

**IN THE SUPREME COURT OF THE STATE OF NEVADA**

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NUVEDA, LLC, A NEVADA LIMITED LIABILITY COMPANY; SHANE M. TERRY, A NEVADA RESIDENT; AND JENNIFER M. GOLDSTEIN, A NEVADA RESIDENT, Appellants,  
v.  
PEIMAN BADY; AND POUYA MOHAJER, Appellees.

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Elizabeth A. Brown  
Clerk of Supreme Court

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Supreme Court Case No. 69648  
District Court Case No. A-15-728510-B, Department XI (Elizabeth Gonzales)

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**JOINT APPENDIX  
VOLUME 6**

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# Appendix

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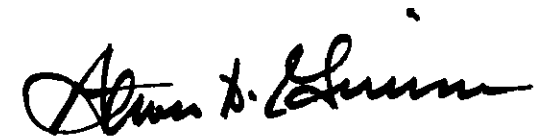
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CLERK OF THE COURT

TRAN

DISTRICT COURT  
CLARK COUNTY, NEVADA  
\* \* \* \* \*

NUVEDA LLC, et al.

Plaintiffs

vs.

PEJMAN BADY, et al.

Defendants

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CASE NO. A-728510

DEPT. NO. XI

**Transcript of  
Proceedings**

BEFORE THE HONORABLE ELIZABETH GONZALEZ, DISTRICT COURT JUDGE

**PRELIMINARY INJUNCTION HEARING - DAY 3**

THURSDAY, JANUARY 7, 2016

APPEARANCES:

FOR THE PLAINTIFFS:

ERIKA A. PIKE-TURNER, ESQ.

FOR THE DEFENDANTS:

ALVIN W. MAUPIN, ESQ.  
JOHN M. NAYLOR, ESQ,  
VINCENT J. AIELLO III, ESQ.  
MATTHEW T. DUSHOFF, ESQ.

COURT RECORDER:

TRANSCRIPTION BY:

JILL HAWKINS  
District Court

FLORENCE HOYT  
Las Vegas, Nevada 89146

Proceedings recorded by audio-visual recording, transcript  
produced by transcription service.



1 LAS VEGAS, NEVADA, THURSDAY, JANUARY 7, 2016, 9:42 A.M.

2 (Court was called to order)

3 THE COURT: Mr. Maupin, do you have any additional  
4 evidence that you would like to present at this time?

5 MR. MAUPIN: I sure do.

6 THE COURT: You do?

7 MR. MAUPIN: Yes, I do.

8 THE COURT: Okay.

9 MR. MAUPIN: We'll call Mr. Kennedy to the stand.

10 THE COURT: Mr. Kennedy, if you'd come forward,  
11 please. And we're going to swear you in once you get up  
12 there, sir.

13 JOSEPH E. KENNEDY, DEFENDANT MOHAJER'S WITNESS, SWORN

14 THE CLERK: Thank you. Please state and spell your  
15 name for the record.

16 THE WITNESS: Joseph E. Kennedy, J-O-S-E-P-H E.  
17 K-E-N-N-E-D-Y.

18 THE COURT: Sir, you will notice there is water  
19 there, there are M&Ms in the dispenser, and if you would like  
20 some coffee, the marshal would be happy to help you with that.

21 THE WITNESS: Thank you, ma'am.

22 THE COURT: And since you're the witness, if at any  
23 time you need to have a break to use the restroom or get up  
24 and walk around, let me know, and we will be happy to take a  
25 break for your convenience. The lawyers don't get that same

1 luxury.

2 THE WITNESS: Yes, ma'am.

3 DIRECT EXAMINATION

4 BY MR. MAUPIN:

5 Q Good morning.

6 A Good morning.

7 Q If we could start with your description of your  
8 position with NuVeda.

9 A I'm a 1 percent owner and member of the LLC.

10 Q And what is your -- outside of NuVeda what's your  
11 current occupation?

12 A I'm an industrial building developer and landlord.

13 Q And what kind of a developer or what kind of  
14 developments are you involved in?

15 A Mostly warehouses.

16 Q What is the general value of this business?

17 A About \$20 million.

18 THE COURT: And you're referring to his industrial  
19 development business, not NuVeda?

20 MR. MAUPIN: Oh, absolutely.

21 THE COURT: I'm just making sure.

22 BY MR. MAUPIN:

23 Q How many investments in limited liability companies  
24 have you made over the course of your adult life?

25 A Probably in the range of a hundred.

1           Q     So you've been involved in very complex financing  
2 deals and property acquisitions and the like in your  
3 participation in these limited liability companies?

4           A     I try to make them as less complex as I can, but  
5 sometimes they're more complex, yes.

6           Q     You have been involved in a myriad of aspects of  
7 development, which would include financing, accounting,  
8 marketing, and all of that business?

9           A     Absolutely.

10          Q     Now, yesterday Mr. Terry testified that Pej has an  
11 option to repurchase 50 percent of the 2113 limited liability  
12 company for a dollar. Did you hear that -- well, you weren't  
13 here to hear the testimony. But is that true?

14          A     Well, it was true at one time. That was because we  
15 thought that Pej was going to be responsible for 50 percent of  
16 the financing of 2113 for the two properties for NuVeda. But  
17 what happened was that the bank decided that they couldn't be  
18 involved because it was a medical marijuana business, and I  
19 pledged properties that my wife and I own, and we've paid --  
20 and so when we -- when we paid off all of the loans  
21 outstanding and made new loans for the NuVeda properties, Pej  
22 -- we rescinded that agreement. And that was in August.

23          Q     Of?

24          A     Of 2015.

25          Q     Now, are you presently enrolled as an -- are you

1 presently an enrolled IRS agent?

2 A I am.

3 Q What does that mean?

4 A That means that I'm admitted to defend for audits  
5 and before the IRS in tax court and in Federal District Court.

6 Q And what kind of background in tax do you need to be  
7 an enrolled agent?

8 A You need to pass a series of examinations.

9 Q What are those examinations like? What do they  
10 entail?

11 A Well, they entail a knowledge of the Tax Code for  
12 personal -- there are three sections. There's the personal  
13 tax returns, the business tax returns, and the ethics section.

14 Q And how long have you served in that capacity?

15 A About five years.

16 Q Now, you issued the K-1s on the loss allocations for  
17 NuVeda that they've been talking about; correct?

18 A The K-1 is part of a 1065 return, yes.

19 Q And what's a 1065 return?

20 A It's an informational return for an LLC that -- or  
21 general partnership that advises the IRS on the financial  
22 activities of the LLC or partnership and then allocates the  
23 profits or losses to the members.

24 Q All right. Now, there was an allocation of loss  
25 shifted from Dr. Mohajer to Dr. Bady; correct?

1           A     No. That's not exactly --

2           Q     All right.

3           A     It may have been in that result, but that's not how  
4 it was calculated.

5           Q     All right. So how did that come about?

6           A     Initially this was the first time that NuVeda was  
7 filing a tax return, the 2014 tax year.

8           THE COURT: So it was the first return being filed  
9 by the business?

10          THE WITNESS: It was.

11          THE COURT: Okay.

12          THE WITNESS: And so some decisions had to be made  
13 when the return was being prepared. So I met with the  
14 bookkeeper for NuVeda, and the first thing we did was tie the  
15 records to cash. Which means that we took the transactions  
16 and we took each of the bank statements and made sure that all  
17 the transactions were accounted for. Then we made the  
18 decision that the company would be on a cash basis, as opposed  
19 to being on an accrual or hybrid basis. I would say  
20 90 percent of the LLCs that I've ever seen were on a cash  
21 basis, so it was pretty typical.

22                Then the question became, because the company had  
23 zero income and huge loses, how would we allocate those  
24 losses. On the 1065 form there are three lines for members'  
25 percentages. One line is for their equity percentage, one

1 line is for their profit percentage, and one line is for their  
2 loss percentage. And these lines are typically dynamic. They  
3 will change over the years as the returns are filed. But on  
4 the initial return the decision was made -- and I did poll the  
5 appropriate members, being Dr. Bady, Dr. Mohajer, and Shane  
6 Terry, and the decision was made that there would be an  
7 allocation only to those who contributed to the loss on a cash  
8 basis. So most of the members received --

9 BY MR. MAUPIN:

10 Q What do you mean by contributed to the loss?

11 A They paid -- they paid into the company the cash  
12 that was then used to finance these losses.

13 Q All right. So go ahead the rest of the answer.

14 A So initially I was told to do it 40 percent for Dr.  
15 Mohajer, 40 percent for Dr. Bady, and 20 percent for Mr.  
16 Terry. I issued the 1065, I filed it with the IRS, and about  
17 a month later Dr. Mohajer came back and said, I didn't make --  
18 that cash contribution wasn't mine so I want the 1065 amended  
19 to reflect that I didn't make the cash contribution, that  
20 somebody else did.

21 So I spoke with Dr. Bady and Shane Terry. Shane  
22 Terry said that he was comfortable with his allocation of  
23 20 percent, and so I allocated 80 percent to Dr. Bady and zero  
24 percent to Dr. Mohajer, and then refiled an amended return  
25 without altering the 1065 itself, only -- the only changes

1 were on the K-1s.

2 Q So, again, why is it that Dr. Mohajer felt that he  
3 had to reallocate his -- or shift his loss over to Dr. Bady or  
4 anyone else in the company?

5 MS. PIKE-TURNER: Objection. Hearsay and calls for  
6 speculation.

7 THE COURT: Sustained.

8 MR. MAUPIN: I'm sorry?

9 THE COURT: Sustained. It calls for speculation.

10 BY MR. MAUPIN:

11 Q Well, you were -- what were your instructions from  
12 Dr. Mohajer?

13 MS. PIKE-TURNER: Objection. Hearsay.

14 THE COURT: Overruled.

15 THE WITNESS: My instructions were that he didn't  
16 contribute the cash so he wanted a new K-1 that gave him zero  
17 percent of the loss.

18 BY MR. MAUPIN:

19 Q Okay. What was his concern that led him to do that?

20 A I think he was getting ready to prepare his taxes  
21 and he looked at -- he finally looked at the K-1, which is  
22 sort of difficult, and realized that it was showing a loss  
23 that he hadn't actually financed himself.

24 Q So with all of this in hand, there's also been  
25 testimony about how complex the rules regarding these

1 allocations are. Are they complex?

2 A Well, there are certain decisions that have to be  
3 made. It's like a pathway where you make decisions as you're  
4 going down them. You have several options. One of them is  
5 you can simply allocate based on the percentage of interest in  
6 the LLC, and the other is that you can allocate based on cash  
7 contributions that were made. The reason that those --

8 Q But the allocations based on interest is in the  
9 operating agreement, and that's one formula for allocating the  
10 losses; is that correct?

11 A That's a potential formula which we decided not to  
12 follow in this case. Because once a 1065 is issued, that's it  
13 for the year. It's not like a corporation where the losses  
14 carry over year to year. So in this case it was decided it  
15 would be much better to allocate them to the people who  
16 actually contributed to those losses, because the cash was  
17 gone. And the losses had been incurred by the LLC and it made  
18 a lot more sense than giving losses to people who never  
19 contributed anything to it.

20 Q Now, as an enrolled agent is it -- would it be  
21 reasonable for Dr. Mohajer to make this request based upon his  
22 own concerns about his tax liability?

23 A Well, just as an individual if he didn't think it  
24 was right he had an obligation to request a change.

25 Q So this grandiose claim of tax fraud that's been



1 made in the courtroom here, and it has been made, is this tax  
2 fraud in any respect?

3 MS. PIKE-TURNER: Objection. Calls for a legal  
4 conclusion. Lack of foundation.

5 THE COURT: Overruled.

6 THE WITNESS: No.

7 BY MR. MAUPIN:

8 Q And why is that?

9 A Because the losses that were reported to the  
10 Internal Revenue Service were correct, they were tied to cash,  
11 and the allocation of the losses was something that was a  
12 decision for the members to make. And when they decided on  
13 distributing them by the cash basis we simply followed what  
14 the rules are.

15 Q Are you familiar with Section 5.1 of the operating  
16 agreement of NuVeda?

17 A No.

18 Q All right. I think it's in front of you right  
19 there. It's Exhibit 1 I think in the black --

20 THE COURT: You want to go in the black book to  
21 Exhibit 1.

22 THE WITNESS: 5.1, yes.

23 BY MR. MAUPIN:

24 Q Right. That talks about the allocation of losses;  
25 correct?

1           A     It does, apparently.

2           Q     And could you read it into the record, please.

3           A     "Subject to the applicable law and any limitations  
4 elsewhere in this agreement, profits and losses after  
5 deducting guaranteed payments shall be allocated amongst  
6 members in proportion to their percentage ownership interest."

7           Q     Is there anything else that it says?

8           A     "Any special allocations necessary to comply with  
9 the requirements set forth in Internal Revenue Code Section  
10 704 and the corresponding regulations, including, without  
11 limitation, the qualified income offset and minimum gain  
12 chargeback provisions contained therein, shall be made if the  
13 voting members deem these actions to be appropriate.

14          Q     Do you have an opinion as to whether or not the  
15 allocation of losses in this case complies with that provision  
16 in the IRS Code?

17          A     I believe -- oh, it certainly does.

18          Q     Now, predictably, Mr. Terry has indicated that you  
19 are not a vested member. Is that correct?

20          A     I was present at a meeting where my vesting was  
21 approved. I gave a \$10 million line of credit note to the  
22 corporation which was never exercised but was used for the  
23 application process. And --

24          Q     Relied upon for the application process?

25          A     Yes.

1 Q And why did they need to do that?

2 A They had to show the capital ability to develop the  
3 dispensaries and cultivation and production facilities.

4 Q All right. So the issuance of this credit -- of  
5 course, the agreement says 3 million, but you put in ten?

6 A What happened was I met with Jennifer Goldstein on  
7 this as the application process was going on. We calculated  
8 what the net worth -- the free net worth of the buildings that  
9 I owned, and then we multiplied by 70 percent and came up with  
10 10 million.

