

WILLIAM SWIRTZ, 3/19/2019

| INDEX | | PAGE | |
|-------|----------------|--|---------------|
| 1 | WITNESS: | | |
| 2 | WILLIAM SWIRTZ | | |
| 3 | EXAMINATION | | |
| 4 | By Ms. Tolman | | 6 |
| 5 | * * * | | |
| 6 | EXHIBITS | | |
| 7 | EXHIBIT: | DESCRIPTION | MARKED/REF'ED |
| 8 | 802 | Email string (Bates Nos. CH_REC_CHI_0073398-73400) | 18 18 |
| 9 | 803 | Deed of Trust and Assignment of Rents (Bates Nos. CH_EstateSDT_0065691 and 65692) | 19 19 |
| 10 | 804 | Email string (Bates Nos. CH_REC_CHI_0072474-72476) | 20 21 |
| 11 | 805 | Email from Denny Chittick to William Swirtz dated 8/31/2012 (Bates No. CH_EstateSDT_0004922) | 23 23 |
| 12 | 806 | Excerpt from journal (Bates No. CH_EstateSDT_0024441) | 28 28 |
| 13 | 807 | Subscription Agreements (Bates Nos. D134541-D134565, D127469-D127491, CH_EstateSDT_0070776, CH_REC_CHI_0148204-148209 and CH_EstateSDT_00065973) | 30 30 |
| 14 | 808 | Email from Denny Chittick dated 7/19/2011 with attachment (Bates Nos. CH_REC_CHI_0005152-5223) | 42 42 |
| 15 | 809 | Email from Denny Chittick dated 7/23/2010 with attachment (Bates Nos. CH_REC_CHI_0001543-1551) | 43 43 |
| 16 | | | |
| 17 | | | |
| 18 | | | |
| 19 | | | |
| 20 | | | |
| 21 | | | |
| 22 | | | |
| 23 | | | |
| 24 | | | |
| 25 | | | |

WILLIAM SWIRTZ, 3/19/2019

| EXHIBITS (CONT.) | | | |
|------------------|---|--------|--------|
| EXHIBIT: | DESCRIPTION | MARKED | REF'ED |
| 810 | Emails from Denny Chittick to Bill Swirtz dated 4/18/2012, 9/12/2012, 6/19/2013 and 6/26/2014 (Bates Nos. CH_REC_CHI_0092582, 0096998, 0122225 and 0110115) | 44 | 44 |
| 811 | Subscription Agreements (Bates Nos. D127952-D127955 and D135134-D135156) | 45 | 47 |
| 812 | Email from Denny Chittick to Bill Swirtz dated 10/22/2009 (Bates No. CH_REC_CHI_0125366) Email string (Bates No. CH_REC_CHI_0074671) | 49 | 49 |
| 813 | Email from Denny Chittick dated 11/25/2014 (Bates Nos. CH_REC_CHI_0117869-117870) | 50 | 50 |
| 814 | Email from Denny Chittick dated 9/28/2012 (Bates Nos. CH_REC_CHI_0097707-97709) Email from Denny Chittick dated 10/28/2012 (Bates Nos. CH_REC_CHI_0009812-9816) Email from Denny Chittick dated 12/7/2012 (Bates Nos. CH_REC_CHI_0100318-100321) | 52 | 52 |
| 815 | Email from Denny Chittick to William Swirtz dated 12/27/2014 (Bates No. CH_EstatesSDT_0015499) | 56 | 56 |
| 816 | Email string (Bates Nos. CH_0009665-9668) Email string (Bates Nos. CH_0009519-9521) Email string (Bates Nos. CH_0009147-9152) Email string (Bates Nos. DIC0011420-11421) Email string (Bates Nos. DIC0011411-11412) | 72 | 72 |

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

EXHIBITS (CONT.)

| EXHIBIT: | DESCRIPTION | MARKED | REF'ED |
|----------|--|--------|--------|
| 817 | Proof of Claim (Bates Nos. CH_REC_DEP_0002110-2112) | 78 | 78 |

PREVIOUSLY REFERENCED EXHIBITS

| EXHIBIT | PAGE |
|----------|------|
| 631..... | 51 |
| 413..... | 67 |
| 623..... | 80 |
| 536..... | 80 |
| 801..... | 80 |

REQUESTS TO PRODUCE DOCUMENTS

Page Line
(None.)

QUESTIONS INSTRUCTED NOT TO ANSWER

Page Line
(None.)

RECESSES TAKEN

| | |
|--|------------|
| Recess taken from 2:40 p.m. to 2:43 p.m. | PAGE 45 |
|--|------------|

WILLIAM SWIRTZ, 3/19/2019

1 DEPOSITION OF WILLIAM SWIRTZ, commenced at
2 1:43 p.m. on March 19, 2019, at the law offices of
3 Coppersmith Brockelman, PLC, 2800 North Central Avenue,
4 Suite 1900, Phoenix, Arizona, before KELLY SUE OGLESBY, a
5 Certified Reporter, CR No. 50178, in and for the County of
6 Maricopa, State of Arizona, pursuant to the Rules of Civil
7 Procedure.

8 * * *

9 APPEARANCES

10 FOR PLAINTIFF:

11 OSBORN MALEDON, P.A.
12 BY: MR. GEOFFREY M.T. STURR
13 2929 North Central Avenue
14 21st Floor
15 Phoenix, Arizona 85012-2793
16 gsturr@omlaw.com

17 FOR DEFENDANTS:

18 COPPERSMITH BROCKELMAN, PLC
19 BY: MS. SHELLEY TOLMAN
20 2800 North Central Avenue
21 Suite 1900
22 Phoenix, Arizona 85004
23 stolman@cblawyers.com
24
25

WILLIAM SWIRTZ, 3/19/2019

Phoenix, Arizona
March 19, 2019
1:43 p.m.

* * *

WILLIAM SWIRTZ,

called as a witness herein, having been first duly sworn,
was examined and testified as follows:

EXAMINATION

Q. (BY MS. TOLMAN) All right. would you please
state your name and date of birth for the record.

A. William Swirtz, 12/31/53.

Can you speak just a little louder?

Q. I can.

A. With the air conditioning, I'm a little hard to
hear, so...

Q. Remind me if I don't do it.

And you understand that we represent David
Beauchamp and his law firm, Clark Hill, in a lawsuit
brought by the receiver, Peter Davis, on behalf of the
DenSco investors?

A. Correct.

MR. STURR: Actually, just to correct the
record, the lawsuit is brought in the name of DenSco.
It's not brought on behalf of the investors. It's the

WILLIAM SWIRTZ, 3/19/2019

1 receiver seeking to recover damages to the corporation.

2 MS. TOLMAN: Understood.

3 THE WITNESS: Thank you.

4 MS. TOLMAN: There is a difference.

5 Q. So my goal here is to understand what
6 information you have that may potentially be relevant to
7 the lawsuit against David Beauchamp and Clark Hill
8 relating to Denny Chittick, who I will just refer to as
9 Denny, DenSco, as well as the attorney David Beauchamp.

10 Do you have any understanding of the case
11 against David Beauchamp and Clark Hill?

12 A. Very little.

13 Q. Can you tell me what you do know?

14 A. It's very little, and only what I would have
15 read that's been posted in the court documents.

16 Q. Okay. So that's -- you are referencing
17 documents that you have seen from the receiver, for
18 example, on the receiver's website?

19 A. Correct.

20 Q. And maybe through an email potentially that you
21 would have gotten from the receiver?

22 A. I don't know if there was an email. It
23 basically would have been what was posted on the website.

24 Q. Okay. And so you haven't had any discussions
25 with Mr. Sturr or Mr. Campbell or anyone at Osborn

WILLIAM SWIRTZ, 3/19/2019

1 Maledon?

2 A. Never met him. Couldn't pick him out. Don't
3 know him from anywhere. Sorry.

4 Q. No disrespect intended.

5 what about have you talked to the receiver,
6 Peter Davis?

7 A. No.

8 Q. Have you talked with anyone at Peter Davis's
9 office?

10 A. Regarding this?

11 Q. For example, regarding this lawsuit?

12 A. No, no.

13 Q. Have you talked with the receiver's attorney,
14 Ryan Anderson, regarding this lawsuit?

15 A. Mr. Anderson?

16 Q. Yes.

17 A. Only -- was he the one that sent me the email
18 saying that I was going to be deposed? I did have a brief
19 conversation with him.

20 Q. And can you tell me what that conversation
21 consisted of?

22 A. "Why am I doing this. What's the purpose of it.
23 You know, I'm really not happy about it." Those were my
24 comments.

25 And he asked me or, you know, something about

WILLIAM SWIRTZ, 3/19/2019

1 being served, and I said, you know, I'm happy to
2 cooperate. I don't know that you need to go -- if you
3 want to serve me, I guess you can, but they said they
4 would go through this other process, and I said I'd be
5 happy to cooperate to do that.

6 Q. Okay. And did he explain to you why or what's
7 the purpose in response to your questions?

8 A. Not really, no.

9 Q. Do you remember anything that he told you in
10 response your questions?

11 A. No. I -- no.

12 Q. Have you ever been deposed before?

13 A. Well, I was trying to think of that. I'm not
14 sure. It would have been a long time ago regarding an
15 accident of some sort.

16 Q. Uh-huh.

17 A. Whether I was deposed or I had to give a
18 statement, I'm not sure if it was a deposition or just a
19 recorded statement.

20 Q. Okay. And it was regarding a car accident
21 claim?

22 A. Something years and years and years ago.

23 Q. So I'm just going to go over some big picture
24 ground rules to try to make this --

25 A. Sure.

WILLIAM SWIRTZ, 3/19/2019

1 Q. -- flow seamlessly.

2 Your answers need to be verbal. Yes, yep, no,
3 nope, those are fine. Uh-huh or uh-uh will not transcribe
4 well. We can't read that, so avoid those. Nodding your
5 head, shaking your head in response to my question, she
6 can't transcribe, so she will sometimes try to remind you,
7 and I will as well.

8 It is very helpful if we wait for the other
9 person to finish speaking before we start responding. I
10 am sometimes guilty of this, and so if I cut you off,
11 please let me know.

