

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MARICOPA

Peter S. Davis, as Receiver of
DenSco Investment Corporation,
an Arizona corporation,

Plaintiff,

vs.

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

Defendants.

NO. CV2017-013832

DEPOSITION OF BRIAN IMDIEKE

Phoenix, Arizona
December 12, 2018
10:00 a.m.

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

PREPARED FOR:

BRIAN IMDIEKE, 12/12/2018

1	INDEX			
2	WITNESS:		PAGE	
3	BRIAN IMDIEKE			
4	EXAMINATION			
5	By Mr. DeWulf		5, 121	
6	By Mr. Sturr		101	
7	EXHIBITS			
8	EXHIBIT:	DESCRIPTION	MARKED/REF'ED	
9	630	Amended and Restated Trust Agreement	5	15
10		for the Imdieke revocable Trust,		
11		Established June 25, 1992		
12		(Bates Nos. D127562 and 127596-127568)		
13	631	Email string	5	48
14		(Bates Nos. BC_000753, 767, 1114,		
15		1173-1175, 1198, 1273-1276, 1305, 1333,		
16		1-2, 111, 1828 and 1857)		
17	632	Email string	5	50
18		(DOCID_00070327)		
19	633	Email string	5	51
20		(Bates Nos. DIC0003934-3935)		
21	634	Email from Denny Chittick to Brian	5	54
22		Dawn Imdieke dated 9/6/2012		
23		(DOCID_00064036)		
24	635	Email string	5	55
25		(Bates Nos. DIC0010333-10336)		
	636	Email string between David Beauchamp	5	57
		and Brian Imdieke dated 8/4/2016		
		(Bates No. CH_0009623)		
	637	Email string	5	60
		(Bates Nos. CH_0009600-9601)		
	638	Email from David Beauchamp to Brian	5	62
		Imdieke dated 8/7/2016 with attachment		
		(Bates Nos. CH_0014562-14568)		

BRIAN IMDIEKE, 12/12/2018

EXHIBITS (CONT.)			
EXHIBIT:	DESCRIPTION	MARKED/REF'ED	
639	Email string (Bates Nos. CH_0014543-14545)	5	68
640	Email string (Bates Nos. DIC0009932-9936)	5	72
641	Portion of journal (CTRL_00062012)	5	94
642	Portion of journal (CTRL_00048661)	5	95
643	Letter to Brian (CTRL_00048627)	5	96
644	Letter to Ty (CTRL_00062041)	5	99
645	Portion of journal (CTRL_00062013)	5	99
646	Proof of Claim with Tabs 1 through 10 (RECEIVER_003439-3440)	5	102

PREVIOUSLY REFERENCED EXHIBITS

EXHIBIT	PAGE	EXHIBIT	PAGE
444.....	61	617.....	90
451.....	78	618.....	90
610.....	86	622.....	91
613.....	88	623.....	93
615.....	90	557.....	105
616.....	90	101.....	110

RECESSES TAKEN

	PAGE
Recess taken from 10:58 a.m. to 11:03 a.m.	48
Recess taken from 11:55 a.m. to 12:01 p.m.	84

BRIAN IMDIEKE, 12/12/2018

DEPOSITION OF BRIAN IMDIEKE, commenced at
10:00 a.m. on December 12, 2018, at the law offices of
Coppersmith Brockelman, PLC, 2800 North Central Avenue,
suite 1900, Phoenix, Arizona, before KELLY SUE OGLESBY, a
Certified Reporter, CR No. 50178, in and for the County of
Maricopa, State of Arizona, pursuant to the Rules of Civil
Procedure.

* * *

APPEARANCES

FOR PLAINTIFF:

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BRIAN IMDIEKE, 12/12/2018

Phoenix, Arizona
December 12, 2018
10:00 a.m.

* * *

(Deposition Exhibits No. 630 through 645 were
marked for identification.)

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

EXAMINATION

Q. (BY MR. DEWULF) would you please state your
name for the record.

A. Brian Imdieke.

Q. How would you like me to address you in the
deposition?

A. Just Brian is fine.

Q. Brian.

Brian, Your wife's name is Dawn?

A. Uh-huh.

Q. D-a-w-n?

A. Correct.

Q. And you have one child?

A. Cory.

BRIAN IMDIEKE, 12/12/2018

1 Q. And do you currently reside at 1292 West
2 Bartlett Way?

3 A. No. Never resided there.

4 Q. Where do you reside now?

5 A. 6173 West Victoria Place, Chandler.

6 Q. I have an Equestrian Trail address as well.
7 Did you ever live --

8 A. Prior.

9 Q. -- on Equestrian Trail? Prior?
10 I don't have any information in terms of
11 education.

12 Did you attend college?

13 A. High school.

14 Q. High school?

15 Where did you attend high school?

16 A. Marcos de Niza.

17 Q. And I have information from a career standpoint
18 that you founded American Integration Technologies?

19 A. Correct.

20 Q. In 1984?

21 A. In '83, yes. Incorporated in '84.

22 Q. And you are a member and a director of that
23 entity?

24 A. I am a member -- I am no longer associated at
25 all, because we sold the company.

BRIAN IMDIEKE, 12/12/2018

1 Q. And was that in 2012?

2 A. Yes.

3 Q. And that was to Ultra Clean Holdings, Inc.?

4 A. Correct.

5 Q. So you currently have no position with that
6 entity?

7 A. No.

8 Q. And prior to it being acquired by Ultra Clean,
9 what position did you hold?

10 A. You know, my brother and I were partners. He is
11 the owner.

12 Q. There are a variety of other entities that I
13 have seen in the research I have done. I'm just going to
14 ask you what business they are in.

15 There is an entity called GBI Properties, LLC?

16 A. Holding company for real estate.

17 Q. Real estate.

18 Then there is GBI Eerie, GBI Oakland. Are those
19 real estate entities?

20 A. Real estate. Individual real estate, yeah, it
21 is.

22 Q. What kind of real estate were you buying?

23 A. The buildings that I had for that business.
24 Commercial.

25 Q. There is also an entity called DMI Property,

BRIAN IMDIEKE, 12/12/2018

1 LLC, DMI --

2 A. Rental home. Two rental homes.

3 Q. Let me kind of go through some of those things.

4 Have you been deposed before?

5 A. No.

6 Q. So let me kind of go through some things that
7 will help this go more efficiently.

8 A. Okay.

9 Q. So you are under oath to tell the truth.

10 A. Uh-huh.

11 Q. You understand that?

12 And your answers will need to be audible so she
13 can hear it and verbal so she can type it down. So
14 uh-huh, uh-uh are difficult to type, to understand.

15 What you will -- the lawyers and you will say
16 today will be typed down in a transcript that can be used
17 for court proceedings.

18 Do you understand that?

19 A. Yes.

20 Q. So the other thing that's difficult for the
21 court reporter is if we talk over each other, it's hard
22 for her to discern who is speaking, so we will need to
23 extend to each other the courtesy of allowing the other to
24 complete speaking before the other speaks.

25 Is that understood?

BRIAN IMDIEKE, 12/12/2018

1 A. Yes.

2 Q. My goal is to just find out what information you
3 may possess as it relates to DenSco and Denny Chittick.
4 My clients, David Beauchamp and his law firm Clark Hill,
5 have been sued by special counsel for the receiver, and so
6 we are here to try to gather information from you, if you
7 have it.

8 My goal is to try to make my questions
9 understandable to you so that I can find out what you
10 know. If my questions are not understandable to you, will
11 you tell me?

12 A. Yes.

13 Q. And if you answer the question I ask you, I will
14 assume you understood the question.

15 Is that fair?

16 A. Correct.

17 Q. All right. Now, let me go back to asking you
18 about DMI Property.

19 Was that also an entity that bought property for
20 your business?

21 A. No.

22 Q. What did -- oh. Those were rental homes?

23 A. Yes.

24 Q. And there are other entities, DMI Property, LLC;
25 DMI Vaughn.

BRIAN IMDIEKE, 12/12/2018

1 Were they single-purpose LLCs?

2 A. Correct.

3 Q. For the purpose of buying residential
4 properties?

5 A. Yes. A single property in each case.

6 Q. How many of those entities are there?

7 A. Just the two.

8 Q. Just the two.

9 From a career standpoint, what are you doing
10 now?

11 A. Landlord.

12 Q. And the properties that are held for rent, are
13 they in the Phoenix metropolitan area?

14 A. Yes, all of them.

15 Q. Were you ever a lender, either a hard-money
16 lender or otherwise?

17 A. No.

18 Q. You are a neighbor or were a neighbor of Denny
19 Chittick?

20 A. Yes, correct.

21 Q. Do you recall when you first became a neighbor
22 of Denny Chittick?

23 A. 2005.

24 Q. Relative to the Chittick residence, where
25 were -- where was your residence?

BRIAN IMDIEKE, 12/12/2018

1 A. I'm across the street, adjacent, you know, one
2 home.

3 Q. Was there some period of time that you worked on
4 the Trovita homeowners association with Denny Chittick?

5 A. No. I went to several of the meetings, but I
6 was not actually on the board.

7 Q. On some of the notes that I have seen, Brian,
8 relating to Mr. Chittick, there is a Brian identified that
9 was doing work in the common areas of the development,
10 including replacing light fixtures, doing some landscaping
11 work.

12 Did you do some of that work?

13 A. I did, yes.

14 Q. And did you also -- are you a handy person when
15 it comes to using tools and that kind of thing?

16 A. Yeah. In fact, you know, my business is
17 manufacturing, so...

18 Q. I've seen notes of you coming over and helping
19 Mr. Chittick with items that he needed help on.

20 Was that something that happened?

21 A. Yes.

22 Q. Steve Bunker is an investor that we deposed, and
23 he told us that he thought of all the investors, you may
24 know Mr. Chittick or may have known Mr. Chittick the best.

25 Do you think that's true, or how do you view

BRIAN IMDIEKE, 12/12/2018

1 that?

2 A. Probably, yeah.

3 Q. Let me ask, on email addresses, because I have
4 seen various ones used, I have seen a bji6173@gmail.com.

5 was that an email address of yours at some
6 point?

7 A. It still is.

8 Q. Still is.

9 And then I've seen one that's bji@cox.net. Do
10 you still use it?

11 A. Also correct and still is.

12 Q. And then I have seen one b-imdieke@cox.net.
13 Is that one you used?

14 A. Yes.

15 Q. Do you still use that?

16 A. I can, but I don't.

17 Q. Are there any other email addresses you use
18 currently?

19 A. Yeah, but not for personal work. They are for
20 the two rental properties.

21 Q. Mr. Beauchamp was under the impression that
22 there was an advisory group of investors that worked with
23 Denny Chittick at DenSco.

24 Are you aware of such a thing?

25 A. Advisory group?

BRIAN IMDIEKE, 12/12/2018

1 Q. Yeah.

2 A. Not that I am aware of.

3 Q. A group of investors that worked with him,
4 talked to him about business issues, that kind of thing?

5 A. Not that I am aware of.

6 Q. Do you think he probably --

7 A. Certainly nothing official.

8 Q. Did he, Denny Chittick, talk to you about
9 business issues at DenSco?

10 A. I mean, a little bit. Like -- but just general
11 things, like if he had too much money and, you know, he
12 was hurting for loaning out more money, or the reverse was
13 true. It was all loaned out and he needed investor --
14 investor cash or something like that.

15 Q. So sometimes he might come to you and say he is
16 short on cash and ask whether you would be willing to
17 invest some more money, that kind of thing?

18 A. Yeah, basically. It was really kind of more the
19 other way around. I mean, I would stop by his house in
20 the afternoons and chat with him a little bit, and he
21 would be doing his work so we would chat about general
22 things like I'm all loaned out or I've got money in the
23 bank, that kind of thing.

24 Q. His work environment has been described as
25 being -- he worked in a home office.

BRIAN IMDIEKE, 12/12/2018

1 Is that what you observed as well?

2 A. Yes, correct.

3 Q. And worked by himself?

4 A. Correct, always.

5 Q. Are you aware of anyone ever working with him at
6 DenSco?

7 A. No, other than, you know, having his son do some
8 filing to try and teach him. That's it.

9 Q. Did you get to know the investors with DenSco
10 over time?

11 A. Only the ones that lived in my neighborhood
12 because we were neighbors.

13 Q. And those would be Mr. Bunger, right?

14 A. Bunger, Craig Brown I think was an investor.

15 Q. Schwartz?

16 A. Bill Schwartz. And the one other guy, Russ
17 Dupper I think was an investor. I didn't actually speak
18 to any of those -- well, I shouldn't say that. I didn't
19 actually speak to Russ specifically about being an
20 investor, and I don't recall speaking directly with Craig
21 about being an investor.

22 Q. Craig Brown?

23 A. Brown, yes.

24 Q. Are you familiar with what was something
25 sometimes called the MOM's group, M-O-M-S?

BRIAN IMDIEKE, 12/12/2018

1 A. No.

2 Q. There was a group of folks who would get
3 together. I think they were primarily borrowers of DenSco
4 and some builders and flippers who would meet periodically
5 with Denny Chittick, as I understand.

6 A. Okay.

7 Q. Does that sound familiar to you?

8 A. No. Never heard of it.

9 Q. So you never were invited to those meetings or
10 attended?

11 A. No.

12 MR. DeWULF: Let's show him Exhibit 630. You
13 should have it.

14 Q. (BY MR. DeWULF) Let me show you Exhibit 630,
15 Brian.

16 A. All right. Where am I going here?

17 Q. I'm just going to ask you to look at the second
18 page of this document.

19 Is this your Amended and Restated Trust
20 Agreement for your Revocable Trust?

21 A. It appears to be.

22 Q. And just so you know, these are documents that
23 were in DenSco's files.

24 A. Correct.

25 Q. And this was the entity through which you

BRIAN IMDIEKE, 12/12/2018

1 invested in DenSco?

2 A. Correct.

3 Q. And it identifies your -- on the -- what is
4 127602 in the bottom right corner, it identifies your son
5 Cory and family relationships, 1.3.

6 Do you see that?

7 A. Yes, correct.

8 Q. And it looks like you signed this document in
9 May of 1999?

10 A. Yes. The trust document, that's correct.

11 Q. And so let me ask you then, look at the next
12 document in this collection of documents in that -- no.
13 In that same stack of stuff I just handed you.

14 If you could go to 127590 in the bottom
15 right-hand corner.

16 A. 7590?

17 Q. Right.

18 A. I get to 588 -- I get to 89, and I don't have
19 one. It goes to 67. Where are we looking?

20 Q. It's right here. Right after that trust
21 document is a document that looks like this.

22 I think that's it right there.

23 A. Here we go.

24 Q. So let's look at this together.

25 If you see, there is a date up on the first

BRIAN IMDIEKE, 12/12/2018

1 page.

2 A. Uh-huh.

3 Q. It's dated 5/27/08.

4 Do you see that?

5 A. Correct.

6 Q. And then you go to the second page, it
7 identifies the investor as being your trust?

8 A. Correct.

9 Q. And then on the fourth page of the document, it
10 shows your and your wife's signatures?

11 A. Yes.

12 Q. Do you think that this would have been the first
13 investment document you signed with DenSco?

14 A. I'm relatively sure that it is, yes. The date
15 seems right.

16 Q. Do you recall how you came to become an investor
17 or how you came to have your trust invest with DenSco?

18 A. Well, at the time, other investments were flat
19 hard to find and they were losing money. So I had spoken
20 to Denny a few times about what he did for a living, so I
21 asked him if he was interested in another investor. He
22 said: Sure.

