "Going into  
2 2013," and it mentions Scott Menaged --

3 A. Yes.

4 Q. -- and gives his phone number and address.

5 Do you see that?

12:07

6 A. Yes.

7 Q. All right. So I'm going to read that. It  
8 says: Going into 2013, I was starting to get larger  
9 idle cash positions on a regular basis. Scott

10 Menaged -- and then he gives the phone number and an  
11 address -- a long-time borrower, he was probably one of  
12 my largest borrowers by dollars over the years. He was  
13 also [sic] ran a bidding company and sent me many

12:07

14 borrowers over the years. If the time had a few million  
15 of loans on his rentals and was still doing flips on a  
16 regular basis. Scott contacted me and asked if would be  
17 interested in funding a bank of rentals to which a hedge  
18 fund friend of his out of New York would buy once it  
19 reached 7 to 10 million. He would put down 15 to

12:07

20 20 percent, fix them up, rent them. And then when he  
21 acquired the total dollar amount, he would sell out to  
22 this guy. That amount of money would take me over me  
23 10 to 15 percent thresholds to any one borrower. Again,  
24 I talked to a few of you investors and got a positive  
25 response based on his track record, the down payment,

12:07

12:08

1 etcetera. The comfortable level was there. I agreed.

2 Did he, Denny Chittick, ever talk to you  
3 about this opportunity to loan money to Scott Menaged --

4 A. No.

5 Q. -- looks like in maybe -- no.

12:08

6 And did he ever talk to you about Scott  
7 Menaged?

8 A. No.

9 Q. Do you know if he ever, he, Denny Chittick,  
10 ever spoke to any investor about Scott Menaged?

12:08

11 A. I don't know.

12 Q. Just to flesh that out a little bit, have you  
13 talked to other investors about whether they had learned  
14 anything about Scott Menaged?

15 A. I've talked to several of them. I don't think  
16 they knew anything other than what they've read in the  
17 Receiver's documents.

12:08

18 Q. Okay. You're not aware of today any investor  
19 knowing about Scott Menaged and what Denny Chittick was  
20 doing with him starting in 2012 or so?

12:09

21 A. No.

22 Q. All right. So let's go farther down in the  
23 document, Warren.

24 Six lines up from the bottom, there's a  
25 sentence that begins, "For Efficiency's sake." Do you

12:09

1 see that?

2 A. Yes.

3 Q. Let me read it. It says: For efficiency's  
4 sake, I would normally wire the funds I'm lending to the  
5 bidding company. They would get the check and give it 12:09  
6 to trustee. Send me receipt. Sometimes I would even  
7 wire the full amount and my borrower would bring me  
8 their down payment check and bidding fee because they  
9 lived here in the East Valley versus running across  
10 town. I've operated this way ever since I was given the 12:10  
11 ability to wire online in 2003. Many of you knew this,  
12 and I told you this is how I operated. Some of you that  
13 were also borrowers/investors have experienced this way  
14 of doing business and know it's common.

15 I'm going to stop reading there. 12:10

16 Did Denny Chittick ever share with you  
17 this process he was following with respect to wiring  
18 funds directly to borrowers and that type of thing?

19 A. No.

20 Q. Would that have been information you would have 12:10  
21 wanted to know?

22 A. Not particularly.

23 What I would have wanted to know is that  
24 he was obtaining the first liens.

25 Q. You don't have a problem with Denny Chittick as 12:10

1 the lender giving the money directly to the borrowers,  
2 as opposed to through a third party?

3 A. Well, I think I have a problem with it because  
4 I don't think that's how you obtain the first liens.

5 Q. Right. I mean, in other words, if you have a  
6 third party involved, they'll release the funds in  
7 connection with making sure that the loan documents and  
8 security documents are signed and recorded, right?

12:11

9 A. I don't know the process, but it has to flow in  
10 a way that secures the first lien.

12:11

11 Q. All right. So let's go to that second page, if  
12 we could.

13 Ten lines down, there's a sentence that  
14 says, "I felt comfortable lending him more money." Do  
15 you see that sentence?

12:12

16 A. Yes.

17 Q. (Reading): I felt comfortable lending him more  
18 money, and I was keeping money at work. And I had  
19 started to discuss with many of you telling you that by  
20 the end of the year I would probably start returning  
21 some of my larger investors some of their money.

12:12

22 Do you remember ever learning that Denny  
23 was talking to his investors about returning some of  
24 their money?

25 A. Not specifically.

12:12

1 But I'm aware from the POM that that was  
2 his right to do that if he had too much money.

3 Q. Okay. But he wasn't discussing that with you,  
4 but he may have been discussing it with other investors  
5 who were larger investors? 12:12

6 MR. STURR: Foundation.

7 A. He was not discussing it with me.

8 Q. (BY MR. DEWULF) All right. Let me ask a  
9 general question away from the document.

10 Did you ever learn before Denny Chittick's 12:13  
11 death that there were situations where the loans being  
12 made by DenSco were in second position to the deeds of  
13 trust securing loans by competing lenders?

