

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

FIRST 100, LLC, a Nevada limited liability company; 1st ONE HUNDRED HOLDINGS, LLC, a Nevada limited liability company,

Appellants

vs.

TGC/FARKAS FUNDING, LLC,

Respondent.

Case No. 83177

Electronically Filed  
Nov 17 2021 04:56 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

APPEAL

from a decision in favor of Respondent  
entered by the Eighth Judicial District Court, Clark County, Nevada  
The Honorable Mark R. Denton, District Court Judge  
District Court Case No. A-20-822273-C

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**APPELLANTS' APPENDIX VOLUME III**

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DATE	DESCRIPTION	VOLUME	PAGES
04/09/2021	Declaration of Erika Pike Turner, Esq. in Support of Award of Fees and Costs	IV	AA0943-0986
01/20/2021	Defendants and Non-Party Jay Bloom's Response to Order to Show Cause	I	AA0209-0214
10/15/2020	Defendants' Limited Opposition to Motion to Confirm Arbitration Award and Countermotion to Modify Award Per NRS 38.242	I	AA0041-0046
01/19/2021	Defendants' Motion to Enforce Settlement Agreement and Vacate Post-Judgment Discovery Proceedings on <i>Ex Parte</i> Order Shortening Time	I	AA0156-0208
11/24/2020	Defendants' Opposition to Motion for Attorneys' Fees and Costs	I	AA0111-0115

04/19/2021	Defendants' Opposition to Plaintiff's Declaration in Support of Fees and Costs Award	V	AA0987-0994
01/27/2021	Defendants' Reply in Support of Motion to Enforce Settlement Agreement and Vacate Post-Judgment Discovery Proceedings and Opposition to Countermotion to Strike the Affidavit of Jason Maier and Opposition to Countermotion for Sanctions	II	AA0362-0492
11/17/2020	Motion for Attorneys' Fees and Costs	I	AA0069-0110
10/01/2020	Motion to Confirm Arbitration Award	I	AA0001-0040
07/02/2021	Notice of Appeal	VI	AA1345-1351
04/07/2021	Notice of Entry of Findings of Fact, Conclusions of Law & Order Re Evidentiary Hearing	IV	AA0903-0942
02/09/2021	Notice of Entry of Order	III	AA0516-0520
06/11/2021	Notice of Entry of Order Awarding Attorneys' Fees and Costs	VI	AA1340-1344
12/21/2020	Notice of Entry of Order Granting Plaintiff's Ex Parte Application for Judgment Debtor Examination of First 100, LLC	I	AA0131-0140
12/21/2020	Notice of Entry of Order Granting Plaintiff's Ex Parte Application for Judgment Debtor Examination of First One Hundred Holdings, LLC AKA 1 <sup>st</sup> One Hundred Holdings LLC	I	AA0141-0150
12/21/2020	Notice of Entry of Order Granting Plaintiff's Ex Parte Application for Order to Show Cause Why Defendants and Jay Bloom Should Not Be Held in Contempt of Court	I	AA0151-0155
01/27/2021	Notice of Entry of Order Granting Plaintiff's Motion for Attorneys' Fees and Costs	II	AA0356-0361

11/17/2020	Notice of Entry of Order Granting Plaintiff's Motion to Confirm Arbitration Award and Denying Defendants' Countermotion to Modify Award; and Judgment	I	AA0060-0068
01/26/2021	Opposition to Defendants' Motion to Enforce Settlement and Vacate Post-Judgment Discovery Proceedings; and Countermotion 1) to Strike the Affidavit of Jason Maier, and 2) for Sanctions	II	AA0330-0351
02/09/2021	Order	III	AA0513-0515
06/11/2021	Order Awarding Attorneys' Fees and Costs	VI	AA1337-1339
01/27/2021	Order Granting Plaintiff's Motion for Attorneys' Fees and Costs	II	AA0352-0355
11/17/2020	Order Granting Plaintiff's Motion to Confirm Arbitration Award and Denying Defendants' Countermotion to Modify Award; and Judgment	I	AA0053-0059
12/18/2020	Plaintiff's Ex Parte Application for Order to Show Cause Defendants and Jay Bloom Should Not Be Held in Contempt of Court	I	AA0123-0130
10/26/2020	Plaintiff's Reply to Defendants' Limited Opposition to Motion to Confirm Arbitration Award and Opposition to Defendants' Countermotion to Modify Award Per NRS 38.242	I	AA0047-0052
03/03/2021	Recorder's Transcript of Evidentiary Hearing	III/IV	AA0537-0764
03/10/2021	Recorder's Transcript of Evidentiary Hearing	IV	AA0765-0902
03/01/2021	Recorder's Transcript of Hearing Re: Motion to Compel and For Sanctions; Application for Ex-Parte Order Shortening Time	III	AA0521-0536
01/21/2021	Recorder's Transcript of Hearing Re: Show Cause Hearing	II	AA0323-0329

12/14/2020	Reply in Support of Motion for Attorneys' Fees and Costs	I	AA0116-0122
04/23/2021	Reply to Defendants' Opposition to Motion for Attorneys' Fees and Costs	V/VI	AA0995-1336
01/20/2021	Supplement to Plaintiff's Ex Parte Application for Order to Show Cause Why Defendants and Jay Bloom Should Not Be Held in Contempt of Court	I/II	AA0215-0322
01/28/2021	Transcript of Proceedings Re: Show Cause Hearing/Defendant's Motion to Enforce Settlement Agreement and Vacate Post-Judgment Discovery Proceedings on Ex-Parte Order Shortening Time	III	AA0493-0512

**CERTIFICATE OF SERVICE**

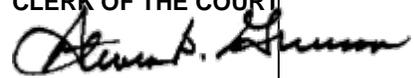
I certify that on the 17th day of November, 2021, this document was electronically filed with the Nevada Supreme Court. Electronic service of the foregoing: **APPELLANTS’ OPENING BRIEF** and **VOLUMES I – VI** of the **APPENDIX** shall be made in accordance with the Master Service List as follows:

Erika P. Turner, Esq.  
Dylan T. Ciciliano, Esq.  
GARMAN TURNER GORDON, LLP  
7251 Amigo Street, Suite 210  
Las Vegas, Nevada 89119  
*Attorneys for TGC Farkas Funding LLC*

DATED this 17<sup>th</sup> day of November, 2021.

*/s/ Brandon Lopipero*

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An Employee of MAIER GUTIERREZ & ASSOCITES



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DISTRICT COURT  
CLARK COUNTY, NEVADA

TGC/FARKAS FUNDING, LLC,	)	
	)	
Plaintiff(s),	)	Case No. A-20-822273-C
vs.	)	DEPT. XIII
FIRST 100, LLC,	)	
	)	
Defendant(s).	)	

BEFORE THE HONORABLE MARK R. DENTON,  
DISTRICT COURT JUDGE

THURSDAY, JANUARY 28, 2021

**TRANSCRIPT OF PROCEEDINGS RE:  
SHOW CAUSE HEARING / DEFENDANT'S MOTION TO ENFORCE  
SETTLEMENT AGREEMENT AND VACATE POST-JUDGMENT  
DISCOVERY PROCEEDINGS ON EX-PARTE ORDER SHORTENING  
TIME  
(Via Audio Via BlueJeans)**

APPEARANCES:  
For the Plaintiff(s): ERIKA PIKE TURNER, ESQ.  
For the Defendant(s): JOSEPH A. GUTIERREZ, ESQ.

RECORDED BY: JENNIFER GEROLD, COURT RECORDER

1 **LAS VEGAS, NEVADA, THURSDAY, JANUARY 28, 2021**

2 [Proceeding commenced at 10:19 a.m.]

3  
4 THE COURT: TGC/Farkas Funding, LLC, versus First 100,  
5 LLC. Appearances, please.

6 MS. PIKE TURNER: Good morning, Your Honor. Erika  
7 Pike Turner of Garman Turner Gordon on behalf of TGC/Farkas.

8 MR. GUTIERREZ: Good morning, Your Honor. Joseph  
9 Gutierrez on behalf of First 100, LLC, and First One Hundred  
10 Holdings, LLC.

11 THE COURT: All right. First item on calendar is show  
12 cause hearing. This has to do with civil contempt, correct?

13 MS. PIKE TURNER: Yes, Your Honor.

14 So the -- there's really no question that there's a failure to  
15 comply with the judgment. The judgment reflects an arbitration  
16 award entered last September, became enforceable through the  
17 judgment that was entered November 17th. There was an Order to  
18 Show Cause entered by Your Honor on December 18th. And since  
19 that point in time, we do not have one piece of paper that's been  
20 produced.

21 The arbitration award said it -- the documents needed to  
22 be prepared and produced within 10 days. The judgment reflects  
23 that arbitration award, confirms it. We don't have one piece of  
24 paper.

25 So in response to our efforts to enforce the judgment, we

1 have the Motion to Enforce Settlement Agreement. And the Motion  
2 to Enforce Settlement Agreement is --

3 THE COURT: Yeah, it occurs to me that maybe what I  
4 ought to do is hear that motion first and then get to the show cause.

5 MS. PIKE TURNER: I was going to say I'll be happy to  
6 address that at length after Mr. Gutierrez.

7 THE COURT: Okay. So let me hear the Motion to Enforce  
8 Settlement Agreement and vacate post-judgment discovery  
9 proceedings.

10 MR. GUTIERREZ: Thank you, Your Honor. Yeah, this is  
11 Joseph Gutierrez on behalf of the First 100 entities.

12 Yeah, Your Honor, this is a case where the parties, they  
13 worked directly to resolve this litigation without counsel. You have  
14 an issue where the parties, Jay Bloom on behalf of the First 100  
15 entities and Matthew Farkas, who is the administrative member of  
16 TGC/Farkas and happens to be the brother-in-law of Jay Bloom.  
17 They speak frequently. Mr. Farkas was also the CFO of First 100.  
18 So he's -- he understands completely the First 100 business and  
19 business model.

20 But they worked directly and they settled this case on their  
21 own without the involvement of counsel. On January 6th, they  
22 reached a settlement agreement, which is attached as Exhibit 1,  
23 Your Honor. Both parties executed it on behalf of their entities. A  
24 settlement agreement is a valid contract and Mr. Farkas is not  
25 disputing that he signed it.

1           The terms are clear. There was an offer acceptance and  
2 consideration on it, and last night, Your Honor, we were -- we filed  
3 a reply brief by -- that included a declaration for Mr. Bloom where  
4 he described in detail how the parties reached their agreement.

5           My law firm received a copy of the signed agreement on  
6 January 7th. We thought this matter was over. We said on the  
7 agreement, as -- and reading the terms was consistent with the  
8 signed Garman Turner Gordon engagement letter that Mr. Farkas  
9 signed as a representative of TGC/Farkas --

10           THE COURT: Looks to me like there are all kinds of --  
11 looks to me, as I review this, I haven't seen the reply yet, you just --  
12 it was just filed. And that was just filed at 9:00, 9:01 p.m. yesterday.  
13 But it appears to me from looking at what's being contended is that  
14 there are really some genuine issues of material fact. You're  
15 actually seeking a summary judgment on this settlement  
16 agreement, right?

17           MR. GUTIERREZ: You're exactly right, Your Honor.  
18 You're exactly right. And that's why I think we -- one of the things  
19 we requested is an evidentiary hearing to really get to the bottom of  
20 these issues. Because you have Mr. Farkas who is recanting, you  
21 know, his authority and First 100 who relied on his representation  
22 of this authority, but also documents provided by Adam Flato  
23 [phonetic], his partner, stating that Mr. Farkas is the administrative  
24 member of TGC/Farkas.

25           And, also, first 100 signed documents where they signed a

1 subscription agreement that Mr. Farkas signed. And this – they  
2 signed the subscription agreement seven years ago. And over the  
3 last seven years, that's who First 100 dealt with, Matthew Farkas.  
4 And how he's saying he didn't have authority. There's a  
5 requirement under the First 100 documents that they provide notice  
6 of --

7 THE COURT: Yeah, but you're the one seeking to enforce  
8 the settlement agreement, right? And what I just said would  
9 indicate -- should indicate that I don't think that's something that I  
10 can just enforce summarily, which is what you're seeking to do.

11 MR. GUTIERREZ: Understood. That's why, Your Honor, I  
12 think that if -- to get to the bottom of the issues, so Your Honor  
13 could -- to -- could flush these out, is to have an evidentiary hearing  
14 where Mr. Farkas takes the stand, Mr. Flato takes the stand instead  
15 of Mr. Bloom, and they really explain this. And we get to was there  
16 authority or apparent authority on behalf of Mr. Farkas when he  
17 signed the agreement. Because he's not disputing that he signed  
18 the agreement.

19 What he's doing now is he's recanting his ability as  
20 saying, I don't have authority to sign it, when First 100 relied on his  
21 representations that he had authority to sign it, relied on the  
22 documents that were previously provided that he was the  
23 administrative member of TGC/Farkas that allowed him to sign on  
24 behalf of the company.

25 So those issues, Your Honor, would flush out in

1 evidentiary hearing. I think there's enough, at this stage, that  
2 First 100 had apparent authority to rely on his statements, I think  
3 there was major issues involved in how Mr. Farkas' declaration was  
4 subsequently obtained last week, and there were some  
5 misrepresentations that are actually part of the record where  
6 counsel for the defendant -- or counsel for TGC/Farkas stated, by  
7 signing the settlement agreement, told Mr. Farkas he would  
8 extinguish the \$1 million equity investment. And that's completely  
9 false. The settlement agreement provides that they get the equity  
10 investment.

11           So did he sign that under duress? is an issue. And these  
12 are issues, I think, Your Honor, you can see based on just the  
13 polarizing positions of the parties could flesh out during an  
14 evidentiary hearing and we could hold that as soon as possible,  
15 Your Honor.

16           Your Honor, the other things we did mention in the reply  
17 brief under these files, that were -- we did provide documentation  
18 that showed the -- First 100's apparent authority to rely on -- from  
19 Mr. Farkas' position of the member of TGC/Farkas to sign there.  
20 And that includes the assigning of a guarantor and engagement  
21 letter, the representations he made to Mr. Bloom, First 100  
22 operative unit that he signed, the First 100 subscription agreement  
23 he signed. And included a declaration by Adam Flato, his partner,  
24 who said that Mr. Farkas was an administrative member of  
25 TGC/Farkas.

1           So, Your Honor, there's plenty of information that said  
2 that he has the authority to sign on behalf of the company. And we  
3 believe you can grant the motion as is, but at a minimum, you can  
4 still have an evidentiary hearing before – to flush these issues out,  
5 Your Honor.

6           THE COURT: All right. Thank you.

7           Ms. Turner.

8           MS. PIKE TURNER: Your Honor, I think your question to  
9 counsel kind of nailed the issue here. We have a motion on an  
10 Order Shortening Time for the purpose of staying post-judgment  
11 discovery and avoiding a contempt proceeding when there's no  
12 question there's been noncompliance with the judgment that  
13 there's contempt.

14           With enforcement of this settlement agreement, they're  
15 seeking to have the judgment reflecting the arbitration award  
16 establishing membership rights and entitlement to documents  
17 being produced by the company that had been wrongfully denied.  
18 They're looking to deny those rights.

19           The arbitrators award reflects their finding there's a long  
20 and bad-faith effort to deny TGC/Farkas its rights as a member of  
21 these entities, and that's just continuing.

22           In order to enforce the settlement agreement, there must  
23 be -- it has to be valid and enforceable. I don't think that's being  
24 denied; those are the elements. To be valid and enforceable, it  
25 must reflect a voluntary agreement of the company, of TGC/Farkas,

1 with the intent to be bound, and there has to be receipt of  
2 consideration.

3 In our opposition in the motion, we show there was no  
4 actual authority for Matthew Farkas to execute this document. The  
5 things that are cited to by counsel are from long ago. And the  
6 circumstances have changed. September 2020, Mr. Farkas does not  
7 have the authority to bind the company. He does not have actual  
8 authority.

9 So the only question, then, that's left is does he have the  
10 apparent authority? And he doesn't. And there's not less than 10  
11 reasons why he doesn't. We outline them at length in our  
12 opposition. But in all, there's not any -- any way that there -- this  
13 settlement agreement reflects a voluntary agreement of the  
14 company with consideration provided.

15 When we look at the argument of apparent authority,  
16 we -- the other side is forgetting that TGC/Farkas is an entity who  
17 has had counsel of record this entire time. The only  
18 communications from the company to the judgment debtors was in  
19 their effort to enforce the judgment. So you have the manager of  
20 the judgment debtors, Jay Bloom, go directly to the Matthew  
21 Farkas, his brother-in-law. Matthew Farkas was provided  
22 documents and told -- and this is not in dispute by Jay Bloom in his  
23 declaration -- they were sent to a UPS Store and Matthew Farkas  
24 was told to sign them and return them to Jay Bloom or he would  
25 face adverse action. There was no negotiation, there was no ability

1 to review the documents.

2           Matthew Farkas says, I did not review them; I believed I  
3 was signing in my personal capacity; I didn't understand I was  
4 signing on behalf of the company; I don't represent the company; I  
5 didn't represent that I had the authority to represent the company.  
6 And there was certainly no ability to confer with counsel.

7           Now, Mr. Goodyear has said he got a copy of this  
8 settlement agreement January 7th. Well, that was 12 days before it  
9 was ever provided to the manager of TGC/Farkas or the counsel of  
10 record. It was not produced to counsel of record until this Motion  
11 to Enforce was filed.

12           Immediately after learning from Jay Bloom's personal  
13 counsel, Raffi Nahabedian, that there had been a settlement  
14 agreement and he intended to dismiss the judgment in this action,  
15 something he could not do, we asked for the settlement agreement.  
16 And we said: And in no circumstances does the company stand by  
17 this settlement agreement. It doesn't exist. It's repudiated. There  
18 was no authority.

19           That was before this Motion to Enforce was filed. There is  
20 no purpose for this Motion to Enforce other than to thwart or  
21 interfere with the administration of justice under the judgment and  
22 the enforcement of that judgment.

23           When we look at the declaration of Jay Bloom, he doesn't  
24 talk about the circumstances of getting the signature of Matthew  
25 Farkas; he ignores that completely. He was either acting as a

1 conduit of counsel by presenting a settlement agreement that says  
2 it was prepared with the benefit of counsel, or he was acting as  
3 counsel for the judgment debtors. Counsel without a license. He  
4 couldn't do either. He couldn't do either, it would not -- he could  
5 not go to Matthew Farkas with a legal document related to this  
6 action without the benefit of counsel of record. And --

7 THE COURT: All right. Let's do this. I'm not considering  
8 this right now as a Motion for Summary Judgment. I'm  
9 considering it as a Motion to Enforce Settlement Agreement. And  
10 I've indicated that, in effect, can be characterized as asking the  
11 Court to determine if there are no genuine issues, et cetera.

12 My inclination is to deny the motion, okay, without  
13 prejudice to Motion for Summary Judgment, if one's going to be  
14 made by the defendants or trial, whatever -- evidentiary hearing or  
15 trial. All right?

16 I don't -- I'm not going to get into the merits of this motion  
17 from the standpoint of whether or not there are genuine issues.  
18 Okay. What I will do is permit defendants to proceed accordingly,  
19 either by way of Motion for Summary Judgment or whatever.  
20 Okay?

21 Mr. Gutierrez?

22 MR. GUTIERREZ: Yeah, just to clarify with the Motion for  
23 Summary Judgment, can we just request an evidentiary hearing if  
24 we file it as a Motion for Summary Judgment?

25 THE COURT: Well, I'll hear it first. I'll hear proffers and

1 everything else and then determine whether or not one should be  
2 had. Okay? But I'm denying the Motion to Enforce Settlement. I --  
3 there are a lot of issues here, it appears to me. But I'd rather have it  
4 framed in that context than just on this Motion to Enforce  
5 Settlement on an Order Shortening Time. Okay?

6 MR. GUTIERREZ: Understood, Your Honor.

7 THE COURT: Now, I need a proposed order on that,  
8 Ms. Turner. Okay.

9 MS. PIKE TURNER: Thanks, Judge.

10 THE COURT: I'm denying the Motion to Enforce. You've  
11 got your countermotion having to do with I think the declaration of  
12 Mr. Maier? What -- I believe that's what it is.

13 MS. PIKE TURNER: Yes. Mr. Maier has submitted a  
14 declaration to secure the Order Shortening Time. And he admits he  
15 didn't have personal knowledge regarding whether or not  
16 Mr. Farkas had actual or apparent authority. So it would be  
17 properly stricken or at least that Section 7 would be properly  
18 stricken under EDCR 2.20(c).

19 And we also ask for sanctions, because the result of this  
20 motion on an Order Shortening Time was to delay our discovery  
21 and to delay enforcement of the judgment. And, actually, it -- the  
22 stated purpose was to avoid any compliance.

23 We provided extensive evidence of the effort to end run  
24 the judgment and its enforcement by even having Matthew Farkas  
25 sign an engagement agreement with Jay Bloom's personal counsel.

1 That didn't go anywhere and that counsel appropriately backed off.  
2 But this is an intentional interference with justice.

3 So we asked for sanctions to be awarded. There's been a  
4 lot of time and expense in addressing this, and it's been to the  
5 prejudice of TGC/Farkas, so we do ask for sanctions. And we ask  
6 that in addition to denying the Motion to Enforce, that the contempt  
7 be determined. There's no question there's been no compliance.  
8 We ask for an evidentiary hearing on the extent of the sanctions to  
9 be awarded.

10 THE COURT: All right. Well, from the standpoint of  
11 sanctions being awarded by way of the countermotion, I'm going to  
12 deny that. I've already determined that the motion is -- the Motion  
13 to Enforce is denied, but that there will be a further proceeding. So  
14 I'll take into account later on what -- whether or not sanctions  
15 should be imposed. So the countermotion is denied.

16 Again, I want a proposed order from you, Ms. Turner, that  
17 relates to both the motion and the countermotion. The  
18 countermotion's denied without prejudice to seeking sanctions  
19 based on what has occurred thus far.

20 Now to get to the Order to Show Cause hearing, and  
21 Ms. Turner, you just indicated that an evidentiary hearing should be  
22 scheduled on that, correct?

23 MS. PIKE TURNER: Yes, Your Honor. I do think, with the  
24 Motion to Enforce, there is contempt that's been in your presence.  
25 But I think it's appropriate to have an evidentiary hearing even with

1 civil contempt. I think the Nevada Supreme Court has indicated  
2 that's appropriate before sanctions are issued.

3 And while we filed the motion -- or the Order to Show  
4 Cause application based on the notion that there was civil  
5 contempt, I think there is a good likelihood that when Your Honor  
6 hears the evidence of what's transpired to avoid compliance, this  
7 could be a criminal contempt matter. So you would need a --

8 THE COURT: If that's the case --

9 MS. PIKE TURNER: -- evidentiary hearing --

10 THE COURT: -- I'm not so sure that I'm the one that would  
11 be hearing it.

12 MS. PIKE TURNER: Pardon me?

13 MR. GUTIERREZ: And, Your Honor, can I address that?  
14 Because I think counsel's made some pretty serious accusations --

15 THE COURT: No, in just a minute.

16 MR. GUTIERREZ: -- and we'd like to respond to it.

17 THE COURT: Just a moment here, I just want to make  
18 sure that Ms. Turner understood what I said. If it gets into a  
19 criminal contempt situation, I'm not sure that I'm the judge that  
20 could hear the matter.

21 MS. PIKE TURNER: I understand. I think that would have  
22 to be established as the first order, whether or not there was  
23 contempt in your presence or not. And that would come at the  
24 evidentiary hearing.

25 But, certainly, as a result of this Motion for Enforcement, I

1 guess I put it to Your Honor whether or not you think this is criminal  
2 contempt at this point or whether or not you want to hear more at  
3 the evidentiary hearing.

4 THE COURT: I'll probably want to hear more, but I'm --  
5 the question I've got is whether or not what happens relative to  
6 contempt is intermingled with the defendants' contentions  
7 regarding the settlement agreement that they claim is enforceable  
8 and that they're going to proceed to seek to enforce. I denied it at  
9 this point, but I guess the question is, is to show cause -- if I were to  
10 grant the motion -- find that there wasn't a settlement agreement  
11 and grant that motion, what would that have to do with the  
12 contempt proceedings? My understanding is you're contending  
13 that those proceedings relate to things in the past that haven't been  
14 done and don't necessarily relate to what might happen to the  
15 settlement agreement; is that right?

16 MS. PIKE TURNER: The Court doesn't need to hear any  
17 evidence on the compliance, because there's been none. It's not a  
18 question of whether or not there's been substantial compliance or  
19 there's been a good-faith effort to comply, because there's been  
20 none. There's been not one piece of paper.

21 So the evidentiary hearing really is -- would not be  
22 necessary to determine whether there was contempt. It is only  
23 because the opposition to the contempt says it's by virtue of a  
24 settlement agreement that there was not compliance that I think  
25 that comes into play.

1           Your Honor, I'm not opposed to you hearing all of it at one  
2 evidentiary hearing, for efficiency's sake, if you're inclined to hear  
3 evidence with respect to their defense. We would say -- if you were  
4 to direct production of the documents by Monday, a week from  
5 now, if those aren't produced, there would need to be an  
6 evidentiary hearing. I don't think there's any question about that.

7           The scope of that evidentiary hearing --

8           THE COURT: What if I were to backtrack a little bit, and  
9 instead of requiring the filing of a Motion for Evidentiary Hearing,  
10 consider an evidentiary hearing on the Motion to Enforce  
11 Settlement Agreement and set that, and also set the evidentiary  
12 hearing on the Order to Show Cause at the same time.

13           MS. PIKE TURNER: Since that's their stated defense, we  
14 certainly dispute it. And if Your Honor wants to resolve the matter,  
15 then I think that's the cleanest way --

16           THE COURT: How long --

17           MS. PIKE TURNER: -- the most efficient way to handle it.

18           THE COURT: How long do you think an evidentiary  
19 hearing would take on these matters?

20           MS. PIKE TURNER: A day.

21           THE COURT: And Mr. Gutierrez?

22           MR. GUTIERREZ: I agree, Your Honor, with counsel. I  
23 agree it would take a day. And I think that would be the most  
24 appropriate remedy to hear the issue.

25           THE COURT: And when do you think you'd be -- it could

1 be framed and ready for the hearing? I think the issues have been  
2 framed, but when do you think it could be set for?

3 MR. GUTIERREZ: Your Honor, however you do  
4 evidentiary hearings -- I know, because I started trial with Judge  
5 Gonzalez on Monday, and she's doing some in person, some  
6 remote.

7 THE COURT: Remote.

8 MR. GUTIERREZ: So how are you --

9 THE COURT: Remote. Remote.

10 MR. GUTIERREZ: Okay. And that was just for purposes of  
11 availability of witnesses, just to confirm.

12 For us, I don't know that it would take longer than two  
13 weeks. I just started a trial Monday that would last most of next  
14 week, but it wouldn't take us longer than two weeks. I think the  
15 issues have been framed, I think they'll be -- I think we can outline  
16 the witnesses and evidence in advance of that.

17 THE COURT: By what time?

18 MR. GUTIERREZ: Two weeks, Your Honor.

19 THE COURT: Ms. Turner?

20 MS. PIKE TURNER: So, Your Honor, that's fine. I have an  
21 arbitration on the 9th of --

22 THE COURT: Well, I'm not going to -- I'm not going to be  
23 able to set it now. My JEA will have to communicate with you --

24 MS. PIKE TURNER: Okay.

25 THE COURT: -- and get it set for the hearing. And that's

1 what I'll do.

2 So I'm going to retract a bit on my -- the ruling that I made  
3 on the Motion to Enforce Settlement Agreement. It's denied  
4 without prejudice to further proceedings. Okay. And that will be  
5 the evidentiary hearing. Okay?

6 MS. PIKE TURNER: Your Honor, since this has expanded  
7 to, really, resolving a Motion for Summary Judgment or a Motion  
8 to Enforce that's being construed as a Motion for Summary  
9 Judgment, there being issues of fact, we have a declaration of Jay  
10 Bloom and counsel, and there's this Nahabedian -- I can't say his  
11 name, pardon me. Can we have depositions before the hearing on  
12 the purported settlement agreement?

13 THE COURT: Well, okay, now you bring up that issue.  
14 You're talking about discovery. So do you want me to set a Rule 16  
15 conference, then, and instead of scheduling this hearing in two  
16 weeks, so I have a Rule 16 conference where we discuss discovery  
17 or whatever?

18 MS. PIKE TURNER: I don't think we need discovery other  
19 than the depositions, at least from our standpoint. The depositions  
20 of those people who have provided declarations.

21 THE COURT: That seems fair.

22 Mr. Gutierrez, what do you think?

23 MR. GUTIERREZ: Yeah, I don't have any objection to that.  
24 I think that's fair. If we're going to have the whole evidentiary  
25 hearing on these issues, we should be able to have this issue

1 fleshed out.

2 THE COURT: What about the notice requirements of the  
3 depositions? What period of time are we looking at there?

4 MS. PIKE TURNER: Since we're just dealing with parties  
5 and their constituents, I don't think we need the full 14 days. I  
6 would compromise those notice requirements so we can take  
7 depositions next week, if possible.

8 THE COURT: Mr. Gutierrez?

9 MR. GUTIERREZ: I at least request seven days' notice for  
10 a deposition. Like I said, I started trial Monday. That's going to take  
11 an entire week.

12 THE COURT: All right.

13 MR. GUTIERREZ: So at least give us that notice.

14 THE COURT: How many depositions, Ms. Turner?

15 MS. PIKE TURNER: I would say no more than four.

16 THE COURT: Okay. No more than four, seven days'  
17 notice. Okay?

18 MS. PIKE TURNER: Okay.

19 THE COURT: Okay. I still need an order that denies the  
20 Motion to Enforce, okay, and denies the countermotion, okay, is  
21 struck. Okay?

22 MS. PIKE TURNER: Understood. And I'll run it by  
23 counsel. Will we need to contact Lorraine or will Lorraine contact  
24 us for setting the hearing?

25 THE COURT: I believe that you'll need to contact her.

1 MS. PIKE TURNER: Okay.

2 THE COURT: Okay. She may reach out to you, I'm not  
3 sure.

4 Lorraine, are you on?

5 THE JEA: Yeah, I'm on. But, unfortunately, I wasn't  
6 listening. So --

7 THE COURT: We're going to schedule an evidentiary  
8 hearing in this case. It's going to be two weeks, no sooner than two  
9 weeks. It'll take a day. Okay.

10 THE JEA: Okay.

11 THE COURT: And counsel will need to confer with you or  
12 communicate with you regarding the setting.

13 THE JEA: Okay. So you said no sooner than two weeks  
14 and no -- do you want the week of, I guess, February 16th and on?

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MS. PIKE TURNER: Yes.

THE JEA: Okay. Okay. I'll be in touch with both of you.

MS. PIKE TURNER: Thank you.

THE JEA: Okay.

MR. GUTIERREZ: Thank you, Your Honor.

THE COURT: Okay. Thank you.

MS. PIKE TURNER: Thank you.

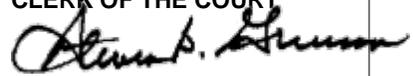
THE COURT: That concludes the hearing on that matter.

[Proceeding concluded at 10:45 a.m.]

///

ATTEST: I do hereby certify that I have truly and correctly transcribed the audio/video proceedings in the above-entitled case to the best of my ability. Please note: Technical glitches in the BlueJeans audio/video which resulted in distortion and/or audio cutting out completely may have been experienced and will be reflected in the transcript.

  
Shawna Ortega, CET\*562



**ORDER**

GARMAN TURNER GORDON LLP  
ERIKA PIKE TURNER  
Nevada Bar No. 6454  
Email: eturner@gtg.legal  
DYLAN T. CICILIANO  
Nevada Bar. No. 12348  
Email: dciciliano@gtg.legal  
7251 Amigo Street, Suite 210  
Las Vegas, Nevada 89119  
Tel: (725) 777-3000  
Fax: (725) 777-3112  
*Attorneys for Plaintiff/Judgment Creditor*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

TGC/FARKAS FUNDING, LLC,  
Plaintiff/Judgment Creditor,

vs.

FIRST 100, LLC, a Nevada Limited Liability  
Company; FIRST ONE HUNDRED  
HOLDINGS, LLC, a Nevada limited liability  
company aka 1<sup>st</sup> ONE HUNDRED HOLDINGS  
LLC, a Nevada Limited Liability Company,  
Defendants/Judgment Debtors.

CASE NO. A-20-822273-C  
DEPT. 13

**ORDER**

**Date of Hearing: January 28, 2021**

On November 17, 2020, an Order Confirming Arbitration Award, Denying Counter-motion to Modify Award and Judgment was entered by the Court (the "Judgment"). On December 18, 2020, the Court entered an Order to Show Cause Why Defendants /Judgment Debtors First 100, LLC and 1<sup>st</sup> One Hundred Holdings, LLC (collectively, "Defendants") and Jay Bloom ("Bloom") Should Not Be Held in Contempt of Court for failing to comply with the Judgment on the Application of Plaintiff/Judgment Creditor TGC/Farkas Funding, LLC ("Plaintiff"), which was supplemented on January 20, 2021 (the Application for Order to Show Cause, Order to Show Cause entered thereon, and the Supplement are collectively the "OSC"). On January 19, 2021, the Court entered an Order Shortening Time and Order staying post-Judgment discovery on Defendants' Motion to Enforce Settlement Agreement and Vacate Post-Judgment Discovery Proceedings on Ex Parte Order Shortening Time (the "Motion to Enforce"). On January 20, 2021, Defendants and Bloom filed a Response to the OSC, incorporating the Motion to Enforce. The

1 Court continued the hearing on the OSC from the originally scheduled January 21, 2021 to January  
2 28, 2021 to correspond with the hearing on the Motion to Enforce. On January 26, 2021, Plaintiff  
3 filed its Opposition to Defendants' Motion to Enforce Settlement and Vacate Post-Judgment  
4 Discovery Proceedings ("Opposition to Motion to Enforce") and Countermotion 1) To Strike the  
5 Affidavit of Jason Maier, and 2) For Sanctions (the "Countermotion"). On January 27, 2021,  
6 Defendants filed their Reply in Support of Motion to Enforce Settlement Agreement and Vacate  
7 Post-Judgment Discovery Proceedings and Opposition to Countermotion to Strike the Affidavit of  
8 Jason Maier and Opposition to Countermotion for Sanctions.

9 The Court, having considered the above-referenced papers and hearing the oral arguments  
10 of counsel for Plaintiff, Erika Pike Turner of Garman Turner Gordon, and counsel for Defendants  
11 and Bloom, Joseph Gutierrez of Maier Gutierrez & Associates, at the January 28, 2021 hearing of  
12 the matter, finds that there are material questions of fact that prevent the Court from granting the  
13 Motion to Enforce.

14 Based thereon, the Court is setting an evidentiary hearing for one day, March 3, 2021, on  
15 the OSC and denying the Motion to Enforce and Countermotion, without prejudice to further  
16 proceedings. The Court will reconsider the Motion to Enforce and Countermotion upon the further  
17 evidence presented at the evidentiary hearing. The parties can each conduct up to four (4)  
18 depositions and relax the notice requirements for the depositions to seven (7) days.

19 IT IS SO ORDERED this 9th day of February, 2021.

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23 DISTRICT COURT JUDGE

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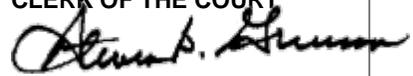
Respectfully submitted:  
GARMAN TURNER GORDON LLP

/s/ Erika Pike Turner  
Erika Pike Turner, Esq., Bar No. 6454  
Dylan T. Ciciliano, Esq., Bar. No. 12348  
7251 Amigo Street, Suite 210  
Las Vegas, Nevada 89119  
*Attorneys for Plaintiff*

Reviewed and disapproved:  
MAIER GUTIERREZ & ASSOCIATES

DISAPPROVED  
Joseph A. Gutierrez, Esq., Bar No. 9046  
Danielle J. Barraza, Esq., Bar No. 13822  
8816 Spanish Ridge Avenue  
Las Vegas, Nevada 89148  
*Attorneys for Defendants First 100, LLC  
and 1st One Hundred Holdings, LLC*

See previous page for Judge Denton's Signature  
February 9, 2021.



1 **NEOJ**  
2 GARMAN TURNER GORDON LLP  
3 ERIKA PIKE TURNER  
4 Nevada Bar No. 6454  
5 Email: eturner@gtg.legal  
6 DYLAN T. CICILIANO  
7 Nevada Bar. No. 12348  
8 Email: dciciliano@gtg.legal  
9 7251 Amigo Street, Suite 210  
10 Las Vegas, Nevada 89119  
11 Tel: (725) 777-3000  
12 Fax: (725) 777-3112  
13 *Attorneys for Plaintiff*

8 **DISTRICT COURT**

9 **CLARK COUNTY, NEVADA**

10 TGC/FARKAS FUNDING, LLC,

11 Plaintiff,

12 vs.

13 FIRST 100, LLC, a Nevada Limited Liability  
14 Company; FIRST ONE HUNDRED  
15 HOLDINGS, LLC, a Nevada limited liability  
16 company aka 1<sup>st</sup> ONE HUNDRED HOLDINGS  
17 LLC, a Nevada Limited Liability Company,

18 Defendants.

CASE NO. A-20-822273-C  
DEPT. 13

**NOTICE OF ENTRY OF ORDER**

17 **NOTICE OF ENTRY OF ORDER**

18 PLEASE TAKE NOTICE that an *Order*, a copy of which is attached hereto, was entered  
19 in the above-captioned case on the 9<sup>th</sup> day of February, 2021.

20 DATED this 9<sup>th</sup> day of February, 2021.

21 GARMAN TURNER GORDON LLP

22 /s/ Erika Pike Turner

23 ERIKA PIKE TURNER

24 Nevada Bar No. 6454

25 DYLAN T. CICILIANO

26 Nevada Bar. No. 12348

27 7251 Amigo Street, Suite 210

28 Tel: (725) 777-3000

Fax: (725) 777-3112

*Attorneys for Plaintiff*

**CERTIFICATE OF SERVICE**

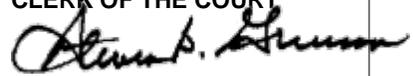
The undersigned, hereby certifies that on the 9<sup>th</sup> day of February, 2021, he served a copy of the **NOTICE OF ENTRY OF ORDER**, by electronic service in accordance with Administrative Order 14.2, to all interested parties, through the Court’s Odyssey E-File & Serve system addressed to:

Joseph A. Gutierrez, Esq.  
Danielle J. Barraza, Esq.  
MAIER GUTIERREZ & ASSOCIATES  
8816 Spanish Ridge Avenue  
Las Vegas, Nevada 89148  
Email: jag@mgalaw.com  
          djb@mgalaw.com  
*Attorneys for Defendants*

*/s/ Max Erwin*

\_\_\_\_\_  
An Employee of  
GARMAN TURNER GORDON LLP

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**ORDER**

GARMAN TURNER GORDON LLP  
ERIKA PIKE TURNER  
Nevada Bar No. 6454  
Email: eturner@gtg.legal  
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Nevada Bar. No. 12348  
Email: dciciliano@gtg.legal  
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*Attorneys for Plaintiff/Judgment Creditor*

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**CLARK COUNTY, NEVADA**

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Plaintiff/Judgment Creditor,

vs.

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CASE NO. A-20-822273-C  
DEPT. 13

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18 depositions and relax the notice requirements for the depositions to seven (7) days.

19 IT IS SO ORDERED this 9th day of February, 2021.

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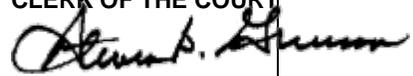
Respectfully submitted:  
GARMAN TURNER GORDON LLP

/s/ Erika Pike Turner  
Erika Pike Turner, Esq., Bar No. 6454  
Dylan T. Ciciliano, Esq., Bar. No. 12348  
7251 Amigo Street, Suite 210  
Las Vegas, Nevada 89119  
*Attorneys for Plaintiff*

Reviewed and disapproved:  
MAIER GUTIERREZ & ASSOCIATES

DISAPPROVED  
Joseph A. Gutierrez, Esq., Bar No. 9046  
Danielle J. Barraza, Esq., Bar No. 13822  
8816 Spanish Ridge Avenue  
Las Vegas, Nevada 89148  
*Attorneys for Defendants First 100, LLC  
and 1st One Hundred Holdings, LLC*

See previous page for Judge Denton's Signature  
February 9, 2021.