23 Q. Do you remember what information he gave you in
24 connection with your first investment?

25 A. Yeah. I didn't bring it with me, but it's a

BRIAN IMDIEKE, 12/12/2018

1 memorandum, I think it was called --

2 Q. Right.

3 A. -- that described, you know, the function of his
4 business, loaning money, hard-money lender, loaning money
5 on these properties to flippers and such.

6 Q. Let me -- let's go off the record for a minute.

7 (An off-the-record discussion.)

8 Q. (BY MR. DEWULF) So this is a copy of a POM from
9 2011, Brian. And it may be that you got a 2009 in
10 connection with your 2008 investment, but do you --

11 A. This looks familiar, yes.

12 Q. Do you recall receiving more than one of these
13 types of documents from DenSco?

14 A. I recall receiving two.

15 Q. All right. So probably 2009 and a 2011, if they
16 were every other year?

17 A. Probably.

18 Q. All right.

19 A. I'd have to look at my current one to verify
20 that completely.

21 Q. So look at 557 --

22 A. Yeah.

23 Q. -- which is in front of you, did you look at a
24 document such as this in connection with your investment?

25 A. Yes.

BRIAN IMDIEKE, 12/12/2018

1 Q. Did you gain an understanding as to how the
2 money that you advanced to DenSco would be used?

3 A. Yes.

4 Q. Do you recall, sitting here today, what your
5 understanding was about the investment?

6 A. Yeah. To my recollection, he basically made
7 loans against foreclosed properties or properties that
8 were being purchased primarily by flippers, quote,
9 unquote. The loan to value he intended to keep below
10 70 percent of current value, as I recall.

11 As I recall, the maximum loan, I think it said,
12 was up to a million dollars, but in -- somewhere in the
13 document it said his average loan was much smaller than
14 that. I think it was under a quarter million dollars per
15 property.

16 And I don't recall exactly how many loans -- you
17 know, it said how many loans were out at the time, but it
18 was -- it seemed like a reasonable number to me to invest
19 in. Like, I don't know, 200 or something, and not
20 thousands and not ten.

21 Other than that, I don't recall specifics.

22 Q. Do you remember any discussions about security
23 for the loans in the form of deeds of trust against the
24 properties?

25 A. Yeah. He was supposed to be -- I don't know

BRIAN IMDIEKE, 12/12/2018

1 quite the correct terminology, but he has first right to
2 the property if it's to be foreclosed upon. So I don't
3 know what the correct term for that is, but...

4 Q. Let's call that --

5 A. -- it made me feel -- it made me feel safe in
6 the loans. Let's put it that way.

7 Q. Right. Let's call that first position.

8 A. Yes. Thank you.

9 Q. Is that fair?

10 So you understood when you were investing with
11 DenSco that your monies would be utilized by DenSco for
12 loans on residential properties, correct?

13 A. Yes, correct.

14 Q. And that to secure those loans that are being
15 made, DenSco would get a first position deed of trust in
16 the property?

17 A. That's correct.

18 Q. Did he talk to you at all or do you remember
19 reading how the monies would be advanced, whether they
20 would be provided to title companies or trustees or that
21 kind of thing, or do you remember anything about that?

22 A. No, I don't remember.

23 Q. Okay.

24 A. I don't remember reading it or discussing it.

25 Q. Did you ever believe that the monies that would

BRIAN IMDIEKE, 12/12/2018

1 be loaned by DenSco would be provided directly to the
2 borrowers as opposed to escrow --

3 A. No.

4 Q. -- companies or third parties?

5 Go ahead.

6 A. No. I mean, the money was to be used to
7 purchase properties. My -- I didn't ask the question, but
8 I assume that would be direct, you know, like through a
9 title company.

10 Q. It sounds like you know, and you have already
11 testified earlier that you do own rental properties.

12 A. Yeah.

13 Q. Would you consider yourself fairly knowledgeable
14 as it relates to real estate transactions?

15 A. Yeah, the basics.

16 Q. Right.

17 Other than the documents -- and we have got in
18 front of you 557 and you think you may have gotten an
19 earlier POM in 2009, correct?

20 A. Correct.

21 Q. Other than the documents you would have
22 reviewed, did you talk to Denny Chittick about his
23 procedures in handling your money and how he was going to
24 loan it and that kind of thing, or was it mainly just the
25 written materials you reviewed?

BRIAN IMDIEKE, 12/12/2018

1 A. It's the written material.

2 Q. Did you ever learn -- and you know now that this
3 fellow Scott Menaged, formal name Yomtov Menaged, was a
4 fellow through -- that borrowed a lot of money from
5 DenSco.

6 You understand that today, right?

7 A. Today I understand that, yes.

8 Q. And sometimes he did it through entities.
9 You probably knew that, right?

10 A. I do now.

11 Q. Okay. Right.

12 Did you ever meet Mr. Menaged?

13 A. No.

14 Q. There is some reference, and I don't know if
15 it's to you, of Scott Menaged buying, I think it was your
16 son's property at some point.

17 Does that ring a bell?

18 A. I sold a property, 1292 Bartlett, to somebody
19 that I never met, and Denny did the recording of it. It
20 was -- it was one of his flippers. I don't know if it was
21 Scott or not.

22 Q. So you don't know who it was?

23 A. No.

24 Q. Did you ever learn about, at any time, about
25 this individual Menaged who was borrowing extensively from

BRIAN IMDIEKE, 12/12/2018

1 DenSco?

2 A. Not until after his death, of Denny's death.

3 Q. Did Denny ever tell you, while he was alive,
4 that he was having problems with any one particular
5 borrower in terms of the concentration of loans he had
6 made to them?

7 A. No. In fact, I would have liked to have known
8 that.

9 Q. Right.

10 Is the -- how would -- I have seen documents,
11 Brian, that describe the investors as being family and
12 friends or friends of friends.

13 Was that what you were observing, or do you know
14 one way or the other?

15 A. Many of them, yes, family and friends. Friends
16 meaning neighbors. You know, I can't really speak to
17 their friendship.

18 Q. Do you think that you got to know Denny Chittick
19 well enough to be able to share with us what you viewed
20 his character traits were?

21 A. I think so.

22 Q. What would your observation have been before --
23 well, let me ask a question before I ask a general
24 question.

25 Did you ever see a change in his behavior during

BRIAN IMDIEKE, 12/12/2018

1 the time from 2005 to the time that he committed suicide
2 in 2016?

3 A. No, I really didn't.

4 Q. What did you observe or experience with respect
5 to his personality or character traits during the time
6 that you knew him?

7 A. He seemed like an honest and upstanding guy, so
8 I felt comfortable investing my money with him. You know,
9 I don't know how to put it much beyond that.

10 Q. Did he seem knowledgeable about his business and
11 smart?

12 A. Yes.

13 Q. Did you ever have any business dealings with
14 Denny Chittick other than as an investor in DenSco?

15 A. No.

16 Q. I saw a reference, Brian, at one point that you
17 were looking at a property on Ray Road that was behind a
18 house.

19 A. Yeah.

20 Q. There were multiple lots, and you and Denny were
21 considering buying the lots.

22 Do you recall that instance?

23 A. I do.

24 Q. And I might be able to give you a timeframe on
25 that. Let me see if I can. It looks like that would have

BRIAN IMDIEKE, 12/12/2018

1 been in early 2013.

2 Does that square with your memory?

3 A. That sounds about right, yeah.

4 Q. And there were two lots behind a house on Ray
5 Road. It's a large house.

6 What do you recall about that?

7 A. Ray Road and Mill Avenue, there is a large
8 estate there, and a piece of the estate is behind a gate,
9 two lots they were going to split off, and that seemed
10 like a great opportunity because of the area, to buy two
11 homes. Denny was going to buy one and I was going to --
12 or I shouldn't say homes, lots and build two homes so we
13 would be neighbors. One thing that's hard to do, is you
14 can't choose your neighbors. This gave us the opportunity
15 to maybe do that.

16 Q. It didn't play out, though, right?

17 A. It didn't play out for a couple of reasons.
18 Mostly the seller was -- turned out to be a little flaky.

19 Q. This opportunity you have just described
20 occurred after Denny got divorced from Ranasha, correct?

21 A. Yes, correct.

22 Q. Did he share with you that he was interested in
23 kind of leaving his present home and all the memories that
24 were tied into that to build a new place?

25 A. No. Actually, a little of the opposite. He --

BRIAN IMDIEKE, 12/12/2018

1 he wasn't that keen on even doing this, except that it
2 would give him the opportunity to build a little smaller
3 home and choose his neighbor. That was it.

4 If it weren't for this particular circumstance,
5 he had no intention of selling his home or moving. He
6 didn't even want to. At least that's what he told me.

7 Q. Do you think that in the time that you spent
8 with him you got to know him well?

9 A. Yeah, I do.

10 Q. He didn't seem guarded to you or less than
11 forthcoming in terms of him sharing his feelings or
12 thoughts with you?

13 A. I don't think so, but I don't really ask a lot
14 of questions, either. I'm not kind of a sharing thoughts
15 kind of guy. It's your business and not mine.

16 Q. So that timing of the divorce from Ranasha, his
17 former wife, did he ever share with you any of the
18 circumstances that led to the divorce?

19 A. No.

20 Q. If I were to tell you that the divorce occurred
21 in 2012, would that be news to you?

22 A. No. That sounds right.

23 [REDACTED]
24 [REDACTED]
25 [REDACTED]

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BRIAN IMDIEKE, 12/12/2018

1

2

3

4

Q. Did you ever gain an impression of him as it related to his willingness to take advice?

6

A. That's a good question, but I don't really -- I don't recall an instance or a circumstance to verify that.

8

Q. Do you know if he ever shared the details of the finances in DenSco with anyone?

10

A. Not that I'm aware of. He didn't share them with me.

12

Q. All right. There was an accountant, Dave Preston, who was also an investor.

14

Do you know Mr. Preston?

15

A. I know Dave. He is also my accountant.

16

Q. Do you know whether Mr. Chittick ever shared the details of DenSco's finances with Mr. Preston?

18

A. I only assumed that he did. I don't have any firsthand knowledge.

20

Q. There also is an investor named Robert Koehler.

21

Do you know Mr. Koehler?

22

A. I know the name. I don't know who he is, though.

24

Q. Do you have any knowledge as to whether

25

Mr. Chittick shared DenSco's financial information with

BRIAN IMDIEKE, 12/12/2018

1 Mr. Koehler?

2 A. I don't have firsthand knowledge, but as I
3 understood it, Robert was going to be the go-to guy if
4 something happened to Denny, so I just assumed he would
5 have to have shared something with him.

6 Q. Let's go through the rest of this exhibit that's
7 in front of you.

8 A. Which one?

9 Q. The -- I'm sorry, the 630, which is the document
10 that has your investments, and I just want to go through
11 it --

12 A. Okay.

13 Q. -- identify them.

14 So after this first document, which we have just
15 identified as May 27, '08 --

16 A. Right.

17 Q. -- if you thumb through there, there is another
18 document that's dated July 23rd, 2010.

19 A. Correct.

20 Q. Do you see that?

21 And this is also a document signed by you and
22 your wife?

23 A. Correct.

24 Q. And it would be consistent that in 2010 you
25 would have done some further investing with the company?

BRIAN IMDIEKE, 12/12/2018

1 A. Yes. I think over the years I had, as I recall,
2 about 14 individuals notes.

3 Q. All right. Let's go to the next. And I'm not
4 sure I have been able to gather all of those. We have
5 done our best, but I will show you -- if you look at the
6 next document, it's dated June 9, 2014.

7 A. Yes.

8 Q. \$250,000 payment note.

9 Do you see that?

10 A. Correct.

11 Q. And then the next document is a September 9,
12 2014.

13 A. Correct.

14 Q. 500,000.

15 Do you see that?

16 A. Yep.

17 Q. Again, these are signed by you, these forms?

18 A. Yes.

19 Q. The next one is a December 1, 2014, Subscription
20 Agreement for 250,000.

21 Do you see that?

22 A. Correct.

23 Q. It's also signed by you, correct?

24 A. Yes.

25 Q. And then the next one is a January 9, 2015, note

BRIAN IMDIEKE, 12/12/2018

1 for 250,000?

2 A. Yes, correct.

3 Q. It's not a note, but it's a Subscription
4 Agreement, also signed by you.

5 And the next one is February 19, 2015, again,
6 referencing a \$250,000 note?

7 A. Correct.

8 Q. The next one is March 16, 2015, signed by you,
9 referencing a \$250,000 note?

10 A. Yes.

11 Q. The next one is an April 22, 2015, Subscription
12 Agreement referencing a \$900,000 note?

13 A. Correct.

14 Q. The next one is an April --

15 And, again, that was signed by you, that
16 document?

17 A. Yes.

18 Q. And then on April 29, 2015, Subscription
19 Agreement referencing a \$500,000 note signed by you?

20 A. Yes.

21 Q. The next one is a June 16, 2015, Subscription
22 Agreement referencing a \$250,000 note signed by you?

23 A. Correct.

24 Q. Next is an October 2015 Subscription Agreement
25 referencing a \$250,000 note signed by you?

BRIAN IMDIEKE, 12/12/2018

1 A. Correct.

2 Q. Next is a December 23rd, 2015, Subscription
3 Agreement referencing a \$250,000 note signed by you?

4 A. Correct.

5 Q. Next is a December 24, 2015, Subscription
6 Agreement, referencing a million-dollar note signed by
7 you?

8 A. Correct.

9 Q. Next one is a June 9, 2016, Subscription
10 Agreement referencing a \$250,000 note --

11 A. Correct.

12 Q. -- which is also signed by you?

13 A. Correct.

14 Q. And it looks like the last document is a
15 June 16, 2016, Subscription Agreement referencing a
16 \$500,000 note, and that document is also signed by you?

17 A. Right.

18 Q. Does this seem consistent with your memory in
19 terms of the volumes and the timing of the investments
20 that you made with DenSco?

21 A. Yes.

22 Q. During -- let me ask kind of a background
23 question.

24 How did you learn about Denny Chittick's death?

25 A. Eldon Chittick, Denny's father, called me when

BRIAN IMDIEKE, 12/12/2018

1 he heard.

2 Q. To maybe refresh your memory a little bit, I
3 think his body was discovered on July 28, so a Thursday,
4 of 2016.

5 Does that seem consistent with your memory?

6 A. That sounds accurate.

7 Q. Relative to that, do you remember when Eldon
8 Chittick contacted you?

9 A. Oh, it was that day.

10 Q. That day.

11 A. I think it was, oh, 4:00 in the afternoon maybe
12 or 5:00.

13 Q. Can you share with us what your reaction was to
14 that?

15 A. Holy crap. The first thing I said to my wife,
16 is, you know, we have got a problem, because there was
17 only one reason in my mind that would make Denny do that.
18 He was in financial trouble. Other than that, I couldn't
19 think of a good reason, because he didn't seem like the
20 kind of guy, you know, for something to push him over the
21 edge and commit suicide.

