

IN THE SUPREME COURT OF THE STATE OF NEVADA

NUVEDA, LLC,

Appellant,

v.

JENNIFER GOLDSTEIN,

Respondent.

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District Court Case No.: A-15-728510-B

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1 Q And then you have the March 16, 2018, second
2 rebuttal report?

3 A Yes.

4 Q All right. And then your final one is the
5 December 14th Ms. Goldstein's report?

6 A Yes.

7 Q So Ms. Goldstein's report supplements the
8 original report, then they --

9 MR. DUSHOFF: Arbitrator Baker, do you want
10 me to refer to them as the dates of the report? Which
11 is easier for you?

12 ARBITRATOR BAKER: Maybe if you can just
13 refer to them by tabs, that might be easier to follow
14 along --

15 MR. DUSHOFF: Okay.

16 ARBITRATOR BAKER: -- since we all have the
17 same binder.

18 BY MR. DUSHOFF:

19 Q So, Ms. Goldstein's report, tab 11,
20 supplements the original report, which is tab 1;
21 right?

22 A Not necessarily, no. Ms. Goldstein's report
23 is a supplement to Mr. Terry's last supplemented
24 report, for use of a different percentage ownership.

25 Q All right. I'd like you to turn, then,

1 Ms. Goldstein's report, page 1, which would be page 1
2 of your report --

3 MR. FEUERSTEIN: Tab 11.

4 BY MR. DUSHOFF:

5 Q The one -- tab 11 -- but it's marked as
6 page 1 of a two-page report.

7 A Not --

8 Q Yeah, right there. You got it.

9 A Okay.

10 Q And you prepared this; correct?

11 A Yes.

12 Q You prepared this report?

13 And under "Supplemental Analysis" it states,
14 "This supplemental report references and updates the
15 information provided in two previous reports: The
16 business valuation report made May 25, 2016" -- that
17 is tab 1, the original report; correct?

18 A That's what it's referring to, yes.

19 Q -- "produced by Gryphon, and the supplemental
20 business report on February 3, 2018." That is the
21 other report we just talked about, the February 3rd
22 report, which is tab 8; correct?

23 A Yes.

24 Q Now, Goldstein's report also incorporates the
25 findings in the original report, tab 1, as well as

1 tab 8, the supplemental report. Is that accurate?

2 A No, it doesn't necessarily incorporate the
3 findings. It incorporates the report because it
4 refers to some calculations and information provided
5 in that report.

6 Q Okay. Incorporates some numbers and values
7 that are in the first two reports; correct?

8 A Yes.

9 Q And if we can turn, tab 11, to page 6.
10 Tab 11.

11 And I brought this up a little earlier, but
12 in the -- in the -- there's only one paragraph there.
13 You have it there at 28 -- in 28 percent discount for
14 lack of control and lack of marketability; correct?

15 A That's correct.

16 Q All right. And the only time -- and you use
17 that, that would be appendix A of the original report,
18 tab 1; is that accurate?

19 A Yes.

20 Q All right. So let's go back to tab 1. Now,
21 let's -- before we go there, that 28 percent is a
22 number that you verified, that you put in, and based
23 it on Exhibit K; correct? Nobody else did that?

24 A That's correct.

25 Q So if we could go to K -- and that's

1 appendix K, which would be RESP 57754, is the start of
2 it. But I want to head you down to page --

3 A Excuse me. Do you know what page of the
4 report that is?

5 MR. FEUERSTEIN: 139.

6 BY MR. DUSHOFF:

7 Q 139.

8 A Okay. Thank you.

9 Q Do you not have Bates numbers on the bottom
10 of that? I apologize.

11 A I do, but I just didn't hear what you said.

12 Q Okay. Page 139. All right. That -- from
13 this document right here, this appendix, is where
14 you -- you came to the 28 percent; correct?

15 A That is correct.

16 Q So let's turn to page 144 of that.

17 All right. Are we there?

18 A Yes.

19 Q And in this -- you have a graph -- you have a
20 little table here. It says, "For discount for lack of
21 marketability weighted average"; correct?

22 A Yes.

23 Q And in this section it says the weighted
24 average for discount of marketability is 26.5; is that
25 accurate?

1 A Yes.

2 Q But, however, in -- when you used it in
3 Ms. Goldstein's, you have it at 28 percent, not 26.5;
4 is that accurate?

5 A No. They're not the same number.

6 Q You have 28 percent for discount for lack of
7 rounding. You said that's in appendix K; correct?
8 That's what you said in -- when we read it in --

9 A Yes.

10 Q -- tab 11?

11 A That's correct, yes.

12 Q Can you show me, then, is it the 20 average
13 weighted marketable discount, is that what you're
14 talking about, the summary of restricted stock
15 studies? Is that where you're talking about the
16 28.7?

17 A Well, there are two discounts that we're
18 talking about here.

19 Q The only discount I'm talking about -- so is
20 there a discount for lack of control and lack of
21 marketability?

22 A Yes, there is.

23 Q So where is the discount for lack of
24 control?

25 A Discount for lack of control is page 141.

1 Q And which one?

2 A Which, which one?

3 Q What number are we looking at? I see it
4 says, "US equity stock closed end funds"?

5 A That's correct.

6 Q Okay.

7 A And so we used closed end -- if I could just
8 explain for a second, it may just --

9 Q No. What I want to ask you is, you said that
10 there is a number for lack of control -- discount for
11 lack of control.

12 Which number -- because I have a lot of
13 numbers here -- which number are we using for the
14 number for lack of control?

15 A Okay. If you turn to page 142, in the top
16 three paragraphs there explain what numbers we look
17 at.

18 And in the third paragraph down, "We note
19 that the third quartile is priced to NAD ratio for
20 February 2016, 12-month trailing period, was deemed to
21 be the most appropriate; therefore, a discount for
22 lack of control of 10 percent was applied to that
23 portion of the company's value represented by the
24 interest."

25 MR. FEUERSTEIN: Mr. Parker, I would just ask

1 the defendant for the court reporter, when reading
2 your report, I know you know it, but --

3 THE WITNESS: Oh.

4 MR. FEUERSTEIN: -- she doesn't. If you
5 could slow down, so she --

6 THE WITNESS: My apologies.

7 MR. FEUERSTEIN: -- can get it, that would be
8 helpful.

9 BY MR. DUSHOFF:

10 Q So the discount for lack of control is
11 10 percent of what?

12 A It's 10 percent. It hasn't been applied at
13 this point yet.

14 Q So the discount for -- weighted average
15 discount for lack of marketability is 26 and a half
16 percent; correct?

17 A No, I actually boil that down to 20 percent,
18 as explained in the paragraph on the bottom of
19 page 144.

20 Q "As a result, the reason that the DLON of
21 20 cents more appropriately reflects the impaired
22 market and its characteristics, the interest"?

23 A That's correct.

24 Q However, on -- for her report, you put
25 28 percent; correct?

1 A As a combined discount.

2 Q Right. So you're saying the 20 plus the 10
3 would be 30 percent; right?

4 A No. They have to be linked differently
5 because the 10 percent is applied first; and then the
6 balance, the 20 percent, is applied.

7 Q Ten percent is applied to what?

8 A To the final value.

9 Q Final value of what? You have a number here
10 that discounted -- you have a number in her -- in
11 Ms. Goldstein's report, that says -- you have a
12 discounted -- you have a less combined adjustment of
13 28 percent.

14 What I'm trying to find out is how you got to
15 28 percent.

16 A It's going to be in the body of the original
17 report.

18 Q No, it refers to Exhibit K. You specifically
19 reserve -- say, "See Appendix K of the BV report."

20 So I'm in Exhibit K of the BV report. Where
21 in Exhibit K of the BV report does it say that there
22 is a less combined adjustment of 28 percent?

23 A That's why I incorporated the prior reports,
24 because it's explained in the first report. If you
25 had a 20 percent and a 10 percent, if you link 20

1 percent and 10 percent, you will come up with
2 28 percent.

3 Q Wait a minute. Okay. I want you to go to
4 page 2 of your original report.

5 A Page 2?

6 Q Page 2 of your original report, if you would.

7 A You don't want me to --

8 Q Tab 1.

9 A You don't want me to clarify how I got to
10 28 percent?

11 Q No.

12 A Okay. It's on page 42, for the record.

13 Q It will be 57617. If you look at the bottom,
14 given the page numbers on the bottom.

15 A Got you.

16 Q And specifically under scope of limitation,
17 I'll read it out loud, then ask you a question about
18 it.

19 It says, "This report is not intended to
20 serve as a basis for expert testimony in a court of
21 law or other government agency without further
22 analysis and resulting documentation."

23 (Court reporter requests clarification.)

24 MR. DUSHOFF: Sorry. I'll read it again. I
25 speak way too quickly.

1 Q "This report is not intended to serve as a
2 basis for expert testimony in a court of law or other
3 governmental agency without further analysis and any
4 resulting documentation."

5 So this original report, as written by you,
6 is not to be considered an expert report in your own
7 language; correct?

8 A Without further analysis in any resulting
9 documentation.

10 Q Right. But at the time you wrote this, you
11 didn't have any further analysis. So at the time you
12 wrote this, the very first one, the original one, this
13 document in and of itself is not to be considered an
14 expert report?

15 A That's a standard disclaimer that we put in
16 all of our valuation reports.

17 Q Okay. But that is not the question I asked
18 you. I asked you, as of this report in your own
19 language, this report is not to be used as an expert
20 report?

21 A This report was written as a business
22 valuation report.

23 Q Okay. So I'm going to -- I'm going to ask it
24 again until you answer my question. This report in
25 your own language, "This report is not intended to

1 serve as a basis for expert testimony in a court of
2 law, other government agency, without further analysis
3 and resulting documentation"; is that correct? Did
4 you put that in, and is that accurate?

5 A That is the language.

6 Q And did you put in that language?

7 A Yes.

8 Q Do you agree with that language?

9 A In terms of this being a business valuation
10 report --

11 Q I didn't say --

12 A -- yes.

13 Q -- business valuation. I said, "expert
14 report to be used in a court of law."

15 A This is written as a business valuation
16 report for purposes of a failed, apparently,
17 settlement.

18 Q Right.

19 MR. DUSHOFF: Arbitrator Baker, I --

20 ARBITRATOR BAKER: Let's move on.

21 MR. DUSHOFF: Okay. You got it?

22 ARBITRATOR BAKER: I see the point that
23 you're making. Yes.

24 BY MR. DUSHOFF:

25 Q Let me ask you, did Ms. Goldstein retain --

1 sign a litigation consulting and expert service
2 agreement with you?

3 A Yes.

4 Q And that was for her report?

5 A Yes. Let me clarify, I don't know if she
6 signed it or if it was signed by a representative of
7 the law firm.

8 Q And for that purpose, that would be
9 considered an expert -- all right. "Such services
10 require separate litigation consulting and expert
11 service agreement, and Gryphon is under no obligation
12 to enter into such agreement" at the time of your
13 original one, but you're saying Ms. Goldstein did sign
14 one?

15 A Yes.

16 Q So then Ms. Goldstein's report, pursuant to
17 your language, would be considered an expert report;
18 correct?

19 A And expert report that ...

20 Q That would be used in court?

21 A That could be used in court, that
22 incorporates part -- very small part of the original
23 valuation report.

24 Q Yes, exactly.

25 Do you have -- let's turn to Exhibit 11.

1 You stated that your language that you put
2 under "Scope of Limitation" is standard language that
3 you put in all your reports.

4 Is that standard language regarding "This
5 report is not intended to serve as an expert witness,"
6 is that in -- anywhere in the December 14th report?

7 MR. FEUERSTEIN: Objection. I think it
8 misstates the testimony.

9 ARBITRATOR BAKER: Sustained.

10 BY MR. DUSHOFF:

11 Q Do you see anywhere in the December 14, 2018,
12 report, where you state, "This report is not intended
13 to serve as expert testimony"?

14 A That language is not in that report.

15 Q You valued NuVeda in this case with all six
16 licenses. Is that accurate?

17 A That was the assumption, yes, sir.

18 Q And you would agree with me that you're only
19 as good as the information you receive; right? As an
20 expert valuator, if you're given certain numbers, you
21 know, determine -- withdraw the question.

22 Garbage in/garbage out. As an expert
23 witness, what does that mean to you?

24 A Your final conclusions are always based on
25 certain assumptions.

1 Q Right. And if the numbers that they're given
2 to you are faulty numbers, then your conclusion --
3 doesn't matter how good your formula is, of course,
4 it's not going to be accurate. Is that fair to say?

5 A I think that's fair.

6 Q So if the numbers that you used in
7 Ms. Goldstein's report to determine the value in
8 NuVeda were inaccurate, then the numbers you have for
9 her value would also be inaccurate. Is that a fair
10 statement?

11 A It's a hypothetical situation.

12 Q It's not a hypothetical situation. I'm
13 asking you, if the numbers that you're using -- that
14 you used in Ms. Goldstein's report to determine her
15 value in NuVeda were inaccurate, then the numbers you
16 have for the value would also be inaccurate?

17 A If you changed all the 9s to a 6, then you
18 would come up with a different conclusion.

19 Q Okay. If you changed a hundred to 84; right,
20 you'd come up with a different conclusion?

21 A Correct.

22 Q In the numbers that you use for
23 Ms. Goldstein's, that's the numbers you incorporated
24 in tab 8; correct, which is the business --
25 supplemental business valuation report that you did

1 for Mr. Terry?

2 A That is correct.

3 Q Who provided -- you said management provided
4 you those numbers. Who provided you those numbers?

5 A I don't recall the exact source. It was all
6 part of discovery.

7 Q All right. Do you -- was that given to you
8 by Ms. Turner or Mr. Terry?

9 A It would be one or the other.

10 Q Okay. Because it wasn't given to you by
11 Dr. Bady, Dr. Mohajer, or Mr. Kennedy, was it,
12 directly?

13 A Not to my knowledge.

14 Q Have you ever talked with Dr. Bady?

15 A I have not.

16 Q Dr. Mohajer?

17 A I have not.

18 Q And Dr. Kennedy?

19 A No.

20 MR. KENNEDY: I'm not a doctor.

21 MR. DUSHOFF: I'm going to make you a doctor,
22 honorary. I'm just on a roll.

23 Q And the only people you spoke with about
24 doing valuations in the case that involved NuVeda, at
25 that time when you were doing this report, were

1 Ms. Turner, who was Terry's -- Terry's attorney -- and
2 Shane Terry. Is that accurate?

3 A I can't recall if those are the only people I
4 spoke to, but those would have been the main sources
5 of my information.

6 Q So it's your belief -- because you said
7 management, so it's your belief that the numbers that
8 you have here on appendix A and B were numbers that
9 were given to you by Shane Terry or Ms. Turner during
10 discovery?

11 A Well, the -- just a point of clarification,
12 that the Exhibit A -- or excuse me, this is
13 appendix A -- was sourced from a specific file. It's
14 Exhibit 247; and the file, CWNV Forecast 2.

15 Q Uh-huh. And who provided that to you?

16 A I don't recall the specific source of that
17 particular exhibit.

18 Q But you weren't -- but again, you weren't
19 provided that -- you never received any documents
20 directly from Dr. Bady, Dr. Mohajer, and Mr. Kennedy;
21 right?

22 The documents you received here in this case
23 were brought, either Ms. Turner or Mr. Terry, in
24 personally?

25 A Yes.

1 Q Okay.

2 A It was my understanding that they were
3 generated, though, by the management of the company.

4 Q Okay.

5 A That's my understanding.

6 Q At the time that you're doing the evaluation,
7 or even now, how many licenses does NuVeda have?

8 A I'm sorry?

9 Q How many licenses does NuVeda have?

10 A As we sit here today?

11 Q Yep. Or as you -- let me try -- let's go
12 back.

13 As you did the evaluation for Ms. Goldstein,
14 way back -- let's go back to August of 2017, the date
15 of evaluation, how many licenses did they have?

16 A The assumption was that they had all six
17 licenses.

18 Q Okay. And what licenses were those? What
19 types of licenses?

20 A They were dispensary licenses, cultivation
21 licenses, and production licenses.

22 Q Do you know how many of each?

23 A Not off the top of my head.

24 Q Fair to say that there were two? Would you
25 agree with me that there were two of each?

1 A There were two of each, yes.

2 Q Okay.

3 A It's on page 5 of the original report.

4 Q Do you know who CWNV -- or what is CWNV?
5 What entity it is?

6 A I don't understand the question.

7 Q All right. You've heard of CW in this?

8 A Yes.

9 Q And you've heard of NuVeda?

10 A Yes.

11 Q Have you ever heard of CWNV?

12 A Yes.

13 Q Who is CWNV?

14 A It's my recollection that CWNV held the
15 65- -- was originally intended to hold the 65 percent
16 of four licenses.

17 Q Do you know who comprised CWNV? What
18 entities comprise CWNV?

19 A What are the entities that comprise it?

20 Q That comprise it?

21 A Not off the top of my head.

22 Q You said 65 percent. Are you aware that
23 NuVeda had 35 percent and CW had 65 percent?

24 A I don't recall the specifics. It was all
25 spelled out in the letter of intent, which I believe

1 was part of the original report.

2 Q Well, do you want to look at your original
3 report to make sure you have -- you know what this is,
4 because I'm going to ask you some questions regarding
5 it.

6 A You're going to ask me questions regarding
7 CWNV?

8 Q Yes, I am.
9 (Witness reviewing document.)

10 A Okay.

11 Q Okay? Did you have an opportunity to
12 review?

13 A I'm going to find it in here.

14 Q Take your time. I don't want to rush you.
15 (Witness reviewing document.)

16 A I'm not finding anything on that.

17 Q So did anybody, did Mr. Terry or
18 Ms. Goldstein ever explain to you the difference
19 between CWNV and NuVeda?

20 A I know Ms. Goldstein didn't. I'm not sure if
21 Mr. Terry did or not.

22 Q If Mr. Terry did that, that would be your
23 original report?

24 A If it was relevant to the determination of
25 the value for his shares in NuVeda.

1 Q As you sit here today, as we're talking right
2 now, you don't know what CWNV is?

3 A No, I'm not clear on what CWNV is, as I sit
4 here today.

5 Q I want you -- can you go to tab 11, please.
6 And page 4 of tab 11, please.

7 You got that?

8 A Yep. Yes.

9 Q All right. It says, "Most recent projections
10 using the most recent data projected NuVeda revenues."
11 You see that, year 1, 2, 3, 4, 5?

12 A Yes.

13 Q All right. And that is per Exhibit 247; is
14 that correct?

15 A That is correct.

16 Q All right. And 247 would be in tab 8;
17 correct, where we just were? That you just read off
18 before; correct?

19 A Yes.

20 Q All right. Now, let me ask you this
21 question. Just keep back on page 4. Are you sure, as
22 you sit here today, that those are the projected
23 NuVeda revenues that you have on your Ms. Goldstein
24 exhibit -- Ms. Goldstein opinion, page 4?

25 You can go to page -- you can go to

1 Ms. Goldstein's exhibit -- the tab 11. I'm going to
2 ask you a question about tab 11. You see tab 11?

3 A Yeah, I see tab 11. I'm at tab 11.

4 Q Okay. Tab 11, are you sure those are
5 projected NuVeda revenues that you used, as you sit
6 here today?

7 A Those are the revenues in million of dollars,
8 as purported on appendix A of tab 8.

9 Q So let's turn to appendix A, please, of
10 tab 8, if you can, please.

11 Are you there?

12 A I am.

13 Q These aren't the projected revenues for
14 NuVeda, are they?

15 A No, I believe what we were doing is using
16 CWNV, or at least what -- what the discussion was --
17 as a proxy for what NuVeda would have done had they
18 retained control of all six licenses.

19 Q Okay. My question to you is, this -- this
20 document, Exhibit 247, is not the forecast of NuVeda's
21 profit-and-loss projection, but of CWNV; isn't that
22 correct?

23 A That is correct, using them as a proxy for
24 what NuVeda would have done having had --

25 Q You just testified earlier that you don't

1 know what CWNV is or what it's made of, the entities,
2 or anything about it; isn't that correct?

3 A I know that they had similar licenses to
4 NuVeda.

5 Q You only know what you've been told. And you
6 just testified under oath that you don't know what
7 makes up CWNV, you don't know the entities. And
8 that's okay if you don't. Nobody ever explained it to
9 you?

10 A That is correct --

11 Q Okay.

12 A -- so my testimony stands.

13 Q So the numbers -- the CWNV numbers that you
14 used in -- from Appendix A, are the numbers you used
15 to determine the -- if you look at page 4 of your
16 expert report -- the projected NuVeda revenues; is
17 that correct? Those are the same numbers you used?

18 A What page are you on, sir?

19 Q Sure. Page 4 of tab 11. Appendix A, and
20 that, that will match up your 1, 2, and 3 --

21 A Yes, it --

22 Q -- 4 and 5?

23 A No doubt about it, it does say "Projected
24 NuVeda revenue."

25 Q All right.

1 A We were using CWNV as a proxy for what
2 NuVeda's revenues would have been, so they were still
3 projected revenues via proxy for NuVeda.

4 Q Does it say "via proxy" anywhere on here?

5 A I don't know.

6 Q Are you aware that CWNV doesn't have two of
7 the licenses? The other licenses are somewhere else?
8 That CWNV only has four licenses?

9 A That's why we err to a conservative. There
10 was no proxy for the other two licenses.

11 Q You didn't even know what CWNV was until we
12 spoke today, so how can you say it's being used as a
13 proxy?

14 A It was represented to me that those
15 projections could be used as a proxy for NuVeda's,
16 just for licenses. And as we speak, some memory is
17 coming back, so ...

18 Q Isn't it more true that Mr. Terry just gave
19 you the wrong information and you plugged in those as
20 CWNV is NuVeda, and you just interchanged those names?
21 Isn't that more true?

22 MR. FEUERSTEIN: Objection to the form of the
23 question, "more true."

24 ARBITRATOR BAKER: Can you just rephrase it?

25 MR. DUSHOFF: Sure.

1 Q Isn't it more likely, instead of using it as
2 a proxy, as you say, although it's nowhere in here,
3 that Mr. Terry just gave you the wrong information and
4 you used those numbers to determine -- you used CWNV
5 numbers to determine NuVeda's revenue?

6 A No.

7 Q So Ms. -- you told me, no, that Mr. Terry did
8 not give you the inaccurate numbers?

9 A No, I specifically remember our conversation
10 of using those numbers as a proxy for NuVeda.

11 Q Anywhere in your report -- and I want you to
12 really super take time in this report -- in
13 Exhibit 8 -- or in tab 8 of tab 11, show me where you
14 even used the word proxy.

15 A It doesn't appear to be explicitly spelled
16 out.

17 Q Not just explicitly spelled out. Is it even
18 implicitly spelled out?

19 A No.

20 Q Do you know when NuVeda started to receive
21 revenues from its two operating dispensaries? Or are
22 you even aware -- let me lay some foundation.

23 Are you aware that NuVeda, at the time that
24 you were -- at the time that you did Ms. Goldstein's
25 report, are you aware that there were two dispensaries

1 that were open for NuVeda?

2 A I may have been tangentially aware, but I
3 wasn't concerned because we were doing the valuation
4 as of August 2017 --

5 Q Right. And --

6 A -- based on -- based on the original business
7 plan.

8 Q Yeah. The question -- but the question I
9 asked you is, were you aware that as of August 8,
10 2017, NuVeda started to receive revenue from two
11 operating dispensaries?

