

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MARICOPA

Peter S. Davis, as Receiver of	)	
DenSco Investment Corporation,	)	
an Arizona corporation,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	NO. CV2017-013832
	)	
Clark Hill PLC, a Michigan	)	
limited liability company;	)	
David G. Beauchamp and Jane Doe	)	
Beauchamp, Husband and Wife,	)	
	)	
Defendants.	)	
-----	)	

VIDEOTAPED DEPOSITION OF DAVID GEORGE BEAUCHAMP

VOLUME I  
(Pages 1 through 233)

Phoenix, Arizona  
July 19, 2018  
9:03 a.m.

REPORTED BY:  
KELLY SUE OGLESBY, RPR  
Arizona CR No. 50178  
Registered Reporting Firm R1012

PREPARED FOR:

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1 VIDEOTAPED DEPOSITION OF DAVID GEORGE BEAUCHAMP,  
2 VOLUME I, commenced at 9:03 a.m. on July 19, 2018, at the  
3 law offices of Osborn Maledon, P.A., 2929 North Central  
4 Avenue, 21st Floor, Phoenix, Arizona, before KELLY SUE  
5 OGLESBY, a Certified Reporter, CR No. 50178, in and for  
6 the County of Maricopa, State of Arizona, pursuant to the  
7 Rules of Civil Procedure.

8 APPEARANCES

9 FOR PLAINTIFF:

10 OSBORN MALEDON, P.A.

11 BY: MR. COLIN F. CAMPBELL  
12 MR. GEOFFREY M.T. STURR  
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vpatki@cblawyers.com

23 ALSO PRESENT:

24 Mary Onuschak, Legal Video Specialists  
25 Neil Wertlieb

DAVID GEORGE BEAUCHAMP, VOLUME I, 7/19/2018

1 Phoenix, Arizona  
2 July 19, 2018  
3 9:03 a.m.

4 \* \* \*

5 VIDEOGRAPHER: This is the videotaped deposition  
6 of David G. Beauchamp taken by the plaintiffs in Cause  
7 No. CV2017-013832, styled Peter Davis, as receiver of  
8 DenSco Investment Corporation, versus Clark Hill, PLC,  
9 et al., filed in Superior Court of the State of Arizona,  
in and for the County of Maricopa.

10 Today is July 19th. The year is 2018. The time  
11 is 9:03 a.m. Our location is 2929 North Central Avenue,  
12 Phoenix, Arizona.

13 Kelly Oglesby is the certified shorthand  
14 reporter with JD Reporting, 1934 East Camelback Road,  
15 Phoenix, Arizona; and Mary Onuschak is a certified legal  
16 video specialist with Legal Video Specialists, 3033 North  
17 Central Avenue, Phoenix, Arizona.

18 Counsel may state their name, firm, and whom  
19 they represent, beginning with plaintiff's counsel,  
20 please.

21 MR. CAMPBELL: Colin Campbell and Josh Whitaker  
22 for plaintiffs. Our client representative is Ryan  
23 Anderson, and we have a plaintiff's expert witness  
24 present.

25 MR. DeWULF: And could you identify who the

1 expert is?

2 MR. CAMPBELL: I'll let Jeff do that.

3 MR. STURR: Neil Wertlieb.

4 MR. DeWULF: John Dewulf, representing Clark  
5 Hill law firm, defendant, and David Beauchamp, and I am  
6 here with Vidula Patki.

7 VIDEOGRAPHER: You may swear the witness.

8

9

10 DAVID GEORGE BEAUCHAMP,  
11 called as a witness herein, having been first duly sworn,  
12 was examined and testified as follows:

13

14 EXAMINATION

15

16 Q. (BY MR. CAMPBELL) Could you state your full  
17 name for the record.

18 A. David George Beauchamp.

19 Q. So, David, next to you is a bunch of exhibits.  
20 They are labeled 1 through 8, and from time to time we are  
21 going to pull one of the volumes down.

22 So we will start with, could you pull down the  
23 first volume. We are going to look at Exhibit No. 3.

24 I'm sure Exhibit No. 3 is familiar to you.  
25 That's your resumé on the Clark Hill website, correct?

A. I believe so.



1 Q. So I just want to get some background  
2 information from you, and I really want to start from your  
3 graduation from law school at the University of Michigan,  
4 which I believe you graduated in 1981?

5 A. Correct, yes.

6 Q. So I just want to get generally your employment  
7 background from your graduation in 1981 to the present.  
8 So where have you worked?

9 A. I -- I originally started at Fennemore Craig. I  
10 then went to Storey & Ross. I joined Moya Bailey Bowers &  
11 Jones, which merged into Gaston & Snow. After Gaston &  
12 Snow dissolved, the Phoenix office joined with Clark,  
13 excuse me, Quarles & Brady. Quarles & Brady merged with  
14 Streich Lang, and it was for a time known as Quarles &  
15 Brady Streich Lang in Arizona. I left Quarles & Brady,  
16 went to Gammage & Burnham. After Gammage & Burnham, I  
17 went with Bryan Cave, and I joined Clark Hill in  
18 September 2013.

19 Q. All right. So let's -- I assume you started  
20 work with Storey & Ross in 1981?

21 A. No. I started at Fennemore in 1981.

22 Q. I can't read my own writing.

23 And how long were you at Fennemore, as best you  
24 can recall?

25 A. Approximately a year and a half. I don't

1 remember that for sure.

2 Q. All right. I assume you started out as an  
3 associate?

4 A. Yes.

5 Q. And then so you went from Fennemore Craig to  
6 Storey & Ross after a year and a half, more or less, at  
7 Fennemore Craig?

8 A. Yes.

9 Q. And how long were you at Storey & Ross?

10 A. I really don't remember, Colin.

11 Q. Okay. Were you an associate there?

12 A. Yes, I was an associate there, and --

13 Q. That's okay.

14 A. I got an opportunity, when Moya Bailey Bowers &  
15 Jones broke away from Lewis & Roca, they came after me and  
16 it seemed to be a much better opportunity.

17 Q. When did you start with them?

18 A. It was before my oldest child was born, so it  
19 was sometime in 1984, but I --

20 Q. Okay.

21 A. -- don't know specifics.

22 Q. And I understand they merged with Gaston & Snow.  
23 How long were you with them before you went with  
24 Quarles & Brady?

25 A. Until the firm dissolved.

1 Q. Do you remember when it dissolved? If you  
2 don't, that's fine.

3 A. I -- I really don't remember specifics on that.

4 Q. And then how long were you with Quarles & Brady  
5 or Quarles & Brady Streich Lang?

6 A. I'm -- I'm guessing. I know five, six years. I  
7 don't remember specifics.

8 Q. And then from Quarles & Brady you went to  
9 Gammage & Burnham?

10 A. Correct.

11 Q. Okay. And was it at Gammage & Burnham you met  
12 Kevin Merritt? Do I have his name right? I'm thinking of  
13 the lawyer that's representing the Estate of Shawna.

14 A. Correct, his name is Kevin Merritt. I believe I  
15 had met Kevin previously through a mutual friend. I -- I  
16 worked with him at Gammage, but I believe I had met him  
17 previously because he and Grady Gammage solicited me to  
18 join their firm, given my parents' poor health and with  
19 the opportunity to be in Phoenix to work with -- be more  
20 active in my parents' care in their final years.

21 Q. Sure.

22 And then -- so when you were at Gammage &  
23 Burnham, you worked with Kevin Merritt?

24 A. On and off, yeah.

25 Q. Okay. Well, you were in the same firm together.

1 That's all I am getting at.

2 A. Yeah.

3 Q. Okay. Was Jim Polese at Gammage & Burnham at  
4 the time?

5 A. He joined toward the end of my time at Gammage &  
6 Burnham.

7 Q. So there was a period of time you worked  
8 together at Gammage & Burnham?

9 A. I don't recall ever working directly with Jim.

10 Q. But you knew him?

11 A. But I knew him, yes.

12 Q. All right. Just to advance the ball ahead a  
13 bit, at a point in time, you referred the representation  
14 of Shawna in the probate case to Kevin Merritt. True?

15 A. I gave her three names, and Kevin was -- names  
16 of three firms, and Kevin was one of them that she talked  
17 to, as well as I believe a friend of hers from Idaho was  
18 an attorney talked to, and I was informed that's who they  
19 selected.

20 Q. Okay. Who were the other two lawyers you gave  
21 names to?

22 A. I don't know. Our probate people gave me names  
23 of who could handle it, and Gammage was on that list, and  
24 as were others, and I just forwarded the information to  
25 Shawna.

1 Q. Okay. And then you went from Gammage & Burnham  
2 to Bryan Cave?

3 A. Correct.

4 Q. What year was that?

5 A. I don't remember the specific year.

6 Q. Why did you go from Gammage & Burnham to Bryan  
7 Cave?

8 A. Could you repeat that? I think you reversed the  
9 order.

10 Q. Why did you go from Gammage & Burnham to Bryan  
11 Cave?

12 A. My parents had passed and Neil Irwin solicited  
13 me through a mutual friend to meet and talk, and he said  
14 they appreciated my referrals on the intellectual property  
15 and on public securities issues, but why don't I think of  
16 joining them. They had just lost a number of people from  
17 their corporate securities group.

18 And we talked and I decided it was a good move.  
19 I was a non-equity partner at Gammage, and from my  
20 standpoint, this was an opportunity to get back and handle  
21 more of my clients' work that wasn't just in Arizona.

22 Q. Were you an equity partner at Bryan Cave?

23 A. No. You start at -- unless you have a  
24 significant amount of originations, the pattern that was  
25 explained to me by members of the management committee

1 were that you start as a contract partner, and my contract  
2 partner situation rolled over into a non-equity partner  
3 role. That was during the 2008/2009, you know, start of  
4 the Recession. And the origination that I had and the  
5 work that I had significantly evaporated at the time, and  
6 it was -- it -- you know, it -- I could understand the  
7 firm's reasons for that.

8 Q. All right. And then you went from Bryan Cave to  
9 Clark Hill?

10 A. Correct.

11 Q. Why did you leave Bryan Cave?

12 A. In the plaintiff's disclosure statement, it  
13 indicated that I was terminated at Bryan Cave. We  
14 actually had a meeting and it was discussed that they  
15 wanted to focus on public securities work, and I agreed,  
16 there wasn't that much public securities work that I was  
17 going to be able to deal with here, and I thought it was a  
18 mutual meeting of the minds that I would leave, so it was  
19 interesting to read that in your disclosure statement.

20 Q. Okay. So you left because of a mutual meeting  
21 of the minds that it was time for you to move on?

22 A. It -- it -- it was sooner than I expected, but I  
23 had already come to the conclusion and was in fact talking  
24 with other firms before there was that conversation.

25 Q. All right. I would like you to turn to -- I

1 would like you to -- why don't you put this volume back up  
2 so we don't get too many out in front of you. And I want  
3 you to pull out volume 4, Exhibit 162.

4 So Exhibit No. 162 is an email between you and  
5 Mr. Robert Miller on January 15th, 2014. It's an email  
6 chain.

7 A. Is this --

8 Q. Do you recognize this email?

9 MR. DeWULF: Colin, mine has highlighting on it.  
10 Do all the versions have highlighting?

11 MR. CAMPBELL: I'm sorry. I got behind and I  
12 wasn't able to substitute clean copies.

13 MR. DeWULF: Okay.

14 MR. CAMPBELL: When we get to something like  
15 this, that highlighting is probably highlighting I did.

16 MR. DeWULF: Okay. Well, that's fine. I didn't  
17 know if the witness also had highlighting.

18 MR. CAMPBELL: Okay. Yeah, the witness --

19 MR. DeWULF: Okay.

20 MR. CAMPBELL: I don't want to -- the original  
21 does not have it. And this will show up a few other  
22 times, too.

23 MR. DeWULF: No big deal.

24 THE WITNESS: Was this part of a longer email --  
25 I mean, I don't remember specifically this email.

1 Q. (BY MR. CAMPBELL) Okay.

2 A. But at the same time it looks like this was part  
3 of a -- several email exchanges with Mr. Miller.

4 Q. Well, we will get into several email exchanges  
5 later on regarding the issues with respect to DenSco, but  
6 on this particular email, you write to Mr. Miller on  
7 January 15th, 2014, and you tell him that you do not want  
8 to attend any meetings at Bryan Cave, and you say, "My  
9 last few months there were more than a little difficult  
10 and I do not want to go back to that."

11 What were you referring to when you said your  
12 last few months there were more than a little difficult?

13 A. The conversation that I had had with the member  
14 of the management committee and the Phoenix managing  
15 partner I was told would be confidential. Two days later  
16 I had a bunch of people coming in my office trying to talk  
17 me into other options. And so it was just uncomfortable  
18 from the standpoint: why are you leaving? You know:  
19 well, good luck to you. And it -- it just was not a  
20 pleasant experience.

21 Q. Tell me -- so you had a confidential meeting  
22 with the managing partner in Phoenix?

23 A. At that time I was clearly under the  
24 understanding that it was to be confidential, talking  
25 about my practice and its direction and the firm's



1 direction, and they did not align.

2 Q. Who was the managing partner?

3 A. Jay Zweig.

4 Q. Okay. What was said in this meeting you had  
5 with Mr. Zweig about your future at Bryan Cave?

6 A. The initial meeting was that I needed to  
7 increase my originations. The subsequent meeting with  
8 Steve Sunshine was that it was not a fit. I had not, in  
9 the couple months, been able to increase the originations,  
10 and that despite my efforts, then that we should probably  
11 consider you going in your different direction.

12 And that's the way it was handled and, you know,  
13 I understood from the standpoint that, you know, that's  
14 what I had offered previously and they were taking me up  
15 on my offer.

16 Q. All right. Let me go back, because now there is  
17 two meetings.

18 So you had an initial meeting with Mr. Zweig and  
19 you talked about --

20 A. It was just part of my annual review and it was  
21 30 seconds at the end of it.

22 Q. Okay. Tell me what was said in the 30 seconds  
23 at the end of your annual review regarding your  
24 originations?

25 A. What are you doing to increase your

1 originations?

2 Q. And was there any discussion about if you didn't  
3 increase your originations, that the firm wanted you to  
4 leave?

5 A. No.

6 Q. So it was just a conversation at the end of your  
7 annual review, that how are you doing on originations?

8 A. And it literally was having coffee outside a  
9 restaurant, which I would think that if it was to tell me  
10 something more serious than that, I would think it would  
11 have been in a private conference room.

12 Q. So between that first meeting with the managing  
13 partner and the next meeting where there was a discussion  
14 that maybe it was not a fit, how much time passed?

15 A. I -- maybe four months, but that's a guess,  
16 Colin.

17 Q. Okay.

18 A. I don't really remember specifics.

19 Q. Tell me what you recall about this conversation,  
20 where there was a discussion that maybe you are not a fit?

21 A. That was the statement that Jay Zweig made. I  
22 asked for clarification, and he simply said: well, think  
23 about it. You'll understand.

24 I got -- I received no further, you know,  
25 explanation, that, or in a subsequent meeting when I said

1 that I was leaving the firm.

2 Q. Okay. So we have the original meeting, which is  
3 an annual review where someone mentions something about  
4 originations; four months later, more or less, you have a  
5 meeting where you are told it's not a fit; and now there  
6 is a third meeting after that.

7 Tell me about this third meeting where you said  
8 you are leaving.

9 A. I was told that Jay was going to be out of the  
10 office for some family stuff, and I told him that I had an  
11 offer and was considering it. I was going to probably  
12 take it. I didn't know the specific detail on the date  
13 and when, but, yes, I would be leaving. Because he asked  
14 me to keep him informed if I received an offer and if I  
15 looked like I was going to take it.

16 Q. All right.

17 A. So I -- as a courtesy, I did it, knowing he was  
18 going to be out of town for a week to ten days.

19 Q. Who did you get an offer from?

20 A. Clark Hill.

21 Q. Fair to say you were asked to leave the firm?

22 A. I believe "it's not a fit" would equate to that,  
23 but I was dumbfounded the way it was delivered and said to  
24 me, because there had been no prior discussions, but it's,  
25 you know, when a firm makes that decision, you just

1 proceed to move on is what I have told other people when  
2 it's happened to them and what I have experienced.

3 Q. So fair to say you were upset about it?

4 A. I'm not sure that's an accurate  
5 characterization.

6 Q. You weren't upset about it?

7 A. I was surprised and hurt.

8 Q. Okay. Did they give you a period of time to  
9 find another job?

10 A. Yes. Yes, they did. It was we will discuss,  
11 you know, look at the work that you have and, you know,  
12 what work you are doing for other clients, and then we  
13 will discuss an appropriate transition, but take a few  
14 months and find something that works for you.

15 Q. From the time you got the offer from Clark Hill  
16 to the time you moved over to Clark Hill, what's that  
17 interval of time?

18 A. The first offer or the second offer?

19 Q. That --

20 A. Because the first offer I turned down.

21 Q. From Clark Hill?

22 A. Yes. It was just a discussion on the phone,  
23 would this work, and there were certain considerations  
24 discussed that I was not comfortable trying to move into  
25 that arrangement.

1 Q. Okay. what -- well, I understand --

2 A. From the time that I accepted the offer to the  
3 time that I moved over, it was at least two weeks.

4 Q. Okay. So once you had a final offer you were  
5 happy with, you were over there within two weeks?

6 A. Right.

7 Q. And then how long did you negotiate over this  
8 offer with Clark Hill, from the time you first talked to  
9 them till you reached something you were happy with?

10 A. That's hard to say, because the interview  
11 process at Clark Hill is you meet a lot of people in a lot  
12 of different offices, and there are both videoconferences  
13 and traveling involved. And parts of things were  
14 negotiated over a period of time.

15 If I had -- I don't even want to guess, because  
16 I -- at that time I was talking with other firms as well,  
17 and they kind of all -- several balls were moving forward  
18 at the same time.

19 Q. Okay. So I just want to know what's happening  
20 here in this twenty -- this is really 2013 when this is  
21 going on.

22 So from the time you were told, you know, this  
23 isn't a fit, I take it from that point in time you are  
24 looking for employment elsewhere?

25 A. No. My first priority was to my clients, as

1 it's ethically required, and -- and Bryan Cave understood  
2 and agreed with that.

3 Q. Fair enough.

4 But fair to say from the time you were told you  
5 were not a fit, you started looking for work elsewhere?

6 A. No. I think I took a couple weeks to get my  
7 mind around it and decide if I wanted to go into a firm or  
8 if I wanted to relocate and take a job with a private  
9 equity group that had approached me six months earlier.

10 Q. Okay.

11 A. And so I had to make that decision first, and I  
12 focused on client matters. And then the phone started  
13 ringing, which was about the same time people from Bryan  
14 Cave were coming in to talk to me, and it was like, okay,  
15 the word's out.

16 Q. All right. I'm just trying to get some time  
17 parameters here. Okay?

18 From the time you make a decision I got to find  
19 a job somewhere else to the time you accept employment on  
20 the deal you negotiated with Clark Hill, what time period  
21 are we talking about?

22 A. I don't remember when I first talked to Clark  
23 Hill so I really can't answer that, but you are talking I  
24 believe the end of June to -- to mid-August, and it was  
25 the time period where I explored different options and

1 tried to deal with it, but it never changed my focus with  
2 regard to, you know, meeting the needs of the clients,  
3 because that was clearly the agreement I had with Bryan  
4 Cave.

5 Q. All right. Your parting with Bryan Cave, your  
6 parting from Bryan Cave was so significant that you didn't  
7 even want to go back to the firm, true, even for a  
8 meeting?

9 MR. DeWULF: Object to form.

10 You can go ahead and answer.

11 THE WITNESS: I thought, and it wasn't so much  
12 personal to me, but I thought that having a meeting at  
13 that environment or in that environment would have been --  
14 there would have been other issues coming up and to deal  
15 with that would have not been comfortable at all to my  
16 client.

17 Denny, Denny Chittick, excuse me, hated those  
18 kind of meetings to begin with, and having a meeting there  
19 would bring in distractions. And when we had meetings  
20 before, he wanted me right next to him the whole time and  
21 not talking to anybody else, unless it was a conversation.  
22 He -- he did not want to be left out -- left by himself on  
23 an island.

24 And I thought with the number of people from  
25 Bryan Cave, that at various Bar functions and ACG and

1 other meetings that had come up to me and wanted to talk  
2 about the transition, what it's like, et cetera,  
3 et cetera, that it would be -- my time and attention would  
4 be divided, which would be unfair to Denny Chittick.

5 In addition to that, I didn't want people coming  
6 up and saying, gee, I'm glad you landed on your feet, or  
7 make comments to that effect, which would have been  
8 distracting, so it was a double reason for that.

9 Q. (BY MR. CAMPBELL) I'm going to go back to your  
10 resumé, which is Exhibit No. 3.

11 Fair to say you consider yourself an expert in  
12 securities law?

13 A. No, I do not.

14 Q. You are not an expert on securities law?

15 A. No.

16 Q. Fair to say you are an expert in private  
17 offering memorandums?

18 A. No. I have done a number of them, but most of  
19 the ones that I have done have been accredited investor  
20 offerings, and those are different than an offering  
21 memorandum for accredited and nonaccredited investors.  
22 The disclosure requirements are the same, but there is,  
23 you know, additional requirements, level of sophistication  
24 that goes with the rules.

25 Q. All right. Let's go back then.



1           You are not an expert in securities law. True?

2           A. No, I have never held myself out as an expert.

3           Q. Are you an expert in private offering  
4 memorandums to accredited investors?

5           A. I have expertise in it, but I have never held  
6 myself out as an expert.

7           Q. All right.

8           A. And that's why it was important to me, when I  
9 left Clark Hill, excuse me, when I left Bryan Cave for  
10 Clark Hill, that I went with a firm that did a lot of  
11 Reg D work, yeah, Regulation D work, because Bryan Cave  
12 had pretty much at that time, as is Mark -- I can't think  
13 of his last name -- who was the head of the S3 group at  
14 Bryan Cave said, we are not doing Reg D work here, we are  
15 doing public securities work, and I wanted someplace where  
16 I had backup and additional expertise.

17          Q. Are you familiar with the standard of care for  
18 lawyers practicing in Arizona in the field of securities  
19 law?

20           MR. DeWULF: Object to form.

21           THE WITNESS: Could you rephrase that, please.

22           MR. CAMPBELL: Can you read the question for the  
23 witness, please.

24           (The requested portion of the record was read.)

25           THE WITNESS: I am familiar what has been shared

1 at CLE functions that the Bar and the, you know,  
2 securities section has presented. I am familiar with  
3 articles that have been written and shared that I have  
4 read in that area explaining it.

5 I'm also somewhat familiar with the rules of the  
6 various firms I have been at requiring a second opinion  
7 and review before a doc -- a disclosure document is in  
8 fact provided for release to investors.

9 Q. (BY MR. CAMPBELL) Okay. well, are you telling  
10 me you are familiar with the standard of care for lawyers  
11 practicing securities law in Arizona because you have been  
12 to CLE functions and have heard people talk about it?

13 MR. DeWULF: Object to form.

14 THE WITNESS: I don't believe that's a proper  
15 characterization of my statement.

16 Q. (BY MR. CAMPBELL) Are you familiar with the  
17 standard of care with respect to lawyers practicing  
18 securities law in Arizona? Can you answer that yes or no?

19 MR. DeWULF: Object to form.

20 THE WITNESS: Are you referring to public  
21 securities or private securities?

22 Q. (BY MR. CAMPBELL) Let's -- let's have both for  
23 this question.

24 A. No. I clearly do not think, when it comes to  
25 public securities, I have total familiarity with the

1 standard of care, and for that reason I have avoided  
2 public offerings except for very discrete parts under the  
3 supervision of another attorney.

4 Q. Are you familiar with the standard of care for  
5 lawyers practicing in Arizona with respect to private  
6 securities offerings?

7 A. Yes, I believe I am.

8 Q. And do you consider yourself an expert in  
9 hard-money lending?

10 A. No, I have never represented that I am.

11 Q. Do you understand how the business of hard-money  
12 lending in Arizona works with respect to foreclosed  
13 properties?

14 MR. DeWULF: Object to form.

15 THE WITNESS: Could you restate that question,  
16 please.

17 Q. (BY MR. CAMPBELL) Do you understand how the  
18 business of hard-money lending in Arizona, with respect to  
19 foreclosed properties, works?

20 MR. DeWULF: Object to form.

21 THE WITNESS: I have represented several  
22 companies in hard-money lending, and each of them have had  
23 different procedures with respect to foreclosures. So I  
24 have seen a variety, and I don't think there is one  
25 absolute procedure that everyone follows.

1 Q. (BY MR. CAMPBELL) Are you an expert with  
2 respect to forbearance agreements in commercial cases?

3 MR. DeWULF: Object to form.

4 THE WITNESS: No, I'm not an expert. I have  
5 some experience with it, but I am not an expert.

6 Q. (BY MR. CAMPBELL) Fair to say that one of the  
7 advantages of a big firm is you can go get advice from  
8 other lawyers in areas you may not be expert in, correct?

9 A. Correct.

10 Q. Who at Clark Hill would you go to to get advice  
11 on ethics?

12 A. Without getting into any attorney/client issues,  
13 because they are the firm's office general counsel --

14 Q. My question was, who would you go to to get  
15 ethics advice at Clark Hill?

16 A. The procedure at Clark Hill was that you would  
17 see the representative of the general counsel in the  
18 office in which you were located.

19 Q. Who was the representative of the general  
20 counsel with respect to ethics in the office you were  
21 located?

22 A. Mark Sifferman.

23 Q. And with respect to your representation of  
24 DenSco, did you from time to time talk to Mr. Mark  
25 Sifferman?

1 A. Yes.

2 Q. Now, at Clark Hill you were the billing attorney  
3 for DenSco, correct?

4 A. Yes.

5 Q. And you were the lead attorney for DenSco,  
6 correct?

7 A. Depends on the matter that we were dealing with.

8 Q. With respect to private offering memorandums to  
9 accredited investors, you were the lead attorney, true,  
10 with respect to DenSco?

11 A. We never a issued private offering memorandum at  
12 Clark Hill for DenSco, because we never got the  
13 information. In terms of the preparation to prepare the  
14 private offering memorandum for DenSco, I was the lead  
15 attorney, but Daniel Schenck was my right-hand in that.

16 Q. Describe for me what you mean when you say  
17 Daniel Schenck was your right-hand?

18 A. Daniel prepared a number of private offering  
19 memorandums for a number of clients, both for the Phoenix  
20 office and other offices in the firm. He was very adept  
21 at preparing the offering and disclosure. He knew -- he  
22 knew the Reg D regulations and the changes and revisions  
23 that we have gone through over the last several years, and  
24 he was very familiar with them.

25 so I would bounce things off him, discuss things

1 with him, and he assisted me in most every private  
2 offering to some extent. And I say most every, because,  
3 you know, there have been some offerings that have come  
4 from other offices and I have used securities attorneys in  
5 those offices when I have had questions.

6 Q. Did you delegate to Mr. Schenck preparing a  
7 private offering memorandum for DenSco in this case?

8 MR. DeWULF: Object to form.

9 THE WITNESS: Could you break that into two  
10 questions, because I really think you have two questions  
11 there.

12 Q. (BY MR. CAMPBELL) No. Please answer my  
13 question if you can.

14 A. I worked with Daniel Schenck in taking the draft  
15 POM that had been started at Bryan Cave and to note areas  
16 in it that we needed to have further information from the  
17 client.

18 In addition, we prepared the language for the  
19 Forbearance Agreement, which was absolutely key, that had  
20 to be provided to the investors despite Mr. Chittick's  
21 representations to me on a regular basis that he wasn't  
22 taking any money without going through all the details  
23 with the investors.

24 Q. I'm trying to understand what it means when you  
25 say Mr. Schenck was your right-hand man.

1 A. If I had a question, I asked him first.

2 Q. Was he more expert on private securities  
3 offerings than you were?

4 A. He was more familiar with some of the nuances  
5 with regard to Regulation D and the changes, specifically  
6 with respect to, you know, 506(c) and the requirements for  
7 the general solicitation rules.