22 Q. Did you see any sense of stress or depression or
23 anything like that in him prior to the suicide?

24 A. I did not. He hid it well.

25 Q. And did you ever learn from him that there was

BRIAN IMDIEKE, 12/12/2018

1 any sort of financial challenges in his life or anything
2 like that?

3 A. The only financial challenge, quote, unquote,
4 was as I discussed earlier. If he had too much money, he
5 was lending it out, or he had too many people asking for
6 money and he didn't have enough money, you know,
7 business-wise. Other than that, his financial situation
8 seemed terrific, actually.

9 Q. As of his death, you were the largest investor
10 of DenSco in the sense of monies owed by the company.

11 Is that accurate?

12 A. That's correct.

13 Q. And did you -- after the suicide, did you take
14 an active role with respect to trying to gather
15 information and try to help the other investors figure out
16 what was going on?

17 A. Yes, if I could. I called Dave Preston just to
18 let him know, because I knew he was DenSco's accountant.
19 And I think that Dave said -- gave me Robert Koehler's
20 number, phone number to pass on to Shawna Chittick,
21 because I knew she was coming into town.

22 Q. Had you met Shawna before?

23 A. I think so, yeah.

24 Q. Do you remember how?

25 A. At Denny's house. Holidays.

BRIAN IMDIEKE, 12/12/2018

1 Q. Did you get to know her?

2 A. A little.

3 Q. I mean, did you feel like you knew her? Any
4 impressions you had of her?

5 A. She seemed like she was pretty sharp. He had --
6 to my recollection, he had two -- he has three sisters and
7 no brothers. And I don't really remember all their names,
8 but Shawna was sort of the smartest one of the group, I
9 would say. The other two, the older and the younger one,
10 they were -- I'm trying to think of a nice term -- a
11 little flaky.

12 Q. Did you meet them as well?

13 A. Yeah. I have met everybody in the family, I
14 assume it's everybody in the family, and I knew his father
15 and mother real well.

16 Q. How did you know his father and mother really
17 well?

18 A. You know, his father and mother, Carlene, had a
19 place in town, and so during the winter months, they were
20 at his house a lot. He would pick the oranges, "he" being
21 Eldon, he would pick the oranges off of our trees every
22 year, so I had lots of interaction with Eldon, which is
23 why he called me right away.

24 Q. Do you remember what you did, if anything, after
25 you learned, other than calling Mr. Preston?

BRIAN IMDIEKE, 12/12/2018

1 A. Well, I was actually -- we had just gotten to
2 our home in the mountains an hour before the call, so we
3 packed up and drove back home, which took, you know, two
4 and a half hours or three hours.

5 So by the time we got home, there was police
6 cars at the residence, and I went over and talked to the
7 police. I don't recall that Eldon was there at that time.
8 I think he was consoling his -- Denny's mom.

9 And then the following day, Shawna flew into
10 town, and so I had a conversation with Shawna at Denny's
11 house. And that's when I met Peter Davis. He showed up.
12 I don't know how he got there or why, but that was when.

13 Q. You think you met Peter Davis?

14 A. I think it was Friday, the second -- the next
15 day, but it could have been Saturday, two days after.

16 Q. Two days after Denny Chittick died?

17 A. Yeah, that's my recollection. It was pretty
18 quick.

19 Q. So I think that, and this may or may not refresh
20 your memory, that it took a few days between
21 Mr. Chittick's death and a receiver getting appointed, and
22 the receiver being Mr. Davis.

23 A. Yeah.

24 Q. But does that -- whatever you remember, you
25 remember. I'm just telling you that that is what I viewed

BRIAN IMDIEKE, 12/12/2018

1 in terms of the records, because you have to go through --
2 the Corporation Commission got involved and that kind of
3 thing, but if you don't specifically remember that, that's
4 fine.

5 A. Yeah. I know it seemed pretty quick, but, yeah,
6 I couldn't say if it was one day or four days.

7 Q. I understand.

8 A. Not specifically.

9 Q. Did you understand that Shawna Heuer had been
10 identified in Denny Chittick's estate documents to oversee
11 his estate?

12 A. I learned that from Eldon, yes, after Denny's
13 death.

14 Q. Let me just go back, just to put a little more
15 detail to your relationship with Mr. Chittick.

16 How often do you think you would have spoken to
17 Mr. Chittick over that timeframe that you would have known
18 him?

19 A. Oh, a couple times a week.

20 Q. And you were helping each other out on neighbor
21 items and things regarding yards and equipment and that
22 kind of thing?

23 A. I had a key for his mailbox. He had a key for
24 mine. We collected mail for each other when we were, you
25 know, out of town. Repairs around the house, things with

BRIAN IMDIEKE, 12/12/2018

1 the kids, broken bicycles, you know, things of that
2 nature, sure, all the time.

3 Q. And you had the access code on his security
4 system of his house?

5 A. Uh-huh.

6 Q. Yes?

7 A. I had a key to his house and an access code.

8 Q. Do you know if anyone else had either a key to
9 the house or the access code, or a key to the mailbox or
10 the access code?

11 A. Not that I'm aware of. In fact, his father
12 Eldon, on more than one occasion, came to me to get the
13 house open.

14 Q. Did you get to know Ranasha, his wife?

15 A. A little. Didn't have long conversations with
16 Ranasha. She was -- seemed like a nice person, but we
17 didn't have anything to talk about.

18 Q. Did you and your wife socialize with Denny and
19 Ranasha Chittick?

20 A. Yeah, a little.

21 Q. How would you describe that?

22 A. You know, particularly around holidays when the
23 kids, you know, Halloween or Christmas, they would bring
24 the kids over, you know, a small gift exchange, things
25 like that.

BRIAN IMDIEKE, 12/12/2018

1 Q. Well, are you aware of any friends of
2 Mr. Chittick that he spent time with other than yourself
3 and maybe some of the other neighbors?

4 A. No, not really. He didn't -- he didn't really
5 have a lot of friends. I mean, he knew a lot of the
6 parents from the school where his kids went to school,
7 because he would volunteer there. And so there would be
8 some traffic in terms of, you know, parents and some of
9 the other kids at his house.

10 And let me think for a minute here. One guy I
11 remember coming to his house several times. Oh, boy. I
12 don't remember his name.

13 Q. Let me go through some names with you that have
14 been identified by Shawna, and maybe this will jog your
15 memory. It may not.

16 A. Okay.

17 Q. Paul and Julie Kent?

18 A. I don't -- I don't recognize them.

19 Q. Dave and April Williams?

20 A. Nope.

21 Q. Somebody named Jason and Heather?

22 A. I don't think so.

23 Q. Carol Patton and Joyce Pipkin?

24 A. No.

25 Q. Somebody named Sean?

BRIAN IMDIEKE, 12/12/2018

1 A. Sean sounds familiar, but I think he was
2 actually a relative.

3 Q. Right.

4 Do you remember his last name?

5 A. No.

6 Q. A woman named Jen, does that ring --

7 A. I've heard the name. I might have actually met
8 her once. I met a woman, you know, at his house one
9 night, but I don't remember if it was Jen or not.

10 Q. Was it somebody he was dating at the time, do
11 you remember?

12 A. Briefly, yeah. They dated briefly.

13 Q. Let me ask you that question.

14 After the divorce --

15 A. Yeah.

16 Q. -- do you remember Denny dating anyone?

17 A. Just that one time. That was it.

18 Q. So he really wasn't dating much after the
19 divorce?

20 A. No. No, he wasn't.

21 Q. And the Wenigs, W-e-n-i-g-s, who I think were
22 also investors, does that ring a bell?

23 A. No.

24 Q. Do you remember a Brian Odenthal, does that ring
25 a bell?

BRIAN IMDIEKE, 12/12/2018

1 A. No.

2 Q. Shawna thought that he perhaps dated a woman
3 named Angie at some point.

4 Does that ring a bell?

5 A. I don't know an Angie. I don't remember hearing
6 that name.

7 Q. So from what you could observe in the time you
8 spent with him and the time you talked with him over those
9 years, he didn't have a lot of friends?

10 A. No.

11 Q. Do you know why?

12 A. I don't know. He was busy at home. Like I
13 said, he had lots of interaction with -- with parents at
14 the school, with people, and not only through volunteering
15 at the school, but coaching the kids' games. So there was
16 always people around, coming and going, but it's hard to
17 define them as friends, because I didn't -- you know, I
18 don't know their relationship really.

19 Q. Maybe more like acquaintances?

20 A. Maybe, yeah.

21 Q. In terms of friendships, do you think, based on
22 what you observed and based on what Mr. Chittick shared
23 with you, do you think you were as good a friend of his as
24 anyone during that 2005 to 2016 timeframe?

25 A. I think that's probably accurate, yeah. We had

BRIAN IMDIEKE, 12/12/2018

1 some common ground. I was an entrepreneur like him. We
2 were both in manufacturing. We had common ground to talk
3 about.

4 Q. Because of his history with Insight?

5 A. Yeah.

6 Q. But it sounds, the way you have described it,
7 that you and Denny Chittick may not have talked a lot
8 about feelings and emotions and that kind of thing?

9 A. No, we never did. And that's not just, you
10 know, me and Denny. I don't really talk to anybody about
11 their feelings. I mean, I hate to say it, but I don't
12 care.

13 Q. That's all right.

14 We have identified that he had friends from
15 school that -- his kids' school activities and from
16 coaching and sports activities.

17 A. Correct.

18 Q. Other than that, did he seem fairly, pretty much
19 a loner?

20 A. Well, yeah.

21 Q. We know now, Brian, that this -- there was some
22 sort of a relationship that existed between this Scott
23 Menaged individual and Denny Chittick.

24 A. Okay.

25 Q. Have you today been able to surmise anything

BRIAN IMDIEKE, 12/12/2018

1 about how that happened or how it came to be?

2 A. I mean, as far as I know, he was a borrower, you
3 know, he was a client. And through repeated business,
4 that's how they knew each other. I mean, I don't know
5 what else to put to it, because I never saw them together.
6 I never met him. He didn't talk about him like he was his
7 buddy. He didn't talk about him at all.

8 Q. There seems to be -- let me ask if you agree
9 with this. There seems to have been some influence
10 exerted by Mr. Menaged over Mr. Chittick.

11 Do you agree with that?

12 MR. STURR: Object to the form of the question.

13 THE WITNESS: After the fact, like I said, I
14 didn't -- I never heard the name until after he passed
15 away. And so now, after the fact, going, reading through
16 documents and all, some of the discovery from the
17 receiver, it appears to me like Scott was a pretty slick
18 con man, frankly, and Denny bought what he was selling,
19 you know. He drank the Kool-Aid.

20 Q. (BY MR. DeWULF) Based on what you knew about
21 Denny, are you surprised by that? Did he seem like
22 someone who would be vulnerable to a slick con man?

23 MR. STURR: Object to the form.

24 THE WITNESS: It surprised me. Let's put it
25 that way.

BRIAN IMDIEKE, 12/12/2018

1 Q. (BY MR. DeWULF) Had you seen Denny Chittick in
2 a business environment where he made hard decisions where
3 he had to be tough about some issue?

4 A. No. I mean, I only saw him doing his -- this
5 business in, you know, his office at his home, and that
6 was, you know, fielding phone calls and doing the
7 paperwork, so...

8 Q. Did you ever learn about his relationship with
9 any of his borrowers and how he treated his borrowers?

10 A. No. In fact, I never spoke to a borrower.
11 Denny had an annual get-together for his investors. I
12 don't think it was for the borrowers, but for the
13 investors for sure, and I never went to one of them. I
14 mean, I didn't -- again, what am I going to talk to these
15 people about? I didn't care.

16 Q. These were holiday parties typically?

17 A. It was like an annual picnic, you know, for his
18 investors.

19 Q. Do you know what went on at those?

20 A. Well, no, other than after the party, I always
21 had leftovers with Denny, you know, the food. I assumed
22 that it was always kind of a networking party, and that's
23 exactly why I didn't go.

24 Q. Were you able to gain any knowledge about
25 what -- who of the other investors may have become good

BRIAN IMDIEKE, 12/12/2018

1 friends of Denny over that timeframe?

2 A. Again, only through a couple of the neighbors,
3 and not just -- probably they were friends and then became
4 investors, and they were friends because of the
5 neighborhood.

6 Denny was sort of our gatekeeper, meaning we
7 have an entry gate on the properties, and he did the
8 programming for people, so everybody knew Denny because
9 they had to call him, so...

10 Q. After Denny's death, were there -- were there
11 any investors that ended up taking a more prominent role
12 in trying to gather information and figure out what
13 occurred with respect to DenSco?

14 A. Yeah, there was probably two that sent an awful
15 lot of emails and really tried to, you know, push this or
16 that. I don't remember what they were exactly, and I
17 don't remember their names. I mean, these weren't --
18 these weren't anybody that I knew.

19 If I saw a list, I might be able to pick out a
20 name or two and say, yeah, I remember them sending an
21 awful lot of emails, but that's about it. You know, I
22 didn't -- I don't know that they had any legal grounds,
23 you know, to stand on or anything.

24 Q. Did your brother also invest?

25 A. No. Excuse me. No.

BRIAN IMDIEKE, 12/12/2018

1 Q. Did you ever vacation with the Chittick family?

2 A. I visited his parents' home in Idaho on one
3 occasion while my -- while I was vacationing with my
4 family. So we had -- I think we stayed nearby in an RV
5 park for a night or two, yeah. And that was --

6 Q. And that was near Coeur d'Alene?

7 A. Yeah, it was in Coeur d'Alene. And I'm guessing
8 that that was about 2007.

9 Q. It looks like it might have been 2008, from what
10 I have seen.

11 A. Could have been 2008.

12 Q. Did you meet Shawna at that time, do you
13 remember?

14 A. I don't think so. To my knowledge, she lives --
15 lives and/or lived at the time in Oregon, so I don't think
16 she was there.

17 Q. I don't think I asked you this. I just want to
18 make sure.

19 So the entity that you did have, the American
20 Integration Technologies, LLC, also went by Advanced
21 Integration Technologies?

22 A. No. It was -- we started as American Sheet
23 Metal and then we became American Integration
24 Technologies/American Sheet Metal. We basically had two
25 divisions. And then after we sold, they altered the name

BRIAN IMDIEKE, 12/12/2018

1 slightly, as I recall, because it went to AIT Holdings,
2 and then of course now it's Ultra Clean Technologies.

3 Q. I understand.

4 And that business, before you sold it, was
5 precision sheet metal work and also wiring devices?

6 A. Yeah, integration.

7 Q. Did you ever watch the Chittick boys, you and
8 your wife?

9 A. No. You mean babysit, right?

10 Q. Yeah.

11 A. Yeah, no.

12 Q. Mr. Chittick came to your son Cory's wedding?

13 A. Yes.

14 Q. That was in 2014?

15 A. Correct.

16 Q. And did you help with his kids swimming?

17 A. No.

18 Q. No?

19 A. Huh-uh.

20 Q. Did you buy his kids any gifts, his sons?

21 A. Small gifts for Christmas and birthdays,
22 probably, yeah. I should clarify. My wife bought them.
23 I didn't, but yes.

24 Q. All right. It's 11:00. Let's take a break.
25 I'm going to use the restroom, and then we will try and

BRIAN IMDIEKE, 12/12/2018

1 pick up the speed here a little bit. I appreciate your
2 time.