14 A. No.

15 Q. Do you know if anyone within the investor group 12:13  
16 ever learned that fact?

17 A. Not to my knowledge.

18 Q. Do you remember Denny Chittick ever sharing  
19 with you any experiences that he had with a company  
20 called Active Funding Group? Does that ring a bell? 12:14

21 A. No.

22 Q. Did you remember the name Greg Reichmann ever  
23 coming up?

24 A. No, did not.

25 MR. DEWULF: Kim, that's 12:14

1 R-e-i-c-h-m-a-n-n.

2 THE REPORTER: Thank you.

3 Q. (BY MR. DEWULF) Have you read this document  
4 that we're looking at, which is 448?

5 A. Yes, for the most part. 12:14

6 Q. Based on what you know, in your experience,  
7 there are inaccuracies in this letter, correct?

8 A. I don't recall the specifics, but I believe  
9 you're right.

10 Q. You indicated earlier, Warren, that you thought 12:15  
11 that Denny Chittick had betrayed his investors and  
12 family, but you don't know why he did that?

13 A. I do not.

14 Q. Have you spoken to any of the other investors  
15 or any of the family members who may have shared with 12:15  
16 you what they think happened and why he did what he did?

17 A. I've talked to a few of the investors, but we  
18 do not have an answer.

19 Q. You mentioned earlier that he was a frugal  
20 individual. Let me ask you about his social skills. 12:16

21 One of the investors described him at  
22 times as being kind of a lone figure or a solitary  
23 person. He obviously worked by himself. He had his  
24 boys.

25 But is there anything about his social 12:16

1 skills or social interaction that you could share with  
2 us?

3 A. No. I was surprised when I read some of that  
4 that you described because I didn't pick up on anything  
5 like that.

6 Q. You knew Ranasha when she and Denny were  
7 married, right?

8 A. Right.

9 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

13 Q. You were aware that they got divorced in 2012?

14 A. Yes. Denny shared that with his investors in a  
15 e-mail or a end-of-the-month statement.

16 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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1

7

Q. One of the investors had described his opinion of Denny Chittick was very different between knowing Denny before he committed suicide and then learning about things after his suicide. Would that be true with you as well?

12

A. Ask it again.

13

Q. Yeah. I guess I'm asking: Did your impression of Denny Chittick change after he committed suicide and you learned about the events that led to the suicide?

16

A. Well, certainly.

17

Q. In what way?

18

A. I didn't know about all of the mishandling of the business until after his suicide. And I was -- didn't know about his lack of loyalty to his investors and his business plan.

22

Q. Did Denny Chittick -- I mean, we now know, when we look at this investment letter which is Exhibit 448. And he seems to have been completely deceived by Scott Menaged.

23

24

25



1 Did he, Denny Chittick, strike you as  
2 someone who was susceptible to being deceive, that he  
3 was naive or too trusting, or anything like that?

4 A. No.

5 Q. In most instances that you observed him, was he 12:23  
6 someone who was a good businessman, who did the right  
7 thing, followed the rules, made sure that everything was  
8 done properly?

9 A. That was certainly my impression.

10 And Denny sort of prided himself in 12:24  
11 checking out potential borrowers. If a new one called  
12 him up on the telephone and wanted to do a deal, Denny  
13 was expert enough with the computer that, while he was  
14 talking to the potential borrower, he could check out  
15 what the borrower was saying online in realtime. In 12:25  
16 other words, if the borrower said, I've done this, that,  
17 and the other thing, he knew enough to verify it.

18 Q. So, sitting here today, do you have any idea  
19 how Scott Menaged was able to influence or manipulate  
20 Denny Chittick when other people couldn't? 12:25

21 A. No idea.

22 MR. STURR: Foundation.

23 (Reporter clarification.)

24 Q. (BY MR. DEWULF) So in this exhibit that we just  
25 looked at, 448, on the second page -- or, no. I'm 12:25

1       sorry.

2                       On the third page, about three quarters of  
3       the way down, Warren, there is -- it's one, two, three,  
4       four -- 13 lines up from the bottom, there's a line  
5       that -- or 14, he says: Why I didn't let all of you  
6       know what was going on at any point? It was pure fear.

12:26

7           A.     I see it.

8           Q.     Do you see that?

9                       And then he goes on, and he says: I had  
10       seen what one of my investors had done to a bidding  
11       company when they had a deal gone wrong. I have a  
12       hundred investors. I had no idea what everyone would do  
13       or want to do or how many would just sue. Justifiably.  
14       I also feared that there would be a classic run on the  
15       bank even though I had done nothing wrong.