8 He was also more familiar with certain cases in  
9 terms of various disclosure that was required, and to the  
10 extent I could draw upon his expertise in those areas, it  
11 only made sense and was cost effective to do that.

12 Q. I think we went down this path, because I  
13 originally asked you, were you the lead attorney for the  
14 private securities offering memorandum work for DenSco  
15 when you were at Clark Hill.

16 Were you the lead attorney or not?

17 A. Could you please define what you mean by "lead  
18 attorney"?

19 Q. You don't know what lead attorney means,  
20 Mr. Beauchamp?

21 A. I have been at several firms, as we have already  
22 acknowledged, and "lead attorney" means different things  
23 at different firms.

24 Q. I want to know what it means to you.

25 A. "Lead attorney" deals with the interface with

1 the client and directs the client to work with somebody  
2 else on specific issues; is the one that ultimately, you  
3 know, handles the billing and problems; and coordinates  
4 the project and who is involved and who is covering what  
5 for -- for the client, except if certain sub areas have  
6 been delegated. And in that definition, yes, I was the  
7 lead attorney.

8 Q. With respect to preparing the private offering  
9 memorandum for DenSco while you were at Clark Hill, with  
10 respect to the work that was performed, were you the lead  
11 attorney on that work or was Mr. Schenck the lead attorney  
12 on that work?

13 A. He was the lead drafter.

14 Q. He was the lead drafter?

15 A. Correct.

16 Q. Now, you have known Mr. Chittick for a long  
17 time. True?

18 A. Yes.

19 Q. Were you at Quarles & Brady when you first  
20 started doing work for him?

21 A. I met him when I was at Quarles & Brady. I know  
22 I worked with him in connection with a project, which  
23 might have been why he was at Insight, or might have been  
24 after he left Insight. I don't remember that. But he  
25 was -- it was not -- he was not the client in that. He



1 was an interface person.

2 Q. Did you work with him while you were at  
3 Quarles & Brady, yes or no?

4 A. I thought I answered it. I said I don't  
5 remember.

6 Q. Okay. Did you work with him when you were at  
7 Gammage & Burnham?

8 A. I believe so.

9 Q. You worked with him when you were at Bryan Cave?

10 A. Yes, I did.

11 Q. And you worked with him at Clark Hill, correct?

12 A. Yes, I did.

13 Q. He was a good client. True?

14 MR. DeWULF: Object to form.

15 THE WITNESS: What do you define as a good  
16 client?

17 Q. (BY MR. CAMPBELL) What do you define as a good  
18 client, Mr. Beauchamp?

19 MR. DeWULF: Object to form.

20 THE WITNESS: A good client follows your advice,  
21 is respectful of your time and what you are doing for  
22 them, and tries to do the right thing.

23 Q. (BY MR. CAMPBELL) Mr. Chittick was a good  
24 client. True?

25 MR. DeWULF: Object to form.

1 THE WITNESS: When I was working with --

2 MR. DeWULF: Can I -- can I intervene here?  
3 Could you get a timeframe? Are you talking about today  
4 looking back, or are you talking about a particular point  
5 in time, Colin?

6 MR. CAMPBELL: You want to answer the question  
7 for him?

8 MR. DeWULF: No. I'm trying to --

9 THE WITNESS: No. I started with when --

10 MR. DeWULF: -- get clarity.

11 MR. CAMPBELL: If I want to question as to what  
12 the form is, I'll ask you.

13 MR. DeWULF: All right. I object to form. And  
14 for the record, I have made my seeking clarity here.  
15 Go ahead.

16 THE WITNESS: Sorry. I started to answer when.

17 MR. DeWULF: Go ahead.

18 THE WITNESS: When I worked with him at Gammage,  
19 I thought he was a good client. As far as I knew, he  
20 followed my advice, with the exception of I continuously  
21 told him to get title insurance on his loans, but that was  
22 not followed.

23 At Bryan Cave he was a -- a good client, but,  
24 again, there were certain aspects that -- of our advice he  
25 was not following, again, not getting the title insurance

1 that I continuously requested that he get on his loans,  
2 I'm sorry, the loans to his borrowers.

3 He also did not, which I found just toward the  
4 end of my time at Bryan Cave, did not follow the  
5 instructions with respect to providing the dollars to  
6 either the trustee or the title company under an  
7 instruction letter, and instead in certain instances, I  
8 was informed he would send it to the borrower, who would  
9 get a cashier's check and deliver it to the trustee, which  
10 I was told was four or five times by Mr. Chittick, which  
11 has subsequently been shown to be many more times than he  
12 revealed to me.

13 At Clark Hill and at the time at Bryan Cave, he  
14 was not providing a lot of the information requested. He  
15 seemed thoroughly distracted, which is why he stopped the  
16 work on the memorandum in August of 2013. And while I was  
17 at Clark Hill, I -- at that time it was pulling teeth to  
18 get information out of him, which was very, very unusual.

19 And at the time I was giving him clear advice as  
20 far as what to do, he would not let me independently  
21 confirm that he was giving that advice, which I -- he said  
22 I've never lied to you, and on that basis, that was true,  
23 so we proceeded the priority was the Forbearance Agreement  
24 at that time.

25 And I thought I did the absolute best job

1 possible to protect DenSco and its investors for -- and if  
2 he had followed my advice, that would have happened in  
3 terms of, you know, doing the best they could under the  
4 circumstances. And if he had followed the advice, I would  
5 say, yes, he was a good client, but sitting here today  
6 with the things that we know today, I would say he is a  
7 good client that kind of fell off and did not value the  
8 advice he was given, for a variety of reasons.

9 Q. (BY MR. CAMPBELL) Anything else you want to  
10 say, Mr. Beauchamp?

11 A. I'm sorry?

12 Q. Anything else you want to say about this topic  
13 or are you done?

14 A. Proceed.

15 Q. I'm going to hand you -- I'm going to give you a  
16 separate copy of Exhibit No. 4. Okay? This is the  
17 Rule 26.1 statement that's been done in this case.

18 Have you seen that before?

19 A. I have seen the earlier versions of this and I  
20 saw this briefly.

21 Q. Well, actually --

22 A. Or is this the first version? I'm sorry.

23 Q. This is the first initial Rule 26.1 --

24 A. Okay.

25 Q. -- statement?

1 A. Yes, I have seen this.

2 Q. In fact, if you turn to the back of it --

3 A. I verified it, yes.

4 Q. -- you verified it. You verified --

5 A. Yes, the facts in it.

6 Q. You verified this statement was the truth,  
7 right?

8 A. That is correct.

9 Q. How was this prepared?

10 MR. DeWULF: Object to form.

11 THE WITNESS: I met with counsel to review the  
12 facts, the information, and to answer questions based upon  
13 the documents that they had seen. They did an initial  
14 draft and then I reworked it to reflect the facts as I  
15 understood them to be.

16 Q. (BY MR. CAMPBELL) How much -- so you met with  
17 counsel, right?

18 A. Yes.

19 Q. Who did you meet with?

20 A. John Dewulf was there. I don't remember who  
21 else was there.

22 Q. Okay. There were other people there, you just  
23 don't remember who they were?

24 A. Sometimes there were other people there. I just  
25 don't remember who was there.

1 Q. So you met multiple times with Mr. Dewulf?

2 A. In the last several months I have met multiple  
3 times with him on a variety of subjects.

4 Q. Okay. I am talking about the Rule 26.1 right  
5 now.

6 A. Right.

7 Q. I want to know how it was prepared.

8 A. And I'm telling you I don't remember who all was  
9 in the meeting when we discussed the background  
10 information for the preparation of this document.

11 Q. How many meetings did you have?

12 A. I would think a couple, but I do not remember  
13 specifically.

14 Q. Okay. But the purpose of the meeting, you  
15 clearly understood the purpose of the meeting was that a  
16 statement was going to be prepared that you were going to  
17 have to verify about the facts of this case. True?

18 A. Initially the purpose of the meeting was to  
19 provide the necessary background information to counsel in  
20 connection with the case. Subsequently I was told that  
21 I -- we were going to have to prepare this document.

22 I am not a litigator, I have never professed  
23 myself to be a litigator, and the process was explained to  
24 me and we then proceeded to elaborate on the previous  
25 background information as to what would be necessary to

1 prepare this document.

2 Q. And you say there was a draft prepared by your  
3 counsel that was sent you to. True?

4 A. Yes.

5 Q. And you --

6 A. That, or it was handed to me. I don't remember  
7 which.

8 Q. And you reworked it?

9 A. Just very specific facts and filled in blanks.

10 Q. So you went through it and made any editorial  
11 changes you wanted to or added any facts you wanted to,  
12 correct?

13 A. I made changes to it and I -- or, excuse me, I  
14 suggested changes to it and provided backup for my reasons  
15 for those changes.

16 Q. All right.

17 A. And then we discussed them in terms of --

18 MR. DeWULF: David, be careful not to talk about  
19 conversations.

20 THE WITNESS: That's what I am trying --

21 MR. DeWULF: I think he is staying safe in these  
22 questions, but I just don't want you to be revealing  
23 actual communications with counsel.

24 Q. (BY MR. CAMPBELL) And I am not asking you -- I  
25 am trying to ask you these questions without going into

1 your attorney/client privilege. Okay? So I am trying to  
2 get the process that occurred.

3 So there was a draft prepared, you reworked it,  
4 you may have given them reasons why you reworked it and  
5 had further discussions.

6 Was there then a second draft?

7 A. To clarify with respect to your question, you  
8 said I reworked it, I just focused on the facts. I did  
9 not focus on the whole document. I did not focus on -- I  
10 was strictly dealing with the facts. That's what I added  
11 comments to, suggestions and questions.

12 Q. All right. And there is --

13 A. Then I saw a subsequent version.

14 Q. And what happened when you saw -- so there was a  
15 draft of the facts. You had work that you did with  
16 respect to it. You gave it back. You had further  
17 discussions.

18 Did you get another draft of the facts?

19 A. Yes, I did.

20 Q. And what did you do then?

21 A. I answered the couple questions that were there  
22 for me, and I agreed that this was truthful and accurate.

23 Q. And so you worked on two of the drafts, and  
24 after that it went to final?

25 A. I don't remember the numbers and I don't want to



1 swear to something I don't know. There was paragraphs  
2 given at times. Is that another draft or is that just a  
3 paragraph? I --

4 Q. Mr. Beauchamp, you are making this more  
5 laborious than it needs to be. Let me ask you this.

6 MR. DeWULF: I'm sorry. What did you say,  
7 Counsel?

8 MR. CAMPBELL: He is making it more laborious  
9 than it needs to be.

10 Q. (BY MR. CAMPBELL) Let me rephrase the question.  
11 You verified facts in Exhibit No. 4. True?

12 A. Yes, I did.

13 Q. And you verified those facts are true, correct,  
14 under oath?

15 A. As I understood them at that time, yes.

16 Q. Has your opinion changed? Is there something in  
17 that factual statement of truth you no longer believe is  
18 true?

19 A. I do not remember off the top of my head exactly  
20 what is in there. It's been a while since I have looked  
21 at this, but in terms of this document, I believe  
22 everything is accurate, unless something has been  
23 disclosed that my memory is changed. I can't swear to  
24 something that -- this is several months ago that I looked  
25 at this.

1 MR. CAMPBELL: Mark this Exhibit 433.

2 (Deposition Exhibit No. 433 was marked for  
3 identification.)

4 Q. (BY MR. CAMPBELL) I'm handing you Exhibit  
5 No. 143. It's a cover letter, and attached to it are  
6 three verifications. The verifications are signed by you  
7 on July 13th, 2018, and July 12th, 2018. True?

8 A. True.

9 Q. You verified under oath that the statements in  
10 your Rule 26.1 disclosure are true as of July 12th and  
11 July 13th, 2018, correct?

12 A. My understanding, I signed the verification was  
13 at the time it was filed it was true, because I did the  
14 final read of it prior to being filed, and I said I  
15 totally agree, I verify it, and this was provided to me  
16 subsequent to sign, yes.

17 Q. Sir, do you understand there are supplemental  
18 Rule 26.1 disclosure statements in this case?

19 A. I was advised of that at some point in time,  
20 yes.

21 Q. All right. Each one of these verifications says  
22 you have read the first supplemental disclosure, the  
23 second supplemental disclosure, and the fourth  
24 supplemental disclosure.

25 A. I have -- at the time I did read them and I

1 agreed with them.

2 Q. So on July 13th, 2018, you read your statement  
3 of facts and you said they are true, that were in each of  
4 the supplemental disclosure statements, correct?

5 A. Correct, but you were asking about the initial  
6 here as opposed to the supplemental here.

7 Q. Sir, is there anything you want to withdraw or  
8 retract from any statement of fact you have made under  
9 oath in this case?

10 A. I am saying I do not remember what was changed  
11 from the initial one in early March to the first  
12 supplement, second supplement, third supplement and fourth  
13 supplement, to the extent that something is reflected in  
14 those that was based on additional information that would  
15 obviously modify the initial disclosure statement.

16 Q. Here is my question for you.

17 Today, right now, do you want to retract  
18 anything you have said under oath in any of your Rule 26.1  
19 statements?

20 A. Could I have time to review it before I answer  
21 that question?

22 Q. Sir --

23 A. Because I haven't reviewed it.

24 Q. -- when you signed the verification saying you  
25 have read the supplemental disclosure statement, had you

1 read the supplemental disclosure statement?

2 A. Yes, I had.

3 Q. So everything you told me in these verifications  
4 were true on the date you signed it, right?

5 A. With respect to the supplemental disclosure  
6 statements.

7 Q. What did you do to prepare for your deposition?

8 A. I'm sorry. I couldn't hear the question.

9 Q. What did you do to prepare for your deposition  
10 today?

11 A. Reviewed a significant number of documents and  
12 information, "information" being emails, drafts of  
13 Forbearance Agreement and copies of notes and other things  
14 that your office has provided.

15 Q. Have you met with your counsel?

16 A. Yes. On a few times, yes.

17 Q. All right. How many times have you met with  
18 your counsel in preparation for your deposition?

19 A. I don't recall.

20 Q. Have you reviewed your billing records in  
21 preparation for your deposition?

22 MR. DeWULF: Object to form.

23 THE WITNESS: What billing records are you  
24 referring to?

25 Q. (BY MR. CAMPBELL) Your billing records for

1 DenSco.

2 A. I have reviewed a few sheets that were provided  
3 to me. I have not gone back and reviewed all of the  
4 billing records.

5 Q. I assume you have reviewed your 26.1 statements  
6 in preparation for your deposition.

7 A. Yes, I did. I didn't review the initial. I  
8 reviewed the supplements.

9 Q. Other than Mr. Dewulf, has anyone interviewed  
10 you about this case?

11 A. Attorney/client privilege exclusions, nobody  
12 has.

13 Q. Sir, my question is, who has interviewed you  
14 besides Mr. Dewulf? The persons who have talked to you is  
15 not subject to the attorney/client privilege.

16 Has anyone else other than Mr. Dewulf  
17 interviewed you on this case?

18 A. Ed Hood, the general counsel of Clark Hill, and  
19 Mark Sifferman did while he was Phoenix office general  
20 counsel.

21 MR. DEWULF: Colin, it's been a little over an  
22 hour. Is this a good time to break?

23 MR. CAMPBELL: Let me just finish this  
24 particular subject matter.

25 Q. (BY MR. CAMPBELL) When did Ed Hood, the general

1 counsel of Clark Hill, interview you?

2 A. I'm using the word "interviewed" as very  
3 open-ended, including quick telephone conversations, and  
4 those have proceeded since, I want to say, September 2016  
5 to the present.

6 Q. So you have had multiple conversations with  
7 Mr. Hood about this case from September 2016 to the  
8 present?

9 A. It might not have been September. It might have  
10 been October, because I interfaced with Mark Sifferman in  
11 September and early October 2016.

12 Q. All right. You have had multiple conversations  
13 with Ed Hood about the facts of this case. True?

14 MR. DEWULF: Could you read that back, please.

15 (The requested portion of the record was read.)

16 THE WITNESS: I have had multiple conversations  
17 discussing specific facts of the case at various times.  
18 We have not sat down and gone through all of the facts of  
19 this case. I don't believe we have ever sat down and gone  
20 through all of them at any one time.

21 Q. (BY MR. CAMPBELL) Are you aware that Mr. Hood  
22 signed the Rule 26.1 verification for Clark Hill?

23 A. Right. And I had to confirm to him that the  
24 facts were accurate, which was probably a 30-second phone  
25 call.

1 Q. So you told --

2 MR. DeWULF: You got to be careful about what  
3 you say with Counsel, and I know that's not what Counsel  
4 is seeking. He just wants to know about timing, if you  
5 can try to focus on the answer.

6 Q. (BY MR. CAMPBELL) Let me finish with Sifferman  
7 and we will take our break.

8 How many conversations have you had with Mark  
9 Sifferman about the facts of this case?

10 A. I do not recall. I have not talked to him since  
11 he left the firm.

12 Q. Okay. When did he leave the firm?

13 A. I believe around October 2016, but I don't know  
14 for sure.

15 Q. Do you know where he is now?

16 A. He has a private practice here in Phoenix.

17 MR. CAMPBELL: All right. Why don't we take our  
18 break.

19 VIDEOGRAPHER: The time is 10:02 a.m. We are  
20 going off the record, ending media one.

21 (A recess was taken from 10:02 a.m. to  
22 10:18 a.m.)

23 VIDEOGRAPHER: My name is Mary Onuschak with the  
24 film of Legal Video Specialists, Phoenix, Arizona. This  
25 begins media two of the videotaped deposition of David G.

1 Beauchamp. The time is 10:18 a.m. We are now back on the  
2 record.

3 Q. (BY MR. CAMPBELL) Mr. Beauchamp, you should  
4 have in front of you as a loose copy Exhibit 4, which is  
5 the 26.1 statement.

6 A. Yes.

7 Q. I want you to turn to page 4, line 17.

8 A. Yes.

9 Q. It says in your Rule 26.1 statement that "Over  
10 the years, Mr. Chittick showed himself to be a trustworthy  
11 and savvy businessman, and a good client."

12 A. Yes.

13 Q. You verified that to be true, correct?

14 A. Over the years, yes.

15 Q. You say, "He was devoted to his business and  
16 investors, many of whom were friends and family." True?

17 A. True.

18 Q. "Despite often complaining about the cost of  
19 legal services, Mr. Chittick appeared to follow  
20 Mr. Beauchamp's advice and provided information when asked  
21 for it." True?

22 A. True.

23 Q. Nowhere in that paragraph do you say he ignored  
24 your advice on title insurance, correct?

25 A. Well, it does say Mr. Chittick appeared to



1 follow the advice and provided information when asked for  
2 it. The title insurance was advice as opposed to an  
3 absolute requirement, and when it came to the difference  
4 between advice and absolute requirements, Mr. Chittick  
5 exercised his discretion as the client.

6 Q. Mr. Beauchamp, nowhere in that paragraph on your  
7 26.1 statement do you say that he did not follow your  
8 advice with respect to title insurance.

9 Isn't that true?

10 MR. DeWULF: Object to form.

11 THE WITNESS: In that paragraph, it does not  
12 state that he did not follow my advice with respect to  
13 title insurance, but that is a recommendation as opposed  
14 to legal advice that he was required to do it.

15 Q. (BY MR. CAMPBELL) Mr. Beauchamp, I can't find  
16 in your entire 26.1 statement a statement from you that he  
17 did not follow your advice on title insurance.

18 MR. DeWULF: So are you -- I'm sorry. Object.

19 Q. (BY MR. CAMPBELL) Do you recall disclosing in  
20 your 26.1 statement that he did not follow your advice on  
21 title insurance?

22 A. I believe that was deemed a rec -- like I  
23 indicated, a recommendation as opposed to legal advice  
24 that he was required to do it. And accordingly, this  
25 statement dealt with the facts, and he -- for the most

1 part, he did follow, or I -- through April/May 2014, I  
2 believed he was following the legal advice, but not  
3 necessarily the recommendations.

4 Q. Mr. Beauchamp, if I read your 26.1 statement  
5 correctly, you are blaming Mr. Chittick for what happened  
6 in this case. True?

7 MR. DeWULF: Object to form.

8 THE WITNESS: I thought I indicated that  
9 Mr. Menaged was the primary person and who exercised  
10 control over Mr. Chittick in ways I never understood.

11 Q. (BY MR. CAMPBELL) Sir, you state, do you not,  
12 you believe that Mr. Chittick instructed you not to finish  
13 the private offering memorandum in the year 2013, correct?

14 MR. DeWULF: would you read that back, please.

15 (The requested portion of the record was read.)

16 THE WITNESS: I did state he instructed me, and  
17 that was based upon a conversation where he had to provide  
18 specific answers to information that we needed right then  
19 in order to finish the private offering memorandum. He  
20 said he did not have time, and I said then you are saying  
21 to put it on hold? And he said, yes, put it on hold.

22 Q. (BY MR. CAMPBELL) All right. And that was  
23 against your advice. True?

24 A. Yes, that -- my advice was to get it done, but  
25 we could not get it done without that information, and he

1 explained it was an impossibility to get that information  
2 together at that point.

3 Q. In your 26.1 statement you state that you told  
4 Mr. Chittick not to work with Mr. Menaged. He wasn't to  
5 be trusted. True?

6 A. True.

7 Q. He ignored your advice. True?

8 A. I believe that was more of a recommendation,  
9 because it wasn't legal advice with respect to that. It  
10 was a recommendation based upon how I had seen Mr. Menaged  
11 act with Mr. Chittick and how I had seen Mr. Chittick act  
12 with Mr. Menaged, that there was some type of mental  
13 control there. That's not the right term, but it was a  
14 deference that clearly worked to DenSco's disadvantage.

15 Q. All right. Turn to page 14 of your Rule 26.1  
16 statement, line 3. You state under oath, "Nevertheless,  
17 Mr. Beauchamp at one point became concerned enough at  
18 Menaged's intransigence and the apparent influence he held  
19 over Mr. Chittick, that he reached out to third parties in  
20 late January 2014 to inquire about Menaged. Those third  
21 parties informed him that Menaged was generally someone to  
22 be distrusted and not someone to do business with.  
23 Mr. Beauchamp attempted to persuade Mr. Chittick of this  
24 during several heated conversations, but Mr. Chittick  
25 ignored these admonitions, explaining that while Menaged

1 could be sharp and off-putting, Menaged had always  
2 performed on DenSco's loans in the past, and had stood by  
3 Mr. Chittick in tough times. Despite Mr. Beauchamp's  
4 efforts, Mr. Chittick could not be convinced to cut ties  
5 with Mr. Menaged."

6 Did you write that?

7 A. Yes.

8 Q. That's true?

9 A. That is true.

10 Q. You advised him not to do work with Mr. Menaged?

11 A. That was not legal advice, in my mind. That was  
12 a strong recommendation in terms of how he should be  
13 performing his business that did not fall in the category  
14 of legal advice, so it was clearly within his rights to  
15 make that decision as the client.

16 Q. It was his rights as the client to ignore your  
17 admonitions and work with Menaged.

18 Is that your testimony?

19 MR. DEWULF: would you read that back, please.

20 (The requested portion of the record was read.)

21 THE WITNESS: That's my testimony at that period  
22 of time on that issue.

23 Q. (BY MR. CAMPBELL) Has it changed? Is that your  
24 opinion today or not?

25 A. Clearly based upon the information that has

1 become apparent, leading to Mr. Chittick's suicide, that  
2 Mr. Menaged was somebody who could absolutely not be  
3 trusted, but I did not have, other than comments that  
4 people just heard, you know, third-hand stuff that -- that  
5 he couldn't be trusted, I didn't have anything concrete  
6 that I could tell him or have somebody talk to Chittick to  
7 enforce my perception, based upon conference calls with  
8 Menaged and Chittick on the phone, and the initial meeting  
9 on January 9th with Denny and Menaged where it was clear  
10 Menaged had some form of -- or Mr. Chittick, Denny, gave  
11 Menaged deference beyond what I thought a rational  
12 business person would do.

13 Q. If you had known something more about  
14 Mr. Menaged, something more concrete, would you have acted  
15 differently?

16 MR. DeWULF: Object to form.

17 THE WITNESS: In the real world, you have to go  
18 with what you know. And Chittick, excuse me, Denny said  
19 several times to me that he has done business with him, he  
20 has checked out the facts, he has verified all these  
21 points that Menaged is telling us, and that it is accurate  
22 and we need to proceed on that basis.

23 Q. (BY MR. CAMPBELL) All right. Let me see if I  
24 heard you correctly.

25 You said in the real world, we have to act

1 according to what we know, right?

2 A. Correct.

3 Q. In the real world is there ever a time where a  
4 lawyer has to go out and see if there is more facts?

5 MR. DEWULF: Object to form.

6 THE WITNESS: It really would have to depend  
7 upon a lot of circumstances.

8 Q. (BY MR. CAMPBELL) All right. I think we were  
9 talking about times that Mr. Chittick ignored your advice.  
10 On your Rule 26.1 statement, again on page 14. Well, let  
11 me go about it this way.

12 You told Mr. Chittick again and again that he  
13 needed to immediately disclose to the investors what had  
14 happened with respect to Mr. Menaged, right?

15 A. I told Mr. Chittick that he was required to tell  
16 his investors what had happened with Menaged. I stated he  
17 could not take any money from any new client, he could not  
18 take any rollover money from an existing client, without  
19 giving them full disclosure.

20 I thought we had a reasonable period of time,  
21 and typically a Forbearance Agreement is something that's  
22 done in two, three weeks, to advise all of his existing  
23 investors, because these were long-term notes from his  
24 investors.

25 And -- and that was -- you know, the original

1 plan was to get the forbearance finalized, and that's what  
2 Mr. Chittick was insisting upon before we did the full  
3 written disclosure. But he had assured me he wasn't  
4 taking any new money or any rollover money, which was  
5 deemed new under the circumstances, from any investor  
6 without telling them exactly what was going on.

7 And a couple of times he asked for a clean  
8 version, not a redlined version, of, you know, can I send  
9 this to, you know, an investor so that they can see this  
10 description or what's going on and -- of the Forbearance  
11 Agreement so they know what's going on.

12 I do not know who he had intended to provide it  
13 to, but he did ask the question, and the only concern I  
14 had with that is that he had a confidentiality  
15 understanding with Menaged about sharing it with third  
16 parties, and I told him that, but I said you do need to  
17 provide, you know, the information and in terms of what is  
18 going on.

19 Q. Mr. Beauchamp, I am confused. Maybe you can  
20 clarify some things for me.

21 Are you telling me you were aware, while you  
22 were representing Mr. Chittick, that he was continuing to  
23 raise money from new investors and from rollover investors  
24 after January 9th, 2014?

25 A. I became aware of that during the process. I

1 was not aware of that in January, February, maybe it was  
2 the end of March, maybe it was sometime in April, and I  
3 told him he could not do that without giving full  
4 disclosure, and he assured me he was.

5 Q. Let me see if I understand you correctly.

6 After January 9th of 2014, you were aware that  
7 he was raising monies either by rollovers or new  
8 investors, and that he told you he was making disclosures?

9 MR. DeWULF: Object to form.

10 THE WITNESS: I was not aware of that till  
11 probably the end of April, beginning of May, which is why  
12 we -- no, I was not aware of that till probably at that  
13 time, which forced a decision on my firm's part.

14 what he had told me previously was he had made  
15 arrangements with the bank for an additional line that he  
16 was providing to the company. He knew what was going on.  
17 He could do that.

18 He had also indicated that there were certain  
19 people that knew what was going on and that they were  
20 continuing their investments with him, and I don't  
21 remember what he meant by that. We clarified it at the  
22 time and it seemed logical. I don't remember what that  
23 conversation was, because sometimes he did a year note,  
24 but subject to call earlier, and he got them to waive the  
25 call. I don't remember the specifics on that at all.



1           But I was not aware that he was taking any new  
2 money from new investors or rollovers I would say until  
3 the end of April or May, because it was -- it was an  
4 absolute shock to me, which forced us to give him the  
5 disclosure that had to go out for the Forbearance  
6 Agreement and say, you know, we have to finish this thing,  
7 but in the interim, we need to send this to everybody  
8 before you proceed.