11 Q All right.

12 (Pause in the proceedings)

13 BY MR. MAUPIN:

14 Q So when did that happen?

15 A That happened during the application process in  
16 either 2014 or 2015.

17 Q All right. So was there any objection -- after you  
18 put this -- issued this credit to the company was there any  
19 objection to it?

20 A No.

21 THE COURT: You're referring to the line of credit?

22 MR. MAUPIN: Line of credit, yeah.

23 BY MR. MAUPIN:

24 Q Was there any objection to it?

25 A No.

1           Q     Were you -- was eventually a vote taken to make you  
2 a vested member?

3           A     Yes.

4           Q     And what was that vote?

5           A     It was -- everybody was in favor.

6           Q     Did Mr. -- Mr. Terry was the CEO at that point,  
7 wasn't he?

8           A     He could have been the COO or the CEO at that time.  
9 I don't know.

10          Q     And Ms. Goldstein was also the general counsel at  
11 the time?

12          A     She was.

13          Q     But, consistent with their poor recordkeeping, they  
14 didn't sign some sort of resolution; is that correct?

15          A     I have been to several meetings since, and I always  
16 had my voting share at the meeting. Nobody ever contested it.

17          Q     So your vesting is that you provided the line of  
18 credit, they accepted it, and then they used it in the  
19 application process?

20          A     They did.

21          Q     And again, when did this happen?

22          A     2014.

23          Q     Did Mr. Terry himself at any meeting in which you in  
24 attendance ever object to your participation as a voting  
25 member?

1           A     No.

2           Q     Have you ever heard him do that until he was in  
3 court the other day?

4           A     No.

5                 MR. MAUPIN: Can I have 201.

6                         (Pause in the proceedings)

7   BY MR. MAUPIN:

8           Q     Can you look at 201 in the white binder.

9           A     Yes.

10          Q     And if you'll look at the top of this, it's an  
11 email, isn't it?

12          A     Yes.

13          Q     And the subject is you; right?

14          A     Well, it's vesting of me, yes.

15          Q     Right. On page 2 of this exhibit there is a --  
16 there's language or a statement to this effect. "As we  
17 finalize the application --"

18                 THE COURT: And that's the middle paragraph?

19                 MR. MAUPIN: I'm sorry?

20                 THE COURT: The middle paragraph?

21                 MR. MAUPIN: Right.

22                 THE COURT: Okay. Thank you.

23                 MR. MAUPIN: The second full paragraph.

24   BY MR. MAUPIN:

25          Q     "As we finalize the applications Team Ivey expressed

1 some hesitation to show the full 10 million previously  
2 discussed. With Mr. Kennedy's financials we were able to get  
3 through the application by only showing Phil's 1.9 million in  
4 liquid assets which we referenced in the letter of commitment  
5 as the Ivey credit line. As stated in the August 17, 2014,  
6 letter, the equity position was offered in exchange on Phil's  
7 providing a line of credit, with terms to be negotiated  
8 subsequently. I know that we're being artful with the  
9 drafting of the letter to fulfill State requirements and  
10 actual percentages, LOCs, and equity offering were expected to  
11 change, but this was all in the context of our collective  
12 expectation of a more comprehensive investment and equity  
13 position as long as NuVeda provided favorable terms."

14 So at this point -- at this point, according to this  
15 section here, it is clear that they had obtained a benefit, a  
16 substantial benefit from your line of credit; is that correct?

17 A That's correct.

18 Q All right. There was some discussion about the 2113  
19 lease during this trial, and you weren't present for a good  
20 part of it. But, according to Mr. Terry, the options to  
21 purchase the two 2113 properties gave them an option to  
22 purchase the property at cost plus 10 percent on execution of  
23 these leases, that is, in the first year. Is that testimony  
24 correct?

25 A It's incorrect.

1 Q And why is it incorrect?

2 A The option to purchase the two properties was at  
3 actual cost for the first year. For the second year we added  
4 a premium of 10 percent because all of us envisioned NuVeda  
5 being able to purchase the properties during the first year.

6 Q All right. Do you know anything about the Golpa  
7 loan?

8 A I know that it exists.

9 Q But beyond that do you know any of the dynamics that  
10 led to it or any of that?

11 A I don't really.

12 Q Same with the Dr. Bahri loans?

13 A Just know about the loans. I don't know the  
14 dynamics.

15 Q But did NuVeda ever issue ownership interests to  
16 Doctors Golpa and Dr. Bahri at any time?

17 A No.

18 Q And one of the most serious allegations in this case  
19 is that they issued stock to these people without -- or  
20 membership interests without telling anybody. Is that true?

21 A No.

22 Q And the reason it's not true is because they never  
23 got any ownership interest, did they?

24 A It's similar to every other deal. There is a pledge  
25 that if they make an investment that there will be ownership

1 interest when the State allows it. And it's the same as it is  
2 for other -- all of the other investors. Nobody would put in  
3 money without getting some interest for it.

4 Q Now, again, the 2113 transaction is also a major  
5 issue for the plaintiffs in this case, saying that this was an  
6 example of self dealing and fraud. Can you explain the 2113  
7 transaction.

8 A On December 23rd, 2014, I got a call from Dr. Bady,  
9 and he said that the financing for the purchase of the North  
10 Las Vegas property had fallen through and that he was  
11 accumulating as much cash as he could to pay for the  
12 \$2.5 million that would be required and he would need my help.

13 So he accumulated by borrowing and drawing down his  
14 lines of credit about 2 million, and I contributed a half a  
15 million. And we did that in six days, and we closed the deal  
16 on the North Las Vegas property for 2.5 million.

17 Q Why was this necessary, though? Why didn't NuVeda  
18 close on the deal itself?

19 A Well, NuVeda didn't have the financing to do it.  
20 The financing that they had intended to use had fallen  
21 through. And I was very hesitant to participate, because the  
22 value was not in the property, which is what I'm normally  
23 accustomed to deal with. The value was in the potential  
24 license, which was supported subsequently by an appraisal of  
25 about 350,000 for the property for which we paid 2.5 million.



1 But the license, the dispensary license that came with it was  
2 worth about 2.15 million, according to the members of NuVeda.

3 Q So this just isn't some sort of silly, thoughtless  
4 overpayment for a substandard piece of property, is it?

5 A Well, if you ask my wife, she would tell you it was.  
6 But seriously --

7 Q Well, the pictures would suggest so, but it has some  
8 other intrinsic value to it.

9 A No. And the license went to NuVeda.

10 Q Now -- so how was this going -- so there's a  
11 resolution that allowed Dr. Mohajer to close the deal, signed  
12 by Ms. Goldstein, that's in evidence. Did he -- while this is  
13 all going on was he the only person in town?

14 A I was here.

15 Q Yeah. But Dr. Bady and --

16 A And Mr. Terry.

17 Q -- and Mr. Terry were in -- on vacation off the  
18 continent.

19 A They were.

20 Q And so why did they assign Dr. Mohajer to do this?

21 A I believe Ms. Goldstein was also out of town. I  
22 don't know that, but I believe so.

23 Q But it was DocuSign?

24 A Yes. Which you could remotely.

25 Q Right. But is Dr. Mohajer normally in the business

1 side of all this?

2 A No.

3 Q And is he more of a passive investor in this in  
4 terms of the operation of the company?

5 A Yes, he's passive.

6 Q But he is consulted and he's entitled to make  
7 decisions; correct?

8 A Yes.

9 Q And he's entitled to disagree with Mr. Terry even  
10 though -- with regard to some sort of proposal that affected  
11 the company?

12 A Yes.

13 Q Just like anybody else in the company.

14 A Exactly.

15 Q Did Mr. Terry have some sort of written authority to  
16 make determinations about the -- about the business and then  
17 if somebody else didn't agree with him, he could expel them?

18 A I don't think that's allowed.

19 Q Now, did -- was Mr. Terry and Ms. Goldstein kept in  
20 the dark about this transaction where 2113 LLC ended up  
21 closing the deal for itself and leased it back to the company?

22 A The genesis of that was that we had an arrangement  
23 with a bank. Okay. First of all, as I testified, we draw  
24 down all of our lines of credit to make the cash payment to  
25 the City of North Las Vegas.

1 THE COURT: Individual lines of credit, your own?

2 THE WITNESS: My own --

3 THE COURT: Okay.

4 THE WITNESS: -- and Dr. Bady's.

5 BY MR. MAUPIN:

6 Q But that didn't come out of the 10 million?

7 A No.

8 Q All right. Go ahead.

9 A So we were looking -- we were talking to the bank  
10 about making a long-term financing package because all of  
11 these funds had to be repaid in relatively short period of  
12 time. So the bank said, we will not be able to lend to NuVeda  
13 because NuVeda is in the marijuana business and the federal  
14 banking regulations prohibit us from lending, so you will have  
15 to make a separate entity to take the long-term loans.

16 So, being a prudent step, we created 2113 Investors,  
17 put the properties into the name of 2113 Investors -- when we  
18 subsequently bought the Third Street property we also put that  
19 on -- and looked to the bank for financing. And the bank said  
20 at the time they thought that they could lend on the two  
21 properties. So Dr. Bady and I would guarantee it personally,  
22 and we would borrow against the two properties. But  
23 ultimately the bank said, well, since the properties are going  
24 to be used in the medical marijuana business, we will not be  
25 able to lend to you on those properties. So then our question

1 was, well, how can we get long-term financing. And they said,  
2 you're going to have to pledge other properties.

3 Well, I was the person who had other properties, so  
4 I pledged my Las Vegas properties, my California properties,  
5 and I got financing to pay back the lines of credit. And then  
6 Pej Bady, who had been intended to be a part of the 2113  
7 Investors as a guarantor would no longer have a role. So he  
8 reconveyed any interest that he had or any options that he had  
9 to me, and I'm now the -- my wife and I are the only members  
10 of the 2113 Investors.

11 Q Right. And so your company is the lessor to NuVeda  
12 of these properties.

13 A And this was supposed to be a short-term solution,  
14 because we wanted them to buy back the properties. The whole  
15 purpose of this was to facilitate NuVeda getting the  
16 properties. They still to this day have the option to buy the  
17 properties at cost.

18 Q But, unlike the testimony earlier in this case, the  
19 -- during the first year they could have purchased it at cost.

20 A We're still in the first year, Counselor. And  
21 that's why I say at this moment they could still it at cost.

22 Q Could buy it for cost?

23 A Yes, sir.

24 Q Now, when did you close the NuVeda deal or the  
25 property purchase of the 2113 properties?

1           A       Well, the first one was on December 30th of 2014,  
2 and the second one was February of 2015.

3           Q       And when did -- was Dr. Bady removed as a  
4 participant in that company?

5           A       In August of 2015.

6           Q       Were there any Secretary of State filings between  
7 then and now that would suggest that Dr. Bady was still a  
8 member and had a position in the company?

9           A       In February we filed a new list of members which  
10 only included my wife and myself.

11          Q       So the sale closed in late December, and Dr. Bady  
12 was out of this arrangement as of say February the 24th?

13          A       Well, he wasn't completely out. He had an option,  
14 if was going to be a guarantor on the new financing, to be a  
15 member again.

16          Q       All right. Does the operating agreement -- I'm  
17 referring to 4.1 in the black folder.

18          A       Yes.

19          Q       And does that provision allow members to loan money  
20 to the company and lease property to the company under proper  
21 terms?

22          A       Yes.

23          Q       Does it allow the company to pay those loans back  
24 and pay lease payments?

25          A       Yes.

1           Q     And was Mr. Terry advised of all this as it was  
2 going on?

3           A     Advised of all of what?

4           Q     When it became apparent that they couldn't borrow --  
5 NuVeda couldn't borrow the money because of the banking  
6 regulations and you had to take this other step to acquire the  
7 property or lose it --

8                     That's true, isn't it?

9           A     That's true.

10          Q     Was Mr. Terry aware of this problem?

11          A     I don't know.

12          Q     And but this was a matter of some urgency, wasn't  
13 it?

14          A     Yes.

15          Q     And why is that?

16          A     Because we had to close by December 31st. And we  
17 closed one day early.

18          Q     But do you know if Ms. Goldstein -- did you guys try  
19 to go around Ms. Goldstein to keep her from disapproving this?

20          A     Dr. Mohajer had the resolution to act for the LLC,  
21 for NuVeda. So we took that authority as our permission to  
22 proceed with the -- with his consent to proceed with the  
23 changes.

24          Q     And do you have that resolution in front of you?

25          A     It's somewhere in here. I don't know where.

1 (Pause in the proceedings)

2 MR. MAUPIN: 35.

3 MS. PIKE-TURNER: 35 is the purchase and sale  
4 agreement, Your Honor.

5 THE COURT: Oh. I'm sorry. I had it yesterday.

6 MR. AIELLO: We had it in the 200 series. I believe  
7 it's 206.

8 MS. PIKE-TURNER: 204.

9 THE COURT: 204. It should be loose there in the  
10 book, sir.

11 THE WITNESS: Yes.

12 BY MR. MAUPIN:

13 Q In the third full paragraph it says, "Now therefore  
14 it is resolved that all actions by the majority vote of the  
15 voting members of the company in connection with the  
16 acquisition of the property under the agreement, including,  
17 but not limited to, the execution of necessary escrow and  
18 sales agreements on behalf of the company, and to make all  
19 financial arrangements necessary and proper to purchase the  
20 property, to include making payment of 2,501,026 purchase  
21 price be and the same hereby are ratified, approved, and  
22 confirmed in all respects as being in the best interests of  
23 the company and its members." Is that what it says?

24 A It is.

25 Q Does it happen to have Jennifer Goldstein's DocuSign

1 signature on it?

2 A It does.

3 Q Now, how did this benefit this company?

4 A The property itself was only worth about \$350,000.  
5 NuVeda got the dispensary license. And if you do the  
6 arithmetic, 2.5 million minus 350,000 means that the company  
7 got an asset worth 2.15 million.

