

**RESPONDENTS' APPENDIX
PART 2**

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EXHIBIT 4

EXHIBIT 4

000072

IN THE NINTH JUDICIAL COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF DOUGLAS

PEGGY CAIN, an individual; JEFFREY)
CAIN, an individual; and HELI OPS)
INTERNATIONAL, LLC., an Oregon)
limited liability company,)

Plaintiffs,)

v.)

Case No. 11-CV-0296

DR RAWSON, an individual; C4)
WORLDWIDE, INC., a Nevada)
corporation; RICHARD PRICE, an)
individual; JOE BAKER, an)
individual; MICKEY SHACKELFORD, an)
individual; MICHAEL K. KAVANAGH,)
an individual; JEFFREY EDWARDS, an)
individual; and DOES 1 through 10,)
inclusive,)

Defendants.)

DEPOSITION OF KERRY RUCKER

Taken on behalf of Defendants

May 13, 2015

* * *

BE IT REMEMBERED THAT, pursuant to notice,
the deposition of KERRY RUCKER was taken before KERI M.
NIETH, a Certified Shorthand Reporter for Oregon, on
Wednesday, May 15th, 2015, commencing at the hour
of 10:30 AM, at Kruse Woods Corporate Park, 4800 SW
Meadows Road, Suite 300, Lake Oswego, Oregon.

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ALSO PRESENT: Jeffrey Cain

1 A. Mr. Rawson.

2 Q. Okay. Well, you just said that on the
3 conference call were Mr. Kavanagh, Mr. Baker and
4 Mr. Price.

5 Mr. Rawson was also on the conference call?

6 A. Yes. You asked me before who initiated it,
7 and I said Mr. Rawson.

8 Q. Okay. So, just so we're clear, every human
9 being that was on conference call was you, Mr. Rawson,
10 Mr. Kavanagh, Mr. Baker and Mr. Price?

11 A. That I can remember.

12 Q. Anybody else?

13 A. Maybe Mr. Shackelford. I'm not quite sure.

14 Q. Okay. And this conference call was initiated
15 by Mr. Rawson?

16 A. Right. It consisted of his entire team --
17 let's put it like that -- which was listed on his
18 website at the time.

19 Q. Listed on Mr. Rawson's website?

20 A. C4's website.

21 Q. Okay. Who was that entire team at the time?

22 A. Everyone I just named.

23 Q. Okay. Mr. Rawson, Mr. Kavanagh, Mr. Baker,
24 Mr. Price, Mr. Shackelford?

25 A. Yes. And probably one or two more, but I'm

1 not sure.

2 Q. Okay. And what was the purpose of this first
3 conference call?

4 A. To illustrate the program itself, to let us
5 know how the program worked, details, what type of
6 agreements and how they could actually become -- you
7 know, provide the services or provide the loan that we
8 were looking for at the time.

9 Q. And would this call have been around -- I
10 think maybe you said earlier November 9th, 2009?

11 A. I didn't say November 9th. I said
12 November 2009.

13 Q. Okay. When was the conference call in
14 November of 2009?

15 A. I'm not sure. It's been five years.

16 Q. Okay. And how did that conference call
17 conclude?

18 In other words, did you make an appointment
19 for another conference call down the line? Did you come
20 to any decisions or agreements?

21 A. I didn't necessarily make an appointment for
22 another call. We felt comfortable with the call at the
23 time knowing that their team seemed to be strong. We
24 based it on their resumes.

25 And at that point in time we went back to

1 Mr. Cain, and we decided that we would further look into
2 it.

3 Q. Okay. And what specifically did Mr. Baker say
4 during that first conference call?

5 A. I'm not sure.

6 Q. All right. Did he say anything during that
7 first conference call?

8 A. He probably did, but I'm not sure. It's been
9 five years or six years.

10 Q. What leads you to believe that he probably
11 did?

12 A. Well, he's a major part of their team, and
13 Mr. Rawson being the leader of that team went around
14 introducing us to everyone on that call.

15 Q. All right. What makes you think that
16 Mr. Baker was a major part of that team?

17 A. He was listed as one of their major players on
18 their website.

19 Q. Was that the language used, "major player" or
20 something else to that effect?

21 A. Well, maybe that's not the language that's
22 used now, but as far as -- one of his major associates
23 or he was a part -- he's affiliated with C4. Let's put
24 it like that.

25 Q. Okay.

1 A. Well, we personally flew to California, myself
2 and Dan Witt, which is the Cains' CPA, in order to meet
3 with their entire team and to research and to
4 investigate this program. So it started with that.

5 Q. Okay. And what this asks for is: What
6 documents are evidence of you having done that?

7 For example --

8 A. Um-hum.

9 Q. -- maybe you'd have a prospectus -- a CMO
10 prospectus -- or maybe there would be some advertising
11 or marketing material or something in that regard.

12 Maybe you had --

13 A. Sure.

14 Q. -- done some investigation of the CMOs or of
15 C4.

16 Anything in paper or, you know, electronically
17 existing that shows what you were doing in that regard?

18 Do you understand that?

19 A. I understand what you're saying.

20 I have a background in finance, so I've -- I'm
21 familiar with CMOs and financial instruments.

22 And when we researched C4, we did
23 investigations on their company. As far as me producing
24 those documents right now, I don't have them. I've
25 already turned everything over.

1 C4 brought forward an advertisement about
2 their Leverage-Up program, which we took a look at.

3 And the main thing we were interested in was
4 the CMOs that were being purchased, which were our
5 security at the time.

6 Q. All right. So was it your job to both
7 investigate C4 and separately to investigate possible
8 CMO purchases?

9 A. It was my job to help investigate C4, along
10 with Dan Witt and Mr. Cain, as well as anybody else --
11 and I'm sure his wife was included in that -- but it was
12 our job to actually evaluate the guys.

13 It was my job to investigate C4 and to
14 evaluate the CMOs that were being purchased, which is
15 what we did.

16 Q. What did you do to investigate the CMOs that
17 were being purchased?

18 A. Well, first we simply asked for information
19 about the CMOs.

20 Q. Who did you ask that of?

21 A. Mr. Rawson.

22 Q. What was his response?

23 A. He provided us with simply a bank account or a
24 custodial -- a custodian account, which was -- after the
25 money was wired, he went and purchased the CMOs, put

1 this transaction, right?

2 A. Yes.

3 Q. You had a working knowledge of CMOs.

4 A. Yes.

5 Q. You'd dealt with them before?

6 A. Yes.

7 Q. Have you purchased CMOs before or been
8 involved in the purchase of CMOs?

9 A. Have I purchased CMOs? No.

10 Q. Have you assisted somebody who --

11 A. I've been involved with an investment bank
12 that have.

13 Q. What investment bank is that?

14 A. Back in the day, when I worked for Edward
15 Jones.

16 Q. For Edward Jones?

17 A. Yeah.

18 Q. Okay. You were a licensed securities broker,
19 then?

20 A. I was in the process of getting licensed.

21 Q. Did you get licensed?

22 A. I did not get licensed with them.

23 Q. Okay. But you were working in an Edward Jones
24 office --

25 A. Yeah.

1 transactions of this type. Not mortgage transactions,
2 but mortgage transactions -- any financial transaction,
3 I've pretty much witnessed over 20 years.

4 Q. All right. So you knew what CMOs were.

5 A. Yes.

6 Q. You'd witnessed their transactions in the
7 past.

8 A. Um-hum.

9 Q. What did you do in the month of November 2009
10 to do any investigation with regard to any CMOs?

11 A. Well, if I remember correctly, we -- I
12 contacted a couple of investment advisers that I know,
13 and I simply asked them for information.

14 We wanted to know exactly what the actual CMOs
15 were that were being purchased so that we could take a
16 look at them. That information was not provided.

17 But like I said, once again, our investment
18 and Mr. Cain's investment was that the CMOs were our
19 security or his security in this aspect, so we felt good
20 about that.

21 Q. What investment advisers did you call to
22 consult about this in November of 2009?

23 A. I don't remember specifically.

24 Q. But you have a vague recollection that you
25 probably called a couple of people that deal with these

1 due diligence started with those guys.

2 Q. The due diligence --

3 A. The CMOs.

4 Q. Okay. The due diligence with regard to the
5 CMOs started after the CMOs were actually purchased,
6 right?

7 A. We wanted it before --

8 MR. PARKER: That mischaracterizes his
9 testimony.

10 BY MR. JOHNSON: (Continuing)

11 Q. What --

12 A. We wanted it before. And part of that was --
13 like I said, the due diligence is supplying us with some
14 information about the instruments.

15 Q. Right. But Mr. Rawson didn't give you any
16 information about the instruments, correct?

17 A. He told us that the instruments were going to
18 be purchased and held in EKN, and that's where we were
19 able to actually view the assets, and then they would be
20 valued from there.

21 Q. Did Mr. Rawson tell you -- you know, give you
22 any description of what instruments were to be
23 purchased?

24 A. Well, he said that they were going to be A+ as
25 far as rating went.

1 Q. Okay. Were they? When they were eventually
2 purchased.

3 A. From what I remember, they were.

4 Q. Okay. Did Mr. Rawson tell you anything other
5 than that the CMOs were to be A+ rated?

6 A. Did he do what?

7 Q. Did he tell you anything else about the CMOs
8 that he was going to buy?

9 A. That they were going to be face valued at one
10 billion; that there were two particular CMOs and that
11 they would be held in EKN, which is the actual custodian
12 account, and that Mr. Cain would have full access and
13 joint ownership of those -- full ownership.

14 Q. Did he tell you who was the issuer of the
15 CMOs?

16 A. Not that I can remember. I don't remember.

17 Q. Okay. So as of the time that the CMOs were
18 purchased, did you know who was the issuer of the CMOs?

19 A. I do not. I don't remember.

20 Q. You may or may not have; you just don't
21 remember today, right?

22 A. I don't remember.

23 Q. Okay. Was that part of the due diligence that
24 you were doing was to look at what CMOs specifically
25 were to be purchased or not?

1 incomplete hypothetical.

2 MR. JOHNSON: You can answer.

3 MR. MATUSKA: I mean, the --

4 MR. PARKER: I didn't understand the
5 question, so I'd like it repeated, anyway, so
6 (pausing) --

7 THE WITNESS: Me neither.

8 MR. JOHNSON: You didn't understand it?

9 Okay.

10 MR. PARKER: Well, I'd like it repeated.
11 I didn't understand it.

12 MR. JOHNSON: Well, I'll rephrase it if
13 (pausing) --

14 MR. PARKER: That's fine. Yeah.

15 BY MR. JOHNSON: (Continuing)

16 Q. Okay. You were telling me earlier that part
17 of the reason, I think, that you recommended that the
18 Cains proceed with this investment is because of this
19 experience of the various people involved with C4.

20 Is that accurate?

21 A. And also our investment secured by CMOs.

22 Q. Okay. So what specifically about Joe Baker --
23 Joe Baker's involvement with C4 led you to approve this
24 as a -- or recommend this as an investment opportunity?

25 MR. PARKER: You know, you're going the

1 BY MR. JOHNSON: (Continuing)

2 Q. All right. We're back on the record.

3 You understand you're still under oath?

4 A. I do.

5 Q. Okay. What was your agreement that Mr. Cain

6 -- I assume it was Mr. Cain in terms of the CMO

7 investigation.

8 A. What was my agreement with him?

9 Q. Right.

10 A. To help him to get through the process of
11 figuring out if this is going to be a secure investment
12 for him to help raise the capital he was looking for.

13 Q. And you concluded that it was a secure
14 investment?

15 A. I concluded based on the evidence and what was
16 being told to me and Dan Witt that we would be secure,
17 because we had CMOs to help us out in that security, as
18 well as a good team.

19 Q. Can you tell me generally, CMOs, what kind of
20 risk they carry with them?

21 A. Well, my understanding of this particular
22 avenue was very low, because it has a monthly dividend
23 of -- I don't remember the amount, but very low at this
24 point.

25 MR. PARKER: Not very low dividend. Very

1 A. Yeah. Right.

2 Q. You understood that, right?

3 A. Twenty-fold?

4 Q. Right.

5 A. As opposed to 20 percent?

6 Q. Right.

7 A. Yes..

8 Q. Okay. You were answering my questions with
9 that in mind, right?

10 A. Yes.

11 Q. And you just misspoke a second ago when you
12 said 20 percent?

13 A. Yes.

14 Q. All right. Now, you said that part of the
15 reason that you were assured or gave you some assurances
16 regarding this investment was that the Cains were to be
17 owners of the CMOs; is that right?

18 A. That's correct.

19 Q. And were the Cains the owners of the CMOs?

20 A. Yes.

21 Q. How do you know that?

22 A. Their name was on the account.

23 Q. Okay. Were they sole owners or joint owners
24 or (pausing) --

25 A. I don't remember specifically.

1 Q. So after the conference call that we're
2 talking about, which took place in sometime in earlier
3 part of November, there were -- all of the team members
4 were on the call, as you understand it, correct?

5 A. There was a conference call where all the
6 members were on the call.

7 Q. Okay. And did Mr. Rawson introduce all the
8 members to you?

9 A. Yes.

10 Q. And were there people who were related to your
11 side of the transaction -- the Cains' side -- on the
12 conference call with you?

13 A. At times there were -- matter of fact, the
14 majority of the calls Mr. Cain was on when it related to
15 the beginning of the transaction. And Mr. Witt was also
16 a participant in some of those calls.

17 Q. All right. Do you recall how many of these
18 kind of calls there were, these calls where all the team
19 members were present?

20 A. In total?

21 Q. Well, prior to the time that the Cains made
22 the loan -- funded the loan to C4.

23 A. Between three and five, I would think.

24 Q. All right. And during any of these calls do
25 you have any recollection of anything specific that

1 Mr. Price said?

2 A. I can't recall.

3 Q. When you say you can't recall, do you mean
4 that you can't recall today or you can't recall what was
5 said by Mr. Price?

6 A. I can't recall what was said specifically by
7 Mr. Price.

8 Q. Okay. Do you recall him speaking beyond just
9 introducing himself?

10 A. Yes.

11 Q. But you don't recall what he might have said?

12 A. Correct.

13 Q. All right. Let me ask you the same questions
14 with regard to Mr. Shackelford.

15 Were you introduced to him on the conference
16 calls?

17 A. At some point in time I was introduced to
18 Mr. Shackelford.

19 Q. Okay. And other than what he might have said
20 in response to being introduced, do you recall anything
21 he said during any of the calls?

22 A. Not in general. Not specifically rather.

23 Q. Okay. And do you believe that he said
24 something beyond, "Hi, nice to meet you," or responding
25 to the introduction?

1 A. Yes.

2 Q. All right. Do you recall Mr. Price ever
3 specifically stating that he had prior experience in
4 investing in or making transactions involving CMOs?

5 A. Specifically I don't recall him stating that,
6 but what I do recall is the management team's experience
7 in executing these types of financial transactions.

8 Q. So would that information have come from
9 Mr. Rawson, then?

10 A. Not specifically, but he was a lead in leaning
11 on the experience of his team while we were on some of
12 these calls.

13 Q. All right. And with respect to
14 Mr. Shackelford, then, do you recall him specifically
15 stating that he had experience in investing in or
16 transacting CMOs?

17 A. I don't recall.

18 Q. Okay. And when you say that Mr. Rawson leaned
19 on his team, did he tell you that he leaned on his team?

20 A. It was evident that he leaned on his team, and
21 he also told me that he leaned on his team based on --

22 Q. And what made it evident to you --

23 MR. MATUSKA: Wait a minute.

24 Mark, I don't think the answer was finished.

25 Hold on just a second, please. I'm sorry.

EXHIBIT 5

EXHIBIT 5

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IN THE NINTH JUDICIAL COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF DOUGLAS

PEGGY CAIN, an individual; JEFFREY)
CAIN, an individual; and HELI OPS)
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Case No. 11-CV-0296)

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WORLDWIDE, INC., a Nevada)
corporation; RICHARD PRICE, an)
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individual; MICKEY SHACKELFORD, an)
individual; MICHAEL K. KAVANAGH,)
an individual; JEFFREY EDWARDS, an)
individual; and DOES 1 through 10,)
inclusive,)

Defendants.)

DEPOSITION OF DAN WITT

Taken on behalf of Defendants

May 13, 2015

* * *

BE IT REMEMBERED THAT, pursuant to notice,
the deposition of DAN WITT was taken before KERI M.
NIETH, a Certified Shorthand Reporter for Oregon,
on Wednesday, May 15th, 2015, commencing at the hour
of 3:06 PM, at Kruse Woods Corporate Park, 4800 SW
Meadows Road, Suite 300, Lake Oswego, Oregon.

APPEARANCES:

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ALSO PRESENT: Jeffrey Cain

1 Q. All right. Is there any reason why you can't
2 give your best testimony today?

3 A. No.

4 Q. And by that I mean are you under the influence
5 of any medication or you didn't get a good night's sleep
6 such that you can't recall or articulate testimony very
7 well?

8 A. No.

9 Q. Okay. Good. What's your educational
10 background?

11 A. I have a BS degree in accounting and just
12 continuing education as a CPA.

13 Q. Where did you get your accounting degree from?

14 A. Golden Gate University in San Francisco.

15 Q. And in what states are you licensed as an
16 accountant?

17 A. Oregon.

18 Q. Ever been licensed in another state?

19 A. No.

20 Q. How long have you been a licensed accountant?

21 A. Since 1981.

22 Q. In connection with your role as an accountant
23 for clients, do you provide investment advice?

24 A. We talk about investments, but I don't
25 recommend them. We just talk about them.

1 Q. Okay. So let's go chronologically on the
2 transaction. You were introduced to Mr. Rawson.

3 How was that introduction made?

4 A. Must have been by phone initially.

5 Q. Okay.

6 A. And once it proceeded, then Kerry and I made a
7 trip down to LA and met him in person.

8 Q. This was a meeting near an airport in LA?

9 A. They picked -- Rawson, and I believe Randall
10 Sherwood or Sherman -- I forget the name exactly -- met
11 me at the airport. And I think there was a third
12 person, which I believe was John Hayner. I'm not
13 positive. But there was three people there, I believe.