9           Q.    (BY MR. CAMPBELL)  Sir --

10          A.    And he did not do it so we quit.

11          Q.    Mr. Beauchamp, you told me under oath just a few  
12 minutes ago that you were aware or he told you he was  
13 making oral disclosures of facts to investors and raising  
14 money.

15                   Did I mishear you?

16          MR. DeWULF:  Object to form.

17          THE WITNESS:  I was -- I thought you said after  
18 the January, and I was -- he did tell me, but that  
19 conversation was probably the end of April, beginning of  
20 May, with the exception of a few key investors that he had  
21 worked, heavy-hitter investors that had a special deal  
22 with him, which I don't know the details, that had helped  
23 him out in the 2008/2009 Recession.

24          Q.    (BY MR. CAMPBELL)  Well, let's pursue that a  
25 little bit.

1           You are telling me that you knew he was getting  
2 money from key investors without having revised his  
3 private offering memorandum from sometime after  
4 January 9th of 2014?

5           MR. DeWULF: Object to form.

6           THE WITNESS: Those key investors had like a  
7 rolling line of credit with him as opposed to the standard  
8 notes that he had. And those were individuals, as he put  
9 it, that, you know, multi, multi, multi-millionaires, and  
10 they really fell into a different category with that in  
11 terms of what they were doing. And he assured me they  
12 were fully aware, but the average investors that went on  
13 the note and everything, he wasn't touching them.

14           Q. (BY MR. CAMPBELL) So you are telling me, sir,  
15 you were aware he was raising money from investors that  
16 were not people that were giving him promissory notes?

17           A. In certain instances Denny had -- when he didn't  
18 have the bank line of credit, he borrowed money personally  
19 and then loaned it into DenSco. And I had told him that  
20 he should be consistent with all of his investors and to  
21 deal with it that way. "Oh, I just did it this once. I  
22 just did it this once."

23           I know in 2008 and 2009 that he signed  
24 personally promissory notes, which I never saw, to  
25 individuals and borrowed against those promissory notes to

1 meet certain shortfalls, but I was clearly under the  
2 impression, by the time I found out about it, he had  
3 discontinued the practice.

4           In this case, these were, quote, unquote, what  
5 he called his advisory council, who I never found out who  
6 they were, despite asking. I never saw anything, but  
7 these were personal friends that he had a different  
8 relationship with, and I did not know the details with  
9 that. And that was what he considered separate, because  
10 that was his personal, like with the bank, he is borrowing  
11 and putting it into the company. Never saw the notes, was  
12 not involved with it.

13           They did not have any preference over any of the  
14 investors, so it did not impact the issues for the  
15 investors in DenSco. I had thought short term he has  
16 borrowed some of that again, which I advised him against.  
17 It was not until the end of April, beginning of May, where  
18 it became aware that he had rolled over some notes, and --  
19 but, again, I think this was his family, and I told him it  
20 doesn't matter if it's family. You can't do this without  
21 full disclosure. And -- and that's where he had said  
22 that: Okay. Fine. Let's get the memorandum done, which  
23 I already had Daniel Schenck start writing.

24           Q. We will come back to this, Mr. Beauchamp, but  
25 this would be another example where he ignored your

1 advice. True?

2 MR. DeWULF: Object to form.

3 THE WITNESS: This is another example that he --  
4 he did not follow my advice as provided.

5 Q. (BY MR. CAMPBELL) Fair to say, Mr. Beauchamp,  
6 that you are blaming Mr. Chittick for what went wrong in  
7 this case. True?

8 MR. DeWULF: Object to form.

9 THE WITNESS: I believe Mr. Chittick did not  
10 follow the advice that he was given. I believe  
11 Mr. Chittick made some terrible business decisions by  
12 trusting Mr. Menaged, and that led to what happened with  
13 DenSco.

14 Q. (BY MR. CAMPBELL) Right.

15 And your position in this case is that's  
16 Chittick's problem, that's what he did wrong. You did  
17 nothing wrong. True?

18 A. That is correct.

19 Q. Let's turn to Exhibit 325, which is going to be  
20 in volume 6.

21 MR. CAMPBELL: And, again, there is highlighting  
22 on this. I'm sorry. It's not on the original.

23 MR. DeWULF: No apology necessary.

24 Q. (BY MR. CAMPBELL) Okay. Exhibit 325 on the  
25 bottom is an email from you, Mr. Beauchamp, to Mr. Kevin

1 Merritt, the lawyer you previously worked with at  
2 Gammage & Burnham, dated September 23rd, 2016. True?

3 A. True.

4 Q. And just so we know, this is after the receiver  
5 is appointed. The receiver is appointed in mid-August of  
6 2016, correct?

7 You don't recall?

8 A. August 18th, 19th. I don't remember the date.

9 Q. You tell Mr. Merritt, let me see if I read this  
10 correctly, "I just talked to Mark Sifferman, who is just  
11 back today after a couple of weeks in Italy."

12 Now, he is the person who is your ethics counsel  
13 in Phoenix, right?

14 A. Correct.

15 Q. "Mark does not want me to spend the money to  
16 digitize the files for the Receiver and he does not want  
17 me to spend the time to review all of the files for  
18 attorney-client information. He just wants me to review  
19 and make copies of the portions of the file that I need to  
20 protect against a securities claim against me and the  
21 firm."

22 Did I read that correctly?

23 A. Yes, you did.

24 Q. When did you become aware, Mr. Beauchamp, that a  
25 securities claim may be filed against you and your firm?

1           A.    There was an assertion by counsel that there --  
2   that I need to be ready to deal with a securities claim  
3   against me and the firm.

4           Q.    Who told you that?

5           A.    I think it was mentioned by a couple counsel for  
6   the investors, and that would have been the one called in  
7   August and asked for copies of our E&O insurance.

8           Q.    Do you remember who called and asked for copies  
9   of your E&O insurance?

10          A.    It was a California attorney. I don't remember.

11          Q.    And this was in August?

12          A.    Yeah. This was after the receiver had been  
13   appointed.

14          Q.    Okay. You were never aware at any time before  
15   the receiver's appointment that your firm might be at risk  
16   for a securities claim?

17          A.    I believe then, as I believe now, that I didn't  
18   do anything wrong, so I had not thought in terms of that.  
19   I had thought do whatever I could to help the situation,  
20   which was my attitude in -- after hearing of Denny's  
21   suicide, and that was my attitude trying to work with the  
22   Arizona Corporation Commission Securities Division.

23          Q.    Mr. Chittick wrote an email letter to the  
24   investors.

25                    Do you recall that?

1           A.    I did not see that until subsequent, in the time  
2 period when Shawna, Denny's sister, shared it with me.

3           Q.    All right. She shared it with you shortly after  
4 Mr. Chittick's suicide, correct?

5           A.    She gave me a couple inches of paperwork and it  
6 was in there, and I had not -- well, I skim read different  
7 things and I saw that, but that -- in my perception,  
8 that's the type of thing that there is always threats of,  
9 and it's -- I didn't think there was -- initially I was  
10 too focused on trying to help the situation than to think  
11 what do I have to do to, you know, protect myself or the  
12 firm. I was simply trying to follow instructions and  
13 help.

14          Q.    Well, here, since you were trying to help, why  
15 don't we look at Exhibit No. 414, which is going to be in  
16 volume 7.

17               MR. DeWULF: Did you say 414?

18               MR. CAMPBELL: 4 -- 4-1-4.

19          Q.    (BY MR. CAMPBELL) 414 is the letter that  
20 Mr. Chittick sent to the investors, right?

21               MR. DeWULF: Object to form.

22               THE WITNESS: No. I believe he prepared it, but  
23 never sent it.

24          Q.    (BY MR. CAMPBELL) That's correct. I mean he  
25 prepared it and never sent it.

1           This is the investor letter that Shawna gave  
2 you. True?

3           MR. DeWULF: Object to form.

4           THE WITNESS: I believe so. I don't know for a  
5 fact, because my understanding is Mr. Chittick did several  
6 things on his computer before his suicide, and I guess  
7 there were versions of different letters, and I don't know  
8 if this is the one, although I do see my notes in the  
9 margin.

10          Q. (BY MR. CAMPBELL) I was going to say, this is  
11 your handwriting on it, correct?

12          A. On the -- not all of it. I didn't do the  
13 underlining, but the notes in the margin on page, whatever  
14 page it is, 9473, that is my handwriting.

15          Q. All right. And you recall getting it and  
16 reading it, don't you?

17          MR. DeWULF: Object to form.

18          THE WITNESS: I recall getting it and skimming  
19 it, but I -- it clearly was, as Shawna said, don't take  
20 offense at this, Denny was out of his mind writing all  
21 this stuff before he committed suicide, and I took it in  
22 that spirit.

23          Q. (BY MR. CAMPBELL) One of the things he wrote,  
24 sir, and this is on Bates stamp 9471 at the bottom, you  
25 say -- he says, "Dave blessed this course of action," and



1 someone put it in a box.

2 That's not your putting it in a box?

3 A. No.

4 Q. Did you see this in the investor lending --

5 A. Let me read the context in which that statement  
6 is there.

7 MR. CAMPBELL: Would you re-read my question.

8 (The requested portion of the record was read.)

9 THE WITNESS: I believe I looked at it enough to  
10 be able to answer your question.

11 Q. (BY MR. CAMPBELL) My question was, after  
12 Mr. Chittick's death, did you read in this investor letter  
13 that Mr. Chittick had said, quote, "Dave blessed this  
14 course of action," end of quote, yes or no?

15 A. It is in the letter, so I'm sure I reviewed it.

16 Q. On the very next page, 9472, and this is a few  
17 lines down, it's in blocked again, and it says -- you see  
18 where it says, quote, "I talked to Dave about this January  
19 and he was in agreement with it as long as I received  
20 copies of checks and receipts showing that I was the one  
21 paying the trustee."

22 Do you see that?

23 A. No, I do not.

24 Q. Go down about ten lines, where you say I see "I  
25 talked to Dave" is in a box.

1 A. I see that.

2 Q. At any time when you reviewed the investor  
3 letter did it cross your mind that you might be opening up  
4 the firm to a securities action?

5 MR. DeWULF: Object to form.

6 Q. (BY MR. CAMPBELL) Can you answer that question?

7 MR. DeWULF: Could you read it back. I think  
8 you were reading while you were asking.

9 THE WITNESS: Yeah, I was.

10 (The requested portion of the record was read.)

11 THE WITNESS: Yes, it did cross my mind, but I  
12 was still trying to do what was right under the  
13 circumstances to try to help.

14 Q. (BY MR. CAMPBELL) All right. But you  
15 understood when you read the investor letter that there  
16 were facts that could be used to sue your firm for a  
17 securities action, right?

18 MR. DeWULF: Object to form.

19 THE WITNESS: I agree that there were statements  
20 in this letter that, yeah, could lead to -- to litigation  
21 against me and the firm.

22 Let's go back for just a second.

23 Q. (BY MR. CAMPBELL) You have answered my  
24 question.

25 MR. DeWULF: Let him answer the question, Colin.

1 THE WITNESS: No. You read this statement and  
2 had it reflected in the record, but you never had me  
3 address the veracity of the statement.

4 And the statement was I talked to Dave about  
5 this in January and he was in agreement, so long as I  
6 received copies of checks and receipts showing I was the  
7 one paying the trustee.

8 That's only part of the overall equation in the  
9 context. That the procedures that we were dealing with  
10 here in his question in an email at 10:00 something at  
11 night, it was my subsequent answer to him in clarification  
12 was that had to be in conjunction with getting a deed of  
13 trust and going through the other procedures.

14 It never was and we never discussed getting  
15 copies of checks and receipts. That never was in my  
16 conversation with him at -- at that time or later. It  
17 always was done in the context of getting the deed of  
18 trust and having a security interest.

19 Q. (BY MR. CAMPBELL) Are you done, Mr. Beauchamp?

20 A. With that, yes.

21 Q. Turn to the next exhibit, Exhibit No. 4 -- 415.

22 Q. (BY MR. CAMPBELL) Who is Iggy?

23 A. Shawna, Denny's sister.

24 Q. So aside from writing an email to the investors,  
25 Mr. Chittick also write -- wrote an email to his sister,

1 who we will call Iggy, right?

2 A. That was his nickname for her that she did not  
3 like.

4 Q. All right. You received a copy of this letter  
5 from Shawna. True?

6 A. From Shawna, yes.

7 Q. Around the same time you got the investor  
8 letter. True?

9 A. Yeah, probably along with an inch and a half or  
10 two inches of other material.

11 Q. Did you read it?

12 A. I read certain portions of it that she asked me  
13 about.

14 Q. Whose handwriting is on it?

15 A. I don't recognize the handwriting. It is not  
16 mine. Since I received it from Shawna, it could be hers,  
17 but I don't know that for sure.

18 Q. Turn to Bates stamp 9483. The top of the page.  
19 Are you with me?

20 A. I believe so.

21 Q. I want you to go down a few lines where a  
22 sentence starts that says "the difference between now and  
23 then." Let me know when you are there.

24 A. Yes.

25 Q. You see where it says, "The difference between

1 now and then is that Dave did a work out agreement with  
2 Scott, we were executing it and making headway, yet Dave  
3 never made me tell the investors."

4 Do you see that?

5 A. Yes.

6 Q. Did you read that when you got this letter from  
7 Shawna?

8 A. I don't believe I read it when I got that from  
9 Shawna. She had specific questions on other parts of it,  
10 but not this.

11 Q. So just so I understand it, Mr. Chittick dies,  
12 right? And you receive things he wrote immediately prior  
13 to his death and you didn't read it?

14 A. No, not all of it. I was in the midst of a  
15 number of things that were going on that I was giving to  
16 other attorneys to deal with, and spending time on the  
17 phone with Shawna, and somehow my phone number was given  
18 out to the investors and my phone was ringing off the  
19 hook.

20 Q. When did you become aware, Mr. Beauchamp, that  
21 Chittick had wrote that you never made him tell the  
22 investors?

23 A. I'm sure I must have read it prior to now, but  
24 as you are pointing it out, I totally disagree with the  
25 statement and it's not true.

1 Q. Sir, the question I have, I'm trying to find out  
2 when you became aware that your firm might be sued for  
3 securities fraud.

4 Is this an example of a statement that if you  
5 had read it, you might think, oh, my gosh, Clark Hill  
6 might get sued for a securities violation?

7 MR. DeWULF: Object to form.

8 THE WITNESS: Again, it would depend on the  
9 circumstances. This is just another fact, but at this  
10 point in time, excuse the expression, but the horse was  
11 already out of the barn.

12 Q. (BY MR. CAMPBELL) Certainly with respect to  
13 your conflict of interest it was.

14 MR. DeWULF: Object to form.

15 MR. CAMPBELL: I will withdraw it.

16 Q. (BY MR. CAMPBELL) Turn to Bates No. 9484.

17 MR. DeWULF: Okay. Could I have that  
18 question -- did you get your answer in? Did you answer  
19 his question?

20 MR. CAMPBELL: I withdrew it. Do you want him  
21 to answer it?

22 MR. DeWULF: Then I guess you answered the  
23 previous question before he made that comment? Did you  
24 get that?

25 THE WITNESS: It was interrupted. I was going

1 to ask if it could be read back to me.

2 MR. DeWULF: Could we just get that back?

3 MR. CAMPBELL: Sure.

4 (The requested portion of the record was read.)

5 THE WITNESS: To continue that thought,  
6 Mr. Chittick was dead. People that had no idea what  
7 were -- what had been going on were trying to find out  
8 exactly what was going on and trying to do what they could  
9 to help DenSco collect as much money as possible and to,  
10 accordingly, protect the investors.

11 So the important thing was to obviously let the  
12 investors know what was going on, get Shawna advice to get  
13 her counsel that she was going to need as the executor of  
14 Denny's estate, and to comply with the legal compliance  
15 requirements from the Arizona Corporation Commission  
16 Securities Division.

17 In terms of my personal responsibilities or  
18 whatever, that was not my primary issue at the time.

19 Q. (BY MR. CAMPBELL) Are you done, Mr. Beauchamp?

20 A. Yes.

21 Q. Turn to the next page, 9484. Why don't you look  
22 at the bottom of the page, and I want you to go up maybe  
23 eight or nine lines where it says "I talked Dave." Tell  
24 me when you are there.

25 It's going to be six lines up, and the

1 sentence begins --

2 A. I see it.

3 Q. Tell me if I'm reading this correctly. Quote,  
4 "I talked Dave my attorney in to allowing me to continue  
5 without notifying my investors. Shame on him. He  
6 shouldn't have allowed me. He even told me once I was  
7 doing the right thing," end of quote.

8 Did you read this on or about the time you got  
9 this letter?

10 A. I did not read this at the time I got the  
11 letter.

12 Q. Did you discuss the -- this letter with  
13 either -- with Mr. Merritt at any time?

14 A. I think the only comment I had with Kevin  
15 Merritt was that Shawna had received an email from Denny  
16 and that he needed to review it, receive a copy and review  
17 it.

18 Q. You never had a conversation with Mr. Merritt  
19 about what Mr. Chittick had said about you in his email to  
20 Shawna?

21 A. If I did, I absolutely don't remember it.

22 Q. Did you ever have a conversation with Mr. Polese  
23 about what Mr. Chittick said about you in this email to  
24 his sister?

25 A. I think my comment to Mr. Polese was that some



1 of the things in this email, with assertions against me,  
2 are categorically false, and -- and that we left it at  
3 that.

4 Q. When did you have this conversation?

5 A. It quite possibly could have been after the  
6 hearing for the receiver or it could have been another  
7 time period. I -- I don't remember, but it was -- you  
8 know, that's -- to me, that is my -- the comment came  
9 about that I was, you know, really nailed in the letter,  
10 and I said, well, they are categorically false.

11 Q. What did it mean to you when Mr. Polese told you  
12 you were nailed in the letter?

13 A. That was my term, not his. I'm paraphrasing.  
14 It's been a long time. And it -- I think his comment was  
15 more to the fact that Denny blamed you for everything.  
16 And subsequent to that, the -- the tape of Denny's  
17 conversation with Menaged, Denny stated, but I did tell  
18 him in that. So it's -- there is conflicting information  
19 on what Denny wrote and Denny told.

20 Q. When did you notify the risk manager at your  
21 firm that the firm might be sued for securities  
22 violations?

23 MR. DeWULF: Object to form.

24 Q. (BY MR. CAMPBELL) If you did.

25 A. In our firm, that's done through Mark Sifferman,

1 and I think immediately after Denny's suicide, but I don't  
2 remember specifically.

3 Q. Well, you think that immediately after  
4 Mr. Chittick's suicide you notified the risk manager?

5 A. Well, there is many factors that go into  
6 notifying the risk factor, and one of the factors is if  
7 you are working with a client that is investing other  
8 people's funds and the person commits suicide, that's a  
9 triggering event whether or not there has been any  
10 allegation against you.

11 Q. Is there a practice and policy of Clark Hill  
12 that states this?

13 A. Not that I recall, but I do remember in one of  
14 my previous firms that had been presented by a class as  
15 something to remember in terms of to advise the carrier  
16 immediately when these facts happen.

17 Q. Where were you working when you heard this?

18 A. It -- it could have been Bryan Cave. It could  
19 have been Quarles & Brady. I don't remember.

20 Q. Okay.

21 A. But it was in the last seminar I was at.

22 Q. So when Mr. Chittick died, like Mr. Dan Coats  
23 would say, you had red lights flashing that this was  
24 something you should notify your risk manager of?

25 MR. DeWULF: Object to form.

1 THE WITNESS: When Mr. Chittick died, I was --  
2 he was -- he was a friend and I was emotionally upset, but  
3 I -- I realized this fell into a category of facts and  
4 circumstances that I needed to let somebody at the firm  
5 know, despite the fact that I was still trying to collect  
6 the necessary facts that would both help Shawna, DenSco,  
7 and also I would need to provide to the firm.

8 Q. (BY MR. CAMPBELL) Did you notify him by email?

9 A. That would be a protected communication, and I  
10 don't remember if it was in person or by email.

11 Q. My question was, did you notify him by email,  
12 and your answer is you don't know?

13 A. I don't remember.

14 Q. Do you think you notified him orally?

15 A. He was literally just down the hall from me and  
16 so a lot of times I would walk in and say when you have a  
17 moment, let me know, because we need to talk about  
18 something. And we did that with conflict letters all the  
19 time, and I think that is probably what I did here. I  
20 don't recall doing it as an email.

21 Q. All right. So fair to say, though, that your  
22 employer, Clark Hill, knew fairly quickly after  
23 Mr. Chittick's death that you thought there might be a  
24 risk issue here?

25 MR. DeWULF: Object to form.

1 THE WITNESS: Very shortly after Denny's  
2 suicide, I knew there was facts and circumstances that I  
3 needed to make sure the firm knew about for reporting  
4 purposes.

5 I hadn't thought through what my personal risk  
6 or the firm's risk was at that time. I was simply trying  
7 to deal with the facts, which were like standing in the  
8 face of -- well, that were emotionally overwhelming at  
9 times.

10 Q. (BY MR. CAMPBELL) who was your client in this  
11 case, Mr. Beauchamp?

12 A. DenSco.

13 Q. DenSco was always your client?

14 A. I believe at one point in time, when DenSco was  
15 looking to invest in a title insurance company, we went to  
16 open a matter under Denny Chittick, and it -- it got put  
17 in -- he wanted it done under DenSco, because DenSco was  
18 going to get the benefit of it, so they should -- they  
19 should pay the legal fees going forward.

20 I -- I know I signed the affidavit with respect  
21 to the receivership hearing --

22 Q. Did I ask you that question, sir?

23 A. DenSco was my client. Denny Chittick, as the  
24 president, CEO, was the person I interacted with.

25 Q. Go to Volume 3, Exhibit No. 137.

1 Exhibit No. 137 is an email to you from  
2 Mr. Chittick dated September 12th, 2013, correct?

3 A. Let me read it, please.

4 Yes.

5 Q. And attached to it is the engagement letter,  
6 right?

7 A. Yes.

8 Q. And the engagement letter is that you are  
9 representing DenSco Investment Corporation.

10 That is the client, correct?

11 A. Correct.

12 Q. And then let's go to your Rule 26.1 statement.  
13 That's Exhibit 4. It should be a loose paper there in  
14 front of you.

15 MR. DeWULF: It's been a little over an hour,  
16 Colin. Whatever works for you in terms of a break.

17 MR. CAMPBELL: Thanks.

18 THE WITNESS: I do need a bio break, so...

19 Q. (BY MR. CAMPBELL) I'm sorry?

20 A. I do need a bio break.

21 Q. Let's take it now. I don't want to stop you  
22 from doing that.

23 VIDEOGRAPHER: The time is 11:11 a.m. We are  
24 going off the record, ended media two.

25 (A recess was taken from 11:11 a.m. to

1 11:27 a.m.)

2 VIDEOGRAPHER: My name is Mary Onuschak with the  
3 film of Legal Video Specialists, Phoenix, Arizona. This  
4 begins media two of the videotaped deposition of David G.  
5 Beauchamp. The time is 11:27 a.m. We are now back on the  
6 record.

7 Q. (BY MR. CAMPBELL) Mr. Beauchamp, if you will  
8 turn to Exhibit No. 4, that's your Rule 26.1 statement  
9 that you verified under oath, and I want you to turn to  
10 page 3, line 7.

11 Do you make the following statement under oath?  
12 "Although the various firms' engagement letters with  
13 DenSco only specifically identify DenSco as the client,  
14 DenSco could not operate or engage with legal counsel  
15 except through its president and sole owner,  
16 Mr. Chittick."

17 Did you write that?

18 A. I approved it.

19 Q. You verified it?

20 A. I don't remember who wrote it.

21 Q. Okay. I'm sorry. You verify it as true under  
22 oath, correct?

23 A. Correct.

24 Q. And you say, "DenSco had no other employees;  
25 Mr. Chittick was responsible for all aspects of DenSco's

1 business, and Mr. Chittick understood that Mr. Beauchamp,  
2 as an incident to Mr. Beauchamp's representation of  
3 DenSco, was also representing Mr. Chittick in his capacity  
4 as president of DenSco." True?

5 A. True.

6 Q. All right. You understand there is a big  
7 difference between communicating with Mr. Chittick as the  
8 president and owner of DenSco and representing him  
9 individually. True?

10 A. True.

11 Q. You never represented Mr. Chittick individually.  
12 True?

13 A. In connection with the licensing issues with the  
14 Arizona Department of Financial Institutions for a  
15 mortgage broker, because that pertained to his getting a  
16 license for DenSco, that would be the closest thing to any  
17 personal representation, but it was required for DenSco to  
18 go through the procedure, but it was for DenSco that I did  
19 the work. Because he was not licensed, and I simply had  
20 to provide evidence that he -- you know, he wasn't getting  
21 paid for it. He was an officer of the company and this is  
22 how the loans were done.

23 Q. Well, DenSco's position was that the Arizona  
24 financial department institutions had no regulatory  
25 control over them.

1 A. That -- that is correct, although the State had  
2 three times tried.

3 Q. Right. And each time, representing DenSco, you  
4 fought back the State's efforts to regulate it. True?

5 A. True.

6 MR. CAMPBELL: Let's mark this as Exhibit 434.  
7 I think that's the next one.

8 (Deposition Exhibit No. 434 was marked for  
9 identification.)

10 Q. (BY MR. CAMPBELL) Exhibit No. 434 is a letter  
11 that you write, Mr. Beauchamp, to Wendy Coy, and it's  
12 dated on August 10th, 2016, right?

13 A. Yes.

14 Q. That's your signature on the second page,  
15 correct?

16 A. Yes.

17 Q. You wrote the letter, am I right?

18 A. Yes.

19 Q. And Ms. Coy works for the Arizona Corporation  
20 Commission?

21 A. Yes.

22 Q. And on Mr. Chittick's death, the Arizona  
23 Corporation Commission got involved. why?

24 MR. DeWULF: Object to form.

25 Q. (BY MR. CAMPBELL) If you know.



1           A.     According to what Wendy Coy said, they had  
2 received calls from investors. But in addition to that, I  
3 had contacted them for purposes of, you know, trying to  
4 deal with some of the issues pertaining to the company and  
5 trying to deal with compliance issues.

6           Q.     And you see -- I want you to look at the first  
7 paragraph. And I want you to go down to the middle with  
8 the sentence that starts "However, I have not previously  
9 represented."

10                  Are you with me?

11           A.     Yes.

12           Q.     And you say and write, quote, "However, I have  
13 not previously represented Denny Chittick and I do not  
14 have authority to accept the service of subpoena on  
15 Mr. Chittick or his Estate."

16                  Did you write that?

17           A.     Yes.

18           Q.     So just so we are absolutely clear, prior to  
19 August 10th, 2016, your position was you represented  
20 DenSco and you had never represented Mr. Chittick  
21 personally?

22           A.     In connection with the matters that she was --  
23 that she was asking about.

24           Q.     Had you represented him personally on -- well,  
25 she is asking you about DenSco and its business, right?

1 A. No. She wanted --

2 Q. What's she asking you about?

3 A. She wanted all his personal tax records. I  
4 mean, the -- the subpoena was she wanted his personal tax  
5 records going back a number of years. She wanted an  
6 updated financial statement showing all of his holdings,  
7 his --

8 Q. All right.

9 A. I didn't have any of that information.

10 Q. But you told her you had not previously  
11 represented Dennis Chittick.

12 Did I read that wrong?

13 A. No. No, you are reading it correctly. And  
14 if -- I probably should have, knowing what I know now,  
15 stated not previously represented Denny Chittick, paren,  
16 outside of his role as president as DenSco.

17 Q. Okay. Well, I don't quite -- when you are  
18 dealing with a corporation, you have to deal with the  
19 president, right?

20 A. But you also deal with that person's  
21 responsibilities to the corporation.

22 Q. Right.

23 You are just dealing with Mr. Chittick because  
24 he is the president and owner of the corporation. Your  
25 client is the corporation. True?

1           A.     Correct, but in -- in the process of dealing  
2 with him and telling him his advice, excuse me, his  
3 obligation to the corporation, I provided advice to him  
4 for the corporation, which also reflects what he needs to  
5 do.

