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7 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**

8 **IN AND FOR THE COUNTY OF MARICOPA**

9 PETER S. DAVIS, as Receiver of
10 DENSCO INVESTMENT
11 CORPORATION, an Arizona corporation,

12 Plaintiff,

13 v.

14 U.S. BANK, NA. a national banking
15 organization; HILDA H. CHAVEZ and
16 JOHN DOE CHAVEZ, a married couple;
17 JP MORGAN CHASE BANK, N.A., a
18 national banking organization;
19 SAMANTHA NELSON f/k/a
20 SAMANTHA KUMBALECK and
21 KRISTOFER NELSON, a married couple,
22 and VIKRAM DADLANI and JANE DOE
23 DADLANI, a married couple,

24 Defendants.

NO. CV2019-011499

**DEFENDANTS JPMORGAN CHASE
BANK, N.A., SAMANTHA NELSON,
KRISTOFER NELSON, VIKRAM
DADLANI, & JANE DOE DADLANI'S
MOTION TO DISMISS COUNT TWO
OF PLAINTIFF'S FIRST AMENDED
COMPLAINT**

(Assigned to the Honorable Daniel Martin)

(Oral Argument Requested)

JPMorgan Chase Bank, N.A., Samantha and Kristofer Nelson, and Vikram and Jane Doe Dadlani hereby move to dismiss Count Two of the First Amended Complaint (“FAC”) filed by DenSco Investment Corporation (“DenSco”), through Peter S. Davis (“Receiver”), asserting a claim for aiding and abetting a purported underlying fraud.

MEMORANDUM OF POINTS AND AUTHORITIES

DenSco, a longtime lender in the real estate space, lost money in a multimillion-dollar Ponzi scheme orchestrated by Scott Menaged (“Menaged”) more than eight years ago. Believing it was loaning money to Menaged’s company, Arizona Home Foreclosures, LLC (“AZHF”), for the purchase of distressed real estate, DenSco alleges that Menaged, in typical Ponzi scheme fashion, used the DenSco funds to pay off prior loans and for personal expenses. Through this action, DenSco argues the banks that maintained accounts for AZHF should be held responsible for Menaged and AZHF’s fraudulent business dealings, as Menaged has no money to repay DenSco on its losses. But DenSco’s FAC does not plead facts showing the banks (i) had actual knowledge that AZHF was defrauding DenSco, or (ii) in any way shared in Menaged’s ill-gotten gains. Further, it is indisputable that DenSco knew Menaged was a fraudster and liar but did business with him anyway, incurring significant losses as a result. DenSco was best positioned to avoid its unfortunate loss, and there is no basis for holding the banks liable.

Indeed, DenSco’s claim against the Chase Defendants fails because the FAC expressly admits that DenSco learned of Menaged and AZHF’s fraud scheme in November 2013—five months **before** AZHF conducted even one banking transaction at Chase. This admission dooms DenSco’s claim on multiple levels, as it confirms that (i) the complaint is untimely, and (ii) DenSco cannot state a viable underlying fraud claim (which is required for an aiding and abetting action) as a matter of law.

DenSco omitted this vital fact from its original complaint, with the result that the claim was time-barred on its face. DenSco merely alleged that the subject transactions at Chase ceased in June 2015, and as this action was not commenced until August 2019, the three-year limitations period had run. DenSco attempts to cure this obvious timing

1 problem with its pleading by alleging: (i) Menaged’s theft from DenSco was not just one
2 fraud scheme, but actually two distinct frauds; and (ii) while DenSco discovered the
3 purported first fraud in November 2013, no one discovered the purported second fraud—
4 which occurred while Menaged banked with Chase and US Bank—until June 2017, long
5 after the Receiver was appointed. This division of Menaged/AZHF’s fraud, however, is
6 pure fiction. Menaged and AZHF’s fraud scheme remained consistent for years: they
7 provided DenSco with forged documentation to induce DenSco to disburse loan funding
8 directly to AZHF (instead of to a third-party trustee or escrow agent) that was supposed
9 to be used for purchasing foreclosed properties but that Menaged instead stole. No
10 revisionary history can alter the reality that there were no “multiple or different frauds”
11 and DenSco knew of the scheme in 2013.

12 Moreover, DenSco’s claim in the FAC that it did not know that the fraud continued
13 into 2014, 2015, and 2016 is groundless. As detailed below, the Receiver submitted
14 exhibits in its pleadings and filings in the *Clark Hill* Action confirming that DenSco’s
15 president, Denny Chittick, was aware that Menaged’s fraud was ongoing after November
16 2013. These documentary records—of which this Court should take judicial notice—
17 disprove the FAC’s conclusory allegations that no one discovered the purported second
18 fraud until after the Receiver was appointed. Accordingly, it is indisputable that the three-
19 year statute of limitations expired long before the Receiver commenced this matter.

20 Even putting aside the Receiver’s contrived attempt to divide Menaged’s conduct
21 into “two” separate frauds, the Receiver’s admission that DenSco knew that Menaged and
22 AZHF were stealing from DenSco in November 2013—months before a single
23 transaction was conducted at Chase—defeats DenSco’s attempt to assert an aiding and
24 abetting claim as a matter of law. It is well-settled that before a plaintiff can state a viable
25 aiding and abetting fraud action, it must first demonstrate the existence of an underlying
26 fraud claim. A critical component of a fraud claim is justifiable reliance. Given DenSco’s
27 binding admissions as to when AZHF’s fraud was uncovered, DenSco—as a matter of
28 law—could not have justifiably relied on Menaged’s subsequent representations that are

1 the subject of the FAC. DenSco's knowledge of Menaged's fraudulence and dishonesty
2 renders any claim of reliance by this experienced investor wholly unjustified.

3 DenSco's claim also fails for other straightforward reasons. DenSco's allegations
4 conflict with the settled principle that banks do not owe non-customers a duty to protect
5 them from fraud or bad business deals. Banks are not liable for aiding and abetting fraud
6 unless they possess actual knowledge of the fraud scheme and provide substantial
7 assistance to the fraudster. Stripped of its speculative and conclusory contentions, the
8 FAC fails to allege that the Chase Defendants had actual knowledge of Menaged's fraud
9 or that the Chase Defendants had the "extraordinary" economic motivation required to
10 show substantial assistance. DenSco's allegations—and the reasonable inferences to be
11 drawn therefrom—reflect only that Menaged lied to the Chase Defendants about his
12 transactions and that the transactions he engaged in were allegedly unusual. Nowhere
13 does the FAC specifically allege that Ms. Nelson, Mr. Dadlani, or their significant
14 others—none of whom should have been made a party to this case—knew of Menaged's
15 scheme to defraud DenSco. Similarly absent is a single allegation suggesting that the
16 Chase Defendants had an extraordinary economic motivation to assist with the fraud,
17 without which DenSco cannot plead the required element of substantial assistance.

18 To be sure, this is an unfortunate episode. But Chase, which merely served as
19 AZHF's bank for a short period of time, cannot be held liable based on allegations that
20 Chase "should have known" that Menaged was conducting a fraud, especially when
21 DenSco knew that AZHF was defrauding it before a single transaction occurred at Chase.

22 **FACTUAL BACKGROUND¹**

23 **I. The Receiver's Allegations in the FAC**

24 **a. The DenSco/AZHF Business Relationship and DenSco's Knowledge 25 of the Fraud**

26 DenSco was a lender that made short-term "hard money loans" for the purchase of

27 ¹ Chase treats DenSco's allegations as true only for purposes of this Motion. *See Cullen*
28 *v. Auto-Owners Ins. Co.*, 218 Ariz. 417, 419 ¶ 7, 189 P.3d 344, 346 (2008) (en banc).
However, "[T]he Court can take judicial notice of [the] court file in [another] case without
converting the Motion to Dismiss to a motion for summary judgment." *Calhoun v.*

1 foreclosed homes sold at trustee’s sales. (FAC ¶ 1.) Chittick was DenSco’s sole owner
2 and operator. (*Id.* ¶ 2.) DenSco began doing business with Menaged and AZHF
3 approximately nine years ago. (*Id.* ¶ 16.) Menaged held himself out to be a purchaser of
4 foreclosed homes and borrowed money from DenSco to purchase properties. (*Id.* ¶¶ 19–
5 20.) DenSco admits that it discovered that Menaged was defrauding DenSco “in or around
6 November 2013”—five months before AZHF began banking with Chase. (*Id.* ¶ 26.)

7 In an effort to circumvent the applicable statute of limitations, DenSco now alleges
8 in the FAC that what it discovered was the “First Fraud,” a fraud scheme “separate and
9 distinct” from the “Second Fraud” that the banks allegedly aided and abetted. (*Id.* ¶ 22.)
10 According to DenSco, from 2011–2013, Menaged perpetrated this so-called first fraud in
11 the amount of almost \$40 million by “soliciting two separate loans from two separate
12 lenders,” one of which was DenSco, and that DenSco was not actually the secured creditor
13 in first position. (*Id.* ¶¶ 23–24.) DenSco alleges that this fraud was made possible because
14 DenSco paid the loan money to Menaged directly, instead of routing the funds through
15 the trustee or an escrow company. (*Id.* ¶ 25.)

16 When DenSco discovered Menaged’s fraud in November 2013, DenSco and
17 Menaged executed a forbearance agreement, pursuant to which Menaged was “indebted
18 to DenSco in the amount of \$37,420,120.47.” (*Id.* ¶¶ 35–36.) Despite its knowledge that
19 Menaged had just duped it out of almost \$40 million, DenSco doubled down and
20 continued to disburse funds directly to Menaged for the exact same purpose as it always
21 had: “for the purchase of real estate from foreclosure auctions.” (*Id.* ¶ 37.) After the
22 November 2013 discovery of fraud, the same target (DenSco) would proceed to “make
23 2,172 new loans” to the exact same individual (Menaged) for the exact same purpose
24 (foreclosure purchases). DenSco did this without any protective measures such as

25 *Waesche*, No. CV 2013-016208, 2014 Ariz. Super. LEXIS 914, at *1 (Super. Sep. 10,
26 2014).¹ And critical here, the Court is “not required to accept as true allegations that
27 contradict [] matters properly subject to judicial notice.” *Daniels-Hall v. Nat’l Educ.*
28 *Ass’n*, 629 F.3d 992, 998 (9th Cir. 2010); *see also Snyder v. HSBC Bank, USA N.A.*, 913
F. Supp. 2d 755, 765 (D. Ariz. 2012) (a court “need not [] accept as true an amended
complaint’s [] ‘allegations contradicting documents [] that are properly subject to judicial
notice’”) (quoting *Lazy Y Ranch LTD. v. Behrens*, 546 F.3d 580, 588 (9th Cir. 2008)).

1 payments to a trustee or escrow agent. DenSco alleges that this execution of the
2 forbearance agreement meant the first fraud was “discovered and ended.” (*Id.* ¶¶ 45–46.)
3 Drafting gamesmanship aside, on the face of the facts, this was one ongoing fraud.

4 **b. Allegations Involving the Chase Defendants**

5 Although DenSco alleges that Menaged’s fraudulent activity began in December
6 2011, it was not until April 2014 that AZHF opened an account at Chase. (*Id.* ¶¶ 16, 139.)
7 DenSco alleges that the Chase Defendants aided and abetted Menaged in defrauding
8 DenSco based on Menaged’s representations—made from April 2014 through June 2015
9 (*id.* ¶ 189)—that AZHF would use the DenSco loan funds to buy properties. (*Id.* ¶ 175.)

10 But DenSco’s own allegations disprove the notion that the Menaged/AZHF fraud
11 “ended” in any actual way. Rather, the FAC expressly asserts that the forbearance
12 agreement only “altered” Menaged and DenSco’s “business practices.” (*Id.* ¶ 72.)
13 Significantly, DenSco alleges that the core misrepresentation that enabled Menaged’s
14 fraud remained the same throughout: “[f]rom December 2012 through May 2016,
15 Menaged emailed DenSco a list of Identified Properties that were in foreclosure
16 proceedings [and] intentionally misrepresented that he (or his company) attended the
17 various trustee’s sale public auctions and was the winning bidder to purchase the
18 Identified Properties.” (*Id.* ¶ 93.) DenSco reinforces this point when it alleges that, in
19 January 2014, “DenSco and Menaged **altered** their business practices” by requiring
20 Menaged to provide copies of the cashier’s checks that Menaged’s bank—first U.S. Bank,
21 later Chase—issued to the foreclosure trustee, as well as copies of Menaged’s property
22 purchase receipts. (*Id.* ¶¶ 46–47, emphasis added.) To reiterate, even though the target
23 (DenSco), fraudster (Menaged), and means (misrepresentations about using DenSco
24 funds to purchase foreclosed real estate and DenSco payments directly to AZHF rather
25 than a trustee/escrow agent) remained identical, DenSco alleges that because the
26 alteration of the process to require Menaged to provide a copy of the cashier’s check made
27 payable to the respective foreclosure trustee, this somehow constituted a new second
28 fraud. (*Id.* ¶ 48.)

1 DenSco acknowledges and does not dispute that Menaged misrepresented
2 information to the Chase Defendants when Menaged directed transactions. (*Id.* ¶¶ 162–
3 63.) DenSco alleges that upon receiving the completed cashier’s checks, Menaged would
4 photograph the checks and electronically send the picture to DenSco to make DenSco
5 believe he was using the loan proceeds to purchase properties. (*Id.*) DenSco alleges that
6 after Menaged sent the photo to DenSco, he would redeposit the cashier’s checks back
7 into Menaged’s AZHF account, whereupon Menaged would proceed to use the funds in
8 different ways, including, from time to time, withdrawing redeposited funds in cash or
9 transferring the funds to his other Chase accounts. (*Id.* ¶¶ 167, 190.) DenSco alleges that
10 subsequently, Menaged would falsify a trustee’s sale receipt with information directly
11 from the cashier’s check that Chase issued and redeposited. (*Id.* ¶¶ 167-68.)

12 DenSco then alleges in conclusory fashion that, given Menaged’s banking habits,
13 the Chase Defendants knew that Menaged was defrauding DenSco and substantially
14 assisted Menaged. (*See generally id.* ¶¶ 172–91, 192–221.) But absent from the FAC is
15 any factual allegation that the Chase Defendants had express knowledge that Menaged
16 or AZHF was dishonest. Notably, there are no allegations that the Chase Defendants were
17 aware of or privy to the contractual agreements between Menaged and DenSco regarding
18 their business relationship. In fact, there is no allegation that the Chase Defendants were
19 aware of the nature of any relationship between DenSco and Menaged/AZHF, let alone
20 the specific terms of any arrangement between DenSco and AZHF. Nor does DenSco
21 allege that the Chase Defendants knew that Menaged’s redeposited funds were not being
22 used for the eventual purchase of properties or other proper reasons during the time that
23 AZHF conducted the cashier’s check transactions between April 2014 and June 2015.

24 In addition, the only “financial motive” that DenSco alleges the Chase Defendants
25 to have possessed was that Menaged moved “millions of dollars through his accounts,”
26 suggesting that Chase—but not the named Nelson or Dadlani defendants—had a
27 “heightened motivation of maintaining accounts worth millions of dollars.” (*Id.* ¶¶ 191,
28 217.) Nowhere does DenSco allege that the Chase Defendants had any sort of economic

1 motivation to assist Menaged in his fraud, let alone an extraordinary reason to do so.

2 **II. The Receiver's Judicial Admissions Contradicting the FAC**

3 The FAC alleges that Chittick (and therefore DenSco) did not know that Menaged
4 continued to defraud DenSco after November 2013. DenSco claims that when Menaged
5 filed for Chapter 7 bankruptcy in April 2016, he allegedly owed DenSco \$30 million in
6 loans. (*Id.* ¶¶ 62–63.)² Chittick passed away three months later. DenSco alleges that
7 Chittick died without knowledge of the so-called second fraud. (*Id.* ¶¶ 64–69.) Rather,
8 DenSco alleges that the so-called second fraud was not discovered until after the
9 Receiver's August 2016 appointment, specifically in either December 2016 or June
10 2017—the allegations do not make it clear. (*Id.* ¶¶ 71, 79, 81.)

11 DenSco's public judicial filings in *Peter S. Davis, as Receiver for DenSco Inv.*
12 *Corp. v. Clark Hill PLC* (“Clark Hill Action”), Case No. 2017-013832, contradict these
13 allegations, including the artificial distinction between the so-called first fraud and second
14 fraud. DenSco's filings and judicial admissions make clear: there was one fraud, in which
15 Menaged and his company obtained and misused DenSco's funds under false pretenses.
16 DenSco's admissions also establish that DenSco had knowledge of Menaged's fraud long
17 before the Receiver was appointed and DenSco could never have reasonably relied on
18 statements from Menaged concerning any cashier's check transaction at Chase.

19 In support of its Motion for Determination that Plaintiff Has Made a Prima Facie
20 Case for Punitive Damages (“Clark Hill Prima Facie SOF”), DenSco filed a statement of
21 facts attaching numerous excerpts from Chittick's corporate journal (referred to as the
22 “DenSco Journal”) and an “Investor” letter that was never sent but was among the
23 business records obtained by the Receiver.” (Ex. A, ¶¶ 111, 234, 301, 325.)³ These
24 documents, which DenSco relied on as truthful and accurate evidence in the *Clark Hill*

25
26 ² In October 2017, Menaged pleaded guilty to bank fraud, identity theft, and money
laundering charges and was sentenced to seventeen years in prison. (FAC, ¶¶ 85–86.)

27 ³ The Clark Hill Prima Facie SOF is attached hereto as Exhibit A, and the pertinent
28 attachments thereto are attached hereto as Exhibit B (DenSco's 2013 Journal); Exhibit C
(DenSco's 2014 Journal); Exhibit D (DenSco's 2015 Journal); and Exhibit E (the 2016
Investor Letter).

Action, put the lie to the allegation that the so-called second fraud was not discovered until after Chittick's death in July 2016. This documentary evidence—incorporated by DenSco into its pleadings and filings—reveals that DenSco was on notice that Menaged/AZHF continually misappropriated DenSco funds from the beginning of 2014 through the end of June 2015, when Menaged stopped banking with Chase:

Date	Source	Excerpt ⁴
2/25/2014	Ex. C, RECEIVER_000051	I talked with Scott for an hour, we went over like three more scenarios. It all boils down to him coming up with cash. He does, that we'll be able to pay off a lot of loans, in numbers not dollars. Then his attorney sent over a 35 page agreement which was completely different than what scott agreed too. I swear they are just drgging this out and have no intention of signing anything.
3/31/2014	Ex. C, RECEIVER_000057	Scott is now convinced he's going to just sell all the properties and owe me a sh!t load of money and work on paying it off. at this point it clears the books, brings in the interest and then hopefully he can produce enough money that he can pay down the debt, it could be 8 million. That's a scary f*cking number. I'll now be able to fund a few more deals that are popping up. I only lost 95k this month. If he sells the properties, and I get the interest in, I'll have a good year, which will be good to put some capital on the books incase he f*cks me at some point.
6/10/14	Ex. C, RECEIVER_000066	I started looking up old wholesale deals from scott, I couldn't find any htat were recorded, or very few. I went to the auction today to see if I could see louie buy some. No one knows me. John ray walks up and blows it! he's introducing me to everyone. I see louie buy one, then that's not on the list. I question scott about it he says it was paid for by a customer, he only bought two others, and they were after I left. Then the thing with the deeds he explains that they hold them until the guy they sell it to sells it so that if there are HOA's they don't get hit with all the

⁴ The DenSco journal and Investor Letter are riddled with typos. The Chase Defendants have maintained those typos in this chart in order to provide the Court with an accurate iteration of the text of the documents subject to judicial notice. The emboldened emphases, however, have been added by the Chase Defendants.

		fees. We go over all the properties. He's almost 40 million now.
9/15/14	Ex. C, RECEIVER_000079	Scott was back and forth several times with me checking properties and amounts. Gregg was trying to give him releases for properties that were already paid off my only problem is that scott kept saying hey I came to you a year and half ago, when it was just in November. I think he knew about this longer than he's telling me.
Late 2014	Ex. E, DIC0009472	This whole agreement bothered me and wasn't sure it was right. Over time I was getting more and more uncomfortable with this arrangement and kept asking more questions. I told him I wasn't comfortable with this arrangement and he need to return the funds to me and I would no longer fund any more deals. [] We are now in late 2014. I was adamant that I wanted to stop this transaction. I wasn't sure what the truth was as far as arrangement how or who was getting paid etc.
December 2014	Ex. E, DIC0009473	Now compounded with the knowledge that all along I had been an unwittingly accomplice in some kind of fraud in my estimation. I felt like I was between a rock and hard place, with no out. In December I said no more.

These admissions establish that DenSco was aware of Menaged and AZHF's ongoing misconduct long before DenSco now claims in the FAC. Indeed, the allegations that "Chittick was not aware of the Second Fraud when he committed suicide" and was "not discovered until after the Receiver was appointed" cannot be reconciled with the documents that DenSco filed and relied upon in the *Clark Hill* Action, which demonstrate that Menaged AZHF's misconduct cannot be split neatly into two wholly distinct fraud schemes. (FAC, ¶¶ 69, 71.) Well before Menaged and AZHF began banking with Chase, DenSco knew it was engaging with a known fraudster, and it chose to keep doing so. Because DenSco's admissions demonstrate this truth, DenSco's contradictory allegations

otherwise should be disregarded in the Court’s consideration of this Motion

LEGAL STANDARD

The affirmative defense of statute of limitations is properly raised in a motion to dismiss where it appears from the face of the complaint that the claim is barred. *Dicenso v. Bryant Air Conditioning Co.*, 131 Ariz. 605, 606, 643 P.2d 701, 702 (1982). In such case, the burden is on the plaintiff to establish that the statute has been tolled. *See Salcido v. JPMorgan Chase Bank NA*, No. CV-14-02560, 2015 WL 1242799, at *5 (D. Ariz. Mar. 18, 2015) (construing Arizona law to require that “[p]laintiffs bear the burden of establishing that a limitations period should be equitably tolled”).

A complaint is also properly dismissed when it fails to allege the elements of a claim. In determining if a complaint states a claim, conclusory statements are never sufficient. *Cullen*, 218 Ariz. at 419 ¶ 6, 189 P.3d at 346. Moreover, Arizona courts “do not accept as true allegations consisting of conclusions of law, inferences or deductions that are not necessarily implied by well-pled facts, unreasonable inferences or unsupported conclusions from such facts, or legal conclusions alleged as facts.” *Sw. Non-Profit Hous. Corp. v. Nowak*, 234 Ariz. 387, 391 ¶ 10, 322 P.3d 204, 208 (App. 2014) (internal quotations omitted). Plaintiffs can also plead themselves out of court when “the pleadings establish facts compelling a decision one way[.]” *Solar Utils. Network v. Navopache Elec. Coop., Inc.*, No. CV-12-08095, 2013 WL 5434578, at *2 (D. Ariz. Sep. 27, 2013) (quoting *Weisbuch v. Cnty. of L.A.*, 119 F.3d 778, 783 n.1 (9th Cir. 1997)).

Finally, for claims alleging fraud, it is not enough to satisfy mere notice pleading standards. Rather, each of the elements of aiding and abetting must meet the heightened pleading standard of Ariz. R. Civ. P. 9(b). *See Van Weelden v. Hillcrest Bank*, No. 2:10-CV-01833, 2011 WL 772522, at *6 (D. Ariz. Feb. 28, 2011).⁵

⁵ Federal cases applying the Federal Rules of Civil Procedure are entitled to “great weight,” “[b]ecause Arizona has substantially adopted the Federal Rules of Civil Procedure.” *Anserv Ins. Serv., Inc. v. Albrecht*, 192 Ariz. 48, 49 ¶ 5, 960 P.2d 1159, 1160 (Ariz. 1998) (en banc).

ARGUMENT

I. DenSco's Claim Is Time-Barred.

DenSco's claim is time-barred because it was filed after the statute of limitations expired. In Arizona, the statute of limitations for a claim of aiding and abetting fraud is three years, which is the same period applicable to a fraud claim. *Serrano v. Serrano*, No. 1 CA-CV 10-0649, 2012 WL 75639, at *3 (App. Jan. 10, 2012) (citing Ariz. Rev. Stat. § 12-543(3)); *see also Montano v. Browning*, 202 Ariz. 544, 546 ¶ 4, 48 P.3d 494, 496 (App. 2002) ("claims that are clearly brought outside the relevant limitations period are conclusively barred"); *Seven Arts Filmed Enter. Ltd. v. Content Media Corp. PLC*, 733 F.3d 1251, 1254 (9th Cir. 2013) ("A statute-of-limitations defense, if apparent from the face of the complaint, may properly be raised in a motion to dismiss") (internal citation and quotations omitted).

Here, DenSco admits that (i) Menaged engaged in cashier's check transactions at Chase "from April of 2014 through June 2015," (FAC, ¶¶ 187, 216), and (ii) DenSco discovered the fraud "in or around November 2013," when Chittick discussed the fraud with Menaged himself. (*Id.* ¶ 26–27.) Accepting these allegations as true, DenSco's claims are time-barred because DenSco filed its original August 16, 2019 complaint more than three years after the last transaction was alleged to have occurred with Chase in June 2015, and more than five-and-a-half years after DenSco discovered Menaged's fraud in November 2013. *See Cornelis v. B & J Smith Assocs. LLC*, No. CV-13-00645, 2014 WL 1828891, at *5 (D. Ariz. May 8, 2014) (dismissing fraud-based claims as untimely because they were brought "well after the expiration of the three-year statute of limitations" based on the face of the complaint); *see also Shupe v. Cricket Commc'ns, Inc.*, No. CV 13-1052, 2014 WL 6983245, at *7 (D. Ariz. Dec. 10, 2014) (dismissing fraud claim where it was untimely based on the face of the complaint).

II. DenSco's FAC Is Fundamentally Flawed Because It Fails to Plausibly Allege Any of the Elements of an Aiding and Abetting Claim.

To state a claim for aiding and abetting, DenSco must plead three elements: (a) Menaged committed a tort that caused injury to DenSco; (b) the Chase Defendants

1 knew Menaged’s conduct constituted a tort; and (c) the Chase Defendants substantially
2 assisted Menaged in the achievement of the tort. *Stern v. Charles Schwab & Co., Inc.*,
3 No. CV-09-1229, 2010 WL 1250732, at *8 (D. Ariz. Mar. 24, 2010) (“*Stern II*”) (citing
4 *Wells Fargo Bank v. Ariz. Laborers, Teamsters, & Cement Masons Local No. 395*
5 *Pension Tr. Fund*, 201 Ariz. 474, 485 ¶ 34, 38 P.3d 12, 23 (2002)). Here, DenSco does
6 not and cannot plausibly allege any of these elements. Among other things: (a) DenSco
7 admits that there is no actionable underlying fraud claim to support the aiding and abetting
8 claim against the Chase Defendants; (b) DenSco does not adequately allege that the Chase
9 Defendants knew of Menaged/AZHF’s alleged fraud; and (c) DenSco fails to allege the
10 substantial assistance prerequisite that the Chase Defendants had an extraordinary
11 economic motivation to assist Menaged in the commission of his alleged fraud. Each of
12 these failures independently warrants dismissal of Count Two.

13 **a. DenSco Admits that There Is No Actionable Underlying Tort**
14 **Supporting the Aiding and Abetting Claim.**

15 An aiding and abetting claim requires the commission of an underlying tort. *Ariz.*
16 *Laborers*, 201 Ariz. at 485 ¶ 34, 38 P.3d at 23. Here, that underlying tort is fraud, an
17 “essential element” of which “is actual, justifiable reliance on the alleged
18 misrepresentation.” *In re Gorilla Cos., LLC*, 454 B.R. 115, 118 (Bankr. D. Ariz. 2011)
19 (citing *Kuehn v. Stanley*, 208 Ariz. 124, 128, 91 P.3d 346, 350 (Ariz. 2004)). As a matter
20 of law, a party cannot reasonably or justifiably rely on a representation it knows, or has
21 reason to know, to be false. *See In re Kirsh*, 973 F.2d 1454, 1458–60 (9th Cir. 1992)
22 (holding that sophisticated creditor had not justifiably relied on the debtor’s
23 representations because there was no excuse for relying on the debtor rather than
24 obtaining a title report); *see also* W. Prosser, *Law of Torts* § 108, p. 718 (4th ed. 1971)
25 (“where [] the facts should be apparent to one of [the victim’s] knowledge and intelligence
26 from a cursory glance, or he has discovered something which should serve as a warning
27 that he is being deceived[,] he is required to make an investigation of his own”).
28

1 DenSco’s own allegations in the FAC confirm that DenSco cannot state a primary
2 fraud claim relating to the alleged cashier’s check scheme Menaged perpetrated while
3 banking at Chase from April 2014 through June 2015. DenSco expressly admits that it
4 learned of Menaged and AZHF’s fraud in November 2013—five months before Menaged
5 allegedly began banking with Chase. (*See* FAC, ¶ 26.) DenSco, therefore, concedes that
6 it had express knowledge that Menaged and AZHF squandered DenSco’s loan funds
7 through fraud before AZHF opened a single account at Chase.

8 This admission precludes DenSco from plausibly pleading justified reliance and
9 an actionable underlying fraud claim, which are necessary for DenSco to plead a
10 secondary aiding and abetting fraud claim against the Chase Defendants. Based on
11 DenSco’s knowledge of AZHF’s fraud and DenSco’s decision to continue doing business
12 with Menaged/AZHF—a man and a company it knew to be engaged in fraud (but
13 unbeknownst to the Chase Defendants)—DenSco cannot claim “justifiable reliance” on
14 Menaged’s alleged post-January 2014 misrepresentations as a matter of law.

15 It has long been the law in Arizona “that a party is not entitled to a verdict [on a
16 fraud] if by an ordinary degree of caution the party complaining could have ascertained
17 the falsity of the representations complained of.” *Stanley Fruit Co. v. Ellery*, 42 Ariz. 74,
18 78, 22 P.2d 672, 674 (Ariz. 1933). Here, DenSco’s admission confirms that DenSco failed
19 to exercise even an ordinary degree of caution when it continued doing business with
20 Menaged and AZHF. Given DenSco’s business acumen and the relationship between
21 DenSco and Menaged/AZHF, DenSco could not, as a matter of law, justifiably rely on
22 the representations allegedly made. *See AGA Shareholders, LLC v. CSK Auto, Inc.*, 589
23 F. Supp. 2d 1175, 1191–92 (D. Ariz. 2008) (“aiding and abetting [is a] derivative tort[]
24 for which a plaintiff may recover only if it has adequately pled an independent primary
25 tort”). As a matter of Arizona law, DenSco not only “had reason to know,” but indeed
26 fulsomely admits that it knew that AZHF was engaged in fraud.

27 This flaw in DenSco’s pleading is unfixable, demonstrating that DenSco has no
28 actionable aiding and abetting claim against the Chase Defendants as a matter of law.

b. DenSco Also Fails to Plausibly Allege that Chase Knew of Menaged’s Alleged Fraud.

DenSco’s FAC fails to plead the other necessary elements of an aiding and abetting claim. “The Arizona Supreme Court has stated that ‘aiding and abetting liability is based on proof of scienter[;] the defendant must *know* that the conduct they are aiding and abetting is a tort.’” *Stern II*, 2010 WL 1250732, at *8 (quoting *Ariz. Laborers*, 201 Ariz. at 485 ¶ 33, 38 P.3d at 23). “[M]ere knowledge of suspicious activity is not enough. The defendant must be aware of the fraud.” *Id.* at *8 (internal citations and quotation marks omitted). “[S]pecifically,” the defendants must have been “*aware* that [the fraudster] *did or would in fact*” perpetrate the specific fraud. *Dawson v. Withycombe*, 216 Ariz. 84, 103 ¶ 52, 163 P.3d 1034, 1053 (App. 2007).⁶

Twenty paragraphs of the FAC purportedly allege that the Chase Defendants had knowledge of Menaged’s fraud on DenSco. (*See* FAC, ¶¶ 172–91.) But none of DenSco’s assertions plausibly allege actual knowledge as required under the *Arizona Laborers* standard. Rather, the most that DenSco’s allegations suggest is that the Chase Defendants observed Menaged carry out certain banking transactions in a different or unusual way, not that Menaged was involved in a Ponzi scheme predating Chase.

Allegations that a defendant “should have known” of the alleged fraud are not enough. *See Minotto v. Van Cott*, No. 1 CA-CV 15-0159, 2016 WL 3030129, at *4 (App. May 26, 2016) (dismissing aiding and abetting claim where allegations that defendant “*should* have known” did not plead “a level of knowledge sufficient to satisfy the elements of aiding and abetting tortious conduct”); *see also Neilson v. Union Bank of Cal., N.A.*, 290 F. Supp. 2d 1101, 1119–20 (C.D. Cal. 2003) (allegation that defendant bank “should have known” of fraud does not satisfy actual knowledge requirement of

⁶ The actual knowledge requirement is of critical importance. The bad actors in Ponzi schemes are the Ponzi principals themselves who bilk investors out of their funds, not banks. That a bank was utilized by a Ponzi schemer should not subject that bank to fraud liability where the bank was not in on the fraud itself. Indeed, banks have long been shielded from liability where a party suffers a loss at the hands of a bank customer. If the “actual knowledge” requirement gets watered down, courts risk putting banks in the costly, pervasive, and untenable position of defending themselves in civil actions predicated on customer misconduct, even where the banks have engaged in no misconduct whatsoever.

aiding abetting claim).⁷ Here, at most, DenSco’s allegations suggest that the Chase Defendants “should have known” that Menaged/AZHF were duping DenSco because Menaged redeposited cashier’s checks into the AZHF account. But DenSco’s allegations do not “suggest[] in any way that [Chase] had knowledge of [Menaged’s] intent or even propensity to act in bad faith toward [DenSco].” *Federico v. Maric*, 224 Ariz. 34, 37 ¶ 11, 226 P.3d 403, 406 (App. 2010). DenSco cannot make out a proper actual knowledge allegation or aiding and abetting claim by pointing to what the Chase Defendants purportedly should have known.

Similarly, it is well settled that a bank’s observance of alleged “red flags” is not sufficient to plead actual knowledge of the specific fraud allegedly at issue. Recognizing this point, Arizona courts hold that even in cases where alleged abettors are aware of a fraudster’s “dishonest character, [] poor judgment, and risky business practices”—a fact not alleged here—that does not amount to actual knowledge of their particular fraud. *Dawson*, 216 Ariz. at 103 ¶ 52, 163 P.3d at 1053. Indeed, “good reason to be suspicious” and facts that “raise[] ‘red flags’ that should have prompted greater inquiry” are insufficient to “satisfy the knowledge requirement of Arizona’s aiding and abetting law.” *Stern II*, 2010 WL 1250732, at *10.

DenSco cannot satisfy its burden to plead actual knowledge by alleging that Chase missed or ignored supposed “red flags” or should have known Menaged was involved in fraud. Here, even DenSco’s allegation that the Chase Defendants knew Menaged was redepositing and redistributing funds that DenSco provided to him does not demonstrate actual knowledge of an alleged fraud on DenSco. First, DenSco’s allegation that the Chase Defendants knew that the funds belonged to DenSco because DenSco was listed as the “originator” on wire transfers into the AZHF account is insufficient to show actual knowledge that funds deposited into the AZHF were not actually funds belonging to

⁷ In addition, the Arizona District Court has already rejected the contention that banks must “approve, supervise and control [the fraudster’s] account,” because “[u]nder Arizona case law, the relationship between a bank and an ordinary customer is no more than that of debtor and creditor” and “does not give rise to a fiduciary duty.” *Stern II*, 2010 WL 1250732, at *2 (internal quotation marks omitted).

AZHF. Rather, the term “originator” is a statutorily-defined term from Article 4A of the Arizona Uniform Commercial Code that simply means that DenSco was the sender that initiated the wire request; it has nothing to do with ownership, nor is it an indication that the wires were from a loan originator, as DenSco mistakenly implies. *See* A.R.S. § 47-4A-104-3-4. Second, the FAC fails to allege that the Chase Defendants knew that Menaged’s redeposited funds were not going to be directed to the purchase of properties Menaged identified on the cashier’s checks, or would be used for some improper business purpose inconsistent with Menaged’s representations to DenSco.

The FAC also concedes that Menaged made misrepresentations to the Chase Defendants, while conspicuously omitting any allegation that the Chase Defendants knew Menaged to be deceitful. These allegations flatly contradict DenSco’s conclusory claim that the Chase Defendants possessed actual knowledge of Menaged’s Ponzi scheme and demonstrate how improper it is for the Receiver to include two misled branch bank employees, Ms. Nelson and Mr. Dadlani, as parties to this suit.⁸ Arizona courts are clear: even “a reasonable inference that [the Chase Defendants] knew of unusual, unprecedented, and unexplained levels of activity in [Menaged’s] account” is insufficient to establish knowledge of the underlying fraud. *Stern II*, 2010 WL 1250732, at *10.

That the Receiver has alleged so little in the way of actual and express knowledge on the part of the Chase Defendants after the many years that the Receiver has been in place solidifies that this element can never be pled; this failure should result in Count Two’s dismissal with prejudice.

c. DenSco Has Not Alleged Substantial Assistance.

For similar reasons, DenSco has not and cannot plead substantial assistance. To establish the third element of a claim for aiding and abetting, DenSco must plausibly allege that Chase substantially assisted Menaged in the commission of his fraud. *See Stern*

⁸ To be sure, with the benefit of hindsight, it is *now* public knowledge that Menaged did not purchase the properties with the redeposited checks. But even during the commission of Menaged’s fraud, and as DenSco concedes, “[f]rom time to time, Menaged used a cashier’s check for its intended purpose to purchase one of the Identified Properties at a trustee’s sale.” (FAC, ¶ 181.)

1 v. *Charles Schwab & Co., Inc.*, No. CV-09-1229-PHX-DGC, 2009 WL 3352408, at *7
2 (D. Ariz. Oct. 16, 2009) (“*Stern I*”). “Proof of substantial assistance requires a showing
3 that [the defendant’s] conduct was ‘a substantial factor in causing the [plaintiff’s] harm.’”
4 *Id.* at * 8 (quoting *In re Am. Cont’l Corp.*, 794 F. Supp. 1424, 1434–35 (D. Ariz. 1992)).
5 “Processing day-to-day transactions does not constitute substantial assistance unless the
6 bank has an ‘extraordinary economic motivation to aid in the fraud.’” *Stern I*, 2009 WL
7 3352408, at *8 (quoting *Ariz. Laborers*, 201 Ariz. at 489 ¶ 48, 38 P.3d at 27) (emphasis
8 added). Arizona courts have made clear that a plaintiff must allege more than the
9 existence of “ordinary account fees and credit interest.” *Stern I*, 2009 WL 3352408, at *8
10 (citing *Ariz. Laborers*, 201 Ariz. at 489 ¶ 48, 38 P.3d at 27).

11 DenSco fails to allege the existence of anything beyond the typical depositor-bank
12 relationship in connection with the AZHF accounts at Chase. Indeed, all that DenSco
13 musters on this point is the vague and conclusory assertion that the Chase Defendants had
14 a “financial motive” to assist Menaged because he moved “millions of dollars through his
15 accounts” at Chase. (FAC, ¶ 217.) This nonsensical allegation is plainly insufficient to
16 establish the “extraordinary motivation” required under Arizona law. As the Arizona
17 District Court explained in *Stern I* when rejecting such improper and inadequate pleading:
18 allowing a customer “to open and continue maintaining” an account, “permitting
19 transactions in the millions of dollars, and accepting deposits and transferring money” are
20 simply not enough to plead substantial assistance. *Stern I*, 2009 WL 3352408, at *8–9
21 (dismissing claim for aiding and abetting because banking services “were not provided in
22 a setting of extraordinary economic motivation”); *see also Neilson*, 290 F. Supp. 2d at
23 1122 (“ordinary fees, even fees calculated on the basis of the amount of assets held in an
24 account, do not satisfy the ‘personal gain or financial advantage’ requirement”). Thus,
25 Count Two should be dismissed with prejudice.

26 CONCLUSION

27 For the foregoing reasons, Count Two’s sole claim should be dismissed with
28 prejudice and the Chase Defendants should be dismissed as parties from this action.

GOOD FAITH CONSULTATION CERTIFICATE

Defendants JPMorgan Chase Bank, N.A., Samantha Nelson f/k/a Samantha Kumbaleck, Kristofer Nelson, Vikram Dadlani, and Jane Doe Dadlani (collectively, the “Chase Defendants”), in accordance with Rules 7.1(h) and 8.1(e)(4), Ariz. R. Civ. P., and the Court’s order dated March 25, 2020, hereby certify that their counsel and counsel for the Receiver have conferred via telephone to determine whether an amendment would cure any of the alleged pleading deficiencies set forth in the Chase Defendants’ Motion to Dismiss. Having conferred, counsel for the parties are unable to agree that the alleged pleading deficiencies the Chase Defendants raise in their motion are curable by permissible amendment.

RESPECTFULLY SUBMITTED this 6th day of May, 2020.

GREENBERG TRAURIG, LLP

By: /s/ Nicole M. Goodwin

Nicole M. Goodwin

Attorneys for Defendants JPMorgan Chase Bank, NA, Samantha Nelson f/k/a Samantha Kumbaleck, Kristofer Nelson, Vikram Dadlani, and Jane Doe Dadlani

ORIGINAL of the foregoing e-filed with the Clerk of Court this 6th day of May, 2020.

COPY of the foregoing electronically distributed this 6th day of May, 2020 to:

Hon. Daniel Martin

COPY of the foregoing served via TurboCourt e-Service and E-Mail this 6th day of May, 2020 to:

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EXHIBIT A

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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,

v.

Clark Hill PLC, a Michigan limited
liability company; David G. Beauchamp
and Jane Doe Beauchamp, husband and
wife,

Defendants.

No. CV2017-013832

**STATEMENT OF FACTS IN
SUPPORT OF MOTION FOR
DETERMINATION THAT
PLAINTIFF HAS MADE A PRIMA
FACIE CASE FOR PUNITIVE
DAMAGES FOR AIDING AND
ABETTING BREACH OF
FIDUCIARY DUTY**

(Assigned to the Honorable
Daniel Martin)

Plaintiff files the following Statement of Facts in support of its motion for
determination that Plaintiff has made a prima facie case for punitive damages.

A. Background Facts for the Period April 2001 to September 2011

1. DenSco's Formation and Operations Through 2003

1. DenSco was established in April 2001 as an Arizona corporation. (*See*
pg. 1 Arizona Corporation Commission v. DenSco Investment Corporation (Case No.
CV 2016-014142), Beauchamp Dep. Exhibit 292 attached as **SOF Ex. 1**).

2. Denny Chittick formed DenSco to make short-term loans to companies
buying or investing in real estate. DenSco used money raised from investors to make
those loans. (*See* pg. 40, 2011 POM, Beauchamp Dep. Exhibit 432 attached as **SOF**

1 **Ex. 2;** printout of the “Company Management” page from DenSco website dated
2 June 17, 2013, Beauchamp Dep. Exhibit 115 attached as **SOF Ex. 3).**

3 3. Denny Chittick was the sole shareholder, director, officer and employee
4 of DenSco. (See pages 40-41, 2011 POM, Beauchamp Dep. Exhibit 432 attached as
5 **SOF Ex. 2).**

6 4. From April 2001, through June 2011 [DenSco] engaged in 2622 loan
7 transactions.” (See pg. 1, 2011 POM, Beauchamp Dep. Exhibit 432, attached as **SOF**
8 **Ex. 2).**

9 5. DenSco made “high-interest loans with defined loan-to-value ratios to
10 residential property remodelers ... who purchase[d] houses through ... foreclosure sales
11 all of which [were] secured by real estate deeds of trust (‘Trust Deeds’) recorded against
12 Arizona residential properties. (See pg. 1, DenSco’s Confidential Private Offering
13 Memorandum dated July 1, 2011 (the “2011 POM”), Beauchamp Dep. Exhibit 432
14 attached as **SOF Ex. 2).**

15 6. Mr. Chittick raised money from investors by issuing general obligation
16 notes (the “Notes”) at variable interest rates. The Notes were “secured by a general
17 pledge of all assets owned by or later acquired by” DenSco. (See pg. (i), 2011 POM,
18 Beauchamp Dep. Exhibit 432, attached as **SOF Ex. 2).**

19 7. DenSco’s largest assets were the Trust Deeds, which were intended to be
20 secured through first position trust deeds. (See pg. (i), 2011 POM, Beauchamp Dep.
21 Exhibit 432, attached as **SOF Ex. 2).**

22 **2. Beauchamp Was DenSco’s Securities Lawyer**

23 **a. DenSco First Hired Beauchamp in 2003 to Advise the** 24 **Company on Securities Law Issues.**

25 8. David Beauchamp is an attorney. He describes himself as practicing
26 primarily in the areas of corporate law, securities, venture capital and private equity
27 transactions. (See Beauchamp bio, Schenck Dep. Exhibit 3, attached as **SOF Ex. 4).**

1 9. Mr. Beauchamp started providing securities advice to DenSco in the early
2 2000s, while he was a partner at the law firm Gammage & Burnham. (*See* Schenck
3 Dep. Exhibit 4 at pg. 3, ln. 2-4, attached as **SOF Ex. 5**).

4 10. DenSco followed Mr. Beauchamp as a client when he left 5 Gammage to
5 join the law firm Bryan Cave in March 2008, and again when Mr. Beauchamp 6 left
6 Bryan Cave to join Clark Hill in September 2013. (*See* Schenck Dep. Exhibit 4, pg. 3,
7 ln. 4-6, attached as **SOF Ex. 5**).

8 11. Beauchamp has stated in his Rule 26.1 Statement that his work for
9 DenSco included drafting private offering memoranda for distribution to investors of
10 DenSco in compliance with law, and advising on securities reporting requirement. *See*
11 Beauchamp Dep. Exhibit 4, page 3-4, attached as **SOF Ex. 5**)

12 **b. Beauchamp Prepared Private Offering Memoranda**
13 **that DenSco Issued to Investors in 2003, 2005, 2007,**
 2009, and 2011 to Sell Promissory Notes.

14 12. Mr. Beauchamp advised DenSco regarding Private Offering Memoranda
15 (“POMs”), which DenSco generally updated every two years. (*See* Schenck Dep.
16 Exhibit 4, at pg. 5, ln. 2-3, attached as **SOF Ex. 5**).

17 13. DenSco issued private offering memoranda in 2003, 2005, 2009, and
18 2011, which DenSco used to sell promissory notes to investors (*See* Schenck Dep.
19 Exhibit 4 at pg. 5, ln. 2-3, attached as **SOF Ex. 5**).

20 14. Mr. Beauchamp testified that it was his practice to revise the POM every
21 two years based on a suggestion “made by a former SEC official, that given the nature
22 of this industry, two years would be an appropriate time. However, if something
23 material happened before then, you need to tell your client this has to be disclosed.”).
24 (*See* Beauchamp Dep. Transcript pp. 256:22-257:3, attached as **SOF Ex. 6**).

25 15. The process of preparing POMs in 2007, 2009 and 2011 took between
26 one and three months.

1 a. Beauchamp began working on a POM in early May 2007, after a
2 May 3, 2007 meeting with Chittick, and completed his work in approximately
3 thirty days. (*See* Beauchamp handwritten notes dated May 3, 2007, attached as
4 **SOF Ex. 7**; Beauchamp handwritten notes dated June 1, 2007, attached as **SOF**
5 **Ex. 8**; Beauchamp Dep. Exhibit No. 430, attached as **SOF Ex. 15**).

6 b. Beauchamp began working on a POM in April 2009, after an
7 April 9, 2009 meeting with Chittick, and completed his work in approximately
8 ninety days. (*See* Beauchamp handwritten notes dated April 9, 2009, attached as
9 **SOF Ex. 9**; Beauchamp handwritten notes dated April 17, 2009, attached as
10 **SOF Ex. 10**; Beauchamp handwritten notes, attached as **SOF Ex. 11**; E-mail
11 exchange between D. Beauchamp and D. Chittick re POM, dated July 6, 2009
12 attached as **SOF Ex. 12**; Beauchamp Dep. Exhibit No. 431, attached as **SOF Ex.**
13 **14**).

14 c. Beauchamp began working on a POM in April 2011, after an
15 April 13, 2011 meeting with Chittick, and completed his work in approximately
16 ninety days. (*See* Beauchamp handwritten notes, dated April 13, 2011 attached
17 as **SOF Ex. 13**; Beauchamp Dep. Exhibit No. 432, attached as **SOF Ex. 2**; E-
18 mail exchange between D. Beauchamp, M. Parsons, D. Chittick, dated July 18,
19 2011 attached as **SOF Ex. 16**).

20 **c. The Terms of the POMs Beauchamp Prepared**

21 **(1) DenSco Sold Promissory Notes**

22 16. In the POMs it issued in 2007, 2009 and 2011, DenSco offered to sell
23 investors promissory notes of \$50,000 or more with the following durations and interest
24 rates: six months at 8%; one year at 10%; and two to five years at 12%. The notes
25 were “paid ‘interest only’ during the terms, with principal payable only at maturity.”
26 Investors had the ability to “have interest paid monthly, quarterly, or at maturity.” (*See*
27 Beauchamp Dep. Exhibit 432, pp. 2, 17, 45-46, attached as **SOF Ex. 2**).

17. Each POM stated that “[a]lthough the Company intends to use its good faith efforts to accommodate written requests from an investor to prepay any Note prior to maturity and the Company has in fact been able to satisfy such requests in a timely manner with interest paid in full, the Company has no obligation to do so and the investor has no right to require the Company to redeem the Note prior to maturity.” (See Beauchamp Dep. Exhibit 432 at pg. 47, attached as **SOF Ex. 2**).

18. By completing and signing a Subscription Agreement, investors specified the amount of the promissory note they wished to purchase, the term of the note, and how they wished to be paid interest. (*See* Subscription Agreement, Bunger Exhibit No. 621 attached as **SOF Ex. 17**).

19. Beauchamp knew that the vast majority of DenSco's investors purchased two-year promissory notes. For example, Beauchamp's notes reflect that Chittick told him during a May 3, 2007 meeting that 90% of the promissory notes DenSco had issued to investors were two-year notes. (*See* June 15, 2007 e-mail to Richard Carney, attached as **SOF Ex. 18**).

20. Beauchamp also knew that the vast majority of DenSco’s investors did not redeem their promissory notes when those notes matured, and instead “rolled over” their investments by executing a subscription agreement and buying a new promissory note when a previous promissory note matured. As Beauchamp wrote in a June 15, 2007 e-mail to Richard Carney, who was then doing “Blue Sky” work for DenSco, “DenSco has regular sales of roll-over investments” and an “ongoing roll-over of the existing investors every 6 months or so.” (*See* June 15, 2007 e-mail to Richard Carney, attached as **SOF Ex. 18**).

(2) The Promissory Notes Were Represented to Be Safe, Secure Investments

21. In the POMs it issued in 2007, 2009 and 2011, DenSco made a number of representations about its business practices that were intended to give existing and potential investors the impression that the promissory notes sold by DenSco were safe,

1 secure investments. (*See* Beauchamp Dep. Exhibit 430, at pp. 36-37, attached as **SOF**
2 **Ex. 15**, Beauchamp Dep. exhibits 431 at pp. 34-37 attached as **SOF Ex. 14** and
3 Beauchamp Dep. exhibit 432 at pp. 36-39 attached as **SOF Ex. 2**).

4 22. For example, the POM that DenSco issued in 2011 stated that:

5 a. DenSco had sold promissory notes worth \$25.9 million to
6 new and existing investors since 2001, and “ha[d] never defaulted on either
7 interest or principal” on any of those notes. (*See* Beauchamp Dep. Exhibit 432
8 at pg. 36, attached as **SOF Ex. 2**).

9 b. “All real estate loans funded by [DenSco] have been and
10 are intended to be secured through first position trust deeds.” (*See* Beauchamp
11 Dep. Exhibit 432 at pg. 36, attached as **SOF Ex. 2**).

12 c. DenSco would “attempt to maintain a diverse [loan]
13 portfolio . . . by seeking a large borrowing base” and by “attempting to ensure
14 that one borrower will not comprise more than 10 to 15 percent of the total
15 portfolio.” (*See* Beauchamp Dep. Exhibit 432 at pp. 10 and 37, attached as **SOF**
16 **Ex. 2**).

17 d. DenSco “intend[ed] to maintain general loan-to-value
18 guidelines that currently range from 50 percent to 65 percent, (but it is not
19 intended to exceed 70%), to help protect the Company’s portfolio of loans.” (*See*
20 Beauchamp Dep. Exhibit 432 at pg. 10, attached as **SOF Ex. 2**).

21 e. “Because of these varying degrees of diversification, the
22 relatively short duration of each of the loans, and management’s knowledge of
23 the Phoenix metropolitan market, [DenSco’s] management anticipates that it
24 will not experience a significant amount of losses.” (*See* Beauchamp Dep.
25 Exhibit 432 at pg. 10 attached as **SOF Ex. 2**, see also Fenix Financial expert
26 report at pp. 2-10, attached to Motion for Determination of Prima Facie Case as
27 an Exhibit B).

1 f. DenSco's "objective is to have sufficient cash coming in
2 from Trust Deed payoffs to be able to redeem all Notes as they come due and
3 maintain reserves without any need to sell assets or issue new Notes to repay the
4 earlier maturing Notes." (See Beauchamp Dep. Exhibit 432 at pg. 6, attached as
5 **SOF Ex. 2**).

6 23. The POMs DenSco issued to existing and potential investors in 2007,
7 2009 and 2011 each included a "Prior Performance" section which summarized the
8 dollar value of promissory notes sold in preceding years, the number of loans made in
9 each year, the value of those loans, the value of the property securing those loans, and
10 losses incurred in each of those years. (See Beauchamp Dep. exhibits 430 at pp. 32-35
11 attached as **SOF Ex. 15**; Beauchamp Dep. exhibits 431 at pp. 34-37 attached as **SOF**
12 **Ex. 14** and Beauchamp Dep. exhibit 432 at pp. 36-39 attached as **SOF Ex. 2**).

13 24. The Prior Performance section in each POM concluded with a statement
14 that was intended to give existing and potential investors the impression that the
15 promissory notes sold by DenSco were safe, secure investments: "Each and every
16 Noteholder has been paid the interest and principle due to that Noteholder in accordance
17 with the respective terms of the Noteholder's Notes. Despite any losses incurred by the
18 Company from its borrowers, no Noteholder has sustained any diminished return or
19 loss on their investment in a Note from [DenSco]." (See Beauchamp Dep. Exhibit 430,
20 attached as **SOF Ex. 15**; Beauchamp Dep. exhibits 431 at pg. 37 attached as **SOF Ex.**
21 **14** and Beauchamp Dep. exhibits 432 at pg. 39 attached as **SOF Ex. 2**).

22 (3) **The 2007, 2009 and 2011 POMs Were Each in**
23 **Effect for Two Years, But Were Never Updated**
24 **by DenSco, And Beauchamp Did Not Advise**
DenSco To Do So.

25 25. Each POM that DenSco issued to existing and potential investors in 2007,
26 2009 and 2011 stated that DenSco "intends to offer [promissory notes for sale] on a
27 continuous basis until the earlier of (a) the sale of the maximum offering," which was
28 \$50 million, "or (b) two years from the date of this memorandum." They went on to

1 state that DenSco “reserves the right to amend, modify and/or terminate this offering.”
2 (See Beauchamp Dep. Exhibit 432, at pg. 2, attached as **SOF Ex. 2**).

3 26. DenSco’s records do not reflect that it ever told existing and potential
4 investors that “the maximum offering proceeds” offered through the 2007, 2009 and
5 2011 POMs had been raised, or that it had terminated any of those offerings.

6 27. The files that Beauchamp maintained, and the billing statements issued
7 to DenSco by his respective law firms, do not reflect that Beauchamp ever advised
8 DenSco to “[k]eep[] the information in the [POMs DenSco issued in 2007, 2009 and
9 2011] current” by issuing updates to those POMs during the two-year period each of
10 those POMs was in effect. (See Schenck Dep. Exhibit 6, attached as **SOF Ex. 20**;
11 Schenck Dep. Exhibit 7, attached as **SOF Ex. 21**; Schenck Dep. Exhibit 9, attached as
12 **SOF Ex. 22**; Schenck Dep. Exhibit 10, attached as **SOF Ex. 23**; Schenck Dep. Exhibit
13 11, attached as **SOF Ex. 24**; Schenck Dep. Exhibit 12, attached as **SOF Ex. 25**; Schenck
14 Dep. Exhibit 13, attached as **SOF Ex. 26**; Schenck Dep. Exhibit 14, attached as **SOF**
15 **Ex. 27**; Schenck Dep. Exhibit 15, attached as **SOF Ex. 28**; Schenck Dep. Exhibit 16,
16 attached as **SOF Ex. 29**; Schenck Dep. Exhibit 17, attached as **SOF Ex. 30**; Schenck
17 Dep. Exhibit 18, attached as **SOF Ex. 31**; Schenck Dep. Exhibit 19 attached as **SOF**
18 **Ex. 32**; Beauchamp Dep. Exhibit 106A, attached as **SOF Ex. 33**; Beauchamp Dep.
19 Exhibit 119, attached as **SOF Ex. 34**; Beauchamp Dep. Exhibit 132, attached as **SOF**
20 **Ex. 35**; Beauchamp Dep. Exhibit 133, attached as **SOF Ex. 36**; Beauchamp Dep.
21 Exhibit 139, attached as **SOF Ex. 37**; Schenck Dep. Exhibit 19, attached as **SOF Ex.**
22 **32**).

23 28. As a result, the POM that was dated June 1, 2007 expired on June 1,
24 2009; the POM that was dated July 1, 2009 expired on July 1, 2011; and the POM that
25 was dated July 1, 2011 expired on July 1, 2013. (See expert report of Neil Wertlieb,
26 attached to Motion for Determination of Prima Facie Case, pp. 59-60.).

27 29. The POMs DenSco issued to existing and potential investors in 2007,
28 2009 and 2011 each stated that “[i]n order to continue offering the Notes during this

1 [two-year] period, [DenSco] will need to update this Memorandum from time to time.”

2 Each POM went on to state that

3 Keeping the information in the Memorandum current will cause the
4 Company to incur additional costs. *A failure to update this Memorandum*
5 *as required could result in the Company being subject to a claim under*
6 *Section 10b-5 of the Security Act for employing a manipulative or*
7 *deceptive practice in the sale of securities, subjecting [DenSco], and*
8 *possibly the management of [DenSco], to claims from regulators and*
9 *investors*. In addition, an investor might seek to have the sale of the Notes
10 hereunder rescinded which would have a serious adverse effect on
11 [DenSco’s] operations. (Emphasis added.)

12 (See Beauchamp Dep. Exhibit 432, at pg. 24, attached as **SOF Ex. 2**).

13 30. Each POM that DenSco issued in 2007, 2009 and 2011 prominently
14 warned potential purchasers of DenSco’s promissory notes that “NO PERSON HAS
15 BEEN AUTHORIZED TO GIVE ANY INFORMATION OR TO MAKE ANY
16 REPRESENTATIONS CONCERNING THE COMPANY OTHER THAN AS
17 CONTAINED IN THIS CONFIDENTIAL PRIVATE OFFERING MEMORANDUM,
18 AND IF GIVEN OR MADE, SUCH OTHER INFORMATION OR
19 REPRESENTATIONS MUST NOT BE RELIED UPON.”

20 (See Beauchamp Dep. exhibit 432 at pg. v, attached as **SOF Ex. 2**).

21
22 **(4) In Preparing the 2011 POM, Beauchamp Failed**
23 **to Investigate a “Red Flag” About DenSco’s**
24 **Lending Practices.**

25 31. The Prior Performance section of the POM DenSco issued in 2011
26 concluded with the same positive statement about DenSco’s lending activities and the
27 absence of losses on promissory notes that was made in earlier POMs:

28 Since inception through June 30, 2011, [DenSco] has participated in
29 2622 loans, with an average amount of \$116,000, with the highest loan
30 being \$800,000 and lowest being \$12,000. The aggregate amount of loans
31 funded is \$306,786,893 with property valued totaling \$470,411,170. . .
32 These loans have borne interest rates of 18% per annum. The interest rate
33 paid to noteholders has ranged from 8% to 12% per annum through such
34 date. Each and every Noteholder has been paid the interest and principle
35 due to that Noteholder in accordance with the respective terms of the
36 Noteholder’s Notes. Despite any losses incurred by the Company from its
37 borrowers, no Noteholder has sustained any diminished return or loss on
38 their investment in a Note from [DenSco].”

(See Beauchamp Dep. Exhibit 432 at pg. 39, attached as **SOF Ex. 2**).

32. But the information disclosed in the 2011 POM's Prior Performance section clearly raised a "red flag" about DenSco's lending activities. Among the information disclosed in that section was the following.

<i>Year</i>	<i>Notes Sold</i>	<i>Loans Made</i>	<i>Yearly Loan Amount</i>
2001	\$500,000	37	\$8,378,000
2002	\$930,000	69	\$5,685,000
2003	\$1,550,000	124	\$11,673,000
2004	\$2,450,000	185	\$19,907,000
2005	\$2,670,000	236	\$34,955,700
2006	\$2,800,000	215	\$34,468,100
2007	\$2,400,000	272	\$42,579,634
2008	\$3,000,000	304	\$38,864,660
2009	\$2,100,000	412	\$41,114,707
2010	\$2,800,000	390	\$37,973,097
2011 (to 6/30/11)	\$4,700,000	378	\$36,187,995

See Beauchamp Dep. Exhibit 432 at pp. 36-37, attached as **SOF Ex. 2**).

33. This information raised a red flag because Chittick was DenSco's sole employee. In addition to selling promissory notes, making interest payments, and issuing statements to investors, Chittick was the only person who was conducting due diligence and underwriting and documenting DenSco's loans. He was also responsible for collecting loan payments and ensuring compliance with loan agreements. *See* report of Neil Wertlieb attached to Motion for Determination of Prima Facie Case.

34. Since 2009, when the previous POM had been issued, Chittick made more than one loan a day: 412 in 2009; 390 in 2010; and 378 in just the first six months of 2011. (*See* Beauchamp Dep. Exhibit 432 at pp. 36-37, attached as **SOF Ex. 2**).

35. Any concerns about DenSco's lending practices would have been heightened by the increased amount of money Chittick had raised in the first half of 2011 (\$1.9 million more than the \$2.8 million that had been raised in all of 2010), and the overall amount of money DenSco had raised since 2001 through the sale of promissory notes (\$26.9 million as of June 30, 2011). (*See* Beauchamp Dep. Exhibit 432 at pp. 36-37, attached as **SOF Ex. 2**).

1 36. Beauchamp overlooked this red flag and would later overlook other red
2 flags.

3 **B. Events That Occurred in the Four Months Before Beauchamp Joined**
4 **Clark Hill in September 2013.**

5 37. The POM that DenSco issued in July 2011 expired on July 1, 2013.
6 DenSco did not issue a POM in July 2013, or at any time after July 2013, to replace the
7 POM that expired on July 1, 2013.

8 38. Between May 9 and July 1, 2013, Beauchamp took some preliminary
9 steps to prepare a new POM but did not begin drafting a new POM. He also failed to
10 conduct the due diligence that a reasonable securities lawyer would have undertaken.
11 (See Beauchamp Dep. Exhibit 133, attached as **SOF Ex. 36**).

12 39. The July 1, 2013 deadline for updating the 2011 POM was known to Mr.
13 Beauchamp, as he was the one who prepared the 2011 POM and advised DenSco with
14 respect to such matters. (See Beauchamp Dep. Exhibit 107, attached as SOF Ex. 40;
15 Beauchamp Dep. Exhibit 125, attached as SOF Ex. 41 and Beauchamp Dep. Exhibit
16 129, attached as **SOF Ex. 42**).

17 40. On June 14, 2013, Mr. Chittick emailed Mr. Beauchamp to alert him that
18 a lawsuit had been filed against DenSco (the “Freo Lawsuit”) and included the first four
19 pages of the complaint. (See Beauchamp Dep. Exhibit 111, attached as **SOF Ex. 43**).

20 41. Mr. Chittick stated that DenSco was being sued along with one of its
21 borrowers – a borrower that DenSco “had done a ton of business with, millions in loans
22 and hundreds of loans for several years. (See Beauchamp Dep. Exhibit 111, attached as
23 **SOF Ex. 43**).

24 42. The Freo Lawsuit put Mr. Beauchamp on notice that DenSco’s 2011
25 POM may be materially misleading because, if the allegations in the complaint were
26 correct, DenSco was not following the methodology and procedures stated in the 2011
27 POM for funding its loans. (See Paragraph 121 of Plaintiff’s Fifth Disclosure Statement
28

1 dated November 14, 2018, Davis Dep. Exhibit attached as **SOF Ex. 44** and Beauchamp
2 Dep. Exhibit 111, attached as **SOF Ex. 43**).

3 43. Mr. Chittick also informed Mr. Beauchamp that Mr. Menaged's attorney
4 was working on the defense of the Freo Lawsuit, and that Mr. Chittick intended to
5 "piggy back" on his borrower's defense. (See Beauchamp Dep. Exhibit 112, attached
6 as **SOF Ex. 45**).

7 44. Mr. Beauchamp took no action with respect to the Freo Lawsuit. He
8 testified that he did not speak to the borrower's attorney, Mr. Goulder, at this time. (See
9 Beauchamp Dep. Transcript at pg. 240:9-19, attached as **SOF Ex. 6**).

10 45. Although Mr. Beauchamp did some work on an updated POM in July and
11 August of 2013 (after the 2011 POM had expired), he was also preoccupied with
12 changing law firms. (See Beauchamp Dep. Exhibit 133, attached as **SOF Ex. 36**, and
13 Beauchamp Dep. Exhibit 139, attached as **SOF Ex. 37**).

14 **1. Beauchamp Was Asked to Leave Bryan Cave in June 2013 and**
15 **Left the Firm in August 2013.**

16 46. One apparent reason for Beauchamp's inattention to DenSco's need for a
17 new POM was that he spent the summer months looking for a new job. See Beauchamp
18 Dep. Transcript at pp. 46-47, attached as **SOF Ex. 6**).

19 47. Shortly after June 4, 2013, Beauchamp was informed by Bryan Cave's
20 management committee that the firm wanted to end its relationship with Beauchamp
21 and that he would need to find a new law firm where he could practice law. (See
22 Beauchamp Dep. Transcript at pp. 38:25-44:14, attached as **SOF Ex. 6**).

23 48. Bryan Cave's decision understandably was not well received by
24 Beauchamp. As he wrote in a January 15, 2014 email to his former partner Bob Miller
25 explaining why he did not wish to attend a meeting at Bryan Cave's offices, "[m]y last
26 few months [at Bryan Cave] were more than a little difficult and I do not want to go
27 back to that." (See Beauchamp Dep. Exhibit 162, attached as **SOF Ex. 46**).

1 49. Beauchamp finalized the terms of his employment by Clark Hill by mid-
2 to late-August 2013. (Beauchamp Dep. Transcript at pp. 44:5-47:4, attached as **SOF**
3 **Ex. 6**).

4 50. Beauchamp's notes reflect that he spoke to Chittick on August 26, 2013
5 and told him that "BC will be sending a letter to Denny & letting Denny decide if he
6 wants files kept at BC or moved to CH." (See Beauchamp Dep. Exhibit 134, attached
7 as **SOF Ex. 47**).

8 51. On August 30, 2013, Beauchamp sent Chittick by email a letter that he
9 and Jay Zweig, the managing partner of Bryan Cave's Phoenix office, both signed,
10 informing DenSco that Beauchamp would be leaving Bryan Cave effective August 31,
11 2013, and that Beauchamp would be joining Clark Hill. (See Beauchamp Dep. Exhibit
12 135, attached as **SOF Ex. 48**).

13 **2. During the Month of May 2013, Beauchamp Performed**
14 **Minimal Work to Prepare a New POM.**

15 52. The files that Beauchamp maintained at Bryan Cave and Bryan Cave's
16 billing statements reflect that Chittick had to prompt Beauchamp to start working on a
17 new POM in 2013. (See Beauchamp Dep. Exhibit 133, attached as **SOF Ex. 36** and
18 139, attached as **SOF Ex. 37**).

19 a. On March 17, 2013, Chittick sent Beauchamp an email proposing
20 to meet in April to begin working on an updated private offering memorandum.
21 (See Chittick email to Beauchamp, dated March 17, 2013 attached as **SOF Ex.**
22 **49**).

23 b. On May 1, 2013, Chittick sent another email to Beauchamp which
24 stated: "it's the year we have to do the update on the memorandum, when do you
25 want to start?" (See Beauchamp Dep. Exhibit 105A, attached as **SOF Ex. 50**).

26 c. Beauchamp responded by email that day and scheduled a meeting
27 for May 9, 2013. (See Beauchamp Dep. Exhibit 105A, attached as **SOF Ex. 50**).

1 53. Beauchamp caused a new matter to be established in Bryan Cave's
2 accounting and filing systems for the preparation of a 2013 POM which identified
3 DenSco as Bryan Cave's client. (*See* Beauchamp Dep. Exhibit 119, attached as **SOF**
4 **Ex. 34**).

5 54. When the matter was opened, Bryan Cave established a "due diligence"
6 file for a 2013 POM. (*See* Beauchamp Dep. Exhibit 136, attached as **SOF Ex. 51**).

7 55. Before the May 9, 2013 meeting, Beauchamp prepared or caused to be
8 prepared a draft private offering memorandum dated "May __, 2013" (the "draft 2013
9 POM"). (*See* Beauchamp Dep. Exhibit 106, attached as **SOF Ex. 52**; Beauchamp Dep.
10 Exhibit 124, attached as **SOF Ex. 53**).

11 56. With the exception of the title page, the draft 2013 POM was a duplicate
12 of a preliminary draft of the 2011 POM, which Bryan Cave attorney Gus Schneider had
13 sent to Chittick on June 15, 2011 at Beauchamp's direction, when Schneider and
14 Beauchamp were working on the 2011 POM. (*See* Schenck Dep. Exhibit 100, attached
15 as **SOF Ex. 54**; Beauchamp Dep. Exhibit 106, attached as **SOF Ex. 52**).

16 57. During the May 9 meeting, Beauchamp took a few notes and apparently
17 underlined or circled a few passages in the draft 2013 POM. (*See* Beauchamp Dep.
18 Exhibit 107, attached as **SOF Ex. 40**).

19 58. Beauchamp's notes reflect that Chittick told him during the meeting that
20 DenSco had as of that date raised over \$50 million from 75 to 80 investors who
21 collectively held 114 accounts. (*See* Beauchamp Dep. Exhibit 107, attached as **SOF**
22 **Ex. 40**).

23 59. Beauchamp stopped working on the draft 2013 POM after learning how
24 much money DenSco had raised since the 2011 POM. As he would later tell Bryan
25 Cave partner Elizabeth Sipes through a June 25, 2013 email: "We stopped the updating
26 when we were told that the investments from the investors had jumped to approximately
27 \$47.5 million. Given that significant increase, I have been asking for help to determine
28

1 what other federal or state laws might be applicable.” (See Beauchamp Dep. Exhibit
2 125, attached as **SOF Ex. 41**).

3 60. According to Bryan Cave’s billing statement, the only work Beauchamp
4 performed during May 2013 on the draft 2013 POM was for less than thirty minutes of
5 “[w]ork on issues and follow-up” on May 10 and less than thirty minutes of “[w]ork on
6 issues and information for Private Offering Memorandum” on May 31, 2013. (See
7 Beauchamp Dep. Exhibit 119, attached as **SOF Ex. 34**).