12 A I may have been. It did not factor into my
13 report.

14 Q When you say you may have been, who would
15 have provided you that information?

16 A I may have been aware of it just
17 tangentially. I have no specific source for that. It
18 did not factor into the report.

19 Q Okay.

20 A That was not the original business plan.

21 Q So nobody, no -- neither Ms. Goldstein nor
22 Mr. Terry ever gave you any of the revenue from the
23 two dispensaries? You never had that information?

24 A It's my understanding because of the alleged
25 bad acts of certain individuals with NuVeda, that they

1 were unable to follow the original business plan and
2 that their operations were delayed.

3 Q You're not an attorney, are you?

4 A I forgot to go to law school.

5 Q Yeah, so did I. But you're also not a trier
6 of fact, are you?

7 A No, I am not.

8 Q So it's -- in your mind, you believe that
9 there were alleged bad acts; and therefore, because of
10 my clients' alleged bad acts, a lawsuit had to be
11 filed. Is that your testimony?

12 A Could you repeat that.

13 Q Sure. Is it your testimony that my clients'
14 alleged -- withdrawn.

15 Let's start with this: If there's litigation
16 on a company and -- regarding especially closely-held
17 company involving shareholders -- is it your testimony
18 that any types of litigation regarding -- even
19 Ms. Goldstein's -- would have an effect on the value
20 of the company and the value of her shares?

21 A I'm still lost. I'm sorry.

22 Q Okay. Would litigation, like the litigation
23 in this matter determining the value of her shares or
24 determining alleged bad acts in a closely-held
25 company -- would that type of litigation have any

1 effect on the value of the company?

2 A It's a circular question.

3 Q Okay. So explain.

4 A But for the alleged bad acts, there wouldn't
5 be any litigation.

6 Q So, okay, let's -- so does litigation -- let
7 me ask you, does litigation -- any litigation --
8 effect the value of a company; or it shouldn't even
9 come into play?

10 A Depends on what the fact set is.

11 Q Okay. All right. Good. So I want to say,
12 so it depends on the facts.

13 In this case you're alleging that my clients
14 committed bad acts; therefore, you can't take the
15 litigation into account when you're determining the
16 value of NuVeda; is that accurate?

17 A Yeah.

18 Q All right. However, are you --

19 A Yes.

20 Q -- are you aware that all the causes of
21 action against my clients in this case with alleged
22 bad acts have been dismissed? Are you aware of
23 that?

24 A I'm not aware of that.

25 Q Does that change your mind, the new

1 information that you base your -- you base all your
2 reports -- if I get new information, based on that,
3 that my clients' actions were dismissed; so,
4 therefore, there are no bad acts that my clients
5 committed, no evidence of bad acts that my clients
6 committed, would that change your mind regarding
7 litigation having the effect, in this case, on the
8 value?

9 A No.

10 Q And just for the mere fact that since my
11 clients were alleged to have bad acts; therefore, that
12 caused the litigation; and, therefore, since my
13 clients were alleged to do that, therefore, you can't
14 take into account the litigation for the value?

15 MR. FEUERSTEIN: Objection.

16 MR. DUSHOFF: I'll withdraw the question,
17 because I think I already got my answer. And that was
18 a very poorly phrased question.

19 Q So you did the value in Exhibit 8 and
20 Exhibit 12 based on the market approach; correct? Not
21 income approach.

22 A Exhibit A and --

23 Q Well, exhibit -- no, exhibit -- tab 11 and
24 tab 8. You used the market approach, not the income
25 approach; correct?

1 A That is correct.

2 Q And that's to determine the specific value of
3 NuVeda; is that accurate?

4 A It's to determine a value for an interest in
5 NuVeda had the original business plan been executed as
6 originally laid out, for lack of a better term.

7 Q Right. So you were there to determine the
8 value of NuVeda at the time of -- in this case, as of
9 August 8, 2017; correct?

10 A With respect to Ms. Goldstein's --

11 Q With respect to Ms. Goldstein.

12 And at that point, if you had an actual sales
13 number from the two dispensaries, wouldn't it be --
14 would it be fair to say that would be a more accurate
15 determination of the value of NuVeda, with their
16 actual sales instead of just projected sales?

17 A No, because that -- that wasn't any of -- let
18 me back up. That was not the underlying assumption of
19 the report.

20 Q That was not the underlying assumption that
21 you used in your valuation for market valuation;
22 correct?

23 A That's correct.

24 Q But would you say if you did have
25 the income -- let me ask this. If you did have --

1 they handed you a -- You know what? Here they are.
2 Here are the revenues for the two dispensaries. Would
3 you have taken that into consideration for the income
4 approach?

5 A The underlying assumption in these two
6 reports that we're talking about was NuVeda has all
7 six licenses, and they executed the business plan as
8 originally constructed.

9 Q So is the answer to that, no, you would not
10 have used those numbers and tried an income
11 approach?

12 A No.

13 Q You stated on direct, when you said you used
14 the multiplier, you used -- and thank you for putting
15 this in simple terms, because I would not have gotten
16 it -- you said if sales were a hundred dollars, you'd
17 times it by the multiplier, which is 13.2; correct?

18 A That's correct.

19 Q And then you would get 1,320 --

20 A Right.

21 Q -- at least under that example?

22 So isn't it fair to say if you had actual
23 sales, wouldn't that make sense to put that in front
24 of that number, times it by 13.2, then get the actual
25 value?

1 A Violate the underlying assumptions of what I
2 was tasked and asked to do.

3 Q So you weren't tasked and asked to do an
4 income approach in this, it was just a market-value
5 approach?

6 A I don't believe I was asked to use any
7 specific approach.

8 Q You testified on direct examination that you
9 looked at all the approaches in any valuation you do
10 and then you say, Nope, can't do this one. Nope,
11 can't do this one. But, yes, I can do this one. You
12 look at all the alternatives; correct?

13 A That's correct.

14 Q And a matter of fact, if you look
15 at Exhibit -- sorry, tab 1 -- I keep saying Exhibit 1,
16 I apologize -- and you look at -- you can even look at
17 almost -- just turn the page, the very first page,
18 after the "Confidential" on the other side where it
19 says "Executive summary data sheet," you see that?
20 You're going a little too far. Even before that.

21 A I see it.

22 Q Okay.

23 A Yes.

24 Q It says you considered and rejected assets,
25 which is the liquidation value, historic, and adjusted

1 book value; correct?

2 A Correct.

3 Q Okay. The liquidation value is the one that
4 you've testified to that that's what Mr. Clauretie
5 did, this liquidation value?

6 A I believe that terminology is used in his
7 report.

8 Q Okay. And you disregarded market guideline,
9 public company, and comparable transactions;
10 correct?

11 A Yes.

12 Q All right. And also the income
13 capitalization of earnings?

14 A Yes.

15 Q Okay. So you went to income discounted
16 multi-stage growth model.

17 And you testified on direct that you used
18 that model because you had the -- you believed you had
19 all the information from Mr. Terry, that -- and that's
20 the best approach, you felt, under those projections;
21 correct?

22 A We didn't have the necessary market
23 information at that time to use the market approach,
24 as well. If we had, I would have used both.

25 Q Now, you've also testified that, again -- we

1 just went over -- you look at other, you say,
2 Discounted, nope, not going to do it. Not going to do
3 it.

4 But you did not do that in Ms. Goldstein's,
5 did you? You didn't take any other approach. You
6 specifically adopted the market approach in
7 Ms. Goldstein's report; correct?

8 A That is correct.

9 Q And specifically you use the guideline for
10 public company method; is that accurate?

11 A Yes.

12 Q Did you even consider any other approach?

13 A The information was not available to use any
14 other approach. I had already discounted the
15 asset-based approach.

16 Q Did it say you discounted the asset approach
17 in Ms. Goldstein's report? Because I didn't see it.

18 A I don't know if it specifically says that,
19 that's why we incorporated into that report all prior
20 reports.

21 Q But in the first report you use the income
22 method; right?

23 A Yes.

24 Q And basically you have projections that did
25 it very much differently, and so -- but you decided in

1 this one not to use the income approach; although, you
2 have very similar numbers, if you look at exhibit --
3 attachment A and B -- appendix A and B in tab 8.
4 They're both projections; right? Just the numbers are
5 different?

6 A That's correct.

7 Q But -- and so you -- even though you had the
8 numbers -- these are the same numbers -- appendix B is
9 the same numbers you had in your original tab 1;
10 correct? Same numbers you used?

11 A No.

12 Q Appendix B, it says the original five-year
13 profit-and-loss projections?

14 MR. FEUERSTEIN: I'm sorry, Matt, where are
15 you?

16 MR. DUSHOFF: I'm on page -- I'm on tab 8,
17 page 9, appendix B.

18 THE WITNESS: And, I'm sorry, you're
19 comparing those numbers to the original report --

20 BY MR. DUSHOFF:

21 Q Right, the original report -- the numbers you
22 had in the original report.

23 MR. FEUERSTEIN: You're referring to
24 page 15 -- you were referring to page 15 in the
25 original report?

1 MR. DUSHOFF: Yeah.

2 Q He -- it states in appendix B, "The following
3 projections were originally provided for use in the BV
4 report and were sourced from the NuVeda forecast of
5 2015" --

6 MR. FEUERSTEIN: Where are you reading from?

7 MR. DUSHOFF: I'm looking at appendix B. Do
8 you see appendix B in tab 8?

9 MR. FEUERSTEIN: Oh, okay.

10 MR. DUSHOFF: Okay?

11 MR. FEUERSTEIN: Yeah.

12 BY MR. DUSHOFF:

13 Q The top of appendix B on tab 8 says, "The
14 following projections were originally provided for use
15 in the BV report" -- which is your original report;
16 correct?

17 A Yes.

18 Q -- "and were sourced from the filed NuVeda
19 forecast," and then there's a bunch of numbers, base
20 line, "as originally provided by respondents in the
21 case."

22 So these are the original numbers you used to
23 come up with value in your original -- Mr. Terry's
24 formula -- value; correct?

25 A Without comparing them one by one, I can't

1 tell you. That is what it implies there --

2 Q Okay.

3 A -- but I don't want to say yes --

4 Q All right. So, well, if you look at the
5 other numbers, you look at exhibit -- appendix --
6 appendix A, compare them to appendix B. All right.
7 Except for the amounts -- right -- except for the
8 amounts, it is -- this is the exact same report?

9 MR. FEUERSTEIN: Now we're comparing
10 appendix A and appendix B?

11 MR. DUSHOFF: Yeah.

12 THE WITNESS: And your question -- I'm sorry,
13 your question is, except for all the amounts that are
14 the same?

15 BY MR. DUSHOFF:

16 Q The question is, the numbers are -- the
17 numbers are the same? You have -- you have
18 "Cultivation", you have certain numbers in appendix A.
19 You have "Cultivation, Year 2," you have a certain
20 number. "Cultivation, Year 2," in appendix B is
21 10,600,000. "Cultivation, Year 2" in appendix A is
22 4,151,000. Do you see that?

23 A Yes.

24 Q Do you agree --

25 MR. FEUERSTEIN: He's looking at --

1 ARBITRATOR BAKER: What tab are you on?
2 MR. DUSHOFF: I'm on tab -- I'm on tab 8.
3 ARBITRATOR BAKER: 8?
4 MR. DUSHOFF: Yeah, appendix A and B.
5 MR. FEUERSTEIN: Pages 8 and 9.
6 MR. DUSHOFF: Pages 8 and 9.
7 ARBITRATOR BAKER: And what's your question?
8 MR. FEUERSTEIN: Except for the numbers it's
9 the same.
10 BY MR. DUSHOFF:
11 Q Yeah, do you agree with the numbers?
12 Not the numbers are the same.
13 My contentions are, both of these are
14 five-year projections; correct? One was from the
15 original, and one was from other information --
16 appendix A was other information you received, from
17 Exhibit 247.
18 But both of these are projections, five years
19 out; correct?
20 A Yes. I'm still not sure if those are the
21 originals or if that's a mistake. That's what I'm
22 checking right now.
23 Yeah, I can't, with certainty, say that.
24 Q Okay. But you would agree with me that
25 appendix A and appendix B are projected by your

1 projection numbers; correct?

2 A Yes.

3 Q Now, with the five-year projection numbers
4 you used, whether the numbers are correct or not --
5 but if you had a five-year projection in the original
6 one, and there you said that I can use the income
7 approach, why is it now, then, you have another
8 projection that you can't use the income approach here
9 and just use the market approach?

10 A I'm not sure those are the original numbers,
11 but let me explain. It's going to sound like I'm
12 reversing testimony in something else, but I'm really
13 not.

14 As we sit here today, my memory is coming
15 back, and I wasn't prepared to speak about this CWNV
16 thing.

17 Q I'm not asking you about that.

18 A Yeah, I know --

19 Q I'm asking about --

20 ARBITRATOR BAKER: Let him finish his answer.

21 MR. DUSHOFF: Okay.

22 THE WITNESS: Yeah. We could use the
23 original projections because they were specifically
24 for NuVeda.

25 We used the total revenue protections when we

1 were using CWNV as a proxy for NuVeda because we
2 didn't have any upgraded numbers for NuVeda itself.

3 And the reason I used total revenue is
4 because the industry -- the cannabis industry is so
5 massive that there aren't many companies that are
6 making positive bottom-line numbers.

7 So the way the cannabis industry is being
8 valued today and in -- during the time frame when this
9 was relevant, was by looking at top-line numbers,
10 total sales.

11 So I don't know if I just totally confused
12 everything or whatnot.

13 BY MR. DUSHOFF:

14 Q Let me ask you this question because we went
15 over proxies and I really don't want to go over that
16 again.

17 Why didn't you use the income approach when
18 you have projections out five years for
19 Ms. Goldstein's report? Why did you discount it?

20 MR. FEUERSTEIN: Object to the
21 classification, the word "discount." But I think the
22 witness understands the question.

23 ARBITRATOR BAKER: Overruled.

24 THE WITNESS: I did, until you objected.

25 ///

1 BY MR. DUSHOFF:

2 Q Why did you -- why did you consider --

3 A Yeah --

4 Q -- why did you reject the income approach?

5 I'll use your language.

6 A I rejected the income approach in the
7 supplemental reports because we had -- we had market
8 data that was available for us, so that we could
9 identify or at least develop revenue multipliers.
10 It's a more accurate way to value cannabis companies
11 because so much can happen between the top line and
12 the bottom line.

13 I used the income approach in the original
14 valuation because we had actual NuVeda projected
15 numbers, which is why we updated them with other
16 numbers using a proxy -- I know you don't want to hear
17 it anymore, but that's what it is -- using a proxy for
18 that, because we didn't have updated numbers.

19 By the way, if we had stuck with the original
20 numbers, the value would be a heck of a lot higher.
21 These numbers are reduced from the original.

22 Q Right. But you didn't -- okay. So you said
23 you took into account -- you said the market -- let me
24 rephrase this.

25 You said the market approach is a better way,

1 at least from the information you have now, to
2 evaluate or to value NuVeda in Ms. Goldstein's;
3 correct?

4 A And Terry's.

5 Q Okay. And in -- and in 8, as well -- tab 8?

6 A Yes.

7 MR. FEUERSTEIN: Mr. Dushoff, if you're
8 getting at a point where you're sort of tacked for a
9 moment --

10 MR. DUSHOFF: The court reporter?

11 MR. FEUERSTEIN: -- I think the court
12 reporter could use a rest for a second --

13 MR. DUSHOFF: Okay, I don't have a problem.

14 MR. FEUERSTEIN: -- and we could give her a
15 break.

16 MR. DUSHOFF: I have no problem with that. I
17 think it's a good idea.

18 ARBITRATOR BAKER: All right. Let's take a
19 quick break. Go off the record.

20 (Break taken.)

21 BY MR. DUSHOFF:

22 Q Mr. Parker, can you turn to page 4 of tab 1.
23 And then we'll start questioning once you get there.

24 A Report page 4; correct?

25 Q Your -- yeah, your page 4. I guess it would

1 be RESP 57619. Do you see that on the bottom?

2 A Yes, I do.

3 Q Now, you would agree with me that the -- this
4 is the guideline public -- I'm going to talk about the
5 guideline public company method.

6 MR. DUSHOFF: Can we just use GPCM, is
7 that -- is that okay with everybody as the acronym, or
8 use the word guideline?

9 Q The guideline involves identifying
10 publicly-traded companies similar to the subject
11 company; is that accurate statement?

12 A Yes.

13 Q And that the valuation ratio, such as
14 multiples of revenue or earnings, are calculated from
15 guideline companies and then applied to the subject
16 company; is that right?

17 A Yes.

18 Q Okay.

19 A That's what it says.

20 Q Right. And is it also fair to say that --
21 that GPCM relies on the theory of an open and
22 unrestricted market that is perfectly competitive?

23 I know it might not say it in there, but from
24 your knowledge?

25 A Can you repeat that again.

1 Q Sure. That GPCM relies on the theory of an
2 open and unrestricted market that is perfectly
3 competitive?

4 A I would say not necessarily so.

5 Q Well, if it relies on publicly-traded
6 companies, then, right --

7 A Yes.

8 Q -- you're talking about GPCM?

9 A Yes.

10 Q And these publicly-traded companies are
11 traded on the stock markets, whether it's Canadian or
12 OPC or on the U.S. market; correct?

13 A Yes.

14 Q And isn't it fair to say -- so when you're
15 comparing public companies, you want to make sure that
16 they are actively -- being actively traded; is that
17 accurate?

18 A You want to make sure that they have -- yes,
19 that's accurate.

20 Q And actively -- is actively as opposed to
21 thinly traded? Is that an antonym?

22 A No, not necessarily.

23 Q What's thinly traded mean to you?

24 A Thinly traded would be very little volume,
25 very little transactions.

1 Q So if there was little volume and little
2 transaction, would that be a company you would use in
3 a guideline public company method?

4 A It depends on the situation at hand.

5 Q And it's fair to say you also admit in here,
6 in your guideline, in the GPCM on page 4, that however
7 using the GP -- the reason why you didn't use it in
8 Mr. Terry's original is that "the GPCM method can be
9 often difficult to find publicly-traded companies
10 which are truly compatible to the subject business";
11 correct?

12 A Yes.

13 Q And then you follow it up, "This is
14 especially true in the case of mid-size or smaller,
15 privately held companies."

16 What would you call mid-size or small,
17 privately held companies?

18 A Where were you reading at, I'm sorry?

19 MR. FEUERSTEIN: It's four lines down in that
20 paragraph.

21 THE WITNESS: Got you.

22 (Witness reviewing document.)

23 THE WITNESS: I don't think there's any
24 bright-line definition of what a mid-size company is.
25 I mean, there are a few certain publications.

1 BY MR. DUSHOFF:

2 Q But you stated that one of the problems is,
3 "and this is especially true in the case of mid-sized
4 or small, privately held companies."

5 Would NuVeda be considered a small, privately
6 held -- smaller, privately held company in that
7 definition?

8 A Yes.

9 Q And you have here, "Another difficulty,
10 particularly in the case of early-stage
11 enterprises" -- let me ask you a question. Would you
12 consider NuVeda an early-stage enterprise?

13 A Yes.

14 Q -- "is that the subject business may not have
15 a meaningful amount of revenue or earnings or may have
16 negative earnings"; is that accurate?

17 A Yes.

18 Q And finally, another reason why you didn't
19 use the GPCM method in the original is that, "In
20 addition, the performance indicators from
21 publicly-traded companies may be difficult to apply
22 directly to closely held enterprises, because public
23 companies are typically further along in their
24 development cycle and are often more broadly
25 diversified in terms of their lines of business and

1 products and services offered"; correct?

2 A Yes.

3 Q I'm sorry?

4 A Good general statement. Doesn't apply in all
5 cases, but --

6 Q I'm sorry?

7 A It's a general statement.

8 Q And it's -- and this is the reason why -- the
9 reasons that I just went over are reasons why you did
10 not use the GPCM in the original -- in the original
11 opinion; correct?

12 A No, the reason I didn't use it in the
13 original opinion is because we couldn't identify
14 publicly-traded, comparable companies.

15 Q Right. You -- you put actually in here, this
16 is -- on page 4, you said, "Guideline public method,"
17 and you actually identified why you did not use this.
18 This is the reason why you did not use it. And that's
19 your reason why you did not use it; correct?

20 A It's a general statement regarding the
21 different types of approaches to business valuation.
22 It's not necessarily meant to be applicable to the
23 subject company.

24 Q On page -- when we went over this before, you
25 said you considered and rejected. And one of things

1 you rejected, approaches, was the market guideline
2 public company approach.

3 Then you list in here why -- on page 4, why
4 you did not use it -- and why you did not use it. And
5 this is the section where it says why you did not use
6 the guideline public company method.

7 So are you telling me that this is just a
8 general statement and does not apply to this
9 particular opinion?

10 A It's a general informative statement. If you
11 look in the valuation section that starts on page 19,
12 it will provide a specific reason why the guideline
13 company -- guideline public company method was not
14 used.

15 Q Valuation analysis. Okay. Where on 19 --

16 A 21 -- page 21.

17 Q 21.

18 A Yes, sir.

19 Q "This method involve" -- okay. One moment.

20 So the only -- is it your testimony that the
21 only reason you didn't use the guideline public
22 company method is that "The levels of comparability
23 were deemed not to be sufficient enough, such that a
24 reasonable indication of value could be inferred"?

25 MR. FEUERSTEIN: Object to the -- it wasn't

1 read accurately; but otherwise, the witness can
2 answer.

3 THE WITNESS: Yes, it doesn't specifically
4 spell out factors; but, yes, that's why.

5 BY MR. DUSHOFF:

6 Q Is that the only reason why?

7 A Is what the only reason why?

8 Q Is the only reason why, because you -- is the
9 only reason why you didn't use the general public
10 company method is because you couldn't find -- you
11 couldn't find comparable companies -- publicly-traded
12 companies to compare to use the valuation?

13 A Well, I couldn't find companies that had
14 matured to the point where I was comfortable, using
15 professional judgment, in using them in 2016.

16 Q So let's go over -- I'm going to go over --
17 first, you have in your definition of fair market
18 value -- let me ask you this. This was in one of your
19 reports to Ms. Goldstein, and tell me if this is
20 accurate.

21 "Fair market value is defined as the price at
22 which the property would change hands between a
23 willing buyer and a willing seller, neither being
24 under any compulsion to buy or to sell and both having
25 reasonable knowledge of relevant facts."

1 Is that an accurate statement of your
2 definition of fair market value?

3 A Where were you reading that from?

4 MR. DUSHOFF: I think, Mr. Feuerstein, you
5 had it in his Goldstein report; you put it in your
6 brief.

7 ARBITRATOR BAKER: I'd say page 1 --

8 MR. FEUERSTEIN: Yeah, I think it's page 1
9 of the --

10 ARBITRATOR BAKER: -- of the tab 1.

11 MR. FEUERSTEIN: Yeah, under "Standard of
12 Value."

13 THE WITNESS: Tab 1. I don't think I --

14 MR. FEUERSTEIN: Oh, okay.

15 THE WITNESS: Yes, with the exception that
16 that -- that's not my definition, that's ...

17 BY MR. DUSHOFF:

18 Q Do you agree with that definition?

19 A Yes, sir.

20 Q So basically fair market value is when you
21 have a willing buyer and a willing seller in a
22 transaction; correct? Somebody is willing to buy
23 something and somebody is willing to sell something?