8 Q And an option to buy it.

9 A And an option to buy the property itself.

10 Q Is this an interception of a NuVeda corporate  
11 opportunity?

12 A Oh, clearly not.

13 Q And in fact they can buy the property from you for  
14 what you paid for it?

15 A Exactly.

16 Q And again, NuVeda couldn't close in its own name  
17 because when they tried to get financing the bank balked  
18 because of federal regulations that prohibit loans to  
19 marijuana operation?

20 A No. That wasn't the reason. The reason was their  
21 financing fell through.

22 Q Oh. It fell through. So it was the second  
23 financing that encountered difficulties because of the federal  
24 rule -- banking rules?

25 A Yeah. During our efforts to salvage the deal.



1           Q     All right. Now, has there ever been, to your  
2 knowledge, any resolutions within this company, NuVeda,  
3 changing the original percentages?

4           A     Not to my knowledge.

5           Q     And are there any provisions in this operating  
6 agreement that you are aware of that expressly allow removal  
7 of members without notice?

8           A     There's a -- in the operating agreement there's an  
9 expulsion paragraph.

10          Q     Right. And is there anything in that agreement that  
11 provides for expulsion without some sort of notice that  
12 expulsion is somehow agendized before some members of the  
13 company or at a formal meeting?

14          A     No.

15          Q     Does this operating agreement provide for  
16 forfeitures of majority members by a minority member?

17          A     No.

18          Q     Now, talked about the Ivey investment and the  
19 allegations that Dr. Bady somehow ruined it or sabotaged it or  
20 whatever. Did he ruin the Ivey investment?

21          A     I went to a luncheon and --

22          Q     Well, the answer is yes or not.

23          A     No.

24          Q     All right. And so how do you know that?

25          A     I went to a luncheon and met with the financial

1 advisor for Phil Ivey, who told me that Phil Ivey was engaged  
2 in two pieces of --

3 MS. PIKE-TURNER: We have a hearsay --

4 THE COURT: You've got to make the objection. You  
5 can't just look at me.

6 Sustained.

7 BY MR. MAUPIN:

8 Q Sustained. Did Dr. Bady sabotage this agreement?

9 A Sabotage? I'm sorry.

10 Q The Ivey agreement.

11 A I still didn't hear the question.

12 Q Did he sabotage the Ivey agreement?

13 A No, he did not.

14 THE COURT: And this is Phil Ivey the poker player;  
15 right?

16 MR. MAUPIN: Correct.

17 THE COURT: Okay.

18 BY MR. MAUPIN:

19 Q Now, what was the Ivey agreement?

20 A The Ivey agreement was that Phil Ivey would invest  
21 up to \$10 million for a percentage interest in NuVeda. A  
22 portion of it would be capital contribution, and a portion of  
23 it would be loans.

24 Q Did he ever come through with that?

25 A He did not.

1 Q Why is that?

2 MS. PIKE-TURNER: Objection to the extent it calls  
3 for hearsay.

4 THE COURT: And I also don't want you to speculate.  
5 BY MR. MAUPIN:

6 Q Well, do you know why?

7 A Because he had other demands on his capital.

8 Q At least that's what he said?

9 MS. PIKE-TURNER: Your Honor, I move to strike.

10 THE COURT: Sustained.

11 MR. MAUPIN: No, it's not offered for the truth of  
12 the matter. It's just offered here that he said it.

13 THE COURT: Well, but that is the truth of the  
14 matter.

15 MR. MAUPIN: Well, there's the old problem with  
16 the --

17 THE COURT: I know. I had that discussion this  
18 morning with some other lawyers.

19 MR. MAUPIN: All right. Well, let's look at it this  
20 way. It's hearsay. It's the hearsay exception. He was  
21 there, it's inherently reliable, and there is no jury present.

22 MS. PIKE-TURNER: Your Honor, that's not a  
23 recognizable exception to hearsay.

24 THE COURT: Actually, it is. I have to make a  
25 determination as to the reliability in making the assessment

1 as to whether to allow it in. But I don't think it's  
2 reliable. So --

3 MR. MAUPIN: You don't think that what he is saying  
4 is reliable

5 THE COURT: I don't think what Mr. Ivey may have  
6 told him is necessarily reliable.

7 MR. MAUPIN: Well, you know something, I can live  
8 with that. All right.

9 BY MR. MAUPIN:

10 Q So what was Dr. Bady supposed to have done to  
11 sabotage this agreement?

12 MS. PIKE-TURNER: Objection. Calls for speculation.

13 THE COURT: Overruled.

14 THE WITNESS: I have no idea.

15 BY MR. MAUPIN:

16 Q And did Dr. Bady ever tell you about any of this?

17 A Yes. I mean, we discussed the Phil Ivey deal.

18 Q What did he tell you?

19 A He just told me that Phil Ivey wasn't going to be  
20 able to do the investment and we were going to have to look  
21 for new investors.

22 Q Did Shane and Pej disagree at times over proposed  
23 investors?

24 A Not in front of me.

25 Q Did Dr. Bady -- was there anything in this that said

1 that he couldn't disagree with anyone in the company about  
2 potential investors or the vision of the company, for example?

3 A Everybody has a right to disagree.

4 Q That's right. Now, going to the Daniels deal. At  
5 first it was Mr. Terry's testimony that it fell through  
6 because Daniels -- Dr. Daniels objected during his due  
7 diligence to the 2113 arrangement because Dr. Bady was  
8 involved in it. Is that why -- were you aware of anything  
9 like that in terms of why Dr. Daniels backed out?

10 MS. PIKE-TURNER: Objection. Misstates prior  
11 testimony. It was 2113 and 2Prime.

12 THE COURT: Overruled.

13 MR. MAUPIN: Well, there's -- I'm talking about the  
14 first --

15 THE COURT: Wait. Overruled. Let's not argue.  
16 Let's let the witness answer. He either knows or he doesn't  
17 know.

18 BY MR. MAUPIN:

19 Q Go ahead.

20 A Repeat the question, please. I want to make sure --

21 Q All right. Did Dr. Daniels back out of the deal  
22 because he didn't like the fact that Dr. Bady was a member of  
23 the landlord?

24 A No.

25 Q Why did he back out?

1           A       He backed out because he wanted to have control,  
2 veto power over the expenditures of the capital that he  
3 contributed and any future capital that was contributed. He  
4 wanted to be able to determine how that money would be spent.

5           Q       And was anybody in NuVeda hot for that?

6           A       I don't know.

7           Q       Were you willing to sign onto an agreement like  
8 that?

9           A       I was.

10          Q       You were?

11          A       I was. But I'm only 1 percent.

12          Q       Ah. But there's a series of emails that went back  
13 and forth that we could show you, but there's -- the question  
14 is at the time of the Daniels due diligence was Dr. Bady a  
15 member of 2113 Investors.

16          A       No.

17          Q       And that had happened back in February?

18          A       He was no longer a member after February something.

19          Q       Never a member --

20          A       Never what?

21          Q       -- after that?

22          A       After that, no.

23          Q       And does the operating agreement, again, allow  
24 members to lease property to the company and lend money to  
25 them?

1           A       Yes.

2                   THE COURT:   And you're referring to the NuVeda  
3 operating agreement?

4                   MR. MAUPIN:   I'm sorry.   Yes, the NuVeda operating  
5 agreement.

6                   THE WITNESS:   It does.

7 BY MR. MAUPIN:

8           Q       So just to be clear, Dr. Bady was out of 2113 at the  
9 time of the Daniels due diligence?

10          A       Presuming it was after February, yes.

11          Q       And you've already told us how the deal was financed  
12 and the process of the financing.   So we can move on now to  
13 CW arrangement.

14          A       Okay.

15          Q       Are you familiar with it?

16          A       I am.

17          Q       Did you approve of it?

18          A       I did.

19          Q       And what is the status of this agreement?

20          A       There was a letter of intent and a meeting took  
21 place to finalize it and place it into a purchase sale  
22 agreement which was renamed a membership sale agreement.   And  
23 the agreement was signed by Dr. Bady, Dr. Mohajer, and myself.

24          Q       Now, are you familiar with the 4Front letter of  
25 intent proposed?   I guess there's two letters of intent at

1 this point.

2 A I am.

3 Q And what is the status of that proposal?

4 A It has not been accepted.

5 Q Now, why would you favor one of these agreements  
6 over another?

7 A The biggest problem with these agreements are debt  
8 service. The 4Front agreement makes no capital contribution,  
9 but requires repayment of loans with substantial interest  
10 rates. And if the loans aren't repaid, then the forfeiture of  
11 the assets of the LLC take place.

12 The CW deal requires no -- has no loans associated  
13 with it, requires investment by CW, and ultimately results in  
14 an income stream to NuVeda that -- without the risk of putting  
15 the company up if it doesn't meet the requirements.

16 Additionally, it has performance requirements on CW.  
17 And if CW doesn't meet those performance requirements, they  
18 have to fund the deficiency of the consequences of not meeting  
19 those performance requirements.

20 Q Why does NuVeda need an agreement like this at this  
21 point?

22 A At this point NuVeda only has -- has no tangible  
23 assets except the licenses. And it has significant debt, and  
24 there have not been any proposals that would fund the company  
25 moving forward, with the exception -- so that's why it would



1 be a good idea for them to partner up with somebody like CW,  
2 who already has operating cultivation centers and operating  
3 dispensaries.

4 Q What is the main concern you have with the 4Front  
5 LOI in terms of the ability to go forward after the initial  
6 financing?

7 A Debt service.

8 Q And again, what is the concern with that?

9 A Well, there's no -- there's no requirement for  
10 performance on 4Front. So if the schedule for starting to  
11 market and -- starting to bring to market all of the plans  
12 that they have are delayed, the adverse consequences of that  
13 fall on NuVeda, not on 4Front.

14 Q All right. How would it -- based upon what you know  
15 from the 4Front LOI, how long would it take them to get up  
16 into a position where the financing was in place and they were  
17 starting to build out infrastructure?

18 A There's no specified time, but my guess would be  
19 that it would be a substantial period of time.

20 Q Would it mean -- could all this be done by the  
21 current deadlines that have been set for the infrastructure  
22 being in place and operation?

23 A Well, there's a due diligence period of one month  
24 from the time that the agreement's finalized. So just taking  
25 that -- we're now in January. Taking that one month, the

1 construction estimates on Third Street are that if we started  
2 today we'll have a very difficult time being finished in  
3 April.

4 Q All right. Now, there's a Website that the State  
5 came out with that says, well, we may not -- we might not  
6 enforce these deadlines if everybody is in good faith moving  
7 forward with their infrastructure and that sort of thing. Is  
8 that an official movement of the deadlines for these  
9 infrastructures to be placed?

10 A No, it's not.

11 Q It's just a statement that they're going to at least  
12 look at these infrastructures and see how it's coming?

13 MS. PIKE-TURNER: Objection, Your Honor. This  
14 misstates the missive from the government and calls for  
15 speculation.

16 THE COURT: Overruled. You can answer, sir.

17 THE WITNESS: I think that if you have -- you're in  
18 the final stages of construction or you have made substantial  
19 progress on it that it would be reasonable for the State and  
20 the local entity, the local government to extend it.

21 BY MR. MAUPIN:

22 Q But that's the trick. The word is "substantial,"  
23 and there's -- that subsumes good faith. That's not a --  
24 that's not a guarantee, that's a subjective analysis, isn't  
25 it?

1           A     Yes, it is.

2           Q     Does the CW agreement purport to sell membership  
3 interests in NuVeda?

4           A     No.

5           Q     And why is that?

6           A     Because NuVeda will be transferring to its  
7 subsidiary LLCs to a new entity called CW NV. And CW NV will  
8 be owned 35 percent by NuVeda and 65 percent by CW.

9           Q     Okay. So this isn't a sale of interests, membership  
10 interests, but it's an asset purchase arrangement; correct?

11          A     Correct.

12          Q     And this agreement was approved by a vote of you,  
13 Dr. Bady, and Dr. Mohajer; correct?

14          A     Correct.

15          Q     That's more than 60 percent of the membership  
16 interests?

17          A     According to the operating agreement, yes.

18          Q     Now, does the CW agreement benefit all the members?

19          A     I believe so. If it benefits one, it should benefit  
20 all.

21          Q     And a lot of that is that the company needs this  
22 agreement, doesn't it, in order to get operational?

23          A     I believe with the position we're in timewise it's  
24 the only option that will allow the company to reach the goals  
25 of getting to market and retaining their licenses.

1           Q     Where would the CW agreement leave CW and NuVeda in  
2 terms of their position in the Nevada medicinal marijuana  
3 industry?

4           A     They probably will have the most -- the largest  
5 presence.

6           Q     Now, do you have any comments about the testimony  
7 you've heard from Mr. Terry while you were -- before you were  
8 excluded from the courtroom?

9           A     I don't know quite how to answer that question.

10          Q     Pick your two best.

11          A     Well, there are a couple of issues.

12               MS. PIKE-TURNER: Your Honor --

13               THE COURT: And your objection is?

14               MS. PIKE-TURNER: -- objection. Calls for a  
15 narrative.

16               THE COURT: Overruled. So, sir, I gather he is  
17 asking you if you disagree with anything Mr. Terry stated  
18 during the testimony you actually heard.

19 BY MR. MAUPIN:

20          Q     Rather than to go through the myriad statements that  
21 he made, we're only asking for two.

22          A     Well, the first thing is that the 2113 building on  
23 Third Street, Mr. Terry signed as the owner of the property an  
24 agreement, and the building was destroyed during the  
25 construction process, which the first time I heard about it

1 was when the building was already on the ground, completely  
2 destroyed.

3           The second thing is that he said that the efforts  
4 have been made to get the dispensaries going. But actually no  
5 progress has been made in all these months, and the North Las  
6 Vegas facility has been totally ignored. So I didn't -- I  
7 don't think that the best efforts were made, although he  
8 characterized it as having tried.

9           Q     And what has his success been in raising money for  
10 the company?

11          A     Well, the only money that has come into this company  
12 has come through Dr. Bady. If you're talking about NuVeda.

13          Q     Correct.

14          A     NuVeda. The only money that's come in that I know  
15 of has come through Dr. Bady and his fundraising efforts to  
16 borrow on a temporary basis or with promises of future  
17 membership. And those funds have come in and have been spent.  
18 I don't think they've been spent wisely, which is why Dr.  
19 Daniels wanted to have veto control over all of the  
20 expenditures that would be made.