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DISTRICT COURT  
CLARK COUNTY, NEVADA

TGC/FARKAS FUNDING, LLC,	}	CASE NO: A-20-822273-C
Plaintiff(s),		DEPT. XIII
vs.		
FIRST 100, LLC,		
Defendant(s).		

BEFORE THE HONORABLE MARK R. DENTON, DISTRICT COURT JUDGE  
MONDAY, MARCH 1, 2021

**RECORDER'S TRANSCRIPT OF HEARING RE:  
MOTION TO COMPEL AND FOR SANCTIONS; APPLICATION FOR  
EX-PARTE ORDER SHORTENING TIME**

APPEARANCES VIA VIDEO CONFERENCING:

For the Plaintiff(s): ERIKA PIKE TURNER, ESQ.

For the Defendant(s): JOSEPH A. GUTIERREZ, ESQ.

For Non-Party Raffi Nahabedian: BART K. LARSEN, ESQ.

RECORDED BY: JENNIFER GEROLD, COURT RECORDER

1 **Las Vegas, Nevada; Monday, March 1, 2021**

2 [Proceeding commenced at 10:18 a.m.]

3  
4 THE COURT: All right. The next case is on page 20,  
5 TGC/Farkas Funding, LLC versus First 100, LLC.

6 MS. TURNER: Good morning, Your Honor, Erika Pike Turner  
7 of Garman Turner Gordon on behalf of TGC/Farkas.

8 THE COURT: Good morning.

9 MR. GUTIERREZ: Good morning, Your Honor, Joseph  
10 Gutierrez on behalf of First 100 and Jay Bloom.

11 THE COURT: Okay. It's on -- anybody else? Okay. It's on  
12 calendar on Plaintiffs' motion to compel and for sanctions. Okay. Go  
13 ahead.

14 MS. TURNER: Yes, Your Honor. This is a first, subsequent  
15 to the contempt proceeding being commenced against the judgment  
16 debtors and Defendants, First 100 and their manager, Jay Bloom. Jay  
17 Bloom arranged for Raffi Nahabedian, his personal counsel on another  
18 pending matter, to come in as counsel for TGC/Farkas Funding; come in  
19 as counsel for the Plaintiff and judgment creditor and dismiss this action  
20 with prejudice.

21 And the scope of the representation to take over the -- for my  
22 firm, as counsel for TGC/Farkas Funding and dismiss this case, the  
23 details of that are right front and center for what we are going forward  
24 with on Wednesday. On Wednesday, we have the evidentiary hearing on  
25 the extent of Bloom and First 100s' contempt of this Court's order and the

1 primary excuse from the other side is the settlement agreement moots  
2 the order. The validity of that settlement agreement is front and center in  
3 the dispute.

4           And here we have Bloom's personal counsel, on another  
5 unrelated matter, Raffi Nahabedian, communicating directly with Jay  
6 Bloom, communicating directly with Jay Bloom's counsel, Maier Gutierrez  
7 and Associates, and communicating directly with both regarding  
8 TGC/Farkas Funding, this case, the settlement agreement, and the  
9 scope of Raffi's services to effectuate a dismissal of this case in  
10 avoidance of the contempt hearing and consequences for the contempt.

11           When we took the deposition of Mr. Nahabedian, and  
12 subsequently the deposition of Jay Bloom, there was a consistent refusal  
13 to not only disclose the communications between Raffi Nahabedian  
14 purportedly acting on behalf of TGC/Farkas Funding and the other side.  
15 We didn't ask about communications between Bloom and Maier  
16 Gutierrez, his counsel of record in this case, because that would be  
17 privilege. We didn't ask about Joe -- Jay Bloom's communications with  
18 Raffi Nahabedian on the other matter. It's the *Nevada Speedway versus*  
19 *Police Chase* case pending in this Court, because that's not relevant.

20           The only thing that we asked about was that communications  
21 from the beginning of the year to the time that Raffi was no longer  
22 purporting to be counsel for TGC/Farkas Funding, a matter of a couple of  
23 weeks, just those communications with the other side, communications  
24 we know from the privilege log that was prepared by Raffi Nahabedian in  
25 the meet and confer process, subsequent to the deposition of Mr.

1 Nahabedian, that there were communications between Raffi Nahabedian  
2 and Jay Bloom, Raffi Nahabedian and Joseph Gutierrez, and  
3 communications from Raffi Nahabedian to both Jay Bloom and Joseph  
4 Gutierrez related to Mr. Nahabedian's retention, the settlement  
5 agreement, and the scope of services including the intended dismissal of  
6 this action.

7           This is a motion to compel because we don't have an actual  
8 privilege. What we have is a claim of privilege for the purpose of  
9 avoiding the disclosure of evidence related to whether or not that  
10 settlement agreement that is being -- that is being propounded by Jay  
11 Bloom is enforceable. Matthew Farkas is expected to testify Wednesday  
12 consistent with his declaration, the declaration that we filed with the court  
13 that he never negotiated the settlement agreement; never represented  
14 that he had authority to fire or hire counsel for TGC/Farkas or settle the  
15 case on behalf of TGC/Farkas. He did not even know that there was a  
16 settlement agreement executed by him until after the motion to enforce  
17 was filed.

18           He signed documents provided by Jay Bloom, his brother in  
19 law, without reading them. Now, we come to find out that there were --  
20 there was an attorney purportedly hired to effectuate the settlement  
21 agreement and we can't get into the substance of the communications on  
22 this claim of privilege. Privilege is statutory set forth in NRS 49.035  
23 through 115 and the Supreme Court has warned it should be narrowly  
24 applied to avoid wrongful withholding of relevant evidence.

25           That's why we're here, Your Honor, is enforcement of those

1 provisions in NRS Chapter 49. There is no privilege to be asserted here.  
2 And certainly, the benchmarks of the communications, who  
3 communicated when and regarding what are discoverable. And, Your  
4 Honor, we cite to the statutes; we cite to the cases that -- from Nevada --  
5 the Nevada Supreme Court discussing the statutes and the at-issue  
6 doctrine which is an exception to privilege, if there was any, there isn't  
7 any here, as well as, the crime-fraud exception to the claim of privilege.

8           No matter which way the Court looks at it, there is no  
9 protection over these communications. The privilege log that was  
10 provided by Mr. Nahabedian was filed in the supplement to our motion to  
11 compel necessarily so since it wasn't provided until the meet and confer  
12 process. But if we got through the deposition and the objections that  
13 were interposed during the deposition, we ask that you overrule the  
14 objections.

15           The objections were by the witness, himself, Raffi  
16 Nahabedian, as well as Joe Gutierrez, on behalf of Jay Bloom. I mean,  
17 one of the questions that we cite to in the brief, who provided you the  
18 retention agreement with TGC/Farkas purportedly executed by Matthew  
19 Farkas. That was a question posed to Mr. Nahabedian and his response  
20 was, he could not say because a party that would be expecting  
21 confidentiality prevented him from doing so.

22           There is never ever a privilege that applies to protect  
23 communications between one party to an active litigation and the other  
24 party and his counsel in that same litigation regarding the subject matter  
25 of the litigation. There is no privilege that could apply here. But to the

1 extent that Mr. Bloom put this settlement agreement at issue, in his  
2 response to the order to show cause why there shouldn't be contempt  
3 and in the motion to enforce settlement agreement, those  
4 communications surrounding that settlement agreement and how it got  
5 executed and how Raffi Nahabedian was a tool to effectuate it, that's all  
6 discoverable under the at-issue doctrine outlined in the *Wardly* case.

7           And, Your Honor, if there is any doubt, we ask that the  
8 communications, both oral and in writing, be provided to the Court for in  
9 camera review to determine the extent of the application of the crime-  
10 fraud exception here. With the other side hiring counsel for TGC/Farkas -  
11 - hiring counsel for their adversary, when they're appending contempt  
12 proceedings in an effort to avoid those contempt proceedings. We  
13 outline the case law that say that is squarely within the crime-fraud  
14 exception.

15           THE COURT: Okay. Thank you. Mr. Gutierrez.

16           MR. GUTIERREZ: Good morning, Your Honor. Joseph  
17 Gutierrez on behalf of Jay Bloom and First 100. I'm sure Mr. Larsen will  
18 speak on behalf of Mr. Nahabedian on the privilege issue, but I want to  
19 start with the limited scope of the discovery, Your Honor, that you  
20 ordered. After hearing the Defendants' motion to enforce settlement,  
21 Your Honor allowed limited discovery in order to proceed with  
22 Wednesday's evidentiary hearing on whether Matthew Farkas has the  
23 apparent authority to bind TGC/Farkas when he signed the settlement  
24 agreement on January 6<sup>th</sup>, 2021. He doesn't dispute he signed it. Does  
25 he -- did he read it fully? He has a lot of excuses that the Court will hear

1 on Wednesday, but doesn't ever say that he didn't sign it.

2           And then there's that -- if the Court denies that motion, there's  
3 the order to show cause issue which is pending. But Your Honor -- Your  
4 Honor ordered very limited discovery on this and now what counsel and  
5 their client done is made this a scorched earth litigation. You're aware of  
6 the countermotion for protective order on really the extent of how they've  
7 gone with this limited discovery. It started with harassment of the witness  
8 when Mr. Bloom is not even a party to this action. Asking him, Mr.  
9 Bloom, if he cheats on his wife. That was a question by counsel during  
10 his deposition last week which obviously we objected to. They asked Mr.  
11 Bloom, in his deposition, if he plans to sue my law firm for not collecting  
12 on a judgment for First 100. Clearly, he said no and they -- you know, it's  
13 clearly designed to harass him, harass his attorneys, over what is a  
14 settlement agreement that Matthew Farkas, who's a member of TGC/  
15 Farkas signed. There's no doubt about that.

16           And now, what they're trying to do is really get into attorney  
17 client communication between counsel, Mr. Bloom's counsel in an  
18 unrelated matter. And they've really tried to force Mr. Nahabedian to  
19 breach that duty and Mr. Nahabedian took to great lengths to identify  
20 what his duty is that he testified that he had discussions with state bar  
21 counsel. We said that these discussions could be privileged and he  
22 needed a written waiver of the attorney client privilege by both Mr.  
23 Farkas and Mr. Bloom of the attorney client before proceeding through  
24 the deposition. And he never got that written waiver. They both held  
25 onto their privilege.

1           So at that point, Mr. Nahabedian, during his deposition on  
2 February 12<sup>th</sup>, objected that he was not disclose that absent written  
3 waiver and counsel continued to press, press and press. And we,  
4 eventually, had a 2.34 issue on Monday, which there's a written  
5 transcript attached to our motion; I believe counsel's as well. When me  
6 and Ms. Turner addressed the issue, I said I'd research it; I didn't know  
7 the answer to it, but Mr. Bloom would discuss as much as he could  
8 which he did during his deposition.

9           And now they filed this motion now, despite Mr. Nahabedian's  
10 attempt to limit this to testify about his discussions with state bar counsel  
11 and the [indiscernible] he had concerns. And I'll let Mr. Larsen speak on  
12 behalf of Mr. Nahabedian, but my objections were on behalf of Mr.  
13 Bloom, in an individual capacity, and not allowing -- who clearly did not  
14 waive attorney client privilege. And Mr. Nahabedian, despite of his  
15 discussions with state bar counsel, did not want to waive that privilege.

16           So Your Honor, we also have a countermotion for protective  
17 order which it will, I believe, put this to rest if you want to hear that as  
18 well, but it really, really out -- it centers on the Defendant -- or the  
19 Plaintiffs' questioning and how they really take in what Your Honor's  
20 given as a limited scope and expanded it in violation of NRCP 26(c) it's  
21 to harassing the witnesses and their counsel. This issue should be  
22 decided on Wednesday. We believe Your Honor has enough to deny  
23 this motion on its face and grant the countermotion, Your Honor.

24           THE COURT: All right.

25           MR. GUTIERREZ: Thank you.

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THE COURT: Thank you. Mr. Larsen.

MR. LARSEN: Yes, Your Honor, Bart Larsen for non-party Raffi Nahabedian. As we laid out in our opposition that was filed on Friday, Mr. Nahabedian's involvement in this matter is very limited. It came about in early January when he was asked by Mr. Bloom to get involved on behalf of the TGC/Farkas entity. He believes he's being engaged by Matthew Farkas, we believe to be the sole manager of that entity. He was involved for, you know two weeks; sent a letter to the Garman Turner firm along with substitute of counsel after which he learned that Mr. Farkas, actually, was no longer the administrative member and manager of the LLC. At that point, Mr. Nahabedian terminated his involvement in the matter and he has since also withdrawn from representing Mr. Bloom in the separate lawsuit.

And when Plaintiffs' counsel began making demands of Mr. Nahabedian to produce his records under the communications involving this matter, he was, of course, concerned as an attorney because he represented Mr. Bloom in a separate lawsuit and also he's concerned because he had discussed the matter direct with Mr. Farkas. Then he did what I think any reasonable person would do in that situation is he went to state bar counsel and asked for advice on how to handle the matter and the advice he received was that in order for him to disclose those communications, he needed to waiver for Mr. Bloom and Mr. Farkas.

He requested that both Mr. Farkas and Mr. Bloom provide waivers; they both declined to do so. And as a result, he was unable to

1 produce those documents that they requested and was unable to testify  
2 as to the content of his communications during his deposition. But Mr.  
3 Nahabedian does not take any position as to whether or not those  
4 communications actually are privileged; it's simply his position that as an  
5 attorney, he can't divulge the content of those communications without a  
6 waiver from Mr. Farkas and Mr. Bloom or absent a court order  
7 compelling him to do so.

8 THE COURT: Okay.

9 MR. LARSEN: Now, he's willing to provide the  
10 communications to the Court for an in camera review if that would be the  
11 Court's preference. There's only opposition to the motion as to the  
12 extent it seeks to compel him to disclose communications that protected  
13 by the attorney client privilege or to the extent it seeks sanctions against  
14 him.

15 THE COURT: Okay. Thank you. Ms. Turner.

16 MS. TURNER: Your Honor, may I reply?

17 THE COURT: Yes.

18 MS. TURNER: Okay. So the only communications that were  
19 requested and are requested are those related to the settlement  
20 agreement, the retention of Raffi Nahabedian on behalf of TGC/Farkas,  
21 and this case. Those are relevant communications that have nothing to  
22 do with Mr. Nahabedian's representation of Jay Bloom. The fact that  
23 Jay Bloom communicated with Raffi Nahabedian regarding the retention  
24 of Raffi to effectuate the settlement agreement, Mr. Gutierrez' related  
25 communications; there is a direct communication from Joe Gutierrez to

1 Raffi Nahabedian regarding Adam Flato, the manager of TGC/Farkas,  
2 and that is being claimed as privileged. That's an exemplar.

3 But this subject matter cannot be privileged. It cannot. And it  
4 is relevant. It's not just the end of the story that Matthew Farkas  
5 executed the settlement agreement. The validity of the settlement  
6 agreement and how Mr. Bloom was able to get Matthew Farkas'  
7 signature, the voluntariness, or lack thereof, are directly at issue. And  
8 these communications with counsel for Jay Bloom, Raffi Nahabedian,  
9 purporting to act on behalf of TGC/Farkas are relevant.

10 The privilege log that was produced in the meet and confer  
11 process by Raffi Nahabedian show the only communications that Raffi  
12 had prior to demanding substitution of counsel in order to dismiss this  
13 case and avoid contempt proceedings, the first communication with  
14 Matthew Farkas was January 16<sup>th</sup>. That was two days after the  
15 substitution was demanded and ten days after the settlement agreement  
16 was purportedly signed. So we have two pages of communications  
17 before then that were solely between Raffi and Jay Bloom and Joe  
18 Gutierrez regarding TGC/Farkas, regarding documents obtained by  
19 Matthew Farkas. It says, various documents printed and signed by  
20 Matthew Farkas. That was an email from Jay Bloom to Joe Gutierrez  
21 with a cc to Raffi Nahabedian. Those are directly at issue for our  
22 proceedings on Wednesday.

23 There is a countermotion that was filed late in the day on  
24 Friday that is nothing but -- but really, an attempt to distract from the  
25 issues at bar and that is, whether or not these matters are relevant to

1 our proceeding on Wednesday. They indeed are. There wasn't a  
2 judicial day's notice for me to file an opposition to that countermotion,  
3 but to be sure any questions that were posed during the deposition of  
4 Jay Bloom were -- had a factual basis and go to the intent of Jay Bloom  
5 to avoid contempt proceedings and to call his brother in law, Matthew  
6 Farkas, a liar. Which is what he has done in the context of these  
7 proceedings.

8 THE COURT: What about --

9 MS. TURNER: With that -- if you have any questions.

10 THE COURT: Relative to the countermotion, there's an  
11 emphasis of a couple of items of questioning. One has to do with, I don't  
12 -- I'm quoting from the countermotion, line 10 on page -- that's the  
13 problem with having this here -- let's see here. On page 6, it says,  
14 there's no legitimate non-harrassing reason for Garman Turner Gordon  
15 to be asking non-party, Mr. Bloom, if he cheats on his wife.

16 And then the next -- the next portion, line 12, there's no  
17 legitimate non-harrassing reason for Garman Turner Gordon to be using  
18 non-party Mr. Bloom's deposition to speculate on how good a job First  
19 100's counsel Maier Gutierrez has done on attempting to collect the 2  
20 billion Ngan judgment that First 100 has obtained to the point of asking if  
21 Mr. Bloom if has filed a malpractice action against Mr. Gutierrez, end  
22 quote.

23 I just want to give you an opportunity to respond to those  
24 assertions.

25 MS. TURNER: I will, Your Honor. With respect to the -- the

1 latter asking about counsel's actions to collect on this Raymond Ngan  
2 judgment, that goes to the lack of consideration for the settlement  
3 agreement that -- the settlement agreement provides for one million  
4 dollars to be paid to TGC/Farkas if that judgment is sold -- if that  
5 judgment against Raymond Naan is sold. And in Mr. Bloom's testimony,  
6 he said that they have been going since 2017 with active collection  
7 efforts and they have not collected a penny.

8           So the question was, was -- well, have you gone after mister --  
9 your counsel for malpractice. The next question, he said, of course not,  
10 they've done an excellent job. And I said, they've done an excellent job.  
11 They've done everything they can to collect on that judgment. They  
12 haven't received a penny and, yet, you are saying that this judgment can  
13 be sold for millions of dollars that will result in a million dollars payable to  
14 my client. It goes to consideration.

15           When you take one question out of the context of the whole, it  
16 -- it doesn't seem relevant, but the -- the questioning as a whole was  
17 related to the consideration provided in that settlement agreement, or  
18 lack thereof, that there's no value to this judgment. There's no evidence  
19 of any value. And then consideration was illusory. If it sold, there will be  
20 payment. There's no evidence that that judgment has any value, at least  
21 as to collectability.

22           As for the comment that -- or the question about whether or  
23 not Mr. Bloom cheats on his wife, Mr. Gutierrez actually directed the  
24 witness not to answer that question and we laid the foundation through  
25 separate questioning subsequent to that. And it relates to this family

1 dynamic between Jay Bloom --

2 THE COURT: Okay.

3 MS. TURNER: -- and his brother in law, Matthew Farkas, and  
4 why Matt -- Jay Bloom is calling Matthew Farkas a liar. There is a  
5 factual basis for the question that Matthew Farkas knows about Jay  
6 Bloom's activities --

7 THE COURT: Okay. All right.

8 MS. TURNER: -- that would affect that family dynamic. That's  
9 all, Your Honor.

10 THE COURT: Thank you. Mr Guterrez, you may respond  
11 relative to the countermotion aspect.

12 MR. GUTIERREZ: Well, Your Honor, there's just very simple -  
13 - there's less evasive ways to get to these questions if that was the  
14 reasoning and that was really clearly wasn't the intent. Counsel didn't  
15 even ask what efforts were made to collect or a lot -- a lot of which is  
16 public information; public information that were -- are easily accessible  
17 online. So it is to Mr. Bloom's personal matters that the -- the way that  
18 question was asked had nothing to do with any type of motive or intent.  
19 It was clearly outside the bounds of what the Court has ordered as very  
20 limited discovery; and also questions about First 100's operations six or  
21 seven years ago and what was going on is just really outside that.

22 So Your Honor, we'd ask that the countermotion be denied  
23 and the scope of Wednesday's hearing, which is only a day long, be  
24 limited in ordering a hearing of this only today -- really understood this  
25 wouldn't be a full-fledged trial. So it's a very limited issue that would be

1 before the Court.

2 THE COURT: All right. Thank you. All things considered, the  
3 countermotion is denied. I'm granting the motion to compel relative to  
4 the items that were summarized by Ms. Pike Turner, communications  
5 regarding the settlement agreement, retention, and this case. Okay? I  
6 find that they're properly to be provided and it is so ordered. Okay.

7 MS. TURNER: Thank you, Your Honor. I'll prepare the --

8 THE COURT: I need a proposed order, Ms. Turner. If there  
9 are any problems --

10 MS. TURNER: -- I will and I'll provide it to Mr. Larsen as well  
11 as Mr. Guiterrez.

12 MR. GUTIERREZ: [Indiscernible] are you denying sanctions  
13 as well? On both sides?

14 THE COURT: What's that? What's that?

15 MR. GUTIERREZ: Are you denying sanctions as well on both  
16 sides? I think there was a request for sanctions.

17 THE COURT: Yes, I'm going to reserve rulings on sanctions  
18 at this point. Okay. I just want to get to the -- to the hearing. Okay? I  
19 wanted to rule on the provision aspect of the motion and the -- as to  
20 what's to be provided. It's got to be provided pretty quick because we  
21 have the hearing on Wednesday. Okay?

22 MS. TURNER: Understood, Your Honor.

23 MR. GUTIERREZ: Very good. Thank you, Your Honor.

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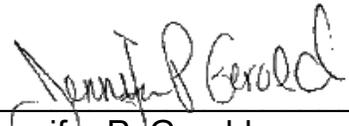
MS. TURNER: Thank you.

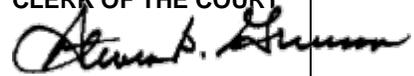
THE COURT: Okay. Thank you.

[Proceeding concluded at 10:42 a.m.]

\* \* \* \* \*

**ATTEST:** I do hereby certify that I have truly and correctly transcribed the audio/video proceedings in the above-entitled case to the best of my ability. **Please note:** Technical glitches in the BlueJeans system resulting in audio/video distortion and/or audio cutting out completely were experienced and are reflected in the transcript.

  
\_\_\_\_\_  
Jennifer P. Gerold  
Court Recorder/Transcriber



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DISTRICT COURT

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CLARK COUNTY, NEVADA

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TGC/FARKAS FUNDING, LLC,

CASE#: A-20-822273-C

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Plaintiff,

DEPT. XIII

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vs.

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FIRST 100, LLC, a Nevada Limited Liability Company; FIRST ONE HUNDRED HOLDINGS, LLC, a Nevada Limited Liability Company, aka 1st ONE HUNDRED HOLDINGS, LLC, a Nevada Limited Liability Company,

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Defendant.

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BEFORE THE HONORABLE MARK R. DENTON  
DISTRICT COURT JUDGE  
WEDNESDAY, MARCH 3, 2021

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17

**RECORDER'S TRANSCRIPT OF EVIDENTIARY HEARING**

18

19

APPEARANCES:

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For the Plaintiff:

Erika Pike Turner, ESQ.  
Dylan Ciciliano, ESQ.

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For the Defendant:

Joseph A. Gutierrez, ESQ.

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RECORDED BY: JENNIFER GEROLD, COURT RECORDER

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13  
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18  
19  
20  
21  
22  
23  
24  
25

INDEX

Defendant's Opening Statement.....7  
Plaintiff's Opening Statement.....12  
Testimony.....21

WITNESSES FOR THE PLAINTIFF

None

WITNESSES FOR THE DEFENDANT

ADAM FLATTO

Direct Examination by Mr. Gutierrez..... 21  
Cross-Examination by Ms. Turner ..... 39  
Redirect Examination by Mr. Gutierrez..... 76  
Recross-Examination by Ms. Turned ..... 81

MATTHEW FARKAS

Direct Examination by Mr. Gutierrez..... 83  
Cross-Examination by Ms. Turner ..... 122  
Redirect Examination by Mr. Gutierrez..... 150  
Recross-Examination by Ms. Turner ..... 153  
Further Redirect Examination by Mr. Gutierrez ..... 156

JAY BLOOM

Direct Examination by Mr. Gutierrez..... 159  
Cross-Examination by Ms. Turner ..... 187

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

INDEX OF EXHIBITS

<u>FOR THE PLAINTIFF</u>	<u>MARKED</u>	<u>RECEIVED</u>
1	.....75	.....75
4	.....64	.....65
7	.....224	.....224
8	.....224	.....224
11	.....145	.....145
16	.....133	.....133
21	.....75	.....75
22	.....75	.....75
23	.....66	.....66
28	.....187	.....187
<u>FOR THE DEFENDANT</u>	<u>MARKED</u>	<u>RECEIVED</u>
B, E, F, H-J, L-O, U-QQ	.....20	.....20
C - Page 0188	.....38	.....38

1  
2  
3  
4  
5  
6  
7  
8  
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11  
12  
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Las Vegas, Nevada, Wednesday, March 3, 2021

[Case called at 9:00 a.m.]

THE COURT: Good morning. We'll convene for evidentiary hearing in case number A-822273, TGC Farkas Funding, LLC v. First 100, LLC, et. al.

Madelyn and Jennifer, can you hear me?

THE COURT RECORDER: Yes, I can hear you.

THE COURT: Okay. Very well.

Do state appearances counsel, identify parties, your party representatives who are present.

MS. TURNER: Good morning, Your Honor. Erika Pike Turner of Garman Turner Gordon on behalf of the Plaintiff and judgment creditor TGC Farkas Funding. And we have with us Dylan Ciciliano from my firm. My paralegal Michele Pori, who will help with any screen sharing that I'm unable to do. And then Adam Flatto, the representative -- the party representative for TGC Farkas Funding is also here.

THE COURT: All right. Thank you.

MR. GUTIERREZ: Good morning, Your Honor. Joseph Gutierrez on behalf of First 100, LLC and First 100 Holdings, LLC, and on behalf of Jay Bloom in his individual capacity. And with us is Jay Bloom, both in his individual capacity and as the corporate representative for First 100.

THE COURT: All right. Thank you.

1           As I indicated, this is an evidentiary hearing on two matters.  
2 Well, actually, I'll say it's on two matters. One is the motion to enforce  
3 settlement by the Defendants and the other is an order to show cause  
4 regarding civil contempt relative to the Plaintiffs.

5           It appears to me that the best way to go in this is to first  
6 proceed on the motion to enforce settlement because that --

7           MR. GUTIERREZ: I agree.

8           THE COURT: -- that's the premise of the non-settlement is  
9 the premise of the order to show cause. So it appears to me that the  
10 best way to go is on the motion to enforce settlement as being the first  
11 matter to attend to.

12           And, Ms. Pike Turner, do you agree with that?

13           MS. TURNER: Your Honor, this is a unique circumstance, but  
14 with the contempt, it's my initial burden to show the contempt and then  
15 it is --

16           THE COURT: Well, actually, when we look at it conceptually,  
17 the burden is on the alleged contemnor because the contemnor is  
18 ordered to show cause.

19           MS. TURNER: Well, and that's it --

20           THE COURT: Okay.

21           MS. TURNER: -- is we got the order to show cause saying  
22 that we met our initial burden, but then it was subsequent to that. It was  
23 subsequent to the order to show cause being filed that the motion to  
24 enforce settlement was filed.

25           THE COURT: Right.

1 MS. TURNER: So that was not addressed in our order to  
2 show cause. So it is --

3 THE COURT: But the premise of the -- the premise of the  
4 motion to enforce settlement is that there's no contempt because the  
5 matter has been settled. Okay. So --

6 MS. TURNER: Right.

7 THE COURT: -- it can't be a contempt. So I'm going to  
8 proceed first with the motion to enforce settlement. And the burden on  
9 that, of course, is on the moving party the Defendants. So they'll  
10 proceed first. Okay.

11 So, Mr. Gutierrez, do you wish to make an opening  
12 statement?

13 MR. GUTIERREZ: I do, Your Honor.

14 THE COURT: Okay.

15 MS. TURNER: Actually, before we -- sorry, Mr. Gutierrez.

16 Before we start, can I just get a point of order? Because the  
17 testimony and the arguments are really overlapping for the two motions,  
18 I understand that Mr. Gutierrez is going to go first, but if we could have  
19 the witnesses just one time with each witness, I think that would be more  
20 efficient.

21 THE COURT: That seems to make sense, since the burden,  
22 actually, is on the Defendant on both because the Defendant has got the  
23 motion to enforce a settlement and has also been ordered to show cause  
24 why there shouldn't be -- they shouldn't be held in contempt, so that  
25 makes sense.

1           Also, I think before we proceed here, I need to indicate we've  
2 allotted one day to this evidentiary hearing. I have to terminate the  
3 hearing at about a quarter to 5 this afternoon, given the situation of the  
4 remote appearances and electronic and all that -- electronic things that  
5 are being utilized. And that -- so that -- so if we're not finished, we'll  
6 have to figure out a time to reconvene, but hopefully, we can be finished.

7           I'll allot one hour for lunch today at noon. Okay.

8           MS. TURNER: Yes. Thank you.

9           THE COURT: All right. Go ahead, Mr. Gutierrez.

10          MR. GUTIERREZ: Thank you, Your Honor. And as Your  
11 Honor indicated, we're here on two primary issues: First, is Defendant's  
12 motion to enforce a settlement agreement dated January 6th, 2021. The  
13 settlement is between TGC Farkas Funding and First 100.

14          Your Honor, there's no dispute that Matthew Farkas signed  
15 settlement agreement on behalf of TGC Farkas Funding. The issue is  
16 going to be whether Mr. Farkas had the apparent authority to bind TGC  
17 Farkas Funding. And as we said in our brief, the law on that issue is  
18 going to be -- it's our burden to show that party Plaintiff had apparent  
19 authority of an agent as a basis for a contract formation must prove that  
20 the parties subjectively believed that the agent had the authority to act  
21 as a principle and that the subjective beliefs and the agent's authority  
22 was objectively reasonable.

23          And, Your Honor, with the subjective belief, the evidence is  
24 going to show that, based on TGC Farkas's on representations on who  
25 can bind their company, First 100 was entitled to subjectively believe

1 that Matthew Farkas had the authority to bind TGC Farkas. Matthew  
2 Farkas, by way of background, was also the vice president of finance of  
3 First 100. He was also Jay Bloom's brother-in-law. He signed the initial  
4 operating agreement for TGC Farkas, which we'll note, Your Honor, that  
5 states in Section 4.1 that Matthew Farkas is the manager and the  
6 administrative member, who is responsible for all business and  
7 managerial decisions for the company.

8 In Section 4.4, the operating agreement for TGC Farkas, also  
9 states person -- it's a section entitled, "Reliance by third parties", and any  
10 person dealing with the company are entitled to rely conclusively upon  
11 the empowered authority of the administrative member, who was  
12 Matthew Farkas. Matthew Farkas routinely signed, not only as a  
13 member of -- signed documents on behalf of a member of TGC Farkas,  
14 but as CEO of the company. He signed the Garman Turner Gordon  
15 engagement letter. He made representation to Mr. Bloom about his  
16 authority of the company. And nearly all the contact between First 100  
17 and TGC Farkas of last eight years has been through Matthew Farkas.

18 The First 100 operating agreement was signed by Matthew  
19 Farkas, not his partner Adam Flatto. The First 100 subscription  
20 agreement, which we'll go through, was signed by Matthew Farkas as  
21 manager and CEO of TGC Farkas. And we'll talk briefly about the  
22 subscription agreement with Mr. Farkas.

23 The First 100 subscription agreement, Your Honor, clearly  
24 states that if there's any change of the member status, that change needs  
25 to be sent via certified mail in writing to First 100. And the

1 evidence -- it's undisputed in this case, Your Honor, we've had some  
2 depositions, the testimony is going to show that Matthew Farkas never  
3 sent any amendment to the TGC operating agreement to show that he  
4 was removed as the administrative member in September of 2020.

5           Matthew Farkas will testify he never provided First 100 with  
6 any information regarding this, so First 100 going into January 6th of  
7 2020, was under the belief that he was and still is the administrative  
8 member, who can bind TGC Farkas.

9           And then the settlement agreement, which we'll talk about,  
10 Your Honor, is a two-page agreement. Paragraph 14 states that the  
11 parties represent that they have the authority to bind. It's a pretty clear  
12 agreement that we'll discuss.

13           When we looked at whether it's objectively reasonable, Your  
14 Honor, what we're going to discuss is that the settlement really  
15 accomplished two goals that had been the primary goals for TGC Farkas  
16 of the last several years. One of which was, Mr. Farkas -- and he'll  
17 testify -- wanted no litigation. He didn't want to sue his family members.  
18 He didn't want to sue his company First 100. He wanted no litigation. So  
19 the settlement accomplished that.

20           The settlement accomplished a second goal, which was  
21 repayment of Mr. Flatto's \$1 million investment. We'll look, Your Honor,  
22 at a January 23rd, 2017, email between Mr. Flatto and Mr. Farkas, where  
23 Mr. Flatto states that he simply wants his investment back. He tells Mr.  
24 Farkas to discuss with Jay Bloom how he's going to get the investment  
25 back and he wants no part of First 100 anymore.

1           That email will be the directive that Matthew Farkas had in  
2 trying to get his partner's money back, which through the settlement  
3 agreement, he tried to accomplish. So when it comes to the objective  
4 reasonableness of First 100's reliance, when you look at the terms, it  
5 accomplished exactly what Mr. Flatto and Mr. Farkas were trying to do  
6 on behalf of their company.

7           The evidence will show, Your Honor, Mr. Farkas and Mr.  
8 Flatto are both educated and experience businessmen. Each one has  
9 over 30 years of experience in investing and finance. Mr. Farkas an MBA  
10 from NYU. Adam Flatto has an MBA from Wharton. Both of these men  
11 are experienced with contracts with notification requirements, with  
12 dealing with companies both as an investor and as a manger.

13           And what the case really is, Your Honor, it's a internal  
14 dispute between the TGC Farkas members and it has nothing to do with  
15 First 100 or their reliance on the settlement agreement. They relied on  
16 the information that was presented to them. It's undisputed that they  
17 were never notified of a change in member status. And because of that,  
18 the Court, under the apparent authority, can approve the motion to  
19 approve settlement. And if the Court does that, Your Honor, the order to  
20 show cause is moot. It is settled, it is resolved under those terms.

21           If Your Honor denies the motion and we get to the order to  
22 show cause, we can go into the details of that, but we will show, Your  
23 Honor, that there's really two big issues with that one, Jay Bloom, who  
24 was added to this order to show cause and was never a party to the  
25 order in the arbitration proceedings. He was never added as an alter ego

1 claim. This is strictly between First 100 and TGC Farkas. So Mr. Bloom  
2 should be immediately dismissed from any contempt proceedings.

3           Secondly, as to First 100, really arbitration order requested  
4 books and financial records for the companies. Mr. Bloom will talk about  
5 that the company has really no going concern over the last four years.  
6 There's no employees. There's no offices. They have virtually no assets.  
7 The only asset they have is a significantly large judgment that they've  
8 been trying to collect on for several years now, but the company itself,  
9 through its operations doing family and HOA liens, is no longer in  
10 operation.

11           So Mr. Bloom, in response to their request for books and  
12 records, stated in declaration in October, if you want these books and  
13 records, you're going to have to pay for them pursuant to terms of the  
14 First 100 operating agreement. And the evidence will show that TGC  
15 Farkas has refused to pay for them. And there really is no ability for First  
16 100 to gather -- absent hiring a third party, who was their former  
17 controller, to go and gather these, which we'll show you documents as  
18 to the estimated cost to do so, Your Honor.

19           So, Your Honor, the evidence we plan on presenting today  
20 will be in this order: It'll be Matthew Farkas first, and then Mr. Flatto, Jay  
21 Bloom will be our last witness. And we have several documents that we  
22 proposed that we'll move to admit, regarding the corporate documents  
23 and some communications. We believe, Your Honor, as we discussed,  
24 the evidence is going to show this is a case where the adverse parties  
25 are family members. They resolve the dispute on their own and it

1 accomplishes the goals of both parties.

2           The parties are fully allowed to resolve disputes on their own  
3 without attorneys and that's what happened in this case. Mr. Bloom will  
4 testify to that. He's done it in the past. And the litigation does not  
5 benefit anyone, which is what Mr. Farkas will testify to.

6           Your Honor, if you have any questions, that's going to be  
7 the -- that's going to be the order of proof. The relief we'll be asking,  
8 Your Honor, is to grant Defendant's motion to enforce settlement  
9 agreement. Deny the order to show cause as moot. And deny all related  
10 requests for sanctions. We'll also be asking for a fees and cost  
11 associated with having to defend this action, Your Honor.

12           Thank you.

13           THE COURT: All right. Thank you. And just to be clear: I'm  
14 not doing this in separate phases. I'm not doing a phase regarding  
15 motion to enforce settlement and a phase regarding order to show  
16 cause. It's all going to be done together. So we discussed that earlier. I  
17 just want the record to be clear on that.

18           So you'll be calling your witnesses on both aspects, Mr.  
19 Gutierrez. And the same is true of Ms. Turner. Okay.

20           MR. GUTIERREZ: That's correct, Your Honor. Thank you.

21           THE COURT: Okay. Thank you.

22           Ms. Turner, with your opening.

23           MS. TURNER: Yeah. So Bloom is the sole manager of the  
24 First 100 entities that are the Defendants and judgment debtors. And the  
25 noncompliance with the court's order, the evidence will be pointed and

1 uncontroverted on that there is no compliance -- not one document. Not  
2 one page has been produced since the judgment was entered November  
3 17th, 2020. Not since the arbitration award entered September 15th,  
4 2020. And not since the initial demand made in May 2017 that resulted  
5 in that arbitration award, has there been one piece of paper provided.  
6 So this is not a matter of whether or not there's been good faith  
7 compliance. There's been no compliance.

8           The degree of the disobedience and resistance to the court's  
9 order is pretty extraordinary in this case. After the judgment was  
10 entered, and after the order to show cause why Defendants and Jay  
11 Bloom should not be held in contempt, there is now this settlement  
12 agreement.

13           Mr. Farkas is going to testify he had documents placed in  
14 front of him at a UPS Store, where his brother-in-law said go to the UPS  
15 Store and sign the documents that I'm sending you and we're going to  
16 give you a release. First 100 is going to release you personally. And  
17 we're going to get you personal counsel.

18           He went down there and within an hour of receiving those  
19 documents at the UPS Store, where there's no email, no ability to  
20 contact Adam Flatto, the administrative member or manager of TGC  
21 Farkas. No ability to contact counsel of record for TGC Farkas. He  
22 signed the documents and he had the UPS Store send them back to Jay  
23 Bloom.

24           Raffi Nahabedian is going to come in and testify he produced  
25 the documents that were ordered on Monday and it tells quite a story.

1 We have Jay Bloom communicating with his personal counsel Raffi  
2 Nahabedian and telling him you need to get this dismissed -- get this  
3 case dismissed in a hurry. And here's how we're going to do it. And  
4 we'll go through all those communications, where Mr. Gutierrez and his  
5 partner Jason Maier are on the emails. And the last person to know that  
6 there was a settlement agreement that had been executed was Matthew  
7 Farkas.

8 He learned it the same time TGC Farkas's manager Adam  
9 Flatto learned and counsel learned. When the settlement agreement was  
10 attached to the motion to enforce settlement.

11 The motion to -- or the settlement itself provides for \$1  
12 million to be provided to TGC Farkas. No million dollars was ever paid.  
13 There was no million dollars that could be paid. There's no ability to pay  
14 it. There's no real consideration. And the agreement says, if they ever  
15 collect money, then that million dollars will be paid. It's an "if". An "if"  
16 that has no real meaning.