24 A Yes, that's -- that's the ...

25 Q Well, there are two market approaches, are

1 there not? There's the one you used, GPCM approach;
2 and there's a comparable transaction method; is that
3 correct?

4 A Yes.

5 Q And the comparable transaction method is
6 where you would use comp transactions. So if there
7 was somebody else who purchased a -- here, a
8 distrib- -- any one of these licenses, the -- so if
9 somebody would purchase a marijuana business or a
10 marijuana license and then you had one of those sales,
11 that would be considered a comp sale, potentially;
12 correct? Somebody bought a distribution --

13 A If it was comparable to your subject company,
14 that would be one data point in there.

15 Q Right. That would be a data point.

16 (Court reporter requests clarification.)

17 MR. DUSHOFF: Sorry.

18 (Court reporter requests clarification.)

19 BY MR. DUSHOFF:

20 Q I think you said that would be one data
21 point.

22 A That would be one data point in that
23 particular approach.

24 Q So -- and in those situations when you have
25 somebody selling something to somebody else, have you

1 checked -- did you check at any point in time
2 during -- when you were doing the report for
3 Ms. Goldstein, if there were any comp sales at that
4 time, in August of 2017?

5 A Yes.

6 Q Did you find them?

7 A Unfortunately, there is not a current
8 database of sales amongst cannabis companies or their
9 licenses.

10 Q But there are for publicly-traded companies,
11 are there not? Don't they have to report that? They
12 have to report purchases and sales, if they're
13 publicly-traded, to the SEC, because they're a
14 publicly-traded company; isn't that fair to say?

15 A If they're a reporting company, yes.

16 Q And did you check to see if there are any
17 reporting companies -- publicly-traded companies --
18 that had any transactions at that time? Did you even
19 look at it?

20 A Transactions in respect to?

21 Q Purchasing of a license, sale of a license,
22 during that period of time. Did you even look at any
23 comp purchases or sales?

24 A That information is generally not
25 available.

1 Q I didn't ask you if it wasn't available. Did
2 you even look? Did you research it?

3 A Yes, I did research it.

4 Q And you didn't find anything?

5 A No.

6 Q And isn't it fair to say that comp
7 transaction method is more akin, more alike, to your
8 fair market value, having a willing buyer and willing
9 seller, than would be the GPCM method?

10 A No.

11 Q Well, the -- the comp transaction method is
12 in regards to you have a willing buyer and a willing
13 seller; correct -- I mean, a sales transaction?

14 A The valuation methods don't have anything do
15 with the premise of value. The premise of value can
16 be different and you still use the appropriate
17 valuation approach. In other words, one thing has
18 nothing to do with the other.

19 Q All right. So if I'm willing to buy
20 something -- if a buyer is willing to buy NuVeda at
21 \$5 million -- a willing buyer, and they're willing to
22 sell -- fair market value for then, under your fair
23 market value definition, would be \$5 million; is that
24 accurate?

25 A That would define fair market value in that

1 particular instance.

2 Q And in order to do the GPCM method, you had
3 to find valuation -- you had to find public companies
4 that are comparable to NuVeda; is that correct?

5 A Or as comparable as possible in the cannabis
6 field, yes -- or arena.

7 Q And you know how many cannabis companies
8 there are in the United States?

9 A Not specifically.

10 Q Would 20,000 be a number that would be out of
11 the realm of possibility, in your mind, for doing your
12 research?

13 A In terms of utilizing that approach, yeah,
14 that's a crazy number.

15 Q No, no, I said marijuana companies. How many
16 companies are -- marijuana companies are there in the
17 United States?

18 A Out of a -- I don't know the specifics.

19 Q How many publicly-traded marijuana companies
20 are there in the United States?

21 A In the United States?

22 Q Yeah.

23 A Oh, about nine or ten --

24 Q How many --

25 A -- that qualify.

1 Q -- in Canada? I didn't say qualified. How
2 many are there? And it's qualified under your -- what
3 you wanted to do. But I'm asking how many
4 publicly-traded companies are there in the United
5 States in the marijuana field?

6 A It would be a guess. These are companies
7 identified as being the most comparable to NuVeda.

8 They are more in Canada, to answer your last
9 question, than there are in the U.S., because
10 marijuana is nationally legal in Canada.

11 Q Hundreds, is that your guess? Hundreds in
12 the United States, publicly-traded marijuana
13 companies?

14 A No.

15 Q Over 10?

16 A I'm not sure.

17 Q Over a hundred?

18 A Definitely not over a hundred.

19 Q How about in Canada, over a hundred?

20 A No.

21 Q Over 20?

22 A That would qualify as being --

23 Q Is it -- I'm talking about publicly-traded
24 marijuana companies.

25 A There are different levels --

1 MR. FEUERSTEIN: Can I just -- can I get a
2 moment of clarification, Mr. Dushoff?

3 You're talking about any company -- like a
4 marijuana company, so if it's involved at all in
5 cannabis, you're talking about similar companies such
6 as license-holding companies?

7 MR. DUSHOFF: I'm not talking about the
8 similar companies right now.

9 MR. FEUERSTEIN: You're talking any
10 companies --

11 MR. DUSHOFF: Any company involved with --

12 MR. FEUERSTEIN: It can be a brand --

13 MR. DUSHOFF: Yeah --

14 MR. FEUERSTEIN: It could be a brand. It
15 could be any --

16 MR. DUSHOFF: Yes.

17 MR. FEUERSTEIN: Okay. I just want to be
18 sure there's clarity.

19 THE WITNESS: What was the standing question?
20 I just want to --

21 BY MR. DUSHOFF:

22 Q Sure. The question is, any company that's
23 involved in the marijuana industry, whether they hold
24 a license or not, how many publicly-traded companies
25 would you say there are in Canada and the United

1 States together?

2 A Again, it would be a guess. There are
3 different levels of publicly --

4 Q All right.

5 A -- of public registration.

6 Q So then, give me your educated guess.

7 A I don't have an educated guess. I just know
8 that those are the companies that I identified as
9 being comparable to NuVeda or CWNV.

10 Q You didn't compare them to CWNV -- withdrawn.
11 So I'm going to turn to Ms. Goldstein's
12 report, which is Exhibit 11, page 3.

13 You there?

14 A What page?

15 Q Page 3.

16 A Yes.

17 Q And on page 3, you have listed here the
18 public companies you used to compare with NuVeda was
19 Terra Tech, Golden Leaf, 1933 Industries, and is it
20 either "Lit" or "Lite" Cannabis Corp.; is that
21 correct?

22 A Yes, I'm not sure how you pronounce it.

23 Q We'll call it -- for our purposes, we'll call
24 it "Lit."

25 What were the criterias for picking these

1 companies -- these four companies?

2 A I wanted companies that had operations in
3 Nevada.

4 Q What else?

5 A I wanted companies that had a decent market
6 cap, you know, preferably over 50 million.

7 Q What else?

8 A I wanted companies that had a good amount of
9 revenues.

10 Q Because you know that NuVeda had good
11 revenues?

12 A It has nothing to do with it.

13 Q Well, you said you needed to get companies
14 that were similarly situated -- we just went over
15 that -- to NuVeda. So you were looking at companies
16 with good revenue, so I would assume that -- that good
17 revenues would also be for NuVeda; right? Because
18 that would make them similarly situated, wouldn't
19 it?

20 A If you go back to the original projections,
21 the original business plan, the assumption is that the
22 original business plan was executed appropriately,
23 then NuVeda would have had significant revenues.

24 Q In Terra Tech's, the number that you got for
25 the revenues, was that an assumption or was that an

1 actual number?

2 A Those are actual numbers pulled from Yahoo
3 Finance.

4 Q So that's for Terra Tech, Golden Leaf, 1933,
5 and Lit, you didn't use projections; you used actual
6 numbers?

7 A Yes.

8 (Court reporter requests clarification.)

9 MR. DUSHOFF: Sure.

10 Q That was for Terra Tech, Golden Leaf, 1933,
11 and Lit Cannabis Corp., those are actual numbers and
12 not projections?

13 A That is correct.

14 Q So we have operations in Nevada, decent
15 market cap, good revenues, what other criteria?

16 A Quite frankly, there weren't that many to
17 pick from. That pretty much comprises it. The
18 largest criteria I wanted, I wanted firms with
19 business -- cannabis business in Nevada.

20 Q What research did you do -- let's start with
21 Terra Tech, what research did you do on Terra Tech,
22 before you listed them here?

23 A I researched the information that was
24 provided by Yahoo Finance.

25 Q Okay.

1 A I mean, there's a ton of information.

2 Q So what did you find out about Terra Tech --

3 A I --

4 Q -- and why it's similar to CWNV -- or,
5 sorry -- NuVeda?

6 A I don't know, off the top of my head, all the
7 information I found.

8 Q What type of licenses did Terra Tech have?

9 A Looking for companies that did business in
10 Nevada.

11 Q Do you know where else Terra Tech did
12 business?

13 A I know they do business elsewhere, it's a
14 fairly large company.

15 Q Are you aware that they are a California
16 company; correct? Are you aware about that?

17 A Yeah.

18 Q Are you aware that they have dispensaries in
19 Oakland?

20 A They have dispensaries all over the place.

21 Q All over in California?

22 A California.

23 Q And in Sparks? They have cultivation in
24 Sparks?

25 A I don't know.

1 Q Would you like to look at some information
2 to -- would anything refresh your recollection about
3 what --

4 A It wouldn't matter. At the time that I
5 picked those four companies, they met the criteria
6 involved. I don't remember the details on each and
7 every one of those companies.

8 Q Who -- what's Edible Gardens? Do you know
9 Edible Gardens?

10 A I -- it rings a bell. I couldn't tell you
11 anything specific about it.

12 Q Okay. Are you aware that Edible Gardens is a
13 wholly owned subsidiary of Terra Tech?

14 A Terra Tech is buying companies every day.
15 Maybe not every day, but a lot.

16 Q Do you know what -- do you know what Edible
17 Gardens is? You don't know? I don't know if I asked
18 you that.

19 MR. DUSHOFF: Can I have this marked as --
20 what number are we at?

21 ARBITRATOR BAKER: 151?

22 MR. FEUERSTEIN: Well, you're marking this
23 for identification?

24 MR. DUSHOFF: Yeah, marking for
25 identification purposes only.

1 ARBITRATOR BAKER: We're at 151.

2 MR. DUSHOFF: Yes, please.

3 ARBITRATOR BAKER: Do you have any
4 objections? Are you admitting it or ... before I look
5 at it?

6 MR. FEUERSTEIN: I'd like an explanation of
7 what this document is before we ...

8 MR. DUSHOFF: Sure. The explanation of what
9 this document is, it's printed off, this is Terra Tech
10 and what Terra Tech is and what they do.

11 He's testifying that this is a comp company
12 to NuVeda. We already know that they do business in
13 California, which NuVeda clearly only deals with Clark
14 County.

15 We also find out here that this place, Terra
16 Tech, has over 300 employees, which is not even close
17 to what NuVeda has.

18 MR. FEUERSTEIN: I'm sorry, Mr. Dushoff, I'm
19 not asking you for the argument --

20 MR. DUSHOFF: Oh.

21 MR. FEUERSTEIN: -- of what you're going to
22 question him.

23 I'm asking what the document -- the document
24 looks to me --

25 MR. DUSHOFF: The document -- I'm sorry.

1 MR. FEUERSTEIN: -- the first three pages are
2 a Form 10-Q --

3 MR. DUSHOFF: Right.

4 ARBITRATOR BAKER: Right.

5 MR. FEUERSTEIN: -- that were filed in or
6 about September OF 2018.

7 MR. DUSHOFF: That has a December 31, 2017,
8 numbers on them.

9 MR. FEUERSTEIN: Yeah, they do that.

10 But then the next pages seem to be selective
11 excerpts of something, like maybe a Terra Tech dec or
12 something.

13 MR. DUSHOFF: Yeah, they're printed off from
14 Terra -- they're printed off from Terra Tech's
15 website, of what Terra Tech does and who they are.
16 This is information, as Mr. Parker readily has
17 testified, that is readily available on -- from
18 Google, where you can find all this information.

19 So I'm asking him what he looked at, what
20 they provide, and to see if this is information that
21 he's aware of.

22 ARBITRATOR BAKER: This is a new document;
23 right? Hasn't been produced?

24 MR. FEUERSTEIN: Yeah, it's not produced.
25 This is the first time it's being shown to me, but --

1 MR. DUSHOFF: Well, the same thing the other
2 document that Terra Tech -- other document was also
3 not produced in this matter.

4 MR. FEUERSTEIN: What I'd ask is, I have no
5 problem with the representation of Mr. Dushoff with
6 respect to the first three pages. I think that's
7 clearly what it purports to be is a Form 10-Q.

8 ARBITRATOR BAKER: Okay.

9 MR. FEUERSTEIN: I do have a problem with
10 what this document is, in fact, when it's been
11 created, you know --

12 MR. DUSHOFF: I -- I --

13 MR. FEUERSTEIN: -- the authenticity of it.
14 So with -- respectfully, asking him -- asking the
15 witness questions about what Terra Tech does and what
16 these items are, you know, as of today may or may not
17 be relevant to what his opinion was for valuation in
18 2017.

19 So I don't know if it's fair to ask him
20 questions, to say, Well, you picked Terra Tech as a
21 company, and you used these numbers. Is -- did you
22 know Edible Garden? When was Edible Garden acquired?
23 I mean, you haven't laid --

24 MR. DUSHOFF: I'm -- I'm --

25 MR. FEUERSTEIN: -- that foundation, and I --

1 MR. DUSHOFF: But that's what I -- that's
2 what I want to ask him.

3 MR. FEUERSTEIN: But this document is -- as
4 it is, I'm objecting to it.

5 ARBITRATOR BAKER: Okay. Well, what I'm
6 going to allow is -- was the first three pages.

7 MR. FEUERSTEIN: I think it's the first three
8 pages.

9 ARBITRATOR BAKER: And then that's it for the
10 exhibit.

11 MR. DUSHOFF: Okay.

12 ARBITRATOR BAKER: You can ask him questions
13 about that one.

14 MR. DUSHOFF: Okay. I'd like to ask him
15 questions about the other one; just, if he doesn't
16 know, he doesn't know.

17 ARBITRATOR BAKER: That's fair.

18 MR. DUSHOFF: Okay.

19 Q So I'm going to show you the first three
20 pages here, it's the Form 10-Q for Terra Tech. Do you
21 know what a Form --

22 ARBITRATOR BAKER: I need a copy, please.

23 MR. DUSHOFF: Okay.

24 ARBITRATOR BAKER: Well, you need a copy.

25 MR. FEUERSTEIN: So we're deeming the first

1 three pages as Joint Exhibit 260?

2 MR. DUSHOFF: Yeah.

3 ARBITRATOR BAKER: Right. 260? Is that
4 where we're at?

5 (Joint Exhibit 260 was marked for
6 identification.)

7 ARBITRATOR BAKER: All right.

8 BY MR. DUSHOFF:

9 Q What you have here -- I'm going to look at
10 your -- what's a Form 10-Q?

11 A It's a form that's filed with the appropriate
12 governing bodies.

13 Q What's it for?

14 A A quarterly form. It could be -- it can --
15 it could contain any number of types of information.

16 Q And if you turn to page 3 of this document,
17 please?

18 A Sure.

19 Q Page 3 says, "Total assets as of December 31,
20 2017," which is four months after your valuation --
21 four months after your valuation of -- for
22 Ms. Goldstein's expulsion, was valued at \$98 million.

23 Are you -- do you know whether -- what the
24 revenues are or what the assets are worth for NuVeda
25 at that time?

1 MR. FEUERSTEIN: Talking about December of
2 2017?

3 MR. DUSHOFF: Yeah, he did March 1st to
4 August 1st, so March 2016 to August 2017. So I think
5 I'm going to have a -- but I'll withdraw that question
6 for right now. And I'm going to go into this
7 question.

8 Q You have Terra Tech having revenues in
9 your -- here -- of, it says 32- -- would that be
10 32,428,000?

11 A Yes.

12 Q Are you aware if NuVeda ever had revenues in
13 even close to \$32 million?

14 A I'm not aware, and I don't care.

15 Q Well, I'm just saying -- you say you don't
16 care, but it's also agreed -- and you agree that under
17 this rule of GPCM, that you're supposed to find
18 companies that are like businesses, similar companies;
19 correct?

20 A Mr. Dushoff, you could go through each one of
21 those companies that I used my professional judgment
22 on to determine they were comparable enough to perform
23 this exercise, and you could exclude each and every
24 one of them in every GPMC -- whatever we're calling
25 it -- exercise. For every comparable company, you can

1 find differences.

2 Q Yeah, I agree with you, you could find
3 differences. But also under the definition of GPCM,
4 right -- one of the -- one of the definitions of GPCM
5 is that you have to try and find public companies that
6 are of like companies; isn't that correct?

7 A Of like companies in my professional
8 judgment, yes.

9 Q And --

10 A As like as possible. Sorry.

11 Q Right. And one of the problems is -- one of
12 the big problems is you have a difficulty, especially
13 in early-stage enterprise companies, to find --
14 because the subject might not have meaningful amount
15 of revenue or earning, or may have negative earnings;
16 correct?

17 A Again, you could exclude each and every one
18 of those on any number of factors.

19 Q I'm not talking about each and every one.
20 You specifically spoke -- took out Terra Tech, and
21 said, Well, that's similar enough to NuVeda; correct,
22 to be used in this method?

23 A In my professional judgment, yes.

24 Q Right. And so in one of three -- one of the
25 three aspects you chose is that they have good

1 revenues; correct?

2 A Yes.

3 Q So are you saying that one of three -- the
4 third of your criteria is that Terra Tech and NuVeda
5 have a similar revenue stream of 32,428,000, or in the
6 ballpark?

7 A No, I'm not saying that; and that's not what
8 I'm even meaning to say.

9 Q So you also say that they operate -- that you
10 wanted public companies that operated in Nevada;
11 correct?

12 A Correct.

13 Q All right. But as we found out, as you know,
14 Terra Tech doesn't just operate in Nevada, they also
15 operate in California; is that accurate?

16 MR. FEUERSTEIN: Arbitrator Baker, I'm just
17 going to lodge an objection, because it seems like
18 we're repeating the same questions over and over
19 again. It's getting late in the day and I'd like to
20 let the court reporter go home.

21 ARBITRATOR BAKER: I understand. I'm letting
22 you do your cross. My question is, I think we're all
23 getting tired. Do you have enough --

24 MR. DUSHOFF: I don't have --

25 ARBITRATOR BAKER: And again, I don't mean

1 to, you know, put your schedule -- create your
2 schedule for tomorrow. But is it worthwhile at some
3 point to take a break, and we can bring him -- you
4 know, bring him back tomorrow morning?

5 MR. DUSHOFF: I'd rather not. I think I want
6 to finish. I've only got about 10 minutes left, so
7 then I'm --

8 MR. FEUERSTEIN: I will -- I will have
9 minimal rebuttal.

10 ARBITRATOR BAKER: Okay.

11 MR. DUSHOFF: And, a matter of fact, I'll
12 keep it to seven minutes.

13 MR. FEUERSTEIN: And just go over all my
14 topics.

15 ARBITRATOR BAKER: Okay.

16 MR. DUSHOFF: So I'll do seven minutes.

17 ARBITRATOR BAKER: Are you agreeable to
18 coming back in the morning?

19 THE WITNESS: I thought we --

20 MR. DUSHOFF: Can we finish --

21 THE WITNESS: -- agreed to finish up.

22 ARBITRATOR BAKER: Well, I don't know how
23 long his is going to be.

24 MR. FEUERSTEIN: I can match seven minutes.

25 ARBITRATOR BAKER: All right.

1 MR. FEUERSTEIN: I think. But, Arbitrator
2 Baker, if your schedule requires you to --
3 ARBITRATOR BAKER: No, I'm fine.
4 MR. FEUERSTEIN: Okay.
5 MR. DUSHOFF: I will -- I will keep it to
6 seven --
7 ARBITRATOR BAKER: This is a night I can go
8 late.
9 MR. DUSHOFF: At seven minutes, you cut me
10 off, you give me the light and go to the -- give me
11 the light, and I'm done.
12 ARBITRATOR BAKER: Yeah, I need
13 Judge Gonzalez's little --
14 MR. FEUERSTEIN: Egg-timer?
15 ARBITRATOR BAKER: -- timer.
16 MR. DUSHOFF: Oh, yeah, you mean -- yeah, the
17 Dushoff-Peek --
18 MR. FEUERSTEIN: You know who that's named
19 after; right?
20 ARBITRATOR BAKER: Yeah, it's like Peek and
21 who else?
22 MR. DUSHOFF: We put the --
23 MR. FEUERSTEIN: Yeah.
24 ARBITRATOR BAKER: It's you, too? I know
25 it's Steve Peek --

1 MR. DUSHOFF: Yeah. Yeah.

2 ARBITRATOR BAKER: -- has to do with him as
3 well, but --

4 MR. DUSHOFF: Honored.

5 All right. So I'll -- if I may --

6 ARBITRATOR BAKER: Yes.

7 MR. DUSHOFF: -- it'll be real quickly.

8 Q What research did you do with Golden Leaf
9 that -- in regard to its similarity?

10 A It's the same basic research into each one of
11 these companies.

12 Q All right. And you're aware that Golden Leaf
13 is a Canadian company; is that correct?

14 A Yes.

15 Q And Golden Leaf has practices in Canada and
16 where else, do you know?

17 A I don't remember specifically. It changed
18 names recently. I don't know specifically if they had
19 a current practice in Nevada, or they had a practice
20 in Nevada; but they passed my criteria at the time I
21 did the analysis.

22 And I didn't say -- I never said that I was
23 looking for companies that only had operations in
24 Nevada. Again, we can go through and eliminate every
25 one of these companies, as you could in any process

1 using this particular method; because the only way to
2 find a company that's exactly like another company is
3 if it's the same company.

4 Q I'm not asking you to find exactly. I'm
5 asking -- I'm going to ask you these questions.

6 Do you know what licenses Golden Leaf
7 Holdings has in Nevada?

8 A Not specifically, no.

9 Q And for 1933 Industries, what research did
10 you do on 1933 Industries, except for the fact that
11 they are a company that does business here in
12 Nevada?

13 A I could tell by the Yahoo Finance research,
14 which though it sounds like a hokey source, it's
15 really used in investment industries; and it's one of
16 the best sources there is. And I know from there I
17 can see the market cap and I can see the revenues. So
18 your market cap, revenue, do business in Nevada. And
19 anywhere else they do business --

20 Q Do you know why -- yeah, but I understand
21 that. You got market cap. You look at revenue.

22 Do you ever find out do they have -- what
23 type of licenses do they have? What types of cannabis
24 licenses do they have?

25 A I'm not sure, off the top of my head, as I

1 sit here today.

2 Q Did you put that in your report anywhere,
3 what type of licenses they have?

4 A No, I do not.

5 Q And do you put that in -- you also list the
6 same companies in tab 8, which is the supplement;
7 right? It's the same companies you used; right?

8 A I used the same companies for continuity --

9 Q Right.

10 A -- between the two reports.

11 Q Right. Did you list anywhere in there the --
12 what these companies did? The research you did on
13 these companies?