12 If you don't understand a question that I have
13 asked, feel free to ask me to rephrase it or clarify in
14 some way. If you do answer a question I'm going to
15 understand -- I'm going to assume that you understood it.
16 But if you later realize that there was potentially
17 something inaccurate, feel free to let me know.

18 If you need a break, that's fine. Let me know.
19 I just ask that you finish answering the question that I
20 am asking, and then we can go take a break.

21 And you are not represented in this deposition
22 by a separate personal attorney, is that correct?

23 A. That's correct.

24 Q. And you had the opportunity to retain counsel,
25 but you didn't think it was necessary, is that correct?

WILLIAM SWIRTZ, 3/19/2019

1 A. Correct.

2 Q. So Mr. Sturr here may object to some of my
3 questions, and that's fine. Go ahead and let him finish
4 objecting, and then you can go ahead and answer my
5 question.

6 Can you tell me where you currently live?

7 A. Specifically?

8 Q. Yeah, your address.

9 A. Is that relevant?

10 Q. If you are not comfortable, you can just tell me
11 the city and state.

12 A. We live in Chandler, Arizona.

13 Q. Thank you.

14 And you understand that you are currently
15 testifying under oath?

16 A. Correct.

17 Q. And are you on any medications or drugs that
18 could affect your ability to testify accurately and
19 truthfully today?

20 A. No.

21 Q. Good job with that verbal response.

22 Did you do anything to prepare for today's
23 deposition?

24 A. I'm not sure I understand the question.

25 Q. Review any old documents or talk to anyone, just

WILLIAM SWIRTZ, 3/19/2019

1 as you were anticipating coming here?

2 A. I did not review any documents, no. I did speak
3 to my wife. She told me to be on good behavior.

4 Q. I don't know if you are really going to manage
5 that.

6 And are you currently the president of Swirtz
7 Realty Advisors?

8 A. Correct.

9 Q. And you have held that position for the past
10 eight years?

11 A. Approximately.

12 Q. And can you explain what you do?

13 A. It would be commercial real estate brokerage.

14 Q. And so for someone who doesn't speak that
15 language, what do you do on a day-to-day basis?

16 A. You want to ask me that another way?

17 Q. Yes.

18 Can you explain to me, for example, do you help
19 a buyer find a lease or do you help buyers find something
20 to purchase? What's your more day-to-day activity of what
21 you do?

22 A. I could do that. If someone were looking to
23 purchase a building, I could help them. If someone were
24 looking to lease a property, I could help them.

25 Q. And in general, is there something that you do

WILLIAM SWIRTZ, 3/19/2019

1 more often than another? what's your general practice?

2 A. I am a self -- I am the only person. I don't
3 have any employees. I don't have any other agents.

4 Q. Okay. So basically --

5 A. I work out of my house.

6 Q. Okay. And so basically anything that either a
7 potential tenant or a potential buyer would be looking
8 for, you would help them find that potential location?

9 A. Correct.

10 Q. And would you also help them with any contract
11 work that was associated with that?

12 A. Correct.

13 Q. Is there anything else that you do outside of
14 that?

15 A. No.

16 Q. And from 1995 to 2011, you were the president of
17 Apollo Development Corporation?

18 A. Correct.

19 Q. That's a University of Phoenix entity?

20 A. University of Phoenix was a subsidiary to the
21 Apollo Group, Inc.

22 Q. Oh, okay. And can you explain what you did
23 there?

24 A. I managed their real estate portfolio.

25 Q. And so does that mean that you were entering

WILLIAM SWIRTZ, 3/19/2019

1 into purchases and leases on behalf of university of
2 Phoenix or the Apollo Group?

3 A. I -- I could.

4 Q. And were there other management activities that
5 you were doing?

6 A. Such as?

7 Q. I don't know, because I wasn't the president. I
8 just don't know if there was any other component to that
9 job.

10 A. Well, there were other departments that reported
11 to me.

12 Q. Oh. Can you explain that to me a little bit?

13 A. A little bit. Facilities --

14 Q. Uh-huh.

15 A. -- would report to me.

16 Q. Okay.

17 A. The lease management, lease administration would
18 report to me. The tenant improvement and construction
19 would report to me.

20 Q. And did you -- did you actually purchase real
21 estate while you were a president?

22 A. Did I?

23 Q. Did you handle the purchasing?

24 A. On behalf of the company?

25 Q. Yes.

WILLIAM SWIRTZ, 3/19/2019

1 A. I'm sorry. Can you ask me the question again?

2 Q. You are going to make me work for this.

3 A. I'm sorry. I just want to --

4 Q. It's good to be clear.

5 Did you handle the purchase transactions for the
6 Apollo Group while you were president?

7 A. Correct.

8 Q. For, would you say, how many pieces of property?

9 A. Very few, because most of the transactions were
10 lease -- were leases.

11 Q. Okay. And you had your bachelor's degree in
12 business administration from ASU?

13 A. Correct.

14 Q. Any other post-high school education?

15 A. Real estate broker's license.

16 Q. And to maintain that license, did you take
17 continuing education classes?

18 A. Correct.

19 Q. And so do you have a pretty good understanding
20 of real estate financing?

21 A. Limited.

22 Q. How is it limited?

23 A. Can you ask the question again, please?

24 Q. Well, I'm just trying to get a sense of your
25 comfort level with the process of buying and financing

WILLIAM SWIRTZ, 3/19/2019

1 real estate.

2 A. My comfort level.

3 Q. This is going to make it long.

4 A. I'm trying to help.

5 Q. So your experience and your education and the
6 amount of times that you have gone through the process of
7 going through the financing and loan procedures related to
8 buying real estate.

9 A. I have not been through a lot of loan
10 procedures.

11 Q. Okay.

12 A. I have acquired several personal residences --

13 Q. Okay.

14 A. -- that I have obviously gone through the loan
15 process, but I have not -- I do not have an extensive
16 knowledge of the different financing vehicles, if you may
17 say, to acquire real estate.

18 Q. Okay. Do you have a good knowledge of using a
19 standard bank loan to acquire real estate?

20 MR. STURR: Object to the form.

21 THE WITNESS: I'm sorry.

22 Q. You can still answer, if you understand the
23 question.

24 A. I'm not sure what "good knowledge" means.

25 Q. Do you feel that you have knowledge regarding

WILLIAM SWIRTZ, 3/19/2019

1 obtaining and using a bank loan to obtain real estate?

2 A. Yes.

3 Q. Do you have any other experience relating to
4 real estate or the financing of real estate that we
5 haven't covered so far?

6 A. No.

7 Q. And so you mentioned that you --

8 A. Louder.

9 Q. You mentioned that you have bought a few
10 personal residences?

11 A. Correct.

12 Q. Do you rent those out?

13 A. I have several rentals, yes.

14 Q. And when you -- did you obtain financing to
15 purchase those residences?

16 A. No.

17 Q. Did you pay in cash?

18 A. Yes.

19 Q. And you did not use, for example, a hard-money
20 lender?

21 A. No.

22 Q. Have you ever used a hard-money lender?

23 A. No.

24 Q. Have you ever financed the purchase of a
25 personal real estate purchase?

WILLIAM SWIRTZ, 3/19/2019

1 A. Yes.

2 Q. If you will take the top document, or, actually,
3 she will mark it first.

4 (Deposition Exhibit No. 802 was marked for
5 identification.)

6 Q. If you will take a quick look at this. It is
7 Exhibit No. 802.

8 A. Okay.

9 Q. It looks like --

10 A. Oh, okay. Go ahead.

11 Q. It looks like you were considering investing in
12 an entity called Sharp Equity, LLC?

13 MR. STURR: Object to the form.

14 Q. (BY MS. TOLMAN) You can go ahead and answer, if
15 you understood.

16 A. Can you ask that question another way, please?

17 Q. Were you considering investing or partnering
18 with this entity Sharp Equity, LLC?

19 A. No.

20 Q. Okay. What were you looking at here?

21 A. More of background information on these guys.

22 Q. Okay. And why were you looking for that?

23 A. I -- I knew -- I'm not -- I can't remember.

24 Kyle Brown, either that was the son of another gentleman
25 that I knew and that was a son that was starting it, and I

WILLIAM SWIRTZ, 3/19/2019

1 believe I ran into him someplace, asked him what he was
2 doing. He said he was in the hard-money lending business
3 or in that arena, and that's where that would have come
4 from.

5 Q. Okay. And so you did not have any
6 relationship --

7 A. No.

8 Q. -- with this Sharp Equity?

9 A. No.

10 Q. Did you invest in any other real estate
11 entities, entities that were dealing in real estate?

12 A. No.

13 Q. And did you invest with any other hard-money
14 lenders other than DenSco?

15 A. No.

16 Q. Okay. You can set that one down. And if you
17 will mark the next one.

18 (Deposition Exhibit No. 803 was marked for
19 identification.)

20 Q. So you are looking at what's been marked as
21 Exhibit 803.

22 Do you recognize this document?

23 A. Not really.

24 Q. Take a look.

25 A. Can you tell me what it is?

WILLIAM SWIRTZ, 3/19/2019

1 Q. I can't, honestly.

2 A. Why can't you?

3 Q. I don't know. I was hoping you could tell me.

4 A. I am not sure what this is.

5 Q. You haven't seen this before, that you can
6 recall?

7 A. Not really.

8 Q. Do you know anything about Arizona Investors
9 Alliance, LLC?

10 A. Help me understand who that is. They don't --
11 it doesn't pop out at me.

12 Q. Yeah. I don't have an understanding, either.
13 Okay. If you don't know, you don't know. I'm
14 not trying to...

15 A. Yeah, I don't -- I don't know.

16 Q. And you don't have any understanding of why this
17 would have been in records held by Denny Chittick or
18 DenSco?

19 A. No.

20 Q. Okay. And you don't recall entering into this
21 deed of trust?

22 A. No.

23 Q. Okay. All right. Okay. We can move on.

24 (Deposition Exhibit No. 804 was marked for
25 identification.)