12:26

12:27

16                      Let me ask you. He references, "one of my  
17       investors had done to a bidding company." Do you know  
18       what he's referring to there?

19          A.     No.

20          Q.     This -- did you know who John Ray was?

12:27

21          A.     Yes.

22          Q.     Who is John Ray?

23          A.     John Ray had a bidding company. He was also a  
24       borrower. And Ranasha also worked for him at one time.

25          Q.     And was he on Property Wars?

12:27

1 A. Yes.

2 Q. And by that, I mean on the TV show, Property  
3 Wars. Correct?

4 A. Yes.

5 Q. And so he had a bidding company, meaning his  
6 representatives or employees would go down to trustee  
7 sales and make bids on properties?

8 A. That's the idea.

9 I don't know whether it was just him or he  
10 had several people or how it was organized.

11 Q. Do you know what Ranasha did for him?

12 A. Basic office organization and administration.

13 Apparently, John Ray was not very good at  
14 that.

15 Q. Do you remember the Thompsons?

16 A. Yes.

17 Q. Does that ring a bell?

18 A. Yes.

19 Q. What are their names, the husband and wife? Do  
20 you remember?

21 A. Gary and Coralee.

22 Q. And did they also do some lending?

23 A. Yes.

24 Q. Were they investors in DenSco at one point  
25 also?

1 A. They're big investors in DenSco.

2 Q. And did they loan money to this guy, John Ray?

3 A. Yes.

4 Q. And how did you know that? Did you talk to the  
5 Thompsons about that?

12:29

6 A. Yes.

7 The Thompsons, I got to know them at the  
8 investor parties. And, for some reason, I was sort of  
9 their go-to guy because I guess they understood that I  
10 knew the family and so forth.

12:29

11 And, at one point, they were unhappy with  
12 Denny because they, the Thompsons, had loaned money to  
13 John Ray on a land deal that went bad. And they were  
14 trying to use Denny, I think, as leverage against John  
15 Ray and wondering why Denny continued to do business  
16 with John Ray. And Denny's position was that John Ray  
17 had fulfilled all his obligations to DenSco.

12:30

18 And it got to the point where this  
19 irritated Denny. And when one of the Thompsons' many  
20 notes became due, rather than routinely roll it over, as  
21 was the practice, he just sent them back their money to  
22 make a statement.

12:31

23 Q. Do you have any idea when that all happened?

24 A. No.

25 Q. And had John Ray been a borrower of DenSco's

12:31

1 also?

2 A. Yes.

3 Q. Do you know if John Ray was a friend of Denny  
4 Chittick?

5 A. In the context of being a business associate 12:31  
6 and a frequent borrower and then the connection with  
7 Ranasha.

8 Q. Okay. Do you know whether Ranasha knew John  
9 Ray and worked with him before she got married to Denny  
10 Chittick? 12:32

11 A. Not sure of that. But maybe. Maybe she did.

12 Q. You don't know how Denny Chittick met Ranasha,  
13 right?

14 A. I don't know.

15 Q. Okay. Let me switch gears. 12:32

16 Did you ever have any communications or  
17 contact with an individual named Scott Gould?

18 A. I'm aware of who Scott is, and I may have met  
19 him once at an investor party.

20 And Scott is the one that Denny 12:32  
21 understudied with, and that's how the name DenSco arose.

22 Q. And did you -- did Denny ever share with you  
23 any information about Scott Gould?

24 A. Just that they were in similar businesses. And  
25 then due to regulatory reasons, Denny chose to keep his 12:33

1 business where it did not require a securities license  
2 or any particular regulatory oversight; whereas, Scott  
3 sort of went the other way, and some of his investors  
4 required having their investments tied to specific  
5 liens. And so that kind of put them in a different  
6 business. 12:34

7 Q. Do you know whether there were any hard  
8 feelings or any negative interactions between the two of  
9 them?

10 A. Not to my knowledge. 12:34

11 Q. You saw the -- that the loan -- well, strike  
12 that.

13  
14 You knew over the years that you were an  
15 investor that DenSco grew in the volume of loans it made 12:34  
16 and the number of investors and investments it took on.  
17 Do you recall that?

18 A. Yes.

19 Q. Do you know why or have any idea or opinion now  
20 as to why Denny grew the business like he did? 12:34

21 A. I don't know why he would have done that  
22 because, as the economy got better, the opportunities  
23 shrunk. And I remember wondering how can this business  
24 keep growing.

25 And I had that conversation with Tony on 12:35

1 several occasions. And we all would just defer to Denny  
2 and assume that he was taking market share from the  
3 other hard-money lenders and/or moving into wholesaling.