14 A No.

15 Q In other words, you never -- nothing in there
16 about what licenses they hold --

17 A There is nothing --

18 Q -- in Nevada?

19 A There is nothing in the report that speaks to
20 the specific characteristics of each company.

21 Q And that would also go for Lit Cannabis, as
22 well; is that correct?

23 A It would.

24 MR. DUSHOFF: Okay. I'm done.

25 ARBITRATOR BAKER: Terrific. Well --

1 MR. DUSHOFF: Under seven.

2 ARBITRATOR BAKER: Yeah, that rarely happens.

3 MR. FEUERSTEIN: I hope that doesn't limit my
4 time.

5 MR. DUSHOFF: Well, again, let me ask -- no,
6 I'm just kidding. I mean, I have more, but I am --

7 ARBITRATOR BAKER: Okay.

8 MR. DUSHOFF: -- I'm cutting it off.

9 ARBITRATOR BAKER: Thank you.

10 Mr. Feuerstein, you have your seven
11 minutes.

12 MR. FEUERSTEIN: Very briefly.

13 REDIRECT EXAMINATION

14 BY MR. FEUERSTEIN:

15 Q Mr. Parker, Mr. Dushoff asked you a number of
16 questions about using actual revenues versus projected
17 revenues, and I won't characterize how he presented it
18 or how times, but you recall those questions;
19 correct?

20 A Yes, sir.

21 Q Now, I'd like you to open up, if you will, in
22 front of you, on the computer, exhibit -- Joint
23 Exhibit 249. Let me make sure that you can -- you're
24 on the same document.

25 It should say Exhibit 249 on the top,

1 "CWNevada Sales Totals." Do you see that?

2 MR. WILEY: Hang on. I think you're going to
3 have to go into the little folder thing there.

4 THE WITNESS: Could somebody -- you guys --

5 MR. FEUERSTEIN: Jason, could you help him?
6 I'm sorry.

7 THE WITNESS: -- are great letting me use
8 your computer, to begin with.

9 MR. WILEY: 249er.

10 MR. FEUERSTEIN: 249. It should say,
11 "CWNevada sales total." And on the left-hand side it
12 should say "CWNevada, LLC, sales by month."

13 I don't want this to be counting like talking
14 to Jason.

15 ARBITRATOR BAKER: He's purposely going slow
16 so that ...

17 MR. WILEY: For whatever reason, Excel's not
18 on that one. If I make the representation and I pull
19 it up on mine, are you good with it?

20 MR. FEUERSTEIN: Let me just -- you know
21 what, can I --

22 MR. DUSHOFF: He's just going to pull up 249
23 on his.

24 MR. FEUERSTEIN: I'm going to give -- I'm
25 going to give him -- I'll give him ...

1 MR. DUSHOFF: Because he doesn't think we're
2 going to show him 249?

3 ARBITRATOR BAKER: I don't think he means
4 that.

5 MR. WILEY: No, he does.

6 MR. DUSHOFF: No, he does.

7 MR. WILEY: He does.

8 MR. FEUERSTEIN: I'm trying to save time.

9 Q Now, Mr. Parker, take a look at the columns
10 going at the top of this, which talks about different
11 entities. And you'll see in column F, you have retail
12 medical, Third Street; in column G, it's retail rec,
13 Third Street; in column H, it's retail medical, North
14 Las Vegas Boulevard; and column I is retail rec, North
15 Las Vegas Boulevard. You there?

16 A Yes.

17 Q Now, if you could, I'd like you to go down to
18 row 18, which is July of 2017. You see that?

19 A Yes.

20 Q And if I -- and you can do the same thing.
21 If you -- sort of bold, cells F-18, G-18, H-18, and
22 I-18, that will give you the sum of those four -- of
23 those four cells. Do you see that?

24 MR. DUSHOFF: I'm going to object to
25 relevance. There's only two dispensaries.

1 MR. FEUERSTEIN: Those are the -- those are
2 the -- this is the information you provided. This is
3 not --

4 MR. DUSHOFF: But we know that there's
5 only -- it's just the Third Street and North
6 Las Vegas --

7 ARBITRATOR BAKER: Overruled.

8 MR. DUSHOFF: -- that are dispensaries.

9 MR. FEUERSTEIN: Okay.

10 MR. WILEY: And hang on, Dave. He's actually
11 using mine, because yours was too small.

12 ARBITRATOR BAKER: I'm looking at yours right
13 now.

14 MR. WILEY: It's not doing the auto sum. I
15 don't know if you have an auto sum --

16 MR. FEUERSTEIN: Okay. So I'll - can I --

17 THE WITNESS: It's down here.

18 BY MR. FEUERSTEIN:

19 Q Okay. Can you read what the sum of those
20 four sales are?

21 A All right. 6,225 -- excuse me -- \$625,800 --
22 (Court reporter requests clarification.)

23 MR. FEUERSTEIN: 625,810.97.

24 THE WITNESS: Yes, sorry.

25 ///

1 BY MR. FEUERSTEIN:

2 Q Now, that's one month of sales at the Third
3 Street dispensary and the North Las Vegas dispensary.
4 Is that how you understand that?

5 A Yes.

6 Q And if I multiply --

7 ARBITRATOR BAKER: Just real quick, on this,
8 I don't have any -- I have a blank for the medical.
9 Is that supposed to be blank?

10 MR. FEUERSTEIN: Uh-oh. No.

11 ARBITRATOR BAKER: I didn't touch anything.
12 I didn't do it. Okay. Take that back. I have --
13 yes, please take that back. It was blank, so ...

14 BY MR. FEUERSTEIN:

15 Q So, Mr. Parker, you get that
16 number, 625,810.97?

17 A Yes.

18 Q I'd like you to take my calculator, and if I
19 was going to annualize that number, tell me what
20 number I get?

21 A Seven and a half million.

22 Q Can you give me the exact number for the
23 record, just without millions and stuff? Just 75- --

24 A Know that I rounded to 11 cents.
25 7,509,732.

1 Q And if we applied your -- and these are top
2 line rev- -- these are top-line sales; correct?

3 A That's my understanding.

4 Q And if I multiply that number by 6.6, which
5 was your -- what did you call it -- a factor?

6 A It's a revenue multiplier.

7 Q -- revenue multiplier, what's the number?

8 A 49,564,231.

9 Q And if I take that number and I take seven
10 percent of that number, what is the number?

11 A 3,469,496.

12 Q Okay. Now, I want you to go to the left,
13 into columns B and C for the same month, July. So
14 you're in row 18. And I want you to sum cell B-18 and
15 C-18?

16 MR. DUSHOFF: And I'm going to object to
17 this, as these are not NuVeda. These numbers,
18 NuVeda --

19 MR. FEUERSTEIN: Go ahead.

20 MR. DUSHOFF: Objection. The retail sales,
21 there is no cultivation right now for NuVeda. It's
22 only two dispensaries right now that are earning
23 money. This is for -- I believe that this money is
24 CW's, if I'm correct; but CW and -- if I'm -- CW
25 and -- sorry -- NuVeda or CWNV does not -- NuVeda does

1 not have cultivation, production, or retail medical --
2 MR. FEUERSTEIN: Arbitrator Baker, it's been
3 our --
4 MR. DUSHOFF: -- so they're Blue Diamonds,
5 and --
6 MR. FEUERSTEIN: Okay.
7 MR. DUSHOFF: -- hold on a second --
8 MR. FEUERSTEIN: It's my pleasure.
9 MR. DUSHOFF: -- and I think Mr. Feuerstein
10 is aware of this because he knows the numbers that CW
11 has, and knows it's not Blue Diamond and so forth. We
12 only have six licenses. You add all these up, there's
13 six, seven -- that's eight; and clearly only two of
14 those are the ones that are involved in NuVeda, and
15 that's the Third Street and North Las Vegas.
16 ARBITRATOR BAKER: Okay.
17 MR. FEUERSTEIN: So to be clear, Arbitrator
18 Baker, first of all, the four columns that we just did
19 represented medical and rec and they were divvied out;
20 that's how it was presented to us. It says it's the
21 same dispensary; it's been our assumption it's the
22 same dispensary.
23 ARBITRATOR BAKER: Okay.
24 MR. FEUERSTEIN: Secondly, it's been our
25 position throughout this case, and really through the

1 whole litigation, that the MIPA was either -- it's
2 unclear what the MIPA is. Whether it's been honored,
3 dishonored, I think we have to -- we're certainly
4 going to argue that if there is a decision to honor
5 the MIPA, then you have to apply it throughout.

6 And we intend to show that there was profits
7 and revenues that weren't honored; and, therefore,
8 that depleted the valuation. And it would be unfair,
9 just as a general rule, to factor that into the
10 valuation.

11 So we're -- what I'm trying to propose simply
12 now is using -- to use Mr. Parker's words -- the
13 production and cultivation facilities at CWNevada as a
14 proxy, so that we can talk about top-line revenues,
15 had the licenses never been transferred. That's all
16 I'm trying to do.

17 ARBITRATOR BAKER: All right. Your objection
18 is noted. I think this is something we should argue
19 about later.

20 MR. FEUERSTEIN: Okay.

21 ARBITRATOR BAKER: So let's go ahead and
22 proceed with whatever the rest of your questions. I
23 think you have a couple minutes.

24 MR. FEUERSTEIN: I'm going to get there.

25 Q So columns, again, the cells B-18 and C-18,

1 which were cultivation and production facilities, if
2 you sum those up, Mr. Parker, what do you get?

3 A 406,319.

4 Q And if I multiply 406,319 and annualize it,
5 what do I get?

6 A 4,875,828.

7 Q And if I apply your factor, or your revenue
8 multiplier of 6.6, what do I get?

9 A 32,180,465.

10 Q And if I take point -- if I multiply that by
11 .07, what do I get?

12 A 2,252,633.

13 Q And I'll represent to you -- or I want you to
14 assume for the moment that the other two licenses held
15 by NuVeda were contributed as part of a joint venture
16 or a deal where \$6 million was contributed by one
17 party for 60 percent. You with me so far?

18 A I am.

19 Q What would be the value of NuVeda's portion
20 of the 40 percent remaining?

21 MR. DUSHOFF: Objection. Improper
22 hypothetical.

23 ARBITRATOR BAKER: Overruled.

24 THE WITNESS: If I did that math in my head
25 correctly, 4 million.

1 BY MR. FEUERSTEIN:

2 Q And if I multiplied 4 million times .07, what
3 do I get?

4 A Yes, you would think I could do this without
5 using a calculate, but I can't. Sorry.

6 Q It's okay.

7 A 280,000.

8 Q All right. And if I add 280,000 to
9 2.252 million, and I add 3.469 million, what's the
10 number I get?

11 A 3469 million?

12 Q Yep.

13 A I get \$6 million.

14 Did I pass?

15 MR. FEUERSTEIN: No further questions.

16 ARBITRATOR BAKER: Thank you.

17 (TIME NOTED: 5:55 p.m.)

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1 REPORTER'S CERTIFICATE

2
3 I, the undersigned, a Certified Shorthand
4 Reporter of the State of Nevada, do hereby certify:

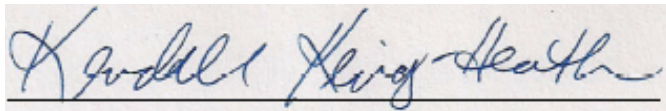
5 That the foregoing proceedings were taken
6 before me at the time and place herein set forth; that
7 any witnesses in the foregoing proceedings, prior to
8 testifying, were duly sworn; that a record of the
9 proceedings was made by me using machine shorthand
10 which was thereafter transcribed under my direction;
11 that the foregoing transcript is a true record of the
testimony given.

12 Further, before completion of the
13 proceedings, review of the transcript [] was []
14 was not requested.

15 I further certify I am neither financially
16 interested in the action nor a relative or employee of
17 any attorney or party to this action.

18 IN WITNESS WHEREOF, I have this date
19 subscribed my name.

20 Dated: January 31, 2019

21
22 
23

24 KENDALL D. HEATH

NV. CCR NO. 475

25 CALIF. CSR NO. 11861

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AMERICAN ARBITRATION ASSOCIATION

BCP HOLDINGS 7, LLC,)
JENNIFER GOLDSTEIN,)
Plaintiffs,)
vs.) Case No.
NUVEDA, LLC, a Nevada limited) 01-15-005-8574
liability company,)
)
Defendants.)
-----)

REPORTER'S TRANSCRIPT OF PROCEEDINGS
BEFORE ARBITRATOR NIKKI BAKER
WEDNESDAY, JANUARY 16, 2019
LAS VEGAS, NEVADA
VOLUME 2

REPORTED BY:
KENDALL D. HEATH
NEV. CCR NO. 475
CALIF. CSR NO. 11861
JOB NO.: 3196606
PAGES 259 - 534

1 AMERICAN ARBITRATION ASSOCIATION

2 -----

3 BCP HOLDINGS 7, LLC,)

4 JENNIFER GOLDSTEIN,)

5 Plaintiffs,)

6 vs.) Case No.

7) 01-15-005-8574

8 NUVEDA, LLC, a Nevada limited)

9 liability company,)

10 Defendants.)

11 -----)

12

13

14 ARBITRATION PROCEEDINGS - VOLUME 2,

15 held Wednesday, January 16, 2019, commencing

16 at 9:05 a.m. at the offices of Kolesar &

17 Leatham, 400 South Rampart, Suite 400, Las

18 Vegas, Nevada, taken before Kendall D. Heath,

19 Certified Court Reporter, Certificate No.

20 475, in and for the State of Nevada.

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ARBITRATOR
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21 Pejman Bady

22 Pouya Mohajer

23 Joe Kennedy

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JOINT EXHIBITS

MARKED FOR IDENTIFICATION

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1 Las Vegas, Nevada

2 Wednesday, January 16, 2019

3 -o0o-

4 ARBITRATOR BAKER: This is the continuation
5 of the final hearing in the matter styled Jennifer
6 Goldstein versus NuVeda, LLC, Case No. 01-15-005-8574.

7 Rather than having everyone make appearances
8 again, can counsel just confirm the same parties that
9 were present when we started yesterday are also here
10 today.

11 MR. WILEY: Confirmed.

12 MR. FEUERSTEIN: Confirmed.

13 MR. DUSHOFF: Confirmed.

14 ARBITRATOR BAKER: Thank you. Yesterday we
15 addressed the attorneys' fees issue briefly, and
16 specifically whether Ms. Goldstein was seeking any
17 sort of attorneys' fees against individual
18 respondents, notwithstanding that no claims are
19 currently pending against the individual respondents.

20 I gave the parties the opportunity last night
21 to consider the issue, provide me any sort of case law
22 that would support an order of attorneys' fees. I
23 didn't receive anything.

24 So I want the parties' positions -- I think I
25 understand what respondent's position is. I want to

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1 know what your position is so that we can get a
2 resolution so Mr. Dushoff knows --

3 MR. FEUERSTEIN: What team he's playing for?

4 ARBITRATOR BAKER: Exactly.

5 MR. FEUERSTEIN: Arbitrator Baker, I
6 appreciate the opportunity. While it was not Ms.
7 Goldstein's understanding that we would be sort of
8 addressing this up front and having this conversation,
9 we've had time, or that we were waiving the claim as
10 part of the sort of dismissal of the other claims.

11 At this time, we are prepared to seek our
12 attorneys' fees against NuVeda, only and not pursuant
13 as against the individuals. So if Mr. Dushoff would
14 like to change jerseys now and play for NuVeda, we're
15 fine with that.

16 ARBITRATOR BAKER: Thank you. Anything you
17 want to add?

18 MR. DUSHOFF: No. I think that was in
19 exchange of giving him his phone cord back.

20 ARBITRATOR BAKER: So for his consideration
21 is what you're saying.

22 MR. DUSHOFF: Yeah.

23 ARBITRATOR BAKER: Thank you. So I
24 understand that we are going to hear from Mr. Webster;
25 correct?

1 MR. WILEY: Yes.

2 ARBITRATOR BAKER: Let's call Mr. Webster.

3 Thereupon,

4 MICHAEL WEBSTER,

5 called as a witness by the Respondent

6 having been duly sworn, testified as

7 follows:

8 DIRECT EXAMINATION

9 BY MR. WILEY:

10 Q Would you please state and spell your name
11 for the record.

12 A Michael R. Webster, W-e-b-s-t-e-r.

13 Q Can you please provide a brief background of
14 your education post high school.

15 A Yes. I had community college, approximately
16 36 credits in Las Vegas. Graduated from Corporate
17 Investment Business Brokers, also the Institute of
18 Business Appraisers for businesses. I've owned and
19 operated over 21 businesses.

20 Q The appraisal that's at issue in the
21 litigation today that you prepared provides that
22 you're a certified business appraiser. Is there any
23 special schooling or instruction that you needed to
24 attain that certification?

25 A Yes. I went through the Institute of

1 Business Appraisers in San Diego, California.

2 Q And what year was that?

3 A 1984, I believe.

4 Q Has that certification remained in place
5 since then?

6 A Yes.

7 Q Have you ever had any disciplinary actions
8 against you?

9 A No.

10 Q So you've been a certified business appraiser
11 since the mid 1980s?

12 A Yes.

13 Q Where have you provided appraisals,
14 geographic wise?

15 A I'm a licensed -- also a licensed broker,
16 real estate broker in Utah and Nevada. So those two
17 states. And I do these nationwide. If somebody needs
18 an appraisal nationwide, I'll do that.

19 Q Approximately how many businesses have you
20 provided an appraisal for?

21 A Eight hundred to a thousand.

22 Q Have you ever served as an expert witness in
23 a court or arbitration proceeding?

24 A I have.

25 Q Approximately how many times have you served

1 as an expert witness?

2 A Probably four, maybe five.

3 Q Were those all located here in Nevada?

4 A Yes.

5 Q Is it your understanding that you're here to
6 provide testimony as to the appraisal that you
7 conducted for NuVeda in August of 2017?

8 A Yes.

9 Q What is your understanding what the purpose
10 of the appraisal was for?

11 A It was to buy out one of the managing members
12 who, I believe, had seven percent of the stock.

13 Q Who from NuVeda contacted you regarding the
14 need for the appraisal?

15 A Mr. Joseph Kennedy.

16 Q Did you have any discussions with any other
17 NuVeda members or representatives?

18 A Say that again.

19 Q Did you have any discussions or contact with
20 any other NuVeda members or representatives?

21 A No.

22 Q How many meetings did you have with Mr.
23 Kennedy?

24 A Approximately two.

25 Q Customarily when you prepare an appraisal,

1 what information do you require the requesting party
2 provide to you in order for you to prepare the
3 appraisal?

4 A In this case, I was provided an eight month
5 balance sheet of the corporation.

6 Q Was that the only information that you
7 requested from the NuVeda representatives?

8 A That's all I received, yes.

9 Q Was there any information that you didn't
10 receive that you requested from NuVeda that would have
11 assisted with the preparation of the appraisal?

12 A No. My understanding was to base the
13 appraisal on the balance sheet off the information on
14 the balance sheet.

15 Q Let me go ahead and hand you the appraisal.
16 It hasn't been admitted yet. It's going to be
17 admitted as an exhibit to the e-mails. It's not
18 stand-alone.

19 MR. FEUERSTEIN: Go ahead. Mark it
20 stand-alone. I have no objection.

21 (Joint Exhibit 261 was marked for
22 identification.)

23 MR. WILEY: This will be J261.

24 Q Mr. Webster, if you look at what's been
25 marked as 261, do you recognize this document?

1 A I don't have a marked document. I have the
2 appraisal in front of me. There's no exhibit mark on
3 it.

4 MR. WILEY: Are you okay with him looking at
5 it?

6 MR. FEUERSTEIN: I mean, if he's going to
7 look at his documents, what are the underlying
8 documents in that book?

9 MR. WILEY: This is the appraisal.

10 MR. FEUERSTEIN: What's below it? What are
11 the rest of the documents?

12 THE WITNESS: My credentials of the
13 corporation.

14 MR. FEUERSTEIN: Okay. I'd like to see what
15 the book is.

16 BY MR. WILEY:

17 Q Now you've been handed what has been
18 designated as J261. Do you recognize this document?

19 A I do.

20 Q Who prepared this document?

21 A I did.

22 Q Were you the sole preparer of the document?

23 A Yes.

24 Q Did anybody that you're affiliated with or in
25 your office assist in the preparation of the

1 document?

2 A My secretary.

3 Q And what specific task did your secretary
4 undertake with respect to the appraisal?

5 A She drafted it -- or I drafted it and she put
6 it on the computer.

7 Q The appraisal provides that on August 13th,
8 2017, you met with Joe Kennedy. Is that a true and
9 accurate statement?

10 A It is.

11 Q And that Mr. Kennedy provided you with the
12 NuVeda balance sheet, which you previously testified
13 was the case; correct?

14 A That's correct.

15 Q And did that balance sheet list NuVeda assets
16 and liabilities?

17 A It did.

18 Q The amounts that are set forth in the
19 appraisal, where did you get those amounts for the
20 preparation of the appraisal?

21 A I simply subtracted the liabilities from the
22 assets to obtain the value.

23 Q And where did you get the assets from?

24 A From Mr. Kennedy in the balance sheet.

25 Q Same with the liabilities?

1 A Yes.

2 Q And I think you previously testified that you
3 derived the fair market value of the company by taking
4 assets minus the liabilities?

5 A Correct.

6 Q Is that a customarily accepted methodology
7 for determining the fair market value of a company?

8 A Based on what I had to work with, yes.

9 Q Have you used that methodology before, taking
10 the assets minus the abilities to determine the fair
11 market --

12 A I have.

13 Q And that's in preparing other business
14 appraisals?

15 A Yes.

16 Q I think you testified to this, but I just
17 want to make sure. Other than the balance sheet that
18 was provided to you by Mr. Kennedy, did you rely upon
19 any other documents, whether from NuVeda or otherwise,
20 to assist in the preparation of the appraisal?

21 A No.

22 Q Did you undertake any independent
23 investigation as to the veracity of those numbers?

24 A I did not.

25 Q Did you contact anyone at NuVeda after you

1 prepared the appraisal to discuss the contents
2 therein?

3 A Other than Mr. Kennedy, no.

4 Q What did you discuss with Mr. Kennedy after
5 the appraisal was prepared?

6 A Just the basis of the appraisal.

7 Q At any time did you have any discussions with
8 anyone from NuVeda where they conveyed that you needed
9 to skew your numbers or change your appraisal in any
10 way?

11 A No.

12 Q After August of 2017, did you have any
13 contact with anybody from NuVeda regarding your
14 valuation?

15 A I did not.

16 Q Up until recently?

17 A Correct.

18 MR. WILEY: I have no further questions.

19 CROSS-EXAMINATION

20 BY MR. FEUERSTEIN:

21 Q Good morning, Mr. Webster. How are you?

22 A Good morning.

23 Q I am David Feuerstein. I'm from New York and
24 I'm representing the claimant, Ms. Goldstein, whose
25 shares you provided the appraisal for.

1 A Okay. Good to meet you.

2 Q Nice to meet you, too.

3 First of all, we talked a little bit. You
4 have a book that's sitting in front of you, and you
5 said that that book contains your report. What else
6 does it contain?

7 A My license, my corporation (sic) of NuVeda,
8 my C.V.

9 Q Does it contain any backup information that
10 you used in preparation of this appraisal that's been
11 marked as Exhibit 261?

12 A No.

13 Q How long have you known Mr. Kennedy for?

14 A Approximately three years.

15 Q When did you first meet him?

16 A I believe it was approximately three years
17 ago, maybe two years ago, I believe it was.

18 Q Two years ago?

19 A Yeah, two years.

20 Q How did you meet him?

21 A He called me in reference to some
22 consultation.

23 (Cross-talking.)

24 (Court reporter asks for clarification.)