6                     And I have gotten conflicting reports in this  
7 over the years, since I had to fire a president of a  
8 portfolio company owned by a private equity group, and --  
9 and so I have been very conscious what I am doing there.

10           Q.     Okay.  So let's -- well, let's go back to that.  
11                     It's fundamental, would you agree, that a lawyer  
12 has to know who his client is?

13           A.     That -- that is correct.

14           Q.     I mean, you can hardly proceed as a lawyer if  
15 you don't know who your client is, correct?

16           A.     Correct.

17           Q.     And if you have more than one client, that  
18 raises a whole host of other issues, doesn't it?

19           A.     That's correct, but I look at -- when you say  
20 who is the client, I look at more as obligations that I  
21 owe somebody in the chain as opposed to just the ultimate  
22 client.

23           Q.     Okay.  well, let's talk about it in a way we can  
24 both talk the same language.

25                     You are familiar with the rule of ethics and

1 professional responsibility for lawyers in the State of  
2 Arizona. True?

3 A. True.

4 Q. You understand what a client means under the  
5 Rules of Professional Conduct?

6 A. True.

7 Q. And your client in this case, under the Rules of  
8 Professional Conduct, was DenSco?

9 A. True.

10 Q. You did not represent Mr. Chittick personally.  
11 True?

12 A. Except in connection with his responsibilities  
13 to the company.

14 Q. Did you represent Mr. Chittick individually as a  
15 separate client, yes or no?

16 A. Not as a separate client.

17 Q. Did you represent Mr. Chittick in any capacity  
18 that would bring into your attorney/client relationship  
19 responsibility for conflicts of interest under the Rules  
20 of Professional Responsibility?

21 MR. DeWULF: Could you read that back.

22 (The requested portion of the record was read.)

23 THE WITNESS: Could you read the last part of  
24 that again, please.

25 (The requested portion of the record was read.)

1 THE WITNESS: Excuse me. No. It -- not as a  
2 separate, distinct from DenSco.

3 Q. (BY MR. CAMPBELL) All right. And you  
4 understand that if you represent two clients, there is a  
5 whole host of issues with respect to conflict of interest  
6 you need to be aware of, correct?

7 MR. DeWULF: Object to form.

8 THE WITNESS: Yes, I understand that there is  
9 that, and at the same time the -- yes, I understand that.

10 Q. (BY MR. CAMPBELL) Okay. Let's go to Exhibit  
11 No. 278, and that's going to be in Volume 5.

12 All right. So Exhibit No. 278 is an email  
13 string, right?

14 A. Yes.

15 Q. And I guess we can look at it sort of going  
16 backwards.

17 First of all, we had already talked about  
18 Ms. Coy. She is at the Arizona Corporation Commission  
19 Securities Division, and Mr. Clapper is also there, too,  
20 correct?

21 A. I believe he was there at that time.

22 Q. Now, you will see that this appears to be the  
23 time that Mr. Polese and Mr. Merritt become personal -- or  
24 the attorneys for Shawna, as the personal representative  
25 for the Estate of Denny Chittick.

1 Do you see that?

2 I'm looking at -- I'm on Bates stamp 9583 at the  
3 bottom of the page.

4 A. Okay. Yes, I see that.

5 Q. Now, if you look on -- you will see there is an  
6 email from Mr. Polese to Ms. Coy that starts on page 2  
7 there. It's August 12th, 2016, at the bottom of the page,  
8 and then it continues over on page 3.

9 Are you there?

10 A. Yes, I just see it now.

11 Q. And you are copied on this email, correct?

12 A. Yes.

13 Q. And he starts out by saying, you know, "we are  
14 counsel for the estate."

15 "Mr. Beauchamp remains as counsel for DenSco,"  
16 right?

17 A. And the end, "if for no other reason than there  
18 is no mechanism in place to make any change."

19 Q. Were you forced to be the attorney for DenSco?

20 A. I had asked Wendy Coy upfront, given the  
21 inherent conflicts, you know, can -- can I resign as  
22 counsel at this point, because -- and she said no. You  
23 have to accept the subpoena, because until we get a  
24 receiver in place, you know, we have to have someone to  
25 deal with this.

1 Q. So in your first conversation with Ms. Coy, you  
2 were aware of inherent conflicts of interest you had by  
3 representing DenSco. True?

4 A. True.

5 MR. DeWULF: Object to form.

6 THE WITNESS: Well, I don't remember the first  
7 conversation with Wendy Coy. My firm filed the necessary  
8 paperwork for the estate simply to get Shawna -- I'm  
9 sorry -- is it letters of rep -- I don't deal probate,  
10 letters of authority or something like that from the  
11 probate court so she could act as the executor of the  
12 estate, but then we withdrew.

13 Q. (BY MR. CAMPBELL) Well, let me back up.

14 You are telling me that after Mr. Chittick's  
15 death, you remained as the attorney for DenSco, correct?

16 A. Shawna asked me to remain as the attorney for  
17 DenSco during the transition.

18 Q. All right. When she asked you to remain, did  
19 you say maybe I have a conflict of interest?

20 A. No. She asked that on the phone right after  
21 telling me Denny had committed suicide.

22 Q. She asked you if you had a conflict of interest?

23 A. No. She said can you do this?

24 Q. All right.

25 A. And I said until we -- I suggested a transition

1 period until we get the facts. That's -- that's all I  
2 agreed to.

3 Q. Did you tell -- did you tell Shawna: Look, I'm  
4 notifying my risk manager, because of special facts and  
5 circumstances in this case. Maybe you want to get another  
6 attorney?

7 MR. DeWULF: Object to form.

8 THE WITNESS: When I talked to Shawna on the  
9 phone, I hadn't completely comprehended what she had said  
10 to me. I mean, I, you know, drove off the 51.

11 And I am telling you that at some point in time  
12 I had that conversation with her or her friend in Idaho,  
13 or one of the attorneys that called that we referred to  
14 dealing with the estate, but not -- not initially when she  
15 asked me. I just said I would be a caretaker.

16 Q. (BY MR. CAMPBELL) Look, before you undertook to  
17 represent Shawna, did you tell her there was a conflict of  
18 interest in your representing DenSco and representing the  
19 estate?

20 A. I did not, but I believe Michelle Tran, that's  
21 why we said we are going to file this and withdraw. And  
22 that was done just for the expediency, and that's --  
23 that's all we did.

24 Q. Is there some ethical rule that says you can  
25 proceed with a conflict of interest by filing and



1 withdrawing?

2 MR. DeWULF: Object to form.

3 THE WITNESS: Filing the will is not taking any  
4 discretionary action. And this is something that I know  
5 was discussed with other people, so that, it was  
6 imperative that Shawna get authority over things as  
7 quickly as possible.

8 Q. (BY MR. CAMPBELL) Mr. Beauchamp, you are aware,  
9 you were always aware that DenSco could file claims  
10 against the Estate of Denny Chittick, weren't you?

11 MR. DeWULF: Object to form.

12 THE WITNESS: At that particular moment in time,  
13 I hadn't focused on that, other than to say this is a  
14 short term, this was a three-day type of arrangement.

15 Q. (BY MR. CAMPBELL) Mr. Beauchamp, you have  
16 verified under oath that he didn't follow your advice.  
17 True?

18 MR. DeWULF: Object to form.

19 Q. (BY MR. CAMPBELL) Mr. Chittick had not followed  
20 your advice with respect to DenSco's business. True?

21 MR. DeWULF: Object to form.

22 THE WITNESS: The time period in which I became  
23 aware of that and our withdrawal as securities counsel,  
24 those are factors in that. And I had no idea what the  
25 status was with Menaged or anybody else, what led to

1 Denny's suicide at that time.

2 We were ascertaining the information as rapidly  
3 as we could, but it was drinking out of a fire hose. And  
4 despite my request, is there anybody else that can file  
5 this to get this started, it was I don't know anybody  
6 else, and so -- and her parents didn't know anybody else  
7 that could get it filed for the estate.

8 So this was simply to file it in as simple form  
9 as possible, attached as the will, get the papers and  
10 withdraw.

11 Q. (BY MR. CAMPBELL) Did you go talk to  
12 Mr. Sifferman at least to find out if you could do that?

13 MR. DeWULF: Object. Don't reveal  
14 attorney/client privileged communication.

15 Q. (BY MR. CAMPBELL) Did you talk -- did you seek  
16 any ethics advice from within your firm before doing that,  
17 yes or no?

18 A. Yes.

19 Q. Who did you seek it from?

20 A. I do not remember if Michelle talked to Mark  
21 Sifferman or if I -- or if we both did. I do not remember  
22 that.

23 Q. So fair to assume that your firm ethics counsel  
24 didn't stop you?

25 MR. DeWULF: Object to form -- the form.

1 THE WITNESS: That would go to his advice, which  
2 is attorney/client privilege.

3 Q. (BY MR. CAMPBELL) You went ahead and filed as  
4 the attorney, Clark Hill filed, as the attorney, the  
5 probate. True?

6 A. That is correct.

7 Q. All right. Let's go back to Exhibit No. 278,  
8 and I'm on Bates stamp 9583. And look at the top of the  
9 page, second paragraph, and see if I am reading this  
10 correctly.

11 Quote, "The reason the estate has taken the lead  
12 with respect to compliance with the subpoena is that  
13 Mr. Beauchamp and Clark Hill find themselves in somewhat  
14 of an awkward position, given the wild allegations being  
15 made."

16 Did I read that correctly?

17 A. Correct.

18 Q. What wild allegations were being made on  
19 August 12th, 2016?

20 MR. DeWULF: Object to form.

21 THE WITNESS: I didn't -- I didn't write the  
22 email. I'm not quite sure what he is referring to. You  
23 would have to ask Mr. Polese.

24 Q. (BY MR. CAMPBELL) You don't know what it's  
25 about?

1 A. I can speculate, but that's not the purpose  
2 here.

3 Q. Mr. Beauchamp, when you read it did you have --  
4 you read this email, didn't you, that was copied to you?

5 A. I probably -- I probably did later that day. I  
6 was getting inundated at that time, yes.

7 Q. Did you have any curiosity what these wild  
8 allegations were?

9 A. Yes, I probably did.

10 Q. Well, what were they?

11 MR. DeWULF: Object to form.

12 THE WITNESS: Again, Mr. Polese wrote the email.  
13 I did not ask him what he meant by that. I just --

14 Q. (BY MR. CAMPBELL) You just told me you had some  
15 understanding of what they were. What was your  
16 understanding?

17 MR. DeWULF: Object to form.

18 THE WITNESS: I thought I said I could speculate  
19 what some of them were. You referred to that as an  
20 understanding. That's a difference of intent.

21 Q. (BY MR. CAMPBELL) You know, I just want to know  
22 what you knew, Mr. Beauchamp, at the time.

23 When you read this, what did you think those  
24 wild allegations were?

25 MR. DeWULF: Object to form.

1 THE WITNESS: It -- the wild allegations could  
2 be about --

3 MR. DeWULF: I don't want you guessing, David.

4 THE WITNESS: Thank you.

5 MR. DeWULF: If you can answer the question,  
6 answer the question, but don't guess.

7 THE WITNESS: Yeah, it would be guessing if I  
8 said that, because they could have been about Denny  
9 Chittick, they could have been about my firm. I don't  
10 know.

11 Q. (BY MR. CAMPBELL) Were there allegations being  
12 made about your firm on or about August 12th?

13 MR. DeWULF: Object to form.

14 Q. (BY MR. CAMPBELL) That you were aware of?

15 A. The allegations that I heard were from the  
16 attorneys were later in the month, and they were very  
17 broad. They simply said that there probably is some  
18 securities claim here. Nothing was specific.

19 Q. Turn to Exhibit No. 285, please.

20 Exhibit No. 285 is an email from Mr. Polese to  
21 Ms. Coy that's copied to you, correct?

22 A. Yes.

23 Q. You received a copy of this?

24 A. I believe I did. I don't have any personal  
25 recollection right now.

1 MR. CAMPBELL: All right. And, again, John,  
2 this is some underlining that's not on the original.

3 MR. DeWULF: I understand. It's not on his  
4 exhibit, either, right?

5 THE WITNESS: It is underlined.

6 MR. DeWULF: Oh. Well, disregard it, David.

7 Q. (BY MR. CAMPBELL) Turn to the bottom of the  
8 page. You see where it says "Privilege"?

9 A. Yes.

10 Q. Mr. Polese writes Ms. Coy and says, quote, "It  
11 is my view and that of Dave Beauchamp, Denny viewed David  
12 as both his company attorney and personal attorney.  
13 Therefore both the receiver and the estate should be  
14 recognized to have standing to assert any attorney client  
15 privilege with respect to documents that were delivered to  
16 the state or which may be involved in any litigation."

17 Did I read that correctly?

18 A. Yes, that is what Mr. Polese wrote.

19 Q. All right. Mr. Polese wrote it. Well, I  
20 thought you had told me you did not represent Mr. Chittick  
21 personally, right?

22 A. That -- that is correct.

23 Q. All right. So I assume as soon as you read  
24 this, you wrote a letter saying: This is wrong. I never  
25 represented Mr. Chittick personally. In fact, Ms. Coy, I

1 told you five days ago I didn't.

2 MR. DeWULF: Object to form.

3 Q. (BY MR. CAMPBELL) Did you write that letter to  
4 her?

5 A. In my practice, if somebody misstates a fact,  
6 you get it correct, and the next time I did speak with  
7 Wendy Coy, she clarified it with me, but I did not write,  
8 put it in writing, given all the stuff I was dealing with  
9 at that time.

10 Q. You notice that Mr. Polese says "it is my view  
11 and that of Dave Beauchamp"?

12 A. I see that he says that.

13 Q. And you are telling me under oath right now that  
14 that's completely wrong, that was not your view?

15 MR. DeWULF: Object to form.

16 THE WITNESS: I am saying right now under oath  
17 that my view was that I represented DenSco and, and as I  
18 have explained, and Denny in connection with his -- as  
19 being an officer, director and owner of DenSco, yes.

20 MR. CAMPBELL: Could you reread that for me.

21 (The requested portion of the record was read.)

22 Q. (BY MR. CAMPBELL) Did you represent  
23 Mr. Chittick personally, yes or no?

24 A. Not in connection with any matter outside of  
25 DenSco.

1 Q. Did you represent Mr. Chittick personally as a  
2 personal client with respect to DenSco?

3 A. I advised Mr. Chittick of his responsibilities  
4 as an officer and director of DenSco in connection with my  
5 representation of DenSco.

6 Q. You understand that DenSco was your only client.  
7 True?

8 A. True.

9 Q. And you understand that you didn't represent  
10 Mr. Chittick in any way that would have triggered the  
11 conflict of interest rules under the rules of professional  
12 responsibility. True?

13 A. In the private offering memorandum, in the risk  
14 section we indicated that our working with Mr. Chittick in  
15 the representation of him in connection with DenSco -- and  
16 I am paraphrasing terribly here, I apologize -- that could  
17 be a conflict of interest and could be a risk factor, but  
18 it was strictly in terms of what we are doing for DenSco  
19 through Mr. -- through Mr. Chittick for DenSco.

20 Q. You are telling me that you were in a  
21 relationship with Mr. Chittick that you recognized there  
22 was a conflict between DenSco and Mr. Chittick?

23 MR. DEWULF: Object to form.

24 THE WITNESS: If you review a private offering  
25 memorandum that your firm has prepared where there is in



1 fact an owner raising money for your -- for a client that  
2 it owns, your firm uses or it did use the exact same or  
3 very, very similar language that we have, that it's a  
4 potential conflict of interest.

5 That is accepted practice and was discussed at  
6 several CLE seminars I was attended -- I attended, and it  
7 discussed that it could be asserted later it was a  
8 conflict of interest, disclose it as a risk factor,  
9 because you are going through the individual for the  
10 company, and if somebody tries to bifurcate what you did  
11 with 20/20 hindsight, they could claim there was a  
12 conflict of interest.

13 Q. (BY MR. CAMPBELL) Mr. Beauchamp, we are on this  
14 path because I want to know who your client is.

15 A. I have --

16 Q. And I get more confused the more I hear you.

17 Did you ever represent Mr. Chittick personally,  
18 yes or no?

19 A. No, I did not.

20 Q. Did you ever consider there was a conflict of  
21 interest between Mr. Chittick and DenSco?

22 A. Only when he refused to do the disclosure that  
23 we provided to him in May 2014 to disclose the Forbearance  
24 Agreement to its investors.

25 Q. And that's when you terminated, right?

1 A. That is correct.

2 Q. But you were never Mr. Chittick's attorney.  
3 True?

4 A. That is correct.

5 Q. Well, then let's turn to Exhibit 295.

6 MR. DeWULF: Say it again? Two what?

7 MR. CAMPBELL: 295.

8 Q. (BY MR. CAMPBELL) So Exhibit 295, there is a  
9 couple pages here, these are -- these are all your  
10 handwritten notes, correct?

11 A. I don't see any handwritten notes at the  
12 beginning, and I don't think I have ever seen this  
13 document before.

14 Q. Wait a minute. Are you on 295?

15 A. Oh, I'm sorry. Now I am. Sorry.

16 Q. These are your handwriting, right?

17 I didn't think it was a hard question. Is this  
18 your handwriting?

19 A. Yes, this is. I'm reading it. Sorry.

20 Q. So --

21 A. But there is more than just one quick page,  
22 so...

23 Q. I didn't ask you to read it. Can you identify  
24 your handwriting?

25 A. And I am trying to look at multiple pages to do

1 that. Yes, it is my handwriting.

2 Q. You have the practice of taking notes sometimes  
3 when you are on telephone calls?

4 A. Sometimes. If I am on my mobile or if I'm  
5 stepping out of a meeting to deal with a call, I sometimes  
6 forget.

7 Q. These -- these particular ones, these are your  
8 handwritten notes of different telephone calls you had.  
9 True?

10 A. It appears to be, yes.

11 Q. All right. So if you will turn to the second  
12 page, it's going to be Bates stamped 10957 at the bottom.

13 Do you see that?

14 A. Yes.

15 Q. And this is your notes of a conference call with  
16 Jim Polese and Kevin Merritt on August 17th, 2016, right?

17 A. Yes.

18 Q. And --

19 A. '16.

20 Q. 16.

21 And I'm just going to read -- let's read, look  
22 at your notes here.

23 You say "Wendy filed Complaint," right?

24 A. Yes.

25 Q. And you say, "Up to the time of 2015, DGB was

1 providing advice to DenSco & to Denny as an officer and  
2 Director of the Company," right?

3 A. That is correct.

4 Q. And then you say, "files in Denny's desk have  
5 subscription docs -- but not the POM."

6 You see that?

7 A. Private offering memorandum, yes.

8 Q. All rights. That's -- that's what you have been  
9 involved with, the private offering memorandum. True?

10 A. Correct.

11 Q. And it says -- and then you say, "wendy  
12 disagrees & believes that the Receiver can waive the  
13 Company's right to assert the attorney-client privilege."

14 Do you see that?

15 A. Yes.

16 Q. And then you write, "will send an  
17 Affidavit/Declaration for DGB to sign and return -- needs  
18 to be reviewed by CH in-house general counsel."

19 A. Correct.

20 Q. Tell me everything you can recall about this  
21 phone call.

22 A. Jim Polese was very concerned about any waiver  
23 of the attorney/client privilege until they had an  
24 opportunity to review the documents and prepare a log  
25 listing matters that were subject to the attorney/client

1 privilege on behalf of the estate. And just by saying  
2 that, it was his fight with Wendy Coy and not my fight.

3 They said they were going to prepare an  
4 affidavit/declaration for me to sign and return, and I  
5 added needs to be reviewed by Clark Hill in-house general  
6 counsel. And I don't remember if I added that during the  
7 call after making the statement or if I added it after the  
8 fact when, you know, I sat there after hanging up the  
9 phone and I thought, oh, yeah, and added it. I don't  
10 recall that.

11 Q. Mr. Beauchamp, you understood that Mr. Polese  
12 was taking the position that you represented Mr. Chittick  
13 personally, right?

14 MR. DeWULF: Object to form.

15 THE WITNESS: But in the beginning of the notes  
16 there, it says and to Denny as an officer and director of  
17 the company, not in a personal capacity.

18 Q. (BY MR. CAMPBELL) Listen to my question.

19 Remember we just looked at an email from  
20 Mr. Polese where he told Wendy Coy that they were  
21 asserting Chittick had a personal privilege with you, and  
22 you testified that was completely wrong when he wrote  
23 that, and I didn't respond to it because that's not my  
24 practice?

25 Do you remember that testimony?

1 MR. DeWULF: Object to form.

2 THE WITNESS: I think you are paraphrasing  
3 somewhat, but yes.

4 Q. (BY MR. CAMPBELL) Okay. So then you have this  
5 telephone call with Mr. Polese, who he did believe you had  
6 a personal attorney/client privilege with Chittick. True?

7 A. But I had explained to him that I didn't do  
8 anything with Denny other than representing DenSco.

9 Q. Okay. So you were very clear with Mr. Polese  
10 that "I never personally represented Mr. Chittick"?

11 A. I stated that I provided advice to Mr. Chittick  
12 and DenSco in connection with his licensing requirements  
13 with the Arizona Department of Financial Institutions.

14 I discussed with Mr. Chittick, in connection  
15 with his relationship with DenSco, of his fiduciary duty  
16 if he was going to own -- at the cost of DenSco, if he was  
17 going to own an interest in a title company that -- and  
18 have all of DenSco's loans go through that title company,  
19 I explained that's a conflict of interest that needs to be  
20 disclosed, and we -- and that, I guess, along with  
21 business issues, it went away. You know, he decided not  
22 to do the title insurance company.

23 Those were the incidents that I remembered  
24 sharing at some point with Jim Polese. And he says: Oh,  
25 that's clearly individual. And: Okay. I accept your

1 interpretation.

2 Q. Did you ever take the position that you  
3 represented Mr. Chittick individually with respect to  
4 preparing the private offering memorandums for DenSco?

5 MR. DeWULF: Object to form.

6 THE WITNESS: No. Anything we had acknowledged  
7 was in his capacity as an officer and director of DenSco.

8 Q. (BY MR. CAMPBELL) Did Mr. Polese ever take the  
9 position that all the work you did for DenSco was also  
10 done personally for Mr. Chittick?

11 MR. DeWULF: Object to form.

12 THE WITNESS: Not that I'm aware of.

13 Q. (BY MR. CAMPBELL) You were never in a courtroom  
14 where you heard him say that?

15 A. The hearing in connection with the receiver, and  
16 when they argued the attorney/client issue, there was a  
17 number of things. I don't remember.

18 I do know I did have to step out of the hearing  
19 for a few minutes to go to the bathroom, excuse me, and  
20 that was when Mr. Polese was in fact having oral argument,  
21 but I don't -- I don't remember him saying that.

22 Q. Let's look at your next telephone message. It's  
23 got Bates stamp 10951. We are still on Exhibit 295. And  
24 this is a telephone call you are having with Wendy Coy on  
25 August 17th, 2016, right?

1 A. Correct.

2 Q. And you write down in here, will need --  
3 apparently you are talking with her, that she will need to  
4 ask the judge to rule on the attorney/client privilege,  
5 right?

6 A. Correct.

7 Q. And you were aware that Mr. Polese was claiming  
8 all the work you did was covered by an individual  
9 privilege that Mr. Chittick had?

10 MR. DeWULF: Object to form.

11 THE WITNESS: When you say "all the work," I --  
12 I disagree with that. I was aware of that there were  
13 certain conversations that he had reviewed the files and  
14 he thought that some of the information would be  
15 attorney/client privilege in favor of Denny Chittick. I  
16 hadn't looked at that, I didn't make any comment with  
17 regard to that, and I had told him anything I told Denny  
18 was in connection with the representation of DenSco.

19 Q. (BY MR. CAMPBELL) So in this conversation you  
20 had with Wendy Coy, you would have told her "I only  
21 represented DenSco"?

22 A. My --

23 MR. DeWULF: Object to form.

24 THE WITNESS: I don't specifically remember this  
25 conversation with Wendy Coy, but I -- the only thing I do



1 remember that -- is she said they are going to ask the  
2 judge, and I said that's your issue with the estate.  
3 That's --

4 Q. (BY MR. CAMPBELL) Here. Let me get to the next  
5 exhibit. I want you to pull out Exhibit 319.

6 MR. DeWULF: Colin, it's after noon. I always  
7 try to eat lunch, if I can, and my client eat lunch. What  
8 works for you?

9 MR. CAMPBELL: Can I do this next one --

10 MR. DeWULF: Okay.

11 MR. CAMPBELL: -- and we will break?

12 THE WITNESS: I'm sorry. What's the next one?

13 Q. (BY MR. CAMPBELL) Hold on. I may have the  
14 wrong one here anyway.

15 Yeah, I got the wrong number here, so let's go  
16 ahead and break now and then I can find it on our break.

17 MR. DeWULF: Okay.

18 VIDEOGRAPHER: The time is 12:07 p.m. We are  
19 going off the record, ending media three.

20 (A recess was taken from 12:07 p.m. to  
21 1:15 p.m.)

22 (Deposition Exhibit No. 435 and 436 were marked  
23 for identification.)

24 VIDEOGRAPHER: My name is Mary Onuschak with the  
25 firm of Legal Video Specialists, Phoenix, Arizona. This

1 begins media four of the videotaped deposition of David G.  
2 Beauchamp. The time is 1:15 p.m. We are now back on the  
3 record.

4 Q. (BY MR. CAMPBELL) All right. David, I think we  
5 have in front of you Exhibit No. 435 and 436.

6 So 435, you will see Mr. Polese has an email  
7 that says, "David, Here is the draft of the declaration.  
8 Please review and make whatever changes you think  
9 appropriate." And if you look at the attachment, you see  
10 there is a draft declaration of David Beauchamp.

11 Do you see that?

12 A. Yes, I do.

13 Q. Do you remember getting it?

14 A. I -- I remember receiving it.

15 Q. If you'll recall, before the lunch we were  
16 looking at your telephone notes where you had a notation  
17 need to review this with ethics counsel, or something like  
18 that.

19 Do you remember reviewing this declaration with  
20 Mr. Sifferman?

21 A. I remember I gave -- I either gave him a copy  
22 or, if he was unavailable, I forwarded it to another  
23 counsel in another office, but I do think it was to Mark  
24 Sifferman.

25 Q. Okay. So in terms of what you did with respect

1 to the affidavit, you did get advice from ethics counsel  
2 at Clark Hill?

3 MR. DeWULF: I'm going to instruct you not to  
4 answer that. I don't think that's appropriate. We have  
5 tried -- I have tried to allow you some -- some liberty in  
6 terms of talking about attorney/client relationship, but I  
7 think that's probably over the --

8 MR. CAMPBELL: Okay.

9 MR. DeWULF: -- line.

10 Q. (BY MR. CAMPBELL) Do you remember that you  
11 asked Mr. Sifferman to attend the receivership hearing  
12 with you?

13 MR. DeWULF: Object to form.

14 THE WITNESS: I -- I believe I did, but I don't  
15 remember it specifically.

16 MR. CAMPBELL: Let me just -- Geoff, I need this  
17 number.

18 Q. (BY MR. CAMPBELL) Do you remember that  
19 Mr. Sifferman attended it with you?

20 A. Yes.

21 Q. All right. So on the draft, what do you  
22 recall -- and I don't want you to disclose attorney/client  
23 information -- what do you recall doing when you received  
24 this draft declaration from Mr. Polese?

25 A. I -- I read it. I was at that point concerned

1 with the dates and the timeframes referenced, because I  
2 really didn't remember and I did not have access to the  
3 file to go back and check dates, so this was off the  
4 memory that I had at that time. And -- and I provided,  
5 based upon that understanding, with some suggestion --  
6 some suggested changes.

7 Q. All right. Now, you had a conversation with  
8 Mr. Merritt or Mr. Polese about this declaration. I  
9 assume they talked to you about it before they drafted it.

10 MR. DeWULF: Object to form.

11 THE WITNESS: I don't remember a specific  
12 conversation about the information in the declaration, but  
13 we looked at notes before lunch and there were certain  
14 questions asked which were put into the declaration, if  
15 that's what you are referring to, but I don't think I  
16 actually had a draft in front of me and had a  
17 conversation.