8 **3. During June 2013, Beauchamp Learned From Another Bryan**
9 **Cave Lawyer That DenSco’s Website Violated Federal**
10 **Securities Laws.**

11 61. Although Beauchamp learned on May 9, 2013 that DenSco had nearly
12 \$50 million of investor loans and told his Bryan Cave colleagues that he stopped
13 working on the draft 2013 POM when he learned of that fact so that he could investigate
14 what federal or state laws were implicated by the substantial increase in DenSco’s sales
15 of promissory notes, Beauchamp waited until June 10, 2013 before seeking assistance
16 from other Bryan Cave attorneys. (Beauchamp Dep. Exhibit 107, attached as **SOF Ex.**
17 **40**; Beauchamp Dep. Exhibit 119, attached as **SOF Ex. 34**; Beauchamp Dep. Transcript
18 at pp. 258:13-260:14, attached as **SOF Ex. 6**).

19 a. On June 10, 2013, Beauchamp sent an email to Ken Henderson,
20 an attorney in Bryan Cave’s New York City office, copied to William Seabaugh,
21 an attorney in Bryan Cave’s St. Louis office. (See Beauchamp Dep. Exhibit 108,
22 attached as **SOF Ex. 55**).

23 b. His email stated, in part: DenSco “is a client which makes high
24 interest loans (18% with no other fees) secured by first lien position against real
25 estate. . . . DenSco has previously had aggregate investor loans outstanding at
26 approximately \$16 to \$18 million from its investors. We are starting the process
27 to update and renew DenSco’s private offering memo (renew it every two years)
28 and we have now been advised that DenSco now has almost \$47 million in

1 aggregate investor loans outstanding.” (See Beauchamp Dep. Exhibit 108,
2 attached as **SOF Ex. 55**).

3 c. Beauchamp said he was seeking “guidance or direction” as to
4 whether DenSco, with close to \$50 million of investor funds, was subject to
5 certain federal securities acts and regulations. (See Beauchamp Dep. Exhibit
6 108, attached as **SOF Ex. 55**).

7 d. Henderson suggested by email that Beauchamp confer with Robert
8 Pedersen, an attorney in Bryan Cave’s New York City office, and Elizabeth
9 Sipes, an attorney in Bryan Cave’s Denver office. (See Beauchamp Dep. Exhibit
10 108 at DIC0003668, attached as **SOF Ex. 55**).

11 62. On June 11, 2013, Beauchamp sent an email to Chittick which stated:
12 “How many investors hold notes from DenSco? We are trying to determine what
13 exclusions DenSco could qualify for with respect to the other applicable federal
14 statutes. I do not have that number in my notes.” (See Beauchamp Dep. Exhibit 110,
15 attached as **SOF Ex. 56**).

16 63. Chittick responded by email that day, telling Beauchamp DenSco had 114
17 individual accounts, held by approximately 80 families. (*Id.*)

18 64. On June 17, 2013, Beauchamp received an email from Pedersen.
19 Pedersen noted that he had reviewed DenSco’s website, and had asked Randy Wang,
20 an attorney in Bryan Cave’s St. Louis office, whether DenSco was in compliance with
21 the Securities Act of 1933. Pedersen wrote: “Randy questioned whether in the DenSco
22 Investment Corp. case, the existence of, and/or statements made on, the DenSco
23 [website] which I had brought to his attention, made the transaction exemption
24 unavailable to DenSco. In any event you may wish to discuss further with Randy.” (See
25 Beauchamp Dep. Exhibit 114, attached as **SOF Ex. 57**).

26 65. Beauchamp then printed information from DenSco’s website, which
27 included a section captioned “Investor Requirements” that purported to provide an
28 “abbreviated description” of “legal definitions” found in the 2011 POM and related

1 subscription agreement, including a definition of accredited investor. (*See* Beauchamp
2 Dep. Exhibit 115, attached as **SOF Ex. 3**).

3 66. Although Beauchamp had been representing DenSco since 2003, and his
4 files reflect that he regularly reviewed DenSco's website, it was another Bryan Cave
5 lawyer, with no prior involvement in Bryan Cave's representation, who immediately
6 identified this significant issue. (*See* Beauchamp Dep. Exhibit 116, attached as **SOF**
7 **Ex. 58**, *See* also Beauchamp Dep. Transcript at 276:5-277:23, attached as **SOF Ex. 6**).

8 67. Beauchamp wrote an email to Wang on June 17, 2013, which stated:
9 "With respect to the client's statements on its website, I was not aware that the client
10 had added his personal description of what is an eligible 'accredited investor' to the
11 DenSco website. I will have him take it down. I also have a call into him to ask when
12 he added that language. Previously, his website was just for potential borrowers and
13 for existing investors. It included his view of the real estate lending market and
14 explained the status of the properties that DenSco had commenced or might have to
15 commence a Trustee Sale to take ownership of the security for a loan. Given his
16 'layman's description of an accredited investor' on the website, does that constitute
17 general solicitation, which will cause the offering to no longer qualify under Regulation
18 D? If so, can we discuss what we need to tell him that he needs to do to resolve the loss
19 of his exempt security status?" (*See* Beauchamp Dep. Exhibit 114, attached as **SOF Ex.**
20 **57**).

21 68. Beauchamp's notes reflect that he spoke to Wang on June 17, 2013. (*See*
22 Beauchamp Dep. Exhibit 116, attached as **SOF Ex. 58**).

23 69. Beauchamp's notes also reflect that he spoke to Chittick on June 17, 2013.
24 (*See* Beauchamp Dep. Exhibit 116, attached as **SOF Ex. 58**).

25 70. After talking to Chittick, Beauchamp sent an email to Wang on June 17,
26 2013, which stated, in part: "I talked to Denny Chittick, the owner of DenSco. Denny
27 has already had the website modified. Denny also reviewed the list of his investors
28 (there are only 114 individual investors from approx 80 families). All of his investors

1 were either family or friends (or verified referrals from family or friends). . . . According
2 to his note schedule, Denny has approximately 60 investor notes that are scheduled to
3 expire in the next six months, so he would prefer to not be shut down and have to return
4 all of that investment money to his investors until he could commence operations
5 again.” (See Beauchamp Dep. Exhibit 117, attached as **SOF Ex. 59**).

6 71. Beauchamp received an email from Chittick late in the day on June 17,
7 2013, through which Chittick forwarded his email exchange with a vendor confirming
8 that information regarding interest rates offered for promissory notes and the entire
9 “Investor Requirements” section had been removed from DenSco’s website. (See June
10 17, 2013 email from Chittick, part of Beauchamp Dep. Exhibit 118, attached as **SOF**
11 **Ex. 60**).

12 72. Beauchamp spoke to Wang on June 18, 2013. His notes reflect that Wang
13 “does not have a clean path for the private placement” and that he and Beauchamp
14 discussed a number of “judgment calls” which were described in Beauchamp’s notes
15 as follows: (i) “whether website constitutes ‘General Solicitation’ – probably yes”; (ii)
16 “would a waiver of Right of Rescission be helpful – probably not → that just resolves
17 the individual claim + not the offering itself”; (iii) “would starting a new company be
18 helpful – probably not – still would be integrated offering.” Beauchamp’s notes
19 concluded by stating “Randy does not have a solution” and a list of the names of other
20 Bryan Cave attorneys Beauchamp should contact. (See Beauchamp Dep. Exhibit 120,
21 attached as **SOF Ex. 61**).

22 73. On June 20, 2013, Beauchamp sent an email to Bryan Cave attorneys
23 Henderson, Wang, Robert Endicott in the firm’s St. Louis office, and Garth Jensen in
24 the firm’s Denver office. Beauchamp’s email stated, in part:

25 DenSco “is a client which makes high interest loans (18% with no other
26 fees) secured by first lien position against Arizona real estate. . . . As part
27 of our due diligence for this offering, we reviewed the client’s website. On
28 its website, the client lists several pieces of information concerning Arizona
real estate, but the client has also added Denny Chittick’s personal
description of who or what is an eligible ‘accredited investor.’ In addition,
the website also referenced the interest rate paid by DenSco to its investors.

1 *After we advised the client that this could be deemed to be “general*
2 *solicitation” in violation of Regulation D, the client immediately took*
3 *down these references from its website. . . . Randy and I are concerned that*
4 *if this information on the website is deemed to constitute ‘general*
5 *solicitation’ then the offering will no longer qualify under Regulation D. .*
6 *. . According to his note schedule, Denny has approximately 60 investor*
7 *notes that are scheduled to expire in the next 6 months (and to probably*
8 *be rolled over into new notes), so he would prefer to not be shut down and*
9 *to have to return all of that investment money to his investors until he*
10 *could commence operations again. Issue: Does anyone have any*
11 *suggestion or thoughts that we can advise the client (short of closing down*
12 *its business for six months) that he needs to do to resolve the loss of his*
13 *exempt security status?” (Emphasis added.)*

14 (See Beauchamp Dep. Exhibit 122, attached as **SOF Ex. 62**).

15 74. Henderson and Wang responded to Beauchamp’s email on June 20, 2013,
16 discussing when the “‘JOBS Act’ requirement that the SEC eliminate the general
17 solicitation requirement for all accredited investors offerings [would] become
18 effective[.]” (See Beauchamp Dep. Exhibit 122, attached as **SOF Ex. 62**).

19 75. On June 25, 2013, Beauchamp sent an email to Sipes which stated, in
20 part: “Attached is the previous POM for the client which has only had the date changed.
21 We stopped the updating when we were told that the investments from the investors
22 had jumped to approximately \$47.5 million. Given that significant increase, I have
23 been asking for help to determine what other federal or state laws might be applicable.
24 Bob Pederson of NY has said that the Trust Indenture Act will not be applicable so long
25 as the client is under the Regulation D, Rule 506 exemption. The other big issues [that]
26 have waited for your help to discern [is] if we need to comply with the Investment
27 Advisors Act of 1940 and the Registered Investment Advisors requirements.” (See
28 Beauchamp Dep. Exhibit 125, attached as **SOF Ex. 41**).

76. Beauchamp spoke to Sipes on June 27, 2013. Beauchamp’s notes reflect
that Sipes told him the 2011 POM had incorrectly referenced an exemption under the
Investment Company Act, that she was considering other issues, and that she would
follow up by email. (See Beauchamp Dep. Exhibit 126, attached as **SOF Ex. 63**).

1 77. Beauchamp spoke to Chittick on June 27, 2013. Beauchamp's notes
2 reflect that he shared with Chittick the information he had received from Sipes. (*See*
3 Beauchamp Dep. Exhibit 127, attached as **SOF Ex. 64**).

4 78. Chittick sent Beauchamp an email on June 27, 2013 to again confirm that
5 the requested changes to the website had been completed. He added, "Oh ya I just took
6 in another 1.1 million yesterday." (*See* Beauchamp Dep. Exhibit 128, attached as **SOF**
7 **Ex. 65**).

8 **4. During June 2013, Beauchamp Learned That Representations**
9 **Made In the 2011 POM About DenSco's Lending Practices**
10 **Were Materially Misleading But Failed to Conduct any**
11 **Investigation Of DenSco's Lending Practices.**

12 79. Beauchamp received an email from Chittick on June 14, 2013.

13 80. Chittick's email, which was copied to Yomtov "Scott" Menaged, said, in
14 part: "I have a borrower, to which I've done a ton of business with, million[s] in loans
15 and hundreds of loans for several years[.] [H]e's getting sued along with me. . . . Easy
16 Investments [] has his attorney working on it[.] [I]m okay to piggy back with his
17 attorney to fight it[.] Easy Investments [is] willing to pay the legal fees to fight it. I
18 just wanted you to be aware of it, and talk to his attorney, [whose] contact info is
below." (*See* Beauchamp Dep. Exhibit 111, attached as **SOF Ex. 43**).

19 81. Chittick's email included a forwarded email from Menaged which
20 provided contact information for his attorney, Jeffrey J. Goulder. (*See* Beauchamp Dep.
21 Exhibit 111 at DIC0000055, attached as **SOF Ex. 43**).

22 82. Copies of a summons, the first four pages of a complaint, a certificate of
23 compulsory arbitration, and a lis pendens were attached to the email. (*See* Beauchamp
24 Dep. Exhibit 111 at DIC0000059-69, attached as **SOF Ex. 43**).

25 83. Menaged responded to the email by telling Beauchamp in an email to
26 "bill me for your services and utilize my attorney for anything you may need." (*See*
27 Beauchamp Dep. Exhibit 112, attached as **SOF Ex. 45**).

1 84. The complaint and other documents Beauchamp received identified by
2 street address and legal description of the foreclosed home at issue in the lawsuit; they
3 also identified the names of the former owners. (*See* Beauchamp Dep. Exhibit 111 at
4 DIC0000069, attached as **SOF Ex. 43**).

5 85. After reviewing these documents, Beauchamp sent an email to Chittick
6 on June 14, 2013 which said: “*We will need to disclose this in POM.*” (Emphasis
7 added.) (*See* Beauchamp Dep. Exhibit 113, attached as **SOF Ex. 66**).

8 86. Bryan Cave’s billing records reflect that Beauchamp billed DenSco for
9 30 minutes of time on June 14, 2013 devoted to “[e]mail to D. Chittick regarding need
10 to disclose pending litigation in Private Offering Memorandum; review email from D.
11 Chittick; review requirements.” (*See* Beauchamp Dep. Exhibit 132 at BC_003082-83,
12 attached as **SOF Ex. 35**).

13 87. The complaint had been filed in Maricopa County Superior Court by Freo
14 Arizona, LLC against DenSco; Easy Investments, LLC; Active Funding Group, LLC;
15 Ocwen Loan Servicing, LLC; and another defendant. (*See* Beauchamp Dep. Exhibit,
16 111 at DCI0000059, attached as **SOF Ex. 43**).

17 88. According to the excerpt of the complaint that Beauchamp received,

18 a. A home in Peoria, Arizona was to be sold at a trustee’s sale. (*See*
19 Beauchamp Dep. Exhibit 111 at DCI0000063-65, attached as **SOF Ex. 43**).

20 b. Freo claimed to have purchased the home on March 18, 2013,
21 before the date of the scheduled trustee’s sale, by paying Ocwen Loan Servicing
22 the payoff amount for the mortgage, and that the sale was documented in a
23 warranty deed that had been recorded with the Maricopa County Recorder’s
24 Office. (*Id.*)

25 c. Ocwen failed to timely instruct the trustee to cancel the trustee’s
26 sale. (*Id.*)

1 d. On March 22, 2013, *Easy Investments* acquired the property at a
2 trustee's sale, and then "*attempted to encumber the property with deeds of trust*
3 *to Active [Funding Group] and DenSco.*" (Emphasis added.) (*Id.*)

4 e. Freo filed its lawsuit to establish that it owned the property free
5 and clear of liens asserted by Active Funding Group and DenSco. (*Id.*)

6 89. The *Freo* complaint put Beauchamp on notice that DenSco's 's 2011
7 POM was materially misleading because DenSco was not following the "proper method
8 and procedures for funding a loan" which, according to Beauchamp's interrogatory
9 answers, were described in the 2011 POM as including "'due diligence to verify certain
10 information in connection with funding a Trust Deed'" and "'conduct[ing] a due
11 diligence review by . . . verifying the documentation.'" (See Beauchamp Response to
12 Plaintiffs First Set of Non-Uniform Interrogatories at pg. 6, Beauchamp Dep. Exhibit
13 422 attached as **SOF Ex. 67**).

14 90. It was apparent from the *Freo* complaint that Chittick had not conducted
15 any due diligence before loaning money to Easy Investments to acquire this particular
16 home, since the property had been sold, according to public records, five days before a
17 trustee's sale. Under such circumstances, the loan funded by DenSco could not have
18 been a loan "intended to be secured through [a] first position trust deed[]," as DenSco
19 had represented in the 2011 POM. (See Beauchamp Dep. Exhibit 111, attached as **SOF**
20 **Ex. 43** and see also Beauchamp Dep. Exhibit 432 at pg. 37, attached as **SOF Ex. 2**).

21 91. It was also apparent from the *Freo* complaint that Chittick had not
22 exercised appropriate care in loaning money to Easy Investments, since Freo alleged
23 that Easy Investments had "attempted to encumber the property with deeds of trust to
24 Active [Funding Group] and DenSco." That allegation called into question both the
25 due diligence Chittick had employed in selecting Easy Investments as a borrower and
26 the practices Chittick followed in funding loans made by DenSco. (See Beauchamp
27 Dep. Exhibit 111 at DIC0000064, ¶20, attached as **SOF Ex. 43**).

1 92. Although the files Beauchamp maintained and Bryan Cave's billing
2 records reflect that the only actions Beauchamp took after receiving Chittick's June 14,
3 2013 email were to spend 30 minutes to "review email from D. Chittick" and to send
4 "[e]mail to D. Chittick regarding need to disclose pending litigation in Private Offering
5 Memorandum," Beauchamp claims in Defendants' initial disclosure statement (at 6-7)
6 that he did more than that. (See Beauchamp Dep. Exhibit 132 at BC_003082-83,
7 attached as **SOF Ex. 35** and Schenck Dep. Exhibit 4 at pp. 6-7, attached as **SOF Ex.**
8 **5**).

9 93. Beauchamp claims that after reviewing the *Freo* complaint, he "advised
10 Mr. Chittick . . . that Mr. Chittick needed to fund DenSco's loans directly to the trustee
11 or escrow company conducting the sale, rather than provide loan funds directly to the
12 borrower, to ensure that DenSco's deed of trust was protected." This is an admission
13 by Beauchamp that he knew in June 2013 that the 2011 POM was materially
14 misleading. (See Schenck Dep. Exhibit 4 at pg. 6, ln. 22-26, attached as **SOF Ex. 5**).

15 94. Beauchamp goes on to say in Defendants' initial disclosure statement that
16 "Mr. Chittick, however, explained to Mr. Beauchamp that this was an isolated incident
17 with a borrower, Menaged, whom Mr. Chittick described in his email as someone he
18 had 'done a ton of business with . . . hundreds of loans for several years . . .'" (See
19 Schenck Dep. Exhibit 4 at pg. 6, ln. 26 - pg. 7, ln. 3, attached as **SOF Ex. 5**).

20 95. If a jury believes that Beauchamp actually had this discussion with
21 Chittick, despite the absence of any email, note or billing record to support
22 Beauchamp's claim, it should conclude that Beauchamp decided not to take any steps
23 to investigate Chittick's admission that DenSco had lax lending practices, or was
24 preoccupied with his efforts to find a new law firm and did not take the time to do so.
25 (See Beauchamp Dep. Exhibit 133, attached as **SOF Ex. 36**, and Beauchamp Dep.
26 Exhibit 139, attached as **SOF Ex. 37**).

27 96. Beauchamp did not conduct an investigation of the allegations in the *Freo*
28 lawsuit regarding DenSco's lending practices, or of DenSco's lending practices

generally, in June 2013 (before the 2011 POM expired on July 1, 2013) or at any time thereafter. (*See* Beauchamp Dep. Transcript at pg. 240:9-19, attached as **SOF Ex. 6**; Beauchamp Dep. Exhibit 132 at BC_003082-83, attached as **SOF Ex. 35** and Schenck Dep. Exhibit 4 at pp. 6-7, attached as **SOF Ex. 5**).

97. If Beauchamp had investigated the allegations in the *Freo* complaint, he would have found within minutes, by reviewing records available through the Maricopa County Recorder's website relating to the property described in the *Freo* lawsuit: (i) a Deed of Trust and Security Agreement With Assignment of Rents given by Easy Investments in favor of Active Funding Group, that Menaged had signed on March 25, 2013; and (ii) a Deed of Trust and Assignment of Rents given by Easy Investments in favor of DenSco, that Menaged had signed on April 2, 2013. Both signatures were witnessed by the same notary public. (*See* generally Maricopa County Recorder's website, <https://recorder.maricopa.gov/recdocdata/> , and see also Beauchamp Dep. Exhibit 103, attached as **SOF Ex. 68** and Beauchamp Dep. Exhibit 104, attached as **SOF Ex. 69**).

98. Those documents confirmed the allegation in the *Freo* complaint that DenSco was not in first position on a loan it had made to Easy Investments. (*See* Beauchamp Dep. Exhibit 103, attached as **SOF Ex. 68**, and Beauchamp Dep. Exhibit 104, attached as **SOF Ex. 69**).

99. Those documents also showed that Menaged had purposefully borrowed money, first from Active Funding and then from DenSco, using the same property as security, since he had personally signed both the Active Funding deed of trust and the DenSco deed of trust before a notary. (*Id.*)

5. During July and August 2013, Beauchamp Took Minimal Steps to Prepare a New POM.

100. After failing to do any investigation of the allegations in the *Freo* lawsuit or of DenSco's lending practices generally, an apparently distracted Beauchamp took minimal steps in July and August 2013 to prepare a new POM. (*See* Beauchamp Dep.

1 Transcript at pg. 240:9-19, attached as **SOF Ex. 6**; Beauchamp Dep. Exhibit 132 at
2 BC_003082-83, attached as **SOF Ex. 35** and Schenck Dep. Exhibit 4 at pp. 6-7,
3 attached as **SOF Ex. 5**).

4 101. On July 1, 2013, Beauchamp received an email from Sipes which stated,
5 in part, that she didn't believe DenSco would be considered an investment advisor
6 under the Investment Company Act or the Investment Advisers Act and did not believe
7 DenSco needed to limit the number of accredited investors to whom it offered
8 promissory notes. (See Beauchamp Dep. Exhibit 129 at DIC0003495, attached as **SOF**
9 **Ex. 42**).

10 102. On July 10, 2013, Beauchamp forwarded to Chittick a news report that
11 the SEC had just decided to end the ban on general solicitation. (See Beauchamp Dep.
12 Exhibit 130A, attached as **SOF Ex. 70**).

13 103. Bryan Cave's billing statements reflect that between July 12, 2013 and
14 July 31, 2013, Beauchamp recorded time to "revise disclosure in Private Offering
15 Memorandum" and "[w]ork on and revise Private Offering Memorandum" and had
16 additional time entries to "[w]ork on revisions to Private Offering Memorandum" or
17 "[w]ork on issues for Private Offering Memorandum." (See Beauchamp Dep. Exhibit
18 133, attached as **SOF Ex. 36**).

19 104. But the only document in Bryan Cave's file that reflects any revisions
20 Beauchamp made to the draft of a 2013 POM is a draft containing several of his
21 handwritten edits. They included a note on the cover of the draft to "revise to new
22 version for B/L purposes," but no blacklined draft of a 2013 POM exists in Bryan
23 Cave's file. (See Beauchamp Dep. Exhibit 130, attached as **SOF Ex. 71**).

24 105. Bryan Cave's billing records reflect that the only work Beauchamp
25 performed on the draft 2013 POM during August 2013 was to exchange emails on
26 August 6, 2013 with Jensen asking for a form subscription agreement to comply with
27 changes to Rule 506. (See Beauchamp Dep. Exhibit 139, attached as **SOF Ex. 37**).

1 106. When Beauchamp left Bryan Cave in August 2013, the “due diligence”
2 file for the draft 2013 POM contained only three documents: (1) a June 18, 2013 article
3 captioned “Determining whether a company is an investment company”; (2) a printout
4 from DenSco’s website dated June 17, 2013; and (3) a July 28, 2010 article captioned
5 “Private Fund Investors Advisors Registration Act of 2010: New Law Changes
6 Regulatory Framework for Alternative Investment Advisors.” (See Beauchamp Dep.
7 Exhibit 136, attached as **SOF Ex. 51**).

8 107. Beauchamp’s notes reflect that he left a voicemail message for Chittick
9 on August 26, 2013 regarding “need to work on the latest version of POM that Denny
10 has w/ the prior experience charts. Need to discuss timing and update.” (See
11 Beauchamp Dep. Exhibit 134, attached as **SOF Ex. 47**).

12 108. His notes go on to reflect that he spoke to Chittick on August 26, 2013
13 and that he “explained delay w/ POM,” discussed the “need to get copy of Denny’s
14 latest POM & make changes to it,” and discussed that “BC will be sending a letter to
15 Denny & letting Denny decide if he wants files kept at BC or moved to CH.” (*Id.*)

16 **6. Beauchamp Now Claims That Chittick Was Responsible for**
17 **His Failure to Prepare a New POM Before He Left Bryan**
18 **Cave, But His Claim is at Odds With the Documentary**
19 **Record.**

20 109. In Defendants’ initial disclosure statement (at 5), Beauchamp claims that
21 he “was never able to finalize the 2013 POM” because of Chittick. He says that
22 “[a]lthough [he] asked for updated investment, loan and financial information regarding
23 DenSco, Mr. Chittick stalled on providing the information, preferring to wait until after
24 he scaled down the amount outstanding to investors.” (See Schenck Dep. Exhibit 4,
25 attached as **SOF Ex. 5**).

26 110. But Beauchamp’s claim has absolutely no support in the documentary
27 record and is at odds with that record. Not only is there nothing in Bryan Cave’s files
28 reflecting that Beauchamp asked Chittick for information that was not provided or that
Chittick engaged in “stalling” tactics by Chittick, but the files reflect that Chittick

1 promptly gave Beauchamp the information he requested, and followed Beauchamp's
2 advice, such as when Chittick promptly changed DenSco's website after Beauchamp
3 told him to do so. (*See* Beauchamp Dep. Exhibit 128, attached as **SOF Ex. 65**).

4 111. Moreover, the corporate journal Chittick maintained for 2013 (the "2013
5 Corporate Journal") does not reflect any entries by Chittick about requests from
6 Beauchamp for information or his declination to provide that information. (*See* Schenck
7 Dep. Exhibit 20, attached as **SOF Ex. 72**).

8 112. The only reference in the 2013 Corporate Journal to the preparation of
9 the 2013 POM is a June 17, 2013 entry which stated: "I am going back and forth with
10 David about how to circumvent this 50 million issue on size." That entry is consistent
11 with Beauchamp's communications of the same date as to whether DenSco had
12 engaged in general solicitation, an issue which, as noted above, was resolved on
13 July 10, 2013. (*See* Schenck Dep. Exhibit 20 at RECEIVER_00020, attached as **SOF**
14 **Ex. 72**).

15 **7. A Distracted Beauchamp, After Failing to Prepare a New**
16 **POM by July 1, 2013, Did Not Advise DenSco to Stop Selling**
Promissory Notes Until a New POM Was Issued.

17 113. By its terms, the 2011 POM expired on July 1, 2013. (*See* Beauchamp
18 Dep. Exhibit 432, attached as **SOF Ex. 2**).

19 114. There is no evidence in the documentary record that Beauchamp, with
20 one foot out Bryan Cave's door, ever advised DenSco that it could not sell any new
21 promissory notes after July 1, 2013 until it issued a new POM, and Beauchamp does
22 not claim that he did so.

23 115. Beauchamp, preoccupied with finding a new law firm where he could
24 continue to practice law, failed to give that advice, even though he knew, as he told his
25 Bryan Cave colleagues in a June 20, 2013 email, that DenSco had "approximately 60
26 investor notes that are scheduled to expire in the next 6 months (and to probably be
27
28

1 rolled over into new notes).” (See Beauchamp Dep. Exhibit 122, attached as **SOF Ex.**
2 **62**).

3 116. And while Beauchamp claims in Defendants’ initial disclosure statement
4 (at 7) that “[p]rior to his departure” from Bryan Cave, he “repeatedly made clear to
5 DenSco and Mr. Chittick that they needed to update DenSco’s POM,” there is no
6 documentary support for that claim. (See generally Beauchamp Dep. Exhibit 133,
7 attached as **SOF Ex. 36** and Beauchamp Dep. Exhibit 139, attached as **SOF Ex. 37**).

8 117. Even if a jury believes that Beauchamp actually gave that advice, despite
9 the absence of any supporting documents, the advice fell short of an explicit instruction
10 that no sales could be made until a new POM was prepared. Without that instruction,
11 Chittick was effectively told that DenSco could indefinitely delay “updating” its POM
12 while continuing to sell promissory notes.

13 **8. Because of Beauchamp’s Inattention, Chittick Caused DenSco**
14 **to Sell Approximately \$3.3 Million of Promissory Notes Before**
15 **Beauchamp Left Bryan Cave.**

16 118. Because Beauchamp failed to prepare a new POM by July 1, 2013 and
17 failed to tell Chittick that DenSco could not sell promissory notes until a new POM was
18 issued, Chittick caused DenSco, during July and August 2013, to sell promissory notes
19 to some of the “approximately 60 investor[s]” whose notes Beauchamp knew were
20 “scheduled to expire in the next 6 months (and to probably be rolled over into new
21 notes).” (See Beauchamp Dep. Exhibit 122, attached as **SOF Ex. 62**).

22 119. In each case, an investor who had purchased a two-year promissory note
23 in 2011, which expired in July or August 2013, purchased a new two-year promissory
24 note. Those sales, which total \$2,337,653.47, are summarized in the following chart.

Investor	Amount	Date
Jeff Phalen	\$100,000	7/1/13
Gary Thompson	\$250,000	7/3/13
Kaylene Moss	\$10,000	7/12/13

Branson & Sandra Smith	\$250,000	7/13/13
Ralph Kaiser IRA	\$170,653.47	7/17/13
Jimmy Trainor	\$122,000	7/22/13
Russ Grisswold IRA	\$50,000	7/24/13
William Alber	\$60,000	7/28/13
Carol Wellman	\$50,000	7/28/13
Tom Smith	\$400,000	8/2/13
GE Seigford	\$70,000	8/2/13
GE Seigford	\$40,000	8/2/13
Carysn Smith	\$10,000	8/2/13
McKenna Smith	\$10,000	8/3/13
Gary Thompson	\$145,000	8/3/13
Carol & Mike Wellman	\$25,000	8/5/13
Stacy Grant IRA	\$75,000	8/8/15
GE Seigford	\$50,000	8/18/15
Tom Smith	\$400,000	8/24/15
Dale Hickman	\$50,000	8/30/15

120. In addition to these “rollover” promissory note sales, Chittick caused DenSco to sell \$926,567 of new promissory notes to existing and new investors during July and August 2013. Those sales are summarized in the following chart.

Investor	Amount	Date	Maturity
Laurie Weiskopf	\$100,000	7/10/13	7/10/15
Carol McDowell	\$100,000	7/3/13	7/3/15
Kevin Potempa	\$100,000	7/29/13	1/26/16
Wayne Ledet	\$30,567	8/23/13	8/23/15
Tom Smith	\$500,000	8/26/13	2/26/15

Kirk Fischer	\$70,000	8/26/13	8/26/18
Carsyn Smith	\$8,000	8/26/13	8/26/15
McKenna Smith	\$8,000	8/26/13	8/26/15
Averill Cate	\$10,000	8/29/13	8/29/14

C. Facts Regarding Clark Hill's Representation of DenSco in 2013

1. In September 2013, Beauchamp Brought DenSco to Clark Hill as a New Client and Clark Hill Agreed to Prepare a New POM.

121. On September 11 and 12, 2013, Beauchamp exchanged emails with Chittick about taking steps to have certain DenSco files transferred from Bryan Cave to Clark Hill: "AZ Practice Review"; "Blue Sky Issues"; "Garnishments"; "General Corporate"; and "2011 and 2013 Private Offering." (*See* Beauchamp Dep. Exhibit 136A, attached as **SOF Ex. 73**).

122. On September 12, 2013, Beauchamp sent Chittick an engagement letter, which Chittick signed and returned that day. (*See* Beauchamp Dep. Exhibit 137, attached as **SOF Ex. 74** and Beauchamp Dep. Exhibit 138, attached as **SOF Ex. 75**).

123. The letter, which was captioned "Representation of DenSco Investment Corporation," stated that it would "serve[] to record the terms of [Clark Hill's] engagement to represent DenSco Investment Corporation (the 'Client'), with regard to the legal matters transferred to Clark Hill PLC from Bryan Cave LLP." (*See* Beauchamp Dep. Exhibit 137, attached as **SOF Ex. 74**).

124. Clark Hill's engagement letter, like those Beauchamp had sent DenSco when he was at Gammage & Burnham and Bryan Cave, identified DenSco as Clark Hill's client. (*See* Beauchamp Dep. Exhibit 138 at DIC0008653, attached as **SOF Ex. 75**).

125. But Clark Hill's engagement letter went further, and expressly stated that Clark Hill was representing only DenSco, and was not representing Chittick in any capacity. (*See* Beauchamp Dep. Exhibit 137, attached as **SOF Ex. 74**).

1 a. The letter stated that it was “supplemented by our Standard Terms
2 of Engagement for Legal Services, attached, which are incorporated in this letter
3 and apply to this matter and the other matter(s) for which you engage us.” (*Id.*)

4 b. The “Standard Terms of Engagement for Legal Services” included
5 a section called “Whom We Represent.” That section stated: “The . . . entity
6 whom we represent is the . . . entity identified in our engagement letter and does
7 not include any . . . employees, officers, directors, shareholders of a corporation
8 . . . unless our engagement letter expressly provides otherwise.” (Beauchamp
9 Dep. Exhibit 137 at CH_0000806, attached as **SOF Ex. 74**).

10 126. Even though this engagement letter clearly and expressly stated that Clark
11 Hill represented only DenSco and was not also representing Chittick, Clark Hill and
12 Beauchamp say in their initial disclosure statement (at 3) that “Chittick understood that
13 Mr. Beauchamp, as an incident to Mr. Beauchamp’s representation of DenSco, was also
14 representing Mr. Chittick in his capacity as president of DenSco.” (*See* Schenck Dep.
15 Exhibit 4, attached as **SOF Ex. 5**).

16 127. On September 13, 2013, Beauchamp took steps to open a new matter for
17 DenSco in Clark Hill’s accounting and filing systems that was mis-identified as “2003
18 Private Offering Memorandum.” Beauchamp’s notes stated that the file was being
19 opened to “[f]inish 2013 POM for client. Started POM update at Bryan Cave.” (*See*
20 Beauchamp Dep. Exhibit 138 at DIC0008653, attached as **SOF Ex. 75**).

21 128. Beauchamp opened this file, obligating Clark Hill to provide securities
22 advice to DenSco and to diligently and promptly “finish [the] 2013 POM,” knowing
23 that the 2011 POM had expired on July 1, 2013, no new POM had been issued, and that
24 as of June 20, 2013, “[a]ccording to [Chittick’s] note schedule, [DenSco] ha[d]
25 approximately 60 investor notes that are scheduled to expire in the next 6 months (and
26 to probably be rolled over into new notes).” (*See* Beauchamp Dep. Exhibit 122, attached
27 as **SOF Ex. 62** and Beauchamp Dep. Exhibit 138 at DIC0008653, attached as **SOF Ex.**
28 **75**).

1 **2. According to Clark Hill's Records the Firm Did No Work**
2 **Whatsoever on a New POM During the Months of September,**
3 **October, November and December 2013.**

4 129. Clark Hill's records show that neither Beauchamp nor any other Clark
5 Hill attorney performed *any* work on a new POM during September, October, or
6 November 2013.

7 130. The records also show that neither Beauchamp nor any other Clark Hill
8 attorney even attempted to contact Chittick about the new POM. (*See* Schenck Dep.
9 Exhibit 6, attached as **SOF Ex. 20**; Schenck Dep. Exhibit 19, attached as **SOF Ex. 32**).

10 **a. On December 18, 2013, Chittick Asked Beauchamp By**
11 **Email Why the New POM Had Not Been Finished.**

12 131. The first time entry in Clark Hill's billing records relating to a new POM
13 is a twelve-minute entry by Beauchamp on December 18, 2013 to "review email;
14 telephone conversation with D. Chittick; review POM." Schenck Dep. Exhibit 6,
15 attached as **SOF Ex. 20**).

16 132. The email referenced in that time entry is an email that Chittick sent to
17 Beauchamp on December 18, 2013, saying "since you've moved, we've never finished
18 the update on the memorandum. Warren is asking where it is."¹ (*See* Beauchamp Dep.
19 Exhibit 139A, attached as **SOF Ex. 76**).

20 133. Beauchamp did not send Chittick a response to that email.

21 134. There are not any notes in Clark Hill's files made by Beauchamp that
22 summarized his December 18, 2013 call with Chittick. (*See* Beauchamp Dep. Exhibit
23 139A, attached as **SOF Ex. 76**; Schenck Dep. Exhibit 6, attached as **SOF Ex. 20**;
24 Schenck Dep. Exhibit 4 at pg. 7, ln. 17-26 attached as **SOF Ex. 5**).

25 135. Beauchamp apparently asked Chittick during that call to send him a copy
26 of the 2011 POM, since Chittick emailed Beauchamp an electronic copy of the final

27 ¹ Chittick was apparently referring to Warren Bush, an investor who had
28 reviewed and commented on a draft of the 2011 POM, and had communicated with
 Beauchamp about that draft.

1 2011 POM during the late morning of December 18, 2013. Beauchamp promptly
2 responded, saying simply “[t]hank you. Have a wonderful holiday season.” (See
3 Beauchamp Dep. Exhibit 140, attached as **SOF Ex. 77**).

4 136. Beauchamp forward Chittick’s e-mail to his secretary that afternoon,
5 asking her to “put this on our system for DenSco Investment Corporation/2013 POM.”
6 (See Beauchamp Dep. Exhibit 141, attached as **SOF Ex. 78**).

7 **b. Clark Hill Claims That Beauchamp Learned During the**
8 **December 18, 2018 Call With Chittick About Problems**
9 **in DenSco’ Loan Portfolio but Clark Hill Did Nothing**
10 **to Investigate Those Problems Nor Did It Begin**
11 **Preparing a New POM.**

12 137. In their initial disclosure statement (at 7), Clark Hill and Beauchamp
13 make claims about Beauchamp’s December 18, 2013 telephone call with Chittick that
14 are at odds with Clark Hill’s file, including its billing statement. They allege that
15 Chittick told Beauchamp “he had run into an issue with some of his loans with
16 Menaged, and specifically, that properties securing a few DenSco loans were each
17 subject to a second deed of trust competing for priority with DenSco’s deed of trust.”
18 (See Schenck Dep. Exhibit 4 at pg. 7, ln. 17-26 attached as **SOF Ex. 5**).

19 138. Clark Hill and Beauchamp claim that, “[a]fter briefly discussing the
20 allegedly limited double lien issue, Mr. Chittick emphasized to Mr. Beauchamp that
21 Mr. Chittick wanted to avoid litigation with other lenders. Mr. Chittick, however, did
22 not request any advice or help. Accordingly, Mr. Beauchamp suggested that Mr.
23 Chittick develop and document a plan to resolve the double liens, and nothing more
24 came of the conversation.” (See Schenck Dep. Exhibit 4 at pg. 7, ln. 22-26 attached as
25 **SOF Ex. 5**).

26 139. Lastly, Clark Hill and Beauchamp claim that during the telephone
27 conversation “Mr. Beauchamp reminded Mr. Chittick that he still needed to update
28 DenSco’s private offering memorandum.” (See Schenck Dep. Exhibit 4 at pg. 7, ln.
21-22 attached as **SOF Ex. 5**).

1 140. No document in Clark Hill's file, such as the handwritten notes that
2 Beauchamp consistently and regularly kept to record his telephone conversations and
3 meetings with Chittick, exists.

4 141. The 2013 Corporate Journal does not have any entries by Chittick
5 reflecting that he had such a conversation with Beauchamp in December 2013. (*See*
6 Schenck Dep. Exhibit 20, attached as **SOF Ex. 72**).

7 142. December 12, 2013 bill shows "[r]eview email and outline Florida
8 research." (*See* Schenck Dep. Exhibit 6, at CH_0002310, attached as **SOF Ex. 20**).

9 143. Between December 20, 2013 and December 23, 2013, both Beauchamp
10 and Schenck recorded time to conducting research and analysis on "Florida broker
11 issues," "hard money regulatory lender requirements in Florida," and "Florida lending
12 licenses." (*Id.*)

13 144. On December 23, 2013, Beauchamp recorded 42 minutes of time to
14 "[r]eview Florida research from D. Schenck; discuss research and follow up with D.
15 Schenck; email to D. Chittick." (*See* Schenck Dep. Exhibit 6, at CH_0002310,
16 attached as **SOF Ex. 20**).

17 145. On Christmas Eve, December 24, 2013, Beauchamp sent Chittick an
18 email which stated: "Happy Holidays! Quick Status: Based on a review of the Florida
19 statutes, you would be considered a 'Mortgage Lender' which requires a license in
20 Florida. The Florida government office that regulates 'Mortgage Lender' [sic] has been
21 difficult to reach, but we will try again on Thursday. I want to confirm if you might be
22 able to qualify for a limited license to operate in Florida and check a few other
23 questions." (*See* Schenck Dep. Exhibit 31, attached as **SOF Ex. 79**). If a jury were to
24 believe Beauchamp's claim that he had such a conversation with Chittick on December
25 18, 2013, despite the lack of evidence, it could only conclude that Clark Hill and
26 Beauchamp were negligent by:

27 a. Failing to immediately investigate the information Beauchamp
28 received about the Menaged loan problem, since Clark Hill had an affirmative

1 duty to diligently and timely prepare a new POM, having agreed to do so in
2 September 2013; and

3 b. Failing to expressly instruct Chittick that DenSco could not sell
4 **any** promissory notes, since the 2011 POM had expired and a new POM had not
5 yet been issued.

6 ii. By merely “reminding” Chittick that DenSco needed to
7 “update” the 2011 POM, knowing that one-half of its investors would be
8 “rolling over” promissory notes during the last six months of 2013,
9 Beauchamp effectively advised Chittick that DenSco could indefinitely
10 delay “updating” the 2011 POM while continuing to sell promissory
11 notes.

12 **3. Although Clark Hill Did Nothing in December 2013 to Prepare**
13 **a New POM and Investigate Problems in DenSco’s Loan**
14 **Portfolio, It Devoted Time That Month to Advising DenSco**
About Possibly Expanding its Business to Florida.

15 146. In Chittick’s December 18, 2013 email to Beauchamp, Chittick wrote,
16 after asking about the status of Clark Hill’s work on a new POM, about his plans to
17 expand DenSco’s business to Florida. He wrote: “[I]’ve got two of my best borrowers
18 moving to F[L][.] [T]hey are begging me to look at lending in FL. [I] don’t know
19 anything about the market there, but [I] trust these guys. [I]’ve done 20 million with
20 them over the past 5 yrs. [I]s it easy to find out the challenges, issues, etc with me
21 lending there?” (See Beauchamp Dep. Exhibit 139A, attached as **SOF Ex. 76**).

22 147. While Beauchamp did nothing in response to Chittick’s question about
23 the status of a new POM, he immediately forwarded Chittick’s e-mail to Clark Hill
24 attorney Daniel Schenck, asking “[w]ill you have time to do the research for Florida or
25 should I find someone else?” (See Schenck Dep. Exhibit 30, attached as **SOF Ex. 80**).

26 148. On December 26 and 30, 2013, Beauchamp and Schenck recorded time
27 to obtaining information from the Florida Office of Financial Regulation and other
28 information relevant to Chittick’s December 18, 2013 inquiry about expanding

1 DenSco's lending operations to Florida. (*See* Schenck Dep. Exhibit 6 at CH_0002310,
2 attached as **SOF Ex. 20**).

3 **4. Clark Hill Blames Chittick for Its Failure to Prepare a New**
4 **POM in 2013.**

5 149. In their initial disclosure statement (at 7), Clark Hill and Beauchamp
6 blame Chittick for their failure to do anything to prepare a new POM, which Clark Hill
7 agreed to undertake in early September 2013. They say that after Chittick signed Clark
8 Hill's engagement letter on September 12, 2013 and directed Bryan Cave to transfer
9 certain files to Clark Hill, "...Mr. Beauchamp never heard from Mr. Chittick regarding
10 the unfinished 2013 POM, or any other matter, until December 2013." (*See* Schenck
11 Dep. Exhibit 4, pg. 7, ln. 13-15, attached as **SOF Ex. 5**).

12 150. When he was deposed, Beauchamp offered a new excuse for Clark Hill's
13 failure to do any work on a new POM. He testified that Clark Hill did nothing to prepare
14 a new POM for DenSco because Chittick instructed him, as a condition of signing Clark
15 Hill's engagement letter, that Clark Hill not do any work on a new POM "until I'm
16 ready to go," and Beauchamp agreed. (*See* Beauchamp Dep. Transcript at pg. 295:10-
17 19, attached as **SOF Ex. 6**).

18 151. Beauchamp did not include this material limitation on Clark Hill's
19 representation in the engagement letter he asked DenSco to sign. (*See* Beauchamp Dep.
20 Exhibit 137, attached as **SOF Ex. 74**).

21 152. When Clark Hill agreed to abide by Chittick's request, neither
22 Beauchamp nor any other Clark Hill attorney separately advised Chittick that DenSco
23 could not sell any promissory notes until it authorized Clark Hill to prepare a new POM
24 and DenSco had issued the POM.

1 **5. Clark Hill Was Negligent By Failing to Instruct DenSco That**
2 **it Could Not Sell Any Promissory Notes Until a New POM Was**
3 **Issued, and Aided and Abetted Chittick to Breach Fiduciary**
4 **Duties He Owed DenSco by Following Chittick's Instructions**
5 **to Not Prepare a New POM for DenSco, Knowing DenSco Was**
6 **Continuing its Business Operations and Selling Rollover**
7 **Promissory Notes.**

8 153. Clark Hill was negligent by never advising Chittick that DenSco could
9 not sell any promissory notes until it had issued a new POM.

10 154. The evidence that will be presented to a jury will establish that if Clark
11 Hill had done so, DenSco would have followed that advice and worked diligently with
12 Clark Hill to prepare a new POM so that it could resume selling promissory notes.

13 a. Among other evidence is Clark Hill and Beauchamp's admission
14 in their initial disclosure statement (at 4), that "[o]ver the years, Mr. Chittick
15 showed himself to be a trustworthy and savvy businessman, and a good client.
16 . . . Despite complaining about the cost of legal services, Mr. Chittick appeared
17 to follow Mr. Beauchamp's advice and provided information when asked for it."
18 (See Schenck Dep. Exhibit 4, at pg. 4, ln. 19-21, attached as **SOF Ex. 5**).

19 b. Moreover, approximately six weeks before Clark Hill was
20 retained, DenSco had immediately followed Bryan Cave's advice to modify its
21 website, and Bryan Cave's files reflect that Chittick was prepared to cause
22 DenSco to refund all investor loans if that was necessary to correct the "general
23 solicitation" problem Bryan Cave had identified(See Beauchamp Dep. Exhibit
24 117, attached as **SOF Ex. 59**; Beauchamp Dep. Exhibit 128, attached as **SOF**
25 **Ex. 65**, Beauchamp Dep. Transcript at pp. 285:19-286:7, attached as **SOF Ex.**
26 **6**).

27 155. Beauchamp, by testifying that Clark Hill did not work on a new POM in
28 2013 because Chittick conditioned DenSco's execution of the firm's engagement letter
 on Clark Hill's agreement to not perform any work on a new POM until Chittick was
 "ready to go" -- when he and Clark Hill knew that one-half of DenSco's investors would
 "roll over" their investments and purchase new promissory notes during the last six

1 months of 2013 --has admitted that from the moment DenSco retained Clark Hill in
2 September 2013, Clark Hill aided and abetted Chittick in breaching fiduciary duties
3 Chittick owed DenSco. (*See* Beauchamp Dep. Transcript at pp. 299:2-302:6, attached
4 as **SOF Ex. 6**).

5 156. Between September and December 2013, Clark Hill substantially assisted
6 Chittick in breaching his fiduciary duties to DenSco by:

7 a. accepting DenSco as a client for purposes of preparing a new
8 POM, and then abiding by Chittick's instruction to not do any work on that
9 POM, knowing DenSco was continuing its business operations, including the
10 sale of promissory notes; (Schenck Dep. Exhibit 6, attached as **SOF Ex. 20**).

11 b. failing to appropriately advise DenSco about, and investigate facts
12 regarding, DenSco's loan portfolio because Chittick was allegedly "dealing"
13 with those problems; and (*See* Beauchamp Dep. Exhibit 350, attached as **SOF**
14 **Ex. 81**).

15 c. advising Chittick that DenSco could indefinitely delay the
16 issuance of an "update" to the 2011 POM (Beauchamp Dep. Exhibit 134,
17 attached as **SOF Ex. 47**).

18 157. The ongoing sale of "roll over" and new promissory notes was necessary
19 for DenSco to continue its business operations, and Clark Hill enabled DenSco to obtain
20 investor funds for a four-month period without making adequate disclosures to those
21 investors, exposing DenSco to substantial liability to its investors. (*See* Beauchamp
22 Dep. Exhibit 150, attached as **SOF Ex. 129**; Beauchamp Dep. Transcript at pp. 189:15-
23 193:12, attached as **SOF Ex. 6**).

24 **6. During the First Four Months of Clark Hill's Representation**
25 **of DenSco, the Firm Aided and Abetted Chittick's Breach of**
26 **Fiduciary Duty to DenSco When He Caused DenSco to Sell**
27 **Approximately \$8.5 Million of Promissory Notes in Violation**
28 **of the Securities Laws**

1 158. As a result of Clark Hill's and Beauchamp's conduct, Chittick caused
2 DenSco between September and December 2013 to sell promissory notes to some of
3 the "approximately 60 investor[s]" whose promissory notes Beauchamp knew were
4 "scheduled to expire [during the last six months of 2013] (and to probably be rolled
5 over into new notes)." (See Beauchamp Dep. Exhibit 117, attached as **SOF Ex. 59**;
6 Beauchamp Dep. Transcript at pp. 277:24-278:24, attached as **SOF Ex. 6**).

7 159. In each case, an investor who had purchased a two-year promissory note
8 in 2011, which expired in September, October, November or December 2013,
9 purchased a new two-year promissory note. Those sales, which total \$4,148,162.79,
10 are summarized in the following chart. (See Beauchamp Dep. Exhibit 422, attached as
11 **SOF Ex. 67**, Schenck Dep. Exhibit 21 attached as **SOF Ex. 82**; Schenck Dep. Exhibit
12 51 attached as **SOF Ex. 83**, Beauchamp Dep. Transcript at pp. 432:2-436:3, attached
13 as **SOF Ex. 6**).

Investor	Amount	Date
Van Butler	\$50,000	9/1/13
Arden & Nina Chittick	\$100,000	9/1/13
Carysn Smith	\$10,000	9/2/13
Michael & Diana Gumbert	\$100,000	9/8/13
Kaylene Moss	\$10,000	9/8/13
McKenna Smith	\$10,000	9/8/13
Glen Davis	\$20,000	9/12/13
Averill Cate, Jr.	\$10,000	9/13/13
Craig Brown	\$25,000	9/20/13
Judy & Gary Siegford	\$40,000	9/20/13
Bill & Jean Locke	\$15,000	9/25/13
Bill & Jean Locke	\$30,000	9/25/13
Ralph Hey	\$60,000	9/29/13

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Michael & Diana Gumbert	\$100,000	9/30/13
Mary Kent	\$100,000	10/1/13
Jim McArdle	\$100,000	10/3/13
Caro McDowell	\$100,000	10/7/13
Jeff Phalen	\$20,000	10/14/13
Jeff Phalen	\$20,000	10/14/13
Jeff Phalen – IRA	\$200,000	10/18/13
Brian Imdieke	\$250,000	10/19/13
Bill Hughes – IRA	\$314,700	10/24/13
Judy Hughes – IRA	\$14,300	10/24/13
Manual A. Lent – IRA	\$40,000	10/25/13
Dave Preston	\$60,000	10/26/13
Michael & Diana Gumbert	\$100,000	11/1/13
Jolene Page	\$50,000	11/1/13
Stanley Scholz – IRA	\$50,000	11/5/13
Wade Underwood	\$50,000	11/5/13
Paul A. Kent	\$112,161.79	11/9/13
Scott D. Detota	\$50,000	11/14/13
Tom Smith	\$800,000	11/21/13
Mary Kent	\$100,000	11/21/13
Les Jones	\$100,000	11/21/13
Vince & Sharry Muscat	\$200,000	11/23/13
Lillian Lent – IRA	\$17,000	11/25/13
Jolene Page	\$50,000	12/1/13
Gary Thompson	\$20,000	12/4/13
Kennen Burkhart	\$150,000	12/15/13
Mo & Sam Chittick	\$50,000	12/20/13

Jolene Page	\$200,000	12/22/13
Brian Imdieke	\$250,000	12/23/13

160. In addition to these “rollover” promissory note sales, Chittick caused DenSco to sell \$4,029,066.71 of new promissory notes to existing and new investors during September, October, November and December 2013. Those sales are summarized in the following chart.²

Investor	Amount	Date
Ralph Hey	\$15,000	9/6/13
Marvin & Pat Miller	\$900,000	9/9/13
Marvin & Pat Miller	\$100,000	9/9/13
Marvin & Pat Miller	\$706,000	9/10/13
Ross Dupper	\$800,000	9/13/13
Jeff Phalen – IRA	\$150,000	9/17/13
Michael Zones	\$500,000	9/24/13
Erin Carrick – Trust	\$200,066.71	9/27/13
Averill Cate	\$10,000	10/15/13
Jemma Kopel	\$100,000	11/14/13
Averill Cate	\$10,000	11/15/13*
Brian Odenthal – IRA	\$8,000	12/1/13
Averill Cate	\$10,000	12/15/13*
Brian & Janice Odenthal	\$20,000	12/19/13
Steven Bunger	\$500,000	12/20/13**

(See Exhibit A to Davis Dep. Exhibit 479, attached as **SOF Ex. 84**).

² Each note was a two-year note, except those marked with an *, which were one-year notes, and the note marked with **, which matured on 3/31/14.

1 **D. Facts Regarding Clark Hill’s Representation of DenSco During 2014**

2 **1. Clark Hill Learned During the First Week of January 2014**
3 **That DenSco Had Suffered a Substantial Loan Loss Because**
4 **of Chittick’s Mismanagement and Failure to Follow the**
5 **Lending Procedures DenSco Had Told Its Investors It Would**
6 **Follow.**

7 161. On Sunday, January 5, 2014, Beauchamp received an email from Chittick
8 asking if he had time to meet with him during the coming week. (*See* Chittick email at
9 CH_0000852-853, attached as **SOF Ex. 85**).

10 **a. On January 6, 2014, Beauchamp Received a Demand**
11 **Letter That Called into Question 52 Loans DenSco Had**
12 **Made to Menaged.**

13 162. On Monday, January 6, 2014, Beauchamp received an email from
14 Chittick which stated: “read the first two pages, then give me a call.” Attached to the
15 email was a three-page demand letter from Bryan Cave attorney Robert J. Miller;
16 Exhibit A, a list of 52 properties; and two subordination agreements. (*See* Beauchamp
17 Dep. Exhibit 142, attached as **SOF Ex. 86**).

18 163. The letter was written on behalf of Azben Limited, LLC; Geared Equity,
19 LLC; and 50780, LLC (the “Lienholders”). It asserted that Geared Equity, 50780, and
20 Sell Wholesale Funding, LLC (the “Lenders”) had each loaned money to Arizona Home
21 Foreclosures, LLC and Easy Investments, LLC, and that the loans Sell Wholesale
22 Funding had made were subsequently assigned to Azben. (*See* Beauchamp Dep. Exhibit
23 142 at CH_0000829, attached as **SOF Ex. 86**).

24 164. Exhibit A to the letter identified, with reference to specific loan numbers
25 and street addresses, 52 loans that the Lenders had made to Easy Investments and
26 Arizona Home Foreclosures to acquire 52 homes at trustee sales. (*See* Beauchamp Dep.
27 exhibit 142 at CH_0000832, attached as **SOF Ex. 86**).

28 165. The letter asserted that the Lenders’ loans had been made by “certified
funds delivered directly to the trustee” and secured by “promptly recorded deeds of

1 trust confirming a senior lien position on each of the Properties.” (See Beauchamp Dep.
2 Exhibit 142 at CH_0000829, attached as **SOF Ex. 86**).

3 166. The letter went on to assert that DenSco had “engaged in a practice of
4 recording a ‘mortgage’ on each of the [52 properties] on around the same time as the
5 Lenders were recording their senior deeds of trust” and that *each such mortgage falsely*
6 *stated that DenSco had “provided purchase money funding” and that its “loans are*
7 *‘evidenced by a check payable’ to the trustee for each of the Properties.”* (Emphasis
8 added.) (*Id.*)

9 167. The letter asserted that DenSco could not claim to be in a senior lien
10 position on those properties “since in each and every instance, only the Lenders
11 provided the applicable trustee with certified funds supporting the Borrower’s purchase
12 money acquisition for each of the Properties.” (See Beauchamp Dep. Exhibit 142 at
13 CH_0000830, attached as **SOF Ex. 86**)

14 168. The letter demanded that DenSco sign subordination agreements
15 acknowledging that it did not have a first position lien on any of the 52 properties, and
16 said that if DenSco refused to do so, the Lienholders would assert claims against
17 DenSco for fraud and conspiracy to defraud; negligent misrepresentation; and wrongful
18 recordation pursuant to A.R.S. § 33-420. (*Id.*)

19 169. The letter included “two forms of subordination agreement – one form
20 document applies to the Azben loans and the other form applies to the loans of Geared
21 Equity, LLC and 50780, LLC.” A footnote stated that “[p]roperty addresses and other
22 ‘form’ information will need to be included in each subordination agreement. My firm
23 will only commence preparing a subordination agreement for each loan when written
24 confirmation is provided that DenSco has unconditionally agreed to execute each
25 subordination agreement in the form enclosed herein.” (*Id.*)

26 **b. On January 6, 2014, Beauchamp Reviewed the Demand**
27 **Letter, Which Provided Clear Evidence That Chittick**
28 **Had Breached His Fiduciary Duties to DenSco and**
Exposed DenSco to Substantial Financial Loss.

1 170. Beauchamp spoke to Chittick by telephone that day, after receiving the
2 letter. Beauchamp's notes from that call state that Chittick told him DenSco's "largest
3 borrower" – who Beauchamp knew or should have known from the *Freo* lawsuit he
4 had received in June 2013 was Menaged – "had a guy working in his office and was
5 getting 2 loans on each property," and that Chittick and Menaged "had already fixed
6 about 6 loans." The notes reflect that Beauchamp planned to meet with Chittick on
7 Thursday, January 9, 2014. (See Beauchamp Dep. Exhibit 143, attached as **SOF Ex.**
8 **87**).

9 171. Clark Hill's billing records reflect that Beauchamp billed 2.4 hours on
10 January 6, 2014 to "[r]eview, work on and ; review statutory references; telephone
11 conversation with office of D. Chittick [a reference to having left a voice-mail message
12 for Chittick, since he worked alone from his home office]; telephone conversation with
13 D. Chittick regarding demand letter, issues, background information and requirements;
14 review notes and statute requirements; review documents." (See Schenck Dep. Exhibit
15 6 at CH_0002313, attached as **SOF Ex. 20**).

16 172. From the demand letter alone, Beauchamp knew that:

17 a. Chittick had failed to follow the lending procedures called for by
18 the Receipt and Mortgage document Beauchamp had approved in 2007. That
19 document called for DenSco's borrower to present a "check payable to _____
20 ('Trustee')" to the Trustee. It was evident from the demand letter that DenSco
21 had not done so. DenSco could not have issued 52 checks payable to Trustees,
22 since the letter asserted that the Lenders had issued checks to the Trustees when
23 they acquired those 52 properties. (See Beauchamp Dep. Exhibit 142 at
24 CH_000829-830, attached as **SOF Ex. 86**).

25 b. DenSco's borrowers, Arizona Home Foreclosures and Easy
26 Investments – which were both owned by Menaged – had obtained 52 loans from
27 the Lenders and 52 loans from DenSco, that were to be secured by the same 52
28 properties. If, as the Lenders claimed, they had actually paid a Trustee for each

1 property, DenSco had effectively made 52 unsecured loans and the disposition
2 of those monies was unknown.

3 c. The potential financial impact on DenSco was substantial.
4 Beauchamp knew from the 2011 POM that DenSco's average loan amount was
5 \$116,000, so that DenSco's potential losses from the 52 loans, if the loan
6 proceeds could not be traced and recovered, was \$6 million or more, or
7 approximately 13% of the \$47 million that Beauchamp understood DenSco had
8 raised from investors as of June 2013. (See Fenix Financial expert report at
9 pp. 2-10, attached to Motion for Determination of Prima Facie Case as Exhibit
10 B; Beauchamp Dep. Exhibit 432, attached as **SOF Ex. 2**).

11 173. Beauchamp could have easily conducted a limited investigation to
12 evaluate the claims in the demand letter that the Lenders were in first position on each
13 of the 52 properties, or to assess the information he had received during his telephone
14 call with Chittick that "a guy working in [Menaged's] office . . . was getting 2 loans
15 on each property." (See Beauchamp Dep. Exhibit 142, attached as **SOF Ex. 86**).

16 174. Beauchamp could have done so by searching for publicly recorded
17 documents that were identified in the two subordination agreements attached to the
18 demand letter. (See Beauchamp Dep. Exhibit 142, at CH_0000834 -848, attached as
19 **SOF Ex. 86**).

20 a. The first of those subordination agreements identified, by
21 reference to the instrument number assigned by the Maricopa County Recorder
22 (2013-0832534), the Mortgage DenSco had recorded on September 16, 2013 on
23 the property at issue. The subordination agreement also identified, by reference
24 to a recorded instrument number (2013-0833010), the deed of trust that Sell
25 Wholesale Funding, LLC had recorded on September 16, 2013 for the same
26 property. (See Schenck Dep. Exhibit 28, attached as **SOF Ex. 88**).

1 b. In January 2014, the Maricopa County Recorder's Office had a
2 free "Recorded Document Search" function. The same tool is available today.
3 (See generally <https://recorder.maricopa.gov/recdocdata/>)

4 c. If Beauchamp had used that tool, two brief searches would have
5 shown that the DenSco Mortgage (2013-0832534) was signed by Menaged
6 before a notary on September 16, 2013, and that Menaged also signed the Sell
7 Wholesale Funding deed of trust (2013-0833010) before a notary on
8 September 16, 2013. Those searches would also have identified the property in
9 question as 977 S. Colonial Drive in Gilbert, Arizona. (See Schenck Dep. Exhibit
10 29, attached as **SOF Ex. 89**).

11 Those two documents show that Menaged, not "a guy working in his
12 office," had secured both loans. (See Schenck Dep. Exhibit 28, attached as **SOF**
13 **Ex. 88**; Schenck Dep. Exhibit 29, attached as **SOF Ex. 89**; Beauchamp Dep.
14 Exhibit 143, attached as **SOF Ex. 87**; Beauchamp Dep. Transcript at pp. 320:3-
15 322:8, attached as **SOF Ex. 6**).

16 d. The second of the subordination agreements attached to the
17 demand letter identified, by reference to a recorded instrument number (2013-
18 0717135), the Mortgage DenSco had recorded on August 6, 2013 on the property
19 at issue. The subordination agreement also identified, by reference to a recorded
20 instrument number (2013-0721399), the deed of trust that Geared Equity, LLC
21 had recorded on August 7, 2013 for the same property. (See Beauchamp Dep.
22 Exhibit 142, attached as **SOF Ex. 86**; see also Geared Equity Deed of Trust at
23 RECEIVER_001117, attached as **SOF Ex. 90**).

24 e. If Beauchamp had used the Recorded Document Search tool, two
25 brief searches would have shown that the DenSco Mortgage (2013-0717135)
26 was signed by Menaged before a notary on August 6, 2013, and that Menaged
27 also signed the Sell Wholesale Funding deed of trust (2013-0721399) before a
28

1 notary on August 6, 2013. Those searches would have identified the property in
2 question as 39817 Messner Way in Anthem, Arizona.

3 (See <https://recorder.maricopa.gov/recdocdata/>)

4 f. Those two documents show that Menaged, not “a guy working in
5 his office”, had secured both loans. (See Beauchamp Dep. Exhibit 143, attached
6 as **SOF Ex. 87**).

7 175. As for the remaining 49 properties on Exhibit A to the demand letter,
8 Beauchamp could have, either by himself, or through a paralegal, quickly discovered
9 that in each case, Menaged, and not “a guy working in his office,” had signed the
10 documents at issue. (See Beauchamp Dep. Exhibit 142, attached as **SOF Ex. 86**;
11 Beauchamp Dep. Exhibit 143, attached as **SOF Ex. 87**).

12 a. This could have been done by using a free search function on the
13 Maricopa County Assessor’s Office website that allows anyone to search for
14 property records using a street address (such as those given in Exhibit A to the
15 demand letter), or other means of customary due diligence. The Assessor’s
16 website provides a link to a recorded instrument on the Maricopa County
17 Recorder’s Office website for each property, and that information could have in
18 turn been used to quickly locate both the deed of trust recorded by the Lenders
19 and DenSco’s competing Mortgage by using the Recorded Document Search
20 tool. (See <https://recorder.maricopa.gov/recdocdata/>)

21 b. Such a search, which would take less than five minutes for each
22 property, would produce records showing that for each of the 49 properties,
23 Menaged had signed both a DenSco Mortgage and another lender’s deed of trust
24 before a notary, providing further evidence that Menaged, not “some guy
25 working in his office,” had secured all of the loans in question, and had
26 purposefully defrauded DenSco. (See Beauchamp Dep. Exhibit 143, attached as
27 **SOF Ex. 87**; See also <https://recorder.maricopa.gov/recdocdata/>)

1 c. **On January 7, 2014, Clark Hill Received an Email From**
2 **Chittick in Which He Admitted That He Had Grossly**
3 **Mismanaged DenSco's Loan Portfolio, Failed to**
4 **Comply With the Lending Practices Disclosed in the**
 2011 POM, and Caused DenSco to Suffer Substantial
 Losses.

5 176. On Tuesday, January 7, 2014, Beauchamp received an email from
6 Chittick, copied to Menaged, which contained information relevant to the demand letter
7 and said that Chittick was bringing Menaged to the planned January 9, 2014 meeting.
8 (See Beauchamp Dep. Exhibit 144, attached as **SOF Ex. 91**).

9 177. Chittick's email said that DenSco had, since 2007, loaned \$50 million to
10 "a few different LLC's" controlled by Menaged. Beauchamp knew or should have
11 known that those companies included the two entities identified in the demand letter:
12 Easy Investments (a defendant in the June 2013 *Freo* lawsuit) and Arizona Home
13 Foreclosures. (See Beauchamp Dep. Exhibit 144 at CH_0005916, attached as **SOF Ex.**
14 **91**).

15 178. Chittick's email said that "[b]ecause of our long term relationship, *when*
16 *[Menaged] needed money, [I] would wire the money to his account and he would pay*
17 *the trustee*" (emphasis added), Menaged would sign a Mortgage that referenced the
18 payment to the trustee, and Chittick would cause the Mortgage to be recorded. (See
19 Beauchamp Dep. Exhibit 144 at CH_0005917, attached as **SOF Ex. 91**).

20 179. Chittick attached to his email a form of Mortgage, Deed of Trust, and
21 Note Secured by Deed of Trust that he routinely used in making loans to Menaged,
22 which Chittick described as "docs you have reviewed and have been reviewed by a guy
23 at your last law firm, maybe two firms ago in 2007." (*Id.*)

24 180. Chittick's email confirmed what was evident from the demand letter, and
25 brought home the red flags Beauchamp had missed when he prepared the 2011 POM
26 and when he reviewed the *Freo* lawsuit six months earlier:

27 a. Chittick had been grossly negligent in managing DenSco's loan
28 portfolio, by not complying with the terms of the Mortgage, which called for

1 DenSco to issue a check payable to the Trustee, and instead wiring money to
2 Menaged, trusting Menaged to actually use those funds to pay a Trustee.

3 b. Chittick's admitted practice of giving DenSco's funds directly to
4 Menaged, rather than paying them directly to a Trustee through a check made
5 payable to the Trustee, made the statements in the 2011 POM about DenSco's
6 lending practices materially misleading.

7 (See Beauchamp Dep. Exhibit 142, attached as **SOF Ex. 86**; Beauchamp Dep. Exhibit
8 144, attached as **SOF Ex. 91**).

9 181. Chittick's reference to "docs you have reviewed and have been reviewed
10 by a guy at your last law firm, maybe two firms ago in 2007" suggested that Chittick
11 might blame Beauchamp for the problems DenSco now faced because of DenSco's use
12 of those documents. (See Beauchamp Dep. Exhibit 144 at CH_0005917, attached as
13 **SOF Ex. 91**).

14 182. Chittick's email went on to say that Menaged had told him in November
15 2013 that DenSco had been defrauded by Menaged's "cousin," who allegedly worked
16 with Menaged in managing Easy Investments and Arizona Home Foreclosures.
17 Menaged claimed that his "cousin" had "receiv[ed] the funds from [DenSco], then
18 request[ed] them from . . . other lenders [who] cut a cashiers check for the agreed upon
19 loan amount . . . [took] it to the trustee and . . . then record[ed] a [deed of trust]
20 immediately." (See Beauchamp Dep. Exhibit 144 at CH_0005918, attached as **SOF Ex.**
21 **91**).

22 183. Chittick explained that "sometimes" DenSco had recorded its mortgage
23 before another lender's deed of trust was recorded, but in other cases it had not. (*Id.*)

24 184. According to Chittick, "[t]he cousin absconded with the funds.
25 [Menaged] figured this out in mid November. He came to me and told me what was
26 happening. He said he talked to the other lenders and they agreed that this was a mess,
27 and as long as they got their interest and were being paid off they wouldn't foreclose,
28 sue or anything else." (*Id.*)

1 185. Chittick went on to describe the “plan” that he and Menaged had been
2 executing since November: to “sell off the properties and pay off both liens with
3 interest and make everyone whole.” He acknowledged that there were “short falls” on
4 each property, representing the difference between the value of the property and the
5 combined amount of the two loans, and that “[c]oming up with the short fall on all these
6 houses is a challenge, but we believe it is doable. Our plan is a combination of injecting
7 capital and extending cheaper money.” (See Beauchamp Dep. Exhibit 144 at
8 CH_0005918-19, attached as **SOF Ex. 91**).

9 186. Chittick described the basic terms of the agreement with the “other
10 lenders” as including the following: (1) “all lenders will be paid their interest, except
11 [DenSco], I’m allowing [its] interest to accrue”; and (2) DenSco is “extending
12 [Menaged] a million dollars against a home at 3%.” (See Beauchamp Dep. Exhibit 144
13 at CH_0005918, attached as **SOF Ex. 91**).

14 187. Chittick claimed that he and Menaged had “already cleared up about 10%
15 of the total \$’s in question” with the “other lenders.” (See Beauchamp Dep. Exhibit 144
16 at CH_0005919, attached as **SOF Ex. 91**).

17 188. As for the “gentleman who handed me the paperwork” – a reference to a
18 person affiliated with one of the three entities identified in the demand letter – Chittick
19 wrote that he “believes because he physically paid the trustee that he is in first position,
20 but agrees it’s messy. [H]e wants me to subordinate to him, no matter who recorded
21 first. [W]e have paid off one of his loans, you’ll see on this list Pratt – paid in full, I’ve
22 attached the hud-1 and you can see that it shows me in first position versus his belief.
23 [N]ow that’s one title agent[’]s opinion, [I] understand that’s not settling [a] legal
24 dispute on who’s in first or second.” (*Id.*)

25 189. Chittick went on to state: ***“I know that [I] can’t sign the subordination***
26 ***[agreement] because that goes against everything that [I] tell [DenSco’s] investors.”***
27 (Emphasis added.) (See Beauchamp Dep. Exhibit 144 at CH_0005920, attached as **SOF**
28 **Ex. 91**).