25 THE WITNESS: He called me in reference about

1 some consultation.

2 BY MR. FEUERSTEIN:

3 Q Was it a consultation with respect to NuVeda
4 or some other business?

5 A NuVeda.

6 Q Do you recall when he contacted you?

7 A I do not.

8 Q Is it typical -- strike that.

9 How did Mr. -- do you know how Mr. Kennedy
10 got your name?

11 A I believe he said it was a referral, but I'm
12 not sure how that occurred.

13 Q Were you surprised to hear from Mr.
14 Kennedy?

15 A No.

16 Q Did someone tell you he was going to be
17 calling you?

18 A I'm sorry.

19 Q Did someone tell you he would be calling
20 you?

21 A No.

22 Q Do you remember where you were when you took
23 the call?

24 A I do not.

25 Q Would you agree with me that he contacted you

1 on a Sunday?

2 A I have no idea.

3 Q Well, you state in your report here that on
4 August 13, you were retained by NuVeda and Mr.
5 Kennedy. Do you see that?

6 A I would have to go back to a calendar to see
7 what date that would be.

8 Q Well, I'll represent to you that on the
9 calendar, August 13th is a Sunday.

10 A Okay.

11 Q Were you in the office?

12 A I don't know where I was.

13 Q Did Mr. Kennedy call you at home?

14 A I have a cell phone. Probably on the cell
15 phone.

16 Q Now, you mentioned that you did 800 to a
17 thousand appraisals?

18 A Consultations, sales and appraisals over 33
19 years, yes.

20 Q Any cannabis companies?

21 A I'm sorry.

22 Q Any other cannabis companies?

23 A No.

24 Q How many of those of the 800 to a thousand,
25 either roughly or by percentage, are real estate

1 appraisals?

2 A I don't do real estate appraisals, just
3 business appraisals. I'm also a broker, real estate
4 breaker, but I just specialize in businesses.

5 Q Got it. Do you know who Allen Butell is?

6 A I don't.

7 Q You ever speak to him?

8 A No.

9 Q After speaking with Mr. Kennedy and telling
10 him about your appraisal, did you ever speak to him
11 again about any request made by Ms. Goldstein?

12 A No.

13 Q The header on your letterhead says, Webster
14 Business Group, and underneath it, it has sort of a
15 quote in Italics. It says, "Where professionalism and
16 confidentiality meet."

17 Why is that -- why did you quote that there?

18 A Well, over the years, we saw a lot of
19 businesses that require nondisclosures; bars,
20 restaurants, gaming license, liquor license, where it
21 was confidential that the seller didn't know we were
22 selling the business so we had a nondisclosure
23 agreement signed. That's where the confidentiality
24 came in.

25 Q So you would provide an appraisal for that

1 business and then maintain confidentiality of that
2 appraisal?

3 A No, we're talking about the sale. That's
4 what the letterhead ...

5 Q Okay. So you're talking about the sale of
6 the business?

7 A Yes. We had NDAs on approximately 95 percent
8 of our sales. It was a nice little token.

9 Q Now, you said that -- if I understood you
10 correctly, that what you did with respect to this
11 appraisal is you simply took the information that was
12 given to you by Mr. Kennedy and then added and
13 subtracted and got to a number. Is that fair to
14 say?

15 A That's fair to say.

16 Q And you didn't do any work to confirm any of
17 the numbers; correct?

18 A I did not.

19 Q In fact, you state in your report at the end
20 that you don't warrant the accuracy of the information
21 contained herein?

22 A Yes, sir.

23 Q Is that typical of your business, that when
24 you appraise a business, you do nothing to confirm the
25 accuracy of the numbers you're given?

1 A Absolutely.

2 Q Why is that?

3 A I can only attest to what's given to me. I
4 can't attest to the accuracy of the numbers that are
5 given to me. Somebody can falsify numbers.

6 Q So you're writing a disclaimer?

7 A This is a disclaimer, yes.

8 Q If the numbers -- did you understand that
9 your task here -- well, let me withdraw the question.

10 Did you have an understanding that this
11 appraisal, which has been marked Exhibit 261, would be
12 used to -- pursuant to a contract?

13 A Say that again.

14 MR. WILEY: Objection. Vague.

15 BY MR. FEUERSTEIN:

16 Q Did you have an understanding -- let me
17 withdraw.

18 Did you know that while you were doing the
19 appraisal?

20 A I did not -- well, correct that. It was for
21 a managing member to be bought out or to leave.

22 Q Did you have an understanding of the
23 circumstances of what you were actually calculating?
24 Were you calculating book value? Fair market value?
25 What standard were you using?

1 A Market value on the assets versus
2 liabilities.

3 Q And did you have an opinion as to whether
4 that was the only way to calculate fair market
5 value?

6 A Based on the information I had, yes.

7 Q Did you ask for more information?

8 A No.

9 Q Did you ask to determine -- ask any questions
10 at all about the circumstances of the company?

11 A I did not.

12 Q Did you ask any questions with respect to
13 whether the company had revenue?

14 A No.

15 Q Did you ask any questions with respect to
16 whether the company was a going concern?

17 A No.

18 Q Did you ask any questions with respect to
19 what the intention of the members of the company were
20 in order to continue the business?

21 A Other than the seven percent, no.

22 Q You didn't know whether the company was
23 liquidating or whether it was an ongoing business
24 looking for future profits?

25 A I did not.

1 Q Would it matter to you, Mr. Webster, in
2 calculating what's known as the fair market value?
3 Let me withdraw the question.

4 Do you understand what fair market value is?

5 A In this case, yes.

6 Q When you say "in this case," what are you
7 saying?

8 A What the business would be worth at the time
9 of the appraisal.

10 Q Is there an understanding -- you have an
11 understanding in all of your appraisals what the
12 phrase "fair market value" means?

13 A What the business is worth in today's market.
14 That's my understanding as far as business sales.

15 Q Is there a different understanding for fair
16 market value for, say, real estate?

17 A Yes.

18 Q What is the fair market value for real
19 estate?

20 A I don't do real estate appraisals.

21 Q So how do you know the fair market value is
22 different for real estate than it is for business?

23 A Because there is a general accepted method of
24 real estate and I don't do them. It was taught to us
25 in school.

1 Q Let me be clear. I'm not asking for how
2 you -- one would calculate fair market value
3 necessarily. I'm asking what's your definition of
4 fair market value? Does it change by business?

5 A My definition is what the business would be
6 worth in today's market.

7 Q Is the only way to determine what the
8 business is worth is to add up the assets and subtract
9 the liabilities?

10 A No, there's discretionary tax methods. You
11 have tax statements, you have P&L statements, balance
12 sheets. That was not given to me in any of those
13 documents.

14 Q Any other ways to do it?

15 A For business, the main two things are asset
16 and discretionary cash flow.

17 Q How about market comparables?

18 A Not in business sales. We use multipliers,
19 not capitalization rates.

20 Q You note on your -- you note in the second
21 line under assets, that 35 percent of CWNV, LLC equals
22 3.5 -- I think it's 3.5 million. I think there's a
23 typo there. Do you see that?

24 A Yes.

25 Q The period ought to be a comma; correct?

1 A I'm sorry.

2 Q The period ought to be a comma; correct?

3 A Refer to the balance sheet on my notes?

4 MR. DUSHOFF: No.

5 BY MR. FEUERSTEIN:

6 Q I'm sorry. What are those notes from?

7 A For the balance sheet.

8 MR. FEUERSTEIN: I'd like to see those notes.

9 I asked for that production.

10 ARBITRATOR BAKER: Any objection? You want
11 to take a look at it first?

12 MR. WILEY: Sure. I've got no objection to
13 them. Can I take these out. You want to take a look
14 at it?

15 MR. FEUERSTEIN: Yeah.

16 (Witness reviewing document.)

17 BY MR. FEUERSTEIN:

18 Q So this document, Mr. Webster, this is a
19 document you prepared or it was provided to you?

20 A No, it was provided to me by Mr. Kennedy.

21 Q And if I'm looking at it correctly, it looks
22 like it says on the second page of it that the fair
23 market value was already calculated. Do you see
24 that?

25 A No, that would be me that did that. I just

1 subtracted and put it up here, then I reiterated down
2 below.

3 Q Was that document prepared by you or was that
4 prepared by Mr. Kennedy?

5 A This document was a copy of the balance sheet
6 given to me by Mr. Kennedy.

7 Q The first page or the second page?

8 A No. This was prepared by me in the
9 appraisal. This reiterates the appraisal. Should be
10 verbatim.

11 Q Do you have the document that Mr. Kennedy
12 provided you?

13 A That would be a copy of this, the balance
14 sheet. I just made a copy of the balance sheet.

15 Q If you look at the next page of the document.

16 A Okay.

17 Q It says two of three on the bottom;
18 correct?

19 A I don't think we have the whole balance
20 sheet. It was two pages, but I think we have it mixed
21 up with the appraisal. No, that's the balance sheet.

22 What's the question, David?

23 Q I'm just trying to figure out what Mr.
24 Kennedy gave you and what you actually did. So I'm
25 wondering --

1 A Mr. Kennedy gave me this. I prepared this
2 (indicating.)

3 ARBITRATOR BAKER: We're going to mark this
4 as an exhibit so we can refer to it.

5 THE WITNESS: I prepared this (indicating.)

6 MR. DUSHOFF: Would you like me to make
7 copies of it?

8 ARBITRATOR BAKER: We could do it at a break,
9 unless you'd like to take a break and do it now.

10 MR. FEUERSTEIN: So everyone is talking from
11 the same document, let's take a quick break and make a
12 copy.

13 ARBITRATOR BAKER: This will be 262.

14 MR. WILEY: I would propose that we have them
15 as two separate exhibits because he just testified
16 that one was a document that he prepared, and one was
17 a document given to him by Mr. Kennedy.

18 ARBITRATOR BAKER: I think the confusion is
19 that's not clear from what he said.

20 MR. FEUERSTEIN: I'd like to have it as one
21 document.

22 ARBITRATOR BAKER: I'm not clear as to
23 whether the first page, that page only, did you
24 prepare that?

25 THE WITNESS: No.

1 ARBITRATOR BAKER: You were given that?

2 THE WITNESS: Yes.

3 ARBITRATOR BAKER: The second page, did you
4 prepare that?

5 THE WITNESS: Yes. That's actually part of
6 the appraisal.

7 ARBITRATOR BAKER: Whatever you want to do.
8 Two exhibits?

9 MR. FEUERSTEIN: I'd like to have it as one
10 document.

11 ARBITRATOR BAKER: We'll do that. Let's take
12 a quick break and get a copy for everyone.

13 (Break taken.)

14 (Joint Exhibit 262 was marked for
15 identification.)

16 BY MR. FEUERSTEIN:

17 Q Mr. Webster, where we left off was we were
18 talking about the document that you should have in
19 front of you. It's two pages. The top says, "NuVeda,
20 LLC, assets and liabilities as of 8/8/2017." And then
21 there's a second page that looks like it repeats a
22 little bit of the first page and resembles, if you
23 would, page 2 of 3 of your appraisal.

24 A It would be the third page of my appraisal.

25 Q Second page?

1 A Second page of my appraisal, yes.

2 Q The handwriting that says -- it's on the top
3 of the first page of the balance sheet, is that your
4 handwriting or is that Mr. Kennedy's?

5 A It is.

6 Q That's your handwriting?

7 A Yes.

8 Q Would you agree with me, Mr. Webster, that if
9 the number in the second line, \$3.5 million number
10 changed, that your appraisal would necessarily
11 change?

12 A Correct.

13 Q And you did nothing to confirm whether that
14 number was accurate?

15 A I did not.

16 Q How long did this report take you?

17 A Approximately four hours.

18 Q It took you four hours to add up all those
19 numbers?

20 A To draft it, bring my secretary in, draft the
21 document. I always draft it up first and then I give
22 it to her to type up.

23 Q You were given this sheet, you copied
24 basically verbatim into your report?

25 A Yes. Everything was redone in there.

1 Q And your secretary did that; correct?

2 A Yes -- well, the only thing verbatim would be
3 the numbers. The other things I put in there were
4 disclosures myself.

5 Q I mean the numbers that you put in.

6 A That's correct.

7 Q You added up the numbers, subtracted the
8 numbers, about used a calculator to do that?

9 A Yes.

10 Q The calculation itself, how long did that
11 take you?

12 A The whole report, approximately four hours.

13 Q I understand the whole report took you four
14 hours, but I'm asking you specifically just adding and
15 subtracting the numbers, how long did that take you?

16 A Maybe 10 minutes.

17 Q You did nothing to verify any of the
18 amounts?

19 A I did not.

20 Q You didn't ask any questions of Mr. Kennedy,
21 you didn't look at any independent sources, you did
22 nothing of the sort; correct?

23 A That's correct.

24 Q You didn't ask for any documents and weren't
25 provided any documents other than the balance sheet;

1 is that correct?

2 A That's correct.

3 Q Did you ask any questions as to what any of
4 the valuations meant under the assets? In other
5 words, when you say 35 percent of CWNV, do you have
6 any idea what that is?

7 A No. I just relied strictly on the balance
8 sheet.

9 Q Now, it says that you met with Mr. Kennedy on
10 August 13, and then you prepared the report by August
11 19, or at least dated August 19?

12 A The 19th or 17th, yes. 19th, that's correct.

13 Q Did you prepare the report immediately or did
14 you take some time to do it?

15 A Well, the spread between the 13th and the
16 19th.

17 Q Did you spend 30 minutes a day doing it? Did
18 you spend four hours in one day? How did you do it?

19 A I don't remember.

20 Q Did you have any understanding, independent
21 understanding, Mr. Webster, of the cannabis industry
22 in Nevada?

23 A No, only what I read.

24 Q Can you tell me what you read?

25 A How it's growing and how many dispensaries

1 there are, so forth.

2 Q Did you happen to know whether cannabis was
3 medicinal, recreational, both in August of 2017?

4 A I knew that they approved the medical first
5 and then the last session, they approved the --

6 Q Did you know whether in August of 2017,
7 cannabis was being sold recreationally in Nevada or
8 was it later?

9 A It was later they approved it.

10 Q Did it matter to you -- performing your fair
11 market value appraisal of the business, did it matter
12 to you whether it was recreational or not?

13 A No.

14 Q Have you kept up with -- let me ask you a
15 question. I want to give you a small hypothetical.

16 A Okay.

17 Q Suppose a buyer decides to make an offer for
18 a business, and that buyer offers, let's say, \$30
19 million for the business. You with me so far?

20 A I am.

21 Q Would you agree that the seller sells its
22 business for \$30 million, that that's fair market
23 value of the business?

24 MR. WILEY: Objection. Improper
25 hypothetical. Mr. Webster is here as a lay witness.

1 ARBITRATOR BAKER: Overruled.

2 THE WITNESS: Without substantiation, no
3 numbers?

4 BY MR. FEUERSTEIN:

5 Q Yes.

6 A Ask the question again, please.

7 Q The business, someone wants to buys it for
8 \$30 million and the business is amenable to selling
9 itself for \$30 million. So you have a willing buyer
10 and a willing seller. Are you with me?

11 A Yes. The seller wants to sell it for 30 and
12 the buyer wants to buy it for 30?

13 Q You got it.

14 A Okay.

15 Q Is that the fair market value of the
16 business? Is that one way of measuring it?

17 A I would say if they agree to buy the
18 business, yes.

19 Q Just a couple quick questions. What did you
20 do to prepare for today's hearing?

21 A I'm sorry.

22 Q What did you do to prepare for today's
23 hearing?

24 A I went over the appraisal and got my license
25 together and my credentials and my C.V.

1 Q Did you meet with any of the lawyers sitting
2 here today?

3 A No. This is the first I met anybody except
4 Mr. Kennedy.

5 Q Did you speak to Mr. Kennedy in anticipation
6 of today's hearing?

7 A No.

8 MR. FEUERSTEIN: I'll pass the witness.

9 MR. WILEY: Redirect.

10 ARBITRATOR BAKER: Yes.

11 REDIRECT EXAMINATION

12 BY MR. WILEY:

13 Q Mr. Webster, the exhibit that's been marked
14 as 262, I just want to make it clear on the record,
15 the first page of this document, this was a document
16 that was provided to you by Mr. Kennedy; correct?

17 A That's correct.

18 Q And the only authorship that you have on the
19 first page of this document was the handwritten
20 calendar year?

21 A Yes.

22 Q And then the second page, it's your testimony
23 that that's just a copy of page 2 of your appraisal?

24 A Yes.

25 Q This second page was not provided to you by

1 Mr. Kennedy?

2 A That's correct.

3 MR. WILEY: Nothing further.

4 ARBITRATOR BAKER: I have one quick question,
5 Mr. Webster. In your letter dated August 19, 2017,
6 you refer to a NuVeda, LLC balance sheet dated August
7 8, 2017. Is that the first page of the exhibit that
8 we've been going over?

9 THE WITNESS: Yes.

10 ARBITRATOR BAKER: So that is the balance
11 sheet that you're referencing?

12 THE WITNESS: Yes.

13 ARBITRATOR BAKER: Any other follow up?

14 MR. FEUERSTEIN: No.

15 ARBITRATOR BAKER: Thank you, Mr. Webster.

16 MR. FEUERSTEIN: I believe our next witness
17 is Dr. Pej Bady.

18 Thereupon,

19 DR. PEJMAN BADY,
20 called as a witness by the Claimant having
21 been duly sworn, testified as follows:

22 DIRECT EXAMINATION

23 BY MR. FEUERSTEIN:

24 Q Good morning, Dr. Bady. How are you?

25 A Good morning, sir. I'm good.

1 Q Bear with me one second.

2 MR. DUSHOFF: Mr. Feuerstein, did you want me
3 to make an extra copy of that?

4 MR. FEUERSTEIN: If you could. It doesn't
5 have to be right now.

6 Q Dr. Bady, you were here yesterday when there
7 was a discussion about Dr. Bahri. Do you recall
8 that?

9 A Yes.

10 Q Do you recall previously testifying in this
11 case that you had pledged an interest to Dr. Bahri --

12 MR. DUSHOFF: Objection. Relevance. We have
13 already discussed all causes of action. No attorneys'
14 fees against them regarding Bahri and so forth. This
15 is discussing the value of them.

16 What they're going into right now is alleged
17 allegations of potential self-dealing with Dr. Bahri
18 and issues with Dr. Bahri pledging shares and so
19 forth, which is beyond the scope of what we're
20 testifying to today.

21 MR. FEUERSTEIN: Not really.

22 ARBITRATOR BAKER: Overruled.

23 BY MR. FEUERSTEIN:

24 Q Do you recall testifying to that
25 previously?

1 A I'm sorry. To what?

2 Q Do you recall testifying previously in this
3 case about pledging shares to Dr. Bahri?

4 A I don't recall exactly. Can you refresh my
5 memory?

6 Q Yes, be happy to. If you could look at --
7 you're going to have to go into the exhibit. There's
8 your computer. You have a deposition transcript dated
9 January 12th, 2018.

10 MR. WILEY: What exhibit number?

11 MR. FEUERSTEIN: It doesn't have an exhibit
12 number. The depositions aren't numbered as
13 exhibits.

14 MR. WILEY: I don't think we have it. I
15 think we just have exhibits.

16 MR. FEUERSTEIN: No. My little thumb
17 drive --

18 THE WITNESS: This only has exhibits. Is
19 there an exhibit number?

20 MR. FEUERSTEIN: Let me see if I can help
21 you. Did you not load the depositions on here?

22 MR. DUSHOFF: He's there. Which one do you
23 want?

24 MR. FEUERSTEIN: I'm actually going to change
25 my mind. So January 16, 2018.

1 MR. DUSHOFF: Okay.

2 BY MR. FEUERSTEIN:

3 Q If you could turn, Dr. Bady, to page,
4 transcript page 112. You probably have the same one
5 as me, so it's going to be page 29 of the PDF.

6 A Okay.

7 MR. DUSHOFF: Your Honor, if there's a
8 question before him and he wants to impeach him with
9 the deposition, that's proper use of a deposition.

10 MR. FEUERSTEIN: I asked him if he recalled
11 -- okay. Let me ask the question.

12 (Cross-talking.)

13 BY MR. FEUERSTEIN:

14 Q Let me ask the question. Dr. Bady, do you
15 recall testifying previously in this case that you had
16 pledged two percent interest to Dr. Bahri at a \$25
17 million valuation?

18 A I don't remember exactly what I said, but I
19 can go -- I can answer that question.

20 Q Let me ask, do you recall pledging to
21 Dr. Bahri a two percent interest at a \$25 million
22 valuation?

23 A Yes.

24 Q You thought -- Dr. Bahri is your friend;
25 correct?

1 A Yes.

2 Q You weren't trying to rip Dr. Bahri off, were
3 you?

4 A No.

5 Q You were giving him what you thought was a
6 generous deal?

7 A No, that's the deal that Shane came up with,
8 the valuation that we had to use at that time.

9 Q And Dr. Bahri agreed with it?

10 A Yes.

11 Q Can you give me the time frame of when that
12 was?

13 A That was when we were trying to raise money,
14 which was, I would say -- actually, I take it back.
15 We never pledged the licenses because two weeks later,
16 Shane dropped the value of the company from \$25
17 million to \$10 million, and Dr. Bahri was very upset
18 about losing his value in the company over two weeks.

19 So he said I don't want to do this. He
20 threatened a lawsuit and that sort of thing. So
21 nothing was ever pledged. None of the percentages
22 ever went to anyone. The whole thing just went belly
23 up.

24 Q There was a point in time, Dr. Bady, that you
25 pledged two percent to Dr. Bahri for a \$25 million

1 valuation; correct?

2 A Define "pledge." Nothing ever got
3 transferred. No percentage of the company ever got
4 transferred.

5 Q I'm not asking whether it actually got
6 transferred. You had a deal with Dr. Bahri where you
7 were going to give him two percent -- let me finish my
8 question.

9 A Oh, I'm sorry.

10 Q Where you gave him a two percent interest at
11 a valuation of \$25 million dollars. Is that fair to
12 say?

13 A We discussed it.

14 Q Did you come to an agreement on it?

15 A We did. Verbal agreement, no
16 documentation.

17 Q Did Dr. Bahri contribute money in connection
18 with that agreement?

19 A He loaned us -- from what I recall, he loaned
20 us a million dollars to purchase the land in Apex.
21 And we were going to use, from what I recall, half of
22 it towards a percentage buying shares in the company
23 and half of it as a loan.

24 Q And that money that was going towards shares
25 in the company was that \$25 million valuation when you

1 agreed to this deal?

2 A Originally.

3 Q Okay.

4 A But the whole --

5 Q There's no question pending.

6 There came a point in time, Dr. Bady, that
7 you met with an individual named Dr. Clauretje. Is
8 that fair to say?

9 A Yes, it is.

10 Q How much time did you spend with him?

11 A I don't recall. I met with him a few
12 occasions actually.

13 Q How many times?

14 A Probably three times.

15 Q Do you recall where you met him?

16 A I think once was at the CW offices in Ali
17 Baba, and I think I met him once at Joe Kennedy's
18 office, I believe.

19 Q Any other times?

20 A I don't remember.

21 Q What were the purposes of your meetings?

22 A He was going to ask questions about the
23 company and information that he was discussing with
24 Joe.

25 Q Did you or Mr. Kennedy give Dr. Clauretje any

1 documents?