3 (A recess was taken from 10:58 a.m. to
4 11:03 a.m.)

5 Q. (BY MR. DEWULF) Let me go back, Brian, just a
6 couple questions.

7 Did you ever talk to Ranasha Chittick about the
8 divorce after it occurred?

9 A. No, never.

10 Q. Let me ask you to look at 631. I just want you
11 to thumb through this. And you will see that these are
12 various emails, generally titled Quarterly Update, which
13 show you and others as being recipients of whatever the
14 information was --

15 A. Okay.

16 Q. -- over time.

17 Just confirm that you are shown as one of the
18 lists of investors that would have received these
19 documents?

20 A. I don't see my name in the "to" field, but, yes,
21 I received these over the years.

22 Q. Okay. And once you became an investor, Brian,
23 did you receive quarterly statements from DenSco?

24 A. Monthly statements.

25 Q. Monthly.

BRIAN IMDIEKE, 12/12/2018

1 The monthly statements, were they having to do
2 with your investments?

3 A. Yes.

4 Q. And these reference a quarterly update, which I
5 think was more general information about the economy and
6 that kind of thing.

7 Do you remember those communications as well?

8 A. Yes. I don't remember for sure if it was every
9 quarter, but, yes, he would send them out at least twice a
10 year and maybe every quarter.

11 Q. You mentioned earlier in your testimony that
12 when you initially became an investor, there weren't a lot
13 of good investments around in 2008.

14 Was that because of -- because of the recession?

15 A. Yes.

16 Q. Do you recall anything about DenSco or Denny
17 Chittick working his way through the problems associated
18 with the recession?

19 A. I do recall, but it almost seemed like a benefit
20 for his business, because, you know, all of the houses
21 being foreclosed upon created a pool of cheap properties
22 available for flippers, hence them needing these loans to
23 get the job done. And that made sense to me really, given
24 the environment at the time.

25 Q. Were you a party to any communications with

BRIAN IMDIEKE, 12/12/2018

1 Denny Chittick about working his way through situations
2 where properties were undervalued relative to investments
3 because of the recession and having to work through that?

4 A. Not undervalued, no. There was -- and I don't
5 remember exactly when it was, there was a time when he had
6 to foreclose on several, and he kept them and rented them
7 out to make do. I don't remember how many properties, but
8 it had to be a dozen maybe.

9 Q. Were you an investor at that time?

10 A. Yeah.

11 Q. Did it affect you at all in terms of getting
12 paid on your investment?

13 A. Never.

14 Q. Do you know whether it affected anyone else?

15 A. I -- I don't believe it did.

16 Q. So during the entire time you were an investor,
17 you received your payments on time?

18 A. Clockwork.

19 Q. Let me show you 632. This looks like a series
20 of emails between you and Mr. Chittick in 2009.

21 A. Yeah. We were on a vacation apparently.

22 Q. You reference the Coach.

23 what's the Coach, do you know?

24 A. That's my motorcoach.

25 Q. Okay. Earlier you testified you have a place up

BRIAN IMDIEKE, 12/12/2018

1 in the mountains.

2 where is that?

3 A. Heber, Arizona.

4 Q. Let me ask you to look at --

5 A. It looks like I was asking them about my plants
6 and stuff at the house when I was gone, because it was
7 hot. I think that's how this got started.

8 Q. I understand. There may be others that exist.

9 Do you recall communicating with him by email
10 relative to neighbor issues or things that you --

11 A. Oh, sure.

12 Q. Let me ask you to look at 633. This is an
13 email, at the top of that first page, dated July 19, 2011,
14 from Denny Chittick, with the subject Memorandum 2011.

15 Do you see that?

16 A. Yes.

17 Q. And do you see that about halfway down, it looks
18 like you received the POM?

19 A. Correct.

20 Q. Would this have been the document we looked at a
21 moment ago --

22 A. Yes.

23 Q. -- that was the Private Offering Memorandum?

24 A. Yes.

25 Q. He references --

BRIAN IMDIEKE, 12/12/2018

1 I'm sorry. Go ahead.

2 A. This was the updated offering memorandum. It
3 was basically what I had from 2009. I'm sure there was a
4 few minor changes to it.

5 Q. You remember a part of that was sharing with
6 investors kind of the historical performance that had
7 occurred with respect to the investments?

8 A. Yes.

9 Q. Do you remember any discussion in the POM about
10 trying not to concentrate too many loans with one
11 borrower?

12 A. I do.

13 Q. What do you generally remember about that?

14 A. That he wasn't going to -- I don't recall there
15 was a percentage, a specific percentage, but the point
16 was, diversify the funds.

17 Q. And other than what you read in the POM about
18 that, do you remember having any discussions with Denny
19 Chittick about that subject?

20 A. No.

21 Q. The Exhibit 633, if you see the email from him,
22 it references -- the paragraph, which is kind of the third
23 paragraph, it says: I update this memorandum every two
24 years.

25 Do you see that?

BRIAN IMDIEKE, 12/12/2018

1 A. I do.

2 Q. It says: I work with David Beauchamp
3 (securities attorney) to review all statutes -- I think he
4 is referring to statutes -- and laws in Arizona as it
5 pertains to my business and all the states that I have
6 investors in.

7 Did I read that correctly?

8 A. Correct.

9 Q. He later references Warren Bush, a long-time
10 investor.

11 Do you know Mr. Bush?

12 A. No. Never heard that name.

13 Q. Did you have any interaction with David
14 Beauchamp before Mr. Chittick's death?

15 A. No. Frankly, I don't -- I don't recall ever
16 having interaction with him to this day.

17 Q. There are -- and we will look at it in a moment,
18 there are some emails between you and Mr. Beauchamp after
19 Mr. Chittick's death.

20 Do you recall anything about that?

21 A. To me specifically or to the investor group?

22 Q. To you specifically.

23 A. Specifically? No, I don't recall that.

24 Q. I'll show them to you, and maybe it will refresh
25 your memory.

BRIAN IMDIEKE, 12/12/2018

1 Let's look at Exhibit 634.

2 A. Okay.

3 Q. So this is a September 6, 2012, email to you --

4 A. Uh-huh.

5 Q. -- from Mr. Chittick.

6 A. Right.

7 Q. And he is telling you: I hit 40 million in the
8 portfolio today, correct?

9 A. Correct.

10 Q. Do you recall receiving this from him?

11 A. I do.

12 Q. Did he keep you apprised as to the volume of
13 what was occurring in the portfolio at DenSco?

14 A. Well, not typically. But right before this, we
15 had a conversation about the total. I was curious, and he
16 said he couldn't remember for sure. That's why. And then
17 he sent me this saying I just hit it.

18 Q. Did you have any concern about the size of the
19 portfolio?

20 A. No, I didn't have -- didn't have concern.

21 Q. You were just curious?

22 A. Yeah.

23 Q. My question a moment ago had to do with whether
24 you recalled any communications with Mr. Beauchamp. Let
25 me ask a broader question.

BRIAN IMDIEKE, 12/12/2018

1 Are you -- did you have any communications with
2 any lawyers that you understood were working with DenSco
3 or Mr. Chittick at any time?

4 A. Well, I'm thinking through, and after his death
5 I'm sure there were some emails, you know, questions. I
6 don't remember what the questions were, but it was
7 probably some with Peter for sure; apparently, but I don't
8 recall, Beauchamp. I don't think any other attorneys,
9 other than aides, excuse me, aides to Peter, you know, his
10 staff.

11 Q. I see.

12 Are you aware of any other professionals that
13 may have worked with Denny Chittick or DenSco, other than
14 Mr. Beauchamp as an attorney and Mr. Preston as an
15 accountant?

16 A. No. Those are the only two.

17 Q. You were never a borrower from DenSco, right?

18 A. No.

19 Q. Do you know whether any of the investors ever
20 met Mr. Menaged before Mr. Chittick's death?

21 A. I don't know.

22 Q. Let's look at Exhibit 635.

23 A. Okay. I remember this sequence of events.

24 Q. So let me first ask you, there is an email that
25 starts towards the bottom of that first page from David

BRIAN IMDIEKE, 12/12/2018

1 Beauchamp, and it's dated Wednesday, August 3rd.

2 Do you see that?

3 A. Correct.

4 Q. And it shows you as being one of the investors
5 receiving the email.

6 A. Correct.

7 Q. And I would just describe this as kind of an
8 information email to kind of tell the investors what's
9 going on.

10 Do you recall receiving this email?

11 A. I do.

12 Q. And do you recall receiving a series of emails
13 from either Mr. Beauchamp or Ms. Heuer about what was
14 happening regarding DenSco?

15 A. Yeah. After the fact, yes.

16 Q. Right.

17 Other than receiving those emails kind of
18 providing update on status regarding DenSco, did you do
19 anything else after Mr. Chittick's death to gain
20 information about DenSco?

21 A. Other than just talking with Shawna, which, you
22 know, she frankly didn't know a lot about the company.

23 Q. The follow-up email on 635, if I could just ask
24 you on that first page.

25 A. Back here?

BRIAN IMDIEKE, 12/12/2018

1 Q. The very first page, yeah.

2 A. Yeah.

3 Q. Mr. Bunger sends an email to David Beauchamp
4 with a copy to you.

5 A. Right.

6 Q. And he says: I currently have nearly 3 million
7 invested with DenSco between two different entities
8 (Steven G & Mary E Bunger Estate LLC and Desert Classic
9 Investments, LLC). I live in the same neighborhood that
10 Denny lived in and also know Brian Imdieke who is also a
11 large investor. I really don't have the time to be on the
12 committee but would love it if Brian could because we are
13 two large investors and our interests are closely aligned.

14 Did I read that correctly?

15 A. Correct.

16 Q. Do you remember this email being sent by
17 Mr. Bunger to David Beauchamp?

18 A. I do, yeah.

19 Q. And then Mr. Beauchamp responds to Mr. Bunger,
20 says: Thank you for your email and suggesting Brian for
21 the Advisory Board. It seems that a couple of people
22 believe that Brian would be a good person on the Advisory
23 Board.

24 And then let me ask you to look at 636. At the
25 bottom of that, about halfway down, there is an email from

BRIAN IMDIEKE, 12/12/2018

1 you --

2 A. Uh-huh.

3 Q. -- dated August 4th, 2016, to David Beauchamp,
4 subject, DenSco Advisory Board.

5 Do you see that?

6 A. I do.

7 Q. And is this your email to David Beauchamp about
8 serving on the advisory board?

9 A. It is. I forgot that it was to David, but yeah.

10 Q. How did you decide that you wanted to be on the
11 advisory board? What were the circumstances?

12 A. After receiving this first one from David, when
13 he basically gives the general information and expressed
14 that -- you know, I think at the time Denny had like 100
15 investors or close to 100 investors. Trying to get 100
16 people to agree on anything was impossible. So the idea
17 was to put together a small group, and that's how this got
18 started.

19 Once this got started, I talked -- after Steve
20 sent that to me, the email, I mean, to David and copied me
21 on it, I chatted with him and Brown, Craig Brown in the
22 neighborhood. And, you know, after chatting with him, I
23 felt, okay, I can pretty much represent the three or four
24 of us in the neighborhood on the board, on this advisory
25 board if it comes to fruition.

BRIAN IMDIEKE, 12/12/2018

1 So I didn't have a problem with that. But to my
2 knowledge, it either never came to fruition or I simply
3 wasn't selected for it. I don't know which. I don't
4 recall.

5 Q. I think, and we will see this in the emails, I
6 think that the Corporation Commission got involved fairly
7 quickly.

8 A. That might -- yeah, that might be right.

9 Q. And I'll ask you about that.

10 A. They kind of quashed this thing.

11 Q. Right.

12 Do you remember --

13 A. I don't know who initially thought that idea up,
14 if it was Beauchamp himself or if it was a bunch of the
15 investors thought this was a good idea. I don't even know
16 where it came from initially.

17 Q. "This" being an advisory board --

18 A. Yeah.

19 Q. -- you are talking about?

20 A. Right.

21 Q. And then do you recall, if you look at the top
22 of Exhibit 636, you were just looking at it, David
23 Beauchamp writing you back? Do you remember getting this
24 email back on --

25 A. I do remember it, yeah.

BRIAN IMDIEKE, 12/12/2018

1 Q. Okay. And let's look at Exhibit 637.

2 A. Okay.

3 Q. If you look at -- so this is the email we just
4 saw --

5 A. Right.

6 Q. -- from David Beauchamp to you August 4, 2016,
7 8:06 p.m., and you write back saying: Thanks David. Look
8 forward to meeting you.

9 Do you see that?

10 A. Yeah.

11 Q. Do you think you would have gotten David
12 Beauchamp's email and then sent this email out that's at
13 the top of the first page of 637?

14 A. I believe so, yes. I forgot all this crap took
15 place.

16 Q. And sitting here today, you don't think that
17 there ever was an advisory board formed?

18 A. I don't think so.

19 Q. Do you remember if there was any discussion as
20 to who should serve on that board?

21 A. Other than myself, no. I don't know. I know a
22 bunch of people volunteered. You know, I saw this massive
23 email, like every dang one of them wanted to be on the
24 board almost.

25 Q. Did anyone --

BRIAN IMDIEKE, 12/12/2018

1 A. But I don't know who they were.

2 Q. Was anyone, to your memory, taking any
3 leadership position with regard to organizing the
4 investors in those first days?

5 A. There was a couple of people that wanted, tried
6 to. I don't recognize their names. I never really knew
7 them. And I don't know if they were large investors or,
8 you know, relatively small investors or not.

9 If I looked back through my email, I'm sure I
10 could find, you know, a name of one or two, but since I
11 didn't know them, I don't remember them.

12 Q. So I was going --

13 MR. DeWULF: Let's go off the record.

14 (An off-the-record discussion.)

15 Q. (BY MR. DeWULF) So, Brian, I'm showing you
16 what's Exhibit marked 444, and this was in Shawna Heuer's
17 deposition.

18 A. Okay.

19 Q. And I want you to go to the very last page of
20 that document.

21 A. Okay.

22 Q. And you will see you say to him: I'm collecting
23 Densco mail and forwarding to Robert Koehler daily.
24 However, Robert has been out of town for a couple days and
25 I thought you should get this document right away. I have

BRIAN IMDIEKE, 12/12/2018

1 also sent it to Robert along with the other mail.

2 Do you recall sending that email?

3 A. I do, yes.

4 Q. And I'm going to show you now -- well,
5 Exhibit 638, which is in your stack of documents.

6 So if you see 638, the first page is that
7 initial email dated August 7, 2016, from you to David
8 Beauchamp.

9 Do you see that?

10 A. Yes.

11 Q. And attached to it is this notice of filing in
12 Menaged's bankruptcy.

13 Do you see that?

14 A. Correct.

15 Q. And do you recall about August 7, 2016, getting
16 this notice and forwarding it on to Mr. Beauchamp?

17 A. Yeah. It came in the mail.

18 Q. Did you -- this is early in the process.

19 Were you able to gather at this timeframe who
20 Mr. Menaged was and what was going on with him?

21 A. It seems like the name had come up and we kind
22 of knew that he was, for lack of a better term, the
23 perpetrator of our problem.