1 190. He also wrote that “there are several other lenders waiting to see what [I]
2 do[.] [I]f I sign with this group, they want to have me sign for them too.” (*Id.*)

3 191. Chittick concluded his email by stating “[w]hat we need is an agreement
4 that as long as the other lenders are being paid their interest and payoffs continue to
5 come . . . that no one initiates foreclosure for obvious reasons, which will give us time
6 to execute our plan.” (*Id.*)

7 **d. On January 7 and 8, 2014, Beauchamp Reviewed the**
8 **Demand Letter and Chittick’s January 6, 2014 Email,**
9 **Including a Review of “Lien Dispute Information.”**

10 192. Clark Hill’s billing records reflect that Beauchamp billed 1.8 hours on
11 January 7, 2014 to “[r]eview legislative history for purchase money security interest;
12 review documents and follow-up information” and “telephone conversation with office
13 of D. Chittick,” which was a reference to having left a voicemail message for Chittick.
(*See* Schenck Dep. Exhibit 6 at CH_0002313, attached as **SOF Ex. 20**).

14 193. Clark Hill’s billing records reflect that Beauchamp billed 1.7 hours on
15 January 8, 2014 to “[r]eview information from D. Chittick; review and outline follow-
16 up questions; prepare for meeting; review lien dispute information.” (*Id.*)

17 194. As of January 8, 2014, Beauchamp knew that:

18 a. Chittick had breached fiduciary duties he owed DenSco by causing
19 it to sell promissory notes to investors during the four months that had passed
20 since DenSco’s September 2013 retention of Clark Hill without first issuing the
21 new POM that Clark Hill had been retained to prepare, but had not prepared at
22 Chittick’s instruction;

23 b. Chittick had breached fiduciary duties he owed DenSco through
24 grossly negligent lending practices;

25 c. the scope of DenSco’s financial exposure was greater than the 52
26 properties identified in the demand letter, since it included the “other lenders”
27 with whom Menaged had reached an informal agreement in November 2013;
28

1 (See Fenix Financial expert report at pp. 2-10, attached to Motion for
2 Determination of Prima Facie Case as an Exhibit B).

3 d. Investors who had purchased promissory notes since Clark Hill's
4 September 2013 retention had not been told of the *Freo* lawsuit; DenSco's
5 grossly deficient lending practices; DenSco's concentration of loans made to one
6 borrower, Menaged; DenSco's November 2013 discovery of the fraud allegedly
7 perpetrated by Menaged's "cousin"; and Chittick's plan to help Menaged by
8 "injecting capital" to pay off the loans of other lenders on properties that
9 Menaged's companies had allegedly purchased with DenSco's funds, allowing
10 interest on DenSco's loans to accrue, and lending Menaged \$1 million at 3%
11 interest.

12 e. Chittick was unwilling to cause DenSco to accept the losses his
13 gross negligence had caused by signing the subordination agreements attached
14 to the demand letter, "because that goes against everything that [he] tell[s]
15 [DenSco's] investors," or to make any disclosure to DenSco's investors while
16 he and Menaged pursued their plan.

17 (See Beauchamp Dep. Exhibit 144, attached as **SOF Ex. 91**; Beauchamp Dep. Exhibit
18 142, attached as **SOF Ex. 86**; Beauchamp Dep. Exhibit 143 attached as **SOF Ex. 87**;
19 Schenck Dep. Exhibit 6 at CH_0002313, attached as **SOF Ex. 20**).

20 195. Beauchamp also knew from his January 6 review of the demand letter and
21 the hours he had devoted on January 7 and 8 to analyzing Chittick's email and other
22 information he had received from Chittick, that Menaged's "cousin" story was
23 implausible and that by accepting the story without investigation and planning to
24 continue DenSco's lending relationship with Menaged, Chittick was breaching his
25 fiduciary duties to DenSco. (See Schenck Dep. Exhibit 6 at CH_0002313, attached as
26 **SOF Ex. 20**; Beauchamp Dep. Exhibit 142, attached as **SOF Ex. 86**).

27 196. In addition to the information provided in the subordination agreements
28 and the list of the other 52 properties identified in the demand letter, Beauchamp should

1 have also reviewed the information attached to Chittick's January 6, 2014 email
2 regarding a loan for which Chittick claimed DenSco was in first position. (*See*
3 Beauchamp Dep. Exhibit 142 at CH_0000829-830, attached as **SOF Ex. 86**;
4 Beauchamp Dep. Exhibit 144, attached as **SOF Ex. 91**).

5 197. If Beauchamp had used the information in the settlement statement
6 attached to Chittick's email to investigate Chittick's claim that DenSco was in first
7 position with respect to the "Pratt" property, he could have used the Recorded
8 Document Search tool on the website maintained by Maricopa County Recorder's
9 Office. (*See* Beauchamp Dep. Exhibit 144, attached as **SOF Ex. 91**).

10 198. A few brief searches would have confirmed Chittick's claim that DenSco
11 was the first to record: DenSco's Mortgage was recorded on September 17, 2013 as
12 instrument number 2013-0837513, while Geared Equity's deed of trust was recorded
13 on September 19, 2013 as instrument number 2013-0842640. (*See* Schenck Dep.
14 Exhibit 29 attached as **SOF Ex. 89**; Geared Equity Deed of Trust at
15 RECEIVER_001117, attached as **SOF Ex. 90**).

16 199. But those two documents would also have shown that Menaged signed
17 each document before a notary on September 17, 2013, making clear that Menaged, not
18 his "cousin," had secured both loans. (*See* Schenck Dep. Exhibit 29, attached as **SOF**
19 **Ex. 89**; Geared Equity Deed of Trust at RECEIVER_001122, attached as **SOF Ex. 90**).

20 200. Moreover, because the demand letter claimed that Geared Equity had
21 delivered funds to the Trustee, and Chittick had admitted he had not, the question
22 remained as to where DenSco's funds had gone and whether they could be recovered.
23 (*See* Beauchamp Dep. Exhibit 142, attached as **SOF Ex. 86**; Beauchamp Dep. Exhibit
24 144, attached as **SOF Ex. 91**).

1 **2. Clark Hill Failed to Properly Advise DenSco.**

2 **a. After Receiving the Demand Letter and Chittick's**
3 **January 6 Email, Beauchamp Should Have Insisted on**
4 **Meeting with Chittick Alone So That He Could Advise**
5 **Chittick of the Actions He Was Required to Take to**
6 **Protect DenSco From Further Harm, But Beauchamp**
7 **Failed to Do So.**

8 201. Beauchamp, as DenSco's attorney, should have recognized that he had an
9 obligation to meet privately with Chittick, without Menaged present, to confirm
10 relevant facts, and advise Chittick, as DenSco's President, of the actions DenSco
11 needed to take and the consequences to DenSco if it failed to do so. (*See* Neil Wertlieb
12 expert report at pp. 40; 55; 62-63, attached to Motion for Determination of Prima Facie
13 Case.

14 202. While the specific actions Beauchamp should have taken on January 8,
15 2014 is the subject of expert testimony, which will be disclosed in accordance with the
16 scheduling order that has been entered in this case, the Receiver anticipates that those
17 actions would have included the following:

18 a. Telling Chittick he should not bring Menaged to their scheduled
19 January 9, 2014 meeting;

20 b. Telling Chittick that DenSco's sale of promissory notes since
21 July 1, 2013 to investors exposed DenSco and Chittick to civil and criminal
22 liability;

23 c. Telling Chittick that DenSco should not have sold any notes
24 without first issuing a new POM and should not use the proceeds of sales made
25 since July 1, 2013 until the investors who bought those notes had been given a
26 new POM and afforded an opportunity to rescind those transactions;

27 d. Telling Chittick that DenSco could not sell any new promissory
28 notes until Clark Hill was able to conduct an adequate investigation of DenSco's
 lending practices and other material information and a new POM had been
 issued;

1 e. Telling Chittick that DenSco should immediately cease doing
2 business with Menaged based on the implausibility of the “cousin” story and the
3 readily available public records discussed above;

4 f. Telling Chittick that, at a minimum, DenSco should not have any
5 further business dealings with Menaged until it had investigated the true facts of
6 the alleged fraud by Menaged’s “cousin”;

7 g. Telling Chittick that after discovering the true facts about
8 Menaged’s dealings with DenSco (whether through a review of public records
9 or some other investigation), DenSco should rescind all lending agreements it
10 had made with Menaged since November 2013 on the grounds of fraud in the
11 inducement, and seek to enforce its remedies for all other loans that Menaged
12 had obtained through fraud; and

13 h. Telling Chittick that DenSco had to assess the impact of the fraud
14 on DenSco’s financial position, and if that assessment resulted in a finding that
15 DenSco was insolvent, DenSco had to consider duties owed to its investors and
16 other creditors in making all business decisions.³

17 i. Telling Chittick that, at a minimum, DenSco should not have any
18 further business dealings with Menaged until it had investigated the true facts of
19 the alleged fraud by Menaged’s “cousin”;

20 j. Telling Chittick that after discovering the true facts about
21 Menaged’s dealings with DenSco (whether through a review of public records
22 or some other investigation), DenSco should rescind all lending agreements it
23 had made with Menaged since November 2013 on the grounds of fraud in the
24 inducement, and seek to enforce its remedies for all other loans that Menaged
25 had obtained through fraud; and

26
27 ³ DenSco was indisputably insolvent in January 2014, as Chittick’s statements
28 to Beauchamp at the time made clear and as the Receiver was able to determine after
reviewing DenSco’s QuickBooks records.

1 k. Telling Chittick that DenSco had to assess the impact of the fraud
2 on DenSco's financial position, and if that assessment resulted in a finding that
3 DenSco was insolvent, DenSco had to consider duties owed to its investors and
4 other creditors in making all business decisions.

5 (See Neil Wertlieb expert report at pp. 57-67, attached to Motion for Determination of
6 Prima Facie Case.

7 203. This advice should have been documented in writing.

8 204. If Chittick declined to follow the advice, Beauchamp should have
9 threatened to withdraw from representing DenSco, which may have caused Chittick to
10 relent and follow the advice. See Neil Wertlieb expert report at pg. 67 attached to
11 Motion for Determination of Prima Facie Case.

12 205. Beauchamp did not tell Chittick he should not bring Menaged to the
13 planned January 9, 2014 meeting and did not give the advice described above. (See Neil
14 Wertlieb expert report at pp. 40; 55; 62-63, attached to Motion for Determination of
15 Prima Facie Case.

16 206. The Receiver intends to offer evidence at trial establishing that if
17 Beauchamp had taken these actions, Chittick would have caused DenSco to follow that
18 advice. (See Schenck Dep. Exhibit 4 at pg. 4, ln. 17-21, attached as **SOF Ex. 5**; Neil
19 Wertlieb expert report attached to Motion for Determination of Prima Facie Case.

20 207. Evidence of Chittick's long professional relationship with Beauchamp
21 and numerous instances of Chittick following Beauchamp's legal advice establish that
22 if Beauchamp had properly advised DenSco during the first week of January 2014,
23 Chittick would have caused DenSco to: (i) stop selling promissory notes; (ii) terminate
24 its relationship with Menaged and his companies; (iii) pursue its remedies against
25 Menaged and his companies; and (iv) explore whether DenSco could survive as a going
26 concern or would have to liquidate. Such evidence includes:

27 a. Clark Hill and Beauchamp's admission in their initial disclosure
28 statement (at 4), that "[o]ver the years, Mr. Chittick showed himself to be a

1 trustworthy and savvy businessman, and a good client. . . . Despite complaining
2 about the cost of legal services, Mr. Chittick appeared to follow Mr.
3 Beauchamp's advice and provided information when asked for it." (See Schenck
4 Dep. Exhibit 4 at pg. 4, ln. 17-25, attached as **SOF Ex. 5**).

5 b. Moreover, only six months earlier, DenSco had immediately
6 followed Bryan Cave's June 2013 advice to modify its website, and Bryan
7 Cave's files reflect that Chittick was prepared to cause DenSco to refund all
8 investor loans if that was necessary to correct the "general solicitation" problem
9 Bryan Cave had identified. (See Beauchamp Dep. Exhibit 128, attached as **SOF**
10 **Ex. 65**; Beauchamp Dep. Exhibit 117, attached as **SOF Ex. 59**; Beauchamp Dep.
11 Exhibit 116, attached as **SOF Ex. 58**; Beauchamp Dep. Exhibit 115, attached as
12 **SOF Ex. 3**; Beauchamp Dep. Exhibit 114, attached as **SOF Ex. 57**).

13 **3. During the January 9, 2014 Meeting with Chittick and**
14 **Menaged, Beauchamp Learned That DenSco Faced an Even**
15 **Larger Financial Exposure as a Result of Chittick's**
16 **Mismanagement Than the Exposure Presented by the**
Demand Letter, And Chittick Wanted to Try to Cover Up His
Mismanagement By Pursuing a "Work Out" Plan With
Menaged.

17 208. Clark Hill's billing records reflect that Beauchamp billed 4.3 hours on
18 January 9, 2014 to "[p]repare for and meeting with D. Chittick and S. Menages [sic];
19 review and work on notes from meeting and outline follow-up; review and respond to
20 several emails; review documents and information." (See Schenck Dep. Exhibit 6 at pg.
21 CH_0002313, attached as **SOF Ex. 20**).

22 209. Beauchamp's notes from the January 9, 2014 meeting reflect that Chittick
23 and Menaged confirmed that DenSco faced exposure from both the Lienholders
24 identified in the January 6, 2014 demand letter and other lenders, including Active
25 Funding Group. (See Beauchamp Dep. Exhibit 145, attached as **SOF Ex. 92**).

26 210. According to Beauchamp's notes, the number of loans made by DenSco
27 that were not in first position and were either unsecured or under-secured was between
28

1 100 and 125. Based on that information and the 2011 POM's average loan amount of
2 \$116,000, Beauchamp knew or should have known that DenSco's loans to Menaged
3 represented a potential loss of between \$11.6 and \$14.5 million, or between 25% and
4 30% of the \$47 million that Beauchamp understood DenSco had raised as of June 2013.
5 (*Id.*)

6 211. Beauchamp's notes from the January 9, 2014 meeting also reflect that
7 Chittick did not know what had happened to as much as \$14.5 million that DenSco had
8 loaned to Menaged, and that Chittick was not taking any meaningful steps to investigate
9 the loss and seek to recover those funds. The notes state: "What happened to the
10 money? -- Will pursue something or his cousin a but trying to determine where the
11 money has gone." (*Id.*)

12 212. Beauchamp's notes from the January 9, 2014 meeting also reflect that,
13 although the money DenSco previously loaned Menaged was missing and Chittick had
14 taken no steps to investigate the circumstances under which the loan losses had occurred
15 and their impact on DenSco, Chittick and Menaged had agreed to pursue a "work out"
16 of the loan losses caused by Chittick's gross mismanagement of DenSco's lending
17 practices. (*Id.*)

18 **4. After the January 9, 2014 Meeting, Clark Hill Helped Chittick**
19 **Breach Fiduciary Duties He Owed to DenSco and Negligently**
20 **Advised DenSco About the Practices It Should Follow in**
Continuing to Loan Money to Menaged.

21 213. After the January 9, 2014 meeting, Clark Hill helped Chittick breach
22 fiduciary duties he owed DenSco by negotiating a "Forbearance Agreement" that was
23 not in DenSco's interest and was instead intended to cover up Chittick's
24 mismanagement of DenSco's lending practices and protect Chittick from potential
25 claims by DenSco's investors. (*See* Beauchamp Dep. Exhibit 168, attached as **SOF Ex.**
26 **93**; Beauchamp Dep. Exhibit 360, attached as **SOF Ex. 94**; Beauchamp Dep. Exhibit
27 361, attached as **SOF Ex. 95**; Beauchamp Dep. Exhibit 362, attached as **SOF Ex. 96**;
28

1 Beauchamp Dep. Exhibit 363, attached as **SOF Ex. 97**; Beauchamp Dep. Exhibit 364,
2 attached as **SOF Ex. 98**).

3 214. Clark Hill also helped Chittick breach fiduciary duties by advising
4 Chittick that DenSco could continue to raise money from investors while Chittick was
5 implementing his “work out” plan, and that DenSco could indefinitely delay issuing a
6 new POM until Chittick felt comfortable doing so. (*See* Beauchamp Dep. Exhibit 350,
7 attached as **SOF Ex. 81**; Beauchamp Dep. Exhibit 168, attached as **SOF Ex. 93**;
8 Beauchamp Dep. Transcript at pp. 405:5- 408:9, attached as **SOF Ex. 6**).

9 215. These actions served Chittick’s interests, who hoped to “fix” the problem
10 created by his mismanagement and delay telling his investors about the problem until
11 he had minimized the financial harm and delay or avoid making disclosures to
12 DenSco’s investors about the Forbearance Agreement and how it came to be put in
13 place. (*See* Neil Wertlieb expert report attached to Motion for Determination of Prima
14 Facie Case.

15 216. Clark Hill and Beauchamp, on the other hand, having failed to properly
16 advise Chittick in September 2013 that it could not sell promissory notes without first
17 issuing a new POM, and having agreed with Chittick to indefinitely delay work on the
18 POM, similarly saw the Forbearance Agreement as an opportunity to cover up their
19 negligence and potentially mitigate their exposure. (*See* Beauchamp Dep. Exhibit 360,
20 attached as **SOF Ex. 94**; Beauchamp Dep. Exhibit 361, attached as **SOF Ex. 95**;
21 Beauchamp Dep. Exhibit 362, attached as **SOF Ex. 96**; Beauchamp Dep. Exhibit 363,
22 attached as **SOF Ex. 97**; Beauchamp Dep. Exhibit 364, attached as **SOF Ex. 98**;
23 Beauchamp Dep. Exhibit 350, attached as **SOF Ex. 81**; Beauchamp Dep. Transcript at
24 pp. 405:5-408:9, attached as **SOF Ex. 6**).

25 217. At the same time that it was drafting the Forbearance Agreement, which
26 obligated DenSco to continue loaning money to Menaged, Clark Hill failed to properly
27 advise DenSco about how the loans should be made. (*See* Neil Wertlieb expert report
28 at pp. 13-19, attached to Motion for Determination of Prima Facie Case .

1 **5. Clark Hill Aided and Abetted Chittick's Breach of Fiduciary**
2 **Duties Owed DenSco by Negotiating and Documenting a**
3 **Forbearance Agreement Between January and April 2014**
4 **That Was Not in DenSco's Interests and Was Intended by**
5 **Clark Hill to Cover Up Chittick's Mismanagement of**
6 **DenSco's Lending Practices and Protect Chittick From**
7 **Claims by DenSco's Investors.**

8 218. On January 10, 2014, Beauchamp opened a "new matter" for DenSco in
9 Clark Hill's accounting and filing systems that was called "work-out of lien issue" to
10 enable and implement the "work out" plan Chittick and Menaged had developed.⁴ (*See*
11 Schenck Dep. Exhibit 6 at CH_0002312, attached as **SOF Ex. 20**; Beauchamp Dep.
12 Transcript at pp. 405:5-408:9, attached as **SOF Ex. 6**).

13 219. Over the next three months, Beauchamp helped negotiate and finalize a
14 Forbearance Agreement that was not in DenSco's interests and was, as Beauchamp said
15 multiple times in writing, intended to protect Chittick from potential claims by his
16 investors by making it appear that the loan losses DenSco faced were caused by
17 Menaged, rather than by Chittick's gross mismanagement of DenSco's lending
18 practices, and that Chittick had taken appropriate steps to protect DenSco's interests.
19 (*See* Beauchamp Dep. Exhibit 168 attached as **SOF Ex. 93**; Schenck Dep. Exhibit 97,
20 attached as **SOF Ex. 99**; Beauchamp Dep. Transcript at pp. 373:21-376:8, attached as
21 **SOF Ex. 6**).

22 **a. In January 2014, Beauchamp Negotiated the Terms of**
23 **a Nondisclosure Agreement and Term Sheet.**

24 220. During the week of January 12, 2014, Beauchamp prepared a
25 nondisclosure agreement and a term sheet. Beauchamp negotiated with Menaged's
26 attorney, Jeff Goulder, over the term sheet. (*See* Schenck Dep. Exhibit 43, attached as
27 **SOF Ex. 100**; Schenck Dep. Exhibit 45, attached as **SOF Ex. 101**; Schenck Dep.
28 Exhibit 40 at DIC0007013, attached as **SOF Ex. 102**; Schenck Dep. Exhibit 39,

⁴ A few days later, on January 14, 2014, Beauchamp opened a "new matter" for DenSco in Clark Hill's accounting and file systems that was called "business matters."

1 attached as **SOF Ex. 103**; Beauchamp Dep. Exhibit 422 at pg. 10, ln. 7-16, attached as
2 **SOF Ex. 67**).

3 221. Beauchamp also communicated with Bryan Cave attorney Bob Miller,
4 who withdrew from representing his clients on January 16, 2014 because of a conflict
5 issue raised by Beauchamp and the scope of the consent DenSco would give Bryan
6 Cave. (*See* Schenck Dep. Exhibit 44, attached as **SOF Ex. 104**).

7 222. Chittick (for DenSco) and Menaged signed the nondisclosure agreement
8 and term sheet on Friday, January 17, 2014. The term sheet contemplated that DenSco
9 would advance additional funds to Menaged, some of which would be used to pay off
10 (by February 28, 2014) the loans held by the lenders represented by Bryan Cave. The
11 term sheet also outlined the elements of a Forbearance Agreement and a process to
12 resolve the claims of the other competing lenders. (*See* Beauchamp Dep. Exhibit 192
13 at DIC0007522 and DIC0007525, attached as **SOF Ex. 105**).

14 **b. During February 2014, Beauchamp Negotiated the**
15 **Terms of the Forbearance Agreement With Menaged's**
16 **Counsel, Repeatedly Stating That the Agreement Was**
Needed to Protect Chittick's, Rather Than DenSco's
Interests.

17 223. During the first week of February, Beauchamp began negotiating with
18 Goulder over the terms of a Forbearance Agreement. (*See* Schenck Dep. Exhibit 70,
19 attached as **SOF Ex. 106**).

20 224. It is evident from Beauchamp's communications with Chittick and
21 Goulder during February 2014 that Clark Hill was looking out for Chittick's interests,
22 rather than the interests of DenSco and its investors. (*See* Schenck Dep. Exhibit 70,
23 attached as **SOF Ex. 106**; Beauchamp Dep. Exhibit 168, attached as **SOF Ex. 93**;
24 Beauchamp Dep. Exhibit 191, attached as **SOF Ex. 107**).

25 225. One example of Clark Hill's misplaced loyalty to Chittick is a February
26 4, 2014 email that Beauchamp sent to Chittick, which said:

1 a. “Before we all get into a room, you and I need to make sure we
2 have a clear understanding of what you can do and what you cannot do without
3 going to all of your investors for approval. We have a deal that works for you
4 and your investors and is fair to [Menaged]. Now [Goulder] is trying to better
5 the deal for [Menaged]. But you already have been more than generous trying
6 to help [Menaged] out of [Menaged’s] problem. Again, *this goes back to*
7 *[Goulder] not acknowledging that this is [Menaged’s] problem and instead*
8 *insisting that this is your problem because you did not make sure that*
9 *[Menaged] handled the loans properly and that you did not take the necessary*
10 *actions so that DenSco had a first lien on each property. . . . [Goulder] is trying*
11 *to have you think that you have significant responsibility for creating this*
12 *problem as opposed to this being created by [Menaged’s] cousin working for*
13 *[Menaged]. . . . [Goulder] is trying to make you feel that you are guilty so you*
14 have to assume a significant responsibility in the agreement to share
15 [Menaged’s] problem, but nobody stole the money from you. You can help and
16 have helped [Menaged], but you cannot OBLIGATE DenSco to further help
17 [Menaged], because that would breach your fiduciary duty to your investors.”
18 (Emphasis added.) (See Beauchamp Dep. Exhibit 337, attached as **SOF Ex.**
19 **108**).

20 226. And in an email Beauchamp sent to Goulder on Friday, February 7, 2014
21 Beauchamp wrote: “*Based on your previous changes, the Forbearance Agreement*
22 *would be prima facie evidence that Denny Chittick had committed securities fraud*
23 *because the loan documents he had [Menaged] sign did not comply with DenSco’s*
24 *representations to DenSco’s investors in its securities offering documents.*
25 Unfortunately, this agreement needs to not only protect [Menaged] from having this
26 agreement used as evidence of fraud against him in litigation, *the agreement needs to*
27 comply with Denny’s fiduciary obligation to his investors as well as *not become*
28 *evidence to be used against Denny for securities fraud. . . .* We wanted the document

1 to set forth the necessary facts for Denny to satisfy his securities obligations to his
2 investors (including that the original loans had to have been written and secured by a
3 first lien on real property and that the workout agreed to by Denny complied with his
4 workout authorization) without having [Menaged] admit to facts that could cause
5 trouble to him. . . .To try to balance the respective interests, I have inserted sections
6 from the loan documents into the Forbearance Agreement. Referencing the language
7 of the Loan Documents is needed to satisfy Denny's fiduciary obligations, but I have
8 also modified the other provisions so that the Borrower is not admitting that it was
9 required to provide first lien position in connection with the loans." (Emphasis added.)
10 (See Schenck Dep. Exhibit 70 attached as **SOF Ex. 106**).

11 227. In an email exchange on Sunday, February 9, 2014 Beauchamp told
12 Chittick "[p]lease understand that you are limited in what risk or liability you can
13 assume. Your fiduciary duty to your investors makes this a difficult balancing act."
14 (See Beauchamp Dep. Exhibit 345 at DIC0006703, attached as **SOF Ex. 109**).

15 228. Chittick's response was that he "trusts that we are in balance and I have
16 even more confidence that [Menaged] and I can solve this problem without issue and
17 we never have to use the document that we've worked so long on getting completed."
18 (See Beauchamp Dep. Exhibit 345 at DIC0006702, attached as **SOF Ex. 109**).

19 229. Beauchamp responded: "Your point is understood. If possible, please
20 recognize and understand that *you will 'use' the document even if you and [Menaged]*
21 *never refer to it again. It has to have the necessary and essential terms to protect you*
22 *from potential litigation from investors and third parties.*" (Emphasis added.) (*Id.*)

23 230. In his notes from a February 11, 2014 call with Chittick, which touched
24 on the status of Chittick's and Menaged's plan to pay off loans on the double-escrowed
25 properties, Beauchamp wrote "'Material Disclosure' – exceeds 10% of the overall
26 portfolio." But in his discussions with Chittick about requests from Goulder for further
27 concessions, including an agreement not to pursue civil claims for fraud, Beauchamp's
28 focus was on protecting Chittick's interests, including protecting him from a potential

1 investor claim. (See Beauchamp Dep. Exhibit 347, attached as **SOF Ex. 110**;
2 Beauchamp Dep. Exhibit 337, attached as **SOF Ex. 108**).

3 231. In a February 14, 2014 email to Chittick, Beauchamp wrote: “[Goulder]
4 clearly thinks he can force you to agree to accept a watered down agreement and give
5 up substantial rights that you should not have to give up. Unfortunately, it is not your
6 money. It is your investors’ money. So you have a fiduciary duty. . . . **[Menaged] is**
7 **the one responsible for this and not you.** (Emphasis added.) He failed to put out the
8 proper protection systems in place so his cousin could not do what his cousin did. . . .
9 **[Menaged’s] actions to comply with the terms of this agreement will have a big effect**
10 **on whether or not you have to deal with a third party lawsuit filed against you in**
11 **court.** (Emphasis added.) In this situation, you can have an action brought against you
12 by any of the other lenders, and/or by any of your investors. . . . In addition, **you could**
13 **also face an action by the SEC or by the Securities Division of the ACC if an investor**
14 **is able to convince someone in a prosecutor’s office that you** somehow assisted
15 [Menaged] to cover up this fraud or you **were guilty of gross negligence by failing to**
16 **perform adequate due diligence (on behalf of your investors’ money) to determine**
17 **what was going on.** . . . (Emphasis added.) [Y]our duty and obligation is not to be fair
18 to [Menaged], but to completely protect the rights of your investors. I am sorry if
19 [Menaged] is hurt through this, but [Menaged’s] hurt will give [Menaged] the necessary
20 incentive to go after his cousin. Your job is to protect the money that your investors
21 have loaned to DenSco.” (See Schenck Dep. Exhibit 75, at DIC0006804-6805, attached
22 as **SOF Ex. 111**).

23 232. Beauchamp advised Chittick not to make any further concessions.
24 Beauchamp then sought input from bankruptcy lawyers within Clark Hill about the
25 risks DenSco faced if Chittick were to agree to the concessions Goulder sought with
26 respect to a potential civil fraud claim. (See Schenck Dep. Exhibit 80, attached as **SOF**
27 **Ex. 112**).

1 233. Chittick ultimately followed Beauchamp's advice, and the concessions
2 sought by Goulder were not included in the final Forbearance Agreement. (*See*
3 Beauchamp Dep. Exhibit 402, attached as **SOF Ex. 113**).

4 234. On February 20, 2014, Beauchamp met with Chittick, Menaged and
5 Goulder to discuss the Forbearance Agreement. As Chittick described the meeting in
6 the DenSco journal, Beauchamp and Goulder "were no better in person than they were
7 in email. David lost his temper more than once. We went back and forth for 3 hours.
8 We broke up and came together, finally we are down to one point about the release.
9 The lawyers are trying to word it to make each other happy." (*See* Schenck Dep. Exhibit
10 21 at RECEIVER_000051, attached as **SOF Ex. 82**).

11 235. It appears from Chittick's February 20, 2014 entry in the 2014 Corporate
12 Journal that this meeting was the first time Beauchamp learned of the full extent of
13 DenSco's exposure to Menaged. Chittick wrote: "I told David the dollars today, he
14 about shit a brick. I explained to him how I got there and how far we have come and
15 how much better we are today then in November. Though I'm not sure he understands
16 that. My balance sheet isn't looking much better, but it will start to swing in the right
17 direction in the next 30 days. *I'm more concerned about telling my investors and their*
18 *reaction to the problem. I have to tell them and hope they stick with me. If I get a run*
19 *on the bank I'm in deep shit. I won't be able to fund new deals, I won't be able to*
20 *payoff investors and won't be able to support [Menaged]. The whole thing crators."*
21 (Emphasis added.) (*Id.*)

22 236. Beauchamp's notes from that day contain a summary of DenSco's
23 exposure to Menaged. They state: "Approx. \$31 MM outstanding to [Menaged's]
24 entities – total fund up to \$62-63 MM. Problem loans down to about \$17 MM for 122
25 loans." (*See* Beauchamp Dep. Exhibit 352 at DIC0005446, attached as **SOF Ex. 114**).

26 237. Chittick's February 21, 2014 entry in the 2014 Corporate Journal has a
27 consistent summary of the advice he received from Beauchamp: "I talked to Dave, he
28 found out what we already suspected; there is no way we can give what [Menaged]

1 wants. I'm not sure where this will lead us. We talked about telling my investors; we
2 are going to put that off as long as possible so that we can improve the situation as much
3 as possible. We've got another 15 more that are closing next few weeks. We could be
4 close to under a 100 problem loans within a month. I just have to keep telling myself
5 I'm doing the right thing to fix it, no matter how much anxiety I have over this issue."
6 (See Schenck Dep. Exhibit 21 at RECEIVER_000051, attached as **SOF Ex. 82**).

7 238. During the last week of February 2014, discussions with Goulder on the
8 Forbearance Agreement ended after Goulder sent Beauchamp a revised draft on
9 February 25, 2014. (See Beauchamp Dep. Exhibit 361, attached as **SOF Ex. 95**).

10 239. Chittick sent Beauchamp an email that day describing his ongoing
11 discussions with Menaged about taking a different approach to the double encumbrance
12 problem by having DenSco advance additional monies to Menaged so that Menaged
13 could sell homes more quickly: "[H]e's throwing out all sorts of ideas in how this can
14 be done. [I] would be willing to release the UCC if he was able to secure the funds and
15 use them to pay some of these loans. [W]e've got about 3 more ideas, *but what both*
16 *of us are really concerned about is that when [I] tell my investors the situation, they*
17 *request their money back. [I] want to be able to say, this was the problem, we've*
18 *eliminated this much of the problem and this is what is left. [I] want to be able to say*
19 *what is left is as small as possible.*" (Emphasis added.) (See Beauchamp Dep. Exhibit
20 360 at DISC0006758, attached as **SOF Ex. 94**).

21 240. Beauchamp responded by saying "[g]ood ideas and probably something
22 *we need to work on*" in light of the breakdown of discussions on the Forbearance
23 Agreement. (Emphasis added.) (*Id.*)

24 241. Chittick sent Beauchamp an email the following day, February 26, 2014
25 describing his continuing discussions with Menaged. He wrote: "[W]hat if [Menaged]
26 just starts selling everything [I] take losses[.] [A]long with the several million that
27 [Menaged's] going to bring in from outside sources, we wipe the whole thing out in,
28 name a time frame, 90 days. [T]o secure the loss, [Menaged] signs a promissory note

1 with terms of repayment. [W]hat happens? [I] take a huge hit to my books, but [I] get
2 the money back in my hands. [I]’m no longer in violation of anything with my
3 investors. [I]’m in possession of money that now [I] can put to work with new loans
4 that are actually paying me interest versus right now that [I]’m having no interest
5 coming in. [O]r I can return the money to investors if I can’t put it to work. [F]rom a
6 P/L standpoint it looks horrible, but at least [I] have the majority of the money back
7 except maybe 2-4 million. [Menaged] agrees to pay me interest and principle [sic] back
8 every month for whatever I write off[,] which fills in that hole. [I] put the money I get
9 back to work and make money on it, that fills the hole. *[I] [would] rather take the loss
10 short term now, and get working on trying to make the money work th[a]n drag this
11 thing out over a year or more. . . . [I] don’t have anything in my docs that say I have
12 to be profitable. [I] see this is a negative year obviously, but [I]’ll be profitable next
13 year; the problem is gone[.]* [Menaged] will be paying me back interest and principle
14 [sic] for the loss that I took. [N]ow I know there are 100 legal things here, *but now I’m
15 thinking this is the best way to get the problem solved from a fiduciary standpoint. . . .*
16 [I] know this may sound crazy, but [I] can’t come up with anything else that will bring
17 an end to this situation quickly. [T]ime is crucial. [L]et me know your thoughts.”
18 (Emphasis added.) (See Beauchamp Dep. Exhibit 362 at DIC0006687-6688, attached
19 as **SOF Ex. 96**; Beauchamp Dep. Exhibit 363, attached as **SOF Ex. 97**).

20 242. Beauchamp’s email response was: “*Good ideas*. Can we talk later today
21 to clarify a few things?” (Emphasis added.) Beauchamp also told Clark Hill attorney
22 Bill Price, who emailed him to say that the release provision in Goulder’s latest draft of
23 the Forbearance Agreement was unacceptable, that “[t]here is another possibility to
24 resolve this,” on which Beauchamp would be focusing his attention. (See Beauchamp
25 Dep. Exhibit 362 at DIC0006686, attached as **SOF Ex. 96**; Beauchamp Dep. Exhibit
26 364 attached as **SOF Ex. 98**).

27 243. Chittick’s DenSco entry in the 2014 Corporate Journal for February 26,
28 2014 contains a consistent summary of his discussions with Menaged and Beauchamp:

1 “We’ve decided it’s better to sell these properties as quickly as possible, take the losses
2 and move on. [Menaged] will sign a promissory note, it frees up from paying interest,
3 I take a big hit, . . . and we move on. *It will take me 2 years to get back to profitability*
4 *I’m guessing. This may allow me not to do what David wants me to do, I don’t know.*
5 *I never got to talk to him. But what we are doing isn’t going to work fast enough and*
6 *we’ll have a big hill to climb in the end.* (Emphasis added.) I’m just so sick over this I
7 can’t function.” (See Schenck Dep. Exhibit 21 at RECEIVER_000052, attached as **SOF**
8 **Ex. 82**).

9 244. Beauchamp’s notes reflect that he discussed the proposed new plan with
10 Chittick the following day, February 27, 2014. They state, in part: “Denny explained
11 procedure and Denny is taking all of the shortfall. [Menaged] wants this resolved.
12 Denny wants this resolved because Denny is losing money to make payments to his
13 investors if DenSco is not getting paid interest from [Menaged]. Denny willing to take
14 loss this year -- so DenSco can return cash to investors and reduce interest obligation.
15 *How to write this up for investors -- discussed. Do we still need Forbearance Agmt.*
16 *- yes but will be less problematic. Will need Forbearance Agmt. to explain procedures*
17 *and protect Denny for future revisions.* (Emphasis added.) Will need multiple advance
18 not (unsecured) so DenSco can advance cash on house w/ double loans to be sold.” (See
19 Beauchamp Dep. Exhibit 365, attached as **SOF Ex. 115**).

20 245. Chittick’s entry in the 2014 Corporate Journal for that day is consistent
21 with Beauchamp’s notes. It states, in part: “I talked to [Menaged] again, he agreed to
22 everything this morning on how to work this out. I talked to David, he thinks its fine.
23 So we are done. . . . [N]ow we just need to get this signed and start working towards
24 selling these houses.” (See Schenck Dep. Exhibit 21, at RECEIVER_000052, attached
25 as **SOF Ex. 82**).

1 c. **During March 2014, Beauchamp Continued to**
2 **Negotiate the Terms of the Forbearance Agreement But**
3 **Did So With Menaged, Communicating With Him**
4 **Through Chittick.**

5 246. Beauchamp had a telephone conversation with Chittick on March 3,
6 2014. Chittick's entry in the 2014 Corporate Journal that day says, in part: "David
7 called me telling me of ad lib info to scare me about dealing with [Menaged]. I can't
8 control what others are saying in the lawyer community. I have to get this done so that
9 I have something in writing and do the best deal that I can do." (See Schenck Dep.
10 Exhibit 21, at RECEIVER_000053, attached as **SOF Ex. 82**).

11 247. Chittick sent Beauchamp an email on March 4, 2014 in apparent response
12 to that conversation. It stated, in part: "About what you said, I have no idea of the
13 timing of that person you [mentioned] as to when he spoke to [Goulder] about our
14 situation. I don't doubt perhaps that he was positioning himself in some way; seems
15 logical for him to think that way. However, *now that [Menaged] has agreed to sign*
16 *the terms sheet that we originally agreed to, allowing you to write it, he says he's not*
17 *going to have [Goulder] review because [Goulder] already told him not to sign*
18 *anything*. Plus he's signing the promissory note which also confirms the situation . . .
19 in not so many words. But the fraud occurred and he's taking responsibility for it. . . .
20 *You probably have the only chance in your career to write an agreement without*
21 *conflicting counsel*. You can write it to our liking and in our best interests. *We CYA*
22 *as broad as the Grand Canyon*. I think that is pretty advantageous." (Emphasis added.)
23 (Beauchamp Dep. Exhibit 368, attached as **SOF Ex. 116**).

24 248. Beauchamp's response was: "*Your thoughts make sense*, but we still
25 need an agreement that works." (Emphasis added.) (*Id.*)

26 249. Beauchamp sent Chittick a draft of the Forbearance Agreement on
27 March 7, 2014. (See Beauchamp Dep. Exhibit 370, attached as **SOF Ex. 117**).

28 250. Chittick gave him comments on March 10, 2014 one of which reflected
Chittick's and Menaged's request to modify the draft's confidentiality provision. As

1 Chittick described it in an email to Beauchamp: *“Only time I can disclose info is if*
2 *I’m legally required by investors. He wants me to not say a word unless I’m legally*
3 *required to*, because the reputation with his investors and buyers, clients etc. could be
4 harmed.” (Emphasis added.) (See Beauchamp Dep. Exhibit 371 at DIC0006875,
5 attached as **SOF Ex. 118**).

6 251. In his email response, Beauchamp wrote: “The confidentiality change is
7 a problem, because who makes the decision if the disclosure is required? *I had*
8 *language that you could disclose if such disclosure is reasonably needed to be*
9 *disclosed to your investors or if a governmental agency requires such disclosure*
10 *(after you give [Menaged] notice and an opportunity to get the agency to change its*
11 *mind)*. Those are standard confidentiality exceptions. *I will look at them again to see*
12 *if there is anything we can do to make it tighter.*” (Emphasis added.) (See Beauchamp
13 Dep. Exhibit 371 at DIC0006875, attached as **SOF Ex. 118**).

14 252. Beauchamp’s notes reflect that he had a telephone conference with both
15 Chittick and Menaged on March 11, 2014 to discuss the release and confidentiality
16 provisions of the Forbearance Agreement, as well as the terms of a \$ 1 million “workout
17 loan.” (See Beauchamp Dep. Exhibit 372, attached as **SOF Ex. 119**).

18 253. Beauchamp’s notes reflect that he had a telephone conference with both
19 Chittick and Menaged on March 12, 2014 to discuss the release and confidentiality
20 provisions of the Forbearance Agreement. (*Id.*)

21 254. On March 13, 2014, Beauchamp conferred with Chittick about the
22 security for the loans DenSco would be advancing to Menaged. He also revised the
23 confidentiality section of the Forbearance Agreement, sending the section to Chittick
24 in an email which stated, in part: *“I have done a complete re-write of the*
25 *Confidentiality section. . . . In order to comply with the specific securities disclosure*
26 *requirements, I left ____ (blank) the amount of time for [Menaged] to be able to*
27 *review and comment upon the proposed disclosure (suggest 48 hours)* and I did not
28 give him the right to disapprove and block what you can or cannot disclose. DenSco

1 and you as the promoter of DenSco's offering have to make the decisions as to what is
2 to be disclosed or not." (Emphasis added.) (See Beauchamp Dep. Exhibit 383, attached
3 as **SOF Ex. 120**).

4 255. Between March 14 and March 20, 2014, Beauchamp communicated with
5 Chittick about revisions to the Forbearance Agreement, relying on Chittick to convey
6 drafts to Menaged and communicating with Menaged through Chittick. (See
7 Beauchamp Dep. Exhibit 385, attached as **SOF Ex. 121**; Beauchamp Dep. Exhibit 386,
8 attached as **SOF Ex. 122**; Beauchamp Dep. Exhibit 387, attached as **SOF Ex. 123**;
9 Beauchamp Dep. Exhibit 388, attached as **SOF Ex. 124**; Beauchamp Dep. Exhibit 389,
10 attached as **SOF Ex. 125**; Beauchamp Dep. Exhibit 390, attached as **SOF Ex. 126**;
11 Beauchamp Dep. Exhibit 391 attached as **SOF Ex. 127**).

12 256. One of the topics Beauchamp discussed with Chittick was his plans to
13 loan funds to Menaged and the impact of those loans, including loans up to 120% of
14 value. Beauchamp stated that he "*completely agree[s] that [the proposed lending plan]*
15 *makes a lot of sense, but I am concerned about the disclosure to your investors.*"
16 (Emphasis added.) (See Beauchamp Dep. Exhibit 387, attached as **SOF Ex. 123**).

17 257. Chittick's entry in the 2014 Corporate Journal for March 20, 2014 stated,
18 in part: "[Menaged] finally agreed to [the] agreement. That's done. I have to do some
19 numbers to fill in the blanks, but otherwise it's ready to be signed. *I have no idea if it*
20 *will ever be used, but David assured me I'm in a good position.*" (Emphasis added.)
21 (See Schenck Dep. Exhibit 21, attached as **SOF Ex. 82**).

22 **d. The Forbearance Agreement Was Signed in April 2014.**

23 258. The Forbearance Agreement was signed by Chittick (for DenSco) and
24 Menaged (for himself and his entities) on April 16, 2014. (See Beauchamp Dep. Exhibit
25 402, attached as **SOF Ex. 113**).

26 259. Under the Forbearance Agreement, Menaged agreed to pay off the loans
27 of DenSco and other lenders by, inter alia, (i) liquidating various assets, (ii) renting or
28

1 selling real estate assets, (iii) attempting to recover the missing funds that his cousin
2 allegedly stole, and (iv) obtaining \$4.2 million in outside financing. (*Id.*)

3 260. In turn, *DenSco agreed to, inter alia, (i) increase its loans to Menaged*
4 *on certain properties up to 120% of the loan-to-value ratio, (ii) loan Menaged up to*
5 *\$5 million more, at 18% interest, (iii) loan Menaged up to \$1 million more, at 3%*
6 *interest, and (iv) defer the collection of interest on loans that Menaged had already*
7 *defaulted on. (Id.)*

8 261. The Forbearance Agreement included a schedule of the loans DenSco had
9 made to Menaged, members of his family, Easy Investments, and Arizona Home
10 Foreclosures, including loans DenSco made between December 2013 and April 15,
11 2014. *Those loans totaled \$37,456,620.47, well over half of the aggregate amounts*
12 *DenSco had raised from investors. (See Beauchamp Dep. Exhibit 402 at DIC0010745-*
13 *10749, attached as SOF Ex. 113).*

14 262. The confidentiality provision in the Forbearance Agreement permitted
15 DenSco to disclose information “as may be necessary for [DenSco] to disclose to
16 [DenSco’s] current or future investors” subject to the following limitations:

17 [DenSco] agrees to use its good faith efforts to limit such disclosure as
18 much as legally possible pursuant to the applicable SEC Regulation D
19 disclosure rules, which limitation is intended to have [DenSco] only
20 describe: 1. the multiple Loans secured by the same Properties which
21 created the Loans Defaults; 2. the work-out plan pursuant to this
22 Agreement in connection with the steps to be taken to resolve the Loans
23 Defaults; 3. the work-out plan shall also include disclosing the previous
24 additional advances that [DenSco] has made and the additional advances
25 that are intended to be made by [DenSco] to Borrower pursuant to this
26 Agreement in connection with increases in the loan amount of certain
27 specific Loans (up to 120% of the LTV of the applicable Property being
28 used as security for that Loan), the additional advances pursuant to both the
Additional Loan and the Additional Funds Loan; and 4. the cumulative
effect that all of such additional advances to Borrower will have on
[DenSco’s] business plan that [DenSco] has previously disclosed to its
investors in [DenSco’s] private offering documents and which [DenSco]
committed to follow, including the overall LTV loan ratios for all of
[DenSco’s] outstanding loans to its borrowers in the aggregate and the
concentration of all of [DenSco’s] outstanding loans among all of its
borrowers. Further, [DenSco] will use its good faith efforts not to include
the names of Borrower, Guarantor, or New Guarantor in [DenSco’s]
disclosure material. [DenSco] will also provide Borrower with a copy of
the applicable disclosure prior to dissemination to [DenSco’s] investors and

1 allow Borrower to have 48 hours to review and comment upon such
2 disclosure.

3 (See Beauchamp Dep. Exhibit 402 at DIC0010741, attached as **SOF Ex. 113**).

4 **6. Clark Hill Advised Chittick That DenSco Could Continue**
5 **Selling Promissory Notes Without First Issuing a New POM,**
6 **and that DenSco Could Indefinitely Delay Issuing a New POM.**

7 263. Clark Hill and Beauchamp claim in their initial disclosure statement
8 (at 10-11) that Beauchamp advised Chittick “during his January 9, 2014 meeting with
9 Mr. Chittick” and repeatedly thereafter that: (a) DenSco was not permitted to take new
10 money without full disclosure to the investor lending the money; (b) DenSco was not
11 permitted to roll over existing investments without full disclosure to the investor rolling
12 over the money; and (c) DenSco needed to update its POM and make full disclosure to
13 all its investors. (See Schenck Dep. Exhibit 4 at pg. 10, ln. 14-19, attached as **SOF Ex.**
14 **5**).

15 264. A jury will be asked to find that this claim is an after-the-fact untruth.

16 265. There are no documents, such as notes, emails or letters, which reflect
17 that Beauchamp *ever* gave that advice.

18 266. The documents in the file instead show that Beauchamp told Chittick that
19 DenSco could sell promissory notes, and that DenSco could put off preparing a new
20 POM while Chittick pursued his “work out” plan. (See Beauchamp Dep. Exhibit 350,
21 attached as **SOF Ex. 81**; Beauchamp Dep. Exhibit 168, attached as **SOF Ex. 93**;
22 Beauchamp Dep. Transcript at pp. 405:5-408:9, attached as **SOF Ex. 6**; Beauchamp
23 Dep. Exhibit 145, attached as **SOF Ex. 92**; Schenck Dep. Exhibit 6 at CH_0002312,
24 attached as **SOF Ex. 20**).

25 267. Moreover, Beauchamp admitted in his deposition that he knew Chittick
26 had caused DenSco to sell promissory notes but claims that he understood Chittick did
27 so only after making disclosures to each investor who purchased a promissory note.
28 (See Beauchamp Dep. Transcript at pp. 78:8-83:23, attached as **SOF Ex. 6**).

1 268. Clark Hill and Beauchamp make a similar claim in their initial disclosure
2 statement (at 11) that “Mr. Chittick assured Mr. Beauchamp repeatedly that he was
3 making the requisite disclosures to investors on an as needed basis, and that he had
4 informed a select group of investors as to the double lien issue and the proposed
5 workout.” (See Schenck Dep. Exhibit 4 at pg. 11, ln. 7-9, attached as **SOF Ex. 5**).

6 **a. In early January 2014, Clark Hill Advised DenSco It**
7 **Could Sell Promissory Notes Without First Issuing a**
8 **New POM**

9 269. Chittick’s entry for January 9, 2014 in a corporate journal he maintained
10 during 2014 (the “2014 Corporate Journal”) says nothing about having been instructed
11 by Beauchamp that DenSco could not sell promissory notes. The entry states, in part:
12 “Scott and I met with David. He never read my email. We spent two hours. . . . He’s
13 going to contact the lawyer tomorrow and let us know.” (See Schenck Dep. Exhibit 21
14 at RECEIVER_000045, attached as **SOF Ex. 82**).

15 270. Beauchamp’s handwritten notes from a call with Chittick on Friday,
16 January 10, 2014 state, in part, “Need to get back up plan in place. *Denny does not*
17 *want to talk to his investors until he is ready* – will not take long.” (Emphasis added.)
18 (See Beauchamp Dep. Exhibit 157, attached as **SOF Ex. 128**).

19 271. Chittick’s entry for that date in the 2014 Corporate Journal states, in part,
20 “at 5pm Dave called, said they would give us time to clean it up. I talked to Scott; he
21 is going to try to bring in money. *I can raise money according to Dave.*” (Emphasis
22 added.) (See Schenck Dep. Exhibit 21 at RECEIVER_000045, attached as **SOF Ex.**
23 **82**).

24 272. On Sunday, January 12, 2014, Chittick sent Beauchamp an email which
25 stated, in part, “*I’ve spent the day contacting every investor that has told me they want*
26 *to give me more money. I don’t have an answer on specifically how much I can raise;*
27 *I’ll know that in a day or two.*” (Emphasis added.) He went on to say that between
28 new money, current cash on hand, and pending real estate closings, he would have

1 ***between \$5 and \$10 million*** in the next ten days. His email summarized the outline of
2 the plan he and Menaged had discussed the previous Friday, which included, for the
3 group of lenders represented by Bryan Cave: (i) identifying all properties in which
4 another party claimed an interest; (ii) providing that information to an escrow agent;
5 (iii) buying out the other parties as cash was put into escrow; and (iv) memorializing
6 the arrangement through a term sheet and a written contract. “[I]f ***both Scott and I can***
7 ***raise enough money***, we should be able to have this all done in 30 days easy, less than
8 three weeks would be my goal.” (Emphasis added.) As for the other lenders, Chittick
9 stated that the plan was to pay them off as Menaged was able to raise additional capital.
10 Chittick concluded the email by stating, “***that’s my plan, shoot holes in it.***” (Emphasis
11 added.) (See Beauchamp Dep. Exhibit 150, attached as **SOF Ex. 129**).

12 273. Beauchamp responded in an email sent later that day which stated, in part,
13 “***[y]ou should feel very honored that you could raise that amount of money that***
14 ***quickly.*** I will outline a few thoughts tomorrow and get back to you.” (Emphasis
15 added.) (*Id.*)

16 274. The “few thoughts” that Beauchamp conveyed the next day were
17 questions about the sources from whom Menaged would raise money. Beauchamp did
18 not tell Chittick that DenSco could not raise new money by selling promissory notes
19 without first issuing a new POM. (See Beauchamp Dep. Exhibit 151, attached as **SOF**
20 **Ex. 130**).

21 **b. During February, March and April 2014, While the**
22 **Forbearance Agreement Was Negotiated, Clark Hill**
23 **Advised Chittick That DenSco Could Delay Issuing a**
24 **New POM.**

25 275. After telling Chittick that DenSco could continue selling promissory
26 notes without first issuing a new POM, Beauchamp would periodically tell Chittick that
27 a new POM had to be issued to reveal information about DenSco’s operations, but let
28 Chittick believe the issuance of the POM could be delayed. (See Beauchamp Dep.
Transcript at pp. 78:8-83-23, attached as **SOF Ex. 6**).

1 276. In a February 4, 2014 email that Beauchamp sent to Chittick, Beauchamp
2 wrote that the Forbearance Agreement would need to be described in a document “that
3 you HAVE to provide to your investors.” (See Beauchamp Dep. Exhibit 336, attached
4 as **SOF Ex. 131**).

5 277. Chittick’s February 7, 2014 entry in the 2014 Corporate Journal states, in
6 part, “I was on the phone with David and [Menaged] off and on trying to find middle
7 ground in this crap to make this agreement final. *Now [D]avid is telling me I have to*
8 *tell my investors.*” (See Schenck Dep. Exhibit 21 at RECEIVER_000049, attached as
9 **SOF Ex. 82**).

10 278. Beauchamp’s notes reflect that he discussed with Chittick on February
11 21, 2014 DenSco’s upcoming annual meeting, which was scheduled for March 8. He
12 wrote: “*cannot be ready to tell everything.*” (Emphasis added.) (See Beauchamp Dep.
13 Exhibit 357, attached as **SOF Ex. 132**).

14 279. Beauchamp’s notes went on to reflect his thoughts about what might
15 eventually be disclosed to investors. He wrote: “What to put into notice to the investors.
16 [E]xplain concentration to Scott to help Scott package homes to sell to a Hedge Fund
17 in \$5M groups. [T]he problem was discovered but to resolve the loans with double
18 leverage came up with a plan, but that required DenSco to make higher leveraged loans.
19 DenSco also made advances on new homes purchased.” (*Id.*)

20 280. Beauchamp’s notes also show that he knew the workout plan was
21 increasing the loan-to-value ratios on many of DenSco’s loans far above what DenSco
22 had disclosed to investors in any previous POM. For example, he wrote: “30 loans are
23 now at 95% LTV.” (*Id.*)

24 281. The entry Chittick made in the 2014 Corporate Journal for March 11,
25 2014 states, in part: “*David changed and said now I have to tell my investors.*
26 (Emphasis added.) [Menaged] and I are going to try to fix this mess in 30 days and that
27 way it will be a minor issue.” (See Schenck Dep. Exhibit 21 at RECEIVER_000054,
28 attached as **SOF Ex. 82**).

1 282. In a March 13, 2014 email to Chittick regarding the inclusion in the
2 Forbearance Agreement of a confidentiality provision that Menaged had sought,
3 Beauchamp wrote: With respect to timing, we are already **very late** in providing
4 information to your **investors about this problem and the resulting material changes**
5 **to your business plan. We cannot give [Menaged] and his attorney any time to**
6 **cause further delay in getting this Forbearance Agreement finished and the**
7 **necessary disclosure prepared and circulated.”** (Emphasis in original.) (See
8 Beauchamp Dep. Exhibit 383, attached as **SOF Ex. 120**).

9 c. **In May 2014, Clark Hill Made a Half-Hearted Effort to**
10 **Prepare a New POM and Then, at Chittick’s Request,**
11 **Stopped Working on the New POM and Advised**
12 **Chittick That DenSco Could Continue to Put Off**
 Issuing a New POM While Chittick Pursued His “Work
 Out” Plan.

13 283. Chittick’s entry in the 2014 Corporate Journal for April 16, 2014 reflected
14 the signing of the Forbearance Agreement and concludes: “I’ll send it up to David and
15 then he and I can start on the memorandum.” (See Schenck Dep. Exhibit 21, at
16 RECEIVER_000059, attached as **SOF Ex. 82**).

17 284. Beauchamp’s notes show that he had a call with Chittick on April 24,
18 2014. Those notes reflect that Beauchamp knew that DenSco’s total loans to Menaged
19 were approximately \$36 million in principal, with a \$5 million note (of which
20 approximately \$1.78 million was principal), and a \$1 million note (of which
21 approximately \$915,000 was principal). (See Beauchamp Dep. Exhibit 406, attached
22 as **SOF Ex. 133**).

23 285. Under the heading “POM update” he noted that 186 loans were double-
24 encumbered when the workout started, which was down to 94 loans, representing \$12.3
25 million of principal, as of that date, which was down from a previous balance of
26 approximately \$25 million. (*Id.*)

1 286. That same day, Chittick sent Beauchamp by email another copy of the
2 2011 private offering memorandum. (*See* Schenck Dep. Exhibit 99, attached as **SOF**
3 **Ex. 134**).

4 287. It appears from the Clark Hill file that Beauchamp gave a printed copy of
5 the memorandum to Schenck with a handwritten note asking him to mark up the
6 memorandum and add “updates/forbearance, etc.” (*See* Schenck Dep. Exhibit 100,
7 attached as **SOF Ex. 54**).

8 288. Beauchamp’s handwritten notes and documents in the file reflect that
9 some research was done on May 13, 2014 on “Dodd Frank and regulation.” (Schenck
10 Dep. Exhibit 11 at CH_0005226 attached as **SOF Ex. 24**; Beauchamp Dep. Exhibit
11 107, attached as **SOF Ex. 40**).

12 289. On May 14, 2014, Schenck sent Beauchamp by email a redline of a draft
13 private offering memorandum and a separate document with comments, some of which
14 were for Beauchamp’s attention. Schenck’s email concluded by asking Beauchamp to
15 “let me know what changes you prefer before this draft is sent to Denny.” His time
16 entry describes the document as a “first draft.” (*See* Schenck Dep. Exhibit 101 attached
17 as **SOF Ex. 19**; Schenck Dep. Exhibit 11 at CH_0005226 attached as **SOF Ex. 24**).

18 290. The document with comments contained, in the “Prior Performance”
19 section, a discussion of the terms of the Forbearance Agreement, with limited
20 information about the circumstances that gave rise to it and a narrative that accepted,
21 as accurate and reliable, Menaged’s “cousin” story: “According to the Foreclosure
22 Debtors, an agent of the Foreclosure Debtors had secured the Outside Loans without
23 the Foreclosure Debtors’ knowledge.” The draft said nothing about Chittick’s gross
24 negligence in managing DenSco’s lending practices by giving funds directly to
25 Menaged, rather than to a Trustee. (*See* Schenck Dep. Exhibit 101 at pg. 39, attached
26 as **SOF Ex. 19**).

1 291. Clark Hill's time records reflect that Beauchamp billed 30 minutes of
2 time to "review revisions to POM and work on same." (See Schenck Dep. Exhibit 11
3 at CH_0005226, attached as **SOF Ex. 24**).

4 292. But there is nothing in the Clark Hill file to reflect that Beauchamp
5 actually made any revisions to this first draft. (See Beauchamp Dep. Transcript at pp.
6 201:12-202:10, attached as **SOF Ex. 6**).

7 293. Neither the Clark Hill file nor Clark Hill's billing statement reflect that
8 Beauchamp never sent the draft POM to Chittick or discussed it with him. (See Schenck
9 Dep. Exhibit 11, attached as **SOF Ex. 24**).

10 294. Clark Hill's files show that the firm simply stopped work on a new POM
11 in mid-May 2014. (*Id.*)

12 295. Entries by Chittick in the 2014 Corporate Journal shortly thereafter reflect
13 that Chittick had decided not to issue a new POM at that time, and to continue selling
14 promissory notes while he pursued his "work out" plan in the hope of minimizing
15 DenSco's losses before making a disclosure to investors. Clark Hill decided to abide
16 by Chittick's instruction, just as the firm had agreed in September 2013 to prepare a
17 new POM and then followed Chittick's instruction not to work on the new POM until
18 Chittick was ready to issue it. (See Schenck Dep. Exhibit 21, attached as **SOF Ex. 82**).

19 a. The July 2, 2014 entry states, in part: "We are making progress,
20 just too damn slow, *but I'm sure much quicker than David expected us to do.*"
21 (Emphasis added.) (Schenck Dep. Exhibit 21 at RECEIVER_00069, attached as
22 **SOF Ex. 82**).

23 b. The July 25, 2014 entry states, in part: "My time is running out on
24 updating my private placement memorandum and notifying my investors."
25 (Schenck Dep. Exhibit 21 at RECEIVER_00072, attached as **SOF Ex. 82**).

26 c. The July 31, 2014 states, in part: "It's all going in the right
27 direction, just not sure if it's going fast enough. *As long as David doesn't bug*
28

1 *me, I feel like we are doing the right thing.*” (Emphasis added.) (Schenck Dep.
2 Exhibit 21 at RECEIVER_00073, attached as **SOF Ex. 82**).

3 296. Clark Hill’s blessing of Chittick’s plan to continue pursuing a work out
4 plan without telling DenSco’s investors is reflected in Beauchamp’s dealings with
5 Chittick the following March. (See Beauchamp Dep. Exhibit 411, attached as **SOF Ex.**
6 **135**; Schenck Dep. Exhibit 22, 3-13 at RECEIVER_000101, attached as **SOF Ex. 136**).

7 297. On March 13, 2015, Beauchamp sent Chittick an email which stated, in
8 part: “I would like to meet for coffee or lunch (at no charge to you) so we can sit down
9 and talk about how things have progressed for you since last year. I would also like to
10 listen to you about your concerns, and frustration with how the forbearance settlement
11 and the documentation process was handled. I have thought back to it a lot and I have
12 second guessed myself concerning several steps in the overall process, *but I wanted to*
13 *protect you as much as I could.* (Emphasis added.) *When I felt that your frustration*
14 *had reached a very high level, I stopped calling you about how things were going so*
15 *that you did not feel I was just trying to add more attorney’s fees.* (Emphasis added.)
16 I planned to call you after about 30 days, but then I let it slip all of last year because I
17 kept putting it off. I even have tried to write you several different emails, but I kept
18 erasing them before I could send them. I acknowledge that you were justifiably
19 frustrated and upset with the expense and how the other lenders (and [Menaged] at
20 times) seemed to go against you as you were trying to get things resolved last year for
21 [Menaged]. I have tried to let time pass so that we can discuss if you are willing to
22 move beyond everything that happened and still work with me. If not, I would like you
23 to know that I still respect you, what you have done and would still like to consider you
24 a friend. You stood up for [Menaged] when he needed it and I truly believe it was more
25 than just a business decision on your part. Hopefully, you will respond to this email and
26 we can try to talk and catch up.” (Beauchamp Dep. Exhibit 411, attached as **SOF Ex.**
27 **135**).

28 298. Chittick responded “[s]ure, give me some options on when to meet.” (*Id.*)

1 299. Chittick forwarded Beauchamp's email to Menaged, who wrote,
2 "[s]chedule coffee in 18 months when our balance is close to nothing." (See Beauchamp
3 Dep. Exhibit 412, attached as **SOF Ex. 137**).

4 300. Chittick responded: "*I figure it's a miracle he left me alone this long!*"
5 (Emphasis added.) (*Id.*)

6 301. In his entry that day in the corporate journal Chittick maintained for 2015
7 (the "2015 Corporate Journal"), Chittick wrote: "*I got an email from Dave my attorney*
8 *wanting to meet. He gave me a year to straighten stuff out. We'll see what pressure*
9 *I'm under to report now.*" (Emphasis added.) (See Schenck Dep. Exhibit 22 at
10 RECEIVER_000101, attached as **SOF Ex. 136**).

11 302. Chittick had lunch with Beauchamp on March 24, 2015. (See Beauchamp
12 Dep. Transcript at pp. 225:4-226:13, attached as **SOF Ex. 6**; Schenck Dep. Exhibit 22
13 RECEIVER_000102, attached as **SOF Ex. 136**).

14 303. Chittick's entry in the 2015 Corporate Journal for that date states: "I had
15 lunch with Dave Beauchamp. I was nervous he was going to put a lot of pressure on
16 me. However, *he was thrilled to know where we were at and I told him by April 15th,*
17 *we'll be down to 16 properties with seconds on them, and by the end of June we hope*
18 *to have all the retail houses sold by then and just doing wholesale. He said he would*
19 *give me 90 days.* (Emphasis added.) I just hope we can sell them all by then and darn
20 near be done with it. *I'm going to slow down the whole memorandum process too.*
21 *Give us as much time as possible to get things in better order.*" (Emphasis added.)
22 (Schenck Dep. Exhibit 22 RECEIVER_000102, attached as **SOF Ex. 136**).

23 304. Chittick's entry in the 2015 Corporate Journal for June 18, 2015 states, in
24 part: "[Menaged] tried to enlarge the wholesale number saying, well I'm paying down
25 the workout, I can use that for the wholesale. I'm not letting him. That number needs
26 to start dropping! *I have to get his number falling, or it's going to be hell with Dave.*"
27 (Emphasis added.) (See Schenck Dep. Exhibit 22 RECEIVER_000112, attached as
28 **SOF Ex. 136**).

d. With Clark Hill's Assistance, Chittick Caused DenSco to Sell Approximately \$5 Million of Promissory Notes Between January and May 2014 Without First Issuing a New POM.

305. During the months of January through May 2014, DenSco sold \$5,000,008.00 of new promissory notes to the following investors, which were all two-year notes unless otherwise indicated.

Investor	Amount	Date
Brian & Carla Wenig	\$15,000	1/3/14
Dale Hickman	\$150,000	1/13/14
Carol & Mike Wellman	\$30,000	1/14/14
Carol Wellman	\$10,000	1/14/14
Jolene Page	\$150,000	1/14/14
Marvin & Pat Miller	\$200,000	1/15/14
Marvin & Pat Miller	\$100,000	1/15/14
Mark & Debbie Wenig	\$50,000	1/24/14
Kirk Fischer	\$600,000	1/29/14 ⁵
Brian Indieke	\$500,000	2/11/14 ⁶
Ryan Baughman	\$300,000	2/11/14
Kaylene Moss	\$10,000	3/5/14
Ryan Baughman	\$300,000	4/1/14 ⁷
Wayne Ledet	\$30,000	4/7/14
Alexandra Bunger	\$850,000	5/1/14
Cassidy Bunger	\$850,000	5/1/14
Connor Bunger	\$850,000	5/1/14

⁵ Five-year note.

⁶ Six-month note.

⁷ Three-month note.

1	Bill Hughes	\$6,500	5/1/14
2	Bill Hughes -- IRA	\$6,500	5/1/14

3
4 (See Exhibit A to Davis Dep. Exhibit 479, attached as **SOF Ex. 84**).

5 306. DenSco's sale of those promissory notes was necessary for DenSco to
6 continue its business operations, and Clark Hill enabled DenSco to obtain investor
7 funds during that five-month period without making adequate disclosures to those
8 investors, exposing DenSco to substantial liability for those sales. (See Schenck Dep.
9 Exhibit 22 at RECEIVER_000101, attached as **SOF Ex. 136**; Beauchamp Dep. Exhibit
10 406, attached as **SOF Ex. 133**; Beauchamp Dep. Exhibit 414, attached as **SOF Ex.**
11 **138**).

12 307. The Receiver will update this disclosure statement to identify additional
13 promissory note sales after May 2014.

14 **7. In Addition to Aiding and Abetting Chittick's Breach of**
15 **Fiduciary Duties, Clark Hill Also Negligently Advised Chittick**
16 **That DenSco Could Continue Giving Loan Proceeds to**
Menaged, Rather Than Paying Them Directly to a Trustee.

17 308. As of January 9, 2014, Clark Hill knew that Chittick had been grossly
18 negligent in managing DenSco's lending operations by giving tens of millions of loan
19 proceeds to Menaged, rather than paying them directly to a Trustee. (See Beauchamp
20 Dep. Exhibit 144, attached as **SOF Ex. 91**).

21 309. Clark Hill knew that this practice violated the terms of the Mortgage
22 document Clark Hill knew DenSco routinely employed to document loans, which stated
23 that the "The undersigned borrower ("Borrower") acknowledges receipt of the proceeds
24 of a loan from DenSco Investment Corporation ("Lender") in the sum of \$_____,
25 *as evidenced by check payable to: _____ ("Trustee").* (Emphasis added.) (See
26 Schenck Dep. Exhibit 27, attached as **SOF Ex. 139**; Schenck Dep. Exhibit 29, attached
27 as **SOF Ex. 89**).

1 310. Clark Hill also knew that this practice was an extraordinary breach of the
2 representations in DenSco's POMs. As Beauchamp has admitted in interrogatory
3 answers, DenSco's POMs represented that DenSco employed appropriate due diligence
4 and loan procedures in making loans. An essential part of those loan procedures was
5 that "every mortgage evidencing a property purchase made with a DenSco loan stated
6 that the check purchasing the property was made to the Trustee." (See Beauchamp Dep.
7 Exhibit 422 at pg. 6, ln. 17-19, attached **SOF Ex. 67**).

8 311. Clark Hill also knew, from Beauchamp's January 9, 2014 meeting with
9 Chittick and Menaged, that Chittick's failure to follow those loan procedures had
10 exposed DenSco to a substantial potential loss of between \$11.6 and \$14.5 million, or
11 between 25% and 30% of the \$47 million that Beauchamp understood DenSco had
12 raised as of June 2013. (See Beauchamp Dep. Exhibit 145, attached as **SOF Ex. 92**).

13 312. And Clark Hill knew that those potential losses resulted from Chittick's
14 dealings with one borrower, Scott Menaged. (See Beauchamp Dep. Exhibit 144,
15 attached as **SOF Ex. 91**; Beauchamp Dep. Exhibit 145, attached as **SOF Ex. 92**).

16 313. After Clark Hill learned, through Beauchamp's January 9, 2014 meeting
17 with Chittick and Menaged, that Chittick intended to cause DenSco to continue loaning
18 money to Menaged, Clark Hill should have issued immediate, clear written advice to
19 Chittick that: (1) DenSco must adhere to the lending practices identified in its POMs
20 and referenced in the Mortgage – i.e., disbursing loan proceeds directly to a Trustee,
21 through a check (as the Mortgage contemplated) or a wire transfer; and (2) never
22 disbursing loan proceeds directly to Menaged (or any other borrower) under any
23 circumstances. (See Neil Wertlieb expert report at pp. 8-17, attached to Motion for
24 Determination of Prima Facie Case).

25 314. Clark Hill had the opportunity to give that advice when Beauchamp
26 received an email from Chittick during the evening of January 9, 2014, in which
27 Chittick posed the following question:
28

1 If [I] [obtain] a cashier's check and take it to the trustee myself, [I] don[']t
2 get a receipt that DenSco [p]aid for it. [I] get a receipt saying that X
3 property was paid for, for X \$'s vested in borrower's name. [DenSco's]
4 name doesn't appear on it. [O]ther than having a cashier's check receipt
5 saying [DenSco] made a check out for it, there isn't anything from the
6 trustee saying that it was [DenSco's] check. ***[I] could wire [Menaged] the
7 money, he could produce a cashier's check that says remitter is DenSco
8 and it would have the exact same [e]ffect as if [I] got [a] cashier's check
9 that said [DenSco's] the remitter.*** . . . [P]ut aside the logistics for a second,
10 what proof or what guarantee is there by me cutting the check and handing
11 it to [S]uzy at the trustee[']s office rather than my borrowers? [I] know [I]
12 must be missing something. (Emphasis added.)

13 (See Beauchamp Dep. Exhibit 147, at CH_0001502, attached as **SOF Ex. 140**).