WILLIAM SWIRTZ, 3/19/2019

1 Q. You are looking at Exhibit 804. At the top is
2 this bill.swirtz@apollogrp.edu an address that you used?

3 A. Okay.

4 Q. Yes?

5 A. Yes.

6 Q. And then did you change your email address to
7 this wjswirtz@me.com?

8 A. I -- that is -- that is my email address, yes.

9 Q. Okay. Do you have any other email addresses
10 that you would have used with Denny or DenSco besides
11 these two?

12 A. I don't believe so. I do have another email
13 account, but I don't believe I used it with DenSco.

14 Q. Do you mind putting the address in the record
15 just so we can search and make sure?

16 A. It would be wswirtz.sra@me.com.

17 Q. Okay. Thank you.

18 when did you meet Denny? Approximate is fine.

19 A. Approximately 2007-ish.

20 Q. Okay. And was that when you were neighbor --
21 became neighbors?

22 A. We were building a house in that same
23 neighborhood, correct.

24 Q. And then did you and Denny serve on the HOA
25 board?

WILLIAM SWIRTZ, 3/19/2019

1 A. Yes, we did.

2 Q. And was that around that same time?

3 A. Correct.

4 Q. Okay. And did you ultimately consider Denny a
5 friend?

6 A. I would consider Denny an acquaintance.

7 Q. And about how often did you see or talk to
8 Denny?

9 A. It would be periodically, just in the street --

10 Q. Okay.

11 A. -- at the mailbox.

12 Q. More running into each other in the neighborhood
13 than anything else?

14 A. It was -- it would have been casually, a
15 drive-by, a wave, how you doing?

16 Q. Okay. And did you ever meet his family?

17 A. Yes.

18 Q. And who all did you meet? Do you remember?

19 A. His wife.

20 Q. Did you meet his parents or siblings?

21 A. I met his parents, yes.

22 Q. And did you ever have any substantive
23 discussions with them, or was that just a...

24 A. There was no substance of discussion. It was --
25 it was: Hi, how are you? How is the weather in Idaho?

WILLIAM SWIRTZ, 3/19/2019

1 Q. Great.

2 Did you ever discuss with Denny his relationship
3 with his wife?

4 A. No.

5 Q. Did you know that he was having issues that
6 would lead to divorce?

7 A. No.

8 Q. If you will mark the next one.

9 (Deposition Exhibit No. 805 was marked for
10 identification.)

11 A. Okay.

12 Q. Do you recall receiving this email?

13 A. Yes.

14 Q. Was this the first time that you learned of the
15 divorce?

16 A. Yes.

17 Q. Did you ever talk about the divorce with Denny
18 subsequently?

19 A. You mean after the divorce?

20 Q. Uh-huh.

21 A. Yes.

22 Q. Can you tell me what you remember?

23 A. Not really. It was we were -- I was very
24 surprised. He never indicated that there was a problem.

25 Q. Uh-huh.

WILLIAM SWIRTZ, 3/19/2019

1 A. You know, Denny was pretty private, didn't share
2 a lot of information, and I didn't -- I didn't prod him
3 along.

4 Q. Okay. Did he ever tell you the reason for the
5 divorce?

6 A. He may have. I don't remember.

7 Q. So you don't remember what the reason was?

8 A. Not exactly, no.

9 Q. Do you have a sense of it?

10 A. I'm not sure.

11 Q. Okay. Did you talk to Ranasha after the
12 divorce?

13 A. No.

14 Q. Did you see -- did you see a change in Denny
15 after the divorce?

16 A. No.

17 Q. Did you know any of Denny's friends?

18 A. No.

19 Q. Did you know anything about Denny's financial
20 situation?

21 A. Other than what he would distribute to us from
22 DenSco, no.

23 Q. What did you think of Denny?

24 A. Nice guy. Good neighbor. Loved his children.
25 Seemed to be very intelligent, laid back, genuine.

WILLIAM SWIRTZ, 3/19/2019

1 Q. You mentioned that he was very intelligent.
2 Others have said that he was the smartest guy in the room
3 when it came to financing.

4 Would you agree with that?

5 MR. STURR: Object to the form.

6 THE WITNESS: Depends who was in the room.

7 Q. Average makeup of people.

8 A. I believe Denny was very intelligent in when it
9 came to financing, yes.

10 Q. Did you think that because of discussions you
11 had with him?

12 A. That probably had something to do with it, yes.

13 Q. Were there -- were there other things that led
14 into that?

15 A. I believe his background when he was at
16 Insight --

17 Q. Uh-huh.

18 A. -- was pretty formidable, from what I believe.

19 Q. Uh-huh.

20 A. And in the brief conversations that we would
21 have, he -- he appeared to be smarter than average when it
22 came to financing.

23 Q. Do you remember anything specifically about
24 those discussions?

25 A. No.

WILLIAM SWIRTZ, 3/19/2019

1 Q. Did your impression of Denny change over time?

2 A. No.

3 Q. Did he seem at any point that he was stressed or
4 having any mental issues?

5 A. No.

6 Q. Do you remember how you first learned of DenSco?

7 A. It would have been from Denny.

8 Q. Would it have been in a conversation when you
9 were -- happened to see each other in the neighborhood?

10 A. Correct.

11 Q. Do you remember that conversation?

12 A. Specifically, no.

13 Q. Do you remember anything, do you have takeaways
14 that you remember about what you have learned, sort of
15 your general impression of DenSco?

16 A. I asked Denny what he did. Found it quite
17 curious that he was someone who worked from his home.

18 Q. Uh-huh.

19 A. And that's how I learned of what a hard-money
20 lender was, what he was doing.

21 Q. Uh-huh. And what did he describe to you, the --
22 about how hard-money lending works?

23 A. I'm not sure at that time he described it, but
24 as I learned it to be, it was a process of making
25 short-term loans to qualified investors that were buying

WILLIAM SWIRTZ, 3/19/2019

1 basically foreclosure properties and bank-owned
2 properties, that they would, that they would go in,
3 renovate and resell.

4 Q. Did you have any discussions with him about the
5 specifics of how that worked?

6 A. In general, yes.

7 Q. What do you remember?

8 A. That basically he told me that he -- he would
9 make short-term loans, which were 90 to 120 days to six
10 months. He would loan roughly 70 percent of the loan to
11 value to the property.

12 He said that he was not overly heavily invested
13 in one particular apartment. These were all single-family
14 detached residential houses, which helped spread the risk
15 of the investment.

16 He also said that -- he told me that he would
17 never make a loan greater than 10 percent of his portfolio
18 to any one individual, and all of his loans were secured
19 by the first deed of trust.

20 Q. Anything else that you remember?

21 A. No.

22 Q. Did you take notes about any of this?

23 A. No.

24 Q. Any documents that you have relating to these
25 discussions?

WILLIAM SWIRTZ, 3/19/2019

1 A. I'm sorry. Say it again.

2 Q. Do you have any documents, other than notes,
3 that would relate to these discussions?

4 A. Only the note -- only what documents Denny
5 provided me as an investor.

6 Q. Okay. So let's move to that. If you will mark
7 the next exhibit.

8 (Deposition Exhibit No. 806 was marked for
9 identification.)

10 Q. This is Exhibit 806. It is an excerpt. Because
11 it was a very long document, I didn't want to make you
12 flip through the whole thing, and only one paragraph was
13 relevant to you.

14 A. What am I supposed to look at here?

15 Q. So if you will look, it's dated 2006 at the top.
16 And then if you turn the page, the first paragraph marked
17 3-6, it states: Bill Swirtz came over and picked up
18 packets from me for him and his former coworker. I hope
19 that comes in for some money.

20 Do you remember picking up these packets?

21 A. A packet would have probably -- for him and his
22 former coworker. I don't know who that would have been.
23 A packet Denny -- at the end of the subscription period of
24 his notes, whatever he provided us --

25 Q. Uh-huh.

WILLIAM SWIRTZ, 3/19/2019

1 A. -- that they would renew, whatever the renewal
2 period was, and that might have been what that was.

3 Q. So this was in 2006, and according to the
4 subscription agreements we have, I don't think that you
5 invested until 2007.

6 A. Okay.

7 Q. Does that sound right to you?

8 A. Whatever the documents say. I don't know
9 exactly, but you have all that.

10 Q. Those are next. So you -- and this is fine.
11 You don't remember going to his house and
12 picking up --

13 A. Getting a packet.

14 Q. -- paperwork before you invested?

15 A. I probably did. I probably asked him -- maybe
16 that's what it was. Maybe it was his subscription
17 package.

18 Q. Uh-huh.

19 You think that's possible; you just don't have a
20 firm memory of it?

21 A. Correct.

22 Q. Okay. And you don't remember anything specific
23 about it either way?

24 A. No.

25 Q. And this former coworker doesn't ring any bells

WILLIAM SWIRTZ, 3/19/2019

1 to you?

2 A. No.

3 Q. Did you have a former coworker that was
4 interested in investing in DenSco?

5 A. No.

6 Q. Okay. Next document.

7 (Deposition Exhibit No. 807 was marked for
8 identification.)

9 Q. Exhibit 807 is a compilation of subscription
10 agreements that appear to have your name and/or signature.

11 A. Okay.

12 Q. In some instances, the copy that we were
13 provided of the Subscription Agreement was not complete.
14 When we had a complete copy, I have included that here as
15 a separate document, but I have just put them all together
16 so you had them all in one place.

17 If you will take a look down at the bottom, this
18 D number, D134564.

19 A. 564.

20 Q. 64. Uh-huh.

21 A. I have 563.

22 Oh, okay.

23 Q. Take a minute to review, but this appears to be
24 a Subscription Agreement signed by you, dated
25 February 15th, 2007, for a quarterly payment note in the

WILLIAM SWIRTZ, 3/19/2019

1 amount of \$130,000, at a rate of 12 percent per year.

2 Is that correct?

3 A. Yes.

4 Q. And that is your signature?

5 A. Over here?

6 Q. Yes.

7 A. It appears to be.

8 Q. Okay. And the first paragraph, it states that:

9 The undersigned investor --

10 A. wait. where are we at?

11 Q. The first paragraph with a 1 and then
12 subscription.

13 A. Okay.

14 Q. The undersigned investor has received and
15 reviewed the Confidential Private Offering Memorandum
16 dated June 1st, 2005.