21          Q     What happens if the CW agreement somehow fails or is  
22 unwound?

23          A     NuVeda fails.

24          Q     And that's not particularly helpful to Mr. Terry, is  
25 it?

1           A       I would hope that all of the members would want the  
2 best for the company.

3                               (Pause in the proceedings)

4       BY MR. MAUPIN:

5           Q       All right. Do you know what a conspiracy is?

6           A       Yes.

7           Q       What is it?

8           A       It's a agreement between two people to accomplish  
9 something that is nefarious.

10          Q       Illegal or to harm someone else?

11          A       To harm someone else.

12          Q       Did the tax situation harm anyone?

13          A       No. The tax situation complied with the law, and  
14 ultimately the amendment corrected a defect in the initial  
15 return.

16          Q       Are you aware of any conspiracy between Dr. Mohajer  
17 and Dr. Bady to sabotage various deals brought to the company  
18 by Mr. Terry?

19          A       I am not.

20          Q       Was -- the result of the negotiations of the Daniels  
21 deal, which is it fell apart, is that a product of a  
22 conspiracy by anybody?

23          A       I know that Dr. Bady made every effort he could to  
24 facilitate that deal. He even flew to Buffalo to meet with  
25 Dr. Daniels to try to negotiate an agreement that Dr. Daniels

1 could accept.

2 Q But was there any conspiracy with -- was Dr. Mohajer  
3 at all involved in that?

4 A Not at all.

5 Q So has Dr. Mohajer conspired to enter into an  
6 agreement that's going to ruin the company, which would be the  
7 CW agreement?

8 A No.

9 Q Because the CW agreement wouldn't ruin the company,  
10 would it?

11 A It will not.

12 Q And in fact it will save it?

13 A It will.

14 Q Now -- all right. Just a few more questions.

15 Did you have a meeting with both of these plaintiffs  
16 on December 2nd of this year?

17 A Yes.

18 Q And did you discuss the issue of expelling Dr. Bady  
19 and Dr. Mohajer with them?

20 A I did.

21 Q And what were you trying to convey to them about  
22 that?

23 A I sent an email to Shane Terry asking him to meet  
24 with me, because I thought he had a misunderstanding about the  
25 position that he was taking. And we have always had a

1 congenial relationship, and we agreed to meet. And he asked  
2 me if Ms. Goldstein could join him. And I said she was more  
3 than welcome. So we met at Island Style Restaurant, which I  
4 picked because I knew Mr. Terry had a Hawaiian background and  
5 wanted something that he would like. And we met there, and we  
6 had a very congenial discussion about the state of NuVeda and  
7 where things were.

8 Q And -- but did you discuss with them the issue of  
9 trying to expel these two members?

10 A We did.

11 Q And what did that discussion entail?

12 A I said to them, you can't group members and vote on  
13 them separately -- you know, jointly with the minority and  
14 eject them, because it's not -- it's just not a business  
15 practice that's tolerable. You know, when I'm buying  
16 companies if I want to buy 50 percent of the company, it's one  
17 price. If I want 51 percent, it's a much higher price,  
18 because I will have control. And this control, you know, is  
19 something that has great value.

20 Additionally, as I read the agreement, a  
21 disinterested member can be voted on at any time by the  
22 interested parties, but a -- you can't group them together.  
23 So I expressed this opinion to them, and Ms. Goldstein told me  
24 that they have the -- that they have a legal theory that  
25 allows them to do it. And she didn't share the theory with



1 me, but that pretty much ended the discussion.

2 But I thought that at the meeting that I would  
3 dissuade them from proceeding. But I left the meeting  
4 convinced that they would not be dissuaded.

5 Q So what has to happen, to your knowledge, before a  
6 person can be at least the subject of an inquiry as an  
7 interested person and then voted on by the company?

8 A Well, somebody in the company, any member, has to  
9 perceive a malevolent action by one of the other members.

10 Q Correct. And the theory here is that they've  
11 conspired to violate the tax code, they violated -- conspired  
12 to enter into this self dealing arrangement involving 2113,  
13 and allowed -- and sold memberships and transferred  
14 memberships without telling the rest of the company. That's  
15 the primary claims in the case. Any of that happen?

16 A Not to my knowledge.

17 Q And you were in a position to know that, weren't  
18 you?

19 A I am.

20 Q Now, at this last meeting did any one of the two of  
21 them make a statement about what they would do in the event  
22 they did not get control of the company?

23 A Yes.

24 Q And did Mr. Terry make a statement like that?

25 A He did.

1 Q And did Ms. Goldstein make a statement like that?

2 A She did. And it was in response --

3 Q What did Mr. Terry say?

4 A Well, it was in response to a question.

5 Q What was the question?

6 A The question was, if you guys do not prevail on this

7 would you rather see the company crash and burn than give the

8 company back to the -- to Pej and Pouya, which are Dr. Bady

9 and Dr. Mohajer. And they answered in the affirmative, they

10 would rather see it go under than see it go back to them.

11 Q Now, yesterday Mr. Terry adamantly denied that that

12 happened. Now, do you have any reason at all why you would

13 lie about that?

14 A No.

15 Q You just have 1 percent of the company; correct?

16 A Correct.

17 Q And there's a deal pending that seems to be workable

18 for you?

19 A The CW deal?

20 Q Right.

21 A Yes.

22 Q And so do you have -- because they're minority

23 members, do you have any axe to grind against either one of

24 them?

25 A I like both of them.

1 MR. MAUPIN: No further questions.

2 THE COURT: Sir, I have a couple of questions before  
3 we go to the next group of people.

4 When you reviewed the CW deal did you look at the  
5 exhibits to it?

6 THE WITNESS: Yes. I was present for all of the  
7 negotiations. I went to Brian Padgett's office, and we  
8 reviewed it.

9 THE COURT: How did the determination -- how was the  
10 determination made as to which obligations and the amount of  
11 which obligations would be included in that agreement to be  
12 paid by CW?

13 THE WITNESS: CW's president is a man named Jason  
14 Thompson. We sat with Jason Thompson and went through all of  
15 the payables, that Exhibit A. And he decided that they would  
16 pay up to -- it didn't say they would pay the full amount, but  
17 up to 1.5 million of the current debts of NuVeda. And we went  
18 through them and decided whether they were negotiable or  
19 fixed. And that's basically how it was done.

20 THE COURT: And you were involved in that  
21 discussion?

22 THE WITNESS: I was.

23 THE COURT: Can you tell me how the obligation of  
24 the loan that Dr. Bady took from Dr. Golpa was included in  
25 that?

1 THE WITNESS: It was excluded.

2 THE COURT: Why do you think it was excluded?

3 THE WITNESS: Because the 1.5 million -- if you take  
4 the numbers and subtract that loan and the other loan for  
5 Apex, you come to approximately 1.5 million.

6 THE COURT: So you think it was excluded?

7 THE WITNESS: I do.

8 THE COURT: Okay. Hold on. Which exhibit is it,  
9 guys? Because I had it as Exhibit 20 to the original  
10 opposition.

11 MS. PIKE-TURNER: It's Exhibit 21, Your Honor.

12 THE COURT: Okay. Sir, if you'll turn in the black  
13 book to Exhibit 21 and go to the last page.

14 THE WITNESS: Yes, ma'am.

15 THE COURT: No, it's not 21.

16 MR. DUSHOFF: 22.

17 THE COURT: Go to 22 and turn to the last page.  
18 This is the chart you were involved in negotiation with Mr.  
19 Thompson?

20 THE WITNESS: Yes.

21 THE COURT: Okay. See where it says on the top  
22 "NuVeda Loans Payable"?

23 THE WITNESS: Oh. It must be over here on 21.

24 MS. PIKE-TURNER: It's 21 in the black book, and 22  
25 in the -- or --

1 THE WITNESS: 21 in the white book, huh?

2 MS. PIKE-TURNER: Yes, 21 in the white book, 22 in  
3 the black.

4 THE WITNESS: I have the page you're referring to,  
5 Your Honor.

6 THE COURT: This chart?

7 THE WITNESS: Yes.

8 THE COURT: Do you have the one with the initials on  
9 it dated 12/6/15?

10 THE WITNESS: That's my initial.

11 THE COURT: Okay. So the top two items, which are  
12 names of creditors, I have Gregory Daniel, who's Dr. Daniel  
13 we've been referring to, and Golpa. Do you know how those  
14 were decided to be included as part of the obligations that CW  
15 would pay?

16 THE WITNESS: Your Honor, if you look at the  
17 adjusted liquidities -- liabilities on the bottom, it's about  
18 600,000 more than the 1.5 million. The 2.1, 2 million, my  
19 understanding was that the reason it was 1.5 million is the  
20 Mehjed Golpa loan was going to be excluded.

21 THE COURT: But it doesn't look like it's excluded  
22 on this document, does it?

23 THE WITNESS: Well, if you look -- if you look at  
24 the rest of the document, which says 1.5 million maximum, it  
25 obviously is excluded. It's the only -- it's the only item

1 that would make it 1.5 million.

2 THE COURT: Okay. So you don't think that the  
3 1.5 million was how much you guys thought you could negotiate  
4 the 2.1 down to?

5 THE WITNESS: Well, by excluding Dr. Golpa's loan  
6 you arrive at the 1.5 million, more or less.

7 THE COURT: Okay. When you decided to do the  
8 amended K-1s --

9 THE WITNESS: Yes, ma'am.

10 THE COURT: -- did you have a discussion with Mr.  
11 Terry about what amendments were actually being made to the K-  
12 1s?

13 THE WITNESS: Yes.

14 THE COURT: All right. What did you discuss with  
15 him?

16 THE WITNESS: I told him that the -- that Pouya did  
17 not make the cash contributions. When we tried to cash when  
18 we're preparing the return we could see the cash flow that  
19 came into the company, but we couldn't tell where the cash  
20 flow was coming from. We could see the disbursements and  
21 decide whether they were expenses or capital expenses very  
22 easily, because we knew who the payees were. But we didn't  
23 have the contributors. So when we were allocating the losses  
24 we allocated them based on a discussion that was had with the  
25 bookkeeper and with several of the members. I think Shane was

1 one of the members who I discussed it with. And his  
2 contribution was approximately \$120,000. And that was --  
3 which I didn't -- which I didn't know at the time, but that  
4 was through a loan from Dr. Bady. But still, he still had the  
5 contribution of 120,000, which matched approximately the  
6 20 percent that he was allocated. It was 126,000, because I  
7 believe he contributed other expenses and things like that.

8           So then the balance that was remaining could only  
9 have come from Dr. Mohajer and Dr. Bady, because they were the  
10 only other people who contributed funds to the company. So  
11 when we -- and we allocated those evenly, because at the time  
12 I believe Dr. Mohajer was not participating in the discussion,  
13 he just said, whatever, you know, whatever it comes out comes  
14 out. And so we divided that evenly. When he finally looked  
15 at his K-1 I guess when he was preparing to do his 1040 tax  
16 return he decided that that amount was not what he had  
17 contributed and so he requested the change.

18           THE COURT: So when that change was requested did  
19 you have a discussion with Mr. Terry about the change?

20           THE WITNESS: I did. I did.

21           THE COURT: And what was the discussion you had with  
22 Mr. Terry?

23           THE WITNESS: My discussion was how to allocate Dr.  
24 Mohajer's share. And he said that his 20 percent was on  
25 target, it was exactly right. So the only other contributor

1 was Dr. Bady. So when we issued the K-1s we left Mr. Terry's  
2 K-1 the same, we made Dr. Mohajer's K-1 zero for the losses,  
3 and we put the rest -- the balance of the losses on Dr. Bady's  
4 tax return.

5 THE COURT: Okay. Did you want to -- anybody on  
6 this side want to go before --

7 MR. DUSHOFF: Well, I know have something in one  
8 minute, Your Honor, in front of you.

9 THE COURT: Oh. That's right. Where's Mr.  
10 Hymanson?

11 We're going to take a short break. Mr. Hymanson  
12 showed up a half hour early. We're going to have some sort of  
13 discussion about some issue on a case called Fortunet.

14 (Court recessed at 10:59 a.m., until 11:09 a.m.)

15 THE COURT: Sir, are you ready?

16 THE WITNESS: I am.

17 THE COURT: All right. Did you want to ask some  
18 more questions given what I asked?

19 MR. MAUPIN: Well, there's just a couple of  
20 clarifications.

21 THE COURT: That's fine.

22 FURTHER DIRECT EXAMINATION

23 BY MR. MAUPIN:

24 Q On the exhibit to the CW agreement that's Exhibit  
25 Number -- exhibit for the hearing purposes 23 in the black



1 book.

2 THE COURT: I show it as 22 in the black book.

3 MR. MAUPIN: I may have been standing too far from  
4 it. All right. May I approach the witness?

5 THE COURT: You may.

6 BY MR. MAUPIN:

7 Q Mr. Kennedy, if you'll turn to the last page of the  
8 exhibits that you've been talking about with regard to the  
9 loans.

10 A This page. Yes.

11 Q This is Exhibit -- what exhibit is this to the  
12 agreement? It's the debt exhibit, Schedule 2.

13 MR. MAUPIN: Your Honor, I'm going to try --

14 THE COURT: You're welcome to stay up there as long  
15 as you keep your voice up.

16 BY MR. MAUPIN:

17 Q All right. With regard to this table, which part of  
18 this table was prepared by NuVeda? Isn't it true that the --  
19 there's a "Comments" side, and everything to the left of that  
20 is -- was prepared by NuVeda? Is that correct?

21 A That's true.

22 Q And who prepared that? Who provided that?

23 A Dr. Bady.

24 Q All right. Now, on the column there with regard to  
25 the Dr. Golpa loan it says, "Personal loan to Pej. Why wasn't

1 this a NuVeda loan? How was the money used?" And that's in  
2 the larger bracket on the side.