14 315. Clark Hill failed to tell Chittick that he could not "wire Menaged the
15 money" because: (1) doing so was contrary to representations in the POM and the terms
16 of the Mortgage; (2) doing so had previously exposed DenSco to a potential loss of
17 between \$11.6 and \$14.5 million; and (3) Menaged could not, given obvious questions
18 about the veracity of his "cousin" story, be trusted. (See Beauchamp Dep. Transcript
19 at 79:19-83:23 attached as **SOF Ex. 6**; Beauchamp Dep. Exhibit 147, attached as **SOF**
20 **Ex. 140**; Schenck Dep. Exhibit 4 at pg. 7, ln. 17-16, attached as **SOF Ex. 5**).

21 316. Beauchamp instead responded in an email that night in which he said:
22 ***"Let me see what the other lenders got from the Trustee and we can make a better***
23 ***decision.*** There is either another way to do it or someone described a procedure that
24 does not work." (Emphasis added.) (See Beauchamp Dep. Exhibit 147, at CH_0001502,
25 attached as **SOF Ex. 140**).

26 317. On January 17, 2014, Beauchamp told two other lawyers at Clark Hill,
27 Dan Schenck and Bob Anderson, who specialized in real estate lending, that the firm
28 needed to review "the demand letter from Bryan Cave asserting the claim from the other
lenders" – i.e., that DenSco had fraudulently filed 52 Mortgage documents claiming
that 52 Trustees had been paid to purchase properties at a Trustee's sale when no such
payment had occurred -- and "[i]f this claim has any merit, [Clark Hill] need[ed] to
advise DenSco to change its internal procedures." But neither Beauchamp, Schenck,

1 nor Anderson undertook that analysis. (*See* Schenck Dep. Exhibit 53, attached as **SOF**
2 **Ex. 141**).

3 318. Beauchamp later advised Chittick that DenSco could continue wiring
4 money to Menaged, trusting Menaged to pay the loan proceeds to a Trustee, so long as
5 Menaged provided written confirmation that he had done so. As Chittick wrote in July
6 2016:

7 a. “Going back to December of 2013, . . . [Menaged] knew he had to
8 make money to help cover the deficit [that] would be created by the double
9 encumbered properties and shortage that would be created at the time of
10 disposition. He wanted time to still fund him buying properties at auction and
11 flipping them, wholesaling them, etc. *I talked to Dave about this in January*
12 *[2014] and he was in agreement with it as long as I received copies of checks*
13 *and receipts showing that I was paying the trustee.*” (Emphasis added.) (*See*
14 Beauchamp Dep. Exhibit 414 at DIC0009472 attached as **SOF Ex. 138**;
15 Beauchamp Dep. Exhibit 415, attached as **SOF Ex. 38**).

16 b. “Dave, my lawyer, negotiated the work out agreement and
17 endorsed the plan. Then when [Menaged] said hey, let me buy some
18 foreclosures, flip them, wholesale them, etc. so I can make money. *All the other*
19 *lenders wouldn’t lend to him. I needed him to make money now more than*
20 *ever before. We went to Dave, and he gave some constraints on how we were*
21 *to operate.* I have all the documentation. I received copies of checks made out
22 to trustees, receipts from the trustees. I had all my docs signed. I recorded my
23 mortgages. I had evidence of insurance, and I did everything.” (Emphasis
24 added.) (*See* Beauchamp Dep. Exhibit 415 at DIC0009485 attached as **SOF Ex.**
25 **38**).

26 319. Clark Hill and Beauchamp claim in their initial disclosure statement, and
27 Beauchamp claimed when he was deposed, that Clark Hill had advised Chittick in
28 January 2014 that it should not give loan proceeds to Menaged and should instead give

1 them to a Trustee. But a jury will find that this is yet another after-the-fact untruth. No
2 documents in Clark Hill's file – not a letter, email, note or time entry – reflect that the
3 advice was ever given. Moreover, Beauchamp's deposition testimony that he relied on
4 Anderson to give that advice to Chittick and understood it had been given is belied by
5 Anderson's deposition testimony, who said he had not done so. (*See* Beauchamp Dep.
6 Transcript at pp. 252:17-255:15; 352:11-364:16, attached as **SOF Ex. 6**; Anderson Dep.
7 Transcript at pp. 17:5-30:5, attached as **SOF Ex. 142**).

8 320. A jury will reject Clark Hill's claim and find that DenSco followed
9 Beauchamp's negligent advice to Chittick that DenSco could continue its long-standing
10 practice of giving loan proceeds directly to Menaged, trusting him to use those funds
11 only to pay a Trustee for property that would be fully secured, with DenSco in first
12 position. As a result, Menaged continued to have direct access to DenSco's funds,
13 despite the tens of millions of dollars of losses that practice had caused DenSco, which
14 put Menaged in a position to misappropriate those funds, just as he had misappropriated
15 the loan proceeds DenSco had given him in previous years. (*See* expert report of Neil
16 Wertlieb, attached to Motion for Determination of Prima Facie Case, Fenix Financial
17 expert report at pp. 2-10, attached to Motion for Determination of Prima Facie Case as
18 an Exhibit B).

19 321. As a direct consequence of Clark Hill's negligence, DenSco suffered
20 substantial losses. (*Id.*)

21 322. If Clark Hill had instead advised Chittick that DenSco could never give
22 loan proceeds to Menaged and must instead independently cause those funds to be
23 delivered to a Trustee, Chittick would have followed that advice. Indeed, Chittick
24 acknowledged in his January 9, 2014 email that he "must be missing something." (*See*
25 Schenck Dep. Exhibit 36 at CH_0001503, attached as **SOF Ex. 39**).

1 **E. Response to 2016 ADFI Investigation**

2 323. In March 2016, Chittick asked Beauchamp to help DenSco respond to
3 another investigation by the Arizona Department of Financial Institutions. Beauchamp
4 worked on the matter during March, April, May and June 2016, billing his time to a
5 “General” matter he had established in January 2013. As with previous inquiries by
6 ADFI, Clark Hill argued that DenSco should not be licensed and regulated by ADFI,
7 which would have included a review of DenSco’s lending procedures. (*See* Schenck
8 Dep. Exhibit 17, attached as **SOF Ex. 30**; Schenck Dep. Exhibit 18, attached as **SOF**
9 **Ex. 31**; Schenck Dep. Exhibit 14, attached as **SOF Ex. 27**; Schenck Dep. Exhibit 15,
10 attached as **SOF Ex. 28**; Schenck Dep. Exhibit 16, attached as **SOF Ex. 29**).

11 **F. Chittick’s Suicide**

12 324. Chittick committed suicide on July 28, 2016. (*See* Beauchamp Dep.
13 Exhibit 323 at pg. 1, attached as **SOF Ex. 143**).

14 325. Shortly before his death, Chittick wrote an “Investor” letter that was
15 never sent to DenSco’s investors but was among the business records obtained by the
16 Receiver. Among the statements in that letter are the following: “Why didn’t I let all
17 of you know what was going on at any point? It was pure fear. . . . I have 100 investors.
18 I had no idea what everyone would do or want to do or how many would just sue,
19 justifiably. *I also feared that there would be a classic run on the bank. . . I truly*
20 *believe we had a plan that would allow me to continue to operate, my investors would*
21 *receive their interest and redemptions as a normal course of business, and the rest of*
22 *my portfolio was performing. Dave blessed this course of action.* (Emphasis added.)
23 We signed this workout agreement and began executing it.” (*See* Beauchamp Dep.
24 Exhibit 414, attached as **SOF Ex. 138**); Beauchamp Dep. Exhibit 415 attached as **SOF**
25 **Ex. 38**).

26 326. The letter also stated: “Going back to December of 2013, . . . [Menaged]
27 knew he had to make money to help cover the deficit [that] would be created by the
28

1 double encumbered properties and shortage that would be created at the time of
2 disposition. He wanted time to still fund him buying properties at auction and flipping
3 them, wholesaling them, etc. *I talked to Dave about this in January [2014] and he*
4 *was in agreement with it as long as I received copies of checks and receipts showing*
5 *that I was paying the trustee.”* (Emphasis added.) (See Beauchamp Dep. Exhibit 414
6 at DIC0009472 attached as **SOF Ex. 138**).

7 327. Chittick also wrote a detailed letter to his sister, Shawna Heuer (aka Iggy),
8 shortly before his death. He wrote: “[Beauchamp] let me get the workout signed[,]
9 not tell the investors[,] and try to fix the problem. That was a huge mistake. . . . Dave
10 did a workout agreement with [Menaged], we were executing to it and making
11 headway, yet Dave never made me tell the investors. . . . I talked Dave my attorney
12 into allowing me to continue without notifying my investors. Shame on him. He
13 shouldn’t have allowed me. He even told me once I was doing the right thing.”
14 (Emphasis added.) (See Beauchamp Dep. Exhibit 415 at DIC0009482 and DIC0009484
15 attached as **SOF Ex. 38**).

16 328. The letter also stated: “Dave, my lawyer, negotiated the work out
17 agreement and endorsed the plan. (Emphasis added.) Then when [Menaged] said
18 hey, let me buy some foreclosures, flip them, wholesale them, etc. so I can make money.
19 All the other lenders wouldn’t lend to him. I needed him to make money now more
20 than ever before. We went to Dave, and he gave some constraints on how we were to
21 operate. I have all the documentation. I received copies of checks made out to trustees,
22 receipts from the trustees. I had all my docs signed. I recorded my mortgages. I had
23 evidence of insurance, and I did everything.” (See Beauchamp Dep. Exhibit 415 at
24 DIC0009485, attached as **SOF Ex. 38**).

25 329. This “Iggy Letter” contained detailed information about actions Chittick
26 had taken in managing DenSco’s affairs, including the location of funds and how he
27 had transferred funds. (Beauchamp Dep. Exhibit 415, attached as **SOF Ex. 38**).

1 **G. After Chittick's Death, Clark Hill Agreed to Represent Both DenSco**
2 **and Chittick's Estate, Despite an Unconsentable Conflict.**

3 330. According to Clark Hill's billing records, Beauchamp learned of
4 Chittick's suicide on Saturday, July 30, 2016 through a telephone call with Robert
5 Koehler and Shawna Heuer. Beauchamp billed his time for that call to the "Business
6 Matters" file he had caused to be established on January 14, 2014. (*See* Schenck Dep.
7 Exhibit 18 at CH_0008045, attached as **SOF Ex. 31**).

8 331. Robert Koehler was identified in the 2011 POM, under the heading
9 "Contingency Plan in the Event of Death or Disability of Mr. Chittick," as the person
10 with whom Chittick had entered into a written agreement "to provide or arrange for any
11 necessary services for the Company" upon Chittick's death or disability. (*See*
12 Beauchamp Dep. Exhibit 432 at pg. 41, attached as **SOF Ex. 2**).

13 332. According to Beauchamp's notes from his July 30, 2016 telephone
14 conversation with Koehler and Heuer, he was told that Chittick had sent him a letter
15 with instructions and a detailed letter to Koehler. Beauchamp wrote that he needed "to
16 get both letters & discuss how to deal w/ this." (*See* Beauchamp Dep. Exhibit 416,
17 attached as **SOF Ex. 144**).

18 333. On Sunday, July 31, 2016, Beauchamp exchanged emails with Koehler
19 about scheduling a meeting with Koehler and Heuer the following afternoon. (*See*
20 Email chain between Beauchamp and Koehler at DIC0011907-11908, attached as **SOF**
21 **Ex. 145**).

22 334. Later that day, Beauchamp exchanged emails with Heuer in which
23 Beauchamp approved an email Heuer had drafted to send to DenSco's investors which
24 stated, in part, "[a] meeting with Denny's attorney is planned for Monday, August 1st,
25 to form a course of action." (*See* Beauchamp Dep. Exhibit 420, attached as **SOF Ex.**
26 **146**).

27 335. Heuer sent the e-mail to DenSco investors during the evening of July 31,
28 2016, forwarding a copy to Beauchamp, who thanked her for doing so. (*Id.*)

1 336. Heuer sent Beauchamp before their August 1 meeting a copy of Chittick's
2 Investor Letter and gave him at the meeting or in a meeting the following day a copy
3 of the Iggy Letter. (*See* Beauchamp Dep. Exhibit 414, attached as **SOF Ex. 138**;
4 Beauchamp Dep. Exhibit 415, attached as **SOF Ex. 38**; Beauchamp Dep. Transcript at
5 86:23-87:13, attached as **SOF Ex. 6**).

6 337. During the August 1st meeting, Beauchamp agreed that Clark Hill would
7 represent DenSco, reporting to Heuer, and also represent Heuer in her capacity as the
8 personal representative of the Estate of Denny Chittick. (*See* Beauchamp Dep.
9 Transcript at pp. 464:9-466:19, attached as **SOF Ex. 6**; Beauchamp Dep. Exhibit 206,
10 attached as **SOF Ex. 147**; Beauchamp Dep. Exhibit 207 attached as **SOF Ex. 148**).

11 338. On August 2, 2016, Beauchamp and other Clark Hill attorneys met with
12 Heuer. (*See* Beauchamp Dep. Exhibit 211, attached as **SOF Ex. 149**).

13 339. On August 4, 2016, Clark Hill initiated a probate proceeding and
14 continued to act as counsel for the Estate of Chittick until August 12, 2016 (*See*
15 Beauchamp Dep. Exhibit 216, attached as **SOF Ex. 150**).

16 340. Clark Hill should not have agreed to represent DenSco after Chittick's
17 death and should have instead terminated the representation because Clark Hill knew,
18 based on its own conduct since September 2013 and knowledge of Chittick's conduct,
19 that DenSco had potential claims against the firm. (*See* expert report of Neil Wertlieb
20 at pp. 49-50, attached to Motion for Determination of Prima Facie Case).

21 341. Clark Hill should not have agreed to represent the Estate of Chittick
22 because Clark Hill knew, based on its knowledge of Chittick's conduct, that DenSco
23 had substantial claims against Chittick's Estate for Chittick's gross negligence in
24 managing DenSco's affairs. Indeed, in this litigation Clark Hill has identified the Estate
25 as a non-party at fault and seeks to blame Chittick for DenSco's losses. Moreover, soon
26 after his appointment, the Receiver filed a Notice of Claim in Probate Court against the
27 Estate, based in part on Chittick's gross mismanagement of DenSco and multiple
28

1 breaches of fiduciary duties Chittick owed DenSco. (*See* expert report of Neil Wertlieb
2 at pp. 64-67, attached to Motion for Determination of Prima Facie Case).

3 342. A jury can assume that Clark Hill agreed to continue representing DenSco
4 and jointly represent the Estate of Chittick because it saw those representations as a
5 means to protect itself from liability. The firm's conduct during the months of August,
6 September and October 2016 provides further evidence that this was Clark Hill's
7 objective. (*Id.*)

8 **H. Between August 1 and August 18, 2016, Clark Hill Effectively Ran**
9 **DenSco's Day-to-Day Affairs.**

10 343. After Chittick's death, Beauchamp, in coordination with Heuer, managed
11 the day-to-day operations of DenSco until the Receiver was appointed on August 18,
12 2016. (*See* Beauchamp Dep. Exhibit 206, attached as **SOF Ex. 147**; *See* Beauchamp
13 Dep. Exhibit 214, attached as **SOF Ex. 151**; *See* Beauchamp Dep. Exhibit 218, attached
14 as **SOF Ex. 152**; *See* Beauchamp Dep. Exhibit 223, attached as **SOF Ex. 153**; *See*
15 Beauchamp Dep. Exhibit 233, attached as **SOF Ex. 154**; *See* Beauchamp Dep. Exhibit
16 234, attached as **SOF Ex. 155**; *See* Beauchamp Dep. Exhibit 240, attached as **SOF Ex.**
17 **156**; Beauchamp Dep. Exhibit 241, attached as **SOF Ex. 157**; Beauchamp Dep. Exhibit
18 242, attached as **SOF Ex. 158**; Beauchamp Dep. Exhibit 243, attached as **SOF Ex. 159**;
19 Beauchamp Dep. Exhibit 244, attached as **SOF Ex. 160**; Beauchamp Dep. Exhibit 418,
20 attached as **SOF Ex. 161**; Beauchamp Dep. Exhibit 419, attached as **SOF Ex. 162**;
21 Beauchamp Dep. Exhibit 420, attached as **SOF Ex. 146**; .

22 344. Beauchamp opened a "Business Wind Down" file to which he charged
23 his time. (*See* Schenck Dep. Exhibit 18 at CH_0008033, attached as **SOF Ex. 31**).

24 345. During that time period, Beauchamp communicated with investors and
25 representatives of the Securities Division of the Arizona Corporation Commission (the
26 "ACC"), which investigated securities law violations by DenSco and initiated on
27 August 17, 2016 a lawsuit alleging that DenSco had violated securities laws and sought
28

1 the appointment of a receiver. (*See* Schenck Dep. Exhibit 18 at CH_0008034-8041,
2 attached as **SOF Ex. 31**).

3 346. Although Clark Hill knew that as securities counsel to DenSco it faced
4 potential claims by the ACC, DenSco's receiver, and/or DenSco's investors, it
5 continued to represent DenSco.

6 347. Clark Hill authored several communications to DenSco's investors
7 between August 1 and August 12, 2016 which failed to disclose information in Clark
8 Hill's possession about Clark Hill's role as DenSco's securities counsel; Chittick's
9 mismanagement of DenSco's lending practices; Chittick's decision to postpone the
10 issuance of a new POM while still selling promissory notes; Chittick's goals in
11 documenting the Forbearance Agreement; the actions Clark Hill had taken to assist
12 Chittick; and Clark Hill's negligent advice to Chittick about DenSco's continued
13 lending to Menaged. (*See* Schenck Dep. Exhibit 18 at CH_0008034-8041, attached as
14 **SOF Ex. 31**; Beauchamp Dep. Exhibit 168, attached as **SOF Ex. 93**; Beauchamp Dep.
15 Exhibit 360, attached as **SOF Ex. 94**; Beauchamp Dep. Exhibit 361, attached as **SOF**
16 **Ex. 95**; Beauchamp Dep. Exhibit 362, attached as **SOF Ex. 96**; Beauchamp Dep.
17 Exhibit 363, attached as **SOF Ex. 97**; Beauchamp Dep. Exhibit 364, attached as **SOF**
18 **Ex. 98**).

19 348. Clark Hill also failed to provide that information to the ACC. (*See*
20 Beauchamp Dep. Transcript at pp. 155:21-156:16, attached as **SOF Ex. 6**).

21 349. The investor communications Clark Hill drafted also suggested that
22 DenSco and its investors would not be well served if a receiver were appointed. For
23 example, in the first email Beauchamp sent to DenSco investors on August 3, 2016, he
24 wrote:

25 [T]he problem with DenSco's Troubled Loans developed over time and it
26 will take some time to understand those Troubled Loans [and] how those
27 loans came into existence. . . . If whoever is in charge of DenSco does not
28 work with the Investors, then DenSco will either be put into bankruptcy or
have a Receiver appointed, which will incur costs on behalf of the Investors
and that will significantly reduce what will be available to return to the
Investors. For example, *one of the recent reports concerning liquidation*

1 *of companies owing money to investors indicated that the costs associated*
2 *with a bankruptcy or a Receiver can reduce the amount to be paid to*
3 *investors by almost half or even a much more significant reduction. . . .*
4 *[W]e would like to keep DenSco out of a protracted bankruptcy or a*
5 *contentious Receivership proceeding.* As indicated above, various studies
6 have shown that the third party costs and legal and other professional fees
and costs and the inherent delays in bankruptcy and/or Receivership
proceedings can consume more than 35% of the available money that
should or would otherwise be available to be returned to Investors.
(Emphasis added.)

(See Beauchamp Dep. Exhibit 213, attached as **SOF Ex. 163**; Beauchamp Dep.
Transcript at pp. 472:9-476:4, attached as **SOF Ex. 6**).

8 **I. Beginning on August 15, 2016, Clark Hill Sought to Conceal Its**
9 **Negligence and the Assistance It Gave Chittick in His Breach of**
10 **Fiduciary Duties by Falsely Claiming It Had Terminated Its**
11 **Representation of DenSco, and Continues to Claim, Without Any**
12 **Supporting Records, That It Did So.**

13 350. During its investigation of potential securities law violations by DenSco,
14 the ACC sought documents from Clark Hill about the firm's work for DenSco.
15 (Beauchamp Dep. Transcript at pp. 155:21-156:16, attached as **SOF Ex. 6**).

16 351. It was during that investigation that Clark Hill claimed for the first time
17 that it had terminated its representation of DenSco because Chittick allegedly refused
18 to follow the firm's advice.

19 352. Clark Hill has made inconsistent claims about the alleged termination of
20 its representation of DenSco since August 2016 and continues to claim that the
21 termination occurred despite the absence of any records to support the claim, and
22 records that are inconsistent with the claim. (See Beauchamp Dep. Transcript at pp.
23 158:9-161:24; pp. 180:7-183:22; 195:11-199:14 attached as **SOF Ex. 6**).

24 353. The claim was first made on August 15, 2016, when ACC investigator
25 Gary Clapper sent Beauchamp an email which stated, in part: "Can you please get a
26 copy of the forbearance agreement. Since the offering document is updated every two
27 years can you please get copies of all of them." (See Beauchamp Dep. Exhibit 283 at
28 DIC0011375 attached as **SOF Ex. 164**).

354. Beauchamp responded: "I only have access to some of DenSco's files.
Despite my requests, Denny Chittick did not request for all of DenSco's previous files

1 to be transferred to me. In addition, *Denny stopped our efforts to do an updated*
2 *offering memorandum in 2013*, so the initial work on that was never finished. Denny
3 also *did not engage us to prepare an amendment to the offering document or to*
4 *prepare a new disclosure document despite several conversations about that issue.*"
5 (Emphasis added.) (See Beauchamp Dep. Exhibit 283 at DIC0011373 attached as **SOF**
6 **Ex. 164**).

7 355. In an August 17, 2016 declaration Beauchamp stated that "[i]n late 2014
8 or 2015, I ended my formal relationship with Mr. Chittick and DenSco." (See
9 Beauchamp Dep. Exhibit 297 at pg. 2 ¶7, attached as **SOF Ex. 165**).

10 356. In an August 21, 2016 email to DenSco investor Rob Brinkman,
11 Beauchamp first wrote that "my law firm started preparing the 2013 POM, but we
12 were put on hold. After the Forbearance Agreement was signed by Scott Menaged, we
13 started to amend the 2013 draft POM, but we stopped and withdrew as securities
14 counsel for DenSco. Denny was supposed to get other counsel and finish the POM
15 in 2014, but I do not know if that did happen." (Emphasis added.) In a follow-up
16 email to Brinkman, he wrote that "[t]he 2013 POM was never finalized due to attorney
17 client protected issues that I have been instructed not to discuss." (Emphasis added.)
18 (See Beauchamp Dep. Exhibit 305, attached as **SOF Ex. 166**).

19 357. In a February 8, 2017 email to the Receiver's counsel, Beauchamp made
20 the following unsolicited statement: "Please note that my previous reference to
21 'securities work' was for work done PRIOR to when my firm terminated doing any
22 securities or other legal work for DenSco when Denny Chittick refused to send the
23 amended Private Offering Memorandum to his investors. The amended Private
24 Offering Memorandum that we wanted to be sent described the Forbearance Agreement
25 and the changes to the lending criteria and security ratios that DenSco was to follow
26 when making its loans to Borrowers. I believe that we terminated our representation
27 in approximately July 2014." (Emphasis added.) (See Sifferman Dep. Exhibit 457,
28 attached as **SOF Ex. 167**).

1 358. Clark Hill now claims that the firm terminated the representation in May
2 2014, stating in Defendants' initial disclosure statement (at 15) that

3 Mr. Chittick . . . refused to provide the necessary information to complete
4 the POM and refused to approve the description of the workout or the
5 double lien issue. . . .

6 ***In May 2014***, Mr. Beauchamp handed Mr. Chittick a physical copy of the
7 draft POM and asked him what Mr. Chittick's specific issues were with the
8 disclosure. Mr. Chittick responded that there was nothing wrong with the
9 disclosure, he was simply not ready to make any kind of disclosures to his
10 investors at this stage. Mr. Beauchamp again explained that Mr. Chittick
11 had no choice in the matter and that he had a fiduciary duty to his investors
12 to make these disclosures. Mr. Chittick would not budge. ***Faced with an***
13 ***intransigent client who was now acting contrary to the advice Mr.***
14 ***Beauchamp was providing, and with concerns that Mr. Chittick may not***
15 ***have been providing any disclosures to anyone since January 2014, Mr.***
16 ***Beauchamp informed Mr. Chittick that Beauchamp and Clark Hill could***
17 ***not and would not represent DenSco any longer.*** Mr. Beauchamp also
18 told Chittick that he would need to retain new securities counsel, not only
19 to provide the proper disclosure to DenSco's investors, but to protect
20 DenSco's rights under the forbearance agreement. Mr. Chittick suggested
21 that he has already started that process and was speaking with someone
22 else.

23 (See Schenck Dep. Exhibit 4 at pg. 15, ln. 3-20, attached as **SOF Ex. 5**).

24 359. But there is not a single document in Clark Hill's file to support this
25 claim, such as a termination letter that law firms commonly send when ending a client
26 relationship and especially when a law firm believes a client is disregarding advice
27 given by the firm. (See Beauchamp Dep. Transcript at pp. 158:9-161:24; 180:7-183:22;
28 195:11-199:14 attached as **SOF Ex. 6**).

 360. Moreover, Clark Hill makes this claim despite numerous documents in
its files reflecting that Clark Hill never terminated the representation and continued to
represent DenSco after May 2014. Those documents include:

 a. Documents generated in June 2014 which reflected work Clark
Hill performed to amend the Forbearance Agreement and correct errors the firm
had made when the Forbearance Agreement was signed in April 2014. Chittick
and Menaged signed those documents on June 18, 2014. (See Beauchamp Dep.
Exhibit 140, attached as **SOF Ex. 77**; Beauchamp Dep. Exhibit 141, attached as

1 **SOF Ex. 78**; Beauchamp Dep. Exhibit 142 attached as **SOF Ex. 86**; Beauchamp
2 Dep. Exhibit 143, attached as **SOF Ex. 87**; Beauchamp Dep. Exhibit 144
3 attached as **SOF Ex. 91**; Beauchamp Dep. Exhibit 338 attached as **SOF Ex. 168**;
4 Beauchamp Dep. Exhibit 339 attached as **SOF Ex. 169**; Beauchamp Dep.
5 Exhibit 340 attached as **SOF Ex. 170**; Beauchamp Dep. Exhibit 334 attached as
6 **SOF Ex. 186**; Beauchamp Dep. Exhibit 410 attached as **SOF Ex. 171**;

7 b. In May, June, July and August 2014, Beauchamp sent Chittick
8 billing statements for work performed for DenSco through transmittal letters that
9 stated: “Thank you again for allowing Clark Hill and me to provide legal
10 services to DenSco Investment Corporation. If you have any question or if we
11 can assist you with any other matter(s), please let me know.” (*See* Schenck Dep.
12 Exhibit 10, attached as **SOF Ex. 23**; Schenck Dep. Exhibit 11, attached as **SOF**
13 **Ex. 24**; Schenck Dep. Exhibit 12, attached as **SOF Ex. 25**).

14 c. As noted above, when Chittick asked Clark Hill to respond to the
15 ADFI inquiry in March 2016, Beauchamp billed his time to the “General” matter
16 Clark Hill had established in January 2014. (*See* Schenck Dep. Exhibit 17,
17 attached as **SOF Ex. 30**; Schenck Dep. Exhibit 18, attached as **SOF Ex. 31**;
18 Schenck Dep. Exhibit 14, attached as **SOF Ex. 27**; Schenck Dep. Exhibit 15,
19 attached as **SOF Ex. 28**; Schenck Dep. Exhibit 16, attached as **SOF Ex. 29**).

20 d. As noted above, after Chittick’s death, Beauchamp billed his time
21 to the “Business Matters” file Clark Hill had established in January 2014. (*See*
22 Schenck Dep. Exhibit 18, attached as **SOF Ex. 31**; Schenck Dep. Exhibit 19,
23 attached as **SOF Ex. 32**).

24 e. On June 22, 2017, approximately six months before this lawsuit
25 was filed, Clark Hill submitted two proofs of claim to the Receiver, seeking
26 \$53,820.00 for work performed between June 1, 2016 and August 17, 2016, and
27 \$23,046.00 for work performed between August 18, 2016 and September 30,
28 2016. Clark Hill claimed in an accompanying affidavit that “[i]n 2016 and

1 *earlier, the Firm represented DenSco Investment Corporation,”* providing
2 “general business advice and representation,” and that “[a]fter the death of
3 DenSco’s principal, in July 2016, the Firm transitioned the subject matter of its
4 work to advice and guidance to DenSco to assist in winding down its business.”
5 (Emphasis added.) Clark Hill did not claim then that it had terminated its
6 representation of DenSco at any previous time. (*See* Beauchamp Dep. Exhibit
7 425, attached as **SOF Ex. 172**).

8 361. In claiming that Clark Hill had, in fact, terminated its representation of
9 DenSco in May 2014 – a claim verified by Clark Hill’s General Counsel – Clark Hill
10 concealed material information it should have disclosed pursuant to Rule 26.1. It was
11 only after the Receiver’s counsel served written discovery on Clark Hill that Clark Hill
12 disclosed that it did not close until May 2018 – *after* receiving the Receiver’s written
13 discovery – the files Clark Hill had opened in September 2013 to prepare a new POM
14 and in January 2014 for the “lien workout.” The files established for DenSco’s
15 “General” and “Business Matters” were never closed and remain open. (*Id*)

16 **J. Clark Hill Colluded With the Estate of Chittick to Prevent the**
17 **Receiver From Obtaining Material Information.**

18 362. Clark Hill did not internally consider the conflicts created by its joint
19 representation of DenSco and the Chittick Estate until an investor raised the issue on
20 August 10, 2016. (*See* Beauchamp Dep. Exhibit 434, attached as **SOF Ex. 173**).

21 363. Clark Hill referred Heuer to lawyers whom Clark Hill believed would
22 aggressively protect the Estate from potential claims by investors and the Receiver –
23 Beauchamp’s former colleagues at Gammage & Burnham: James Polese and Kevin
24 Merritt. (*See* Beauchamp Dep. Exhibit 278, attached as **SOF Ex. 174**).

25 364. Clark Hill then began colluding with Gammage & Burnham to protect the
26 Chittick Estate and Clark Hill from the Receiver. (Beauchamp Dep. Exhibit 435
27 attached as **SOF Ex. 175**; Beauchamp Dep. Exhibit 436 attached as **SOF Ex. 176**;
28 Heuer Dep. Exhibit 447, attached as **SOF Ex. 177**; Sifferman Dep. Exhibit 465,

1 attached as **SOF Ex. 178**; Sifferman Dep. Exhibit 466, attached as **SOF Ex. 179**;
2 Sifferman Dep. Exhibit 468 attached as **SOF Ex. 180**).

3 365. Among other evidence of such collusion are emails exchanged between
4 Polese, Merrick and Beauchamp about seeking the appointment of a receiver other than
5 the Receiver. (*Id.*)

6 366. Moreover, shortly before the August 18, 2016 hearing at which the
7 Receiver was appointed, Beauchamp, with the assistance and approval of Clark Hill's
8 Assistant General Counsel, prepared a declaration for the Estate to submit to the
9 Receivership Court which Beauchamp has since acknowledged falsely stated that Clark
10 Hill had jointly represented DenSco and Chittick individually. (*See* Beauchamp Dep.
11 Exhibit 297 attached as **SOF Ex. 165**).

12 367. During the August 18, 2016 hearing, neither Beauchamp nor Clark Hill's
13 Assistant General Counsel corrected false statements by the Estate's counsel to the
14 effect that Clark Hill had jointly represented DenSco and Chittick personally. (*See*
15 Beauchamp Dep. Transcript at pp. 140:21-143:12, attached as **SOF Ex. 6**).

16 368. That claim was integral to the Estate's successful effort to obtain
17 language in the Order appointing the Receiver which recognized the existence of the
18 spurious joint representation claim and materially limited the Receiver's ability to
19 promptly and efficiently obtain relevant records from Clark Hill's files. (Beauchamp
20 Dep. Transcript at pp. 122:8-127:1, attached as **SOF Ex. 6**).

21 369. The Estate and Clark Hill used the Order as an excuse to decline to
22 provide the Receiver with immediate access to relevant records, such as the Iggy Letter,
23 and to "slow walk" Clark Hill's production of its files to the Receiver. (*Id.*)

24 370. The Receiver's counsel sent a letter demanding the immediate production
25 of the files on August 29, 2016. Clark Hill did not produce them until October 13,
26 2016, and only after making multiple demands. During this time period, Clark Hill's
27 Office of General Counsel was actively involved and directed the firm's response to the
28 Receiver's demands. (*See* Sifferman Dep. Exhibit 463, attached as **SOF Ex. 181**).

1 371. In the interim, Clark Hill and the Estate continued using the false claim
2 that Clark Hill had jointly represented DenSco and Chittick personally to delay
3 providing relevant information to the Receiver. (*See* Beauchamp Dep. Exhibit 297,
4 attached as **SOF Ex. 165**).

5 372. The Estate also proposed, with Clark Hill's implicit consent, a "common
6 interest" agreement between the Estate, DenSco (represented by Clark Hill) and the
7 Receiver, which falsely stated that because of the alleged joint representation by Clark
8 Hill of DenSco and Chittick personally, the Estate, DenSco and the Receiver had a
9 common interest in defending lawsuits that investors might pursue.

10 373. After finally receiving Clark Hill's files in October 2016, the Receiver
11 discovered critical documents, such as the Iggy Letter, that the Estate had sought to
12 prevent the Receiver from obtaining under a claim of personal privilege. That
13 document contained information that was material to claims the Receiver later brought
14 against the Estate of Chittick. Without the document, the Receiver had been required
15 to devote substantial resources to independently discovering information contained in
16 the Iggy Letter. (*See* Beauchamp Dep. Exhibit 415, attached as **SOF Ex. 38**).

17 **K. Actions Taken by the Receiver**

18 374. After his appointment, the Receiver took possession of and analyzed
19 DenSco's books and records, issuing a preliminary report on September 19, 2016. (*See*
20 Beauchamp Dep. Exhibit 323, attached as **SOF Ex. 143**).

21 375. On December 9, 2016, the Receiver filed a notice of claim in the probate
22 court against the Estate of Denny Chittick, asserting, inter alia, claims that Chittick had
23 breached fiduciary duties owed DenSco. (*See* Davis Dep. Exhibit 480 attached as **SOF**
24 **Ex. 182**).

25 376. The Estate issued a notice of disallowance of the claim on February 3,
26 2017.

1 377. On December 23, 2016, the Receiver issued a status report. That report
2 contains, among other things, the Receiver's conclusion that DenSco was insolvent in
3 January 2014. (*See* Davis Dep. Exhibit 479, attached as **SOF Ex. 84**).

4 378. The Receiver monitored and took part in a bankruptcy proceeding that
5 Menaged initiated. Among other things, the Receiver's counsel conducted an
6 examination of Menaged, and the Receiver filed an adversary complaint and a
7 complaint to determine nondischargeability, and obtained a judgment against Menaged.
8 (*Id.*)

9 379. On June 22, 2017, Clark Hill submitted two proofs of claim to the
10 Receiver, which are discussed above. (*See* Beauchamp Dep. Exhibit 425, attached as
11 **SOF Ex. 172**).

12 380. On September 14, 2017, the Receiver filed a petition with the
13 Receivership Court seeking to file this action. The petition was granted on October 10,
14 2017. (*See* Order attached as **SOF Ex. 183**).

15 381. On September 25, 2017, the Receiver filed in the Receivership Court
16 Petition No. 37 – Petition for Approval of Receiver's Final Recommendations
17 Approving Claims in DenSco Receivership, in which the Receiver recommended that
18 Clark Hill's claims be denied "because the Receiver has determined that Clark Hill had
19 a conflict of interest that precluded it from performing the legal services without
20 violating fiduciary duties to DenSco. Despite providing Clark Hill with notice of the
21 Receiver's recommendation of the denial of its two claims and a copy of the Claims
22 Report, Clark Hill failed to object or respond to the Receiver's recommendation that
23 their two non-investor claims submitted by Clark Hill be denied." The Petition was
24 granted on October 27, 2017. (*See* Petition No. 37 and Order attached as **SOF Ex. 184**).

25 382. This action was filed on October 16, 2017.

26 383. On December 22, 2017, the Receiver issued a status report describing the
27 status of the receivership. (*See* Davis Dep. Exhibit 534, attached as **SOF Ex. 185**).

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RESPECTFULLY SUBMITTED this 12th day of April, 2019.

OSBORN MALEDON, P.A.

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This document was electronically filed
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		Index of Exhibits to Statement of Facts		
SOF Exhibit No.	Document Date	Description	Bates Number	Marked Deposition Exhibit
SOF Ex. 1	2016-08-17	Verified complaint of Arizona Corporation Commission (“ACC”) against DenSco Investment Corporation	UNNUMBERED	292 Beauchamp
SOF Ex. 2	2011-07-01	DenSco Confidential Private Offering Memorandum	BC_002912 - 002981	432 Beauchamp
SOF Ex. 3	2013-06-17	Printed excerpt from DenSco website	DIC0003429 – 0003434	115 Beauchamp
SOF Ex. 4	2017-06-12	Clark Hill PLC – David Beauchamp bio	RECEIVER_001343 - 001345	3 Schenck
SOF Ex. 5	2018-03-09	Defendants’ Initial Rule 26.1 Disclosure Statement	UNNUMBERED	4 Schenck
SOF Ex. 6	2018-07-19	David Beauchamp Deposition Transcript Excerpts	UNNUMBERED	N/A
SOF Ex. 7	2007-05-03	Handwritten Notes	DIC0000939 - 0000941	N/A
SOF Ex. 8	2007-06-01	Handwritten Notes	DIC0000936	N/A
SOF Ex. 9	2009-04-09	Handwritten Notes	DIC0002433 - 0002434	N/A
SOF Ex.10	2009-04-17	Handwritten Notes	DIC0002431	N/A
SOF Ex.11	2009-06-30	Handwritten Notes	DIC0002427	N/A
SOF Ex.12	2009-07-06	Email from D. Beauchamp to D. Chittick with attachments	DIC0002141 - 0002212	N/A
SOF Ex.13	2011-04-13	Handwritten Notes	DIC0004378 - 0004379	N/A
SOF Ex.14	2009-07-01	DenSco Confidential Private Offering Memorandum	BC_002357 - 002424	431 Beauchamp
SOF Ex.15	2007-06-01	DenSco Confidential Private Offering Memorandum	DIC0000965 - 0001032	430 Beauchamp
SOF Ex.16	2011-07-18	Email exchange between D. Beauchamp and M. Parsons re Memorandum	DIC0003969 - 0003970	N/A
SOF Ex.17	2013-04-22	Bunger Subscription Agreement Investment #4	DOCID_00065995	621 Bunger
SOF Ex.18	2007-06-15	Email exchange between D. Beauchamp and R Carney re New DenSco Offering	DIC0002470 - 0002471	N/A
SOF Ex.19	2014-05-14	E-mail exchange between D. Schenck and D. Beauchamp;	DIC0008639; DIC0008874 - 0008945	101 Schenck
SOF Ex.20	2014-02-20	Letter from D. Beauchamp to D. Chittick with enclosed invoices	CH_0002308 - 0002317	6 Schenck
SOF Ex.21	2014-03-14	Letter from D. Beauchamp to D. Chittick with enclosed invoices	CH_0002673 - 0002680	7 Schenck
SOF Ex.22	2014-04-24	Letter from D. Beauchamp to D. Chittick with enclosed invoices	CH_0004324 - 0004332	9 Schenck
SOF Ex.23	2014-05-23	Letter from D. Beauchamp to D. Chittick with enclosed invoices	CH_0000513 - 0000523	10 Schenck
SOF Ex.24	2014-06-25	Letter from D. Beauchamp to D. Chittick with enclosed invoices	CH_0005221 - 0005226	11 Schenck

		Index of Exhibits to Statement of Facts		
SOF Exhibit No.	Document Date	Description	Bates Number	Marked Deposition Exhibit
SOF Ex.25	2014-07-16	Letter from D. Beauchamp to D. Chittick with enclosed invoices	CH_0005263 - 0005265	12 Schenck
SOF Ex.26	2014-08-20	Letter from D. Beauchamp to D. Chittick with enclosed invoices	CH_0005289 - 0005291	13 Schenck
SOF Ex.27	2016-04-27	Letter from D. Beauchamp to D. Chittick with enclosed invoices	CH_0006381 - 0006383	14 Schenck
SOF Ex.28	2016-05-13	Letter from D. Beauchamp to D. Chittick with enclosed invoices	CH_0006376 - 0006379	15 Schenck
SOF Ex.29	2016-06-15	Letter from D. Beauchamp to D. Chittick with enclosed invoices	CH_0008985 - 0008987	16 Schenck
SOF Ex.30	2016-07-22	Letter from D. Beauchamp to D. Chittick with enclosed invoices	CH_0008940 - 0008942	17 Schenck
SOF Ex.31	2016-09-15	Letter from D. Beauchamp to P.Davis with enclosed invoices	CH_0008032 - 0008045	18 Schenck
SOF Ex.32	2016-10-20	Letter from D. Beauchamp to D. Chittick with enclosed invoices	CH_0008028 - 0008031	19 Schenck
SOF Ex.33	2013-05-07	Bryan Cave bill issued to DenSco	BC_003074 – 003077	106A Beauchamp
SOF Ex.34	2013-06-17	Bryan Cave bill issued to DenSco	BC_003078 – 003080	119 Beauchamp
SOF Ex.35	2013-07-23	Bryan Cave bill issued to DenSco	BC_003081 – 003086	132 Beauchamp
SOF Ex.36	2013-08-14	Bryan Cave bill issued to DenSco	BC_003087 - 003090	133 Beauchamp
SOF Ex.37	2013-09-24	Bryan Cave bill issued to DenSco	BC_003091 – 003093	139 Beauchamp
SOF Ex.38	2016-07-28	Iggy List	DIC0009476 – 0009487	415 Beauchamp
SOF Ex.39	2014-01-09	E-mail exchange between D. Chittick, D.	CH_0001502 -	36 Schenck
SOF Ex.40	2013-05-09	D. Beauchamp handwritten notes	DIC0003345 - 0003347	107 Beauchamp
SOF Ex.41	2013-06-25	E-mail from D. Beauchamp to E. Sipes	DIC0003574 – 0003575	125 Beauchamp
SOF Ex.42	2013-07-01	E-mail exchange between E. Sipes and D. Beauchamp	DIC0003495 – 0003496	129 Beauchamp
SOF Ex.43	2013-06-14	E-mail from D. Chittick to D. Beauchamp	DIC0000055 – 0000069	111 Beauchamp
SOF Ex.44	2018-11-14	Plaintiff's Fifth Disclosure Statement	UNNUMBERED	541 Davis
SOF Ex.45	2013-06-14	E-mail from S. Menaged to D. Beauchamp, D. Chittick	DIC0000053 – 0000054	112 Beauchamp
SOF Ex.46	2014-01-15	E-mail exchanges between D. Beauchamp and B. Miller	DIC0007061 – 0007062	162 Beauchamp
SOF Ex.47	2013-08-26	D. Beauchamp handwritten notes	DIC0003481	134 Beauchamp
SOF Ex.48	2013-08-30	E-mail from T. Daniels to D. Chittick with attachment	BC_002021 – 002025	135 Beauchamp
SOF Ex.49	2013-03-17	E-mail from D. Chittick to D. Beauchamp re thx for coming	BC_001906	N/A
SOF Ex.50	2013-05-01	E-mail exchanges between D. Beauchamp and D. Chittick	DIC0003693 – 0003696	105A Beauchamp
SOF Ex.51	2013-08-30	Due Diligence folder materials	DIC0003427 – 0003442	136 Beauchamp

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SOF Ex.52	2013-05-01	Draft DenSco Confidential Private Offering Memorandum	DIC0003348 – 0003418	106 Beauchamp
SOF Ex.53	2013-05-01	Draft DenSco Confidential Private Offering Memorandum	DIC0003348 – 0003418	124 Beauchamp
SOF Ex.54	2014-04-24	DenSco Confidential Private Offering Memorandum dated July 2011	DIC0008731 – 0008800	100 Schenck
SOF Ex.55	2013-06-10	E-mail from D. Beauchamp to R. Pederson	DIC0003667 – 0003668	108 Beauchamp
SOF Ex.56	2013-06-11	E-mail exchanges between D. Beauchamp and D. Chittick	DIC0003637 – 0003639	110 Beauchamp
SOF Ex.57	2013-06-17	E-mail exchanges between D. Beauchamp and R. Wang	DIC0003616 – 0003620	114 Beauchamp
SOF Ex.58	2013-06-17	D. Beauchamp handwritten notes	DIC0003344	116 Beauchamp
SOF Ex.59	2013-06-17	E-mail from D. Beauchamp to R. Wang	DIC0003615	117 Beauchamp
SOF Ex.60	2013-06-17	Email from D. Beauchamp to Danny Chittick	BC_001959 - 001960	Part of Exhibit Beauchamp Exhibit 118
SOF Ex.61	2013-06-18	D. Beauchamp handwritten notes	DIC0003340 – 0003341	120 Beauchamp
SOF Ex.62	2013-06-21	E-mail exchanges between D. Beauchamp, R. Wang, K. Henderson, R. Endicott, G. Jensen	DIC0003655 – 0003657	122 Beauchamp
SOF Ex.63	2013-06-27	D. Beauchamp handwritten notes	DIC0003336; DIC0003338	126 Beauchamp
SOF Ex.64	2013-06-27	D. Beauchamp handwritten notes	DIC0003337	127 Beauchamp
SOF Ex.65	2013-06-27	E-mails from D. Chittick to D. Beauchamp	DIC0003572 – 0003573	128 Beauchamp
SOF Ex.66	2013-06-14	E-mail exchanges between D. Chittick and D. Beauchamp	DIC0003633 – 0003634; BC_001968 - 001978; BC_001966 - 001967; BC_001965; BC_001961 - 001962	113 Beauchamp
SOF Ex.67	2018-06-21	Beauchamp's Responses to First Set of Non-Uniform Interrogatories	UNNUMBERED	422 Beauchamp
SOF Ex.68	2013-03-25	Deed of Trust Andrew Lane Property	RECEIVER_001308 - 001319	103 Beauchamp
SOF Ex.69	2013-04-02	Deed of Trust on Andrew Lane Property	RECEIVER_001320 – 001324	104 Beauchamp
SOF Ex.70	2013-07-11	E-mail exchanges between D. Beauchamp and D. Chittick	DIC0003490 - 0003491	130 A Beauchamp
SOF Ex.71	2013-07-01	Draft DenSco Confidential Private Offering Memorandum with handwritten notes	DIC0003497 – 0003571	130 Beauchamp
SOF Ex.72	2013	2013 Journal	RECEIVER_000001 - 000043	20 Schenck

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SOF Ex.73	2013-09-12	E-mail exchanges between D. Beauchamp and D. Chittick	CH_0005451 – 0005453	136A Beauchamp
SOF Ex.74	2013-09-12	E-mail from D. Beauchamp to D. Chittick	CH_0000803 – 0000810	137 Beauchamp
SOF Ex.75	2013-09-12	E-mail from D. Chittick to D. Beauchamp	CH_0000816 – 0000818;	138 Beauchamp
SOF Ex.76	2013-12-18	E-mail from D. Chittick to D. Beauchamp	CH_0000708	139A Beauchamp
SOF Ex.77	2013-12-18	E-mail exchange between D. Chittick and D. Beauchamp	CH_0000636	140 Beauchamp
SOF Ex.78	2014-01-06	E-mail exchange between D. Beauchamp and L. Stringer	CH_0005550	141 Beauchamp
SOF Ex.79	2013-12-24	E-mail exchange between D. Chittick, D. Beauchamp and D. Schenck	CH_0010243 - 0010244	31 Schenck
SOF Ex.80	2013-12-18	E-mail exchange between D. Beauchamp and D. Schenck	CH_0000709 - 0000710	30 Schenck
SOF Ex.81	2014-02-15	E-mail exchanges between D. Beauchamp and D. Chittick	DIC0006797 – 0006798	350 Beauchamp
SOF Ex.82	2014	2014 Journal	RECEIVER_000044 - 000092	21 Schenck
SOF Ex.83	2014-01-17	E-mail exchange between D. Beauchamp and D. Schenck	CH_0005790 – 0005807	51 Schenck
SOF Ex.84	2016-12-23	Petition No. 15: Petition for Order Approving Receiver's Status Report	UNNUMBERED	479 Davis
SOF Ex.85	2014-01-05	Email exchange between D. Chittick and D. Beauchamp re this week	CH_0000852 - 0000853	N/A
SOF Ex.86	2014-01-06	E-mail exchange between D. Chittick and D. Beauchamp with attachment	CH_0000828 – 0000848	142 Beauchamp
SOF Ex.87	2014-01-06	D. Beauchamp handwritten notes	DIC0005405	143 Beauchamp
SOF Ex.88	2013-09-17	Colonial Dr. Deed of Trust	RECEIVER_000165 - 000176	28 Schenck
SOF Ex.89	2013-09-17	Colonial Dr. Mortgage	RECEIVER_000190	29 Schenck
SOF Ex.90	2013-09-19	E. Pratt Avenue #226 Deed of Trust	RECEIVER_001117 - 001122	N/A
SOF Ex.91	2014-01-09	E-mail from D. Beauchamp to L. Stringer	CH_0005916 – 0005920; CH_0010087	144 Beauchamp
SOF Ex.92	2014-01-09	D. Beauchamp handwritten notes	DIC0005403 – 0005404	145 Beauchamp
SOF Ex.93	2014-01-15	E-mail exchanges between D. Beauchamp and J. Goulder	DIC0007034 – 0007035	168 Beauchamp
SOF Ex.94	2014-02-25	E-mail exchange between D. Beauchamp and D. Chittick	DIC0006757 – 0006758	360 Beauchamp
SOF Ex.95	2014-02-26	E-mail exchange between D. Beauchamp and D. Chittick	CH_0002405	361 Beauchamp
SOF Ex.96	2014-02-26	E-mail exchange between D. Beauchamp and D. Chittick	DIC0006686 – 0006688	362 Beauchamp
SOF Ex.97	2014-02-26	E-mail exchange between D. Beauchamp and D. Chittick with handwritten notes	DIC0006679 – 0006681	363 Beauchamp

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SOF Ex.99	2014-04-11	Letter from J. Zaporowski to D. Chittick	DIC0005387; DIC0010731 - 0010834	97 Schenck
SOF Ex.100	2014-01-16	E-mail thread regarding revised term sheet	CH_0001015 - 0001021	43 Schenck
SOF Ex.101	2014-01-16	E-mail exchange between D. Chittick and D. Beauchamp	DIC0006242 – 0006244	45 Schenck
SOF Ex.102	2014-01-15	E-mail exchange between D. Beauchamp, D. Chittick, D. Schenck and L. Stringer with Term Sheet	DIC0007012 - 0007014; DIC0007512 - 007515	40 Schenck
SOF Ex.103	2014-01-15	E-mail from D. Beauchamp to D. Chittick with draft non-disclosure agreement	DIC0007032 - 007033; DIC0008586 - 0008590	39 Schenck
SOF Ex.104	2014-01-16	E-mail exchange between D. Chittick and D. Beauchamp	DIC0006236 – 0006238	44 Schenck
SOF Ex.105	2014-01-17	E-mail exchange between D. Chittick and D. Beauchamp	DIC0007521 - 0007525; CH_0001129 – 0001130; CH_0001135 - 0001136	192 Beauchamp
SOF Ex.106	2014-02-07	E-mail exchange between J. Goulder and D. Beauchamp	CH_0002045 – 0002079	70 Schenck
SOF Ex.107	2014-01-17	E-mail exchange between D. Chittick, D. Beauchamp, S. Menaged, J. Goulder	DIC0006441	191 Beauchamp
SOF Ex.108	2014-02-04	E-mail exchanges between D. Chittick and D. Beauchamp	DIC0006676 – 0006678	337 Beauchamp
SOF Ex.109	2014-02-09	E-mail exchange between D. Beauchamp and D. Chittick	DIC0006702 – 0006704	345 Beauchamp
SOF Ex.110	2014-02-11	D. Beauchamp handwritten notes	DIC0005410	347 Beauchamp
SOF Ex.111	2014-02-14	E-mail exchange between D. Beauchamp and D. Chittick	DIC0006803 – 0006806	75 Schenck
SOF Ex.112	2014-02-20	E-mail exchange between D. Beauchamp, R. Gordon, K. Wakim, J. Applebaum	DIC0006831 – 0006833	80 Schenck
SOF Ex.113	2014-04-16	Forbearance Agreement	DIC0010731 - 0010754	402 Beauchamp
SOF Ex.114	2014-02-20	D. Beauchamp handwritten notes	DIC0005444 – 0005447	352 Beauchamp
SOF Ex.115	2014-02-27	D. Beauchamp handwritten notes	DIC0005439	365 Beauchamp
SOF Ex.116	2014-03-04	E-mail exchange between D. Beauchamp and D. Chittick	DIC0006879 – 0006880	368 Beauchamp
SOF Ex.117	2014-03-07	E-mail exchange between L. Stringer, D. Chittick and cc D. Beauchamp	CH_0002938 – 0002973	370 Beauchamp
SOF Ex.118	2014-03-10	E-mail exchanges between D. Beauchamp and D. Chittick	DIC0006874 – 0006876	371 Beauchamp

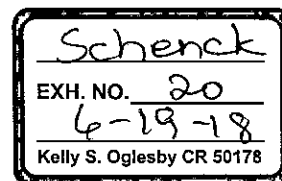
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SOF Ex.120	2014-03-13	E-mail exchange between D. Beauchamp and D. Chittick	DIC0006904 – 0006905	383 Beauchamp
SOF Ex.121	2014-03-14	E-mail exchange between D. Beauchamp and D. Chittick	CH_0002887 – 0002923	385 Beauchamp
SOF Ex.122	2014-03-17	E-mail exchanges between D. Beauchamp and D. Chittick	DIC0006976 – 0006978	386 Beauchamp
SOF Ex.123	2014-03-17	E-mail exchanges between D. Beauchamp and D. Chittick	DIC0006963 – 0006966	387 Beauchamp
SOF Ex.124	2014-03-17	E-mail exchange between D. Beauchamp and D. Chittick	CH_0002739 – 0002774	388 Beauchamp
SOF Ex.125	2014-03-18	E-mail exchanges between D. Beauchamp and D. Chittick	DIC0006958 – 0006960	389 Beauchamp
SOF Ex.126	2014-03-18	E-mail exchange between D. Beauchamp and D. Chittick	CH_0003746 – 0003782	390 Beauchamp
SOF Ex.127	2014-03-20	E-mail exchange between D. Beauchamp and D. Chittick	CH_0003696 – 0003714	391 Beauchamp
SOF Ex.128	2014-01-10	D. Beauchamp handwritten notes	DIC0005400 – 0005402	157 Beauchamp
SOF Ex.129	2014-01-12	E-mail exchanges between D. Chittick, S. Menaged, D. Beauchamp	DIC0007094 – 0007096	150 Beauchamp
SOF Ex.130	2014-01-13	E-mail exchanges between D. Chittick and D. Beauchamp	DIC0007084 – 0007087	151 Beauchamp
SOF Ex.131	2014-02-04	E-mail from D. Beauchamp to D. Chittick	DIC0006625 – 0006626	336 Beauchamp
SOF Ex.132	2014-02-21	D. Beauchamp handwritten notes	DIC0005442	357 Beauchamp
SOF Ex.133	2014-04-24	D. Beauchamp handwritten notes	DIC0005395	406 Beauchamp
SOF Ex.134	2014-04-24	E-mail exchange between D. Chittick and D. Beauchamp w/ POM	DIC0008660 – 0008730	99 Schenck
SOF Ex.135	2015-03-13	E-mail exchange between D. Chittick and D. Beauchamp	CHIT001885 – 001886	411 Beauchamp
SOF Ex.136	2015	2015 Journal	RECEIVER_000093 - 000135	22 Schenck
SOF Ex.137	2015-03-13	E-mail exchange between D. Chittick and S. Menaged	CHIT001879 – 001880	412 Beauchamp
SOF Ex.138	2016-07-27	Letter to Investors	DIC0009469 - 0009475	414 Beauchamp
SOF Ex.139	2013-08-06	Messner Way Mortgage	RECEIVER_000204	27 Schenck
SOF Ex.140	2014-01-09	E-mail exchange between D. Chittick and D. Beauchamp	CH_0001494 – 0001495; CH_0001502 - 0001503; DIC0007125 - 0007126	147 Beauchamp
SOF Ex.141	2014-01-17	E-mail exchange between D. Beauchamp and R. Anderson	CH_0001445 – 0001465	53 Schenck
SOF Ex.142	2018-06-21	Robert G. Anderson Deposition Transcript excerpts	UNNUMBERED	N/A
SOF Ex.143	2016-09-16	Receiver's Preliminary Report	UNNUMBERED	323 Beauchamp

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SOF Ex.145	2016-07-31	Email exchange between D. Beauchamp and R. Koehler re Densco Meeting	DIC0011907 - 0011908	N/A
SOF Ex.146	2016-07-31	E-mail exchange between D. Beauchamp and S. Heuer	DIC0011893 – 0011894	420 Beauchamp
SOF Ex.147	2016-08-01	E-mail exchange between S. Heuer and D. Beauchamp	DIC0011892	206 Beauchamp
SOF Ex.148	2016-08-01	D. Beauchamp handwritten notes	DIC0010937 – 0010939	207 Beauchamp
SOF Ex.149	2016-08-02	D. Beauchamp handwritten notes	DIC0010936	211 Beauchamp
SOF Ex.150	2016-08-04	Letters of Appointment of Personal Representative and Acceptance	CH_0010225 – 0010226	216 Beauchamp
SOF Ex.151	2016-08-03	E-mail exchange between S. Heuer and D. Beauchamp	DIC0011830 – 0011833	214 Beauchamp
SOF Ex.152	2016-08-04	E-mail exchange between D. Beauchamp, R. Koehler, S. Heuer	DIC0010341 – 0010342	218 Beauchamp
SOF Ex.153	2016-08-05	E-mail exchange between S. Heuer and D. Beauchamp	DIC0010248	223 Beauchamp
SOF Ex.154	2016-08-07	E-mail exchange between S. Heuer and D. Beauchamp	DIC0010151	233 Beauchamp
SOF Ex.155	2016-08-07	E-mail exchange between S. Heuer and D. Beauchamp	DIC0010150	234 Beauchamp
SOF Ex.156	2016-08-08	E-mail exchange between S. Heuer and D. Beauchamp	DIC0010077 - 0010079	240 Beauchamp
SOF Ex.157	2016-08-08	E-mail exchange between S. Heuer and D. Beauchamp	DIC0010075 – 0010076	241 Beauchamp
SOF Ex.158	2016-08-08	D. Beauchamp handwritten notes	DIC0010917	242 Beauchamp
SOF Ex.159	2016-08-08	E-mail exchange between S. Heuer and D. Beauchamp	DIC0010074	243 Beauchamp
SOF Ex.160	2016-08-08	E-mail exchange between S. Heuer and D. Beauchamp	DIC0010071 – 0010073	244 Beauchamp
SOF Ex.161	2016-07-31	E-mail exchange between D. Beauchamp, R. Koehler, S. Heuer	DIC0011899 – 0011900	418 Beauchamp
SOF Ex.162	2016-07-31	E-mail exchange between S. Heuer and D. Beauchamp	DIC0011897 – 0011898	419 Beauchamp
SOF Ex.163	2016-08-03	E-mail exchange between D. Beauchamp and investors	DIC0011836 – 0011838	213 Beauchamp
SOF Ex.164	2016-08-15	E-mail between D. Beauchamp and G. Clapper	DIC0011373 - 0011375	283 Beauchamp
SOF Ex.165	2016-08-17	Declaration of David Beauchamp	DIC0010609 – 0010610; DIC0011416 - 0011417	297 Beauchamp
SOF Ex.166	2016-08-21	E-mail between D. Beauchamp and R. Brinkman	DIC0011813 - 0011815	305 Beauchamp
SOF Ex.167	2017-02-08	E-mail D. Beauchamp to R. Anderson and cc to M. Sifferman et al.	CH_0010428 - 0010432	457 Sifferman
SOF Ex.168	2014-02-06	E-mail exchange between D. Beauchamp and D. Chittick	CH_0002024 – 0002032	338 Beauchamp

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SOF Ex.170	2014-02-06	E-mail exchange between D. Beauchamp and D. Chittick	CH_0001928; CH_0001930 – 0001953	340 Beauchamp
SOF Ex.171	2014-04-16	Authorization to Update Forbearance Documents	DIC0010801 - 0010806	410 Beauchamp
SOF Ex.172	2017-06-22	Clark Hill letter and two proofs of claims filed with Receiver	UNNUMBERED	425 Beauchamp
SOF Ex.173	2016-08-10	Beauchamp letter to W.Coy	CH_0009195 – 0009196	434 Beauchamp
SOF Ex.174	2016-08-12	E-mail exchange between D. Beauchamp and J. Polese	DIC0009581 – 0009584	278 Beauchamp
SOF Ex.175	2016-08-17	E-mail exchange between K. Merritt, D.Beauchamp and J. Polese	CH_0014225 – 0014227	435 Beauchamp
SOF Ex.176	2016-08-17	E-mail exchange between D. Beauchamp, K. Merritt and J. Polese	CH_0014215 - 0014217	436 Beauchamp
SOF Ex.177	2016-08-16	E-mail thread D. Beauchamp, Kevin Merritt, S. Heuer	DIC0011507 - 0011508	447 Heuer
SOF Ex.178	2016-09-12	E-mail between D. Beauchamp and K. Merritt	DIC0010527 - 0010528	465 Sifferman
SOF Ex.179	2016-09-14	E-mail between D. Beauchamp and K. Merritt	DIC0010509 - 0010511	466 Sifferman
SOF Ex.180	2016-09-23	E-mail between D. Beauchamp and K. Merritt	DIC0010463 - 0010464	468 Sifferman
SOF Ex.181	2016-08-29	E-mail from J. Campanaro to D. Beauchamp regarding demand for turnover letter	CH_0008054 - 0008066	463 Sifferman
SOF Ex.182	2016-12-09	Notice of Claim Against Estate of Denny J. Chittick	UNNUMBERED	480 Davis
SOF Ex.183	2017-10-10	Order re: Petition No. 35 - Ex Parte Petition Seeking Approval for Receiver to File Complaint Against Clark Hill PLC and David Beauchamp	UNNUMBERED	N/A
SOF Ex.184	2017-09-28	Petition No. 37 - Petition for Approval of Receiver's Final Recommendations Approving Claims in Densco Receivership	UNNUMBERED	N/A
SOF Ex.185	2017-12-26	Petition No. 50: Petition for Order Approving Receiver's Status Report	UNNUMBERED	534 Davis
SOF Ex. 186	2014-02-04	Beauchamp email to Schenck re Forbearance Agreement	CH_0006694 - 006708	334 Beauchamp

EXHIBIT B

Exhibit No. 72



2013

Goals: make 2 million
9/30, I made 2 million

1-2

I was on the hill all day, but I was able to fund one deal before I left, then I took phone calls and tried to answer emails. I have 4 deals to fund tomorrow, I had three payoffs and tons of payments made. I talked to a lady that is interested in investing, found me on the web, and probably won't happen.

1-3

I funded four deals first thing in the morning before we left. I had dozens of emails about closings, payoffs and pending deals. I had a ton of payments come in too. But I have two payoffs, but I got more out than came in!

1-4

I funded eight deals, nearly 900k out, one 110k payoff, a few payments. I had only one payoff request. If I can keep getting the dollars out, I've got very little coming back in next week. Scott has been buying like mad; I've done 10 deals for him so far this year. I had a ton of payments in too. It will take me all night Sunday to get caught up. I've had two calls from people I don't know wanting to invest, I'll deal with that next week.

1-7

I funded two deals and only had one small one come back in. I got a lot of payments in. I spent the whole day trying to catch up, it's after midnight and I'm still not close. But I'm on top of stuff, so I can operate tomorrow and not feel like I'm out of control. I have two deals to fund tomorrow and many more for the week, but I keep getting payoff requests. I sent an email out to my borrowers to give my name out, I need more borrowers!

1-8

I got more money in than I got out today, I don't have many deals on the desk to fund either. I talked to Lori Weiskopf she wants to invest next week. I've got a million ready to go, but I figure I'll meet with her. I spoke with another lady today that wants to see my info. I guess I'll send that out to her. But I've got to say no at some point. I had a ton of payments come in today. I hope I can get some money out the next few days.

1-9

It's been a really quiet day, I funded two deals, I had one payoff, but it was nearly as big as I shipped out! I only had 2 payments. I had three people asking me to lower my interest rate. I

guess guys are sitting on a lot of funds and trying to get it out. I've got one to do tomorrow and a few lined up for the next few days, but tons of payoffs are coming in.

1-10

I had an easy day, so I could spend 1/2 the day on the phone! I funded two deals, I had one payoff and just a few payments. I've got a bunch to fund tomorrow, so hopefully I don't have a ton coming on me!

1-11

It was a typical Friday, I got out 600k first thing in the morning, quiet day and I got back the same amount at the end of the day! I had lunch with Stan to meet his friend and biz partner in Brazil gold mines. No I'm not interested. No I won't send my investors to you. I had a ton of payments made too. I'm down to just a little over 2.4 million. I've got people wanting to give me more; I just need to get this all to work for once!

1-14

I wired out more than I got in. I met with Laurie Weiskopf, my newest investor. Probably second to last too. I just can't take in any more money. I had a bunch of payments and lots of payoff requests. I've got a couple of small deals to do tomorrow but nothing planned for this week of significance.

1-15

I funded two deals and then I had four deals payoff. I returned 200k to Kirk, he's betting on Apple stock. I had a few payments. It was a quiet day. I do have four deals tomorrow maybe five. I'm slowly beating down the cash position. I had an email from Don Cherry, a guy I met with on a Saturday, nearly 2 years ago, and then he blew me off completely. He wanted to invest, I reveled in telling him no thanks.

1-16

I was able to fund seven deals and only had four payoffs, so once again, I lowered my cash. I had a lot of payments in too. I didn't receive my first call until after 10! I have one deal for tomorrow and I have a shit load of payoffs that could come in the next two days. I just need to get a million more out and then I'll be in a good position.

1-17

I funded two small deals then I had 3 deals come back. I had a few payments. I was gone nearly all day. First to the boys school, then to my MOM's meeting. We had a big turnout, we had a home depot guy there, Kirk talked about his taxes and then I talked. I went quickly because we were running long. I've got nothing to fund tomorrow. I'm never sure if this damn MOM's meeting is meeting the guy's expectations. I guess they keep showing up.

1-18

I funded two deals, then one got sent back to me, so I funded one, then the onslaught of payoffs started rolling in! I took in over a million! I met tom Smith for a few hours. Told him about the divorce, he owns a Tesla too, got it the same day I did, his sick kid, selling his home and when I can take in a few million Hell at this rate, never! I met with Nishel and Adam about really nothing. They just BS'ed about needing more deals, the group is not doing anything for them, etc. I can't make deals happen. They don't have any money out with me since they don't have all their money at work. I have a few deals for next week, but not enough to do much for me. Damn I just need to get this cash out. I got as low as 1 2 I was feeling like ok, I'm turning the corner, then boom, a million came in. perhaps this the new normal.

1-22

I got more money in than out. I had a lot of payments. I've got a few more deals to do tomorrow, but lots of requests for payoffs. I've got so many deals on my desk, but I've got a ton of deals closing too. I talked to Steve, he wants to invest, and I told him no hurry. I just need a few mid priced deals to get the cash out.

1-23

I funded four deals, but then I got in a 400k payoff and few others. At least tomorrow I'm getting out nearly a million; we'll see how much comes in. I met Ashot; he's a guy I've been lending too from LA. He's behind on his payments and he showed up at my house to explain the problem with his partner and gave me payments. I had quite a few payments today too. It's going to be a better month than I had thought. It could have been much better if I could get more money out. I had another investor want to add money, I pushed her off. My list is growing longer!

1-24

I started the day out so excited, I put out a million bucks! Then slowly but surely I received back 800k during the day! I just can't get ahead! Then I have my borrowers email me a post card that this dork sent them with my name on it saying he'll give them cheaper rates! I quit lending to the guy because he had foreclosures on his name, now he's lending money out! There are really low barrier to entry. I have a few deals to do tomorrow, but I've got a ton of cash coming back in next week. I had a few payments made too. But it was real quiet day on the phone.

1-25

Another frustrating day in the fact that I put out a lot of money but got a lot back in. 300k came back from Flint yesterday because he walked on a deal. I talked to an investor Tom who is going to send me 250k; I figured its fine, since I'm going to send out that much in interest Monday anyway. I had a lot of payments today too. I've got quite a bit to send out Monday, but I've got 2 million coming in next week in payoffs. I'm just fucking drowning in cash and I can't get it all put to work. Then I get a copy of a post card sent to my borrowers from guy I used to lend to. I

quit lending to him because he had foreclosures on his name, now he's a fucking hard money lender!

1-28

I wired out about 500k, got back in 400k. I've got a lot of payoffs coming in this week, not many deals to fund. I had lot of payments made today. I turned down another 500k of potential investor money. I just can't put my money to work. I'm getting 250k more in tomorrow from a new investor. I don't need it, but I've been putting him off for 2 months now.

1-29

I got out quite a bit of money, however I had a new investor send me 250k and I had two unexpected payoffs. I've got some deals tomorrow. I have A few more for end of month. I'm scared to see how much money comes in the next day or two. I had a few payoffs not much. I've talked to several realtors over the last few days asking about their clients but none of called back yet.

1-30

I only funded two deals, and I had the equal amount coming back to me. I do have million to go out tomorrow and another 500k through Monday. But it's end of month, so I'm sure I'll have a lot of payoffs tomorrow. I didn't have very many payments either. I might have a commercial deal too tomorrow. I've got investors calling me wanting to give me more money. I told them no. I'm not going to take in a dime until I get this money out! I'll sit here and do end of month statements now.

1-31

I wired out 1.5 million today! However, I received back in 900k! I've got a 600k to get out in the next two days. I'm sure I'm going to get some more payoffs tomorrow. Mike Moore came by; he's got a 1.5 million commercial he wants me to do next week. That might finally put me over the hump. I had a ton of payments come in too. I made 200k net for the month. Pretty good considering I was sitting on just a shit load of cash all December. I got the most of it out in January, so February will be better. Though the 28th lands on a Thursday, so it might be so so month.

2-1

I funded three deals and returned Stan's money; he's sending it back to me soon. I had a bucket load of payoffs. Then Mike Moore called me and asked if I could wire 1.5 million out for this property he's been talking to me for over a year! I said heck ya! So now I need money! I emailed all my investors out saying send me your money. I got 350k from Kirk. I've got another 350 coming from a few people next week. I only have 400k available for Monday Even though I go in to the weekend with 1.5 in my acct. 700k is going out Monday. I sent out my cash report and I had three people say they need money. For the first time since November I need cash and I have

to worry about money coming back in finally! BofA was down all day, barely came up in time to get things done. It was a nightmare. I figured what the hell, I'll take in more money, if I can get it to work right away, and I hope I can keep turning it. I just hope I don't take in this extra cash then get massive payoffs and not get it to work!

2-4

I wired out 700k and I got nothing back in! I also received in 75k of new investment. Scott calls me, says he needs 1.5 million by next Friday, for the first time in what months I have to say I'll try! I have a few more investors I've contacted to send me money. I had a ton of payments in too. It was pretty quiet for a Monday, but I've got deals coming in like crazy.