14 And then we drove from the airport to a
15 restaurant, which more people joined us.

16 Q. Let me stop you for a second.

17 So it was you and Mr. Rucker that joined those
18 two or three people?

19 A. Yeah.

20 Q. Then you went to a restaurant, and who else
21 was added to the party at the restaurant?

22 A. I don't know.

23 They probably were introduced to us, but at
24 that point mostly focused on conversation with DR and
25 Randall.

1 Q. Okay. What happened next?

2 A. Next at the restaurant or after we left the
3 restaurant?

4 I mean, we had conversation at the restaurant.

5 Q. Okay. And what was C4 telling you they could
6 do for you?

7 A. Well, I don't know of the specific
8 conversation at the restaurant, other than DR was doing
9 most of the talking and talking about housing deals that
10 they were wanting to get into with the U.S. Government.

11 I mean, that was right in the heart of the
12 recession, and so there were some, quote, bottom-fishing
13 deals there. But he wasn't necessarily promoting that
14 one to us, and we hadn't at that point got to talking
15 about the deal that involved the CMOs and the loan of
16 the million dollars.

17 Q. Oh, were you --

18 A. We --

19 Q. I'm sorry. Go ahead.

20 A. Oh. Well, we left the restaurant, and then we
21 had a meeting at a hotel, Westin or Benson or some hotel
22 that had kind of a private mezzanine area to meet in.

23 Q. Who was at that meeting?

24 A. Randall and DR and Hayner, and there was
25 another person or two. I don't know who they were.

1 I mean, I don't remember who they were. I'm
2 sure that I was introduced to them, but don't know who
3 they were.

4 Q. Okay. And was it at that point that CMOs were
5 first discussed, then?

6 A. Yeah. Then we started talking about the
7 structure of the deal and got into the -- you know, what
8 the end result was to be.

9 Q. And was it Mr. Rawson who told you what the
10 end result would be?

11 A. Yeah.

12 Q. What did he promise?

13 What was going to be the end result?

14 A. Well, it was 20 million in whatever the due
15 date of that loan was, six weeks or two months or 30
16 days, yeah.

17 Q. Did he explain how he was going to -- the
18 2 million came from a \$1 million investment, right?

19 A. No. The 20 million.

20 Q. I'm sorry.

21 A. Yeah. You said two.

22 Q. Long day.

23 A. Yeah.

24 Q. So a \$1 million investment would net
25 \$20 million in returns within 30 days or something,

1 right?

2 A. Yeah.

3 Q. Did he explain how he was going to accomplish
4 that?

5 A. Trading the CMOs and -- yeah, basically
6 trading the CMOs was the primary source; but I don't
7 recall that that was necessarily a prerequisite to pay
8 it off.

9 I mean, if funds were from other sources, it
10 was a fixed amount.

11 Q. Did Mr. Rawson talk about other sources that
12 the funds might come from?

13 A. I don't remember.

14 Q. Okay. Was Joe Baker at any of these meetings
15 in the Los Angeles area?

16 A. Could have been, but -- I mean, there were
17 other people there. I just don't remember who they were
18 or didn't have -- I don't recall having a conversation
19 with anybody else.

20 It was -- the only people I remember really
21 contributing to our conversation was Randall, John
22 Hayner and Rawson.

23 Q. Okay.

24 A. Rawson was the main guy.

25 Q. How did you leave things when you left

1 Los Angeles?

2 What was the status of the deal at that point
3 or the proposed deal?

4 A. Well, I'm sure I didn't make any commitment to
5 him.

6 I think they just told us what they were going
7 to do, and I came back to report to Jeff.

8 Q. Okay. What did you tell Jeff?

9 A. I just don't remember exactly, but probably
10 that it was okay, which was, you know, in part -- or not
11 in part, but a significant part of that deal was that
12 the CMOs were security for the loan.

13 And, you know, if you get into the trading
14 part of it, I -- I do remember, and I've had this happen
15 -- I believe it happened in Synergy, too.

16 When you get too deep into their strategies,
17 it's proprietary. So you're going to get a wall there
18 as far as getting into details of their trading
19 platforms, which isn't unusual.

20 I mean, I've got day trader clients that use
21 like trade station platforms and -- I mean, those
22 software companies aren't going to reveal secrets to
23 that.

24 So you're kind of limited there. But I did
25 know about the CMO securities. And, you know, as long

1 as they secured the million, that relieved a lot of the
2 due-diligence-type part of it.

3 So I was mainly there to just meet DR and get
4 a -- hear the deal from him, I guess.

5 Q. As of that first meeting that you had with
6 Mr. Rawson -- and it was in November of 2009, right?

7 A. Yeah, the end of November.

8 Q. What was the status of the Synergy transaction
9 at that time?

10 In other words, had that deal gone sour yet or
11 (pausing) --

12 A. Not finally.

13 I don't really remember, because I had started
14 to phase out of that and was just kind of getting
15 updates from Jeff, because if -- if I remember right, it
16 was past due at that point.

17 I don't think it -- if it wasn't delinquent or
18 had gone beyond what was anticipated, probably wouldn't
19 have been looking for other sources of financing this
20 business acquisition.

21 Q. So Synergy was in default as of that date; you
22 weren't getting your money, and you needed to --

23 A. I think so. I think so.

24 I don't remember their exact terms, but I
25 think it was -- I think it was a month or two after what

1 we at least anticipated, if it wasn't in default.

2 Q. Okay. What happened next in your dealings
3 with C4 after LA?

4 A. Well, I talked to Jeff and probably Peggy. I
5 don't remember.

6 And I believe in the first week of December or
7 so, the million was funded. Wired to, I guess, C4 bank
8 account.

9 Q. Well, after the meeting in LA, did you have
10 any other discussions with any C4 representatives prior
11 to the money being funded?

12 A. Oh, we -- well, we would have had some sort of
13 agreements drawn up -- drafted or whatever. So there
14 was probably some drafts and editing or whatever of
15 that.

16 And those would have been signed as -- before
17 the money actually sent.

18 Q. Any conference calls or telephone calls
19 involving you and anybody from C4 during that time
20 period?

21 A. Probably. I don't remember.

22 Q. No memory one way or the other?

23 A. Yeah. No.

24 Q. Okay. Have you ever met Joe Baker?

25 A. Not knowingly.

1 A. Um-hum.

2 Q. Any other reasons why you felt that this was a
3 good transaction for the Cains to do with C4?

4 A. Well, that it wasn't based on totally the
5 performance of their trading or whatever activities they
6 were going to do, because they had -- a few weeks into
7 the transaction, they mentioned about getting a
8 valuation, and apparently they told us that they were
9 getting a valuation.

10 And they did borrow on the valuation, which
11 was -- I remember it being in excess of the 20 million
12 to pay.

13 And so they hired supposedly -- I mean, this
14 is what they told me -- and I think us on phone calls --
15 was that they had hired a person to value these CMOs,
16 and the value was going to be much higher; then they'd
17 be able to take that valuation and borrow against it and
18 pay the 20 million.

19 Q. Let me stop you for just a second.

20 You said they told you this, that they hired
21 someone to value -- what person was that?

22 A. It would have been DR.

23 Q. Okay.

24 A. And maybe follow-ups later with Mike Kavanagh.

25 Q. Okay. Anybody else at C4?

1 A. Not that I recall, unless Randall interjected
2 a phone call in there.

3 I don't -- I don't recall having a significant
4 conversation, if any, with anybody else, other than a
5 conference call where there could have been multiple
6 parties on there.

7 Q. Okay. So back to the list of things that, you
8 know, gave you assurance that this was an investment
9 worth pursuing, are there other items to add to that
10 list?

11 A. Well, there's the CMO security, but also the
12 income coming off of there.

13 Q. Right.

14 A. We expected to be able to provide a return
15 while it's being paid off, but it's only 30 days, so
16 that was a little less significant.

17 And we did inquire to DR about the size of the
18 company and the -- you know, who's running it, directors
19 included, 'cause I remember printing off a website and
20 going to websites and looking at the directors.

21 And later on ended up having conversations --
22 phone conferences with Attorney Gordon Evans and
23 Maalouf, who was one of the ones listed either as the --
24 as the corporate legal representative or as a Board of
25 Directors member.

1 So the backgrounds -- I mean, it just -- I
2 don't know.

3 Q. Okay. Well, let's ask about the backgrounds,
4 then.

5 A. Yeah.

6 Q. Had someone -- you know, without Joe Baker's
7 background, not have been involved with the C4 Board of
8 Directors, would you have gone through with this?

9 A. Yeah. If there was somebody else in there,
10 probably.

11 I mean, there's, what, six, seven guys here --
12 six plus Rawson -- with some pretty high-level
13 backgrounds, according to here.

14 But I'm not -- I wasn't necessarily looking
15 for a career focus on applications of technology. You
16 know, I'm looking for a high management level and
17 ownership and responsibility there and also their
18 standing in a professional community.

19 Q. After 30 days passed and no money was paid,
20 what role did you perform for the Cains as it pertained
21 to C4 going forward?

22 A. Tax accountant. I communicated, and I guess I
23 would have made contact with Gordon Evans -- the initial
24 introduction from Cains to Gordon Evans.

25 Q. And from that point forward, who affiliated

1 joint venture agreement?

2 MR. MATUSKA: I'm going to object that it
3 calls for a legal conclusion and actually, the
4 application of a lot of facts and -- the large set of
5 facts and documents that we haven't even looked at here.

6 BY MR. JOHNSON: (Continuing)

7 Q. You can answer.

8 MR. PARKER: Go ahead and answer.

9 THE WITNESS: I have no idea.

10 BY MR. JOHNSON: (Continuing)

11 Q. Have you now told me all of the things that
12 Mr. Rawson misrepresented to you?

13 A. Probably not, but all that I remember --

14 Q. Okay.

15 A. -- yeah.

16 Q. And let me broaden the question a little bit.

17 You can misrepresent something by directly
18 saying it, you can misrepresent something by omission.

19 Is there information that you feel Mr. Rawson
20 should have shared with you but didn't?

21 A. I don't -- I don't recall a specific instance,
22 but --

23 MR. PARKER: Hold on. I'm going to
24 object to that, because you can't know something you
25 don't know, and so that's the kind of answer it calls

1 for.

2 MR. JOHNSON: Yeah, unless you learn
3 about it later.

4 So you can answer.

5 THE WITNESS: Well, I was pretty much out
6 of the loop later.

7 MR. MATUSKA: If you learned about it
8 later, then you're just asking him to parrot our case
9 back, which is not percipient witness testimony.

10 So really it's not even a fact-based question.
11 It's asking to be an advocate.

12 BY MR. JOHNSON: (Continuing)

13 Q. All right. Now you can answer.

14 A. What was the question?

15 Q. Omissions by Mr. Rawson.

16 A. I'd probably know after I read -- reread some
17 of the e-mails and correspondence that was going back
18 and forth back then.

19 But, I mean, after our final -- part of my
20 reason for being so adamant about him paying off was
21 'cause I didn't think he was being up front with us.

22 Q. Did you have specific -- well, it sounded to
23 me like you and Mr. Rucker were working together in
24 terms of the due diligence on this; is that right?

25 A. Yeah, kind of.

1 back?

2 THE WITNESS: Yeah.

3 (The reporter read as follows:

4 "Question: As you look back now at the
5 transaction, is there anything you can point to, 'Oh,
6 yeah, if I was aware of that or if I'd have -- if I'd
7 have paid closer attention to this, I would have called
8 off this whole transaction'?)"

9 (Discussion off the record.)

10 THE WITNESS: I'm just trying to remember
11 stuff.

12 BY MR. JOHNSON: (Continuing)

13 Q. Okay. Well, can you think of anything now?

14 A. You know, the first two things that were --
15 kind of caught me off guard were Rawson's withdrawing
16 the interest and dividends from the account without our
17 knowledge.

18 I mean, that -- to me, that was an indication
19 he wasn't being up front with us. And then even before
20 that -- maybe a few days, I don't know -- it seemed like
21 the timing of things, like acquiring the CMOs and giving
22 us access to the account didn't happen without our
23 prodding.

24 So it was like those two were kind of
25 indications that, "Okay, I've got the money. I've got

1 a conference call involving you and Mr. Rucker on the
2 Cain side, so to speak, and on C4's behalf were
3 Mr. Rawson and others, and it was kind of an
4 introductory type deal here.

5 Do you remember that?

6 A. No. I'm not saying it didn't happen. I don't
7 recall that, but --

8 Q. Do you ever recall being on a conference call
9 with multiple members of the C4 Board of Directors?

10 A. I remember being on a conference call with
11 multiple members of C4, but I don't know who the other
12 members were. I just know there was multiple people on
13 the call.

14 Q. All right. Have you ever met Richard Price?

15 A. No.

16 Q. Have you ever met Mickey Shackelford?

17 A. No.

18 Q. To your knowledge, have you ever had a
19 telephone conversation with Mr. Price?

20 A. Not that I recall.

21 Q. Do you recall ever having a telephone
22 conversation with Mr. Shackelford?

23 A. No.

24 Q. Do you recall doing any research into either
25 of their backgrounds as part of the work you did for the

1 Cains on this transaction?

2 A. All I remember is what's on the C4 website.

3 Possibly I could have -- like one of them's a
4 CPA, I believe. Who is it, Richard? Is he a CPA?

5 I may have -- oh, Shackelford.

6 I may have gone to a State Board site just to
7 check his licensure or something, but -- 'cause I
8 typically do that, but I can't remember specifically
9 doing it in regards to him.

10 Q. Did you ever send or receive an e-mail to --
11 or receive an e-mail from Mr. Price that was directed
12 directly from him to you? And I try to avoid the idea
13 of the CCs and all that.

14 A. Yeah, I don't think so.

15 I think if I received anything from him, it
16 would have been probably a CC.

17 Q. All right. Same question for Mr. Shackelford.

18 A. No. Or I mean, yeah, same answer.

19 Q. Right.

20 A. No.

21 Q. And so did Mr. Price, to your knowledge, ever
22 make a representation that you're aware of -- whether to
23 you or anybody else -- about the CMO investment or loan
24 that the Cains were being involved in?

25 A. Not directly to me. No.

1 Q. Did Mr. Shackelford, to your knowledge, do
2 anything like that?

3 A. No. Other than lending their credibility by
4 being on the website to the -- to C4.

5 I mean, that went a long ways to promoting
6 this deal and the corporation in general.

7 Q. Okay. So is it accurate to say that your
8 testimony is that the only influence they had on the
9 Cains or you with regard to making the loan to C4 was
10 their status as members of the board?

11 MR. MATUSKA: I'm going to object. That
12 misstates the testimony and calls for speculation about
13 Mr. Cain.

14 He answered it clearly the first time.

15 BY MR. FORSBERG: (Continuing)

16 Q. You can go ahead and answer the question, if
17 you can, Mr. Witt.

18 A. Well, I can't speak for the Cains, but that
19 was -- in my case, that's the situation.

20 Q. Okay. Are you aware of anything else at all
21 that Mr. Price or Mr. Shackelford had to do with this
22 transaction?

23 MR. MATUSKA: I'm sorry, I didn't -- I
24 think there was a breakup. I didn't hear that very
25 well.

CASE NO.: 11-CV-0296

DEPT. NO.: II

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ROBERT R. WILLIAMS
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D. GOELZ
DEPUTY

This document does not contain personal information of any person.

THE NINTH JUDICIAL DISTRICT COURT OF NEVADA
IN AND FOR THE COUNTY OF DOUGLAS

PEGGY CAIN, an individual; JEFFREY CAIN,
an individual; and HELI OPS
INTERNATIONAL, LLC, an Oregon limited
liability company,

Plaintiffs,

v.

DEFAULT JUDGMENT

D.R. RAWSON, an individual;
C4 WORLDWIDE, INC., a Nevada corporation;
RICHARD PRICE, an individual; JOE BAKER,
an individual; MICKEY SHACKELFORD,
an individual; MICHAEL K. KAVANAGH,
an individual; JEFFREY EDWARDS,
an individual; and DOES 1 through 10, inclusive,

Defendants.

This matter comes before the Court on the *Motion for Entry of Default Judgment* against Defendant Jeffrey Edwards filed by the Plaintiffs Peggy Cain, Jeffrey Cain, and Heli Ops International, LLC (collectively, "the Cains"). The Cains' *Motion for Entry of Default Judgment* was supported by exhibits and an affidavit from Jeffrey K. Cain.

Due to non-compliance with discovery rules, requests, and prior orders, this Court entered an Order on March 12, 2014 striking Edwards' Answer and directing the entry of default. Default was entered against Edwards on March 17, 2014. On December 2, 2013, the United States District Court, Middle District of Florida, Jacksonville Division, Case No: 3:13bk07108 JAF

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1 entered an order granting relief from stay *nunc pro tunc*. The Cains thereafter moved for summary
2 judgment against Edwards on September 14, 2014. That motion was denied on November 21,
3 2014. However, Edwards was cautioned in that Order that he must comply with discovery
4 requests or face further sanctions. He has failed to do so. He still has not provided the discovery
5 responses that were the subject of the Plaintiff's First Motion to Compel. He failed to respond to
6 additional discovery requests and did not appear for his deposition. As a result, Plaintiffs moved
7 for the entry of a default judgment on February 9, 2015.
8

9 As a result of Edwards' default and failure to oppose the *Motion for Entry of Default*
10 *Judgment*, Edwards consented to the entry of judgment and the well-pled allegations of the
11 Complaint must be accepted as true. *Estate of Lomastro v. American Family Ins.*, 124 Nev. 1060,
12 195 P.3d 339 (Nev. 2008) ("Entry of default acts as an admission by the defending party of all
13 material claims made in the complaint. Entry of default, therefore, generally resolves the issues of
14 liability and causation and leaves open only the extent of damages.") *See also* DCR 13.
15

16 The following facts are supported by the well-pled allegation of the *Second Amended*
17 *Complaint* ("SAC"), the Settlement Agreement and Release of Claims attached thereto, and the
18 affidavit submitted with the *Motion for Entry of Default Judgment*. Plaintiffs loaned One Million
19 Dollars (\$1,000,000) to C4 on November 29, 2009, pursuant to a Joint Venture Agreement
20 ("JVA") for an investment in collateralized mortgage obligations ("CMOs"). Pursuant to the
21 express terms of the JVA, Plaintiffs were to be repaid Twenty Million Dollars (\$20,000,000) by
22 December 30, 2009. The investment funds were to be held in a separate account. C4 placed the
23 funds in its general account and diverted most of the funds to its officers and directors, including
24 Jeffrey Edwards. Edwards, his wife Linda and his son Chris, received \$72,000 in December 2009.
25 C4 had to take on a second investor, New Hope Capital, to conceal the diversion of funds.
26

27 ///
28

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1 Ultimately, C4 failed to pay the Cains or New Hope Capital. When C4 breached the JVA,
2 DR Rawson, the Chairman/CEO of C4, executed a Settlement Agreement and Release of All
3 Claims in which he acknowledged the indebtedness and agreed to repay Plaintiffs Twenty Million
4 Dollars (\$20,000,000) with interest at the rate of nine percent (9%) by May 25 2010. That
5 agreement contained an attorney's fees clause. C4 breached that agreement, as well.
6

7 Default judgment was previously entered against C4, DR Rawson, and Michael Kavanagh
8 on May 20, 2013. DR Rawson's wife, Margaret, was added to the judgment on
9 February 10, 2014.