24 Q. And let me then, if you turn to the second page
25 of the document, these are -- I'm sorry. Back to 444.

BRIAN IMDIEKE, 12/12/2018

1 A. Okay.

2 Q. And this is a series of emails between you and
3 Shawna and David Beauchamp about the electronic
4 information --

5 A. Uh-huh.

6 Q. -- in Denny's house.

7 A. Okay.

8 Q. Do you recall being a part of that, the efforts
9 in early August of 2016, to protect the information that
10 was present in the Chittick residence having to do with
11 DenSco?

12 A. To the extent that I had a key to the house,
13 yeah, I could open and close it. So I don't remember all
14 of the circumstances, but the idea was clearly -- I think
15 it was Peter, actually, wanted to get his hands on the
16 laptop, on Denny's laptop and make sure that it didn't
17 disappear, you know, by somebody.

18 Q. Again, if you look at these emails, you will see
19 that there is a concern being expressed by David Beauchamp
20 and Shawna Heuer about preserving and protecting the
21 DenSco and Chittick information in or around August 7. Go
22 ahead and read that, if it will help you.

23 A. Okay. I remember this stuff happening. And
24 this was -- I think this was before one of her arrivals,
25 is that correct?

BRIAN IMDIEKE, 12/12/2018

1 Q. I think she came and then left and then came
2 back.

3 A. And came back. That sounds right. But I don't
4 really recall exactly what the story was, other than they
5 didn't want that computer to get out of sight, but I don't
6 remember what, you know, who they were worrying about
7 protecting it from.

8 Q. If you look at this series of emails, apparently
9 there was something suggested, if you look to the second
10 page, by Menaged's bankruptcy attorney. Look at the
11 bottom of that second page.

12 A. Yeah.

13 Q. Beauchamp is writing to you.

14 Does that refresh your memory at all? Do you
15 remember anything being suggested about -- from Menaged's
16 bankruptcy lawyer about the Chittick information?

17 A. Not specifically. I mean, you know, clearly
18 Beauchamp was worried about the computer. I don't know if
19 that worry meant somebody from Menaged's side was going to
20 break in the house and steal it, or, you know, a request
21 to, you know, provide it. I don't know what that meant,
22 but they were worried about it, you know, disappearing.

23 Q. Understand.

24 Do you remember doing anything to preserve and
25 protect the Chittick and DenSco information that was at

BRIAN IMDIEKE, 12/12/2018

1 the residence?

2 A. No. You mean physically? I never got my hands
3 on it. I assume that's your question.

4 Q. Right.

5 A. No.

6 Q. And I'm not suggesting that you did anything
7 wrong.

8 A. Right.

9 Q. I'm just asking whether you helped try to
10 protect it.

11 A. No. Other than when Shawna got there, I opened
12 the house for her because she didn't have a key, and then
13 she gathered it up, you know.

14 Q. Sitting here today, do you have any knowledge as
15 to what happened to either what would be the hard file,
16 the document files and records, and the electronic records
17 that reside at that residence?

18 A. To my knowledge, Shawna collected them and they
19 went to Peter. I don't know if they went anywhere in
20 between those two, but that's my knowledge.

21 Q. Okay. I think, again, there was a little bit of
22 a time lag before Peter got involved.

23 A. Yeah, probably.

24 Q. So there would have been work done, I think,
25 between David Beauchamp and Shawna Heuer about trying to

BRIAN IMDIEKE, 12/12/2018

1 protect that.

2 A. There might be.

3 Q. Do you have any independent memory --

4 A. No.

5 Q. -- at all about what happened there?

6 A. No.

7 Q. Sitting here today, are you aware of there being
8 any problems with preserving and protecting the DenSco and
9 Chittick information?

10 A. No. Huh-uh.

11 Q. Do you remember that both Mr. Beauchamp and
12 Shawna Heuer were concerned about making sure that all
13 that information was preserved and protected in that early
14 August 2016 timeframe?

15 A. Yeah, generally.

16 Q. So 638, you know, is this attachment. It's your
17 email, and then there is an attachment which includes this
18 bankruptcy stuff.

19 were you working with Mr. Koehler in early
20 August 2016 regarding trying to piece together what had
21 happened at DenSco?

22 A. Not so much piece together as just collect the
23 data. Again, this Robert Koehler was, you know, presented
24 as the -- as the guy to wind the company down if something
25 happened to Denny.

BRIAN IMDIEKE, 12/12/2018

1 So after Denny committed suicide, I met Robert
2 one time at Denny's house, I think when Shawna was there.
3 And in fact I think I gave Shawna Robert's number that I
4 had gotten from my accountant, Dave Preston.

5 Anyway, so I said, look, I have -- when I talked
6 to Robert briefly, I said: I have a key to the mailbox
7 and the mail comes here every day, so I can just forward
8 it to you. And that's what all this is about.

9 So I was collecting, there were some checks,
10 there was some paperwork. I collected them and forwarded
11 to him.

12 Q. So other than forwarding mail and whatever was
13 received at the Chittick residence --

14 A. Right.

15 Q. -- to Mr. Koehler and meeting with him briefly
16 initially, do you remember any other interaction or
17 communication with him?

18 A. No.

19 Q. All right.

20 A. Huh-uh.

21 Q. Shawna Heuer has testified that at some point
22 Mr. Koehler, she used the word, opted out, but chose not
23 to be actively involved in the work being done at DenSco
24 to try to gather information and communicate with the
25 investors.

BRIAN IMDIEKE, 12/12/2018

1 Does that -- is that consistent with your
2 memory, or do you have any memory at all about that?

3 A. I didn't realize he opted out voluntarily. I
4 thought he was basically told by Peter, you know, look,
5 this is -- I'm taking this thing over. You know, you got
6 to go. That was my recollection.

7 Q. Let me ask you to -- so you really don't know
8 what Mr. Koehler did or didn't do, right?

9 A. Not a clue.

10 Q. Let me ask you to look at 639.

11 A. Okay.

12 Q. It's right in front of you there.

13 So I want to focus your attention, Brian, on the
14 first page.

15 A. Okay.

16 Q. Let me just ask, as background. You will see
17 that there is an email that begins about halfway down in
18 that first page from Mr. Beauchamp to the investors.

19 And you were one of the investors receiving this
20 email, correct?

21 A. Correct.

22 Q. And if you look at those following pages there,
23 some more details about what -- what the financial
24 situation was at DenSco.

25 Do you see that?

BRIAN IMDIEKE, 12/12/2018

1 A. I do.

2 Q. Do you remember receiving this email?

3 A. Yeah.

4 Q. If you look above this email, then you are
5 writing on August 7, 2016, saying: I see that you have a
6 meeting with someone from the AZ corporation commission on
7 wednesday. Is that a meeting that a couple of us
8 investors can attend on behalf of the investor group?
9 Did I read that correctly?

10 A. Effectively, yeah.

11 Q. And did you send this email?

12 A. Yes.

13 Q. And then the response to you from Mr. Beauchamp,
14 copied to Shawna Heuer, says: Although we had asked for a
15 meeting, this meeting has been turned into a meeting that
16 the Director of Enforcement for the Securities Division
17 has decided to take over and run. I will check to see if
18 the Director has any problem with a few investors
19 attending the meeting and let you know.

20 Did I read that correctly?

21 A. Correct.

22 Q. And do you recall receiving this back, this
23 email?

24 A. Uh-huh.

25 Q. Yes?

BRIAN IMDIEKE, 12/12/2018

1 A. Yes.

2 Q. And do you recall ultimately that the
3 Corporation Commission did not want to meet, at least in
4 this timeframe, with the investors?

5 A. Yeah. That whole investor group thing, like I
6 said, it never, you know, transpired. But there was one
7 meeting in Phoenix that I did go to. Several investors
8 did. We were -- I think all of the investors were invited
9 if they wanted to show up. We didn't have any input, you
10 know. We were just -- Peter was basically giving us the
11 rundown.

12 Q. So when you say "Peter," you are talking about
13 Peter Davis?

14 A. Yes, correct.

15 Q. So you think you recall a meeting in Phoenix
16 between the investors and Mr. Davis, right?

17 A. Correct.

18 Q. And you understand Mr. Davis serves as the
19 receiver for DenSco, right?

20 A. Correct.

21 Q. Okay. And was it your understanding when you
22 talked to Mr. Davis that he had already been appointed as
23 the receiver for DenSco?

24 A. Yes. It was an informative meeting. I think
25 basically there was a lot of ground to cover. Trying to

BRIAN IMDIEKE, 12/12/2018

1 do it via email would have been, you know, crazy.

2 Q. Do you recall that the -- so this is an email
3 dated August 7 referencing the Corporation Commission
4 getting involved.

5 Do you recall the Corporation Commission getting
6 involved in investigating the DenSco matter fairly early
7 on after Mr. Chittick's death?

8 A. Yes, fairly early on. Probably, I'm guessing,
9 within a couple weeks.

10 Q. I think that there was initial contact made as
11 of August 4 of 2016, but you don't have any specific
12 memory, do you, of it?

13 A. No.

14 Q. Do you recall that once the Corporation
15 Commission got involved, David Beauchamp and Shawna Heuer
16 were less involved in terms of working with the investors
17 and communicating with them?

18 A. Absolutely.

19 Q. Up to the time that there was that transition,
20 did you find that Shawna Heuer and David Beauchamp were
21 helpful to the investors in sharing information with them?

22 A. I thought it was helpful. I also know that just
23 from email blasts, that an awful lot of investors didn't
24 think they were getting enough information quick enough.

25 Q. I understand.

BRIAN IMDIEKE, 12/12/2018

1 A. That's human nature, I think.

2 Q. Right.

3 Did you ever learn -- well, strike that.

4 Other than the emails that we have seen between
5 you and Mr. Beauchamp, do you recall ever meeting with him
6 or ever talking to him on the phone?

7 A. Talking to him on the phone. I don't think so.
8 I talked to Peter on the phone for sure and I met him for
9 sure. It's possible I met David once, but it would have
10 to have been at that meeting. That's all I can think of,
11 the one in Phoenix, if he was there.

12 Q. Let's look at Exhibit 640. It's right here.

13 A. All right.

14 Q. So if we --

15 A. This is -- I assume this is about the meeting
16 before we went to it.

17 Q. Right.

18 No. This is actually -- let me ask you to look
19 at the second page of Exhibit 640. This follows up on
20 your request that a few investors --

21 A. Oh, yeah.

22 Q. -- attend.

23 And let me just -- if you see kind of toward the
24 top of the page --

25 A. Uh-huh.

BRIAN IMDIEKE, 12/12/2018

1 Q. -- of the second page of this Exhibit 640, you
2 send an email to David Beauchamp, again, saying: Thanks
3 much David. I really would like to attend, if possible.

4 Do you see that email?

5 A. Yeah. Correct.

6 Q. And then he responds to you on August 8, 2016,
7 and basically giving you a description of what is about to
8 transpire with the Corporation Commission. You can read
9 it if you like.

10 A. Yeah. This -- as I recall, this is about the
11 meeting that I was talking about here a minute ago in
12 Phoenix. He went to it, so...

13 Q. Let me ask you -- so one line up from the bottom
14 on the page of 640, there is a sentence that begins "she."

15 Do you see that? One line up from the bottom.
16 "She" --

17 A. On the first page?

18 Q. Yes.

19 A. However, she declined?

20 Q. Right there. It starts: She has also --

21 A. Oh, yeah, yeah. I'm sorry.

22 Q. It reads: She has also had someone from her
23 office get back to me late today and state that no
24 investors (or their attorneys) should be at the meeting.
25 According to her office, it will be too difficult to keep

BRIAN IMDIEKE, 12/12/2018

1 to the agenda if there are too many other people there. I
2 will have to report back to you after the meeting.

3 Did I read that correctly?

4 A. You did. I think this whole email is pertaining
5 to a different meeting than the one I'm thinking.

6 Q. Yeah. And just to the extent it's helpful to
7 you --

8 A. Right.

9 Q. -- Peter Davis, as the receiver, enters the
10 picture later than this, these dates. This is --

11 A. Is that right?

12 Q. Yes. And so these initial communications
13 occur --

14 A. Okay.

15 Q. -- before, I mean, kind of when the Corporation
16 Commission is getting involved, and then ultimately they
17 facilitate the appointment of a receiver in court.

18 A. Okay.

19 Q. So I don't know if that helps you at all.

20 MR. DeWULF: Geoff, is that a fair summary, kind
21 of timing?

22 MR. STURR: That -- yes.

23 Q. (BY MR. DeWULF) I just -- I didn't want to
24 confuse with you my questions, to the extent I can help.

25 A. Well, this is tough, because right after the

BRIAN IMDIEKE, 12/12/2018

1 fact, there is an awful lot of emails going through every
2 day. Lots and lots of speculation, and quite frankly, I
3 only read about half of them.

4 And this, I kind of remember this now, this was
5 not the meeting I was talking about earlier.

6 Q. Okay. And the meeting you were talking about
7 earlier, which was the meeting with Peter Davis?

8 A. Correct.

9 Q. And I think that happened later, right?

10 A. It apparently did, yeah.

11 Q. So let's focus on this, as of it looks like
12 August, early August, and these most recent emails are
13 August 8.

14 A. Correct.

15 Q. You will -- let me ask on the first page, middle
16 of the page, your email to David Beauchamp, August 8,
17 2016.

18 A. Uh-huh.

19 Q. In response to him informing you about what was
20 going on with the Corporation Commission, you say: I
21 understand. If I can be of some kind of service, please
22 let me know. A number of investors are panicking and
23 every one of them is absolutely positive that he/she knows
24 exactly what needs to be done right now. It's crazy.
25 I've tried to reason with some of them, but it's not

BRIAN IMDIEKE, 12/12/2018

1 happening. Good luck.

2 A. Yeah.

3 Q. Do you recall sending that email?

4 A. I do.

5 Q. And then David Beauchamp responds to it saying:
6 Brian, Thank you. I agree with what your email. Many of
7 them are calling me too. Best regards, David.

8 Did I read that correctly?

9 A. Yeah, correct.

10 Q. And so do you know whether you had any further
11 involvement with respect to the DenSco information
12 gathering, trying to get situated in terms of what was up,
13 after these series of emails?

14 A. I don't think so. In fact, I was trying --
15 frankly, trying to get out of people contacting me at this
16 point.

17 Q. Right.

18 Let me see if there is an exhibit in here. I
19 show you Exhibit 451.

20 MR. STURR: What's the date of it?

21 MR. DeWULF: It's August 13.

22 MR. STURR: Thank you.

23 Q. (BY MR. DeWULF) So August or, I'm sorry,
24 Exhibit 451, Brian, the first page you will see is an
25 email from Shawna Heuer --

BRIAN IMDIEKE, 12/12/2018

1 A. Right.

2 Q. -- to the investors, including yourself,
3 correct?

4 A. Correct.

5 Q. And at this point in time, your email address is
6 bji@cox.net?

7 A. Correct.

8 Q. And there is a copy to a couple of lawyers, and
9 it's dated August 13, 2016.

10 Do you see that?

11 A. Yes.

12 Q. And then attached to it is a memo to the
13 investors from Shawna Heuer, dated August 12, 2016.

14 Do you see that?

15 A. I do.

16 Q. Now, do you remember receiving this memo from
17 her?

18 A. I think so, yeah. This looks familiar.

19 Q. Just looking at the topics, and we can go
20 through in more detail if you wish, but there is a heading
21 called The Estate, and then she talks about Denny
22 Chittick's estate.