3 A I see that.

4 Q Now, those are comments that are added to this  
5 exhibit by CW?

6 A By Mr. Thompson, yes.

7 Q By Mr. Thompson. All right. So now, with the loan  
8 of 600,000 what is the total debt structure at the bottom of  
9 the page?

10 A 2.192, I think.

11 Q All right. What is 2.192 minus six hundred?

12 A Approximately 1.592.

13 MR. MAUPIN: All right. That's all the questions I  
14 have.

15 THE COURT: All right. Thank you.

16 Mr. Dushoff.

17 CROSS-EXAMINATION

18 BY MR. DUSHOFF:

19 Q Mr. Kennedy, turn to Exhibit 37, if you can, please.

20 A Okay. I think that's up here.

21 Q Marked "Option Agreement."

22 A Right.

23 MR. DUSHOFF: May I approach your clerk, Your Honor?

24 THE COURT: You can.

25 (Pause in the proceedings)

1 BY MR. DUSHOFF:

2 Q You testified on direct examination regarding this  
3 option agreement; correct?

4 A I did.

5 Q And that was an option agreement between you and Dr.  
6 Bady regarding 2113; is that accurate?

7 A That's correct.

8 Q And Dr. Mohajer was not part of this option  
9 agreement; is that correct?

10 A That's correct.

11 Q This option agreement was entered on February 25th,  
12 2015; is that right?

13 A That's right.

14 Q Was the option, the \$1 option ever effectuated by  
15 Dr. Bady?

16 A No.

17 Q Why not?

18 A We were unable to get the financing with his  
19 personal guarantee and my personal guarantee because of the  
20 uses of the property.

21 MR. DUSHOFF: Can I have this marked as -- what are  
22 we, 207?

23 MR. AIELLO: 208.

24 MR. DUSHOFF: If I may.

25 THE COURT: You may. And then could you hand copies

1 to your colleagues.

2 MR. DUSHOFF: Absolutely.

3 THE COURT: And please remember, Mr. Dushoff, give  
4 the one with the sticker to the witness.

5 BY MR. DUSHOFF:

6 Q I want to show you what has been marked as  
7 Exhibit 208.

8 MR. DUSHOFF: I'm going to ask if there are any  
9 objections.

10 THE COURT: Anybody object to 208's admission?

11 MS. PIKE-TURNER: Lack of foundation. But so long  
12 as he --

13 THE COURT: Okay. So let's lay some foundation.

14 MR. DUSHOFF: Sure. Absolutely.

15 BY MR. DUSHOFF:

16 Q I want to show you what has been marked as  
17 Exhibit 208? Do you recognize this exhibit?

18 A I do.

19 Q What do you recognize this exhibit to be?

20 A This exhibit is an agreement -- an amendment to an  
21 agreement that Pej and I signed because --

22 Q Without telling the cause of it, that's what it is.

23 A Okay. That's fine.

24 Q And is this a fair and accurate copy of that  
25 agreement?

1           A     It is.

2           Q     Okay. You see a signature line down on the bottom?

3   It says "Joseph Kennedy"?

4           A     Yes.

5           Q     Okay. Is that your signature?

6           A     Yes.

7           Q     Okay. Were you present when that was signed, or is

8   this DocuSigned?

9           A     I was present when it was signed.

10          Q     It was -- Valerie Kennedy, is that your wife?

11          A     Yes.

12          Q     Okay. Was she present, or was this DocuSigned?

13          A     She was present.

14          Q     Okay. Were all parties present at the same time

15   when this was signed?

16          A     Yes.

17               MR. DUSHOFF: I move in Exhibit 208 for evidence.

18               THE COURT: Any objection?

19               MS. PIKE-TURNER: No.

20               THE COURT: Be admitted.

21               (Defendant Bady's Exhibit 208 admitted)

22               THE COURT: Can I have a copy.

23               MR. DUSHOFF: Yes, you may. Got one left.

24               THE COURT: Thank you. I appreciate that, Mr.

25   Dushoff. Lovely. Thank you.

1 BY MR. DUSHOFF:

2 Q In Exhibit 208 the amendment to the membership  
3 interests and the option agreement, that refers to Exhibit 37;  
4 is that accurate?

5 A That's correct.

6 Q Okay. And what does this document, Exhibit 208,  
7 show?

8 A What it shows is that the option to become a member  
9 for \$1 that Dr. Bady had was rescinded.

10 Q Okay. And I think you previously testified it was  
11 rescinded because Dr. Bady couldn't get the funding.

12 A We couldn't find a bank that would lend on our  
13 signatures and the properties that were the subject properties  
14 because of the medical marijuana use of the properties. So I  
15 pledged my personal -- my other properties, which were Nevada  
16 and California properties, to secure the long-term financing,  
17 and then Dr. Bady no longer had a role.

18 Q Exhibit 37 gave the opportunity for Dr. Bady to  
19 literally reach into his wallet, pull -- I got nothing -- pull  
20 out a dollar bill, give it to you, and have 50 percent  
21 interest in 2113; is that accurate?

22 A Not completely, but yes.

23 Q When you say not completely what do you mean?

24 A This would only go into effect if he was responsible  
25 for half of the liabilities associated with the properties.

1           Q     And at no time from the signing of Exhibit 37, the  
2 option agreement, up until the Exhibit 208 that was signed in  
3 August, at no time did Dr. Bady ever try and execute on this  
4 option agreement?

5           A     He never gave me a dollar, no.

6           Q     You said you had a meeting with Mr. Ivey, is that  
7 accurate --

8           A     No.

9           Q     -- regarding the investments in NuVeda?

10          A     No.

11          Q     Okay. You never -- did you have a meeting with his  
12 people?

13          A     Yes.

14          Q     Now, who were his people? And we always say people,  
15 but who were they?

16          A     That was a gentleman named Cleve.

17          Q     Okay. Who's Cleve?

18          A     He's an attorney who represents his financial  
19 interests.

20          Q     Okay. And did Cleve have the authority to meet with  
21 you, or did he tell you he had the authority to meet with you  
22 regarding the investment of Phil Ivey into NuVeda?

23          A     He didn't meet with me. He met with Shane Terry,  
24 and I was present at the meeting.

25          Q     But you were there when Shane Terry and Cleve met?

1           A     Yes.

2           Q     Okay. Did you have any input in that meeting?

3           A     Yes.

4           Q     And what was your input in that meeting?

5           A     Well, my input was that I was interested in finding  
6 out what the actual funding schedule would be, because I could  
7 -- I was looking ahead in normal business practice at the  
8 demands, the financial demands on the company, and I wanted to  
9 know when the contributions that were scheduled would be made.

10          Q     And that was the contribution regarding Phil Ivey?

11          A     Yes.

12          Q     All right. Without telling me what was said at that  
13 meeting, because I don't want a hearsay objection, what was  
14 the outcome of your meeting with Phil Ivey's people with  
15 Cleve?

16          A     My conclusion was that they were not going to do the  
17 investment.

18          Q     They meaning Phil Ivey?

19          A     Phil Ivey.

20          Q     I want to direct your attention to 4Front. Mr.  
21 Terry testified specifically -- you don't know this, so I'm  
22 going to tell you -- specifically on direct yesterday that  
23 there are no 4Front options in which Dr. Bady and Dr. Mohajer  
24 would have to be removed in order to do the 4Front deal. Is  
25 that true?



1           A     I don't know.

2           Q     Okay. I want to show you Exhibit 131. If you can

3 go to that, please.

4           A     That's the black book, or the white book?

5           THE COURT: It should be in the black book.

6           THE WITNESS: In the black book. Okay. So it's

7 going to be 31.

8           THE COURT: I'm sorry. The white book. The smaller

9 book.

10          THE WITNESS: Okay.

11 BY MR. DUSHOFF:

12          Q     I think the one on your --

13          A     I see 131. Yes.

14          Q     Okay. This is an email to Shane from -- do you know

15 anybody at 4Front?

16          A     No, I do not.

17          Q     Okay. This is 4Front -- did you ever see this

18 document before?

19          A     I have not.

20          Q     Okay. Why don't you take a look at it.

21          A     Okay.

22          Q     And when you're done just look up.

23          A     Okay.

24          Q     Okay. And I relay to you that this is a document --

25 email sent -- letter sent from 4Front, representative of

1 4Front to Shane. And I want to direct your attention to the  
2 second paragraph we discussed, various structures.

3 A Right.

4 Q Okay. And specifically we discussed various  
5 structures. So to you that would mean that there are various  
6 structures of the 4Front deal that would be included with  
7 NuVeda; is that correct?

8 A Correct.

9 MS. PIKE-TURNER: Objection. Calls for speculation.

10 THE COURT: Sustained.

11 BY MR. DUSHOFF:

12 Q It says, "One structure for consideration is for  
13 NuVeda Holdings to issue note in exchange for all equity," all  
14 equity, "interests from the two of the founders." Who were  
15 two of the founders of NuVeda?

16 A Jennifer Goldstein and Shane Terry.

17 Q How about Dr. Bady?

18 A Dr. Bady's also a founder.

19 Q And how about Pouya?

20 A He's also a founder.

21 Q So for this -- in this paragraph are you aware --  
22 and if you're not, that's fine -- are you aware whether 4Front  
23 was talking about the removal of Dr. Bady and Dr. Mohajer in  
24 order to execute a 4Front deal?

25 A I am not aware.

1           Q     Mr. Terry testified that Dr. Bady was solely removed  
2 from 2113 because he himself approached Dr. Bady and told him  
3 and said, hey, you need to get out of 2113, that's an issue.  
4 Is that an accurate statement?

5           A     Not from my perspective. It was all monetary.

6           Q     What do you mean by it was all monetary.

7           A     Who had the investment in 2113.

8           Q     What do you mean by that?

9           A     When I paid off the short-term loans and pledged my  
10 property and borrowed the money to pay those loans Dr. Bady no  
11 longer had a role for 2113. He no longer had an investment in  
12 it. So it was logical to exclude him from the company, for  
13 him to leave.

14          Q     So it had nothing to do, in your opinion -- in your  
15 opinion, why you and Dr. Bady split ways was because of the  
16 money that he couldn't raise for it?

17          A     Yes.

18               MR. DUSHOFF: I have nothing further at this time.

19               THE COURT: Thank you.

20               Cross-examination?

21                               CROSS-EXAMINATION

22 BY MS. PIKE-TURNER:

23          Q     'Morning.

24          A     Good morning.

25          Q     When you met with Counsel to prepare for providing

1 testimony here today who was present?

2 A I don't understand the question.

3 Q When you talked with Counsel in preparation for your  
4 testimony who was present?

5 A I had a meeting with Justice Maupin, and he was the  
6 only person who was present when I met with him.

7 Q He prepared you for providing your testimony here?

8 A He did.

9 Q Okay. Now, Mr. Kennedy, you're familiar with the  
10 operating agreement; correct?

11 A Correct.

12 Q And it says that you were granted a 1 percent  
13 membership interest in exchange for you putting up 3 million  
14 in credit; correct?

15 A Correct.

16 Q And that was interest that did not vest until  
17 certain requirements were met; right? It wasn't vested  
18 originally?

19 A Originally it wasn't.

20 Q Now, you testified you believe you vested; correct?

21 A I did.

22 Q And you believe you vested because you attended a  
23 meeting where it was discussed?

24 A Yes.

25 Q Did you see an action consent in writing?

1           A       I've never seen anything in writing from the  
2 meetings.

3           Q       Okay. Now, you walked out of the meeting thinking  
4 that your membership interest vested. Do you recall whether  
5 Jennifer Goldstein objected to you being a member?

6           A       No.

7           Q       Okay. Now, do you recall that defendants Pouya  
8 Mohajer and Pej Bady treated you like you were a voting  
9 member?

10          A       Yes.

11          Q       Now, would you expect that if they were to  
12 communicate with the State they would disclose that you had an  
13 interest in NuVeda?

14          A       It's been in the operating agreement since it was  
15 first written.

16          Q       And would you expect that it would be disclosed to  
17 third-party investors that you had a voting interest?

18          A       I would.

19          Q       Based on you coming out of the meeting where your  
20 vesting was discussed?

21          A       Yes.

22          Q       And that's regardless of whether there was a written  
23 action item, written action consent?

24          A       Well, there were things in writing. I mean, we did  
25 -- we did do the -- when we did the offering to the State in

1 the application process I gave the note. So --

2 Q But the fact that you believed that you vested, your  
3 1 percent vested, you didn't see any meeting minutes  
4 reflecting that?

5 A I haven't seen meeting minutes except for one  
6 meeting.

7 Q And you haven't seen any action consent item where  
8 there's DocuSign signatures; correct?

9 A That's correct.

10 Q So it's been your observation that things were done  
11 by casual agreement and then you moved forward based on that  
12 casual agreement, sitting around a table?

13 A I never really gave a lot of thought to the  
14 1 percent, and -- but when I attended meetings I always voted.

15 Q Now, if you go to Exhibit 204 -- pardon me. I have  
16 the wrong one. 37, the option agreement.

17 A Okay.

18 Q In this option agreement the first recital --  
19 Do you know what a recital is?

20 A Yes.

21 Q Okay. That first recital, it says, "The parties to  
22 this agreement executed a membership interest exchange  
23 agreement. It is dated the same date as this option  
24 agreement, February 25th, 2015"; correct?

25 A Yes.

1           Q     And Pejman Bady transferred, assigned, and sold to  
2 you, Joe Kennedy, the Bady 2113 interest; right?

3           A     Yes.

4           Q     And then you transferred, assigned, and sold to Pej  
5 Bady the Kennedy NuVeda interest; correct?

6           A     Correct.

7           Q     Okay. And is it your position that from February to  
8 August that was the case, and then in August that was all  
9 rescinded?

10          A     Yes.

11          Q     Did you provide a copy of this option agreement to  
12 general counsel for NuVeda, Jennifer Goldstein?

13          A     I don't recall.

14          Q     Did you provide a copy of the option agreement to  
15 the CEO, Shane Terry?

16          A     I don't recall.

17          Q     Do you recall having any discussion with Shane Terry  
18 or Jennifer Goldstein regarding the existence of this option  
19 agreement?