18 Q. (BY MR. CAMPBELL) well, turn to the draft,  
19 page 2, paragraph 5.

20 A. Yes.

21 Q. "During my involvement with Mr. Chittick and  
22 DenSco, I understood that Mr. Chittick considered that I  
23 was his counsel as well as counsel for DenSco."

24 Do you see that?

25 A. Yes, I do.

1 Q. That's not true, correct?

2 A. He referred to me as his counsel, but I thought  
3 that was always generic, here is my counsel for DenSco, as  
4 an officer, and that's how he introduced me to people  
5 whenever we had meetings or whatever.

6 Q. Okay. Let's read paragraph 5 again.

7 "During my involvement with Mr. Chittick and  
8 DenSco, I understood that Mr. Chittick considered that I  
9 was his counsel as well as counsel for DenSco."

10 That is not true, correct?

11 A. Based on the information that I have now, I -- I  
12 would say it's not true.

13 Q. Did you ever think it was true?

14 A. At the time I did this declaration, I had a  
15 different understanding of what counsel was, and it was if  
16 you are providing advice to somebody as an officer or  
17 director of a company, then you are representing them,  
18 too. And --

19 Q. Individually?

20 A. -- and that they would have the right to rely  
21 upon it and object. I have since understood that, no, I'm  
22 representing the company, but, yes, they do have the right  
23 to rely upon it in their activities on behalf of the  
24 company, but not necessarily beyond that scope.

25 Q. Okay. But during the time you were representing

1 DenSco at the material events in this case, you thought  
2 Mr. Chittick was your individual client?

3 A. Not as an individual client. In -- in other  
4 words, as an officer or director of DenSco, he would be  
5 able to ask questions that would have what are his  
6 responsibilities to do for DenSco, what is he required to  
7 do on behalf of DenSco, and he would have a right to rely  
8 upon that. And my analysis was based upon the right to  
9 rely upon the information provided, which I understand is  
10 not the appropriate standard now, determining who is your  
11 individual client.

12 Q. Did the appropriate standard for who your  
13 individual client was change between 2014 and today?

14 A. Based upon a seminar that I attended, they drew  
15 the distinction that someone's right to rely upon your  
16 advice does not constitute that you are counsel to them,  
17 as opposed to what I had previously heard at a seminar,  
18 whatever, where they said if someone has a right to rely  
19 upon your advice, then they are deemed to also be your  
20 client.

21 Q. Do you understand that if you believed he was  
22 your individual client, Mr. Chittick, and if you believed  
23 DenSco was your client, that you might have to consider  
24 conflict of interest rules in terms of how you proceeded?

25 MR. DeWULF: Object to form.

1 THE WITNESS: That -- that goes in connection  
2 with any company whatsoever, and when any time you are  
3 representing a company, an officer or director may, excuse  
4 the expression, go rogue and not follow advice and do  
5 something to put liability on the company, that's a  
6 conflict of interest and you simply have to advise the  
7 board or who you can with respect to those actions.

8 When -- in this instance I always stressed to  
9 Denny that -- what his fiduciary duty was to DenSco and  
10 the investors and what was required for DenSco.

11 Q. (BY MR. CAMPBELL) Okay. Mr. Beauchamp, your  
12 opinion in this case is that Mr. Chittick went rogue.  
13 True?

14 MR. DeWULF: Object to form.

15 THE WITNESS: Based upon the information that  
16 has come to light to me after early August 2016, I believe  
17 that Denny Chittick did not follow the advice that I gave  
18 to DenSco through him.

19 Q. (BY MR. CAMPBELL) You knew in 2014 that he had  
20 gone rogue. True?

21 MR. DeWULF: Object to form.

22 THE WITNESS: With respect to certain issues in  
23 April/May of 2014, I knew he was not complying with all  
24 the advice I gave him, but it was bits and pieces. It was  
25 not in general. And he refused to provide the written

1 information concerning the Forbearance Agreement to his  
2 investors, which is why we terminated.

3 Q. (BY MR. CAMPBELL) Okay. What is your ethical  
4 responsibility in representing a corporation when the  
5 president goes rogue?

6 MR. DeWULF: Object to form.

7 THE WITNESS: That's speculative. Depends upon  
8 a lot of facts.

9 Q. (BY MR. CAMPBELL) Take the facts of this case.  
10 Mr. Chittick goes rogue. He doesn't follow your advice to  
11 amend the POM. He doesn't make disclosures to investors  
12 and raises new money. He continues to give money by wire  
13 to Mr. Menaged against your advice. You told me this  
14 morning he didn't get title insurance against your advice.

15 Those are the facts and circumstances.  
16 Mr. Chittick has gone rogue. What do you do?

17 MR. DeWULF: Object to form.

18 Could you read that back, please?

19 (The requested portion of the record was read.)

20 THE WITNESS: Each of those facts that you are  
21 presenting involve different analysis.

22 The -- the fact that he is not getting title  
23 insurance, for better or for worse, there is a certain  
24 percentage of hard-money lenders in Arizona that don't get  
25 title insurance, and particularly when it's supposed to be



1 short-term loans. That's not recommended business  
2 procedure, but it's not breaching any law.

3 with respect to not providing the necessary  
4 disclosure, if in fact an officer is not doing it, your  
5 responsibility is go to the board of directors. When  
6 there isn't a board of directors, there is a sole director  
7 who happens to be the same person not advising you, if it  
8 is a closely held company, I believe, again, I would have  
9 to defer to ethics counsel on this, but you have to notify  
10 the owners of the closely held company, because it's an  
11 identifiable list.

12 In May 2014, I don't believe we had any list  
13 because I had never seen the completed subscription  
14 agreements. Denny refused to provide their names and  
15 email addresses to me, and there was no way we could do  
16 anything other than taking an ad in the newspaper, which  
17 is an ethical problem.

18 I know we debated this with ethics counsel long  
19 and hard as to what we could --

20 MR. DeWULF: David, don't talk about  
21 attorney/client privilege, but you can go ahead and answer  
22 if you can.

23 THE WITNESS: Okay.

24 Q. (BY MR. CAMPBELL) Are you done?

25 Mr. Beauchamp, we will come back to it. Turn to

1 Exhibit No. 436.

2           You forward back to Mr. Polese an affidavit,  
3 correct?

4           A.    Correct.

5           Q.    And you make the affidavit under declaration of  
6 penalty of perjury.  True?

7           A.    Correct, based upon the knowledge I had at that  
8 time.

9           Q.    All right.  Just like you verified the Rule 26.1  
10 statement, right?

11           You are saying under oath in this affidavit that  
12 this is the truth, correct?

13           A.    As I understood it at the time, correct.

14           Q.    Look at paragraph 5.  "During my involvement  
15 with Mr. Chittick and DenSco, I understood that  
16 Mr. Chittick considered that I was his counsel as well as  
17 counsel for DenSco, even though all billings were tendered  
18 to and paid by DenSco."

19           You signed that under oath, correct?

20           A.    Correct.

21           Q.    "In connection with my representation," this is  
22 your representation of DenSco, correct?

23           A.    Correct.

24           Q.    Paragraph 6, "it would be impossible for me to  
25 segregate what advice I tendered or what attorney-client

1 communications were solely corporate and what were  
2 personal to Mr. Chittick as the President of DenSco."

3 You said that under oath. True?

4 A. Yes, I did.

5 Q. You told the Court, through this affidavit, that  
6 you represented Mr. Chittick individually and that you  
7 represented DenSco at the same time. True?

8 A. I don't see the words "individually" for  
9 Mr. Chittick here --

10 Q. All right.

11 A. -- but that it was a combined rep -- I was  
12 representing DenSco, and in connection with that,  
13 providing information to Mr. Chittick.

14 Q. Mr. Beauchamp, they sent you this declaration.  
15 You actually made changes in it, signed it and mailed it  
16 back or emailed it back. True?

17 MR. DeWULF: Object to form.

18 THE WITNESS: I cannot say who made the changes  
19 to it. What I can say is that without access to my files  
20 into reviewing information and clarifying this issue,  
21 which was not my issue, yes, I did sign it on that basis.

22 Q. (BY MR. CAMPBELL) You did say you prepared for  
23 this deposition today, didn't you? Did you prepare for  
24 this deposition?

25 A. I tried to.

1 Q. Did you review this affidavit in preparation for  
2 your deposition?

3 A. I reviewed it some time ago.

4 Q. When it says "I understood that Mr. Chittick  
5 considered that I was his counsel," you were saying that  
6 Mr. Chittick thought you were his individual counsel.  
7 True?

8 MR. DeWULF: Object to form.

9 THE WITNESS: As I previously indicated, I  
10 thought Mr. Chittick considered that I was his counsel in  
11 connection with my being -- representing DenSco.

12 Q. (BY MR. CAMPBELL) You took the rules of ethics  
13 in law school, didn't you?

14 A. A long time ago.

15 Q. When a client -- when someone comes you to and  
16 says I believe that you are my attorney and that's not  
17 true, what is your responsibility?

18 MR. DeWULF: Object to form.

19 THE WITNESS: Your responsibility is to correct  
20 the facts.

21 Q. (BY MR. CAMPBELL) Did you ever tell  
22 Mr. Chittick that he was wrong to consider you his  
23 counsel?

24 A. We did have a conversation several times that  
25 I'm his counsel in connection with being an officer and

1 director of DenSco, and DenSco is the client.

2 Q. How could you sign this affidavit that you knew  
3 he considered you were his counsel, if you corrected him,  
4 and not tell the court?

5 MR. DeWULF: Object to form.

6 THE WITNESS: As I have tried to explain, I  
7 interpreted the wording here that Mr. Chittick considered  
8 that I was his counsel as well as counsel for DenSco was  
9 in connection with matters for DenSco.

10 Q. (BY MR. CAMPBELL) Sir, you go on in the next  
11 paragraph and say it's impossible for me, impossible to  
12 distinguish between what is an attorney/client  
13 communication with Mr. Chittick and what is an  
14 attorney/client communication with DenSco. You signed  
15 that under oath for the court.

16 MR. DeWULF: Object to form.

17 Q. (BY MR. CAMPBELL) You don't say here that "I  
18 only represented him as the president of DenSco and I  
19 wasn't his individual attorney," do you?

20 A. This states, "or what attorney-client  
21 communications were solely corporate only and what was  
22 personal to Mr. Chittick as the President of DenSco."

23 Q. Have you ever run across a concept called fraud  
24 on the court, Mr. Beauchamp?

25 MR. DeWULF: Object to form.

1 THE WITNESS: No, I have not.

2 Q. (BY MR. CAMPBELL) You know as a sworn attorney  
3 you have to not misrepresent facts to the Court?

4 MR. DeWULF: Object to form.

5 THE WITNESS: I am not misrepresenting the  
6 facts. I'm explaining the facts as I understood them at  
7 the time.

8 Q. (BY MR. CAMPBELL) You now understand these  
9 facts are not true, correct?

10 MR. DeWULF: Object to form.

11 THE WITNESS: I understand that the wording  
12 should have been different than what I put there.

13 Q. (BY MR. CAMPBELL) When did you learn that?

14 A. I -- I don't remember that, but it was  
15 subsequent to that in discussion with ethics counsel.

16 Q. You understand you have an obligation, if a  
17 misstatement is made to the Court, to go and correct the  
18 record?

19 MR. DeWULF: Object to form.

20 THE WITNESS: My understanding is that  
21 information was communicated by counsel and clarified.

22 Q. (BY MR. CAMPBELL) Clark Hill went back to the  
23 judge who handled this hearing and clarified this  
24 information?

25 A. I don't remember who did it. It's quite

1 possible it wasn't Clark Hill. It -- it -- but somebody  
2 from Clark Hill did have a conversation in connection with  
3 clarifying the issues for the receiver, and -- and I don't  
4 believe the Court was informed but it was clarified with  
5 the receiver. I do -- do not know how that was resolved  
6 or any of the details. I relied on counsel for that.

7 Q. All right. But for purposes of our deposition  
8 today, you will admit that the affidavit as drafted that  
9 was submitted to the Court misrepresented the facts?

10 MR. DeWULF: Object to form.

11 THE WITNESS: I admit it's misleading, which was  
12 not intentional.

13 Q. (BY MR. CAMPBELL) Turn to Exhibit No. 301. 301  
14 is an email between -- let me wait for you to get there.

15 You see at the top it's an email between you and  
16 Mr. Sifferman?

17 A. Yes. This should not have been provided. This  
18 was in connection with attorney/client privilege.

19 Q. Is there some privileged communication on here I  
20 am missing? Because I don't see any confidential  
21 attorney/client privileged communication. I just see a  
22 communication about a hearing.

23 A. This flowed out of conversations with  
24 Mr. Sifferman concerning the declaration and the hearing.

25 Q. You see that you emailed Mr. Sifferman on

1 August 17th and you say, "Sorry for the delay in  
2 forwarding this to you."

3 I assume that's the draft of the declaration,  
4 right?

5 MR. DEWULF: Object to form.

6 THE WITNESS: I'm not sure it's the declaration  
7 or if it's the notice of the -- of when the hearing is.

8 Q. (BY MR. CAMPBELL) All right. But anyway, you  
9 are asking Mr. Sifferman that you may be called as a  
10 witness, will you be able to attend with me tomorrow,  
11 right?

12 A. That is correct.

13 Q. And you understand the purpose of the hearing is  
14 to determine whether the receiver can waive the  
15 attorney/client privilege with respect to communications  
16 with Dennis Chittick?

17 A. No. The intention of the receiver and what the  
18 motion in front of the Court was whether or not a receiver  
19 was to be appointed for DenSco.

20 Q. Well, look, I'm -- I'm trying to read your email  
21 to Mr. Sifferman.

22 You say: The hearing concerning the Receiver  
23 and whether the Receiver can waive the attorney-client  
24 privilege with respect to all communications with Dennis  
25 Chittick is tomorrow at 10:00 a.m., right?



1 A. Correct. And I had -- I had been told that they  
2 were going to make a motion to that effect, which I had  
3 not seen. It had only been said that they will be making  
4 a motion, and that's why I can't say that was the intent  
5 of the hearing, because the judge took it under advisement  
6 because it wasn't the stated purpose of the hearing.

7 Q. Mr. Beauchamp, you signed a declaration with  
8 respect to that issue of whether the receiver can waive  
9 the privilege. True?

10 MR. DeWULF: Object to form.

11 THE WITNESS: I have already acknowledged that I  
12 did sign that declaration.

13 Q. (BY MR. CAMPBELL) And Mr. Sifferman is telling  
14 you, yes, I can go to the hearing with you. What judge is  
15 it, right?

16 A. Correct, that was his response.

17 Q. All right. So this refreshes your recollection  
18 that you did ask Mr. Sifferman to come, and he did come,  
19 right?

20 MR. DeWULF: Object to form.

21 Q. (BY MR. CAMPBELL) You just testified you  
22 remembered he was there. Yes?

23 A. Correct.

24 Q. And he was there at your request, correct?

25 A. Yes.

1 Q. Exhibit No. 428. That's yours. Exhibit No.  
2 428, which is going to be in the miscellaneous Volume 8,  
3 this is a transcript of the hearing, right?

4 A. I have never seen this before.

5 Q. Okay. You have never seen the transcript of the  
6 hearing before?

7 A. No, I have not.

8 Q. Okay. You were present, right, except for the  
9 time that you went out to take a leak, right?

10 A. But I was not at the counsel table. I was a --  
11 there as a potential witness.

12 Q. Understood. You were there as a witness,  
13 correct?

14 A. Correct.

15 Q. And you were there as a witness because you had  
16 filed a declaration saying that Mr. Chittick thought you  
17 were his individual counsel and you knew that. True?

18 MR. DeWULF: Object to form.

19 THE WITNESS: I did not file the declaration. I  
20 believe Mr. Polese filed the declaration.

21 Q. (BY MR. CAMPBELL) Fine. Mr. Polese signed the  
22 declaration and that was -- or filed the declaration and  
23 that was why you were there as a witness, right?

24 MR. DeWULF: Object to form.

25 THE WITNESS: I was there because Wendy Coy had

1 asked me to be there.

2 Q. (BY MR. CAMPBELL) Do you remember talking or  
3 meeting with Mr. Merritt on the day of the receivership  
4 hearing?

5 A. After the hearing we grabbed a quick bite to  
6 eat.

7 Q. Here, turn -- switch back to -- leave that out,  
8 but go to Exhibit 300.

9 Okay. Exhibit No. 300, it looks like your  
10 handwritten notes, right?

11 A. Correct.

12 Q. And it's August 18th, 2016, correct?

13 A. August what? I'm sorry.

14 Q. I'm looking at Bates 10958, and you have:  
15 Meeting with Kevin Merritt, August 18, 2016.

16 A. August 18th, 2016, correct.

17 Q. That's the day of the hearing, correct?

18 A. I believe so.

19 Q. All right. So you are meeting with Mr. Merritt.  
20 Do you remember where the meeting took place?

21 A. It was in the restaurant at the bottom of the  
22 Renaissance building.

23 Q. And you are discussing attorney/client privilege  
24 issues, right?

25 MR. DeWULF: Object to form.

1 THE WITNESS: I made a note with regard to  
2 attorney/client privilege issues to remind me of a  
3 specific point to look at, but that is my note. I don't  
4 recall exactly what the conversation was in connection  
5 with that, but the suggestion was made that I needed to  
6 double-check something.

7 Q. (BY MR. CAMPBELL) In your billing statement for  
8 August 18th, you say: Meeting with Kevin Merritt to  
9 discuss attorney/client privilege log in response to a  
10 subpoena from Arizona Securities Division.

11 Does that refresh your memory at all?

12 A. Right, and that conversation was limited to they  
13 are handling it. There is nothing I need to do in  
14 connection with it.

15 Q. I want you to turn to, I think it's page 5.

16 A. Of what?

17 Q. Of the transcript. I'm sorry. 428, the  
18 transcript of the hearing, the one you were present at.

19 Okay. So if you look at -- you will see the  
20 hearing starts on page 3. They have appearances. We have  
21 page 4 and then we have page 5. This is almost right at  
22 the start of the hearing.

23 Do you think you had left and gone to the  
24 bathroom by then?

25 A. No.

1 Q. All right. So if look at page 5, line 6, the --  
2 you are in the courtroom, right, with --

3 MR. DeWULF: Object --

4 Q. (BY MR. CAMPBELL) -- Mr. Sifferman?

5 MR. CAMPBELL: Object to form.

6 Q. (BY MR. CAMPBELL) Are you in the courtroom with  
7 Mr. Sifferman?

8 A. I -- I believe so at this time.

9 Q. Okay.

10 A. There was a number of comments being directed  
11 between the judge and counsel, some of which was done up  
12 at the bench with the judge with the court reporter, and  
13 it wasn't audible to everybody in the courtroom.

14 Q. Okay. So it says here on line 6 to line 12, "In  
15 addition, there is an issue -- I'm sorry. In addition,  
16 there is an issue with respect to attorney/client  
17 privilege with respect to the communications of  
18 Mr. David" -- they misspell your name -- "Beecham --  
19 Beauchamp of Clark Hill, who was counsel for" -- "counsel  
20 for both the company and Mr. Chittick, and the issue has  
21 been raised as to who has the right to waive the  
22 attorney/client privilege. We have addressed that issue."  
23 And that's a statement by Mr. Polese.

24 Are you telling me that was at the sidebar?

25 MR. DeWULF: Object to form.

1 Q. (BY MR. CAMPBELL) Do you remember hearing that  
2 in the courtroom that day?

3 A. I remember the comments that were made. The  
4 attorney/client privilege issue concerned the Arizona  
5 Corporation Commission counsel and also whoever was going  
6 to be receiver counsel, and Gammage.

7 I -- other than the fact that I might be a  
8 potential witness and had to sign a declaration, which you  
9 have indicated the wording was not as clear as it should  
10 have been, Mr. Polese did make a comment, because there  
11 was some discussion as to the background for his motion,  
12 but it was --

13 Q. Well, the point I'm trying to make, when  
14 Mr. Polese said that Beauchamp represented both the  
15 company and Mr. Chittick, did Mr. Sifferman stand up and  
16 say, "Judge, that's not right"?

17 MR. DeWULF: Object to form.

18 Q. (BY MR. CAMPBELL) Did he?

19 A. Not that I recall.

20 Q. Did you?

21 A. No, I did not.

22 Q. Turn to page 12. This is Ms. Coy speaking on  
23 page 12 at line 2 to 10. "And in this case I understand  
24 the sensitivity between having a corporate counsel and a  
25 personal lawyer, basically the same individual. I

1 understand the issues that come up. I think the best way  
2 to handle it is the receiver should not -- we shouldn't  
3 put anything in the order ordering the receivership, but I  
4 think what needs to be done is it needs to come in front  
5 of the Court, especially with the sensitivity of the  
6 personal aspect and the professional aspect being dealt  
7 with."

8 Did I read that correctly?

9 A. Yes.

10 Q. Did Mr. Sifferman stand up and say, "wait a  
11 minute, Judge. Our firm did not represent Mr. Chittick  
12 personally"?

13 MR. DeWULF: Object to form.

14 Q. (BY MR. CAMPBELL) Did he do that?

15 A. Not that I recall.

16 Q. Did you stand up and say, "wait a minute, Judge.  
17 I never represented Mr. Chittick personally"?

18 Did you do that?

19 A. No, I did not, but as we are discussing this, it  
20 was explained to me later that part of the conversation  
21 here, which I did not know at the time, related to the  
22 advice that Dave, the accountant, had given to  
23 Mr. Chittick concerning the defined benefit plan or  
24 whatever it was, and I never was involved with any of that  
25 conversation.

1           So that's what the concern was, and -- but in  
2 terms of representing personally, it was just simply as an  
3 officer of the company, but I didn't know what the whole  
4 focus was.

5           Q.    What are you talking about with respect to a  
6 pension plan?

7           A.    There were issues explained to me subsequent to  
8 this hearing, because I asked at one point, months later,  
9 what is the big issue about the attorney/client privilege?

10           MR. DeWULF:  And don't -- and don't reveal  
11 attorney/client communications.

12           THE WITNESS:  Then -- then --

13           MR. DeWULF:  I don't know where you are going,  
14 but I don't want you -- but you can talk about facts or  
15 subjects.

16           THE WITNESS:  The concern related to a lot of  
17 advice pertaining to actions that Mr. Chittick did with  
18 his defined benefit plan and other personal funds in  
19 connection with the company that I was not involved with,  
20 that I didn't know anything about, and that was what some  
21 of the concern was.

22           Q.    (BY MR. CAMPBELL)  Concerns about --

23           A.    I spoke --

24           Q.    Concerns about what?

25           A.    I'm sorry?



1 Q. What has that got to do with whether -- what has  
2 that got to do with this transcript whether the receiver  
3 can waive the privilege, and that the receiver can't do  
4 it, according to Mr. Polese, because you at the exact same  
5 time at every communication was also representing  
6 Mr. Chittick personally? What did the two have to do with  
7 anything?

8 MR. DeWULF: Object to form.

9 THE WITNESS: I didn't understand at the time  
10 what the issue was, and I was -- clarified that earlier,  
11 because my comments with respect, and advice given to  
12 Mr. Chittick as an officer and director of DenSco, and I  
13 didn't understand what they were concerned with, what  
14 advice they were trying to protect, and nobody could give  
15 me an example. And that's why I was saying, yes, I did  
16 work with and through Mr. Chittick as an officer and  
17 director of DenSco. The distinction was later brought to  
18 my attention and in terms of the difference.

19 Q. (BY MR. CAMPBELL) Turn to -- let's turn to  
20 Exhibit No. 317. That's going to be in volume 6.

21 MR. CAMPBELL: And, again, this highlighting is  
22 not in the original, so I'm sorry about that.

23 MR. DeWULF: I see that. I don't know if you  
24 are going to want to substitute in later or whatever you  
25 want to do.

1 MR. CAMPBELL: They are not trial exhibits.

2 MR. DeWULF: Yeah.

3 MR. CAMPBELL: If we were to use them as trial  
4 exhibits, we would use different copies.

5 MR. DeWULF: They will, perhaps maybe so. I  
6 will work with you on whatever you need to do.

7 Q. (BY MR. CAMPBELL) This is an email from  
8 Mr. Merritt to you and to Mr. Anderson. Mr. Anderson is  
9 present here today. He was the attorney for the receiver.  
10 You understand that, right?

11 Yes, you understand that?

12 A. I understood -- I wasn't sure who -- who he was  
13 originally. I was -- when we started, but I understand  
14 now that that is Mr. Anderson, and, yes, he was the  
15 attorney for the receiver.

16 Q. And you see that Mr. Merritt says: Gentlemen, I  
17 understand the receiver has demanded that Clark Hill turn  
18 over all of its legal files related to the representation  
19 of DenSco to the Receiver. While we do not object to this  
20 discovery, I would like to remind everyone that David  
21 testified at the receivership hearing that he concurrently  
22 represented both DenSco and Denny Chittick personally, and  
23 I believe the court's order acknowledges as much.

24 Do you recall reading that on or about  
25 August 30th, 2016?

1 A. I know I have read this, but I -- you are -- by  
2 giving me a copy, you are refreshing my recollection.

3 Q. Good. And I assume like the rest of us, you can  
4 do a "reply all" press on your computer and respond to  
5 this, right, if you choose to?

6 MR. DeWULF: Object to form.

7 Q. (BY MR. CAMPBELL) Did you reply to everyone and  
8 say "I did not represent Mr. Chittick personally"?

9 That just calls for a yes or no, David.

10 A. I don't recall.

11 Q. You don't recall?

12 I have not seen any email that you replied to  
13 this. Do you think you replied and said "I do not  
14 represent Mr. Chittick ?

15 A. I -- I -- I literally don't recall nor do I  
16 remember if I asked somebody else to respond to it.

17 Q. Turn to Exhibit No. 318.

18 These are your handwritten notes of telephone  
19 calls, correct?

20 A. Correct.

21 Q. So you have a telephone call with Kevin Merritt  
22 on August 30th, 2016, and the second note you make under  
23 that, I'm looking at the bottom call: Some of Clark  
24 Hill's material should be deemed attorney/client  
25 privileged on behalf of the estate.

1 Do you see that?

2 A. Yes.

3 Q. Do -- in that telephone call did you tell  
4 Mr. Merritt, "I didn't represent Mr. Chittick personally,  
5 they shouldn't be deemed privileged"?

6 MR. DeWULF: Object to form.

7 THE WITNESS: When I had explained to Mr. Polese  
8 and to Mr. Merritt the -- my concern with representing  
9 Denny Chittick personally was through -- for DenSco, I was  
10 told in no uncertain terms that's sufficient to raise our  
11 concern, and that was where I came from.

12 I don't know if we had that conversation at this  
13 point, and this was Kevin saying that the materials we  
14 deemed attorney/client and he wanted me to hold off on  
15 delivering those to the ACC or to the receiver until their  
16 issues got resolved as to how they were dealing with it.

17 Q. (BY MR. CAMPBELL) Did you ever stop to think  
18 that maybe the estate was using the attorney/client  
19 privilege to prevent the receiver from learning  
20 information?

21 MR. DeWULF: Object to form.

22 THE WITNESS: I have no way of knowing what the  
23 estate intended or what it was or what their concerns  
24 were. I -- in the conversations, they were concerned that  
25 information that was attorney/client privileged to Denny

1 was going to be released, and I didn't have to remember  
2 any specific, but they wanted to verify it wasn't there.

3 Q. (BY MR. CAMPBELL) Sir, on this date and time,  
4 August 30, 2016, do you know if you had turned over the  
5 investor email to Mr. Anderson?

6 MR. DeWULF: Object to form.

7 THE WITNESS: That was all provided to Wendy  
8 Coy, and she said she was providing all of that to the  
9 receiver within a day or two of the hearing.

10 MR. DeWULF: Whenever is a good time to break.  
11 It's been about an hour. Actually, you have got a few  
12 more minutes. Whatever works for you.

13 MR. CAMPBELL: Let me just finish up this  
14 section.

15 MR. DeWULF: I was forgetting that we started a  
16 little bit later. We didn't start at 1:00. We started a  
17 little later, so I apologize. You have got a few more  
18 minutes.