23 Do you see that?

24 A. Yes.

25 Q. Do you recall her informing you, as of this

BRIAN IMDIEKE, 12/12/2018

1 date, and the other investors that she had obtained
2 counsel to help her in connection with serving as personal
3 representative for the estate?

4 A. Yeah.

5 Q. And then she goes on and talks about the DenSco
6 operations and that she is working on trying to help with
7 that?

8 A. Uh-huh. Correct.

9 Q. And then talks about the Arizona Securities
10 Division subpoena. As of this date, the Corporation
11 Commission was involved, and through the Securities
12 Division and they were trying to gather information with
13 respect to DenSco.

14 Do you recall that?

15 A. Yes.

16 Q. And then there is a heading, Court-Appointed
17 Receiver, and let's look at that for a moment.

18 It reads: I know a number of investors desire
19 the appointment of a receiver to take over operations of
20 the corporation.

21 Do you recall that there were a number of
22 investors that wanted a receiver appointed or no?

23 A. I don't recall that at all.

24 Q. Okay. Do you know if investors were opposed to
25 having a receiver?

BRIAN IMDIEKE, 12/12/2018

1 A. I couldn't say that either really.

2 Q. The next sentence reads: The estate will not
3 oppose the appointment of a receiver.

4 Do you see that?

5 A. Yep.

6 Q. I have neither the time, inclination nor
7 experience to take over the active management of the
8 business and effect a wind down of its operations and
9 there is no employee at the company to do so.

10 Did I read that correctly?

11 A. Yes, correct.

12 Q. And was this kind of what she was facing in that
13 timeframe, as far as you understood; that she had come
14 into the situation, she really didn't know a lot about the
15 business, and was trying do just the best job she could?

16 A. Absolutely.

17 Q. And she goes on a couple sentences later: Thus
18 I have instructed the estate's counsel and Mr. Beauchamp
19 to work with the Arizona Securities Division in coming up
20 with an acceptable list of receivers and stipulate to the
21 receiver's appointment as soon as possible.

22 Did I read that correctly?

23 A. Yes.

24 Q. And do you remember her telling you that on or
25 about August 12th or August 13th, 2016?

BRIAN IMDIEKE, 12/12/2018

1 A. She didn't tell me in person at all. I mean, I
2 received this.

3 Q. But through the memo?

4 A. Yes.

5 Q. The last sentence reads, of that paragraph: One
6 negative consequence of the appointment of a receiver is
7 the added expense involved as we are all attempting to
8 maximize for each of you the return on your investment,
9 but in these circumstances I agree that it is a necessary
10 step.

11 Did I read that correctly?

12 A. Correct.

13 Q. And do you remember that Shawna had concluded
14 that having a receiver made sense under the circumstances,
15 or do you have any memory of that one way or the other?

16 A. I -- yeah, she had made sense. I mean, she was
17 over her head. She had no idea.

18 Q. How many times do you think you communicated
19 with her by the time she sent this memo of August 13?

20 A. That's a good question. There was -- there was
21 lots of emails back and forth, a lot of them to do with
22 the family and the estate, not so much DenSco.

23 Q. Did you, as of this date, that is August 13,
24 where she is kind of telling you, I think we ought to get
25 a receiver involved --

BRIAN IMDIEKE, 12/12/2018

1 A. This is two -- a little over two weeks after.

2 Q. -- did you feel like she had done her best to
3 try to gather information and share with the investors
4 what was going on?

5 A. I think so. I mean, that was -- you know, I
6 know the investors wanted quick, simple answers, but there
7 weren't any, so they were frustrated.

8 Q. Do you remember that David Beauchamp was helping
9 her in that regard --

10 MR. STURR: Object to the form.

11 Q. (BY MR. DeWULF) -- in terms of communicating
12 with the investors?

13 A. Yeah. She was working with him.

14 Q. Yeah.

15 Did you -- sitting here today, did you think he
16 was doing his best to tell the investors what he could
17 gather in terms of information for them?

18 A. I don't know how to quantify that. We got -- we
19 got this letter for sure. I think we got probably two or
20 three additional, you know, in addition to this one,
21 emails that were sort of generally here is what's
22 happening.

23 Q. Right.

24 A. So I don't know how to quantify that.

25 Q. Well, it was more helpful to get those kinds of

BRIAN IMDIEKE, 12/12/2018

1 communications than nothing at all. True?

2 A. Absolutely.

3 Q. And to your knowledge, were Shawna and David
4 Beauchamp doing the best they could to get whatever
5 information they could in the hands of the investors?

6 A. I think so.

7 Q. Sitting here today, do you have any complaint
8 about David Beauchamp in connection with his actions after
9 Denny Chittick died and before the Corporation Commission
10 got involved?

11 A. No.

12 Q. Did you ever learn that David Beauchamp had
13 terminated the relationship with DenSco before Denny
14 Chittick's death?

15 MR. STURR: Object to the form.

16 THE WITNESS: I don't. No, I didn't. I'm not
17 sure I even knew -- I'm trying, I'm really trying to think
18 that through. I don't think I even knew he worked with
19 David, other than his name would be on some of the
20 paperwork.

21 Q. (BY MR. DEWULF) Okay. Do you remember any
22 discussions coming up, Brian, before the Corporation got
23 involved, about getting the FBI involved to look at what
24 had happened?

25 A. One of the investors sent an email out to that,

BRIAN IMDIEKE, 12/12/2018

1 something to that extent about the FBI and the feds
2 investigating, but frankly, I paid it no mind, because it
3 didn't make any sense to me.

4 Q. Do you remember there being any discussions
5 about getting a forensic accountant involved in looking at
6 the finances of DenSco to try to figure out what had
7 happened?

8 A. Again, I do remember that, and, again, it was
9 one of the investors, you know, sent out an email blast to
10 everybody, that he thought that that was a path that
11 should be gone down. I don't remember the investor.

12 Q. Do you remember if Shawna and/or David Beauchamp
13 looked at that idea of getting a forensic accountant
14 involved?

15 A. I don't know.

16 Q. Do you remember whether David Beauchamp helped
17 in connection with collecting on loans that DenSco had
18 made?

19 A. I don't think so.

20 Q. You don't remember --

21 A. No.

22 Q. -- or you don't know?

23 A. Both. I don't know.

24 Q. Okay. All right. Do you know if anyone after
25 Mr. Chittick's death, other than the receiver later on,

BRIAN IMDIEKE, 12/12/2018

1 but do you know if anyone after Mr. Chittick's death
2 worked on trying to collect money on the outstanding loans
3 that DenSco had to borrowers?

4 A. Only Robert Koehler, you know, the checks that
5 would come in the mail. So that kind of collection, but
6 not -- I'm not aware of somebody trying to go after
7 somebody maybe who wasn't paying.

8 Q. And do you know whether David Beauchamp
9 participated at all in the collection of monies on the
10 loans?

11 A. I assume, but I don't know.

12 Q. All right. When David Beauchamp was involved,
13 until the Corporation Commission got involved, whom did
14 you understand him to be representing as a lawyer?

15 A. DenSco. And actually I think -- I think I maybe
16 had the impression that he was representing DenSco and the
17 estate.

18 Q. Do you remember how you gained that impression?

19 A. I really don't.

20 Q. Let's get up and stretch and use the restroom.
21 It's about time to take a short break. Let's go off the
22 record.

23 (A recess was taken from 11:55 a.m. to
24 12:01 p.m.)

25 Q. (BY MR. DeWULF) Brian, before we broke, I asked

BRIAN IMDIEKE, 12/12/2018

1 you if you had any problem or complaint with how
2 Mr. Beauchamp conducted himself after Mr. Chittick's
3 death, and you indicated that you did not. True?

4 A. Correct.

5 Q. Let me broaden the question.

6 sitting here today, do you have any complaint or
7 problem with how Mr. Beauchamp or his law firm conducted
8 itself relative to DenSco and Mr. Chittick?

9 MR. STURR: Form and foundation.

10 THE WITNESS: I don't -- I don't have any
11 complaints, because I don't really know, you know, what
12 they did.

13 Q. (BY MR. DEWULF) Do you remember there being
14 problems that arose in 2014 with regard to DenSco --
15 DenSco's banking relationship with Bank of America?

16 A. Yeah. Apparently he changed banks or they
17 changed policies. Something happened where it made it
18 difficult -- as I recall, it was because he had a lot of
19 wire transfers going in and out. So I don't remember
20 specifically what the problem was, but there was some
21 issue and he ended up changing banks, I'm pretty sure,
22 over that.

23 Q. Do you remember how he explained what the
24 problem was? Was it simply that there was too much money
25 coming in and out?

BRIAN IMDIEKE, 12/12/2018

1 A. Yeah. It was about the number of wire
2 transfers.

3 Q. Did you raise any questions or did anyone ask
4 any questions about what that --

5 A. It seemed --

6 Q. -- was about?

7 A. Sorry. I cut you off.

8 Q. No. My question went off.

9 A. It seemed like -- you know, it didn't bother me,
10 let's put it that way, because it seemed like it was a
11 regulation change at the banking level, and after all the
12 banking stuff that we had gone through and the economy, I
13 kind of wasn't very surprised.

14 Q. Okay. So no one ever talked to someone from the
15 bank, to your knowledge? No investors did?

16 A. Not to my knowledge.

17 Q. Do you remember an entity called Active Funding
18 Group?

19 A. I don't think so. I might have seen that on one
20 of the checks that came in when I was collecting his mail,
21 but that would be it.

22 Q. All right. So let me ask you to look at
23 Exhibit 610. It may or may not be in there. It doesn't
24 look like it is. Let me find it for you in the next
25 volume.

BRIAN IMDIEKE, 12/12/2018

1 All right. I'm showing you Exhibit 610.

2 A. Okay.

3 MR. DeWULF: This is August 9, Geoff.

4 MR. STURR: Of '16?

5 MR. DeWULF: Yeah.

6 Q. (BY MR. DeWULF) So, Brian, I'm showing you
7 this. It's an email, if you look at the top of the first
8 page, from Craig Hood.

9 Did you know Craig Hood?

10 A. I did not know him, but Craig Hood is one of the
11 guys -- he was one of the ones that sent us over some of
12 these email blasts with, you know, sort of we need do this
13 and we need do that. I don't know this guy, though.

14 Q. Did you arrive at any opinion as to whether he
15 was helpful or not helpful or anything?

16 A. I think he probably didn't really know what he
17 was talking about.

18 Q. So here Mr. Hood is sharing a link for Active
19 Funding Group.

20 A. I think -- I remember this. Yeah. It looks
21 like he was digging into all of the things that Scott
22 owned or did or whatever, and that's -- as I recall,
23 that's what this link is about.

24 Q. Do you remember Active Funding Group being a
25 hard-money lender that lent on some of the same properties

BRIAN IMDIEKE, 12/12/2018

1 that DenSco lent on?

2 A. I couldn't -- I have no clue. I don't -- I'm
3 not sure I ever heard of it before this email.

4 Q. Do you remember a Glenn Davis who was an
5 investor?

6 A. Only -- only by a name on an email.

7 Q. You didn't know him?

8 A. I never met him.

9 Q. Did you know a Bill Gene Lock?

10 A. No. Honestly, the only investors I knew lived
11 in the neighborhood, and David, Dave Preston.

12 Q. So let me ask you to look at 613. This is a
13 communication to the investors from Sara Beretta.

14 A. Okay.

15 Q. Do you recall that Sara was with Simon
16 Consulting Group who is the receiver organization?

17 A. Yes. She apparently works with Peter.

18 Q. And do you recall that the receiver, once he was
19 appointed, was then communicating with the investors about
20 what was going on in the receivership and the litigation?

21 A. Yeah.

22 Q. And do you recall receiving 613, this exhibit?

23 A. Well, let me read it first here.

24 I can't say I specifically remember this, no.

25 Q. So this email references a reporter, Elisa

BRIAN IMDIEKE, 12/12/2018

1 Babigian, who is with Crime Watch Daily with Chris Hansen.

2 Do you see that?

3 A. I do, yeah.

4 Q. Is that familiar to you? Do you remember
5 anything about that reporter or that publication?

6 A. No.

7 Q. Do you know if any of the investors ever were
8 interviewed by this reporter?

9 A. Not to my knowledge.

10 Q. And then I think this is basically just kind of
11 an update on what's going on in the litigation with
12 Menaged.

13 Is that what you understood?

14 A. I don't really remember this email. What was
15 the date on this one? December --

16 Q. This is February 24, 2018.

17 A. At some point I relied more on Peter's website
18 than emails. There were so many of them, frankly, I
19 stopped looking at the dang things.

20 Q. I understand.

21 So did you understand that Scott Menaged was
22 indicted and charged in federal court?

23 A. Yeah, through the email -- through the website.
24 The documents were there and I would read periodically
25 through that.

BRIAN IMDIEKE, 12/12/2018

1 Q. And did you understand ultimately he was
2 convicted or pled out and ended up serving time in prison?

3 A. Just recently, yeah.

4 Q. Did you take any role at all with respect to the
5 litigation, the federal court litigation against
6 Mr. Menaged?

7 A. No.

8 Q. You weren't a witness?

9 A. No.

10 Q. You weren't interviewed by anyone?

11 A. No.

12 Q. There were some investors who communicated with
13 the judge about the sentencing.

14 Did you participate in any of that?

15 A. Nope.

16 Q. I ask you to look at 615. Just confirm you
17 would have gotten this email as well.

18 A. This one looks familiar. He is talking about
19 Furniture King and collecting some of the monies and such.
20 This one looks familiar.

21 Q. 616, you would have received this email?

22 A. Yes.

23 Q. 617 you would have received?

24 A. Yes, I remember this one.

25 Q. 618?

BRIAN IMDIEKE, 12/12/2018

1 A. I can't specifically remember this one.

2 Q. Likely you would have received it if your name
3 is shown as one of the investors?

4 A. Oh, it's likely I received it. I just don't
5 remember reading it.

6 Q. Let me ask you to look at 622, which is a little
7 farther back than that.

8 This is a spreadsheet that was created by the
9 receiver that identifies investors by name and --

10 A. Yep.

11 Q. -- the timing of investments, et cetera. I want
12 you to look down about, I don't know, two inches down that
13 left side under Investor Name, there is the Imdieke
14 Revocable Trust.

15 A. Correct.

16 Q. Do you see that?

17 A. Correct.

18 Q. It says a number of investor deposits on or
19 before January 9, 2014.

20 Do you see that column?

21 A. Yes.

22 Q. It shows 14.

23 Do you think that's accurate?

24 A. I think that's correct.

25 Q. And then the next column shows a number of

BRIAN IMDIEKE, 12/12/2018

1 investor deposits after January 9, 2014, as 2.

2 Do you think that's accurate?

3 A. I do.

4 Q. And then let me just ask you, was there a reason
5 why you invested less after January 9, 2014?

6 A. Well, I was pretty tapped out by then. I mean,
7 I didn't have a lot of money to invest after that.

8 Q. I see.

9 And then after that next column shows that the
10 amount that you invested or deposited after January 9,
11 2014, is a million and a half dollars, right?