2-5

I had a great day! I funded 400k out. I had more come in, but I've got 500k going back out tomorrow and I'll be nearly out of money. Tom smith is wiring 1.4 million tomorrow, so I can fund a few more, plus have money for Scott next week. I'll have a great March now. I had just a few payments today, but I've got lots coming in, and I now I have to worry about closings for the first time in 4 months. I really like this again!

2-6

I got out 650k, I had one payoff for 300k, Tom wired in 1.35 million, and Jim McArdle deposited 150k. Kyle needs 1.5 million. But I have enough to cover Scott. So I'm not sure how I'm going to cover everyone, what a nice problem to have. Kyle wanted it today; I couldn't do it not knowing if I was going to get enough in to cover Scott next week. He's my first priority. I only had Lili pay today, nothing else. I sat with Frank's brother for 2 hours. He wants to get in the business, however, he's got no cash and I won't give it to him to start out.

2-7

What a nutty day. I funded three deals, and only had one small 35k payoff. The Hulsebus's came over and invested 600k. I had a call from Lili needing 550k and then from Tom Stevenson needing 550k too. Perfect. I'm getting in a million more from Bunger my neighbor too. I'll be sitting on a lot over the weekend, but hell I have 43 million out right now! Warren came over to tell me that Coralee emailed him and they talked about me for quite a while. About John Ray, my divorce on and on. Funny that she wouldn't contact me.

2-8

At 11 pm I get an email from Rhonda Hulsebus, she says they are having second thoughts and now want the money back tomorrow. I couldn't believe it. I wired it back this morning. I won't be doing business with them anymore. I funded 1.1 million between two deals. Thank goodness Steve Bunger wired in his million. Or I would be sweating for next week to cover Scott's deal. I have over 44 million at work right now. I have 2.4 million sitting in my bank account. I had a ton of payments as always. I left before 3:30 and I got an email at 3:17 to wire in 58k to close a deal.

I missed it. The borrower wasn't mad, but I was. If I had any warning I would have waited 10 more mins before I left!

2-11

I funded 900k today, which was great. I had one payoff from Christmas for 400k, so that was good, getting my cash back to where I need it for the next few days. I had some payments from Chris and Shawn. I've only got one deal for tomorrow and then a few lined up for the end of the week, now I need money to start coming in. Nice to have that problem again. I found out one of my investors has terminal stage four cancer, Marion.

2-12

I had a few payments in, but I had two payoffs I wasn't expecting. Robert Ferrin stopped by and paid me off on 280k worth of deals. I've got just enough to cover what is on my desk for the next 3 days, but I know I'll more payoffs. I funded one deal today.

2-13

I had a real quiet day. I had nothing to fund, but I had 850k of payoffs, which is fine, since I need every dollar to cover what is on my desk! I love to have that problem! I only had a few payments. Steve Tuttle invested 25k more too. Tomorrow is going to be my biggest single day out I think, and Friday is busy too, get a ton of money out before the three day weekend.

2-14

I wired out 1.8 million, I have a million to send out tomorrow. I have just enough to cover the needed amount. I only had a few payments in. I had a guy call me that I did deals with 6 yrs ago, that on the last loan, his mother had to refi him out to save his ass. I'll go in to the 3 day weekend with very little cash.

2-15

I wired out a million before we left the house. Roger couldn't get the go ahead on his, so I left. 10 mins later he calls me saying that I can wire. I got to Kellogg and was able to wire to him. Then the payoff started to roll in. I received in over a million back in! I got lot of payments too.

2-19

I funded a couple of deals first thing then had just a ton of payoffs. I had a ton of payments too. I returned calls as soon as I got off the phone. I worked until midnight trying to catch everything up. I've got more work to do, but I've got the important stuff done. I'm building up cash again, with not a lot on my desk!

2-20

Well today I received 27 payoffs I think. Chris Hughes paid me off on 22 then the others were just normal. One of them I'm glad for it was for a guy that was late on his payments, so I also tacked on his payments on his other property. Now he's current and only has 2 loans with me. I had a ton of payments come in too. I funded three deals and gave a little bit more on another. But I'm still sitting on 3 million, with 600k on my desk to fund by Friday.

2-21

I funded two small deals, I had a lot of payments come in, then in the afternoon, and the payoffs came rolling in! I'm sitting on 3.7 million in cash. I do have 1.5 million to fund in the next few days, but that's nothing.

2-22

Busy day in turnover of cash was huge. I put out 400k and took in 1.2 million I think! I had a ton of payments too. I took Steve with me to the MOM's meeting, he had good questions and enjoyed the meeting. There was a lot of give and take besides me blabbing as normal. It was a good meeting though. I've got 2 million worth of deals planned for next week, so I can get some of my 4.5 million back out.

2-25

I wired out nearly 600k, but I got 900 back in! I had a lot of payments too. I was busy all day long keeping up with stuff. I've just got so much money right now it makes me sick. I'll be wiring out quite a bit next couple of days, I just don't want any more back in, and its end of month, so I know I'll be receiving more in. Mike Swerlyk sent me a deal he wants me to fund because he's out of cash, however, its screw deal, they always are, when they are like this. But hell I need to put money out, it looks ok to do.

2-26

I funded 500k worth of stuff, only got back 1/2 of that. I had a few payments. I've got stacks of deals lined up for the next few days and I have 4 million still. Eric called, he might need 2.5 tomorrow, and I sure hope so. Steve wants to give me another million, I told him no. I still have 20k a day of interest clicking along, which is great, but I'd love to have 22k!

2-27

I had a super busy day! Eric called and wanted that 2.1 million, plus that 170k I had planned, PG homes called had three more, I think I got out 2.7 million today. I am 8 bucks under 22k a day. I'm not sure how long it will last since end of month is tomorrow! But at least I am down to 1.8 in my account and I have 500k of that going out tomorrow and another 500k out Friday. I could end the week under a million I'm only at 110k profit right now. I'll have a lot of payments made on Friday, which will count for next month from my biggest borrowers. Which means March is going to be a big month for profits.

2-28

I was so busy today, I worked 12 hours! I funded seven deals, only had four payoffs. I'm still above 22k a day in interest, we'll see if I can keep it over the weekend. I only made 120k this month, mostly because 75k of it will be paid tomorrow from my biggest borrowers, just the way the days fell on the month. I had a lot of payments come in too. I've got a lot of deals to go out tomorrow and next week, I might even tell Steve to give me some of that money he's talking about investment. Detota invested 50k more today. March should be a good month.

3-1

I had a super busy day again. I funded 900k out, only got in 250k or so. I had a ton of payments, tons of filings, payoff requests and phone calls. I got it all handled, just barely. I've got so many deals lined up for next week that I might be low on money! I've got a couple of commercial deals I might do to use up some cash. The LTV on them are great, so I'm not concerned.

3-4

I was so busy today, I had everything already to go for today, then I had 5 more deals piled on me. I was able to get the docs and wires out before I went to Dave's, but I wasn't as prepared as I usually am when I go there. I only had 2 payoffs, but I had shit loads of payments. I've got a few deals for tomorrow, I told Bunger to send me another million. I've got a lot on my desk and I don't want to hope for closes. I only have 600k in my bank right now.

3-5

I took in another million from Bunger, I didn't put it all to work today, but I will over the next two or three days. I had to payoffs and funded two. I had a ton of payments. It was relatively quiet which gave me a chance to catch up on stuff. John brought me 50k in cash from Vahak. He's going to damn near pay cash for a building, wants me to handle 300k in cash. That's a new experience.

3-6

I got more money out than I took in and I have a million to put out tomorrow, maybe more if Lili's deal comes through. I might have to take in another million before Friday. I had a lot of payments too. I'm able to keep the money out right now and turnover is at a good pace. Hopefully it stays this way.

3-7

I was so busy again today, I had deals coming at me like fast balls, I said yes to them all, and I took in another million dollars from Bunger scheduled for tomorrow. I know I'm getting 150k from Stan too. I need it. I've got so many deals to fund tomorrow plus ones stacked on my desk. I only had 375k of payoffs and I funded a million. I had a few payments, but they will start rolling in here soon.

3-8

I had a super busy day, I wired out a million, I only got back in maybe 350k. Steve got his million in, which nearly 1/2 of it or maybe all of it will go out Monday morning. Stan invested back his 140k. I had a few payments not many. I met with Adam, Nishel and David today, they want to do deals together, and I was clear on what I can offer. Money and no time, and no expertise, they want to do commercial and stuff. We'll see if anything looks good to me. I have nearly 48 million out right now. Holly shit, I can hardly believe it. I just hope I can keep it out!

3-11

It was a quiet day, I funded three deals, and Lili paid me back over the weekend on her 300k deal so I have a little more cash than I thought. I've got a stack of deals lined up for next week only 3 for this week. I have a 600k deal I can do any day; I just wanted to see if I had in short term notice deals pop up before I put all my cash out on it. I did have a ton of payments come in today.

3-12

A pretty quiet day, which was good, because I had the boys with me. I had two payoffs and I was going to fund this 600k deal, however, he wants to wait until Friday. I got in a ton of payments and did lots of payoff statements. Shawn is switching 10 loans from one entity to another so I had to type everything up.

3-13

First day in weeks it's seemed I started the day with nothing to fund. I did end up funding one deal for Chris and another for Greg. I had one payoff and a lot of payments. I went to lunch with Mike Swerylk. He's a competitor, but wants me to send him stuff and he'll send me stuff. I figure I can try. I don't send anything to Scott anymore. He's a nice guy, doesn't have that killer business attitude, wants to grow but can't.

3-14

I funded two deals, then 2 more, that damn John at Eric's office, has me fund a deal that's been sold, so they send me back some of the cash and I do another deal for PG again. I hate that. I'm not doing another deal from him unless Eric signs off on it. I had just a few payments but two payoffs. Kyle keeps wanting me to say I can do a deal tomorrow for a million but won't get me the info.

3-15

Chris closed his 21 deals for a million that 750 land deal came back to me too. I had a few other payoffs. I had a ton of payments. I was going to fund a 1.1 million dollar deal for Kyle, it was a builder that was 80% done on a 1.6 million house, and he needed funds. I went up there to look at it, it needs a ton of work before it's done, he had said 90% done, uh no. I don't know the guy

either does Kyle, I don't need the headache. I've got a bunch of deals to do Monday, with my regular guys, so that's better anyways I've got 2.5 for the weekend, but 1 of it goes out Monday, 1/2 of the rest Tuesday, Wednesday.

3-16

I got up early and got everything ready. By noon, I was done and I had nothing to do. Mom and Dad came over, mom made 5 irish rum cakes. Dad put out the wine, Monster showed up to help. Paul and Julie showed up 2 hours early. The kids just swam and had fun. Then at 3 everyone started showing up I had 60 people here! I remembered everyone's name, met three investors I'd never met before, but spent 3/4 of the time in the garage showing people the car! I still didn't feel like I made it around to everyone. I never do. Too damn many people. Everyone loved the Indian food, and said they had a good time.

3-18

It was a busy day, but just flowed well. I funded a million worth first thing, I only got 400k back in with 700k to go out tomorrow and another 800 day after that I think. I had a lot of payments. Hardly any calls which was nice. It was steady.

3-19

I had a busy day, but steady again. I funded six deals, and only had five smaller deals payoff and one pay down. I had a few payments, I keep expecting more in. A few deals I had planned for this week got moved, and one I didn't think was happening happened today. It was a good thing I have a little bit of cash. I've got 1.8 now, 450k going out tomorrow.

3-20

I had a pretty quiet day. I funded two deals and only received in one payoff. I had a few payments. I've got two deals lined up for tomorrow. Another one that was to be, got pushed until next week. I met with Steve Bunker, he's trying to do some equity deals with a guy and wants me to look over everything. I just hope the guy is honest with him. Looks like we are going to have a small meeting this week for Mom's

3-21

I had a real quiet day, but I only had one payoff and I funded 400k out, I'm down to a million. I've got 900k to send out tomorrow. I'm sure I'll get some payoffs in tomorrow. I had a few payments. It was so quiet I got all the photos for end of month done and wrote my newsletter.

3-22

I funded 1 million this morning. I thought I was going to have a lot of payoffs, I only got back in maybe 500k. I am actually short money for next week. but it's end of month, I'm sure I'll have more come in. I had a lot of payments in too. I had my mom's meeting, we had a bigger meeting

than I thought. We had a vendor come, which is always good. I've got a stack of deals for next week, so I'm probably now going to have nearly all my money out for the month of march.

3-25

I had a really busy day. I funded five deals then I had four deals payoff for nearly twice the cash, which is fine. I now have 3.3 million on my desk that needs to fund by Monday and I have 1.1 million. The timing will be interesting this week to see how it goes. I had a lot of payments too. I met with Dave, we walked through the numbers of selling all these damn rentals. The lady that does my return broke her leg, so now I'm going to get an extension.

3-26

I had a quiet day which I needed. I was up until 2 am trying to do end of month and the damn thing gave me the same error it gave me 6 months ago. I had to do them individually all morning. I was so pissed! I funded three deals, I had 2 payoffs and a few payments. I've got deals stacked on my desk, I'm sure I'll have cash for the weekend though! I just have two deals to fund tomorrow. I was hoping for a 250k new month, I'm not sure I'm going to make it.

3-27

I funded three deals and I only had one payoff and two payments. I've got demands for over 3 million in deals the next few days. Lili wants to borrow 850k for a few days too. I called up Steve Bunger, he gave me 900k, I talked to Brian, he gave me 700k. if I get the payoffs in I hope for tomorrow I should be in good shape to take care of lot of stuff. I need a lot of interest payments too. I thought I would have a 250k month, I'm at 70k with 2 days to go. I know Lili won't pay me her 45k interest unless I give her 850k.

3-28

I wired out 500k on deals then received in Brian's 700k wire. I had four payoffs, which I was expecting. Then Eric cancelled on his 1 million request for tomorrow. He apologized and offered to pay me interest but I declined. I funded three other deals that were requesting money and I'll just send money back to Steve and Brian. I did give Lili 850k for a few days. She now says that I will get 2.4 million in tomorrow. This is going to be nutty. I'll go from raising 1.8 million just to cover to probably having 3 million in my account for the weekend.

3-29

I had an insane day. I funded five deals and emptied my bank account. Then I had a few payoffs and payments, and it was quiet, then I had over a million come in within an hour. The bank then at the end of the day withheld the 500k deposit I made yesterday. So I was overdrawn. I transferred money back in to the account so it would be positive. I went to the bank but didn't talk to them. It will be ok tonight. I only made 140k this month. Lili's 2.4 mil deal was 50k of interest, it was supposed to close today and it didn't. then PG and Mike didn't make their payments. If they would have I would be at 210k. April will be my most profitable month ever!

4-1

I funded three deals, Steve's check did bounce, we talked, it was because he didn't approve it soon enough, so Charles Schwab thought it was fraud. I had two payoffs and tons of payments. I have just enough to cover deals tomorrow. I need Lili to pay me off her 2.4 deal to get back on top of my cash position, but it's great having 24k of interest day click along! I went to lunch with Mark Wenig's brother and sister in law, nice people, a little uppity. They say they will invest, I told them they are my last ones.

4-2

I funded five deals and ran low on cash, then Lili's 850k came back and so did her 2.4 million loan. I am going to pay back Brian and Steve tomorrow. I didn't get many payments. I've got a stack of deals to fund the next few days and I've got plenty of cash.

4-3

I funded three deals and returned the money to Steve and Brian. I had four payoffs, so now for the first time in two or three weeks I have money available. I had a ton of payments come in, from Scott, Mike and others. I've got just tons of paper work and catch up work from being gone to school and having Jen sit here and talk to me.

4-4

I funded one deal through Mike, he might be a good source for more deals going forward. I had a lot of work to catch up from yesterday, which I got done by 10, then it was really quiet the rest of the day. I had three payoffs and a few payments. I've got a lot to fund tomorrow.

4-5

Busy typical Friday, I funded six deals. I had three payoffs and tons of payments. The Las Lavatas house I did with Bennet closed. He never filed the quit claim deed so it's not going to come out on the Hud-1. So now I have to have him give me a 1099-S so that it doesn't hit his taxes. I'm going to beat up his accountant for this starting now because I know I will hunt him down for freaking ever to get it done. I made a 100k on it. although, if he would have paid the full interest I only made 30k. however, the 100k comes to me tax free because of my carry forward loss. I've got a 2 million in the account, so with what's going out Monday, I have some to start the week.

4-8

I funded five deals I had seven deals payoff, two of them totaled 1 million. I have mounds of cash now. I had a lot of payments, it was quiet on the phone. I think I have this bitch taken care of with the extortion about the cabinet falling on her. I so much want to sell this shit and never deal with it again. I got my payoff for Las Lavatas, tomorrow I'll get my cut from Bennett. I'll make just little less than 90k. it paid for my car I got the 30k in from Wade in OR.

6
4-9

I funded three deals, I had several payoff. I got Bennett's money, that's all done, except the paperwork on the 1099. I had a few payments. I did line up several more deals, but I'm sitting on over 2 million. Lili called about me funding an 8 million deal. I'm not sure about something that big. I hope I get some requests before the week is over.

4-10

I funded one deal and only had two payoff thankfully. I'm over 3 million in cash, but I have quite a bit to get rid of tomorrow. The good thing, is when I look at my spreadsheet I don't have a lot planning to close next week. I had a lot of payments which was good. I got my tax bill 185k, ouch. This yr is going to be a lot worse. I met Judy and Bill Hughes to get all their docs signed and get a new investment for the IRA's. I met them at the restaurant, but I left before they ate, they had friends with them.

4-11

A super quiet day, I had no payoffs, funded three deals, and hardly any payments. I do have a ton of deals to do tomorrow and lots of payoffs coming in too. I met Jim McCoy for lunch, gave him the spiel, I really like him. I should do more with them.

4-12

6
I funded five, I was hoping more, but they are now waiting until Monday. Craig Brown invested 50k more. I had a ton of payments and I five payoffs. I've got a ton to go out Monday. I hardly sat at my desk all day so I was behind on doing all the paperwork.

4-15

What a busy day! I had 6 deals to fund first thing, then I kept getting more requests, I did 10 in all, over 1.2 million. Which was great, because I got in a ton of payoffs too. I ended the day with 800k more money at work than I started. I had a lot of payments too. I've only got on deal to fund tomorrow. I have a lot for the rest of the week, and not a lot closing.

4-16

I funded two deals, I had three payoff. I have 700k to get out tomorrow, so that's going to get my cash down to a million again. I had no payments today! I've got enough cash to cover what is on my desk through Monday. I'm keeping it a good skinny right now.

4-17

6
I funded out five deals for 850k which was great, I'm actually getting low. I only had three payoffs come in for 270k. I have a few deals to do the next few days. I had a lot of payments. It

was quiet on the phones. Mike is wanting me to do another deal for him, I said I would. I have a lot to go out on Monday.

4-18

I funded three deals, I had four deals payoff and I received in 175k from Dirks for his IRA. I didn't have that many calls, just a lot of emails for payoffs and deals to fund tomorrow. Cash is kind of tight, I've got enough to fund everything through Monday. But I've got 1.6 coming in next week. I need to keep money for interest payments too. I went to lunch with Eric LeBaron, he's a young kid looking for a mentor, I set him up with Roger, hopefully it works out for him. He seems pretty smart, just no personality. I had a few payments, not many. But I'm not profitable for now on this month.

4-19

I had a super crazy day. I funded six deals. Vahak showed up bringing me 254k in Cash! I had to take it to the bank. I had a ton of payments and several payoffs, which I needed. I rushed over to the MOM's meeting, we had a real big turn out, 25 or more. Two guys from LA Vram and Alen showed up too. I rushed home to get a few things done before the day was over. I had to raise 1.4 million from Steve and Brian again, I have so many deals to fund next week and I don't have a lot that is closing.

4-22

Holly shit, what a nutty day. I had just four deals to fund, I had everything ready to go this week, then the day started and it was nuts. Brian wired me in 900k, Steve 400k, Brian Wenig gave me 100k, I had a ton of payments come in. then four more deals had to be funded, then later another one. I sent out an email saying I had no cash, but hell, I had more requests come in. Tom is going to send me 1.5 million tomorrow, that gets my head above water, I just need some more payoffs to come in. I could probably put another 1 million to work over and above that! It's going to suck going in to the end of month, with no available cash for my guys.

4-23

I wired out money for four deals. I got in 1.5 million from Tom Smith for short term. I had two other payoffs, so I've got enough to cover what's on my desk. Now I just need payoffs to start rolling in. I had few payments. It was pretty quiet. I've got the potential to do another few million if I had the money. But I've tapped everyone out. Adam came by he wants me to do stuff in Florida and Georgia, I have no need.

4-24

A much calmer day, I funded two deals, one decided to move to Monday, they sent back the money. Then Roger called for the same amount on another home, so I gave it back to him on that home. I had a few payments. Lots of phone calls two for land deals, one from a gal I used to work with at Insight, so I'm told. More requests for money then I have.

4-25

I funded two deals, I had one small payoff for 30k, and a lot of payments. It was super quiet day. Infact I don't think my phone rang after 2pm. I'm just waiting on cash to come in and as I'm waiting my best borrowers are stacking deals on top of me, I need 4 million to keep everyone happy!

4-26

I funded one deal, I had 6 deals payoff but it was for 300k. I've got 1.5 in the acct., Brian is going to give me 500k more and I'm going to get it all out in the first three days or so of next week. I've got over 5 I could do. I hope I get a ton of payoffs next week. I've missed out on 1 million worth of deals that I would do because I didn't have the cash and I couldn't commit to them. I had a lot of payments. My month end number net, I thought would be closer to 700k of revenue and 300k of profit. But it's not looking like that. With that kick from the Scottsdale house I made, I thought for sure I would be there. We'll see how much comes in early next week.

4-29

I received in another 500k from Brian. I had a few other payoffs today, which is good, I funded six deals, I have seven to do tomorrow and 7 on Wednesday, I still need a bunch of payoffs to come in this week. I had a lot of payments too. I'm hoping to hit 300k next, we'll see if enough payments and payoffs come in tomorrow. I met with Rob and Mike today for a few hours. Same stuff, talk about the market, give advice, never know if it's worth while to them.

4-30

I funded six deals, I got paid off on only three. I was expecting twice as much. I got in a huge amount of payments. I made 318k net this month. I'm at 800k for the year already. I was super busy all day, I will be all day tomorrow too. I've got 3 more deals I can do if I get in the funds. I've got just enough to cover things through tomorrow. I should do 200k next month if all goes well. The next 87k this month from selling the Scottsdale house was nice.

5-1

I funded eight deals, I finally had payoffs pour in. I had six of them, which allowed me to cover the rest of the week, pick off two on the wish list. I made a few happy, I have a few more that want to be covered this week. one of them is a new borrower, I think I'll just pass on him. I've got enough good loans I can work on. I had a lot of payments too. Off to a good start for may.

5-2

It was a much quieter day than the last few days, which was nice. I funded one deal and received in 500k of deals I didn't think were coming. I have the money all going back out tomorrow. Plus whatever I get in tomorrow I have deals already for. I had a just two payments. I had a guy call me to invest, but I turned him down. I'm not taking any more 50k or 100k investors.

5-3

It was a quiet day, but busy I had 8 deals that I funded, I had 6 payoff and tons of payments. I had tons of payoff requests too. Which is good since I need the money back in. I just enough to cover Monday and Tuesday. With more requests coming I'm sure. Starting the month off well, I've got just 500k in the account, and 52.7 out. That's the highest number ever

5-6

I funded two deals, and I had two payoff, I had a lot of payments too. However, I received an email from Tom wanting back 1.250 this week, and Burger wanting 250k. so my cash flow is going to crap this week.

5-7

I funded one deal, and returned 50k to Steve. Then I had three that paid off, which was great because I can start paying back Tom. I told everyone I can't do any deals this week. I had a lot of payments, but it was a quiet day. Marlene came by and gave me 180k to invest, since she's taking the summer off.

5-8

I had enough payoffs today, to return 750k to Tom. I have 500k to go with him, and 200k more to go for Steve. I had a few payments, really quiet day, which was just fine. I hate losing out on deals.

5-9

Another really quiet day, I had four payoffs, so now I have enough to pay Tom back, but I'm waiting a day, because I need to fund two deals tomorrow, before I'm out of cash. I've got lots of deals to close tomorrow. Hardly any payment came in. the big deal was meeting with Dave. We met for nearly 2 hours going over the memorandum. Because of the size I've become there could be some additional issues to worry about.

5-10

I got enough money in to pay back Tom, then fund the deals for Monday, and a little for Tuesday I should have some more payoffs Monday to cover Tuesday and Wednesday I had a ton of payments in too. It was pretty quiet other than a few phone calls. I'm just glad to have that behind me, I've got a lot coming in next week so I'll be back in to funding deals as they come. This week sucked in that regard.

5-13

6

I funded four deals, I had three big payoffs so that got me cash rich, if Kevin doesn't need 400k, I can knock off a lot of loans. I had a ton of payments made too. I am hoping I can get more money in and get over this cash crunch this week.

5-14

I funded five deals, and I had three deals close, which allows me to start pounding down the list on my desk and keep people happy. I had a lot of payments too. I returned 50k to Bunger. I'm trying to keep up with everyone, plus Adam wants to expand to Florida. I just don't need to.

5-15

First time in weeks if not two months, where I've got my head above water. I had a few deals cxl on me that went somewhere else, because I couldn't commit to them, oh well, I took care of the ones I needed to. I had a bunch of payoffs and funded five deals. I had lots of payments too. So I've got extra cash for next two days!

5-16

I had several payoffs and I funded four deals. I had a lot of payments too. But it was quiet. I have a little extra cash so I let the guys know, they sent me a few more deals. I'll get out 600k tomorrow but I'll probably have a million in my acct for the weekend.

6

5-17

I funded three deals this morning and was down to just a few hundred k. then the payoff started rolling in, I was fearing I would have 2 million, I only went in to the weekend with a million. I had a ton of payments come in. in fact, I'm at break even right now on interest! I'm going to have a very good month! Mike Moore came by to pitch me on his biotech deal. Everyone always wants money. I received in another 100k from Kirk today too.

5-20

I returned 50k more to Steve Bunger, he's done. I funded two deals and I had two payoffs. I've got enough cash to take care of quite a few deals but I've got lots of to fund this week. I had quite a few payments too

5-21

I funded a few deals and I had a lot of payoffs, I had three payoffs. Jeff Phalen added 50k, Kirk is going to add 100k tomorrow. I had a call from Laurie W saying they would invest one million at the end of the month. I had a lot of payments too. Cyler's father in law blew me off, so I had 650k ready for him, never heard from him. That really pisses me off. I have enough money to cover my desk and do a lot of deals for the rest of the week.

5-22

6

I funded two deals, I had four payoff, so I had plenty of cash. I called the 650k guy, he never called me back, I contacted escrow, they had never heard from him. I had a few payments, was a pretty quiet day.

5-23

I had a real quiet day. I funded four deals, I had one payoff and Kirk Fischer invested another 100k. I had a lot of payments. The 650k deal guy called me, uh, I thought you were going to open up escrow? What an idiot, I can't do that. I got him to do it, we might close tomorrow, if not it's going to cost me \$1000 of lost interest to wait until Tuesday. I fear I'm going to have a boat load of payoffs tomorrow.

5-24

I convinced the 650k deal to take his money today, so I put it work over the weekend. I had a few payoffs and a 450k partial pay down, which is great, it will allow me to fund a few deals next week. I had a ton of payments today. We had our mom's meeting, only 16 guys showed up, but I had one of my investors Mike Scroggins show up, it was good for him to hear and see the guys. He never asked a question. Other than am I going to continue to do this for a while. Roger says he's got some heavy hitters 100 million dollars guys that want to work with him. He wants me to meet with them Wednesday. I have no idea where it's going.

5-28

I funded two deals and I had two deals payoff. I had a lot of payments, but otherwise it was a really quiet day. I have a few more deals to fund this week, just waiting to hear. I've got almost enough money to cover them all, but I have a lot of cash coming in too.

5-29

I had a meeting filled day. I had a meeting with insurance adjusters at 9, they have no capital and want me to fund their deals when they can buy burnt out houses. No thanks. I went to lunch with Roger and two guys from CA that wanted to provide more capital to Roger and perhaps me. But of course no figures, just concepts. I was uninterested in their proposal. I fell behind doing all the work I needed to do. I had three payoffs and one large partial paydown. Now I have enough cash to cover everyone.

5-30

I had a really busy day all day, I had to catch up on stuff I didn't do yesterday, plus do today's work. I had two payoffs and Tony Burdett added 100k more. I had a ton of payments and I funded four deals. I'll put out a lot of money tomorrow, but I have a feeling I'm going to get lots in tomorrow too! I'm going to work on statements now.

5-31

6

I funded five deals this morning, and as planned I had a ton of payoffs 10 in total I think. I had a ton of payments too. I was busy all day, but hardly any phone calls which was great. I had my best month ever, made 310k! I've got extra cash for deals next week, and I'm just a hair under 25k for the interest a day. We'll see if demand is as strong as it has been for the last several months. I sure hope so!

6-3

It ended up being pretty busy day I had funded three deals, I had payoffs on five, and a lot of payments. I had a new guy that sounded good, I sent everything to him, he said he would be back to me, never heard from him again. I've got a ton of cash right now, I'm sure I'll get it out quickly.

6-4

A really quiet day, probably 5 calls all day. I funded two deals, I had a few payments and one payoff. I've got a small stack of deals to do tomorrow. My cash is building, but Lili may need 950k by Friday too. I'd love to confirm that tomorrow

6-5

6

I had a busy day, in and outs all day long. I had four deals to fund, six to payoff. More net cash in than out. I had a few payments and several I didn't know who they are yet. I've got a few deals for tomorrow. I have 2 million in cash and probably 3/4's of it uncommitted.

6-6

I funded six deals this morning, but it wasn't a lot of cash, I had two payoffs come in and just a few payments. I mostly planned for tomorrow and next week. I'm going to put out 800k tomorrow and Lili has a 900k deal for Wednesday. I've got everything prepped for tomorrow and some for next week.

6-7

I funded the five deals first thing in the morning. I had only one payoff and just a few payments. I had Ryan calling me wanting 1 million for Monday, uh can't do it. I got everything taken care of late at night and a little bit Saturday.

6-10

I funded four deals, I had three deals to payoff, plus Kirk added 150k. I had a lot of payments. I was able to take care of everything early and late at night. Barry added about 1/2 dozen deals to this week's stack, and now I'm going to need the whole 3 million in I'm expecting this week.

6-11

6

I had to resend the 160k wire from yesterday, it rejected, then they said, they wanted 158k and change or they would reject it again. I sent that right at the cut off. I had one payments. I've got requests for money to be returned, deals are stacking up like mad. I only received three payoffs today, i hope a ton come in tomorrow.

6-12

This damn safe pass card, was barely legible, so I was glad to get out the two wires this morning. I had lots of payoffs, 7, for over 800k, so I'm building up my funds for Mike and for Ryan. Plus I've got people wanting their money back by Friday. I had a lot of payments when I got home too. I've got some much work saved up to do now that I'm back!

6-13

I was in the office at 5:30 working on stuff. I have so much to catch up on it's just silly. I was expecting millions in today, I only received 250k. Les Jones, invested another 35k in IRA money. I funded one deal, and I had no payments. I worked until midnight trying to catch up on things.

6-14

I funded all my deals today, 1.8 million only because I got a wire in first thing this morning. I ended up getting 800k in today so I've got fund for Monday on other deals. I had a ton of payments in too. I had two lawsuits to boot. One from Scott, which I knew was coming and he's paying the bill, then one from Lili on a tax lien but she took care of it. I'm all caught up now, I just have to prepare for next week and then do end of month.

6-17

I got in a ton of payoffs today, but still I have way more demand than supply for. I had a lot of payments in too. I could put a 1 million at work right now if I had it. I'm going back and forth with David about how to circumvent this 50 million issue on size. I had to send back 100k to investors that said they didn't need it for weeks, now want it today. That didn't help me. I've got to have 300k next week too.

6-18

I funded one deal for Scott, I had one payoff for 24k. I need a stack of payoffs to get me over the hump this week. I did get a few more payoff requests, so hopefully those close. I had a few payments, otherwise it was a productive day. I got all the months renewals done. I'm going to do end of month tonight.

6-19

I funded three deals, and I'm able to fund a few more tomorrow. I talked to Scott a lot about what he's doing, I feel more comfortable. I'll need a lot of payoffs next few days to keep

everyone happy I already have a few people unhappy, but there is nothing I can do. I had a few payments in today, nothing big. I'm running a little behind on my interest this month.

6-20

I had a pretty quiet day, but I did get a number of payoffs in so that I could fund three deals and comitt to two others tomorrow. Plus I have my interest covered for my investors. I cut it way to close this month. I've got more closing coming tomorrow so that I can back fund a bunch of deals for scott and a few others. I had a few payments in too. I'm still behind, hopefully they'll roll in tomorrow and next week. I bought a monitor to take with me it's 22 inch but only 2.8 lbs, it just barely fits in my case. That will make me so much more productive.

6-21

I was really busy, as fast as money was coming in I was sending it back out. I got pretty caught up in my requests, and a few more payoffs and I'll have Tuesday covered. I was able to catch up with Scott's back funding and now I have a few more to do next week. I'm about even right now, so let the payments roll in for profits

6-24

I was super busy today. I got in a ton of payoffs so I was able to fund one deal and better yet, say yes to several deals I have planned later in the week. I had a few payments but not a lot. I've got a lot that needs to come in this week.

6-25

I had another 600k come in today and all the interest payments went out. I funded two deals also. Now I have enough to fund a few more deals tomorrow and reseeded some money for Kevin's deal again. if it doesn't go through I darn near clear my desk of back logged deals. I had a few payments not many. I'm in pretty good shape headed in to end of month. I got the newsletter done and the photos it was so quiet this afternoon.

6-26

I was able to fund seven deals. Everyone is happy, I only had one payment, then I opened the mail and I had checks for 1.1 million from the Weiskopf's. I can't believe she sent it through the mail! I even got the darn checks release for tomorrow, so I'll be able to get it all to work before Friday. I had only one payoff too.

6-27

I had a pretty nutty day. I funded three deals, I thought I was only going to fund one today. I had five payoffs and hardly any interest payments. I now have money to cover everything tomorrow through Tuesday. I was going to wire 400k to an investor, but then he called me said his email

was screwed up. Then Barry called, he's going to payoff 1 million next week. I'll be drowning in cash next week. we'll see if things pick up. My desk is pretty empty for next week.

6-28

I had horrible money, 152k in profit, 686k in revenue. I'm going to have to look at this closer, I should have been over 200k. I had 6 big payoffs today. I had a ton of payments, and I only have like three people that are late. I can't figure out why I'm short in profits. I've got a ton of cash and only two or three deals to fund Monday morning. I'm going to start the week with 1 million available! I've not said that in months!

7-1

I had four to fund, but I had four payoff. I've got nearly 1.8 million and hardly anything to fund this week. i hope a few pop up. I had a ton of payments, I figured all of them out expect 1 I hardly had any calls, since I was driving across central OR and had lost cell service most of the time, that's good thing. I don't have much planned for this week, and I still have lots more closings!

7-2

I funded one deal. I had a bunch of payments and 9 payoffs! Mostly smaller ones from Chris. I have two to do tomorrow, I've got a stack of deals for next week. it was pretty quiet today, tomorrow should be about a 1/2 day of work.

7-3

I funded two deals for Scott. I had one payoff which bummed me out, I just funded it two days ago and now 300k is coming back before the holiday. I had a few payments. But it was a really slow day as I expected.

7-5

I funded one deal and I had a bunch of payoffs and tons of payments. I'm catching up from where I was thinking I was short last month. I didn't hardly work today, I'll catch up this weekend.

7-8

I spent 15 hours yesterday doing paperwork. I didn't finish it all, I'm 90% of the way there now I funded three deals this morning and I had three payoffs for over 750k. I've got a ton of deals to do tomorrow. Bunker wants to invest 750k more, I told him to wait. Then I had a borrower want to refer an investor to me, I said no thx.

7-9

I had a stupid busy day, I blinked and it was noon, then 4pm. I funded nine deals, I had five payoffs I had 100k investment from Kirk I had a few of interest payments made. I was just busy processing stuff all day long. I got my stack of releases notarized too I've got a lot of cash, but 700k goes back out tomorrow and I have stack of deals to fund before Friday, but I have a bunch closing too.

7-10

I funded four deals and only had one small payoff. I met Laurie Weiskopf to get all her docs, and she invested another 100k with me. I had a few payments, I only have a few deals to do the rest of the week. I still have cash. I hope to be below a million by Friday.

7-11

I funded four deals, which was great, because I only had two scheduled. I only had one payoff too I only had a few payments I'm working down my cash finally I told steve that I should be taking his money next week. I've got three deals for tomorrow. I might have more if they come through

7-12

I funded three deals, then slowly but sure I started having payoffs by the droves! I had seven in all over a million dollars I had a ton of payments made too. I'm way ahead where I should be for this time of the month, just the opposite problem from last month. I've got three deals to fund Monday, but I've got way more money than I do deals for next week.

7-15

I funded three deals before we got on the plane. I had a ton of payments made, then a ton of payoffs, nearly 800k. I've got over million coming tomorrow. Shawn called, he's going to buy the 57 properties for 2.85 million I told him to close it quick!

7-16

I funded two deals and I hardly had any payments come in. I had maybe 5 phone calls all day then I had a Mike Moore actually come through on paying me off on 1.2 million All of his loans are paid off, and he paid down his big loan by 500k. now I'm absolutely drowning in cash, I've got Bunker wants to give me more money, and I have more closings to go. Shawns deal better come through!

7-17

I funded four deals, I had a few payments, but no payoffs! Which is good since I'm drowning in cash right now, over 3 million I could have 5 by week end. I've got a few deals to do tomorrow. It was really quiet on thephones too.

7-18

I wired out more money then came in today, but only by 200k. I had a few payments. It was really quiet, but I need to get more money out. I met with the Miller's. they are selling their skate plaza and so they are going to have another 1.6 million for me in September. I hope I can put it to work by then.

7-19

I funded four deals and I only got back one payoff. I know I have a ton coming. Lili is going to pay me back a million, AZ Home buyer is going to pay me off 600k. I've got a few million supposed to close next week, Eric is paying me off a 1.4 million. I had a ton of payoffs. I'm already profitable, so it's going to be a really good month!

7-22

I had a few wires to do. Then when I had time in the afternoon I got another one off. Roger didn't tell me that one of the properties he bought, he sold over the weekend, so I wired and sent docs just to get the money back again. I had a bunch of payoffs and a bunch of payments. I got home and worked until 1:30 trying to catch up.

7-23

I got in here at 7, and worked until 5:30 then from 9 to I don't know when I will quit. I funded 11 deals, I had three deals close, Bunker added 300k. I've got 11 more deals to do tomorrow. I'm not even started to catch up, it's just trying to keep up with work. Cyler backed out of a million dollar deal, which is good, it was a weird one. I rather do these deals with Rob than 1 with Cyler on a funky house in Sedona. I had a lot of payments too. I'm going to have a good month. I just need more closing in now so that I can fund end of month.

7-24

I funded all of ACV's deals 11 of them, 1.3 million plus a small one for AKS. I had two payoffs and Carol McDowell added 100k. I had just 1 payment! I'm all caught up on things now finally. I had to work about 30 hours in three days to get there. Now I'm going to do end of month tonight.

7-25

I stayed up until after midnight and got end of month done. It was a really slow day. I only got one payoff in and a few payments. Eric said his 1.4 mil deal is supposed to close Monday. If it does I'll be home free. If it gets pushed, I'm fucked. I am totally caught up now, so that's good.

7-26

I saw all the withdrawals go out, so that's done. I had funded one deal and lent 135k to Mike which he returned same day to me. I had a ton of payments and then I had four payoffs which was great, I've got enough to cover some deals Monday. Then Eric emailed me saying his 1.4 mil deal will close Monday, so I'll have enough money to cover the stack of deals I have. I'll have very little cash going forward because I have so few closes coming.

7-29

What a crazy ass day! I and everyone else was sweating waiting for me to receive my 1.5 million wire from Eric's payoff I got that and six others, plus Kevin Potempa invested 500k today! So now I'm cash rich! I was able to back fund everything on my desk. I have enough to cover everything through Friday with some extra cash. I had some payments too, I think this will be my most profitable month ever.

7-30

I only funded four deals. I had three payoffs, so now I'm sitting with at least 750k unrequested cash right now. That is fine, it will go quickly. I've five or six deals to fund tomorrow too. I don't have many payoffs coming either. I had a few payments. It was a relatively quiet day.

7-31

I funded six deals, I had two that closed, and only had two payments. I ended the month with 270k profit. I've got a few deals to do tomorrow, but I've got extra cash right now. I thought I would be out. I had my 2nd best month, it's all because of the way the end of the month falls, May I think was my best because 31st was on Friday. I told all my investors that I wouldn't be accepting new money from them after Xmas. I had a few email me back, but not much back lash.

8-1

It was a quiet day. I funded three deals and returned 180k to Marlene Pearce, she bought a property and needed her money back. I had three payoffs. I also have a 50k deposit, but I don't know who from. I had just a few payments made. John will let me deposit another check for 4k tomorrow for some of his back payments. He's got one closing this month. So we'll be down to two of them.

8-2

I funded five deals, then I only had a 1 payoff and 1 partial payoff today, which is great. I had a ton of payments made. I've got 1.2 million in cash, and 1/2 of it out by Wednesday. I've got a guy bugging me to finance a 1.7 million apartment complex I don't want to do it though.

8-5

I did my usual work over the weekend, an hour or so. Monday I funded one deal. Then the payoff started rolling in. Only one of them was planned, I had five payoff from guys just calling

up and saying what's the number I'm paying you off. Plus I had a 58k pay down. So now I've got nearly 2 million in cash. I had a ton of payments over the weekend and today too. I met Alan and his partner at a shitty 76 unit apartment/motel place they want to fix up. Which I know they don't they want to flip, I'm going to tell them no thanks.

8-6

I funded three deals and then a fourth later in the day. I had two payoffs and a few payments. It was a really quiet day. I emailed Alan and Nick first thing and said no thanks. I'm sure I could swing it but I know they aren't long term for the deal. Miller stopped by and tells me a deal I 100% financed him on, is a non-livable and marketable title because of the what city did years ago to the property. Three guys have bought it in the last year, all found this out and then sold it to next guy, Miller now owns it and he's not willing to be the snake those guys and sell it to another sucker. We are going to go after the title insurance, it's going to be a fight too.

8-7

I had a good day, I three deals, I had five close. I had only a few payments. I've got a few deals to do tomorrow I've got a screwy deal to do next day or two, referral from Jake, where the buyer is out of town and his cousin is the power of attorney. I'm doing my checking. I've got investors wanting to give me more money because they read my email saying 12/31 is the last day I'll take money.

8-8

I funded four deals, I only had 2 payoff, and only had two payments. It was a really quiet day which is fine, since I'm feeling like crap. I've got a few to do tomorrow, but I'll have some money for the weekend. Miller submitted his request for insurance claim on the house. He said the local lawyer for Chicago title was helpful. We'll see how long the process is.

8-9

I funded four deals and in only had one payoff, large one 280k. I thought was I was oing in the weekend under a million, but I'm just over. It's still a great amount is out right now. I've got a stack of deals to do Monday/tuesday. John Janssen will catch me up in payments mon/tues also, he's late on 1/2 dozen of them. I got some more money out of Molina too, he's nearly caught up on this refi he's been working on for 6 months. I talked to John Ray, he's got one of the three houses closing next week, so I'll get more out of him. The people on McKinley will be moving out next week too. Hopefully we can get that one ready to go on the market quickly. I'm sitting pretty good right now

8-12

I'm glad I didn't commit on that 1.5 million deal I would have missed out on good loans to my best guys. I got as low as 600k today. I funded four deals and I had one payoff. I had lots of

payments too. My deals that were supposed to close today, got pushed to Wednesday. So the meeting I've got planned with Jenn will be ok.

8-13

I had a super quiet day, I didn't fund anything. I had two payoffs and a few payments. I had a lots of requests for properties, so I'll put all the remaining money out and I've got nothing coming in this week. I hardly have any closes coming for the next two weeks. I'm going to have to save for interest payroll at the end of the month!

8-14

I emptied out my bank account, I funded six deals, which left me with less than 400k. I had no payoff and one payment. I'm cash poor for sure! I need something to come in to cover one deal on my desk. It was a really quiet day

8-15

I funded one deal, I had one payoff for 40k. I'm still needing a lot more money in. I've got a lot of deals stacking up. I had a few payments. It was really quiet day. I had a funny call, Rodd Newhouse wanting me to do a personal loan for an athlete that spent too much on a car. What a damn joke!

8-16

I had a smooth day! I was so worried, Mike was wanting to close on his 240k deal and I didn't have that much. He never called me, I had three surprise payoffs for 350k, which gave me the ability to fund Mike's and two more deals early next week. Then at the Mom's meeting he said it might not be until mid next week he needs it, so that gave me some breathing room. I still need 1.3 million to close next week to cover what's on my desk. I hope to have some surprise payoffs. Nad Kirk called saying he's going to give me some more money next week too. Mom's meeting was good, we had a really good turn out. I blabbed for a 30 mins and then we ate, lots of side conversations and Steve Bunker came. It was a quiet afternoon. I had a few payments. Scott's payment was 85k!

8-19

I had one payoff, which was J and J, which was great, because then he paid up all his past due payments. I had a ton of other payments too. I funded one deal. The other deals are postponed. I need a ton of money to come in this week.

8-20

I got a big payoff today, one of John's properties, 288k, which is great, leaves me with two. He called me saying he's got possession of McKinley too, we can sell that one and get it off the books! I had a lot of payments and two other payoffs. I've got nearly enough money to take care

of everything on my desk and then start the back funding. Barry never called me back, he said he might pay me off on 175k one and Kirk never made his investmetnet deposit yet either. I'm getting beat up for funds, hopefully I can take care of most tomorrow.

8-21

I funded three deals, I had one close first thing. Then in convinced Barry to pay off two deals so I could fund the other deals. He's rich in cash right now anyway, I'm saving him interest. I had a few payments come in too. John got possession of Mckinley, however, it's barely valued at what I'm owed on the thing. He says he's gong to get someone else to finance him out of the other loan I have with him. That happens I'll be thrilled.

8-22

I funded two deals and I had two payoffs. I've got more in so I can keep moving down the list. I had some payments in too. I'll be able to get out some more before the weekend, but I know I'll have some payoffs. If I get enough in, I can clear it all out on Monday.

8-23

I funded a few deals in the morning and then I had three surprise payoffs for 500k, plus a few I was exepcting, so I back funded four more deals. Then I had tons of payments, Easy, Lili two weeks worth, PG, a few others. Everyone is paid up except John Ray. I've got enough cash to cover my deals and start the week with a few bucks in the bank.

8-26

I had two deals to fund. I had lots of payments. Out of the blue I had a request for 400k loan, I said no way, then Tom said hehad 500k he could give me today, I took it, deal is going to be funded tomorrow. I've got another 450k deal to fund on Friday. I had several unexpected payoffs today and I'm sure lots coming in this week. Lili needs money next week too.

8-27

Today was so quiet, I took a nap and watched a 2 hour show on SMU! I funded three deals, all the interest payments went out. I had one payment. I might have two calls all day I've got two to fund tomorrow and then I'm down to my last 200k. I'm sure I'm going to have a ton of cash in my acct on Friday!

8-28

I funded two deals, I had two payoffs and I have demand coming out of my ears. I'm able to do the two tomorrow and still be able to cover these stragglers on my desk. I should have shit load of payoffs in the next two days I had a few payments.

8-29

I funded two deals and I had four deals close, so now I have enough money for everything through Monday. I still have million coming in tomorrow I think. I had a few payments too. I'm doing a new borrower tomorrow, referred from Roger. I had a few other calls from potential borrowers but they didn't go well. Now I'll just do the statements

8-30

I funded three deals, one pretty big for a new borrower, but came to me from Roger. I had a ton of payments come in too, quite a few payoffs. It was quiet on the phones, lots happening in the bank account. I ended the month with a 287k my best month ever. I add in my interest on my stuff. I made 10k a day. I've got in enough money to cover next weeks deals, plus I've got a lot coming in.

8-31

I received a 33k payment of interest on Saturday. I just stick it in September's month, see how the month ends up. Six condos I was going to fund canceled, that was a 150k, and Lili who wanted 650k tomorrow doesn't want it for a week now. So I funded a bunch of other deals. I had no payoffs and few payments, quiet day. I have a few more to fund tomorrow

9-4

I had a really busy day, I decided to empty my account since Lili moved her stuff out to Monday. I funded five deals. I had three deals closed. I misseed out on funding 2 more today and one tomorrow because Erik didn't tell me he cancelled his deal for tomorrow. I was pissed! He just dropped low down on the totem pole for funding. I've got a shit load of deals to close this week, so I have to keep my cash low. I called the miller's and they said everything is on track for giving me the money on Monday. Which I plan to use for Lili

9-5

I funded two deals, I had one large deal payoff, so I've got funds for to more deals tomorrow. I'm expecting a shit load of cash in tomorrow so I know I have Lili's deal covered. I talked to the miller's they expect to have 1.9 million to me Monday morning. I'm betting something will go wrong. Which is fine, because I should have enough cash coming in. I had quite a few payments. John can't sell that fucking McKinley property, so now I'm going to have to pay to fix it up and sell it. I think he's lying to me about his other property too. Hopefully this guy Paul will refi him and I'll be done with John.

9-6

I had a super busy day. I funded two deals, but I had seven payoffs for over a 2 million come in. I had a ton of payments too. I met with Dave to find out the losses on the rentals and sales were much bigger than he predicted, so I'm getting 80k in refunds from fed and state. Just pisses me off so damn much! I met John at the McKinley house, it needs 10k of work. he's going to try to

sell it this weekend at a lower price than he did this week. take a loss and he'll owe me, great, I want a debt with him. He still says Pual will pay me off on the other house. I struggled to catch up with all the payoffs and payments today. I've got over 2 millin in my account. Lili's deal looks like it's going to postpone again! then this 600k deal from kyle may not get done, and I'm supposed to have 1.9 million in from the Millers Monday. I'll be drowning in cash!

9-9

I funded two deals, and I had one payoff. Then the Miller's million dollars came in. I had a lot of payments made. Lili's deal postponed again, a whole bunch of Shawn's deals are getting moved out. I'm drowning in cash. First time it's been like that in months and months.

9-10

I gave Minh some money on her Brooks property, and returned 20k to PK. Then I received in 920k from the miller's. just when I have cash, more come in! I had a few payments and I had three payoffs. I met Travis at the McKinley house, walked through it, waiting to see the price. It better be under 10k. I've got just one deal to do tomorrow and only a few for the week. I didn't hear back from Lili today either.

9-11

I funded one deal. I had one payoff. I had just a few payments. I'm sitting on four million in cash now. I've got about 400k to get out tomorrow. No word from Lili.

9-12

I funded four deals, I only had one payoff, thank goodness. Now Russ called and wants to give me money tomorrow. Perfect for the weekend and I'm drowning in cash! I had a few payments. I went to lunch with Barry and Landon, they are concerned about the market, maybe I should be. I might have a deal or two to fund tomorrow we'll see. I've not had this much cash in so long it's strange.

9-13

A quiet day. I funded one deal. I received 800k from Dupper as an investment. I had two payoffs and lots of payments. I've got a few deals to do on Monday. But I'm over 5 million in cash now. Hopefully it will be busy tomorrow. I got a quote on mckinley, 20k, holly shit, that about killed me. But what else am I going to do.

9-16

I funded a couple of deals, not a lot of money. I had only one payoff, so I got out more than I got in. I had a lot of payments made. It was real quiet day. I hate days when I have money and no one is calling.

9-17

I funded four deals and I had no payoffs! I did receive in 150k from Phalen for his IRA. I had one payment today, so tomorrow should be big! I did all the renewals for the month. I'm glad that is done. I got the Mom's meeting planned. I'll do notes tomorrow for it.

9-18

I funded two deals and I had one payoff, I had only a few payments. I was busy all morning payoff requestes, recording docs and answering phone calls. By the afternoon it was quiet. I got another quote on the fixing McKinley. It's aobu the same, I'm just going ot get it started to get it off the fuckign books.

9-19

I funded two deals, then I got a surprise 900k worth of payoffs from Greg and MCM. PAJ has extra money so they gave them 12% on their rentals and paid me off Just when I started making a dent in this damn cash position! I'm up to 5 million. I might be able to get a million out tomorrow. I had a few payments, but it was a quiet day. I've got a new guy to fix McKinley, 10k more than I wanted to spend on the thing, but I'm going to sell it quick for top dollar.

9-20

I funded three deals this morning as well as wired 14k away to get the McKinley house started. Then later in the morning, I got an email to wire 650k for Lili's deal. I was glad to send that way. I had three payoffs and tons of payments I'm breakeven right now. This has to be the earliest in the month I've hit that number. I think I'll only make 180k this month. Just the way the calendar falls. I had the Mom's meeting. We had low turn out and Steve Bunger brought one his friends. He wants to give me a million dollars and I told steve no thanks. I have to stop the size of this thing. I came back and worked on paperwork and payments in the afternoon.

9-23

I funded four deals, so I got out 900k, then I got in 400k in payoffs. I had a few payments too. It was a quiet day and I might have one to fund tomorrow. Every day I widdle down my cash, it's not fast enough.

9-24

I funded two deals, and I had three payoffs for a lot more money. Michael zones sent me 50k more too. That's on top of the 150k more I got yesterday from Phalen. I had a ton of payments. Which was good several of them were past due. I don't have much to fund the rest of the week and I'm up to 4.3 million I spent a lot of day doing renewals and going to staples.

9-25

All the interest went out and I messed up one, pissed me off. I got way more money out then I had come in. only had 2 payments too I've got basically nothing left on my desk to fund.

9-26

I got more money out then I took in again. I doubt that will happen tomorrow I've got about 500k to send out, and I know I have payoffs coming in, it's end of month. I had a few payments. It was pretty quiet. I've got end of month done, just need to re-edit my newsletter and do the statements.

9-27

I funded four deals for 400k, then I received in 200k Erin Carrick, she's my last investor! I had three payoffs for 400k! I've got about 600k to go out Monday morning. but it's end of month, so I know I'll have more payoffs. I had a ton of payments in. I hit 200k in profits. I might get a little more in Monday, but I won't hit the 250k I should, just because of the way the month fell. October should be much better. But August was killer, so it all equals out in the end.

9-30

I sent out the end of month statements, even though jimmy hadn't updated the newsletter I had two people say they read it. I funded 650k, but I got in about 600k back in. it could have been much worse. Kevin requested 400k back, which is fine, I gladly gave that back to him. I didn't get much in the way of payments, so I made 208k this month. 20k more than I thought I would. October so easily be above 250k. I haven't one deal to fund tomorrow. I had several guys bidding on 1 million plus, 450k and never heard back.

10-1

I funded two deals and I had one deal payoff, same dollar amount. I've got a 220k deal to fund tomorrow I've got one maybe two lined up for the rest of the week. my desk hasn't been this empty in years! I had a few payments, some I don't know who they are yet. Miller thinks he's got the pinnacle peak property sold to another guy. John thinks he'll have one of his properties partially paid off this week. he's been telling me that for two weeks. I talked to Scott Menaged, he's not going to sell 1/2 his properties off in December which is a relief His uncle wants to invest 7 million with me, I turned him down. He told me that he's talked to several lenders, they are all drowning in cash, so I should feel lucky that I have only 2 million.

10-2

I got in about the same as I sent out. I've got a few more deals stacked up, but nothing ot put a dent in this pile of cash I have. I did get a lot of payments in. it was a quiet day besides that.

10-3

I was pretty busy this morning and then the deals started to roll in. i funded one deal early, then Charlie had one he wanted done, 285k same day, did that. Then I have about 900k more to fund tomorrow. Maybe a few more if people get their shit together I had a few payments too. I've used up 2/3rd's of my 50k phone deposit already. I wish they would up it to something that makes practical sense. I know I'll have some closings, but if I get more out tomorrow then come in it will be a big win.

10-4

I sent out 900k, I only got back in 150k. it was a great day. I've got 600k lined up for Monday I'll be under 1.5 in the bank. I had a ton of payments. I had one borrower, whom I always thought as suspect, call and want to give back a property to me that he's current on. He can't make the payment on one property, but it's in escrow. I checked it out, it's 1 block away from John's McKinley property. He's going to wait now until he gets to his due date or gets it in escrow. I don't need another one to babysit, but it is ready to list at least. McKinley is 1/2 way done, windows got put in today. Now flooring and counter tops and some bathroom tile we'll be ready to go.

10-7

I funded two deals and I had three payoff I've got two to three deals to fund tomorrow. I'll be about even where I was at this morning. I had a few payments. It was pretty quiet. This house on Mckinley is getting expensive to do I hope we can sell it quickly.

10-8

I finally funded Roger's 300k deal, I funded Cyler's 185k deal, however, I found out at 4 pm he wanted me to take to trustee. He never asked or said anything about that, he thought he had. I funded two other smaller ones. I have two bigger deals 400k and 500k deal for next week. I have about 600k smaller ones between now and Friday. John Ray called and he said now he's giogn to pay me off on his Scottsdale one Friday. It's been next Friday, Monday on and on for 2 months. He's going to owe me so much money and I don't think he'll ever pay me off. I had a few payments today too. I had a few payoff requests too. I was pretty busy all day.

10-9

It was a library here today! I didn't have any payoffs which is great, since I didn't fund anything! I had just a few payments. I picked up a few more deals to fund next week. Lili called saying she's paying me off on 900k next week. Barry wants to give me 500k next week too. I probably won't take it. Lili gave me a number of a guy to sell my 12 plex. If he can't then she will buy it for 800k. that's a huge loss, but it will be gone. Here I am spending time on this damn mckinley property, the fix up is nearly done, now the pool is taking time.

10-10

It was a really quiet day, which is good since I had the boys home. I listed my 12 plex, this guy talks a huge game, we'll see if he can deliver. I had one small payoff to which I'm going to fund the same property to Shawn tomorrow. I funded one deal I have a few to fund tomorrow I had a ton of payoff requests. I could be drowning in cash next week again. I only had a few payments.

10-11

I funded four deals, then the payoffs started to roll in. one of them was John's woodridge property. At least that's in. I didn't collect a dime of interest, but at least I can put it the money to work on something that will pay me. He's going to owe me 35k in interest and who knows how much on McKinley. I had a lot of payments in today too. I've got a stack of deals to go back out, but Monday is a holiday so they won't go out until Tuesday. That leaves me with just 600k of available cash. Which is the perfect number.

10-14

Banks were closed, I had a few payoff requests, one phone call, quiet day, which was great. I've got a lot lined up for tomorrow.

10-15

I funded five deals, and was down to just a few hundred k in my bank account. The ACV paid me off on all 18 loans! Lili paid me off 915k too, or she'll put the check in my account tomorrow. I met John, Wade and the guy David up at McKinley. The house looked great, it was done really well. The pool will be done the next day or two and then the pool deck by the weekend. Hopefully we'll see it quickly. I had a few payments in, but now I'm worried I'm going to be on too much cash!

10-16

I funded two deals early in the morning. then Chuck needed a 100k, then a 400k deal scheduled for tomorrow needed it this afternoon. Then the buyer says he's got a buyer for the property and he's going to close on Friday. That sucks. I've got 3 million in the bank, 1.8 of it available and more is coming in this week. I had a lot of payments made today I've got some small ones to go out tomorrow I just hope the payoffs quit coming in. Lili didn't close on her 900k she was threatening with so that makes me feel better

10-17

I wired out funds for three deals and received nothing back, that's a good day. I had a few payments. I should have a busy day sending money out. Right now I only have two confirmed, but more should go. It was a busy paperwork day but quiet on the phones.

10-18

I was really busy all day today. Mostly with payoffs rolling in I had about 1.5 million! I funded five deals, two of which were a surprise, but the afternoon, money just poured in. I had a ton of payments come in too. I got a contract on my 12 plex for \$1,050,000 in one fucking day! I feel like I should hold out for more and nother offer, but I'll take it and run. It will be a nice right off!

10-21

I funded two deals, and I had a ton of payments come in. I hahd three payoffs that were greater than my funding. We had no activity on Mckinley the whole weekend. I can't believe that! Everything is done at the house now. I've got a few to do tomorrow, but my desk is getting pretty thin now.

10-22

I funded four deals, I had no payoffs thank goodness. I've got 800k to go out tomorrow, and now I have very little scheduled to come in this week, except two big ones I had a few payments in. I went to lunch with John Janssen, I used to do a ton of loans with him, but he's changing his plans, and it doesn't sound like I'm in them. I'll have to get new borrowers. I can't have 50% of my portfolio with one guy, which is what I have right now nearly It's just so slow. I wish I wouldn't have taken Dupper's money or the Millers. Marv called wanting to give me 800k more, I told him to let me know and I'll let him know if I need it.

10-23

I funded 800k in deals today, then I had 600k come back in. I had a lot of payments too. I've got a few deals to fund the next few days and lots of money coming in. I just can't get below 3 million in cash before it starts building up again. we only have a few people coming to the MOM's meeting too.

10-24

I funded one deal and I had one payoff, so I'm up 80k out. I had a few payoffs. I started the day with a call from Brendan that there was a water leak at morten. The day we are having the inspection. It ended up being the city break, just destroyed mylandscaping at that end of the property The inspection went well. They only couldn't get in to one unit. There were three known issues all of which could be taken care of in hour if they tenant would coordinate with Brendan. Hopefully all goes smoothly and close up in a few weeks. I've got a few deals to fund tomorrow and a few more lined up for next week. I'm still over 3 million in cash.

10-25

I shot out 200k first thing and only received back 50k for the day. I had a ton of payments as per norm. I had my mom's meeting. We only had about 12 say they were coming and then 19 showed up so that was good. I met a new borrower of mine that Roger brought to me. I didn't get much work done after I got back. But I have very little set up for next week. I have all the payments set up for Monday, so that's done.

10-28

I funded two deals and I had three payoff. I got in a lot more cash then I sent out. I had a lot of payments though. Lili is talking about a 1.7 million deal I could fund that in a heart beat. I got some requests for another 600k loans for end of month. The borrower is someone that is a wholesaler, so I'll have to watch that closely

10-29

I funded two deals, then the payoff started rolling in, 1.5 million came in today! I did get a new deal to fund for 400k, and Scott needs 460k tomorrow so I'll get out 2 million by Friday. Roger coming by, he's broke. He doesn't have money to pay me interest. So the ones that are in escrow I'll let him slide, he'll partial pay tomorrow and then as the closing come I'll get paid through escrow. Things are really changing quickly I feel like I'm ok. I've had two of my bigger broowers pay me off with cheaper money. Lili still says she'll need 1.7, so that will help I just can't get all the cash deployed. I had a few payments in.

10-30

I had a surprisingly good day I got out 1.2 million and only had 440k come in. I've got another 700k to go out tomorrow, with a possibility of more. I had three payemtns come in. we've got the last inspection of the unit #5 for tomorrow, hopefully that will go smoothly. I had to have john Collins go and pick the lock to let the inspector in. I still have nearly 4 million available, I didn't hear from Lili either.

10-31

I funded 1.2 million today, I only received in 275k, so that's a good day. I hardly got any payments. I still made 242k million for the month. The buyer of Morten now wants a 10k drop in price because he has to fix the fence, and few other things, I don't care. He says he's going to close on the 7th. I sure hope it comes true. The brokers said they've been talking him in to it which doesn't leave me feeling good. I made 242k this month.

11-1

I was pretty busy in the morning. I funded 500k and sent Coralee back 120k. I didn't have any payoffs! Which is great, I've got some new deals for next week. Lili called asking about 1.7 million again next week. I'll be able to barely do it now. But I'm sure I'll have more payoffs come in next week. I had my typical Friday payments.

11-4

I funded two deals and no payoffs, but I've got a lot coming in tomorrow. I had a lot of payments too. It was fairly quiet. It looks like 12 plex is cloing this week. I wish they would send me the docs. I don't have a lot on my deks for this week. lili called to make sure I had 1.7 million. I'll gladly put that to work.

11-5

I funded one deal and I had three payoffs. I've got two more to fund tomorrow and picked up a few deals to fund this week. I had a lot of payments in again today. Josh wants me to fund this guy to buy one of his houses that seems to be a bit clueless, but I'm in at a cheap LTV. Barry called me, he going to start being a lender now. I love it! Grass is always greener!

11-6

What a quiet day, I funded two deals. I had one payoff, it was only for 35k. I had one payment. I do have 850k deal lined up for next week with Justin and Christmas sent me three deals to do, one this week, two next week. I signed all the paperwork for the 12 plex to close tomorrow. It was so quiet this afternoon, I went in the family room and watched tv after the boys left.

11-7

I got my wire on Morten! I no longer am I landlord! I took a 525k hit today, probably closer to 700k after depreciation, with 500k lost interest income over the 5 yrs I owned it. it's gone now! I funded one deal today and I had three others payoff. I had a few payments. I've got one deal to fund tomorrow and few next week lined up. No one is going to call me about their dishwasher or tub this weekend!

11-8

I funded one deal and I had 800k come in. then over the weekend Lili paid me off another 750k. I had a ton of payments come in as usual. It was pretty busy lining up deals for next week too. Which I need, since I have 4 million dollars in my acct!

11-12

Veterans day was yesterday so today was very busy. I didn't have any payoffs which was great. I funded three deals and I had a ton of payments made. I've got 1.3 million planned for tomorrow. I was doing payoffs all day, so I know more money is coming in too.

11-13

It was a super busy day. I wired out 1.3 million first thing this morning. then I went to breakfast with Brian Cousins. A guy from Biltmore bank. He's got a program for hard money lenders. I looked through it tonight, what a nightmare of paperwork and requirements. I'd never do it. I came home and wired out another 300k and then left for lunch with Barry and Landon. They drowning in cash, can't find deals, and want to get in my business now. After getting the kids straightened out, I worked for 5 hours getting paperwork done. I only had one payoff for 40k, so it was a good day. I had a few payments too. 20k worth or so.

11-14

I funded two deals, I had two payoffs. But I have a 500k deal to go out tomorrow. Lili called and wants 1.6 million or more next week. With all that I have on my desk, it will be cutting it close, but I know I'll have some payoffs come in. I had a few paymtns too. I had a few calls and emails, but nothing new other than the 500k deal for tomorrow.

11-15

I funded one 550k deal and then I had 500k come back in, which is fine, because I have on my desk 2.6 million. I'm supposed to fund next week. I had hardly any payments come in, I'm sure they'll come in Saturday. Marv called wanting to give me 800k, so I told him I might take it in 10 days.

11-18

I had a pretty busy day. I funded four deals. Then I had three payoffs. I had lots of payments too. I had a few payoff requests. I'll get some more money out tomorrow, no word from Lili. I have a few more deals planned for this week, so with the payoffs, if Lili's deal comes through I'll be tapped out. Kevin has some guys he wants to bring to the MOM's meeting. One I'm glad to hear, the other is talking about oil investments, I think are bunk, but we'll give the guy a room.

11-19

I funded five deals, I had two payoff, I had a few payments. Messed with Blue Water deal on Marshall. I have lots of deals stacking up which is good, I'm getting close to maxing my cash. If lili shows up with her deal, it could be stretch. It's finally nice to be in that way.

11-20

I funded two loans, I had no payoffs, so that was good, 15k in payments. I've got two deals for tomorrow. I talked to lili, she went on and on, there is a title issue. It may not even happen. Bunker wants to give me more money and Laurie wants to take some out. Marv will be wanting to give me more too. I'll have to put Lili's money to work before I even think about taking on more.

11-21

I funded two deals first thing in the morning. Brian O'Connor bought one for tomorrow, but he's not sure the bank would release the wire, so I wired him his money this afternoon. I had 20k of payments come in too. I've got two to fund tomorrow, and I have shit load coming in on payoffs most likely. I need some of it, if Lili's deal ever comes through.

11-22

I funded two more deals and then the payoff started to roll in. I had 1.4 million come in. 600k on one deal that was supposed to close last week. I've got over 3 million now. I had an investor call yesterday, Kirk 80k and today Herb Cohen 100k. I turned down both of them. Bunker wants

to give me more and of course I have marv ready to give me 800k more. I had a ton of payments today. I have two that I'm looking for I didn't get. I only have one deal for Monday and maybe three or four more.

11-25

I funded one deal, I had two payoffs. I had a lot payments. I talked to Scott he talked to Greg. Greg was just what I thought he would be, 'nope not going to do a thing!' so now scott is going to talk to his partner whom is the money behind the deals. He kept reassuring me he'll get it all straightened out. Then he texted me said his check will bounce because he wanted to make sure that a check he gave to Greg would bounce. This is really giving me a bad feeling. We'll talk again tomorrow.

11-26

I funded one small deal and I had one deal payoff. I had a lot of payments. I've got nothing on tap really for the rest of the week. I went to meet with Stan and his son in law, investors for a late breakfast. I talked to them for about 2 hours. I'm meeting with Scott tomorrow to find out what this whole things is really all about. I'm very concerned.

11-27

I funded one deal I had a seveal payoffs, mostly from people that have cash and don't want to pay interest over the 4 day holiday, so I took in a million. I had a lot of payments. Scott came to meet with me. It's way worse than I thought. He sat here for 2 hours telling me how his wife has cancer, he turned the day to day operations of running his company over to a cousin. His cousin double liened all the properties and then lost all the money in vegas. He's upside down about 8.7 million. Of which nearly all of it is on my properties that I believed I was in first position. I was sitting here shaking and nearly throwing up the entire time. his solution is for me to lend him more money to make money to payoff Greg's liens. I've been rattling my brain trying to figure out how in the world we can do this. I'm sick to my stomach. Everything I've worked for 14 years is about to be flushed away

11-28

I had no phone calls, but lots of emails. I had two payoffs and several payments I sent out the statements. I got an email from scott with the spreadsheet listing the properties with double liens against them. It makes me sick to my stomach. Scott and I exchanged some emails, we'll meet Monday. I've got some ideas but I need some answers too. I saw that the last few loans I did just 2 weeks ago have two loans on them. He told me he discovered it a month ago. The forging of his name is on all the docs going back to 2011 I'm so unsettled about this I'm not sure if I can trust him.

12-2

I funded one deal, I had two payoffs, lots of payments. I met with Scott for another 3 hours. I told him he needs to come up with a million from daddy. He needs to concentrate on flips. We will not work off of the worst property but the the ones that can be sold that produce the most cash. He's got some work to do on his side. I don't have another plan to get out of this. I've got a stack of deals on my desk, but I've got 4 million in the bank.

12-3

I over funded a deal for scott that we can start our quest in knocking this stuff back. He's got 6 or more that are owned for cash, 3 of which he can sell now. Plus he's got a short sale with nearly 100k profit in it. I keep pushing him to get some cash from daddy too. I had a ton of payments in today and only one payoff.

12-4

I funded three deals today. One of them was for Scott to flip, he's got two more for tomorrow. With these three there are probably 100k of profit, but it's just too little, I think I'm going to have give him a 1 million for free just to knock down some stuff and get things going in the right direction quickly. I had a few payments. It was pretty quiet day. the highlight was metting with Dave and finding out I have a 500k IRS bill.

12-5

I funded two deals for scott and I had four payoffs. I talked to Roger, he wants me to give in on his interest because he's losing money as these close. Ya right, when you were making money you wouldn't share in your profits. He's not having to come out of pocket on closings, so I figure I can get whole with him, mostly this month. I had a few payments not much. It was quiet today. I've got two deals to fund tomorrow. I talked to scott. He can't get money from daddy, so I'm going to have to bank roll this whole solution. I fucking hate it but what else am I going to do?