10 C4 is a Nevada corporation and never contested personal jurisdiction. The issue of
11 personal jurisdiction over Edwards and all other defendants was fully litigated and finally resolved
12 in favor of exercising jurisdiction over the Defendants. *See November 20, 2012 Order Denying*
13 *Renewed Motion to Dismiss Re Personal Jurisdiction or for Summary Judgment, and Granting*
14 *Second Motion for Leave to Amend.*
15

16 Based on the motion and affidavits and well-pled allegations of the SAC, and for good
17 cause appearing, **IT IS HEREBY ORDERED ADJUDGED AND DECREED** that the Cains'
18 *Motion for Entry of Default Judgment* against Edwards is **GRANTED**.

19 **JUDGMENT SHALL BE AND IS HEREBY ENTERED** as follows:

20 1. In favor of the Cains and against Defendant Jeffrey Edwards, in the principal
21 amount of Twenty Million Dollars (\$20,000,000). Although it may not be necessary to do so, the
22 following recital sets for Edwards' liability under the various causes of action:
23

24 (a) In favor of the Cains and against Jeffrey Edwards in the principal amount of
25 Twenty Million Dollars (\$20,000,000) under the Second Claim for Relief (Fraud); Third
26 Claim for Relief (Civil Conspiracy); Fourth Claim for Relief (Negligence); Fifth Claim for
27 Relief (Conversion); and Sixth Claim for Relief (Constructive Trust).
28

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1 (b) In addition to the joint and several liability imposed under paragraph (a)
2 above, Edwards is also personally liable for the breach of the Settlement Agreement and
3 Release of All Claims that is the subject of the First Claim for Relief (Breach of Contract)
4 based on the doctrine of alter ego. Based on the affidavits and the well-pled allegations of
5 the Second Amended Complaint, Edwards was a senior vice president of C4. C4 was
6 never funded, Edwards commingled his personal finances with those of C4 by diverting
7 the Cains' investment funds, used C4 to perpetrate a fraud, and it would be unjust to allow
8 Edwards to maintain the corporate shield as a defense in this situation.
9

10 2. Edwards' liability shall be joint and several with that of the other judgment debtors,
11 including DR Rawson, Margaret Rawson, C4, and Kavanagh.

12 3. The judgment shall bear interest at the rate of nine percent (9%) per annum from
13 January 1, 2010 until paid.
14

15 4. Plaintiffs are further entitled to recover their court costs and reasonable attorney's
16 fees in an amount to be determined upon submission by the Plaintiffs of evidence of such costs
17 and fees. The award of costs and fees will also bear interest at the rate of nine percent (9%) per
18 annum from the date of this Order until paid. Plaintiffs are also entitled to recover attorney's fees
19 incurred in the enforcement of this judgment.

20 5. No just cause existing for delay, this judgment shall be and hereby is a final
21 judgment pursuant to NRCP 54.

22 Dated this 16 ^{March} day of ~~February~~ 2015.
23

24 
25 DISTRICT COURT JUDGE
26
27
28

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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of Matuska Law Offices and that on the 16th day of February 2015, I served a true and correct copy of the preceding document entitled **DEFAULT JUDGMENT [PROPOSED]** as follows:

Michael K. Johnson, Esq. Rollston, Henderson, Crabb & Johnson, Ltd. P.O. Box 4848 Stateline NV 89449-4848 Attorney for Defendant Joe Baker	Richard A. Oshinski, Esq. Mark Forsberg, Esq. Oshinski & Forsberg, Ltd. 504 E. Musser Street, Suite 302 Carson City NV 89701 Attorney for Defendants Richard Price and Mickey Shackelford
Jeffrey Edwards 595 Chivas Court Orange Park FL 33073	

☒ **BY U.S. MAIL:** I deposited for mailing in the United States mail, with postage fully prepaid, an envelope containing the above-identified document(s) at Carson City, Nevada, in the ordinary course of business.

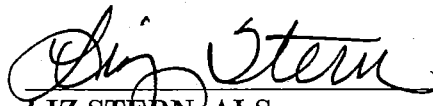
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LIZ STERN, ALS

000114

IN THE SUPREME COURT OF THE STATE OF NEVADA

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Clerk of Supreme Court

PEGGY CAIN, AN INDIVIDUAL; JEFFREY
CAIN, AN INDIVIDUAL; AND HELI OPS
INTERNATIONAL, LLC, AN OREGON
LIMITED LIABILITY COMPANY,

Supreme Court Case No. 69333
District Court Case No. CI 22918

Appellants,

Supreme Court Case No. 69889

vs.

Supreme Court Case No. 70864

RICHARD PRICE, AN INDIVIDUAL; AND
MICKEY SHACKELFORD, AN
INDIVIDUAL,

Respondents.

On Appeal from Judgment and Post-Judgment Orders
in the Ninth Judicial District Court, Douglas County
The Honorable Thomas W. Gregory Presiding

RESPONDENTS' APPENDIX

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RESPONDENTS' APPENDIX

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**BY D. GOELZ
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IN THE NINTH JUDICIAL DISTRICT COURT OF NEVADA

IN AND FOR THE COUNTY OF DOUGLAS

10 PEGGY CAIN, an individual; JEFFREY CAIN,
11 an individual; and HELI OPS
12 INTERNATIONAL, LLC, an Oregon limited
13 liability company,

Case No. 11 CV 0296

Dept. No. II

14 Plaintiffs,

15 vs.

16 D.R. RAWSON, an individual; C4
17 WORLDWIDE, INC., a Nevada corporation;
18 RICHARD PRICE, an individual; JOE BAKER,
19 an individual; MICKEY SHACKELFORD, an
20 individual; MICHAEL K. KAVANAGH, an
21 individual; JEFFREY EDWARDS, an
22 individual; and DOES 1-10, inclusive,

Defendants.
_____ /

MOTION FOR PARTIAL SUMMARY JUDGMENT

24 COME NOW Defendants RICHARD PRICE and MICKEY SHACKELFORD, by and through
25 their counsel, Mark Forsberg, Esq. and Oshinski & Forsberg, Ltd., and hereby move this Court for
26 partial summary judgment. This Motion is based on the attached Points and Authorities, the exhibits
27 attached hereto and all of the papers and pleadings on file in this action.
28

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INTRODUCTION

This action involves nine claims for relief brought by Heli Ops International, LLC, an Oregon limited liability company ("Heli Ops") and its principals, Peggy Cain and Jeffrey Cain against C4 Worldwide, Inc. ("C4"), a Nevada corporation that was originally a California corporation, and six individual defendants: D.R. Rawson ("Rawson"), Michael K. Kavanagh ("Kavanagh") and Jeffrey Edwards ("Edwards"), all of whom have allowed default judgments to be taken against them, and Richard Price, Mickey Shackelford and Joe Baker, who continue to assert that they have committed no wrongful acts alleged in the complaint.

Plaintiffs' claims for relief arise out of Heli Ops' loan of \$1 million to C4 for the purpose of purchasing collateralized mortgage obligations ("CMOs"). A CMO is a bundle of mortgage notes. Each bundle is identifiable by a number and can be sold, traded and purchased, and can be borrowed against, using the CMOs as collateral.

In this case, the Plaintiffs agreed to loan C4 \$1 million to purchase CMOs and entered into a joint venture agreement ("JVA"), attached hereto as **Exhibit 1**, to memorialize the transaction. The Plaintiffs also received a note executed by C4 to support the loan. Ultimately, although C4 purchased two CMOs, no profits were generated by leveraging them or borrowing against them, and the two identified CMOs purchased were transferred from an account to which Plaintiffs had access, to another accountholder and ultimately were lost. As set forth in Defendant Joe Baker's Motion to Bifurcate Trial and the exhibits attached thereto, the Plaintiffs have participated in litigation in state court in Texas and in a Florida bankruptcy proceeding to try to recover ownership and control of those CMOs. The outcome of those litigations is, as yet, unknown.

Plaintiffs' first claim for relief is that C4 for breaching the JVA and a later settlement agreement ("Settlement Agreement") in which C4 agreed to pay Plaintiffs \$20 million, the amount the JVA promised them contingent upon the CMOs generating profits for the company. The Settlement Agreement, attached hereto as **Exhibit 2**, obligated C4 and Rawson to pay Plaintiffs \$20 million and released the remaining defendants in this action. Nonetheless, the complaint alleges that all of the defendants are responsible for the breach of the Settlement Agreement because "they knew or should have known" that the Settlement Agreement was illusory and that C4 was a mere shell corporation that

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1 could not repay the amounts owed and that Rawson had no intention of repaying the loan. In support
2 of this breach of contract claim, Plaintiffs allege that each individual defendant "exercised total
3 dominion and control over C4 and that C4 was the alter ego of each of them and the corporate existence
4 should be disregarded."

5 Plaintiffs' second claim for relief alleges fraud on the part of each individually-named
6 defendants, claiming that they "created a false perception" regarding C4 and Rawson, its CEO, by
7 including information about their experience, professionalism and expertise in financial matters in
8 biographies posted on the C4 website and further alleges that the defendants knowingly allowed
9 Rawson to misrepresent to Plaintiffs the intended use of the loaned funds, the likelihood of obtaining
10 the promised return, and Rawson's experience and capabilities. They go on to allege that the defendants
11 knowingly allowed Rawson to "further facilitate or allow" the waste and improper disposition of the
12 CMOs. Plaintiffs finally allege that they reasonably relied on all of the defendants' representations.

13 Plaintiffs' third claim for relief alleges civil conspiracy, averring that each of the individual
14 defendants conspired and knowingly participated and lent their names to a fraudulent scheme to induce
15 Plaintiffs to loan funds in the first instance; and then to defer taking legal action thereafter. In neither
16 the second nor third claims for relief, do Plaintiffs identify any specific conduct undertaken by Price,
17 Shackelford or Baker, nor do they assert any fact supporting the scienter, or state of mind, of the
18 defendants.

19 Plaintiffs' remaining claims are for negligence, conversion, constructive trust and an allegation
20 that defendants are guilty of intentional interference with contractual relations, the contract being the
21 JVA between Heli Ops and C4. Again, there is no specific allegation of which defendant acted to
22 interfere with the relationship between Heli Ops and C4.

23 For the reasons set forth below, Plaintiffs' claims for fraud, civil conspiracy and intentional
24 interference with contractual relations must fail.

25 POINTS AND AUTHORITIES

26 I.

27 ARGUMENT

28 000003

1 The JVA contains a choice of law provision which states "This agreement shall be construed
2 and enforced under the laws of the State of California." It is unclear whether the fraud, civil conspiracy
3 and other tort claims are controlled by this contractual provision or whether Nevada law applies.
4 However, under the laws of either state, Plaintiffs' fraud and civil conspiracy claims fail. Even after
5 years of litigation and exhaustive discovery, Plaintiffs have unearthed no facts supporting the fraud and
6 civil conspiracy claims, and in fact, the evidence shows that these claims must now be dismissed as a
7 matter of law based on the undisputed evidence set forth below.

8 **A. Applicable Nevada Law.**

9 1. **Pleading Fraud.** As an initial matter, fraud must be pled with specificity a set
10 forth in NRCP 9(b). The complaint, on its face, fails to allege any specific conduct by Price or
11 Shackelford that can satisfy the rule. On that ground alone, the claim should be dismissed. A Rule 9(b)
12 motion filed early in the case was denied, but discovery is now virtually complete, and it is now evident
13 that the lack of specificity was necessitated by a lack of evidence to support the claims, making this
14 motion ripe for consideration.

15 2. **Elements of Fraudulent Misrepresentation.** Under Nevada law, a plaintiff has
16 the burden of proving each and every element of a fraudulent misrepresentation claim by clear and
17 convincing evidence. Those elements are: (1) a false representation by the defendant; (2) defendant's
18 knowledge or belief that its representation was false or that defendant has an insufficient basis of
19 information for making the representation; (3) defendant intended to induce plaintiff to act or refrain
20 from acting based upon the misrepresentation; and (4) damage to the plaintiff as a result of relying on
21 the misrepresentation. *Barmettler v. Reno Air, Inc.*, 114 Nev. 441, 956 P.2 1382 (1998).

22 3. **Elements of Inducement.** If a plaintiff fails to establish an essential element,
23 the facts, "disputed or otherwise, as to the other elements are rendered immaterial and summary
24 judgment is proper." *Id.* To establish a cause of action for fraud in the inducement, a claim made in
25 this case, a plaintiff must establish by clear and convincing evidence that (1) defendant made a false
26 representation, (2) defendant had knowledge of the falsity of the representation, (3) defendant intended
27 to induce plaintiff to rely on the representation, (4) plaintiff justifiably relied on the representation, and
28 (5) plaintiff suffered damages as a result of this reliance. *J.A. Jones Constr. Co. v. Lehrer McGovern*

1 *Bovis, Inc.*, 120 Nev. 277, 290, 89 P.3d 1009, 1018 (2004). Lack of justifiable reliance bars recovery.
2 If the recipient of the representation has information which would serve as a danger signal to any normal
3 person of his intelligence and experience, there can be no justifiable reliance. *Pacific Maxon v. Wilson*,
4 96 Nev. 867, 870 (1980).

5 4. **Elements of Fraudulent Concealment.** Nevada law also allows a cause of
6 action for fraudulent concealment. To prevail on this claim, a plaintiff must prove that (1) the defendant
7 concealed or suppressed a material fact; (2) the defendant was under a duty to disclose the fact to
8 plaintiff; (3) the defendant intentionally concealed or suppressed the fact with the intent to defraud the
9 plaintiff; that is, the defendant concealed or suppressed the fact for the purpose of inducing the plaintiff
10 to act differently than he would have had he known the fact; (4) the plaintiff was unaware of the fact
11 and would have acted differently had he known of the concealed or suppressed fact; and (5) as a result
12 of the concealment or suppression of the fact, the plaintiff sustained damages. *Dow Chemical Co. v.*
13 *Mahlum*, 114 Nev. 1468, 970 P.2d 98 (1998). Nondisclosure becomes the equivalent of fraudulent
14 concealment when it becomes the duty of a person to speak in order that the party with whom he is
15 dealing may be placed on an equal footing with him. *Id.* And, a duty to disclose may arise from the
16 existence of material facts peculiarly within the knowledge of the party sought to be charged and not
17 within the fair and reasonable reach of the other party. *Id.* As will be readily discerned from the
18 deposition testimony set forth below, Plaintiffs have not and cannot prevail on their fraud claim under
19 Nevada law.

20 Here, there is no evidence that Defendants Price, Shackelford or Baker made a false
21 representation to the Cains or concealed or suppressed material facts; no evidence that the Cains
22 justifiably relied on any representation made by any of these same defendants. As will be set forth
23 below, none of these defendants had a duty to disclose any undisclosed facts to the Cains, because there
24 were no material facts "peculiarly within the knowledge" of the defendants and not within the fair and
25 reasonable reach of the Cains, who performed their own due diligence with the help of their financial
26 advisor, Kerry Rucker, and their CPA, Dan Witt.

27 5. **Civil Conspiracy.** When a plaintiff cannot prevail on a fraud claim, a civil
28 conspiracy to commit that fraud must also fail. In order to prevail on a claim of civil conspiracy, a

1 plaintiff must establish the following elements: (1) show that two or more persons, by some concerted
2 action, intend to accomplish an unlawful objective for the purpose of harming another, and damage
3 results from the act or acts of the conspirators. *Mahlum*, citing *Sutherland v. Gross*, 105 Nev. 192, 196,
4 772 P.2d 1287, 1290 (1989). Civil conspiracy requires that the defendants have an *intent* to accomplish
5 an unlawful objective for the *purpose* of harming another. To prevail on a civil conspiracy action, a
6 plaintiff must prove an agreement between the tortfeasors, either explicit or tacit. Finally, proof of an
7 agreement by itself is not sufficient to carry the day. Rather, it is essential that the conduct of each
8 alleged tortfeasor be, in itself, tortious. *Mahlum*.

9 In this case there is no evidence showing an agreement among the defendants, either explicit or
10 tacit, entered into with the intent to accomplish an unlawful objective.

11 Plaintiffs' civil conspiracy claims against Price and Shackelford fail because, as demonstrated
12 below, they cannot prove either an agreement, either explicit or tacit, an intent to accomplish an
13 unlawful objective for the purpose of harming another, nor the tortiousness of the conduct of each
14 alleged tortfeasor.