4 Q. When you use the word -- the name "Tony,"  
5 you're talking about Tony Burdette?

12:36

6 A. Correct.

7 Q. Was Denny competitive?

8 A. Yes.

9 Q. Did you see that in a business context?

10 A. Yes, I thought so.

12:36

11 Q. How did that evidence itself?

12 A. Well, I guess because he kept growing.

13 And another example I can think of is he  
14 had this million-dollar line of credit on his house.  
15 And I once quizzed him on that and said, Don't you just  
16 use that to counter the shortfalls of your money when  
17 you need it, in other words, in and out on the line of  
18 credit?

12:37

19 And he said: No, no. I keep it at the  
20 maximum all the time, maximum of a million dollars.

12:37

21 And I said: Well, why do you do that?

22 And he said: Because Bank of America will  
23 take it away from me if I don't, and it's my cheapest  
24 source of money.

25 In other words, he was only paying

12:37



1 probably 2 or 3 percent for that and paying the rest of  
2 us 12 percent.

3 So that sort of speaks to the question  
4 that he was competitive in the sense that he was trying  
5 to maximize his profits.

12:38

6 Q. You earlier used the phrase "it was his way of  
7 keeping score" in connection with questions I was asking  
8 about money and valuing money and that kind of thing.

9 Could you explain that for me? Keeping  
10 score relative to whom and to what?

12:38

11 A. Relative to his business.

12 I mean, my personal example of that is I'm  
13 a stock market investor, and I keep score by comparing  
14 my results to some benchmark.

15 Q. Do you think that it was important to him that  
16 he be perceived as being successful?

12:39

17 A. Yes.

18 Q. What is the basis for that view?

19 A. Well, it's just that most businesspeople want  
20 to be successful, and they don't want to lose money.

12:39

21 Q. Did you ever get a sense about him individually  
22 that he wanted -- that it was important for him that  
23 people view him individually as being a success?

24 A. He was just a very smart guy, and I guess that  
25 would be natural. But I don't think he was obsessed

12:40

1 with it in any abnormal way.

2 Q. Let me change topics thing. I'm going to look  
3 at some documents, and we'll wrap up.

4 We've learned from some of the borrowers,  
5 Warren, that at times he wouldn't enforce the loan terms 12:40  
6 or he would be kind of careless about loaning funds to  
7 people that he knew or had grown to know.

8 Is that consistent with the Denny Chittick  
9 that you knew?

10 A. No. 12:40

11 Q. Did you see occasions where he had to enforce  
12 loan terms against someone, where he had to go to a  
13 trustee sale or had to force borrowers to pay default  
14 interest, and that kind of thing?

15 A. I don't know the mechanics of how he took 12:41  
16 possessions of the properties that were in default.

17 Q. All right. So let's go back to the documents.

18 There's another document that shows  
19 your -- a subscription agreement. I'm going to  
20 through -- I'm not going to go through that. 12:41

21 But I will go through this next document,  
22 which appears to be a serious of notes. Do you see  
23 those General Obligation Notes?

24 A. Yes.

25 MR. DEWULF: Kim, could we mark that, 12:41

1 please?

2 (Exhibit 826 marked.)

3 Q. (BY MR. DEWULF) All right. Would you just  
4 thumb through that, Warren, and just confirm that these  
5 are a serious of obligation notes that were evidence of  
6 your investment in DenSco? 12:42

7 A. Yes.

8 Q. All right. And what you were saying earlier is  
9 that, periodically, even though you only did those  
10 initial investments in 2005 and 2006, periodically, in 12:42  
11 order to roll over those investments, you would enter  
12 into new notes?

13 A. Yes.

14 Q. Okay.

15 Let's skip the next document, the next 12:42  
16 document. Let's skip the next document.

17 Let's look at the document which is dated  
18 March 29, 2013.

19 A. Okay.

20 Q. He says: I've decided not to take on any new 12:43  
21 investors. I'll continue to accept money from the  
22 current investors.

23 Do you see that?

24 A. Yes.

25 Q. Do you remember, in the spring of 2013, he 12:43

1 decided not to take on any new investors?

2 A. What I remember is when he told all his  
3 investors he was going to have to start paying out their  
4 interest either quarterly or monthly and -- as a way to  
5 limit his total investments from investors. 12:43

6 Q. Did he ever explain why he was doing that?

7 A. Yes. It was because he had too much money that  
8 he couldn't lend out.

9 Q. In other words, he couldn't find enough  
10 qualified properties to loan against or borrowers to  
11 loan to. Is that -- 12:44

12 A. Correct.

13 Q. -- what you're saying?

14 A. Yes.

15 Q. Right. 12:44

16 Let's go to the next document. That  
17 look -- we're not going to use that.

18 Let's look at the document, which is dated  
19 May 3, 2013, which is an e-mail to you from Denny  
20 Chittick. Do you see that? It talks about dollar  
21 figures. 12:44

22 A. May 13th?

23 Q. May 3rd.

24 A. Yes.

25 Q. It's just to you. The subject is "Dollars 12:44

1 Out." It says: 50.7 out with a hair under 500K and the  
2 bank mostly checks that were deposited. Never thought I  
3 would have that much out.