17 Now, what is real in that settlement agreement is upon  
18 execution of the document, there will be prompt dismissal of the  
19 judgment, the underlying award, and the contempt proceeding. This is  
20 not the first time that Jay Bloom has tried to use his brother-in-law to  
21 take advantage of his brother-in-law and get him to sign things that  
22 benefit him and First 100 to the disadvantage of TGC Farkas. And when  
23 Jay Bloom knows that Matthew Farkas does not have the authority to  
24 bind the company.

25 If we go to Exhibit 2 of Plaintiff's exhibits, the Exhibit 2 is the

1 arbitration award. The decision and award of the arbitration panel  
2 compelling the production of company records. And if we go to -- I have  
3 page 3 up on the screen -- up on the screen. There we go. And it says,  
4 "It is not clear from the initial briefs and exhibits whether Matthew  
5 Farkas signed a redemption agreement for claimant."

6           You're going to hear evidence that First 100 has tried to  
7 enforce Matthew Farkas's signature in the arbitration. And to say that  
8 actually he redeemed that membership interest that is the subject of the  
9 demand for records. The arbitrator said, "The evidence shows --"  
10 Matthew -- "Mr. Farkas did not have authority to bind claimant, TGC  
11 Farkas Funding, to the redemption agreement, as he did not seek and  
12 obtain the consent of Mr. Flatto."

13           That was the decision in the arbitration. And if you go  
14 further in this same paragraph, "Claimant notified respondents via email  
15 on April 18th, 2017, that Mr. Farkas did not have the authority to bind  
16 claimant under the redemption agreement, unless and until approved by  
17 Adam Flatto."

18           You can take it down.

19           The arbitration panel found there was a long history of bad  
20 faith efforts by Jay Bloom and First 100 to deny TGC Farkas its rights as  
21 a member. And this settlement agreement is the continuation of that  
22 bad faith. It is a scheme. It is a scheme to avoid this contempt. And it  
23 will be evident from the written documents, as well the testimony, not  
24 only was there was no apparent authority, or actual authority of Matthew  
25 Farkas to execute the documents, as a result of written communication

1 to the First 100 in care of Joe Gutierrez in May of -- or April of 2017, July  
2 of 2017. Matthew Farkas never told them that he had authority  
3 thereafter and did not need the consent of Adam Flatto.

4 And actually, in September 2020, there was an amendment  
5 to the TGC Farkas Funding operating agreement, where Matthew Farkas  
6 was removed all together from management. And the reason for that  
7 amendment was so that Matthew Farkas didn't have to deal with his  
8 brother-in-law anymore harping on him to try to get him to do things  
9 that benefit First 100 and disadvantage TGC Farkas.

10 There was duress in Matthew Farkas's execution of the  
11 settlement agreement. He was threatened with adverse action, including  
12 a lawsuit both by Mr. Gutierrez and by Jay Bloom. And that is why he  
13 executed the documents.

14 After the execution of the documents, as soon as it was  
15 learned there was a settlement agreement, even before anybody  
16 bothered to provide the settlement agreement to Matthew Farkas, to  
17 Adam Flatto, or to counsel for TGC Farkas. Even before then, within in  
18 24 hours of even learning that there was a purported settlement, there  
19 was notice that it had been repudiated. There is no settlement  
20 agreement.

21 And prior to that repudiation, there is zero evidence of any  
22 reliance to the detriment of First 100. There was not any payment.  
23 There was not any benefit to TGC Farkas whatsoever.

24 We filed a memorandum on Monday with the points of  
25 authorities that support finding contempt of court against Jay Bloom, as

1 the sole legal responsible party for these entities First 100, as well as  
2 because he had personal responsibility for the disobedience and the  
3 resistance. He had knowledge of the order and he didn't comply with it.  
4 And he engaged in intentional conduct to avoid the consequences of the  
5 order and the contempt proceedings.

6 We have also, in that -- in the points and authorities all the  
7 legal authority to explain why this settlement agreement is not  
8 enforceable. We're not going to reiterate it here, but we ask that the  
9 Court review that authority because it is uncontroverted authority. The  
10 other side didn't address the duress or anything else -- the repudiation --  
11 at all -- the lack of consideration, the lack of meeting of the minds.

12 Then we have this secondary excuse or purported excuse for  
13 not complying with this Court's order, which is that they don't have  
14 money to comply. That First 100 does not have the money. And that in  
15 order to produce the documents that its conditioned on TGC Farkas  
16 paying the expenses. This is something that should have been  
17 arbitrated. There was no award of expenses in favor of First 100 in the  
18 arbitration.

19 And in the motion to confirm the arbitration award, there  
20 was a counter motion to modify with this same argument. The court  
21 considered the argument and denied it. The order that is the subject of  
22 the contempt proceeding specifically denies the relief requested. That  
23 there would be any obligation to pay the expenses for production of the  
24 documents as a condition of performance.

25 Jay Bloom has done nothing to raise money. He hasn't

1 looked for a loan. He hasn't sent out a capital call. Nothing for the First  
2 100 entities.

3           There's no certificate of dissolution. These are companies  
4 that you have a manager, who has duties under an operating agreement  
5 to raise money to meet the obligations of the company and he's done  
6 nothing to do so.

7           And, Your Honor, that argument is also the subject of res  
8 judicata because it was resolved in the arbitration and by this Court's  
9 final judgment --a final, non-appealed judgment.

10           With that, we have Adam Flatto, who will be testifying. Raffi  
11 Nahabedian, Matthew Farkas, and Jay Bloom.

12           And we will combine our examination of Matthew Farkas and  
13 Jay Bloom, as discussed.

14           THE COURT: All right. Thank you.

15           All right. Mr. Gutierrez, you may call your first witness.

16           MR. GUTIERREZ: Thank you, Your Honor. We'll call  
17 Matthew Farkas.

18           THE COURT: Okay. Is he present?

19           MR. CICILIANO: Your Honor, this Dylan Ciciliano. I reached  
20 out when the order changed, I reached out to Mr. Farkas's counsel, Ken  
21 Hogan. Mr. Hogan stated that he had never heard from Mr. Gutierrez  
22 about scheduling Mr. Farkas's testimony.

23           I will tell you that Ms. Turner and I had reached out to Mr.  
24 Hogan and Mr. Farkas and told him that we'd probably call him around  
25 10:30. And so that was his anticipation.

1           And I will also tell you during Ms. Turner's opening, I  
2 received a call from both Mr. Hogan, who is Mr. Farkas's counsel, and  
3 Mr. Farkas. And Mr. Farkas noted that -- because I told Mr. Hogan Joe  
4 Gutierrez may try to call Mr. Farkas initially and Ken Hogan reached out  
5 to Mr. Farkas. Mr. Farkas called me and said I'm just returning from my  
6 run this morning. I didn't think I was going to have to go on until 10:30.  
7 I need to take a shower, et cetera.

8           So I don't know if Mr. Gutierrez had reached out to try to  
9 coordinate timing.

10           MR. GUTIERREZ: Well, that's news to me because during his  
11 deposition on Friday, we told him to be available about 9:00. We've also  
12 subpoenaed him. We've sent his counsel the exhibits, including his  
13 deposition transcript to have for impeachment and told him to be ready  
14 at 9:00, but nobody has informed me of any change in order.

15           I let counsel know that that would be the order yesterday.  
16 And I guess -- I mean, I can start with Mr. Flatto, just to keep things  
17 going, Your Honor.

18           THE COURT: Okay. That's probably the best thing to do.

19           MR. GUTIERREZ: And so we'll the Defense will call Adam  
20 Flatto and also the 30(b)(6), who TGC Farkas Funding.

21           And at this time, Your Honor, we'd also move to admit our  
22 exhibits. I think the only objection I saw from Defense -- or from Plaintiff  
23 counsel was on Exhibits Q, R, S, and T, which are declarations from First  
24 100's members, but we'd move to admit Exhibits A through QQ. And we  
25 would withhold admitting Exhibits Q, R, S, T, pursuant to counsel's

1 objection.

2 MS. TURNER: Well, Your Honor --

3 THE COURT: Let's --

4 MS. TURNER: -- we absolutely object to those for any  
5 purpose -- those that we filed the formal objection, but we still have  
6 objections against the use of the declaration of Jay Bloom that have  
7 been included in these exhibits. You have multiple affidavits and  
8 declarations of Mr. Bloom that would not come in. They're in hearsay.

9 They may be used to refresh his recollection, which is why  
10 we didn't -- and for some reason, if we have to cross him with those  
11 declarations, we didn't object, but I think we have to see why they're  
12 being offered before we can stipulate.

13 THE COURT: Why don't you identify the proposed exhibits  
14 to which you object?

15 MS. TURNER: A, C, D, G, K, P, Q, R, S, T. I think that would  
16 be it.

17 THE COURT: Madeline, did you understand which ones are  
18 subject of objections?

19 THE CLERK: Yes.

20 THE COURT: Okay. So the rest can be admitted, right?  
21 Those that haven't been identified by you, Ms. Pike Turner, can be  
22 admitted, right?

23 MS. TURNER: I have no objection to the others.

24 THE COURT: Okay. So they're deemed admitted. Okay.

25 [Defendant's Exhibits B, E, F, H-J, L-O, U-QQ admitted into evidence]

1 MR. GUTIERREZ: Thanks, Your Honor.

2 THE COURT: Go ahead now, Mr. Gutierrez.

3 MR. GUTIERREZ: Okay. Mr. Flatto, can you hear me?

4 MR. FLATTO: Yes.

5 MR. GUTIERREZ: Good morning. How are you doing today?

6 MR. FLATTO: Fine. Thank you.

7 THE COURT: Have we sworn --

8 MR. GUTIERREZ: Oh, I'm sorry.

9 THE CLERK: Please raise your right hand.

10 ADAM FLATTO, DEFENDANT'S WITNESS, SWORN

11 THE CLERK: And please state your full name, spelling your  
12 first and last name, for the record.

13 THE WITNESS: Adam, A-D-A-M, Flatto, F-L-A-T-T-O.

14 THE CLERK: Thank you.

15 DIRECT EXAMINATION

16 BY MR. GUTIERREZ:

17 Q Good morning, Mr. Flatto. Can you hear me?

18 A Yes, I can.

19 Q Okay. Mr. Flatto, you were deposed last week in this case,  
20 correct?

21 A Yes.

22 Q And just like your testimony last week, you're here today  
23 testifying both in your individual capacity and as the corporate  
24 representative for TGC Farkas Funding; is that correct?

25 A Yes.

1 Q What is your current position at TGC Farkas Funding?

2 A I am the -- believe I'm the managing member of the entity  
3 which is the administrative member of TGC Farkas Funding.

4 Q And how long have you been in that role?

5 A Since the amendment was executed in 2020.

6 Q And you're speaking about the amendment to the TGC  
7 Farkas operating agreement in September of 2020; is that correct?

8 A Yes, I believe that's the right date.

9 Q Okay. And prior to that date, Matthew Farkas was the  
10 administrative member of TGC Farkas Funding, correct?

11 A Yes.

12 Q Can you give us just an overview of your educational  
13 background just after high school?

14 A I graduated from Brown University and then from Wharton  
15 School of Business.

16 Q And when did you graduate from Wharton School of  
17 Business?

18 A In 1989.

19 Q And can you just give us an overview of your  
20 experience -- and well, I'm sorry, strike that.

21 What is your current occupation?

22 A I am the CEO of The Georgetown Company.

23 Q And what does The Georgetown Company do?

24 A Real estate development firm.

25 Q And how long have you been in the field of real estate

1 development?

2 A For my entire career.

3 Q And approximately how long is that?

4 A Thirty-five years.

5 Q In your 35 years of experience, do you have experience with  
6 operating agreements of LLCs?

7 A Yes.

8 Q In your 35 years of experience, do you have -- have you ever  
9 served as a manager of an LLC?

10 A Yes.

11 Q And in your experience, have you ever served in  
12 management of any corporation?

13 A Don't know what you mean by management of corporation,  
14 but I've been a manager of LLCs.

15 Q Okay. You know, like, a CEO or CFO or a corporation.

16 A I am CEO of my company -- of The Georgetown Company.

17 Q Okay. Have you had any conversations with Matthew Farkas  
18 about this hearing today?

19 A No.

20 Q When is the last time you spoke to Matthew Farkas?

21 A Several weeks ago, if I remember correctly.

22 Q And have you, or anyone on your behalf, ever informed Mr.  
23 Farkas that he would be -- he could be exposed to a lawsuit by TGC  
24 Farkas Funding?

25 A I never indicated that he would be exposed to a lawsuit.

1 Q What exactly did you tell him?

2 MS. TURNER: Objection to the form of the question, vague.  
3 Overboard, as to time.

4 THE COURT: I'll sustain it on that basis. Identify the time.  
5 BY MR. GUTIERREZ:

6 Q When, Mr. Flatto, did you -- was this discussion with Mr.  
7 Farkas?

8 A All -- all of my discussions with --

9 Q No, I mean specific to the discussion regarding his potential  
10 exposure of a lawsuit by TGC Farkas Funding.

11 A I -- I never indicated any subject of a lawsuit. I indicated after  
12 I learned of this purported settlement agreement that he had violated the  
13 terms of our LL -- LLC agreement.

14 Q And how did he do that?

15 A By entering into an agreement that I had not consented to.

16 Q Okay. And during your deposition, we talked about consent.  
17 And you stated that when you and Mr. Farkas would meet, you would  
18 give him consent both verbally and orally for any type of authorization; is  
19 that correct?

20 A I had given him on very rare occasions, because there have  
21 been very few occasions of where my consent was requested, I've given  
22 him both orally and written.

23 Q Mr. Flatto, tell us how you met Matthew Farkas?

24 A We met while in high school together in New York City.

25 Q And did you remain in contact over the course of the years

1 with Mr. Farkas?

2 A Yes.

3 Q When was TGC Farkas Funding formed?

4 A Just prior to our investment into First 100.

5 Q And was TGC Farkas formed for the purpose of investing into  
6 First 100?

7 A Yes.

8 Q And who drafted the TGC Farkas Funding operating  
9 agreement?

10 A I don't recall.

11 Q Were you aware that Matthew Farkas was vice president of  
12 finance of First 100, when you entered into Farkas Funding investment  
13 with First 100?

14 A I -- I don't recall the title that he told me at the time.

15 Q Okay. Now, Mr. Flatto, I want to talk about the TGC Farkas  
16 Funding operating agreement. It's Exhibit B. Do you have the exhibits in  
17 front of you?

18 A I received a Zip file. Is that what I should be looking at?

19 THE CLERK: Yes.

20 BY MR. GUTIERREZ:

21 Q Yes.

22 THE COURT: You said B?

23 MR. GUTIERREZ: B, as in boy, Your Honor. I'm sorry.

24 THE COURT: Okay.

25 THE WITNESS: B -- B, like boy. Yes.

1 BY MR. GUTIERREZ:

2 Q And do you have that in front of you, sir?

3 A Yes.

4 Q And I'll be referring to the -- what are called Bates numbers  
5 at the lower right-hand corner. This one is Bate number -- it says, "First  
6 0036." Do you see that?

7 A Yes.

8 Q Okay.

9 MR. GUTIERREZ: And for the record, this has been admitted.

10 BY MR. GUTIERREZ:

11 Q I want, Mr. Flatto, if you could turn to 0046 of this LLC  
12 agreement, specifically Section 4.1.

13 A Yes.

14 Q Okay. Now, Section 4.1 of the TGC Farkas Funding operating  
15 agreement it empowered management of company -- of the company,  
16 correct?

17 A Yes.

18 Q And it states that the members hereto agree that Farkas shall  
19 be the administrative member of the company and it's defined as  
20 administrative member and shall have the -- and shall be responsible for  
21 the day-to-day management of the company; is that correct?

22 THE COURT: Which Bates stamp is that, Counsel?

23 MR. GUTIERREZ: Your Honor, it's at First 0046 and it's  
24 Exhibit B, as boy.

25 THE COURT: Right. I got the exhibit. I just needed the page

1 number. 46?

2 MR. GUTIERREZ: 46.

3 THE COURT: Okay.

4 BY MR. GUTIERREZ:

5 Q And, Mr. Flatto, Section 4.1 goes on to state that the  
6 administrative member shall be the "manager" of the company, as such  
7 term is defined in the Act, and shall be responsible for making all  
8 business and managerial decisions for the company; is that correct?

9 A Yes, that's what it says.

10 Q So from the date of this operating agreement, up until  
11 September of 2020, when the amendment was signed, Matthew Farkas  
12 was the administrative member with these responsibilities of TGC Farkas  
13 Funding, correct?

14 A He was the administrative --

15 MS. TURNER: The --

16 THE WITNESS: -- he was the administrative member with  
17 both responsibilities and/or obligations encompassed in the agreement.

18 BY MR. GUTIERREZ:

19 Q Okay. Great. Now, go to Section 4.4, which is on page  
20 48 -- 0048.

21 A Yes.

22 Q Section 4.4 is entitled, "Reliance by third parties." Do you see  
23 that?

24 A Yes.

25 Q And it states, "Persons dealing with the company are entitled

1 to rely conclusively upon the power and authority of the administrative  
2 member." Do you see that?

3 A I see that, yes.

4 Q What is your understanding of what that section means?

5 A Mr. Gutierrez, I'm -- I'm not an attorney and I'm -- you know,  
6 this is a -- a loan agreement. And I'm not really able to identify the  
7 specific purpose of one provision. I know there are other provisions in  
8 here, which are very clearly limiting the power of the administrative  
9 member to take actions without my consent. So I -- I harp -- I'm -- I'm  
10 not really in a position to -- to comment on the legal meaning of Section  
11 4.4.

12 Q Mr. Flatto, I'm not asking for a legal interpretation of that.  
13 I'm asking about your understanding of what that specific Section 4.4  
14 means to you.

15 A My -- my understanding is that any actions the administrative  
16 member took, required my consent, which when asked, I either chose to  
17 give or not give.

18 Q Maybe I'm being -- I'm looking at the wrong title -- I'm  
19 looking at Section 4.4, which is reliance by third parties. That's the one  
20 I'm asking you about. What's the -- what is your understanding of that  
21 section?

22 A Again, I'm not an attorney, so I can't comment on the legal  
23 meanings of various provisions, but what I can tell you is, that if an  
24 administrative member took an action that I had consented to, then third  
25 parties should absolutely be able to rely on that.

1 Q Okay. And this section states that any party are entitled to  
2 rely conclusively upon the power and authority of administrative  
3 member, which was Matthew Farkas, correct?

4 A Only if I have consented to.

5 Q Where does it discuss your consent in this agreement?

6 A Again, I'm not an attorney, so I'm not going to try to give  
7 legal interpretations, but I believe at 3.4(a), specifically requires the  
8 administrative member to get the consent of all members for any  
9 actions.

10 Q And 3.4(a) states,

11 "The administrative member may take any action without a  
12 meeting; however, the administrative member agrees that all  
13 actions shall be taken after a consultation with and upon the  
14 consent of all members and the administrative member  
15 agrees to file a copy of any action taken by the administrative  
16 member with the records of the company."

17 Do you see that?

18 A Yes.

19 Q Did the company TGC Farkas have regular meetings to go  
20 over any issues that required consent?

21 MS. TURNER: Objection. Overbroad as to time.

22 THE COURT: Sustained.

23 BY MR. GUTIERREZ:

24 Q At any point, Mr. Flatto, did the company, since its existence,  
25 have regular meetings to go over the issue of consent?

1           A     We discussed consent for a very few limited items on which  
2 action was requested.

3           Q     And would there be meetings -- minutes of these meetings?

4           A     I don't recall.

5           Q     You know, Matthew Farkas signed the First 100 subscription  
6 agreement on behalf of TGC Farkas; is that correct?

7           A     I'm sorry. Should I -- can I take -- should I take this one  
8 down?

9           Q     Yes.

10          A     I'm sorry.

11          Q     Matthew Farkas signed the First 100 subscription agreement  
12 on behalf of TGC Farkas; is that correct?

13          A     Yes.

14          Q     And Matthew Farkas, in that subscription agreement,  
15 represented in writing that he was the CEO of TGC Farkas Funding; is  
16 that correct?

17          A     I -- I don't recall how he represented himself.

18          Q     Okay. Well, let's go to Exhibit A, see if this could refresh  
19 your memory.

20          A     Exhibit A is the declaration of Jay Bloom?

21          Q     Yes. And I want you to go to page 0017.

22          A     Yes.

23          Q     Okay. Maybe we can start at 007 first, which is the first page  
24 of the First 100 subscription agreement with TGC Farkas.

25          A     Yes.

1 Q Okay. You have that? So this is the subscription agreement  
2 that TGC Farkas entered into with First 100, correct?

3 A Yes, it seems to be.

4 Q And page 17, if you can go to that.

5 A Yes.

6 Q That's the signature of Matthew Farkas, as CEO of TGC  
7 Farkas Funding; is that correct?

8 A I -- I believe that's correct. Yes.

9 Q And you did -- you, Adam Flatto, did not sign off for this  
10 subscription agreement on behalf of TGC Farkas Funding; is that correct?

11 A I don't know what you mean by "sign off".

12 Q Your signature is nowhere on this document, correct?

13 A I did not physically sign the document, no.

14 Q Go to page 24, which is a subscriber questionnaire.

15 A I'm sorry 24?

16 Q 0024, same exhibit.

17 A Yes.

18 Q Those are Matthew Farkas's initials under the subscriber  
19 questionnaire; is that correct?

20 A I -- I -- I don't know, but I -- I -- if you -- if you say that they  
21 are, I'm -- I'm sure that's the case.

22 Q Go to the next page.

23 A Yes.

24 Q That's Matthew Farkas signed as CEO of TGC Farkas  
25 Funding, LLC on the subscriber questionnaire, correct?

1 A It looks like it, yes.

2 Q Okay. Matthew Farkas is still a 50-percent member in TGC  
3 Farkas Funding; is that correct?

4 A Yes.

5 Q And isn't it true that Matthew Farkas never wanted to sue  
6 First 100, LLC?

7 A I'm not -- I'm not aware of that.

8 Q You've never had any discussions with Mr. Farkas about his  
9 desire to avoid litigation in the First 100?

10 A I -- I don't recall any.

11 Q Do you recall signing a engagement letter for Garman Turner  
12 Gordon, where the scope of the engagement was limited to not initiating  
13 a lawsuit against First 100?

14 A Maybe if you could point me to that, that would be helpful.

15 Q Okay.

16 A I'm sorry. Should I be looking at an exhibit?

17 Q Nope. Let me find this exhibit on this engagement letter. I  
18 think we'll come back to that. I want to --

19 MS. TURNER: Was it L?

20 MR. GUTIERREZ: I'm sorry, Counsel, was it M?

21 MS. TURNER: Exhibit L, as in lion.

22 MR. GUTIERREZ: Okay. Thank you.

23 BY MR. GUTIERREZ:

24 Q Go to Exhibit L.

25 A Yes.

1 Q And you have that in front of you, sir? It's an April 21st,  
2 2017, engagement letter for Garman Turner --

3 A Yes.

4 Q -- Gordon?

5 A Yes.

6 Q And then go to the second page, which is page 394.

7 A Yes.

8 Q And it states in -- do you see the handwriting on this  
9 engagement letter?

10 A Yes.

11 Q And does that handwriting, to you, limit the scope to not  
12 include any litigation against First 100?

13 A No, it does not.

14 Q What does it -- what does it mean to you?

15 A It's language, which was added by general counsel, caps the  
16 amount of fees that we would owe to GTG, provided that the matter  
17 would not include litigation; meaning, to the extent of litigation, we  
18 recognized that the cap would not apply. That's what this language was  
19 inserted for.

20 Q Okay. Now, you signed a declaration in the arbitration on  
21 August 13th, 2020, correct?

22 A I will add that this and the initial subscription were the only  
23 two times that I recall consenting specifically to actions on the part of our  
24 LLC.

25 Q All right. And is that recollection based on any type of

1 written communication that you have with Mr. Farkas?

2 A I signed this agreement.

3 Q Well, let's go to your declaration of August 13th, 2020, which  
4 is Exhibit D, as dog -- I'm sorry, E, as in Edward.

5 A Yes.

6 Q You have that in front of you?

7 A Yes.

8 Q Okay. You signed this declaration and submitted it in the  
9 arbitration proceeding; is that correct?

10 A I -- I believe so, yes.

11 Q And paragraph 4, what does that state?

12 A I'm sorry, would you like me to read it?

13 Q Please, yes.

14 A "Matthew Farkas was and still is the administrative member  
15 or complaint, as that term is defined in the operating agreement, see  
16 Section 4.1."

17 Q So as of August 13th, 2020, Matthew Farkas was the  
18 administrative member of TGC Farkas Funding, correct?

19 A Yes.

20 Q And this document -- this declaration was submitted in  
21 arbitration at First 100 with a part of, correct?

22 A I'm sorry. Could you just say that again?

23 Q Sure. Your August 15th, 2020, declaration was submitted by  
24 your attorney in support of an arbitration proceeding with First  
25 100 -- that First 100 was a part of, correct?

1 A Yes.

2 Q Okay. Now, following this declaration in August 2020, you  
3 and Mr. Farkas entered in an amendment to the TGC Farkas Funding  
4 operating agreement, correct?

5 A Yes.

6 Q And that's the only amendment you had to the operating  
7 agreement for TGC Farkas Funding, correct?

8 A The only amendment I recall. Yes.

9 Q Okay. Now, that amendment was entered into on September  
10 17th, 2020; is that right?

11 A Yes.

12 Q Now, was -- now, that amendment was never sent to First  
13 100; isn't that true?

14 A I believe that's true.

15 Q Okay. Was Matthew Farkas provided independent legal  
16 counsel, when he signed the amendment -- the TGC Farkas Funding  
17 operating agreement?

18 A I don't recall.

19 Q You never amended your August 13th, 2020, affidavit to  
20 discuss the amendment to the TGC Farkas Funding operating agreement,  
21 correct?

22 A I -- I don't understand the question.

23 Q You submitted a declaration August 13th, 2020, where you  
24 stated Matthew Farkas was the administrative member, correct?

25 A Yes. I also made it in that declaration the affirmative

1 statement that the administrative member can only take action to find  
2 the claimant after consult -- consultation with or upon the consent of all  
3 the members. That's number 5 after the item 4 that you pointed at.

4 Q I understand. And all the members would be you and  
5 Matthew Farkas -- just you and Matthew Farkas, correct?

6 A Correct.

7 Q How would an outside company, like First 100, know whether  
8 your gave your consent or not to Mr. Farkas?

9 A I didn't --

10 MS. TURNER: Calls for speculation. Lack of foundation.

11 THE COURT: He can state his understanding of what he  
12 would expect.

13 THE WITNESS: I made it quite clear that my consent was  
14 required for all decisions made by the LLC. I do not think it's reasonable  
15 to expect that after winning an arbitration then having it affirmed by a  
16 court, in which the company was adverse to us, that I was expecting to  
17 get -- simply get books and records. That the company would somehow  
18 think that a settlement agreement entered into -- or any agreement --  
19 entered into with my LLC without my consent, explicitly, would be  
20 somehow valid.

21 BY MR. GUTIERREZ:

22 Q I think my question was specific, as to your understanding as  
23 to how a company, like First 100, would know that you've given your  
24 consent or not?

25 A They could have asked.

1 Q And we'll go through that. Because you've had extensive  
2 conversations with Jay Bloom over the last eight years?

3 A I've had a number of -- I'm sorry, Counselor.

4 Q How many would you estimate you've had with Jay Bloom  
5 over the last eight years? How many conversations?

6 A Fifteen or 20.

7 Q Okay. When was the last time you spoke to Jay Bloom?

8 A I -- I don't recall.

9 Q You don't recall? Was it in 2021?

10 A It was not in the past two months, no.

11 Q Was it in 2020?

12 A I -- I -- it -- I don't recall.

13 Q Do you recall sending an email to Matthew Farkas, regarding  
14 wanting your \$1 million investment into First 100 back?

15 A Yes.

16 Q And what was the purpose of that email?

17 MS. TURNER: Counsel, what exhibit?

18 MR. GUTIERREZ: It's Exhibit B. And we'll get to it. I just  
19 want to ask his recollection.

20 THE WITNESS: Perhaps, if I could take a look at it, that  
21 would be helpful.

22 BY MR. GUTIERREZ:

23 Q Okay. Sure. It's Exhibit C. And it's Bates stamp 0188.

24 A Zero -- I'm sorry, say it again.

25 Q Exhibit C, as in cat. And it's 0188 are the -- is the Bates

1 number.

2 A Yes.

3 Q Do you have that in front of you, sir?

4 A Yes.

5 Q Okay. This is a email dated January 23rd, 2017, at 4:07 from  
6 you; is that correct?

7 A Yes.

8 THE COURT: What's that Bates stamp, Counsel?

9 MR. GUTIERREZ: It's 0188, Your Honor.

10 THE COURT: And you said -- okay -- 0188. Okay. I'm sorry.  
11 Go ahead.

12 MR. GUTIERREZ: And, Your Honor, at this time we'd move  
13 to admit Exhibit C, just page 0188, which is an email dated January 23rd,  
14 2017, from Mr. Flatto to Mr. Farkas.

15 MS. TURNER: I don't have an objection.

16 THE COURT: Okay. It's admitted, that page.

17 [Defendant's Exhibit C, page 0188 admitted into evidence]

18 MS. TURNER: That page.

19 MR. GUTIERREZ: That page, Your Honor. I believe counsel  
20 had object the declaration.

21 BY MR. GUTIERREZ:

22 Q Okay. Mr. Flatto, that email to [sic] you was directed to Mr.  
23 Farkas. And would you agree in that email you're instructing Mr. Farkas  
24 that you want your investment with the First 100 returned; is that true?

25 A Well, it reflected, at the time, when I sent it, was my

1 incredible discomfort with the type of business that Jay Bloom was  
2 getting involved with involving some person named Raymond Ngan,  
3 who upon some cursory investigation, was involved with very sordid  
4 items. And at the time, my feeling was, I just wanted to get my  
5 investment back and that I didn't want to be associated with anything  
6 related to such a person that Jay Bloom would have gotten us involved  
7 with.

8 Q You were aware that First 100 had a judgment against  
9 Raymond Ngan at that time, correct?

10 A Jay Bloom informed me of that, yes.

11 Q And so why did you email Matthew Farkas, if you were in  
12 communication with Jay Bloom? Why didn't you email this directly to  
13 Jay Bloom?

14 A I communicated both with Jay and Matthew.

15 Q My question was specific: Why didn't you email Jay Bloom  
16 instead of Matthew Farkas about --

17 A I don't recall.

18 Q Okay.

19 A I don't recall if it's not. I have communicated with both.

20 Q Okay. So but in this email, you're only directing -- you're  
21 only discussing it with Matthew, correct?

22 A Is a -- in an email to Matthew, yes.

23 Q And you state halfway through that email that,

24 "We simply want our investment returned. We do not  
25 want and cannot be part of some action involving some

1 person who purportedly is involved with mafia, drug lords, et  
2 cetera. And we'll seed to you the excess proceeds, if any,  
3 from this."

4 Do you see that?

5 A I see that.

6 Q Your words to Matthew Farkas were that you would seed to  
7 him any excess proceeds that First 100 could get, as long as you, Adam  
8 Flatto, received your investment in the First 100 back; isn't that true?

9 A That was my thinking four years ago when this email was  
10 written. Yes.

11 Q You then state, "Marshal is pressuring me to take action and  
12 I'm at the end of my rope." Who is Marshal?

13 A Marshal refers to a former partner of mine named Marshal  
14 Rose.

15 Q And is a -- does he have an interest in TGC Farkas?

16 A Yes.

17 Q Is he a member of TGC Farkas?

18 A No, I don't believe so.

19 Q Do any issues involving TGC Farkas, require his consent?

20 A No, I don't believe so.

21 Q Okay. So you state Marshal is pressuring you to take action  
22 and that you're at the end of your rope. You then state, "Discuss with  
23 Jay how you will return our investment and take us out of this. The time  
24 has come to an end. Adam." That's correct, right?

25 A That's what it says.

1 Q I read that correctly? And that was your thinking, at least  
2 four years ago, you're instructing Matthew Farkas to talk with Jay Bloom  
3 and get your investment from First 100 returned; isn't that true?

4 A That was my thinking when I wrote this note four years ago  
5 to Matthew.

6 Q Okay. And then it looks like, if you go to the next email down  
7 under this same page, Matthew Farkas then forwards your email to Jay  
8 Bloom on April 27th, 2017. Do you see that?

9 A Yes.

10 Q And he states, "Enclosed is the email where Adam is willing  
11 to seed his holdings." Do you see that?

12 A I see that.

13 Q Did you have any communications over the last four years  
14 with First 100, where you say, I changed my mind, I don't want to seed  
15 my holdings, I want to be involved with the company?

16 A My communication with First 100 over the past four years  
17 has involved making sure that some purported redemption agreement  
18 did not go through because I didn't consent to it. And then I simply  
19 requested books, records, and associated documents, so I can  
20 understand what happened to my million dollars. And I seem to get -- be  
21 getting blocked in just getting basic information. That's what I  
22 requested.

23 Q My question was specific as to any emails you have with you  
24 and Jay Bloom, where you're retracting the directive you had given to  
25 Matthew Farkas in this email?



1 A I believe that's correct. Yes.

2 Q Okay. So you don't -- so you don't know if Matthew Farkas  
3 called you when he received the settlement agreement from Jay Bloom?

4 A He never -- I never discussed this before I saw it signed  
5 by -- in its signed form. I never discussed it with him before --

6 Q When did you --

7 A -- executed.

8 Q Okay. I apologize for interrupting you, Mr. Flatto. But when  
9 did you first see it in its signed form?

10 A I -- I don't remember when I first saw it, but I didn't see it in  
11 any form, other than a form which he had executed.

12 Q And you've read the terms of this settlement agreement,  
13 correct?

14 A I -- I've glanced at them. I've not --

15 Q Yes.

16 A -- fully read through them.

17 Q We went through some of those terms during your  
18 deposition last week, correct?

19 A Yes, you asked me questions regarding it.

20 Q Okay. And it's a two-page agreement, fair to say, with a  
21 signature page on the third page?

22 A Yes.

23 Q Now, do you -- is there any part of this settlement agreement  
24 that states that TGC Farkas's \$1 million investment in the First 100 would  
25 be extinguished?

1           A     I -- I have not read through this. I've not gone through it with  
2 counsel. And I haven't done that because I didn't consent to it. Nobody  
3 asked my permission. And I -- I -- I have not reviewed it and -- with  
4 counsel to see what it includes or does not include. I note that it does,  
5 however, include the release of the company from various actions that I  
6 had just spent considerable amount of time, effort, and energy prevailing  
7 at an arbitration and getting the court to back up.

8           Q     This settlement agreement, Mr. Flatto, on line 16 states that it  
9 says "TCG", but it really should be TGC; is that right? As you read  
10 through the agreement, there's a typo?

11          A     I -- I -- this agreement is not something I've reviewed. I don't  
12 know what TCG stands for. I didn't consent to it, so I don't -- I don't  
13 know.

14          Q     Okay. But this agreement is consistent with your directive in  
15 2017 to return your million dollar investment First 100; isn't that true?

16                MS. TURNER: Your Honor, there's a lack of foundation here.  
17 The witness has said he never reviewed it to determine whether he  
18 consented or not. He wasn't asked to consent.

19                THE COURT: He can be asked about what it appears to say  
20 to him.

21                THE WITNESS: I'm sorry, what's your question?

22                THE COURT: I overruled the objection, so you can respond.

23                THE WITNESS: Yes, I'm sorry. Just if you could ask the  
24 question again so I can remember what it was that you're asking.

25                ///

1 BY MR. GUTIERREZ:

2 Q Sure. Based on your review of this settlement agreement,  
3 the terms of this agreement are consistent with your directive to  
4 Matthew Farkas in 2017 to return your million dollar investment to First  
5 100; isn't that true?

6 A No. I have not reviewed the document. I don't know.  
7 You're asking about paragraph number 1. It says that we are owed a  
8 million dollars. I don't think I need an agreement to certify that because  
9 it is -- I have a -- a -- my direct understanding of the operating agreement  
10 of First 100 is that I have a priority capital return for my million dollars  
11 already. So I don't know, you know -- that's -- so that's -- if -- if I  
12 understand this correctly, which I don't claim necessarily to do, this  
13 doesn't seem to be giving me anything that I don't already have.

14 Q Okay. Your paragraph 2 states that, first, that TGC Farkas  
15 would be paid concurrent with collections of proceeds in the sale of the  
16 award. And award is defined as the Raymond Ngan judgment. \$1  
17 million plus six percent interest. Isn't that -- is that what that -- that's  
18 what that says, correct?

19 A That's what it says.

20 Q Have you ever had any discussions with Jay Bloom that you  
21 want \$1 million -- your \$1 million investment returned, plus six percent  
22 interest?

23 A I have had numerous discussions with Jay Bloom, where he  
24 has regaled me of various stories of how I'm going to get my money  
25 back. Asking me for my wiring instructions. Telling me of -- of

1 innumerable amounts of transactions that were about to take place, in  
2 which I was going to be getting my money back, plus profits thereon.

3 Q And you had a specific conversation with him about six  
4 percent interest that you were looking for?

5 A I may have at some point in the past indicated -- he may have  
6 offered six percent or I -- I -- I don't recall the specifics, but we may have  
7 discussed six percent, as a base return of my capital.

8 Q Okay. Mr. Flatto, I want to turn to another topic, which is the  
9 order to show cause. You, on behalf of --

10 A I'm sorry, go ahead.

11 Q I interrupted you. Go ahead. You had -- you want to finish?

12 A No, that's fine.

13 Q Okay. What is TGC Farkas Funding's basis for pursuing  
14 contempt sanctions against Jay Bloom in his individual capacity?

15 MS. TURNER: Your Honor, that calls for a legal conclusion.  
16 There's a lack of foundation and it's overbroad.

17 THE COURT: Sustained.

18 BY MR. GUTIERREZ:

19 Q Mr. Flatto, do you know why TGC Farkas Funding is pursuing  
20 contempt sanctions against Jay Bloom individually?

21 A I'm not -- I'm not an attorney, so I'm not really in a position to  
22 answer that.

23 Q Have you ever, at any point, asked Matthew Farkas to  
24 produce books and records for First 100 in his capacity as VP of finance  
25 for First 100?

1           A     I don't recall.

2           Q     Okay. Do you recall seeing a letter from my law firm dated  
3 February 12th, 2021, through your counsel, discussing the estimated cost  
4 to prepare the financial statements, balance sheets, and documents that  
5 you've requested from First 100?

6           A     Yes.

7                   MS. TURNER: Your Honor, this line of questioning should be  
8 barred by res judicata because it was resolved in the judgment -- the  
9 final judgment as a matter of law.

10                   THE COURT: That's fine, but he can be questioned about  
11 things that have occurred. I also want to make sure the record is clear  
12 that, with respect to the contempt aspect of this hearing, the Court is  
13 proceeding by way of civil contempt, not criminal contempt. Okay. Civil  
14 contempt. All right. I just want to make sure that's clear to everybody.

15                   MR. GUTIERREZ: Thank you, Your Honor. And I'm just  
16 trying to discuss compliance by First 100 and I only have a few questions  
17 on this issue before I pass the witness.

18 BY MR. GUTIERREZ:

19           Q     Mr. Flatto, can you turn to Exhibit V, as in Victor.

20           A     Yes.

21           Q     And this is a February 12th letter -- 2021 -- from my law firm  
22 to your counsel, regarding an estimate by Michael Hendrickson to  
23 compile the books and records. Is that -- have you seen this document  
24 before?

25           A     Yes.

1 Q Okay.

2 THE COURT: And for the record, is that admitted or is that  
3 one that wasn't admitted?

4 MR. GUTIERREZ: Thought it was, Your Honor. Let me just  
5 check.

6 THE COURT: Okay. All right. Go ahead.

7 THE CLERK: It was.

8 MR. GUTIERREZ: It was, Your Honor.

9 THE COURT: All right.

10 BY MR. GUTIERREZ:

11 Q So Exhibit V, as in Victor, the letter with -- and the next page  
12 Mr. Hendrickson, which -- I'm sorry -- Mr. Flatto, which is 0448, which is a  
13 letter from Michael Hendrickson. Do you see that?