20          A     Yes.

21          Q     And when was that?

22          A     Between February and August.

23          Q     And it's your position that you disclosed the  
24 details of this option agreement?

25          A     The reason that I had the discussions with Mr. Terry

1 were that I was telling him about the financing, what was  
2 going on with the financing for the property.

3 Q Did you advise Mr. Terry that there was the  
4 existence of an option agreement during that discussion?

5 A I thought he knew about it.

6 Q My question is did you tell him about the existence  
7 of the option agreement, or did you assume he knew about it?

8 A I assumed he knew about it.

9 Q And you assumed that Pej Bady told him about it?

10 A Actually, there was quite a bit of transfer of  
11 documents and discussion when we were doing the leases, and  
12 this was subsequent to that -- or at that same time period  
13 when we were doing the leases, and I just assumed that he knew  
14 that this existed.

15 Q Now, this Exhibit 208, where there's an amendment to  
16 this membership interest exchange agreement, which --

17 A Yes.

18 Q -- I've never seen, and the option agreement, when  
19 did Pej Bady, you, and your wife sit down and sign this  
20 document?

21 A On the date that -- sometime in August.

22 Q Okay. And it's your testimony that the reason for  
23 this amendment is that you bought out the loans that had been  
24 obtained by Pej Bady? Is that right?

25 A That's not what I said.



1 Q Okay. Let me back up so that I understand.

2 A Okay.

3 Q When 2113 Investors was -- when they purchased the  
4 property at 2113 Las Vegas Boulevard, that was funded with Pej  
5 Bady having a financial obligation and you having a financial  
6 obligation; correct?

7 A That's correct.

8 Q And that was in December 2014?

9 A Yes.

10 Q And then subsequent to closing you came forward with  
11 your own financial wherewithal to buy out Mr. Bady's financial  
12 position; is that correct?

13 A Well, there was another step in between, which was  
14 the purchase of Third Street. And we were negotiating with a  
15 bank in Wisconsin to lend money on both properties. And when  
16 the time came to fund the property for Third Street the bank  
17 came to us through their general counsel, and he told us that  
18 they wouldn't lend money on anything involved in the medical  
19 marijuana business. So in order to close Third Street I  
20 pledged I think four properties that I had in Las Vegas that  
21 were free and clear. And they lent us the money to -- they  
22 lent me the money to buy Third Street. At that time it became  
23 clear they couldn't lend us the money to pay back the short-  
24 term loans for the North Las Vegas acquisition, so I started  
25 sending them property profiles of other properties that I was

1 proposing to substitute to get some long-term financing, and  
2 they eventually agreed and accepted two properties. And those  
3 properties were both in California. So I then pledged those  
4 properties, got a loan from Farmers and Merchants Bank in  
5 Wisconsin, and paid back Pej's BM Partners, an LLC, who then  
6 paid off his loans.

7 Q So Pej Bady contributed towards the initial purchase  
8 of 2113, the property, through 2113 Investors LLC; correct?

9 A Correct.

10 Q And then subsequent to that through your efforts of  
11 getting financing and using your properties you repaid Pej's  
12 loans back?

13 A And my own.

14 Q Okay. Now, did you have any discussion or written  
15 communication with general counsel Jennifer Goldstein  
16 regarding Pej Bady funding the acquisition of 2113 Investors?

17 A Did I have any communication with her?

18 Q Any communication.

19 A No.

20 Q And same question with Shane Terry. Prior to  
21 closing escrow with the use of Pej Bady and your funds did you  
22 have a discussion or a written communication with Shane Terry  
23 disclosing that 2113 Investors was going to close with your  
24 funds and Pej Bady?

25 A Well, he was with Pej, I believe.

1 Q That's not my question. Did you have --  
2 A Did I have any direct --  
3 Q Yes.  
4 A -- communication with him? No.  
5 Q And your testimony earlier was that Pouya Mohajer  
6 executing the documents to facilitate the assignment from  
7 NuVeda to 2113 Investors so that 2113 Investors could close  
8 escrow in lieu of NuVeda, that that was authorized pursuant to  
9 the action by written consent set forth at Exhibit 204?  
10 That's your testimony; correct?  
11 A That's my testimony, yes.  
12 Q All right. If you can go to that Exhibit 204, sir.  
13 A Okay. Okay.  
14 Q All right. And there's no dispute that this action  
15 by written consent is executed by Jennifer Goldstein, Pouya  
16 Mohajer, and Pejman Bady. Do you see that?  
17 A I see that.  
18 Q Now, where in that action by written consent is  
19 there any mention of 2113 Investors LLC?  
20 A There's not in --  
21 Q Or an assignment to 2113 or its designee?  
22 A It says that he's -- that he's to make the necessary  
23 -- arrangements necessary, financial arrangements necessary  
24 and proper to purchase the property. It couldn't be put in  
25 NuVeda's name, because we couldn't get long-term financing

1 through NuVeda.

2 Q But you didn't have long-term financing when you  
3 closed on December 31st, 2014, did you?

4 A We did not. But we had -- but --

5 Q Sir.

6 A -- but we had -- but normal business practices that  
7 you -- if you're going to -- if you have six days to make a  
8 closing, you're not going to get a real estate deal closed.  
9 So you borrow against lines of credit, you make the payments,  
10 and then you make long-term arrangements.

11 Q And, sir, you borrowed against your line of credit  
12 in order to close in December 2013 [sic]; correct?

13 A I did.

14 Q And have you ever borrowed against a line of credit  
15 where NuVeda received the funds?

16 A I don't understand the question. NuVeda refused the  
17 funds?

18 Q No. Has NuVeda ever received funds borrowed against  
19 your line of credit?

20 A No.

21 Q Now, the action by written consent in the recital,  
22 the first paragraph of the recital -- and you indicated you  
23 understand what a recital is. Do you see where it says,  
24 "Whereas, the company entered into that certain purchase and  
25 sale agreement"? Do you see that?

1           A     I see that.

2           Q     And do you see where "company" is defined?

3           A     I see that.

4           Q     Okay. And it's your -- separate and apart from this  
5 action by written consent there's no amendment to this or any  
6 other document that you know of that references Jennifer  
7 Goldstein, Pouya Mohajer, and Pejman Bady authorizing Pouya  
8 Mohajer to go forward and assign NuVeda's interest to 2113  
9 Investors --

10          A     Okay.

11          Q     -- correct? Sir, that's a yes or no.

12          A     That's a no.

13          Q     Okay. Now, Mr. Kennedy -- you know there's another  
14 Joe Kennedy out in this community that does real estate?

15          A     I do know.

16          Q     Now, Mr. Kennedy, you said you have a lot of  
17 experience in building or developing industrial property. Did  
18 I understand that correctly?

19          A     That's correct.

20          Q     All right. And as the landlord for 2113 Investors,  
21 the property at Las Vegas Boulevard, are you constructing the  
22 tenant improvements for the tenant NuVeda?

23          A     No. The lease requires the tenant to do it.

24          Q     And when the tenant improves that property will you  
25 be reimbursing NuVeda for the increased value to 2113

1 Investors?

2 A Well, they're being subsidized by the lease. So,  
3 yes, indirectly.

4 Q Okay. So you will be paying back NuVeda the value  
5 that they --

6 A By discounting the lease amount, yes.

7 Q Okay. Now, Mr. Kennedy, since we've been in this  
8 litigation -- well, let me -- strike that.

9 2113 Investors LLC sued NuVeda; correct?

10 A True.

11 Q And this week, while we've in this litigation, your  
12 attorney filed an intention to take default against NuVeda;  
13 correct?

14 A Correct.

15 Q So if NuVeda does not file a response to the lawsuit  
16 initiated by you on behalf of 2113, you intend to default  
17 NuVeda; correct?

18 A I don't know that.

19 Q But you filed a document saying that you have that  
20 intention; correct?

21 A Does the document require us to take a default? I  
22 don't think so.

23 Q Have you had any discussions with Pej Bady or Pouya  
24 Mohajer regarding defending the lawsuit commenced by 2113?

25 A I have.

1           Q     And did they indicate they intend to file a response  
2 prior to any deadline for responding? Did Pouya Mohajer or  
3 Pej Bady indicate that they will be defending that lawsuit on  
4 behalf NuVeda?

5           A     My counsel has had correspondence with Jennifer  
6 Goldstein on this, and --

7           Q     Sir, I'm sorry if I wasn't clear. Did you have  
8 communications with Pej Bady and Pouya Mohajer about their  
9 intention to defend that lawsuit on behalf of NuVeda?

10          A     I have not asked them if they're going to defend it.

11          Q     And have they indicated any intention to defend that  
12 lawsuit against 2113?

13          A     No.

14          Q     How many meetings have you attended, the NuVeda team  
15 meetings?

16          A     Ten maybe.

17          Q     What day are those held?

18          A     I have no recollection of what day. Oh. You mean  
19 what day of the week?

20          Q     Yeah.

21          A     I think they're usually on Tuesdays.

22          Q     And did you go to the meeting on November 18th?

23          A     I don't think so.

24          Q     Now, if you'd go to Exhibit 17 in the black book. I  
25 have the wrong one. 17 in my book -- or in the white book.

1 Pardon me. White book. I apologize.

2 You've seen this before; correct?

3 A Give me a moment. I have.

4 Q And, sir, just so we're clear, if you go five pages  
5 in, it looks like your signature. Is that your signature?

6 A I don't see my signature on it. It's blank on --  
7 oh. There is. I'm sorry. One extra page. Yeah.

8 Q And Exhibit 18, same thing. If you could just look  
9 at your signature on the last page. Is that it?

10 THE COURT: And you're in 118 and 117?

11 MS. PIKE-TURNER: 118. Pardon me.

12 THE WITNESS: There is no last page on this one, but  
13 I recall signing it.

14 BY MS. PIKE-TURNER:

15 Q Okay. And these are written consents in lieu of  
16 special meeting to expel Shane Terry and Jennifer Goldstein;  
17 correct?

18 A They are.

19 Q Was there a meeting where there was discussion of  
20 expelling Shane and Jennifer?

21 A No.

22 Q Was there a phone call?

23 A Between members?

24 Q Yes.

25 A No.



1           Q     What is the basis for expelling Shane Terry and  
2 Jennifer Goldstein?

3           A     The basis is that they were -- they expelled -- they  
4 attempted to expel Pej Bady and Pouya Mohajer, and that that  
5 was a wrong action, it was the wrong thing to do.

6           Q     Anything else? Any other basis?

7           A     Any?

8           Q     Anything else?

9           A     No. That's what it was.

10          Q     Okay. Now -- so is it your testimony that you were  
11 aware that Jennifer Goldstein and Shane Terry had voted to  
12 expel Pej Bady and Pouya Mohajer when you executed this  
13 written consent?

14          A     That's right.

15          Q     Okay. And in addition to expelling Mr. Terry and  
16 Ms. Goldstein, if you go to the third page of Exhibit 117, two  
17 paragraphs up, do you see, "Be it further resolved that any  
18 and all --"

19          A     A lot of "further resolveds," but --

20          Q     Yeah. Do you see that?

21          A     Which one?

22          Q     The second one from the bottom.

23          A     From the bottom. Okay.

24          Q     And you ratified all the conduct that had taken  
25 place to that day by Pej Bady; correct?

1           A     Can I read it?

2           Q     Sure. Absolutely.

3           A     Yes, it says that.

4           Q     Okay. And that action ratifying all the actions --

5 prior actions of Pej Bady, was that discussed with Shane Terry

6 and Jennifer Goldstein?

7           A     No, this was not discussed at all with them.

8           Q     Okay. Was it discussed with you?

9           A     This agreement?

10          Q     No. That provision in particular.

11          A     No.

12          Q     Okay. Now, Jennifer Goldstein and Shane Terry, were

13 they provided a copy of this written consent to sign?

14          A     Not by me.

15          Q     Okay. Do you know if it was provided at all?

16          A     I don't know.

17          Q     Okay. Now, you testified that you thought it was a

18 bad thing for Shane Terry and Jennifer Goldstein to expel Pej

19 Bady and Pouya Mohajer. You're not disputing that they can do

20 it under the terms of the operating agreement; correct?

21          A     I am disputing that they can do it.

22          Q     Okay. You're disputing that they -- that they can

23 vote out Pej Bady and Pouya Mohajer?

24          A     By grouping them, yes.

25          Q     So you're concerned about the grouping?

1           A     Yes.

2           Q     Now, if there is conduct that you think is wrongful,  
3 like Shane Terry and Jennifer Goldstein voting out Pej Bady  
4 and Pouya Mohajer, that was an action they took together;  
5 correct?

6           A     Correct.

7           Q     So if you're voting to expel Shane Terry for voting  
8 out Pouya Mohajer and Pej Bady, then Shane Terry, the other  
9 actor, wouldn't be disinterested in the vote, would they?

10          A     They would not.

11          Q     Now, you testified that you're an enrolled agent;  
12 correct?

13          A     I am.

14          Q     That you're not a CPA?

15          A     I'm not.

16          Q     And you're not a tax attorney?

17          A     Nope.

18          Q     Now, you'd agree that losses under the terms of the  
19 operating agreement, Section 5.1 in particular, that they are  
20 to be allocated on a pro rata basis; correct?

21          A     No. That's one of the options.

22          Q     Under the operating agreement that's the option.

23          A     No, it's not the only option.

24          Q     Okay. Let's go to the operating agreement.

25          A     I will. 5.2, I think, or something like that.

1 Q 5.1, sir.

2 A 5.1.

3 Q It's page number 9 in the bottom right-hand --

4 A Oh. I have it on -- 5.1 on 8.

5 Q Page 8 of the agreement. You're correct.

6 A Okay.

7 Q So --

8 A It says, "Any special allocations necessary to

9 comply with the requirements set forth in the Internal Revenue

10 Code Section 704 and the corresponding regulations, including,

11 without limitation, qualified income offset and minimum gains

12 chargeback provisions contained therein shall be made if

13 voting members deem these actions to be appropriate."