2 A Yes.

3 Q What documents?

4 MR. WILEY: I'm going to object. This is
5 going towards litigation work-product. It could be
6 privileged.

7 ARBITRATOR BAKER: Mr. Clauretje is an
8 expert.

9 MR. WILEY: Correct.

10 ARBITRATOR BAKER: So if he was given
11 documents, that would be in his work file.

12 MR. WILEY: Correct.

13 ARBITRATOR BAKER: And expert work files are
14 discoverable.

15 MR. WILEY: With respect to the documents,
16 yes. But if we're going to go down the avenue of
17 discussions that were had between Dr. Bady and
18 Dr. Clauretje, that is privileged information.

19 ARBITRATOR BAKER: I've always understood
20 they were not.

21 MR. FEUERSTEIN: I agree. And I would just
22 further add that I expect -- we've already talked
23 about Dr. Clauretje's report, some motions in limine
24 in this case, and frankly Dr. Bady's testimony is a
25 little startling because there were no documents or

1 very few documents that Dr. Clauretjie reported he
2 relied on.

3 ARBITRATOR BAKER: You can get to that, but
4 I'm going to allow this questioning. I'm going to
5 overrule the objection.

6 BY MR. FEUERSTEIN:

7 Q Did you provide Dr. Clauretjie any
8 documents?

9 A I did not.

10 Q Did Mr. Kennedy?

11 A I think so.

12 Q Do you recall what those documents were?

13 A I think they were balance sheets and that
14 sort of thing. I don't remember exactly.

15 Q Did you provide Dr. Clauretjie any documents
16 with respect to sales of licenses?

17 A No. I did give him information of a
18 gentleman who's been involved in the cannabis industry
19 before Nevada got on the market, and I told him --
20 gave him the information to contact him. I did do
21 that. I forgot to say that. I apologize.

22 Q Was that the extent of your conversations
23 about valuations for licenses with Dr. Clauretjie?

24 A Yes, I believe so. This is a long time. I
25 don't remember. We only met a few times. I don't

1 remember exactly what we talked about.

2 Q What was the name of the person that you
3 gave --

4 A Um --

5 Q Let me finish my question. What was the name
6 of the person that you gave Dr. Clauretie?

7 A Last name is Paris Balaouras or something
8 like that.

9 MR. DUSHOFF: I have a spelling for that if
10 you'd like me to provide that.

11 ARBITRATOR BAKER: That would be great.

12 MR. DUSHOFF: S-m-i-t-h.

13 B-a-l-a-o-u-r-a-s.

14 BY MR. FEUERSTEIN:

15 Q Dr. Bady, you've seen Mr. Webster's appraisal
16 of the company?

17 A Yes.

18 Q Do you recall what the number was they
19 thought the fair market value of the company was?

20 A No.

21 Q A million, six?

22 A Yep.

23 Q At the time he issued that appraisal, NuVeda
24 was being sued by Ms. Goldstein; correct?

25 A Yes.

1 Q Mr. Terry; correct?

2 A Yes.

3 Q Forefront; correct?

4 A Yes. I don't know the timing of Forefront,
5 but there was an issue there.

6 Q There was an issue. Any other lawsuits
7 against NuVeda?

8 A The 2113 issue, 2113 progressed, so I don't
9 know exactly where.

10 Q Well, if you look in what's been marked as
11 Exhibit 261, did we lose that document somehow? Did
12 he take it with him?

13 A Probably.

14 Q The valuation contemplated the 2113 number;
15 correct? Do you see that in the liabilities?

16 A Yes. The first one, yes.

17 Q So Dr. Bady, why didn't you sell the company
18 to Mr. Terry and Ms. Goldstein for a million, six?

19 A They didn't ask me.

20 Q You would have sold it -- you're testifying
21 today --

22 A I don't think I would have sold it.

23 Q Why not?

24 A I started this company for different reason
25 and this had a whole different set of values for me.

1 Plus, to try to hijack the company, I would never deal
2 with them.

3 Q So you were just making a bad business
4 decision, but --

5 MR. DUSHOFF: Objection. Argumentative.

6 MR. FEUERSTEIN: I'll withdraw the question.

7 Q Dr. Bady, I just want to make sure I have my
8 timing of events right. Do you recall when first
9 recreational marijuana sales took place?

10 A When the first sale took place?

11 Q Approximately.

12 A Yeah. July -- it was --

13 MR. DUSHOFF: Objection. Vague.

14 Is it for NuVeda or for the entire industry?

15 MR. FEUERSTEIN: I'm asking for the entire
16 industry.

17 THE WITNESS: Industry got voted on Question
18 2, 2017, was supposed to go into effect in beginning
19 of 2018, but there was a early start program that they
20 allowed them to have a start in July 1 to ramp up.

21 BY MR. FEUERSTEIN:

22 Q Okay. And in August --

23 A July 1 of 2017. I apologize.

24 Q I understood. And Ms. Goldstein, you
25 expelled her when?

1 A August of 2017.

2 Q And what happened in September of 2017, do
3 you recall, one month later?

4 A I don't know. Autumn. I don't recall.

5 Q Do you recall entering into an agreement to
6 sell your interest, NuVeda's interest in CWNV for more
7 than \$24 million or \$26 million?

8 A No.

9 Q Take a look, if you will, Dr. Bady, at -- we
10 need to go off the record for a second.

11 ARBITRATOR BAKER: We can go off the record.

12 (Break taken.)

13 (Joint Exhibit 263 was marked for
14 identification.)

15 BY MR. FEUERSTEIN:

16 Q Dr. Bady, I'm going to give you a document
17 we've marked as a joint exhibit list 263.

18 Take a look at the document and then I'll ask
19 you to turn the page to the end. Let me know if you
20 recognize any of those signatures.

21 A I do.

22 Q Who signed the top?

23 A That's -- I think that's Pouya Mohajer.

24 Q Who signed the second one?

25 A That's me.

1 Q That's Mr. Kennedy below you?

2 A Yes.

3 Q And I believe that's Mr. Padgett; correct?

4 A Correct.

5 Q Do you understand what it means when you sign
6 a document, Dr. Bady?

7 A Yes.

8 Q What's it mean?

9 A You're agreeing to the terms.

10 Q So when you signed this document, you agreed
11 to its terms; correct?

12 A Yes.

13 Q Do you recognize this document?

14 A I do.

15 Q Let me ask you a question: In August of
16 2017, was it your view that the MIPA was still in
17 existence?

18 A Yes.

19 Q Am I correct in saying in this document
20 that's been marked as JX263, the members, remaining
21 members of -- the members of Nye and Clark were
22 essentially selling the underlying assets for a future
23 guaranteed payment?

24 A I'm sorry. Repeat the question.

25 Q Yeah. Let's just look at the document. If

1 you look at one, two, three, four -- the fifth
2 paragraph down, it says, "As previously contracted by
3 CW and Clark and Nye." Do you see that?

4 A Uh-huh.

5 Q Who are Clark and Nye?

6 A These are the entities that own the
7 licenses.

8 Q And those were the licenses that were --
9 those were the licenses that were, for lack of a
10 better word, pledged or transferred pursuant to the
11 MIPA; right?

12 A Correct.

13 Q And it says, "Clark and Nye shall transfer to
14 CW, LLC, the marijuana-related business licenses
15 described herein and owned by Clark and Nye, and
16 thereby entitling CW as the owner of the licenses, the
17 ability to be engaged in all lawful businesses and
18 sales authorized by said licenses."

19 Did I read that correctly?

20 A Yes.

21 Q Then if I read -- turn the page to page 2.
22 And it says, "In consideration for the purchase of the
23 aforementioned licenses." So you understand that
24 those aforementioned licenses are the licenses that
25 were being transferred by Clark and Nye; correct?

1 A Correct.

2 Q "And commencing on January 1, 2018, CW shall
3 pay to Glad 2B Home, LLC, a monthly payment of 2.625
4 percent of CW's gross sales." Do you see that?

5 A Correct.

6 Q "Payment amount shall be subject to an
7 absolute minimum of \$235,870 per month." Do you see
8 that?

9 A Yes.

10 Q When you signed on behalf of Nye, you agreed
11 to those terms; correct?

12 A Yes.

13 Q It then goes on in the following paragraph,
14 it says, the last sentence of the next paragraph, "The
15 minimum term for this payment arrangement shall be
16 eight years commencing on January 1, 2018." Do you
17 see that?

18 A Yes.

19 Q Do you know how much minimum payment that
20 would have entitled G2BH over the term of the
21 contract?

22 A To be honest, this never transpired, got
23 rescinded. No money got exchanged. We just never
24 went into effect.

25 Q That's not my question. My question is do

1 you understand how much money, what we just read, at a
2 minimum would have entitled G2BH to?

3 A I don't know the exact calculation, but I can
4 guess.

5 Q Give me your guess.

6 A It would be over \$20 million.

7 Q Now, go to the next paragraph. It says, "In
8 addition to CW's monthly payments to G2BH on or before
9 January 1, 2018, CW shall transfer to G2BH a two
10 percent equity holding of CW." Do you see that?

11 A Yes.

12 Q Do you have any idea sitting here today what
13 that valuation could be, two percent to CW?

14 A Right now?

15 Q No. At the time that you entered into the
16 contract.

17 A I have no idea what that means.

18 Q Then it had some terms in the event there was
19 a sale.

20 MR. WILEY: Is that a question?

21 MR. FEUERSTEIN: No, I was just making a
22 statement.

23 Q At the same time, Dr. Bady, there were
24 certain agreements that had been entered into between
25 either the members of NuVeda or the subsidiary, Clark

1 Natural and Apex. Do you recall that?

2 A Can you say it again.

3 Q Yeah. In 2016, plus or minus, there were
4 certain agreements that had been entered into between
5 the Clark Natural Medical Solutions, not this one, and
6 the group of entities known as Apex. Are you aware of
7 those documents?

8 A Are you talking about the Apex sale when we
9 had the property in Apex?

10 Q No, I'm talking about the Apex --

11 A Operations.

12 Q -- operations?

13 A Yes.

14 Q And you were aware of that?

15 A Yes.

16 Q As of August of 2017, that agreement was
17 still in place. Is that fair to say?

18 A Yes.

19 Q And in September of 2017, that agreement was
20 still in place, correct, in Apex operations?

21 A In North Las Vegas?

22 Q Yes.

23 A Yes.

24 Q Is that -- I'm just curious, is that
25 agreement still in force today?

1 A Yes.

2 Q Dr. Bady, did you ever meet with Mr. Webster
3 prior to today?

4 A No.

5 Q Did you ever meet with a group called
6 Anthem?

7 A Yes.

8 Q What did you meet with Anthem about?

9 A I wanted them to look at the -- the Parker
10 report.

11 Q Did you personally retain Anthem?

12 A Yes.

13 Q Do you know how much time Anthem spent on
14 this report?

15 A No.

16 Q Did they bill you for their time?

17 A I'm sorry.

18 Q Did they bill you for their time?

19 A Yes. I don't know the exact amount.

20 Q Do you have an approximation?

21 A Yes. I think -- the dollar amount?

22 Q Yes.

23 A Between the few times they worked for us, I
24 think close to \$10,000, something like that.

25 Q And you mentioned a man named Paris

1 Balaouras?

2 A Balaouras, something like that.

3 Q Do you know what Mr. Balaouras does?

4 A Yes.

5 Q What does he do?

6 A He is in the cannabis industry. From what I
7 understand, he started in the Arizona market, I think
8 they're in the California market and the Nevada
9 market. They own dispensaries, I believe, in all
10 three markets.

11 Q He's also in the Nevada market?

12 A Yes.

13 Q Do you know what company he owned or has
14 owned in Nevada?

15 A I don't know the ownership structure. I
16 think he's involved with Acres. I don't think, I know
17 he's involved with Acres.

18 Q Any other companies?

19 A I don't know the detail of his stuff.

20 Q Do you happen to know whether he sold any
21 businesses in Nevada? Cannabis businesses, of course.

22 A I know they sold stuff in Arizona, his
23 company did. I don't know the details, I just know
24 he's a very well-known and respected, knowledgeable
25 guy in the industry.

1 Q I'm waiting for one document that's supposed
2 to be printed. Just bear with me for one second and
3 see where it is.

4 Have you ever heard of a company, Dr. Bady,
5 called Red Earth?

6 A No.

7 Q Do you know whether -- do you know of a
8 company called MJ Holdings?

9 A Yes.

10 Q What is MJ Holdings?

11 A I think MJ Holdings, I believe Paris is
12 involved with them. And they -- I think it's a
13 publicly traded company, I believe. Actually, I know
14 it's a publicly traded company.

15 Q Do you know how Mr. Balaouras got involved in
16 MJ Holdings?

17 A No.

18 Q Do you know if he was acquired by MJ Holdings
19 as part of a transaction?

20 A No.

21 MR. FEUERSTEIN: I need this document. Let's
22 go off for a second.

23 ARBITRATOR BAKER: Sure.

24 (Break taken.)

25 MR. FEUERSTEIN: I'm going to mark for

1 identification two documents, 264, to the extent they
2 get admitted. I'll represent on the record that they
3 are printouts from websites concerning MJ Holdings and
4 Paris Balaouras.

5 MR. DUSHOFF: I'd be making the same
6 objection that they made to us regarding the Terra
7 Tech and any articles regarding Terra Tech in this
8 matter, printing them out and articles from where, I
9 don't know.

10 MR. FEUERSTEIN: Terra Tech article was in.

11 ARBITRATOR BAKER: I believe it was the SEC
12 part that we allowed in this form. You had an
13 objection to the other two pages and I did not allow
14 those.

15 MR. FEUERSTEIN: Right. And unlike those two
16 pages, these pages have a source of the material
17 coming from the website. You can confirm it for
18 yourself, should you choose. The authenticity of it
19 is not the same as what you were printing out with the
20 source material.

21 MR. DUSHOFF: With all due respect, I could
22 have just gone online, we could have all gone online
23 from Terra Tech and seen exactly where that was from,
24 but didn't have the opportunity to do so. The
25 objection did not get those in.

1 But he challenged my authenticity of
2 literally going to Terra Tech's website and there it
3 was. I'm just going to raise the same objection here
4 and leave it up to you for your ruling on that.

5 MR. WILEY: I'll argue relevancy as well.

6 MR. FEUERSTEIN: I'll tie the relevance in in
7 a moment.

8 ARBITRATOR BAKER: Let me see it.

9 MR. FEUERSTEIN: To be clear, Joint Exhibit
10 257 is the same quality document.

11 ARBITRATOR BAKER: I'll overrule. I'll allow
12 some questions on that. Is this one exhibit?

13 MR. FEUERSTEIN: These are two exhibits, 264
14 and 265.

15 (Joint Exhibit 264 and 265 were
16 marked for identification.)

17 MR. WILEY: Which one is 264?

18 MR. FEUERSTEIN: The article is 264 and the
19 printout with the stock price is 265.

20 MR. DUSHOFF: I understand your ruling. The
21 Terra Tech had to do with valuing. When you say
22 article in, it was a value of the -- that they
23 purchased, which is clearly relevant to what we were
24 talking about is the value of the purchase or sale of,
25 I think marijuana establishments.

1 This has nothing to do with value in this
2 case. It really just talks about, after reading it,
3 that Mr. Balaouras is to assume the CEO role. And
4 there is no other information. But there's nothing in
5 here that has anything to do with --

6 ARBITRATOR BAKER: Let me just stop you. I
7 don't think I've heard a question yet on what he's
8 asking. You can object to relevance when he asks
9 questions that don't go to the issue of value, but I
10 haven't even heard a question yet. But I understand
11 your objection, but let's hear what he's going to ask.
12 BY MR. FEUERSTEIN:

13 Q Dr. Bady, have you had a chance to look over
14 Exhibit 264 yet?

15 A Both these?

16 Q Just one of them, just 264.

17 ARBITRATOR BAKER: 264 is the one without the
18 graph on it.

19 MR. WILEY: Everyone okay with me marking
20 this one?

21 MR. FEUERSTEIN: No objection.

22 THE WITNESS: I have it.

23 BY MR. FEUERSTEIN:

24 Q Take a moment and let me know when you've
25 taken a look. I'll direct your attention to the

1 question.

2 A Okay.

3 Q Do you see that there, this represents 264,
4 an announcement of a definitive agreement of MJ
5 Holdings to acquire Red Earth. Do you see that?

6 A Yes.

7 (Court reporter asks for clarification.)

8 MR. FEUERSTEIN: Red Earth.

9 Q Do you see if you go into the second
10 paragraph below, the sort of bullet points, it says,
11 "In connection with the acquisition, Paris Balaouras,
12 manager of Red Earth and a seasoned entrepreneur, will
13 serve as CEO of the combined company and will assume
14 the role of chairman of the board upon close of the
15 transaction." Do you see that?

16 A Yes.

17 Q Does this refresh your recollection at all
18 how Mr. Balaouras became involved with MJ Holdings?

19 A I mean, I know how he came involved.

20 Q Is this how he became involved with MJ
21 Holdings?

22 A From what I read, yes.

23 Q And it says that, "Red Earth is a holder of a
24 provisional cannabis cultivation license." Do you see
25 that in the first bullet point?

1 A Okay.

2 Q And do you see in the second bullet point,
3 "All Red Earth unit holders will receive approximately
4 \$52.7 million common shares of MJ Holdings." Do you
5 see that?

6 A Yes.

7 Q Take a look at what's been marked as Joint
8 Exhibit 265. Do you see that that's a quote for MJ
9 Holdings corporate. Do you see that?

10 A What do you mean by "quote."

11 Q A stock quote, yes. A stock quote.

12 A Yes.

13 Q And do you see in the bold, sort of on the
14 left-hand side under MJ Holdings, it says, 98 cents.
15 Do you see that?

16 A Yes.

17 Q And do you see if you go down a little bit
18 farther, it says it's a historical quote. Do you see
19 that?

20 A Uh-huh.

21 Q And it has a date. What's the date?

22 A November 14, 2017.

23 Q Right. It's the same date as the article was
24 printed in Exhibit 264; is that correct?

25 A Yes.

1 Q And if I did some very rough multiplication
2 and I multiplied 52.7 million shares by 98 cents, what
3 do I get, Dr. Bady?

4 A Fifty million.

5 Q Approximately 50 million; right? And that
6 was for one provisional cultivation license in Las
7 Vegas; isn't that correct?

8 MR. DUSHOFF: Objection. That's not what
9 this says. It says it purchased Red Earth. I have no
10 idea what other assets or anything else Red Earth has.
11 He's saying that they have this cultivation license.
12 That's what they specifically --

13 ARBITRATOR BAKER: Sustained.

14 BY MR. FEUERSTEIN:

15 Q Dr. Bady, do you have any idea what other
16 assets Red Earth has?

17 A I don't know Red Earth, what they own. The
18 answer is no.

19 Q Dr. Bady, I want to go back for a moment to
20 263, which is the purchase and sale agreement. The
21 company -- if Clark and Nye had already entered into
22 the MIPA, and as you testified, the MIPA was an
23 enforceable agreement at the time, why did you sign
24 Joint Exhibit 263?

25 A We were trying to streamline our business.

1 We thought this would be a good situation for us, and
2 it didn't work out.

3 MR. FEUERSTEIN: Pass the witness.

4 CROSS-EXAMINATION

5 BY MR. WILEY:

6 Q Dr. Bady, while you're looking at Exhibit
7 J263, let me ask you a couple of questions regarding
8 that. I believe your testimony was the status of the
9 PSA, is that still in full force and effect?

10 A This thing?

11 Q Yes, J263.

12 A No.

13 Q What steps did the execution of that document
14 take to make sure that that document was no longer in
15 full force and effect?

16 A This whole thing was rescinded with another
17 document. I don't know --

18 Q And were the terms and conditions of the MIPA
19 always in full force and effect from execution of said
20 document?

21 A Yes.

22 MR. FEUERSTEIN: Sorry. What's the "said
23 document"?

24 MR. WILEY: The MIPA.

25 MR. FEUERSTEIN: Objection.

1 ARBITRATOR BAKER: Sustained. Can you
2 rephrase that.

3 BY MR. WILEY:

4 Q Since the MIPA was executed in December of
5 2015, has that document been in full force and
6 effect?

7 A Yes.

8 Q In fact, it's been testified by you in court
9 proceedings before?

10 A Yes.

11 Q And you recall Mr. Padgett testifying that in
12 the district court hearing?

13 A I don't recall.

14 Q Did any party perform any obligations
15 required of Exhibit J263?

16 A No.

17 Q Did Clark or Nye receive any monies or
18 distributions as set forth in J263?

19 A No.

20 Q Was there ever any transfer of equity
21 holdings as contemplated by Exhibit J263?

22 A No.

23 Q Talk about the overall financial structure of
24 NuVeda. Since entering into the MIPA, has NuVeda
25 received any distributions from CWNV?

1 A No.

2 Q Has CWNV been a profitable enterprise at any
3 time since the execution?

4 A No.

5 Q Has NuVeda or any of its subsidiaries
6 received any monies pursuant to the MIPA?

7 A No.

8 Q Do you recall --

9 A I'm sorry. I've got to correct that. Yes,
10 there was a debt sheet at the end of MIPA that was
11 supposed to pay some debts back and we had paid some
12 of those debts. I don't remember exactly, but we
13 received some money from CW to pay those debts,
14 small amount. I don't remember exact amount.
15 Small.

16 Q Do you recall Mr. Feuerstein asking you about
17 documents provided to Dr. Clauretie?

18 A Yes.

19 Q Do you recall providing any documents to
20 Dr. Clauretie?

21 A I don't recall.

22 Q You could have?

23 A Yes.

24 Q And again, I believe your testimony was with
25 respect to Red Earth, LLC. You don't know what that

1 company's portfolio includes, do you?

2 A No.

3 Q You were here for Shane Terry's testimony
4 yesterday; right?

5 A Yes.

6 Q Did you hear Mr. Terry testify as to the
7 acquisition of a cultivation license?

8 A Yes.

9 Q Do you recall the amount that Mr. Terry paid
10 for that cultivation license?

11 A \$200,000.

12 Q Do you recall Shane Terry testifying about
13 the acquisition of a production license?

14 A Yes.

15 Q And do you recall the acquisition or the
16 price of that production license?

17 A Yes, \$200,000.

18 Q Do you recall Mr. Terry's testimony as to
19 when the acquisition of the cultivation license and
20 production license occurred?

21 A It was in 2016, I believe. I'm sorry. I
22 don't recall the month he said. I'm not sure.

23 MR. WILEY: No further questions.

24 ARBITRATOR BAKER: Mr. Feuerstein, do you
25 have any additional questions?

1 MR. FEUERSTEIN: Yes.

2 REDIRECT EXAMINATION

3 BY MR. FEUERSTEIN:

4 Q Dr. Bady, what's your understanding of CW's
5 obligations pursuant to the MIPA?

6 A There was a series of obligations. They were
7 supposed to build out the cultivation. They were --

8 Q Processing; right?

9 A Processing.

10 Q What else were they supposed to do?

11 A They were supposed to manage the dispensary,
12 run and manage the dispensaries.

13 Q How about build out the dispensaries?

14 A Yes. I'm sorry. They did, yes.

15 Q How about stock the dispensaries?

16 A Yes.

17 Q They were supposed to do that?

18 A Yes. All the management running of the
19 dispensaries was their obligation.

20 Q Do you recall there being a penalty clause in
21 the MIPA in the event that if they didn't build out
22 the cultivation or processing in a timely fashion?

23 A Yeah. I think the MIPA clause, when they do
24 build it, there's supposed to be some of the monies
25 that would come back to us first or earlier or

1 something like that. I don't remember exactly.