14 A Yes.

15 Q And it provides an estimate for how much it would cost to  
16 compile the records that have been requested by TGC Farkas?

17 MS. TURNER: Your Honor, I will reiterate my objection that  
18 the judgment is final. It addresses any demand for fees and costs and  
19 this evidence should then be excluded.

20 THE COURT: I'm only considering it from the standpoint of  
21 what positions have been taken, so I understand your point, Ms. Pike  
22 Turner, but I'll allow the question.

23 MS. TURNER: Thank you.

24 BY MR. GUTIERREZ:

25 Q You can answer, Mr. Flatto.

1 A I'm sorry, if you could just repeat it.

2 Q Sure. Yes. Page 448 on Exhibit V, do you have that?

3 A Yes.

4 Q It's an estimate from Michael Hendrickson, regarding the  
5 amount that it would cost to compile the books of First 100. Do you see  
6 that?

7 A Yes.

8 Q Is it your understanding on behalf of TGC Farkas Funding  
9 that -- well, I'm sorry -- who do you believe would have to pay for  
10 this -- for compiling this books and records?

11 MS. TURNER: Objection. Calls for a legal conclusion.

12 THE COURT: I'll allow him to state his understanding.

13 THE WITNESS: My understanding is that the result of the  
14 arbitration required the company to produce the books and records at  
15 their expense.

16 BY MR. GUTIERREZ:

17 Q Okay. Exhibit U, if you could go to that. Your response from  
18 your attorney to this demand or this letter. Let me know when you have  
19 that in front of you.

20 A Yes.

21 Q And you've seen this letter before, correct?

22 A I'm -- I'm not familiar with it, but --

23 Q Given the chance to pay for -- would TGC Farkas have given  
24 the chance to pay to compile the books and records -- would TGC Farkas  
25 pay the money to require to gather those books and records for Mr.

1 Hendrickson to compile them?

2 MS. TURNER: Objection, Your Honor. It assumes facts not  
3 in evidence that there's any obligation to pay for the expenses. And he's  
4 asking whether or not he would comply with it, as if there was an  
5 obligation.

6 THE COURT: Rephrase, Counsel.

7 BY MR. GUTIERREZ:

8 Q Mr. Flatto, would TGC Farkas, if given the chance to pay to  
9 compile the books and records, would they pay for the books and  
10 records to be gathered?

11 MS. TURNER: Same objection, Your Honor. Assumes facts  
12 not in evidence.

13 THE COURT: I'll allow it.

14 THE WITNESS: My understanding is, that the arbitration  
15 required the company to provide the costs -- the books and records at  
16 their expense.

17 BY MR. GUTIERREZ:

18 Q Okay. And then if you can go to Exhibit NN, which has been  
19 admitted.

20 A I'm sorry single N, or double N?

21 Q Double N, sir.

22 A Yes.

23 Q You've seen this document before, correct? The operating  
24 agreement from First 100, LLC.

25 A I've not reviewed it, but you showed it to me at our

1 deposition.

2 Q Okay. And it's your understanding that TGC Farkas Funding  
3 is a member of First 100 Holdings, LLC; is that correct?

4 A Frankly, Mr. Bloom changed the names of the entities, for  
5 reasons that hopefully the books and records will, you know, shed some  
6 light on, but -- so I don't know what name is referred to here, but there is  
7 a -- an LLC, in which TGC Farkas Funding is a member.

8 Q If you can go to Bates -- under the same Exhibit NN, 0582.

9 A Yes.

10 Q That's the signature of Matthew Farkas on behalf of TGC  
11 Farkas Funding, as manager, correct?

12 A Yes.

13 Q Now, go to page 0573.

14 A Yes.

15 Q There's a specific section in the First 100 operating  
16 agreement entitled, "Books and records 13.1", correct?

17 A There -- there is a -- this page that you pointed me to, there's  
18 a Section 13.1 that says, "Books and records", I don't -- I've not reviewed  
19 it. I don't --

20 Q The --

21 A -- I don't understand your -- what the question is.

22 Q I'll get to it. Go to the next page, 0574.

23 A Yes.

24 Q Now, we're looking at Section 13.1D, as in dog. Do you see  
25 that?

1           A     Yes.

2           Q     Isn't it true the First 100 operating agreement requires a  
3 member, upon written request, who wants to examine the books and  
4 records to pay for the expenses required to gather those books and  
5 records, pursuant to this section? Isn't that true?

6           A     What I understand is, that the arbitration that was decided  
7 upon and then affirmed by the court, requires the company to provide  
8 the books and records at their expense. I'm not an attorney. I don't  
9 know how this one paragraph in the context of a 30 or 40-page legal  
10 document comes into play. I don't know what other obligations the  
11 company may have to provide the records, if the company is determined  
12 to have committed fraud or other various acts. I just want to see the  
13 books and records in accordance with the arbitration that I had to go  
14 through in order to get the books and records, because I don't know  
15 what else is going on inside this entity.

16          Q     Mr. Flatto, the operating agreement that TGC Farkas agreed  
17 to requires that the member pay for the request -- for the cost of the  
18 gathering the books and records; isn't that true?

19          A     I -- I don't know what else --

20                   MS. TURNER: Calls for a legal conclusion.

21                   THE WITNESS: I don't know what else is in this document.  
22 And I'm -- I'm not -- I'm not able to interpret one provision in a 30-page  
23 document. My understanding is, the arbitration requires the company to  
24 provide the books and records at their expense. I don't know why this is  
25 so difficult for them to do so.

1 BY MR. GUTIERREZ:

2 Q And, Mr. Flatto, there's no other provision in this books -- in  
3 this operating agreement First 100 that states that the company would  
4 pay for the gathering of books and records; isn't that true?

5 A I think I -- I indicated before, I am not an attorney. I have not  
6 read through this. I do not know in a 30-page document what  
7 obligations the company has for providing documents to me, especially  
8 if there's issues of fraud or other -- other things going on.

9 Q Now, you said the arbitration award requires First 100 to pay  
10 for the books and records gathering; is that true?

11 A My understanding is, that the arbitration requires the  
12 company to provide for it and I do not have to pay for it.

13 Q Okay. Go to Exhibit II.

14 A Yes.

15 Q Where in this arbitration award does it say that First 100 has  
16 to pay for the books and records to be gathered?

17 A I -- I'm not an attorney. I have not -- didn't appear at the  
18 arbitration. I have not reviewed this arbitration award. I don't purport to  
19 be able to pick out a specific provision.

20 Q So you just said that the arbitration award allows for First  
21 100 to pay for it. I just wanted to know where in this award --

22 MS. TURNER: Objection.

23 BY MR. GUTIERREZ:

24 Q -- does it say that?

25 MS. TURNER: Objection. Misstates his testimony. He said

1 that his understanding was there was an obligation to provide it, but the  
2 company paying for it.

3 THE COURT: If it misstates his testimony, he can clarify it.

4 THE WITNESS: My understanding is, the arbitration requires  
5 the company to provide the books, records, and other things that I've  
6 requested and that I do not have to pay.

7 BY MR. GUTIERREZ:

8 Q And I want to be clear: Where does the arbitration award say  
9 you don't have to pay for it?

10 A I have not reviewed this or the specific language in this and  
11 so -- and I'm not an attorney and I -- but I'm not going to be able to point  
12 out specifically the language. That's my understanding from counsel.

13 MR. GUTIERREZ: Thank you, Your Honor. At this time, I'll  
14 pass the witness.

15 THE COURT: All right. It's 10:20. Would you like to have a  
16 brief recess, Ms. Pike Turner or anybody, before we proceed with cross?

17 MS. TURNER: I'm okay to move forward, but at your  
18 convenience if anybody else --

19 THE COURT: No, that's fine.

20 MS. TURNER: -- needs a break. I'll press forward.

21 THE COURT: I'll ask my staff. Is a break needed?

22 THE CLERK: I'm good.

23 UNIDENTIFIED SPEAKER: I'm fine.

24 THE COURT: Okay. We'll proceed.

25 Cross.

1 CROSS-EXAMINATION

2 BY MS. TURNER:

3 Q Mr. Flatto, how many members are there of TGC Farkas  
4 Funding, LLC?

5 A I believe there are two.

6 Q And if we go to Exhibit B, which is also our Exhibit 20 --

7 A Yes.

8 Q -- if you look at Bates Number First 57, which is Exhibit B1 of  
9 the document.

10 A Yes.

11 Q Okay. Do you see where it identifies the members?

12 A Yes.

13 Q Now, the members are TGC 100 Investor, LLC. What is your  
14 role with TGC 100 Investor, LLC?

15 A I -- I believe I'm the managing member of that entity.

16 Q And TGC -- those letters stand for what?

17 A The Georgetown Company.

18 Q And I believe you testified earlier, you're CEO of that  
19 company?

20 A Correct.

21 Q Okay. Now, if we go to Section 3.4(a) of this agreement --

22 A Yeah.

23 Q -- I believe you were trying to refer to this provision. It says  
24 at line 2 -- 3.4(a),

25 "The administrative member agrees that all actions shall be

1 taken after consultation with and upon the consent of all  
2 members. And the administrative agrees to file a copy of  
3 any action taken by the administrative member with the  
4 records of the company."

5 Do you recall that?

6 A Yes.

7 Q Now, Matthew Farkas was the initial administrative member,  
8 correct?

9 A Yes.

10 Q Now, you signed the subscription agreement -- or pardon  
11 me. Matthew Farkas signed the subscription agreement between TGC  
12 Farkas Funding and First 100. Do you recall that?

13 A Yes.

14 Q You didn't sign that subscription agreement. Did you do  
15 anything in performance of this subscription agreement in order to  
16 evidence your consent?

17 A Absolutely.

18 Q What did you do?

19 A I wired a million dollars.

20 Q And you were shown Exhibit L, the engagement of my firm,  
21 Garman Turner Gordon in your direct exam. Do you recall that?

22 A Yes.

23 Q And the engagement is addressed to TGC Farkas Funding,  
24 care of The Georgetown Company, attention Adam Flatto. Do you see  
25 that?

1 A Yes.

2 Q And you indicated on page 2 of the agreement there was  
3 some handwriting. And that handwriting was -- was that provided at  
4 your direction by counsel for The Georgetown Company?

5 A That was added by my general counsel in order to cap fees  
6 related to this retainer with the recognition that that cap would not apply  
7 to the extent that there would be litigation.

8 Q Now, if we go to the next page of the engagement letter,  
9 that's your signature?

10 A Yes.

11 Q And if we go to the next page, we have a signature.

12 A Correct.

13 Q Recognize the signature on First 0396?

14 A Yes.

15 Q And whose signature is that?

16 A Matthew's.

17 Q Okay. Now, if -- at any time, subsequent to April 27th, 2017,  
18 or subsequent to the operating agreement being executed in 2013, did  
19 you provide notice to First 100 that there was a limitation on Matthew  
20 Farkas's authority to act on behalf of TGC Farkas Funding, LLC?

21 A I did twice.

22 Q Okay.

23 A At least.

24 Q Now, if we go to Exhibit 21 in the Plaintiff's exhibits -- 21.

25 THE COURT: All right. Is this a proposed exhibit, correct?

1 MS. TURNER: It is. Counsel, Mr. Gutierrez, do you have any  
2 objections to any of my exhibits?

3 MR. GUTIERREZ: Give me one second. You're moving to  
4 admit all of them, because some of them contain declarations. I think, at  
5 this stage, if you want to admit Exhibit 21, I have no objection to that.

6 MS. TURNER: Okay

7 THE WITNESS: I'm sorry. I'm having trouble finding the  
8 numbered exhibits. I have lettered exhibits.

9 BY MS. TURNER:

10 Q Okay. Can you see on the screen Exhibit 21?

11 A Yes.

12 Q Okay. Do you recognize this document?

13 A Yes.

14 Q All right. Exhibit 21 is dated April 18th, 2017 -- or at least the  
15 email at the top.

16 A Yes.

17 Q It's from Michael Busch. Who is Michael Busch?

18 A He is my general counsel.

19 Q Okay. He's the general counsel that interlineated the  
20 engagement letter with Garman Turner Gordon?

21 A Correct.

22 Q Okay. And Mr. Busch sends an email to  
23 membershipredemption@F100LLC.com with a CC to Adam Flatto,  
24 Michael Busch, and Matthew Farkas; is that right?

25 A Yes.

1 Q And was this sent at your direction or with your  
2 participation?

3 A Yes.

4 Q And it provides, at the second paragraph,  
5 "Please be advised that Matthew Farkas does not have the  
6 authority to unilaterally bind TGC Farkas Funding, LLC and  
7 that any purported approval, consent, or execution of the  
8 redemption materials solely by him is invalid and shall not  
9 be binding on TGC Farkas Funding, LLC, unless and until  
10 proved by Adam Flatto."

11 Did I read that right?

12 A Yes.

13 Q All right. Then if we go to Exhibit 22.

14 MS. TURNER: Any objection, Counsel?

15 MR. GUTIERREZ: No objection.

16 BY MS. TURNER:

17 Q Okay. Exhibit 22, you've seen this document before, Mr.  
18 Flatto?

19 A Yes.

20 Q And if we go to the date on the first page at Plaintiff 179,  
21 that's the Bates number. Do you see it up on the screen?

22 A Yes.

23 Q So July 13th, 2017, there was a letter sent by counsel for TGC  
24 Farkas Funding to Joe Gutierrez at Maier Gutierrez & Associates, correct?

25 A Yes.

1 Q And what was the purpose of this letter being sent? At  
2 least --

3 A Among other -- among other things, to reinforce that  
4 Matthew Farkas did not have the authority to bind our LLC without my  
5 consent.

6 Q All right. And if we look at the first page, it looks like fourth  
7 bullet point -- well, third bullet point it says, "Matthew Farkas is not the  
8 manager of TGC Farkas Funding, LLC."

9 The next bullet point says, "Counsel has previously sent  
10 correspondence explaining that Matthew Farkas does not have the  
11 authority to bind TGC Farkas Funding, LLC." Did I read that correctly?

12 A Yes.

13 Q And if you go to Bates Number Plaintiff 190, attached to this  
14 letter to Mr. Gutierrez, is that same email that we have at Exhibit 21,  
15 correct?

16 A Correct.

17 Q At any point, after this email and correspondence to Joe  
18 Gutierrez was sent, did you tell Jay Bloom Matthew Farkas does not  
19 have to get my consent?

20 A Never.

21 Q Now, if we go to Exhibit E, that was discussed in your direct.

22 A Yes.

23 Q E, as in Erika. That's the best word using E.

24 A Yes.

25 Q Counsel showed you paragraph 4 of this declaration that was

1 submitted to the arbitrators, where it says, "Matthew Farkas was and still  
2 is the administrative member of claimant, as that term is defined in the  
3 operating agreement." Do you see that?

4 A Yes.

5 Q Now, can you read the paragraph right under that, paragraph  
6 5?

7 A Yes. "Under Section 3.4 of the operating agreement, the  
8 administrative member can only take action to bind the claimant after  
9 consultation with and upon consent of all claimant members."

10 Q Now, if we go to Exhibit, I believe, it's II that counsel brought  
11 to your attention in direct. It's also our Exhibit 2. We have the decision  
12 and award of arbitration panel compelling production of documents and  
13 records. Do you see that?

14 A Yes.

15 Q And at the top, in addition to compelling production of  
16 company records, it orders reimbursement of claimant's -- TGC Farkas  
17 Funding's attorneys' fees and costs, correct?

18 A Yes.

19 Q All right. And if we go to the second page of this award,  
20 which is First 0532. You see where it refers -- it looks like the second to  
21 the bottom paragraph, "By letter dated May 2nd, 2017"?

22 A Yes.

23 Q Do you see that? Do you recall the first time that you -- when  
24 I say "you", I mean TGC Farkas Funding, LLC -- sent a demand for the  
25 production of records to First 100?

1           A     Soon after we had to make clear that these purported  
2 redemption agreement was not consented by us and we didn't  
3 understand what was going on with the company. And so we simply  
4 requested books and records, so we could understand what was going  
5 on.

6           Q     And if we --

7                   MS. TURNER: Keep that handy, Michele, but if you could go  
8 to Exhibit 2. I'm sorry, Exhibit 1.

9                   Any objection, Counsel?

10                  MR. GUTIERREZ: Exhibit 1, no objection.

11 BY MS. TURNER:

12           Q     And Exhibit 1, you could take a quick review. It's up on your  
13 screen, Mr. Flatto. Was that the correspondence --

14           A     Yes.

15           Q     -- that you were referring to making a demand for  
16 information?

17           A     Yes.

18           Q     Okay. And the second paragraph of the demand -- or the  
19 letter from May 2nd, 2017, addressed to Maier Gutierrez, "As a threshold  
20 matter, your demand for redemption is not permitted." Do you see that?

21           A     Yes.

22           Q     And then if we go to the next page, at the bottom of the page  
23 we have a demand, "To access documents in the company's possession,  
24 custody, or control." Do you see that?

25           A     Yes.

1 Q And that demand was pursuant to the NRS, as well as the  
2 company's operating agreements, correct?

3 A Yes.

4 Q Now, if you look at that list of documents, 1, 2 -- and if you  
5 go to the next page -- has TGC Farkas Funding, LLC received one piece of  
6 paper in -- or electronic document in response to this demand that was  
7 sent May 2nd, 2017?

8 A Absolutely not.

9 Q Now, when the -- there was a denial of the documents, did  
10 you commence arbitration?

11 A Yes.

12 Q And in that arbitration -- if you go to Exhibit 2, which is also  
13 Exhibit II, page 5 of the document. We have the date of the award. Do  
14 you see that?

15 A September 15th, 2020.

16 Q Okay. And at the top of the page, it indicates,  
17 "The panel awards in favor of claimant and against  
18 respondents in all respects on the primary claim and orders  
19 respondents to forthwith that no later than ten calendar days  
20 from the date of this award make all the requested  
21 documents and information available from both companies  
22 to claimant for inspection and copying."

23 Do you see that?

24 A Yes.

25 Q And since September 15th, 2020, has there been anything in

1 response to this award that you've received purporting to set forth a  
2 book or record of First 100 or First 100 Holdings?

3 A I've received no documents in accordance with this providing  
4 books, records, or any other things requested.

5 Q Now, we saw earlier that this award was entered with  
6 reference to that May 2nd, 2017, letter that was demanding records,  
7 pursuant to the NRS and the operating agreement. Now, if we go down  
8 this same page, page 5 of the arbitration award, second paragraph from  
9 the bottom, "This award". Do you see that?

10 A Yes.

11 Q It says, "This award is in full settlement of all claims  
12 submitted to this arbitration. All claims not expressly granted herein are  
13 hereby denied." Do you see that?

14 A I see that.

15 Q And have you seen any indication in this award that there  
16 was some requirement for TGC Farkas Funding to pay for the books and  
17 records of First 100 or First 100 Holdings as a condition of their  
18 production?

19 A I'm not aware of any such requirement.

20 Q Okay. Now, if we go to Exhibit 4 in the Plaintiff's books.

21 MS. TURNER: Any objection, Counsel?

22 MR. GUTIERREZ: Exhibit 4.

23 MS. TURNER: The judgment.

24 MR. GUTIERREZ: No objection.

25 ///

1 BY MS. TURNER:

2 Q If we go to page 2 of the judgment --

3 THE COURT: It's admitted.

4 [Plaintiff's Exhibit 4 admitted into evidence]

5 MS. TURNER: Thank you, Your Honor. If I don't get an  
6 objection, I just assume.

7 BY MS. TURNER:

8 Q All right. We have paragraph, where it says, "Defendant's  
9 counter motion," line 15. Do you see that?

10 A Yes.

11 Q And it says, "Defendant's counter motion requests that the  
12 court modify the final award", final award is defined above, as the  
13 decision and award of arbitration panel. "Defendant's counter motions  
14 requests that the court modify the final award to require plaintiff to pay  
15 in advance fees and costs associated with defendant's production of the  
16 requested company records."

17 A I see that.

18 Q Do you see that? Now, if we go to the next page of the  
19 judgment, you see where it says, "It is further ordered that defendant's  
20 counter motion to modify award, per NRS 38.242, is denied." Do you see  
21 that?

22 A Yes.

23 Q I've shown you the arbitration award. I've shown you the  
24 judgment. Has there been any other determination by an arbitrator or a  
25 judge compelling you to pay fees and costs demanded by First 100, as a

1 condition of receiving production of the books and records ordered by  
2 the arbitrators on September 15th, 2020, and as ordered by the judge on  
3 the November 17th, 2020?

4 A I've seen nothing.

5 Q Now, on the heels of receiving the arbitration award, did TGC  
6 Farkas Funding, LLC amend its operating agreement?

7 A Yes.

8 Q And if we go to Exhibit 23.

9 MS. TURNER: Any objection, Counsel?

10 MR. GUTIERREZ: No objection.

11 THE COURT: Admitted.

12 [Plaintiff's Exhibit 23 admitted into evidence]

13 BY MS. TURNER:

14 Q And you see where it -- I believe this same exhibit is also part  
15 of Exhibit J, that's been admitted. Exhibit J, it's just a different form.  
16 The one at Exhibit J has your signature. This Exhibit 23, if you go to the  
17 last page of the amendment, there we go. Exhibit 23 does not contain  
18 your signature page. So we'll look at Exhibit J. Do you recognize your  
19 signature?

20 A Yes.

21 Q And do you see the signature above Matthew Farkas  
22 individually?

23 A Yes.

24 Q And do you recognize that signature?

25 A That is Matthew's.

1 Q Right. And if you go down past the signature line, do you  
2 see the scanned with cam?

3 A Yes.

4 Q Do you see that? Do you recall that Matthew's signature was  
5 provided via scanned signature?

6 A I believe that to be correct.

7 Q And if we keep going all the way down to the end.

8 MS. TURNER: No. All right. Michele, can you go to Exhibit  
9 23? Same document. Just go to the last page.

10 BY MS. TURNER:

11 Q All right. Do you see the date of the cam scanner on Exhibit  
12 23?

13 A Yes.

14 Q It says, "9/17/2020".

15 A I see that.

16 Q All right. What was the purpose of amending the limited  
17 liability company agreement of TGC Farkas Funding, LLC on or about  
18 September 17th, 2020, from your standpoint?

19 A To remove Matthew as the administrative member because  
20 he did not want to be in the middle of a dispute between the LLC and his  
21 brother-in-law.

22 Q All right. If we go to the first page of the amendment.

23 A He acknowledged that there would be a -- was a dispute and  
24 he did not want to be in the middle of it and that's why he wanted me to  
25 take over that role.

1 Q Did you have discussions with Matthew Farkas regarding the  
2 purpose of the amendment?

3 A Of course.

4 Q And was he kicking and screaming, objecting?

5 A Not at all. He was enthusiastic about it and actually I recall  
6 him asking us to -- when it was going to get signed. That he was waiting  
7 -- waiting for it.

8 Q At any point, before the agreement -- the amendment was  
9 signed or after, did Matthew Farkas say he did not want to sign it?

10 A Never.

11 Q And in your communication with Matthew Farkas, did he  
12 appear to understand the agreement?

13 A Totally and enthusiastic.

14 Q And what was your conversation with Matthew Farkas about  
15 the purpose?

16 A That he would be out of the line of fire, as we get into,  
17 unfortunately, a dispute with the company because the company, for  
18 some reason, is going through all of these tortured machinations to  
19 prevent me from seeing the books and records -- the most basic request  
20 of a member for an LLC, but yet they're going through all of these  
21 machinations to prevent it and what I was going to have to find out what  
22 was going on because a million dollars of my money was gone. And he  
23 did not -- he -- he didn't want to be in the middle of that.

24 Q All right. Now, if we go to Section 2.1 of this amendment --  
25 Section 3.4(a) of the operating agreement was deleted and replaced with

1 this language here that says, "Unless you're the administrative member,  
2 no member shall have any right or power to take part in the  
3 management or control of the company or to act for or to bind the  
4 company in any way." Do you see that?

5 A Yes.

6 Q And --

7 A Yes.

8 Q -- then if we go to the next page, page 2 of this amendment,  
9 provides at the top, Section 2.3, that "TGC Investors shall be the  
10 administrative member of the company."

11 A Correct.

12 Q And then if you go further in that same paragraph it says,  
13 "From and after the effective date, any reference to the  
14 administrative member shall here and after mean TGC  
15 Investor, who shall act solely through its manager, Adam  
16 Flatto, or such other designee appointed by TGC Investor  
17 from time-to-time."

18 See that?

19 A Correct.

20 Q Did you, at any point in time, after executing this amendment  
21 to the limited liability company agreement, designate or authorize  
22 Matthew Farkas to execute any document or enter into agreement that  
23 could or would bind TGC Farkas Funding?

24 A No.

25 Q Did you authorize him to enter into settlement discussions

1 with Jay Bloom?

2 A Never.

3 Q Did anyone from First 100 ever reach out to you, Adam  
4 Flatto, to discuss settlement of this action?

5 A Not once.

6 Q Other than the email that was sent in January of 2017 to  
7 Matthew Farkas saying that you just wanted your money back because  
8 of the untoward issues associated with the operation of First 100, was  
9 there any other direction to Matthew Farkas saying I just want to get out?

10 A No.

11 Q What changed between January of 2017, when you sent the  
12 email to Matthew Farkas that he forwarded to Jay Bloom in April of  
13 2017, and January of 2021?

14 A We -- we did not get any books and records, as requested.  
15 And I -- I got very -- increasingly frustrated and suspicious of what is  
16 really going on inside this entity and, therefore, went to arbitration to get  
17 enforced our request to just provide books and records.

18 Q Now, in the arbitration award -- if we go back to Exhibit II or  
19 Exhibit 2 in our books -- we go to page 3. You see where it says, "First,  
20 the evidence shows that Matthew Farkas did not have authority to bind  
21 claimant to the redemption agreement, as he did not seek and obtain the  
22 consent of Mr. Flatto."

23 A Yes.

24 Q And then further down where it says, "And claimant notified  
25 respondents via email on April 18th, 2017, that Matthew Farkas did not

1 have the authority to bind claimant under the redemption agreement,  
2 unless and until approved by Adam Flatto." Do you see that?

3 A Yes.

4 Q Did you have any reason to believe that certainly subsequent  
5 to this arbitration award, that there was any ambiguity in the  
6 requirement for you to consent to any action purportedly on behalf of  
7 TGC Farkas Funding?

8 A It could not have been more clear to me.

9 Q Why did you not provide notice of the amendment to the  
10 operating agreement of TGC Farkas Funding to First 100 after it was  
11 executed in September of 2020?

12 A The company was already on notice of the effect of. They  
13 already knew they needed my approval.

14 Q TGC Farkas Funding or you personally received a million  
15 dollars from First 100?

16 A No.

17 Q Or any portion?

18 A Not anything.

19 Q Has there been a tender of any money to TGC Farkas  
20 Funding?

21 A Never.

22 Q Have you ever received information to indicate there had  
23 been proof of funds or some other basis for believing that funds were  
24 forthcoming?

25 A None, which were going to be coming to me.

1 Q Any that were coming to TGC Farkas, care of Matthew  
2 Farkas?

3 A No.

4 Q And in your communications with Jay Bloom, over the years,  
5 has he -- have you had discussions with him about the sale of the assets  
6 of First 100?

7 A Many times.

8 Q And have you ever received tender of a check from First 100?

9 A Not once.

10 Q Are you skeptical -- do you have any skepticism of Mr.  
11 Bloom's representation that there is any sale agreement that would  
12 result in funds that could be used to pay you?

13 A Nonperformance of that provision would be very consistent  
14 with all of my years of experience with Jay Bloom and this company.

15 Q Were you asked to review the settlement agreement --

16 A Never.

17 Q -- by Jay Bloom?

18 A Never.

19 Q Were you asked to review the settlement agreement by  
20 Matthew Farkas?

21 A No.

22 Q Were you asked to consent to settlement?

23 A No.

24 Q Did you consent to terminate Garman Turner Gordon and  
25 hire Raffi Nahabedian for the purpose of effectuating the settlement?

1 A No. I've never --

2 Q And when I say "effectuate the settlement", to dismiss this  
3 action, the arbitration award, and the pending contempt proceedings?

4 A I had never heard of Raffi Nahabedian until after all of this  
5 came to light.

6 Q Has TGC Farkas incurred fees and costs to enforce the  
7 judgment?

8 A Considerable.

9 Q And there was an award of fees and costs in the underlying  
10 judgment. Has TGC Farkas received any funds from First 100?

11 A Not one penny.

12 Q If we go to the operating agreement for First 100 -- I believe  
13 counsel showed you at NN, the operating agreement for First 100  
14 Holdings. Do you recall that?

15 A Yes.

16 Q All right. If we go to Section 13.9 on page First 0575. There  
17 we go. Can you see that, Mr. Flatto?

18 A Yes.

19 Q This is the dispute resolution provision of the arbitration  
20 agreement. Did TGC Farkas Funding comply with this provision, in your  
21 opinion?

22 A My understanding is, yes.

23 Q And that the obligations of First 100 were as a result of the  
24 arbitration award entered in September 2020?

25 A Correct.

1 Q Now, if we go to page First 0562, it's page 8 of the operating  
2 agreement. Section 4.2. Where it says, "Subsequent contributions."

3 A Yes.

4 Q It says,  
5 "If necessary and appropriate to enable the company to meet  
6 its costs, expenses, obligations, and liabilities, and if no  
7 lending source is available, then the manager shall notify  
8 each class A member, capital call, of the need for any  
9 additional capital contributions."

10 Do you see that?

11 A Yes.

12 Q Has TGC Farkas Funding received any notice for a capital  
13 call?

14 A None, as it relates to this -- in the past year.

15 Q Has there been any capital call for the purpose of having the  
16 First 100 entities comply with the final judgment that was entered in  
17 November of 2017?

18 A Absolutely not.

19 Q Or prior to that, subsequent to the arbitration award?

20 A None.

21 Q And if we go to Bates Number First 0584, page 29, it indicates  
22 there's two places in the list of members: One, TGC Farkas Funding,  
23 LLC, with \$1,000,005. Do you see that?

24 A Yes.

25 Q For 1.5 percent?

1 A Yes.

2 Q And then if you go up, you see 1.5 percent for TGC Farkas  
3 Funding and it says, "Three year vesting." Do you see that?

4 A Yes.

5 Q And that was consistent with the contribution of Matt  
6 Farkas's sweat, as the result of an employee -- being an employee of  
7 First 100? Is that your understanding?

8 A Yes, it was..

9 Q All right.

10 MS. TURNER: I'm going to pass the witness.

11 THE COURT: All right. I think now would be a good time to  
12 take a brief recess. Let's reconvene at 10 after 11.

13 MS. TURNER: Thank you.

14 THE COURT: Okay. I think --

15 [Recess at 10:58 a.m., recommencing at 11:08 a.m.]

16 THE COURT: All right. We're reconvening, TGC/Farkas  
17 Funding, LLC. vs. First 100, LLC. et al. I see counsel are present. I don't  
18 see the witness yet.

19 THE CLERK: Judge, for the record, can I just have you admit  
20 Exhibits 1, 21, and 22. They were offered with no objection.

21 THE COURT: So ordered.

22 [Plaintiff's Exhibits 1, 21, 22 admitted into evidence]

23 THE CLERK: Thank you.

24 MS. TURNER: I just sent an email to Mr. Hogan. Had you  
25 communicated with him, Mr. Gutierrez?

1 MR. GUTIERREZ: I just sent an email, too, letting him know  
2 to be ready in about five minutes.

3 THE COURT: You have some redirect, right, Mr. Gutierrez, so  
4 if the --

5 MR. GUTIERREZ: I do, Your Honor, so whenever --

6 MS. TURNER: Well --

7 THE COURT: I beg your pardon?

8 MR. GUTIERREZ: It won't be too long.

9 THE COURT: Okay.

10 MR. GUTIERREZ: So --

11 THE COURT: Is the witness --

12 MR. GUTIERREZ: I'm ready now.

13 MS. TURNER: Okay.

14 THE COURT: Is the witness on yet?

15 MS. TURNER: Yes. Mr. Flatto? He's on.

16 THE COURT: Okay. His thing is off. Mr. Flatto?

17 THE WITNESS: All right. I'm joining. Hold on. There we go.

18 MS. TURNER: There we go.

19 THE COURT: All right. Very well. Redirect, Mr. Gutierrez.

20 MR. GUTIERREZ: Thank you, Your Honor. Thank you, Your  
21 Honor.

22 REDIRECT EXAMINATION

23 BY MR. GUTIERREZ:

24 Q Mr. Flatto, can you turn to Exhibit 22, which is the July 13th,  
25 2017 letter by Garman Turner Gordon?

1           A     I don't have the numbered exhibits. I can't find them. Could  
2 somebody put it up? Or I wonder if I could find it.

3           MS. TURNER: Which exhibit?

4           THE WITNESS: I have A's and B. I just don't have the  
5 numbered ones.

6           MR. GUTIERREZ: Thank you, counsel.

7 BY MR. GUTIERREZ:

8           Q     Do you see that in front of you, Mr. Flatto?

9           A     Yes.

10          Q     So the third bullet point down in this letter states, "Matthew  
11 Farkas is not the manager of TGC/Farkas Funding, LLC."; do you see  
12 that?

13          A     Yes.

14          Q     In July of 2017, that wasn't a true statement; isn't that -- isn't  
15 that correct?

16          A     I -- I don't recall. I -- so first, I don't know what -- I'm not sure  
17 specifically what manager means. I believe he was the administrative  
18 member and the CEO. I don't -- I don't know -- so I -- I -- this may -- I -- I  
19 believe it is accurate; he was not the manager.

20          Q     And what was your opinion of the difference between the  
21 administrative member and the manager?

22          A     I don't know. There is a concept of manager in that LLC  
23 agreement. I'm not -- I don't recall, but I know that it -- as you and I  
24 looked at it previously, the administrative member had certain ability to  
25 act, only though restricted by getting my consent.

1 Q Well, let's look at -- let's go back to Exhibit B as in boy, and --  
2 which is the operating agreement for TGC/Farkas, and look at Section  
3 4.1, which is on page 0046.

4 A All right. Is this something I can pull up?

5 Q Yeah. This is Exhibit B as in boy, so you should have access  
6 to it.

7 A Got it.

8 Q Okay. Hold on.

9 A B. Yes. I'm sorry, which page?

10 Q 0046.

11 A Yes.

12 Q In Section 4.1 of this operating agreement, Mr. Flatto, it  
13 states that Matthew Farkas is the administrative member, correct?

14 A Yes.

15 Q And then it says the administrative member shall be a  
16 "manager of the company;" do you see that?

17 A I see that, yes.

18 Q Okay. And then it says, "As such term is defined in the Act,  
19 and shall be responsible for making all business and managerial  
20 decisions for the company." Do you see that?

21 A I see that, yes.

22 Q So your understanding that he -- Matthew Farkas was not --  
23 also the -- he was also the manager of TGC/Farkas; isn't that true?

24 MS. TURNER: Objection. Misstates the document. Speaks  
25 for itself.

1 THE COURT: Well, can could state his understanding of it.

2 THE WITNESS: My understanding was that Matthew was  
3 going to be responsible for the day-to-day management of the company,  
4 that he couldn't take any actions without my approval.

5 BY MR. GUTIERREZ:

6 Q Understood. Understood. But -- and let's go three pages  
7 into this agreement, going to 0048 of Exhibit B as in boy. And let me  
8 know when you're there.

9 A Yes, I'm here.

10 Q Even though Matthew Farkas needed you approval for any  
11 decisions, any third-party dealing with your company, pursuant to your  
12 own operating agreement, was entitled to rely conclusively upon  
13 Matthew Farkas' power and authority; isn't that true?

14 A As between me and the administrative member, I gave  
15 approval and consent, then a third party could rely on that.

16 Q The third party could rely on the representation of Matthew  
17 Farkas representing TGC/Farkas; isn't that true?

18 A Only if I give consent.

19 Q Why would a third party knew -- know if you gave consent?

20 A If they --

21 MS. TURNER: Your Honor, this is asked and answered from  
22 earlier this morning.

23 THE COURT: I'll allow it.

24 THE WITNESS: They -- they simply could have asked. Why  
25 is it that the company just didn't ask if I wanted to enter into a settlement

1 agreement, given that I was adverse to the company and simply trying to  
2 get a very benign thing, books and records? And why is the company  
3 going through all this tortured process to try to prevent me from simply  
4 getting the basic books and records? Going through all of these  
5 machinations. What is -- what is the company trying to hide? What is  
6 going on? I just want to understand. Just provide books and records.

7 BY MR. GUTIERREZ:

8 Q Mr. Flatto, you understand you're bringing this litigation;  
9 don't you understand?

10 A I am bringing the litigation to get books and records as  
11 ordered by the Court.

12 Q Isn't it true First 100 had offered to produce those, subject to  
13 you paying for them? Isn't that true?

14 A My understanding is that the arbitration award affirmed by  
15 the Court is that it's not my obligation to pay for them.

16 Q Isn't it true the question is that First 100 has offered to  
17 produce those records if you pay for them? Isn't that true?

18 A My understanding is that it's not the obligation of the -- of --  
19 my obligation to pay for them in accordance with the arbitration award  
20 as affirmed by the Court.

21 Q Mr. Flatto, you all -- we've gone through your declaration  
22 that you've submitted in the arbitration, which is August 13th, 2020,  
23 correct?

24 A We looked at it, yes.

25 Q That's Exhibit E as in Edward. That's dated after the letters

1 you have from counsel to my firm where your state -- where it states that  
2 there needs to be approval by you for it -- for -- let's go to that language  
3 exactly. We'll go to Exhibit 22 first. Do you still have that in front of  
4 you?

5 A Yeah, I don't. I have lettered ones, not numbered ones.

6 Q Okay. Actually, we don't need that. I don't need that. Strike  
7 that. Mr. Flatto, I just want to take us to your declaration. Your  
8 declaration was filed in the arbitration, and that has stated that Adam --  
9 that Matthew Farkas is the administrative member as of August 2020,  
10 correct?

11 A Yes.

12 Q And then you stated that after the arbitration award, you  
13 amended the operating agreement to remove Mr. Farkas as the  
14 administrative member; isn't that true?

15 A Yes.

16 Q And then you also stated that that was never conveyed to  
17 First 100; isn't that true?

18 A Did not give -- that's correct.

19 MR. GUTIERREZ: Thank you, Your Honor. I'll pass the  
20 witness. I don't have any further questions.

21 THE COURT: Yes, Ms. Pike Turner?

22 MS. TURNER: Very briefly.

23 RECROSS-EXAMINATION

24 BY MS. TURNER:

25 Q Mr. Flatto, under what state's laws was TGC/Farkas Funding,

1 LLC. formed?

2 A Either Delaware or New York. I -- I don't -- I don't know.

3 Q It wasn't a Nevada LLC. where there are managers defined by  
4 the NRS, right?

5 A I don't believe so, no.

6 Q And if we go to your -- your declaration that was just  
7 referenced by counsel; he was going awfully quick; at Exhibit E --

8 A Yes.

9 Q -- which was subsequent to your 2017 email and letter to  
10 First 100. Section 5, it says the administrative member can only take  
11 action by claimant after consultation with and upon the consent of all  
12 claimant members, correct?

13 A Correct.

14 MS. TURNER: All right. I'll pass the witness.

15 THE COURT: All right.

16 MR. GUTIERREZ: No further questions, Your Honor.

17 THE COURT: All right. The witness may stand down, so to  
18 speak.

19 THE WITNESS: Thank you.

20 THE COURT: And at this time, you'll call your next witness,  
21 please, Mr. Gutierrez.

22 MR. GUTIERREZ: Thank you, Your Honor. We would call  
23 Matthew Farkas.

24 THE COURT: All right. He'll be sworn.

25 THE CLERK: Please raise your right hand.

1 MATTHEW FARKAS, DEFENDANT'S WITNESS, SWORN

2 THE CLERK: And please state your name for the record,  
3 spelling your first and last name.

4 THE WITNESS: Sure. Matthew, M-A-T-T-H-E-W, F, as in  
5 Frank, A-R-K-A-S, as in Sam. Matthew Farkas.

6 THE CLERK: Thank you.

7 MR. GUTIERREZ: May I proceed, Your Honor?

8 THE COURT: Proceed. Yes, you may.

9 DIRECT EXAMINATION

10 BY MR. GUTIERREZ:

11 Q Good morning, Mr. Farkas.

12 A Good morning.

13 Q Can you hear me okay?

14 A Yeah.

15 Q Mr. Farkas, I know we took your deposition on Friday, but do  
16 you have the exhibits for today's hearing in front of you that you could  
17 access as we go through your testimony?