14 Q Right. Okay. So it's your testimony that it's a

15 requirement of the Internal Revenue Code for Pouya Mohajer to

16 allocate his losses to Pej Bady?

17 A No, I didn't say that.

18 Q You're saying that it's an option unless provided --

19 A It's an option that I spoke to 86 percent of the

20 voting interests about at the time and received consent from

21 the 86 percent to do it based on the contributions. There's a

22 very sound reason for this.

23 Q Wait. Sir.

24 A Okay.

25 Q You didn't talk to Jennifer Goldstein; correct?

1           A     Jennifer was not affected by it.

2           Q     Okay.  You didn't -- you didn't have a conversation  
3 with Shane Terry where you said, Pouya Mohajer's going to  
4 allocate his losses to Pej Bady; correct?

5           A     It isn't -- that's not factual.  It never was Pouya  
6 Mohajer allocating his losses to Pej Bady.

7           Q     Okay.  So Shane Terry --

8           A     You're mischaracterizing it completely.

9           Q     You had a -- let's break this down.  Shane Terry,  
10 you had a conversation with him where you said that 20 percent  
11 of the losses would be allocated to him; correct?

12          A     Yes.

13          Q     Now, 20 percent is his ownership interest in the  
14 entity NuVeda; correct?

15          A     It's coincidental.

16          Q     Okay.  Mr. Dushoff questioned Shane Terry yesterday  
17 about him not having any skin in the game, that he hadn't  
18 contributed moneys to the enterprise.

19               MR. DUSHOFF:  Objection.  I never asked him that  
20 question.

21               THE COURT:  Overruled.  That was the context, but  
22 you didn't use those words.

23 BY MS. PIKE-TURNER:

24          Q     Now, is it your testimony that Shane Terry brought  
25 in 20 percent?

1 THE COURT: Oh. You're right. It wasn't you, Mr.  
2 Dushoff. I'm sorry.

3 MS. PIKE-TURNER: I'm sorry. You're all wearing  
4 ties. It's not -- it's not to be --

5 MR. DUSHOFF: Well, my dress is in dry cleaning.

6 MS. PIKE-TURNER: I'm sorry if that goes to somebody  
7 else.

8 BY MS. PIKE-TURNER:

9 Q Now, Mr. Kennedy, is it your testimony that Shane  
10 Terry gave 20 percent -- or contributed 20 percent of the  
11 funding of NuVeda?

12 A I was told that because he signed a note, a personal  
13 note with Pej Bady for 120,000. So he was given credit for  
14 120,000 of the cash that was contributed in 2014.

15 Q Now, did you have a discussion with Shane Terry  
16 where you provided a copy of the K-1s and said that Pej Bady  
17 was going to receive 80 percent of the losses and Shane Terry  
18 was going to receive 20 percent?

19 A I provided Shane with all of the K-1s and the  
20 amended K-1s when he requested them.

21 Q And Shane Terry never objected to 80 percent of the  
22 losses going to Pej Bady?

23 A Nobody ever objected.

24 Q With respect to the CW -- oh. Before I move on, the  
25 2113 transaction, is it your testimony that Jennifer Goldstein

1 was out of town and that's why you didn't communicate --

2 A No.

3 Q -- with her regarding the assignment?

4 A No, that's not my testimony.

5 Q Okay. You don't dispute that Jennifer Goldstein was  
6 in town at the time of the closing?

7 A I don't know where she was.

8 Q Now, with respect to this CW deal if you could --  
9 you testified earlier that this was not a sale of membership  
10 interest. It's actually called a membership sale agreement;  
11 correct? Membership interest purchase agreement?

12 A It might be titled -- I think they usually say  
13 titles in bold type are simply for informational -- or  
14 directional purposes.

15 MR. DUSHOFF: Your Honor, can we direct him to an  
16 exhibit if she's reading from something?

17 THE COURT: We're on 22.

18 MR. DUSHOFF: Thank you.

19 THE COURT: Right?

20 MS. PIKE-TURNER: Yes, Your Honor. He's in the  
21 white book. That's 21. It's -- same thing.

22 BY MS. PIKE-TURNER:

23 Q Now, the CW deal is a transfer of 100 percent of the  
24 interest in the subsidiaries of NuVeda; correct?

25 A Can I address -- can I address first why it says

1 membership interest purchase agreement?

2 Q It says membership interest purchase agreement;  
3 correct?

4 A It does. And that's correct.

5 Q Okay. Now --

6 A It's a membership in the new entity CW NV.

7 Q Okay. Pursuant to the agreement 100 percent of the  
8 interest in the subsidiaries of NuVeda that hold the Nye  
9 County cultivation and processing licenses and the  
10 dispensaries in Las Vegas and North Las Vegas, those are being  
11 transferred to the NewCo; correct?

12 A Correct.

13 Q Now, have you seen proof of funds for CW?

14 A Yes.

15 Q And is it -- is there money in escrow?

16 A No.

17 Q Okay. The proof of funds is sufficient to do what?

18 A They have several hundred million dollars. It's  
19 sufficient to do anything they want.

20 Q Okay. Did they indicate that several hundred  
21 million dollars are going to be used to perform under this  
22 membership sale agreement?

23 A No. It was more like six to eight million.

24 Q All right. Did they pledge that they will spend six  
25 to eight million?



1 A Yes.

2 Q Okay. Is that in writing?

3 A There's a section on the cultivation and production  
4 facility in Nye County in which they say that if they don't  
5 complete it on time that -- I believe it's where it says  
6 "Lost Profits, Additions to Operating Agreement."

7 Q Where are you looking, sir?

8 A I'm looking -- I'll tell you -- the next -- the  
9 third-to-last page. "Additions to Operating Agreement." The  
10 very last paragraph.

11 Q I don't see any mention of the total commitment.

12 A Well, it does say that if they haven't -- "If the  
13 cultivation and production facilities are not up and running  
14 in earnest by the end of 2016, CW shall provide lost profits  
15 to CW NV based on number of months the facilities are tardy in  
16 opening." The purpose of that addition is to give them an  
17 incentive to complete the project.

18 Q Okay. They're buying the property -- or the --  
19 strike that. They're buying the dispensaries, as well as  
20 cultivation and processing; correct?

21 A Correct.

22 Q The two dispensaries, they're to be complete on or  
23 about on April 16th, 2016, under this timeline; correct?

24 A Right.

25 Q And there's been no construction to date; correct?

1           A       Actually, there has been. We have met with the  
2 contractor, and we have -- I have a meeting on Friday with the  
3 contractor again with CW. And they have already moved ahead.  
4 They've paid the fees for the plans and have made -- have  
5 instituted actions for completing the projects.

6                   We also have submitted to the -- for bid to the  
7 contractors a proposed improvement for North Las Vegas.

8           Q       Have you applied for regulatory approval of the CW  
9 deal?

10          A       That's not my job.

11          Q       Has anybody from NuVeda or its subsidiaries applied  
12 for approval?

13          A       I don't know. It's not my bailiwick.

14          Q       Now, you'd agree that there are no plans or  
15 specifications that are attached to this agreement; correct?

16          A       I agree.

17          Q       So there's a provision that says that there is an  
18 object to build dispensaries and to build a cultivation  
19 center, but nothing about whether it's a tile or tin roof,  
20 dirt or marble floors; correct?

21          A       Well, the problem was that the plans that were in  
22 with the City of Las Vegas for the Third Street facility, I  
23 went to the City Planning, and I went then to Building &  
24 Safety, and they told me that I would have to get the plans  
25 from the contractor, I couldn't get -- that they were not in

1 the business of giving me copies of my own -- of plans on my  
2 own property. So I went to Trinity --

3 Q Sir, my question is is there an agreement that's  
4 signed --

5 A I'm answering --

6 MR. MAUPIN: Your Honor --

7 THE WITNESS: I'm answering your question.

8 MS. PIKE-TURNER: It's a yes or no.

9 MR. DUSHOFF: -- complete his answer.

10 THE COURT: Let him -- please let him finish the  
11 answer.

12 Sir, keep going.

13 THE WITNESS: Okay. So because we didn't have the  
14 plans, they were not attached to it. If we had had the plans  
15 available, if they had been made available to me as the owner  
16 of the property before they were submitted to the City, then I  
17 would have had a copy to attach to it. But I didn't have it  
18 because Mr. Terry didn't deem it necessary to give me copies  
19 of the plans.

20 BY MS. PIKE-TURNER:

21 Q My question to you is whether there's anything that  
22 is signed in writing where CW says, I agree to these  
23 specifications.

24 A Nothing.

25 Q Have they signed the plans and said, we commit to

1 build pursuant to those plans?

2 A Well, they may have done something better. They  
3 paid the City to review the plans.

4 Q My question is do you have anything in writing.

5 A The answer was no.

6 Q Did you go through the entirety of the debts for  
7 NuVeda as part of your due diligence about whether or not CW  
8 deal is a good one for NuVeda?

9 A I did sit in a meeting in which it was reviewed.

10 Q Okay. If you could go to Exhibit 31 already in  
11 evidence.

12 A I have 131. Sorry.

13 Q Sorry. It's in the black book.

14 A Okay. No problem. I just realized it's 131.

15 THE COURT: How much longer do you have, Counsel?

16 MS. PIKE-TURNER: Not long at all. I would say five  
17 minutes.

18 THE COURT: Okay.

19 THE WITNESS: Okay.

20 BY MS. PIKE-TURNER:

21 Q Have you seen this document before?

22 A I've either seen this document or one similar to it.

23 Q Okay. Now, if you go to the second page, there's a  
24 total. It says, "Total NuVeda Liabilities \$4,355,226." Do  
25 you that?

1           A       I see that.

2           Q       Okay.  Why wasn't the 2Prime loan, for instance,  
3 included into the debt to be assumed by CW Nevada?

4           A       I don't know.

5           Q       Why was the \$600,000 loan from Mehjed Golpa to Pej  
6 Bady included in the CW list, the CW deal list that you have?

7           A       Well, this document, there's so many things in it  
8 that are inaccurate.  There's no -- there's no --

9           Q       Sir, can you focus, please, because we're trying to  
10 get done.

11                   MR. DUSHOFF:  And I would ask he please complete the  
12 answer.

13 BY MS. PIKE-TURNER:

14           Q       My question --

15                   THE COURT:  Wait.  Hold on.  Let him finish.

16                   THE WITNESS:  I'm responding --

17                   THE COURT:  Sir, you can finish, please.

18                   THE WITNESS:  There are so many things that are  
19 different here.  I don't know why one thing was moved and the  
20 other one wasn't.

21 BY MS. PIKE-TURNER:

22           Q       That's my question.  Do you know why the Mike Golpa  
23 loan to Pej Bady was included on the list of liabilities for  
24 the CW loan?

25           A       I think because Pej Bady put that money into NuVeda,

1 and he felt that even though he had personally committed for  
2 the loan, that it was owed by NuVeda. But CW rejected that  
3 theory.

4 Q And 2Prime, you don't know why that's excluded?

5 A I have no idea.

6 Q You testified earlier that NuVeda has no assets. Do  
7 you recall that?

8 A I said except the licenses.

9 Q Except for the licenses. Pardon me. Thanks for the  
10 correction. NuVeda has the Apex property, 15-1/2 acres;  
11 correct?

12 A It's fully encumbered.

13 Q And how is the Apex debt -- what's the plan for  
14 paying the Apex mortgage other than Shane Terry coming out of  
15 pocket?

16 A Well, my understanding is that the Faraday Electric  
17 Car Company wants the land and that we could extinguish the  
18 debt by allowing them to purchase the land.

19 Q And is that the plan?

20 A Don't know.

21 Q Have you had communications with anybody about  
22 selling the Apex property?

23 A I have not.

24 Q Has Pej Bady or Pouya Mohajer discussed an intention  
25 to sell the Apex property?

1           A     They've discussed it with me.

2           Q     And how far along are the negotiations?

3           A     They're in their infancy. And it has not been  
4 decided, I want to say.

5           Q     Now, did you do due diligence about the total amount  
6 of investment that CW is making in the CW transaction or  
7 pursuant to that transaction?

8           A     I certainly did look into it. Whether or not -- I'm  
9 hesitating on your term "due diligence."

10          Q     What did you do in your due diligence before you  
11 approved the transaction?

12          A     Okay. I took a look at the proposed debt reduction,  
13 I took a look at the property that was being transferred, and  
14 I took a look at the -- meaning the two LLCs, and I took a  
15 look at the long-term benefit to NuVeda and its capital  
16 requirements to participate in it, and decided it was a really  
17 good deal.

18          Q     Did you do an analysis of how this would play out  
19 with the investment and compare it to the 4Front investment,  
20 how much NuVeda would actually receive from the transaction?

21          A     Yes. It -- potentially there would be -- well, in  
22 year two they would be in the range of receiving a million  
23 dollars. In year five they're projecting may four or five  
24 million.

25          Q     Who did these projections?

1           A     CW.

2           Q     Did you do your own projections?

3           A     I took a look at the numbers and decided they were  
4 reasonable.

5                   THE COURT: 38?

6                   THE CLERK: Yes.

7 BY MS. PIKE-TURNER:

8           Q     Proposed Exhibit 38 was received from Mr. Dushoff.

9                   MR. AIELLO: Could we get one more of those?

10                  MS. PIKE-TURNER: Sure.

11                  MR. AIELLO: Thanks so much.

12                  MS. PIKE-TURNER: Sure.

13 BY MS. PIKE-TURNER:

14           Q     Was received from Mr. Dushoff. Is this the analysis  
15 that was presented to you done by CW?

16           A     No.

17           Q     Have you ever seen this analysis?

18           A     No, I haven't.

19           Q     So there is additional analysis that is not included  
20 in the Proposed Exhibit 38 that you've seen?