12-6

I funded one deal for Miller, the others got postponed. I talked to scott more. I gave him my offer, 1 million at 3%, defer all interest, based on doing my math, I think we can knock out 1/2 the 8 million by april, if he throws some cash in plus the rent payments I think we can make the rest by end of the year. I'm going ot control things though. I don't trust anyone. I had a few payments but not any big ones!

12-9

I funded one deal, I had quite a few payments. I talked to a guy that I might fund four small condo deals for him, or give him cash out really. My LTV will be low that if he blows it I can sell them no problem. I had one small payoff for PG, I should get two more tomorrow. I heard back from scott, he's in agreement with my plan, now he has to execute.

12-10

I funded two deals and only had one close which was just 90k. I've got a few more to fund now, I'm slowing getting the funds out, but I've got stacks of deals that are going to close before xmas. I had a few payments too. Scott's going to close on two this week, clear up 300k of the debt.

12-11

I funded two deals for Scott then John Filipian had a deal for me, I got it all together and funded, then he couldn't get the SWD signed by his wife. I had a few payments, not much. It was pretty quiet. I've got more people calling me wanting to give me money I turned down another two people today.

12-12

I funded one deal for Scott. I have another several deals lined up from new people and a few old ones. One guy I used to do a ton of deals with called and wants a million Monday, but I'm never sure if he'll come through or not. I had a few payments, not much though.

12-13

I had one deal to fund, then I had to send in 90k to Scott to close one of the deals he was selling. I didn't think I would have to start so soon, but whatever it takes to get this shit cleared up. I had a lot of payments but PG didn't make theirs. We had our mom's meeting. Kevin brought in a guy that gave a spiel about oil and gas investments, it last an hour, so I talked for 15 mins and that was it. Miller was pissed, but he doesn't like anything. One of the guys is a radio dude, he asked me to go on their with him, I said no way!

12-16

I had a super busy day, I wired away three deals first thing, after I got back from the boys school function, I wired another one. I had three payoffs, lots of payments. Ryan Robson needed 400k on four deals, so I did those. I got out 1.1 million this morning. I've got a lot of deals starting to stack up on me now, but I've got a lot of deals closing too. I talked to Scott he sold some in NY and has 1.2 million coming in Jan, that will be a huge help. He's also headed to Israel tonight so ehs' hoping to come back with money too

12-17

I funded three deals and I had no payoffs. I had quite a few payments. I was busy lining up a few new deals for this week and next. I'm finally getting all my cash out. I may even take in some money before the year is out. I'm still going to wait to see what comes in. if I don't get some payoffs tomorrow, I'll need some money by Friday.

12-18

I funded three more for Scott, I'm going to be 30 mill in to him before he starts pounding down the total. I had three payoffs. I had a lot of payments too. I've got 6-8 deals to fund the next few days, but it's only about 800k. I told Kirk I'd take his 80k, I'll probably call in a few more dollars to make sure I'm good with funds. I'm basically down to 140k of now. I know I have payoffs coming, just not sure how many will close. I'm getting a house back, Gary can't make his payment. I find out. He didn't fix it up. He ran out of money, rented it and now I get it back. I have to kick them out and fix it up. He's lying sack of shit.

12-19

I funded nine deals today. I lined a few more to do next week. I called in some money from a few investors that requested to place some with me. Two of them deposited today, Kirk and Brian Odenthal. I'll get 500k from Bunger tomorrow. Just when 2 weeks ago I was going to return a few million to people. I've got quite a few deals to fund, I've got to make payroll, I've got some money to return to the Miller's before year end. I had a few payments too. Bennett never came by, he's going to come by tomorrow. I like the deals I'm doing right now. So I'm setting myself up for a good January. I just need Scott to be able to return and perform to what we think he can do.

12-20

I was super busy again today. I funded five more deals. I had three deals payoff. Not nearly as much as I thought. I had Steve Bunger give me 500k. I ended not needing it. I talked to Ryan later in the day, he's probably going to pay me back nearly all that I've lent him this last week. so I'll have more money than I needed, but I was running so low, that I didn't have enough to cover payroll. I know I've got payoffs coming next week, but just not sure how much. It's better to error on the side of conservativity. Dee McCall has a 500k deal for Monday all of a sudden, that will help me!

12-22

I worked all day long. I did end of month, quarter and year. Paid taxes, set up monthly, quarterly payments, emailed photos of the houses off. I wrote the first draft of the newsletter.

12-23

I was busy again this morning, I started at 6:30. I funded nine deals, 4 of which I had no idea, short notice by Chris. I had three payoffs and lots of payments. Barry needs 300k, so between that and a few more, I might need to bring in cash from Bunger. We'll see what closes tomorrow.

12-24

I didn't fund anything, but I had two more payoffs. I have enough now to cover everything between now and the end of the year. I'm sure I'll get more payoffs Thursday Friday. I had quite a few payments come in too.

12-26

I was really busy today. I funded three deals, I had only one payoff. I thought I was going to have a lot more. Though I'm sure tomorrow I will. I had a few payments. I was busy doing recordings and release today.

12-27

It was a really busy day and I didn't spend an hour in the office during business hours. I wired off three deals this morning. I had a ton of payments and then the payoffs started to come. I had three for over 800k. which is kind of good, I needed it all next week. though I know Ryan is going to pay me off on a million next week as well. I can't get this damn guy to do what I want in terms of kicking some people out of a house so it's going to get dragged out I'm sure. I've got end of month all done, I just have to do the statements. I'll do it tomorrow be done with it before I leave.

12-30

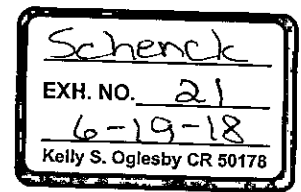
I funded three deals. I had three payoff. I had a few payments too. I had a lot of requests for payoffs and I have just enough money to cover what's on my desk. Hopefully not much closes this week. Mark Wenig called wanting to give me 50k. I put him on the list.

12-31

I wired funds off for two deals and I was done. Then all day long I had phone calls and emails for deals, payoffs. Then Scott calls me, tells me this meeting with Dan on Monday is for four lenders that bought the paper, they think they are in first position, I'm positions are invalid and they want to foreclose on everything. This could be a nightmare. Scott and I will talk again tomorrow or thursday or some point to figure this nightmare out! I worked until 11:30 catching up on everything. What looked like was going to be a super profitable year, has turned out to be what could be the collapse of my entire 14 years of work and my entire network. I'm just not prepared to watch it go away. I think we can work our way out of this nightmare if we just have everyone playing on the same side. I sure the hell hope so.

EXHIBIT C

Exhibit No. 82



2014

- 1 Stay in business – still in business
- 2 Be profitable 1.3 mill
- 3 Diversify my borrowing base, horrible, scott has nearly 80% of my portfolio!

1-2

I spent an hour on the phone with Scott telling me all the shitty choices in front of me. These guys want to pin me against the wall, we just want to continue doing our plan and they want me to subordinate. I'm just so messed up over this. I will find out more Monday. I funded three deals, threw cash at one of Scott's deals so that I could get paid off tomorrow. I had one big payment from mike. I've got 3 deals tomorrow or 8 I don't know which.

1-3

I funded five deals, plus I had to wire in funds to close one of Scott's deals on 62nd, that's 280k just for yesterday Clifton and today's deal. I had it all done, and then I had to come back down the hill to fund the 510k one for Dee McCall. I had two payoffs and lots of payments. After noon it was quiet. I'll have a lot of work to do this weekend to catch up.

1-6

I funded four deals, I had four payoffs. I had a lot of payments in too. The whole day surrounded meeting with these three guys that represent about 40 loans that want me to subordinate to theirs to give us time to work it out. I didn't commit to anything, I forwarded it all to David, it's his last firm is representing them. I talked to Scott, not sure how it's going to go. I can't subordinate, we need time. Scott's freaking out because his wife is in hospice now. I can barely think straight.

1-7

I funded one deal for Flip. I had seven payoffs and few payments. I talked to Scott again for 30 mins. He's trying to raise some millions now and push off this whole issue with the pressure I'm getting. I emailed David a long explanation of what has gone on. I didn't hear from him. I'm not sure where this is going to go. I just keep hoping I'm doing the right thing.

1-8

It finally caught up with me, I was up all night thinking about how to get out of this nightmare, raise money and start paying off as many of the loans as possible even if I'm upside down and six other ways to get them to back off. I talked to Scott in the morning, he has a guy that's going to give him a million right away, so we are going to try to pay off 4 a week and as well as the other dozen or so in escrow, in 30 days we'll be able to chip a lot of this down. I have no idea if they will go for it. I had a shit load of payoffs, 800k or so. I funded one deal and quite a few payments. We meet tomorrow see what we can work out.

1-9

I funded no deals, or had any payoffs. All I had was Gary wanting me to create two new loans instead of one big one a house because he's selling it to his daughter. Scott and I met with David. He never read my email. We spent two hours. Either it gets really ugly or I can write a check and make all of these loans go away and we can live with Greg for now and I'll just be over encumbered on some houses for a while. He's going to contact the lawyer tomorrow and let us know.

1-10

I didn't sleep until from 5 to 8 am, not ideal! I had calls from Greg three times; I talked to Scott five times. Dave didn't call me until after 3. I called the main guy behind this whole thing and he's got such a fuck you attitude I can't stand it. Finally at 5pm Dave called, said they would give us time to clean it up. I talked to Scott; he is going to try to bring in money. I can raise money according to Dave. We are going to try to pay them off in weeks and be done with them. Then I'll be in first position without any question. However, Greg is telling me I'm in 2nd position on 100 loans! But he doesn't care as long as he has his interest and is getting payoffs. It's going to put me in a really shitty position LTV and concentration wise with Scott but as long as he does what he says he is going to do. We can work ourselves out of this mess. I can't see any other option. I funded one deal and I had a larger deal payoff. Now I want as many payoffs as possible. I was freaking out all day long. I can't believe I'm in such a shitty situation. I've done everything right yet, I'm the one with my back up against the wall. The one thing that is helping us is the procedure that I follow to fund the properties, was blessed by the attorney's right hand man that is threatening me. He's now worried I can come after his law firm for damages. I just know I rather have control of the properties in a worse LTV than have them wrapped up in lawsuits!

1-13

I funded three deals, and then Lili finally wanted 625k which she'd been asking me about. Typically I would be thrilled to lower my cash position, now I'm sweating it! I have an investor that wants 100k, on top of the 800k I have to return by month end. I had a bunch of payments come in. I talked to David. They are willing to do what we want, except they want to see the agreement between me and Scott and Scott has between some other guys. I just keep pushing get us your list and let's start pounding through these. They wanted to meet with me and ask questions, I have no time for that. I just want to get going on it. Even if it puts me in a high LTV position at least I have control.

1-14

I funded two deals, now I'm getting one back. I wired the money back to an investor in Tucson that decided she wanted her funds back. I had one 400k payoff and I deposited a 150k from Jolene Page, 40k from Carol Wellman. I talked to Marv he's going to do 400k. I had a dozen calls with Scott, emails with him and David, escrow, everyone is trying to figure out how to get together and sign paperwork. All Scott and I want to do is pay these assholes off. We have a plan

to do it. I've got some funds, he's got some funds, and we are just going to start doing it. What are they going to do bitch?

1-15

I had another incredibly busy day. I was just swamped all day long. I funded three deals today, plus I was able to pay off one more of the disputed deals. We have three more we are going to close tomorrow. They are pushing like hell to get docs and get terms sheet etc otherwise they are going to file. Scott and I are trying to pay off as many as we can as quickly as our cash will allow. I had two payoffs too. That helped. I've got more coming in. I had a lot of payments too. Besides this nightmare I'm getting lots of demand. I have to keep funding other deals to create income. I've got 300k in from the miller's. Herb didn't have his 100k like he thought. Then out of the blue the 800k I have to return to Laurie Weiskopf, she said she didn't need now. That helps tremendously. I'm getting physically ill again.

1-16

I funded three deals, then I funded three more deals to pay off loans from the nightmare. They got four in all today. I had one payoff. A few payments. I spent 90% of my time dealing with David and Scott and verbage on these terms sheets. In the end we think we have something, we just have to hear back from Scott's attorney. Then David and his former boss couldn't work out this lidigation agreement since David used to be there. So now we are on to another attorney. I have no idea if that is good or bad or what the hell if they are going to file tomorrow. I'm so perplexed I can barely think right now.

1-17

I funded three real deals, then provided funds for four more deals of Scott's to be paid off. we were able to get done today which we thought weren't going to go until next week. I sent an email updating the guys on where we are at, I received back just threatening emails from them. I feel alittle more settled now, hopefully whomever their new attorney is works better with David.

1-21

I spent all night long thinking about this nightmare, Scott was in NY and called me. he raised 2 million to pay interest and that should buy him time to bring in more money to pay off some loans and also make some money. We have a new idea. I payoff all the loans for nightmare group. Then the overage I put on gregg's loans, then scott will pay off gregg's loans and he sells the house I get my money back and everyone is paid. We went over this on the phone for a hour a 1/2 dozen emails. I emailed and calld David, he approved. We had 6 more to do today, but title couldn't do it. I raise a million more from Bunger, I might get a few hundred k from Kirk. With the closing in, I could probably pay them off in 2 -3 weeks, though we are not sure we have that time. Scott got pissed and talked to Eyman, who brought these guys in the first place. It's 7pm now we are waiting to hear back to see if they will give us a flexible time schedule. I'm shitting bricks waiting to hear. I'm just so paranoid about them filing a suit and screwing up this whole

thing I had a few payoffs today which helped my cash. I turned down some deals too. I have to get these assholes paid off so that we have the ability to work out our plan.

1-22

Scotts NY attitude worked, they agreed to 12 this week, and then 5 a week there after. Now we can breath, we can operate and I can sleep. we closed 5 of them today, Debbie fucked up on one of them, so we'll do it tomorrow, the others on Friday. I funded two other deals, I had three payoffs and Steve wired in 500k more. I had to return 200k to Miller's for taxes. I was super busy all day, plus mike and Rob came by for their quarterly meeting so I was behind a few hours. I am back to running a business now. When I was looking up some of these properties, they had appreciated quite a bit, so we aren't nearly as upside down on them as we thought after my 3rd, once Gregg is paid off, there is still equity in the property. Once scott starts getting these recent purchases flipped and making money, things will march pretty quickly in the right direction. For the next 60 days, tehspread sheet is going to be really fucking ugly, but it will improve nearly every week after that. As well as the interest will start to be paid.

1-23

I was so damn busy today, I funded three deals straight away. then Debbie had everything ready to go on seven deals today for the assholes so I did them. It takes me hours to do all the docs, recordings, wires, searching for a new property, comping, bookkeeping. I had a few payoffs which helped. Scott said he's flying to isreal, he's got a hearing with a judge to recover 2 million. Holly shit if we can get some of that soon, it would make a big difference. To my count we only have 28 loans left with these assholes, then scott can mainly concentrate on flipping for profit and selling the ones that are free to do so.

1-24

I funded four deals, I had five payoff, which I need, because I need more money next week to payoff those assholes, plus I have Weiskopf wants 675k next week. plus I need to pay the investors. It's going to be a thin week for deals. We had our mom's meeting big turn out, I just blabbed the whole time. I'm glad this week is done. Scott left for Isreal and hopefully he comes back with some damn money.

1-27

I was so busy today, I barely got it all done. I funded three deals, I had five payoff, I had a lot of payments. I returned 625k to Weiskopf. I did end of month over the weekend, all the payments will go out tomorrow. Scott says he thinks the judge is going to give him the order for the 2 million from this company, now it will be how quickly can he get the money out of them I'm trying to raise some more money so that I can payoff more of these damn loans from the asholes group. I can do 5 this week, I pretty sure, I just need some more payoffs to come in to allow me to breath a little bit.

1-28

Scott emailed me and said that he is getting 1.6 million March 13th, that goodness, that will help tremendocusly! He's got a few million coming from NY and from Isreal besides this. It was a quiet day which was nice. I funded one deal on an overage, which then paid off another deal. Scott sold a few properties and also got some money back from Trustee's so I got back three other payoffs. I had a few payments too. I'm waiting for my stack of deals to fund on Friday. I'm taking in 750k from an old borrower out of Utah, then john Schreiber called me and wants to give me 400k or so. I'm going to take it because he watns to give it to me, about when I have to give back a ton of money to my investors for taxes.

1-29

I had a quiet morning. I had a bunch of payoffs, scott ended up wholesaling a bunch of properties, plus some trustees returned checks on BK's. Kirk sent me 600k more too. I'll be getting 400k or in from the guys in UT. I'll be funding about 1.6 million tomorrow it looks like. I'll knock down just 5 more loans off the assholes list, but it's over a million dollars. Scott needs to come up with some cash soon to start paying some stuff off I don't know if I can run overages over the rest of his properties to cover the dollar amounts I'm paying these guys off. we just need to struggle to get them paid off and then scott can start working toward paying greg off.

1-30

I funded five more deals today. It was over a million dollars Scott says he's got about 20 in escrow, a combo of ones I've funded 95% and some of gregg's and some of that are clear. I had a lot of payoffs today. Plus I had 400k come in from Ryan in UT. I've got funds to know off some more next week. it was a really busy day I also drove up to Scottsdale to meet and look at this house that Sammy is working on. He thinks he can sell for 1.4, I hope for 1 I'm going to give him some more money against it because it's really far along I hate doing these types of deals, but I think it's solid. Now to do statements.

1-31

It was a crazy busy day, which I't snot always like that for end of month. I funded four deals. I had six pay off, I might have more if Bennett pays off the two he said he would. He might deposit a check tnight. I had a lot of payments. I lost about 100k this month. I never cashed the check from Scott for the interest. I hope next month the number of deals from him which will lower my risk and bring in some much needed interest. I have to try to pay off another 5-7 next week.

2-3

I had a really busy day, I funded three deals and started working on the 7 deals we are going to payoff this week. it's going to take me several hours to come up where to put all this money on other properties. Soon, Scott has to come up with cash himself to close these. I had a few payments, and I had one payoff. It was actually a return of an auction deal.

2-4

I was so busy today typing docs for the 7 deals we are paying off tomorrow. It takes me hours to do. There is so much extra work. Scott told he has 30 properties going on the market this weekend, most of them are the ones I've paid off the 2nd and then liened with my money. So I'll be getting all that money back. He's wholesaling most of the ones he's buying now, taking a quick profit. He's going to start getting money at the end of the month so he'll pay off Gregg's loans so we can sell those houses and get the profit back to him. I had a few payoffs, and a few payments. I'd be able to go to the boys school if I wasn't doing this work all day long! The forbearance agreement is going nowhere with the attorney's. It's become a fight. We are going to have to spend time in a room together to work it out. I fear

2-5

I was super busy today, I wired out over a million dollars to pay off the assholes today, did 7 loans. I think we are under twenty now. Scott had 800k worth of deals too. Fortunately I had over a million dollars in payoffs come in unexpectedly too! I had a few payments too. I went to lunch with Tom Smith. I worked until midnight too. It takes me so many hours to do these payoffs to the assholes, I hope to be done by the end of the month.

2-6

I was super busy in the morning. I got almost everything done before I left for Mark's office to do my finance class. I got back and was super busy until I left for the day. Lilli called, she needs 2 million for next week. I committed to her and now I have to pare down the payoffs to the assholes group so I have enough money. I'm still hoping to do at least 5 more next week. One my list we are down to 23, not sure if it's 100% accurate but we are close. Two more of the Gregg's loans paid off today too.

2-7

I was so damn busy again. I was on the phone with David and Scott off and on trying to find middle ground in this crap to make this agreement final. Now David is telling me I have to tell my investors. I'm just so stressed out I could have a heart attack. I had two payoffs come in, I had a few payments and I don't have enough money to cover Lili's deal yet. But I have a week.

2-10

I had to wire in 198k out to close a Scott deal, but I got 227k back. I funded two more of his deals, but I should get those funds back on Wednesday. I told him to quit buying I'm out of cash, he bought another one. I don't have money for it. Yahoo email was down the entire day, completely fucked up my productivity! I'm still working and it's midnight. Now Lili wants me to close her deal Wednesday. I don't know if I'll have funds for it or not. I was going to wire in funds for paying off 3 more deals for Dan's group, but I don't have funds for that either. I need a lot of payoffs tomorrow but I'm not sure I'll get them. If Roger's would close that would help a ton!

2-11

I didn't sleep all night. Lili wants her deal funded tomorrow, Scott bought a 200k deal, I have 300k I have to wire to escrow to payoff more of dan's deals. I couldn't come up with enough cash. I emailed Brian, he sent me 500k, I called Ryan, he sent me 300k. that gives me enough to cover everything. We paid off 4 more loans this week. we should have some more gregg's loans closing next week. we got a little closer on the agreement with david and jeff, will beat out the language. I had two other payoffs today. Roger is still threatening to pay off his four deals tomorrow or thursday. That would be great, for interest and for liability.

2-12

I finally had a quiet day. I wired away 2 million for Lili's deal, 300k to payoff three deals of Chris's, then one more wire to close a Chris deal. So we are down to less than 20 deals and around 1.5 million. I get those paid off in the next few weeks. We'll have a huge issue behind us. I had one payoff for a deal that Scott wholesaled. Roger I had to forgive his debt on 4 deals so he could close them. I couldn't collect it if I took the properties back anyway. He'll pay me some day, sure he will. It will be quiet while I'm gone since I've got no money. I've got 62.4 million lent out, I have might have 300k in my combined accounts. Scott thinks he can have 10 more properties for sale soon. The more that close the better. I've got 34 million of my 62 million lent to him. In the next 60 days that should be cut down by a third.

2-13

It was a quiet day, but I was hoping for more payoffs. I only had one come in. I funded two extra deals, 30k and 10k. I need cash bad. Scott needs 500k to buy, I need 400k to pay off dan's group next week, I need 300k to pay my investors, Adam needs 400k next week. that's more than I've got coming in next week. I can't believe if I had another million I would be able to put it all to work. I had a few payments too. I'm ready to leave now.

2-14

It was a good day to be snowboarding. I think I had four calls all day. I wired some money first thing for Christmas. I got one payoff in and lots of payments. The Scott and Jeff vs David saga is continuing. I need a ton of payoffs for next week to keep everyone happy. I'm trying not to stress over it this weekend.

2-18

I funded one for 30k, and I never had any payoffs and few payments. Scott wanted to buy, but I couldn't say yes because I was so short money. We have to pay off 3 deals for Chris's group, Adam wants money, I can't fucking believe I'm so tight on money. I have 3.5 paying off between now and the end of the month, but I can't part with the little cash I have until I know we have these deals paid off for Chris's group. We are going to fall behind the plan of 5 a week, but I can't do any more than that.

2-19

I had nothing to fund. I had one payoff, which was a deal from Scott that he whole sold. I should have a few more closing next two days. I couldn't fund the deal for Adam. I have a million, but I need money to pay my investors and payoff three more loans of Chris's group and I have to fund some Scott wholesale deals. Boom a million is gone just like that. I should have a lot of payoffs coming, but so far one this week. I had a lot of payments. Tomorrow is the meeting with the lawyers, that we hope to finish this damn thing. I put the property I took back in escrow, though it doesn't close for 2 months. I got them to raise the price a little to compensate for it. I'll get back my principle, fix up costs and most of my interest.

2-20

I funded one deal for Scott and then left for the meeting with the attorney's. They were no better in person than they were in email. David lost his temper more than once. We went back and forth for 3 hours. We broke up and came together, finally we are down to one point about the release. The lawyers are trying to word it to make each other happy. I had two more payoffs of his loans today. I'm paying of Dan's group, 3 more loans tomorrow. Plus two of Gregg's loans are paid off to me tomorrow. So again we are making headway. But at a point we are going to run in a road block of properties that I can over encumber. Scott is going to have to start coming in paying off some of Gregg's loans. I told David the dollars today, he about shit a brick. I explained to him how I got there and how far we have come and how much better we are today than in November. Though I'm not sure he understands that. My balance sheet isn't looking much better, but it will start to swing in the right direction in the next 30 days. I'm more concerned about telling my investors and their reaction to the problem. I have to tell them and hope they stick with me. If I get a run on the bank I'm in deep shit. I won't be able to fund new deals, I won't be able to payoff investors and won't be able to support Scott. The whole thing craters.

2-21

I did all of Scott's loans, wires and then the payoffs came in. I got three more of Chris's group paid off, I received three payoffs, two of which were 95% LTV deals, one I had to load the cash on other properties. Again, more headway in the right direction. Roger's three deals paid off, no interest, just principle. I would have done the same if I took them back and sold them. He's supposed to pay me interest on them, I doubt I'll see a penny. I talked to Dave, he found out what we already suspected, there is no way we can give what Scott wants. I'm not sure where this will lead us. We talked about telling my investors, we are going to put that off as long as possible so that we can improve the situation as much as possible. We've got another 15 more that are closing next few weeks. We could be close to under a 100 problem loans within a month. I just have to keep telling myself I'm doing the right thing to fix it, no matter how much anxiety I have over this issue. I didn't sleep more than 3 hours last night.

2-24

I funded two deals for Scott, both are supposed to come back this week. He's wholesaling now more than retailing. I funded another one for Christmas. I had a lot of payments in. The lawyers

are fighting over the words, now scott's attorney is going out of town after Friday. I was stressed out all day thinking about these investors. Coralee is trying to sherriff auction McKmley now I'm owed 50k more than what it's worth. Roger is now going to give me back 4 houses it looks like. I'm back to being a land lord again! I'm missing out on so many good deals right now with good borrowers. But I have to have cash to payoff dan's group, 5 more loans should be gone this week. we've got 22 in escrow, 6 of them closing this week just keep pounding down the laons, however, I'm not sure how we are going to pay off theloans that now have triple encumberances on them.

2-25

I finally started receiving some payoffs. I got six of them, two of them were small. I funded one deal. I have a bunch of deals to payoff of dan's. I've got more money coming in. I'm really struggling with how to get this deal solved. I talked with Scott for an hour, we went over like three more scenarios. It all boils down to him coming up with cash. He does, that we'll be able to pay off a lot of loans, in numbers not dollars. Then his attorney sent over a 35 page agreement which was completely different than what scott agreed too. I swear they are just drgging this out and have no intention of signing anything. I know I'm not going to sleep tonight! I've bene up since 2 am already!

2-26

I slept maybe 3 or 4 hours again last night. I funded one deal. I had nothing payoff today, I'm hoping for a few tomorrow. I barely functioned all morning waiting for Scott to call. He finally did saying Gregg is willing to work with him. We've decided it's better to sell these properties as quickly as possible, take the losses and move on. Scott will sign a promissory note, it frees up from paying interest, I take a big hit, Gregg takes a hit, and we move on. It will take me 2 year to get back to profitability I'm guessing. This may allow me not to do what David wants me to do, I don't know. I never got to talk to him. But what we are doing isn't going to work fast enough and we'll have a big hill to climb in the end. I'm just so sick over this I can't function.

2-27

I talked to scott again, he agreed to everything this morning on how to work this out. I talked to David, he's thinks it fine so we are done. Now Gregg is acting up and watns interest paid in advance. This is the why we need to pay him off quicly I paid off three more dan's loans. I had two payoffs come where I had advanced 95%. I had a bunch of payments too. However, now we just need to get this signed and start working towards selling these houses. We have a plan for that now too. i took back 4 house from Roger today. I'm going to try to sell these damn things too, I'm not going ot sit on them with a tenant for a year. Now I'm going to do statements.

2-28

I sent the statement last night. I had payoffs but all late in the day. I've got now over 1 6 million. I've got more of Scott's payoffs coming next week. working without this cloud over our heads is refreshing. I wired him 100k to pay Gregg his damn interest. By the end of the month, 1/2 of his

loans might be paid off. we hope to have 100 loans paid off by month end. I've got to put the money back to work, I'll will return it to folks. I had a ton of payments, but I'm still down 154k for the month. Once we start selling these houses and I get my accumulated interest back in I'll have a better march. I worked ½ the day on McKinley property, dealing with a real estate attorney, emailing Coralee, I can protect myself and rid her judgement, it will just take time. I'm asking her nicely what she will do and not do, she won't answer me. Next week she will be at my house I can't wait.

3-3

I had a quiet morning, so I left for Ty's school. when I came back, scott had bought 5 properties, I had 5 payoffs and several payments. David called me telling me of adlib info to scare me about dealing with scott. I can't control what others are saying in the lawyer community. I have to get this done so that I have something in writing and do the best deal that I can do.

3-4

I funded six deals. The four for scott he had sold by noon, he said he made 30k. it will take a week to get it all back to me. He bought two more today. He needs to make about 50k a week wholesaling. I had a few payoffs and some payments. I've got a lot of people that are late on their payments right now. I engaged a lawyer to rid me of Coralee on the McKinley property. I know she'll be a pain in the ass until the end. I'll plan to return her funds to her this year too. I don't need that bulls hit.

3-5

I had a super busy day. I had four to fund, and I had eight payoffs. Mostly they were scott's wholesale deals or rescinded deals, but I've got money in the bank now. I can payoff five of dan's deals Friday no problem, plus they have two more closing, we'll be down to three. I paid for the food today. It's a lot more than I was expecting, but hopefully they all like it. I got a few payments in, but not as many as I was hoping. Scott is making good money wholesaling, now he needs to sell more of these houses. I have to lower my exposure to these homes. But in that I'll have an unsecured note to him too.

3-6

Another quiet day, I funded two deals, and had no payoffs, a few payments though. I took down the docs to a lawyer's office to foreclose on john so that I can rid myself of Coralee on the McKinely house. Auction set for June 10, I probably will get a contract this weekend to close in a month. I've got over a million to send out tomorrow for Scott. I'll get ½ of it back if the closes come in that are supposed to happen. Dave is supposed to have our agreement done too.

3-7

I funded two deals, paid off 5 of dan's deals, and wired overage money for 2 of dan's deals to close. We have three left, plus the issue with the trustee's deed one on Potter. I had six payoffs

6
too. The two from dan's group, and then two of PG's which is good, just leaves me with the two land deals and one deal on 13th that was supposed to close today, probably Monday I had a few payments, not many David is supposed to have this agreement done today, so we can review, I hope it's what scott wants so that we can be done with it.

3-8

I got everything ready for the party early. The food showed up on time, it was 2x the amount of food that we needed. Everyone came but maybe 1 or 2 people. Coralee and Gary came, hardly spoke to me, which is fine. they will get their surprise this week. I enjoyed talking with everyone, I don't know why I get so stressed about it. it was all over by 6pm. I met Tom Weiskopf finally. Everyone loved the food, they just didn't eat enough.

3-10

I had a wild day I was busy in the morning. I had emailed everyone and said I would have money this week. Chris took 350k, Adam wanted 200k, Scott bought 500k worth of stuff, and I was nearly out. Then Lili called saying she was going to pay me off a million dollars today, so now I have money again. Scott is wholesaling properties before I even record docs. Hopefully he's making money on the damn things. we've got about 20 properties in escrow and more are listed now, so we hope to get a lot more in the coming weeks. He's trying to sell 10 or 15 to a hedge fund too.

6
3-11

I funded two deals for Scott, he sold one before I got the docs back. We talked to David, I think we've worked it out. David changed and said now I have to tell all my investors. Scott and I are going to try to fix this mess in 30 days and that way it will be a minor issue. I had two payoffs and two payments. Tomorrow will be more busy with deals and payoffs.

3-12

I funded five deals, I had three payoffs. I received in a lot of payments too. I talked to David again about the agreement, he made his changes, Scott had more. It just never ends with this. I've got the last three properties ready to be paid off of Chris's/Dan's list. Scott and I have decided he'll buy a bunch of properties, and we'll pay off Gregg that way and then sell the rest. We can clean this up much more quickly and lessen the loss.

3-13

6
I had a really busy I funded four deals, plus 50k to Shawn. I had four deals payoff and lots of payments. I've got about 10 deals to fund tomorrow. Jim McArdle came over to ask lots of questions and talk about retirement. I know I've got at least 6 deals apying off tomorrow. I'll probably return some funds to UT tomorrow too. Scot finally agreed to the wording, now he wants to change the terms. Which he might have a good idea. We keep changing it to try to make the right balance between over encumbrance and an ugly sized secure note.

3-14

I funded the last of the three deals to pay off dan's list. Feels good to get that behind me, however, it was anti climatic. Now to work on Gregg's list. I had a few other deals to fund too for scott and Mike Moore took a little money. I had two payoffs and a few payments. I was busy in the morning. I also drove up to see Sammy's house. He's got the house 80% done. It really looks good, I'm anxious to see what he can sell it for.

3-17

I only funded two deals, but I hav two payoff. Scott boughta lot for tomorrow. I had a lot of payments made too. It feels nice to know we don't have any dan's loans. Just one, left, which is in dispute. David has more changes to make the to agreement that I asked him to make. Sometimes I ask him, I get it back and it's not done. I can't wait for the next bill.

3-18

I think we have the agreement done, Scott is going to read it tonight. He'll probably just agree to be done. I funded four deals, I had three payoff. I've got a lot paying off this week. I had a few payments too. Scott has the first 5 lined up to start paying off Gregg's loans. I want to start seeing this and I need to see some of the older loans start paying off. I want the interest to start coming in.

3-19

I funded three deals, and I had four payoff. I've still got a ton coming in before Friday, which is good, because I need to return 500k to Major Miller next week. I've got a stack of deals to fund tomorrow for scott. He's going back on forth on how he wants to do this, but we'll find a way to do it. David has to do some more changes for Scott now.

3-20

I funded six deals today, 5 of them for scott. He paid me back on three others today. Christmas is selling a lot of stuff, so he has been paying me back too. Scott finally agreed to agreement. That's done, I have to do some numbers to fill in the blanks, but otherwise it's ready to be signed. I have no idea if it will ever be used, but David assured me I'm in a good position. Now Scott is trying to figure out what he wants to do, sell all the properties or keep and rent them. We aren't going to his five props tomorrow because of HOA delays.

3-21

I funded three deals for scott first thing, went off to my mom's meeting, it was the smallest group, 9 of them. If next time we don't have 15, I'll cxl it. hell I need more borrowers. I had four payoffs, which was good, because I'm running low on cash and I have abig week next week.i got back and funded two more deals in the afternoon. I have 4.5 million closing next week, I'll need

6

it all to cover what's on my desk and requests for cash back. Only two payments came in. once we start paying off gregg's loans, I can capture all that interest.

3-24

I did 80% of end of month on Sunday, so that feels good to get done. I funded five deals, and I had three payoff. I need more money to come in because Lili wants 2.5 million on Monday. I told her to find an alternative back up source. I should have it because ih ave 4.5 supposed to close but ½ through the day, 500k of that was moved to Monday. I had few payments in, the late ones, so that was good. Sammy called wanting me to give him more money for his house, I told him no. I'm already too deep in to the house. I rather take it back 90% finished then give him more money. We went round and round, but it didn't change my mind.

3-25

I funded three deals and I had three payoff, I had a bunch of payments made. Lili is calling me wanting me to fund this 2.5 million deal, which is fine, however, I told her I won't know until Friday. I've got 3.2 million coming in by Friday and 700 by Monday. I don't kow if I'll make it. we have the agreement done and notes done so hopefully scott will sign and we'll be done with it. he's supposed to get his money from isreal now next week, I hope it comes or we can't do the refinancing part we had planned.

3-26

6

I funded three deals and I had three payoff, which raised my cash position. I had a few payments too. I had talked to Lili about her 2.5 million deal, and I've got a few other borrowers that want money, a few that are pushing their deals off. I was stressed I wouldn't have enough money. Then I get an email from Ryan, I was thinking he was going to ask for 700k back, instead he wanted to give me 2.5 million more! I said I'd take it. I figure I can put it to work on Lili's stuff, fund my guys stuff with my cash and then with all the money coming back in I can slowly start paying back investors and give me some breathing room.

3-27

You never commit unless the money is in the bank! I learned that rule a long time ago andi broke it. I wired off funds for the deals today, thinking I'll be perfectly ok to do so. Then I'm sitting in a parent teacher conference and I get an email from Ryan saying he can't provide the money. I about craped my pants. I talked to him and his CFO three times during the day. he now thinks he can get me 1.2, I don't know if I'm going to get enough money in Friday to cover this. I had to have scott stop buying, sell a bunch he had already bought, and now I'm scrambling. I'm 2.2 million in the hole for my commitment tomorrow. I better have a banner day of closes!

3-28

I wired out every damn dollar, I was down to maybe 50k. which would be great for Friday, except I need money to fund Lili's deal. These moron's in UT cdidn't call me all day, I called

them, they are now saying 1.5. then he wants to be on the paperwork, then he wants to talk to lili, I put her on the phone, that got ugly, he can't understand her and he wants numbers she doesn't know them, she gets pissed at me because she looks dumb, he tells me he'll call me tomorrow and let me know he wants to do, she calls me and says she's going to look for other money. The mean time, Scott is on his way to NY to find money. I had a million come in today, which won't cover half the deal for Monday. It's going to be a stressful weekend.

3-31

I had eight payoffs, funded one deal. After I don't know how many phone calls, I convinced the UT guys to just lend me the 1.8 and I'll take care of the deal. They don't like it at all. Lili is mad at them, so it will just work. Scott is now convinced he's going to just sell all the properties and owe me a shit load of money and work on paying it off. at this point it clears the books, brings in the interest and then hopefully he can produce enough money that he can pay down the debt, it could be 8 million. That's a scary fucking number. I'll now be able to fund a few more deals that are popping up. I only lost 95k this month. If he sells the properties, and I get the interest in, I'll have a good year, which will be good to put some capital on the books incase he fucks me at some point.

4-1

It was a super busy day. I funded three deals for scott and then the payoffs started to roll in. I had nine payoffs and a few payments. The biggest deal is that the UT guys finally wired me the 1.8. right at 2:30, when I had asked them at 8 am for it. I've got lili covered, I've got deals covered through next week and I've got 1.8 coming in from here to Friday. Everything should be done for Scott to finally sign, should be tomorrow. He's buying a lot right now and I hope all other properties start paying off now. I need to return some funds this month.

4-2

It was a quiet day which was nice. I funded the 2.8 mil deal, and three others for scott. I was paid off on three deals and I received a lot of payments in. because it was quiet I caught up on everything I needed to do. I took back some land that roger can't sell. I'll get it sold no matter what.

4-3

It was a quiet day, I funded a few deals for scott and he paid me off on a few. I thought we were done with the agreement, then David says it's not done and is going to have to redo sections of it. Jesus this is going to cost a fucking mint! 100k for the agreement! I'm still not convinced it will do anything for me. I sure hope I never have to use it!

4-4

I funded a bunch of deals for scott and then he only paid me off on two of them. I had a few other payoffs come in. I paid off the very last property that was in question with Dan's group, this

damn Potter property that we don't have a trustee's deed on. We are supposed to have it any day, it's been that way for months. I had a bunch of payoff which is good because I've got a ton to fund Monday morning. I hope next week I get enough payoffs to get me ahead in cash to where I'm not skimping by day by day. it's just stressful as all hell and I hate it. I have to return funds to investors next week too

4-7

The day worked out ok, I was a little nervous. I had more deals to fund then money in the bank. I had two get pushed off and a surprise payoff, but then three other payoffs didn't come in. scott bounced another check to me, but re-deposited it today, so hopefully I can use it tomorrow. I've got some guy calling me about a 500k loan I have that wants to buy the house but I don't own it. I can't get ahold of the borrower either. That really pisses me off. I had a lot of payoffs today and payments, so that always helps. It's going to be tight week.

4-8

I log in to my bank, I'm negative over a million dollars! The bank reversed all my deposits from scott from Friday and Monday. They closed my account soon after. I spent all day talking to a dozen people. The bank didn't like that I had a bounced check and then redeposited it and then I'm wiring back to the same account. I finally got them to call Scott's bank and reverse the whole thing, but it was too late and they can't reverse the holds so I couldn't pay for his three properties or fund the 2 deals I was supposed to fund today. Now they are telling me tomorrow it should be ok. It better be or I'll be blowing up the place and quit with killing them with kindness. The stress that I went through and anger and my blown reputation with my borrowers and title co's is immense. I about I'll sleep tonight.

4-9

These lying shitheads of bankers, I couldn't log in to my acct all night or in the morning. we had to call in and start all over. Then after telling me last night, oh it all has to go through night time processes to release the checks, they instead manually released them this morning. by 10 am, I was 100% back up and running. I wired out over a million and received in nearly a million. I've got 4 million coming in the next two days. I swear, I was so pissed, but more relifed just to get back and operating.

4-10

First day of normal business and I was busy! I wired out four deals, i had five payoffs, a few payments. I didn't get nearly as much in as I thought, so tomorrow could be a huge day and it could allow me to return some funds, have cash in the bank and best of all have money uncommitted.

4-11

I got in a million dollars today, most of it late. I put out 750, plus returned 250k to rob brinkman. I had a few payments. Most of the day I was trying to figure out how much was coming in and when so I could commit on some new deals next week. scott bought 900k, but he's wiring me 550k Monday. I have two big deals, one for 650k and one for 2.2 million but they both got pushed. I would love to get those in to give me some wiggle room.

4-14

Stupid busy day! I funded ten deals, either full or partial pays to get the money returned to me for scott payoffs. I had six payoffs. I've got more coming tomorrow too. I had a lot of payments too. I was barely able to keep up with everything, then the boys came home and now it's midnight and I'm still working.

4-15

I had enough payoffs in today, to finally get ahead. It's the first time in months! So much so, that I did a 600k deal for kyle. I expect to get in a lot over the next few days and I'll be in good shape. I funded four deals. I had six payoff. Only had a few payments. I really would like to have a million in the bank. I should be there Friday.

4-16

Scott had trouble with his wires this morning, by 11 we had it all sorted out. I've got extra money now, so I can wire him and he can wire me back to pay off deals. I funded five, I was paid off on 9. I had no payments in today. Scott signed the agreement. Now I hope we never have to look at it again. I'll send it up to david tomorrow and then he and I start on the memorandum.

4-17

I had a productive quiet day. I funded four deals, and I had four deals payoff, 600k one that wasn't supposed to come until tomorrow. I'm now with excess cash, I can pay my tax bill and send Coralee back her money. At least start sending it back. Rick from Sundance stopped by for 30 mins. I don't like him. He's disorganized and uncommitted. He wanted my spreadsheet, however, he never asked for paperwork that he has money with me. I've never sent him any. Kirk fischer bought a property today! I doubt he's getting back in, just too good of a deal to pass.

4-18

I funded five deals today, then I only had three payoffs. I had a really quiet day because it was a holiday. I had a few payments too. I've got extra cash, which is nice to go into a week with money and no stress. Now david is saying we have to resign because the day of the docs don't match the dollars on the exhibit.

4-21

It was a really quiet day. I funded four deals, I had four payoff. I ended the day with more cash than I started, I should tomorrow too. I mailed off Coralee's first return of her investment, it will take me a long time to get rid of her, but I will hopefully in a year. I did 1/2 of end of month this weekend and all the renewals, so I'm glad to get that off my back.

4-22

I funded three and had four close. I was in good shape. Then Scott called and said he bought 1 million today! I can't get ahead. He's sucking up as much cash I create! The biggest problem is his loan balance keeps growing. He does have 35 properties in escrow to close the next 30 days, he's got 500k or more coming back to me a day on his wholesale. I think at the end of May it will finally start coming down. Mike Moore still thinks we are closing his 2.2 million deal any day. I have a lot closing the next few days, nearly 5 million. We'll see how it all comes in. I tried to do my bank transfers tonight, but they eliminated all of those too. I may have to start all over. It's going to take me hours!

4-23

I had a really busy day. I funded nine deals, I had seven payoff, I had a few payments. Scott bought another 700k for tomorrow and I should have enough coming in to pay for them. I started re-creating all the accounts to make the payments. It takes hours to do. I'm not even half way through it. The Thompson's received my letter and check. Gary emailed me and apologized after a bunch of back and forth, he's going to give me the release I need and I can re-list the property. I should have just fucking called him day 1. I emailed and was stone walled, that's Coralee.

4-24

I started at 6 am typing in the data in to the BofA web site. I finished about 9:30. I've got end of month all done now expect invoices I can do those this weekend. I wired off five deals, I was paid back on six deals. I think we've hit the high point of Scott's balance, he's paying me off on more than he's buying. Which is great because I've got a dozen deals I could fund for other people which I would really like to do.

4-25

I funded five deals, it was a quiet morning and then no wires came in and Scott by nearly 700k. He sent me two wires, but the ones from the escrow co's and one of his weren't coming. We were all panicked because I wouldn't have enough money to cover for Monday. Then as we were talking his 100k wire came in and to my surprise a 400k payoff I wasn't expecting until Wed arrived along with a 200k wire that wasn't supposed to come until Thursday. I'm ok now! I even had to borrow money from my personal account this morning to get all the wires out. Thank goodness my IRS check hadn't cleared yet. Next week I have over 5 million supposed to close. He won't be buying 5 million so I should be able to get money out to other people, which I passed on over 2 million worth this week!

4-28

I funded five deals early, then two more later. The smallest 30k deal was rejected, I clicked on the wrong acct, when I was typing in the acct number, pissed me off. I had six payoffs which was great. I had a lot of payments too. All the BofA direct payments to my investors were rejected, and the one to Russ. The BofA were rejected because I used the wire aba and not the ach. Russ' was rejected because bank buyout and I didn't know. I just went to the branch and transferred them all today, be done with it. russ is ok with getting his on 5/1. The whole thing ate 3 hours of my date, just pissed me off. I'm getting much more money in from scott then I'm sending him again tomorrow and I might be getting my 1.8 mil payoff too. I would love to get my head above water for aw hile. Though I fear the day which I know id coming soon, of too much cash.

4-29

I funded six deal, I just barely had enough money for it, then the payoffs started coming in. I had five payoffs for more money then I sent out. I also received confirmation that my 1.8 is coming to me tomorrow. This is fantastic, I can get out of this cash crunch and put more cash to work with different people. Scott is now returning more cash to me than he's taking each day, so hopefully I can whittle him down a few million this week. Dave said we are done with the forebarence agreement. Now I have to get scott to nominate someone if he dies to sign for him. I also had 3 more direct payments rejected, but their system was down so they couldn't tell me who or why.

4-30

What a crazy busy day! I got back 3 more rejected direct payments I fixed two for sure, and one I think, we'll see. I received in 1.8 million wire which is hopefully going to change my cash flow big time. I was able to fund about 10 deals today. I made many people happy, after stringing them along for a while. I had 10 payoffs too. Most of them scott's, the balance is starting to go down, and because he's paying off the older loans, I'm getting a ton of interest so I was actually profitable this month! First one of the year. If this continues I might be profitable for the year! I fucked statements last night and sent 23 to the wrong people. Easily fixed, just lowered my reputation. I have 2.5 million in the bank and maybe 300k to fund tomorrow. I've got lots more coming back in. which is fine, I like having cash now, I've got a return some to the Miller's and I have to Lili with a 600k deal. Plus more of scotts that come in the beter the situation is between him and me.

5-1

It was an easy day, which is good after yesterday. I had more come in then I sent out. Scott is down almost 2 million from his high, next week he could be down another 2 million. I was profitable for the month, first month profitable since November. If scott keeps selling these properties, I'll be profitable this year, just with a big note to him.

5-2

6
It was another quiet day. I funded four deals, returned Major Miller their 200k, and then I had four payoffs and Adam paid me back 200k. I had a lot of payments too. Lili didn't pay me her money. I'm sitting on 2.5 million now. The world is different when I have cash. I could be at 4 million by the end of next week too.

5-5

I didn't do hardly any work this past weekend. Today was easy, I had 8 to fund and I had three payoffs with lots of payments. This week is going to be a huge change with Scott. He's got a lot of retail deals closing, where now he's getting money back on them, and the ones that we are closing have very little that need money, maybe one will need 150k or something. I counted up that by the end of the month, we'll have 30 properties closed from the list. We'll be under 90 properties down from 186. I can finally see the light at the end of the tunnel.

5-6

The day was going along well, seemed like it was going to be a sleeper of the day. Then my hard drive wouldn't quit running, after hours and hours of dicking with it, rebooting it. Brian discovered it was the drop box. Finally turned it off and I was able to catch up all day, prep for tomorrow and now I'm on top of stuff at 11 pm. However I'll be gone all day tomorrow with Dillon on a field trip, this is going to be lovely next few days.

5-7

6
I had just enough money by 25k or so to wire 1 million off to Scott's acct. He paid me back 650k plus 225k he did, but Christmas is buying the deal and wants to keep it in his name but pay me interest so he can refi it. Some of the retail deals we thought were closing never did, they got pushed. I still have a lot coming back tomorrow but Scott bought another million today, he gave me payoff requests for two of them already. I answered email and phone calls all day while on this field trip. I was able to take care of everything then once home I worked until midnight and caught up.

5-8

I funded five deals for Scott, I had three payoff. It took until 1pm to catch up everything from yesterday. Now I'm on top of stuff. Scott only bought two for today. I've got 1.7 million that could come in tomorrow. A lot of the retail ones we had planned for this week, got pushed to next week. I have 15 planned to close next week. He will finally be going down in total dollars.

5-9

6
I was pretty quiet today, I funded four deals, I had 7 payoff, lots of cash, now Lili wants another 600k Monday! That's for the warning! I might be able to do it, because 500k worth of deals got pushed until Monday. Scott didn't buy that much either. I had a few payments. A new guy from Canada is wanting to flip houses using a guy I've done a lot of business with. I semi tried to talk him out of it.

5-12

I funded seven deals, three of them were overages on loans that I would be paid back when they close, two today, one tomorrow. I hate sending money out on those, but they are lowering the amount owed to Greg, so that's the good thing. I had nine payoff tomorrow. I've got about 15 paying off in the next two days. I had a few payments too. Lili went from needing 600k today, to 1.2 million by Friday. I have nearly 4 million closing this week, so it shouldn't be hard to do.

5-13

It was an easy day, I funded five deals, and 20k for Minh. Then I had five deals payoff. We are beating down the total for Scott. Two more older loans were paid off, I'll more this week. I hope by week end he'll be under 36million. I had a few payments too. Tomorrow should be more of the same.

5-14

More of the same, six out, four in, but I'll have more tomorrow. I had a few good payments too. Roger gave me back his last land deal. Just what I want. At least I have two closing the next day or two and I have one closing in a week or so. Friday is going to be a big day for closing more retail ones for Scott, then next week we have one a day. we are slowly but surely pounding down the list.

5-15

The day went quite orderly. I sent out my wires, all the ones came in that were supposed to. Jeff and Tony came up from Tucson and we had lunch and BS'ed for a few hours. Scott called, he moved 800k from Friday to Monday, and that screwed up my day. I had a lot of leeway to have enough money for everyone. I had to pull in 500k from Tom to make sure I can cover everyone. Huge pain the ass, I should have told Lili no on this deal, but I just feel like I have to put the money to work because soon I'm going to be drowning in it.

5-16

It became a stressful day. I requested 500k in from Tom, thinking it would come in early and I could wire Lili's deal right away. She was calling me and title was emailing me it didn't come until 12:45. I wired off Lili's money, then all the wires I was expecting started to show up in 15 mins. If they would have come earlier it would have been fine. I got closings on two of the properties that Roger gave me back. A third will close in a week or two. Scott's closings all came in, we are down to 10 million of Greg's loans, so that's great, from 24 million in November! My cash is going to be tight next week. I don't have a lot of closings from other sources other than Scott and he doesn't have a lot closing. The head way is slow but steady, every day is a better day than yesterday, so I'm glad for that. I funded seven deals, then Lili's, I had nine payoff.

5-19

I had to start the week out stressful! I wired scott his money and he bought more than I thought he would. I returned Tom's money at least. Scott had to borrow money from Gregg because I couldn't cover all that he needed. I did accept 300k more in from a new investor, it's just temporary but I need it. he's a borrower that can't buy anything right now. Scott and I have to do the wire game tmorrow to get each other the money we need. Plus I need to return 250k and 150k to people. I can't talk him in to taking off a day to get me flush, so he's gong to try to slow bleed it out. I was out ½ the day with Courtney and we had a baseball game, so I'm way behind!

5-20

I got the 300k in early, I was able to make my wires to Scott though they were delayed and screwed up his morning! the one day the bank doesn't deliver my money in 15 mins! I also got a surprise payoff on one of the PGREO payoffs early, so that helped. I postponed a deal so I'm getting in better position. I had thepayoff scott told me, so we are good for a nother day.

5-21

A quiet productive day. I funded three deals, I had two payoff. I had a few payments. Did the entire months' renewals today I got all set with scott on payoffs, cash flow and docs. I'm hoarding cash, because I have to return some to investors, pay them interest and make sure I have money for scott. I keep turning down lots of good deals, it drives me nuts, but I have to keep scott rolling in deals to make money to fix our problem.

5-22

Super quiet day, I funded four, and was paid off on three. I had one payment. I talked to scott the deals that were supposed to come in tomorrow aren't so cash is going to be super tight! I just need to get a bank of cash and keep it. I can't stand this game we are playing. I know at some point I'm going to have mounds of cash. I just received another request from an investor that wants money back. I'm really going to struggle next week.

5-23

I funded scott's deals, I got a wire in that was supposed to come the other day, he got some closings he was pushing for and I ended the day with 1.1 million he only bought 700k, plus he's got 1.1 coming in Tuesday. I had a few payments made, some past due ones, so it was good to get caught up on those. I was all done by 3pm.

5-27

I got end of month done yesterday. I just have statements to do. I had all thepayoffs come in that I was planning for except one. the condo on broadway closed, one less house to deal with. The people that put in a contract on mckinley opened escrow. Then Matt texts me that the pool pump is broke. I funded all of scott's deals plus one for shawn. I have a stack to do for him tomorrow. I had a ton of payoffs and payments in today too. I have al ittle cushion, not much.

5-28

I funded 8 deals, I only had four payoff, I had three wires that didn't come in. I hope they will tomorrow. I'm down to 500k, Scott only bought 400k! I have 2.2 million closing the next two days. That way I'm hoping to have cash in the bank and get out of this pinch all the time. plus he's got money coming in on some deals soon too. I had a few payments too. I still need a bucket of cash to come in to be profitable this month. We are chipping away at the list, we made great headway this month. We have 9 in escrow for next month for the old AFG loans. I hope to knock off 15 or more in June.

5-29

I funded three deals and I had 6 pay off, so I needed the day with 1.2 million in the bank. Tomorrow I'm sending out 1.4 and I should get back in 1.6. I had a few payments. I found out the last house Roger gave me, the people aren't paying the rent so I can sell that one now. We have McKinley under contract, so now we just have to sell the land. I fear that's going to take a while.

5-30

It was a busy as hell day. I funded eight deals I had nine payoff and was able to return 250k to UT boys. I had a few payments in too. I'll end the month 42k. Two months in a row making money, I'm hoping this next month, I'll be over 100k. I have a lot more closing next week, these old Scott loans have so much interest in them, that by closing more of them, that will make the difference. If we can just get more of them sold. He's got over 50 on MLS now, so that's good. June should be a good month to get more of them sold. As long as the damn market doesn't roll over on us. if we have a summer slow down like last year, it will bring our progress to a halt.

6-2

I funded three deals and gave Nesta back 150k, then he paid me down 100k on a property he bought. I had five payoffs come in, two unexpected. I actually have 2 million in the bank tonight. I turned down some deals, I want to get more in and then I have to return some money and then I can fund some deals for people too. I just don't ever want to get low on funds again. Scott bought more than he will pay off tomorrow, but that should reverse the next day. I had a few payments in. I am getting another property back, and it's a piece of shit. My fault, I'm going to try to wholesale it out too. It's from Edgar, long time borrower and he just doesn't want to put the money in to it, that's the issue.

6-3

I funded four deals, I had four deals payoff, but they were smaller, Scott bought 1.1 million for tomorrow. I'm glad I keep turning people down. I've got a lot maybe coming in tomorrow. I hate when he does this, the only good thing is that the next few days are thin. I should be able to build back up my cash. Then at 7:30 my email address was hacked, it's 11pm I've been on hold since 7:30 trying to get it fixed with yahoo. Patt Miller's email was hacked, people were asking

me send money to Canada and California. I called her, she didn't know it. then at 7:30 my email was hacked. Now I'm dealing with a fucking nightmare.

6-4

I called yahoo at 4 am, one ring and they answered, fixed it in 10 mins. I spent an hour fixing the email but I didn't lose anything that I saw. I funded 8 deals, I had five payoff, I'm down to 1.2 million. Tomorrow should be the reverse of it. I officially took back a property today, the guy that set up the deal John, is now trying to get another guy to buy it from me. Hopefully he can do it. it will go a long ways in sticking me with it. we got the new buyer to open up escrow on McKinley, that hopefully will go smoothly. I had a few payments, but not enough!

6-5

A good steady day. I funded five deals, I had eight payoffs. I'm up to 1.8 million. Scott only bought 500k for tomorrow we have 800k coming back. I can return some funds to investors that are requesting it plus I'm building up to back fund a few deals too. I had some payments too. I can't sell this damn duplex. Hopefully tomorrow I can. I've got two people, worst case I can dump it to one of two current borrowers.

6-6

I funded four deals, I had five come in, all the ones I was planning for. Scott only bought 500k for Monday, I've got about 1.6 million closing. I was able to send back 250k to UT. I'll be able to return 300k to Marion's brother and 250k to UT next week. I have a stack of deals to fund, which I should be able to do no problem. I had a lot of payments too. Lili called tonight and saying she wants 3.6 million for a deal at the end of month, I told her only if here two other deals closed. She said they would, I think I'll be ok to fund them.

6-9

It was a really quiet day. I had funded four deals, I had three come back, the big 1.1 million didn't come in and either did one of the AFG deals that was supposed to pay off. I'm getting lots of requests, but I'm not willing to commit because I want the cash in the bank. I had only one payment but I didn't get the mail today. Tomorrow should be better for payoffs.

6-10

I funded five deals, and returned cash to Marion's estate. I was supposed to have a shit load of payoffs, most were postponed. I only received in five. Adam's 1.1 million is now supposed to come tomorrow. I had two lousy payments. I started looking up old wholesale deals from Scott, I couldn't find any that were recorded, or very few. I went to the auction today to see if I could see Louie buy some. No one knows me. John Ray walks up and blows it! he's introducing me to everyone. I see Louie buy one, then that's not on the list. I question Scott about it. he says it was paid for by a customer, he only bought two others, and they were after I left. Then the thing with the deeds he explains that they hold them until the guy they sell it to sells it so that if there are

HOA's they don't get hit with all the fees We go over all the properties. He's almost 40 million now We've got 4.3 closing this week, he's not buying that much, we've got 1.7 closing on his house next week. so by the end of the month it should be much lower. It had better be.

6-11

I funded two scott deals, then I got my 1.1 million wire in from Adam and then I got my wires in from scott a total of \$2.25 million came in today. I funded 300k for Shawn and 500k for Chris hughes. I still have enough money to fund Scott's deals tomorrow and I should be getting more in from him than I send out. I can continue to fund some other people as well. I only had two payments.

6-12

It was a quiet day on the phones, but busy in the bank account. I had two deals to fund and I had four deals to close. I had a few payments too. I'm raising cash and Scott's balance is going down. He bought 1.1 for tomorrow but he's paying me off on 1.5 too. I have a few other things that should close too. I want to fund a 600k deal but I have to make sure that all the money comes in tomorrow

6-13

I funded six deals, turned back 250k to UT, and then I had eight deals payoff. I was able then to fund a 600k deal for Kyle. I have 1.5 mil in the bank and I'll be up another 600k on Monday. It was a quiet day other than just the volume of deals in and out.

6-16

A really quiet day. I funded five deals, had 8 payoff, scott's balance is nearly 38 million. It should be below that tomorrow. He got his final approval for his home loan which is 1.7 so I'll have that paid off in a week. I've nearly 2 million in cash, so all things are going well. I only had a few payments made though. I can't get rid of that damn duplex though. I may have to fix it up.

6-17

It was a much busier day with requests and paperwork etc. I funded four, I had three payoff but for much more money Scott is down to 38.1 million. He got docs so he'll close on his personal house on Monday, so that will knock it down another 1.5 million. I had a few payments. Better I've got lots of cash, 2.2 million. I'm going to return some cash to UT and I've got cash to do other people's loans! Which now I've got a few stacking up on my desk.

6-18

I had a busy day. I funded six deals for scott and one for Maxson, on short notice. I returned 250k to UT. I'm going to try to pay them back faster, I probably will pay a good part of it off by Friday or Monday if both Lili's and Scott's loans pay off. I had a few payments. I got all the

renewals done. I need to start the quarterly newsletter, but I'm not motivated to do so I need to do the photos too.

6-19

I had an easy day I funded seven deals, I had five payoff, I got in more than I sent out on Scott's, he's down to 38.1 mil. It will go up tomorrow but way down on Monday. I had a few payments made too. I have that damn duplex being cleaned up and I'll try to sell the damn thing.

6-20

I funded five deals. I had seven deals payoff. I've got quite a bit of cash. I had a few payments. Scott didn't buy much today and we have 2.2 million coming back on Monday. My QB and spreadsheet are off 80k, I can't find it. and it's driving me nuts.

6-23

A really quiet day. I funded three deals, early for Scott and then 3 more for other people. I only got in two payoffs. Scott's house didn't pay off, will come in tomorrow. I've got a few others of his tomorrow too. He bought a million today, so that will suck up some money, but I should get back 2.5 tomorrow from him.

6-24

I funded ten deals today. I had three payoff but it was for a million more than I started with. Scott's house refinanced, so I got back 1.78 million. Plus all my interest which makes me profitable for the month. But I'm still 200k in the hole for the year. I have a million to fund tomorrow, 450k goes out for interest, I'm going to send 500k back to UT. Lili has two deals that might close which will bring in over 3.5 million. It's going to be a busy day tomorrow.

6-25

Neither of Lili's deals closed, she is worried about one of them, she needs 3.6 million by Monday I don't have it. one of the deals should close tomorrow now. The other she's not confident about. I returned another 500k to UT, I'm good with them for two weeks. All the interest went out. All I have to do are statements now. I funded five deals, I had seven deals payoff. One lousy payment came in. tomorrow is a million in and million out with Scott. I've got others that are supposed to close. Friday should be a circus and I've got my MOM's meeting.

6-26

I funded five deals for Scott, I did a small deal for CARJAR, and Adam needed 50k. then the I had four payoffs early, then one of Lili's apartment paid off, 2 million came in. she needs 3.6 tomorrow. I now have it and will easily have it with what is going to come in tomorrow. However, that will take me below 500k in cash by end of day tomorrow and I don't want to go that low again. I'm going to lend her 600k on her condo and that's good for me. I had a few

payoffs. I'm still waiting on some more to come in. I'll be profitable this month, but I have a long ways to go before I'm profitable for the year and let alone where I should be right now.

6-27

I had a super busy day as forecasted. I funded a bunch of deals for scott, chris had one, Lili's condo for some of the money that she wanted for the 3.6 million. Darn good thing I didn't say anything to her. At the end of the day, I would have had enough to cover it. but it would have left me short for Monday morning. I thought I was going to have another 800k close today and didn't. I still had 1.3 million. I had a ton of payments too. I had our Mom's meeting, we only had 12 people show up. Jeff Phalen came with his wife, he was asking if this is representative of what is happeninig, it kind of is, but we had several people that just didn't come. I'll need to increase the size of the group I'm profitable for the month, 210k right now. Even with john's 74k loss on his fucking house. I hope some day the guy pays me back I'm not counting on it anytime soon. I know he owe's a lot of people a lot of money right now

6-30

It was a super busy day. I did the statements and finished end of month Sunday. I funded eight deals, I had seven deals payoff, a bunch of payments. I picked up a new guy that does a ton of deals, we'll see if he sticks with me, or just because he's short of some cash today. A referral from John Ray. I'm profitable for the year by 6k! we still have a long ways to go, but two more AFG's were knocked off today We have more going this week too. Just keep plugging along. I got the 34th street house under contract again. solid offer, I'll have to do some work, but it shouldn't be bad.

7-1

The typical quiet after the storm. I funded four deals, three for scott and one for this new guy. I had six payhoffs. Scott's balance is alittle up but not much. It will be up 500k for the week if we stay on this pattern. I'm hoping to be below 34 million by month end. I had a few payments. I'm losing my cool on a few of these assholes that are late on their payments.

7-2

It was a super quiet day. I wired scott some money on three deals, he paid me off on five, but it was for less money I went to the bank and spent 45 mins waiting to get notaries done. I sent a foreclosure notice off to Margie, she won't pay me, the deal she's got won't close, fuck her I had a contract cancelled on the 34th street house. Back on the freaking market. I put the triplex up for sale for 50k hopefully I'll generate some activity and get the most for it I can. The biggest deal was scott sent me \$50k for interest on the work out loan. We are making progress just to damn slow, but I'm sure quicker than David expected us to do. He got some more houses under contract that are AFG's. we should have 10 more closed this month.

7-3

It was a super quiet day. I funded five deals, I had four payoff, one payment and maybe 4 phone calls all day. I let Cormack know I'm not extending his loan. Never heard anything from him. Scott ended up buying a lot today for Monday, and Monday will be a huge day, but we have 6.6 planned to close next week. his balance should go down.

7-7

I funded five of Scott's deals and I had just three payoff. I'm back up at nearly 38 million with him again. I had a lot of payments which was great. he bought 1.2 million today and he's got 1.2 million paying off tomorrow. I hope this week, it gets pounded down. I had a lot of phone calls in the afternoon, but I was able to take care of everything except one title co wanted me to sign my payoff, I have no way of faxing it so iggy will take care of it for me tomorrow

7-8

I funded 9 deals for Scott one for Kirk and 1 for Cyler. Then I had 9 payoff. I ended the day with only 1.6 million. Scott bought 1.6 million today so he sent off some of the deals to other lenders. I had a few payments not many. Brian hasn't sent me any checks yet. I got the Hazelwood sold for 75k, then the guy didn't respond! Scott is trying to bring down his balance, we have 30 properties closing this month retail, 9 AFG so we will make another leap forward in cutting down the numbers.

7-9

I funded seven deals for Scott, then I had five payoff from him. I had a ton of payments come in from Shawn, Chris and others. Two I can't figure out yet. His total went down today, it will tomorrow and a lot on Friday. I talked to some fool that has 30k, been flipping properties for 20 years in OR and is now in AZ wants to get rolling, sorry I'm not for you.

7-10

I funded four for Scott, one for Larry, and then I had seven payoff, but for about the same money. Scott also sent me 50k more for interest on the five million work out. It's good to get some interest. We've got to pay off more AFG's so that frees up more cash for me. I had a few payments. Scott bought 1.2 again today. I had to turn down a deal and I decided to do one and I talked Kirk out of taking his 150k. I have a few payoffs besides his coming tomorrow we'll see if it happens.

7-11

I funded 8 deals, returned 250k to UT. I had five deals payoff and Scott gave me another 50k. I only had a few payments. I wasn't that busy on the phone calls but they just wouldn't stop. I was still getting them at 4:30. I have a lot to fund next week, other than Scott's deals, so I need some to start closing other than Scott's deals. Iggy and I went to meet everyone for the Densco dinner. It was nice restaurant, expensive, but good food, just small portions, I asked for seconds. Then I finished Corey's dinner. They wanted me to give them a speech or at least Dale did, but I told

them to read my newsletter! Then dale asked about the bank. I talked about that for 30 mins. They all thanked me etc. it was nice to hear it. just adds pressure to what I'm doing every day.

7-14

It was a quiet day thankfully I worked 15 hours or so trying to catch up I funded three, and I had I 8 payoff, gave me more cash, enough to fund two deals I need to to morrow plus some extra for Scott's. I've got a long way to go before I'm caught up, but I've made good headway.

7-15

I was thinking I had 300k of leeway, I had a mistake in my spreadsheet, which caused a 365k swing the other direction! I wired out all my money this morning I had 7k left! Scott didn't get all his payoffs to me, one short, but I brought in 1.2 back in and he only bought 1.08 for tomorrow. I'm getting a few other deals I'm trying to fund but I can't because I have no cash. It's just endless cash crunch. I have to send out 250k Friday too. I'm all caught up now at least.

7-16

I funded seven deals, I had six payoff, for more money, I ended the day up 1.3 million. Scott quit bidding so only 800k is going out tomorrow Need to keep the cash flow going, but I've got other demand that I can't fulfill because I have to keep money for scott. I couldn't sleep last night, I was looking at the properties not sold We have 20 or so from Nov to May not sold and only 6 since June. 90% of them are listed, but it's slow summer time. if we can scrape through the next 45 days, hopefully it will pick up and he'll move them. I had a few payments too

7-17

I got a text from UT saying they don't want anymore money back, yea! I wired off the money for scott and he had some wires for me, as well as from title, I'm down 100k for the day. I've got one or two more payoffs from outside sources tomorrow. Kevin's deal closes Tuesday, Lili is saying 2.8 million is closing next week. I got all the renewals done today too.

7-18

I funded five deals, took me down to my last 7k then I had 1.3 million payoff. He only bought 350k for Monday. Another AFG is gone, we have 3 next week closing and several retail ones, so still marching in the the right direction. I had a few payments, not as many as I would like. I am foreclosing on a loan, 445k one. I should have done it last month. The 34th street people opened escrow. I hope we can close this one quickly. I've got one of my guys buying this piece of shit hazelwood. I hope he doen'st back out. I'm hoping for a big weekend of sales from scott, last two weeks have sucked.

7-19

I funded three, I had three payoff, I had a few payments. I gave Shawn 20k more. I got contract on Hazelwood after the 1st guy backed out, I'm down to 61k, now I'll lose 30k. I got the 34th street water heater fixed, utilities turned on next three days. I can't wait for the inspection!

7-22

I funded four for Scott, one AFG then three more smaller ones for different folks. I had six payoffs, so that got my cash back up. I've got enough to cover my desk and scott's deals for tomorrow. I really hope Lili's deal comes in so that I can eliminate the concern. I only had a few payments too.

7-23

I funded six deals, I only had three payoff. I've got 5 to fund tomorrow. I should have quite a bit paying off tomorrow. Scott's total is starting to rise, but he's paying me some interest tomorrow too. I had just three payments. I got the deal solidified on Hazelwood, I'll be losing 32k on that piece of shit. I'm done doing deals for John and his friends.

7-24

It was a crazy busy day I funded five deals for scott, three for Shawn, then I had 12 pay off, scott sent me 30k and I had some payments. I've got a pretty busy day tomorrow too. Chris paid me off on 700k should do another 500k or so tomorrow I can return some funds to kirk and I can easily pay my interest plus do two more deals I was planning to do later. Then the inspector went to the house on 34th street, turned on A/c and started a fire. Destroyed 50% of the house. I've got a guy going there to start the process in cleaning up and hopefully I can keep the buyer!

7-25

It was another super busy day, with calls on the house fire, payoffs coming in, deals to fund. I returned 150k to kirk. I funded seven deals, I had six payoffs but for more money. I had no payments which was odd. I'm profitable again this month, but I'm so far behind where I should be. I mentioned it to scott and he's convinced if he buys a million a day and sells a million a day, plus we have these older loans continue to pay off at about 1 a day, we'll be in great shape by 9/30. I sure hope so. My time is running out on updating my private placement memorandum and notifying my investors.