18 A Today's exhibits. I can get them on my phone.  
19 Unfortunately, we only have one computer. Hang on just -- I'm so sorry.  
20 Hang on one second. Okay. It's pulling up on my phone. It'll -- it'll take  
21 one second. Okay. Yes, I have -- I have the one that says, "Final  
22 evidentiary hearing." Is that what you're referring to?

23 Q They'll be two sets, Mr. Farkas. One will be from my firm;  
24 that will be lettered exhibits, and then there will be another set that are  
25 numbered exhibits from Ms. Turner's firm. Do you have both of those?

1           A     I have -- I have a final evidentiary hearing, final and -- and  
2 then below that, I have a deposition's file.

3           Q     Okay. We'll go through them as we get to the exhibits, Mr.  
4 Farkas. As long as you can access them as we're going. Can you tell us  
5 what your current position is with TGC/Farkas Funding?

6           A     I am simply a shareholder. I -- I do not have any ability to  
7 make decisions on behalf of the -- of the company anymore.

8           Q     Mr. Farkas, can you give us an overview of your educational  
9 background after high school?

10          A     Sure. I graduated from Tufts University with a BA in political  
11 science in 1984, and I received my MBA in finance from Stern School at  
12 New York University and received my MBA in 1986.

13          Q     Following getting your MBA in 1986, tell us just briefly what  
14 you did for work.

15          A     Well, I -- after graduating from business school, I started as --  
16 as an investment banker with a firm called Ladenburg Thalmann. My  
17 focus was media and entertainment. I had done my graduate thesis in  
18 business school on the radio station business. And then I took a brief -- a  
19 brief time away from Wall Street. I ran a small family company. And  
20 then that company was sold. I went back to Wall Street, but I went to the  
21 sales and trading side, and I was an institutional equity sales person.

22          Q     I think you told us during your deposition last week that you  
23 also operated a hedge fund in New York; is that true?

24          A     Yes, but that was later on. My hedge fund -- my hedge fund,  
25 I operated from 1999 until the end of 2012. I had been on the sales and

1 trading side, what's called -- what would be referred to as the sell side  
2 from around 1990 until that time.

3 Q And Mister -- so Mr. Farkas, is it fair to say that you have  
4 experience dealing with investments in your work history?

5 A Yes. Yes. Uh-huh.

6 Q And you also have experience serving in management of  
7 corporations?

8 A I would not characterize that. I would never position myself  
9 as a CEO. I worked for this -- for this family company. I tried to, you  
10 know, help them turn things around, but I would not characterize myself  
11 as a -- as a corporate management type. It's -- it's just not my  
12 background.

13 Q And in your 35 years of work experience, have you had  
14 experience reading and reviewing contracts?

15 A Not really. I mean, I'm -- I'm not a lawyer. I wasn't signing  
16 contracts or doing that kind of work. Again, mostly what I was doing  
17 was, you know, doing -- you know, working on the buy side and the sell  
18 side of Wall Street.

19 Q Okay.

20 A So I was initial salesman, and then I was in -- I was a hedge  
21 fund manager and equity portfolio analyst.

22 Q Okay. And you were experienced in litigation, correct? Civil  
23 litigation?

24 A I've been involved in -- in one or two things, but I would not  
25 say that I am experienced.

1 Q What was your -- do you remember a company called Design  
2 Tech?

3 A Yes, that was the family company that I worked for.

4 Q What was your position at that company?

5 A I mean, if you had to give it a title, you could say that I was  
6 the president, but I really wasn't running it. I mean, it was my dad and  
7 some partners, and I was just there on the day-to-day business, on a day-  
8 to-day basis, you know, trying to turn the company around. The  
9 company was in trouble.

10 Q Okay. I want to talk about your relationship with Adam  
11 Flatto. He testified that you have known each other for over 30 years; is  
12 that true?

13 A That is true. We met in college.

14 Q Okay. And you testified last week at your deposition that you  
15 had not seen Adam Flatto in person in about eight years; is that true?

16 A No, I hadn't seen him -- I -- I hadn't seen him in -- in three or  
17 four years, but it had only been once. But we have not been close for  
18 some time.

19 Q And I think you also testified last week that you only spoke to  
20 Adam Flatto once in the last several years; is that true?

21 A Once or twice in the last several years, yes. Adam and I have  
22 not been close. Most of the communication with Adam as far as First  
23 100 has been concerned has been through Mister [Audio glitch].

24 Q Now, has Adam Flatto, or anyone on his behalf, have ever  
25 told you that you are -- were exposed to a claim by TGC/Farkas Funding

1 for any type of breach?

2 A To be very clear, after what happened in August, because I  
3 had sent that affidavit to Mister [Audio glitch], who did not tell me that  
4 he was going to forward that to the arbitrator, Mr. Busch told me that  
5 they could sue me. They weren't going to, but they absolutely could  
6 because I sent that document to -- to Jay.

7 Q And you're talking about the declaration you submitted in the  
8 arbitration in August of 2020, correct?

9 A I believe so, yes. Uh-huh.

10 Q Okay. Now, and TGC/Farkas was formed in October of 2013;  
11 is that true?

12 A Yes, around that time. Uh-huh.

13 Q And you brought the First 100 investment to Adam Flatto;  
14 isn't that true?

15 A Actually, Mr. Bloom and I both did. We -- we were in New  
16 York. We were there to try to find money, and Adam was one of the  
17 meetings that we had.

18 Q Okay. But Adam was a -- a childhood friend of yours, not Mr.  
19 Bloom's; is that correct?

20 A No -- well, we weren't childhood friends. We met in college,  
21 but yes, Mr. -- Mr. Flatto was my relationship, that's correct.

22 Q Now, the -- you formed the company TGC/Farkas Funding,  
23 and as part of that, there was an operating agreement put together; is  
24 that correct?

25 A Yes. Adam's counsel put that together.

1 Q Okay. That was the next question. You didn't have any  
2 involvement in the drafting of that; isn't that true?

3 A No. No, not at all.

4 Q And did you have any involvement in the drafting of the  
5 amendment to the TGC/Farkas operating agreement in September of  
6 2020?

7 A No, I did not.

8 Q Now, is it your understanding that pursuant to the  
9 TGC/Farkas Funding operating agreement, the initial one, you were  
10 designated as the administrative member of the company, correct?

11 A That -- you're talking about 2013, right?

12 Q Yeah, the initial operating agreement.

13 A Yeah, that's right. Uh-huh.

14 Q And what was your understanding as your duties as the  
15 administrative member of the operating agreement?

16 A I -- you know, I think it was just to sort of keep an eye on the  
17 investment. There really wasn't very much to do, frankly. I mean, you  
18 know, the -- we invested -- Adam invested the million dollars in -- in First  
19 100, and from time to time, you know, early on, probably not as often as  
20 we should have, but you know, as -- it didn't take long after I had gotten  
21 there, for -- you know, for the company to have run into -- into some  
22 difficulties. And then -- and then after a while, Jay took on the role of  
23 speaking -- you know, speaking to Adam because he was able to answer  
24 questions more directly than I was.

25 Q Okay. And you worked at First 100; isn't that true?

1 A Yes, sir, I did.

2 Q What was your title at First 100?

3 A My title at First 100 was the vice president of finance. And  
4 my duties, you know, primarily were to raise capital so that the company  
5 could execute its business plan.

6 Q Now, in this case, you signed a settlement agreement  
7 between TGC/Farkas and First 100 that's dated January 6th, 2021,  
8 correct?

9 A [No verbal response].

10 Q Is that yes or no, sir?

11 A I said, yes. I beg your pardon. Yes, I did.

12 Q Sorry, I didn't hear you. Okay. Now, prior to signing that  
13 settlement agreement on January 6th, you did not send any documents  
14 to First 100 to show that you were no longer the administrative member  
15 of TGC/Farkas; is that correct?

16 A I did not send a document; that's correct.

17 Q Isn't it true, you -- you did not even remember signing the  
18 amendment to the TGC/Farkas Funding operating agreement when Mr.  
19 Bloom asked you after counsel from -- for TGC/Farkas notified First 100?

20 A I -- I don't remember. I don't remember.

21 Q Do you have a recollection of signing the amendment to  
22 First -- to the TGC/Farkas operating agreement in September of 2020?

23 A I believe so, yeah. I believe so.

24 Q Now, I want to go to -- you have a declaration that you  
25 submitted in this case in January of 2021, which is Exhibit FF. I'm not

1 admitting it, but I want you to have it, Mr. Farkas, to -- to refresh your  
2 memory. Let me know when you have it.

3 THE COURT: What's the -- what's the designation counsel?  
4 You said Double S?

5 MR. GUTIERREZ: Double F as in Frank.

6 THE COURT: Oh, F, okay.

7 THE WITNESS: F as in Fran. Okay. I -- I'm pulling it up on  
8 my phone, Mr. Gutierrez. Give me one second. Okay. I have it.

9 BY MR. GUTIERREZ:

10 Q Okay. You've seen this declaration before, correct? Mr.  
11 Farkas?

12 A Yes, I have.

13 Q It was prepared by the law firm of Garman Turner Gordon; is  
14 that correct?

15 A That's correct.

16 Q Now, in this offer -- in this declaration, you stated that -- at  
17 least on paragraph 4, that you wanted to limit the representation of  
18 Garman Turner Gordon with -- with respect to the First 100 matter; isn't  
19 that true?

20 A That is true.

21 Q Tell us why you -- you wanted to limit that representation.

22 A Because as -- you know, as I told you in the past, I really did  
23 not want to sue Mr. Bloom because of our familial relationship. I really  
24 didn't want to be a part of this, and as much as I could be away from it, I  
25 wanted to. I didn't want to sue the company. I didn't want to sue Jay. I

1 didn't want to hurt anybody. Now, I understand why Mr. Flatto wants to  
2 see the information that he wants, but I did my -- my level best to -- to  
3 stay out of this.

4 Q Okay. And -- and you made that clear in your deposition,  
5 and you're making it clear now, that you wanted to make sure there  
6 was -- that there was no litigation against you. Or that you were  
7 involved at the First 100 and TGC/Farkas, correct?

8 A Correct.

9 Q And one of your other goals as well, Mr. Farkas, is it fair to  
10 say that you wanted to ensure that Adam Flatto received his investment  
11 back that was put into First 100, correct?

12 A Of course. I wanted him to see his -- his money back, sure.

13 Q And if you could go to Exhibit C. Let me just make sure --

14 A E as in Edward?

15 Q Exhibit -- I'm sorry, C as in cat.

16 A Okay. C as -- just one C? Not double C?

17 Q Yeah. Yeah. One C.

18 A Okay. No, because there -- I have two. There's a double C  
19 there, too.

20 Q Yeah. And this would be page 0188. It's an email dated  
21 January 23rd, 2017.

22 A 01- -- oh, all right. I got to go down the page a little bit here.  
23 Okay. Six, seven -- I'm almost there. I'm -- I'm so sorry. 85, 87. 80- --  
24 yes, okay. I'm at 88.

25 Q And you've seen this email before, dated January 23rd, 2017

1 from Adam to you, correct?

2 A Yes, I have.

3 Q Okay. And tell us what your understanding of this email was.

4 A Is this at the top where -- where the last line is that this time  
5 has come to an end? Is that the one you're referring to?

6 Q Yes.

7 A It is, okay. You know, my -- my understanding is that, you  
8 know, during the course of the investment, from let's say 2013 to -- to  
9 2017, or 2016, when I left the company, that Jay had made a number of  
10 representations in several occasions. He -- he had even asked Adam for  
11 wire instructions as to where he could send money. I think that Mr. --  
12 Mr. Flatto was extremely frustrated by how things had gone, and -- and  
13 what he believed was the lack of transparency. And I think he had just,  
14 you know, sort of reached -- reached a point where he -- he was tired  
15 of -- of listening to excuses and -- and deflections. And I think he was  
16 trying to move on. That's my [Audio glitch].

17 Q When you read this email by Mr. Flatto, was it your  
18 understanding that he wanted his investment returned and wanted out  
19 of First 100?

20 A At that time, yes. Yes.

21 Q And in fact, you forwarded this -- you sent this email to Jay  
22 Bloom, it looks like down on April 27th, 2017?

23 A I did.

24 Q Where you said Adam is going to cede his holdings, correct?

25 A That's correct.

1 Q Did you ever send another email to Jay Bloom saying, you  
2 know, Adam's changed his mind; he doesn't want to cede his holdings  
3 and he doesn't want his million-dollar investment back?

4 A What I sent was that I think that Adam felt that if we were  
5 going to get a settlement from Mr. Ngan, and I'm referring to Raymond  
6 Ngan, and there was going to be the opportunity to get more than his  
7 investment back, I think he obviously would have preferred to have had  
8 that -- had that happen.

9 Q My question was specific as to did you send another email to  
10 Jay Bloom after this date in 2017 where you said Adam has changed his  
11 mind?

12 A I believe I did. I -- I don't remember, but I think I did. I think I  
13 did.

14 Q When was it?

15 A I -- I don't remember the date.

16 Q Okay. In Adam's email to you, he -- he tells you that he does  
17 not want to be part of anything related to Raymond Ngan, correct?

18 A In this one, yes, that's correct.

19 Q And he said to you that he will feed to you, the excess  
20 proceeds, if any, from this, correct?

21 A This email, that's correct, but that wasn't the case in the later  
22 one.

23 Q Well, where -- where is the later one? Because we haven't  
24 seen it.

25 A I don't -- I don't have it. I mean, you're telling me that it's

1 there. I mean, I -- I know that -- I -- I don't know that there was an email.  
2 I know that Adam and I certainly had a conversation regarding that, and  
3 I'm sure that he -- you know, if he felt that we were going to see  
4 something from -- from the -- the judgment with Mr. Ngan, that he would  
5 like to get the full amount that he would have been due, had we seen any  
6 of the money.

7 Q Okay. So now it wasn't an email, it was a conversation that  
8 you may have had with Mr. Flatto regarding him changing his mind?

9 A Mr. Gutierrez, I don't remember if there was an email or a  
10 conversation, but I know that we spoke about it. I don't know -- I don't  
11 remember the exact form. It was five years ago.

12 Q You don't know if there was an email that you sent to Jay  
13 Bloom saying Adam has changed his mind on the return of his  
14 investment, correct? You don't know that?

15 A I don't know. I don't -- I don't remember, but I might have  
16 sent something. I don't remember.

17 Q Now, you were also -- while you were with First 100,  
18 gathering financial information for Adam Flatto, correct?

19 A I don't -- on one occasion, yes.

20 Q Okay. Go to Exhibit Z as in zebra.

21 A Okay. Hang on one second. And we are at Z as in zebra.  
22 Okay. I'm there.

23 Q Okay. Now, this is an email from you to the -- Adam Flatto,  
24 the bottom email, dated December 22nd, 2015, correct?

25 A Wait. We're -- I'm sorry, where -- what page are we at now?

1 I -- I -- I just in Z. Are we on page 22?

2 Q Z as in zebra. It should be 459. 0459.

3 A Is it -- okay. "Adam encloses the first portion of the financials  
4 requested;" is that what you're referring to?

5 Q Yes.

6 A Okay. I'm there.

7 Q You state, "Enclosed is the first portion of the financials  
8 requested. I will have everything completed by tomorrow." What were  
9 you having completed by tomorrow for Mr. Flatto?

10 A All I can remember from -- I mean, this was, you know, seven  
11 years ago, but I -- or six years ago, but I -- I'm pretty sure I was referring  
12 to having Mike Hendrickson or -- or whoever was preparing the  
13 documents for Adam, that they would be finished.

14 Q Okay. And if you go to the next page, which is 460 --

15 A Same exhibit?

16 Q Same exhibit, sir, yes.

17 A Yeah. Uh-huh.

18 Q Who is Michael Hendrickson?

19 A Mike Hendrickson was the controller for First 100.

20 Q What was his job as controller at First 100?

21 A I mean, I'm assuming that his job was to -- was to keep track  
22 of the financial records, you know, of the company.

23 Q And in this exhibit, which is Exhibit Z, for -- Bate number  
24 0460, it's an email from Mr. Hendrickson to you dated December 22nd,  
25 2015, where he's sending you a 2013 and 2014 financial statements; is

1 that right?

2 A Yes.

3 Q Is that correct?

4 A Yeah. I'm reading it right in front of me. That's correct.

5 Q And he also tells you that the tax return was prepared by  
6 Mecham Dicus and Company by Mark Dicus; is that correct?

7 A That's what it says.

8 Q Okay. So when you needed financial information, you were  
9 going right to Michael Hendrickson, correct?

10 A I mean, I didn't go to him very often, but -- but when I needed  
11 something, yeah, Jay told me to go to Michael.

12 Q Okay. And Michael provided you the information that you  
13 then sent to Adam Flatto, correct?

14 A This -- in this particular case, that's correct.

15 Q Okay. And you would also provide updates to Adam Flatto  
16 regarding the business of First 100, correct?

17 MS. TURNER: Objection as to time.

18 THE COURT: Sustained.

19 BY MR. GUTIERREZ:

20 Q During -- during your time, Mr. Farkas, at First 100 in 2013 to  
21 2016, you would provide -- you would provide updates to Mr. Flatto on  
22 that First 100, correct?

23 A Not after the end of 2014. At that point, Jay had really taken  
24 over speaking to Adam. On a --

25 Q And --

1           A     I mean, I don't know how regular a basis, but Jay would --  
2 Jay would occasionally come to me and say I spoke to Adam.

3           Q     Okay.

4           A     But Adam and I at that -- were not having -- were not having  
5 consistent or -- or frequent conversations.

6           Q     Okay. Well, go to the exhibit before, which is Exhibit Y.

7           A     Okay. Hang on. Exhibit Y. Okay.

8           Q     You said after 2014, you were no longer providing Adam  
9 updates, but this is an email from July of 2015 where you're providing  
10 Adam Flatto an update on the First 100 operation; isn't that true?

11          A     Let me clarify. We were not having -- as I said, we were not  
12 having consistent or frequent conversations. There were maybe one or  
13 two emails over the course of the year, but it was not a consistent -- it  
14 was not an consistent or frequent communication with Adam.

15          Q     Go to the next page, 0458, under the same Exhibit Y. This is  
16 an email dated July 4, 2015 from Adam Flatto to you, stating, "I'm back  
17 in New York. Can you give me a brief update?" Correct? Is that correct,  
18 sir?

19          A     Yes, that's what it says.

20          Q     And is Jay Bloom on that email?

21          A     I do not see Jay Bloom on this email.

22          Q     Okay. We go to the page before it, 0457. You respond to  
23 Adam Flatto on July 4, 2015 with an update; is that true?

24          A     Yes.

25          Q     Is Jay Bloom on that email?

1 A No.

2 Q And then Adam responds to you on July 4th, 2015, and Jay  
3 Bloom's not on that email, correct?

4 A That's correct.

5 Q Okay. You were also involved with First 100 in discussions  
6 regarding use of company funds; isn't that true?

7 A Involving use of company funds? I mean, again, Mr.  
8 Gutierrez, there were times when Mr. Bloom would ask my input one  
9 something, but I was not in charge of where our money was going. I  
10 never had any discretion as to where money was going. Again, I -- I --  
11 Jay would come to me, like he'd come to anyone else in the company.  
12 But I was not his go-to guy for -- for talking about where money was  
13 going to be spent or where it was going to go.

14 Q Okay. When -- when you or Mr. Flatto would have  
15 discussions regarding TGC/Farkas matters, how would he give you his  
16 consent for any type of authorization?

17 MS. TURNER: Objection as to time. Compound.

18 THE COURT: Sustained.

19 BY MR. GUTIERREZ:

20 Q You -- Mr. Farkas, let's limit it in the last two years, okay?  
21 How would Adam Flatto give you his consent for any matter about  
22 TGC/Farkas?

23 A I mean, he didn't really give me consent for anything. I  
24 mean, there's -- you -- you would be implying from that statement, Mr.  
25 Gutierrez, that we were having a -- you know, again, we were having a

1 consistent dialog, and I would ask him something and he would say,  
2 okay. We didn't have that sort of a relationship anymore.

3 Q Okay. Now, I want to talk, Mr. Farkas, about the January 6th,  
4 '21 settlement agreement.

5 A Okay.

6 Q Exhibit -- Exhibit I?

7 A Exhibit I?

8 Q I, yeah.

9 A Let me get there. Okay. That's pulling up. Okay. Yep.  
10 There it is.

11 Q Go to the third page of this exhibit, which is Bate stamp 0326.

12 A Uh-huh.

13 Q And that's your signature on behalf of TGC/Farkas Funding,  
14 LLC. as a 50 percent member and manager, correct?

15 A It is my -- it is my signature. I did not realize I -- that I was  
16 still the manager, but that is my signature.

17 Q Okay. Now, when you received these documents from Jay  
18 Bloom, you were at a UPS store; is that right?

19 A Yes, I was at the UPS store in the Southern Highlands  
20 shopping center.

21 Q And you signed them at the UPS store and then returned  
22 them to Mr. Bloom; is that correct?

23 A Correct.

24 Q And the reason you were at the UPS store is because you  
25 don't have a working printer at your house; is that true?

1 A True.

2 Q And you also don't have a scanner either, correct?

3 A No, I don't have a scanner.

4 Q So you had to go to the UPS store in order for you to receive  
5 the documents, print them out, and then send them back; is that correct?

6 A I had to go to the UPS store in order for me to print the  
7 documents. He could have sent them to my email and I could have read  
8 them. But yes, I needed to go there to -- to have them printed out and  
9 then sent back.

10 Q Who was with you at the UPS store when you were there?

11 A I was alone.

12 Q So nobody was there threaten -- physically threatening you  
13 to sign the settlement agreement, correct?

14 A To physically threaten me? No.

15 Q Mr. Bloom wasn't at the UPS store when you received the  
16 settlement agreement, correct? Did Jay Bloom -- Mr. Farkas, did Jay  
17 Bloom ever tell you not to read the settlement agreement before signing  
18 it?

19 A Mr. Bloom did not tell me that, but again, these doc -- this  
20 document was part of a large number of documents that Mr. Bloom sent  
21 me under the guise that I was going to be retaining Raffi Nahabedian as  
22 not only my personal -- as my personal lawyer. As it turns out, Mr.  
23 Bloom had planned for me, without telling me, that Raffi would be  
24 replacing Garman, which I never would have agreed to because I didn't  
25 hire Garman. I wasn't in a position to fire them. So I admittedly,

1 mistakenly signed that agreement because I was under the impression  
2 from Mr. Bloom that this was simply signing documents to retain Mr.  
3 Nahabedian and give him, you know, the threats that Mr. Bloom had  
4 made previously. And I sent those threatening -- those threatening text  
5 messages to counsel. I just didn't want any problems, so I mistakenly  
6 signed this -- this document too quickly.

7 Q And whose fault is that, that you did not read the documents  
8 before you signed it?

9 A It's my fault.

10 Q I want to go to Exhibit -- we'll come back to the settlement  
11 agreement. So go to Exhibit W.

12 A Okay. One second. I'm sorry, it doesn't seem to be pulling  
13 up. Oh, here we go. Here we go.

14 THE COURT: What was it, counsel?

15 MR. GUTIERREZ: W, Your Honor.

16 THE COURT: Okay.

17 MR. GUTIERREZ: Bate Number 044- --

18 THE WITNESS: Yes. I got it.

19 BY MR. GUTIERREZ:

20 Q January 7th text message thread between you and Jay  
21 Bloom, correct?

22 A Correct.

23 Q And on January 7th, that's when you were at the UPS store  
24 when he sent the settlement agreement to you?

25 A Yeah. It says, "I'm here. Waiting in line to get in."

1 Q Okay. And then you give him the email for him to send the  
2 documents, correct?

3 A I did.

4 Q Is there -- is there anything in this text thread that would --  
5 you would consider a threat, forcing you to sign this settlement  
6 agreement?

7 A In this particular text, no, but there were others

8 Q Now, while you were at that UPS store, you could have  
9 called Adam Flatto and gone over the documents, correct?

10 A Yes, I could have.

11 Q You could have texted Adam Flatto before signing any  
12 documents, but you chose not to, correct?

13 A Mr. Gutierrez, I want to make something clear.

14 Q No, I -- I asked a question, yes or no. You could have texted  
15 Adam Flatto before signing the document at the UPS store; is that  
16 correct or not?

17 A Texted Adam Flatto, I could have. I wasn't there. I didn't  
18 think to text Adam Flatto because I thought I was there to retain Mr.  
19 Nahabedian as my personal attorney, which is why Jay Bloom told me  
20 that I was going there.

21 Q You could have crossed out any terms that you did not agree  
22 with in any of the documents that you signed; isn't that true?

23 A Again, I made a mistake in signing this as it was. Yes, I could  
24 have crossed out anything.

25 Q And in fact, you -- you -- when you signed your declaration in

1 January in this case, you actually crossed out a date that was wrong and  
2 you handwrote the right date as far as your last date for First 100; isn't  
3 that true?

4 A That is true.

5 Q You could have done the same thing with any document that  
6 was sent to you by Mr. Bloom while you were at that UPS store; isn't that  
7 true?

8 A Yes, Mr. Gutierrez, that's true.

9 Q Okay. And you had the entire documents to review while  
10 you were at the UPS store, not just the signature pages; isn't that true?

11 A I had the entire documents.

12 Q And do you think your -- in the deposition, you said that  
13 Jay's words were please sign these and get them back to me; isn't that  
14 correct?

15 A That is correct.

16 Q Jay Bloom never told you don't talk to Adam Flatto about  
17 these documents; isn't that true?

18 A He never told me not to speak to Adam.

19 Q Now, when looking at the terms of the settlement agreement  
20 on Exhibit I, Mr. Farkas -- you have read the settlement agreement,  
21 correct?

22 A I did not read the settlement agreement. I should have, but I  
23 didn't. I just signed it. I wanted to get out of there.

24 Q I --

25 A I wanted to get out --

1 Q I'm sorry, I -- go ahead.

2 A I wanted to get out of the store. I wanted to get these  
3 documents back to Jay, and I felt that I was -- again, I thought that I was  
4 there to retain Mr. Nahabedian, not to replace or to negotiate a  
5 settlement agreement between the two entities.

6 Q Okay.

7 A At any --

8 Q So you --

9 A He never said why don't we do a settlement agreement?

10 Q Well, did --

11 A At any time, Jay do -- settlement agreement; he didn't say  
12 that.

13 Q Isn't it true, Mr. Farkas, that you were trying to resolve the  
14 litigation between First 100 and TGC/Farkas? Isn't that true?

15 A Yes, I absolutely wanted there to be -- I wanted it resolved. I  
16 didn't want to -- I didn't want to, you know, be a part of any litigation, but  
17 again, I understood why Mr. Flatto wanted the documents that he  
18 wanted, and he was awarded those documents in the arbitration.

19 Q Okay. Now, in -- and I understand your position, Mr. Farkas.  
20 I just want to be clear. In the settlement agreement, Exhibit I, line 10,  
21 states, "The parties wish to resolve the dispute without further litigation."  
22 That is something you wanted, correct?

23 A Of course.

24 Q Exhibit -- and -- and it goes on, the settlement agreement  
25 discusses repayment of Mr. Flatto's investment of a million dollars, plus

1 six percent interest upon collection of proceeds from the Raymond Ngan  
2 judgment. That is something that is consistent with the January 2017  
3 email that we read earlier from Mr. Flatto, correct?

4 A It is. But let me also be clear, Mr. Gutierrez, that in this  
5 settlement agreement, again, the way I understand it, that -- that -- that  
6 this settlement agreement absolves Mr. Bloom of having to come up  
7 with -- with any kind of a definite date as to when he will get paid, and it  
8 also, the way I understand this, allows Mr. Bloom to never have to turn  
9 over the books and records of the company that Mr. Flatto was awarded  
10 in the arbitration.

11 Q Okay. And then I want to be clear -- let's go back to Exhibit  
12 W, which is your text message thread with Jay Bloom.

13 A Uh-huh. Okay.

14 Q And at page 0452 --

15 A Oh, my goodness, my -- I'm sorry, I have to get back to it.  
16 My -- my phone just --

17 THE COURT: All right. Let's do this, counsel, let's recess  
18 now for lunch, reconvene at 1:00.

19 MS. TURNER: Yes, Your Honor.

20 MR. GUTIERREZ: Thank you, Your Honor.

21 THE COURT: Okay. Thank you.

22 MS. TURNER: Thank you.

23 [Recess at 11:56 a.m., recommencing at 1:00 p.m.]

24 THE COURT: All right. We're back on the record. I believe  
25 court staff is present, correct?

1 THE CLERK: Correct. I'm here.

2 THE COURT: Okay. Very well. And Jennifer is present as  
3 well?

4 THE COURT RECORDER: Yes, Judge, I'm here.

5 THE COURT: All right. You may resume. The witness has  
6 retaken the stand, so to speak, and you may resume your examination.  
7 Mr. Gutierrez? Mr. Gutierrez? I think you may be muted.

8 MS. TURNER: Chris, star 4 on your phone and it will unmute  
9 you.

10 MR. GUTIERREZ: Can you hear me now, Your Honor?

11 THE COURT: Yes.

12 MR. GUTIERREZ: Okay. Thank you. Sorry.

13 BY MR. GUTIERREZ:

14 Q Okay. Mr. Farkas, can you hear me? Sorry, I was talking to  
15 myself.

16 A Yes, that's -- that's fine.

17 Q Before we took a break, I was on Exhibit W, which are some  
18 text messages between you and Mr. Bloom. Do you have that in front of  
19 you? I think you have -- you were trying to pull them up on your phone.

20 A Sure. I'm getting -- I'm getting it, but I'm back and I'm  
21 getting there right now. I'm sorry, so W?

22 Q Correct.

23 A Okay. Yes. Okay. W. I'm in.

24 Q And this is a text thread between you and Jay Bloom,  
25 correct?

1 A Yes, it is.

2 Q Okay. Now, you're aware that on -- on January 15th, Garman  
3 Turner Gordan sent a letter to Raffi Nahabedian that -- that provided the  
4 amendment to the TGC/Farkas property agreement; do you recall that  
5 letter?

6 A I -- I believe so. I'm not 100 percent sure. I believe so.

7 Q Let's look at it just to be clear. Go to Exhibit N as in Nancy.

8 A Okay. N as in Nancy. Single N?

9 Q Yeah.

10 A All right.

11 Q And take a look at it, and then just I'll ask you a couple of  
12 questions.

13 A Okay. So you're going to give me a second to read this?

14 Q Yes.

15 A Okay. Okay.

16 Q Do you now recall this letter, Mr. Farkas?

17 A I mean, I -- I -- I -- yeah, I mean, I -- yes. I -- I don't think I  
18 actually read through this whole thing, but I -- I understand what it's  
19 saying.

20 Q And in this letter, there's -- and it closes the amendment, the  
21 September 2020 amendment to the TGC/Farkas operating agreement; do  
22 you recall that?

23 A Yes.

24 Q Was this letter the first time you -- that you -- you saw --  
25 MR. GUTIERREZ: Or I'm sorry, strike that.

1 BY MR. GUTIERREZ:

2 Q Was this letter the first time -- I'm sorry, did this letter help  
3 you remember that you assigned the -- the 2020 amendment to the  
4 TGC/Farkas operating agreement; when you saw this letter?

5 A To be honest, not really, Mr. Gutierrez. Again, I -- I -- I was  
6 under the impression that I was no longer the decision maker or driving  
7 the ship. And I -- and I thought that that was the case since 2017 when  
8 this whole action started because once I had left First 100, there really  
9 wasn't any reason for me to be in charge what -- what the entity was  
10 going to do. I was -- I was trying to leave it in the the hands of Mr. Flatto  
11 and Ms. Turner.

12 Q Okay. So it -- it was your position, Mr. Farkas, that you  
13 thought you were out of the administrative member role of TGC/Farkas  
14 in 2017; is that fair to say?

15 MS. TURNER: Is that a yes?

16 THE WITNESS: Yes. Yes. I'm sorry. I'm -- I'm trying to be  
17 clear. The answer is yes.

18 BY MR. GUTIERREZ:

19 Q Okay. And then Exhibit E, if you could turn to that, E as in  
20 Edward, which is the supplemental declaration of Adam Flatto.

21 A Okay. I'm getting -- okay. I'm getting it. Okay. Yes. I'm  
22 sorry, go ahead.

23 Q You recall us talking about this declaration with Mr. Flatto  
24 during your deposition last week, correct?

25 A I do.

1 Q And in this declaration, Mr. Flatto states in paragraph 4 that  
2 you, at the -- as of August 13th, 2020, were still the administrative  
3 member of TGC/Farkas; is that -- is that correct?

4 A I didn't believe I was, but I understand that's what's being  
5 said.

6 Q Okay. And you understand this document was submitted in  
7 an arbitration at First 100 received; do you understand that?

8 A Well, now, yes.

9 Q Yeah. And then subsequently a month later, you then find  
10 the amendment for the -- the TGC/Farkas operating agreement, removing  
11 you as the administrative member, correct? And I think we've  
12 established that -- and you agree that First 100 wasn't notified of that  
13 September 2020 amendment to the operating agreement to TGC/Farkas,  
14 correct?

15 A That's correct.

16 Q So when you go back to Exhibit W, which are your text  
17 messages with Mr. Bloom -- let me know when you're there.

18 A Okay. So this is -- well, I'm going back to the text message  
19 from the UPS -- UPS store?

20 Q Yeah. Then that's 449. If you can go to 452, that's the one I  
21 want to look at. It's a January 18th, 2020 -- 2021 text message.

22 A Okay. 44- -- all right. So 4 -- 452?

23 Q Yeah. On the top it should say January 18th, 11:52 a.m.

24 A Okay.

25 Q Okay. So it -- the right -- the blue is Jay Bloom's responses,

1 and the left is yours, correct?

2 A I believe so, yes.

3 Q Okay. So on January 18th, 2021, Jay Bloom tells you, "Can  
4 you send me what you sent Raffi?" And your response was, "Sure;" is  
5 that right?

6 A That's what it says.

7 Q And you say, "I'm just waiting for Raffi to give me the okay,"  
8 right? And then you do -- you told Mr. Bloom that, obviously, your --  
9 you're kind of -- you feel like you're in the middle; is that fair to say,  
10 between First 100 and TGC/Farkas?

11 A That's -- that's entirely true.

12 Q And then Mr. Bloom asks you on this date, January 18th,  
13 2021, about the September amendment to the operating agreement that  
14 you had found. Do you see that?

15 A Yes, I -- I do. All right. Go ahead. I'm sorry, would you ask  
16 that question again? I was just fixing my phone so I could read  
17 everything. I beg your pardon.

18 Q Mr. Bloom ask -- Mr. Bloom asked you on January 18th, 2021  
19 about the September amendment to the operating agreement that he --  
20 he says he was told you found. Do you remember looking for that  
21 amendment to the TGC/Farkas operating agreement to send to Jay  
22 Bloom?

23 A I think I looked for it. I don't remember finding it, but I think I  
24 looked for it, yes.

25 Q Okay. So you couldn't find the amendment to the

1 TGC/Farkas agreement, at least the signed one that you had?

2 A I -- I don't believe I was able to find it, that's right.

3 Q And you say you couldn't find it; you couldn't provide that to  
4 Jay Bloom, correct? Okay. Now, Mr. Farkas, do you recall a recorded  
5 conversation between you and Dylan Ciciliano at Garman Turner Gordon  
6 that was transcribed?

7 A Yep, I do.

8 Q Okay. And you had your permission -- you gave Mr. Ciciliano  
9 your permission to record that conversation, correct? I can't hear you,  
10 Mr. Farkas. I'm sorry. I don't know if it's my audio.

11 A I did. I gave him permission to -- to record it. I did.

12 Q All right. Okay. And Exhibit K, it's not admitted, but Exhibit  
13 K, I want to use it to refresh your memory, is a -- a declaration of Dylan  
14 Ciciliano and the transcript of the recorded call. So --

15 A What --

16 Q K. Then -- K --

17 MS. TURNER: Your Honor, the witness has not indicated he  
18 can't remember anything.

19 THE COURT: Okay.

20 MS. TURNER: That we --

21 THE COURT: We --

22 BY MR. GUTIERREZ:

23 Q Well, Mr. Farkas, do you need to review the transcript to  
24 refresh your recollection on the substance of it?

25 A I do not.

1 Q Okay. And if you do need it, it's there, but I want to ask you  
2 some questions on it. Mr. Ciciliano, during this phone -- actually, what  
3 was the date of this -- of this conversation?

4 A That date, I don't remember the exact date, unless it's on  
5 the -- unless it's on this document that I have. But I don't remember  
6 the -- I don't remember the exact date.

7 Q Okay. Do you want to look at the document, Exhibit K, to  
8 refresh your memory as to when the date was?

9 A January 21st, 2021.

10 Q Okay. Now, during that phone call with Mr. Ciciliano, did he  
11 tell you that by signing the settlement agreement with First 100, that you  
12 were going to extinguish the million-dollar investment by TGC/Farkas?

13 A He did.

14 Q And how did that -- how did you react when you heard that?

15 MS. TURNER: Objection, Your Honor. When we're talking  
16 about a communication between counsel and Matthew Farkas after the  
17 settlement agreement was executed, his understanding of the terms  
18 after he executed the agreement are immaterial, irrelevant.

19 THE COURT: Overruled.

20 BY MR. GUTIERREZ:

21 Q You can answer, Mr. Farkas.

22 A Okay. So you're -- you're -- you're asking how -- just so I  
23 refresh what you're asking, you're asking how I felt about -- about the  
24 comment?

25 Q Yes.

1           A     Obviously, I was very upset. I felt that -- I felt that I had hurt  
2 my friend and -- and extinguished the --

3           Q     And you were angry with Jay Bloom after hearing that  
4 comment because you thought he tricked you, correct?

5           A     That's correct.

6           Q     And then you've come to learn that that -- that representation  
7 by Mr. Ciciliano was false, correct?

8           A     I have.

9           Q     Okay. And it's false because the settlement agreement that  
10 you signed does not extinguish the million-dollar investment by  
11 TGC/Farkas; isn't that true?

12          A     That's true, but that doesn't mean that it -- that it doesn't  
13 have other negative things for Mr. Flatto.

14          Q     Such as what?

15          A     Such as Mr. Flatto has -- all he's asked for is to see the books  
16 and records of the company. Mr. Bloom -- according to this, and again, I  
17 said this before and I'll say it now, according to the way I understand this  
18 settlement agreement, that if and when money comes in, Adam will get  
19 his money, plus the six percent, but he will never have the opportunity to  
20 see the books and records, and Mr. Bloom will be held harmless. That's  
21 the way I understand how this reads.

22                    So yes, I was -- I -- you know, I -- I'm -- just -- just because --  
23 just because it says that -- that Adam would get his money back, doesn't  
24 mean that it's all a positive thing. And I would also go onto say that if  
25 your side was really interested in having a settlement agreement, I don't

1 understand why you, Mr. Gutierrez, didn't directly contact Ms. Turner in  
2 order to execute that settlement agreement. I think that Mr. Bloom  
3 unfairly took advantage of a nuance in the law that I wasn't aware of. I  
4 am not a lawyer. And found a way to get what he wanted out of this,  
5 which is to -- you know, he's obviously thought turning over the  
6 documents, for whatever his reasons are, and I just -- and I -- but I was --  
7 but -- but I was angry about what had happened here. I felt that I have  
8 hurt my -- I felt that I had hurt Mr. Flatto because by signing that, I had --  
9 I had extinguished the money altogether. And like you said, I have since  
10 learned that is not the case.