17 Do you believe that you received a POM dated
18 2005 before signing this agreement?

19 A. I believe I received something. The specific
20 date, I couldn't tell you.

21 Q. Okay. But you think that you did receive a
22 memorandum with information before signing this document?

23 A. Correct.

24 Q. Do you remember anything about that memorandum?

25 A. Not specifically.

WILLIAM SWIRTZ, 3/19/2019

1 Q. Did you -- did you review it?

2 A. Probably.

3 Q. And do you recall if there was anything in there
4 relating to DenSco's loan procedures?

5 A. No.

6 Q. Do you recall anything in there relating to the
7 loan-to-value ratio?

8 A. Yes.

9 Q. What do you recall about that?

10 A. 70 -- that he would loan 70 percent loan to
11 value.

12 Q. Okay. And do you recall anything in there
13 relating to how DenSco secured its loans?

14 A. They were to be secured by a first deed of
15 trust.

16 Q. And did it -- just do you recall if it described
17 how DenSco was going to go about doing that?

18 A. No.

19 Q. Did you assume that Denny knew how to ensure
20 that DenSco was in a first position?

21 A. Yes.

22 Q. And was this based on your observations and
23 knowledge of his experience?

24 A. Yes.

25 Q. Do you remember anything in the POM regarding

WILLIAM SWIRTZ, 3/19/2019

1 DenSco's diversification of loans? For example, making
2 smaller loans to multiple borrowers?

3 A. I don't recall that specifically, other than it
4 was either in the POM or was somewhere in those documents
5 that he said he would never loan more than 10 percent of
6 his investment portfolio to one individual.

7 Q. Okay. And we have been talking about the --
8 what was -- what your memory is of what was in the 2005
9 POM.

10 Do you recall talking to Denny specifically,
11 having a conversation with Denny about these same topics?

12 A. Not specifically, other than to just verify this
13 is in fact what he was doing.

14 Q. Uh-huh. To -- so you think after you received
15 the memorandum, that you followed up with Denny to confirm
16 a few of the points?

17 A. Correct.

18 Q. And was that before you would have signed the
19 Subscription Agreement or after, potentially when you were
20 renewing?

21 A. Hopefully it would have been before.

22 Q. Do you think it was before?

23 A. Yes.

24 Q. Did you ever talk to Denny about DenSco using a
25 trustee or an escrow company?

WILLIAM SWIRTZ, 3/19/2019

1 A. No.

2 Q. Did you ever discuss with Denny DenSco's wiring
3 of money directly to borrowers?

4 A. No.

5 Q. Other than the Subscription Agreement and the
6 2005 memorandum, do you remember receiving any other
7 documents from Denny before signing this?

8 A. No.

9 Q. And did you ever see any records regarding the
10 loans that DenSco made to borrowers?

11 A. Can you ask that another way?

12 Q. Did you ever see any documents that related to
13 the loans that DenSco made to its borrowers?

14 A. The actual documents?

15 Q. No. Just any documents.

16 A. Denny would provide an annual or quarterly
17 update --

18 Q. Uh-huh.

19 A. -- of number of loans outstanding, how many
20 investors, roughly the value of the assets.

21 Q. Yeah.

22 A. You know, more of a reconciliation type of thing
23 than the actual document itself.

24 Q. And did you consistently receive those up until
25 Denny's death?

WILLIAM SWIRTZ, 3/19/2019

1 A. Correct.

2 Q. And did you review those when you received them?

3 A. Yes.

4 Q. Do you remember ever talking to Denny about the
5 quarterly updates that you received?

6 A. Can you ask me another way?

7 Q. I'm just wondering if you had potentially
8 follow-up questions or confirmation discussions or any
9 discussion that would have been related to --

10 A. No.

11 Q. -- the information in the quarterly updates?

12 A. No. His quarterly updates were pretty thorough.

13 Q. Uh-huh.

14 A. Pretty self-explanatory. Talked about the
15 market, the market conditions, interest rates, his
16 prediction in the future, where he felt the market was
17 going.

18 Q. Do you remember seeing very many updates
19 regarding his loan to borrowers?

20 MR. STURR: Object to the form.

21 Q. Or DenSco's loans to borrowers?

22 A. No.

23 MR. STURR: Same objection.

24 Q. Do you -- did you note any change in the
25 substance, as in the type of areas addressed by the

WILLIAM SWIRTZ, 3/19/2019

1 quarterly updates, over time?

2 A. No.

3 Q. Did you notice any real differences in -- other
4 than obviously it's going to change with the specific
5 information provided, but any real differences in the
6 quarterly updates over time?

7 A. No.

8 Q. I'm just going to walk you through, so we have
9 it clear for the record, your following investments,
10 Subscription Agreements. If you will find D134562.

11 A. 562?

12 Q. 562. It's in the first. Yeah, it's in that
13 first one.

14 A. 562. Okay.

15 Q. And this is a May 27th, 2008, monthly payment
16 note in the amount of \$500,000, that bears interest at a
17 rate of 12 percent per year, and it's signed by you, is
18 that correct?

19 A. It appears to be my signature.

20 Q. And this note, it notes that it's for three
21 months.

22 Do you see that, under the monthly payment note
23 box?

24 A. Uh-huh.

25 Q. Do you know why it was three months, or if that

WILLIAM SWIRTZ, 3/19/2019

1 was a typo?

2 A. I believe I did that just because I was still
3 unsure at that time --

4 Q. Okay.

5 A. -- and I only wanted it in for a shorter period
6 of time.

7 Q. And so you asked Denny if that would be okay,
8 and he said yes?

9 A. Correct.

10 Q. Did you continue to collect interest at
11 12 percent per year on this note?

12 A. Correct.

13 Q. And at the top, it again references your receipt
14 and review of a Private Offering Memorandum dated
15 June 1st, 2007.

16 Do you remember receiving a new POM --

17 A. Yes.

18 Q. -- at this time?

19 A. Yes.

20 Q. And did you review that?

21 A. Yes.

22 Q. Did you note any changes?

23 A. No.

24 Q. Did you discuss the POM with Denny?

25 A. No.

WILLIAM SWIRTZ, 3/19/2019

1 Q. Did you have any discussions with Denny, other
2 than the three-month timeframe, before entering into this
3 note?

4 A. No.

5 Q. And when the three months ended, you rolled it
6 over, correct?

7 A. Correct.

8 Q. And at that point in time, did you have any
9 additional discussions with Denny?

10 A. No.

11 Q. And why did you decide to roll it over?

12 A. It appeared to be safe and secure, as he had
13 promised that it would be.

14 Q. All right. If you go back just a few pages. It
15 is 134558.

16 A. 5 --

17 Q. 58.

18 A. 558. Okay.

19 Q. And this is a July 13th, 2009 --

20 A. Okay.

21 Q. -- monthly payment note in the amount of
22 \$500,000 for six months at a rate of 12 percent per year,
23 signed by you, correct?

24 A. That appears to be my signature.

25 Q. And so it does look like at this point you

WILLIAM SWIRTZ, 3/19/2019

1 increased it to six months, but you are still able to take
2 it out --

3 A. Correct.

4 Q. -- at that point in time?

5 And you decided to roll that over as well?

6 A. Correct.

7 Q. And this one as well references a 2009 POM.

8 Do you remember receiving that?

9 A. Yes.

10 Q. Did you review that?

11 A. Yes.

12 Q. Did you note any changes?

13 A. No.

14 Q. Were you looking for changes?

15 A. No.

16 Q. And did you talk to Denny about the POM?

17 A. No.

18 Q. Did you have any discussions with Denny about
19 your investment or DenSco before deciding to agree on this
20 note?

21 A. No.

22 Q. And if you go back one more page to 556, this
23 note is dated April 26, 2010, and it is for \$500,000,
24 increased for a 24-month period at a rate of 12 percent
25 per year, and it is your signature?

WILLIAM SWIRTZ, 3/19/2019

1 A. Yes.

2 Q. And at that point you had -- you felt
3 comfortable with a 24-month period?

4 A. Correct.

5 Q. Was that because you had been consistently paid
6 interest for the preceding years --

7 A. Correct.

8 Q. -- your other investments?

9 A. Correct.

10 Q. Was there anything else that made you feel safe
11 and secure in the investment at that point in time?

12 A. Denny had been very consistent. There was no
13 reason, there were no signs of any deviances, so we felt
14 very comfortable, so long as he followed and did what we
15 had expected him to do.

16 Q. And the 2009 -- this document references the
17 2009 POM. You remember receiving another copy of that?

18 A. Correct.

19 Q. And did you review that?

20 A. Yes.

21 Q. And did you notice any changes?

22 A. No.

23 Q. And if you will look through the other documents
24 quickly, you don't need to spend too much time, but just
25 to quickly confirm that it does appear to be your

WILLIAM SWIRTZ, 3/19/2019

1 signature and that you continued to roll over your
2 investments and enter into new Subscription Agreements on
3 the same general terms every two years subsequently?

4 A. That would be correct.

5 Q. And if you look, for example, at D127483?

6 A. 483?

7 Q. It's going to be -- yes. It's in your -- this
8 one here, 483.

9 MR. STURR: I'm sorry. Where is it? We are
10 still on 807?

11 MS. TOLMAN: Same one, but if you look --

12 MR. STURR: Oh, it's in the back. Right here.
13 I found it.

14 MS. TOLMAN: Thanks.

15 Q. So this is one of your rollover subscription
16 agreements, dated July 13th, 2015. It still references a
17 2009 POM, but based on later documents that we received,
18 it does look like Denny emailed you a 2011 POM.

19 We can take a look if you like, but do you
20 remember receiving the 2011 POM?

21 A. I don't remember, no.

22 Q. Okay. Let's go ahead and turn to that. You can
23 close this guy up.

24 A. Are we done with these?

25 Q. Yes. You can put it in your pile.

WILLIAM SWIRTZ, 3/19/2019

1 A. These, too?

2 Q. Perfect. And if you will mark.

3 (Deposition Exhibit No. 808 was marked for
4 identification.)