15 **B. Applicable California Law.**

16 1. **Elements of Fraud.** Under California law, the elements of fraud are (1) the
17 defendant made a false representation as to a past or existing material fact; (2) the defendant knew the
18 representation was false at the time it was made; (3) in making the representation the defendant intended
19 to deceive the plaintiff; (4) the plaintiff justifiably and reasonably relied on the representation; and
20 (5) the plaintiff suffered resulting damages. As in Nevada, in order to establish a cause of action for
21 fraud, a plaintiff "must plead and prove in full, factually and specifically, all the elements of the cause
22 of action. General and conclusory claims of fraud will not suffice." *Conrad v. Bank of America*, 45
23 Cal. App. 4th 133, 156 (1996). In *Small v. Fritz Companies, Inc.*, 132 Cal. Rptr. 2d 490, 30 Cal. 4th
24 167, 65 P.3d 1255 (2003), the California Supreme Court stated the elements of fraud as follows:
25 "(a) Misrepresentation (false representation, concealment or nondisclosure); (b) knowledge of falsity
26 (or "*scienter*"); (c) intent to defraud, i.e., to induce reliance; (d) justifiable reliance; and (e) resulting
27 damage. The deceit necessary to support a fraud claim includes the suppression of a fact by one who
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1 is bound to disclose it or who gives information of other facts which are likely to mislead if they are
2 not disclosed.

3 As with the elements of fraud under Nevada law, the evidence set forth below defeats a fraud
4 claim under California law.

5 2. **Civil Conspiracy.** Under California law, a civil conspiracy is not a cause of
6 action. *L.A. Mem'l Coliseum & Comm'n v. Insomniac, Inc.*, (Cal. App., 2015). Rather, it is a legal
7 doctrine that imposes liability on persons who, although not actually committing a tort themselves,
8 share with the actual tortfeasor a common plan or design in its perpetration. *Id.* Consequently, an
9 agreement to participate in wrongdoing is not actionable unless the tortious acts are actually performed
10 pursuant to the agreement. *Id.*

11 The California Supreme Court has identified the elements of a conspiracy to defraud as: (1) the
12 formation and operation of a conspiracy and (2) damage resulting to the plaintiff from an act or acts
13 done in furtherance of the common design. *Applied Equipment Corp. v. Litton Saudi Arabia Ltd.*, 7
14 Cal. 4th 503, 510-11 (1994), cited in *L.A. Mem'l Coliseum & Comm'n v. Insomniac, Inc.*, *supra*.

15 Thus, if California law is applied, Plaintiffs must be able to establish that Price and Shackelford
16 actually reached an agreement to participate in a tort that harmed the Cains and Heli Ops. As set forth
17 below, there is no evidence of such.

18 Undisputed Facts

19 Evidence is called from the depositions of Plaintiff Jeffrey Cain, his certified public accountant,
20 Dan Witt, and his financial advisor, Kerry Rucker, all of whom have been deposed and whose testimony
21 is not only the only testimony regarding the fraud and civil conspiracy claims, but it is the only possible
22 evidence available to support such claims, which it fails to do. Cited portions of Jeffrey Cain, Kerry
23 Rucker and Dan Witt's testimony are attached here to as **Exhibits 3, 4 and 5**, respectively.

24 A. **Testimony of Jeffrey Cain.** Jeffrey Cain testified that Dan Witt was his accountant and
25 Kerry Rucker is a stock broker. *See Cain Deposition Transcript ("Cain Transcript")*, p. 15, lines 24-
26 25; p. 16, lines 1-19.¹ Cain testified that the transaction in which he was to loan money to C4 was

27
28 ¹ As it turns out, Rucker is not a stock broker or a licensed financial advisor. That evidence will be set forth in the
summary of Rucker's deposition testimony.

1 proposed to him by Witt, who had received the information about C4 from Rucker. *Cain Transcript p.*
2 *32, lines 19-25.* Cain testified that Rucker advised him that he should "definitely look at it and do our
3 due diligence and see what it turned up." *Id.* Cain testified that he talked extensively about the
4 transaction with Witt. *Cain Transcript p. 35, line 15.* Cain testified that he asked Rucker to investigate
5 the viability of the C4 proposal, along Witt, that they did so and that he had confidence in Rucker and
6 Witt, "first and foremost." He testified that Witt advised him that the C4 loan was a good investment
7 after Witt met with D.R. Rawson and associates in Los Angeles, a meeting attended by Witt and Rucker.
8 *Cain Transcript p. 36, lines 1-15.*

9 There is no evidence that Defendants Price, Shackelford or Baker were at the meeting in Los
10 Angeles. Cain knew only that D.R. Rawson, a purported lawyer named John Hayner, and another
11 broker named Randal Sherwood were at the meeting representing C4. Cain did not attend the meeting.
12 *Cain Transcript p. 37, lines 2-17.*

13 Cain testified that prior to the meeting in Los Angeles, he had not personally talked with any
14 person he believed he was an officer or director of C4. *Cain Transcript p. 38, lines 23-25; p. 38, line 1.*
15 Cain testified that after Witt and Rucker attended the meeting in Los Angeles, Witt encouraged him to
16 participate in the CMO transaction with C4. *Cain Transcript p. 39, lines 2-5.*

17 Cain testified that after receiving positive recommendations from Witt regarding the investment,
18 a telephone conference call took place with D.R. Rawson and other officers and directors of C4. *Cain*
19 *Transcript p. 41, lines 15-19.* During the telephone conference call, Cain testified that he recalled that
20 "definitely Mr. Rawson, Mr. Price, maybe John Hayner came on it, but that's all I can recall." *Cain*
21 *Transcript p. 41, lines 23-25; p. 42, line 1.* Cain testified that he could not recall who did most of the
22 talking during the conference call. *Cain Transcript p. 42, lines 2-10.* Cain testified that his recollection
23 of talking to Price during the conference call was that they only talked about their mutual involvement
24 in oil and natural gas businesses. *Cain Transcript p. 42, lines 11-19.*

25 Cain recalled that Rawson told him on the conference call that he had "done" CMO investments
26 before and that Rawson promised him that for a million dollars down, within 30 days Cain would
27 receive \$20 million and that Cain found this proposition plausible. *Cain Transcript p. 43, lines 8-19.*
28 Cain believed the proposition was plausible because "we were dealing with something tangible, a CMO,

1 that produces a dividend, that the company in general, the board of directors were all extremely
2 experienced individuals, very successful businessmen, and that a financial institute at that time would
3 be taking them under their possession with me being part of the account being able to monitor that
4 account and follow it on a daily basis.” *Cain Transcript p. 43, lines 22-25; p. 44, lines 1-4.*

5 Other than Mr. Rawson, Cain testified that he could not remember any other person during the
6 conference call tell him that they had engaged in CMO transactions previously. *Cain Transcript, p. 44,*
7 *lines 5-8.* Cain later recalled that another board member of C4 named Mike Kavanaugh also was an
8 active participant in the conference call. *Cain Transcript p. 44, lines 20-25; p. 45, lines 1-3.*

9 Cain testified that subsequent to the conference call, he had no contact with anyone from C4
10 again before he executed the Joint Venture Agreement, although he did have further discussions with
11 Witt, who continued to recommend the transaction to Cain. *Cain Transcript p.45, lines 10-19.* Cain
12 testified that he did no personal investigation of CMOs before he signed the Joint Venture Agreement.
13 *Cain Transcript p. 45, lines 20-22.*

14 Cain testified that the only conversation he had with Richard Price after the initial conversation
15 in the telephone conference call was a call he made to Price regarding where the money should be wired
16 for the loan to C4. *Cain Transcript p. 64, lines 3-9.*

17 He testified that when he had questions about what was going on, the person he contacted was
18 Rawson. *Cain Transcript p. 64, lines 10-12.*

19 Cain testified that he had no knowledge about the internal workings of C4. *Cain Transcript p.*
20 *64, lines 13-15.*

21 When asked if he had any information to suggest that Price was experienced in CMO
22 transactions, Cain answered “No.” *Cain Transcript p. 66, lines 22-25; p. 67, lines 1-2.* He testified
23 that he never turned to Price to explain the CMO transaction or its leveraging or any of the nuances of
24 it. *Cain Transcript p. 67, lines 3-6.* He testified that the only knowledge he had of Price was contained
25 in his biography on the C4 website. *Cain Transcript p. 67, lines 7-10.* Cain admitted that his decision
26 to loan money to C4 was not based on anything Price told him, but was “based on C4 the company as
27 a whole, not an individual.” *Cain Transcript p. 67, lines 14-15.*

28 Cain testified that his only knowledge of the role Price played in the decision making for C4

1 was that he set up Wells Fargo and an EKN (brokerage) account and his name appeared on corporate
2 resolutions and that those things he was doing in his capacity as an officer of C4. *Cain Transcript p.*
3 *67, lines 20-25; p. 68, lines 1-6.* Cain testified he had no knowledge of whether Price was directed by
4 anyone to do these activities and no information whether Price could act without Rawson's approval.
5 *Cain Transcript p. 68, lines 7-12.* He testified that he had no information or documents suggesting that
6 Price knew at the time Cain lent money to C4 that Cain would not be repaid. *Cain Transcript p. 68,*
7 *lines 13-16.*

8 Cain testified that he was unaware of any activity by Price that interfered with the Joint Venture
9 Agreement. *Cain Transcript p. 68, lines 22-25; p. 69, line 1.*

10 Cain testified that he had no information that Price reached an agreement with someone else to
11 commit fraud against him. *Cain Transcript p. 69, lines 2-5.*

12 With respect to Shackelford, Cain testified that he had never met Shackelford, never spoken to
13 him, had received one e-mail from him that was cc'd to everybody, couldn't remember the subject of
14 the e-mail and that Shackelford had never, to his knowledge, held himself out to be acquainted with
15 CMOs as an investment opportunity. *Cain Transcript p. 71, lines 15-25; p. 72, lines 1-20.* Similarly,
16 he testified that Price was not portrayed to him as a person knowledgeable about CMOs. *Cain*
17 *Transcript p. 72, lines 21-23.*

18 Cain testified that he had no documents or information that suggested that either Price or
19 Shackelford could control the decisions of C4. *Cain Transcript p. 72, lines 24-25; p. 73, lines 1-4.* He
20 testified that he had no information that Shackelford was aware before Cain made the loan to C4 that it
21 would not be repaid. *Cain Transcript p. 73, lines 5-12.* He testified that he had no information that
22 Shackelford took any action that was a breach of the Joint Venture Agreement with C4. *Cain Transcript*
23 *p. 73, lines 13-16.* He testified that he had no information that Shackelford reached an agreement with
24 someone else to commit fraud against Cain. *Cain Transcript p. 73, lines 17-20.*

25 Cain testified that he had no knowledge that Price or Shackelford participated in the drafting of
26 a document on the C4 website describing the leveraging of CMOs. *Cain Transcript p. 203, lines 1-6.*
27 Cain testified that he had no knowledge of any participation by Price or Shackelford in the transfer of
28 the CMOs from EKN to Penson to Golden Summit by Shackelford and only surmised that Price may

1 have had something to do with it because he set up the initial account at EKN to hold the CMOs. *Cain*
2 *Transcript p. 205, lines 15-24.* Still, Cain testified he had no personal knowledge of Price setting up
3 the Penson or Golden Summit accounts. *Cain Transcript p. 206, lines 1-6.*

4 Cain testified he had no knowledge of who directed that payments be made to various defendants
5 and others from the Wells Fargo account where Cain deposited his money. *Cain Transcript p. 206,*
6 *lines 7-14.*

7 Finally, Cain testified as follows:

8 Q. You were asked also about the term "Inducement." And I don't really want
9 to talk about the term itself, but part of your claim, as I understand it, is that
10 the officers and directors of C4 misled you into making the loan that you
11 made. Is that a fair assessment?

12 A. Through the way they represented C4, yes.

13 Q. Okay. This is where your answer to me is not as responsive as I want it to be
14 because who is "They"? when you say "They," who are you referring to?

15 A. Everybody that was a board of director. Everybody that was an officer in the
16 corporation.

17 Q. Alright. So now I'm going to ask you with respect to my clients. Do you
18 recall today any statement, either written or oral, or by giving you a thumbs
19 up from Mickey Shackelford that induced you to make this loan other than
20 the things you've talked about?

21 Mr. Matuska: While, that's kind of vague now. What's your understanding
22 of what's been talked about?

23 The Witness: C4 linkage.

24 Q. (By Mr. Forsberg): The website and the fact that they were all part of C4.
25 Was there - -

26 Mr. Matuska: And bios? Are you counting bios?

27 The Witness: Yes.

28 Q. (By Mr. Forsberg): The website, the bios on the website.

A. Other than that, no.

Q. All right. And the same question about Mr. Price.

A. Mr. Price was in the conference call that I had two or three days after the
meeting in L.A., and we talked for five or ten minutes. Obviously, he made
me feel really comfortable with the investment.

Q. But I think your testimony, if I understand it, and I'm not putting words in
your mouth or trying to trick you or anything like that, but I recollection of
your testimony was that you talked about the oil industry.

A. Yes, we did.

Q. And that as a result of that conversation, you recognized his expertise in that
area, and you had a bond with him because you're in the same business as
well?

A. Yes.

Q. And that is what gave you the comfort level?

1 A. That, but we carried on to C4, I think very briefly. It wasn't that long a
2 conversation with all of them, but very briefly and to C4 and how it operated.
Yes. It wasn't just about the oil and gas industry.

3 Q. All right. Do you recall whether he made any representations about his
4 knowledge of CMOs in that conversation?

5 A. I can't remember.

6 *Cain Transcript p. 208, lines 22-25; p. 209-210.* Cain also testified that Rawson directed him to Price
7 and that Price was filling in Cain's lawyer, Bill Parker "on how this deal was proceeding because
8 naturally, my lawyers are wondering when I'm going to get paid." *Cain Transcript p. 211, lines 13-24.*
9 But Cain also testified that the only communication he had with Price in December of 2009 at the
10 inception of the transaction was "just the email to me on phoning up Brannigan with Wells Fargo. I
11 had an email from Price pertaining to that." *Cain Transcript p. 212, lines 24-25; p. 213, lines 1-8.*

12 With respect to the experience of C4 and the individual defendants participating in transactions
13 involving CMOs, Cain testified that his belief that C4 could handle a CMO transaction was based on
14 representations made by means other than receiving it from the remaining defendants. He testified that
his understanding of C4's experience was acquired as follows:

15 Well, the prospectus said it, Rucker talking with Rawson and Sherwood and then
16 at no time did we not doubt that they weren't dealing with CMOs. The actual names
17 of the people, though, I just - - I know definitely Rawson. Definitely Sherwood.

18 In summary, Cain's testimony shows that Price, Shackelford and Baker made no representations
19 to him regarding the experience of themselves or C4 in buying or otherwise investing in CMOs, made
20 no representations about the return Cain would receive by making such a loan/investment, no
21 representations that they personally were involved, were experienced in CMO transactions or
22 investments and in fact made no representations, let alone false representations, to Cain of any kind or
23 of any substance.

24 Moreover, Cain does not dispute that he directed his own CPA and financial advisor to perform
25 due diligence on the transaction he was contemplating with C4, and that they encouraged him to make
26 the loan and investment.

27 Finally, Cain testified that he had no knowledge of any agreement among defendants Price,
28 Shackelford and Baker and any other person. The entire foundation of the complaint is that Cain relied

1 on the biographical information presented about the remaining defendants posted on the C4 website
2 which demonstrated their history of success in their various occupations, but made no representation
3 regarding their experience with CMOs.

4 **B. Testimony of Kerry Rucker.**

5 Kerry Rucker is the Cains' financial advisor. Rucker, as Mr. Cain testified, was the individual
6 that first brought the C4-CMO transaction to the attention of the Cains. As set forth above, Cain
7 described Mr. Rucker as his financial advisor. Like Mr. Cain, Rucker testified about the telephone
8 conference call that proceeded Cain's decision to make the loan to C4. He testified that Rawson
9 initiated the call and that Rawson, Kavanagh, Baker and Price were on the call and perhaps Shackelford.
10 *See Rucker Deposition Transcript ("Rucker Transcript")* p. 14, lines 6-13. Rucker testified that after
11 the call he saw no need to have further conversations with C4 or the individual defendants:

12
13 *Rucker Transcript* p. 15, lines 21-25; p. 16, lines 1-2.

14 Rucker could not recall whether Baker said anything during that call. *Rucker Transcript* p. 16,
15 lines 6-9. Thereafter, Rucker could not recall communicating with anyone other than Rawson who was
16 associated with C4:

17 Q. . . . Was there a second communication with C4 following that conference
18 call?

19 A. There were many conversations.

20 Q. All right. So we're going to stick to November of 2009. Let's talk about the
21 second one.

22 A. Um-hum.

23 Q. Who was involved in that discussion?

24 A. I don't remember specifically.

25 Q. Was Mr. Baker involved?

26 A. I don't remember specifically.

27 Q. Was Mr. Rawson involved in that discussion?

28 A. More than likely yes.

Q. Do you remember what was discussed during the second - - was it a
conference call or just a person-to-person call?

A. It was a - - not necessarily - - I don't remember if it was a conference call or
- - it was more so a call about following up with the CMO program. Trying
to learn more about the CMO program.

Q. Okay. And who was involved in the call?

A. I don't remember specifically.

Q. Well, we know you were involved, right?

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1
2 Rucker then testified regarding the due diligence he performed on behalf of the Cains:

3 A. Well, we personally flew to California, myself and Dan Witt, which is the
4 Cains' CPA, in order to meet with their entire team and to research and to
5 investigate this program. So it started with that.

6 He further testified that:

7 I have a background in finance, so I - - I'm familiar with CMOs and financial
8 instruments. And when we researched C4, we did investigations on their company.

9 He went on:

10 It was my job to help investigate C4, along with Dan Witt and Mr. Cain, as well as
11 anybody else - - and I am sure his wife was included in that - - and it was our job
12 to actually evaluate the guys. It was my job to investigate C4 and to evaluate the
CMOs that were being purchased, which is what we did.