11 Q If you could go to Exhibit I, which is the settlement  
12 agreement, I want to ask you about one of the comments you made.

13 A Okay. Exhibit I. I'm there, it's just coming up. Okay. I'm  
14 there. I'm sorry. Go ahead.

15 Q You testified that the settlement agreement would release all  
16 claims that Mr. Flatto could have against Jay Bloom. Where does it say  
17 that in the settlement agreement?

18 A I was told that that's what -- that's what the meeting was.

19 Q Well, you've -- it's a two-page agreement. Can you point to  
20 me where it says that Mr. Bloom's -- all claims by TGC/Farkas against  
21 Jay Bloom are -- are going to be resolved or settled?

22 A And -- well, what about number 5, "That upon execution,  
23 TGC will file a dismissal with prejudice of the current actions."

24 Q Okay. It -- I guess my question is -- I -- you were talking  
25 about a release of claims against Jay Bloom. I don't see Jay Bloom's

1 name in here. Where does it say that there's going to be a release of  
2 claims against Jay Bloom?

3 A And I -- then I -- then I misunderstood this, Mr. Gutierrez, but  
4 the bottom line -- the bottom line is that just because I don't want to sue  
5 anybody, and I didn't want to be involved in this whole thing doesn't  
6 mean that I don't believe that Mr. Bloom should adhere to the  
7 arbitration. And I felt that -- that if Mr. Bloom -- you know, you said to  
8 me in your past questioning, that at any time I could have called Adam  
9 while I was standing at the UPS store. There were things that I could  
10 have done that I didn't have to do.

11 Well, I could turn around and say, well, you know something,  
12 Mr. Bloom could have said to me, Matthew, in addition to documents  
13 relating to the retaining of Mr. Nahabedian, I'm also sending you a  
14 settlement agreement for you to look at. He didn't say that. At no time  
15 did he ever direct me to -- to saying, look, there's also a settlement  
16 agreement in here, which you should look at, and you might want to talk  
17 to your lawyers about. He never said that. So I would say, again, that,  
18 you know, I don't want -- I don't want to see anything bad happen to  
19 anybody, but I feel that I was -- I was misled by Mr. Bloom as far as  
20 signing this document, and I have to -- you know, and I have to leave it  
21 there.

22 Q I understand your position. And I guess -- and -- and you've  
23 taken responsibility for not reading this document, correct?

24 A I absolutely have. I -- I've said now today, and I said last  
25 week in my deposition, I am clearly at fault for not having read these

1 documents. However, I -- Jay is my brother-in-law. He's family. I didn't  
2 think he would -- he would try to do this. And again, if what you guys  
3 were really after was some sort of a settlement, you could have  
4 absolutely called Ms. Turner and made her aware of that. And instead,  
5 Mr. Bloom came directly to me because he understood the nuance in the  
6 law that I did not.

7 Q What's that nuance in the law that you're discussing?

8 A That -- that -- again, he didn't have to -- you couldn't come to  
9 me with an offer. You, Joe Gutierrez, couldn't come to Matthew Farkas  
10 with an offer. You would have to go to Erika with the offer. But instead  
11 of having the lawyers handle everything, which is what I had hoped, Jay  
12 took it upon himself to -- to -- to give me this document and sign without  
13 the benefit of saying, look, I've sent you a settlement agreement; you  
14 might want to speak to your lawyers.

15 Now, I'm -- I'm accepting my culpability here, Mr. Gutierrez,  
16 but you also have to understand as well, and we talked about this in the  
17 deposition last week, that Mr. Bloom sent me an affidavit, unbeknownst  
18 to you, to sign, and attached to that was a letter basically saying that if I  
19 signed his affidavit, he wouldn't have 50 shareholders sue me for what  
20 he believed was going to be the -- the settlement with -- with the judge --  
21 with the -- the judgment. I have --

22 Q When was that letter sent?

23 A -- consistently been threatened by Mr. Bloom.

24 Q Okay. And Mr. Farkas --

25 A Now --

1 Q I'm sorry, go ahead. You weren't done.

2 A I was just going to say, look, Joe, I said this last week,  
3 nobody's worked harder than you to try to resolve the problems with  
4 Mister -- with Mr. Ngan. Okay. And I understand that. I also know I've  
5 been in the middle of something that I didn't start, but that potentially  
6 I'm going to suffer from. And Mr. Bloom hasn't picked on Mr. Flatto.  
7 He's picked on me. And he's picked on me by sending threatening text  
8 messages. Not the one that you presented here today, but other ones  
9 that my counsel has. And by sending me that affidavit, which was done  
10 on, I don't know, I guess you could call it legal stationary, but he did that,  
11 and -- and then sent that letter on First 100 letterhead, basically saying  
12 that if I signed the affidavit, he wanted me to sign, that he wouldn't have  
13 48 people sue me for money that I don't have.

14 Q Okay. And I understand your position, Mr. Farkas. And I  
15 guess with this settlement agreement and what we're just trying to  
16 determine to this proceeding is, you know, whether First 100 was  
17 allowed to rely on you and your representations in this agreement in  
18 signing it. And I think in looking at this agreement though, Mr. Farkas,  
19 paragraph 14 on -- on page 2 of it, which is Bate Number 0325 --

20 A 03- -- okay. I'm sorry. Which -- which -- which one am I  
21 looking at?

22 Q Paragraph 14.

23 A The party --

24 MS. TURNER: Of what exhibit, Mr. Gutierrez?

25 MR. GUTIERREZ: I'm sorry, counsel. We're still on Exhibit I

1 for the settlement agreement.

2 MS. TURNER: Okay.

3 THE WITNESS: It says, "The parties hereto represent and  
4 warrant that the person executing this agreement on behalf of each party  
5 has full power and authority," which I did not have.

6 BY MR. GUTIERREZ:

7 Q Why didn't you tell Jay Bloom, after reading paragraph 14,  
8 that you did not have the full power to sign on behalf of TGC/Farkas?

9 A I did not read this document before I signed it.

10 Q Okay. But you admit you didn't --

11 A I --

12 Q You admit -- you still agree to this term though, correct?

13 A I still agree to what? I'm sorry?

14 Q You still agree to the terms in -- on paragraph 14 though? By  
15 signing the document, you agree to that term that you had full --

16 MS. TURNER: Objection. Calls for a legal conclusion. Lack  
17 of foundation.

18 THE COURT: He can state his understanding of what he did.

19 THE WITNESS: Let me -- let me just read it again. "So the  
20 parties hereto represent and warrant the person executing this  
21 agreement." No, I don't agree with that. And the reason I don't agree  
22 with it, which -- which is what I've been saying all along, is because I  
23 believed that as of 2017, I was no longer the managing member. That I  
24 had left First 100. I had no reason to think that I should still be driving  
25 the ship. I know that, you know, especially after Adam had retained

1 Garman Turner, that he had his own agenda of things that he wanted to  
2 accomplish. And -- and while I supported him, I was not driving the ship.

3 BY MR. GUTIERREZ:

4 Q Okay. But my question is why didn't you then make a -- from  
5 that UPS store, call Jay to say paragraph 14 is not correct? I do not have  
6 the authority to sign this.

7 A I just told you that I didn't read it. We've established that. I  
8 should have read it. I mistakenly didn't read it, but I didn't read it.  
9 Again, I was at that store to presumably retain Mr. Nahabedian as my  
10 personal attorney, which is what Jay represented to me. And again, Jay  
11 could have absolutely said, in addition to the Raffi stuff, I'm sending you  
12 a settlement agreement. He never did that. He never highlighted that.  
13 He sent me a lot of documents that would have taken me quite a while to  
14 stand in the middle of a UPS store reading legal documents, that frankly,  
15 I don't really understand, and don't pretend to. And I was absolutely -- I  
16 believe I was absolutely misled. I mean, you need to understand, Mr.  
17 Gutierrez, Jay has -- has done nothing but bully me for the last six  
18 months, and I don't have the money to stand up to this. I -- I just don't.

19 Q And speaking about not having the money, I know you stated  
20 in your deposition, you didn't have the money to retain counsel, correct?

21 A That's correct.

22 Q And is that -- that's one of the reasons Jay Bloom helped you  
23 find counsel through Mr. Nahabedian; isn't that true?

24 A That is a misstatement, Mr. Gutierrez. That is a  
25 misstatement, because what Mr. Bloom didn't tell me was that Mr.

1 Nahabedian was in fact his personal counsel. And the other -- the other  
2 people that Jay sent me to in allegedly trying to help me find counsel,  
3 were people that were loyal to him. After I -- after Mr. Nahabedian  
4 resigned, Jay sent me to Nevada Defense Group, where I spoke with a  
5 woman named Kelsey Bernstein very briefly, and she had to -- she got --  
6 you know, up -- you know, she had to -- you know, she couldn't take it.  
7 She got conflicted out. I'm sorry, I couldn't come up with the word. And  
8 then she sent me to one more person, who felt the same way, that he  
9 just -- he couldn't -- he couldn't represent me because of his relationship.  
10 So that's when Garman introduced me to Ken Hogan because there was  
11 no conflict and Mr. Hogan was -- was willing to take on my case.

12 Q Okay. And Mr. Farkas, you -- you signed the First 100  
13 subscription agreement on behalf of TGC/Farkas; do you recall that?

14 A I believe I did. I believe both Adam and I signed. But that  
15 was -- years ago. I -- I -- I don't remember. I don't have it sitting in front  
16 of me.

17 Q Okay. Well, let me just -- if you can go to Exhibit A, I want to  
18 make sure just the record's clear that you were the only signature on it.  
19 Go to Exhibit A.

20 A Okay. And if you say so, Joe, then I believe you. And I'll go,  
21 but if -- if you say that I'm the only signature on it, then -- then there's  
22 nothing -- my signature.

23 Q I don't want you to take my word. I rather just --

24 MS. TURNER: Stop believing people. Sorry.

25 THE WITNESS: I am just agreeing. Okay. Hang on.

1 BY MR. GUTIERREZ:

2 Q Exhibit A, Mr. Farkas, and I'm -- if you can go to -- it's First  
3 0007 is the first page, and then 0017 is the signature.

4 A Okay. I'm just waiting for it to -- I'm just waiting for it to pull  
5 up. Okay. So 007. All right. So 005 is Jay's signature. 007, TGC/Farkas,  
6 my signature isn't on there. And then --

7 Q I want you to go to the page, which is the subscription  
8 agreement, and then TGC/Farkas, and then go to page 17. That will be  
9 the signature.

10 A Yes. There at the bottom, yes, I see that. I see it.

11 Q Okay. So on 17, is that your signature as CEO of TGC/Farkas  
12 Funding?

13 A It is.

14 Q Is Adam Flatto's signature on this agreement?

15 A No, it is not.

16 Q Okay. And by signing this, you agreed on behalf on behalf of  
17 TGC/Farkas to the terms of this agreement, correct?

18 A Yes, I did.

19 Q Okay. So go to -- go to 15, page 15, section 7.

20 A Of the same document?

21 Q Yes.

22 A Notices; is that what I'm looking at?

23 Q Yes.

24 A Okay. Notices of --

25 Q Is this -- and this provision states that, "All notices, requests,

1 § 8 consents, and other communications herein shall be in writing, and  
2 shall be deemed to have been duly made when delivered to, or if mailed  
3 by registered or certified mail. Return receipt requested five days after  
4 mailing." Do you see that? Do you see that, Mr. Farkas?

5 A Yes. Yes, I do. I'm sorry, I thought I -- I thought you heard  
6 me. I beg your pardon. Yes, I see.

7 Q And in section B on 7 says if -- to the company, the address  
8 that was on the first page of the subscription agreement. What is your  
9 understanding of the notice requirement on the subscription agreement  
10 between a member and -- and the company, First 100?

11 A That -- that they -- they needed to send a written document  
12 regarding the change within a certain period of time.

13 Q And vice versa. The member would also have to notify in  
14 writing, any changes the member had to the company, correct?

15 A That's right.

16 Q First 100 had -- First 100 had several members, correct?

17 A First -- First 100, yeah, I suppose so. I -- I suppose so, yeah.

18 MR. GUTIERREZ: Let me just check my notes, counsel. I  
19 think I'm going to pass the witness. Let me just make sure.

20 I'll pass the witness, Your Honor.

21 THE COURT: All right. Cross.

22 MS. TURNER: Okay.

23 CROSS-EXAMINATION

24 BY MS. TURNER:

25 Q Good afternoon, Mr. Farkas.

1 A Good afternoon.

2 Q Now, you referred generally to a familial relationship with  
3 Jay Bloom. Who is Jay Bloom to you?

4 A Jay Bloom is my brother-in-law. He is married to my sister,  
5 Carolyn Farkas. I don't see you guys anymore, by the way.

6 Q Somebody --

7 A There we go. There we go.

8 Q Okay. Now, so Jay Bloom is married to your sister. He's  
9 your brother-in-law, right?

10 A Yes.

11 Q And your mother and father, where do they live?

12 A They are currently living with Jay and Carolyn in their home  
13 in Spanish Hills.

14 Q And when did you move to Las Vegas?

15 A I moved to Las Vegas around Labor Day of 2013.

16 Q And why?

17 A Specifically, to help First 100 raise capital to execute their  
18 business plan.

19 Q Okay. So in addition to the family relationship, you had a  
20 working relationship with Mr. Bloom?

21 A Yes.

22 Q Now, while you were with First 100, were you ever a  
23 manager?

24 A I want to be very clear; I was given the title VP of finance  
25 because it was simply a title. I was there to help First 100 raise capital.

1 That was my -- I was the marketing guy. I was there to -- to set up  
2 meetings, to introduce the company to -- to institutions and high net-  
3 worth individuals who might have an interest in investing in First 100's  
4 business plan.

5 Q Were you the chief financial officer at any point in time?

6 A No. I certainly never held any of those responsibilities. My --  
7 there might have been one or two documents with that designation, but I  
8 never had any of the responsibilities or any of the discretionary powers  
9 or authorities of a chief financial officer. I did not handle a checkbook. I  
10 did not prepare financial statements for the company overall, or for any  
11 of the other shareholders. I never acted in that capacity. And Jay,  
12 frankly, would have never given me or anyone else the power to -- to  
13 have made financial decisions on behalf of the company. That was his  
14 job. It was his company.

15 Q And you said you left in late summer, 2016; is that right?

16 A Yes. The company was no longer really operating. There  
17 was nothing left for me to do. Frankly, things had been pretty dead from  
18 June on, but -- but I stayed as long as I could, and then I -- I had to go out  
19 and start looking for work.

20 Q For --

21 A Also in 2016, I should also note -- I don't mean to cut you off.  
22 I had two massive heart attacks. I went through some serious health  
23 issues. In 2016, I had a heart attack in March of 2016, and I had another  
24 heart attack in May of 2016. Funny enough, it was the same time that  
25 Mr. Gutierrez was having his daughter. His wife, they had their -- they

1 had their child, so we were at the hospital at the same time. But I had  
2 serious health issues, and still do.

3 Q At -- at all times, Mr. Gutierrez was the counsel for First 100,  
4 yes?

5 A Yes. There were other -- there were other lawyers that -- that  
6 were part of the company. I didn't, you know, have any relationship with  
7 any of those people, but -- but, yes, Joe has always been the lead guy, as  
8 far as -- as far as I knew.

9 Q All right. Now, when you left your employment, roughly  
10 four-and-a-half years ago, did you take books and records with you?

11 A No, I did not.

12 Q Did you agree to be the custodian of records for the  
13 company, or companies?

14 A No, I -- I did not.

15 Q Did you have any agreement with First 100 or First 100  
16 Holdings to -- relative to the preparation or maintenance of the books  
17 and records of the company?

18 A Nope, that was not my role.

19 Q And do you have books and records in your possession  
20 showing where the assets went?

21 A No, I do not.

22 Q You were shown Exhibit Z -- Z as in zebra; do you recall that?  
23 An email from December of 2015.

24 A Yes.

25 Q And if we go to that exhibit, there's some financials. I'm

1 having -- my paralegal just put everything up on the -- the screen for  
2 your ease.

3 A Thank you.

4 Q And if we go to, First 0477 -- while she's doing that, you're --  
5 here's just an example of real property foreclosed by bank; do you see  
6 that? Note 3, real property foreclosed by bank; do you see that?

7 A I do. I don't know if you heard me. I'm sorry.

8 Q Okay. And if we go to the page before, value of real  
9 property, do you see that, with a list of properties?

10 A I do.

11 Q Do you have any books and records of First 100 or First 100  
12 Holdings to show where these properties went and for how much and to  
13 whom?

14 A I do not, and it was nothing -- nothing of this nature would  
15 ever have been discussed with me.

16 Q Okay.

17 A In fact -- in fact, for most of the last year and a half, the other  
18 managers left me out of meetings intentionally.

19 Q Did you negotiate the transfer of assets out of First 100?

20 A Absolutely not.

21 Q And were you ever responsible for distributing reports, or  
22 providing books and records to members of First 100 or First 100  
23 Holdings after -- and I'll just use the time period where we made the  
24 demand, 2017 -- May of 2017?

25 A No.

1 Q Okay.

2 A I wasn't when I was at First 100, so I certainly wouldn't have  
3 been after I left First 100.

4 Q Okay. Now, there was some questions to you about the  
5 subscription agreement and you signing that agreement on behalf of  
6 TGC/Farkas Funding, and that's at Exhibit A, Bate's Number -- Bate's  
7 Number First 17, Exhibit A, First 017, that was your signature; do you see  
8 that?

9 A Yes, that's my signature.

10 Q And -- and you had the consent of Adam Flatto before you  
11 executed the subscription agreement, correct?

12 A Oh, yes. Yes, of course.

13 Q And actually, Mr. Flatto's the one who sent the million dollars  
14 to First 100, right?

15 A Yes.

16 Q And --

17 A I -- I -- I did not put up any capital. Adam put up all the  
18 capital.

19 Q And if we go to the operating agreement of TGC/Farkas  
20 Funding, which is Exhibit B, as in boy --

21 A Okay.

22 Q -- and page First 40 --

23 A Page First 40.

24 Q 40.

25 A Okay. I see it. It's in front of me.

1 Q There was a limited purpose of TGC/Farkas Funding, LLC.,  
2 right?

3 A I -- I wouldn't know how to answer that.

4 Q Okay. If you go to this first page, the recitals, do you see  
5 where it indicates whereas Matthew Farkas has been granted a two  
6 percent membership interest in First 100?

7 A Yes, but then I gave a portion of that to Mr. Flatto so that we  
8 each had one-and-a-half percent.

9 Q The only purpose of TGC/Farkas Funding, LLC., as far as you  
10 know, consistent with your understanding, is to act as an investment  
11 vehicle for the membership interest in the First 100 entities, right?

12 A Yes.

13 Q Okay. And if we go to section 3.4 of this operating  
14 agreement, page 6, okay. See where it says 3.4(a), second sentence, or  
15 second line, "The administrative member agrees that all action shall be  
16 taken after consultation with, and upon the consent of all members."

17 A Yes.

18 Q Do you see that? Did you do anything intentionally on behalf  
19 of TGC/Farkas Funding at any time after this operating agreement was  
20 executed in 2013 without the consent of Adam Flatto as the manager and  
21 TGC investor?

22 A No.

23 Q Did you understand that you had a limitation on your  
24 authority so that you could not execute anything without consultation  
25 with Adam Flatto?

1           A     That was -- that was my understanding back then, yes.

2           Q     Now, if we go to Exhibit 22 -- Exhibit 22; it's already in -- in  
3 evidence. You testified with Mr. Gutierrez questioning you, that you  
4 thought in 2017 your role had changed? Do you recall that?

5           A     Yes, I do.

6           Q     And I believe you said you were suffering from some poor  
7 health, and you were gone from First 100 by that point in time, correct?

8           A     2017, oh, yes.

9           Q     And so by that point in time, in your mind, Adam Flatto was  
10 actually the lead, or taking the lead; is that right?

11          A     That was -- that was my belief and my wish.

12          Q     Okay. And that was -- when you say it was your wish, it has  
13 been your wish to stay out of these matters, given your familial  
14 relationship with Jay Bloom, right?

15          A     Yes.

16          Q     All right. If we go to the Plaintiff 190 that is in the exhibit to  
17 this letter to Mr. Gutierrez. There's an email that cc's you from Michael  
18 Busch from the Georgetown Company saying, "Please be advised that  
19 Matthew Farkas does not have the authority to unilaterally bind  
20 TGC/Farkas;" do you see that?

21          A     I do.

22          Q     Did you ever represent to Jay Bloom or anybody from First  
23 100 that that was not the case?

24          A     No, I never represented that.

25          Q     And even you were -- even if you were technically the

1 administrative member of TGC/Farkas for a period of time, in your mind,  
2 you still had to get Adam Flatto's consent, correct?

3 A Of course. Yes.

4 Q Now, in the arbitration, there came a point in time where you  
5 provided an attorney/client privileged document to Jay Bloom. Do you  
6 recall that?

7 A I do.

8 Q And that caused problems, right?

9 A It did.

10 Q And did you feel like you were caught in the middle of your  
11 friend of over 30 years and your family member?

12 A Yes, I did.

13 Q Now, if we go to the amendment to the operating agreement,  
14 which is Exhibit 23 --

15 A Uh-huh.

16 Q -- you signed this document, changing the administrative  
17 member, technically, from you to Adam, correct? Mr. Farkas?

18 A I'm sorry, I -- I thought you heard me. Yes, I did.

19 Q And you had -- did you have communications with Mr.  
20 Flatto -- or Flatto before you executed the -- the amendment?

21 A I don't think we spoke. I don't remember speaking to Adam  
22 about this, but I know that -- I know what happened, and I might have  
23 spoken to Michael Busch.

24 Q The general counsel from the Georgetown Company?

25 A Yes.

1 Q Did you voluntarily enter into the amendment to the limited  
2 liability company of TGC/Farkas Funding, LLC. in order to seed your  
3 position as administrative member to Adam?

4 A That was completely voluntary.

5 Q And when -- what was the purpose of the amendment from  
6 your standpoint?

7 A You know, again, the purpose was that I was no longer an  
8 employee of First 100, that there was no reason for me to -- to be driving  
9 the ship when, again, Adam had -- had an agenda that he felt that he  
10 needed to pursue, which -- which are agreed with and supported. And  
11 that -- that's why. I mean, again, I -- I didn't want to hurt anybody or sue  
12 anybody, but I understand why Adam needed to do these things, and I  
13 signed the agreements and I supported him.

14 Q Did you -- after the arbitration award was entered --

15 A This was last August?

16 Q Yes. Or September. If we could go to Exhibit 2 so you can  
17 see the -- the date. I'm not good with dates either. Exhibit 2, see the  
18 date?

19 A Yes.

20 Q September 15th, 2020. As a result of this -- this arbitration  
21 award, and specifically that finding that the redemption agreement  
22 would not be enforced against TGC/Farkas Funding, as had been asked  
23 by First 100. Did there become discord between you and Jay Bloom?

24 A Yes, he was furious with me.

25 Q And did he threaten you with adverse action?

1           A     He said -- he said never come to my house again. He said  
2 you have now gone against me, and this isn't going to go well for you.

3           Q     And did you have communications with Jay Bloom,  
4 subsequent to the arbitration award, where he said that First 100 and/or  
5 its members would be suing you?

6           A     In the last six months, yes, he said -- he absolutely made it  
7 clear to me that in his words, I had breached my fiduciary responsibility  
8 of which I didn't have any. But I had breached my fiduciary  
9 responsibility, and that he was going to go to all 50 members,  
10 shareholders, and sue me for \$48 million. And in fact, I mentioned  
11 earlier that he sent me the affidavit that he wanted me to sign. I -- I  
12 believe it was in a sense walking back the comments that I made in the  
13 declaration that I signed with Dylan, and then attached a threat -- a -- a  
14 letter. I don't know how you would characterize it, but basically it said if  
15 you sign this affidavit, I will make sure that the shareholders know that  
16 you did everything you could to represent the company. So basically, it  
17 was the equivalent of a bully walking up to you at the lunch line and  
18 saying if you give me your lunch money, I won't pound you. But yes, I  
19 was consistently threatened by Mr. Bloom. And in fact, according to my  
20 mother and step-father, he -- he has a 24-hour audience, telling them all  
21 the things that I've done wrong, and what a bad guy I am, and that -- and  
22 that, you know, ways to hurt me.

23           Q     If we go to Exhibit 16 -- Exhibit 16, there's a text message to  
24 you from Jay Bloom. Or actually, if you can see if you recognize it?

25           A     Yes.

1 MS. TURNER: I move for admission of Exhibit 16.

2 MR. GUTIERREZ: And Your Honor, just we object. It lacks  
3 foundation as to a date.

4 THE COURT: Okay. Set a foundation as to the date.

5 BY MS. TURNER:

6 Q Mr. -- Mr. Farkas, do you recall whether or not this text  
7 message from Jay Bloom was sent to you in 2021?

8 A Yes.

9 Q And was it prior -- and do you know the specific date?

10 A I don't know the specific -- the specific date, but it's either  
11 late 2020 or early 2021.

12 Q Prior to you executing the settlement agreement?

13 A I don't -- that, I couldn't tell you. I don't remember.

14 Q Do you recognize the -- the text messages being from Jay to  
15 you regarding TGC/Farkas?

16 A Yes.

17 MS. TURNER: Your Honor, I -- I move to admit.

18 MR. GUTIERREZ: Same objection. I mean, there still is no  
19 clear date on this. It's not identified as a document, and the witness  
20 does not know. It just has the -- it just has today, 2:33 p.m.

21 THE COURT: Right. He stated his understanding of when it  
22 was. I'll allow it. It's admitted.

23 [Plaintiff's Exhibit 16 admitted into evidence]

24 BY MS. TURNER:

25 Q Now, this text message says,

1                   "Matthew, the purpose of this text is to establish a  
2                   record. You are hereby informed and provided notice that if  
3                   you sign a declaration or any document adverse to the  
4                   company, you will be held responsible for breach of your  
5                   fiduciary duties. Such actions will be actionable. You are  
6                   now formally on notice."

7                   What was your understanding of the reference to the  
8                   company?

9                   A     The reference to?

10                  Q     Where it says, "If you sign anything adverse to the  
11                  company?"

12                  A     First 100.

13                  Q     And if we go to --

14                  A     That if I sign a declaration or document adverse to First 100, I  
15                  will be held responsible for breach of my fiduciary responsibility. I didn't  
16                  have a fiduciary responsibility to First 100. I haven't been an employee  
17                  there in five years.

18                  Q     But if you were being threatened with a lawsuit, or an  
19                  adverse action for breach of fiduciary duty to defend yourself, did you  
20                  have concern?

21                  A     Of course. I have concern because I don't have the money.

22                  Q     If we go to the next exhibit, Exhibit 17.

23                         THE COURT: Counsel, I'm sorry, just for the record, what  
24                         was that last exhibit number?

25                         MS. TURNER: 16.

1 THE COURT: Okay. Thank you.

2 BY MS. TURNER:

3 Q And there's a big black spot. If we go down from there, it  
4 says from Jay Bloom, date, January 24th, 2021, to store4590@gmail.com  
5 with a cc to Matthew Farkas; do you see that?

6 A Yes, I do.

7 Q Now, Matthew Farkas, farkm1@aol.com, is that your email?

8 A Yes, it's one of two emails that I use, yes.

9 Q And Jay Bloom knows how to email you? Did he know how  
10 to email you before January 24th, 2021?

11 A Yes, he did.

12 Q Did he know how to email you on January 7th, 2021?

13 A Yes.

14 Q And had you had email communications with Jay Bloom on  
15 or prior to January 7th, 2021 on other matters?

16 A I do not remember, but it's possible. I mean, it's certainly  
17 possible.

18 Q Had -- had you given Jay this address, farkm1@aol.com?

19 A He's always -- he's always had it. He's known for years.

20 Q Okay. This is not a --

21 A I've had --

22 Q -- new email?

23 A Oh, no. No. No. No. This is an email that I've had since  
24 1995, since AOL started.

25 Q Okay. And if -- you testified earlier this -- this morning that

1 you received the settlement agreement and some other documents at  
2 the UPS store; do you recall that?

3 A I do.

4 Q When you received the settlement agreement from Jay  
5 Bloom for you to sign with other documents, did you also receive it by  
6 email?

7 A No, it only came to the UPS store. All those documents  
8 came to the UPS store, and that was it, because Jay wanted me to sign  
9 these documents, turn them around, and have them scanned and sent  
10 back.

11 Q Did you negotiate -- actually, before we get to the -- the  
12 settlement agreement, after signing the amendment to the operating  
13 agreement with TGC/Farkas where you were removed as the  
14 administrative member, did you communicate to Mr. Bloom that you no  
15 longer had any role in the management of TGC/Farkas?

16 A I don't think I put it in an email, but I made it clear to Jay over  
17 the years that he needs to speak to Adam and the lawyers. That I -- that I  
18 was not in a position to make any decisions on behalf of -- of TGC/Farkas  
19 anymore. That I didn't want that responsibility. And there was a reason  
20 for it. And I -- and I felt that he understood, but obviously, I don't know,  
21 he didn't, or chose not to. I -- I can't attest to what he was thinking.

22 Q Did you -- all right. Exhibit 13, if we could go to that, which is  
23 the settlement agreement, and I -- I believe it's --

24 A It's up. I see it.

25 Q Okay. It's Exhibit I in the Defendant's book as well. Now, let

1 me be very clear on this, take -- did you negotiate this document?

2 A I did not negotiate a settlement agreement on behalf of  
3 TGC/Farkas with Mr. Bloom.

4 Q Did you indicate to Mr. Bloom at any point in early January  
5 2021, or really any time after the judgment was entered in November of  
6 2017 that you were looking to enter into a settlement agreement on  
7 behalf of TGC/Farkas Funding?

8 A No.

9 Q You had -- you had indicated you didn't -- you don't like that  
10 the parties are in litigation against one another, right?

11 A I don't. I don't -- I don't -- I don't know why this can't -- I  
12 don't know why this has to be like this.

13 Q Did you tell Mr. Bloom I want to enter into a settlement  
14 agreement on behalf of TGC/Farkas?

15 A I did not.

16 Q Okay. Now, this agreement, did you voluntarily execute the  
17 document on behalf of TGC/Farkas with the intent to bind it?

18 A With the intent, no, but -- but I did sign it, but I had deduct --  
19 again, I received this document as part of a large number of documents,  
20 and this was just one document that I was signing, and I believe that I  
21 had made it clear that I was at the T -- at the UPS store to retain Mr.  
22 Nahabedian as my personal attorney. And now it turns out that not only  
23 was I retaining him in -- in lieu of Garman Turner, but I was signing a  
24 settlement agreement, you know, that was -- it was under -- and no.

25 Q Did you ever discuss with Adam Flatto, this settlement

1 agreement?

2 A No, I did not.

3 Q Now, it indicates in the settlement agreement that First 100  
4 and F100, as defined as the First 100 entities, have been awarded a  
5 judgment in the amount of over \$2 billion against judgment debtors,  
6 Raymond Ngan and relativity related entities; do you see that? Is that  
7 yes? We couldn't hear.

8 A Yes, I see it.

9 Q Okay. Have -- as far as you know, has there been any sale  
10 agreement for the purpose of selling that award to some third party?

11 A Again, this is what I've been told, but when we asked,  
12 because I was on the phone with Dylan. We asked them if they would  
13 provide -- they, meaning Jay and First 100, if they would provide any  
14 proof of a deal, proof of funds, a term sheet. Their only response was  
15 that's never going to happen. We are not showing you anything.

16 Q And that was after you learned this settlement agreement  
17 had been executed from --

18 A Yeah. Yes, I believe so.

19 Q So then -- well, have -- did Mr. Bloom show you any proof of  
20 funds for a million dollars or more?

21 A Mr. Bloom showed me nothing.

22 Q You --

23 A I have no idea -- I have no idea who this group is. I'm not  
24 saying they don't exist. I'm just saying that Mr. Bloom, since last  
25 August, and I sent you -- Ms. Turner, I sent you an email explaining why I

1 couldn't sign the first affidavit, but then I also said wait 30 days,  
2 according to Jay, we will be getting a payout. I sent that email to you.  
3 So Jay has been telling me now since August that we were going to see  
4 a payout, and then it got to be September, October. They took a break in  
5 November. Then it got to be December, and we were going to see  
6 money in January. And in fact, I spoke -- when I spoke to Mr. Gutierrez  
7 in early January, I asked him, and you know, he didn't tell me who it  
8 was, but he said he believed that it was going to happen. Now, I can't  
9 hold him to that in the sense that the money didn't show, but he  
10 absolutely said that -- that -- that Jay was in negotiations with a potential  
11 buyer of the judgment.

12 Q You spoke with Joe Gutierrez in early January of 2021?

13 A Yes.

14 Q Was counsel for TGC/Farkas Funding a participant in that  
15 conversation?

16 A No, they were not.

17 Q And what did -- at any point in time in 2021, prior to the  
18 execution of this settlement agreement, had you received a threat from  
19 Joe Gutierrez?

20 A I -- no. What -- what happened was Jay told me -- Jay told  
21 me that -- that Joe was -- wanted to sue me. Jay told me this. And so  
22 the reason that I spoke to Joe was to find out why. I was -- I was calling  
23 to ask him why he was going to sue me, and that's when Joe said,  
24 Matthew, I can't sue you. I am simply the lawyer for the Defendant.

25 Q Did he assure you that the Defendant, First 100, would not

1 sue you?

2 A No. No. No. No. No. What I'm saying is that Joe wasn't  
3 going to sue me. He didn't mention whether or not First 100 was going  
4 to sue me on that call, but he -- but on that particular call, he said that I  
5 am not suing you. I -- I don't have a right to sue you. I'm just the lawyer  
6 for the Defendant.

7 Q Have you received \$1 million for TGC/Farkas?

8 A No, I have not.

9 Q Have you received any tender of \$1 million for TGC/Farkas?

10 A I have received nothing for TGC/Farkas.

11 Q And are you skeptical that there is actually a million dollars  
12 to pay TGC/Farkas from --

13 A I --

14 Q -- the sale of the Ngan award?

15 A Am I skeptical? I -- I would say that's being polite.

16 Q And why is that?

17 A And we -- because part of the reason that -- that -- that the  
18 guys are against me, and I mean -- I don't mean just me and Mr. Bloom,  
19 and I mean Mr. Gardenas [phonetic], Mr. Morgando [phonetic], Mr. Crow  
20 [phonetic], Mr. Ramirez, is because I never believed that Raymond was  
21 real. You know, he made all sorts of representations, which I found out  
22 to not be true, and it was particularly offensive to Mr. Morgando because  
23 it was actually Mr. Morgando, the way I understood it, that brought Mr.  
24 Ngan to the party, so to speak. And -- and I knew that the guy was -- was  
25 just wasn't real. And their -- you know, he -- at one point, Mr. Ngan

1 actually gave First 100 a check for \$16 million.

2           Now, I didn't see the actual check, but Jay showed me a text  
3 of it, and he said there's \$16 million, you know, to prove my goodwill,  
4 but don't cash it because if you cash it, then I won't give you the rest of  
5 the money. So they didn't cash the check, but -- but with that said, Mr.  
6 Ngan never did anything that he said he was going to do, and there was  
7 absolutely no reason for me to believe that -- that anything was going to  
8 come of it.

9           And I also mentioned in the -- in the deposition last week that  
10 after we got the -- the judgment from -- from Judge Cory, that I went to  
11 five well-funding, highly sophisticated litigation funding firms, asking  
12 them for 10 million. Now, they weren't buying the judgment; they were  
13 just going to loan money against the judgment, but all five of them  
14 passed because they obviously couldn't see a path to not only making a  
15 return on their money, but actually getting their money back.

16           Q     Now, when you went to the UPS store to execute this -- this  
17 settlement agreement, you didn't review any -- it wasn't just the -- the  
18 one page of the settlement agreement, you didn't review any of it; is that  
19 right?

20           A     To be honest and to be -- to -- you know, at the risk of  
21 completely embarrassing myself, all I did was sign the documents that  
22 Jay sent. I should have read all of them. I should have, you know --  
23 specifically the settlement agreement, I should have sent to -- to you  
24 and -- and to Dylan. I didn't do any of those things, and I accept my  
25 culpability there.

1 Q All right.

2 A I didn't --

3 Q If we -- if -- sorry, I didn't mean to cut you off, Mr. Farkas.

4 A I'm -- I'm done. I'm done.

5 Q Okay. If we go to paragraph 5 of the settlement agreement, it  
6 says, "Upon execution of the agreement, TCG [sic] will file a dismissal  
7 with prejudice of the current actions related to this matter, including the  
8 arbitration award and all relation motions and actions pending in the  
9 district court." Do you see that?

10 A I do, and if you were going to ask me if I understand what it  
11 means, the answer is no, I do not.

12 Q Okay. So you were asked some questions by Mr. Gutierrez  
13 this morning about whether or not this agreement extinguished the  
14 million-dollar investment in T -- in First 100; do you recall that? Now, the  
15 million dollars that was invested into First 100, that was in exchange for  
16 membership interest, right?

17 A I believe so, yes.

18 Q And First 100 was denying the existence of that membership  
19 interest saying it was redeemed in the arbitration; do you recall that?

20 A No. Wait, it's -- wait. Say that again, that -- that --

21 Q Do you recall that -- do you recall that in the arbitration, Jay  
22 Bloom took the position that by you executing a document, you  
23 redeemed that membership interest?

24 A I -- I don't remember that point.

25 Q All right.

1           A     I'm not quite sure I really under -- I don't real -- I'm not sure I  
2 understand what you're asking me.

3           Q     The arbitration award, did you understand that to establish  
4 TGC/Farkas' rights as a member?

5           A     Yes. Yes. Yes, of course.

6           Q     Okay. And this provides that upon execution of the  
7 agreement, even before receiving a million dollars, or anything; even  
8 before receiving anything from First 100, TGC will file a dismissal with  
9 prejudice; do you see that?

10          A     I see that, yes. That's -- all right. I understand what you're  
11 asking me now. Yes, of course.

12          Q     Was it your intention to have TGC Farkas dismiss the  
13 judgment, the arbitration award without first receiving funds?

14          A     No, that was not my intention.

15          Q     Was it ever explained to you by Jay Bloom that that was  
16 what he was asking, or trying to get you to agree to on behalf of  
17 TGC/Farkas?

18          A     Nothing was explained to me by Mr. Bloom.

19          Q     Now, why did you go to the UPS store at Jay Blooms'  
20 request?

21          A     Again, because Jay told me that he was going to be getting  
22 me a lawyer that was just going to represent me in this case, which is  
23 why I now have Ken, but -- but I was under the assumption, wrongly,  
24 that -- that Raffi was going to be in the position that Ken is in right now  
25 as my counsel.

1 Q Now, at the same time that you executed the settlement  
2 agreement, there were other documents with it, right?

3 A Many documents.

4 Q Okay. And did -- did you review any of them before you  
5 signed them?

6 A No, I did not review any of them. I think I've been consistent  
7 on this point.

8 Q Okay. If we --

9 A I don't --

10 Q -- go to Exhibit 11 in our books, Mr. Farkas, do you see this  
11 letter dated January 14th, 2021?

12 A I do.

13 Q From Raffi Nahabedian to me, and there is a cc client via  
14 email. On the second page, it indicates that the letter was cc'd to client  
15 via email. Do you see that?

16 A Uh-huh.

17 Q Did you receive this letter dated January 14th, 2021 to me  
18 from Raffi Nahabedian? Were you the client that was cc'd?

19 A Yes.

20 Q Huh?

21 A Yes.

22 Q Okay. Now, in this January 14th, 2021, it provides that an  
23 engagement letter -- or it says that Raffi was engaged to represent  
24 TGC/Farkas. Did you authorize Raffi Nahabedian to represent  
25 TGC/Farkas?

1           A     No. Again, when I -- when -- when that document was  
2 signed, I wrongly assumed that I was hiring him to represent me, not the  
3 company, and I've never -- and I've always said consistently, I had no  
4 intention of replacing you. I didn't hire you. I have no reason to replace  
5 Garman.