12 A. Right, correct.

13 Q. And then it shows investor liabilities balance
14 as of January 9, 2014, is 4,900,000.

15 Do you see that?

16 A. Correct.

17 Q. You testified earlier that you received payments
18 on your notes like clockwork, I think you said, right?

19 A. Yeah. Uh-huh.

20 Q. So there were -- you had received interest
21 payments on your notes, right, as an investor?

22 A. Correct.

23 Q. Were there any principal payments due on the
24 notes that were not paid when they came due?

25 A. There were none that were not paid.

BRIAN IMDIEKE, 12/12/2018

1 Q. And I'm saying prior to Mr. Chittick's death.
2 Right?

3 A. Correct.

4 Q. Let me show you Exhibit 623, which is the next
5 document in that. So, Brian, this is a letter from Simon
6 Consulting.

7 You understood that that's Mr. Davis's firm?

8 A. Yes.

9 Q. It's dated August 2nd, 2017. It says: Dear
10 DenSco Claimant.

11 And you are a claimant --

12 A. Yes.

13 Q. -- in the receivership, correct?

14 A. Correct.

15 Q. If you look at the third page of the document,
16 there is a list of filed claims?

17 A. Uh-huh.

18 Q. And number 44 toward the bottom --

19 A. Correct.

20 Q. -- that's the Imdieke Revocable Trust, correct?

21 A. Correct.

22 Q. It shows an amount, \$3,682,900?

23 A. Correct.

24 Q. And is that the amount of your claim in the
25 receivership?

BRIAN IMDIEKE, 12/12/2018

1 A. Correct.

2 Q. And to your knowledge, that's been accepted as
3 accurate, right?

4 A. Yes.

5 Q. So let's go back to these exhibits that I showed
6 you. You can close that if you want. I'm going to show
7 you now Exhibit 641.

8 And this Exhibit 641 -- it's in your stack,
9 Geoff -- these are entries that were made in, I will call
10 it a personal journal, but it was a document that
11 Mr. Chittick kept.

12 Did you ever learn that Mr. Chittick kept either
13 a personal journal or a corporate journal?

14 A. No. I have never seen this before.

15 Q. He never shared with you the fact that
16 periodically he would make entries in a journal to keep
17 track?

18 A. No. When it came to like the kids and stuff,
19 occasionally he would show me a video, you know, of them
20 playing games and things.

21 Q. You see a reference here to 2/23, and I can't
22 tell you the year of this document.

23 A. Uh-huh.

24 [REDACTED]

25 [REDACTED]

BRIAN IMDIEKE, 12/12/2018



BRIAN IMDIEKE, 12/12/2018

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BRIAN IMDIEKE, 12/12/2018

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Q. How did you see it? Do you recall?

4

A. I think I got a copy of this from Shawna after the fact.

6

Q. Was it in this form like this?

7

A. Yeah. As I recall, it was -- she printed it out. It was almost identical. Well, I don't think she emailed it to me. I think it was printed. It was on paper.

10

11

Q. I'm just going to read it into the record:

12

Brian, I'm truly sorry for this nightmare. You became a very close friend and I enjoyed the talks, education and neighborly activities. I wanted to seek your help like I did during the downtown, sorry, during the downturn in the market. I wasn't confident enough to believe that you would still trust me and it would have been impossible to live near me. Perhaps that's my short lack of understanding of friendship, but when it comes to this kind of money, friendship means nothing; I lost that when I discovered the fraud and couldn't fix it.

22

Did I read that correctly?

23

A. Yes.

24

Q. How did you feel when you received this?

25

A. How did I feel? Well, I kind of understood it.

BRIAN IMDIEKE, 12/12/2018

1 It would have been very difficult for him to, I think, to
2 have divulged really what was happening fully, because we
3 were friends and neighbors, and because I had so much
4 money invested with him. So I wasn't happy about it, but
5 I understood it.

6 Q. So he is saying that you had a trust
7 relationship with him, but he didn't feel comfortable
8 sharing the information.

9 Is that fair?

10 A. Well, we have a personal relationship, yes,
11 where we trusted each other for many, many things, but
12 when you are talking about -- this is my interpretation --
13 but when you are talking about the kind of money that I
14 had invested in him, and it was a lot, I can understand
15 why he would not want to divulge this stuff.

16 Q. And why?

17 A. Because I would hold it against him.

18 Q. He didn't want to disappoint you?

19 A. Yeah.

20 Q. Earlier in this little note, he says: I wanted
21 to seek your help like I did during the downturn in the
22 market.

23 Do you see that?

24 A. Uh-huh.

25 Q. Yes?

BRIAN IMDIEKE, 12/12/2018

1 A. Yes. Sorry.

2 Q. Did he seek your help during the downturn in the
3 market?

4 A. Yes, in that when he had too much money to loan
5 out or not enough, because I told him, you know, before
6 that happened, as long as you don't hold it against me, as
7 long as you don't penalize me. If you want to pay a note
8 off early, but I still get my 12 percent, I don't mind
9 that.

10 And that was the help he was referring to. He
11 had too much money, making the interest payments when he
12 couldn't loan it out would obviously hurt his business, so
13 I said no problem. You can -- you can ship me back some
14 cash, as long as you don't penalize me on the interest
15 because it didn't go his full two years.

16 Q. Understand.

17 A. And he took advantage of that once or twice.

18 Q. Let me show you 644 and 645.

19 A. Okay.

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

BRIAN IMDIEKE, 12/12/2018

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Q. Do you think he was sharing with anyone his feelings?

A. That's a good question. I couldn't say. I don't -- I doubt it.

Q. You are not aware of anyone, right?

A. No.

Q. Do you think he shared anything with his parents?

A. Maybe. You know, he might have shared a little with his dad. I'm sure not his mom, because at this stage his mom's memory was getting a little funky.

Q. Let me ask you to look at Exhibit 645.
well, let me ask, just on 644.

A. Uh-huh.

Q. By this time, he would have been divorced, right? You can tell from the context?

A. Correct.

BRIAN IMDIEKE, 12/12/2018

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MR. DeWULF: I have no further questions.

16

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EXAMINATION

18

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21

Q. (BY MR. STURR) Brian, I've got a couple of questions for you. To move things along -- and I will get to these as I go.

22

23

As you know, Brian, I'm Geoff Sturr. I represent Peter Davis, the receiver in this case.

24

25

I wanted to quickly review your investments in DenSco. I know Mr. DeWulf asked you about them, but I'd

BRIAN IMDIEKE, 12/12/2018

1 like to have you take a look at a document so we can
2 discuss them.

3 (Deposition Exhibit No. 646 was marked for
4 identification.)

5 Q. (BY MR. STURR) Take a minute to look at that,
6 Brian.

7 Let me just state for the record, Exhibit 646 is
8 a compilation of documents. The first two pages are a
9 Proof of Claim that you filed with the receiver.

10 A. Right.

11 MR. STURR: John, we got this from the
12 depository. We put a number on it. We will disclose it
13 in our next disclosure statement. And the other documents
14 I think came from Exhibit 630.

15 Q. (BY MR. STURR) So let me start with the second
16 page of Exhibit 646.

17 Can you confirm that this is your Proof of
18 Claim?

19 A. This is my Proof of Claim.

20 Q. And on the second page of the Proof of Claim,
21 you summarize your investments, correct?

22 A. Yes.

23 Q. And you have put them, numbered them 1 through
24 14?

25 A. Correct.

BRIAN IMDIEKE, 12/12/2018

1 Q. And these were investments with a purchase date
2 and an amount where you described the year, correct?

3 A. Yes.

4 Q. If you look behind Tab 1, let's just start with
5 that, you will see a Subscription Agreement.

6 A. Yep.

7 Q. Do you see that?

8 And there is a date, and you were buying a
9 monthly payment note for 500,000 for 24 months --

10 A. Correct.

11 Q. -- correct?

12 And then the next document after that is two
13 years later, and it's May 27, 2010.

14 A. Okay.

15 Q. Sorry. Behind Tab 1. Stay in Tab 1.

16 A. That's why. Okay.

17 Q. In Tab 1, the next document after that, you will
18 see May 27, 2010, 500,000, two years.

19 A. Correct.

20 Q. Does that reflect that the promissory note that
21 you purchased in 2008 expired and then you bought -- you
22 rolled it over by signing a new note?

23 MR. DeWULF: Object to form.

24 THE WITNESS: That's correct.

25 Q. (BY MR. STURR) Signing this document to obtain

BRIAN IMDIEKE, 12/12/2018

1 a new note?

2 A. Correct.

3 Q. Is that how you remember making your
4 investments?

5 A. Yes.

6 Q. So if we go back to the second page of the
7 exhibit.

8 A. Right.

9 Q. So for investments 1 through 6 --

10 A. Uh-huh.

11 Q. -- we will just start with those, those would
12 have been two-year notes. So the 2008 notes would have
13 rolled over in 2010, 2012, 2014, correct?

14 A. Correct.

15 Q. And in each case, you simply signed a new
16 Subscription Agreement and it rolled over for two years?

17 A. Correct.

18 Q. And I want to focus on Mr. DeWulf was having you
19 look at the 2011 POM, Private Offering Memorandum.

20 A. Okay.

21 MR. STURR: John, what was that number, do you
22 remember?

23 MR. DeWULF: I think I can run it down for you.

24 MR. STURR: I have got it in my notes. Hold on.

25 MR. DeWULF: I've got it, too.

BRIAN IMDIEKE, 12/12/2018

1 MR. STURR: It's in one of the books we were
2 looking at. It's 557.

3 Here it is. 557.

4 Q. (BY MR. STURR) Now, if I could just ask you a
5 few questions about that.

6 Mr. DeWulf was asking you what was -- you did
7 review that document when you received it, is that right?

8 A. Yes.

9 Q. Was one consideration for you in making and then
10 continuing your investment in DenSco how the company was
11 performing, how it was doing?

12 A. Well, sure. Yes.

13 Q. Okay. So if you look at page 36 of the POM.
14 There are page numbers at the bottom, Brian.

15 A. Okay.

16 Q. There is a section called Prior Performance.
17 Do you see that?

18 A. Right.

19 Q. Take a look at the very bottom of the page. You
20 said, Mr. DeWulf was asking if you remembered what you
21 were told about the diversification of investments.

22 Do you remember that?

23 A. Yes.

24 Q. Take a look at the last sentence, and it carries
25 over to the next page.

BRIAN IMDIEKE, 12/12/2018

1 The Company has endeavored to maintain a large
2 and diverse base of borrowers as well as a diverse
3 selection of properties as collateral for its loans to the
4 borrowers.

5 Do you see that?

6 A. Yes.

7 Q. And then two sentences down, it says: The
8 Company continues to strive to achieve a diverse borrower
9 base by attempting to ensure that one borrower will not
10 comprise more than 10 to 15 percent of the portfolio.

11 A. Yes.

12 Q. Was that an important consideration for you as
13 an investor?

14 A. Yes, along with the fact that the money is
15 loaned out to -- over many, many properties. Relatively
16 small loans, I guess is what I'm trying to say.

17 Q. Right.

18 And you understood that, I think you testified
19 earlier, that the loans would be in first position?

20 A. Yeah, absolutely.

21 Q. Okay. Now, this Private Offering Memorandum was
22 issued in June of 2011.

23 A. Okay.

24 Q. Now, let me go back to this document, 646, for a
25 minute.

BRIAN IMDIEKE, 12/12/2018

1 A. Okay.

2 Q. Now in 646, look at the second page, and
3 investment 7 and 8.

4 Are you with me on that?

5 A. Uh-huh. Yes.

6 Q. Now, these are notes that you initially
7 purchased in 2009, correct?

8 A. Correct.

9 Q. So one was August 19, excuse me, October 19,
10 2009, and December 23, 2009?

11 A. Correct.

12 Q. If you look at Tab 7 -- let's start with Tab 7.
13 So you purchased the note --

14 Are you there?

15 You purchased the note in 2009?

16 A. Correct.

17 Q. And then the next document after that is a new
18 Subscription Agreement in 2011, correct?

19 A. Correct.

20 Q. And there you are rolling over and buying a new
21 note?

22 A. Correct.

23 Q. Now, the next page after that is October 15,
24 2013. Okay?

25 A. Correct.

BRIAN IMDIEKE, 12/12/2018

1 Q. I want to stop there for a minute.

2 A. Okay.

3 Q. Now, in October of 2013, I want you to assume
4 that you received another Private Offering Memorandum or
5 another document that described the business.

6 A. Okay.

7 Q. Okay?

8 would it have been relevant to you at that time
9 to know that DenSco's loans were concentrated in loans to
10 Mr. Menaged or his companies in excess of let me say
11 20 percent for now? would that have caused you to decide
12 to not renew the note?

13 MR. DeWULF: Object to form.

14 THE WITNESS: I would have liked to have known.
15 would it have caused me to not reinvest? That's a
16 tough -- that's a hypothetical question that's tough to
17 answer.

18 Q. (BY MR. STURR) would it have been relevant to
19 you to know that at that time, August of 2013, that DenSco
20 had been sued and was involved in a lawsuit that was
21 brought by an entity that had purchased a property and was
22 suing DenSco and another hard-money lender over who had
23 priority to the -- who was in first position on the
24 property?

25 A. I would --

BRIAN IMDIEKE, 12/12/2018

1 MR. DeWULF: Object to form.

2 THE WITNESS: I would absolutely have wanted to
3 know that.

4 Q. (BY MR. STURR) why would you want to know that?

5 A. Because that means he was probably not in first
6 position on a property. I mean, that was sort of, in my
7 mind, the guarantee on the money.

8 Q. And would you have wanted to know then, if you
9 had -- that Mr. Chittick was not giving money directly to
10 the trustee or the person selling the property, but was
11 giving money directly to his borrower, Mr. Menaged? would
12 that have been relevant?

13 MR. DeWULF: Object to form.

14 THE WITNESS: well, it would have been relevant
15 to me, yeah.

16 Q. (BY MR. STURR) why?

17 A. Because that's not the way I perceived the
18 business to operate.

19 Q. Okay. Let's go to Tab 8, back to Exhibit 646.

20 A. Okay.

21 Q. Brian, this is another note. You purchased a
22 note December 23, 2009, correct?

23 A. Correct.

24 Q. And then it was renewed, you bought another note
25 in December of 2011, correct?

BRIAN IMDIEKE, 12/12/2018

1 A. Correct.

2 Q. Now it's December, I think this is a --

3 A. It rolls over.

4 Q. -- the next is December of 2013.

5 Do you see that?

6 A. Correct. It rolls over again.

7 Q. Now, in December, when you purchased this note,
8 by this point Denny had learned from Scott Menaged that
9 Menaged had double encumbered a large number of
10 properties.

11 If you had known of that fact, would that have
12 been relevant to your decision to roll over the
13 investment?

14 MR. DeWULF: Object to form.

15 THE WITNESS: I believe it would have been, yes.

16 Q. (BY MR. STURR) Why is that?

17 A. Because he is -- if that's what's happening, he
18 is not operating his company properly. Let's put it that
19 way. His fiduciary duty, in my opinion, should have been
20 to run that better. That would have made me nervous.

21 Q. (BY MR. STURR) Let me -- I'm going to -- you
22 don't need to look at that anymore. I need Exhibit 101.

23 (An off-the-record discussion.)