2 Q Do you recall, I think Mr. Wiley asked you
3 questions about Mr. Padgett testifying in connection
4 with the preliminary injunction hearing. Do you
5 recall that?

6 A The question --

7 Q Yeah. Do you recall Mr. Padgett
8 testifying?

9 (Court reporter asks for clarification.)

10 BY MR. FEUERSTEIN:

11 Q Do you recall Mr. Padgett testifying?

12 A I'm sorry. I thought the question was do I
13 recall Jason's question.

14 Q That's right.

15 A I do recall Jason's question.

16 Q My apologies.

17 Take a look, if you will, at Exhibit 164.

18 A Can you help me with this? This is another
19 deposition.

20 Q This is the transcript from the preliminary
21 injunction.

22 A Okay. What page?

23 Q We're on page -- I'm not on a page yet. I'm
24 going to ask you some questions.

25 Dr. Bady, do you believe that Mr. Padgett is

1 an honest man?

2 A No.

3 Q You think -- you understand he's a lawyer;
4 correct?

5 A Yes.

6 Q You think he understands what the penalties
7 of perjury are?

8 A Yes.

9 Q You understand the penalty of perjury;
10 right?

11 A Yes.

12 Q Do you think that -- you know what happens to
13 a lawyer if he perjures himself in testimony?

14 MR. DUSHOFF: Objection. Speculation.

15 MR. FEUERSTEIN: I'll withdraw the question.

16 Q Do you have any reason to believe that
17 Mr. Padgett perjured himself at the hearing --

18 A Yeah.

19 Q -- on January 8, 2016?

20 MR. DUSHOFF: Objection. Speculation;
21 vague.

22 ARBITRATOR BAKER: Sustained.

23 BY MR. FEUERSTEIN:

24 Q Do you believe Mr. Padgett provided truthful
25 testimony at the hearing on January 8, 2016?

1 MR. DUSHOFF: Objection. Vague; calls for
2 speculation; legal conclusion.

3 ARBITRATOR BAKER: Sustained. Maybe you can
4 narrow the question, do you believe he was truthful
5 when he said.

6 MR. FEUERSTEIN: I'll do that.

7 Q When testifying about what the MIPA provided,
8 Dr. Bady, do you believe that Mr. Padgett was truthful
9 in his testimony?

10 MR. DUSHOFF: Objection. Vague. If there's
11 a specific question, the proper use of a transcript,
12 if there's something that he wants -- if there's
13 something about the MIPA he wants to talk about, put
14 down the specific -- if he's saying some things could
15 be truthful, some things he doesn't believe they're
16 truthful, what specific part in the transcript is he
17 referring to.

18 ARBITRATOR BAKER: Sustained.
19 Mr. Feuerstein, perhaps you could say, do you agree
20 with Mr. Padgett said.

21 MR. FEUERSTEIN: I will do that in a minute.

22 Q Do you agree with Mr. Padgett statement,
23 Dr. Bady, that CW had a guaranty that the greenhouse
24 would be up and running and operational in 2016?

25 A Do I agree with it?

1 Q Yeah.

2 A In that document?

3 Q I'm just asking with his testimony, Mr.
4 Padgett testimony. Do you agree with that
5 statement?

6 A Yes, he said he's going -- I believe from
7 what I recall, he said something about that.

8 Q Is that consistent with your understanding
9 of the MIPA?

10 A Yes, it is.

11 Q I'd like you to turn to page 15, Dr. Bady.
12 And if you need a little more context, you can start
13 on page 14, but I'm going to focus on line 3, page 15.

14 A I'm sorry. Line 3, you say?

15 Q Line 3.

16 A "And if it is," is that what you want?

17 Q Right. And Mr. Padgett says, "And if it is,
18 if it doesn't have a harvest in it, and it isn't
19 making money, then until such time as it does, we spec
20 out what the cost of the revenue should be per square
21 foot and then we write a check monthly to CWNV as lost
22 profits." Do you see that?

23 A Yes.

24 Q Do you believe that's consistent with the
25 terms of the MIPA?

1 A No.

2 Q You think Mr. Padgett was lying there?

3 MR. DUSHOFF: Objection.

4 MR. WILEY: Objection.

5 ARBITRATOR BAKER: Sustained.

6 BY MR. FEUERSTEIN:

7 Q Do you think -- I'll withdraw the question.

8 Then you see below, Mr. Padgett on line 16
9 says, beginning with No. 2, "If they're not up and
10 running, then we start writing checks." Do you see
11 that?

12 A Oh, yes.

13 Q Is that consistent with your understanding of
14 the MIPA?

15 A I want to say it's talking about the
16 cultivation or not.

17 MR. WILEY: Objection. Vague.

18 What are you talking about as far as --

19 THE WITNESS: Let me read it.

20 BY MR. FEUERSTEIN:

21 Q Yeah, you can read it.

22 A When the two are not up and running, I don't
23 know what he means by two. I could assume he's
24 talking about dispensaries.

25 (Cross-talking.)

1 Q So it's your understanding, Dr. Bady, that
2 if, in fact, the cultivation and processing weren't up
3 and running by a certain date, that CW was not
4 obligated to write a check to CWNV immediately. Is
5 that your understanding?

6 A Yes.

7 Q And would have to only write a check some
8 time in the future. Is that your understanding?

9 A Yes.

10 Q But it did have an obligation, existing
11 obligation to pay that check retroactively to January
12 2017?

13 A I don't remember the exact date on the MIPA,
14 but I believe the thought process is correct.

15 Q So let's look at 149, Exhibit 149, which is
16 the MIPA.

17 A What page?

18 Q 149.

19 A Got it.

20 Q And if you could turn to page, I think it's
21 18 of the PDF, it should say on the title on the top
22 of the page, Additions to operating agreement. Do you
23 see that?

24 MR. DUSHOFF: Do you have a Bates number on
25 that?

1 MR. FEUERSTEIN: The one you guys put in
2 here. It doesn't have the Bates on it.

3 MR. DUSHOFF: Really?

4 MR. FEUERSTEIN: Honestly. Yours has a Bates
5 number, Matt?

6 MR. WILEY: RESP50017.

7 BY MR. FEUERSTEIN:

8 Q It says, Additions to operating agreement, so
9 we're on the same page, at the top?

10 A Yes.

11 Q On the bottom of the page it says, Lost
12 profits. Do you see that?

13 A Yes. I got it.

14 Q Why don't you read that into the record.

15 A "If cultivation and production are not up and
16 running in earnest by the end of 2016, CW shall
17 provide lost profits to CWNV based on the number of
18 months the facilities are tardy in opening, and based
19 on the profits those facilities actually make for the
20 same number of months upon opening."

21 Q And that's your understanding of what the
22 obligation is?

23 A Yes.

24 Q Is it your belief or is it your
25 understanding, Dr. Bady, that that obligation still

1 exists today?

2 A Yes.

3 Q And it's retroactive to January 1, 2017?

4 A Yes.

5 Q And there's been no amendments to the MIPA to
6 change that obligation; correct?

7 A Correct.

8 Q And there's been no obligations to the
9 operating agreement to change that obligation;
10 correct?

11 A That is correct.

12 MR. FEUERSTEIN: No further questions.

13 ARBITRATOR BAKER: I don't have any
14 questions. Thank you.

15 MR. FEUERSTEIN: We rest. We have Joe, but
16 you're going to take him first, but Joe is part of our
17 case too.

18 ARBITRATOR BAKER: Joe Kennedy's testimony as
19 will be included. Okay.

20 (Discussion off the record.)

21 RESPONDENT'S CASE IN CHIEF.

22 MR. WILEY: Respondents recall Joe Kennedy.

23 ///

24 ///

25 ///

1 Thereupon,

2 JOSEPH E. KENNEDY,
3 called as a witness by the Respondent
4 having been duly sworn, testified as
5 follows:

6 DIRECT EXAMINATION

7 BY MR. WILEY:

8 Q Mr. Kennedy, can you please state and spell
9 your name for the record.

10 A Joseph Eugene Kennedy. J-o-s-e-p-h,
11 E-u-g-e-n-e, K-e-n-n-e-d-y.

12 Q Mr. Kennedy, are you affiliated with
13 NuVeda?

14 A I am.

15 Q In what way?

16 A I'm the CFO.

17 Q When did your affiliation with NuVeda
18 begin?

19 A Back in 2014.

20 Q Were you the CFO back in 2014?

21 A No, some time in 2016.

22 Q Did you have any other title with NuVeda
23 prior to being CFO?

24 A I was a board member.

25 Q Do you have an ownership interest?

1 A I do.

2 Q You had an ownership interest ever since your
3 affiliation with the company began?

4 A Yes.

5 Q With respect to being a CFO, what duties and
6 obligations are you responsible for on behalf of
7 NuVeda?

8 A I do the accounting for the company, I file
9 the tax returns for the company, and I prepare
10 whatever reports are requested by the management.

11 Q Do you have a background in accounting?

12 A I do.

13 Q Can you provide a brief overview of the
14 summary of your accounting background?

15 A I'm an enrolled agent. I first prepared tax
16 returns for compensation in 1970, and I have been
17 basically preparing returns ever since.

18 Q Preparing returns for who?

19 A I prepare returns -- most of my returns are
20 for corporations or for limited liability companies,
21 but I also do individual tax returns when they are
22 associated.

23 For example, if a K-1 is issued from one of
24 the entities, I may do the tax return for that
25 individual who is seeking the K-1.

1 Q Do you recall the events of the summer of
2 2017 that led to Ms. Goldstein's expulsion?

3 A I do.

4 Q Do you recall participating in a meeting of
5 which the members voted on Ms. Goldstein's
6 expulsion?

7 A I did.

8 Q Do you recall which members voted in favor of
9 Ms. Goldstein's expulsion?

10 A Yes, Dr. Bady, and Dr. Mohajer.

11 Q Did you vote?

12 A I abstained.

13 Q Do you recall the combined percentage voting
14 interest that Dr. Bady and Dr. Mohajer possessed in
15 August 2017?

16 A It was more than 65 percent.

17 Q Are you familiar with the NuVeda operating
18 agreement?

19 A I am.

20 Q Specifically, provision 6.2 regarding
21 expulsion?

22 A Yes.

23 Q Do you recall the percentage of voting
24 interest required to expulse a member?

25 A Fifty-one percent.

1 Q Is it your testimony that Dr. Bady and
2 Dr. Mohajer had the requisite voting interest to
3 expulse Ms. Goldstein?

4 A Yes.

5 Q Did you participate in the drafting of the
6 NuVeda operating agreement?

7 A No.

8 Q Do you know who did --

9 A Yes.

10 Q -- prepare the operating agreement?

11 A Yes.

12 Q Who's that?

13 A Jennifer Goldstein.

14 Q In the weeks leading up to the vote of Ms.
15 Goldstein's expulsion, did you review the operating
16 agreement, specifically section 6.2, to ensure that
17 the company complied with that provision?

18 A No.

19 Q Did you have any discussions -- and please
20 answer this yes or no -- with counsel regarding the
21 provisions of 6.2?

22 A Yes.

23 Q This was prior to Ms. Goldstein's
24 expulsion?

25 A Yes.

1 Q Again, without getting into specifics, were
2 you provided an opinion as to whether or not NuVeda
3 was complying with the provisions of 6.2?

4 A Yes.

5 Q Do you recall the provisions of 6.2 requires
6 the company to hold a meeting in order for an
7 expulsion to occur?

8 A Yes.

9 Q Did NuVeda notice and hold that meeting?

10 A They did.

11 Q What's your understanding as to retention of
12 an appraiser to provide a fair market value as to the
13 expulsed member's interest?

14 A Was the question what was my -- can you
15 please repeat.

16 Q Sure. What is your understanding as to the
17 events that NuVeda must undertake in retaining an
18 appraiser to value the interest of an expulsed
19 member?

20 A After the member's been expelled, within the
21 30 days we're required to get an independent
22 appraiser, licensed appraiser to appraise the company
23 as of the date of the expulsion, and to present the
24 appraisal to the expelled member, and to prepare to
25 pay the member according to the rules, which could

1 involve four separate payments.

2 Q Who from NuVeda was primarily responsible for
3 the retention of an appraiser to provide the appraisal
4 of Ms. Goldstein's interest?

5 MR. FEUERSTEIN: I'm sorry. Can you repeat
6 the question.

7 (Record read.)

8 THE WITNESS: That was me.

9 BY MR. WILEY:

10 Q Ultimately you made a selection of Mr.
11 Webster?

12 A Yes.

13 Q Did you know Mr. Webster prior to retaining
14 him on behalf of NuVeda?

15 A He had done the appraisal when Shane Terry
16 had been expelled in March of '16.

17 Q And what steps or actions did you take
18 personally with respect to the retention of Mr.
19 Webster?

20 A I called Mr. Webster and explained what --
21 our requirements, and I asked him what he needed me to
22 have prepared for him and we arranged a meeting.

23 Q Did Mr. Webster request certain information
24 from NuVeda to assist him with the appraisal?

25 A He did.

1 Q What did he ask for?

2 A He asked for a current balance sheet and a
3 profit and loss statement.

4 Q And you provided that information to him?

5 A I did.

6 Q And you possessed that information personally
7 at the time?

8 A Yes.

9 Q Anybody else from NuVeda prepare the
10 company's financials at that time?

11 A No.

12 Q Did NuVeda use an outside accounting firm at
13 any time in 2017?

14 A Yes, we had our tax returns reviewed by
15 Michael Singer company.

16 Q Was there any information that Mr. Webster
17 requested that NuVeda could not provide him to assist
18 him in his preparation for the appraisal?

19 A No.

20 Q It's your understanding that provision 6.2 of
21 the operating agreement simply provides for an
22 appraisal of the fair market value of the expelled
23 member?

24 A I understand that, yes.

25 Q No special report or expert report or audit

1 needs to be done to calculate the interest of an
2 expelled member?

3 A I made an effort to make sure that the
4 information I provided to the appraiser was accurate
5 and current.

6 Q Other than providing the information to Mr.
7 Webster, did you assist in the preparation of the
8 appraisal in any way?

9 A I had discussions with him about certain
10 liabilities that the company had and we came to a
11 consensus on how to treat them in the appraisal.

12 Q Specifically, can you expand upon your
13 answer, any questions that Mr. Webster might have
14 had?

15 A Well, we discussed the Forefront litigation
16 and the Shane Terry litigation, and we decided that
17 there was no practical way to determine what the
18 liability was for either of those -- those
19 litigations.

20 So we made a note at the bottom of the
21 balance sheet to say that those were not considered
22 because the range was so great and the possibility of
23 us correctly deciding what those numbers would be
24 was -- we decided was not possible. So we simply made
25 a note that those two liabilities would be left out.

1 Q Let's go ahead and look at the appraisal.
2 And I don't know, did Mr. Webster take his copy?

3 ARBITRATOR BAKER: I think he may have.

4 MR. WILEY: What was the appraisal? What
5 number?

6 MR. FEUERSTEIN: 261.

7 BY MR. WILEY:

8 Q Mr. Kennedy, you're looking at Exhibit 261?

9 A I am.

10 Q And do you recognize this document?

11 A I do.

12 Q Turn to the bottom of that page, the assets.
13 The second asset was this 35 percent of CWNV, LLC, at
14 a valuation of \$3.5 million; correct?

15 A Correct.

16 Q How did you come up with that valuation and
17 the determination of that amount?

18 A There were two dispensary licenses and based
19 on what I knew from inquiry of the current sale price
20 of dispensary licenses, it was about \$5 million a
21 license at that time. So we had \$10 million for the
22 two dispensary licenses. We had two --

23 MR. FEUERSTEIN: Objection to -- the
24 testimony he's testifying to now is hearsay. Whatever
25 his information is, is from some third party who's not

1 testifying at this hearing. He is saying I heard it
2 from other sources.

3 So none of this testimony, which is from
4 outside parties who aren't appearing, so I don't know
5 how Mr. Kennedy gets to get that in.

6 ARBITRATOR BAKER: Well, if I understand, Mr.
7 Wiley, you're having him testify as to how he came up
8 with this \$3.5 million, which was on this sheet, which
9 was then transferred into here. So I'm going to
10 overrule the objection.

11 BY MR. WILEY:

12 Q Go ahead, Mr. Kennedy.

13 A Then we had a production and a cultivation
14 license that we valued at \$200,000 each, and then we
15 took 35 percent of that amount.

16 Q Then the final asset down there at Clark
17 Natural, can you explain how you came up with that
18 evaluation?

19 A We had a production and cultivation license
20 for North Las Vegas that was held under that
21 subsidiary. And at the time, I was told that there
22 were too many production licenses in North Las Vegas.
23 So we had \$200,000 for the cultivation license and
24 \$150,000 for the production license.

25 Q And those amounts were booked on NuVeda's

1 balance sheet?

2 A Yes.

3 Q Let's go ahead and turn the page to
4 liabilities. First liability is a judgment of 2113
5 Investors, LLC, in the amount of \$1.3 million. Can
6 you explain what that judgment and that liability
7 entails?

8 A When NuVeda had bid on the North Las Vegas,
9 the 2113 North Las Vegas Boulevard site in North Las
10 Vegas, they bid \$2.5 million for that site, which they
11 understood or we all understood to include an approval
12 for a dispensary license, because the owner of the
13 property was the City of North Las Vegas and they were
14 anxious to dispose of it.

15 So the bid of \$2.5 million was accepted as
16 the highest bid. And so when the time came, which was
17 December 31st, 2014, I believe, when the time came to
18 pay for it, about seven days before the funds were
19 due, I was contacted by Dr. Bady and he said our
20 investors are not going to come through, so we're
21 going to need to raise the cash ourselves.

22 So I went to my lines of credit. I took my
23 cash from the bank. Dr. Bady did the same thing and
24 we came up with the \$2.5 million.

25 But I was unwilling to buy the property in

1 the name of NuVeda because none of the other members
2 who owned, Dr. Mohajer, Shane Terry and Jennifer
3 Goldstein and the Winmill group who had such a large
4 interest in it, that I was fearful for the invested
5 money.

6 So about a month later, the second dispensary
7 site came up. We had raised no funds, so we put both
8 sites into the company, 2113 Investors, LLC.

9 So I arranged for a lease to be created,
10 which would transfer both sites to NuVeda for the
11 exact amount that was paid for those -- that 2113 had
12 paid for those sites so that -- because we were
13 anticipating that funds would be coming in some time
14 in the next few months.

15 The funds never came in, and the lease
16 payments were never made, and the property was -- the
17 Third Street property was demolished. And the North
18 Las Vegas property was ignored and had significant
19 damage to the interior of the building because it
20 wasn't properly secured during the time that NuVeda
21 had it under lease.

22 So after approximately a year of no lease
23 payments and both properties sitting there in a
24 destroyed state, I decided that I should protect our
25 interest and file suit against NuVeda for 2113

1 Investors. This amount here, it was a settlement that
2 was signed off by all parties, including the court.

3 Q The 2113 --

4 ARBITRATOR BAKER: Before you go there, what
5 is the timing of this, when this initial 2113
6 Investors coming up with the money and all this, what
7 time period are we talking about?

8 THE WITNESS: To come up with the money for
9 the original site, seven days.

10 ARBITRATOR BAKER: No, I mean year, month
11 time.

12 THE WITNESS: So once the properties were
13 acquired, it was approximately a year later that I
14 realized they didn't make any lease payments and they
15 destroyed both properties and I was very concerned.

16 ARBITRATOR BAKER: When was the initial --
17 when you say you came up with the \$2.5 million, what
18 was that time period?

19 THE WITNESS: That was within 30 days.

20 ARBITRATOR BAKER: Month and date
21 approximately.

22 THE WITNESS: Well, it was December 31st of,
23 I think it was 2015.

24 MR. WILEY: 2014.

25 THE WITNESS: 2014.

1 ARBITRATOR BAKER: Sorry. Go ahead.

2 BY MR. WILEY:

3 Q When you say all the parties signed off on
4 the 2113 Investors settlement, which party
5 specifically signed off on behalf of NuVeda?

6 A I would have to see the sheet. I don't
7 recall.

8 Q Turning your attention to the fourth
9 liability, the debt to 2 Prime, what is your
10 understanding as to the debt to 2 Prime as of August
11 2017?

12 A That was amounts that were lent to NuVeda to
13 continue its day-to-day business.

14 Q Other than the assets, the liabilities that
15 are listed in the appraisal, were there any other
16 assets or liabilities of the company that weren't
17 included or provided to Mr. Webster?

18 A Well, they're in the appraisal, the
19 liabilities for Shane Terry and Forefront.

20 Q I understand. Those aren't contemplated in
21 the calculation --

22 A No, they weren't.

23 Q -- of the liabilities. I'm saying are there
24 any other assets or liabilities that were excluded
25 from being provided to Mr. Webster?

1 A No.

2 Q And that's a true and accurate overview of
3 the accounting of NuVeda as of August 2017?

4 A Yes.

5 Q Providing overview of the status of the
6 company in August of 2017, first let's start with the
7 two dispensary licenses. Were the dispensaries open
8 in August of 2017?

9 A Yes.

10 Q Approximately how long had they been open?

11 A I think North Las Vegas was December of 2016
12 and Third Street was January of 2017.

13 Q And those dispensaries were compiling sales
14 figures and revenues during that period of open until
15 August of 2017?

16 A Yes.

17 Q How about the cultivation and production
18 license of August of 2017, was NuVeda actively
19 operating the cultivation license at that time?

20 A No.

21 Q How about the production license at that
22 time?

23 A I assume you're talking about the nine
24 licenses or do you mean the North Las Vegas licenses?

25 Q I mean both.

1 A Okay. Nye, there was a movement to start to
2 build a production facility, but it hadn't been
3 completed, and there was no action on the cultivation
4 license.

5 Q Then with respect to Clark Medicinal?

6 A We were entering into an agreement with a
7 group of investors to build a facility in North Las
8 Vegas on Simmons Avenue and Brooks.

9 Q And that's --

10 A That would be both, the production and the
11 cultivation.

12 Q Those are the Apex individuals?

13 A Those were the Apex individuals.

14 Q You were in the room for Dr. Bady's
15 testimony; correct?

16 A Yes.

17 Q Would you agree with his assessment that
18 NuVeda and its members have not received any
19 distributions from inception to present date?

20 A Yes.

21 Q When the dispensaries were open, who was in
22 charge of management of those two locations?

23 A CWNV.

24 Q Are the dispensaries still being managed by
25 CWNevada?

1 A Yes.

2 Q And that's pursuant to the MIPA?

3 A That's pursuant to the MIPA.

4 Q Is the MIPA still in full force and effect
5 today?

6 A Yes.

7 Q Is it your testimony that the MIPA has always
8 been in full force and effect since its execution?

9 A Yes.

10 Q Are you familiar with two individuals named
11 Mr. Winmill and Mr. Penders?

12 A I am.

13 Q Who are Mr. Winmill and Mr. Penders?

14 A They are former members of NuVeda.

15 Q Do you recall when Mr. Winmill and Mr.
16 Penders relinquished their interest in the company?

17 A I remember the process. I don't remember the
18 dates.

19 Q What was the process?

20 A I negotiated with them. They had sent NuVeda
21 a bill for \$133,000 for security planning costs, and
22 they held between them at that time, one half of one
23 percent interest in the company. I negotiated the
24 amount to be paid to them down to \$80,000, and they
25 sold back their interest to NuVeda for \$1,000.