6           Q     Did you --

7           A     And we had never -- Jay had never discussed this with me.  
8 Well, we're going to -- we're going to change Garman and we're going to  
9 put Raffi in their place. That was never -- we never had a conversation  
10 like that.

11                   MS. TURNER: Now, if we -- before I go further into the  
12 document, I'll move to admit Exhibit Number 11.

13                   MR. GUTIERREZ: No objection, Your Honor.

14                   THE COURT: Admitted.

15                             [Plaintiff's Exhibit 11 admitted into evidence]

16 BY MS. TURNER:

17           Q     Okay. If we go down to the bottom of the first page, it says,  
18 "Mr. Farkas is not only concerned that GTG exceeded the  
19 scope of the agreed upon engagement through its ongoing  
20 litigation and collection efforts against First 100, but now he  
21 is at risk of potential claim against him by First 100 for breach  
22 of fiduciary duty, as Mr. Farkas is still an officer of First 100."  
23 Do you see that? Is that -- I'm sorry, I can't hear you.

24           A     I -- I see that, but it's not true.

25           Q     Okay. Is any part of that sentence true?

1 A No part of that sentence is true.

2 Q If we go up in that same paragraph, it says, "In GTG's  
3 engagement letter that Mr. Farkas signed on behalf of TGC/Farkas  
4 Funding, Mr. Farkas included a handwritten preclusion of litigation  
5 against First 100." Do you see that?

6 A I do.

7 Q That -- is that true or false?

8 A That -- that I -- that I signed a -- say that again. I can' barely  
9 read this. It's in -- it's -- it's so small.

10 Q Okay. Let -- let me -- let me read it to you, Mr. Farkas. It said,  
11 "In GTG's engagement letter that Mr. Farkas signed on behalf of  
12 TGC/Farkas Funding, LLC., Mr. Farkas included a handwritten preclusion  
13 of litigation" -- handwritten preclusion of litigation that you had  
14 handwritten?

15 A I don't remember that. I mean, it was four years ago, but I  
16 don't -- I don't remember precluding any -- I just said that I didn't want to  
17 be a part of any litigation.

18 Q Your -- if we go to Exhibit L -- L, which is already in evidence.  
19 If we go to First 394, that's not your handwriting, is it?

20 A No, that is not my handwriting.

21 Q Okay. Now, if we can go back to Exhibit 11. Mr. Nahabedian  
22 is saying he was retained as counsel by TGC/Farkas Funding, and that  
23 you signed the legal representation agreement. Did you tell him the  
24 contents of this letter before it was sent out?

25 A No.

1 Q Were you asked --

2 A In fact --

3 Q Were you asked to review it before it went out?

4 A Nope.

5 Q And if we go to the second page, where it says,  
6 "Mister -- in an effort to mitigate damages, Mr. Farkas has  
7 resolved the TGC/Farkas First 100 matter on behalf of  
8 TGC/Farkas, and a courtesy copy of the fully executed  
9 settlement agreement is also enclosed herein."

10 Do you see that?

11 A I do, and I am offended --

12 Q And what?

13 A I am offended by it.

14 Q You did not execute the settlement agreement in order to  
15 mitigate the damages that are mentioned above with your breach of  
16 fiduciary duty, et cetera?

17 A I did not. That is correct.

18 Q Is it a falsehood to say that you execute -- that you resolved  
19 the TGC/Farkas v. First 100 matter on behalf of TGC/Farkas?

20 A That is a falsehood. I never did any such thing.

21 Q If we go to the next page of this Exhibit 11 from Raffi  
22 Nahabedian -- and by the way, Raffi never told you that he was counsel  
23 for Jay Bloom, right?

24 A Right.

25 Q And did you have any conversation with Raffi Nahabedian

1 prior to executing the settlement agreement?

2 A No. In fact, I -- I didn't speak to Raffi until all these  
3 documents had been signed, and it was a -- it was a conference call with  
4 Raffi, Mr. Bloom, and Mr. Gutierrez. They were all on the phone with  
5 me.

6 Q And during that call where you have First 100's manager, Jay  
7 Bloom, First 100's attorney, Joe Gutierrez, or Gutierrez, and you, and  
8 Raffi Nahabedian, you discussed your lack of authority on behalf of  
9 TGC/Farkas; didn't you?

10 A I did. I remember -- I remember -- you know, I made it clear.  
11 I mean, again, I've tried to make it clear on every conversation that I  
12 didn't execute any of this. I didn't start any of this. I have been in the  
13 middle, which both sides seem to -- that is the one thing I think both  
14 sides agree on, that I have -- that I have been in the middle of this whole  
15 thing, and I just needed to make that clear to the lawyers. But I never, at  
16 any time -- and they didn't even -- even on that call, Erika, Mister -- Mr.  
17 Nahabedian didn't say, so you know, when should I meet with Mr. Flatto,  
18 you know, since I'm going to be representing the entity? I mean, we  
19 never had any -- that was never part of the conversation. So even on  
20 that call, I wasn't aware that Mr. Nahabedian was going to be the -- was  
21 going to be the -- you know, the lawyer for the entity.

22 Q You still thought that he was representing your interest when  
23 you had that call?

24 A The only thing that I believed to be true.

25 Q If we go to this January 6th, 2021 letter, it says, "Matthew

1 Farkas, 3345 Birchwood Park Circle," that's your address, right?

2 A It is.

3 Q And it's addressed to me?

4 A Uh-huh.

5 Q And it has what appears to be your signature. Is that your  
6 signature?

7 A That is my signature, yes.

8 Q Did you write this letter?

9 A No.

10 Q Did you review it before you signed it?

11 A I did not.

12 Q Did --

13 A Big surprise, I did not. I did not write it.

14 Q Did you tell Jay Bloom that you wanted to fire Garman  
15 Turner Gordon on behalf of TGC/Farkas Funding?

16 A I did not.

17 Q It won't hurt my feelings. Did you tell him?

18 A Ms. Turner, again, I -- I -- I believe I've tried to be clear here, I  
19 didn't hire you. You weren't my lawyer. In other words, you weren't  
20 Ken Hogan, and I didn't have a -- a reason or authority to fire you. Why  
21 would I fire you? I didn't hire you. I never -- I never thought that that  
22 was ever a part of the conversation. My frustration here comes of how  
23 manipulated I feel right now, and how mad at myself I am for -- for  
24 doing -- for -- for signing these things. I mean, I really -- wow.

25 Q Did Mr. Nahabedian ever tell you that he was being hired as

1 TGC/Farkas' counsel for the purpose of dismissing this lawsuit before the  
2 contempt hearing?

3 A No, he did not.

4 Q Did Mr. Nahabedian ever tell you that he was being hired at  
5 TGC Farkas's counsel for the purpose of dismissing this lawsuit before  
6 the contempt hearing?

7 A No, he did not.

8 MS. TURNER: Pass the witness, Your Honor.

9 THE COURT: All right, redirect?

10 MR. GUTIERREZ: Yes, Your Honor.

11 REDIRECT EXAMINATION

12 BY MR. GUTIERREZ:

13 Q Mr. Farkas, you can go to Exhibit O-0494.

14 A Hold on one sec.

15 THE COURT: Can you say it again, Mr. Gutierrez? What was  
16 it?

17 MR. GUTIERREZ: Exhibit O, as in Oscar.

18 THE WITNESS: I'm there.

19 BY MR. GUTIERREZ:

20 Q Now you testified on -- on cross with Ms. Turner that you  
21 said you were unaware that Raff Nahabedian was the counsel for Jay  
22 Bloom in an unrelated matter. Do you recall testifying about that?

23 A Yes.

24 Q Is that a yes?

25 A That was a yes. I did not know that he was Mr. Bloom's

1 personal attorney.

2 Q Are you -- the January 12th, 2021 retention of services and  
3 conflict waiver to you, by Mr. Nahabedian, wherein Mr. Nahabedian  
4 directly states that he has -- he has represented Mr. Bloom in the past  
5 and still represents Jay Bloom. Did you read this document before  
6 signing it?

7 A I did not.

8 Q Okay. So whose fault is that that you said you were not  
9 informed about Mr. Nahabedian's representation of Mr. Bloom? This  
10 letter clearly states that. And now you're blaming Mr. Nahabedian for  
11 not -- you not reading the document? Is that what you're saying?

12 A Mr. Gutierrez, it has been clear through this entire hearing  
13 that I did not read these documents.

14 Q You're -- so Mr. Nahabedian, now that you've seen these  
15 documents, did inform you that he was current counsel for Jay Bloom in  
16 an unrelated matter. You just did not review it. Isn't that true?

17 A I just said it was true.

18 Q Okay. So you have no fault in Mr. Nahabedian, for him not  
19 informing you of this current representation of Mr. Bloom in an  
20 unrelated matter. Correct?

21 A That is correct.

22 Q Okay. Now you believe Mr. Farkas, that you are excused  
23 from contractual obligations simply because you did not read a  
24 document.

25 A I don't even know how to answer that, but I -- I -- obviously

1 I -- I don't. Obviously I'm not. I mean I don't know. No, I guess I'm not.  
2 I've always said I signed these documents. I shouldn't have.

3 Q And you take 100 percent responsibility for you not reading  
4 the documents. Correct?

5 A I have always maintained that.

6 Q Any -- you testified Mr. Farkas, and -- that you had left First  
7 100 in the summer of 2016. Is that correct?

8 A Summer. Yes.

9 Q But in 2017, you were still doing work for First 100. Correct?

10 A That's a misnomer. That is a misnomer, Mr. Gutierrez,  
11 because you brought that up last week in the deposition. Yes, I  
12 remember. And you asked me why I was still -- why I chose to help the  
13 company find litigation funding. Jay asked me to help me out. I felt that  
14 it would benefit me, too in the end. But I was not actually working for  
15 First 100.

16 Q Okay. So fair to say you were still helping First 100 in their  
17 ability to try to collect the judgment. Is that fair?

18 A That's -- that's completely fair. I was trying to help them. I  
19 was trying to help Jay to go and -- and -- and move -- move the -- move  
20 the -- the case along. That's --

21 Q And in 2017, you were still sending emails out from First 100  
22 emails as the V.P. of Finance. Correct?

23 A I was sending them -- I was sending them from that email.  
24 But I wasn't sending them as though I was still working there.

25 Q Okay. But it's still an active email that you used and was --

1 had the title, V.P. of Finance. Correct?

2 A First 100 email, but I was no longer working there.

3 Q Now we had talked about the communication between you  
4 and Adam Flatto in January 2017 where he's seated an interest to you.  
5 Do you recall that?

6 A Yes, I do.

7 Q And then you testified in your deposition that you do not  
8 recall any other communications after that email with Mr. Flatto, where  
9 he changed his mind about wanting to invest in the First 100. Do you  
10 recall that testimony?

11 A I -- I do.

12 Q Okay. And it's still true today, correct?

13 A That he didn't want anything other than -- that he was  
14 seating his -- his investment? Is that what you're asking?

15 Q Yes.

16 A Well, obvious -- I don't think it is true because he wanted --  
17 he wanted the money.

18 Q He wanted his investment money returned; is that -- that's  
19 what you testified to, right?

20 A Of course.

21 Q Thank you, Mr. Farkas.

22 MS. TURNER: I don't have any other questions, Your Honor.

23 THE COURT: Any recross?

24 MS. TURNER: Very limited.

25 ///

1 RECROSS-EXAMINATION

2 BY MS. TURNER:

3 Q At Exhibit 2, please. Second page -- or Plaintiff 007, Exhibit  
4 2-007. This is the arbitration award that was entered in 2020, Mr. Farkas.  
5 Can we go to 007, in the middle of the page. I'm going to read  
6 something to you. This was September 2020.

7 "First, the evidence shows that Mr. Farkas did not have  
8 authority to bind claimant to the redemption agreement, as he did not  
9 seek and obtain the consent of Mr. Flatto."

10 Do you have any reason to believe that Jay Bloom did not  
11 get a copy of this arbitration award?

12 A No, I don't have any reason to believe that.

13 Q And do you believe that Mr. Bloom was on fair notice that  
14 you could not bind TGC/Farkas?

15 A Yes, I believe he understood that.

16 Q When you say that you signed things without reading them,  
17 and that it is 100 percent your responsibility, you don't believe that Mr.  
18 Bloom has some liability there?

19 A Well, I believe he has a liability in that he -- I think -- I believe  
20 that he was doing everything he could to try and manipulate me. I  
21 believe he did things in an underhanded way, which I've already  
22 discussed. I trust him as -- as a brother-in-law, and as somebody who  
23 was representing to me that he was just trying to help in this part of -- of  
24 what was going on. He knew that I didn't want to sue him and that I  
25 meant him no harm. But I -- again, I believe that he took advantage of a

1 nuance in the law. So yes, I should have been smarter. I should have  
2 been more diligent. But do I -- do I let Jay off the hook and say well,  
3 Matthew, you didn't read any of this stuff, so you know, it's really your  
4 fault. I think the way Jay treated me was -- was -- was wrong and  
5 manipulative. And I think he knew exactly what he was doing. He knew  
6 exactly what he was doing. And I almost think that he counted on me  
7 not going through all this stuff. That I would just sign off. That I wanted  
8 to be done with it. That I didn't really want to be involved. And -- and so  
9 we -- we are both culpable there.

10 But I -- but -- but I agree that no, Jay is not completely off the  
11 hook.

12 Q Jay Bloom misrepresented to you that Raffi Nahabedian was  
13 going to represent you, personally, versus TGC/Farkas. Isn't that right?

14 A Yes, that's right. And like I said before, while -- while I  
15 should have -- I could have called Adam. I could have called Jay. Jay  
16 could have said to me, Matthew, I'm sending a bunch of documents to  
17 the UPS store for you to look at. Okay. One of them is going to be a  
18 settlement agreement. He never did that. He just said go to the UPS  
19 store. We found a lawyer for you. That was the extent of it. He wasn't  
20 forthright with me.

21 Q And he concealed from you that the purpose of Raffi coming  
22 in was to dismiss the lawsuit, pursuant to the settlement agreement?

23 A Right.

24 Q All right. I have no further questions.

25 THE COURT: Any redirect?

1 MR. GUTIERREZ: Briefly, Your Honor.

2 FURTHER REDIRECT EXAMINATION

3 BY MR. GUTIERREZ:

4 Q Mr. Farkas, you had the chance to review the attorney  
5 retainer agreement that Mr. Nahabedian sent you prior to signing it,  
6 correct?

7 A Yes, I did.

8 Q And that stated that he was coming in as counsel for  
9 TGC/Farkas, and you signed off on that, correct?

10 A I -- I did not read it, but that is what the document said.

11 Q Okay. So there was no misrepresentation in the document,  
12 you just didn't read it. Isn't that fair to say?

13 A Not entirely, no. Again, Mr. Gutierrez, Jay sent me to the  
14 UPS store under the guise that I was going there to retain Raffi to be my  
15 attorney. At any time Jay could have said to me, Matthew I'm sending  
16 you several documents. And again, if Jay really wanted to execute a  
17 settlement agreement, why didn't you, Mr. Gutierrez, reach out to Erika  
18 Turner and negotiate a settlement agreement?

19 Q Mr. Farkas --

20 A Now you --

21 Q -- I'm sorry, go ahead. Go ahead.

22 A You could say, and I didn't disagree with you, that I am not  
23 absolved because I didn't read the documents. That is on me. It is. Not  
24 entirely, because again, I do feel that Jay deceived me. But yes, I'm a big  
25 boy, I could have read the documents. But by the same token, they were

1 talking about a settlement agreement. And from where I sit, that should  
2 have come from you and your firm to Erika and Erika's firm. That is not  
3 something that should have been negotiated, and nor was it negotiated.  
4 Jay never talked to me about a settlement agreement. And he knew that  
5 by doing -- that if -- that you couldn't send it to me, but he could. I  
6 accept my culpability, Mr. Gutierrez. I do.

7 Q But what --

8 A But I never --

9 Q Okay, go ahead. I'm sorry.

10 A I said and I've never made -- I've never made any bones  
11 about that. Either last week or today. I accept my culpability. But you  
12 guys have culpability, too. And I think Jay knew exactly what he was  
13 doing. And he had -- and he had reasons for wanting to do it.

14 Q Okay and --

15 A And that's my -- that's --

16 Q Well, the term misrepresentation was used. And  
17 hypothetically, had there been some misrepresentation about the scope  
18 of Mr. Nahabedian's representation or the terms of the settlement, you  
19 had the documents in front of you. You could have said I read it. This  
20 doesn't purport to what we talked about and told Mr. Bloom that.  
21 Correct?

22 A I absolutely could have. And I've said that.

23 Q Okay. And -- and you negotiated yourself, Mr. Farkas,  
24 individually, with other principals of companies to try to resolve litigation  
25 with First 100, correct?

1           A     Wait, what?

2           Q     When you -- you recall the litigation with Omni and Martin  
3 Boone?

4           A     I know that it happened. I didn't negotiate anything with  
5 Martin Boone.

6           Q     You didn't have discussions with Mr. Martin Boone about  
7 trying to settle the case on behalf of First 100 directly?

8           A     I don't remember -- I don't remember talking to Martin.  
9 And -- and it was -- I never handled the legal portion of what Mr. Boone  
10 was -- of -- of the case there. He was talking to Jet.

11          Q     Okay. But you, yourself, never had a conversation with  
12 Martin Boone about trying to settle that case?

13          A     I don't -- I don't remember. If I did it's -- I mean I suppose it's  
14 possible. But I don't remember. I couldn't swear to it, but I don't  
15 remember. It was -- it was seven years ago.

16          Q     Okay. I don't have any other questions. Thank you, Mr.  
17 Farkas for your time.

18          A     Thank you.

19                THE COURT: Any recross?

20                MS. TURNER: No, Your Honor.

21                THE COURT: All right. Witness may stand down. Thank  
22 you.

23                THE WITNESS: Am I -- I'm finished?

24                THE COURT: Yes.

25                THE WITNESS: Okay, thank you.

1 THE COURT: Yes. All right, so anybody need a break before  
2 we go to the next witness.

3 UNIDENTIFIED SPEAKER: Yes, please.

4 MR. GUTIERREZ: No, I'm fine.

5 MS. TURNER: Not from my end.

6 THE COURT: Okay. Very well, your next witness, Mr.  
7 Gutierrez?

8 MR. GUTIERREZ: We're calling Jay Bloom.

9 THE COURT: Okay.

10 MR. BLOOM: Good afternoon.

11 THE COURT: Be sworn.

12 THE MARSHAL: Please raise your right hand.

13 JAY BLOOM, DEFENDANT'S WITNESS, SWORN

14 THE MARSHAL: And please state your full name, spelling  
15 your first and last name for the record.

16 THE WITNESS: Jay Bloom. J-A-Y B-L-O-O-M.

17 THE MARSHAL: Thank you.

18 DIRECT EXAMINATION

19 BY MR. GUTIERREZ:

20 Q Good afternoon, Mr. Bloom. Did you form a company in  
21 2012, called First 100, LLC?

22 A I did.

23 Q Could you just tell us what type of business First 100 was in?

24 A First 100 was in the business of purchasing beneficial  
25 assign- -- and assignment of beneficial interest in proceedings of

1 delinquent HOA receivables and then buying the real property at a  
2 foreclosure sale.

3 Q And what was your position with First 100 when the  
4 company started?

5 A I was their director.

6 Q And what were your duties as director of First 100?

7 A I participated in the management of the company.

8 Q Can you explain the relationship between First 100, LLC and  
9 First using the word One at the One Hundred, LLC?

10 A Yes. First 100, F-I-R-S-T 1-0-0, was the initial company. A  
11 decision was made later to create a holding company that would own  
12 First 100 and potentially several other subsidiaries. So there is a transfer  
13 of membership interest from the initial First 100, F-I-R-S-T 1-0-0 to the  
14 holding company and the cap table was moved from the subsidiary --  
15 what became the subsidiary to what became -- to the newly formed  
16 holding company.

17 Q And did you have the members of the First 100, LLC sign a  
18 new operating agreement?

19 A The -- yeah, the board did, yes.

20 Q Okay. Mr. Bloom, can you give us a brief overview of your  
21 educational background after high school?

22 A I got my undergraduate at Rutgers University and MBA in  
23 finance from Fordham University in Lincoln Center.

24 Q And if you could give us a brief overview of your work  
25 experience after college?

1           A     I spent ten years with what started as Manufacturers Hanover  
2 Trust and ultimately became JP Morgan Chase. And then the  
3 subsequent 20 years everything from start up to mid-cap acquisitions to  
4 venture capital across industries.

5           Q     And you're here testifying today, Mr. Bloom, in your  
6 individual capacity as well as the corporate representative for the First  
7 100 entity. Is that true?

8           A     That's correct.

9           Q     Can you tell us what the current status of the First 100  
10 business operations are?

11          A     First 100 hasn't been operational since around 2017.

12          Q     And could you tell us when First 100 was operational -- well,  
13 how many employees did it have?

14          A     Maybe about two dozen.

15          Q     And does it have -- First 100 have any employees now?

16          A     No.

17          Q     First 100 have an office?

18          A     No.

19          Q     Does First 100 have any money?

20          A     First 100 has no bank accounts for years. Has no cash.

21          Q     Does First 100 have any assets?

22          A     First 100 -- First 100 holds a single asset. It holds a -- a  
23 substantial judgment against an individual that breached a funding  
24 commitment to the company.

25          Q     And how many members does First 100 have?

1           A     Approximately 50.

2           Q     And do you know where those -- the members are located?  
3 Are they all in Nevada or are they across the country? Where are they  
4 at?

5           A     They're all over the country and there's -- I believe we have  
6 investors in Canada, as well.

7           Q     Okay. And are you familiar with First 100 Subscription  
8 Agreement?

9           A     I am.

10          Q     And in that subscription agreement, does First 100 have a  
11 notification requirement for its members to notify the company of any  
12 change in its status?

13          A     Yes.

14          Q     And why does First 100 have that requirement in its  
15 subscription agreement?

16          A     Well, First 100 has no access to internal communications in  
17 corporate members. So we have a number of -- of our 50 members are  
18 entities with multiple members of their own right. And whatever their  
19 internal discussions may be if there's any change in the status, the  
20 results from their internal discussions, First 100 would need to be  
21 notified about it. To have knowledge of it.

22          Q     And TGC/Farkas signed the First 100 subscription agreement,  
23 correct?

24          A     Matthew Farkas on behalf of TGC/Farkas as manager and  
25 CEO signed, yes.

1 Q And in this case, Mr. Bloom, we're talking about a January  
2 6th, 2021 settlement agreement between TGC/Farkas and First 100. Prior  
3 to entering that settlement agreement, did Matthew Farkas ever tell you  
4 he was no longer the administrative member of TGC/Farkas?

5 A No, to the contrary. He insisted that he was still the  
6 manager. In August or 2020 he signed and -- a declaration during the  
7 arbitration that contained false information. And I was upset with him  
8 for doing that. I asked him if he signed anything else, and he said no. In  
9 January again I asked him if he signed anything. And he said -- did he  
10 sign anything besides the August declaration. And again he insisted he  
11 had not signed anything.

12 Q Okay. And it --

13 A He was insisting -- he was insisting he was still the manager  
14 of TGC/Farkas.

15 Q Okay. And in August of 2020, Adam Flatto also submitted a  
16 declaration of the arbitration that you read; is that correct?

17 A He did.

18 Q What was your understanding of Mr. Flatto's position in that  
19 declaration, as far as the administrative member portion of the  
20 TGC/Farkas entity?

21 A In Mr. Flatto's August of 2020 declaration in the arbitration he  
22 reiterates the position that Matthew was, and remains to the date of that  
23 declaration, the manager of TGC/Farkas or the administrative member  
24 and manager.

25 Q And is that the last communication you have with

1 TGC/Farkas as who is the administrative member of the company?

2 A With the exception--

3 Q I'm talking --

4 A I'm sorry. With the -- with the exception of Matthew's  
5 continued representation that he remained the manager subsequently.

6 Q Okay. And -- okay. What's your relationship to Matthew  
7 Farkas?

8 A He's my brother-in-law.

9 Q And what was his position with First 100 when TGC/Farkas  
10 invested in October of 2013?

11 A He started as the CFO and was quickly moved to VP of  
12 Finance. I don't remember which title he held when they entered the --  
13 when -- when TGC/Farkas entered the subscription agreement.

14 Q Is Matthew Farkas a signer on First 100 bank accounts?

15 A Matthew Farkas was primary signer on the account.

16 Q And do you know Adam Flatto?

17 A Through -- through Matthew Farkas, I do.

18 Q During your time that First 100, from 2013 to 2020, did you  
19 have regular communication with Mr. Flatto about the operation of First  
20 100?

21 A I wouldn't say I had regular communication. We spoke  
22 maybe a half a dozen times or less. And maybe a dozen text messages.

23 Q What was your primary way to communicate with  
24 TGC/Farkas?

25 A Exclusively through Matthew Farkas, as the manager.

1 Q And why did you choose to communicate with Matthew  
2 Farkas, on -- when you were talking with the TGC/Farkas on--

3 A Matthew Farkas from inception and through around January  
4 19th of 2021 our -- our -- as we understood it the -- the manager and the  
5 CEO and -- well, I guess -- I guess managing member of TGC/Farks.

6 Q And Mr. Farkas had represented himself as being the CEO of  
7 TGC/Farkas, as well, correct?

8 A Correct.

9 Q I want to talk to you about the settlement agreement, Mr.  
10 Bloom. If you can turn to Exhibit I.

11 A Okay, I have it.

12 Q And tell us how -- just explain for us how this settlement  
13 agreement came about.

14 A So Matthew indicated that he was upset about the litigation.  
15 I agreed with him. I thought it was kind of counter-productive and -- and  
16 really with no money in the company, until money came in, Adam  
17 couldn't get paid, because there's no money to fund the payment. So we  
18 talked about how Adam wants his money back. That's all he wants.

19 And I recalled a conversation that I had with Adam, where  
20 Adam said he wants his money back, plus six percent. So what Matthew  
21 told me Adam wanted in the settlement agreement comported with what  
22 Adam told me several years prior, with the exception of Adam wanted an  
23 additional six percent. You know, I actually listened to the depositions  
24 last week and I thought I lost my mind. So I asked my wife, Matthew's  
25 sister, and she recalls him --

1 MS. TURNER: Objection, Your Honor. Objection, move to  
2 strike any conversation between he and his wife.

3 THE COURT: Sustained.

4 BY MR. GUTIERREZ:

5 Q Mr. Bloom, yeah, just -- yeah, let's keep talking about the  
6 settlement agreement, as far as --

7 A Yeah, yeah.

8 Q -- just keep going towards Matthew.

9 A Right. So Matthew -- Matthew was at the -- at my house  
10 discussing the settlement agreement in the presence of others.

11 Q Now did you put the settlement agreement together?

12 A Based on the conversations I had with Matthew, I drafted the  
13 settlement agreement.

14 Q And did the settlement agreement between TGC/Farkas and  
15 First 100 accomplish the goals that Adam Flatto had with returning his  
16 investment?

17 A As best I understood what Adam told me directly and what  
18 Matthew told me that Adam related to him, and what Matthew wanted,  
19 as what we understood to be the manager of TGC/Farkas, the settlement  
20 agreement addressed everybody's desires as I understood them.

21 Q Was there any part of the settlement agreement that  
22 Matthew Farkas disagreed with, prior to signing it?

23 A No, it was drafted based on the discussions I had with  
24 Matthew, to comport to what he wanted.

25 Q And what was that?

1           A     He wanted Adam to get his million dollars back. And then I  
2 added in the plus six percent, based on what Adam told me he wanted.  
3 And he wanted to end the litigation. As did First 100.

4           Q     Is there any part of the settlement agreement that would  
5 extinguish TGC/Farkas' million dollar investment in First 100?

6           A     No. No, absolutely not.

7           Q     On paragraph 14 of the settlement agreement, it states that  
8 the parties represented wanted the full power and authority to enter into  
9 the settlement agreement. Do you see that?

10          A     I do.

11          Q     You rely on that and on Matthew's representation that he  
12 had the full power and authority to enter this agreement on behalf of  
13 TGC/Farkas when he signed this?

14          A     Yeah, that -- that -- that comports with Matthew's consistent  
15 representations up to and through the day of the signing of the  
16 settlement agreement and for the week or two subsequent.

17          Q     Matthew Farkas has claimed that he was under duress when  
18 he signed the settlement agreement. Was there -- did you pressure  
19 Matthew Farkas, or threaten Matthew Farkas in any way, prior to him  
20 signing the settlement agreement?

21          A     Absolutely not.

22          Q     Can you explain why you -- why he was at a UPS store  
23 signing these documents?

24          A     Matthew told me that he didn't have a printer in his house,  
25 and he didn't have a scanner at his house. So he provided me the UPS

1 store address and asked me to send it there.

2 Q And did he tell you that he didn't have time to read the  
3 documents that you sent him?

4 A No, he actually told me to send it to the UPS store and he'll  
5 review it there and sign it. And have them send it -- scan it and send it  
6 back to me.

7 Q Did you give Matthew Farkas the opportunity to make any  
8 changes he wanted to the documents?

9 A I did. And there was an email that I saw in the exhibits that  
10 we -- we've tabled through. I don't remember if they're related to the  
11 settlement agreement or a declaration, but it -- I asked him to read it and  
12 make sure it was truthful. Tell me if there's any changes he wants, and  
13 then sign it and send it back.

14 Q Did Matthew -- did you tell Matthew Farkas at any point not  
15 to talk to Adam Flatto before signing the documents that you sent him?

16 A No, of course, not.

17 Q And there's been some questions about why you didn't  
18 involve counsel to try to settle this. What -- tell us why you resolved this  
19 litigation yourself, between you and Mr. Farkas.

20 A I had experience in the past, where law firms have kind of  
21 spooled up the fight, so to speak. There was actually a matter that was  
22 aggressively litigated by Gordon Silver, by Mr. Garman. And we were in  
23 a meeting where Mr. Garman said we -- the parties wanted to settle, and  
24 Mr. Garman said I can't go back and tell my client we can't bill any more.  
25 At which point, Jared Gordon removed Mr. Garman from the case

1 and -- and replaced him with Bill Noall. And the other party and I  
2 stepped outside and in ten minutes we had -- the parties agreed to a  
3 settlement without the attorneys. It was -- my experience has been it's  
4 much more productive to resolve matters with the parties directly.

5 Q And in this case one of the parties was your brother-in-law,  
6 correct?

7 A Right. Which provided for free-flowing dialogue about the  
8 settlement.

9 Q Tell us how you helped -- tell us about helping Matthew  
10 retain Raffi Nahabedian and why you chose Mr. Nahabedian to help out  
11 with his representation.

12 A Oh, I told Matthew that he was going to need counsel to  
13 enter the settlement for TGC/Farkas, as well as counsel for himself  
14 individually. I referred him to a number of attorneys. Raffi Nahabedian  
15 for TGC/Farkas to enter the settlement. And Danielle -- I'm sorry, Kelsey  
16 Bernstein for him individually. And later I think Vernon Nelson. And  
17 then a third attorney. I gave him three attorneys for him individually, to  
18 talk to. All of the attorneys are attorneys that I knew for matters that I  
19 was involved in. That's how I knew the attorneys to refer him to.

20 But, yeah, I was very clear with him that Raffi was being  
21 retained for the company. And then I provided him three other attorneys  
22 for himself individually.

23 Q When Mr. Farkas was testifying, they showed a text  
24 message, which was admitted Exhibit 16. Do you have Exhibit 16 in  
25 front of you, Mr. Bloom? If not, it's Exhibit PP. It's the same exhibit.

1 Text message between you and Mr. Farkas. Tell me when you have it.

2 A I have it.

3 Q Okay. And this -- tell us what this text message is.

4 A So this text message, where it says today at 2:33, I got a -- I  
5 was in my house with Matthew's mother. And they told me that  
6 Matthew called her and said Dylan, on a Saturday morning showed up at  
7 Matthew's house and had him sign a declaration. And from what I  
8 understand the declaration was not provided to Matthew in advance. He  
9 was not provided an attorney, or the opportunity for an attorney to  
10 review it.

11 MS. TURNER: Your Honor, I move to strike the purported  
12 discussion between he and his mom.

13 THE WITNESS: No, I'm not --

14 MS. TURNER: It --

15 THE WITNESS: No, it was my conversation with -- with --  
16 with both my mother-in-law and with Matthew.

17 THE COURT: I'll permit the conversation with Matthew, but  
18 not the mother.

19 THE WITNESS: Okay. I'll try and remember which parts  
20 were with Matthew and which parts were with my mother-in-law and  
21 limit it to my discussions with Matthew. A lot of what I heard was a  
22 conversation between the two of them that she had on speaker. So  
23 Dylan was -- was at Matthew's house on a Saturday morning with a  
24 declaration for him to sign.

25 He was not provided an opportunity to have counsel,

1 personal counsel review it. He was not provided an opportunity to  
2 review it prior to it being presented to him. I cautioned Matthew in this  
3 text message not to sign something, as he has a history of signing  
4 declarations that TGC/Farkas' attorney put in front of him, containing  
5 false information.

6           The August declaration had false information and it turned  
7 out this January declaration did, as well. Matthew, I guess didn't read  
8 the declaration that he signed. But I -- this is cautioning him not to sign a  
9 declaration adverse to the company, that contained false information.  
10 And reminding him that he has a duty to the company where he's a  
11 member and an officer.

12 BY MR. GUTIERREZ:

13           Q     Did Matthew Farkas ever tell you Mr. Bloom, that all First 100  
14 communications with TGC/Farkas should go only through Adam Flatto?

15           A     No, he never -- he never told us that.

16           Q     Did Matthew Farkas ever tell you that he wanted to avoid  
17 litigation between First 100 and TGC/Farkas?

18           A     Yes, he desperately wanted to end the litigation.

19           Q     Okay. There's no other discussions about putting First 100  
20 on notice to the membership interest redemption agreement with First  
21 100. Do you recall that agreement?

22           A     I do.

23           Q     And do you recall seeing some letters that have been shown  
24 by -- between my firm and Ms. Turner's firm regarding the disposition  
25 about TGC/Farkas on requiring Matthew Farkas needing authority from

1 Adam Flatto for any decision?

2 A I -- yes. The -- the arbitration -- the August declaration that  
3 the -- Garner Turman -- Garman and Turner had Matthew sign had  
4 Matthew representing that he didn't sign the redemption agreement in  
5 the capacity as manager of TGC/Farkas. When if you look at the  
6 document, he signed it on behalf of TGC/Farkas. He changed his title to  
7 V.P. of Finance, but it was counter-signed by me on behalf of First 100.

8 The declaration we had him sign said that he signed on  
9 behalf of First 100. Based on that mistruth, the arbitration went in favor  
10 of TGC/Farkas. The arbitration, as I understood it, found that Matthew  
11 Farkas didn't have the sole authority to enter into the -- enter that  
12 particular agreement. The -- the redemption agreement on the  
13 membership interest. And I think -- I think that Garman Turner tried to  
14 expand the scope of -- of that finding to say that Matthew Farkas didn't  
15 have the authority to do anything.

16 And that dovetails together with -- I'm not privy to their  
17 internal communications. I don't know what Adam Flatto may orally or  
18 in writing say to Matthew behind the walls of TGC/Farkas. So I have to  
19 rely on Matthew's representations.

20 Q And Matthew's representations to you at the time of the  
21 January 6th, 2021 settlement agreement was that he has authority to  
22 sign off on behalf of TGC/Farkas; is that true?

23 A Up to and through the signing of the settlement agreement,  
24 and then even subsequently in retaining Raffi on behalf of TGC/Farkas  
25 Matthew represented he had authority. It was only when Raffi sent the

1 substitution of attorney form to Erika that we first learned of the  
2 existence of a September amendment. And when we asked Matthew  
3 about it, he said let me go check my emails and see if I can find if I  
4 signed anything. And I think there's an exhibit that evidences that text  
5 exchange between Matthew and I, where we first learned around  
6 January 19th or January 20th of 2021, for the first time, that Matthew  
7 had resigned his manager position, by way of that amendment. But yes,  
8 as of January 6th of 2021, the time the settlement agreement was  
9 signed, we understood Matthew to be the manager, and Matthew  
10 continued to represent he was the manager, both in conversation and in  
11 a series of documents.

12 Q And Mr. Bloom, if you could turn to exhibit N as in Nancy.

13 A Okay, I have it.

14 Q And this is a January 15th, 2021 letter from Garman Turner  
15 Gordon to Mr. Nahabedian, where it discusses the September 2020  
16 amendment to the TGC operating. Do you see that?

17 A I -- I have the letter. I'm not sure which part of the letter  
18 you're referencing, but yes, I have the letter.

19 Q Okay, do you have the January 15, 2021 letter to Raffi  
20 Nahabedian from Garman Turner Gordon?

21 A Yes, I have the letter.

22 Q Okay. And then in this letter, they talk -- it actually attaches  
23 the amendment to the TGC/Farkas operating agreement?

24 A I do see that.

25 Q Was this the first time, when you reviewed this letter, that

1 you learned that Matthew had signed an amendment to the TGC/Farkas  
2 operating agreement?

3 A Yeah. Raffi did not provide me this letter. And I asked  
4 Matthew in the text messages when Raffi raised this as an issue. And  
5 then Matthew, as of January 19th or 20th, I raised the question of what  
6 did you sign. And he told me that he wasn't going to provide it even as  
7 of January 19th or January 20th of 2021. He's still refusing to provide it.  
8 Once he realized that -- what he signed.

9 Q To be -- to be clear, you didn't even see this letter on  
10 January 15th, 2021; is that true?

11 A No, it was -- it was about almost a week after this letter was  
12 issued that I first saw this amendment for the first time and learned of its  
13 existence.

14 Q And if you go to Exhibit O, there's a January 20th, 2021 letter  
15 between Mr. Nahabedian and Mr. Farkas, which is the termination of  
16 services.

17 A I have the exhibit.

18 Q Okay. Was it your understanding that Mr. Nahabedian was  
19 terminating his services with Matthew Farkas?

20 A Yeah, when -- when Mr. Nahabedian learned that Matthew's  
21 representation where he was the manager turned out not to be the case,  
22 Mr. Nahabedian represented -- told -- told everybody that he wasn't  
23 going to be able to move forward. That Matthew didn't have the  
24 authority as of the date of this letter, that Matthew had represented he  
25 does have, as of January 9th, 10th, 11th, you know, the week or two

1 prior.

2           The letter even says, as I'm reading it now. "Please recall  
3 based on our discussions, it is my understanding you were the manager  
4 of TGC/Farkas. My retainer and letter specifically refer to you as the  
5 manager and requested your signature in such capacity." And -- and I  
6 think this January 20th letter is when Raffi Nahabedian first found out for  
7 the first time that Matthew was not, in fact, the manager, as he had  
8 represented.

9           Q     Okay, Mr. Bloom, let's to go Exhibit W, which are some text  
10 messages between you and Mr. Farkas.

11          A     Yeah, I have Exhibit W open.

12          Q     Okay, and the first page which is 0449 is a text message  
13 thread on January 7, 2021 between you and Mr. Farkas. Is that right?

14          A     Correct.

15          Q     So tell us about this -- these messages. You were -- were  
16 you -- what were you doing when you were --

17          A     Well --

18          Q     -- with Mister --

19          A     This was -- I think this was the date of the settlement  
20 agreement and the retention of Raffi's firm on behalf of TGC/Farkas. This  
21 January 7th text is a text from Matthew that says he's at the UPS store  
22 and he's directing me to send the documents to him at the UPS store,  
23 providing me with the email for the UPS store that he's at. He then says  
24 they'll print them out and he'll scan the signature pages back to me from  
25 his cellphone. And then he follows up with me again, asking me did I

1 forward the documents.

2 Q Okay. And if you go to another two pages, what is that?

3 A Okay.

4 Q Tell us about this text thread starting January 13th.

5 A Okay. Don't remember which documents -- oh, this was --  
6 Raffi needed a subsequent document that again he sent to the UPS store.  
7 And then Matthew said he got to the UPS store and it's coming now. It  
8 should be there in five minute. I -- I don't -- I don't remember what the  
9 supplemental document was that Raffi was asking for.