24 Q. (BY MR. STURR) Brian, I've asked you to look at
25 Exhibit 101. This is a document you wouldn't have seen

BRIAN IMDIEKE, 12/12/2018

1 before. Let me just tell you what it is. It's a draft
2 of -- if you go to the second page, you can see it's a
3 Confidential Private Offering Memorandum, May of 2014.

4 A. Right.

5 Q. So this is just a few months or five months
6 after you rolled over your note in December.

7 And I'll just tell you, this was a document that
8 was prepared by Clark Hill, and I'd like you to go to --
9 it's hard to read, but it's the page that's marked 8921 in
10 that lower right corner.

11 A. My fingers are so dry I can't turn the pages.

12 Q. Okay. You are almost there.

13 A. Yeah. Okay. I think -- there you go.

14 Q. Now, 8921, there is some text there. Let me
15 just, if you flip back, just to put it in context, to a
16 few pages before, you will see a heading called Prior
17 Performance.

18 A. Okay.

19 Q. You went a little too far.

20 Do you see that?

21 A. Yeah.

22 Q. So this is the section of the Private Offering
23 Memorandum that describes the state of the business. If
24 you go to the next page, sorry, 8919.

25 A. Okay.

BRIAN IMDIEKE, 12/12/2018

1 Q. Do you see there, there is some language that's
2 a little hard to read, because it's grayed out, but it
3 says this is a -- describing the business, the company,
4 starting on page 36: The company has endeavored to
5 maintain a large and diverse base of borrowers as well as
6 a diverse selection of properties as collateral for its
7 loan to the borrowers.

8 Do you see that?

9 A. I do.

10 Q. And it's the same language we saw on the 2011
11 memorandum, right?

12 A. Correct.

13 Q. If you read on, it says next, two lines below:
14 The company continues to strive to achieve a diverse
15 borrower base by attempting to ensure that one borrower
16 will not have more than 10 to 15 percent of the total
17 portfolio.

18 Do you see that?

19 A. I do.

20 Q. And there is a note there that says, it's hard
21 to read, is saying: Is that accurate?

22 If that had said, instead of 10 to 15 percent,
23 it said that a borrower had 80 percent of the portfolio,
24 what would your reaction have been?

25 MR. DeWULF: Object to form.

BRIAN IMDIEKE, 12/12/2018

1 THE WITNESS: Yeah. I wouldn't like that at
2 all.

3 Q. (BY MR. STURR) And the next line below says:
4 All real estate loans funded by the company are intended
5 to be secured through first position trust deed.

6 A. Yeah, absolutely.

7 Q. If you had been told that as of this date,
8 approximately 25 percent of the portfolio was not in first
9 position, what would your reaction have been?

10 MR. DeWULF: Object to form.

11 THE WITNESS: Well, that's unacceptable. I
12 would have started pulling money out then for sure.

13 Q. (BY MR. STURR) If you go to the next page, two
14 pages over, now back to page 39.

15 MR. DeWULF: That's 8939?

16 MR. STURR: No. 8921.

17 MR. DeWULF: Oh. I'm with you.

18 Q. (BY MR. STURR) All right. Now, if you see
19 there is some new language there that's not grayed out:
20 In April 2014 --

21 Do you see that?

22 A. Correct.

23 Q. -- the company agreed to a Forbearance Agreement
24 (the workout with two foreclosure specialists) the
25 forbearance debtors regarding the terms of certain loans,

BRIAN IMDIEKE, 12/12/2018

1 collectively the workout loans, which in aggregate
2 totaled, blank, in outstanding loans to the foreclosure
3 debtors.

4 Now, if that blank had been filled in, Brian,
5 and I will tell you this is a reference to loans made to
6 Scott Menaged, that if that blank --

7 A. That would have been a big number.

8 Q. 39 million.

9 A. Yeah.

10 Q. If you had received an offering memorandum that
11 disclosed that 39 million had been loaned to one borrower
12 and was subject to a Forbearance Agreement, would that
13 have had an effect on your willingness to invest more
14 money or keep your investments in DenSco?

15 MR. DeWULF: Object to form.

16 THE WITNESS: I believe that it would, yes.

17 Q. (BY MR. STURR) And how so?

18 MR. DeWULF: Object to form.

19 THE WITNESS: How so? Is that what you are
20 asking?

21 Q. (BY MR. STURR) Yes.

22 A. Yeah, I would have taken my money out, because,
23 look, I already stated earlier that one of the reasons I
24 invested in DenSco in the first place was it was hard to
25 find good investments. I was losing money in the stock

BRIAN IMDIEKE, 12/12/2018

1 market and other places.

2 This, in my mind, working with Denny was the
3 safest investment I had, because it was well diversified
4 amongst properties, the loan to ratio was low and we were
5 in first position. Even if Denny messed this up somehow,
6 he would be in a position to recover the properties, and
7 thereby a large portion of the money. Knowing that he was
8 not maintaining that would have -- yeah, that would have
9 raised an eyebrow to me, I'm sure.

10 Q. Would it have concerned you that after -- would
11 you have wanted to know how this came about?

12 MR. DeWULF: Object to form.

13 THE WITNESS: I mean, I might have wanted to
14 know how it came about, but I would have been more -- it
15 would have been more important to me to just know that it
16 did come about.

17 Q. (BY MR. STURR) And if it had come about, that
18 would be enough for you to pull your money out?

19 A. I believe it would have, yeah.

20 Q. And let me just have you read down a few more,
21 in the middle of that paragraph: According to the
22 foreclosure debtors, an agent of the foreclosure debtor
23 has secured the outside loans without the foreclosure
24 debtor's knowledge.

25 Does that make any sense to you?

BRIAN IMDIEKE, 12/12/2018

1 MR. DeWULF: Object to form.

2 THE WITNESS: I'm reading it again, because I am
3 having a hard time understanding it.

4 Secured as the -- I can't even understand what
5 he is trying to say here.

6 Q. (BY MR. STURR) If it had said --

7 A. Foreclosure -- so how did he secure the loans
8 without the foreclosure, to his knowledge?

9 Q. Sir, reading that paragraph today, it's not
10 clear to you exactly what is being disclosed what it
11 means?

12 A. No, not clear. I have read it now several
13 times, and it sounds like the original holder isn't giving
14 information that there is a second loaner on the property,
15 but I still don't know if I am reading that right.

16 Q. Did you ever come to understand that Denny
17 learned in November of 2013, was told by Scott Menaged
18 that his cousin, Menaged's cousin, had gone out and
19 borrowed money from both DenSco and hard-money lenders and
20 double-encumbered properties that DenSco was supposed to
21 be in first position on?

22 A. I did not know that prior to learning it through
23 Peter Davis's discoveries --

24 Q. Okay.

25 A. -- after the fact.

BRIAN IMDIEKE, 12/12/2018

1 Q. Now do you understand that story? Menaged told
2 Denny --

3 A. I understand there is a story.

4 Q. Told him a story about a cousin, right?

5 A. Right.

6 Q. Does that cousin story, does that seem to track
7 in any way the paragraph that I just asked you to read,
8 that in April 2014 the company agreed, et cetera?

9 A. Well, it doesn't put the two and two together,
10 at least not very well.

11 Q. So that wasn't, in your mind, a clear
12 explanation of what had happened to Densco in this
13 document?

14 A. This is not clear. Is that what you are saying?

15 Q. Right.

16 A. This is not clear that it had anything to do
17 with his cousin absconding of funds.

18 Q. Have you come to learn, Brian, that part of the
19 problem here was Denny's lack of control and care in
20 lending money?

21 A. Absolutely, unfortunately.

22 Q. And part of that lack of care was giving money
23 directly to borrowers like Menaged?

24 A. Yes. If he was paying for the houses directly,
25 he would have more control. And on top of that, as I

BRIAN IMDIEKE, 12/12/2018

1 understand it, he wasn't filing the paperwork with the
2 state himself, either.

3 Q. But that fact that Denny had mismanaged the
4 portfolio, that's not evident from reading that paragraph
5 that I just had you read?

6 MR. DeWULF: Object to form.

7 THE WITNESS: Not to me.

8 Q. (BY MR. STURR) If I could have you -- ask you
9 one more set of questions. If you could pull up
10 Exhibit 635 that Mr. DeWulf had you look at. It's one of
11 the newly marked exhibits.

12 A. Okay.

13 MR. DeWULF: Let me try to catch up with you
14 here really quick. Here, I'm with you.

15 Q. (BY MR. STURR) Okay. Exhibit 635, Brian, is an
16 email chain that begins with an August 3, 2016, email from
17 David Beauchamp to a group of investors, including you, is
18 that right?

19 A. Correct.

20 Q. If you go to the second page, it says: Dear
21 DenSco investors, and it says: As a follow up to the
22 email from Denny Chittick's family that was distributed on
23 Sunday, I met late Monday with Shawna Chittick Heuer
24 (Denny's sister) to discuss Denny's unfortunate and
25 untimely passing and the steps to resolve obligations of

BRIAN IMDIEKE, 12/12/2018

1 DenSco to each of you.

2 Do you see that?

3 A. Yes.

4 Q. So this would have been the first communication
5 that you and other investors received about what happened,
6 apart from the fact that Denny was dead?

7 A. I believe that's true.

8 Q. Okay. If you go to the second page, Brian,
9 Mr. Dewulf asked you why you were under the impression
10 that David Beauchamp and his law firm were representing
11 both the estate and the company.

12 So if you look at the second paragraph, the one
13 that begins: As part of the plan moving forward, we have
14 filed the will of Denny Chittick ("Denny's will") and the
15 necessary filings with the Probate Court to have Shawna
16 designated as the Personal Representative of Denny's
17 Estate, which is what Denny's will provides.

18 Is that why you were under the impression, does
19 that refresh your memory as to why you thought that the
20 law firm was representing both the estate and the company?

21 A. It's likely.

22 Q. Okay. The next paragraph says: The problem
23 with DenSco's Troubled Loans developed over time and it
24 will take some time to understand those Troubled Loans,
25 how those loans came into existence as well as how to

BRIAN IMDIEKE, 12/12/2018

1 maximize the return on those loans to maximize the return
2 of capital to the investors.

3 Do you see that?

4 A. Yes.

5 Q. Would you have wanted to know as an investor at
6 that time that one source of the troubled loans was Denny
7 Chittick's lax lending practices?

8 MR. DeWULF: Object to form.

9 THE WITNESS: Yeah, I would.

10 Q. (BY MR. STURR) would you have wanted to know at
11 that time that the problem with the loans began in
12 November of 2013, when Menaged disclosed to Denny that
13 he -- his cousin had double-encumbered properties?

14 A. Yes.

15 Q. And would you have wanted to know at that time
16 that in April of 2014, Mr. Beauchamp and his law firm
17 documented a Forbearance Agreement through which DenSco
18 agreed to forbear on \$39,000,000 of loans?

19 MR. DeWULF: Object to form.

20 THE WITNESS: Absolutely would have wanted to
21 know that.

22 MR. STURR: Thank you. No further questions.

23

24

25

BRIAN IMDIEKE, 12/12/2018

RE-EXAMINATION

Q. (BY MR. DEWULF) I do have a couple follow-up Brian, and then we will get out of here.

Mr. Sturr just asked you questions about Mr. Chittick's lax lending practices.

Do you recall those questions?

A. Yes.

Q. Did you learn that Mr. Chittick actually had lax lending practices with other individuals other than Mr. Menaged or his entities?

A. Not to my knowledge.

Q. Okay. Did you at any time during the time that you knew Denny Chittick between 2005 and his death in 2016, did he share with you his sometimes relaxed approach to enforcing his loan documents with borrowers?

A. No.

Q. That would be a surprise to you, sitting here today, that he actually --

A. Yeah.

Q. -- in certain instances didn't enforce the terms of his loan documents with some of his borrowers?

A. That would be a surprise, yes.

Q. You indicated in kind of early in your testimony that one of the reasons that you invested with

BRIAN IMDIEKE, 12/12/2018

1 Mr. Chittick was that you thought he was an honest and
2 upstanding guy.

3 Do you recall that?

4 A. Yeah.

5 Q. And would it be fair to say that during the
6 entire time that you knew him from 2005 to his death in
7 July of 2016, that you continued to believe that he was
8 honest and upstanding and a man of integrity?

9 A. Absolutely.

10 Q. Sitting here today, do you think differently
11 about him now that you have known what happened over that
12 period of time regarding Mr. Menaged and other financial
13 situations within the company?

14 A. Yes, I do.

15 Q. Are you now learning that there was information
16 that he wasn't disclosing or sharing with you that you
17 would have wanted to know as an investor in DenSco?

18 A. Absolutely.

19 Q. And you have no reason -- and we have looked at
20 a lot of information today, and particularly the one
21 direct note that he wrote you was pretty a poignant note.

22 Anyway, sitting here today, can you conclude or
23 surmise why he chose not to tell you and the other
24 investors what was going on during that period of time?

25 A. I'm sure it was his own self-interest. I mean,

BRIAN IMDIEKE, 12/12/2018

1 everybody -- you know, there would have been a run on the
2 bank. Everybody would have pulled out.

3 Q. Do you think it had anything to do with his
4 being embarrassed or feeling like he let his investors
5 down, or do you think it was simply self-interest?

6 A. I think it was both.

7 Q. You thought when you invested with him, and over
8 that time that you knew him until his death in July of
9 2016, that he was a man that was good for his commitments.
10 Fair?

11 A. That's fair, yes.

12 MR. DeWULF: No further questions. Thanks.

13 All right. Thanks for coming down. So she is
14 going to type all this down.

15 THE WITNESS: Yee-haw.

16 MR. DeWULF: And you have an opportunity to
17 either assume that what was said today was done
18 accurately, or you can coordinate with her and actually
19 read what you said and we said to check it for accuracy.
20 It's purely up to you.

21 THE WITNESS: Do I get a copy of it?

22 MR. STURR: Yeah.

23 MR. DeWULF: You will, if you want.

24 THE WITNESS: I mean, I want a copy of it.

25 MR. DeWULF: We can make a copy for you. We are

BRIAN IMDIEKE, 12/12/2018

1 happy to do that.

2 THE WITNESS: Yeah. So hopefully it never ever
3 comes up again, but if it does in the future, I'm going to
4 want to have a copy of it.

5 MR. DeWULF: So we pay for all of that, right,
6 the cost of what Kelly does and the creation of what will
7 be the transcript.

8 THE WITNESS: Okay.

9 MR. DeWULF: But the real question we have is,
10 you have I think 30 days, 30 days after the typing of it
11 to look it over and check it.

12 MR. STURR: You can correct it if you want.

13 MR. DeWULF: So you can change, correct if you
14 think it wasn't what you said or it wasn't an accurate
15 reflection of what you were trying to say.

16 THE WITNESS: Okay.

17 MR. DeWULF: Do you want to do that or not? And
18 if you do, you can coordinate with Kelly.

19 THE WITNESS: I would like to read it over and
20 do that.

21 MR. STURR: I think, for purposes of the record,
22 the witness wants to read and sign.

23 (12:52 p.m.)

24

BRIAN IMDIEKE

25

BRIAN IMDIEKE, 12/12/2018

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

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

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

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

13
14 Kelly Sue Oglesby 12/19/2018
Kelly Sue Oglesby _____ Date
15 Arizona Certified Reporter No. 50178

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17 I CERTIFY that JD Reporting, Inc. has complied
18 with the ethical obligations in ACJA Sections
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