4 Do you understand what he's saying there?

5 A. Yes.

12:45

6 Q. What did you understand him to be saying?

7 A. He's hit 52.7 million.

8 Q. Why is he telling you this, do you know?

9 A. I don't know other than just letting me know  
10 that he's still growing and it's topped out over  
11 50 million.

12:45

12 Q. All right.

13 Let's -- we'll skip the next document.  
14 And let's go to the document after that, which is dated  
15 July 31, 2013. Are you there?

12:46

16 A. Yes.

17 Q. And in this document, he's saying: I'm going  
18 to soon quit accepting money from current investors.

19 Do you recall that event?

20 A. Not in the context of this e-mail.

12:46

21 But it's basically saying the same thing,  
22 that everybody has to take their interest in cash,  
23 either monthly or quarterly, except for the IRAs.

24 Q. And was there anything about that that caused  
25 you concern?

12:46

1           A.    No.  I thought it was a good thing because  
2   finally he's going to quit growing.

3           Q.    All right.  So let's skip the next document.  
4   Skip the next document.  Skip the next document.  Skip  
5   the next document. 12:47

6                       And then we come to a document that's  
7   April 12, 2014.  It relates to the baseball schedule,  
8   but before it, there are discussions about BofA.  Do you  
9   see that?

10          A.    The prior document? 12:47

11          Q.    Let's -- it is dated April 12, 2014.

12          A.    Oh, yes.

13          Q.    All right.  Let's skip that because the next  
14   document actually is more on point.

15                       So let's go to the next document, and it 12:47  
16   is April 24, 2014.

17                       This is a reference to the Bank of America  
18   relationship he had with -- that Denny Chittick and  
19   DenSco had that was terminated.  Do you remember that  
20   event? 12:48

21          A.    Yes.

22          Q.    It looks like that would have occurred in  
23   spring of 2014.

24                       What do you remember about that, briefly,  
25   Warren? 12:48

1           A.     I first learned about it from Denny's father,  
2     who said something when we were visiting at the condo to  
3     the effect that Denny has just gotten through his three  
4     most stressful days of business. And he went on to  
5     explain that Bank of America had basically frozen his  
6     account.

12:48

7                     And, at some point, I talked to Denny  
8     directly about this because Eldon could only give me the  
9     general nature of the problem.

10                    But what I learned from Denny is that  
11     there were wire transfers going back and forth in quick  
12     succession to the same counterparties. And Denny's  
13     explanation was that these were all separate independent  
14     deals and that there was nothing wrong with them. And  
15     what was flowing back and forth was all collected funds.

12:49

12:50

16                    And I was sort of incensed by this because  
17     of my experience with banks and particularly by the fact  
18     that, evidently, Bank of America had been able to  
19     reverse some of those wires.

20                    And my understanding, working from a bank,  
21     is -- of course, I was dealing mostly with foreign wire  
22     transfers. But that's probably the most vulnerable part  
23     of the bank because, if you send out a bad wire  
24     transfer, you can't just stop payment. It's gone.

12:50

25                    And so I thought it was unusual that Bank

12:51

1 of America could reverse them. And I later found out  
2 that the way that they did it is they just got agreement  
3 from the other financial institution and were able to do  
4 it.

5 And then --

12:51

6 Q. Let me ask you on -- can I ask you on that,  
7 Warren, the -- have you now learned that Denny may not  
8 have been completely forthright about why Bank of  
9 America terminated the relationship?

10 A. I don't think that's the case. I think Denny  
11 was in the right on that one, and he was completely  
12 exonerated by the bank.

12:51

13 Q. Don't you -- do you think that any of his  
14 dealings with Menaged may have -- that is, he was  
15 talking about there being multiple parties with whom he  
16 was doing business. But he was in the thick of things  
17 with Menaged.

12:52

18 Do you think that bore at all in the  
19 bank's decision or not?

20 MR. STURR: Foundation.

12:52

21 A. I don't -- I wasn't aware of Menaged.

22 And I was surprised, as I expressed in my  
23 e-mails to Denny, how the fraud squad at the bank had  
24 the power to just cut him off like that.

25 And, in fact, Denny told me that the

12:52



1 officers at the branch bank were under instruction not  
2 even to talk to Denny, that all Denny could do was call  
3 whatever number he was given and try to sort it out.

4 And I understood --

5 Q. (BY MR. DEWULF) Okay. So --

12:53

6 A. -- that there was a slight chance that if he  
7 couldn't get this undone in time that there would be  
8 several penalties of \$10,000 because he didn't -- the  
9 payment got reversed.