5 Q. Exhibit 808 is a 2011 email from Denny Chittick,
6 attaching a Private Offering Memorandum dated 2011.

7 A. Okay.

8 Q. Do you remember receiving this now that you look
9 at it?

10 A. Vaguely.

11 Q. Do you think you would have reviewed the 2011
12 POM?

13 A. Yes.

14 Q. Do you remember noticing any changes --

15 A. No.

16 Q. -- or do you remember talking to Denny about
17 the --

18 A. No.

19 Q. -- 2011?

20 A. No.

21 Q. Did you have any concerns at this time?

22 A. No.

23 Q. It notes that Warren Bush, a long-time investor,
24 reviewed and gave input from an investor's point of view.

25 Did you know Warren Bush?

WILLIAM SWIRTZ, 3/19/2019

1 A. Never heard of him.

2 Q. You don't know anything about this?

3 A. That's a no, negative, negatory.

4 Q. The next document.

5 (Deposition Exhibit No. 809 was marked for
6 identification.)

7 Q. Exhibits 809 is an Email from Denny Chittick to
8 investors dated 7/23/2010, and it attaches an updated
9 investor questionnaire.

10 Do you recall receiving this email?

11 A. Vaguely.

12 Q. And do you have an understanding of why you were
13 required to be an accredited investor?

14 A. Not exactly.

15 Q. Do you have any sense of it?

16 A. Vaguely.

17 Q. Can you tell me what you know?

18 A. Just I have heard of it before.

19 Q. Did you ever talk to Denny about it?

20 A. Not really.

21 Q. Do you remember completing the questionnaire and
22 providing it to DenSco?

23 A. Probably, yes.

24 Q. All right. You can set that down here.

25 The next stack of documents --

WILLIAM SWIRTZ, 3/19/2019

1 (Deposition Exhibit No. 810 was marked for
2 identification.)

3 Q. -- are a few emails from Denny to you that seem
4 to reference your subscription agreements coming up for
5 renewal. If you take a quick look, and just let me know
6 if this reminds you or refreshes your memory at all
7 regarding your review of the documents, what you received,
8 or any discussions with Denny.

9 A. Basically they were the rollover renewal of my
10 existing subscriptions --

11 Q. Uh-huh.

12 A. -- that at the time had come to update them.
13 And he would email me or call me and says when Jackson, at
14 that time was my dog, stop by the house, pick him up, sign
15 them, drop them off.

16 Q. And would you pick up -- would you stop by and
17 pick up the POM and sign the documents at the same time?

18 A. I don't believe the POM never changed. It was
19 basically the renewal subscription.

20 Q. But when we go through, the POM has different
21 dates.

22 So you are getting -- and your memory was that
23 you received an updated POM when you entered into those
24 new subscription agreements?

25 A. Okay. Now you are confusing me.

WILLIAM SWIRTZ, 3/19/2019

1 Q. Okay. I don't want to do that.

2 So I thought from your previous testimony that
3 even for the later Subscription Agreements where you are
4 basically rolling over your investments, that you would
5 have picked up, for example, a 2011 POM before you signed
6 that.

7 Is your memory that you did not pick up any POM
8 because you received the 2011 POM by email, and so he
9 would just have you signed the Subscription Agreement?

10 A. That would probably be correct.

11 Q. Okay. And for the earlier POMs, he would have
12 handed you a POM before you made the additional
13 investment?

14 A. It would have been at that time. It was a hard
15 copy.

16 Q. And would you get a copy, a hard copy of the POM
17 at the same time that you signed the agreement?

18 A. Probably, yes.

19 MR. STURR: Shelly, when you get a chance, could
20 we take a break?

21 MS. TOLMAN: Yep. Now is a good time.

22 (A recess was taken from 2:40 p.m. to 2:43 p.m.)

23 (Deposition Exhibit No. 811 was marked for
24 identification.)

25 Q. Before you take a look at that, if we can just

WILLIAM SWIRTZ, 3/19/2019

1 close the loop on -- so at this point we have gone through
2 a number of years where you are continuing to roll over
3 your investment in DenSco.

4 Do you have -- we talked about reviewing the
5 quarterly updates.

6 Do you also have discussions with Denny, while
7 you are walking the neighborhood, about DenSco?

8 A. Yes.

9 Q. Can you tell me what you remember about those?

10 A. Because this was my retirement income --

11 Q. Yeah.

12 A. -- I needed to understand when Denny thought he
13 was going to retire --

14 Q. Uh-huh.

15 A. -- and no longer be in this business --

16 Q. Uh-huh.

17 A. -- so I could plan for the distribution of my
18 principal, and how I would invest that in another vehicle
19 that would provide us our retirement income.

20 Q. Uh-huh.

21 A. | [REDACTED]

22 [REDACTED]

23 Q. Uh-huh.

24 A. -- then Denny was basically planning on
25 retiring.

WILLIAM SWIRTZ, 3/19/2019

1 Q. Okay. Did you have any concerns about that or
2 was that fine for you?

3 A. That was fine.

4 Q. Okay. Did you have any other discussions with
5 him about DenSco or your investment during those years?

6 A. Not really.

7 Q. Did you get general updates from him, like
8 things are going well, anything along those lines?

9 A. Casual talk, how are things? Things are good.
10 How are the boys? Boys are great. Business is good.
11 Money is deployed.

12 Q. Money is deployed.

13 And did you take that to mean that he had
14 borrowers?

15 A. Correct.

16 Q. Anything else that you remember?

17 A. That's it.

18 Q. Okay. Looking at Exhibit 811, if you would just
19 quickly take a look, this appears to be the subscription
20 agreements for your wife Nancy.

21 A. Okay.

22 Q. Is that correct?

23 A. Nancy is my wife. That is correct.

24 Q. And would you take a look and confirm that, to
25 your knowledge, this looks like Nancy's signature and

WILLIAM SWIRTZ, 3/19/2019

1 these appear to be --

2 A. That appears to be her signature.

3 Q. And these appear to be her subscription
4 agreements?

5 A. Correct.

6 Q. Do you know if Nancy separately received the
7 POMS or had any separate discussions with Denny?

8 A. I don't recall her getting anything separately.
9 I don't -- I couldn't tell you what discussions she might
10 have had with Denny.

11 Q. Okay. In general, were you the one who would
12 have reviewed the POMS?

13 A. Correct.

14 Q. And just because it's odd, a few of these are
15 for very small amounts, like 221.25 on D135139.

16 Do you know if that was interest that had been
17 accrued or why there was these amounts?

18 A. No. Those were small checks that Nancy would
19 get --

20 Q. Uh-huh.

21 A. -- from another investment that was part of her
22 inheritance that she wanted to put towards the savings, so
23 she just took that check and would give it to Denny, and I
24 was surprised that Denny would even take that amount,
25 small amount, but he said that was fine.

WILLIAM SWIRTZ, 3/19/2019

1 Q. And so for these amounts and when Nancy entered
2 into these subscription agreements, you don't have any
3 memory of reviewing the POMs separately --

4 A. Correct.

5 Q. -- in order to make these decisions?

6 A. That's correct.

7 Q. Okay. Next document.

8 (Deposition Exhibits No. 812 was marked for
9 identification.)

10 Q. Exhibit 812 is an email from Denny Chittick to
11 you, dated 10/22/2009. There is also another email from
12 Denny to you, dated 2010. Both of these reference you
13 acting as a potential reference for potential DenSco
14 investors.

15 Do you recall receiving these emails?

16 A. Not specifically, but in general.

17 Q. And do you recall acting as a reference at any
18 point in time for DenSco investors?

19 A. Not specifically, but if Denny would have asked
20 me, I would have given him a high rating.

21 Q. And why would you have given him a high rating?

22 A. Because he was always very consistent with his
23 pay, never missed a payment.

24 Q. And do you think that you did have conversations
25 with individuals who wanted to invest or no?

WILLIAM SWIRTZ, 3/19/2019

1 A. I don't remember these people --

2 Q. Okay.

3 A. -- specifically.

4 Q. Do you remember having any conversations with a
5 potential DenSco investor?

6 A. No.

7 Q. All right. Moving on.

8 (Deposition Exhibit No. 813 was marked for
9 identification.)

10 Q. 813 is an email from Denny to investors, dated
11 11/25/2014. It references a change of banks.

12 Did you ever talk to Denny about why he changed
13 banks?

14 A. No.

15 Q. Did you know of any issues that Denny had with
16 Bank of America?

17 A. No.

18 Q. There is an earlier email that references Bank
19 of America closing DenSco's account due to the amount of
20 back-and-forth transactions.

21 Do you remember that?

22 A. No.

23 Q. Did you have any concerns regarding his banking?

24 A. No.

25 Q. And you didn't have any understanding of how

WILLIAM SWIRTZ, 3/19/2019

1 DenSco transferred funds?

2 A. No.

3 Q. Moving on. This Exhibit has already been
4 marked, 631.

5 MS. TOLMAN: And I apologize. I think that I
6 may have left the deposition exhibits out of this pile of
7 yours, thinking you would have the other one.

8 MR. STURR: I have got them. Thank you, Shelly,
9 but thanks.

10 Q. This email marked 631 is the quarterly update,
11 the DenSco quarterly update from Denny to the investors.

12 Do you remember --

13 A. Do I have this?

14 Q. Oh, yes, you can touch that.

15 A. I didn't know if I was supposed to touch that.

16 Q. Do you recall receiving these types of emails?
17 Is it just one example?

18 A. Generally speaking, yes.

19 Q. And is this the quarterly update that you were
20 referring to -- there is actually a stack of them -- the
21 quarterly updates that you were referring to that we
22 talked about earlier?

23 A. The ones that I thought -- that I was thinking
24 of had specific numbers to them. Maybe that was the
25 annual report that I was thinking of versus a quarterly

WILLIAM SWIRTZ, 3/19/2019

1 report. Maybe I have them confused.

2 Q. You may be thinking of the newsletter that you
3 can click on through these links.

4 A. Oh.

5 Q. Is that what you are thinking of?

6 A. Maybe that's what it is then.

7 Q. Okay. So your memory is just that there was
8 more specific information --

9 A. Correct.

10 Q. -- and numbers provided?

11 And potentially that would have been accessible
12 through the newsletter link?

13 A. Correct.

14 Q. All right. If you will go to the next exhibit.
15 (Deposition Exhibit No. 814 was marked for
16 identification.)

17 Q. And I'm wondering if these emails may also be
18 what you were thinking of. These are a collection of
19 emails from Denny to an assortment of email addresses,
20 including yours, relating to the MOM's group.