19 Q. (BY MR. CAMPBELL) Mr. Beauchamp, DenSco owed  
20 fiduciary duties to its investors. True?

21 A. Correct.

22 Q. I think you have stated that multiple times in  
23 the Rule 26.1 disclosure and also in your answers to  
24 interrogatories. True?

25 A. Yes.

1 Q. Fair to say that Mr. Chittick did not want to  
2 disclose his problems to the investors?

3 MR. DeWULF: Object to form.

4 THE WITNESS: Do you want to restate the  
5 question?

6 Q. (BY MR. CAMPBELL) No.

7 Fair to say --

8 A. At what time?

9 Q. When you were dealing -- sir, you terminated  
10 your representation of Mr. Chittick and DenSco because he  
11 would not disclose to the investors the fraud that  
12 Mr. Menaged had committed on him. True?

13 MR. DeWULF: Object to form.

14 THE WITNESS: That -- that -- that is true.

15 Q. (BY MR. CAMPBELL) And from the very first time  
16 this problem arose, let's take your meeting of  
17 January 9th, 2014, January 9th, 2014, Mr. Chittick did not  
18 want to disclose this problem to his investors?

19 MR. DeWULF: would you read that back, please.

20 (The requested portion of the record was read.)

21 MR. DeWULF: Object to form.

22 THE WITNESS: I'm not -- I'm not sure how to  
23 answer it without getting inside Denny's mind.

24 On January 9th, 2014, when I told him he had to  
25 disclose this before taking any new money, he balked at

1 it. I explained it again is a material issue, and he said  
2 okay. At -- I left that meeting that he understood his  
3 obligation and that he would do it for any new money  
4 brought in or any rollover money.

5 MR. CAMPBELL: Can you read me back his answer  
6 again.

7 (The requested portion of the record was read.)

8 Q. (BY MR. CAMPBELL) Again, you were aware after  
9 that meeting that he was going to take new monies and take  
10 new rollover monies, but somehow he was going to disclose  
11 it?

12 MR. DeWULF: Object to form.

13 Q. (BY MR. CAMPBELL) Do you want me to read your  
14 answer back to you?

15 A. No, I heard it read.

16 At the January 9th meeting, I explained to him  
17 that he is frozen right now. He needs to -- we need to  
18 get a handle on this and get it resolved. And he  
19 indicated that he had other obligations with other  
20 borrowers and he had some notes that were coming due and  
21 to roll over.

22 And I said you can't take that money, the  
23 rollover money without doing full disclosure. He goes  
24 what about if I borrow on my line of credit and deal with  
25 it? And I said are they looking to you or to the fund?

1 And he said to me. And I -- well, you can borrow, you  
2 know, on your own and reloan it to the fund because you do  
3 know the facts, but you can't take any, and that's the  
4 bottom line.

5 And based upon his previous experience with  
6 insight and having been through this process many, many  
7 times, he understood his obligation.

8 Q. Okay. Just so I'm clear, to your knowledge,  
9 Mr. Chittick was not raising any money after your meeting  
10 with him; he froze raising any new money?

11 A. That -- that was my advice to him. And  
12 initially, January 9th, I didn't think he was going to be  
13 doing that, other than borrowing on his line of credit and  
14 reloaning it to the company or possibly borrowing  
15 personally from some of the other heavy-wheeled investors  
16 in reloaning the money to the company.

17 Q. You know today, Mr. Beauchamp, that he never  
18 stopped raising money. True?

19 MR. DeWULF: Object to form.

20 THE WITNESS: I have no personal knowledge, but  
21 it is such common knowledge from everybody in the Court, I  
22 accept that.

23 Q. (BY MR. CAMPBELL) All right. Did you ever read  
24 the receiver's report in this case?

25 A. A long, long time ago, yes.



1 Q. You understand he continued to raise new money  
2 and took rollover money from your meeting on  
3 January 9th until he died.

4 MR. DeWULF: Object to form.

5 Q. (BY MR. CAMPBELL) True?

6 A. I don't remember the specific time period.

7 Q. Was there any point in time, sir, where you  
8 learned that Mr. Chittick was continuing to raise money?

9 A. As I indicated earlier, the end of April,  
10 beginning of May of 2014, he acknowledged he was doing it  
11 beyond his line of credit and beyond his personal loans  
12 that he had.

13 Q. So you learned at the end of April or early May?

14 A. Correct.

15 Q. All right. And once you learned that, you knew  
16 he was committing a securities violation?

17 MR. DeWULF: Object to form.

18 THE WITNESS: I -- at that point in time, I  
19 believed he had committed a securities violation, and it  
20 was paramount that we get the disclosure statement out in  
21 writing to all of the investors as quickly as possible.  
22 His representations that he had advised everybody and told  
23 them to the contrary, we needed something much more formal  
24 than that.

25 Q. (BY MR. CAMPBELL) This is late April, early

1 May, you learn he is committing securities violations, and  
2 you also realize these are breaches of fiduciary duty that  
3 DenSco owes its investors. True?

4 MR. DeWULF: Object to form.

5 THE WITNESS: I clear -- I would acknowledge  
6 it's a securities violation. In terms of fiduciary duty,  
7 that would require a separate analysis that has to go  
8 through a number of different steps that I didn't have all  
9 the information to deal with.

10 Q. (BY MR. CAMPBELL) Mr. Beauchamp, you understand  
11 what a fiduciary duty is?

12 A. You are responsible to protect the -- if you are  
13 in a fiduciary position, guiding and directing assets or  
14 investments of a third party, you are responsible to use  
15 your best -- well, reasonable business efforts to protect  
16 and preserve those.

17 Q. You understand that DenSco owed a duty of  
18 loyalty to its investors. That's part of a fiduciary  
19 duty, correct?

20 A. Correct.

21 Q. They had a duty of full disclosure to its  
22 investors. That's part of a fiduciary duty, correct?

23 A. I don't recall -- based on the information that  
24 had been provided for fiduciary duty before, I don't -- I  
25 don't recall all the individual steps.

1           The one that I totally focused on here was the  
2 requirement that he act in the best interest of his  
3 investors, and that is what I continually in all my emails  
4 tried to enforce. The second part was that we needed to  
5 get full disclosure to his investors.

6           Q.    You -- you do not understand that fiduciary  
7 duties include a duty of disclosure?

8           A.    It really depends on the facts and  
9 circumstances, is my understanding, because I can think of  
10 some fiduciary duties where it's impossible to disclose.  
11 In this instance, it went hand in hand with the securities  
12 violation, so it probably was a fit.

13          Q.    Clearly there was a fiduciary duty in your mind  
14 for DenSco to tell the investors: Before you give us  
15 another penny, you should know my client was frauded by  
16 Mr. Menaged, right?

17          A.    Correct.

18          Q.    And fiduciary duty includes the duty to act in  
19 your beneficiary's interests, not in your interests,  
20 correct?

21          A.    I thought I said in the best interests of your  
22 investors, yes.

23          Q.    So when you learned at the end of April, early  
24 May that Mr. Chittick was violating all these duties to  
25 DenSco, what did you do?

1           A.    I told Denny we would -- that we were in the  
2 process of revising the POM. We will get you the  
3 applicable sections dealing with what you have to disclose  
4 to your investors, describing the Forbearance Agreement,  
5 and the questions that we need to finish the POM. If we  
6 can't get the information necessary to finish the POM,  
7 then we have to do an amendment with regarding to the  
8 Forbearance Agreement.

9           "well, no, I want to wait on that for a while,"  
10 et cetera, et cetera, was his response. Again, I'm  
11 paraphrasing, please understand. It's been a while and it  
12 was a rather difficult conversation. And I said: we will  
13 give it to you, but we expect that we have to make sure  
14 that this is done and provided to your investors.

15           Q.    Okay. But, Mr. Beauchamp, these breaches of  
16 fiduciary duty, these violations of the securities law are  
17 taking place every single day.

18                    You understood that, right?

19                    MR. DeWULF: Object to form.

20                    THE WITNESS: I didn't understand it was every  
21 single day. He had so much money rolling in with payoffs  
22 of previous loans and things of that nature, I -- he told  
23 me it -- he was dealing with his line of credit to cover  
24 the shortfalls and everything: Oh, maybe a few times I  
25 have accepted rollovers, whatever.

1 He totally, totally downplayed it to me, and I  
2 had no reason to disbelieve him, other than the fact he  
3 promised me he wouldn't do it and now he is doing it.

4 So as I have indicated, that involved clear  
5 re-analysis of the relationship, particularly given how it  
6 had evolved during the negotiation of the Forbearance  
7 Agreement. While we were doing the Forbearance Agreement,  
8 he had said: I need to have something to show to my  
9 investors a way out. They need to see the Forbearance  
10 Agreement and the explanation.

11 MR. DeWULF: Is this a good time to break,  
12 Colin? It's been a little over an hour.

13 MR. CAMPBELL: Give me a second. I'm looking at  
14 my notes.

15 Q. (BY MR. CAMPBELL) Mr. Beauchamp, do you not  
16 remember Mr. Chittick telling you that if I tell my  
17 investors, it's going to be like Mortgages Limited and the  
18 whole thing is going to blow up?

19 A. He did indicate that on a couple of times. I  
20 don't remember him ever referencing Mortgages Limited.  
21 I -- I think he did a -- did a reference "just like some  
22 of the other cases have in town."

23 And I remember the first couple times I told him  
24 it doesn't matter what's going to happen, you have a  
25 fiduciary duty of a securities -- you have to do the

1 disclosure. Remember you were concerned about the  
2 properties that you took back in 2008 and 2009, and you  
3 were concerned with the issues then, and if I remember  
4 correctly, your investors stayed with you. And that's a  
5 compliment to the trust, but you are going to -- and  
6 again, I'm paraphrasing -- you are going to lose that  
7 trust if you don't disclose it, and you are also going to  
8 break the law and I can't be involved with that.

9 Q. And you would agree with me that if you stayed  
10 involved after you knew he was breaking the law, that  
11 would fall below the standard of care for an attorney?

12 MR. DeWULF: Object to form.

13 THE WITNESS: It depends on facts and  
14 circumstances. If -- if I know he is going to go out and  
15 physically hurt somebody or kill somebody, yeah, I have to  
16 report that. I have to deal with that.

17 If it's a company that is taking an action to  
18 get something resolved and it's happening at a quick pace,  
19 the -- I have been informed there is a reasonable period  
20 of time to get an amendment out to the investors with  
21 respect to that so you have all the facts. You don't want  
22 to say here is the problem we think it is. You have a  
23 reasonable period of time in which to do that, to give the  
24 notice out so that you have complete and accurate  
25 information.

1 Q. (BY MR. CAMPBELL) So you think there is a safe  
2 harbor to commit securities fraud, a reasonable time?

3 MR. DeWULF: Object to form.

4 MR. CAMPBELL: We will take a break.

5 MR. DeWULF: Okay. Thanks.

6 VIDEOGRAPHER: The time is 2:14 p.m. We are  
7 going off the record, ending media four.

8 (A recess was taken from 2:15 p.m. to 2:37 p.m.)

9 VIDEOGRAPHER: My name is Mary Onuschak with the  
10 firm of Legal Video Specialists, Phoenix, Arizona. This  
11 begins media five of the videotaped deposition of David G.  
12 Beauchamp. The time is 2:37 p.m. We are now back on the  
13 record.

14 Q. (BY MR. CAMPBELL) Mr. Beauchamp, could you turn  
15 to Exhibit 39, please?

16 MR. DeWULF: Did you say 39?

17 MR. CAMPBELL: 39, Volume 1. And, again, this  
18 is highlighted. That's my highlighting.

19 Q. (BY MR. CAMPBELL) Mr. Beauchamp, this is  
20 Exhibit 39. It's an email that you wrote to Mr. Chittick  
21 on Wednesday, January 15, 2014. True?

22 A. That's what it appears to be, yes.

23 Q. And just to set the stage, Mr. Miller at your  
24 old firm had sent a letter about these double-escrowed  
25 loans, and by this point in time you are trying to have

1 communications with Mr. Miller, right?

2 MR. DeWULF: Object to form.

3 THE WITNESS: At the instruction of -- excuse  
4 me. Could you repeat the question, please?

5 Q. (BY MR. CAMPBELL) Well, actually, I am just  
6 trying to set the stage.

7 January 9th is when you had the meeting with  
8 Mr. Chittick, and we will go back -- we will go back to it  
9 a little later, but it's where he discloses to you a lot  
10 of problems with respect to Mr. Menaged and the cousin and  
11 double-escrowed loans.

12 A. Correct.

13 Q. All right. So that was January 9th, so this is  
14 really just a week later, January 15th. And if you look  
15 at the last paragraph, well, actually, it's the last big  
16 paragraph, it starts out, "I indicated to Jeff that Bob  
17 Miller's clients."

18 Do you see that?

19 A. Yes.

20 Q. If you look at the next line, the sentence, you  
21 write this, quote, "I even added that your concern is that  
22 all of the lenders go into court and this turns into  
23 another Mortgages Limited situation," end of quote.

24 Do you see that?

25 A. Yes.



1 Q. All right. Mr. Chittick had conveyed to you  
2 that he was concerned his business would turn into a  
3 Mortgages Limited situation. True?

4 A. I don't remember if he used that wording, but  
5 he --

6 Q. So this was the word you came up with?

7 A. He -- no. It was, actually, I believe came from  
8 Bob Miller.

9 Q. All right.

10 A. But it was he talked about all the cases that  
11 have been in the newspapers and everything in the last  
12 several years with problems with hard-money lenders.

13 Q. All right. Well, I think we all know the  
14 Mortgages Limited case here in Phoenix. That's the case  
15 where Mr. Cole committed suicide.

16 Do you remember that?

17 A. Yes.

18 Q. All right. And it was he had a big mortgage  
19 brokerage business and it went in the tank, right?

20 A. For a variety of reasons, is my understanding.

21 Q. And Mr. Chittick expressed to you that he was  
22 concerned about the exact same thing, that if the  
23 investors learned about all these facts, it would be a  
24 Mortgages Limited type situation. True?

25 A. He had expressed that if we ended up in

1 litigation, that he would have limitations on his ability  
2 to collect the high interest on his loans to his  
3 borrowers, so he would not be able to make the payments to  
4 his investors, which would in fact cause it to unravel.

5 He had a very specific thought that he was  
6 concerned with, and that is why he wanted to be able to  
7 show: we have a plan to work this out. we have thought  
8 it through. And that was his whole focus, get the  
9 forbearance done first.

10 Q. Turn to page 360 or, excuse me, I want to go to  
11 Exhibit 360, Volume 6.

12 A. Do I keep this one out still or no?

13 Q. You can put it back up.

14 MR. DeWULF: You said 361, right?

15 MR. CAMPBELL: 360, 6-0.

16 Q. (BY MR. CAMPBELL) Exhibit 360 is an email  
17 string between you and Mr. Chittick, right?

18 A. Yes.

19 Q. All right. I want to turn to the bottom email.  
20 It's the one on February 25th, 2014, from Mr. Chittick to  
21 you.

22 So this is February 25th. This is going to be a  
23 little over a month after your January 9th meeting, right?

24 A. Correct.

25 Q. Now, turn to the last page. I have got some

1 parts of it here highlighted, but Mr. Chittick writes to  
2 you, and I quote, "But what both of us are really  
3 concerned about," and he means Menaged and him, "is that  
4 when I tell my investors the situation, they request their  
5 money back. I want to be able to say, this was the  
6 problem, we've eliminated this much of the problem and  
7 this is what is left. I want to be able to say what is  
8 left is as small as possible."

9 Do you see that?

10 A. Yes, I see that language.

11 Q. Mr. Chittick did not want to tell the investors  
12 about what had happened immediately. True?

13 MR. DeWULF: Object to form.

14 THE WITNESS: Can -- can you clarify what you  
15 mean by "investors"? Because some investors --

16 Q. (BY MR. CAMPBELL) The people that DenSco --

17 A. I saw three categories.

18 Q. -- owed a fiduciary duty to.

19 Do you understand those investors?

20 A. Yes, I understand those investors.

21 Q. Mr. Chittick did not want to tell the investors  
22 he owed a fiduciary duty to that Mr. Menaged had committed  
23 a fraud on him, because he was worried the investors would  
24 pull out all their money. True?

25 MR. DeWULF: Object to form.

1 THE WITNESS: As he indicated there, he wanted  
2 to have a solution to show them as opposed to just  
3 sounding an alarm, like: Oh, my God, this happened. That  
4 was his expression.

5 Q. (BY MR. CAMPBELL) All right.

6 A. The -- proceed.

7 Q. On January 9th when you learned that Mr. Menaged  
8 had defrauded DenSco, DenSco's duties were to inform the  
9 investors as soon as possible. True?

10 MR. DeWULF: Object to form.

11 THE WITNESS: DenSco had a twofold obligation.

12 The first was he could -- was not supposed to  
13 take any new investment in to the company or any rollover  
14 investment without doing up-to-date disclosure to those  
15 investors.

16 The second obligation, to the extent the  
17 investors were already locked into two-year notes that  
18 hadn't come up for renewal or anything yet, he needed to  
19 get the information to them as quickly as reasonably  
20 possible, I believe, is what -- is what I have read in  
21 that case.

22 Q. (BY MR. CAMPBELL) I want you to focus on  
23 fiduciary duty. Okay?

24 DenSco has a fiduciary duty to disclose material  
25 facts to its investor. True?

1 A. That is correct.

2 Q. As soon as you learned that DenSco had been  
3 defrauded by Mr. Menaged's cousin, DenSco's fiduciary duty  
4 to tell its investors was triggered, correct?

5 MR. DeWULF: Object to form.

6 THE WITNESS: At that point in time,  
7 January 9th per se, we did not understand the scope of it,  
8 we did not understand how this would impact DenSco to the  
9 extent that if DenSco -- again, its materiality is part of  
10 it.

11 Q. (BY MR. CAMPBELL) Okay.

12 A. And if he is defrauded and it's \$2 million and  
13 Denny has his personal money of 4 and a half million in,  
14 then there is a cushion there.

15 Q. We are talking about fiduciary duty. Do you  
16 understand that? Fiduciary duty to the investors.

17 A. Fiduciary duty to the investors is based on  
18 facts and circumstances.

19 Q. Mr. Miller sent you a letter saying Menaged had  
20 double escrowed 50 loans, 50 loans, correct?

21 MR. DeWULF: Object to form.

22 THE WITNESS: I -- I don't remember the exact  
23 language. It might have been up to or something, but both  
24 Chittick and Menaged indicated that number was way too  
25 high.

1 Q. (BY MR. CAMPBELL) There was a list of every  
2 loan attached to the letter. There were 50 loans.

3 Do you remember that?

4 A. I remember there was a list attached, and both  
5 Menaged and Chittick represented on January 9th that  
6 several of those loans had already been paid off or that  
7 in fact did not get placed.

8 Q. And Miller's client was only one of several  
9 lenders Mr. Menaged had done this to. They told you that.

10 A. Mr. Miller indicated that he was representing a  
11 group of lenders, and I never was sure in terms of what  
12 went beyond his group.

13 Q. You are representing DenSco. True?

14 A. Correct.

15 Q. Who has a fiduciary duty to its lenders. You  
16 say that over and over again.

17 A. To its lenders or to investors?

18 Q. Investors.

19 A. Yes, it has a fiduciary duty to the investors.

20 Q. And your testimony under oath is you do not  
21 think what you knew on January 9th was material enough  
22 that DenSco had a fiduciary duty to tell the investors?

23 MR. DeWULF: Object to form.

24 Q. (BY MR. CAMPBELL) That's your testimony?

25 A. There were too many facts being argued over.

1 There were too many facts being objected to. There wasn't  
2 sufficient evidence provided to know exactly what it was,  
3 other than to tell Mr. Chittick, don't take any more money  
4 until we get to the bottom of this.

5 Q. Whether he takes any more money or not does not  
6 affect your fiduciary duty to tell the investors, correct?

7 MR. DeWULF: Object to form.

8 THE WITNESS: It gets way different in facts and  
9 circumstances. If somebody has a two-year note and it's  
10 only been six months and it's going to being corrected  
11 before their note comes due, then there is an argument  
12 that, okay, fine, this wasn't material to them.

13 On the other hand, if it's somebody that's going  
14 to roll over shortly, it's very material if he will be  
15 able to deal with it. And the key thing was no new money.  
16 You can do your own money, and let's get to the bottom of  
17 this.

18 Q. (BY MR. CAMPBELL) Mr. Beauchamp, we are here in  
19 a lawsuit involving over \$30 million in damages due to  
20 Menaged's fraud.

21 When, from January 9th to the present, do you  
22 think DenSco had a fiduciary duty to tell its investors  
23 that Mr. Menaged had defrauded Mr. Chittick?

24 MR. DeWULF: Could you read that back, please.  
25 That was a long one.

1 (The requested portion of the record was read.)

2 THE WITNESS: In order -- well, in order to  
3 answer the question, you need to bifurcate it, as I have  
4 tried to explain.

5 Clearly there is a fiduciary duty indicating  
6 there was a problem of unknown magnitude to any new  
7 investor. That goes without saying.

8 To the extent in this type of revolving fund,  
9 the existing investors, as soon as you can clearly  
10 understand all of the facts, they need to be advised as to  
11 what the issue is, and what is the effect and what is the  
12 probable outcome.

13 Your reference to 30-some million dollars from  
14 Menaged, I don't think I saw the list of loans or anything  
15 until April 16th, to realize it was at that point, and nor  
16 did I see valuation of the individual houses that the  
17 loans were against to even determine what was unsecured  
18 and what was the valuation difference.

19 And if in fact there has been fraud but the fund  
20 is not at risk, that is a much lower requirement for  
21 disclosure than to the extent it's a fraud where you  
22 acknowledge the facts are such that it affects all the  
23 investors' money.

24 Q. (BY MR. CAMPBELL) Mr. Beauchamp, on the  
25 Forbearance Agreement that was signed in this case, there



1 is a list of all loans affected by the double escrow.  
2 They total over \$100 million.

3 Do you think that's a material fact that an  
4 investor should know?

5 MR. DeWULF: Object to form.

6 Q. (BY MR. CAMPBELL) On a fiduciary duty?

7 A. I would like to see what you are referring to as  
8 to over \$100 million. The -- what I thought was provided  
9 to me showed that -- and, again, I'm going off memory  
10 here, and it's not a good thing to do. The -- what was  
11 provided after the April 16th signature on the Forbearance  
12 Agreement, it was 30-some million in loans, which  
13 absolutely I had a long conversation with Denny after  
14 that.

15 Q. (BY MR. CAMPBELL) When did you learn it was  
16 \$136 million in loans?

17 MR. DeWULF: Object to form.

18 THE WITNESS: I didn't say 136 million.

19 Q. (BY MR. CAMPBELL) What was the number you said?

20 A. 30-some million.

21 Q. When did you learn that?

22 A. When that list was provided after, the couple  
23 days after the April 16th Forbearance Agreement was  
24 provided. Before that, there was all kinds of numbers  
25 being thrown around, and Denny always said: I can get the

1 final numbers. It's much lower than that.

2 Q. Mr. Beauchamp, will you at least admit that when  
3 you learned the \$30 million, that it crossed your mind  
4 that DenSco had a fiduciary duty to tell its investors  
5 that?

6 MR. DeWULF: Object to form.

7 THE WITNESS: And I did have that conversation  
8 with Denny, and we started on the revised POM shortly  
9 thereafter to get it to the investors with as accurate  
10 information as possible.

11 Q. (BY MR. CAMPBELL) Apart from the POM, you don't  
12 believe there was a fiduciary duty that DenSco had to do  
13 it right then?

14 MR. DeWULF: Object to form.

15 THE WITNESS: That's not how Denny Chittick had  
16 ever communicated to his investors. He used newsletters  
17 and he used the POM. And I never prepared or had anything  
18 to do with the newsletters, and I wanted to make sure this  
19 was properly described so we wanted it to go in a private  
20 offering memorandum so that it was truthful, accurate, and  
21 properly disclosed the risk.

22 Q. (BY MR. CAMPBELL) So you made a decision with  
23 Mr. Chittick that you would not disclose anything until we  
24 had a private offering memorandum, irregardless of any  
25 fiduciary duties?

1 MR. DeWULF: Object to form.

2 THE WITNESS: I did not have that agreement with  
3 Mr. Chittick. Over time, that's what evolved. I even  
4 suggested that I give him a script and he tell his  
5 investors in early March, when he was having an annual  
6 party or whatever the function was with his investors,  
7 that he use that event to tell his investors, and I found  
8 out afterwards he didn't do it.

9 I was repeatedly asking him to do a disclosure,  
10 whether it be an email notice to his investors, and I  
11 would be happy to review it or even prepare a draft, but I  
12 indicated numerous times, and there is very -- there is  
13 several emails that reference disclosure obligation to  
14 your investors.

15 Q. (BY MR. CAMPBELL) But it never happened. True?

16 MR. DeWULF: Object to form.

17 THE WITNESS: I did not see a written  
18 communication that went to the investors. I was told by  
19 Denny he had disclosed information to the investors. He  
20 even rattled off points that he had included in the  
21 disclosure to the investors, but I did not see the  
22 disclosure, and that was because we were going to wrap it  
23 up in the Forbearance Agreement.

24 Q. (BY MR. CAMPBELL) If you were representing  
25 Mr. Chittick individually and DenSco, did it ever cross

1 your mind there was a conflict of interest between  
2 Mr. Chittick individually and DenSco?

3 MR. DeWULF: Object to form.

4 THE WITNESS: It did cross my mind the minute he  
5 refused to do the disclosure we provided to him in May,  
6 and that led to our resignation.

7 Q. (BY MR. CAMPBELL) The very first time you  
8 thought there was a conflict of interest between what  
9 Mr. Chittick was doing and what was in DenSco's interest  
10 as a fiduciary was not until you terminated the  
11 representation? Did I hear you right?

12 THE WITNESS: Excuse me. Could you go back two  
13 questions and ask -- did he say when I first considered it  
14 or when I thought there was?

15 MR. CAMPBELL: Don't do that. I'll rephrase.

16 Q. (BY MR. CAMPBELL) When did you first consider  
17 there was a conflict of interest between what Mr. Chittick  
18 wanted and what was in the best interests of DenSco?

19 A. As facts were disclosed to me, I suspected there  
20 was a -- or there was a concern on my part that the --  
21 that what Denny wanted wasn't in DenSco's -- did not  
22 satisfy DenSco's obligation.

23 I questioned Denny about that. I explained my  
24 concerns, and he was able -- he said: I've always told  
25 you the truth. I've always, you know, done what you

1 wanted. You know, we are going to do it. I am telling  
2 the investors. You got to believe me on this. And given  
3 our relationship, I accepted that.

4 Q. When did this happen? I asked you when did it  
5 first occur to you? You told me, "It occurred to me when  
6 I had this conversation." When was that?

7 A. We had bits and pieces of -- of that  
8 conversation over time. Clearly when I saw the loan,  
9 outstanding loans on the -- the exhibit to the Forbearance  
10 Agreement, we had that discussion.

11 I think I had bits and pieces of that  
12 conversation with him beforehand: How much, you know,  
13 this sounds like there is a lot more loans than we talked  
14 about, this is getting to be much bigger. You know, we  
15 need to make sure the investors are aware of this because  
16 there is a problem.

17 And he assured me: We are getting them  
18 resolved. We are dealing with this. The unsecured loan  
19 is, you know, we are getting more security. He even told  
20 me that Menaged is bringing in the money that he has  
21 promised, and all of that was reducing the risk,  
22 et cetera.

23 And, okay, fine. He said he was doing  
24 everything he could for the investors. And I said, you  
25 know, if this thing -- you know, if this thing doesn't get

1 resolved quickly, we have got to do a written disclosure.

2 Q. You still haven't told me when it first occurred  
3 to you there was a conflict of interest between what  
4 Mr. Chittick wanted to do and what you believe DenSco  
5 should do.