21           A     I'm looking through the exhibit. It's lengthy. If  
22 you'd give me a moment.

23           Q     Sure.

24                   THE COURT: Is there an objection to the admission  
25 of 38?



1           THE WITNESS: I have seen this document before, but  
2 I haven't analyzed it.

3           MR. DUSHOFF: No.

4 BY MS. PIKE-TURNER:

5           Q     Okay. My question is does this document --

6           THE COURT: Be admitted.

7                     (Plaintiffs' Exhibit 38 admitted)

8 BY MS. PIKE-TURNER:

9           Q     -- Proposed 38 --

10          THE COURT: It's admitted 38.

11 BY MS. PIKE-TURNER:

12          Q     Oh. Admitted 38. Thank you. Admitted 38, does it  
13 include the analysis of the CW transaction that you relied on?

14          A     You know, I like to do my own Excel sheets, because  
15 a lot of times when you see something that's presented in a  
16 format like this you don't know what the basis for the  
17 formulas are. So it's not unusual for me to go ahead and take  
18 something like -- not this particular thing, but I took -- I  
19 took the information from CW and put it into a spreadsheet  
20 that I would use to analyze the benefits of -- because it's  
21 been my experience not knowing what the formulas are it's very  
22 difficult to come to a correct conclusion or at least your  
23 best bet.

24          Q     Okay. You testified that you didn't do your own  
25 analysis, you looked at CW's and relied upon it.

1           A     No. What I'm saying is that for something like this  
2 that's what I would do. But I took the numbers from CW and  
3 just ran them out to see what they would be -- what the income  
4 would be. I don't call that an analysis. And those were the  
5 numbers I gave you.

6                     And, you know, I understand projections are  
7 projections. Nobody knows what the actual numbers will be in  
8 the future. If we did, we could --

9           Q     Well, in the calculation that's done -- I'm going to  
10 have you look at 472 --

11                     THE COURT: Can I have a copy?

12 BY MS. PIKE-TURNER:

13           Q     -- and 473.

14                     MS. PIKE-TURNER: Yes, Your Honor.

15                     THE COURT: Thank you.

16                     MS. PIKE-TURNER: I apologize.

17                     THE COURT: Wasn't admitted yet.

18 BY MS. PIKE-TURNER:

19           Q     Bates Number 472 and 473.

20           A     Okay. That's the Excel spreadsheet that was  
21 provided to you from CW; correct?

22           A     I believe that's right, yes.

23           Q     And then CW ran that against 4Front, correct,  
24 against the 4Front offer?

25           A     They may have.

1 Q Did you see that?

2 A I don't recall it.

3 Q Do you know why the cultivation revenue is not

4 included in the assessment from CW? Or projected revenue.

5 A It is. It says "Cultivation Nye."

6 Q On 472 --

7 A Yeah. The very last line.

8 Q -- "Cultivation Nye." Okay. So that's the

9 cultivation and processing revenue?

10 A No. That's the cultivation revenue. Processing is

11 different.

12 Q Okay. Do you know why there's no production

13 revenue?

14 A No, I don't.

15 Q Or is that -- I'm trying to understand what went

16 into this.

17 A Well, there is. It says "Nye Production" above it.

18 Q Okay. So that's using the licenses up in Nye

19 County?

20 A That's correct.

21 Q All right. And any federal taxes?

22 A It says "Pre-tax Income."

23 Q Okay. Now, with the NewCo have you seen an

24 operating agreement for the NewCo to be created under this

25 agreement?

1           A       I haven't seen the articles of organization.

2           Q       Okay. What protections did you make sure were in  
3 place to avoid dilution of the minority, 35 percent?

4           A       Since the organization hasn't even been formed, we  
5 have a verbal agreement that said that we will have a  
6 operating agreement that protects the 35 percent interest of  
7 NuVeda.

8           Q       It's a verbal -- did you say verbal agreement?

9           A       I said verbal.

10          Q       Anything in writing?

11          A       Well, we have the acquisition agreement that says  
12 they're going to get 35 percent. I can't tell you what the  
13 terms of the operating agreement are going to be until the  
14 organization's been formed. I mean, I've looked at a lot of  
15 operating agreements, and they're definitely different.

16                   MS. PIKE-TURNER: I'd pass the witness.

17                   THE COURT: Redirect?

18                   MR. MAUPIN: Just a couple of followup questions.

19                               REDIRECT EXAMINATION

20 BY MR. MAUPIN:

21          Q       I believe you said that you didn't recall attending  
22 the November 18 meeting with Pej, Pouya, Shane, and Ms.  
23 Goldstein. Is that correct?

24          A       That's right.

25          Q       Do you remember if you were on the phone with them?

1           A     No.

2           Q     But if Dr. Bady or Dr. Mohajer said that, that's not  
3 out of the realm of possibility, is it?

4           A     Possibility. I just don't recall it.

5           Q     All right. Now, when the reallocation of the tax  
6 losses was made did Pej -- excuse me, did Dr. Mohajer rely  
7 upon you?

8                   MS. PIKE-TURNER: Objection. Calls for speculation.

9                   THE COURT: Overruled.

10                  THE WITNESS: Did he rely upon --

11 BY MR. MAUPIN:

12           Q     Yeah. Did you discuss what they should do about  
13 these losses?

14           A     Oh, I did.

15           Q     And what was Pouya's concern?

16           A     His concern was that he hadn't actually made the  
17 cash contribution so he didn't want to take credit for the  
18 losses on his 1040.

19           Q     Correct. And did you advise him that this move was  
20 legal or illegal?

21           A     Well, of course, I did the changes. I think it's a  
22 legal move.

23           Q     And was he relying on you to make that decision?

24           A     He was.

25           Q     And is there anything unreasonable about relying on

1 an enrolled IRS agent in terms of how to fill out these  
2 returns and the K-1s and all that business?

3 A I want to correct what you said. I'm not an  
4 enrolled IRS agent. I'm an enrolled agent who's admitted to  
5 practice before the IRS.

6 Q Ah. Very good. Very good.

7 A But no. I do maybe a hundred LLC returns a year,  
8 and I've been doing them for a long time, and --

9 Q So this decision that was made was done in  
10 consultation with you?

11 A Yes.

12 Q Did you intend to conspire to do anything with  
13 regard to that tax return that would hurt anybody?

14 A No.

15 Q That would somehow cause the IRS to audit the  
16 company?

17 A No. I wanted to make the record correct.

18 Q Now, when you file one of these returns the IRS may  
19 or may not approve the allocation; correct?

20 A Correct.

21 Q And what's the upshot of the disapproval?

22 A There would be an audit.

23 Q And what would -- is there any criminal issues  
24 involved, or is it simply just to determine the tax liability?

25 A It's simply money.

1 THE COURT: And penalties.

2 THE WITNESS: And penalties, yes, ma'am.

3 BY MR. MAUPIN:

4 Q But those penalties --

5 A And interest.

6 Q But those penalties would be personal, wouldn't

7 they?

8 A Yes.

9 Q But there's -- it's not illegal, it's not a crime?

10 A No.

11 Q All right. One other thing. If -- in your

12 experience with a hundred or so LLCs and your familiarity with

13 many more what's your opinion about what would happen if a

14 bunch of minority shareholders could hijack the company like

15 this?

16 A Well, that was why I asked for the meeting with

17 Shane and Jennifer. I just don't think that that's something

18 that is permitted.

19 Q So if this was possible, wouldn't we be having

20 lawsuits like this all over America right now?

21 A I think you'd have minorities --

22 MS. PIKE-TURNER: Objection. Calls for speculation.

23 THE COURT: Sustained.

24 MR. MAUPIN: Sustained. It's an argument.

25 THE COURT: It is an argument.

1 MR. MAUPIN: No further questions.

2 THE COURT: Look at my docket.

3 All right. Anything else, Mr. Dushoff?

4 MR. DUSHOFF: Yeah, I do. Just to set the record.

5 RECROSS-EXAMINATION

6 BY MR. DUSHOFF:

7 Q Can you turn to Proposed Exhibit 114. Now, would --

8 THE COURT: Any objection to 14? It's your own

9 exhibit.

10 MS. PIKE-TURNER: Oh. If it's my own exhibit, no.

11 THE COURT: Exhibit 14 will be admitted.

12 (Plaintiffs' Exhibit 14 admitted)

13 BY MR. DUSHOFF:

14 Q I want to show you -- tell me when you get there.

15 A I'm here.

16 Q Okay. I want you to read it real briefly.

17 A It's from Shane Terry --

18 Q You don't have to read it out loud.

19 THE COURT: Read it to yourself.

20 BY MR. DUSHOFF:

21 Q Yeah. Read it to yourself.

22 A Oh. Read it to myself. Okay.

23 Q It's the -- hold on, you've got the wrong one. I

24 can almost see it.

25 A Okay.



1           Q     These are the minutes, so I think you might be in  
2 the wrong book.

3           THE COURT: Well, 14 is an email.

4 BY MR. DUSHOFF:

5           Q     It's behind it. Keep going back. You'll see the  
6 minutes.

7           THE COURT: So you want to go to the page that says  
8 90 on the bottom.

9 BY MR. DUSHOFF:

10          Q     It says NUVEDA90 on the bottom. Aha. Take a second  
11 and look through that. Those are the minutes of the meeting,  
12 proposed minutes of the meeting for November 18th, 2015.

13          A     Okay. How far do you want --

14          Q     Does this refresh your recollection that you were  
15 actually at the meeting on the phone?

16          A     Yeah, I was.

17          MR. DUSHOFF: All right. That's all I've got.

18          THE COURT: Anything else?

19          MS. PIKE-TURNER: Not for this witness, no, Your  
20 Honor.

21          THE COURT: Thank you, sir. We appreciate your  
22 time.

23                 What's your plan? Can the witness remain in the  
24 room now that he's testified?

25          MS. PIKE-TURNER: Sure.

1 THE COURT: Everybody says okay. So, sir, you don't  
2 have to sit in the hallway anymore, you can sit in the  
3 courtroom if you'd like.

4 What's the plan? It's 12:22. I wanted to let you  
5 finish this witness before I went to the next step.

6 MR. MAUPIN: Before you went to the next step?

7 THE COURT: Which is do you have another witness, or  
8 do you want to do something else.

9 MR. MAUPIN: We're going to call Brian Padgett at  
10 around 1:00 o'clock. He's been ill, so --

11 THE COURT: Thought you had to be in front of Judge  
12 Bulware at 1:00 o'clock.

13 MS. PIKE-TURNER: I do. And I communicated that to  
14 Counsel.

15 MR. MAUPIN: Oh. I'm sorry. I just -- the plan was  
16 -- and I had -- I just told you the arrangements that were  
17 made, and I made them before I knew about that.

18 MS. PIKE-TURNER: No. I discussed it yesterday.

19 MR. MAUPIN: Oh. Yes, that's true. That's true.

20 MS. PIKE-TURNER: It's an evidentiary hearing, so  
21 it's --

22 THE COURT: You're going to be gone the rest of the  
23 day.

24 MS. PIKE-TURNER: I am, Your Honor, unfortunately.

25 THE COURT: I know. You told me that originally,

1 which was why we tried to schedule on Wednesday instead of  
2 Thursday.

3 So are we doing something on Friday, or what is your  
4 plan?

5 MR. MAUPIN: Please.

6 THE COURT: You want to finish Friday?

7 MR. MAUPIN: Yes.

8 THE COURT: I'd love to finish Friday. What time  
9 do you want to start on Friday? My people say I have four  
10 Rule 16 conferences at 8:30, which means I can be done at  
11 9:15. I do not have anyone named Peek on the calendar on  
12 Friday, although I do have Pisanelli and Bailey and Flansburg.

13 Do you want to start 9:00 o'clock on Friday?

14 MS. PIKE-TURNER: That's fine, Your Honor.

15 THE COURT: How many more witnesses do you think  
16 you've got?

17 MR. DUSHOFF: We've got those two.

18 THE COURT: So you think if we have Friday all day  
19 we'll finish? 9:00 to whatever? 9:00 to 4:00 with a lunch  
20 break? Can I have a lunch break on Friday?

21 MR. MAUPIN: Oh. I think that's entirely possible.

22 THE COURT: Thank you.

23 MR. MAUPIN: Maybe in time to get in nine holes  
24 afterwards.

25 THE COURT: Not for me. You've seen how I play

1 golf. Never mind.

2 Anything else?

3 MR. DUSHOFF: No, Your Honor.

4 MR. AIELLO: Nothing.

5 THE COURT: All right. So we'll be in recess until  
6 Friday, which is tomorrow, at 9:00 o'clock.

7 (Court recessed at 12:24 p.m., until the following day,  
8 Friday, January 8, 2016, at 9:00 a.m.)

9 \* \* \* \* \*

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| <u>NAME</u>                          | <u>DIRECT</u> | <u>CROSS</u> | <u>REDIRECT</u> | <u>RECROSS</u> |
|--------------------------------------|---------------|--------------|-----------------|----------------|
| <u>DEFENDANT MOHAJER'S WITNESSES</u> |               |              |                 |                |
| Joseph E. Kennedy                    | 3             | 51/60        | 93              | 97/            |

\* \* \*

EXHIBITS

| <u>DESCRIPTION</u>             | <u>ADMITTED</u> |
|--------------------------------|-----------------|
| <u>PLAINTIFFS' EXHIBIT NO.</u> |                 |
| 14                             | 97              |
| 38                             | 90              |

\* \* \*

|                                     |    |
|-------------------------------------|----|
| <u>DEFENDANT BADY'S EXHIBIT NO.</u> |    |
| 208                                 | 54 |

\* \* \*

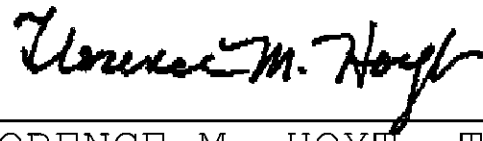
**CERTIFICATION**

I CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT FROM THE AUDIO-VISUAL RECORDING OF THE PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.

**AFFIRMATION**

I AFFIRM THAT THIS TRANSCRIPT DOES NOT CONTAIN THE SOCIAL SECURITY OR TAX IDENTIFICATION NUMBER OF ANY PERSON OR ENTITY.

**FLORENCE HOYT**  
**Las Vegas, Nevada 89146**

  
\_\_\_\_\_  
FLORENCE M. HOYT, TRANSCRIBER

1/9/16

\_\_\_\_\_  
DATE