10 Q But Mr. Farkas had to go to the UPS store twice to sign and  
11 return documents. Is that right?

12 A Correct.

13 Q All right. Let's go to the next page. January 15th, 2021, you  
14 text Mr. Farkas, or start calling 15. And he said sure.

15 A Yes.

16 Q Do you recall what was discussed during that phone call?

17 A I believe on that call we discussed -- I think I asked him again  
18 did you sign any other documents besides the -- the August declaration  
19 on behalf of TGC/Farkas for the arbitration. And he again told me that  
20 no, he -- he didn't sign anything other than that declaration.

21 Q Okay. And let's go to the next page which I think is January  
22 18th. You -- down at towards the bottom, you say that the September  
23 amendment to the operating agreement, I was told you found. What  
24 were you telling Mr. Farkas during the call?

25 A On January 18th, I -- I first learned that Matthew supposedly

1 signed something in September, after he told me he had not. I asked  
2 him on January 18th of 2021, can you send me what you went to Raffi.  
3 Because I guess he sent it to Raffi at that point. He said sure, he was  
4 waiting for Raffi to give him the okay. And I said, the okay. I didn't  
5 understand what okay he needed. And Matthew responded he doesn't  
6 entirely understand whether there's supposed to be a separation.

7           And I said -- I said the September amendment to the  
8 operating agreement, I was told you found. Referencing for the first time  
9 that I'm now hearing he did sign a document in September, where he  
10 resigned his membership. Again, this is about two weeks after he  
11 signed the settlement agreement.

12           Matthew responds, I understand, I'm just waiting for his  
13 okay. Meaning Raffi. I'm sure he'll get back to me very soon. And then  
14 I said, you know, I'm with one of the attorneys. Text me when you send  
15 it.

16           And it continues on to 0453, the next page in the exhibit. He  
17 says absolutely. And then he comes back, and he says, Jenson,  
18 unfortunately I'm not able to send you any documentation because the  
19 amended agreement removes me as the manager. So I guess this is the  
20 first time he's -- he's realizing -- he, Matthew Farkas, is realizing that he's  
21 no longer the manager.

22           And then he refers me to Adam's lawyer's letter from  
23 September. Anything that I need must come from them. He's worried  
24 about Adam suing him and he's in the middle. So he's not going to  
25 provide any information. I respond that this is not protected information.

1 If they're making a claim under the documents that you told me you  
2 didn't sign, you have to provide them to me.

3           And then he says, I did sign them. That's why you were so  
4 angry with me. Referencing the August declaration. I'm asking him in  
5 my email for the September amendment to the TGC operating  
6 agreement.

7           Q     Did you provide Matthew Farkas with another declaration, to  
8 try to get him to correct his testimony, at this point?

9           A     I did. Garman Turner on that Saturday morning showed up  
10 at his house with a declaration that contained several false statements  
11 that they elicited Matthew into making. I asked him to sign an affidavit  
12 correcting the record, and just tell the truth. You know, I understand he  
13 didn't -- they didn't afford him an opportunity to read the document  
14 when they were at his house that Saturday morning. But in retrospect,  
15 having read the document, there's a lot of stuff in there that they had  
16 him sign that wasn't true. And I just encouraged him to tell the truth.  
17 That -- that I think was the -- the email that came up prior, where I said,  
18 here's the declaration. Read it, review it. Make sure it's truthful. Tell me  
19 if you want to make any changes, and then sign it. But just let's tell the  
20 truth here. And he refused to sign that. Letting the false statements  
21 stand as his testimony.

22           Q     Now, Mr. Bloom, from the time TGC/Farkas invested in First  
23 100 in October of 2013 until January of 2021, who was the point of  
24 contact between TGC/Farkas and First 100?

25           A     Without exception, it was Matthew Farkas. Yeah, with --

1 without exception.

2 Q And why do you say without exception?

3 A Because nobody ever told us that there was a change in the  
4 management of TGC/Farkas.

5 Q And would -- were you aware that Mr. Farkas would update  
6 Mr. Flatto information relating to First 100?

7 A Yes, Matthew told me he was in communication with Adam  
8 Flatto.

9 Q And you've seen text -- email communications between Mr.  
10 Farkas and Adam Flatto sending financial information to him for First  
11 100?

12 A Correct. Mr. Flatto requested financial information from  
13 Matthew. Matthew as the V.P. of Finance had access to all of the  
14 financial information through financial controller, Michael Hendrickson.  
15 Matthew procured the information that Mr. Flatto wanted, and relayed it  
16 directly to Mr. Flatto.

17 Q And could you go to Exhibit Z as in zebra. I'm going to read  
18 it on here.

19 A Okay, I have it open.

20 Q It says December 22nd, 2015 email from Mr. Farkas to Adam  
21 Flatto regarding 2013 difficulty of financial statements. Do you see that?

22 A I do.

23 Q And are you cc'd on that email?

24 A No. Matthew sent that to Adam, and I was not included.

25 Q And then it looks like he forwarded it to you later; is that

1 right? 2016.

2 A Yeah, about a year later.

3 Q And the -- if you go to the next page, it's from Mr. Michael  
4 Hendrickson to Matthew Farkas, regarding 2013-2014 financial  
5 statements. Do you see that?

6 A I do.

7 Q And was that Mr. Hendrickson's role to help -- to -- to gather  
8 these financial statements when they're requested?

9 A Yeah. And he also assisted Matthew Farkas in -- in reviewing  
10 and preparing. If you go back to 0459, where Matthew says to Adam  
11 Flatto, "I will have everything completed by tomorrow." I listened to his  
12 testimony, where he said he meant Mr. Hendrickson would have  
13 everything completed by tomorrow. By if that's what he meant, that's  
14 what he would have said. He very clearly says I will have everything  
15 completed by tomorrow. Mr. Farkas says.

16 Q Could you turn to Exhibit AA.

17 A I have the exhibit.

18 Q And the -- the -- the January 8th, 2016 email from Mr. Farkas  
19 to you, regarding financials. Do you see that? You may want to start on  
20 the next page, which is the bottom of the email thread, which is 0482.

21 A January 8th of 2016. This -- this is an email from me to  
22 Matthew and then Matthew was forwarding it to Adam, relating to the  
23 financials.

24 Q Okay. And is that consistent with the -- how the  
25 communication flowed from First 100 to TGC/Farkas? Was it -- any

1 information Matthew needed, he would gather it himself or would get  
2 from Mr. Hendrickson or you, to send to Mr. Flatto?

3 MS. TURNER: Objection, leading.

4 THE COURT: Okay, rephrase.

5 BY MR. GUTIERREZ:

6 Q Tell us your understanding of the -- how the flow of  
7 communication during this timeframe this 2015, would go between First  
8 100 and TGC/Farkas.

9 A Any internal conversations with TGC/Farkas and -- and  
10 Matthew Farkas and Adam Flatto; any internal conversations, Matthew  
11 would approach on behalf of TGC/Farkas First 100, and in his capacity as  
12 V.P. of Finance of First 100, he had access at all times to answer any  
13 questions that they had. He would either have the information, request  
14 the information from Michael Hendrickson or request that information  
15 from me for clarification on anything he had questions about. This  
16 email's an example of that.

17 Q If you go to 0484, Mr. Hendrickson is emailing you about  
18 Matthew wanting the financials. Do you see that?

19 A I do.

20 Q And that's consistent with what you've testified to, right?

21 A It is.

22 Q If you go to Exhibit BB. Mr. Farkas testified that he was no  
23 longer with the company in 2016. This email is dated November 30th,  
24 2016 and it's from you to Mr. Farkas, saying draft settlement points with  
25 Martin. Tell us what this is.

1           A     Matthew was involved with settlement discussions with  
2 Martin Boone of Omni Financial. Omni was a bridge lender that was  
3 lending money to First 100 to bridge the operations until Raymond Ngan  
4 funded on his commitment, which ultimately he did not. And wound up  
5 in judgment. But, yeah, while -- while we were working with our bridge  
6 lender, Matthew was point on the -- on the negotiations. He had brought  
7 that lender in and he was running point on settlement discussions. So  
8 this email is draft settlement points with Martin. And I said let's discuss  
9 it after Raymond's hearing, and Matthew says sounds -- sounds good.

10           Q     Okay. All right. Mr. Bloom, what's your understanding of  
11 why the Plaintiffs are pursuing contempt sanctions against you in your  
12 individual capacity?

13           A     Oh, I -- I -- I don't think --

14                   MS. TURNER: Objection, Your Honor. Lack of foundation.

15                   THE COURT: Sustained.

16 BY MR. GUTIERREZ:

17           Q     Mr. Bloom did you have -- were you part of the arbitration in  
18 your individual capacity?

19           A     No, I was not.

20           Q     Okay, who were the parties?

21           A     The parties are TGC/Farkas and First 100.

22           Q     And can you explain for us why First 100 did not comply with  
23 the order to produce its books and records pursuant to the arbitration  
24 order?

25           A     So First 100 wound up its operations, I guess four years ago

1 at this point, roughly. Michael Hendrickson, the financial controller, has  
2 moved on to new employment. He did take the computer to  
3 safeguard -- the accounting computer to safeguard the information.  
4 And has that in his possession. Matthew Farkas is the V.P. of Finance  
5 has some records. The documents that they requested, would need to  
6 be reconstructed by Michael Hendrickson. As he no longer works for the  
7 company and hasn't for years, he indicated he would need to take  
8 vacation time from his other employer and requested compensation for  
9 compiling the documents in response to the request from TGC/Farkas.

10 Q Okay. And if you go to Exhibit V as in Victor, it's a February  
11 12th letter from my law firm to Garman Turner Gordon.

12 A Okay, I have the exhibit.

13 Q And is this the letter and enclosed outline by Mr.  
14 Hendrickson, as the cost it would take to comply with the Court order on  
15 document production?

16 A Yes, I -- I think he -- he gave several different options,  
17 depending on how comprehensive they wanted the production to be,  
18 based on the amount of time it would take them to find, compile,  
19 production -- produce the documents.

20 Q And it looks like if your documents are before 2015, it would  
21 be 10 to 15 hours. Is that kind of his estimate; is that right?

22 A Correct.

23 Q And then anything after 2016 would be -- would take over  
24 100 hours; is that right?

25 A Correct.

1 Q And why would that take so much long -- longer?

2 A I think after 2016, when he left, the company was in the  
3 process of winding down. And then we'd have to reconstruct a lot of the  
4 information. But he kept the books and records together with Matthew  
5 for 2015 and prior.

6 Q Has First 100 willfully withheld these documents from any  
7 member, including TGC/Farkas?

8 A No, to the contrary. We said well, from the period of 2017  
9 from when they signed, from when Matthew signed the redemption  
10 agreement, they were no longer members, until the point of the  
11 arbitration. When the arbitration found that they were members,  
12 although we disagree with the arbitration results, we accept them, we  
13 said we're happy to provide the documents you're requesting. But, you  
14 know, the operating agreement says that whoever requests the  
15 documents has to pay for them. And there's third parties that need to be  
16 paid to compile the responsive documents. That was communicated to  
17 Matthew prior to this letter. And this letter just memorializes in writing  
18 that there are costs associated in the production.

19 But no, we never denied access from the time of the  
20 arbitration forward. We just said that the company doesn't even have  
21 bank accounts, much less any capital to pay the third-party. So we're --  
22 we're happy to have them pay the third-party directly to compile the  
23 books and records that he's looking for. But no, we're not -- we're not  
24 withholding them by any means.

25 Q Do you recall signing a declaration, Mr. Bloom, in October of

1 20 -- October 15th, 2020, where you -- you stated in your declaration that  
2 First 100 does not have the employees or the funds to comply with the  
3 order?

4 A I believe so.

5 Q Do you want to look at Exhibit G to refresh your memory  
6 and let me know when you're there.

7 A Yeah, I have my declaration in front of me.

8 Q And paragraph 4, is that where you stated in October of 2020  
9 that First 100 does not have the ability or the employees to effectuate  
10 and comply with the order?

11 A I do. Yes. That's part of 4's -- we -- we were reiterate that --  
12 we're -- we're -- we have very intention of complying with the arbitration  
13 panel and the findings of the Court that -- reduce it to a judgment or an  
14 award but there's a practicality issue that the company can't comply  
15 without funds to effectuate the goal. The operating agreement requires  
16 the requesting member to provide the funds. The arbitration agreement,  
17 or the arbitration finding, requires the provision of the documents, but  
18 does not address -- it's silent as to the costs, I believe. And this Court,  
19 even though it denied the motion to amend, never ordered First 100 to  
20 pay because First 100 doesn't have any money to pay. It would be -- it  
21 would be impractical.

22 Q Okay. And if you go to Exhibit U, which is a response letter  
23 to Mr. Hendrickson.

24 A Okay, I have Exhibit U in front of me.

25 Q It's a letter from Garman Turner Gordon. In this letter, did

1 they accept your request to have -- to pay Mr. Hendrickson to gather  
2 these records?

3 A No. No, they refused to make payment to the third-party to  
4 produce the documents, books and records that they're requesting be  
5 produced.

6 Q And under the First 100 operating agreement, Mr. Bloom,  
7 who would have to pay for the cost of producing company books and  
8 records?

9 A The member requesting the production.

10 MR. GUTIERREZ: Your Honor, I can -- can we take a quick  
11 break? I believe I'm done. I just want to --

12 THE COURT: Let's see. Let's break until -- how about 3:25?  
13 Is that enough of a break?

14 MR. GUTIERREZ: Fine. That's --

15 THE COURT: Okay. 3:25.

16 MR. GUTIERREZ: And I believe I'm done. I'm pretty much  
17 done, Your Honor. So getting ready to pass the witness, so just want to  
18 run to the bathroom.

19 THE COURT: Okay, thanks.

20 [Recess at 3:18 p.m. recommencing at 3:23 p.m.]

21 THE COURT: All right. Back on the record. I see that counsel  
22 and the witness are present. Madelyn and Jennifer, are you present as  
23 well?

24 THE COURT RECORDER: Yes, I'm here.

25 THE MARSHAL: Yes.

1 THE COURT: Okay. You passed the witness, I believe,  
2 correct, Mr. Gutierrez?

3 MR. GUTIERREZ: Yes. Yeah.

4 THE COURT: Okay, cross.

5 CROSS-EXAMINATION

6 BY MS. TURNER:

7 Q Okay, Mr. Bloom, if you could go to Exhibit 28. 28. Oh, I  
8 can't read that. Mr. Gutierrez, do you want me to go one by one on  
9 these? Or are you going to stipulate to the exhibit?

10 MR. GUTIERREZ: Is this just the email creation by Mr.  
11 Nahabedian?

12 MS. TURNER: Yes.

13 MR. GUTIERREZ: I'm looking at it now.

14 MS. TURNER: He produced -- you can see his Bates number  
15 on the bottom.

16 MR. GUTIERREZ: Give me one second. I don't have any  
17 objection.

18 MS. TURNER: Okay.

19 THE COURT: Okay, 28's admitted.

20 [Plaintiff's Exhibit 28 admitted into evidence]

21 BY MS. TURNER:

22 Q Mr. Bloom, the very first page, it's Plaintiff 240 ran number 1.  
23 And we have a January 4th, 2021 email from Raffi Nahabedian to you,  
24 with an attached attorney retainer agreement, Matthew Farkas,  
25 TCG/Farkas. Do you see that? Mr. Bloom, we can't hear you.

1 A I'm sorry, is that better?

2 Q Yep.

3 A Yes, I see it.

4 Q Okay. It says, "Jay, good evening. Here is a retainer  
5 agreement for Matthew. Please have him call me with any questions or  
6 comments." Do you see that?

7 A I do.

8 Q And attached is an attorney retainer fee agreement for  
9 Matthew Farkas as managing member of TCG/Farkas. Not TGC, but  
10 TCG. Do you see that?

11 A I do.

12 Q Now January 4th, 2021, you were the subject of an  
13 application for an order to show cause why you personally should not be  
14 found in contempt of court in this matter. Correct?

15 A Yeah, I believe you filed that.

16 Q Okay. Now let's go to Bates number Plaintiff 245. It's from  
17 Jay Bloom to Joseph Gutierrez, Jason Maier, with a cc to  
18 Raffi@nahabedianlaw.com. Do you see that?

19 A I do.

20 Q And if we go down to the bottom of the -- or about the  
21 middle of the page, you have January 7th, 2021 at 1:58 p.m. Jay Bloom  
22 wrote. Do you see that?

23 A No, you have a different section on the screen.

24 Q Right --

25 A Oh, okay.

1 Q -- there you --

2 A Yes, I see it.

3 Q And it says,

4 "Hi, Cooney. Can you please print one copy of each of these  
5 four documents attached. Matthew Farkas will be by to sign  
6 them and initial each page on the attorney retainer  
7 agreement. And when complete, can you please scan the  
8 four signed documents and email them back to me at  
9 jlbloom@lben.com. And if you could also mail the hard -- the  
10 completed hard copy to Jay Bloom."

11 Did I read that right?

12 A You did.

13 Q And Cooney works at the UPS store, correct?

14 A That's my understanding. I don't know the person  
15 personally.

16 Q That's who you believed you were addressing with this  
17 email, right?

18 A Correct.

19 Q And then the UPS store responded to you at 2:40 p.m. on  
20 that same day, "Documents scanned." Do you see that?

21 A Yes, I see that.

22 Q And if we go to Plaintiff 247, so if you skip two pages. We  
23 see the beginning of the four documents that were assigned -- or  
24 attached. Correct?

25 A I see the first page of the first document, but I'll assume it's

1 correct.

2 Q Okay. We have a release, hold harmless and indemnification  
3 agreement between First 100 Holdings, LLC, First 100, LLC, and Matthew  
4 Farkas. Correct?

5 A Correct.

6 Q And TGC/Farkas Funding, LLC is not mentioned in this  
7 release and hold harmless and indemnification agreement. Am I right?

8 A That's correct.

9 Q Okay. And if we go to Plaintiff 253, this is page 7 of the  
10 release. It has Matthew Farkas' signature. Do you see that?

11 A I do.

12 Q Okay. So you received Matthew's signature to the release at  
13 2:40 p.m. on January 7th, right?

14 A Yeah. The purpose of this document was for the  
15 indemnification of Matthew, because he was concerned about a lawsuit  
16 by Adam Flatto.

17 Q So First 100 was providing a release and indemnification  
18 hold harmless to Matthew Farkas in the event that TGC/Farkas or Adam  
19 Flatto sued him. That's your testimony?

20 A Well, Matthew was concerned about Adam Flatto suing him.  
21 He repeated it many times.

22 Q Okay. If we go to Plaintiff 254 we have the settlement  
23 agreement. And that was executed by you, as manager of the First 100  
24 entities and then Matthew Farkas, correct?

25 A That's correct.

1 Q Okay. We go to the next document, document number 3.  
2 We have the attorney retainer fee agreement that you had received from  
3 Raffi Nahabedian on January 4th, right?

4 A Correct.

5 Q And that was signed by Matthew Farkas at Plaintiff 260,  
6 right?

7 A Yes.

8 Q Okay. And then the fourth document is a letter dated  
9 January 6th, 2021 addressed to me, right?

10 A Yes. I don't know if my microphone picked up a single word  
11 answer, but yes.

12 Q We've been having problems with that all day.

13 A Yes.

14 Q All right. Now when you received those four documents  
15 from the UPS store, within eight minutes you flipped them to Joe  
16 Gutierrez, Jason Merritt and Raffi Nahabedian. Saying here you go,  
17 exclamation point, exclamation point, right?

18 A We don't have that on the screen, but sure. I'm sure we did.

19 MS. TURNER: Michelle. Plaintiff 245.

20 THE WITNESS: They have on the screen, it's Raffi saying,  
21 "Please have Matthew call him with any questions."

22 BY MS. TURNER:

23 Q Here we go. It says, "Here you go, originals in the mail."

24 Now you only had the UPS store print one copy of each of the four  
25 documents and mail it to you. Correct?

1           A     I didn't direct the to only print one copy. I asked them to  
2 print it. Matthew certainly had an opportunity to ask them to print a  
3 second set if he liked. He could have asked the UPS store to email them  
4 to him, as they emailed the response to me. He could have asked me to  
5 email him a separate copy by email, and not just send them. Instead of  
6 directing me to send them to the UPS store. But no, this is -- I didn't just  
7 direct them to print only one copy. No, that's not accurate.

8           Q     It says, "Can you please print one copy of each of these four  
9 documents attached." Right?

10          A     Yes. But that was not a limitation of one document.  
11 Matthew was there. I was not. He certainly had the ability to ask them to  
12 print a second set. There was one copy, that was for execution.

13          Q     Now under where you say, "Here you go, originals in the  
14 mail." It says, "Let's get the substitution of attorney and stip to dismiss  
15 filed for TGC/Farkas and put this to bed in the next day or two. Let's try  
16 to have this filed the same time GTG [sic] gets their termination letter.  
17 Thanks, Jay."

18          A     Everybody was sick of the litigation, except for your firm.  
19 That's correct.

20          Q     Now Mr. -- Mr. Bloom, I -- you never had a settlement offer  
21 made by your counsel to Garman Turner Gordon to settle this matter.  
22 You went straight to Matthew Farkas to have him execute this  
23 agreement, correct?

24          A     Mathew and I discussed settlement and went back and forth  
25 on what the terms would be. And we did it without the attorneys, to get

1 it done. Because nobody wanted this litigation, except for your firm.

2 Q You and I have never met. Nobody's ever communicated to  
3 you that this firm wants litigation, correct?

4 A Well, your partner did in another matter.

5 Q Okay. "Let's get the substitution of attorney and stip to  
6 dismiss filed for TGC/Farkas." You were referring to the substitution of  
7 attorney for Raffi Nahabedian to substitute in as counsel for my firm,  
8 Garman Turner Gordon, as counsel for TGC/Farkas and dismiss the  
9 lawsuit. Right?

10 A Right. That was a directive of Matthew Farkas, as what we  
11 understood. Including Matthew, when I say we. In his capacity as  
12 manager of TGC/Farkas, correct.

13 Q Now Raffi Nahabedian, on January 7th, 2021, was your  
14 personal counsel, correct?

15 A On an unrelated matter, yes. That's how I know him.

16 Q And you were communicating with First 100 and your  
17 counsel, Maier Gutierrez and Associates, Joe Gutierrez and Jason Maier  
18 as well as Raffi, regarding the substitution of counsel for the other  
19 party --the adverse party TGC/Farkas, correct?

20 A Correct.

21 Q Okay. If we go forward to RAN0022, or Plaintiff 261, the  
22 January 6th letter. Who drafted this letter? In January 6, 2021, that you  
23 sent to the UPS store?

24 A I don't recall. I believe it was Raffi, but I don't recall.

25 Q The settlement agreement you drafted, correct?

1 A Correct.

2 Q Who drafted the release?

3 A I believe I drafted that.

4 Q Okay, if we can go to the next -- next page, Plaintiff 262. We  
5 have an email from Raffi Nahabedian to you, Jay Bloom, Joseph  
6 Gutierrez, and attached is the substitution of counsel. Do you see that?

7 A I do.

8 Q And Raffi Nahabedian is communicating to you, Jay Bloom,  
9 saying he needs to have a substitution of counsel signed by the  
10 respective parties, Farkas and GTG, LLP. Please call me when you're  
11 free. Do you see that?

12 A I do.

13 Q And if we go forward to Plaintiff 266, you have a January 8th,  
14 2021 email.

15 MS. TURNER: Blow that up a bit, Michelle, please.

16 BY MS. TURNER:

17 Q January 8th, 2021 from you, Jay Bloom, to Raffi Nahabedian  
18 with a cc to Joseph Gutierrez saying, "Is there anything else he's going  
19 to need to sign? Getting him to sign stuff is a pain in the ass."

20 A Correct.

21 Q That's who you wrote to who you believed was TGC/Farkas'  
22 counsel, right?

23 A Yes. Yes, Matthew didn't have a printer, didn't have a  
24 scanner, and his wife used the car. So he had to ride his bicycle to the  
25 UPS store back and forth. So yes, it was extremely inconvenient. So I

1 was asking Raffi if there was anything else he would need to sign. And  
2 incorporate everything as a considerate and consideration of Matthew's  
3 lack of a vehicle and -- and method of transportation, by bicycle to get to  
4 the UPS store.

5 Q Now on none of these communications where -- January 4th  
6 through January 8th, Matthew Farkas is not on any of them, right?

7 A No, I guess, no, he wasn't in any of the emails that I  
8 responded to, no.

9 Q Now if we go to Plaintiff 278. It says -- it's January 10th,  
10 2021. It's an email from you to Jason Maier at Maier Gutierrez with Raffi  
11 Nahabedian and Joe Gutierrez and Danielle Barraza, an attorney at -- at  
12 Maier Gutierrez's office, right?

13 A Correct.

14 Q And it says,  
15 "Hi, Jason. Raffi wants to supplement the documentation  
16 with a substitution of attorney letter that Matthew needed,  
17 now needs to sign, as well as a conflict waiver letter. I don't  
18 know that Raffi is taking any action with the termination  
19 letter, until these are signed. I'm waiting for the conflict  
20 waiver letter to be drafted, so I can put it together with the  
21 substitution of attorney to put in front of Matthew, for a  
22 second set of signatures."

23 Do you see that?

24 A I do.

25 Q Now you said that it was a pain in the ass to get Matthew to

1 sign. Was there ever any attempt to send any of these documents to  
2 Adam Flatto, or counsel, Garman Turner Gordon, for TGC/Farkas?

3 A So we wouldn't communicate with Adam Flatto because  
4 Matthew Farkas continued to represent up until this point that he was the  
5 manager of TGC/Farkas. I don't communicate to every member of every  
6 entity that's a member of First 100. Just a designated representative,  
7 which Matthew Farkas continued to insist was his role at the time of  
8 these emails.

9 Q Now if we go to Plaintiff 281 in this same Exhibit 28. And  
10 here we have an email from Raffi Nahabedian to you, Jay Bloom, and  
11 Jason Maier, with a cc to Joe Gutierrez and Danielle Barraza at the Maier  
12 Gutierrez Law Firm. And it says,

13 "Good afternoon, additionally, Matthew must bring the  
14 operating agreement of the LLC. This is critical to confirm  
15 his authority of the termination as the authorized manager,  
16 as defined in the operating agreement and not just as a  
17 managing member. GTG may be very difficult in this  
18 process, especially since they're owed fees."

19 Do you see that?

20 A I do see it.

21 Q Now it was on or about this date that you learned that  
22 Matthew had signed a September 2020 amendment to the TGC/Farkas  
23 funding operating agreement. Is that correct?

24 A No, that's not correct. It would be another week or ten days  
25 before I learned that he signed an operating agreement amendment. At

1 this point on January 10th, Matthew was still insisting that he was still  
2 the manager of TGC/Farkas.

3 Q So I did understand your -- your testimony earlier with -- with  
4 your counsel questioning you, that you didn't know about any  
5 amendment to the TGC operating agreement until after I sent a letter on  
6 January 15th, 2021. Is that your testimony?

7 A My understanding is you sent the letter on January 15th to  
8 Raffi. You didn't provide it to the company. Adam didn't provide it to  
9 the company. Matthew didn't provide it to the company. I first heard of  
10 it about January 19th. I asked Matthew to provide it for the first time  
11 when I learned about it on January 19th of 2021, and Matthew refused to  
12 provide it at that point.

13 Q Can you go to Exhibit 15.

14 A Contemporaneous -- contemporaneous emails that reflect  
15 those conversations.

16 Q Exhibit 15, please. If we can go to paragraph 19. This is a --  
17 Exhibit 15 is a declaration that your counsel showed you just a few --

18 MR. GUTIERREZ: We're going to object to the admission of  
19 the declaration as hearsay. Just as they objected.

20 MS. TURNER: Well, this is a party opponent, Jay Bloom.

21 THE COURT: I don't think she -- I don't think she's offering  
22 the entire item. She's just directing him to a paragraph in it.

23 MR. GUTIERREZ: Okay.

24 BY MS. TURNER:

25 Q If you go to paragraph 19, I'm going to read it to you, so that

1 we're on the same page. It says,

2 "On or about January 9th, 2021, during a telephone  
3 conference with TGC/Farkas Funding counsel, Raffi  
4 Nahabedian, Joseph Gutierrez and myself, Matthew Farkas  
5 continued to state that he has no recollection of resigning his  
6 position as manager, but he would check his emails."

7 Paragraph 20, "It was not until on or about January 10th,  
8 2021, that Matthew Farkas, for the first time, says that he found an email  
9 where he signed a September 2020 amendment to the TGC/Farkas  
10 Funding operating agreement."

11 So you know about an amendment on or about January  
12 10th, 2021, correct?

13 A On or about January 10th. In reviewing the documents, it's  
14 more like January 19th. So about January 10th is about a week early  
15 in -- in this document.

16 Q Okay. So you're changing your testimony from when you  
17 provided the declaration to the Court and intended for the Court to rely  
18 on it in January, you're changing that now to the 19th?

19 A I'm not changing it. I said on or about. I didn't have an exact  
20 date. And now we have an exact date from the text messages. So it was  
21 about a week later.

22 Q Now when Raffi Nahabedian said, "Matthew must bring the  
23 operating agreement. This is critical to confirm his authority." Certainly  
24 you made an inquiry to obtain the operative operating agreement for  
25 TGC/Farkas, LLC. Did you?

1           A     Can you -- you broke up a little bit in the question in the  
2 middle of your sentence. If you could repeat that.

3           Q     In response to this January 10th email from Raffi  
4 Nahabedian, Matthew must bring the operating agreement of the LLC.  
5 He was referring to the LLC of TGC/Farkas, right?

6           A     Right. But at that point, Matthew was still insisting that he  
7 was the manager and had not resigned that position. That's why Raffi is  
8 not asking for the amendment, because we didn't know about it at that  
9 point. He's asking for the operating agreement to confirm Matthew's  
10 representation at the time that he was the manager.

11          Q     In response to this January 10th, 2021 email from Raffi  
12 Nahabedian, you did not email Garman Turner Gordon. Or cause your  
13 counsel to email Garman Turner Gordon. Or contact Adam Flatto to  
14 obtain the operating agreement. Right?

15          A     No, I understood Raffi Nahabedian to be the new attorney for  
16 Garman Turner Gordon, based on Matthew's representations, and  
17 documents that he signed, terminating Garman Turner Gordon and  
18 retaining Raffi Nahabedian. So this was a settlement that was entered  
19 by the parties, that was given to what we understood were the attorneys  
20 for the parties to record the -- the settlement agreement with the Court.

21          Q     We go to Plaintiff 284. We have your email that same day,  
22 January 10th, 2021, to Raffi Nahabedian, with a cc to Jason Maier, Joe  
23 Gutierrez, and Danielle Barraza. And you say, "I doubt he has it." And  
24 you're referring to Matthew Farkas, right?

25          A     I was referring that to Matthew Farkas having the operating

1 agreement.

2 Q You say,

3 "I doubt he has it. We should be fine with his representation  
4 and his having engaged them in the first place, together with  
5 his signing the subscription agreement and the redemption  
6 agreement on behalf of the entity as manager. We need to  
7 get this done and filed, ASAP."

8 Do you see that?

9 A Correct.

10 Q That was the same authority that you were relying on when  
11 having Matthew sign the subscription -- or the settlement agreement on  
12 behalf of TGC/Farkas, right?

13 A Well, he signed the subscription agreement on behalf of  
14 TGC/Farkas. He signed the redemption agreement on behalf of  
15 TGC/Farkas. He signed the settlement agreement on behalf of  
16 TGC/Farkas. He continued to represent his position as the manager as  
17 of January 10th, as TGC/Farkas. Raffi wanted to see the operating  
18 agreement to confirm it. I said I doubt he has it. But he's continually for  
19 eight years now held himself out as the manager. And we're not aware  
20 of anything that changed that.

21 Q All right. If we could go to Exhibit 2. It's already in evidence.  
22 You've seen this arbitration award, Mr. Bloom, correct?

23 A In these proceedings, yes.

24 Q All right. And if we go to page 2. You recall the arbitrators  
25 saying at the bottom, it says that "First 100's response to the initial May

1 2nd, 2017 demand for documents was the first in a long and bad faith  
2 effort by Respondents, to avoid their statutory and contractual duties to a  
3 member, to produce requested records." You recall seeing that, right?

4 A Yeah, that's a statement that they made based on the false  
5 information that your firm elicited from Matthew Farkas in that August  
6 declaration.

7 Q Okay.

8 A Preceded with the decision by the auditors, based on  
9 misrepresentation, correct.

10 Q Now this is a pretty serious allegation that you're making  
11 that there is a law firm, Garman Turner Gordon, that is suborning  
12 perjury.

13 A Oh, yeah, no, I'm --

14 Q Mr. Farkas -- Mr. Farkas voluntarily executed a declaration  
15 and believed it to be true. Correct?

16 A No, he mis- -- he -- he told me otherwise in my conversations  
17 with him.

18 Q Uh-huh.

19 A Told me that he signed it under duress by Adam Flatto, in  
20 threat of litigation. I believe in -- in these proceedings, it turned out it  
21 was from Michael Busch that made the threat, not Adam Flatto.

22 Q All right. Well, we're going to have to bring Matthew Farkas  
23 back to address your allegations against counsel. They're very serious.  
24 But let's go to the second -- or the third page of the arbitration award,  
25 because you referred to the redemption agreement with Mister -- Mr.

1 Nahabedian and you said that you relied on it as well. If we go to the  
2 fourth paragraph, it says -- well, actually the third. It says, "The  
3 contention that claimant is not a member of Respondents is belied by the  
4 records of the Respondents."

5 If we go to the next paragraph, it says,

6 "It was not clear from the initial briefs and exhibits whether  
7 Matthew Farkas signed a redemption agreement for  
8 claimant. However, the additional evidence clarified he  
9 actually did not" -- or "he actually did sign such an  
10 agreement. However, the evidence also shows two  
11 additional points that render the redemption agreement  
12 irrelevant for the purpose of this proceeding. First, the  
13 evidence shows that Mr. Farkas did not have authority to  
14 bind claimant to the redemption agreement, as he did not  
15 seek and obtain the consent of Mr. Flatto."

16 And then further in that same paragraph, it says, "And  
17 claimant notified Respondents via email on April 18th, 2017, that Mr.  
18 Farkas did not have the authority to bind claimant under the redemption  
19 agreement, unless and until approved by Adam Flatto."

20 You knew from the arbitration award that you had to get the  
21 approval of Adam Flatto, in order for any documents signed by Matthew  
22 Farkas to be binding on TGC/Farkas. Isn't that right?

23 A No, that's not right. Nowhere in that document or paragraph  
24 that you read; does it say all documents. It specifically refers to the  
25 redemption agreement that Matthew signed. You're -- you're expending

1 the finding of the arbitration panel.

2 Q That -- this award didn't give you notice that you had to run a  
3 settlement agreement by Adam Flatto, before it would be valid and  
4 enforceable?

5 A I don't see settlement agreement in the finding. The only  
6 thing I see is that they found that Matthew didn't have the authority to  
7 enter into a redemption agreement. Nothing else. You're -- you're  
8 vastly expanding the finding of the arbitration panel and saying not only  
9 is it the redemption agreement, but it's all documents and every decision  
10 despite the language of their operating agreement that says that he's the  
11 manager of the company. I understood he was the manager. I  
12 understood he was the CEO. And with respect to the settlement  
13 agreement, not only did I have Matthew's representation that this is  
14 what -- what Adam wanted, I have Adam's representation that this is  
15 what Adam wanted.

16 If you remember my testimony, Adam said he wanted the  
17 million dollars back and he also wanted six percent. He told me that  
18 directly. So I incorporated what Matthew wanted and what Adam  
19 wanted into the draft settlement agreement and my discussions with  
20 Matthew.

21 Q Adam didn't talk to you about anything after 2017. Did he?

22 A No, he -- he never changed his position and said I no longer  
23 want my money back, I no longer want six percent. My last conversation  
24 with Adam was several years ago. And I never got an indication from  
25 Adam or from Matthew that it changed. I also never got an indication in

1 writing from Adam, or even a phone call from Adam that he was the new  
2 manager. That's why we were all surprised that Matthew's  
3 representations at the time he signed the settlement agreement turned  
4 out not to be true when we found out two weeks later.

5 Q Did you provide a copy of the arbitration award to Raffi  
6 Nahabedian?

7 A I don't believe so.

8 Q All right. Go to Exhibit 22, please. This is a July 13th, 2017  
9 letter to Joe Gutierrez. Do you see that?

10 A I do.

11 Q And this was subsequent to the redemption agreement.  
12 Subsequent to your calls with Adam Flatto, correct?

13 A Correct.

14 Q And it says bullet point number 3, Matthew Farkas is not the  
15 manager of TGC/Farkas. Bullet point number 4, counsel has previously  
16 sent correspondence explaining that Matthew Farkas does not have the  
17 authority to bind TGC/Farkas Funding, LLC. Do you see that?

18 A I see it and we addressed it in my prior testimony that --

19 Q At the time --

20 A -- Matthew Farkas was not the manager of TGC/Farkas as of  
21 2017. It's a false statement by your firm. Right. Adam Flatto in his  
22 testimony that I heard today said that there was one amendment in  
23 September of 2020 that removed Matthew as the manager. No other  
24 amendments. Matthew never resigned as the manager.

25 Q You were shown Exhibit E by your counsel. Exhibit E is --

1           A     Correct.

2           Q     -- is the declaration of Adam Flatto that was submitted to the  
3 arbitrators.

4           A     I see it.

5           Q     Paragraph number 5 under §3.4 of the operating agreement,  
6 the administrative member can only take action to bind claimant after  
7 consultation with and upon the consent of all claimant members. Do  
8 you see that?

9           A     I do. It's following paragraph 4 where it says Matthew Farkas  
10 was and still is the administrative member of the claimant and Matthew  
11 Farkas represented that the settlement agreement was what Matthew --  
12 was what Adam Flatto wanted. And it comported with what Adam Flatto  
13 told me directly that he wanted. And never -- never withdrew. Now I  
14 don't know what I can do to confirm oral conversations between  
15 Matthew and Adam, other than accept the representations of both of  
16 them.

17          Q     Go to Exhibit 28. Plaintiff 292. We have Jason Maier on  
18 January 11th, 2021 sending an email to Raffi with a cc to you and Joe  
19 Gutierrez and Danielle Barraza. Not sure if this helps, but attached is the  
20 document previously disclosed by GTG, where Matthew signed the  
21 engagement of GTG. So the information that's being provided to Raffi  
22 Nahabedian to show authority of Matthew Farkas is from you and your  
23 counsel and not from TGC/Farkas Funding. Not from Matthew Farkas.  
24 Not from Adam Flatto and not from GTG. Isn't that right?

25          A     No, I think there's another document that we saw, and I can't

1 remember which exhibit, but Raffi references conversations with  
2 Matthew Farkas where Matthew Farkas made the representation on  
3 behalf of -- of TGC/Farkas directly. That he was still the manager. So  
4 you're -- you're cherry picking some of the communications and yes,  
5 everybody says Matthew signed every document for the last eight years,  
6 and continues to make the representation directly to me, to Mr.  
7 Gutierrez, to Raffi Nahabedian. I mean I think -- quite honestly Matthew  
8 didn't realize what he signed in September when you put it in front of  
9 him to sign that amendment.

10 Q It --

11 A He was convinced he was the manager of --

12 MS. TURNER: Move to strike, Your Honor. He's just  
13 rambling at this point and speculating.

14 THE COURT: I'll -- I'll sustain and strike. Just pose the next  
15 question.

16 BY MS. TURNER:

17 Q Go to Plaintiff 311. From Jason Maier, again counsel for --  
18 it's 311, counsel for First 100. Joseph Gutierrez, Danielle Barraza are  
19 cc'd. It's Jason to Jay Bloom saying Raffi, here is a draft of the letter,  
20 giving your back issues. Feel free to edit as you see fit. I'm not sure you  
21 need the sentence highlighted in yellow now that I see the letter written  
22 out. But that's up to you and Matthew. Please send a final copy of  
23 whatever ends up going out. Or winds up going out. Thanks. Jason  
24 Maier drafted the letter purportedly terminating Garman Turner Gordon  
25 as counsel for TGC/Farkas Funding.