10 Q. All right. So let me switch topics, if I  
11 could. And let's skip the next document, the next  
12 document after that, the next document after that, the  
13 next document after that, the next document after that,  
14 next document after that, the next document after that.

12:53

15 Let's go to a document that's dated  
16 June 29, 2016, which attaches a statement from DenSco.

12:54

17 A. Okay.

18 MR. DEWULF: Could you mark that, Kim?

19 (Exhibit 827 marked.)

20 Q. (BY MR. DEWULF) And if you look at the second  
21 page of that document, Warren, is this a statement of  
22 your investment status at DenSco as of June 2016?

12:54

23 A. Yes.

24 Q. All right. Let's go to the next page -- the  
25 next exhibit.

12:55

1 MR. DEWULF: Let's mark that, Kim. And  
2 let's mark the one after that as well and the one after  
3 that. So if you'll mark the next three documents.

4 THE REPORTER: Okay. One moment.

5 A. What are the dates? 12:55

6 Q. (BY MR. DEWULF) The first one is dated  
7 August 8, 2016, at the top; the next one is August 11,  
8 2016; and the next one August 11, 2016.

9 A. Okay. All right, Warren. Let me just show you  
10 828 -- 12:56

11 THE REPORTER: One moment.

12 (Exhibit 828 through 830 marked.)

13 Q. (BY MR. DEWULF) 828, first page, there's a  
14 discussion your -- about halfway down where David  
15 Beauchamp is communicating. He says: We have already 12:56  
16 interviewed a couple of forensic accountants, but the  
17 Director of Enforcement for the ACC Securities Division  
18 wants to be involved in the decision concerning who  
19 should be hired for this very important decision. That  
20 should be discussed as a part of the Wednesday meeting. 12:56

21 Do you remember receiving this  
22 communication?

23 A. I don't remember receiving it at the time.

24 Q. Do you remember discussions about hiring a  
25 forensic accountant to go over the finances of DenSco 12:56

1 after Denny Chittick's suicide?

2 A. Yes.

3 Q. What do you remember about that?

4 A. Well, this document just reminds me of that,  
5 that that was going on. 12:57

6 Q. Do you remember who got the security division  
7 of the Arizona Corporation Commission involved?

8 A. No.

9 Q. At the very top, you're expressing a concern.  
10 You say to David Beauchamp on August 8, you said: The 12:57  
11 probability of preferential prepayments to certain  
12 investors should be checked. This would reduce the  
13 payout to all the rest.

14 You just wanted to make sure everyone is  
15 being treated equally? 12:57

16 A. Right.

17 Q. All right. Now let's look at the next  
18 document, 829.

19 You reference an offset. You have a  
20 concern about offsets. And so in this August 11, 2016, 12:57  
21 e-mail, you're concerned that investors who are also  
22 borrowers might try to offset what they owe with what  
23 they are owed?

24 A. Right.

25 Q. And that would be preferential treatment? 12:58

1 A. Right.

2 Q. And then 830, if it refreshes your memory, do  
3 you remember David Beauchamp responding to your concern  
4 at the very top of that exhibit, 830, dated August 11th?

5 A. Yeah. I'm reminded of it because of this 12:58  
6 document.

7 Q. All right. You don't remember it independently  
8 of this document?

9 A. No.

10 Q. Do you remember that David Beauchamp was 12:58  
11 communicating with the investors along with Shawna  
12 Heuer, Denny's sister, to let the investors know what  
13 was going on at DenSco?

14 A. Yes.

15 Q. Did you find that to be helpful? 12:58

16 A. Yes, because I think we were all at a loss to  
17 know what was going on, and at least somebody was  
18 telling us something.

19 Q. Let's look at the next document in that stack,  
20 Warren. It's a document on Simon Consulting letterhead. 12:59  
21 Do you have it there?

22 A. Is it a thick document?

23 Q. It's got Simon Consulting letterhead on the  
24 first page.

25 A. No. 12:59

1 Q. Well, let me ask you independent -- okay.

2 It shows -- it's a listing of the  
3 investors and the claims, and it shows you and Fay Bush  
4 as having a claim for \$152,113.08. Does that refresh  
5 your memory? Is that consistent with your memory of the  
6 amount of claims you're bringing in the receivership.

01:00

7 A. Yes.

8 I believe I have the document now.

9 Q. All right.

10 A. Oh, yeah, here it is.

01:00

11 But you have to --

12 Q. Yeah. If you can confirm -- on the third page,  
13 you're Number 9 in the list of claims, just to refresh  
14 your memory --

15 A. Yes.

01:00

16 Q. -- if you need to look at that.

17 A. Yes.

18 Q. All right. Let's look at the next document.

19 It shows that there was a distribution of  
20 funds. Do you recall at one point getting a  
21 distribution from the receiver of \$21,767.75? That's on  
22 page 3 of this document.