21 A. The MOM's group?

22 Q. Uh-huh. So if you look at the subject line, it
23 says MOM's meeting.

24 A. Okay.

25 Q. Do you remember receiving these emails?

WILLIAM SWIRTZ, 3/19/2019

1 A. I remember something like these, that they would
2 have either a monthly or a quarterly luncheon, to which
3 his investors, the borrowers, contractors, plumbers --

4 Q. Uh-huh.

5 A. -- would attend, and they would talk about the
6 market, they would give out referrals, who is available to
7 do what, whether it's drywall, it's plumbing, electrical,
8 they were all together sharing information.

9 Q. Okay. Did you attend those meetings?

10 A. I did a couple.

11 Q. Okay. And just to clarify, is this what you
12 were thinking of when you were thinking of the additional
13 numbers? Is the information provided here, or do you
14 think it was the newsletter that you could link to?

15 A. It may have been both.

16 Q. Okay. Did you talk to borrowers about DenSco at
17 these meetings?

18 A. I don't recall specifically, but I would say
19 probably I would ask a few: How long have you been with
20 Denny? What's been your experience?

21 Q. Uh-huh.

22 A. In general questions.

23 Q. Do you recall their answers?

24 A. They were all very positive.

25 Q. Did they ever give you any specific information

WILLIAM SWIRTZ, 3/19/2019

1 about their loans or the loan process --

2 A. No.

3 Q. -- anything, where they were positive saying he
4 gets us money very quickly, things like that?

5 A. No.

6 Q. It was just general very high level: we have
7 been happy with DenSco?

8 A. Correct.

9 Q. Anything else that you remember, relating to
10 these meetings?

11 A. No.

12 Q. If you will take a look at the document with the
13 9812. It should be the second one in your pile.

14 A. Okay.

15 Q. It mentions: we also had an attorney come by.
16 Probably the last time, too. You might feel the same way.

17 Do you remember being at a meeting where an
18 attorney came by?

19 A. I don't recall.

20 Q. Okay. And you don't remember anything that that
21 attorney said at any of these meetings?

22 A. No.

23 Q. Do you know what Denny's opinion of attorney's
24 was?

25 A. Not exactly.

WILLIAM SWIRTZ, 3/19/2019

1 Q. Do you have a sense of it?

2 A. They weren't high on his list.

3 Q. And why do you think that?

4 A. Because Denny was pretty simple.

5 Q. What does that mean?

6 A. Can you ask that again, please?

7 Q. Yeah. You say that Denny was simple, and I
8 wanted to get a better sense of why you say that.

9 A. I never saw him wear anything other than shorts
10 and a T-shirt.

11 Q. Was he simple in the way that he wanted his
12 processes to be and the way that he worked?

13 A. He would prefer it that way. He would prefer
14 simplicity over complexity.

15 Q. And why do you think that? What's your
16 experience with that?

17 A. That's what he told me.

18 Q. And so would he tell you that when he was
19 talking about attorneys' specifically?

20 A. No.

21 Q. Just generally, when he was talking about work?

22 A. Correct.

23 Q. And do you remember anything more specific about
24 that?

25 A. No.

WILLIAM SWIRTZ, 3/19/2019

1 Q. All right. Next exhibit.

2 (Deposition Exhibit No. 815 was marked for
3 identification.)

4 THE WITNESS: Am I allowed to look at my phone?

5 Q. Yeah.

6 A. Is it okay if I text my wife to please pick up
7 dinner?

8 Q. Oh, yeah. Tell her to have a scotch waiting.

9 A. Thank you.

10 Q. Exhibit 815 is an email from Denny to you dated
11 2014. He mentions: To continue to constrain the size of
12 the portfolio, I am requesting that everyone that is
13 presently accruing interest to take their interest monthly
14 or quarterly.

15 Do you remember receiving this email?

16 A. Kind of.

17 Q. Do you have an understanding of why Denny made
18 that change?

19 A. No.

20 Q. Did you have any discussions with Denny
21 regarding limiting his intake of money?

22 A. No.

23 Q. Or limiting the amount of work that he was doing
24 or his loan volume?

25 A. No.

WILLIAM SWIRTZ, 3/19/2019

1 Q. All right. Did you know of any issues that
2 DenSco faced through the recession?

3 A. No.

4 Q. Did you ever talk to Denny about the impact of
5 the recession on DenSco?

6 A. No.

7 Can I ask a question?

8 Q. Sure.

9 A. What recession are you making reference to?

10 Q. I would refer to it as the Great Recession.

11 A. Oh, okay.

12 Q. Is that sufficiently clear for you?

13 A. Okay.

14 Q. Some might say we are still in it.

15 A. Well, okay.

16 Q. Did Denny ever talk to you about issues with its
17 borrowers, with DenSco's borrowers?

18 A. No.

19 Q. Did you have any understanding of how DenSco
20 treated its borrowers that were in default?

21 A. No.

22 Q. Did you have any understanding of the terms of
23 the loans between DenSco and the borrowers?

24 A. Not specifically, but I was told that they were
25 all short-term loans.

WILLIAM SWIRTZ, 3/19/2019

1 Q. Uh-huh.

2 A. I don't believe Denny had -- he never really
3 talked about a lot of his borrowers not paying or not
4 paying on time.

5 Q. Uh-huh.

6 A. I believe he said at one time he may have taken
7 back one or two houses.

8 Q. Uh-huh.

9 A. But nothing that was any -- no red flags of
10 defaults or deficiencies.

11 Q. Okay. And so your understanding from
12 discussions with Denny was that he had limited
13 deficiencies or defaults and that maybe he foreclosed on
14 one or two homes?

15 A. Correct.

16 Q. Did you know of any lawsuits that DenSco was
17 involved in?

18 A. No.

19 Q. For example, the FREO lawsuit?

20 A. No.

21 Q. And you never borrowed money from DenSco,
22 correct?

23 A. Say it again.

24 Q. You never borrowed money from DenSco?

25 A. No.

WILLIAM SWIRTZ, 3/19/2019

1 Q. Did you meet any other DenSco investors?

2 A. Yes.

3 Q. When did you meet?

4 A. Denny would have an annual investor party at his
5 home.

6 Q. Okay.

7 A. And at that time.

8 Q. And did you talk to the other investors about
9 DenSco?

10 A. Other than just a high-level discussion, but at
11 that time it probably wasn't appropriate.

12 Q. How so?

13 A. We are at his house.

14 Q. Okay. Got it.

15 A. He is hosting the party.

16 Q. You were on good behavior.

17 A. I know. That's right. They weren't going to
18 say anything bad at his house.

19 Q. Did you ever -- it's late in the day. I have
20 been doing this all day long.

21 A. All right.

22 Q. Did you ever talk to DenSco investors when you
23 were not at Denny's house?

24 A. No.

25 Q. And -- okay. Can we go back -- I apologize, but

WILLIAM SWIRTZ, 3/19/2019

1 I'm going to make you go back to the emails relating to
2 the MOM's group, Exhibit 814. There you are.

3 A. Okay.

4 Q. And turn to 100318.

5 A. Okay.

6 Q. This email states in the second paragraph --
7 well, first, do you recall receiving this email,
8 generally?

9 A. Generally.

10 Q. And this states in the second paragraph: I've
11 doubled from 21 million to 42 million in two years, so now
12 it's your turn, get the lead out.

13 Did you have any concerns regarding this
14 growth --

15 A. No.

16 Q. -- and what DenSco was handling?

17 A. No.

18 Q. And did you think, based on your experience with
19 Denny, that he could handle that volume of loan?

20 A. Yes.

21 Q. Did you ever talk to Denny about it?

22 A. No.

23 Q. And do you know if Denny ever brought anyone
24 else in to help with DenSco?

25 A. What do you mean help?

WILLIAM SWIRTZ, 3/19/2019

1 Q. For an example, an office admin person or an
2 attorney or an advisor.

3 A. I don't believe so.

4 Q. Okay. Have you spoken with any of the DenSco
5 borrowers since Denny's death?

6 A. Yes.

7 Q. Who have you spoken with?

8 A. I can't tell you specifically --

9 Q. Okay.

10 A. -- but it was after his passing. It was a
11 general: Oh, my God. What are we going to do --

12 Q. Yeah.

13 A. -- type of situation.

14 Q. Yeah.

15 A. Where nobody knew what to do. So there were
16 numerous investors on numerous phone calls trying to
17 figure out what the heck do we do.

18 Q. And I'm limiting for now to borrowers, DenSco
19 borrowers.

20 A. I'm sorry.

21 Q. That's okay.

22 A. I misstated.

23 Q. It's late in the day.

24 A. Ask me the question again.

25 Q. Did you talk to any DenSco borrowers after

WILLIAM SWIRTZ, 3/19/2019

1 Denny's death?

2 A. No.

3 Q. Did you talk to any DenSco borrowers outside of
4 these MOM's group meetings?

5 A. No.

6 Q. Okay. Do you know, sitting here today, who
7 David Beauchamp is?

8 A. I know of the name only because of why I am
9 sitting here.

10 Q. And do you know who David Beauchamp represented?

11 A. Yes.

12 Q. Who did he represent, to your understanding?

13 A. Denny and DenSco.

14 Q. And was that -- where is your understanding of
15 that coming from?

16 A. Denny.

17 Q. From Denny.

18 And so what discussion did you have with Denny
19 about that?

20 A. I believe it was either through emails or in his
21 POM that that name was mentioned, I believe.

22 Q. Okay. And so at some point in time, Denny
23 mentioned that David Beauchamp was doing work for DenSco?

24 A. I believe Denny would have referred to him more
25 by attorney than he would have by --

WILLIAM SWIRTZ, 3/19/2019

1 Q. Okay.

2 A. -- actual name.

3 Q. Okay. And so do you know potentially if DenSco
4 had more than one attorney?

5 A. I don't know.

6 Q. So do you know if you had any specific
7 discussions with Denny relating to David Beauchamp
8 definitively?

9 A. No.

10 Q. Okay. It would have been a reference to
11 DenSco's attorney?

12 A. Correct.

13 Q. Okay. Do you remember anything specifically
14 about those conversations?

15 A. Only that his attorney had reviewed the POMs and
16 made sure that all the security laws were being in line
17 and that everything met the security guidelines.