7-28

What a fucked up day. I logged in to make sure all the payments went out. They hadn't left. I took the boys to school and called. I spent the next 5 ½ hours trying to get the payments out. They told me to re-enter them, but I couldn't delete the first ones. Then both went out, then they are supposed to credit me back all the ones and stop the dups. I doubt it will go right. I had a ton of payoffs today. I had three high risk ones payoff. Two of Edgar's and Sammy's that he refi'ed. I talked to the insurance adjuster, he's a long time personal friend of Brian's. I think I'll be ok

with that nightmare. I had a few payments in. I've got a ton of closings this week since it's end of month. I could have 4 million in my acct by thursday.

7-29

I sent out the wire for Scott and called BofA, I spent another 3 hours getting a gal to create the duplicate refunds to my account. You can't do more than 5 on one request. We did them all. Then at 3pm the lady I talked to yesterday finally called me back and said she and another gal were doing them. I don't know if now they were reject all of them! I hope not! I had a few payoffs today, only one old loan. The next few days I'll have several closing out. Lili says her 2.8 million is paying off tomorrow too. I am hearing from a lot of people that other lenders are lowering their interest rates and fees etc. again I've more challenges to keep this thing going. I'll be profitable for the month and now I'm profitable for the year. The payoff for Hazelwood came in today, 39k loss on that piece of shit. I talked to Eric about that one and MCM's condo he's not paid on. I'll probably have to foreclose on that one too. I'm being aggressive on these guys because delaying it just makes it worse.

7-30

Miracles do happen, all the money came back to my account. Now we'll see if they let the others go through and all my investors get their money tomorrow. I had a 2.8 million payoff from Lili. That was that super stressful deal we did back in April with the guys from UT giving me money. I owed them 750k more, so I just sent it back to day and said there you have it. they wanted me to keep it another month. But I have 4 million in my bank right now. Scott had a 1.3 million in payoffs and borrowed 1 million. Tomorrow he's borrowed 1.3 and payoffs should be around 1.6. I have no one calling me wanting money. I'm going to start sending money back to people if the balance gets too high.

7-31

The payments hit my investors accounts. I got back all my money. I funded seven deals then the payoffs started to roll in. I had six come in but for more money. I'm returning money to Brian and Tom tomorrow. UT is completely paid off. my only problem is that the % of dollars to Scott is rising. We are down to 68 double deed properties, down from 183 in November! So we have made huge head way. 9 more of Chris's property are out there, 1 is in escrow. Those only have one lien on them, they are just high LTV's. Only about 3 or 4 AFG's that are empty are not in escrow. Scott says he's got another 9 that are coming empty this month. Hopefully we can get those in escrow in the next 30 days. By the end of September, we could be below 50 properties. Scott paid 30k more to me, so now he's paying principle down. This is huge also. It's all going in the right direction, just not sure if it's going fast enough. As long as David doesn't bug me I feel like we are doing the right thing. I made 300k this month, which means I'm 300k profitable for the year. I'm just nervous something is going to stop what we are making great progress on.

8-1

I funded seven deals, I returned 800k to investors. I'm barely above 60 million now. I think I peaked at one point at 65 million. I had seven payoffs. Scott only bought 600k today. We've got a big month coming up in August. I just hope I can keep money invested, if not, I'll start returning it. I had one investor not get his money. I'm not sure how this slipped through. I sent it again, it was Stan, he was fine with it. This darn burned out house, now they are giving me grief about the asbestos. It might be two more weeks before we start fixing the damn place.

8-4

I funded five deals for Scott, one for Cyler and I had four payoffs. About a wash in cash. I had a few payments. It was a quiet day. I had a guy I did a loan for back in 2002 call me. He has lost 1/2 dozen homes since then now he's ready to go!

8-5

I funded four deals for Scott had 6 or so payoff. I had a few payments. I ran over to a Starbucks to meet an old dead beat Jason Andrade. I lost 100k lending to him. Now he wants to become a hard money lender! What an idiot. I guess since he's done it he knows how it all works! I've got some other deals coming up now, so I'm getting more cash out.

8-6

I funded Scott's deals and two others. I had one AFG pay off today. We talked about me paying off more of the AFG's loans so that we lessen the number of loans in the second position. Even if I have in a bad LTV it's better to remove those. We can hack down the list and keep this thing going in the right direction, plus I can make some interest because he will be paying me not Greg. I will think more about it, but right now I think it's the right thing to do. I had one other payoff come in besides Scott's. I only had one payment. We are going to have a busy next two days.

8-7

I sent the wires out, but for some reasons they didn't arrive until after 10. Today I set up all the wires tonight, see when they go out tomorrow. I had more payoffs than I did deals going out. I talked to Scott about my idea of how to handle this. We are going to pay off AFG deals as the balance goes down so that I stay about the same amount of money and we can knock them off. We'll do seven next week, plus we have 3 closing, so that will be ten less. Then we'll just keep going week by week, perhaps we'll have all of AFG done by year end. That's probably optimistic but it's possible.

8-8

Didn't have as many closes as I had planned, which is fine, I nearly have 4 million in the bank. I funded four for Scott and one for Flip. I ended up giving Andrew money on Hazelwood. I had still had ten payoffs. Scott's balance went down, but the AFG's didn't. We have 7 of those going next week. Greg is giving him grief about paying so many loans off because he's got too much cash.

All the hard money lenders do. I like sticking it to him. I had a few payments not many. I'm low on interest income this month. I should make a big catch up next week.

8-11

I funded four scott deals, one AFG overage and then I paid Gregg off on the smallest loan. He was pissed, called Scott got all upset about strengthening my position and wanting to hurt me etc. we'll just keep paying him off. we are down to 67 loans. We'll be near 50 in a month. I had a eight payoffs. I've got over 4 million in cash now. Mike and Rob stopped by for a state of the nation talk. I always enjoy talking to them. They are building up cash now too. I had a few payments. I just need to keep getting Gregg paid off and then hopefully Scott can keep making payments.

8-12

I funded four scott deals then the payoffs started rolling in. I had 8 payoffs from Shawn, I had five from Scott and I had two others. I had a few payments too. I'm now up to 4.5 million. I paid off another AFG loan today. Just keep chipping away

8-13

I funded four for Scott and paid off another 2nd on AFG's. if I hadn't done that Scott's balance would be at 37.5 that's ok, it's more important to get rid of these seconds. I had a lot of payoff today and lot of payments. Lili wants a payoff for her 600k condo, I'll be over 5 million in my acct by Friday.

8-14

It was a super quiet day. I funded four for Scott gave Minh some money and then paid off another AFG deal. I had four payoffs today. What was going to be a super busy Friday is going to be a sleeper tomorrow, everything got pushed. I had a lot of payments though. I'm now over 5.5 million

8-15

I funded five deals for scott, paid off another overage on one of the AFG deals. We should have like 10 of these payoff by month end. I had a lot of payoffs today. A few didn't close which was fine, since I have so much cash. I had few payments come in too. It was a real quiet day.

8-18

I funded four deals for scott, I had four deals pay off, plus he paid me 30k interest, then chris hugues had two payoff. I'm nearly to 6 million in cash right now. I had a few payments too. Wade calls me, there is a 250k lien on the property that I took back from Roger. Great that's what I need on top of everything else.

8-19

I funded four deals, I had to wire in 200k for a AFG overage. I had five payoff. With the money that I'm sending to payoff the 2nd's on the older AFG's, we are still keeping the balance good. I have a lot coming in tomorrow so we'll pay off another one. we are now at 59, down from 183. By the end of September we'll be in the 40's. Wade called me back there is no lien on the land, so we can sell it no problem.

8-20

I funded five deals , plus a to AFG deal to get the money back on. Theyheld the wire for a few hours, finally released it so now I won't get it back until tomorrow. I had three payments for over 10k. I had seven payoffs. Tomorrow I could have over 2.5 million in payoffs, maybe three million. Lili's last apartment deal is closing tomorrow, it's 1.75. I got an offer on the land , I'll lose 30k if they take it.

8-21

I funded four deals and we had two more AFG's payoff. We should have as many as three more tomorrow. I'm not over 6 million. Lili's deal got put off a day. I had a few payments. It was a quiet day. I picked up three more loans from other borrowers, that's a good sign.

8-22

I funded five deals for Scott, one deal for another, then paid off an AFG Gregg is taking his time getting the releases but it's not going to slow down the payoffs. I'll just keep them coming. I had a lot of payoffs. Lili's deal paid off, all of her big apartment deals are now paid off. I have 7.7 millin cash. I had a few payments too. I talked to her, she's looking for some deals right now. I hope she gets some to take up some cash other wise I'm going to start returning some money

8-25

I funded five deals, I had six pay off. I've got one out side of scott's to fund tomorrow He had a slow weekend. We are getting our total properties in escrow down quite a bit. Need to get more sold soon. I got end of month done over the weekend, so at least that's ready to hit my acct tomorrow and it better go out this month!

8-26

I funded one deal for Maribel, five for scott and paid off aonther AFG. I had six payoff, all scott's. I had a few payments. Not all the Easy deals closed today, we have a lot of retail and AFG's closing this week. all the money went out of my acct today for payments. I had lunch with Glen, he's thinking of quit working and living off me. Just another added pressure to make this whole thing work out.

8-27

I had just three to fund for Scott. I had a lot of payoffs though. With all the deals that I'm paying off on AFG, we are maintaining the balance at about 38 million. I'm going to pay another one off tomorrow. I had to talk to IRS today about a borrower, he was fishing for crap, I played dumb. I had a few payments. Scott made payment of 25k. we will have a busy next two days

8-28

I funded six deals for scott, paid off an AFG, Chris Hughes had a deal for me. I had 9 payoffs. One for 650k on two houses from Gary. I wasn't expecting it. he moved in to one, so technically it's his primary so I told him he needed to pay me off. he then paid me off on both loans. I'm not sitting with 8 million in cash. I had a few payments. I decided to pay another one off on AFG list tomorrow too. I'll have a lot closing tomorrow.

8-29

Super busy day. I funded seven deals. Brian my neighbor sold his son's house to Scott, I arranged the whole thing, money, docs etc. got it all done in a matter of mins. Scott had a few payoff and I had a one off her. I had some payments made too. I had a profitable month again. the weekend is going to be really slow. It's a holiday. We've had so many closings, our total number of properties in escrow has fallen from 30 plus to just above 20. Hopefully in September it will pick up and we can get more paid off. I'm holding at 7.7 million right now. I'll go another month, then I'm going to start returning funds. I talked to lili she's back in the country, telling me not to give back the money. I'll give her some time, then I'm going to have too.

9-2

I funded six deals for scott, I had to cover an overage on AFG deal, but it closed. Plus another retail closed. Two more old ones off the books. I had five others that closed too. I had a few payments. Chris bought one for tomorrow. I had a few people inquire about money too. Scott bought nearly 2 million today. We've got a lot closing tomorrow, mostly wholesale. We are down to 50 loans with AFG. By the end of the month I hope to be in the 30's.

9-3

I funded 7 deals for scott and one for Flip. I had seven payoffs too. We can't get Gregg to give us releases. He's slowing down our plan. I have a new borrower, I didn't get rave reviews from everyone on him, so I'm being careful. I had a few payments made today which is good.

9-4

I funded seven deals for Scott and three others, I've got another one to do tomorrow and one Monday. I'm finally getting some money out with others than just scott. I had to return 150k to Kirk too, didn't hurt my feelings! I had a new borrower, came in and talked up a storm, proof is in the pudding. I had a few payoffs, best scott sent me 100k to pay down the line.

9-5

I funded five deals for Scott and one deal for a regular borrower and one overage. I got paid off on seven deals, Scott's balance continues to go down even with me funding overages and paying off AFG's. We need to get some more releases, promised three today, only got one. Next week we are going to hopefully payoff another 5 loans. I had a few payments too

9-8

I was slow to start the day because of the massive rain storm we had. I funded four for Scott one for Blue Capital, then another and then one for Bennett and then one for a new guy. Which he had to come to my office, I had to get a check, sign docs, then he was too late to the trustee's office. The guys seem to be a bit of a fuck up, we'll see if I made a mistake working with him. I had a few payments. I've only got three deals to do tomorrow. I'm beating my cash down a bit now

9-9

I had prepped everything from last night, so I could be gone all morning. I got back at 11:30 and worked like mad catching up. Scott only bought 3, plus I had an overage, and then Christmas bought two. I had five payoffs and a few payments. This damn Gary O'Neill guy is a nightmare. He didn't show up last night to pay the trustee, then was supposed to be there at 8, never showed. I went at 9 to call the check and he finally called me at 9:30 saying he dropped it off. He tells me one thing and does another three times on the phone. Doesn't get his insurance. I called his agent she said he would get back to her, I called him and he said no I told her to do it, he's lying again. I got them on the phone and made him pay for it. I know I'll be foreclosing on him. I had a feeling when I first spoke to him. Trust your gut stupid!

9-10

I funded five for Scott and gave Lili 650k. I hope she needs the money permanently right now it's for 3 days. I had six payoffs. I had a few payments too. Scott thinks that Gregg's owes him 500k, if he's right, that's a few more deals where we can rid him on the second. I got 1/2 my months renewals done today too.

9-11

I funded three deals, paid off another AFG deal. Then Scott called and found an accounting error with AFG and Gregg owes him about 650k! He called Gregg, after a few phone calls, Gregg admitted Scott was right. That's going to allow us to clear out a few more loans. I had 2 more payoffs other than Scott's four deals. He paid me 50k of interest and principle on his work out loan too.

9-12

I had prepped everything last night to be gone today. When I got back, I had eight payoffs and 20k payment from Easy. I funded three and one overage. I had a one payment. Monday should

be intereting with scott and Gregg. We should knock off a few more loans. We are down to 47 now. The work out balance is up to 7 million. But he's making regular payments to me. We knock off some more loans next week, we'll be knocking down the interest substantially

9-15

I funded five for Scott and one for Christmas. I had four payoff. I had a lot of payments over the weekend and today. Scott spent 6 hours with Gregg. He finally agreed to giving us a release for 635k and I could wire him 550 plus k , so we drop the balance by 1 2 million tomorrow of 2nds, and 9 loans. We have another 5 that should close this month. We'll be under 30 loans by month end. Scott was back and forth several times with me checking properties and amounts. Gregg was trying to give him releases for properties that were already paid off my only problem is that scott kept saying hey I came to you a year and half ago, when it was just in Novemeber. I think he knew aobut this longer than he's telling me. I just know that we are continuing to get it closer to being resolved.

9-16

I was super busy today. I wired Scott 2 million plus for his deals and the AFG's. they got us only 4 releases, but at least some came in. 6 more releases to go. We'll be in the 30's when this is done hopefully this week. I had some payments and a few payoffs. Scott bought a few big ones for tomorrow. Getting more of these loans done with AFG makes me feel so much better Scott found another error of 60k, so I'm going to send over another 40k and pay off another one!

9-17

I funded a few for Scott one for Roger, and then later one for Mike Moore. First time in a long time for mike. I had a lot of payoffs today. All but one from Scott. I had a few payments too I didn't get any releases from AFG yet, still have an hour.

9-18

It was a super quiet day, I spent ½ of it at the school. I funded three deals for scott, Kirk wanted 200k back, little by little lowering my total. We got in 4 more releases today. Two more to go and then we can payoff another one since scott over paid 60k to them. We are down to 40 loans, three more will be done tmrorrow, 37, down from 50 a month ago. We only have 4 in escrow, need to get more. I had five payoffs and only a few payments.

9-19

I funded some scott deals and I had a few of his payoff, two of which were the old ones. I had one deal from Henry. I've got just a ton of cash, over 6 million. i had a real quiet day. this deal with Gary O'Neil is going to be a nightmare. He's got it vested in his defaulted LLC. I talked to him, he's going to take care of it, how many times do I need to call him to get it done is another thing.

9-22

I funded five deals for Scott, three paid off, and one from Shawn's. I had a few payments. I did get Gary to come by and sign new docs for his property with the change in vesting he did on me. I really think this guy is shifty. I funded one deal for Christmas and one for Bennett. I have another one to do for Barry tomorrow. We got one more release from AFG, one more to go, then start working on the 60k extra he has.

9-23

I funded five deals for scott and one overage for AFG. I had seven payoffs. We got the releases we wanted, so now we are going to send over and another 30k and get another release for the 60k overage that scott sent over because he thought the loan was 360k and it was only 300k. that will bring us down to just 35 loans, with 4 in escrow. I'm going to pay off another 5 next week. we should be in the 20's by the end of the month. I had a few payments too. I was able to fund a deal for Chris too.

9-24

I funded 8 deals, some other than just scott's. I had only two payoffs which was fine. I've got some more deals to fund tomorrow. The number of properties that scott has under contract is falling fast, hopefully things pick up. We have another one to pay off tomorrow and we are down to 36 AFG's. now we just need to sell that damn homes. I had a few payments in too. I met with an insurance gal. I like her, but not sure I can send a lot of business her way. I talked to Brian, I might have my first insurance check on Friday with quotes from him.

9-25

All the payments went out smoothly. I funded four deals, and one overage for AFG. They are taking the next two days off, so we won't get a release until next week. I had six payoffs and quite a few payments. I have a few deals to fund tomorrow. We have more AFG deals closing between now nad end of month, but we only have 3 total in escrow. We need more. He's lowered prices and hope to see some activity this weekend.

9-26

I funded six deals, mostly scott's. Kirk wanted 250k back from me. He's dieing in some penny stocks. I had a lot of payoffs, nine payoffs. Not all scott's. scott did send me another 30k to pay down the line. We got rid of another AFG loan too. I only had one payment and no sure who it is.

9-29

I funded six loans, I had seven payoff, plus scott sent me 25k. I had a few other paymments. I've got a few deals to fund this week, see if they come through. I had a lot of payoffs today. I only

had one payment rejected, I just went to the branch and did it instead. I'll do the statements tonight and end of month will be complete.

9-30

All the payments hit and statements went out. I funded four for Scott to for Christmas and I had four payoff. I finished the month about 250k positive. It won't be as good the next few months, scott hardly has anything closing which is where I get big hits of interest.

10-1

The quiet after the storm. I funded four deals and I had five payoff. I had a lot of payments. John ray keeps calling saying he's got a guy to buy the property that his partner has never paid me interest for. I got a call on the tempe land. The west side land is going to close this week. my tenants from hell have finally left the house in mesa. We'll get that one cleaned up now and hopefully sold quickly.

10-2

I was really busy all day. I tried to do everything for tomorrow too. I funded four deals, then 3 more later in the day, one overage. I had eight payoffs. I had a few payments too. Everything is ready to go for tomorrow. Now I'll prep for being gone plus do some renewals.

10-3

I had stayed up late at night and got so much done, I hardly had to do anything in the morning. I had a few calls during the day, I had the planned payoffs from scott and the land closed, so I got rid of that one for 50k loss or more. I had a lot of payments too.

10-6

It was a slow day. I was able to take care of everything while I was trying to keep the boys entertained and seeing people. I had four to fund, I had four payoff, not sure who one of them is. I didn't have any payments. Tomorrow will be a busier day.

10-7

I was able to get everything done during the morning. I funded a few deals for scott. Then cyler needed one. I was able to do everything I needed to do for everyone, but I'm way behind on closing loans and returning some emails. I stayed up until midnight and catching up.

10-8

I was in my office for 12 hours today, inbetween kid interruption. I nearly have all caught up, by noon tomorrow I will be caught up completely. I had six to fund and I had nine payoff. I had a few payments too. Still fighting with the insurance co to release the funds to me. Scott got a few

6
more under contract so that's good. I hope to get more diversity in borrowers at some point. Scott still has 80% of my money.

10-9

I funded four deals, I had three payoff, a few payments. I was able to catch up on all the stuff I had been behind since we got back. I've got two more deals to fund later. I need more.

10-10

I funded five deals, I had six deals payoff, plus Scott paid me 50k. I had a few payments too. I have a new deal to do next week. Scott got a few more properties under contract, his PV house is listed, he's getting lots of calls, hopefully we can get some more properties sold.

10-14

Even though it was the first day back from a holiday it wasn't too bad. I funded six deals, I had six deals payoff. I had a lot of payments deposited. I've got a lot of deals to fund tomorrow. Brian stopped by and picked up a notarized doc for the fire insurance. He says he'll have the check tomorrow. This isn't going to be as good as I hoped for. But at least we are at this point. I can get the ball rolling.

10-15

6
I funded five for Scott, two for Christmas and one for Shawn. I had 11 payoffs, took me a while to close all the files. I only had a few payments. I've got one deal cooking for 600k, but it's jace, I have no confidence in him. I'll probably blow him off unless he comes through in flying colors.

10-16

I funded four deals for Scott, Christmas paid me off on one he bought yesterday and then I had two others from Scott. I had a few payments. It was quiet day. I did have a lot of payoff requests, which I really don't want!

10-17

I funded five for Scott and I had one large one from Scott pay off, 1.4 million plus two others. He wired me 60k for work out and I finally got my insurance check for the house fire. He didn't arrive here with the quote for the work I should have that Monday. I've got another one already which I rather go with but this asbestos issue just won't die. We'll see on Monday what will be the direction.

10-20

I funded five, I had payoffs for seven. The best thing is that I had two payoffs from old loans of Scott's. I had a few payments in too. I have the insurance guy bringing the construction guy

tomorrow, I need to make a decision on that. My one foreclosure is going at auction Friday, the numbers don't look good. I'm not sure what I'm going to do. Scott is going to take a look at it too.

10-21

I funded one for Bennett and five for Scott. I had four payoff. Later in the morning I funded one for Cyler. I had Brian the fire guy come with the builder, to talk about the fire house. We went over the numbers, what a mess. I made him re-do it, and we straightened it out. It's about 6-8k more than the other guys, but I get more for it. I'll use his dude and use Scott's on this Marshall house I'm getting back on Friday. I had one lousy payment.

10-22

I funded some deals for Christmas and Scott. I had three payoffs and a few payments. I met with the construction guy Harold, gave him a check, signed a contract, and I expect it to be done by xmas. I sure hope he makes. I talked to Scott about the house on Marshall, it looks like it's going to take 140k to make it right. We'll see what the final numbers are, but I'm not shocked. He left me a shell. Like I need another project to work on.

10-23

I funded Scott's five deals and one for Chris. I had a few payoffs and lots of payments. I talked to the bank again, Bill and Yulanda, they didn't like my transaction volume again. It was 30 min conversation of bullshit. I talked to Scott and we are going to change how we do it, we are just going to balance at the end of the day and wire each other, 50k or 200k or whatever. No more 1 million dollar wires. See if that gets them off my back.

10-24

After having a sleepless night thinking about things, I slept last night, I still come to the right conclusion, I'm doing the right thing. We had another payoff on an AFG today. The problem is we only have one more in escrow. He did get four accepted contracts today, so that helps get rid of some old loans. I wired him the last million dollar wire. Now we are just going to do accounting at the end of the day, and then wire each other the difference. Today he wired me 73k and change. I hope I can reconcile now. I left a message for the Bill the banker, but no response. I postponed the auction until Monday for the 400k house on Marshall. I had a few calls on it, the next door neighbor, wants to buy it for 365k from me. I had no other guy call after I dropped the bid. I'm going to bid it, so see I can't get the max dollars on Monday. I just don't want another project, it will take 200k to do the house right. Then I went to my mom's meeting. I used to enjoy these and look forward to them. Now I'm concerned one of my investors, Stan was the only one that showed, is going to do some math and figure I need more borrowers. We only had 10 show up today. It's getting embarrassing. John Ray came by, paid me off on one house, or at least the interest and I changed the loan to a guy in CA that's hopefully going to perform. I met his partner, a mute. I'll finish end of month this weekend.

10-27

Scott was sick but still went to the auction, we sold it at 373k, 8k more than the other guy was offering me, and he didn't even bid on it? I don't get it, but it's gone now. I should get my money by Friday. I called the BofA dork Bill, never returned my call. What an asshole. Scott closed 4 loans and bought 6 more. He sent me 250k, I'm sure tomorrow I'll have to send him some money. I have end of month all done except the statements. I had a few payments. Other than that it was slow day

10-28

I funded in kind 6 deals for Scott, he paid me off on 3. I had to send him 250k or so. Shawn had 8 payoffs today, they totaled 300k is all. I had a few payments. I really hate the way we are doing this, but it makes sense, we balance to penny and wire each other the money. I just hope I can reconcile my bank acct this weekend. I funded one new deal for Chris too

10-29

I had super busy day, I funded three for Scott one for Dustin, returned 300k to Kirk. Then I had 13 payoffs coming. I had a few payments too. I've got so much cash! Scott has a few more properties under contract so we are moving the list up north of 15 again. I hope to get it up to 25.

10-30

I funded five deals for Scott, I've got one for tomorrow for someone else. I have four payoffs and I had one old one payoff. I had a few payments too. I talked to Lili, she's having problems buying anything. She wanted to make sure that I have money. Should be a busy tomorrow.

10-31

I funded four deals for Scott and one for a new guy. Then later one for Christmas, which he later told me not until Monday, too late, I wired it already. I had a few payments and I had three payoffs. Plus Scott paid me 75k against the work out. It was a quiet day.

11-3

I funded one for Christmas, that I thought I sent Friday, but he wanted it Monday and the acct I wired it to was closed, so it worked out just fine. I funded four for Scott and I had six payoffs. Only a few payments. My cash is now approaching 6 million.

11-4

I funded five for Scott and one for Christmas. I had 7 payoffs, one big one for 600k from Kyle. I was sorry to see that come in. I had a few payments. I'm just really contemplating paying off more of AFG's. I talked to Scott today, he's got a plan to sell 20 of his properties to Canadian. We have 20 under contract now. He's trying to create enough cash to pay off some of AFG's

himself By end of January we could be done with AFG and only have 50 or so properties to sell. By then I'll have to return some funds if I can't put the money to work.

11-5

I had six deals for Scott and one for one of John's clients, Donald. I had a lot of payoffs today, I had nine. I'm just building cash. Scott thinks he can have a million of retail sold by year end. He already has 75% of all my money. We have to get it down. I had a few payments. I've got another 600k deal on my desk, from Chris which is great.

11-6

My worst fears came true with Bank of America today. They cancelled my credit card last night, I found out this morning after dozens of phone calls that they are requesting I close my account in 30 days. I talked to Bill he wouldn't give me an answer, just a business decision. I'm shopping for banks now. Jason Podany's wife works at a local bank so I'll meet with them next week. I funded five deals for Scott, one for RPIM, I had four payoffs, then funded one for Don. I've prepared for tomorrow so I can be gone. I'm sure something will come up.

11-7

I was able to make sure everything was ready to go for the day. I had all the docs done, wires were set, and Scott ended up wiring me back. I had a few phone calls that I could take care of or managed to take care of after I got settled. I'm stressing about finding a bank.

11-10

I had a big day for payoffs not only from Scott but others. I worked like mad all day trying to catch up. I worked in to the night doing it too. By day's end I was done. I had a few payments, I have no one past due right now. I just need to get this last John Filipian loan rid of. Wednesday I work on getting a bank. Jason's wife works at one that might take me.

11-11

It was veterans day, I just did some paperwork and caught up on things. I spent most of the time wondering what I was going to do about this banking issue.

11-12

I talked to Ashley, her bank didn't say no, but they weren't really excited. Scott talked to Chase, they first said yes, then corp came back and said no. I talked to two other banks, First bank and Midfirst bank. Scott doesn't want me to go to first bank because that's where Eric banks at, he's paranoid that the contact will share the info with him about my account and Eric will try to do something against Scott. I don't know if this is real or paranoid but I have to respect it. I funded a few deals for Scott and had one payment and besides his wholesale deals, eh had a retail close

and Chrsitmas sent me money 105k but I 'm not sure what it's for. I can't belive a bank like Chase would just tell me no we don't want your business.

11-13

I couldn't sleep again last night. I talked to two of the banks via email, they wanted copies of check, I sent them that. Both said they would get back to me today, they didn't. I called midfirst bank and I talked to the gal, spent 20 more mins explaining my business, and operation. She was nice but seemed to want to get off the phone. She said it was in their bank compliance department. The money that scott bought and closed was within \$53.90 so no wires today. I didn't even have a payment. I have to wait another rday, the gal said she would get back to me tomorrow.

11-14

I waited all day to hear from the banks. Finally at 2pm Midfirst called, they turned me down. I called first bank and they said yes, but they want 2 yrs tax returns, 2 yrs p/l/s balance sheets all sorts of stuff. I put a call in to Wells Fargo guy I know that I've lent money to he's running it up the flag pole I should know Monday. I had a few payoffs other than scotts too. I've got a stack of deals on my desk going no where. I got in a ton of payments today. But I'm just worried sick about this whole bank change over. I quizzed the guy for a quite a bit about restrictions and issues he kept saying no problem. at this point I don't believe any banker. I'm going to spend my weekend putting together everything for him

11-17

I spent Saturday night putting everything together for the bank, a ton of mfo. she and I exchanged email off and on all morning on things. I guess I head in to morrow. She never got back to me today like she said she would. I funded 6 deals for scoot and one for chris. I had onlypayoffs from scott. I had a lot of payments over the weekend and today. I just hope I can open this account tmorrow and get bofa closed on my own terms.

11-18

It was a quiet morning until I went to the bank. I spent several hours there getting everything set up. I wired in 2 million for the biz acct and I might be able to wire tomorrow. I talked to the gal at 6pm tonight getting someo f it done, I am hopefull for tomorrow. Scott's concern about the relationship with the bank and eric is over blown. The guy only knows eric on a professional level and hasn't spoken to him since the email that he sent him. Though scott saw eric last night and he said ohya, denny isopening an acct with first bank. So scott was worried they would communicate about our relationship and transactions. I don't think it's a concern. If I can get wires up tomorrow and ach by Friday, I'm good to go and off and running. I worked unitl 1 am, and I'm dead tired and not close to catching up.

11-19

Scott had a ton of deals to fund, 7 of them, plus a buyer of his came to me. I had a ton of payoffs today, 12 in all. My portfolio is down to 52 million. I deposited two checks to my account at first bank, found out I can't see them until tomorrow. I have people depositing money and I get a day delay on it. the guy called me and I was able to get set up on wires. I set some up for tomorrow. Now if I can get each set up tomorrow I'll be golden. Then I go close my accounts on Friday. I'm finally all caught up.

11-20

I had everything taken care of this morning so I left for school and the guy from the bank called to talk about ACH's. I came home and we went over it, it's simple. Then he said I could upload the info. It took about as long as it would if I would have typed it. but after a few tries and an 2 hours off and on, we got it all loaded. I'll do end of month this weekend. I had a ton of payoffs today, 2 from others and 7 from Scott. I funded a lot too. I have a bunch of checks come in for payments. I'll take them to the bank. I moved nearly all my money over to the new bank. Tomorrow I go in to close my account. I got everything caught up. There are few quirky things with this bank I have to work through.

11-21

I started work early hoping to get on top of everything with the banks. I went to First bank and deposited some checks, went to BofA to go over the plan to close it. the bitch assit manager said what I planned to do was right. I moved all the money out and wired it to first bank. I thought I had it all done and then I got a late wire in for 600k. now I have to try to get it out tomorrow! I went round and round with the bank pres wanting me to disclose the entire portfolio and my investor list. I said no, and stood firm. He thinks he needs it to go to the loan committee I don't. I'll figure out if I am going to go through with it or not. I had nearly 2 million in payoffs today. I have 10 million dollars sitting in cash now. I've got to get money out and to other people than Scott or return the money!

11-23

I did end of month all day. I worked from 7 am to 5pm, which only an hour break. I couldn't get the accts to reconcile, one was up one was down, after I factored in 3/4rds of the month of November. I think I was off less than \$1000 it wasn't worth spending more hours on it. now everything is going through First Bank. I loaded all the ACH's, I have a small prob, the tech guy will figure it out tomorrow.

11-24

It was a busy day in and out. I was able to fund three deals that were not Scott's but I had two more than Scott's payoff. I had a lot of checks in the mail because no one wants to find the First Bank branch, I don't blame them. I talked to the bank about the ACH's that didn't go out. They've got a much superior system than BofA's. they go out of my account the day they are supposed to! Not three business days in advance bullshit. I hope it works smoothly. I'm nearly at 10 million dollars in cash. I have a few deals on my desk, so I hope they start rolling out. Scott

6
got about 5 more deals in escrow to close before year end. We'll have the list down more than I thought we would a few weeks ago. If the spring is strong we can get nearly all the houses sold. Then just have the work out to finish. At that point it could be 10 million dollars I think that is better than being in 2nd position and no interest coming in. Scott has religiously paid me every week for 8 months.

11-25

What I fucking nightmare. I do my daily stuff, I just happen to look in my bofa acct to make sure nothing is happening. These assholes reversed out my cashier's check erased it from the system. I called and emailed everyone. I go to the branch nothing they can do. Then I get an email back from my banker's boss and he says sorry, the acct is closed. I sent him the letter stating that I have until the end of the month. He finally responds back saying that I'm right they are wrong and now he's trying to figure out what is going to happen to the 650k check. I fear it's going to bounce. The stress level I have over all of this is through the roof!

11-26

6
I was up from 1 am until I saw the check had cleared. I slept about 2 hours until the boys came in my room to watch the profit. I was busy in the morning. Scott only bought two properties and had one wholesale deal payoff. But he had three retail deals payoff, so that was great. I had a few payments. I worked on getting the scanner deposit but my scanner isn't compatible so they are going to send me one. I've got a few deals to do Friday and next week. a good sized one, 500k for a 18 unit complex. Over the holiday I'll try to get the statements done so that I can send them Friday.

11-28

I did the statements and sent them out. I never heard from anyone, so I guess all the ACH hit correctly. I had one deal to fund, the guy came here and we signed docs wired money to Frank and we'll record Monday. I had a check come in. I made 20k this month. I should have a better month in December since we have so many of Scott's retail properties closing.

12-1

Scott and I returned to doing wires, his arrived after 3 hours, so did mine. The only thing I miss about bofa. He bought a lot for tomorrow, I funded a 500k deal for John Filipian now he better get me out of this damn loan with Haig. I had a few payments and I picked up another deal for later in the week. I got my check depositing machine, works slick, now I'm ready for all these checks that I've been driving to the damn bank! I cut out the HVAC guy and I'm having Phillip do it, he's 50% cheaper than the guy Brian sent me. They are finally getting the house started this week.

12-2

I funded 1.5 million for scott. I had one other deal I funded, I picked up two more deals to fund next few days. I had a lot of payoffs, scott sent me 6, I had one other too. I had a few payments. I'm having everyone mail me checks now, because the bank dings me \$1 a deposit. I was able to get nearly everything done in my aloted time. nice not having all these bank issues hanging over me.

12-3

I funded 1.2 million for scott, I got a payoff on one of the old loans, I had to put up 40k to get back 170k, but that's ok. Scott paid me 75k in interest too. I had a few other payoffs too. I ended up with more cash today, but I've got a lot going out the next day or two. I had a bunch of payments too. I used the check deposit machine five or six times today and two of the checks were 6 figure so I liked that machine.

12-4

I funded about 2 million for scott, the 600k deal he's already got sold, for closing next week. he paid me off on 1.2 milion I had a lot of payments. I funded one deal for Maribel and I have two more to fund next few days from today. It's slowly picking up. But I'll still have a ton of cash. Tom doesn't hink he'll need his 1.7 million either. Never wanted to be give money back so gladly!

12-5

I funded a few deals for scott and he paid me off on about the same. I have another deal lined up for next week. I had my mom's meeting. Though the attendance is falling dramtically. It still went quite well. I was busy in the afternoon catching up and tonight getting everyting done. Scotts balance is way up. We've still got a lot of stuff closing this month, he's still getting properties under contract to sell, so that's a positive. I think come end of decmenber we'll be under 38 million.

12-8

I funded 1.2 or so for Scott, I had two other deals to fund. I picked up another deal to fund this week or next. All my payoffs were scott. I only had one payment. I've had a quiet day, done by 2:30 I keep hoping for more deals towards the end of the year.

12-9

It was a quiet day. I funded scott's six deals nad one other. He paid me off on four and I had one other payoff. The 34th drive house is finally moving, roof is on, a/c is 80% done. Nowthey have the inside to make pretty again. might be closed in 3 weeks if the buyer doesn't do something stupid between now and then!

12-10

I had a quiet day but busy I had three to fund for scott, and two others. I had six payoff of scott's and 4 others. I had one payment. From Gary O'Neil, always late and always a problem. I gave last chance to this idiot in CA through John Filipian to make the property right, neither responded, so I'll just foreclose. There is money in it. Damn yahoo email isn't working right nad I can't get shit done this afternoon.

12-11

Because I spent the morning at the school, I was super busy when I got back. I funded three deal for scott and one for another. I had 12 payoffs. I had a few payments too. I did a deal through moises again, we'll see if these people pay and payoff as well as they show up to do the loan!. I'm back up to nearly 9 million in cash. I have had a rash of payoffs from other investors.

12-12

I went to the bank to get a check and then went to Dave's office to go over taxes, I can't believe how much I pay in taxes! Over 300k for this year, and I can't find anything else to lower them! I had no other payoffs except Scott's and I only had one other deal to fund besides scott's. I had some payments too. Then I had my 4pm call at 2pm, two trailer houses on some acreage up in black canyon that you can gold mine on.

12-15

I funded seven deals for scott and I had four payoff, plus 2 others and a few payments. it was a quiet day, but Lili called and has a 2.7 million deal for next week or maybe 26th. Yea! I can put some money out finally.

12-16

I funded seven deals for scott and he paid me off on two. I had one more payoff from Osman. I had no payments that showed up today, I might see them tomorrow. I have two new deals to fund tomorrow plus 100k down on Lili's deal. I hope it closes early.

12-17

Besides the seven deals for scott I ended up doing three more for others. I have three for scott tomorrow and two others. I like getting more money out to others! I only had payoffs from scott. I have payments in the mailbox I'll have to go get it. it was a really busy day getting docs out and chasing insurance for these new borrowers.

12-18

I funded three for scott and two others for other folk. Scott paid me off on 5 plus one old one. I should have three more old ones close tomorrow too. Knocking down these old ones slowly but surely and hopefully no money out of my pocket to do it. the best payoff tonight was Gary O'Niell, he came to the house at nearly 7pm, but he brought me a cashiers check and I had to just

cut him off from talking to and telling me stories. I thought for sure I would own that one! I can't get John to get Haig to sign the deed in lieu I need that because they won't let me foreclose him.

12-19

I funded three for scott and one for Flip. I had several payoffs I had another old one payoff, scott covered the overage, yesterday and today! Plus he sent me 40k. I had another payoff on another one too I get an email from the pension strategy people telling me they can't help me with the possible conflict, contact a lawyer. It just pissed me off. I did what dave said, I did what they said and now they are telling me I'm in jeporady of being in trouble with the IRS. I'm going to move my DB to a CD and then close my 401k.

12-22

It was a busy day, but good day at that. I got one more old loan paid off, but I nearly had to send as much money to title to get it back. That's going to get worse as we get to the last of these loans. I had a bunch of payments come in so that was good. I had finished 80% of end of month yesterday and all of end of year, so that's done. Just need to write the newsletter and do the statements, which shouldn't be hard. I funded six for scott and one for Chris, I had three come in from scott and that old loan payoff. I've got a few more deals to fund this week, we'll see if they come to gether. Now that I'm pulling my DB and 401k out, plus tom emailed me for 1.8 million, my cash problem is fixed.

12-23

It was a quiet day. I had four to fund for scott and one for newbie. I had two payoffs from scott and that was it. I was supposed to have 3 others, I guess they'll come in tomorrow. I had one payment. I'm still riding John's ass about getting the docs signed for this problem property of his. I have to get him to sign them because I can't foreclose on his ass. If he gives me the property back I can sell it. I got the paperwork done to move the 1.8 out of my DenSco and in to a CD. That should be done tomorrow.

12-24

I was way busier than I thought I would be today. Tom emailed me wanted 1.6 million wired in. after I took out my DB money and now Lili wants to close 2.6 million on Friday, I'm out! I have to move out my 401k too! Scott only bought two today, but I only had one payoff. I had three other payoffs come in. I talked to brian and he gave me a million. then tom emailed me tonight saying he doesn't need the money! How fucking crazy. I finished end of month too. Just do statements and I'm done.

12-26

I had a really slow day. I funded two for scott. I had one payoff for miller and Minh came by to sign docs for a wire on Monday. Lili's deal didn't close, it will now be Monday. I will finish end of month tomorrow.

12-29

I got all my wires off. I had 2.6 for Lili's deal and two for Scott. I had a ton of payoffs, 1.9 million worth, plus I had a few others. He also sent 30k of interest on the line. I was able to take all the phone calls and emails while I was boarding. I worked for 4 hours at night to catch up with everything.

12-30

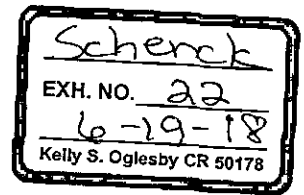
I didn't leave for the ski mountain straight away, so I was able to get all the wires out I needed too. Lili called me saying I need to allow Terry-Ann to wire it to CA for a double close and let them close with my money then they will return it with a deed. I talked to terry-ann and I said no way. Lili was pissed, but there was no way I could do that. Terry-ann will return my money and they'll work on a 10 day extension. The guy selling it to her, couldn't close on his end. Then Tom sent me back nearly 600k, and I'm supposed to wire back 369k, he's trying to make a paper trail of some kind. It's not coming together like he wanted. I had a few payments and Bartlett closed too. That was the deal we bought from Brian my neighbor, he hardly made any money on it.

12-31

Scott had 6 deals to fund. I had three payoff. Plus getting 2.6 million back on Lili's. I never heard from her, I'm sure she's mad at me. It was still a busy day! I had LSR requests, doc requests, payoff requests. I accepted a contract on the last house I own too! It's a quarter to 10 and I'm done! Made 1.37 million. I will have a hell of a tax bill. I also wired out my 401k and closed it down. I hope this next year, we get scott's issue completely done and then I can downsize the business.

EXHIBIT D

Exhibit No. 136



2015

Goals

- Get Scott down to 5 million and only wholesale
 - Not even close, 28million
- Stay in business
 - So far
- Be profitable
 - Yes, but not really sure it counts
- Get the total portfolio down to 50 million or less
 - Its down to less than 50 million of investor money

1-2

I funded three for Scott, two overages, and then I was supposed to have three retails payoff. I only had one. I hadn't updated the bank info for the two of the payoffs, so they rejected the wires. I'll get them Monday. I had two calls from borrowers from long ago looking for deals. I was basically done by noon. I'll be busy all weekend catching up!

1-5

I funded one deal for Flint and four for Scott. I had 3.3 million in payoffs combo of Scott's wholesale, two retail and two other payoffs from other borrowers. I had a ton of payments. I got the mail; I think I deposited 10 checks. I went to the bank and got all the notaries done. It's spring time, it's time for the deals to start rolling in, and I hope Scott can get the rest of these under contract in the next 90 days! I was super busy getting everything done. I worked 12 hours yesterday which made all the difference in getting caught up. Scott has 58 homes to sell. We do that then we are done with retail, and can concentrate on just paying down the balance.

1-6

I was all caught up going in today. I had a busy day with Scott's stuff, seven deals to fund and nine deals closed. I funded one other deal for Andrew. I've got a few to do this week, not many. I hope the retail sales pick up. The damn burned out house is still three weeks out from being done. Slowest project on earth, these guys use everything as an excuse. The buyer is willing to wait. I can't get John to get this asshole to sign the papers and take over this other house. I hope I can tomorrow.

1-7

It was an all Scott day. I was able to get some renewals done too. I've got a few deals coming to me every day. I've not heard back from Lili yet. So I've got 6 million in cash, I may give some back to Brian if she doesn't take it. I talked to Scott about our plan for the spring. We should be able to sell the remaining 50 or so houses. He's getting 500k on his house, his mother refi, he thinks he has a buyer for his PV house, and should get some money out of Israel. Perhaps some stars will align for us.

1-8

I funded Scott's deals, and then I got a request for Lilli's 2.6 million, so I was drained of cash. Then Scott called wanting to buy a 1.5 million property that he can make 100k on. With the payoffs he has coming and plus Chris Hughes paid me off on 600k today; I think I can swing it. Tom called me late and now he's going to send me back 700k, so I should be good. Mike Swerlyk has a deal for 475k he can't fund, that I will, it's a great LTV I can split between two properties. I'm back to fully invested and Scott's numbers are coming down, another AFG paid off today. They will go up with this 1.5 mill deal but that's just temporary. I hope this weekend that he starts getting properties under contract, we have 58 to go.

1-9

I had a busy day because I had so many closings, I think 11. I funded one new one and then five for Scott. He bought the million dollar house which he says he's making 100k on in 12 days. I'll take that money in a heartbeat. He even got a contract on one of the retail houses, I hope he gets more this weekend. I had a few payments today, still missing a few too.

1-12

It was a quiet day. I only had two deals for Scott, but one was 1.4 million. The one he'll make 100k on. I had a lot of payoffs mostly Scott's. I was going to do a deal where a buyer sells to another and I do the escrow but the doorknob couldn't follow three steps of directions and email me the document in pdf file before he mailed them. I have two new deals to do this week, good ones too.

1-13

I had another quiet day. I funded five deals for Scott and he paid me off on five deals. I had one other funding for a 60k loan on a new guy. This fucking John didn't get shit done with that Haig guy in CA. He now wants to re-finance it. I'm working with another trustee to see if they will foreclose on him.

1-14

It was a quiet day until I had to record a doc for Bennett in Chocoma County. I use simple file. The damn software was working. After I was on the phone for an hour and half, he was making changes to my computer, then we had to reboot and it wasn't working. I had to work for a while then he called back at 3pm, after another 30 mins we got it to work. It's not 6:30 and I'm done. I funded 7 deals for Scott and one for Kyle. I was paid off on six deals. I also finally was able to take care of 3420 W Altadena. John Filipian didn't come back from CA with the signed doc and now he's saying he's going to refi it. This is just getting drug out so badly.

1-15

6

I had a much more productive day. I worked early so I could go to school. I came home and caught up before things got out of hand. I had seven deals for Scott and one for Casa. I was only paid off on five, but same dollar amount. I have a busy day tomorrow for few deals and next week will be busy because of the short week. Harold called, they will be done with the house next Tuesday I called Wade to meet the sup there and walk through tomorrow. We could have this damn thing closed in 2 or three weeks.

1-16

I funded seven deals for scott, and one for another borrower and one for Cyler. I had four payoff, but they were large. Scott paid 100k to the workout too. I only had one payment that I've seen so far, I was expecting more, I'll see them tomorrow. Wade went to the fire house and said it looked like a palace compared to the what it looked like before. The tile is a hodge podge of shit but it was like that before.

1-20

I didn't do any work all weekend. I was really busy today. I funded 8 deals for scott he had 6 payoff. I had a ton of payments, we have another busy day tomorrow I had a lot of calls but no one won at the auction. I went to lunch with Adam and Nishel. I thought they were going to throw another deal at me, instead they are just frustrated on the lack of deals

1-21

6

I had a busy day from jump, a few calls and scott paid me off on nine deals, I had one other deal payoff. I funded only three for him. I returned funds to Locke's, small amount and the balance to Kirk. With what Burger told me he's taking back, I can slowly whittle this down as scott pays me back, it might work out ok. He bought a ton today though. I got all my end of year tax stuff done for DenSco, 1099's, state and fed tax payment forms all done by Dave's office.

1-22

I got up early and did all the morning work so I could go to school. it was quiet enough while I was there that when I got back i was able to catch up pretty quickly. I funded six deals for scott and he paid me off on six. It was busy today, he's got nine for tomorrow. I had a few payments too I can't get anywhere with john and this fucking idiot in CA. it's driving me nuts. I have to find someone to foreclose on him.

1-23

6

I started in the office early and got stuff done before I left for the mom's meeting, lousy attendance we only had 13 there. I gave my spiel and everyone interacted. I came home and caught up with shit. Wade walked through the house, he said it was good. I didn't hear from Harold I guess he'll want his money Monday I've got a long weekend ahead doing end of month.

1-26

I funded five deals for scott and I had five deals pay off plus one from Andrew. I had a few payments as well. Scott is going to start to buy more retail to start trying to make 15-30k a house retail to allow him to give him more money to pay down on a weekly basis. His goal is 200k a week, he gets to that, we'll be in much better shape. He'll eat up more cash, but I have a bit of that idle anyway. I nearly have everyone giving me their info for end of month. I spent nearly 10 hours working on it this weekend. I'm almost done.

1-27

I funded two deals for other than scott, with him seven. I was paid off on seven, plus three more, 2 of his old deals. I had a few payments. I've got some deals lined up again for next few days. I'm going to finish end of month, if I could get these people to send me the info back I requested. How hard is it to give me a checking acct number?

1-28

I had five deals for scott and one for Chris. I met dave for tax session for DenSco. I had eight payoffs. All but one from scott. I only had one payment. I did get all the renewals done. I only have three more people to get back to me for info so that I can have everyone moved over to monthly or quarterly payment. I just need to do statements tomorrow night and I'm done.

1-29

I funded one for a new guy and five for scott. He only paid me off on three and I had one other paid off from a new guy. No payments and quiet day. now I'm going to do the statements nad I'll be done.

1-30

I funded seven deals for scott, we had one old deal close, so I had to send a few dollars in for that one. he paid me only 50k of interest but we had two other closings this week that he covered. I had 7 closing from scott and one from another guy. I had a lot of payments. my p/l shows I made 380k but until I have scott's work out loan paid odown, I don't count it as profit!

2-2

I reconciled over the weekend, and I came up correct. It's so easy when it's in one account. All the money in and out today was scott. 1.4 in, 1.7 out. He bought two really good retail deals, hopefully they come back and make some money in the next two months.

2-3

I had a super busy day, scott had 9 deals to fund and paid off on one. but I had seven other deals payoff. I had a few payments. I was all caught up with Sean's father in law came by with some

friends and wanted to know about mybusiness. I had to work a few hours in the evening to catch up. Victor bought to deals, we are negotiating on the down.

2-4

I was really busy all day. I met with Patterson construction and paid him 24k more. I hope to get about 13k back from the insurance company. If I do that and close on the house next week, I should be able to net maybe 10k! at least it's not a loss. I funded nine deals for scott and one for Victor. I had 10 deals close and I had a few payments. I had to do payoffs for scott tonight. The city of Glendale called on past due water bills from 2011! One of them wasn't mine and the other was a tenant. They say they are going to send me to collections.

2-5

I got in here at 6 and got everything done before school. I was able to take care of everything by 3pm. I funded five deals and I had nine deals close. I've got some new deals for next week. the old Easy ones will start closing again next week. he has a lot of retials going on the market too. That should help big time with profits and pay downs of the work out.

2-6

It was a steady day of scott deals, I funded five, but was paid off on 8, plus 100k. Bennett had one payoff too. A few payments. it was quiet in the afternoon so I took a nap since I'm so sick.

2-9

I funded 500k deal for Lili, two for Bennett, one for Maribel and five for Scott. I had a few payments and six payoffs. I am trying to figure out this property with Haig and John. I can't foreclose, he won't refi. Now I have Eric involved. Hopefully he can push john to do something.

2-10

I funded six deals, and I had seven payoff, I had a few payments. I got all my docs sign/notarized for the sale of renata except the Hud is wrong, mostly the HOA of course. Lindsay is beating them up about that now. I'm still fighting with the city of Glendale over water bills from 5 years ago. I've got deals on my desk, hoping to clear them before I leave, but it's not going to happen.

2-11

I funded eight deals for Scott. Two of which are retail. I'm starting to get payoff requests on his now, so we should be able to have a great March, Feb won't be so good. I had to return 200k back to Tom Smith today too. I worked all afternoon basically doing tomorrow today so that I'm ok to leave tomorrow. Shawn is sending me several new deals too.

2-12

Because I did so much prepping from last night, I had no issues today keeping up after being on

the plane. I was able to get set back up and send out some wires before cut off. I did all of today's transactions and most of tomorrow to get ahead of things. Looks like we are going to close Renata and fight out the HOA dues later. I only had Scott Deal's today and one payment.

2-13

Because I had all the prepping last night, I had everything taken care of for today. I had a few more payoffs come in than I was expecting and a few payments. I was able to get set up at my sister's house to do a wire.

2-16

Because it was a holiday, I had one phone call. I worked for hours tonight getting prepared and ready for tomorrow.

2-17

I had everything done last night so while I was traveling things went ok. I landed and had emails and vmails a mile long. I received my payoff on Renata Cir, one less home that I owe. Notwithstanding the lost interest, I netted about 7k. 34th Street should close tomorrow, I'll be down 2k, but I've got an insurance check coming for a few more grand. All the other payoffs were from Scott. I opened my mail, I had 20k in interest payments. I worked until 1 am to get caught up. I'm 90% there.

2-18

Because I worked so late last night, I didn't have much more to catch up on. I was busy with normal day stuff, then found some huge recording errors I had made on some of Scott's properties, I fixed all of those. I got all the releases and recordings for the day done. Lili's small 500k deal paid off today. The 34th Drive should now close tomorrow. Then all I will own is dirt. I only had one payment that I've seen so far. I moved a property from Brian to Shawn.

2-19

Only had two wholesale to fund and one retail. I had eight payoffs from Scott and the 34th Drive burned out house close. Once I get the insurance check next week I can say I didn't lose money. I had a few payments too. I'm concerned with Scott because the whole sale balance is near 20 million and the total is nearly 43 million. We have to get HTI down. I know he's been buying a lot of retail lately, which will help make him money and pay down the balance on the workout but I can't have this much money still growing.

2-20

I got a late start, but it was an easy day. I funded four deals for Scott, an overage to get a payoff on an old one and then a retail property. I had same number of payoffs and a payment. Then just random sill phone calls from people. A missing release from 2005?

2-23

I did end of month all of Sunday afternoon. I just have the statements to do. I had a bit of stressful day. scott was traveling nad wasn't making deposits. I had to wire him out money for today purchases, plus another deal and no money was coming in. I had to move money from my personal acct to cover it. luckily out of the blue Lili deposited 500k in my account. I was all thrilled, then scott made his deposits. Life was good, an hour later I get an email from Tom wanting 2 million out in the next 45 days. I told scott he's got to slow down this whole sale stuff, it's eating too much cash. It's always rising and I can't give him 100% of my money! He's meeting with the gusy on Wedensday see what the plan is.

2-24

I had about the same money come in as out for the wholesale, but I had to send some money out to get a payoff on an old scott deal. I had a few payments and I had two other payoffs. I talked to scott, he's having the meeting tomorrow. Tom gave me a schedule to return 2 million to him. Not what I want to do right now, but it never comes when I want it too.

2-25

It was a good day for payoffs. Scott paid me off on four and I had two others that paid off and more coming next few days. Scott had his meeting, they said it will go up to 22million by end of 2nd quarter. Which won't be a problem if he sells a lot of retail properties between now and then. We walked through a few scenarios I think we can make it work. we just need to sell these last 40 properties

2-26

I funded one deal for Shawn and five for scott. He paid me off for six, two from shawn and one from Judith. I had a few payments in too. Scott bought nearly 2 million and only has 1.6 coming intomorrow. I'm going to be tight to be able to return funds to Tom.

2-27

I sent statements out. I didn't have as many payoffs come in as I thought. I should have a lot come in on Monday. I can return the money to Tom that he requested. I hope cash flow improves. I had to do all the deals on my desk but two today, drained me. Plus Chris had one. Scott paid me back 40k more than he borrowed, plus a retial one closed. We have more next week closing too. I had a few payments and lots of stupid phone calls.

3-2

I did no work whats so ever this weeked. Scott did say he got a ton of calls, hopefully we'll get some contracts. Today was busy , all the deals but one on my desk funded today. I barely had the money I needed to return 700k to Tom, wire money in to cover an overage for Scott, wire in for

the deals and then get all the payoffs back in. I'm still missing 4 of them. I had a lot of payments too. I hope tomorrow brings in more payoffs

3-3

I funded six for Scott, I had two big ones pay off for more money then Shawn paid me off on four of them. I had a few payments too. I've got a little bit of cash. I need more, I hope more payoffs come in this week. I went to lunch with Glen. He's quit working and going to live off what I pay him. Add him to the long list of people.

3-4

I funded a bunch for Scott and he paid me off on a bunch. I'm going to hit a serious cash crunch, I don't have hardly anything closing next few weeks. Tom wants more money out and I have to pay my investors interest and my taxes all in the next 30 days.

3-5

I funded six deals for Scott, we had one deal that was old AFG, which paid off. I had to send him 250k to get 325k back! One more done I guess is the best way to look at it. I had 8 payoffs from Scott and one from Roger. I've been turning down deals like crazy so I can do what I need to do. It pisses me off.

3-6

I funded seven deals for Scott, I had six pay off. I had one of Miller's payoff. I had a bunch of payments. I was supposed to meet with one Moises and new borrower but they never showed up. It was a quiet day, which was fine with me.

3-9

It was a quiet day. I funded four deals for Scott, sent Tom back 200k. Scott paid me off on four deals, and I one of Shawn's came in. I funded a new deal for a Cuban gal, that Cathy had already bought. Makes me a little nervous, I'm in it right though. Scott only got one contract, but is expecting at least three more. We need them!

3-10

It was a super quiet day, Aaron's deal out, five others for Scott and four that came in and one payment. I had a lot of phone calls, but nothing of significance. I typed up nearly the entire months renewals!

3-11

I funded four deals for Scott, one for Miller. I bought the food for the party. I got some kinko's stuff done. I got the renewals all done for the month! I had a few payments. I had a pay down payment on 80k on a loan for 230k.

3-12

I funded seven deals for Scott, and one overage, which came back to me. One more AFG deal done. We are down to just 16 that we need contracts on. I had one other payoff from Miller. No payments thought. Dad and I bought all the liquor for party.

3-13

I funded four deals for Scott, I had two pay off and one other deal. A few payments which I'll have to see the deposits to figure out who they are and how much. I'm ready as I can be for this party. At 11pm I got an email from Dave my attorney wanting to meet. He gave me a year to straighten stuff out we'll see what pressure I'm under to report now.

3-14

It started off pretty bad, the food arrived, late and no warming trays, just in tins with tin foil over them. Mo got mad at me. I guess I didn't cover that with him. We heated up the oven and just set it up. I only had three no shows. I only screwed up one name and forgot one spouse name. The time flies by so quickly it's weird. I never think I talk to everyone like I want to or need to. I'm glad it's over.

3-16

I funded five deals for Scott, we had three payoff and one old one. We only have 2 left of the old Chris list of hosues. We have a few more AFG to close this month. I had a few payments over the weekend and today. I've got more in the mail.

3-17

I funded five deals for Scott, I had three that paid off for nearly the same money. I had a few payments. I was thinking that I would have some more payoffs from other deals, but they've moved from Friday, to Monday to who knows now. I'm building up my cash so that I can make sure I've got enough to take care of everyone.

3-18

I had a slow day in the morning then I had a few new deals I might do, I have some cash, but I'm nervous to put the cash out and not have enough to put it out for interest and taxes and for Tom. I only had one payment.

3-19

I funded four deals for scott and one for Jordon, then I was supposed to do another one for Chris but now it's tomorrow. I had no checks come in the mail, buti should have some deposits made today. I didn't have a phone call after 1pm.

3-20

I funded 7 for scott and he paid me off on 5, I thought I would have about 5 more payoffs, none of them came in. I funded one for a new guy, I'm nervous about, but there is tons of room in this house. It's already 80% fixed up too. I had a few payments, I hope a few more appear in my account tomorrow morning.

3-23

I finished end of month yesterday.all I have to do is write the newsletter and do the photos. I should do them today, but I'm not motivatd. I funded four deals for scott, he paid me off on four, I had noather 7 that were supposed to close, but I never received the wires. I had a lot of payments both in the mail at made at the bank.

3-24

I funded four deals for scot and one for Flip. He paid me off on two that was more than I funded I had lunch with Dave beauchamp, I was nervous he was going to put a lot of pressure on me. However, he was thrilled to know where we were at and I told him by April 15th, we'll be down to 16 properties with seconds on them, and by the end of june we hope to have all the retail houses sold by then and just doing wholesale. He said he would give me 90 days. I just hope we can sell them all by then and darn near be done with it. I'm going to slow down the whole memorandum process too. Give us as much time as possible to get things in better order.

3-25

I started early after dropping Maxx off, I ran to the bank, and I had a steady day. the best thing was lili 2.7 million deal is going to close 3/31, that will give me the breathing room I'm need right now. I funded 6 deals for scott, hepaid me off on 8. We've got another AFG deal closing tomorrow. He's got two more in escrow, he needs to get more! He did get his dealer license sohe can start selling cars now.

3-26

I funded five, paid off on four, but not the right amount of money. More needs to come in then go out next week, or I'm in trouble with cash. The AFG deal closed, but I found out two others fell out of escrow. I was paid off on a retail one too. I had one payment. I had a lot of requests to fund deals. I'm really low on cash. I am now really hoping that Lili's deal closes tomorrow.

3-27

I funded four deals for scott, 1 for Horizon Max and one for Gary Burleson. I was paid back only on four of Scott's, I had like 5 others supposed to close, none of them did. Lili's big 2.2 million is now supposed to close on Monday. That happens I'm in great shape! At least I'm getting paid back 400k more than I'm putting out for Scott on Monday too

3-30

I did the newsletter yesterday. All I need to do are the statements tonight. I funded 7 deals for scott, he paid me off on five, I had two others close. I've got nearly a dozen that are or were supposed to close between Friday and tomorrow and I have no idea how many are actually going to. Lili's was Friday, then Monday and now maybe tomorrow. I'm so low on cash it is scary. I'll be able to pay interest and return money to Tom. I got another request from Weiskop's want their money back too. It's just goin to get ugly in the next two months.

3-31

All the ACH's went out as they should have. I paid out over 800k of interest. I funded six deals for scott and he paid me off on 11. He paid interest on his workout and I had one other closing. I've got another one coming in the morning and supposedly Lili's too. That comes in and I will have cash to take care of everyone on my desk and tom's request. I had to return 300k to tom too today I was down to my last 200k before I had a few wires come in.

4-1

The first wire I received this morning was 2.2 million! I wired Tom another 300k, so he's done for April. He emailed me back saying he may not need anything until june now. I had some other payoffs come in too. I've got two more coming in tomorrow. I was able to clear the back log of requests off my desk. Everyone is happy and I've got money in the bank. I funded 7 deals for scott and he paid me off on five, plus an AFG came in. he got another one under contract too.

4-2

I funded five deals for scott, one for Rodney and one for Shawn. I was paid off on one of Cyler's plus three of Scott's. I'm still growing in dollars with scott on the wholesale. It needs to peak this quarter and reverse! I had a few payments I decided to except some money in even though I'm flush right now I'm taking him 500k from Adam/Nishel. I can give it back when I want and I know they will want it back at some point before too long.

4-3

I funded five for Scott, I had two others to do for Chuck and Rodney. I had a few payments come in and scott paid me off on five deals. I was supposed to have another one of Rodney's pay off but I never saw it. it was areally quiet being good Friday I met Nihad and family for early dinner. Great to see him and meet his kids.

4-6

I funded five for scott, he paid me off on three. I had one deal payoff for Rodney and another small 15k on from john. I only had onepayment. It was quiet day except a lady callingme about a house that scott bought at the auction. I'll have to call her back tomorrow. I funded a deal for Barry, I'm sure he'll be paying me back quickly. Miler bought one at the auction too.

4-7

Flint's deals finally closed, probably 2 weeks after when they said it would. It was even my bank! I funded one deal for miller and four for scott. He paid me off on four too. But for not as much money. I didn't have anpayments and hardly any calls.

4-8

I funded five for scott and was paid off on four, plus one of Shawn's and then one of the old AFG's was paid off today too. He's got a bunch of them on the market and rehab now By next week, there should be about a dozen more on the market. We'll really start moving these darn things. I met with Flip's partner out of CA. More armenians'! I swear these guys do a lot of real estates tranacstions over here.

4-9

I got the payoff form the land deal that roger stuck me with. It's been over a 15 months, but I've finally sold all of them the stuff he stuck me with. I lost about 100k on him. I funded four deals for scott he paid me off on 6. I had a few payments and a few payoff requests. I wired him less than he's paying me off tomorrow. Damn good thing. I've got deals starting to stack up and I need cash. Plus next week I have to make the tax payments!

4-10

I funded four, paid off on seven for scott. One more came in Aaron, I have another that closed but not in time for the wire. I had a few payments. I'm getting a few deals lined up for next week, but I have to conserve cash for paying my taxes!

4-13

I funded four deal, it should have been 5, but the bnak fucked up and didn't release one of the wires. Scott paid me back on only five deals an di had one of Victors payoff. I had a few paymentns too.

4-14

A real quiet day. I've got a 400k payoff coming next week, but I had requests for 300k today for the money. I harldy have any more payoffs coming in the next two weeks, so things have to be slow. Scott says he's got houses going on the market nearly every day. we have to sell 48 total houses. He's got maybe 10 that are empty, clean and on the market not under contract. By the

6
end of next week, we'll have twice that. Then the contracts start coming in droves we hope. Just this evening, we got three accepted contracts, I hope this pace continues briskly!

4-15

The contracts rolled in last night and this morning, four more! Now it's just a matter of putting them on the market. I funded two for Mike Moore, seven for Scott. I was paid off on six from Scott, plus an old AFG. I've got a few others supposed to close tomorrow. May is going to be a busy month for selling off these remaining properties.

4-16

It was a slow day. I funded one for Minh, six for Scott, he paid me off on four, plus I had two more that paid off, so I'm up to 4.6 million in cash, which is great! I had just one payment that I'm aware of. I've got a few deals to fund other than Scott's in the next few days. I just hope he lists more and we have more contracts this weekend.

4-17

I funded two small deals and then five deals for Scott. He paid me off on three, plus I had one old one from Izabela paid off. I was expecting a lot of mail with checks, got none. Scott has another 1/2 dozen properties listed for this weekend. I hope more will get under contract. It will take three weeks to get all of them done. But they are getting under contract as quickly as he lists them.

6
4-18

I funded five for Scott, I had four payoff. I had 1/2 dozen checks come in over the weekend. I'll have nearly 100k after Wednesday. He's also paying his principle down, 30k. I funded one deal for Shawn. I've got a bunch of deals to fund next few days and very little money coming in. Scott received another contract today, we are hoping for three more next day or two. He's got 7 more going on the market this week.

4-21

I funded two for Scott and he paid me off on 400k more than I funded him. Which is great! I had a few payments. I typed docs for a few deals too. He got another contract too. He thinks he's getting two more and 7 more houses are going on the market before this weekend. We are down to 39.

4-22

I funded four deals for Scott, one for Shawn and then returned 1/4 of the money that Nishel invested with me. He did exactly what I thought he would, need it before the time frame, in less than 2 weeks! I had a few payments. I had some payoffs that weren't Scott's too. I should have some more tomorrow.

4-23

I funded four for scott and two more for others. I have another two more for others tomorrow I had built up my cash to 5 million, I figured I would put some to work. now scott tells me tonight he's got 2 million he's sitting on for me to fund, he's been holding back on me! There goes my money! I have deals to fund next week, end of month, I'm back in a fucking cash crunch again! I'm going to sit here tonight and do end of month.

4-24

I funded two deals for shawn and a new guy, 40 LTV, I figured it was worth the risk. I had a few payemtns. I ran up to scott's to get the interest payment for yesterday. I had my mom's meeting. We had a super low turn out and I'm embarrassed by it, I need to get more people to go. Jeff and Tony came up from Tucson too. I had three payoff of Scott's and two others. One really old one from three years ago from the CA Armenian boys. We have a lot closing next week, I hope this is another busy retail weekend.

4-27

I was busy as hell this morning. Scott had eight deals, Eriv V had three, then Maribel had one. Scott paid me off on 11. I ran to meet Mike Swerlyk for lunch, he forgot, I came home right away, wasted 45 mins on that trip. I had one of Scott's old ones were supposed to close, they didn't get the wire to me. I had a few payments. one of the deals I thought was going to close go pushed, so I might break even this month. Scott is giving me more cash for interest Wednesday.

4-28

I funded four for scott and he paid me off on ½ dozen. I funded two other too. I have three or four others to fund tomorrow. I had no payments, at least that I can see. I had a rude man call me about a recording that we did on his property. He called scott and put such a scare in to him that we are changing the paperwork to record.

4-29

Ran to the bank to pickup the checks for Victor. It took me a few hours to catch up. I funded nine deals today. Four were other than scotts. I screwed up one of them too. I wired the wrong dollar amount and wrong docs, no one caught it until they were ready to record. I had some payoffs from scott and the principle payment. One payment was made so far today. I 've got a few I'm chasing right now. It will be busy night doing end of month again. the next two days will be really busy.

4-30

End of month went off with a problem. I funded a bunch of deals for other people besides scott and I've dropped by cash by 1.5 million. Scott's has nearly 4 million closing in May of retail stuff. I can't wait to see that drop off. now if he could start paying down the balance more. I

made a whopping 40k, might be 50k if people made their payments. that's because scott had paid me so much in cash this month. I don't think that will be repeated.

5-1

I only had two of the 5 deals that were supposed to close close. Scott's deals closed the same as he borrowed. I had a few payments. I was reconciling my account and someone paid their insurance with my bank info. that's the best I can figure out. One of scott's AFG's paid off today too. Next week will be slo, then after that the whole month will roll.

5-4

I funded four deals for scott and I had four payoff. I had a bunch of payment Saturday and Monday come in. Tom now wants 500k back this week. he said not until June! Plus I have to return 250k to the Wieskopf's too. I need a ton of deals to close to do this.

5-5

I got one payoff in I was wanting, Ivory Ln, these small deals from the Hispanics, I'm glad to see get paid off. they are always late and don't pay their insurance, Moises I don't think I'll be doing more of these. I funded seven for scott he paid me off on five. I got an email from the bank saying my wires are large and my balances are low. It will go up soon, as these payoffs start rolling in. I just sent payoffs to Kenny for five properties, 4 of which close next week.

5-6

I funded six for scott, he paid me off on 7 and then I had an old one payoff too. I had a few payments too. we met in the morning for exchange of payments for interest. I've got a lot of closing next few days to build up my cash again. then next week, we start having lots of closings of his old ones, nearly every other day.

5-7

I funded seven for Scott, he paid me off on four, plus paid his payment for the workout. I had a few payments. I had three closing that were supposed to happen, none of them did. I have perhaps as many as 5 to 7 tomorrow. Lili called needing funds, I can't get them to her Tom suddenly wants another 500k out. Adam never got me the 750k he had said he would send.

5-8

I funded seven deals for scott, he paid me off on five, then I had three more close, which is getting my cash up. I had another 700k, supposed to close but didn't. Adam didn't bring me the 750k he said he would. I hope Monday will deliver.

5-11

I funded seven deals for Scott, one for Bennett. I had five payoff from Scott, one from Victor and one old one from Scott. I had a few payments too. I'm starting to build up my cash again, and of course, the 750k that Adam said he would send last week, is now 450k maybe next week. I have to start returning money to Tom again too. plus 250k at the end of the week to Weiskopf's. I hope the payoffs from this week don't get pushed, I don't want to be stretched again. then next week, I've got lots of payoffs coming in.

5-12

I returned 100k to Tom, going to try to do that every day until I'm done. I've got a lot of closes end of the week. I funded six for Scott, he paid me off on four and I had 2 others close. I had nothing else really happen. I've got a few to fund tomorrow, I need these payoffs to start rolling in every day. I want to keep my cash up!

5-13

I returned 100k to Tom, I funded two other deals besides, six for Scott. He paid me off on four. I had a few payments and he paid me his interest and principle payment on the work out. I need to get more closings in to return the funds and maintain my balance. I should have some more tomorrow.

5-14

I funded five for Scott and returned another 100k to Tom, then he requested another 700k. I can't fucking believe it! I told him it would take me a few weeks. I have a lot of Scott's deals closing in the next few weeks that will help. I had three payoffs from other borrowers too. I had a few payments.