6 MR. DeWULF: Object to form.

7 Q. (BY MR. CAMPBELL) Can you tell me when?

8 A. I do not exactly remember when, and to the  
9 extent that I had conversations with general counsel of  
10 the firm, those are, you know, privileged, and --

11 Q. What does your conversations with the general  
12 counsel of the firm have to do to when it first occurred  
13 to you that there was a conflict of interest?

14 Did you go talk to the general counsel of the  
15 firm between January of 2014 and the time you terminated  
16 your representation?

17 A. Yes.

18 Q. And you went to talk to the general counsel of  
19 the firm about the conflict of interest?

20 A. About --

21 MR. DeWULF: Be careful here. I think you can  
22 talk about the topic.

23 THE WITNESS: Yeah.

24 MR. DeWULF: I don't want to reveal what  
25 communications may have occurred.

1 THE WITNESS: The totality of the circumstances  
2 and my increasing level of comfort with what was -- what I  
3 was getting feedback on.

4 Q. (BY MR. CAMPBELL) Okay. Mr. Beauchamp, are  
5 you -- from what you have told me, as far as I can tell,  
6 the only time it ever occurred to you there was a conflict  
7 of interest is when you terminated in May.

8 MR. DeWULF: Object to form.

9 Q. (BY MR. CAMPBELL) Is there any time before  
10 that?

11 A. I believe -- I believe what I have said is that  
12 the issue occurred to me, and I brought up and had the  
13 conversation with Mr. Chittick when it became apparent he  
14 wasn't following through for us to do the written  
15 disclosure.

16 Q. And when did you have that conversation?

17 A. I think I have already said I don't remember all  
18 the times we had it, and -- but we did have it on several  
19 different occasions, and there -- there is references and  
20 emails to the effect of fiduciary duty and disclosure.  
21 Typically those would be after I brought it up in the  
22 conversation and he had dismissed it.

23 Q. Turn to Exhibit No. 21.

24 Have you seen -- again, I'm sorry, those are  
25 highlighted. Have you seen Exhibit No. 21 before?

1 MR. DeWULF: Could you hold on just a second?  
2 I'm trying to move my books around here.

3 MR. CAMPBELL: Yeah. These are Chittick's notes  
4 for 2014.

5 MR. DeWULF: Go ahead.

6 Q. (BY MR. CAMPBELL) Have you reviewed these?

7 A. Some of them.

8 Is this supposed to be Chittick's log for 2014?

9 Q. Yes, this is Chittick's log.

10 Were you aware that Mr. Chittick kept a log?

11 A. No, I was not, and I have no idea why he kept it  
12 or what was his focus when he was putting things in there.

13 Q. Okay. I want you -- so this is his notes or his  
14 log from 2014, if you turn to the second page for  
15 January 10th.

16 So January 10th is the day after the  
17 January 9th meeting, and you will see here he says, this  
18 is like the third sentence or so, "Finally at 5pm Dave  
19 called, said they would give us time to clean it up. I  
20 talked to Scott; he is going to try to bring in money. I  
21 can raise money according to Dave."

22 Have you read that notation before?

23 A. Quite possibly. There are a number of  
24 statements in his log that I totally disagree with, and,  
25 again, I don't know his purpose and who he was writing for



1 in connection with this log.

2 Q. But your testimony is this: You never told him  
3 he could continue to raise money?

4 A. What I had told him, he could borrow money  
5 personally and loan it to the company.

6 Q. Okay. Well, let me go back then.

7 MR. DeWULF: Well, let him finish.

8 Are you finished with your answer?

9 THE WITNESS: Well, the other part was he could  
10 do it with respect to other investors into DenSco, but  
11 only if he shared all the information with them, and I  
12 should probably provide an outline for that, but --

13 Q. (BY MR. CAMPBELL) Okay. So let's -- let's  
14 piece that down.

15 So you did tell Denny that. You did tell him he  
16 could raise money, but what he writes here, in your  
17 opinion, doesn't include the caveats you put on that?

18 MR. DeWULF: Object to form.

19 Q. (BY MR. CAMPBELL) Is that right?

20 A. He had told me that he still had plenty of  
21 cushion in his line of credit and his defined benefit plan  
22 or whatever it was, so that he could cover money,  
23 whatever, and then he said he could raise money by  
24 borrowing it himself and reloaning it was -- was going to  
25 be adequate. If I had to guess, and again, this is a

1 guess --

2 MR. DeWULF: Don't guess.

3 Q. (BY MR. CAMPBELL) All right. I just want to  
4 understand what happened and what your testimony is, Dave.

5 You did tell him you can raise money from a line  
6 of credit. You told him that. True?

7 A. I told him that he could borrow on his line of  
8 credit, which at that time was secured by his house and  
9 was supposedly adequately concerned by that and his other  
10 investments.

11 Q. All right. Did you tell him he could raise  
12 money from other people as long as he didn't do it through  
13 this promissory note basis?

14 A. He had indicated he had private lines of credit  
15 secured by other assets with people. And I said, you  
16 know, if in fact they are relying on anything pertaining  
17 to DenSco, you have to disclose it. If they are simply  
18 relying upon your other assets, that's a different issue.

19 Q. And you told him he could raise rollover money  
20 or new money from DenSco if he gave an oral disclosure of  
21 what had happened?

22 A. I told him that he gave -- would give full  
23 disclosure to -- to his investors of everything that is  
24 going on.

25 Q. You told him he could raise money from investors

1 in his business as long as he gave full disclosure?

2 A. That -- that is correct, because he -- and he  
3 had limited that to his parents and to a few family  
4 members, and so I was referring to that, if you give them  
5 full disclosure.

6 Q. So -- okay. So you told him he could raise  
7 money from new investors or rollover investors in the  
8 business if it was his family or his parents and he gave  
9 full disclosure?

10 MR. DeWULF: Object to form.

11 THE WITNESS: The key thing was the full  
12 disclosure and my comfort that he had always said he  
13 shared everything with his family members so they knew  
14 everything that was going on, so I figured that was safe.

15 Q. (BY MR. CAMPBELL) I'm confused. You told him  
16 he could raise new money from rollover or investors as  
17 long as he gave full disclosure?

18 Did you tell him that, yes or no?

19 A. Yes, at one point in time, but I don't believe  
20 that was January 10th.

21 Q. So when he says "Dave told me I can continue to  
22 raise money," that's true in part, as long as he gave full  
23 disclosure, right?

24 MR. DeWULF: Object to form.

25 THE WITNESS: I believe that the January 10th

1 timeframe, I don't remember exactly what the conversation  
2 entailed, but I think that was based upon his comments for  
3 his line of credit with the bank and his private lines of  
4 credit from other people.

5 Q. (BY MR. CAMPBELL) Here, let's go -- let's just  
6 turn back to page 4 of your 26.1

7 A. I'm sorry?

8 Q. Let's turn back to Exhibit 4. That's your 26.1  
9 statement.

10 A. What page? I'm sorry.

11 Q. Page 10. Actually, let's go to page 11.

12 Do you see -- this is your 26.1 disclosure  
13 statement, correct?

14 A. Correct.

15 Q. You signed it under oath it's all true?

16 A. Correct.

17 Q. And you state on line 7: Mr. Chittick assured  
18 Mr. Beauchamp repeatedly he was making the requisite  
19 disclosures to investors on an as needed basis, and that  
20 he had informed a select group of investors as to the  
21 double lien issue and proposed workout. True?

22 A. Yes, that is what he had assured me.

23 Q. So from January 9th on, you told him he could  
24 raise money as long as he gave full disclosure, and as I  
25 read your 26.1 statement, he told you he was doing that?

1           A.    On page 11, are we looking at a particular time  
2 period here?  He always said he was doing it, which -- but  
3 I'm not -- was this -- I mean, literally until -- this is  
4 what he stated to me all the way through the process.  And  
5 I believe the select group of investors was his line of  
6 credit people, but also it was certain high, very  
7 high-net-worth individuals getting a higher interest rate.

8                   And I said that -- you know, he told me  
9 repeatedly he was doing it.  As I think I indicated  
10 earlier, based on comments he made the end of April,  
11 beginning of May, I had some more concerns that -- that he  
12 wasn't giving sufficient disclosure, but, again, those  
13 were concerns based on his comments, and he backpedaled  
14 and it gave me a concern.

15           Q.    I want you to turn to Volume 4, Exhibit No. 150.  
16 And, again, I'm sorry for the highlighting.  That's not in  
17 the original.

18                   So Exhibit No. 150 is an email chain between you  
19 and Mr. Chittick, and I see Mr. Menaged is copied on part  
20 of it.

21                   Do you see that?

22           A.    Yes, I see this.

23           Q.    And Mr. Chittick is writing you on January 12th,  
24 this is just three days after the meeting on January 9th,  
25 and he says, quote:  I've spent the day contacting every

1 investor that has told me they want to give me more money.  
2 I don't have an answer on specifically how much I can  
3 raise. I'll know that in a day or two. I have 3 million  
4 in my account. I still have to fund my regular business  
5 at the same time. I've got a few million closing in the  
6 next 10 business days. I feel like if all goes well, I'll  
7 have my money in total of rough -- I think it's roughly 5  
8 to 6 million in this timeframe.

9 Do you remember getting this email?

10 A. Right. And we had a discussion to clarify this,  
11 and that's why he said they have told him they want to  
12 give him more money as opposed to DenSco, and that these  
13 were the heavy hitters.

14 Q. My question was, do you remember getting it?

15 A. I see I responded to it, so yes.

16 Q. Okay. And you would agree with me that in the  
17 email they are characterized as investors, right?

18 A. Anybody -- Denny referred to anybody providing  
19 money to him, that he would either put directly in the  
20 business or through himself went into the business, as an  
21 investor, and -- and I told him it wasn't the correct  
22 terminology, but he never changed.

23 Q. There is no email back from you to him asking  
24 which type of investor is this? Is this an investor with  
25 a promissory note or an investor with a line of credit on

1 his assets? How do you know which investors he is talking  
2 about?

3 A. Because when we had talked, we had specifically  
4 talked about the money he personally had and access in  
5 terms of his line of credit and his defined benefit plan,  
6 and the -- you know, that his private lenders would loan  
7 him the money to put into DenSco.

8 Q. You called him after you got this email to  
9 clarify it?

10 A. No. That was -- I'm saying based upon the  
11 previous conversation that we had and this follow-up, that  
12 is what I interpreted it to be, and then we did clarify it  
13 at some point in time.

14 Q. He tells you that investors are giving him more  
15 money. True?

16 A. They -- they want to give him more money.

17 Q. He says he has --

18 A. So it wasn't immediate, so I thought we had time  
19 to clarify it.

20 Q. He has 3 million in his account, right?

21 A. Yes.

22 Q. "I've got a few million closing in the next 10  
23 business days." That's rollover money, right?

24 MR. DeWULF: Object to form.

25 THE WITNESS: It -- it's often how he would

1 refer to it, but I don't know for sure. It's his email.

2 Q. (BY MR. CAMPBELL) You are telling me you don't  
3 know what it means when he tells you he is closing in the  
4 next 10 business days on a few million?

5 A. I am telling you it's his email and that is  
6 generally how we referred to it, but I'm not telling you I  
7 can absolutely swear that that is in fact what it is.

8 Q. Why don't you read me your response to him,  
9 starting with "thank you."

10 A. "Thank you for the update. You should feel very  
11 honored that you could raise that amount of money that  
12 quickly." Again, this is a Sunday night I'm responding,  
13 after he sent it 3:00 o'clock --

14 Q. I think my question -- my question was could you  
15 read it to me, not give me your defensive explanations.  
16 Can you read it to me?

17 MR. DeWULF: Counsel, I'll object to that  
18 characterization.

19 Just try to answer the question.

20 MR. CAMPBELL: You know he is burning -- he is  
21 burning time. He gives long rambling answers, which don't  
22 help him, but he is burning my time. I would like him  
23 just to answer the questions.

24 MR. DeWULF: You know, we can all get into those  
25 comments about how we spend our time. I could make



1 arguments about how you are questioning the witness. He  
2 is doing his best.

3 David, but I think the point is well taken. If  
4 it's a yes-or-no question, answer it yes or no. Try to  
5 respond.

6 Q. (BY MR. CAMPBELL) My question was, could you  
7 read the answer you gave Mr. Denny?

8 A. "Thank you for the update. You should feel very  
9 honored that you could raise that amount of money that  
10 quickly. I will outline a few thoughts tomorrow and get  
11 back you to." And I then asked, "Do you know the terms  
12 that Scott is having to give his investor?"

13 Q. I want to switch gears and move to May of 2014.  
14 okay? Actually, maybe we can start by going to your 26.1  
15 statement on page 5.

16 Do you have a paper cut?

17 A. Yeah.

18 Q. Here, let's take a break. There should be some  
19 kleenex right over there.

20 VIDEOGRAPHER: Off the record, Counsel?

21 MR. CAMPBELL: It's an occupational hazard.

22 VIDEOGRAPHER: The time 3:17 p.m. We are going  
23 off the record, ending media five.

24 (A recess was taken from 3:17 p.m. to 3:31 p.m.)

25 VIDEOGRAPHER: My name is Mary Onuschak with the

1 firm of Legal Video Specialists, Phoenix, Arizona. This  
2 begins media six of the videotaped deposition of David G.  
3 Beauchamp. The time is 3:31 p.m. We are now back on the  
4 record.

5 Q. (BY MR. CAMPBELL) All right. Mr. Beauchamp,  
6 when we broke we were on the 26.1 disclosure statement,  
7 page 5. And you will see from line 12 to line 23, you  
8 describe your termination of representation of DenSco,  
9 correct?

10 wait a minute. That might be the wrong part.  
11 That's 2013.

12 MR. DeWULF: I'm lost here.

13 Q. (BY MR. CAMPBELL) Turn to page 15, I'm sorry,  
14 line 8.

15 So you state under oath that, "In May 2014,  
16 Mr. Beauchamp handed Mr. Chittick a physical copy of the  
17 draft POM and asked him what Mr. Chittick's specific  
18 issues were with the disclosure. Mr. Chittick responded  
19 there was nothing wrong with the disclosure, he was simply  
20 not ready to make any kind of disclosures to his investors  
21 at this stage. Mr. Beauchamp again explained that  
22 Mr. Chittick had no choice in the matter and that he had a  
23 fiduciary duty to his investors to make these disclosures.  
24 Mr. Chittick would not budge. Faced with an intransigent  
25 client who was now acting contrary to the advice

1 Mr. Beauchamp was providing, and with concerns that  
2 Mr. Chittick may not have been providing any disclosures  
3 to anyone since January 2014, Mr. Beauchamp informed  
4 Mr. Chittick that Beauchamp and Clark Hill could not and  
5 would not represent DenSco any longer."

6 That's your best memory of what happened?

7 A. Yes.

8 Q. When in May 2014 did you have this conversation?

9 A. Approximately May 20th. May 18th, May 20th,  
10 somewhere in there, give or take a few days.

11 Q. Okay. Turn to Exhibit No. 11.

12 So Exhibit No. 11 is -- it's your invoice.

13 Well, there is a cover letter for legal services through  
14 the end of May, and it's dated June 25th, 2014, correct?

15 A. Correct.

16 Q. You bill all your time. True?

17 MR. DeWULF: Object to form.

18 THE WITNESS: I review it, and if there is a  
19 question as to value or whatever, I make adjustments as is  
20 required under the ethical rules, so...

21 Q. (BY MR. CAMPBELL) I notice on the cover letter  
22 for June 25th, there is no statement in here "we have  
23 terminated our representation."

24 A. No. There should have been, but there isn't.  
25 And I believe I did that simply because Daniel Schenck was

1 still trying to clean up issues on the foreclosure  
2 agreement, although I was no longer involved, at Denny's  
3 and my mutual agreement.

4 Q. Before you -- before you terminated with  
5 Mr. Chittick, as I understand it, you had a conversation  
6 with the general counsel of Clark Hill?

7 A. Correct.

8 Q. When you terminated Mr. Chittick, did you write  
9 a letter saying: Dear Mr. Chittick, We represent DenSco.  
10 Here is the advice we gave you. You are not following our  
11 advice. We think you are committing securities fraud. We  
12 can't be parties to that. We urge you to come into  
13 compliance with the law, but we cannot represent you  
14 because we can't be part of securities fraud.

15 Did you write a letter like that?

16 A. No, I did not.

17 MR. DeWULF: Object to form.

18 Q. (BY MR. CAMPBELL) why would you have not  
19 written a letter, after talking to general counsel,  
20 putting in writing that you were terminating Mr. Chittick  
21 and why you were terminating Mr. Chittick?

22 MR. DeWULF: Object to form.

23 THE WITNESS: Denny had indicated he was already  
24 in consultation with other securities counsel. He would  
25 not give me a name. And I said, "well, we will get the

1 files cleaned up and transfer them since you are going to  
2 have other counsel to handle your securities work going  
3 forward." And I -- I did not write and send a letter.

4 Q. (BY MR. CAMPBELL) All right. Well, you only  
5 did not write and send a letter; you didn't even do a  
6 handwritten note in the file that you terminated. True?

7 A. Well, Daniel Schenck and I were the only ones  
8 doing work at the time, and we had discussed it and he  
9 understood that he was simply doing work on the, you know,  
10 cleanup of the forbearance, because we were done with this  
11 client.

12 Q. I wasn't asking you about Mr. Schenck.  
13 You didn't create any written document  
14 whatsoever, a note to the file, a handwritten typed to  
15 your calendar page, there was not a single piece of  
16 writing in May of 2014 that I can look to that says: Oh,  
17 here is David saying he is terminating his representation.

18 A. I was coordinating the steps with Mark  
19 Sifferman, and -- and Denny had said: Don't bother, don't  
20 send me a letter. I'm looking for other counsel. So I  
21 didn't do it. I didn't do it.

22 Q. There is nothing in the file, in your file,  
23 Mr. Beauchamp, in May of 2019 (sic) that you talked to  
24 Mr. Sifferman or had any conversation with anyone in the  
25 firm about termination.

1 A. I believe at that time in conversations with  
2 Mr. Sifferman, I was advised to --

3 MR. DeWULF: Don't talk about privileged  
4 communications, but you can talk about an event, if you  
5 wish to. Be careful about what you say.

6 Q. (BY MR. CAMPBELL) If you have a concern whether  
7 you are going to violate a privilege, I will let you step  
8 outside and talk to your counsel so you don't.

9 THE WITNESS: I should do that.

10 MR. DeWULF: I trust --

11 THE WITNESS: Okay. No.

12 MR. DeWULF: I trust your judgment on this. I  
13 just want to make sure you are thinking about it.

14 THE WITNESS: Yeah.

15 MR. CAMPBELL: And I want to be protective.

16 MR. DeWULF: No, I get it and I appreciate it.

17 Thank you for the gesture. I want to --

18 Are you comfortable, David, going forward?

19 Let's take a minute.

20 THE WITNESS: No. Give me -- give me a minute.

21 VIDEOGRAPHER: The time is 3:39 p.m. We are  
22 going off the record, ending media six.

23 (A recess was taken from 3:39 p.m. to 3:42 p.m.)

24 (The requested portion of the record was read.)

25 VIDEOGRAPHER: My name is Mary Onuschak with the

1 firm of Legal Video Specialists, Phoenix, Arizona. This  
2 begins media six of the videotaped deposition of David  
3 Beauchamp. The time is 3:42 p.m. We are now back on the  
4 record.

5 THE WITNESS: Thank you. Thank you for  
6 rereading the question, but just to clarify, I think you  
7 said May 2019. We are referencing 2014.

8 Q. (BY MR. CAMPBELL) Correct.

9 A. Just -- okay.

10 No, I don't believe there is anything in the  
11 file. The billing records show work ceased. I talked  
12 with Denny Chittick. He acknowledged it. He said he was  
13 talking with other counsel, and I advised the appropriate  
14 people within my firm that that was the conclusion.

15 Q. Who was the appropriate people within the firm  
16 you advised?

17 MR. DeWULF: I think you can say.

18 THE WITNESS: Mark Sifferman.

19 Q. (BY MR. CAMPBELL) Was he the only one?

20 A. I'm sorry?

21 Q. Was he the only one?

22 A. I think I also advised the head of the corporate  
23 group, but I don't remember for sure, because he had been  
24 involved with various questions during it as well.

25 Q. What was his name?

1 A. Jeff Van Winkle.

2 Q. And is he in Detroit or where is he?

3 A. He -- Grand Rapids and Chicago. He just left  
4 the firm a month ago to be part of a new firm.

5 Q. Okay. Let's go back to Exhibit No. 11, and  
6 that's your billing statement for May.

7 So actually if you look, you know you have --  
8 you have an invoice for the workout of lien issues.

9 Do you see that?

10 MR. DeWULF: I'm sorry. What line, what page?

11 MR. CAMPBELL: This is going to be Bates 522 2.  
12 It's going to be the second page of the exhibit.

13 Q. (BY MR. CAMPBELL) So you have workout of lien  
14 issue.

15 Do you see that?

16 A. Yes.

17 Q. And if you look at the detail description of  
18 services, there is no time recorded for having met with  
19 Mr. Chittick about the POM in this invoice, right?

20 A. That -- that is correct.

21 Q. And then turn the page. We have an invoice for  
22 general business matters. It doesn't look like anything  
23 was billed on that in May, right?

24 A. Correct.

25 Q. And then the next page is the invoice for the



1 private offering memorandum.

2 Do you see that?

3 A. Yes.

4 Q. And if you turn the page, there is entries from  
5 Mr. Schenck with respect to working on the POM.

6 Do you see that?

7 A. Yes.

8 Q. And then you have an entry for research  
9 concerning Dodd-Frank.

10 Do you see that?

11 A. Yes.

12 Q. And then your last entry is May 14th, additional  
13 revisions to private offering memorandum?

14 A. Yes.

15 Q. Now, you write "finish first draft."

16 Was there an actual finished first draft of the  
17 POM in this case?

18 A. Yes and no. Typically when we call it a first  
19 draft, that's what we are going to give to the client. It  
20 has questions throughout it in brackets and highlighted or  
21 in the margin and there is blanks, but it is considered  
22 enough of a draft to share it with the client.

23 Q. All right. So I will tell you the only drafts  
24 we have are ones that have questions on the side and all  
25 sorts of things.

1 A. Right.

2 Q. It's not a completed POM.

3 A. Correct.

4 Q. So there was never a fully completed POM  
5 prepared?

6 A. No. The portion of the POM that was completed  
7 dealt with the forbearance language, and that was the  
8 section that we did the POM for so that Denny would be  
9 able to review it and approve that language, because that  
10 was the litmus test.

11 Q. All right. There is nothing written down here  
12 after May 14th of your meeting with Mr. Chittick.

13 A. Denny Chittick said specifically don't -- you  
14 know, don't bill me for this. Don't put any time down.  
15 This is your decision what you are doing. This is for  
16 you. I don't want to pay it. I don't want to see it.

17 Q. Where did this meeting take place?

18 A. I do not remember the details of the meeting. I  
19 know part was by phone. He had to run off to something  
20 else, and then we -- we met to discuss it, and it was --  
21 he was not happy.

22 Q. We have seen a lot of your notes and we will see  
23 more tomorrow where you keep notes of telephone call with,  
24 many with Chittick. There is no telephone call with note  
25 with Chittick with respect to your terminating

1 representation?

2 A. Correct. But as I have already indicated, if he  
3 would call me on my mobile phone either early in the  
4 morning or late at night or if I am driving, I very often  
5 wouldn't make note of it and write it down.

6 Q. Where did you have this telephone call with  
7 Mr. Chittick from?

8 A. The -- the initial one was later in the  
9 afternoon that we had the conversation going over what  
10 needed to be disclosed and pertaining to the Forbearance  
11 Agreement and what needed to be shared with the investors.

12 Q. Where were you?

13 A. I remember the conversation. I don't remember  
14 where I was.

15 Q. Where was he?

16 A. He called me back after something dealing with  
17 school, kids, something or other, and he said, yeah, we  
18 need to talk, and he called me back. So I don't remember  
19 where I was.

20 Q. So there is two phone calls? You called him?

21 A. Yes.

22 Q. He was doing something during --

23 A. He said he would call me back.

24 Q. All right. So did the second phone call take  
25 place within an hour of the first phone call?

1           A.     Probably more like three hours, but I don't know  
2 the specifics.

3           Q.     There is a second phone call. We don't know the  
4 date of this call, right?

5           A.     No. Not off the top of my head, no.

6           Q.     I would think this would be a significant thing  
7 in your career.

8           MR. DeWULF: Is that a question?

9           MR. CAMPBELL: Yeah.

10          MR. DeWULF: Object to form.

11          Q.     (BY MR. CAMPBELL) I mean, you had known  
12 Mr. Chittick for over 20 years, you said he was a friend,  
13 you said you were devastated when he died, and you don't  
14 remember where you were when you had a conversation that  
15 you were going to terminate your 20-year relationship with  
16 Mr. Chittick?

17          MR. DeWULF: Object to form.

18          THE WITNESS: I don't think it was a full 20  
19 years, but it was a long one, I grant you that. It was --  
20 it was a very difficult conversation. It was -- I  
21 actually prayed before I called him the first time for the  
22 strength and the wisdom to deal with this and do my  
23 obligation. And when he called back, it was a difficult  
24 conversation.

25          Q.     (BY MR. CAMPBELL) Okay. What time of the day

1 was it when he called back?

2 A. I -- I don't remember. I remember it was a  
3 period of time after the initial conversation.

4 Q. Where were you when he called back?

5 A. I think I have indicated I don't remember that.

6 Q. Do you remember what day it was when he called  
7 back?

8 A. No. I remember I talked to Sifferman the next  
9 day, but I don't remember what day it was.

10 Q. Tell me what you said and tell me what he said.

11 A. To Sifferman?

12 MR. DeWULF: No.

13 Q. (BY MR. CAMPBELL) No. To Mr. Chittick.

14 A. With Denny?

15 I said have you looked at the language of the  
16 POM concerning the forbearance where I had the yellow  
17 stickies that I dropped off. And he said he -- first of  
18 all, he said Menaged is not going to let us say this.

19 And I told him that under the foreclosure  
20 agreement, you have to meet your obligations and this is  
21 the bare minimum that you have to do. You have to do  
22 this. I'm not willing to do it. And I said this is an  
23 obligation that you have to do and it's my obligation to  
24 make sure you do it, or you are going to have to find  
25 other counsel.

1 He then argued that -- about Menaged again. I  
2 said I'm not talking to Menaged. I'm talking to you. And  
3 he said, well, I'm not going to do it. And, okay, we --  
4 you need to get other securities counsel, because we  
5 cannot continue.

6 And he said, well, I'm already talking to other  
7 people already. I'll -- I'll let you know. Don't bill me  
8 for this. Don't bill me for any of your time on this.  
9 This is for you, not me. I can't believe you are doing  
10 this. And that was it.

11 Q. Okay. Now, I had thought earlier you had a  
12 phone call and then you met with him face to face.

13 Is that wrong? Did I have it wrong?

14 A. I had called. We had said we were going to meet  
15 face to face, and then whatever came up, he did it on --  
16 he called me and we didn't meet, because he had this other  
17 thing, appointment of his or whatever took too long. And  
18 I had offered, this is what we need to talk about or  
19 whatever, and he wanted it then on the phone. He didn't  
20 want to meet.

21 It -- yeah, I should have done it in person, but  
22 at the same time he -- he had the document, he knew what  
23 was necessary, and he wanted to do it by phone, which, you  
24 know, covered the necessary obligations.

25 Q. David, we don't even have an email where you

1 sent him the document by email.

2 A. I didn't. I dropped it off.

3 Q. David, we have thousands of emails between you  
4 and Mr. Chittick. Why would you have not emailed him a  
5 draft of the final POM?

6 A. Because I was hoping to talk to him at the time  
7 that I was down at Chandler to drop it off.

8 Q. Where is Clark Hill's office?

9 A. Greenway and Scottsdale Road.

10 Q. Greenway and Scottsdale Road.

11 And what side of town do you live on?

12 A. Northern and Central. And I was in Chandler for  
13 another client, and while I was there, I called and  
14 dropped it off.