13 *Rucker Transcript p. 34-35.* Rucker testified that he had a "working knowledge of CMOs" and that he
14 had dealt with them before. *Rucker Transcript p. 37, lines 3-6.* Rucker testified that with respect to
15 CMOs, he contacted a couple of investment advisors he knew and asked them for information. *Rucker*
16 *Transcript p. 39, lines 9-13.* He testified that he believed the Cain investment, being secured by the
17 CMOs made him feel good about the investment. *Rucker Transcript p. 39, lines 17-20.*

18 He testified that Rawson told him that the CMOs would be rated A+. *Rucker Transcript p. 41,*
19 *lines 24-25.* He testified that as he recalled, the CMOs that were eventually purchased were A+. *Rucker*
20 *Transcript p. 42, lines 1-3.*

21 Rucker testified that he and Witt, after performing their due diligence, were comfortable with
22 the transaction:

23 Q. Okay. You eventually recommended that the Cains enter into this agreement
24 with C4 to purchase CMOs, correct?

25 A. I and Dan Witt came to - - after our visit with C4, decided we'd be secure in
entering into this investment.

26 The "visit with C4" did not include Price, Shackelford or Baker. Rucker went on to testify as follows:

27 Q. You were telling me earlier that part of the reason, I think, that you
28 recommended that the Cains proceed with this investment is because of this
experience of the various people involved with C4. Is that accurate?

1 A. And also earn investment secured by CMOs.

2 *Rucker Transcript p. 54, lines 16-21.* He testified that "I concluded based on the evidence in what was
3 being told to me and Dan Witt that we would be secure, because we had CMOs to help us out in that
4 security, as well as a good team." *Rucker Transcript p. 69, lines 15-18.* He testified that CMOs carry
5 a "very low" risk. *Rucker Transcript p. 69, lines 21-24.*

6 With respect to the promise by Rawson that the Cains would receive a twenty-fold return on
7 their \$1 million investment within 30 days, Rucker testified: "I've seen that happen in the real estate
8 industry, as well as in the investment industry." When asked if that were a common occurrence, Rucker
9 testified "if you know what you're doing."

10 Rucker testified that the CMOs purchased by C4 were owned by the Cains and that he knew
11 this because their name was on the account holding the CMOs. *Rucker Transcript p. 76, lines 19-22.*

12 With respect to Price, Rucker testified that during between 3-5 conference calls involving
13 himself and people associated with C4, that he could not recall anything that was said by Price. *Rucker*
14 *Transcript p. 152, lines 17-25; p. 153, lines 1-7.* Similarly, he could not recall anything that was said
15 by Shackelford. *Rucker Transcript p. 153, lines 13-22.* He also could not recall Price or Shackelford
16 holding themselves out as being experienced in transacting CMOs. *Rucker Transcript p. 154, lines 2-*
17 *17.*

18 C. Testimony of Dan Witt.

19 Dan Witt is the Cains' CPA. Witt is a certified public accountant. *See Witt Deposition*
20 *Transcript ("Witt Transcript") p. 5, lines 11-12.* With respect to the transaction with C4, Witt testified
21 that his role was "just investigating and I guess evaluating Mr. Rawson and what the deal was that he
22 was offering."

23 Like Rucker, Witt testified that he travelled to Los Angeles to meet with representatives of C4.
24 *Witt Transcript p. 12, lines 6-7.* Rucker testified that the meeting in L.A. included Rawson, Randal
25 Sherwood and John Hayner. *Witt Transcript p. 12, lines 9-13.* He testified that at the portion of the
26 meeting that took place at a restaurant, D.R. Rawson was doing most of the talking. *Witt Transcript p.*
27 *13, lines 7-10.* He testified that then the group met at a hotel and that meeting included Sherwood,
28 Rawson and Hayner and another person or two that he did not know. *Witt Transcript p. 13, lines 22-*

1 25. He testified that at this meeting at the hotel CMOs were first discussed. *Witt Transcript p. 14, lines*
2 4-8. He testified that it was Rawson who promised that the return on the Cains' loan would be \$20
3 million within 30 days. *Witt Transcript p. 14, lines 9-16.* When asked if Baker was at any of the
4 meetings in Los Angeles, Witt testified that he could have been but that he didn't remember who the
5 other people were and didn't recall having any conversation with anyone else other than Sherwood,
6 Rawson and Hayner. He testified that "Rawson was the main guy." *Witt Transcript p. 15, lines 14-24.*

7 Witt testified that he returned from the meeting and reported to Jeff Cain, telling him:

8 I don't remember exactly, but probably that it was ok, which was, you know, part
9 -- or not in part -- but a significant part of that deal was that the CMOs were
10 security for the loan.

11 *Witt Transcript p. 16, lines 9-12.* He went on to testify that "I did know about the CMO securities.
12 And, you know, as long as they secured the million, that relieved a lot of the due-diligence-type part of
13 it." *Witt Transcript p. 16, lines 24-25; p. 17, lines 1-2.* Witt testified that during this time period he
14 probably had telephone calls or conference calls involving C4 representatives but he had no memory of
15 them. *Witt Transcript p. 18, lines 18-23.*

16 In a discussion about who described the value of the CMOs in the proposed transaction, it was
17 Rawson, Kavanagh and perhaps Sherwood who discussed these matters with him. *Witt Transcript p.*
18 *21, lines 2-25; p. 22, lines 1-6.* The only way that Price, Shackelford or Baker influenced his thinking
19 regarding C4 and the CMO transaction was the "high management level and ownership and
20 responsibility there and also their standing in a professional community." *Witt Transcript p. 27, lines*
21 *11-18.* Witt testified that he believed that Rawson omitted information that would have been important
22 to understanding the CMO transaction. *Witt Transcript p. 32, lines 16-25; p. 33, lines 1-21.* He testified
23 that Rawson and Sherwood talked about other investors joining the offering and talking about their
24 experience with CMOs. He testified that he was caught off guard when Rawson withdrew the interest
25 and dividends from the account without our knowledge." *Witt Transcript p. 38, lines 14-17.*

26 Witt, like Rucker, was not skeptical of the huge return on the Cains' \$1 million investment:

27 Q. Putting aside the C4 transaction, have you ever seen an investment that
28 netted a 20-fold return inside of 30 days?

A. Oh, yeah. Absolutely.

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1 Witt did not recall being on a conference call with members of C4, nor did he remember either
2 having met or had any telephone conversations with Price or Shackelford. *Witt Transcript, p. 50, lines*
3 *8-23.* He didn't recall receiving or sending e-mail to or from Price or Shackelford. *Witt Transcript p.*
4 *51, lines 10-20.*

5 Most important of all, Witt testified that neither Price nor Shackelford made any representation
6 to him or anyone else about the CMO investment or loan that the Cains were being involved in. *Witt*
7 *Transcript p. 51, lines 21-25; p. 52, lines 1-2.* Witt also testified as follows:

8 Q. Okay. So is it accurate to say that your testimony is that the only influence
9 they [Price and Shackelford] had on the Cains or you with regard to making
10 the loan to C4 was their status as members of the board?

11

12 A. Well, I can't speak for the Cains, but that was - - in my case, that's the
13 situation.

14

15 Q. Are you aware of anything that Mr. Price or Mr. Shackelford did with
16 respect to this transaction, other than their status as board members?

17 A. No. Other than Richard Price receiving the wired funds.

18 II.

19 STANDARD OF REVIEW

20 Summary judgment is appropriate and "shall be rendered forthwith" when the pleadings and
21 other evidence on file demonstrate that no "genuine issue as to any material fact [remains] and that the
22 moving party is entitled to a judgment as a matter of law." NRCP 56(c); *Tucker v. Action Equip &*
23 *Scaffold Co.*, 113 Nev. 1349, 1353 (1997). Until recently, a non-moving party was able to assert that
24 summary judgment is precluded when there is the "slightest doubt as to the operative facts." Relying
25 on *Parman v. Petricciani*, 70 Nev. 427, 436, 272 P.2d 492, 496 (1954). Application of this standard
26 placed an extremely high burden on movants for summary judgment, and district courts relying on it
27 were understandably reluctant to grant summary judgment under any circumstances which did not
28 reflect the frivolousness of the non-moving party's position.

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1 In *Wood v. Safeway, Inc.*, 121 Nev. 724, 121, P.3d 1026 (2005), the Nevada Supreme Court
2 reconsidered the “slightest doubt” standard and concluded that it was too demanding and did not
3 comport with the United States Supreme Court decisions in *Celotex Corp. v. Catrett*, 477 U.S. 317
4 (1986) and *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242 (1986). The Nevada Supreme Court focused
5 on the determination by the U.S. Supreme Court that summary judgment should not be regarded as a
6 disfavored procedural shortcut but as an integral part of the rules of civil procedure, which are designed
7 to “secure the just, speedy and inexpensive determination of every action.” *Id.* at 4-5.

8 In turning away from the “slightest doubt” standard, the Nevada Supreme Court emphasized
9 anew that a non-moving party may not defeat a motion for summary judgment by relying on “the
10 gossamer threads of whimsy, speculation and conjecture” (*Pegasus v. Reno Newspapers, Inc.*, 118 Nev.
11 706, 713-14, 57 P.3d 82, 87 (2002)), and that a non-moving party may not rely upon general allegations
12 and conclusions but must by affidavit or other evidence, set forth facts demonstrating the existence of
13 a genuine factual issue. *Wood* at 5.

14 In light of *Wood*, other cases which have addressed the standard for reviewing a motion for
15 summary judgment should be viewed differently. For example, in *Caughlin Ranch Homeowners Ass’n*
16 *v. Caughlin Club*, 109 Nev. 264, 849 P.2d 310 (1993) the court held that summary judgment is
17 authorized by NRCP 56 when it is “quite clear” what the truth is and that no genuine fact issue remains
18 for trial. Moreover, the party against whom summary judgment is sought may not avoid summary
19 judgment on the mere hope that at trial it will be able to discredit the evidence presented in the motion
20 by the moving party. *Pegasus v. Reno Newspapers, Inc.*, 118 Nev. 706, 57 P. 3d 82 (2002). Finally,
21 as *Wood* reaffirmed, a party opposing a motion for summary judgment may not succeed where it
22 presents evidence that is “merely colorable.” See also *Bahrampour v. Lampert*, 356 F.3d 969, 974 (9th
23 Cir. 2004). A factual dispute is genuine, and thus precludes summary judgment, only when the evidence
24 is such that a rational trier of fact could return a verdict for the non-moving party. *Posades v. City of*
25 *Reno*, 109 Nev. 448, 452, 851 P.2d 438, 442 (1993).

26 Although the court must accept as true all evidence favorable to the party against whom the
27 summary judgment motion is made and accord such party all favorable inferences that may reasonably
28 be drawn from such evidence; *Parman v. Petricciani*, 70 Nev. 427 (1954); *Polk v. MacMillan*, 87 Nev.

1 526, 527, 490 P.2d 218 (1971), it remains true that summary judgment is appropriate if "the facts and
2 law will reasonably support only one conclusion."

3 III.

4 ARGUMENT

5 The testimony of Jeffrey Cain and his advisors demonstrate that under either Nevada or
6 California law, the Plaintiffs' claims of fraud and civil conspiracy with respect to that fraud are
7 unsustainable and should be dismissed on summary judgment. All of the evidence presented by Price
8 and Shackelford in this motion was derived entirely from testimony from a Plaintiff and the certified
9 public accountant and the financial advisor upon which he relied in deciding to make the \$1 million
10 loan to C4.

11 As set forth above, fraud must be pled with specificity. The circumstances that must be detailed
12 in the complaint include averments as to the time, the place, the identity of the parties involved, and the
13 nature of the fraud. *Brown v. Kellar*, 97 Nev. 582, 636 P.2d 874 (1981). Plaintiffs' complaint in this
14 matter does not identify any conduct by Price or Shackelford whatsoever, let alone with specificity,
15 sufficient to meet the pleading standard. Allegations that all of the defendants created a false perception
16 regarding C4 gives neither the defendants nor the Court any idea how this false perception was created
17 by Price, Shackelford or Baker, nor what about the false perception was false. The complaint does not
18 detail when, where or how the false perception was created, nor does it allege any facts to support the
19 claim that the purpose of creating the false perception was in order to obtain funds from Plaintiffs in
20 some wrongful fashion. While the complaint uses the term "inducement" to describe this undefined
21 contact, and states that it "included in large part promotional materials and resumes of all the
22 individually named defendants, it does not identify any conduct by Price or Shackelford that comprise
23 the "inducement" or that was false. The complaint alleges that all the defendants knowingly allowed
24 Rawson to misrepresent to the Plaintiffs the intended use of the loaned funds without offering any facts
25 to show that any particular defendant knew that Rawson was making any misrepresentation. The
26 complaint does not plead with specificity how the conduct of any defendant induced Plaintiffs to
27 continue to defer taking legal action against Rawson and C4. Plaintiffs fail to provide facts sufficient
28 to support their claim that any specific defendant knowingly allowed Rawson to facilitate or allow the

1 waste and improper disposition of the CMOs, which Plaintiffs do not deny were actually purchased by
2 C4 and placed in an account of which C4 and Plaintiffs were the accountholders.

3 The complaint fails to provide any facts supporting with any specificity why Plaintiffs' reliance
4 on unspecified defendants' representations were reasonable.

5 Without the requisite specificity in pleading, Plaintiffs' fraud claim cannot go forward.
6 Notwithstanding the deficiency of the pleading, the evidence set forth above shows that at least two
7 elements of a fraud claim cannot be met.

8 First, Jeffrey Cain, one of the Plaintiffs, repeatedly testified that he has no knowledge of or
9 document supporting an assertion that a false representation was made by either Price or Shackelford.
10 His testimony was consistent in this regard. Rather, his only contention is that by being a member of
11 the board of directors with a resume showing a long history of success in business, that "representation"
12 is sufficient to meet the requirement that a false representation by the defendant be proven by clear and
13 convincing evidence as set forth in *Barmettler, supra*. Plaintiffs do not allege that the resumes or
14 biographies of the defendants upon which they based some of their confidence in C4 were false. Nor
15 do they allege that either Price or Shackelford made any representation to Cain regarding the terms of
16 the loan, the risk present in a CMO investment or made any promise of a return on that investment.
17 Instead, Cain, and his advisors, all admit that neither Price nor Shackelford made any representations
18 to them that were material to the decision to make the loan to C4. The testimony set forth above shows
19 that Cain relied on the representations of Rawson, and not on any representation by Price or
20 Shackelford, of which there none to begin with. Cain also testified that he relied "first and foremost"
21 on the counsel of his CPA, Dan Witt, to whom he had entrusted the task of performing due diligence
22 with respect to the proposed transaction and who, after performing that due diligence, recommended
23 that Cain and Heli Ops make the loan. In the absence of any representation made by Price or
24 Shackelford to a Plaintiff, the first element of a claim for fraudulent misrepresentation cannot be proven.
25 This is true under either Nevada or California law.

26 Second, the second element, a defendant's knowledge or belief that its representation was false
27 cannot be proven. In this case, even if a representation were made, there is no evidence that Price or
28 Shackelford had any knowledge of a representation made by any other defendant, and in fact, the

1 representations by Rawson regarding the security of the investment and the astounding return were
2 corroborated by both Rucker and Witt in their depositions. Witt, in particular, testified that such a
3 return was "absolutely" possible. Rucker, who claimed extensive experience with CMO transactions,
4 was also certain that a 20-fold return on investment was possible by investing in CMOs. Therefore, the
5 only evidence available and before this Court is that the representations regarding CMOs made by
6 Rawson were true. There can be no knowledge or belief that a representation was false if the
7 representation was not false to begin with.

8 The lack of any representation by Price and Shackelford and the lack of falsity in any of the
9 representations made to the Cains completely defeats the claim for fraud.

10 Plaintiffs undoubtedly will argue that notwithstanding the lack of any false representations made
11 by Price or Shackelford, they knew at the time the Cains were considering lending to C4 that the plan
12 was to take the Cains' money and convert it to their own purposes. Again, there is no evidence to
13 support this proposition, and it is belied by the fact that C4 in fact purchased CMOs and placed them in
14 an account co-held by the Cains and/or Heli Ops. The element of *scienter* simply has not and cannot
15 be proven.

16 Inferring from the complaint a claim for fraud by concealment or failure to disclose is unhelpful
17 to Plaintiffs. The first element of a fraudulent concealment claim is that the defendant concealed or
18 suppressed a material fact. Neither the complaint nor the testimony of Cain, Witt or Rucker identified
19 any fact that was concealed from Plaintiffs. In order to conceal or suppress a material fact, a defendant
20 must have knowledge of the fact and intentionally suppress or conceal it. That simply is not the case
21 here, where there is no evidence that the defendants were aware of a fact material to the Cains and
22 deliberately did not disclose it. The inability to prove that either Price or Shackelford intentionally
23 concealed the fact with the intent to defraud Plaintiffs, the third element of the tort, also defeats the
24 fraudulent concealment aspect of the fraud claim. In the context of a motion for summary judgment, a
25 non-moving party is not permitted to rely on his pleadings nor on conclusory statements, nor on the
26 assertion that he will be able to prove an element of a claim at trial. Rather, in response to the motion,
27 he must produce evidence to the Court of such evidence in order to create an issue of material fact.
28 Since Plaintiffs simply cannot show that Price or Shackelford either concealed or suppressed material

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1 facts or did so intentionally with the intent to defraud the Cains or Heli Ops, that aspect of their claim
2 that alleged fraudulent concealment fails. Finally, where the Cains directed their own fiduciaries, a
3 financial advisor and a CPA, to perform due diligence with respect to C4, its officers and directors, and
4 the transaction itself, and those professionals advised them to proceed with the transaction, there can
5 be no justifiable reliance on anything done or not done by Price and Shackelford. The fraud claim cannot
6 withstand scrutiny, and it must be dismissed.

7 In California, just as in Nevada, general and conclusory claims of fraud will not suffice.
8 Therefore, as under Nevada law, Plaintiffs' fraud claim fails because of the complete absence of a false
9 representation made by them, knowing the representation was false, intending to deceive the Plaintiffs.
10 *See Conrad v. Bank of America, supra.* Plaintiffs simply have no evidence of a knowing
11 misrepresentation by either Price or Shackelford, and a biography showing their success in their
12 respective fields that is truthful cannot satisfy this element of the fraud claim.