5-15

I funded 30k for Eric, returned 250k for Weiskopf's and then funded five deals for Scott. We had to old ones close. One needed some money to cover. Next two weeks we have one to two a day closing every day. Steve Bunker called, wanting money out too! I've got requests now for nearly 3 million! I want to shrink on my terms not theirs! Nishel said, he's going to add 300k not 750k, just what I thought, never can come through at what they say they are going to do. I had a few payments too.

5-18

I funded two large deals for Scott, he paid me off on four. I had a few payments. really quiet day I've got a ton of closings starting Wednesday through the end of the month. I need every one of them to be able to return all the money to people that are requesting it.

5-19

I had some check issue with Scott. His large check didn't clear last night, so he wired more funds off it and then the bank was complaining about no funds. I wired him part of today's buys and that released it, the whole thing took 5 hours. I was able to return 100k more to Tom. With all the payoffs the next few days I should be able to get some more money wired off to all these people. I had one payoff come in I wasn't expecting until next week.

5-20

I funded three for him and one for Bennett. He paid me off on five, I had three others payoff. I returned another 100k to Tom. His first request of 100k is done. Now I'm going to work on returning the Weiskopf's next.

5-21

I funded four deals for Scott. I had four of his payoff, plus one of Victor's. I received my check on the property I took to auction. I got \$1000 more than I was due on principle and costs, so I count that as a victory. I had a few payments made too. Nishel invested 300k more. I'll be able to return some more funds and payoff my investors. I sent 250k back to Weiskopf's today. I still have 1.4 million I need to return.

5-22

I had enough funds to return the rest to the Weiskopf's. I was hoping to return some to Tom or Steve, but I only had two other payoffs come in and they were small. Plus Scott bought 1.6 million. I was scared the wire wouldn't go out because I didn't have enough collected funds. I had a few payments too. I keep turning away good deals because I have to pay these people back first before I put out more money. Next week is going to be nutty, like three a day should close!

5-26

I funded two deals but they were for 1.6 million. I had six deals payoff of Scott's and two others. I had a lot of payments. I'm out to Scott a lot on these damn wholesale deals. I can't wait for that to shrink. We have had so many of deals get moved out to the end of the week. I was hoping to return some more money to the investors that wanted some, but it's going to be either Friday or next week now.

5-27

I funded two deals, Larry and Victor, then four for Scott, one for Shawn, and I had to wire in overage for the deal I got paid off on. It looks like over a million will come in next two days with all the closings Scott has. It's going to cost me some money to get it, but I'll be able to start returning some more money to Tom and Steve.

5-28

I funded three for scott and one for overage, which I got paid back today. One more deal down. Tomorrow we should have 4 or maybe 5 closing of just scott's. I went to lunch with Tom and he wanted another 500k back. I'm going to have a rough time returning all the money that these guys want in a timely manner.

5-29

With scott being in CA for the morning, things didn't go perfectly smoothly but dam near. The interest was paid to the investors. I funded three deals for scott, and thre overages, then I had four of his deals payoff, three of them were AFG's. then I had surprise 400k payoff, so I returned 100k to tom and Steve each. I've got a little cash built up and I've got more closes Monday. I'm just going to turn away deals until I get them paid down, I don't like the stress. I made 275k this month, but I could hardly care. As long as the old deals get closed and hopefully soon, scott can start paying down the damn workout.

6-1

I funded one for Miller nad three for Scott, he paid me off on three. I had a few payments too. it was a quiet afternoon after 20 calls in the morning. a gal came by that I had done a few loans with a few years ago she wants to do them separate from her husband. I talked to her for a little while, gave advice. I talked to scott. He was doing the same thing I was this weekend, trying to figure out if we are going to round the corner on this and how long it's going to take. We talked for nearly 2 hours. he's freaking out. I'm starting to wrose then I was before I spoke to him. With the demans to return all this money to my investors, it's shrinking the avialbe funds to do other deals. It's giving me a cash crunch. I just need to calm down and look at it fresh.

6-2

I didn't sleep half the night trying to figure out how to get out of this situation. The one thing I decided was to defer the interest on the work out so that all payments are made to principle because it's going to rise another million and we need to see that balance go down not up. Then I emailed a few people to see if they wanted to invest with me some more money. I got 100k by noon. We had another AFG close today, darn near got as much money back as I sent! I've been turning down deals left and right! Probably over a million right now!

6-3

Tom requested money back today, I sent him 100k and steve 100k, I was going to send 200k to steve, but tom must really need the money back. I added up all the money that's suppose to come ni and what I have to send out and what I have in the bank, I think I will be ok. It depends on this meeting tomorrow that soctt has. I had the same amount of payoffs and funding for today, but scott paid me 80k in principle payment. I had several payments come in too.

6-4

I only funded deals fro scott and had his payoffs. I had one payment that I saw He had his meeting with the auction.com guys, he pushed back a bit, beucase we can't get any larger with this number. There is no way. We talked for two hours. we've got just 7 more AFG's to sell, then they are done, then 15 more retail that need contracts, about 10 won't be ready to sell for a few weeks to months because of tenants. We can have all retails sold othere then 10 by 7/31, we'l be in good shape. The stress I'm feeling is so overwhelming I feel like I'm going to have an heart attack.

6-5

I went golfing with Dave Preston for a charity event for Queen Creek High School football program. It was raning like crazy all night and most of the morning. I was able to wire from myphone to Scott. I had one more payoff come in. I need to return more money to Tom and Steve.

6-8

I was worried about cash this morning because scott's deals kept getting pushed out from this week. Tom was bugging me about money, then out of the blew a borrower paid me off 265k today. I returned 100k to Tom and 100k to Steve. I didn't have any other payoffs and won't for a few days. I got everything done for today nad I'll be working in to the evening to get everything done for tomorrow. I had a late payment finally come in from one borrower, now everyone is current.

6-9

I had worked so much this past weekend and last night and earlythismorning I thought I was set. I get on the plane no wifi. The gal said it was because we were flying over water. such bullshit. I wasn't able to send a wire to scott, so we are going to have an interesting tomorrow. I had a few phone calls to return and tons of emails. I had to work until nearly 1 to get caught up.

6-10

I woke up at 4:30 HI time so I could get started. I was able to get a great amount of work done before everyone woke up. Because of the screw up from yesterday, I wired him first thing, he wired me back, then I wired again later in the day. we had an AFG close today, plus I had another deal close of Victors. I won't know if i had any payments until tomorrow

6-11

I had a quiet day, I was able to do everything I needed to do before the phone started ringing and the emails came pouring in. of course tom is bugging me about returning funds to him and now Nishel wants money back too I can't wait to be flush with cash. I funded a bunch for scott and he paid off nearly the same dollar amount. I had another payoff from Andrew

6-12

I funded 8 for scott, I returned 100k to tom and to steve, and 100k to Nishel. Then I had one payoff from Rodney. I will be able to return more money to them next week, I have more closings. I just want to get this behind me and build up cash. I'm turning down so many deals. I did fund one for Chris.

6-15

Scott had a big day, 1.6 in and out. He had one deal close but didn't record until 4:30 That will come tomorrow. I had another deal close. I'm getting some cash worked up again, so I can send some more money back this week. I've got 1.3 million closing this week, and 800k next week. if that happens I'll be in great shape. I had a few payments too. I had a few calls on old recordings I had done, I talked to a law firm and a homeowner. I think I took care of both to their satisfaction.

6-16

I had a lot of phone calls in the morning. then I was able to get most things done before we left. I wired from my phone and it worked fine again. I was able once we came back to finish the work for the day. I have enough cash to return more money to tom and steve. I'm going to do it slowly to ensure I can keep everyone happy.

6-17

Scott had another big day, 1.5 million in and out. One of the old retials closed too. we need more contracts though. I had one payment. I'm getting emails that people have sent checks, brian didn't check my mail for them. I don't know why, he always does I'm going to fund a few deals this week. I have to. I also sent back another 100k to each tom and steve. I might do some more friday if I get more in.

6-18

Scott tried to enlarge the wholesale number saying well I'm paying down the workout I can use that for the wholesale. I'm not letting him. That number needs to start dropping! I have to get his number falling, or it's going to be hell with Dave. He's done over 1.5 every day this week! he's been paying off that much too. I had no other payoffs and only one payment. I've got one deal funded today and one tomorrow. Maybe one more if I get a few payoffs in and then I can send tom and steve more money.

6-19

I funded two other deals besides scott's. I got back to my office by 8:15 and got started. I had everything done by 11, then I started catching up. I did some more Friday work and then I worked until 4, napped and worked until 8. I will be spending the whole weekend cathing up.

6-22

It is good to be all caught up again! I funded a few for scott and he paid me off on a few. I did one for Chritmas. I was supposed to have a few payoffs today, only had one via check. I'll have a few tomorrow. I gave Lili 600k for two days, then I'll get it back and be able to return some more to Tom and Steve.

6-23

I funded a few for scott and paid me off the same amount. I had two payoffs for other loans, I'll be able to send 200k each to Tom and Steve tmorrow. I had a lot of payments too. Lili gave me the 600k back today, so that was good. I've got some more deals closing tomorrow.

6-23

Scott is doing over a 1.5 million every day, thankfully I have enough money to do it. he's paying me back nearly on the same level each day I had a one payoff other than his today. I've got a lot more palnned, but they keep getting moved out. I had a few payments. I allowed Pete Rzonca to invest 75k today. I wired out another 100k each to tom and steve. I've nearly got htem taken care of. Of course now Adam wants 100k too.

6-25

I did eight deals for scott, I was paid off on one of his retails I'm getting another one tomorrow I thought I was getting 200k back, I didn't realize I needed to come in with 100k. but it's one more retail gone. He got two more under contract too. down to 22 left of retails and only 7 AFG's.

6-26

I funded seven deals fro scott. We had two more retails close, one was an AFG. The other wasn't, but both needed money. We are just knocking them off the list. I had a ton of payments made today too. Scott is headed in for surgery Monday so he'll be out of contact. Hopefully things go well. Then at 6pm I had the bank call saying they are holding a check because his signature doesn't look right. I called him he said the ink in the pen died so he had to re-do it. we are just going to change to large wires day after and that should solve the problem.

6-29

I funded 8 deals fro scott and had 6 payoff The dollars are getting out of wack again, he promises they will get back once he gets out of surgery this week. I hope it went well for him today. He's treating it like a teeth cleaning. I had a few payments. I got the ACH issue resolved so the tpayments go out tomorrow. I need to do statements today and I'm done. I spent the entire Saturday doing end of quarter

6-30

I funded out 1.5, and he paid me off on million. the wholesale tis over 24million now. He better get the damn thing down, I can't fund the deals I have on my desk now because he's sucked so much money up. One AFG deal did close today. I've got 3 other deals that were supposed to close and didn't. on the P/L I was profitable. I will continue to hold my breath until we get more of this problem resolved.

7-1

I funded and received the same amount from scott. I had one deal close from Bennett and one retail deal I wasn't expecting from Scott to payoff too. I was able to wire back the last of the money to Tom. Now I have just 500k to send back to Steve in the month of july. Adam wants another 100k too. I've got everything prepped to leave. I just need this one 500k payoff to come in so that I can fund a few deals next week.

7-2

I had prepped last night and I got up at 6 to get everything done before I left. I checked to see that the plane had wifi. I was able to send a wire from the plane. I had a lot of emails requesting things, but they call can wait until Sunday night.

7-6

I'm in deep shit. My first phone call was from Tom wanting a million more dollars out. I told him I cuoldnt' do it any time soon. He wasn't happy. All of scott's retail deals got pushed a week to two weeks. All the deals on my desk started needing to be funded. I funded two this morning and one tomorrow. I talked to shawn, he's got a 1/2 dozen deals, none of them I can do. He gave me this I guess I'm not your priority anymore. I'm fucked. I talked to scott he's so moody he's on his meds for pain killer. He says I have to work with him. But he's got nearly all my damn money! I can't even operate the business anymore. He says it has to work on getting it down. He's depressed, he's stressed, he's feeling like shit. I had my investors north Idaho dinner tonight. They all joke with me, "ah you aren't a sham!" " keep the checks coming". I was just sick to my stomach all day and all night. I didn't eat until dinner. Now I need to sleep.

7-7

I'm going about mad. I've not slept in I don't know how manydays. But at least scott go his wiring up and running so now he wired me 300k. which is good. If not, I'm not sure they would have let the 1.6 million wire go backt o him this afternoon. I funded the last deal I'm doing besides flints. I've got deals supposed to close, but none of them do. I'm so low on cash, we are going to have to go back to wiring the dufference instead of the whole thing. He was told by his doctors it will be another week until he's normal. He at least postponed his trip to isreal another week.

7-8

We agreed to send each other the difference. It solves our cash and bank issue. I hate doing it, but I can't sustain this way. I can't keep this much money sitting because he eats it all up. I slept and had a stressless day. I wired him 49k, I have over 2 million in my account I now can start doing these deals I needed to do. I'm getting a few payments in, but no payoffs. They keep saying they are coming.

7-9

I had one call all day. Scott paid me off with 40k of what he was borrowing. I got all the work done I needed to do before heading to the airport. We've got a few deals closing that I wasn't expecting this week. We'll see if they close tomorrow. Once I got back home, I wasn't motivated to start working. It's midnight and I've been here for hours.

7-10

I worked all day to catch up and nearly did. Scott had my oldest loan payoff, which is good. Then a big dollar one villa Rita for 490k. We had one more but there is a dispute with the HUD. It's an AFG. I'll spend the weekend finishing catching up. But I'm done now.

7-13

I worked until I had everything caught up on Saturday. I wasn't motivated enough to get a jump on investor renewals. I'll do them this week. It was a busy morning, but quiet afternoon. Scott had to wire me again, just 40k or so. We are moving down. His other closes aren't happening, but a few new ones are coming up. He's only got one property under contract in a month I think. I had a few payments made. I'm starting to fund a few other deals too.

7-14

It was a quiet day. I funded as many deals as I got back from Scott. But I had to wire him 250k today. Pissed me off, we had worked down the balance then boom! Up again! I funded a deal for Kirk. I'm going to keep working my cash down. I need to return more money to Steve too.

7-15

The numbers were way off today, the wholesale number is over 25 million now. I'm so uncomfortable about it. It better reverse by Friday. We had another AFG close, but I screwed up the wire. I'll get it tomorrow. I've got a few others closing tomorrow too. I can build up my cash again.

7-16

Scott paid down a little of his wholesale number, it's still huge! Two of his deals paid off for a total of 630k, but I had to forward 420k to get it. Two more old deals gone, one of them AFG. We've got another 4 or 5 for this month. Then nothing hardly because he's got nothing under contract. I set up the mom's meeting. We'll see how many show up. I received in two payments

from a guy that is croniclly late, he says now the house is in escrow I hope I get paid off, I'll lend to him again. John May wants me to do a deal with him for wholesaling. I said I would start with him and see how it goes Lili called for a payoff of all her loans. She does that I can return funds to Steve and start on Tom. It's over 800k total.

7-17

The funding was about 50k against me today. I had two other deals close. I was able to send back another 100k to steve. If lilie pays me off Monday I can take care of the rest. I have a ton of deals lined up for Monday I have more closings Monday too. I talked to scott for the first time in two weeks. He just ran on and on about being audited by the ADOT. The bank complained to me about Victor going in to the bank and being rude. I guess it's my fault.

7-20

I funded two deals other than scotts, he wired me about 30k going down. I had one other payoff and a few payments. Lili paid me off on everything today. All 800k plus I can payoff steve and send some money to Tom plus put some money in the kitty. It's good to get a little cash rich for once!

7-21

I was able to send Steve back 300k and Tom back 100k. Steve is now taking care of. Now I have 900k more to go on Tom. I'm going to send it to him slowly because I want to keep cash and be able to fund deals and get things more equal. I had no other deals but Scott's today, I've got a few more lined up for the week though. His retail closings keep getting pushed out. Just need a few more under contract and we'll have another ½ dozen closed by month end.

7-22

I had a super busy day! scott had the same number in as out. I did two for Victor, one for John May, one for Barry and I have two more lined up for tomorrow. i could have done one of them today if Maribel was more clear on her instructions. I'm pushing my cash down, but I'm just a little under 2 million. I have some payoffs the next few days and very little left on my desk.

7-23

I funded two extra deals besides Scott's and I had one of the wholesale deals close from John. It was a much quieter day. I'm getting my cash low, I need to get some payoffs coming in. I'm hoping some tomorrow.

7-24

It wasn't super busy today, however, none of the payoffs that were supposed to come back today did. now I've got two more on my desk, with promises that they'll be back next day I turned one down, nothing added up on the deal. I wired scott 150k, he said he'll reverse it next week, he

says that every week. he left for isreal. I hope something comes from it. he's been there 4 times trying to get something out of these guys. I'm not even sure I know the whole story. We had our Mom's meeting. We had 15 committ and 12 show up. Still a good meeting as far as interaction and communication. I had a few payments come in too. this weekend is end of month!

7-27

Finally I had a big reversal scott wired me 140k. plus he had a retail deal 300k close too. He finally had his balance go down. I funded another John May deal, I should have one of his payoff tomorrow. I had a lot of payments too.

7-28

I had to wire scott 83k, never two days in a row does he wire me large amounts. He's trying to get something negotiated with this asshole in Isreal. I wonder if we'll ever seen any money. I had a supposed 24 hour deal come back to me finally today, it took a week. I had one other deal loose of bennet's. I'm building a little cash, but I have hardly anything closing in the month of august. I'm a little nervous looking forward. I've got 800k, should come in this week. but I have 600k I have to fund.

7-29

Scott only bought 2 and had five payoffs, he wired me 73k. the balance has only gone up 140k for the month, so hopefully now it will start falling. I had a few payments. the best thing is I had some surprise payoff requests, if those come in before Friday I'll be in better shape for next week.

7-30

I funded four for scott and he paid me off on 6. Plus I had to wire to him 66k. there goes the balance up again. I had one of his old loans payoff though. I have a few deals to fund tomorrow and I have a lot that are supposed to come back tome, we'll see how many do. Now I just have to do the statements and I'm done.

7-31

I didn't get a single freaking payoff today. Even ones I thought were coming didn't come. Then I lost my temper with Cyler. He said he was wiring two deals to me tomorrow, didn't, he wouldn't respond to me. I'm like you want to know if I have cash, well you are causing the problems for me not knowing. He and his wife understand now. Scott got back thank goodness. I had it out with him again about the balance on the this bullshit wholesale thing going up. He thinks I'm wrong, I'm not. I told him no more. He had better stick to it. I've got too many good deals to fund and I need to get his balance down! I ended the month with 272k profit. Which is bullshit in my head until we make headway with scott's balance. Plus there is no way I'm paying a huge number in taxes again this year!

8-3

I had a quiet day. I funded two other deals besides Scott's. the 3 -5 deals that were supposed to close 7/31 to 8/3, none of them did, now they are all pushed to the end of the week. I've got so many deals coming at me right now. Scott's wholesale balance is under 25 million, it will go over it tomorrow though.

8-4

Another quiet day Scott wired me more money, but the balance went up Tomorrow should be interesting to see if any of these damn things close. Clyer paid me off on one deal. I've got 1.4 million supposed to close between now and Monday, yet they are the same 1.4 million from last Friday.

8-5

Another super quiet day besides, Tom calling me whining he needs his money back for his money pit house. I sent him 100k so he's happy. I had to give him 250k too I'm down to less than a million and I have 1/2 of it need to go out by Friday. I have 1.5 supposed to come in but that's the story of my damn life.

8-6

Another quiet day, except 2 calls from people wondering why I have a loan on their house and one email from an escrow officer for the same reason. I received no payoffs today, I've not seen so many deals get postponed so often in a long time. I'm now below a million in cash, hopefully something will come in tomorrow.

8-7

I funded another deal of John May, I only had one deal pay off. I had 1.4 million supposed to payoff last Friday, so far 75k has come in. I'm down to less than 500k total in cash. I should have a lot coming in next week, but that's what I thought last week. At least the balance on the wholesale came down this week a bit. I had a few payments come in too. I only have one small deal on my desk to fund next week. which is good because I've got nothing else to give.

8-10

I had one lousy close, I found out that one close was bringing me 335k is only going to give me 180k, because it's heavily in debt. I'm down to 700k, I need to get back to 1.5 million. I've got to send money back to Tom, Tony is going to want some, all these closes are getting postponed, and I've got nothing closing second half of the month.

8-11

I had a better day, I had two payoffs, my cash is back up to nearly 1 million. I have some confirmed dates on some more closing this week. I'm nearly through my stack of deals on my desk too. if I can get scott to pay down some of his overage, that would be good too

8-12

I had a surprise payoff from Barry for 200k, which was great. I wired 95k to Mike Busby on his deal. The difference between scott's buys and payoffs was only 27k. I had a few payments made. Adam had asked I speak to his friend that wants to invest 200k. I don't want to take any investors, but I need the money so that I can return it to Tom. I'll meet with him tomorrow.

8-13

Dollar in and out for scott were the same, 38k up. I met with a friend of Adam's he invested 100k. I had to send 100k to Tom. I had a bunch of payments made. I've got a few more payoff requests, so that's good. I need more money in.

8-14

I got in to one of my funks and thinking about densco and this mess with scott and I couldn't sleep all night. The balance on wholesale is going down 500k Monday, I'm sure it will be back up next week. we exchanged emails all day never talked. He's all stressed and telling me just give him 2 million more and he'll be able to make more money. But he's not paid me in months and eh says he's using the money to get collision center up, I don't know what to believe. I had one 30k close today, nothing else closed. I turned away a good deal that I would have loved to fund, but I can't. I did get a bunch of payments in but I need scott's stuff to sell.

8-17

The balance for wholesale went down by nearly 500k. but that doesn't mean much, it will go back up by weeks end I'm sure. I still haven't received any other payoffs, tom beating me up about getting more money out to him this week. I hope I get some damn payoffs this week.

8-18

In and outs were the same for Scott, but we did have an AFG close, one more down. He got a contract on one last night too. we are down to 6. We have another 5 that should close by end of month. But hardly anything in the queue behind it. I wired some money to Tom today. He was happy. I had a 200k deal close from John May. I should have another one tomorrow too. I prepped all of tomorrow's stuff for tomorrow because I'm going on a field trip. John May paid me a commission, fee, or what ever for those two properties I held cash for him then he pulled them before we closed. I wasn't sure he was going to do it.

8-19

Because I prepped everything last night, when I got back to my office, I wasn't behind. I got a surprise payoff and Bennet is supposed to pay off 200k of stuff, but I didn't see it, maybe tomorrow. I had a few payments, cash in and out was same for Scott basically. He called him, he said he's meeting with his accountant and going to call me back with a new plan.

8-20

I had the same in and outs, the wire that was supposed to come in didn't come in, for 88k, they lost the wire. Bennett never answered me, then I talked to Scott. He's 2 million short on getting these guys happy. I don't have it, he's got a week to make them happy. I'm not going to have 2 million coming in. I have 1 million coming in and I'm quite sure that's not all coming. We have a plan going forward but I don't know what we are going to do.

8-21

I have heart palpitations all day today because of stress. I measured my blood pressure and it was 158/110. I had three payoffs finally come in today. I wired Tom back another 100k. I'm down to 400k. I look at things all day long and thought on how to do this. It's mostly going to rely on Scott. I can't come up with more money, it's ridiculous. I even talked to the guys in UT about it. They never make decisions quickly. I'll email Scott later. I don't want to get on a marathon call with him.

8-24

I got a wire in on a deal I wasn't expecting until end of month. Scott sent me the list of props for today, three were utter BS. They had all been either sold at auction, short sale or something. I said, let's skip these, he said he talked with the guys and they said it's a screw up they didn't tell us not to take it to sale. Now he's going to battle with the attorney on it. I'm hoping that I get some more payoffs early this week and they don't all come on Friday and Monday. I'm going to take Belmont payoff as a loss.

8-25

One of Scott's old ones paid off. I adjusted my payoff to only get back what was there, and I deferred the rest so that I would have a write off. I've got enough profits for this year. I had a few payments too. I have to get us past this next week and getting caught up on these old ones he screwed us on and then we'll be in better shape. He's going to pay me 100k a week, instead of paying down the work out. I'm going to payoff of the remaining AFG's which there are only 6 of them. Within two months we will have no more 2nd on any loans. Then when they sell, he will get some cash back and that can go towards the work out. I'll defer the interest on the AFG's and that way I'll be first on everything and then start the work out, by the end of the year we'll be in much better shape.

8-26

Scott needed 300k more to pound down this extra deals. I gave him that, probably give him some more tomorrow. I have to keep some cash, I can't go to zero. His deals are getting pushed out, those are the ones I was hoping to fund his stuff on. He's not calling me, just emailing me. He's really unhappy, but I can't deal with the stress that he created!

8-27

One of Scott's retails closed, 340k in the door. I sent it back to him as a wholesale. I don't know how much more he need sto catch up. I don't care. He didn't use any of the suggestion I had, so he can deal with them. I'm fine though I'm really low on cash, I'm missing out on several good deals. But I'll have to continue until I can get my cash back up. I had a few payments today too. Even taking a 60k loss on that propertyof Scott's I'm going to be darn near 100k positive for the month.

8-28

I didn't get a single payoff and even the one I thought I was going to get didn't come in. the dollars in and out to scott were the same. I'm down to 800k, with 450k to put out Monday. I better get some payoffs coming in or it's going to be ugly. I've turned away 1 million in deals this week I could have done and another million next week.

8-31

All the payments went out and I funded a deal for shawn, so I was down to 350k or so. Then scott gave me a 100k. which I'm applying to Gary Dr., because that is the property he no longer owns because of a recinded sale to which he can't put his hands on the check, even though the people paid him rent the whole time they lived there! Jake paid me off on a property, but nothing else closed. I had a lot of payments. I made about 100k. I need to reduce my profits so I'm going to retroactively change the payments he made to the work out and payoff the remaining AFG laons. This will eliminate them completely. Raise my work out balance, but if he contines to pay me 100k a week and the other AFG loans pay off, they will have equity in them thus giving him more money to pay off the work out. The balance could go down further than it is now and have all the AFG's gone. He did email me that we need to come up with 600k more for these fucking wholesale loans. With him giving me 300k in the next three weeks, I have to come up with the other 300k. howeve,r it's the timeing, I've go so little closing I'm not sure I'll make it. plus I have a 800k payment for interest that's needed to be made at month's end. This is going to be pivtal month.

9-1

The bank requested a lunch with me, I feared it was something bad. It was just a glad handing thanks for business is there anymore I can do for you. I asked them for a credit hne against my retirement account, they agreed, so that will give me enough breathing room to do what I need to do this month. I also got in 100k more from Yusef so that helps. I'm going to have to send 100k to Tom he'll be bugging me soon. Plus I have to come up with 200k more to Scott this week. I

have some payoffs now coming in this week, not sure when though. I asked them for a 1.5 line against my 2 milion CD, they said yes, I'm ok now, I just need it to happen quickly

9-2

I've feeling great all day, I whipped out all the AFG's by reapplying the principle payments to the loans. It made the work out go up by 800k, but I rather be done with the AFG's. now as he sells them he'll have excess cash he can give to me and pay fhte workout off faster. Then at the at end of the day, the bank said, they don't think they can do it because it's a pension and I had to email the company. I didn't hear back. Tony asked for 200k out. Now I'm more stressed then ever. I seriously feel like I'm going to have a heart attack.

9-3

I called Scott. He brought in some short term money for 200k, so that gives me more time. I've got some deals closing next week, but I fear they will be too late in the week. I hate all this fucking pressure. Mean while I'm turning down deal after deal, good deals I would do in a heart beat. I'm pissed. But I have no other choice.

9-4

Super quiet day, I had no payoffs and a few payments. I have a ton of payoffs supposed to come in next week, I hope they do I'm going to need every last one of them. I keep turning down good loans, and it's pissing me off!

9-8

Another day, and no payoffs. I've got so many that are supposed to come in it's silly I need them to come in so that I'm not stressed. I had some payments. money in and out to scott was the same, he did wire me 100k. I paid off the rest of Gary Dr., so that's not lingering any more. It was rescinded, and sold out from under him, he didn't even own it. now all payments will be go the workout. I just need more money to come in so that I can return money to Tom and Tony and start actually funding some damn deals again. I turned down two more good ones today.

9-9

In and out and no payoffs. I had a few payments, I did renwals all afternoon. Next two days will be interesting.

9-10

I finally had my first payoff in nearly 2 weeks. I wired 100k to tom, just 200k more to him and then 150k more to Tony. I had 190k of payoffs cancel. I'm going to be cutting this super close! I talked to Scott for an hour tonight, he's wanting to start flipping home again using AFG money and making more money that way then just paying down principle ont eh workout. I don't doubt he can make money, but I'm not coinvince he's got the time in the day.

9-11

Money in money out, I've got no money left. I'm down to 278k. I can't fucking believe it. I've got a lot that's supposed to close next week. I had better start getting some money in or I'm in big big trouble.

9-14

I got on stupid payoff in for 50k. the other two didn't close. Scott sent me 100k, but the wholesale is up 80 from last week because of interest anyway. I'm not sure how this week is going to go. I need these damn things to close so I can get ahead of things.

9-15

I had one good payoff today, 187k plus a lot of payments. I'm a little better, then I get a fucking email from Bungei wanting to get back 300k! I swear to fucking god it doesn't stop!

9-16

No payoffs, I sent back 50k to tony, hopefully I'll get some in tomorrow and I can return some money to tom. I sent an email out to the investors saying if you wanted to return to compounding interest I would allow it. I only got a few responses and for small dollars, the three big ones didn't respond those were the ones I was hoping for.

9-17

I got a 100k payoff from a shitty borrower that I'll never lend to again, I'm so glad, I sent 100k to tom. Just 100k more to go. The other payoffs of scott's got pushed to next week. it's going to be such a stressful week next week! I hate this! Plus I had to send scott 200k more. I got a lot of emails from investors wanting to go back to accrue, so that's going to save me a lot of cash at the end of this month, maybe 50k or more.

9-18

I had a few more people revert back to accrue and two more offer to send me more money. I hope that it comes next week. I'm down to 400k. I turned away another good deal away, I won't keep track of how many and how much, because it pisses me off too much.

9-21

None of these fucking payoffs are coming in. I got one confirmation that one is closing on thursday. With the email I sent out to the investors, I got all but two of them to switch back to accrue. I was nervous to send it, but they all were glad! It saved me 250k. a few even wanted to add more money. If I can get some of it in, plus save 250k, this could be a 500k swing in my favor. If these fucking deals ever close! Scott wired me 100k. then with is buys and payoffs, he

needed back a 100k. he told me he screwed up the math. I was so damn pissed I almost blew my top

9-22

Scott wired me back oalmost to the dime 100k and change. I swear this is all manufactured I got no payoffs and more move out . I'm getting so worreed. I'm not going to be able to breath this weekend. I truned away aonther million dollars worth of golden deals today too. I just fucking hate this!

9-23

Still no fucking closings. More dates moving in to next week. I couldn't handle it any longer and moved 400k out of my money market account in to my densco account. I hope they don't hold the fucking check for a week. I just can't stand it any longer. I called scott told him how slim it was, he knows, two of the deals are his. I should have something close tomorrow and more Friday, but I've been hoping for that for a week.

9-24

I cant' believe it not a single close today. I even wired tom his last 100k, he's totally done now. He no longer has any money with me. I received 32k from scott on the in and out. If he wires me his 100k Monday, I'll have enough ot make end o fmonth interest and that's it. I have 1.9 million supposed to close next week.

9-28

I finally got a close in for 150k, plus scott's 100k, so now I have enough to cover my interest and I can fund a deal. I finished end of month, all but the statements. I hpe more money comes in soon so I can start funding deals.

9-29

I had no payoffs today, two scheduled, both pushed. I've got enough to cover my interest and fund one deal. I have had lots of payments, but this payoff thing is stupid now. 1.6 million should close this week. every day I get another stupid email about how it is getting pushed off another day.

9-30

I received one payoff for 57k. if I hadn't moved my interest from quarterly to accrue I would have been fucked, compleltey. I've still got 1.5 million supposed to close the rest of the week, we'll see what happens. I funded one deal today, second one of the month. I've got ½ dozen deals to fund next week. Barry called me wanting me to think about turning over the company to

him when I quit rather than closing it down. I told him I would consider it. it's still many years away and I have to get this scott thing behind me, a long ways behind me.

10-1

I had one close finally today for 187k, I know I have about 250k coming tomorrow, could be twice that. I am past my cash crunch now I just have to get in the payoffs and start doling them out to the right people and hopefully get in enough money to return the 400k to my cash account. i talked to Kirk, he lost his ass on the penny stock I warned him about, he now is going to invest back what he has with me which is only a few hundred k after having nearly 2 million with me.

10-2

I was able to send 100k to Bunger, then he requested 500k more! I cant' fucking believe this shit. I'm so glad they are committed to investing money with me! Mary Kent sent me 100k so I'll send another 100k to him next week. I had one 180k payoff come in so that helped. I still have another 250k that was supposed to close today. I hope they will come Monday. I've got 1.2 million supposed to close next week. same shit that was supposed to close 2 weeks ago!

10-5

The two deals I thought were to close Friday, should have closed today both got postponed until next week. then Tom called me wanting to clear out his kids trust accounts because the sale on his plane fell through. I told him it wouldn't be soon, I have 800k to send back to Bunger first. He wasn't happy, but that's not my problem. scott only wired me 50k, promised to send 150k next week. I had lots of payments but other wise, nothing much happened.

10-6

The Vermont house of Chant's is done. Medel spread the rock, but now the damn key is missing from the lockbox, never ending fun. I funded one deal for Jace/Mike, which he should have a payoff off on one soon and then pay me off on two others soon too. I found out two long loans are getting refi'ed this month. Riccardo my other problem loan is closing tomorrow, which is great. I don't have any deal to fund, but I'm building up cash to return to investors, which is just treading water.

10-7

I had three surprise payoffs Riccardo paid his loan off, I still got a bill for \$405 from the trustee, but I'm just glad it's gone. Chris hughes paid me off on two deals, I wasn't expecting. I paid back Bunger 200k. I've still got lots closing next two days, see if anything comes in or not.

10-8

Money in and out to Scott was the same as yesterday. I did get confirmation on Lili's payoff for next week, which is great, 250k. I also found out my last problem loan of 40k is getting paid off tomorrow. They didn't even have my lien listed on the title report, but I talked to escrow and got it straightened out. I should have another payoff or two tomorrow. Next week should be the break through week of payoffs.

10-9

It was a slow day, which is what I wanted, I received one payoff for 50k. I have so many that are due. I was able to get everything done so I could leave.

10-12

I had a ½ dozen payoff requests over the weekend. I know have about 2.6 million supposed to close by month end. Which is great, because I need it all to return money to people and start funding this business. I talked to Scott, his wife, drained 1.7 million from his bank account and left him. Now we are fucked again. I don't even know what we are going to do. I'm so sick of this shit, we go from one crisis to another, I can't fucking believe this. Just when things finally are going right, now this! It was a holiday so all I did was send payoff requests and nothing else.

10-13

Scott didn't get the money back from his wife, he went to NY to try to retrieve it. He was to wire me 200k today! I did get a few payoffs I was expecting, I sent Burger back some money and committed to a deal later this week. I should have some more payoffs coming in too. I have 1.3 million in my account, boy that feels good.

10-14

I had a bunch more payoffs today, my cash is up to 1.6 million god this feels good, if Scott can straighten out his shit, I'll have 200k more plus I've got more payoffs coming the rest of the week. He's supposed to get this Las Vegas guy to take some of the wholesale too, which would lower my exposure to him too. He's in NY trying to get the money out of her.

10-15

I had no payoffs today, but I did fund a deal! Feels good to be able to do that. I've got another one to do tomorrow. Scott wasn't successful and so I have no idea what we are going to do. Right literally the night before we are going to turn the corner, pay down more line, payoff a house everything going in the right direction, this bullshit happens. Now he's got a hearing with a judge on Monday. Who knows how that will go!

10-16

I had one payoff, and funded one, scott's in and outs were smiliar. I talked him, he's back, made no headway with her. He's got a hearing on Monday. I have no idea how that will go. He better get his shit straight soon.

10-19

I had one small payoff and a payment, ins and outs were wrong about 35k plus interest, we better have it right this week. soctt spent all day at the court dealing with his bullshit wife. The judge said the money had to be put in an escrow account for 30 days. Which gets us no where. I can't fucking believe this.

10-20

Scott says now he's meeting with his wife on Friday and hopefully going to figure it out. I'm loosing my faith in this, if it goes to lawyers and judges it will never get resolved. I had two payoffs, one of them scott's old deals. I took a 4k loss on it and no interest because he's got no money to close it. I've got another one to close tomorrow, same thing. I had another close and I was able to return money to Bunker today. I funded a deal too I have another one to fund tomorrow too.

10-21

I recieved in another payoff from scott's old ones, 290k worth. We only have 10 proprerties left and two of them are in escrow. He just needs to figure out this nightmare with his wife so he can pay me down som e money! I funded a deal for JBM. I've got a million out to him now I hope they start paying me back, they are wholesale, they seem to last a longer time.

10-22

I turned down a 500k deal even though I've got 1.6 in the bank. I'm not sure all these deals are going to close next week and I don't want to go down below a million in my account. The day was quiet, ins and outs were similar. Not many calls.

10-23

I had no payoffs and only one payment. In and outs were 3k difference and huge. Though I'm down ofcourse the interest. Scott is meeting with wife tonight or tomorrow I just pray he gets the money back from her so he can start paying down the dman line again and we can operate properly. I went ot lunch with Doriann. She wants to invest 50k or so. I said yes. I returned 100k to tom today. I've got 200k more to go to he and steve and then I'm done, until tom wants the next 200k from his other kids fund.

10-26

I decided to wire the last 100k to each tom and steve, just because I wanted it off my list. I still have 1.3 million in my account. I have two more deals supposed to close on Friday I don't think

all of them will, but I'm sure some of them will. I've got one deal on my desk, so I'm fine. they would have been excepting it this week anyways. I did end of month this weekend. All I have to do are the statements. I'll do them Thursday night. Scot talked to his wife this weekend, no break, but says she's getting close. I don't know if I have any faith in this whole thing at all.

10-27

I had no payoffs and only one payment. It looks like I've got a few payoffs for Friday committed, it should be interesting. I've been recruiting buorrowers to come ot my MOM's meeting, because we have so few people showing up! I have damn near as many investors as borrowers coming!

10-28

Ins and outs were the roughly the same. Unlike yesterday where it was in my favor 100k. which in nearly 2 years had never happened. I sent aonther payoff ro 300k for Friday. Now the five deals I thought would close Friday aren't going to. It will be an interesting firday.

10-29

I got one payoff today, I should have a few tomorrow I was thinking gosh I'm not getting any calls for deals. Then Victor bought one, Chris, and Judith. Then Eric called wanting 750k. poof all my cash is gone. I hope now that Villaverde's properties close.

10-30

I had a few payments and one payoff. I shoul hdave two, but they missed the cut off time. I funded two deals, one for Victor and one for Judith. I've got another two to fund Monday, so I need the money back in. I had my mom's meeting. We had our biggest turn out of the year. Mainly because I added several people because I had a few investors coming and I didn't want it to look empty. One guy was beating me up on how much I was lending out who has all the money etc. one of my investors called nad said her husband died earlier this month. Herb Cohen was his name. I really liked him. She was emotional and I made her laugh a bit and made her cry a bit. She'll have a rough go of it for a while. Scott's deal didn't close, I fear it's going to cxl. He's still struggling to get the money out of his wife and he's getting people upset at him because he's short cash.

11-2

I never turned on my computer the whole weekend. I had two payoffs and which was great, I funded two deals and then I had a strange call from Jemma Kopel. She tells me he's got pancreatic cancer and she wants her money back, then in a trust, then her interest. Then she cries and puts Roy on the phone. He thinks it's best if I just send them their money back. After two more phone calls and I mail them a check I told Dave to call them. Scott thikns he's neogitated with his wife to give back 1.3 million if she does that we'l be able to right the ship. But now it's not until Friday she has to talk to her lawyer. Just utter bullshit.

11-3

Ins and outs were off by a long ways, says it will go the other direction tomorrow. I really hate this. I gave 200k to Eric Weinbrenner, Roger paid me off on two of his since he had idle cash. I had some payments made yesterday I didn't know about until today I've got a lot of payoffs coming that go moved to Friday now I hate refi's they never come on time. I've got a few deals to fund and i have amillion in the bnak, I would like to get two million but it's got to come from scott, not from my current guys paying me off. he's got three properties now under contract and maybe a fourth. All supposed to close this month.

11-4

I spent last night doing the reconciliation. Between scott and I we were off just a few 100, so I wired him the amount this morning. October is done. Now we have to wait for Friday to see if his wife's attorney will agree. I received in another 87k payoff that was 2 weeks late. Eric needed another 150k for tomorrow. Shawn had 250k worth of payoffs for Friday. Villaverde's refi's are supposed to close Friday too, but that's what they said for 10 days. I had a few payments nad DoriAnn sent me 50k more for investment.

11-5

I funded one deal for Cyler and I have two more to do next week. I have 1.5 million supposed to close tomorrow We'll see if it actually happens. I won't mind if it does, I can redistribute the cash. I'm just hoping tomorrow is a godo day for scott and his wife!

11-6

I funded one deal today. I had 8 deals supposed to close, only two closed. I have another 7 or 8 to close Monday now. I'm supposed to hear from scott to see if his wife is going to give back to him the money she took. It's 5 and I've not heard.

11-9

I talked to scott he got no where with his wife. We are going to have to wait until the 23rd now he won't be selling his house either He's meeting with this vegas guy Wednesday. I hope to hell he takes some over flow to catch thissshit up and get some mfunds back to me I onlyhad one 33k payoff. The other five never came. Tom wants the last of his 200k from his kids trust fund too. at least this is the last of the money he has with me.

11-10

Today was payoff day! I had 10 deals payoff today besides scott's 10 deals. Now I have hardly anything closing this month! Scott has another one his deals sold, close in two weeks, for a loss. But it's one less house! I had a gal call me that wanted 200k against her house down here that's

worth 500k, I decided to take that one on. Eric wants more money too. but I'm going to be slow with him on that. I've got to spread my money around.

11-11

I worked ½ the day, since the bakns weren't opoen it was pretty darn quiet. I just did all the renewals.

11-12

Again a quiet day. other than scott's insurance agent calling me telling me they are about to cxl all his policies because of nonpayment. Scott's wife, brought him the baby and said she can't handle it and left. I have no idea what's going on. I've got some payoffs coming tormorrw. I'm turning down deals so that I can build cash. Tony Burdett emailed me asking how many loans, dollars and ave laon term I had. I don't know why he asked.

11-13

I funded one deal, the same deal, different borrower to get back a payoff. Victor sold a house to John May. I lined up a deal for a guy to buy one of scott's houses next week too. scott moved his meeting from today to next week. his wife hasn't reappeared and now he's got the baby. I hope she doesn't disappear with the money!

11-16

Scott had his meeting today, now the fucking day is December 19th! This will never fucking end! His wife is really lost it, he can't have a conversation with her, he's going to commit her tomorrow. I can't believe thisis what is happening. We need that 1.7 million back and his wife is iin the looney bin.

11-17

I funded one deal for Victor, turned in to a circus. I emailed the bank at 5 am to get the check ready. At noon when I was driving to the bank from Ty's field trip, she tried printing the checks and her printer wasn't working. If she would have done it in the morning she would have known and I wouldn't have had to drive out the mesa to another branch. Victor came by and signed later at the house. Scott got his wife some medicine and to stay at her parents house. Hopefully she comes back to this world soon! At least she has her medication.

11-18

I had nothing coming and going besides Scott's stuff. I've got several deals closing and funding so it looks like it will be a busy Friday at this pace. Adam requested the withdrawl of his 480k which turns my cash flow upside down again. just when for the first time I've got some wiggle room.

11-19

It was a quiet morning after I got back from school, then right before I left for the cpa's. victor is texting me asking when he can pick up checks! The last time we spoke yesterday he said he would call me by 6pm if he needed money, I never heard from him. He admitted he fucked up. I printed docs, the printer was out of ink. I put in new cartdrige and it printed black! I called the bank near my house, their printer wasn't working. I had to go to mesa to get the checks. I emailed the docs to dave's office to print for me. I picked up the checks. I went to dave's office. He told me my tax bill would be 500k. I said no freaking way! so I told dave I'm going to make it less than that. I'm not sure how but there is no way I'm going to pay that much in tax. Victor did'nt come by the office. i came back to the house and he got here late. I'm still trying to catch up at 9 pm.

11-20

I get another fucking email from Bunger wanting 200k more out! I swear to fucking god. I sent tom his last 100k. he won't be bothering me anymore. I just can't get my cash built up before the fuckers start taking it back from me! I funded one deal, sweet deal, 200k on a 500k house. I didn't get any payoffs in and I need them badly now! Scott's daddy is in town, he might give him some money to help him out. His crazy wife is at her mom's house taking her medication, hoping she comes to her damn senses! They have a hearing Monday, I have no hope in that

11-23

It was a disappointing day, of course scott's wife's attorney postpones the hearing because of her mental state. We are never getting this fucking money back. The ins and outs to scott are so one sided my way this month, I swear he's fucked up. He owes me nearly 400k. I get yet another withdrawl request from another investor. But yet, I received 75k from one I've never talked to, the dentist from Colorado. It's only 75k.

11-24

I had a surprise call from Eric, he paid me off \$500k so I was able to send Nishel is 480k. I am so glad. I heard nothing from scott. Of course, scott reversed the dollars today. I think he figured it out and trying to get it so I owe him by Monday.

11-25

I had three payoffs today, two of shawn's and one of John May's. I've got 1.7 million in the bank. 200k goes out for interest and I have about 400k on the desk to fund. I have not one closing planned after 12/2. Scott's in and outs went the wrong way by 50k. not sure how things are going to go for December. Landon said he was going to invest 100 to 200k with my Monday, I'm not sure why.

11-30

I funded two other deals besides Scott's. all the ACH's went out fine along with statements. I had one payoff come in. Landon and Barry invested 200k. I'm glad for it. I need it! I had a few payments, but I keep the checks I'm not depositing it. scott took his wife to rehab or something in CA. so far no money. I can't believe I didn't tell him to move the money when he told me what happened.

12-1

I get another payoff in and so I feel good about sending Bunker yet another 100k. he emails me back saying great, send me more, so \$300k total! I can't fucking believe this asshole! He tells me 2 months ago after returning a million to him, that's it. I funded a deal for Victor he says he's got three that might payoff soon including this one. I hear nothing from scott. I'm fucking dieing over here and not sure I'll make it at the end of the month.

12-2

Nothing happened of significance, the ins and outs were in my favor a big way with scott. He screwed up the payoffs and missed a bunch so he's going to have to figure that out. I gave him statements for 50 properties. I've got a few payoff requests for this month, which is going to help. I talked to siggy. He's going to send me 50k more too.

12-3

Same as yesterday, I received in some payments too. I met with Dave. He didn't like that I was holding on to so many checks. He's unsure on my strategy for modifying the interest income number, but I know it's fine, it doesn't hit my bank account and the borrower and I agree to change the payments to principle. There is nothing wrong with that. I had some more payoff requests for this month too.

12-4

I had a late payoff come in for 200k. I had already sent Bunker back 100k, I'll send the rest on Monday. Hopefully I don't hear from him again! the ins/outs to scott are complete yet out of wack. He owes me nearly 800k. I'm not sure what he's going to do. I've got some deals lined up to fund on Monday. I've got some deals coming back next week. I don't have a lot of faith in them though.

12-7

Scott over the weekend said he's going to israel, a cousin was killed. I hate when he leaves. I had a bunch of payments made and I funded two deals. I've got a few that should payoff this week, but I never know. I returned another 100k to Bunker today. I'm done with his requests we'll see if he hits me up for more!

12-8

Nothing happened today, the only call I got all day was from Dave trying to figure out my taxes. The ins/outs went the wrong way today, but I hope they were reverse tomorrow. I've not heard from Scott so I'm not sure what he's doing.

12-9

Scott said he'd be home tomorrow night. Then to deal with his wife. Hopefully she has found some sanity and we get the money back! I had a no big deal day. was to fund one deal for Jace, but he never got me the info the ins/outs went wrong way for the 2nd day in a row.

12-10

I had a few more payoff requests come, which is great, makes my cash position much better if they close. Victor wanted a 500k for a commercial building. I have to limit my funds to him because he seems to be getting a little over extended and behind on his fix ups. I talked to Dave about taxes, I'm going to have to do some things to make it all work, still going to pay 250k in taxes!

12-11

It was a super quiet day. the ins/outs were within \$1000 of each other. I had three payoffs come in from Justin for 380k. I've got another 500k planned for Monday and Tuesday. I'll be in a fine cash position I think for the end of the year.

12-14

I got an email from Scott at 5 am. He's back. He spent time with his wife, he thinks she's coming around. His car lot has 15 cars on it. he's barely hanging on. I got a payoff for 270k that I didn't know was coming 5 days ago. That helped a lot. Scott had one of his deals close. I took a 30k loss on it but it's closed, I get the money tomorrow. I should have another close later this week of his too.

12-15

I got a payoff on one of Scott's deals first thing this morning. one more gone. I took a 30k loss on it but it's gone. I've got a deal lined up to fund Victor's. I should have another payoff today, maybe it will come tomorrow. I've got a few closing this week.

12-16

A quiet day, ins/outs my favor a hair. I gave Minh and Shawn some money. I had no payoffs and I've not got the mail yet to see if any payments have come in. I did almost all the renewals for this month.

12-17

Nothing happened, other than ins and outs! Lots of emails on millers screwed up deal. I did the reneals all morning and Scott's payoffs through 1/8

12-18

I think I had one phone call and one email all day. Christmas is paying me off on his loan, but needs 2x that back next week. I received some payments from Victor too.

12-21

Ins' and outs were slightly in his favor. He's trying to reconcile and now he realizes he owes me over 800k. I'm sure it will switch soon. I had some payments in from victor. Otherwise very quiet day. I did fund one deal for victor. I have another I think for tomorrow. Never know this week.

12-22

Not a single call and maybe three emails. I picked up another deal I think I'll do. The other ones on my desk never materialized so I have a few extra dollars. I still have a few closing too. once I told scott the numbers were in my favor by 600k, the dollars went 150k the other way today, plus interest so more like 175k.

12-23

Miller's deal finally closed today. Or at least I funded it. the ins/outs when his way 161k plus interest. He's trying to make it even I guess by year end. I had a few payments and one of Scott's old ones paid off today. Looks like we have another one closing next week. I was busier than I thought with calls and emails today. Tomorrow should be dead! I have all my tax information so I'll do that tomorrow.

12-24

I even had a payoff today! I didn't have anything for scott so the day was over by 10am.

12-28

I funded a deal for Christmas, ins and outs went to my favor. I had few payments. I spent most of the day doing more end of month. Taxes payments, paychecks, withholding etc. dave gave me shitty instructions, I talked to Hatue 10 days times to get it all straight. I've doing a deal for Victor he promises I will have the money back by Monday

12-29

I talked to scott. He didn't get the money from her, but he's negotiating. God I hope it's soon. I funded a deal for victor and chris. I should get victor's money back Monday. Chris said in a few weeks. I have so little closing next month it's scary

12-30

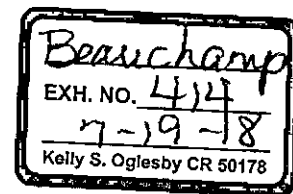
I didn't have a single phone call, nor was I expecting any. I had a 40k payoff from Shawn. The 250k one from Scott is delayed until tomorrow. I had a payment too. I worked until after midnight typing docs for scott tomorrow. All I have to do is send the statements tonight.

12-31

Just my luck. I'm up here in ID and scott sends me a 9 deal day. I typed for an hour this morning. I had one paymet and I had one of scott's deals payoff off, 250k deal. We didn't make nearly as much headway this last 3 months as we hoped. I only have a hand full of loans with him. But not paying me any money for 3 months is killing us. I hope next year we make massive damage to that a/r.

EXHIBIT E

Exhibit No. 138



Investors:

I owe you an explanation as well as a lot of money. This is going to get blown up and the truth will be hard to find. This is what happened. Please don't contact or create notification that would reach my x-wife. She needs to get my boys off to school. You have had all give me unwavering support of confidence; I accepted that confidence with pride, appreciation and humility, knowing I could perform to your expectations. I started the business in 2001. Not a great year to start one. I learned the business and it grew and grew. It was working perfectly until 2008. We had the great recession and phoenix was the epicenter of the housing crash. I was always impressed and surprised that nearly everyone stuck with me through it. I didn't come out of it unscathed, but I survived it which is more than I can say for many other lenders. I took millions of dollars in losses over a few years. I remained profitable every year. I was able to talk to a few of you to help me make decisions on what I should do. Should I sell these house I was getting back and take huge losses or keep them, rent them hope the market comes back? Gladly after consultations from several of you, you agreed with my strategy, it was smarter to rent them at cash flow neutral my interest costs and wait it out. I ended up with a 12 plex and 15-20 homes at one point. Slowly over the years, 2011, 2012, 2013, I sold them. Instead of selling them for 80% loss (which would have been worst case at the point I took some of them back), sometimes as little as 10% on loss of principle at the time of sale in 11-13'. Again because the rest of the business was thriving, the capital I had in the business, these losses had no impact on your interest earnings and even though it severely dented my profitability, but I was profitable every year. For over a dozen years, I ran this business as good as you could. Everything reconciled to the penny, the business was extremely profitable, sometimes annoyingly so. In 2012 I was saying that I would quit accepting money soon and figured the portfolio would start shrinking. Going in to 2013 I was starting to get larger idle cash positions on a regular basis. Scott Menaged, (480-261-7385, 10510.E Sunnyside Dr., PV, 85259), a long time borrower he was probably one of my largest borrowers by dollars over the years. He was also ran a bidding company and sent me many borrowers over the years. He at the time had a few million of loans with me on his rentals and was still doing flips on a regular basis. Scott contacted me and asked if would be interested in funding a bank of rentals to which a hedge fund friend of his out of New York would buy once it reached 7-10 million. He would put down 15-20%, fix them up and rent them and then when he acquired the total dollar amount he would sell out to this guy. That amount of money would take me over my 10-15% threshold to any one borrower. Again I talked to a few of you investors and got a positive response, based on his track record, the down payments etc, the comfort level was there. I agreed. He would buy anywhere between one and three properties a week at auction. Now when I have someone buy at auction, funds have to produce the next day in a cashier's check to the trustee. A majority of the time my repeat borrowers are buying through bidding companies that I have relationships with. For efficiency sake, I would normally wire the funds I'm lending to, the bidding company they would get the check and give it to the trustee. Send me receipts. Sometimes I would even wire the full amount and my borrower would bring me their down payment check and bidding fee because they lived here in the East valley versus running across town. I've operated this way ever since I was given the ability to wire on line in 2003. Many of you knew this and I told you this is how I operated. Some of you that were also borrowers and

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investors have experienced this way of doing business and know it's common. As Scott was buying these properties he would email me the info on the address the buy price and what he wanted to borrow, net of his down payment. I would do my due diligence and would wire the funds. He would sign all my docs and then I would record the Mortgage receipt and then once I saw the trustee's deed was recorded, which sometimes took a few weeks, I would then record my deed of trust. This was to cloud title until the trustee's deed was recorded. Some lenders record a Deed of Trust the day the property is paid for and re-record the Deed of Trust. Again this is the way the auction process works. It's the way I have operated from the beginning and many have copied my process. I've spoken with attorneys, title officers and trustees and it's been agreed upon that it's a good process. I felt comfortable lending him more money, I was keeping money at work and I had started to discuss with many of you telling you that by the end of the year I would probably start returning some of my larger investors some of their money. Everyone I spoke to was willing to accept some money back. I had also stated that I might force everyone to take their interest that way it would eat up my build up in cash that I was forecasting to have once this portfolio paid off at the end of the year. Mid way through the year, Scott contacted me asking if we could raise the bar even higher. He already had a few million of his own rentals and was still doing a few flips. Now he wanted to add to the hedge fund portfolio. I was concerned because of the concentration with him; the portfolio was around \$50 million. It was only going to be for a few more months and he had been spotless with payments of interest and I checked all the values of the properties, visited some of them, everything seemed to be in order. I agreed to the increase. We talked again in the fall and he was telling me I would be cashed out of these by year end. I again spoke with a few of you saying that I might be returning some funds. The plan was all working out fine; the rest of the business was doing fantastic and I wasn't concerned. Then in November something came up that made it look like I was in second position one of the properties I had a loan with Scott. I called him; he didn't know anything about it and said he would get back to me. The day before thanksgiving he came to my office and explained that his wife had come down with cancer and he was dealing with her most of the year and wasn't watching his business as closely as he normally does. He had turned over the day to day operations to his cousin that had been working with him for awhile. His cousin took advantage of the relationship that we had and he would request funds from other lenders on properties and Scott not knowing this would then request funds from me for the same property. Because I wired directly to him he would receive the funds, his cousin would have the other lenders pay for the property to the trustee. I believed I was in first position when in fact I was in second, not all the time but majority of the time based on recording first. Where all this extra money went is a great question. I know a lot of it was spent on fixing up the homes and down payments. The cousin lost some in Vegas, he sent some out of the country, surely spent it. I never got an accounting of it all. His cousin left the country. Scott contacted the other borrowers involved and the plan was to suspend interest and start selling the properties and work through the issues. Scott was going to sell other assets and bring in more money to help right the upside down position we were in. his hedge fund friend had no interest in getting the middle of this, so Scott had to sell each property individually. It's extremely difficult to do this with a tenant was in place. The goal was to get full or close to retail price which would maximize the money out of the property. We couldn't just kick out all these people because of the lease agreements. Once the properties became vacant

or they were a day late, evictions were started and then rehab and sell the property. A typical situation would be, he bought it for 84k, it was worth 110k, and I would lend 70k. The problem was another lender would lend the same amount. The total debt on the property is 140k now the value of the property is 120k. Now the issue on who's in first isn't simple as the recording, time stamp of our docs. When I went through the whole portfolio I was in second by recording in a majority of them. The other lenders took the stance that they had actually issued and check directly to the trustee and it didn't matter when the recording was done. They too were doing double recording at the time they paid and when the trustee's deed was recorded. You would have four recordings on one property with two different lenders. Do you go by the first recording when it was paid for, or do you go by who was first after the trustee's deed was recorded, or is it who paid the trustee? I bounced this off several title agents and I got several difference answers. When asked directly about this whole issue Greg from AFG said he didn't know it was going on the whole year. Scott believes he was in on it with the cousin. But we had no proof. The other lenders involved as far as I know had no knowledge of what the cousin was doing. Now the first thing is how do we figure out who is in first, I know the rules, but when you have two docs and one check to a trustee, it's in dispute. In January, a group of five of the other lenders met me in my office. They had loans on about 60 of the houses. They said unless they were paid off in full, they would take this to court. They had a different set of investors behind them and they were willing to fight this in court even if it took a year. They were confident in their position. I couldn't afford to have that many loans and dollars be in suspense for who knows how long, 6 months a year? We all get lawyers and it would take forever to get a ruling. Yes, by this time I'm talking with my lawyer David Beauchamp 480-684-1100. He's aware of all that I know. He agreed it would be the worst situation to sue each other and try to figure it out. With some negotiating with the other lenders, they agreed not to sue if their positions were paid off despite if houses were sold. Scott and I put a plan in place to which I would start paying off their debts as my cash flow allowed and have lien in first position, all done through title one after another. Even though I would be upside down in loan to value. My position was I rather have 140k lien on a house worth 120k, than 70k in second position. Greg in AFG said as long as he received his interest from Scott he wouldn't do anything and allow for the houses to be sold off as they became vacant. Scott and I worked for months on an agreement that was pounded out between our lawyers. It was a work out agreement with outline of what we were doing and how it was to happen. Why I didn't let all of you know what was going on at any point? It was pure fear. I had seen what one of my investors had done to a bidding company when they had a deal gone wrong. I have 100 investors, I had no idea what everyone would do or want to do or how many would just sue, justifiably. I also feared that there would be a classic run on the bank. Even though I had done nothing wrong. Everyone would be scared and start requesting their money back, I wouldn't be able to meet redemptions and then I would be in violation of my covenants and then I couldn't pay off the loans of the other lenders and they would sue, my investors would sue and the whole thing would implode. I truly believe we had a plan that would allow me to continue to operate, my investor would receive their interest and redemptions as a normal course of business, and the rest of my portfolio was performing. Dave blessed this course of action. We signed this workout agreement and began executing it. It took several months to get all the loans paid off by the disgruntle lenders group. We were also starting to sell the houses at a pretty good clip. In April the last of the disgruntled lenders deals

were paid off. Now we just had the AFG properties that I was in second position. Every time we sold a property there was a shortfall owed to me. Instead of taking this as a loss, I booked it as an A/R and Scott was paying down on it and reducing the A/R. It was of course going up faster than he was able to pay it down. Going back to December of 2013, when we were still trying to work all this that I just explained, Scott knew he had to make money to help cover the deficit to which would be created by the double encumbered properties and shortage that would be created at the time of disposition. He wanted time to still fund him buying properties at the auction and flipping them, wholesaling them etc. I talked to Dave about this January and he was in agreement with it as long as I received copies of checks and receipts showing that I was the one paying the trustee. I have copies of these in scan files. Robert has access to all of this. We agreed to the operation and allowed him to still buy things. He was buying again one to three a week; he would pay me back with interest on these most times within 10 -15 days, sometimes longer. He would wholesale it to one of his investors, put it on his website or sell it directly retail. Once again, I would do my recordings. However, he would nearly always sell it before the trustee's deed was getting recorded, so I was getting paid back before I ever recorded the deed of trust. A few of them he would keep and flip, but an overwhelming majority of these were wholesaled. Now I know that you would think, why the hell would I lend more money to guy that just put me in this situation? Scott came to me and said he was going to do everything he could to make this right. He could have at anytime just throw up his hands and walked away, filed BK and left me with a massive mess. He didn't. He helped negotiate with the other lenders. He sat with his attorney and mine and signed a very one sided agreement in my favor to work this out. I had UCC's on his furniture business and a life insurance policy. In fact his attorney advised him not to sign it. No one else was going to lend him money and I needed him to make money so that I could be paid back. Because of what and how we were operating, Dave blessed it, I felt comfortable and everything he said he was going to do, he was doing. We got the disgruntled lenders taken care of, he signed the workout agreement, and was selling the homes, he was making payments to me and sometimes when a close happened he would wire in the money to cover the difference when he was able to do it. We were making headway on the whole problem slowly but surely. Now in to the middle of year, the amount of money he was borrowing for wholesaling was rising. He would buy more than he was paying off. I would get calls asking me why I had a recording on a property that didn't go to auction. I would check with Scott and he said it was rescinded sale. This happens on a fairly regular basis. I started to check on other properties that I had been paid off and found things weren't adding up. I confronted Scott. Besides buying at auction, he admitted that he had an agreement with Auction.com to send in offers on properties that were postponed, cxled etc and try to get the trustee's to agree on the short sale and give him the property. Auction.com would take the property and sell it and give Scott a cut on it. This whole agreement bothered me and wasn't sure it was right. Over time I was getting more and more uncomfortable with this arrangement and kept asking more questions. I told him that I wasn't comfortable with this arrangement, and I wanted it stopped and he need to return the funds to me and I would no longer fund any more deals. He said Auction.com was threatening if I cut him off they wouldn't return the checks to him that he had sent and I would be stuck with no money coming back in to me. We are now in the late 2014. I was adamant that I wanted to stop this transaction. I wasn't sure what the truth was as far as arrangement how or who was getting paid etc. they were using

late
2014

leverage against him saying he had an agreement with them and he had no way of complaining to anyone. His position was, they were putting pressure on him to continue, they both were making money, and I was getting paid down. If I stopped he had no viable way to pay down the debt that had accrued from selling all the double encumbered properties and he would just file BK and I would be back to the same situation as I was before with a huge problem, no way to solve it, poised to go to the investors, the redemptions would come in and down spiral would occur. Now compounded with the knowledge that all along I had been an unwittingly accomplice in some kind of fraud in my estimation. I felt like I was between a rock and hard place, with no out. In December I said no more. We have to stop this. I can put the money back to work with other borrowers, return it to my investors whatever was best. I would run the business profitably for years, making the up the deficit by the profits of the company and eliminate the negative capital position I was in. In January we agreed to a plan through the first quarter and scale down by 2nd quarter by him finding someone to replace Land.auction.com had a guy out of Las Vegas that would do the same Scott was doing. I agreed because he was still paying me the interest and principle, we were selling the homes off we were down to the last 30-40 homes that were double encumbered and now that all the leases, some were two years were now coming to an end, that by June all the 2nd positions loans would be paid off. Typing this and looking back at it, it sounds insane and stupid, I'll admit it. The business was still operating, I was profitable, this huge issue of second positions was almost gone and we had a plan to end this wholesale program and I would be able to do continue running the business profitably and slowly regain a positive capital position. Scott also decided to start a used car lot in 2015 to help make more money and pay down the outstanding debt. He opened it Easter Sunday. It started slow and grew and became profitable and doing really well by the fall. I had no affiliation with this at all. In the summer, he had surgery; he put his wife on his bank accounts allow her to get cashier's checks and other transactions to help operate his many business when he was home recovering. He also owns Furniture King. Scott by this time had a plan and agreement with auction.com to allow this guy from Las Vegas start taking over for him by fall. The balance hadn't gone up and I was looking forward to being done with this. In mid October his wife, whom I learned was bi-polar, decided to divorce Scott. She went to the bank and cleared out all the money out of all his accounts personal and business. This destroyed his used car business because he was unable to operate without the capital and his flooring companies cut off his credit, he had to sell the cars at auction for losses and close the place by the end of the year. With the divorce going through its phases of discovery and motions etc, this put a stop to all the transactions that he could do through his entities and bank accounts. The way we were operating had to stop. He couldn't send me money and I couldn't send him money. His wife was acting irrational and ended up in a mental health hospital at one point. The problem that his caused put a huge strain on auction.com relationship with Scott and the plans to end the relationship and return the money were all put on hold. Now the money going back and forth one daily basis was sometimes over a million to 1.5 a day. The bank didn't like this back in the spring, so instead we would wire the difference to each other and just do the reconciling. If he purchased (at this point they were all offers to purchase) a million worth of properties for 6 different addresses, he would pay me off on 1.05 million. So he would wire me 50k. Some days I would wire him some days he would wire me. In October we had to stop this because of the divorce and instead we would just do reconciliation each day of who owed who

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Oct
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Oct
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how much. All the second positions houses have been sold by now. I just had a handful of loans with him which was all first position left over from his original group of loans he had me. The real issue was his inability to pay down the debt he owed me for the loss I had taken on the 2nd position houses and this wholesale deal was supposed to come to an end. Here we are at the end of the year and the divorce issues brought it all to a stop. Coming in to 2016, he finally got the divorce canceled and then she filed again. Then several months later is canceled again. His landlord from the car company was suing him. At one point in February under all the stress he decided he would file BK thinking he could get a filing number, which would put him in a bargaining position with his landlord and fighting the divorce. This of course was the stupidest thing for him to do. He didn't realize the laws and procedures in doing this. I didn't find out about it until May when I was contacted by a trustee asking for a payoff amount for a home. He then explained it to me what his thinking was and why he did it. By now auction.com had enough of this nightmare. By June it all stopped. However because of the BK they won't return the money to Scott or me that is owed. Scott's wife at point had gone in to their office and threatened to bring in her lawyers because she saw all the ins/outs in the bank accounts and wanted to know if he was hiding money from her. Auction.com said they wouldn't return the money to me until she signed an agreement with them and then Scott and I had to sign something between us, I've never seen this agreement. I'm not even sure what they would say or the intent of them would be. I never had contact with auction.com; they wanted to pretend I wasn't even involved. When that's all done they would return the money to him then to me or just to me. The whole BK filing stopped anything from happening. Here I am in July. I've got a small lending base the rest of the money is on the A/R that he owes me and 28.1 million plus interest (500k) sitting at auction.com. Plus 3 million in the reconciliation part that they owed me when they were paying me off on more than they were borrowing each day. There were profits made on these transactions. Scott and auction.com were splitting the profits, not sure how or where the funds came and went to, his portion he used to pay down on the workout agreement. However, none has been paid to me since October. The amount is insignificant in the big picture because I believe they were ill-gotten gains. Plus the 1.7 mil Scott's wife took out of his account. You can see that the 14 million (that's principle and interest from the 2nd's positions workout agreement) owed to DenSco by Scott would be about 9 million. I could make another 2 million this year. The net difference is getting smaller and it would be attainable to make all the investors whole at that point in another couple of years of business. That's why I kept working towards doing what I was doing. Scott is now knee deep into his BK procedure and you can imagine when they are looking at all of this they are having issue with it and my fear and belief is that it's criminal and auction.com has propagated a fraud, Scott was someone knowledgeable or conspiring in it, and because I was the money behind it I'm guilty by association. Now typing this it sounds like some obscene twilight show. It's embarrassing and humiliating reading this thinking how could I have made such wrong decisions got wrapped up in to this. But the only answer I can tell you is, in the beginning I was defrauded by Scott's cousin, I didn't realize what Scott was doing with auction.com. From all aspects it was legit, I get copies of checks, receipts, I would be paid back, etc. and I believed it was the best way to return your money to you. That was always my goal. I know I accepted some funds from some of you over the last three years. I believed that I was going to get this all fixed. I returned many more millions to some of you and turn down even more millions from others. I wasn't trying to

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Scott - BK

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No pay
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keep myself afloat by taking more money and investors and making things worse. I put all non-retirement personal available funds in to DenSco over the last few years trying to help solve this. I was doing everything I could and believed to fix this issue. No I wasn't forthright to you. I had convinced myself no matter what relationship I had with anyone of you individually, I couldn't go to just one or two of you without telling all of you and at no point throughout this nightmare did I believe that you would be accepting and trusting to allow me to notify you and would still trust me, assist me on how to work through this without starting massive withdrawals and lawsuits. That would be the natural reaction for a few, some or most of you? I didn't know. The loss that would have happened day one when I was first made aware of the fraud, might be smaller than today. However, with all the lawsuits and lawyers involved I know that it would have exasperated the loss. I know I made wrong decisions. I did consult my lawyer for the first year on each step of the way. He's unaware of the situation I'm in today and the information I now know regarding the relationship between auction.com and Scott's arrangement with them. I'm not privy to the details of it. The guilt, embarrassment, and humility any other adjective you can add in there is over whelming. I can't face my parents, which yes, they are going to be severely hurt, more than all of you by this, going through the legal process is unbearably thought. I have no idea where that would lead, jail? Possibly. Years spent in courts and lawyers trying to settle this all out. Mean while having to face all of you. I can't do it. I love my family and my boys as much as any of you do your families. I can't put them through this face to face. I've decided to be my own judge and jury and I decided the death penalty. I am never going to see my amazing boys grow up. My divorce which I spent more effort than anyone would believe to mitigate the negative effect on my boys, is now in vain because my death is going to be overwhelming to them. As I'm sitting here typing this I'm crying because of the thought of the sadness, angry, confusion, I am going to bring to their lives. As bad as it is, I feel it's a better option than me living, having them see what you and courts would do to me, justifiably too. I'm sorry for everything that I've done. I believe that you can recover a substantial amount of your principle. I believe with me dead there is no change in the chance of that happening. I don't know how to end this other than I'm not asking for forgiveness I'm just sorry I wasn't forthcoming in the beginning maybe it would have had a better ending or process than I feared would happen. I know this all sounds nearly incoherent but my mind isn't exactly clear.

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