18 Q. Okay. And are you thinking about the email that
19 we looked at earlier that was when Denny sent the 2011
20 POM?

21 A. I'm not -- yes.

22 Q. Okay. All right. Do you remember anything else
23 specifically about DenSco's attorney --

24 A. No.

25 Q. -- based on your discussions with Denny?

WILLIAM SWIRTZ, 3/19/2019

1 A. No.

2 Q. And do you know of any complaints with David
3 Beauchamp's work before Denny died?

4 MR. STURR: Object to the form.

5 THE WITNESS: Can you ask that again, please.

6 Q. Did Denny ever complain to you about an
7 attorney's work for him?

8 A. No.

9 Q. And knowing what you know now, do you personally
10 have any issues or concerns with what happened with
11 regards to any attorney's representation of DenSco before
12 Denny's death?

13 A. Yes.

14 Q. Can you explain those to me?

15 A. Yes. My understanding, that Mr. Beau --

16 Q. Champ.

17 A. -- champ was aware of the first fraud that took
18 place.

19 Q. Uh-huh.

20 A. And I was never part of any conversations that
21 Denny had with him. I assumed he didn't know that this
22 fraud had taken place. I have only learned of that
23 subsequent to this happening.

24 You know, had I -- had I known that that first
25 fraud had taken place, I would have removed all of my

WILLIAM SWIRTZ, 3/19/2019

1 money from DenSco at that time, which is probably what
2 DenSco didn't want to have happen, and so they continued
3 on the road and it went down the other path to disaster.
4 And so if I -- if I had known what he knew then, I would
5 definitely have taken my money out.

6 Q. Okay. And when you reference the first fraud,
7 you are referencing the double liens on the properties --

8 A. Correct.

9 Q. -- that were securing the loans for Scott
10 Menaged --

11 A. Correct.

12 Q. -- and his entities?

13 How did you learn of Denny's death?

14 A. A neighbor had called me and said that Denny's
15 father was trying to get in touch with him and he was
16 able -- unable to do that, which was odd for him. He
17 asked my if I would go down the street and see if Denny
18 was home. Tell him his dad was trying to reach him.

19 And so I went down to his home and found the
20 police cars in front of the house. Asked what had
21 happened, and he said: It's under investigation. I said:
22 Is Denny alive? And he goes: No.

23 The officer asked me if Denny had ever talked
24 about any financial problems. I said: Never. I said:
25 Can you tell me what happened? He said: It's still under

WILLIAM SWIRTZ, 3/19/2019

1 investigation. Coroner was there. Forensic was there.

2 Q. And so you think that was the day that Denny's
3 body was found?

4 A. I know that was the day.

5 Q. Okay. And when you look back at the
6 subscription agreements in your exhibits, there is one
7 that's dated May 27th, 2016, very shortly before Denny's
8 death.

9 And did you talk to Denny at that time, did you
10 talk to him in the months leading up to his death, in that
11 timeframe?

12 A. We were gone pretty much the month of July --

13 Q. Okay.

14 A. -- and had only been home several days. So I
15 probably would have seen Denny sometime in May or June,
16 just in the neighborhood waving: Hi, how are you? There
17 were no other conversations. It was nothing other than
18 that. Hi to his kids or whatever.

19 Q. And you didn't notice anything different or
20 unusual?

21 A. Nothing.

22 Q. And you didn't have any sense that DenSco had
23 financial issues?

24 A. Never, ever, ever, ever saw it coming.

25 Q. Have you come to any understanding of why Denny

WILLIAM SWIRTZ, 3/19/2019

1 killed himself?

2 A. Can you ask it another way?

3 MR. STURR: A belated objection as to
4 foundation.

5 Q. Why do you think Denny killed himself?

6 A. I believe he was embarrassed to face his
7 investors. Denny felt that he was smarter than what he
8 got himself into.

9 Menaged had somehow convinced Denny, which is
10 hard to believe, that what Menaged was doing was going to
11 work out and he could get Denny out of it. I believe
12 Denny realized that he wasn't going to get out of it.

13 Because Denny didn't come forth after the first
14 fraud, I suspect he felt that he was going to be
15 incarcerated, and right along with Menaged, and -- and
16 couldn't face it. That's only my guess. I have no other
17 reason. I don't know what else to base it on.

18 Q. Okay. Next exhibit. This has already been
19 marked. It is Exhibit 413.

20 Have you seen this before?

21 A. Is this his -- yes.

22 Q. Do you remember when you saw this?

23 A. No.

24 Q. Do you remember how you received it?

25 A. Not exactly.

WILLIAM SWIRTZ, 3/19/2019

1 Q. Do you have a sense of it?

2 A. Through the courts or late, late in the
3 process --

4 Q. About what time --

5 A. -- somewhere in the discovery stages.

6 Q. In the discovery stages.

7 Okay. That's what I am trying to avoid, when I
8 talk over you like that.

9 A. Sorry.

10 Q. Okay. So you think you may have seen this once
11 the receiver was appointed and had begun pursuing claims?

12 A. Correct.

13 Q. If you will take a look to line number 8, it
14 states: I didn't come out of it unscathed, but I survived
15 it, which is more than I can say for many other lenders.
16 And he is referring to the Great Recession. I took
17 millions of dollars in losses over a few years. I
18 remained profitable every year. I was able to talk to a
19 few of you to help me make decisions on what I should do.
20 Should I sell these house I was getting back and take huge
21 losses or keep them, rent them hope the market comes back?
22 Gladly after consultations from several of you, you agreed
23 with my strategy, it was smarter to rent them at cash flow
24 neutral my interest costs and wait it out.

25 Did you ever have any discussions with Denny

WILLIAM SWIRTZ, 3/19/2019

1 regarding this issue?

2 A. Never.

3 Q. Did you consult with him in any way?

4 A. Never.

5 Q. Do you know of any investors who provided
6 consultation on these issues?

7 A. No.

8 Q. Have you talked to other investors about whether
9 they provided these consultations?

10 A. No.

11 Q. And do you know if any of the other investors
12 knew about the issues relating to the Great Recession?

13 A. I do not.

14 Q. If you continue to go down, almost
15 three-quarters of the way down, he is now talking about
16 going into 2013, and starting to get larger idle cash
17 positions on a regular basis. He is referring to Scott
18 Menaged. He states: Scott contacted me and asked if -- a
19 typo -- I would be interested in funding a bank of rentals
20 to which a hedge fund friend of his -- of his out of
21 New York would buy once it reached 7 to 10 million. He
22 would put down 15 to 20 percent, fix them up and rent them
23 and then when he acquired the total dollar amount he would
24 sell out to this guy. That amount of money would take me
25 over my 10 to 15 percent threshold to any one borrower.

WILLIAM SWIRTZ, 3/19/2019

1 Again I talked to a few of you investors and got a
2 positive response, based on his track record, the down
3 payments etc., the comfort level was there. I agreed.

4 Do you remember talking to Denny about any of
5 this?

6 A. Never.

7 Q. Do you know of any investors who talked to him
8 about these issues?

9 A. No.

10 Q. Have you subsequently talked to the investors
11 about whether they knew this?

12 A. No.

13 Q. No.

14 So you don't know if any other investor knew
15 this information?

16 A. I do not.

17 Q. It goes on to say: For efficiency sake, I would
18 normally wire the funds I'm lending to the bidding company
19 they would get the check and give it to the trustee. Send
20 me receipts. Sometimes I would even wire the full amount
21 and my borrower would bring me their down payment check
22 and bidding fee because they lived here in the East valley
23 versus running across town. I've operated this way ever
24 since I was given the ability to wire online in 2003.
25 Many of you knew this and I told you this is how I

WILLIAM SWIRTZ, 3/19/2019

1 operated.

2 Did you know this?

3 A. No.

4 Q. Did he ever have any discussion with you about
5 these issues?

6 A. No.

7 Q. And have you talked to any investors about this?

8 A. No.

9 Q. And do you know whether he talked to any other
10 investor about these issues?

11 A. I do not.

12 Q. Next page, he states: Mid way through the year,
13 Scott contacted me asking if we could raise the bar even
14 higher. He already had a few million of his own rentals
15 and was still doing a few flips. Now he wanted to add to
16 the hedge fund portfolio. I was concerned because of the
17 concentration with him; the portfolio was around
18 50 million. It was only going to be for a few more months
19 and he had been spotless with payments of interest and I
20 checked all the values of the properties, visited some of
21 them, everything seemed to be in order. I agreed to the
22 increase. We talked again in the fall and he was telling
23 me I would be cashed out of these by year end. I again
24 spoke with a few of you saying that I might be returning
25 some funds.

WILLIAM SWIRTZ, 3/19/2019

1 Do you recall talking to him about any of these
2 issues?

3 A. No.

4 Q. About the return of funds?

5 A. No.

6 Q. And do you know if any other investors talked to
7 him about these issues?

8 A. No.

9 Q. Do the issues addressed by this letter
10 contradict some of your understandings regarding DenSco?

11 A. Yes.

12 Q. Okay. Next exhibit.

13 (Deposition Exhibit No. 816 was marked for
14 identification.)

15 Q. This exhibit is a compilation of emails between
16 you and David Beauchamp and a number of other investors.

17 Do you recall these emails?

18 A. Not really.

19 Q. Do you think that you did send them and it was
20 just a lot going on at that time?

21 A. Can you ask me again? I'm sorry. I'm just
22 trying to get a sense of where --

23 Q. That's okay. You can take some time to look at
24 them. I'm just wondering if you think that you did send
25 these.

WILLIAM SWIRTZ, 3/19/2019

1 A. If my name is on there, I probably sent them.

2 Q. But you don't have any recollection of them at
3 this point in time?

4 A. Can I read this?

5 Q. Yeah. Sure.

6 A. I'm not -- I don't recall what this advisory
7 board concept was.

8 Q. Okay.

9 A. If this was something that -- is this it over
10 here?

11 well, that's not it. I don't recall what the
12 advisory board was.

13 Q. Okay. Do you remember ever joining some sort of
14 an advisory board --

15 A. No.

16 Q. -- or playing any role?

17 A. No.

18 Q. Okay. And these other emails are emails that I
19 think you previously mentioned between you and the
20 investors, and David Beauchamp is copied on many of them,
21 where you are trying to figure out what's happening after
22 Denny's death.