01:00

23 A. Can we go back to the prior question about the  
24 152,000?

25 Q. Yes.

01:01

1           A.    I just want to make it clear that that's a  
2   recalculation of our claim based on cash flows and based  
3   on the time of insolvency. And the only purpose it  
4   serves is to get the proportion as to how the  
5   distributions are going to be percentaged out.

01:01

6           Q.    All right.

7                         And then do you -- my question a moment  
8   ago was about the distributions of monies that the  
9   Receiver had obtained. And that third page of that  
10   document shows you and your wife having received  
11   \$21,767.75. That's on page 3. Is that accurate?

01:01

12          A.    Yes.

13          Q.    All right. Let me ask -- I know you are  
14   friends with and have a long-standing relationship with  
15   Denny Chittick's father and mother, Eldon and Carleen  
16   Chittick.

01:02

17                         Have they ever shared with you what their  
18   view of what happened with respect to Denny Chittick  
19   was?

20          A.    No.

01:02

21          Q.    You never talked to them about that?

22          A.    No.

23          Q.    And they've never expressed to you any thoughts  
24   about what led to the suicide or what -- how Denny  
25   allowed himself to get into an extended relationship

01:02

1 with Scott Menaged?

2 A. No.

3 Q. All right.

4 MR. DEWULF: No further questions.

5 MR. STURR: Mr. Bush, I've got a couple if 01:03  
6 you have a few more minutes. Can we keep you for a  
7 little longer?

8 THE WITNESS: Sure.

9 MR. STURR: Okay. It'll just take a  
10 couple. 01:03

11 EXAMINATION

12 BY MR. STURR:

13 Q. I wanted to ask what you can recall --  
14 Mr. DeWulf was asking you about the 2011 Private  
15 Offering Memorandum and your involvement -- your 01:03  
16 communications about the 2011 Private Offering  
17 Memorandum.

18 Is there anything else about your  
19 interactions with Denny Chittick or David Beauchamp that  
20 you didn't testify about already? 01:03

21 A. No.

22 Q. Okay. In 2013, there was -- and Mr. DeWulf put  
23 it in binder. I'm not going to ask you to look at it.

24 But there was an e-mail that Denny sent to  
25 you on May 5, 2013. The RE line is "Memorandum." It's 01:04

1 mistyped.

2 But it says: I am meeting with Dave on  
3 Thursday. Let me know if you have any areas that need  
4 to be clarified by Thursday. I will send the rough  
5 drafts as we progress.

01:04

6 Do you have any memory, Mr. Bush, about  
7 discussions with Denny Chittick in 2013 about the  
8 preparation of a new Private Offering memorandum?

9 A. Did that one ever happen?

10 Q. No.

01:04

11 A. Okay. That -- so that's -- I just recall  
12 wondering if I was going to be called upon to read it.  
13 And I recall that I got some explanation that David said  
14 it wasn't required.

15 Q. Just to be clear, that explanation came from  
16 Denny Chittick?

01:05

17 A. Yes.

18 Q. Okay.

19 (Reporter clarification.)

20 Q. (BY MR. DEWULF) And is that all you can recall  
21 about any discussions relating to the preparation of a  
22 Private Offering Memorandum in 2013?

01:05

23 A. That's it.

24 I mean, I wasn't really wondering why we  
25 don't do it. I was just wanting to know if I was going

01:05



1 to be called on to take a look. I didn't require any  
2 answers as to why or why not.

3 Q. Leaving aside your potential involvement, do  
4 you remember anything in 2013 that Denny might have said  
5 to you about the status of preparing a new Private  
6 Offering Memorandum?

01:06

7 A. No.

8 Q. Okay.

9 MR. STURR: Okay. That's all I have.  
10 Thank you very much, Mr. Bush.

01:06

11 MR. DEWULF: Thanks for your time.  
12 Appreciate it.

13 THE WITNESS: Okay.

14 (Discussion between the Reporter and the  
15 Attorneys.)

16 MR. DEWULF: Yeah.

17 Warren, let me walk through this. Warren,  
18 since it's been 50 years since your last deposition, let  
19 me refresh your memory.

20 You have an opportunity to read the  
21 transcript of what you and the lawyers have said today  
22 for accuracy.

01:06

23 Now, the Court Reporters are darn good.  
24 I'm sure Kim is very, very good. And you have the  
25 option of waiving that review of the depo, but you have

01:07

1 the opportunity to review it if you wish.

2 THE WITNESS: I wish.

3 MR. DEWULF: Now, we're going to be  
4 order -- you would like to review it?

5 THE WITNESS: Yes.

6 MR. DEWULF: All right.

7 So, Kim, we will be, you know, ordering  
8 the transcripts, the ASCII, the condensed version. And  
9 we can coordinate with you and with Warren if that makes  
10 sense. However you want to do it in term of his review  
11 and signature.