1 Q Let's get some clarification. The payment of
2 \$80,000, that wasn't for their membership interest;
3 correct?

4 A Not at all. It was for their services
5 rendered.

6 Q And then the payment for the relinquishment
7 for their interest was in what amount?

8 A \$1,000.

9 Q And they owned a collective what
10 percentage?

11 A One half of one percent.

12 Q So based upon that, the valuation of the
13 company would have been what?

14 A \$200,000.

15 Q And that was an amount agreed to by Mr.
16 Winmill and Mr. Penders?

17 A Yes.

18 Q Turning your attention to Exhibit 198.

19 A Okay.

20 Q Joint Exhibit 198, do you recognize that
21 document?

22 A Yes.

23 Q What is it?

24 A That's the settlement agreement with the
25 Winmill Group.

1 Q Do you see the date of that agreement?

2 A May 17, 2016.

3 Q So May 17, 2016, Mr. Winmill and Mr. Penders
4 relinquished their interest, their one half of one
5 percent interest for \$1,000. Is that your
6 testimony?

7 A That is.

8 Q Your testimony places a valuation of \$200,000
9 based upon that acquisition?

10 A Yes.

11 Q After Mr. Webster prepared his appraisal, was
12 NuVeda ready, willing and able to remit payments to
13 Ms. Goldstein for her interest in the company?

14 A Yes.

15 Q Did NuVeda contact Ms. Goldstein regarding
16 the relinquishment of her interest through payment?

17 A Through its general counsel.

18 Q Did general counsel relay to you Ms.
19 Goldstein's response?

20 A No.

21 Q No, it wasn't conveyed to you or no, there
22 was no response?

23 A No, it wasn't conveyed to me.

24 Q At any time did Ms. Goldstein reach out to
25 you and request that payment be tendered?

1 A No.

2 Q NuVeda and CWNevada continued to operate as
3 if -- continued to operate pursuant to the terms and
4 conditions of the MIPA?

5 A Yes.

6 Q Does CWNevada continue to manage and run the
7 dispensaries?

8 A They do.

9 (Court reporter asks for clarification.)

10 MR. WILEY: To manage and run the
11 dispensaries.

12 Q Let's go ahead and have you look at
13 Exhibit 249.

14 MR. FEUERSTEIN: What number?

15 MR. WILEY: 249. I think we're going to run
16 into the same trouble, aren't we? That's the
17 spreadsheet.

18 Do you have any issue with Mr. Kennedy
19 looking at my 249?

20 MR. FEUERSTEIN: As long as it has your
21 answers next to it.

22 MR. WILEY: I'm not smart enough to provide
23 the answer.

24 MR. FEUERSTEIN: It's fine.

25 ///

1 BY MR. WILEY:

2 Q Mr. Kennedy, Joint Exhibit 249, do you
3 recognize that document?

4 A I do.

5 Q Can you explain to the arbitrator the sales
6 figures that are set forth in 249 as they relate to
7 NuVeda?

8 A NuVeda has -- okay. Going across the
9 columns, NuVeda has no interest in the cultivation at
10 Oakridge. NuVeda has no interest in the production at
11 Ali Baba. NuVeda has no interest in the retail
12 medical for Blue Diamond.

13 Has no interest in the retail rec for Blue
14 Diamond. The retail medical for Third Street,
15 one-third of the net revenues from that would be for
16 NuVeda, or 35 percent, so more than one-third.

17 The retail rec on Third Street is the same.
18 The retail medical at North Las Vegas Boulevard is
19 also 35 percent of it is NuVeda. And retell rec at
20 North Las Vegas Boulevard is the same situation, 35
21 percent for NuVeda.

22 Q What's the time period contemplated by
23 Exhibit 249?

24 A It's apparently from April '17 to May of
25 2018.

1 Q And that time period encompasses the time
2 within which Ms. Goldstein was expelled from the
3 company; correct?

4 A Well, not entirely. She was expelled in
5 August of 2017, and there are four months before that,
6 that were -- that she was a member.

7 Q But August 2017 is included in Exhibit
8 J249?

9 A I'm sorry.

10 Q The sales for August 2017 are included in
11 J249?

12 A Yes.

13 Q What were the NuVeda sales in August of 2017
14 as set forth in J249?

15 A Okay.

16 Q Put your math skill to the test.

17 MR. FEUERSTEIN: We'll stipulate to the
18 number.

19 MR. WILEY: Okay.

20 MR. FEUERSTEIN: It's 616,693.87.

21 THE WITNESS: Yes.

22 BY MR. WILEY:

23 Q So for that year period of time, what is the
24 approximate amount NuVeda sales from the dispensaries
25 at Third Street and North Las Vegas run?

1 A 7.2 million.

2 Q Have you had a chance to review Mr. Parker's
3 expert reports?

4 A Yes.

5 Q Are you familiar with Mr. Parker's assertion
6 that the projected NuVeda revenues were 16.85 million
7 in year two, and 33.05 million in year three in his
8 report?

9 A Yes.

10 Q Is it your understanding that the time period
11 of year two in Mr. Parker's report contemplated 2016
12 and 2017 and year three, it was 2017 and 2018?

13 A Yes.

14 Q So NuVeda didn't realize the 33.05 million in
15 revenue during that time period, did they?

16 A It did not.

17 Q The revenues didn't come close to that --
18 (Court reporter asks for clarification.)

19 BY MR. WILEY:

20 Q The NuVeda revenues did not come close to the
21 amount set forth in the Parker report, did they?

22 A They did not.

23 Q Do you believe that the sales amount set
24 forth in Joint Exhibit 249 are true and accurate?

25 A I do.

1 Q Is there any reason to doubt their
2 veracity?

3 A No.

4 Q Let's look at -- we have all the exhibits
5 from yesterday in that pile?

6 ARBITRATOR BAKER: It should be.

7 MR. WILEY: The Apex company agreement, what
8 exhibit was that?

9 MR. FEUERSTEIN: It's between 257 and --

10 ARBITRATOR BAKER: 259.

11 BY MR. WILEY:

12 Q Mr. Kennedy, turning your attention to Joint
13 Exhibit 259, do you recognize that agreement?

14 A I do.

15 Q Or that document, I should say.

16 Do you provide an overview as to what's set
17 forth in this exhibit?

18 A This is what I call the build it and they
19 will come agreement. This agreement says that Apex
20 ops, Apex land, Apex manager and Clark Medicinal
21 Solutions, LLC, will go into a joint venture in which
22 Apex land will purchase the land and finance the
23 building of the buildings.

24 Apex manager will manage the operations. And
25 Apex ops will be the entity to be shared by the -- all

1 three of the other entities. At this moment, the
2 buildings have been completed.

3 There was contemplated it would cost about 6
4 million for the project. We actually ran over about
5 50 percent. And there's about 9 million outstanding
6 in loans on the property.

7 The agreement is that all parties or all of
8 the entities will stand as they are until the loan has
9 been repaid. At that time, the entities will all
10 receive an interest in Apex ops -- well, it would be
11 land would have 20 percent, management would have 40
12 percent, and Clark Natural would have 40 percent. But
13 all the outstanding debt has to be repaid before any
14 transfers of interest occur.

15 So Clark Natural at this moment has its two
16 licenses, and there's potential interest once the debt
17 has been repaid. It's actually the value of the land
18 and buildings right now is zero because the liability
19 against them are the exact amount that it costs to
20 build them. That's my overview.

21 Q And again, this agreement has to do with the
22 cultivation and production license that is held by
23 Clark Natural?

24 A Correct.

25 Q And it's your testimony that that entity

1 still holds those two licenses?

2 A That entity still holds those two licenses.

3 Q Until the retirement of the debt?

4 A Until the retirement of the debt.

5 Q What benefit did Clark Natural receive under
6 this intercompany agreement?

7 A The buildings have been constructed by the
8 other parties, which Clark Natural never could have
9 afforded to do, or just couldn't afford to do.

10 And at the end of the retirement of the debt,
11 presuming that the debt has been retired from income
12 from the venture, at that time, Clark Natural will
13 share in 40 percent of the net income generated by the
14 enterprise.

15 MR. WILEY: Look at my notes real quick.
16 Pass the witness.

17 MR. FEUERSTEIN: Can we take a -- what would
18 you like to do, Arbitrator Baker? I'm not going to
19 fall within my seven minutes.

20 ARBITRATOR BAKER: I do need to take a break
21 at 12:30 to make a call. If you guys want to break
22 now and we can come back at 1:00, or if you want to
23 get started for a little bit and want to go 15
24 minutes, 20 minutes.

25 MR. FEUERSTEIN: I'm happy to do that. Let

1 me cover one topic with Mr. Kennedy and then I think
2 we can break for lunch.

3 CROSS-EXAMINATION

4 BY MR. FEUERSTEIN:

5 Q Mr. Kennedy, do you recall your testimony
6 with Mr. Wiley a moment ago about the judgment to 2113
7 Investors that was included in the Webster group
8 report?

9 A Yes.

10 Q You and I -- by the way, we've been in this
11 format before. I took your deposition earlier in
12 2018. Do you recall that?

13 A I do.

14 Q And do you recall -- if you could summarize
15 for Arbitrator Baker, what were the alleged damages
16 that 2113 sought in its lawsuit against NuVeda?

17 A Failure to pay rent per the leases,
18 demolition of the Third Street building and damages to
19 the North Las Vegas building.

20 Q Now, you recall, and I think you testified,
21 that you had entered into a lease on behalf of 2113
22 Investors and NuVeda. Do you recall that testimony?

23 A I do.

24 Q And do you recall whose obligation under the
25 lease it was to procure insurance for the building?

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1 A Each party was to ensure their own
2 interest.

3 Q You're sure about that?

4 A Well, it's a triple net lease, and the
5 premium for the casualty damage to the building was to
6 be paid by NuVeda.

7 Q Who was obligated to procure the insurance?

8 A I was told it was procured by NuVeda in
9 conjunction with ensuring their own interest.

10 Q Can you answer my question, Mr. Kennedy? Who
11 was responsible under the lease to procure the
12 insurance?

13 A 2113 Investors.

14 Q That's your entity; correct?

15 A That's my entity.

16 Q Did you procure the insurance, Mr. Kennedy?

17 A No.

18 Q You also mentioned that some of your
19 liability was unpaid rent. Do you recall that?

20 A I recall that.

21 Q And do you recall that in entering into the
22 MIPA, there was a list of potential liabilities that
23 CW was going to pay on behalf of NuVeda. Do you
24 recall that?

25 A Under the MIPA?

1 Q Under the MIPA.

2 A This was the appendix A? I'm sorry.

3 Q I don't remember if it's appendix A, but it
4 was at the back end of the MIPA. There was a chart
5 that had the potential liabilities.

6 Do you recall, Mr. Kennedy, that back rent
7 was one of the liabilities that 2113 was supposed to
8 pay -- I'm sorry -- that CW was supposed to pay on
9 behalf of NuVeda?

10 A No.

11 Q Let me refresh your recollection. Take a
12 look at the MIPA, which I believe is your Exhibit 149.
13 Tell me when you've opened it up.

14 A I have.

15 Q And you go to the very last page and there's
16 a chart there. Let me know when you get there.

17 A Okay.

18 Q And you see, if you look in the chart and
19 from -- counting from the bottom, it's the fourth and
20 fifth rows, there's an entry for 1320 South Third
21 Street rent and 2113 North Las Vegas Boulevard rent.
22 Do you see that?

23 A Yes.

24 Q At the bottom?

25 A Yeah, near the bottom. Fourth and fifth up

1 from the bottom.

2 Q Yeah. And it's for about \$240,000. Do you
3 see that?

4 A Yes.

5 Q That was the back rent allegedly owed by
6 NuVeda; correct?

7 A I don't think 2113 was a party to this
8 agreement.

9 Q I'm not asking, Mr. Kennedy, whether it was.
10 I'm asking you, this represents that CW was going to
11 pay the debts for NuVeda to those entities?

12 A Yes.

13 Q So, so far you said that the damage you
14 sought were rent and demolition. The rent was
15 supposed to be paid by CW, and you were supposed to
16 procure insurance for the building; correct?

17 A Well, actually, we had the insurance company
18 come out and look at the building and because --

19 Q It's correct; yes or no? Correct; yes or no,
20 Mr. Kennedy? You can redirect him.

21 MR. WILEY: He can answer the question.

22 MR. FEUERSTEIN: My question was, was it
23 correct.

24 THE WITNESS: Repeat the question.

25 ///

1 BY MR. FEUERSTEIN:

2 Q The insurance was supposed to be procured by
3 2113; correct?

4 A Correct.

5 Q Now, Mr. Kennedy, you were here in the room
6 when Dr. Bady testified about the obligations within
7 the MIPA; correct?

8 A Yes.

9 Q And Dr. Bady testified that it was CW's
10 obligation to build out the dispensaries; correct?

11 A Yes.

12 Q And those dispensaries are the buildings
13 situated on those two properties, 1320 South Third
14 Street and 2113 North Las Vegas Boulevard; correct?

15 A Correct.

16 Q So CW was picking up the cost to build the
17 buildings; correct?

18 A Partially correct.

19 Q Now, what weren't they paying for, Mr.
20 Kennedy?

21 A They didn't pay for the structure on Third
22 Street.

23 Q Where is that said anywhere in the MIPA?

24 A I don't know.

25 Q Well, take a look, Mr. Kennedy, if you will.

1 A Okay.

2 Q At page 3 of the MIPA. Tell me when you're
3 there.

4 A Okay. I'm on page 3.

5 Q Look at section 1.1E.

6 A Okay.

7 Q And it says, "Commencing as of the effective
8 date, CW shall commence funding and paying for 100
9 percent of Romanette i, all necessary tenant
10 improvements, furniture, fixtures, equipment and fees
11 and expenses relating thereto for the development of
12 the facilities on the properties and all matters
13 relating thereto in the manner, and as further
14 described on schedule 1 attached hereto, incorporated
15 herein by this reference collectively the tenant
16 improvements."

17 Did I read that correctly?

18 A You did.

19 Q Does it carve out of that sentence anywhere
20 it's not going to do anything with respect to the
21 structure?

22 A Yes.

23 Q Where does it say that?

24 A It says tenant improvements. Tenant
25 improvements are not the structure.

1 Q You'd agree with me that the definition of
2 tenant improvements is actually a defined term in this
3 agreement; correct?

4 A I'm very experienced with industrial real
5 estate and I know what tenant improvements are. They
6 do not include the walls, the roof, the foundation.

7 Q Are the walls fixtures?

8 A No.

9 Q Are the walls -- is the development of the
10 facility part of the fixtures or part of the walls?

11 A My experience, all triple net leases exclude
12 the walls, the floor and the ceiling.

13 Q Of course, this isn't a triple net lease;
14 correct?

15 A Well, this is a separate agreement. The
16 leases that were put in place on these --

17 Q I'm not asking a question about the lease.
18 I'm asking a question with respect to this document,
19 the MIPA, Mr. Kennedy. It says here tenant
20 improvements, and I'm asking you, that's a defined
21 term; correct?

22 A It's a term of art.

23 Q No, no, no. You understand what I mean by a
24 "defined term"?

25 A Yeah. Where's the definition?

1 Q I'll point it right to you. It's right at
2 the end of Romanette i, it says, Tenant improvements.
3 Do you see that? It's referring to everything that
4 was stated before that.

5 MR. WILEY: Is that a question?

6 MR. FEUERSTEIN: I'm asking if he sees that.

7 THE WITNESS: No. I'm sorry.

8 BY MR. FEUERSTEIN:

9 Q It's okay. Let's go back to section 1.1E on
10 page 3.

11 A E?

12 Q E as in Edward.

13 A Okay. I have it.

14 Q And you're in Romanette i. What it says is,
15 and you can read it to yourself, but then it says at
16 the end, "Collectively the initial cap tenant, initial
17 cap improvements." Do you see that?

18 A Collectively the tenant improvement, I see
19 that.

20 Q And you have an understanding, Mr. Kennedy,
21 of contracts and what it means when you put something
22 in parentheses and quotes with initial caps; correct?

23 A Correct.

24 Q I've been using the phrase "defined term."
25 Do you understand a defined term?

1 A I know what a defined term is.

2 Q And what this is reflecting in the MIPA is
3 that the phrase or the defined term of tenant
4 improvements means everything that was mentioned in
5 Romanette i; correct?

6 A Yes.

7 Q Well, so if CW had the obligation to pay for
8 everything in Romanette i, and you had the obligation
9 to pay and procure insurance, and CW had the
10 obligation to pay all of the back rent, how were you
11 entitled to \$1.3 million?

12 A First of all, we haven't completed the
13 discussion about what's included in E, and I'm telling
14 you the building was not included as part of E. And
15 at this late date, I have no recollection of how we
16 accounted for the award in the 2113 agreement.

17 I can only tell you that it was reviewed by
18 attorneys on both sides, it was approved and it was
19 recorded and tendered to the court.

20 Q Do you recall the members of NuVeda having a
21 vote on whether to enter into that settlement?

22 A Since I was on the other side of the
23 agreement, I didn't participate in that discussion.

24 Q So you have no idea whether Ms. Goldstein
25 approved or rejected approving that settlement?

1 A I have no idea if anybody discussed it or
2 what, but I do know that the settlement agreement was
3 returned to my attorney, McClairis, and then was
4 filed.

5 MR. FEUERSTEIN: I think on this point, I've
6 got through enough of 2113. If I start another area,
7 I think we'll bleed close to 12:30. So why don't we
8 break for lunch.

9 ARBITRATOR BAKER: How long do we want to
10 break? We're in recess until one o'clock.

11 (Break taken.)

12 ARBITRATOR BAKER: Back on the record. Mr.
13 Kennedy, you understand you're still under oath?

14 THE WITNESS: Yes.

15 BY MR. FEUERSTEIN:

16 Q Mr. Kennedy, I want to go back to parts where
17 you started off your testimony, I guess it was this
18 morning. You said a couple of things. I just want to
19 make sure the record is clear.

20 Can you open up Exhibit 8, which should be
21 the NuVeda operating.

22 A Is it 148.

23 Q No, just 8.

24 A Got it.

25 Q And I don't want to spend a lot of time with

1 it, but I just want to direct your attention to 6.2.

2 A Okay.

3 Q And I think you had testified in response to
4 a question from Mr. Wiley that you needed 51 percent
5 of the vote to expulse a member. If you're looking at
6 6.2, is that still your testimony, 51 percent?

7 A No, apparently it's variable.

8 Q How do you mean variable?

9 A It says, "Voting members would be all members
10 other than member A, and the vote could require 60
11 percent that the 80 percent disinterested voting
12 interest to carry."

13 Q In fairness, I'm not trying to trick you, but
14 it's really -- that was an example. It's in any
15 situation, it's 60 percent of the disinterested
16 members.

17 A Saying 60 percent of the 80 percent, which
18 would be 48 percent.

19 Q That was just an example there because the
20 person who's --

21 (Cross-talking)

22 Q I'm just saying, the example you pointed to,
23 the member who's being expelled holds 20 percent;
24 correct?

25 A Correct.

1 Q So the standard is not a 50 percent standard
2 flat across the line. It's, as you said, variable;
3 correct?

4 A Correct.

5 Q You also said that the appraisal has to be
6 done, I think, within 30 days, and I just want to
7 direct your attention to the next paragraph. It's not
8 really the appraisal that has to be done, it's a
9 notice provision; correct?

10 A Correct.

11 Q Now, you mentioned in response to some
12 questions from Mr. Wiley, that there were
13 conversations that you had with counsel concerning how
14 to expel a member; is that fair to say?

15 MR. WILEY: Just answer yes or no to these
16 questions.

17 THE WITNESS: Yes.

18 BY MR. FEUERSTEIN:

19 Q And who was the counsel?

20 A It was RGC, Allen Butell.

21 Q Did you happen to know if Allen Butell ever
22 represented Dr. Bady personally?

23 A I don't know.

24 Q Do you happen to know if Mr. Butell ever
25 represented CW personally?

1 A CW could be represented personally?

2 Q I'm sorry. CW as an entity, thank you.

3 A No, I don't know.

4 Q How long were the conversations with Mr.
5 Butell?

6 A 15 minutes.

7 Q Had somebody tasked him with the -- withdraw
8 the question.

9 Did Mr. Butell provide any written documents
10 with respect to the expulsion?

11 A Not to me.

12 Q Did he provide it to anybody at NuVeda?

13 A I don't know.

14 Q Did anyone ask him to provide a legal
15 memorandum?

16 A I don't know.

17 Q You didn't?

18 A I did not.

19 Q You testified in response to some questions
20 from Mr. Wiley that you thought that a dispensary
21 license was worth \$5 million; correct?

22 A Correct.

23 Q And a cultivation license was worth \$200,000;
24 correct?

25 A Correct.

1 Q And same question with respect to a
2 production license; correct?

3 A Correct.

4 Q So at the time prior to entering into the
5 MIPA, is it fair to say that NuVeda held assets that
6 were worth plus or minus \$11 million?

7 A Well, the assets were worth that, but without
8 consideration of the liabilities.

9 Q I'm just asking right now about the assets.

10 A Yes.

11 ARBITRATOR BAKER: And this is prior to the
12 MIPA?

13 MR. FEUERSTEIN: Prior to the MIPA.

14 Q And what liabilities other than the one --
15 withdraw the question.

16 What liabilities did NuVeda have at the time
17 that it entered into the MIPA?

18 A Had two dispensary licenses that required
19 building dispensaries. They had no facilities. Both
20 facilities had to be built, and they had to be built
21 in a relatively short period of time according to the
22 State.

23 Q So is it your testimony, Mr. Kennedy, that
24 the license, the dispensary license with a facility is
25 worth \$5 million, or is it just the license itself?

1 A A license that was permanent, which required
2 having a location that was approved by the state. The
3 license didn't have to own the facility; it just had
4 to have a facility that the State approved of.

5 Q As long as it had a facility that the State
6 approved, which made it a permanent license, in your
7 view was worth \$5 million?

8 A Yes.

9 Q What is your basis for that?

10 A Some sales that happened around the time that
11 we were looking. There was one sale in the county
12 area, and there was one sale in the city. And my
13 information was that they averaged out to about \$5
14 million.

15 Q Where did you get that information? Where
16 did you get it from?

17 A I got it from Dr. Bady.

18 Q Do you know where Dr. Bady got it from?

19 A From the principals in the sales.

20 Q How do you know?

21 A He told me.

22 Q Did you do anything -- did you do anything,
23 Mr. Kennedy, to confirm for yourself whether the
24 valuations from Dr. Bady were accurate?

25 A We also had the dispensary -- we also had the

1 production and cultivation licenses that were
2 temporary at the time, and the solution to making
3 those --

4 Q Mr. Kennedy, I'm not asking that you
5 question. I'm asking a different question.

6 I'm asking you, did you do anything to
7 confirm for yourself whether the numbers that Dr. Bady
8 gave you were, in fact, accurate?

9 A I talked to other people in the industry who
10 confirmed.

11 Q Who did you talk to?

12 A All right. I talked to Chris, I think his
13 name is Deglajon (phonetic), something like that.
14 It's NG something. I spoke with Brian Padgett. I
15 spoke with my daughter. That's about it.

16 Q Did you do any independent research on the
17 Internet?

18 A I don't recall.

19 Q Did you do any -- you talk to any bankers or
20 brokers in the business?

21 A Actually, we touched the cannabis industry,
22 so no point in talking to the banks.

23 Q Is it your testimony, Mr. Kennedy, there's
24 not a single bank institution brokering deals in the
25 cannabis industry?