15 Q. What client were you going to see in Chandler?

16 A. I'm not at liberty to disclose the name of  
17 another client without permission.

18 Q. But you would have a record. Did you bill that  
19 other client?

20 A. It was for meeting with them with regard to a  
21 new project which we didn't get.

22 Q. You didn't bill them?

23 A. There are certain clients that we are special  
24 counsel for, but they also have other counsel for. Come  
25 down, let's meet, let's discuss it, and then they decide,

1 we decide if there is agreement to proceed.

2 Q. I am just trying to inquire, I mean, if you  
3 billed them, we could go to the billing record. We could  
4 redact their name and then we can say, oh, here is the day  
5 where David said he terminated, because this says he was  
6 in Chandler on that day. But you don't even have that?

7 A. No, I don't have that. If I had -- you know, I  
8 think if I had been readily able to find that, that would  
9 have been names redacted but that would have been  
10 provided.

11 Q. What about on your calendar? Could we go to  
12 your calendar and find anything on your calendar that  
13 would show me you were in Chandler in mid-May of 2014 that  
14 we could say, oh, here is the day he was in Chandler.  
15 Maybe that's the day he talked to Mr. Chittick?

16 Is there anything you can get me?

17 A. This -- I remember I was going to be going to  
18 Chandler in the next couple of days for this other thing,  
19 and I had asked to meet with Denny. It came up sudden,  
20 whatever, it wasn't on my calendar. I was available. I  
21 went to Chandler and grabbed the envelope for Denny at  
22 that time.

23 Q. You didn't email it to him and say, here, review  
24 this before I come down to meet with you, because I'm  
25 going to talk to you about what it says on the Forbearance



1 Agreement?

2 A. No. I had hoped to go over it with him, explain  
3 why it was necessary, and to share with him why it did not  
4 violate his agreement with Menaged and the Forbearance  
5 Agreement and explain it, but he wasn't available so I  
6 dropped it off. But he did confirm he got it.

7 Q. You must have called him ahead of time and said:  
8 I'll be in the neighborhood. Could you see me at, like,  
9 11:00 a.m. or whatever time.

10 Did you do that?

11 A. I think I had mentioned it the day before or  
12 whatever, and he said I plan to be here, but something  
13 could up. He worked out of his house, so he was there  
14 most of the time. And there were -- and I did drop things  
15 off for him at other times. The neighbors, several of  
16 them knew me, they would let me in. I'd leave it on his  
17 front porch. It is a gated community.

18 Q. And yet there is not a billing entry that you  
19 called him to set up a meeting?

20 A. Like I said, he said he didn't want to see it on  
21 the bill at all. And I did -- you know, didn't want to do  
22 anything to further aggravate the situation, so all my  
23 time, you know, was -- was not included.

24 Q. But, David, there is no -- there is no billing  
25 entry, there is no letter, there is no email, you can't

1 verify you were there. We are going to go in and argue  
2 you are making it up.

3 Is there something you can give us that would  
4 show you met with him and had this conversation?

5 MR. DEWULF: Object to form.

6 THE WITNESS: I know I met with him. I know I  
7 had this conversation with him. It was very, very  
8 difficult, but -- but I did it. And I think the language  
9 in the POM and when it was done is all verified, and it  
10 was all done with the purpose of getting it to him to get  
11 an answer.

12 And the fact that there is no entries whatsoever  
13 after that I think clearly indicates that there was a  
14 termination event, and that's what I am telling you what  
15 happened.

16 Q. (BY MR. CAMPBELL) Turn to Exhibit 12.  
17 Exhibit 12 is your billing statement with a cover letter  
18 of July 20 -- 16th, 2014, and you are billing him over  
19 \$3,240 for work performed in June.

20 So you are telling me there was a termination  
21 event and we ceased work, except you didn't cease work?

22 A. Well, this is --

23 MR. DEWULF: Object to form.

24 Go ahead.

25 Q. (BY MR. CAMPBELL) You continued to bill

1 Mr. Chittick for work you did for him in June.

2 A. This is the --

3 MR. DeWULF: Object to form.

4 Go ahead.

5 THE WITNESS: This is the workout of lien issue.

6 This has nothing to do with the private offering  
7 memorandum. And we had clearly understood from him that  
8 he wanted this done so it could be given to new counsel  
9 that he was going to work with.

10 After sending this, he was upset that any of my  
11 time showed on it, and, you know -- you know, he left that  
12 message. And I explained that it was a limited role what  
13 we were trying to do to, you know, meet the needs to  
14 confirm the documents and get the package together.

15 Q. (BY MR. CAMPBELL) Mr. Beauchamp, if you were so  
16 upset your name was on it and he told you don't bill me  
17 for your time, why did you bill him for \$6,000? You  
18 billed him for your time on May 14th and your time on  
19 May 13th --

20 MR. DeWULF: Object to form.

21 Q. (BY MR. CAMPBELL) -- for working on the POM.

22 A. He had said he did not want to pay for any time  
23 for the meeting, that the conversation, and clearly --  
24 now, to the extent that the private offering memorandum  
25 had disclosure information, we had said, you know, this is

1 a partially done product. Let us know who your new  
2 counsel is and we will email it to them so they can finish  
3 it, but it was --

4 Q. He never --

5 A. It was value of service delivered.

6 Q. He never ever, ever gave you the name of new  
7 counsel to mail it to, did he?

8 A. No, he did not.

9 Q. And you continued to work for him in June  
10 knowing he hadn't given you the name of any new counsel to  
11 work on it, correct?

12 MR. DeWULF: Object to form.

13 THE WITNESS: In May he said he was meeting and  
14 talking to other counsel, and -- and that -- that he was  
15 going to be making a transition, and I had no reason to  
16 doubt that at all.

17 Q. (BY MR. CAMPBELL) Mr. Beauchamp, in Exhibit 12,  
18 the time you bill in June of 2014 after you terminated  
19 but, continue working for Mr. Chittick, this work is done  
20 on the workout lien issues, right?

21 A. That -- that is correct.

22 Q. And as I -- if I understand your prior testimony  
23 correctly, and if I'm wrong, correct me, the whole POM was  
24 waiting for you to finish on the workout lien issues?

25 MR. DeWULF: Object to form.

1 Q. (BY MR. CAMPBELL) Because you were --

2 A. It was a draft.

3 Q. -- waiting to get disclosure.

4 A. It needed to be finished with the information  
5 from him. The key for the POM was that he had to see the  
6 description of the Forbearance Agreement and he had to  
7 agree to it.

8 Q. Mr. Beauchamp, the Forbearance Agreement was  
9 intimately connected in all the work you were doing with  
10 respect to the POM. True?

11 MR. DeWULF: Object to form.

12 Go ahead.

13 THE WITNESS: The -- at that point in time,  
14 May 2014, the Forbearance Agreement was done, with the  
15 exception of modifications and changes to various  
16 exhibits. And Daniel was dealing with that until he had  
17 specific questions, based upon my previous conversations  
18 with both Denny and Menaged. And -- and that's all I was  
19 involved with, because he was taking care of it, he was  
20 going to finish it, and I was supposed to be out of the  
21 loop as much as possible.

22 Q. (BY MR. CAMPBELL) Okay. The reason you are  
23 terminating your representation in May, as I understand  
24 it, is that Mr. Chittick is not going to follow your  
25 advice regarding disclosure, that's going to be a

1 violation of the securities law, it's a violation of the  
2 fiduciary duties DenSco owes to its investors, and you are  
3 telling Mr. Chittick "I can have no part of that and my  
4 firm can have no part of that," right?

5 MR. DEWULF: Object to form.

6 THE WITNESS: That we could no longer represent  
7 him with respect to the securities disclosure obligations  
8 he has if he is not going to follow through and do them.

9 Q. (BY MR. CAMPBELL) But you can represent him on  
10 everything else?

11 A. No. The -- the question with regard to the  
12 cleanup for the forbearance, that -- that was an internal  
13 issue and if we kept it segregated and let Daniel take the  
14 lead on it, that was removed enough, we could do that.

15 Q. Well, clearly on this issue there must be  
16 something in the file saying that we are terminating this,  
17 but we have made this decision we can go ahead and keep  
18 working for him because in our mind we are separating  
19 these two things out.

20 Is there a piece of paper you can show me in  
21 your file that that's what your firm decided?

22 A. That would have been decided with the general  
23 counsel's office and that would be under --

24 Q. Is there a single --

25 A. -- the attorney/client privilege.

1 Q. Is there a single piece of paper that your firm  
2 is terminating its representation on this securities  
3 matter, but we are not terminating it on the forbearance  
4 matter?

5 MR. DeWULF: Object to form.

6 THE WITNESS: There might have been a note put  
7 on the file. I don't -- I don't recall what was done in  
8 connection with that, because other -- like I said, I  
9 informed the people I needed to inform, and there was no  
10 further need for me to -- to be involved with that.

11 Q. (BY MR. CAMPBELL) Did you notify your file  
12 office to terminate the file?

13 A. You would normally do that when you are shipping  
14 the file offsite to new counsel or shipping it offsite for  
15 storage.

16 Q. What about when you are terminating a client for  
17 violating the securities laws and ignoring your advice?  
18 Do you close the file then?

19 MR. DeWULF: Object to form.

20 THE WITNESS: No. There was still filing that  
21 needed to get in there, so we did not close it and ship it  
22 offsite at that time.

23 Q. (BY MR. CAMPBELL) So if I looked at the file  
24 for any time between May, when you say you terminated, and  
25 the date we filed this lawsuit, it would appear on Clark

1 Hill's calendars, or whatever you call it, as an open  
2 file?

3 MR. DeWULF: Object to form.

4 THE WITNESS: I don't know that, to be honest.

5 Q. (BY MR. CAMPBELL) Actually, let's turn to  
6 Exhibit 13. Exhibit 13 is your time for July 2014, and  
7 you continue billing him in July.

8 This is now, what, the second month after you  
9 said you terminated representing him. True?

10 MR. DeWULF: Object to form.

11 THE WITNESS: This is, again, pertaining  
12 strictly to the workout of lien issue and dealing with the  
13 discrepancies provided in the exhibits from Denny Chittick  
14 with the numbers and the Forbearance Agreement and what we  
15 could do and how to deal with it to finish the agreement,  
16 and...

17 Q. (BY MR. CAMPBELL) Okay. You understand,  
18 Mr. Beauchamp, that without anything in the file  
19 indicating your termination, that someone just looking at  
20 this would just assume you were continuing to represent  
21 the client?

22 MR. DeWULF: Object to form.

23 THE WITNESS: I believe with nothing further at  
24 all on the securities representation and on the  
25 preparation of the POM, that it's clear that there had



1 been agreed upon change of behavior. There was no  
2 document, email or anything that I am aware of from Denny  
3 Chittick that he sent us asking, you know, the status of  
4 the POM and what we are doing. He understood that we were  
5 done on that.

6 Q. (BY MR. CAMPBELL) All right. Let's go to  
7 Exhibit 21. This is Mr. Chittick's journals.

8 Now, you said you had looked at these journals?

9 A. There were specific questions in these journals  
10 that I previously looked at. I have not read every entry.

11 Q. Well, were you curious to look in his journal  
12 entries for May of 2014 and see if he had any journal  
13 entry that said my good friend David Beauchamp has  
14 terminated me today, I'm very upset?

15 MR. DeWULF: Object to form.

16 THE WITNESS: I don't believe I looked for that,  
17 because I knew what had happened.

18 Q. (BY MR. CAMPBELL) well, does it surprise you  
19 that there is not one word in his journals that you have  
20 terminated him?

21 MR. DeWULF: Object to form.

22 THE WITNESS: I don't know what he used this for  
23 and when he wrote the entries in it. I know that -- well,  
24 I imagine he used it for a whole number of purposes, but  
25 there is significant irregularities between what I

1 believed to be true and what he said, and I don't know  
2 what his purpose was doing this.

3 Q. (BY MR. CAMPBELL) well, you know from his Izzy  
4 letter or Iggy letter, the letter to his sister that we  
5 looked at earlier today, he says in that email that he  
6 talked you out of requiring him to do the notice.

7 MR. DeWULF: Object to form.

8 Q. (BY MR. CAMPBELL) Did you look to see if there  
9 was anything in here consistent with that?

10 A. I did not see his corporate log till much, much  
11 later, after August 2016. I don't remember when I saw it.  
12 It even could have been earlier this year.

13 Q. Let's look at July 31. It's going to be on  
14 Bates stamp RECEIVER\_73.

15 You see this is his log for July 31, 2014. It's  
16 on the bottom of the page. So if you go up maybe four  
17 lines and look at the line saying "it's all going in the  
18 right direction."

19 Do you see that?

20 A. I see his words, yes.

21 Q. "It's all going in the right direction, just not  
22 sure if it's going fast enough. As long as David doesn't  
23 bug me I feel like we are doing the right thing."

24 Were you bugging him to do a private offering  
25 memorandum in July of 2014?

1 A. No.

2 Q. Let's turn to Exhibit 411. It's going to be in  
3 volume 7.

4 MR. DeWULF: What was the number again, Colin?

5 MR. CAMPBELL: 411.

6 Q. (BY MR. CAMPBELL) Can you identify what  
7 Exhibit 411 is?

8 A. This is an email that I sent to Denny Chittick  
9 Friday, March 13th, 2015, approximately 8:00 p.m.

10 Q. All right. So this is March 13th, 2015, so this  
11 is going to be seven, eight, nine, ten months after you  
12 terminated your representation, right?

13 A. Correct.

14 Q. Read the first paragraph of your email to  
15 Mr. Chittick.

16 A. "I would like to meet for coffee or lunch (at no  
17 charge to you) so we can sit down and talk about how  
18 things have progressed for you since last year. I also  
19 would like to listen to you about your concerns, and  
20 frustrations with how the forbearance settlement and the  
21 documentation process was handled. I have thought back to  
22 it a lot and I have second guessed myself concerning  
23 several steps in the overall process, but I wanted to  
24 protect you as much as I could. When I felt that your  
25 frustration had reached a very high level, I stopped

1 calling you about how things were going so that you did  
2 not feel I was just trying to add more attorneys fees. I  
3 planned to call you after about the 30 days, but then I  
4 let it slip all of last year because I kept putting it  
5 off. I even have tried to write you several different  
6 emails but I kept erasing them before I could send them."

7 Q. All right. You don't say a word in there about  
8 terminating your representation because he was committing  
9 a securities civil law violation, do you?

10 MR. DeWULF: Object to form.

11 THE WITNESS: I didn't say that because that was  
12 in the past and that is what had happened.

13 When we have or when I have fired other clients  
14 or matters involved with other clients where there has  
15 been extensive interaction and the matter has resolved, I  
16 do try to make a point to touch back with them after a  
17 certain period of time to see how they are doing, see  
18 how -- you know, if they have any suggestions that can  
19 help me in future situations.

20 And that's what I viewed this as, particularly  
21 where Denny or I never had a cross word previously. Not  
22 that I can remember, I should say. And there were some  
23 very, very heated words in the negotiation of the  
24 Forbearance Agreement and with respect to the disclosure  
25 statement. Or the appeal. I'm sorry.

1 Q. (BY MR. CAMPBELL) You have terminated other  
2 clients?

3 A. Yes. Typically for nonpayment of bills, and a  
4 couple instances where conflict of interest came up and we  
5 could not continue to represent them.

6 Q. Have you ever terminated another client because  
7 they were not following your advice and were breaching  
8 fiduciary duties to investors or were committing  
9 securities law violations?

10 MR. DeWULF: Object to form.

11 THE WITNESS: I believe that there was one  
12 several years ago.

13 Q. (BY MR. CAMPBELL) Did you write a letter to  
14 them reinitiating contact ten months after you terminated  
15 your representation?

16 MR. DeWULF: Object to form.

17 THE WITNESS: Actually, I sent them a Christmas  
18 card probably six to nine months and wished them well, and  
19 asked if they wanted to get together and share how things  
20 are going for you guys, you know, off the record. Happy  
21 to meet.

22 Q. (BY MR. CAMPBELL) I suppose you don't have a  
23 copy of that Christmas card like you would an email,  
24 right?

25 A. Well, you send a Christmas card out. You don't

1 make a copy of it usually.

2 Q. Sort of like the firm list, the firm sending out  
3 Christmas cards to clients?

4 A. No. It was cards that I had purchased and I  
5 made a note on.

6 Q. If I were to ask you to give me an email with  
7 the client name redacted, of course, where you reinitiated  
8 contact with a client who you terminated because they were  
9 doing a violation of law, do you have any of those?

10 MR. DeWULF: Object to form.

11 THE WITNESS: This was at a prior firm. I don't  
12 have access to either the file or the computer.

13 Q. (BY MR. CAMPBELL) So you could; you just don't  
14 have access to it?

15 A. I don't -- I mean, the one I am thinking of was  
16 10, 11 years ago.

17 Q. Was this the Christmas card one?

18 A. Yeah.

19 Q. You don't even ask him in this email whether he  
20 is in compliance with the securities law?

21 A. No. I thought that would be -- in order to --  
22 to meet with him, I was trying to keep this low key, and  
23 one of the key purposes for this was to find out who his  
24 new security counsel was, and that was a suggestion from  
25 general counsel's office.

1 Q. Did general counsel suggest you send this email?

2 MR. DeWULF: David, don't disclose privileged  
3 communications. And you went beyond where I thought you  
4 were going to with the answer. Again, I want you to help  
5 answer or try to help Colin with his questions, but don't  
6 disclose what would be advice given or information that  
7 you conveyed to Counsel to get advice.

8 Q. (BY MR. CAMPBELL) And I'm not trying to get  
9 attorney/client information. If you feel you need to talk  
10 to Counsel before you answer a question because of  
11 privilege, you can always talk to Counsel, so...

12 But before this letter was sent, did you have a  
13 conversation with general counsel, yes or no?

14 A. Yes.

15 Q. Read the second paragraph.

16 A. I acknowledge that you were justifiably  
17 frustrated and upset with the expense and how the other  
18 lenders (and Scott at times) seemed to go against you as  
19 you were trying to get things resolved last year for  
20 Scott. I have tried to let time pass so that we can  
21 discuss if you are willing to move forward beyond  
22 everything that happened and still work with me. If not,  
23 I would like you to know that I still respect you, what  
24 you have done and I would like to still consider you a  
25 friend. You stood up for Scott when he needed it and I

1 truly believe it was more than just a business decision on  
2 your part.

3 Q. It seems there is an 800-pound elephant in the  
4 room that's not in your letter, and that's that you  
5 terminated him.

6 You say he is frustrated and upset with the  
7 expense. Wouldn't you anticipate he would be frustrated  
8 and upset with the fact you terminated him? You said he  
9 was very angry when you talked to him.

10 MR. DeWULF: Object to form.

11 THE WITNESS: I did not know if he was going to  
12 agree to meet with me. We had known each other for a long  
13 period of time. So that is why I did not mention the  
14 termination in the email, because I was trying to get some  
15 information from him with respect to how things were  
16 going, and also, you know, how his boys were doing,  
17 because they were -- they were a handful, if I remember  
18 correctly.

19 Q. (BY MR. CAMPBELL) Turn to Exhibit No. 412.

20 Have you seen this before?

21 A. I believe I just saw this earlier this week.

22 Q. You would agree with me that Mr. Chittick is not  
23 saying anything in here that "he told me he quit because I  
24 wouldn't send the POM out"?

25 MR. DeWULF: Object to form.



1 Q. (BY MR. CAMPBELL) You haven't read it. I'll  
2 move on. I'll accept the objection.

3 MR. DeWULF: Thank God.

4 Q. (BY MR. CAMPBELL) So you met with him?

5 MR. DeWULF: Thank you so much.

6 Q. (BY MR. CAMPBELL) You met with him, right?

7 A. Pardon?

8 Q. You met with Mr. Chittick?

9 A. Yeah. It was a very nondescript quick lunch  
10 meeting.

11 Q. Nondescript. He is your friend. He is your  
12 20-year friend. You have terminated him. You have  
13 reinitiated contact. Tell me everything that happened.

14 MR. DeWULF: Object to form.

15 THE WITNESS: Saw him there. We shook hands. I  
16 asked how his boys were, how the family was.

17 Just to give you an idea how superficial it was,  
18 he was divorced by that time and he never said a word  
19 about it. And I know that had to be very traumatic for  
20 him, so -- but he did tell me how the boys were doing.

21 And I then asked, "I'm afraid to ask this, you  
22 know, given I'm not representing you on the securities  
23 stuff," which he made a comment about, I don't remember  
24 what it was, "but I would really like to know how the  
25 forbearance is going. Is it working out? I care as a

1 friend." And he went on and on that, yes, it is,  
2 et cetera. They are going to have it all taken care of in  
3 a certain period of time.

4 And I told him, you know, based on past  
5 experience, things with Scott always take longer than you  
6 expect. Give yourself more time there. Who are you using  
7 for your securities counsel? He got up and left.

8 Q. (BY MR. CAMPBELL) He got up and left?

9 A. Yes. And that was pretty much -- pretty much  
10 it.

11 Q. So you never learned who his new securities  
12 counsel was?

13 A. That is -- that is correct.

14 Q. Let's go back to Exhibit 22. And I will break  
15 after this exhibit for the day.

16 I want you to turn to the journal entry for  
17 June 18th, 2015.

18 MR. DeWULF: Hold on just a second.

19 MR. CAMPBELL: So it's going to be 22,  
20 RECEIVER\_112.

21 Q. (BY MR. CAMPBELL) Sir, do you see on June 18th,  
22 he has a conversation or he has a notation?

23 A. Yes, I see he references date --

24 Q. Hold on. I need to go back. I got the wrong  
25 number. Go to March 24th.

1 Do you remember that March 24th was the day you  
2 had lunch with him?

3 A. I don't remember the date, but I accept your  
4 characterization as that.

5 Q. Okay. Here is what he wrote in his corporate  
6 log. Quote, "I funded four deals for scot and one for  
7 Flip. He paid me off on two that was more than I funded.  
8 I had lunch with David Beauchamp, I was nervous he was  
9 going to put a lot of pressure on me. However, he was  
10 thrilled to know where we were at and I told him by  
11 April 15th, we'll be down to 16 properties with seconds on  
12 them, and by the end of june we hope to have all the  
13 retail houses sold by then and just doing wholesale. He  
14 said he would give me 90 days. I just hope we can sell  
15 them all by then and darn near be done with it. I'm going  
16 to slow down the whole memorandum process too. Give us as  
17 much time as possible to get things in better order."

18 A. We never --

19 MR. DeWULF: Don't -- there is no question.

20 Q. (BY MR. CAMPBELL) Did you tell him you would  
21 give him 90 days?

22 A. The only reference to time was he thought if  
23 everything goes right, we'll be done in such period of  
24 time, and I said give yourself a little bit more time,  
25 because things have always gone slower. That was the only

1 reference to any time period.

2 Q. So it's your testimony under oath that you were  
3 not giving him time to cure the problem before a private  
4 offering memorandum was completed?

5 A. That is correct. Private offering memorandum  
6 was never discussed. His new securities counsel was  
7 discussed, and he terminated lunch at that point.

8 Q. Who was his new securities counsel?

9 A. He said: You don't need to know that.

10 Q. Okay.

11 A. And he got up, grabbed his sandwich, wrapped it  
12 in a napkin and took off.

13 Q. You went back to him for work, correct,  
14 afterwards?

15 A. No. He contacted me in March 2016, I'm not sure  
16 what, and that was one of the reasons that I reached out  
17 to him in 2015, because I know the Arizona Department of  
18 Financial Institutions was doing audits of various  
19 mortgage brokers in the state. And I had planned to tell  
20 him that, but lunch didn't last long enough.

21 Q. You ended up reacquiring him as a client, after  
22 this luncheon meeting, to work on Arizona financial  
23 department issues?

24 MR. DeWULF: Object to form.

25 THE WITNESS: It was a very discrete issue,

1 completely separate from any securities work.

2 Q. (BY MR. CAMPBELL) So even though you had  
3 terminated him as a client, you went back to work for him  
4 in 2015. True?

5 MR. DeWULF: Object to form.

6 THE WITNESS: I did not go back to work for him  
7 until 2016, and --

8 Q. (BY MR. CAMPBELL) 2016.

9 A. -- and it was on a very limited discrete issue,  
10 because I had handled the two previous audits with the  
11 Arizona Department of Financial Institutions for him, and  
12 he thought I -- I think his reference was something about  
13 take your old letter out, dust it off and resend it.

14 Q. You went -- you took him back as a client, and  
15 you had him as a client at the time of his death. True?

16 MR. DeWULF: Object to form.

17 THE WITNESS: No. We were completely done with  
18 that assignment maybe two months prior to his death. I  
19 don't remember the exact dates there.

20 Q. (BY MR. CAMPBELL) When you went back to take  
21 him on as a client, did you ask him what had happened with  
22 respect to the securities offering?

23 A. It was a different conversation than that. It  
24 was something to the effect that I cannot discuss  
25 securities. I have given you advice on that previous. We

1 are not involved with that. I still would like to know  
2 who your new securities counsel is, but I can't be  
3 involved in any way with any securities work for you.

4 Q. Before you took him on as a client and billed  
5 him, did you ask him if he had ever complied with your  
6 advice and issued a new private offering memorandum?

7 A. I had asked him if he had done full disclosure  
8 to his investors and he said yes.

9 Q. Did you ask to look at the private offering  
10 memorandum?

11 A. No, I did not, but his demeanor when he answered  
12 that first question, indicated that would have been a -- a  
13 request leading to an argument, so I did not ask for it.

14 Q. So you went to -- back to using him as a client,  
15 even though you didn't know whether he was violating or  
16 not violating the securities law?

17 MR. DeWULF: Object to form.

18 THE WITNESS: Based on his representations to  
19 me, he had new counsel and he was in fact in compliance  
20 with the securities laws. My matter for him was just  
21 supposed to be a couple thousand dollars, completely  
22 separate, dealing with an audit that I previously handled  
23 for him.

24 Q. (BY MR. CAMPBELL) You realize that if he is  
25 regulated by the Arizona financial department, they

1 require an audit?

2 A. He is not regulated by the Arizona Department of  
3 Financial Institutions.

4 Q. If he was, they would require him to present  
5 them audited financial statements. True?

6 MR. DeWULF: Object to form.

7 THE WITNESS: It depends upon his entity, and we  
8 have been through that before. And I know in other  
9 instances the Arizona Department of Financial Institutions  
10 does require an audit, but they limit it to the mortgage  
11 broker's activities or the mortgage banker's as opposed to  
12 the whole internal fund, and --

13 Q. (BY MR. CAMPBELL) Sir, if -- if -- if the  
14 Arizona --

15 MR. DeWULF: Were you finished? Were you  
16 finished with your answer or no?

17 THE WITNESS: Yeah.

18 MR. DeWULF: Go ahead.

19 Q. (BY MR. CAMPBELL) If the Arizona financial  
20 department had required an audit, do you have an opinion  
21 over whether the audit would have shown he was cooking the  
22 books to hide what was happening?

23 MR. DeWULF: Object to form.

24 THE WITNESS: I -- that's speculation. I have  
25 no way of knowing that, what he would do in that regard.

1 I would hope to God he would be completely honest, like he  
2 had been in other instances previously.

3 Q. (BY MR. CAMPBELL) Did you ever stop to think  
4 that the work you were doing would prevent an audit of his  
5 books?

6 MR. DeWULF: Object to form.

7 THE WITNESS: In my past experience with the  
8 Arizona Department of Financial Institutions, they audit  
9 the loans closed, not the company.

10 MR. CAMPBELL: Why don't we break for the day  
11 and we will start tomorrow at 9:00.

12 MR. DeWULF: Okay.

13 VIDEOGRAPHER: The time is 4:32 p.m. We are  
14 ending for the day with media seven.

15 (Deposition Exhibit Nos. 103 through 432 were  
16 marked for identification.)

17 (4:32 p.m.)

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DAVID GEORGE BEAUCHAMP

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DAVID GEORGE BEAUCHAMP, VOLUME I, 7/19/2018

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 8/2/2018  
 Kelly Sue Oglesby Date  
 15 Arizona Certified Reporter No. 50178

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

19  
 20 \_\_\_\_\_ 8/2/2018  
 JD REPORTING, INC. Date  
 21 Arizona Registered Reporting Firm R1012