12 THE REPORTER: I can either send it to you  
13 guys or send it directly to him.

14 MR. DEWULF: Well, you can send it to us,  
15 and we can send it to him. That would be great.

16 THE REPORTER: Okay.

17 MR. DEWULF: I'd like to have this sooner  
18 than later. When do you think you're going to have this  
19 to us?

20 THE REPORTER: Well, my normal turnaround  
21 for this firm is 7 to 10 business days, but if you need  
22 it sooner, just let me know.

23 MR. STUFF: Does it -- will it cost more  
24 to get it?

25 THE REPORTER: Yes, it will. It's

01:07

01:07

01:08

01:08

1 prorated out the farther you go.

2 MR. DEWULF: Well, let's go seven days.

3 That's fine.

4 And you're going to electronically send it  
5 to us, right. 01:08

6 THE REPORTER: Yes, sir.

7 MR. DEWULF: All right. And then what  
8 we'll do is we'll coordinate with Warren.

9 Warren, we have your e-mail address. And  
10 would it be okay if we send the transcript to you 01:08  
11 electronically, and you can review it on screen?

12 THE WITNESS: Yes.

13 MR. DEWULF: Thanks again.

14 THE REPORTER: And both attorneys would  
15 like a copy? 01:09

16 MR. STURR: Yes.

17 THE REPORTER: Thank you.

18 Off the record.

19 (End of proceedings at 1:09 p.m.)

20

21

22

23

24

25

DEPOSITION ERRATA SHEETS

Assignment No: J3813883

Case Caption:

PETER S. DAVIS, as Receiver of Densco Investment Corporation, an Arizona corporation VS. CLARK HILL PLC, a Michigan Limited Liability Company; DAVID G. BEAUCHAMP AND JANE DOE BEAUCHAMP, husband and wife

DECLARATION UNDER PENALTY OF PERJURY

I declare under penalty of perjury that I have read the entire transcript of my Deposition taken in the captioned matter or the same has been read to me, and the same is true and accurate, save and except for changes and/or corrections, if any, as indicated by me on the DEPOSITION ERRATA SHEET hereof, with the understanding that I offer these changes as if still under oath.

Signed on the \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
WARREN BUSH

DEPOSITION ERRATA SHEET

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SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

WARREN BUSH

SUPERIOR COURT OF ARIZONA

COUNTY OF MARICOPA

PETER S. DAVIS, as )  
Receiver of Densco )  
Investment Corporation, an )  
Arizona corporation, )

Plaintiff, )

VS. )

CASE NO: CV2017-013832

CLARK HILL PLC, a Michigan )  
Limited Liability Company; )  
DAVID G. BEAUCHAMP AND )  
JANE DOE BEAUCHAMP, )  
husband and wife, )

Defendants. )

REPORTER'S CERTIFICATION  
DEPOSITION OF WARREN BUSH  
MARCH 20, 2019

I, Kimberly Byrns Buchanan, Certified Shorthand  
Reporter in and for the State of Texas, hereby certify  
to the following:

That the witness, WARREN BUSH, was duly sworn by the  
officer and that the transcript of the oral deposition  
is a true record of the testimony given by the witness;

That the deposition transcript was submitted on  
\_\_\_\_\_ to the witness or to the attorney  
for the witness for examination, signature and return to  
me by \_\_\_\_\_;

1 That the amount of time used by each party at the  
2 deposition is as follows:

3 Mr. Geoffrey M.T. Stuff - 00 HOURS: 03 MINUTES,

4 Mr. John E. DeWulf - 02 HOURS: 43 MINUTES;

5 That pursuant to information given to the deposition  
6 officer at the time said testimony was taken, the  
7 following includes counsel for all parties of record:

8 Mr. Geoffrey M.T. Stuff, Attorney for Plaintiff; and  
9 Mr. John E. DeWulf, Attorney for Defendants, CLARK HILL  
10 PLC, a Michigan Limited Liability Company; DAVID G.  
11 BEAUCHAMP AND JANE DOE BEAUCHAMP, husband and wife.

12 I further certify that I am neither counsel for,  
13 related to, nor employed by any of the parties or  
14 attorneys in the action in which this proceeding was  
15 taken, and further that I am not financially or  
16 otherwise interested in the outcome of the action.

17 Certified to by me this \_\_\_\_\_ day of April,  
18 2019.

19 *Kimberly Byrns Buchanan*

20 \_\_\_\_\_  
21 Kimberly Byrns Buchanan, CSR, RPR  
22 Texas CSR No. 7579  
23 Expiration Date: 12/31/19

24 ESQUIRE DEPOSITION SOLUTIONS, LLC  
25 Firm Registration No. 286  
1700 Pacific Avenue  
Suite 1000  
Dallas, Texas 75201  
(214) 257-1436



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