13 The failure of the fraud claim either as pled or based on the evidence, absolutely defeats the
14 civil conspiracy claim with respect to fraud. Under either California or Nevada law, a civil conspiracy
15 claim must be supported by proof of both an agreement, described as the formation and operation of a
16 conspiracy, and damage to the plaintiff from an act or acts done in furtherance of the common design.
17 That common act or design must be intended to accomplish a wrongful act such as fraud. The Plaintiffs
18 have pled and produced no evidence of an agreement to commit fraud. The only agreement evident in
19 this case that might be alleged are the actions taken by the C4 board of directors, which included the
20 remaining defendants. But, there is no evidence that even these actions taken in concert were intended
21 to defraud the Cains, in light of the advice given to the Cains by their own fiduciaries, Witt and Rucker,
22 and the absence of any suggestion that any of the defendants, with the possible exception of Rawson,
23 *intended* to defraud the Plaintiffs.

24 The exemplary resumes of Price and Shackelford militate in favor of reaching a conclusion that
25 they had no such intent. Plaintiffs' allegations of a civil conspiracy are based on nothing but speculation
26 unsupported by any facts: there was no fraud and no conspiracy to commit fraud.

27 Finally, with respect to the ninth claim for relief in the complaint, intentional interference with
28 contractual relations, Cain testified that he had no knowledge or documents that Price or Shackelford

1 took any action to interfere with the fulfillment of the Joint Venture Agreement. This suggests that there
2 is no evidence to support the claim, and it also should be dismissed.

3 IV.

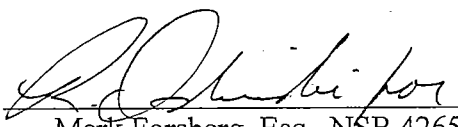
4 CONCLUSION

5 The facts of this case show that the Plaintiffs made a loan to C4 to be invested in CMOs, a
6 legitimate form of security in one and a transaction recommended by Plaintiffs' own financial advisor
7 and certified public accountant who, even after the loss suffered by the Cains, testified at their
8 depositions that the investment was an advantageous one for their clients. There is simply no evidence
9 of any false representation regarding the transaction made by Price or Shackelford and no evidence of
10 a conspiracy in which they participated, the goal of which was to wrong the Cains. The facts upon
11 which this motion are based cannot be disputed because they are the sworn testimony of the Plaintiff,
12 Jeffrey Cain and his trusted advisors. For all of these reasons, this motion for summary judgment on
13 the fraud, civil conspiracy and interference with contractual relations must be granted.

14 *The undersigned does hereby affirm that this document does not contain the Social Security*
15 *Number of any person.*

16 Dated this 31 day of August, 2015.

17 OSHINSKI & FORSBERG, LTD.

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19 By 

20 Mark Forsberg, Esq., NSB 4265

21 Attorneys for Defendants Richard Price
22 and Mickey Shackelford
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CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Oshinski & Forsberg, Ltd., and that on this date, I served the within **Motion for Partial Summary Judgment** on the following individuals or entities by serving a true copy thereof by the following method(s):

☒ enclosed in a sealed envelope with postage fully prepaid thereon, in the United States Post Office mail, pursuant to NRCP 5(b)(2)(B);

☐ via electronic filing pursuant to Nevada Electronic Filing and Conversion Rules ("NEFCR") 9(b);

☐ hand delivery via Reno/Carson Messenger Service pursuant to NRCP 5(b)(2)(A);

☐ electronic transmission (e-mail) to the address(es) listed below, pursuant to NRCP 5(b)(2)(D); and/or

☐ Federal Express, UPS, or other overnight delivery fully addressed as follows:

Michael L. Matuska, Esq.
Matuska Law Offices, Ltd.
2310 S. Carson Street, Suite 6
Carson City, NV 89701
F 775-350-7222
Attorneys for Plaintiffs

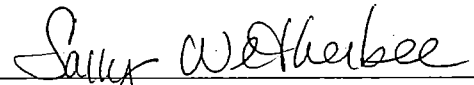
Michael K. Johnson, Esq.
Rollston, Henderson, Crabb & Johnson, Ltd.
P.O. Box 4848
Stateline, NV 89449-4848
Attorney for Joe Baker

Robert P. Mougins, Esq.
Robert L. Thompson, Esq.
Kring & Chung, LLP
1050 Indigo Drive, Suite 200
Las Vegas, NV 89145-8870
702-260-9434 Fax
Attorneys for DR Rawson and Margaret Rawson

Jeffrey Edwards
595 Chivas Court
Orange Park, FL 33073
Defendant

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 4th day of August, 2015, in Carson City, Nevada.


Sally Wetherbee

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EXHIBIT 1

EXHIBIT 1

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C4 WORLDWIDE

THIS JOINT VENTURE AGREEMENT (the "Agreement"), made and entered into as of this 29th day of November, 2009, by and between C4 WorldWide, Inc. a California corporation (hereinafter "C4WW") and Heli Ops International LLC (hereinafter "JVP").

ARTICLE I

GENERAL PROVISIONS

1.01 Business Purpose. The business purpose of the Joint Venture shall be to use the proceeds of the \$1,000,000 USD loan from JVP that was signed for in a Promissory Note (*Exhibit C*) between JVP and C4WW lending C4WW the capital to acquire and then leverage Collateralized Mortgage Obligations (CMOs) with a face value of up to \$1,000,000,000 USD purchased from a licensed U.S. Securities Trader. The objective is to gain \$40,000,000 USD or more from the results thereof for the parties to this Agreement.

1.02a. Exhibits and Resolutions. The Securities Account Application used to apply for and secure CMOs discussed herein shall be considered *Exhibit A* to this agreement and shall be fully completed and executed by all parties before this Agreement is accepted by either party.

1.02b. C4WW will provide its' Corporate Resolution authorizing it to borrow one million USD (\$1,000,000) from JVP as a loan for the purpose as stated in 1.01 above. A hard copy of the resolution shall be considered *Exhibit B* of this Agreement.

1.02c. JVP is not required to supply a copy of its Corporate Resolution authorizing it to lend one million USD (\$1,000,000) to C4WW.

1.03 Term of the Agreement. This Joint Venture shall commence on the date first above written and shall continue in existence until the terms of the Agreement have been met by C4WW.

ARTICLE II

GENERAL DEFINITIONS

The following comprise the general definitions of terms utilized in this Agreement:

2.01 Affiliate. An Affiliate of an entity is a person that, directly or indirectly through one or more intermediaries, controls, is controlled by or is under common control of such entity.

2.02 Joint Venture. A Joint Venture (participation in the same business venture) by two or more parties as defined by an Agreement between the parties.

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J. Cain
EXHIBIT NO. <u>1</u>
4/22/15

C4 WORLDWIDE

2.03 Profits. Any income or loss of the Partnership for federal income tax purposes determined by the Partnership's fiscal year, including, without limitation, each item of Partnership income, gain, loss or deduction.

ARTICLE III

OBLIGATIONS OF THE JOINT VENTURERS

3.01 Party Responsible. C4WW is solely responsible for all operations and decisions of the Joint Venture.

3.02 Priority Compensation. C4WW hereby grants JVP "priority" compensation from the proceeds and profits derived from leveraging CMOs.

ARTICLE IV

CMO OWNERSHIP AND COMPENSATION:

4.01 Initial CMO Ownership. The CMOs purchased from the one million USD (\$1,000,000) JVP loan to C4WW will be initially owned fifty-one percent (51%) by C4 Worldwide, Inc and forty-nine percent (49%) by JVP.

4.02 JVP shall have sole and exclusive control over the CMOs held by the participants of this agreement. Within 48 hours of its creation, all parties may access and review the balances and activity of this account at any time via the Internet with a secure account and PIN number.

4.03 Final CMO Ownership. Final CMO ownership shall be held one hundred percent (100%) by C4WW and zero percent (0%) by JVP once the terms of 4.04 have been met.

4.04 JVP Compensation. The first twenty million USD (\$20,000,000) received from the proceeds and profits of leveraging the CMOs in international trade will go to the JVP on a priority basis prior to any disbursements to C4WW.

4.05 C4WW Compensation. C4WW will be compensated from the success of the venture when JVP has been fully compensated per 4.04 above and proceeds and profits from the venture exceed twenty million USD (\$20,000,000).

4.06 Deposit of JVP Compensation. JVP authorizes and directs C4WW to deposit compensation as described in 4.04 above into a JVP account. Prior to final execution of this agreement, JVP shall provide C4WW with the following account information:

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C WORLDWIDE

[Bank Name] Wachovia Bank - Wells Fargo
 [City and Country] _____
 [ABA Routing or Bank Identification Number] _____
 [Name on the Account] _____
 [Account Number] _____
 [Bank Telephone Number] (775) 329-3089
 [Banking Contact] BRIAN K. PORTER

Please See Attached Sheet *ok*

ARTICLE V

RIGHTS AND DUTIES OF THE JOINT VENTURERS

5.01 Business of the Joint Venture. C4WW shall have full, exclusive and complete authority and discretion in the management and control of the business of the Joint Venture for the purposes herein stated and shall make all decisions affecting the business of the Joint Venture. At such, any action taken shall constitute the act of, and serve to bind, the Joint Venture. C4WW shall manage and control the affairs of the Joint Venture to the best of its ability and shall use its best efforts to carry out the business of the Joint Venture. JVP shall not participate in or have any control over the Joint Venture business nor shall it have any authority or right to act for or bind the Joint Venture.

ARTICLE VI

AGREEMENTS WITH THIRD PARTIES AND WITH AFFILIATES OF THE JOINT VENTURERS

6.01 Validity of Transactions. Affiliates of the parties to this Agreement may be engaged to perform services for the Joint Venture. The validity of any transaction, agreement or payment involving the Joint Venture and any Affiliates of the parties to this Agreement otherwise permitted by the terms of this Agreement shall not be affected by reason of the relationship between them and such Affiliates or the approval of said transactions, agreement or payment.

6.02 Other Business of the Parties to this Agreement. The parties to this Agreement and their respective Affiliates may have interests in businesses other than the Joint Venture business. The Joint Venture shall not have the right to the income or proceeds derived from such other business interests and, even if they are competitive with the Partnership business, such business interests shall not be deemed wrongful or improper.

ARTICLE VII

PAYMENT OF EXPENSES

All expenses of the Joint Venture shall be paid by C4 WW and shall be reimbursed by the Joint Venture.

C4 WORLDWIDE

ARTICLE VIII

INDEMNIFICATION OF THE JOINT VENTURERS

The parties to this Agreement shall have no liability to the other for any loss suffered which arises out of any action or inaction if, in good faith, it is determined that such course of conduct was in the best interests of the Joint Venture and such course of conduct did not constitute negligence or misconduct. The parties to this Agreement shall each be indemnified by the other against losses, judgments, liabilities, expenses and amounts paid in settlement of any claims sustained by it in connection with the Joint Venture.

ARTICLE IX

DISSOLUTION

9.01 Events that will terminate this Agreement. The Joint Venture shall be dissolved on the basis of 4.04 above or upon any one or combination of the following events:

- (a) Once the agreed upon amount in 4.04 has been received by JVP, this Agreement will expire.
- (b) The adjudication of bankruptcy, filing of a petition pursuant to a Chapter of the Federal Bankruptcy Act, withdrawal, removal or insolvency of either of the parties.
- (c) The sale or other disposition, not including an exchange of all, or substantially all, of the Joint Venture assets.
- (d) Mutual agreement of the parties.

ARTICLE X

MISCELLANEOUS PROVISIONS

10.01 Books and Records. The Joint Venture shall keep adequate books and records at its place of business, setting forth a true and accurate account of all business transactions arising out of and in connection with the conduct of the Joint Venture.

10.02 Joint bank account. The funds loaned to C4WW will be held in a separate checking account from all other C4WW funds. The JVP and C4WW will jointly own a bank account where the proceeds of the loan will be held, used and administered as determined by this Agreement. Pursuant to 5.01 above, C4WW will administer and control the joint checking account.

10.03 Proof of Funds. All monies received from the JVP as a loan to C4WW shall be kept in a separate checking account from all other C4WW funds, see 10.02 above. The JVP will be able to view the account balance online via the Internet at any time from any Internet and computer enabled location.

C O R L D I D E

10.04 Validity. In the event that any provision of this Agreement shall be held to be invalid, the same shall not affect in any respect whatsoever the validity of the remainder of this Agreement.

10.05 Integrated Agreement. This Agreement constitutes the entire understanding and agreement among the parties hereto with respect to the subject matter hereof, and there are no agreements, understandings, restrictions or warranties among the parties other than those set forth herein provided for.

10.06 Headings. The headings, titles and subtitles used in this Agreement are for ease of reference only and shall not control or affect the meaning or construction of any provision hereof.

10.07 Notices. Except as may be otherwise specifically provided in this Agreement, all notices required or permitted hereunder shall be in writing and shall be deemed to be delivered when deposited in the United States mail, postage prepaid, certified or registered mail, return receipt requested, addressed to the parties at their respective addresses set forth in this Agreement or at such other addresses as may be subsequently specified by written notice.

10.08 Applicable Law and Venue. This Agreement shall be construed and enforced under the laws of the State of California.

10.09 Other Instruments. The parties hereto covenant and agree that they will execute each such other and further instruments and documents as are or may become reasonably necessary or convenient to effectuate and carry out the purposes of this Agreement.

This portion of the page left intentionally blank.

4 WORLDWIDE

Exhibit A

Legent New Securities Account Application (separate pdf)

(This Exhibit is a separate document but is considered to be Exhibit A to this Agreement)

C4 WORLDWIDE

Exhibit B

C4 WorldWide, Inc. Corporate Resolution



CERTIFICATE OF CORPORATION RESOLUTION:

To Secure a Loan of \$ 1,000,000 USD

I, Richard Price, Secretary of C4 WorldWide, Inc., do hereby certify that at a duly constituted meeting of the Directors of the Corporation held via telephonic and electronic communication, on 11/29/06 and it was upon a motion duly made and seconded, that the Board of Directors of C4 WorldWide, Inc. unanimously adopted the following resolution:

RESOLVED, that the CEO, Mr. DR Ruckson shall be authorized to secure a loan in the amount of up to \$1,000,000 USD from Heli-Ops, LLC. The documentation of which shall be a joint venture Agreement. The purpose of which is to purchase CMOs that can be internationally leveraged to provide a return stated in the joint venture Agreement dated November 29th, 2006 between the two Parties. * Heli-Ops International, LLC

WE FURTHER RESOLVE and understand that the ownership of the CMOs will be proportioned with 51% (controlling interest) for C4 and 49% by Heli-Ops, LLC. We also understand that upon receipt of the \$20,000,000 promised return, full ownership of the CMOs will revert to C4 WorldWide, Inc.

WE REQUEST that the loan amount be placed into our Wells Fargo account number: 3012602177. This account is at the Wells Fargo Branch on Research Blvd. in Austin, Texas under our name: C4 WorldWide, Inc.

I, Richard Price, Secretary of C4 WorldWide, Inc. certify that I am a duly elected and qualified Secretary and the custodian of the books and records of C4 WorldWide, Inc., a corporation duly formed pursuant to the laws of the State of California, in the United States of America and that the foregoing is a true record of a resolution duly adopted at a meeting of the Board of Directors and that said meeting was held in accordance with state law and the bylaws of the Corporation on 11/29/06 and that said resolution is now in full force and effect without modification or rescission.

IN WITNESS WHEREOF, I have executed my name as Secretary of the Corporation this 11/29/06.

ATTEST.

Richard Price, Secretary of C4 WorldWide, Inc.

DR Ruckson, Chairman of C4

Corporate Officer: [Signature] Date: 11/29/06

EXHIBIT 2

EXHIBIT 2

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SETTLEMENT AGREEMENT AND RELEASE OF ALL CLAIMS

This SETTLEMENT AGREEMENT AND RELEASE OF ALL CLAIMS (hereafter referred to as the "Agreement") is made and binding between and among Peggy and Jeffrey Cain and Heli Ops International, LLC (hereinafter, the "Cains") and DR Rawson, Chairman/CEO and C4 Worldwide, Inc. (hereinafter, "C4 WorldWide").

WHEREAS, the Parties are each desiring to resolve issues having to do with C4 WorldWide's unpaid financial obligations arising out of the Promissory Note and Security Interest in the CMO Securities dated November 29, 2009 and upon signing this Agreement intend to cease further collection efforts, including but not limited to the filing of any litigation and the Cains further stipulate and agree that they will file no complaint(s) or the like with either the Securities and Exchange Commission and/or the Department of Justice of any state.

To the extent not modified herein, the Promissory Note and Security Interest in the CMO securities remains in full force and effect.

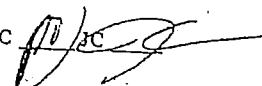
WHEREAS, each party desires to settle all the claims, fully and finally without any admission of liability;

NOW, THEREFORE, IT IS HEREBY AGREED AS FOLLOWS:

SECTION 1. CONSIDERATION

1.1 In consideration of the Releases set forth below in Section 2 and the other terms set forth herein, C4 WorldWide stipulates that it owes the Cains Twenty Million USD (\$20,000,000) and that said amount was due on December 30, 2009 and remains unpaid. C4 WorldWide acknowledges its obligation to pay and agrees to pay the sum of \$20,000,000, plus all accumulated interest, to Cains no later than 90 days from February 25, 2010, less any advance payments made, and C4 WorldWide shall use all reasonable efforts to pay this obligation off in full as quickly as possible.

1.2 C4 WorldWide shall, no later than March 4, 2010, assign a 49% interest in the CMO joint securities account (which account is described more fully in Article IV of the Joint Venture Agreement, hereinafter, the "Account") to the Cains. Upon payment to the Cains of the \$20,000,000 (plus all accumulated interest), contemplated by this Agreement, the Cains agree that they shall have no further ownership interest in the Account (as per Article 4.03 and 4.04 of the Joint Venture Agreement). The Cains further expressly agree to execute any and all documentation necessary to reassign the ownership interest in the Account to C4, which will result in C4 having 100% ownership interest in the Account (the total value of this account is believed to currently be between \$600,000 and \$625,000). C4 WorldWide agrees further to pay interest on this \$20,000,000 obligation from December 31, 2009 at the rate of 9% per annum until said debt is paid in full.