23 A. Okay.

24 Q. Do you recall that?

25 A. Yes.

WILLIAM SWIRTZ, 3/19/2019

1 Q. And do you recall having any issues with what
2 David Beauchamp was doing in the aftermath of Denny's
3 death?

4 A. I didn't -- I didn't know what he was actually
5 doing --

6 Q. Okay.

7 A. -- after Denny's death.

8 Q. Okay. Do you remember him providing information
9 to the investors through these emails?

10 A. Kind of.

11 Q. There was a lot going on then?

12 A. There was a lot, yes, correct.

13 Q. Okay. And so you didn't have issues or not have
14 issues. You don't really have a firm sense of what he was
15 even doing then?

16 A. That would be correct.

17 Q. Okay. And from your memory, what were the
18 investors doing at this time?

19 A. Trying to realize what had just happened to
20 everybody. Uncertain as to what happened to the money.
21 Is the money there? Is it not there? Can we get it back?
22 How are we going to get it back? What do we do? It was a
23 cry for: Oh, my gosh, what just happened?

24 Q. Yeah. And you were trying to figure out what
25 had happened?

WILLIAM SWIRTZ, 3/19/2019

1 A. Correct.

2 Q. Okay. Do you recall pooling funds with the
3 investors in order to hire some sort of attorney or
4 advisor, a relatively small amount of funds, at any point
5 in time?

6 A. I believe early on there was a small amount of
7 money raised to hire some attorney --

8 Q. Uh-huh.

9 A. -- or some firm to do some preliminary work or
10 investigation, or to file -- something to file, and I
11 don't know the legal word, to protect our interest,
12 because it had gone to a receivership, who put it into
13 bankruptcy, and I don't know what the term is to get us in
14 line just to protect whatever we have.

15 Q. Okay. And that's it, right?

16 A. Correct.

17 Q. And do you remember the Arizona Corporation
18 Commission becoming involved?

19 A. In the beginning, yes.

20 Q. Do you remember what happened with that?

21 A. What do you mean?

22 Q. How they became involved? How they interacted
23 with David Beauchamp in any way? How they interacted with
24 the receiver in any way? Do you have a sense of that?

25 A. I don't know how they even got started.

WILLIAM SWIRTZ, 3/19/2019

1 Q. Okay.

2 A. But I did have a conversation with the Arizona
3 Corporation Commission. I did provide them a complete set
4 of documents that you all have here to them. I didn't
5 understand at that point what their position was going to
6 be.

7 Q. Uh-huh.

8 Okay. Did you have any other interactions with
9 the Corporation Commission?

10 A. Not after that, no.

11 Q. Had you ever heard of Scott Menaged before
12 Denny's death?

13 A. No.

14 Q. And did you know that as early as 2012, Denny
15 knew that certain of Scott Menaged's loans were double
16 liened?

17 A. No.

18 Q. Do you know of anyone to whom Denny shared
19 information regarding Scott Menaged?

20 A. No.

21 Q. Do you think that he shared any information with
22 anyone regarding Scott Menaged?

23 A. I don't know what Denny thought.

24 Q. Do you know of any other investors who had any
25 information regarding Scott Menaged?

WILLIAM SWIRTZ, 3/19/2019

1 A. No.

2 Q. And why do you think that Denny didn't tell you
3 of the initial double liening relating to the Scott
4 Menaged loans?

5 A. I don't know why.

6 Q. Do you know now that Menaged has been indicted
7 and is serving time in prison?

8 A. Yes.

9 Q. And did you participate in those proceedings in
10 any way?

11 A. No.

12 Q. Based on your experiences with Denny, what do
13 you think happened here?

14 A. Can you ask that again, please?

15 Q. Yeah.

16 Based on your experiences with Denny, what do
17 you think happened with the downfall of Densco and
18 ultimately Denny's death?

19 A. He was defrauded by Menaged.

20 Q. Did your impression of Denny change after his
21 death?

22 A. Yes.

23 Q. How so?

24 A. He should have told us he was in trouble. Had
25 he done that, we probably all could have worked something

WILLIAM SWIRTZ, 3/19/2019

1 out possibly.

2 Q. Okay. Almost there. Next exhibit.

3 (Deposition Exhibit No. 817 was marked for
4 identification.)

5 Q. Exhibit 817 is a Proof of Claim filed by you in
6 the net amount of \$944,852, is that correct?

7 A. That is correct.

8 Q. And you arrived at that total by taking your
9 total principal invested of 1,630,000, and subtracting the
10 cash interest payments from January 1st, 2013, forward, is
11 that correct?

12 A. I don't agree with that, but that is -- that
13 number was given to me --

14 Q. Okay.

15 A. -- by the receiver.

16 Q. Okay. And so can you explain to me how that
17 happened?

18 A. They are saying that Denny -- the receiver had
19 determined at that point in time, whenever that point in
20 time was DenSco was insolvent, and so it turned into a
21 Ponzi scheme, so that the money he was paying out was
22 really a return of principal --

23 Q. Uh-huh.

24 A. -- even though it was claimed as interest. So
25 the receiver said that money that you had received during

WILLIAM SWIRTZ, 3/19/2019

1 that time period was a repayment. Based upon those
2 numbers and his calculations, that's where those numbers
3 came from.

4 Q. Okay. And do you think the calculation of
5 interest after 2013 is correct?

6 A. Without going back and reviewing the documents,
7 I would believe that to be the correct number.

8 Q. And you didn't accrue any interest that wasn't
9 paid before 2013? It was all paid out? Is that why this
10 number is a zero?

11 A. That would be correct. My interest was paid
12 monthly.

13 Q. Okay. And do you disagree with the subtraction
14 of the cash interest payments because you don't believe
15 DenSco was insolvent at that time or because you don't
16 believe it was a Ponzi scheme?

17 MR. STURR: Object to the form.

18 Q. (BY MS. TOLMAN) Basically why do you disagree
19 with --

20 A. Because I gave DenSco a million 630. I have the
21 promissory notes for the full amount. They were to pay me
22 interest, which they did, and I would expect that
23 1 million 630 is my -- should be my full claim against
24 DenSco. Because it was -- a third party determined that
25 his company was insolvent, which is out of my control, you

WILLIAM SWIRTZ, 3/19/2019

1 know, they are calling it something else, but I'm still
2 out, I'm still out a million 630.

3 Q. Have you been paid the 685,000?

4 A. Probably yes, but that should have been the
5 interest --

6 Q. Understood.

7 A. -- on the loan.

8 Q. Understood.

9 A. It wasn't a repayment of principal.

10 Q. Understood. Got it. Thank you for clarifying.
11 And if you will take a look at exhibit -- it's
12 already been marked Exhibit 623. The next one.

13 This document shows that the receiver has
14 approved your claim in the amount of \$944,852.18.

15 Is that your understanding?

16 A. Correct.

17 Q. And the following two documents. It's already
18 been marked and I think I just missed it in your set.
19 Exhibit 536 and Exhibit -- you have got both of those.

20 So you now have before you Exhibit 801 and
21 Exhibit 536. These exhibits show that the receiver has
22 paid to your LLC a total of \$135,210.66 and \$75,117.04.

23 Does that sounds correct to you?

24 A. Sounds correct.

25 Q. Have you received any other funds from the

WILLIAM SWIRTZ, 3/19/2019

1 receiver?

2 A. No.

3 Q. And you mentioned earlier that you go to the
4 receiver's website?

5 A. Correct.

6 Q. Do you also review any emails or status reports
7 that the receiver or its office sends?

8 A. If they send -- if they send an email, then I
9 definitely will read it.

10 Q. Okay. And have you talked to anyone at the
11 receiver's office, other than administrative issues
12 relating to your proof of claim?

13 A. No.

14 Q. You have not talked to anyone at the receiver's
15 office regarding this lawsuit?

16 A. No.

17 Q. Do you know of any other claims that the
18 receiver or the investors are planning to bring to recover
19 additional funds?

20 A. Only what -- only what the receiver has provided
21 to the Court.

22 MS. TOLMAN: That's my list. I think Mr. Sturr
23 might have just a couple questions for you.

24 Do you have anything?

25 MR. STURR: Oh, I have no questions.

WILLIAM SWIRTZ, 3/19/2019

1 MS. TOLMAN: So you have the opportunity to have
2 a copy of your deposition transcript and to take look at
3 it and then sign it, and you can make any corrections if
4 you feel that's necessary after reviewing it. You can
5 also choose to waive that and read and sign -- and go
6 ahead and sign right now. That's up to you.

7 THE WITNESS: I would like to review, please.

8 MS. TOLMAN: So he will read and sign.

9 (3:37 p.m.)

10

11

12

WILLIAM SWIRTZ

13

14

15

16

17

18

19

20

21

22

23

24

25

WILLIAM SWIRTZ, 3/19/2019

1 BE IT KNOWN that the foregoing proceeding was
 2 taken before me; that the witness before testifying was
 3 duly sworn by me to testify to the whole truth; that the
 4 questions propounded to the witness and the answers of the
 5 witness thereto were taken down by me in shorthand and
 thereafter reduced to typewriting under my direction; that
 the foregoing is a true and correct transcript of all
 proceedings had upon the taking of said deposition, all
 done to the best of my skill and ability.

6 I CERTIFY that I am in no way related to any of
 7 the parties hereto nor am I in any way interested in the
 outcome hereof.

8
 9 [X] Review and signature was requested.
 [] Review and signature was waived.
 [] Review and signature was not requested.

10
 11 I CERTIFY that I have complied with the ethical
 12 obligations in ACJA Sections 7-206(F)(3) and
 7-206-(J)(1)(g)(1) and (2).

13
 14 Kelly Sue Oglesby
 Kelly Sue Oglesby
 Arizona Certified Reporter No. 50178

3/29/2019

Date

15
 16 I CERTIFY that JD Reporting, Inc. has complied
 17 with the ethical obligations in ACJA Sections
 18 7-206(J)(1)(g)(1) and (6).

19
 20 JD REPORTING, INC.
 Arizona Registered Reporting Firm R1012

3/29/2019

Date