DRR  PC 

1.2 Both sides shall bear their own costs and attorney fees incurred in achieving this settlement.

1.3 Neither party shall make disparaging comments regarding the other.

SECTION 2. RELEASE

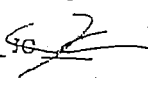
2.1 The Cains, their successors, predecessors, parents, assigns, agents, employees, officers, directors, insurers, and all other affiliated persons, firms, or corporations, hereby fully and forever releases and discharges C4 WorldWide, from any and all claims that exist arising out of C4 worldwide's financial misfortunes and resultant inability to timely pay the Promissory Note and Security Interest in the CMO Securities dated November 29, 2009 (a true and accurate copy of which is attached hereto as Exhibit A and is incorporated herein by reference). Such release covers the Cains, their successors, predecessors, parents, assigns, agents, employees, officers, directors, insurers, and all other affiliated persons, firms, or corporations, hereby fully and forever release and discharge C4 WorldWide, its successors, predecessors, parents, assigns, agents, employees, officers, directors, insurers, and all other affiliated persons, firms, or corporations, of and from any and all past, present, and future claims, demands, obligations, causes of action for damages of any kind, known and unknown, the basis for which now exists or may hereafter become manifest that are directly or indirectly related to the facts in any of the claims of any kind asserted against or which could have been asserted in any of the claims.

2.2 C4 WorldWide, its successors, predecessors, parents, assigns, agents, employees, officers, directors, insurers, and all other affiliated persons, firms, or corporations, hereby fully and forever releases and discharges the Cains, from any and all claims that exist arising out of C4 WorldWide's financial misfortunes and resultant inability to timely pay the Promissory Note and Security Interest in the CMO Securities dated November 29, 2009 (a true and accurate copy of which is attached hereto as Exhibit A and is incorporated herein by reference). Such release covers C4 WorldWide, its successors, predecessors, parents, assigns, agents, employees, officers, directors, insurers, and all other affiliated persons, firms, or corporations, hereby fully and forever release and discharge the Cains, their successors, predecessors, parents, assigns, agents, employees, officers, directors, insurers, and all other affiliated persons, firms, or corporations, of and from any and all past, present, and future claims, demands, obligations, causes of action for damages of any kind, known and unknown, the basis for which now exists or may hereafter become manifest that are directly or indirectly related to the facts in any of the claims of any kind asserted against or which could have been asserted in any of the claims.

SECTION 3. EXPRESS ACKNOWLEDGMENTS, REPRESENTATIONS, AND WARRANTIES

3.1 The parties expressly acknowledge and agree that the Release set forth in Section 2 is a general release of the matters described above.

3.2 Each party expressly represents and warrants that it has relied on its own knowledge of

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the facts and the advice of their/its own lawyer, knowing the right to consult with counsel before entering this Agreement, concerning the consequences of this Agreement; and that the signers of this Agreement are of legal age, legally competent to execute this Agreement, and have full authority to sign this Agreement. The parties further warrant that no promise or inducement has been offered, except as set forth in this Agreement, and that this Agreement is executed without reliance on any statement or representation by any other party concerning the nature and extent of damages or legal liability.

3.3 The parties expressly acknowledge and agree that the purpose and effect of this Agreement is to fully and forever resolve all issues relating to claims arising out of and which could be asserted in this case and that no party will pursue the other for anything relating in any way to the claims being released.

3.4 The parties expressly acknowledge and agree that the terms of this Agreement are contractual in nature and not merely a recital.

SECTION 4. ENFORCEMENT OF AGREEMENT

4.1 In the event of a material breach of this Agreement or other dispute regarding the enforcement or interpretation of this Agreement, the prevailing party is entitled to recover all attorney fees, costs, and expenses incurred.

SECTION 5. GOVERNING LAW

5.1 This Agreement shall be construed and interpreted in accordance with the laws of the state of California and any action arising out of this Agreement shall be filed in Douglas County, Nevada.

SECTION 6. INTEGRATION

6.1 This Agreement and Exhibit A attached hereto contain the entire agreement between and among the parties regarding the matters set forth herein and is conclusive and binding on and inures to the benefit of the executors, administrators, personal representatives, heirs, next of kin, children, successors, and assigns of each.

SECTION 7. MODIFICATION

7.1 This Agreement may not be amended or modified except in writing signed by all parties.

SECTION 8. SAVING CLAUSE

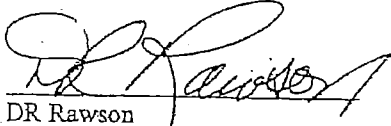
8.1 If any provision of this Agreement, or the application of a provision to any person or circumstance, is held invalid, the remainder of this Agreement, or the application of that provision to other persons or circumstances, must not be affected thereby.

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SECTION 9. FURTHER ASSURANCES

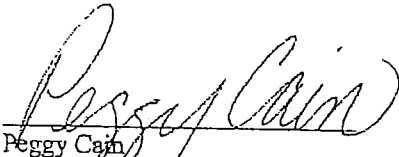
9.1 The parties agree to execute and deliver any further documents, instruments, and other agreements as are necessary or convenient to carry out the terms and purposes of this Agreement.

IT IS SO AGREED:



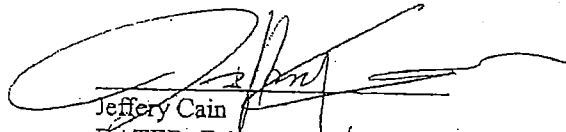
DR Rawson

DATED: February 28th 2010



Peggy Cain

DATED: February 1, 2010
MARCH



Jeffery Cain

DATED: February 1, 2010
MARCH

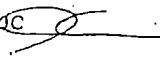
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EXHIBIT 3

EXHIBIT 3

000039

Case No. 11 CV 0296
Dept. No. II

ORIGINAL

IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF
NEVADA

IN AND FOR THE COUNTY OF DOUGLAS

-oOo-

PEGGY CAIN, an individual; JEFFREY CAIN,
an individual; and HELI OPS
INTERNATIONAL, LLC, an Oregon limited
liability company,
Plaintiffs,

vs.

D.R. RAWSON, an individual; C4
WORLDWIDE, INC., a Nevada corporation;
RICHARD PRICE, an individual; JOE BAKER,
an individual; MICKEY SHACKELFORD, an
individual; MICHAEL K. KAVANAUGH, an
individual; JEFFREY EDWARDS, an
individual; and DOES 1-10, inclusive,
Defendants.

=====

DEPOSITION OF JEFFREY CAIN

Wednesday, April 22, 2015

Carson City, Nevada

Reported By:

NICOLE J. ALEXANDER, NV CCR #446

CA CSR #13,909, RPR

-oOo- APPEARANCES -oOo-

FOR PLAINTIFFS:

Matuska Law Offices, Ltd.

BY: MICHAEL L. MATUSKA, Esquire
2310 S. Carson Street, Suite 6
Carson City, Nevada 89701

FOR DEFENDANT JOE BAKER:

Rollston, Henderson, Crabb & Johnson, Ltd.
BY: MICHAEL K. JOHNSON, Esquire
P.O. Box 4848
Stateline, Nevada 89449-4848

FOR DEFENDANTS MICKEY SHACKELFORD and
RICHARD PRICE:

Oshinski & Forsberg, Ltd.
BY: MARK FORSBERG, Esquire
504 Musser Street, Suite 302
Carson City, Nevada 89701

1 money?

2 A It was a loan. Yes.

3 Q How much did you loan Synergy?

4 A \$700,000.

5 Q And was the purpose of that loan to purchase,
6 among other things, CMOS?

7 A I'm not sure.

8 Q When you loaned the money, the idea -- Was
9 there a loan agreement?

10 A Yes.

11 Q And the idea was that Synergy would take the
12 \$700,000 and do something with it that they had expertise
13 to do in the investment world?

14 A Correct.

15 Q Would they invest in other companies? And
16 I'm trying to distinguish for you between investing in a
17 company where you would be providing capital to a
18 specific company as opposed to buying stocks or bonds or,
19 you know, market derivatives or things like that. Do you
20 know what the plan was for Synergy?

21 A With definition, I just can't remember.

22 Q All right. How did you come to find out
23 about Synergy?

24 A Through my accountant, Dan Witt, and the
25 broker, Kerry Rucker.

1 Q Is Dan Witt a CPA?

2 A Yes.

3 Q And Kerry Rucker is?

4 A A broker.

5 Q A stockbroker?

6 A He was at the time, yes.

7 Q Had you worked with them for a long period of
8 time? Well, let's take them one at a time. How long had
9 you worked with Dan Witt?

10 A He was our accountant, still is, at least
11 five or four years before this deal with Synergy and C4.

12 Q All right. And what about Mr. Rucker?

13 A First time.

14 Q How did you become acquainted with
15 Mr. Rucker?

16 A Through Dan Witt.

17 Q And Mr. Witt recommended Mr. Rucker to you as
18 a stockbroker?

19 A Yes.

20 Q Did Mr. Witt invest with Mr. Rucker as well
21 or through with companies that Mr. Rucker brought to the
22 table?

23 A I don't know.

24 MR. MATUSKA: That lacks foundation, but go
25 ahead.

1 of its offering to you, included CMOs?

2 A Not sure.

3 Q Do you ever recall investigating what they
4 were prior to hearing about them from someone related to
5 C4?

6 A No.

7 MR. MATUSKA: I didn't understand the
8 question. Investigating?

9 MR. FORSBERG: CMOs.

10 MR. MATUSKA: Did you understand the
11 question?

12 THE WITNESS: I had somebody investigating
13 CMOs.

14 Q (BY MR. FORSBERG:) No. I'll ask it again.
15 Do you ever recall you yourself attempting to learn more
16 about CMOs prior to talking to someone about them related
17 to the C4 transaction?

18 A No.

19 Q How did the prospect of loaning money to C4
20 come to pass?

21 A Kerry Rucker communicated with Dan Witt about
22 a company out of Los Angeles that through another broker
23 that was affiliated with this company, Randall Sherwood,
24 I think, that we should definitely look at it and do our
25 due diligence and see what it turned up.

1 Q Sure.

2 A I don't have him here.

3 Q Is it something that you have a record of --

4 A Yes.

5 Q -- somewhere else?

6 A Yes.

7 Q So what I'd ask you to do is when you get the
8 transcript of the deposition, just put that in that you
9 looked this up and this is it.

10 A Yes.

11 Coast to Coast

12 Q The name of the company that Mr. Rucker
13 worked for. Did you meet in person with Mr. Witt about
14 this transaction?

15 A We talked extensively on the phone. He's
16 always here because he's our main accountant, so he flies
17 down from Oregon and does our books all the time. It
18 could have been in November, we could have had a
19 face-to-face, I just don't remember, but definitely by
20 phone.

21 Q Do you live in Minden currently or
22 Gardnerville?

23 A Yes, I do.

24 Q Sorry. Is it Minden?

25 A Gardnerville.

1 Q Did you ask Mr. Rucker to investigate the
2 viability of the C4 proposal to you?

3 A Yes, I did, and Dan Witt.

4 Q And did they do so?

5 A Yes.

6 Q Did you have confidence in Mr. Rucker's
7 ability to understand the transaction?

8 A Confidence in Dan Witt, our accountant, first
9 and foremost.

10 Q And did Mr. Witt advise that it was a good
11 investment for you?

12 A Upon meeting D.R. Rawson and Associates in
13 Los Angeles, yes.

14 Q Did Mr. Rucker attend that meeting as well?

15 A Yes.

16 Q And did Mr. Witt convey to you that he had
17 confidence in Mr. Rucker as well?

18 MR. MATUSKA: Objection. Calls for hearsay,
19 but answer as far as you can.

20 Q (BY MR. FORSBERG:) I think my question
21 was -- and if it wasn't, answer this one. Did Mr. Witt
22 convey to you his confidence in Mr. Rucker?

23 MR. MATUSKA: Same objection, but answer it,
24 if you remember.

25 THE WITNESS: I don't, but he conveyed his

1 confidence after the meeting with C4.

2 Q (BY MR. FORSBERG:) Who attended the meeting?
3 Do you know?

4 A D.R. Rawson. At that time, we thought he was
5 a lawyer, John Hayner, was their legal counsel.

6 Q You thought Mr. Rawson was a lawyer?

7 A John Hayner.

8 Q You thought John Hayner was a lawyer?

9 A Yes. He represented himself as a lawyer at
10 the meeting and as legal counsel.

11 Q To C4?

12 A For C4. Representing C4. Randall Sherwood,
13 their broker, or their agent, and a number of individuals
14 there that -- there may be another four individuals, but
15 I don't know who they were.

16 Q You didn't attend the meeting?

17 A No, I did not.

18 Q Do you know specifically where the meeting
19 took place?

20 A No, I do not.

21 Q When did you first understand what you were
22 being asked to do with respect to C4?

23 A Could you please rephrase that question?

24 Q Okay.

25 A Thank you.

1 Q I'll try to work around to it again.
2 Eventually, what the transaction that was engaged in by
3 you and C4 was a loan by Heli Ops to C4; correct?

4 A Through a JV, Joint Venture Agreement.

5 Q Correct. And there was a promissory note as
6 well. Do you recall that?

7 A Yes.

8 Q Was that always what you understood was going
9 to be the mechanism by which you made an investment of
10 your money into C4, that it was to be a loan?

11 A Yes, through a Joint Venture Agreement where
12 I owned 49 percent of the CMOs.

13 Q When any of the mechanisms of the transaction
14 was conveyed to you, was it always conveyed to you by
15 Mr. Witt?

16 A Initially, yes, on their initial meeting up
17 to that point, and then I got -- I had a meeting on the
18 phone with members of C4 to make me convinced to invest
19 with them.

20 Q Do you know the date of the meeting in Los
21 Angeles?

22 A I don't know. No.

23 Q Prior to that meeting, had you personally
24 talked to any person that you believed was an officer or
25 director of C4?

1 A Before that meeting, no.

2 Q And is it correct that after the meeting in
3 Los Angeles, Mr. Witt was encouraging you to participate
4 in a transaction with C4?

5 A Yes.

6 Q And was Mr. Rucker also?

7 A No. I mostly listened to Witt, my
8 accountant, Dan Witt. Maybe they were talking together,
9 but when it came to the actual deal, it was Mr. Witt and
10 myself.

11 Q Had you asked Mr. Witt to seek out financial
12 investment opportunities for Heli Ops --

13 A Yes.

14 Q -- prior to C4 coming along?

15 A Yes.

16 Q And had you also engaged or asked Mr. Rucker
17 to do the same thing, to find opportunities for Heli Ops?

18 A Through Mr. Witt, yes.

19 Q I apologize if I've asked this question
20 before. Is Mr. Rucker a licensed stockbroker?

21 A I don't know.

22 Q Do you have any knowledge of any licensure or
23 any licensure that he may have?

24 A No.

25 Q Or the name of the company he may work for?

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Dicker

Q Did he make money, if you know, such as a commission, based on what you invested in Synergy?

A No knowledge.

Q How about C4?

A No knowledge.

Q And had Mr. Witt also given you advice about investing in Synergy?

A Yes.

Q And did he believe that was a good opportunity for you --

A Yes.

Q -- at the time? Who initiated the telephone conversation that you had after the Los Angeles meeting with D.R. Rawson and others?

A I definitely wanted to communicate after that initial meeting, and it was positive, so I wanted to take it to the next step. I cannot remember if it was Mr. Rawson or myself that initiated that telephone conference.

Q It was a telephone conference that you requested?

A Yes.

Q And during that telephone conversation, do you recall who spoke on behalf of C4?

A Definitely Mr. Rawson, Mr. Price, maybe John

1 Hayner came on it, but that's all I can recall.

2 Q All right. Was it your impression that
3 Mr. Rawson was the dominant person in C4 at that time?

4 MR. MATUSKA: I'm going to object. The term
5 is vague, and it calls for characterization.

6 Q (BY MR. FORSBERG:) I'll rephrase the
7 question. Who did most of the talking?

8 MR. MATUSKA: On the telephone conference?

9 MR. FORSBERG: On the telephone conference.

10 THE WITNESS: I can't remember.

11 Q (BY MR. FORSBERG:) All right. Do you
12 remember anything substantive other than, "Hi, how you
13 doing? How is the weather up there?" that Mr. Price said
14 to you?

15 A At that time, you know, being involved in the
16 oil and natural gas business and the exploration side of
17 it, we talked about when he used to be in it with Exxon
18 and drilling. We had a lot in common, maybe talked for
19 five minutes about the industry.

20 Q And were others on the line at the same time?

21 A I'm assuming, yes.

22 Q And other than that conversation with
23 Mr. Price, did Mr. Rawson do all of the talking?

24 MR. MATUSKA: Still on that telephone
25 conference, or are you asking in general about this

1 transaction?

2 MR. FORSBERG: On the telephone conference
3 call that we're discussing.

4 MR. MATUSKA: Do you understand the question?

5 THE WITNESS: People were speaking, you know,
6 when you're on a conference call. Rawson did the
7 majority of the talking, but everybody was giving input.

8 Q (BY MR. FORSBERG:) Okay. Was Mr. Rawson
9 imparting to you his understanding of CMOs and how the
10 investment would work?

11 A Mostly that he'd done it before.

12 Q Did he talk about the return that you would
13 be expecting on that investment?

14 A Yes.

15 Q And what did he tell you?

16 A That for a million down, within 30 days, I'd
17 get \$20 million.

18 Q Did you find that plausible?

19 A Yes, I did. At the time, yes.

20 Q And what information did you have or that
21 made it seem plausible to you?

22 A That we were dealing with something tangible,
23 a CMO, that it produces a dividend, that the company in
24 general, the board of directors were all extremely
25 experienced individuals, very successful businessmen, and

1 that a financial institute at that time would be taking
2 them under their possession with me being part of the
3 account and being able to monitor that account and follow
4 it on a daily basis.

5 Q Did, other than Mr. Rawson, did anyone on the
6 conversation tell you that they had engaged in CMO
7 transactions previously?

8 A I can't remember.

9 Q Did Mr. Rawson tell you what the purpose of
10 C4 as a company was?

11 A Yes.

12 Q What did he tell you?

13 A It was a humanitarian company, that they
14 wanted to bring capital in to literally go around the
15 world and, you know, cure hunger and famine and disease.
16 And he said they had offices basically all over the world
17 with, you know, people in C4 that were working for them.
18 Excuse me.

19 Q Go ahead.

20 A There was one other individual on the
21 conference. Mike Kavanaugh.

22 Q And Mike Kavanaugh was -- What was Mike
23 Kavanaugh?

24 A He was one of the board members, workers of
25 C4.

1 Q Was he an active participant in the
2 conversation, in the telephone conference call?

3 A Yes, he was.

4 MR. FORSBERG: Can we go off the record.

5 (WHEREUPON, an off-the-record discussion ensued.)

6 Q (BY MR. FORSBERG:) Was Jeffery Edwards on
7 the call, to your knowledge?

8 A Not then, but I talked to him maybe eight,
9 nine months later.

10 Q After the telephone conference call, did you
11 talk to anybody from C4 again before you executed the
12 Joint Venture Agreement?

13 A No.

14 Q Did you have further discussions with
15 Mr. Witt about it?

16 A Yes.

17 Q And did he continue to believe during that
18 period of time that it was a good idea for you?

19 A Yes.

20 Q Did you do any personal investigation of CMOs
21 before you signed the Joint Venture Agreement?

22 A No.

23 Q Did you seek advice regarding CMOs from
24 anyone other than Mr. Rucker and Mr. Witt outside of C4
25 people?

1 A It was a conference call. We all beeped into
2 it. I don't know who initiated it.

3 Q Other than the communications that you've
4 already described in your deposition, what communications
5 did you have with Richard Price?

6 A Verbally after that initial conversation
7 before I sent the money, none except via e-mail.

8 Q So would you e-mail him?

9 A No. He e-mailed me.

10 Q When you had questions about what was going
11 on, the person you went to was Mr. Rawson; correct?

12 A Correct.

13 Q Do you have any knowledge, personal knowledge
14 about the internal workings of C4?

15 A No.

16 Q What would Mr. Price e-mail you about?

17 A At the time, he was a CFO, so anything
18 pertinent to the financial side of it, the setting up of
19 the account at Wells Fargo in Austin, the setting up of
20 the account at EKN, you know, the corporate, you know,
21 all of the paperwork that had to go in, that type of
22 documentation. I see we are missing pages here.

23 Q And you're referring to Exhibit 1?

24 A Exhibit 1, correct, with his signature and
25 their CFO.

1 A Yes.

2 Q So this is Exhibit B, and what were you
3 pointing out to me about it?

4 A Richard Price's signature is on this one. I
5 thought that that document was not included in the
6 exhibit.

7 Q Is that a legible signature to you on the
8 exhibit that you're looking at?

9 A No.

10 Q But it's your recollection that that was
11 Richard Price's signature there?

12 A Correct.

13 Q And do you know -- Were you present when
14 Mr. Price executed it?

15 A No.

16 Q Is there any information that you have to
17 suggest or point out to me that Mr. Price was
18 knowledgeable with respect to CMOs prior to the
19 transaction that you entered into with C4?

20 MR. MATUSKA: Objection. Lacks foundation.
21 Calls for speculation.

22 Q (BY MR. FORSBERG:) I asked him if there's
23 any information. Is there any information that you,
24 Mr. Cain have, to suggest that Mr. Price was experienced
25 in CMO transactions before the time of the transaction

1 that you entered into?

2 A No.

3 Q Did you ever turn to Mr. Price to explain the
4 CMO transaction or its leveraging or any of the nuances
5 of it?

6 A No.

7 Q Is the only knowledge you have of Mr. Price
8 what -- and his personal history what was contained in
9 his biography on the C4 website?

10 A Correct.

11 Q So it's true, isn't it, that your decision to
12 loan money to C4 was not based on anything Mr. Price told
13 you?

14 A No. It was based on C4, the company as a
15 whole, not an individual.

16 Q So no individual by himself was -- No
17 individual that you considered by himself was sufficient
18 to persuade you to invest with C4, to loan money to C4?

19 A No. As a whole.

20 Q Do you have any knowledge personally of what
21 Mr. Price's role was in making decisions on behalf of C4?

22 MR. MATUSKA: I was just going to -- That's
23 very vague as to what type of decisions.

24 THE WITNESS: Financial. On the financial
25 side of it, he set up accounts. I know that much.

1 Whether it be Wells Fargo, EKN, Exhibit 1 here, you know,
2 the corporate resolution.

3 Q (BY MR. FORSBERG:) Okay. So those are
4 things he was doing in his capacity as an officer of C4,
5 as you understood it?

6 A Yes.

7 Q Do you know if he was directed by anybody to
8 do these things?

9 A No.

10 Q Do you have any information to suggest that
11 Mr. Price could act without Mr. Rawson's approval?

12 A Not certain.

13 Q Do you have any information or documents
14 suggesting to you that Mr. Price knew at the time you
15 sent your money to C4 that you would not be repaid?

16 A No.

17 Q Do you believe that to be the case?

18 MR. MATUSKA: I'm going to object. It calls
19 for speculation, and personal belief is irrelevant,
20 but --

21 THE WITNESS: I'm not sure.

22 Q (BY MR. FORSBERG:) Are you aware of any
23 activity by Mr. Price that interfered with the successful
24 -- with your Joint Venture Agreement that he did to
25 interfere with its fulfillment?

1 A No.

2 Q Do you have any information that Mr. Price
3 reached an agreement with someone else to commit fraud
4 against you?

5 A No.

6 Q What is the status of the CMOs that you were
7 able to view in the EKN account today?

8 A I know they're being held in Texas. I've
9 hired attorneys to try and get them, some that C4 should
10 have done right from the get-go. And from there, I know
11 I spent a lot of money, but still nothing coming in, but
12 they're being held with the courts or whoever it is over
13 there.

14 Q And when you refer to that, you're referring
15 to a lawsuit in Texas over -- the issue is the ownership
16 of the CMOs that you claim to own?

17 A Yes. Correct.

18 Q And do you believe at this time that you're
19 entitled to one-hundred-percent ownership of the two CMOs
20 that you were able to view initially?

21 MR. MATUSKA: I'm going to object. Calls for
22 legal conclusion and speculation and lacks foundation.

23 Q (BY MR. FORSBERG:) All right. Well, what's
24 your contention? Are you a party to the lawsuit in
25 Texas?

1 Q Who is accused of wrongdoing in the Texas
2 lawsuit, if anyone? Do you know?

3 MR. MATUSKA: I'm going to object that it's
4 irrelevant and frankly misstates the allegations in the
5 Texas lawsuit.

6 THE WITNESS: A list of characters that I
7 don't know.

8 Q (BY MR. FORSBERG:) Any of them the C4
9 officers and directors that are parties to the lawsuit
10 you've brought against them?

11 A From what I've read, no.

12 Q Are any of them parties, to your knowledge,
13 to that lawsuit?

14 A No.

15 Q Have you ever met Mickey Shackelford?

16 A No.

17 Q Have you ever spoken to him?

18 A No.

19 Q Have you ever communicated with him by e-mail
20 or any other manner?

21 A I haven't communicated with him, but I've had
22 an e-mail from him, but again, cc'd to everybody.

23 Q Do you remember what that -- Is it one e-mail
24 that you're referring to?

25 A Yes, one.

1 Q And do you remember what that was one about?

2 A No.

3 Q Do you have any information suggesting that
4 Mr. Shackelford was knowledgeable about CMOs and how they
5 worked?

6 A Not personally, but at the start, the entity
7 as a whole, I assumed an intimate knowledge of CMOs
8 because everybody was cc'd. Everybody communicated, you
9 know, between themselves. But personally, no.

10 Q Did Mr. Shackelford ever hold himself out in
11 any fashion that you're aware of to be specifically
12 acquainted with CMOs as an investment opportunity?

13 MR. MATUSKA: Objection. That was just asked
14 and answered.

15 THE WITNESS: I haven't received any
16 communication.

17 Q (BY MR. FORSBERG:) On his biography on the
18 C4 website, was he portrayed as a person knowledgeable
19 about CMOs?

20 A No, just a very good accountant.

21 Q And what about with respect to Mr. Price?
22 Was he portrayed as a person knowledgeable about CMOs?

23 A No, just in the oil and energy field.

24 Q Do you have any documents or information that
25 suggested that Mr. Shackelford could control the

1 decisions of C4?

2 A No.

3 Q How about Mr. Price?

4 A No.

5 Q Do you believe that Mr. -- Do you have any
6 information that Mr. Shackelford was aware before you
7 made your loan to C4 that it would not be repaid?

8 A No.

9 Q Do you have any information suggesting that
10 Mr. Shackelford intended to take some of the money you
11 loaned C4 for himself and not repay you?

12 A No.

13 Q Do you have any information that
14 Mr. Shackelford undertook any acts that were a breach of
15 your Joint Venture Agreement with C4?

16 A No.

17 Q Do you have any information that
18 Mr. Shackelford reached an agreement with someone else to
19 commit fraud against you?

20 A Not that I'm aware of.

21 MR. FORSBERG: I'm not going to ask any
22 further questions at this time, but I may have some
23 followups depending on what is asked by Mr. Johnson.
24 Thank you very much.

25 MR. MATUSKA: I would just ask, I mean, don't

1 Q Do you have any specific knowledge, a
2 document you've seen or something someone told you or
3 that Price told you or Shackelford told you that leads
4 you to believe that they participated in the writing of
5 the CMO leverage-up document?

6 A No.

7 Q Now I'm going to ask you just one about C4.
8 You also said that we talked, and there were questions
9 about how the CMOs went from -- I think they started with
10 EKN was the first brokerage house or whatever those
11 things are that had them. Then they went to Penson, and
12 your testimony was that you signed something to permit
13 that to happen but then thought better of it for some
14 reason.

15 A Through my lawyer.

16 Q Through your lawyer, and so you tried, but
17 were unsuccessful in stopping that?

18 A To Penson.

19 Q To Penson?

20 A Yes.

21 Q Okay. And then you have no knowledge of how
22 they went from Penson to --

23 A Golden Summit.

24 Q -- Golden Summit. Thank you.

25 A No, because I was supposed to sign a form,

1 believe.

2 Q Led by D.R. Rawson?

3 A Yes, and just what it took to get them from
4 EKN to Penson because EKN was not going to release them
5 without my signature.

6 Q Okay. Did you ever see a document that said
7 -- that was a Penson account document, like a statement
8 or anything like that that said the same as the EKN,
9 characterized both you and C4 as co-owners of the CMOs?

10 A I'm not certain because the transaction was
11 very quick between Penson and Golden Summit, EKN and
12 Penson, and then I think it went into Golden Summit, but
13 I remember seeing documents from Penson, but I just can't
14 remember what they were.

15 Q And now my question is, do you have any
16 knowledge of any participation in those transfers by
17 Mickey Shackelford?

18 A No.

19 Q Or Richard Price?

20 A Richard Price set up the account at EKN, the
21 initial account, so I surmise that he could also be
22 setting up the account in Penson since he set up the
23 account at EKN and also the Wells Fargo account in
24 Austin, Texas.

25 Q And here's where the difficulty has arisen

1 prior. So my question to you is, do you have personal
2 knowledge of that, of Richard Price setting up the Person
3 account?

4 A No.

5 Q Or Golden Summit account, I take it?

6 A No.

7 Q We've talked about payments that went from
8 the C4 Wells Fargo account in Austin to various people in
9 December of 2009. You're understanding what I'm talking
10 about?

11 A Yes.

12 Q Okay. Do you have any personal knowledge of
13 who within C4 directed that those payments be made?

14 A No.

15 Q And in fact, on that subject, you don't have
16 any knowledge really of who the control of C4 lay with
17 among all of the people we've talked about of all of the
18 officers and directors?

19 MR. MATUSKA: I'm going to object. This asks
20 for speculation and legal conclusion.

21 MR. FORSBERG: No. I'm just asking if he
22 knows. That's not speculation. If he doesn't know, he
23 says he doesn't know.

24 MR. MATUSKA: It's also asking for a legal
25 conclusion. I'm just objecting.

1 you're all tied in. You're all part of the decision
2 making of that company, not one individual, because then
3 it wouldn't be a corporation.

4 Q (BY MR. FORSBERG:) Well, and that's assuming
5 that the corporation was run correctly.

6 A Correct.

7 Q We talked a little bit about a video that I
8 believe you watched through the C4 website where there
9 was a number of people gathered around a conference
10 table. Do you remember your testimony?

11 A Correct.

12 Q And do you remember who was in the video?

13 A D.R. Rawson.

14 Q Have you ever seen Richard Price in person?

15 A No, only bio.

16 Q Have you ever seen Mickey Shackelford in
17 person?

18 A No.

19 Q And is it -- I didn't mean to interrupt you.
20 Did you know anyone else in the video by sight?

21 A No.

22 Q You were asked also about the term,
23 "Inducement." And I don't really want to talk about the
24 term itself, but part of your claim, as I understand it,
25 is that the officers and directors of C4 misled you into

1 making the loan that you made. Is that a fair
2 assessment?

3 A Through the way they represented C4, yes.

4 Q Okay. And this is where your answer to me is
5 not as responsive as I want it to be because who is,
6 "They"? When you say "They," who are you referring to?

7 A Everybody that was a board of director.
8 Everybody that was an officer in the corporation.

9 Q All right. So now I'm going to ask you with
10 respect to my clients. Do you recall today any
11 statement, either written or oral, or by giving you a
12 thumbs up from Mickey Shackelford that induced you to
13 make this loan other than the things you've talked about?

14 MR. MATUSKA: Well, that's kind of vague now.
15 What's your understanding of what's been talked about?

16 THE WITNESS: C4 linkage.

17 Q (BY MR. FORSBERG:) The website and the fact
18 that they were all a part of C4. Was there --

19 MR. MATUSKA: And bios? Are you counting
20 bios?

21 THE WITNESS: Yes.

22 Q (BY MR. FORSBERG:) The website, the bios on
23 the website.

24 A Other than that, no.

25 Q All right. And the same question about

1 Mr. Price.

2 A Mr. Price was in the conference call that I
3 had two or three days after the meeting in L.A., and we
4 talked for five or ten minutes. Obviously, he made me
5 feel really comfortable with the investment.

6 Q But I think your testimony, if I understand
7 it, and I'm not putting words in your mouth or trying to
8 trick you or anything like that, but my recollection of
9 your testimony was that you talked about the oil
10 industry.

11 A Yes, we did.

12 Q And that as a result of that conversation,
13 you recognize his expertise in that area, and you had a
14 bond with him because you're in the business as well.

15 A Yes.

16 Q And that is what gave you the comfort level.

17 A That, but we carried on to C4, I think very
18 briefly. It wasn't that long a conversation with all of
19 them, but very briefly into C4 and how it operated. Yes.
20 It just wasn't about the oil and gas industry.

21 Q All right. Do you recall whether he made any
22 representations about his knowledge of CMOs in that
23 conversation?

24 A I can't remember.

25 Q There was testimony about Exhibit 8, and

1 Mr. Johnson was asking you why you didn't turn to
2 Mr. Baker with your concerns or complaints about the way
3 the CMO transaction was turning out. Do you recall that
4 testimony, just generally speaking?

5 A Yes.

6 Q And do you recall you said, I think your
7 answer was, "Because we were led to another director,"
8 and that was Mr. Price.

9 A And my lawyers were starting to take over the
10 conversation because at that time, they wanted to keep my
11 communication at a minimum, as lawyers do, between myself
12 and C4.

13 Q Okay. So who was it that led you to the
14 other director, being Mr. Price?

15 A Rawson.

16 Q Did he say you should talk to Mr. Price about
17 this?

18 A Mr. Price actually had talked to Bill Parker.
19 I don't know how that meeting was set up, but it was over
20 one of the many deals that was going, and Price was
21 running it, or he was whatever. He was filling Bill in,
22 Bill Parker, on how this deal was proceeding because
23 naturally, my lawyers are wondering when I'm going to get
24 paid.

25 Q So it is it your understanding that Mr. Price

1 was trying to help you understand and help you get your
2 money back in that process?

3 A Well, he was or they were running a project,
4 and he was naturally telling us we're going to get paid
5 pretty quick. And we went straight to him after dealing
6 with Kavanaugh, and/or Bill Parker did.

7 Q Is it because you had a greater rapport with
8 Mr. Price?

9 A Just going up the ladder.

10 Q Did you ever get up the ladder to Mr. Baker?

11 A I thought Mr. Parker had a brief conversation
12 with him, or he was in on a meeting listening to Baker.
13 Other than that, I can't tell you.

14 Q Okay. And you were communicating with Rawson
15 throughout?

16 MR. MATUSKA: That misstates the testimony.

17 Q (BY MR. FORSBERG:) Well, but it's a
18 question, not a statement of what it is. Were you
19 communicating with Mr. Rawson throughout?

20 A Through our lawyers, but not us personally
21 because we already had communicated with Rawson in
22 December, and that's why he handed us over to Kavanaugh
23 because he was short of temper.

24 Q Were you communicating with Mr. Price in
25 December of 2009?

1 MR. MATUSKA: Again, it's kind of vague on
2 communication. We've talked about a lot of different
3 kinds of communications.

4 Q (BY MR. FORSBERG:) It's a broad term, and
5 it's intentionally broad.

6 A Concerning just the e-mail to me on phoning
7 up Branigan with Wells Fargo. I had an e-mail from Price
8 pertaining to that.

9 Q All right. The next thing I want to ask you
10 about is I believe your testimony was that there was no
11 indication until EKN, the transfer from EKN, as I
12 understood it, that the whole deal was heading south. Is
13 that the first time you knew that?

14 A No. At least the CMOs were protected at EKN,
15 you know. They were safe there. When it started, I felt
16 heading south was when they didn't keep their deal with
17 me, and just by December 31st, 2009, I just felt the
18 communication started becoming very unprofessional and
19 delays that you go, you know, unless there's a massive
20 tsunami going through L.A., they should be able to use
21 fax machines, you know, that type of situation where the
22 excuses were getting thin.

23 Q And those things were coming from Mr. Rawson?

24 A Yes, and they were cc'd to the rest of us.

25 Q Right. Now, again, I'm trying to draw a